MUKAKALISA v. MUKAMUSANA N'ABANDI

[Rwanda URUKIKO RW'IKIRENGA – RCAA0037/15/CS (Nyirinkwaya, P.J., Mukandamage na Nyirandabaruta, J.) 29 Mata 2016]

Amategeko agenga ububasha bw'Inkiko – Ububasha bw'Urukiko rw'Ikirenga nk'Urukiko rw'ubujurire – Inzitizi y'iburabubasha – Gutsindwa ku rwego rwa mbere n'urwa kabiri ku mpamvu zimwe – Inzitizi y'iburabubasha ntihabwa ishingiro igihe bigaragara ko impamvu zashingiweho umuburanyi atsindwa ku rwego rwa mbere n'urwa kabiri atari zimwe – Itegeko Ngenga N°03/2012/OL ryo kuwa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ingingo ya 28(5) – Itegeko N^{o}59/2008 ryo ku wa 10/09/2008 rikumira kandi rihana ihohoterwa iryo ariryo ryose rishingiye ku gitsina, ingingo ya 39.

Incamake y'ikibazo: Uru rubanza rushingiye ku kibazo cy'izungura ry'umutungo wasizwe na Ntuyenabo; uyu yari yarashakanye mu buryo bukurikije amategeko na Nyiramfabakunze babyarana abana batatu aribo Mukamusana Liliane, Musana Landry na Musanabera Sylvie ariko mu 1990 baje gutandukana binyuze mu nkiko.

Mu 1993 Ntuyenabo yashakanye na Mukakalisa nawe babyarana abana batatu aribo Ntwari Musana Nelson, Musana Lys na Musana Lynn, hanyuma Ntuyenabo aza kwitaba Imana ku wa 11/05/2012. Mu mwaka wa 2013, Mukamusana Liliane, Musana Laundry na Musanabera Sylvie batanze ikirego mu Rukiko Rwisumbuye rwa Musanze basaba izungura ry'umutungo wasizwe n'umubyeyi wabo wigabijwe n'abaregwa kandi batawufiteho uburenganzira.

Mukakalisa yiregura avuga ko afite uburenganzira ku mutungo uburanwa kubera ko yashyingiranywe mu buryo bukurikije amategeko na Nyakwigendera ndetse atanga n'inyandiko y'ishyingiranwa ryabo.

Urwo Rukiko rwemeje ko Mukakalisa atarugaragarije ko yashyingiranywe na Ntuyenabo kubera ko inyandiko yatanze nk'ikimenyetso itagaragaza ingingo z'ingezi zigomba kuba ziyigize ikaba itafatwa nk'inyandikompamo (y'ishyingirwa) ikemura impaka ku bantu bose, ko kandi abazungura ba nyakwigendera ari abana batandatu yabyaye ku bagore bombi bakwiye bakagabana umutungo uvugwa mu rubanza ku buryo bungana; rwanategetse Mukakalisa kwishyura 76.734.949Frw yavuye mu kubyaza umusaruro umutungo wa Ntuyenabo nayo abazungura be bakanayagabana ku buryo bungana ndetse runamuca indishyi.

Mukakalisa yajuririye mu Rukiko Rukuru avuga ko urukiko rubanza rwamwimye uruhare rwe ku mutungo afitanye na Ntuyenabo.

Urukiko Rukuru rwemeje ko ubujurire bwa Mukakalisa nta shingiro bufite, rugaragaza umutungo wa Ntuyenabo ugomba kuzungurwa uwo ariwo n'aho uherereye; rutesha agaciro ibyemezo bya burundu n'iby'agateganyo bigaragaza ko umutungo uzungurwa ari uwa Ntuyenabo na Mukakalisa; rwemeza ko urubanza rwajuririwe ruhindutse gusa ku birebana n'umutungo ugomba kuzungurwa, rutegeka Mukakalisa kwishyura abaregwa mu bujurire amafaranga y'igihembo cy'Avoka.

Mukakalisa yajuririye Urukiko rw'Ikirenga, avuga ko Urukiko Rukuru, Urugereko rwa Musanze rwasesenguye nabi ingingo ya 39 y'Itegeko ryavuzwe haruguru, n'urubanza RS/INCONST/PEN0003/10/CS, ko rwirengangije ibimenyetso n'amategeko agena inshingano z'ababyeyi mu gutunga abana babyaye, rukanatesha agaciro ibyangombwa by'umutungo utimukanwa ku mpamvu zinyuranye n'ukuri n'amategeko.

Mukamusana yazamuye inzitizi y'iburabubasha ishingiye ku kuba Mukakalisa yaratsizwe ku rwego rwa mbere n'urwa kabiri ku mpamvu zimwe.

Yireguye kuri iyo nzitizi avuga ko impamvu zashingiweho atari zimwe kuko ku rwego rwa mbere urukiko rwaburanishije ibijyanye no kumenya niba ari umugore w'isezerano wa Ntuyenabo ku buryo yagira uburenganzira ku mutungo we maze hakemezwa ko atari umugore wa Ntuyenabo, naho ku rwego rwa kabiri hakaba haraburanywe ibijyanye no kureba niba yagira uburenganzira bw'umugore wabanye na Ntuyenabo badafitanye isezerano ryo gushyingirwa maze hakemezwa ko ntakigaragaza ko bashakanye uwo mutungo kuko ujurira ubwe yivugira ko yabanye na Nturanyenabo awufite.

Incamake y'icyemezo: N'ubwo mu nkiko zombi uwajuriye yatsinzwe n'urubanza aho mu rwego rwa mbere yashingiraga uburenganzira afite ku mutungo asangiye na Ntuyenabo ku kuba barashyingiranwe agatsindwa n'uko atashoboye kugaragaza ko ubwo bushyingiranwe bwabayeho, naho ku rwego rwa kabiri agashingira ubwo burenganzira ku kuba yarabanye nawe nk'umugore n'umugabo batashyingiranywe kandi uwo mutungo bakaba bari bawufitanye agatsindwa n'uko Urukiko rwemeje ko uwo mutungo wose Ntuyenabo yari awufite mbere y'uko atangira kubana nawe; izi mpamvu zikaba atari zimwe, bityo inzitizi yatanzwe n'abaregwa muri uru rubanza ikaba nta shingiro ifite.

Inzitizi nta shingiro ifite;
Amagarama y'urubanza arasubitswe.

Amategeko yashingiweho:
Itegeko Ngenga N°03/2012/OL ryo kuwa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ingingo ya 28(5).
Itegeko N^{o}59/2008 ryo ku wa 10/09/2008 rikumira kandi rihana ihohoterwa iryo ariryo ryose rishingiye ku gitsina, ingingo ya 39.

Imanza zifashishijwe:
Gatera v. Kalisa, RS/Incost/Pen.0003/10/CS, rwaciwe n'urukiko rw'ikirenga kuwa 07/01/2011.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rushingiye ku kibazo cy'izungura rya nyakwigendera Ntuyenabo Fidèle witabye Imana kuwa 11/05/2012 i Nairobi muri Kenya, akaba yari yarashakanye mu buryo bukurikije amategeko na Nyiramfabakuze Bibiane babyarana abana batatu aribo Mukamusana Liliane, Musana Laundry na Musanabera Sylvie.

[2] Mu mwaka w'1990 Ntuyenabo Fidèle na Nyiramfabakuze batandukanye binyuze mu nkiko[1], nyuma yaho mu mwaka wa 1993, Ntuyenabo Fidèle ashakana na Mukakalisa Marie Louise nawe babyarana abana batatu, Ntwari Musana Nelson, Musana Lys na Musana Lynn; hanyuma Ntuyenabo aza kwitaba Imana ku wa 11/05/2012.

[1]Urubanza RC 17.413/R43/90 rwo kuwa 31/08/1990.

[3] Mu mwaka wa 2013 Mukamusana Liliane, Musana Laundry na Musanabera Sylvie batanze ikirego mu Rukiko Rwisumbuye rwa Musanze basaba izungura ry’umutungo wasizwe n’umubyeyi wabo wigabijwe n’abaregwa kandi batawufiteho uburenganzira. Mu rubanza RC0127/13/TGI/MUS rwaciwe ku wa 20/03/2014, urwo Rukiko rwemeje ko MukakalisaMarie Louise atarugaragarije ko yashyingiranywe na Ntuyenabo Fidèle, ko abazungura ba Ntuyenabo Fidèle ari Mukamusana Liliane, Musana Landry, Musanabera Sylvie, Ntwari Musana Nelson, Musana Lyn na Musana Lys, ko abo aribo gusa bagomba kugabana ku buryo bungana umutungo wose wasizwe na Ntuyenabo Fidèle uvugwa muri urwo rubanza, rutegeka Mukakalisa Marie Louise kwishyura 76.734.949Frw yavuye mu kubyaza umusaruro umutungo wa Ntuyenabo Fidèle nayo abazungura be bakanayagabana ku buryo bungana, runamuca indishyi.

[4] Mukakalisa Marie louise yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze avuga ko Urukiko Rwisumbuye rwa Musanze rwamwimye uruhare rwe ku mutungo yari afitanye na Ntuyenabo Fidèle. Ku wa 30/9/2015 Urukiko Rukuru, Urugereko rwa Musanze rwaciye urubanza RCA0043/14/HC/MUS, rwemeza ko ubujurire bwa Mukakalisa Marie Louise nta shingiro bufite, rwemeza umutungo wa Ntuyenabo Fidèle ugomba kuzungurwa uwo ariwo n’aho uherereye[2], rutesha agaciro ibyemezo bya burundu n’iby’agateganyo bigaragaza ko umutungo uzungurwa ari uwa Ntuyenabo Fidèle na Mukakalisa Marie Louise, Umubitsi w’impapurompamo z’ubutaka akawandika kuri Ntuyenabo Fidele, rwemeza ko urubanza rwajuririwe ruhindutse gusa ku birebana n’umutungo ugomba kuzungurwa, rutegeka Mukakalisa Marie Louise kwishyura Mukamusana Liliane, Musana Landry na Musanabera Sylvie amafaranga y’igihembo cy’ Avoka.

[5] Mukakalisa Marie Louise yajuririye Urukiko rw’Ikirenga, avuga ko Urukiko Rukuru, Urugereko rwa Musanze rwasesenguye nabi ingingo ya 39 y’Itegeko Nº59/2008 ryo ku wa 10/09/2008 rikumira kandi rihana ihohoterwa iryo ariryo ryose rishingiye ku gitsina, n’urubanza RS/INCONST/PEN0003/10/CS, ko rwirengangije ibimenyetso n’amategeko agena inshingano z’ababyeyi mu gutunga abana babyaye, rukanatesha agaciro ibyangombwa by’umutungo utimukanwa ku mpamvu zinyuranye n’ukuri n’amategeko.

[6] Iburanisha mu ruhame ryabaye ku wa 5/04/2016, Mukamusana Liliane, Musana Landry na Musanabera Sylvie bahagarariwe na Me Kavuyekure Dieudonné, naho Mukakalisa Marie Louise ahagarariwe na Me Nzirabatinyi Fidèle, uwo munsi haburanishwa ku nzitizi y’iburabasha ry’Urukiko rw’Ikirenga yatanzwe n’uhagarariye Mukamusana Liliane na bagenzi be, ishingiye ku mpamvu y’uko Mukakalisa Marie Louise yatsinzwe ku rwego rwa mbere n’urwa kabiri ku mpamvu zimwe.

II. IKIBAZO KIRI MU RUBANZA N’ISESENGURWA RYACYO

Kumenya niba Mukakalisa Marie Louise yaratsinzwe ku rwego rwa mbere n’urwa kabiri ku mpamvu zimwe.

[7] Me Kavuyekure Dieudonné avuga ko Mukakalisa Marie Louise yaburanye mu Rukiko Rwisumbuye rwa Musanze avuga ko afite uburenganzira ku mutungo wa Ntuyenabo Fidèle kuko yari yarashakanye nawe ndetse mu kirego cyihutirwa akaba yarahawe umutungo

[2] Urubanza RCA0043/14/HC/MUS, rwaciwe ku wa 30/09/2015 n’Urukiko Rukuru, Urugereko rwa Musanze, p.12-13 ([22]).

hashingiwe ku kuba yarabanye na Ntuyenabo Fidèle nk'abashyingiranywe mu buryo bukurikije amategeko, ariko ko urubanza RCA0291/14/TGI/NGOMA rumaze gucibwa rukemeza ko Mukakalisa atigeze asezerana na Ntuyenabo Fidèle, nyuma yaje guhindura ikirego akaburana mu Rukiko Rukuru avuga ko ashaka uburenganzira ku mutungo yashakanye na Ntuyenabo Fidèle, ko bigaragara ko yaburanye ku rwego rwa mbere n'urwa kabiri haburanwa umutungo kandi akabitsindirwa, kuko hemejwe ko yabanye na Ntuyenabo Fidèle afite umutungo uburanwa.

[8] Me Nzirabatinyi Fidèle avuga ko Mukamusana Liliane na bagenzi be aribo bareze mu rwego rwa mbere, urukiko rukaburanisha ku bijyanye no kumenya niba Mukakalisa Marie Louise ari umugore w'isezerano wa Ntuyenabo ku buryo yagira uburenganzira ku mutungo we, hakemezwa ko atari umugore wa Ntuyenabo, naho ku rwego rwa kabiri hakaba haraburanywe ibijyanye no kureba niba Mukakalisa Marie Louise yagira uburenganzira bw'umugore wabanye na Ntuyenabo Fidèle badafitanye isezerano ryo gushyingirwa, akaba asanga umwanzuro w'Inkiko zombi ari umwe, ariko udashingiye ku mpamvu zimwe.

UKO URUKIKO RUBIBONA

[9] Ingingo ya 28 y'Itegeko Ngenga N°03/2012/OL ryo kuwa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga iteganya mu gika cyayo cya gatanu ko urubanza umuburanyi yatsinzwe ku rwego rwambere n'urwa kabiri ku mpamvu zimwe, rudashobora kujuririrwa mu Rukiko rw'Ikirenga.

[10] Mu rubanza RC0127/13/TGI/MUS rwaciwe ku wa 20/3/2014 n'Urukiko Rwisumbuye rwa Musanze, hareze Mukamusana Liliane, Musana Landry na Musanabera Sylvia, barega Mukakalisa Marie Louise, Ruragije Jonas alias Mugezi na Munyemanza Faustin, hagoboka Ntwari Musana Nelson, hagobokeshwa Mukakalisa Marie Louise ahagarariye abana be Musana Lys na Musana Lynn, ikiregerwaga ari: "izungura ry'umutungo wasizwe n'umubyeyi wacu Ntuyenabo Fidèle witabye Imana ku wa 11/5/2012 uwo mutungo ukaba warigabijwe n'abaregwa kandi batawufiteho uburenganzira".

[11] Muri urwo rubanza nk'uko bigaragaramu gika cya [3] ku rupapuro rwa 2-3, Urukiko rwasuzumye ikibazo cyo kumenya niba Mukakalisa Marie Louise yarashyingiranywe na Ntuyenabo Fidèle mu buryo bwubahirije amategeko ku buryo yagira uburenganzira ku mutungo we, hasuzumwa ikibazo cyo kumenya imitungo yasizwe na Ntuyenabo Fidèle n'uburyo yazungurwa n'indishyi zasabwe n'ababuranyi mu rubanza.

[12] Ku kibazo cyo kumenya niba Mukakalisa Marie Louise yarashyingiranywe na Ntuyenabo mu buryo bwubahirije amategeko ku buryo yagira uburenganzira ku mutungo we, Urukiko rwasuzumye icyo kibazo ruhereye kuri "*photocopie*" y'inyandiko y'ishyingirwa yakorewe mu cyahoze ari Akarere ka Bicumbi rwashyikirijwe na Mukakalisa Marie Louise, rwemeza ko iyo "*photocopie*" y'inyandiko y'ishyingirwa itagaragaza ingingo z'ingenzi zigomba kuba ziyigize ikaba itafatwa nk'inyandikompamo (y'ishyingirwa) ikemura impaka ku bantu bose, ko ubwo n'ushinzwe irangamimerere atemeje ko Ntuyenabo Fidèle yashyingiranywe na Mukakalisa Marie Louise ntaho Urukiko rwahera rwemeza ko bashyingiranywe kuko nta nyandiko y'ishyingirwa yatanzwe n'umukozi wa Leta ubifitiye ububasha (ibika bya 9-17 by'urubanza RC0127/13/TGI/MUS rwaciwe ku wa 20/3/2014, cyane cyane igika icya 12, 15 n'icya 17).

[13] Urukiko rurasanga iyi ngingo y'imiburanire itarigeze isuzumwa mu rubanza RCA0043/14/HC/MUS rwaciwe ku wa 30/09/2014 n'Urukiko Rukuru, Urugereko rwa Musanze, kuko Mukakalisa Marie Louise atongeye kuburana avuga ko yashyingiranywe byemewe n'amategeko n'umugabo we Ntuyebabo Fidèle, kuko mu bujurire yaburanye noneho avuga ko urukiko rubanza rwamwimye uruhare rwe ku mutungo uburanwa nk'umugore wabanye na Ntuyenabo Fidèle batarashyingiranywe kuva mu mwaka wa 1993 kugeza mu mwaka wa 2012, avuga ko uburenganzira bwe abushingira ku ngingo ya 39 y'Itegeko N°59/2008 ryo ku wa 10/09/2008 rikumira kandi rihana ihohoterwa iryo ariryo ryose rishingiye ku gitsina, no ku rubanza RS/Incost/Pen.0003/10/CS[3] rwaciwe ku wa 07/01/2011 n'Urukiko rw'Ikirenga.

[14] Ku kibazo cyo kumenya umutungo wasizwe na Ntuyenabo Fidèle n'uburyo wazungurwa, dosiye y'urubanza igaragaza ko Urukiko Rwisumbuye rwa Musanze rwifashishije ubuyobozi bw'uturere twa Musanze, Burera na Kicukiro bwarugaragarije bimwe mu bigize umutungo ya Ntuyenabo n'aho biherereye, n'izindi nyandiko zinyuranye ziri muri dosiye nka "certificate d'enregistrement folio 87 vol.E.XI, n'inyandiko zerekana nomero za konti zinyuranye, nk'uko bigaragara mu rubanza RC0127/13/TGI/MUS rwavuzwe haruguru ku rupapuru rwa 7-8, ibika bya [21– [25] na [42], rwemeza ko umutungo utimukanwa ugomba kuzungurwa wasizwe na Ntuyenabo Fidèle ari umutungo wanditse kuri Nº2433, Nº2244, Nº5971 na Nº4024 uherereye mu Kagari ka Muhabura, Umurenge wa Nyange, mu Karere ka Musanze; umutungo wanditse kuri Nº577, N°5969, uherereye mu Kagari ka Ruhengeri, Umurenge wa Muhoza, Akarere ka Musanze; umutungo wanditse kuri Nº 373 uherereye mu Kagari ka Migeshi, Umurenge wa Cyuve mu Karere ka Musanze, uwanditse kuri Nº08/49 uri ahahoze hitwa Mulinzi- Gasiza, Ruhengeri.

[15] Ku byerekeye abantu bagomba kuzungura uwo mutungo ndetse n'amafaranga angana na 76.734.949Frw yasizwe n'ayinjijwe n'umutungo Ntuyenabo Fidèle yasize, Urukiko rwemeje ko ubwo Ntuyenabo yatandukanaga na nyina w'abana bareze (umugore we w'isezerano Nyiramfabakuze Bibiane) mu mwaka wa 1990, umutungo wose wasubiye mu maboko ye, n'aho abaniye na Mukakalisa Marie Louise umutungo ukomeza kuba uwe kuko batashyingiranywe byemewe n'amategeko, ukaba ugomba kuzungurwa mu buryo bungana n'abana be bose, aribo Mukamusana Liliane, Musana Landry, Musana Sylvie, Ntwari Musana Nelson, Musana Lynn na Musana Lys (reba ibika bya [26] - [30] by'urubanza RC0127/13/TGI/MUS.

[16] Kuri iki kibazo cy'uburenganzira ku mutungo, mu Rukiko Rukuru, nk'uko byagaragajwe haruguru, Mukakalisa Marie Louise yaburanye avuga ko urukiko rubanza rwamwimye uruhare rwe ku mutungo uburanwa nk'umugore wabanye na Ntuyenabo Fidèle kuva mu mwaka wa 1993 kugeza mu mwaka wa 2012, avuga ko uburenganzira bwe abushingira ku ngingo ya 39 y'Itegeko N°59/2008 ryo ku wa 10/09/2008 rikumira kandi rihana ihohoterwa iryo ariryo ryose rishingiye ku gitsina, no ku rubanza RS/Incost/Pen.0003/10/CS rwaciwe ku wa 07/01/2011 n'Urukiko rw'Ikirenga.

[3] Mu rubanza RS/Incost/Pen.0003/10/CS, Gatera Johnson n'umugore we KalisaTheddy basabye ko ingingo ya 39 y'Itegeko N°59/2008 ryo ku wa 10/09/2008 rikumira kandi rihana ihohoterwa iryo ariryo ryose rishingiye ku gitsina, iteganya uburenganzira bungana ku mutungo w'ababanaga nk'umugore n'umugabo batarashyingiranywe, ivanwaho kuko ngo inyuranyije n'ingingo ya 26 y'Itegeko Nshinga. Urukiko rw'Ikirenga rwemeje ko iyo ngingo ya 39 itanyuramyije n'Itegeko Nshinga, ko ingaruka ku mutungo w'ababanaga nk'umugore n'umugabo batarashyingiranywe mu gihe baretse kubana atari zimwe nk'iziboneka mu gihe habaye ubutane bw'abashyingiranywe, ko uburenganzira ku mutungo w'abashyingiranywe bushingiye ku masezerano bagiranye bahisemo bashyingiranwa, mu gihe ubw'ababana batarashyingiranywe bushingiye ku kuba bari bawufitanye cyangwa barawushakanye.

[17] Urwo Rukiko rwasuzumye ibiteganywa n'ingingo ya 39 y'Itegeko N°59/2008 ryo ku wa 10/09/2008 ryavuzwe haruguru n'isesengura Urukiko rw'Ikirenga rwakoze kuri iyo ngingo ya 39 mu rubanza RS Incost/Pen.0003/10/CS, aho rwagaragaje ko uburenganzira umwe mu babanaga batarashyingiranywe afite ku mutungo bushingiye ku kuba barawuhahanye, ko kugira uburenganzira ku mutungo bidashingiye gusa ku kuba ababanaga barabanye nk'umugabo n'umugore batarashyingiranywe, ko ahubwo bigomba kuba bigaragara ko umutungo bawufitanye cyangwa se ko bawuhahanye[4], hanyuma rusuzuma ikibazo cy'umutungo utimukanwa Mukakalisa Marie Louise yavugaga ko wanditse kuri we na Ntuyenabo Fidèle kugira ngo rumenye niba koko awufiteho uburenganzira.

[18] Urukiko Rukuru ruhereye ku byavuzwe n'uwari uhagarariye Mukakalisa Marie Louise ko umutungo wose yagaragaje muri "expertise" Ntuyenabo yari asanzwe awufite atarabana na Mukakalisa Marie Louise mu mwaka wa 1993, ariko uwo mutungo ngo bakaba bari bawufitanye kuko ubanditseho bombi, ko kandi hari ibyagiye biwukorwaho (transformations)[5], ariko uretse kuvuga gusa ko hari ibyakozwe akaba atarashoboye kugaragariza urukiko ibyaba byarakozwe cyangwa byarongerewe ku mutungo utimukanwa Ntuyenabo yari asanzwe afite, ngo yerekane uruhare rwa Mukakalisa Marie Louise. Rwasuzumye kandi agaciro kahabwa ibyangombwa by'umutungo utimukanwa ugomba kuzungurwa wanditse kuri Ntuyenabo na Mukakalisa Marie Louise, rusanga nk'uko bigaragara mu gace ka [14] na [15] tw'urubanza rujuririwa, harabayemo uburiganya (bwagaragaye mu iperereza ryakozwe n'Urukiko ku wa 26/02/2013 mu Buyobozi bw'Akarere ka Musanze, bushingiye ku kuba ibaruwa yo ku wa 26/02/2013 isaba icyangombwa cy'ubutaka cya burundu yandikiwe Umuyobozi w'Akarere ka Musanze yarandikiwe mu Bunyamabanga bw'ako Karere ka Musanze, yanditswe na Ntuyenabo kandi icyo gihe yari atakiriho kuko yitabye Imana ku wa 11/05/2012, no kuba mu iperereza Urukiko rwakoze ku wa 29/09/2015 mu biro by'Umubitsi w'Inyandikompamo z'ubutaka wungirije mu Ntara y'Amajyaruguru, naho byaragaragaye ko Mukakalisa yavuze ko inkomoko y'umwe mu mutungo afitiye ibyangombwa yashyikirije urukiko uri mu mutungo ugomba kuzungurwa ari uwo we na Ntuyenabo baguze, undi ko ari umurage cyangwa umunani wabo bombi, n'undi ko bawuhawe na Leta, binyuranye n'imvugo ya Me Nzirabatinyi umuburanira wavuze ko umutungo wose uburanwa Nturanyenabo yari awufite mbere y'uko abana na Mukakalisa mu mwaka wa 1993.

[19] Urukiko rurasanga ibimaze kugaragazwa mu bika bibanziriza iki aribyo Urukiko Rukuru rwahereyeho, maze rushingiye ku bubasha Umubitsi Mukuru w'impapurompamo z'ubutaka ahabwa n'ingingo ya 20 y'Itegeko N°43/2013 ryo ku wa 16/6/2013 rigenga ubutaka mu Rwanda igaragaza ko ibyangombwa by'ubutaka bishobora guteshwa agaciro, (ibyo bikaba bishimangirwa n'ingingo ya 10 agace ka 5 y'Iteka rya Perezida Nº97/01 ryo ku wa 18/6/2004 rigena imikorere n'ububasha by'umubitsi w'impapurompamo) bwo gutesha agaciro icyemezo cy'iyandikisha ry'ubutaka, rwatesheje agaciro ibyemezo bya burundu n'iby'agateganyo bigaragaza ko umutungo utimukanwa igomba kuzungurwa ari iya Ntuyenabo Fidèle na Mukakalisa Marie Louise, Umubitsi w'impapurompamo z'ubutaka akabyandika kuri Ntuyenabo Fidèle.

[20] Urukiko rurasanga nk'uko rwabigaragaje haruguru, mu rwego rwa mbere Mukakalisa Marie Louise yaraburanye avuga ko yashyingiranywe byemewe n'amategeko na Ntuyenabo Fidèle bakabana kugeza Ntuyenabo yitabye Imana mu mwaka wa 2012 akaba agomba kugira uruhare ku mutungo uburanwa, atsindwa n'uko atashoboye kugaragaza ko ubwo

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[4] *Idem, p.5-6 ([8]-[9]).*
[5] *Idem, p.7 ([12]).*

bushyingiranwe bwabayeho, hemezwa ko abana 6 babyawe na Ntuyenabo aribo bonyine bagomba kuzungura umutungo uburanwa.

[21] Urukiko rurasanga ku rwego rwa kabiri, Mukakalisa Marie Louise atarashingiye uburenganzira aburana ku kuba yarashyingiranywe na Ntuyenabo Fidèle, ahubwo yarabushingiye ku kuba yarabanye nawe nk'umugore n'umugabo batashyingiranywe no kuba bari bawufitanye, ashyikiriza urukiko ibyemezo by'uyo mutungo byerekana ko ari uwe na Ntuyenabo, atsindwa n'uko umuburanira yavuze ko iyo mitungo yose Ntuyenabo yari ayifite mbere y'uko atangira kubana na Mukakalisa Marie Louise, uyu akaba avuga ko hari ibyo yayikozeho ariko ntabyerekane, no kuba ibyemezo yatanze yarabibonye mu buriganya. Uru Rukiko rwemeje ko igihindutse ku rubanza rwajuririwe ari umutungo ugomba kuzungurwa gusa (kuko hongewemo n'ibindi biwugize byagaragajwe na Mukakalisa Marie Louise).

[22] Urukiko rurasanga rero nk'uko byagaragajwe haruguru, n'ubwo mu nkiko zombi Mukakalisa Marie Louise yatsinzwe n'urubanza, ataratsinzwe ku mpamvu zimwe, inzitizi yatanzwe n'abaregwa muri uru rubanza ikaba nta shingiro ifite.

[23] Urukiko rurasanga kandi atari ngombwa gusuzuma izindi ngingo inkiko zombi zafasheho ibyemezo, kuko byamaze kugaragara ko muri izo nkiko Mukakalisa Marie Louise atatsinzwe ku mpamvu zimwe.

III. ICYEMEZO CY'URUKIKO

[24] Rwemeje ko inzitizi y'iburabubasha ry'Urukiko rw'Ikirenga yatanzwe na Me Kavuyekure Dieudonné uhagarariye abaregwa mu rubanza nta shingiro ifite.

[25] Rwemeje ko iburanisha mu mizi y'uru rubanza rizasubukurwa kuwa 12/07/2016.

[26] Rutegetse ko amagarama y'urubanza abaye asubitswe.