

## RUSANGANWA v MUSABYIMANA N'ABANDI

[Rwanda URUKIKO RUKURU– RS/INJUST/RC 00002/2020/HC/RWG (Ruganzu, P.J.) 15  
Ugushyingo 2022]

*Itegeko ryerekeye imiburanishirize y'Imanza mbonezamubano – urubanza rwabaye Itegeko – Iyo hari urubanza ruguha uburenganzira bwamaze guhabwa abandi kandi rwabaye Itegeko, bikosorwa nuko hacibwa urundi rubanza rutegeka uko ubwo burenganzira wahawe bushyirwa mu bikorwa.*

*Itegeko rigenga Izungura – Izungura ry'umwuzukuru – Ntabwo umwuzukuru yakwitwaza ko yabanaga na sekuru akanamubwira ko yamugize umwanawe ngo yumve ko agira uburenganzira bwo kuzungura ku rwego rw'abana be. Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango nkuko ryahinduwe kugeza ubu, Ingingo ya 294*

**Incamake y'ikibazo :** Uru rubanza, rwatangiye Musabyimana arega Rusanganwa n'abandi mu Rukiko rw'Ibanze rwa rukara asaba kuzungura umutungo wa se Ngirumpatse, Urukiko mu rubanza rufite RC0070/12/TB/RU rwemeje ko umutungo ugizwe n'itongo n'ishyamba Musabyimana yifuza kuzunguraho ari uwa Rusanganwa Frederic naho isambu ikaba iya Mukabutare Dancille, Musabyimana akaba atawufiteho uburenganzira bwo kuzungura, runemeza ko umutungo uri i Ruhunda mu Karere ka Rwamagana ugizwe n'isambu ifite 345m kuri 360m wahoze ari ingarigari ya Ngirumpatse, Musabyimana akaba afite uburenganzira busesuye bwo kuwuzunguraho kimwe n'abandi bakomoka kuri se.

Musabyimana yajuririye uru rubanza mu Rukiko Rwisumbuye rwa Ngoma, Urukiko mu rubanza RCA00110/13/TGI/NGOMA, rwemeje ko ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire aricyo UPI:5/04/07/04/1270 ari ubwa Mukabutare , ko Musabyimana azungura ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire UPI:5/04/07/04/1324 (bwari bubaruye kuri succession Ngirumpatse) n'ubutaka buri mucyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire UPI:5/04/07/04/1272 (bwari bubaruye kuri Rusanganwa na Gasengayire), runemeza ko Masari , Rusanganwa , Kayibanda bahawe irage riri mu nyandiko yo kuwa 13/01/1972 naho Butare yahawe umunani.

Rusanganwa ntiyishimiye imikirize yurwo rubanza maze arujuririra mu Rukiko Rukuru urugereko rwa Rwamagana gihabwa RCAA0025/14/HC/RWG, ariko ikirego nticyakirwa, nyuma nibwo Rusanganwa asubirishamo urubanza RCA 0110/13/TGI/NGOMA ingingo nshya mu Rukiko Rwisumbuye rwa Ngoma, ikirego cye gihabwa RCA0253/14/TGI/NGOMA, ariko nabwo nticyakirwa.

Nyuma yizi manza, uwitwa Gihana ahagarariye umuryango wa se Nkerabigwi yatanze ikirego cyo gutambamira urubanza RCA 0110/13/TGI/NGOMA asaba ko we n'abavandimwe be bagira uruhare kuzungura umutungo Ngirumpatse yasize adatanze, Urukiko rwemeje mu rubanza RCA 0035/15/TGI/NGOMA ko ubutaka Musabyimana yahawe mu rubanza rwatambamiwe abugabana na Gihana nabo yari ahagarariye.

Rusanganwa yasubirishijemo urubanza RCA 0110/13/TGI/NGOMA ku mpamvu z'akarengane avuga ko yambuwe uburenganzira ku mutungo akomora kuri sekuru Ngirumpatse na se Rwagasana ugizwe n'ubutaka bwari bubaruye kuri UPI : 5/04/07/04/1272, agasobanura ko yahawe uwo mutungo na Ngirumpatse mu 1989, igihe yatangaga ingurane z'irage yari yarakoze ryo muri 1972 araga abana be.

Musabyimana we avuga ko Rusanganwa ari umwuzukuru wa Ngirumpatse naho we akaba umwana we, avuga ko hari irage rya 1972, se yahawemo isambu akayishakiramo umugore, akomeza avuga ko se yari yaratanze imigabane uretse umukuru iwabo wari waragiye i Bugande, ko amaze gukura

yabajije musaza we wamureraga aho we azahabwa, amubwira ko abavandimwe batabyumva, ajya mu nkiko abaza itongo se yamusizemo ryari rifitwe na Rusanganwa, avuga kandi ko se atari gutanga imigabane ngo naho atuye ahatange maze ngo agasigariraho nta handi hantu afite, akavuga ko kubera izo mpamvu zose asanga ntakarengane Rusanganwa yakorewe mu rubanza rusubirishwamo kuko urukiko rwaciye urubanza uko bikwiye, kandi isambu iburanwa ntabwo ayifite yose kuko yayigabanye n'abana ba musaza we utarahawe umugabane.

Urukiko rwemeje mu rubanza RS/INJUST/RC 00002/2020/HC/RWG ko Rusanganwa yavukijwe uburenganzira ku mutungo w'umuryango mu gihe abandi bavandimwe b'umubyeyi we bose bafite imigabane n'abatari bayifite bakaba barayigenewe n'Urukiko mu rubanza RCA0110/13/TGI/NGOMA rwaciye n'Urukiko Rwisumbuye rwa Ngoma rusabirwa gusubirwamo ku mpamvu z'akarengane, bityo Urukiko rwemeza ko yakorewe akarengane gakwiye gukurwaho n'uru rubanza maze nawe akagira uburenganzira ku mutungo w'umuryango.

Ku bijyanye no kumenya niba hari ubutaka Rusanganwa yahawe na sekuru Ngirumpatse, Urukiko rwemeje ko Rusanganwa yahawe koko isambu i Nyawera ariko atayayihawe yose kuko Ngirumpatse atari gutanga isambu yose kandi akiriho kandi akaba nta n'irage akoze rigaragaza ko Rusanganwa yari kuyegukana aruko Ngirumpetse apfuye.

**Incamake y'Icyemezo :** 1. Iyo hari urubanza ruguha uburenganzira bwamaze guhabwa abandi kandi rwabaye Itegeko, bikosorwa nuko hacibwa urundi rubanza rutegeka uko ubwo burenganzira wahawe bushyirwa mu bikorwa. Bityo, kuba hari urubanza rwemerera kuzungura umuntu umutungo wamaze guhabwa abandi mu rundi rubanza rwabaye itegeko, bikosorwa n'urundi rubanza rumuha uburenganzira bwo kuzungura uwundi mutungo utarazunguwe wa nyakwigendera.

2. Ntabwo umwuzukuru yakwitwaza ko yabanaga na sekuru akanamubwira ko yamugize umwanawe ngo yumve ko agira uburenganzira bwo kuzungura ku rwego rw'abana be, kereka iyo yamugize umwana we mu buryo amategeko abiteganywa bwo kubera umubyeyi umwana utabyaye ku buryo busesuye.

**Amategeko yashingiweho :**

Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavugururwe mu 2015, Ingingo ya 15, 34

Itegeko N° 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyngiranywe, impano n'izungura, Ingingo ya 73, 74

Itegeko N° 32/2016 ryo ku wa 28/08/2016 Itegeko rigenga abantu n'umuryango nkuko ryahinduwe kugeza ubu, Ingingo ya 294

Itegeko N° 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 3, 65

**Nta manza zifashishijwe**

## **Urubanza**

### **I. IMITERERE Y'URUBANZA**

[1] Uru rubanza, rwatangiriye mu Rukiko rw'Ibanze rwa rukara rufite RC0070/12/TB/RU hagati ya Musabyimana Rebecca (waregaga) na Rusanganwa Frederic, Masari Thadée, Mukabutare Dancille, Butare Alexandre, Kayibanda Gervais, Uwimana Marie Jeanne (baregwaga), ikiburanwa ari "kuzungura umutungo wa Data", urukiko rwemeza ko umutungo ugizwe n'itongo n'ishyamba Musabyimana yifuza kuzunguraho ari uwa Rusanganwa Frederic naho isambu ikaba iya Mukabutare

Dancille, Musabyimana akaba atawufiteho uburenganzira bwo kuzungura, runemeza ko umutungo uri i Ruhunda mu Karere ka Rwamagana ugizwe n'isambu ifite 345m kuri 360m wahoze ari ingarigari ya Ngirumpatse, Musabyimana akaba afite uburenganzira busesuye bwo kuwuzunguraho kimwe n'abandi bakomoka kuri se.

[2] Musabyimana Rebecca yajuririye uru rubanza mu Rukiko Rwisumbuye rwa Ngoma urubanza ruhabwa numero RCA00110/13/TGI/NGOMA, muri uru rubanza, urukiko rwemeje ko ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire aricyo UPI:5/04/07/04/1270 ari ubwa Mukabutare Dancille, ko Musabyimana Rebecca azungura ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire UPI:5/04/07/04/1324 (bwari bubaruye kuri succession Ngirumpatse) n'ubutaka buri mucyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire UPI:5/04/07/04/1272 (bwari bubaruye kuri Rusanganwa Frederic na Gasengayire Placidie), runemeza ko Masari Thadée, Rusanganwa Frederic, Kayibanda Gervais bahawe irage riri mu nyandiko yo kuwa 13/01/1972 naho Butare Alexandre yahawe umunani.

[3] Uru rubanza rwajuririye na Rusanganwa Frederic mu Rukiko Rukuru, urugereko rwa Rwamagana kuri numero RCAA0025/14/HC/RWG, ariko ikirego nticyakirwa, nyuma nibwo Rusanganwa Frederic yasubiye inyuma asubirishamo urubanza RCA0110/13/TGI/NGOMA ingingo nshya mu Rukiko Rwisumbuye rwa Ngoma kuri numero RCA0253/14/TGI/NGOMA, nabwo ikirego nticyakirwa.

[4] Nyuma yuko izi manza zibayeho uwitwa Gihana Benjamin ahagarariye umuryango wa se Nkerabigwi John yatanze ikirego cyo gutambamira urubanza RCA0110/13/TGI/NGOMA asaba ko we n'abavandimwe be bagira uruhare mu kuzungura umutungo Ngirumpatse Paul yasize adatanze, ikirego cyahawe numero RCA0035/15/TGI/NGOMA, Urukiko rwemeza ko ubutaka Musabyimana yahawe mu rubanza rwatambamiwe abugabana na Gihana Benjamin nabo yari ahagarariye ariko uru rubanza rukaba rutagaragara muri raporo yakozwe n'urwego rw'umuvunyi kuko rwabayeho nyuma yuko Rusanganwa Frederic asabye gusubirishamo urubanza ku mpamvu z'akarengane.

[5] Rusanganwa Frederic yasubirishijemo urubanza RCA0110/13/TGI/NGOMA rwaciye kuwa 11/02/2014 ku mpamvu z'akarengane avuga ko yambuwe uburenganzira ku mutungo akomora kuri sekuru Ngirumpatse Paul na se Rwagasana Damascene ugizwe n'ubutaka bwari bubaruye kuri UPI: 5/04/07/04/1272, agasobanura ko yahawe umutungo na Ngirumpatse Paul mu 1989, igihe yatangaga ingurane z'irage yari yarakoze ryo muri 1972 araga abana be, ari nabo bari imbere y'urukiko abatakiriho barahagarariye mu irage yari yakoze hariho na na se ariwe Rwagasana Damascene, ariko mu 1989 agiye gutanga ingurane ise akaba atari akiraho, bituma ariwe uhabwa iyo ngurane nk'abandi bana ba Ngirumpatse Paul kuko yasigaye ari mutoya akarererwa kwa sekuru, nyuma amugira umwana we mu 1989, akomeza avuga ko umutungo yahawe mu 1989 ugizwe n'ubutaka kandi akaba yarawukoresheje nka nyirawo nkuko n'abandi bakoresheje imitungo yabo ateramo ikawa yubakamo n'inzu yasenye 1994 muri Jenoside yakorewe Abatutsi, ariko ubwo butaka yakomeje kubukoresha kugeza igihe imanza zabumwamburiye.

[6] Akomeza nanone avuga ko icyamuteye gukomeza kwiyambaza inzira ziteganwa n'amategeko ari uko yahawe nk'abandi bana bose ba Ngirumpatse Paul ntakindi cyigeze kimubangamira muri uwo mutungo uretse imanza zatangijwe na Musabyimana Rebeca, ndetse na raporo yakozwe n'urwego rw'umuvunyi hari umuryango wose n'abaturanyi yasanze koko aho urukiko rwamwambuye yari yarahawe na sekuru Ngirumpatse Paul kandi urwego rw'umuvunyi rwasanze hari igice yari yarahawe, ko ariko haraho yafashe akahahuza n'itongo rya sekuru Paul, hari icyemezo cyatanzwe n'umurenge wa Gishari hagaragazwa ko ntabutaka agira muri uwo Murenge, ko hari urubanza rwaburanishirijwe muri TB/KIGABIRO haburanwaga umutungo uri i Ruhunda ko ariwo agomba kugiramo uruhare, ariko urukiko rwirengagije ko umutungo urimo guhabwa Rusanganwa Frederic wafashwemo icyemezo kindi cyabaye itegeko.

[7] Asoza avuga ko hari inyandiko ziri muri dosiye yagiye yishyurirwaho imitungo yangijwe muri Jenocide, urubanza rusabirwa gusubirishwamo akarengane mu gika cya 7 urukiko rwavuze ko Musabyimana ataregeye iyandikishwa ry'ubutaka kuko adafite uburenganzira bwo kuzungura ubutaka bwanditsweho mukuru we n'umugabo we, nyamara nawe ubutaka bwari bumubaruyeho, asanga umucamanza yaragize kubogama bigatuma we yamburwa umutungo kandi abandi imitungo yabo nayo yaregowe batarayambuwe.

[8] Musabyimana Rebecca we avuga ko Rusanganwa Frederic ari umwuzukuru wa Ngirumpatse Paul naho we akaba umwana we, agasaba ko atamuhoza mu nkiko kuko hari irage rya 1972, se yahawemo isambu akayishakiramo umugore, ndetse Rusanganwa ari mwana wa kabiri atari nawe wa mbere kwa se, akomeza avuga ko se yari yaratanze imigabane uretse umukuru iwabo wari waragiye i Bugande utarahawe umugabane, ko nyuma ya Jenocide se amaze gupfa arerwa na musaza we, amaze gukura yabajije musaza we wamureraga aho we azahabwa, amubwira ko abavandimwe batabyumva, ajya mu nkiko abaza itongo se yamusizemo kandi niryo Rusanganwa yarafite, kuko yarafite itongo rya se kandi se yapfuye bitunguranye nta muntu yigeze aha iryo tongo, asoza nanone avuga ko mu 1987 se yarafite urubanza yaburanye n'abavandimwe be kuko yarafite undi mugore, kuko yashatse kumuha umugabane niko kuregana n'abana be kandi urwo rubanza rurahari, akaba yumva bitumvikana ko se yari kumara kuburana n'abana be, hanyuma ngo abahe indi migabane, akibaza niba se yari gutanga imigabane naho atuye akahatanga maze agasigariraho nta handi hantu afite, ariyo mpamvu asanga ntakarengane Rusanganwa Frederic yakorewe kuko urukiko rwacye urubanza uko bikwiye, ndetse iyo sambu ntabwo ayifite yose kubera ko yayigabanye n'abana ba musaza we yavuze utari warahawe umugabane.

[9] Me Sebibanza Elie umwunganira yavuze ko Rusanganwa Frederic yagaragaje ko umutungo yawuhawe mu 1989 ubwo sekuru yavugururaga irage ryo muri 1972, ibi ngo nta shingiro bifite kuko irage ryo mu 1972 ntabwo ryarebaga Rwagasana Damascene ariwe se wa Rusanganwa kuko mbere yuko iryo rage rikorwa Rwagasana yari yarahawe mbere akaba ari nawo mutungo agomba kuzungura kuko ariwe se yahaweho umunani, iyo arebye umutungo Musabyimana yasabye kuzungura ngo n'isambu ya se Ngirumpatse Paul harimo n'itongo, aha bagasobanura ko Ngirumpatse Paul atari gutanga ahantu hose ndetse ngo anatange aho yaratuye kandi nyamara yarakoreraga muri iyo sambu yaratuyemo, Rusanganwa ntagaragaza undi mutungo Ngirumpatse Paul yaba yarasigaranye nyuma yo gutanga irage rya 1989 kuko n'umutungo wari wanditseho succession Ngirumpatse Paul kari agashyamba gatoya katarinako guhingwa, akaba atagaragaza umutungo wundi wari usigaye, Rusanganwa mu bimenyetso agaragariza urukiko atangamo icyemezo cy'ubuyobozi ko ntayindi sambu atunze i Ruhunda ndetse ko nta sambu akomora kuri Ngirumpatse, nyamara hari umutungo yahaye se Rwagasana ari nawo agomba kuzungura ko adakwiye gukomeza gukurikirana isambu ya Ngirumpatse Paul kuko hari abana batari bagahawe imigabane kwa Ngirumpatse Paul, asoza avuga ko icyo urukiko Rwisumbuye rwa Ngoma rwashingiyeho rwemeza ko Musabyimana Rebecca agomba kuzungura ibyo kwa se Ngirumpatse Paul birimo ingarigari, irage rya 1989 rikagumana agaciro karyo, asanga nta karengane kari muri uru rubanza, agasaba ko urubanza rwacye na n'urukiko Rwisumbuye rwa Ngoma rugumana agaciro karwo.

[10] Masali Thaddee we yavuze ko irage rya 1972 ariwe wanditsweho nk'umukuru w'umuryango, ko mu 1974 aribwo se yashakiyemo abandi bagore aho i Ruhunda, ashakiramo Mukamusoni aza kwitaba Imana nyuma aza gushakiramo nyina wa Musabyimana Rebecca, nyuma aho i Ruhunda se arahisubiza maze abaha i Nyawera, Rusanganwa Frederic na mushiki we se amaze kugenda i Bugande nibwo barerewe kwa se, mu 1989 se arabicaza abaha iminani bose, asoza avuga ko mushiki wabo Musabyimana Rebecca aho nyina yaratuye hari isambu uretse Kayibanda ufiteho igipande ariko aho nyina yaratuye harahari, hari isambu y'inturusi.

[11] Kayibanda Gervais yavuze ko Rusanganwa Frederic yakorewe akarengane kuko yambuwe ibyo yahawe na se ariwe sekuru mu 1989, kandi ko yari yarubatse mu irembo rya muzehe wanavuze

ko ariwe uzamushyiringura, mu 1974 aribwo se yamwiyandikishijeho mu bitabo by'irangamimerere kandi yize yitwa mwene Ngirumpatse Paul, ndetse n'ibyangombwa bye ni mwene Ngirumpatse Paul, akomeza avuga ko mu 1972, Ngirumpatse Paul yatanze irage rya Ruhunda, isambu ayigabamo kabiri abana be arabaguranira, maze nawe aho yasigaranye ahashakiramo abagore 2 nyuma ya nyina kandi hahari.

[12] Yanavuze ko se akiriho nta kibazo cyigeze kibaho, ariko aho nyina wa Musabyimana amaze gupfira nibwo se yagiye kuzana Musabyimana, nyuma mu 2012 nibwo Musabyimana yaganye inkiko, bamusaba ko yareka bakamwereka itongo rya nyina i Ruhunda, maze aranga akomereza mu nkiko, Rusanganwa yerekanye amarangizarubanza ya Gacaca agaragaza ko yasenyewe aho yari yarubatse iruhande rwa sekuru, kuko amabuye ya fondation y'inzu ya Rusanganwa Frederic murumuna wabo yayubakishije ibiraro by'inka ze ndetse n'ibiti by'ikawa arabirandura, asoza avuga ko asanga ari akarengane yagiriwe, agasabwa ikimenyetso cyaho se yamuhereye kandi bose ntamuntu ufite aho se yamuhereye uretse kwicaza umuryango akabagabanya.

[13] Mukabutare Dancilla avuga ko Rusanganwa Frederic yakorewe akarengane kuko yahohotewe akaba nta hantu afite abarizwa mu kwa se, kandi ko yabajije se aho Rusanganwa Frederic azajya amusubiza ko ari umwana we ko azamugenera nk'abandi bana be, agiye kubaka se amuha mu irembo rye aba ariho yubaka ndetse ahahinga n'ikawa.

[14] Gihana Benjamin we yavuze ko se ariwe wari imfura ya Ngirumpatse Paul, akaba yarahunze akajya i Bugande ari naho yababyariye muguhunguka ntibigeze bamenya ibyo by'amasambu, mu manza za mbere batambamiye urwa 2015 rwa TGI/NGOMA, iyo sambu iburanwa yarifitwe na Musabyimana maze urukiko rutegeka ko bayigabana na Musabyimana bakaringaniza, Rusanganwa akavuga ko ari iye, ariko agatekereza ko aho sekuru yari yarasigaranye ariho yarabikiye umwana we utaragize aho ahabwa.

[15] Butare Alexandre we yavuze ko ubwo se Ngirumpatse Paul yaburanaga na Kayibanda mu 1987 isambu y'i Ruhunda, yatsinzwe kuko isambu yayitanze mu 1972, bigaragara ko naho se yari yarahashakiye abagore muri iyo sambu, Musabyimana yigaga i Nyawera yaje afite imyaka itatu (3ans) atangira ishuri ku myaka 7 abana na se, akomeza avuga ko aho se yamuhaye i Nyawera yaterewe imbago na Masali na Munyaneza, kandi ko kwa se habaga abuzukuru 5 ariho barererwa ba, akibaza uko byagenze kugira ngo Rusanganwa abe ariwe uhabwa umunani muri abo bana bose, asoza avuga ko se abaha imigabane, Rusanganwa atarahari ndetse na Kayibanda ngo ntiyahari bityo ko se yahaye abari bahari, gusa mu 2012 igihe kiyandikisha ry'ubutaka, kandi ko mu 1994 se yapfuye atunguwe atigeze atanga irage.

[16] Yakomeje avuga ko bajya i Nyawera bari bakurikiyeyo urwuri rw'inka kandi se yashakiye Mukamusoni i Nyawera bo bari i Ruhunda, nyuma umugore we agiye nibwo se yabimuye ajya kuri Komine avuga ko isambu ayisizemo Thadee, ko agiye na barumuna be kuko yangaga ko isambu Leta yazayisubiza, nuko Mukamusoni wari warahukanye agarutse se yamujiyanye muri ya sambu y'i Ruhunda ngo batazayimwaka nuko Mukamusoni yongera kwahukana noneho ashakiramo nyina wa Musabyimana, haburanwa isambu y'I Nyawera muri Komine ya Rukara, ngo bavuga ko isambu yari yarayihaye Kayibanda Gervais, akibaza buryo ki se yari gutanga isambu yose ntigire aho asigarana kandi yarafite abana babiri batarahabwa imigabane bityo asanga cyaba ari ikinyoma cyane ko se yapfuye atunguwe kuko atigeze araga, abona rero se yari kuzamuha iteto nkuko yamuhaye inka ariko ko atariwe wari kumuzungura kandi yarafite abandi bana batarahabwa imigabane, niyo amuha ngo yari kumuterera imbago nawe akagira icyo yisigariza.

[17] Uwimana Marie Jeanne umugore wa Munyaneza Pierre, avuga ko mbere hose aho hantu Rusanganwa yahakorera arahubaka kandi yubakiwe na se wabo, umusaza amagambo yamwibwiriye nuko Rusanganwa ariwe uzamuhamba kandi ko ariwe uzasigara mubyeye amaze gusaza,

niyo mpamvu abona ko Rusanganwa yarenganijwe kuko yaragiye no kuhashakira nuko habaye Genocide, ikindi yanditswe kuri muzehe mubitabo byose byirangamimerere.

[18] Kayibanda Gervais yongeye kuvuga ko yaburanye urubanza rwa Kigabiro agira ngo isambu se yabahaye itagurishwa, ikindi ni uko Butare yahakanye ko Rusanganwa atahubatse ariyo mpamvu yasabye uru rukiko kuzahagera kuko bigaragara ko yari yarahahawe, ndetse akanibaza niba ibyakozwe na se akiriho hari undi muntu waza kubihindura, akifuza ko Rusanganwa yahabwa ubutabera agasubizwa umuntu we, asoza avuga ko ubwo Musabyimana yaregaga Mukabutare na Rusanganwa nibwo urukiko rwavugaga ko icyemezo cy'ubutaka Musabyimana atigeze akiregera, ko mu 1989 aribwo umusaza yicaje abana be bose arabagabanya nawe amujyana i Ruhunda maze isambu ayigabanyamo 2, igihande kimwe agishakiramo abagore be 2 kandi imbago yari yaraziteye, ntanumwe wigeze agira ikibazo.

[19] Iburanisha ry'uru rubanza ryabaye kuwa 17/02/2022, ababuranyi bamenyeshwa ko bazaza gusomerwa kuwa 16/03/2022 saa tatu 27.

[20] Nyuma yo kwihereza ngo rufate umwanzuro, Urukiko Rukuru Urugereko rwa Rwamagana rwasanze ari ngombwa ko nk'uko byagiye byifuzwa n'ababuranyi ko urukiko rwagera kukiburanwa rukikorera iperereza mu rwego rwo guhuza ibivugwa n'ababuranyi n'ibigaragara kukiburanwa, maze rwemeza ko mbere y'uko urubanza rucibwa burundu, hagomba kubanza gukorwa iperereza ahari ikiburanwa, ko nyuma y'iperereza, ubuyobozi bw'urukiko bukazamenyeshya ababuranyi itarki y'isubukurwa ry'urubanza rwabo, ariko mu gihe iryo perereza ritariyagakoze, umucamanza warutangiyeye aza kwimurirwa ahandi, maze Perezida w'urukiko akena iyi nteko gukomeza urubanza, rusubukwe ababuranyi bamenyeshwa ko urubanza rukomereje aho rwari rugeze, nkuko biteganywa n'ingingo ya 74 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu, nkuko ryahinduwe kugeza ubu, iteganya ko iyo umucamanza cyangwa umwe mu bacamanza batangiye urubanza adashoboye kurukomeza kubera impamvu zinyuranye, asimburwa n'undi mucamanza byemejwe na Perezida w'urukiko bireba. Muri icyo gihe, iburanisha rikomereza aho ryari rigeze, kandi ibyemezo byafashwe mu rubanza bikagumana agaciro kabyo, [...], hakazakorwa iperereza ryari ryemejwe.

[21] Urukiko rwakoze iperereza rugera ku isambu iburanwa iherereye mu Kagari ka Nyawera, umurenge wa Mwiri, akarere ka Kayonza, intara y'Iburasirazuba, kuri uwo munsu nanone rugera ku isambu y'indi iburanwa iherereye i Ruhunda, mu mudugusu wa Rurindimira, akagari ka Binunga, umurenge wa Gishali, akarere ka Rwamagana, intara y'Iburasirazuba, aho hombi rubaza bamwe mu baburanyi n'abaturage rwahasanze maze barugaragariza ubutaka buburanwa n'imiterere yabwo.

[22] Kuwa 18/10/2022, urubanza rwasubukwe Rusanganwa Frederic yunganirwa na Me Mukarugero Julienne, mu baregwa hitabye Musabyimana Rebecca yunganirwa na Me Sebibanza Elie, Masali Thadde, Kayibanda Gervais, Mukabutare Dancille, Uwimana Marie Jeanne na Butare Alexandre biburanira, naho Gihana Benjamin atitabye nyamara yarahamagawe mu buryo bukurikije amategeko, maze urubanza ruburanishwa we adahari kandi urubanza ruciwe rukazafatwa nk'aho nawe yari ahari nkuko biteganywa n'ingingo ya 57 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 Itegeko ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu nkuko ryahinduwe kandi rikuzuzwa kugeza ubu, iteganya ko iyo ku birego bidashobora gutandukanywa, hariho abaregwa benshi bamwe bakitaba abandi ntibitabe, urukiko rubisabwe n'umwe mu bitabye cyangwa rubyibwirije rushobora gusubika urubanza mu nyungu z'ubutabera cyangwa kuruburanisha badahari, iyo ruburanishijwe ababuranyi bamwe badahari, urubanza ruciwe rufatwa nk'aho bose bari bahari.

Muri uru rubanza hakaba hakwiye gusuzumwa ibibazo bikurikira:

- Kumenya niba icyemezo cy'urukiko Rwisumbuye rwa Ngoma mu rubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014 cyararenganyije Rusanganwa Frederic.

-Kumenya niba hari umutungo Rusanganwa Frederic yahawe na sekuru Ngirumpatse Paul, kumenya ni hari umutungo wasizwe na Ngirumpatse Paul, abawufiteho uburenganzira n'uburyo bakwiye kuwugabana.

-Kumenya niba hari indishyi zikwiye gutangwa muri uru rubanza.

## **II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA.**

### **a. Ku byerekeranye no kumenya niba icyemezo cy'urukiko Rwisumbuye rwa Ngoma mu rubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014 cyararenganyije Rusanganwa Frederic.**

[23] RUSANGANWA Frederic n'umwunganizi we bavuga ko urubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014 rwamwambuwe uburenganzira ku mutungo akomora kuri sekuru Ngirumpatse Paul na se Rwagasana Damascene ugizwe n'ubutaka bwari bubaruwe kuri UPI 5/04/07/04/1272, agasobanura ko yahawe umutungo na Ngirumpatse Paul mu 1989, igihe yatangaga ingurane z'irage yari yarakoze ryo mu 1972 araga abana be, agaherezwa i Ruhunda kandi nta mugabane afiteyo none akaba yaravukijwe uburenganzira ku mutungo akomora kuri sekuru Ngirumpatse Paul na se Rwagasana Damascene.

[24] Musabyimana Rebecca n'umwunganizi we, bo bakavuga ko nta karengane Rusanganwa Frederic yakorewe kuko yaherejwe i Ruhunda aho umubyeyi we yari afite umugabane naho i Nyawera nta mugabane ahafite ndetse ntanubwo yahahawe kuko se Ngirumpatse Paul yapfuye mu 1994 bitunguranye, akaba atarigeze agira icyo avuga ku mutungo yari asigaranye.

[25] Masali Thaddee, Kayibanda Gervais, Mukabutare Dancille na Uwimana Marie Jeanne basobanuye ko Rusanganwa Frederic yakorewe akarengane akamburwa isambu ye akomora kuri sekuru Ngirumpatse Paul wari waranamugize umwana we kuko se yamusize akiri muto akarererwa kwa sekuru.

[26] Gihana Benjamin we akavuga ko se ariwe wari imfura ya Ngirumpatse Paul, akaba yarahunze akajya i Bugande ari naho yababyariye muguhunguka batigeze bamenya iby'amasambu, akomeza avuga ko mu manza za mbere batambamiye urwa 2015 rwa TGI/NGOMA, iyo sambu iburanwa yarifitwe na Musabyimana maze urukiko rutegeka ko bayigabana na Musabyimana bakaringaniza, Rusanganwa akavuga ko ari iye, ariko agatekereza ko aho sekuru yari yarasigaranye ariho yarabikiye umwana we utaragize aho ahabwa.

[27] Butare Alexandre we akavuga ko Rusanganwa Frederic atigeze ahabwa na sekuru, ahubwo afite umugabane we i Ruhunda aho se yari yarahaweho umugabane atarajya i Bugande kandi ko nta ngurane yigeze ahabwa i Nyawera, Rusanganwa Frederic kuhubaka no kuhatera ikawa byari uburwo bwo kwiharika kuko yarerewe kwa sekuru.

## **UKO URUKIKO RUBIBONA:**

[28] Ingingo ya 15 y'Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, iteganya ko abantu bose barashya imbere y'amategeko. Itegeko ribarengera ku buryo bumwe naho iya 34 yaryo, igateganya ko buri muntu afite uburenganzira ku mutungo bwite, waba uwe ku

giti cye cyangwa uwo asangiye n'abandi, umutungo bwite, uw'umuntu ku giti cye cyangwa uwo asangiye n'abandi ntuvogerwa...

[29] Izi ngingo z'itegeko Nshinga, zumvikanisha ko abantu bose bashesya imbere y'amategeko kandi ko itegeko ribarengera ku buryo bumwe, umutungo umuntu yita uwe utavogerwa.

[30] Urukiko rurasanga mu cyemezo cy'urubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014, urukiko rwaremeje ko ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire UPI:5/04/07/04/1270 ari ubwa Mukabutare Dancile, rwemeza ko Musabyimana Rebecca azungura ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire UPI: 05/04/07/04/1324 n'ubutaka buri mu cyemezo cy'iyandikisha ry'ubukode bw'igihe kirekire : 5/04/07/04/1272, runategeka ko ariwe bwandikwaho naho Masale Thadde, Rusanganwa Frederic, Kayibanda Gervais baherezwa ku irage riri mu nyadiko yo kuwa 13/01/1972.

[31] Rusanga nubwo ari uko byemejwe, ariko hari urundi rubanza RC009/10/TB/KGRO rwaciwe n'urukiko rw'Ibanze rwa Kigabiro kuwa 09/03/2010, rwemeje ko isambu y'i Ruhunda ivugwa ko ari iya Rusanganwa Frederic, yahawe Mukamusoni Therese, Kayibanda Gervais akaba yari yaragerageje gutesha agaciro kashe mpuruzwa yari itewe ku mwanzuro w'abunzi aho yari yaburanye na Mukamusoni Therese muka se baburana iyo sambu y'i Ruhunda, ariko Mukamusoni Thereze akamutsinda, ibi rero bikaba bigaragaza ko nyuma y'icibwa ry'urubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014, Rusanganwa Frederic yisanze atagifite ubutaka yari asanzwe akoreramo i Nyawera ndetse nubwo yaherejwemo n'urubanza buherereye i Ruhunda kuko bwari bwarahawe Mukamusoni Thereza mu rubanza narwo rwabayitegeko.

[32] Ikigaragarira uru rukiko, ni uko Rusanganwa Frederic yavukijwe uburenganzira ku mutungo w'umuryango mu gihe abandi bavandimwe b'umubyeyi we bose bafite imigabane n'abatari bayifite bakaba barayigenewe n'urukiko mu rubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014 rusabirwa gusubirwamo ku mpamvu z'akarengane, hashingiwe ku ngingo z'itegeko Nshinga, zavuzwe hejuru, rusanga ari akarengane yakorewe kandi gakwiye gukurwaho n'uru rubanza maze nawe akagira uburenganzira ku mutungo w'umuryango; bityo Rusanganwa Frederic akaba yararenganyijwe n'urubanza rwavuzwe hejuru, rwamwambuye aho yita ahe, rukamuhereza aho nubundi atagifite umugabane.

**b. Kubyerekeranye no kumenya niba hari umutungo Rusanganwa Frederic yahawe na sekuru Ngirumpatse Paul, kumenya ni hari umutungo wasizwe na Ngirumpatse Paul, abawufiteho uburenganzira n'uburyo bakwiye kuwugabana.**

[33] Rusanganwa Frederic avuga ko yahawe umutungo na sekuru Ngirumpatse Paul mu 1989, igihe yatangaga ingurane z'irage yari yakoze ryo mu 1972 araga abana be, ari nabo bari imbere y'urukiko abatakiriho barahagarariwe mu irage yari yakoze hariho na se ariwe Rwagasana Damascene, ariko mu 1989 agiye gutanga ingurane ise akaba atari akiraho, bituma ariwe uhabwa iyo ngurane nk'abandi bana ba Ngirumpatse Paul kuko yasigaye ari mutoya akarererwa kwa sekuru, nyuma amugira umwana we mu 1989, uwo mutungo yahawe mu 1989 ukaba ugizwe n'ubutaka bwari bubaruye kuri UPI 5/04/07/04/1272 kandi akaba yarabukoresheje nka nyirawo nkuko n'abandi bakoresheje imitungo yabo ateramo ikawa yubakamo n'inzu yasenywe 1994 muri Jenoside yakorewe Abatutsi, ariko ubwo butaka yakomeje kubukoresha kugeza igihe imanza zabumwamburiye.

[34] Akomeza avuga ko mu iperereza yasobanuye ko isambu iherereye i Nyawera, kuwa sekuru apfuye mu 1944 yayiragije se wabo Masali Thaddee, bigeze mu 1998 arayimusubiza ari nabwo yari amaze gushaka umugore maze ayikorera kuwa icyo gihe kugeza mu 2014 ubwo yayamburwaga mu cyemezo cy'urukiko kandi yari yarayibarujeho ku cyangombwa cyari gifite UPI: 5/04/07/04/1272, abajijwe niba ntawundi mugabane afite akomora kuri Ngirumpatse Pascal, avuga



ko nta yindi sambu namba afite, uretse kubeshya ko hari umugabane afite i Ruhunda ariko nta mugabane cyangwa se isambu afiteyo akomora kuri sekuru, asoza avuga ko ubu nta sambu nimwe afite akomora kuri sekuru wari waramugize umwana ariko bakaba bashaka kumwambura ngo abure n'uruhare ruto, ariyo mpamvu asaba urukiko kumurenganura kuko isambu y'i Ruhunda bamwitirira yahawe abandi bantu ndetse kugeza ubu bayituyemo kandi banayifitiye ibyangombwa, asoza avuga ko umutungo wakozweho iperereza i Nyawera ari uwa Ngirumpatse, akaba yarahahawe ari ingurane y'umugabane wa se Rwagasana, kandi ko yari yarahubatswe mu kwa 12/1992 sekuru akiraho ndetse akaba yari ahafite n'igipimo cy'ikawa, mu 1994 aba aribwo basenya iyo nzu, asoza avuga ko ibyavuzwe na Butare na Musabyimana atabyemera kuko bavuze ko agira ubutaka i Ruhunda kandi ataribyo, asubirishamo urubanza yerekanye ibimenyetso ariko urukiko rurabyirengagiza, ariyo mpamvu yaganye urwego rw'umuvunyi maze rumusabira kurenganurwa.

[35] Me Mukarugero Julienne, wunganira Rusanganwa Frederic, avuga ko mu iperereza ryakozwe ku isambu y'i Ruhunda, urukiko rwiboneye uyibamo ariwe Mukamusoni Therese, naho ibivugwa na Butare na Musabyimana byagaragaye ko ari amagambo gusa bivugira, akomeza avuga ko ku irage rya 1972 basanga urwo rubanza ntaho ruhuriye n'ikibaranwa kuko Rusanganwa aburana umutungo yahawe mu 1989, muri 2010 hakaba hari urubanza rwabaye hagati ya Gervais na Mukamusoni, bakagaragaza ko urubanza rwo mu 1986 rudakwiye gutangwa nk'ikimenyetso kuko rwabaye mbere yuko Ngirumpatse atangiye umutungo uburana, mu gihe Mukamusoni yarakiriho yavugaga ko afite umutungo yasigiwe wa Musabyimana, basaba ko urukiko rwazasuzuma rukabihuza n'urubanza rusubirishwamo ku mpamvu z'akarengane.

[36] Musabyimana Rebecca we akavugaga ko hari irage ryo mu 1972 kandi rikaba ritarahinduwe nkuko bivugwa, Rusanganwa Frederic afiteho umugabane, akaba ngo atarigeze ahabwa i Nyawera kuko se yari afite ahandi i Ruhunda, kandi Ngirumpatse Paul akaba yarapfuye urupfu rutunguranye atagize ikindi avuga ku mutungo we, mu iperereza nawe akaba yaravuze ko isambu Rusanganwa Frederic yerekanye ari iya se, akaba we yari yarabyawe n'undi mugore utari uw'isezerano abana na se afite imyaka ibiri, apfa ariwe barikumwe afite imyaka itandatu, ajya kurererwa kwa musaza we Butare Alexandre, bigeze mu 2010 amubaza icyo bamuteganyiriza, maze amubwira ko hari isambu bamuteganyirije i Ruhunda, haza kuboneka irage ryo mu 1972, ariko asanga aho hantu i Ruhunda adahari, amubwira ko ahasigaye ariho Rusanganwa Frederic akorera, amugira inama yo kujya kurega kuko Rusanganwa we mu irage ryo mu 1972 yarimo, akomeza avuga ko yatanze ikirego agasobanurira urukiko uko ikibazo kimeze, ko se atashoboraga gutanga isambu yose kugera n'aho atuye akahaha umwuzukuru kandi ahari ari umwana we akabura ahantu na hamwe maze urukiko ruramurenganura rumuhesha iyo sambu ndetse ubu akaba ayifatanyije n'undi mwuzukuru we witwa Gihana Benjamin mwene Nkezabigwi musaza we kuwundi mugore, asoza avuga ko isambu ya se wa Rusanganwa yahawe na se Ngirumpatse ubu irimo Kayibanda Gervais kuko mu 1986 se yashatse kongera kwisubiza isambu ye y'i Ruhunde abana baramuburanya baramutsinda kuko yashakaga gushaka abagore benshi, ariko ntibyashobotse kuko atahinduye ngo abavane i Ruhunda, akaba rero atemera irage ryo mu 1989.

[37] Musabyimana Rebecca yasabwe kuvuga ku iperereza ryakozwe maze avuga ko Rusanganwa yagaragazaga ko se Ngirumpatse Paul yari yaramuhaye isambu kandi mu 1992 se yarakiriho babana, akaba yarapfuye mu 1994 atunguwe, adakoze irage, ukibaza ukuntu yari guha umwuzukuru akareka we umwana we kandi barabanaga, akomeza avuga ko incarubanza yo mu 1986 aho Ngirumpatse yareze abana be ashaka kubambura isambu bitwaza irage yo mu 1972 aho Kayibanda yagaragarije ntacyahinduye urubanza ndetse nta n'icyahinduye irage, naho urubanza Mukamusoni yaburanye na Kayibanda bari badikanije amasambu kuburana si uko Mukamusoni wahigaruriye agasanga umwanzuro wari wafashwe hari hakurikijwe urukuri, asoza avuga ko aba bose ari abavandimwe be avukana nabo kuri se kuba bagaragaje ko mukase yanditse ibaruwa yerekana umugabane we kandi

mukase yari ashaje kuburyo ari ibyo yakoreshejwe, asaba gufashwa akarenganurwa agahabwa isambu ya se we na Gihana nkuko batari barahawe imigabane.

[38] Me Sebibanza Elie, wunganira Musabyimana Rebecca avuga ko bigaragara ko mu iperereza habajijwe abaturanyi muri uru rubanza kandi ko buri wese yakomeje avuga nk'ibyo yavugiye mu rubanza no mu iperereza yakomeje ameze nk'uburana yaba Masari, Rusanganwa bagenda bagaragaza ko habayeho irage 72 rigakurwaho mu 1989 umusaza Ngirumpatse yisubiyeho akongera gukora irage bundi bushya aho rero niho Rusanganwa avuga ko akomora ubwo butaka nyamara ntacyo agaragaza kimuha uwo mutungo, kuba yarashyize igikorwa muri ubwo butaka ntabwo bimuha uburenganzira bwo kubwita ubwe, kabone nubwo bavuga ko irage ryavanyweho kuko Rwagasana se wa Rusanganwa we ntabwo ryamurebaga kuko yari yarahawe kera afite umugore n'abana, se yaramuhaye kera bityo Rusanganwa yakurikirana umutungo wa se Rwagasana n'iryo rage bavuga ko ryavanyweho riteshwa agaciro n'icyemezo cy'urukiko gusa, asoza avuga ko hari isambu y'i Ruhunda ifitwe na Kayibanda na Mukamusoni bakavuga ko irimo ibice 2 hari igice kigomba guhabwa Musabyimana ariko ntibagaragaza aho yabivugiye, bagasaba ko harebwa amategeko akaba ariyo ashingirwaho, ubutaka bukazungurwa na Gihana na Musabyimana, ikiburanwa atari izungura kuburyo Rusanganwa yajya kuzungura sekuru.

[39] Masali Thaddee avuga ko se yakoze irage mu 1972, ariko mu 1989 akaza kurihindura buri mwana agahabwa umugabane we, akomeza avuga ko se afite aho yari yarashakiye nyina wa Musabyimana Rebecca ari naho afite isambu i Ruhunda nk'umugabane we, akaba ariho yaherera naho isambu Kayibanda afite i Ruhunda ni aho se yashatse ko agira umwana bagumana akamuba iruhande, asabwe kugira icyo avuga ku iperereza, avuga ko ariwe wari umukuru w'umuryango yanagaragaje uko se yabahaye, akaba yemeza ko Rusanganwa yarenganye cyane kuba yarafite inzu n'igipimo cy'ikawa none bakaba bavuga ko atahawe.

[40] Kayibanda Gervais avuga ko Rusanganwa Frederic yakorewe akarengane kuko yambuwe ibyo yahawe na se ariwe sekuru mu 1989, kandi ko yari yarubatswe mu irembo rye, wanavuze ko ariwe uzamushyiringura, mu 1974 aribwo se yamwiyandikishijeho mubitabo by'irangamimerere kandi yize yitwa mwene Ngirumpatse Paul, ndetse n'ibyangombwa bye nimwene Ngirumpatse Paul, akomeza avuga ko mu 1972, Ngirumpatse Paul yatanze irage rya Ruhunda, isambu ayigabamo kabiri abana be arabaguranira, maze nawe aho yasigaranye ahashakiramo abagore 2 nyuma ya nyina kandi hahari, mu iperereza yabajijwe isambu ya Rwagasana se wa Rusanganwa yari afite i Ruhunda iyo ariyo, avuga ko yigeze kuhubaka ariko ahita yigira i Bugande, kuburyo isambu ndetse na rya rage se yahise abisesa kuburyo nta mwana wundi yongeye kuhagira isambu muri bene se, abajijwe impamvu mubavandimwe be uko ari bane ari we wenyine wahawe i Ruhunda, avuga ko nyuma y'urubanza rwabayeye mu 1986, yamureze ngo arimo kumuhingira isambu, aramutsinda, nibwo abantu batangiye kumwereka amakosa ye, nibwo mu 1989 yahamagaye umuryango wose, maze abana bose aberekeza i Nyawera, ariko we kubera ko yari yaramaze kuhubaka arahaguma, ikindi gice akerekezamo umugore we Mukamusoni, asoza avuga ko Rwagasana utari uhari we atigeze ahabwa mubandi bana, ariko ko uruhare rwe rwahawe umwana we Rusanganwa i Nyawera nk'umugabane wa se.

[41] Yasabwe kugira icyo avuga ku iperereza nawe, maze avuga ko Mukamusoni yahamagaye Musabyimana amusaba ko aza akamuha isambu kuwa 24/12/2014 bikorerwa mukagali maze Musabyimana arabyanga, umunsi w'urubanza rwa Ruhunda nabo babajijwe, ariko ntawigeze yerekana ko Rusanganwa Frederic agira umugabane wa Ruhunda, asoza avuga ko icyo asaba urukiko ari ukurenganura ufite akarengane kuko bamuca mu muryango kandi ntacyaha yakoze.

[42] Mukabutare Dancille avuga ko Rusanganwa Frederic yakorewe akarengane kuko yahohotewe akaba nta hantu afite abarizwa mu kwa se, kandi ko yabajije se aho Rusanganwa Frederic azajya amusubiza ko ari umwana we ko azamugenera nk'abandi bana be, agiye kubaka se amuha mu irembo rye aba ariho yubaka ndetse ahahinga n'ikawa, asabwe kugira icyo avuga ku iperereza,

ashimangira ko Rusanganwa Frederic yarenganye ariko Butare ariwe nyirabayazana mukurengana kwe kuko ashobora kuba afite ibyo ahishe bituma adashaka ko Rusanganwa abona umugabane mu bya sekuru.

[43] Uwimana Marie Jeanne nawe avuga ko Rusanganwa arengana kuko mu 1989 Ngirumpatse atanga umunani we atahaje ariko umugabo we yarahari, ahantu hose aratanga na Rusanganwa aramuha avuga ko igihe azaba atakiriho azabyegukana kandi igihe cyose Rusanganwa yakoreraga aho ibikorwa kandi akabikorwa na Butare, naho i Ruhunda atigeze yumva bavuga ko bahafite umunani kuko hatuwe na Kayibanda n'abagore ba sebukwe, asoza avuga ko nyina wa Musabyimana Rebecca yari yarashakiye i Ruhunda byumvikane ko ariho Musabyimana yari gusubira kuko ariho hari umugabane we.

[44] Gihana Benjamin we yavuze ko se ariwe wari imfura ya Ngirumpatse Paul, akaba yarahunze akajya i Bugande ari naho yababyariye muguhunguka ntibigeze bamenya iby'amasambu, mu manza za mbere batambamiye urwa 2015 rwa TGI/NGOMA, iyo sambu iburanwa yarifitwe na Musabyimana maze urukiko rutegeka ko bayigabana na Musabyimana bakaringaniza, Rusanganwa akavuga ko ari iye, ariko agatekereza ko aho sekuru yari yarasigaranye ariho yarabikiye umwana we utaragize aho ahabwa.

[45] Butare Alexandre we akavuga ko Rusanganwa Frederic atigeze ahabwa na sekuru, ahubwo afite umugabane we i Ruhunda aho se yari yarahaweho umugabane atarajya i Bugande kandi ko nta ngurane yigeze ahabwa i Nyawera, Rusanganwa Frederic kuhubaka no kuhatera ikawa byari uburwo bwo kwiharika kuko yarerewe kwa sekuru, mu iperereza yavuze ko kuva mu 1999 kugera 2014 isambu iri i Nyawera yakoreragamo Rusanganwa kuko yatangiye kuyikorera agishaka kuva mu 1999, ariko yakoresha igice kimwe, Masali Thaddee agakoresha ikindi, akomeza avuga ko iby'igipimo cy'ikawa yo mu 1991, Rusanganwa yabikoze nk'umwana mu rugo ushobora kwiharika, abajijwe uburyo Rusanganwa yayibarujeho yose, avuga ko nubwo yayibarujeho yose, ariko nyamara yari afite igice kimwe yakoreragamo arinabyo byatumye abaza Masali Thaddee aho abandi bana nka mukuru wabo Nkerabigwi ndetse na Rebecca aho bazajya, ariko yisubiraho arabireka kuko we yari afite ahe yanga kubikurikirana, asoza avuga ko mu 1986 se yashatse kwisubiza isambu yamaze gutanga mu irage, kandi afite indi sambu muri Rukara, bigeze mu 1989 aza kubagabanya isambu y'i Nyawera, we na Masali Thaddee, Munyaneza na Butare, ahasigaye ahasigarana nk'ubutaka bwe, mu 1994 aza gupfa bitunguranye, ntacyo avuze ku bana n'abuzukuru be barimo Rusanganwa na bashiki be Mutegwaraba Emerthe, Mukagasana na Musabyimana Rebecca umwana we, ariko icyaje gutungurana ni ukumva ko isambu isigaye yayihaye Rusanganwa kandi hari abo bana be basigaye atari yaha barimo Musabyimana Rebecca na Nkerabigwi, abajijwe niba yemera ko Rusanganwa afite isambu i Ruhunda, avuga ko ihari, kuko mu irage ryo mu 1972 se yakoze, isambu ya Rwagasana atigeze ayikoraho, ubu iragiwe na Kayibanda Gervais, abajijwe nanone niba yemera ko Rusanganwa yari afite inzu yari yubatswe mu isambu y'i Nyawera, asubiza ko yari ihari.

[46] Asabwe kugira icyo avuga ku iperereza ryakozwe, avuga ko se yakoze irage mu 1989, ko Rusanganwa nta mbago yaterewe none yavuga ko yahawe na sekuru gute naho kuri Musabyimana se yapfuye afite imyaka 7 muri icyo gihe abana b'abakobwa bari bataratangira kugabana iwabo none bavuga bate ko se yari yasigiye Musabyimana isambu, asoza avuga ko se akora irage yakoze inyandiko no guhindura irage aba yarakozwe indi nyandiko.

[47] Habimana Nepomscene umutangabuhamyababajijwe mu iperereza akana n'umukuru w'umudugudu, yavuze ko isambu iri i Ruhunda ikoreramo Kayibanda wenyine, ntawundi wigeze ayikorera, keretse gusa aho umukecuru yagurishije uwitwa Leonard, asoza avuga ko mukecuru apfa yababwiye ko umugabo we yamushinze uwo mwana ngo azamuhe umugabane, ko kandi bishoboka ko inyandiko yabikoreye ikiraho.

## UKO URUKIKO RUBIBONA

### **Kubujyanye no kumenya niba hari ubutaka Rusanganwa Frederic yahawe na sekuru Ngirumpatse Paul**

[48] Ingingo ya 3 y'itegeko N° 15/2004 ryo kuwa 12/6/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya buri muburanyi agomba kugaragaza ukuri kw'iby aburana, umucamanza ashobora nyamara gutegeka umuburanyi we gutanga gihamya y'ibimenyetso afite, n'iya 65 yaryo, iteganya ko "urukiko arirwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikirinanuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa, ntirwitsitsa ku mubare w'abatangabuhamya, rwita cyane cyane kubumenyi bwabo bw'ibyabaye no kuburyo babivuga uko byagenze ntacyo bahimba".

[49] Iyi ngingo yumvikanisha ko mu guca urubanza urukiko arirwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa, ntirwitsitsa ku mubare w'abatangabuhamya rwita cyane kubumenyi bwabo bw'ibyabaye no kuburyo babivuga uko byagenze ntacyo bahimba.

[50] Urukiko rurasanga nkuko bamwe mu baburanyi babyemeza, Ngirumpatse Paul yarakoze irage mu 1972 agaha abana be uretse Nkerabigwi John utari uaharo na Musabyimana Rebecca wari utaravuka, imigabane mu isambu iherereye i Ruhunda, ariko akaza kurihindura mu 1989 akabaguranira mu isambu iherereye i Nyawera mu mudugudu wa Gitega, akagari ka Nyawera, umurenge wa Mwiri, akarere ka Kayonza, Rusanganwa Frederic agahabwa umugabane wa se Rwagasana Damascene wari waragiye i Bugande uretse Kayibanda Gervais wasigajwe i Ruhunda, ibi ababuranyi bose bakaba babyemeranywaho uretse Musabyimana Rebecca na Butare Alexandre babihakana.

[51] Hashingiwe ku ngingo z'itegeko ryavuzwe hejuru, rusanga ibyo Rusanganwa Frederic avuga by'uko yahawe isambu i Nyawera akayubakamo inzu ndetse akanayiteramo ikawa, yafatwaho ukuri kw'igice kuko nubwo yahawe isambu ariko atari yayihawe yose kubera ko Ngirumpatse Paul atari gutanga isambu yose agihari kandi akaba atarakoze irage ngo bimenyekane ko Rusanganwa Frederic yari kuyegukana yose ari uko apfuye, ahubwo icyabaye ari uko yamuhaye igice kimwe cyayo gihwanye n'ingurane ya se Rwagasana Damascene, akaba ari nacyo yari yarubatsemo inzu akanateramo ikawa, ikindi gice gisigaye kiguma mu maboko ya Ngirumpatse Paul, ibi kandi bikaba bihagaragazwa nuko na nyuma yaho Ngirumpatse Paul apfiriye mu 1994, Rusanganwa Frederic yakomeje gukorera gusa mu gice kimwe, ikindi kigakorera Misale Thaddee nubwo yaje kukimuha nyuma maze iyo sambu yose iza kugenda ibarurwa kuri numero zitandukanye arizo: UPI: 5/04/07/04/1272, na UPI: 05/04/07/04/1324.

[52] Rusanga rero, Rusanganwa Frederic yarahawe ingurane mu mwanya w'umubyeyi we Rwagasana Damascene utari uhari, igizwe n'igice cy'isambu y'i Nyawera, uwo ukaba ari umugabane akwiye gusubirana yafashe mu mwanya wa se Rwagasana Damascene nk'umuzungura we nkuko biteganywa n'ingingo ya 74 y'itegeko N° 27/2016 ryo kuwa 08/07/2016 rigenga imicungire y'umutungo w'abashyiranywe, impano n'izungura, iteganya ko uretse se na nyina, sekuru na nyirakuru b'uwapfuye, iyo abazungura b'uwapfuye bapfuye mbere ye, bahagararirwa mu izungura n'ababakomokaho. Ku bakomoka k'uwapfuye, iryo hagararirwa ntirigira aho rirangirira kandi igabana rikorwa hakurikijwe igisekuru ; bityo icyo gice cy'isambu akaba akwiye kugisubizwa uko cyakabaye.

**Kubyerekeranye no kumenya niba hari umutungo wasizwe na Ngirumpatse Paul.**

[53] Urukiko rurasanga nkuko benshi mu baburanyi babyemeza, hari igice cy'isambu Ngirumpatse Paul yari atuyemo i Nyawera kandi akaba yarapfuye urupfu rutunguranye ntacyo abivuzeho, uwo wafatwa nk'umutungo wari mu maboko ye kugeza umunsi apfiriyeho, hakaba kandi n'igice cy'isambu iherereye i Ruhunda bivugwa ko cyari guhabwa Musabyimana Rebecca nkuko bigaragazwa n'inyandiko yakozwe na Mukamusoni Therese wahamije ko umugabo we Ngirumpatse Paul yasize amubwiye ko azahaha Musabyimana Rebecca igihe azagarukira, ariko akaza kucyanga, icyo nacyo kikaba gikwiye kubarirwa mu mutungo wasizwe na Ngirumpatse Paul ugomba guzungurwa n'abamukomokaho batabonye imigabane yabo kuko ababonye imigabane yabo batagaragaza ubushake bwo kuzungura; bityo rero umutungo wasizwe na Ngirumpatse Paul ukaba ugizwe n'igice cy'isambu iherereye i Nyawera, yari ibaruye kuri UPI 5/04/07/04/1272 na UPI: 05/04/07/04/1324 n'igice cy'isambu iherereye i Ruhunda mu Karere ka Rwamagana, ifite ubuso bungana na m 345 kuri m 360, iri muni y'umuhanda wa kera, igice cyawo cy'iburyo ureba hepfo, igisigaye cy'ibumoso kikaba icy'abazungura ba Mukamusoni Therese.

**Kubyerekeranye no kumenya abafiteuburenganzira bwo kuzungura umutungo wasizwe na NGIRUMPATSE Paul n'uburyo bakwiye kuwugabana.**

[54] Ingingo ya 73 y'itegeko n° 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, iteganya ko abana b'uwapfuye aribo bazungura be ku mwanya wa mbere naho iya 74 yaryo yo igateganya ko uretse se na nyina, sekuru na nyirakuru b'uwapfuye, iyo abazungura b'uwapfuye bapfuye mbere ye, bahagararirwa mu izungura n'ababakomokaho. Ku bakomoka k'uwapfuye, iryo hagararirwa ntirigira aho rirangirira kandi igabana rikorwa hakurikijwe igisekuru.

[55] Izi ngingo zumvikanisha ko abana b'uwapfuye aribo bamuzungura ku mwanya wa mbere, ariko iyo abana bapfuye mbere ye, bahagararirwa mu izungura n'ababakomokaho kandi iryo hagararirwa ntirigira aho rirangirira.

[56] Urukiko rurasanga nkuko n'abandi baburanyi babyemeranywaho, Nkerabigwi John umubyeyi wa Gihana Benjamin na Musabyimana Rebecca aribo bana ba Ngirumpatse Paul batigeze bahabwa imigabane naho Rusanganwa Frederic nubwo avuga ko yari yagizwe umwana na sekuru ubwabyo bitamuha ububasha bwo kuzungura umutungo wasizwe na sekuru kuko atagaragaza ko yagizwe umwana kuburyo busesuye kuko aribwo buhesha uwagizwe umwana uburenganzira bwo kuba yazungura uwamugize umwana wapfuye, nkuko biteganywa n'ingingo ya 294 y'itegeko N° 32/2016 ryo ku wa 28/08/2016 Itegeko rigenga abantu n'umuryango nkuko ryahinduwe kugeza ubu, iteganya ko kubera umubyeyi umwana utabyaye ku buryo busesuye ni uburyo butuma umwana ata burundu isano muzi yari afitanye n'umuryango we w'ibanze; bityo Musabyimana Rebecca na Gihana Benjamin mu mwanya wa se Nkerabigwi John wapfuye, akaba aribo bakwiye kuzungura ku buryo bungana umutungo wasizwe na Ngirumpatse Paul wagaragajwe hejuru kandi bakawugabana kuburyo bungana, igice cy'isambu iri i Nyawera kingana n'icya Rusanganwa Frederic bakakigabana kuburyo bungana n'igice cy'isambu, iherereye i Ruhunda mu Karere ka Rwamaga, ifite ubuso bungana na m 345 kuri m 360, iri muni y'umuhanda wa kera, igice cyawo cy'iburyo ureba hepfo, kingana n'icy'ibumoso ureba hepfo nanone cy'abazungura ba Mukamusoni Therese nacyo bakakigabana ku buryo bungana.

[57] Urukiko rurasanga nubwo abandi baburanyi bazanwe muri uru rubanza aribo: Masali Thaddee, Kayibanda Gervais, Butare Alexandre, Uwimana Marie Jeanne na Mukabutare Dancille, ariko ntacyo basaba urukiko nta n'icyo bafitiye uburenganzira muri uru rubanza kuko bo babonye imigabane yabo umubyeyi wabo agihari kandi ikaba ibanditseho, bakaba rero badasaba izungura.

**C. Kubyerekeranye no kumenya niba hari indishyi zikwiye gutangwa muri uru rubanza.**

[58] Rusanganwa Frederic yasabye indishyi z'akababaro zingana na F.2,000,000, igihombo yagize nyuma yo kwamburwa umutungo we kingana na F.5,000,000, F.150,000 amaze kwishyura Musabyimana Rebecca muyo yategetswe mu manza, igihombo cy'Avoka cyo kuri uru rwego kingana na F.500,000 n'icya F.2,000,000 mu manza zabanjirije uru, ingendo zihwanye na F.400,000 na F.125,000 y'amagarama yagiye atanga mu manza.

[59] Musabyimana Rebecca we akavuga ko Rusanganwa Frederic nta ndishyi akwiye kuko ariwe nyirabayazana w'uru rubanza kubera ko we yakurikiranaga uburenganzira bwe agenerwa n'amategeko, byongeye kandi isambu ayifite kubera ko yayitsindiye; bityo indishyi asaba zikaba nta shingiro zifite.

### **UKO URUKIKO RUBIBONA**

[60] Urukiko rurasanga nubwo hari abagize icyo batakaza kubwo gukurikirana uru rubanza ndetse n'izindi rukomokaho, nta ndishyi zikwiye gutangwa muri uru rubanza rw'abavandimwe mu rwego rwo gusigasira ubuvandimwe n'ubumwe mu muryango; bityo rero nta ndishyi izo arizo zose zikwiye kugenwa muri uru rubanza.

### **III. ICYEMEZO CY'URUKIKO.**

[61] Rwemeje ko ikirego cya Rusanganwa Frederic gifite ishingiro kuri bimwe.

[62] Rwemeje ko urubanza RCA0110/13/TGI/NGOMA rwaciwe kuwa 11/02/2014 n'urukiko Rwisumbuye rwa Ngoma ruhindutse mu ngingo zarwo zose, ndetse n'urubanza RCA0047/15/TGI/NGOMA rwaciwe kuwa 30/12/2015 n'urukiko Rwisumbuye rwa Ngoma rurushamikiyeho rukaba narwo ruhindutse mu ngingo zarwo zose.

[63] Rwemeje ko Rusanganwa Frederic asubirana igice cy'isambu iri i Nyawera nk'umugabane wa se Rwagasana Damascene wafuye.

[64] Rwemeje ko igice kindi gisigaye kuri iyo sambu y'i Nyawera, kingana n'icya Rusanganwa Frederic, kikagabanwa ku buryo bungana na Musabyimana Rebecca na Gihana Benjamin mu mwanya wa se Nkerabigwi John wafuye.

[65] Rwemeje ko igice cy'isambu, iherereye i Ruhunda mu Karere ka Rwamagana, ifite ubuso bungana na m 345 kuri m 360, iri munsu y'umuhanda wa kera, igice cyawo cy'iburyo ureba hepfo, (kingana n'icy'ibumoso ureba hepfo nanone cy'abazungura ba Mukamasoni Therese) nacyo kigabanywa ku buryo bungana na Gihana Benjamin na Musabyimana Rebecca.

[66] Rwemeje ko Masali Thaddee, Kayibanda Gervais, Butare Alexandre, Uwimana Marie Jeanne na Mukabutare Dancille nta mpamvu yo kuba muri uru rubanza.

[67] Rwemeje ko nta ndishyi zigenwe muri uru rubanza.

[68] Rutegetse ko ingwate y'amagarama yatanzwe muri uru rubanza, ihwanye n'ibyakozwe kuri uru rubanza, ikaba iheze mu isanduku ya Leta.