# UBUSHINJACYAHA v. BAGORA

[Rwanda URUKIKO RW'IKIRENGA – RPA0308/10/CS (Nyirinkwaya, P.J., Mukanyundo na Rugabirwa, J.) 9 Mutarama 2015]

*Indishyi – Indishyi zikomoka ku cyaha – Indishyi zishingiye ku ngaruka icyaha cyari gutera umuntu utari ugambiriwe kugikorerwa – Uregera indishyi arazihabwa mu gihe icyaha cyashoboraga kumugiraho ingaruka, cyaramuteye ubwoba kandi kikamuhungabanya – Itegeko ryo ku wa 30 Nyakanga 1888 rigenga ibyerekeye amasezerano cyangwa imirimo nshinganwa, ingingo ya 258.*

**Incamake y'ikibazo:** Bagora yakurikiranyweho ubwinjiracyaha bw'ubwicanyi mu Rukiko Rukuru,Urugereko rwa Musanze hashingiwe kukuba yarafatanywe gerenade agiye kuyitera mu rugo rwa mushiki we. Mukapasika Marie Jeanne, umukobwa wa Nyirabazamanza nawe yaregeye indishyi muri urwo rubanza zishingiye ku kuba Bagora yarabatoteje kuva mu bwana bwe kugeza amutemye ijisho ndetse akageza ubwoashaka kubatera gerenade ngo yice abo mu rugo bose.

Urukiko rwahamije Bagora icyaha rumuhanisha igifungo cy'imyaka ine (4) ndetse rwemeza ko ikirego cy'indishyi cyatanzwe na Mukapasika nta shingiro gifite kuko icyaha cyo kumutema ku jisho atari cyo cyaburanywe naho ku bijyanye n'icyaha cyo gutera gerenade akaba adasobanura uko yabangamiwe ku giti cye, cyane ko uwari ugiye kwicwa ari we nyina akiriho. Mukapasika yajuririye iki cyemezo mu Rukiko rw'Ikirenga avuga ko akomeje gukurikirana indishyi z'akababaro zishingiye kuri gerenade bari bagiye guterwa kuko byamuteye ihahamuka mu gihe Bagora avuga ko icyaha cyo gushaka gutera gerenade yagihaniwe igifungo cy'imyaka 4, akaba asanga nta ndishyi yacibwa kuko ntacyo yabangirije. Ubushinjacyaha bwo buvuga ko ntacyo bugikurikiranye muri uru rubanza ariko ko busanga uregera indishyi yazigenerwa kuko iyo gerenade iterwa nawe yari kumugiraho ingaruka.

**Incamake y'icyemezo:** Icyaha uregwa yahaniwe kijyanye no kuba yari yagambiriye kubatera gerenade ariko igikorwa ntikigerweho cyangirije Mukapasika Marie Jeanne kuko nawe yashoboraga kumugiraho ingaruka zikomeye, bikaba byaramuteye ubwoba kandi byaramuhungabanyije, bityo akaba afite uburenganzira bwo guhabwa indishyi.

**Ubujurire bufite ishingiro.**
**Uwajuriye agomba guhabwa indishyi zingana na miliyoni imwe (1.000.000Frw).**
**Urubanza rwajuririwe ruhindutse kubijyanye n'indishyi.**
**Amagarama y'urubanza aherereye ku isanduku ya Leta.**

**Amategeko yashingiweho:**
Itegeko ryo ku wa 30 Nyakanga 1888 rigenga ibyerekeye amasezerano cyangwa imirimo nshinganwa, ingingo ya 258.

**Nta rubanza rwifashishijwe.**

## Urubanza

# I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rukuru, Urugereko rwa Musanze, Ubushinjacyaha burega Bagora icyaha cy'ubwinjiracyaha mu bwicanyi buvuga ko tariki ya 25/09/2009 yafatanywe gerenade hafi yo kwa mushiki we Nyirabazamanza bari bafitanye ibibazo by'amasambu agiye kuyitera ku rugo rw'uwo mushiki we. Mukapasika Marie Jeanne, umukobwa wa Nyirabazamanza nawe yaregeye indishyi muri urwo rubanza zishingiye ku kuba yarabatoteje kuva mu bwana bwe kugeza amutemye ijisho kuwa 14/08/2007, kuwa 25/09/2009 naho agashaka kubatera gerenade ngo abice bose mu rugo.

[2] Urwo Rukiko rwaciye urubanza RP 0100/09/HC/MUS kuwa 24/09/2010, ruhamya Bagora ubwinjiracyaha mu buhotozi ahanishwa igifungo cy'imyaka ine (4), rwemeza ko indishyi zaregewe na Mukapasika nta shingiro zifite kuko icyaha cyo kumutema ku ijisho ataricyo cyaburanywe, ku bijyanye n'icyaha cyo gutera gerenade akaba adasobanura uko yabangamiwe ku giti cye, cyane ko uwari ugiye kwicwa ari nyina ucyibereyeho.

[3] Mukapasika yajuririye Urukiko rw'Ikirenga kuwa 19/10/2010. Urubanza rwaburanishijwe mu ruhame kuwa 01/12/2014, Bagora Jonas yunganiwe na Me Nzabarantumye Augustin, Mukapasika Marie Jeanne uregera indishyi yunganiwe na Me Twagirayezu Laurent, naho Ubushinjacyaha buhagarariwe na PN Higaniro Hermogène.

# II. IKIBAZO KIGIZE URUBANZA N'ISENSENGURWA RYACYO

**Kumenya niba Mukapasika Marie Jeanne akwiye kugenerwa indishyi z'akababaro.**

[4] Mukapasika Marie Jeanne avuga ko mu rwego rwa mbere yasabye indishyi zishingiye ku kuba Bagora yaramutemye ijisho no ku kuba yari agiye kubatera gerenade mu nzu yabanagamo na nyina na murumuna we, akaba akomeje gukurikirana mu bujurire indishyi z'akababaro za 5.000.000 Frw zishingiye kuri gerenade bari bagiye guterwa kuko byamuteye ihahamuka.

[5] Me Twagirayezu Laurent umwunganira nawe avuga ko iyo Bagora aza gutera gerenade mu nzu ya mushiki we nk'uko yari yabigambiriye, itari guhitamo uwo yica, akaba asanga Mukapasika yabiherwa indishyi yasabye mu rwego rwa mbere kuko icyaha cyamuteye ihahamuka nk'uko abivuga.

[6] Bagora Jonas avuga ko nta kibazo yari afitanye na mwishywa we Mukapasika Marie Jeanne, ahubwo ko yari agifitanye na nyina, ndetse ko icyaha cyo gushaka gutera gerenade yagihaniwe igifungo cy'imyaka 4, akaba asanga nta ndishyi yacibwa kuko ntacyo yabangirije.

[7] Me Nzabarantumye Augustin umwunganira avuga ko Bagora adakwiye gucibwa indishyi ku cyaha cyo guterwa gerenade kuko Mukapasika Marie Jeanne azivuze bwa mbere mu bujurire, uwagombaga kuzikurikira akaba ari nyina ucyibereho.

[8] Uhagarariye Ubushinjacyaha avuga ko ntacyo bugikurikiranye muri uru rubanza kuko bwashimishijwe n'igihano cyatanzwe, bukaba ariko busanga Mukapasika Marie Jeanne yagenerwa indishyi kuko iyo gerenade iterwa nawe yari kumugiraho ingaruka.

## UKO URUKIKO RUBIBONA:

[9] Ingingo ya 258 y'Igitabo cya gatatu cy'urwunge rw'amategeko y'imbonezamubano ivuga ko "igikorwa cyose cy'umuntu cyangirije undi gitegeka nyirugukora ikosa rigikomokaho kuriha ibyangiritse.

[10] Bagora Jonas yahaniwe icyaha cy'ubwinjiracyaha mu buhotozi ubwo yari agiye gutera gerenade mu nzu ya mushiki we Nyirabazamanza ariko ku bw'amahirwe icyaha kikaburizwamo ku mpamvu zitamuturutseho, nawe kandi ntahakana ko mwishywa we Mukapasika Marie Jeanne yari atuye muri iyo nzu ku buryo nawe yashoboraga kugerwaho n'ingaruka za gerenade iyo aza kuyitera nk'uko yari yabigambiriye.

[11] Urukiko rusanga rero icyaha Bagora Jonas yahaniwe cyarangirije Mukapasika Marie Jeanne kuko gerenade yari yagambiriye gutera nawe yashoboraga kumugiraho ingaruka zikomeye, bikaba byumvikana ko nubwo igikorwa kitagezweho cyamuteye ubwoba kandi cyaramuhungabanyije.

[12] Ku bijyanye ariko n'amafaranga Mukapasika Marie Jeanne asaba, Urukiko rusanga 5.000.000Frw ari menshi ugereranyije n'ingaruka icyaha cyateje, mu bushishozi bwarwo rukaba rumugeneye indishyi z'akababaro za 1.000.000Frw.

## III. ICYEMEZO CY'URUKIKO

[13] Rwemeye ko ubujurire bwa Mukapasika Marie Jeanne bufite ishingiro.

[14] Rutegetse Bagora Jonas kumuha indishyi z'akababaro za miliyoni imwe (1.000.000Frw).

[15] Rwemeje ko urubanza n° RP 0100/09/HC/MUS rwaciwe kuwa 24/09/2010 ruhindutse ku bijyanye n'indishyi.

[16] Ruvuze ko amagarama y'urubanza aherera ku isanduku ya Leta.