URUKIKO RUKURU, URUGEREKO RWIHARIYE RUBURANISHA IBYAHA BYO KU RWEGO MPUZAMAHANGA N'IBYAHA MBUKA IMBIBI, RUKIJIJE MU RUHAME URUBANZA RP 00004/2016/HCCI NONE KUWA 23/12/2016 MU BURYO BUKURIKIRA:

HABURANA

UBUSHINJACYAHA

na

MACHARIA Asman Wachira mwene MACHIRA Asman na MUTHONI Sophia, yavutse mu mwaka wa 1984, avukira i Nairobi mu gihugu cya Kenya, niho abarizwa akaba ari naho atuye, ni Umunyakenya ukora akazi k'ubucuruzi, wunganiwe na Me NYEMBO Emeline

Icyaha akurikiranweho : Icyaha cyo gucuruza abantu giteganywa kandi kigahanishwa ingingo ya 250 na 252 z'Itegeko Ngenga n^{o} 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana.

I. IMITERERE Y'URUBANZA

1. MACHARIA Asman Wachira yafatiwe ku mupaka w'u Burundi n'u Rwanda i Nemba ava mu gihugu cy'u Burundi ari kumwe n'abagore batatu b'abarundikazi ubushinjacyaha buvuga ko yari agiye gucuruza muri Saudi Arabia abanyujije mu gihugu cy'u Bugande.

2. MACHARIA Asman Wachira ahakana icyaha cyo gucuruza abantu avuga ko we yagiye i Burundi mu rwego rwo kureba ko yahagurira ibikorwa bye by'ubucuruzi, ko abagore bavugwa ko yari agiye gucuruza yahuriye nabo ku mupaka mu biro bishinzwe abinjira n'abasohoka bava i Burundi ariko atabazi.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO.

- ***Kumenya niba ibikorwa biregwa MACHARIA Asman Wachira bigize icyaha cyo gucuruza abantu.***

3. Ubushinjacyaha buvuga ko kuwa 16/07/2016, MACHARIA Asman Wachira yafatiwe i Nemba ku mupaka w'u Rwanda n'u Burundi atwaye abagore batatu yari avanye mu gihugu cy'u Burundi abajyanye muri Uganda kugira ngo mu gihugu cya Saudi Arabia. Bukomeza busobanura ko abo bagore yabahawe n'uwitwa YMAN utuye mu gihugu cy'u Burundi bari baraye bagiranye ibiganiro muri hoteli bakavugana ko azabatwa i Bugande akabashyikiriza uwitwa MUSA agahabwa igihembo cy'amadorali magana abili y'abanyamerika (200$). Bunasobanura ko MACHARIA abazwa yivugiye ko asanzwe akorana n'amasosiyete yo mu bihugu bya Saudi Arabia ibikorwa byo gucuruza abantu, ko inshingano ye yari iyo kugeza abo bagore i Bugande.

4. Buvuga kandi ko ikigaragaza ko ariwe wari ubatwaye ari uko umukozi w'ibiro bishinzwe abinjira n'abasohoka yabajije abo bagore aho bagiye bakahayoberwa maze MACHARIA abaha nimero za telefone z'uwitwa MUSA ababwira ko bavuga ko ariwe bagiye kureba, ko ikindi MACHARIA abazwa yavuze ko MUSA ariwe wagombaga kubashyikiriza uwo yise "Boss" ubafata amafoto akayohereza muri OMAN, babakunda bakabajyana yo kurera abana.

5. Ubushinjacyaha bukomeza buvuga ko abo bagore basobanuye uburyo bashatswe bababwira ko bagiye kubashakira akazi, banashakirwa ibyangombwa by'inzira nta ruhare babigizemo kugeza babinjije mu modoka bababwira ko uboyobora bamusanga imbere ariko ko uwari kubatwara batari bamuzi, ko rero uwo bababwiraga ari MACHARIA bahuriye ku mupaka agatangira kubafasha gusobanura aho bagiye. Bunavuga ko kuba abo bagore bavuga ko bari bagiye kurera abana ariko bakaba batari bazi aho bagiye, bataranagize uruhare gushaka ibyangombwa by'inzira bigaragaza ko bari batwawe mu buryo bw'uburiganya bagiye gukoreshwa

ubucakara nk'uko bisobanurwa n'ingingo ya 250 y'igitabo cy'amategeko ahana.. Busoza buvuga ko n'ubwo MACHARIA ahakana inyandiko mvugo yakorewe akimara gufatwa avuga ko yakozwe mu rurimi atumva, ntiyanayisinya ariko mu rwego rw'amategeko ifite agaciro kuko umugenzacyaha yanditseho ko yanze kuyisinya, kandi n'ibibazo abajijwe n'ibisubizo yatanze bigaragaza ko yabajijwe mu rurimi rw'icyongereza yumva.

6. MACHARIA Asman Wachira ahakana icyaha cyo gucuruza abantu avuga ko asanzwe ari umucuruzi, ko yagiye i Burundi agiye kureba ko hari ubucuruzi bwerekeranye n'ubukerarugendo bwahakorerwa ko asanzwe afite isosiyete itwara bamukerarugendo gusura amaparike, kandi ko yubaha igitsina gore atajya mu bikorwa byo kubacuruza. Anavuga ko iby'ubushinjacyaha bumurega ko asanzwe acuruza abantu atari byo kuko ubucuruzi akora ari ugushakira abantu uburenganzira bwo kujya mu mahanga (*visa*), ko ibyo bitandukanye no gucuruza abantu. Akomeza avuga ko n'ibyo buvuga ko yemera icyaha nabyo atari byo kuko inyandiko mvugoy'ibazwa buheraho bubivuga atigeze ayisinya kuko iyo nyandiko igaragaza ko yahisemo kubazwa mu rurimi rw'ikirundi kandi urwo rurimi ataruzi, ikaba itanagaragaza imyirondoro ye na telefone ye, bityo ikaba itafatwa nk'ikimenyetso.

7. Akomeza avuga ko atari azi abo bagore ubushinjacyaha bumushinja ko yacuruje, ko yababonye bwa mbere ku mupaka, ko nta na gahunda yabo yari azi , ko atanagize uruhare mu kubashakira ibyangombwa kuko bivugiye amazina y'abantu babafashije kubishaka, banabaha itike barimo abitwa Maman Rehema na Maman Sandra, we bavuga ko batigeze bamubona. Anavuga ko impamvu yabafashije ari uburyo busanzwe bwo gufasha umuntu wagize ikibazo, ko ubwo bari mu modoka bava i Burundi hari umuntu wamutiye telefone amubwira ko we nta mafaranga yo guhamagara afitemo, arayimuha ahamagaye asanga nimero ititaba, amubaza aho agiye amubwira ko agiye i Nairobi nawe amubwira ko agiye i Kampala, amubaza niba hari umuntu azi i Kampala yahamagara, amuha nimero za telephone z'uwitwa MUSA, ko bageze ku mupaka uwo muntu yohereje umugore witwa Mariam kugira ngo amuhe za nimero za Musa, arazimuha, ko ibyo ari byo ubushinjacyaha

bushingiraho buvuga ko yari afitanye gahunda n'abo bagore kandi we yaratanze izo nimero nta mugambi mubi afite.

8. Anavuga ko yafatiwe hamwe n'uwo mugabo wasabye telefone ariko nyuma ntiyamenya uburyo yarekuwe, bafashwe ari babiri, ndetse ko na nimero yahamagaye ubwo yamutizaga telefone harimo izo mu Burundi n'izo mu Rwanda atazi, ko n'uwitwa Yman ubushinjacyaha buvuga ko bakoranye muri ibyo bikorwa ari inshuti ya mukuru we bahuriye muri gare amubwira ko ari kumwe n'abantu bagiye i Kampala. Avuga ko yemera ibyo yavugiye mu bushinjacyaha by'uko abo bagore bari boherejwe na Yman ariko ko atari azi ko agambiriye kubacuruza, ko yari asanzwe aziranye na Yman kuko yiganye n'umuvandimwe we i Nairobi, ko yanamusuye ageze i Burundi, bongera guhurira aho bategera imodoka aherekeje abantu, ko rero n'ubwo uko uruhererekane rw'ibintu byagenze byatuma akekwa ariko ubushinjacyaha bugomba kugaragaza ibimenyetso.

9. Akomeza avuga ko ubusanzwe afitanye amasezerano na sosiyete zo muri Saudi Arabia zishakira abantu akazi nko kurera abana no gutwara imodoka, ko kandi na Leta ya Kenya izi ko abikora. Avuga ko muri 2015 yanabikoze mu gihugu cy'u Bugande kuko gifitanye amazeranyo na Saudi Arabia yo kuhereza abakozi, ndetse ko n'igihugu cy'u Burundi cyari gifitanye na Saudi Arabia bene ayo masezerano.

10. Me NYEMBO Emeline avuga ko inyandiko mvugo yo kuwa 16/07/2016, itahabwa agaciro kuko igaragaza ko MACHARIA yabajijwe mu Kirundi kandi ari ururimi atumva, atanazi, ko akurikije ibiteganywa n'ingingo ya 27 y'Itegeko ryerekeye imiburanishirije y'imanza z'inshinjabyaha iyo nyandikomvugo yateshwa agaciro kuko itujuje ibisabwa. Anavuga ko ibyo ubushinjacyaha buvuga ko abo bagore batari bazi aho bagiye atari byo kuko ubwabo bivugira ko ababarangiye akazi bababwiye ko ari akazi ko mu rugo, ko hari n'abandi barimo witwa Vanessa bagiyeyo mbere, kandi ko bavuze ko bagiye muri Oman. Anavuga ko ibimenyetso bushingiraho ari ukugenekereza kandi nk'uko ingingo ya 4 y'Igitabo cy'amategeko ahana kibiteganya, mu manza nshinjabyaha kugenekereza bibujijwe, ko niba Macharia yaratanze

numero za telefone mu rwego rwo gufasha umuntu wari ufite telefone yazimye ntaho bihuriye no gucuruza abantu.

11. Avuga ko usesenguye ingingo ya 250 y'Igitabo cy'amategeko ahana usanga igaragaza neza gucuruza abantu icyo ari cyo binyuranye n'ibyo MACHARIA aregwa kuko abo bantu aregwa gucuruza batari bamuzi, kandi ko urebye akazi MACHARIA asanzwe akora ko gushakira abantu akazi ko kurera abana n'ako gutwara imodoka gatandukanye no gucuruza abantu, ko rero ubushinjacya bwagombye kugaragaza ibimenyetso bushingiraho icyaha nk'uko biteganywa n'ingingo ya 86 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha.

Uko urukiko rubibona

12. Ku birebana n'inyandikomvugo yo kuwa 16/07/2016 MACHARIA Asman Wachira avuga ko itahabwa agaciro, urukiko rusanga ingingo ya 27 y'Itegeko n° 30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha mu gika cyayo cya gatatu iteganya ko iyo ubajijwe yanze cyangwa adashobora gushyira umukono ku nyandikomvugo byandikwa muri iyo nyandiko. Bityo rero kuba MACHARIA Asman Wachira yaranze gushyira umukono ku nyandikomvugo y'ibazwa rye, bikaba bitayitesha agaciro kuko umugenzacyaha yanditse ko yanze gusinya nk'uko biteganywa n'iyo ngingo. Rusanga kandi kuba mu mutwe w'iyo nyandikomvugo handitsemo ko abajijiwe mu rurimi rw'ikirundi, nabyo bitatuma iteshwa agaciro kuko ari ukwibeshya bisanzwe by'imyandikire kubera ko ari ibibazo yabajijwe, ari n'ibisubizo yatanze byose biri mu rurimi rw'icyongereza yumva.

13. Urukiko rusanga ibishingirwaho mu kurega MACHARIA Asman Wachira icyaha cyo gucuruza abagore batatu abakuye mu gihugu cy'u Burundi birimo kuba yarafatiwe i Nemba ku mupaka w'u Rwanda n'u Burundi afasha abo bagore gusobanurira Abashinzwe abinjira n'abasohoka ko bagiye mu gihugu cy'Ubuganda. Hakanashingirwa ku kuba abo bagore babazwa baravuze ko i Burundi hari abantu babashatse, bakanabashakira ibyangombwa by'inzira birimo pasiporo bababwira ko

bagiye kubashakira akazi ko mu rugo mu bihugu by'abarabu, ndetse n'ibyo MACHARIA Asman Wachira yavugiye mu iperereza.

14. Urukiko rusanga mu nyandikomvugo yakozwe kuwa 16/07/2016 akimara gufatwa, MACHARIA Asman Wachira yaremeye ko abagore batatu b'abarundikazi bari kumwe ku mupaka abazi kuko yaberetswe na YMAN bahuriye aho bategera imodoka i Bujumbura amubwira ko abohereraje uwo bakorana i Kampala, anamwishyura amadolari magana abiri (200 $), ko ibyerekeranye n'abo bagore yashakaga kohereza i Kampala bari baraye babivuganyeho ubwo bari muri hoteli anamubwira ko nibagera i Kampala uwitwa MUSA azababafata akabashyira umukoresha we "*Boss*" wagombaga kubaha ikizamini kirebana n'akazi bari bagiye gukora mu bihugu by'abarabu. Yanavuze ko n'ubwo bari mu modoka imwe bava i Bujumbura, abo bagore batamumenye kuko yari kubibwira bageze i Kigali. Muri iyo nyandikomvugo yanavuze kandi ko mbere y'uko ajya i Burundi yabonanye n'uwo MUSA i Kampala, ko nka nyuma y'iminsi itatu cyangwa ine, ubwo yari i Dar es Saalam, yamuhamagaye bongera kuvugana ku birebana n'abagore yagombaga kuvana i Burundi.

15. Urukiko rusanga mu ibazwa rye ryo kuwa 20/07/2016 mu iperereza yaravuze ko hari sosiyete eshatu zo muri Saudi Arabia bakorana mu byo gushakisha abakozi b'abahungu n'abakobwa bo kohereza yo gukora ibyerekeranye no kurera abana, akazi ko mu rugo, gutwara imodoka, gucunga umutekano w'abantu n'ibintu ari zo ALGOBA recruitment company,NAS recruitement na FAISAL ALISTIQDAM, ko abo bakozi bababakura mu bihugu byo muri Afurika y'Iburasirazuba bifitanye amasezerano yo muri urwo rwego na Saudi Arabia. Yanemeye ko yagiye i Burundi incuro ebyiri, akahashaka abantu bane bo kohereza yo, ariko ntabashe kubajyana kuko igihugu cy'u Burundi cyahagaritse amasezerano cyari gifitanye na Saudi Arabia yo kohereza yo abakozi.

16. Urukiko rusanga yaravuze kandi ko abagore batatu aregwa ko yari atwaye atari we wabashakishije ahubwo ari uwitwa YMAN w'umurundi, ko bahuriye i Burundi aho bafatira imodoka amubwira ko hari abakobwa yohereje i Kampala ariko ko hari undi

muntu ubaherekeje. Muri iyo nyandiko mvugo yanavuze ko yabonye abo bagore bwa mbere ku mupaka bagize ibibazo byo gusobanura aho bagana, maze umugabo wari ubaharekeje amusaba inama y'icyo bakora kuko we nta muntu yari azi i Kampala, amuha nimero za telefone z'inshuti ye yitwa MUSA ibayo, anamuha telefone ye ngo ahamagare YMAN kuko iy'uwo mugabo yari yazimye.

17. Urukiko rusesenguye imvugo za MACHARIA, rusanga yemera ko yakoraga ibikorwa byo gushakisha abakozi bo kohereza muri Saudi Arabia gukora akazi ko mu rugo afatanyije n'amasosiyete yo muri icyo gihugu akora bene ako kazi. Rusanga kandi anemera ko yagiye mu gihugu cy'u Burundi kureba ubucuruzi yahakorera mu bijyanye n'ubukerarugendo, muri icyo gihe agasura uwitwa YMAN wiganye n'umuvandimwe we i Nairobi muri Kenya, akanemera ko ajya kuva i Burundi bahuriye aho bategera imodoka, amubwira ko ari kumwe n'abantu bagiye i Kampala, akanemera ibyo yavugiye mu iperereza by'uko YMAN yamubwiye ko hari abagore yohereje i Kampala, ariko ko atari azi ko afite umugambi wo kubacuruza. Rusanga yemera kandi ko bageze ku mupaka yafashije abagore bari bafite ikibazo cyo gusobanura aho bagiye abaha nimero za telefone z'umuntu w'inshuti ye witwa MUSA uba Kampala bahamagara.

18. Urukiko rusanga harebwe uburyo MACHARIA Asman Wachira avuga ko mbere yo kujya i Burundi yagiye Kampala muri Uganda akabonana na MUSA, nyuma y'iminsi itatu (3) bakongera kuvugana ari i Dar-es-Salaam ku kibazo cy'abakobwa bagombaga kujyanwa i Kampala gukora ibiganiro by'akazi ko kujya gukora imirimo yo mu rugo mu bihugu by'abarabu, hakanarebwa ko MACHARIA ageze i Burundi yabonaniye n'uwitwa YMAN muri hoteli bakavugana ku bagore azohereza i Kampala bazajyana, umunsi ukurikiyeho bakongera guhurira i Bujumbura aho bafatira imodoka YMAN aherekeje abo bagore, akabamwereka, hakanarebwa kandi ko bageze ku mupaka abo bagore bakagira ikibazo cyo gusobanura aho bajya yabafashije kuhasobanura, akanabaha nimero ya telefone z'inshuti ye yitwa MUSA w'i Kampala, bigaragaza ko yari muri gahunda yo kuvana abo bagore batatu (3) i Burundi akabageza i Kampala mu gihugu cya Uganda mu rwego rwo kujya kubacuruza muri Saudi Arabi.

19. Urukiko rusanga ibyo avuga ko atari kumwe n'abo bagore kuko ubwabo bivugira ko batamuzi, ko atari nawe wabashatse akanabashakira ibyangombwa, nta shingiro bifite kuko, n'ubwo abo bagore bavuga ko batari basanzwe bamuzi, ariko NAYIBURUNDI Mariam abazwa mu iperereza yavuze ko ubwo bari bageze ku mupaka bakamubaza gusobanura aho agiye na nimero za telefone z'uwo asanze akabiyoberwa, umugabo amwandikira ibintu ku gapapuro nawe abishyira umupolisi, akavuga ko aribwo bwa mbere yari amubonye kandi ko nta wundi muntu wamufashije kwambuka, ko yanamenye ko uwo mugabo ariwe washakiraga na bagenzi be akazi ari uko igihe bari bafashwe, bumaze kwira, yamuhaye ibyo kurya aranamubwira ngo ahe ho na bagenzi be babiri (2) bari kumwe.

20. Rusanga kandi na NIYONGERE Nasra abazwa yaravuze ko bageze ku mupaka w'u Rwanda n'u Burundi umuntu yahereje NAYIBURUNDI Mariam nimero za telefone kugira ngo azerekane, naho RUKUNDO Yvette akavuga ko ubwo yari agiye kwinjira mu modoka i Burundi hari umugabo wamubwiye ko azasanga umuntu umurindiriye ku Kanyaru, ko yabonye umugabo aha umugore bari kumwe nimero za telefone, ahita amenya ko ariwe bababwiye basanga ku Kanyaru ku mupaka, anavuga ko yamenye ko uwo mugabo ariwe wari ubajyanye ari uko bamufashe, ko atari azi ko bari kumwe.

21. Urukiko rusesenguye rero imvugo z'abo bagore, rusanga bahuriza ku kuba igihe bari bageze ku mupaka w'u Rwanda n'u Burundi umugabo bafatiwe hamwe ari we wahaye NAYIBURUNDI nimero za telefone kugira ngo azereke Abashinzwe abinjira n'abasohoka, rukanasanga imvugo zabo zigaragaza ko uwo mugabo ariwe bari babwiwe ugomba kubafasha. Urukiko rugasanga rero uwo mugabo ari MACHARIA kuko nawe yemera ko yafashije abo bagore abaha nimero z'uwitwa MUSA w'inshuti ye ukorera i Kampala bahamagara. Bityo n'ibyo MACHARIA avuga ko hari undi mugabo wari utwaye abo bagore, bikaba nta gaciro byahabwa kuko abo bagore babazwa bavuze ko nta wundi muntu babonye ubafasha uretse umugabo bafatiwe hamwe, no muri dosiye hakaba nta handi uwo muntu avuga agaragara.

22. Urukiko rusanga kandi ibyo MACHARIA avuga ko atagiye i Burundi mu rwego rwo gucuruza abantu, ko yahagiye agiye kureba ibikorwa yahakorera by'ubukererarugendo, nabyo nta shingiro bifite kuko abazwa yivugiye ko mbere yo kujya i Burundi yavuganye na MUSA ku bijyanye no gutwara abagore abakura i Burundi, ageze i Burundi icyo gikorwa akivuganaho na YMAN amubwira ko bazajyana nabo i Kampala mu modoka, akanamuha amadorali 200 $ yo kubatwara, bagera ku mupaka akabafasha gusobanura aho bagana abaha nimero za telefone za MUSA.

23. Urukiko rusanga ingingo ya 250 y'Itegeko Ngenga n^{o} 01/2012 ryo kuwa 02/05/20012 rishyiraho igitabo cy'amategeko ahana iteganya ko icuruzwa ry'abantu ari ibikorwa bihindura umuntu igicuruzwa bijyanye no gushakisha cyangwa kwimurira umuntu ahandi mu gihugu cyangwa mu mahanga hakoreshejwe uburiganya, ibikangisho, imbaraga cyangwa agahato, ububasha ubikora aba amufiteho, akenshi hagamijwe kumwangiriza ubuzima cyangwa kumubyaza inyungu zitemewe akoreshwa mu biterasoni, mu buraya, mu bikorwa binyuranyije n'amategeko, mu bisa n'ubucakara, kumwica urubozo no kumukorera urugomo ndengakamere cyangwa kumukoresha imirimo yo mu rugo nk'umuja, hishingikirijwe intege nke umuntu afite zikomoka ku bibazo afitanye n'ubuyobozi, ku gutwita k'umugore wibana, indwara, ubumuga n'ibindi bibazo byatuma umuntu muzima akora icyo atatekereje.

24. Urukiko rusanga nanone ingingo ya 252 y'Itegeko Ngenga n^{o} 01/2012 ryo kuwa 02/05/20012 ryavuzwe iteganyiriza ibihano umuntu wese utwara cyangwa utuma batwara, ufata cyangwa ufatisha, ufunga cyangwa ufungisha, utunda cyangwa utundisha abantu abo ari bo bose agamije kubahindura abacakara cyangwa kubagurishiriza kuba abacakara, kubagira abasabirizi ku gahato, kubabera umubyeyi utarababyaye mu buryo butemewe n'amategeko hakoreshejwe ikiguzi, kubakoresha mu mashusho y'urukozasoni, mu masiporo ateye ubwoba, kubashora mu ntambara, kubana nabo nk'umugore n'umugabo hagamijwe icyicarubozo cyangwa icuruzwa ry'ingingo z'imibiri yabo.

25. Urukiko rusanga ibi bisobanuro bitangwa n'izi ngingo ku icuruzwa ry'abantu bihura n'ibiteganywa n'Umugereka wo ku wa 15/11/2000 ku masezerano Mpuzamahanga ku kurwanya ibyaha byambuka imbibi ku bijyanye n'ikumira n'ihanwa ry' icuruzwa ry' abantu by'umwihariko abagore n'abana mu ngingo ya gatatu (3), inasobanura ko icyo cyaha kibaho n'iyo ucuruzwa yaba yabyemeye[1].

26. Urukiko rukurikije ibyasobanuwe n'ibiteganywa n'izi ngingo, rusanga ibikorwa biregwa MACHARIA Asman Wachira byo kuba yaravanye mu gihugu cy'u Burundi NAYIBURUNDI Mariam, NIYONGERE Nasra na RUKUNDO Yvette bari barashakishijwe n'abagore bavuga ko bitwa Mama Rehema na Mama Sandra bababwiraga ko bagiye kubashakira akazi ko mu rugo mu bihugu by'abarabu, bakanabashakira ibyangambwa bafatanyije n'uwitwa YMAN, MACHARIA akajya i Burundi kubafatayo kugira ngo abashyire uwitwa MUSA i Kampala, yaragize uruhare mu gutwara abo bagore abavana i Burundi abajyana i Kampala.

27. Harebwe ariko ibiteganywa n'ingingo ya 27 y'Itegeko Ngenga n^{o} 01/2012 ryo kuwa 02/05/20012 ryavuzwe ivuga ku byerekeranye n'ubwinjiracyaha, rusanga ibikorwa MACHARIA Asman Wachira yakoze bigize ubwinjiracyaha bw'icyaha cyo gucuruza abantu aho kuba icyaha cyo gucuruza abantu ubushinjacyaha bumurega kubera ko MACHARIA Asman Wachira yavanye NAYIBURUNDI Mariam, NIYONGERE Nasra na RUKUNDO Yvette mu gihugu cy'u Burundi abajyanye i Kampala mu rwego rwo kubacuruza hagamijwe kubakoresha imirimo yo mu rugo nk'abaja hishingikirijwe imibereho mibi yo kubura akazi, ibyo akaba ari ibikorwa by'intangiriro y'icyaha cyo

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[1] Article 3 of Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime (15/11/2000), provides that : for the purposes of this Protocol : a. « *Trafficking in persons » shall men the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of o person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. b. The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used*».

gucuruza abantu byahagaritswe no kuba yarafatiwe ku mupaka w'u Rwanda n'u Burundi ataragera kuri uwo mugambi wo kubacuruza.

28. Urukiko rurasanga uruhererekane rw'ibyabaye rwasobanuwe rugaragaza ko MACHARIA Asman Wachira yakoze ibyo bikorwa byo gutwara abo bagore azi neza ko ibirimo bikorwa bigamije kubacuruza, kuko iyo biza kuba ari ukubashakira akazi bisanzwe nk'uko abivuga batari gushakirwa ibyangombwa by'inzira n'itike y'imodoka mu ibanga batazi urimo kubikora, bakanabishyikirizwa bari mu modoka n'undi muntu batazi, utandukanye n'abagore bari baravuganye mbere ku bijyanye n'akazi bari bagiye gukora mu bihugu by'abarabu, bakanagenda badashobora gusobanura aho bajya, batanazi ababayoboye. Kuba uruhererekane rw'ibyabaye byagaragaza ubushake bwo gukora icyaha, binahura n'ibyemejwe mu rubanza rwa State of Connecticut *v.* Gary Bell rwaciwe n'Urukiko rw'Ubujurire rwa Connecticut (USA) [2].

- ***Ku byerekeranye n'ibihano byahanishwa MACHARIA Asman Wachira***

29. Ubushinjacyaha busaba ko urukiko rwahanisha MACHARIA Asman Wachira igihano cy'igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga miliyoni makumyabiri (20.000.000 Frw), rukanemeza ko nta mpamvu nyoroshyacyaha iriho yatuma agabanyirizwa igihano.

30. MACHARIA Asman Wachira n'umwunganira basaba ko ibimenyetso bitangwa n'ubushinjacyaha bitahabwa agaciro kubera ko ibyo buvuga bishidikanywaho kuko kuba yaratanze nimero ku muntu uzimusabye atari icyaha. Banasaba kurenganurwa hagashingirwa ku biteganywa n'ingingo ya 165 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha iteganya ko gushidikanya birengera ushinjwa no ku byanditswe n'abahanga mu mategeko barimo Jean Pradel uvuga ko

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[2] State of Connecticut v. Garry Bell (AC 21374), Argued December 11, 2001—officially released March 19, 2002*: ""Intent is generally proven by circumstantial evidence because direct evidence of the accused's state of mind is rarely available (..) intent is often inferred from conduct (...) and from the cumulative effect of the circumstantial evidence and the rational inferences drawn therefrom."* , (https://www.jud.ct.gov/external/supapp/Cases/AROap/68ap243.pdf accessed on 20th December 2016).

umuntu uregwa akurikiranyweho icyaha ariko ibishingirwaho bidahagije, urukiko rwemeza ko hari ugushidikanya, rukamugira umwere.

31. Urukiko rusanga hashingiwe ku biteganywa n'ingingo ya 252 igika cya kabiri y'Itegeko Ngenga n° 01/2012 ryo kuwa 02/05/20012 ryavuzwe, iteganya ko ibikorwa bivugwa mu gika cya mbere cyayo bikozwe ku rwego mpuzamahanga, uwabikoze ahanishwa igifungo kuva ku myaka icumi (10) kugeza ku myaka 15 n'ihazabu y'amafaranga y'u Rwanda kuva kuri miliyoni icumi (10.000.000 Frw) kugeza kuri miliyoni makumyabiri (20.000.000 Frw).

32. Harebwe rero uburemere bw'icyaha cy'ubwinjirayaha bw'icyaha cyo gucuruza abantu n'uburyo MACHARIA Asman Wachira yagikozemo, urukiko rusanga yagombye guhanishwa ibihano biteganyijwe n'iyo ngingo, ariko kuba bigaragara ko atagejeje abagore yari atwaye mu gihugu yagombaga kubagurishamo kuko yafatiwe mu Rwanda abakuye i Burundi no kuba nta ngaruka igaragara byagize kuri abo bagore bari batwawe, rurasanga MACHARIA Asman Wachira yagabanyirizwa igihano hashingiwe ku ngingo ya 30 y'Itegeko Ngenga n° 01/2012 ryo kuwa 02/05/20012 rishyiraho igitabo cy'amategeko ahana iteganya ko mu kugena ibihano mu byerekeranye n'ubwinjiracyaha, umucamanza ashobora kugabanya ibihano bitewe n'uburyo ubwinjiracyaha bwakozwe, akaba yahanishwa igifungo cy'imyaka itanu (5) n'ihazabu y'amafaranga miliyoni icumi y'u Rwanda (10.000.000 Frw).

III. ICYEMEZO CY'URUKIKO

33. Rwemeje ko MACHARIA Asman Wachira ahamwa n'icyaha cy'ubwinjiracyaha bw'icyaha cyo gucuruza abantu.

34. Ruhanishije MACHARIA Asman Wachira igihano cy'igifungo cy'imyaka itanu (5) n'ihazabu y'amafaranga y'u Rwanda miliyoni icumi (10.000.000 Frw).

35. Rutegetse ko MACHARIA Asman Wachira asonerwa amagarama y'urubanza kuko aburana afunze.

36. Rwibukije ko kujurira bikorwa mu gihe kitarenze ukwezi kumwe (1), kubarwa uhereye igihe urubanza rusomewe.

Ni uko rukijijwe kandi rusomewe mu ruhame none ku wa 23/12/2016.

Sé/	Sé/	Sé/
MUKAMURENZI Béatrice Umucamanza	MUHIMA Antoine Perezida	NDAGIJIMANA Eugène Umucamanza

Sé/

KALISA Jean Marie Vianney
Umwanditsi