

RWANDA / JUDGMENT

Re HABIMANA (ADD)

RS/INCONST/SPEC00003/2024/SC

COURT

Supreme Court

DECIDED

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Re HABIMANA (ADD)

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Text

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Re HABIMANA (ADD) [Rwanda URUKIKO RW'IKIRENGA – RS/INCONST/SPEC00003/2024/SC (Mukantaganzwa, J. P., Hitiyaremye, Cyanzayire, Mukamulisa na Muhumuza, J.) 23 Mutarama 2026] Itegeko Nshinga – Ikirego gisaba kwemeza ko itegeko rinyuranyije n'Itegeko Nshinga – Itegeko riregerwa ko rinyuranyije n'Itegeko Nshinga rigomba kuba ari itegeko ririho. Itegeko Nshinga – Ikirego gisaba kwemeza ko itegeko rinyuranyije n'Itegeko Nshinga – Ihame ry'uko icyaciweho urubanza kitongera gusuzumwa n'Urukiko (res judicata) – Mu manza ziregera ko ingingo inyuranyije n'Itegeko Nshinga, ihame rya “res judicata” rirakurikizwa, ariko ibisabwa kugira ngo ryubahirizwe bikarebwa mu buryo bwagutse. Ku bijyanye n'ababuranyi, si ngombwa ko baba ari bamwe kuko itegeko rireba buri wese. Mu kureba ikiburanwa, ntiharebwa amagambo akoreshwa, ahubwo harebwa igitekerezo gikubiye mu itegeko riregerwa. Impamvu iba imwe igihe ibyo ababuranyi bashingiraho bavuga ko ingingo isuzumwa itubahirije Itegeko Nshinga ari bimwe. Incamake y'ikibazo: Habimana yaregeye Urukiko rw'Ikirenga asaba ko ingingo ya 10 agace ka mbere n'aka 2, y'Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo, n'ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza

z'inshinjabyaha nk'uko ryahinduwe, hemezwa ko zinyuranyije n'Itegeko Nshinga rya Repubulika y'u Rwanda mu ngingo zaryo, iya 15 n'ya 29 (c) na (e). Urega avuga ko ingingo ya 10 y'iryo Tegeko Ngenga iteganya impamvu zishobora gutuma urubanza rwaciwe n'Urukiko Gacaca rusubirishwamo ingingo nshya mu rukiko rubifitiye ububasha, inyuranyije n'ingingo ya 15 y'Itegeko Nshinga iteganya ko abantu bose bareshya imbere y'amategeko, ko amategeko abarengera kimwe, kuko abahamijwe ibindi bikorwa mu bigize icyaha cya Jenoside bitari ubwicanyi biteganywa n'iryo Tegeko Ngenga itabemerera kuba basubirishamo urubanza rwabahamije icyaha, bityo iyo ngingo ya 10, agace ka 1 na ka 2, ikaba itabarengera kimwe. Urega avuga kandi ko iyo ngingo ya 10 inyuranyije n'ingingo ya 29 y'Itegeko Nshinga, kuko ibangamiye ihame ry'uburenganzira ku butabera buboneye burimo ubwo kuburanira imbere y'Urukiko rubifitiye ububasha buteganywa mu gace ka (c), n'ubwo kutaryozwa icyaha atakoze buteganywa mu gace ka (e), ikaba ibuzwa uwahamijwe n'Urukiko Gacaca icyaha cya Jenoside ku bindi bikorwa bigize icyo cyaha bitari ubwicanyi uburenganzira bwo gusubirishamo urubanza ingingo nshya. Urega agaragaza kandi ko n'ingingo ya 197, igika cya 4, nayo irimo ivangura kuko abaregwa ibindi byaha baburaniye mu nkiko gacaca, iyi ngingo itabarengera kimwe, mu gihe iteganya ko bemererwa gusubirishamo urubanza ingingo nshya iyo uwakatiwe urubanza yerekanye ko uwo yashinzwaga kwica akiriho. Uhagarariye Leta muri uru rubanza avuga ko Itegeko Ngenga ryavuzwe haruguru Urega yaregeye ritakiriho kubera ko ryagiye risimburwa n'andi mategeko, bityo asanga ritaregerwa kandi ryaravanyweho. Avuga kandi ko icyo Urega asaba cyo gukuraho ingingo ya 197, igika cya 4, y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe ngo kuko inyuranye n'Itegeko Nshinga kitakwakirwa ngo gisuzumwe, kuko byamaze gufatwaho icyemezo mu rundi rubanza rw'uwitwa Kamanzi rwaciwe n'uru Rukiko rw'Ikirenga. Urega ntabwo yemeranya n'ibisobanuro byatanze n'Uhagarariye Leta ku kijyanye no gukuraho ingingo ya 197, igika cya 4, y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryavuzwe haruguru, aho avuga ko ikibazo cyasuzumwe muri urwo rubanza rw'uwitwa Kamanzi atari kimwe n'icyo yaregeye muri uru rubanza. Urega asobanura ko muri urwo rubanza hasuzumwe ikibazo cy'uko hari uburenganzira bwo gusubirishamo urubanza ingingo nshya buhabwa ababuraniye mu nkiko zisanze, ariko bukaba budahabwa ababuraniye mu nkiko gacaca. Avuga ko ibyo bitandukanye nicyo we yaregeye cyo kutareshyesha abantu bari mu cyiciro kimwe cy'ababuraniye mu nkiko gacaca, aho abahamijwe ibyaha

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by'ubwicanyi n'izo nkiko ari bo bonyine bemerewe kuba basubirishamo urubanza ingingo nshya, mu gihe abandi bahamijwe ibindi byaha bigize icyaha cya Jenoside bo batabyemerewe. Incamake y'icyemezo: 1. Kuba Itegeko Ngenga No 04/2012 /OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo ritakiriho, ikirego cyatanze na Habimana cyo gukuraho ingingo yaryo ya 10, nticyakiriwe ngo gisuzumwe.

2. Mu manza ziregera ko ingingo inyuranyije n'Itegeko Nshinga, ihame rya "res judicata" rirakurikizwa, ariko ibisabwa kugira ngo ryubahirizwe bikarebwa mu buryo bwagutse. Ku bijyanye n'ababuranyi, si ngombwa ko baba ari bamwe kuko itegeko rireba buri wese. Mu kureba ikiburanwa, ntiharebwa amagambo akoreshwa, ahubwo harebwa igitekerezo

gikubiye mu itegeko riregerwa. Impamvu iba imwe igihe ibyo ababuranyi bashingiraho bavuga ko ingingo isuzumwa itubahirije Itegeko Nshinga ari bimwe. Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho inkiko gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo, ntirikiriho. Ikirego gisaba kwemeza ko ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, inyuranyije n'Itegeko Nshinga, cyakiriwe. Amategeko yashingiweho: Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04/08/2023, ingingo ya 15, 29 n'iya 95. Itegeko Nshinga rya Repubulika y'u Rwanda rya 2003 nk'uko ryavugururwe, ingingo ya 19, 140, 160 n'iya 161. Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho inkiko gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo, ingingo ya 4, 5, 10. Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 197. Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 14. Imanza zifashishijwe: RS/INCONST/SPEC00001/2025/SC, Re Ingabire Umuhozza Victoire, rwaciwe n'Urukiko rw'Ikirenga ku wa 16/01/2026. RS/INJUST/RCOM00012/2024/SC, ACOADI Ltd na Leta y'u Rwanda (MINAGRI/LWH/RSSP) rwaciwe n'Urukiko rw'Ikirenga ku wa 19/12/2025. RS/INCONST/SPEC00002/2019/SC, Re Kamanzi Anaclet, rwaciwe n'Urukiko rw'Ikirenga ku wa 31/03/2023. RS/INCOST/RCOM00001/2022/SC, Re FAST TRUCK rwaciwe n'Urukiko rw'Ikirenga ku wa 19 Gicurasi 2022. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 12/8/2024, Habimana Stanislas yatanze ikirego muri uru Rukiko asaba ko rwemeza ko ingingo ya 10, agace ka mbere n'aka 2, y'Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo (Itegeko Ngenga rikuraho inkiko gacaca muri uru rubanza), n'ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe, zinyuranyije n'Itegeko Nshinga rya Repubulika y'u Rwanda (Itegeko Nshinga muri urubanza), mu ngingo zaryo, iya 15 n'iya 29 (c) na (e).

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- [2] Avuga ko ingingo ya 10, agace ka mbere n'aka 2, y'Itegeko Ngenga rikuraho Inkiko Gacaca, iteganya ko urubanza rwaciwe n'Urukiko Gacaca rushobora gusubirishwamo ingingo nshya mu rukiko rubifitiye ububasha kubera impamvu zikurikira:
- Iyo umuntu yari yarahamijwe icyaha cy'ubwicanyi n'urubanza rwabaye ndakuka rwaciwe n'Urukiko Gacaca nyuma uwo bamushinja ko yishe akaza kuboneka;
 - Iyo umuntu yari yarahamijwe icyaha cy'ubwicanyi n'urubanza rwabaye ndakuka rwaciwe n'Urukiko Gacaca kandi aricyo cyaha cyonyine cyamuhamye; nyuma hakaboneka urundi rubanza rwahamije undi muntu icyo cyaha cyonyine gusa kandi nta bufatanyacyaha buri hagati ya bombi. [3] Avuga ko iyo ngingo asanga inyuranyije n'ingingo ya 15 y'Itegeko Nshinga iteganya ko abantu bose bareshya imbere y'amategeko, ko amategeko abarengera kimwe, kuko abahamijwe ibindi bikorwa mu bigize icyaha cya Jenocide bitari ubwicanyi biteganywa mu ngingo ya 4 n'iya 5 y'Itegeko Ngenga rikuraho Inkiko Gacaca, ingingo ya 10

(agace ka mbere n'aka 2 itabarengera kimwe n'abahamijwe icyaha cy'ubwicanyi kuko itabemerera kuba basubirishamo urubanza rwabahamije icyaha. [4] Anavuga ko iyo ngingo inyuranyije kandi n'Itegeko Nshinga mu ngingo yaryo ya 29, kuko ibangamiye ihame ry'uburenganzira ku butabera buboneye burimo ubwo kuburanira imbere y'Urukiko rubifitiye ububasha buteganywa mu gace ka (c) n'ubwo kutaryozwa icyaha atakoze buteganywa mu gace ka (e) kuko ibuza uwahamijwe n'Urukiko Gacaca icyaha cya Jenocide ku bindi bikorwa bigize icyo cyaha bitari ubwicanyi bivugwa mu ngingo ya 4 n'ya 5 zavuzwe, uburenganzira bwo gusubirishamo urubanza ingingo nshya. Aha ariko Urukiko rwibajije niba Itegeko Ngenga rikuraho inkiko gacaca rikiriho ku buryo ryaregerwa ko rinyuranyije n'Itegeko Nshinga. [5] Akomeza avuga ko Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe, mu ngingo yaryo ya 197, igika cya 4, riteganyako: ku bijyanye n'imanza zaciwe n'inkiko gacaca, gusubirishamo urubanza ingingo nshya byemerwa gusa iyo uwakatiwe urubanza yerekanye ko uwo yashinjawaga kwica akiriho», ko iyi ngingo nayo irimo ivangura kuko abaregwa ibindi byaha baburaniye mu nkiko gacaca, iyi ngingo itabarengera kimwe. [6] Uhagarariye Leta y'u Rwanda avuga ko asanga ikirego cya Habimana Stanislas kitagomba kwakirwa ngo gisuzumwe kuko ibyo aregera byamaze gufatwaho umwanzuro n'Urukiko rw'Ikirenga mu rubanza rwa Kamanzi Anaclet¹. [7] Iburanisha ryabaye mu ruhamwe ku wa 10/09/2025, Habimana Stanislas yunganiwe na Me Munyansanga Amina Gisèle, Leta y'u Rwanda ihagarariye n'Intumwa yayo Me Cyubahiro Fiat, Urukiko rubanza gusuzuma ikibazo cyo kumenya niba Habimana Stanislas afite inyungu mu rubanza; rufatira icyemezo mu ntebe, rwemeza ko afite inyungu itaziguye kandi ye bwite yo kuregera ko ingingo zavuzwe zinyuranyije n'Itegeko Nshinga. Iburanisha ryakomeje hasuzumwa ibibazo bikurikira:

- 1) Kumenya niba Itegeko Ngenga No 04/2012 /OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo rikiriho ku buryo ryaregerwa ko zimwe mu ngingo zaryo zinyuranyije n'Itegeko Nshinga mu ngingo zaryo, iya 15 n'ya 29 (c) na (e).
- 2) Kumenya niba ikirego cya Habimana Stanislas kirebana no kuba ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe inyuranyije n'Itegeko Nshinga mu ngingo zaryo, iya 15 n'ya 29 (c) na (e), kitarafashweho icyemezo mu rundi rubanza ku buryo kitakwakirwa. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA

¹Urubanza RS/INCONST/SPEC00002/2022/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 31/03/2023, haburana Kamanzi Anaclet, hari na Leta y'u Rwanda.

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- 1) Kumenya niba Itegeko Ngenga No 04/2012 /OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo rikiriho ku buryo ryaregerwa ko zimwe mu ngingo zaryo zinyuranyije n'Itegeko Nshinga mu ngingo zaryo, iya 15 n'ya 29 (c) na (e) [8] Mu iburanisha ry'urubanza, Urukiko rwabajije Habimana Stanislas

n'umwunganira niba Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho inkiko gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo baregera ko zimwe mu ngingo zaryo zinyuranyije n'Itegeko Nshinga rikiriho, basubiza ko iryo Tegeko ririho kuko nta cyigeze kirivanaho. [9] Me Cyubahiro Fiat uhagarariye Leta y'u Rwanda, we avuga ko Itegeko ryavuzwe haruguru ritakiriho kubera ko ryagiye risimburwa n'andi mategeko, bityo ko asanga ritaregerwa kandi ryaravanyweho. UKO URUKIKO RUBIBONA [10] Ikibazo gisuzumwa kuri iyi ngingo ni ukumenya niba Itegeko rikuraho Inkiko Gacaca rikiriho ku buryo ingingo zimwe zaryo zishobora kuregerwa ko zinyuranyije n'Itegeko Nshinga. [11] Ingingo ya 95(3) y'Itegeko Nshinga iteganya ko amategeko ngenga ari amategeko Itegeko Nshinga rigena nk'amategeko ngenga kandi rikayaha ububasha bwo kugena indi mirongo y'ingenzi mu mwanya w'Itegeko Nshinga. Mu mategeko ngenga Itegeko Nshinga ryagennye nk'amategeko ngenga, Itegeko ngenga rikuraho Inkiko Gacaca Habimana Stanslas yaregeye ntirigaragaramo.2 [12] Hashingiwe kuri ibi bisobanuro, Urukiko rurasanga Itegeko Ngenga No 04/2012 /OL ryo ku wa 15/06/2012 rikuraho Inkiko Gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo ritakiriho. [13] Ku byerekeranye no kumenya niba Itegeko ritakiriho rishobora kuregerwa ko rinyuranyije n'Itegeko Nshinga, Urukiko rw'Ikirenga rwasuzumye ikibazo kimeze nk'iki mu rubanza RS/ INCOST/RCOM00001/2022/SC rwaciwe ku wa 19 Gicurasi 2022 mu kirego cyatanzwe na FAST TRUCK rwemeza ko kugira ngo Itegeko riregerwe ko rinyuranyije n'Itegeko Nshinga rigomba kuba ari Itegeko ririho.3 [14] Ku bijyanye n'uru rubanza, kuba Itegeko Ngenga Habimana Stanislas aregera ko rinyuranye n'Itegeko Nshinga ritakiriho nk'uko byasobanuwe haruguru, Urukiko rurasanga ikirego cye kuri iyi ngingo kitagomba kwakirwa ngo gisuzumwe.

- 2) Kumenya niba ikirego cya Habimana Stanislas kirebana no kuba ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha inyuranyije n'Itegeko Nshinga mu ngingo zaryo, iya 15 n'ya 29 (c) na (e), cyakwagirwa kigasuzumwa [15] Me Cyubahiro Fiat uhagarariye Leta, asaba ko ikirego cya Habimana Stanislas gisaba gukuraho ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe kuko inyuranye n'Itegeko Nshinga kitakwagirwa ngo gisuzumwe, kubera ko cyafashweho icyemezo mu rundi rubanza muri uru Rukiko. Mu gusobanura igitekerezo cye, Me Cyubahiro Fiat avuga ko ingingo amaze kugaragaza Habimana Stanislas yaregeye ko inyuranyije n'Itegeko Nshinga, ari yo uwitwa Kamanzi Anaclet yaregeye mu buryo bumwe ko inyuranyije

2Mu Itegeko Nshinga hagaragaramo Amategeko Ngenga 13 yerekeye ibintu binyuranye, ariko Itegeko Ngenga ryaregawe ntiririmo. 3 Urubanza RS/INCONST/RCOM00001/2022/SC rwaciwe ku wa 19 Gicurasi 2022 haburana FAST TRUCK, Leta y'u Rwanda ihagarariwe, mu gika cyarwo cya 32.

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n'Itegeko Nshinga mu rubanza RS/INCONST/SPEC00002/2019/SC, rwaciwe n'uru Rukiko ku wa 31/03/2023, rukemeza ko itanyuranyije n'Itegeko Nshinga. [16] Habimana Stanislas n'umwunganira bo bavuga ko ikibazo cyasuzumwe mu rubanza rwa Kamanzi Anaclet gitandukanye n'icyo Habimana Stanislas yaregeye muri uru rubanza. Basobanura ko ikibazo cyari mu rubanza rwa Kamanzi Anaclet aruko hari uburenganzira bwo gusubirishamo urubanza ingingo nshya ababuraniye mu nkiko zisanze bahabwaga, ababuraniye mu nkiko gacaca bo ntibabuhabwe. Bavuga ko Habimana Stanislas we yaregeye ikibazo cyo kutareshyesha abantu bari mu cyiciro kimwe cy'ababuraniye mu nkiko gacaca, aho abahamijwe ibyaha by'ubwicanyi n'izo nkiko ari bo bonyine bemerewe kuba basubirishamo urubanza ingingo nshya, mu gihe abandi bahamijwe ibindi byaha bigize icyaha cya Jenocide bo batabyemerewe. UKO URUKIKO RUBIBONA [17] Impaka kuri iyi ngingo zishingiye ku kuba uhagarariye Leta avuga ko ikirego cya Habimana Stanislas uregera ko ingingo ya 197, igika cya 4, y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe inyuranyije n'Itegeko Nshinga mu ngingo zaryo za 15 na 29 (c) na (e), kitakwagirwa kuko cyafashweho icyemezo n'uru Rukiko mu rubanza RS/INCONST/SPEC00002/2019/SC rwa Kamanzi Anaclet, mu gihe urega we avuga ko ibyo aregera atari byo byasuzumwe muri urwo rubanza. [18] Ingingo ya 14, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe, ivuga ku gaciro k'urubanza rwaciwe ku rwego rwa nyuma (decision having acquired the force of res judicata). Iyi ngingo iteganya ko urubanza rwaciwe ku rwego rwa nyuma rudashobora kongera kuburanishwa bundi bushya ku mpamvu zimwe no ku kiburanwa kimwe hagati y'ababuranyi bamwe baburana ikirego kimwe. [19] Urukiko rurasuzuma niba ikirego cya HABIMANA Stanislas cyarafashweho icyemezo n'uru Rukiko mu rundi rubanza ku buryo kitakongera gusuzumwa, harebwa niba impamvu ari zimwe, ikiburanwa ari kimwe ndetse n'ababuranyi ari bamwe (ihame rya res judicata). [20] Ibisobanuro rusange ku ihame rya res judicata byatanze mu buryo burambuye mu rubanza RS/INJUST/RCOM00012/2024/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 19/12/2025, haburana ACOADI Ltd na Leta y'u Rwanda (MINAGRI/LWH/RSSP) aho rwasobanuye ko ihame ari uko icyemezo cyabaye ndakuka kidashobora gusubirwamo (autorité de la chose jugée/res judicata), kandi imbaraga zacyo zigarukira ku cyakiranuwe gusa. Rwasobanuye kandi ko kugira ngo icyemezo gifatwe ko cyabaye ndakuka ku buryo kidashobora gusubirwamo, hagomba kuba huzuye icyarimwe (cumulativement) ibintu bitatu ari byo: kuba ikiburanwa ari kimwe n'icyongeye kuregerwa; gishingiye ku mpamvu imwe; ababuranyi bakaba ari bamwe kandi mu bubasha bari basanganywe mbere. [21] Naho ibijyanye by'umwihariko n'uko iri hame ryubahirizwa mu manza ziregera ko ingingo inyuranyije n'Itegeko Nshinga, byasobanuye mu rubanza rubanziriza urundi mu rubanza RS/SPEC00001/2025/SC SC rwaciwe ku wa 16/01/2026. [22] Muri urwo rubanza, Urukiko rwasobanuye ko ihame rya res judicata mu manza ziregera ko itegeko rinyuranyije n'Itegeko Nshinga, rikurikizwa igihe ikiburanwa ari kimwe, impamvu ikaba imwe n'ababuranyi bakaba bamwe, ariko ko ibisabwa kugira ngo ryubahirizwe birebwa mu buryo bwagutse. Rwagaragaje ko muri bene izi manza, atari ngombwa ko ababuranyi baba ari bamwe kuko itegeko rireba

4 Reba mu gika cya 34 cy'urwo rubanza. 5 Urubanza rubanziriza urundi mu rubanza RS/SPEC00001/2025/SC rwaciwe ku wa 16/01/2026, Ingabire Umuhiza Victoire aregera ko ingingo ya 106 y'Itegeko No 27/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, inyuranyije n'Itegeko Nshinga rya Repubulika y'u Rwanda, mu ngingo yaryo ya 29, igika cya mbere, agace ka (b), iya 61, iya 143, igika cya mbere, n'iya 146 igika cya 4. Reba mu gika cya 25 na 26.

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abantu bose muri rusange, n'icyemezo cy'uko ingingo y'itegeko inyuranyije n'Itegeko Nshinga kiba kigomba kubahirizwa na buri wese (erga omnes). Mu gusuzuma niba ikiburanwa ari kimwe, ntiharebwa amagambo akoreshwa, ahubwo harebwa igitekerezo gikubiye mu itegeko riregerwa. Ku bijyanye n'impamvu, iba imwe igihe ibyo ababuranyi bashingiraho bavuga ko ingingo isuzumwa itubahirije Itegeko Nshinga ari bimwe. [23] Ku bijyanye n'uru rubanza, mu rubanza RS/INCONST/SPEC00002/2019/SC rwaciwe n'uru Rukiko ku wa 31/03/2023, Kamanzi Anaclet yareze asaba Urukiko kwemeza ko igika cya 4 cy'ingingo ya 197 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe kinyuranyije n'Itegeko Nshinga mu ngingo zaryo, iya 15, iya 16 n'iya 29. Muri urwo rubanza, Kamanzi Anaclet yasobanuye ko abakatiwe n'inkiko gacaca bemererwa gusubirishamo imanza zabo ingingo nshya iyo berekanye ko abo bashinjwaga kwica bakiriho, ibyo bikaba ari ivangura ribakorerwa, kuko itegeko ritabashyeshya n'abakatiwe n'inkiko zisanzwe bateganyirizwa n'itegeko izindi mpamvu bashobora gushingiraho basaba gusubirishamo imanza zabo ingingo nshya. [24] Urukiko rwasanze abakurikiranyweho icyaha cya Jenocide n'ibindi byaha byibasiye inyokomuntu barashyizwe mu cyiciro cyihariye, bashyirirwaho n'inkiko zihariye zababuranishije mu buryo bwihariye hakurikijwe intego yari igamijwe kugerwaho. Urukiko rwasobanuye ko kuba hari ibyo batemerewe byemererwa abandi bakurikiranyweho ibyaha bisanzwe, bitewe n'uburyo icyaha cya Jenocide bakurikiyanyweho cyakozwemo, atari ivangura ribakorerwa cyangwa kutareshya n'abandi imbere y'amategeko, kubera ko bagize icyiciro cyihariye, rwanzura ko igika cya 4 cy'ingingo ya 197 y'Itegeko N° 027/2019 ryavuzwe haruguru kitanyuranyije n'ingingo ya 15 n'iya 16 z'Itegeko Nshinga. [25] Muri uru rubanza, Habimana Stanislas yaregeye ikibazo cyo kutareshyeshya ababuraniye mu nkiko gacaca, aho abahamijwe ibyaha by'ubwicanyi n'izo nkiko ari bo bonyine bemerewe kuba basubirishamo urubanza ingingo nshya, mu gihe abandi bahamijwe ibindi byaha bigize icyaha cya Jenocide batabyemerewe. [26] Isesengura ku birego byo muri izi manza zombi, rigaragaza ko nubwo ikiburanwa ari kimwe, ni ukuvuga ingingo y'Itegeko iregerwa ko inyuranyije n'Itegeko Nshinga (igika cya 4, cy'Ingingo ya 197, y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha nk'uko ryahinduwe), ariko hari ibindi biteganywa kugira ngo ihame rya "res judicata" ribeho bituzuye kuko impamvu zatumye ibirego bitangwa mu manza zombi bitandukanye. [27] Urukiko rurasanga mu rubanza rwa Kamanzi Anaclet harasuzumwaga ikibazo kijyanye n'uburenganzira bwo gusubirishamo urubanza ingingo nshya butangana hagati y'abantu baciriwe imanza n'inkiko gacaca n'abakatiwe n'inkiko zisanzwe, naho muri uru rubanza, icyo Habimana Stanislas yaregeye akaba ari ikibazo cy'uburenganzira butangana ku bantu baciriwe imanza n'inkiko gacaca; ibi

bikaba bigaragaza ko impamvu zo gutanga ibirego muri izo manza zombi atari zimwe. [28] Hashingiwe kuri ibi bisobanuro, Urukiko rurasanga ibivugwa n'uhagarariye Intumwa Nkuru ya Leta ko ikirego cya Habimana Stanislas kitakirwa kuko ibyo aregera byamaze gufatwaho icyemezo, nta shingiro byahabwa kubera impamvu zavuzwe haruguru. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho inkiko gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo ritakiriho. [30] Rwemeje ko ikirego cyatanzwe na Habimana Stanislas asaba Urukiko kwemeza ko ingingo ya 10, agace ka mbere n'aka 2, y'Itegeko Ngenga No 04/2012/OL ryo ku wa 15/06/2012 rikuraho inkiko gacaca rikanagena uburyo bwo gukemura ibibazo byari mu bubasha bwazo, kitakiriwe ngo gisuzumwe.

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[31] Rwemeje ko ikirego cyatanzwe na Habimana Stanislas asaba Urukiko kwemeza ko ingingo ya 197, igika cya 4, y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, inyuranyije n'Itegeko Nshinga, mu ngingo zaryo za 15 na 29 (c) na (e), cyakirwa kigasuzumwa. [32] Ruvuze ko iburanisha rizakomeza ku munsu ababuranyi bazamenyeshwa n'ubwanditsi bw'Urukiko.

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