

RWANDA / JUDGMENT

UBUSHINJACYAHA v NIYONSENGA

RPAA 00287/2025/CA

COURT

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UBUSHINJACYAHA v NIYONSENGA

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Text

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UBUSHINJACYAHA v NIYONSENGA [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00287/2025/CA (Mukamurenzi, P.J.) 29 Nzeri 2025] Amategeko agenga ibimenyetso mu manza z'inshinjabyaha – Ukwemera icyaha – Agaciro ko kwemera icyaha mu nzego z'iperereza - Umucamanza uburanisha urubanza mu mizi ni we ureba agaciro imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, n'ubwo yagera imbere y'Urukiko akayihindura. Amategeko agenga imanza z'inshinjabyaha – Ibimenyetso – Akarangabusugi - Kuba umwana yasanganwa akarangabusugi kazima, ntibivanaho ko hari ibikorwa yakorewe hagamijwe kwishimisha. Incamake y'ikibazo: Niyonsenga yaketsweho gusambanya umwana w'umukobwa w'imyaka 5 wahawe izana rya I.A yaba yarakoze ubwo yamusangaga ari kumwe n'abandi b'abana mu rugo hanyuma yohereza abo bana kumuzanira amazi asigarana na I.A n'akandi kana. Bavuye kuzana ayo mazi, ako kana kababwiye ko kabonye Niyonsenga na I.A basambana nabo babibwira ababyeyi babo. Uyu yarafashwe, mu bugenzacyaha yemera ko yasambanyije uwo mwana, Ubushinjacyaha bumurega mu Rukiko Rwisumbuye rwa Musanze icyaha cyo gusambanya umwana. Mu iburanisha, uregwa yaburanye ahakana icyaha avuga ko yahatiwe ku cyemera kuko ngo bamubwiraga ko nacyamera arekurwa. Urukiko rushingiye ku mvugo z'abatangabuhamya n'imvugo y'ukwemera icyaha k'uregwa

yakoreye mu bugenzacyaha, rwasanze ahamwa n'icyaha aregwa rumukatira igihano cy'igifungo cya burundu. Uregwa yajuririye icyo cyemezo mu Rukiko Rukuru avuga ko yahamijwe icyaha atakoze, urukiko rusanga ubujurire bwe nta shingiro bufite ariko rwemeza ko akwiriye kugabanyirizwa igihano, rumuhanisha igifungo cy'inyaka 17. Uregwa yajauririye icyo cyemezo mu Rukiko rw'Ubujujire, maze hasuzumwa ikibazo cyo kumenya niba Niyonsenga yarahamijwe icyaha nta bimenyetso. Uyu avuga ko yahamijwe icyaha hagendewe ku mvugo ze zo mu bugenzacyaha kandi ko ubwo buhamya yahatiwe kubutanga. Akomeza avuga ko raporo ya muganga yagaragaje ko akarangabusugi k'uwo mwana ari kazima bityo bikaba byerekana ko atigeze amusambanya. Yongera ho ko hari hakenewe ibindi bimenyetso byunganira ibyashyingiweho ahamwa icyaha. Ubushinjacyaha busobanura ko impamvu z'ubujurire nta shingiro zahabwa kuko uregwa atavuguruza ibimenyetso byashyingiweho bihamya ko yakoze icyaha aregwa. Incamake y'icyemezo: 1. Umucamanza uburanisha urubanza mu mizi ni we ureba agaciro imvugo y'uwiyeemerera icyaha mu rwego rw'iperereza ifite, n'ubwo yagera imbere y'Urukiko akayihindura.

2. Kuba umwana yasanganwa akarangabusugi kazima, ntibivanaho ko hari ibikorwa yakorewe hagamijwe kwishimisha. Ubujujire, nta shingiro bufite.

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Nta mategeko yashyingiweho Imanza zifashishijwe: RPA 0010/06/CS - RPA 0011/06/CS - RPA 0012/06/CS, Ubushinjacyaha na Sgt Ntaganira n'abandi rwaciwe n'Urukiko rw'Ikirenge ku wa 18/07/2008; RS/INJUST/RP 00003/2019/SC, Ubushinjacyaha na Niyonsaba Eric rwaciwe n'Urukiko rw'Ikirenga ku wa 28/01/2022; RPAA 00189/2024/CA, Ubushinjacyaha na Nyandwi Shaban, rwaciwe n'Urukiko rw'Ubujujire ku wa 25/04/2025; RPAA 00473/2021/CA, Ubushinjacyaha na Niyomwungeri Théophile, rwaciwe n'Urukiko rw'Ubujujire ku wa 31/01/2024, RPAA 00428/2023/CA, Ubushinjacyaha na Munyaneza TEGEJO, rwaciwe n'Urukiko rw'Ubujujire ku wa 14/03/2025. Urubanza I. IMITERERE Y'URUBANZA

- [1] Ku wa 2/12/2020, Niyonsenga Bosco ari mu rugo yari asanzwe abamo ruherereye mu Mudugudu wa Nyakagezi, Akagari ka Gahinga, Umurenge wa Mugunga, Akarere ka Gakenge, yaketsweho kuba yarasambanyije umwana w' umukobwa witwa I.A, wari ufite imyaka 5 y'amavuko. Amaze gufatwa yashyikirijwe Ubugenzacyaha atangira gukurikiranwa. Nyuma y'iperereza, Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Musanze, rumukurikiranyeho icyaha cyo gusambanya umwana. Yaburanye ahakana icyaha aregwa. [2] Mu rubanza N° RP 00194/2021/TGI/MUS rwaciwe ku wa 16/06/2022, Urukiko rwemeje ko Niyonsenga Bosco ahamwa n'icyaha aregwa, rushingiye ku mvugo ze yavugiye mu Bugenzacyaha zunganirwa n'imvugo za Iradukunda wavuze ko Niyonsenga Bosco yabatumye kumuzanira amazi, agasigarana I.A n'akandi kana mu rugo, kandi ko bakimara kuva kuvoma, bagiye kwahira ngo akana kari kumwe na I.A kababwira ko Iragena na Niyonsenga basambanye ndetse byongera gushimangirwa n'umubyeyi wa I.A, maze rumuhanisha igifungo cya burundu. [3] Niyonsenga Bosco yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze avuga ko Urukiko Rwisumbuye rwirengagije ko raporo ya muganga

itigeze igaragaza ko ari we wasambanyije umwana, ko yemera icyaha mu Bugenzacyaha habayeho kumuhata bamubwira ko niyemera bamurekura, ko ageze imbere y'urukiko ari bwo yavuze ukuri kwe, asaba kurenganurwa kuko nta cyaha yakoze. Uhagarariye ubushinjacyaha yavuze ko ubujurire bwe nta shingiro bufite, kuko Urukiko rwasobanuye ibimenyetso binyuranye kandi byuzuzanya rwashingiyeho rumuhamya icyaha cyo gusambanya umwana w'umukobwa witwa I.A. w'imyaka 5. [4] Mu rubanza No RPA 00676/2022/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 05/02/2025, rwemeje ko ubujurire bwa Niyonsenga Bosco bufite ishingiro ku bijyanye n'igihano gusa, rwemeza ko imikirize y'urubanza n° RP 00194/2021/TGI/MUS rwakijijwe n'Urukiko Rwisumbuye rwa Musanze ku wa 16/06/2022 ruhindutse ku bijyanye n'igihano; ruhanisha Niyonsenga Bosco igifungo cy'imyaka

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- [5] Mu gufata icyemezo, Urukiko rwasanze nta nenge Niyonsenga Bosco yagaragaje yatuma urubanza yajuririye ruhinduka, ariko mu rwego rwo gutanga ubutabera bumwe ku bibazo bisa, rumugabanyiriza igihano, nk'uko byakozwe mu rubanza No RPAA 00044/2021/CA rwaciwe ku wa 29/12/2023 haburana Ubushinjacyaha na Migambi Vianney wagabanyirijwe igihano kubera impamvu nyoroshyacyaha zirimo kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi ndetse nta ngaruka zikomeye zagaragajwe na muganga wasuzumye umwana. [6] Niyonsenga Bosco yajuririye imikirize y'urubanza mu Rukiko rw'Ubujurire, urubanza ruhabwa N° RPAA 00287/2025/CA, iburanisha ribera mu ruhame ku wa 12/09/2025, Niyonsenga Bosco yitabye yunganirwa na Me Shema Gerard naho Ubushinjacyaha buhagarariye na Bunyoye Grace, Umushinjacyaha ku rwego rw'Igihugu. [7] Mu myanzuro y'ubujurire no mu miburanire ye, Niyonsenga Bosco avuga ko yahamijwe icyaha hashingiwe ku kuba mu nzego z'iperereza yaremeye icyaha, nyamara yaracyemeye ku gahato bitewe n'iterabwoba yashyizweho, baranamushuka bamufatanyije n'ubwana ngo niyemera icyaha barahita bamurekura yitahire, ko urukiko rwirengagije ko kwemera icyaha atari ikimenyetso ndakuka gihagije cyashingirwaho hemezwa ko uregwa yakoze icyaha, kuba yarahamijwe icyaha kandi raporo ya muganga yaragaragaje ko I.A atasambanyijwe no kuba urukiko rwarahaye agaciro ubuhamya bwa Iradukunda kandi yaragendeye mu kigare cya nyina wa I.A nta bindi bimenyetso bishimangira ubuhamya yatanze. [8] Uhagarariye Ubushinjacyaha avuga ko impamvu z'ubujurire nta shingiro zahabwa kuko uregwa atavuguruza ibimenyetso byashingiweho bihamya ko yakoze icyaha aregwa. [9] Urukiko rurasuzuma ibibazo bikurikira: a) Kumenya niba imvugo Niyonsenga Bosco yavugiye mu Bugenzacyaha zitaragombaga gushingirwaho mu kumuhamya icyaha
- b) Kumenya niba Niyonsenga Bosco yarahamijwe icyaha cyo gusambanya umwana kandi raporo ya muganga yaragaragaje ko I.A atasambanyijwe; c) Kumenya niba hari ikosa ryakozwe n'Urukiko Rukuru mu gushingira ku buhamya bwa Iradukunda w'imyaka 13 y'amavuko.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

- 1) Kumenya niba imvugo Niyonsenga Bosco yavugiye mu Bugenzacyaha zitaragombaga gushingirwaho mu kumuhamya icyaha
- [10] Niyonsenga Bosco n'umwunganira bavuga ko yahamijwe icyaha atakoze hashingiwe ku kuba mu nzego z'iperereza yaremeye icyaha kandi yaracyemeye ku gahato bitewe n'iterabwoba yashyizweho ndetse baranamushuka ngo niyemera icyaha arahita ataha, ariko ko nyuma ibyo

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bamubwiye batabikoze, bituma aburana ahakana icyaha, bityo asaba ko ibyo yavugiye mu rukiko aribyo byahabwa agaciro kuko ariko kuri kwe. [11] Bavuga ko mu gufata icyemezo urukiko rwirengagije umurongo wafashwe mu rubanza RPAA 0066/15/CS rwaciwe n'Urukiko rw'Ikirenga kuwa 04/01/2019 uvuga ko kwemera icyaha byonyine atari ikimenyetso ndakuka kihagije cyashingirwaho mu kwemeza ko uregwa ahamwa n'icyaha ashinjwa, na cyane ko yagaragaje impamvu zatumye yemera icyaha kandi ataragikoze kuko na muganga yemeje ko uwo mwana atasambanyijwe. [12] Uhagarariye Ubushinjacyaha avuga ko nta kigaragaza ko Niyonsenga Bosco yashyizweho iterabwoba kuko mu mvugo ze yasobanuye imikorere y'icyaha mu buryo butomoye, avuga uko abo bana bamusanze mu murima, asobanura uko yohereje ab'abahungu kujya kuvoma asigarana babiri b'abakobwa, avuga ko yasambanyije I.A n'ako kana kabireba, ariko ko igihe yari agiye kwinjiza igitsina cye mu cy'umwana yahise arangiza atazi uko bigenze, iyo mvugo ikaba ihura n'iy'umutangabuhamya witwa Iradukunda ndetse na raporo ya muganga wemeje ko nta gikomere yabonye ku gitsina cy'umwana.

UKO URUKIKO RUBIBONA

- [13] Impaka ziri kuri iyi ngingo zigamije kumenya niba Niyonsenga Bosco yarakorewe ihohoterwa kugira ngo yemere icyaha mu Bugenzacyaha, byatuma imvugo yemera icyaha zitashingirwaho nk'ikimenyetso kimuhamya icyaha. [14] Ibijyanye n'agaciro gahabwa imvugo z'uregwa wemeye icyaha mu nzego z'iperereza yagera imbere y'Urukiko akagihakana, Urukiko rw'Ikirenga rwabitanzeho umurongo mu rubanza N° RPA 0010/06/CS - RPA 0011/06/CS - RPA 0012/06/CS, rwaciwe ku wa 18/07/2008, haburana Ubushinjacyaha na Sgt Ntaganira na bagenzi be1. Muri urwo rubanza Urukiko rw'Ikirenga rwasobanuye ko umucamanza uburanisha urubanza mu mizi ari we ureba agaciro imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, n'ubwo yagera imbere y'Urukiko akayihindura. Uyu murongo kandi wagendewehe no mu zindi manza zaciwe n'uru Rukiko, uruherutse akaba ari urubanza N° RPAA 00189/2024/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 25/04/2025 Ubushinjacyaha buburana na Nyandwi Shaban2. [15] Niyonsenga Bosco abazwa mu Bugenzacyaha ku wa 03/12/2020 yavuze ko yemera icyaha asobanura ko ubwo yarimo gukura ibijumba by'ingurube z'uwitwa Nepo yakoreraga akazi ko mu rugo, haje abana bane barimo na I.A bamusanga aho yari ari akura ibyo bijumba barangije baramanukana bageze aho yabaga, atuma abana babiri b'abahungu kujya kumuvomera amazi asigarana abana babiri b'abakobwa, maze mu gihe abo bana b'abahungu bari bagiye yafashe I.A amujyana mu cyumba araramo aramusambanya, ko ndetse na mugenzi w'ako kana yarebaga, nyuma

abana b'abahungu bagarutse bose bahita bataha. Yasobanuye ko igihe yasambanyaga uwo mwana igitsina cye yagishyize mu cye ariko nticyajyamo kuko yahise arangiza kitarinjiramo. Mu ibazwa mu Bushinjacyaha ryo ku wa 28/01/2021, Niyonsenga Bosco yavuze ko ahakana icyaha

1 Reba igika cya 46 cy'urwo rubanza. 2 Reba igika cya 17 cy'urwo rubanza.

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aregwa, avuga ko kuba yaracyemeye mu Bugenzacyaha ari uko yakubiswe n'abaturanyi, abajijwe niba muri RIB yarakubiswe ngo yemere icyaha asubiza ko abamukubise batari bahari. [16] Umutangabuhamya witwa Iradukunda wari ufite imyaka 13 nawe wari kumwe n'abo bana yavuze ko ubwo bari bavuye kuvomera Niyonsenga Bosco amazi yari yabatumye, bagiye no kwahirira inkwavu aribwo uwitwa Wivine yababwiye ko Niyonsenga na I.A basambanye, batashye babibwira nyina witwa Agnès. [17] Urukiko rw'Ubujurirwa rurasanga imvugo za Niyonsenga Bosco mu Bugenzacyaha zigaragaza ko yasobanuye mu buryo burambuye uko yakoze icyaha aregwa, uko cyatangiye n'uko yaje gufatwa, rurasanga nta gushidikanya ko ibi yavuze ariko kuri guhuye n'imikorere y'icyaha kandi bikaba bishimangirwa n'imvugo z'abandi babajijwe barimo Iradukunda, Musengamana Agnès ndetse n'Umuyobozi w'Umudugudu bose bemeje ko Niyonsenga Bosco yasambanyije I.A. [18] Urukiko rurasanga, nk'uko byasobanuwe mu murongo watanze n'Urukiko rw'Ikirenga wavuzwe haruguru, Urukiko ntirutegetswe kwemeza imvugo zivugirwe imbere yarwo mu gihe zivuguruzwa izavugirwe imbere y'inzego z'iperereza, ahubwo ubwarwo arirwo rukora isesengura kugira ngo rumenye imvugo ihuza n'ukuri kw'ibyabaye, bityo rero kuba Niyonsenga Bosco yarageze mu Rukiko agahakana ibyo yemeye mu Bugenzacyaha, ibyo bitaba impamvu yatuma imvugo ye yemera icyaha idashingirwaho kuko nta kigaragaza ko abazwa yashyizweho agahato. Byongeye kandi imvugo ye, ishyigikirwa n' iya Iradukunda. [19] Ku bijyanye n'imiburanire ya Niyonsenga Bosco n'umwunganira ko mu nzego z'iperereza yemeye icyaha ku gahato abitewe n'iterabwoba yashyizweho ndetse ko bamushutse bamubwira ko niyemera icyaha arahita ataha, Urukiko rw'Ubujurire rurasanga ibyo bavuga nta kimenyetso babitangira kuko ageze mu Bushinjacyaha bamubajije impamvu ahakana icyaha kandi mu Bugenzacyaha yaracyemeraga, asubiza ko abazwa muri RIB abamukubise agifatwa nta bari bahari, bigaragaza ko nta terabwoba yashyizweho. [20] Urukiko rw'Ubujurire rurasanga ibyo bavuga ko mu gufata icyemezo urukiko rwirengagije umurongo wafashwe mu rubanza No RPAA 0066/15/CS rwaciye n'Urukiko rw'Ikirenga ku wa 04/01/2019 uvuga ko kwemera icyaha byonyine atari ikimenyetso ndakuka kihagije cyashingirwaho mu kwemeza ko uregwa ahamwa n'icyaha ashinjwa, nabyo nta shingiro bifite, kuko Urukiko Rukuru rwasesenguye imvugo ze n'iza Iradukunda rusanga ari ibimenyetso bihagije bihamya ko Niyonsenga Bosco yakoze icyaha aregwa, ndetse n'uru Rukiko rukaba rusanga nta kosa rwakoze ruzishingiraho.

- 2) Kumenya niba Niyonsenga Bosco yarahamijwe icyaha cyo gusambanya umwana kandi raporo ya muganga yaragaragaje ko umwana aregwa atasambanyijwe

- [21] Niyonsenga Bosco n'umwunganira bavuga ko kuba raporo ya muganga yaragaragaje ko umwana atasambanyijwe, hagombaga kugaragazwa ikindi kimenyetso kiyunganira uretse gushingira ku mvugo z'abana bato ari nabo bahaye nyina w'umwana amakuru atariyo nawe akayagenderaho.

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- [22] Ubushinjacyaha busanga harebwe uburyo icyaha cyakozwemo, mu ibazwa rya Niyonsenga Bosco imbere y'ubugenzacyaha, yaravuze ko igitsina cye kitinjiye mu cy'umwana kuko yarangije kitarajyamo, agakomeza avuga ko atazi uko byagenze agahita arangiza (Ejaculation), bityo kuba raporo ya muganga yaragaragaje ko umwana atasambanyijwe, ntibisobanura ko atasambanyije umwana nk'uko byatanzweho umurongo mu rubanza n° RPAA 00400/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/1/2025 haburana Ubushinjacyaha na Rukundo Jean Claude (igika cya 38) kandi harebwe uburyo yakozemo icyaha aho yavuze ko ubwo yari agiye kwinjiza igitsina cye mu cy'umwana yahise arangiza, byerekana ko yageze ku ntego ye yo kwishimisha kandi igikorwa cyose gikorewe ku mubiri w'umwana hagamijwe ishimishamubiri kitwa gusambanya umwana. UKO URUKIKO RUBIBONA
- [23] Hakurikijwe iyo miburanire harasuzumwa niba kuba raporo ya muganga itagaragaza ko umwana yasambanyijwe, byatuma hemezwa ko nta cyaha cyo gusambanya umwana cyabayeho. [24] Ibirebana n'uko raporo ya muganga itagaragaza ko umwana yasambanyijwe, Urukiko rw'Ikirenga rwabitanzeho umurongo mu rubanza N° RS/INJUST/RP 00003/2019/SC rwaciwe ku wa 28/01/2022 habura Ubushinjacyaha na Niyonsaba Eric, (igika cya 23). Muri urwo rubanza Urukiko rw'Ikirenga rwasobanuye ko kuba umwana yasanganwa akarangabusugi kazima, bitavanaho ko hari ibikorwa yakorewe hagamijwe kwishimisha. [25] Uwo murongo ukaba warakurikijwe no mu zindi manza nyinshi zaciwe n'uru Rukiko zirimo urubanza N° RPAA 00473/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 31/01/2024, haburana Ubushinjacyaha na Niyomwungeri Théophile. Mu gika cya 23 cy'urwo rubanza Urukiko rw'Ubujurire rwasobanuye ko guhamwa n'icyaha cyo gusambanya umwana bitagombera kuba hari ikimenyetso cy'ihuzabitsina kigaragara ku gitsina cy'umwana wahohotewe; ahubwo hitabwa no ku bimenyetso byose bigaragaza kugerageza igikorwa cyose cy'ishimishamubiri ku mubiri w'umwana nk'uko biteganywa mu ngingo ya 133,30 y'Itegeko No 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange nk'uko ryahinduwe3. [26] Urukiko rw'Ubujurire rushingiye kuri uwo murongo, rurasanga kuba raporo ya muganga itagaragaza ko umwana I.A yasambanyijwe, atari ikimenyetso gihagije gihamya ko Niyonsenga Bosco atakoze icyaha aregwa, kuko abazwa mu Bugenzacyaha yasobanuye ko ubwo yasambanyaga uwo mwana igitsina cye yagishyize mu cye ariko nticyajyamo kuko yahise arangiza kitarinjiramo. Imvugo ze rero zikaba zigaragaza ku buryo budashidikanywaho ko igikorwa cyo kwinjiza igitsina cye mu cy'umwana yagikoze.
- [27] Hashingiwe rero ku bimaze gusobanurwa no ku biteganywa n'ingingo ya 133, y'Itegeko No 68/2018 ryo ku wa 30/08/2018 ryavuzwe, Urukiko rw'Ubujurire rurasanga igikorwa yakoze

3 Iyi ngingo ivuga ko umuntu wese ukorera ku mwana kimwe mu bikorwa bishingiye ku gitsina bikurikira aba akoze icyaha: 1° Gushyira igitsina mu gitsina, mu kibuno cyangwa mu kanwa k'umwana; 2° Gushyira urugingo urwo ari rwo rwose rw'umubiri w'umuntu mu gitsina cyangwa mu kibuno cy'umwana; 3° Gukora ikindi gikorwa cyose ku mubiri w'umwana hagamijwe ishimishamubiri.

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cyo gushyira igitsina cye mu cy'umwana kigize icyaha cyo gusambanya umwana, bityo akaba atakwitwaza ko raporo ya muganga itagaragaza ko umwana yasambanyijwe.

3) Kumenya niba hari ikosa ryakozwe n'Urukiko Rukuru mu gushingira ku buhamya bwa Iradukunda w'imyaka 13 y'amavuko.

[28] Niyonsenga Bosco n'umwunganira bavuga ko imvugo za Iradukunda zitagombaga gushingirwaho zitunganiwe n'ibindi bimenyetso nk'uko biteganywa n'ingingo ya 63 y'Itegeko ryerekeye ibimenyetso mu manza n'itangwa ryabyo, kuko yavuze ibyo yabwiwe n'umwana w'imyaka 3 kandi nawe afite imyaka 4, bityo ko kuba imvugo ze zarashingiweho harimo kugenekereza kandi bitemewe mu mategeko. [29] Uhagarariye Ubushinjacyaha avuga ko imvugo za Iradukunda zihuza neza n'imvugo za Niyonsenga Bosco kuko asobanura neza uburyo yari kumwe n'abandi bana ndetse na I.A noneho Niyonsenga akavanamo ab'abahungu akabatuma kujya kuvoma agasigarana I.A na karumuna ke, ko aho bagarukiye ka kana kababwiye ko Niyonsenga yasambanye na I.A, bityo bukaba busanga uko Iradukunda abisobanura ahuza imvugo na Niyonsenga.

UKO URUKIKO RUBIBONA

[30] Niyonsenga Bosco n'umwunganira banenga ubuhamya bwatanzwe na Iradukunda ku mpamvu y'uko bwagombaga gushyigikirwa n'ibindi bimenyetso bitewe n'uko uwabutanze yari atarageza ku myaka 14 y'amavuko. [31] Ikibazo cyo kumenya agaciro k'ubuhamya bw'umwana utarageza ku myaka cumi n'ine

(14) cyatanzweho umurongo mu manza zitandukanye zaciwe n'uru Rukiko mu ziheruka harimo urubanza N° RPAA 00428/2023/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 14/03/2025, haburana Ubushinjacyaha na Munyaneza Tegejo (igika cya 21). Muri izo manza, uru Rukiko rwemeje ko ubuhamya butanzwe n'umwana utarageza ku myaka 14 y'amavuko bwemewe, ko adasabwa kurahira mbere yo kubutanga ariko kugira ngo inkiko zibushingireho hagomba kuba hari ibindi bimenyetso bibushimangira. [32] Nk'uko bigaragara mu gika cya 13 cy'urubanza rujuririrwa, Urukiko Rukuru, Urugereko rwa Musanze rwagumishijeho imikirize y'urubanza rwaciwe ku rwego rwa mbere rushingiye ku kuba Niyonsenga Bosco ataravugurujwe ibimenyetso byashingiweho kuri urwo rwego, ibyo bimenyetso bikaba bigizwe n'imvugo ya Niyonsenga Bosco wemeye icyaha mu Bugenzacyaha hamwe n'ubuhamya bwa Iradukunda na Musengimana Agnès akaba umubyeyi wa I.A. bavugiye mu Bugenzacyaha. Imvugo z'aba batangabuhamya zihura neza n'ibyo Niyonsenga Bosco yiyemereye. Bigashimangira rero ko ibyo bavuze ari ukuri, bikwiye gukomeza gushingirwaho.

[33] Urukiko rw'Ubujurire rurasanga rero byumvikana ko mu kwemeza ko Niyonsenga Bosco ahamwa n'icyaha akurikiranyweho, hatashingiwe gusa ku buhamya bwa Iradukunda, kuko hari

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imvugo ya Niyonsenga Bosco ubwe yemera icyaha mu Bugenzacyaha ndetse n'ubuhamya bwa Musengimana akaba umubyeyi wa I.A. wemeza ko nawe abana bamubwiye ko I.A. yasambanye na Niyonsenga ndetse ko na I.A. yabimwibwiriye, bityo hashingiwe ku murongo wavuzwe haruguru, Urukiko rurasanga ibyo Niyonsenga Bosco anenga ubuhamya bwa Iradukunda nta shingiro bifite, kuko hari ibindi bimenyetso bibwunganira.

[34] Hashingiwe ku bimaze gusobanurwa, uru Rukiko rurasanga ubujurire bwa Niyonsenga Bosco nta shingiro bufite kuko ibimenyetso byashingiweho nta nenge bifite, kandi bihamya ku buryo budashidikanywaho ko yakoze icyaha cyo gusambanya umwana; bityo hakaba nta kosa ryakozwe n'Urukiko Rukuru, Urugereko rwa Musanze rubishingiraho nk'ibimenyetso mu rubanza.

III. ICYEMEZO CY'URUKIKO

[35] Rwemeje ko ubujurire bwa Niyonsenga Bosco nta shingiro bufite; [36] Rwemeje ko urubanza n° RPA 00676/2022/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 05/02/2025 rudahindutse; [37] Rwemeje ko igifungo cy'imyaka 17, Niyonsenga Bosco yahanishijwe muri urwo rubanza kigumyeho.

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