UBUSHINJACYAHA v. SINDIHOKWABO

[Rwanda URUKIKO RW'UBUJURIRE – RPAA 00020/2020/CA (Mukandamage, P.J.) 28 Mutarama 2022]

Amategeko agenga imanza nshinjacyaha – Itegeko rikurikizwa mu gihe hari amategeko abiri ahana – Mu gihe hari amategeko abiri ahana, itegeko riteganya ibihano byoroheje niryo rigomba gukurikizwa.

Amategeko agenga imanza nshinjacyaha – Ibimenyetso – Abatabgabuhamya – Urukiko nirwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye, kandi ikaba ikwiye kwemerwa cyangwa guhakanwa – Urukiko ntirwitsitsa ku mubare w'abatangabuhamya ahubwo rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga, uko byagenze ntacyo bihimbira.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Karongi Ubushinjacyaha bukurikiranye uregwa ku cyaha cyo gusambanya abana babiri, I. D. wavutse mu mwaka wa 2009 ufite imyaka icumi (10) y'amavuko na M. wavutse mu mwaka wa 2005, ufite imyaka umunani (8) y'amavuko, icyo cyaha akaba ngo yaragikoze ku wa 20/06/2018, ubwo yabasangaga aho bari bagiye gutashya inkwi mu ishyamba rya Leta hafi y'umugezi wa Sebeya. uregwa yaburanye ahakana icyaha, avuga ko yahuye n'abasore mu nzira avuye i Gashihe aho yari yagiye kugurisha inzoga, baramukubita bamuziza ko anywa inzoga wenyine, babajijwe impamvu bamukubise, bamubeshyera ko basanze asambanya abana. Urwo Rukiko rwaciye urubanza rwemeza ko uregwa ahamwa n'icyaha cyo gusambanya abana, rumuhanisha igifungo cya burundu.

Uregwa yajuririye Urukiko Rukuru, Urugereko rwa Rusizi avuga ko Urukiko Rwisumbuye rwa Karongi rwamuhanishije igifungo cya burundu nta cyaha yakoze, ko ahubwo yahuye n'uwitwa Nduwayezu aragiye, amukubita inkoni, nawe aramuhindukirira, bararwana, amubwira ko arya wenyine. Yanavugaga ko abana n'ubwandu bw'agakoko gatera SIDA, ko rero iyo aba yarabasambanyije abana aba yarabanduje. Urwo Rukiko rwaciye urubanza rwemeza ko ubujurire nta shingiro bufite, ko urubanza yajuririye rudahindutse.

Uregwa yajuririye na none urwo rubanza mu Rukiko rw'Ubujurire avuga ko Urukiko Rukuru, urugereko rwa Rusizi rwamuhamije icyaha nta bimenyetso nyakuri rushingiyeho byemeza ko yagikoze.

Ubushinjacyaha bwo buvuga ko mu bisobanuro bitangwa n'uwitwa Nduwayezu, avuga ko yabonye uregwa (Sindihokubwabo) arimo gusambanya umwana, amubonye ariruka, amwirukaho, amufata agiye kugera ku mugezi wa Sebeya, ari nabwo yahitaga atabaza, kuko yari wenyine ashobora kumucika, haza uwitwa Iradukunda bafatanya kumujyana mu buyobozi, ko n'abana bahise bahagera, bose barajyana, banasobanura uko yabasambanyije.

Incamake y'icyemezo: 1. Mu gihe hari amategeko abiri ahana, itegeko riteganya ibihano byoroheje niryo rigomba gukurikizwa, bityo Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, niryo rigomba gukurikizwa mu guhana Sindihobwabo kuko ari ryo riteganya ibihano byoroheje ku cyaha cyo gusambanya umwana ufite imyaka y'amavuko iri munsi y'imyaka 14 y'amavuko, cy'igifungo cya burundu,

ugereranyije n'Itegeko Ngenga nº 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakurikizwaga igihe icyaha cyakorwaga.

2. Urukiko nirwo rwonyine rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye, kandi ikaba ikwiye kwemerwa cyangwa guhakanwa kandi Urukiko ntirwitsitsa ku mubare w'abatangabuhamya ahubwo rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga, uko byagenze ntacyo bihimbira.

Ubujurire nta shingiro bufite.

Amategeko yashingiweho:

Itegeko Nº 69/2019 ryo ku wa 08/11/2019, ingingo ya 4 ihindura ingingo ya 133 y'Itegeko Nº 68/2018 ryo ku wa 30/08/2018

Itegeko Nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, Ingingo ya 6

Itegeko Nº 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 65 n'iya 119.

Itegeko Ngenga N° 01/2010/OL ryo ku wa 02/06/2012 rishyiraho igitabo cy'amategeko ahana, ingingo ya 191

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ubushinjacyaha bwareze Sindihokubwabo Théodomir mu Rukiko Rwisumbuye rwa Karongi, rumukurikiranyeho icyaha cyo gusambanya abana babiri, I. D. wavutse mu mwaka wa 2009 ufite imyaka icumi (10) y'amavuko na M. wavutse mu mwaka wa 2005, ufite imyaka umunani (8) y'amavuko, icyo cyaha akaba yaragikoze ku wa 20/06/2018, ubwo yabasangaga aho bari bagiye gutashya inkwi mu ishyamba rya Leta hafi y'umugezi wa Sebeya, aza gufatwa n'uwitwa Nduwayezu Isaïe wari uragiye inka hafi aho.

[2] Sindihokubwabo Théodomir yaburanye ahakana icyaha, avuga ko yahuye n'abasore mu nzira avuye i Gashihe aho yari yagiye kugurisha inzoga, baramukubita bamuziza ko anywa inzoga wenyine, babajijwe impamvu bamukubise, bamubeshyera ko basanze asambanya abana.

[3] Mu rubanza RP 00136/2018/TGI/KNG rwaciwe ku wa 25/10/2018, Urukiko Rwisumbuye rwa Karongi rwemeje ko Sindihokubwabo Théodomir ahamwa n'icyaha cyo gusambanya abana, rumuhanisha igifungo cya burundu.

[4] Sindihokubwabo Théodomir yajuririye Urukiko Rukuru, Urugereko rwa Rusizi avuga ko Urukiko Rwisumbuye rwa Karongi rwamuhanishije igifungo cya burundu nta cyaha yakoze, ko ahubwo yahuye na Nduwayezu Isaïe aragiye, amukubita inkoni, nawe aramuhindukirira, bararwana, amubwira ko arya wenyine. Yanavugaga ko abana n'ubwandu bw'agakoko gatera SIDA, ko rero iyo aba yarabasambanyije abana aba yarabanduje.

[5] Mu rubanza n° RPA 00293/2018/HC/RSZ rwaciwe ku wa 14/02/2019, Urukiko Rukuru, Urugereko rwa Rusizi, rwemeje ko ubujurire bwa Sindihokubwabo Théodomir nta shingiro bifite, ko urubanza yajuririye rudahindutse.

[6] Sindihokubwabo Théodimir yajuririye na none urwo rubanza mu Rukiko rw'Ubujurire avuga ko Urukiko Rukuru, urugereko rwa Rusizi rwamuhamije icyaha nta bimenyetso nyakuri rushingiyeho byemeza ko yagikoze.

[7] Urubanza rwaburanishijwe mu ruhame ku wa 06/01/2022 hifashishijwe ikoranabuhanga kubera ingamba zo kwirinda ikwirakwizwa ry'icyorezo cya Covid-19, Sindihokubwabo Théodomir yunganiwe na Me Uwindatwa Munyakayanza Consolée, Ubushinjacyaha buhagarariwe na Wibabara Charity, Umushinjacyaha ku rwego rw'igihugu, bamenyeshwa ko urubanza ruzasomwa ku wa 28/01/2022, ari nawo munsi rusomweho.

II. IBIBAZO BIRI MU RUBANZA N'ISESENGURWA RYABYO

Kumenya niba Urukiko Rukuru, Urugereko rwa Rusizi rwarahamije Sindihokubwabo Théodomir icyaha cyo gusambanya abana nta bimenyetso by'uko yagikoze.

[8] Mu myanzuro ye y'ubujurire, Sindihokubwabo Théodimir avuga ko Urukiko Rukuru, Urugereko rwa Rusizi rwemeje ko yasambanyije abana rugendeye ku mvugo z'abatangabuhamya n'icyemezo cya Muganga, ko ibyo bimenyetso bidakwiye guhabwa agaciro kubera ko umutangabuhamya Nduwayezu Isaïe yavuze ko yamufatiye mu cyuho arimo gusambanya abo bana, ariko akaba atarigeze agira abo atabaza ngo baze barebe amabi yari arimo gukora, ko kandi atagaragaza abajyanye abo bana kwa Muganga, nyamara ukuri ari uko barwanye bapfa ko atamuguriye inzoga bikagera n'ubwo bakomeretsanya. Avuga kandi ko uwo mutangabuhamya amushinja ko yasambanyije abana saa kumi n'imwe z'umugoroba, akibaza uburyo icyo gihe abana bato barimo batashya inkwi mu ishyamba.

[9] Akomeza avuga ko raporo ya Muganga wasuzumye abo bana igaragaza ko basambanyijwe, ko abo bana bavuga ko yavaga ku mwana umwe akajya ku wundi, bikaba byumvikanisha ko yaba yarabikoze yitonze, akibaza uburyo atabanduje agakoko ka SIDA kandi yarayivukanye. Asaba ko abo bana bapimwa, ndetse n'uwitwa M., wasobanuye uburyo yabasambanyijwe, yahamagazwa akaza gusobanura amasaha yabasambanyirijeho.

[10] Me Uwindatwa Munyakayanza Consolée avuga ko kuba raporo ya Muganga igaragaza ko abana basambanyijwe bitavuze ko ari Sindihokubwabo Théodomir wabasambanyije, kandi ko iyo raporo ifite inenge, kubera ko yemeza ko abana bafite udusebe ku gitsina, ko yanasanze amasohoro mu gitsina cya buri mwana, ariko ntabihuze na Sindihokubwabo Théodimir, kuko ayo masohoro atapimwe ngo bigaragare ko ari aye.

[11] Avuga kandi ko imvugo z'abana basambanyijwe zidakwiye guhabwa agaciro, kuko bavuze ko yasambanyaga umwe, yamuvaho akajya ku wundi nk'aho yari yabaziritse, akibaza ukuntu batigeze batabaza ngo abantu babatabare cyangwa se ngo biruke bahunge, nyamara umwana umwe yari afite imyaka 13 akaba yarashoboraga kubona Sindihokubwabo Théodomir afashe mugenzi we akamutabariza.

[12] Avuga na none ko ubuhamya bwa Nduwayezu Isaïe wavuze ko yafatiye Sindihokubwabo Théodomir mu cyuho asambanya abana budakwiye guhabwa agaciro, kuko bwuzuyemo gushidikanya.

[13] Uhagarariye Ubushinjacyaha avuga ko mu bisobanuro bitangwa na Nduwayezu Isaïe, avuga ko yabonye Sindihokubwabo Théodomir arimo gusambanya umwana, amubonye ariruka, amwirukaho, amufata agiye kugera ku mugezi wa Sebeya, ari nabwo yahitaga atabaza, kuko yari wenyine ashobora kumucika, haza uwitwa Iradukunda Cédric bafatanya kumujyana mu buyobozi, ko n'abana bahise bahagera, bose barajyana, banasobanura uko yabasambanyije, nk'uko byemejwe n'inzego z'ibanze.

[14] Ku birebana n'uko umutangabuhamya yagombaga kugaragaza abajyanye abana kwa Muganga, Uhagarariye Ubushinjacyaha avuga ko niba Sindihokubwabo Théodomir yemera ko hari icyemezo cya Muganga wapimye abana akaba ari nacyo aheraho yibaza uburyo batabasanganye agakoko gatera SIDA yaba yarabanduje kuko ayirwaye, yibaza icyo yaba agamije avuga ko umutangabuhamya atagaragaje uwabajyanye kwa Muganga, ko kandi raporo zombi zigaragaza Muganga wazikoze, aho yazikoreye n'igihe yazikoreye.

[15] Naho ku birebana no kuba raporo ya Muganga yari kugaragaza ko Sindihokubwabo Théodomir yanduje abana agakoko gatera SIDA Uhagarariye Ubushinjacyaha avuga ko icyo kibazo cyasuzumwe n'Urukiko Rukuru rukagitesha agaciro. Anavuga ko Sindihokubwabo Théodomir n'umwunganira badakwiye kunenga raporo ya Muganga, kuko inshingano yahawe yari iyo kugaragaza ko abana basambanyijwe, akaba yarabikoze, ko ibyo kuba afite SIDA akaba atarayibanduje bidakuraho ko yasambanije bariya bana nk'uko byasobanuwe mu rubanza rwajuririwe.

[16] Ku byo Sindihokubwabo Théodomir avuga ko abana batari gutashya mu ishyamba mu ma saha ya nijoro, Uhagarariye Ubushinjacyaha avuga ko usibye no kuba atagaragaza ko ibyo byabaye mu ma saa kumi n'imwe (17h00) z'umugoroba, ayo ma saha atari aya nijoro ku buryo abana batashoboraga gutashya inkwi icyo gihe.

[17] Avuga kandi ko umwana witwa I. D. yabajijwe mu Bugenzacyaha agasobanura neza uburyo bari bagiye gutashya hakurya ya Sebeya we na M., bakabona uwo mugabo araje akababaza niba ari abakobwa bakamubwira ko ari bo, agatangira kuzamura amajipo yabo ngo arebe ko ari abakobwa koko, nyuma agafata M. akamusambanya noneho Nduwayezu Isaïe akaza agasanga uwo mugabo amuryamye hejuru akamufata, ko uwo mwana yanasobanuye ukuntu Sindihokubwabo Théodomir yababwiye ko nihagira utaka arahita amwica, bakagira ubwoba bagatinya no kwiruka.

[18] Asanga ubuhamya bw'abo bana bwuzuzanya, kuko buhura n'ibindi bimenyetso byagaragajwe, hamwe na raporo ya Muganga, kandi ibyo bimenyetso bihagije mu guhamya icyaha Sindihokubwabo Théodomir.

UKO URUKIKO RUBIBONA

Ku byerekeye itegeko rigomba gukurikizwa

[19] Ingingo ya 6 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu iteganya ko "Mu gihe hari amategeko ahana, rimwe ryariho mu igihe icyaha cyakorwaga, irindi ryaratangajwe nyuma y'uko icyaha gikorwa, ariko urubanza rutaracibwa burundu, itegeko rishya ni ryo rikurikizwa iyo riteganya igihano cyoroheje".

[20] Iyi ngingo yumvikanisha ko itegeko rishya risubira inyuma rigakurikizwa ku cyaha cyakozwe mbere y'uko risohoka ariko urubanza rutaracibwa burundu, iyo riteganya igihano cyoroheje.

[21] Ku byerekeye icyaha cyo gusambanya umwana, ingingo ya 191 y'Itegeko Ngenga n° 01/2010/OL ryo ku wa 02/06/2012 rishyiraho igitabo cy'amategeko ahana ryakoreshwaga igihe SINDIHOKUBWABO Théodomir yakoraga icyaha akurikiranyweho iteganya ko "Umuntu wese usambanyije umwana, ahanishwa igifungo cya burundu cy'umwihariko".

[22] Naho ingingo ya 4 y'Itegeko nº 69/2019 ryo ku wa 08/11/2019 ihindura ingingo ya 133 y'Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ibikurikira:

[23] "Umuntu wese ukorera ku mwana kimwe mu bikorwa bishingiye ku gitsina bikurikira, aba akoze icyaha: 1º gushyira igitsina mu gitsina, mu kibuno cyangwa mu kanwa k'umwana; 2º gushyira urugingo urwo arirwo rwose rw'umubiri w'umuntu mu gitsina, cyangwa mu kibuno cy'umwana; 3º gukora ikindi gikorwa cyose ku mubiri w'umwana hagamijwe ishimishamubiri;

[24] Iyo abihamijwe n'urukiko, ahanishwa igifungo kitari munsi y'imyaka makumyabiri (20) ariko kitarenze imyaka makumyabiri n'itanu (25)". Iyo umuntu mukuru asambanyije umwana uri munsi y'imyaka cumi n'ine (14), igihano kiba igifungo cya burundu kidashobora kugabanywa kubera impamvu nyoroshyacyaha".

[25] Urukiko rurasanga rero Itegeko nº 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, ari ryo riteganya ibihano byoroheje ku cyaha cyo gusambanya umwana ufite imyaka y'amavuko iri munsi y'imyaka 14 y'amavuko, cy'igifungo cya burundu, ugereranyije n'Itegeko Ngenga nº 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakurikizwaga igihe icyaha cyakorwaga, riteganya igifungo cya burundu cy'umwihariko kuri icyo cyaha, bityo ni ryo rigomba gukurikizwa muri uru rubanza mu kugena igihano kigomba gutangwa, mu gihe byaba bigaragaye ko ubujurire bwa SINDIHOKUBWABO Théodomir nta shingiro bufite.

Ku byerekeye ibimenyetso byashingiweho n'Urukiko Rukuru, Urugereko rwa Rusizi

[26] Ingingo ya 65 y'Itegeko nº 15/2014 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ibikurikira: ″Urukiko nirwo 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 cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo babivuga, uko byagenze ntacyo bihimbira″.

[27] Naho ingingo ya 119 y'iryo tegeko, iteganya ko ″Mu manza nshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba

barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa″.

[28] Ubujurire bwa Sindihokubwabo Théodomir bugamije kugaragaza ko yahamijwe n'Urukiko Rukuru, Urugereko rwa Rusizi icyaha cyo gusambanya abana babiri, nta bimenyetso rushingiyeho bikimuhamya, ko rero agomba kugirwa umwere, igihano yahawe kikavanwaho.

[29] Nk'uko bigaragara mu rubanza rwajuririwe, Urukiko Rukuru, Urugereko rwa Rusizi rwasuzumye ibimenyetso byatanzwe n'Ubushinjacyaha birimo ubuhamya butandukanye bushinja Sindihokubwabo Théodomir icyaha cyo gusambanya abana, raporo y'inzego z'ibanze na raporo za Muganga wasuzumye abana, ibyo bimenyetso ari byo Urukiko Rwisumbuye rwa Karongi rwashingiyeho rumuhamya icyaha.

[30] Bigaragara ko mu Bugenzacyaha Sindihokubwabo Théodomir yahakanye icyaha avuga ko atigeze abona abana bamushinja ko yasambanyije.Yasobanuye ko yari yajyanye inzoga muri Gashihe atashye ahura n'umusore atazi yumva amukubise inkoni yo mu bitugu, amubajije icyo amuhoye amusubiza ko gusambanyije abana, abona haje abana benshi, ahita afatana n'uwo musore bararwana bitewe n'uko yari yanyoye kandi nawe amukubise, maze baratabaza haza abantu babajyana i Gashihe, ko bamubeshyeye kuko bari bamubonyemo ubusinzi.

[31] Umutangabuhamya Nduwayezu Isaïe yabajijwe mu Bugenzacyaha, avuga ko yari aragiye, anyura ku bana batashya inkwi saa kumi z'umugoroba, akajya yumva amajyi mu gitari, agiye kureba abona Sindihokubwabo Théodomir arimo gusambanya umwana umwe witwa I.D., undi mwana yicaye iruhande rwe, yumva avuga ngo nibatabaza arabagirira nabi, agiye kumufata ariruka, amwirukaho atabaza amufatira hafi y'umugezi wa Sebeye, maze haza Mudugudu wa Bushoga witwa Nkubaza n'umwana bita Kavatiri, aramufasha bamujyana mu Buyobozi. Yavuze ko yabonye Sindihokubwabo Théodomir yamanuye ipantalo yayigejeje mu mavi ari nacyo cyatumye amufata, ko ari bwo bwa mbere yari amubonye, ko kandi yari yasinze.

[32] Iradukunda Cédric, umunyeshuri muri G.S. Kazo, nawe yarabajijwe mu Bugenzacyaha, avuga ko yari avuye kwa Muganga ageze mu Gisiza yumva umuntu hakurya avuga ngo bamutabare, ajyayo asanga Nduwayezu Isaïe yafashe umugabo atazi amazina, amubaza icyo yakoze amubwira ko yasambanyije abana, baramujyana bageze hagati mu ishyamba babona undi muntu wari uragiye witwa Uwiduhaye, ababaza icyo bamufatiye, hanyuma ajya kureba abo bana, nabo bakomeza kuzamura uwo mugabo. Yavuze kandi ko igihe yahageraga, Sindihokubwabo Théodomir yemeraga icyaha ndetse abwira Nduwayezu Isaïe ko afite 1.000 Frw ngo amubabarire akimuhe, ngo gufungwa kwe ntacyo kwamumarira, ariko uwo musore aranga, abana bahageze bavuga ko yabanje gusambanya umukuru, akana gato kavuga ko uwo mugabo yababwiraga ko nikiruka akica.

[33] Abana I.D. na M nabo basobanuye uburyo Sindihokubwabo Théodomir yabasambanyije, bavuga ko yabasanze mu ishyamba aho bari bagiye gutashya inkwi afite inkoni, ababwira ko iryo shyamba ari we uririnda, abasaba kumwereka ko ari abakobwa barabikora, abatera ubwoba ababwira ko abica nibatabaza, abaryamisha hasi akajya asambanya umwe umwe.

[34] Urukiko rurasanga ubwo buhamya bwatanzwe bugaragaza nta gushidikanya ko Sindihokubwabo Théodomir yafatiwe mu cyuho asambanya abana bato batarageza ku myaka 14

y'amavuko, abasanze aho batashyaga inkwi mu ishyamba rya Leta, arabakanga abumvisha ko ashinzwe kuririnda, ko bagerageje gutabaza yabagirira nabi.

[35] Urukiko rurasanga rero ibyo avuga ko yarwanye na Nduwayezu Isaïe amuziza ko anywa inzoga wenyine nta shingiro bifite kuko mbere yavugaga ko yamubeshye ko yasambanyije abana kuko yari abonye yasinze. Na none ubuhamya bwa nduwayezu Isaïe bwunganirwa n'ubw'abana yasambanyije n'ubwatanzwe Iradukunda Cédric, bwose bukagaragaza uburyo yafatiwe mu cyuho, agashyikirizwa inzego z'ubuyobozi, nazo zamushyikirije iz'iperereza kugira ngo akurikiranweho icyaha yari yakoze, zikanasaba ababyeyi b'abo bana kubapimisha kwa Muganga ngo arebe koko niba basambanyijwe.

[36] Ku byerekeye raporo yo ku wa 21/06/2018 ya Muganga wasuzumye abo bana, yanzuye avuga ko bigaragara ko umwana I.D. ashobora kuba yasambanyijwe (aggression sexuelle probable), naho umwana M. afite uburwayi mu gitsina kubera gusambanywa (infection génitale sur viol probable).

[37] Urukiko rurasanga iyo raporo ya Muganga ari ikimenyetso cyunganira ubuhamya bwatanzwe, bikaba bigaragaza ko abo bana bajyanywe kwa Muganga icyaha kikimara kuba basambanyijwe na Sindihokubwabo Théodomir wafatiwe mu cyuho n'abamushinja.

[38] Urukiko rurasanga ibyo Sindihokubwabo Théodomir avuga ko iyo asambanya abana aba yarabateye agakoko gatera SIDA, nta shingiro bifite, kuko nk'uko Urukiko rwabanje rwabisobanuye, si ngombwa buri gihe ko ukoranye imibonano n'undi amutera byanze bikunze iyo ndwara, kandi icyaha akurikiranyweho si icyo kuba yarayibateye, ahubwo ni icyo kuba yarabasambanyije.

[39] Urukiko rurasanga kandi ibyo sindihokubwabo Théodomir asaba ko umwana M. yahamagazwa mu rukiko kugira ngo asobanure amasaha yasambanyirijeho yabasambanyirijeho ntacyo byahindura ku mikirize y'uru rubanza, kuko imvugo ze zizanzwe muri dosiye.

[40] Urukiko rurasanga rero ibimenyetso byashingiweho n'Urukiko Rukuru, Urugereko rwa Rusizi bihagije kandi bigaragaza nta gushidikanya ko Sindihokubwabo Théodomir yasambanyije abana babiri bato, bityo ubujurire bwe nta shingiro bufite, kahaba hagomba kugumaho imikirize y'urubanza yajuririye.

III. ICYEMEZO CY'URUKIKO

[41] Rwemeje ko ubujurire bwatanzwe na Sindihokubwabo Théodomir nta shingiro bufite;

[42] Rwemeje ko urubanza nº RPA 00293/2018/HC/RSZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi ku wa 14/02/2019 rudahindutse;

[43] Rutegetse ko igihano cy'igifungo cya burundu Sindihokubwabo Théodimir yahawe muri urwo rubanza kigumyeho;

[44] Ruvuze ko amafaranga y'amagarama y'urubanza aherera ku Isanduku ya Leta, kubera ko Sindihokubwabo Théodomir afunze, akaba asonewe kuyatanga.