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International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda
Urukiko Nshinjabyaha Mpuzamahanga rwagenewe u Rwanda

United Nations
Nations Unies

URUGEREKO RWA MBERE RW'IREMEZO I

IKINYARWANDA
Umwimerere: ICYONGEREZA

Haburanisha: Nyakubahwa Bwana Erik Mose, Perezida w'Urugereko
Gerefiye : Bwana Adama Dieng
Itariki : 5 Werurwe 2004

2004 MAR 22 P 12:30

HABURANA UBUSHINJACYAHA

NA

Mikaeli MUHIMANA

Urubanza No : ICTR-1995-1B-1

ICYEMEZO KU CYIFUZO CY'UBWUNGANIZI CYO KWIGIZAYO ITARIKI Y'URUBANZA.

Ibiro bya Porokireri
Charles Adeogun –Phillips
Wallace Kapaya
Peter Tafah
Renifa Madenga

Abunganira Uregwa
Me Nyabirungu Mwene Songa
Me Kazadi Kabimba

URUKIKO NSHINJABYAHA MPUZAMAHANGA RWAGENEWE U RWANDA
("Urukiko")

Ruburanishiriza mu Rugereko rwa mbere rw'iremezo I, rugizwe n'abacamanza Erik Mφse, Perezida, Jai Ram Reddy na Sergei Alekseevich Egorov;

Rumaze kubona icyifuzo cy'Ubwunganizi cyo kwigizayo itariki y'iburanisha, rwashyikirijwe ku itariki ya 27 Gashyantare 2004;

Rumaze kubona igisubizo cya Porokireri cyo ku itariki ya 3 Werurwe 2004;

Rwemeje ibi bikurikira ku cyifuzo cy'Ubwunganizi

INTANGIRIRO

1. Iki cyifuzo kirasaba kwigizayo itangiza ry'urubanza rw'ushinjwa.

2. Inyandiko y'ibirego yo mu ikubitiro yashinjaga Uregwa Mikaeli Muhimana, hamwe n'abandi bantu barindwi bafatanije icyaha, yemejwe ku itariki ya 28 Ugushyingo 1995 hanyuma ihindurwa ku itariki ya 6 Gicurasi Urugereko rumaze kubyemera.
Ushinjwa yafatiwe i Dar-es-Salam (Tanzaniya) ku itariki ya 9 Ugushyingo 1999 hanyuma ajyanwa muri gereza y'Urukiko Arusha hakurikijwe manda yo kumufata yatanzwe n'Umucamanza Navanathem Pillay. Ku itariki ya 14 Mata 2003, rumaze kubona ko abantu batatu baregwana na we baciriwe imanza ukwabo kandi ko abandi batatu batari bafatwa, Urugereko rwa mbere rw'iremezo I rwemeye icyifuzo cya Porokireri cyo kuburanisha Ushinjwa wenyine no gutanga inyandiko y'ibirego yahinduwe imushinja wenyine. Iyo nyandiko y'ibirego yatanzwe ku itariki ya 7 Gicurasi 2003, hanyuma iza guhindurwa ku itariki ya 22 Mutarama 2004, Urugereko rwa mbere rw'iremezo rumaze kubyemera. Inyandiko y'ibirego yahinduwe, yakosowemo udukosa duto abanditse inyandiko bakoze, yatanzwe ku itariki ya 4 Gashyantare 2004.

3. Inama ziteguira urubanza zabaye ku itariki ya 14 n'iya 23 Mutarama 2004 barebera hamwe igihe urubanza rwatangirira[1]. Ku itariki ya 30 Mutarama 2004, inyandiko y'ibirego imaze guhindurwa kugira ngo yongerwemo ibirego by'inyongera, Uregwa yongeye kwitaba urukiko bundi bushya hakurikijwe ingingo ya 50 B). Ku itariki ya 18 Gashyantare 2004, ababuranyi bamenyeshejwe ko urubanza ruzatangira ku itariki ya 29 Werurwe 2004.

INGINGO

4. Mu gusaba ko itariki yo gutangiza urubanza yakwigizwayo, Ubwunganizi burashingira ku burenganzira Ushinjwa yemererwa n'ingingo ya 19 1), iya 20 2) n'iya 20 (4) b) na e) ya Sitati. Ubwo burenganzira bwaba buhungabanyijwe igihe urubanza rwatangira kuburanishwa ku itariki ya 29 Werurwe 2004 kubera impamvu eshatu.

Iya mbere, uburenganzira bw'ushinjwa bwo kugira igihe gihagije n'ibintu bya ngombwa kugira ngo yitegure kwiregura ntibwubahirijwe kubera ko Ubukarani bw'Urukiko butatanze impushya zihagije kugira ngo gahunda z'iyo mirimo zitungane. Hagati y'Ukuboza 2002 na Gashyantare 2004, nta gahunda n'imwe y'akazi y'Ubwunganizi yemewe kugira ngo Ubwunganizi bushakishe abatangabuhamya bo kunyomoza ubuhamya bushya bwazanywe na Porokireri muri icyo gihe cyose. Byongeye, Ubukarani bw'Urukiko bwategetse avoka wungirije guhagarika akazi ku itariki ya 27 Nzeli 2001. Ndetse na nyuma y'aho Urugereko rutangiye amabwiriza, mu nama itegura urubanza, yo kwemera vuba gahunda z'akazi z'Ubwunganizi, Ubukarani bw'Urukiko ntibwahereyeko bubigira, ahubwo bwemeye gusa gahunda ya mbere y'akazi yo ku itariki ya 17

[1] Inyandiko mvugo z'inama ebyiri zitegura urubanza zarakozwe nubwo igika cya 28 cy'icyifuzo cy'Ubwunganizi kivuga ko inyandiko yanditswe n'imashini yandika siteno yakorewe gusa inama ya mbere. Inyandiko mvugo y'iburanisha ryo ku itariki ya 14 Mutarama 2004 ; inyandiko mvugo y'iburanisha ryo ku itariki ya 23 Mutarama 2004.

Gashyantare 2004. Ubwunganizi burasaba kwemererwa ibyo busaba bidatinze kandi buvuga ko akazi ka ngombwa k'ipereresa kadashobora kurangira mbere y'itariki ya 29 Werurwe 2004.

Impamvu ya kabiri, avoka aragaragaza ko gutangira urubanza ku itariki ya 29 Werurwe 2004 bihurirana n'uko azaba afite ibindi akora, nka Senateri, mu Nteko ishinga amategeko ya Repubulika iharanira Demokarasi ya Kongo. Ibyo bikaba bitazirikanywe bihagije. Impamvu ya gatatu, Ubwunganizi buvuga ko ingingo ya 66 A) ii) yaba itubahirijwe urubanza rutangiye ku itariki ya 29 Werurwe 2004[2]

5. Porokireri nta ngingo zisubiza yatanze ku bibazo bibiri bibanza byavuzwe n'Ubwunganizi. Avuga ko ikibazo cya mbere kiri mu bubasha bwa Gerefiye, naho icya kabiri kikareba Urugereko. Ku byerekeranye n'ingingo ya 66 A) ii), Porokireri avuga ko hagati y'itariki ya 24 Ugushyingo 1999 n'iya 20 Mutarama 2004, yatanze inyandiko z'ubuhamya bw'abagabo bashinja mirongo irindwi n'umwe ashobora guhamagaza; hagamijwe guhishira umwirondoro umwirondoro wabo[3], akaba yaragiye asiba ibiri muri izo nyandiko byatuma bamenyekana. Mu myanzuro ye ibanziriza urubanza yatanzwe ku itariki ya 27 Mutarama 2004, Porokireri yashyize ku rutonde abagabo makumyabiri na babiri abatoranyije muri bariya mirongo irindwi n'umwe ashaka guhamagaza mu rukiko. Avuga ko yatanze ubuhamya bw'abo bagabo mirongo irindwi n'umwe hagati

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[2] Ubwunganizi kandi buvuga ko ingingo ya 65 bis yemerera Urugereko gutumiza inama itegura urubanza kugira ngo iburanisha ryihute itubahirijwe, kubera ko Urugereko rutazirikanye ibitekerezo by'ababuranyi igihe habaga inama itegura urubanza.. Ubwunganizi kandi ntibwavuze cyangwa ngo busobanure ibibubangamiye mu myanzuro yabwo ishyigikira icyifuzo cyabwo.

[3] Ukutamenyesha Ubwunganizi umwirondoro w'umuntu ushobora kuzaba umutangabuhamya mu rubanza byatangiwe uruhushya n'Urugereko mu cyemezo cyo ku wa 9 Werurwe 2000 kirebana n'icyifuzo cya Porokireri cyo gushyiraho ingamba zigamije kwita ku mutekano w'abakorewe ibyaha, tariki ya 9 Werurwe 2000.

[4]. Mbere gato yuko iki cyemezo gitangwa, Ubwunganizi bwasabye guhabwa inyandiko y'igifaransa y'igisubizo cya Porokireri kugira ngo butange igisubizo. Urugereko rurasanga atari ngombwa gutegereza isemura ry'igisubizo kubera ko Amabwiriza adateganyiriza uwazamuye impaka uburenganzira bwo gusubiza, nubwo kenshi iyo ibyo bisubizo bitanzwe bisuzumwa. Kuri iki kibazo, igisubizo cy'Ubwunganizi nta bwo ari ngombwa kubera ko igisubizo cya Porokireri cyibanda ku kibazo kimwe gusa mu bibazo bitatu byatanzwe n'Ubwunganizi kandi kikaba ahanini, ku birebana n'iyo ngingo imwe rukumbi, kivuga rumwe n'Ubwunganizi. Igisubizo cya Porokireri kizahabwa Ubwunganizi nikimara gusemurwa

y'Ugushyingo 1999 na Mutarama 2004 hakurikijwe ingingo ya 66 A) i). Byongeye kandi, avuga ko hakurikijwe ingingo ya 66 A) ii) « Ubwunganizi bufite uburenganzira bwo kumenyeshwa hasigaye iminsi mirongo itandatu ngo urubanza rutangire, abatangabuhamya 22 hamwe n'inyandiko-mvugo zikubiyemo ubuhamya bwabo haseguriwe ibyemezo by'urukiko byo kurinda umutekano w'abatangabuhamya ». Muri make, Porokireri asa n'uwemera ibyo Ubwunganizi buvuga ko gutangira urubanza ku itariki ya 29 Werurwe ari ukutubahiriza ingingo ya 66 A ii)[4].

IMPAKA

6. Ingingo ya 19 1) isaba ko Urugereko rwa mbere rw'iremezo «rukora ibishoboka byose kugira ngo urubanza rucibwe nta karengane kandi vuba, hakurikijwe amategeko, uburenganzira bw'Uregwa bukubahirizwa byimazeyo... ». Ubwo burenganzira bukubiyemo ubwo « kuburanishwa mu ruhame kandi nta karengane (ingingo ya 20 (2)); ubwo guhabwa igihe n'ibyangombwa akeneye kugira ngo ategure ukwiregura kwe (ingingo ya 20 (4) (b) ; n'ubwo « kubaza cyangwa gushaka umubariza abatangabuhamya bamushinja... » (ingingo ya 20 (4) (e)). Buri ngingo y'Ubwunganizi irasuzumwa dushingiye kuri ubwo burenganzira.

i) <u>Nta perereza Ubwunganizi bwemerewe gukora kuva mu Ukuboza 2002 kugeza muri Mutarama 2004.</u>

7. Ubwunganizi buvuga ko nta perereza bwemerewe gukora hagati y'Ukuboza 2002 na Mutarama 2004. Agaciro kahabwa icyo gihe cyose cyashize nta mirimo ikorwa kagomba gusuzumwa hakurikijwe ibintu byinshi. Icya mbere, Gerefiye avuga ko igihe iperereza ryahagarikwaga mu kwezi ku Ukuboza 2002, Ubwunganizi bwari bumaze

gukora amasaha arenze 15000, ibyo bikaba byari birengeje cyane urugero rugenewe urubanza rw'uregwa umwe[5]. Ubwinshi bw'ayo mapererereza bwerekana ko mbere y'Ukuboza 2002, Ubwunganizi bugomba kuba bwari bwaramenyeshejwe ibirego byinshi kandi bwaratangiye kubikoraho iperereza. Mu by'ukuri, Urugereko, rushingiye ku nyandiko y'ubuhamya bw'abagabo zatanzwe na Porokireri, rwari rwarasanze ko ku itariki ya 14 Werurwe 2000, Ubwunganizi bwari bwamenyeshejwe ibirego byinshi bikubiye mu nyandiko y'ibirego yahinduwe :

> Nk'uko Porokireri abivuga, ibimenyetso byiyongeraho biri mu nyandiko y'ibirego yahinduwe bishingiye ku buhamya bw'abagabo bwamenyeshejwe Ubwunganizi. Iby'ingenzi muri ibyo birego, nk'ikirebana no gusambanya ku gahato, biri mu buhamya abagabo batanze mu wa 1999 bukamenyeshwa Ubwunganizi ku itariki ya 14 Werurwe 2000 cyangwa se mbere yaho. Bimwe muri ibyo bimenyetso bishingiye ku buhamya abagabo batanze ku matariki atandukanye yo mu mwaka wa 2002 bikaba byaramenyeshejwe Ubwunganizi mu byiciro bitatu, ku itariki ya 5 n'iya 24 Ukuboza 2002 no ku ya 6 Gashyantare 2003…Inyandiko y'ibirego y'ubu igaragaza neza kurushaho aho ubwicanyi n'ibindi byaha byakorewe kuko yerekana by'umwihariko ko byakorewe muri Segiteri ya Gishyita, Komini ya Gishyita ; muri Segiteri ya Mubuga, Komini ya Gishyita ; mu kigo cyo ku Mugonero muri Komini ya Gishyita ; no mu karere ka Bisesero, muri Komini ya

[5] Inyandiko mvugo y'urubanza rwo ku wa 14 Mutarama 2004, urupapuro rwa 15. Gerefiye yerekanye ko Ubwunganizi bwari bwarabonanye n'abashoboraga kuzavamo abatangabuhamya 690 kandi bwabonanye n'Uregwa inshuro 250.

Gishyita n'iya Gisovu. Umushinga w'inyandiko y'ibirego wahinduwe ntiwahinduye cyangwa ngo wongere akarere ibyaha byakorewemo, ahubwo werekana kurushaho ahantu aha n'aha muri ako karere kagari kavugwa mu nyandiko y'ibirego isanzwe. Bityo rero, Ubwunganizi ntibugomba kwitwaza ko butamenyeshejwe ko ibyaha byakorewe aho hantu havuzwe na byo Porokoreri abikurikiranye. Nta n'ubwo bugomba kwitwaza ko ibirego birebana no gusambanya ku gahato mu nyandiko ya Porokireri ari ikintu gitunguranye. Ibyinshi muri ibyo birego byashyizwe ahagaragara kare ku itariki ya 14 Werurwe 2000. Ihame ryafashwe n'uru Rugereko, nk'uko byemejwe mu rubanza rwa Akayesu ni uko icyaha cyo gusambanya ku gahato gishobora kuba mu mubare w'ibimenyetso bigaragaza itsembatsebwoko[6]. Bityo rero, nta mpamvu yatuma Ubwunganizi bubona ko ibirego byo gusambanya ku gahato bivugwa mu buhamya bw'abagabo nta ho bihuriye n'ingingo z'ibirego. Bityo, inyandiko nshya y'ibirego byo gusambanya ku gahato yahinduwe ntiyafatwa n'Ubwunganizi nk'ikintu gitunguranye[6].

Mu magambo make, amaperereza arambuye y'Ubwunganizi, hiyongereyeho ibyo Porokireri yatanze byose ku itariki ya 14 Werurwe 2002, byerekana ko mu Kuboza 2002, Ubwunganizi bwari bwarabonye uburyo buhagije bwo gukora iperereza -kandi koko

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6 Icyemezo kirebana n'icyifuzo cya Porokireri cyo guhabwa uruhushya rwo guhindura inyandiko y'ibirego, 21 Mutarama 2004, igika cya 9 (inyandiko zo munsi y'urupapuro zidahari).

bwararikoze- ku bintu bishyigikira ibirego byari bimaze kongerwa mu nyandiko y'ibirego. Byongeye kandi, ni ngombwa kwibutsa ko amaperereza akorwa ubu yibanda ku kunyomoza abatangabuhamya bashinja. Ubwunganizi buzabona uburyo bwo gukora andi maperereza mbere yuko butanga ingingo zabwo zo kwiregura.

8. Nta washidikanya ko Ubwunganizi bukeneye kongera kubonana n'abatangabuhamya babwo no gushaka abatangabuhamya bashya ku birebana n'ibimenyetso bikubiye mu buhamya bw'abagabo bashinja byatanzwe nyuma y'Ukuboza 2002. Urugereko ruraziriakana gahunda y'imirimo yerekeye abagabo mirongo itandatu n'umwe bashobora kuzatanga ubuhamya yatanzwe ku itariki ya 27 Mutarama 2004 ikemezwa ku ya 4 Gashyantare 2004[7]. Gerefiye na we yavuze ko yiteguye kwemerera ako kanya avoka wungirije gukora, ko ategereje gusa ko bisabwa. Ibi byakozwe ndetse n'ayo masezerano, byerekana nta shiti ko Ubwunganizi buhabwa inkunga yose ishoboka kugira ngo bukore imirimo yabwo mbere y'itangira ry'imanza.

9. Kubera ko Ubwunganizi bwiteguye byimazeyo mbere y'Ukuboza 2002 bukaba na none bugifite igihe n'ubushobozi bwo kuvugurura no gukomeza iyo myiteguro hagati y'inama itegura urubanza n'igihe urubanza ruzatangirira, Urugereko rurasanga Ubwunganizi ntacyabubuza kuba bwiteguye neza gutangira urubanza ku itariki ya 29 Werurwe 2004.

ii) <u>Igongana mu nshingano za Avoka mukuru</u>

10. Mu gusaba ko itariki y'urubanza yakwimurwa, Avoka mukuru yasobanuye inshingano agomba kurangiza mu nteko nshingamategeko y'igihugu cye. Icyo kibazo

[7] Ubwunganizi bwarivovose buvuga ko kugera ku itariki ya 17 Gashyantare 2004 butari bwagahabwa amafaranga ya misiyo », ko kubera iyo mpamvu, anketi zabwo zakererewe mu buryo bugaragara. Urugereko rusanga atari ngombwa ko ayo mafaranga arihwa kuri za gahunda z'imirimo zirengeje ibyumeru bibiri nkuko bigenwa n'Ingingo ya 25 A) y'Amabwiriza arebana no kugenera uregwa umwunganizi ; bityo rero, gukererwa kw'ayo mafaranga ntabwo ari mpamvu yumvikana yo gukerereza amaperereza.

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kandi cyari yanavuzweho mu nama itegura urubanza yo ku itariki ya 14 Mutarama 2003, ari Porokireri ukibyukije. Icyo gihe avoka mukuru yashubije muri aya magambo : "Ikibazo mugenzi wanjye avuze njye ndabona bitari ngombwa cyane kukibyutsa[8]" Ubwo Avoka mukuru yasobanuye ko inteko nshingamategeko arimo iterana mu gihe cy'amezi atatu, kabiri mu mwaka, ibihembwe byayo bikaba kimwe gitangira ku itariki ya mbere Mata, ikindi kigatangira ku itariki ya mbere Ukwakira. Avuga ariko ko ashobora gusaba uruhusa rwo gusiba iminsi 30 imirimo y'inteko[9]. Perezida yashatse ko bamwemeza neza niba koko Avoka mukuru azajya aboneka:

> Bwana Perezida : Ubwo noneho mu yandi magambo twavuga ko uzaza kuburana hano mu Rukiko n'igihe inteko shingamategeko izaba yateranye. Ubwo ushobora kuza hano Arusha nubwo wifuzaga kuba waba uri mu nteko kuva ku itariki ya mbere Mata kugeza ku ya mbere Kamena. Ndumva ari byo ushatse kuvuga.
>
> Bwana Songa : Uko wabyumvise ni ko biri, Bwana Perezida[10].

Urukiko rushobora kwishingikiriza kuri ayo magambo aduha icyizere ko Avoka mukuru, azaboneka, kubera inyungu z'uyu uregwa n'iz'abandi baregwa bategereje gucirwa imanza. Nubwo twavuga ko inshingano Avoka mukuru afite muri uru Rukiko zigongana mu buryo ubu n'ubu n'izo afite mu nteko ishinga amategeko y'iwabo, Urugereko kandi rukaba rwose rwubaha iyo nteko, ingingo ya 28 itegeka ibihugu gufatanya n'Urukiko. Urugereko ruratekereza ko uregwa afite uburenganzira bwo gucirwa urubanza bidatinze cyane kandi ko ubwo burenganzira bwenda kubangamirwa. Ubwo burenganzira rero ntibugomba kuryamirwa kubera inshingano Avoka agomba gusohoza ku giti cye, kabone n'iyo izo nshingano na zo zaba zifite akamaro kanini.

iii) Kunyuranya n'ingingo ya 66(A) (ii)

11. Ingingo ya 66 (A) (ii) igira iti:

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[8] Inyandiko mvugo y'iburanisha ryo ku itariki ya 14 Mutarama 2004, p.21

[9] Id. (« Kubera ko wenda igihugu cyacu kuvuye mu ntambara kandi imirimo y'inkiko ikaba ifite akamaro kanini, dukwiye kubibona nk'ibintu bikwiye. Cyakora, igihe cyose mbikeneye, Inteko nshingamategeko y'igihugu cyanjye ntiyigeze na rimwe yanga kumpa uruhushya rwo kurangiza inshingano zanjye mu rukiko ».)

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Porokireri ashyirikiza Avoka :

ii) Mu minsi itarenze 60 mbere y'itariki yagenwe kugira ngo urubanza rutangire, kopi z'ubuhamya bwanditse bw'abagabo bose Porokireri ateganya guhamagaza mu Rukiko....

12. Porokireri yavuze ko ubuhamya bwanditse bw'abatangabuhamya ateganya kuzahamagaza bwatanzwe mbere y'itariki ya 20 Mutarama 2004, ni ukuvuga iminsi irenze 60 mbere y'itariki ya 29 Werurwe 2004. Nyamara Ubwunganizi bwo buvuga ko Porokireri atujuje ibyo asabwa n'ingingo ya 66 A) ii) kubera ko ataratanga ilisiti idakuka y'abatangabuhamya nk'uko biteganywa mu ngingo ya 73 *bis* B) iv).

13. Ariko ibyo si byo Amategeko ateganya. Igihe amalisiti y'abatangabuhamya agomba gutangirwa kigenwa n'ingingo ya 73 *bis* B) aho igira iti:

Mu nama ibanziriza urubanza, Urugereko cyangwa umucamanza warwo wagenwe, bashobora gusaba Porokireri gutanga, mu gihe cyateganijwe n'Urugereko cyangwa n'uwo mucamanza, kandi mbere y'itariki y'itangizwa ry'urubanza, ibi bikurikira:

i) Incamake y'imyanzuro ivuga ibyabaye n'ibyerekeye amategeko;

iv) Lisiti y'abatangabuhamya Porokireri ateganya guhamagaza ikubiyemo:

a) Izina cyangwa izina ry'iritizano rya buri mutangabuhamya;

b) Incamake y'ibyo buri mugabo azatangaho ubuhamya;

c) Ingingo z'inyandiko y'ibirego buri mugabo azatangaho ubuhamya;

d) Igihe giteganywa kuri buri mutangabuhamya ...

Ni ukuvuga rero ko igihe ilisiti y'abatangabuhamya igomba gutangirwa kigenwa mu nama ibanziriza urubanza n'Urugereko rwa mbere rw'iremezo cyangwa n'umucamanza

[10] Id. (« Kurangiza inshingano zanjye mu rukiko. »)

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warwo wagenwe, ariko ibyo ari byo byose ikaba igomba gutangwa mbere y'uko urubanza rutangira[11]. Ibivugwa mu ngingo ya 66 A) ntaho bihuriye n'ibyo, kuko umutwe w'iyo ngingo ari: "Itangwa ry'ibimenyetso rikorwa na Porokireri", kandi mu Mategeko agenga imiburanishirize n'itangwa ry'ibimenyetso, mu ishakiro iyo ngingo tuyisanga mu cyiciro cy': "Itangwa ry'ibimenyetso"[12]. Ingingo ya 66 A) ii) isaba ko mu minsi itarenze 60 mbere y'itariki yagenwe kugira ngo urubanza rutangire, Porokireri agomba gutanga ubuhamya bwanditse bw'abatangabuhamya bose ateganya guhamagaza mu rukiko. Nta bwo iyo ngingo isaba ko ubwo buhamya bwanditse ari bwo bwonyine butangwa, cyangwa se ko umwirondoro w'abatangabuhamya bazashyirwa kuri ya lisiti ivugwa mu ngingo ya 73 *bis* utangwa. Kubera izo mpamvu, Urugereko rwemera ibyavuzwe na rumwe mu Ngereko za mbere z'iremezo z'Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe icyahoze ari Yugosilaviya:

> … Gushyikiriza avoka ubuhamya bwanditse bw'abatangabuhamya bisabwa mu ngingo ya 66 (A) (ii) nta ho bihuriye no kurangiza ..ilisiti y'abatangabuhamya n'ibindi bisabwa hakurikijwe ingingo ya 73 *bis* (B) (iv), iyo lisiti yo igomba gutangwa urubanza rwegereje kugira ngo abagize Urugereko rwa mbere rw'iremezo n'Ubwunganizi bamenyeshwe uko ibintu biteye[13]

<u>iv) Urugereko rufite inshingano yo kuburanisha urubanza bidatinze</u>

14. Mikaeli Muhimana yafashwe ku itariki ya 9 Ugushyingo 1999. Ni ngombwa ko Urugereko rukora uko rushoboye kugira ngo adakomeza gutegereza kuburana kandi atari ngombwa, hakurikijwe uburenganzira bwe bwo kuburana nta karengane nk'uko

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[11] Mu nama itegura urubanza, Porokireri yavuze ko ari Urugereko rugomba kugena igihe ilisiti y'abatangabuhamya igomba gutangwa mbere y'urubanza, ntiyavuze ko hagomba gukurikizwa ingingo ya 66 A)ii). "Perezida:Hari igihe giteganyijwe imyanzuro ibanziriza urubanza igomba gutangirwamo? Bwana Kapaya: Nta cyo Bwana Perezida. Ariko dukurikije itegeko ryerekeranye n'ingamba zo kurinda umutekano w'abatangabuhamya, twagombye gutanga inyandiko z'ubuhamya zuzuye iminsi 21 mbere y'uko urubanza rutangira." Inyandikomvugo y'iburanisha ryo ku wa 23 Mutarama 2004, urup. rwa 8.

[12] By'umwihariko, ingingo ya 66 iri mu mutwe wa 5 w'Amategeko witwa "Ugushinja" mu cyiciro cya 5 (sic) "Itangwa ry'ibimenyetso."

biteganywa n'Amategeko. Birashoboka ko ababuranyi baba batifuza ko urubanza rwihutishwa, ariko Urugereko rwo rubona ko ari ngombwa gutangira uru rubanza bidatinze.

15. Mu nama itegura urubanza yo ku itariki ya 23 Mutarama 2004, ikibazo cyo gutangira urubanza muri Werurwe 2004 cyagiweho impaka ndende. Porokireri yavuze ko muri Werurwe 2004[14] azaba yiteguye gutangira urubanza. Haba icyo gihe cyangwa muri iki cyifuzo, Ubwunganizi ntibwatanze ibisobanuro bifatika byerekana impamvu butiteguye gutangira urubanza ku itariki ya 29 Werurwe 2004, cyane cyane ko bwakoze amapererereza menshi n'imyiteguro myinshi, kandi bukaba bwari bufite igihe n'ubushobozi bihagije hagati y'itariki y'inama itegura urubanza n'itariki yateganijwe y' itangira ry'urubanza.

KUBERA IZO MPAMVU, URUGEREKO

RWANZE iki cyifuzo.

Arusha, tariki ya 5 Werurwe 2004.

Erik Mose	Jai Ram Reddy	Sergei Alekseevich Egorov
(Juji Perezida)	(Juji)	(Juji)

[Kashe y'Urukiko]

[13] *Kordic na Cerkez*, Itegeko ryerekeranye n'icyifuzo gisaba Porokireri kubahiriza ingingo ya 66 (A) na 68 z'Amategeko, tariki ya 26 Gashyantare 1999.
[14] Inyandikomvugo y'iburanisha ryo kuri 23 Mutarama 2004, p.9 (Porokireri yemeye ko urubanza rushobora gutangira ku matariki ya 15 na 22 Mutarama 2004)