ICTR-99-54A-A
25-02-2014
(608/ter - 319/ter)

Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda

UMURYANGO W'ABIBUMBYE

URUGEREKO RW'UBUJURIRE

UNICTR
JUDICIAL RECORDS/ARCHIVES
RECEIVED
2014 FEB 25 A 9:54

Abacamanza: **Theodor Meron, Perezida w'Inteko**
Mohamed Shahabuddeen
Florence Ndepele Mwachande Mumba
Wolfgang Schomburg
Inés Mónica Weinberg de Roca

Gerefiye: **Adama Dieng**

Itariki: 19 Nzeri 2005

JEAN DE DIEU KAMUHANDA **(Ujurira)** **aburana na** **POROKIRERI** **(Usubiza)**

Urubanza No. ICTR-99-54A-A

INYANDIKO Y'URUBANZA

UWUNGANIRA UJURIRA
Aïcha Condé

IBIRO BYA POROKIRERI
Hassan Bubacar Jallow
James Stewart
Amanda Reichman Neville Weston
Inneke Onsea
Abdoulaye Seye

AMASHAKIRO

I. INTANGIRIRO ... 1
A. UJURIRA ... 1
B. IMIKIRIZE Y'URUBANZA N'IGENAGIHANO ... 2
C. UBUJURIRE ... 2
D. IBIGENDERWAHO MU GUSUZUMA UBUJURIRE ... 3
II. AMAKOSA AVUGWA YEREKEYE INYANDIKO Y'IBIREGO (IMPAMVU YA MBERE Y'UBUJURIRE) ... 5
A. IBYABEREYE KURI PARUWASI GATOLIKA YA GISHAKA ... 5
B. ITANGWA RY'INTWARO I GIKOMERO ... 6
1. Ingingo z'Ababuranyi ... 6
2. Imyanzuro y'Urugereko rwa Mbere rw'Iremezo ... 7
3. Inenge z'imyandikire zaba ziri mu Nyandiko y'ibirego ... 8
4. Kuba uregwa atarabirwanyije ... 9
5. Kurenganywa bitewe n'inenge z'imyandikire ziri mu Nyandiko y'ibirego ... 11
III. ISUZUMA RY'IBIMENYETSO : IBIMENYETSO GIHAMYA (GUSUZUMA, KURI BIMWE, IMPAMVU YA KABIRI Y'UBUJURIRE) ... 13
IV. UMUBURANYI UFITE INSHINGANO YO GUTANGA IBIMENYETSO (IMPAMVU YA KANE Y'UBUJURIRE) ... 16
V. IBIGENDERWAHO MU KUGENA AGACIRO K'IBIMENYETSO (IMPAMVU YA GATANU Y'UBUJURIRE) ... 20
VI. KUBA INGINGO Z'UBWUNGANIZI ZABA ZARAHINDUWE ZIKAVUGWA UKO ZITARI: AHO ABAGABYE IGITERO BATURUTSE (GUSUZUMA, KURI BIMWE, IMPAMVU YA KARINDWI Y'UBUJURIRE) ... 23
VII. IMIKIRIZE Y'URUBANZA (IMPAMVU YA MUNANI Y'UBUJURIRE) ... 25
A. UBURYOZWACYAHA BW'UJURIRA HASHINGIWE KU NGINGO YA 6.1 YA SITATI ... 26
1. Guhamagarira abandi bantu gukora ibyaha ashinjwa ... 26
2. Gufasha no gushishikaza abantu ... 30
3. Gutegeka abantu gukora [icyaha] ... 33
4. Ibyemezo bihamya Ujurira ibyaha ku byerekeye gutegeka abantu, kubatera inkunga no kubashishikariza gukora ibyaha aregwa. ... 35
B. JENOSIDE ... 35
C. ITSEMBATSEMBA ... 38
D. UMWANZURO ... 40
VIII. AMAKOSA YABA YARABAYE MW'IGENAGACIRO KU BUHAMYA BW'UJURIRA (GUSUZUMA IMPAMVU YA 9 Y'UBUJURIRE YOSE NO GUSUZUMA KURI BIMWE IMPAMVU YA 6 Y'UBUJURIRE) ... 40
IX. KUBA BITARASHOBOKA KUVA I KIGALI NGO UJYE I GIKOMERO MURI MATA 1994 (GUSUZUMA IMPAMVU YA 11 Y'UBUJURIRE YOSE, NO GUSUZUMA KURI BIMWE IMPAMVU YA 2, IYA 5, IYA 6 N'IYA 7 Z'UBUJURIRE) ... 46
A. IMYANZURO YAFASHWE N'URUGEREKO RWA MBERE RW'IREMEZO. 46
B. KUBA URUGEREKO RWA MBERE RW'IREMEZO RUTARAFASHE ICYEMEZO KU BUHAMYA BW'ABAGABO BISWE VPG, RGG, RGB NA RGS. ... 47
C. UBUHAMYA UMUNTU ATANZE KU BYO YUMVANYE ABANDI. ... 50

D. GUHINDURA IGITEKEREZO CY'UBWUNGANIZI UKAKIVUGA UKO KITARI. ... 51
E. AMAKOSA YABA YARAKOZWE MU RWEGO RW'AMATEGEKO CYANGWA RW'IBYABAYE. ... 52
1. Kudasuzumira hamwe ibimenyetso byose. ... 53
2. Kuba Urugereko rwa Mbere rw'Iremezo rwarashingiye ku buhamya bwa GPR, GPE, GPF na GPT ... 54
3. Laurent Hitimana (Umutangabuhamya wiswe RKA) ... 55
4. Umutangabuhamya wiswe RGM ... 56
5. Umutangabuhamya wiswe RKF ... 57
F. UMWANZURO ... 59
X. AMAKOSA AVUGWA YO MU RWEGO RW'IBYABAYE YEREKEYE ITANGWA RY'INTWARO (GUSUSUMA IMPAMVU YA 12 Y'UBUJURIRE YOSE NO GUSUZUMA, KURI BIMWE, IMPAMVU YA KABIRI N'IYA KARINDWI Z'UBUJURIRE). ... 60
A. UBUHAMYA BURIMO UKWIVUGURUZA ... 63
B. UBWUNGANIZI BURWANYA UKWIZERWA KWA GEK ... 72
1. GEK yahamwe n'icyaha cy'ubwicanyi. ... 73
2. Kuba GEK yaba yarabeshye ko yari i Gikomero umunsi ubwicanyi buba ... 74
3. Ubuhamya GEK yatanze mu Rukiko avuga ko Ujurira yari yitwariye imodoka ye. 78
4. Kuba GEK yaba yarabeshye ku mwirondoro we ... 78
C. KUVUGURUZANYA HAGATI Y'UBUHAMYA BWATANZWE MU RUKIKO NA GEK N'UBW'ABAGABO BASHINJURA ... 81
1. Abatangabuhamya batatu batuye mu gace kamwe na GEK ntibabonye Ujurira atanga intwaro. ... 81
2. Kuba GEK yaba atari i Gikomero igihe intwaro zaba zaratangiweho. ... 82
D. UMWANZURO ... 83
XI. AMAKOSA YABA YARAKOZWE KU BYEREKEYE UBWICANYI BWAKOREWE KU KIGO CYA PARUWSI YA GIKOMERO NO MU GUSUZUMA UBUHAMYA BWATANZWE MU RUKIKO KURI *ALIBI* Y'UJURIRA. (GUSUZUMA, KURI BYOSE, IMPAMVU YA 3, 10, 13 N'IYA 14 Z'UBUJURIRE NO GUSUZUMA, KURI BIMWE, IMPAMVU YA 2, IYA 4, IYA 5 N'IYA 7 Z'UBUJURIRE) ... 84
A. INTANGIRIRO ... 84
B. AMAKOSA YABA YARAKOZWE MU GUSUZUMA UBUHAMYA BWATANZWE KURI *ALIBI*. ... 86
C. AMAKOSA URUGEREKO RWABA RWARAKOZE RUHINDURA UBUHAMYA ALS NA MADAMU KAMUHANDA BATANZE MU RUKIKO RUKABUVUGA UKO BUTARI, RUKANANZURA RUVUGA KO UJURIRA YAVUGURUJE UBWO BUHAMYA. ... 88
D. AMAKOSA YABA YARAKOZWE KU BIREBANA N'UBUHAMYA BWA ALR MU RUKIKO ... 91
E. AMAKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWAKOZE RUHINDURA UBUHAMYA BWA ALR NA ALB RUKABUVUGA UKO BUTARI, MAZE RUKANZURA RUVUGA KO UBUHAMYA BATANZE MU RUKIKO BUVUGURUZANYA. ... 94
F. AMAKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWARAKOZE RUVUGA KO UJURIRA ATASOBANUYE BIHAGIJE IBYABEREYE MU RUGO RWA ALS. ... 97

G. AMAKOSA YABA YARAKOZWE YEREKERANYE N'IMYANZURO YEMEZA KO ALB NA ALM BATAGARAGAJE KO BIDASHOBOKA KO UJURIRA YABA YARAGEZE I GIKOMERO. 98
H. IKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWAKOZE RWEMEZA KO AMARONDO [ATARI] YASHYIRIWEHO KUBUZA INGO GUSAHURWA....101
I. IKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWARAKOZE RWEMEZA KO «ALIBI» ITAKWIZERWA....103
J. IBIMENYETSO BY'INYONGERA....105
1. Umutangabuhamya wiswe GAA....106
2. Umutangabuhamya wiswe GEX....109
3. Ibimenyetso binyomoza....111
4. Amakuru y'inyongera....111
5. Umwanzuro....112
K. UMWANZURO WEMEZA KO UJURIRA YARI KU KIGO CYA PARUWASI YA GIKOMERO....112
1. Amakosa yo mu rwego rw'amategeko yaba yarakozwe n'Urugereko rwa Mbere rw'Iremezo ku byerekeranye no kuba abatangabuhamya baramenye Ujurira.....113
2. Ikosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira k'ukuba GAF, GES na GAA baramenye Ujurira....118
3. Ikosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira ku buhamya bwa GAF, GES, na GAA bwemeza ko Ujurira yagiye mu bwicanyi....127
4. Amakosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira ku buhamya bwatanzwe mu Rukiko na GEE, GEA, na GEC, GEG, GAG, GEV GEP na GEH maze rukemeza ko Ujurira yitabiriye ubwicanyi....131
5. Amakosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira ku buhamya bwa GEE, GEA, GEC, GEG, GAG, GEV, GEP na GEH buvuga ko bamenye Ujurira 140
5. Kuvuga ko imitekerereze y'Urugereko rwa Mbere rw'Iremezo yagiye ihindagurika. 148
L. AMAKOSA YABA YARAKOZWE MU MYANZURO URUGEREKO RWA MBERE RW'IREMEZO RWAFASHE KU BATANGABUHAMYA BASHINJURA ..150
1. Umutangabuhamya wiswe GPC....150
2. Umutangabuhamya wiswe GPB....152
3. Umutangabuhamya wiswe GPT....153
4. Abatangabuhamya biswe GPE, GPF na GPR....154
5. Umutangabuhamya GPK....155
6. Umutangabuhamya wiswe GER (Pasitori Nkuranga)....157
7. Abatangabuhamya biswe NTD na GPG....159
M. UMWANZURO....159
XII. IGIHANO (IMPAMVU YA 15 Y'UBUJURIRE)....160
A. KUBA UMWANYA UKOMEYE UJURIRA YARI AFITE BYARAFASHWE 161
NK'IMPAMVU YONGERA UBURYOZWACYAHA....161
B. UBWIYUNGE BW'ABANYARWANDA NO KUGARURA AMAHORO.......162
C. IMIBEREHO BWITE Y'UJURIRA....165
D. IGIHANO GIKWIYE UREGWA KANDI KIJYANYE N'ICYAHA YAKOZE166
1. Inshingano Urugereko rwa Mbere rw'Iremezo rufite yo gutanga igihano gikwiriye umuntu uhamwe n'icyaha....167
2. Ihame ryo kugena igihano gikwiranye n'ibyaha byakozwe....168
3. Kugereranya urubanza rwe n'izindi manza....169

E. UMWANZURO 171
XIII. IMIKIRIZE Y'URUBANZA 171
XIV. IGITEKEREZO CYIHARIYE CY'UMUCAMANZA THEODOR MERON, PEREZIDA W'INTEKO 174
XV. IGITEKEREZO KINYURANYE N'ICY'ABANDI CY'UMUCAMANZA WOLFGANG SCHOMBURG 175
A. GUTERA INKUNGA NO GUSHISHIKAZA UTANGA INTWARO 175
B. GUHAMWA N'IBYAHA BYINSHI 185
XVI. IGITEKEREZO CYIHARIYE KANDI GITANDUKANYE N'ICY'ABANDI KURI BIMWE CY'UMUCAMANZA MOHAMED SHAHABUDDEEN 188
A. INGANO YO GUTANGA INKUNGA NO GUSHISHIKAZA 188
B. IKIBAZO CYO KUMENYA NIBA UMWANZURO UVUGA KO UREGWA YATEGETSE ABANTU GUKORA ICYAHA UTATUMA UMUNTU YEMEZA KO YANATEYE ABANTU INKUNGA AKANABASHISHIKIRIZA GUKORA ICYO CYAHA. 191
XVII. IGITEKEREZO CYIHARIYE CY'UMUCAMANZA INES MONICA DE ROCA KU GIKA CYA 77 CYO MU NYANDIKO Y'URUBANZA 198
XVIII. IGITEKEREZO GITANDUKANYE N'ICY'ABANDI CY'UMUCAMANZA INES MONICA DE ROCA 199
A. Uburyo Urugereko rwa Mbere rw'Iremezo rwasuzumye *alibi* 199
1. Nta kwivuguruza kwari hagati y'ubuhamya bwa Kamuhanda mu rukiko n'ubwatanzwe n'umugore we n'ubwa ALS. 199
2. ALR na ALB ntibavuga na rimwe ko babaga bari kumwe amasaha 24 ku munsi kandi ntibanavuguruzanya mu buhamya bwabo 201
3. Mu buhamya bwe mu Rukiko, Ujurira atanga ibisobanuro birambuye ku buryo yakoreshaga igihe cye mu gihe kirebwa na *alibi*. 203
4. Gukoresha nabi ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso. 205
5. Umwanzuro wakemangwa uvuga ko bidashoboka ko amarondo yari agamije gusa kurinda amago ngo adasahurwa 206
6. Umwanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuri *alibi* 208
B. UMWANZURO 209
XIX. UMUGEREKA A – UKO IBURANISHA RYAGENZE 210
A. UBUJURIRE N'IMYANZURO BY'UBUJURIRE 210
B. ISHYIRWAHO RY'ABACAMANZA 211
C. IBIMENYETSO BY'INYONGERA 211
D. IBURANISHA MU BUJURIRE 212
E. ISOMWA RY'URUBANZA 213
XX. UMUGEREKA B: INYANDIKO ZIFASHISHIJWE N'IBISOBANURO BY'AMAGAMBO YAKORESHEJWE 214
A. UBUKEMURAMANZA 214
1. Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda (TPIR) 214
2. Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho Icyahoze Cyitwa Yugosolaviya (TPIY) 218
C [sic] IBISOBANURO BY'AMAGAMBO N'IMPINAMAGAMBO 223
INYANDIKO Y'IBIREGO 227
1. IBYABAYE BIREBANA N'AMATEKA 228
2. UBUBASHA BUSHINGIYE KU IFASI, KU GIHE IBYAHA BYAKOREWE, NO KU BYAHA BYAKOZWE 236
3. IMITERERE Y'UBUTEGETSI 237

Guverinoma.......... 237
Ubutegetsi bwa Leta mu turere 238
Amashyaka ya politiki n'imitwe yitwara gisirikare 238
Imitwe y'urubyiruko n'insoresore zitwara gisirikare 239
Ingabo z'Igihugu 240
4. UREGWA 241
5. INCAMAKE Y'IBYABAYE : IMYITEGURO 243
6. INCAMAKE Y'IBYABAYE: IBINDI BIKORWA BINYURANYIJE N'AMATEGEKO AKURIKIZWA MU GIHE CY'INTAMBARA. 254
7. IBIREGO 278

1. Urugereko rw' Ubujurire rw'Urukiko Mpanabyaha Mpuzamahanga ('Urukiko') rushinzwe gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha bya jenoside cyangwa ibindi byaha bikomeye binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994, rwashyikirijwe ubujurire bwa Jean de Dieu Kambanda. Muri ubwo bujurire, Jean de Dieu Kamuhanda anenga imikirize y'Urubanza n'igihano yakatiwe n'Urugereko rwa Mbere rw'Iremezo, II ku itariki ya 22 Mutarama 2004 mu rubanza aburanamo na Porokireri (Urubanza mu rw'iremezo).[1]

I. INTANGIRIRO

A. <u>UJURIRA</u>

2. Ujurira, Jean de Dieu Kamuhanda, yavukiye muri Komine ya Gikomero, Kigali-Ngari, mu Rwanda, ku itariki ya 3 Werurwe 1953.[2] Kuva ku itariki ya 25 Gicurasi 1994 kugera hagati muri Nyakanga 1994, yabaye Minisitiri w'Amashuri Makuru n'Ubushakashatsi mu by'Ubuhanga muri Guverinoma y'Agateganyo.[3] Ujurira yari afite umwanya ukomeye mu Rwanda watumaga agira ijambo muri Komine ya Gikomero.[4] Urugereko rwa Mbere rw'Iremezo rwasanze Ujurira yarahaye intwaro *Interahamwe* n'abandi bantu bagabye ibitero i Gikomero. Rwasanze kandi yaragize uruhare mu byaha byakorewe Abatutsi i Gikomero ku itariki ya 12 Mata 1994.[5]

---

[1] Mu rwego rwo koroshya uburyo bwo kwifashisha inyandiko zakoreshejwe, imigereka ibiri yometswe ku nyandiko y'uru rubanza : Umugereka A – Uko iburanisha ryagenze na B Inyandiko zifashishijwe/ibisobanuro by'amagambo yakoreshejwe
[2] Urubanza mu rw'iremezo, ibika 5, 6.
[3] Urubanza mu rw'iremezo, ibika 6, 244.
[4] Urubanza mu rw'iremezo, igika cya 73.
[5] Urubanza mu rw'iremezo, igika cya 740.

B. IMIKIRIZE Y'URUBANZA N'IGENAGIHANO

3. Rushingiye ku ngingo ya 6(1) ya Sitati, Urugereko rwa Mbere rw'Iremezo rwasanze Ujurira ahamwa, ku giti cye, no guhamagarira abantu, kubatera inkunga no kubashishikariza kwica no gutsembatsemba Abatutsi kuri ParuwasI ya Gikomero.[6] Kubera iyo mpamvu, Urugereko rwa Mbere rw'Iremezo rwasanze Ujurira ahamwa n'ibyaha bikurikira : jenoside (ikirego cya 2) n'itsembatsembatsemba nk'icyaha kibasiye inyokomuntu (ikirego cya 5).[7] Kuri buri cyaha kimuhama mu kirego cya 2 n'icya 5, Urugereko rwa Mbere rw'Iremezo, ku bwiganze bw'amajwi, rwakatiye Ujurira igihano cy'igifungo cya burundu ariko rwemeza ko azarangiriza rimwe ibyo bihano byombi.[8]

C. UBUJURIRE

4. Nk'uko bivugwa mu Nyandiko y'ubujurire ('Inyandiko y'ubujurire') no mu Myanzuro y'ubujurire ('Imyanzuro y'ubujurire'), Jean de Dieu Kamuhanda ajuririra ibyemezo bimuhamya ibyaha n'ibihano yakatiwe. Kubera iyo mpamvu, asaba Urugereko rw' Ubujurire gukuraho imikirize y'urubanza mu rw'iremezo, rukamugira umwe kuri buri kirego ashinjwa maze rugategeka ko ahita arekurwa. Bitagenze gutyo, asaba ko urubanza rwe rwasubizwa mu Rugereko rwa Mbere rw'Iremezo akaburanishwa n'indi nteko y'abacamanza batandukanye n'abamuburanishije mbere, cyangwa se na none bitaba ibyo, rugahindura igihano yakatiwe maze rukamugenera igifungo cy'imyaka runaka.[9] Ingingo ze z'ubujurire ziri mu byiciro bitatu : amakosa mu rwego rw'amategeko, amakosa mu rwego rw'ibyabaye n'ubujurire ku gihano. Urugereko rw'Ubujurire rusanga ibi byiciro birimo ingingo 15 z'ubujurire.

---

[6] Urubanza mu rw'iremezo, ibika 651, 700.
[7] Urubanza mu rw'iremezo, igika cya 750.
[8] Urubanza mu rw'iremezo, ibika 770, 771
[9] Inyandiko y'Ubujurire, urup. 9 ; Imyanzuro y'ubujurire, urup. 108.

D. IBIGENDERWAHO MU GUSUZUMA UBUJURIRE

5. Urugereko rw'Ubujurire ruributsa bimwe mu bisabwa kugira ngo rusuzume ubujurire nk'uko biteganywa n'Ingingo ya 24 ya Sitati. Ingingo ya 24 ivuga ku makosa yo mu rwego rw'amategeko atuma icyemezo cyafashwe mu rw'iremezo gihindurwa, cyangwa amakosa yo mu rwego rw'ibyabaye yatumye urubanza rucibwa nabi.

6. Ku byerekeranye n'amakosa yo mu rwego rw'amategeko, Urugereko rw'Ubujurire ruherutse kwemeza ibikurikira :

> Iyo umuburanyi avuze ko habeyeho ikosa ryo mu rwego rw'amategeko, agomba gutanga ingingo zishyigikira ibyo avuga, akanasobanura ukuntu iryo kosa rituma icyemezo cyafashwe kivanwaho. Cyakora, n'iyo ibyo Ujurira avuga bidashyigikira ibyo arwanya, ntibivuga ko ingingo ye ihita ita agaciro kubera ko, kubera izindi mpamvu, Urugereko rw' Ubujurire rushobora gusanga Ujurira afite ukuri maze rukemeza ko koko habayeho ikosa mu rwego rw'amategeko.[10]

7. Ku byerekeye amakosa yo mu rwego rw'ibyabaye, birazwi neza ko Urugereko rw' Ubujurire rudapfa guhindura umwanzuro ku byabaye wafashwe n'Urugereko rwa Mbere rw'Iremezo:

> Iyo Ubwunganizi buvuga ko habayeho ikosa mu rwego rw'ibyabaye, Urugereko rw' Ubujurire rugomba kubaha umwanzuro wafashwe n'Urugereko rwa Mbere rw'Iremezo kuko ari rwo rwashyikirijwe ibimenyetso mu iburanisha mu rw'iremezo. Urugereko rw'Ubujurire rwagira icyo ruhindura kuri iyo myanzuro ariko gusa rusanze nta mucamanza usuzuma ibyabaye ushyira mu gaciro wari gufata umwanzuro nk'uwo, cyangwa rusanze uwo mwanzuro wose urimo amakosa. Byongeye kandi, Urugereko rw'Ubujurire rushobora gukuraho cyangwa

[10] Urubanza rwa Ntakirutimana mu bujurire, igika cya 11(amagambo asubirwamo ntiyongewemo). Nk'urugero, reba na none Urubanza rwa Blaškić mu bujurire, igika cya 14; Urubanza rwa Niyitegeka mu bujurire, igika cya 7; Urubanza rwa Vasiljević mu bujurire, igika cya 6; Urubanza rwa Rutaganda, igika cya 20; Urubanza rwa Musema mu bujurire, igika cya 16.

gusubiramo umwanzuro urimo amakosa iyo rusanze ikosa ryakozwe ryaratumye urubanza rucibwa nabi.[11]

8. Mu bujurire, umuburanyi ntagomba gusa gusubira mu myanzuro yatanze mu iburanisha mu rw'iremezo itaragize icyo igeraho. Yabikora gusa ari uko ashoboye kugaragaza ko kuba imyanzuro ye itarakiriwe mu rw'iremezo ari ikosa rigomba gutuma Urugereko rw' Ubujurire rugira kugira icyo rubikoraho.[12] Urugereko rw' Ubujurire rushobora guhita rwanga kwakira ingingo umuburanyi atanga rutazisuzumye mu mizi yazo, iyo rusanga zitazatuma ruvanaho cyangwa ruhindura icyemezo uwo muburanyi ajuririra.[13]

9. Kugira ngo Urugereko rw'Ubujurire rusuzume ibivugwa mu bujurire, Ujurira agomba kwerekana neza aho ibyo anenga biri ku mapaji cyangwa mu bika byo nyandikomvugo y'iburanisha.[14] Byongeye kandi, «'Urugereko rw'Ubujurire ntirushobora gusuzuma ingingo z'umuburanyi mu buryo burambuye igihe izo ngingo zitumvikana, zivuguruzanya, zidasobanutse cyangwa igihe zifite izindi nenge zizwi cyangwa zigaragara.'[15]

10. Mu gusoza kuri iyi ngingo, ni ngombwa kwibutsa ko Urugereko rw'Ubujurire rufite ububasha busesuye bwo mu guhitamo ingingo runaka z'ababuranyi rutangaho igitekerezo

[11] Urubanza rwa Krstić mu bujurire, igika cya 40 (amagambo asubirwamo ntiyongewemo). Nk'urugero, reba na none Urubanza rwa Kajelijeli mu bujurire, igika cya 5; urubanza rwa Blaštić mu bujurire, ibika 16-19; urubanza rwa Ntakirutimana mu bujurire, igika cya 12; urubanza rwa Niyitegeka mu bujurire, igika cya 8.
[12] Urubanza rwa Kajelijeli mu bujurire, igika cya 6. Reba na none urubanza rwa Ntakirutimana mu bujurire, igika cya 13.
[13] Urubanza rwa Kajelijeli mu bujurire, igika cya 6. Nk'urugero, reba na none urubanza rwa Blaštić mu bujurire, igika cya 13; Urubanza rwa Ntakirutimana mu bujurire, igika cya 13; urubanza rwa Rutaganda mu bujurire, igika cya 18.
[14] Amabwiriza ku bisabwa ngo umuntu ajuririre Urubanza, 16 Nzeri 2002, igika cya 4(b). Reba na none urubanza rwa Kajelijeli mu bujurire, igika cya 7; urubanza rwa Blaštić mu bujurire, igika cya 13; urubanza rwa Niyitegeka mu bujurire, igika cya 10; Urubanza rwa Ntakirutimana mu bujurire, igika cya 14; urubanza rwa Vasiljević mu bujurire, igika cya 11; urubanza rwa Rutaganda mu bujurire, igika cya 19; urubanza rwa Kayishema na Ruzindana mu bujurire, igika cya 137.
[15] Urubanza rwa Vailjević mu bujurire, igika cya 12; reba kandi, urugero, urubanza rwa Kajelijeli mu bujurire, igika cya 7; urubanza rwa Blaštić mu bujurire, igika cya 13; uubanza rwa Niyitegeka mu bujurire, igika cya 13; urubanza rwa Kunarac na bagenzi be mu bujurire, ibika 43, 48.

kirambuye mu nyandiko.[16] Urugereko rw'Ubujurire ntirwakira ibivugwa biragaragara ko bidafite ishingiro kandi icyo gihe ntirusobanura birambuye impamvu rufashe icyo cyemezo.[17]

II. AMAKOSA AVUGWA YEREKEYE INYANDIKO Y'IBIREGO (IMPAMVU YA MBERE Y'UBUJURIRE)

11. Mu mpamvu ya mbere y'ubujurire, Ujurira avuga ko Inyandiko itamumenyesheje mu buryo bukwiye imiterere y'ibyaha ashinjwa ndetse n'impamvu abiregwa. Ujurira avuga ko : (1) ikirego cyerekeranye n'ubwicanyi bwakorewe kuri Paruwasi gatolika ya Gishaka kidasobanutse,[18] kandi ko (2) Inyandiko y'Ibirego idasobanura ibivugwa ko yatanze intwaro i Gikomero.[19]

A. IBYABEREYE KURI PARUWASI GATOLIKA YA GISHAKA

12. Ku birebana n'ikosa ryo mu rwego rw'amategeko avuga ku byerekeye ibintu byabereye kuri kiriziya gatolika ya Gishaka, Ujurira yemera ko iryo kosa nta cyo ryahindura ku mikirize y'Urubanza kubera ko icyo cyaha kitamuhamye.[20] Byongeye kandi, muri iki gice cy'impamvu y'ubujurire, nta kibazo avugamo kijyanye n'amategeko cyakwitabwaho muri rusange. Avuga gusa ko Urugereko rwa Mbere rw'Iremezo rutashingiye ku bigenderwaho byashyizweho mu bukemuramanza bw'Urukiko.[21] Iyi si impamvu yatuma Urugereko rw' Ubujurire rusuzuma ibyo avuga kuko nta zindi nyungu z'Ujurira zahungabana Urugereko rw' Ubujurire rutabisuzumye. Kubera izo mpamvu, Urugereko rw' Ubujurire rwemeje ko rutagira icyo ruvuga kirenze icyi kuri iki gice cy'impamvu y'ubujurire.

---

[16] Urubanza rwa Kajelijeli mu bujurire, igika cya 8. Reba na none urubanza rwa Niyitegeka mu bujurire, igika cya 11; urubanza rwa Ntakirutimana mu bujurire, igika cya 15; urubanza rwa Rutaganda, igika cya 19; Urubanza rwa Kunarac na bagenzi be mu bujurire, igika cya 47.
[17] Urubanza rwa Kajelijeli mu bujurire, igika cya 8. Nk'urugero, reba na none urubanza rwa Niyitegeka mu bujurire, igika cya 11; urubanza rwa Blaškić mu bujurire, igika cya 13; urubanza rwa Ntakirutimana m'ubujurie, igika cya 15; urubanza rwa Rutaganda mu bujurire, igika cya 19; urubanza rwa Kunarac na bagenzi be, igika cya 48.
[18] Imyanzuro y'ubujurire, ibika 8-18.
[19] Imyanzuro y'ubujurire, ibika 19-32.
[20] Imyanzuro y'ubujurire, igika cya 11.
[21] Imyanzuro y'ubujurire, igika cya 13.

B. ITANGWA RY'INTWARO I GIKOMERO

1. Ingingo z'Ababuranyi

13. Ujurira avuga kandi ko Inyandiko y'Ibirego idatanga ibisobanuro birambuye ku cyaha aregwa cyo gutanga intwaro. Kubera iyo mpamvu, Ujurira avuga ko ibimenyetso byatanzwe ku kirego cyo gutanga intwaro byagombye kutakirwa.[22] Avuga ko atashoboye kumenya ahantu habereye igikorwa kivugwa cyo gutanga intwaro kubera ko Inyandiko y'Ibirego ivuga gusa ngo ni muri Perefegitura ya Kigali-Ngari, ariko ntisobanure komine byabereyemo mu makomine 16 agize iyo perefegitura.[23] Ujurira avuga ko yamenye ibyaha aregwa agomba kwireguraho nyuma y'uko Porokireri atanze ibimenyetso bishinja.[24]

14. Mu gusubiza, Porokireri avuga ko itangwa ry'intwaro atari igikorwa cy'ingenzi cyari mu biburanwa, ko ahubwo cyari mu bimenyetso bishyigikira ibirego Ujurira yashinjwaga.[25] Kubera iyo mpamvu, avuga ko icyo gikorwa cyari kimwe mu bimenyetso Ujurira yagombaga kumenyeshwa, kandi ko yabimumenyesheje mu gihe gikwiye.[26] Nk'urugero, Porokireri avuga ko mu myanzuro mbanzirizarubanza ye yemeza ko, mbere y'uko ubwicanyi bukorwa, Ujurira yahaye intwaro abaturage ba Komine ya Gikomero.[27] Avuga ko ubushobozi bw'Ujurira bwo gutegura imyiregurire ye butabangamiwe, kandi ko mu myanzuro mbanzirizarubanza ye, Ujurira akomoza kuri iryo tangwa ry'intwaro rivugwa, avuga ko azahamagaza abatangabuhamya banyomoza ibimenyetso bishinja byerekeranye n'iryo tangwa ry'intwaro muri Komine ya Gikomero.[28] Porokireri yongeraho ko mu buhamya bwatanzwe mu rw'iremezo ku itangwa ry'intwaro ryabereye mu rugo rwa mubyara w'Ujurira, Ujurira ntiyarwanyije ko ubwo buhamya bushyirwa muri dosiye.[29]

---

[22] Imyanzuro y'ubujurire, igika cya 20.
[23] Imyanzuro y'ubujurire, igika cya 22.
[24] Imyanzuro y'ubujurire, igika cya 23.
[25] Imyanzuro y'Usubiza, ibika 22, 23.
[26] Imyanzuro y'Usubiza, igika cya 24.
[27] Imyanzuro y'Usubiza, igika cya 24.
[28] Imyanzuro y'Usubiza, ibika 28, 29.
[29] Imyanzuro y'Usubiza, igika cya 27.

Mu gusoza kuri iyi ngingo, Porokireri avuga ko Urugereko rwa Mbere rw'Iremezo rwashingiye ku itangwa ry'intwaro nk'ikintu kimwe mu byabaye kugira ngo rushyigikire umwanzuro warwo wemeza ko Ujurira yari afite umugambi wa ngombwa wo gukora jenoside. Porokireri we abona ko ahubwo ikintu cyagize uburemere bunini mu byatumye Ujurira ahamwa n'ibyaha ari uko ari we watangije igitero cyagabwe mu kigo cya Paruwasi ya Gikomero.[30]

15. Mu gusubiza, Ujurira avuga ko itangwa ry'intwaro ari kimwe mu bintu byabaye Urugereko rwa Mbere rw'Iremezo rwashingiyeho mu gufata umwanzuro wemeza ko mu bikorwa bye, Ujurira yari yaritswemo n'umugambi wo gukora jenoside, ko kubera iyo mpamvu, iryo tangwa ry'intwaro ari ikimenyetso cy'ingenzi mu byaha aregwa.[31]

2. Imyanzuro y'Urugereko rwa Mbere rw'Iremezo

16. Urugereko rwa Mbere rw'Iremezo rwasanze Ujurira yaratanze intwaro i Gikomero, maze rubishingiraho mu kwanzura ruvuga ko (1) Ujurira yari afite umugambi wo gukora jenoside,[32] kandi ko (2) yateye inkunga akanashishikaza abakoze jenoside.[33] Ku ngingo ya mbere, Urugereko rwa Mbere rw'Iremezo rwanashingiye ku kuba Ujurira yarayoboye igitero cy'abantu bitwaje intwaro cyagabwe ku kigo cya Paruwasi ya Gikomero, akabategeka gutangira gutera, ndetse akaba yari agihari igihe umuvugabutumwa w'Umututsi witwa Augustin Bucundura yaraswaga n'umwe mu bantu bari bazanye na we [Ujurira].[34]

---

[30] Imyanzuro y'Usubiza, igika cya 23.
[31] Igisubizo cy'Ujurira, ibika 4, 5.
[32] Urubanza mu rw'iremezo, igika cya 637.
[33] Urubanza mu rw'iremezo, igika cya 648.
[34] Urubanza mu rw'iremezo, ibika 638-641.

3. Inenge z'imyandikire zaba ziri mu Nyandiko y'ibirego

17. Inyandiko y'ibirego iba ifite inenge iyo itavuga ibyabaye by'ingenzi bishyigikira ibirego.[35] Kugira ngo umuntu avuge ko ikintu runaka cyabaye ari ingenzi, biterwa n'icyo Porokireri aregera.[36] Mu *rubanza rwa Kupreškić*, Urugereko rw' Ubujurire rwa TPIR rwemeje ko:

> Imiterere y'imitwarire mibisha uregwa ashinjwa nicyo kintu cy'ingenzi gishingirwaho mu kugena ingano y'ibisobanuro Porokireri asabwa gutanga ku bikorwa bivugwa mu Nyandiko y'ibitero. Nk'urugero, iyo Porokireri avuga ko uregwa ubwe yakoze ibyaha, agomba kuvuga birambuye ibintu by'ingenzi birebana n'icyaha, nk'umwirondoro w'uwagiriwe nabi, igihe n'aho icyaha cyakorewe, n'uburyo bwifashishijwe mu gukora icyo cyaha[37]

18. Muri uru rubanza, icyiciro cyashingirwaho mu Nyandiko y'ibirego kigira kiti:

> **Jean de Dieu Kamuhanda**, Minisitiri mushya muri Guverinoma y'Agateganyo yari afite abantu bo mu muryango we muri Komine ya Gikomero, Perefegitura ya Kigali-Ngari. Muri Mata 1994, yagenzuye ubwicanyi bwakorewe muri ako gace. Inshuro nyinshi, ubwe yitangiye imbunda, amagerenade n'imihoro abiha abasiviri bitwara gisirikare bo muri Kigali-Ngari agamije « kwicisha Abatutsi bose no kurwanya FPR »[38]

Urugereko rwa Mbere rw'Iremezo rwasanze Ujurira yarahaye intwaro abantu bahuriye mu rugo kwa mubyara we hagati y'itariki 6 na 10 Mata 1994.[39] Cyakora, ntirwemeye ibindi bimenyetso bishinja byatanzwe ku bindi bikorwa bivugwa byo gutanga intwaro.[40] Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko Ujurira yagize uruhare mu bwicanyi bwabereye mu kigo cya Paruwasi ya Gikomero, "atera abandi bantu inkunga, akanabashishikariza gukora icyaha atanga intwaro."[41] Kubera iyo mpamvu, Urugereko rw'Ubujurire rusanze gutanga intwaro ari igikorwa cy'ingenzi gifitanye isano

[35] Urubanza rwa Kupreškić na bagenzi be mu bujurire, igika cya *88*. Reba n'urubanza rwa Ntakirutimana mu bujurire, igika cya 25.
[36] Urubanza rwa Kupreškić na bagenzi be mu bujurire*,* igika cya 89.
[37] Urubanza rwa Kupreškić na bagenzi be mu bujurire, igika cya 89.
[38] Inyandiko y'ibirego, igika cya 6.44.
[39] Urubanza mu rw'iremezo, igika cya 273
[40] Urubanza mu rw'iremezo, igika cya 283 (ikibuga cy'umupira cy'i Kayanga), na 288 (Segiteri ya Ntaruka)
[41] Urubanza mu rw'iremezo, igika cya 648.

n'uburyozwacyaha bw'Ujurira, bityo kikaba cyaragombaga gusobanurwa birambuye mu Nyandiko y'ibirego.

19. Mu Nyandiko y'ibirego havugwa ko "inshuro nyinshi" muri Mata 1994, Ujurira yatanze intwaro muri Perefegitura ya Kigali-Ngari. Cyakora, ntihavugwa amatariki zatangiweho n'ahantu byabereye. Muri uru rubanza, Inyandiko y'ibirego ivuga ko itangwa ry'intwaro ari igikorwa cy'ubugome Ujurira yakoze ubwe. Nibura Porokireri yagombaga guha Ujurira amakuru "arambuye" ku "gihe n'ahantu izo ntwaro zatangiwe", n'uburyo zatanzwe.[42]

20. Porokireri yari afite inyandiko y'ubuhamya umugabo wiswe GEK yatanze ku itariki 12 Gashyantare 1998, isobanura birambuye uko Ujurira yajyaga mu mago ya babyara be, amatariki nyayo byabereyeho, n'uko yahaye intwaro abantu bari bahari.[43] Porokireri yashoboraga rero gutanga ibisobanuro birambuye kuri iyi ngingo, kubera ko inyandiko y'ubuhamya bwa GEK ari cyo kimenyetso rukumbi Porokireri ashingiraho avuga ku itangwa ry'intwaro ryabereye mu mago ya babyara b'Ujurira. Kuba Porokireri ataratanze ibisobanuro birambuye kuri iki gikorwa, byateye Inyandiko y'ibirego inenge.

4. Kuba uregwa atarabirwanyije

21. Mu *Rubanza rwa Niyitegeka*, Urugereko rw' Ubujurire rwemeje ko kugira ngo Ujurira yemererwe kuvuga ko igikorwa cy'ingenzi kitavugwa mu nyandiko y'ibirego, agomba kubikora adatinze arwanya ko Porokireri atanga ibimenyetso kuri icyo gikorwa mu rw'iremezo:

> Iyo burwanyije ibivugwa bwemeza ko butahawe amakuru, Ubwunganizi bugomba kurwanya ko hakirwa ibimenyetso bitangwa kuri ibyo bikorwa by'ingenzi bidasobanurwa mu nyandiko y'ibirego. Bugomba kandi kubikora ku buryo bwihariye igihe ibyo bimenyetso bitanzwe. Ubwunganizi bushobora guhitamo gutanga bitatinze icyifuzo busaba ko ibimenyetso byatanzwe byavanwa muri dosiye, cyangwa bugasaba ko urubanza rusubikwa kugira ngo bukore iperereza

[42] Reba Urubanza rwa Kupreškić na bagenzi be mu bujurire, igika cya 89.
[43] Ubuhamya bwanditse bwa GEK bwo ku itariki 12 Gashyantare 1998 (Ikimenyetso gihamya N° 2 cy'Ubwunganizi).

> ry'inyongera maze bushobore kuvuguruza igikorwa kiregerwa kitavugwa mu nyandiko y'ibirego.[44]

Ubusanzwe, iyo Ujurira atabirwanyije mu rw'iremezo, Urugereko rw' Ubujurire ntirwakira ingingo ze. Muri uru rubanza, Ubwunganizi ntibwarwanyije ko ubuhamya bwa GEK butangwa mu rukiko, ndetse mu ibaza rinyomoza Ubwunganizi bwagerageje kwerekana ko uyu mutangabuhamya atakwizerwa. Cyakora, n'iyo bigenze gutyo, Urugereko rw' Ubujurire, rubyibwirije, rushobora gusuzuma iki kibazo iyo rusanga uburenganzira bw'uregwa bwo kumenyeshwa ibyo ashinjwa bushobora kuba bwarabangamiwe, cyangwa akaba yabangamiwe bikomeye no kuba mu iburanisha ari bwo Porokireri yamumenyesheje bwa mbere ibyo aregwa. Icyo gihe, mu bujurire Ujurira ni we uba afite inshingano yo kugaragaza ko yabangamiwe cyane mu gutegura ukwiregura kwe.[45]

22. Mu rubanza rwa *Ntakirutimana*, n'ubwo Uwajuriye aterekanye inenge iri mu Nyandiko y'ibirego mu gihe cyo gutanga ibimenyetso mu rw'iremezo, Urugereko rw'Ubujurire rwasanze ikibazo yabyukije ku Nyandiko y'ibirego cyaratanzwe mu buryo bukwiye, kuko Urugereko rwa Mbere rw'Iremezo rwari rwaranzuye ruvuga ko rwamenyeshejwe neza inenge ziri mu Nyandiko y'ibirego.[46]

23. Muri uru rubanza, Urugereko rwa Mbere rw'Iremezo rwasanze

> Ubwunganizi bwaravuze ko muri ibi bika byo mu Nyandiko y'ibirego bivugwa haruguru, Porokireri avuga, mu buryo budasobanutse, ku ntwaro Uregwa yaba yaratangiye muri Komine avukamo ya Gikomero, no ku bwicanyi yaba yarayoboye. Mu Nyandiko y'ibirego, nta hantu na hamwe Porokireri asobanura neza uburyo ibi byaha byaba byarakozwe.[47]

Nyuma yaho, Urugereko rwa Mbere rw'Iremezo ntirwavuze ko rushidikanya ku ishingiro ry'ibivugwa n'Ubwunganizi, ahubwo rwasanze Inyandiko y'ibirego isobanura

[44] Urubanza rwa Niyitegeka, igika cya 199. Reba n'Urubanza rwa Kayishema na Ruzindana mu bujurire, igika cya 91.
[45] Urubanza rwa Niyitegeka mu bujurire, ibika 199, 200.
[46] Urubanza rwa Ntakirutimanamu bujurire, igika cya 52.
[47] Urubanza mu rw'iremezo, igika cya 48.

neza ubwicanyi bwabereye kuri Paruwasi gatolika ya Gishaka.[48] Rushingiye kuri izi mpamvu, Urugereko rw'Ubujurire rugiye gusuzuma niba Ujurira yararenganijwe bikomeye ku buryo yarenganurwa mu bujurire, n'ubwo yakerewe kubyutsa iki kibazo mu rw'iremezo.

5. Kurenganywa bitewe n'inenge z'imyandikire ziri mu Nyandiko y'ibirego

24. Inenge z'imyandikire ziri mu nyandiko y'ibirego zishobora gukosorwa iyo Porokireri "ahaye uregwa amakuru asubanutse neza, ajyanye kandi atangiwe igihe, yerekeye ibyabaye ibirego ashinjwa bishyingiyeho. Icyo gihe aba akosoye inenge yatewe n'uko inyandiko y'ibirego itasobanuraga uko bikwiye ibyaha uregwa ashinjwa".[49]

25. Urugereko rw' Ubujurire ruributsa ko, muri uru rubanza, umwanzuro w'Urugereko rwa Mbere rw'Iremezo wemeza ko Ujurira yatanze intwaro mu rugo kwa babyara be, wari ushingiye gusa ku buhamya bwatanzwe na GEK. Ku itariki ya 22 Ugushyingo 2000, Ujurira yashyikirijwe inyandiko y'ubuhamya GEK yatanze ku itariki ya 12 Gashyantare 1998, isibwemo amakuru agaragaza umwirondoro we. Iyo nyandiko irimo amakuru yerekeye itangwa ry'intwaro n'itariki byabereyeho. Inyandiko y'ubwo buhamya itarasibwemo amakuru agaragaza umwirondoro yatanzwe ku itariki ya 26 Werurwe 2001. Mu myanzuro mbanzirizarubanza yatanze ku itariki ya 30 Werurwe 2001, Porokireri avuga, mu buryo butaziguye, ko « mbere y'ubwicanyi bwabereye i Gikomero, Uregwa yahaye intwaro abantu bamwe na bamwe batuye muri iyo Komine»[50]. Iyo myanzuro ikubiyemo kandi incamake y'ubuhamya bwa GEK, nkuko bivugwa mu mirongo ikurikira :

> Umutangabuhamya avuga ko Uregwa yageze iwe ku itariki ya 8 Mata 1994, aje kubonana n'umugabo we na muramu we. Kamuhanda yahaye buri muntu gerenade n'umuhoro. Mu buhamya yatanze mu Rukiko, avuga no ku kiganiro abo bagabo

[48] Urugereko rwa Mbere rw'Iremezo ntirwasuzumye ku buryo bwihariye ingingo ivuga ko ibivugwa mu Nyandiko y'ibirego ku itangwa ry'intwaro bidasobanutse.
[49] Urubanza rwa Kvočka n'abandi mu bujurire, igika cya 195; urubanza rwa Ntakirutimana mu bujurire, igika cya 27.
[50] Imyanzuro mbanzirizarubanza ya Porokireri, igika cya 1.

> batatu bagiranye. Uregwa yababwiye ko ari bo bonyine bataratangira kwica, maze abashishikariza kubikora[51].

26. Urugereko rw'Ubujurire rwanzura ruvuga ko Porokireri yahaye Ujurira, nta gukererwa, amakuru asobanutse kandi ajyanye ku itangwa ry'intwaro ryaba ryarabereye mu rugo kwa babyara be i Gikomero.

27. Urugereko rw'Ubujurire ruvuga kandi ko Ubwunganizi butarenganijwe kubera uko kudasobanuka kuvugwa ku Inyandiko y'ibirego. Imyanzuro mbanzirizarubanza Ujurira yatanze ku itariki ya 25 Nyakanga 2002 igaragaza neza ko Ujurira yari yumvise ko mu byaha aregwa harimo « ibyo […] yaba yarakoreye kuri Paruwasi y'Abaporoso n'iy'Abagatorika zo muri Komine ya Gikomero ahagana ku itariki ya 12 n'iya 13 Mata 1994, aho yaba yaratanze intwaro, akanagenzura ubwicanyi»[52]. By'umwihariko, Ujurira yavuze ko « atagiye i Gikomero nyuma ya 6 Mata 1994 ; kandi ko atahatanze intwaro »[53]. Yavuze kandi yashakaga guhamagaza abagabo bashinjura, barimo uwiswe GPK, kugira ngo banyomoze ibivugwa mu buhamya bwanditse bwa GEK :

> Uyu mutangabuhamya avuguruza ibyo GEK avuga mu buhamya bwe bwanditse. Avuga ko ku itariki ya 12, [GEK] atari akiri iwe mu rugo, ko uregwa ataje gutanga intwaro i Gikomero kuko iyo aza aba yaramubonye. Yongeraho ko Uregwa atari muri ako karere mu gihe cy'ibyabaye[54].

Ujurira yahamagaje kandi umutangabuhamya wiswe EM kugira ngo yemeze ko :

> « …GEK yavuye iwe bamaze gutangaza ko indege yahanutse, ko binyuranyije n'ibyo avuga, [GEK] atabonye itangwa ry'intwaro cyangwa ubwicanyi. Anyomoza GEK ku ngingo zose »[55].

Ubwunganizi bwahamagaje kandi abagabo biswe GPB na TMF kugira ngo nabo banyomoze ubuhamya bwa GEK[56].

---

[51] Ni kimwe no haruguru, imp. 15-16.
[52] Imyanzuro mbanzirizarubanza y'Ubwunganizi, urup. 4.
[53] Ni kimwe no haruguru, urup. 5.
[54] Ni kimwe no haruguru, urup. 25.
[55] Ni kimwe no haruguru, urup. 26.
[56] Ni kimwe no haruguru, urup. 26 (GPB), n'urup. 46 (TMF).

28. Mu magambo make, Urugereko rw' Ubujurire rusanga Porokireri yarahaye Ujurira, nta gukererwa, amakuru asobanutse kandi ajyanye kuri iryo tangwa ry'intwaro. Byongeye kandi, Ujurira ntiyarwanyije ubuhamya rukumbi bwatanzwe mu Rukiko kuri iyo ngingo, ari bwo bwa GEK, ndetse yabonye umwanya uhagije wo gutegura ukwiregura kwe. Kubera izo mpamvu, Urugereko rw'Ubujurire ntirwakiriye iki gice cy'impamvu y'ubujurire. Ibyo bivuga ko ingingo zose zigize impamvu ya mbere y'ubujurire zitakiriwe.

III. ISUZUMA RY'IBIMENYETSO : IBIMENYETSO GIHAMYA (GUSUZUMA, KURI BIMWE, IMPAMVU YA KABIRI Y'UBUJURIRE)

29. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko kuko rutazirikanye ibimenyetso gihamya byatanzwe n'ababuranyi[57]. Atanga ingero eshatu yumva zigaragaza ko urwo Rugereko rwateshutse ku nshingano yarwo yo kugena agaciro k'ibimenyetso gihamya byose:

1) Ubwunganizi bwatanze ibice by'ubuhamya bwanditse GEK yatanze mbere, kandi bwerekana ingingo zivuguruzanya zibukubiyemo. Buvuga ko Urugereko rutigeze rugira icyo ruvuga kuri icyo kibazo[58].

2) Ubwunganizi bwatanze igishushanyo cy'ikigo cya Paruwasi ya Gikomero cyashushanyijwe n'umutangabuhamya wiswe GEE. Ujurira avuga ko icyo gishushanyo kidahuye n'uko icyo kigo giteye kandi ko Urugereko rwa Mbere rw'Iremezo rwateshutse ku nshingano rwari rufite yo kuzirikana ibintu bwavuze kuri iyi ngingo[59].

---

[57] Imyanzuro y'Ujurira , ibika 60-70.
[58] Ni kimwe no haruguru, igika cya 62.
[59] Ni kimwe no haruguru, igika cya 63.

3) Mu gusoza, Ujurira avuga ko Ubwunganizi bwatanze ho ibimenyetso, gihamya, ubuhamya bwose bwanditse bw'abagabo bashinja n'abw'abashyigikira *alibi* ariko ko Urugereko rwa Mbere rw'Iremezo rutazirikanye ukwivuguruza kuri mu buhamya bw'abagabo bashinja ndetse ntirunazirikane ko ubuhamya abagabo batanze kuri *alibi* bushyigikirana[60].

30. Mu gisubizo cye, Porokireri avuga ko mu rubanza Urugereko rwa Mbere rw'Iremezo rudategetswe gusobanura uko rwagiye rugera kuri buri mwanzuro, cyangwa se kuvuga kuri buri kimenyetso[61]. Avuga ko, ku byerekeye GEK, Urugereko rwa Mbere rw'Iremezo rufite uburenganzira bwo gufata umwanzuro uvuga ko ukwivuguruza kuvugwa kutatuma ubuhamya yatanze mu Rukiko bushidikanywaho[62]. Avuga ko, ku birebana na GEE, Ujurira asubira gusa mu byo yavuze mu rw'iremezo kandi ko Urugereko rwasuzumye nibura ingingo isa n'iyo[63]. Avuga ko ubujurire bushingiye kuri izo mpamvu bwagombye kutakirwa[64].

31. Mu gusubiza, Ujurira ashingira ku bivugwa mu rubanza rwa *Musema* mu bujurire. Avuga ko muri urwo rubanza Urugereko rw'Ubujurire rwanzuye ruvuga ko, iyo Urugereko rwa Mbere rw'Iremezo rutavuze ku kimenyetso runaka, umuntu yakumva ko rutakizirikanye[65].

32. N'ubwo Ujurira atari ko abibona, ibivugwa mu rubanza rwa *Musema* mu bujurire ntibihuye n'ibyo avuga. Muri urwo rubanza, Urugereko rw'Ubujurire ntiruvuga ko umuntu ashobora kumva ko Urugereko rwa Mbere rw'Iremezo *rutazirikanye* ikimenyetso runaka, ashingiye gusa ku kuba urwo Rugereko rutarakivuze mu rubanza rwaciye. Mu gika kivugwa n'Ujurira, Urugereko rw' Ubujurire rusanga ahubwo (igihe nta mpamvu zihariye zatuma umuntu abyumva ukundi) umuntu ashobora kumva ko Urugereko rwa

---

[60] Ni kimwe no haruguru, ibika 64-65.
[61] Imyanzuro y'Ujurira, igika cya 161.
[62] Ni kimwe no haruguru, igika cya 163.
[63] Ni kimwe no haruguru, igika cya 164.
[64] Ni kimwe no haruguru, igika cya 167.
[65] Igisubizo ku Myanzuro y'Ujurira, igika cya 86. Reba na none Imyanzuro y'Ujurira ,igika cya 66, hasubirwamo ibivugwa mu rubanza rwa *Musema* mu bujurire igika cya 118.

Mbere rw'Iremezo rwahisemo « kudashingira » ku buhamya bwatanzwe mu Rukiko rutari rwavuze. Mu yandi magambo ni ukuvuga ko rwazirikanye rwose icyo kimenyetso ariko rugasanga kitakwizerwa cyane, cyangwa se kitagomba kuvugwa mu rubanza[66]. Nyuma y'ibyo, Urugereko rw'Ubujurire rwasuzumye niba icyemezo Urugereko rwa Mbere rw'Iremezo rwafashe cyo kudashingira kuri icyo kimenyetso cyari gikwiye. Rwaje rero kubona impamvu nyinshi zatuma rushobora kwanzura, mu buryo bushyize mu gaciro, ruvuga ko ubwo buhamya butakwizerwa. Niyo mpamvu rutakiriye ubujurire bwatanzwe muri urwo rubanza. Byongeye kandi, mu rubanza rwa *Musema,* Urugereko rw' Ubujurire rwemera, mu buryo butaziguye, ko :

> … mu rubanza, atari ngombwa ko Urugereko rwa Mbere rw'Iremezo rusobanura inzira yose rwanyuzemo mu gufata umwanzuro runaka. N'ubwo Urugereko […] rutavuga ikimenyetso runaka kubera imiterere yihariye y'urubanza, umuntu ashobora kumva, nta kwibeshya, ko rwakizirikanye. Bityo rero, iyo mu mitekerereze ya rwo Urugereko rwa Mbere rw'Iremezo rutavuze ubuhamya runaka bwatanzwe mu Rukiko, Ujurira ni we ugomba kwerekana ko Urugereko rwa Mbere rw'Iremezo rutabuzirikanye mu mwanzuro warwo, akanerekana ko rutavuze kuri icyo kimenyetso[67].

Byongeye kandi, imyumvire y'Ujurira ku bivugwa mu rubanza rwa *Musema* mu bujurire ntijyanye n'ubukemuramanza bw'Urugereko rw'Ubujurire kuri icyo kibazo. Ubwo bukemuramanza buteganya ko mu rubanza, Urugereko rwa Mbere rw'Iremezo rudategetswe kuvuga kuri buri kimenyetso cyose rwasuzumye[68].

33. Ukwivuguruza Ujurira asanga mu buhamya bwa GEK gusuzumwa ku mpamvu ya 12 y'ubujurire[69]. Ku byerekeye ikimenyetso gihamya N° D 9, Urugereko rw'Ubujurire rusanga ari igishushanyo umutangabuhamya yakoze, gifite imirongo itagororotse kandi kidaherekejwe n'ibisobanuro. Urugereko rwa Mbere rw'Iremezo ntirwigeze na rimwe ruvuga kuri icyo kimenyetso. Cyakora kuri GEE, urwo Rugereko ruvuga ko « bidatangaje ko uwo mutangabuhamya atashoboye kumenya ibiri ku ifoto yatanzwe mu kimenyetso gihamya N° 2 cya Porokireri, kubera ko yavuze ko mbere y'aho atari yarigeze agera ku

---

[66] Urubanza rwa *Musema* mu bujurire, igika cya 118.
[67] Ni kimwe no haruguru, igika cya 277 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[68] Nk'urugero, reba urubanza rwa *Semanza* mu bujurire ibika 130-139; urubanza rwa *Rutaganda* mu bujurire, igika cya 536 ; urubanza rwa *Čelebići* mu bujurire, igika cya 481.
[69] Reba umutwe X.A.

kigo cya Paruwasi ya Gikomero[70] ». Rushingiye kuri iyo mitekerereze, Urugereko rw' Ubujurire rusanga byumvikana kuba Urugereko rwa Mbere rw'Iremezo rutarazirikanye, nkuko bigaragara, ko umutangabuhamya atashoboye gushushanya neza icyo kigo kivugwa.

34. Urugereko rw'Ubujurire rugiye noneho gusuzuma ibyo Ujurira avuga ashaka kugaragaza ko, kubera ko yatanze ubuhamya bwanditse « abagabo bashinja » bari baratanze[71] n'ubw'abagabo bose bashyigikira *alibi*, Urugereko rwa Mbere rw'Iremezo rwagombaga kuba rwarasuzumye ibyo bimenyetso. Urugereko rw'Ubujurire rusanga iyo ngingo idafite ishingiro. N'ubwo Urugereko rwa Mbere rw'Iremezo rutavuga kuri ubwo buhamya, Ujurira na we ntagaragaza ko urwo Urugereko rwabwirengagije kandi ko aba yaragizwe umwere iyo ubwo buhamya buza kuzirikanwa n'umucamanza wese usuzuma ibyabaye ushyira mu gaciro[72]. Kubera iyo mpamvu, Urugereko rw'Ubujurire ntirwakiriye ingingo atanga mu gushyigikira iyi mpamvu y'ubujurire.

IV. UMUBURANYI UFITE INSHINGANO YO GUTANGA IBIMENYETSO (IMPAMVU YA KANE Y'UBUJURIRE)

35. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko ubwo rwasabaga Ubwunganizi kugaragaza, mu buryo budashidikanywaho, ko ingingo zabwo zifite ishingiro. Avuga ko ibyo bishatse kuvuga ko ari we wagombaga kugaragaza ko ari umwere[73]. Mu gushyigikira ingingo ye, Ujurira avuga ibice bimwe byo mu nyandiko y'urubanza mu rw'iremezo yumva bigaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoresheje nabi ihame ry'umuburanyi ugomba gutanga ibimenyetso[74].

36. Porokireri avuga ko iyo umuntu asomye neza ibivugwa muri ibyo bice by'inyandiko y'urubanza, abona neza ko Urugereko rwa Mbere rw'Iremezo rwasanze ibimenyetso

---

[70] Urubanza, igika cya 453.
[71] Imyanzuro y'Ujurira, igika cya 64.
[72] Reba igika cya 10 haruguru (« Rutiriwe rutanga impamvu mu magambo arambuye, Urugereko rw'Ubujurire ntiruzakira ingingo zigaragara ko zidafite ishingiro »).
[73] Imyanzuro y'Ujurira, igika cya 82.
[74] Ni kimwe no haruguru, igika cya 83.

Ubwunganizi bwatanze bitaratumaga rushidikanya ko ibivugwa na Porokireri bihuye n'ibimenyetso bishinja[75]. Byongeye kandi, yibutsa ko ari ngombwa kuzirikana ko Urugereko rwa Mbere rw'Iremezo rwanze kwakira bimwe mu bimenyetso yitangiye ubwe[76].

37. Ingero Ujurira atanga zirasuzumwa birambuye mu gice cyabugenewe cy'uru rubanza[77]. Ubu, Urugereko rw'Ubujurire rurashaka gusa kumenya niba, nk'uko Ujurira abivuga, [izo ngero] zerekana ko Urugereko rwa Mbere rw'Iremezo rwakoresheje nabi cyane ihame ryerekeye umuburanyi ufite inshingano yo gutanga ibimenyetso.

38. Kubirebana na *alibi*, Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo rwavuze ibi bikurikira :

> […] iyo Ushinjwa yireguje *alibi*, Porokireri aba afite inshingano yo kugaragaza, ku buryo budashidikanywaho na gato kandi ku ngingo zose, ko Uregwa yakoze icyaha ashinjwa. Mu by'ukuri, Porokireri agomba kugaragaza ko « Uregwa yari ahantu hakorewe ibyaha ashinjwa kandi ko yakoze ibyo byaha, bityo agasenya iyo *alibi*». *Alibi* iyo igaragaye nk'aho ishoboka, iremerwa[78].

Mu mategeko, iki gisobanuro ntigishobora kurwanywa kandi kigaragaza ko Urugereko rwa Mbere rw'Iremezo rwari ruzi neza umuburanyi ufite inshingano yo gutanga ibimenyetso.

39. Nkuko bisobanurwa mu mutwe wa XI, Urugereko rw'Ubujurire rusanga, umuntu akiyareba, amagambo yakoreshejwe n'Urugereko rwa Mbere rw'Iremezo hari igihe ashobora kumvikana nkaho rwemera ibivugwa n'Ujurira (igika cya 174 cy'urubanza mu rw'iremezo): « Urugereko rusanga ubuhamya bwa ALB butavuga ko Uregwa

---

[75] Umwanzuro w'uregwa mu bujurire, igika cya 46.
[76] Ni kimwe no haruguru, igika cya 47.
[77] Reba imitwe ya IX na XI.
[78] Urubanza, igika 84, hasubirwamo ibivugwa mu rubanza rwa *Musema* mu bujurure, igika cya 205.

atashoboraga kuba ari i Gikomero [79] ». Cyakora, nkuko Porokireri yabivuze neza, ibyo bice by'inyandiko y'urubanza bigomba kumvikana hakurikijwe uko ibintu bimeze. Kuba Urugereko rwa Mbere rw'Iremezo rwarakoresheje amagambo ashobora kumvikana nabi ntibivuze ko, byanze bikunze, rwakoresheje nabi ihame rirebana n'umuburanyi ufite inshingano yo gutanga ibimenyetso. Nk'urugero, urwo Rugereko rwasanze Ujurira yashoboraga "kuba ari mu karere ka Kacyiru kuva ku itariki ya 7 kugera ku ya 18 Mata 1994 », cyakora ruvuga ko « bitabuza ko, rimwe na rimwe, ashobora kuba yaragiye muri Komine ya Gikomero muri icyo gihe[80] ». Urebye uko ibintu bimeze, iyo mvugo isobanura gusa ko kuba rimwe na rimwe Ujurira yarabaga ari ku Kacyiru bitatuma umuntu ashidikanya ko yagiye i Gikomero, nk'uko byemezwa mu bindi bice by'ubuhamya.

40. Iyi mitekerereze ishobora no gukurikizwa ku ngingo y'Ujurira ivuga ko Urugereko rwa Mbere rw'Iremezo rwamutegetse kugaragaza ko bitashobokaga gukora urugendo hagati ya Kigali na Gikomero[81]. Ikintu cy'ingenzi cyagombaga kugaragazwa si uko bitashobokaga gukora urugendo hagati y'aho hantu hombi, ahubwo hagombaga kugaragazwa ko Ujurira yari i Gikomero mu masaha ya mbere ya nyuma ya saa sita ku itariki ya 12 Mata 1994. Urugereko rwa Mbere rw'Iremezo rwasanze hari ibimenyetso bigaragaza ko Ujurira yari aho hantu. Bumwe mu buryo Ujurira yashoboraga gukoresha ngo atume Urugereko rushidikanya kuri ibyo bimenyetso, kwari ukwerekana ko bitashobokaga kujya i Gikomero muri icyo gihe kivugwa. Urugereko rwa Mbere rw'Iremezo ruvuga ko kuba kujya i Gikomero byarashobotse kandi ibintu byari bikomeye, bihuje n'ibimenyetso bigaragaza ko Ujurira yari i Gikomero. Kubera iyo mpamvu, ibimenyetso byatanzwe kuri iyi ngingo ntibihagije kugira ngo umuntu abe yashidikanya ko Ujurira yari i Gikomero. Ikimenyetso kinyomoza, kitatanzwe nk'uko Ujurira abivuga, gihuye neza n'ikigaragaza ko koko Ujurira yari i Gikomero n'ubwo kujyayo byari bigoye.[82] Ibyo yose bigaragaza ko, kuba Urugereko rwa Mbere rw'Iremezo

[79] Ni kimwe no haruguru, igika cya 174 (mu nyandiko y'umwimerere ntibiri muri itariki). Reba Imyanzuro y'Ujurira, igika cya 85.
[80] Urubanza, igika cya 167.
[81] Imyanzuro y'Ujurira, igika cya 86.
[82] Ni kimwe no haruguru, igika cya 86.

rutaremeye ko kujya i Gikomero uvuye i Kigali bitashobokaga, bitavuga ko rwakoresheje nabi ihame ryerekeye umuburanyi ufite inshingano yo gutanga ibimenyetso.

41. Byongeye kandi, kuba Urugereko rwa Mbere rw'Iremezo rutaremeye ubuhamya bwa GPK n'ubwa Xavièra Mukaminani buvuga ko nta ntwaro n'imwe yatanzwe mu rugo rw'umuturanyi wabo, ntibivuga ko rwakoresheje nabi ihame ry'umuburanyi ugomba gutanga ibimenyetso. Urugereko rwumvise ubuhamya GEK yatanze ku itangwa ry' intwaro maze rusanga bwakwizerwa. Kuba rutaremeye ubuhamya bw'abaturanyi babiri b'Ujurira, bemeza ko batigeze na rimwe babona intwaro zitangwa (kuzitanga bikaba byarabereye mu nzu[83]), ntibivuga ko urwo Rugereko rwakoze ikosa, iryo ari ryo ryose, ku birebana n'umuburanyi ugomba gutanga ibimenyetso. Bivuga gusa ko rwasanze ubuhamya bw'abo baturanyi b'Ujurira butatuma rushidikanya ku bivugwa na Porokireri.

42. Urugereko rwa Mbere rw'Iremezo rwasanze ko, n'ubwo umuntu yakwemera ubuhamya abagabo bashinjura batanze mu Rukiko ku bintu byabereye ku kigo cya Paruwasi ya Gikomero, ibyo bitagaragaza ko Ujurira atari ahari[84]. Urugereko rwavuze kandi rwemeza ko ubuhamya abagabo benshi bashinja batanze mu Rukiko bushyigikira umwanzuro warwo wemeza ko Ujurira yari aho hantu igitero gitangiye, n'ubwo yahavuye nyuma yaho gato. Ubuhamya bwatanzwe mu Rukiko n'abandi bagabo bashinjura bemeza ko bageze aho hantu nyuma ntibahabone Ujurira ntibunyuranye n'ubw'abagabo bashinja. Kubera iyo mpamvu, ntibwatuma umuntu ashidikanya ku buhamya abagabo bashinja batanze ku byabaye. Byongeye kandi, ibivugwa n'Urugereko rwa Mbere rw'Iremezo mu guhuza ubwo buhamya bushinja n'ubushinjura, ntibigaragaza ko rwakoresheje nabi ihame ry'umuburanyi ugomba gutanga ibimenyetso**.**

43. Ku byerekeye GPT, mu gika cya 472 cy'urubanza, Urugereko rwa Mbere rw'Iremezo rusanga**,**

> GPT avuga ko ntawigeze amusubiza ibibazo yabajije ashaka kumenya uwayoboye igitero cyagabwe kuri Paruwasi ya Gikomero ku itariki ya 12 Mata 1994. Urugereko rugaragaza ko n'iyo yaba yarageragejе gushaka yo makuru, GPT atavuga ko

[83] Urubanza mu rw'iremezo, igika cya 273.
[84] Ni kimwe no haruguru, igika cya 470.

> yabajije GEK. Urugereko rusanga rero, n'ubwo GPT yashatse amakuru, bishoboka ko umugabo wavuzwe ko ari Kamuhanda yaba yaramaze akanya gato kuri Paruwasi ya Gikomero ku itariki ya 12 Mata 1994 ahazanye abagabye igitero ku mpunzi zari zahahungiye.[85]

Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwemeje rero ko « imvugo y'umutangabuhamya ushinja ifite uburemere kurusha iy'umugabo ushinjura[86] ». Ibyo avuga ntibifite ishingiro. Urugereko rwa Mbere rw'Iremezo rwumvise ubuhamya bw'abagabo benshi bari bahari ubwo Ujurira yageraga ku kigo cya Paruwasi ya Gikomero[87] ari kumwe n'abagabye igitero. Kuba urwo Rugereko rwarahaye ubwo buhamya agaciro gasumba ako rwahaye ubwa GPT utari kuri icyo kigo kandi watanze ubuhamya bushingiye ku maperereza yakozwe nyuma, ntibivuga ko rwakoze ikosa mu rwego rw'amategeko.

44. Kubera iyo mpamvu, hiseguriwe igitekerezo gitandukanye n'icy'abandi cy'Umucamanza Weinberg de Roca[88], Urugereko rw'Ubujurire rusanga Ujurira ataragaragaje ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu gukoresha ihame ryerekeranye n'umuburanyi ugomba gutanga ibimenyetso. Kubera iyo mpamvu, rwanze kwakira iyi mpamvu y'ubujurire.

V. IBIGENDERWAHO MU KUGENA AGACIRO K'IBIMENYETSO (IMPAMVU YA GATANU Y'UBUJURIRE)

45. Muri iyi mpamvu y'ubujurire, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko mu gukoresha ibigenderwaho mu kugena agaciro k'ibimenyetso. Ingingo ye ayigabanyamo ibice bitatu kugira ngo ayisobanure. Icya mbere, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze amakosa yerekeye

[85] Ni kimwe no haruguru, igika cya 472.
[86] Imyanzuro y'Ujurira, igika cya 90.
[87] Reba umutwe wa XI.K. aho icyo kibazo cyasuzumwe birambuye.
[88] Reba umutwe wa XVIII.

ibyo Ubwunganizi bwita «abatangabuhamya b'umwirondoro »[89]. Iki gice cy'impamvu ya gatanu y'ubujurire gisuzumwa mu mutwe wa XI. Icya kabiri, avuga ko Urugereko rwa Mbere rw'Iremezo rutasuzumiye ibimenyetso byose hamwe, cyane cyane ibyerekeye *alibi*, no kuba bitarashobokaga, nk'uko bivugwa, kujya i Gikomero uvuye i Kigali[90]. Izi ngingo zombi zirasuzumwa, uko zikurikirana, mu mutwe wa XI n'uwa IX y'uru rubanza mu bujurire. Icya gatatu, avuga ko Urugereko rwa Mbere rw'Iremezo rwakoresheje ibigenderwaho bitandukanye mu gusuzuma ukwizerwa kw'abatangabuhamya bashinja ku ruhande rumwe, n'ubw'abatangabuhamya bashinjura ku rundi ruhande. Iyi ngingo igiye guhita isuzumwa[91].

46. Ujurira yemeza ko igihe cyose rwabonaga utuntu duto tuvuguruzanya mu buhamya bw'abagabo bashinjura, Urugereko rwa Mbere rw'Iremezo rwavugaga kandi rukemeza ko abo bagabo batakwizerwa, nyamara rukemera ubuhamya bushinja niyo bwabaga burimo ingingo zivuguruzanya ku buryo budasubirwaho[92]. Urugereko rwibukuje ihame rivuga ko « kuba mu buhamya harimo ukwivuguruza, byonyine ntibihagije ngo Urugereko rwa Mbere rw'Iremezo rushyira mu gaciro, rwanzure ruvuga ko ubwo buhamya budashobora kwizerwa ngo bitume rutabwakira[93] ». Cyakora, kubera ko rwakoresheje gusa iri hame ku buhamya bushinja, ntirurikoreshe na rimwe ku buhamya bushinjura, rwaranyuranije n'ihame rivuga ko ababuranyi bagomba guhabwa uburyo bungana ndetse ruvutsa Ujurira uburenganzira bwe bwo kuburanishwa nta karengane[94]. Mu gushyigikira iyi ngingo, Ujurira avuga ahantu henshi Urugereko rwa Mbere rw'Iremezo rutazirikanye ukwivuguruza kwinshi kugaragara kuri mu buhamya bushinja[95]. Avuga na none ko Urugereko rwa Mbere rw'Iremezo rutemeye ubuhamya bushyigikira *alibi* rushingiye gusa k'ukwivuguruza rwasanze mu buhamya bwa ALS, ALF, ALR na ALB[96].

---

[89] Imyanzuro y'Ujurira, ibika 93-107.
[90] Ni kimwe no haruguru, ibika 108-114; Imyanzuro y'Usubiza, igika cya 29.
[91] Imyanzuro y'Ujurira, ibika 115-133.
[92] Ni kimwe no haruguru, igika cya 115.
[93] Urubanza mu rw'iremezo, igika cya 36, hasubirwamo ibivugwa mu rubanza rwa *Kupreškić na bagenzi be mu bujurire*, igika cya 31.
[94] Imyanzuro y'Ujurira, igika cya 117.
[95] Ni kimwe no haruguru, ibika 119-127.
[96] Ni kimwe no haruguru, ibika 130-131.

47. Urugereko rw'Ubujurire rugiye gusuzuma gusa amakosa yo mu rwego rw'amategeko avugwa n'Ujurira. Urugereko rw'Ubujurire rwibwira ko Ujurira avuga ko mu gusuzuma ukwizerwa kw'abatangabuhamya bashinja n'ukw'abashinjura, Urugereko rwa Mbere rw'Iremezo rwakoresheje ibigenderwaho bitandukanye. Avuga ko ibyo byamuvukije uburenganzira bwe bwo kuburanishwa nta karengane[97].

48. Urugereko rw'Ubujurire rusanga inshuro nyinshi Urugereko rwa Mbere rw'Iremezo rutaremeye ubuhamya bw'abagabo bashinja :

- Umutangabuhamya ushinja wiswe GAB avuga ko Ujurira yafashe ijambo mu nama MRND yakoresheje muri Segiteri ya Kayanga, akahavugira amagambo akurikira : «[…] Igisubizo cy'ibibazo babatera cyarabonetse, tuzakibagezaho vuba aha[98] ». Uyu mutangabuhamya avuga kandi ko hagati y'itariki ya 9 n'iya 11 Mata 1994, Ujurira yatanze intwaro muri Segiteri ya Kayanga[99]. Urugereko rwa Mbere rw'Iremezo rwasanze ubuhamya bwa GAB butakwizerwa cyane maze rwanzura ruvuga ko hatagaragajwe ko Ujurira yatanze intwaro muri Segiteri ya Kayanga[100].

- Umutangabuhamya ushinja wiswe GAC avuga ko hagati y'itariki ya 8 n'iya 12 Mata 1994, Ujurira yatanze intwaro mu kabari muri Segiteri ya Ntaruka, muri Komine ya Gikomero[101]. Urugereko rwa Mbere rw'Iremezo rwasanze ibyo GAC bishobora kuba bitarabaye maze ntirwabyemera. Rwanze rero kwanzura ruvuga ko Ujurira yatanze intwaro muri Segiteri ya Ntaruka[102].

- Ku byerekeye ubwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero, Urugereko rwa Mbere rw'Iremezo rwavuze ko rutashingiye ku buhamya budafite ubundi bubushyigikaira bwatanzwe n'umugabo wiswe GEI[103] kandi ko rwasanze rutakwizera ibyo umutangabuhamya wiswe GEM avuga ku isaha n'umubare w'impunzi[104].

- Ku byerekeye ibintu byebereye kuri Paruwasi gatolika ya Gishaka, Urugereko rwa Mbere rw'Iremezo rusanga hari « ukuvuguruzanya mu buhamya bw'abagabo[105] » kandi rusanga «Porokireri ataratangiye ibimenyetso ibyo ashinja Uregwa byerekeranye n'uruhare yaba yaragize mu bwicanyi bwakozwe hagati y'ayo matariki[106] ».

[97] Ni kimwe no haruguru, igika cya 117.
[98] Urubanza mu rw'iremezo, igika cya 275.
[99] Ni kimwe no haruguru, igika cya 276.
[100] Ni kimwe no haruguru, ibika 282-283.
[101] Ni kimwe no haruguru, igika 285.
[102] Ni kimwe no haruguru, ibika 287-288.
[103] Ni kimwe no haruguru, igika cya 457.
[104] Ni kimwe no haruguru, igika cya 459.
[105] Ni kimwe no haruguru, igika cya 565.
[106] Ni kimwe no haruguru, igika cya 567.

49. Kubyerekeye gukoresha, mu buryo bukarishye, ikigenderwaho mu gusuzuma ubuhamya bw'abagabo bashinjura, Urugereko rw'Ubujurire rusanga Ujurira ashingira gusa kw'isuzuma ry'ubuhamya abagabo bane yahamagaje mu gushyigikira *alibi.* Rusanga kandi Urugereko rwa Mbere rw'Iremezo rwaranze kwakira ubwo buhamya kubera ukuvugurunzanya kwabugaragayemwo. Kubera ko Urugereko rwa Mbere rw'Iremezo rwanze no kwakira ubuhamya bw'abagabo benshi bashinja, bitewe ahanini n'ihuzagurika ryabugaragayemo, Urugereko rw' Ubujurire rusanga Ujurira ataragaraza ko Urugereko rwa Mbere rw'Iremezo rwagiye ruhindura imitekerereze yarwo mu kugena agaciro ibimenyetso byahabwa. Igihe nikigera, mu gice cyabugenewe cy'uru rubanza, Urugereko rw'Ubujurire rurareba niba Urugereko rwa Mbere rw'Iremezo rwarakoze ikosa ku byabaye mu gusuzuma ukuvuguruzanya kwaba kwagaragaye mu buhamya bw'abagabo banyuranye[107].

50. Kubera izo mpamvu, iyi mpamvu y'ubujurire ntiyakiriwe.

VI. KUBA INGINGO Z'UBWUNGANIZI ZABA ZARAHINDUWE ZIKAVUGWA UKO ZITARI: AHO ABAGABYE IGITERO BATURUTSE (GUSUZUMA, KURI BIMWE, IMPAMVU YA KARINDWI Y'UBUJURIRE)

51. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwahinduye ingingo nyinshi z'ubwunganizi ruzivuga uko zitari kimwe n'ubuhamya abagabo bashinjura batanze mu Rukiko. Avuga ko ibyo byamuvukije uburenganzira afite bwo gucibwa urubanza nta karengane[108]. Mu gushyigikira ibyo avuga, atanga ingingo zifitanye akenshi isano n'amakosa yo mu rwego rw'ibyabaye yaba yarakozwe, kandi ari busuzumwe mu mitwe

[107] Nk'urugero, reba umutwe wa X (GEK), umutwe wa XI (Abatantangabuhamya bashinjura bashiyigikira *alibi* ; Abagabo bashinja, batanga ubuhamya k'ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero).
[108] Imyanzuro y'Ujurira, igika cya 150.

ikurikiraho y'uru rubanza[109]. Muri aka kanya, Urugereko rw' Ubujurire rurasuzuma gusa ibyo Ujurira avuga ashaka kugaragaza ko Urugereko rwa Mbere rw'Iremezo rwahinduye ibyo avuga ku hantu abagabye ibitero baturutse maze rukabivuga ukundi.

52. Ujurira avuga ko yagaragaje ko abantu bateye impunzi ku kigo cya Paruwasi ya Gikomero bari bavuye muri Rubungo kandi ko, buri gihe, Ubwunganizi bwakoresheje ijambo « abagabye igitero » bushaka kuvuga abantu baje mu mamodoka, ko ariko nta na rimwe bwigeze bushaka kuvuga abantu bari batuye muri ako gace bitabiriye icyo gitero[110]. Cyakora, avuga ko Urugereko rwa Mbere rw'Iremezo rwavuze ko rwumvise ubuhamya bugaragaza ko Abahutu bo muri ako gace bifatanyije n'abantu bari bagabye igitero[111]. Ujurira asanga ibyo bihindura ingingo ye bikayivuga uko itari[112] maze akemeza ko byagize ingaruka ku myanzuro ku byabaye yafashwe n'Urugereko rwa Mbere rw'Iremezo rwavuze ko, ku byerekeye uburyozwacyaha bw'Ujurira, kumenya aho abagabye igitero baturutse bidafite akamaro, kandi, mu by'ukuri, ari ikintu gikomeye kigaragaza ko nta jambo na rimwe Ujurira yari afite ku bantu bagabye ibitero[113].

53. Porokireri asubiza ko Urugereko rwa Mbere rw'Iremezo rutari rwiteguye na gato kwemera umwanzuro w'Ujurira. Yongeraho ko urwo Rugereko rwafashe imyanzuro ku byabaye ishyize mu gaciro yerekeranye n'uko Ujurira yari ahari igihe igitero cyagabwaga ku kigo cya paruwasi ya Gikomero[114].

54. Urugereko rw'Ubujurire rusanga Ujurira atarwanya incamake Urugereko rwa Mbere rw'Iremezo rwatanze ku byo avuga byerekeranye n'ahantu abagabye igitero baturutse. Ahubwo arwanya umwanzuro urwo Rugereko rwafashe kuri iyo ngingo. Uwo mwanzuro uteye utya :

> Urugereko rusanga nta kimenyetso na kimwe cyemeza ko abagabye ibitero baje bavuye muri Rubungo. Ruzirikana kandi ibyavuzwe n'umutangabuhamya wiswe

[109] Reba umutwe wa X.B.4 ku mwirondoro wa GEK; umutwe wa IX.D ku byerekeranye n'uko bitashobokaga, nk'uko bivugwa, kuva i Kigali ujya i Gikomero ; imitwe ya XI.C na XI.E ku ihindurwa ry' ubuhamya bw'abagabo bashyigikira *alibi* bukavugwa ukundi.
[110] Imyanzuro y'Ujurira, ibika 161-162.
[111] Ni kimwe no haruguru, igika cya 161.
[112] Ni kimwe no haruguru, igika cya 164.
[113] Ni kimwe no haruguru, ibika 163-164.
[114] Imyanzuro y'Ujurira mu bujurire, ibika 207-208.

> GEC ko Abahutu bo muri ako karere bifatanyije n'abaje mu modoka. Urukiko rwasuzumye ibimenyetso byose byatanzwe maze rwemeza ko, ku birebana n'uburyozwacyaha bw'Uregwa, iyi ngingo yatanzwe n'Ubwunganizi ntacyo yabumarira.[115]

55. Urugereko rw'Ubujurire rusanga Ujurira atarerekanye ko Urugereko rwa Mbere rw'Iremezo rwahinduye, rukavuga ukundi, ibivugwa n'Ubwunganizi bugamije kugaragaza ko abagabye igitero bari baturutse i Rubungo. Ahubwo, Urugereko rwa Mbere rw'Iremezo rwafashe gusa umwanzuro ku byabaye rushingiye ku bimenyetso rwashyikirijwe. Rwanavuze ko icyo kibazo nta kamaro gifite ku byerekeye n'uburyozwacyaha bw'Ujurira. Muri ibyo bintu byombi, Urugereko rwa Mbere rw'Iremezo ntirwahinduye ingingo z'Ujurira ngo ruzivuge ukundi, rwanze gusa kuzemera. Kubera iyo mpamvu, Urugereko rw'Ubujurire ntirwakiriye ingingo rwasuzumye muri uyu mutwe.

VII. IMIKIRIZE Y'URUBANZA (IMPAMVU YA MUNANI Y'UBUJURIRE)

56. Muri iyi mpamvu y'ubujurire, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko rumuhamya icyaha rushingiye ku ngingo ya 6.1 ya Sitati kandi we yumva adahamwa n'uburyo na bumwe bwo gukora icyaha buteganywa n'iyo ngingo. Avuga kandi ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rumuhamya icyaha cya jenoside n'icy'itsembatsemba, kandi hataragajwe bihagije ko yari yaritswemo n'umugambi wa ngombwa wo gukora ibyo byaha byombi[116].

---

[115] Urubanza, igika cya 67 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[116] Imyanzuro y'Ujurira, igika cya 177.

A. UBURYOZWACYAHA BW'UJURIRA HASHINGIWE KU NGINGO YA 6.1 YA SITATI

57. Rushingiye ku ruhare yagize mu bwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero, Urugereko rwa Mbere rw'Iremezo rwahamije Ujurira icyaha cya jenoside, n'icy'itsembatsemba kubera ibikora byinshi yakoze: 1) yahamagariye abandi bantu gukora ibyaha ashinjwa ; 2) yateye abantu inkunga anabashishikariza gukora ibyo byaha atanga intwaro kandi atwara abagabye igitero akabajyana ku kigo ; 3) yanategetse abagabye igitero kwica abantu bari bahungiye kuri icyo kigo. Ujurira avuga ko ibyo bimenyetso byatanzwe bidashyigikira iyo myanzuro[117].

1. Guhamagarira abandi bantu gukora ibyaha ashinjwa

58. Ujurira avuga ko umwanzuro w'Urugereko rwa Mbere rw'Iremezo wemeza ko yahamagariye abandi bantu gukora ibyaha ashinjwa, werekeranye n'uburyo bwo gukora icyaha « uhamagarira abandi kugikora ». Yemeza ko Porokireri atatanze ikimenyetso kigaragaza aho guhamagarira abantu gukora icyaha bihuriye no kuba icyo cyaha cyarakozwe. Asobanura ko abantu yaba yarahaye intwaro, nk'uko bivugwa, batari bahari mu gihe cy'ubwicanyi kandi ko hatagaragajwe ko izo ntwaro zakoreshejwe mu gukora ibyaha akurikiranweho[118].

59. Porokireri asubiza ko, kugira ngo bigaragazwe ko uregwa yahamagariye abandi bantu gukora icyaha giteganywa n'ingingo ya 6.1 ya Sitati, ibikorwa bye bigomba kuba byaragize uruhare runini mu ikorwa ry'icyaha aregwa, ariko si ngombwa ko ibyo bikorwa biba ari *kamara* kugira ngo icyo cyaha gitsotsobwe[119]. Porokireri avuga ko mu bantu bari mu nama yatangiwemo intwaro, harimo nibura umuntu umwe wari *Interahamwe*, kandi Ujurira yari azi ko *Interahamwe* zashoboraga guhamagarira abandi bantu kugaba ibitero ku Batutsi muri Komine ya Gikomero. Porokireri yongeraho ko

[117] Ni kimwe no haruguru, ibika 181-182.
[118] Ni kimwe no haruguru, ibika 183-184.
[119] Imyanzuro y'Ujurira, igika cya 248.

n'ubwo bamwe mu bantu batsotsobye ibyaha biregerwa batavuganye n'Ujurira, umuntu yaba ashyize mu gaciro yanzuye avuga ko abantu Ujurira yari yabihamagariye, mu buryo butaziguye, ari bo bashishikarije abo bandi kujya mu bwicanyi[120].

60. Kugira ngo rugire icyo ruvuga ku ishingiro y'ingingo Ujurira atanga mu guhakana ibyo aregwa, mbere na mbere Urugereko rw' Ubujurire rugomba kumenya niba imyanzuro Urugereko rwa Mbere rw'Iremezo rwafashe k'uguhamagarira abantu gukora icyaha, yari ishingiye ku myifatwarire ivugwa y'Ujurira mu gikorwa cyo gutanga intwaro, cyangwa niba iyo myanzuro yari ishingiye ku yindi myifatwarire ye. Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo rwatanze incamake ikurikira y'imyanzuro yarwo ku ruhare rw'Ujurira mu ubwicanyi bwabereye ku kigo cya paruwasi ya Gikomero :

> Rukurikije imyanzuro rwafashe haruguru ishingiye ku byabaye n'iyo mu rwego rw'amategeko, Urugereko rusanga Uregwa yaritabiriye ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero, muri Komine ya Gikomero, kubera ko yategetse *Interahamwe*, abasirikari n'abapolisi kwica Abatutsi. Yanakanguriye abandi bantu kwica, arabafasha kandi abashishikariza gukora icyo cyaha atanga imbunda akanayobora abagabye igitero ku kigo cya Paruwasi ya Gikomero.[121]

61. Urugereko rw'Ubujurire ruvuga ko urubanza mu rw'iremezo rudatuma umuntu amenya neza abantu barebwa n'ijambo «abandi» rikoreshwa n'Urugereko rwa Mbere rw'Iremezo mu mwanzuro uvuga ko Ujurira yategetse «Interahamwe, abasirikare n'abapolisi kwica Abatutsi ndetse agahamagarira n'abandi bantu kubikora »[122]. Umuntu ashobora gutekereza ko Urugereko rwa Mbere rw'Iremezo rwashakaga kuvuga abaturage bo muri ako gace bifatanyije n'abagabye igitero. Icyo gitekerezo gishobora gushyigikirwa n'ingingo igaragaza ko Ujurira yategekaga *Interahamwe*, abasirikare n'abapolisi ariko ntategeke abasiviri basanzwe b'indorerezi bifatanyije n'abagabye igitero.

Cyakora, rushingiye ku rubanza rwose mu rw'iremezo, Urugereko rw' Ubujurire rusanga nta bimenyetso bihagije bihari bishyigikira igitekerezo nk'icyo. Igika cya 648 cyavuzwe

[120] Ni kimwe no haruguru, ibika 250-251.
[121] Urubanza , igika cya 648
[122] Ni kimwe no haruguru.

haruguru kirimo gusa imyanzuro y'Urugereko rwa Mbere rw'Iremezo. Ibyabaye bishyigikira iyo myanzuro biri mu gika cya 505 cy'urubanza. Rumaze gusuzuma ibimenyetso byatanzwe ku gitero cyagabwe ku kigo cya Paruwasi ya Gikomero, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko Ujurira yageze kuri icyo kigo ari kumwe n'*Interahamwe*, abasirikari, abapolisi ndetse n'abaturage bari batuye muri ako gace, kandi ko yatangije igitero, agategeka abakirimo gutangira ubwicanyi[123].

Mu myanzuro yarwo ku byabaye, Urugereko rwa Mbere rw'Iremezo ntirutandukanya abantu bazanye n'Ujurira n'abaturage bari batuye muri ako gace. Urugereko ruvuga gusa ko Ujurira yategetse ko «batangira gutera». Byongeye kandi, Urugereko rwa Mbere rw'Iremezo ntiruvuga ko Ujurira yari akuriye, mu buryo buzwi, abantu bagabye igitero[124], ruvuga gusa ko Ujurira yari «afite ijambo muri Komine ya Gikomero»[125] .

Ibyo biragaragaraza ko Urugereko rwa Mbere rw'Iremezo rudatandukanya abagabye igitero bari bakuriwe n'Ujurira, mu buryo buzwi, n'abandi bantu bari muri icyo gitero. Mu gusoza kuri iyi ngingo, Urugereko rw'Ubujurire rusanga imyanzuro y'Urugereko rwa Mbere rw'Iremezo idashingiye ku itandukanyirizo riri hagati yo "kuba", ku ruhande rumwe, Ujurira «yarategetse» *Interahamwe*, abasirikare, n'abapolisi kugaba igitero, no "kuba", ku rundi ruhande, «yarahamagariye » abandi bantu bagabye igitero gukora icyo cyaha.

62. Porokireri avuga ko kuba Ujurira yarahamwe n'icyaha ku kirego cyo guhamagarira abantu gukora icyaha, bishingiye ku myitwarire ye ya mbere y'ibyabaye ku itariki ya 12 Mata 1994[126]. Urugereko rw' Ubujurire rusanga mu gika cya 273, Urugereko rwa Mbere rw'Iremezo rwaranzuye ruvuga ko « hagati y'itariki ya 6 n'iya 10 Mata 1994 mu rugo rw'umwe muri abo babyara be i Gikomero, habereye inama yitabiriwe n'Uregwa, babiri muri babyara be, *Interahamwe* imwe n'umuturanyi ». Rwafashe na none umwanzuro ukurikira :

[123] Urubanza, igika cya 505.
[124] Ni kimwe no haruguru, igika cya 641.
[125] Ni kimwe no haruguru, igika cya 73.
[126] Imyanzuro y'Usubiza, ibika 249-253.

> […..] Rusanga muri iyo nama Uregwa yarabwiye abari bayirimo ko ubwicanyi butaratangira muri Komine ya Gikomero, ko "abagombaga kubafasha kubutangiza barongoye Abatutsikazi". Uregwa yabwiye abari muri iyo nama ko azabazanira "ibikoresho" kugira ngo batangire, ko kandi abagore babo nibaramuka bababereye imbogamizi ari bo bagomba kwikiza mbere. Uregwa akiri muri urwo rugo, yahise aha Kamanzi gerenade enye n'imbunda imwe. Nyuma y'iyo nama yabereye mu nzu, abari bayirimo bagiye kwa mubyara w'Uregwa witwa Karekezi, wari utuye hafi aho. Bakiriyo, Uregwa yahabahereye amagerenade n'imipanga byo gukoresha ubwabo, abaha n'izindi ntwaro bagombaga guha abandi bantu. Uregwa yabasabye gutanga izo ntwaro kandi ababwira ko azagaruka kubafasha. Yanavuze ko azagaruka kureba niba baratangiye ubwicanyi cyangwa kubafasha kubutangiza. Nyuma y'ibyo, Uregwa yaragiye kandi uwo munsi ntiyagarutse[127].

63. Urugereko rwa Mbere rw'Iremezo ntiruvuga niba rutekereza cyangwa rudatekereza ko ijambo «abandi» rivuga abantu bari mu nama yabereye mu rugo kwa mubyara w' Ujurira. Byongeye kandi, ntirukomoza ku buhamya, ubwo ari bwo bwose, buvuga umwirondoro w'abantu iryo jambo rishaka kuvuga. Urugereko rw'Ubujurire rusanga mu rw'iremezo nta kimenyetso na kimwe cyatanzwe k'umwirondoro w'abo bantu biswe «abandi».

64. Porokireri avuga ko, hashyize mu gaciro, nta wundi mwanzuro wari gufatwa uretse uwo uvuga ko abakoze ubwicanyi babishishikarijwe n'abantu bari muri nama yabereye mu rugo kwa mubyara w'Ujurira, n'ubwo aba bantu batari bahari igihe igitero cyagabwaga. Cyakora, ibi ni ugukeka kuko bidashingiye ku kimenyetso na kimwe cyatanzwe muri uru rubanza. Mu gushyigikira ibyo avuga, Porokireri ashingira ku mwanzuro w'Urugereko rwa Mbere rw'Iremezo wemeza ko Ujurira yari afite « umwanya w'ubutegetsi kandi ko yari afite ijambo muri Komine ya Gikomero »[128].

65. Mbere na mbere, Urugereko rw'Ubujurire ruvuga ko, n'ubwo muri icyo gika cyavuzwe, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko koko Ujurira yari afite «ijambo muri Komine ya Gikomero»,[129] ibyo byonyine bidahagije ngo Ujurira ahamwe n'icyaha cyo guhamagarira abandi bantu gukora ibyaha akurikiranweho. Icya kabiri, iyi mitekerereze ntiyaba ihuye n'icyemezo Urugereko rwa Mbere rw'Iremezo rwafashe

[127] Urubanza mu rw'iremezo, igika cya 273.
[128] Imyanzuro y'Usubiza, igika cya 251, reba Urubanza mu rw'iremezo, igika cya 73.
[129] Urubanza, igika 73.

kivuga ko bishoboka ko abagabye igitero baturutse i Rubungo[130] aho guturuka i Gikomero. Kubera iyo mpamvu, Urugereko rw'Ubujurire rusanga kuba Ujurira yari umuntu ufite ijambo mu baturage ba Gikomero atari ikintu cy'ingenzi ku byerekeye ibivugwa ko inama yabereye kwa mubyara we ifite aho ihuriye n'igitero cyagabwe ku kigo cya paruwasi ya Gikomero.

66. Muri make, Urugereko rw'Ubujurire rusanga umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko Ujurira yahamagariye abantu bagabye igitero kwica Abatutsi, ugashyigikirwa n'ibimenyetso byatanzwe muri uru rubanza.

2. Gufasha no gushishikaza abantu

67. Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko Ujurira yateye abandi bantu inkunda, anabashishikariza gukora ibyaha ashinjwa kuko yatanze intwaro, «akajyana abagabye igitero ku kigo cya Paruwasi ya Gikomero». Ujurira arwanya umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko yatanze intwaro mbere y'igitero maze akavuga ko nta kigaragaza ko ari we wayoboye icyo gitero[131].

68. Hiseguriwe igitekerezo gitandukanye n'icy'abandi cy'Umucamanza Schomburg, Urugereko rw'Ubujurire rwemeranya n'Ujurira ko ibimenyetso byatanzwe bitatuma umuntu yanzura avuga ko itangwa ry'intwaro hari aho rihuriye n'igitero cyagabwe nyuma yahoo ku kigo cya Paruwasi ya Gikomero. Ntihanagaragajwe ko abantu bari mu nama yabereye kwa mubyara w'Ujurira bagiye muri icyo gitero. Byongeye kandi, ntihanagaragajwe ko intwaro yatanze zaba zakoreshejwe muri icyo gitero. Urugereko rw'Ubujurire rurongera kwibutsa ko Urugereko rwa Mbere rw'Iremezo rwavuze ko bishoboka ko abagabye igitero baba baravuye ahandi hantu hatari muri Gikomero[132].

69. Mu gika cya 648 cy'urubanza, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko Ujurira yateye abantu inkunga akanabashishikariza gukora ibyaha akurikiranyweho

[130] Ni kimwe no haruguru, igika cya 67.
[131] Imyanzuro y'Ujurira, igika cya 185.
[132] Urubanza mu rw'iremezo, igika cya 67.

«kuko yajyanye abagabye igitero ku kigo cya Paruwasi ya Gikomero »[133]. Uwo mwanzuro ushobora kumvikana nk'aho uvuga ko Urugereko rwa Mbere rw'Iremezo rwahamije Ujurira icyaha cyo kuba yarateye inkunga abagabye igitero, akanabashishikaza kubera ko yabajyanye ku kigo cya Paruwasi ya Gikomero. Cyakora, urwo Rugereko ntiruvuga ikimenyetso na kimwe kigaragaza ko Ujurira yagize uruhare nk'urwo. Mu by'ukuri, mu bimenyetso byose ruvuga, igishobora gusa n'igishyigikira uwo mwanzuro wa rwo ni ubuhamya buvuga gusa ko Ujurira yageze ku kigo cya Paruwasi ya Gikomero, kandi ko yari yicaye imbere iruhande rw'umushoferi muri imwe mu mamodoka yaje aho hantu[134]. Ubwo ubuhamya ntibugaragaza ko Ujurira «yajyanye» abagabye igitero ahantu habereye ubwicanyi. Byongeye kandi, undi mutangabuhamya ushinja avuga ko Ujurira yavuye mu modoka ya kabiri mu mamodoka yageze kuri icyo kigo ashoreranye, kandi ko atari mu modoka yari imbere y'izindi[135].

70. Biragaragara rero ko Urugereko rwa Mbere rw'Iremezo rwakoresheje ijambo «kujyana» muri rusange, nk'uko rwabikoze mu gika cya 505 cy'urubanza: «yabajyanye ku kigo cya Paruwasi ya Gikomero, ngo bagabe igitero»[136]. Uwo mwanzuro ushyigikiwe n'imitekerereze y'Urugereko rwa Mbere rw'Iremezo ivuga ko Ujurira «yari afite umwanya w'ubuyobozi, umugereranyije n'abagabye igitero bitwaje intwaro kubera ko baje ku kigo cya Paruwasi ya Gikomero abayoboye. Byongeye kandi, ni na we wabahaye itegeko ryo gutera»[137]. Urugereko rw'Ubujurire ruvuga ko Urugereko rwa Mbere rw'Iremezo rufata umwanzuro warwo, uvuga ko Ujurira yajyanye abagabye igitero ku kigo, nk'imwe mu ngingo zishyigikira undi mwanzuro rwafashe uvuga ko [Ujurira] ari we koko wayoboye igitero, bityo akaba yarateye abantu inkunga, akanabashishikariza gukora ibyaha akurikiranyweho.

71. Urugereko rwa Mbere rw'Iremezo rurondora imyanzuro myinshi ku byabaye rwashingiyeho mu gufata umwanzuro uvuga ko Ujurira yateye inkunga abagabye igitero,

[133] Mu nyandiko y'umwimerere ntibiri muri itariki.
[134] Reba Urubanza mu rw'iremezo, ibika 300-501.
[135] Ni kimwe no haruguru, igika cya 320.
[136] Mu nyandiko y'umwimerere ntibiri muri itariki.
[137] Urubanza mu rw'iremezo, igika cya 504.

akanabashishikariza gukora ibyaha aregwa, kubera ko yayoboye abo bantu. Iyo myanzuro iteye itya:

- Mu nama yabereye kwa mubyara we i Gikomero, mbere y'ubwicanyi, Ujurira yafashe ijambo imbere y'abantu bari aho, abahamagarira gutangira kwica Abatutsi, ndetse abaha n'intwaro[138].
- Ujurira yageze ku kigo cya Paruwasi ya Gikomero, ari kumwe n'abantu bitwaje intwaro[139].
- Ujurira yategetse abantu bari bitwaje intwaro «gukora». Abo bantu bumvise ko abategetse gutangira ubwicanyi[140].
- Augustin Bucundura yarashwe n'umuntu witwaje intwaro, wari wageze ku kigo cya Paruwasi ya Gikomero[141] ari kumwe n'Ujurira, kandi ibyo byabaye Ujurira agihari.
- Ujurira yari afite umwanya w'ubuyobozi, umugereranyije n'abantu bari bagabye igitero[142].
- Ujurira yajyanye abagabye igitero ku kigo cya Paruwasi ya Gikomero, kandi yabategetse gutera[143].

72. Byashimangiwe ko hatagaragajwe ko abantu bari mu nama yabereye kwa mubyara w'Ujurira bafite aho bahuriye n'abagabye igitero. Kubera iyo mpamvu, Urugereko ntirwitaye ku wa mbere muri iyi myanzuro yafashwe. Icyakora, n'ubwo rwazirikanye gusa imyanzuro itanu isigaye, Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro, ashobora kwanzura avuga ko, kubera imyitwarire ye ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, Ujurira yateye abandi bantu inkunga kandi abashishikariza gukora ibyaha akurikiranyweho. Kubera iyo mpamvu, umwanzuro ukosamye wafashwe n'Urugereko rwa Mbere rw'Iremezo uvuga ko Ujurira yateye inkunga akanashishikariza abandi bantu gukora ibyaha aregwa aha abantu bamwe intwaro, ntiwatuma havugwa ko urubanza rwaciwe nabi.

---

138 Ni kimwe no haruguru, igika cya 637.
139 Ni kimwe no haruguru, igika cya 638.
140 Urubanza mu rw'iremezo, igika cya 639.
141 Ni kimwe no haruguru, igika cya 640.
142 Ni kimwe no haruguru, igika cya 641.
143 Ni kimwe no haruguru, igika cya 643.

3. Gutegeka abantu gukora [icyaha]

73. Ujurira avuga ko hatagaragajwe ko yategekaga abantu bagabye igitero[144]. Avuga umwanzuro wafashwe n'Urugereko rwa Mbere rw'Iremezo wemeza ko hatatanzwe ikimenyetso na kimwe gifatika kigaragaza ko yari afite aho ahuriye n'abagabye igitero. Yongeraho ko Urugereko rwa Mbere rw'Iremezo rwasanze adahamwa n'icyaha hashingiwe ku ngingo ya 6.3 ya Sitati. Yemeza ko hakurikijwe uwo mwanzuro, Urugereko rutagombaga kumuhamya icyaha cyo gutegeka abantu gukora ibyaha hashingiwe ku ngingo ya 6.1 ya Sitati[145]. Byongeye kandi, yemeza ko kuba gusa yarageze aho hantu ari kumwe n'abagabye igitero, atari ikimenyetso kiziguye kigaragaza ko yari abafiteho ijambo. Ku byerekeye itegeko yaba yaratanze, Ujurira avuga ko yerekanye ko abenshi mu batangabuhamya batigeze na rimwe bavuga ko itegeko nk'iryo ryatanzwe, ndetse ko n'ubuhamya bw'abagabo bakomoje kuri iryo tegeko butakwizerwa[146]. Yongeraho ko mu rw'iremezo yerekanye ko abantu bagabye igitero baturutse i Rubungo, ndetse ko Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko yari afite ijambo muri Gikomero gusa. Avuga ko asanga ibyo bigaragaza ko nta jambo na rimwe yari afite ku bantu bagabye igitero[147].

74. Porokireri asubiza avuga ko hari ibimenyetso bihagije bishyigikira umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko Ujurira yategetse abantu "gukora", kandi ko n'ubwo nta bimenyetso byerekana, nta gushidikanya, ko yategekaga abo bantu, umuntu yakwemeza ko yabategekaga kubera ko itegeko rye ryubahirijwe[148]. Porokireri yongeraho ko Ujurira yari afite umwanya w'ubutegetsi watumaga agira ijambo ku baturage ba Gikomero kandi ko yari umukozi wa Leta uzwi na bose, ndetse ko kuba yari kuri Paruwasi ya Gikomero byonyine bishobora kuba byarabaye ikimenyetso cyo gushishikaza abagabye igitero[149].

---

[144] Imyanzuro y'Ujurira, igika cya 186
[145] Ni kimwe no haruguru, ibika 188, 189
[146] Ni kimwe no haruguru, igika cya 192.
[147] Ni kimwe no haruguru, ibika 204- 210.
[148] Imyanzuro y'Usubiza mu bujurire, ibika 259, 260.
[149] Ni kimwe no haruguru, igika cya 261.

75. Urugereko rw'Ubujurire rusanga uburyozwacyaha bw'umuntu ukuriye abandi buteganywa n'ingingo ya 6.3 ya Sitati ari uburyo bw'uburyozwacyaha butandukanye n'ubw'umuntu aryozwa ku giti cye kubera gutegeka abandi bantu gukora icyaha giteganwa n'ingingo ya 6.1 ya Sitati. Uburyozwacyaha bw'umuntu ukuriye abandi buteganywa n'ingingo ya 6.2 busaba ko uregwa "aba agenzura nyabyo", abantu akuriye, ku buryo ashobora kubabuza gukora ibyaha, cyangwa akabahana bamaze kubikora[150]. Cyakora, kugira ngo uregwa aryozwe icyaha nk'umuntu ukuriye abandi hashingiwe ku ngingo ya 6.1 ya Sitati kubera ko yatanze itegeko ryo gukora icyaha, iyo yari afite ijambo kuri gatozi w'icyaha biba bihagije[151] kandi itegeko rye rikaba ryaratumye, mu buryo butaziguye kandi bufatika, icyaha gikorwa[152]. Mu rubanza rwa Semanza mu bujurire, Urugereko rw'Ubujurire rwavuze ruvuga, mu magambo yumvikana, ko atari ngombwa gutanga ikimenyetso kigaragaza ko umuntu yari akuriye abandi mu buryo buzwi[153].

76. Si ngombwa ko itegeko ritangwa mu nyandiko cyangwa mu bundi buryo bwihariye. Kuba ryatanzwe bishobora kugaragazwa n'ibimenyetso biziguye[154]. Nk'uko Urugereko rw'Ubujurire ruza kubyerekana hasi, Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro rufata umwanzuro ku byabaye uvuga ko Ujurira yategetse ko ubwicanyi butangira kandi ko itegeko rye ryubahirijwe[155]. Urugereko rw'Ubujurire ruvuga ko, kubera ko itegeko ryo gutangira ubwicanyi ryahise ryubahirizwa n'abagabye igitero, umucamanza usuzuma ibyabaye ushyira mu gaciro afite ishingiro mu kwanzura avuga ko uregwa yagize uruhare runini kandi rutaziguye mu ikorwa ry'icyaha, kandi ko Ujurira yari afite ijambo ku bantu bagabye igitero, hatitawe ku hantu baturutse. Kubera izo mpamvu, iki gice cy'impamvu y'ubujurire ntigifite ishingiro, bityo kikaba kitakiriwe n'Urugereko rw'Ubujurire.

---

[150] Urubanza rwa Bagilishema mu bujurire, igika cya 50.
[151] Urubanza rwa Semanza mu bujurire, igikacya 361; Reba n'urubanza rwa Kordić na Čerkez mu bujurire, igika cya 28 (aho umuntu yasanga ibiteganywa n'ingingo ya 7 1) ya Sitati ya TPIY isa n'iyi)
[152] Urubanza rwa Kayishema na Ruzindana mu bujurire, igika cya 186.
[153] Urubanza rwa Semanza mu bujurire, igika cya 361.
[154] Urubanza rwa Kordić na Čerkez mu rw'iremezo, igika cya 388.
[155] Reba igika XI.K.4.c.

4. Ibyemezo bihamya Ujurira ibyaha ku byerekeye gutegeka abantu, kubatera inkunga no kubashishikariza gukora ibyaha aregwa.

77. Mu guhamya Ujurira icyaha cyo gutera abantu inkunga, kubashishikariza no kubategeka gukora ibyaha akurikiranyweho, Urugereko rwa Mbere rw'Iremezo rwashingiye ku myanzuro rwafashe mu rwego rw'ibyabaye. Ubwo buryo bubiri bwo gukora icyaha bugize uburyo butandukanye bw'uburyozwacyaha. Ariko muri uru rubanza, ubwo buryo bwombi bushingiye ahanini ku bintu byinshi bimwe byabaye: igihe igitero cyagabwaga, Ujurira "yayoboye" abantu bari bakigabye, anabategeka gutangira ubwicanyi. Ku byerekeye ibikorwa bivugwa muri uru rubanza, no kubera ko mu kureba niba yarafashije, akanashishikariza abantu gukora ibyaha akurikiranyweho, Urugereko rwa Mbere rw'Iremezo rutazirikanye imyanzuro yemeza ko Ujurira yatanze intwaro, Urugereko rw'Ubujurire, rusanga ingingo zisigaye zidahagije ngo rwemeze icyemezo cyafashwe mu rw'iremezo cyo guhamya Ujurira icyaha ku bikorwa byo gutera abantu inkunga no kubashishikariza gukora icyaha. Kuri iki kibazo, uburyozwacyaha bw'Ujurira kubera gutegeka abantu gukora ibyaha akurikiranyweho bujyanye byuzuye n'imyitwarire ye mibisha ku kigo cya Paruwasi ya Gikomero[156].

B. <u>JENOSIDE</u>

78. Ujurira avuga ko hatatanzwe ibimenyetso bigaragaraza umugambi yitirirwa wo gushaka kurimbura Abatutsi bose cyangwa igice cyabo[157]. Yongeraho ko umwanzuro w'Urugereko rwa Mbere rw'Iremezo ushingiye ku bimenyetso biziguye, bitakwizerwa cyane[158]. By'umwihariko, anenga umwanzuro w'urwo Rugereko uvuga ko urebye uburyozwacyaha bwe, kumenya aho abagabye igitero baturutse nta kamaro kanini

---

[156] Reba urubanza rwa Semanza mu bujurire, ibika 353, 364, icyemezo (aho ibyemezo bihamya Ujurira ibyaha byafashwe n'Urugereko rwa Mbere rw'Iremezo kubera ko yateye abantu inkunga, akanabashishikariza gukora icyaha cy'itsembatsemba n'icyo kuba icyitso cy'abakoze jenoside, byakuweho mu bujurire, cyangwa aho Urugereko rw'Ubujurire rwamuhamije icyaha cyo kuba yarategetse abantu gukora itsembatsemba na jenoside (gutegeka) kubera ibyo bikorwa)

[157] Imyanzuro y'Ujurira, igika cya 94.

[158] Ni kimwe no haruguru, ibika 196-201.

bifite[159]. Akomeza kuvuga ko abagabye igitero batarurutse muri Gikomero, ko ahubwo baturutse muri Komine bituranye ya Rubungo. Yongeraho ko Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko muri Komine ya Gikomero ari ho honyinye yari afite ijambo[160].

79. Mu nteruro yiswe "umugambi wo kurimbura Abatutsi bose cyangwa igice cyabo", Urugereko rwa Mbere rw'Iremezo rwashingiye ku myanzuro rwagiye rufata ari yo ikurikira:

- Ujurira yabwiye ijambo abantu bari mu nama yabereye kwa mubyara we i Gikomero mbere y'ubwicanyi, abahamagarira gutangira kwica Abatutsi, abaha n'intwaro[161].

- Ujurira yageze ku kigo cya Paruwasi ya Gikomero ari kumwe n'abantu bitwaje intwaro[162].

- Ujurira yategetse abantu bitwaje intwaro yari yazanye kuri paruwasi arababwira ngo "bakore". Abo bantu bumvise ko atanze itegeko ryo gutangira kwica impunzi z'Abatutsi[163].

- Mu gihe Ujurira yari akiri ku kigo cya Paruwasi ya Gikomero[164], Augustin Bucundura yicishijwe isasu n'umuntu witwaje intwaro wazanye n'Ujurira.

- Abari bagabye igitero bafataga ujurira nk'umuyobozi[165].

[159] Ni kimwe no haruguru, igika cya 204.
[160] Ni kimwe no haruguru, ibika 205-210.
[161] Urubanza mu rw'iremezo, igika cya 637.
[162] Ni kimwe no haruguru, igika cya 638.
[163] Ni kimwe no haruguru. igika cya 639.
[164] Ni kimwe no haruguru, igika cya 640.
[165] Ni kimwe no haruguru, igika cya 641.

- Ujurira yajyanye abagabye igitero ku kigo cya Paruwasi ya Gikomero, ndetse ubwe atangiza igitero [166].

- Abo bantu bagabye igitero bishe Abatutsi benshi[167].

80. Urugereko rw'Ubujurire rusanga ko kuba Ujurira yaratanze itegeko ryo gutera impunzi ku kigo cya Paruwasi ya Gikomero, bityo agatangiza ubwicanyi bwahitanye impunzi nyinshi z'Abatutsi, byonyine byatuma umucamanza usuzuma ibyabaye ushyira mu gaciro yanzura avuga ko [Ujurira] yari yaritswemo n'umugambi wo gukora jenoside.

81. Byongeye kandi, Urugereko rw'Ubujurire ruributsa ko GEK, Urugereko rwa Mbere rw'Iremezo rwasanze "yakwizerwa cyane"[168], yatanze ubuhamya mu Rukiko kuri iyo nama yabereye kwa mubyara w'Ujurira i Gikomero hagati y'itariki ya 6 n'iya 10 Mata 1994:

> [Muri] iyo nama, Uregwa yabwiye abantu bari aho ubwicanyi butaratangira muri Komine ya Gikomero, kandi ko "abagombaga kubafasha kubutangiza barongoye Abatutsikazi". Yabwiye [kandi] abari aho ko azabazanira "ibikoresho" kugira ngo batangire, ko niba abagore babo ari bo bababereye imbogamizi, bagomba kubanza bakabikiza[169].

82. Urugereko rw'Ubujurire rusanga aya magambo y'Ujurira ari ikimenyetso kitaziguye cy'umugambi yari afite wo gukora jenoside. Kuba hatagaragajwe ko abantu bari muri iyo nama nabo bitabiriye cyangwa batitabiriye icyo gitero ntacyo kamaro kanini bifite kuko hagaragajwe ko hasigaye iminsi mike ngo ubwicanyi butangire, Ujurira yari yaritswemo n'umugambi wo kurimbura Abatutsi bose cyangwa igice cyabo. Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro mu kwanzura ruvuga ko atanga itegeko ryo kugaba igitero ku itariki ya 12 Mata 1994, [Ujurira] na we yari yaritswemo n'uwo mugambi. Kubera izo mpamvu, Urugereko rw'Ubujurire rwanzuye ruvuga ko nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze rwemeza ko Ujurira na we yari afite umugambi wihariye

---

[166] Ni kimwe no haruguru, igika cya 643.
[167] Ni kimwe no haruguru, igika cya 644.
[168] Ni kimwe no haruguru, igika cya 272.
[169] Urubanza mu rw'iremezo, igika cya 273. Reba urubanza mu rw'iremezo igika cya 253, hasubirwamo ibiri mu nyandikomvugo y'iburanisha yo ku itariki ya 3 Nzeri 2001, imp. 170,171.

wo kurimbura ubwoko bw'Abatutsi, kubera ko yatanze itegeko ryatumye hapfa impunzi nyinshi z'Abatutsi.

C. ITSEMBATSEMBA

83. Ujurira avuga ko hatatanzwe ibimenyetso bigaragaza ko hari ibintu bigize cy'itsembatsemba nk'icyaha cyibasiye inyokomuntu[170]. Arwanya umwanzuro wafashwe w'Urugereko rwa Mbere rw'Iremezo uvuga ko igitero cyagabwe ku kigo cya Paruwasi ya Gikomero cyari mu rwego rw'igitero rusange cyangwa kiri kuri gahunda, cyibasiye abaturage b'Abatutsi, maze akemeza ko bidahagije kuvuga ko icyaha cyakorewe Umututsi hagati ya Mata na Nyakanga 1994 mu Rwanda ari icyaha cyibasiye inyokomuntu[171]. Avuga kandi ko Urugereko rwa Mbere rw'Iremezo rutagaragaje ko yari [Ujurira] azi urwego rusange icyo gitero cyagabwemo[172].

84. Porokireri asubiza ko ingano y'igitero cyagabwe ku kigo cya Paruwasi ya Gikomero yonyine ihagije kugira ngo icyo gitero cyuzuze ibisabwa ngo cyitwe ko cyari rusange maze icyaha kiregerwa kibe kigaragajwe. Yongeraho ko isano iri hagati y'ibitero byagabwe muri perefegitura yose no mu gihugu cyose ku ruhande rumwe, n'igitero cyagabwe ku kigo cya Paruwasi ya Gikomero ku rundi ruhande, "idashidikanywaho na gato"[173]. Ku byerekeye umugambi mubisha w'Ujurira, Porokireri avuga ko ubuhamya bwa GEK mu Rukiko bugaragaza ko Ujurira yari azi ibikorwa rusange byibasiye Abatutsi ndetse akanashishikariza abandi bantu kubikora[174].

85. Urugereko rw'Ubujurire ruvuga ko Ujurira atarwanya igisobanuro Urugereko rwa Mbere rw'Iremezo rwatanze kuri icyo cyaha, ko ahubwo ashaka kuvuga ko imyanzuro urwo Rugereko rwafashe ku byabaye irimo ikosa ku buryo rutagombaga kuyishingiraho ngo rumuhamye icyaha aregwa cy'itsembatsemba, nk'icyaha cyibasiye inyokomuntu.

---

[170] Imyanzuro y'Ujurira, igika cya 273.
[171] Ni kimwe no haruguru, ibika 216-219
[172] Ni kimwe no haruguru, ibika 224- 227.
[173] Imyanzuro y'Usubiza mu bujurire, igika cya 273.
[174] Ni kimwe no haruguru, igika cya 274.

86. Mu rw'iremezo, Ujurira yemeye ko "hagati y'itariki ya 1 Mutarama n'iya 17 Nyakaga 1994, mu Rwanda hose hari ibitero rusange cyangwa biri kuri gahunda byibasiye abaturage, bigamije by'umwihariko gutsembatsemba Abatutsi"[175]. Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko Ujurira yageze ku kigo cya Paruwasi ya Gikomero ari kumwe n'abasirikare, abapolisi n'*Interahamwe* zitwaje intwaro, kandi ko yatanze itegeko ryo kugaba igitero, maze agatuma impunzi nyinshi z'Abatutsi zicwa[176]. Rushingiye kuri ibyo bintu, Urugereko rw'Ubujurire rusanga Ujurira nta shingiro afite mu byo avuga ashaka kumvikanisha ko hatagaragajwe isano iri hagati y'ibitero byagabwe ku Batutsi mu Rwanda muri rusange, n'igitero cyihariye cyibasiye Abatutsi bari bahungiye ku kigo cya Paruwasi ya Gikomero.

87. Ku byerekeye umugambi mubisha Ujurira yari afite, Urugereko rw'Ubujurire rusanga amagambo yavuze nk'uko asubirwamo na GEK[177], yerekana ko yari azi iby'igitero rusange cyibasiye abaturage b'Abatutsi. Ujurira yatonganyije abantu bari mu nama, ababwira ko "ubwicanyi butari bwatangira muri Komine ya Gikomero"[178]. Byongeye kandi, Urugereko rw'Ubujurire ruributsa ko:

> Mu manza nshinjabyaha, ibintu bitaziguye bigaragaza umugambi mubisha akenshi bikunze kuba bike cyane kubera impamvu zumvikana. Kugira ngo bitabuza uwakoze icyaha guhanwa hitajwe gusa ko uwo mugambi utagaragara, ubusanzwe umugambi wa ngombwa ushobora kugaragarira mu bikorwa bijyanye n'icyo cyaha n'uko ibintu biteye[179].

Hashingiwe ku buryo icyo gitero cyagabwe n'abasirikare, abapolisi n'*Interahamwe* zitwaje intwaro[180], Urugereko rwa Mbere rw'Iremezo rwari rufite ishingiro mu kwanzura ruvuga ko Uregwa yari azi ko atari igikorwa kidafite aho gihuriye n'ibindi, ko ahubwo ari igikorwa kibisha gikozwe mu rwego rw'igitero rusange kandi kiri kuri gahunda, cyibasiye abaturage b'Abatutsi.

---

[175] Reba urubanza mu rw'iremezo, igika cya 498 havugwa ku biri mu Gisubizo cy'Ubwunganizi ku Cyifuzo Porokireri yatanze ku itariki ya 24 Mata 2001,asaba ko hakwemerwa ibikorwa bivugwa mu nyandiko yahawe Nomero 89.
[176] Urubanza mu rw'iremezo, igika cya 505.
[177] Reba umutwe wa X.
[178] Urubanza mu rw'iremezo, igika cya 273.
[179] Ikiza ry'urubanza rwa Kayishema na Ruzindana mu bujurire.
[180] Ikiza ry'urubanza,igika cya 505.

D. UMWANZURO

88. Urugereko rwa mbere rw'ubujurire rwanzura ruvuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ubwo rwemezaga ko Ujurira aryozwa icyaha ku giti cye rushingiye ku ngingo ya 6.1 ya Sitati, kubera ko yahamagariye abandi bantu gukora ibyaha akurikiranyweho. Cyakora, Urugereko rw'Ubujurire rusanga nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze ubwo rwemezaga ko Ujurira aryozwa icyaha ku giti cye kubera ko yategetse abantu gukora ibyo byaha. Nk'uko byasobanuwe haruguru, n'ubwo umwanzuro wemeza uburyozwaha bw'Ujurira ku giti cye ku kirego cyo gutega inkunga no gushishikariza abantu gukora ibyaha ushyigikiwe n'imyanzuro ku byabaye yafashwe n'Urugereko rwa Mbere rw'Iremezo, Urugereko rw'Ubujurire, uretse Umucamanza Shahabuddeen utanga igitekerezo gitandukanye n'icy'abandi, rusanga hagomba kwemezwa gusa umwanzuro werekeye uburyozwacyaha bw'Ujurira ku giti cye kubera ko yategetse abandi bantu gukora ibyaha akurikiranyweho. Kubera ko ingingo z'Ujurira zirebana n'ibyemezo byo kumuhamya icyaha cya jenoside n'icy'itsembatsemba nta shingiro zifite, ibice by'impamvu z'ubujurire bwe zijyanye n'izo ngingo ntibyakiriwe.

VIII. AMAKOSA YABA YARABAYE MW'IGENAGACIRO KU BUHAMYA BW'UJURIRA (GUSUZUMA IMPAMVU YA 9 Y'UBUJURIRE YOSE NO GUSUZUMA KURI BIMWE IMPAMVU YA 6 Y'UBUJURIRE)

89. Mu mpamvu ya 9 y'ubujurire, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rishingiye ryo mu rwego rw'ibyabaye mu gusuzuma ubuhamya yatanze mu Rukiko[181]. By'umwihariko, avuga ko rutazirikanye ibisobanuro yatanze bivuguruza ubuhamya GES yatanze mu Rukiko, ndetse ntirunazirikane ibyo yatanze byerekeye izina rye n'ibintu byabereye ku kigo cya Paruwasi ya Gikomero[182]. Ujurira avuga kandi ku bice 2 bya mbere by'impamvu ya 6 y'ubujurire bwe, ashaka kuvuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko kuko rutatanze impamvu,

[181] Imyanzuro y'Ujurira, igika cya 230.
[182] Ni kimwe no haruguru, igika cya 231.

cyangwa rugatanga impamvu zidahagije rwashingiyeho mu kwanga kwakira ibisobanuro byatanzwe n'umutangabuhamya wiswe PC ubwo yasobanuraga icyo "Kamuhanda" bivuga mu kinyarwanda. Ujurira yongeraho ko urwo Rugereko rwanirengagije ubuhamya bwe [Ujurira] mu Rukiko bwerekeye izina rye, kandi we asanga buvuguruza ibice bimwe by'ubuhamya bwa GES mu Rukiko[183].

90. Porokireri asubiza avuga ko Urugereko rutigeze rwirengagiza ubuhamya bw'Ujurira mu Rukiko, cyangwa ngo rukore ikosa mu gusuzuma ubwo buhamya[184]. Avuga ko mu guca urubanza, atari ngombwa ko Urugereko rwa Mbere rw'Iremezo ruvuga kuri buri kimenyetso cyashizwe muri dosiye[185].

91. Urugereko rw'Ubujurire ruributsa ko, mu rubanza rwa Musema, rwabivuzeho mu buryo bukurikira :

> N'iyo Urugereko rwa Mbere rw'Iremezo rutavuga ku kimenyetso iki n'iki, bitewe n'imiterere yihariye y'urubanza, umuntu yaba ashyize mu gaciro yibwiye ko rwazirikanye icyo kimenyetso. Kubera iyo mpamvu, iyo Urugereko rwa Mbere rw'Iremezo rutavuze ku buhamya ubu n'ubu bwatanzwe mu Rukiko, Ujurira afite uburenganzira bwo kwerekana ko umwanzuro w'Urugereko rwa Mbere rw'Iremezo, no kuba urwo Rugereko rutavuga kuri icyo kimenyetso, bigaragaza ko icyo kimenyetso cyirengagijwe[186].

92. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutazirikanye ibisobanuro yatanze ashaka kugaragaza ko GES atashoboraga kumubona agiye ku kazi kuko, ari mu ishami avuga ko yakoragamo[187], uwo mutangabuhamya atashoboraga kubona Minisiteri y'Amashuri Makuru, Ujurira yakoragamo. Urugereko rw'Ubujurire rusanga, n'ubwo Ujurira atari ko abibona, Urugereko rwa Mbere rw'Iremezo rwarazirikanye ibyo bisobanuro mu guca urubanza, n'ubwo ntacyo ruvuga ku buhamya Ujurira yatanze mu Rukiko. Urugereko rwa Mbere rw'Iremezo rugira ruti:

---

[183] Ni kimwe no haruguru, ibika 137-142 havugwa ku biri mu rubanza mu rw'iremezo, igika cya 464.
[184] Imyanzuro y'Usubiza mu bujurire, igika cya 209
[185] Ni kimwe no haruguru, igika cya 194, hasubirwamo ibivugwa mu rubanza rwa Kupreškić na bagenzi be mu bujurire.
[186] Imikirize y'urubanza rwa Musema mu bujurire, igika cya 277 (inyandiko zifashishijwe ntizivuzwe)
[187] Imyanzuro y'Ujurira, igika cya 232. Reba kandi Imyanzuro isubiza igika cya 93 n'icya 94, Inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 100, 101.

> [Ubwunganizi] Buvuga ko aho umutangabuhamya yakoraga icyo gihe, mu mazu ya Ministeri ishinzwe Amateme n'Imihanda hatari imbere ya Minisiteri y'Amashuri Makuru n'Ubushakashatsi mu by'Ubuhanga aho Uregwa yakoraga nk'uko bivugwa n'umutangabuhamya, ahubwo ko hagati y'aho hantu hombi hari ibirometero bisaga bine. Cyakora, Urugereko rusanga umutangabuhamya avuga ko ibiro bye byari mu nzu iri hakurya y'umuhanda imbere y'amazu y'ibiro byo ku Kacyiru Uregwa yakoreragamo.[188]

Urugereko rw'Ubujurire rusanga iki gice kigaragaza ko Urugereko rwa Mbere rw'Iremezo rwarazirikanye koko ubuhamya Ujurira yatanze mu Rukiko kuri iyo ngingo. Kubera izo mpamvu, rwanzuye ruvuga ko Ujurira atagaragaza ko Urugerereko rwa Mbere w'Iremezo rwirengagije ubuhamya yatanze mu Rukiko kuri iyo ngingo, bityo rukaba rwanze kwakira iki gice cy'impamvu y'ubujurire.

93. Ujurira avuga kandi ko Urugereko rwa Mbere rw'Iremezo rwirengagije ubuhamya yatanze mu Rukiko ashaka kugaragaza ko abakozi bo mu zindi minisiteri[189] batifatanyaga n'abandi mu "Muganda" na "Animasiyo" byategurwga na Minisiteri ye. N'ubwo adasobanura birambuye iyo ngingo, umuntu shobora kumva ko Ujurira ashaka kugaragaza ko, Urugereko rwa Mbere rw'Iremezo rutazirikanye ubuhamya yatanze mu Rukiko kandi buvuguruza ubwatanzwe na GES kuri iyo ngingo. Cyakora, Urugereko rw'Ubujurire rusanga n'ubwo mu rubanza, Urugereko rwa Mbere rw'Iremezo rutavuga mu buryo butaziguye kuri iyi ngingo y'ubuhamya bw'Ujurira mu Rukiko, biragaragara ko rwazirikanye ibibuvugwamo kuko ruvuga ibintu bikurikira:

> Umutangabuhamya [GES] yabonye Kamuhanda inshuro nyinshi mu muganda no muri za animasiyo byahuzaga abakozi ba Minisiteri nyinshi. Ubwunganizi buvuze ko buri Minisiteri yakoraga umuganda na animasiyo ukwayo, umutangabuhamya yashubije ko rimwe na rimwe Minisiteri nyinshi zabikoreraga hamwe.[190]

Mu buhamya bwe mu rw'iremezo, Ujurira yemera ko rimwe na rimwe hari igihe abakozi ba za minisiteri zinyuranye bateraniraga hamwe, uretse ko, nk'uko abivuga, atigeze na rimwe yifatanya nabo. Cyakora ibi ntibivugwa muri iyi mpamvu y'ubujurire[191]. Kubera iyo mpamvu, Urugereko rw'Ubujurire rusanga Ujurira atarekana ko Urugereko rwa

[188] Ikiza ry'urubanza, igika cya 447 (inyandiko zifashishijwe ntizivuzwe)
[189] Imyanzuro y'Ujurira, igika cya 232.
[190] Urubanza mu rw'iremezo, igika cya 325 (ibisobanuro byo hasi ku rupapuro ntibyongewemo)
[191] Inyandikomvugo y'iburanisha, 20 Kanama 2002 , imp. 60-62.

Mbere rw'Iremezo rwirengagije ubuhamya bwe kuri iyo ngingo. Byongeye kandi, niyo ruza kuba rwarabwirengagije, ntihagaragajwe ukuntu Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro mu kwanzura ruvuga ko na mbere hose GES yari asanzwe azi Ujurira. Kubera izo mpamvu, Urugereko rw'Ubujurire ntirwakiriye iki gice cy'impamvu y'ubujurire.

94. Ujurira yemeza ko yavuze ko kuva mu mwaka wa 1990 kugeza mu wa 1992 yari yarimuriwe i Butare[192] maze akavuga ko mu bika bya 448 na 466 by'inyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rutazirikanye icyo kintu ubwo rwavugaga ko GES yari azi Ujurira "kubera ko yamubonaga ku matariki avuga[193]". Muri iyi ngingo, Ujurira ntavuga ahantu na hamwe asobanura ibyo bintu muri dosiye yo mu rw'iremezo, kandi kuba atabikora binyuranye n'ibisabwa mu Mabwiriza akurikizwa[194]. Byongeye kandi, mu gika cya 448 cyangwa icya 466 by'inyandiko y'urubanza, Ujurira yifashisha, nta na hamwe havugwa ibyerekeranye n'uko mbere y'ibyabaye GES yari asanzwe azi Ujurira[195]. Cyakora, Urugereko rw'Ubujurire rusanga mu gutanga incamake y'ubuhamya bwa GES, Urugereko rwa Mbere rw'Iremezo rwibutsa ibivugwa n'Ubwunganizi bushaka kugaragaza ko Uregwa yamaze imyaka ibiri akora mu Kigo cy'Ubushakashatsi mu by'Ubuhanga n'Ikoranabuhanga (IRST) i Butare, ni ukuvuga hagati y'umwaka wa 1990 n'uwa 1992. Urwo Rugereko rwibutsa kandi ibisobanuro Ubwunganizi bwatanze bushaka kugaragaza ko bishoboka ko "[Kamuhanda] yagiye mu butumwa hagati y'umwaka wa 1990 n'uwa 1994[196]". Rwemeza ko GES ari uwo kwizerwa mu buhamya bwe buvuga ko na mbere yari asanzwe azi Ujurira, Urugereko rwa Mbere rw'Iremezo rwafashe uwo mwanzuro mu buryo butaziguye "rushingiye ku bimenyetso byose byatanzwe[197]". Kubera ibimaze kuvugwa, Urugereko rw'Ubujurire rwanzuye ruvuga ko Ujurira aterekana ko Urugereko rwa Mbere rw'Iremezo rwirengagije ubuhamya yatanze mu Rukiko kuri iyo

[192] Imyanzuro y'Ujurira, igika cya 233
[193] Ni kimwe no haruguru
[194] Amabwiriza agenga ibigomba kubahirizwa mu kujuririra urubanza, 16 Nzeri 2002, igika cya 4 b)
[195] Mu gika cya 448 havugwa ko GAA yari asanzwe azi Ujurira, ntabwo ari GES uvugwa. Cyakora mu gika cya 466, Urugereko rwa Mbere rw'Iremezo rusuzuma ibimenyetso byerekeye ukuza k'Ujurira kuri Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, ntabwo rusuzuma ibyerekeranye no kuba GES yari asanzwe azi Ujurira.
[196] Urubanza mu rw'iremezo, igika cya 325.
[197] Ni kimwe no haruguru, igika cya 447.

ngingo. Kubera izo mpamvu, Urugereko rw'Ubujurire ntirwakiriye iki gice cy'impamvu y'ubujurire.

95. Ujurira avuga ko mu buhamya bwe mu Rukiko yavuze ko mu Kinyarwanda izina rye risobanura "ku muhanda", "*sur la route*"). Avuga ko asanga Urugereko rwa Mbere rw'Iremezo rwarabyirengagije ubwo rwangaga kwakira ibisobanuro PC yatanze kuri iyo ngingo[198]. Yemeza ko kwanga kwakira icyo gisobanuro "hakurikijwe uko ibintu byari bimeze" ariko "bidasobanurwa", n'ingaruka "imiterere y'ibyo bintu" yagize ku buhamya bwa PC, bidahagije ngo Urugereko rwa Mbere rw'Iremezo rwange kwakira igisobanuro cyatanzwe n'uwo mutangabuhamya ndetse nawe ubwe[199]. Ujurira avuga ko ubuhamya bwe n'ubwa PC mu Rukiko "bwatumaga Urugereko rusobanukirwa n'urwo rusaku abatangabuhamya bavuga ko ngo bumvise igihe umuntu wavuzwe ko ari Kamuhanda, yahageraga[200]". Avuga ko igihe impunzi zasakuzaga zivuga ngo "Nimurebe Kamuhanda" umuntu yagombaga kumva ko zashakaga kuvuga ngo "Nimurebe ku muhanda[201]".

96. Mbere yo kumva ibyo umutangabuhamya yemeza ashaka kugaragaza ko mu Kinyarwanda Kamuhanda bishobora gusobanura "ku muhanda", Urugereko rwa Mbere rw'Iremezo rutanga incamake y'ubuhamya bw'abagabo benshi bavuga ko Ujurira ageze kuri Paruwasi ya Gikomero ku ya 12 Mata 1994, impunzi zasakuje zivuga ngo ubwo "Kamuhanda aje ibyacu birarangiye"[202]. Byongeye kandi, Urugereko rw'Ubujurire rusanga GEE avuga ko impunzi zasakuje zivuga ngo "Kamuhanda araje, tugiye kwicwa[203]". Rukomeza ruvuga ko umutangabuhamya wiswe GEG na we avuga ko yumvise impunzi zivuga zisakuza ngo " Ni Kamuhanda, ubwo Kamuhanda aje, ibyacu birarangiye[204]"; naho ku byerekeye umutangabuhamya wiswe GEV we ngo hari umuntu wamubwiye ati: " Kamuhanda amaze kuza, ibyacu birarangiye[205]". Birumvikana ko igihe Urugereko rwa Mbere rw'Iremezo rwangaga kwakira igisobanuro PC yatanze ashaka

---

[198] Imyanzuro y'Ujurira, ibika 137, 139 na 234. Reba kandi Imyanzuro isubiza, igika cya 100.
[199] Imyanzuro y'Ujurira, igika cy'138 na 235. Reba kandi Imyanzuro isubiza, ibika 97, 98.
[200] Imyanzuro y'Ujurira, igika cya 236
[201] Imyanzuro isubiza, igika cya 100. Reba kandi inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 71,72 [FR].
[202] Reba imikirize y'urubanza, ibika 453-464.
[203] Inyandikomvugo y'iburanisha, 18 Nzeri 2001, urup. 6 [FR].
[204] Inyandikomvugo y'iburanisha, 25 Nzeri 2001, urup. 23 [FR].
[205] Inyandikomvugo y'iburanisha, 6 Gashyantare 2002, urup. 67 [FR].

kumvikanisha ko “Kamuhanda” bishobora kuvuga “ku muhanda”, rwabikoze ruzi ko icyo gisobanuro, niyo cyaba ari cyo, kitajyana n’ukuntu ibintu byifashe icyo gihe kuri Paruwasi ya Gikomero ndetse ntikijyane n’urwego impunzi nyinshi zakoreshejemo iryo jambo. Urugereko rw’Ubujurire rwanzura ruvuga ko hatagaragajwe ukuntu Urugereko rwa Mbere rw’Iremezo rwafashe umwanzuro udashyize mu gaciro kuri iyo ngingo. Rushingiye kuri ibyo, rusanga rutagomba kureba niba Urugereko rwa Mbere rw’Iremezo rwarazirikanye cyangwa rutarazirikanye ubuhamya Ujurira yatanze mu Rukiko ku gisobanuro cy’izina rye, kuko niyo ikosa rivugwa ryaba ryagaragajwe, ntirishobora gutuma urubanza rucibwa nabi. Ntiryaba rero ari ikosa ryo mu rwego rw’ibyabaye rigomba gukosorwa mu bujurire. Byongeye kandi, mu rwego rw’amategeko, nta nenge iri mu mitekerereze y’Urugereko rwa Mbere rw’Iremezo kuri iyo ngingo.

97. Mu gusoza kuri iyi ngingo, muri iyi mpamvu y’ubujurire, Ujurira avuga ko [Urugereko rwa Mbere rw’Iremezo “rwagombaga no kuzirikana ibisobanuro yatanze ku bintu byabereye kuri Paruwasi y’Abaporoso ya Gikomero[206]”. Urugereko rw’Ubujurire rusanga Ujurira adatanga impamvu n’imwe y’ibyo avuga cyangwa ngo abisobanure birambuye. Kubera iyo mpamvu, rusanga rutagomba kubisuzuma birambuye.

98. Kubera izo mpamvu, Urugereko rw’Ubujurire ntirwakiriye ubujurire bwerekeye ibibazo byose byasuzumwe muri uyu mutwe.

---

[206] Imyanzuro y’Ujurira, igika cya 231.

IX. KUBA BITARASHOBOKA KUVA I KIGALI NGO UJYE I GIKOMERO MURI MATA 1994 (GUSUZUMA IMPAMVU YA 11 Y'UBUJURIRE YOSE, NO GUSUZUMA KURI BIMWE IMPAMVU YA 2, IYA 5, IYA 6 N'IYA 7 Z'UBUJURIRE)

A. IMYANZURO YAFASHWE N'URUGEREKO RWA MBERE RW'IREMEZO.

99. Muri iyi mpamvu y'ubujurire, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kuko rwanze kwakira ibimenyetso bigaragaza ko, ahagana ku itariki ya 12 Mata 1994, bitashobokaga kuva i Kigali ngo ujye i Gikomero kubera ko imihanda yajyagayo itari nyabagendwa bitewe n'imirwano ikaze yahaberaga[207].

100. Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro uvuga ko icyo gihe hari imihanda 3 yavaga Kacyiru (Kigali) ikagera i Gikomero ari yo:

Umuhanda Kacyiru-Kimihurura-Remera- Gikomero
Umuhanda Kacyiru-Kimihurura-Kanombe-Gikomero n'
Umuhanda Kacyiru-Muhima-Gatsata-ugana i Byumba[208]

101. Urugereko rw'Ubujurire ruributsa ko, rumaze gutanga incamake y'ibimenyetso rwashyikirijwe, Urugereko rwa Mbere rw'Iremezo ruvuga ko rutemera ko umwe mu bagabo bashinjura wiswe RGM, yashoboye kubona amakuru yerekeye ibirindiro by'ingabo avuga mu buhamya bwe[209]. Ku byerekeye umutangabuhamya wiswe RKF, Urugereko rwa Mbere rw'Iremezo ruvuga ko avuga inkuru atahagazeho zerekeranye no kuva ahantu ujya ahandi muri ako gace kandi ko yemera ko hari utundi duhanda duto duto umuntu yashobora kunyuramo akava i Kigali akagera i Gikomero[210]. Byongeye

[207] Ni kimwe no haruguru, ibika 288, 289.
[208] Urubanza mu rw'iremezo, igika cya 178.
[209] Ni kimwe no haruguru, igika cya 218.
[210] Ni kimwe no haruguru, ibika 217, 218.

kandi, Urugereko rwa Mbere rw'Iremezo rwasanze umutangabuhamya ushinjura witwa Laurent Hitimana yarashoboye kunyura i Remera, Rubungo na Gasogi hagati y'itariki ya 7 n'iya 11 Mata 1994[211]. Rwasanze kandi abatangabuhamya benshi bavuga ko umuntu yashoboraga kunyura muri utwo duce twari "kure" ya Remera, i Kigali maze akagera i Gikomero[212]. Kubera iyo mpamvu, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko "n'ubwo wenda byari bigoye, umuntu yashoboraga kuva i Kigali akajya i Gikomero[213]".

102. Mu iburanisha mu bujurire, Uwunganira ujurira yavuze ko n'iyo kujya i Gikomero biza kuba byarashobokaga, kugenda no kugaruka byari kumara amasaha arenze 3, kandi muri *alibi* ujurira avuga ko atigeze ava mu rugo mu gihe kirenze amasaha 2[214]. Kubera ko Urugereko rwa Mbere rw'Iremezo rwanze kwemera iyo *alibi*[215], ndetse n'Ujurira ubwe ntagerageze gutanga ikimenyetso kigaragaza igihe urugendo Kigali-Gikomero rwashoboraga kumara mu gihe cy'ibyabaye, Urugereko rw'Ubujurire ntirwiriwe rusuzuma birambuye iyi ngingo.

B. KUBA URUGEREKO RWA MBERE RW'IREMEZO RUTARAFASHE ICYEMEZO KU BUHAMYA BW'ABAGABO BISWE VPG, RGG, RGB NA RGS.

103. Ujurira avuga ko Ubwunganizi bwe bwahamagaje abatangabuhamya 7 kugira ngo bagaragaze ko ku itariki ya 12 Mata 1994, cyangwa ahagana kuri iyo tariki, bitashobokaga kuva i Kigali ngo ujye i Gikomero: mu buhamya bwabo mu Rukiko VPG na Hitimana Laurent (mbere wari wariswe RKA kubera impamvu z'umutekano, ariko akaza kuvuga ko aretse uburenganzira bwe bwo kurindirwa umutekano[216]) bavuga ku byerekeye umuhanda Kigali-Remera, RGB na RGS bavuga ku muhanda Kigali-Byumba, naho RGM, RGG na RKF bakavuga ku birindiro by'ingabo zari zihanganye muri Mata

[211] Ni kimwe no haruguru, igika cya 215
[212] Ni kimwe no haruguru, igika cya 219.
[213] Kimwe no haruguru igika cya 220.
[214] Inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 60-63 [FR].
[215] Reba urubanza mu rw'iremezo, igika cya 176. Ku byerekeye isuzumwa rya *alibi*, reba umutwe wa XI.
[216] Urubanza mu rw'iremezo, igika cya 181.

1994 maze bakemeza ubuhamya bwatanzwe mu Rukiko n'abagabo bane ba mbere[217]. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwasuzumye gusa ubuhamya bwatanzwe mu Rukiko na RGM, RGG, RKF na Laurent Hitimana[218]. Avuga kandi ko kuba rutarafashe icyemezo ku buhamya bwatanzwe mu Rukiko na PVG, RGB, RGS na RGG Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'amategeko ryatumye urubanza rucibwa nabi[219].

104. Porokireri asubiza ko Urugereko rutari rutegetswe kuvuga kuri buri kimenyetso cyose cyashyizwe muri dosiye kandi ko rwumvise ubuhamya bwose bwatanzwe mu Rukiko n'abagabo bashinjura ndetse n'ubw'Ujurira[220].

105. N'ubwo yemera ko koko Urugereko rwa Mbere rw'Iremezo rutari rutegetswe "kuvuga mu magambo arambuye impamvu zatumye rwemera, cyangwa rwanga kwakira, ubuhamya ubu n'ubu bwatanzwe[221]", Ujurira avuga ko, muri uru rubanza, Urugereko rwa Mbere rw'Iremezo rudasobanura igitekerezo cya rwo ku bibazo by'ingenzi byavuzwe[222]. Cyakora, Urugereko rw'Ubujurire ruributsa ko kuba Ujurira yerekana ko Urugereko rwa mbere rwirengagije ikimenyetso runaka bidahagije mu kugaragaza ko habayeho ikosa:

> Ujurira ni we ugomba kugaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu mwanzuro rwafashe. Agomba kandi kugaragaza ko rwirengagije koko ikimenyetso runaka kuko rutakivuzeho. Mu rubanza rwa Čelebići, Urugereko rw'Ubujurire rwanzuye ruvuga ko Ujurira "aterekanye ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo kutazirikana ukwivuguruza kwavuzwe ahubwo rukavuga ko ubuhamya bwose bwatanzwe bwakwizerwa kandi ko butashidikanywaho, ndetse rukavuga ko ubwo buhamya buhagije kugira ngo elić ahamwe n'icyaha nta gushidikanya.[223]".

Kubera iyo mpamvu, iyo avuga Urugereko rwa Mbere rw'Iremezo rutasobanuye mu nyandiko impamvu rwashingiyeho mu gufata icyemezo cya rwo, Ujurira agomba kwerekana inenge ziri mu mitekerereze y'urwo Rugereko ndetse akanagaraza ko

[217] Imyanzuro y'Ujurira, igika cya 290.
[218] Ni kimwe no haruguru igika cya 143
[219] Ni kimwe no haruguru, igika cya 145.
[220] Imyanzuro y'Usubiza mu bujurire, ibika 193,56
[221] Imyanzuro y'Ujurira, igika cya 146, hasubirwamo ibivugwa mu rubanza rwa Musema mu bujurire, igika cya 20.
[222] Imyanzuro y'Ujurira, igika cya 148.
[223223] Imikirize y'urubanza rwa Musema mu bujurire, igka cya 21, ahavugwa urubanza rwa Čelebići, imikirize y'urubanza mu bujurire, igika cya 498.

ibimenyetso avuga ko bitazirikanywe biba byaragize icyo bihindura ku mikirize y'urubanza.

106. Urugereko rwa Mbere rw'Iremezo rwatanze incamake y'ibimenyetso byatanzwe na buri wese muri abo batangabuhamya bane bashinjura[224]. Ku byerekeye VPG, runavuga impamvu rwahaye agaciro gake ubuhamya yatanze mu Rukiko maze rukemeza ibikurikira: "uyu mugabo avuga ko mu mwaka wa 1994 atari umusirikare, ko atari umwe mu barwanaga kandi ko atigeze ubwe agera ahantu avuga mu buhamya bwe mu Rukiko[225]". Urugereko rwa Mbere rw'Iremezo rwari ruzi ibikubiye mu buhamya bwatanzwe mu Rukiko na bariya bagabo 4 bashinjura. Cyakora, rusa naho rwasanze kubusuzuma birambuye atari ngombwa. Ujurira ntiyerekana ukuntu iyo mikorere y'Urugereko rwa Mbere rw'Iremezo idashyize mu gaciro. Yemeza gusa ko ubwo buhamya bwari kugaragaza ko kujya i Gikomero bitashobokaga[226], ariko ntasobanure ukuntu yageze kuri uwo mwanzuro. Kubera iyo mpamvu, Urugereko rw'Ubujurire rwanzura ruvuga ko Ujurira aterekanye ko, kuri iyo ngingo, habayeho ikosa ryo mu rwego rw'amategeko.

107. Nyuma yo gusuzuma ubuhamya bw'abo bagabo bane bavugwa, Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyiza mu gaciro, yakwanzura avuga ko ku itariki ya 12 Mata 1994, byashobokaga kuva i Kigali ujya i Gikomero. VPG uvuga ko ari inshuti y'Ujurira[227] ntiyageze hariya hantu avuga mu buhamya bwe[228]. Asa n'uvuga ko bitashobokaga kujya ku kibuga cy'indege i Kanombe no ku kigo cya gisirikare[229], nyamara RGG we avuga ko byibura mu gihe cy'ibyumweru 2, imirwano imaze kubura, ingabo za Leta zari zashoboye kurinda umuhanda ujya ku kigo cya gisirikare cy'i Kanombe[230]. RGG avuga ko, ku itariki ya 8 Mata 1994, nta musivili waba warashoboye kuva ku Kacyiru (aho Ujurira yabaga) ngo agere ku Kimihurura maze agaruke[231]. Ibyo

---

[224] Urubanza mu rw'iremezo, ibika 185-187 (VPG); igika cya 195 (RGB); igika cya196 (RGS).
[225] Ni kimwe no haruguru, igika cya 187.
[226] Imyanzuro y'Ujurira, igika cya 145.
[227] Inyandikomvugo y'iburanisha, 11 Gashyantare2003, imp. 35-37.
[228] Kimwe no harurguru, imp. 51, 52.
[229] Ni kimwe no haruguru, imp. 28, 29.
[230] Inyandikomvugo y'iburanisha, 30 Mata 2003, imp. 54-56 [FR].
[231] Ni kimwe no haruguru, urup. 51.

avuga bivuguruza ubuhamya Ujurira yatanze mu Rukiko ashaka kugaragaza ko ku itariki ya 8 Mata 1994 yaje gukora urwo rugendo n'ubwo mbere yaho yari yarabigerageje bikanga[232].

108. Mu buhamya batanze mu Rukiko, RGB na RGS bavuga gusa k'ukuntu ibintu byari bimeze ku muhanda Kigali-Byumba[233]. Rushingiye ku buhamya GPR, GPE, GPF, GPT na Laurent Hitimana batanze mu Rukiko, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko umuntu yashoboraga kuva i Remera akanyura i Rubungo maze akagera i Gikomero[234]. Rwanzuye kandi ruvuga ko byashobokaga kuva i Kigali ukagera i Gikomero unyuze mu muhanda wa Kigali-Remera-Gikomero. Urugereko rwa Mbere rw'Iremezo ntirwakoze ikosa rwemeza ko atari ngombwa gusuzuma birambuye ibindi bimenyetso byerekeye uriya muhanda wa Kigali-Byumba.

109. Kubera izo mpamvu, Urugereko rw'Ubujurire ntirwakiriye ingingo ivuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kuko rutazirikanye ubuhamya VPG, RGB, RGS na RGG batanze mu Rukiko.

C. UBUHAMYA UMUNTU ATANZE KU BYO YUMVANYE ABANDI.

110. Ujurira avuga ko n'ubwo rwibukije ko ubuhamya umuntu atanze ku byo yumvanye abandi bushobora kwakirwa, Urugereko rwa Mbere rw'Iremezo rwanze kwakira ubuhamya bwa RKA (Laurent Hitimana), RGM na RKF rwitwaje gusa ko bavuga ibintu batahagazeho[235]. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'amategeko kuko rwanze gusuzuma ibyo bimenyetso.

111. Mu rubanza, nta kintu na kimwe cyatuma umuntu avuga ko Urugereko rwa Mbere rw'Iremezo rutasuzumye ubuhamya bw'abo bagabo batatu. Mu by'ukuri, urwo Rugereko

[232] Urubanza mu rw'iremezo, ibika 90,91.
[233] Ni kimwe no haruguru, ibika 195, 196; imyanzuro y'Ujurira, igika cya 290.
[234] Imikirize y'urubanza, ibika 215, 219.
[235] Imyanzuro y'Ujurira, ibika 46-50; imyanzuro isubiza , igika cya 14.

rwatanze incamake yabwo ruranabusuzuma maze rusanga, kuri bimwe, bushingiye ku byo abagabo bumvanye abandi bantu. Cyakora biragaragara ko rwasuzumye ubwo buhamya n'ubwo rwasanze ibintu bimeze gutyo. Kubera iyo mpamvu, Ujurira nta shigiro afite mu ngingo ye igamije gushyigikira ibyo avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'amategeko kuko rwanze gusuzuma icyo gice cy'ibimenyetso.

D. GUHINDURA IGITEKEREZO CY'UBWUNGANIZI UKAKIVUGA UKO KITARI.

112. Ujurira anenga uburyo Urugereko rwa Mbere rw'Iremezo rwasuzumye ubuhamya GPR, GPE, GPF na GPT batanze mu Rukiko. Avuga ko Urugereko rwa Mbere rw'Iremezo rwifashishije ubwo buhamya mu kwemeza ko, kuva i Kigali ujya i Gikomero, byashobokaga[236]. Ujurira avuga ko Urugereko rwahinduye rero igitekerezo cy'Ubwunganizi rukivuga uko kitari, kubera ko abo batangabuhamya bari bahamagajwe n'Ubwunganizi ngo bavuge uko ibintu byari bimeze i Gikomero. Avuga ko abo batangabuhamya bari kuvuga k'ukuntu byashobokaga gukora urugendo hagati ya Rubungo na Gikomero ariko ntibarenzeho[237]. Kubera iyo mpamvu, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwahinduye ingingo ze ruzivuga uko zitari, bityo rumuvutsa uburenganzira bwe bwo kuburanishwa nta karengane.

113. Ujurira asa n'uvuga ko rusuzuma ibimenyetso byatanzwe mu kugaragaza ko bitashobokaga gukora urugendo hagati ya Kigali na Gikomero, Urugereko rwa Mbere rw'Iremezo rutagombaga gushingira ku buhamya bwatanzwe mu Rukiko na GPR, GPE, GPF na GPT kuko Ubwunganizi bwari bwabahamagaje ngo bavuge gusa uko ibintu byari bimeze i Gikomero. Urugereko rw'Ubujurire rusanga yaba Sitati, Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso cyangwa Amahame rusange y'amategeko bitabuza Urugereko rwa Mbere rw'Iremezo gusuzuma igice cy'ubuhamya bw'umugabo mu Rukiko kirenga ku byo Ubwunganizi bwari bwateganyije, mu gihe iryo suzuma

[236] Imyanzuro y'Ujurira, igika cya 158.
[237] Ni kimwe no haruguru, igika cya 159.

ridatandukira ngo rikorwe ku bintu bitavugwa mu nyandiko y'ibirego. Muri uru rubanza, GPT yatanze ubuhamya ku hantu impunzi zaturutse. Ibyo yabikoze mu ibazwa ry'ibanze asubiza ikibazo kitaziguye cy'Ubwunganizi[238]. GPE we atanga ibimenyetso asubiza ikibazo yabajijwe n'Abacamanza[239], mu gihe mu ibazwa rinyomoza GPR na GPF bo babajijwe ku hantu impunzi zaturutse[240]. Mu iburanisha mu rw'iremezo, Ujurira ntiyarwanyije ubwo buhamya. Byongeye kandi, Porokireri yari afite ishingiro mu kubaza kiriya kibazo, nk'uko biteganywa n'ingingo ya 90 G) i) y'Amategeko Agenga Imburanishirize n'Itangwa ry'ibimenyetso iteganya ibikurikira:

> Ibazwa irinyomoza ryibanda gusa ku ngingo zavuzwe mu ibazwa ry'ingenzi cyangwa zirebana no kwizerwa kw'umutangabuhamya. *Ryibanda kandi ku birebana n'ibyo unyomoza aburanisha mu rubanza ariko na none umugabo abitangaho ubuhamya*[241].

Ubuhamya bwatanzwe n'abo bagabo bane 4, buri muri dosiye mu rw'iremezo. Urugereko rwa Mbere rw'Iremezo rwagombaga gusuzuma ibimenyetso byose rwashyikirijwe, rwumva byakwizerwa kandi bifitanye isano n'ikibazo rurimo gusuzuma. Kubera iyo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe.

E. <u>AMAKOSA YABA YARAKOZWE MU RWEGO RW'AMATEGEKO CYANGWA RW'IBYABAYE.</u>

114. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ubwo rwasuzumaga ibimenyetso byatanzwe mu kugaragaza ko gukora urugendo hagati ya Kigali na Gikomero bitashobokaga. Avuga ko ibyo byatumye urubanza rucibwa nabi[242]. Mu gushyigikira ibyo avuga, Ujurira yifashisha ibice byinshi by'iyi mpamvu y'ubujurire. Urugereko rw'Ubujurire rugiye gusuzuma buri gice avuga:

---

[238] Inyandikomvugo y'iburanisha, 14 Mutarama 2003, imp. 3, 4 [FR].
[239] Inyandikomvugo y'iburansha, 16 Mutarama 2003, urup. 56 [FR].
[240] Inyandikomvugo z'amaburanisha, 15 Mutarama 2003, imp. 28-31 (GPR); 20 Mutarama 2003, imp. 26-28 (GPF) [FR]
[241] Mu nyandiko y'umwimerere ntibyanditse muri italiki.
[242] Imyanzuro y'Ujurira, igika cya 305.

1. Kudasuzumira hamwe ibimenyetso byose.

115. Ujurira yemeza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'amategeko n'urw'ibyabaye kuko rutasuzumiye hamwe ibimenyetso byose[243]. Avuga ko ufashe umutangabuhamya umwe ku giti cye, wasanga nta n'umwe werekana ko bitashobokaga gukora urugendo uva i Kigali ujya i Gikomero. Cyakora, asobanura ko busuzumiwe hamwe, ubuhamya bwabo bugaragaza ko koko bitashobokaga gukora urugendo hagati y'utwo turere twombi[244]. Avuga ko Urugereko rwa Mbere rw'Iremezo rwaciyemo ibice ibimenyetso bishinjura, bityo bituma rufata imyanzuro ikosamye[245].

116. Ku byerekeye ikosa ryo mu rwego rw'amategeko rivugwa kuri iyi ngingo, Urugereko rw'Ubujurire ruributsa ibyavuzwe n'Urugereko rwa Mbere rw'Iremezo muri aya magambo: "Urugereko rwumvise ubuhamya Uregwa yatanze mu Rukiko n'ubw'abagabo bashinjura banyuranye ku byerekeranye n'uko hagati ya Kigali na Komine ya Gikomero amayira atari nyabagendwa hagati y'itariki ya 7 n'iya 17 Mata 1994[246]". Ujurira ntagaragaza ko Urugereko rwa Mbere rw'Iremezo rutakurikije ibyo ruvuga. Kubera iyo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe.

117. Ku byerekeye ikosa rishingiye ku byabaye rivugwa, Urugereko rw'Ubujurire ruvuga ko ikibazo gihari atari ukumenya niba muri Mata 1994 bitarashobokaga gukora urugendo hagati ya Kigali na Gikomero, ahubwo ni ukumenya niba ku itariki ya 12 Mata 1994 Ujurira yari i Gikomero cyangwa niba atari ahari[247]. Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko hari ibimenyetso bigaragaza ko yari ari aho hantu. Naho kuba byari bigoye gukora urugendo cyangwa kuba umwe mu mihanda umuntu yashoboraga kunyuramo wari ufunze, umucamanza usuzuma ibyabaye ushyira mu gaciro ashobora kubyirengagiza, igihe byonyine bitagaragaza ko Uregwa yashoboraga kuba ari i Gikomero. Iyo haza kwerekanwa ko gukora urugendo bitashobokaga, mu yandi magambo, ni ukuvuga ko iyo haza kugaragazwa ko imihanda yose abantu bashoboraga

[243] Ni kimwe no haruguru, ibika 113, 305.
[244] Ni kimwe no haruguru, igika cya 302
[245] Ni kimwe no haruguru, igika cya 303.
[246] Urubanza mu rw'iremezo, igika cya 213.
[247] Reba umutwe wa IV.

kunyuramo yari ifunze, icyo gihe ni bwo bwonyine umucamanza usuzuma ibyabaye ushyira mu gaciro atakwanzura avuga ko hagaragajwe, mu buryo budashidikanywaho, ko Ujurira yari i Gikomero ku itariki ya 12 Mata 1994. Nk'urugero, kubera ko rwasanze abantu barashoboraga kunyura mu muhanda Kigali-Remera-Gikomero, Urugereko rwa Mbere rw'Iremezo rwari rufite ishingiro mu kwirengagiza ibimenyetso byerekeye umuhanda ugana i Byumba. Urugereko rw'Ubujurire rwanzura ruvuga ko Ujurira atagaragaje ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu buryo rwasuzumye ubwo buhamya bwatanzwe mu Rukiko.

2. Kuba Urugereko rwa Mbere rw'Iremezo rwarashingiye ku buhamya bwa GPR, GPE, GPF na GPT

118. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwashingiye ku buhamya bwa GPR, GPE, GPF Na GPT, kandi mu Rukiko aba bagabo bavuga gusa k'ukuntu ibintu byari byifashe ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994. Ujurira avuga ko mu buhamya bwabo, umuntu akabije yakumva gusa ko byashobokaga gukora urugendo hagati ya Rubungo na Gikomero, ariko ko bitashobokaga kuva i Kigali ujya Gikomero.[248]

119. Igika cy'urubanza kirebana n'iyo ngingo giteye gitya :

> Urugereko rusanga ubuhamya bw'abagabo bashinjura biswe GPR, GPE, GPF na GPT bose bavuga uko ibintu byari byifashe i Gikomero, bwerekana ko impunzi zimwe z'i Gikomero zari ziturutse i Mbandazi, i Rubungo, i Musave, i Gasogi n'i Ndera. Bityo bikaba byari byoroshye kunyura aho hantu hari kure y'i Remera, i Kigali. Ubwo buhamya bwose hamwe ndetse n'ubwa Laurent Hitimana, wavuze ko yahunze ava i Rubungo ku itariki ya 7 Mata 1994 akagaruka i Remera ku itariki ya 11 Mata 1994, bwerekana ko byashobokaga ko umuntu ava i Remera akajya i Rubungo, ndetse akagera i Gikomero.[249]

Ibivugwa muri iki gika bigaragaza neza ko Urugereko rwa Mbere rw'Iremezo rwari ruzi ko mu buhamya bwabo mu Rukiko, GPR, GPE, GPF na GPT batavuga ku muhanda wose wa Kigali-Remera–Gikomero wose, ko ahubwo bavuga gusa k'ukuntu ibintu byari

---
[248] Imyanzuro y'Ujurira, ibika 292, 294.
[249] Urubanza, igika cya 219.

byifashe i Gikomero no mu turere bihana imbibi. Niyo mpamvu, Urugereko rwa Mbere rw'Iremezo rwashingiye gusa ku buhamya bwabo, rubuhuza n'ubwa Laurent Hitimana.

3. Laurent Hitimana (Umutangabuhamya wiswe RKA)

120. Kuri Laurent Hitimana, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rwanga kuzirikana ubuhamya bw'uyu mugabo ruvuga ko bushingiye ku byo yumvanye abandi, kandi bwari bufite ubundi bubushyigikiye. Avuga na none ko ku itariki ya 7 Mata 1994, Laurent Hitimana yavuye i Remera n'amaguru akajya i Kigali, mu gihe havugwa ko we [Ujurira] yakoze urwo rugendo n'imodoka ku itariki ya 12 Mata 1994.[250]

121. Mu buhamya bwe mu Rukiko, Laurent Hitimana avuga ko ku itariki ya 7 Mata 1994 yavuye aho yari atuye i Remera muri Kigali.[251] Avuga ko yabanje kujya i Rubungo nyuma akajya i Gasogi, aho yavuye asubira iwe ku itariki ya 11 Mata 1994. Muri icyo gihe, akarere yari atuyemo kagenzurwaga n'ingabo za Leta.[252] Kubyerekeye umuhanda wa Kigali-Gikomero, avuga ko uwo muhanda utari nyabagendwa, ariko akemera ko atagerageje kuwunyuramo.[253] Cyakora, avuga ko impunzi ari zo zamubwiye ahantu hari ibirindiro by'ingabo zarwanaga, kandi ko atigeze ahagera.[254] Kubera iyo mpamvu, nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze ruha agaciro gake ibyo bintu umutangabuhamya atahagazeho.

122. Kubyerekeranye no kuba yaragiye n'amaguru, uyu mutangabuhamya asobanura ko yasize imodoka ye mu rugo kubera ko ingabo za Leta zari zafunze umuhanda abantu bakundaga kunyuramo,[255] kandi kugira ngo umuntu anyure kuri bariyeri z'abasirikare ba Leta yagombaga kuba afite uruhushya rudasanzwe.[256] Cyakora, nta kintu avuga mu buhamya bwe cyatuma umuntu avuga ko Ujurira, wari umuyobozi mukuru muri Guverinoma kandi

---

[250] Imyanzuro y'Ujurira, igika 297.
[251] Inyandikomvugo y'iburanisha, 13 Gashyantare 2003, imp. 56-59 [FR].
[252] Ni kimwe no haruguru, imp. 62, 63.
[253] Ni kimwe no haruguru, imp. 63, 64.
[254] Ni kimwe no haruguru, imp. 79-82.
[255] Ni kimwe no haruguru, imp. 59, 60.
[256] Ni kimwe no haruguru, imp. 68, 69.

wageze i Gikomero ari kumwe n'abasirikare n'abapolisi, atashoboraga kunyura kuri bariyeri zirinzwe n'ingabo za Leta. Byongeye kandi, muri ubwo buhamya bwe mu Rukiko, Laurent Hitimana asobanura ko yagiye i Rubungo, Gasogi n'i Remera hagati y' itariki ya 7 n'iya 11 Mata 1994, ariko ntavuga na rimwe ko muri izo ngendo ze yaba yarahuye n'imbogamizi kubera imirwano iyo ari yo yose.[257] Umucamanza usuzuma ibyabaye ushyira mu gaciro yashobora gushingira kuri ibyo bimenyetso mu kwanzura avuga ko umuntu yashoboraga gukora urugendo hagati ya Kigali na Gikomero n'amaguru cyangwa ari mu modoka.

4. Umutangabuhamya wiswe RGM

123. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kuko rwanze kuzirikana ubuhamya bwa RGM mu Rukiko ruvuga ko « turemera ko RGM, wari umujandarume ufite ipeta ryo hasi, yashoboraga kumenya amakuru arambuye ku birindiro by'ingabo bitandukanye avuga mu buhamya bwe.[258] Mu by'ukuri, Ujurira avuga ko uyu mutangabuhamya yamenye ayo makuru ayabwiwe n'abantu banyuranye bakoreshaga amaradiyo yo gutumanaho mu gisirikare n'abantu bari bamukuriye. Yongeraho ko ubuhamya bw'uwo mugabo bushyigikirwa n'ubw'abandi batangabuhamya.[259]

124. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwaravuze mu magambo make ubuhamya bwa RGM mu Rukiko ariko ntirubwakire kubera ko rwasanze butakwizerwa.[260] Urugereko rw'Ubujurire rusanga RGM yemera ko atazi ahantu hose hari ibirindiro by'ingabo zarwanaga: "Mu by'ukuri, sinari nzi aho ibirindiro byose bihererereye mu mugi wa Kigali. Nari nzimo bimwe na bimwe, nk'ahantu hari ingabo za

---

[257] Ni kimwe no haruguru, imp. 60-62 (ubuhamya mu Rukiko k'ukuntu ibintu byari byifashe i Rubungo ku itariki ya 7 n'iya 8 Mata 1994:
Ikibazo: Tubwire uko ibintu byari byifashe i Rubungo ku itariki ya 7 Mata, nko mu masaa moya za nimugoroba?
Igisubizo : Nta kintu kidasanzwe umuntu yavuga ko cyari gihari.
Ikibazo : Naho se ubwo wahavaga ku itariki ya 8 ibintu byari byifashe bite ?
Igisubizo : Nabwo nta kintu kidasanzwe cyari gihari.
[258] Imyanzuro y'Ujurira, igika cya 298, hasubirwamo ibivugwa mu rubanza, igika cya 216.
[259] Imyanzuro y'Ujurira, igika cya 298.
[260] Urubanza mu rw'iremezo, ibika 191, 216.

Leta".[261] Kubera ko havugwa ko FPR yari yafunze umuhanda ujya i Gikomero, nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze rwanga gushingira ku buhamya bw'umugabo uvuga ibyo atahagazeho kandi bwerekeye gusa "bimwe" mu birindiro by'ingabo z'u Rwanda. Byongeye kandi, Urugereko rw'Ubujurire rusanga ubuhamya bwa RGM mu Rukiko bwerekeye gusa uko ibintu byari byifashe ku muhanda Kigali-Byumba, ntibuvuga uko byari byifashe ku muhanda Kigali-Remera-Gikomero. Umucamanza usuzuma ibyabaye ushyira mu gaciro yaba afite ishingiro yanzuye avuga ko ubwo buhamya budatuma Urugereko rushidikanya ku bivugwa ko Ujurira yari i Gikomero ku itariki ya 12 Mata 1994.

5. Umutangabuhamya wiswe RKF

125. Kubyerekeye RKF, Ujurira avuga ko n'ubwo avuga ibyo atahagazeho ku bikorwa bya gisirikare, nk'uko n'Urugereko rwa Mbere rw'Iremezo rwabibonye, ubuhamya bwe bwashoboraga kwakirwa kandi bwashyigikiwe n'ubw'abandi. Ujurira yongeraho ko na Porokireri yemeye ko uwo mutangabuhamya ari impuguke mu bijyanye n'ukuntu ibikorwa bya gisirikare byari byifashe muri ako karere.[262] Yongeraho ko hari ibintu bivuguruzanya mu mitekerereze y'Urugereko rwa Mbere rw'Iremezo kubera ko ruhande rumwe, urwo Rugereko rwanze kwemera ubuhamya bwa RKF ruvuga ko atahagaze ku byo avuga ariko, ku rundi ruhande, rugashingira kuri ubwo buhamya mu kwemeza ko hari indi mihanda mito.[263]

126. Rumaze gusuzumana ubushishozi ubuhamya bwa RKF mu Rukiko, Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro, yari kwanzura avuga ko hatagaragajwe ko umuntu atashoboraga gukora urugendo hagati ya Kigali na Gikomero. Ku byerekeye RKF, Urugereko rwa Mbere rw'Iremezo rwasanze ko "n'ubwo ashobora kuba yarabonye amakuru ku bikorwa bya gisirikare muri rusange, ntiyiboneye ibyo avuga ku buryo abantu bakoraga ingengo hagati ya Kigali na Gikomero icyo

[261] Inyandikomvugo y'iburanisha, 28 Mata 2003, imp. 77 na 78.[FR]
[262] Imyanzuro y'Ujurira, igika cya 299.
[263] Ni kimwe no haruguru, igika cya 301.

gihe".[264] Mu by'ukuri, uwo mutangabuhamya atanga amakuru arambuye k'ukuntu ibintu byari byifashe ku muhanda Kigali-Byumba, avuga ahantu FPR yari yashinze ibirindo yakoreshaga mu gufunga imihanda:

> FPR yagenzuraga… yagenzuraga Karuruma, Nyacyonga, yari yarigaruriye utwo duce twose. Yari yaragose abasirikare bacu bari inyuma ahagana Cyamutara na Byumba. Abasirikare ba FPR bari ahantu hirengeye ku musozi wa Jari, basa n'abari hejuru y'abasirikare ba Leta. Kubera ko bari batunze ku mu handa, ntibyashoboka kuwunyuramo. Mu by'ukuri bari bafunze umuhanda muri ako gace ku buryo nta muntu washoboraga kuhanyura.[265]

Ku byerekeye uko ibintu byari byifashe ku muhanda wa Kigali-Remera-Gikomero, umutangabuhamya atanga amakuru adasobanutse neza:

> **Ikibazo**: Ni byo. Umuntu anyuze mu muhanda Kigali–Remera, akazamukira i Ndera – ndumva wita uwo muhanda irindi zina- maze akajya i Gikomero nko ku itariki ya 12 Mata. Watubwira niba yashobora kubikora ?
>
> **Igisubizo**: None se umuntu yari kunyurahe ava i Kigali, mu gihe ahantu hamwe hari hafunze? Byongeye kandi, n'abaturage bahungaga bavugaga ko babonaga abasirikare ba FPR bacengera mu Murwa mukuru. Umusiviri ntiyashoboraga rero kujya ahantu haberaga imirwano, ndetse muri icyo cyerekezo hari imbunda ya rutura yatitizaga Umurwa mukuru Kigali. Sinumva ukuntu umuntu yari gufata icyo cyerekezo, mu by'ukuri, intwaro ya rutura (ntibyumvikana) mu cyerekezo iyo mbunda amabombe yaturukagamo. Muri make rero, simbona ukuntu- kandi yari amayeri ya FPR kugira ngo abasirikare bayo bashobore gucengera bajye gufasha abari muri CND. Nicyo cyatumye batangira gufunga ako karere n'iyo mihanda. Ni ukuvuga rwose ko bagenzuraga ako karere.[266]

Kuri iki kibazo, Urugereko rw'Ubujurire rusanga umutangabuhamya atavuga neza ahantu hari ibirindiro bya FPR. Rusanga avuga gusa, muri rusange, ibisasu byaraswaga n'imbunda za rutura n'uko ingabo za FPR zagendaga ziza. Umutangabuhamya asa naho yumva ko akarere ka Remera n'aka Ndera twari mu maboko ya FPR. Cyakora, biragoye guhuza ubuhamya bwe n'ubwa RGG uvuga ko umuhanda ujya ku kigo cya gisirikare i Kanombe wari nyabagendwa kugeza hagati muri Mata 1994[267]. Ubwo buhamya bwa RKF ntibunahuye n'ubwatanzwe na Laurent Hitimana uvuga ko

---

[264] Urubanza mu rw'iremezo, igika 217.
[265] Inyandikomvugo y'iburanisha, 5 Gicurasi 2003, imp. 19,20 [FR].
[266] Ni kimwe no haruguru.
[267] Inyandikomvugo y'iburanisha, 30 Mata 2003, imp. 54-56 [FR].

byibuze tumwe mu duce twa Remera twagenzurwaga n'ingabo z'u Rwanda kugeza ku itariki ya 27 Mata 1994.[268]

127. Urugereko rw'Ubujurire rwanzura kandi ruvuga ko Ujurira ntashingiro afite mu byo avuga asa n'aho ashaka kumvikanisha ko Urugereko rwa Mbere rw'Iremezo rwivuguruza mu mitekerereze yarwo. Ruributsa ko ikibazo gihari ari ukumenya niba uburyo umuntu yari gukora urugendo ava i Kigali ajya i Gikomero bwatuma umuntu ashidikanya ku mwanzuro uvuga ko Ujurira yari i Gikomero ku itariki ya 12 Mata 1994. Urugereko rwa Mbere rw'Iremezo ni rwo rwagombaga kuvuga niba ubuhamya bwa RKF, ubugereranyije n'ubundi kuri icyo kibazo, bwari buhagije ku buryo bwatuma Urugereko rushidikanya ku bivugwa ko Ujurira yari i Gikomero. Mu kubikora, Urugereko rwa Mbere rw'Iremezo ruvuga impamvu ebyiri rwakurikije mu kugena agaciro k'ubuhamya bwa RKF mu Rukiko: uyu mugabo atanga ubuhamya buziguye ku byerekeye kuba byarashobokaga kujya i Gikomero, kandi yemera ko hagati ya Kigali na Gikomero, hari indi mihanda mito abantu bashoboraga kunyuramo. Ashingiye kuri ibyo bintu bibiri, umucamanza usuzuma ibyabaye ushyira mu gaciro, yaba afite ishingiro mu kwanzura avuga ko ubwo buhamya busuzumiwe hamwe n'ubw'abandi, budatuma Urugereko rushidikanya ku bivugwa ko Ujurira yari i Gikomero ku itariki ya 12 Mata 1994.

F. UMWANZURO

128. Ingingo y'ingenzi y'Ujurira ivuga ko busuzumiwe hamwe, ubuhamya abagabo barindwi batanze mu Rukiko bugaragaza ko, kuva ku itariki ya 7 kugera ku ya 17 Mata 1994, amayira atari nyabagendwa hagati ya Kigali na Gikomero,.[269] Urugereko rw'Ubujurire ruributsa ko

> Rudakemanga imyanzuro yo mu rwego rw'ibyabaye, iyo hari ibimenyetso byakwizerwa Urugereko rwa Mbere rw'Iremezo rwashoboraga gushingiraho, mu buryo bushyize mu gaciro, rufata imyanzuro yarwo. Biremewe kandi ko abacamanza babiri bo mu rw'iremezo bashyira mu gaciro bashobora kugera ku myanzuro itandukanye kandi nayo ishyize mu gaciro. Kubera iyo mpamvu, umuburanyi werekana gusa imyanzuro inyuranye Urugereko rwa Mbere rw'Iremezo rwari gufata, aba afite amahirwe make yo kugira ngo ubujurire bwe bwakirwe kereka agaragaje ko nta Rukiko na rumwe rusuzuma ibyabaye rushyira mu gaciro

[268] Inyandikomvugo y'iburanisha, 13 Gashyantare 2003, imp. 60-63 [FR].
[269] Imyanzuro y'Ujurira, igika cya 304.

> « rwari gufata umwanzuro wemeza uregwa icyaha ku buryo budashidikanywaho. »[270]

129. Byongeye kandi, Urugereko rw'Ubujurire ruributsa ko, kuri iyi ngingo, ikibazo gihari atari ukumenya niba umuntu yarashoboraga kuva ahantu ajya ahandi ahubwo ni ukumenya niba Ujurira yari koko i Gikomero ku itariki ya 12 Mata 1994. Iyo ngingo y'ubujurire yashoboraga kwakirwa iyo Ujurira agaragaza ko, hakurikijwe ubuhamya buvuguruzanya bwatanzwe mu Rukiko ku byerekeranye n'uko Ujurira yari i Gikomero n'i Kigali, n'ukuntu ibintu byari byifashe ku muhanda uhuza utwo duce twombi, nta mucamanza numwe usuzuma ibyabaye ushyira mu gaciro, wari kwanzura avuga ko Porokireri yagaragaje mu buryo budashidikanywaho, ko Ujurira yari i Gikomero igihe ibyaha byakorwaga. Ujurira arashaka gusa gufata agaciro Urugereko rwa Mbere rw'Iremezo rwahaye ubuhamya abagabo batanze mu Rukiko akagasimbuza ako yumva yabuha, nyamara atagaragaje ko urwo Rugereko rutashyize mu gaciro. Kubera izo mpamvu, iyi mpamvu y'ubujurire ntiyakiriwe.

X. AMAKOSA AVUGWA YO MU RWEGO RW'IBYABAYE YEREKEYE ITANGWA RY'INTWARO (GUSUSUMA IMPAMVU YA 12 Y'UBUJURIRE YOSE NO GUSUZUMA, KURI BIMWE, IMPAMVU YA KABIRI N'IYA KARINDWI Z'UBUJURIRE).

130. Mu ngingo ya kabiri, iya karindwi n'iya 12 z'ubujurire, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze amakosa menshi yerekeranye n'umwanzuro uvuga ko yahaye intwaro abantu bakoze ubwicanyi kuri Paruwasi ya Gikomero. Mu gice cy'urubanza cyerekeranye n'ibyo avuga, Urugereko rwa Mbere rw'Iremezo rwanzuye rugira ruti :

[270] Urubanza rwa Rutaganda mu bujurire, igika cya 22 (ibyasubiwemo ntibyongewemo) hasubirwamo ibivugwa mu rubanza rwa Bagilishema mu bujurire, igika cya 10.

> Hagati y'itariki ya 6 n'iya 10 Mata 1994, hari inama yabereye i Gikomero mu rugo rw'umwe muri babyara b'Uregwa. Iyo nama yarimo Uregwa, babyara be babiri, Interahamwe imwe n'umuturanyi. Urugereko rusanga muri iyo nama Uregwa yarabwiye abari bayirimo ko ubwicanyi butaratangira muri Komine ya Gikomero, ko "abagombaga kubafasha kubutangiza barongoye Abatutsikazi". Uregwa yabwiye abari muri iyo nama ko azabazanira "ibikoresho" kugira ngo batangire, ko kandi abagore babo nibaramuka bababereye imbogamizi ari bo bagomba kwikiza mbere. Uregwa akiri muri urwo rugo, yahise aha Kamanzi gerenade enye n'imbunda imwe. Nyuma y'iyo nama yabereye mu nzu, abari bayirimo bagiye kwa mubyara w'Uregwa witwa Karekezi, wari utuye hafi aho. Bakiriyo, Uregwa yahabahereye amagerenade n'imipanga byo gukoresha ubwabo, abaha n'izindi ntwaro bagombaga guha abandi bantu. Uregwa yabasabye gutanga izo ntwaro kandi ababwira ko azagaruka kubafasha. Yanavuze ko azagaruka kureba niba baratangiye ubwicanyi cyangwa kubafasha kubutangiza. Nyuma y'ibyo, Uregwa yaragiye kandi uwo munsi ntiyagarutse.[271]

Ujurira avuga ko imyanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuri iyo ngingo idashyize mu gaciro kubera ishingiye gusa ku buhamya bwa GEK mu Rukiko. Avuga ko ubwo buhamya butakwizerwa kandi burimo ukwivuguruza ku buryo butagenderwaho[272] Urugereko rw'Ubujurire rwumva ko Ujurira avuga ko nta Rugereko rwa Mbere rw'Iremezo na rumwe rushyira mu gaciro ruba rwaremeye ubuhamya GEK yatanze mu Rukiko kubera impamvu zikurikira : 1) ibyo avuga ku itangwa ry'intwaro byuzuyemo ukwivuguruza ku buryo bigaragara ko butakwizerwa ; 2) ubuhamya bwakwizerwa bwatanzwe ku bibazo bidafitanye isano n'ikirego cyihariye cy'itangwa ry'intwaro, bugaragaza ko ubuhamya bwa GEK budakwiye kwizerwa; kandi 3) abatangabuhamya batatu bashinjura bavuguruza ubuhamya GEK yatanze mu Rukiko bwerekeranye n'itangwa ry'intwaro.[273]

131. Kugira ngo rusuzume ayo makosa avugwa ku myanzuro y'Urugereko rwa Mbere rw'Iremezo, Urugereko rw'Ubujurire rusanga ari ngombwa kubanza gusuzuma ibice bijyanye n'iyi ngingo by'ubuhamya bwa GEK mu Rukiko, nk'uko bivugwa muri make n'Urugereko rwa Mbere rw'Iremezo. GEK yemeza ko hagati y'itariki ya 6 n'iya 10

---

271 Urubanza, igika cya 273.
272 Inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 68 na 69; imp. 69 na 70. [FR]
273 Ujurira avuga kandi ko GEK yabeshye GAA na GEX ko yabitse iwe intwaro zakoreshejwe mu bwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero. Imyanzuro y'Ujurira, ibika 336, 337. Ujurira ntavuga ahantu na hamwe muri dosiye yo mu rw'iremezo cyangwa ikimenyetso na kimwe ngo ashyigikire ibyo avuga. Asubiramo gusa igitekerezo cye atsimbareyeho. Urugereko rw'Ubujurire rwanze kubisuzuma birambuye.

Mata 2001, Ujurira yagiye i Gikomero, akahamara umwanya muto, ajyanywe no gutanga intwaro no gutegura ubwicanyi:

> GEK, w'Umututsikazi, avuga ko umugabo we w'Umuhutu, yari umwe mu bagize umuryango w'[Ujurira]… yongeye kubona [Ujurira]…… hagati y'itariki ya 6 n'iya 10 Mata 1994, ubwo yazaga iwabo [umutangabuhamya] i Gikomero, akaganira n'umugabo we. Avuga ko igihe Uregwa n'umugabo we baganiraga, atari mu cyumba kimwe nabo. Agira ati "Ubwo yinjiraga mu nzu yacu, umugabo wanjye yansabye kujya mu cyumba kuko icyo gihe intambara yari yaratangiye. Yambwiye rero kwihisha, ariko sinagiye kure, bityo nashoboye kumva ibyo bavuga".
>
> GEK avuga ko umugabo we n'[Ujurira] bari mu cyumba hamwe n'abandi bantu bane ari bo ….Avuga ko abo bantu bahageze hashize hafi nk'iminota ibiri nyuma y'Uregwa. Avuga ko [Ujurira] yabwiye Kamanzi ko ubwicanyi butari bwatangira muri Komine ya Gikomero. Ngo yongeraho ko: "abagombaga kubafasha ngo butangire bari barashatse Abatutsikazi". Avuga ko [Ujurira] yakomeje avuga ko ashobora kubazanira ibikoresho kugira ngo batangire kandi ko niba abagore babo bababereye imbogamizi, bagombaga kubanza kubikiza. …. Avuga ko ikiganiro cyabo cyamaze hagati y'iminota 20 na 30.
>
> Bamubajije niba intwaro cyangwa ibindi bikoresho byaratangiwe muri icyo cyumba, GEK yagize ati "Nsohotse nabonye imbunda, amagerenade n'imihoro yatanze asohotse mu nzu. Avuga ko [Ujurira] yatangiye izo mbunda n'amagerenade mu nzu mbere y'uko basohoka, kandi ko yabonye umugabo we atwaye gerenade enye zasaga n'inyundo. Avuga ko yamenye ko ari za gerenade kuko mbere yari yarazibonanye umugabo we, wari umusirikare icyo gihe
>
> GEK agira ati "[Ujurira] asohotse, yagiye k'[umuturanyi wanjye] mu ntera iri hagati y'intambwe eshanu n'icumi. Yabahaye… amagerenade n'imihoro…. Avuga ko [Ujurira] yahaye intwaro abantu bane ariko ko yabasigiye n'izindi bagombaga nabo guha abandi bantu…uyu mugado agira ati "…kuva aho nari ndi n'aho bari bari nashoboraga kumva ibyo avuga; [Ujurira] yababwiye gutanga izo ntwaro ndetse ababwira ko azagaruka kubafasha". Avuga ko [Ujurira] yababwiye ko yari kugaruka kureba niba baratangiye kwica cyangwa ko azagaruka kubafasha gutangiza ubwicanyi.[274]

132. Amaze kuvuga ukuntu Ujurira yatanze intwaro igihe yazaga ariko ntahatinde, GEK avuga ko Ujurira yagarutse i Gikomero hashize iminsi myinshi, umunsi haba ubwicanyi ku kigo cya Paruwasi ya Gikomero. Incamake Urugereko rwa Mbere rw'Iremezo rwatanze kuri ibyo bintu byabaye igaragaza ko GEK avuga ko hagati y'itariki ya 10 n'iya 14 Mata 1994, Ujurira

> yagiye ku muturanyi gutangiza ubwicanyi ku kigo cy'amashuri abanza. [Ujurira] yahagaritse imodoka ye yari ikurikiwe n'indi yo mu bwoko bwa Daihatsu y'ubururu irimo abantu benshi. Umutangabuhamya asobanura ko bamwe mu bantu bari muri

[274] Urubanza, ibika 251-256 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).

iyo modoka ya kabiri bari bitwaje imihoro, impiri n'imbunda, ko ariko harimo n'abadafite intwaro; yongeraho ko bari bambaye imyenda isanzwe cyangwa iniforume y'interahamwe. Imodoka yaje iturutse mu cyerekezo cya Kigali. Mu kugenda, Kamuhanda yagiye mu modoka ye maze yerekeza ku kigo cy'amashuri abanza aho impunzi zitagira ingano zari zakoraniye. Umutangabuhamya avuga ko, Kamuhanda amaze kugenda, yumvise urusaku rw'amasasu n'induru byamaze iminota iri hagati ya 20 na 40. Urusaku rw'amasasu ruhagaze, bagize ubwoba, bumvaga urusaku rw'imodoka ariko badashobora kuzibona zigenda. Umutangabuhamya avuga ko yabonye abana bakomeretse biruka babagana, kandi ko umukobwa w'umwangavu bari baciye amaguru yahungiye mu rugo rwabo.[275]

A. UBUHAMYA BURIMO UKWIVUGURUZA

133. Ujurira avuga ko iyo usuzumye ubuhamya bwa GEK ku bintu byabereye muri Komine ya Gikomero, usanga bwuzuyemo amakosa n'ukwivuguruza ku buryo bigaragara ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro rubushingiraho ngo rwemeze ko [Ujurira] yatanze intwaro.[276] GEK avuga ibintu bine bitandukanye ku bintu byabereye muri komine : ubuhamya yatanze hejuru y'indahiro abuha abapererezi muri Gashyantare 1998,[277] ubuhamya butatu yatanze muri Mata 2001[278], muri Nzeri 2001 [279] no muri Mutarama 2003.[280]Amaze kubusuzumira hamwe abugereranya, Ujurira yemeza ko yasanze burimo ibintu byinshi bivuguruzanya[281] :

---

[275] Ni kimwe no haruguru, igika 314. (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[276] Imyanzuro y'Ujurira, ibika 318-322.
[277] Ikimenyetso gihamya nº D2 cy'Ubwunganizi.
[278] Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 147-203 [FR].
[279] Inyandikomvugo y'iburanisha, 3 Nzeri 2001,imp. 182-215 [FR]; Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp.6-133 [FR]; Inyandikomvugo y'iburanisha, 5 Nzeri 2001, imp. 3-95 [FR].
[280] Inyandikomvugo y'iburanisha, 13 Mutarama 2003,imp. 58-96 [FR].Ujurira avuga ko ubuhamya GEK mu Rukiko, muri uru rubanza, na bwo buvuguruza ubwo yatanze mu rubanza rwiritiriwe Guverinoma I. Urugereko rw'Ubujurire rwasuzumye ibice bimwe by'inyandiko by'inyandikomvugo y'iburanisha muri urwo rubanza bifitanye isano n'ibivugwa maze rwanga ko bitangwa nk'ibimenyetso by'inyongera mu bujurire kubera ko bigaragara ko, hashyizwe mu gaciro, ibyo bice bidashobora cyane ko byatuma hari igihinduka ku mikirize y'urubanza. Icyemezo cyafashwe hashingiwe ku ngingo ya 115 y'Amategeko, ibika 21-28.
[281] Ukwivuguruza kuvugwa ahangaha, ntikuvugwa mu Myanzuro y'Ujurira. Cyakora, kubera inyungu z'ubutabera, Urugereko rw'Ubujurire rwiyemeje gusuzuma no gukemura ibibazo bimwe bigomba kwitabwaho byabajijwe igihe Ubwunganizi bwanyomozaga GEK. Ni ngombwa na none kugaragaza ko bimwe mu bivuguruzanya bivugwa n'Ujurira bitandukanye n'ibintu biri muri dosiye yo mu rw'iremezo. Cyakora, Urugereko rw'Ubujurire rwakoze ilisiti y'ukwivuguruza kose Ujurira avuga mu Myanzuro ye.

Uburyo intwaro zatanzwe hagati y'itariki ya 6 n'iya 10 Mata 1994

- *Ibara ry'imodoka* : Mu buhamya yatanze muri Mata 2001, GEK avuga ko Ujurira yahageze ari mu modoka y'icyatsi[282]. Nyamara muri Nzeri 2001 yemeza ko Ujurira yahageze ari mu modoka y'umweru.[283]

- *Abantu bari bahari*: Mu buhamya bwe bwanditse yatanze hejuru y'indahiro muri Gashyantare 1998, ndetse no mu bwo yatanze mu Rukiko muri Mata 2001, GEK avuga ko Ujurira yagiranye ikiganiro n'abantu batatu mu rugo iwe [umutangabuhamya].[284] Mu buhamya yatanze muri Muri Nzeri 2001, avuga ko Ujurira yaganiriye n'abantu bane mu rugo rwe [umutangabuhamya].[285]

- *Amagerenade umugabo wa GEK yemeye gufata*: Mu buhamya bwe bwanditse yatanze hejuru y'indahiro muri Gashyantare 1998, GEK avuga ko Ujurira yahaye umugabo we[286] amagerenade abiri. Mu buhamya yatanze mu Rukiko muri Mata 2001, yemeza ko umugabo we yanze gufata intwaro Ujurira yashakaga kumuha.[287] Mu buhamya yatanze mu Rukiko muri Nzeri 2001, avuga ko Ujurira yahaye umugabo we amagerenade ane.[288]

- *Kuba abandi bantu baremeye ko Ujurira abaha intwaro ngo bazitange*: Mu buhamya bwe bwanditse yatanze hejuru y'indahiro bwo muri Gashyantare 1998, GEK yemeza ko Ujurira "yabwiye [abantu bari muri iyo nama] ko mu ikamyoneti

---

[282] Imyanzuro y'Ujurira, igika cya 320. Reba na none inyandikomvugo y'iburanisha, 17 Mata 2001,imp. 158,159 [FR].
[283] Imyanzuro y'Ujurira, igika cya 320. Reba na none inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 189, 190, 191, 192 [FR].
[284] Imyanzuro y'Ujurira, igika cya 320. Reba na none ikimenyetso gihamya nº D2 cy'Ubwunganizi, urup. 6 ; Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 155-157[FR]
[285] Imyanzuro y'Ujurira, igika 320. Reba na none inyandikomvugo z'amaburanisha, 3 Nzeri 2001, imp. 193 na 194; 4 Nzeri 2001, imp.53-65 [FR].
[286] Ikimenyetso gihamya nº D2 cy'Ubwunganizi, urup. 6.
[287] Imyanzuro y'Ujurira, igika cya 320. Reba na none inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 157,158, 168, 169 [FR].
[288] Imyanzuro y'Ujurira, igika cya 320. Reba na none inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 201 na 202 [FR]; Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 67-69 [FR].

ye harimo indi mihoro maze abasaba kuyitanga mu baturage".[289] Cyakora, "abantu batatu bari hamwe mu nama barabyanze" maze Ujurira "asubiranayo iyo mihoro", avuga ko agiye kuyiha burugumesitiri kugira ngo abe ari we uyitanga.[290] Nyamara, mu buhamya yatanze mu rukiko muri Mata no muri Nzeri 2001, GEK avuga ko mbere yo kujya kwa burugumesitiri n'iyo modoka irimo intwaro,[291] Ujurira yasize izindi ntwaro zagombaga gutangwa n'abantu bari muri iyo nama.[292]

Ubwicanyi bwabaye ku itariki ya 12 Mata 1994 :

- *Kuba mbere GEK atari yaravuze ko yabonye Ujurira umunsi ubwicanyi bukorwa* : Mu buhamya bwanditse yahaye abapererezi muri Gashyantare 1998, GEK ntavuga ko yabonye Ujurira i Gikomero umunsi haba ubwicanyi ku kigo cya Paruwasi ya Gikomero.[293] Nyamara, mu buhamya yatanze muri Mata no muri Nzeri, yemezako yabonye Ujurira hafi y'urugo rwe [GEK] i Gikomero kandi ko nyuma yaho, Ujurira yagiye yerekeza ku kigo cya Paruwasi ari kumwe n'ikamyo irimo *Interahamwe*.[294]

- *Ikibazo cyo kumenya niba Ujurira yarahagaze cyangwa atarahagaze hafi y'urugo rwa GEK* : Ujurira avuga ko mu buhamya yatanze muri Mata 2001, GEK yemeza ko yamubonye anyura imbere y'urugo rwe adahagaze ubwo yari agiye ku kigo cya Paruwasi ya Gikomero.[295] Mu buhamya yatanze muri Nzeri 2001, avuga

[289] Ikimenyetso gihamya nº D2 cyatanzwe n'Ubwunganizi, urup. 6. Reba na none inyandikomvugo y'Iburanisha, 4 Nzeri 2001, imp. 82-85[FR].
[290] Ni kimwe no haruguru.
[291] Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 163-165 [FR]; Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 80-84 [FR].
[292] Inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 202-203 [FR]. Reba na none inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 159-163 [FR].
[293] Ikimenyetso gihamya nº D2 cy'Ubwunganizi. Reba na none inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 92-95 [FR].
[294] Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 174-178; Inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 207-212 [FR]; Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 92-95 [FR].
[295] Imyanzuro y'Ujurira, igika cya 321, hasubirwamo ibivugwa mu nyandikomvugo y'iburanisha, 17 Mata 2001, imp. 89-92 [FR].

ko Ujurira yahagaritse imodoka ye imbere y'urugo rw'umuturanyi we kandi ko iyo modoka yari itwaye abantu benshi.[296]

- *Itariki umutangabuhamya yaboneyeho ubwicanyi bwakorewe imbere y'urugo rwe* : mu buhamya yatanze muri Mata 2001, GEK avuga ko, ubwicanyi bwo ku kigo cya paruwasi bwaraye bubaye, yabonye abantu bicirwa imbere y'urugo rwe.[297] Mu buhamya yatanze muri Nzeri 2001, avuga ko abo bantu bishwe ku umusi igitero kigabwa no ku minsi yakurikiyeho.[298]

Urugendo (ingendo) GEK yakoreye i Kibobo:

- *Mbere GEK ntiyari yavuze igihe yamaze muri Serire ya Kibobo* : Mu buhamya bwanditse yahaye abapererezi muri Gashyantare 1998, GEK ntavuga na rimwe ko yagiye muri Serire ya Kibobo (iri ahantu umuntu yagenda amasaha abiri n'amaguru avuye i Gikomero)[299] mu gihe abantu bicwaga ku kigo cya Paruwasi ya Gikomero.[300] Ntanavuga iby'urwo rugendo mu buhamya yatanze mu Rukiko muri Mata 2001.[301] Mu buhamya yatanze muri Nzeri, nibwo bwa mbere avuga iby'ingendo yakoreye i Kibobo. Muri ubwo buhamya avuga ko yagiyeyo nyuma y'ubwicanyi, akahamara igihe kitazwi mbere yo i Gikomero.[302]

- *Itariki GEK yagiriyeho i Kibobo*: Mu buhamya yatanze muri Nzeri 2001, GEK avuga ko hashize iminsi itatu ubwicanyi bubaye, yagiye i Kibobo ahunga

---

[296] Imyanzuro y'Ujurira, igika cya 321. Reba na none inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 207-211 [FR].
[297] Imyanzuro y'Ujurira, igika cya 321. Reba na none inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 172, 173, imp. 178-180 [FR].
[298] Imyanzuro y'Ujurira, igika cya 321, hasubirwamo ibivugwa mu nyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 203-205 [FR]. Reba na none inyandikomvugo y'iburanisha, 4 Nzeri 2001,imp. 10-15 [FR]; Inyandikomvugo y'iburanisha, 5 Nzeri 2001, imp. 22-27 [FR].
[299] Inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 9, 10. (EM) [FR]
[300] Ikimenyetso gihamya nº D2 cy'Ubwunganizi.
[301] Imyanzuro y'Ujurira, igika cya 322.
[302] Imyanzuro y'Ujurira, igika cya 322. Reba na none inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 9-11 [FR].

Interahamwe.[303] Mu buhamya yatanze mu Rukiko muri Mutarama 2003, yemeza ko yagiye i Kibobo ubwicanyi bwaraye bubaye.[304]

134. Mu gusubiza ibivugwa kuri uko kwivuguruza, Porokireri asobanura ko uko kwivuguruza Ujurira avuga kwagombye gusuzumwa “ingingo ku yindi”, hazirikanwa neza “ibisobanuro umutangabuhamya yatanze k’ukwivuguruza kuvugwa mu buhamya yatanze mu Rukiko ndetse n’agaciro k’uko kwivuguruza.[305] Avuga kandi ko “Urugereko rwa Mbere rw’Iremezo rwamenyeshejwe uko kwivuguruza n’ihuzagurika bivugwa mu buhamya bwa GEK maze rubisuzumana ubushishozi mbere yo gufata imyanzuro ntakuka”[306]. Porokireri avuga ko yumva Urugereko rwa Mbere rw’Iremezo rwarafashe icyemezo gishyize mu gaciro ruvuga ko GEK yakwizerwa, “kubera akamaro ubuhamya bwe bufite, imyitwarire ye […] mu iburanisha ndetse n’ibimenyetso byose byatanzwe mu rubanza”.[307]

135. Rumaze gusuzuma ingingo z’ababuranyi, Urugereko rw’Ubujurire rwanzuye ruvuga ko, zisumiwe hamwe cyangwa imwe ku yindi, ingingo zivuguruzanya ziri mu buhamya bwa GEK zitatuma atizerwa ku buryo byabuza Urugereko rwa Mbere rw’Iremezo rushyira mu gaciro, kubushingiraho. Isuzuma ry’ubwo buhamya bwatanzwe mu Rukiko rigaragaza ko Urugereko rwa Mbere rw’Iremezo rushyira mu gaciro rushobora kuba rufite ishingiro rwanzuye ruvuga ko GEK ativuguruza mu buhamya bwe kuri ibi bibazo :

---

[303] Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 9 na 10.

[304] Inyandikomvugo y'iburanisha, 13 Mutarama 2003, imp. 60-62 Ujurira yaba kandi yarashoboye kubona ibintu bisa bivuguruzanya ku kibazo cyo kumenya niba umutangabuhamya wiswe GEK yararaye cyangwa atararaye i Kibobo. Muri Mutarama 2003, umutangabuhamya yari yemeje ibi bikurikira: “ntabwo narayeyo”. Inyandikomvugo y'iburanisha, 13 Mutarama 2003, urup. 61. Muri Nzeri 2001, nyamara, yavuze ibi bikurikira: “Nagiye i Kibobo mpunga Interahamwe. Mu by’ukuri, Interahamwe zaraduteraga, hanyuma zigataha; kandi nkajya i Kibobo, naraharaga hanyuma nkagaruka iwanjye. Ntabwo rero nagumye i Kibobo iminsi myinshi”. Inyandikomvugo y’iburanisha, 5 Nzeri 2001, urup. 20 (ntibishimangiwe mu mwimerere). Urugereko rw’Ubujurire rubona ko, urebye ukuntu ibintu byari byifashe muri icyo gihe, GEK yashakaga mu by’ukuri kuvuga ibi bikurikira: “ Najyaga kurara i Gikomero” Kwitiranya amazina bwite bidakozwe nkana ni ibintu bisanzwe; ubuhamya yatangiye kuri iyo ngingo ntibwitaweho n’Ujurira habe yemwe na Porokireri, Urugereko rw’Ubujurire ntirushobora kwita ku ikosa nk’iryo riba ricitse umuntu.

[305] Imyanzuro y’Ujurira, igika cya 152, ivugwamo urubanza rwa Musema, igika cya 88 (Ntibishimangiye mu nyandiko).

[306] Imyanzuro y’Ujurira, igika cya 154 (havugwamo ko mu rubanza, Urugereko rwa Mbere rw’Iremezo rwemeye ko ibintu bimwe bikubiye mu buhamya bwa GEK, ntibyari iby’ukuri), havugwamo urubanza, igika cya 266.

[307] Imyanzuro y’Ujurira, igika cya 171.

- *Umubare w'abantu bari bahari igihe Ujurira yahageraga aje gutanga intwaro*: Mu buhamya yatanze muri Nzeri 2001, ubwo yakoraga ilisiti y'abantu bari iwe igihe intwaro zatangwaga, GEK yongeyeho izina rimwe ku mazina y'abantu batatu yavuze mu buhamya yatanze muri Mata.[308] Yavuze ko uwo muntu, witwa Ngiruwonsanga, yari "*Interahamwe* ruharwa muri segiteri" kandi ko yabaga ari mu bwicanyi bwose bwakorewe muri ako karere.[309] Mu ibaza rinyomoza, asabwe gusobanura impamvu yongeye Ngiruwonsanga kuri lisiti yakoze, maze asa n'utangajwe no kumva ko atari yaramuvuze mbere. Yongeye kwemeza ko Ngiruwonsanga yari ahari.[310] Mu gusuzuma ibi bintu bisa n'ibidahuye, Urugereko rw'Ubujurire rusanga mu buhamya yatanze mu Rukiko muri Mata 2001, GEK avuga koko undi "musirikare wari kumwe n'[Ujurira] ubwo yazaga i Gikomero gutanga intwaro.[311] Rushingiye ku biranga Ngiruwonsanga bivugwa na GEK, Urugereko rw'Ubujurire rubona ko "uwo musirikare wundi uvugwa ashobora kuba ari Ngiruwonsanga. GEK ntavuga mu buryo bweruye ko lisiti ye yariho amazina yose kandi urwego yatanzemo ubuhamya mu Rukiko rugaragaza ko mu cyumba Ujurira yari kumwe n'"umusirikare" utaramenyekanye n'abandi bantu batatu bavugwa amazina.[312] Kubera izo mpamvu, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rushyira mu gaciro rwakwanzura ruvuga ko GEK ativuguruza mu byo avuga kuri iyi ngingo.

- *Kuba umugabo wa GEK yaranze gufata amagerenade yari ahawe n'Ujurira*: GEK agira ati : "umugabo wanjye yavuze ko adashobora kwakira ayo magerenade, kubera ko umugore we ari Umututsikazi[313].Uregwa amuhaye

---

[308] Inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 193 na 194.
[309] Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 58-60.
[310] Ni kimwe no haruguru, imp. 53-65.
[311] Inyandikomvugo y'iburanisha, ya 17 Mata 2001, urup. 157 [FR].
[312] Ni kimwe no haruguru, imp. 155-157. (Naramubonye [Ujurira] mu cyumba cy'uruganiriro cy'inzu yacu------ ninjiye mu cyindi cyumba byegeranye maze ngeze muri kirongozi mfunga umuryango nguma inyuma yawo. Mbere yo kwinjira mu cyumba, namubonye [Ujurira] afite amagerenade mu ntoki, naho umusirikare bari kumwe afite umupanga")
[313] Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 157, 158 [FR].

amagerenade akayanga, nibwiye ko [Ujurira] agiye guhita anyica".[314] Cyakora, Urugereko rw'Ubujurire ruvuga ko, ukurikije uko byanditswe icyo gihe, usanga bigaragara neza ko GEK avuga gusa ko [umugabo we] yabanje kwanga gufata intwaro [Ujurira] yashakaga kumuha, ariko akaza kuzemera kubera ko Ujurira yakomeje kuzimuhatira. Kubera izo mpamvu, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rushyira mu gaciro rutaba rwibeshye rwanzuye ruvuga ko GEK ativuguruza kuri iyo ngingo.

- *Kuba mbere GEK atari yaravuze ko yabonye Ujurira umunsi ubwicanyi bukorwa* : Mu buhamya bwanditse yatanze hejuru y'indahiro muri Gashyantare 2998, GEK avuga k'Ujurira, no ku bwicanyi bwabaye ku itariki ya 12 Mata maze agasoza muri aya magambo : "Ni ibyo nibuka gusa muri aka kanya", ariko ntavuga ko yabonye Ujurira umunsi w'ubwicanyi.[315] N'ubwo kuba atabivuga bishobora gutera amakenga, ni ngombwa kuzirikana ibintu bibiri. Icya mbere, mu by'ukuri, ubuhamya bwanditse GEK yatanze hejuru y'indahiro muri Gashyantare 1998, bwanditswe n'umuntu ushinzwe iperereza, nyuma y'ibazwa rya mbere ryari ryerekeranye n'ibintu byinshi bigaragarira, nk'uko abivuga, mu bibazo byihariye byabajijwe n'uwo muntu ukora iperereza.[316] Icya kabiri, mu buhamya bwe mu Rukiko, GEK avuga ko ku itariki ya 12 Mata, yabonye Ujurira akanya gato ari imbere y'iwe [GEK]. Birumvikana rero ko kuba GEK yaramubonye akanya gato, byatumye ibyo bintu bidahita bimuza mu mutwe igihe yavugaga ibyabaye uwo munsi. Byongeye kandi, kuba GEK atavuga ko yabonye Ujurira akanya gato uwo munsi, mu by'ukuri ntibivuguruza ubuhamya yatanze nyuma mu Rukiko aho yemeza ko yamubonye. Kubera izo mpamvu, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro mu kwanzura ruvuga ko GEK ativuguruza kuri iyo ngingo.

- *Ikibazo cyo kumenya niba Ujurira yahagaritse cyangwa atarahagaritse imodoka ye hafi y'urugo rwa GEK umunsi w'ubwicanyi*: Urugereko rw'Ubujurire rusanga

[314] Ni kimwe no haruguru, imp. 168,169.
[315] Ikimenyetso gihamya nº D2 cy'Ubwunganizi.
[316] Inyandikomvugo y'iburanisha, 4 Nzeri 2001,imp. 92 na 93.

GEK ativuguruza na rimwe mu buhamya yatanze mu Rukiko kuri iyo ngingo. N'ubwo buvuga ibice bitari byo ku buryo biruhije kumenya ishingiro ry'iyo mpamvu y'ubujurire, Ubwunganizi bushobora kuba bwarayobejwe n'ukudasobanuka ku isemurwa ry'icyo gice cy'ubuhamya GEK yatanze mu Rukiko kuri iyo ngingo. Mu by'ukuri, mu nyandiko y'igifaransa, icyo gice cy'ubuhamya giteye gitya : "Ujurira yaje gushaka umuturanyi wa GEK, baca mu muhanda unyura inyuma y'inzu yacu, maze bajya ku ishuri[317]". Cyakora, nyuma aho avuga ibirebana n'itsinda ry'abantu bagiye ku kigo cya Paruwasi ya Gikomero, GEK agira ati : [Ujurira] "yanyuze hafi y'iwanjye mu modoka ye ari kumwe n'umuturanyi [wa GEK], n'abasirikare----[318] Ibyo bivuga, cyangwa, nibura bihura n'ibivugwa ko Ujurira ashobora kuba yarasanze umuturanyi wa GEK mu nzu ye (iri imbere y'iya GEK) maze agakomeza yerekeza ku mashuri – ibyo bikaba byaratumye ahahagarara, nk'uko GEK abivuga mu buhamya yatanze muri Nzeri 2001. Uko ubuhamya yatanze muri Mata 2001 bwasemuwe mu cyongereza bihuye neza n'ibyo avuga mu bwo yatanze mu Rukiko muri Nzeri 2001. Koko rero, nk'uko GEK abivuga, umunsi ubwicanyi bukorwa Ujurira "yaje gushaka [umuturanyi wanjye], kandi baciye mu muhanda unyura inyuma y'inzu yacu maze bajya ku mashuri".[319] Akomeza agira ati : "----hafi y'iwanjye. Yari kumwe [n'umuturanyi wanjye], n'abasirikare mu modoka ye".[320] Kubera izo mpamvu, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro mu kwanzura ruvuga ko GEK ativuguruza kuri iyo ngingo.

- Kuba mbere GEK atari yaravuze ko yabaye i Kibobo: Urugereko rw'Ubujurire rusanga GEK ativuguruza n'ubwo mbere yaba ataravuze ko yabonye Ujurira umunsi w'ubwicanyi. Kuba atarabivuze mu buhamya bwanditse yatanze mbere

---

[317] Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 174, 175 [FR].
[318] Ni kimwe no haruguru, urup. 177.
[319] Ni kimwe no haruguru, imp. 174, 175.
[320] Ni kimwe no haruguru, imp. 176, 177. Ibintu bidahuye bito ariko bifite ingaruka biri mu buhamya uko bwahinduwe mu ndimi zombi bivuye mu Kinyarwanda (reba Inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 162, 163 [FR]) bishobora gutuma dusobanukirwa ku ngingo y'ingenzi: kubera ko ndetse n'isemura rikozwe neza rishobora kutabamo utuntu twose turi mu mwimerere, Ujurira ashobora kugaragara ko adashyira mu gaciro cyangwa ashaka kuyobya Urugereko ashingira ku gice cy'inyandiko yashyizwe mu rundi rurimi kugira ngo yemeze ko GEK yivuguruza mu buhamya bwe.

ntibitangaje kandi ibi binyuranye n'uko byagenze igihe atavugaga ko yabonye Ujurira. Nta kintu na kimwe kijyanye n'ubwicanyi bwakorewe i Gikomero cyabereye i Kibobo aho GEK yahungiye nyuma y'ibyabaye yatanzeho ubuhamya mu Rukiko.

136. Cyakora, izindi ngingo zivuguruzanya zivugwa n'Ujurira, umuntu akizibona ashobora kwibirwa ko zigaragara koko mu buhamya bwa GEK. Urugereko rw'Ubujurire ruributsa ingorane zerekeranye n'ubuhamya bw'abagabo bahagaze ku byo bavuga, bufatwa nk'aho buri mu rwego rwihariye rw'ibimenyetso. Kuri iyi ngingo, Urugereko rw'Ubujurire ruvuga ibikurikira hejuru:

> Birasanzwe ko umugabo watanze ubuhamya mu manza nyinshi ku kintu kimwe, akunda kuvuga ku bintu binyuranye by'icyo kintu cyabaye, bitewe n'umwirondoro w'uregwa ndetse n'ibibazo Porokireri amubaza. Byongeye kandi, nta gitangaza ko iyo yongeye kubibazwaho maze akabyibuka, umutangabuhamya asobanura neza kurushaho ibyo yavuze mu buhamya yatanze mbere. Umutangabuhamya ashobora kubyibazaho cyane maze akibuka utundi tuntu atari yaravuze mbere [niko bisemuwe].[321]

137. Ku kibazo cyo kumenya niba ataragize ingorane zo gutanga ubuhamya mu Rukiko asobanura neza ibintu byabaye mu myaka ishize, mu gihe cyarimo akavuyo, GEK asubiza muri aya magambo: "Ntibyanyoroheye, kuko ntarinzi ko bazambaza ibibazo kuri ibyo bintu, kandi iyo nza kumenya ko bazabimbaza mba narabyanditse".[322] Nk'uko abivuga, "Biterwa n'ibintu byinshi kuko ikintu gishobora kukwibutsa ikindi cyabaye, cyangwa kikakikwibagiza --." Kwibagirwa ikintu runaka ntibivuga ko umuntu atavugisha ukuri…" "Biterwa n'ikibazo bakubajije, kandi ntushobora kwibuka buri kintu cyose".[323] Uretse ibyo bintu bivugwa muri rusange ku ngorane zijyanye n'ubuhamya butanzwe mu Rukiko n'abagabo bahagaze ku byo bavuga, Urugereko rw'Ubujurire rusanga ari ngombwa gushimangira ko, muri rusange, GEK adasa n'ushaka gukabya ibintu mu buhamya yatanze mu Rukiko. Inshuro nyinshi, abyibwirije, yemeye ko adashobora

---

[321] Urubanza rwa Kamuhanda, Icyemezo ku Cyifuzo cy'Ujurira gisaba ko ibimenyetso by'inyongera byakwakirwa mu bujurire, igika cya 26, ibisobanuro byo hasi ku rupapuro rwa 42, hasubirwamo ibivugwa mu Cyemezo cyafashwe mu rubanza rwa Ntakirutimana, hashingiwe ku ingingo ya 115 y'Amategeko, igika cya 31.
[322] Inyandikomvugo y'iburanisha, 5 Nzeri 2001, imp. 81-83 [FR].
[323] Inyandikomvugo y'iburanisha, 4 Nzeri 2001, imp. 51, 52; imp. 62, 63 [FR]

kwibuka utuntu twose twihariye turebana n'ibyabereye i Gikomero.[324] Yemeye kandi, abikuye ku mutima, ko ubuhamya bwe bufite aho bugarukira ku birebana n'ikintu cy'ingenzi Porokireri ashinja Ujurira, ni ukuvuga kwitabira, mu buryo butaziguye, ubwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero. Ku birebana n'icyo kibazo, yavuze gusa ko umunsi w'ubwicanyi, yabonye Ujurira yerekeza aho hantu ari kumwe n'abantu bitwaje intwaro. Urugereko rw'Ubujurire rusanga GEK yakwizerwa kuko yiyemerera ko hari ibyo ashidikanyaho.

138. Urugereko rw'Ubujurire rusanga ku birebana n'ingingo z'ingenzi z'ubuhamya bwe bushinja Ujurira, GEK atarahinduye imvugo mu byo avuga: Ujurira yaje iwe hashize igihe gito indege ya Perezida Habyarimana ihanutse; yatonganije abagabo yahasanze kubera ko batari batangiye kwica Abatutsi; yavuze ko abagore babo b'Abatutsikazi bagombaga kwicwa nibatera imbogamizi iyo ari yo yose; kandi yabahaye intwaro zo gukoresha mu bwicanyi bwari bugiye kuba. Umunsi ubwicanyi bukorwa, Ujurira yaje hafi y'urugo rwe ari kumwe n'ikamyo irimo *Interahamwe* maze ajya ku kigo cya Paruwasi ya Gikomero aho impunzi zari ziri. Nyuma yaho mu gihe kigeze ku gice cy'isaha, GEK yumvise urusaku rw'amasasu n'urusaku rw'abantu. Mu gusoza kuri iyi ngingo, kubera ko ari ngombwa kwemera uburyo Urugereko rwa Mbere rw'Iremezo rwasuzumye ibibazo byose birebana n'ukwizerwa kw'abatangabuhamya, by'umwihariko kubera akamaro k'imyitwarire yabo, Urugereko rw'Ubujurire rusanga uko kwivuguruza kutagaragaza ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro rwemeza ko ubuhamya bwa GEK bwakwizerwa.

B. <u>UBWUNGANIZI BURWANYA UKWIZERWA KWA GEK</u>

139. Mu kurwanya ukwizerwa kwa GEK, Ujurira ntavuga gusa ingingo zivuguruzanya mu buhamya bw'uwo mugabo, anavuga ko nibura ibintu bitatu bitandukanye biba byaratumye Urugereko rwa Mbere rw'Iremezo rwanzura ruvuga ko GEK atakwizerwa. Urugereko rw'Ubujurire rugiye gusuzuma buri ngingo atanga.

[324] Nk'urugero, reba inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 192,193 [FR] (kuba umutangabuhamya atarashoboye kuvuga neza umunsi Uregwa yagereyeho i Gikomero aje gutanga intwaro); inyandikomvugo y'iburanisha, 3 Nzeri 2001, imp. 207, 208 [FR] (kuba atavuga itariki nyayo ubwicanyi bwakoreweho ku kigo cya Paruwasi ya Gikomero).

1. GEK yahamwe n'icyaha cy'ubwicanyi.

140. Mbere na mbere Ujurira avuga ko nyuma y'ubuhamya GEK yatanze mbere mu Rukiko ariko urubanza rutararangira mu rw'Iremezo, GEK yahamwe n'icyaha cy'ubwicanyi mu rubanza rudafite aho ruhuriye n'uru. Urugereko rwamenyeshejwe ibyo bintu ubwo GEK yongeraga guhamagazwa mu rwego rw'inyomoza ry'inyongera.[325] Ujurira avuga ko "niba GEK yarashoboye kwicisha umwe mu bantu bakoranaga, ashobora no gukora ikintu kibi kurushaho, nko gutanga ubuhamya bw'ikinyoma abitewe n'impamvu zidasobanutse.[326]

141. Porokireri avuga ko "kuba umutangabuhamya yarakatiwe ariko ashobora kujurira, kubera ibikorwa [bishobora kumuhama] bidafite aho bihuriye n'urubanza rw'Ujurira, bitamubuza kwizerwa".[327]

142. Mu buhamya yatanze mu Rukiko, GEK yemera ko yahamwe n'icyaha cy'ubufatanyacyaha mu bwicanyi, ariko akavuga ko yajuriye. Biragaragara ko ibyo bintu biteye impungenge n'ubwo gatozi w'ubwicanyi atabangamira iteka imicungire myiza y'ubutabera. Mu by'ukuri, nta cyatuma umuntu avuga ko, guhamwa n'icyaha cy'ubwicanyi, cyane cyane iyo ubwo bwicanyi budafitanye isano n'ibiburanwa mu rubanza, bishobora ubwa byo kubuza umucamanza usuzuma ibyabaye kwizera ubuhamya bw'umugabo. Mu by'ukuri, ubuhamya butanzwe mu Rukiko n'abantu baregwa kuba baragize uruhare mu[328] gucura umugambi w'ubwicanyi, n'uw'ibindi byaha by'amarorerwa, no mu kubitsotsoba, akenshi buba ishingiro ryo kugaragaza uburyozwacyaha bw'abandi bantu bafatanije umugambi mubisha, haba muri uru Rukiko, muri TPIY cyangwa mu zindi nkiko. Mu gusuzuma ukwemerwa k'umutangabuhamya, umucamanza usuzuma ibyabaye niwe ugomba kuzirikana ibyemezo bihamya ibyaha abo batangabuhamya, ibimenyetso byose birebana n'imico yabo, kimwe n'ibindi bintu byose

[325] Inyandikomvugo y'iburanisha, 13 Mutarama 2003, imp. 62, 63 [FR].
[326] Imyanzuro y'Ujurira, igika cya 335.
[327] Imyanzuro y'Ujurira, igika cya 221.
[328] Urugereko rw'Ubujurire ntirwashoboye, kandi rusanga atari ngombwa, kumenya niba icyemezo cyo gihamya GEK icyaha cyafashwe n'urukiko rwo mu Rwanda cyaremejwe cyangwa kitaremejwe mu bujurire.

bishobora kugira ingaruka ku rubanza, nk'imyifatire yabo, ibyo bavuga mu buhamya bwabo mu Rukiko n'ukuntu ubwo buhamya buhuye n'ubw'abandi. Muri uru rubanza, ni byo Urugereko rwa Mbere rw'Iremezo rwakoze mbere yo kwanzura ruvuga ko, kubera izo ngingo zose, kuba GEK yarahamwe n'icyaha cy'ubwicanyi kidafitanye isano n'ibiburanwa muri uru rubanza bidahagije ngo rushidikanye k'ukuri kw'ubuhamya bwe. Urugereko rwa Mbere rw'Iremezo ni rwo rwa mbere rufite ibyangombwa byose byo gusuzuma ibibazo by'ukwizerwa k'ubuhamya. Kubera izo mpamvu, nta mpamvu n'imwe Urugereko rw'Ubujurire rubona yo guhindura imikirize y'urubanza.

2. Kuba GEK yaba yarabeshye ko yari i Gikomero umunsi ubwicanyi buba

143. Icya kabiri, Ujurira yemeza ko GEK yabeshye mu byo yavuze ku bwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994. Ibyo Ujurira avuga bigamije gutuma ukwizerwa kwa GEK gukemangwa muri rusange: Ujurira avuga ko ibyo GEK yavuze byose ku bwicanyi ari ibihimbano, ko bigaragara ko GEK ari umutangabuhamya udashobora kwizerwa. Kubera iyo mpamvu, Urugereko rwa Mbere rw'Iremezo ntirwari kwizera ubuhamya bwanditse yatanze ku itangwa ry'intwaro ryaba ryarabaye hasigaye iminsi myinshi ngo ubwicanyi bukorwe.

144. Urugereko rw'Ubujurire ruributsa ko GEK avuga ko, ku itariki ya 12 Mata 1994, yari iwe i Gikomero maze abona Ujurira ageze mu mujyi mu modoka ikurikiwe n'ikamyo yuzuye Interahamwe. Cyakora, EM, wari umukozi wo mu rugo kwa GEK icyo gihe, avuga ko, kuva ku itariki ya 7 Mata 1994 kugeza ku ya 9 Mata 1994, we na GEK birirwaga i Gikomero, ninjoro bakarara i Kibobo, maze ku mugoroba wo ku itariki ya 9 Mata 1994 bakimukira muri Serire ya Kibobo, aho bagumye kugera ku itariki ya 13 Mata 1994[329]. EM yongeraho ko, ku itariki ya 12 Mata 1994 mu ma saa mbiri z'ijoro, GEK yabyaye, ku buryo uwo munsi atashoboraga kuba ari i Gikomero[330]. Bimwe mu byo uyu mutangabuhamya avuga bishyigikirwa n'ubuhamya bwa Xaviera Mukaminani, wari

[329] Inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 9-11. [FR]
[330] Ni kimwe no haruguru, imp. 10–11, imp. 29-30. [FR]

utuye mu gace kamwe na GEK. Xaviera Mukaminani avuga ko kuva ku itariki ya 6 Mata 1994, indege ya Perezida Habyarimana imaze guhanuka, atigeze abona GEK i Gikomero[331]. Mukaminani avuga ko "yari azi ko GEK atwite inda nkuru", kandi akaba yaramenye ko yahungiye i Kibobo indege ya Perezida ikimara guhanuka, akagaruka nyuma y'ubwicanyi bwo ku itariki ya 12 Mata[332]. GPK na we avuga ko yamenye ko, ku itariki ya 12 Mata 1994, GEK yari i Kibobo[333], n'ubwo atavuga na rimwe ko yahamwiboneye n'amaso ye; ibyo kandi n'Ujurira akaba abyemera[334].

145. Porokireri avuga ko Ujurira "na none atagaragaza ko Urugereko rwakoze ikosa ruvuga ko "ubuhamya bwa EM mu Rukiko butafatwaho ukuri, bityo bukaba butahungabanya ukwizerwa kwa GEK"[335]. Naho ku bandi batangabuhamya, Porokireri yemeza ko "haba mu rwego rw'amategeko cyangwa urw'ibyabaye, nta mpamvu n'imwe yatuma Urugereko ruha ubuhamya bwabo agaciro karuta ako rwabuhaye, cyangwa ngo rube, nk'uko Ujurira asa n'aho ashaka kubyumvikanisha, "rwafata buri kimenyetso cyose cy'Ubwunganizi nk'aho kigomba, byanze bikunze, gushidikanywaho, ariko ibimenyetso byatanzwe na Porokireri byo ntibibe ari ko bifatwa"[336]. Porokireri yemeza ko ibyo avuga bishimangirwa n'uko "Urugereko rutigeze ruzuyaga kwanga kwakira ibyo avuga iyo rwasangaga bitakwizerwa"[337]

---

[331]Inyandikomvugo y'iburanisha, 10 Gashyantare 2003, imp. 34-35. [FR] Xaviera Mukaminani yabanje kwitwa TMF, nyuma, mbere yo gutanga ubuhamya ahitamo gukoresha izina rye nyaryo. Inyandikomvugo y'iburanisha, 10 Gashyantare 2003, Imp. 22-24. [FR]

[332] Inyandikomvugo y'iburanisha, 10 Gashyantare 2003, Imp. 34-36. [FR]

[333] Imyanzuro y'Ujurira, igikan cya 315. Reba kandi inyandikomvugo y'iburanisha, 20 Mutarama 2003, imp. 63- 64. [FR]

[334] Imyanzuro y'Ujurira, igika 312. Reba na none inyandikomvugo y'iburanisha, 20 Mutarama 2003, imp. 63-64 [FR]. Hari ibidasobanutse neza mu buhamya GPK atanga mu Rukiko kuri iyo ngingo. Avuga ko mubyara wa GEK ari we wamubwiye ko GEK yari i Kibobo. Ni kimwe no haruguru. Anavuga ko umunsi ubwicanyi buba yagiye i Kibobo. Ni kimwe no haruguru. Ntavuga na rimwe ko ubwo yajyaga i Kibobo ku itariki ya 12 Mata 1994, yiboneyeyo ubwe GEK. Ni kimwe no haruguru. Iyo ngingo tumaze kuvuga ni yo mu by'ukuri Ujurira ashingiraho asobanura impamvu ubuhamya bwa DPK budashyigikira ubuhamya bwanditse bwatanzwe na EM uvuga ko GEK yari atwite mu gihe cy'ibyabaye. Imyanzuro y'Ujurira, igika cya 312 (avuga ko GPK "atigeze avuga ko yabonye" GEK i Kibobo umunsi ubwicanyi buba) (ririya jambo ntiriciyeho akarongo mu nyandiko y'umwimerere). Porokireri arwanya iyi ngingo ya nyuma, akavuga ko igisobanuro umuntu ashobora kumva ko ubuhamya bwa GPK mu Rukiko bushobora gutuma umuntu yumva ko uyu mugabo avuga ko ku itariki ya 12 Mata 1994 yabonye koko GEK. Imyanzuro ya Porokireri, ibika 72-75. Cyakora, Urugereko rw'Ubujurire rusanga ubuhamya EM yatanze mu Rukiko ku byerekeranye n'uko GEK yari atwite rutabufataho ukuri kubera izindi mpamvu zitari iyo. [FR]

[335] Imyanzuro ya Porokireri,igika cya 213, hasubirwamo ibivugwa mu gika cya 270 cy'urubanza mu rw'iremezo.

[336] Imyanzuro ya Porokireri, igika cya 215.

[337] Ni kimwe no haruguru.

146. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro mu kwemera ko, ku itariki ya 12 Mata 1994, GEK atari ari i Kibobo, ko ahubwo yari ari i Gikomero. Mu bimenyetso binyomoza byatanzwe muri uru rubanza, icyashegeshe cyane ibivugwa na Porokireri ni ubuhamya bwa EM. Cyakora, mu ibazwa rinyomoza rirambuye, byagaragaye ko ukwizerwa kwe kwakemangwa cyane, umuntu adashatse kwerura ngo avuge ko Porokireri yashenye ubuhamya bwe uko bwakabaye. Ubwo Porokireri yerekanaga indangamuntu ya GEK yatanzwe n'abayobozi bo mu Rwanda kandi igaragaza ko, mu by'ukuri, uwo mwana uvugwa yavutse hashize amezi atanu ibivugwa bibaye, ni ukuvuga muri Nzeri 1994, byahise bigaragara ko EM yabeshye aho avuga ko kuri uriya munsi w'ubwicanyi, GEK yari yarabyaye[338]. Porokireri yagiye agaragaza kenshi ko ibyo uyu mutangabuhamya avuga ku bintu byatumye haba ubwicanyi Ujurira ashinjwa, urebye, bidashoboka. "Uravuga ko [GEK], wari utwite inda y'imvutsi, yajyanwe n'umugabo wagendaga amwitaho bagakora urugendo rwa kirometero enye mu gihe cy'amasaha abiri, ibyo bikaba inshuro ebyiri zose zikurikiranye…mu majoro abiri akurikiranye, ahantu na we utazi niba hari umutekano cyangwa nta niba utari uhari"[339]" muri urwo rugendo "mwagarukaga ku manywa y'ihangu, kandi mwarabonwaga n'umuntu wese washoboraga kubica"?[340] Porokireri yanagaragaje ko ibyo EM avuga ko ku itariki ya 13 Mata 1994 GEK yagaruwe n'umugabo wa GEK i Gikomero, bitashobokaga. "Uratubwira ko [GEK],

[338] Ikimenyetso gihamya nº 49. Reba na none inyandikomvugo y'iburanisha, 3 Gashyantare 2003, imp. 12-13 [FR] (ahavugwa itangwa [mu Rukiko] ry'indangamuntu ku nshuro ya mbere); inyandikomvugo y'iburanisha, 3 Gashyantare 2003, imp. 27-30[FR] (ahavugwa Ubwunganizi bwemeye ko iyo ndangamuntu yemewe n'amategeko). Ni ngombwa kuvuga ko EM yagiye ahuzagurika ku itariki avuga ko uwo mwana yavukiyeho. Mbere yabanje gusobanura neza ko, ku bijyanye n'iyo tariki, ngo azi neza ko uwo mwana yavutse saa mbiri z'ijoro uwo munsi ubwicanyi buba. Inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 10-11, urwa 20 n'urwa 30. [FR] Cyakora, hashize iminsi ine, EM yahinduye ibyo yari yavuze mbere maze asobanura neza ko uwo mwana yavutse saa mbiri za mu gitondo ku munsi ukurikira uwo ubwicanyi bwabereyeho. Inyandikomvugo y'iburanisha, 3 Gashyantare 2001, imp. 7, 8. [FR] Ukundi kwivuguruza kwerekeranye, mu buryo butaziguye, n'ikibazo cy'ingenzi cyasuzumwaga, kwagiye kugaragazwa mu buhamya bwe: ku ruhande rumwe EM avuga ko GEK yari atwite inda y'imvutsi ku buryo "nta ho yajyaga", akaba atari agishobora kujya gusenya inkwi cyangwa kuvoma (inyandikomvugo y'iburanisha, 30 Mutarama 2003, urup. 13) [FR], ku rundi ruhande akavuga ko buri munsi GEK yakoraga urugendo rw'amasaha abiri ava i Gikomero ajya i Kibobo, kandi ko hari n'igihe yatemaga ibitoki byari mu mirima. (Inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 9-11). [FR]

[339] Inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 27-29. [FR] EM asubiza muri aya magambo: "Yego, ni byo rwose mbabwira", inyandikomvugo y'iburanisha, 30 Mutarama 2003, urup. 28. [FR]

[340] Inyandikomvugo y'iburanisha, 30 Mutarama 2003, urup. 28. [FR]

w'Umututsikazi, yagaruwe n'umugabo we i Gikomero, kandi yari azi ko Abatutsi barimo kwicwa muri ako gace"[341].

147. Naho ku byerekeye Xaviera Mukaminani na GPK, nta n'umwe muri abo batangabuhamya wigeze avuga ko yabonye GEK i Kibobo. Ubuhamya bwabo bushingiye ku byo bumvanye abandi, maze bakabishingiraho bemeza ko GEK yari i Kibobo. Urugereko rw'Ubujurire rusanga ko, binyuranije n'uko ubwunganizi bubyuma[342], n'iyo umuntu, yakwemeza ko ubuhamya bwa GEK mu Rukiko bugaragaza ko GPK yiboneye ubwe GEK i Kibobo, ntibyabuza ubuhamya bw'uyu mugabo gukemangwa cyane. GPK yagiye ahunga kenshi ikibazo cy'amasano afitanye n'Ujurira.[343] Porokireri akomeje kumuhata ibibazo, ni bwo yaje kugeraho yemera ko umugore we ari murumuna w'umwe muri babyara ba hafi b'Ujurira[344]. Byongeye kandi, GPK yabanje guhakana ko yigeze akekwaho kugira uruhare mu bwicanyi bwabereye i Gikomero ku itariki ya 12 Mata[345], nyuma aza kwemera ko "ngo mbere" ubutegetsi butamufataga nk'umugizi wa nabi wagize uruhare mu bwicanyi (sic)" bwakorewe i Gikomero[346]. Muri make, Urugereko rw'Ubujurire rusanga hari ibibazo bikomeye biri mu buhamya bwose abagabo bashinjura batanze mu Rukiko kuri iyo ngingo. Kubera iyo mpamvu, Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro rwanga kwemera ibyo Ujurira yashakaga kwemeza ko GEK yari i Kibobo umunsi bwicanyi buba.

---

341 Ni kimwe no haruguru, imp. 33-34.
342 Reba Imyanzuro y'Ujurira, igika cya 312. [FR]
343 Porokireri amubajije ati "Si byo ko ufitanye isano na Bwana Kamuhanda kubera ko imiryango yanyu yashyingiranye?", GPK yarashubije gusa ati "…Nta cyo dupfana, kuko umuryango wanjye uta…nta muntu wo mu muryango wanjye wigeze ushaka umugore ukomoka mu muryango wa Kamuhanda, no ku rundi ruhande kandi nta muntu wo mu muryango we wigeze ushaka umugore ukomoka mu muryango wacu." Inyandikomvugo y'iburanisha, 21 Mutarama 2003, imp. 56, 57. [FR]
344 Inyandikomvugo y'iburanisha, 21 Mutarama 2003, imp. 58-60. [FR]
345 Ni kimwe no haruguru, imp. 14, 15. [FR]
346 Ni kimwe no haruguru, urup. 5. [FR]

3. Ubuhamya GEK yatanze mu Rukiko avuga ko Ujurira yari yitwariye imodoka ye.

148. Mu buhamya bwe mu Rukiko, GEK avuga ko yabonye Ujurira ajya i Gikomero, akanavayo[347] atwaye imodoka ye. Cyakora, kubera ko muri uru rubanza hatanzwe ubuhamya bugaragaza ko Ujurira atari azi gutwara imodoka, Urugereko rwa Mbere rw'Iremezo rwanzuye ko [GEK] ashobora kuba yaribeshye ku muntu wari utwaye iyo modoka[348]. Ujurira asanga uko kuvuguruzanya ari ikimenyetso cy'inyongera kigaragaza ko GEK atakwizerwa[349].

149. Porokireri asubiza avuga ko "n'ubwo bigaragara ko hari ibintu bidahuye cyangwa bivuguruzanya nko kuba "umutangabuhamya yaribeshye ku muntu wari utwaye iyo modoka", Urugereko rwa Mbere rw'Iremezo rwasuzumye ubwo buhamya uko bikwiye, maze rumaze gusesengura ingingo z'ingenzi zibukubiyemo, rwemeza, rushyize mu gaciro, ko akwiye kwizerwa"[350]

150. Urugereko rw'Ubujurire rwamaze gusuzuma ingorane umutangabuhamya uvuga ibyo yahagazeho, ahura nazo byanze bikunze mu kwibuka buri kantu kose kabaye[351]. Rwanzura rero ruvuga ko n'ubwo GEK yaba yaribeshye ku muntu wari utwaye iyo modoka, nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze mu gushingira ku ngingo z'ingenzi zikubiye mu buhamya bwe, maze rukemeza ko koko Ujurira yatanze intwaro i Gikomero.

4. Kuba GEK yaba yarabeshye ku mwirondoro we

151. Mu gusoza kuri iyi mpamvu y'ubujurire, Ujurira yemeza ko GEK « yatanze ubuhamya akoresheje umwirondoro utari wo » kuko yahinduye izina rye", bityo akaba "yarabeshye

---

[347] Imyanzuro y'Ujurira, ibika 54,55,119, na 323-325. Nk'urugero, reba na none inyandikomvugo y'iburanisha, 17 Mata 2001, imp. 163-165. [FR]
[348] Urubanza mu rw'iremezo, igika cya 266. [FR]
[349] Imyanzuro y'Ujurira, ibika 54,55,119, na 323-325; Imyanzuro y'Ujurira isubiza, igika cya 116. [FR]
[350] Imyanzuro y'Usubiza, igika cya 154, hasubirwamo ibivugwa mu rubanza mu rw'iremezo, ibika 266-439 (ntibiri muri italiki mu nyandiko y'umwimerere).
[351] Reba haruguru, ibika 142,143. [FR]

[ku] mwirondoro we"[352]. Ujurira avuga ko icyo kimenyetso kitari kigamije kwerekana ko "ubwunganizi […] [bwari] bwemeje ko GEK " yihaye izina ritari irye", ahubwo ko mu iburanisha; yahinduye izina rye, agakoresha umwirondoro utari wo".[353]. By'umwihariko, n'ubwo GEK avuga ko izina rye ry'ikinyarwanda ari "X"[354], akanagararagaza indangamuntu yatanzwe n'abayobozi bo mu Rwanda ibishimangira, Ujurira avuga ko, mu by'ukuri, izina ry'ikinyarwanda ry'uwo mutangabuhamya abantu b'i Gikomero bazi, ari irya "MukaX"[355]. Ujurira akaba asaba Urugereko rw'Ubujurire kwemeza ko, kubera ko yabeshye ku mwirondoro we[356], GEK ari umunyakinyoma, akaba adakwiye kwizerwa.

152. Porokireri avuga ko, kuba bagenzi ba GEK, ufite izina ry'ikinyarwanda rya "X", bashobora kuba bari bamuzi ku izina rya "MukaX", bidasobanura na rimwe ko yabeshye ku bijyanye n'izina rye cyangwa ko yarihinduye[357] . Avuga ko GEK yatanze ibisobanuro byumvikana ku mpamvu izina rye ryemewe mu butegetsi, ritandukanye n'iryo abantu bamuhamagara[358].

153. Urugereko rw'Ubujurire rwanzuye ruvuga ko ibivugwa ku izina "nyaryo" rya GEK nta kindi bigamije, uretse gutera urujijo. Ruributsa ko n'ubwo abunganira Ujurira badukanye iriya mvugo urubanza rugeze kuri iyi ntera, mu rw'Iremezo, bari bahamije bidasubirwaho ko GEK atari uwo yiyitaga, ko ahubwo yihaye izina ry'undi muntu, akaba atarigeze rero aba umugore wa mubyara w'Ujurira. Iyo ngingo ikaba igaragara neza muri dosiye y'urubanza mu rw'iremezo[359] , kandi Urugereko rwa Mbere rw'Iremezo na rwo ni ko

---

[352] Imyanzuro y'Ujurira, , ibika 326-333 (Biciyeho akarongo mu nyandiko y'umwimerere).
[353] Imyanzuro y'Ujurira, igika cya 152 (Biciyeho akarongob mu nyandiko y'umwimerere).
[354] Nk'uko turi bubibone mu kanya, iyo umuntu asesenguye neza izina ry'ikinyarwanda rya GEK, asobanukirwa impamvu hari iryo tandukanirizo rigaragara. Muri iri suzuma, Urugereko rw'Ubujurire, mu kuvuga GEK ruzajya rukoresha inyuguti ya "X", bigaragara neza ko ari izina atijwe, aho gukoresha izina we avuga ko ari ryo rye.
[355] Imyanzuro y'Ujurira, ibika 327-332. Ku bijyanye na ririya zina yatijwe ryavuzwe ku nimero ibanziriza iyi, Ujurira yemera ko izina ry'idini rya GEK ari "Y", ariko akavuga ko akabimbura "Muka" kongewe kuri "X" bikabyarara izina rye ry'ikinyarwanda "MukaX"
[356] Imyanzuro y'Ujurira, igika cya 333
[357] Imyanzuro ya Porokireri, igika cya 203.
[358] Ni kimwe no haruguru.
[359] By'umwihariko, ibivugwa by'uko ngo "Ubwunganizi butigeze buhamya ko umutangabuhamya GEK ari umuntu wiyitirira uwo atari we, akaba atari umugore w'[umugabo yavuze ko ari we mugabo we]" ntaho bitaniye cyane n'ikinyoma. Imyanzuro y'Ujurira, igika cya 152. Reba kandi ahanditse ngo Ni kimwe no haruguru, ibika 151-156. Biragaraga muri dosiye y'urubanza mu Rugereko rwa mbere rw'iremezo ko ibyo ari byo Ubwunganizi bwemeje

rwumvise imyanzuro y'Ubwunganizi[360]. Uko kugerageza gutuma GEK atizerwa byaje kuba imfabusa ubwo Ujurira yemeraga ko, mu by'ukuri, azi neza GEK, kandi ko koko [GEK] atabeshye ku mwirondoro we[361].

154. Bityo rero, niba rwarumvise neza imyanzuro y'Ujurira, Urugereko rw'Ubujurire rusanga Ubwunganizi bwaragerageje kuvuga, mu yandi magambo, ibyo bwavugiye mu rw'iremezo, bushaka kugaragaza ko GEK yahinduye izina rye ry'ikinyarwanda, ntabimenyeshe neza Urugereko rwa Mbere rw'Iremezo[362]. Cyakora, Ujurira ntiyigeze arwanya ibisobanuro GEK yatanze ku itandukaniro rigaragara riri hagati y'izina rye ryemewe n'amategeko n'iryo abantu b'i Gikomero bamwita. GEK avuga ko, kubera ko izina rye nya ryo ry'ikinyarwanda ari ryo "X", ubusanzwe rikunze kwitwa abantu b'igitsina gabo, bagenzi be bamwita "MukaX", ariko rikaba atari ryo zina rye nya ryo, bakabigirira ko iyo bongeyeho akabimbura "Muka", izina rye rihinduka iry'igitsina gore[363]. GEK asobanura ibyo bintu muri aya magambo:

> Ubundi, iwacu banyise "X" kuko ariko sogokuru yitwaga. "X" rero ni izina rya sogokuru. Ariko kubera ko, mu Rwanda, abantu bamenyereye ko izina rya "X" ubundi ryitwa abantu b'igitsina gabo, bakunda kongeraho "Muka" kugira ngo izina ryanjye ribe "MukaX" aho kuba "X". Naho ubundi mu by'ukuri, nitwa [X]. No mu ndangamuntu yanjye yatanzwe n'ubutegetsi bwa Repubulika y'u Rwanda, izina ririmo ni [MukaX][364]

---

neza neza. Nk'urugero, reba inyandikomvugo y'iburanisha, 4 Nzeri 2001, urup. 27[FR] ("Ariko ikibazo cy'umwirondoro wawe cyerekeranye n'umugore washakanye na nyakwigendera [izina ry'umugabo uvugwa ko ari umugabo we]"; inyandikomvugo y'iburanisha, 5 Nzeri 2001, urup. 66 [FR] ("Ngarutse ku byo nahoze mvuga. Madame mutangabuhamya, ntabwo wari umugore w'[uriya mugabo uvuga ko ngo yari umugabo wawe]".

[360] Urubanza mu rw'iremezo, igika 266 ("Ubwunganizi bwabanje kuvuga ko ngo GEK atari uwo avuga ko ari we")

[361] Urubanza mu rw'iremezo, igika cya 266. Reba kandi inyandikomvugo y'iburanisha, 26 Kanama 2002, imp. 225-227 [FR] (iburanisha mu ruhame), uru. 230-231[FR] (mu muhezo).

[362] Reba Imyanzuro y'Ujurira, igika cya 156 (yemeza ko "ingingo ivuga ko GEK yahinduye izina rye ry'ikinyarwnanda …yerekana ko ubuhamya bwe budakwiye gufatwaho ukuri")

[363] Inyandiko y'iburanisha, 4 Nzeri 2001, imp. 22-26. [FR]

[364] Ni kimwe no haruguru, urup. 25.

C. KUVUGURUZANYA HAGATI Y'UBUHAMYA BWATANZWE MU RUKIKO NA GEK N'UBW'ABAGABO BASHINJURA

155. Mu gusoza ibyo arwanya ku buhamya bwa GEK, Ujurira yemeza ko abatangabuhamya bashinjura benshi bavuguruza, nibura ku ngingo ebyiri, ibyo GEK avuga ku itangwa ry'intwaro. Icya mbere, abatangabuhamya batatu batuye mu gace kamwe na GEK bavuga ko batabonye Ujurira atanga intwaro[365] . Icya kabiri, Ujurira avuga ko mu buhamya bwabo, abo bagabo batatu bavuga ko GEK atari i "Gikomero ku matariki avuga ko intwaro zatangiweho."[366]

1. Abatangabuhamya batatu batuye mu gace kamwe na GEK ntibabonye Ujurira atanga intwaro.

156. Ujurira avuga ko mu buhamya bwabo mu Rukiko, abatangabuhamya batatu bashinjura bavuga ko babaga bari kumwe na GEK cyangwa bari hafi y'ahantu havugwa ko hatangiwe intwaro muri icyo gihe, ariko bakaba batarabonye ikintu na kimwe mu byo avuga. Mu ibazwa ry'ingenzi, GEK yavuze ko hagati y'itariki ya 6 n'iya 10 Mata 1994 yabonye Ujurira i Gikomero aha intwaro abantu bavugwa ko ari Abahutu bakoranaga. Nyamara Xaviera Mukaminani wari utuye hafi yo kwa GEK, avuga ko hagati y'itariki ya 6 n'iya 10 Mata 1994 yari iwe kandi ko atigeze abona intwaro zitangwa[367]. GPK na we avuga ko kugeza ku itariki ya 12 Mata 1994 yari muri ako gace kandi ko atigeze yumva ko hari intwaro zatanzwe[368]. EM, wari umukozi wo mu rugo kwa GEK, we avuga ko hagati y'itariki ya 6 n'iya 10 Mata buri gihe yabagaga ari kumwe na GEK, ko nta ntwaro yabonye zitangwa ndetse ko atanabonye Ujurira muri icyo gihe[369]. Bose uko ari batatu

[365] Imyanzuro y'Ujurira, ibika 310- 314.
[366] Ni kimwe no haruguru, ibika 315-317.
[367] Ni kimwe no haruguru, igika 310. Reba n'inyandikomvugo y'iburanisha, 10 Gashyantare 2003, imp. 30, 40 na 41 [FR].
[368] Imyanzuro y'Ujurira, igika cya 310. Reba n'inyandikomvugo y'iburanisha, 20 Mutarama 2003 imp.64-67 [FR].
[369] Imyanzuro y'Ujurira, igika cya 310. Reba n'inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp.8-14 [FR].

babwiye Urugereko ko iyo ibintu nk'ibyo biza kuba badahari, byanze bikunze baba barumvise abandi bantu babivuga[370].

157. N'ubwo Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko kuba bariya bagabo batarabonye Ujurira i Gikomero "bitabuza ko yaba yarahageze nk'uko bivugwa na GEK". Ujurira avuga ko uwo umwanzuro utari ukwiye gufatwa[371]. Avuga ko "atashoboye kubyireguraho ku buryo buhamye kandi bugaragara" bitewe n'uko GEK atashoboye kuvuga neza igihe intwaro zatangiwe,[372]. Byongeye kandi, Ujurira avuga ko atari we wagombaga "kugaragaza ko bitashobokaga" ko agera i Gikomero mu gihe kivugwa, ko we yagombaga kugaragaza gusa ko umuntu ushyira mu gaciro yashidikanya ko yaba yaragiye i Gikomero nk'uko abiregwa[373].

158. Urugereko rw'Ubujurire rusanga ibyo Ujurira avuga kuri iyi ngingo bitakwemerwa. Nk'uko Porokireri abivuga kandi ari nako Urugereko rwa Mbere rw'Iremezo rwabivuze, kuba GPK na Xaviera Mukaminani batarabonye intwaro zitangwa, ntibivuga ko zitatanzwe. Ikindi kandi, nk'uko byavuzwe haruguru, mu ibazwa rinyomoza, byaragaragaye cyane ko EM atakwizerwa. Kubera iyo mpamvu umuntu yavuga ko Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro rwanga kwemera ubuhamya bwose uwo mugabo yatanze mu Rukiko.

2. Kuba GEK yaba atari i Gikomero igihe intwaro zaba zaratangiweho.

159. Ujurira yemeza ko mu buhamya bwabo mu Rukiko, abagabo batatu bashinjura banavuga ko GEK atari i Gikomero hagati y'itariki ya 6 n'iya 10 Mata 1994, ari cyo gihe kivugwa Ujurira yaba yaratanzemo intwaro[374]. EM avuga ko kuva ku itariki ya 7 kugera ku ya 9

---

[370]Imyanzuro y'Ujurira, igika cya 310. Reba n'inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 10-12 (EM) [FR]; inyandikomvugo y'iburanisha, 10 Gashyantare 2003, imp. 31-35 na 45-47 (Xaviera Mukaminani) [FR]; inyandikomvugo y'iburanisha, 20 Mutarama 2003, imp.65-67 (GPK) [FR].
[371] Imyanzuro y'Ujurira, igika cya 313, hasubirwamo ibivugwa mu nyandiko y'urubanza mu rw'iremezo, igika cya 271.
[372] Imyanzuro y'Ujurira, igika cya 313.
[373] Ni kimwe no haruguru, igika cya 87.
[374] Ni kimwe no haruguru, igika cya 315.

Mata, we na GEK bararaga, bakanirirwa igice cy'umunsi muri Serire ya Kibobo[375] iri ahantu umuntu agenda amasaha abiri avuye i Gikomero[376]. EM anavuga ko kuva ku itariki ya 9 Mata kugera ku munsi wa nyuma w'ubwicanyi nibura, we na GEK bari baravuye burundu i Gikomero kandi ko igihe cyose babaga bari muri Serire ya Kibobo[377]. EM yongeraho ko muri icyo gihe cyose atigeze atandukana na GEK[378]. Ibyavuzwe na EM byanashyigikiwe na Mukaminani Xaviera uvuga ko atigeze abona GEK i Gikomero nyuma y'ihanuka ry'indege ya Perezida Habyarimana (ku itariki ya 6 Mata 1994), akongeraho ko yumvise ko GEK yahungiye i Kibobo[379].

160. Nk'uko twabivuze haruguru, Porokireri avuga ko nta mpamvu yari gutuma Urugereko rwa Mbere rw'Iremezo ruha ubuhamya, bwatanzwe mu Rukiko n'abagabo bashinjura, agaciro karenze ako rwabuhaye.

161. Mbere na mbere, Urugereko rw'Ubujurire rusanga niyo bwakwemerwa uko buri, ubuhamya bwatanzwe mu Rukiko na EM na Xaviera Mukaminani butagaragaza ko bidashoboka ko GEK yaba yari i Gikomero, igihe intwaro zatangwaga nk'uko bivugwa. Mu buhamya bwe mu Rukiko, EM yemera nibura ko ku itariki ya 6 Mata 1994 GEK yari i Gikomero naho Mukaminani we akavuga gusa ko atabonye GEK i Gikomero muri kiriya gihe. Ni byiza kandi kwibutsa ko, nk'uko byavuzwe haruguru, mu ibazwa rinyomoza EM yagaragaje ko atakwizerwa cyane. Bityo rero, Urugereko rw'Ubujurire rusanze nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze rwemera ibyo GEK avuga ashaka kugaragaza ko yari i Gikomero umunsi bavuga ko ari wo intwaro zatanzweho.

D. UMWANZURO

162. Urugereko rw'Ubujurire ntirwasuzumye gusa ibivugwa haruguru bigamije kurwanya ubuhamya bwa GEK mu Rukiko, ahubwo rwanasuzumye ikibazo cyo kumenya niba

---

[375] Ni kimwe no haruguru. Reba muri rusange inyandikomvugo y'iburanisha, 30 Mutarama 2003, imp. 9-10 na 35 - 36.
[376] Inyandikomvugo z'iburanisha, 30 Mutarama 2003 imp. 9-10 [FR].
[377] Ni kimwe no haruguru, imp. 9-11, 35-36.
[378] Inyandikomvugo y'iburanisha, 30 Mutarama 2003 [FR].
[379] Imyanzuro y'Ujurira, igika cya 315. Reba n'inyandikomvugo y'iburanisha, 10 Gashyantare 2003, imp. 33-36 [FR].

ibintu byose Ujurira avuga kuri iyi ngingo byatuma umuntu ashidikanya k'ukwizerwa k'ubuhamya bwa GEK ku buryo yavuga ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro ruha ubwo buhamya agaciro rwabuhaye. Urugereko rw'Ubujurire ruributsa ko hagomba kubahirizwa ihame rivuga ko Urugereko rw'Ubujurire rwemera ibyemezo Urugereko rwa Mbere rw'Iremezo rwafashe ku bibazo birebana n'ibyabaye, cyane cyane ibijyanye n'isuzumwa ry'imyitwarire y'abatangabuhamya n'ukwizerwa kwabo. Nta kintu na kimwe kigaragaza ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro ubwo rwemeraga ubuhamya bwose bwatanzwe mu Rukiko n'abagabo bashinja. Ahubwo biragaragara ko rwasuzumanye ubwitonzi n'ubushishozi ibivugwa na buri mutangabuhamya rugamije kureba icyizere cyahabwa buri wese muri bo[380]. N'ubwo Ujurira yatanze impamvu zikomeye zishyigikira ingingo ze, Urugereko rw'Ubujurire rusanga rudashobora kwanzura ruvuga ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro rufata umwanzuro unyuranye n'uwo Ujurira avuga ko rwagombaga gufata. Bityo rero, Urugereko rw'Ubujurire ntirwemeye ingingo z'Ujurira ku birebana na GEK.

XI. AMAKOSA YABA YARAKOZWE KU BYEREKEYE UBWICANYI BWAKOREWE KU KIGO CYA PARUWSI YA GIKOMERO NO MU GUSUZUMA UBUHAMYA BWATANZWE MU RUKIKO KURI *ALIBI* Y'UJURIRA. (GUSUZUMA, KURI BYOSE, IMPAMVU YA 3, 10, 13 N'IYA 14 Z'UBUJURIRE NO GUSUZUMA, KURI BIMWE, IMPAMVU YA 2, IYA 4, IYA 5 N'IYA 7 Z'UBUJURIRE)

A. INTANGIRIRO

163. Mu mpamvu z'ubujurire zitandukanye, Ujurira yatanze ingingo zerekeranye n'ukuntu Urugereko rwa Mbere rw'Iremezo rwasuzumye ubuhamya bwatanzwe kuri *alibi*

380 Nk'urugero, reba mu nyandiko y'urubanza mu rw'iremezo, ibika 282, 283 (ahavugwa ko ibimenyetso bishinja "bitakwizerwa cyane" kandi ko Urugereko rutemeye ibivugwa ko Ujurira yanatangiye intwaro ahandi hantu.)

n'imyanzuro rwafashe k'ukuba yari ku kigo cya Paruwasi ya Gikomero. Icyakora, ibyo bibazo byombi ntibishobora gutandukanywa. Niba Urugereko rwa Mbere rw'Iremezo rwarakoze ikosa rwanga kwemera ibimenyetso bishyigikira *alibi* y'Ujurira, ibyo bifite, byanze bikunze, ingaruka ku isuzumwa ry'umwanzuro rwafashe ku bivugwa ko Ujurira yari ku kigo cya Paruwasi ya Gikomero. Uyu mwanzuro na wo kandi ufite ingaruka kuri *alibi* y'Ujurira. Kubera iyo mpamvu, muri uyu mutwe, Urugereko rw'Ubujurire rusuzumira hamwe impamvu z'ubujurire zerekeranye n'uburyo Urugereko rwa Mbere rw'Iremezo rwasuzumye ibimenyetso bishyigikira *alibi* n'izirebana n'umwanzuro rwafashe ku byerekeranye no kuba Ujurira yari mu kigo cya Paruwasi ya Gikomero.

164. Urugereko rwa Mbere rw'Iremezo rwemeje ko ku itariki ya 12 Mata 1994, Ujurira yajyanye itsinda ry'abantu bitwaje intwaro ku kigo cya Paruwasi ya Gikomero, ahari hateraniye impunzi nyinshi, zigizwe ahanini n'Abatutsi. Rwemeje ko Ujurira ari we nyirabayazana w'igitero cyagabwe ku mpunzi zari aho hantu, kandi, ku bwiganze bw'amajwi, Urugereko rwemeza ko yategetse ko icyo gitero kigabwa. Rwanavuze ko abagabye igitero bishe, bakanakomeretsa impunzi nyinshi z'Abatutsi kandi ko Ujurira yavuye kuri icyo kigo ubwicanyi bumaze gutangira[381]. Imyanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuri iyi ngingo, ishingiye ku buhamya bwatanzwe mu Rukiko n'abagabo batatu bari bazi Ujurira mbere y'itariki ya 12 Mata 1994, n'ubw'abandi bagabo umunani bari ahantu igitero cyagabwe, bakumva abantu bavuga ko cyari kiyobowe na Kamuhanda[382]. Urugereko rwa Mbere rw'Iremezo rwagendeye kandi ku buhamya bwa GEK na GEB bavuga ko babonye Ujurira mu modoka ya Komine ya Gikomero ku itariki ya 12 Mata 1994, mbere gato y'uko ubwicanyi butangira[383].

165. Mbere na mbere Urugereko rw'Ubujurire rurasuzuma ingingo z'Ujurira zishyigikira ibyo avuga ko habayeho amakosa mu gusuzuma ibimenyetso byatanzwe kuri *alibi*.

[381] Urubanza mu rw'iremezo, ibika 499-506.
[382] Ni kimwe no haruguru, igika cya 466.
[383] Ni kimwe no haruguru, igika 439 (GEK) na 441 (GEB).

B. AMAKOSA YABA YARAKOZWE MU GUSUZUMA UBUHAMYA BWATANZWE KURI *ALIBI*.

166. Mbere yo gusuzuma ingingo ababuranyi batanze kuri iyi ngingo, Urugereko rw'Ubujurire rusanga, ku byerekeye *alibi*, Urugereko rwa Mbere rw'Iremezo rwaravuze ibi bikurikira :

> 83. Nk'uko byemejwe n'Urugereko rw'Ubujurire mu rubanza rwa Čelibići, kuba Ubwunganizi bwiregura bushingiye kuri *alibi* ntibivuga ko *alibi* ari uburyo bwo kwiregura nyirizina. Dore uko bivugwa muri urwo rubanza mu bujurire:
>
> Kuba abantu benshi bafata *alibi* nk'aho ari "uburyo bwo kwiregura" ni ukwibeshya. Igihe Uregwa yitwaje *alibi*, aba ahakana gusa ko bitari gushoboka ko akora icyaha aregwa. Nta bwo rero ari uburyo bwo kwiregura nyirizina. Iyo Uregwa yitwaje *alibi*, aba ahaye Porokireri inshingano yo kugaragaza ko iyo *alibi* atari yo"[384].

167. Urugereko rwa Mbere rw'Iremezo[385] rufite ukuri mu kuvuga ko *alibi* "atari uburyo nyirizina bwo kwiregura"[386]. Ahanini kwiregura ni ugutanga impamvu zituma umuntu yumva ko uregwa atakoze icyaha, kabone n'iyo ibintu byose bigize icyaha byaba bikubiye mu gikorwa cyakozwe n'uregwa. Naho kwiregura hifashishijwe *Alibi* ni uguhakana gusa ko uregwa yari aho icyaha cyakorewe igihe cyakorwaga. Bifashwe muri ubu buryo, hari ikintu cy'ingenzi gitandukanya *alibi* n'uburyo bwo kwiregura buvugwa haruguru. Ku byerekeye uburyo bwo kwiregura, icyaha kiba cyaramaze kugaragazwa kandi ntibivuga ko uregwa aba agihakana, ahubwo aba avuga ko ataryozwa icyo cyaha kubera impamvu runaka. Nk'urugero, ashobora kuvuga ko ibyo yakoze yabikoze ku gahato cyangwa yasinze. Naho iyo ari *alibi*, uregwa "aba ahakana ko yakoze icyaha aregwa". Mu by'ukuri aba avuga ko yari ahantu hatandukanye n'aho icyaha cyakorewe igihe cyakorwaga[387]. Aho *alibi* itandukaniye n'ubundi buryo bwo kwiregura, ni uko iba

---

[384]Ni kimwe no haruguru, ibika 83-85, hasubirwamo ibivugwa mu nyandiko y'urubanza rwa C^elelebi}i mu bujurire, igika 581(ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[385] Reba na none inyandiko y'urubanza rwa Kajelijeli mu bujurire, igika 41.
[386] Iri hame ryemewe na Porokireri mu magambo asa n'ayo, ubwo yasubizaga ikibazo cy'Umucamanza Schomburg. Reba inyandikomvugo z'iburanisha, 19 Gicurasi 2005, imp. 96-97 [FR]: Umucamanza Schomburg: "Uremeranya nanjye ko *alibi* itagomba gufatwa nk'ingingo yo kwiregura yihariye ?"
Madamu Reichman : [Ahangaha *alibi* ntitanzwe nk'ingingo yo kwiregura yihariye. Navuga ko ibyo muvuga ari ukuri rwose".
[387] Urubanza rwa Kajelijeli mu bujurire, igika cya 42.

igamije kugaragaza ko umuntu ushyira mu gaciro yashidikanya ko uregwa yari ahantu icyaha cyakorewe. Bitewe rero n'uko aba avuga ko uregwa yari ahari, porokireri ni we ugomba kubitangira ibimenyetso.

168. Ujurira avuga ko rwanga kwemera *alibi* ye, Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko n'urw'ibyabaye. Mu gushyigikira ibyo avuga, yemeza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rwanzura ruvuga ko : i) Ujurira yavuguruje ALS[388] ; ii) akanavuguruza umugore we[389] ; iii) ubuhamya bwa ALR bwerekeranye n'amatariki ya *alibi* butakwizerwa[390] ; iv) ALR na ALB bivuguruje[391]; v) Ujurira atasobanuye icyo abantu bari kwa ALS bakoze mu gihe kirebana na *alibi*[392] ; vi) ubuhamya bwa ALS na ALM butavanaho ko Ujurira yaba yaragiye i Gikomero[393] ; kandi ko vii) bitapfa kwemerwa ko amarondo yashyizweho hagamijwe gusa kubuza abasahuzi gusahura ibintu by'abatangabuhamya[394]. Ujurira anavuga ko Urugereko rwa Mbere rw'Iremezo rutasuzumiye hamwe *alibi* yose[395]. Cyakora, asoza avuga ko ibyo bitamubujije kugaragaza ko umuntu ushyira mu gaciro yashidikanya ku bivugwa na Porokireri[396].

169. Mu gisubizo cye, Porokireri avuga ko Urugereko rwa Mbere rw'Iremezo rwasuzumye *alibi* nk'uko bikwiye[397], ko urwo Rugereko rwanze kuyemera kubera ko ibimenyetso byatanzwe bitakwizerwa kandi rugasanga ibyo Porokireri avuga ku itangwa ry'intwaro no ku bwicanyi bwabereye mu kigo cya Paruwasi ya Gikomero bifite ireme[398].

---

[388] Imyanzuro y'Ujurira, ibika 248-252.
[389] Ni kimwe no haruguru, igika 253-257.
[390] Ni kimwe no haruguru, ibika 258-262.
[391] Ni kimwe no haruguru, ibika 263-265.
[392] Ni kimwe no haruguru, ibika 266-268.
[393] Ni kimwe no haruguru, ibika 269-275.
[394] Ni kimwe no haruguru, ibika 276-279.
[395] Ni kimwe no haruguru, ibika 280-284.
[396] Ni kimwe no haruguru, ibika 285-287.
[397] Imyanzuro y'Usubiza mu bujurire, igika cya 77.
[398] Ni kimwe no haruguru, igika 78. Reba n'inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp.88-90 [FR].

170. Urugereko rw'Ubujurire rugiye gusuzuma buri ngingo Ujurira yatanze kuri *alibi*. Muri iki cyiciro ruranasuzuma imyanzuro n'izindi ngingo bijyanye na *alibi* bivugwa mu zindi mpamvu z'ubujurire.

C. <u>AMAKOSA URUGEREKO RWABA RWARAKOZE RUHINDURA UBUHAMYA ALS NA MADAMU KAMUHANDA BATANZE MU RUKIKO RUKABUVUGA UKO BUTARI, RUKANANZURA RUVUGA KO UJURIRA YAVUGURUJE UBWO BUHAMYA.</u>

171. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko, ruhindura ubuhamya bwatanzwe mu Rukiko na ALS na Madamu Kamuhanda, rukanagendera kuri ubwo buhamya bwahinduwe kugira ngo rwange ibimenyetso abo bagabo batanze bagamije kugaragaza ko *alibi* ari ukuri. Avuga ko kubera iyo mpamvu, Urugereko rwanyuranije n'ingingo ya 20 ya Sitati iteganya ko uregwa afite uburenganzira bwo kuburanishwa nta karengane[399]. Ujurira anavuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ku byabaye rwemeza ko ubuhamya ALS na Madamu Kamuhanda batanze mu Rukiko kuri *alibi* butakwemerwa kubera ko Uregwa yabuvuguruje[400].

172. Ku byerekeye ubuhamya bwa ALS mu Rukiko, Ujurira yibutsa ko mu gika cya 169 cy'inyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko "Uregwa atigeze ava mu rugo uretse ku itariki ya 8 Mata 1994" kandi " ko urebye [uwo mutangabuhamya] yabonaga Uregwa amasaha 24 kuri 24 ndetse ko Uregwa atongeye kuva mu rugo uretse ku itariki 18 Mata 1994"[401]. Ujurira avuga ko ibi ari uguhindura ubuhamya bwa ALS ukabuvuga uko butari, kuko uyu mugabo atavuga ko yabonaga Ujurira amasaha 24 kuri 24[402]. Yibanda ku bice byanditse mu nyuguti z'umukara cyane,

[399] Imyanzuro y'Ujurira, ibika 150, 165-172.
[400] Ni kimwe no haruguru, ibika 248-257.
[401] Ni kimwe no haruguru, ibika 166 na 248.
[402] Ni kimwe no haruguru, ibika171, 250 na 251. Reba n'imyanzuro y'Usubiza mu bujurire, ibika 38-42; inyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup.54 [FR].

yibutsa amagambo akurikira umutangabuhamya yavugiye mu Rugereko rwa Mbere rw'Iremezo:

> R. Oya. Oya nta hantu yagiye, uretse igihe yagiye gushaka umuhungu we. **Twari kumwe buri gihe, cyangwa se akaba ahagaze imbere y'inzu, cyangwa se hafi aho ariko ari ahantu umuntu ashobora kumuhamagara akumva.**
> Q. Tubwire inshuro wamubonaga, cyangwa inshuro mwavuganga cyangwa se inshuro wamwumvaga avuga ? Ese ni rimwe ku munsi? Ni kabiri ku munsi se ?
> R. Ntabwo nashobora kubabwira umubare w'izo nshuro. Cyakora, muri rusange, **twabaga turi kumwe buri gihe, kuko twasangiraga mu gitondo na saa sita, yewe na nimugoroba yabaga ahari.** Iyo yabaga atari kumwe na twe, hari ubwo yabaga ari mu nzu aruhuka cyangwa atembera imbere y'urugo cyangwa se akaba buri gihe ari aho hafi[403].

173. Ujurira akomeza avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kuko rwashingiye ku buhamya bwahinduwe bukavugwa ukundi maze, mu gika 171 cy'inyandiko y'urubanza, rukanzura ruvuga ko ALS atakwizerwa ngo kubera ko "[Ujurira]ubwe ari we waba waramuvuguruje, avuga ko yabonaga [ALS] kabiri, cyangwa, rimwe na rimwe, gatatu ku munsi"[404].

174. Urugereko rw'Ubujurire rusanga Ujurira adahakana inshamake y'ubuhamya bwa ALS mu Rukiko yakozwe n'Urugereko rwa Mbere rw'Iremezo rushaka kugaragaza ko " atashoboye kuvuga neza umubare w'inshuro yabonaga Ujurira ku munsi, kuko babaga bari kumwe buri gihe", kandi ko " yemeje ko atigeze amara amasaha arenga abiri atamubona"[405]. Cyakora, Ujurira arwanya uburyo Urugereko rwa Mbere rw'Iremezo rusobanura ubwo buhamya rukumvikanisha ko ALS avuga ko "urebye" yabonaga Ujurira "amasaha 24 kuri 24"[406]. Urugereko rw'Ubujurire rusanga nta kimenyetso Ujurira atanga kigaragaza ko Urugereko rwa Mbere rw'Iremezo rwasobanuye nabi ubuhamya ALS yatanze mu Rukiko. Rusanga kuba Urugereko rwa Mbere rw'Iremezo rwarakoresheje ijambo "urebye" bigaragaza ko rwumvise neza ubuhamya uwo mugabo yatanze mu Rukiko. Urugereko rwa Mbere rw'Iremezo ntirwemeje ko ALS avuga ko yabonaga Ujurira amasaha 24 kuri 24. Ahubwo rwanzuye ruvuga ko uwo mutangabuhamya avuga

[403] Inyandikomvugo y'iburanisha, 29 Kanama 2002, imp.92-93 (biratsindagiwe mu myanzuro y'Ujurira, igika 249) [FR].
[404] Imyanzuro y'Ujurira, ibika 172, 248.
[405] Ni kimwe no haruguru, igika cya 250, hasubirwamo ibivugwa mu nyandiko y'urubanza, igika cya 102.
[406] Ni kimwe no haruguru, ibika 166,168, n'171, hasubirwamo ibivugwa mu nyandiko y'urubanza, igika cya 169.

ko yari kumwe na we kenshi kurusha uko bigaragara mu buhamya bwe mu Rukiko[407]. Urugereko rw'Ubujurire rusanga Ujurira ataragaragaje ko umwanzuro w'Urugereko rwa Mbere rw'Iremezo ukosamye. Kubera iyo mpamvu, rwanze kwakira iyi mpamvu y'ubujurire ku birebana na ALS.

175. Ku byerekeye ubuhamya bwa Madamu Kamuhanda, Ujurira avuga ko, mu gika 170 cy'inyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rwemeza ko uyu mutangabuhamya "avuga ko buri gihe yabaga ari kumwe n'Uregwa," ko "nta na rimwe yigeze atamubona"[408]. Ujurira avuga ko amagambo y'uyu umutangabuhamya yahinduwe akavugwa uko atari, kubera ko mu Rugereko, Madamu Kamuhanda atavuze ko nta na rimwe yigeze atabona mugabo we mu gihe kivugwa, ko " ko ahubwo [avuga ko] buri gihe [Ujurira] yabaga ari ahantu ashobora kumuhamagara akumva"[409]. Ujurira asaba Urugereko rw'Ubujurire kureba ibyavuzwe na Madamu Kamuhanda mu iburanisha ryo ku itariki ya 9 Nzeri 2002 :

> **Q.** Naho se ku byerekeye umugabo wawe by'umwihariko, watubwira niba yarakunze kwitabira ayo marondo ?
> **R.** Yego, ntiyigeze asiba. Buri gihe yabaga ari kumwe n'abandi aho babaga bateraniye. Nk'uko nabivuze, yagarukaga mu rugo gufungura, agafata ikiringiti, maze agasubira aho abandi bari. Ni ukuvuga rero ko yagumanaga na twe mu nzu igihe amabombe n'amasasu byabaga ari byinshi.
>
> **Q.** Yabaga ari he iyo mutabaga muri kumwe?
> **R.** Yabaga ari kumwe n'abandi, ntiyajyaga kure. Hari hafi y'ingo zacu, umuntu yashoboraga no kubahamagara [bakumva]. Bagendaga mu muhanda. Nk'iyo hagira ikitubaho mu nzu yashoboraga rwose kudutabara[410].

176. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwagendeye ku buhamya bwa Madamu Kamuhanda bwahinduwe bukavugwa ukundi, aho ruvuga ko ngo nta rimwe yigeze atabona umugabo we, maze rwanzura ruvuga ko yaba yaramuvuguruje aho avuga ko yabonaga umugore we "kabiri, cyangwa, rimwe na rimwe, gatatu ku munsi"[411]. Avuga rero ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kuko rwashingiye kuri uko

---

[407] Reba inyandiko y'urubanza, igika cya 171.
[408] Imyanzuro y'Ujurira, igika cya 167 (Biratsindagiye mu myanzuro y'Ujurira).
[409] Ni kimwe no haruguru, igika 170. Reba na none imyanzuro y'Usubiza mu bujurire, ibika 43-45.
[410] Inyandikomvugo y'iburanisha, 9 Nzeri 2002, imp 309-311 [FR].
[411] Imyanzuro y'Ujurira, igika cya 253, hasubirwamo ibivugwa mu nyandiko y'urubanza, ibika 170, 171.

kuvuguruzanya maze rukanzura ruvuga ko Madamu Kamuhanda atari umutangabuhamya wakwizerwa[412].

177. Urugereko rw'Ubujurire rusanga Ujurira afite ukuri aho yemeza ko Madamu Kamuhanda atavuga ko nta na rimwe yigeze atabona umugabo we, ko ahubwo avuga ko yabaga ari ahantu ashobora kumuhamagara akumva[413]. Urugereko rw'Ubujurire ruributsa ko mu nyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rwavuze neza, mu magambo avunaguye, iki gice cy'ubuhamya bwa Madamu Kamuhanda mu Rukiko[414]. Cyakora, ruvuga ko mu gusuzuma ubwo buhamya , Urugereko rwa Mbere rw'Iremezo rwavuze ko uyu mugabo avuga ko "nta na rimwe yigeze atabona umugabo we"[415]. Kuba iyi mvugo itarasobanuwe neza, si ikosa ryo mu rwego rw'ibyabaye ryaba ryarabujije Uregwa kuburanishwa nta karengane. Nk'uko bigaragara mu nyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko, muri rusange, abagabo batanze ubuhamya mu Rukiko kuri *alibi* batakwizerwa kuko basa n'aho bavuga inkuru "bumvikanyeho"[416]. Kuba Urugereko rutarasobanuye neza ubuhamya bwa Madamu Kamuhanda, ntibitesha na busa agaciro uwo mwanzuro rwagezeho, nyuma gusuzumana ubushishishozi ingingo zose zigize ubwo buhamya. Kubera iyo mpamvu, ku bwiganze bw'amajwi, kuko umucamanza Weinberg de Roca atanga igitekerezo gitandukanye n'icya bagenzi be, Urugereko rw'Ubujurire rwanze kwakira iyi mpamvu y'ubujurire ku byerekeye ubuhamya Madamu Kamuhanda yatanze mu Rukiko kuri *alibi* y'Ujurira.

D. AMAKOSA YABA YARAKOZWE KU BIREBANA N'UBUHAMYA BWA ALR MU RUKIKO

178. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko n'urw'ibyabaye ruvuga ko rudashobora gushingira ku buhamya ALR

---

[412] Ni kimwe no haruguru, igika cya 257. Reba na none inyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup. 56 [FR]

[413] Inyandikomvugo y'iburanisha, 9 Nzeri 2002, urup. 309 [FR].

[414] Reba urubanza mu rw'iremezo, igika cya 115 (" Bityo, iyo umugabo we yabaga atari kumwe n'umuryango we, yabaga ari kumwe n'abandi bagabo bakora amarondo aho bari batuye ariko umuntu yashoboraga kumuhamagara akumva.")

[415] Inyandiko y'urubanza, igika cya 170.

[416] Ni kimwe no haruguru, igika cya 176.

yatanze mu Rukiko ku byerekeye amatariki ya *alibi*, kubera ko uyu mutangabuhamya atashoboye kwibuka ayo matariki[417]. Akomeza avuga ko Urugereko rwa Mbere rw'Iremezo rwanze gushingira ku buhamya bwa ALR mu Rukiko rwitwaje gusa ko ngo avuga ibyo "yabwiwe n'undi muntu", ni ukuvuga umugore we wamwibukije amatariki nyayo. Ujurira avuga ko kuba ibintu uwo mutangabuhamya yumvanye undi muntu ubwa byo bitabuza Urugereko gushingira ku buhamya bwe mu Rukiko[418].

179. Kuri iyi ngingo, Urugereko rw'Ubujurire ruributsa ko mu rubanza rwa Kupre{ki} na bagenzi be, Urugereko rw'Ubujurire rwa TPIY rwavuze ibintu bikurikira:

> [Urugereko rwa Mbere rw'Iremezo], nk'urwego rw'ingenzi rusuzuma ibyabaye, ni rwo ahanini rufata umwanzuro k'ukwivuguruza k'umutangabuhamya cyangwa ukuvuguruzanya hagati y'abatangabuhamya. Urugereko rwa Mbere rw'Iremezo rufite rwose ububasha bwo gusuzuma uko kwivuguruza. Rushingiye ku buhamya bwose uko bwakabaye, rufite ububasha bwo kureba niba umutangabuhamya yakwizerwa, niba ibyo avuga byakwemerwa maze rukemera cyangwa rukanga ingingo z'ingenzi z'ubuhamya bwe mu Rukiko. Kuba hari ukwivuguruza mu buhamya, si byo byonyine byatuma Urugereko rwa Mbere rw'Iremezo, rushyira mu gaciro, rwemeza ko ubuhamya bwose butakwizerwa ngo rubwange. Byongeye kandi, ibintu nk'igihe gishize hagati y'ibyabaye n'igihe umutangabuhamya atangiyeho ubuhamya mu Rukiko, kuba abandi bantu boshobora kumujya mu matwi, ukwivuguruza cyangwa kuba hari ho ibintu bigoye igihe ibintu byabaga, ntibyahita bibuza Urugereko rwa Mbere rw'Iremezo gushingira kuri ubwo buhamya. Ariko, Urugereko rwagombye kuzirikana ibyo bintu mu gihe cyo gusuzuma ubuhamya no kugena agaciro bwahabwa [419].

180. Nk'uko ababuranyi bombi babivuga, Urugereko rwa Mbere rw'Iremezo rwibukije iryo hame mu gika 36 cy'inyandiko y'urubanza mu rw'iremezo[420]. Cyakora, Ujurira avuga ko n'ubwo rwibukije ihame rigomba gukurikizwa, Urugereko rwa Mbere rw'Iremezo rwanze kugendera ku buhamya ALR yatanze mu Rukiko ku birebana n'amatariki ya *alibi*, ngo kubera ko yagendeye ku byo abandi bamubwiye[421].

181. Urugereko rw'Ubujurire rwemera ibimaze kuvugwa haruguru, nk'uko byanditse mu rubanza rwa Kupre{ki} na bagenzi be, maze rukibutsa ko, n'ubwo ari byo ko iyo mu

---

417 Imyanzuro y'Ujurira, ibika 34-41 na 258-262.
418 Ni kimwe no haruguru, ibika 36 na 258. Reba na none imyanzuro y'Usubiza mu bujurire, igika cya 7.
419 Urubanza rwa Kupre{ki} mu bujurire, igika cya 31 (ibisobanuro biri hasi ku rupapuro ntibyongewemo.)
420 Imyanzuro y'Ujurira, igika cya 34; imyanzuro y'Usubiza mu bujurire, igika cya 36.
421 Imyanzuro y'Ujurira, ibika 36, 41 na 258. Reba n'inyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup. 54 [FR].

buhamya harimo ibyo umugabo yabwiwe n'abandi cyangwa se kwivuguruza, bitabuza umucamanza usuzuma ibyabaye kugendera kuri ubwo buhamya. Ibyo bintu bigomba kuzirikanwa mu gihe cyo kugena agaciro kahabwa ubwo buhamya. Umucamanza usuzuma ibyabaye agomba kuzirikana ibyo bintu igihe asuzuma niba ubwo buhamya bwakwizerwa. Urugereko rwa Mbere rw'Iremezo rwavuze ko muri uru rubanza, mu buhamya bwanditse, ALR yavuze ko Ujurira yari yaravuye ku Kacyiru ku ya 12 Mata 1994 ariko mu iburanisha akavuga ko Ujurira yahavuye ku ya 18 Mata 1994[422]. Mu nyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rwibutsa ko ALR avuga ko yakoze ikosa buhamya bwe bwanditse, nyuma umugore we akaza kumubwira ko Ujurira yagiye ku ya 18 Mata[423]. Ni ngombwa kwibutsa ko mu ibaza rinyomoza, ALR yavuze ibi bikurikira kuri iyi ngingo:

> Kugira ngo mbereke ko ntabeshya, ubwo uriya muntu ukora iperereza ukomoka muri Kanada yazaga kundeba, hari muri 1999, ni ukuvuga hashize imyaka itanu [nyuma y'ibyabaye]. Birumvikana ko ntari narigeze nita ku byo gufata mu mutwe amatariki. Nimugoroba ntashye, nabwiye umugore wanjye ko nabonanye n'umuntu wansabye kugira ibyo mubwira. Mubwiye iyo tariki, anyibutsa ko hatari ku itariki ya 12 ko ahubwo tugenda hari ku ya 18 . Aho rero niho ukuri kuri. Nari naribeshye ku itariki kuko ntamenyereye gufata amatariki mu mutwe, cyane cyane amatariki yo muri biriya bihe...[424].

182. Kubera izo mpamvu, Urugereko rw'Ubujurire rwanzura ruvuga ko Ujurira atagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'amategeko cyangwa urw'ibyabaye rwemeza ko ubuhamya ALR yatanze mu Rukiko ku byerekeye amatariki ya *alibi* butakwemerwa. Kubera izo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe.

---

422 Urubanza mu rw'iremezo, ibika 109, 110.
423 Ni kimwe no haruguru.
424 Inyandikomvugo y'iburanisha, 4 Nzeri 2002, imp. 56 -57 [FR].

E. AMAKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWAKOZE RUHINDURA UBUHAMYA BWA ALR NA ALB RUKABUVUGA UKO BUTARI, MAZE RUKANZURA RUVUGA KO UBUHAMYA BATANZE MU RUKIKO BUVUGURUZANYA.

183. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko n'urw'ibyabaye, kuko mu gika cya 173 cy'inyandiko y'urubanza rwanzuye ruvuga ko hari aho ubuhamya bwa ALR na ALB batanze mu Rukiko "buvuguruzanya", ko kandi "iyo abo batangabuhamya baza kuba bari kumwe amasaha 24 buri munsi nkuko babivuga, batari kuvuga ibintu bitandukanye"[425]. Ujurira avuga ko aba batangabuhamya batavuga ko bari kumwe amasaha 24 kuri 24, ko ahubwo bavuga ko babonaniraga ku irondo[426]. Yongera ho ko Urugereko rwa Mbere rw'Iremezo rutasobanuye ukuvuguruzanya rwabonye hagati y'ubwo buhamya bwombi[427].

184. Mu gusubiza, Porokireri avuga ko Urugereko rwa Mbere rw'Iremezo rwavuze neza, muri make, ibikubiye mu buhamya ALR na ALB batanze mu Rukiko. Yemeza kandi ubwo buhamya bwombi buvuguruzanya ku ngingo zimwe na zimwe, n'ubwo Urugereko rutasobanuye ingingo zose rwasanze zivuguruzanya[428].

185. Urugereko rw'Ubujurire rusanga ALR na ALB batavuga na rimwe ko bari kumwe amasaha 24 kuri 24. Ibyo Urugereko rwa Mbere rw'Iremezo rwavuze bitari byo, kuri iyi ngingo, mu gika cya 173 mu nyandiko y'urubanza[429], bisa n'ibikomoka ku ncamake ikosamye rwakoze y'ubuhamya ALB yatanze mu Rukiko. Muri iyo ncamake, Urugereko

---

[425] Imyanzuro y'Ujurira, igika 173, hasubirwamo ibivugwa mu nyandiko y'urubanza mu rw'iremezo, igika cya 173. Reba n'ibika 263, 264.

[426] Ni kimwe no haruguru, ibika 173 na 264. Reba n'imyanzuro y'Usubiza mu bujurire igika cya 46.

[427] Ni kimwe no haruguru, igika cya 264. Reba n'imyanzuro y'Usubiza mu bujurire ibika 59, 60; inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 57, 58.

[428] Imyanzuro y'Usubiza mu bujurire, ibika 69-71, 82 na 83 (ahagaragara imvugo ebyiri zivuguruzanya ku birebana n'amarondo).

[429] Urugereko rwa Mbere rw'Iremezo rugira ruti : "Rumaze gusuzuma ubuhamya ALR na ALB batanze mu rukiko, Urugereko rusanga burimo ukwivuguruza hamwe na hamwe. Rusanga iyo abo batangabuhamya baza kuba bari kumwe amasaha 24 buri munsi nkuko babivuga, batari kuvuga ibintu bitandukanye." Inyandiko y'urubanza igika 173.

rwa Mbere rw'Iremezo rugira ruti: "umutangabuhamya ushinjura wiswe ALB yemeza ko, kubera impamvu z'umutekano, ku itariki ya 8 Mata 1994 umuryango we n'uw'Uregwa yagiye kuba mu rugo rwa ALS"[430], maze ruvuga ibiri mu nyandikomvugo y'iburanisha rwahereyeho rufata uyu mwanzuro[431]. Cyakora, igice cy'inyandiko y'iburanisha kivugwa ntigihuye n'incamake Urugereko rwatanze. Nk'uko Ujurira abivuga[432], ALB ntiyigeze avuga ko yimukiye kwa ALS, ahubwo ni umuryango w'umugabo wa ALR wahimukiye [433]. ALB avuga ko yari kumwe n'Ujurira hamwe n'abandi bantu ku marondo bakoraga aho bari batuye, kandi ko babaga bari kumwe no mu gitondo ndetse na nyuma ya saa sita[434]. Byongeye kandi, uwo mutangabuhamya ntavuga cyangwa ngo ashake kumvikanisha ko buri gihe yabaga ari kumwe na ALR mu gihe kivugwa. Nk'uko bigaragara muri dosiye yo mu rw'iremezo, ALR ntavuga na rimwe ko yari kumwe na ALB amasaha 24 kuri 24, kandi, umuntu ashyize mu gaciro, ubuhamya bwe ntibwatuma hafatwa umwanzuro nk'uwo.

186. Cyakora, n'ubwo Urugereko rwa Mbere rw'Iremezo rwumvise nabi ubwo buhamya, Urugereko rw'Ubujurire rusanga bitaratumye urubanza rucibwa nabi. Mu gusuzuma ubuhamya bwatanzwe mu Rukiko kuri *alibi*, si ngombwa cyane kumenya niba mu gihe kivugwa, ALR na ALB barababaga bari kumwe igihe kinini cyangwa rimwe na rimwe. Ahangaha, icy'ingenzi ni uko rumaze kumva abagabo bose batanze ubuhamya kuri *alibi*, rukanabusuzumira hamwe n'ibimenyetso bindi byatanzwe muri rusange, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko "bavuze inkuru bumvikanyeho"[435]. Nk'uko byibukijwe haruguru, ni yo mpamvu yatumye ruvuga ko ubuhamya bwatanzwe kuri *alibi* butakwizerwa cyane. Urugereko rw'Ubujurire rusanga Ujurira atagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ubwo rwafataga uriya mwanzuro.

187. Ujurira avuga kandi ko n'ubwo rwanzuye ruvuga ko ubuhamya bwa ALR n'ubwa ALB mu Rukiko "buvuguruzanya", Urugereko rwa Mbere rw'Iremezo ntirwagaragaje

---

430 Ni kimwe no haruguru , igika cya 111.
431 Inyandiko y'urubanza, ibika 111, 122, hasubirwamo ibivugwa mu nyandikomvugo y'iburanisha, 5 Nzeri 2002, imp.195-197 [FR].
432 Imyanzuro y'Ujurira, ibika 173 na 264.
433 Urubanza mu rw'iremezo, igika cya 104.
434 Inyandikomvugo y'iburanisha, 5 Nzeri 2002, imp. 214-216, 230-232.
435 Reba Urubanza mu rw'iremezo, igika cya 176.

ukwivuguruza rwasanze muri ubwo buhamya[436]. Urugereko rw'Ubujurire rusanga Ujurira adasobanura birambuye iyi ngingo, kuko ayivuga gusa mu nteruro imwe mu myanzuro ye y'ubujurire. Byongeye kandi, rusanga Ujurira aterekana niba umwanzuro w'Urugereko rwa Mbere rw'Iremezo urimo ikosa ryo mu rwego rw'amategeko cyangwa rw'ibyabaye. Rusanga kandi atavuga na rimwe ibyo ashingiraho arwanya uwo mwanzuro[437]. Urugereko rw'Ubujurire ruributsa ko byumvikana ko rudashobora gusuzuma imyanzuro y'ababuranyi igihe idasobanutse cyangwa idafite icyo ishingiyeho[438]. Icyakora, rusanga ubuhamya ALR na ALB batanze mu Rukiko butandukanye ku ngingo zimwe na zimwe[439]. Kubera iyo mpamvu, rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro mu mwanzuro warwo uvuga ko ubwo buhamya buvuguruzanya ku "bintu bimwe na bimwe". Byongeye kandi, kuba Urugereko rwa Mbere rw'Iremezo rutarasobanuye neza ukwivuguruza rwabonye, ni ikimenyetso cy'inyongera kigaragaza ko rutatekerezaga kugendera kuri iyo ngingo ngo rwanzure ruvuga ko abagabo batanze ubuhamya mu Rukiko kuri *alibi* batakwizerwa. Icyo kimenyetso kigaragaza ko ahubwo rwagendeye ku myumvire ya rwo ko inkuru z'abatangabuhamya ari impimbano.

188. Kubera izo mpamvu, ku bwiganze bw'amajwi kuko Umucamanza Weinberg de Roca yatanze igitekerezo gitandukanye n'icy'abandi, Urugereko rw'Ubujurire rwanze kwakira iki gice cy'impamvu y'ubujurire.

---

[436] Imyanzuro y'Ujurira, ibika 263 na 264.

[437] Urugereko rw'Ubujurire rusanga Ujurira yarasubiye kuri iyi ngingo mu myanzuro isubiza iya Porokireri mu bujurire no mu iburanisha mu bujurire. Rusanga ariko adasobanura kurushaho cyangwa ngo avuge ibyo ishingiyeho. Reba na none imyanzuro isubiza iya Porokireri mu bujurire, ibika 59 na 60; inyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup.58 [FR].

[438] Reba umutwe wa mbere. Reba na none urubanza rwa Kajelijeli mu bujurire, igika cya 7; urubanza rwa Blaski} mu bujurire, igika cya 13, urubanza rwa Niyitegeka mu bujurire, igika cya 10, urubanza rwa Vasiljevi} mu bujurire, igika cya 12, urubanza rwa Kunarac na bagenzi be mu bujurire, ibika 43, 48.

[439] Nk'urugero, reba inyandikomvugo z'amaburanisha, 3 Nzeri 2002, imp. 131, 136 (ALR); 5 Nzeri 2002, imp. 217, 230 (ALB) [FR].

F. AMAKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWARAKOZE RUVUGA KO UJURIRA ATASOBANUYE BIHAGIJE IBYABEREYE MU RUGO RWA ALS.

189. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'ibyabaye ruvuga ibintu bikurikira mu nyandiko y'urubanza [440] :

> Urugereko rusanga kandi Uregwa adatanga rwose ibisobanuro birambuye kucyo abantu bari mu rugo rwa ALS bakoraga muri icyo gihe. Urugereko rusanga Uregwa yaravuze gusa ko bari kumwe amasaha 24 buri munsi ariko ntavuge neza uko bakoreshaga igihe cyabo muri icyo gihe[441].

190. Ujurira avuga ko muri dosiye yo mu rw'iremezo yatanze ibisobanuro birambuye kuri icyo kibazo[442].

191. Mu kumusubiza, Porokireri avuga ko Urugereko rwa Mbere rw'Iremezo rwari rufite uburenganzira bwo kugira icyo ruvuga ku makuru adasobanutse Ujurira yatanze yerekeranye n'ibyo yakoze mu gihe kirebana na *alibi*, kandi ko ibyo ruvuga "byerekana ingingo imwe Urugereko rwashingiyeho, ku buryo bukwiye, ubwo rwasuzumaga ubuhamya bwatanzwe mu Rukiko kugira ngo rurebe niba, hashizwe mu gaciro, *alibi* ishobora kwemerwa"[443].

192. Urugereko rw'Ubujurire rusanga, n'ubwo Ujurira yavuze ibyo yakoze muri kiriya gihe kirebana na *alibi* [444], Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro ruvuga ko atatanze ibisobanuro bihagije. Kubera izo mpamvu, Urugereko rw'Ubujurire rwemeje ko Ujurira atagaragaza ko, ruvuga ibyo bintu, Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'ibyabaye.

---

[440] Imyanzuro y'Ujurira, igika cya 266.
[441] Urubanza mu rw'iremezo, igika cya 173.
[442] Imyanzuro y'Ujurira, ibika 266, 268.
[443] Imyanzuro y'Usubiza mu bujurire, igika cya 86.
[444] Reba inyandikomvugo z'amaburanisha, 21 Kanama 2002, imp.48, 50 na 56; 27 Kanama 2002, imp. 81-85 [FR].

193. Ujurira anavuga, mu magambo make, ko ubwo ruvuga ibyo bintu atemera byerekeranye n'ubuhamya bwe, Urugereko rwa Mbere rw'Iremezo rusa n'aho rwaranyuranyije n'ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso[445]. Cyakora, Urugereko rw'Ubujurire si ko rubibona. Nk'uko bigaragara mu gice cy'inyandiko y'urubanza gikurikira, Urugereko rw'Ubujurire rusanga Ujurira atagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko mu gukoresha ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso kuri *alibi* ye.

194. Kubera izo mpamvu, hiseguriwe igitekerezo gitandukanye n'icy'abandi cy'Umucamanza Weinberg de Roca, Urugereko rw'Ubujurire, ku bwiganze bw'amajwi, ntirwakiriye iki gice cy'impamvu y'ubujurire.

G. AMAKOSA YABA YARAKOZWE YEREKERANYE N'IMYANZURO YEMEZA KO ALB NA ALM BATAGARAGAJE KO BIDASHOBOKA KO UJURIRA YABA YARAGEZE I GIKOMERO.

195. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko n'urw'ibyabaye, kuko rwanzuye ruvuga ko ubuhamya bwa ALB na ALM mu Rukiko butagaragaza ko bidashoboka ko Ujurira yaba yari i Gikomero [446]. Avuga ko uyu mwanzuro unyuranyije n'ihame ry'umuburanyi ugomba gutanga ibimenyetso, kandi akongeraho ko, ku byerekeye ALB, Urugereko rwa Mbere rw'Iremezo rutasobanuye ukuntu ubuhamya uyu mugabo yatanze mu Rukiko butagaragaza ko bidashoboka ko Ujurira yaba yaragiye i Gikomero[447].

196. Mu kumusubiza, Porokireri avuga ko Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro ubwo rwagenaga agaciro kahabwa ubuhamya ALB na ALM batanze mu Rukiko[448]. Yongera ho ko Urugereko rwa Mbere rw'Iremezo rutanyuranyije n'ihame

[445] Imyanzuro y'Ujurira, ibika 266, 267.
[446] Ni kimwe no haruguru, ibika 83, 85, 91, 92, 269-275.
[447] Ni kimwe no haruguru, ibika 85, 91,92, 269 -273 na 275.
[448] Imyanzuro y'Usubiza mu bujurire, igika cya 87.

ry'umuburanyi ufite inshingano yo gutanga ibimenyetso, ko ahubwo "rwavuze gusa ko ibimenyetso Ubwunganizi bwatanze kuri iyi ngingo bitatuma umuntu ushyira mu gaciro ashidikanya ku bimenyetso byatanzwe na Porokireri, kuko, muri rusange, n'iyo umuntu yakwemera ibimenyetso byatanzwe n'Ujurira, ntabwo byamubuza guhamwa n'ibyaha nk'uko abatangabuhamya bashinja babigaragaje"[449].

197. Ku byerekeye *alibi*, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarasobanuye muri aya magambo ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso :

> 83. Nk'uko byemejwe n'Urugereko rw'Ubujurire mu rubanza rwa Čelibići, kuba Ubwunganizi bwiregura bushingiye kuri *alibi* ntibivuga ko *alibi* ari uburyo bwo kwiregura nyirizina. Dore uko bivugwa muri urwo rubanza mu bujurire:
> "Kuba abantu benshi bafata *alibi* nk'aho ari "uburyo bwo kwiregura" ni ukwibeshya. Igihe Uregwa yitwaje *alibi*, aba ahakana gusa ko bitari gushoboka ko akora icyaha aregwa. Nta bwo rero ari uburyo bwo kwiregura nyirizina. Iyo Uregwa yitwaje *alibi*, aba ahaye Porokireri inshingano yo kugaragaza ko iyo *alibi* atari yo".
>
> 84. Nk'uko bigaragazwa n'ubukemuramanza budahinduka bw'Urukiko kandi nk'uko Ubwunganizi bubivuga, iyo Uregwa yitwaje *alibi*, Porokireri aba afite inshingano yo kugaragaza, ku buryo budashidikanywaho na gato kandi ku ngingo zose, ko Uregwa yakoze icyaha ashinjwa. Mu by'ukuri, Porokireri agomba kugaragaza ko « Uregwa yari ahantu hakorewe ibyaha aregwa kandi ko yakoze ibyo byaha, bityo agasenya iyo *alibi*». *Alibi* iyo igaragaye nk'aho ishoboka, iremerwa.
>
> 85. Nk'uko bivugwa mu ngingo ya 67 A) ii) [y'Amategeko], mbere y'uko urubanza rutangira Ubwunganizi bugomba kumenyesha Porokireri ko buteganya kwiregura bwifashishije *alibi*, bukamumenyesha ibimenyetso buzashingiraho bugaragaza iyo *alibi*. Cyakora mu gihe cy'iburanisha, Ubwunganizi sibwo bugomba gusobanura uko ibintu byagenze kugira ngo bugaragaze ko Uregwa ari umwere, ahubwo, mu rubanza, Uregwa ashobora gutanga ibimenyetso, birimo ibishyigikira *alibi* ye, kugira ngo Urugereko rushidikanye ku bivugwa na Porokireri. Ni ngombwa ariko gushimangira ko igihe Ubwunganizi butabashije gutanga ibimenyetso bidashidikanywaho kandi bifatika bishyigikira *alibi* yatanzwe n'Uregwa, bitavuga ko Uregwa aba ahamwe n'icyaha. [450].

198. Nta kosa Urugereko rw'Ubujurire rubona muri iyi mvugo, kandi rusanga Urugereko rwa Mbere rw'Iremezo rwarumvise neza ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso ku byerekeye *alibi*. Yumvikanye muri ubu buryo, amagambo akoreshwa

---

[449] Ni kimwe no haruguru, igika cya 46.
[450] Urubanza mu rw'iremezo, ibika 83-85 (ibisobanuro byo hasi ku rupapuro ntibyongewemo.*)*

hano n'Urugereko rwa Mbere rw'Iremezo ariyo [ubuhamya bumwe na bumwe bwatanzwe mu Rukiko" ntibukuraho ko " Uregwa yari ahantu hakorewe icyaha[451]] cyangwa, [ubuhamya bwihariye "ntibukuraho" ko Uregwa ashobora kuba yari ahantu icyaha cyakorewe[452]] cyangwa ubuhamya bwihariye bwatanzwe mu Rukiko "ntibuvanaho" ko Uregwa yagiye ahantu icyaha cyakorewe[453]] ntagaragaza na rimwe ko habaye ho gukoresha nabi ihame ry'umuranyi ufite inshingano yo gutanga ibimenyetso. Ahubwo, rushyize aya magambo mu rwego rw'isuzumwa ry'ubwo buhamya muri rusange nk'uko bikwiye, Urugereko rw'Ubujurire rwumva ko ashaka kuvuga ko niyo ubwo buhamya bwafatwa nk'ukuri, Urugereko rwa Mbere rw'Iremezo rusanga budahagije ngo umuntu ushyira mu gaciro abe yashidikanya ku bimenyetso bigaragaza ko Ujurira yari ahantu icyaha cyakorewe. Kubera izo mpamvu, Urugereko rw'Ubujurire, rwanze kwakira ingingo y'Ujurira igamije kwerekana ko, ku byerekeye *alibi*, Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko, kuko rwakoresheje nabi ihame ry'umuburanyi ugomba gutanga ibimenyetso.

199 Urugereko rw'Ubujurire kandi rwanze kwakira umwanzuro w'Ujurira uvuga ko Urugereko rwa Mbere rw'Iremezo rutavuga ukuntu mu buhamya ALB yatanze mu Rukiko, bitagaragara ko uyu mugabo ahakana burundu ko Ujurira yaba yaragiye i Gikomero. Rusanga Urugereko rwa Mbere rw'Iremezo rwarasuzumye icyo kibazo mu gika cyihariye cy'inyandiko y'urubanza[454]. Ujurira ntiyerekana ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa, iryo ari ryo ryose, kuri iyo ngingo.

200 Bityo rero, uretse Umucamanza Weinberg de Roca watanze igitekerezo gitandukanye n'icy'abandi, Urugereko rw'Ubujurire, ku bwiganze bw'amajwi, rwanze kwemera iki igice cy'impamvu y'ubujurire.

[451] Ni kimwe no haruguru, igika cya 174.
[452] Ni kimwe no haruguru.
[453] Urubanza mu rw'iremezo, igika cya 175.
[454] Ni kimwe no haruguru, igika cya 174.

H. IKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWAKOZE RWEMEZA KO AMARONDO [ATARI] YASHYIRIWEHO KUBUZA INGO GUSAHURWA.

201 Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko n'urw'ibyabaye kuko rwafashe umwanzuro ukurikira[455] :

> "Rumaze gusuzuma ubwo buhamya, ingingo ku yindi, Urugereko rusanga nta wakwemeza, yivuye inyuma, ko ayo marondo yakorwaga bene ako kageni yaba yaragamije gusa kurinda abatangabuhamya n'imiryango yabo ngo badaterwa n'abasahuzi. Rusanga, mu gushaka gushyigikira *alibi* y'Uregwa, abatangabuhamya barageze aho bakavuga inkuru z'impimbano, bityo bakaba batakwizerwa cyane"[456].

202 Ujurira avuga ko Porokireri atahakanye ko amarondo yabayeho, kandi ko yanabyemeye ubwo yanyomozaga abatangabuhamya bashinjura biswe ALS, ALF, ndetse na ALB by'umwihariko[457]. Ashingiye ku bukemuramanza bw'Urukiko buvuga ko "umuburanyi utanyomoje umutangabuhamya ku ngingo runaka aba yemeye bucece ubuhamya bw'uwo mugabo kuri iyo ngingo"[458], Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko kuko rwanze kwemera ubuhamya bwatanzwe ku marondo kandi Porokireri ataraburwanyije[459].

203 Porokireri asubiza ko atemeye ubuhamya bwerekeye amarondo abagabo batanze mu Rukiko kuri *alibi*. Avuga ko Urugereko rwa Mbere rw'Iremezo rutakoze ikosa mu gusuzuma ubuhamya bwatanzwe mu Rukiko kuri iyo ngingo[460]. Yongeraho ko ikibazo atari uko ayo marondo yariho, ahubwo ari ubukana bwayo[461]. Arangiza avuga ko n'ubwo ababuranyi baba bafite uko babyumva, Urugereko rwa Mbere rw'Iremezo ari rwo rufite

---

[455] Imyanzuro y'Ujurira, ibika 71-78, na 276-279.
[456] Urubanza mu rw'iremezo, igika cya 176.
[457] Imyanzuro y'Ujurira, igika cya 73. Reba na none imyanzuro isubiza, igika cya 15.
[458] Imyanzuro y'Ujurira, igika cya 77, hasubirwamo ibivugwa mu rubanza rwa *Rutaganda* mu bujurire, igika cya 310.
[459] Imyanzuro y'Ujurira, igika cya 78; imyanzuro isubiza, igika cya 19.
[460] Imyanzuro y'Usubiza mu bujurire, ibika 40, 88.
[461] Ni kimwe no haruguru, igika cya 41.

ijambo rya nyuma mu gusuzuma ibimenyetso rwashyikirijwe no kubifataho umwanzuro ku byabaye[462].

204 Urugereko rw'Ubujurire rusanga n'ubwo buri muburanyi aba afite igetekerezo ku kimenyetso runaka, umucamanza usuzuma ibyabaye ari we wenyine ufite ububasha bwo gusuzuma icyo kimenyetso no kugifataho umwanzuro. Mu yandi magambo, kuba umuburanyi yemera cyangwa atemera bimwe mu bimenyetso byatanzwe mu rubanza, ntibyahindura uburyo umucamanza agomba gusuzuma ibyo bimenyetso cyangwa umwanzuro. Urugereko rusanga Ujurira yibeshya iyo agendera ku rubanza rwa Rutaganda mu bujurire[463] ashaka gushyigikira ingingo ye yerekeye ikosa ryo mu rwego rw'amategeko avuga ko ryakozwe. Ikibazo cyabajijwe mu Rubanza rwa Rutaganda cyari icyo kumenya niba Urugereko rwa Mbere rw'Iremezo rwarakoze ikosa ubwo rwemezaga ko kuba Ubwunganizi butarabajije ibibazo binyomoza umugabo ku gice cy'ubuhamya bwe bivuga ko bwemera ko ubwo buhamya ari ukuri[464]. Urugereko rw'Ubujurire rwasanze ko nta kosa ryo mu rwego rw'amategeko ryakozwe kuri iyo ngingo[465]. Byongeye kandi, urubanza rwa Rutaganda mu bujurire ntirukwiriye gufatwa nk'aho rutegeka umucamanza usuzuma ibyabaye gufata nk'ukuri ibyavuzwe byose bitarwanyijwe mu ibaza rinyomoza. Urugereko rwa Mbere rw'Iremezo rwashoboraga kudafata uwo mwanzuro, nk'uko byagenze muri uru rubanza.

205 Kubera iyo mpamvu, Urugereko rw'Ubujurire ntirwakiriye igice cy'iyi mpamvu y'ubujurire kivuga ko habayeho ikosa ryo mu rwego rw'amategeko.

206 Ujurira avuga kandi ko umwanzuro w'Urugereko rwa Mbere rw'Iremezo urimo ikosa ryo mu rwego rw'ibyabaye[466]. Avuga ko Porokireri atahakanye ko amarondo yabayeho, kandi ko n'ibindi bimenyetso biri muri dosiye bigaragaza ko yabayeho, nk'ubuhamya bwatanzwe mu Rukiko na ALM uvuga ko yagiye ku irondo aho yari atuye, hamwe

---

[462] Ni kimwe no haruguru, igika cya 42.
[463] Reba Imyanzuro y'Ujurira, igika cya 77, hasubirwamo ibivugwa mu rubanza rwa *Rutaganda* mu bujurire, igika cya 310.
[464] Urubanza rwa *Rutaganda* mu bujurire, igika cya 310.
[465] Kimwe no haruguru.
[466] Reba Imyanzuro y'Ujurira, ibika 276 - 279, akomoza ku bivugwa mu rubanza mu rw'iremezo, igika cya 176.

n'ubuhamya bw'umugabo w'impuguke usobanura impamvu hashyizweho amarondo[467]. Cyakora, Urugereko rw'Ubujurire rusanga Ujurira atagaragaza ibimenyetso byo muri dosiye byarufasha gusuzuma ibice by'ubuhamya umugabo w'impuguke na ALM batanze kuri iki kibazo cy'amarondo. Urugereko rw'Ubujurire rwongera gushimangira ko rudashobora gusuzuma imyanzuro itaratanzwe mu buryo bwemewe n'amategeko[468]. Kubera iyo mpamvu, uretse Umucamanza Weinberg de Roca utanga igitekerezo gitandukanye n'icy'abandi, Urugereko rw'Ubujurirre ntirwakiriye icyo gice cy'impamvu y'ubujurire.

I. IKOSA URUGEREKO RWA MBERE RW'IREMEZO RWABA RWARAKOZE RWEMEZA KO «ALIBI» ITAKWIZERWA

207 Mu gusoza, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu buryo rwasuzumyemo *alibi* muri rusange[469]. Ujurira avuga ko urwo Rugereko rwasuzumye *alibi* ruyiciyemo ibice aho kuyisuzumira hamwe, bityo rukaba rwarateshutse ku nshingano yarwo yo gusuzuma ibimenyetso byose byerekeye *alibi* kandi rugasobanura nabi ubuhamya buyishigikira bwatanzwe mu Rukiko[470]. Avuga ko abagabo batanze ubuhamya mu Rukiko kuri *alibi* bemeza, batavuguruzanya, ko Ujurira yari ku Kacyiru kuva ku itariki ya tariki 7 kugeza ku ya 18 Mata 1994, kandi ko yahavuye inshuro ebyiri gusa : ku itariki ya 8 Mata ubwo yajyaga kuzana umuhungu we no ku ya 18 Mata ubwo yajyaga i Gitarama. Avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rwemeza ko *alibi* ye itakwemerwa[471] maze rukayanga. Asaba Urugereko rw'Ubujurire kuvanaho imyanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuri iyo ngingo, no kwisuzumira ubwa rwo ubuhamya bwerekeranye na *alibi*[472].

---

467 Imyanzuro y'Ujurira, igika cya 279.
468 Reba umutwe wa I.
469 Imyanzuro y'Ujurira,ibika 280-287.
470 Ni kimwe no haruguru, ibika 112, 280, 283, na 284. Reba kandi inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 62, 63 [FR].
471 Imyanzuro y'Ujurira, ibika 284-287.
472 Ni kimwe no haruguru, igika cya 284.

208 Porokireri avuga ko icyemezo cyo kutemera *alibi* gishyize mu gaciro[473], kandi ko asanga Urugereko rwa Mbere rw'Iremezo rutararengereye mu gukoresha ububasha rufite bwo gusuzuma ubuhamya bw'abagabo no kugena agaciro bwahabwa[474]. Akomeza avuga ko Urugereko rwa Mbere rw'Iremezo rutaciyemo ibice ibimenyetso byatanzwe kuri *alibi*, ko ahubwo rwafashe imyanzuro rumaze gusuzuma ubuhamya bwose bwatanzwe mu Rukiko[475].

209 Kubera ko mu bice bibanza rwasuzumye amakosa yaba yarakozwe n'Urugereko rwa Mbere rw'Iremezo mu gusuzuma ubuhamya butandukanye bwatanzwe kuri *alibi*, Urugereko rw'Ubujurire rugiye noneho kureba niba kuba, nk'uko Ujurira abivuga, Urugereko rwa Mbere rw'Iremezo rwaraciyemo ibice ibimenyetso yatanze, byaratumye rukora ikosa mu isuzuma rusange rwakoze. Urugereko rw'Ubujurire rusanga Ujurira agendera ku rubanza rwa Kayishema na Ruzindana mu bujurire kugira ngo yemeze ko igihe cyose isuzuma ry'ibimenyetso ritumye habaho kudashyira mu gaciro mu gusuzuma ibyabaye biburanwa, biba ngombwa gusuzumana ubushishozi niba Urugereko rwa Mbere rw'Iremezo rutarakoze ikosa rishingiye ku byabaye mu guhitamo uburyo runaka bwo gusuzuma, cyangwa mu mikoreshereze y'ubwo buryo[476].

210 Urugereko rw'Ubujurire rusanga iyo usuzumye urubanza mu rw'iremezo usanga kuvuga ko habayeho ikosa nta shingiro bifite. Mu by'ukuri, rumaze gusuzuma birambuye ubuhamya bwerekeye *alibi*, Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro ukurikira :

> "Urugereko rwasuzumye ubuhamya bwose bwatanzwe mu Rukiko, maze ku byerekeranye na *alibi* yatanzwe n'Uregwa, rwanzura rugira ruti: mu gufata icyemezo kuri *alibi* yatanzwe n'Uregwa, Urugereko rwifashishije, by'umwihariko, ubuhamya bwatanzwe mu Rukiko n'abagabo batandukanye bwerekeranye n'amarondo yakozwe kuva ku itariki ya 7 kugera ku ya 17 Mata 1994. Ubwo buhamya buvuga ko ayo marondo yari agamije ahanini kurinda abatangabuhamya n'imiryango yabo ngo badaterwa n'abantu basahuraga. Urugereko rwemeye kandi

[473] Imyanzuro y'Usubiza mu bujurire, igika cya 90.
[474] Kimwe no haruguru.
[475] Imyanzuro y'uregwa mu bujurire, igika 51, avuga ibiri mu rubanza, igika cya 176. Reba kandi inyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup. 63.
[476] Urubanza rwa *Kayishema na Ruzindana* mu bujurire, igika cya 119 (bisubirwamo mu myanzuro y'Ujurira, ibika 242, 243, na 281, no mu nyandikomvugo y'iburanisha, 19 Gicurasi 2005, urup. 63).

> ko ayo marondo yakomeje gukorwa kandi ko yari menshi. Rumaze gusuzuma ubwo buhamya, ingingo ku yindi, Urugereko rusanga nta wakwemeza, yivuye inyuma, ko ayo marondo yakorwaga bene ako kageni yaba yaragamije gusa kurinda abatangabuhamya n'imiryango yabo ngo badaterwa n'abasahuzi. Rusanga, mu gushaka gushyigikira *alibi* y'Uregwa, abatangabuhamya barageze aho bakavuga inkuru z'impimbano, bityo bakaba batakwizerwa cyane.
>
> Urugereko rusanga bishoboka ko rimwe na rimwe Uregwa yabaga ari mu rugo rwa ALS hagati y'itariki ya 7 n'iya 18 Mata 1994. Rusanga ariko, hagati y'itariki ya 6 n'iya 7 Mata 1994, Uregwa ashobora kuba yarajyaga muri Komine ya Gikomero akagaruka. Rwifashishije imyanzuro rwafashe mbere ivuga ko hagati y'itariki ya 6 n'iya 17 Mata 1994, Uregwa yashoboraga gutembera, Urugereko rusanga *alibi* y'Uregwa itakwemerwa ku byerekeranye n'igihe cyo hagati y'itariki ya 6 n'iya 17 Mata 1994[477].

Uyu mwanzuro ugaragaza ko Urugereko rwa Mbere rw'Iremezo rwasuzumye ubuhamya bwose bwatanzwe mu Rukiko kuri *alibi* rutabuciyemo ibice. Kubera iyo mpamvu, Urugereko rw'Ubujurire, uretse Umucamanza Weinberg de Roca ufite igitekerezo gitandukanye n'icy'abandi, rwanzuye ruvuga ko Ujurira atagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa, iryo ari ryo ryose, mu gusuzuma ibimenyetso byatanzwe kuri *alibi*. Kubera iyo mpamvu, iki gice cya nyuma cy'impamvu y'ubujurire yerekeye *alibi* nticyakiriwe.

J. <u>IBIMENYETSO BY'INYONGERA</u>

211 Urugereko rw'Ubujurire rugiye noneho gusuzuma umwanzuro w'Urugereko rwa Mbere rw'Iremezo ku byerekeranye no kuba Uregwa yari ari ku kigo cya Paruwasi ya Gikomero. Kuri uyu mwanzuro, Urugereko rw'Ubujurire rwemeye ko abagabo biswe GAA na GEX batanga ubuhamya bw'inyongera[478]. Urugereko rw'Ubujurire rwanumvise kandi ubuhamya bwa GAG na GEK[479] bugamije kunyomoza ubwa GAA na GEX.

---

[477] Urubanza, igika cya 176.

[478] Icyemezo gishingiye ku ngingo ya 115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, igika cya 38.

[479] Reba inyandikomvugo y'iburanisha, 18 na 19 Gicurasi 2005 [FR].

1. Umutangabuhamya wiswe GAA

212 Mu iburanisha, GAA yavuze ko ku itariki ya 12 Mata 1994 yabonye Ujurira ku kigo cya Paruwasi ya Gikomero[480]. Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko GAA ari umwe mu batangabuhamya batatu bari bazi Ujurira mbere y'ibyabaye bityo bakaba baramumenye ubwo yageraga kuri icyo kigo[481]. Ku Cyifuzo yatanze asaba iyakirwa ry'ibimenyetso by'inyongera, Ujurira yometseho ubuhamya bwanditse bwa GAA aho uyu mugabo yemezaga ko atigeze agera kuri Paruwasi ya Gikomero muri Mata 1994, bityo akaba atarahabonye Ujurira, kandi ko abenshi mu batangabuhamya bashinja babanje kumvikana mbere y'uko baza mu Rukiko kugira ngo batavuguruzanya. Yongera ho ko yari yaremeye gutanga ubuhamya bw'ikinyoma nyuma y'amakuru amwe yahawe na GEK[482].

213 Mu bujurire, GAA avuga ko yabeshye mu rw'iremezo yemeza ko yageze ku kigo cya Paruwasi ya Gikomero kandi ko yahabonye Ujurira. Avuga ko, mu by'ukuri, atari yarahungiye i Gikomero ko ahubwo yari yarahungiye i Kibara kandi ko atigeze abona Ujurira i Gikomero[483]. Abajijwe icyamuteye gutanga ubuhamya bw'ikinyoma mu rw'iremezo nk'uko abyemeza, GAA yasobanuye ko yageragezaga gukora ibishoboka byose ngo Ujurira ahamwe n'icyaha kuko abantu benshi bo mu muryango we baguye i Gikomero kandi GEK akaba yari yaramubwiye ko igitero cyabahitanye cyari kiyobowe n'Ujurira[484]. Asobanura ko ariyo mpamvu yemeye gufasha GEK gushakisha abarokotse ubwo bwicanyi. Cyakora ngo bamwe mu barokotse ubwo bwicanyi bavuze ko batabonye Ujurira igihe bwakorwaga. Nyuma y'aho ni bwo na we yaje kumenya ko Ujurira atigeze agera kuri paruwasi[485]. Ariko GAA ahakana ko yumvikanye n'abandi bagabo ku buhamya bari gutanga mu Rukiko[486].

---

[480] Urubanza, ibika 330-334.
[481] Ni kimwe no haruguru, igika cya 445.
[482] Icyemezo gishingiye ku ngingo ya 115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, igika cya 38.
[483] Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, urup. 4 [FR].
[484] Kimwe no haruguru.
[485] Inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 5 na 6 [FR].
[486] Ni kimwe no haruguru, imp. 6 na 7.

214 Ujurira avuga ko kuva GAA yarisubiyeho ku byerekeye ubuhamya yatanze mu Rukiko, Urugereko rwa Mbere rw'Iremezo rwamuhamije [Ujurira] icyaha rushingiye gusa ku mvugo z'abatangabuhamya babiri bavuga ko bari bamuzi mbere y'ibyabaye muri 1994[487].

215 Iyo Urugereko rw'ubujurire rusanze ibimenyetso by'inyongera rwemeye kwakira, nta kamaro bifite cyangwa bitakwizerwa, ibyo bimenyetso ntibishobora gushingirwaho mu guhindura urubanza rwaciwe n'Urugereko rwa Mbere rw'Iremezo kuko na rwo iyo ruza kubisuzuma ruba rwarasanze rutabigenderaho[488].

216 Urugereko rw'Ubujurire ruvuga ko bugereranyijwe n'ubuhamya bwanditse GAA yatanze Werurwe 2004 kandi bwometse ku Cyifuzo cy'Ujurira gisaba kwemererwa gutanga ibimenyetso by'inyongera[489], ubuhamya uyu mugabo yatanze mu iburanisha mu bujurire burimo ukwivuguruza kugaragara. Muri ubwo buhamya bwanditse, GAA avuga ko amaze gusubira muri serire ye, ubutegetsi bwa FPR bwamugize umuyobozi w'iyo serire, kandi ko mu mirimo ye harimo gukora iperereza ku bantu bakoze ubwicanyi. Avuga ko kubera ko benshi mu Batutsi bo muri serire ye biciwe i Gikomero byatumye ajyayo kuhakora iperereza. Mu rwego rw'iperereza yakoze, GAA yagiye mu manama menshi yabereye mu kabari ka GEK kandi abayitabiriye bumvikanye ku magambo bagombaga gukoresha mu buhamya bagombaga gutanga mu Rukiko bashinja Ujurira[490].

217 Ubuhamya bwa GAA mu Rugereko rw'Ubujurire butandukanye cyane n'ubwanditse bumaze bumaze kuvugwa. N'ubwo akomeza kuvuga ko GEK ari we wabakoranije, GAA yemeza ko izo nama ntaho zari zihuriye n'imirimo yari ashinzwe[491]. Anavuga ko yabonanye na GEK inshuro ebyiri, kandi ko ku nshuro ya mbere ari bwo GEK yari

---

487 Inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 32 na 36 [FR].
488 Urubanza rwa *Kvočka* mu bujurire, igika 428. Reba kandi urubanza rwa *Semanza* mu bujurire, ibika 171 na 180, n'urwa *Rutaganda* mu bujurire, ibika 488 na 489.
489 Cyashyizwe muri dosiye nk'ikimenyetso gishinja ARP I cya Porokireri. Inyandikomvugo y'iburanisha 18 Gicurasi 2005, urup. 78 [FR].
490 Ikimenyetso gihamya APR I cya Porokireri.
491 Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, urup. 20 [FR].

aherekejwe n'abandi bantu babiri. Yongera ho ko atazi ko GEK yakoresheje amanama itsinda ry'abantu kugira ngo baganire ku byo Ujurira akurikiranyweho[492].

218 Asabwe gusobanura, mu bujurire, ukuntu yamenye amwe mu makuru arambuye yavuze mu buhamya bw'ikinyoma avuga ko yatanze mu rw'iremezo, GAA asubiza ko yavuze ibyo yahimbye. Asobanura rero ko yahimbye ibyo yabwiye Porokireri mu mwaka wa 1999 ko « nyuma y'aho Ujurira yasubiye ku murenge avukaho ». Mu bujurire, GAA anavuga ko, mu by'ukuri, mu mwaka wa 1994 atari azi agasozi Ujurira avukaho, kandi ko yahimbye ibyo yavuze ko Ujurira yageze kuri paruwasi mu ikamyoneti y'umweru[493].

219 Urugereko rw'Ubujurire rusanga bidashoboka ko GAA yaba yarahimbye ayo makuru arambuye kandi yemezwa n'abandi batangabuhamya. Byongeye kandi, iyo avuga ko yahimbye wenyine ayo makuru, aba avuguruza ubuhamya bwe bwanditse bwometse ku Cyifuzo cy'Ujurira gisaba Urugereko kwakira ibimenyetso by'inyongera, kuko muri ubwo buhamya avuga ko abagabo bumvikanye ngo batazavuguruzanya mu buhamya bari gutanga mu rukiko. Uko kwivuguruza gutuma ibisobanuro bibiri yatanze bitakwemerwa.

220 Urugereko rw'Ubujurire rusanga, mu buhamya bunyuranye bwanditse yatanze, GAA yaramaze imyaka myinshi avuga ko yagiye kuri Paruwasi ya Gikomero mu mwaka wa 1994 kandi ko yahabonye Ujurira. Yabizue bwa mbere mu mwaka wa 1995 abibwira abategetsi b'u Rwanda, akomeza kubyemeza mu mwaka wa 1999 mu buhamya yahaye Porokireri, no mu mwaka wa 2001 mu buhamya yatanze mu Rugereko rwa Mbere rw'Iremezo[494]. Urugereko rw'Ubujurire rusanga kandi mu mwaka wa 2004, igihe GAA yiyemezaga kuvuga ukuri, nk'uko abivuga, uyu mugantabuhamya atarabonaye na Porokireri cyangwa Urukiko, ahubwo yaravuganye n'Ubwunganizi, nyuma yifashisha noteri w'i Kigali agombye kumwiyishyurira ubwe[495].

[492] Ni kimwe no haruguru, urup. 33.
[493] Ni kimwe no haruguru, imp.34 na 35.
[494] Ni kimwe no haruguru, imp. 28 na 29.
[495] Ni kimwe no haruguru, imp. 23, 28 na 29.

221 Kubera izo mpamvu, Urugereko rw'Ubujurire rusanga kwisubiraho kwa GAA ubwo yarwitabaga muri Gicurasi 2005 bitakwizerwa cyane. Rwanzura ko ibimenyetso by'inyongera yatanze bitari kugira icyo bihindura kigaragara ku mikirize y'urubanza mu Rugereko rwa Mbere rw'Iremezo. Byongeye kandi, urebye ubuhamya GAA yatanze mbere adahuzagurika akanabuhurizaho n'abandi bagabo, umucamanza wese usuzuma ibyabaye ushyira mu gaciro yakomeza kwemera ubuhamya GAA yatanze mu Rugereko rwa Mbere rw'Iremezo. Ubwunganizi ntibwashoboye rero kugaragaza ko GAA yari azi ibyo bintu buvuga mu Cyifuzo cyabwo, gishingiye ku ngingo ya 115 y'Amategeko, gisaba Urugereko kwemera ibimenyetso by'inyongera.

2. Umutangabuhamya wiswe GEX

222 Mbere y'uko urubanza rutangira, GEX yari yarahaye Porokireri ubuhamya bwanditse buvuga ko Ujurira yageze kuri Paruwasi ya Gikomero ku itariki 12 Mata 1994, kandi ko yatangije igitero avuga ngo « mukore ». Porokireri yamenyesheje Ubwunganizi ubwo buhamya ariko ntiyahamagaza GEX mu Rukiko[496]. Ku Cyifuzo cye gisaba Urugereko kwemera ibimenyetso by'inyongera, Ujurira yometseho ubuhamya bushya bwanditse bwa GEX bugamije kugaragaza ko, mu by'ukuri, atabonye Ujurira ku kigo cya paruwasi, kandi ko abatangabuhamya benshi bumvikanye kugira ngo bashinje Ujurira[497].

223 Mu bujurire, GEX avuga ko yageze i Gikomero, kandi ko yiboneye iyicwa rya Augustin Bucundura wari umuvugabutumwa. Cyakora, uyu mutangabuhamya yemeza ko atahabonye Ujurira ndetse ko atigeze yumva abantu bavuga izina rye, kandi ko ibyo binyuranye n'ibyo yavuze mu buhamya bwanditse yahaye Porokireri[498]. Asobanura ko nyuma y'ibyabaye ari bwo abantu babiri, umugore n'umugabo, bamubwiye ko Ujurira ari we wari ku isonga ry'ubwo bwicanyi[499]. Avuga ko uwo mugabo [wabimubwiye], ari we GAA, yamubwiye ko yabyumvanye GEK[500]. GEX avuga ko mbere yo gutanga

[496] Icyemezo gishingiye ku ngingo ya 115 y' Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, igika cya 41.
[497] Ni kimwe no haruguru, igika cya 42.
[498] Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, imp. 45 na 46 [FR].
[499] Ni kimwe no haruguru, imp. 48 na 49.
[500] Ni kimwe no haruguru, imp. 50 na 51.

ubuhamya bwanditse bwa mbere, yabanje kumvikana na GAA n'undi muntu ku byo yagombaga kuvuga igihe kigeze. Bombi bakaba baramugiriye inama yo kuvuga ko yumvise uwitwa Nzaramba avuga izina ry'Ujurira[501]. GEX avuga ko adashidikanya ko GEK yari yagambaniye Ujurira, ari nako akomeza kwemeza ko atigeze abonana ubwe na GEK[502].

224 Ku byerekeye GEX, Ujurira avuga ko ibimenyetso bye by'inyongera bigaragaza ko abantu batari bake bemeza ko Ujurira yari ku kigo cya Paruwasi ya Gikomero kandi batarahamubonye. Avuga ko ibyo bituma umuntu yashidikanya ku buhamya abagabo batanze mu Rukiko bavuga ko bumvise ko Ujurira ari we wayoboye igitero[503].

225 Urugereko rw'Ubujurire ruributsa ko rwemeye kumva ubuhamya bwa GEX kugira ngo rubashe gusuzuma neza kurushaho ukwemerwa n'ukwizerwa k'ubuhamya bw'inyongera bwatanzwe na GAA[504]. Cyakora, ubuhamya GEX yatanze mu bujurire ntibugaragaza ko GEK yakoresheje inama zacuriwemo umugambi wo gushinja Ujurira ibinyoma[505]. Byongeye kandi, hari ukundi kwivuguruza gutuma ubuhamya bwa GEX mu bujurire butakwizerwa. Mu by'ukuri, mu buhamya bwanditse uwo mugabo yahaye Porokireri, biragaragara ko bamwe mu bacuruzi bo muri kariya gace, bari ku kigo cya Paruwasi ya Gikomero mu gihe cy'ibyabaye, basakuje bavuga ngo « dore Kamuhanda »[506]. Mu Rugereko rw'Ubujurire, GEX yakomeje kuvuga ko bari baramubwiye kuvuga ko izina ry'Ujurira ryavuzwe n'uwitwa Nzaramba[507]. Nyamara, nta na hamwe avuga izina rya « Nzaramba » mu buhamya bwe bwanditse[508]. Urugereko rw'Ubujurire rusanga kwisubiraho kwa GEX kutakwemerwa kubera ko yagerageje, mu buryo buteye urujijo,

---

[501] Ni kimwe no haruguru, urup. 53.
[502] Ni kimwe no haruguru, urup. 71.
[503] Inyandikomvugo y'iburanisha, 19 Gicurasi 2005, imp. 33 na 34.
[504] Icyemezo gishingiye ku ngingo ya 115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, Igika cya 53.
[505] Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, imp. 70, 71 [FR].
[506] Icyimenyetso gihamya ARP 5 cya Porokireri, inyandikomvugo y'iburanisha 18 Gicurasi 2005, urup. 78. Mu ibaza rinyomoza, GEX yahakanye ko yavuze ko abaturage b'i Gikomero basakuje bavuga izina ry'Ujurira. Cyakora, ntiyabashije gusobanura ukuntu ayo makuru yageze mu buhamya bwe bwanditse kandi yongeye kubusomerwa mu Kinyarwanda imbere y'Urugereko rw'Ubujurire. Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, imp. 63, 64 [FR].
[507] Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, urup. 53, 54 [FR].
[508] Ni kimwe no haruguru, urup. 63.

kuvuga ibintu bitari mu buhamya bwe bwanditse. Mu gusoza kuri iyi ngingo, Urugereko rw'Ubujurire rusanga kimwe na GAA, GEX atarabonanye na Porokireri kugira ngo yisubireho ku buhamya bwe avuga ko ari ubw'ikinyoma. Rusanga ahubwo yarahisemo kujyana na GAA kwa noteri ukorera i Kigali kugira ngo yisubireho mu buhamya bwe akoresheje inyandiko ku ndahiro[509].

226 Urugereko rw'Ubujurire rusanga ubuhamya GEX yatanze mu bujurire muri Gicurasi 2005 butakwizerwa cyane. Kubera iyo mpamvu, rwanzuye ruvuga ko hatatanzwe ibimenyetso bigaragaza ko abatangabuhamya bashinja bumvikanye kugira ngo bashinje Ujurira ibinyoma.

3. Ibimenyetso binyomoza

227 Porokireri yahamagaje GAG na GEK kugira ngo banyomoze ubuhamya bw'inyongera bwa GAA na GEX. Kubera ko rwamaze kwanzura ruvuga ko ubuhamya bwa GAA na GEX mu bujurire ntacyo bwahindura ku mikirize y'urubanza rwaciwe n'Urugereko rwa Mbere rw'Iremezo, Urugereko rw'Ubujurire rusanga atari ngombwa gusuzuma ibimenyetso bya Porokireri binyomoza ubwo buhamya. Ruributsa gusa ko, mu iburanisha mu bujurire, GAG na GEK bongeye kwemeza ko bavuze ukuri mu rw'iremezo[510].

4. Amakuru y'inyongera

228 Urugereko rw'Ubujurire ntirwasuzumye amakuru y'inyongera yatanzwe na Porokireri ku byerekeye ubuhamya bunyomoza bwatanzwe na GAG mu bujurire[511].

---

[509] Ni kimwe no haruguru, urup. 23.

[510] Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, urup. 85 (GAG), 19 Gicurasi 2005, urup. 3 (GEG) [FR].

[511] Itangwa ry'amakuru y'inyongera ku ruhande rwa Porokireri mu iburanisha ryahariwe kumva ubuhamya bw'inyongera, hashingiwe ku ngingo ya 115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, ku itariki ya 18 n'iya 19 Gicurasi 2005 n'iryo ku itariki ya 8 Nyakanga 2005. Iburanisha ryo ku itariki ya 19 Gicurasi 2005 rirangiye, uburyo bwonyine Porokireri yashoboraga gukoresha kugira ngo amakuru ye y'inyongera yakirwe, kwari ugutanga Icyifuzo ashingiye ku ngingo ya 115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso. Cyakora, itangwa ry'amakuru y'inyongera ku ruhande rwa Porokireri ntiryari ryujuje ibisabwa mu ku byifuzo bitanzwe hashingiwe ku ngingo ya 115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, nko kuba muri ayo makuru nta kivugwa ku kwizerwa ku ibimenyetso yashakaga gutanga ndetse n'akamaro kabyo, cyangwa icyo byari buhindure ku mikirize y'urubanza. Byongeye kandi, kubera ko ingingo ya

5. Umwanzuro

229 Muri make, Urugereko rw'Ubujurire ntirwakiriye ibimenyetso byose by'inyongera rwashyikirijwe. Kubera iyo mpamvu, rwiyemeje gusuzuma ubu bujurire rushingiye gusa ku bimenyetso biri muri dosiye y'urubanza mu rw'iremezo.

K. UMWANZURO WEMEZA KO UJURIRA YARI KU KIGO CYA PARUWASI YA GIKOMERO

230 Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwamuhamije ibyaha rushingiye ahanini ku buhamya bwa GAF, GES na GAA bavuga ko bari basanzwe bamuzi mbere y'ubwicanyi bwakorewe i Gikomero[512]. Asanga Urugereko rwa Mbere rw'Iremezo rwarakoze ikosa ryo mu rwego rw'ibyabaye kubera ko rwanzuye ruvuga ko abo bantu bari basanzwe bamuzi mbere y'itariki ya 12 Mata 1994 bityo bakaba barashoboye kumumenya kuri iyo tariki[513]. Kuri iyi ngingo, Ujurira yibutsa ibyo yavuze mbere ku buhamya bwerekeranye n'uko abantu bamumenye[514].

231 Urugereko rw'Ubujurire rusanga Ujurira yaranditse incamake ituzuye ku mitekerereze y'Urugereko rwa Mbere rw'Iremezo kuko iyo ncamake ivuga gusa k'ukuba GAF, GES na GAA barashoboye kumumenya no ku buhamya bubishyigikira bwatanzwe n'abandi bagabo bashinja. Urugereko rw'Ubujurire rusanga kandi Urugereko rwa Mbere rw'Iremezo rwaranagendeye ku buhamya GEK na GEB batanze mu Rukiko. Abo batangabuhamya bavuga ko babonye Ujurira i Gikomero ari mu modoka ku itariki ya 12

---

115 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ari ingingo yihariye igenga iyakirwa ry'ibimenyetso mu bujurire, Icyifuzo cya Porokireri nticyagombaga gushingira ku biteganywa muri rusange n'ingingo ya 54 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso. Byongeye kandi, Urugereko rw'Ubujurire rwasanze atari ngombwa kugira icyo rukora rushingiye ku ngingo ya 98 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso. Ni na ngombwa kwibutsa ko Ujurira na we yari yasabye Urugereko kutakira amakuru y'inyongera ya Porokireri, bityo akaba atararenganijwe na rimwe no kuba Urugereko rw'Ubujurire rwarafashe icyemezo cyo kudasuzuma ayo makuru (reba imyanzuro isubiza ku Cyifuzo cya Porokireri cyo ku itariki ya 8 Nyakanga 2005, urup. 7).

[512] Imyanzuro y'Ujurira, ibika 340, 341.

[513] Ni kimwe no haruguru, igika cya 345.

[514] Ni kimwe no haruguru, igika cya 346.

Mata 1994, mbere gato y'uko ubwicanyi butangira[515]. Ujurira ntacyo avuga ku buhamya bw'abo bagabo babiri bwerekeranye no kuba yari muri Komine ya Gikomero ku itariki ya 12 Mata 1994, n'ubwo, nk'uko bigaragara, arwanya muri rusange ukwizerwa kwa GEK. Urugereko rw'Ubujurire ruributsa ko kwanzura ruvuga ko Ujurira aterekana ukuntu yumva Urugereko rwa Mbere rw'Iremezo rwarakoze ikosa ryo gushingira ku buhamya bwa GEK[516]. Ku byerekeye GEB, Ujurira avuga gusa ko atakwizerwa kubera ko, muri rusange, yivuguruza mu buhamya bwe. Cyakora ntavuga, mu buryo bwumvikana, ibice by'ubuhamya bw'uwo mugabo byerekeranye no kuba yari muri Komine ya Gikomero mbere gato y'ubwicanyi[517].

1. Amakosa yo mu rwego rw'amategeko yaba yarakozwe n'Urugereko rwa Mbere rw'Iremezo ku byerekeranye no kuba abatangabuhamya baramenye Ujurira.

a) Kwemerwa no kwizerwa [by'ubuhamya]

232 Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'amategeko kuko rwirengagije ibigenderwaho biteganywa n'ubukemuramanza bw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda n'ubw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze Cyitwa Yugosolaviya, ku byerekeye ibimenyetso bijyanye no kuba abatangabuhamya baramumenye. By'umwihariko, avuga ko Urugereko rwa Mbere rw'Iremezo rutagendeye kuri icyo kintu kigenderwaho n'ubwo rwari rumaze kwemera, mu kuri, ko rugomba gutandukanya isuzuma ry'ukwemerwa n'ukwizerwa k'ubuhamya bwatanzwe mu Rukiko[518].

233 Porokireri asubiza ko Urugereko rwa Mbere rw'Iremezo rwatandukanije, uko bikwiye, ukwemerwa kw'abagabo n'ukwizerwa k'ubuhamya bwabo. Nk'urugero, avuga ko

---

[515] Urubanza mu rw'iremezo, ibika 439 (GEK), na 441 (GEB).
[516] Reba igice X.
[517] Imyanzuro y'Ujurira, igika cya 123.
[518] Ni kimwe no haruguru, ibika 96-100.

Urugereko rwasanze rwakwizera cyane ubuhamya GEM yatanze mu Rukiko ndetse rukavuga ko rutakwemera cyane GEM[519].

234 Urugereko rw'Ubujurire ruvuga ko ubukemuramanza budahinduka bwa TPIR na TPIY buteganya ko "Urugereko rwa Mbere rw'Iremezo rushyira mu gaciro rugomba kuzirikana ingorane zibaho mu gushobora kumenya uregwa mu rubanza runaka, no kubanza gusuzumana ubushishozi icyo kimenyetso mbere yo kugishingiraho ngo ruhamye uregwa icyaha"[520]. Urugereko rwa Mbere rw'Iremezo ni rwo rugomba, by'umwihariko, gusuzuma ukwemerwa k'umutangabuhamya maze rukemeza niba ubuhamya bwe bwakwizerwa[521]. Umutangabuhamya ashobora kwemerwa, ni ukuvuga ko ibyo avuga muri rusange byakwemerwa[522], ariko ubuhamya bwe ntibwizerwe kubera gusa ko ashobora kuba yaribeshye bitewe n'ingorane zariho ubwo yabonaga ibyabaye.

235 Kuva ku gika cya 445 kugeza ku cya 449 by'inyandiko y'urubanza, Urugereko rwa Mbere rw'Iremezo rusuzuma ubuhamya bwa GAF, GAA na GES mu Rukiko maze kuri GAF rukanzura, ku bwiganze bw'amajwi, ruvuga ko ibyo abo batangabuhamya bavuga byakwemerwa. Rurangije, rwasuzumye ubuhamya GAF, GES na GAA batanze mu Rukiko bwerekeranye no kuba barashoboye kumumenya Ujurira[523] maze ruzirikana intera yari hagati y'abo abatangabuhamya n'Ujurira ndetse no kuba baramubonye ku manywa y'ihangu.

236 Urugereko rwa Mbere rw'Iremezo rwanze kwakira ubuhamya GEU yatanze mu Rukiko, kuko "bushingiye ku byo yumvanye abandi kandi bidafite abandi babishimangira ndetse

---

[519] Imyanzuro y'Usubiza mu bujurire, igika cya 109.
[520] Urubanza rwa *Kupreškić na bagenzi be* mu bujurire, igika 34. Reba n'urubanza rwa *Niyitegeka* mu bujurire, ibika 100, 101.
[521] Urubanza rwa *Musema* mu bujurire, igika 90, n'urwa *Kupreškić na bagenzi be* mu bujurire, igika 138 na 139; urubanza rwa *Vasiljević*, igika 16; *urubanza Porokireri aregamo Kunarac n'abandi*, Icyemezo ku cyifuzo gisaba kugirwa umwere, 3 Nyakanga 2000, igika 8.
[522] Inkoranyamagambo yitwa *Black's Law Dictionary*, 8e ed., St. Paul, West Group, 2004, urup. 396. Reba no ku magambo 'credible witness' (umutangabuhamya wizewe). '*A witness whose testimony is believable'* (Umutangabuhamya utanga ubuhamya bushobora kwemerwa) Mu Gifaransa, ['*témoin credible'. Un témoin dont la deposition est croyable*]. Ni kimwe no haruguru, urup. 1633.
[523] Urubanza, igika cya 450.

bikemangwa"[524]. Rwasanze ubuhamya bwa GEM butakwemerwa ku byerekeye amasaha n'imibare[525]. Rwasanze kandi n'ubuhamya bwa GEI butakwemerwa kubera ko avuga ibintu bisa n'ibidashoboka[526]. Urugereko rw'Ubujurire rwanzura ruvuga ko Ujurira ntashingiro afite avuga ko Urugereko rwa Mbere rw'Iremezo rutasuzumye ukwizerwa k'ubuhamya bwatanzwe mu Rukiko. Rwanzura kandi ruvuga ko urwo Rugereko rwasuzumye neza ibimenyetso rwashyikirijwe. Urugereko rwa Mbere rw'Iremezo rwatandukanyije, uko bikwiye, ukwemerwa kw'abatangabuhamya n'ukwizerwa k'ubuhamya bwabo. Byongeye kandi, mu gusuzuma ukwizerwa k'ubuhamya bwatanzwe mu Rukiko, Urugereko rwa Mbere rw'Iremezo rwazirikanye uburyo abatangabuhamya babonyemo Uregwa. Bityo rero, ibyo Ujurira avuga kuri iyo ngingo ntibyakiriwe.

b) Ibimenyetso bishyigikira ibindi n'ibimenyetso biziguye

237 Na none muri iyi ngingo, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutarakurikije ibyo rwagedeyeho mu gusuzuma ibimenyetso, ku byerekeye abatangabuhamya batari bamuzi mbere y'itariki ya 12 Mata 1994. Avuga ko aho gusuzuma ukwizerwa ku ibyo bavuga ko bamumenye, Urugereko rwarebye gusa niba ibyo bavuga bishyigikira ibyavuzwe n'abandi batangabuhamya[527]. Ujurira avuga ko kuba abo batangabuhamya baba barumvise gusa abantu bavuga izina rye igihe imodoka zageraga ku kigo cya Paruwasi ya Gikomero bitari bihagije kugira ngo bamumenye[528]. Avuga ko rufata icyo cyemezo, Urugereko rwa Mbere rw'Iremezo rwavuguruje umwanzuro wa rwo uvuga ko kuba ibimenyetso runaka bifite ibindi bibishyigikira bitavuga ko ibyo bimenyetso bigomba kwemerwa byanze bikunze[529].

238 Kuri Porokireri, ubuhamya bw'abagabo batari basanzwe bazi Ujurira mbere y'ibyabaye ni ibimenyetso bishyigikira ibindi Urugereko rwa Mbere rw'Iremezo rwashoboraga

---

[524] Ni kimwe no haruguru, igika cya 442.
[525] Ni kimwe no haruguru, igika cya 459.
[526] Ni kimwe no haruguru, igika cya 457.
[527] Imyanzuro y'Ujurira, igika cya 105.
[528] Kimwe no haruguru.
[529] Imyanzuro y'Ujurira, igika cya 104.

gushingiraho[530]. Porokireri avuga ko ubuhamya bwatanzwe n'iryo tsinda ry'abagabo bwari buziguye kuri bimwe ku buryo butashoboraga bwonyine kugaragaza ko Ujurira ahamwa n'icyaha, ahubwo bwari mu bimenyetso bishobora kubigaragaza[531].

239 Ku gika cya 40 cy'Urubanza, Urugereko rwa Mbere rw'Iremezo ruvuga ibikubiye mu rubanza rwa Musema mu rw'iremezo kugira ngo rwemeze ko nta tegeko na rimwe rutegetswe kugenderaho ryerekeranye n'ishyigikirwa ry'ibimenyetso:

> « Urugereko rusuzuma, mu bwisanzure, akamaro n'ukuri kw'ibimenyetso byose rwashyikirijwe. Urugereko rusanga kandi ubwo bwisanzure mu isuzuma ry'ibimenyetso bureba n'ubuhamya bufite ubundi bubushyigikira : Kuba ubuhamya bwatanzwe n'abagabo bushyigikirana, ntibivuga ko ubwo buhamya bugomba kwemerwa nta shiti[532] ».

Urugereko rw'Ubujurire rusanga haruguru Urugereko rwa Mbere rw'Iremezo ruvuga ukuri ku byerekeye ishyigikirwa ry'ibimenyetso[533]. Uburyo Urugereko rwa Mbere rw'Iremezo rwakoresheje mu gusuzuma ubuhamya bushyigikira ubundi ntibunyuranyije n'ibimaze kuvugwa. Ibi bitandukanye n'ibyo Ujurira avuga. Ibice by'urubanza bijyanye n'iki kibazo bigomba gusobanurwa hakurikijwe umwanzuro uri mu gika cya 40 aho Urugereko rwa Mbere rw'Iremezo rwemeza ko rufite uburenganzira bwo kutakira ibimenyetso bimwe na bimwe kabone n'iyo byaba bifite ibindi bibishyigikira. Cyakora, byo ntibivuga na rimwe ko rutari rufite uburenganzira bwo gusuzuma bimwe mu bimenyetso bishyigikirana. Ahubwo bivuga ko rwari rufite uburenganzira bwo kubikora cyangwa kubireka. Mu rubanza, nta kintu na kimwe cyemeza ko Urugereko rwa Mbere rw'Iremezo rwasanze rugomba kwemera ubuhamya bwa GAF, GES na GAA bitewe gusa n'uko bwari bufite ubundi bubushyigikira.

240 Urugereko rw'Ubujurire rusanga rugomba gushishoza mu kwakira ubuhamya bw'abagabo batari basanzwe bazi Ujurira mbere y'ibyabaye[534]. Cyakora, Urugereko rwa

530 Imyanzuro y'Usubiza mu bujurire, igika cya 107.
531 Ni kimwe no haruguru, igika cya 110.
532 Urubanza mu rw'iremezo, igika cya 40, hasubirwamo ibivugwa mu rubanza rwa *Musema* mu bujurire, igika cya 46 (birashimangiwe muri urwo rubanza).
533 Reba na none urubanza rwa *Musema* mu bujurire, ibika 37, 38.
534 *Urubanza rwa Kupreškić na bagenzi be* mu bujurire, ibika 34, 39 na 40.

Mbere rw'Iremezo rwakiriye gusa ubwo buhamya kugira ngo bushyigikire ubwatanzwe n'abagabo babashije koko kumenya Ujurira[535]. Kuri abo batangabuhamya,rwanzuye kandi ruvuga ko ibyo bavuga ko bamenye Uregwa[536] byakwemerwa[537], kubera ko biyumviye abandi bantu bari aho bavuga izina rya « Kamuhanda ». Kubera izo mpamvu, Ujurira nta shingiro afite mu kuvuga ko Urugereko rwa Mbere rw'Iremezo rutarakurikije ibigenderwaho mu gusuzuma ubuhamya abagabo batanze bavuga ko bamenye uregwa.

241 Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo, rushyira mu gaciro kandi rufite ubwisanzure mu gusuzuma ibimenyetso rwashyikirijwe, rushobora, nta gushidikanya na gato, gufata umwanzuro nk'uwafashwe n'Urugereko rwa Mbere rw'Iremezo muri uru rubanza. Kuba abatangabuhamya barumvise izindi mpunzi zisakuza zivuga izina rya Kamuhanda byonyine ntibihagije kugaragaza ko Ujurira ari we koko wari ugeze ku kigo cya Paruwasi ya Gikomero. Cyakora, nta cyabuza Urugereko rwa Mbere rw'Iremezo guhamya uregwa icyaha rushingiye ku bimenyetso biziguye[538]. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarazirikanaga ingorane zihariye rugomba kwitaho mu gusuzuma ingingo yo kuba byonyine impunzi zarasakuje zivuga izina rya « Kamuhanda »[539]. Umwanzuro rwafashe kuri iyi ngingo uvuga ko abandi bantu bashoboye kumenya Ujurira, uri mu rwego rw'ibishoboka, bityo ukaba ugomba kwemerwa mu bujurire. Urugereko rwa Mbere rw'Iremezo rwatandukanyije, ku buryo bugaragara, GAF, GES na GAA (babonye Kamuhanda), n'abumvise gusa izina ry'Ujurira rivugwa. Kuba rwaravuze ko ubuhamya bw'abagabo bo mu itsinda rya kabiri bushyigikira kurushaho ubw'abandi batangabuhamya bari basanzwe bazi Ujurira kandi bakaba baramubonye bakamumenya[540], bigaragaza ko Urugereko rwa

[535] Abo batangabuhamya umunani ni aba : GEE (urubanza, igika cya 453), GEA (Ni kimwe no haruguru, igika cya 454), GEC (Ni kimwe no haruguru, igika cya 455), GEG (Ni kimwe no haruguru, igika cya 456), GAG (Ni kimwe no haruguru, igika cya 458), GEV (kimwe no haruguru, igika cya 460), GEP (Ni kimwe no haruguru, igika cya 461) na GEH (Ni kimwe no haruguru, igika cya 462).
[536] Nk'urugero, reba urubanza mu rw'iremezo, igika cya 453 (GEE).
[537] Reba urubanza mu rw'iremezo, igika cya 465 : "Kubera ukuntu ibintu byari bimeze, Urugereko rusanga nta kidasanzwe kiri mu kuba mu Rugereko abatangabuhamya batarashoboye kuvuga amazina y'abasakuzaga bavuga izina rya Kamuhanda. Rusanga rero ibyo nta cyo byahindura k'ukwemerwa kwabo".
[538] Reba *urubanza rwa Kupreškić na bagenzi be* mu bujurire, igika cya 303.
[539] Reba urubanza, igika cya 465.
[540] Urubanza, igika cya 465.

Mbere rw'Iremezo rwari ruzi ko ubuhamya bwabo budafite uburemere cyane kandi rwarabizirikanye. Kubera izo mpamvu, iki gice cy'ingingo y'ubujurire nticyakiriwe.

2. Ikosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira k'ukuba GAF, GES na GAA baramenye Ujurira

a) *Kumenya uregwa mu cyumba cy'iburanisha*

242 Ujurira avuga ko kuba bamwe mu batangabuhamya barashoboye kumumenya mu cyumba cy'iburanisha bitari bihagije ngo Urugereko rwa Mbere rw'Iremezo rubishingireho mu mwanzuro rwafashe. Iyo ngingo ayigarukaho inshuro nyinshi[541]. Cyakora, kubera ko icyo kibazo gifite akamaro gusa ku byerekeranye n'ubuhamya bwa GAF, GES na GAA mu Rukiko, Urugereko rw'Ubujurire ruragisuzuma rwifashigije ubwo buhamya.

243 Ku byerekeye kumenya Ujurira mu cyumba cy'iburanisha, Urugereko rwa Mbere rw'Iremezo rugira ruti :

> Urugereko rusanga mu gihe cy'iburanisha, abatangabuhamya batarigeze basabwa kwerekana Uregwa bareba ahantu runaka hihariye mu cyumba cy'iburanisha. Urugereko rurazirikana ko abatangabuhamya basabwaga kureba hose mu cyumba cy'iburanisha kugira ngo barebe niba babasha kwerekana Uregwa. Urugereko ruributsa kandi ko kwerekana Uregwa mu cyumba cy'iburanisha atari igikorwa cyafatwa cyonyine ubwacyo : ahubwo kiri mu murongo w'ibindi bikorwa bigamije kwerekana Uregwa mu cyumba cy'iburanisha.[542].

Amagambo Urugereko rwa Mbere rw'Iremezo rukoresha yatuma umuntu yibeshya kuko asa n'ategeka guha uburemere kuba, igihe atanga ubuhamya, mu Rugereko umutangabuhamya amenya uregwa wicaye aho abaregwa bicara. Inkiko ziha ubwo buryo bwo kumenya uregwa uburemere buke cyangwa ndetse ntizinabuhe uburemere na mba,

[541] Urugero, reba Imyanzuro y'Ujurira, ibika 350, 370 na 410.
[542] Urubanza, igika cya 63.

kandi birumvikana. Nk'urugero, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rw'Urukiko mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze Cyitwa Yugosolaviya rwarafashe umwanzuro ukurikira mu rubanza rwa Kunarac na bagenzi be:

> Kubera ko imiterere yose y'urubanza ituma, byanze bikunze, umutangabuhamya runaka amenya umuntu wicaye ku ntebe y'abaregwa (cyangwa umuntu usa kurusha abandi n'uwakoze icyaha, iyo abaregwa ari benshi), Urugereko nta gaciro rwahaye uko kwerekana uregwa mu cyumba cy'iburanisha[543].

Uwo mwanzuro wemejwe n'Urugereko rw'Ubujurire rwa TPIY rumaze kubona ko "Urugereko rwa Mbere rw'Iremezo rwari rufite ishingiro rwanga guha agaciro igikorwa cyo kwerekana uregwa mu cyumba cy'iburanisha[544]'. Kugira ngo kumenya uregwa mu cyumba cy'iburanisha byemerwe, ntibihagije ko umutangabuhamya aba yarebye hose mu cyumba cy'iburanisha kugira ngo arebe niba yamenya uregwa, kubera ko uburyo iburanisha rikorwamo butuma umutangabuhamya ashobora kumenya uregwa uwo ari we. Ibyo rero bitandukanye n'ibyo Urugereko rwa Mbere rw'Iremezo rushaka kumvikanisha.

244 Cyakora Urugereko rw'Ubujurire ntirwafashe iki giterekezo kidasobanutse, cy'Urugereko rwa Mbere rw'Iremezo, nk'ikosa ryatuma icyemezo rwafashe gita agaciro. Urugereko rw'Ubujurire ruvuga ko Urugereko rwa Mbere rw'Iremezo rwasobanuye ko uko kumenya uregwa mu cyumba cy'iburanisha ari kimwe "mu bintu" byinshi". Byongeye kandi, mu gusuzuma ibimenyetso Urugereko rwa Mbere rw'Iremezo rusa n'urwahaye agaciro gake uko kumenya Uregwa muri ubwo buryo. Mu ncamake rwatanze y'ubuhamya bw'abagabo mu Rukiko, Urugereko rwa Mbere rw'Iremezo ruvuga ko GAF, GES na GAA bashoboye kumenya Ujurira mu iburanisha[545]. Cyakora, mu gusuzuma ibimenyetso rwashyikirijwe, nta kintu urwo Rugereko rwuvuga ku byerekeranye n'uko GAF yamenye Ujurira mu cyumba cy'iburanisha. Ku byerekeye GES na GAA, mu byo urwo Rugereko ruvuga harimo ko bashoboye kumenya Uregwa mu cyumba

[543] Urubanza rwa Kunarac na bagenzi be mu rw'iremezo, igika cya 562.
[544] Urubanza rwa Kunarac na bagenzi be mu bujurire, igika cya 320.
[545] Urubanza mu rw'iremezo, igika cya 316 (GAF), igika cya 325 (GES), igika cya 330 (GAA). Urugereko rwa Mbere rw'Iremezo ruvuga kandi ko abatangabuhamya GEB na GEI bashoboye kwerekana Ujurira mu iburanisha (ibika 297, 363) ariko ntirwizeye ubuhamya bwabo.

cy'iburanisha ariko ntirwatinze kuri iyo ngingo[546]. Rumaze gusuzumana ubushishozi ibimenyetso Urugereko rwa Mbere rw'Iremezo rwashingiyeho rufata imyanzuro yemeza ko GES na GAA bashoboye kumenya Ujurira, Urugereko rw'Ubujurire ntirushidikanya ko umucamanza wese usuzuma ibyabaye ushyira mu gaciro, yari kwanzura avuga ko uko kumenya Ujurira byakwemerwa n'iyo atakwita k'ukwerekana uregwa mu cyumba cy'iburanisha. Kubera izo mpamvu, Urugereko rwa Mbere rw'Iremezo nta kosa na rimwe rwakoze ryatuma icyemezo rwafashe gita agaciro cyangwa ngo ritume umuntu avuga ko habayeho akarengane.

b) Umutangabuhamya wiswe GAF

i) *Kwemerwa k'umutangabuhamya*

245 Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego rw'ibyabaye kuko rwashingiye ku buhamya bwa GAF mu kwemeza ko yari [Uregwa] ari ku kigo cya Paruwasi ya Gikomero tariki 12 Mata 1994. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutagombaga kugendera ku bivugwa n'uwo mugabo kuko rwari rwanze kwizera ubuhamya yatanze mu Rukiko avuga ko mbere ya 1994, Ujurira yafatwaga nk'umunyapolitiki ukomeye. Ujurira avuga kandi ko uwo mutangabuhamya atashoboye gutanga amakuru amwerekeyeho, nk'amazina ya bashiki be[547].

246 Kuri iyo ngingo, Porokireri asubiza ko Urugereko rwa Mbere rw'Iremezo rwagaragaje ubushishozi no kutabogama mu gusuzuma ubuhamya bwa GAF. Avuga ko urwo Rugereko rwari rufite uburenganzira bwo kwemera ingingo z'ingenzi zigize ubwo buhamya kubera ko, by'umwihariko, izo ngingo zashyigikirwaga n'ubuhamya bwa GEK na GEB. Yongeraho ko rwari runafite uburenganzira bwo kwanga ingingo zabwo zidasobanuye birambuye[548].

---

546 Urubanza mu rw'iremezo, igika cya 447 (GES) n'icya 448 (GAA).
547 Imyanzuro y'Ujurira, igika cya 353.
548 Imyanzuro y'Usubiza mu bujurire, igika cya 173.

247 Ujurira asubiza ko ubuhamya bwa GAF bwari bushingiye ahanini k'ukuvuga ko yari umunyapolitiki ukomeye mu mwaka wa 1994[549]. Yibutsa ko mu buhamya bwe mu Rukiko, GAF yemeza ko yamubonye inshuro nyinshi igihe yari umunyapolitiki n'umurwanashyaka ukomeye wa MRND[550].

248. Urugereko rw'Ubujurire ruributsa ko umucamanza usuzuma ibyabaye ashobora kwemera ibice bimwe by'ubuhamya bw'umugabo, ibindi ntabyemere.[551] GAF yemeza ko yari asanzwe azi Ujurira kubera ko yari yarahuye na we inshuro nyinshi, nko mu muhango wo gutaha ikigo nderabuzima cy'i Kayanga. Yongera ho ko Ujurira "yari azwi cyane muri ako gace nk'umunyapolitiki ukomeye".[552] Ku bwiganze bw'amajwi, Urugereko rwa Mbere rw'Iremezo rwemeye ko uyu mutangabuhamya yabonanye n'Ujurira mu itahwa ry'ikigo nderabuzima cy'i Kayanga, maze rwibutsa ko GEK na GEB bemeza ko Ujurira yari muri uwo muhango. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro rwanga kwemera, ku bwiganze bw'amajwi, ibyo GAF yavuze, bidafite ibindi bibishyigikira, yemeza ko mbere ya 1994 Ujurira yari umunyapolitiki ukomeye. Rusanga kandi urwo Rugereko rwarashyize mu gaciro rwemera ibyo uwo mutangabuhamya avuga ko yahuye n'Ujurira mu muhango wo gutaha Ikigo nderabuzima cy'i Kayanga, bityo akaba ashobora kumumenya.

249. Mu yindi ngingo isa n'iyi, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoresheje ikigenderwaho kitari cyo mu gutanga ibimenyetso, ubwo rwemeraga ubuhamya bwa GAF. Avuga ko Urugereko rwa Mbere rw'Iremezo rwari rwamaze kwemera ko kuva muri 1990 kugeza muri 1992, Ujurira yabaga i Butare, bityo akaba asanga Urugereko rwaracuritse ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso ubwo rwemezaga ko kuba icyo gihe yarakoreraga i Butare byonyine bitagaragaza ko atashoboraga kujya mu muhango wo gutaha ikigo nderabuzima cy'i Kayanga[553].

---

549 Imyanzuro isubiza, igika cya 90.
550 Ni kimwe no haruguru, igika cya 89.
551 Urubanza rwa *Kupreškić na bagenzi* mu bujurire, igika cya 333.
552 Inyandikomvugo y'iburanisha, 13 Nzeri 2001, urup.46 [ENG]
553 Imyanzuro y'Ujurira, igika cya 88.

250. Urugereko rw'Ubujurire ntirwakiriye iyi ngingo. Urugereko rwa Mbere rw'Iremezo ruvuga ko "kuba Ujurira yarabaga i Butare muri icyo gihe, byonyine bidahagije mu kugaragaza ko atashoboraga kujya muri iyo mihango"[554]. Cyakora, ibi ntibishatse kuvuga ko Urugereko rwa Mbere rw'Iremezo rwumvaga ko Ujurira ari we ugomba kugaragaza ko GAF abeshya. Urugereko rwa Mbere rw'Iremezo rwashakaga gusa kuvuga ko kuba Ujurira yarabaga ahandi hantu muri icyo gihe, bidahagije ngo umuntu abe yashidikanya ko yari mu muhango wo gutaha ikigo nderabuzima cy'i Kayanga kubera ko Ujurira yashoboraga kuva aho yabaga akajya mu muhango ubera mu yindi komine.

(ii) Kumenya Ujurira

251. Ujurira avuga ko nta muntu wari ukwiye kwemera ko GAF yashoboye kumumenya. Avuga ko Umutangabuhamya yavuze ko yabonye Ujurira mu Kigo cya Paruwasi ya Gikomero mu gihe cy'umunota umwe cyangwa ibiri. Ujurira yumva ko iki gihe kidahagije ngo umutangabuhamya ashobore kumumenya,[555] cyane cyane kubera ko, "nk'uko byumvikana", igitero gitangiye igikuba cyacitse mu mpunzi.[556] Ujurira anavuga k'ukwivuguruza kuri mu buhamya bwa GAF ndetse kuvugwa n'Umucamanza Maqutu mu gitekerezo gitandukanye n'icya bagenzi be, kandi Ujurira akaba yemeranya na we.[557]

252. Urugereko rw'Ubujurire ntirwemera ibyo Ujurira avuga. Ubusanzwe, birashoboka kumenya umuntu umurebye mu gihe cy'umunota umwe cyangwa ibiri, kandi umucamanza usuzuma ibyabaye ushyira mu gaciro, ashobora kubyemera. Muri dosiye y'urubanza mu rw'iremezo, nta kintu kirimo kigaragaza ibyo Ujurira avuga, nta gihamya, ko "nk'uko byumvikana" igikuba cyacitse mu mpunzi, bityo GAF akaba atarashoboraga kumenya Ujurira. GAF avuga ko yamenye Ujurira ubwo imodoka yarimo kuza yegera ikigo cya Paruwasi ya Gikomero, kandi ko imodoka zimaze kuhagera n'igitero gitangiye,

---

[554] Urubanza mu rw'iremezo, igika cya 446.
[555] Imyanzuro y'Ujurira, igika cya 356.
[556] Imyanzuro y'Ujurira, igika cya 357.
[557] Imyanzuro y'Ujurira, igika cya 358, havugwa ku biri mu rubanza mu rw'iremezo, Igitekerezo cyihariye cy'Umucamanza Maqutu kandi kijyanye n'icyabandi ku mikirize y'urubanza, ibika 44-47.

impunzi zagerageje guhunga.[558] Ku byo Ujurira avuga ku gitekerezo gitandukanye n'icya bagenzi be cy'Umucamanza Maqutu, Urugereko rw'Ubujurire ruributsa ibyo Urugereko rw'Ubujurire rwa ICTY ruvuga mu rubanza rwa Tadić mu bujurire aho rwagize ruti "abacamanza babiri, bombi bashyira mu gaciro, bashobora kugera ku myanzuro itandukanye kandi bashingiye ku bimenyetso bimwe".[559] Ujurira ni we ufite inshingano yo kugaragaza ko nta mucamanza usuzuma ibyabaye ushyira mu gaciro, wari kwemera ubuhamya burebwa n'iki kibazo kandi ko Urugereko rwa Mbere rw'Iremezo rwibeshye mu cyemezo rwafashe, ku bwiganze bw'amajwi.[560] Aha Ujurira ntiyashoboye kubigaragaza.

(c) Umutangabuhamya wiswe GES

253. Ujurira ntiyemera ko GES yashoboye kumumenya. Avuga ko kuba bombi bari abakozi ba Leta atari ikimenyetso gihagije cyemeza ko uwo mutangabuhamya yari amuzi.[561] Ujurira yongera ho ko iyo umuntu asomye yitonze ubuhamya bwa GES, asanga yari azi Ujurira ku izina gusa, mu gihe icy'ingenzi ari ukumenya niba umutangabuhamya yarashoboraga kubona Ujurira akamumenya.[562] Byongeye kandi, Ujurira avuga ko ngo GES yavuze ko hagati ya 1989 na 1994 yabonaga Ujurira kenshi kandi Urugereko rwa Mbere rw'Iremezo rwaremeye ko, hagati ya 1990 na 1992, Ujurira yabaga i Butare[563]. Kuri iyi ngingo, Ujurira asoza avuga ko umutangabuhamya atari gushobora kumubona kenshi kubera ko bakoreraga ahantu hatandukanye mu mujyi, ko batakoreraga ahantu hateganye nk'uko umutangabuhamya abivuga.[564] Ku birebana n'ubuhamya bwa GES, Ujurira avuga ko Urugereko rutigeze rusuzuma ukwizerwa k'ibyo avuga, kandi ko rwirengagije ukuvuguruzanya kuri hagati y'ubuhamya bwa GES na GAF.[565] Na none kuri iyi ngingo, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu rwego

---

[558] Inyandikomvugo y'iburanisha, 17 Nzeri 2001, imp.4, 5, 22, 23 [ENG].
[559] Urubanza rwa Tadić mu bujurire, igika cya 64.
[560] Urubanza rwa Musema mu bujurire, igika cya 92.
[561] Imyanzuro y'Ujurira, igika cya 361.
[562] Imyanzuro isubiza, ibika 91, 92.
[563] Imyanzuro y'Ujurira, igika cya 363.
[564] Imyanzuro y'Ujurira, igika cya 364.
[565] Imyanzuro y'Ujurira, ibika 365, 366.

rw'ibyabaye kuko rutazirikanye ibisobanuro yatanze ubwe avuguruza ubuhamya bwa GES.[566]

254. Urugereko rw'Ubujurire rwamaze gusuzuma hejuru ibyo Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwirengagije ibisobanuro yatanze ubwo rwagenaga agaciro kahabwa ubuhamya bwa GES[567]. Ku byerekeye ibyo Ujurira avuga ko uyu mutangabuhamya atashoboraga kumubona kenshi kubera ko bakoreraga ahantu hatandukanye mu mujyi, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwari ruzi iyi ngingo. Cyakora, rwasanze GES yaratanze ibisobanuro bihagije byerekeranye n'ahantu we n'Ujurira bakoreraga.[568] Ujurira ntagaragaza ko uwo mwanzuro udashyize mu gaciro.

255. N'ubwo GES avuga ko yari azi izina ry'Ujurira, ntiyigeze, nk'uko Ujurira abyemeza, avuga ko ari cyo kintu cyonyine yari amuziho. Ahubwo mu buhamya bwe avuga ko yari yarabonye Ujurira kuri minisiteri, ko adashidikanya ko umuntu yabonye i Gikomero ari Ujurira.

256. Ku byerekeranye n'uko Ujurira yakoreraga i Butare kuva muri 1990 kugera 1992, Urugereko rw'Ubujurire rusanga mu buhamya bwe, GES atavuga ko yabonaga Ujurira kenshi, ndetse ashimangira ko atakurikiranaga ibikorwa by'Ujurira.[569] Byongeye kandi, uyu mutangabuhamya avuga ko agereranyije, yari amaze "nk'imyaka itatu" azi Ujurira ubwo yamubonaga kuri Paruwasi ya Gikomero mu mwaka wa 1994.[570] Urugereko rw'Ubujurire rwibutsa kandi ko GES asobanura ko Ikigo cy'Ubushakashatsi mu by'Ubuhanga n'Ikoranabuhanga (IRST) cy'i Butare, Ujurira yoherejwe gukoramo kuva muri 1990 kugera 1992, cyagenzurwaga na Minisiteri y'Amashuri Makuru, bityo uwo mutangabuhamya akaba yumva Ujurira yari akiri umukozi w'iyo Minisiteri.[571] Kubera

---

[566] Imyanzuro y'Ujurira, ibika 231, 232.
[567] Reba Umutwe wa VIII.
[568] Urubanza mu rw'iremezo, igika cya 447.
[569] Inyandikomvugo y'iburanisha, 30 Mutarama 2002, urup. 65 [ENG].
[570] Inyandikomvugo y'iburanisha, 29 Mutarama 2002, urup.116 [ENG].
[571] Inyandikomvugo y'Iburanisha, 30 Mutarama 2002, imp. 71, 72 [ENG]

izo mpamvu, Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro yarashoboraga kumva ko GES yari asanzwe azi Ujurira.

257. Urugereko rw'Ubujurire ruvuga ko, mu kwemeza ko Urugereko rwa Mbere rw'Iremezo rutasuzumye ukwizerwa k'ubuhamya bwa GES, Ujurira ashaka kugaragaza ko Urugereko rwa Mbere rw'Iremezo rutasuzumye ubwo buhamya ku buryo buhagije. Urugereko rw'Ubujurire ruributsa ko mu guca urubanza, Urugereko rwa Mbere rw'Iremezo rudategetswe kuvuga kuri buri kimenyetso cyatanzwe, nta n'ubwo ari ngombwa ko ruvuga inzira zose rwanyuzemo kugira ngo rugere ku myanzuro rwafashe.[572] Iyo rusuzuma ibimenyetso bigaragaza ko umutangabuhamya yashoboye kumenya uregwa, Urugereko rwa Mbere rw'Iremezo "rugomba kwitonda rukavuga neza ingingo rwashingiyeho mu kwemeza ko umutangabuhamya yashoboye koko kumenya uregwa kandi rukanasobanura ingingo z'ingenzi zatuma ibimenyetso birebana no kumenya uregwa bikemangwa".[573] Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwaratanze impamvu zihagije zatumye rwemeza ko ubuhamya bwa GES bwakwizerwa. Rumaze gusuzumana ubwitonzi dosiye y'urubanza mu rw'iremezo, Urugereko rw'Ubujurire nta ngingo rubona yatuma ubuhamya bwa GES bukemangwa. Kubera iyo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe. Ukuvuguruzanya kuvugwa hagati y'ubuhamya bwa GES na GAF kurasuzumwa hasi.[574]

(d) Umutangabuhamya wiswe GAA

i). Kuba yari asanzwe azi Ujurira

258. Ujurira avuga ko ubuhamya GAA yatanze yerekana ko yari asanzwe azi Ujurira nta gaciro bufite. Ujurira we avuga ko Urugereko rwa Mbere rw'Iremezo rwashingiye

[572] Reba Umutwe wa VIII. Reba kandi Urubanza rwa Kupreškić na bagenzi be mu bujurire, igika cya 32.
[573] Urubanza rwa *Kupreškić* mu bujurire, igika cya 39 (nitwe twabitsindagiye).
[574] Reba Umutwe wa XI.K.3.

k'ukuba GAA yari azi mushiki w'Ujurira n'umugabo we. Ujurira asanga ibyo bitavuga ko uyu mutangabuhamya yari azi Ujurira.[575]

259. Urugereko rw'Ubujurire rusanga ibyo Ujurira avuga ku gice cyo mu nyandiko y'urubanza mu rw'iremezo kirebana n'iyi ngingo, bishobora kuyobya umuntu. Rujya kwemeza ko GAA yari azi Ujurira, Urugereko ntirwashingiye k'ukuba "yari azi mushiki w'Ujurira n'umugabo we" nk'uko Ujurira abivuga.[576] Ahubwo rwasanze GAA yarabonye Ujurira inshuro ebyiri ni ukuvuga igihe mushiki w'Ujurira yari yabyaye, no mu muhango wo gushyingura mushiki we [Ujurira]. Urugereko rwasanze kuri izo nshuro zombi, GAA ataravugishije Ujurira, ahubwo ko hari umuntu wamumweretse.[577] Urugereko rw'Ubujurire rusanga Ujurira atagaragaza ukuntu Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro ubwo rwemezaga ko GAA yari azi Ujurira mbere ya 1994.

ii) Kumenya Ujurira

260. Ujurira avuga ko mu iburanisha, GAA atashoboye kumumenya nta gushidikanya, ko ku itariki ya 12 Mata 1994 uyu mutangabuhamya yahunze mbere y'uko ashobora kubona no kumenya Ujurira, kandi ko ibyo avuga ko Ujurira yatanze itegeko ryo kwica impunzi bivuguruzwa na GEA, GEE, GEG, GEM, GAG, GEH, GES, na GEV.[578]

261. Urugereko rw'Ubujurire rusanga Ujurira atavuga igice na kimwe cy'urubanza mu rw'iremezo gishyigikira ibyo avuga ashaka kugaragaza ko, mu iburanisha, GAA atashoboye kumumenya nta gushidikanya. Ubwo GAA yabazwaga niba ashidikanya ko yamenya neza Ujurira, yarashubije ati: "Sinshidikanya".[579]

262. Rumaze gusuzuma inyandikomvugo y'ubuhamya bwa GAA mu rw'iremezo, Urugereko rw'Ubujurire rusanga uyu mugabo asobanura neza ko yabonye imodoka zigera ahantu bari bari, ko Ujurira yari mu modoka ya kabiri, ko [umutangabuhamya] yiboneye

[575] Imyanzuro y'Ubujurire, ibika 370, 371.
[576] Imyanzuro y'Ubujurire, igika cya 370.
[577] Urubanza mu rw'iremezo, igika cya 448.
[578] Imyanzuro y'Ubujurire, igika cya 372.
[579] Inyandikomvugo y'Iburanisha, 19 Nzeri 2001, urup.112 [ENG].

ubwicanyi butangira, kandi ko yahunze ari uko bamwe mu bantu bari begeranye bamaze kwicwa[580]. Kubera iyo mpamvu, ibyo Ujurira avuga ko uyu mutangabuhamya atashoboye kubona Ujurira nta shingiro bifite.

263. Naho ibyo Ujurira avuga ko ubuhamya bwa GAA buvuguruzwa n'ubw'abandi bagabo, Urugereko rw'Ubujurire rusanga GAA atavuga, mu buryo bweruye, ko Ujurira yatanze itegeko ryo gutangira igitero. GAA avuga ko Ujurira yavuye mu modoka ye, agashyira amaboko hejuru "nk'aho asuhuza abantu".[581] Nyuma, igitero gitangiye, abantu barasakuje bati "mutangire mukore, Kamuhanda yaje".[582] Ujurira nta shingiro afite mu kuvuga ko ubuhamya bwa GAA budahura n'ubw'abandi bagabo kubera ko batemeje ko Ujurira yatanze itegeko ryo gutangira igitero. Bitewe n'uko abatangabuhamya banyuranye bari ahantu hatandukanye mu kigo, ndetse bamwe muri bo bakaba bari mu mashuri,[583] Urugereko rwa Mbere rw'Iremezo, rushyira mu gaciro, rushobora gusanga ikintu runaka cyaragaragajwe, kabone n'iyo icyo kintu cyaba cyemezwa gusa na bamwe mu batangabuhamya. Kuba abatangabuhamya batatu[584] bavuga ko Ujurira yatanze, mu buryo butaziguye, itegeko ryo gutangira igitero, bituma umuntu avuga ko Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro rwemeza ko Ujurira yategetse ko igitero kigabwa.

3. Ikosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira ku buhamya bwa GAF, GES, na GAA bwemeza ko Ujurira yagiye mu bwicanyi

264. Ujurira avuga ko nta mucamanza usuzuma ibyabaye ushyira mu gaciro wari gushingira ku buhamya bwa GAF, GES, na GAA buvuga ko Ujurira yari mu kigo cya Paruwasi ya Gikomero. Asobanura ko aba batangabuhamya batavuga bimwe ku bintu by'ingenzi byaba byarabaye[585].

[580] Inyandikomvugo y'Iburanisha, 20 Nzeri 2001, imp.32, 33 [ENG].
[581] Inyandikomvugo y'Iburanisha, 19 Nzeri 2001, urup.114 [ENG].
[582] Inyandikomvugo y'Iburanisha, 19 Nzeri 2001, urup.115 (GAA) [ENG]
[583] Nk'urugero, reba inyandikomvugo y'iburanisha, 18 Nzeri 2001, urup. 8 (GEE) [ENG]
[584] Abatangabuhamya GAF, GEC na GEP.
[585] Imyanzuro y'Ubujurire, igika cya 373.

265. Ku byerekeye GAF, Ujurira avuga ko ari we mutangabuhamya wenyine uvuga ko haje imodoka enye kandi ko Augustin Bucundura, umuvugabutumwa w'Umututsi, yarashwe imodoka zitarahagarara. Cyakora, GES na GAA bo bavuga ko Augustin Bucundura yarashwe Ujurira yamaze kuva mu modoka ye, no kuvugana na Pasitori Nkuranga.[586] Byongeye kandi, Ujurira avuga ko GAF avuga ko Ujurira ari we muntu wenyine wavuye mu modoka, akavuga ngo "mukore", maze akahava aherekejwe n'izindi modoka eshatu hashize nk'umunota umwe cyangwa ibiri ahageze. Ujurira avuga ko ibi bivuguruzwa n'ubuhamya bwa GES uvuga ko Ujurira yavuye mu modoka hamwe n'abandi bantu bari muri iyo modoka maze ngo bose bakajya kuvugana na Pasitori Nkuranga, bakamarana nk'iminota icumi.[587] Ujurira asanga nta kuntu umuntu yashingira ku buhamya bwa GAF ngo agere ku myanzuro yafashwe kuva ku gika cya 500 kugera ku cya 506 byo mu nyandiko y'urubanza mu rw'iremezo[588].

266. Urugereko rw'Ubujurire ruvuga ko ubuhamya bwerekeye umubare w'imodoka zaje mu kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994 budasobanutse. GAF avuga imodoka enye,[589] mu gihe abandi batangabuhamya bavuga ko babonye imwe,[590] ebyiri,[591]cyangwa eshatu.[592] Cyakora, kubera ko imodoka zitaziye rimwe neza,[593] ndetse n'abatangabuhamya bakabona ibyarimo kuba bari ahantu hatandukanye muri icyo kigo, Urugereko rw'Ubujurire rusanga kuba umubare udahura nta cyo bihindura ku bintu by'ingenzi by'ubuhamya bwabo.

267. Urugereko rw'Ubujure rwafashe umwanzuro nk'uwo ku buhamya bwa GAF bwerekeranye n'iraswa rya Augustin Bucundura. Nk'uko Ujurira abivuga, GAF avuga ko

---

[586] Imyanzuro y'Ubujurire, ibika 375-377.
[587] Imyanzuro y'Ujurira, ibika 375, 376.
[588] Imyanzuro y'Ujurira, igika cya 380.
[589] Inyandikomvugo y'iburanisha, 13 Nzeri 2001, urup.42. Ibi byemejwe na GEC: inyandikomvugo y'iburanisha, 24 Nzeri 2001, urup. 51 [ENG].
[590] Inyandikomvugo y'iburanisha, 29 Mutarama 2002, urup.106 (GES) [ENG].
[591] Nk'urugero, reba inyandikomvugo y'iburanisha, 9 Nzeri 2001, imp.104-106 (GAA) [FR].
[592] Nk'urugero, reba inyandikomvugo y'iburanisha, 18 Nzeri 2001, urup. 6 (GEE); inyandikomvugo z'amaburanisha, 24 Nzeri 2001, urup.20 (GEA), 25 Nzeri 2001, urup.18 (GEG), 6 Gashyantare 2002, urup.18 (GEV) [ENG].
[593] Abenshi mu batangabuhamya babonye imodoka eshatu bavuga ko imodoka y'Ujurira ari yo yabanje kuza, maze hashira akanya gato hakaza izindi ebyiri. Reba inyandikomvugo z'amaburanisha, 18 Nzeri 2001, urup. 6 (GEE) , 25 Nzeri 2001, urup. 18 (GEG) ; 6 Gashyantare 220, imp.53, 54 (GEV) [ENG]

Bucundura yarashwe imodoka zitarahagarara mu gihe abandi batangabuhamya bo bavuga ko yarashwe imodoka zamaze guhagarara.[594] Ujurira kandi yibutsa ko GAF atavuga na rimwe ku kiganiro kivugwa n'abandi batangabuhamya, cyaba cyarabaye hagati y'Ujurira na Pasiteri Nkuranga.[595] Urugereko rw'Ubujurire rusanga GAF avuga ko, abonye imodoka zigiye kugera ku kigo, yagerageje kwihisha ku nguni y'urusengero.[596] Isasu ryavuze akiri aho hantu: "Isasu ryavuze nkiri aho hantu maze mpindukiye mbona umubwirizabutumwa arimo kugwa"[597]. Kubera uko ibintu byari bimeze, Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro ashobora yakwemera ibintu by'ingenzi biri mu buhamya bwa GAF.

268. Ku byerekeranye no kuba GAF avuga ko Ujurira ari we wenyine wavuye mu modoka, Urugereko rw'Ubujurire ruvuga ko, mu by'ukuri, uwo mugabo yashakaga kugaragaza ko ko Ujurira yavuye mu modoka ye maze akabwira *abantu bazanye na we* gutangira "gukora"; maze *abantu yari yazanye* bagatangira kwica,[598] ibyo bikaba bivuga ko na bo bavuye mu modoka. Iyi ngingo rero nta shingiro ifite.

269. N'ubwo Ujurira atari ko abibona, Urugereko rw'Ubujurire rusanga ubuhamya bwa GAF bushyigikira imwe mu myanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuva ku gika cya 500 kugera ku cya 506 by'inyandiko y'urubanza mu rw'Iremezo: kuba Ujurira yarageze ku kigo cya Paruwasi ya Gikomero mu modoka y'umweru nyuma gato ya ssa sita ku itariki ya 12 Mata 1994;[599] itegeko yahaye abagabye igitero ngo batangire "gukora";[600] no kuba umuntu wazanye n'Ujurira yararashe Augustin Bucundura, Ujurira akiri kuri icyo kigo.[601]

---

[594] Inyandikomvugo y'iburanisha, 13 Nzeri 2001, imp.45, 51[ENG]
[595] Nk'urugero, reba inyandikomvugo y'iburanisha, 29 Nzeri 2001, urup.110 (GES); inyandikomvugo y'iburanisha, 19 Nzeri 2001, urup. 30 (GEE) ; inyandikomvugo y'Iburanisha, 20 Nzeri 2001, urup.79 (Umutangabuhamya GEA).
[596] Inyandikomvugo y'iburanisha, 17 Nzeri 2001, urup. 8. [ENG]
[597] Inyandikomvugo y'iburanisha, 17 Nzeri 2001, urup.19 [ENG]
[598] Inyandikomvugo y'Iburanisha,13 Nzeri 2001, imp.47, 52 [ENG]
[599]Urubanza mu rw'iremezo, igika cya 501; Inyandikomvugo y'iburanisha, 13 Nzeri 2001, imp.41, 43 [ENG].
[600] Urubanza mu rw'iremezo, igika cya 502; inyandikomvugo y'iburanisha, 13 Nzeri 2001, impapuro za 47, 52 [ENG.
[601] Urubanza mu rw'iremezo, igika cya 503; inyandikomvugo y'iburanisha, 13 Nzeri 2001, imp.45, 51 [ENG]; inyandikomvugo y'iburanisha, 17 Nzeri 2001, urup.19 [ENG].

270. Na none ku byerekeye GES na GAA, Ujurira avuga ko aba batangabuhamya batavuga rumwe ku mubare w'imodoka zazanye n'iy'Ujurira ku itariki ya 12 Mata 1994. Ujurira avuga ko GES avuga ko [Ujurira] yamaze nk'iminota icumi aganira na Pasitori Nkuranga, n'uko Augustin Bucundura, waje kuraswa nyuma, akaza kubasanga. Nyamara GAA we avuga ko Pasitori Nkuranga yasohotse mu nzu ye ari kumwe na Augustin Bucundura, warasiwe hamwe n'abandi bantu batatu. Ujurira yongera ho ko ari GES cyangwa GAA nta n'umwe muri bo uvuga ko [Ujurira] yategetse ko ubwicanyi butangira.

271. Urugereko rwa Mbere rw'Iremezo rwari ruzi ko GAA na GES badahuza mu byo bavuga ku gihe Bucundura yiciwe. Cyakora, rwasanze uko kudahuza bitatuma ubuhamya bwabo bukemangwa muri rusange.[602]

272. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro ubwo rutagenderaga kuri uko kudahuza kuboneka hagati y'ubuhamya bwa GES na GAA. Kuba Ujurira yaraganiriye akanya gato na Pasitori Nkuranga byemezwa na none n'abandi batangabuhamya.[603] Si ngombwa cyane kumenya niba Augustin Bucundura yarasohotse mu nzu ari kumwe na Pasitori Nkuranga cyangwa se niba yarasanze Pasitori Nkuranga hanze nyuma y'iminota mike. Ikintu cy'ingenzi kigaragara mu buhamya bwa GES na GAA ni uko Ujurira yahageze, akabonana na Pasitori Nkuranga, maze Augustin Bucundura akaba umuntu wa mbere waguye muri ubwo bwicanyi, arashwe n'umwe mu bantu bari kumwe n'Ujurira. Mu buhamya bwabo, GES na GAA buhuriza kuri izi ngingo. Ndetse aba batangabuhamya bombi basobanura ko, mbere gato y'uko Bucundura yicwa, Pasitori Nkuranga yabwiye abagabye igitero ati "ndi Pasitori Nkuranga"[604].

---

[602] Urubanza mu rw'iremezo, igika cya 481.

[603] Nk'urugero, reba inyandikomvugo z'iburanisha, 19 Nzeri 2001, urup. 30 (GEE), 25 Nzeri 2001, urup. 20 (GEG), 5 Gashayntare 2002, urup. 45 (GAG), 6 Gashyantare 2002, imp.55, 61 (GEV) [ENG].

[604] Umutangabuhamya wiswe GES: inyandikomvugo y'iburanisha, 30 Mutarama 2002, urup. 48 ("Ndi Pasitori Nkuranga" maze bahita barasa Bucundura arapfa''') [ENG]; Umutangabuhamya wiswe GAA : inyandikomvugo y'iburanisha, 19 Nzeri 2001, urup.114 ("Ndi Pasitori Nkuranga, ntundase") [ENG].

273. Urugereko rw'Ubujurire ruributsa ko ubuhamya bw'inyongera bwatanzwe na GAA mu bujurire butakwizerwa, bityo bukaba nta cyo bwari guhindura ku mwanzuro wafashwe mu rw'iremezo.[605] Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro yakwizera ubuhamya bwa GAF, GES na GAA ku birebana no kuba Ujurura yaramenywe n'abatangabuhamya, no kuba yaragize uruhare muri ubwo bwicanyi.

4. Amakosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira ku buhamya bwatanzwe mu Rukiko na GEE, GEA, na GEC, GEG, GAG, GEV GEP na GEH maze rukemeza ko Ujurira yitabiriye ubwicanyi

274. Ujurira avuga ko GEE, GEA, GEC, GEG, GAG, GEV GEP na GEH bavuguruzanya kandi ko ubuhamya bwabo butashyigikira ubwatanzwe na GES, GAF na GAA. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwamuhamije icyaha ku byabaye bikurikira:

- Ujurira yageze mu kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, ari kumwe n'abantu bitwaje intwaro ;
- Ujurira yasohotse mu modoka ye maze avugana na Pasitori Nkuranga ;
- Amaze kuvugana na Pasitori, Ujurira yatanze itegeko ryo gutangira kwica impunzi ;
- Ubwicanyi bumaze gutangira, Ujurira yaragiye.

Ujurira avuga ko nta rukiko rushyira mu gaciro rwari gushingira ku buhamya bwa GEE, GEA, GEC, GEG, GAG, GEV, GEP na GEH ngo rufate iyo myanzuro.[606]

---

[605] Reba Umutwe wa XI.J.1.
[606] Imyanzuro y'Ujurira, ibika 385, 386.

(a) Ujurira agera ku kigo cya Paruwasi ya Gikomero

275. Ujurira yemeza ko GEG ari we mutangabuhamya wenyine uvuga ko yari [Ujurira] yitwaje imbunda ubwo yageraga mu kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994. Avuga ko ibyo bigaragaza ko uwo mugabo yabonye undi muntu utari Ujurira.[607]

276. Umutangabuhamya avuga ko imodoka zihageze, impunzi zasakuje zigira ziti: "Uriya ni Kamuhanda. Noneho ubwo Kamuhanda ageze hano ibyacu birarangiye."[608] Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro rwemeza ko ubuhamya bwa GEG mu Rukiko bushyigikira umwanzuro wemeza ko Ujurira yajyanye abagabye igitero ku kigo cya Paruwasi ya Gikomero. Ku kibazo cyo kumenya niba Ujurira yari yitwaje intwaro, Urugereko rwa Mbere rw'Iremezo rwari ruzi ko GEG ari we mutangabuhamya wenyine uvuga ko yabonye Ujurira afite intwaro ku kigo cya Paruwasi ya Gikomero ariko rugasanga GEG ashobora kuba yaribeshye kuri iyi ngingo.[609] Kubera ko mu ibazwa rinyomoza ari ho honyine GEG avuga iby'intwaro akaba atari yari yarabibwiye Porokireri mu buhamya bwanditse yatanze mbere y'urubanza,[610] Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro rwirengagiza iki gice cy'ubuhamya bwe. Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo rufite uburenganzira bwo kwemera cyangwa kwanga ibice bimwe by'ubuhamya bw'umugabo runaka.[611]

(b) Ikiganiro Ujurira yagiranye na Pasitori Nkuranga

277. Ujurira avuga ko GEE atatanze ubuhamya ku kiganiro umuntu bamweretse, bavuga ko ari Ujurira, yagiranye na Pasitori Nkuranga[612]. Urugereko rw'Ubujurire rusanga, ku

[607] Imyanzuro y'Ujurira, igika cya 387.
[608] Inyandikomvugo y'iburanisha, 25 Nzeri 2001, urup.19 [ENG].
[609] Urubanza mu rw'iremezo, igika cya 456.
[610] Inyandikomvugo y'iburanisha, 25 Nzeri 2001, imp.79-81 [ENG].
[611] Reba Umutwe wa XI.K.2.b.i.
[612] Imyanzuro y'Ujurira, igika cya 389.

byerekeye Ujurira, GEE avuga, mu magambo asobanutse, ko “imodoka ye ihageze, yayisohotsemo maze avugana n’umupasitori witwa Nkuranga”.[613] Bityo rero ibyo Ujurira avuga kuri iyi ngingo nta shingiro bifite.

(c) Itegeko ryo gutangira ubwicanyi

278. Ujurira avuga ko abagabo bavuguruzanya mu buhamya bwabo bwerekeranye n’itegeko aregwa kuba yaratanze ngo ubwicanyi butangire.[614] Porokireri asubiza ko Ujurira arimo gusa kugerageza gusubira mu ngingo yatanze ku byabaye Urugereko rwa Mbere rw’Iremezo rwamaze kwanga. Porokireri asanga Urugereko rwa Mbere rw’Iremezo rwarasuzumye ikibazo ukuvuguruzanya Ujurira ashingiraho mu gushyigikira ingingo ye. Yongeraho ko n’ubwo mu gihe cy’ubwicanyi abagabo umunani batanze ubuhamya kuri iyo ngingo, bari ahantu hatandukanye, ubuhamya bwabo burashyigikirana kandi burasa cyane.[615]

279. Ujurira avuga ko Urugereko rwa Mbere rw’Iremezo rwemeye ubuhamya bwa GAA buvuga ko Ujurira yazamuye amaboko nk’aho asuhuza abantu, kandi ko, aho kuba Ujurira, abagabye igitero ari bo basakuze bavuga ngo “mutangire mukore”. Ujurira yongera ho ko abandi batangabuhamya batavuga ko yatanze ikimenyetso cyangwa itegeko.[616]

280. Urugereko rwa Mbere rw’Iremezo rwafashe imyanzuro rushingiye ku buhamya “bwose uko bwatanzwe mu Rukiko”.[617] Kubera iyo mpamvu, si ukuri kuvuga ko Urugereko rwa Mbere rw’Iremezo “rwemeye” ubuhamya bwa GAA; Urugereko rwa Mbere rw’Iremezo rwari ruzi ko hari aho ubuhamya bwao GES na GAA budahura ariko rusanga ibi

[613] Inyandikomvugo y’iburanisha, 19 Nzeri 2001, urup.30 [ENG].
[614] Imyanzuro y’Ujurira, igika cya 390.
[615] Imyanzuro y’Usubiza mu bujurire, ibika 128, 129.
[616] Imyanzuro y’Ujurira, igika cya 391.
[617] Urubanza mu rw’iremezo, igika cya 502.

bitarubuza kuba rwashingira ku bice by'ingenzi byabwo mu guca urubanza.[618] Ujurira ntagaragaza ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro rukora gutyo.

281. Ujurira akemanga kandi ubuhamya bwa GAF kubera ko 'bigaragara ko" uyu umutangabuhamya avuga ko Ujurira avuga ngo "Mukore" ubwicanyi bwari bwamaze gutangira[619].

282. Igice cy'inyandikomvugo y'iburanisha kijyanye n'ubwo buhamya kigira kiti :

> **Igisubizo**: Naho kubyerekeye [Ujurira], nta ntwaro yari afite ariko yazamuye amaboko maze aha abantu amategeko.
>
> **Ikibazo** : Watubwira niba abo bantu barumviye ayo amategeko ye ?
> **Igisubizo** : Oya, ariko yari yamaze kumvikana n'abantu yazanye n'abo ku cyo bagomba gukora. Yatanze ikimenyetso agamije gushishikaza abantu bari aho.
>
> **Ikibazo** : Watubwira niba, amaze gutanga icyo kimenyetso, abantu baratangiye kwica?
> **Igisubizo** : Yego. Ni nkaho bahise batangira kuko abo basore yari yazanye ndetse n'abandi bantu bari batangiye kwica. Batangiye rero kwica akimara gutanga iryo tegeko.[620]

Mbere yaho, GAF yari yavuze aya magambo:

> Ni byo koko yaravuze ngo : "Mukore". Reka mbabwire inyuguti zigize iryo jambo: M-U-K-O-R-E. Muri make, reka mbasobanurire icyo bishatse kuvuga. Kubera ko yari yazanye n'abicanyi kandi ari we ubayoboye, avuga ayo magambo yashakaga kubabwira ko bagomba gutangira ubwicanyi. Mu by'ukuri, ubwicanyi bwatangiye amaze kuvuga ayo magambo maze imodoka zose ziragenda hasigara imwe.[621]

Urugereko rw'Ubujurire rwemera ko ubu buhamya butagaragaza neza niba Ujirira yaratanze itegeko ubwicanyi bwamaze gutangira. Cyakora, umucamanza usuzuma ibyabaye ushyira mu gaciro ashobora kubushingiraho mu kwemeza ko nibura bamwe mu bicanyi batangiye kwica abantu bubahiriza itegeko Ujurira yari atanze n'ubwo bimwe mu bikorwa by'urugomo byari byatangiye mbere. Urugereko rw'Ubujurire rusanga GEC avuga ko Augustin Bucundura n'umuryango we ari bo bantu ba mbere barashwe, Ujurira

[618] Urubanza mu rw'iremezo, igika cya 481.
[619] Imyanzuro y'Ujurira, igika cya 393.
[620] Inyandikomvugo y'iburanisha, 13 Nzeri 2001, urup. 52 [ENG].
[621] Inyandikomvugo y'Iburanisha, 13 Nzeri 2001, imp. 47, 48 [ENG].

akazamura amaboko avuga ngo “mutangire mukore”, maze bagatangira kurasa, abagabye igitero batangira gutera za gerenade[622]. GEP na we avuga ko Bucundura amaze kuraswa, Ujurira yabwiye abagabye igitero “gutangira gukora”[623]. Urugereko rw’Ubujurire rusanga rero byari bishyize mu gaciro gufata umwanzuro uvuga ko umuntu wa mbere amaze kuraswa ari ho Ujurira yategetse ko igitero rusange gitangira.

283. Ku byerekeye GEC, Ujurira avuga ko uwo mutangabuhamya atashoboraga kumubona neza igihe yatangaga itegeko kubera ko yari [GEC] mu kivunge cy’abantu. Mu by’ukuri, avuga ko uwo mutangabuhamya atari azi niba Ujurira yari ahari igihe ubwicanyi bwatangiraga.

GEC avuga ko ubwo yari hamwe n’izindi mpunzi muri rimwe mu mashuri, *Interahamwe* zabategetse gusohoka no kuryama hasi. Asobanura ko icyo gihe ari bwo yabonye Ujurira atanga itegeko ryo “gutangira gukora”:

> Badutegeka gusohoka no kuryama hasi, twari aho binjirira, mu muryango w’ishuri, dusa n’abarimo kubyigana. Icyo gihe nibwo twumvise ayo magambo.
>
> …
>
> **Ikibazo** : Waba wibuka niba amasasu yararashwe Bwana Kamuhanda agihari?
>
> **Igisubizo**: Kubera ko nahise njya kuryama hasi, sinamenya niba yari agihari cyangwa se niba yari yagiye. Ikindi sinari muzi, nabonye gusa umuntu azamura amaboko.[624]

Mbere yaho, GEC yari yavuze ko atari azi Ujurira, ko izindi mpunzi ari zo zamubwiye ko umuntu watanze rya tegeko ari Kamuhanda: “Uwo muntu wavugwaga ko ari ‘Kamuhanda’, ni we wazamuye ukuboko akavuga ngo ‘mutangire mukore’”[625]. Kubera iyo mpamvu, Urugereko rwa Mbere rw’Iremezo rwashyize mu gaciro rwemeza ko mbere gato y’uko aryama hasi, GEC yabonye umuntu, wavugwaga ko ari Kamuhanda, azamura amaboko, akanatanga itegeko ryo “gutangira gukora”. Kuba rero amaze kuryama hasi atarashoboye kumenya niba uwo muntu yagiye cyangwa agihari, ntibyabuza umuntu kwizera ubuhamya yatanze ku bintu byari byabaye mbere.

[622] Inyandikomvugo y’iburanisha, 24 Nzeri 2001, imp. 53, 57 [ENG].
[623] Inyandikomvugo y’iburanisha, 7 Gashyantare 2002, imp.38, 39 [ENG].
[624] Inyandikomvugo y’iburanisha, 24 Nzeri 2001, imp.56, 57 [ENG].
[625] Inyandikomvugo y’iburanisha, 24 Nzeri 2001, urup.53 [ENG].

285. Urugereko rw'Ubujurire rusanga kuba bamwe mu batangabuhamya nta cyo bavuga ku itegeko Ujurira yatanze cyangwa ku kimenyetso yatanze, bitabuza umucamanza usuzuma ibyabaye ushyira mu gaciro, kwemeza ko Ujurira yatanze iryo tegeko. Abatangabuhamya bari ahantu hatandukanye mu kigo kandi ntibabonye ibyabaye bari kumwe, ahantu hamwe. Birashoboka rero ko bamwe muri bo batabonye ibintu byose byabyereye kuri paruwasi.

(d) Urupfu rwa Bucundura

286. Ujurira avuga ko ubuhamya bwatanzwe ku rupfu rwa Augustin Bucundura buvuguruzanya. [626] Ujurira avuga ko Urugereko rutagombaga kwemera ubuhamya GAF yatanze mu Rukiko avuga ko Bucundura yarashwe imodoka zitarahagarara[627]. Yongera ho ko GAG, GEP na GEH bavuga ko Bucundura yarashwe Ujurira amaze kuvugana na Pasitori Nkuranga. Ujurira avuga ko, kubera izo mpamvu, Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu kwemeza ko ubuhamya bw'abo bagabo bushyigikira ubwa GAF, GES na GAA.[628]

287. Urugereko rw'Ubujurire ruributsa umwanzuro rwafashe mbere ku buhamya bwa GAF bwerekeranye n'urupfu rwa Bucundura, cyane cyane ko Urugereko rwa Mbere rw'Iremezo rwasanze Bucundura yararashwe Ujurira yamaze kuhagera, bityo rukirengagiza ubuhamya bwa GAF buvuga ko nyakwigendera yarashwe imodoka zitarahagarara.[629] Ku byerekeye GAG, GEP na GEH, Urugereko rw'Ubujurire rusanga GES avuga ko Bucundura yarashwe Ujurira amaze kuvugana na Pasitori Nkuranga[630]. Kubera iyo mpamvu, n'ubwo Ujurira atari ko abibona, nta vuguruzanya riri hagati y'ubuhamya bwa GES GES ku ruhande rumwe, n'ubwa GAG, GEP na GEH ku rundi ruhande. Urugereko rw'Ubujurire rwanzura ruvuga ko, n'iyo haba hari ibintu ubwo buhamya budahurizaho, umucamanza usuzuma ibyabaye ushyira mu gaciro, yashingira

[626] Imyanzuro y'Ujurira, igika cya 396.
[627] Imyanzuro y'Ujurira, igika cya 397.
[628] Imyanzuro y'Ujurira, igika cya 398.
[629] Urubanza mu rw'iremezo, igika cya 503. Reba Umutwe wa XI.K.3.
[630] Inyandikomvugo y'iburanisha, 29 Mutarama 2001, imp.110, 111 [ENG].

ku buhamya bwa GAG, GEP na GEH nk'ibimenyetso bishyigikirana kubera ko buhura n'ubwa GAF, GES na GAA.

288. Ujurira avuga ko GAA atashoboraga gukurikirana ibyarimo kuba kuko yahise ahunga Ujurira akimara kuhagera. Mu gushyigikira iyi ngingo, Ujurira avuga gusa ku gika cya 332 cy'inyandiko y'urubanza mu rw'iremezo, aho Urugereko rwa Mbere rw'Iremezo rwasanze GAA yaravuye mu kigo imodoka ya kabiri, Ujurira yari arimo, ikimara kuhagera. Ibi bigaragaza ko n'ubwo rwari ruzi iki gice cy'ubuhamya bwa GAA, Urugereko rwa Mbere rw'Iremezo rwemeye ubuhamya bwe buvuga ko yabonye umusirikare arasa Bucundura. Kubera ko abatangabuhamya bose bemeza ko ibi byose byabaye mu kanya gato,[631] Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro, atakwita k'uguhuzagurika kuboneka mu buhamya bwa GAA.

289. Byongeye kandi, Ujurira avuga ko byari bikomereye abatangabuhamya gukurikirana neza ibyo yakoraga kubera ko bari mu bihe bikomeye bitera guhahamuka. Nk'urugero, avuga ubuhamya bwa GEA na GEV. Aba bagabo ntibashoboye kumenya niba Bucundura yararashwe Ujurira agihari cyangwa amaze kugenda.[632]

290. Urugereko rw'Ubujurire ruributsa ko Urugereko rwa Mbere rw'Iremezo rwari ruzi neza ukuntu abatangabuhamya bari mu bihe bikomeye kandi ko rwabizirikanye:

> Urugereko rusanga benshi mu bagabo batanze ubuhamya muri uru rubanza barabonye kandi bagakorerwa amarorerwa. Abo batangabuhamya, abagize imiryango yabo cyangwa inshuti zabo baribasiwe n'ayo marorerwa. Urugereko rusanga kubara inkuru no kuvuga ibyo bintu bibabaje byabaye bishobora gutuma, mu Rukiko, umutangabuhamya atavuga, mu buryo bwuzuye, uko ibintu byagenze.[633]
>
> …

[631] Igihe kinini cyavuzwe Ujurira yamaze avugana na Pasitorri Nkuranga ni 10 (GES: inyandikomvugo y'iburanisha, 29 Mutarama 2002, urup.110 [ENG]); abandi batangabuhamya bavuze ko bamaze icyo kiganiro cyamaze nk'iminota ibiri cyangwa itatu (GEG: inyandikomvugo y'iburanisha, 25 Nzeri 2001, urup. 33 [ENG]; GEV: Inyandikomvugo y'Iburanisha, 6 Gashyantare 2002, urup. 61 [ENG).
[632] Imyanzuro y'Ujurira, igika cya 399.
[633] Urubanza mu rw'iremezo, igika cya 34.

> Rumaze gusuzuma, ingingo ku yindi, ibimenyetso byose byatanzwe, ruzirikana kandi ko abatangabuhamya bari bahungiye mu kigo cya Paruwasi ya Gikomero bari bafite ubwoba ko bari bwicwe, kandi ko bari bihishe ubwo igitero cyatangiraga ku itariki ya 12 Mata 1994, Urugereko rusanga rwakwemera ubuhamya buvuga ko Uregwa yaganiriye na Pasitori Nkuranga, ko yabonye umuntu bazanye, witwaje intwaro, yica Umututsi witwa Bucundura…[634]

Ubwo buryo bwo gusuzuma ingaruka z'ihahamuka ku buhamya bwatanzwe – ni ukuvuga kwemera ko ihahamuka rishobora gutuma umuntu atumva neza cyangwa yibuka neza ibyabaye, bityo bigasobanura impamvu abantu bashobora kudahuza iyo batanga ubuhamya ku byabaye bimwe, ariko ntibitume, byanze bikunze, ubwo buhamya butemerwa ngo bwizerwa - buhuje n'ubwo Urugereko rw'Ubujurire ruherutse kwemeza mu rubanza rwa Kajelijeli.[635] Byongeye kandi, Ujurira ntiyerekana ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro mu gusuzuma ubuhamya bwa GEA na GEV.

291. Ujurira yemeza ko GEC avuga ko Bucundura n'umuryango we barasiwe imbere y'amashuri, kandi ko ibyo yabibwiwe n'izindi mpunzi. Cyakora, Ujurira avuga ko mbere uwo mutangabuhamya yari yavuze ko yari nko muri metero eshanu uvuye aho Ujurira yari, bityo akaba yagombye kuba yariboneye iyicwa rya Bucundura.[636]

292. Urugereko rusanga ko abona ibyabaga, GEC yari muri rimwe mu mashuri.[637] Yashoboye kubona Ujurira kuko yari ahagaze imbere y'amashuri.[638] Icyo gihe, impunzi zategetswe gusohoka mu mashuri, n'uko GEC abona umurambo wa Bucundura n'iy'abantu bo mu muryango we imbere y'urugo rwa Pasitori Nkuranga, aho bari barasiwe, nk'uko yaje kubibwirwa n'umwe mu barokotse ubwo bwicanyi.[639] Urugereko rw'Ubujurire rusanga nta kwivuguruza kuri muri ubu buhamya. Nta kintu kigaragaza ko Bucundura yishwe ari hafi y'Ujurira. Ahubwo bamwe mu batangabuhamya bavuga ko hagati y'aho ibyo bintu byabereye n'aho Ujurira yari, hari intera[640]. Kubera izo mpamvu, umucamanza usuzuma ibyabaye ushyira mu gaciro ashobora kwemera ko GEC yashoboraga kureba Ujurira wari

---

634 Urubanza mu rw'Iremezo, igika cya 491.
635 Reba Urubanza rwa *Kajelijeli* mu bujurire, ibika 10-13.
636 Imyanzuro y'Ubujurire, igika cya 400.
637 Inyandikomvugo y'Iburanisha ,24 Nzeri 2001, urup.92.
638 Inyandikomvugo y'Iburanisha, 24 Nzeri 2001, urup.93.
639 Inyandikomvugo y'Iburanisha, 24 Nzeri 2001, imp.94, 95.
640 Inyandikomvugo y'iburanisha,19 Nzeri 2001, urup. 30 (GEE); reba na none inyandikomvugo y'Iburanisha, 29 Nzeri 2001, urup. 113 (GES) [ENG].

uhagaze imbere y'amashuri, ariko ntashobore kubona iyicwa rya Bucundura ryabereye ahandi hantu hatandukanye muri icyo kigo.

293. Mu gusoza kuri iyi ngingo, Ujurira yemeza ko GEG avuga ko umugore wa Bucundura yarashwe kandi abandi batangabuhamya bavuga ko Bucundura ari we warashwe wenyine icyo gihe. Byongeye kandi, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutemeye ubuhamya GEG yatanze ku rupfu rw'umugore wa Bucundura. Ujurira asa rero n'uvuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rushingira ku buhamya GEG yatanze mu Rukiko[641].

294. Mu gushyigikira iyi ngingo, Ujurira ashingira ku gika cya 503 cy'inyandiko y'urubanza mu rw'iremezo. Muri icyo gika, Urugereko rwa Mbere rw'Iremezo rwasanze ko, hashize akanya gato Ujurira ageze kuri Paruwasi ya Gikomero, Augustin Bucundura yicishijwe isasu kandi Ujurira agihari. Muri iki gika, nta kintu kigaragaza ko Urugereko rwa Mbere rw'Iremezo rutemeye ubuhamya GEG yatanze ku iyicwa ry'umugore wa Bucundura. Urupfu rw'umugore wa Bucundura ruvugwa kandi na GEC[642]. Kubera ko Bucundura akimara kwicwa ubwicanyi bwahise butangira, bugahitana "umubare munini w'impunzi z'Abatutsi",[643] umucamanza usuzuma ibyabaye ushyira mu gaciro, ashobora kutita ku buryo umuntu umwe mu bishwe yapfuyemo kandi bwavuzwe gusa na bamwe mu batangabuhamya.

(e) Itangira ry'ubwicanyi

295. Ujurira avuga ko ari GAA cyangwa GEG nta n'umwe muri bo washoboraga kwibonera Ujurira atanga itegeko ryo gutangira ubwicanyi.[644]

296. Urugereko rw'Ubujurire ruributsa ko rwasanze ko, mu by'ukuri, GAA atavuga ko yabonye Ujurira atanga itegeko ryo gutangira ubwicanyi[645]. Urugereko rwa Mbere

---

[641] Imyanzuro y'Ujurira, igika cya 401.
[642] Inyandikomvugo y'iburanisha , 24 Nzeri 2001, urup.95 (GEC) [ENG].
[643] Urubanza mu rw'iremezo, igika cya 506.
[644] Imyanzuro y'Ujurira, igika cya 402.
[645] Reba umutwe XI.K.2.d.ii.

rw'Iremezo rwasobanuye ko « GAA avuga ko avuye mu modoka, Uregwa yazamuye amaboko maze kurasa biratangira »[646]. Uburyo Urugereko rwa Mbere rw'Iremezo ruvuga ubuhamya bwa GAA bushora kuyobya umuntu gato kuko busa nk'ubwumvikanisha ko uyu mugabo avuga ko ikimenyetso Ujurira yakoze cyatangije ubwicanyi kandi mu by'ukuri, mu buhamya bwe mu Rukiko, GAA avuga ko we yumvaga kuzamura amaboko ari uburyo bwo gusuhuza abantu[647]. Nta wahamya ko, mu by'ukuri, Urugereko rwa Mbere rw'Iremezo rwumvise nabi cyangwa neza ubuhamya bwa GAA kuri iyi ngingo cyo kibazo. Cyakora, ibyo ari byo byose, n'iyo rwaba rwarabwumvise nabi, iryo kosa ntiryari gutuma urubanza rucibwa nabi. Mu gufata umwanzuro wemeza ko Ujurira yategetse ko igitero kigabwa ku mpunzi, Urugereko rwanashingiye ku buhamya GAF, GEC na GEP batanze mu Rukiko[648]. Niyo ubuhamya bwa GAA butashingirwaho, Ujurira ntagaragaza ko Urugereko rutashyize mu gaciro rufata uwo mwanzuro.

5. Amakosa Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rushingira ku buhamya bwa GEE, GEA, GEC, GEG, GAG, GEV, GEP na GEH buvuga ko bamenye Ujurira

297. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rwemeza ko ubuhamya bwa GEE, GEA, GEC, GEG, GAG, GEV, GEP na GEH bushyigikirana[649]. Atanga urutonde rw'ingingo yumva Urugereko rwa Mbere rw'Iremezo rwagombye kuba rwarazirikanye ku byerekeye uburyo aba bagatangabuhamya bavuga ko bamumenyemo[650]. By'umwihariko, avuga ko kuba bamwe mu batangabuhamya baramwerekanye mu iburanisha bidahagije mu gushyigikira imyanzuro Urugereko rwa Mbere rw'Iremezo rwafashe[651].

---

[646] Urubanza mu rw'iremezo, igika cya 480.
[647] Inyandikomvugo y'iburanisha, 19 Nzeri 2001, imp. 140, 141 [FR].
[648] Urubanza mu rw'iremezo, ibika 478 (GAF), 485 (GEC) na 489 (GEP).
[649] Imyanzuro y'Ujurira, ibika 405, 406 na 412.
[650] Ni kimwe no haruguru, igika cya 407.
[651] Ni kimwe no haruguru, igika cya 410.

298. Urugereko rw'Ubujurire ruributsa ko urebye, aba batangabuhamya munani bavugwa «batamenye » Ujurira, ko ahubwo batanze ubuhamya bushyigikirana k'umwirondoro w' umuntu wayoboye igitero[652]. Urugereko rusanga Ujurira yiyemerera ko yaba Amategeko cyangwa ubukemuramanza bw'Urukiko nta na kimwe gitegeka Urugereko rwa Mbere rw'Iremezo gusaba ibimenyetso runaka kugira ngo rwemeze ko umutangabuhamya yamenye Uregwa [653]. Kubera iyo mpamvu, Urugereko rw'Ubujurire ntirusuzuma ingingo Ujurira atanga muri rusange, ahubwo rurasuzuma ingingo ze zihariye. Urugereko ruributsa kandi ko ikibazo cyo kumenya [Ujurira] mu Rukiko cyamaze gusuzumwa haruguru[654].

a) <u>Umutangabuhamya wiswe GEE</u>

299. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutasuzumye ukwizerwa k'ubuhamya GEE avuga ko yamenye Ujurira. Avuga kandi ko kuba uyu mutangabuhamya atakwizerwa cyane kuko ari we wenyine uvuga iby'igitero cya mbere *Interahamwe* zagabye ku mpunzi, mbere y'uko imodoka ziza, n'ikindi igitero cya kabiri cyagabwe mu ijoro[655]. Asobanura ko iyo haza kuba igitero cya kabiri, GAG, wari waraye kwa Pasitori Nkuranga, aba yarakivuze[656].

300. GEE avuga ko imodoka zigeze ku kigo, abantu bari bahari bavugije induru ngo: "Turashize, Kamuhanda araje! »[657]. Urugereko rw'Ubujurire rusanga, mu by'ukuri, uyu mutangabuhamya ataramenye Ujurira, ko ahubwo avuga ko abandi bantu bari aho bavuze ko umwe mu bagabye igitero yitwa « Kamuhanda ». Nk'uko rwabivuze haruguru, Urugereko rw'Ubujurire rusanga nta kosa na rimwe Urugereko rwa Mbere rw'Iremezo rwakoze rwemeza ko ubwo buhamya, bushingiye ku byo umugabo yumvanye abandi, bushyigikira ubundi bwatanzwe[658]. Kubera iyo mpamvu, ingingo ivuga ko Urugereko

[652] Reba Umutwe wa XI.K.1.b.
[653] Imyanzuro y'Ujurira, igika cya 97.
[654] Reba Umutwe wa XI.K.2.a.
[655] Imyanzuro y' Ujurira, igika cya 414.
[656] Ni kimwe no haruguru, igika cya 444.
[657] Inyandikomvugo y'iburanisha,18 Nzeri 2001, urup.6 [FR].
[658] Reba Umutwe wa XI.K.1.b.

rwa Mbere rw'Iremezo rutazirikanye uburyo uyu mutangabuhamya yamenyemo Ujurira nta kamaro ifite.

301. Ujurira ntatanga ikimenyetso na kimwe kigaragaza ukuvuguruzanya kwaba kuri hagati y'ubuhamya bw'uyu mugabo n'ubw'abandi. Ku byerekeye igitero cya mbere, GEE avuga gusa igitero, cyabaye «mu gitondo cy'umunsi ukurikiraho [cyangwa] nyuma ya saa sita, hagati ya saa munani na saa cyenda »[659]. Uyu mutangabuhamya avuga ko igitero cyo mu ijoro ryakurikiyeho, cyagabwe saa kumi za mu gitondo, ubwo *Interahamwe* zari zigarutse guhorahoza abari bacitse ku icumu[660]. Icyo gihe, benshi mu bandi batangabuhamya bari bavuye mu kigo. GAG avuga ko mu gitondo cyo ku itariki ya 13 Mata 1994, *Interahamwe* zagarutse gushakisha abarokotse[661], ibyo kandi abihurizaho na GEE. Kubera izo mpamvu, Urugereko rw'Ubujurire rusanga Ujurira atagaragaza ukwivuguruza kwagaragaza ko Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro rushingira ku buhamya GEE yatanze mu Rukiko.

b) Umutangabuhamya wiswe GEA

302. Ujurira avuga ko ubuhamya bwa GEA bwuzuyemo ukwivuguruza; ko uyu mugabo atashoboye kumenya amazu yo ku rusengero; ko avuga ko urusengero rwari rufite ibaraza kandi ntaryo rwari rufite.

303. Urugereko rwa Mbere rw'Iremezo rwasanze « kuba umutangabuhamya ataramenye amazu yo ku rusengero ku ifoto bamweretse mu Rukiko, bidatangaje kubera ko yari yarageze ku kigo cya Paruwasi ya Gikomero iyo nshuro imwe gusa »[662]. Byongeye kandi, Urugereko rwari ruzi ko kuba GEA avuga ko urusengero rufite urubaraza bishobora gutuma ubuhamya bwe bushidikanywaho[663]. Urugereko rw'Ubujurire rusanga

[659] Inyandikomvugo y'iburanisha, 18 Nzeri 2001, urup.5 [FR]. Mu ibaza rinyomoza, umutangabuhamya yasobanuye ko habayeho igitero kimwe ku itariki ya 12 Mata 1994. Inyandikomvugo y'iburanisha, 19 Nzeri 2001, urup.30 [FR].
[660] Inyandikomvugo y'iburanisha, 18 Nzeri 2001, imp. 12, 13 [FR].
[661] Inyandikomvugo y'iburanisha, 4 Gashyantare 2002, imp. 88, 89[FR].
[662] Urubanza mu rw'iremezo, igika cya 454.
[663] Ni kimwe no haruguru.

Ujurira atarekana ukuntu Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro mu gisobanuro rwatanze k'ukwivuguruza avuga.

c) <u>*Umutangabuhamya wiswe GEC*</u>

304. Ujurira yemeza ko ubuhamya GEC yatanze mu Rukiko buvuguruza ubw'abandi bagabo, kuko [GEC] avuga ko yari muri metero eshanu uvuye ahantu Ujurira yari, igihe [Ujurira] yategekaga abagabye igitero « gutangira gukora », kandi ko [Ujurira] yari mu ishuri ubwo izindi mpunzi zamumwerekaga zitunga urutoki, kandi abandi batangabuhamya bavuga ko [Ujurira] yari imbere y'inzu ya Pasitori[664].

305. Ujurira ahindura amagambo ya GEC kuko uyu muntangabuhamya avuga kenshi ko umuntu bamweretse yari ahagaze « imbere y'amashuri » ko atari muri rimwe muri yo[665]. Byongeye kandi, ntasobanura ukuntu Urugereko rwa Mbere rw'Iremezo rutashyize mu gaciro rwemeza ko, arebera aho yari ari, hafi y'umuryango wa rimwe muri ayo mashuri[666], GEC yashoboraga kumubona [Ujurira]. Mu gusoza, ibyo Ujurira avuga ko, mu Gitekerezo cyihariye yatanze, umucamanza Maqutu avuga ko asanga GEC atakwizerwa, nta kamaro bifite kuko [Ujurira] aterekana ukuntu abandi bacamanza batashyize mu gaciro bemera ubuhamya bw'uwo mugabo.

d) <u>*Umutangabuhamya wiswe GAG*</u>

306. Ujurira avuga ko ubuhamya bwa GAG butari bukwiye kwizerwa kubera ko ari we mugabo wenyine uvuga ku bikorwa birimo itangwa ry'intwaro, kuri paruwasi, zahawe *Interahamwe*, no gusambanya ku gahato zimwe mu mpunzi byakozwe n'abagabye igitero. Bongeye kandi, uyu mugabo niwe wenyinine uvuga ko [Ujurira] yinjiye mu modoka ye akayiparika (mu gihe abandi abatangabuhamya bavuga ko atari azi gutwara

---

[664] Imyanzuro y'Ujurira , igika cya 416.
[665] Inyandikomvugo y'iburanisha, 24 Nzeri 2001, imp. 77,111 [FR].
[666] Inyandikomvugo y'iburanisha, 24 Nzeri 2001, urup. 69 [FR].

imodoka)[667]. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rwemeza ko GPE yabonye GAG ku kigo cya Paruwasi ya Gikomero, kandi ikibazo gihari atari ukumenya niba GAG yari ahari, ahubwo kwari ukumenya niba we [Ujurira] yari ahari cyangwa atari ahari. Ujurira yongera ho ko GAG adakwiye kwizerwa kubera ko GPE avuga ko [GAG] yamushinje ibinyoma akanabishinja Pasitori Nkuranga[668].

307. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwaranzuye ruvuga ko GAG na GEP bavuga ko muri icyo igitero, abagabye igitero batwaye impunzi z'igitsina gore kugira ngo baze kuzisambanya ku gahato. N'ubwo Urugereko rwa Mbere rw'Iremezo rwemeye ubuhamya bw'abo bagabo bombi, ntirwahamije Ujurira icyaha ku kirego cyo gusambanya ku gahato kubera ko ubuhamya bagitanzeho bushingiye ku byo bumvanye abandi[669]. Biragaragara rero ko GAG atari we mugabo wenyine watanze ubuhamya mu Rukiko ku byerekereye gusambanya ku gahato kuko na GEP yabivuzeho. Urugereko rwa Mbere rw'Iremezo rwemeje ko abo batangabuhamya bombi bakwizerwa kandi Ujurira ntagaragaza ukuntu urwo Rugereko rutashyize mu gaciro rufata icyo cyemezo.

308. Ku birebana n'ibyo avuga ko GAG yaba avuga ko [Ujurira] yaparitse imodoka yajemo, Ujurira ntagaragaza igice na kimwe cyo muri dosiye ashingiraho abivuga. Urugereko rw'Ubujurire rwerekana ko uyu mutangabuhamya avuga ko Ujurira «yegereye imodoka ye, maze imodoka ikigirayo hirya gato kugira ngo iparike haruguru, iruhande rw'urusengero »[670]. Nyuma yaho, iyo modoka yagumye aho, Kamuhanda na Pasitori na bo barahaguma. Umushoferi ni we wasubiye inyuma kugira ngo akure imodoka mu bantu »[671]. Ubwo buhamya bugaragaza, nta gushidikanya, ko atari Ujurira wari utwaye iyo modoka. Kubera iyo mpamvu, ibyo Ujurira avuga nta shingiro bifite.

309. Ku byerekeye ubuhamya GAG yaba yaratanze mu Rukiko ku itangwa ry'intwaro ryabereye kuri paruwasi, Ujurira ntagaragaza igice cyo muri dosiye ashingiraho avuga

[667] Imyanzuro y'Ujurira , igika cya 421.
[668] Ni kimwe no haruguru, igika 422.
[669] Urubanza mu rw'iremezo, ibika 495-497.
[670] Inyandikomvugo y'iburanisha, 4 Gashyantare 2002, urup.65 [FR].
[671] Inyandikomvugo y'iburanisha, 5 Gashyantare 2002, urup.52 [FR].

ibyo bintu. Mu by'ukuri, GAG avuga ko, nyuma y'uko bamaze umwanya batari kumwe, umuhungu we ari we wamubwiye ko *Interahamwe* ruharwa zahawe intwaro[672]. Biragaragara neza ko itangwa ry'intwaro ritabereye ku kigo cya Paruwasi ya Gikomero, ko ahubwo ryabereye ahandi hantu muri komine. Bityo, Urugereko rw'Ubujurire rusanga ingingo igamije kugaragaza ko abandi batangabuhamya batavuga iby'itangwa ry'intwaro nta shingiro ifite.

310. Byongeye kandi, Urugereko rw'Ubujurire ntirwemera ibyo Ujurira avuga kuri GPE. Ni byo koko ko Urugereko rwa Mbere rw'Iremezo rwagombaga kureba niba Ujurira yari kuri Paruwasi ya Gikomero aho kureba niba GAG yari ahari. Cyakora, umucamanza usuzuma ibyabaye ushyira mu gaciro yashoboraga kwanzura avuga ko GPE yemeza ko GAG yari kuri icyo kigo ku itariki ya 12 Mata 1994, bityo bikaba bishyigikiye umwanzuro w'Urugereko uvuga ko ubuhamya bwa GAG bwakwizerwa.

311. Ingingo y'Ujurira igamije kwerekana ko GAG yashinje ibinyoma Pasitori Nkuranga na GPF irasuzumwa hasi[673].

e) <u>Umutangabuhamya wiswe GEG</u>

312. Ujurira anenga Urugereko rwa Mbere rw'Iremezo kuba rwaremeye ubuhamya GEG yatanze mu Rukiko, kubera ko uyu mugabo ari we wenyine uvuga ko [Ujurira] yari afite intwaro[674]. Anenga kandi urwo Rugereko kuba rwaremeye ko uwo mutangabuhamya yamenye Ujurira, mu gihe bari batandukanijwe n'intera iri hagati ya metero 15 na 20 kandi GEG akaba yari mu rusengero ku buryo atakwemeza ko yamubonye [Ujurira] avugana na Pasitori Nkuranga[675].

---

672 Inyandikomvugo y'iburanisha, 4 Gashyantare 2002, urup.58 [FR].
673 Reba Umutwe wa XI.L.4.
674 Imyanzuro y'Ujurira, ibika 418, 419.
675 Imyanzuro y'Ujurira , igika 23.

313. Urugereko rw'Ubujurire rwamaze gusuzuma ingingo ivuga ko GEG are we wenyine wavuze ko Ujurira yari afite intwaro[676]. Ku kibazo cyo « kumenya » [Uregwa], Urugereko rw'Ubujurire rusanga Ujurira ahindura imvugo y'umutangabuhamya. Ujurira ntavuga ingingo n'imwe iri muri dosiye yo mu rw'iremezo ishyigikira ibyo avuga ko GEG, ari imbere mu kiriziya, yabonye ibikorwa biregerwa. Mu by'ukuri, GEG avuga ko imodoka ziza, yari iruhande rw'urusengero, ahantu hateganye n'ikibuga[677]. Ku byerekeye ibyo Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutazirikanye uburyo GEG yamenyemo Ujurira, Urugereko rw'Ubujurire rusanga GEG atari yarigeze abona Ujurira mbere yaho, ko ariko avuga gusa ko imodoka zihageze, impunzi zasakuje zivuga ngo : « ni Kamuhanda, kandi ubwo Kamuhanda aje, ibyacu birarangiye»[678]. Uburyo rero uwo mutangabuhamya yabonyemo Ujurira nta kamaro bufite ugereranyije n'agaciro k'ubuhamya bwe.

f) Umutangabuhamya wiswe GEP

314. Ku byerekeye GEP, mu byo Ujurira avuga, harimo kuba uyu mutangabuhamya ari we wenyine uvuga ko mu gitondo cyo ku itariki ya 12 Mata 1994 Abahutu baje gutandukanya impunzi z'Abahutu n'iz'Abatutsi, kandi ko hari abakobwa bwatwawe mbere y'uko ava kuri Paruwasi[679]. Avuga kandi ko ubuhamya bw'uyu mugabo butakwizerwa, kubera ko atazi izina ry'ahantu yahungiye, ndetse akaba atarashoboye kumenya ikigo cya Paruwasi ya Gikomero ku mafoto bamweretse. Muri make, Ujurira avuga ko ubuhamya bwa GEP mu Rukiko butandukanye, mu ngingo zabwo zose, n'ubwa GAF, GES na GAA, bityo bukaba budashobora gushyigikira ubuhamya bw'aba bagabo[680].

315. Urugereko rwa Mbere rw'Iremezo rwasanze GEP atarashoboye kumenya ikigo cya Paruwasi ya Gikomero ku mafoto bamweretse. Cyakora, rwemeye ibisobanuro yatanze

676 Reba Umutwe wa XI.K.4.a.
677 Inyandikomvugo y'iburanisha, 25 Nzeri 2001, urup.22 [FR].
678 Ni kimwe no haruguru, urup.23[FR].
679 Imyanzuro y'Ujurira , igika cya 424.
680 Ni kimwe no haruguru, ibika 425, 426.

k'ukuntu icyo kigo cyari kimeze ku itariki ya 12 Mata 1994[681]. Ujurira ntagaragaza ko uwo mwanzuro udashyize mu gaciro.

316. Ku byerekeye ibintu bivugwa n'uwo mutangabuhamya wenyine, Urugereko rw'Ubujurire rusanga ibyo bintu bitabuza ibice by'ingenzi bigize buhamya bwe kwemerwa. Ujurira ubwe avuga ingingo enye zashingiweho mu kumwemeza icyaha : 1) kugera ku kigo cya Paruwasi, ari kumwe n'abantu bafite intwaro, 2) kuva mu modoka n'ikiganiro yagiranye na Pasitori Nkuranga, 3) itegeko yatanze ryo gutangira ubwicanyi no 4) kugenda ubwicanyi bumaze gutangira[682]. GEP yemeza izo ngingo zose uko ari enye aho agira ati :

1) imodoka itwaye *Interahamwe* yaraje, havamo umugabo impunzi zavuze ko ari « Kamuhanda »[683] ;

2) yaganiriye n'undi muntu[684] ;

3) uwo mugabo bavuze ko ari Kamuhanda yatanze itegeko agira ati : « mutangire mukore », ibyo bikaba byarasobanuraga ngo: nimwice [abantu][685] ;

4) yahavuye ubwicanyi bumaze gutangira[686].

Urugereko rw'Ubujurire rusanga umucamanza usuzuma ibyabaye ushyira mu gaciro yarashoboraga kwemeza ko ubuhamya GEP yatanze mu Rukiko ari ikimenyetso gishyigikira ibindi.

---

681 Urubanza mu rw'iremezo, igika cya 461.
682 Imyanzuro y'Ujurira , igika cya 385.
683 Inyandikomvugo y'iburanisha, 7 Gashyantare 2002, imp.7, 38 [FR].
684 Ni kimwe no haruguru, urup.39, 40[FR].
685 Ni kimwe no haruguru, imp. 42 ,43 [FR].
686 Ni kimwe no haruguru, urup. 47 [FR].

5. Kuvuga ko imitekerereze y'Urugereko rwa Mbere rw'Iremezo yagiye ihindagurika.

317. Ujurira avuga ko, mu rubanza, imitekerereze y'Urugereko rwa Mbere rw'Iremezo yagiye ihindagurika. Avuga ko urwo Rugereko rwanze kwemera ubuhamya bw'abagabo benshi bashinja maze, nk'urugero, rukamugira umuwere ku bwicanyi bwakorewe kuri Paruwasi gatolika ya Gishaka[687]. Asanga rero urwo Rugereko rwagombye kuba rwarabigenje gutyo no ku byerekeye ibintu byabereye ku kigo cya Paruwasi ya Gikomero. By'umwihariko, avuga ko mu gusuzuma ubuhamya abagabo batanze mu Rukiko, Urugereko rwa Mbere rw'Iremezo rwahereye ku gihe abo bagabo bagereye kuri Paruwasi gaturika ya Gishaka [NTD: hano bashobora kuba barashakaga kuvuga Gikomero] aho gusuzuma gusa ubuhamya bwerekeranye n'igitero nyirizina, nk'uko rwabikoze ku bagabo batanze ubuhamya ku bwicanyi bwakorewe ku kigo cya paruwasi ya Gikomero [NTD: hano bashobora kuba barashakaga kuvuga Gishaka][688].

318. Urugereko rwa Mbere rw'Iremezo ruvuga ko isuzuma ry'ubuhamya bw'abagabo bashinja « rigaragaza itandukaniro [rikomeye] ku byerekeye ibintu byabereye ku kiriziya ya Paruwasi ya Gishaka[689] ». Iryo tandukaniro ryerekeranye n'ibintu by'ingenzi by'igitero kivugwa, nko kumenya niba imiryango ya kiriziya yarafunzwe n'abagabye igitero cyangwa impunzi, cyangwa niba za gerenade zaratewe mu kiriziya zinyujijwe mu madirishya[690]. Iyo mitekerereze ntishyigikira ingingo y'Ujurira igamije kugaragaza ko Urugereko rwa Mbere rw'Iremezo rwahindaguye imitekerereze yarwo. Ku byerekeye ibintu byabereye ku kigo cya Paruwasi ya Gikomero, Urugereko rwa Mbere rw'Iremezo rwasanze ahanini ubuhamya bwatanzwe kuri ibyo bintu bushyigikirana[691].

319. Ujurira avuga ko yerekanye ibintu bikurikira bivuguruzanya mu buhamya bwatanzwe ku bintu byabaye mbere na nyuma y'igitero cyagabwe kuri Paruwasi ya Gikomero :

---

[687] Imyanzuro y'Ujurira, ibika 430-432.
[688] Ni kimwe no haruguru, ibika 432,433.
[689] Urubanza mu rw'iremezo, igika cya 565.
[690] Ni kimwe no haruguru.
[691] Urubanza mu rw'iremezo, igika cya 481.

- GES na GEP ni bo batangabuhamya bonyine bavuga ko Abahutu bahageze mbere y'igitero. Ibyo nta wundi mutangabuhamya ubivuga[692].

- GAP na GEG ni bo batangabuhamya bonyine bavuga ko abagabye igitero batoranyije abakobwa bakabajyana kugira ngo babasambanye ku gahato. Ujurira avuga ko mu gihe GEP yemeza ko yahavuye abakobwa bamaze gutoranywa, GAG we avuga ko, abo bakobwa batwawe nyuma y'ubwicanyi[693].

- GEC ni we mutangabuhamya wenyine uvuga ko, abagabye igitero bahavuye, abaturage bo muri ako gace bakomeje gusahura imitungo y'impunzi. Ujurira avuga ko GEE na GAG na bo bagombye kuba baravuze ibyo bintu, kubera ko bavuye ku kigo hashize akanya igitero kirangiye[694].

- GEE ni we mutangabuhamya wenyine uvuga ko mu ijoro rikurikiraho hagabwe igitero cya kabiri[695].

Urugereko rw'Ubujurire rusanga uko kuvuguruzanya kuvugwa nta cyo guhindura ku bintu by'ingenzi bigize ubuhamya abo bagabo batanze mu Rukiko. Ku byerekeye isahurwa ry'imitungo y'impunzi, Urugereko rw'Ubujurire rwerekana ko GAG avuga ko amaze gukomeretswa n'abantu babiri, mu bagabye igitero, yataye ubwenge; ko yaje kuzanzamuka mu masaa kumi n'imwe za nimugoroba[696] ; ko, kubera iyo mpamvu, adashobora gutanga ubuhamya ku bintu byabaye nyuma ya saa sita. Ku birebana n'igitero cya kabiri kivugwa gusa na GEE, Urugereko rw'Ubujurire ruributsa ko rwasesenguye iyi ngingo haruguru[697].

---

[692] Imyanzuro y'Ujurira, ibika 436, 437.
[693] Ni kimwe no haruguru, ibika 439, 441.
[694] Ni kimwe no haruruguru, igika cya 443.
[695] Ni kimwe no haruguru, igika cya 444.
[696] Inyandikomvugo y'iburanisha, 4 Gashyantare 2002, imp.75,76 [FR].
[697] Reba Umutwe wa XI.K.5.a.

320. Ku byerekeye kunyuranya kwaba kuri hagati y'ubuhamya bwa GAG n'ubwa GEP ku itoranywa ry'abakobwa ryakozwe n'abagabye igitero, Urugereko rw'Ubujurire rwerekana ko iki gice cy'igitero cyabaye igihe abo batangabuhamya bombi bashakaga kwihisha mu mashuri[698], bityo bakaba batarashoboraga kureba aho hantu hose. Umucamanza usuzuma ibyabaye ushyira mu gaciro yashoboraga rero kwemera ibindi bice by'ubuhamya bwabo n'ubwo bushobora kubamo ibintu bidahuye muri iki gice cy'ubuhamya bwabo.

321. Kubera iyo mpamvu, Urugereko rw'Ubujurire rwanze kwakira ingingo y'Ujurira igamije kwerekana ko Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro udashyize mu gaciro ku byerekeye ibintu byabereye ku kigo cya Paruwasi ya Gikomero.

L. AMAKOSA YABA YARAKOZWE MU MYANZURO URUGEREKO RWA MBERE RW'IREMEZO RWAFASHE KU BATANGABUHAMYA BASHINJURA

322. Muri iyi ngingo ya 14 y'ubujurire, Ujurira avuga ko «Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'ibyabaye ryatumye urubanza rucibwa nabi » kubera ko rwanze kwemera ibimenyetso bishinjura byari gutuma rushidikanya ko yakoze icyaha[699]. Mu gushyigikira ibyo avuga, [Ujurira] atanga ingingo nyinshi zigiye gusuzumwa imwe ku yindi.

1. Umutangabuhamya wiswe GPC

323. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze amakosa mu rwego rw'amategeko n'urw'ibyabaye kuko rwanze kwemera ubuhamya bwa GPC rwitwaje ko uyu mutangabuhamya « yemeraga cyane [Ujurira] »[700]. Avuga ko n'iyo ubuhamya bwa GPC bwakumvikana gutyo, Urugereko rwa Mbere rw'Iremezo rwagombaga kuba

[698] Inyandikomvugo y'iburanisha, 7 Gashyantare 2002, imp.39-41 [FR] (GEP); inyandikomvugo y'iburanisha, 4 Gashyantare 2002, imp.70,71 [FR](GAG).
[699] Imyanzuro y'Ujurira , igika cya 448.
[700] Ni kimwe no haruguru, ibika 44, 45, 450.

rwarasobanuye impamvu zatumye rwemeza ko ubwo buhamya butakwemerwa cyangwa ngo bwizerwe[701].

324. Igika cy'urubanza cyerekeranye n'iyi ngingo giteye gitya:

> CPC yemeza ko Kamuhanda atari i Gikomero hagati yo ku itariki ya 6 n'iya 12 Mata 1994 kubera ko atahamubonye. Urugereko rusanga ubuhamya bwe nta shingiro bufite. Umutangabuhamya yemera Uregwa cyane, ubuhamya bwe bwari bugamije kumurengera.[702].

Mu buhamya bwe mu Rukiko, GPC avuga ko Ujurira yari azwi cyane muri ako karere kandi ko yari ahafite akamaro kanini cyane nko mu byerekeye guteza uburezi imbere kandi ko we [GPC] yifuzaga numera nka we [Ujurira][703]. Urugereko rw'Ubujurire rusanga, ashingiye kuri ubwo buhamya, umucamanza usuzuma ibyabaye ushyira mu gaciro yarashoboraga gufata umwanzuro uvuga ko uyu mutangabuhamya yemeraga cyane Ujurira. Byongeye kandi, rumaze gusuzuma neza ibice by'inyandikomvugo y'iburanisha mu rw'iremezo birebana n'ubwo buhamya, Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rwarashyize mu gaciro mu kuvuga ko GPC yari abogamiye ku ruhande rw'Ujurira kandi ko yashakaga kumukingira ikibaba.

325. Binyuranyije n'ibyo Ujurira avuga, Urugereko rw'Ubujurire rusanga mu kwanga kwemera ubuhamya bwa GPC, Urugereko rwa Mbere rw'Iremezo rutarashingiye gusa k'ukuba uyu mugabo yaremeraga Ujurira, ko ahubwo, mbere na mbere, ari uko rwasanze ibyo avuga muri ubwo buhamya bidafite ishingiro. Ujurira avuga ko GPC yageze aho hantu ubwicanyi bumaze iminota 15 butangiye[704], mu gihe Urugereko rwa Mbere rw'Iremezo rwemeza ko GPC yavuye mu kigo ubwicanyi bumaze akanya gato butangiye.[705] Mu gushyigikira ibyo avuga ko Ujurira atari ahari, GPC avuga ko iyo [Ujurira] aza kuhaba, « abandi bantu baba baramubonye » kandi baba barabimubwiye[706].

---

701 Ni kimwe no haruguru, ibika 44,450.
702 Urubanza mu rw'iremezo, igika cya 474.
703 Inyandikomvugo y'iburanisha, 22 Mutarama 2003, imp.38, 39, 42 na 43 [FR].
704 Imyanzuro y'Ujurira, igika cya 451. GPC yari mu ntera igeze kuri kirometero imwe ugereranyije, ubwo yumvaga urusaku rw'amasasu avugira ku kigo, n'uko akajyayo ngo amenye ibyo arebe ibyo ari byo. Inyandikomvugo y'iburanisha, 22 Mutarama 2003, impa.20-22 [FR].
705 Urubanza mu rw'iremezo, igika cya 493.
706 Inyandikomvugo y'iburanisha, 22 Mutarama 2003, imp.57 na 58 [FR].

Biragaragara neza ko uyu mutangabuhamya akeka. Byongeye kandi, ashingiye k'ukuba yarahageze imodoka z'abagabye igitero zigihari, GPC yemeza ko atari kuba yarahavuye iyo Ujurira aza kuhaza muri imwe muri izo modoka[707]. Cyakora, uwo mwanzuro we ushingiye ku bivugwa ko imodoka yabonye ari zimwe n'izo abatanguhamya bashinja bari bamaze iminota 15 babonye. Ariko Urugereko rw'Ubujurire rusanga ibyo bintu bitapfa kwemerwa, cyane cyane ko umubare nyakuri w'imodoka zahageze muri icyo gitero utazwi[708].

326. Kubera iyo mpamvu, Urugereko rw'Ubujurire rusanga Ujurira atagaragaza ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ku byerekeranye n'ubuhamya bwa GPC.

2. Umutangabuhamya wiswe GPB

327. Ku byerekeranye na GPB, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo « rwakoze ikosa rigaragara mu gusuzuma ubuhamya bw'uwo mugabo[709] ». Urugereko rwa Mbere rw'Iremezo ruvuga ko GPB yari mu itsinda rya mbere ry'abagabye igitero bageze ku kigo cya Paruwasi ya Gikomero, ko ariko atabonye Pasitori Nkuranga. Rwafashe umwanzuro uvuga ko GPB ashobora kuba atarabonye Pasitori Nkuranga n'Ujurira[710]. Ujurira avuga ko GPB yabonye imodoka z'abagabye igitero ziza, zikanasubirayo, kandi ko we [GPB] yari ahari mu gihe cyose ubwicanyi bwamaze[711].

328. Urugereko rw'Ubujurire rusanga iyo ngingo nta shingiro ifite. Kubera ko hafi y'abatangabuhamya bose bavuga ko umukuru w'abagabye igitero yaganiriye umwanya muto na Pasitori Nkuranga[712], umucamanza usuzuma ibyabaye ushyira mu gaciro yashoboraga kwanzura, ashingiye ku buhamya bwa GPB bugamije kwerekana ko atabonye Pasitori Nkuranga, avuga ko bishoboka ko uwo mugabo atabonye Ujurira kubera ko uyu yamaze akanya gato kuri paruwasi.

[707] Ni kimwe no haruguru.
[708] Reba Umutwe wa XI.K.3.
[709] Imyanzuro y'Ujurira, igika cya 45.
[710] Urubanza mu rw'iremezo, igika cya 47.
[711] Imyanzuro y'Ujurira, igika cya 457.
[712] Uretse GAF na GEP.

3. Umutangabuhamya wiswe GPT

329. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kubera ko rwanze gushingira ku buhamya bwa GPT uvuga ko yakoze amaperereza menshi ku gitero cyagabwe ku kigo cya Paruwasi ya Gikomero kandi akemeza ko izina ry'Ujurira ritigeze rivugwa muri ayo maperereza[713]. [Ujurira] asanga ubwo buhamya bushyigikirwa n'ubwa GPC uvuga ko umwe mu bantu bari mu gitero atavuze ko Ujurira yari umwe mu byitso bye[714]. Mu gusoza kuri iyi ngingo, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutarazirikanye ubuhamya bwa GPT bugamije kwerekana ko abaturage bo muri ako gace batahungiye ku kigo cya Paruwasi ya Gikomero, ko, rero, abantu bari ku kigo batashoboraga kumenya ko icyo gitero cyari kiyobowe n'Ujurira[715].

330. Urugereko rw'Ubujurire rusanga Ujurira ataragaragaje ko Urugereko rwa Mbere rw'Iremezo rwakoze amakosa mu gusuzuma ubuhamya bwa GPT. Uyu mugabo ntiyari kuri Paruwasi ya Gikomero ubwo hagabwaga igitero. Mu buhamya bwe mu Rukiko, avuga gusa ibyo yagezeho mu maperereza yakoze nyuma y'ibyabaye. Byongeye kandi, yemera ko atabajije, mu buryo bweruye, abantu bamuhaye ubuhamya niba Ujurira yari aho hantu ubwo igitero cyagabwaga, ngo kubera ko iyo biza kuba ari ko byagenze abantu baba barabimubwiye[716]. Umucamanza wese usuzuma ibyabaye ushyira mu gaciro yari afite ishingiro ryo guha agaciro gake ubwo buhamya, kimwe n'ibivugwa ko nta muturage n'umwe wo muri ako gace wari kuri icyo kigo. Urugereko rw'Ubujurire rusanga GPT atari kumenya neza niba abaturage ba Komine ya Gikomero bari cyangwa batari mu «bantu benshi bagizwe n'abagabo, abagore n'abana, biganjemo Abatutsi »[717] bari bahungiye ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994.

---

[713] Imyanzuro y'Ujurira, ibika 460-463.
[714] Ni kimwe no haruguru, igika 464.
[715] Ni kimwe no haruguru, ibika 465,467.
[716] Urubanza mu rw'iremezo, igika cya 392; inyandikomvugo y'iburanisha, 14 Mutararama 2003, imp.35, 36 [FR].
[717] Urubanza mu rw'iremezo, igika cya 499.

4. Abatangabuhamya biswe GPE, GPF na GPR

331. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu gusuzuma ubuhamya bwa GPE, GPF na GPR[718]. Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko abo batangabuhamya « bashobora kuba ba barageze aho ibintu byabereye nyuma y'uko umuntu wavuzwe ko ari Kamuhanda ahaviriye. Biramutse ari uko bimeze, n'iyo Urugereko rwakwemera ubuhamya abo bagabo batanze mu Rukiko, ibyo ntibyagaragaza ko Uregwa atahageze[719]». Ujurira avuga kandi ko abatangabuhamya bari batuye hafi y'ikigo cya Paruwasi ya Gikomero kandi ko bavuga ko batigeze bumva ko Ujurira yagize uruhare mu bwicanyi[720]. Avuga ndetse ko mu Rukiko, GPE yatanze ubuhamya bwerekeranye n'ifatwa n'irekurwa rya Pasitori Nkuranga kandi ko uwo mupasitori yemeje neza ko Ujurira atari aho hantu ubwo igitero cyagabwaga[721]. Ku byerekeye GPF, Ujurira avuga ko uwo mutangabuhamya yemeza ko we na Pasitori Nkuranga bashinjwa na GAG kuba baratwaye ibintu bye kandi ko GAG abashinja agamije kuba yabakuraho indishyi[722].

332. Mu kumusubiza, Porokireri avuga ko GPR yageze aho hantu igitero cyarangiye. GPE ntiyabonye abagabye igitero bahagera kandi GPF, uregwa kuba yaragiye mu bwicanyi akaba anabogamiye k'Ujurira, yahunze akimara kumva abagabye igitero bahageze[723].

333. Urugereko rw'Ubujurire rwibutsa ko GPR avuga ko ubwo yageraga ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, yasanze impunzi zimaze kwicwa, abagabye ibitero batangiye gusahura imitungo yazo no gukinja amatungo[724]. Yumva imodoka z'abagabye igitero zije, GPE yari mu nzu maze ahita ahunga[725]. GPF na we ntiyabonye abagabye igitero. Yahunze akimara kumva ko igitero gitangiye[726]. Urugereko

---

[718] Imyanzuro y'Ujurira, igika cya 470.
[719] Urubanza , igika 470, kivuga kuri GPE, GPF, GPK na GPB.
[720] Imyanzuro y'Ujurira , igika cya 470.
[721] Ni kimwe no haruguru, igika cya 471.
[722] Ni kimwe no haruguru, igika cya 472.
[723] Imyanzuro y'Usubiza mu bujurire, ibika 235,236.
[724] Inyandikomvugo y'iburanisha, 15 Mutarama 2003, imp.10-11[FR].
[725] Ni kimwe no haruguru, imp.61,62[FR]; inyandikomvugo y'iburanisha,16 Mutarama 2003, urup.3 [FR].
[726] Inyandikomvugo y'iburanisha, 20 Mutarama 2003, imp.8-20 [FR].

rw'Ubujurire rwanzura ruvuga ko, n'ubwo abo batangabuhamya bemeza ko nyuma y'ubwicanyi nta muntu n'umwe washinje Ujurira ko yabugizemo uruhare, umucamanza usuzuma ibyabaye ushyira mu gaciro ashobora kwizera cyane, kurusha ubundi, ubuhamya bw'abagabo bari bahari igitero kigabwa kandi bavuga ko babonye Ujurira.

334. Ku byerekeye GPF no ku buhamya bwe ku kirego GAG yareze GPF na Pasitori Nkuranga, Urugereko rw'Ubujurire rusanga uwo mugabo avuga ko GAG yasabye indishyi y'ivalisi yari yarabitse kwa Pasitori ikaza gusahurwa n'abagabye igitero. Icyo kirego cyabanje kwangwa, ariko nyuma GPF aza gutanga igice cy'izo ndishyi[727]. Mu by'ukuri, uwo umutangabuhamya avuga ko abonye ikirego cye cya mbere kitakiriwe, GAG yashinje Pasitori Nkuranga ko yazanye abagabye igitero ku kigo cya Paruwasi ya Gikomero[728]. Byongeye kandi GAG yemeza ko yasabye Pasitori kumusubiza ibintu bye, maze undi akanga. Avuga ko icyo gihe ari bwo yumvise ko agomba gushyikiriza icyo kibazo abategetsi kandi ko bamusabye gutanga ubuhamya ku ruhare rwa Pasitori Nkuranga mu bwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero[729]. Nyuma yo gusuzuma ubuhamya bwa GPF n'ubwa GAG, Urugereko rw'Ubujurire rusanga umucamanza wese usuzuma ibyabaye ushyira mu gaciro, yarashoboraga kuvuga ko ubuhamya GPF yatanze mu Rukiko budatuma umuntu ashidikanya bihagije k'ukwizerwa kwa GAG.

5. Umutangabuhamya GPK

336. Ujurira avuga ko imyanzuro y'Urugereko rwa Mbere rw'Iremezo ku buhamya bwa GPK ari iyo « kunengwa cyane[730]». Igice cy'urubanza kijyanye n'iyi ngingo giteye gitya:

> Urugereko rusanga GPK avuga ko atigeze abona Kamuhanda i Gikomero hagati y'itariki ya 6 Mata n'umunsi w'igitero, ku ya 12 Mata 1994. Mu by'ukuri, avuga ko mbere yo ku itariki ya 6 Mata 1994, hari hashize igihe kirekire atabona Kamuhanda. Yemeza rero ko Kamuhanda atigeze akandagira i Gikomero mbere y'itariki ya 6 Mata 1994 kandi ko kugeza ku itariki ya 12 Mata 1994 atigeze ajyayo. Urugereko rusanga rutakwemera ubuhamya GPK yatanze ku bintu by'ingenzi byabaye.

[727] Ni kimwe no haruguru, imp.10, 13, 14 [FR].
[728] Ni kimwe no haruguru, imp.10,11[FR].
[729] Inyandikomvugo y'iburanisha, 6 Gashyantare 2002, imp.32-33 [FR].
[730] Imyanzuro y'Ujurira, igika 475.

> Urugereko ntirwemera ibyo GPK avuga ko atabashije gucika muri iriya minota 40 yahise hagati y'ifatwa rye n'igihe yagereye ku kigo cya Paruwasi ya Gikomero. Urugereko ntirwemera ko GPK yarebereye gusa abagabye igitero ntiyifatanye nabo, ntirunanemera ko atashoboye gucika mu gitero cyamaze hafi isaha imwe n'igice. Byongeye kandi, ntiyabashije no gufasha abana batatu b'impunzi bamusabye kubafasha nyuma y'igitero, cyangwa ngo amenye abenshi mu bari bagize igitero. Urugereko ntirwemera ibyo avuga ko yabonye Karekezi, mubyara wa Kamuhanda, aje aho ubwicanyi bwabereye nyuma y'igitero. Umutangabuhamya avuga ko Karekezi yari aje kureba ibyabaye. Urugereko rubona imyitwarire ye mu Rukiko irimo kuyobya uburari kandi rusanga ubuhamya bwe bugamije kurengera Uregwa. Ibyo bigaragarira cyane aho avuga ko Kamuhanda atashoboraga kuba i Gikomero kuko atahamubonye. GPK ntavuga ukuri ku byabaye ku itariki ya 12 Mata 1994. Urugereko rwanze ubuhamya bwe[731].

Ujurira yemeza ko Urugereko rwa Mbere rw'Iremezo nta shingiro rufite mu kuvuga ko ubuhamya bwa GPK butakwizerwa. Avuga ko, binyuranyije n'umwanzuro w'Urugereko, GPK yahatiwe kujyana n' *Interahamwe* ku kigo cya Paruwasi ya Gikomero, ko ariko atagize uruhare mu gitero[732]. Ujurira asanga kuba GPK ataratabaye abana batatu bato bitabuza ibyo avuga kwizerwa. Mu bushishozi bwe, uyu mugabo yasanze ibyiza uguha abo bana Pasitori Nkuranga[733]. Ujurira arwanya ibyo Urugereko rwa Mbere rw'Iremezo ruvuga ko GPK atashoboraga kumenya abagabye igitero. Avuga ko, mu by'ukuri, uyu mutangabuhamya yagize uruhare mu ifatwa rya bamwe muri bo[734]. Mu gusoza kuri iyi ngingo, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutashoboraga kwanga ubuhamya GPK yatanze mu Rukiko agaragaza ko mubyara wa Kamuhanda witwa Karekezi yageze aho hantu nyuma y'ubwicanyi maze ngo ruhindukire rwemere ubuhamya bwa GAF buvuga ko uwo Karekezi yari aho hantu ubwo ibyabaye bakorwaga[735].

336. Mu gusubiza, Porokireri avuga ko Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro mu gusuzuma ubuhamya GPK yatanze mu Rukiko kandi ko rwabusuzumye runashingiye ku buhamya bwose rwashyikirijwe[736]. Mu gushyigikira umwanzuro w'urwo Rugereko, avuga ko kuba mu ibaza rinyomoza ari ho honyine GPK yemeye ko afite icyo

---

[731] Urubanza mu rw'iremezo, igika cya 473.
[732] Imyanzuro y'Ujurira , ibika 478, 479.
[733] Ni kimwe no haruguru, igika cya 481.
[734] Ni kimwe no haruguru, ibika 482, 483.
[735] Ni kimwe no haruguru, igika cya 484.
[736] Imyanzuro y'Usubiza mu bujurire, ibika 238-240.

apfana n'Ujurira, bigaragaza ko mbere yari yanze gutanga amakuru yerekana ko ashobora kuba abogamye[737].

337. Ujurira agamije gusa guhindura uburyo Urugereko rwa Mbere rw'Iremezo rwasuzumye ubuhamya maze akabusimbuza ubwe, ariko atagaragaza ko imyanzuro y'urwo Rugereko idashyize mu gaciro cyangwa ko yose ikosamye. Ubujurire ntibushobora gushingira kuri iyi mikorere. Byongeye kandi, Urugereko rw'Ubujurire ruvuga ko GPK yageze aho ubwicanyi bwabereye hashize nk'iminota 40 yumvise amasasu ya mbere avugiye ku kigo cya Paruwasi ya Gikomero Rwongera ho ko uwo mutangabuhamya ubwe yemera ko ashobora kuba yarahageze nyuma y'iyicwa rya Augustin Bucundura[738]. Kubera izo mpamvu, GPK ntiyashoboraga gutanga ubuhamya butaziguye bwerekeranye n'uko Ujurira yari aho hantu igitero gitangira.

6. Umutangabuhamya wiswe GER (Pasitori Nkuranga)

338. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa kuko rutazirikanye, uko bikwiye, ubuhamya bubiri bwanditse bwa Pasitori Nkuranga[739]. Urugereko rwa Mbere rw'Iremezo ntirwemeye ubuhamya bw'uwo mugabo kandi rwavuze ko na we ubwe yakorwagaho iperereza ku byaha bimwe n'ibyo Ujurira aregwa[740]. Ujurira asobanura ko ubwo yatangaga ubwo buhamya, Pasitori Nkuranga yari yarafunguwe kandi ko nta cyaha yari agikurikiranyweho. Anibutsa kandi ko, ku bwe, kuba umutangabuhamya runaka yarakozweho iperereza, ntibibuza ubuhamya bwe kwemerwa[741]. Ujurira yemeza ko Porokireri yamenyesheje Ubwunganizi bumwe muri ubwo buhamya, kandi ubwo buhamya butarwanyijwe kubera ko Ubwunganizi bwumvaga Urugereko rwa Mbere rw'Iremezo rugomba kubwemera. Ujurira avuga kandi ko ntaho izina ry'Ujurira rigaragara haba mu buhamya bwa kabiri bwanditse Pasitori Nkuranga

[737] Ni kimwe no haruguru, igika cya 238.
[738] Inyandikomvugo z'amaburanisha, 21 Mutarama 2003, imp.39,40; 22 Mutarama 2003, imp.7,8 [FR]. GPK yabonye imodoka ebyiri gusa zikoreshwa n'abagabye igitero (inyandikomvugo y'iburanisha, 22 Mutarama 2003, imp.10, 11 [FR]), ibyo ntibibuza ko Ujurira ashobora kuba yaravuye aho hantu mu yindi modoka.
[739] Imyanzuro y'Ujurira, igika cya 488.
[740] Urubanza mu rw'iremezo, igika cya 475.
[741] Imyanzuro y'Ujurira, igika cya 490.

yahaye abategetsi bo mu Rwanda, cyangwa mu kimenyetso gihamya D39 cy'Ubwunganizi kiriho urutonde rw'amazina y'abantu bakekwaho gukora jenoside[742].

339. Mu cyemezo rwafashe ku itariki ya 20 Gicurasi 2003, Urugereko rwa Mbere rw'Iremezo rwakiriye ubuhamya bubiri bwanditse bwa nyakwigendera Pasitori Nkuranga[743]. Ubuhamya bumwe bwari bwarahawe abategetsi bo mu Rwanda mu mwaka wa 1996 naho ubundi buhabwa abakora iperereza bo mu biro bya Porokireri ku itariki ya 15 Werurwe 2000[744]. Mu cyemezo cyarwo, Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro ukurikira :

> Rumaze gusuzuma ubuhamya abandi bagabo batanze mu Rukiko kuri iyo ngingo, Urugereko ntirwemera ubuhamya bwa Pasitori Nkuranga. Byongeye kandi, Urugereko rusanga ibyo avuga bitakwizerwa kuko yari agikorwaho iperereza ku byaha Uregwa yari akurikiranyweho[745].

340. Urugereko rwa Mbere rw'Iremezo rwagombaga gusuzuma ukwemerwa n'ukwizerwa k'ubwo buhamya bwombi rushingiye ku bimenyetso byose rwashyikirijwe. Urugereko rw'Ubujurire rusanga Ujurira aterekana ikosa, iryo ari ryose, Urugereko rwa Mbere rw'Iremezo rwakoze. By'umwihariko, ni ngombwa kuzirikana ko bitashobotse kugenzura ukuri k'ubuhamya bwa Pasitori Nkuranga hakoreshejwe ibaza rinyomoza. Kubera iyo mpamvu, Urugereko rwa Mbere rw'Iremezo rwashyize mu gaciro ruhitamo ubuhamya bwatanzwe n'abagabo bitabye Urukiko.

---

[742] Ni kimwe no haruguru, ibika 492, 493.
[743] Urubanza rwa Kamuhanda, *Decision on Kamuhanda's Motion to Admit into Evidence Two Statements by Witness GER in Accordance with Rules 89(C) and 92bis of the Rules of Procedure and Evidence* [Icyemezo ku Cyifuzo cya Kamuhanda gisaba kwakira ubuhamya bubiri bwanditse bwa GER hashingiwe ku ngingo ya 89(C) n'iya 92bis z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso] 20 Gicurasi 2003, cyatanzwe ku itariki ya 21 Gicurasi 2003, (« Icyemezo cyo ku itariki ya 20 Gicurasi 2003 »); Urubanza rwa Kamuhanda, *Corrigendum to the Decision on Kamuhanda's Motion to Admit into Evidence Two Statements by Witness GER in Accordance with Rules 89(C) and 92bis of the Rules of Procedure and Evidence* [Ibikosowe mu Cyemezo ku Cyifuzo cya Kamuhanda gisaba kwakira ubuhamya bubiri bwanditse bwa GER, hashingiwe ku ngingo ya 89 (C) n'iya 92bis z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso], 22 Gicurasi 2003.
[744] Icyemezo, 20 Gicurasi 2003, igika cya 1.
[745] Urubanza mu rw'iremezo, igika cya 475.

7. Abatangabuhamya biswe NTD na GPG

341. Ujurira ashingira ku buhamya bwa NTD na GPG kugira ngo yerekane ko abantu bagabye igitero ku kigo cya Paruwasi ya Gikomero, ku itariki ya 12 Mata 1994, bari bavuye muri Komine ya Rubungo. Avuga ko abo batangabuhamya bombi bemeza bose ko bahuye n'umupolisi wo muri ako karere wari warahiye ko yihorera ku mpunzi z'Abatutsi[746].

342. Urugereko rwa Mbere rw'Iremezo rwasanze nta kimenyetso simusiga kigaragaza ko abagabye igitero bari bavuye i Rubungo. Rwemeje kandi ko icyo kibazo nta kamaro gifite ku byerekeranye n'uburyozwacyaha bw'Ujurira[747]. Urugereko rw'Ubujurire rusanga Ujurira atarerekana ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rufata uwo mwanzuro.

M. <u>UMWANZURO</u>

343. Mu gusoza, Ujurira avuga ko ibimenyetso byose yatanze bituma ibirego ashinjwa bishidikanywaho. Urugereko rwa Mbere rw'Iremezo rwavuze kenshi ko rwashingiye ku bimenyetso byose rwashyikirijwe mu gufata imyanzuro ivuga ko, ku itariki ya 12 Mata 1994, Ujurira yari ku kigo cya Paruwasi ya Gikomero kandi ko ari we watangije igitero cyagabwe ku mpunzi zari zihateraniye[748]. Iyo myanzuro ishingiye ku bimenyetso byinshi bitaziguye kandi bishyigikirana mu gihe nta mutangabuhamya n'umwe ushinjura wari aho hantu ubwo igitero cyatangiraga[749]. Ujurira ntiyerekana ko, mu gusuzuma ibimenyetso rwashyikirijwe, Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryatumye urubanza rucibwa nabi. Kubera iyo mpamvu, Urugereko rw'Ubujurire ntirwakiriye ingingo zose zasuzumwe muri uyu mutwe.

---

[746] Imyanzuro y'Ujurira, igika cya 496.
[747] Urubanza mu rw'iremezo, igika cya 67.
[748] Ni kimwe no haruguru, ibika 476, 505.
[749] Uretse GER utaratanze ubuhamya mu Rugereko rwa Mbere rw'Iremezo. Reba Umutwe wa XI.L.6.

XII. IGIHANO (IMPAMVU YA 15 Y'UBUJURIRE)

344. Ujurira avuga ko, ruramutse rwirengaje ingingo nyinshi z'ubujurire zasobanuwe haruguru maze ntirukureho icyemezo kimuhamya icyaha, Urugereko rw'Ubujurire rwagombye nibura guhindura ibihano yahawe n'Urugereko rwa Mbere rw'Iremezo maze rukamukatira imyaka itanu y'igifungo[750]. Avuga ko, n'ubwo rwavuze ko rwazirikanye «imibereho ye bwite, impamvu zongera n'izigabanya uburyozwacyaha, imikorere rusange ikurikizwa n'Urukiko ndetse n'inkiko z'u Rwanda mu kugena ibihano»[751], Urugereko rwa Mbere rw'Iremezo ntirwakurikije ayo mahame ruvuga»[752] kandi ntirwatanze impamvu rwashingiyeho mu kugena icyo gihano, haba mu rwego rw'amategeko cyangwa urw'ibyabaye»[753]. Mu yandi magambo rero, Ujurira avuga ko Urugereko « rutatanze impamvu rwashingiyeho rumugenera igihano rwamukatiye »[754]. By'umwihariko, Ujurira asaba Urugereko rw'Ubujurire gusuzuma uburyo Urugereko rwa Mbere rw'Iremezo rwafashe umwanya wo hejuru yari afite muri Leta nk'impamvu yongera uburyozwacyaha[755], gusuzuma agaciro urwo Rugereko rwahaye ubwiyunge bw'Abanyarwanda no kugarura amahoro[756] kimwe no kuba asanga rwarateshutse ku nshingano rufite yo kuzirikana « imibereho ye bwite »[757], ndetse rukananyuranya n'ihame rivuga ko « mu kugena igihano hitabwabo imibereho bwite y'uhamwe n'icyaha n'uburemere bw'icyo cyaha»[758].

345. Mu gusuziba, Porokireri avuga ko Ujurira adasobanura ukuntu igihano cy'imyaka itanu asaba cyaba gikwiriye. Yongeraho ko, ibyo ari byo byose, ku byaha bya jenoside n'itsembatsemba, icyo gihano asaba gikabije kuba gito cyane ku buryo nta wavuga ko gikwiye. »[759] Avuga ko « Ujurira asa n'aho avuga ko Urugereko rutafashe uburemere

---

[750] Imyanzuro y'Ujurira, ibika 501, 526. Ujurira asanga iyo mpamvu y'ubujurire yasuzumwa gusa ari uko Urugereko rw'Ubujurire « rwemeje igihano cyatanzwe mu rw'iremezo ».
[751] Ni kimwe no haruguru, igika cya 503.
[752] Ni kimwe no haruguru, igika cya 504.
[753] Ni kimwe no haruguru, igika cya 505.
[754] Ni kimwe no haruguru, 504, 507.
[755] Ni kimwe no haruguru, ibika 505, 507.
[756] Ni kimwe no haruguru, ibika 503, 508, 509.
[757] Ni kimwe no haruguru, igika cya 510.
[758] Ni kimwe no haruguru, ibika 511, 515.
[759] Imyanzuro isubiza iyo mu bujurire, igika cya 276.

bw'icyaha ngo rubugereranye n'ibintu byihariye biranga Ujurira » kandi ko we asanga «nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze mu buryo rwafashe imyanzuro yarwo »[760] .

A. KUBA UMWANYA UKOMEYE UJURIRA YARI AFITE BYARAFASHWE NK'IMPAMVU YONGERA UBURYOZWACYAHA

346. Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rutatanze ingingo rwashingiyeho mu gufata umwanzuro uvuga ko umwanya wo hejuru yari afite muri Leta ari impamvu yongera uburyozwacyaha[761].

347. Mu gice cy'urubanza cyahariwe impamvu zongera uburyozwacyaha, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko « umwanya wo hejuru Ujurira yari afite nk'umukozi wa Leta ushobora gufatwa nk 'impamvu yongera uburyozwacyaha»[762]. Umwanya wo hejuru uregwa yari afite wafashwe nk'impamvu yongera uburyozwacyaha mu manza zabanje zaciwe na TPIR na TPIY. Nk'urugero, mu rubanza rwa *Kambanda,* Urugereko rw'Ubujurire rwafashe imirimo yo hejuru Ujurira yakoraga nk'impamvu yongera uburyozwacyaha. Rwavuze ko « N'ubwo yari afite inshingano n'ububasha byo kurinda abaturage b'u Rwanda no kubungabunga ituze n'umutekano muri icyo gihugu, kubera ko yari Minisitiri w'Intebe, Jean Kambanda yateshutse kuri izo nshingano »[763]. Mu rubanza rwa *Aleksovski,* Urugereko rw'Ubujurire rwa TPIY rwemeje ko « uruhare rw'ukuriye abandi nk'umuyobozi wa gereza rwatumye ibyaha Ujurira yakoze bigira uburemere bunini kandi aho kubiburizamo, yafashije abandi gukora ubwicanyi bwibasiye abantu yari ashinzwe kurinda »[764]. Mu rubanza rwa *Kayishema na Ruzindana,* Urugereko rw'Ubujurire rwasobanuye ko umwanya w'ubutegetsi ubwa wo atari impamvu yongera

---

[760] Ni kimwe no haruguru, igika cya 278.
[761] Imyanzuro y'ujurira, igika cya 507.
[762] Urubanza mu rw'iremezo, igika cya 764.
[763] Urubanza rwa *Kambanda*, igika 61 B) vii) na 62, byakuwe mu rubanza rwa *Kambanda* mu bujurire, igika 119 . Urugereko rw'Ubujurire rwemeye ibyo bivugwa.
[764] Urubanza rwa *Aleksovski* mu bujurire, igika cya 183, byakuwe mu rubanza rwa *Kayishema na Ruzindana*, igika cya 357.

uburyozwacyaha, ko ariko « uburyo uregwa akoresha umwanya w'ubuyobozi »[765] bishobora gutuma hafatwa umwanzuro uvuga ko umwanya ukomeye ari impamvu yongera uburyozwacyaha. Mu rubanza rwa *Ntakirutimana,* Urugereko rw'Ubujurire ruherutse gushimangira umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko iyo ujurira akoresheje nabi ububasha afite mu baturage maze agakora ibyaha by'urugomo, ari impamvu yongera uburyozwacyaha[766].

348. Rushingiye ku bimaze kuvugwa, Urugereko ntirwemera ibyo Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo nta shingiro rwari rufite mu gufata umwanzuro wemeza ko umwanya wo hejuru yari afite ari impamvu yongera uburyozwacyaha[767]. Byongeye kandi, nta kintu na kimwe Urugereko rw'Ubujurire rusanga giteye impungenge[768] cyangwa, mu buryo ubwo ari bwo bwose, kidakwiriye mu mitekerereze y'Urugereko rwa Mbere rw'Iremezo. Ikindi kandi, nta ngingo n'imwe rubona ishyigikira ibyo Ujurira avuga ko yakatiwe igifungo cya burundu hashingiwe gusa kuri iyo mpamvu yongera uburyozwacyaha[769].

349. Kubera izo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe.

B. UBWIYUNGE BW'ABANYARWANDA NO KUGARURA AMAHORO

350. Ujurira avuga ko n'ubwo Urugereko rwa Mbere rw'Iremezo rwavuze ko « rwazirikanye» ibyo Inama Ishinzwe Amahoro ku Isi yari igamije ishyiraho Urukiko, birimo ubwiyunge bw'Abanyarwanda no kugarura amahoro nk'uko bikubiye mu mwanzuro wa 955[770], urwo Rugereko rwamukatiye igihano cy'igifungo cya burundu, « rwirengagije igitekerezo gitandukanye n'icy'abandi cy'umucamanza Maqutu uvuga ko Ujurira atagombaga

[765] Urubanza rwa *Kayishema na Ruzindana* mu bujurire, igika cya 358.
[766] Urubanza rwa *Ntakirutimana* mu bujurire, igika cya 563.
[767] Imyanzuro y'ujurira, igika cya 507.
[768] Ni kimwe no haruguru, igika cya 506.
[769] Ni kimwe no haruguru, ibika 506 na 514. Ujurira yahamwe na jenoside, n'itsembatsemba nk'icyaha cyibasiye inyokomuntu. Rumaze gusuzuma buri kirego ukwacyo ni bwo Urugereko rwa Mbere rw'Iremezo rwageze kuri uwo mwanzuro.
[770] Ni kimwe no haruguru, igika cya 502.

gukatirwa igihano kiremereye kurusha ibindi, kubera ko isomo rikomeye rikomoka ku byo yahuye na ryo ryafasha mu nzira y'ubwiyunge bw'Abanyarwanda[771]. Ujurira avuga ko n'ubwo Urugereko rwa Mbere rw'Iremezo « rwari rwavuze amategeko rwari gushingiraho, byari nko kurangiza umuhango kuko rutayubahirije[772]. Mu gushimangira ibyo avuga, Ujurira yemeza ko Urugereko rwa Mbere rw'Iremezo rutasobanuye na busa « uko igihano cyatanzwe cyafasha mu kugarura amahoro n'ubwiyunge bw'Abanyarwanda »[773]. Porokireri asubiza ko « ingingo z'Ujurira zitagaragaza neza ukuntu Urugereko rwa Mbere rw'Iremezo rutasuzumye neza ibibazo byerekeranye n'ubwiyunge bw'Abanyarwanda cyangwa ukuntu gusuzuma ibyo bibazo byatuma igihano yakatiwe kigabanywa nk'uko [Ujurira] abisaba ubu »[774]. Kubera izo mpamvu, Porokireri asaba Urugereko rw'Ubujurire kutakira iyo ngingo[775].

351. Mbere na mbere, Urugereko rw'Ubujurire ruvuga ko n'ubwo mu bintu by'ingenzi igihano kigamije kugeraho harimo ubwiyunge bw'abenegihugu, no kugarura ndetse no kubungabunga umutekano, si byo byonyine biba bigamijwe. Urugereko rwa Mbere rw'Iremezo rwavuze, mu kuri, ko mu byari bigamijwe n'Umwanzuro wa 955 Inama Ishinzwe Amahoro ku Isi yafashe ku itariki ya 8 Ugushyingo 1994[776] ishyiraho Urukiko[777], harimo no guca intege abashaka gukora icyaha, gutuma habaho ubutabera, ubwiyunge, kugarura no kubungabunga umutekano. Izo nshingano ntizishobora gutandukanywa kubera ko isano izihuza idashobora gutandukanywa. Nta kintu na kimwe mu mwanzuro wa 955 gishobora gutuma umuntu yavuga ko Inama Ishinzwe Amahoro ku Isi yashakaga ko inshingano iyi n'iyi yasumba izindi.

---

[771] Ni kimwe no haruguru, ibika 503 na 508.
[772] Ni kimwe no haruguru, igika cya 508. Inyandiko y'umwimerere iri mu gifaransa iteye itya: "[…] *c'est de pure forme que la Chambre avait au préalalble indiqué les régles de droit sur lesquelles elle se serait fondée*." [Mbere Urugereko ruvuga ingingo z'amategeko rwaba rwarashingiyeho byari ukwikiza gusa]
[773] Ni kimwe no haruguru, igika cya 508.
[774] Imyanzuro y'uregwa mu bujurire, igika cya 282.
[775] Ni kimwe no haruguru, igika cya 283.
[776] Umwanzuro wa 955 (1994) w'Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye, S/RES/955 (1994)
[777] Urubanza, igika 753, gisubiramo igice k'ibikubiye mu iriburiro ry'umwanzuro wa 955.

Ujurira avuga ko kumukatira igihano cy'igifungo cya burundu bihwanye no kuvutsa Abanyarwanda n'igihugu cye inyigisho yari kuzabagezaho amaze gufungurwa[778], bikaba rero binyuranye n'inshingano y'ubwiyunge bw'abenegihugu. Urugereko rw'Ubujurire ntirwemera iyo ngingo. Urugereko rwa Mbere rw'Iremezo rwashoboraga no kwanzura ruvuga ko, Ujurira aramutse afunguwe vuba, intambwe yose yaterwa mu byerekeranye n'ubwiyunge bw'Abanyarwanda, yaba nto cyangwa nta kamaro ifite uyigereranije n'ingaruka mbi zaterwa no gutanga igihano cyoroheje. Gutanga igihano cyoroheje cyane byatuma abantu bibwira ko atari ukuzirikana uburemere bw'icyaha cyakozwe, bityo bikaba binyuranije n'intego yo guca intege abashaka gukora icyaha n'iy'ubwiyunge bw'Abanyarwanda.

Byongeye kandi, igihano cyoroheje cyane cyagira ingaruka mbi ku yandi mahame shingiro agenderwaho mu kugena igihano, cyane cyane ihame rivuga ko igihano kigomba gutangwa hakurikijwe icyaha cyakozwe[779]. Igihano cyoroheje rero cyaba kidakwiranye n'uburemere bw'ibyaha byakozwe. Ibyo ari byo byose, ikibazo si ugukora ku buryo amategeko atsinda ubunyamaswa bw'ibyabaye icyo gihe[780] nk'uko Ujurira abivuga, cyangwa kumenya niba kumufunga ubuzima bwe bwose hari uruhare byagira mu kugarura amahoro n'ubwiyunge bw'abenegihugu, iyi ikaba ari imwe mu nshingano z'Urukiko[781]. Ubukemuramanza budahinduka bwa TPIR na TPIY butegeka ko, mu kugena igihano, ingereko za mbere z 'iremezo zigomba kuzirikana imibereho bwite y'uregwa n'uburemere bw'icyaha yakoze[782].

Ujurira ntagaragaza ikosa, iryo ari ryo ryose, Urugereko rwa Mbere rw'Iremezo rwakoze mu gusuzuma intego zari zigamijwe mu gushyiraho Urukiko, cyangwa ngo agaragaze ko rwarengereye mu gukoresha ububasha rufite bwo gusuzuma no kugena igihano gikwiye.

352. Kubera izo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe.

---

778 Imyanzuro y'ujurira, igika cya 509.
779 Urubanza rwa *Blagojevic na bagenzi be* ,Icyemezo ku Cyifuzo gisaba kurekurwa by'agateganyo Blagojevic, 22 Nyakanga 2002, igika cya 37.
780 Imyanzuro y'ujurira, igika cya 508.
781 Ni kimwe no haruguru, igika cya 508.
782 Reba urubanza rwa *Celebici* mu bujurire, igika cya 717; urubanza rw'*Akayesu* mu bujurire*,* igika cya 407.

C. IMIBEREHO BWITE Y'UJURIRA

353. Muri iki gice cy'impamvu y'ubujurire, Ujurira avuga ko Urugereko rwa Mbere rw'Iremezo rwateshutse ku nshingano ruhabwa n'ingingo ya 23.2 ya Sitati, yo kuzirikana imibereho bwite y'ujurira[783]. Ku buryo bwihariye, avuga ko « urebye akiri muto kandi akaba afite abana bane»[784]. Porokireri we avuga ko, mu by'ukuri, mu bika 756-758 by'Urubanza, Urugereko rwa Mbere rw'Iremezo rwasuzumye imibereho bwite y'Ujurira maze, by'umwihariko, rwanzura ruvuga ko mbere y'ibyabaye Ujurira yari umuntu mwiza[785]. Porokireri avuga kandi ko nta kintu kidasanzwe kigaragara mu mibereho y'Ujurira, kubera ko kuba umuryango we ukiri muto no kuba yarahoze ari umuntu mwiza abihuriyeho n'abandi baregwa benshi, bityo bikaba nta gaciro byahabwa mu rubanza rukomeye nk'uru[786].

354. Urugereko rw'Ubujurire ruributsa ko, nk'uko biteganywa n'ingingo ya 23.2 ya Sitati, Ingereko za mbere z'iremezo zigomba kuzirikana imibereho yihariye y'abaregwa kimwe n'impamvu zigabanya uburyozwacyaha, hakurikijwe ingingo ya 101 B) ii) y'Amategeko. N'ubwo mu myanzuro nsozarubanza yabwo Ubwunganizi butavuze ku bibazo byerekeye igihano, kandi mu iburanisha bukavuga ko butiteguye kubikora[787], mu bika 756 na 757, Urugereko rwa Mbere rw'Iremezo rwasuzumye imibereho bwite y'Ujurira ruzirikana impamvu zigabanya uburyozwacyaha bwe. Rushingiye ku bikubiye muri dosiye rwari rufite, Urugereko rwa Mbere rw'Iremezo rwasanze mbere yo kugira uruhare muri jenoside Ujurira « yarafatwaga cyane nk'umuntu mwiza witangiraga komine ye ndetse n'igihugu cye »[788]. Urwo Rugereko rwakoresheje ububasha bwa rwo busesuye maze rwanzura ruvuga ko muri uru rubanza, rutanyuzwe n'ingingo zatanzwe mu kugaragaza

---

783 Imyanzuro y'ujurira, igika cya 510.
784 Kimwe no haruguru.
785 Imyanzuro y'uregwa mu bujurire, igika cya 280.
786 Ni kimwe no haruguru,igika cya 281, byavuye mu rubanza rwa *Furund'ija*, igika cya 284.
787 Urubanza, igika cya 756. hakurikijwe ingingo ya 85 A) i) y'Amategeko, impande zombi zisabwa gutanga amakuru yose yagira akamaro yatuma Urugereko rwa Mbere rw'Iremezo rufata icyemezo ku gihano gikwiye uregwa yahabwa. Nk'uko Urugereko rw'Ubujurire rwa TPIY rwabivuze, igihe uregwa adatanze amakuru na make yagira akamaro, Urugereko rw'Ubujurire ruba rwumva ko Urugereko rwa Mbere rw'Iremezo rudategetswe, muri rusange, gushakashakisha amakuru avoka yasanze atari ngombwa kuruha nta gukererwa. Urubanza rwa *Kupreskic na bagenzi be* mu bujurire*,* igika cya 414.
788 Urubanza rwa mu rw'iremezo, igika cya 757.

impamvu zigabanya uburyozwacyaha[789] kandi ujurira asa n'utarwanya icyo cyemezo. Mu by'ukuri, mu bujurire agerageza gusa gutanga ingingo atashoboye gutanga mu rw'iremezo. Kuri iyi ngingo, Urugereko rw'Ubujurire ruributsa ko ubujurire atari urubanza rushya. Nk'uko Urugereko rw'Ubujurire rwa TPIY rwabigaragaje, ujurira ntagomba kwizera ko Urugereko rw'Ubujurire rwasuzuma impamvu zigabanya uburyozwacyaha atanze bwa mbere mu bujurire :

> Ku byerekeye ibindi bimenyetso bigabana uburyozwacyaha byari bihari ariko ntibitangwe mu rw'iremezo, Urugereko rw'Ubujurire rusanga atari rwo rugomba kubishyikirizwa bwa mbere[790].

Urugereko rw'Ubujurire ntirugomba rero gusuzuma ibyo Ujurira avuga ko mu rw'iremezo, kuba akiri muto kandi afite umuryango byagombaga gufatwa nk'impamvu igabanya uburyozwacyaha.

355. Kubera izo mpamvu, iki gice cy'impamvu y'ubujurire nticyakiriwe.

D. <u>IGIHANO GIKWIYE UREGWA KANDI KIJYANYE N'ICYAHA YAKOZE</u>

356. Ujurira avuga kandi ko Urugereko rwa Mbere rw'Iremezo « rutitaye na gato ku mahame ashingirwaho, mu manza mpanabyaha, yerekeranye no guha uregwa igihano kimukwiye kandi kijyanye n'icyaha yakoze » [791]. Yemeza ko mu gutanga igihano, umucamanza « agomba kuzirikana ko icyo gihano kigomba kuba gikwiranye n'icyaha cyakozwe », kandi igihano « kigomba gutangwa hazirikanwa ihame rusange rivuga ko uhamwe n'icyaha agomba guhabwa igihano kimukwiye[792]. Ujurira agereranya igihano cye

---

[789] Reba Urubanza rwa *Niyitegeka* mu bujurire, igika cya 266; Urubanza rwa *Musema* mu bujurire, igika cya 396. Reba na none Urubanza rwa *Kayishema na Ruzindana* mu bujurire, igika cya 366 (gusuzuma impamvu zongera n'izigabanya uburyozwacyaha igihe cyo kugena igihano biri mu bubasha Urugereko rwa Mbere rw'Iremezo bwo gusuzuma ibintu kandi […] ujurira ni we ugomba kugaragaza ko Urugereko rwa Mbere rw'Iremezo rwarengereye mu gukoresha ubwo bubasha).

[790] Urubanza rwa*Kvocka na bagenzi be* mu bujurire, igika cya 674, hasubirwamo ibivugwa mu rubanza rwa rwa *Celibici* mu bujurire, igika cya 790.

[791] Imyanzuro y'Ujurira, igika cya 511.

[792] Ni kimwe no haruguru, igika cya 512.

n'ibihano byahawe abandi bantu bakatiwe n'uru Rukiko[793]. Porokireri asubiza ko Urugereko rwa Mbere rw'Iremezo rwazirikanye ibihano bitangwa kandi ko Ubwunganizi butagaragaje ikosa mu buryo Urugereko rwabikoze[794]. Urugereko rw'Ubujurire rugiye gusuzuma buri ngingo y'ujurira.

1. Inshingano Urugereko rwa Mbere rw'Iremezo rufite yo gutanga igihano gikwiriye umuntu uhamwe n'icyaha

357. Ihame ryo kugena igihano gikwiriye umuntu uhamwe n'icyaha ritegeka ko, mu kugena igihano, Urugereko ruzirikana imibereho bwite y'uregwa n'uburemere bw'icyaha cyakozwe[795]. Uburemere bw'icyaha ni ikintu cy'ibanze Urugereko rwa Mbere rw'Iremezo rugomba kuzirikana mu kugena igihano[796] kandi, muri uru rubanza, nta gushidikanya ko Urugereko rwa Mbere rw'Iremezo rwari ruzi iyi nshingano :

> Mu kugena igihano Kamuhanda akwiye guhabwa, Urugereko rurazirikana uburemere bw'ibyaha ashinjwa, nkuko biteganywa n'ingingo ya 23 ya Sitati n'ingingo ya 101 y'Amategeko. Urugereko rurazirikana kandi imibereho bwite ya Kamuhanda, impamvu zongera n'izigabanya uburyozwacyaha, n'imikorere rusange y'Urukiko mu gushyiraho ibihano[797].

N'ubwo avuga ko Urugereko rwa Mbere rw'Iremezo rutitaye na gato[798] kuri iyi nshingano, Ujurira ntagaragariza Urugereko rw'Ubujurire ikosa ryihariye ryaba ryarakozwe mu rw'iremezo. Ahubwo, nta kimenyetso na kimwe abitangiye, yemeza ko igihano cy'igifungo cya burundu « cyatangwa gusa ari uko, kubera inyungu z'umutekano w'abaturage, imiterere y'icyaha itatuma Uregwa arekurwa, kabone n'iyo haba hashize imyaka minshi icyo cyaha gikozwe»[799]. Inkiko zo mu bihugu bimwe zivuga ko hakwiye

---

[793] Ni kimwe no haruguru, ibik. 516-523.
[794] Imyanzuro y'Usubiza mu bujurire, igika cya 285.
[795] Urubanza rwa *Celibici* mu bujurire, igika cya 717. Urubanza rwa *Ntakirutimana* mu bujurire, igika cya 551.
[796] Reba Urubanza rwa *Musema* mu bujurire, igika cya 382; Urubanza rwa *Celibici* mu bujurire, igika cya 847.
[797] Urubanza, igika 755, igice (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[798] Imyanzuro y'Ujurira, igika cya 511.
[799] Ni kimwe no haruguru, igika cya 513. Mu nyandiko y'umwimerere iri gifaransa handitse ngo: "[*L'emprisonnement à vie] ne peut valablement se justifier que si le trouble inhérent au crime commis, rend à jamais incompatible avec les nécessités de l'ordre public, la libération de l'accusé meme après plusieurs années."* [igihano

guteganywa ko umuntu ukatiwe igifungo cya burundu ashobora kuzafungurwa. Nk'uko Urukiko rurinda iremezo ry'Itegekonshinga mu Budage rwabitangaje, « kimwe mu byangombwa bibanziriza ishyirwaho ry'amategeko ahana ibyaha ashingiye ku bumuntu ni uko abantu bakatiwe igihano cy'igifungo cya burundu bashobora kugera aho bakarekurwa[800]. Nk'uko Urugereko rw'Ubujurire rubibona, iki gitekerezo gishobora kwitabwaho mu nkiko z'ibihugu, aho gishobora gushyirwa mu bikorwa. Cyakora, ntigishobora gushyirwa mu bikorwa mu rubanza nk'uru ruburanishwamo ibyaha by'agahomamunwa byakozwe. Mu byo Urugereko rwa Mbere rw'Iremezo rwazirikanye harimo kuba igitero cyaragabwe « ku kigo cya Paruwasi ya Gikomero, kandi abantu bose bari bazi ko ari ahantu hubashwe mu rwego rw'idini, no kuba hariciwe abantu benshi »[801]. Kubera iyo mpamvu, Urugereko rw'Ubujurire rusanga Ujurira nta shingiro afite mu kuvuga ko Urugereko rwa Mbere rw'Iremezo rwamukatiye igihano «rutabanje gushishoza ndetse rutazirikanye imiterere yihariye y'urubanza».

2. Ihame ryo kugena igihano gikwiranye n'ibyaha byakozwe

358. Ujurira avuga ko «iyo usesenguye ubukemuramanza, usanga yarahawe igihano gikabije ugereranije n'ibyatanzwe mu zindi manza, aho abaregwa bahamwe n'ibyaha bikomeye bidashobora kugereranywa n'ibyamuhamye»[802].

359. Urugereko rw'Ubujurire rusanga Ujurira avuga ibyo bintu kubera ko atumva neza ihame ryo kugena igihano gikwiranye n'ibyaha byakozwe. « Nta na hamwe iryo hame rivuga ko hagomba kubaho isano hagati y'ibihano bigenerwa abaregwa[803]. Ahubwo iryo hame rivuga ko igihano kigomba kugenwa « hashingiwe ahanini ku rindi rivuga ko igihano

---

cy'igifungo cya burundu «nticyatangwa keretse, kubera inyungu z'umutekano w'abaturage, imiterere y'icyaha idatuma Uregwa arekurwa, kabone n'iyo haba hashize imyaka minshi icyo cyaha gikozwe]

[800] Igitabo gikubiyemo by'Urukiko rurinda iremezo ry'Itegekonshinga mu Budage (Bundesverfassungsgericht), 45, 187 [228, 229].

[801] Urubanza mu rw'iremezo, igika cya 764.

[802] Imyanzuro y'Ujurira, igika cya 516.

[803] *Porokireri aburana na Dragon Nikolic,* Urubanza mu bujurire ku byerekeye igihano, 4 Gashyantare 2005, igika cya 21.

kigomba kugaragaza isano iri hagati y'uburemere bw'icyaha n'ingano y'uruhare rw'umuntu wagikoze »[804].

360. Kubera izo mpamvu, Urugereko rw'Ubujurire rusanze ibyo Ujurira avuga kuri iki kibazo nta shingiro bifite.

3. Kugereranya urubanza rwe n'izindi manza

361. Ujurira avuga ko igihano yakatiwe gikabije kuba kinini ukigereranyije n'ibindi bihano abandi bantu bakatiwe n'Urukiko. Ikibazo kirebana no kugendera ku bindi bihano byatanzwe mu manza zaciwe na TPIR na TPIY cyasuzumwe birambuye n'Urugereko rw'Ubujurire rwa TPIY mu rubanza rwa *Dragan Nikolić :*

> Kugendera ku bihano byatanzwe mbere na TPIR na TPIY nta cyo « byamara cyane ». Cyakora si n'uburyo buboneye umuntu yakoresha mu kurwanya umwanzuro Urugereko rwa Mbere rw'Iremezo rwafashe rukoresheje ububasha rufite bwo kugena igihano. Hari impamvu ebyiri zituma ibi atari byo. Icya mbere, kugereranya ibihano byatanzwe mbere bishoboka gusa iyo ibyaha ari bimwe kandi byarakozwe mu buryo busa cyane. Iyo ibintu bitandukanya ibyo byaha biruta ibibihuza, cyangwa impamvu zongera n'izigabanya uburyozwacyaha zikaba zinyuranye, ibyo bishobora gutuma hatangwa ibihano bitandukanye. Icya kabiri, kubera ko ari rwo rusuzuma ibyabaye, Urugereko rwa Mbere rw'Iremezo, rufite inshingano ikomeye yo kugena igihano gikwiye uregwa ruzirikana imibereho ye bwite n'uburemere bw'icyaha, ndetse rukanazirikana, uko bikwiye imiterere y'urubanza rwose. Urugereko rw'Ubujurire ruributsa ko rudashinzwe kuburanisha urubanza bundi bushya kuko rwaba rubaye nk'urugereko rwa mbere rw'iremezo rwa kabiri. Ntirushobora guhindura igihano cyatanzwe cyeretse ujurira agaragaje ko, mu gukoresha ububasha rufite rwo gusuzuma ibintu, Urugereko rwa Mbere rw'Iremezo rwakoze « ikosa rigaragara »[805].

362. Urugereko rw'Ubujurire ntirwemera igeraranya Ujurira agerageza gukora hagati y'urubanza rwe n'iz'abandi. Zimwe mu manza avuga zinyuranye cyane n'urwe ku buryo ntawazigenderaho: mu rubanza rwa *Ruggiu,* Uregwa yakatiwe nyuma yo kwemera icyaha kandi ibyo byafashwe nk'impamvu igabanya uburyozwacyaha[806]. Mu rubanza rwa *Elizaphan Ntakirutimana,* Uregwa yahamwe n'ibyaha bya jenoside n'itsembatsemba

[804] Urubanza *rw'Akayesu* mu bujurire, igika cya 414.
[805] *Porokireri aburana na Dragan Nikolic,* Urubanza mu bujurire ku byerekeye igihano, 4 Gashyantare 2005, igika cya19 (ibyavuzwe bivuye ahandi ntibyongewemo).
[806] Reba urubanza rwa Ruggiu mu rw'iremezo*,* ibika 53-55.

kubera gusa ko yateye abantu inkunga kandi akabashishikariza gukora ibyo byaha. Kuba kandi yari ashaje ndetse arwaye byafashwe nk'impamvu zigabanya uburyozwacyaha[807]. Byongeye kandi, nk'uko ubukemuramanza bwa TPIR bubigaragaza, abahamwe n'icyaha cya jenoside nka gatozi, kimwe n'Ujurira, bagiye kenshi bakatirwa igihano cy'igifungo cya burundu[808]. Ibyo ari byo byose, Urugereko rwa Mbere rw'Iremezo ntirugomba, byanze bikunze, kugendera ku bihano byatanzwe mu manza zabanje. Muri uru rubanza, mu gika cya 765 cy'Inyandiko y'urubanza, Urugereko rwa mbere ruvuga ko «rwazirikanye imikirize y'imanza ya TPIR na TPIY mu byerekeye igenwa ry'igihano », ariko runavuga ko «igihano kigomba, mbere ya byose, kujyana n'uburemere bw'icyaha »[809]. Ingingo zatanzwe n'Ujurira ntizigaragaza ikosa rigaragara Urugereko rwa Mbere rw'Iremezo rwakoze mu gukoresha ububasha busesuye rufite bwo kugena igihano, ku buryo rwaba rutarasuzumye neza imiterere yihariye y'urubanza rwe.

363. Mu gusoza, Urugereko rw'Ubujurire rugiye gusuzuma niba kuba rwarakuyeho imyanzuro y'Urugereko rwa Mbere rw'Iremezo ihamya Ujurira icyaha cyo guhamagarira abantu gukora jenoside, n'icyo ku batera inkunga yo kuyikora no kuyibashishikariza, bishobora kugira icyo bihindura ku gihano yakatiwe. Urugereko rw'Ubujurire rusanga nta cyo byahindura. Rusanga Urugereko rwa Mbere rw'Iremezo rwari ruzi ibintu byose bigize urubanza kandi, nta kintu cyahindutse, hashingiwe ku bimenyetso byatanzwe mu rw'iremezo. Mu by'ukuri, Ujurira akomeza guhamwa n'icyaha cya jenoside n'icy'itsembatsemba hashingiwe ku ngingo ya 6.1 ya Sitati. Ku cyaha cyo gutegeka abantu gukora jenoside n'itsembatsemba, nta gushidikanya ko igihano cy'igifungo cya burundu gishyize mu gaciro. Icyo gihano kijyanye by'umwihariko no kuba Ujurira yarategetse abantu gukora ubwicanyi bwabereye mu kigo cya Paruwasi ya Gikomero.

---

[807]Reba Urubanza rwa *Ntakirutimana* mu bujurire, igika cya 569 ; urubanza rwa *Ntakirutimana* mu rw'iremezo, ibik 895-898

[808] Harimo abantu benshi bakatiwe igihano cy'igifungo cya burundu ku cyaha cya jenoside, kandi icyo gihano kikemezwa n'Urugereko rw'Ubujurire (Jean Paul Akayesu, Jean Kambanda, Clément Kayishema, Alfred Musema, Eliezer Niyitegeka na George Rutaganda) n'abandi bajuriye ariko ubujurire bwabo bukaba butararangira (Mika Muhimana, Ferdinand Nahimana, Emmanuel Ndindabahizi na Hassan Ngeze). Mu zindi manza, Inteko z'abacamanza zemeje ko urebye ibyaha bashinjwa abaregwa bagombye gukatirwa igihano cy'igifungo cya burundu, ariko ko icyo gihano kigomba kugabanywa kubera ko uburenganzira bwabo butubahirijwe (Juvénal Kajelijeli na Jean Bosco Barayagwiza; ubujurire bwa Barayagwiza ntiburarangira). Urugereko rw'Ubujurire ntacyo rwavuga ku manza zikiri mu bujurire.

[809] Urubanza mu rw'iremezo, igika cya 765.

N'iyo Urugereko rwa Mbere rw'Iremezo ruza guhamya Ujurira icyaha cyo gutegeka abantu gukora gusa jenoside n'itsembatsemba, nta kindi gihano rwari kumugenera uretse icyo rwamukatiye.

E. UMWANZURO

364. Muri make, Ujurira ntagaragaza ikosa, iryo ari ryo ryose, Urugereko rwa Mbere rw'Iremezo rwaba rwarakoze rumukatira igihano yahawe. Icyemezo cy'Urugereko rw'Ubujurire cyo gukuraho imyanzuro y'Urugereko rwa Mbere rw'Iremezo ihamya Ujurira icyaha cyo guhamagarira abantu gukora jenoside n'itsembatsemba, kubatera inkunga no kubashishikariza gukora ibyo cyaha, nticyatuma igihano yakatiwe mu rw'iremezo kigabanywa. Kubera iyo mpamvu, Urugereko rw'Ubujurire rwanze kwakira ubujurire bwose bwerekeranye n'igihano.

XIII. IMIKIRIZE Y'URUBANZA

365. Kubera izo mpamvu, **URUGEREKO RW'UBUJURIRE,**

RUSHINGIYE ku ngingo ya 24 ya Sitati n'ingingo ya 118 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ;

RUMAZE KUBONA imyanzuro yanditse y'ababuranyi n'ingingo batanze mu iburanisha ryo ku wa 19 Gicurasi 2005 ;

RUBURANISHA mu ruhame ;

RUVANYEHO Icyemezo gihamya Ujurira icyaha cyo guhamagarira abantu gukora cya jenoside kivugwa mu kirego cya 2, n'icy'itsembatsemba kivugwa mu gika cya 5 ;

RUVANYEHO Icyemezo gihamya Ujurira icyaha cyo gutera inkunga no gushishikariza abantu gukora jenoside kivugwa mu kirego cya 2, no gukora icyaha itsembatsemba

cyivugwa mu kirego cya 5 (Umucamanza Shahabuddeen we afite igitekerezo gitandukanye n'icy'abagenzi be) ;

RUREKEYEHO ibyemezo bihamya Ujurira icyaha cya jenoside n'icy'itsembatsemba nk'icyaha cyibasiye inyokomuntu, hashingiwe ku gika cya 1 cy'ingingo ya 6 ya Sitati (igitekerezo gitandukanye n'icya bagenzi be cy'Umucamanza Weinberg de Roca cyometse ku nyandiko y'uru rubanza) ;

NTIRWAKIRIYE izindi ngingo z'ubujurire (igitekerezo gitandukanye n'icya bagenzi be cy'Umucamanza Weinberg de Roca cyometse ku nyandiko y'uru rubanza) ;

RUREKEYEHO igihano cyatanzwe n'Urugereko rwa Mbere rw'Iremezo (igitekerezo gitandukanye n'icya bagenzi be cy'Umucamanza Weinberg de Roca cyometse ku nyandiko y'uru rubanza) ;

RUTEGETSE, hashingiwe ku biteganywa mu ngingo ya 101 D) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, ko igihe ujurira yamaze afunzwe by'agateganyo kuva ku itariki ya 26 Ugushyingo 1999 kivanwa mu gihano cye;

RUTEGETSE ko iki cyemezo gihita gishyirwa mu bikorwa, hakurikijwe ibiteganywa n'ingingo ya 119 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ;

RUTEGETSE ko, hashingiwe ku Ngingo za 103 B) na 107 z'Amategeko Agenga Imiburanishirize n'itangwa ry'Ibimenyetso, Jean de Dieu Kamuhanda aguma muri gereza y'Urukiko ategereje kwimurirwa muri gihugu azarangirizamo igihano cye.

Bikozwe mu gifaransa no mu cyongereza, inyandiko iri mu cyongereza niyo izajya igenderwaho.

[Umukono] [Umukono]

Theodor Meron
Perezida

Mohamed Shahabuddeen
Umucamanza

[Umukono]
Florence Ndepele Mwachande Mumba
Umucamanza

[Umukono]
Wolfgang Schomburg
Umucamanza

[umukono]
Inès Monica Weinberg de Roca
Umucamanza

Perezida Meron yometse kuri iyi nyandiko y'urubanza Igitekerezo cye cyihariye.

Umucamanza Schomburg yometse kuri iyi nyandiko y'urubanza, Igitekerezo cye cyihariye.

Umucamanza Shahabuddeen yometse kuri iyi nyandiko y'urubanza, Igitekerezo cye cyihariye kandi gitandukanye n'icy'abagenzi be kuri bimwe.

Umucamanza Weinberg de Roca yometse kuri iyi nyandiko y'urubanza, Igitekerezo cye cyihariye n'ikindi gitandukanye n'icy'abandi.

Bikorewe i La Haye (Ubuholandi), tariki ya 19 Nzeri 2005.

[Kashe y'Urukiko]

XIV. IGITEKEREZO CYIHARIYE CY'UMUCAMANZA THEODOR MERON, PEREZIDA W'INTEKO

366. Nsanga icyemezo cyafashwe mu gika cya 77 cy'inyandiko y'urubanza mu bujurire kirebana gusa n'imyanzuro ku byabaye yafashwe muri uru rubanza. Ku byerekeye Igitekerezo cyihariye kandi kinyuranye n'icy'abandi, kuri bimwe, cy'Umucamanza Shahabuddeen, nsanga igika cya 77 kitavuga na rimwe ibirenze ibivugwa mu mwanzuro wafashwe mu rubanza rwa *Čelebići* mu bujurire. Kuri iyi ngingo, nemeranya n'Umucamanza Shahabuddeen ko "nta mpamvu yabuza icyaha kimwe gukorwa mu buryo bwinshi".[810] Niyo mpamvu kandi nsanga igika cya 77 kidafitanye isano na gato n'umwanzuro wafashwe mu rubanza rwa *Blaškić*. Umucamanza Shahabuddeen avuga[811] ko muri uwo mwanzuro, Urugereko rutashyize mu gaciro ruhamya Ujurira icyaha, hashingiwe ku ngingo ya 7(1), kubera ko ya yategetse umuntu akuriye igikorwa kitemewe n'amategeko. Avuga kandi ko rutanashyize mu gaciro rumuhamya icyaha nk'umuntu ukuriye abandi, hashingiwe ku ngingo ya 7(3), kubera ko atabujije umuntu akuriye gukora icyaha cyangwa ngo amuhane amaze kugikora. Muri make, ingingo ya 77 ntacyo ihindura ku ihame rikurikizwa n'uru Rukiko ku buryo bwinshi bw'uburyozwacyaha.

Bikozwe mu cyongereza no mu gifaransa, inyandiko iri mu cyongereza niyo izajya igenderwaho.

Ku itariki ya 19 Nzeri 2005, i La Haye, Ubuholandi.

Theodor Meron
Perezida w'Inteko
[umukono]
[Kashe y'Urukiko]

---

[810] Igitekerezo cyihariye kandi kinyuranye n'icy'abandi kuri bimwe cy'Umucamanza Shahabuddeen, urubanza mu bujurire, igika cya 405.
[811] Ni kimwe no haruguru, igika cya 410.

XV. IGITEKEREZO KINYURANYE N'ICY'ABANDI CY'UMUCAMANZA WOLFGANG SCHOMBURG

367. Nemera icyemezo Urugereko rw'Ubujurire rwafashe, ku bwiganze bw'amajwi, cyemeza icyafashwe mu rw'iremezo gihamya Ujurira icyaha cyo gutegeka abantu gukora ibikorwa bya jenoside[812] n'itsembatsemba muri rusange. Cyakora, sinshyigikiye icyemezo Urugereko rw'Ubujurire rwafashe cyo gukuraho umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko atanga intwaro, Ujurira yafashije cyane abantu, mu bikorwa no mu mitekerereze, gukora ubwicanyi bwabereye ku kigo cya paruwasi ya Gikomero ku itariki ya 12 Mata 1994. Sinshidikanya ko umucamaza wese usuzuma ibyabaye ushyira mu gaciro, aba yarageze ku mwanzuro nk'uwo Urugereko rwa Mbere rw'Iremezo rwafashe rutibeshya.

A. <u>GUTERA INKUNGA NO GUSHISHIKAZA UTANGA INTWARO</u>

368. Mu gika cya 68 cy'Inyandiko y'urubanza mu bujurire, Urugereko rw'Ubujurire

> rwemeranya n'Ujurira ko ibimenyetso byatanzwe bitatuma umuntu yanzura avuga ko itangwa ry'intwaro hari aho rihuriye n'igitero cyagabwe nyuma yahoo ku kigo cya Paruwasi ya Gikomero. Ntihanagaragajwe ko abantu bari mu nama yabereye kwa mubyara w'Ujurira bagiye muri icyo gitero. Byongeye kandi, ntihanagaragajwe

[812] Muri uru rubanza, si ngombwa kujya impaka ku "gutegeka" nk'uburyo bwo gukora icyaha cya jenoside. Cyakora, nk'ihame, ntawakwibagirwa ko ingingo ya 2 ya Sitati idahana igikorwa cyo "gutegeka gukora jenoside" Iyi ngingo isubiramo ijambo *ijambo ku ijambo*, ibiteganywa n'ingingo ya 2 n'iya 3 z'Amasezerano mpuzamahanga agamije gukumira no guhana icyaha cya Jenoside yo ku itariki ya 9 Ukuboza 1948. Iyo ngingo kandi ivuga birambuye ibikorwa bihanirwa n'uburyo bw'uburyozwacyaha, bityo "igasobanura birambuye icyo cyaha muri rusange". Umuntu azirikanye ihame shingiro ry'amategeko mpanabyaha riteganya ko ntawe uhanirwa icyaha giteganywa n'amategeko yagiyeho nyuma y'uko icyaha gikorwa (*nullum crimen, nulla poena sine praevia lege poenali*), nsanga ingingo ya 2 ya Sitati ihagararira gusa ku bikorwa biyivugwamo. Ni ngombwa kandi kumenya ko "gutegeka" bitavugwa nk'uburyo bwihariye bwo gukora icyaha. Cyakora, nta muburanyi n'umwe wavuze icyo kibazo mu bujurire. Byongeye kandi, ku bwumvikane bw'amacamanza bose, Inteko y'Urugereko rw'Ubujurire yemeje ko Urugereko rudafite impamvu n'imwe yo gufata icyemezo kuri iki kibazo *rubyibwirije*. Gukemura iki kibazo ntibyari ikintu cya ngombwa kugira ngo Urugereko rushobore gusuzuma imyitwarire yose mibisha y'Ujurira. Ikindi kintu cy'ingenzi kurushaho ni uko bitari kurenganya Ujurira wagize imyitwarire mibisha igize icyaha cya jenoside, gihanwa hakurikijwe ingingo ya 2(3) (a) ya Sitati, (Reba Imyanzuro yafashwe n'Urugereko rw'Ubujurire mu *rubanza rwa Semanza* ku bikorwa bya jenoside byakorewe ku kiliziya ya Musha, n'igika cya 364 cy'urwo rubanza). Imyitwarire mibisha y'Ujurira ntihinduka ugereranyije n'uko ivugwa mu Rugereko rwa Mbere rw'Iremezo rwayibonaga. Kubera iyo mpamvu, muri uru rubanza, si ngombwa gusuzuma ikibazo cyo guhindura inyito y'icyaha cya jenoside Ujurira yahamijwe, udashingiye ku ngingo ya 6(1) rya Sitati.

> ko intwaro yatanze zaba zakoreshejwe muri icyo gitero. Urugereko rw'Ubujurire rurongera kwibutsa ko Urugereko rwa Mbere rw'Iremezo rwavuze ko bishoboka ko abagabye igitero baba baravuye ahandi hantu hatari muri Gikomero.[813]]

369. Sinshyigikiye umwanzuro uvuga ko "nta bimenyetso bigaragaza isano iri hagati y'itangwa ry'intwaro n'igitero cyakurikiyeho". Ahubwo ntekereza ko Urugereko rwa Mbere rw'Iremezo rwemeye ubuhamya bugaragaza, hashyizwe mu gaciro, ko iyo sano ihari. Nsanga kandi nta kosa na rimwe urwo Rugereko rwakoze rwemeza ko kubera ko yatanze intwaro mu nama yabereye mu rugo rwa babiri muri babyara be i Gikomero, hagati y'itariki ya 6 n'iya 10 Mata 1994, Ujurira yateye abantu inkunga, akanabashishikariza gukora ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994.

370. Rumaze gusuzuma ibimenyetso byose rwashyikirijwe, niho Urugereko rwa Mbere rw'Iremezo rwemeje ko ubwicanyi bwabaye bufitanye isano n'itangwa ry'intwaro.

371. Uyu mwanzuro ushobora kugaragazwa by'umwihariko mu gika cya 648 cy'inyandiko y'urubanza mu rw'iremezo aho Urugereko ruvuga ko

> <u>Rukurikije imyanzuro rwafashe haruguru ishingiye ku byabaye no ku mategeko</u>, […..] rusanga Uregwa yaritabiriye ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero [….] abatera inkunga kandi abashishikariza gukora icyo cyaha atanga imbunda akanayobora abagabye igitero ku kigo cya Paruwasi ya Gikomero (ntibiciyeho akarongo mu nyandiko y'umwimerere).

Muri iki gika, Urugereko rwa Mbere rw'Iremezo ruvuga, mu buryo butaziguye, ku myanzuro rwafashe mbere mu nyandiko y'urubanza. Niyo mpamvu, nk'uko tubisanga mu magambo rukoresha, isano iri hagati yo gutanga intwaro n'ubwicanyi yagombye gusuzumwa hashingiwe "ku myanzuro yo mu rwego rw'ibyabaye n'urw'amategeko rwafashe haruguru" kandi rusanga ari iriburiro ry'icyemezo rwafashe ruvuga ko gutanga intwaro bigize icyaha cyo gutera abantu inkunga no kubashishikariza gukora ubwicanyi.

---

[813] Urubanza mu rw'iremezo, igika cya 67.

372. Iyo myanzuro ku byabaye ivugwa ni iyihe? Nk'urugero, ku gice cyitwa « Itangwa ry'intwaro mu mago ya babyara b'Uregwa » Urugereko rwa Mbere rw'Iremezo rwanzura ruvuga ko, hagati y'itariki ya 6 n'iya 10 Mata 1994[814], Ujurira yatanze za gerenade, imbunda n'imihoro abiha abantu baje mu nama yabereye i Gikomero mu mago ya babyara be babiri.

373. Urugereko rwa Mbere rw'Iremezo rutanga ibisobanuro birambuye kuri izo ntwaro kandi rukavuga n'amazina y'abantu bazihawe:

> GEK avuga ko mu cyumba umugabo we n'Uregwa barimo, hari abandi bantu bane aribo Ngiruwonsanga, Kamanzi, Karekezi na Ngarambe wari umuturanyi gusa. […] Avuga ko Uregwa yabwiye Kamanzi ko ubwicanyi butari bwatangira muri Komine ya Gikomero. Ngo yongeraho ko: "…abagombaga kubafasha ngo butangire bari barashatse Abatutsikazi". Avuga ko Uregwa yakomeje avuga ko ashobora kubazanira ibikoresho kugira ngo batangire kandi ko niba abagore babo bababereye imbogamizi, bagombaga kubanza kubikiza.[815]
>
> Bamubajije niba intwaro cyangwa ibindi bikoresho byaratangiwe muri icyo cyumba, GEK yagize ati "Nsohotse nabonye imbunda, amagerenade n'imihoro yatanze asohotse mu nzu. Avuga ko Uregwa yatangiye izo mbunda n'amagerenade mu nzu mbere y'uko basohoka. Avuga kandi ko yabonye umugabo we atwaye gerenade enye zasaga n'inyundo [….] [816]
>
> Urugereko rwanzuye ruvuga ko, mu nama yabaye ku itariki ya 6 no ku ya 10 Mata 1994, mu rugo rwa babyara be muri Komine ya Gikomero, Uregwa yafashe ijambo, agahamagarira abari aho gutangira kwica Abatutsi, akabaha za gerenade, imihoro n'imbunda ngo babikoreshe ubwabo ndetse banabikwirakwize mu bandi bantu. Yanababwiye ko azagaruka kureba ko batangiye kwica cyangwa kureba niba ubwicanyi bushobora gutangira.[817]

374. Urugereko rwa Mbere rw'Iremezo rwanzuye kandi ruvuga ko Uregwa yabwiye abantu bari aho

> ko ubwicanyi butaratangira muri Komine ya Gikomero, ko "abagombaga kubafasha kubutangiza barongoye Abatutsikazi. [Ya]babwiye gutanga izo ntwaro kandi ko yari kugaruka kubafasha. Yanabwiye ko yari kugaruka kureba niba baratangiye ubwicanyi cyangwa kugira ngo ubwicanyi butangire[818].

---

[814] Ni kimwe no haruguru, igika cya 273. Reba na none igika cya 637.
[815]Ni kimwe no hagurugu, igika cya 253 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[816] Ni kimwe no haruguru, igika cya 255 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[817] Ni kimwe no haruguru, igika cya 637 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).
[818] Ni kimwe no hagurugu, igika cya 273. Reba na none igika cya 637 (Ibisobanuro byo hasi ku rupapuro ntibyongewemo)

375. Urugereko rwa Mbere rw'Iremezo ruvuga, inshuro nyinshi, intwaro z'ubwoko bumwe rusobanura ko ari zo zakoreshejwe mu bwicanyi:

> Naho kubyerekeranye n'igitero nyirizina, Urugereko rusanga ubuhamya bwatanzwe mu Rukiko buvuga ko Bucundura amaze kwicwa, abari bazanye n'Uregwa bateye impunzi bakoresheje imbunda, amagerenade n'intwaro za gakondo. [….]Byongeye kandi, Urugereko rwemera ko igitero cyagabwe n'abantu bazanywe kandi bayobowe n'Uregwa, n'ubwo we yahavuye igitero kigitangira [819]
>
> Urugereko rwanzura ruvuga ko Uregwa yageze ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, ari kumwe n'*Interahamwe*, abasirikare, abapolisi ba komine n'abaturage batuye muri ako gace bitwaje imbunda, amagerenade n'izindi ntwaro. Rwanzura kandi ruvuga ko yabajyanye ku kigo cya Paruwasi ya Gikomero muri Perefegitura ya Kigali-Ngari ngo bagabe igitero. Rushingiye ku bimenyetso byose byatanzwe, Urugereko rusanga Uregwa yaragabye igitero, rukananzura, ku bwiganze bw'amajwi, ruvuga ko yavuze ngo "Mukore" ategeka abari bagabye igitero gutangira kwica.[820]
>
> Urugereko rwanzura ruvuga ko ku itariki ya 12 Mata 1994, ku kigo cya Paruwasi ya Gikomero, abagabye igitero bakoresheje intwaro za gakondo, imbunda n'amagerenade mu kwica no gukomeretsa impunzi nyinshi z'Abatutsi. Ubwicanyi bwakozwe n'*Interahamwe* zitwaje intwaro, abasirikare, abapolisi ba komine n'abaturage batuye muri ako gace. Ubwo bwicanyi bwakorewe mu kigo, muri kiriziya no mu byumba by'amashuri.[821]
>
> Hakurikijwe ibimenyetso byose byatanzwe, Urugereko rwanzuye ruvuga ko Uregwa ari we nyirabayazana w'igitero. […] Rwanzuye kandi ko Uregwa yageze ku kigo cy'amashuri ari kumwe n'agatsiko k'abaturage, abasirikare, abapolisi n'*Interahamwe* zitwaje imbunda, gerenade n'izindi ntwaro, kandi ko yabajyanye ku kigo cya Paruwasi ya Gikomero, akabategeka kugaba igitero.[822]

376. Byongeye kandi, Urugereko rwa Mbere rw'Iremezo rusobanura ko izo ntwaro ari zo zakoreshejwe mu bwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero. Nk'urugero, ruvuga ko GEK

> Avuga ko yabonye icyo izo ntwaro zakoreshejwe igihe Uregwa yagarukaga gutangiza ubwicanyi.[823]

---

[819] Ni kimwe no haruguru, igika cya 493.
[820] Ni kimwe no haruguru, igika cya 505.
[821] Ni kimwe no haruguru, igika cya 506.
[822] Ni kimwe no haruguru, igika cya 643.
[823] Ni kimwe no haruguru, igika cya 256 (mu nyandiko y'umwimerere ntibiri muri italiki; ibisobanuro byo hasi ku rupapuro ntibyongewemo)

377. Kuri iyi ngingo, ni ngombwa kwibutsa ko Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko "GEK akwiye kwizerwa cyane."[824] Bityo, kuba Urugereko rwa Mbere rw'Iremezo ruvuga iki gice cy'ubuhamya bw'uyu mugabo, byerekana ko rwasanze gutanga intwaro bigize icyaha cyo gutera abantu inkunga no kubashishikariza gukora ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero.

378. Uyu mwanzuro ugomba kandi gusuzumwa hifashishijwe Inyandiko y'ibirego. Ku byerekeye ubwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero ku itariki ya 12 Mata 1994, Kamuhanda ashinjwa ibikorwa bikurikira mu Nyandiko y'ibirego:

> Jean de Dieu Kamuhanda, Minisitiri mushya muri Guverinoma y'Agateganyo yari afite abantu bo mu muryango we muri Komine ya Gikomero, Perefegitura ya Kigali-Ngari. Muri Mata 1994, yagenzuye ubwicanyi bwakorewe muri ako gace. Inshuro nyinshi, ubwe yitangiye imbunda, amagerenade n'imihoro abiha abasiviri bitwara gisirikare bo muri Kigali-Ngari agamije « kwicisha Abatutsi bose […][825].

> Byongeye kandi, [….] Jean de Dieu Kamuhanda yayoboye ubwe ibitero abasirikare n'Interahamwe bagabye ku mpunzi z'Abatutsi muri Perefegitura ya Kigari-Ngari, cyane cyane kuri Paruwasi ya Gikomero no ku mashuri byegeranye. Icyo gihe, Jean de Dieu Kamuhanda yageze kuri ayo mashuri ari kumwe n'itsinda ry'abasirikare n'Interahamwe bitwaje imbunda n'amagerenade. Yajyanye abantu bitwara gisirikare ku kibuga cy'amashuri maze abategeka kugaba igitero ku mpunzi. Abasirikare n'abantu bitwara gisirikare bubahirije itegeko rye maze ibihumbi byinshi by'abantu biricwa[826].

By'umwihariko, igika cya 6.44 cyerekana ko mu byo Urugereko rwa Mbere rw'Iremezo rwasabwe gufataho icyemezo harimo itangwa ry'intwaro byakozwe n'Ujurira, ntirubifate nk'igikorwa ukwa cyo ahubwo rukabisuzuma rushingiye ku bivugwa hagamijwe kugaragaza ko Ujurira yari yaritswemo n'umugambi wo gukora jenoside n'itsembatsemba ryibasiye Abatutsi, nibura mu karere yayoboraga, kandi ko yateguye ikorwa ry'ibyo byaha. Kubera ko mu rw'iremezo urubanza rugomba gufatwa nk'"igisubizo" ku bibazo bivugwa mu Nyandiko y'ibirego, nta gushidikanya ko Urugereko rwa Mbere rw'Iremezo rwafashe imyanzuro ku itangwa ry'intwaro rushingiye

[824] Ni kimwe no haruguru, igika cya 272.
[825] Reba Inyandiko y'ibirego, igika cya 6.44 (Mu nyandiko y'umwimerere ntibiri muri italiki).
[826] Ni kimwe no haruguru, igika cya 6.45

ku bwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero. Muri iyo Nyandiko y'ibirego, havugwa mu magambo asobanutse ko " abasiviri bitwara gisirikare bo muri Kigali-Ngari bahawe imbunda, amagerenade n'imihoro kugira ngo bice Abatutsi bose […]". Urugereko rwa Mbere rw'Iremezo ntirwanze kwakira iki kirego. Ahubwo, amagambo avugwa haruguru yerekana ko urwo Rugereko rwasanze ibivugwa mu gika cya 6.44 cyo mu Nyandiko y'ibirego byaragaragajwe nta gushidikanya na gato.

379. Ku byerekeye abantu bitabiriye ubwicanyi mu kigo cya Paruwasi ya Gikomero, ku bwiganze bw'amajwi, Urugereko rw'Ubujurire rusanga **"**hataragaragajwe ko abantu bari mu nama yabereye kwa mubyara w'Ujurira bagiye muri icyo gitero. Byongeye kandi, ntihanagaragajwe ko intwaro yatanze zaba zakoreshejwe muri icyo gitero. Urugereko rw'Ubujurire rurongera kwibutsa ko Urugereko rwa Mbere rw'Iremezo rwavuze ko bishoboka ko abagabye igitero baba baravuye ahandi hantu hatari muri Gikomero."[827] Sinshyigikiye uyu mwanzuro.

380. Urugereko rwa Mbere rw'Iremezo rwanzura ruvuga ko "nta kimenyetso na kimwe simusiga cyemeza ko abagabye ibitero baje bavuye muri Rubungo".[828] Ariko uyu mwanzuro ntiwafashwe hagamijwe kugaragaza ko abagabye igitero bashobora kuba baraturutse ahandi hantu hatari i Gikomero. Mu buryo busobanutse, uyu mwanzuro wafashwe n'Urugereko rwa Mbere rw'Iremezo rumaze gusuzuma ibyo Ubwunganizi buvuga ko abagabye ibitero bavuye muri Rubungo, ko rero nta hantu Ujurira ahuriye n'ubwicanyi.[829] Kuba Urugereko rwa Mbere rw'Iremezo rwaranze kwemera ibyo bintu bivugwa n'Ubwunganizi, bijyanye n'indi myanzuro myinshi rwafashe rwemeza ko hari isano hagati yo kuba Ujurira yarahaye intwaro abantu no kuba abo bantu baragiye mu bwicanyi:

> GEK avuga ko Uregwa yahaye intwaro Karekezi, Njiriwonga na Ngarambe. Mu ibazwa rinyomoza, yemera ko Ngiruwonsanga yari Interahamwe ruharwa kandi ko yari ahari ubwo Uregwa yazaga gutanga intwaro. Avuga ko Ngiruwonsanga yabaga

[827] Urubanza mu bujurire, igika cya 68.
[828] Urubanza mu rw'Iremezo, igika cya 67.
[829] Ni kimwe no haruguru, igika cya 66.

> ari ahantu hose hagabwaga ibitero. GEK avuga ko yiboneye ubwe Ngarambe na Ngiruwonsanga batemagura abantu kuri santeri y'ubucuruzi.[830]

Mu bivugwa muri ubu buhamya harimo ko Ngarambe na Ngiruwonsanga bari mu bantu bakoze ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero. Kubera ko Urugereko rwa Mbere rw'Iremezo rwemeje ko ubuhamya bwa GEK mu Rukiko bukwiye kwizerwa, umuntu agomba kuvuga ko Urugereko rwa Mbere rw'Iremezo rwemeye iki gice cy'ubuhamya bwe mu Rukiko.

381. Ku byerekeye uruhare rwa Karekezi, GEK avuga ko ku munsi w'ubwicanyi yongeye kubona Ujurira agarutse kugira ngo "abutangize (…) ku kigo cy'amashuri abanza".[831] GEK agira ati: "Namubonye ahagera, ariko ntiyaje iwacu mu rugo. Yagiye mu rugo rw'umuturanyi wacu witwa Karekezi."[832] Porokireri yaramubajije ati: "Uwo Karekezi, ni umwe n'uwo wabonye umunsi intwaro zitangwa?" Mu gisubizo cye, GEK yemeye, mu buryo busobanutse, ko ari uwo muntu. Yagize ati: "Yego, ni uwo Karekezi"[833]. GEK yongeraho ko Ujurira yerekeje ku mashuri abanza (ari mu kigo cya Paruwasi ya

---

[830] Ni kimwe no haruguru, igika cya 257. (mu nyandiko y'umwimerere ntibiri muri itariki; ibisobanuro byo hasi ku rupapuro ntibyongewemo). Reba na none inyandiko-mvugo y'iburanisha mu rw'iremezo, itariki 4 Nzeri 2001, urup. 50, 51 (Mu muhezo) (GEK) [ENG]
Q: Hari igihe wabonye abantu bicwa cyangwa baterwa ku musozi?
R: Yego, narabibonye. Nabonye abantu bazanwa kuri santeri y'ubucuruzi aho twari dutuye, kugira ngo bicwe.
Q: Wabibonye hashize iminsi ingahe barashe ku mashuri ?
R: Uwo munsi, bavuye kwica, bahiciye abacitse ku icumu. Bukeye ndetse n'iminsi yakurikiyeho nabwo bakomeje kwicira abantu kuri santeri y'ubucuruzi twari dutuyeho. (inyandiko-mvugo y'iburanisha mu rw'iremezo, 4 Nzeri 2001, im. 9, 10 (Mu muhezo) (GEK) [ENG]
(…)
Q: Mu buhamya bwawe mu Rukiko wavuze ko wabonye Kamuhanda. Wanavuze n'amazina ane y'abantu bari kumwe nawe ari bo Ngarambe, Karekezi, Ngiruwonsanga na Kamanzi. Ni byo ko abantu wavuze amazina bari kumwe na Bwana Kamuhanda?
R: Yego, nababonye bari kumwe
Q: Hari uwo wigeze ubona muri abo bantu bane atera cyangwa yica abantu kuri santeri y'ubucuruzi cyangwa ku mashuri ?
R: Yego, naramubone. Narababonye. Niboneye Ngarambe na Ngiruwonsanga batemagura abantu kuri santeri y'ubucuruzi. (Inyandikomvugo y'iburanisha mu rw'iremezo, 4 Nzeri 2001, imp. 12, 13 (Mu muhezo) (GEK) [ENG]

[831] Inyandikomvugo y'iburanisha mu rw'iremezo, 3 Nzeri 2001, urup. 180 (mu muhezo) (GEK) [ENG]. Reba na none urubanza mu rw'iremezo, igika cya 439. n'igitekerezo cyihariye kandi gihuye n'ibindi cy'umucamanza Maqutu ku mikirize y'urubanza, igika cya 31

[832] Inyandikomvugo y'iburanisha mu rw'iremezo, 3 Nzeri 2001, urup. 180 (Mu muhezo) (GEK) [ENG]. Reba na none Urubanza rw'iremezo, igika cya 439 n'igitekerezo cyihariye kandi gihuye n'ibindi cy'umucamanza Maqutu ku mikirize y'urubanza, igika cya 31.

[833] Inyandikombugo y'iburanisha mu rw'iremezo, 3 Nzeri 2001, urup. 180 (mu muhezo) (GEK). [ENG]

Gikomero).[834] Porokireri amubajije niba icyo gihe Ujurira yari wenyine cyangwa niba yari kumwe n'abandi bantu, GEK arasubiza ati: "Mu by'ukuri, bose buriye imodoka. Ubwo yari agiye kwerekeza ku mashuri, Karekezi yagiye mu modoka."[835] Na none, ushyize ibyo avuga mu rwego rusange rw'ibimenyetso byatanzwe ukabisuzuma ushingiye ku myanzuro ivugwa haruguru, biragaragara ko iki gice cy'ubuhamya bwa GEK mu Rukiko ari cyo Urugereko rwa Mbere rw'Iremezo rwashingiyeho mu kwemeza ko Ujurira yateye abantu inkunga, akabashishikariza gukora ubwicanyi kubera ko yahaye intwaro abantu bari bateraniye mu rugo rwa babyara be babiri.

382. Ibimenyetso byose byatanzwe bigaragaza ko mu buhamya bwe mu Rukiko, GEK atavuga gusa ko Ujurira yatanze intwaro mu rugo rwe [GEK] hasigaye iminsi mike ngo ubwicanyi bube. Ahubwo GEK avuga ryo tangwa ry'intwaro ku byerekeranye n'uruhare Ujurira yagize mu gutegura no gukora ubwicanyi bwabereye ku ku kigo cya Paruwasi ya Gikomero. Ni muri urwo rwego kandi Porokireri yabajije GEK. Mu bibazo Porokireri yamubajije, harimo ibyerekeye isano iri hagati y'inama Ujurira n'abandi bantu bakoreye kwa GEK hagati y'itariki ya 6 n'iya 10 Mata 1994, n'ubwicanyi bwakorewe ku kigo cya Paruwasi ya Gikomero ku itariki 12 Mata 1994. Urugereko rwa Mbere rw'Iremezo rwazirikanye ibi bintu byose maze rusanga ibyo bintu byombi bifitanye isano ikomeye. Ubuhamya n'imyanzuro bivugwa bigaragaza ko, nk'uko abishinjwa mu bivugwa by'ingenzi mu Nyandiko y'ibirego, bitari ngombwa ko Urugereko rwa Mbere rw'Iremezo rukomeza gufata imyanzuro ku isano iri hagati y'itangwa ry'intwaro n'ubwicanyi. Ibyo mvuga bishyigikiwe kandi n'uko Umucamanza Maqutu adatanga igitekerezo gitandukanye n'icy'abandi kuri iki kibazo, ariko agatanga igitekerezo gitandukanye n'icy'abandi ku bindi bice by'urubanza mu rw'iremezo.[836]

383. Iyi myanzuro yo mu rwego rw'ibyabaye Urugereko rwa Mbere rw'Iremezo rwashingiyeho mu kwemera ko gutanga intwaro bifitanye isano n'ubwicanyi ishyize mu

834 Ni kimwe no haruguru, urup. 182 (Mu muhezo) (GEK). [ENG]
835 Ni kimwe no haruguru, 3 Nzeri 2001, urup. 183 (Mu muhezo) (GEK). [ENG]
836 Reba Igiterekerezo cyihariye kandi gihuye n'icy'abandi cy'Umucamanza Maqutu ku mikirize y'urubanza, ibika 24-39.

gaciro. Iyo myanzuro ishyigikiwe n'indi myanzuro yo mu rwego rw'ibyabaye rwafashe mu bindi bice by'urubanza mu rw'iremezo:

- Urugereko rwa Mbere rw'Iremezo rusanga inama yo mu rugo rwa babyara b'Ujurira yabereye i Gikomero, ni ukuvuga hafi y'ikigo cya Paruwasi ya Gikomero;
- Ubwicanyi bwabereye ku kigo cya Paruwasi ya Gikomero bwakozwe ku itariki 12 Mata 1994, ni ukuvuga hashize iminsi mike iyo nama ibaye;
- "Uregwa yabwiye abari muri iyo nama ko azabazanira "ibikoresho" kugira ngo batangire [….] yabasabye gutanga izo ntwaro kandi […] azagaruka kureba niba baratangiye ubwicanyi cyangwa kubafasha kubutangiza."[837]

Uzirikanye ukuntu ubwicanyi bwo ku kigo cya Paruwasi ya Gikomero bwakorewe hafi y'ahantu iyo nama yabereye, ndetse bukaba no mu gihe cyegeranye n'icyo iyo nama yabereyemo, usanga amagambo y'Ujurira yatuma umucamanza wo mu rw'iremezo ushyira mu gaciro yemeza, nk'uko Urugereko rwa Mbere rw'iremezo rwabikoze, ko itangwa ry'intwaro ryagize uruhare runini, mu bikorwa cyangwa mu mitekerereze by'abantu, mu bwicanyi.

384. Ku byerekeye imyanzuro yo mu rwego rw'amategeko yafashwe n'Urugereko rwa Mbere rw'Iremezo, biragaragara ko urwo Rugereko rwari ruzi ko ari ngombwa kugaragaza ko iyo sano iriho kugira ngo Uregwa aryozwe icyaha cyo kuba yarateye abantu inkunga kandi akabashishikariza gukora icyaha.[838] Urugereko rwa Mbere rw'Iremezo ruvuga, rutibeshya, ko mu gihe "'Gutera inkunga' ari uguha umuntu uburyo bwo gukora icyaha,

[837] Urubanza mu rw'iremezo, igika cya 273.

[838] Mu nkoranya yitwa *Black's Law Dictionary* havugwa ko gufasha inkunga no gushishikariza (*aiding and abetting*) bivuga "gutera inkunga cyangwa korohereza abandi gukora icyaha", icapa rya 8 (St. Paul West Group), urup. rwa 76. Black kandi isobanura aho gufasha mu bikorwa ("to aid") no gufasha mu bitekerezo ("to abet") bitandakuniye. Mu mategeko y'Ubudage naho batandukanya gufasha mu bikorwa no gufasha mu bitekerezo (*physische* and *psychologische Beihilfe),* reba Cramer/Heine muri Schönke/Schröder, Strafgesetzbuch Kommentar, icapa rya 26, 2001, § 27, mn 12.

'Gushishikariza' byo ni ukorohereza umuntu gukora icyaha, kumugira inama cyangwa kumuhamagaria kugikora".[839] Byongeye kandi rwanzuye ruvuga ko :

> Inkunga y'icyitso gitera inkunga cyangwa gishishikariza gatozi mbere y'ikorwa ry'icyaha cyangwa kirimo gukorwa, ishobora kuba ari ikintu gifatika, amagambo ashyigikira cyangwa se inkunga mu bitekerezo, bigira uruhare rugaragara mu mikorere y'icyaha, gatozi aregwa. Si ngombwa ko inkunga yatazwe mbere y'uko icyaha gikorwa cyangwa se kirimo gukorwa ari yo yaba yaratumye gitsotsobwa, iyo nkunga ipfa gusa kuba yaragize uruhare runini gutuma gatozi akora icyaha.[840]

Bityo, n'iyo intwaro Ujurira yatanze ziza kuba zitarakoreshejwe na rimwe, kuba yarazitanye byonyine ni inkunga yo mu bitekerezo, kuko ari igikorwa cyo gushishikaza cyagize uruhare runini mu ikorwa ry'ubwicanyi, bityo cyaramuka kitiswe gushishikaza kikitwa gutera inkunga.

385. Imyanzuro mu rwego rw'amategeko igaragaza neza ko, mu gusuzuma ibimenyetso, Urugereko rwa Mbere rw'Iremezo rwazirikanye isano ya ngombwa kugira ngo rwemeze ko habeyeho "gutera inkunga no gushishikaza". Biragaragara kandi ko ari yo mpamvu rwemeje ko Ujurira ahamwa n'icyaha cyo gutera abantu inkunga no kubashishikariza gukora ubwicanyi kubera ko yatanze intwaro. Kuba ahamwa n'icyaha bigaragazwa kandi n'uko Urugereko rwa Mbere rw'Iremezo rwashingiye k'ukwizerwa kwa GEK. Urugereko rwa Mbere rw'Iremezo ntirwigeze rwanga igice na kimwe cy'ubuhamya bwe kandi nta n'ubwo rwigeze rwanga kwemera ibyo GEK avuga ku itangwa ry'intwaro bifite aho bihuriye n'ubwicanyi bwakozwe. N'ubwo byari kuba byiza Urugereko rwa Mbere rw'Iremezo rufashe imyanzuro isobanutse kurushaho ku isano ya ngombwa iri hagati y'itangwa ry'intwaro n'ubwicanyi, ni ngombwa kongera kuvuga ko mu rubanza rwaciye,

---

[839] Urubanza mu rw'iremezo, igika cya 596 (ibisobanuro byo hasi ku rupapuro ntibyongewemo, mu nyandiko y'umwimerere ntibiri muri italiki). Urebye ni ugusubiramo ijambo ku ijambo ibivugwa muri Charles E. Tocia, Wharton's Criminal Law, §29, urup. 181 (Icapa rya 15, 1993), bisubirwamo muri Black's Law Dictionary, reba igisobanuro nomero 838 hejuru, urup. 76.

[840] Urubanza mu rw'iremezo, igika cya 597 (ibisobanuro byo hasi ku rupapuro ntibyongewemo).

bitari ngombwa ko Urugereko rusobanura buri cyiciro cy'imitekerereze yarwo yatumye rufata umwanzuro[841] warwo, cyane cyane iyo iyo sano yigaragaza.

B. GUHAMWA N'IBYAHA BYINSHI

386. Ku bwumvikane bw'amacamanza bose, Urugereko rw'Ubujurire rwemeje ko

> Mu guhamya Ujurira icyaha cyo gutera abantu inkunga, kubashishikariza no kubategeka gukora ibyaha akurikiranyweho, Urugereko rwa Mbere rw'Iremezo rwashingiye ku myanzuro rwafashe mu rwego rw'ibyabaye .[842]

Iyi myanzuro yo mu rwego rw'ibyabaye ivuga ku myanzuro itanu kuri itandatu ivugwa mu gika cya 77 cy'Inyandiko y'urubanza mu bujurire. Ku mwanzuro wa mbere muri iyo itandatu ivugwa ku itangwa ry'intwaro, benshi mu bacamanza bagize Inteko basanga atari igikorwa cyo gutera inkunga no gushishikaza.[843] Nk'uko nabivuze haruguru, sinshigikiye uwo mwanzuro Urugereko rwafashe ku bwiganze bw'amajwi.

387. Rushingiye ku myanzuro itanu ku byabaye ivugwa haruguru, ku bwiganze bw'amajwi Urugereko rw'Ubujurire rwemeje icyaha Ujurira yahamijwe cyo kuba yarategetse abantu gukora ibikorwa aregwa. Cyakora, ntirwemeje icyaha yahamijwe cyo kuba yarateye abantu inkunga akanabashishikariza gukora icyaha. Rwanze kucyemeza kuko kubikora byatuma Uregwa ahamwa n'ibyaha byinshi ku gikorwa kimwe kandi bitemewe. Iki cyemezo Urugereko rwafashe ku bwiganze bw'amajwi, hashingiwe gusa ku myanzuro itanu ku byabaye ivugwa haruguru, gituma umuntu yibaza niba kuba Ujurira yarahamijwe icyaha ku itangwa ry'intwaro nabyo bishingiye ku bikorwa bimwe. Ari uko bimeze, nabyo byatera inenge iki gice cya gatandatu cy'icyemezo kimuhamya icyaha kuko yaba ahamijwe ibyaha byinshi ku gikorwa kimwe. Uko mbibona, Ujurira ashobora guhamwa gusa no kuba yarategetse abantu gukora icyaha kigizwe n'ibikorwa byose

[841] *Urubanza* rwa *Čelebići mu bujurire*, igika cya 481; Reba na none urubanza rwa *Musema* mu bujurire, ibika 18-19.
[842] Urubanza mu bujurire, igika cya 77.
[843] Urubanza mu bujurire, igika cya 72.

Urugereko rwa Mbere rw'Iremezo rwise gutera abantu inkunga no kubashishikariza gukora icyaha.

388. Ibyo Ujurira yakoze, haba mu nama yabereye mu rugo rwa babyara be, cyangwa ibyatumye Abatutsi bicwa nyuma y'iminsi mike, byose biri mu rwego rw'ibikorwa birangwa n'ibintu byinshi bitandukanye byabaye. Nk'urugero, ibi bigaragazwa n'umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko mu nama

> Uregwa yafashe ijambo, agahamagarira abari aho gutangira kwica Abatutsi, akabaha za gerenade, imihoro n'imbunda ngo babikoreshe ubwabo ndetse banabikwirakwize mu bandi bantu. Yanababwiye ko azagaruka kureba ko batangiye kwica cyangwa kureba niba ubwicanyi bushobora gutangira.[844]

Uyu mwanzuro werekana ko ibikorwa Ujurira yakoze mu nama na nyuma yaho ku kigo cya Paruwasi ya Gikomero, bifatanye isano ku buryo bidashobora gutandukanywa. Gutandukanya ibikorwa byashingiweho mu guhamya Ujurira icyaha ku kirego cyo gutera inkunga no gushishikariza abantu gukora, ku ruhande rumwe, no gutegeka ko icyo cyaha gikorwa, ku rundi ruhande, byaba ari ugutandukanya ibyo bikorwa kandi nta shingiro byaba bifite. Bityo rero, kumuhamya icyaha ku kirego cyo gutera abantu inkunga no kubashishikaza, kubera ko, nk'urugero, Ujurira yatanze intwaro, bishingiye ku bikorwa bidatandukanye n'ibigenderwaho mu kumuhamya icyaha cyo kuba yaratagetse abantu gukora ibikorwa bibujijwe. Kubera ko ubu buryo bwa ka kabiri bwo gukora icyaha ari bwo busobanutse kurusha ubwa mbere, kuba Ujurira yarahamijwe icyaha cyo gutegeka abantu gukora jenoside n'itsembatsemba ni byo byonyine Urugereko rw'Ubujurire rwemeje rufite ukuri. Jye nsanga icyo cyaha kirimo n'itangwa ry'intwaro, kandi kuba intwaro zaratanzwe ni ikintu cya ngombwa cyatumye abantu bashobora gukora ibikorwa bya jenoside n'itsembatsemba.

389. Muri uru rwego, ni ngombwa kumenya ko ibyagerwaho ntaho bihuriye n'uko Ujurira agomba guhamwa n'icyaha kimwe gusa ku buryo bwinshi bwo gukora icyaha buteganywa n'ingingo ya 6 (1) ya Sitati. Ku ruhande rumwe, guhamya umuntu icyaha ku buryo bwinshi bwo gukora icyaha bigomba gushingira ku myitwarire yose mibisha

[844] Urubanza mu rw'iremezo, igika cya 637.

y'uregwa. Ku rundi ruhande, guhamya uregwa icyaha ntibigomba na rimwe gutuma umuntu yumva ko ushinjwa ahanwe inshuro ebyiri ku myitwarire imwe ivugwa mu buryo bubiri butandukanye bwo gukora icyaha. Icyo gihe byaba binyuranyije n'iri hame shingiro ry'amategeko ahana ibyaha ndetse bikananyuranya n'ihame ryo gushyira mu gaciro ribuza ko umuntu ahanirwa kuba yarategetse abantu gukora icyaha, akongera guhanirwa ko yabateye inkunga akanabashishikariza kugikora, kubera ko gutegeka gutera inkunga no gushishikaza bishingiye ku myitwarire mibisha imwe.

Bikozwe mu cyongereza no mu gifaransa, inyandiko yo mu cyongereza niyo izajya igenderwaho.

I La Haye, mu Buholandi, ku itariki ya 19 Nzeri 2005,

Wolfgang Schomburg
Umucamanza
[umukono]
[Kashe y'Urukiko]

XVI. IGITEKEREZO CYIHARIYE KANDI GITANDUKANYE N'ICY'ABANDI KURI BIMWE CY'UMUCAMANZA MOHAMED SHAHABUDDEEN

390. Muri rusange, nshyigikiye imikirize y'urubanza rwaciwe n'Urugereko rw'Ubujurire, uretse ingingo imwe ngiye gutangaho igitekerezo gitandukanye n'icy'abandi. Mboneyeho kandi no gutanga igitekerezo gihuye n'icy'abandi ku yindi ngingo ngiye gutangiriraho.

A. INGANO YO GUTANGA INKUNGA NO GUSHISHIKAZA

391. Ku gika cya 68 cy'urubanza rwaciwe uyu munsi, umuntu yakwibaza niba Urugereko rw'Ubujurire rufite ukuri mu kwemera ibyo Ujurira avuga ko ibimenyetso byatanzwe bitagaragaza isano, iyo ari yo yose, iri hagati y'itangwa ry'intwaro ryabereye mu rugo rwa mubyara we n'igitero cyagabwe nyuma yaho ku kigo cya Paruwasi ya Gikomero. By'umwihariko, umuntu yakwibaza niba Urugereko rw'Ubujurire rwari rufite ukuri mu kuvuga ko Urugereko rwa Mbere rw'Iremezo rutemeje ko abantu Ujurira yabwiye ijambo muri iyo nzu bari mu bagabye ibitero, bitabiriye jenoside yakozwe nyuma yaho, ndetse ntirwemeze ko izo ntwaro zakoreshejwe mu gukora icyo cyaha.

392. Urugereko rwa Mbere rw'Iremezo rwemeje ko mu nama yabereye mu rugo rwa mubyara we i Gikomero hagati y'itariki ya 6 n'iya 10 Mata 1994, Ujurira yahaye abantu bamwe intwaro. By'umwihariko, "Uregwa yabwiye abantu bari aho ko azabazanira "ibikoresho" kugira ngo batangire […] ko bagomba gutanga izo ntwaro […] kandi ko azagaruka kureba niba baratangiye ubwicanyi cyangwa kubafasha kubutangiza".[845]

393. Muri iyi myanzuro, Urugereko rwa Mbere rw'Iremezo rwasanze Ujurira yarateye abantu inkunga, akanabashishikariza gukora jenoside yabereye ku kigo cya Paruwasi ya Gikomero, ku itariki ya 12 Mata 1994. Cyakora, Urugereko rwa Mbere rw'Iremezo

[845] Urubanza rwa *Kamuhanda* mu rw'iremezo, ICTR-99-54A-T, 22 Mutarama 2003, igika cya 273.

ntirwanzuye ruvuga ko, mu bari mu nama yabereye mu rugo rwa mubyara w'Ujurira (uretse Ujurira ubwe), hari umuntu uwo ari we wese wari kuri icyo kigo igihe ubwicanyi bwahakorerwaga. Urwo Rugereko ntirwanasanze kandi hari intwaro n'imwe, mu zo Ujurira yahaye abari mu nama, yakoreshejwe mu bwicanyi. Kubera izo mpamvu, Urugereko rw'Ubujurire rwavanyeho umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko Ujurira yateye abantu inkunga, akanabashishikariza gukora jenoside kubera ko yatanze izo ntwaro akanababwira amagambo avugwa haruguru, mu nama yabereye mu rugo rwa mubyara we.

394. Dushyize ku ruhande ikibazo cy'isano hagati y'icyaha n'icyagiteye, amategeko, nk'uko inkiko nyinshi ziyumva, asa naho avuga ko kugira ngo hagaragazwe ko habayeho gutera inkunga no gushishikaza, ni ngombwa gutanga ikimenyetso cyerekana ko igikorwa cy'icyitso cyagize uruhare rugaragara mu ikorwa ry'icyaha ("isano"). Muri uru rubanza, nta gushidikanya ko iyo sano yari kugaragazwa iyo abantu bari mu nama yabereye mu rugo rwa mubyara w'Ujurira baza kwitabira ubwicanyi ndetse/cyangwa n'iyo intwaro bahawe ziza gukoreshwa mu bwicanyi. Cyakora, nk'uko bimaze kuvugwa, nta mwanzuro n'umwe Urugereko rwa Mbere rw'Iremezo rwafashe kuri icyo kibazo.

395. Umuntu yagira amatsiko ku bivugwa ko bishyize mu gaciro kwanzura uvuga ko inama yabereye kwa mubyara w'Ujurira ifitanye isano n'ubwicanyi bwakoze nyuma yayo: iyo nama yabereye i Gikomero hafi cyane y'ahantu habereye ubwicanyi kandi iba hasigaye iminsi mike gusa ngo ubwo bwicanyi bube. N'ubwo ibi bintu bigomba kwitabwaho, jye mbishidikanyaho. Nemera ko, rushingiye kuri ibi bimenyetso biziguye, Urugereko rwa Mbere rw'Iremezo rwari kuba rushyize mu gaciro iyo rwanzura ruvuga ko isano ya ngombwa yagaragajwe. Cyakora, kubera ko nsanga Urugereko rwa Mbere rw'Iremezo rutarafashe uwo mwanzuro, sinshobora gushyigikira igitekerezo kivuga ko Urugereko rw'Ubujurire rwagombaga gufata uwo mwanzuro, rukanawushingiraho ngo rwemeze umwanzuro w'Urugereko rwa Mbere rw'Iremezo.

396. Ikibazo gihari giterwa n'uko, kubera ko Porokireri agomba kugaragaza, mu buryo budashidikanywaho, ibyo aregera byose, Urugereko rwa Mbere rw'Iremezo rugomba

gufata imyanzuro ku byabaye isobanutse. Kuba ibimenyetso bigaragaza iyo sano biri mu nyandikomvugo z'iburanisha, jye nsanga bidahagije. N'ubwo rudategetswe gusobanura buri cyiciro cy'imiterekerereze yarwo, Urugereko rwa Mbere rw'Iremezo rugomba gufata umwanzuro usobanutse iyo ari ikintu kigize icyaha.

397. Muri uru rubanza, Urugereko rwa Mbere rw'Iremezo rwashoboraga gufata imyanzuro ijyanye n'iki kibazo, cyangwa ntiruyifate. Byongeye kandi, Urugereko rwa Mbere rw'Iremezo rwashoboraga gusanga ibimenyetso rwashyikirijwe bitagaragaza, mu buryo budashidikanywaho, ukuri ku ibyabaye bivugwa (ko intwaro zatanzwe zakoreshejwe mu bwicanyi, cyangwa ko abantu baganiriye n'Ujurira kwa mubyara we bari mu bagabye ibitero bakoze ubwo bwicanyi). Ibyo birashobora kubera, cyane cyane, ko hari ahavugwa ko abagabye igitero bavuye mu tundi turere tw'igihugu. Niba ibivugwa bitaranyuze Urugereko rwa Mbere rw'Iremezo, ibyo bivuga ko umwanzuro warwo uvuga ko Ujurira yateye abantu inkunga, akanabashishikaza wari ushingiye gusa ku itangwa ry'intwaro no ku magambo yavugiye mu rugo rwa mubyara we. Ibyo bintu ubwabyo ntibihagije mu gushyigikira umwanzuro uvuga ko Ujurira yateye abantu inkunga, akanabashishikariza gukora icyaha cya jenoside cyakurikiyeho, kandi abacamanza bose bagize iyi Nteko y'Urugereko rw'Ubujurire basa naho bavuga rumwe kuri iyi ngingo.

398. Kubera ko Urugereko rwa Mbere rw'Iremezo rutafashe umwanzuro, uwo ari wo wose, ku isano iri hagati y'ubwicanyi n'itangwa ry'intwaro, jye nsanga Urugereko rw'Ubujurire rudashobora kuvuga uko Urugereko rwa Mbere rw'Iremezo rwari kubigenza. Amahame ategeka Urugereko rw'Ubujurire kwemeza ibyemezo by'Urugereko rwa Mbere rw'Iremezo, ntategeka na rimwe Urugereko rw'Ubujurire kwemeza imikirize y'urubanza rushingiye ku ihame rivuga ko, rushyize mu gaciro, Urugereko rwa Mbere rw'Iremezo rwashoboraga gufata imyanzuro ku byabaye ya ngombwa, mu gihe jye nsanga Urugereko rwa Mbere rw'Iremezo rutarabikoze. Iyo Urugereko rwa Mbere rw'Iremezo rushingiye ku bimenyetso biziguye mu gufata umwanzuro uhamya uregwa icyaha, ubusanzwe rwagombye gusobanura imitekerereze yarwo kugira ngo uregwa ashobore kubijuririra. Imyanzuro ikomeye nk'iyo nk'iyerekeranye n'isano iri hagati y'icyaha n'icyagiteye

igomba gufatwa n'Urugereko rwa Mbere rw'Iremezo. Urugereko rw'Ubujurire si rwo rugomba gukuraho inenge iri mu mikirize y'urubanza mu rw'iremezo.

399. Bimwe mu bivugwa muri uru rubanza ni uko ibimenyetso byashyizwe muri dosiye bigaragaza ko, mu by'ukuri, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko abantu baganiriye n'Ujurira kwa mubyara we bari mu bagabye ibitero bitabiriye jenoside yakozwe nyuma yaho. Rwanzuye kandi ruvuga ko intwaro Ujurira yatangiye aho hantu zakoreshejwe muri jenoside. Jye nsanga ibimenyetso byatanzwe bidakomeye ku buryo byashyigikira ibivugwa.

400. Kubera izo mpamvu, nemeranya n'Urugereko rw'Ubujurire kuri iyi ngingo. Cyakora, ibi ntibivuga na rimwe ko Ujurira adashobora guhamwa n'icyaha cyo gutera abantu inkunga no kubashishikariza gukora ibindi byaha.

B. <u>IKIBAZO CYO KUMENYA NIBA UMWANZURO UVUGA KO UREGWA YATEGETSE ABANTU GUKORA ICYAHA UTATUMA UMUNTU YEMEZA KO YANATEYE ABANTU INKUNGA AKANABASHISHIKIRIZA GUKORA ICYO CYAHA.</u>

401. Ndabanza kwisegura kuko ntumva neza ibivugwa mu gika cya 77 cy'urubanza mu bujurire. Urugereko rw'Ubujurire ruvuga ko, kubera ko rwavanyeho umwanzuro uvuga ko gutanga intwaro bigize icyaha cyo gutera inkunga no gushishikaza, "rusanga ibivugwa bisigaye bidahagije ngo rugumisheho icyemezo gihamya Ujurira icyaha cyo gutera inkunga no gushishikaza." Uyu mwanzuro usa naho uvanaho undi wafashwe n'Urugereko rw'Ubujurire kuva mu gika cya 67 kugera mu cya 72 cy'inyandiko y'urubanza n'uwo rwafashe mu nteruro ya mbere y'igika cya 77, aho ruvuga ko Urugereko rwa Mbere rw'Iremezo rwari rufite ukuri mu kuvuga ko ibikorwa Ujurira yakoreye kuri Paruwasi ya Gikomero (aho kuba mu nama yabaye mbere yaho) bigize icyaha cyo gutera abantu inkunga no kubashishikariza gukora icyaha. Nshingiye kuri uku kwivuguruza kudatangirwa igisobanuro, nanzura mvuga ko Urugereko rw'Ubujurire

rudashobora kuvuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ku byabaye kuko rwemeje ko Ujurira yateye abantu inkunga akanabashishikariza gukora icyaha.

402. Ubundi buryo busigaye bwo kumva ibivugwa mu gika cya 77 cy'inyandiko y'urubanza mu bujurire ni uko habayeho koko gutera abantu inkunga no kubashishikariza gukora icyaha. Cyakora, iyo hafashwe ibyemezo, bishingiye ku mpamvu zimwe, bihamya umuntu icyaha cyo gutera abantu inkunga, kubashishikariza no kubategeka gukora icyaha cy'ibanze, ibyo byemezo ntibishobora gufatirwa rimwe. Urugereko rw'Ubujurire rusa n'uruvuga ko umwanzuro werekeranye n'icyaha kidasobanutse neza (nk'uwerekeye gutera inkunga no gushishikaza) ugomba gukurwaho kubera ko ukubiye mu mwanzuro usobanutse kurushaho (werekeye gutegeka abantu gukora icyaha). Uyu mwanzuro wafashwe ntiwerekeranye n'ibyabaye n'ubwo Urugereko rw'Ubujurire ari ko rubibona, ukurikije amagambo rukoresha. Ahubwo, uyu mwanzuro urasa n'uvuga ihame rishya ry'amategeko rirangwa no kongera cyane ingano y'ibyemezo Urugereko rw'Ubujurire rwafashe mbere ku guhamya uregwa ibyaha byinshi. Sinshyigikiye ko iyi ngano yongerwa.

403. Mbere na mbere, nsanga ababuranyi bataratanze imyanzuro ku kibazo cyo kuba icyaha cyihariye. Nta kintu cyavuzwe kuri icyo kibazo kubera ko kitavuzwe mu bujurire. N'ubwo Urugereko rw'Ubujurire rushobora gusuzuma ikibazo *rubyibwirije*, biragaraga ko rwabikora ku bibazo bigomba kwitabwaho by'umwihariko. Muri uru rubanza, ibivugwa byatuma amategeko akoreshwa no ku bintu atari asanzwe akoreshwaho. Simbona impamvu yatuma twirengagiza ko ibyo bintu bibujijwe kubera ko iyo ngingo itavuzwe mu bujurire, akaba ari nayo mpamvu ababuranyi batagize icyo babivugaho. Kubera iyo mpamvu, Urugereko rw'Ubujurire rwafashe icyemezo rutifashishije ibitekerezo by'Urugereko rwa Mbere rw'Iremezo cyangwa iby'ababuranyi.

404. Icya kabiri, niyo umuntu yavuga ko ikibazo gishobora kugibwaho impaka, jye numva Urugereko rw'Ubujurire rugomba kwemeza imikirize y'urubanza mu rw'iremezo.

405. Ihame ritegeka ko umuntu ahamwa n'icyaha ku cyaha cyihariye kurusha ibindi rikoreshwa hagati y'ibyaha bitandukanye. Ibi bigaragarira mu *Rubanza rwa Čelebići.* Muri urwo rubanza, Urugereko rw'Ubujurire rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze cyitwa Yugosolaviya rwashyizeho ihame rivuga ko uregwa adashobora guhamwa n'ibyaha bibiri ku bikorwa bimwe, keretse iyo kimwe muri byo byaha gifite aho gitandukaniye n'ikindi. Nk'urugero, Urugereko rw'Ubujurire rwasanze ibi atari ko bimeze ku cyaha cy'ubuhotozi n'ubwicanyi. Rwasanze rero abaregwa bashobora guhamwa gusa n'icyaha cy'ubuhotozi, kuko ari cyo cyaha cyihariye kuruta icyo kindi.[846] Muri uru rubanza, si ko ibintu biteye. Nk'uko biteganywa n'ingingo ya 6(1) ya Sitati, gutegeka abantu gukora icyaha, ku ruhande rumwe, kubatera inkunga no kubashishikaza, ku rundi ruhande (kimwe n'ibindi bikorwa birondorwa muri iyo ngingo) ni uburyo bwihariye bwo gukora icyaha kubera ko ari uburyo umuntu ashobora gukoresha ngo akore kimwe mu byaha biteganywa kuva mu ngingo ya 2 kugeza ku ya 4 ya Sitati. Ibi bikorwa ni byo bigize ibyaha bihanirwa. Nta mpamvu n'imwe yabuza ko icyaha kimwe gikorwa mu buryo bwinshi.

406. Ibi ntibivuga na rimwe ko hatagomba kuzirikanwa amategeko akoreshwa kuri ubwo buryo bwo gukora icyaha, cyangwa ko mu gihe cyo kugena igihano, umuntu atazirikana ingano y'uruhare ubwo buryo bwagize mu ikorwa rya kimwe mu byaha biteganywa n'ingingo zivugwa zo muri Sitati. Cyakora, ubwo buryo bufite akamaro kuko butuma hagaragazwa niba uregwa ashobora kuryozwa icyaha runaka ku giti cye. Ibi bigaragarira mu ngingo ya 6(1) ya Sitati igira iti:

> Umuntu uwo ari we wese wacuze umugambi, uwawuhamagariye abandi, uwategetse gukora icyaha, uwagikoze cyangwa ku bundi buryo ubwo ari bwo bwose, agatera abandi inkunga kandi akabashishikariza gucura umugambi, gutegura, cyangwa gutsotsoba icyaha cy'ubugome kivugwa kuva ku ngingo ya 2 kugeza ku ya 4 y'iyi Sitati, akiryozwa ku giti cye.

407. Ibi bivuga ko uregwa « aryozwa icyaha ku giti cye » ku byaha biteganywa kuva ku ngingo ya 2 kugeza ku ya 4 ya Sitati iyo akoze icyaha cyangwa ibyaha bivugwa mu

---

[846] Urubanza N° IT-96-21-A, 20 Gashyantare 2001, igika cya 423.

ngingo ya 6(1). Kubera iyo mpamvu, ibyo bikorwa (n'ubwo ari ibyaha) bigize gusa uburyo bushobora gutuma uregwa aryozwa icyaha kubera ko yakoze kimwe mu " byaha bivugwa kuva ku ngingo ya 2 kugeza ku ya 4 z'iyi Sitati », ari byo jenoside, ibyaha byibasiye inyokomuntu, n'ibikorwa byo kunyuranya n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve hamwe n'Umugereka wayo wa II. Birumvikana ko umuntu ashobora kuryozwa icyaha ku gikorwa kimwe cyangwa byinshi bivugwa.

408. Kuba uregwa yarakoze byinshi muri ibyo bikorwa, bishobora kugira ingaruka ku gihano yahabwa. Cyakora ntibituma ahamwa n'ibyaha byinshi kubera ko yakoze icyaha giteganywa na Sitati. Akomeza guhamwa n'icyaha kimwe rukumbi. Kuba harakoreshejwe uburyo bwinshi kugira ngo icyaha gikorwe, ntibivuga ko umuntu ahamwa inshuro nyinshi no kuba yarakoze icyo cyaha. Nta gushidikanya ko, rimwe na rimwe, hakoreshwa amagambo yakumvikanisha ko buri buryo bwakoreshejwe[847] bugize icyaha cyihariye. Ibi bishobora kumvikana hifashishijwe igitekerezo gitangwa hano kivuga ko, mu by'ukuri, uregwa ahamwa n'icyaha hashingiwe gusa ku ruhare yagize muri kimwe mu byaha bivugwa kuva ku ngingo ya 2 kugera ku ya 4 za Sitati, hakurikijwe uburyo bwihariye yagikozemo (nk'urugero, gucura umugambi).

409. Muri uru rubanza, Uregwa yahamwe n'icyaha kimwe gusa kuri buri kirego cyo mu Nyandiko y'ibirego (jenoside n'itsembatsemba). Urugereko rwa Mbere rw'Iremezo rwafashe gusa imyanzuro mu rwego rw'amategeko, ruvuga ko buri cyaha Uregwa yahamijwe gishobora gushingira ku bisobanuro byinshi by'amategeko bijyanye n'uburyo butandukanye bwakoreshejwe cyangwa uburyo bunyuranye bw'uburyozwacyaha buteganywa mu ngingo ya 6(1). Iyo myanzuro yarwo ifite ishingiro.

410. Byongeye kandi, imitekerereze y'Urugereko rwa Mbere rw'Iremezo ijyanye n'iyo mu *Rubanza rwa Blaškić* mu bujurire.[848] Ihame rivugwa muri urwo rubanza rishingiye ku kuvuga ko byaba <u>bidashyize mu gaciro</u> gushingira ku ngingo ya 7(1) ya Sitati ya ICTY,

---

[847] *Mu Rubanza rwa Kordić na Čekez*, Urugereko rwa Mbere rw'Iremezo rwasaga nk'uruvuga ko uburyo bunyuranye buteganywa n'ingingo ya 7(1) [ICTY] bwababaga bugize ibyaha bitandukanye. Reba *rwa Kordić na Čekez* mu rw'iremezo, igika cya 386. Ndisegura kuko ndashyigikiye iki giterezo.
[848] Urubanza N° IT-95-14-A, 29 Nyakanga 2004, ibika 91-92.

maze ukanzura uvuga ko icyaha cyakozwe n'umuntu ukuriwe n'undi, cyabanje gutegekwa n'uregwa ubwe, maze ushingiye ku ngingo ya 7(3), ukanzura uvuga ko uregwa, nk'umuntu wari ukuriye abandi, atabujije ko icyo cyaha gikorwa n'umuntu yari akuriye cyangwa ko atamuhannye kubera ko yagikoze. Uburyozwacyaha buteganywa n'ingingo ya 7(1) buvuga ko uregwa yashishikaye cyane mu gutuma icyo cyaha gikorwa; kuba umuntu yari akuriye abandi, nk'uko biteganywa n'ingingo ya 7(3), bivuga ko atashishikaye cyane mu gutuma icyo cyaha gikorwa. Mu by'ukuri, Urugereko rw'Ubujurire ruvuga ko aho guhamya umuntu ibyaha byinshi (hakurikijwe izo ngingo zombi z'amategeko), hashingiwe kuri ibyo bintu bivugwa, mu gihe cyo kugena igihano uregwa yahabwa kubera ko yari akuriye undi muntu, ibyo bintu bigomba gufatwa nk'impamvu yongera uburyozwacyaha, kubera ko yategetse abantu gukora icyaha, kandi nicyo cyaha cyonyine agomba guhamwa.

411. Cyakora muri uru rubanza, nta kudashyira mu gaciro guturuka ku bivugwa bivuguruzanya ku byabaye, kwabuza Urugereko kwanzura ruvuga ko Uregwa ashobora gutera inkunga umuntu runaka no kumushishikariza gukora icyaha ndetse akaba ashobora no kumutegeka kugikora. Hashingiwe ku byabaye bivugwa muri uru rubanza, umuntu ashobora kuvuga ko Uregwa, wari wubashywe mu muryango, yategetse abandi bantu gukora jenoside. Byongeye kandi, yajyanye abandi bantu ahantu hakorewe ubwicanyi kandi na we ubwe yitabiriye ibikorwa bya jenoside byahakorewe. Akora gutyo, yashishikarije abandi bantu kwica. Iki gikorwa kigize gutera abantu inkunga no kubashishikaza. Nta hame na rimwe ry'amategeko rizwi ryatuma adahamwa na none n'icyaha cyo gutera inkunga no gushishikaza ba gatozi b'icyo cyaha, hitwaje gusa ko yahamwe n'icyaha cyo gutegeka abantu gukora icyo cyaha.

412. Iki kibazo gishobora gusobanurwa neza n'ibivugwa mu *rubanza rwa Kordić na Čerkez.* Muri urwo rubanza, Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko Kordić yateguye icyaha cyibasiye inyokomuntu, agahamagarira abantu kugikora ndetse

agategeka ko gikorwa[849]. Cyakora, rwamuhamije icyaha kimwe gusa kuri icyo kirego. Urugereko rw'Ubujurire rwo rwasanze uwo mwanzuro (uvuga ko icyaha cyakozwe mu buryo bwinshi) utavuga ko Uregwa yahamijwe ibyaha byinshi. Rwafashe icyo cyemezo kandi rwari rwakoresheje ihame rivugwa mu *Rubanza rwa Blaškić* mu bujurire ku byerekeranye no guhamwa n'ibyaha byinshi hashingiwe ku ngingo ya 7(1) n'iya 7(3) za Sitati.[850]

413. Kubera izo mpamvu, kwanzura uvuga ko Uregwa yakoresheje uburyo bwinshi mu gukora icyaha ntibivuga na rimwe ko yahamijwe ibyaha byinshi kubera ibyaha byinshi byakozwe. Urugereko rwa Mbere rw'Iremezo rufite uburenganzira bwo kwanzura ruvuga ko uregwa aryozwa icyaha giteganywa na Sitati kubera ko yakoze ibikorwa byinshi bivugwa mu ngingo ya 6(1). Bitagenze gutyo, Urugereko ntirushobora gusobanura neza imyitwarire mibisha y'uregwa. Kubera ko butuma imyitwarire mibisha isobanuka neza, uburyo bunyuranye bwakoreshejwe mu gukora icyaha ntibwagombye gutuma umuntu ahabwa ibihano byinshi kuko umuntu aba yarahamwe n'icyaha kimwe rukumbi. Ingorane yose yavuka ishobora kuzirikanwa mu gihe cyo kugena igihano.

414. Muri make, kubera ko uregwa ahamwa n'icyaha kimwe gusa, nta shingiro ryo gukoresha amategeko yerekeranye no gufata icyemezo gihamya umuntu icyaha ku kirego kimwe no kugisimbuza icyemezo kimuhamya icyaha ku kindi kirego hashingiwe ku mategeko yihariye kurushaho akoreshwa. Umuntu ashobora kutagendera ku manza uregwa yahamijwemo ibyaha byinshi, kuko ntaho zihuriye n'uru rubanza.

415. Ingingo ya nyuma: niba igitekerezo gitandukanye n'iki gifite ishingiro, umuntu ashobora kuvuga ko bidashoboka cyane, ndetse ntibinashoboke rwose, ko umuntu ahamwa na kimwe mu byaha bivugwa kuva ku ngingo ya 2 kugera ku ya 4 ya Sitati, hashingiwe ku buryo bwinshi bwo kugikora buvugwa mu ngingo ya 6(1). Hafi y'igihe cyose, cyangwa buri gihe, gukoresha bumwe muri ubwo buryo byatuma ubundi buryo bujyanye nabwo

---

[849] Nk'urugero, reba urubanza rwa *Kordić na Čerkez* mu rw'iremezo*,* igika cya 834 ("Uruhare rwe ni urw'umuyobozi wa politike kandi aryozwa icyaha hashingiwe ku ngingo ya 6(1) kubera ko yacuze umugambi, agahamagarira abantu ndetse akabategeka gukora ibyaha ").
[850] Urubanza *Kordić na Čerkez* mu bujurire*,* ibika 33-35.

budakoreshwa. Kubera iyo mpamvu, guhamya uregwa icyaha cyo kuba yarategetse abantu gukora jenoside byavuga ko uwo muntu adashobora guhamwa n'icyaha cyo kuba yarahamagariye abantu gukora jenoside. Uburyo nk'ubwo butuzuye bwo guca urubanza ntibwemewe mu rubanza rutabogamye kandi nta naho buteganijwe muri Sitati.

416. Kubera izo mpamvu, mvuga ko ndashobora kwemera icyemezo cy'Urugereko rw'Ubujurire cyo gukuraho imyanzuro yombi yafashwe mu rw'iremezo igaragaza ko Ujurira yategetse, agatera abantu inkunga ndetse akabanashishikariza gukora ibikorwa akurikiranyweho. Jye nsanga umwanzuro w'Urugereko rwa Mbere rw'Iremezo kuri iyi ngingo wagombye kwemezwa.

Bikozwe mu cyongereza no mu gifaransa, inyandiko iri mu cyongereza niyo izajya igenderwaho.

I La Haye, mu Buholandi, tariki ya 19 Nzeri 2005.

Mohamed Shahabuddeen
Umucamanza
[umukono]

[Kashe y'Urukiko]

XVII. IGITEKEREZO CYIHARIYE CY'UMUCAMANZA INES MONICA DE ROCA KU GIKA CYA 77 CYO MU NYANDIKO Y'URUBANZA

417. Nemeranya n'Umucamanza Shahabuddeen ko Ujurira ashobora guhamwa n'icyaha hashingiwe ku buryo burenze bumwe bw'uburyozwacyaha burondorwa mu ngingo ya 6(1) ya Sitati.

Bikozwe mu cyongereza no mu gifaransa, inyandiko iri mu cyongereza niyo izajya igenderwaho.

Ku itariki ya 19 Nzeri 2005, i La Haye, mu Buholandi

Inès Monica de Roca
[Kashe y'Urukiko]

XVIII. IGITEKEREZO GITANDUKANYE N'ICY'ABANDI CY'UMUCAMANZA INES MONICA DE ROCA

418. Urugereko rw'Ubujurire rusanga ko, n'ubwo hari amakosa Urugereko rwa Mbere rw'Iremezo rwakoze mu gusuzuma ibimenyetso bishyigikira *alibi*[851], ibyo bitavuga ko urubanza rwaciwe nabi. Urugereko rw'Ubujurire rwemeza umwanzuro w'Urugereko rwa Mbere rw'Iremezo uvuga ko ibimenyetso bishyigikira *alibi* bidatuma rushidikanya ko Ujurira yari i Gikomero muri Mata 1994.[852]

419. Jye sinari kwemeza uwo mwanzuro.

A. Uburyo Urugereko rwa Mbere rw'Iremezo rwasuzumye *alibi*

420. Numva Urugereko rwa Mbere rw'Iremezo rwarakoze amakosa menshi mu gusuzuma *alibi*, kandi ayo amakosa atuma umuntu ashidikanya k'ukwizerwa k'umwanzuro rwafashe kuri *alibi*.

1. Nta kwivuguruza kwari hagati y'ubuhamya bwa Kamuhanda mu rukiko n'ubwatanzwe n'umugore we n'ubwa ALS.

421. Urugereko rw'Ubujurire rusanga Urugereko rwa Mbere rw'Iremezo rutarakoze amakosa mu ncamake bwatanze y'ubuhamya bwa ALS.[853] Rusanga gukoresha ijambo "*urebye*" mu gika cya 169 cy'Inyandiko y'Urubanza mu rw'Iremezo ("[ALS] avuga ko urebye

[851] Nk'urugero, reba ibika 177, 185 by'urubanza mu bujurire.
[852] Ni kimwe no haruguru, ibika 166-210.
[853] Urubanza mu rw'iremezo, igika cya 169 :

> Urugereko rwibanda cyane cyane k'ubuhamya ALS yatanze mu Rukiko. Uyu mutangabuhamya [w'igitsina gore] avuga ko Uregwa atigeze ava mu rugo uretse ku itariki ya 8 Mata ubwo yagerageje inshuro ebyiri kujya kuzana umuhungu we René wari ku Kimihurura. Ku nshuro ya kabiri ni bwo yashoboye kumuzana. Umutangabuhamya avuga ko *urebye*, [mu nyandiko y'umwimerere iri jambo ntiryanditse muri itariki] yabonaga Uregwa amasaha 24 kuri 24 kandi ko Uregwa atongeye kuva mu rugo uretse tariki ya 18 Mata 1994. Yongeraho ko nta kuntu Uregwa yari kuva mu rugo atabizi kubera ko buri gihe yabaga [umutangabuhamya] ari kumwe n'umugore w'Uregwa.

yabonaga Uregwa amasaha 24 ku munsi") bigaragaza ko ubuhamya bwa ALS bwasuzumwe uko bikwiye.[854]

422. Umuntu ashyize ku ruhande igisobanuro cy'ijambo "urebye" (rikoreshwa n'Urugereko rwa Mbere rw'Iremezo kandi rikemerwa n'Urugereko rw'Ubujurire), ingingo y'ingenzi (itavugwaho n'Urugereko rw'Ubujurire) ni uko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa rwemeza ko ubuhamya bwa ALS mu Rukiko buvuguruzanya n'ubw'Ujurira. Mu by'ukuri, ALS avuga ko buri gihe Ujurira yabaga ari ahantu ashobora kumuhamagara akumva, kandi ko yamubonaga kenshi kuko bafunguriraga hamwe.[855] Ujurira avuga ko iyo yinjiraga mu nzu, nka kabiri cyangwa gatatu ku munsi ari bwo yabonaga abagore, igihe yabaga atari kumwe n'abandi bagabo ku muhanda wari hafi aho.[856] Nta mucamanza usuzuma ibyabaye, ushyira mu gaciro, wari kuvuga ko ubu buhamya buvuguruzanya.

[854] Urubanza mu bujurire, igika cya 174.
[855] Inyandikomvugo y'iburanisha, 29 Kanama 2002, imp.47-48 (mu muhezo) [ENG]:

> **Igisubizo** : Oya, nta hantu yagiye, uretse igihe yajyaga gushaka umuhungu we. Buri gihe twabaga turi kumwe. Hari ubwo yabaga ari imbere y'inzu cyangwa iruhande rwayo ku buryo umuntu yashoboraga kumuhamagara akumva, hafi ku buryo umuntu yamuhamagara akumva.
> **Ikibazo**: Ni ukuvuga ko wamubonaga, ko wamuvugishaga. Tubwire inshuro byababaga ku munsi, tubwire niba byarababaga rimwe cyangwa kabiri.
> **Igisubizo** : Sinshobora ku babwira umubare nyawo w'inshuro byababaga, ariko muri rusange twabaga turi kumwe igihe cyose kubera ko twafunguriraga hamwe mu gitondo, ku manywa ndetse na nimugoroba yabaga ahari. Kandi iyo tutabaga turi kumwe yabaga arimo kuruhuka, cyangwa agendagenda imbere y'igipangu. Buri gihe yabaga ari aho hafi.

Reba kandi inyandikomvugo y'iburanisha, 29 Kanama 2002, urup. 49 (mu muhezo) ('Namubonaga kenshi cyane kandi nta narimwe [ ] higeze hashira amasaha abiri ntamubonye, yewe nta n'isaha imwe yashiraga. Nzi ko buri gihe yabaga ari ku muhanda cyangwa hafi aho').
[856] Inyandikomvugo y'iburanisha, 21 Kanama 2002, imp. 25-26 (mu muhezo) [ENG]. Dore igice cy'ubuhamya Ujurira yatanze mu Rukiko kuri iyi ngingo:

> **Ikibazo**: Tubwire inshuro wabonaga umugore wawe na [izina ryasibwe], ari we mutangabuhamya wiswe ALS
> **Igisubizo**: Nabonaga umugore wanjye, ALS n'umugore wa ALR igihe gito ubwo twabaga dufungurira hamwe.
> **Ikibazo**: Ni ukuvuga rero ko wababonaga rimwe ku munsi.
> **Igisubizo**: Nababonaga mu gitondo ngiye kunywa ikawa cyangwa icyayi, saa sita cyangwa ahagana kuri iyo saha, ngiye gufata ifunguro rya saa sita na nimugoroba ngiye gufata ifunguro rya nimugoroba.
> **Ikibazo**: Ni ukuvuga se ko iyo utabaga uri kumwe n'abagabo wabaga uri mu nzu?
> **Igisubizo**: Yego, iyo ntabaga ndi ku muhanda hamwe n'abandi bagabo navuze, nabaga ndi kumwe n'abo bagore batatu n'abana babo.

423. Ikosa nk'iryo ryanakozwe mu gusuzuma ubuhamya umugore wa Kamuhanda yatanze mu Rukiko. Umugore w'Ujurira ntavuga ko 'nta na rimwe yigeze atabona'[857] Ujurira: avuga gusa ko yabonaga Ujurira iyo yazaga mu nzu kurya, gufata uburingiti cyangwa se iyo habaga harimo kuraswa [858] ibisasu byinshi. Kubera iyo mpamvu, ubuhamya bw'umugore wa Kamuhanda buhuye n'ubw'Ujurira, kandi nta mucamanza usuzuma ibyabaye ushyira mu gaciro, wari kubibona ukundi.[859]

2. ALR na ALB ntibavuga na rimwe ko babaga bari kumwe amasaha 24 ku munsi kandi ntibanavuguruzanya mu buhamya bwabo

424. Nemeranya n'umwanzuro w'Urugereko rw'Ubujurire uvuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu kwanzura ruvuga ko ALR na ALB bavuga ko babaga bari kumwe amasaha 24 ku munsi.[860]

---

[857] Reba urubanza mu rw'Iremezo, igika cya 170.

[858] Inyandikomvugo y'iburanisha, 9 Nzeri 2002, imp. 163,164 (ibirimo bivugwa mu Myanzuro y'ubujurire, igika cya 254) [ENG]:

> **<u>Ikibazo</u>**: Naho se umugabo wawe, by'umwihariko? Tubwire niba buri gihe yarajyaga ku marondo.
> **<u>Igisubizo</u>**: Yego, nta na rimwe yigeze asiba. Buri gihe yabaga ari kumwe n'abandi, bishyiraga hamwe. Kandi nkuko nabivuze, yazaga gufungura, gufata uburingiti, maze akongera agasanga abandi. Nk'uko nabivuze, buri gihe yabaga ari kumwe n'abandi. Yagumanaga natwe mu nzu iyo haraswaga ibisasu byinshi.
> **<u>Ikibazo</u>**: Tubwire ahantu yabaga ari iyo mwabaga mutari kumwe.
> <u>Igisubizo</u>: Yabaga ari kumwe n'abandi. Cyakora, ntiyajyaga kure cyane. Mu by'ukuri, bagumaga hafi y'inzu twarimo […] ndetse twashoboraga no kubahamagara bakumva kubera ko babaza bagendagena mu muhanda. Twashoboraga rero kubahamagara. Ndetse niyo hagira ikitubaho mu nzu bashoboraga kuza kudutabara.

[859] Kuri iyi ngingo, Urugereko rw'Ubujurire rwemera ko Urugereko rwa Mbere rw'Iremezo "rutasobanuye" rwibutsa ibivugwa mu buhamya umugore wa Kamuhanda yatanze mu Rukiko (reba inyandiko y'urubanza, igika cya 177). Cyakora Urugereko rw'Ubujurire rusanga, n'ubwo habayeho amakosa, ayo mañosa ntiyatumye urubanza rucibwa nabi kubera ko Urugereko rwa Mbere rw'Iremezo rwasanze ko, muri rusange, ubuhamya bushyigikira *alibi* butakwizerwa bitewe n'uko busa n'ubwahimbwe hari icyo bugamije". (urubanza mu bujurire, igika cya 177, hifashishijwe ibivugwa mu gika cya 176 cy'urubanza mu rw'Iremezo). Ibi bintu bivugwa birasuzumwa hasi mu Mutwe wa XVIII. A. 6.

[860] Urubanza mu bujurire, igika cya 185, hasubirwamo ibivugwa mu gika cya 173 cy'urubanza mu rw'iremezo. N'ubwo Urugereko rw'Ubujurire rusanga nta muntu ushyira mu gaciro wakumva ko ari ubuhamya bwa ALB cyangwa ubwa ALR buvuga ko bari hamwe igihe cyose, Urugereko rw'Ubujurire rwanzura ruvuga ko kumva nabi ubu buhamya bitatumye urubanza rucibwa nabi kubera ko ['icy'ingenzi ni uko, rumaze kumva abagabo batanze ubuhamya bushyigikira *alibi*, rukanasuzuma ubuhamya bwabo ruzirikana n'ibindi bimenyetso byose byatanzwe, Urugereko rwa Mbere rw'Iremezo rwasanze ko abo batangabuhamya 'bageze aho bakabara inkuru zisa nizifite icyo zigamije'" (Urubanza mu bujurire, igika cya 186, havugwa ibiri mu gika cya 176 cy'inyandiko y'urubanza mu rw'iremezo). Ibi bintu bivugwa biri bugarukweho hasi mu Cyiciro cya XVIII. Q. 6.

425. Kubirebana no kuba ALB na ALR batavuguruzanya mu buhamya bwabo, Urugereko rw'Ubujurire rusanga mu Myanzuro y'Ubujurire, Ujurira adasobanura bihagije ibyo avuga.[861] Ibyo ari byo byose, Urugereko rw'Ubujurire rushingira ku bice byo mu nyandikomvugo y'iburanisha maze rukavuga ko ubuhamya bw'abo bagabo hari aho bunyuranye, akaba ariyo mpamvu Urugereko rwa mbere rw'Iremezo rwafashe umwanzuro uvuga ko ubuhamya bwa ALB n'ubwa ALR buvuguruzanya.[862]

426. Mfite ikibazo kuri uyu mwanzuro. Icya mbere, ntibyumvikana ukuntu Ujurira yari gusobanura ibyo avuga mu buryo burenze uko yabikoze: Ujurira si we ufite inshingano yo kugaragaza ukuvuguruzanya, abacamanza bo mu rw'Iremezo bashobora kuba bumva ko kuriho. Byongeye kandi, Ujurira si we ufite inshingano yo kugaragaza ko nta kuvuguruzanya kuriho. Icya kabiri, ibice byo mu nyandikomvugo y'iburanisha, bivugwa n'Urugereko rw'Ubujurire, ntibishyigikira umwanzuro warwo uvuga ko ubuhamya bwa ALR na ALB mu Rukiko hari aho buvuguruzanya.

427. Urugereko rw'Ubujurire rubanza kuvuga ku buhamya bwa ALR buvuga ko "abagabo babaga bari kumwe ninjoro iyo babaga bari ku marondo"[863]. Urugereko rw'Ubujurire runavuga ku buhamya bwa ALB buvuga ngo "nyuma ya saa sita z'ijoro, kugira ngo buri muntu ashobore kuruhuka, *twigabanyagamo amatsinda abiri*.'[864] Nyamara iyo witegereje neza inyandikomvugo z'amaburanisha, usanga ALR na ALB bavuga ko abagabo bamwe bajyaga kuryama (cyangwa kuruhuka) naho abandi bagakomeza gukora irondo.[865] Nta kwivuguruza rero guhari ahubwo ubuhamya bwombi buvuga ibintu bimwe.

---

[861]Urubanza mu bujurire, igika cya 187. Mu bika bya 263-264 by'Imyanzuro y'Ubujurire, Ujurira avuga ku gika bijyanye cyo mu nyandiko y'urubanza rwo mu rw'Iremezo (igika cya 173). Avuga ko "Urugereko rwasanze gusa ko hari ukuvuguruzanya mu buhamya bw'abagabo, nyamara ntirugaragaze iryo vuguruzanya ruvuga". Akomeza avuga icyo Urugereko rw'Ubujurire rukwiye gukora (Imyanzuro y'ubujurire, igika cya 265).

[862] Urubanza mu bujurire, igika cya 187, by'umwihariko igisobanuro no 439 cyo hasi ku rupapuro.

[863] Inyandikomvugo y'iburanisha, 3 Nzeri 2002, urup. 69 (mu muhezo, mu nyandiko y'umwimerere aya magambo ntari muri itariki).

[864] Inyandikomvugo y'iburanisha, 5 Nzeri 2002, urup. 111 (ntibiri muri itariki mu nyandiko y'umwimerere) [ENG].

[865] Abatangabuhamya bombi bavuga ko bamwe mu bagabo bajyaga kuryama abandi bagasigara bari maso, kandi ko urebye basimburanaga buri saha:

ALB (Inyandikomvugo y'iburanisha, 5 Nzeri 2002, urup. 111) [ENG]:

> Nyuma ya saa sita z'ijoro, kugira ngo twese dushobore kuruhuka, twigabanyagamo amatsinda abiri. Hari itsinda ryasigaraga munsi y'igiti riruhuka naho itsinda narimo rigakomeza gukora irondo rizenguruka muri ako gace, hafi y'amago yacu. [...] Nyuma ya buri saha imwe cyangwa abiri twarasimburanaga, *urebye buri*

428. Urugereko rw'Ubujurire ruvuga kandi ku bice bikurikira byo mu nyandikomvugo z'iburanisha: ALR avuga ko bamaze kuruhuka, abagabo bongeraga guhurira ku muhanda mu ma saa cyenda z'amanywa. Akomeza agira ati "iyo mvuze ko twahuriraga ku muhanda [tumaze kuruhuka, mu ma saa cyenda] simba nshaka kuvuga ko twahuriraga hagati mu muhanda"[866]. Mu buhamya bwe mu Rukiko, ALB agira ati 'kuva mu ma saa yine za mu gitondo kugeza saa sita z'amanywa twongeraga guhurira mu gace twari dutuyemo kandi ahanini twateraniraga mu muhanda hagati y'amazu ahari maze tukahazenguruka turi hamwe."[867] Cyakora, nsanga nta kuvuguruzanya guhari kuko ibyo ibyo bice byombi byo nyandikomvugo y'iburanisha bitavuga ku masaha amwe y'umunsi (ALR avuga ko ari nyuma ya saa cyenda z'amanywa naho ALB akavuga ko ari nyuma ya saa yine za mu gitondo). [868]

3. Mu buhamya bwe mu Rukiko, Ujurira atanga ibisobanuro birambuye ku buryo yakoreshaga igihe cye mu gihe kirebwa na *alibi*.

429. Urugereko rw'Ubujurire rusanga ko, n'ubwo koko Ujurira avuga uko yakoreshaga igihe cye buri munsi muri kiriya gihe kivugwa, nta kosa Urugereko rwa Mbere rw'Iremezo rwakoze mu kwemeza ko Ujurira adasobanura birambuye uko yakoreshaga igihe cye buri munsi.[869]

> *saha twarasimburanaga*; ni ukuvuga ko itsinda ryamaraga kuzenguruka ryararuhukaga naho irimaze kuruhuka rikajya gukora irondo. (mu nyandiko y'umwimerere aya magambo ntiyanditse muri itariki).

ALR (Inyandikomvugo y'iburanisha, 3 Nzeri 2002, urup. 69 (mu muhezo):

> Abagabo bagumaga hamwe nijoro igihe babaga bakora amarondo. Baryamaga hamwe, *uretse ko bamwe baryamaga, abandi bakaguma kuba maso*. [...] byari biteguwe ku buryo bamwe baryamaga *nk'isaha imwe* kandi mu by'ukuri ntibababaga basinziriye. Muri icyo gihe abandi bagumaga kuba maso kugira ngo nihagira ikiba bakangure abarimo kugerageza gusinzira. (aya magambo ntiyanditse muri itariki mu nyandiko y'umwimerere).

[866] Inyandikomvugo y'iburanisha, 3 Nzeri 2002, urup. 66 (mu muhezo) [ENG].

[867] Inyandikomvugo y'iburanisha, 5 Nzeri 2002, urup. 118 [ENG].

[868] ALR ntacyo avuga ku hantu abagabo bahuriraga nyuma ya saa yine za mugitondo. ALB avuga ko nyuma y'ifunguro cya ku manywa, nta hantu hihariye abagabo bahuriraga. Inyandikomvugo y'iburanisha, 5 Nzeri 2002, urup.121:

> Ku manywa ubusanzwe twahuriraga ku muhanda maze tukazenguruka iruhande rw'amago yacu. Twahuriraga ahabonetse hose ku muhanda, nta hantu hihariye twagombaga guhurira, muri rusange twahurirga ku muhanda.

[869] Urubanza mu bujurire, igika cya 192, hasubirwamo ibivugwa mu gika cya 173 cy'inyandiko y'urubanza mu rw'iremezo.

430. Sinyuzwe n'uyu mwanzuro. Mu by'ukuri, mu buhamya bwe mu Rukiko, Ujurira atangira avuga uko babagaho muri rusange, mu rugo rwa ALS[870] n'uko amarondo yategurwaga.[871] Akomeza atanga ibisobanuro birambuye ku byerekeye kumenya (i) niba abakoraga amarondo bari bafite intwaro;[872] (ii) intego y'ayo marondo;[873] (iii) uko abantu basimburanaga ku marondo;[874] (iv) n'ahantu nyaho abagabo bakoreraga ayo marondo.[875] Ujurira kandi atanga bisobanuro by'inyongera mu ibazwa rinyomoza.[876]

---

[870] Inyandikomvugo y'iburanisha, 21 Kanama 2002 (mu muhezo), imp. 22-23 (ababaga kwa ALS, aho bararaga, ibyo baryaga) na 25-26 (guhura n'abagore) [ENG].

[871] Inyandikomvugo y'iburanisha, 21 Kanama 2002, imp. 24-25 (mu muhezo) [ENG]:

> Yego, kubera ko kuva itariki ya 7 imirwano yari yatangiye, hari amabandi, abantu b'ingeri zose bakora ibikorwa by'urugomo bateraga akaduruvayo. Byatumye rero, twishyira hamwe kugira ngo twirinde umutekano kubera abo bajura. Twashaga gukora ku buryo turinda imiryango yacu kandi twabaga turi ku muhanda ku manywa na ni njoro. [...]
>
> Mu by'ukuri, twakoraga ibintu bimwe iminsi yose. Ku manywa twabaga turi ku muhanda. Umuntu yashoboraga kuhava, akajya kunywa ikawa cyangwa icyayi, cyangwa se kugira icyo arya vuba vuba, maze agasubira ku muhanda tukahararana twese. Nibyo twakoraga buri munsi. Umunsi umwe rukumbi ushobora kuba wari utandukanye n'indi ni uwo ku itariki ya 8, ubwo nagiye kuzana umwana wanjye ku Kmimihurura [sic]. Naho ubundi twakoraga bimwe iminsi yose.

[872]Inyandikomvugo y'iburanisha, 21 Kanama 2002, urup. 26 (mu muhezo) [ENG]:

> Nta ntwaro nari mfite. Sindigera na rimwe ntunga intwaro kandi no mu gace nari ntuyemo nta muntu wari uyifite.

[873] Inyandikomvugo y'iburanisha, 21 Knama 2002, urup. 26 (mu muhezo) [ENG]:

> Twakoze ayo marondo kugira twumve ko dusa n'abafite umutekano. Nk'iyo tuza guterwa n'amabandi— siniriwe mvuga igitero cy'abasirikare, cyangwa cy'abantu bitwaje intwaro, ntitwari gushobora kugira icyo tubikoraho. Cyakora nk'iyo tuza guterwa n'amabandi, twari kugeregeza kubarwanya. Ariko birumvikana ko byari kuba ari ibindi iyo baza kuba bitwaje intwaro. Ikindi kandi, iyo induru zivuga abantu batabaza, buri wese yari yagombaga kugira icyo akora.

[874] Inyandikomvugo y'iburanisha, 21 Kanama 2002, urup. 27 (mu muhezo) [ENG]:

> Gusimburana (amaromdo), uretse wenda ni joro cyangwa se iyo twabaga tugiye kurya kubera ko buri gihe ku muhanda hagomba kuba hari abantu. Iyo bamwe babaga bagiye kurya abandi basigaraga baharinze. Ndetse na ni njoro iyo bamwe babaga bahasinziriye, abandi babaga bari maso.

[875] Inyandikomvugo y'iburanisha, 21 Kanama 2002, imp. 27-28 (mu muhezo) [ENG]:

> Ndavuga ku birebana n'umuhanda, ntabwo mu by'ukuri ari umuhanda wagendwaga cyane. Ni umuhanda uri hagati y'inzu yanjye, iya ALS n'iya [izina ryarasibwe], iya ALR n'iya ALB. Ni ukuvuga rero ko wari umuhanda utandukanya amazu yacu, niwo twagendagendagamo, tukawuzamuka ndetse tukanawumanuka. Ntabwo yari bariyeri, ahubwo twabaga turi kuri uwo muhanda kugira ngo dukurikirane ibiwuberamo. Ni ukuvuga ko twagendagendaga, tuwumanukamo, tukanawuzamukamo ducunga umutekano.
>
> **Ikibazo**: Ndagira ngo ugire ibyo usobanura. Watubwira niba kuri uwo muhanda hari ahantu hihariye mwahagararaga cyangwa niba ntaho?
>
> **Igisubizo**: Oya, ntaho. Nta hantu hihariye twabaga duhagaze.
>
> **Ikibazo**: Urashaka se kuvuga ko mwabaga muwuzamuka mukanawumanuka ?
>
> **Igisubizo**: Twagendagendaga muri uwo muhanda, hagati y'inzu ya ALR, tugakomeza kugera hafi yo kwa [izina ryarasibwe]. Ni ukuvuga ko twazamukaga kandi tukamanuka uwo muhanda.

[876] Inyandikomvugo y'iburanisha, 27 Kanama 2002, imp.87-89 (mu muhezo) [ENG]:

> Ntibuvugaga ko ntawatarabukaga ngo ave ku muhanda. Umuntu yashoboraga kujya mu rugo akanywa amazi mae, akagaruka. Yashoboraga kandi kujya kwiyogosha ubwanwa […]
>
> Ku manywa umuntu yaragendaga akaza kugaruka. Umuntu yashoboraga kujya mu nzu akaza gusohoka ariko ni njoro twabaga turi hanze. […]

4. Gukoresha nabi ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso.

431. Mu nyandiko y'urubanza, Urugereko rw'Ubujurire ruvuga ku kibazo cyo kumenya niba Urugereko rwa Mbere rw'Iremezo rwarakoresheje neza ihame ry'umuburanyi ufite inshingano yo gutanga ibimenyetso, ubwo rwemezaga ko ubuhamya bwa ALB na ALM mu Rukiko budatuma rwumva ko [Ujurira] atashoboraga kuba ari i Gikomero.[877] Urugereko rw'Ubujurire rusanga, kuva mu gika 83 kugera ku cya 85 by'Inyandiko y'Urubanza mu rw'Iremezo, Urugereko rwa Mbere rw'Iremezo ruvuga, mu buryo bukwiye, umuburanyi ufite inshingano yo gutanga ibimenyetso ku byerekeye *alibi*, kandi ko

> yumvikanye muri ubu buryo, amagambo akoreshwa hano n'Urugereko rwa Mbere rw'Iremezo ariyo [ubuhamya bumwe na bumwe bwatanzwe mu Rukiko" ntibukuraho ko " Uregwa yari ahantu hakorewe icyaha] cyangwa, [ubuhamya bwihariye "ntibukuraho" ko Uregwa ashobora kuba yari ahantu icyaha cyakorewe] cyangwa ubuhamya bwihariye bwatanzwe mu Rukiko "ntibuvanaho" ko Uregwa yagiye ahantu icyaha cyakorewe] ntagaragaza na rimwe ko habaye ho gukoresha nabi ihame ry'umuranyi ufite inshingano yo gutanga ibimenyetso. Ahubwo, rushyize aya magambo mu rwego rw'isuzumwa ry'ubwo buhamya muri rusange nk'uko bikwiye, Urugereko rw'Ubujurire rwumva ko ashaka kuvuga ko niyo ubwo buhamya bwafatwa nk'ukuri, Urugereko rwa Mbere rw'Iremezo rusanga budahagije ngo umuntu ushyira mu gaciro abe yashidikanya ku bimenyetso bigaragaza ko Ujurira yari ahantu icyaha cyakorewe[878].

432. Cyakora, nsanga ko n'ubwo ruvuga neza amategeko agenga ikibazo cya *alibi*,[879] Urugereko rwa Mbere rw'Iremezo rwakoresheje amagambo ahita agaragara ko atajyanye n'uburyo *alibi* igomba gusuzumwa ([ubuhamya] ntibuvuga ko bidashoboka,

---

> Niba muvuga hagati y'itariki ya 8 niya 12, nta cyari cyahindutse. Ubuzima bwarakomeje buba bwa bundi. Twari tugikora ibyo twari dusanzwe dukora. Niba muvuga ikindi gihe, mwambwira maze nkabasubiza. […]
> Uburyo twari twarashyizeho nabubasobanuriye. Ni uko byagendaga, ku manywa twabaga turi ku muhanda mwabonye. Cyakora, ibyo ntibyabuzaga umuntu kuba yajya mu nzu iyo hari icyo yabaga akeneye naho nijoro tukaguma hanze. Ntitwabaga turimu muhanda ahubwo twabaga turi iruhande rwawo, kugira ngo ducunge ibiwuberamo. […]
>
> Twararaga hanze naho ku manywa twabaga turi kuri wa muhanda cyangwa tukajya mu nzu tukagaruka kandi nabaga kwa ALS.

[877] Urubanza mu bujurire, igika cya 198, havugwa ibiri mu bika 174-175 by'urubanza mu rw'iremezo.
[878] Urubanza mu bujurire, igika cya 198 (ibisobanuro byo hafi ku rupapuro ntibyongewemo)
[879] Mu bika 83-85 by'urubanza mu rw'iremezo.

ntibushyigikira *alibi* ku buryo umuntu yakumva ko bitashobokaga")[880]. Gukomeza gukoresha amagambo nk'ayo (mu nyandiko yose y'urubanza hari ingero nyinshi nk'izi[881]) bituma umuntu yumva ko, n'ubwo mu ntangiriro y'isuzuma rwakoze Urugereko rwa Mbere rw'Iremezo ruragagaza neza amategeko akoreshwa, umuntu ashobora kunenga uburyo rwayakoresheje.

5. Umwanzuro wakemangwa uvuga ko bidashoboka ko amarondo yari agamije gusa kurinda amago ngo adasahurwa

433. Nemeranya n'Urugereko rw'Ubujurire ko Urugereko rwa Mbere rw'Iremezo rwari rufite uburenganzira bwo kwanzura ruvuga ko bidashoboka ko amarondo yaba yarashyiriweho gusa kurinda amago, ngo adasahurwa.[882] Cyakora, mbababajwe n'uko Urugereko rw'Ubujurire rwanze gusuzuma ishingiro ry'ibyo Ujurira avuga ko rufata uwo mwanzuro, Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo mu rwego rw'ibyabaye.[883]

434. Ni byo ko kugira ngo byorohere Urugereko rw'Ubujurire gusuzuma ibyo avuga muri uru rubanza, byari kuba byiza Ujurira avuze ibintu biri muri dosiye bifitanye isano n'ubuhamya ALM n'umugabo w'impuguke batanze mu Rukiko. Ariko kuba atarabivuze ntibyari kubuza na gato ko ibyo avuga bisuzumwa.[884] Kuba Urugereko rw'Ubujurire

[880] Mu bika 174-175 by'urubanza mu rw'iremezo.

[881] Izindi ngero z'amagambo akoreshwa mu rubanza mu rw'iremezo atuma umuntu atekereza ko Ubwunganizi bwategetswe kugaragaza ibiregerwa kandi iyo ari inshingano ya porokireri : igika 167 (« ibyo bitabuza ko, rimwe na rimwe, ashobora kuba yaragiye muri Komine ya Gikomero »), igika 271 (« Urugereko rusanga ubuhamya bw'abo bagabo, bavuga ko batigeze babona Uregwa i Gikomero, butavuguruza ko yashoboraga kuba ahari"), igika cya 470 (« Urugereko rusanga abatangabuhamya bashinjura bashobora kuba barageze ahantu igitero cyaberaga umuntu wavuzwe ko ari Kamuhanda amaze kuhava" [..]ibyo ntibigaragaza ko Uregwa atigeze agera aho hantu"), igika cya 472 "birashoboka ko umugabo wavuzwe ko ari Kamuhanda yaba yarageze kuri Paruwasi ya Gikomero) n'igika cya 476 (« Ntibihagije ku buryo umuntu yabishingiraho ngo yemeze ko Uregwa atari kuri paruwasi ya Gikomero »).

[882] Reba urubanza mu bujurire, ibika 204-205.

[883] Reba urubanza mu bujurire, igika cya 206.

[884] Nk'uko Urugereko rw'Ubujurire rubivuga mu gika cya 10 cy'urubanza rwa Niyitegeka mu bujurire no mu gika cya 7 cy'inyandiko y'urubanza rwa Kajelijeli mu bujurire (Reba na none urubanza rwa Kayishema na Ruzindana mu bujurire, igika cya 137 ; urubanza rwa Rutaganda mu bujurire, igika cya 19) :

rutarashishikariye kubisuzuma biteye impungenge cyane kuko mu gusuzuma niba Urugereko rwa Mbere rw'Iremezo rwarakoze ikosa rwemeza ko ALR na ALB bavuguruzanya mu buhamya bwabo, Urugereko rw'Ubujurire ntirwazuyaje gusoma inyandikomvugo z'iburanisha zose uko zakabaye. Ibi bigaragazwa n'uko rwashoboye kuvumbura ahantu abo batangabuhamya "bavuguruzanya" hatari harabonywe n'ababuranyi bombi cyangwa Urugereko rwa Mbere rw'Iremezo.[885]

435. Maze gusuzuma dosiye, nsanga hari impungenge ku mwanzuro wafashwe n'Urugereko rwa Mbere rw'Iremezo. Biragaragara ko umunsi amarondo atangira, urugo rwa ALR rwatewe kandi rugasahurwa inshuro ebyiri, maze bigatuma abantu bo mu miryango itandukanye bimukira kwa ALS.[886] Mu buhamya bwabo mu Rukiko, Ujurira[887], ALR[888], ALM[889], ALS[890] na ALF[891] bavuga ko amarondo yari ngombwa kugira ngo (i) barinde

---

> Kugira ngo Urugereko rw'Ubujurire rushobore gusuzuma ibyo avuga mu bujurire bwe, ujurira *agomba* kuvuga neza ibyo ashingiraho ajurira naho biri ku mapaji y'inyandiko y'urubanza. [mu nyandiko y'umwimerere ijambo 'agomba' jambo ntiriri muri « itariki »]

Iyo atabikoze, biba « bigoye kugira ngo Urugereko rw'ubujurire rusume neza ingingo ze z'ubujurire » (urubanza rwa Ntakirutimana mu bujurire, igika cya 14; urubanza rwa Semanza mu bujurire, igika cya 10). Cyakora ibyo ntibibuza Urugereko rw'ubujurire gusuzuma izo ngingo.

885 Reba haruguru mu Cyiciro cya XVIII. A. 2. Mu gika cya 83 cy'imyanzuro y'Usubiza, Porokireri avuga ko ubuhamya bwa ALR na ALB buvuguruzanya ku bintu bibiri cyakora ntavuga ko ubuhamya bwabo buhuzagurika ku byerekeranye n'uko ni njoro abakoraga irondo bigabanyagamo amatsinda abiri mato.

886 Inyandikomvugo y'iburanisha, 3 Nzeri 2002, imp. 45-49 (mu muhezo, ALR) ; inyandikomvugo y'iburanisha, 29 Kanama 2002, imp. 23-24 (mu muhezo, ALS).

887 Inyandikomvugo y'iburanisha, 21 Kanama 2002, urup. 58 (mu muhezo) [ENG] ; n'inyandikomvugo y'iburanisha 21 Kanama, urup. 26 [ENG] :

> Twakoze ayo marondo kugira twumve ko dusa n'abafite umutekano. Nk'iyo tuza guterwa n'amabandi— siniriwe mvuga igitero cy'abasirikare, cyangwa cy'abantu bitwaje intwaro, ntitwari gushobora kugira icyo tubikoraho. Cyakora nk'iyo tuza guterwa n'amabandi, twari kugeregeza kubarwanya. Ariko birumvikana ko byari kuba ari ibindi iyo baza kuba bitwaje intwaro. Ikindi kandi, iyo induru zivuga abantu batabaza, buri wese yari yagombaga kugira icyo akora.

888 Inyandikomvugo y'iburanisha, 3 Nzeri 2002, urup. 73 (mu muhezo) ("Twakoze ayo marondo kugira ngo twumve ko dushyize hamwe, ko turi hamwe bityo dushobore guterana akanyabugabo. Muri icyo gihe hari abagizi ba nabi bashakaga, buri gihe, gusahurira mu nduru. Kubera ko rero twari duhari, nk'urugero, iyo hagira ikintu kidasanzwe kiba twashoboraga, nk'urugero, kuvuza induru") no 88 ('guhana morale') [ENG].

889 Inyandikomvugo y'iburanisha, 4 Nzeri 2002, imp. 80-81 [ENG]:

> Nk'uko nabivuze, ayo marondo yakorwaga n'abantu bo muri ako gace twari dutuyemo. Ntiyakorwaga n'abantu baturutse kure cyane. Twari mu mazu yacu ateganye. Twese abantu bo muri ako gace twari tuziranye cyane, twashyize hamwe imbaraga zacu kugira ngo turinde umutekano w'aho dutuye, kandi twari duhari. Iyo haza kugira nk'igitero kiza cyangwa se abantu baza kwiba, twumvaga ko turamutse twishyize hamwe byari gutuma abantu batinya ntihagire ukora ibyo yishakiye. Ni muri urwo rwego rero twashyizeho amarondo. Nta kintu kindi kirenze icyo twashoboraga gukora, uretse kwishyira hamwe. Nkuko bivugwa, "Abishyize hamwe nta kibananira". Twashakaga kurinda amazu, cyane cyane ay'abantu bari barishwe kuko yarimo ibintu kandi hari n'abantu bari bakiriho. Bityo rero, twagerageje gukora uko dushoboye ngo abagizi ba nabi baturutse mu tundi duce bataza kwiba imitungo yabo bantu.

abantu bahatuye, (ii) n'ibintu byabo kandi (iii) bumve ko bari hamwe. Byongeye kandi, Bwana Nkiko Nsengimana, umutangabuhamya w'impuguke wahamagajwe n'Ubwunganizi mu rw'Iremezo, na we avuga ko muri icyo gihe abantu bari bafite ubwoba kandi ko abaturage biyemeje kurinda umutekano w'ahantu batuye.[892] Kubera iyo mpamvu, birasa nk'aho Urugereko rwa Mbere rw'Iremezo rutazirikanye cyane umutekano muke n'akaduruvayo byari mu Rwanda icyo gihe, bityo rukaba rwarapfobeje agaciro rwagombaga guha ibivugwa ko byari ngombwa gushyiraho ingamba zo kurinda umutekano zisa n'izivugwa n'abagabo batanze ubuhamya kuri *alibi*.

6. Umwanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuri *alibi*

436. Nkuko bivugwa haruguru,[893] Urugereko rw'Ubujurire rusanga ko, n'ubwo Urugereko rwa Mbere rw'Iremezo rwakoze ikosa mu gusuzuma bimwe mu bimenyetso byatanzwe kuri *alibi*, ibi bitavuga ko urubanza rwaciwe nabi kuko Urugereko rwa Mbere rw'Iremezo rwanzuye ruvuga ko "mu kugerageza gushyigikira *alibi* y'Uregwa, abatangabuhamya bageze aho bavuga inkuru bumvikanyeho zisa naho zifite icyo zigamije, bityo bakaba batakwizerwa.[894]

---

[890] Inyandikomvugo y'iburanisha, 29 Kanama 2002, urup. 40 (mu muhezo) [ENG]:

> Kubera ko umutekano muke wariho, abasore n'abagabo bakuru bumvikanye ku buryo barinda ingo zabo maze bigabanyamo amatsinda yo gukora irondo.

[891] Inyandikomvugo y'iburanisha, 9 Nzeri 2002, urup. 160 [ENG]:

> Oya, abagabo bararaga hanze. […] kugirango turinde umutekano – umutekano wacu n'uw'imiryango. Twashakaga guhora twiteguye igihe cyose kugira ngo hatagira umuntu utera imiryango yacu. Navuga ko bwari uburyo bwo kurinda umutekano. Twararaga hanze hafi y'ingo […] Byitwaga amarondo. Abagabo bagumaga hanze ijoro ryose, mugitondo cyangwa izaba rirashe bagarukaga mu mago.

[892] Reba "*Quelques éléments d'analyse politologique de l'hécatombe rwandaise de 1994*, Raporo y'Impuguke yakorewe Urukiko Mpuzamahanga Mpanabyaha Rwashyiriweho u Rwanda mu rubanza Porokireri aburanamo na Jean de Dieu Kamuhanda". Iyo raposo ya Niko Nsengimana yatanzwe ku itariki ya 8 Gicurasi 2003 nk'ikimenyetso gihamya cy'Ubwunganizi gifite nomero 87B, imp. 39-41 (ku rupapuro rwa 41 hagira hati: "Nkuko byari mbere y'itariki ya 6 Mata, abantu bicungiraga umutekano aho bari batuye. Bigitangira, mu duce tutari twiganjemo Interahamwe umuntu yashoboraga kubona Abatutsi bari kumwe n'Abahutu ku munywa na nijoro bacunga umutekano aho batuye.").

[893] Reba haruguru igisobanuro 859 na 860 byo hasi ku rupapuro.

[894] Nk'urugero, reba ibika 177, 186 by'urubanza mu rw'iremezo, ahasubirwamo ibivugwa mu gika cya 176 cy'urubanza mu rw'iremezo.

437. Cyakora, mu gusoza, nsanga niba rwaranzuye ruvuga ko "abatangabuhamya bageze aho bakavuga inkuru bumvikanyeho zisa naho zifite icyo zigamije", Urugereko rwa Mbere rw'Iremezo rwashingiye ku kintu rwumva giteye ikibazo mu buhamya bushyigikira *alibi* bwatanzwe mu Rukiko.[895] Nyamara, nk'uko bigaragazwa haruguru, Urugereko rwa Mbere rw'Iremezo rwakoze amakosa menshi mu gusuzuma *alibi*. Kubera iyo mpamvu, bimwe mu bintu umwanzuro warwo ushingiyeho birimo amakosa, bityo hakaba hari impungenge zigaragara zerekana ko Ujurira yarenganijwe muri uru Rubanza.[896] Urugereko rw'Ubujurire ntirwagombaga gushyigikira umwanzuro Urugereko rwa Mbere rw'Iremezo rwafashe kuri *alibi* kubera ko uwo mwanzuro ukemangwa.

B. UMWANZURO

438. Nshingiye ku biteganywa n'ingingo ya 118(C), nategeka ko uru rubanza rusubirwamo.

Bikozwe mu cyongereza no mu gifaransa, inyandiko iri mu cyongereza ni yo izajya igenderwaho.

Ku itariki ya 19 Nzeri 2005, i La Haye, mu Buholandi

[Umukono]
Inés Monica de Roca

[Kashe y'Urukiko]

[895]Mu by'ukuri byaba bitangaje Urugereko rwa Mbere rw'Iremezo ruramutse rwarageze kuri uyu mwanzuro rudashingiye ku myanzuro rwafashe mbere.
[896] Kuba bimwe mu byo rwashingiyeho mu gushyigikira ibivugwa ari amakosa, ntibivuga, byanze bikunze, ko n'umwanzuro rwafashe ari amakosa. Cyakora bituma uwo mwanzuro wakemangwa.

XIX. UMUGEREKA A – UKO IBURANISHA RYAGENZE

439. Dore incamake y'ibyiciro by'ingenzi by'iburanisha mu bujurire, muri uru rubanza.

A. UBUJURIRE N'IMYANZURO BY'UBUJURIRE

440. Mu rw'iremezo, urubanza rwasomwe mu cyongereza ku itariki ya 22 Mutarama 2004. Ku itariki ya 3 Gashyantare 2004, Ujurira yatanze Icyifuzo gisaba kongererwa igihe cyo gutanga ubujurire, Imyanzuro y'ubujurire bwe n'ikindi cyifuzo cyose gisaba Urugereko kwemera ibimenyetso by'inyongera azasanga ari ngombwa gutanga, nkuko biteganywa n'Ingingo ya 115. Yatanze icyo Cyifuzo kubera ko inyandiko y'urubanza iri mu gifaransa itari yakaboneka.[897] Ku itariki ya 8 Werurwe 2004, Umucamanza w'imbanzirizasuzuma mu bujurire yemeye kongerera ujurira igihe yasabye maze amutegeka gushyikiriza Urugereko Inyandiko y'ubujurire bwe mu gihe kitarenze iminsi 30 amaze kubona inyandiko y'urubanza iri mu gifaransa. Rwamutegetse kandi gutanga Imyanzuro y'ubujurire mu gihe kitarenze iminsi 75 amaze gutanga Inyandiko y'ubujurire, no kurushyikiriza Icyifuzo gisaba gutanga ibimenyetso by'inyongera mu gihe kitarenze iminsi 75 amaze guhabwa inyandiko y'urubanza iri mu gifaransa.[898]

Umucamanza w'imbanzirizasuzuma mu bujurire yanategetse Gerefiye guha Ujurira n'Umwunganira inyandiko y'urubanza iri mu gifaransa, vuba bishoboka.[899] Kubera ko inyandiko y'urubanza mu rw'Iremezo iri mu gifaransa itari yakaboneka, ku itariki ya 12 Gicurasi 2004, Umucamanza w'imbanzirizasuzuma mu bujurire, yafashe Icyemezo gishyiraho gahunda y'iburanisha. Muri icyo cyemezo, yategetse Gerefiye kuvuga igihe nyacyo inyandiko y'urubanza iri mu gifaransa izatangirwa.[900] Gerefiye yatanze Raporo[901]

[897] *Requête aux fins de prolongation du délai de dépot de l'acte d'appel et du mémoire en appel en application des articles 108, 111, 115 et 116 du règlement de procédure et de preuve* [Icyifuzo gisaba kongererwa igihe cyo gutanga Inyandiko y'ubujurire n'Imyanzuro y'ubujurire, hashingiwe ku ngingo za 108, 111, 115 na 116 z'Amategeko agenga Imiburanishirize n'Itangwa ry'Ibimenyetso], 3 Gashyantare 2004. Reba na none inyandiko yitwa *Erratum-Rectification d'Erreur Matérielle*] yatanzwe ku itariki ya 9 Gashyantare 2004.

[898] Icyemezo ku Cyifuzo gisaba kongererwa igihe cyo gutanga Inyandiko y'ubujurire n'Imyanzuro y'ubujurire hashingiwe ku ngingo za 108, 111, 115 na 116 z'Amategeko Agenga Imiburanishirize n'Itangwa y'Ibimenyetso, 8 Werurwe 2004, urup. 4.

[899] Ni kimwe no haruguru.

[900] Itegeko ryitwa *Scheduling Order* [Itegeko rishyiraho amatariki y'iburanisha], 12 Gicurasi 2004, urup. 2.

ivuga itariki inyandiko y'urubanza iri mu gifaransa igomba gutangirwaho, kandi iyo nyandiko yatanzwe ku itariki ya 6 Nyakanga 2004. Ku itariki ya 5 Kanama 2004, Ujurira yatanze Inyandiko y'ubujurire bwe, naho ku itariki ya 19 Ukwakira 2004 atanga Imyanzuro y'ubujurire.[902] Ku itariki ya 29 Ugushyingo 2004, Porokireri yatanze Inyandiko y'Usubiza mu bujurire[903] naho ku itariki ya 27 Mata 2005, Ujurira atanga inyandiko isubiza ibyo Porokireri avuga ku bujurire bwe.[904]

B. ISHYIRWAHO RY'ABACAMANZA

441. Ku itariki ya 9 Gashyantare 2004, Perezida w'Urugereko rw'Ubujurire yashyizeho Abacamanza bakurikira ngo baburanishe uru rubanza mu bujurire: Theodor Meron, Mohamed Shahabuddeen, Florence Ndepele Mwacande Mumba, Wolfgang Schomburg na Inés Monica Weinberg de Roca.[905] Umucamanza Mumba ni we wagizwe umucamanza w'imbanzirizasuzuma mu bujurire.[906]

C. IBIMENYETSO BY'INYONGERA

442. Ku itariki ya 20 Nzeri 2004, Ujurira yatanze Icyifuzo gisaba Urugereko kwakira ibimenyetso by'inyongera.[907] Urugereko rw'Ubujurire rwemeye Icyifuzo cye, kuri

---

901 Raporo yitwa *Report of the Registrar in Compliance UIT the Orders of the Pre-Appeal Judge Dates 12 May 2004* [Raporo ya Gerefiye hashingiwe ku Byemezo by'Umucamanza ushinzwe gutegura urubanza mu bujurire, byo ku itariki ya 12 Gicurasi 2004] 25 Gicurasi 2004, urup. 2.

902 Izi nyandiko zatanzwe mu gifaransa zitwa "Inyandiko y'ubujurire ku rubanza rwaciwe ku itariki ya 22 Mutarama 2004" na "Imyanzuro y'Ubujurire – hashingiwe ku ngingo ya 111 " y'Amategeko agenga Imiburanishirize n'Itangwa ry'Ibimenyetso" (Mu ibanga).

903Imyanzuro y'Usubiza mu bujurire, 29 Ugushyingo 2004.

904 *Duplique au Mémoire en appel* [Igisubizo cy'Ubwunganizi ku Myanzuro y'Usubiza mu bujurire], 27 Mata 2005. Reba na none Icyemezo cyitwa Decision on Jean de Dieu Kamuhanda's Motion for an Extensión of Time [Icyemezo ku Cyifuzo cya Jean de Dieu Kamuhanda gisaba kongererwa igihe, 19 Mata 2005, kimwongerera igihe cyo gutanga Igisubizo ku Myanzuro y'Usubiza mu bujurire, bitarenze tariki ya 27 Mata 2005.

905 Itegeko ryitwa *Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge* [Itegeko rya Perezida rishyiraho Abacamanza, rikanagena Umucamanza utegura urubanza mu bujurire], 9 Gashyantare 2004.

906 Itegeko ryitwa *Order of the Presiding Judge Assigning Judges and Designating the Pre-Appeal Judge* [Itegeko rya Perezida rishyiraho Abacamanza, rikanagena Umucamanza utegura urubanza mu bujurire], 9 Gashyantare 2004, urup. 2.

907 Icyifuzo cyitwa *Requête aux fins d'admission de moyens de preuve supplémentaires en application de l'article 115 du Règlement de Procédure et de Preuve* [Icyifuzo gisaba Urugereko kwakira ibimenyetso by'inyongera hashingiwe ku Ngingo ya 115 y'Amategeko agenga Imiburanishirize n'Itangwa ry'Ibimenyetso] cyatanzwe mu ibanga, 30 Nzeri 2004. Reba na none *Prosecutor's Response to Requête aux fins d'admission de moyens de preuve supplémentaires en application de l'article 115 du Règlement de Procédure et de Preuve* [Igisubizo cya Porokireri ku Cyifuzo cy'ubwunganizi gisaba Urugereko kwakira ibimenyetso by'inyongera hashingiwe ku Ngingo ya 115

bimwe. Rwemeye kwakira ubuhamya bwanditse bwa GAA na GEX runategeka ko abo bagabo batanga ubuhamya mu gihe kimwe n'ubw'abagabo babavuguruza Porokireri yashoboraga guhamagaza.[908] Ku itariki ya 18 Gicurasi 2005, Urugereko rwumvise ubuhamya bwa GAA na GEX bahamagajwe n'Ubwunganizi; rwumvise kandi n'ubwa GEK na GAG bahamagajwe na Porokireri ngo babavuguruze.[909] Ku itariki ya 19 Gicurasi 2005, nyuma yo kumva ubuhamya bw'abagabo bahamagajwe mu itangwa ry' ibimenyetso by'inyongera, Urugereko rw'Ubujurire rwafashe icyemezo mu magambo, rushingiye ku Ngingo ya 77(C) (i). Muri icyo Cyemezo rwategetse Porokireri gupererereza ku byavuzwe mu iburanisha ko abakozi b'Urukiko baba baragerageje koshya abagabo batanze ubuhamya mu Rukiko. Byongeye kandi, rushingiye ku ngingo ya 91(B) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, rwategetse Porokireri gukora iperereza k'ukwivuguruza kuri mu buhamya bwatanzwe mu iburanisha no k'ukuba ubwo buhamya bushobora kuba ari ikinyoma.[910]

D. <u>IBURANISHA MU BUJURIRE</u>

443. Ku itariki ya 19 Gicurasi 2005, Urugereko rw'Ubujurire rwaburanishize ubujurire Arusha muri Tanzaniya.[911] Iburanisha rirangiye, Ujurira yafashe ijambo agira icyo abwira Urugereko rw'Ubujurire.

---

y'Amategeko agenga Imiburanishirize n'Itangwa ry'Ibimenyetso], 30 Nzeri 2004; n'Igisubizo cy'Ubwunganizi ku Gisubizo cya Porokireri ku itangwa ry'ibimenyetso by'inyongera hashingiwe ku Ngingo ya 115 y'Amategeko agenga Imiburanishyirize n'Itangwa ry'Ibimenyetso, 1 Gashyantare 2005.

[908] Icyemezo ku Cyifuzo cy'Ujurira gisaba Urugereko rwakira ibimenyetso by'inyongera mu bujurire, 12 Mata 2005, igika cya 50 na 74.

[909] Itegeko ryitwa *Scheduling Order* [Itegeko rishyiraho amatariki y'iburanisha], 18 Mata 2005; Itegeko ryitwa *Order for the Transfer of Detained Witness GEK* [itegeko ryo kwimura umutangabuhamya wiswe GEK ufunze], 13 Gicurasi 2005.

[910] Icyemezo cyitwa *Oral Decision on Rule 115 and Contempt of False Testimony* [Icyemezo mu magambo ku ngingo ya 115 no Gusuzugura Urukiko hatangwa ubuhamya bw'ikinyoma], 19 Gicurasi 2005.

[911] Itegeko ryitwa Scheduling Order [Itegeko rishyiraho amatariki y'iburanisha], 18 Mata 2005.

E. <u>ISOMWA RY'URUBANZA</u>

444. Urubanza rwasomwe ku itariki ya 19 Nzeri 2005, ku cyicaro cya TPIY i La Haye mu Buholandi, nyuma y'uko Perecida w'Urukiko abitangiye uruhushya nk'uko biteganywa n'ingingo ya 4 y'Amategeko.[912]

[912] Reba Itegeko rya Perecida ryitwa *The President's Authorization to Hold Appeals Hearing Away From the SEAT of the Tribunal* [Uruhushya rwa Perezida rwo kuburanishiriza ubujurire hanze y'icyicaro cy'Urukiko], 5 Nzeri 2005; Itegeko ryitwa *Variation of Scheduling Order* [Itegeko rihindura amatariki y'iburanisha], 19 Kanama 2005.

XX. UMUGEREKA B: INYANDIKO ZIFASHISHIJWE N'IBISOBANURO BY'AMAGAMBO YAKORESHEJWE

A. UBUKEMURAMANZA

1. Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda (TPIR)

URUBANZA RWA AKAYESU

Porokireri aburana na Jean-Paul Akayesu mu rw'iremezo, urubanza N^{o} ICTR-96-4-T, 2 Nzeri 1998 ("Inyandiko y'urubanza rwa Akayesu mu rw'iremezo")

Porokireri aburana na Jean-Paul Akayesu mu rw'iremezo, urubanza N^{o} ICTR-96-4-T, igenagihano, 2 Ukwakira 1998 ("Igihano cyagenewe Akayesu")

Porokireri aburana na Jean-Paul Akayesu mu bujurire, urubanza N^{o} ICTR-96-4-A, 1 Kamena 2001 ("Inyandiko y'urubanza rwa Akayesu mu bujurire")

URUBANZA RWA BAGILISHEMA

Porokireri aburana na Ignace Bagilishema mu rw'iremezo, Urubanza N^{o} ICTR-95-1A-T, Inyandiko y'Urubanza, 7 Kamena 2001 ("Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo")

Porokireri aburana na Ignace Bagilishema mu bujurire, urubanza N^{o} ICTR-1A-A, 3 Nyakanga 2002 ("Inyandiko y'urubanza rwa Bagilishema mu bujurire")

URUBANZA RWA KAJELIJELI

Porokireri aburana na Juvénal Kajelijeli mu bujurire, urubanza N^{o} ICTR-98-44A-A, 23 Gicurasi 2005 ("Inyandiko y'Urubanza rwa Kajelijeli mu bujurire")

URUBANZA RWA KAMBANDA

Porokireri aburana na Jean Kambanda mu rw'iremezo, urubanza N° ICTR-97-23-S, icibwa ry'urubanza n'igenagihano, 4 Nzeri 1998 ("Inyandiko y'urubanza rwa Kambanda mu rw'iremezo")

Porokireri aburana na Jean Kambanda mu bujurire, urubanza N° ICTR-97-23-A, 19 Ukwakira 2000 ("Inyandiko y'urubanza rwa Kambanda mu bujurire")

URUBANZA RWA KAMUHANDA

Urubanza Porokireri aburana na Jean de Dieu Kamuhanda mu rw'iremezo, urubanza N° ICTR-99-54A-T, Icyemezo cyitwa "*Decision on Kamuhanda's Motion to Admit into Evidence Two Statements by Witness GER in Accordance with Rules 89© and 92 bis of the Rules of Procedure and Evidence* [Icyemezo ku Cyifuzo cya Kamuhanda gisaba Urugereko kwakira ubuhamya bubiri bwanditse bw'umugabo wiswe GER, hashingiwe ku Ngingo ya 89(C) na 92 bis z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso], 20 Gicurasi 2003.

Porokireri aburana na Jean de Dieu Kamuhanda mu rw'iremezo, urubanza N° ICTR-99-54A-T, *Corrigendum to the Decision on Kamuhanda's Motion to Admit into Evidence Two Statements by Witness GER in Accordance with Rules 89© and 92 bis of the Rules of Procedure and Evidence* [Ibyakosowe mu Cyemezo cya Kamuhanda gisaba Urugereko kwakira ubuhamya bubiri bwanditse bw'umugabo wiswe GER, hashingiwe ku Ngingo ya 89(C) na 92 bis z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso], 22 Gicurasi 2003

Porokireri aburana na Jean de Dieu Kamuhanda mu rw'iremezo, urubanza N° ICTR-99-54A-T, icibwa ry'urubanza n'igenagihano, 22 Mutarama 2004 ("Inyandiko y'urubanza mu rw'iremezo")

Porokireri aburana na Jean de Dieu Kamuhanda mu bujurire, urubanza N° ICTR-99-54A-A, Icyemezo ku Cyifuzo cy'Ujurira gisaba Urugereko kwakira ibimenyetso by'inyongera mu bujurire, 12 Mata 2005

URUBANZA RWA KAYISHEMA NA RUZINDANA

Porokireri aburana na Clément Kayishema na Obed Ruzindana mu rw'iremezo, urubanza N^{o} ICTR-95-1-T, Inyandiko y'Urubanza, 21 Gicurasi 1999 ("Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo")

Porokireri aburana na Clément Kayishema na Obed Ruzindana mu bujurire, urubanza N^{o} ICTR-95-1-A, Urubanza (Impamvu), 1 Kamena 2001 ("Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire")

URUBANZA RWA MUSEMA

Porokireri aburana na Alfred Musema mu rw'iremezo, urubanza N^{o} ICTR-96-13-T, 27 Mutarama 2000 ("Inyandiko y'urubanza rwa Alfred Musema mu rw'iremezo")

Porokireri aburana na Alfred Musema mu bujurire, urubanza N^{o} ICTR-96-13-A, 16 Ugushyingo 2001 ("Inyandiko y'urubanza rwa Musema mu bujurire")

URUBANZA RWA NIYITEGEKA

Porokireri aburana na Eliézer Niyitegeka, urubanza N^{o} ICTR-96-14-T, Icyemezo cyitwa *Decision on Two Defence Motions Pursuant to, Inter Alia, Rule 5 of the Rules and the Prosecution's Motion for Extensión of Time to File the Modified Atended Indictment Pursuant to the Trial Chamber II Order of 20 November 2000* [Icyemezo ku Byifuzo bibiri by'Ubwunganizi bishingiye, nk'urugero, ku ngingo ya 5 y'Amategeko no ku Cyifuzo cya Porokireri gisaba kongererwa igihe cyo gutanga Inyandiko y'Ibirego yahinduwe hashingiwe ku Itegeko Urugereko rwa Mbere rw'Iremezo rwafashe ku itariki ya 20 Ugushyingo 2000]; Kwihaniza Porokireri hashingiwe ku ngingo ya 46(A), 27 Gashyantare 2001

Porokireri aburana na Eliézer Niyitegeka mu rw'iremezo, urubanza N° ICTR-96-14-T, icibwa ry'urubanza n'igenagihano, 16 Gicurasi 2003 ("Inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo")

Porokireri aburana na Eliézer Niyitegeka mu bujurire, urubanza N° ICTR-96-14-A, 9 Nyakanga 2004 ("Inyandiko y'urubanza rwa Niyitegeka mu bujurire")

URUBANZA RWA NTAKIRUTIMANA

Porokireri aburana na Elizaphan na Gérard Ntakirutimana mu rw'iremezo, urubanza N° ICTR-96-10 & ICTR-96-17-T, icibwa ry'urubanza n'igenagihano, 21 Gashyantare 2003 ("Inyandiko y'urubanza rwa Ntakirutimana mu bujurire")

Porokireri aburana na Elizaphan na Gérard Ntakirutimana mu bujurire, urubanza N° ICTR-96-10-A & ICTR-96-17-A, *Reasons for the Decision on the Request for Admision of Additional Evidence* [Impamvu zashingiweho mu gufata Icyemezo ku Cyifuzo gisaba Urugereko kwakira ibimenyetso by'inyongera], 8 Nzeri 2004 ("Icyemezo ku Cyifuzo cya Ntakirutimana, cyafashwe hashingiwe ku ngingo ya 115")

Porokireri aburana na Elizaphan na Gérard Ntakirutimana mu bujurire, urubanza N° ICTR-96-10-A & ICTR-96-17-A, 13 Ukuboza 2004 ("Inyandiko y'urubanza rwa Ntakirutimana mu bujurire")

URUBANZA RWA RUGGIU

Porokireri aburana na Georges Ruggiu mu rw'iremezo, urubanza N° ICTR-97-32-I, icibwa ry'urubanza n'igenagihano, 1 Kamena 2000 ("Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo")

URUBANZA RWA RUTAGANDA

Porokireri aburana na Georges Anderson Nderubumwe Rutaganda mu rw'iremezo, urubanza N° ICTR-96-3-T, icibwa ry'urubanza n'igenagihano, 6 Ukuboza 1999 ("Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo")

Urubanza Porokireri aburana na Georges Anderson Nderubumwe Rutaganda mu bujurire, urubanza N° ICTR-96-3-A, 26 Gicurasi 2003 ("Inyandiko y'urubanza rwa Rutaganda mu bujurire")

URUBANZA RWA SEMANZA

Porokireri aburana na Laurent Semanza mu rw'iremezo, urubanza N° ICTR-97-20-T, icibwa ry'urubanza n'igenagihano, 15 Gicurasi 2003 ("Inyandiko y'urubanza rwa Semanza mu rw'iremezo")

Porokireri aburana na Laurent Semanza mu bujurire, urubanza N° ICTR-97-20-A, 20 Gicurasi 2005 ("Inyandiko y'urubanza rwa Semanza mu bujurire")

2. Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho Icyahoze Cyitwa Yugosolaviya (TPIY)

URUBANZA RWA ALEKSOVSKI

Porokireri aburana na Zlatko Aleksoviski mu bujurire, urubanza N° IT-95-14/1-AR73, Icyemezo ku bujurire bwa Porokireri bwerekeye iyakirwa ry'ibimenyetso, 16 Gashyantare 1999.

Porokireri aburana na Zlatko Aleksoviski mu bujurire, urubanza N° IT-95-14/1-A, 24 Werurwe 200 ("Inyandiko y'Urubanza rwa Aleksoviski mu bujurire")

URUBANZA RWA BLASKIC

Porokireri aburana na Tihomir Blaškić mu rw'iremezo, urubanza N° IT-95-14-T, Icyemezo ku itangwa ry'ibimenyetso ku gahato, 27 Mutarama 1997

Porokireri aburana na Tihomir Blaškić mu bujurire, urubanza N° IT-95-14-A, 20 Nyakanga 2004 ("Inyandiko y'urubanza rwa Blaškić mu bujurire")

URUBANZA RWA BLAGJEVIC NA BAGENZI BE

Porokireri aburana na Vidoje Blagevic na bagenzi be mu rw'iremezo, urubanza N° IT-02-60-PT, Icyemezo ku Cyifuzo cya Dragan Obranovic gisaba kurekurwa by'agateganyo, 23 Nyakanga 2002

URUBANZA RWA BR\ANIN NA TALIC

Porokireri aburana na Radoslav Brđanin na Momir Talić mu rw'iremezo, urubanza N° IT-99-36-PT, Icyemezo ku myandikire y'Inyandiko y'Ibirego yongeye guhindurwa no ku Cyifuzo cya Porokireri gisaba uruhushya rwo kuyihindura, 26 Kamena 2001

URUBANZA RWA DELALIC NA BAGENZI BE (URUBANZA RWA ĆELEBIĆI)

Porokireri aburana na Zejnil Delalić na bagenzi be mu bujurire, urubanza N° IT-96-21-A, 20 Gashyantare 2001 ("Inyandiko y'urubanza rwa Ćelebići" mu bujurire")

URUBANZA RWA FURUNDŽIJA

Porokireri aburana na Anto Furundžija mu rw'iremezo, urubanza N° IT-95-17/1-T, 10 Ukuboza 1998 ("Inyandiko y'urubanza rwa Furundžija mu rw'iremezo")

Porokireri aburana na Anto Furundžija mu bujurire, urubanza N° IT-95-17/1-A, 21 Nyakanga 2001 ("Inyandiko y'urubanza rwa Furundžija mu bujurire")

URUBANZA RWA JELISIĆ

Porokireri aburana na Goran Jelisić mu bujurire, urubanza N° IT-95-10-A, 5 Nyakanga 2001 ("Inyandiko y'urubanza rwa Jelisić mu bujurire")

URUBANZA RWA KORDIĆ NA ČERKEZ

Porokireri aburana na Dario Kordić na Mario Čerkez mu rw'iremezo, urubanza N° IT-95-14/2-T, 26 Gashyantare 2001 ("Inyandiko y'urubanza rwa Kordić na Čerkez mu rw'iremezo")

Porokireri aburana na Dario Kordić na Mario Čerkez mu bujurire, urubanza N° IT-95-14/2-A, 17 Ukoboza 2004 ("Inyandiko y'urubanza rwa Kordić na Čerkez mu bujurire")

URUBANZA RWA KRSTIĆ

Porokireri aburana na Radislav Krstić mu bujurire, urubanza N° IT-98-33—A, 19 Mata 2004 ("Inyandiko y'urubanza rwa Krstić mu bujurire")

URUBANZA RWA KUNARAC NA BAGENZI BE

Porokireri aburana na Dragoljub Kunarac na bagenzi be mu rw'iremezo, imanza N° IT-96-23-T & IT-96-23/1-T, Icyemezo ku Cyifuzo gisaba kugirwa umwere, 3 Nyakanga 2000

Porokireri aburana na Dragoljub Kunarac na bagenzi be mu rw'iremezo, imanza N° IT-96-23-T & IT-96-23/1-T, 22 Gashyantare 2001 ("Inyandiko y'urubanza rwa Kunarac na bagenzi be mu rw'iremezo")

Porokireri aburana na Dragoljub Kunarac na bagenzi be mu bujurire, imanza N° IT-96-23-T & IT-96-23/1-A, 12 Kamena 2004 ("Inyandiko y'urubanza rwa Kunarac na bagenzi be mu bujurire")

URUBANZA RWA KUPREŠKIĆ NA BAGENZI BE

Porokireri aburana na Zoran Kupreškić na bagenzi be mu bujurire, urubanza N° IT-95-16-A, 23 Ukwakira 2001 ("Inyandiko y'urubanza rwa Kupreškić na bagenzi be mu bujurire")

URUBANZA RWA KVOˆKA NA BAGENZI BE

Porokireri aburana na Miroslav Kvočka na bagenzi be mu rw'iremezo, urubanza N° IT-98-30/1-PT, Icyemezo ku Ngoboka mbanzirizarubanza z'Ubwunganizi zerekeye imyandikire y'Inyandiko y'ibirego, 12 Mata 1999

Porokireri aburana na Miroslav Kvočka na bagenzi be mu bujurire, urubanza N° IT-98-30/1-A, 28 Gashyantare 2005 ("Inyandiko y'urubanza rwa Kvočka na bagenzi be mu bujurire")

URUBANZA RWA DRAGAN NIKOLIC

Porokireri aburana na Dragan Nikolic mu bujurire, urubanza N° IT-94-2-A, urubanza ku igenagihano, 4 Gashyantare 2005 ("Inyandiko y'urubanza rugena igihano mu bujurire bwa Dragan Nikolic")

URUBANZA RWA TADIĆ

Porokireri aburana na Duško Tadić bahimba "Dule" mu rw'iremezo, urubanza N° IT-94-1-T, 7 Gicurasi 1997 ("Inyandiko y'urubanza rwa Tadić mu rw'iremezo")

Porokireri aburana na Duško Tadić mu bujurire, urubanza N° IT-94-1-A, 15 Nyakanga 1999 ("Inyandiko y'urubanza rwa Tadić mu bujurire")

URUBANZA RWA VASILJEVIĆ

Porokireri aburana na Mitar Vasiljević mu rw'iremezo, urubanza N° IT-98-32-T, 29 Ugushyingo 2002, ("Inyandiko y'urubanza rwa Vasiljević mu rw'iremezo")

Porokireri aburana na Mitar Vasiljević mu bujurire, urubanza N° IT-98-32-A, 25 Gashyantare 2004, ("Inyandiko y'urubanza rwa Vasiljević mu bujurire")

C [sic] IBISOBANURO BY'AMAGAMBO N'IMPINAMAGAMBO

Imyanzuro y'Ubujurire

Porokireri aburana na Jean de Dieu Kamuhanda mu bujurire, urubanza N° ICTR-99-54-A, Imyanzuro y'Ubujurire – hashingiwe ku ngingo ya 111 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, yatanzwe ku itariki ya 19 Ukwakira 2004

Ujurira
Jean de Dieu Kamuhanda

BVerfGE

Igitabo cy'Ibyemezo by'Urukiko Rurinda Itegekonshinga ry'Ubudage (Bundesverfassungsgericht), cyanditseho nomero y'umutumba na paji

Imyanzuro mbanzirizarubanza y'Ubwunganizi

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N° ICTR-99-54-I, Imyanzuro mbanzirizarubanza y'Ubwunganizi, yatanzwe hashingiwe ku ngingo 73ter y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 25 Nyakanga 2002

ICTR/TPIR

Urukiko Mpanabyaha Mpuzamahanga rushinzwe gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha bya jenoside n'ibindi byaha bikomeye binyuranyije n' n'Amategeko mpuzamahanga akurikizwa mu gihe cy'intambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya mbere Mutarama 1994 n'iya 31 Ukuboza 1994.

Sitati ya TPIR

Sitati y'Urukiko Mpuzamahanga

ICTY/TPIY

Urukiko Mpuzamahanga rwashyiriweho gucira imanza abantu bakekwaho kuba barakoreye mu Cyahoze Cyitwa Yugosolaviya ibyaha bikomeye binyuranyije n'Amategeko mpuzamahnga akurikizwa mu gihe cy'intambara kuva muri 1991

Inyandiko y'Ibirego

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N^{o} ICTR-99-54-A, Inyandiko y'Ibirego yatanzwe ku itariki ya 15 Ugushyingo 2000

Imyanzuro mbanzirizarubanza ya Porokireri

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N^{o} ICTR-99-54-I, Imyanzuro mbanzirizarubanza ya Porokireri, yatanzwe hashingiwe ku ngingo ya 73bis y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 30 Werurwe 2001

Imyanzuro y'Ujurira isubiza ibivugwa na Porokireri mu Myanzuro y'Usubiza

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N^{o} ICTR-99-54-A, Imyanzuro y'Ujurira isubiza ibivugwa na Porokireri mu Myanzuro y'Usubiza, yatanzwe ku itariki ya 27 Mata 2005

Icyemezo 955

Icyemezo N^{o} 955 cy'Inama y'Umuryango w'Abibumbye Ishinzwe Amahoro ku Isi, U.N. Doc. S/RES/955

Imyanzuro y'Usubiza mu bujurire

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N° ICTR-99-54-A, Imyanzuro y'Usubiza yatanzwe ku itariki ya 29 Ugushyingo 2004

RPF

Umuryango wa RPF/FPR

Icyemezo kirebana n'ingingo ya 115

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N° ICTR-99-54-A, Icyemezo cyitwa *Decision on Appellant's Motion for Admission of Additional Evidence on Appeal* [Icyemezo ku Cyifuzo cy'Ujurira gisaba kwemererwa gutanga ibimenyetso by'inyongera mu bujurire], 12 Mata 2005

Amategeko

Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso y'Urukiko

T.

Inyandikomvugo y'Iburanisha. Inyandikomvugo z'iburanishwa zose zivugwa ni iziri mu cyongereza, kereka bivuzwe ukundi.

Inyandiko y'Urubanza mu rw'Iremezo

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza N° ICTR-99-54-A-T, icibwa ry'urubanza n'igenagihano, 22 Mutarama 2004

Urukiko

Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha bya jenoside n'ibindi byaha bikomeye binyuranyije n'Amategeko mpuzamahnga akurikizwa mu gihe cy'ntambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya 1 Mutarama 1994 n'iya 31 Ukuboza 1994.

Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda

UMURYANGO W'ABIBUMBYE

Urubanza nº ICTR-99-54A

POROKIRERI W'URUKIKO

Aburana na :

JEAN DE DIEU KAMUHANDA

INYANDIKO Y'IBIREGO

Ashingiye ku bubasha ahabwa n'ingingo ya 17 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Sitati y'Urukiko ») Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, **ararega** :

JEAN DE DIEU KAMUHANDA

UBWUMVIKANE BUGAMIJE GUKORA JENOSIDE, JENOSIDE cyangwa, iki cyaha kiramutse kitamuhamye, **KUBA ICYITSO CY'ABAKOZE JENOSIDE, IBYAHA BYIBASIYE INYOKOMUNTU, NO KUNYURANYA N' INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE HAMWE N'INYONGERA YAYO YA II.** Ibyo byaha biteganyijwe n'ingingo ya 2, iya 3 n'iya 4 za Sitati y'Urukiko.

1. IBYABAYE BIREBANA N'AMATEKA

1.1 Revolisiyo yo mu mwaka wa 1959 ni yo yabaye intangiriro y'ubushyamirane bushingiye ku moko hagati y'Abahutu n'Abatutsi mu Rwanda. Niyo yo yatumye mu myaka yakurikiyeho harishwe Abatutsi babarirwa mu magana, abandi babarirwa mu bihumbi bagahungira mu mahanga. Iyo Revolisiyo yatumye ingoma ya cyami y'Abatutsi ivaho, hashyirwaho Repuburika ya Mbere mu ntangiriro z'umwaka wa 1961, yemejwe na Kamarampaka muri uwo mwaka. Amatora y'abagize Inteko Ishinga Amategeko yo muri Nzeri 1961 yashimangiye ugutsinda kw'ishyaka rya MDR-PARMEHUTU *(Mouvement démocratique républicain – Parti du mouvement d'émancipation hutu)* ryari riyobowe na Grégoire Kayibanda, ari na we Inteko Ishinga Amategeko yaje gutorera kuba Perezida wa Repuburika ku itariki ya 26 Ukwakira 1961.

1.2 Mu myaka yayo ibanza, iyo Repuburika ya Mbere yayoborwaga ku bwiganze n'Abahutu bakomoka mu majyepfo no hagati mu Rwanda, yongeye kurangwa n'imvururu zishingiye ku moko. Abenshi mu bahohotewe bari Abatutsi, bari barahoze mu nzego z'ubuyobozi, n'abari bafatanyije na bo. Muri abo bahohotewe, bamwe barishwe abandi bamenesherezwa mu tundi turere tw'u Rwanda cyangwa se mu mahanga. Muri iyo myaka ya mbere, amashyaka yari ahanganye n'iryari ku butegetsi ari ryo MDR-PARMEHUTU yagiye asenywa kugeza ubwo iri shyaka ryasigaye ari rimwe rukumbi, rikaba ari na ryo ryonyine ryatanze abakandida mu matora yo mu wa 1965.

1.3 Mu ntangiriro z'umwaka wa 1973, mu Rwanda hongeye kuvuka imvururu, zishingiye ku moko, hagati y'Abahutu n'Abatutsi. Kimwe n'izabaye hagati y'umwaka wa 1959 n'uwa 1963, izo mvururu zatumye na none Abatutsi nyamuke bahungira mu mahanga. Iryo yubura ry'amakimbirane hagati y'amoko n'uturere (amajyaruguru n'amajyepfo) ryatumye abasirikare, bayobowe na Jenerali Juvénal Habyarimana, bafata ubutegetsi ku ngufu ku itariki ya 5 Nyakanga 1973. Iryo hirikwa ry'ubutegetsi ryatumye, ku ruhande rumwe, ubutegetsi buva mu maboko y'abasiviri bujya mu y'abasirikare, naho ku rundi ruhande, buva mu maboko y'Abahutu bo mu karere ko hagati mu gihugu bujya mu

y'Abahutu bo mu ma perefegiruta yo mu majyaruguru, ari yo Gisenyi (akarere Habyarimana avukamo) na Ruhengeri.

1.4 Mu mwaka wa 1975, Habyarimana yashinze MRND, ishyaka rimwe rukumbi, anaribera Perezida. Imiterere y'inzego z'ubutegetsi bwa MRND n'uko zagendaga zisumbana, yagaragazaga ko nta tandukanyirizo ryari hagati yazo n'inzego za Leta hose mu butegetsi bw'igihugu, kuva kuri perefe kugeza kuri burugumesitiri, yewe no kuva kuri konseye wa segiteri kugeza kuri resiponsabure wa serire.

1.5 Kuva mu wa 1973 kugeza mu wa 1994, Guverinoma ya Perezida Habyarimana yashyizeho politiki y'iringaniza rishingiye ku moto n'uturere, ryitwaga ko rigamije guha abantu bose amahirwe angana mu byerekeye uburezi n'imirimo. Cyakora, buhoro buhoro iryo ringaniza ryaranzwe n'ivangura ryakorerwaga Abatutsi, n'Abahutu batakomokaga mu majyaruguru y'uburengerazuba. Koko rero, mu mpera ya za 1980, imyanya myinshi ikomeye mu nzego za gisirikare, iza politiki, iz'ubukungu n'iz'ubutegetsi mu Rwanda yari yikubiwe n'abakomokaga ku Gisenyi no mu Ruhengeri. Mu bantu b'ingenzi bari baratoneshejwe, harimo agatsiko kari gafite ububasha bukomeye, kari kariswe *« Akazu »* kandi kagizwe na bene wabo n'inshuti ba Perezida Habyarimana n'umugore we Agathe Kanziga. Abari bagize ako gatsiko hafi ya bose bari Abahutu. Kuri ako gatsiko haje kwiyongeraho abandi bantu bari bahuje na ko ibitekerezo by'Abahutu b'intagondwa, bakomokaga cyane cyane mu karere Perezida Habyarimana n'umugore we bavukagamo.

1.6 Mu mwaka wa 1990, Perezida wa Repuburika, ari we Juvénal Habyarimana, n'ishyaka rye rukumbi, bahanganye n'abataravugaga rumwe n'ubutegetsi bagendaga biyongera, barimo n'Abahutu.

1.7 Ku itariki ya 1 Ukwakira 1990, FPR, yari yiganjemo impunzi z'Abatutsi, yagabye igitero ku Rwanda. Mu minsi yakurikiyeho, Guverinoma yafunze abantu babarirwa mu bihumbi, bakekwagaho kurwanya Habyarimana no kuba ibyitso bya FPR. N'ubwo Abatutsi ari bo bibasiwe cyane, mu bafunzwe harimo n'Abahutu batavugaga rumwe n'ubutegetsi.

1.8 Kubera igitutu yokejwe n'abataravugaga rumwe n'ubutegetsi bari mu gihugu hamwe n'amahanga, no kubera igitero cya FPR cyo ku itariki ya 1 Ukwakira 1990, Perezida Habyarimana yemeye ko habaho amashyaka menshi, anemera Itegeko Nshinga rishya ku itariki ya 10 Kamena 1991. MRND *(Mouvement révolutionnaire national pour le développement)* yahinduriwe inyito ariko ikomeza kuba mu magambo ahinnye MRND *(Mouvement républicain national pour la démocratie et le développement).* Abari bagize Guverinoma ya mbere y'inzibacyuho hafi ya bose bari abayoboke ba MRND kubera ko amashyaka akomeye ataravugaga rumwe n'ubutegetsi yari yanze kuyijyamo. Muri Mata 1992, hashyizweho Guverinoma ya kabiri y'inzibacyuho, MRND ikaba yari ifitemo abaminisitiri 9 kuri 19, bikaba byari bibaye ubwa mbere mu mateka iryo shyaka ritiganje muri Guverinoma. Cyakora, MRND yakomeje kwiganza mu nzego z'ubutegetsi bw'igihugu.

1.9 Guverinoma nshya yatangiye kugirana imishyikirano na FPR, yasojwe n'Amasezerano ya Arusha yashyizweho umukono ku itariki ya 4 Kanama 1993. Ayo masezerano yateganyaga igabana ry'ubutegetsi mu rwego rwa gisirikare n'urwa gisiviri hagati ya FPR, MRND n'amashyaka ataravugaga rumwe n'ubutegetsi.

1.10 Amasezerano ya Arusha yateganyaga ihuzwa ry'ingabo z'impande zombi. Umubare w'ingabo washyizwe ku 13000, muri zo 60% bakaba baragombaga gukomoka muri FAR, naho 40% bagakomoka muri FPR. Ku birebana n'imyanya y'ubuyobozi bw'ingabo, impande zombi zagombaga kuyigabana zikanganya (50% - 50%), umwanya w'Umugaba w'ingabo ukegurirwa FAR. Umubare w'abajandarume washyize ku 6000, muri bo 60% bakaba baragombaga gukomoka muri FAR, naho 40% bagakomoka muri FPR. Ku birebana n'imyanya y'ubuyobozi bwa Jandarumori, impande zombi zagombaga kuyigabana zikanganya (50% - 50%), umwanya w'Umukuru wa Jandarumori ukegurirwa FPR.

1.11 Ku birebana n'igabana ry'imyanya muri Guverinoma, Amasezerano ya Arusha yageneraga MRND minisiteri 5, na Perezidansi ya Repuburika. Izindi minisiteri

zagabanyijwe ku buryo bukurikira : FPR : 5 ; MDR : 4, hakubiyemo n'umwanya wa minisitiri w'intebe ; PSD : 3 ; PL : 3 ; PDC : 1.

1.12 Abagore n'abagabo b'ibyegera bya Perezida Habyarimana, barimo abagize *Akazu,* bari bafite imyanya ikomeye mu nzego zinyuranye z'igihugu, babonaga ko iryo gabana rishya ry'ubutegetsi, nk'uko ryasabwaga n'amashyaka ataravugaga rumwe n'ubutegetsi ndetse rigateganywa n'Amasezerano ya Arusha, ryari gutuma batakaza ubutegetsi, inyungu babukomoragaho n'ubutoni bari bafite. Impinduka muri politiki zakurikiye ishyirwaho rya Guverinoma ishingiye ku mashyaka menshi muri Mata 1992, zatumye bamwe muri ba ofisiye bo mu majyaruguru bahatirwa gufata ikiruhuko cy'izabukuru. Muri icyo gihe kandi, mu rwego rwo gushyira mu bikorwa Amasezerano ya Arusha, benshi mu basirikare bari bugarijwe n'igikorwa cyo gusezererwa mu ngabo.

1.13 Kuva mu mwaka wa 1990, Habyarimana na benshi mu byegera bye bashyizeho ingamba zo guhamagarira abantu kwanga Abatutsi nyamuke no kubatinya, bagamije kugarura ubumwe bw'Abahutu no kuguma ku butegetsi. Barwanyije byimazeyo igabana ry'ubutegetsi, harimo n'iryateganywaga n'Amasezerano ya Arusha.

1.14 Kubera guhagurukira iburizamo ry'Amasezerano ya Arusha, abategetsi benshi bakomeye ba gisiviri n'aba gisirikare bakomeje ingamba zabo zo kubiba amacakubiri ashingiye ku moko no gushoza imvururu. Bari bibasiye Abatutsi bose uko bakabaye, bitaga ibyitso bya FPR, kimwe n'Abahutu barwanyaga ubwikanyize bwabo, cyane cyane abatarakomokaga mu karere k'amajyaruguru y'uburengerazuba. Ubwo kandi ni ko bageragezaga no gucamo ibice amashyaka y'Abahutu, bahatira bamwe muri bo kugarukira Habyarimana. Muri uwo mugambi wabo wo gucamo ibice amashyaka, baje gutizwa umurindi n'ihotorwa ry'Umuhutu Melchior Ndadaye, Perezida w'u Burundi, wari watowe mu buryo bwa demokarasi, akaba yarahotowe n'abasirikare b'Abatutsi bo mu ngabo z'u Burundi, igihugu gihana imbibi n'u Rwanda. Mu mpera z'umwaka wa 1993, mu mashyaka atatu akomeye yari ahanganye na MRND, abiri muri yo yari amaze gucikamo ibice bibiri. Ibice byayo byitwaga « Pawa » byifatanyije na MRND.

1.15 Ingamba zashyizweho mu ntangiriro ya za 1990, indunduro yazo ikaza kuba ubwicanyi rusange bwo muri Mata 1994, zari zikubiyemo ibintu byinshi byateguwe, ku buryo bwitondewe, n'abategetsi banyuranye bari basangiye ibitekerezo by'Abahutu b'intagondwa, barimo n'abagize Akazu. Uretse guhamagarira abantu urugomo rushingiye ku moko no gutsembatsemba Abatutsi n'ibyitso byabo, hiyongereyeho gushyiraho no guha imyitozo ya gisirikare insoresore zo mu mashyaka, cyane cyane *Interahamwe* (urubyiruko rwa MRND), gutegura amalisiti y'abantu bagombaga kwicwa, gukwirakwiza intwaro mu basiviri, guhotora bamwe mu bataravugaga rumwe n'ubutegetsi, no kwica imbaga y'Abatutsi mu turere tunyuranye tw'u Rwanda hagati y'Ukwakira 1990 na Mata 1994.

1.16 Mu guhamagarira abantu inzangano zishingiye ku moko, abategetsi basangiye ibitekerezo by'intagondwa bagiye babinyuza mu majambo mbwirwaruhame. Abo bategetsi, baba abanyapolitiki cyangwa abasirikare, bahamagariye abantu ku mugaragaro kwanga Abatutsi no kubatinya, banakangurira Abahutu nyamwinshi kwikiza umwanzi n'ibyitso bye. Urugero rugaragara cyane ni disikuru yavuzwe, mu kwezi k'Ugushyingo 1992, na Léon Mugesera wari Visi-Perezida wa MRND muri Perefegitura ya Gisenyi. Icyo gihe, yahamagariraga abantu ku mugaragaro gutsembatsemba Abatutsi n'ibyitso byabo. Hagamijwe gusakaza ku buryo burambuye imvururu zishingiye ku moko, abategetsi bakomeye b'ibyegera bya Perezida bashyizeho itangazamakuru nyaryo ryo kubiba urwangano, ryagombaga gushitura cyane Abanyarwanda. Bityo, ishyirwaho rya RTLM n'iry'ikinyamakuru Kangura byari bimwe muri izo ngamba kandi byagenderaga mu murongo umwe.

1.17 Ishyirwaho ry'amashami y'urubyiruko rw'amashyaka ryari rigamije, mu ikubitiro, gushaka abayoboke cyangwa kubohoza ab'ayandi mashyaka mu ruhando rushya rw'amashyaka menshi, ryatumye ibyegera bya Habyarimana bibona abakozi benshi, bafite umurava kandi babishoboye bo gushyira mu bikowa ingamba zari zarafashwe. Bidatinze, ayo mashami y'urubyiruko rw'amashyaka yagizwe ibikoresho mu rwego rwo gukangurira abantu kwanga Abatutsi. Amwe muri ayo mashami y'urubyiruko, cyane cyane *Interahamwe* (MRND), yakozwemo imitwe yitwara gisirikare yahabwaga imari,

igatozwa kandi ikayoborwa n'abategetsi bakomeye b'abasiviri n'abasirikare b'ibyegera bya Perezida wa Repuburika. Abagize iyo mitwe bahawe imbunda, abategetsi bamwe b'abasiviri n'ab'abasirikare babigiramo uruhare. Imodoka za Leta cyangwa iz'ibigo bigenzurwa n'ibyegera bya Perezida ni zo zajyanaga izo nsoresore zitwara gisirikare mu myitozo ahantu habugenewe, harimo bimwe mu bigo bya gisirikare.

1.18 Mu ifatwa ry'abantu benshi mu kwezi k'Ukwakira 1990, abategetsi ba gisiviri n'aba gisirikare bagendeye ku malisiti yari yarakozwe agaragaza abakekwagaho kuba ibyitso bya FPR n'aho bari batuye, abenshi muri bo bakaba bari Abatutsi. Nyuma yaho, ingabo z'igihugu na Jandarumori, *Interahamwe* n'abategetsi bo mu nzego zo hasi, bahawe amabwiriza yo gukora andi malisiti cyangwa kuvugurura ayari asanzweho, ari na yo yaje gukoreshwa mu bwicanyi bwabaye mu mwaka wa 1994. Muri Werurwe 1993, hari ilisiti imeze nk'izo yafatiwe mu modoka y'Umugaba Mukuru w'ingabo.

1.19 Ahagana mu mpera z'umwaka wa 1991, bamwe mu bategetsi b'u Rwanda bakwirakwije intwaro mu baturage bo mu gace k'amajyaruguru y'uburengerazuba y'igihugu. Ibyo byakozwe mu rwego rwo gukangurira abaturage kwirwanaho, kubera igitero FPR yari yagabye mu Rwanda ku itariki ya 1 Ukwakira 1990. Nyuma yaho, bamwe mu bategetsi bakwirakwije intwaro mu gihugu hose, cyane cyane baziha *Interahamwe,* n'abandi bantu babaga batoranyijwe mu buryo bwitondewe. Izo ntwaro zanatanzwe mu turere twari kure rwose y'ahantu imirwano yaberaga. Ahagana mu mpera z'umwaka wa 1993, Musenyeri wa Diyosezi ya Nyundo yashyize ahagaragara ibarwa yanengagamo ikwirakwizwa ry'intwaro, anibaza icyo rigamije.

1.20 Ingamba zavuzwe haruguru zarakomeje maze ziba umusemburo w'imvururu zari zishingiye kuri politiki no ku moko muri icyo gihe, ari na zo zaje kuvamo ubwicanyi bwahitanye imbaga muri Mata 1994. Mu ntangiriro ya za 1990, abanyapolitiki benshi barahotowe ndetse n'Abatutsi nyamuke benshi baricwa. Ibyo byabaye, cyane cyane mu bwicanyi bwakorewe i Kibilira (1990), ubwakorewe Abagogwe (1991) n'ubwabereye mu Bugesera mu wa 1992. Abategetsi bo mu nzego zo hasi, babifashijwemo n'ibyegera bikomeye bya Perezida, ni bo bakanguriraga abantu gukora ubwo bwicanyi kandi ni bo

babuyoboraga. Aha ni ho umuntu abona ibintu bigize izo ngamba zaje kuvamo jenoside yo mu wa 1994.

1.21 Mu ntangiriro z'umwaka wa 1994, bimwe mu byegera bya Habyarimana byakanguriye abantu kwitabira imyigaragambyo irimo urugomo yari igamije kuburizamo ishyirwa mu bikorwa ry'Amasezerano ya Arusha. Iyo myigaragambyo yitabiriwe n'abasirikare bari bambaye gisiviri n'insoresore zo mu mitwe yitwara gisirikare, bashakaga gusembura abasirikare b'Ababiligi bari muri MINUAR. Ibyo bikorwa ni bimwe kandi mu byatumye ishyirwaho ry'inzego zateganywaga n'Amasezerano ya Arusha risubikwa.

1.22 Ku itariki ya 6 Mata 1994, indege yari itwaye abantu barimo Perezida wa Repuburika y'u Rwanda, Juvénal Habyarimana, yarahanuwe ubwo yiteguraga kugwa ku kibuga cy'indege cy'i Kigali.

1.23 Mu masaha yakurikiye ihanurwa ry'indege ya Perezida, ba ofisiye bakuru b'ingabo z'igihugu barateranye kugira ngo barebe uko ibintu byifashe. Abari bashyigikiye ibitekerezo by'Abahutu b'intagondwa, cyane cyane abo mu majyaruguru y'igihugu, batanze igitekerezo cyo gufata ubutegetsi ku ngufu. Mu nama ya kabiri yabaye mu gitondo ku itariki ya 7 Mata, icyo gitekerezo barakiretse bahitamo gushyiraho Guverinoma y'Agateganyo.

1.24 Hagati aho muri icyo gitondo cyo ku itariki ya 7 Mata 1994, mu gihe impaka zari zikigibwa kuri icyo kibazo, agatsiko k'abasirikare kitwaje amalisiti kari katangiye gufata, gufunga no guhotora ku buryo buri kuri gahunda abanyapolitiki benshi batavugaga rumwe n'ubutegetsi, baba Abahutu cyangwa se Abatutsi, barimo Minisitiri w'Intebe, bamwe mu ba Minisitiri ba Guverinoma ye, na Perezida w'Urukiko rushinzwe iremezo ry'Itegeko Nshinga. Nyamara, muri icyo gihe kimwe, abasirikare bandi bari bahugiye mu guhungishiriza ahantu hari umutekano ibyegera bya Perezida Habyarimana, n' Abaminisitiri bakomokaga mu ishyaka rya MRND. Abasirikare b'Ababiligi bari muri MINUAR bari boherejwe kurinda Minisitiri w'Intebe bambuwe intwaro, barafatwa bajyanwa mu kigo cy'abasirikare cya Kigali aho biciwe. Iyicwa ryabo ni ryo ryatumye

ingabo z'Ababiligi zikuramo akazo karenge bidatinze mu minsi yakurikiyeho. Izo ngabo zimaze kugenda, Inama ishinzwe Amahoro ku Isi yagabanyije cyane umubare w'abakozi ba MINUAR mu Rwanda.

1.25 Abayobozi b'amashyaka anyuranye batahigwaga ngo bicwe, barateranye bisabwe na ba ofisiye b'abasirikare. Uretse abayoboke ba MRND, abenshi mu bantu bitabiriye iyo mishyikirano bari abayoboke b'ibice bya « Pawa » by'amashyaka yabo. Kubera icyuho cyari cyaciwe muri politiki no mu Itegeko Nshinga bitewe n'iyicwa ry'abanyapolitiki benshi mu rwego rw'igihugu, hashyizweho Guverinoma ishingiye ku Itegeko Nshinga ryo mu wa 1991. Iyo Guverinoma, yari igizwe gusa n'Abahutu, yarahiye ku itariki ya 9 Mata 1994. MRND yegukanye minisiteri 9, hiyongereyeho umwanya wa Perezida wa Repuburika, naho izindi minisiteri 11 zisigaye, habariwemo na Minisitiri w'Intebe, zegurirwa ibice bya « Pawa » byo mu yandi mashyaka.

1.26 Mu masaha yakurikiye ihanurwa ry'indege ya Perezida Habyarimana, abasirikare n'insoresore zo mu mitwe yitwara gisirikare bashyizeho za bariyeri batangira kwica Abatutsi, n'Abahutu batavugaga rumwe n'ubutegetsi, i Kigali no mu bindi bice by'u Rwanda. Kuri za bariyeri, bagenzuraga indangamuntu z'abagenzi maze abenshi mu batahurwagaho kuba Abatutsi bakicwa. Abasirikare, akenshi babaga bari kumwe n'insoresore zo mu mitwe yitwara gisirikare, bari bitwaje amalisiti maze bakora amarondo ya ku manywa agamije kujagajaga umugi kugira ngo bice Abatutsi, n'abanyapolitiki bamwe batavugaga rumwe n'ubutegetsi.

1.27 Mu gihe cyose jenoside yamaze, abasirikare bo mu Ngabo z'igihugu (FAR), cyane cyane abo mu mutwe wari ushinzwe kurinda Perezida, aba « *para-commando* », abo muri « *bataillon de reconnaissance* » [imbanzirizarugamba] n'abajandarume, bafatanyije n'insoresore zo mu mitwe yitwara gisirikare, bishe babishishikariye Abatutsi mu Rwanda hose.

1.28 Ikimara kujyaho, Guverinoma y'Agateganyo yemeye umugambi wo gutsembatsemba wari uriho. Mu gihe cyose ubwicanyi bwamaze, Guverinoma yafashe ibyemezo itanga

n'amabwiriza bigamije gufasha abantu no kubatera inkunga mu itsembatsemba ry'Abatutsi n'iyicwa ry'Abahutu batavugaga rumwe n'ubutegetsi. Abagize Guverinoma bahamagariye abaturage kwikiza umwanzi n'ibyitso bye, kandi bamwe muri bo bitabiriye ubwicanyi ku buryo butaziguye.

1.29 Abategetsi bo mu nzego zo hasi, barimo abaperefe, aburugumesitiri, abakosenye ba segiteri n'abayobozi b'amaserire bashyize mu bikorwa amabwiriza ya Guverinoma yo gutsembatsemba Abatutsi. Bahamagariye kandi bategeka abo bayobora gukora ubwicanyi, kandi na bo ubwabo bitabira ubwo bwicanyi ku buryo butaziguye.

1.30 Kubera ibitekerezo bari bamaze amezi bacengezwamo hamwe n'imyitozo ya gisirikare bahabwaga muri icyo gihe, abantu bagize udutsiko tw'insorersore zitwara gisirikare bagiye ku isonga ry'abatsotsobye umugambi w'itsembatsemba kandi nabo bitabira, ku buryo butaziguye, ubwicanyi bwibasiye Abatutsi b'abasiviri n'Abahutu batari intagondwa. Ibyo bikorwa byahitanye abantu babarirwa mu bihumbi amagana mu gihe kitageze ku minsi 100.

2. <u>UBUBASHA BUSHINGIYE KU IFASI, KU GIHE IBYAHA BYAKOREWE, NO KU BYAHA BYAKOZWE</u>

2.1 Ibyaha bivugwa muri iyi Nyandiko y'ibirego byakorewe mu Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994.

2.2 Mu gihe ibivugwa muri iyi Nyandiko y'ibirego byabaga, u Rwanda rwari rugabanyijemo perefegitura 11 : Butare, Byumba, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali-Ville, Kigali-rural na Ruhengeri. Buri perefegitura yari igabanyijemo amakomini n'amasegiteri.

2.3 Mu gihe cy'ibyabaye bivugwa muri iyi Nyandiko y'ibirego, Abatutsi, Abahutu n'Abatwa bafatwaga nk'amoko atandukanye.

2.4 Mu gihe cy'ibyabaye bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda hose hagabwe ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri kubera imitwe ya politiki barimo cyangwa ubwoko bwabo.

2.5 Mu gihe cy'ibyabaye bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda hari intambara itari mpuzamahanga. Abahohotewe bavugwa muri iyi Nyandiko y'ibirego bari abantu barengerwa n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya II.

3. IMITERERE Y'UBUTEGETSI

Guverinoma

3.1 Hakurikijwe Itegeko Nshinga ryo ku itariki ya 10 Kamena 1991, ubutegetsi nyubahirizategeko bushinzwe Perezida wa Repuburika, afashijwe na Guverinoma igizwe na Minisitiri w'Intebe n'Abaminisitiri. Abandi bagize Guverinoma bashyirwaho na Perezida wa Repuburika abisabwe na Minisitiri w'Intebe. Minisitiri w'Intebe ayobora porogaramu ya Guverinoma. Guverinoma ishyiraho kandi ikayobora politiki y'igihugu. Kubera izo mpamvu, Guverionoma igenzura imikorere y'abakozi ba Leta n'iy'ingabo. Minisitiri w'Intebe agenera imirimo ba Minisitiri hamwe n'abakozi bandi ayobora. Iyo Minisitiri w'Intebe yeguye cyangwa avuyeho ku mpamvu iyo ari yo yose, bituma na Guverinoma yegura.

3.2 Abaminisitiri bashyira mu bikorwa politiki ya Guverinoma, nk'uko iba yagenwe na Minisitiri w'Intebe. Umukuru wa Guverinoma ni we ubagenzura mu mirimo yabo. Mu mirimo yabo, abaminisitiri bagendera kuri Perezida wa Repuburika. Mbere yo gutangira imirimo yabo, barahirira ko biyemeje guharanira ibyagirira Abanyarwanda bose akamaro, bubahiriza Itegeko Nshinga n'andi mategeko. Byongeye kandi, mu kurangiza inshingano zabo, bifashisha inzego z'ubutegetsi bwite bwa Leta n'iz'uturere zita ku mirimo irebana na minisiteri bashinzwe.

Ubutegetsi bwa Leta mu turere

3.3 Perefe ni we uhagarariye ubutegetsi nyubahirizategeko muri perefegitura. Perefe ashyirwaho na Perezida wa Repuburika abisabwe na minisitiri w'ubutegetsi bw'igihugu, kandi mu imirimo ye agengwa n'uwo muminisitiri. Perefe afite ububasha mu ifasi ya perefegitura yose.

3.4 Nk'umuyobozi wa perefegitura, perefe ashinzwe ituze, umudendezo rusange n'umutekano w'abantu n'uw'ibintu. Mu mirimo ye yerekeye umutekano, kubungabunga amahoro n'umudendezo rusange, perefe ashobora kwitabaza ingabo z'igihugu na Jandarumori. Perefe ni we utegeka abakozi ba Leta bose bari muri Perefegitura ayobora, barimo ababurugumesitiri n'abakonseye ba segiteri.

3.5 Kimwe na perefe ku rwego rwa perefegitura, burugumesitiri ni we uhagarariye ubutegetsi bukuru bw'igihugu muri komine. Ashyirwaho na Prezida wa Repuburika abisabwe na minisitiri w'ubutegetsi bw'igihugu. Mu rwego rwa mbere, burugumesitiri akuriwe na perefe. Ategeka abakozi ba Leta bose bari muri komine ayobora. Byongeye kandi, ashinzwe umutekano ku byerekeranye no kubungabunga umutekano no kubahiriza amategeko.

Amashyaka ya politiki n'imitwe yitwara gisirikare

3.6 Mu gihe cy'ibyabaye bivugwa muri iyi Nyandiko y'ibirego, amashyaka akomeye yari mu Rwanda ni MRND, CDR, MDR, PSD na PL. RPF wari umutwe wa politiki na gisirikare utaravugaga rumwe n'ubutegetsi bwariho.

3.7 Ishyaka rya MRND ryashinzwe na Habyarimana ku itariki ya 5 Nyakanga 1975. Imiterere y'inzego zaryo ntaho yari itandukaniye ni iy'iza Leta. Ryashyizweho nk'urwego rukomeye rugomba kuba mu maboko ya Perezida wa Repuburika kandi rukagenzura ibikorwa byose mu gihugu. Mu ntego z'iryo shyaka, harimo no gutera inkunga no kugenzura ibikorwa n'inzego zinyuranye za Leta. Perezida w'iryo shyaka ni

we wenyine washoboraga kwiyamamariza kuba Perezida wa Repuburika. Kuva avutse, Umunyarwanda wese yabaga ari muri iryo shyaka.

3.8 Inzego za MRND zari ziteye ku buryo izo hasi ari zo zari nyinshi cyane ariko ububasha bufitwe n'inkeya zo hejuru. Kuba inzego nyinshi zari hasi, byatumaga Abanyarwanda bose bitabira ibya politiki. Inzego z'iryo shyaka ku rwego rw'igihugu zari zirimo Perezidansi ya Muvoma, Ubunyamabanga Bukuru, Kongere y'Igihugu na Komite Nyobozi. Komite Nyobozi yari igizwe na Perezida, abandi bantu yishyiriyeho, Umunyamabanga Mukuru na Perezida wa CND [Inama y'Igihugu Iharanira Amajyambere]. Mu turere, hari inzego z'ishyaka mu rwego rwa perefegitura, urwa komine n'urwa serire. Ari Perefe cyangwa burugumesitiri buri wese yari umuyobozi w'ishyaka rya MRND mu ifasi ayobora. Abo bategetsi bombi bari abakozi ba Leta bashyirwagaho na Perezida wa Repuburika, ari na we wari Perezida wa MRND.

3.9 Amashyaka menshi amaze kwemerwa, hamaze no gushyirwaho Itegeko Nshinga ryo ku itariki ya 10 Kamena 1991, MRND *(Mouvement révolutionnaire national pour le développement)* yahinduriwe inyito ariko ikomeza kuba mu magambo ahinnye MRND *(Mouvement républicain national pour la démocratie et le développement).* N'ubwo Sitati yaryo yahinduwe, imiterere y'iryo shyaka rishya yakomeje kuba ahanini imwe n'iy'irya mbere.

Imitwe y'urubyiruko n'insoresore zitwara gisirikare

3.10 Amashyaka hafi ya yose yari yarashyizeho imitwe yayo y'urubyiruko. Umutwe w'urubyiruko rwa MRND witwaga *Interahamwe* naho uw'urwa CDR ukitwa Impuzamugambi. Mu gushyiraho imitwe y'urubyiruko iyashamikiyeho, amashyaka yari agamije ibintu bibiri: gucengeza mu rubyiruko amatwara ya politiki no kuruhamagarira kuyitabira. MRND na CDR byakurikije urugero rwa MDR na FPR byari byarashinze mbere imitwe y'urubyiruko.

3.11 *Interahamwe* za MRND zashyizweho na Komite Nyobozi ya MRND mu mpera z'umwaka wa 1991, bitewe n'iyemerwa ry'amashyaka menshi. *Interahamwe* za MRND zari zifite inzego z'ubutegetsi zihanitse, zari mu murongo umwe n'iz'ishyaka rya MRND. Mu rwego rw'igihugu zari zifite perezida, abavisiperezida babiri, umunyamabanga mukuru n'umubitsi. Mu byo perezida yari ashinzwe harimo no kuba umuhuza w'urwo rubyiruko na Komite Nyobozi. Muri Kamena 1993, hagamijwe kugira ngo uwo mutwe w'urubyiruko ukwire igihugu cyose kandi urusheho gukora neza, Komite Nyobozi yafashe icyemezo cyo gushyira amashami y'uwo mutwe ku rwego rwa za perefegitura.

3.12 Mu ntangiriro z'umwaka wa 1992, abasore benshi bari bagize umutwe w'urubyiruko rwa MRND bahawe imyitozo ya gisirikare n'imbunda, bityo baba bahinduwe umutwe witwara gisirikare.

Ingabo z'Igihugu

3.13 Ingabo z'Igihugu *(FAR)* zari zigizwe n'umutwe w'abasirikare *(AR)* n'uw'abajandarume *(GN).* Ingabo z'Igihugu ntizari zifite *« Etat-major »* [Ubuyobozi bukuru] zihuriyeho, bityo zikaba zarayoborwaga ku buryo butaziguye na Minisiteri y'Ingabo. Perezida wa Repuburika ni we wari Umugaba w'ikirenga w'Ingabo z'Igihugu.

3.14 Ubuyobozi bukuru bw'igisirikare cy'u Rwanda bwayoborwaga n'Umugaba mukuru w'ingabo afashijwe n'abasirikare bakuru bane bayoboraga ibiro bine aribyo: G-1 (Ibiro bishinzwe abakozi n'ubuyobozi), G-2 (Ibiro bishinzwe iperereza), G-3 (Ibiro bishinzwe ibikorwa bya gisirikare) na G4 (Ibiro bishinzwe ibikoresho).

3.15 U Rwanda rwari rugabanyijemo uturere tw'ibikorwa bya gisirikare dutandukanye kandi buri karere gafite umuyobozi wako. Na none, mu gisirikare hari imitwe kabuhariwe ari yo : batayo y'abari bashinzwe kurinda Perezida (abajepe), batayo *y'aba "para-commando"* , na batayo ya "*reconnaissance*" [imbanzirizagutabara]. Mu turere twa gisirikare no mu mitwe kabuhariwe ya gisirikare, ingabo zari zigabanyijemo amakompanyi.

3.16 Ubuyobozi bukuru bwa Jandarumeri bwari buyobowe n'Umugaba mukuru wa jandarumori afashijwe n'abasirikare bakuru bane bashinzwe ibiro bine ari byo: G-1 (Ibiro bishinzwe abakozi n'ubuyobozi), G-2 (Ibiro bishinzwe iperereza), G-3 (Ibiro bishinzwe ibikorwa bya gisirikare) na G-4 (Ibiro bishinzwe ibikoresho).

3.17 Jandarumeri y'igihugu yari ishinzwe kubahiriza umudendezo wa rubanda n'amahoro no kugenzura ko amategeko y'igihugu yubahirizwa.

3.18 N'ubwo yayoborwaga na Minisiteri y'Ingabo, Jandarumeri y'igihugu yashoboraga gukora imirimo yayo ijyanye no kubahiriza umudendezo wa rubanda n'amahoro bisabwe n'umuyobozi wo mu karere ubifitiye ububasha, ari we perefe. Mu gihe byihutirwa cyane, perefe yashoboraga bisaba mu magambo, akoresheje nka telefone. Ibyo yasabaga byagombaga guhita bikorwa. Na none, Jandarumeri y'igihugu yagombaga kumenyesha perefe amakuru yose arebana n'umutakano wa rubanda. Jandarumori yari ifite kandi inshingano zo gutabara umuntu wese uri mu kaga.

3.19 Hashingiwe ku mapete yabo n'imirimo bakoraga, Minisitiri w'Ingabo na ba ofisiye mu gisirikare cy'u Rwanda no muri Jandarumori bari bafite inshingano zo gukora ku buryo ingabo bakuriye zubahiriza amategeko rusange ya disipuline, kabone n'iyo zaba zitari mu mitwe bayobora.

4. UREGWA

Jean de Dieu Kamuhanda

4.1 **Jean de Dieu Kamuhanda** yavukiye muri Komini ya Gikomero, Perefegitura ya Kigali-Ngari, mu Rwanda, ku itariki ya 3 Werurwe 1953.

4.2 Mu mpera za Gicurasi 1994, **Jean de Dieu Kamuhanda** yagizwe Minisitiri w'Amashuri Makuru n'Ubushakashatsi mu by'Ubuhanga, muri Guverinoma y'Agateganyo, asimbuye

Dogiteri Daniel Mbangura. Mbere yaho, yari Umuyobozi w'Amashuri Makuru n'Ubushakashatsi mu by'Ubuhanga, noneho mu gihe ibivugwa bayabaga mu mwaka wa 1994 kugeza mu mpera za Gicurasi 1994, yari umujyanama wa Perezida Sindikubwabo. **Jean de Dieu Kamuhanda** yari umuyoboke ukomeye wa MRND muri Perefegitura ya Kigali-Ngari.

4.3 Nka Minisitiri w'Amashuri Makuru, **Jean de Dieu Kamuhanda** yari ashinzwe gutegura no gushyira mu bikorwa politiki y'uburezi mu mashuri makuru n'ubushakashatsi mu by'ubuhanga mu Rwanda muri Guverinoma y'Agateganyo.

4.4 Nka Minisitiri, **Jean de Dieu Kamuhanda** yajyaga mu manama y'abaminisitiri aho yaboneraga amakuru yerekeranye n'uko ibintu byifashe mu gihugu mu rwego rwa politiki n'imibereho myiza y'abaturage, akanamenyeshwa gahunda za Guverinoma y'Agateganyo kandi akagira n'uruhare mu gutegura izo gahunda no kuzishyira mu bikorwa. Mu gihe yari mu mirimo ye, ntiyigeze yamagana ku mugaragaro gahunda za Guverinoma y'Agateganyo cyangwa ngo yegure kandi Itegeko Nshinga ryarabimwemereraga. **Jean de Dieu Kamuhanda** ntiyigeze anenga cyangwa yishisha gahunda za Guverinoma y'Agateganyo igihe yari Umujyanama wa Perezida w'agateganyo, kandi ntiyigeze yegura kugeza mu mpera za Gicurasi 1994 ubwo yemeraga kuba Minisitiri w'Amashuri Makuru. Aho kwitandukanya na gahunda za Guverinoma y'Agateganyo, **Jean de Dieu Kamuhanda** yakajije umurego mu kuzishyigikira, ubwo yemeraga kuba Minisitiri hashize amezi hafi abiri Guverinoma y'Agateganyo igiyeho, kandi gahunda z'iyo Guverinoma zari zimaze kwigaragaza neza kubera amabwiriza, amatangazo, ibikorwa byayo n'ibyo yirengagizaga gukora.

4.5 Nka Minisitiri w'Amashuri Makuru, **Jean de Dieu Kamuhanda** yategekaga kandi akagenzura ibigo byose n'abakozi bose Minisiteri ye yagengaga.

5. INCAMAKE Y'IBYABAYE : IMYITEGURO

5.1 Kuva mu mpera z'umwaka wa 1990 kugeza muri Nyakanga 1994, Casimir Bizimungu, Justin Mugenzi, Jérôme Bicamumpaka, Prosper Mugiraneza, André Ntagerura, Pauline Nyiramasuhuko na Eliezer Niyitegeka bagize ubwumvikane hagati yabo ubwabo ndetse bumvikana n'abandi bantu barimo Théoneste Bagosora, Edouard Karemera, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera, Augustin Ngirabatware, **Jean de Dieu Kamuhanda,** Juvénal Kajelijeli, Félicien Kabuga, Augustin Bizimana, na Callixte Nzabonimana. Ubwo bwumvikane bwari bugamije gucura umugambi wo gutsembatsemba Abatutsi b'abasiviri no kwica abataravugaga rumwe n'ubutegetsi bagira ngo babone uko bahamana ubwo butegetsi. Bimwe mu byari bigize uwo mugambi ni ukubiba inzangano n'ibikorwa by'urugomo bishingiye ku moko, guha imyitozo imitwe yitwara gisirikare no kuyiha intwaro, kimwe no gukora amalisiti y'abantu bagombaga kwicwa. Mu gushyira mu bikorwa uwo mugambi, bateguye ubwicanyi bwibasiye Abatutsi n'Abahutu batari intagondwa, bategeka abandi bantu kubwitabira ndetse na bo ubwabo bitabira ibyo bikorwa.

5.2 Mu ibaruwa yo ku itariki ya 3 Ukuboza 1993 yandikiwe Umuyobozi w'ingabo za MINUAR, ba Minisitiri bose bakagenerwa kopi yayo, bamwe muri ba ofisiye bo mu ngabo z'igihugu bashyize ahagaragara icyo bise « umugambi mubisha » wacuzwe n'abasirikare, cyane cyane abakomokaga mu majyaruguru y'igihugu bari bahuriye ku bitekerezo by'Abahutu b'intagondwa. Intego y'abo basirikare bo mu majyaruguru kwari ugutambamira Amasezerano ya Arusha no kugundira ubutegetsi. Uburyo bwo kugera kuri iyo ntego bukaba kwari ugutsembatsemba Abatutsi « n'ibyitso » byabo. Iyo baruwa yari ikubiyemo kandi amazina y'abanyapolitiki batavugaga rumwe n'ubutegetsi bagombaga kwicwa, kandi bamwe muri bo koko bishwe mu gitondo cy'itariki ya 7 Mata 1994.

<u>Amagambo yavuzwe no gushishikaza abantu</u>

5.3 Gushishikariza abantu ibikorwa by'urugomo n'inzangano zishingiye ku moko ni cyo kintu cy'ingenzi cyari kigize umugambi bashyizeho. Icyo gikorwa cyo gushishikaza abantu cyatomowe, mbere ya jenoside no mu gihe yakorwaga, na bamwe mu basirikare b'ingabo z'igihugu hamwe n'abagize Guverinoma n'abategetsi bo mu nzego zo hasi.

5.4 Ku itariki ya 4 Ukuboza 1991, Perezida Juvénal Habyarimana yashyizeho komisiyo ya gisirikare. Iyo komisiyo, yari iyobowe na Koloneli Théoneste Bagosora, yahawe inshingano yo kubonera igisubizo ikibazo gikurikira: « *Twakora iki ngo tuneshe umwanzi <u>mu rwego rwa gisirikare, urw'itangazamakuru n'urwa politiki</u> ?* ».

5.5 Mu ibaruwa yo ku itariki ya 21 Nzeri 1992, Ubuyobozi bukuru bw'ingabo z'u Rwanda bwatanze amabwiriza yo gukwirakwiza mu ngabo zose igice cya raporo y'iyo komisiyo. Icyo gice cy'inyandiko cyasobanuraga ku buryo bukurikira umwanzi w'ibanze: *« Abatutsi, baba ab'imbere mu gihugu cyangwa hanze yacyo, b'intagondwa kandi bafite inyota y'ubutegetsi, batemera kandi batigeze bemera ibyiza bya Revolisiyo ya rubanda yo mu wa 1959, bakaba bashaka kwisubiza ubutegetsi mu Rwanda bakoresheje uburyo ubwo ari bwo bwose, harimo no gukoresha intwaro».* Naho umwanzi wo mu rwego rwa kabiri akaba « *Umuntu wese ufasha umwanzi w'ibanze mu buryo ubwo ari bwo bwose»*. Iyo nyandiko yasobanuraga neza ko umwanzi ashaka abayoboke mu bice bimwe by'abaturage nk' «*Abatutsi bari imbere mu gihugu, Abahutu batishimiye ubutegetsi buriho, abanyamahanga bashakanye n'Abatutsikazi, ...»*. Iyo nyandiko yashinjaga umwanzi ibikorwa birimo: *«kujijisha rubanda barubwira ko ikibazo atari icy'amoko, ko ahubwo ari icyo mu rwego rw'ubukungu n'imibereho myiza y'abaturage kiri hagati y'abakire n'abakene».*

5.6 Ibaruwa yo ku itariki ya 21 Nzeri 1992 n'uburyo ba ofisiye bakuru bayikoresheje byafashije abantu mu bikorwa by'urugomo no kubiba inzangano zishingiye ku moko, birabibashishikariza kandi byorohereza abantu gukora ibyo bikorwa.

5.7 Koloneli Théoneste Bagosora yagiye mu mishyikirano ya Arusha yerekana ku mugaragaro ko arwanya ibyo Boniface Ngulinzira, Minisitiri w'Ububanyi n'Amahanga wari uhagarariye Guverinoma y'u Rwanda yari yemeye, kugeza n'aho yikubise asohoka mu mishyikirano. Ava Arusha, Koloneli Théoneste Bagosora yasize avuze ko atashye mu Rwanda «*gutegura imperuka*». Ku itariki ya 11 Mata 1994, Boniface Ngulinzira yishwe n'abasirikare. RTLM yatangaje inkuru y'urupfu rwe muri aya magambo : «*Twatsembatsembye ibyitso byose bya FPR, Bwana Boniface Ngulinzira ntazasubira Arusha kugurisha igihugu mu nyugu za FPR. Amasezerano y'Amahoro ni ibipapuro gusa nk'uko umubyeyi wacu Habyarimana yari yabihanuye*».

5.8 Imvugo yo kwita Abatutsi umwanzi naho abatavuga rumwe n'ubutegetsi bakitwa ibyitso byabo yagiye yibutswa n'abanyapolitiki, nka Léon Mugesera wari Visi-Perezida wa MRND muri Perefegitura ya Gisenyi, wayikoresheje muri disikuru ye yo ku itariki ya 22 Ugushyingo 1992. Iyo disikuru yanyujijwe kuri Radiyo y'igihugu, bityo ikaba yarumviswe n'abantu benshi, yahamagariraga abantu icyo gihe gutsembatsemba Abatutsi n'ibyitso byabo.

5.9 Muri Gashyantare 1994, Mathieu Ngirumpatse yayoboye mitingi kuri Sitade y'i Nyamirambo. Muri iyo mitingi, abantu bafashe amajambo bahamagarira abandi gukorera Abatutsi ibikorwa by'urugomo.

5.10 Guhera muri Mata kugeza muri Nyakanga 1994, guhamagarira abantu ibikorwa by'urugomo n'inzangano zishingiye ku moko byagiye bikwirakwizwa n'abantu b'ibikomerezwa barimo abayoboke ba MRND, abagize Guverinoma n'abategetsi bo mu nzego zo hasi. Perezida Sindikubwabo, Minisitiri w'Intebe ari we Jean Kambanda, ba Minisitiri Augustin Ngirabatware, **Jean de Dieu Kamuhanda,** André Rwamakuba, Eliezer Niyitegeka na André Ntagerura, hamwe n'abategetsi bo mu nzego zo hasi bahamagariye abaturage mu ruhame gutsembatsemba Abatutsi n'ibyitso byabo.

Poropagande

5.11 Ishyirwaho ry'itangazamakuru, nk'ikinyamakuru Kangura na RTLM, byatangijwe kandi bikayoborwa n'abantu b'ibikomerezwa ba MRND na CDR, ryafashije mu gukwirakwiza ibitekerezo by'Abahutu b'intagondwa n'ubutumwa bwari bubikubiyemo bwigisha abantu ibikorwa urugomo n'inzangano zishingiye ku moko. Ishyirwaho ry'iryo tangazamakuru ryaranafashije mu gucengeza ibyo bitekerezo mu Banyarwanda. RTLM yashyizweho inakoreshwa ku buryo bweruye n'abayobozi banyuranye ba MRND n'abagize Guverinoma mu gikorwa cyo guhitisha poropagande ya "Hutu pawa".

5.12 RTLM S.A., nka sosiyete y'abantu ku giti cyabo, na radiyo yayo byashyizweho ku itariki ya 8 Mata 1993 ubwo hasinywaga sitati yayo. Iyo sosiyete y'itangazamakuru yakoreshaga ahanini imari ihawe na Félicien Kabuga.

5.13 Sitasiyo ya Radiyo RTLM yari icometse kuri moteri z'amashanyarazi za Perezidansi, aho insinga zambukiranyaga umuhanda, ibyo bigatuma ishobora gukora mu gihe umuriro ubuze. Mu wa 1993, mu mezi ya nyuma ya Kamena, RTLM ni bwo yatangiye guhitisha ibiganiro byumvikanaga mu Rwanda hose, ivugira i Kigali kandi ikoresha imiyoboro ya Radiyo y'igihugu, ari yo Radiyo Rwanda. Nyuma yaho, iyo sitasiyo yagiye yimukanwa kuko yari iri mu modoka ya burende y'Ingabo z'igihugu.Yaje guhungishirizwa mu cyaje kwitwa "*Zone Turquoise*", muri Perefegitura ya Gikongoro n'iya Kibuye. Radiyo ya RTLM ntiyongeye guhitisha ibiganiro byayo nyuma y'itariki ya 15 Nyakanga 1994.

5.14 Kuva ku itariki ya 9 Mata kugeza hagati muri Nyakanga 1994, Perezida Théodore Sindikubwabo, Minisitiri w'Intebe Jean Kambanda, ba Minisitiri André Rwamakuba na Justin Mugenzi, hamwe n'abanyamakuru barimo Georges Ruggiu, na Hassan Ngeze, bakoresheje RTLM mu guhamagarira abaturage gutsembatsemba Abatutsi no kwica Abahutu benshi batari intagondwa, ndetse barabibashishikariza kandi babibateramo inkunga.

Imitwe yitwara gisirikare

5.15 Uguhangana mu bya politiki hagati y'amashyaka mu ruhando rw'amashyaka menshi byatumye amashyaka anyuranye arushaho kurebana ay'ingwe. Bityo, kubera ko muri ibyo bihe *Interahamwe* zizeraga ko muri rusange zitahanwa, zashishikarijwe ibikorwa by'urugomo byari byibasiye abayoboke b'amashyaka ataravugaga rumwe n'ubutegetsi. Ibyo bikorwa byari bigamije kuburizamo imyigaragambyo yo mu rwego rwa politiki abo bayoboke babaga bashaka gukora, no gutera ubwoba Abanyarwanda kugira ngo batayoboka andi mashyaka atari MRND.

5.16 Guhindura *Interahamwe* igikoresho cy'inyungu za MRND byari igikorwa kinyuranye n'amategeko kandi kibujijwe na yo ku buryo bweruye. Byongeye kandi, mu rwego rwo kwagura ibikorwa by'uwo mutwe witwara gisirikare, Komite Nyobozi ya MRND yashyizeho Komite z'*Interahamwe* mu rwego rwa perefegitura muri Kamena 1993. Iki cyemezo cyashyizwe mu bikorwa n'abanyapolitiki b'ibikomerezwa, buri wese mu karere ke, barimo Pauline Nyiramasuhuko i Butare na Joseph Nzirorera mu Ruhengeri.

5.17 Hagamijwe kugira ngo igihe nikigera gutsembatsemba umwanzi n'ibyitso bye bizashyirwe mu bikorwa vuba na bwangu kandi nyabyo, byabaye ngombwa ko *Interahamwe* zihindurwa umutwe witwara gisirikare, ufite inzego zizwi n'intwaro, kandi wuzuzanya n'ingabo z'igihugu. Guhera mu wa 1993, ndetse na mbere yaho, abayobozi ba MRND, bafatanyije na ba ofisiye bo mu ngabo z'igihugu (FAR), bafashe icyemezo cyo guha imyitozo ya gisirikare abantu bari muri uwo mutwe bitabiraga kurusha abandi ibitekerezo byabo by'intagondwa, hamwe n'urundi rubyiruko rw'imburamukoro. Byongeye kandi, bahawe n'intwaro.

Guha imyitozo imitwe yitwara gisirikare

5.18 Abategetsi ba gisiviri na gisirikare, barimo Joseph Nzirorera, Juvénal Kajelijeli na André Ntagerura ni bo bashishikarizaga *Interahamwe* za MRND n'Impuzamugambi za CDR guhabwa imyitozo kandi bakayigenzura. Iyo myitozo yabereye icya rimwe muri amwe

mu maperefegitura y'igihugu : Kigali, Cyangugu, Gisenyi, Butare no mu karere [ka gisirikare] ka Mutara. Iyo myitozo yaberaga kandi no mu bigo bya gisirikare bya Gabiro, Gako, Mukamira na Bigogwe, kimwe no mu nkengero z'ibyo bigo cyangwa mu mashyamba yari hafi yabyo.

5.19 Ku itariki ya 10 Mutarama 1994, umwe mu bayobozi b'*Interahamwe* yamenyesheje MINUAR ko insoresore 1700 zari zarahawe imyitozo kandi ko zashoboraga kwica Abatutsi 1000 buri minota makumyabiri. Uwatanze ayo makuru yavuze ko yahabwaga amabwiriza na Mathieu Nigrumpatse, Perezida wa MRND.

5.20 Insoresore zitwaraga gisirikare zahawe imyitozo rwihishwa ariko inkuru yabyo yaje kugenda imenyekana. Abantu bazibonaga rimwe na rimwe zitoreza aho abantu bose bagera cyangwa bakazibona zigiye aho zikorera imyitozo, zigenda ziririmba indirimbo zihamagarira abantu gutsembatsemba umwanzi.

Itangwa ry'intwaro

5.21 Mu rwego rwo gushyira mu bikorwa umugambi w'itsembatsemba ry'umwanzi n' «ibyitso» bye, insoresore zitwara gisirikare ntizahawe imyitozo ya gisirikare gusa, ahubwo zahawe n'intwaro. Bityo, abategetsi ba gisirikare n'abagisiviri bahaye insoresore zitwara gisirikare intwaro, izo ntwaro kandi bazihaye na bamwe mu bantu batoranijwe ku buryo bwitondewe mu baturage b'abasiviri mu maperefegitura anyuranye y'igihugu. Hagati ya Mata na Nyakanga 1994, abayoboke b'ibikomerezwa ba MRND bakoze poropagande yo gukusanya amafaranga yo kongerera intwaro insoresore zitwara gisirikare zarimo kwica Abatutsi n'Abahutu batari intagondwa.

5.22 Mu wa 1993, Perezida Habyarimana yavugiye mu Ruhengeri ko bagomba guha *Interahamwe* za MRND ibikoresho kugira ngo igihe nikigera *"zizamanuke"*.

5.23 Ku itariki ya 12 Mata 1994, cyangwa ahagana kuri iyo tariki, Minisitiri w'Imari muri Guverinoma y'Agateganyo yagiye ubwe kuri Perefegitura i Gitarama maze ategeka ko

bamuha amafaranga yose yari abitse mu mutamenwa w'iyo perefegitura. Yavugaga ko ayo mafaranga yakusanywaga kugira ngo hagurwe intwaro, ko kandi Casimir Bizimungu yari yarahawe amabwiriza yo kujya mu mahanga kuzigura.

5.24 Mu gihe ibivugwa muri iyi Nyandiko y'ibirego byababaga ndetse na mbere yaho, bamwe mu bari bagize Guverinoma y'Agateganyo, abayobozi ba MRND n'abasirikare bamwe bitabiriye igikorwa cyo gukwirakwiza intwaro mu nsoresore zitwara gisirikare no mu baturage b'abasiviri babaga batoranijwe ku buryo bwitondewe, hagamijwe gutsembatsemba Abatutsi no kwica ibyitso byabo.

5.25 Ahagana mu mpera z'umwaka wa 1993, mu ibaruwa ifunguye yanyujijwe kuri Radiyo Rwanda, Musenyeri wa Diyosezi ya Nyundo muri Perefegitura ya Gisenyi yamaganye ikwirakwiza ry'intwaro muri iyo perefegitura.

5.26 Byongeye kandi, mu ibarwa ya Minisitiri w'Intebe Agathe Uwilingiyimana yo ku itariki ya 19 Mutarama 1994, Minisitiri w'Ingabo ari we Augustin Bizimana yanengwaga ko yanze kubahiriza icyemezo cy'Inama y'abaminisitiri cyo *kwambura abasiviri intwaro zose bari barahawe mu buryo butemewe n'amategeko.*

5.27 Kubera intwaro zabonekaga hirya no hino muri Perefegitura y'Umujyi wa Kigali, MINUAR yashyizeho porogaramu yo kwambura abantu intwaro yiswe « *Kigali Weapon Security Area (KWSA)* ».

5.28 Ku itariki ya 7 Mutarama 1994, Mathieu Ngirumpatse, Augustin Bizimana, Augustin Ndindiliyimana, Déogratias Nsabimana, Robert Kajuga n'abandi barwanashyaka b'imena ba MRND bakoreye inama ku cyicaro ya MRND kugira ngo barwanye porogaramu yo kwambura abantu intwaro. Muri iyo nama hafashwe icyemezo cyo gutambamira bivuye inyuma ishyirwa mu bikorwa rya porogaramu yo kwambura abantu intwaro n'icyo guhisha intwaro ahantu hatandukanye.

5.29 Ku itariki ya 10 Mutarama 1994, umwe mu bayobozi b'Interahamwe za MRND yamenyesheje MINUAR ko hari ahantu hahishe intwaro muri Kigali kandi ko hariho umugambi wo gutsembatsemba Abatutsi. MINUAR yashinze umwe muri ba ofisiye bayo kumenya neza aho izo ntwaro zihishe. Uwo musirikare yatahuye ahantu henshi mu mujyi wa Kigali hagenzurwaga n'abarwanashyaka ba MRND, nko ku cyicaro gikuru cy'ishyaka cyari ku Kimihurura, no mu nzu ya Jenerali Augustin Ndindiliyimana. Mu gihe basakaga muri iyo nzu, uwo musirikare wa MINUAR yavumbuyemo imbunda nyinshi n'amasanduku y'amasasu. Uwatanze amakuru yavuze ko mu nshingano ze zirebana n'ibya gisirikare, yahabwaga amabwiriza na Perezida wa MRND, Mathieu Ngirumpatse, na Déogratias Nsabimana, Umugaba Mukuru w'Ingabo. Yabwiye kandi MINUAR ko imbunda zatangwaga zaturukaga mu ngabo.

Itegurwa ry'amalisiti

5.30 Bamaze kwemeza ko Umututsi ari umwanzi kandi ko abatavuga rumwe n'ubutegetsi ari ibyitso bye, abagize Ubuyobozi bukuru bw'ingabo, abategetsi ba gisiviri n'insoresore zitwara gisirikare bakoze amalisiti y'abantu bagombaga kwicwa.

5.31 Mu nama yabaye mu wa 1992, Koloneli Théoneste Bagosora yasabye Ubuyobozi bukuru bwa gisirikare n'ubwa Jandarumori gukora amalisiti y'abantu bavugwaga ko ari abanzi n'ibyitso. Abakozi bo mu biro bishinzwe iperereza bo mu gisirikare *(G-2)* bakoze ayo malisiti babigenzurwamo na Anatole Nsengiyumva. Ayo malisiti yagiye avugururwa mu gihe Augustin Bizimana yari Minisitiri w'Ingabo.

5.32 Ku itariki ya 10 Mutarama 1994, umwe mu bayobozi b'*Interahamwe* za MRND yabwiye MINUAR ko yari yarahawe amabwiriza yo gutegura amalisiti y'Abatutsi bagombaga kwicwa.

5.33 Ku itariki ya 25 Gashyantare 1994, mu nama yabereye ku cyicaro cya MRND ku Kimihurura iyobowe na Perezida w'*Interahamwe*, Robert Kajuga, abayobozi

b'*Interahamwe* za MRND mu Mugi wa Kigali bahaye abayoboke b'iryo shyaka amabwiriza yo gutegura amalisiti y'Abatutsi bo kwica.

5.34 Kuva ku itariki ya 7 Mata kugeza mu mpera za Nyakanga, abasirikare n'*Interahamwe* za MRND bishe Abatutsi n'Abahutu batari intagondwa, mu byo bashingiyeho hakaba harimo ayo malisiti yari yarakozwe.

Ibyabaye mbere bigaragaza ko habayeho ukwitwara nabi nkana

5.35 Urugomo rushingiye ku mpamvu za politiki n'iz'amoko, rwabaye mu ntangiriro ya za 1990, rwaranzwe n'ishyirwa mu bikorwa ry'ibigize ingamba zaje gutsotsobwa muri jenoside yo muri Mata 1994. Ubwicanyi bwibasiye Abatutsi nyamuke muri icyo gihe, bukubiyemo ubwabereye muri Kibilira (1990), ubwakorewe Abagogwe (1991) n'ubwabereye mu Bugesera (1992), ababukoze babushishikarijwe n'abategetsi baba aba gisiviri cyangwa aba gisirikare, baborohereza kubukora ndetse baranabutunganya. Buri gihe, iyo abategetsi bo mu nzego zo hasi bakoraga poropagande yo guhamagarira abantu urugomo rushingiye ku bwoko, hakurikiragaho ubwicanyi bwibasiye Abatutsi nyamuke, bwakorwaga n'udutsiko tw'abantu bitwaraga gisirikare cyangwa abasiviri, bari barahawe intwaro kandi bagaterwa inkunga n'abo bategetsi na bamwe mu basirikare. Buri gihe, ibyo byaha ntibyahanwaga ndetse n'abategetsi babigiragamo uruhare nta cyo byabatwaye muri rusange.

5.36 Ubufatanye hagati y'*Interahamwe* za MRND na bamwe mu basirikare, cyane cyane abo mu mutwe wari ushinzwe kurinda Perezida [Abajepe] n'abo mu mutwe w'aba "*Para-commando*" bwaje kongera kugaragara mu ntangiriro z'umwaka wa 1994 hagamijwe kubangamira ishyirwaho ry'inzego zateganywaga n'Amasezerano ya Arusha. Ku itariki ya 5 Mutarama 1994 mu muhango wari uteganijwe wo kurahiza abagize Guverinoma y'inzibacyuho yaguye, *Interahamwe* zateguye imyigaragambyo zifatanije n'abajepe. Icyo gihe babujije abanyapolitiki batavugaga rumwe n'ubutegetsi kugera ku ngoro ya CND (Inama y'Igihugu Iharanira Amajyambere], maze uwo muhango wo kurahira w'abagize Guverinoma ntiwaba ukibaye. Kera kabaye, haje kurahira Perezida Juvénal Habyarimana wenyine.

5.37 Ku itariki ya 8 Mutarama 1994, *Interahamwe* zibifashijwemo n'abajepe n'ababasirikare bo mu mutwe w'aba "*Para-commando*" bambaye gisiviri, zateguye imyigaragambyo yabereye hafi ya CND. Icyo gihe, *Interahamwe* zari zahishe intwaro hafi aho kandi zifite

amaradiyo y'itumanaho zahawe n'abajepe. Iyo myigaragambyo yari igamije gusembura no gukomeretsa abasirikare b'Ababiligi bari mu mutwe wa MINUAR.

5.38 Nyuma yaho, kuva ku itariki ya 7 Mata 1994, mu Rwanda hose Abatutsi na bamwe mu Bahutu batari intagondwa batangiye kuva mu ngo zabo bahunga ibikorwa by'urugomo byari bibibasiye ku misozi bari batuyeho. Bajyaga ahantu kera bari barigeze kujya bahungira bakaharokokera, nko mu nsengero, mu bitaro n'ahandi mu bigo bya Leta nko ku biro by'amakomine n'iby'amaperefegitura. Akenshi aho hantu bahungiraga babaga baheretswe n'abayobozi, babizezaga ko bazabarindira umutekano. Mu minsi ya mbere, izo mpuzi zari zahungiye ahantu hatandukanye zagiye zirindwa n'abajandarume n'abapolisi ba komine bake. Nyuma yaho ariko, abagize imitwe yitwara gisirikare baje kuzigabaho ibitero biri kuri gahunda barazica, akenshi babifashijwemo na ba bayobozi bari barijeje izo mpunzi kuzirinda. Mu bitero byinshi byagiye bigabwa ku mpunzi hirya no hino mu gihugu, abagize ingabo z'u Rwanda (FAR), baba abasirikare cyangwa abajandarume, babujije Abatutsi guhunga bituma *Interahamwe* zibica bitazigoye, kandi ari bo bagombaga kubarinda. Akenshi abo basirikare bo mu ngabo z'u Rwanda (FAR) bagiye na bo bishora muri ubwo bwicanyi.

5.39 Byongeye kandi, abasirikare, insoresore zitwara gisirikare ndetse n'abajandarume, bagiye basambanya ku gahato bamwe mu bagore n'abakobwa b'Abatutsikazi, bakanabakorera ibindi bikorwa by'urugomo bishingiye ku gitsina, rimwe na rimwe bakorera abo bantu ibyo bikorwa bamaze kubashimuta.

6. <u>INCAMAKE Y'IBYABAYE: IBINDI BIKORWA BINYURANYIJE N'AMATEGEKO AKURIKIZWA MU GIHE CY'INTAMBARA.</u>

Icyuho mu butegetsi

6.1 Ku itariki ya 6 Mata 1994, ahagana mu ma saa mbiri n'igice z'ijoro, indege yari itwaye abantu barimo Juvénal Habyarimana wari Perezida wa Repubulika y'u Rwanda yarahanuwe ubwo yiteguraga kugwa ku kibuga cy'indege cy'i Kigali mu Rwanda.

6.2 Indege ya Perezida imaze guhanuka, ingabo z'u Rwanda zasigaye nta buyobozi zifite. Perezida na Déogratias Nsabimana wari Umugaba w'ingabo z'u Rwanda, umutwe w'abasirikare *(AR),* bari bamaze gupfa. Augustin Bizimana wari Minisitiri w'Ingabo na Koloneli Aloys Ntiwiragabo wari ushinzwe inzego z'iperereza *(G2)* mu buyobozi bukuru bw'ingabo z'u Rwanda, umutwe w'abasirikare *(AR),* bari mu butumwa muri Repubulika ya Kameruni. Bagarutse mu Rwanda mu minsi yaje gukurikiraho. Gratien Kabiligi wari ushinzwe ibikorwa bya gisirikare *(G3)* mu buyobozi bukuru bw'ingabo z'u Rwanda, umutwe w'abasirikare (*AR*), na we yari mu butumwa bw'akazi mu Misiri. Kubera ko Minisitiri w'Ingabo atari ahari, Koloneli Théoneste Bagosora wari umuyobozi w'imirimo muri Minisiteri y'Ingabo, yishyizeho ku ngufu nk'umuntu washobora gucunga iby'icyo gihirahiro igihugu cyarimo.

Abasirikare bagerageje gufata ubutegetsi ku ngufu

6.3 Mu masaha ya mbere yakurikiye urupfu rwa Perezida, i Kigali habaye amanama abiri akomeye. Muri ayo manama, Koloneli Théoneste Bagosora n'abandi ba ofisiye bamwe b'ingabo bagerageje gufata ubutegetsi. Mu gihe inama ya kabiri yarimo iba, Madamu Agathe Uwilingiyimana wari Minisitiri w'Intebe, Perezida w'Urukiko rushinzwe kurinda Itegekonshinga, abandi banyapolitiki bakomeye ndetse n'abasirikare icumi b'Umuryango w'Abibumbye bari mu ngabo za MINUAR barishwe mu buryo bwa kinyamaswa.

6.4 Kwica abataravugaga rumwe n'ubutegetsi byaburijemo ishyirwaho rya Guverinoma y'Inzibacyuho yaguye *(G.T.B.E.)* yari iteganyijwe mu Masezerano ya Arusha. Byatumye rero hajyaho, mu kigwi cyayo, Guverinoma y'Agateganyo. Iyicwa ry'abasirikare b'Ababiligi ryatumye igice kinini cy'abasirikare bo mu mutwe w'ingabo z'Umuryango w'Abibumbye zari mu Rwanda *(MINUAR)* gikurwa mu Rwanda. Ibyo bintu bintu bibiri byababye byakuyeho inzitizi z'ingenzi ebyiri zari kubuza ubwicanyi gukomeza.

Ishyirwaho rya Guverinoma y'Agateganyo

6.5 Abasirikare bamwe bashakaga kwigarurira ubutegetsi bamaze kunanirwa kugera ku ntego yabo, abayobozi ba MRND, ab'ayandi mashyaka ya politiki n'abasirikare bakuru barimo Théoneste Bagosora, bashyizeho Guverinoma y'Agateganyo. Iyo Guverinoma yateye inkunga ndetse ishishikariza abantu gukomeza gukora ubwicanyi.

6.6 Kuva mu ijoro ryo ku itariki ya 6 rishyira iya 7 Mata, abasirikare bo mu mutwe wari ushinze kurinda Perezida (*GP*) bahungishije abaminisitiri bakomoka mu ishyaka rya MRND, abayoboke b'ibice byitwaga *power* mu yandi mashyaka. Abo bantu bahungishijwe barimo Casimir Bizimungu, Justin Mugenzi, n'abategetsi bari inkoramutima za nyakwigendera Perezida Habyarimana. Bamwe muri bo bajyanywe mu bigo bya gisirikare, nyuma baza kujyanwa muri *Hôtel des Diplomates*, aho bari barinzwe n'abasirikare bo mu mutwe wa *"bataillon de reconnaissance"*.

6.7 Ku itariki ya 7 Mata, ahagana mu ma saa moya za mu gitondo, Koloneli Théoneste Bagosora yatumije inama ya Komite Nyobozi y'ishyaka rya MRND igamije gushyiraho Perezida wa Repubulika mushya. Iyo nama yabereye mu biro bya Minisiteri y'Ingabo kandi yitabiriwe n'abantu barimo Mathieu Ngirumpatse, Edouard Karemera na Joseph Nzirorera.

6.8 Ku itariki ya 8 Mata ku manywa, Koloneli Théoneste Bagosora yatumije inama y'abahagarariye amashyaka ya politiki kugira ngo bashyireho Guverinoma nshya. Yabashakiye imodoka zo kubageza kuri Minisiteri y'Ingabo. Muri iyo nama hashyizweho

abagize Guverinoma; hari abahagarariye MRND ari bo Mathieu Ngirumpatse, Edouard Karemera na Joseph Nzirorera. Hafi y'abantu bose batoranijwe ngo bajye muri Guverinoma y'Agateganyo bakomokaga mu ishyaka rya MRND. Abandi bari abo mu bice byo mu yandi mashyaka byari bizwi ku izina rya "*Pawa*". Nta Mututsi n'umwe wigeze atumirwa muri iyo mishyikirano cyangwa ngo ashyirwe muri iyo Guverinoma.

6.9 Jean Kambanda yagizwe Minisitiri w'Intebe wa Guverinoma y'Agateganyo y'u Rwanda yashyizweho ku itariki ya 8 Mata 1994. Iyo Guverinoma yarahiye ku itariki ya 9 Mata 1994 kandi yari igizwe n'abaminisitiri 19. Augustin Ngirabatware, Prosper Mugiraneza, Casimir Bizimungu, André Ntagerura na Pauline Nyiramasuhuko bari mu baminisitiri icyenda bakomokaga muri MRND. Kubera ko Minisitiri w'Ubutegetsi bw'Igihugu wari washyizweho atigeze aza gukora uwo murimo, yashimbujwe Edouard Karemera, wari Visi-Perezida wa MRND. Hagati muri Gicurasi 1994, Dogiteri Daniel Mbangura wari wagizwe Minisitiri w'Amashuri Makuru yeguye ku mirimo ye kugira ngo abe Umukuru w'Imirimo mu biro bya Sindikubwabo wari Perezida w'agateganyo, maze asimbuzwa **Jean de Dieu Kamuhanda** na we wari umuyoboke wa MRND. MDR yari ihagarariwe n'abaminisitiri batatu ari bo Jérôme Bicamumpaka, André Rwamakuba na Eliézer Niyitegeka. PL yari ihagarariwe n'abaminisitiri batatu barimo Justin Mugenzi.

6.10 Kuva Guverinoma y'Agateganyo yajyaho, benshi mu baminisitiri bahise bashyigikira umugambi wo gutsembatsemba wariho, kandi bakora ibishoboka byose ngo ushyirwe mu bikorwa. Bashishikarije abaturage kwikiza "umwanzi n'ibyitso bye", banababaha intwaro. Birukanye abayobozi barwanyaga ubwicanyi maze babasimbuza ababushyigikiye, banashyiraho amabwiriza agamije korohereza abantu kwica abasiviri b'Abatutsi.

Igabanywa ry'abasirikare ba MINUAR

6.11 MINUAR yari yashyizweho kugira ngo inzego zateganywaga n'Amasezerano ya Arusha zijyeho mu mahoro. Bamwe mu banyapolitiki b'intagondwa bafataga izo ngabo z'Umuryango w'Abibumbye nk'ikintu kibabangamiye. Bityo, abategetsi bamwe bo muri icyo gice cy'intagondwa bafashe ingamba zo gusembura abasirikare b'Ababiligi bari

muri MINUAR, ari na bo bari bagize umutwe ukomeye kandi ufite ibikoresho bihagije kurusha indi yose yari muri MINUAR. Icyari kigamijwe kwari ukugamburuza abo basirikare kugira ngo bakuremo akabo karenge.

6.12 Ni muri urwo rwego hashyizweho poropagande yo kurwanya Ababiligi. Muri iyo poropagande hifashishijwe cyane cyane itangazamakuru na RTLM. Abayobozi ba MRND bakoze amanama agamije gushyiraho ingamba zo gusembura ingabo z'Ababiligi. Muri ayo manama havugwa ayabaye ku itariki ya 7 n'iya 26 Mutarama 1994. Ku itariki ya 7 Mata 1994, abasirikare bo mu ngabo z'u Rwanda zariho icyo gihe bishe abasirikare icumi b'Ababiligi, bo mu ngabo z'Umuryango w'Abibumbye, bari bashinzwe kurinda Minisitiri w'Intebe Agathe Uwilingiyimana.

6.13 Kubera poropagande yo kurwanya Ababiligi n'iyicwa ry'abaparakomando icumi b'Ababiligi, ku itariki ya 13 Mata 1994, u Bubiligi bwamenyesheje Inama Ishinzwe Amahoro ko bukuye ingabo zabwo mu Rwanda. Hashize icyumweru, Inama Ishinzwe Amahoro ku Isi yategetse ko abakozi ba gisivili n'aba gisirikare ba MINUAR bagabanywa hagasigara bake cyane.

Ikorwa ry'Ubwicanyi

6.14 Kuva ku itariki ya 7 Mata 1994, mu Rwanda hose hakozwe ubwicanyi bwibasiye Abatutsi n'abanyapolitiki benshi batavugaga rumwe n'ubutegetsi. Ibi byaha byari bimaze igihe kinini bicurirwa umugambi kandi bitegurwa n'abategetsi ba gisiviri n'aba gisirikare bo mu rwego rwo hejuru bari bahuriye ku ngengabitekerezo y'Abahutu b'intagondwa, byashyizwe mu bikorwa n'abantu bitwara gisirikare, abasirikare n'abajandarume, bubahiriza amategeko n'amabwiriza ya bamwe muri abo bayobozi bo hejuru barimo **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Justin Mugenzi, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Eliezer Niyitegeka, Edouard Karemera, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera na Juvénal Kajelijeli.

6.15 Guhera mu ijoro ryo ku itariki ya 6 rishyira iya 7 Mata, mu murwa mukuru, abasirikare bo mu mutwe w'Abaparakomando n'abo mutwe w'ingabo zirinda Perezida bashyize za bariyeri ku mihanda minini, ziriho ndetse n'ibimodoka bya burende, kugira ngo bagenzure abantu bahanyuraga. Kuri izo bariyeri, bagenzuraga ibyangombwa by'abantu, nk'indangamuntu kandi bagahita bica Abatutsi cyangwa abantu bafatwaga nka bo. Icyo gihe kandi amatsinda y'abasirikare n'*Interahamwe* za MRND bajagajaze umujyi, bica abasiviri.

6.16 Hagati ya Mata na Nyakanga 1994, abantu bitwara gisirikare b'*Interahamwe* za MRND n'Impuzamugambi za CDR, bafite intwaro kandi bahawe imyitozo kugira ngo, igihe nikigera, bazatsembatsembe umwanzi n'ibyitso bye, bari ku isonga ry'ubwicanyi. Izo *Nterahamwe* zari zifite inzego z'ubuyobozi zizwi, ku rwego rw'igihugu, urwa perefegitura n'urwa komine. Zari zifite kandi inzego zitazwi zayoborwaga n'abayoboke bakomeye ba MRND. Kubera urusobe rwarangagaga imiterere y'izo nzego z'*Interahamwe* zari zishyigikiwe n'inzego z'ishyaka rya MRND zari zisanswe zifite amashami menshi, amabwiriza yagezwaga ku bayoboke mu buryo bworoshye kandi agashyirwa mu bikorwa vuba n'inzego z'imitwe yitwaraga gisirikare. *Interahamwe* za MRND zitabiriye cyane kandi ari nyinshi ubwicanyi bwakozwe mu mwaka wa 1994.

6.17 Kubera gutinya amahanga, bamwe mu bayobozi bagerageje guhisha ubwicanyi bwakorwaga i Kigali. Ni yo mpamvu, kuva ku itariki ya 9 Mata 1994, Joseph Nzirorera wari Umunyamabanga Mukuru wa MRND, yategetse *Interahamwe* guhagarika ubwicanyi. Iryo tegeko ryarubahirijwe maze bituma bakuraho imirambo yari mu mihanda kugira ngo bayihishe mu byobo rusange. *Interahamwe* zabwiye Joseph Nzirorera na Justin Mugenzi ko icyo gikorwa cyagenze neza. Justin Mugenzi yavugiye ku mugaragaro ko yishimiye ko Abatutsi benshi bishwe.

Guverinoma y'Agateganyo

6.18 Nyuma y'irahira ry'abaminisitiri bagize Guverinoma y'Agateganyo, Abaminisitiri barimo Agustin Ngirabatware, Justin Mugenzi, Casimir Bizimungu, Prosper Mugiraneza,

Jérôme Bicamumpaka, Edouard Karemera, André Rwamakuba, André Ntagerura, Pauline Nyiramasuhuko, Eliézer Niyetegeka na **Jean de Dieu Kamuhanda,** icyo gihe wari Umujyanama wihariye wa Perezida Sindikubwabo, bashyigikiye umugambi w'itsembatsemba wari warashyizweho. Ni muri urwo rwego abaminisitiri benshi bagize Guverinoma bahamagariye abaturage kwikiza umwanzi n'ibyitso bye maze babaha n'intwaro. Guverinoma yakuye ku mirimo yabo abategetsi bo mu turere batari bashyigikiye ubwicanyi, maze babasimbuza ababushyigikiye.

6.19 Ku itariki ya 8 Mata, Guverinoma nshya yatumiye abaperefe bose mu nama i Kigali kugira ngo basuzume uko ibintu byari bimeze mu gihugu. Iyo nama y'amahina yabaye ku itariki ya 11 Mata 1994, yitabiriwe n'abaminisitiri bose n'abaperefe bose uretse uwa Ruhengeri, Cyangugu na Butare. Muri iyo nama, basuzumye uko ubwicanyi bwagendaga muri buri perefegitura.

6.20 Ku itariki ya 17 Mata, Eliézer Niyitegeka, nka Minisitiri w'Itangazamakuru akaba n'umuvugizi wa Guverinoma, yasomye itangazo rya Guverinoma y'Agateganyo. Mu bantu yashimiye muri iryo tangazo harimo abaperefe ba Kigali, Kibuye na Cyangugu kubera ko bakoze neza.

6.21 Ku itariki ya 17 Mata, aho gufata ingamba zihutirwa zo guhagarika ubwicanyi, Guverinoma y'Agateganyo yakuye ku mirimo yabo abayobozi benshi barimo Jean Baptiste Habyarimana wari Perefe wa Butare, kubera ko bari banze kwitabira ubwicanyi. Abo bayobozi bavanywe ku mirimo yabo kugira ngo ubwicanyi bukwire mu gihugu hose.

6.22 Hagati y'itariki ya 9 Mata n'iya 14 Nyakanga 1994, amanama menshi y'abaminisitiri yabereye i Kigali, Gitarama n'i Gisenyi. Muri icyo gihe, Jean Kambanda wari Minisitiri w'Intebe, na ba Minisitiri Augustin Ngirabatware, Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, André Ntagerura, Pauline Nyiramasuhuko, **Jean de Dieu Kamuhanda** na Eliézer Niyitegeka bamenyeshwaga kenshi uko ubwicanyi bwibasiye abaturage bwarimo gukorwa. Kenshi muri ayo manama,

abaminisitiri basabaga intwaro zo gutanga mu maperefegitura bakomokamo, kandi bazi ko zizakoreshwa mu bwicanyi.

6.23 Muri ayo manama menshi y'abaminisitiri, Guverinoma y'Agateganyo yafashe ibyemezo inaha amabwiriza abaperefe n'ababurugumesitiri. Ibyo byemezo byamenyeshwaga abaturage, byari bigamije kubahamagarira, kubashishikariza no kubatera inkunga mu gukora ubwicanyi. Mu gukora ku buryo ibyo byemezo n'ayo mabwiriza bishyirwa mu bikorwa, Inama y'abaminisitiri ba Guverinoma y'Agateganyo yageneye buri perefegitura umuminisitiri ushinzwe gukurikirana ibyo bitaga kugarura ituze mu baturage. Ni muri urwo rwego, Callixte Nzabonimana yashinzwe Gitarama, Pauline Nyiramasuhuko ashingwa Butare naho André Ntagerura ashingwa Cyangugu.

6.24 Ku itariki ya 27 Mata 1994, Guverinoma y'Agateganyo yategetse ko hashyirwaho za bariyeri kandi izi ko izo bariyeri zakoreshwaga mu kurobanura Abatutsi n'"ibyitso" byabo, kugira ngo bicwe. Hagati ya Mata na Nyakanga 1994, bariyeri yashyizwe iruhande rwo kwa Minisitiri Pauline Nyiramasuhuko na Arsène Shalom Ntahobali mu mujyi wa Butare, kandi ni na bo bari bayirinze, banayigenzura.

6.25 Ku itariki ya 25 Gicurasi 1994, Guverinoma y'Agateganyo yatanze amabwiriza arebana na gahunda y'ukwirengera kw'abaturage. Ku ruhande rumwe, iyo gahunda yari igamije gutuma abantu bumva ko guha intwaro abantu bitwara gisirikare byemewe n'amategeko, naho ku rundi ruhande yari igamije gutuma abantu bumva ko gukora ubwicanyi bwibasiye abasiviri atari icyaha. Mu rwego rwa gahunda yo kwirengera kw'abaturage, mu Cyemezo cya Minisitiri, Guverinoma y'Agateganyo yashyizeho abasirikare bakuru ngo bayobore za komite zishinzwe ukwirengera kw'abaturage muri buri perefegitura. Bamwe muri abo basirikare bakuru bitabiriye ubwicanyi. Muri bo twavuga Alphonse Nteziryayo muri Butare.

6.26 Hagati y'itariki ya 11 Mata n'iya 14 Nyakanga 1994, Jean Kambanda, Justin Mugenzi, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka n'abandi baminisitiri barimo Eliézer Niyitegeka, Edouard Karemera, André Rwamakuba, André Ntagerura na Pauline Nyiramasuhuko, bari bonyine cyangwa bari hamwe n'abandi, bagiye, mu rwego

rw'akazi, mu maperefegitura menshi y'igihugu nka Butare, Kibuye na Gitarama kugira ngo bagenzure ishyirwa mu bikorwa ry'amabwiriza yatanzwe na Guverinoma. Muri ayo mabwiriza harimo ayerekeye ukwirengera kw'abaturage n'umutekano. Mu ngendo zabo nyinshi, abo bategetsi bari bazi cyangwa bagombaga kumenya ko ubwicanyi bwibasiye abaturage b'abasiviri burimo gukorwa. Cyakora, abo baminisitiri ntibigeze na rimwe bagira icyo bakora ngo babuhagarike cyangwa ngo bahane abantu babukoze.

6.27 Ni muri urwo rwego muri Gicurasi 1994, ku Kibuye Jean Kambanda yitabiriye inama y'abakuru b'imirimo mu nzego z'ubuyobozi yigirwagamo ibibazo by'umutekano. Mu bandi bantu bari muri iyo nama havugwa nka Clément Kayishema wari Perefe wa Kibuye, Edouard Karemera wari Minisitiri w'Ubutegetsi bw'Igihugu, Emmanuel Ndindabahizi wari Minisitiri w'Imari, Eliézer Niyitegeka wari Minisitiri w'Itangazamakuru na Donat Murego wari Umunyamabanga Mukuru wa MDR. Muri iyo nama, umwe mu bantu bari bayirimo yabajije, mu buryo butaziguye, Minisitiri w'Intebe ukuntu barinda umutekano w'abana barokotse ubwicanyi bari ku bitaro. Jean Kambanda ntiyamushubije ahubwo Eliézer Niyitegeka, wari wicaye iruhande rwe, yashubije ko abarokotse ari abanzi maze avuga ko uwo muntu wabijje iby'imibereho y'abarokotse « arengera umwanzi ». Nta mu minisitiri n'umwe wari muri iyo nama wavuze uburyo ubwo ari bwo bwose bwo kurinda umutekano w'abarokotse. Uwo munsi, nyuma y'iyo nama, abo bana barishwe.

6.28 Na none hagati y'itariki ya 24 Mata n'iya 14 Nyakanga 1994, Théodore Sindikubwabo, Jean Kambanda, Edouard Karemera, André Rwamakuba, André Ntagerura, Augustin Ngirabatware, Pauline Nyiramasuhuko, Justin Mugenzi na Eliézer Niyitegeka, ari bonyine cyangwa bari kumwe n'abandi, bagiye mu maperefegitura nka Butare, Gitarama, Gisenyi, Kibuye na Cyangugu guhamagarira no gushishikariza abaturage gukora ubwicanyi, ibi bikaba byaratewe cyane cyane n'uko bashimiraga ababukoze.

6.29 Hagati ya Mata na Nyakanga 1994, Justin Mugenzi wari Minisitiri w'Ubucuruzi, Inganda n'Ubukorikori yavuze amagambo ahamagarira abantu kwica Abatutsi. Ayo magambo yayavugiye ku Gisenyi, Kigali, i Murambi n'ahandi. Amwe muri ayo magambo ya gashozantambara yahitishijwe kuri Radiyo RTLM.

6.30 Ku itariki ya 21 Mata 1994, Jean Kambanda, nka Minisitiri w'Intebe, yagaragaje neza ko ashyigikiye RTLM yashinzwe kandi iyoborwa na Félicien Kabuga. Jean Kambanda yabikoze azi neza ko iyo radiyo ihamagarira abantu gutsembatsemba no gutoteza Abatutsi n' « ibyitso » byabo. Icyo gihe, Jean Kambanda yavuze ko iyo radiyo ari *intwaro ya ngombwa mu kurwanya umwanzi*. Hagati y'itariki ya 8 Mata n'iya 14 Nyakanga 1994, mu nama zabereye ahantu hanyuranye mu gihugu no mu magambo yavugiye kuri radiyo, Jean Kambanda wari Minisiriti w'Intebe yahamagariye abaturage mu ruhame gukorera Abatutsi n'ibyitso byabo ibikorwa by'urugomo nk'ubwicanyi no kubahohotera. Mu biganiro byahise kuri radiyo, Minisitiri w'Intebe yahamagariye Abanyarwanda guhagurukira hamwe bakarwanya umwanzi. Yanahamagariye abayobozi b'amaserire kwitangira *akazi*.

Inshuro nyinshi kuri Radiyo, André Rwamakuba wari Minisitiri w'Uburezi, na we yashishikarije abantu kwica Abatutsi. Ahagana mu mpera za Gicurasi 1994, yagizwe umuvugizi wa Guverinoma maze akomeza kuvuga amagambo ya gashozantambara ayavugiye kuri Radiyo Rwanda no kuri RTLM. Ayo magambo yakomeje kuvugwa yatumye hakorwa ubwicanyi bwibasiye abasiviri.

6.31 Hagati y'itariki ya 8 Mata n'iya 14 Nyakanga 1994, mu maperefegitura menshi nka Butare, Kibuye, Kigali, Gitarama na Gisenyi, abaminisitiri, abaperefe, ababurugumesitiri, abakozi ba Leta n'abasirikare batanze itegeko ryo gukora ubwicanyi bwibasiye Abatutsi n'Abahutu batari intagondwa, bahamagarira abantu kubukora ndetse na bo ubwabo barabukora. **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Justin Mugenzi, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Edouard Karemera, André Rwamakuba, André Ntagerura, Pauline Nyiramasuhuko na Eliézer Niyitegeka bari bazi cyangwa bagombaga kumenya ko abantu bakuriye bakoze cyangwa bari bagiye gukora ibyaha nyamara birengagiza kuburizamo ibyo bikorwa cyangwa guhana ababikoze.

6.32 Ba Minisitiri bo muri Guverinoma ya Kambanda ari bo **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Justin Mugenzi, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Edouard Karemera, André Rwamakuba, André Ntagerura, Pauline

Nyiramasuhuko na Eliézer Niyitegeka, bateshutse ku nshingano zabo zo kurinda umutekano w'Abanyarwanda.

6.33 Muri Kamena 1994, Edouard Karemera wari Minisitiri w'Ubutegetsi bw'Igihugu yategetse Anatole Nsengiyumva wari Komanda w'ingabo ku Gisenyi kohereza abasirikare mu karere ka Bisesero, Perefegitura ya Kibuye. Havugwaga ko abo basirikare bagiye kurwanya umwanzi kandi, mu by'ukuri, nta ngabo za FPR zari mu Bisesero. Muri ako karere hari hakoraniye gusa impunzi z'Abatutsi bahungaga ubwicanyi.

6.34 Kuva muri Gicurasi kugera muri Nyakanga 1994, muri Perefegitura ya Butare na Gitarama, Jean Kambanda yatanze intwaro n'amasasu abiha abaturage b'abasiviri, abayoboke b'amashyaka ya politiki n'abantu bitwara gisirikare. Itangwa ry'izo ntwaro ryavuzwe cyane mu itangazamakuru ku buryo abagize Guverinoma y'Agateganyo bagombaga kumenya ko izo ntwaro zari gukoreshwa mu bwicanyi bwibasiye abasiviri, biganjemo Abatutsi.

6.35 Mu gihe cy'ubwicanyi, hagati ya Mata na Nyakanga 1994, Minisitiri Ntagerura yatanze uruhushya rwo gukoresha imodoka z'isosiyete ya Leta yitwa ONATRACOM. Izo bisi zatanzwe ngo zitware abantu bitwara gisirikare n'amasasu ndetse zinatware Abatutsi bakorewe ibyaha zibajyana ahantu bagomba kwicirwa muri Perefegitura ya Cyangugu no mu yandi maperefegitura nka Butare, Ruhengeri na Kibuye. Ibyo yabikoze kugira ngo yorohereze abantu gutsembatsemba Abatutsi no kwica ibyitso byabo.

6.36 Ku itariki ya 25 Mata 1994, muri Perefegitura ya Gisenyi, Félicien Kabuga, Mathieu Ngirumpatse, Edouard Karemera na Anatole Nsengiyumva barumvikanye hagati yabo ndetse bumvikana n'abandi bantu kugira ngo bashyireho ikigega cyiswe *Fonds de Défense Nationale* (F.D.N) [Ikigega cyo kurengera igihugu] bagamije gutera inkunga Guverinoma y'Agateganyo ngo irwanye umwanzi n'ibyitso bye. Amafaranga yo muri icyo kigega yagombaga gukoreshwa mu kugura intwaro, amamodoka na iniforume by'abantu bo mu mutwe w'*Interahamwe* witwara gisirikare n'iby'ingabo muri maperefegitura yose y'igihugu.

Ku itariki ya 20 Gicurasi 1994, Félicien Kabuga yamenyesheje Guverinoma y'Agateganyo ishingwa ry'icyo kigega maze agira inama Guverinoma ku micungire n'imikoreshereze yacyo.

GUKWIRAKWIZA UBWICANYI

6.37 Kuva muri Mata kugera muri Nyakanga 1994, abagize Guverinoma y'Agateganyo n'abayoboke bakomeye ba MRND, MDR (Hutu) na PL (Hutu) barimo **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera, Félicien Kabuga, Juvénal Kajelijeli, Eliézer Niyitegeka, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka na Justin Mugenzi, kubera imyanya barimo, amagambo bavuze, amabwiriza batanze, ibyo bakoze n'ibyo birengagije gukora, bari bafite ububasha ku bayobozi bo mu turere no ku *Nterahamwe* za MRND. Kuva ku itariki ya 6 Mata, abo bategetsi n'abo bantu bo mu mitwe yitwara gisirikare bakoze ubwicanyi bwibasiye Abatutsi n'Abahutu batari intagondwa. Ubwo bwicanyi bwakozwe mu Rwanda hose kandi bizwi n'abantu bagize Guverinoma y'Agateganyo barimo Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Eliézer Niyitegeka, Casmiri Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka na Justin Mugenzi.

6.38 Ubwicanyi bwibasiye abaturage b'Abatutsi n'Abahutu batari intagondwa bwakozwe mu Rwanda hose. Muri buri perefegitura, abayobozi bo mu nzego z'ibanze, abaturage b'abasiviri, abasirikare n'abantu bitwara gisirikare bitabiriye umugambi wo gutsembatsemba banakurikiza amabwiriza n'amategeko bahawe yo kuwushyira mu bikorwa. Bahamagariye abandi baturage b'abasiviri gutsembatsemba umwanzi n'ibyitso bye. Bahaye intwaro abasiviri n'abantu bitwara gisirikare, bategeka abantu gukora ubwicanyi, barabubashishikariza, babibateramo inkunga kandi na bo ubwabo barabwitabira.

6.39 Kuva muri Mata kugeza muri Nyakanga 1994, mu turere twose tw'igihugu, abaturage b'Abatutsi bahunze ubwicanyi ku misozi yabo bagana ahantu bibwiraga ko bashobora kugirira umutekano. Akenshi bahahungiye babigiriwemo inama n'abayobozi bo mu nzego z'ibanze, aba gisiviri ndetse n'aba gisirikare. N'ubwo abayobozi bo mu nzego

z'ibanze, aba gisivili n'aba gisirikare bari bijeje izo mpunzi ko zizaharindirwa, ahenshi muri aho hantu izo impunzi zaratewe, zirashimutwa, ziranicwa, akenshi bitegetswe n'abo bayobozi cyangwa babibayemo ibyitso.

Kigali

6.40 Kubera ko Kigali yari umurwa mukuru w'u Rwanda, akaba ari na ho hari icyicaro cya Guverinoma, ndetse akaba ari na ho hari imitwe y'indatwa y'ingabo z'u Rwanda hamwe n'ubuyobozi bukuru bw'ingabo na Jandarumori, abenshi mu bategetsi ba gisirikare n'aba gisiviri bari baracuze umugambi w'ubwicanyi, bakanabutegura, bafashe iya mbere mu gushyira mu bikorwa uwo mugambi i Kigali.

6.41 Guhera ku itariki ya 7 Mata, abasirikare bo mu ngabo z'u Rwanda, *Interahamwe* za MRND, abasirikare n'abajandarume batangiye kwica abasiviri b'Abatutsi i Kigali. Muri icyo gihe kandi, ni na ko abasirikare bo mu mutwe urinda Perezida wa Repubulika, abo mu mutwe w'Abaparakomando n'abo mu mutwe w'Imbanzirizagutabara [*Bataillon de Reconnaissance*] n'*Interahamwe* za MRND bicaga abanyapolitiki batavugaga rumwe n'ubutegetsi. Abatutsi benshi biciwe ahantu bari bahungiye bashaka umutekano.

Ibitaro bikuru bya Kigali [CHK]

6.42 Kuva ubwicanyi butangiye, mu bitaro bikuru bya Kigali (CHK) haje inkomere nyinshi z'Abatutsi ziturutse mu duce tunyuranye tw'umujyi. Inshuro nyinshi, abasirikare bari bashinzwe kurinda ibitaro bagiye batoranyamo abarwayi b'Abatutsi, bakabicira aho. Byongeye kandi, hakozwe lisiti y'Abatutsi bakoraga muri ibyo bitaro, maze benshi muri bo baricwa. Buri gitondo, umusirikari mukuru wari ukuriye abandi mu bari kuri CHK yakoraga raporo ku mubare w'Abatutsi bishwe akayohereza muri Minisiteri y'Ingabo.

6.43 Mu nama za Guverinoma y'Agateganyo, abaminisitiri bamenyeshejwe ubwicanyi bwakorewe kuri CHK. Muri bo hari Casimir Bizimungu wari Minisitiri w'Ubuzima, ariko nta ngamba na zimwe za ngombwa yafashe ngo abuze abantu gukora ibyaha byakorerwaga muri ibyo bitaro bya Leta cyangwa ngo ahane ababikoze.

Kigali-Ngari

6.44 **Jean de Dieu Kamuhanda**, Minisitiri mushya muri Guverinoma y'Agateganyo yari afite abantu bo mu muryango we muri Komine ya Gikomero, Perefegitura ya Kigali-Ngari. Muri Mata 1994, yagenzuye ubwicanyi bwakorewe muri ako gace. Inshuro nyinshi, ubwe yitangiye imbunda, amagerenade n'imihoro abiha abasiviri bitwara gisirikare bo muri Kigali-Ngari agamije « kwicisha Abatutsi bose no kurwanya FPR ».

6.45 Byongeye kandi, ku itariki ya 12 Mata cyangwa hafi y'iyo tariki, **Jean de Dieu Kamuhanda** yayoboye ubwe ibitero abasirikare n'*Interahamwe* bagabye ku mpunzi z'Abatutsi muri Perefegitura ya Kigari-Ngari, cyane cyane kuri Paruwasi ya Gikomero no ku mashuri byegeranye. Icyo gihe, **Jean de Dieu Kamuhanda** yageze kuri ayo mashuri ari kumwe n'abasirikare n'*Interahamwe* bitwaje imbunda n'amagerenade. Yajyanye abantu bitwara gisirikare ku kibuga cy'amashuri maze abategeka kugaba igitero ku mpunzi. Abasirikare n'abantu bitwara gisirikare bubahirije itegeko rye maze ibihumbi byinshi by'abantu biricwa.

6.46 Mu gitero cyagabwe kuri ayo mashuri y'i Gikomero, abantu bitwara gisirikare batoranyije abagore mu mpunzi, babajyana kubasambanya ku gahato, barangije barabica.

Butare

6.47 Muri Perefegitura ya Butare, ubwicanyi bwatindijwe n'ibintu bitatu. Kuva kera, iyo perefegitura yari ituwe n'Abatutsi benshi bari babanye neza na rubanda nyamwinshi y'Abahutu. Amashyaka menshi atangiye, Ishyaka Rihanira Demukarasi n'Imibereho Myiza y'Abaturage (PSD) ni ryo ryari ryiganje i Butare. MRND yari ihafite abayoboke bake ugereranyije n'ahandi mu gihugu. Kubera iyo mpamvu, inzego z'*Interahamwe* ntizari zikomeye kandi n'abayoboke bazo ntibari benshi cyane. Byongeye kandi, Perefe wa Butare Jean Baptiste Habyarimana (PSD), ari na we Mututsi wenyine wari Perefe mu gihugu cyose, yarwanyije ku mugaragaro ubwicanyi muri perefegitura. Yashoboye rero kubungabunga umutekano uretse ahantu hake nko muri Komine ya Nyakizu. Na none kandi mu minsi ya mbere yakurikiye ubwicanyi muri Butare hahungiye ibihumbi by'abantu biganjemo Abatutsi bavuye mu yandi maperefegitura.

6.48 Abayobozi ba gisiviri n'aba gisirikare babonye ko i Butare ibintu byari bitandukanye n'ahandi mu gihugu. Kubera iyo mpamvu, Guverinoma y'Agateganyo yari igizwe na Jean de Dieu Kamuhanda, Augustin Ngirabatware, Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Eliezer Niyitegeka, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Justin Mugenzi n'abandi, yakuye Perefe Habyarimana ku mirimo ye maze ihamagarira abaturage kujya mu bwicanyi. Nyuma yaho, Perefe Habyarimana yarafashwe maze kuva icyo gihe ntihagira muntu wongera kumubona. Byongeye kandi, abasirikare n'*Interahamwe* zitwara gisirikare boherejwe i Butare ngo bafashe abandi gutangira ubwicanyi.

6.49 Kugira ngo bahamagarire kandi bashishikarize abaturage b'i Butare kwica Abatutsi, Casimir Bizimungu na Joseph Nzirorera basabye bakomeje ko mu bantu bahagarariye Guverinoma bajya i Butare habamo Perezida Sindikubwabo ubwe kugira ngo amadisikuru avugwa agire uburemere mu baturage.

6.50 Ni muri urwo rwego, ku itariki ya 19 Mata, umuhango wo kwimika Sylvain Nsabimana, Perefe mushya wa Butare, witabiriwe n'abantu benshi mu buryo bwateguwe na Guverinoma y'Agateganyo. Icyo gihe, Perezida Théodore Sindikubwabo yavuze ijambo rya gashozantambara, ahamagarira abaturage b'i Butare ku mugaragaro kandi mu buryo butaziguye, gukurikiza urugero rw'ayandi maperefegitura maze bagatangira ubwicanyi. Yamaganye cyane abo yise *banyira ntibindeba*, ni ukuvuga abumvaga batarebwa n'ibyarimo biba. Yaravuze ngo « *nibigire iruhande batureke dukore* ». Nyuma yaho, Jean Kambanda wari Minisitiri w'Intebe na we yafashe ijambo kandi ntiyavuguruje ibyo Perezida wa Repubulika yari amaze kuvuga. Na none, nta n'umwe mu baminisitiri bari aho, barimo Justin Mugenzi, wabivuguruje. Hashize igihe gito iyo mihango irangiye, muri Perefegitura ya Butare hatangiye ubwicanyi bwibasiye Abatutsi.

6.51 Kubera ko batigeze na rimwe bamagana amagambo yavuzwe na Perezida wa Repubulika, abagize Guverinoma y'Agateganyo barimo Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Eliézer Niyitegeka, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka na Justin Mugenzi batumye abaturage bumva neza ko ubwicanyi bwategetswe kandi bushyigikiwe na Guverinoma.

6.52 Bukeye, i Butare haguye indege ebyiri za gisirikare zirimo abasirikare bageze ku icumi bo mu mutwe urinda Perezida n'abo muri Batayo y'Abaparakomando. Bafatanyije n'*Interahamwe* z'i Butare, abo basirikare bakoze ubwicanyi n'ubuhotozi byibasiye abasiviri. Mu bantu bishwe harimo Rosalie Gicanda wahoze ari Umwamikazi w'u Rwanda kandi wafatwaga, mu rwego rw'amateka, nk'ikimenyetso kiranga Abatutsi bose.

6.53 Mu minsi yakurikiye itangizwa ry'ubwicanyi, *Interahamwe* za MRND zitari izo muri Perefegitura ya Butare, cyane cyane iz'i Kigali, zaje gufasha bagenzi bazo b'i Butare mu bwicanyi. Muri zo twavuga nk'igice cy'*Interahamwe* za MRND zari kumwe na Perezida wazo Robert Kajuga.

6.54 Kuva ku itariki ya 20 Mata, ubwicanyi bwakwiriye muri Perefegitura yose. I Butare, kimwe no mu tundi turere tw'igihugu, abantu benshi bahungiye ahantu bumvaga bagirira umutekano kuko bumvaga hatavogerwa kandi kenshi babikoze babibwirijwe n'abategetsi. Muri aho hantu, twavuga ibitaro bya Kaminuza y'i Butare no ku biro bya Perefegitura mu mujyi wa Butare. N'ubwo abategetsi bari bijeje impunzi ko bazazirindira umutekano, abasirikare n'abantu bitwara gisirikare baraziteye, barazishimuta cyangwa barazica kandi kenshi babikoze babitegetswe n'abo bategetsi cyangwa biturutse ku kagambane kabo.

6.55 Hagati ya Mata na Nyakanga 1994, Jean Kambanda wari Minisitiri w'Intebe yasuye amakomine menshi akenshi ari kumwe n'abandi baminisitiri. Muri ayo makomine harimo Ndora na Muganza yasuye muri Gicurasi na Kamena 1994. Izo ngendo zagaragazaga ko Guverinoma ye ishyigikiye ubwicanyi bwakorerwaga Abatutsi n'Abahutu batari intagondwa. Gushyigikira ubwicanyi byagaragazwaga kandi no gukuraho ababurugumesitiri batinyukaga kurwanya ubwicanyi, no kubasimbuza abandi bemeraga gukorana n'ubutegetsi.

6.56 Ku itariki ya 15 Gicurasi cyangwa ahagana kuri iyo tariki, Jean Kambanda wari Minisitiri w'Intebe yavugiye ijambo mu nama yabereye muri Kaminuza y'i Butare maze ahamagarira abaturage b'abasiviri gufata intwaro. Nyuma y'iyo nama, yaravuze ngo « Wima igihugu amaraso imbwa zikayanywera ubusa ». Ayo magambo yabaye intero ya Guverinoma ye, yasubirwagamo kenshi mu madisikuru yavugwaga mu ruhame. Mu

bwicanyi bwaberaga mu gihugu hose kuva muri Mata kugera muri Nyakanga, ayo magambo ya gashozantambara yagaragaza ko Guverinoma y'Agateganyo ishyigikiye abantu ku buryo bugaragara mu gukora ubwicanyi ndetse ikanabibashishikariza. Muri icyo gihe cyose, nta n'umwe mu bantu bagize Guverinoma, barimo **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Eliezer Niyitegeka, Casimir Bizimungu, Justin Mugenzi, Jérôme Bicamumpaka na Prosper Mugiraneza, wagaragaje ko arwanya, ko adashyigikiye cyangwa ko anenga politiki Jean Kambanda yari yasobanuye mu ruhame mu izina rya Guverinoma y'Agateganyo.

Ibitaro bya Kaminuza i Butare

6.57 Mu mpera z'ukwezi kwa Mata, Abatutsi benshi bagiye ku bitaro bya Kaminuza by'i Butare, bahahungiye cyangwa bashaka kuhivuriza ibikomere. Inshuro nyinshi, abategetsi banyuranye, barimo Minisitiri André Rwamakuba, bategetse ko impunzi n'abarwayi bavuga imyirondoro yabo. Abo basangaga ari Abatutsi bicirwaga aho cyangwa bakajyanwa kwicirwa ahandi. Casimir Bizimungu wari Minisitiri w'Ubuzima ntiyigeze na rimwe afata ingamba za ngombwa ngo aburizemo ibyaha byakorewe muri ibyo bitaro bya Leta cyangwa ngo ahane ababikoze.

Gitarama

6.58 Kubera ibitero FPR yagabaga ku murwa mukuru, kuva ku itariki ya 12 Mata 1994, Guverinoma y'Agateganyo yimukiye muri Perefegitura ya Gitarama mu burengerazuba bwa Kigali, kugira ngo ishobore gukomeza gukora imirimo yayo. Iyo Guverinoma yakoreye i Gitarama kugera mu mpera za Gicurasi. Gitarama yari Perefegitura Grégoire Kayibanda, wabaye Perezida wa mbere w'u Rwanda, yavukagamo kandi ni ho MDR yari ifite imizi yayo. Mbere gato y'ibyabaye muri 1994, MRND yari ihafite abayoboke bake cyane. Kuva muri Mata 1994, MRND yakoze ibishoboka byose ngo ihirukane ababurugumesitiri barwanyaga politiki y'ubwicanyi, maze basimbuzwe abantu bayishyigikiye.

6.59 Kimwe no mu tundi turere tw'u Rwanda, i Gitarama habereye inama nyinshi zitabiriwe n'abagize Guverinoma, abayobozi bakuru ba MRND n'abahagarariye inzego z'ibanze. Izo nama zari zigamije kugenzura uko ubwicanyi bukorwa muri ako karere no gushishikariza abaturage, abantu bitwara gisirikare n'ingabo gukomeza kubukora.

6.60 Hagati ya Mata na Nyakanga 1994, i Gitarama, ababurugumesitiri bari banze gushyira mu bikorwa amabwiriza Guverinoma yari yatanze yo kwica Abatutsi, cyangwa abatari bagaragaje umwete uhagije mu kuyashyira mu bikorwa, baragawe cyangwa barasuzugurwa imbere y'abaturage bayoboraga. Nyuma y'ibyo, bakuwe ku mirimo yabo cyangwa baricwa. Mu nama yabereye i Murambi ahagana hagati muri Mata 1994, Minisitiri Justin Mugenzi yashyigikiye, bigaragara, ubwicanyi *Interahamwe* zakoreye muri Perefegitura ya Gitarama maze asaba ko abaperefe n'ababurugumesitiri barwanya ubwo bwicanyi bakurwa ku mirimo yabo.

Ishuri ry'Abaforomokazi

6.61 Hagati ya Mata na Kamena 1994, abantu benshi bahungiye ku ishuri ryisumbuye ry'abaforomokazi ry'i Kabgayi, muri Perefegitura ya Gitarama. Muri icyo kigo harimo kandi abanyeshuri n'abakozi b'iryo shuri. Muri icyo gihe, inshuro nyinshi abasirikare n'*Interahamwe* bashimuse kandi basambanya ku gahato Abatutsikazi bigaga kuri iryo shuri n'abari bahahungiye. Minisitiri w'Ingabo Augustin Bizimana n'Ubuyobozi bukuru bw'ingabo z'u Rwanda barabimenyeshejwe ariko ntibafata ingamba zikwiye kugira ngo ibyo byaha bihagarare burundu. Nta ngamba na zimwe za ngombwa Casimir Bizimungu, wari Minisitiri w'Ubuzima, yafashe ngo abuze ibyo byaha byakorerwaga mu ishuri ry'abaforomokazi ry'i Kabgayi cyangwa ngo ahane ababikoze.

Gisenyi

6.62 Perefegitura ya Gisenyi, Perezida Juvénal Habyarimana witabye imana yavukagamo, iri mu majyaruguru y'uburengerazuba bw'u Rwanda. Nyuma y'ihirikwa ry'ubutegetsi muri 1973, amashyaka ya MRND na CDR yashinze imizi yayo muri iyo perefegitura. Benshi

mu bategetsi ba gisiviri na gisirikare bari bahuriye ku ngengabitekerezo y'Abahutu b'intagondwa bakomokaga muri iyo perefegitura. Kuva mu wa 1990, iyo perefegitura yabereyemo imyiryane n'imvururu nyinshi zishingiye ku moko maze bihitana Abatutsi benshi. Ni ko byagendekeye Abagogwe mu mwaka wa 1991. Mu ntangiriro ya Kamena 1994, Guverinoma y'Agateganyo yagiye gukorera i Gisenyi.

6.63 Ubwicanyi bwakorewe Abagogwe bwabaye integuza y'ubwahitanye imbaga muri Perefegitura ya Gisenyi kuva ku itariki ya 7 Mata kugera hagati muri Nyakanga 1994. Abategetsi bo muri Guverinoma bari abayobozi bakuru ba MRND ni bo bacuze umugambi w'ubwo bwicanyi bwombi, bategeka abantu kubukora kandi baba abahuza b'ibyo bikorwa. Mu nama ya MRND yo ku rwego rwa perefegitura yabaye mu wa 1993, Augustin Ngirabatware yahumurije abayoboke b'ishyaka rye maze avugira mu ruhame ko, ubwo Abagogwe bicwaga, Abatutsi n'« ibyitso » byabo ari bo bonyine bahigwaga.

6.64 Ku zindi nshuro nyinshi, nko mu nama y'abaturage yabereye kuri Sitade Umuganda mu Ugushyingo 1993, Augustin Ngirabatware yavuze ko « umwanzi mu gihugu ari Umututsi naho ibyitso bye bikaba Abahutu barongoye Abatutsikazi ». Yaburiye imbaga yari iteraniye aho avuga ngo « ntimushakire kure, kuko umwanzi ari hafi yanyu ». Kuba amagambo yavugiwe muri iyo nama yarahitishijwe kuri Radiyo RTLM umunsi ukurikiraho, ni ikintu gikomeye.

6.65 Augustin Ngirabatware yongeye kuvuga amagambo nk'ayo muri Werurwe 1994 mu manama MRND yakoresheje muri Komine ya Nyamyumba. Kuba abagize Guverinoma n'abantu bakomeye nka Augustin Ngirabatware baravuze ko Umututsi ari « umwanzi » ugomba gutsembwa, byari uguhamagarira abaturage gukora ubwicanyi batazabihanirwa. Ibyo kandi byari mu rwego rw'umugambi munini ugamije gutegura abaturage b'abasiviri basanzwe n'abasiviri bitwara gisirikare kugira ngo bazakore jenoside y'Abatutsi.

6.66 Mu byakozwe mu gutegura jenoside ku Gisenyi harimo gushyiraho abategetsi ba perefegitura n'ab'inzego zo hasi bari biteguye gushyira mu bikorwa za politiki n'amabwiriza byo kwibasira Abatutsi byatanzwe n'abayobozi ba MRND mu rwego

rw'igihugu. Kubera ko umuryango we wakomokaga ku Gisenyi, Augustin Ngirabatware yakundaga kenshi kujya iwabo muri Komine ya Nyamyumba aho yakomezaga kugira ijambo mu bintu byahaberaga. Augustin Ngirabatware yagize uruhare mu ishyirwaho rya Faustin Bagangu ku mwanya wa Burugumesitiri wa Komine ya Nyamyumba. Muri ako gace, Faustin Bagangu, wabaye icyamamare kubera gutoteza abaturage b'abasiviri b'Abatutsi, yafatwaga nk'umuntu urebera kandi ukorera Augustin Ngirabatware muri iyo komine.

6.67 Inkunga Augustin Ngirabatware yateye ku mugaragaro Faustin Bagangu, wari Perezida w'*Interahamwe* i Nyamyumba, yari mu rwego rw'umugambi munini ugamije gutegura no gukora ubwicanyi bwibasiye Abatutsi. Kubera ko ku Gisenyi MRND yari ihafite abayoboke benshi kurusha andi mashyaka, bitewe kandi n'ubushobozi bwagaragaye Augustin Ngirabatware yari afite bwo kuzana muri komine avukamo imishinga y'amajyambere n'amafaranga ayishorwamo, amagambo yavugaga yibasiye Abatutsi yari ubutumwa bwumvikana bugenewe abaturage bo muri ako karere buvuga ko abantu bari gushyigikira politiki ya MRND yo gutsembatsemba « umwanzi », bashoboraga kuzagororerwa.

6.68 Augustin Ngirabatware yahaye MRND amafaranga Leta yari yageneye Minisiteri ye ngo iyakoreshe mu bikorwa by'amajyambere. Yabikoze kugira ngo ayo mafaranga agurwe intwaro n'imiti byari gukoreshwa muri « gahunda y'ukwirengera kw'abaturage ». Kubera iyo mpamvu, intwaro zaguzwe ntizakoreshejwe mu gikorwa cyemewe cyo kurengera igihugu, ahubwo zahawe abaturage b'abasiviri basanzwe n'abasiviri bitwara gisirikare maze zikoreshwa mu rugomo rwibasiye Abatutsi.

6.69 Kuva ku itariki ya 7 Mata kugera hagati muri Nyakanga, Perefegitura ya Gisenyi yabayemo ubwicanyi bwibasiye abasiviri b'Abatutsi n'« ibyitso » byabo. Muri icyo gihe, abantu bitwara gisirikare bahize, bashimuta, basambanya ku gahato kandi bica Abatutsi benshi n'Abahutu batari intagondwa.

6.70 Ibikorwa by'urugomo byayogoje Gisenyi byari rusange, biri kuri gahunda kandi biyobowe n'abategetsi bo hejuru. Aho kwishyira hamwe ngo bahagarike inzo mvururu n'ubwicanyi, abayobozi b'inzego za Leta za gisiviri, abasirikare na MRND, ari ryo shyaka ryari rifite ubutegetsi muri perefegitura, bateguye ibitero byibasiye abasiviri b'Abatutsi, bahamagara cyangwa bashishikariza abandi bantu kubigaba.

6.71 Mu ijoro ryo ku itariki ya 6 rishyira iya 7 Mata 1994, muri Perefegitura ya Gisenyi, Anatole Nsengiyumva wayoboraga ingabo yategetse abayobozi b'inzego zo hasi n'abantu bitwara gisirikare guteranira mu kigo cya gisirikare cya Gisenyi. Muri iyo nama, Anatole Nsengiyumva yategetse abari aho kwica ibyitso byose bya FPR n'Abatutsi bose. Iyo nama irangiye, Anatole Nsengiyumva yategetse abasirikare akuriye guha intwaro abantu bitwara gisirikare bari aho.

6.72 Na none, ku itariki ya 7 Mata 1994, Anatole Nsengiyumva yabonye telegaramu ivuye i Kigali imutegeka gutangira ubwicanyi. Kuva ku itariki ya 7 Mata kugera hagati muri Nyakanga, Anatole Nsengiyumva yategetse abantu bitwara gisirikare n'abasirikare gutsembatsemba Abatutsi n'ibyitso byabo ku Gisenyi. Hagati ya Mata na Nyakanga 1994, babitegetswe n'Anatole Nsengiyumva, abantu bitwara gisirikare bahize, bashimuta kandi bica Abatutsi benshi n'Abahutu batari intagondwa ku Gisenyi.

6.73 Kuva muri Gicurasi kugera muri Nyakanga 1994, Joseph Nzirorera yategetse abantu bitwara gisirikare kwica Abatutsi. Yaranabashimye kubera akazi bakoze maze abaha amafaranga akurikije umubare w'Abatutsi bishwe.

6.74 Mu mpera za Gicurasi no mu ntangiriro za Kamena, Abatutsi benshi n'Abahutu batari intagondwa bagerageje kuva muri perefegitura zabo ngo bahungire muri Gisenyi. Joseph Nzirorera abimenye yategetse abantu bitwara gisirikare gukomeza guhiga Abatutsi no kubica.

6.75 Mu mpera za Kamena 1994, Félicien Kabuga, Joseph Nzirorera, Anatole Nsengiyumva na Juvénal Uwilingiyimana bakoreye inama ku Gisenyi. Muri iyo nama, Joseph Nzirorera

na Juvénal Uwilingiyimana banditse amazina y'Abatutsi n'Abahutu batari intagondwa baturutse mu yandi maperefegitura. Bakoze lisiti y'abantu bagombaga kwicwa maze bayiha *Interahamwe*.

Ruhengeri

6.76 Perefegitura ya Ruhengeri iri mu majyaruguru y'uburasirazuba bw'u Rwanda. Iyo perefegitura yakunze kuberamo ubwicanyi bugenda bugaruka bwibasiye Abatutsi. Ni nako byagenze mu mwaka wa 1994.

Kibuye

6.77 Akarere ka Kibuye kari mu burengerazuba bw'u Rwanda mu nkengero z'ikiyaga cya Kivu. Hagati ya Mata na Nyakanga 1994, ako karere kose kabereyemo ubwicanyi bwibasiye Abatutsi, cyane cyane mu Bisesero.

6.78 Akarere ka Bisesero kari mu makomine abiri ya Perefegitura ya Kibuye. Kubera ko kari gasanzwe gatuwe n'Abatutsi benshi, byatumye impunzi nyinshi z'Abatutsi zihahungira kubera ubwicanyi bwarimo gukorerwa ahandi hantu hose muri iyo perefegitura. Cyakora, kuva ku itariki ya 9 Mata kugera ku ya 30 Kamena 1994, Abatutsi bahungiye mu Bisesero bakunze guterwa n'abasirikare, abajandarume, abapolisi n'*Interahamwe* za MRND.

6.79 Kuva ku itariki ya 9 Mata kugera ku ya 30 Kamena 1994, Abatutsi bahungiye mu Bisesero batewe inshuro nyinshi n'abasirikare, abajandarume, abapolisi n'abantu bitwara gisirikare. Amabisi y'isosiyete ya Leta yitwa ONATRACOM, yakoreshejwe mu gutwara abagabye ibitero. Abantu bakomeye, barimo Eliézer Niyitigeka wari Minisitiri w'Itangazamakuru, bagaragaye inshuro nyinshi mu bagabye ibitero. Kuba bari bahari ndetse n'amagambo bavuze, byashishikarije abantu gukora ubwicanyi.

6.80 Muri Gicurasi 1994, Eliézer Niyitegeka wari Minisitiri w'Itangazamakuru muri Guverinoma y'Agateganyo yitabiriye ubwe ubwicanyi bwakorewe ku Kibuye arasa ku Batutsi.

Ibikorwa by'urugomo rushingiye ku myanya ndangagitsina, nka kimwe mu bigize gahunda ya jenoside

6.81 Mu byabaye bivugwa muri iyi Nyandiko y'ibirego, ibikorwa byo gusambanya ku gahato n'ibindi bikorwa by'urugomo bishingiye ku gitsina, byakorewe ahantu henshi kandi mu buryo buzwi, byibasiye Abatutsi, cyane abagore n'abakobwa b'Abatutsikazi cyangwa Abahutukazi bashakanye n'Abatutsi. Ibyo bikorwa byakurikirwaga no kwica ababikorewe cyangwa bigakoreshwa nk'uburyo bwo kubica. Mu bantu bakoze ibyo byaha harimo abantu bitwara gisirikare nk'*Interahamwe* za MRND, abasirikare n'abajandarume.

6.82 Abagize Guverinoma y'Agateganyo bahamagariye abantu barimo abitwara gisirikare, *Interahamwe* za MRND, abasirikare n'abajandarume babashishikariza kandi baborohereza gusambanya ku gahato abagore b'Abatutsikazi no kubakorera ibindi bikorwa by'urugomo rushingiye ku myanya ndangagitsina. Rimwe na rimwe, abaminisitiri na bo bakoze ibyo bikorwa. Bashishikarije abantu bafiteho ububasha bahabwa n'amategeko cyangwa ubwo badahabwa na yo, gukora ibikorwa nk'ibyo. Muri abo bantu harimo abitwara gisirikare, *Interahamwe* za MRND, abasirikare n'abajandarume. Muri urwo rwego, ku itariki ya 20 Gicurasi 1994, cyangwa ahagana kuri iyo tariki, abayoboke b'amashyaka n'abantu bitwara gisirikare bagenzurwaga na Eliézer Niyitegeka bahatiye umukobwa kujya mu modoka ya Niyitegeka maze uyu muminisitiri amusambanya ku gahato. Uwo mukobwa asohotse mu modoka, Eliézer Niyitegeka ubwe yamurashe isasu arapfa.

6.83 Byongeye kandi, inshuro nyinshi Pauline Nyiramasuhuko, wari Minisitiri w'Umuryango n'Iterambere ry'Abagore muri Guverinoma y'Agateganyo, ubwe yategetse *Interahamwe* kwica abagabo b'Abatutsi no gusambanya ku gahato abagore b'Abatutsikazi mbere yo

kubica. Rimwe yahamagariye mu ruhame *Interahamwe* gusambanya ku gahato abagore b'Abatutsikazi. Yabibawiye muri aya magambo: "Mugomba gusambanya ku gahato aba bagore b'Abatutsikazi kubera ko birata…ni umwanya mubonye kugira ngo mwumve uko bameze". Arangije kuvuga ayo magambo, Pauline Nyiramasuhuko yasubiye mu modoka ye maze abasirikare n'*Interahamwe* bahita batangira gusambanya ku gahato impunzi z'Abatutsikazi.

6.84 Gusambanya ku gahato n'ibindi bikorwa birimo iby'urugomo, urugaraguro, urukozasoni bishingiye ku myanya ndangagitsina, byari muri gahunda ya jenoside y'abantu bumvikanye bagafa ubutegetsi kuva ku itariki ya 7 Mata 1994 igihe ubuhotozi bwibasiye abanyapolitiki bwatangiraga. Ibyo bikorwa byakorewe kandi Agathe Uwilingiyimana wari Minisitiri w'Intebe. Umurambo we wabonetse mu gitondo ku itariki ya 7 Mata 1994 uriho ibimenyetso bigaragaza ko yakorewe ibikorwa by'urugaraguro n'urugomo rushingiye ku myanya ndangagitsina.

Uburyozwacyaha

6.85 Kuva muri Mata kugeza muri Nyakanga 1994, abantu ibihumbi amagana barishwe mu Rwanda hose. Abenshi bishwe bazira gusa ko ari Abatutsi cyangwa se ko basa n'Abatutsi. Abandi bishwe, cyane cyane Abahutu, baziraga ko bafatwaga nk'ibyitso by'Abatutsi, ko bafitanye isano n'Abatutsi kubera ko babashatsemo cyangwa kubera ko barwanyaga ibitekerezo by'Abahutu b'intagondwa.

6.86 Guhera ku itariki ya 7 Mata 1994, mu Rwanda hose, abasirikare, abajandarume, *Interahamwe* za MRND n'abantu bitwara gisirikare bagize uruhare mu bwicanyi bwinshi bwakozwe, batera inkunga abicanyi kandi babashishikariza kwica.

6.87 Ubwo bwicanyi bwakozwe kubera ingamba zafashwe n'abanyapolitiki, abategetsi ba gisiviri n'aba gisirikare barimo **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Justin Mugenzi, Edouard Karemera, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera, Juvénal

Kajelijeli, André Ntagerura, Pauline Nyiramasuhuko na Eliézer Niyitegeka, bumvikanye ngo batsembatsembe Abatutsi. Guhera ku itariki ya 7 Mata, abandi bayobozi bo ku rwego rw'igihugu n'abo mu turere tunyuranye bitabiriye uwo mugambi bifatanya n'ako gatsiko maze bashishikariza abantu kwica Abatutsi n'ibyitso byabo, bategura ubwo bwicanyi kandi barabwitabira.

6.88 Abari bagize Guverinoma y'Agateganyo, ba ofisiye, n'abayobozi b'inzego zo hasi bafashije kandi bashishikariza abo bategekaga n'abandi bantu kwica Abatutsi n'ibyitso byabo. Iyo abayobozi b'inzego zo hasi, urw'igihugu, aba gisiviri n'aba gisirikare batabishyigikira, ntihaba harabaye ubwicanyi bukabije.

6.89 N'ubwo bari bazi ko abasiviri barimo bicwa, abayobozi b'abanyapolitiki n'abagisirikare barimo **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Justin Mugenzi, Eliézer Niyitegeka, Edouard Karemera, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera na Juvénal Kajelijeli, nta ngamba n'imwe bafashe ngo ubwo bwicanyi buhagarare. Ahubwo banze kugira icyo bakora ngo baburizemo ubwicanyi cyangwa ngo basabe abaturage kubureka. Bavugaga ko kugira ngo ubwicanyi buhagarare amasezerano yo guhagarika imirwano agomba kubanza gushyirwaho umukono. Ibyo byamenyeshejwe intumwa yihariye [y'Umunyabanga Mukuru w'Umuryango w'Abibumbye] binyujijwe ku mugaba w'ingabo z'u Rwanda, Jenerali Majoro Augustin Bizimungu.

6.90 **Jean de Dieu Kamuhanda**, Augustin Ngirabatware, Casimir Bizimungu, Prosper Mugiraneza, Jérôme Bicamumpaka, Justin Mugenzi, Edouard Karemera, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera na Juvénal Kajelijeli, kubera ubutetsi bari bafite kandi bafatanyije n'abantu barimo André Ntagerura, Pauline Nyiramasuhuko, Eliézer Niyitegeka, Tharcisse Renzaho, Félicien Kabuga, Augustin Bizimana, Callixte Nzabonimana na Théoneste Bagosora bagize uruhare mu gucura, gutegura, cyangwa gushyira mu bikorwa gahunda, ingamba, cyangwa umugambi rusange, hagamijwe gukora amarorerwa yavuzwe haruguru. Ibyo byaha by'ubugome

babikoze ku giti cyabo cyangwa bikorwa n'abantu bafashije cyangwa bari bakuriye, babizi cyangwa babishyigikiye.

7. **IBIREGO**

Ikirego cya 1

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa bivugwa kuva mu gika cya 5.1 kugeza ku cya 6.90, cyane cyane mu bika bivugwa hano hasi,

-Hashingiwe ku ngingo ya 6(1) nk'uko bivugwa mu bika: 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

-Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugera ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda, yumvikanye n'abandi bantu ngo bice kandi batere ububabare bukabije bw'umubiri cyangwa ubwo mu mutwe Abatutsi, bagamije kubarimbura bose cyangwa igice cyabo. Kubera iyo mpamvu, yakoze icyaha **CY'UBWUMVIKANE BUGAMIJE GUKORA JENOSIDE** nk'uko giteganywa n'ingingo ya 2(3)(b) ya Sitati y'Urukiko akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6(1). Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

Ikirego cya 2

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye mu gika cya 5.1 kugeza ku cya 6.90, cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(1), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda aryozwa icyaha cy'ubwicanyi n'icyo guteza ububabare bukabije bw'umubiri cyangwa bwo mu mutwe byakorewe abantu bo mu bwoko bw'Abatutsi, agamije kubarimbura bose cyangwa igice cyabo. Kubera iyo mpamvu, yakoze icyaha cya **JENOSIDE** nk'uko giteganywa n'ingingo ya 2(3)(a) ya Sitati y'Urukiko, akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

Iki kirego kitamuhama, agashinjwa igikurikira:

Ikirego cya 3

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye mu gika cya 5.1 kugeza ku cya 6.90, cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(1), nk'uko bivugwa mu bika: 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika : 5.1 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda, aryozwa icyaha cy'ubwicanyi n'icyo guteza ububabare bukabije bw'umubiri cyangwa bwo mu mutwe byakorewe Abatutsi, agamije kubarimbura bose cyangwa igice cyabo. Kubera iyo mpamvu, akaba yarakoze icyaha cyo **KUBA ICYITSO CY'ABAKOZE JENOSIDE** nk'uko giteganywa n'ingingo ya 2(3)(e) ya Sitati y'Urukiko, akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

<u>Ikirego cya 4</u>

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye kuva ku gika cya 5.1 kugeza ku cya 6.90 cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(1), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda, aryozwa ubuhotozi bw'abantu bwakozwe mu rwego rw'igitero rusange kandi kiri kuri gahunda cyibasiye abasiviri bazira ubwoko bwabo cyangwa impamvu za politiki. Kubera iyo mpamvu akaba yarakoze **ICYAHA CYIBASIYE INYOKOMUNTU**,

nk'uko giteganywa n'ingingo 3(a) ya Sitati y'Urukiko, akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

Ikirego cya 5

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye kuva ku gika cya 5.5 kugeza ku cya 6.90, cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(1), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda aryozwa icyaha cy'itsembatsemba mu rwego rw'igitero rusange kandi kiri kuri gahunda cyagabwe ku basivili bazira ubwoko bwabo cyangwa impamvu za politiki. Kubera iyo mpamvu, yakoze **ICYAHA CYIBASIYE INYOKOMUNTU** nk'uko giteganywa n'ingingo ya 3(b) ya Sitati y'Urukiko, akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Stati.

Ikirego cya 6

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye kuva ku gika cya 5.1 kugeza ku cya 6.90 cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(1), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda aryozwa icyaha cyo gusambanya ku gahato mu rwego rw'igitero rusange kandi kiri kuri gahunda, cyibasiye abasiviri bazira ubwoko bwabo cyangwa impamvu za politiki. Kubera iyo mpamvu, yakoze **ICYAHA CYIBASIYE INYOKOMUNTU,** nk'uko giteganywa n'ingingo ya 3(g) ya Sitati y'Urukiko akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

<u>Ikirego cya 7</u>

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa, nk'uko bisobanuye kuva ku gika cya 5.1 kugeza ku cya 6.90 cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda aryozwa icyaha cy'ibikorwa bibi birenze kameremuntu cyakozwe mu rwego rw'igitero rusange kandi kiri kuri gahunda cyibasiye abasiviri bazira ubwoko bwabo cyangwa impamvu za politiki. Kubera iyo mpamvu, yakoze **ICYAHA CYIBASIYE INYOKOMUNTU** nk'uko giteganywa n'ingingo ya 3(i) ya Sitati y'Urukiko, akaba akiryozwa

ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

Ikirego cya 8

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye kuva ku gika cya 5.1 kugeza ku cya 6.90 cyane cyane mu bika bivugwa hano hasi,

- Hashingiwe ku ngingo ya 6(1), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda aryozwa icyaha cyo guhungabanya agaciro ka muntu, nko gukora ibikorwa bitesha umuntu agaciro, ibimukoza isoni, gusambanya ku gahato, n'ibindi bikorwa by'iterasoni. Kubera iyo mpamvu, yakoze **IBIKORWA BYO KUNYURANYA BIKOMEYE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE N'INYONGERA YAYO YA II**. Bityo yakoze icyaha giteganywa n'ingingo ya 4(e) ya Sitati y'Urukiko, akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

Ikirego cya 9

Kubera ibikorwa cyangwa ibyirengagijwe gukorwa nk'uko bisobanuye kuva ku gika cya 5.1 kugeza ku cya 6.90 cyane cyane mu bika bivugwa hano hasi;

- Hashingiwe ku ngingo ya 6(1) nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

- Hashingiwe ku ngingo ya 6(3), nk'uko bivugwa mu bika 5.1, 5.2, 5.11 kugeza ku cya 5.13, 5.16, 5.18, 5.21, 5.23, 5.24, 5.30, 5.33, 5.34, 5.38, 6.5, 6.7 kugeza ku cya 6.10, 6.14 kugeza ku cya 6.19, 6.21 kugeza ku cya 6.26, 6.28, 6.30 kugeza ku cya 6.39, 6.41 kugeza ku cya 6.46, 6.48 kugeza ku cya 6.51, 6.54, 6.56, 6.61 kugeza ku cya 6.68, 6.75, 6.79 kugeza ku cya 6.90;

Jean de Dieu Kamuhanda aryozwa ubwicanyi n'ibindi bikorwa byangiza ubuzima, amagara cyangwa bihungabanya umuntu ku mubiri byibasiye abasiviri mu rwego rw'intambara itari mpuzamahanga. By'umwihariko, aryozwa iyicwa ry'abasirikare icumi b'Ababiligi bari mu ngabo za MINUAR. Kubera iyo mpamvu, yakoze **IBIKORWA BINYURANYIJE BIKOMEYE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE N'INYONGERA YAYO YA II.** Bityo yakoze icyaha giteganywa n'ingingo ya 4(a) ya Sitati y'Urukiko, akaba akiryozwa ku giti cye hashingiwe ku ngingo ya 6 ya Sitati. Icyo cyaha gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati.

Bikorewe
I Kigali, tariki ya 12 Kanama 1999
I La Haye, tariki ya 14 Ugushyingo 2000
Carla Deli Ponte, Porokireri Mukuru
[Umukono]
[Kashe y'Ibiro bya Porokireri]