Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

UMURYANGO W'ABIBUMBYE

Umwimerere : Icyongereza

URUGEREKO RWA MBERE RW'IREMEZO I

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Sergei Alekseevich Egorov
Dennis C. M. Byron

Gerefiye : Adama Dieng

Itariki : 13 Ukuboza 2005

POROKIRERI

aburana na

ALOYS SIMBA

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INYANDIKO Y'URUBANZA

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UMUTWE I : INTANGIRIRO

1. URUKIKO N'UBUBASHA BWARWO

1. Uru rubanza Porokireri aburana na Aloys Simba ruciwe n'Urugereko rwa Mbere rw'Iremezo I («Urugereko ») rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda («Urukiko »), rugizwe n'Abacamanza Erik Mose (Perezida w'Inteko), Sergei Alekeevich na Dennis C.M.Byron.

2. Urukiko rugengwa na Sitati yometse ku cyemezo 955 cy'Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye (« Sitati ») n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso y'Urukiko («Amategeko»)[1].

3. Urukiko rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha binyuranije bikomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda. Uru Rukiko rufite gusa ububasha bwo kuburanisha ibyaha bya jenoside, ibyaha byibasiye inyokomuntu n'ibyaha binyuranije bikomeye n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve kimwe n'Inyongera yayo ya II, byakozwe hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994.

[1] Aya mategeko yemejwe bwa mbere n'Abacamanza b'Urukiko ku wa 5 Nyakanga 1995. Aherutse guhindurwa mu Nama rusange ya 15 y'Abacamanza yabaye ku itariki 7 Kamena 2005. Sitati n'Amategeko dushobora kubisanga ku rubuga rwa interineti rw'Urukiko: <http:www.ictr.org>.

2. INYANDIKO Y'IBIREGO

4. Mu Nyandiko y'ibirego yahinduwe yo ku itariki ya 6 Gicurasi 2004 (« Inyandiko y'ibirego »), Porokireri ashinja Aloys Simba ibyaha bine bikurikira, hashingiwe ku Ngingo ya 2 n'iya 3 za Sitati: jenoside, kuba icyitso cy'abakoze jenoside, itsembatsemba nk'icyaha cyibasiye inyokomuntu, n'ubuhotozi nk'icyaha cyibasiye inyokomuntu. Mu Nyandiko y'ibirego (yometse yose uko yakabaye kuri uru rubanza), Uregwa ashinjwa icyaha nka gatozi hashingiwe ku Ngingo ya 6 (1) na 6 (3) ya Sitati. Ubwo yendaga kurangiza gutanga ibimenyetso bishinja, Porokireri yakuye mu Nyandiko y'ibirego ibyo yashinjaga Uregwa nk'ukuriye abandi mu rwego rw'uburyozwacyaha buteganywa n'Ingingo ya 6 (3), ikirego cyo kuba icyitso cy'abakoze jenoside, n'icy'ubuhotozi nk'icyaha cyibasiye inyokomuntu.

3. INCAMAKE Y'UKO IMIBURANISHIRIZE YAGENZE

5. Aloys Simba yafatiwe muri Senegal ku itariki ya 27 Ugushyingo 2001. Kumuburanisha byatangiye ku itariki ya 30 Kanama 2004 birangira ku ya 8 Nyakanga 2005. Mu gihe cy'iminsi 30 y'iburanisha, Porokireri yahamagaje abatangabuhamya 16. Ubwunganizi bwatangiye gutanga ibimenyetso bishinjura ku itariki ya 13 Ukuboza 2004 maze mu minsi 23 y'iburanisha buhamagaza abatangabuhamya 20, barimo n'Uregwa. Uko ibintu byose byakurikiranye muri uru rubanza tubisanga mu Mugereka wometse kuri iyi Nyandiko y'urubanza.

4. UKO URU RUBANZA RUTEYE MURI MAKE

6. Mu minsi yakurikiye urupfu rwa Perezida Habyarimana, abasiviri b'Abatutsi babarirwa mu bihumbi bo muri Perefegitura ya Gikongoro, mu majyepfo y'u Rwanda, bavuye mu ngo zabo bahunga ibitero byagabwe n'Abahutu bitwaraga gisirikare. Mu hantu bahungiye harimo Paruwasi ya Kibeho, iya Cyanika n'iya Kaduha, no ku ishuri ry'imyuga ry'i Murambi. Ibitero byagabwe kuri izo mpunzi

byatangiriye kuri paruwasi ya Kibeho ku itariki ya 14 Mata 1994. Ku itariki ya 21 Mata 1994, Abahutu bitwaraga gisirikare bafashijwe n'abategetsi bo muri ako gace ndetse n'abajandarume, bagabye ibindi bitero ku mpunzi zari i Murambi, mu Cyanika n'i Kaduha mu gihe cy'amasaha 12. Mu mpera za Mata, abagabaga ibitero bo muri Perefegitura ya Gikongoro bakomeje ubwicanyi bambuka uruzi rwa Mwogo maze binjira muri Perefegitura bituranye ya Butare, kugira ngo bice abasiviri b'Abatutsi bari bahungiye muri Komine ya Ruhashya. Ibivugwa muri uru rubanza bishingiye ku bwicanyi bwakorewe aho hantu hatanu.

7. Porokireri ashinja ubwo bwicanyi Aloys Simba, Liyetona Koloneli wari mu kiruhuko cy'izabukuru kandi wigeze kuba umudepite. Simba, ukomoka muri Komine ya Musebeya (Perefegitura ya Gikongoro), yabaye intwari mu gihugu hose igihe yarwanaga n'Inkotanyi mu myaka ya za 1960. Ni umwe mu biyise «*Camarades du 5 juillet* » bahiritse ubutegetsi mu mwaka wa 1973 maze bakimika Perezida Habyarimana. Byongeye kandi yari azwi cyane mu Rwanda hose. Igihe ibivugwa byababaga mu mwaka wa 1994, nta kintu Simba yari ahuriyeho, ku buryo buzwi, na Guverinoma, igisirikare cyangwa umutwe wa politiki uwo ari wo wose. Uregwa avuga ko yari umuturage usanzwe utari ugifite ijambo mu baturage. Kuva ku itariki ya 18 Gicurasi 1994, Simba yabaye umujyanama wa wa Perefe wa Gikongoro muri gahunda y'ukwirwanaho kw'abaturage. Ibikorwa by'ubwicanyi bitanu bivugwa ntibifitanye isano n'ibyo yakoze ari muri uwo mwanya.

8. Porokireri avuga ko Simba ari umwe mu bantu b'ingenzi bateguye ubwo bwicanyi bwakorewe ahantu hatanu kandi ko ubwe yagize uruhare mu ikorwa ryabwo kuko yatanze intwaro kandi agategeka abantu bitwaraga gisirikare n'ingabo za Leta kugaba ibitero ku Batusi no kubica.

9. Ubwunganizi bwiyambaza imyiregurire ya sinari mpari (*alibi)* buvuga ko Simba atari muri Perefegitura ya Gikongoro igihe jenoside yategurwaga cyangwa igihe yakorwaga, kandi ko atagize uruhare mu bwicanyi bwabereye i Butare. Simba avuga ko mu minsi yakurikiye urupfu rwa Perezida Habyarimana yagumye i

Kigali arimo kwegeranya abantu bo mu muryango we, inshuti n'abaturanyi kugira ngo arebe ko yabarinda imvururu zakurikiyeho. Kubera ko Kigali yari itangiye kuberamo imirwano, yahungishije abantu banyuranye bari bahungiye iwe maze abajyana mu mujyi wa Gitarama aho bamwe bagumanye na we kuva ku itariki ya 13 kugera ku ya 24 Mata. Avuga ko yimukiye muri Perefegitura ya Gikongoro maze agasanga ubwicanyi bwararangiye muri iyo perefegitura. Ubwunganizi bunavuga ko bwarenganijwe mu iburanisha kubera ko butamenyeshejwe, mu buryo bukwiye, ibyo Uregwa ashinjwa ndetse ko n'abatangabuhamya bashinjura bakaba barabajijwe mu buryo budakwiye.

UMUTWE WA II : IMYANZURO KU BYABAYE

1. IBIBAZO BYO MU IKUBITIRO

1.1 Intangiriro

10. Porokireri asaba ko Aloys Simba ahamwa n'ibyaha kubera uruhare yagize mu bwicanyi bwakorewe ahantu hane hakurikira muri Perefegitura ya Gikongoro: kuri paruwasi ya Kibeho ku itariki ya 14 Mata, ku ishuri ry'imyuga ry'i Murambi ku itariki ya 21 Mata, kuri paruwasi ya Cyanika ku itariki ya 21 Mata no kuri paruwasi ya Kaduha ku itariki ya 21 Mata. Asaba kandi Urugereko kumuhamya icyaha kubera uruhare yagize mu bwicanyi bwakorewe muri Komine ya Ruhashya (Perefegitura ya Butare) ku itariki ya 29 Mata 1994[2]. Ibyo byabaye uko ari bitanu bisuzumwa uko bikurikirana, kuva ku Cyiciro cya 3 kugera ku cya 7 by'iyi Nyandiko y'ibirego.

11. Byongeye kandi, Porokireri yatanze ibimenyetso ku bikorwa bya Simba muri Perefegitura ya Gikongoro n'iya Butare, kuva muri Werurwe kugera muri Gicurasi 1994. Cyakora, n'ubwo adasaba ko Uregwa yahamwa n'icyaha hashingiwe kuri ibyo bikorwa, avuga ko ibyo bikorwa bishobora kuba ikimenyetso cy'umugambi mubisha uhuriweho n'igitekerezo yari afite cyo gukora ibyaha ashinjwa mu Nyandiko y'ibirego. Ibyo bikorwa bishobora kandi gukoreshwa mu kunyomoza imyiregurire ya sinari mpari y'Uregwa[3]. Ibyo bimenyetso bisuzumwa mu Cyiciro cya 8 cy'iyi Nyandiko y'ibirego.

12. Ubwunganizi bwiregura buvuga ko Uregwa atari ahantu ibyaha byakorewe igihe byakorwaga, busobanura ko kuva ku itariki ya 6 kugera ku ya 24 Mata, Simba yari i Kigali n'i Gitarama. Urugereko rusuzuma ibyo bimenyetso rubitandukanije

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[2] Imyanzuro nsozarubanza ya Porokireri, ibika 61-119 na 208; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 3.

[3] Imyanzuro nsozarubanza ya Porokireri, ibika 120-133; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp.26-28; inyandikomvugo y'iburanisha, 8 Nyakanga 2005, imp. 2-4,8.

mu Cyiciro cya 9 kugira ngo rugende rwumva neza niba ibivugwa bihuye n'uko ibintu byakurikiranye. Cyakora, n'ubwo rubisuzuma gutyo, mu myanzuro yarwo ishingiye ku byabaye, Urugereko rwasuzumiye hamwe ibimenyetso byose bishinja n'ibishinjura. Ibindi bimenyetso ku myiregurire ya sinari mpari yerekeranye n'ibyabereye muri Gikongoro nyuma y'itariki ya 24 Mata bitangwa mu rwego rw'ibikorwa bibisha bivugwa mu Cyiciro cya 7 n'icya 8.6. Ubwunganizi bwanatanze, nk'ikimenyetso, raporo y'impuguke yerekeranye ahanini n'uruhare rwa gahunda y'ukwirwanaho kw'abaturage.

13. Iburanisha rigiye gupfundikirwa, Porokireri yakuye mu Nyandiko y'ibirego ikirego cyo kuba icyitso cy'abakoze jenoside (ikirego cya 2) n'icy'ubuhotozi nk'icyaha cyibasiye inyokomuntu (ikirego cya 4)[4]. Byongeye kandi, yaretse gukomeza gusaba ko Uregwa yaryozwa icyaha nk'umuntu wari ukuriye abandi hashingiwe ku Ngingo ya 6 (3) ya Sitati[5]. Porokireri yanemeye ko adafite ibimenyetso bigaragaza ibyo avuga mu bika bya 4, 18 (c), 23 (c) na 23 (f) by'Inyandiko y'ibirego[6]. Kubera iyo mpamvu, Urugereko ntirufata umwanzuro ku byerekeranye n'ibyo bice by'Inyandiko y'ibirego.

[4] Imyanzuro nsozarubanza ya Porokireri, ibika 49, 184-191; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 26; ubwumvikane bugamije gukora jenoside (ikirego cya 2) ni icyaha cyaryozwa Uregwa igihe icyaha cya jenoside (ikirego cya 1) cyaramuka kitamuhamye. Ikirego cy'ubuhotozi (cya 4) gishyigikirwa n'ibivugwa kuva ku gika cya 66 kugera ku cya 70 by'Inyandiko y'ibirego kandi cyerekeranye n'iyicwa ry'umujandarume ku wa 20 Mata n'ihotorwa ry'abantu batatu kuri santeri y'ubucuruzi ya Kaduha ku wa 21 Mata (Monique, umwana we na Gasana).

[5] Imyanzuro nsozarubanza ya Porokireri, igika 29; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 26.

[6] Inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 28; inyandikomvugo y'iburanisha, 8 Nyakanga 2005, urup. 4. Mu gika cya 4 cy'Inyandiko y'ibirego, havugwa ko muri Mutarama 1993, Simba yayoboye mitingi yo kurwanya Amasezerano ya Arusha. Mu gika cya 18 (c), havugwa ko muri Mutarama 1994, Uregwa yategetse abategetsi bo muri ako gace gukoranya abasore bakabaha imyitozo ya gisirikare. Mu gika cya 23 (c), havugwa ko Simba yayoboye mitingi kuri santeri y'ubucuruzi ya Rugogwe ku wa 9 Mata,

1.2 Kumenyesha uregwa ibyo ashinjwa

14. Ingingo ya 20. 4 (a) ya Sitati iteganya ko uregwa afite uburenganzira bw'ibanze «bwo kumenyeshwa bidatinze, mu rurimi yumva kandi ku buryo burambuye, imiterere y'ibyaha ashinjwa ». Ibyo bisaba rero ko, mbere y'uko iburanisha ritangira, Porokireri agomba kuba azi ibyo aregera no gusobanura neza bishoboka ibikorwa byose bigize ibyaha bivugwa mu Nyandiko y'ibirego. Amategeko agenga ingano y'ugusobanuka ku Inyandiko y'ibirego asobanurwa birambuye mu Nyandiko y'urubanza rwa Kupreskic na bagenzi be mu bujurire no mu bukemuramanza bukomoka kuri urwo rubanza[7].

15. Ubwunganizi buvuga inenge zinyuranye ziri mu Nyandiko y'ibirego ndetse bukanavuga ibimenyetso bimwe ngo byagombye kutakirwa kubera ko Uregwa atamenyeshejwe uko bikwiye ibyo ashinjwa. Mbere y'uko iburanisha ritangira, Ubwunganizi bwatanze ibyifuzo binyuranye bubyutsamo ibibazo byerekeranye no kumenyesha uregwa ibyo ashinjwa kandi mu kubikora bwarwanyije Inyandiko y'ibirego ya mbere n'uko yagiye ihindurwa[8]. Mu bukemuramanza bw'uru Rukiko harimo ibyo Urukiko rwagenderaho mu gusuzuma inenge ziri mu Nyandiko

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naho mu gika cya 23 (f) hakavugwa ko ku wa 26 Mata, Simba yagiye mu nama yabereye mu mujyi wa Gikongoro.

[7] Inyandiko y'urubanza rwa Kupreskic na bagenzi be mu bujurire, 23 Ukwakira 2001, ibika 88-90, 92,114. Reba n'Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, ibika 27-35; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, ibika 24-28; Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, ibika 193-200; Inyandiko y'urubanza rwa Krnojelac mu bujurire, 17 Nzeri 2003, ibika 129-134, 138-139; Inyandiko y'urubanza rwa Rutaganda mu bujurire, 26 Gicurasi 2003, ibika 301-303.

[8] Urubanza rwa Simba, Icyemezo ku cyifuzo cy'Ubwunganizi kivuga ko Inyandiko y'ibirego ifite inenge (mu rw'iremezo), 26 Mutarama 2004; Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi cyerekeranye n'inenge ziri mu Nyandiko y'ibirego (mu rw'iremezo), 6 Gicurasi 2004; Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi kirwanya Inyandiko y'ibirego ya kabiri yahinduwe (mu rw'iremezo), 14 Nyakanga 2004.

y'ibirego mu gihe cyo guca urubanza[9]. Cyakora, Urugereko ntirwemeye gusuzuma ibibazo byarangije gufatirwa icyemezo cyangwa byagombye kuba byarabyukijwe mu buryo bukwiye mu cyiciro cyabanjirije iburanisha.

16. Aho imiburanishirize igeze ubu, Urugereko rurasuzuma gusa ibibazo bigomba gutangirwa ibisobanuro, hashingiwe ku bintu bishya byo mu rwego rw'ibimenyetso, rw'iburanisha cyangwa rw'amategeko byagaragaye mu iburanisha, cyangwa rusuzume gusa ikibazo cyatuma, kiramutse kidasuzumwe, umuntu yibaza niba urubanza rwaraburanishijwe mu buryo buboneye[10]. Kubera iyo mpamvu, nk'uko bisobanurwa mu byemezo byafashwe mbere, Urugereko rurareba niba bikwiye kutemera bimwe mu bivugwa mu buhamya bwatanzwe mu Rukiko n'abatangabuhamya bashinja biwe KDD na KSM kubera ko mu Nyandiko y'ibirego Uregwa atamenyeshejwe uko bikwiye bimwe mu byo bavugaho[11]. Urugereko ruranasuzuma niba ibyanditse kuva ku gika cya 14 kugera ku cya 18 by'Inyandiko y'ibirego birimo inenge hashingiwe ku bimenyetso byatanzwe mu iburanisha.

Ibivugwa kuva ku gika cya 14 kugera ku cya 18 by'Inyandiko y'ibirego

17. Mu gika cya 14 cy'Inyandiko y'ibirego, havugwa ko mu gucura umugambi wa jenoside no kuyitegura muri Mata na Gicurasi 1994, Simba yafatanyije n'abandi

[9] Nk'urugero, reba Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, ibika 28-29; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, ibika 28-39; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, ibika 41-45; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, 21 Gashyantare 2003, ibika 49-63.

[10] Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 29; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, igika 30 (havugwa ko iyo rusuzuma inenge ziri mu Nyandiko y'ibirego iburanisha ryararangiye, Urugereko rureba hanini inenge ziri mu Nyandiko y'ibirego zishobora gutuma uregwa arengana; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, igika 43.

[11] Urubanza rwa Simba, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kutemera ubuhamya KSM yatanze mu Rukiko (mu rw'iremezo), 4 Ukwakira 2004, ibika 4-6; Urubanza rwa Simba, Icyemezo ku birebana no kwakira ubuhamya bwa KDD (mu rw'iremezo), 1 Ugushyingo 2004, ibika 18-19.

bantu umunani bavugwa amazina, cyane cyane abategetsi bo muri ako karere ndetse n'« abandi bantu Porokireri atazi». Mu gika cya 15, havugwa ko Simba yakundaga gukorana inama n'abo bantu bose bavugwa amazina cyangwa bamwe muri bo hagati ya 1991 na 1994, ariko by'umwihariko muri Mata na Gicurasi 1994. Bahuriraga kuri santeri y'ubucuruzi ya Gasarenda no mu kigo cya jandarumori i Gikongoro kugira ngo bacure umugambi wa jenoside kandi bahe Interahamwe amabwiriza mbere y'ibitero. Ubwunganizi buvuga ko ibivugwa muri ibyo bika bitagomba kwitabwaho kuko bidasobanutse ntibinavuge imyitwarire mibisha Simba yaba yaragize, kandi ko ibivugwamo bitabaye mu gihe kiri mu bubasha bw'Urukiko[12].

18. Urugereko rusanga igika cya 14 cy'Inyandiko y'ibirego gisobanutse iyo umuntu agisomye azirikana iyo Nyandiko yose uko yakabaye[13]. Ni nk'igika cy'intangiriro gusa, kirimo ilisiti y'abantu banyuranye bavugwa ahandi mu Nyandiko y'ibirego kandi bafatanyije na Simba mu rwego rw'ibintu runaka byabaye. Icyo gika kirimo ubwo bufatanye busobanurwa nyuma ahavugwa ko Simba n'abo bantu bandi «bafatanyije». Si ngombwa rero ko Urugereko rufata umwanzuro wihariye kuri icyo gika cyonyine. Mu gufata imyanzuro ishingiye ku byabaye bivugwa mu Nyandiko y'ibirego kuri ubwo bufatanye, Urugereko rurasuma icyo Simba yaba yari ahuriyeho n'abo bantu bavugwa amazina. Mu myanzuro y'Urugereko ku buryozwacyaha bw'Uregwa niho Urugereko rufata umwanzuro ukwiye wo mu rwego rw'amategeko rushingiye ku bivugwa byatangiwe ibimenyetso.

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[12] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 91-100, 152, 159 na 162 (ku byerekeranye n'ibivugwa mu gika cya 18 n'icya 21 by'Inyandiko y'ibirego); inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 39-40. Urukiko rwamaze gufata icyemezo kuri iki kibazo cy'ibimenyetso ku bintu byabaye mu gihe kitari mu bubasha bw'Urukuko. Reba urubanza rwa Simba, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kutemera bimwe mu bimenyetso bishinja (mu rw'iremezo), 31 Kanama 2004, igika 3. Ubwunganizi bunavuga ko mu Nyandiko y'ibirego hatavugwa, uko bikwiye, ibintu bigize umugambi mubisha uhuriweho. Iki kibazo gisuzumwa birambuye mu Mutwe wa III, mu cyiciro cyerekeranye n'umugambi mubisha uhuriweho.

[13] Inyandiko y'urubanza rwa Rutaganda mu bujurire, 26 Gicurasi 2003, igika 304.

19. Igika cya 15 cy'Inyandiko y'ibirego cyo ntikivuga ibintu muri rusange cyangwa ngo kimere nk'intangiriro. Muri icyo gika havugwa « inama zakunze kubera kuri santeri y'ubucuruzi ya Gasarenda no mu kigo cya jandarumori ahavugwa ko ari ho hacuriwe umugambi wo gukora jenoside muri Perefegitura ya Gikongoro. Biramutse bigaragaye, ibyo bintu byaba ari ibikorwa bifatika bishyigikira umwanzuro wahamya uregwa icyaha cya jenoside n'ibyaha byibasiye inyokomuntu. Kubera iyo mpamvu, ibivugwa muri icyo gika bigomba gusobanurwa neza.

20. Igihe kigera hafi ku myaka ine kivugwa mu gika cya 15 izo nama zaba zarabereyeho gisa n'aho cyaguye bikabije, n'ubwo nyuma muri icyo gika hibandwa ku kwezi kwa Mata na Gicurasi 1994. Cyakora, kuba icyo gika kivuga igihe cyaguye, ubwabyo ntibitesha agaciro ibikivugwamo. Mu gika cya 15 havugwa ko izo nama « zakunze kuba ».

21. Uburyo icyo gika cyanditse ubu byaba bikwiye niba Porokireri yarashakaga kwerekana ko habayeho inama zinyuranye kugira ngo agaragaze ko hariho imyitwarire igambiriwe. Icyo gihe, byaba bidashoboka cyane ndetse nta n'akamaro bifite kuvuga igihe gicishirije buri nama yabereyeho[14]. Cyakora, mu iburanisha, Porokireri ntiyashatse kugaragaza ko inama zakunze kuba. Yatanze ibimenyetso ku bintu bitatu byabaye mu gihe gito cy'ibyumweru bibiri muri Mata 1994. By'umwihariko, umutangabuhamya wiswe KEL avuga ko Simba yari kuri santeri ya Gasarenda hashize iminsi mike Habyarimana apfuye kandi ko yongeye kuhagaruka nyuma y'ibyumweru bibiri. KEI yabonye Simba mu kigo cya jandarumori ku itariki ya 20 Mata. Uretse no kuvuga ko yitwaye gutyo kuva mu

[14] Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 193 (« Iyo Porokireri avuga ko Uregwa yikoreye ubwe ibikorwa bibisha, mu Nyandiko y'ibirego hagomba gusobanurwa umwirondoro w'abantu bakorewe ibyo bikorwa, ahantu n'igihe ibyo bintu byabereye, n'uburyo byakozwe. Cyakora, si ngombwa gutanga ibyo bisobanuro iyo intera ibyo byaha byafashe ituma bitaba ngombwa gusaba ibisobanuro byinshi cyane ku bintu birimo nk'umwirondoro w'ababikorewe n'amatariki byakoreweho » (ibisubirwamo byakuwe ahandi ntibyongewemo). Reba n'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, igika 30.

mwaka wa 1991 kugera mu wa 1994, umuntu ntiyavuga rero ko Uregwa yakunze kugira iyo myitwarire mu gihe cy'amezi abiri.

22. Urugereko rusanga ibyerekeranye n'uko KEL yabonye Simba bwa mbere kuri santeri y'ubucuruzi ya Gasarenda, n'ibirebana n'ubuhamya bwe mu Rukiko bwerekeranye n'ikigo cya jandarumori bivugwa mu buryo busobanuye ahandi hantu mu Nyandiko y'ibirego ahavugwa ubwicanyi bwakorewe i Kibeho no ku ishuri ry'imyuga ry'i Murambi[15]. Bityo rero, ikibazo Urugereko rugomba kwibaza ni icyo kumenya niba igika cya 15 kimenyesha uko bikwiye Uregwa ibyo KEL avuga ko Simba yaje kuri santeri y'ubucuruzi ya Gasarenda hashize hafi ibyumweru bibiri Perezida Habyarimana apfuye. Porokireri ashaka gukoresha ibyo bintu nk'igikorwa gifatika cyashyigikira icyemezo gihamya Uregwa icyaha ku byerekeranye n'ubwicanyi bwakorewe ku ishuri ry'imyuga ry'i Murambi[16].

23. Urugereko rusanga iyo usuzumye ibimenyetso byatanzwe mu iburanisha ubona ko igika cya 15 kidasobanutse[17]. Ruributsa ko mu cyemezo rwafashe mbere ku myandikire y'Inyandiko y'ibirego, rwanenze ko mu gika cya 15 havugwa igihe cyaguye ibivugwa byabereyeho kandi ko rwasabye Porokireri gutanga ibindi bisobanuro aho byashobokaga[18]. Iyo usuzumye ubuhamya KEL yagejeje ku bapererezi b'uru Rukiko ku itariki ya 6 Ugushyingo 2000, usanga mbere y'uko iburanisha ritangira Porokireri yari azi neza icyo kintu cyabaye, bityo akaba yarashoboraga kumenyesha neza Uregwa ibyo ashinjwa[19]. Mu myanzuro

[15] Inyandiko y'ibirego, ibika 23 (d), 40, 56.

[16] Imyanzuro nsozarubanza ya Porokireri, igika 96.

[17] Ibi ni kimwe no guhindura ibintu byose, umuntu ava ku bivugwa muri rusange ku byerekeranye n'imyitwarire y'uregwa akajya ku bikorwa byihariye kandi bisobanutse. Cyakora mu rubanza rwa Kupreskic na bagenzi be mu bujurire, Urugereko rw'ubujurire rwasanze ubwo buryo bwo guhindura ibintu ari ikosa rikomeye, 23 Ukwakira 2001, ibika 91-95,121.

[18] Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirarubanza cyerekeranye n'inenge ziri mu Nyandiko y'ibirego (mu rw'iremezo), 6 Gicurasi 2004, igika 4.

[19] Ikimenyetso gihamya cy'Ubwunganizi N° D8 (« Mu cyumweru cya kabiri nyuma y'urupfu rwa Perezida Habyarimana, ku itariki ntibuka, nabonye abantu bakurikira mu nama yabereye mu iduka rya Karamage:

mbanzirizarubanza ya Porokireri, isubiramo ahanini ijambo ku rindi ibivugwa mu Nyandiko y'ibirego, ntihatangwa amakuru y'inyongera amenyesha Uregwa ibyo ashinjwa kuri icyo kintu cyabaye. Bityo rero, ubuhamya bwanditse bwa KEL ntibuhagije bwonyine mu gukuraho inenge iri mu Nyandiko y'ibirego[20]. Kubera iyo mpamvu, Urugereko rusanze igika cya 15 gifite inenge kandi ubuhamya bwa KEL bwerekeranye no kuba Simba yaraje bwa kabiri kuri santeri y'ubucuruzi ya Gasarenda ntibushobora gushingirwaho mu guhamya icyaha Uregwa[21].

24. Kuva ku gika cya 16 kugera ku cya 18 by'Inyandiko y'ibirego, havugwamo ko hagati ya Werurwe 1993 na Mata 1994, Simba n'abandi bategetsi bacuze umugambi wo gukora jenoside kandi ko bayiteguye bari kuri CIPEP[22] mu mujyi wa Gikongoro, bashatse abantu bajya mu Nterahamwe maze babaha imyitozo, batanze intwaro ndetse bahamagarira « abandi bantu » kwica Abatutsi. Mu gika cya 18 hasobanurwa kurushaho ibivugwa mu gika cya 16 n'icya 17 maze hakavugwa ikintu kimwe cyabaye muri Werurwe 1993 ubwo Simba n'abandi bategetsi bo muri ako karere bahuguye abantu batozaga umutwe witwaraga gisirikare ndetse bagategeka ko abantu babarurwa.

25. Mu gushyigikira ibivugwa muri ibyo bika, Porokireri yahamagaje umutangabuhamya wiswe KSU. Mu buhamya bwe mu Rukiko, KSU avuga ko muri Werurwe 1994, Simba na Kapiteni Faustin Sebuhura babitse intwaro kuri CIPEP kandi bagatoreza Interahamwe aho hantu. Hanavugwa ko Simba n'abandi bategetsi bitabiriye inama zari zigamije guhugura abategetsi bo muri ako karere

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Koloneli Simba, Majoro Rwamanywa, Kamodoka, Biniga wari Superefe wa Superefigitura ya Munini, Nteziryayo na Karamage. Iyo nama yatangiye mu masaa cyenda z'amanywa irangira mu masaa kumi n'ebyiri z'umugoroba »).

[20] Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, ibika 197, 221 (havugwa ko gutanga gusa inyandikomvugo z'ubuhamya bidahagije ngo Ubwunganizi bube bumenyeshejwe ibikorwa bifatika Porokireri ashaka kugaragaza mu iburanisha).

[21] Ni kimwe no haruguru, ibika 215-223.

[22] CIPEP bivuga Ikigo mpuzamakomine gihugura abakozi [Centre Intercommunal de perfectionnement du personnel].

mu byerekeranye no kubarura abaturage muri icyo gihe. Byongeye kandi, KSU avuga ko muri Mata 1994, mu minsi yakurikiye urupfu rwa Perezida Habyarimana, Simba yatanze intwaro kuri CIPEP aziha abategetsi bo muri ako karere n'abagabaga ibitero maze akabategeka gushyiraho amabariyeri kugira ngo bice Abatutsi. Iki kibazo cya nyuma cyabyukijwe hashingiwe ku ncamake y'ubuhamya bwari kuzatangwa mu Rukiko, yamenyekanishijwe ku itariki ya 30 Kanama 2004 nyuma gato y'uko iburanisha ritangira[23]. Cyakoira, Ubwunganizi bwarwanyije ikoreshwa ryayo[24].

26. Urugereko rusanga Inyandiko y'ibirego ishobora gutuma umuntu yibeshya kubera ko, mu rwego rwo kugerageza gusobanura kurushaho ibintu bivugwa muri rusange mu gika cya 16 n'icya 17, igika cya 18 kivuga ko ibyo bintu byabaye muri Werurwe 1993. Ibivugwa muri rusange kuva mu gika cya 16 kugera ku cya 18 ntibimenyesha Uregwa, ku buryo bwuzuye, ibintu byihariye bivugwa na KSU mu buhamya yatanze mu Rukiko kuri Simba. Uwo mutangabuhamya avuga ku bintu byihariye byabaye mu gihe cy'ibyumweru bitatu muri Werurwe no mu mpera za Mata 1994. Porokireri avuga ko kuba mu Nyandiko y'ibirego havugwa Werurwe 1993 ari ikosa ry'imyandikire[25]. Cyakora, icyo gisobanuro ntigikemura ikibazo cyo kuba icyo gika kitamenyesha, mu buryo bukwiye, Uregwa ibyo ashinjwa[26]. Itandukanirizo ry'umwaka umwe gusa hagati y'itariki ivugwa mu Nyandiko y'ibirego n'ivugwa mu buhamya bw'umutangabuhamya ntiryafatwa

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[23] Inyandiko Porokireri yandikiye Ishami ricunga imirimo y'Ingereko, yatanzwe ku wa 30 Kanama, igitabo cy'Ubwanditsi bw'Urukiko cyandikwamo inyandiko zinjiye, imp. 2833-2835 (Gerefiye) (incamake y'ubuhamya KSU azatanga mu Rukiko).

[24] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, urup. 48.

[25] Inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup.26.

[26] Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, igika 30 (Mbere y'uko iburanisha ritangira, Porokireri agomba kuba azi ibyo aregera). Havuka ikibazo nk'icyo ku byerekeranye n'igika cya 23 (a) cy'Inyandiko y'ibirego ahavugwa ku ijambo Simba yaba yaravuze muri Werurwe 1993 nyuma y'igikorwa cyo kubarura abaturage kivugwa mu gika cya 18 (a). Mu buhamya bwa KSU havugwa ko ibyo bintu byabaye muri Werurwe 1994. Porokireri ntiyifuje gusaba ko Simba yahamwa n'icyaha hashingiwe kuri iki gika. Inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 32-34.

nk'aho ari rito ku buryo ryakwirengagizwa[27]. Ni ngombwa kubona ko mu buhamya KSU yatanze mu Rukiko bigaragara ko ibintu byabaye mu gihe kitari mu bubasha bw'Urukiko bivugwa mu Nyandiko y'ibirego, byagize gutya biaka ibyaha Uregwa ashobora gukurikinwaho.

27. Imyanzuro mbanzirizarubanza ya Porokireri isubiramo ijambo ku rindi ibintu byanditse mu Nyandiko y'ibirego ariko nta bisobanuro by'inyongera itanga. Mu buhamya yagejeje ku bapererezi b'Urukiko, KSU avuga ko amahugurwa ku gikorwa cyo kubarura abantu yabaye muri Werurwe 1993. Byongeye kandi, muri ubwo buhamya, KSU ntavuga uruhare rwa Simba ku byerekeranye no gushaka abantu bo kwinjiza mu mutwe w'Interahamwe no kubaha imyitozo cyangwa kubika intwaro kuri CIPEP no kuzitanga nyuma y'urupfu rwa Perezida Habyarimana[28]. Ku itariki ya 30 Kanama 2004, iburanisha ritangiye, Porokireri yatanze incamake y'ubuhamya bwari kuzatangwa mu Rukiko maze asobanura ko umutangabuhamya yari kuzavuga ko nyuma y'urupfu rwa Perezida Habyarimana, Simba yatanze intwaro kandi agashishikariza abantu gushyiraho amabariyeri[29].

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[27]Inyandiko y'urubanza rwa Rutaganda mu bujurire, 26 Gicurasi 2003, ibika 302-303 (« Bityo rero, Urugereko rw'Ubujurire rusanga, muri rusange, inyuranya rito riri hagati y'Inyandiko y'ibirego n'ibimenyetso byatanzwe mu iburanisha ritabuza Urugereko rwa Mbere rw'Iremezo gusuzuma Inyandiko y'ibirego rushingiye ku bimenyetso byatanzwe mu iburanisha. […] Mbere yo kwemeza ko ikintu kiregerwa atari ingenzi cyangwa ko hari inyuranya rito hagati y'Inyandiko y'ibirego n'ibimenyetso byatanzwe mu iburanisha, ubusanzwe urugereko rugomba kureba niba ibyo bitazatuma uregwa arengana. Muri ako karengane, harimo nko kuba ibivugwa biba bibuzemo ukuri ku buryo bishobora gutuma Uregwa yibeshya ku miterere y'ibyaha aregwa »).

[28] Ikimenyetso gihamya cy'Ubwunganizi N° D11 (inyandikomvugo y'ubuhamya bwo ku wa 21 Kamena 2000).

[29]Inyandiko Porokireri yandikiye Ishami ricunga imirimo y'Ingereko, yatanzwe ku wa 30 Kanama, igitabo cy'Ubwanditsi bw'Urukiko cyandikwamo inyandiko zinjiye, imp. 2833-2835 (Gerefiye) (incamake y'ubuhamya KSU azatanga mu Rukiko: « ku byerekeranye n'amabariyeri : umutangabuhamya azavuga ko mu nama yabereye ku isoko rya Kabacuzi, mu mujyi wa Gikongoro, nyuma y'urupfu rwa Perezida Habyarimana, Aloys Simba yategetse ko hashirwaho amabariyeri, hakanatoranywa urubyiruko rwo kuyacunga. Simba yategetse abacungaga ayo mabariyeri kwica umuntu wese ufite indangamuntu

Muri iyo ncamake, ntihavugwa ko igikorwa cy'amahugurwa ndetse n'ibarura byabaye mu mwaka wa 1994 aho kuba mu wa 1993. Kubera iyo mpamvu, Urugereko rusanga ibyanditse kuva ku gika cya 16 kugera ku cya 18 bifite inenge, bityo bikaba bitashingirwaho mu guhamya Uregwa icyaha.

28. Mu myanzuro nsozarubanza ya Porokireri mu magambo, yavuze ko atasabaga Urugereko guhamya Uregwa icyaha rushingiye kuri ibyo bika, ko ahubwo yarusabaga gufata ibivugwamo nk'aho bishyigikira ibindi bintu byabaye yavuze. Mu rubanza rwa Ntahobali na Nyiramasuhuko, Urugereko rw'Ubujurire rwasobanuye ko Urugereko rwa Mbere rw'Iremezo rufite ububasha bwo kwemera ikimenyetso cyose rubona gifite agaciro, kabone n'iyo rudashobora kugishingiraho mu guhamya icyaha uregwa bitewe n'uko uregwa atamenyeshejwe ibyo ashinjwa bijyanye n'icyo kimenyetso[30]. Cyakora, n'ubwo ikimenyetso ku bintu bitavuzwe gishobora kuba, muri rusange, gifitiye akamaro urubanza, Urugereko rwa Mbere rw'Iremezo rushobora, kubera inyungu z'ubutabera, guhitamo kutagikoresha iyo rusanze kucyemera byatuma habaho akarengane mu iburanisha nk'urugero, iyo gukoresha icyo kimenyetso bishobora gutera umuburanyi akarengane gasumbye agaciro kacyo[31].

29. Urugereko rusanga gushingira kuri ibyo bintu bitavuzwe mbere byatera Uregwa akarengane karuta agaciro kabyo ku byerekeranye no kugaragaza uburyozwacyaha bwa Simba ku bwicanyi bwakorewe ahantu hatanu havugwa mu

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yanditsemo ko ari Umututsi cyangwa umuntu basanze adafite indangamuntu. Nyuma y'iyo nama, Aloys Simba na Faustin Sebuhura batanze intwaro zari zibitse kuri CIPEP baziha abayoboraga ayo mabariyeri. Uretse izo ntwaro kandi, urubyiruko rwacungaga ayo mabariyeri rwari rwitwaje n'intwaro gakondo »).

[30] Urubanza rwa Ntahobali na Nyiramasuhuko mu bujurire, Icyemezo ku bujurire bwa Pauline Nyiramasuhuko na Arsène Shalom Ntahobali ku « cyemezo cyafashwe ku cyifuzo cyihutirwa gisaba Urugereko kutemera ibice by'ubuhamya bwa RV na GBZ », 2 Nyakanga 2004, ibika 14- 16 (hashingiwe ku Ngingo ya 89 (C) y'Amategeko iha Urugereko rwa Mbere rw'Iremezo ububasha busesuye bwo kwemera ikimenyetso cyerekeranye n'ibivugwa rusanga gifite agaciro).

[31] Urubanza rwa Bagosora na bagenzi be mu bujurire, Icyemezo ku bujurire bwa Porokireri ku cyemezo cyafashwe ku cyifuzo gisaba Urugereko kutemera ibimenyetso, 19 Ukuboza, 2003, ibika 13, 16, 22.

Nyandiko y'ibirego. Nk'uko bivugwa haruguru, nta kintu cyatumaga Uregwa ashobora kumenya ko umutangabuhamya yari kuvuga ko amahugurwa n'ibarura byabaye mu gihe Urukiko rufitiye ububasha bwo kuburanisha ibyaha byagikorewemo. Byongeye kandi, Porokireri ntiyamenyesheje Uregwa ko umutangabuhamya yari kumushinja ku byerekeranye no kubika intwaro kuri CIPEP, gushaka abantu bajya mu mutwe w'Interahamwe no kubaha imyitozo, gutanga intwaro no guhamagarira abantu [gukora ubwicanyi] Perezida Habyarimana akimara gupfa. Mu nyandikomnvugo y'ubuhamya KSU yagejeje ku bapererezi b'Urukiko ku itariki ya 21 Kamena 2000 harimo amakuru agaragaza ko Simba yatanze intwaro, ariko hakavugwa ko ibyo byerekeranye n'igitero kitavuzwe mbere cyagabwe muri Butare kandi, nk'uko bigaragara mu bimenyetso, icyo gitero cyabaye muri Kamena 1994. Mu ncamake y'ubuhamya bwari kuzatangwa mu Rukiko naho havugwa ku bintu byabaye nyuma y'urupfu rwa Perezida, ariko iyo ncamake yamenyekanishijwe iburanisha ryaratangiye hasigaye iminsi mike ngo uyu mutangabuhamya atange ubuhamya mu Rukiko. Hashingiwe ku miterere y'ibyo Uregwa ashinjwa, ibyo ntibyari bihagije ngo Ubwunganizi bubone umwanya wo gukora iperereza mbere yo kubaza uwo mutangabuhamya ibibazo binyomoza.

30. Porokireri ntavuga aho ubwo buhamya buhuriye ku buryo bwihariye n'ubwicanyi buvugwa. Asobanura gusa, muri rusange, ko bugaragaza urwego ubwo bwicanyi bwakozwemo ndetse n'igitekerezo cyariho cyo kubukora. Kuri ibyo bibazo, ubwo buhamya busubiramo ibivugwa mu bundi bwerekeranye, ku buryo butaziguye, n'ubwo bwicanyi. Bityo rero, Urugereko ntiruri bubwemere.

Kutemera ubuhamya bwa KSM na KDD

31. Mu byemezo rwafashe mbere, Urugereko rwemeje ko ubwo ruzaba rugiye guca urubanza burundu ari bwo ruzasuzuma ibirebana n'ukwemerwa kwa bimwe mu

byabaye bivugwa na KSM na KDD[32]. Ubwunganizi bwarwanyije mu gihe gikwiye iyemerwa ry'ubwo buhamya bwatanzwe mu Rukiko, buvuga ko mu Nyandiko y'ibirego butamenyeshejwe ibyo abo batangabuhamya bavugaho kandi busaba ko icyo kibazo cyazasuzumwa nyuma.

32. Mu Nyandiko y'ibirego ntiharimo ibyababaye byihariye bivugwa na KSM na KDD. Muri iyo Nyandiko, Simba ntashinjwa uruhare urwo ari rwose rwerekeranye n'ishyirwaho ry'amabariyeri. Porokireri ntavuga ko hari andi makuru yari gutanga nyuma yari gutuma Uregwa amenyeshwa, mu buryo bukwiye bukwiye, ibyo ashinjwa ku buryo byaba bihagije ngo Urugereko rumuhamye icyaha rushingiye kuri ibyo bintu ruramutse rusanze ari ukuri. Cyakora, Porokireri ntasaba Urugereko guhamya Uregwa icyaha kuri ibyo bikorwa ahubwo ashaka gukoresha ubwo buhamya nk'ikimenyetso gishyigikira ibyo avuga ko hari ho umugambi mubisha uhuriweho. Porokireri ashaka kandi gukoresha ubwo buhamya kugira ngo anyomoze imyiregurire ya sinari mpari kandi yerekane ko hariho umugambi wo gukora ibyaha[33].

33. KSM avuga ko Simba yagize uruhare mu bwicanyi bwakorewe muri Komine ya Kinyamakara hafi y'itariki ya 12 Mata, akanitabira inama yabereye hafi y'ikiraro cya Mwogo mu mpera za Mata aho ngo yavuze ijambo rya gashozantambara ryerekeranye n'ibitero byakurikiyeho muri Komine ya Ruhashya ihana imbibi n'iyo, muri Perefegitura ya Butare.

34. Urugereko ruvuga ko ubuhamya bwa KSM ku ruhare Simba yaba yaragize mu bwicanyi bwakorewe ku biro bya Komine ya Kinyamakara ku itariki ya 12 Mata butagomba kwemerwa kubera ko akarengane bwatera Uregwa karuta agaciro bufite. N'ubwo Urugereko rusanga ibaza rinyomoza ry'uwo mutangabuhamya ryaribanze kuri ubwo bwicanyi, Porokireri ntiyamenyesheje Ubwunganizi ko

[32] Urubanza rwa Simba mu rw'iremezo, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kutemera ubuhamya bwa KSM, 4 Ukwakira 2004, ibika 4-6, Icyemezo ku iyemerwa ry'ubuhamya bwa KDD, 1 Ugushyingo 2004, ibika 18,19.

[33] Inyandikomvugo y'iburanisha, 8 Nyakanga 2005, imp. 2-4.

ubuhamya bwa KSM bwari kwibanda kuri ibyo bintu. Porokireri ntiyubahirije rero inzira zo kumenyekanisha amakuru ziteganywa n'Ingingo ya 66 (A), 67 (D) n'iya 73 *bis* (B) (i) na (iv) (b) z'Amategeko. Kubera ko ubwo buhamya bushinja cyane Uregwa, Ubwunganizi bwagombye kuba bwarahawe mbere amakuru ahagije nk'uko biteganywa n'Amategeko kugira ngo bushobore gukora iperereza mbere y'uko bubaza uwo mutangabuhamya ibibazo binyomoza. Ibyo bintu Uregwa ashinjwa byavuzwe gusa mu iburanisha[34].

35. Cyakora, Urugereko rwemera ubuhamya bwa KSM ku byerekeranye n'ibivugwa ko Simba yari ku kiraro cya Mwogo n'ibindi bintu byerekeranye n'ibyo. Icyo gice cy'ubuhamya bwe mu Rukiko kirebana n'ibitero byagabwe muri Komine ya Ruhashya, bivugwa mu Nyandiko y'ibirego, kandi bishyigikira ubuhamya ANX yatanze mu Rukiko ku bitero byagabwe aho hantu. Urugereko rusanga mbere y'uko iburanisha ritangira, Porokireri yaratanze ubuhamya bwanditse bwerekeranye n'icyo kintu cyabaye[35]. Bityo, Porokireri yubahirije ibiteganywa n'Ingingo ya 66 (A) n'iya 73 *bis* (B) z'Amategeko ku byerekeranye no kumenyekanisha amakuru, agamije kwerekana ko ashaka kuzakoresha ubwo buhamya mu iburanisha agaragaza ikindi kintu kivugwa mu Nyandiko y'ibirego. Ibyo byagombaga gutuma Ubwunganizi bukora iperereza mbere y'iburanisha[36]. Byongeye kandi, Urugereko ruributsa ko atari Porokireri wasobanuye neza ubwo buhamya, ko ahubwo ari Ubwunganizi bwabikoze.

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[34] Byongeye kandi, ubuhamya bw'uyu mutangabuhamya ntibufite ubundi bubushyigikira. Ibyo rero bituma umuntu ashidikanya urebye n'ukuntu byamugoye kumenya Simba, nk'uko bivugwa mu gika cya 196. Havuka rero ibibazo ku byerekeranye n'agaciro k'ubwo buhamya.

[35] Inyandiko Porokireri yandikiye Ishami ricunga imirimo y'Ingereko, yatanzwe ku wa 16 Kanama 2004, igitabo cy'Ubwanditsi bw'Urukiko cyandikwamo inyandiko zinjiye, imp. 2808- 2820 (Kumenyekanisha inyandikomvugo y'ubuhamya bwa KSM).

[36] Cyakora, gutanga inyandikomvugo y'ubwo buhamya ntibihagije ngo Uregwa ahamwe n'icyaha hashingiwe kuri icyo kimenyetso cyonyine. Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, urup. 197.

36. KDD avuga ko Simba yitabiriye inama enye: iyabereye ku biro bya Komine ya Karama ku itariki ya 11 Mata, izabereye kuri CIPEP mu mujyi wa Gikongoro ku itariki ya 13 n'iya 26 Mata, n'iyabereye ku isoko rya Kirambi muri Komine ya Rukondo ku itariki ya 4 Gicurasi. Uyu mutangabuhamya avuga ko muri buri nama Simba yashishikarizaga abategetsi bo muri utwo duce gushyiraho amabariyeri no kuyacunga kugira ngo Abatutsi bicwe. Mu nama yabaye ku itariki ya 26 Mata, Simba ngo yivugiye ko yayoboye ubwicanyi bwakorewe kuri paruwasi ya Kaduha kandi ngo yasabye abari bayoboye ubwicanyi bwakorewe kuri paruwasi ya Kibeho, ku ishuri ry'imyuga rya Murambi no kuri paruwasi ya Cyanika kujya batanga raporo ku mubare w'abantu bishwe. Yaba kandi yarashishikarije abategetsi bo muri ako karere kugaba ibitero ku bantu bari bararokotse ubwicanyi bagahungira muri Komine ya Ruhashya.

37. Urugereko rurabanza gusuzuma ibyerekeranye n'inama yabereye ku biro ya Komine ya Karama ku itariki ya 11 Mata, iyabereye kuri CIPEP i Gikongoro ku itariki ya 13 Mata, n'iyabereye ku isoko rya Kirambi muri Komine ya Rukondo ku itariki ya 4 Gicurasi. Ubwo buhamya bwerekeranye ahanini no kuba Simba ngo yarategetse abantu gushyiraho amabariyeri no kuyacunga kugira ngo Abatutsi bicwe. Icyo kirego kirakomeye ariko ntikiri mu Nyandiko y'ibirego. Porokireri ntasobanura birambuye ukuntu ubwo buhamya bwerekeranye n'ubwicanyi bwakorewe ahantu hatanu havugwa mu Nyandiko y'ibirego. Avuga gusa, muri rusange, ko ubwo buhamya bunyomoza ibivugwa ko Simba atari ahantu ibyaha byakorewe igihe byakorwaga, bugashyigikira ibyo avuga ko Uregwa yari yaritswemo n'igitekerezo cyo gukora icyaha ndetse bukanagaragaza ko hariho umugambi mubisha uhuriweho.

38. Ku byerekeranye n'igitekerezo cyo gukora icyaha, ubuhamya bwa KDD busubiramo, bitari ngombwa, ibivugwa mu bundi burebana mu buryo butaziguye n'ibyaha bivugwa mu Nyandiko y'ibirego. Inama yabaye ku itariki ya 11 Mata no ku ya 4 Werurwe ntizifite akamaro mu kugaragaza ko habayeho umugambi mubisha uhuriweho. Abandi bantu bitabiriye ibyo bintu byabaye ntibari mu bantu

baba baritabiriye umugambi mubisha uhuriweho bavugwa amazina mu gika cya 14 cy'Inyandiko y'ibirego. Inama yo ku itariki ya 13 Mata yitabiriwe n'abantu benshi mu bantu bari bagize umugambi mubisha uhuriweho. Cyakora, nk'uko KDD abivuga, abategetsi bari muri iyo nama basuzumye uburyo bwiza bwo kugemurira impunzi z'Abatutsi zari ziteraniye ku maparuwasi anyuranye no ku biro by'amakomine ndetse no kuzirindira umutekano, ariko ntibasuzumye uko bacura umugambi wo kwica izo mpunzi[37].

39. Urugereko rusanga ibimenyetso byerekeranye n'inama zabereye ku biro bya Komine ya Karama ku itariki ya 11 Mata, kuri CIPEP ku itariki ya 13 Mata, no ku isoko rya Kirambi muri Komine ya Rukondo ku itariki ya 4 Gicurasi bifite agafite agaciro gato ku kibazo cyo kumenya niba Simba yaryozwa icyaha ku bwicanyi bwakorewe ahantu hatanu, Porokireri ashaka ko Urugereko rumuhamya. Kubera izo mpamvu, Urugereko ntirufata imyanzuro ishingiye ku byabaye kuri ibyo bintu bitavugwa mu Nyandiko y'ibirego.

40. Cyakora, ibyo si ko bimeze ku buhamya bwa KDD bwerekeranye n'ibyo Simba yakoze mu nama yabaye ku itariki ya 26 Mata. Mu by'ukuri, ibyo KDD avuga kuri icyo kibazo byerekeranye, ku buryo butaziguye, n'ubwicanyi bwakorewe ahantu hatanu buvugwa mu Nyandiko y'ibirego. Mu ncamake Porokireri yatanze ku itariki ya 20 Kanama 2004 irebana n'ubuhamya KDD yari kuzatanga mu Rukiko, yamenyesheje Ubwunganizi ko yateganyaga gutanga ibyo bimenyetso[38].

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[37] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 27-28; inyandikomvugo y'iburanisha, 10 Ugushyingo 204, urup. 50.

[38] Inyandiko Porokireri yandikiye Ishami ricunga imirimo y'Ingereko, yatanzwe ku wa 30 Kanama, igitabo cy'Ubwanditsi bw'Urukiko cyandikwamo inyandiko zinjiye, imp. 2831-2832 (incamake y'ubuhamya KDD azatanga mu Rukiko : « ku byerekeranye n'inama yabaye ku wa 29 Mata 1994 cyangwa hafi y'iyo tariki… umutangabuhamya azavuga ko: inama ivugwa mu nyandiko ERN K0266149 yabaye ku wa 26 Mata 1994 cyangwa hafi y'iyo tariki. Uregwa yasabye raporo ku bintu byari byabereye ahantu hane muri Gikongoro ku wa 21 Mata. Abantu bo muri buri karere bavuze umubare w'impunzi bishwe iwabo. Uregwa yatanze raporo ku mubare w'impunzi ziciwe i Kaduha. Byongeye kandi, Uregwa yashishikarije ba burugumesitiri

Mu cyemezo Urugereko rwafashe ku itariki ya 1 Ugushyingo 2004, rwavuze ko iyo ncamake yamenyekanishijwe mbere bihagije kugira ngo Ubwunganizi bushobore kwitegura[39]. Kubera iyo mpamvu, Urugereko ruzirikana ibyo bimenyetso mu isuzuma rukora kuri ubwo bwicanyi bwakorewe ahantu hatanu.

1.3 Ibivugwa ko abatangabuhamya bashyizweho iterabwoba

41. Ubwunganizi buvuga ko abategetsi bo mu Rwanda bivanze, mu buryo budakwiye, mu miburanishirize kuko bashyize iterabwoba ku batangabuhamya bashinjura biswe BJK1 na HBK ndetse bakanababuza gutanga ubuhamya bushinjura bufitiye akamaro iburanisha[40]. Mu gushyigikira ibyo buvuga, Ubwunganizi busobanura ko BJK1 yakomeje kwanga gutanga ubuhamya mu Rukiko avuga ko afite impungenge z'umutekano we ndetse akongeraho ko akangishwa kwicwa. Ubwunganizi bunashingira ku bimenyetso bigaragaza ko muri gereza ya Gikongoro, abayobozi ba gereza mu Rwanda bashyira ku nkeke abatangabuhamya bashinjura, ibyo bikaba byaratumye HBK yanga kuza Arusha gutanga ubuhamya. Kubera iyo mpamvu, Ubwunganizi burasaba Urugereko kugira Simba umwere ku byaha byose aregwa. Porokireri we avuga ko

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gushyiraho amabariyeri, anababwira ko muri buri segiteri hagombaga kuba imyitozo yagombaga gutangwa n'abarezerivisite n'abapolisi ba komine ».

[39] Urubanza rwa Simba mu rw'iremezo, Icyemezo ku iyemerwa y'ubuhamya bwa KDD, 1 Ugushyingo 2004, igika 17. Ku itariki ya 30 Kanama 2004, Porokireri yatanze incamake y'ubuhamya KDD yari kuzatanga mu Rukiko. Ibaza ry'ibanze ry'uwo mutangabuhamya ryabaye hashize nk'amezi abiri, ku wa 28 Ukwakira 2004. Urugereko ruributsa ko icyo gihe cyahuriranye n'isubikwa ry'iburanisha hagati y'itariki ya 24 Nzeri n'iya 25 Ukwakira 2004. Byongeye kandi, ibaza rinyomoza ryarasubitswe kuva ku itariki ya 28 Ukwakira kugeza ku ya 10 Ugushyingo, bityo Ubwunganizi bukaba bwarabonye igihe cy'inyongera cyo kwitegura.

[40] Imyanzuro nsozarubanza y'Ubwunganizi, ibika 252-255, 438-444, 793, 818, 880, 911, 1282-1330. Inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 66. Ubwunganizi bwanavuze ko u Rwanda rwivanze mu myiregurire yabwo kuko rwatumye abatangabuhamya bahindura imvugo zabo. Imyanzuro nsozarubanza y'Ubwunganizi, ibika 1266-1281. Urugereko rusanga ibivugwa n'Ubwunganizi kuri iki kibazo nta shingiro bifite.

Ubwunganizi butatanze ibimenyetso bigaragaraza ukwivanga uko ari kose kuvugwa[41].

42. Byari biteganijwe mbere ko BJK1 yari kuza gutanga ubuhamya mu Ukuboza 2004, mu cyiciro cya mbere cy'itangwa ry'ibimenyetso bishinjura. Cyakora, yanze kuzana Arusha n'abahagarariye Ishami rishinzwe gufasha abatangabuhamya n'abakorewe ibyaha ry'Urukiko (WVSS) kuko yavugaga ko afite impungenge z'umutekano we ndetse akaba yaranakangishwaga kwicwa. Aho kugenzura ukuri ku ibyo uyu mutangabuhamya yavugaga, iryo shami ryemeje gusa ko adashaka gukora urugendo kubera impungenge z'umutekano we. Mu cyemezo Urugereko rwafashe ku itariki ya 4 Gashyantare 2005, ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga ko rwategeka uyu mutangabuhamya kurwitaba ariko rutanga uburengazira ko yatanga ubuhamya ari i Kigali hifashishijwe uburyo bw'ikoranabuhanga ry'amajwi n'amashusho butuma abantu bavugana barebana kandi batari hamwe (*video-link*) kugira ngo areke gukomeza kugira impungenze z'umutekano we. Cyakora, uyu umutangabuhamya na byo yarabyanze[42].

43. HBK afungiwe mu Rwanda. Mu cyemezo Urugereko rwafashe ku itariki ya 17 Gashyantare 2005, rwatanze uruhushya rwo kumwimurira Arusha hamwe n'abandi batangabuhamya barindwi bafunzwe (abatangabuhamya bashinjura biswe NGJ2, HNJ, GGJ1, RGJ1, BGN3, BGJ1 na KGJ2)[43]. Cyakora, HBK yanze

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[41] Inyandikomvugo y'iburanisha, 8 Nyakanga 2005, urup. 10.

[42] Urubanza rwa Simba mu rw'iremezo, Icyemezo gitanga uburenganzira bwo kumva ubuhamya bwa IMG, ISG na BJK1 hakoreshejwe uburyo bw'ikoranabuhanga ry'amajwi n'amashusho butuma abantu bavugana barebana kandi batari hamwe (*video-link*), 4 Gashyantare 2005, igika 6, igisobanuro n° 3 cyo hasi ku rupapuro ; inyandikomvugo y'iburanisha, 13 Ukuboza 2004, urup. 12.

[43] Urubanza rwa Simba mu rw'iremezo, Icyemezo cyo kwimura abatangabuhamya bafunze, 17 Gashyantare 2005. Urugereko rusanga mbere y'iryo yimurwa, Ubwunganizi bwarakuyemo umutangabuhamya wiswe HNJ. Inyandikomvugo y'iburanisha, 15 Werurwe 2005, imp. 2-3. Byongeye kandi, Ubwunganizi bwakuye GGJ1, KGJ2 na BJK3 ku rutonde rw'abatangabuhamya bashinjura. Inyandikomvugo y'iburanisha, 29 Werurwe 2005, urup. 23

kuza Arusha. Mu batangabuhamya bafunzwe bimuriwe Arusha, NGJ2 na RGJ1 ni bo bonyine batanze ubuhamya mu Rukiko. Bombi bavuze ukuntu abayobozi ba gereza n'abakozi b'ubushinjacyaha bivanze mu buhamya bwabo uhereye igihe babonaniye n'abapererezi b'Ubwunganizi kugeza ubwo bimuriwe Arusha[44].

44. Ku itariki ya 29 Werurwe 2005, Ubwunganizi bwasabye Urugereko gutegeka BJK1 na HBK kwitaba Urukiko kugira ngo batange ubuhamya. Bwarangije gutanga ibimenyetso bishinjura ariko buvuga ko bushobora kongera gutanga ibindi Urugereko ruramutse rwemeye ibyo bwasabye mu cyifuzo cyabwo. Icyo gihe, Urugereko rwemeje ko ababuranyi bari gutanga imyanzuro nsozarubanza mu magambo ku itariki ya 7 n'iya 8 Nyakanga 2005[45]. Mu cyemezo Urugereko rwafashe ku itariki ya 4 Gicurasi 2005, rwemeye icyifuzo cy'Ubwunganizi cyarusabaga gutegeka abo batangabuhamya kwitaba Urukiko ariko ruvuga ko kumva ubuhamya bwabo bitagomba kugira icyo bihinduraho ku itariki yo kumva imyanzuro nsozarubanza y'ababuranyi mu magambo[46].

45. Ku itariki ya 7 Nyakanga 2005, ubwo ababuranyi batangiraga gutanga imyanzuro nsozarubanza yabo mu magambo, Urugereko rwabamenyesheje rugikubita ko rumaze kubivuganaho n'Ishami ry'Urukiko rishinzwe gufasha abatangabuhamya n'abakorewe ibyaha, rwasanze BJK1 agitsimbaraye ku cyemezo cyo kutaza gutanga ubuhamya mu Rukiko, naho HBK yaravuze ko ashaka noneho gutanga ubuhamya ariko bikaba bitarashobotse kumuzana Arusha mbere y'itariki yo gutanga imyanzuro nsozarubanza mu magambo. Ibyo Urugereko rwabimenyesheje ababuranyi mbere y'uko batangira gutanga imyanzuro

[44] Ubuhamya mu Rukiko bwa RGJ1, inyandikomvugo y'iburanisha, 17 Werurwe 2005, imp. 8-9, 30-33; ubuhamya mu Rukiko bwa NGJ2, inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 6-12.

[45] Inyandikomvugo y'iburanisha, 29 Werurwe 2008, urup. 38

[46] Urubanza rwa Simba mu rw'iremezo, icyemezo ku byifuzo by'Ubwunganizi bisaba Urugereko gutegeka abatangabuhamya kwitaba Urukiko, 4 Gicurasi 2005, ibika 4-5.

nsozarubanza mu magambo, nyamara Ubwunganizi ntibwabyukije ikibazo kirebana n'imiburanishirize kandi ntibwarwanyije ko iburanisha ripfundikirwa[47].

46. Ingingo ya 20 (4) (e) ya Sitati iteganya ko uregwa afite uburenganzira bwo « … kwemererwa ko abatangabuhamya bamushinjura bahamagarwa mu Rukiko kandi bakabazwa mu buryo bumwe n'ubuteganyirizwa abamushinja ». Mu rubanza rwa Bagosora na bagenzi be, uru Rugereko rwavuze ko iyo haragaragajwe ko abategetsi b'igihugu runaka bivanze cyangwa bashyize iterabwoba ku bantu bashobora kuba abatangabuhamya cyangwa bamaze kwemezwa ko ari bo, ndetse hakanagaragazwa ko badashaka gufasha Urukiko cyangwa ko bitambika mu mirimo yarwo, ibyo bishobora kuba ibikorwa binyuranyije bikomeye n'inshingano icyo gihugu gifite zo gufasha Urukiko nk'uko biteganywa n'Ingingo ya 28 ya Sitati. Ibyo kandi bishobora gutuma uburenganzira uregwa afite bwo kuburanishwa mu buryo buboneye butubahirizwa[48].

47. Ubukemuramanza bwerekeranye n'iki kibazo buteganya ko, hashingiwe ku bimenyetso byarusha ibindi kwizerwa, Ubwunganizi bugomba kugaragaza ko Leta runaka yivanze mu itangwa ry'ibimenyetso bishinjura. Ibimenyetso bwifuza gutanga bigomba kandi kuba byerekeranye n'ibirego bisobanutse uregwa ashinjwa[49]. Ubwunganizi bunafite inshingano yo kugaragaza ko bwakoresheje inzira zose ziteganywa na Sitati n'Amategeko kugira ngo burebe ko ibimenyetso byatangwa[50]. Iyo iburanisha ryamaze gupfundikirwa, kugira ngo Ubwunganizi bwemererwe ibyo busaba bugomba kugaragaza ko uregwa yaharenganiye cyane[51].

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[47] Inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 1-2.

[48] Urubanza rwa Bagosora na bagenzi be mu rw'iremezo, Icyemezo ku cyifuzo cyerekeranye n'ibivugwa ko abatangabuhamya bashyizweho iterabwoba, 28 Ukuboza 2004, igika 7.

[49] Ni kimwe no haruguru, ibika 8-10.

[50] Inyandiko y'urubanza rwa Tadic mu bujurire, 15 Nyakanga 1999, ibika 52-53, 55-56.

[51] Nk'urugero, reba Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, ibika 69-73; Urubanza rwa Semanza mu bujurire, Icyemezo, 31 Gicurasi 2000, ibika 122-125. Reba n'Inyandiko

48. Urugereko rusanga Ubwunganizi butarubahirije iyo nshingano yo kugaragaza ko, hashingiwe ku bimenyetso byakwizerwa kurusha ibindi, Leta y'u Rwanda yashyize iterabwoba kuri BJK1 cyangwa ko yivanze mu buhamya yari gutanga. Mu cyemezo rwafashe ku itariki ya 4 Gashyantare 2005, Urugereko rwasanze Ubwunganizi butaratanze ibimenyetso bishyigikira ibivugwa n'uwo mutangabuhamya ko yakangishijwe kwicwa[52]. Ndetse na nyuma yaho, Ubwunganizi ntibwatanze ikindi kimenyetso cyatuma imyumvire y'Urugereko ihinduka cyangwa cyagaragaza ko abategetsi bo mu Rwanda baba koko barashyize iterabwoba kuri uwo mutangabuhamya. Urugereko rwumvise ubuhamya bwa RGJ1 na NGJ2 ku byerekeranye n'uko abategetsi bo ku Gikongoro bafata abatangabuhamya bashinjura bafunze. Cyakora, ntirwemera ko ubwo buhamya bushyigikira bihagije ibyo Ubwunganizi buvuga kuri BJK1, udafunzwe. Urugereko rusanga kandi igihe cyose rwabisabwe rwaragiye rugerageza uko bishoboka kose, rushingiye ku Mategeko, gufasha Ubwunganizi kugira ngo abatangabuhamya bashinjura baze gutanga ubuhamya mu Rukiko[53].

49. Nyamara ariko, ibintu biratandukanye ku byerekeranye na HBK. RGJ1 na NGJ2, bari bafunganywe na HBK, batanze ubuhamya hejuru y'indahiro mu Rukiko bavuga mu buryo burambuye kandi batavuguruzanya ibintu bihagarariyeho by'uko kuva mu mpera y'Ukuboza 2004 abakozi ba gereza n'abo mu bushinjacyaha bashyize iterabwoba ku batangabuhamya bari bafunze bashinjura Simba. RGJ1 na NGJ2 bavuze ko mbere y'itariki ya 11 Mutarama 2005, abafungwa bategetswe inshuro ebyiri kuganira n'abayobozi bo muri ako gace ku birebana n'uruhare rwabo mu gushinjura Simba. Aba batangabuhamya bombi

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y'urubanza rwa Kamuhanda mu bujurire, 19 Nzeri 2005, igika 12; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, igika 30.

[52] Urubanza rwa Simba mu rw'iremezo, icyemezo cy'Urugereko gitanga uruhushya rwo kumva ubuhamya bwa IMG, ISG na BJK1 hakoreshejwe uburyo bw'ikoranabuhanga ry'amajwi n'amashusho butuma abantu bavugana barebana kandi batari hamwe (*video-link*), 4 Gashyantare 2005, igika 6, igisobanuro n° 3 cyo hasi ku rupapuro.

[53] Inyandiko y'urubanza rwa Tadic mu bujurire, icyemezo cy'Urugereko, 15 Nyakanga 1999, igika 53.

bavuga iby'inama ya mbere yatumijwe n'umuyobozi wa gereza ya Gikongoro n'iby'inama ya kabiri yitabiriwe n'umuyobozi wa gereza ya Gikongoro na Porokireri. Ubuhamya bwabo bugaragaza ko muri imwe muri izo nama zombi, abo batangabuhamya bategetswe kuzabwira Avoka wunganira Uregwa ko batazi Simba. Byongeye kandi, RGJ1 na NGJ2 bavuga ko babwiwe ko gutanga ubuhamya bushinjura Simba kwari « ukurwanya » Leta. NGJ2 avuga ko HBK ari umwe mu bihanangirijwe n'umuyobozi wa gereza na Porokireri. Nyuma yaho, HBK yavuze adashaka kuza Arusha kubera impungenge z'umutekano we[54].

50. Ntibikwiye ko umuyobozi muri Leta yihanangiriza umuntu ushobora kuzaba umutangabuhamya amubwira ko azafatwa nk'umuntu urwanya Leta naramuka atanze ubuhamya mu rubanza nshinjabyaha rurimo kuburanishwa, cyane cyane iyo uwo muntu ushobora kuzaba umutangabuhamya afungiwe muri gereza y'igihugu kandi ari na cyo kimutunze. Urugereko rusanga iterabwoba abategetsi bo muri Gikongoro bashyize kuri HBK rishobora kuba ryaratumye ataza gutanga ubuhamya mu Rukiko mbere y'uko Ubwunganizi burangiza gutanga ibimenyetso bishinjura ku itariki ya 29 Werurwe 2005.

51. Rushingiye ku buhamya bwa NGJ2 na RGJ1, Urugereko rwasabye Ishami rishinzwe gufasha abatangabuhamya n'abakorewe ibyaha gukora iperereza no kumenyesha Leta y'u Rwanda ibyo bintu kugira ngo ibikurikirane. Urugereko

[54] Reba, muri rusange, ubuhamya bwa RGJ1 mu Rukiko, inyandikomvugo y'iburanisha, 17 Werurwe 2005, imp. 8-9, 30-33; ubuhamya bwa NGJ2 mu Rukiko, inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 6-12. Abatangabuhamya banavuga ko, bakimara kubonana n'abagize ikipe y'Ubwunganizi bwa Simba ku wa 11 Mutarama, ibiro by'ubushinjacyaha bw'u Rwanda ku Gikongoro byababatumije bigategeka buri wese kwandika ibyo yavuganye n'Ubwunganizi. NGJ2 na RJG1 bavuga ko abantu batanu bashoboraga kuzatanga ubuhamya bavanywe ku Gikongoro bimurirwa muri gereza ya Mpanga ni uko bahageze buri wese afungirwa ahantu adashobora kubonana n'abandi bantu. Muri gereza ya Mpanga, abayobozi babwiye abo bantu ko bitwara nabi kandi ko ibiro by'ubushinjacyaha ari byo byari byategetse ko bafungirwa aho buri wese adashobora kuvugana n'abandi. Mu buhamya bwe mu Rukiko, NGJ2 avuga ko HBK atari muri abo bafungwa bimuriwe i Mpanga. Reba n'inyandikomvugo y'iburanisha, 29 Werurwe 2005, imp. 24-25.

rwanasabye Leta y'u Rwanda gufata ingamba za ngombwa zo kurinda umutekano wa HBK[55].

52. Mu cyemezo cy'Urugereko cyo ku itariki ya 4 Gicurasi 2005 gitegeka umutangabuhamya kwitaba Urukiko, Urugereko rwahaye HBK undi mwanya wo kumva ubuhamya bwe mbere y'uko ababuranyi batangira gutanga imyanzuro nsozarubanza mu magambo ku itariki ya 7 Nyakanga 2005. Uwo mutangabuhamya yavuze ko yiteguye gutanga ubuhamya ariko ntibyashobotse kumuzana ku Rukiko mbere y'iyo tariki. Icyo gihe, iyo Ubwunganizi busanga ubuhamya bwe ari ingenzi mu kwiregura kwabwo bwagombaga gusaba ko iburanisha risubikwa kugeza igihe hafatiwe ingamba za ngombwa zo kuzana HBK[56]. Nyamara ariko, Ubwunganizi ntibwabisabye.

53. Ibyo ari byo byose, ubuhamya HBK yari gutanga mu Rukiko bwerekeranye ahanini n'ubwicanyi bwakorewe kuri paruwasi ya Kaduha ku itariki ya 21 Mata 1994[57]. Muri ubwo buhamya, yari kuvuga ku bintu atihagarariyeho bityo bukaba bwari kugira agaciro gake. Urugereko ruzirikana ko umutangabuhamya wiswe KXX avuga ko HBK yari kumwe na Simba kuri santeri y'ubucuruzi ya Kaduha hasigaye iminsi mike ngo igitero kigabwe. Kuri iki kibazo, HBK yari gutanga ubuhamya butaziguye kandi bujyanye n'ibivugwa. Cyakora, Urugereko rwasanze KXX atakwizerwa ku byerekeranye na HBK, bityo rukaba rusanga nta karengane gakomeye kabayeho.

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[55] Urubanza rwa Simba mu rw'iremezo, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka HBK kuza gutanga ubuhamya mu Rukiko, 4 Gicurasi 2005, igika 5.

[56] Inyandiko y'urubanza rwa Tadic mu bujurire, 15 Nyakanga 1999, igika 55.

[57] Imp. 2177 *bis*-3178 *bis* zo mu gitabo cy''Ubwanditsi bw'Urukiko cyandikwamo inyandiko zinjiye (inyandikomvugo y'ubuhamya HBK yatanze mbere budasibwemo amakuru agomba kugirirwa ibanga).

2. ALOYS SIMBA

54. Simba yavukiye muri Komine ya Musebeya, Perefegitura ya Gikongoro[58], ku itariki ya 28 Gashyantare 1938, arubatse kandi afite abana umunani[59]. Simba yabanje kumenyakana kubera imirimo ya gisirikare yakoraga. Yinjiye mu gisirikare cy'u Rwanda mu mwaka wa 1961 maze mu wa 1963 arangiza mu ishuri ry'abofisiye afite ipete rya suliyetona[60]. Hagati y'umwaka wa 1963 n'uwa 1967, yayoboye inite nyinshi zarwanaga n'Inyenzi. Mu mwaka wa 1964, yafashije Perezida Mobutu Seseko wa Zayire kurwana[61]. Kuva mu mwaka wa 1967 kugera mu wa 1973 Simba yakoze mu kigo cya gisirikare cya Kanombe, ahabonera ipete rya komanda n'irya majoru[62]. Mu mwaka wa 1973, Simba yamenyekanye cyane mu gisirikare mu rwego rw'igihugu nk'umwe mu bari bagize itsinda ryiyise « *Camarades du 5 juillet* ». Iryo tsinda, ryagize umwanya ukomeye mu mateka y'u Rwanda, ryahiritse ubutegetsi mu mwaka wa 1973 rikuraho Perezida Grégoire Kayibanda maze rishyiraho Juvénal Habyarimana[63]. Simba avuga ko gukomera kwe byaturutse ku mirimo yakoze mu rwego rwa gisirikare n'urwa politiki[64].

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[58] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, urup. 61; ikimenyetso gihamya cya Porokireri N° P46 (« ajenda ya Simba »).

[59] Ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba)

[60] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, urup. 64; Ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba).

[61] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, urup. 64; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp.3-6, 75.

[62] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 64-66.

[63] Ni kimwe no haruguru, imp. 64-65, 67. Reba n'ubuhamya bwa YC mu Rukiko, inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 81-82 (rusanga uyu mutangabuhamya yarumvise iby'aba *« camarades du 5 juillet »* ubwo yari ku ishuri kandi ko byavuzwe kuri radiyo no mu binyamakuru; ubuhamya bwa Monique Mujawamariya mu Rukiko, inyandikomvugo y'iburanisha, 16 Gashyantare 2005, urup. 4 (iby'aba *« camarades du 5 juillet »* byavuzwe kuri radiyo)

[64] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 7, 20-21. Reba n'ubuhamya bwa GMA5 mu Rukiko, inyandikomvugo y'iburanisha, 22 Gashyantare 2005, urup. 7; ubuhamya bwa GKI mu Rukiko,

55. Nyuma y'ihirikwa ry'ubutegetsi mu mwaka wa 1973, Simba yagiye ahabwa imyanya inyuranye muri Leta kubera imirimo ya gisirikare yakoraga n'ubucuti bukomeye yari afitanye n'Umukuru w'igihugu. Nyamara ariko, Simba avuga ko hari ubwo yagize ibibazo mu rwego rw'akazi n'urw'imibereho ye bwite, kandi hari ubuhamya bushyigikira kuri bimwe iyo mvugo ye[65]. Ibimenyetso byatanzwe bigaragaza ko nyuma y'igihe gito agizwe Minisitiri w'itangazamakuru, yaje kuregwa gucura umugambi wo guhirika ubutegetsi[66]. Ibyo byatumye akurwa kuri uwo mwanya hashize amezi atandatu nuko mu mwaka wa 1974 yoherezwa gukorera muri Minisiteri y'ingabo, aho bivugwa ko yategekwaga n'umusirikare yarushaga ipete kandi ko yari ashinzwe imirimo idafashe[67].

56. Hagati y'umwaka wa 1980 n'uwa 1988, Simba yabaye Komanda w'Ikigo cya gisirikare cya Kigali. Kuva mu mwaka wa 1989 kugera mu wa 1993, yari umudepite uhagarariye Perefegitura ya Gikongoro, naho mu mwaka wa 1991 yabaye Perezida wa MRND muri iyo Perefegitura[68]. Muri Nzeri 1993, yeguye ku

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inyandikomvugo y'iburanisha, 23 Gashyantare 2005, urup. 11; ubuhamya bwa GL3 mu Rukiko, inyandikomvugo y'iburanisha, 24 Gashyantare 2005, urup. 8.

[65] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 20; inyandikomvugo y'iburanisha, 23 Gashyantare 2005, imp. 69-71; inyandikomvugo y'iburanisha, 24 Gashyantare 2005, imp. 75-76. Reba n'ubuhamya bwa Monique Mujawamariya mu Rukiko, inyandikomvugo y'iburanisha, 16 Gashyantare 2005, imp. 6-7, 16-17; inyandikomvugo y'iburanisha, 17 Gashyantare 2005, imp. 1-2. Reba n'ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba).

[66] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 69-71; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 75-76. RGJ1 avuga ko Simba ari mu bantu bakekwagaho gutegura umugambi wo guhirika ubutegetsi mu ntangiriro y'imyaka ya za 80. Asobanura ko ibyo bintu bigaragaza ko Uregwa atumvikanaga na benshi mu bategetsi bariho icyo gihe. Inyandikomvugo y'iburanisha, 17 Werurwe 2005, imp. 20-21.

[67] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 64, 60-70. Reba n'ubuhamya bwa Monique Mujawamariya mu Rukiko, inyandikomvugo y'iburanisha, 16 Gashyantare 2005, imp. 7-9, 17; inyandikomvugo y'iburanisha, 17 Werurwe 2005, imp. 1-2.

[68] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 64, 71-73; ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba).

mwanya yari afite muri MRND amaze kuva ku mwanya we w'ubudepite[69]. Avuga ko yeguye kubera impamvu zinyuranye: agasuguzuro n'ubugambanyi byari bimwibasiye we n'umuryango we bitewe n'ubucuti bukomeye yari afitanye n'Abatutsi, ubuhezanguni bwagendaga bwiyongera muri iryo shyaka, imicungire mibi yaryo, ububasha buke yari afite mu Nteko Ishinga Amategeko no kuba yarashakaga kwita ku mitungo ye[70].

57. Urugereko rwemera ko mu mibereho bwite ya Simba no mu kazi ke, shobora kuba yaragize ibibazo bijyanye n'akazi. Cyakora, ibimenyetso byatanzwe ntibigaragaza na gato ko yari Umunyarwanda usanzwe nk'uko abivuga. N'ubwo ashobora kuba atarageze ku rwego yifuzaga kugeraho mu kazi, yagiye ahabwa imyanya ikomeye mu gisirikare, muri Leta no mu ishyaka rye mu gice kinini cy'akazi yakoze kandi ibyo byatumye amenyekana mu rwego rw'igihugu.

58. Urugereko rusanga amaze kwegura, Simba yarakomeje kugirana ubucuti n'abategetsi bakomeye, ndetse yakomeje kubahwa kubera imirimo yari yarakoze. Ubuhamya bwe mu Rukiko bugaragaza ko mu mvururu zabaye Perezida amaze gupfa ku itariki ya 6 Mata, Simba yakoresheje ubucuti yari afitanye n'abantu ndetse n'ijambo yari afite mu baturage kugira ngo, nk'urugero, ahabwe abasirikare bamurinda mu ngendo ze muri Kigali, ashyikirane n'abategesi ba gisirikare n'aba Guverinoma bityo ashobore guhungisha umutangabuhamya wiswe SML2, kandi ashobore no kunyura ku mabariyeri[71].

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[69] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 71-74; ikimenyetso gihamya cy'Ubwunganizi N° D114.

[70] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 72-75; Ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba)

[71] Nk'urugero, reba inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 42, 44, 56, 71, 73. Cyakora, Simba ahakana ko yari afite ubutegetsi atahabwaga n'amategeko. Reba inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 76.

59. Byongeye kandi, Simba yari atandukanye n'Umunyarwanda usanzwe kubera umutungo mwinshi yari afite icyo gihe[72]. Ibimenyetso byatanzwe bigaragaza ko Uregwa yari afite imitungo myinshi, irimo inzu y'ubucuruzi n'iyo guturamo i Kigali, inzu n'urwuri runini muri Komine ya Gikoro, isambu nini muri Komine ya Gikoro n'imigabane muri mushinga wa *Crète Zaïre-Nil*, muri Komine ya Musebeya[73].

60. Kuba muri Gicurasi 1994 Simba yaragizwe umujyanama muri Gikongoro mu byerekeranye na gahunda y'ukwirwanaho kw'abaturage bishimangira, kuri bimwe, ko icyo gihe Leta y'u Rwanda yari igikomeje kumugirira icyizere[74]. Amabaruwa y'ubutegetsi n'ubuhamya bwatanzwe mu Rukiko bigaragaza ko Minisiteri y'ingabo yatoranyije Uregwa ngo abe umujyanama mu byerekeranye na gahunda y'ukwirwanaho kw'abaturage muri Perefegitura ya Gikongoro n'iya Butare[75]. Minisiteri y'ingabo yahaye amabwiriza abategetsi b'izo Perefegitura na bo bayaganiraho na Simba[76]. Cyakora, ubwicanyi buvugwa bwakorewe ahantu hatanu ntibufitanye isano n'ibikorwa Simba yakoze ubwo yari kuri uwo mwanya.

61. Urugereko rusanga ibimenyetso bimwe bigaragaza ko, mbere y'umwaka wa 1994, Aloys Simba yari afite ibitekerezo bya politiki bitari iby'ubuhezanguni kandi

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[72] Inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp 74-75; ubuhamya bwa YC mu Rukiko, inyandikomvugo y'iburanisha, 26 Ukwakira 2004, urup. 81; ubuhamya bwa Monique Mujawamariya mu Rukiko, inyandikomvugo y'iburanisha, 16 Gashyantare 2005, urup. 21; inyandikomvugo y'iburanisha, 17 Gashyantare 2005, urup. 1. Reba n'ikimenyetso gihamya cy'Ubwunganizi N° D 148 n'ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba).

[73] Ikimenyetso gihamya cy'Ubwunganiz N° D 148 i n'ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba). Reba n'inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 38,34-44.

[74] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 2-8, 20; ibimenyetso gihamya bya Porokireri, N° P 25 na N° P26, n'ibimenyetso gihamya by'Ubwunganizi N° D 109 na N° D 110.

[75] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 2-5, 19-20; ibimenyetso gihamya bya Porokireri N° P 25 na N° P26, n'ibimenyetso gihamya by'Ubwunganizi N° D 109 na N° D 110.

[76] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 2-5, 19-20; ibimenyetso gihamya bya Porokireri N° P 25 na N° P26, n'ibimenyetso gihamya by'Ubwunganizi N° D 109 na N° D 110.

byari bishyigikiye ubusabane hagati y'amoko[77]. Ibimenyetso byatanzwe binagaragaza ko Simba yari afitanye ubucuti bukomeye n'Abatutsi ndetse akaba yarakoranaga neza na bo[78]. Urugereko rusanga kandi mu batangabuhamya bashinjura Simba harimo Abatutsi benshi[79]. Porokireri arwanya ibivugwa ko umugore n'umukazana ba Simba ari Abatutsikazi[80], ariko si ngombwa gusuzuma iki kibazo.

3. GUHAMAGARIRA ABANTU GUKORA UBWICANYI KURI PARUWASI YA KIBEHO KU ITARIKI YA 9 MATA 1994

3.1 Inyandiko y'ibirego

62. Ibika 23 (d) na 55-57 by'Inyandiko y'ibirego bigira biti:

> 23 (d). Ku itariki ya 9 Mata 1994, cyangwa hafi y'iyo tariki, kuri santeri y'ubucuruzi ya Gasarenda, amaze kumenya ko ubwicanyi bwakorewe muri ako gace, Aloys Simba yabwiye Interahamwe ati « Muri Komine ya Mudasomwa haracyari Abatutsi benshi mutari mwakoraho. I Kibeho naho hari Abatutsi benshi cyane kandi n'ubwo atari muri Komine yanyu, mugomba kujyayo mugafasha bagenzi banyu ».
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> 55. Aloys Simba na/cyangwa abantu bagenderaga ku mabwiriza ye kandi yari yarahaye imyitozo n'intwaro, bagiye nibura muri bumwe mu bwicanyi bwakorewe kuri koleji, ku kigo cy'amashuri abanza no ku bitaro i Kibeho muri Mata na Gicurasi 1994. Muri ibyo bitero,

[77] Ikimenyetso gihamya cy'Ubwunganizi N° D 68; inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 64-65.

[78] Ubuhamya bwa Monique Mujawamariya mu Rukiko, inyandikomvugo y'iburanisha, 16 Gashyantare 2005, imp. 6-7, 9-10; ubuhamya bwa GJJ1 mu Rukiko, inyandikomvugo y'iburanisha, 17 Werurwe 2005, imp. 21-22, ikimenyetso gihamya cy'Ubwunganizi N° D68.

[79] Reba Icyiciro cya 9 (ubuhamya bwa MIB, SML2, FMP1 na AJT1 mu Rukiko). Reba n'ubuhamya bwa GMA 5 mu Rukiko, inyandikomvugo y'iburanisha, 22 Gashyantare 2005, urup. 7 (« Nzi ko umugore we [Simba] ari Umututsikazi »).

[80] Imyanzuro nsozarubanza ya Porokireri, ibika 177-181.

harimo kimwe cyagabwe n'ingabo z'igihugu, abantu bitwaraga gisirikare n'Abasiviri b'Abahutu ku bantu babarirwa mu bihumbi bari baravuye mu byabo bagahungira kuri iyo paruwasi.

56. Ku itariki ya 9 Mata 1994, cyangwa hafi y'iyo tariki, Aloys Simba yabwiye Interahamwe zari kuri santeri y'ubucuruzi ya Gasarenda kujya i Kibeho gufasha bagenzi bazo kwica Abatutsi.

57. Aloys Simba yahaye Intwaro Interahamwe zagiye mu gitero cyagabwe kuri paruwasi ya Kibeho. Muri izo nterahamwe harimo Ngoga, Gakuru, Nkusi na Innocent Bakundukize[81].

3.2 Ibimenyetso

Umutangabuhamya ushinja wiswe KEL

63. KEL ni Umuhutu ariko bamwe mu bantu bo mu muryango we ni Abatutsi. Muri Mata 1994 yari afite imyaka 15 akaba yari umunyeshuri ari mu biruhuko. Icyo gihe, yari hamwe n'umuryango we hafi ya santeri y'ubucuruzi ya Gasarenda[82].

64. Mu buhamya bwe mu Rukiko, KEL yavuze ko mu masaa ine za mu gitondo hashize iminsi iri hagati y'itatu n'itanu Perezida Habyarimana apfuye, yabonye imbaga y'Abahutu barenga 200 bateraniye kuri Sitasiyo ya lisansi yari hafi aho. Yarabasanze maze abona abantu basuhuza Aloys Simba, wari hamwe n'abajandarume babiri. Uyu mutangabuhamya yanahabonye Emmanuel

[81] Imyanzuro y'ababuranyi ku bwicanyi bwakorewe i Kibeho tuyisanga mu myanzuro nsozarubanza ya Porokireri yanditse, ibika 62-64 na 88-91 no mu myanzuro nsozarubanza y'Ubwunganizi yanditse, ibika 445-501; inyandikomvugo y'iburanisha, 7 Nyakanga 2005 imp. 3-4, 7, 12-14. Porokireri ashingira kandi ku buhamya bwatanzwe mu Rukiko n'umutangabuhamya ushinja wiswe KDD uvuga ku nama yabereye muri CIPEP mu mujyi wa Gikongoro ku wa 26 Mata. Muri iyo nama, Damien Biniga wari Superefe wa Munini yabwiye Simba ko ku wa 17 Mata yayoboye igitero cyagabwe i Kibeho, abifashijwemo n'abajandarume, maze kigahitana Abatutsi 17.500. Iyo nama isuzumwa birambuye mu Cyiciro cya 8.6.

[82] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 26-28 n'ibimenyetso gihamya bya Porokireri N° P5 na N° P6.

Nteziryayo wari Burugumesitiri wa Komine ya Mudasomwa, abacuruzi batatu bo muri ako gace ari bo Landouald Karamage, Israel Nsengiyumva na Kajigiti. Simba yamaze nk'isaha imwe muri iyo nama kandi yari ahagaze ku gitafari cya sima nko muri metero enye n'igice uvuye aho uyu mutangabuhamya yari[83].

65. KEL avuga ko Simba yabajije iyo mbaga y'abantu ati: «Ibintu byifashe gute ino? Ahandi hari ibyo batangiye gukora». Umwarimu witwa Gakuru yarashubije ati «Na hano ibintu bimeze neza, kuko na twe twatangiye. Tumaze kwikiza abantu bamwe barimo Jean Ntwali n'abakozi b'isosiyete yitwa EMUJECO». Nyuma yaho, uyu mutangabuhamya yaje kumenya ko Ntwali yari Umututsi[84].

66. Simba amaze kubwira imbaga y'abantu bari aho ko muri ako gace hari abandi Batutsi, yongeyeho ati « Mugomba rero kurwanya umwanzi no gufasha benewanyu kwikiza umwanzi». Bamwe mu bantu bari aho bavuze ko badafite uburyo bwo kujya mu duce twa kure nka Kibeho nuko Simba ababwira ko bagomba gukoresha imodoka za EMUJECO, iz'uruganda rw'icyayi rwa Kitabi n'iz'abacuruzi bo muri ako gace. Iyo mbaga y'abantu yamukomeye amashyi maze aragenda ari kumwe n'abajandarume babiri. Bagiye mu modoka ya Benz y'umweru berekeza muri Komine ya Musebeya[85].

67. Simba amaze kugenda, itsinda ry'abategetsi bo muri ako gace ryateraniye imbere y'inzu ya Karamage. Muri abo bategetsi harimo Burugumesitiri Nteziryayo, Karamage, Kajigiti, Nsanzimana wari umugenzacyaha, Denys Kamodoka wari Umuyobozi w'uruganda rw'icyayi rwa Kitabi na Juvénal Ndabirinze wari Umuyobozi w'uruganda rw'icyayi rwa Mata. Cyakora, KEL ntiyumvise ibyo baganiriye. Bukeye mu gitondo, ubwo yari ku muhanda, KEL yabonye Ngoga,

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[83] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 31-32, 35; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 17, 21-22, 24-28.

[84] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 34-36; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 28, 30. « EMUJECO ni impine ya 'Entreprise Murenzi Jean et Co' ».

[85] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 34-36; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 29, 31.

Nkusi na Sakindi, bayoboraga ibitero muri ako gace, baha amabwiriza imbaga y'abantu bagabaga ibitero barenga 500 bari bitwaje intwaro gakondo. Abo bantu bagabaga ibitero basakuzaga bavuga ko bagiye kwica umwanzi i Buhoro, i Nyamigina n'i Kibeho. Bamwe muri bo bagiye n'amaguru, abandi bagenda mu makamyoneti abiri ya Daihatsu y'uruganda rw'icyayi rwa Kitabi. Uyu mutangabuhamya yumvise ko ijambo « umwanzi » ryashakaga kuvuga Umututsi. Nyuma yaho, abagabaga ibitero, bamwe bariho amaraso, bagarutse bafite ibintu basahuye kandi bigamba ibyo bakoze. Uyu mutangabuhamya avuga ko abo bantu babanje gutera i Buhoro no ku Mwufe, nyuma mu minsi yakurikiyeho bagatera i Nyamigina n'i Kibeho[86].

68. Ubwo yigaga mu mashuri abanza, KEL yigishijwe ko Simba yari intwari y'igihugu. Avuga ko mbere y'umwaka wa 1994, yari yarabonye Simba inshuro zirenga eshanu. Asobanura ko amubona bwa mbere hari mbere y'umwaka wa 1992 mu Gasarenda ubwo yari atashye avuye kwiga mu mashuri abanza. Yongeye kumubona inshuro eshatu mu gikorwa cyo kwiyamamaza mu matora yabaye mu mwaka wa 1992 cyangwa uwa 1993. Yibuka ko Simba yari afite inkovu mu gahanga kubera, nk'uko abantu babivugaga, igikomere yatewe n'isasu ryamuhamye ubwo yageragezaga kuryizibukira ubwo yarwanaga n'« Inyenzi ». Umutangabuhamya yerekanye Simba mu Rcyumba cy'iburanisha[87].

Uregwa

69. Simba yemera ko yagiye kuri santeri y'ubucuruzi ya Gasarenda mu gikorwa cyo kwiyamamaza mu matora yabaye mu mwaka wa 1988. Cyakora, ahakana ko mu ntangiriro za Mata yakoreshereje inama ivugwa yo gushishikariza abantu kugaba

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[86] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 37-42; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 35, 36, 41, 43-44, 46, 48.

[87] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 28-30; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 3-15; ikimenyetso gihamya N° D10 cy'Ubwunganizi.

igitero kuri paruwasi ya Kibeho[88]. Imyiregurire ye ya sinari mpari isuzumwa ku buryo bwuzuye mu Cyiciro cya 9.

Umutangabuhamya ushinjura wiswe RGJ1

70. RGJ1 ni Umuhutu akaba n'umupadiri wakoranye na Simba mu myaka ya za 80. Mu gihe ibivugwa byababaga muri Mata 1994, RGJI yari umwarimu ariko ari mu biruhuko, akaba yari yagiye gusura umuryango we wari utuye hafi ya Paruwasi ya Kibeho. Uyu mutangabuhamya ategereje kuburanishwa mu Rwanda aho aregwa ko yagize uruhare mu bwicanyi bwakorewe kuri paruwasi ya Kibeho[89].

71. Ku itariki ya 10 Mata 1994, RGJ1 yakoranye inama y'umwanya muto n'abandi bapadiri na Damien Biniga wari Superefe wa Superefegitura ya Munini ngo bigire hamwe ikibazo cyo guha ibiryo impunzi zari zateraniye kuri paruwasi ya Kibeho. Avuga ko ku itariki ya 11 n'iya 13 Mata 1994 mu nkengero za Paruwasi ya Kibeho hagabwe ibitero ariko akaba atarabonye ababigabye. Ku itariki ya 13 Mata 1994, yahungiye i Bukoro ubwo abagabye igitero bashishikarizaga abaturage bo muri ako gace guhunga ngo kubera ko Abatutsi bagendaga barushaho kwirwanaho[90].

72. Ubwo yari i Bukoro ku itariki ya 14 Mata 1994, RGJ1 yumvise Interahamwe, abasirikare n'abajandarume bari basubiye muri Komine ya Mudasomwa, bigamba ko bishe Abatutsi kuri paruwasi ya Kibeho. Uyu mutangabuhamya avuga ko abo bantu bari bagabye icyo gitero batavuze ko Simba yari aho hantu hakorewe ubwicanyi, ahubwo bavugaga ko hari Biniga, Ngoga, Gakuru, Charles Nyiridandi, Isilis wari Burugumesitiri wa Rwamiko, Mujyerangabo wari Burugumesitiri wa Mubuga na Juvénal Ndabarinze wari Umuyobozi w'uruganda rw'icyayi rwa Mata. Ku itariki ya 15 Mata, abagabaga ibitero basubiye i Kibeho. Ku itariki ya 2 Gicurasi, asubiye aho yakoreraga mu yindi Perefegitura, uyu mutangabuhamya

[88] Inyandikomvugo y'iburanisha, 23 Werurwe 2004, imp. 34, 36.

[89] Inyadikomvugo y'iburanisha, 17 Werurwe 2005, imp. 7-8, 10, 19.

[90] Ni kimwe no haruguru, imp. 11-12, 24.

yumvise umupadiri warokotse ubwicanyi bwo kuri paruwasi ya Kibeho na we avuga ayo mazina ariko ntiyavuze irya Simba[91].

73. RGJ1A avuga ko aregwa mu Rwanda bamubeshyera ko yagize uruhare mu bwicanyi bwakorewe kuri paruwasi ya Kibeho, kandi ko Simba ataregwa mu rubanza rwe cyangwa mu zindi manza zo mu Rwanda ku byerekeranye n'ubwicanyi bwabereye kuri paruwasi ya Kibeho. Byongeye kandi, Simba ntavugwa muri raporo yakozwe na *African Rights* kuri ubwo bwicanyi[92].

Umutangabuhamya ushinjura wiswe SBL1

74. SBL1 ni Umuhutu wahoze ari umutegetsi ukomeye mu Rwanda. Mu buhamya bwe mu Rukiko, avuga ko ku itariki ya 16 Mata yamenye iby'ubwicanyi bwari bwakorewe kuri paruwasi ya Kibeho ku itariki ya 14 n'iya 15 Mata. Nyamara ariko, yongeraho ko atigeze yumva na rimwe Simba ashyirwa mu majwi ku birebana n'ibyo bitero, bityo ko ibyo Simba aregwa kuri ubwo bwicanyi ari ibinyoma[93]

Umutangabuhamya ushinjura wiswe SNB3

75. SNB3 ni Umuhutu wiganye n'umuhungu wa Simba witwa Robert mu myaka ya za 80. Uyu mutangabuhamya avuga ko Perezida Habyarimana amaze gupfa, hari umuryango yagumanye na wo muri Segiteri ya Uwingingi, muri Komine ya Mudasomwa. SNB3 asobanura ko, urebye ukuntu Simba yari umuntu ukomeye, nta kuntu atari kumenya niba yaraje koko kuri santeri y'ubucuruzi ya Gasarenda agaha intwaro Ngoga na Nkusi. Yongeraho ko yagumye mu bwihisho kubera ko icyo gihe hari umwuka mubi ndetse n'abantu bafite ubwoba[94].

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[91] Ni kimwe no haruguru, imp. 12-15

[92] Ni kimwe no haruguru, imp. 7, 14-16, 19; ikimenyetso gihamya cy'Ubwunganizi N° D124 (Ibice by'inyandiko yitwa *«Témoin d'un génocide : Damien Biniga. Un génocide sans frontières ».*

[93] Inyandikomvugo y'iburanisha, 23 Gashyantare 2005, urup. 43

[94] Inyandikomvugo y'iburanisha, 15 Gashyantare 2005, imp. 4-6, 11-12, 17-20.

Umutangabuhamya ushinjura wiswe NGJ2

76. NGJ2 ni Umuhutu wahoze ari umutegetsi muri Perefegitura ya Gikongoro. Mu buhamya bwe mu Rukiko, avuga ko atigeze yumva ko Simba yavuze ijambo imbere y'imbaga y'abantu yari iteraniye kuri santeri y'ubucuruzi ya Gasarenda hafi y'itariki ya 9 Mata 1994. Uyu mutangabuhamya asobanura ko icyo gihe we n'umuryango we bari muri ako gace, kandi ko bitari gushoboka ko abantu bahagurukira kuri iyo santeri bagiye kwica kuko aho hantu hari hatuwe n'abantu bake kandi nta bisi cyangwa tagisi zahageraga[95].

Umutangabuhamya ushinjura wiswe ANL

77. ANL ni Umuhutu, akaba avuga ko yavuye ku ishuri ku itariki ya 21 Mata 1994 agataha iwabo hafi ya santeri ya Gasarenda. Yemeza ko KEL yari atuye muri ako gace, ariko akaba ataramubonye mu gihe ibyo bintu bivugwa byabaga. Uyu mutangabuhamya yumvise ko mu muryango wa KEL harimo Abahutu n'Abatutsi kandi ko abo bantu bagumye mu bwihisho kuko bashakishwaga n'abagabaga ibitero bacungaga bariyeri yari hafi aho. Uyu mutangabuhamya anavuga ko yumvise abantu bavuga ko KEL yakoranaga na FPR[96].

3.3 Isesengura ry'Urugereko

78. Urugereko rwemera ko muri Mata 1994, umutangabuhamya ushinja wiswe KEl yari atuye hafi ya santeri y'ubucuruzi ya Gasarenda nk'uko byemezwa n'umutangabuhamya ushinjura wiswe ANL. Rwemera kandi ko KEL yabonye ndetse akumva ibintu binyuranye byabereye kuri santeri y'ubucuruzi ya Gasarenda icyo gihe. Ikibazo gikomeye gihari cyerekeranye n'ukwizerwa kw'ibyo yavugiye mu Rukiko ku nama Simba yaba yarakoresheje ngo ahamagarire abantu kujya gukora ubwicanyi kuri paruwasi ya Kibeho. Uyu

[95] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 27

[96] Inyandikomvugo y'iburanisha, 15 Gashyantare 2005, imp. 28-30, 46, 57-59, 77-79 ; ikimenyetso gihamya cy'Ubwunganizi N° D65.

mutangabuhamya avuga ko mbere ya 1994, ubwo yari afite imyaka iri hagati ya 11 na 14, yabonye Simba inshuro zirenga 5. Inshuro ebyiri yamubonye mbere ya 1992, naho inshuro eshatu amubona mu gikorwa cyo kwiyamamariza amatora mu wa 1992-1993. N'ubwo Urugereko rwibutsa ko Simba ashobora kuba yariyamamarije ubudepite mu mwaka wa 1988, muri Kamena 1993 yagiye muri Komine bihana imbibi ya Musebeya mu matora y'ababurugumesitiri[97]. Mu mwaka wa 1994, KEL yari afite imyaka 15 ariko kuba yari muto mu gihe ibivugwa byababaga si impamvu ihagije yatuma ubuhamya bwe budahabwa agaciro kanini ahubwo iyo myaka ituma Urugereko rwitonda cyane mu gusesengura ubuhamya bwe. Uyu mutangabuhamya yerekanye Simba mu cyumba cy'iburanisha.

79. Mu buhamya bwe mu Rukiko, KEL avuga ko yabonye Simba kuri santeri y'ubucuruzi ya Gasarenda hashize iminsi iri hagati y'itatu n'itanu Perezida Habyarimana apfuye ku itariki ya 6 Mata 1994. Ibyo bivuga ko yaba yaramubonye hagati y'itariki ya 9 n'iya 12 Mata. Cyakora, hari ukuvuguruzanya hagati y'ubuhamya yatanze mbere bukubiye mu nyandikomvugo ebyiri n'ubwo yatanze mu Rukiko, bityo bigatuma Urukiko rushidikanya ku ukwizerwa kw'ibyo avuga.

80. Mu nyandikomvugo ya mbere y'ubuhamya yagejeje ku bapererezi b'uru Rukiko ku itariki ya 6 Ugushyingo 2000, KEL avuga ko Simba yageze kuri santeri ya Gasarenda ku itariki ya 9 Mata nyuma ya saa sita « hashize akanya gato » Perefe Bucyibaruta ahavuye, nyuma y'inama yari yatangiye saa kumi z'umugoroba uwo mu munsi. Nyamara ariko, mu buhamya yatanze mu iburanisha, uyu mutangabuhamya avuga ko Uregwa yahageze mu gitondo hashize nibura iminsi ibiri Bucyibaruta ahavuye[98]. KEL asobanura ko iryo vuguruzanya rituruka ku ikosa ryakozwe n'umusemuzi. Avuga ko yabwiye gusa abapererezi ko Simba

[97] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 72.

[98] Inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 19-21, 32-33; ikimenyetso gihamya cy'Ubwunganizi N° D8.

yahageze Bucyibaruta yagiye, ko ari bo biyongereyemo igihe nyacyo yahagereye. Byongeye kandi, uyu mutangabuhamya asobanura ko yavuze gusa ibintu muri rusange naho abapererezi bakongeramo, babyibwirije, amasaha nyakuri byabereyeho.

81. N'ubwo ruzi ko bitoroshye kugira ngo umutangabuhamya yibuke amatariki ibintu byabereyeho kubera imyaka myinshi ishize bibaye, Urugereko rutangazwa n'igisobanuro KEL atanga kuri uko kwivuguruza. Mu nyandikomvugo y'ubuhamya yatanze mu mwaka wa 2000 no ku itariki ya 26 Nzeri 2001, asobanura ibintu ingingo ku yindi, nko ku byerekeye amatariki n'igihe ibintu byabereyeho. Mu nyandikomvugo ya mbere y'ubuhamya bwe, uyu mutangabuhamya yasinye kuri buri rupapuro yemeza ko buhuye n'ibyo yavuze ubwo yari amaze kubusomerwa mu kinyarwanda n'umusemuzi wabiherewe ububasha. Ibisobanuro atanga mu iburanisha bituma umuntu yibaza ku ukwizerwa kwe.

82. Urugereko rusanga kandi n'ubwo mu nyandikomvugo ya mbere y'ubuhamya bwe KEL avugamo Simba, mu nyandikomvugo ya kabiri y'ubuhamya bwe ntamuvuga kandi bwerekeranye n'ibintu byabereye kuri santeri y'ubucuruzi ya Gasarenda nko kuri sitasiyo ya lisansi. Inyandikomvugo ya kabiri y'ubuhamya bwe igaragaza ko yabutanze mu rwego rw'iperereza ryakorwaga kuri Denys Kamodoka wari umuyobozi w'uruganda rw'icyayi rwa Kitabi. Bishobora rero kuba ari yo mpamvu ubwo buhamya bwibanda cyane ku bikorwa by'uwo mugabo n'abandi bategetsi bo muri ako gace. Cyakora, ku byerekeranye n'ubuhamya burambuye yagejeje ku bapererezi b'Urukiko ku itariki ya 26 Nzeri 2001 burebana n'ibintu byabereye kuri santeri y'ubucuruzi ya Gasarenda, bisa n'aho bitangaje kubona KEL atavugamo Perefe Bucyibaruta na Simba. By'umwihariko, mu buhamya yagejeje ku bapererezi b'Urukiko mu mwaka wa 2001, uyu mutangabuhamya yavuze ko, biturutse ku mabwiriza ya Kamodoka, imbaga y'abagababaga ibitero yagiye ku gasozi ka Mwufe mu gitondo cyo ku itariki ya 9 Mata maze mu minsi yakurikiyeho bakajya ahandi hantu hanyuranye muri ako

gace nk'i Kibeho. Hashingiwe ku buhamya yagejeje ku bapererezi b'Urukiko mu mwaka wa 2000 no ku bwo yatanze mu Rukiko, biragaragara ko ibyo bintu byabaye mbere y'igihe kivugwa ko Simba yagereye ku Gasarenda agatanga ayo mabwiriza.

83. Urugereko rusanga ubuhamya bwa RGJ1 bushyigikira ubwo KEL yatanze mu Rukiko ku mwirondoro wa bamwe mu bantu bari mu bitero, bagabye igitero kuri paruwasi ya Kibeho. Cyakora, ibintu bike ubuhamya bwa RGJ1 bushyigikiraho ubwa KEL ntibyemeza ibyo KEL avuga ko Simba yashishikarije abantu kugaba igitero kuri iyo Paruwasi. Urugereko ruributsa ko mu buhamya yagejeje ku bapererezi b'uru Rukiko ku itariki ya 26 Nzeri 2001, KEL yavuze ko ari Denys Kamodoka washishikarije abantu kugaba igitero kuri paruwasi ya Kibeho.

84. Urugereko rwanasuzumye ubuhamya bwatanzwe mu Rukiko n'abatangabuhamya bashinjura biswe RGJ1, SBL1, SNB3, NGJ2 na ANL bavuga ko Simba atagize uruhare na rumwe mu bwicanyi bwabereye kuri paruwasi ya Kibeho. Ahanini, ubwo buhamya bwabo kuri iki kibazo bushingiye ku byo bavuga ko batigeze bumva ko yagize uruhare muri ubwo bwicanyi. Ntibagaragaje rero ko bazi bihagije ibyabaye ku buryo Urugereko rwashingira ku buhamya bwabo ngo rube rwagira umwanzuro rufata ku byakozwe na Simba muri icyo gihe kivugwa.

85. Mu gusoza kuri iki kibazo, Urugereko rusanga hari ugushidikanya ku buhamya KEL yatanze mu Rukiko, ahanini budafite ubundi bubushyigikira. Byongeye kandi, nk'uko bivugwa mu Cyiciro cya 9, Porokireri ntavuga ko bidashoboka ko Simba yaba yari i Kigali hagati y'itariki ya 6 n'iya 13 Mata. Ibyo bituma umuntu arushaho gushidikanya ku ukwizerwa k'ubuhamya KEL yatanze mu Rukiko ku byerekeranye no kuba Simba yaragiye kuri santeri y'ubucuruzi ya Gasarenda muri icyo gihe. Kubera iyo mpamvu, Urugereko rusanze Porokireri ataratanze ibimenyetso bihagije kandi byakwizerwa bigaragaza ko ku itariki ya 9 Mata cyangwa hafi y'iyo tariki, Simba yashishikarije Interahamwe kwica Abatutsi i Kibeho, nk'uko abishinjwa mu bika 23 (d) na 56 by'Inyandiko y'ibirego.

86. Byongeye kandi, Porokireri ntiyatanze ibimenyetso bigaragaza ko Simba yahaye imyitozo abagabaga ibitero cyangwa ko muri bo hari abantu runaka yahaye intwaro bagiye mu bwicanyi bwabereye kuri paruwasi ya Kibeho, nk'uko abishinjwa mu gika cya 55 n'icya 57 by'Inyandiko y'ibirego.

4. UBWICANYI BWAKOREWE KU ISHURI RY'IMYUGA RY'I MURAMBI, KU ITARIKI YA 21 MATA 1994

4.1 Inyandiko y'ibirego

87. Kuva ku gika 38 kugera ku cya 46 havugwa ibikurikira :

> 38. Ku itariki ya 11 Mata 1994, cyangwa hafi y'iyo tariki, abasiviri b'Abatutsi babarirwa mu bihumbi bahunze ingo zabo bateranira kuri diyosezi ya Gikongoro. Bitegetswe na Bucyibaruta wari kumwe na Sebuhura na Semakwavu wari Burugumesitiri wa Komine ya Nyamagabe, abajandarume bashoreye izo mpunzi bazigeza ku ishuri ry'imyuga ry'i Murambi.
>
> 39. Ku itariki ya 20 Mata 1994, ku ishuri ry'imyuga ry'i Murambi hari hamaze guhungira abantu bageze ku bihumbi 40 biganjemo Abatutsi. Izo mpunzi zari zikikijwe n'amabariyeri kugira ngo zidashobora gutoroka kandi zashyizwe mu nzitane z'ubuzima kugira ngo zizarimbuke. Izo mpunzi zimwe ibiryo n'amazi bityo zimwe muri izo zirapfa kubera inzara n'indwara.
>
> 40. Ku itariki ya 19 n'iya 20 Mata 1994, cyangwa hafi y'ayo matariki, abantu barimo Aloys Simba, Kapiteni Sebuhura wari umujandarume, Perefe Bucyibaruta, Superefe Biniga na Burugumesitiri Munyaneza, bafashe ingamba za ngombwa maze bategeka ingabo za Leta, abantu bitwara gisirikare n'abasiviri b'Abahutu kugota no kugaba ibitero ku bantu bari baravuye mu byabo bagahungira ku ishuri ry'imyuga ry'i Murambi. Mu nama yabereye mu kigo cya jandarumori mbere gato y'icyo gitero, Aloys Simba yashishikarije Kapiteni Sebuhura, Perefe

Bucyibaruta na Superefe Biniga kugaba igitero ku Batutsi bari baravuye mu byabo bagahungira ku ishuri ry'imyuga ry'i Murambi.

41. Ku itariki ya 20 Mata 1994 nyuma ya saa sita, cyangwa hafi y'icyo gihe, Bucyibaruta yabonanye na Kapiteni Sebuhura mu biro bya burigade ya jandarumori. Icyo gihe, yamenyesheje Sebuhura iby'umugambi wo kugaba igitero mu rukerera ku itariki ya 21 Mata 1994. Byongeye kandi, yamutegetse kohereza, mu masaa saba z'ijoro z'iyo tariki ya 21 Mata 1994, abajandarume kugira ngo bajye gufasha Interahamwe kugaba igitero i Murambi kandi bakore ku buryo nta Mututsi urokoka ubwicanyi.

42. Aloys Simba yagiye i Murambi yambaye imyenda ya gisirikare. Yahageze mu ikamyo ipakiye imipanga maze aha Interahamwe iyo mihoro.

43. Ku itariki ya 21 Mata 1994, mu masaa cyenda z'ijoro, bitegetswe na Bucyibaruta, abagabye igitero benshi barimo abasirikare, abajandarume, Interahamwe n'abasiviri bitwaje intwaro bagose Murambi maze bahagaba igitero. Muri icyo gitero, abo bantu bakoresheje imbunda za rutura, izoroheje, amagerenade, imipanga, ibikoni n'izindi ntwaro gakondo. Laurent Bucyibaruta na Faustin Sebuhura barashe kuri izo mpunzi.

44. Igitero cyagabwe i Murambi cyarakomeje kugera ahagana saa moya za mu gitondo. Icyo gihe, hishwe abasiviri b'Abatutsi babarirwa mu bihumbi ndetse n'ibintu byabo birasahurwa. Muri icyo gitero, Aloys Simba yashyiriye imipanga abagabye igitero maze kirangiye arabahemba.

45. Ku itariki ya 21 Mata 1994, mu masaa moya za mu gitondo, Laurent Bucyibaruta, Aloys Simba na Faustin Sebuhura bagenzuye ahantu habereye ubwicanyi. Icyo gihe, Aloys Simba yavuze ko yishimiye ibyagezweho mu gikorwa cyo kwica, naho

Laurent Bucyibaruta ahemba abari bakoranye umurava mu bwicanyi, abagabira inka z'abakorewe ibyaha.

46. Icyo gitero cyagabwe ku ishuri ry'imyuga ry'i Murambi ku itariki ya 21 Mata 1994, cyangwa hafi y'iyo tariki, cyahitanye abantu babarirwa mu bihumbi b'abagabo, abagore n'abana kandi benshi mu bakiguyemo bari Abatutsi. Abishwe bahambwe mu byobo rusange byacukuwe n'abafungwa bo muri gereza ya Gikongoro nyuma gato y'igitero. Kubahamba byamaze hafi icyumweru[99].

4.2 Ibimenyetso

Umutangabuhamya ushinja wiswe KSY

88. Ubwo Interahamwe zatangiraga kugaba ibitero ku Batutsi no gutwika amazu yabo ku itariki ya 9 1994, KSY w'Umututsi yabanje guhungira kuri Diyosezi ya Kigeme. Abajandarume baje kuhamuvana bamujyana kuri Diyosezi ya Gikongoro. Nyuma yaho, bamujyanye ku ishuri ry'imyuga ry'i Murambi hafi y'ibiro bya Perefegitura ya Gikongoro ubwo Félicien Semakwavu, wari Burugumesitiri wa Nyamagabe, Laurent Bucyibaruta wari Perefe wa Gikongoro na Kapiteni Sebuhura w'umujandarume bavugaga ko bashaka kurinda umutekano w'impunzi. Uyu mutangabuhamya yagumye kuri iryo shuri kuva ku itariki ya 13 kugera ku ya 21 Mata 1994. Iryo shuri ryari ritaruzura cyangwa ngo rizitirwe kandi ryari rigizwe n'amazu menshi. KSY yagiye mu gikorwa cyo kubarura

[99] Reba imyanzuro nsozarubanza ya Porokireri, ibika 65-70, 92-98; imyanzuro nsozarubanza y'Ubwunganizi, ibika 502-581; inyandikomvugo y'iburanisha, 7 Nyakanga 2005 Imp. 3-13, 58, 61, 69. Byongeye kandi, inama yabereye ku biro bya Komine ya Nyamagabe n'iyabereye kuri santeri y'ubucuruzi ya Nzega zifite aho zihuriye n'ibyabaye. Iki kimenyetso gisuzumwa birambuye mu Cyiciro cya 8.3 n'icya 8.4. Porokireri ashingira kandi ku buhamya bwatanzwe mu Rukiko n'umutangabuhamya ushinja wiswe KDD uvuga ku nama yabereye kuri CIPEP mu mujyi wa Gikongoro ku wa 26 Mata. Muri iyo nama Kapiteni Faustin Sebuhura wategekaga jandarumori muri ako gace yamenyesheje Simba ko yayoboye igitero cyagabwe ku ishuri ry'imyuga ry'i Murambi maze kigahitana Abatutsi ibihumbi 20.000. Iyo nama isuzumwa birambuye mu Cyiciro cya 8.6.

impunzi zari kuri iryo shuri. Iryo barura ryerekanye ko mbere y'itariki ya 17 Mata 2004 aho hantu hari impunzi zigeze ku 48.600. Mu minsi yakurikiyeho, uwo mubare wariyongereye ugera ku 50.000. Uyu mutangabuhamya avuga ko Perefe Bucyibaruta, abinyujije ku ntumwa ye, yategetse ko iryo barura rikorwa nyuma y'uko umusirikare warindaga impunzi amugerejeho ubutumwa bw'impunzi zasabaga ibiryo[100].

89. Ku itariki ya 17 Mata 1994, mu masaa ine za mu gitondo, Interahamwe zigeze ku 30.000 zitwaje intwaro gakondo, zagabye igitero ku mpunzi zari ku iryo shuri maze zituritsa gerenade imwe kugira ngo zitere ubwoba izo mpunzi. Muri abo bantu bari bagabye igitero harimo Karangwa, wari gerefiye w'urukiko rwo muri ako gace na François Gasana[101]. Aho hantu hari impunzi nyinshi maze zishobora gusubiza inyuma icyo gitero zikoresheje amabuye n'amashami y'ibiti, ariko nta muntu waguye muri icyo gitero[102].

90. Igitero cya kabiri cyatangiye ku itariki ya 19 Mata 1994, mu masaa moya za mu gitondo. Interahamwe zigeze ku 30.000 zitwaje intwaro gakondo zongeye gutera impunzi kuri iryo shuri. Impunzi zashoboye kwirwanaho zikoresheje amabuye kandi ntihagira n'umwe muri zo wicwa. Abari ku isonga ry'icyo gitero baje mu makamyoneti anyuranye kandi uyu mutangabuhamya yarabamenye. Imwe muri izo kamyoneti yari iy'uruganda rw'icyayi rwa Kitabi, indi yari iya Komine ya Mudasomwa (*Toyota Hilux*). Israel Nsengiyumva yaje mu modoka y'umuhondo naho Landouald Karamage aza muri Daihatsu y'ubururu. Byongeye kandi, KSY yabonye Interahamwe ebyiri ari zo Gakuru na Kidende[103].

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[100] Inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 21, 34, 40-44, 73-75; inyandikomvugo y'iburanisha, 31 Kanama 2004, urup.5 ; ikimenyetso gihamya cya Porokireri N° P1.

[101] KEH avuga ko Gasana yari umwe mu bayobozi ba MDR muri Komine ya Nyamagabe.

[102] Inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 21-23 na 42-44; inyandikomvugo y'iburanisha, 31 Kanama 2004, urup.6-7; Ikimenyetso gihamya cy'Ubwunganizi N° D2.

[103] Inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 23-24, 44-46.

91. Ku itariki ya 21 Mata 1994, kuva saa cyenda z'ijoro, Interahamwe, abajandarume, bitwaje imbunda n'amagerenade, bagabye igitero cya gatatu ku mpunzi. Mu bagabye icyo gitero harimo Gasana, Karamage, Havuga na Ngoga. Icyo gihe, KSY yari ku mbuga imbere y'ishuri. Hagati ya saa cyenda na saa kumi n'ebyiri za mu gitondo, abagabye igitero bishe nk'impunzi 20.000 zageragezaga kwirwanaho zikoresheje amabuye. Mu masaa kumi n'ebyiri za mu gitondo, uyu mutangabuhamya, wari uryamye mu mirambo yari ku mbuga, yabonye Perefe Bucyibaruta, Kapiteni Sebuhura na Burugumesitiri Semakwavu baza kuri iryo shuri. Bahageze, abagabye igitero, bari bashiriwe n'amasasu, babaye barekeye aho gutera maze bose bakikiza abo bategetsi. Icyo gihe, uyu mutangabuhamya yari aryamye muri metero 30 uvuye aho bari bari. Avuga ko yabonye Sebuhura aha abagabye igitero andi masasu kandi ko yumvise Bucyibaruta abwira bamwe mu bagabye igitero kujya gufasha abateye kuri paruwasi ya Cyanika. Abo bategetsi bamaze nk'iminota 10 kuri iryo shuri maze bamaze kugenda igitero kirasubukurwa. Abagabye igitero bakomeje kurasa kugera saa moya za mu gitondo kandi muri icyo gihe impunzi zakomeje na none kwirwanaho[104].

92. Saa moya za mu gitondo, ubwo KSY yari ahagaze ku mbuga, yabonye Simba aza kuri iryo shuri mu ikamyoneti ya Toyota y'umutuku ya jandarumori ari kumwe n'abasirikare nka babiri n'interahamwe zigeze kuri eshanu. Simba yahamaze nk'iminota 15 kandi yari yambaye imyenda ya gisirikare. Yabwiye ijambo abagabye igitero bari bateraniye aho nuko arangije kuvuga Interahamwe zari inyuma mu ikamyoneti ye zitanga imipanga. Uyu mutangabuhamya asobanura ko we yari ahantu hirengeye gato nko mu ntera iri hagati ya metero 70 na 100 uvuye aho abo bantu bari bari. Yongeraho ko hagati ye na Simba hari abantu bageze ku 100. Simba amaze kugenda, abagabye igitero bakoresheje imipanga maze bakaza umurego mu gutera impunzi zitari zigishoboye kwirwanaho. Mu masaa moya n'igice za mu gitondo, KSY yahungiye mu murima w'amasaka wari muri metero 60 uvuye aho. Nyuma yaho, yihishe ku gasozi gateganye na Murambi. Ubwo yari

[104] Inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 26-28, 47-50, 52-59.

muri ubwo bwihisho, yabonye ubwo bwicanyi bw'i Murambi bukomeza kugera bwije mu masaa kumi n'ebyiri. Bukeye mu gitondo, yabonye abagabye igitero bahorahoza abatari bagapfa maze barabahamba[105].

93. KSY yamenye Simba kuko mbere yari yaramubonye inshuro eshatu: ubwa mbere yamubonye ari kumwe na Perezida Habyarimana ubwo bombi basuraga Perefegitura ya Gikongoro nyuma y'ihirika ry'ubutegetsi ryatumye Habyarimana abufata. Ubwo Simba yiyamamarizaga ubudepite muri Komine ya Mudasomwa, ni bwo uyu mutangabuhamya yongeye kumubona. Ubwa gatatu yamubonye mu mwaka wa 1992, nyuma y'ishingwa ry'amashyaka ya politiki. Simba ageze ku ishuri ry'imyuga ry'i Murambi, abagabaga ibitero barasakuje ngo: « Simba wacu araje »! Uyu mutangabuhamya yerekanye Simba mu cyumba cy'iburanisha[106].

Umutangabuhamya ushinja wiswe KEI

94. KEI ni Umuhutu, akaba muri Mata 1994 yarabaga mu kigo cya jandarumori ya Gikongoro aho yakoraga kuva mu mwaka 1992. Nyuma y'ubwicanyi bwabereye ku ishuri ry'imyuga ry'i Murambi, ntiyongeye gukora muri icyo kigo cya jandarumori kubera ko nta mujandarume wari ukihakorera. Yasubiye mu gace avukamo gushaka inka z'Abatutsi. Amaze kwirega ibikorwa bya jenoside kubera ibyaha yakoreye mu gace avukamo, mu mwaka wa 2003 yarafunguwe by'agateganyo ategereje kuburana[107].

95. Mu gitondo cyo ku itariki ya 20 Mata 1994, KEI yabonye Aloys Simba atanga imipanga igeze kuri 300 na za kupakupa mu kigo cya jandarumori ya Gikongoro. Icyo gihe, Simba yasabye Kapiterni Faustin Sebuhura wayoboraga jandarumori muri ako karere kumuha amakuru ku Batutsi b'abajandarume. Sebuhura yavuze

[105] Ni kimwe no haruguru, imp. 28-30 49-52, 60; inyandikomvugo y'iburanisha, 31 Kanama 2004, urup. 10; Ikimenyetso gihamya cy'Ubwunganizi N° D1.

[106] Inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 30-31.

[107] Inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 17-19, 64; inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 27-30, 48-55; ikimenyetso gihamya cya Porokireri N° P14.

ko yari agiye kubikurikirana akabimumenyesha. Nyuma yaho uwo munsi, mu saa cyenda z'amanywa, Simba yageze muri icyo kigo cya jandarumori ari kumwe n'abasirikare bamurinda mu modoka y'umweru maze atanga amagerenade n'imbunda umunani zo guha abantu bari kuri lisiti kandi bari barahawe imyitozo ya gisirikare[108].

96. Hagati ya saa kumi na saa kumi n'imwe z'umugoroba, Simba yagarutse muri icyo kigo ari kumwe n'abasirikare bamurindaga. Sebuhura yamubwiye ko Umututsi witwa Ndagijimana, wakoreraga muri icyo kigo, yari ku isoko. KEI avuga ko uwo muntu yagaruwe mu kigo aboshye maze akicwa n'abasirikare barindaga Simba.

97. Ku itariki ya 20 Mata, mu masaa tanu z'ijoro, KEI yajyanye na Simba, Kapiteni Sebuhura, Perefe Bucyibaruta, Burugumesitiri Semakwavu wa Komine ya Nyamagabe n'abajandarume benshi ku ishuri ry'imyuga ry'i Murambi. Kuva kuri icyo kigo cya jandarumori kugera ku ishuri hari urugendo rw'iminota iri hagati y'itanu n'icumi. Uyu mutangabuhamya yagiyeyo ari kumwe na Simba na Sebuhura mu ikamyoneti y'ikijuju ipakiye imipanga na za kupakupa. Bari bakurikiwe na Bucyibaruta wari mu ikamyoneti y'ubururu na Semakwavu wari mu ikamyoneti ya Hilux ari kumwe n'abapolisi ba komine babiri. Bagezeyo, bahaye imipanga na za kupakupa abasederi bitwaraga gisirikare bo muri Komine ya Mudasomwa. Simba yahaye imbunda n'amagerenade abantu bari banditse kuri lisiti. Yavuze ko yari kugaruka azanye izindi ntwaro kandi ko abagabye igitero bagombaga gukora ku buryo bica Abatutsi bose. Abasederi bitwaraga gisirikare bagabye igitero maze bahita bica abantu babatemaguye. KEI, uvuga ko hari imivu y'amaraso, yavuye aho hantu mu masaa tanu n'igice z'ijoro asubira ku kigo cya jandarumori[109].

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[108] Inyandikomvugo y'iburanisha, 25 Ukwakira 2004, imp. 5-7; inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 37-38.

[109] Inyandikomvugo y'iburanisha, 25 Ukwakira 2004, imp. 7-9, 17; inyandikomvugo y'iburanisha, 26 Ukwakira 2004, urup. 37.

98. Hashize amasaha make, ku itariki ya 21 Mata mu masaa cyenda z'ijoro, KEI yajyanye na Simba, Bucyibaruta, Sebuhura na Semakwavu ku ishuri ry'imyuga ry'i Murambi. Icyo gihe, na bwo bari muri za modoka eshatu zivugwa haruguru kandi bari bagiye gutanga intwaro zari zasigaye mu kigo cya jandarumori. Simba yahamagaye abagabye igitero akoresheje mikoro maze atanga imipanga n'imbunda esheshatu, mu gihe uyu mutangabuhamya we yarimo atanga imipanga na za kupakupa. Simba yemereye imbaga y'abantu bari aho ko itsinda ryari kwica impunzi nyinshi kurusha ayandi ryari kuzahabwa igihembo. Yanabwiye abagabaga ibitero ko yari kugaruka nyuma yaho muri icyo gitondo aje gutwara izo ntwaro kubera ko umwanzi yari yagose Kaduha. Simba amaze kuvuga ibyo, yategetse abajandarume kugota iryo shuri bagatangira kurasa, nuko nabo barabikora. KEI yamaze iminota nka 30 ku ishuri ry'imyuga ry'i Murambi maze asubira mu kigo cya jandarumori ari kumwe na Simba, Bucyibaruta na Sebuhura. Semakwavu yasigaye inyuma ashaka abandi basederi bitwaraga gisirikare bo muri Komine ya Mudasomwa kugira ngo abajyane kuri iryo shuri[110].

99. Ku itariki ya 21 Mata, mu masaa mbiri za mu gitondo, KEI yasubiye ku ishuri ry'imyuga ry'i Murambi ari kumwe na Simba, Bucyibaruta, Sebuhura na Semakwavu maze ahamara iminota igeze kuri 20. Avuga ko icyo gihe basanze Abatutsi bose bishwe kandi ko hari imirambo irenga 10.000 igerekeranye. Bucyibaruta yavuze ko bagomba kuzana ibikoresho byo guhamba iyo mirambo maze Simba ashimira abagabye ibitero ko bakoze akazi neza. Amaze kuvuga ko ashaka gutwara imbunda yari yatanze ngo zijye gukoreshwa mu gitero cyo kuri paruwasi ya Kaduha, abagabye igitero bashubije imbunda n'amagerenade asigaye. Simba yabasabye kuvuga itsinda ryishe abantu benshi kurusha ayandi maze we na Bucyibaruta bagabagabanya abagize iryo tsinda inka z'Abatutsi bapfuye. Semakwavu na we yafashe ijambo imbere y'abagabye igitero ariko uyu mutangabuhamya ntavuga ibyo Semakwavu yavuze[111].

[110] Inyandikomvugo y'iburanisha, 25 Ukwakira 2004, imp. 9-10.

[111] Ni kimwe no haruguru, imp. 10-11.

100. Ubwo Simba, Bucyibaruta, Sebuhura na Semakwavu basubiraga mu kigo cya jandarumori, bakoze inama bonyine. Nyuma yaho, KEI yumvise ko kupakupa zari gukoreshwa mu gitero cyagabwe mu Cyanika. KEI yasabye umushahara we maze asubira mu gace avukamo aho yakoreye ibyaha ashinjwa[112].

101. Mbere y'ibyabereye ku ishuri ry'imyuga ry'i Murambi, KEI yari yarabonye Simba inshuro ebyiri ku itariki ya 13 Mata 1994. Kuri iyo tariki yabanje kumubona kuri CIPEP yongera kumubona ku isoko rya Nyamagabe. Uyu mutangabuhamya yerekanye Simba mu iburanisha[113].

Umutangabuhamya ushinja wiswe KEL

102. Uyu mutangabuhamya ni Umuhutu ariko mu muryango we harimo Abatutsi. Muri Mata 1994, yari umunyeshuri afite imyaka 15 kandi yari mu biruhuko abana n'umuryango we hafi ya santeri y'ubucuruzi ya Gasarenda[114]. Mu buhamya yatanze mu Rukiko, avuga ko hafi y'itariki ya 20 Mata 1994, mu masaa cyenda n'igice z'amanywa, yabonye Simba imbere ya bare ya Landouald Karamage kuri santeri y'ubucuruzi ya Gasarenda, Komine ya Mudasomwa. Icyo gihe, Simba yari kumwe na Denys Kamodoka wari umuyobozi w'uruganda rw'icyayi rwa Kitabi, n'abandi bacuruzi bo muri ako gace barimo Karamage, Ngoga, Israel Nsengiyumva, Kajigita na Nkusi. Umutangabuhamya ntiyari muri iyo nama[115].

103. Bukeye mu gitondo, itsinda ry'abantu bagababaga ibitero bagera kuri 500 bitwaje ibikoni, amashoka, imipanga n'imbunda bakoraniye hafi ya sitasiyo ya lisansi. Icyo gihe, KEL yumvise Ngoga, Kamodoka, Karamage n'abandi bantu babwira

112 Inyandikomvugo y'iburanisha, 25 Ukwakira 2004, imp. 11, 12

113 Ni kimwe no haruguru, imp. 2-4.

114 Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 26-28; ibimenyetso gihamya bya Porokireri N° P5 na N° P6.

115 Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 26, 42-43; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 35, 49 ; inyandikomvugo y'iburanisha, 9 Nzeri 2004, imp. 1-4 ; ikimenyetso gihamya cya Porokireri N° P6. Uyu mutangabuhamya avuga kandi ko iyo nama yabaye hashize nk'ibyumweru bibiri Perezida Habyarimana apfuye.

iyo mbaga y'abantu kugaba igitero i Murambi. Yabonye abo bantu bagabaga ibitero bajya i Murambi maze bagaruka ku mugoroba bafite ibintu basahuye. Bukeye, abo bantu basubiye i Murambi maze ku mugoroba bagaruka bigamba ukuntu bishe Abatutsi babifashijwemo n'abajandarume[116].

Umutangabuhamya ushinjura wiswe SBL1

104. SBL1 ni Umuhutu wahoze ari umukozi wo hejuru muri Leta kandi yaba yarashinjwe kuba yaragize uruhare mu byaha byakorewe muri Perefegitura ya Gikongoro. Uyu mutangabuhamya yemeza ko, ku itariki ya 21 Mata 1994, ku ishuri ry'imyuga ry'i Murambi hagabwe ibitero byibasiye impunzi z'Abatutsi. Cyakora, avuga ko ari we ari na Simba nta n'umwe muri bo wabiteguye cyangwa ngo abijyemo[117].

Umutangabuhamya ushinjura wiswe NGJ2

105. NGJ2 ni Umuhutu wahoze ari umukozi wa Leta muri Gikongoro. Mu buhamya bwe mu Rukiko, avuga ko ku itariki ya 21 Mata 1994, mu masaa cyenda za mu gitondo, inkambi y'impunzi y'i Murambi muri Komine ya Nyamagabe yagabweho igitero maze abantu bose bari bahahungiye bakicwa, uretse bake muri bo bashoboye guhunga. Yongeraho ko ubwicanyi bw'i Murambi burangiye, abagabye icyo gitero bagiye mu Cyanika gutera impunzi zariyo. Cyakora, asobanura ko atiboneye n'amaso ye ibitero byagabwe i Murambi[118].

[116] Inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 43-44, 47; inyandikomvugo y'iburanisha, 8 Nzeri 2004, imp. 46-48.

[117] Inyandikomvugo y'iburanisha, 22 Gashyantare 2005, imp. 19-21; inyandikomvugo y'iburanisha, 23 Gashyantare 2005, imp. 35-36; inyandikomvugo y'iburanisha, 24 Gashyantare 2005, imp. 37-38, 50.

[118] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 5, 14, 17. Uyu mutangabuhamya avuga ko santeri ya Cyanika n'iya Murambi byegeranye bikaba bitandukanyijwe n'intera iri hagati ya metero 100 na 200 uri mu kirere ariko umuntu anyuze mu muhanda hagati y'izo santeri hari ibirometero 6 cyangwa 7. Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 14.

4.3 Isesengura ry'Urugereko

106. Mu Nyandiko y'ibirego havugwa ko Simba yatanze itegeko ryo kugaba igitero ku ishuri ry'imyuga ry'i Murambi mu nama yagiranye n'abategetsi bo muri ako gace mu kigo cya jandarumori hafi y'itariki ya 20 Mata. Havugwa kandi ko mu gitondo cyo ku itariki ya 21 Mata, Uregwa yatangiye intwaro aho hantu aziha abagabaga ibitero ndetse akavuga ko yishimiye uko ubwicanyi bwarimo kugenda. Mu gushyigikira ibyo avuga, Porokireri ashingira ahanini ku buhamya bwatanzwe mu Rukiko na KSY wakorewe ibyaha muri ubwo bwicanyi, no ku bwa KEI wahoze afunze kandi uvugwa ko yari hamwe na Simba akanamufasha gutanga izo ntwaro. Muri urwo rwego, Porokireri anashingira ku buhamya bwatanzwe mu Rukiko na KSU uvuga ko yabonye Simba ava i Murambi mu gitondo cyo ku itariki ya 21 Mata. Porokireri avuga kandi ubuhamya bwatanzwe mu Rukiko na KEL waba, mu minsi yabanjirije ubwicanyi, yarabonye Simba aganira n'abakuru b'abagabaga ibitero baje kujya i Murambi nyuma yaho. Cyakora, Urugereko ntirwakiriye ubuhamya bwa KSU kubera ko avuga ku bintu Uregwa atamenyeshejwe mu Nyandiko y'ibirego[119].

107. KEI ni we wenyine utanga ubuhamya ku byavugiwe mu nama yabereye mu kigo cya jandarumori ku itariki ya 20 Mata. Urugereko ruributsa ko, ubwo yatangaga ubuhamya mu Rukiko, KEI yari ategereje kuburanishwa mu Rwanda kubera ibyaha byerekeranye na jenoside, ariko bidafitanye isano n'ubwicanyi bwakorewe mu ishuri ry'imyuga ry'i Murambi kuko ataburegwa mu Rwanda. Urugereko rwasuzumye ubuhamya bwa KEI mu Rukiko bubwitondeye cyane maze rusanga rushidikanya ku ukwizerwa kwe kubera ko hagati y'ubuhamya yatanze mu Rukiko n'ubwanditse yagejeje mbere ku bapererezi b'uru Rukiko harimo ukuvuguruzanya kutatangiwe ibisobanuro byumvikana.

108. Mu buhamya bwanditse yagejeje ku bapererezi b'uru Rukiko ku itariki ya 3 Ukuboza 2001, KEI ntavuga uruhare rwa Simba mu kuzana intwaro mu kigo cya

[119] Reba Icyiciro 1.2.

jandarumori cyangwa ngo avuge uruhare Simba yaba yaragize mu bwicanyi bwakorewe ku ishuri ry'imyuga ry'i Murambi. Muri ubwo buhamya, ashinja ahubwo Bucyibaruta kuba yaragiye kureba Interahamwe zo muri Mudasomwa akanatanga itegeko ryo kugaba igitero i Murambi. Urugereko rusanga yaratanze ubwo buhamya mu iperereza ryakorwaga kuri Bucyibaruta. Cyakora, abajijwe kwisobanura kuri uko kwivuguruza, uyu mutangabuhamya yasubije gusa ko atigeze avuga ibyo bintu. Yasobanuye ko mu by'ukuri yanashinje Simba ubwo yagezaga ubuhamya bwe ku bapererezi b'uru Rukiko, ariko ngo akaba yarabonaga abantu bandikaga ubwo buhamya barimo kugerageza kumukingira ikibaba. Yavuze kandi ko ku mpapuro zimwe z'ubwo buhamya bwe bigannye sinyatire ye. Nyuma yaje kuvuga ko atavuze Simba kubera gutinya ko yagirirwa nabi na bamwe mu bantu bo mu muryango we, ariko ibyo yanze kubitangira ibisobanuro birambuye[120].

109. Urugereko ntirunyuzwe n'impamvu zitandukanye KEI agenda atanga kuri uko kwivuguruza, cyane cyane aho avuga ko abapererezi b'uru Rukiko bashakaga gukingira ikibaba Simba bityo bakanga kwandika ibintu uko yabivugaga[121]. Yemera ko yasinye kuri ubwo buhamya. N'ubwo avuga ko hari impapuro zimwe ziriho sinyatire itari iye, Urugereko ntirubona aho ayo masinya atandukaniye cyane. Rusanga ibisobanuro KEI atanga kuri uko kwivuguruza bituma rushidikanya ku kwizerwa kwe.

110. Urugereko rusanga kandi hari ahandi hantu KEI yivuguruza. Mu nyandikomvugo ya kabiri y'ubuhamya yagejeje ku bapererezi b'uru Rukiko ku itariki ya 2 Ukwakira 2002, uyu mutangabuhamya ntavuga uruhare rwa Simba mu kuzana intwaro mu kigo cya jandarumori ku itariki ya 20 Mata 1994 cyangwa ngo avuge uruhare Simba yagize mu kuziha abagabye igitero i Murambi mu gitondo cyo ku

[120] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 17-26, 38, 57-66; ikimenyetso gihamya cy'Ubwunganizi N° D30.

[121] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, urup. 59. Uyu mutangabuhamya anavuga ko yagejeje ku bapererezi b'Urukiko ubundi buhamya cyangwa butandukanye ashinjamo Simba.

itariki ya 21 Mata. Mu nyandikomvugo ya gatatu y'ubuhamya yagejeje kuri abo bapererezi ku itariki ya 9 Ukuboza 2003, KEI yavuze ko Bucyibaruta yazanye intwaro mu kigo cya gisirikare ku itariki ya 20 Mata[122] .

111. Izindi ngingo z'ubuhamya bwa KEI mu Rukiko na zo zatera umuntu kwibaza. Nk'urugero, ntiyemera ko uruhare yagize mu guha intwaro abagabaga ibitero ahantu hakorewe ubwicanyi rwafatwa nk'icyaha[123]. Anavuga ko igitero cya nyuma simusiga cyagabwe ku ishuri ry'imyuga ry'i Murambi cyatangiye mu masaa tanu z'ijoro ku itariki ya 20 Mata maze kigahitana abantu benshi. Nyamara ariko, KSY we avuga ko icyo gitero cyatangiye mu masaa cyenda z'ijoro ku itariki ya 21 Mata kandi ibyo byemezwa na NGJ2.

112. Kubera ugushidikanya ku ukwizerwa kwa KEI, Urugereko ntirwakwemera ubuhamya bwe budafite ubundi bubushyigikira. Rusanze rero Porokireri ataragaragaje ku buryo budashidikanywaho ko hafi y'itariki ya 19 cyangwa iya 20 Mata Simba, ari mu kigo cya jandarumori, yateguye cyangwa yashishikarihe abategetsi bo muri ako gace kugaba igitero ku ishuri ry'i Murambi, nk'uko abishinjwa mu gika cya 40 cy'Inyandiko y'ibirego. Urugereko rusanga kandi muri dosiye hatarimo ibimenyetso bihagije bigaragaza ko Perefe Bucyibaruta yatanze itegeko ryo kugaba icyo gitero, nk'uko bivugwa mu gika cya 41 n'icya 43 by'Inyandiko y'ibirego.

113. Urugereko rugiye noneho gusuzuma ikibazo cyo kumenya niba Simba yaratanze intwaro akanashimagiza abagabaga ibitero kubera ubwicanyi bakoreye ku ishuri ry'imyuga ry'i Murambi mu gitondo cyo ku itariki ya 21 Mata, nk'uko bivugwa mu gika cya 45 n'icya 46 by'Inyandiko y'ibirego. Kuri icyo kibazo, Urugereko ruributsa ko KSY na KEI bavuga ko Simba yari ku ishuri ry'imyuga ry'i Murambi mu masaa moya za mu gitondo, ku itariki ya 21 Mata.

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[122] Ibimenyetso gihamya by'Ubwunganizi N° D 31 na N° D 32

[123] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, urup. 17

114. Urugereko rusanga KSY avuga, ativuguruza kandi mu buryo busobanutse, ibintu yiboneye byerekeranye n'ibitero byagabwe ku mpunzi z'Abatutsi ku ishuri ry'imyuga ry'i Murambi. N'ubwo asa n'ukabya mu kigereranyo atanga cy'umubare w'abagabye igitero n'uw'impunzi, Urugereko rusanga iyo mibare ari ikigereranyo, bityo bikaba bitamubuza kwizerwa. N'ubwo atari ko Ubwunganizi bubibona, ubuhamya KSY yatanze mu Rukiko kuri Simba buhuye, muri rusange, n'ibyo avuga mu buhamya bwantise yagejeje ku bapererezi b'Urukiko ku itariki ya 16 Kamena 2000. Kuba uyu mutangabuhamya atavuga Simba mu buhamya bwanditse yagejeje ku bapererezi ku itariki ya 10 Gicurasi 2001 ntibyatuma atizerwa kubera ko icyo gihe yabajijwe ahanini kuri Burugumesitiri Nteziryayo.

115. Ubwunganizi bwifashisha inyandikomvugo (*pro justitia)* eshatu z'ubuhamya KSY yagejeje ku bategetsi bo mu Rwanda, aho atavugamo Simba. KSY asobanura ko avuga ko ashidikanya ko ari we waba waratanze bubiri muri ubwo buhamya buvugwa. Umuntu yirengagije ikibazo cyo kumenya niba izo nyandikomvugo ari iz'ubuhamya bwe koko, Urugereko rusanga imwe muri zo yo ku itariki ya 9 Nzeri 1996 ishinja Israel Nsengiyumva, kandi ivugwamo ahantu henshi. Indi nyandikomvugo y'ubuhamya yo ku itariki ya 22 Nzeri 1996 yerekeranye n'umuntu uvugwa ko yishe mwene wabo w'uyu mutangabuhamya kandi ntirebana by'umwihariko n'ubwicanyi bwakorewe i Murambi[124]. Bityo rero, kuba Simba atavugwa muri izo nyandikomvugo zombi si ikintu gikomeye. Cyakora, inyandikomvugo y'ubuhamya KSY yatanze ku itariki ya 20 Ugushyingo 1996 yerekeranye, muri rusange, n'ubwicanyi bwabereye i Murambi. Urugereko rwemera igisobanuro KSY atanga avuga ko yashakaga gushinja abantu bo mu gace atuyemo, akaba ari yo mpamvu atavuze kuri Simba. Uyu mutangabuhamya anavuga ko bumwe mu buhamya yagejeje ku bategetsi bo mu Rwanda busa n'ubwahinduwe. Urugereko ntirunyuzwe n'ibyo bisobanuro[125].

[124] Inyandikomvugo y'iburanisha, 31 Kanama 2004, imp. 36-37

[125] Ni kimwe no haruguru, imp. 17-23.

116. Rushingiye ku buhamya bwa KSY mu Rukiko, Urugereko rusanze, nk'uko bivugwa mu bika bya 38, 39, 43 na 46 by'Inyandiko y'ibirego, abantu babarirwa mu bihumbi bagizwe ahanini n'Abatutsi, baravuye mu ngo zabo bagahungira ku ishuri ry'imyuga ry'i Murambi. Hari n'igihe abategetsi bo muri ako karere, nka Bucyibaruta, Sebuhura cyangwa Semakwavu, bagiye bashishikariza abo bantu kujya ku iryo shuri babizeza ko ariho umutekano wabo warushaho kurindwa. Abo bantu bari babanje guhungira kuri Diyosezi ya Gikongoro. Ku itariki ya 17 n'iya 19Mata[126], Interahamwe, zitwaje ahanini intwaro gakondo, zagabye igitero kuri iryo shuri ariko nta cyo zagezeho. Ibyo bitero byaje kuvamo igitero rusange simusiga cyarimo abantu bitwara gisirikare bafashijwe n'abajandarume, kandi bari bitwaje imbunda n'amagerenade. Igitero cyatangiye ku itariki ya 21 Mata mu masaa cyenda z'ijoro maze kimara umunsi wose kandi gihitana Abatutsi babarirwa mu bihumbi. Urugereko rusanga hataratanzwe ibimenyetso bigaragaza ku buryo buhagije ko impunzi zari zikikijwe n'amabariyeri kugira ngo zitabona uko zihunga, binagaragaza ko izo mpunzi zimwe amazi n'ibiryo, nk'uko bivugwa mu gika cya 39 cy'Inyandiko y'ibirego, cyangwa bigaragaza ko Bucyibaruta na Sebuhura barashe ku mpunzi, nk'uko bivugwa mu gika cya 43.

117. Ku byerekeye uburyozwacyaha bwa Simba, ikibazo gikomeye ni ukumenya niba umuntu yakwizera ibyo KSY yavugiye mu Rukiko ko yamubonye abwira ijambo abagababaga ibitero ndetse akanabaha intwaro ku ishuri ry'imyuga ry'i Murambi ku itariki ya 21 Mata mu masaa moya za mu gitondo. Mu gusuzuma ubwo buhamya, Urugereko ruzirikana ukuntu ibintu byabaye byateraga abantu guhahamuka no kwiheba, cyane cyane ko uyu mutangabuhamya yari amaze amasaha menshi afatanya n'izindi mpunzi kurwanya abagabye igitero mbere y'uko Simba ahagera, nk'uko bivugwa. Kuri iki kibazo, Urugereko rwanasuzumye ibivugwa na KSY rubyitondeye cyane kubera ko, mu Rukiko, uyu mutangabuhamya yavuze ko

[126] Mu ibaza rinyomoza, Ubwunganizi bwavuze ko mu nyandikomvugo y'ubuhamya uyu mutangabuhamya yagejeje ku bapererezi b'Urukiko ku wa 10 Gicurasi 2001, yavuze ko Abatutsi benshi bishwe mu gitero cya mbere. KSY avuga ko uko kwivuguruza guturuka ku ikosa ryakozwe mu isemura. Urugereko rusanga ako kantu gatoya kanyuranye katabuza ko uyu mutangabuhamya yizerwa.

hagati ye na Simba hari intera iri hagati ya metero 70 na 100, kandi ko hari abantu barenga ijana ndetse icyo gihe we akaba yari arambaraye hasi yuvuye amaraso.

118. Cyakora, Urugereko rusanga KSY asobanura ko ubwo Simba yageraga aho hantu, abagabye igitero basakuje bavuga ngo: « Simba wacu araje ». KSY yanabonye Simba mu gihe cy'agahenge cyamaze nk'iminota 15. Icyo gihe, uyu mutangabuhamya yari ahantu hirengeye gato kandi mu bihe binyuranye yabaga ahagaze. Mu ibaza rinyomoza, Ubwunganizi bwavuze ko mu buhamya bwanditse yagejeje ku bapererezi b'Urukiko ku itariki ya 16 Kamena 2000, uyu mutangabuhamya yavuze ko ubwo Simba yahageraga we yari arambaraye hasi, ko atari ahagaze. KSY yasubije ko yari arambaraye hasi maze yabona Simba agahaguruka, kandi Urugereko rwemera icyo gisobanuro. Mbere y'ibyabaye, KSY yari azi Simba kandi yaramwerekanye mu iburanisha. Urugereko rwemera rero ko KSY yabonye Simba abwira ijambo abagabagaba ibitero, abaha n'intwaro. Simba arangije gukora ibyo, abo bantu bongeye kugaba igitero ku mpunzi ariko noneho barushaho gukaza umurego. Hakurikijwe buhamya bwa KSY mu Rukiko, izo ntwaro zatanzwe mu masaa moya za mu gitondo, hashize nk'isaha imwe Bucyibaruta, Sebuhura na Semakwavu bahaye amasasu abagabaga ibitero banashishikariza kimwe cya kabiri cyabo kujya kugaba igitero kuri paruwasi ya Cyanika. Urugereko rusanga na KEI avuga ko, hafi y'iyo saha, Simba yari ku ishuri ry'imyuga ry'i Murambi cyangwa hafi yaryo. N'ubwo ibyo KEI avuga binyuranye n'ibivugwa na KSY mu Rukiko, Urugereko rusanga hari aho abo batangabuhamya bombi bavuga bimwe.

119. Urugereko rwamaze kugaragaza impungenge rufite ku buhamya KEL yatanze mu Rukiko kuri Simba ku byerekeranye n'ibintu byabereye kuri santeri y'ubucuruzi ya Gasarenda. Kubera iyo mpamvu, Urugereko ntirwakwemera ibyo avuga ko yabonye Simba aho hantu hafi y'itariki ya 20 Mata, hatabonetse ubundi buhamya bubishyigikira. Cyakora, Urugereko rwemera ko KEL azi neza ibyabereye, muri rusange, kuri iyo santeri y'ubucuruzi. Bityo rero, rwemera ubuhamya bwe buvuga

ko Interahamwe zo muri Mudasomwa zagiye mu gitero cyagabwe ku ishuri ry'imyuga ry'i Murambi. Ubwo buhamya bushyigikira ubwa KSY kuri iki kibazo

120. Urugereko rwasuzumye kandi ubuhamya bwatanzwe mu Rukiko na NGJ2 na SBL1 ku ruhare rwa Simba muri ibyo byabaye. Ubuhamya bwabo kuri iki kibazo bushingiye ahanini ku kuvuga ko batigeze bumva ko Simba yabigizemo uruhare. Ibyo bazi ntibihagije ku buryo Urugereko rwabishingiraho ngo rube rwafata umwanzuro ku bikorwa bya Simba mu gihe kivugwa. Urugereko ruzirikana kandi ko aba batangabuhamya bombi bavugwa ko bari muri icyo gitero.

121. Mu gusuzuma ubuhamya KSY yatanze mu Rukiko, Urugereko rwanazirikanye imyiregurire ya sina mpari ya Simba, nk'uko bisobanurwa mu buryo bwuzuye mu Cyiciro cya 9. Cyakora, Urugereko rusanga ubuhamya bwakwizerwa bwa KSY n'ukwivuguruza kwinshi kuri mu myiregurire ya sinari mpari bigaragaza ko, hashyizwe mu gaciro, Simba atashoboraga kuba ari i Gitarama igihe icyo gitero cyagabwaga.

5. UBWICANYI BWAKOREWE KU KIRIZIYA YA CYANIKA KU ITARIKI YA 21 MATA 1994

5.1 Inyandiko y'ibirego

122. Igika cya 53 n'icya 54 by'Inyandiko y'ibirego bigira biti:

> 53. Aloys Simba yateguye abasirikare ba Leta, abantu bitwara gisirikare n'abasiviri b'Abahutu maze abategeka kugaba igitero kuri paruwasi ya Cyanika ku itariki ya 21 Mata 1994, cyangwa hafi y'iyo tariki. Icyo gitero cyahise gikurikira icyari cyagabwe ku ishuri ry'imyuga ry'i Murambi kandi cyahitanye abantu babarirwa mu magana b'abagabo, abagore n'abana bari baravuye mu byabo bagahungira kuri paruwasi ya Cyanika. Abenshi mu bakiguyemo bari Abatutsi.

54. Aloys Simba yagenzuye kandi ahuza ibikorwa by'ubwicanyi bwakorewe Abatutsi mu Cyanika kandi ategeka Interahamwe gufungira amayira yose umuntu wese wageragezaga guhunga[127].

5.2 Ibimenyetso

Umutangabuhamya ushinja wiswe ALS

123. ALS ni Umututsikazi w'umuhinzi utuye muri Komine ya Karama. Mu buhamya bwe, avuga ko mu cyumweru cyakurikiye urupfu rwa Perezida Habyarimana, umwarimu w'Umututsi witwa Vincent Rwamikore yamuburiye amubwira ko Abatutsi bagomba guhungira kuri paruwasi ya Cyanika. Ubwo rero yagiye mu Cyanika hari hahungiye Abatutsi benshi umuntu yagereranya n'abantu baremye isoko[128].

124. ALS avuga ko umunsi umwe, mu masaa tanu za mu gitondo, mu mpera za Mata, itsinda ry'Interahamwe ryagabye igitero kuri paruwasi ya Cyanika ariko impunzi zikagisubiza inyuma zikoresheje amabuye. Hashize iminsi itatu, Interahamwe zongeye kugaba igitero kuri iyo paruwasi hagati ya saa mbiri na saa tatu za mu gitondo. Icyo gihe, uyu mutangabuhamya yabonye imodoka nyinshi ziza zishoreranye ziturutse mu muhanda wa Gikongoro-Cyanika. Muri izo modoka, yamenyemo iya EMUJECO, iya Komine ya Mudasomwa, iya Israel Nsengiyumva, iya Kijigiti n'iza bamwe mu bategetsi bo muri Komine ya Karama. Yanabonye abagabye igitero barimo Interahamwe, bambaye amakoma n'ibibabi

[127] Ibivugwa n'ababuranyi kuri ibyo byabaye tubisanga mu myanzuro nsozarubanza ya Porokireri, ibika 71-74 na 99-104 no mu myanzuro nsozarubanza y'Ubwunganizi, ibika 582-674; inyandikomvugo y'iburanisha, 7 Nyakanga 2005 imp. 3-13, 16, 58. Porokireri anashingira ku buhamya bwa KDD mu Rukiko ku nama yabereye kuri CIPEP mu mujyi wa Gikongoro ku wa 26 Mata. Muri iyo nama, Joseph Ntegeyintwali wari Superefe wa Superefegitura ya Karaba yamenyesheje Simba ko yayoboye ubwicanyi bwahitanye Abatutsi 10.000 kuri paruwasi ya Cyanika abifashijwemo n'abajandarume, Interahamwe zo muri Komine ya Mudasomwa n'abasiviri. Iyo nama isuzumwa birambuye mu Cyiciro cya 8.6.

[128] Inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 45-46; ikimenyetso gihamya cya Porokireri N° P3. ALS anavuga ku nama y'abantu benshi yabereye ku isoko rya Kirambi ; iyo nama isuzumwa mu Cyiciro cya 8.2.

by'inturusu ku mutwe, abasirikare bambaye imyenda ya gisirikare n'abajandarume bambaye imyenda yabo n'ingofero zitukura[129].

125. Abagabye igitero baje n'amaguru biruka maze bagota paruwasi ya Cyanika. Icyo gihe bavuzaga amafirimbi, batera amagerenade n'ibindi bintu biturika ndetse barashisha imbunda. ALS yaguye hasi iruhande rw'urukuta rwa kiriziya maze imirambo imugwa hejuru. Ari aho hantu, yabonye abantu bageragezaga guhunga bava ku kiriziya maze bamwe muri bo batemeshwa imipanga abandi bakubitwa udufuni cyangwa ibikoni. Uyu mutangabuhamya yanabonye abantu basahura ibintu bya kiriziya ndetse biba n'inka. Abagabye icyo gitero bari bafunze ahantu hose umuntu yashoboraga kunyura ngo ave kuri paruwasi kandi bageragezaga gukoranyiriza abarokotse ku mbuga ya kiriziya kugira ngo kubatera byorohe. Icyo gitero cyahagaze mu masaa saba cyangwa saa munani z'amanywa ariko ALS yagumye mu mirambo no mu bantu bari bagihirita kugeza ninjoro. Ijoro rimaze kugwa, yarakururutse ajya kwihisha mu murima w'amasaka wari hafi aho[130].

Umutangabuhamya ushinja wiswe KSU

126. KSU ni Umututsi w'umuhinzi utuye muri Komine ya Nyamagabe. Mu buhamya bwe mu Rukiko avuga ko ku itariki ya 21 Mata, yumvise induru z'abantu n'ibintu biturikira ku ishuri ry'imyuga ry'i Murambi ryari hafi aho. Mu masaa mbiri, yabonye Aloys Simba na Kapiteni Faustin Sebuhura w'umujandarume baturuka kuri iryo shuri mu modoka ya Toyota y'umutuku ikurikiwe n'izindi modoka ebyiri za Daihatsu zuzuye Interahamwe n'abajandarume bitwaje ibikoni, imbunda n'amagerenade. Izo modoka zihita, uyu mutangabuhamya yari imbere y'ibiro bya Komine ya Nyamagabe. Simba yavugiye muri mikoro akoranya Interahamwe maze azibwira kujya kurwana mu Cyanika. Simba yavuye mu modoka maze abaza impamvu abantu badafasha abandi mu gitero. Interahamwe zari mu ma

[129] Inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 45-48. « EMUJECO » ni impine ya Entreprise Murenzi Jean & Co.

[130] Ni kimwe no haruguru, imp. 45-48, 81.

modoka ya Daihatsu zarasakuje zivuga ko zigiye mu Cyanika. KSU avuga ko Simba yasubiye mu modoka maze izo modoka zikajya mu Cyanika[131].

127. KSU avuga ko azi neza Simba kubera ko mu mwaka wa 1987 yakoraga ku biro bya perefegitura kandi Simba akaba yarakundaga kuhaza yambaye imyenda ya gisirikare. Yerekanye Simba mu cyumba cy'iburanisha[132].

Umutangabuhamya ushinjura wiswe NGJ2

128. NGJ2 ni Umuhutu wahoze ari umukozi mukuru wa Leta muri ako gace. Mu buhamya bwe mu Rukiko, avuga ko ku itariki ya 21 Mata 1994, mu masaa cyenda z'ijoro, inkambi y'impunzi y'i Murambi muri Komine ya Nyamagabe yatewe maze abantu bose bari bahahungiye bakicwa uretse bake muri bo bashoboye guhunga. Uyu mutangabuhamya avuga ko bamaze kwica impunzi zari i Murambi, abagabye igitero bagiye kuri paruwasi ya Cyanika kugaba igitero ku mpuzi zari zihari[133].

129. Uwo munsi mu masaa tatu za mu gitondo, NJG2 yumvise amasasu avugira kuri paruwasi ya Cyanika. Ubwo yegeraga iyo paruwasi, yabonye abagabye igitero batera inkambi y'impunzi yari ihari. Avuga ko icyo gitero cyatangiye mu masaa mbiri za mu gitondo kikarangira mu masaa cyenda z'amanywa[134].

130. NGJ2 yabonye ko abagabye igitero bari mu matsinda atatu: hari «abantu bari babishishikayemo cyane » bo muri Komine ya Mudasomwa, abajandarume bambaye imyenda yabo y'akazi, n'abaturage bo muri ako gace bagiye kuri paruwasi ya Cyanika bajyanywe no gusahura. Mu bagabye igitero yamenyemo benshi bo muri Komine avukamo ya Mudasomwa. Muri abo harimo Gakura na Ngoga wari umushoferi wa Denys Kamodoka, wari umuyobozi w'uruganda

[131] Inyandikomvugo y'iburanisha, 10 Nzeri 2004, urup. 3; inyandikomvugo y'iburanisha, 13 Nzeri 2004, imp. 12, 32-35, 75-77; ikimenyetso gihamya cya Porokireri N° P7.

[132] Inyandikomvugo y'iburanisha, 10 Nzeri 2004, imp. 25-27.

[133] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 5, 14, 17.

[134] Ni kimwe no haruguru, urup.16

rw'icyayi rwa Kitabi. Uyu mutangabuhamya avuga ko agereranyije, abagabye igitero babarirwaga hagati ya 100 na 150 kandi ko bishe impunzi zigeze ku 5.000[135].

131. NGJ2 ntiyabonye Simba, Sebuhura na Burugumesitiri Ngezahayo cyangwa Perefe Bucyibaruta kuri paruwasi ya Cyanika. Avuga ko nta kintu yashoboraga gukora ngo ahagarike ibitero kuko abajandarume bagombaga kubihagarika na bo bari mu bantu babigabye[136].

Umutangabuhamya ushinjura wiswe SBL1

132. SBL1, wahoze ari umukozi wo hejuru muri Leta, avuga ko atigeze yumva iby'uruhare rwa Simba mu bwicanyi bwabereye kuri paruwasi ya Cyanika[137].

5.3 Isesengura ry'Urugereko

133. Urugereko rusanga ALS avuga ibintu yiboneye kandi byakwizerwa byabereye kuri paruwasi ya Cyanika aho yari yahungiye. Rushingiye ku buhamya bwe, nk'uko bushyigikirwa n'ubw'umutangabuhamya ushinjura wiswe NGJ2, Urugereko rusanze ku itariki ya 21 Mata, mu masaa mbiri cyangwa saa tatu za mu gitondo, Interahamwe n'abajandarume baragabye igitero maze bakica abantu benshi, ahanini b'Abatutsi, bari bahungiye kuri iyo paruwasi. Bamwe mu bagabye icyo gitero bari abo muri Komine ya Mudasomwa. Rushingiye ku buhamya NGJ2 yatanze mu Rukiko, Urugereko rwemera kandi ko benshi mu bagabye igitero kuri paruwasi ya Cyanika bari babanje kujya mu bwicanyi bwabereye ku ishuri ry'imyuga ry'i Murambi riri hafi aho. Ibyo bishyigikirwa n'ubuhamya bwa KSY w'Umututsi wahungiye i Murambi maze akumva Bucyibaruta abwira abagabye igitero kujya kuri iyo paruwasi.

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[135] Ni kimwe no haruguru, imp. 14, 16-18, 90,92.

[136] Ni kimwe no haruguru, imp. 16-18 na 20.

[137] Inyandikomvugo y'iburanisha, 23 Gashyantare 2005, imp. 35-37.

134. Urugereko ntirwashyikirijwe ibimenyetso bigaragaza ko Simba yari kuri paruwasi ya Cyanika igihe ubwicanyi bwarimo gukorwa. Ubuhamya rukumbi buvuga ko Simba yari muri ubwo bwicanyi n'ubwatanzwe na KSU uvuga ko Simba yaje ari kumwe n'amamodoka menshi ashoreranye aturutse ku ishuri ry'imyuga ry'i Murambi, maze agakoranyiriza Interahamwe imbere y'ibiro bya Komine ya Nyamagabe akazibwira kugaba igitero kuri paruwasi ya Cyanika. Porokireri ashaka gukoresha icyo kintu cyabaye nk'igikorwa gifatika kigaragaza ko Simba agomba guhamwa n'icyaha ku byerekeranye n'ubwicanyi bwabereye mu Cyanika[138]. Cyakora, mu Nyandiko y ibirego havugwa gusa muri rusange ko Simba yateguye ubwicanyi bwo kuri paruwasi ya Cyanika akanategeka ko bukorwa. Bityo rero, Urugereko rusanga iyo Nyandiko y'ibirego itaramenyesheje Uregwa mu buryo bukwiye ibyo ashinjwa birebana n'uruhare yaba yaragize muri icyo gitero[139].

135. Ubukemuramanza bw'uru Rukiko buteganya ko, hari igihe Urugereko rushobora kwemerera Porokireri gukosora inenge iri mu nyandiko y'ibirego ariko bigakorwa ari uko gusa ahaye uregwa, adakerewe, amakuru asobanutse kandi atavuguruzanya ku byo ashinjwa[140]. Urugereko rusanga Porokireri ataravuze ibyo bintu haba mu myanzuro mbanzirizarubanza cyangwa mu myanzuro ye yo mu ikubitiro mu magambo. Mu buhamya bwanditse KSU yatanze mbere, yavuze ibyo bintu muri rusange ariko ntiyavuze Simba[141]. Mu ncamake y'ubuhamya KSU yari

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[138] Imyanzuro nsozarubanza ya Porokireri, ibika 74, 102.

[139] Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 193 (« Iyo Porokireri avuga ko uregwa yakoze ubwe ibikorwa bibisha, inyandiko y'ibirego igomba kugaragaza 'umwirondoro w'abakorewe icyaha, igihe n'ahantu icyaha cyakorewe n'ibyifashishijwe mu kugikora'». Hasubirwamo ibivugwa mu rubanza rwa Kupreskic na bagenzi be mu bujurire, 23 Ukwakira 2001, igika 89.

[140] Inyandiko y'urubanza rwa Kupreskic na bagenzi be mu bujurire, 23 Ukwakira 2001, igika 114. Reba n'Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 27; Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 195.

[141] Urugereko rusanga « Gushikiriza Ubwunganizi ubuhamya bwanditse bw'umutangabuhamya, nk'uko biteganywa n'amategeko, bidahagije ngo bube bumenyeshejwe ibikorwa bifatika Porokireri ashaka

kuzatanga mu Rukiko, yatanzwe ku itariki ya 30 Kanama 2004, ni ho honyine havugwa ko Simba yagize uruhare rutaziguye mu bwicanyi bwabereye kuri paruwasi ya Cyanika. Cyakora, mu ibaza ry'ibanze, Porokireri yaretse kubaza ibibazo byinshi kuri icyo kibazo kubera ko Ubwunganizi bwabirwanije[142]. Ibyo bintu byavuzwe mu buryo butunguranye mu ibaza rinyomoza, ubwo umutangabuhamya yasubizaga ikibazo cy'Urugereko[143].

136. Porokireri ntiyahereye igihe Ubwunganizi amakuru asobanutse kandi atavuguruzanya amenyesha Uregwa ibyo ashinjwa ngo bityo abe akosoye inenge iri mu Nyandiko y'ibirego, uzirikanye cyane cyane ko incamake y'ubuhamya KSU yari kuzatanga mu Rukiko yatanzwe hasigaye igihe gito cyane ngo uwo mutangabuhamya yitabe Urukiko. Byongeye kandi, mu isoza ry'ibaza ry'ibanze ni bwo Porokireri yamenyesheje Ubwunganizi ko adashaka gucukumbura iyo ngingo. Kubera izo mpamvu, Urugereko ntirwemera ubwo buhamya kubera ko bwerekeranye n'ibintu Uregwa atamenyeshejwe mu buryo bukwiye mu Nyandiko

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kugaragaza mu iburanisha ». Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 197 (ibisubirwamo bikuwe ahandi ntibyongewemo hano)

[142] Inyandikomvugo y'iburanisha, 10 Nzeri 2004, imp. 28-29 (Perezida: « Ndabaza ubwunganizi niba bwarashoboye gusuzuma ibivugwa mu bika bibiri bya nyuma kugira ngo burebe niba bugikomeje kubirwanya ». Avoka Alao: « Yego Bwana Perezida, turakomeza kubirwanya,… murabona ko muri ibi bika bibiri harimo ibintu bishya bitari mu Nyandiko y'ibirego, bityo bikaba bitagomba kwakirwa ... » Bwana Karegyesa: « …Aha niho dusoreje ibaza ry'ibanze. Kubera ko nta bindi bibazo tubaza umutangabuhamya, nta mpamvu Ubwunganizi bufite bwo kugira ibyo burwanya ». Reba n'Inyandiko Porokireri yoherereje Ishami ricunga imirimo y'Ingereko ku wa 30 Kanama 2004, Igitabo cy'Ubwanditsi bw'Urukiko cyandikwamo inyandiko zinjiye, imp. 2833-2835 (incamake y'ubuhamya KSU azatanga mu Rukiko). Urugereko ruributsa ko inyandiko yasemuwe n'umuntu utarabiherewe ububasha n'Urukiko yatanzwe ku wa 2 Nzeri 2004.

[143] Inyandikomvugo y'iburanisha, 13 Nzeri 2004, urup. 12.

y'ibirego. Bityo rero, ntirubushingiraho mu myanzuro yarwo yo mu rwego rw'amategeko n'urw'ibyabaye[144].

137. Urugereko rusanga ubuhamya bwatanzwe mu Rukiko n'abatangabuhamya bashinjura biswe NGJ2 na SBL1 butakwizerwa bihagije ku buryo rwabuheraho mu gufata imyanzuro iyo ari yo yose ku bikorwa bya Simba muri icyo gihe kivugwa. NGJ2 wabonye icyo gitero ntiyabonye Simba ariko ntasobanura neza ahantu yari ari abibona. SBL1 avuga gusa ko atigeze yumva ko Simba yagize uruhare mu byabaye.

138. Rushingiye ku buhamya bwatanzwe mu Rukiko na ALS, Urugereko rusanga rutarashyikirijwe ibimenyetso bihagije byatuma rufata umwanzuro uvuga ko Simba yateguye, agategeka, akagenzura kandi agahuza ibikorwa mu gitero cyagabwe kuri paruwasi ya Cyanika, nk'uko abishinjwa mu gika cya 53 n'icya 54 by'Inyandiko y'ibirego.

6. UBWICANYI BWAKOREWE KURI PARUWASI YA KADUHA KU ITARIKI YA 21 MATA 1994

6.1 Inyandiko y'ibirego

139. Igika cya 27 kugera ku cya 34 by'Inyandiko y'ibirego bigira biti :

> 27. Guhera ku itariki ya 8 Mata 1994, kubera poropagande yo gutwika no gusahura ingo z'Abatutsi, abasiviri b'Abatutsi babarirwa mu bihumbi bavuye mu makomine yo muri ako gace bahungira kuri

[144] Inyandiko y'urubanza rwa Kupreskic na bangenzi be mu bujurire, 23 Ukwakira 2001, igika 92. Nta shiti ko iryo menyekanishamakuru rituzuye ryabujije Ubwunganizi gukora neza iperereza kandi iyo bubimenyeshwa uko bikwiye, birashoboka ko buba butaririwe bukora iperereza. Reba Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 194 (« Iyo mu myanzuro mbanzirizarubanza cyangwa mu rubanza ariho Porokireri amenyeshereje bwa mbere Ubwunganizi ibintu by'ingenzi byerekeranye n'ibikorwa bibisha Uregwa ashinjwa, icyo gihe ntibyorohera Ubwunganizi gukora neza iperereza mbere y'uko iburanisha ritangira ».

paruwasi ya Kaduha, muri Komine ya Karambo, Perefegitura ya Gikongoro.

28. Ku itariki ya 19 n'iya 20 Mata 1994, cyangwa hafi y'ayo matariki, Aloys Simba yategetse abana, abagore n'abagabo bari bahungiye kuri iyo paruwasi no ku kigo nderabuzima bya Kaduha kwicukurira imva.

29. Ku itariki ya 19 Mata 1994, cyagwa hafi y'iyo tariki, Aloys Simba na Joachim Hategekimana bafashe ijambo imbere y'Abahutu bari bakoraniye kuri santeri y'ubucuruzi ya Kaduha. Aloys Simba yababwiye ko yari kujya ku Gikongoro kuzana imbunda n'amasasu maze akabitanga agarutse.

30. Ku itariki ya 20 Mata 1994, cyangwa hafi y'iyo tariki, Aloys SIMBA yagarutse i Kaduha azanye n'ikamyo irimo abasirikare, imbunda n'amasasu kugira ngo hagabwe igitero cya mbere cya karundura kuri paruwasi ya Kaduha hakoreshejwe imbunda. Izo ntwaro zabitswe mu biro bya superefegitura.

31. Ku itariki ya 20 Mata 1994, cyangwa hafi y'iyo tariki, Aloys SIMBA yamenyesheje abantu bari bateraniye kuri santeri y'ubucuruzi ya Kaduha ko nta kundi Abahutu bari kubigenza uretse kwica Abatutsi bose. Saa cyenda z'ijoro, yategetse abasirikare gutangira kurasa ku mpunzi z'Abatutsi ndetse anategeka abasiviri bari mu gitero gukurikira abasirikare kugira ngo bice Umututsi wese warokoka. Yanategetse abasirikare kurasa umuntu wese wagaraza ubugwari muri icyo gitero. Aloys SIMBA yashyize abasirikare mu byimbo kugira ngo bagote Paruwasi ya Kaduha.

32. Kubera icyo gikorwa cya Aloys Simba cyo guhamagarira abantu ubwicanyi, mu masaa kumi n'imwe za mu gitondo abantu benshi barimo abasirikare, abajandarume, Interahamwe, abarezerivisite cyangwa abantu bari baravuye mu gisirikare, abantu bitwaraga

gisirikare n'abasiviri b'Abahutu, bagabye igitero kuri paruwasi ya Kaduha bakoresheje imbunda, amagerenade, imipanga, impiri n'izindi ntwaro gakondo. Icyo gihe, abasirikare n'abapolisi benshi bari biyoberanyije bigize abasiviri ariko bafite imbunda. Igitero cyarakomeje kugeza mu masaa kumi n'imwe z'umugoroba. Muri icyo gitero cyamaze urebye umunsi wose, Aloys Simba yazaniye kenshi amasasu abagabaga icyo gitero.

33. Mu gitero cyagabwe kuri paruwasi ya Kaduha, Bucyibaruta yahazanye abajandarume mu modoka kugira ngo bafashe abari bagabye icyo gitero. Abo bajandarume bivanze n'abari bagabye igitero maze na bo bakora ubwicanyi.

34. Icyo gitero cyahitanye abantu babarirwa mu bihumbi b'abagabo, abagore n'abana bari kuri paruwasi ya Kaduha, muri Perefegitura ya Gikongoro, ku itariki ya 21 Mata 1994 cyangwa hafi y'iyo tariki. Benshi mu bahitanywe n'icyo gitero bari Abatutsi kandi benshi mu bishwe bahambwe hagati y'itariki ya 23 n'iya 26 Mata 1994 i Kaduha no mu duce tuhegereye[145].

6.2 Ibimenyetso

Umutangabuhamya ushinja wiswe YH

140. YH ni Umuhutu wahoze ari umusirikare mu ngabo z'u Rwanda guhera muri Mata 1991 kugeza hagati muri Mata 1994 ubwo yatorokaga urugamba. Mu mwaka wa 1995 yakurikiranywe mu nkiko zo mu Rwanda kubera gutunga imbunda na gerenade mu buryo butemewe n'amategeko. Afunguwe mu mwaka

[145] Ibivugwa n'ababuranyi kuri ibyo bintu tubisanga mu myanzuro nsozarubanza yanditse ya Porokireri, ibika 75-79, 105-112 no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 364-444; inyandikomvugo y'iburanisha, 7 Nyakanga 2005 imp. 3-4, 9-12, 23, 58, 61, 65. Porokireri anashingira ku buhamya KDD yatanze mu Rukiko avuga ku nama yabereye kuri CIPEP mu mujyi wa Gikongoro ku wa 26 Mata. Icyo gihe, Simba yavuze ko yayoboye ubwicanyi bwakorewe kuri paruwasi ya Kaduha, aho abaturage bishe Abatutsi 20.000. Iyo nama isuzumwa birambuye mu Cyiciro cya 8.6.

wa 1997, yashinjwe ko yafatanyije n'abandi mu bwicanyi bw'abantu batatu ariko budafitanye n'isano n'ubwakorewe kuri paruwasi ya Kaduha. Mu mwaka wa 2003, yarekuwe by'agateganyo nyuma yo kwirega ubwo bwicanyi[146].

141. Uyu mutangabuhamya avuga ko ku mugoroba wo ku itariki ya 20 Mata 1994, Gashugi wari Burugumesitiri wa Komine ya Karambo yahamagaje abarezerivisite n'abapolisi maze ababwira guteranira kuri paruwasi ya Kaduha kugira ngo bafashe abandi kwica Abatutsi. Ku itariki ya 21 Mata, mu masaa kumi n'ebyiri za mu gitondo, Burugumesitiri Gashugi yatanze imodoka ya komine kugira ngo ijyane kuri paruwasi ya Kaduha YH, abajandarume 19, abigeze kuba abapolisi n'abasiviri. Iyo modoka yari ikamyoneti y'ubururu yo mu bwoko bwa Toyota ifite kabine isanzwe. Uyu mutangabuhamya, abajandarume n'abo bantu bigeze kuba abapolisi bari bitwaje imbunda n'amagerenade naho abaturage bitwaje imipanga[147].

142. Ku itariki ya 21 Mata 1994, mu masaa mbiri za mu gitondo, YH yagiye kuri paruwasi ya Kaduha ahasanga abandi Bahutu barenga 500 bari bagabye igitero bitwaje intwaro gakondo. Hashize iminota 20, Simba yarahageze mu modoka ya *Hilux* y'umweru maze afata ijambo imbere y'abagabye igitero mu gihe cy'iminota igeze ku icumi mbere ya saa tatu za mu gitondo. Uyu mutangabuhamya yari nko muri metero 20 z'ahantu Simba yari ahagaze. Icyo gihe, Simba yabwiye imbaga y'abantu bari aho ati « Mpagaze imbere yanyu kuko Guverinoma imfitiye icyizere ikaba yansabye gusubira mu gisirikare. Twaje hano kuko mugomba kwica Abatutsi kugira ngo mukure umwanda hano». YH yongeraho ko Simba yagiye

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[146] Inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 49-52 ; inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 19, 22-23, 34-35, 43-44 ; inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp.17-19, 26; ikimenyetso gihamya cya Porokireri N° P12.

[147] Inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 35-36 ; inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 22-24, 29, 37-38, 41. Hari hashize iminsi uyu mutangabuhamya atorotse igisirikare kugira ngo yite ku muryango we.

aho imodoka ye ya *Hilux* y'umweru yari ihagaze maze agatanga imbunda n'amagerenade menshi, yarangiza agahita agenda[148].

143. YH n'abandi bantu bari bagabye icyo gitero bateye kuri paruwasi mu masaa tatu cyangwa saa ine za mu gitondo maze bica Abatutsi bari bahari. Mu bagabye igitero, ababarirwa hagati ya 50 na 60 bari bitwaje imbunda naho abaturage b'abasiviri bafite imipanga. Uyu mutangabuhamya yavuye kuri paruwasi asubira kuri santeri y'ubucuruzi ya Kaduha mu masaa kumi cyangwa saa kumi n'igice z'umugoroba amaze gushiririrwa n'amasasu. Yongeraho ko yumva ubwicanyi bwarakomeje kugera saa kumi n'ebyiri z'umugoroba. Mu mazu ya paruwasi hari huzuye imirambo y'Abatutsi kandi uyu mutangabuhamya na we yishe abantu ariko ntiyashoboye kuvuga umubare nyawo w'abo yishe[149].

144. Mbere y'icyo gihe, YH yari yarabonye Simba mu gihe cy'iminota iri hagati ya 10 na 15 muri mitingi yabereye muri Komine ya Karambo mu mwaka wa 1993. Yumva ko iyo mitingi yabaye mu rwego rwo kwiyamamariza amatora. Yongeye kubona Simba hagati y'itariki ya 16 n'iya 19 Mata 1994 kuri CIPEP mu mujyi wa Gikongoro, mu nama yari irimo Bucyibaruta na Sebuhura. Icyo gihe, kubera ko YH yari umusirikare, yari arinze umutekano w'umwe mu bantu bitabiriye iyo nama. Uyu mutangabuhamya yerekanye Simba mu cyumba cy'iburanisha[150].

145. YH avuga ko atigeze akurikiranwa ku ruhare yagize mu bwicanyi bwabereye kuri paruwasi ya Kaduha. Cyakora, ngo afite umugambi wo kwirega mu nkiko Gacaca uruhare rwose yagize mu bwicanyi bwakorewe kuri paruwasi ya Kaduha. Avuga ko nta muntu wamusezeranyije inyungu iyo ari yo yose kugira ngo atange

[148] Inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 35, 37-40 ; inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 37, 40. Umutangabuhamya avuga ko yabonye imbunda ebyiri zatanzwe.

[149] Inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 40-44; inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 37-38, 40-41. Umutangabuhamya asobanura ko yarashe amasasu yose yari afite abarirwa hagati ya 70 na 80, n'andi yari muri sharijeri, ndetse ko yanateye amagerenade atatu.

[150] Inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 33-34, 45-46 ; inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp.3-6.

ubuhamya muri uru Rukiko, ariko akongeraho ko yizeye kuzagabanyirizwa igihano[151].

Umutangabuhamya ushinja wiswe KXX

146. KXX ni Umuhutu, akaba yari ufunzwe kubera ko yaregwaga jenoside mu Rwanda, kandi mu mwaka wa 1999 yireze ko yishe abantu batatu. Ubwo yazaga gutanga ubuhamya mu Rukiko, yari yararekuwe by'agateganyo ategereje kuburanishwa mu nkiko Gacaca. N'ubwo yemera ko yagize uruhare mu bwicanyi bwakorewe kuri paruwasi ya Kaduha, avuga ko nta muntu yishe muri icyo gitero[152].

147. Perezida Habyarimana amaze gupfa, KXX n'abandi Bahutu batwitse amazu y'Abatutsi banasahura inka zabo maze bituma Abatutsi bo mu gace KXX yari atuyemo bahungira kuri paruwasi ya Kaduha. Hashize nk'ibyumweru bibiri Perezida apfuye, Joachim Hategekimana wari Superefe wa Superefegitura ya Kaduha na Aloys Simba bakoresheje inama kuri santeri y'ubucuruzi ya Kaduha mu masaa ine za mu gitondo. Hategekimana yahaye ikaze iyo mbaga y'Abahutu bari aho buzuye kuri iyo santeri. Yerekanye Simba wari umaze akanya ahageze maze agira ati «Uyu munyacyubahiro ni Koloneli Simba». KXX asobanura ko yari nko mu ntera ya metero eshanu uvuye aho Simba yari kandi ko icyo gihe Simba yari yambaye imyenda ya gisirikare. Simba yabwiye iyo mbaga y'abantu ati «Murabona ziriya mpunzi ziri kuri paruwasi ya Kaduha ? Ntimuzikoreho. Ntimugire icyo muzitwara… ndabanza njye i Murambi no ku Gikongoro gushaka imbunda. Niturangiza akazi i Murambi no ku Gikongoro,

[151] Inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 48-49 ; inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 34 -35, 43-44; inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 17-19.

[152] Inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 8-10, 12-14 ; ikimenyetso gihamya cya Porokireri N° 13. Umutangabuhamya anavuga ku ihotorwa rya Gasana na Monique, rivugwa mu kirego cya 4 cy'Inyandiko y'ibirego. Cyakora, mu Myanzuro nsozarubanza ya Porokireri yanditse n'iyo mu magambo, avuga ko atagikurikiranye Simba kuri icyo kirego. Reba imyanzuro nsozarubanza yanditse ya Porokireri, igika 49 : inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 26.

tuzaza gukora hano i Kaduha ». Uregwa yanavuze ko iyo mbaga y'abantu yagombaga gukura umwanda mu kiriziya[153].

148. Bukeye bw'aho, KXX yabonye Simba anyura kuri santeri y'ubucuruzi ya Kaduha ari mu modoka Hilux y'umweru kandi inyuma muri iyo modoka harimo intwaro. Iyo modoka yari ikurikiwe n'ikamyo yuzuye imbunda n'abasirikare. Izo modoka zombi ntizari zitwikiriye kandi zimwe mu mbunda ntizari mu bisanduku. Uyu mutangabuhamya yakurikiye izo modoka kugera ku biro bya superefegitura aho yasanze imbaga y'abantu babarirwa hagati ya 200 na 300. Yabonye abajandarume bapakurura za ntwaro bazishyira mu biro. Icyo gihe, hagati ya KXX na Simba hari intera ya metero indwi kandi Simba yari yambaye imyenda ya gisirikare[154].

149. Hashize iminsi ibiri, hagati ya saa mbiri na saa tatu za mu gitondo, KXX yagiye kuri paruwasi ya Kaduha. Avuga ko Simba yahageze mu masaa tatu ari mu modoka y'umweru maze akayihagarika hafi y'ishusho ya Bikira Mariya imbere ya paruwasi. Icyo gihe, uyu mutangabuhamya yabonye abajandarume bapakurura intwaro mu modoka ya Simba kandi yumvise abantu bavuga ko muri izo ntwaro harimo amagerenade[155].

150. Simba yabwiye abagabye igitero bari bateraniye aho hantu ko yabazaniye intwaro n'abasirikare. Yabwiye abagabye igitero ko bagombaga «gukura umwanda» ku kiriziya maze yongeraho ko abaturage bagombaga gutemagura Umututsi wese

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[153] Inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 37-38, 40-42; inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 4-5, 16-17.

[154] Inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 38, 42-43 ; inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 4-5, 16-17.Uyu mutangabuhamya agaruka ku bikubiye mu buhamya yagejeje ku bapererezi b'Urukiko ku wa 21 Nyakanga 2001 maze akavuga ko uwo munsi Simba amaze gusiga imbunda kuri Superefegitura, yakoresheje indi nama kuri santeri y'ubucuruzi ya Kaduha kugira ngo asobanurire abayitabiriye iby'umugambi wo kugaba igitero kuri paruwasi. Inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 39-40; ikimenyetso gihamya cy'Ubwunganizi N° D23.

[155] Inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 39, 43 ; inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 2, 28-31, 40 ; ikimenyetso gihamya cy'Ubwunganizi N° D25.

wari kugerageza guhunga amasasu na gerenade, kugira ngo hatagira n'umwe muri bo urokoka. Icyo gihe hagati ya KXX na Simba hari intera ya metero nka 15 kandi Simba yari yambaye imyenda ya gisirikare. Simba amaze kuvuga ayo magambo yavuye kuri iyo paruwasi nuko abasirikare batangira gutera amagerenade, naho abaturage birara mu mpunzi barazitema n'imipanga. Uyu mutangabuhamya avuga ko agereranyije aho hantu hari abagabye igitero bagera ku 15.000, naho impunzi zibarirwa mu 7.000 cyangwa 8.000. KXX yavuye aho hantu mu masaa tanu za mu gitondo asubira kuri santeri y'ubucuruzi[156].

151. Ubwo KXX yasubiraga kuri paruwasi ya Kaduha mu masaa munani z'amanywa ajyanyweyo no gusahura, yahasanze imirambo y'Abatutsi babarirwa mu bihumbi. Avuga ko yasanze abasirikare bakirimo kwica abarokotse. Uyu mutangabuhamya yavuye aho hantu mu masaa cyenda z'amanywa ariko avuga ko igitero gishobora kuba cyarakomeje kugeza saa kumi n'imwe z'igicamunsi[157].

152. KXX avuga ko Simba ari « umugabo utari muremure cyane, ariko ubyibushye n'ubwo atari cyane». Mu iburanisha, yavuze ko amubonye ashobora kumumenya akaba yamwerekana. Nyamara ariko, amaze gucisha amaso mu cyumba cy'iburanisha, yerekanye umuntu wo mu Biro bya Porokireri avuga ko ari we Simba[158].

Umutangabuhamya ushinja wiswe KSK

153. KSK ni Umututsikazi w'umuhinzi. Avuga ko mu minsi yakurikiye urupfu rwa Perezida Habyarimana yabonye abantu bo mu miryango y'Abatutsi bicirwa mu gace k'iwabo n'amazu yabo agatwikwa. Ku itariki ya 9 Mata, yahungiye kuri paruwasi ya Kaduha hari hahungiye Abatutsi babarirwa mu bihumbi n'Abahutukazi bari bararongowe n'Abatutsi. Umupadiri w'Umurundi witwa

[156] Inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 44-45; inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 6, 41, 43, 60.

[157] Inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 1-2, 49-50, 60.

[158] Ni kimwe no haruguru.

Nyandwi wabaga kuri iyo paruwsi yagurishaga impunzi imfashanyo y'ibiririwa diyosezi yahabwaga mu rwego rwo gufasha abakene bo muri ako gace, kandi mu minsi itatu nyuma y'uko KSK ahagera, igiciro kiyongeraga buri munsi. Nyuma y'icyo gihe, impunzi zatangiye zijya gutoragura ibyo zirya aho babimenye no kwirwanaho ubwazo159 .

154. Ubwo yari ku mashuri abanza ari haruguru ya kiriziya, hafi yo mu gipadiri, KSK yabonye abategetsi benshi baza kuri paruwasi ya Kaduha. Muri abo bategetsi harimo Simba, Laurent Bucyibaruta wari Perefe wa Perefegitura ya Gikongoro, Joachim Hategekimana wari Superefe wa Superefegitura ya Kaduha, Kapiteni Faustin Sebuhura w'umujandarume na Majoru Habyarabatuma. Bucyibaruta yakundaga kuza aho hantu ari kumwe na Hategekimana na Sebuhura. Habyarabatuma na we yigeze kuza ari kumwe na Sebuhura avuga ko ashinzwe umutekano w'impunzi[160].

155. KSK avuga ko Simba yaje kuri iyo paruwasi inshuro ebyiri kandi yanamubonye kenshi kuri santeri y'ubucuruzi ari kumwe na Padiri Nyandwi. Ubwo Simba yari mu nama na Padiri Nyandwi mu gipadiri, nibwo KSK yamubonye bwa nyuma kuri paruwasi ; icyo gihe hari ku wa mbere ku itariki ya 18 Mata mu masaa saba cyangwa saa munani z'amanywa kandi Simba yari yambaye imyenda ya gisirikare ya kaki n'ikote ry'ibihogo. Simba avuye kuri paruwasi, Padiri Nyandwi yasomye misa maze abwira impunzi ko zigomba kuryozwa ibyo zakoze[161].

156. KSK avuga ko azi neza Simba kuko yari yaramubonye inshuro nyinshi mbere y'uko aza kuri paruwasi ya Kaduha muri Mata 1994. Uyu mutangabuhamya yamubonye bwa mbere mu mwaka wa 1975 ubwo yigaga mu mashuri abanza.

[159] Inyandikomvugo y'iburanisha, 20 Nzeri 2004, imp. 2-5, 36-42 ; ikimenyetso gihamya cya Porokireri N° P11.

[160] Inyandikomvugo y'iburanisha, 20 Nzeri 2004, imp. 4-6, 8-9, 41 ; inyandikomvugo y'iburanisha, 21 Nzeri 2004, urup. 2.

[161] Inyandikomvugo y'iburanisha, 20 Nzeri 2004, imp. 8-10; inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 1, 8, 14-17.

Icyo gihe Simba yari anyuze kuri paruwasi ya Kaduha ari kumwe n'impanga ye y'umukobwa yitwa Thérèse Nyirabusimba. Yongeye kumubona mu myaka ya za 70 na 80 ubwo Simba yajyaga anyura muri ako gace mu modoka. By'umwihariko, yamubonye inshuro eshatu atamwegereye mu myaka ya za 90 ubwo yari kumwe na Perezida Habyarimana muri Komine ya Musebeya n'iya Karambo. Nk'uko KSK abisobanura, icyo gihe Simba, wari umusirikare mukuru, yagendanaga na Perezida amurindiye umutekano. Kuri imwe muri izo nshuro, uyu mutangabuhamya yabonye Simba ahanyura mu modoka zishoreranye mu rwego rw'izo ngendo. KSK yerekanye Simba mu cyumba cy'iburanisha[162] .

157. Ku itariki ya 20 Mata, hagati ya saa kumi n'imwe na saa kumi n'ebyiri n'igice z'umugoroba, mwenewabo wa Simba witwa Mpamyabigwi yaje i Musebeya mu ikamyo yuzuye abagabaga ibitero maze batangira kwica abantu kuri paruwasi. Ku itariki ya 21 Mata 1994, mu masaa kumi cyangwa saa kumi n'imwe zo mu rukerera, abagabye ibitero babarirwa mu bihumbi, bari bambaye amakoma kandi bitwaje intwaro gakondo n'imbunda bateye kuri paruwasi ya Kaduha. Icyo gihe, impunzi zirwanyeho zikoresheje amatafari. Igitero cya mbere cyarakomeje kugeza saa tanu z'amanywa. Hagati ya saa tanu n'igice na saa sita z'amanywa, KSK yabonye Sebuhura n'abajandarume baza mu ikamyoneti ya gisirikare bafite imbunda n'amagerenade maze batangira kwica impunzi. Uyu mutangabuhamya avuga ko igihe icyo gitero cyarimo kuba, hari Bucyibaruta na Habyarabatuma wari wazanye abajandarume, imbunda na gerenade[163].

158. Ubwo yahungaga ava kuri paruwasi igitero cya mbere kirangiye mu masaa tanu n'igice za mu gitondo, KSK yumvise benshi mu bagabye igitero bavuga ko baturutse muri Komine ya Mwendo, Perefegitura ya Kibuye. Muri uwo muvundo watewe n'icyo gitero, uyu mutangabuhamya yumvise abakigabye bavuga ko

[162] Inyandikomvugo y'iburanisha, 20 Nzeri 2004, imp. 6-8, 16-20, 23-30.

[163] Ni kimwe no haruguru, imp. 9-11, 44; inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 6-8, 10-11.

batari kugira icyo bageraho na kimwe iyo hataza kuba amagerenade yazanywe na Simba na Habyarabatuma ndetse na Bucyibaruta ntabigiremo uruhare[164].

Umutangabuhamya ushinjura witwa Rose Simba-Thiwa

159. Mu buhamya bwe mu Rukiko, umukobwa wa Simba witwa Rose Simba-Thiwa avuga ko yahuye n'umubikira witwa Milgitha wari kuri paruwasi ya Kaduha mu gihe cy'ubwicanyi. Uwo mubikira yamubwiye ko Simba atari kuri iyo paruwasi igihe hagabwaga igitero[165].

Umutangabuhamya ushinjura wiswe GK1

160. GK1 ni Umuhutu wari i Kaduha nyuma y'urupfu rwa Perezida Habyarimana. Avuga ko yumvise bavuga ko abantu bo mu mitwe yitwaraga gisirikare batangiye gutwika amazu y'Abatutsi kandi ko Abatutsi barimo guteranira ku maparuwasi harimo n'iya Kaduha, bategereje FPR. N'ubwo atagiye kuri iyo paruwasi, uyu mutangabuhamya yumvise ko impunzi zari zirinzwe n'abajandarume bari bakuriwe na poromiye serija Ntamwemezi. Banamubwiye ko mu gitero cyagabwe kuri paruwasi ku itariki ya 21 Mata, Ntamwemezi yayoboye abajandarume naho Rukokoma na Katasi bakayobora abantu bo muri ako gace bitwaraga gisirikare. Kuri iyo tariki ya 21 Mata, GK1 yari nko mu birometero bibiri uvuye kuri paruwasi kandi mu masaa ine za mu gitondo yumvise batangira kurashisha imbunda maze bakomeza ubutaruhuka kugeza saa munani z'amanywa. Uyu mutangabuhamya avuga ko abashinja Simba na Hategekimana ubwicanyi bwakorewe kuri paruwasi ya Kaduha bababeshyera kuko iyo baza kubugiramo uruhare aba yarabyumvise[166].

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[164] Inyandikomvugo y'iburanisha, 20 Nzeri 2004, urup. 11; inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 7, 9-12, 17-18, 27.

[165] Inyandikomvugo y'iburanisha, 17 Gashyantare 2005, imp. 76-77; ikimenyetso gihamya cy'Ubwunganizi N° D69.

[166] Inyandikomvugo y'iburanisha, 23 Gashyantare 2005, imp. 6-7, 10-12, 28, 30-31; ikimenyetso gihamya cy'Ubwunganizi N° 96.

Umutangabuhamya ushinjura wiswe GL3

161. GL3 ni Umuhutu. Mu buhamya bwe mu Rukiko, avuga ko umwe mu bagabye igitero yavuze ko Simba atari ahari ubwo Interahamwe n'abajandarume bicaga impunzi z'Abatutsi kuri paruwasi ya Kaduha ku itariki ya 21 Mata 1994. Uyu mutangabuhamya ntiyabajije uwo muntu, mu buryo butaziguye, niba Simba yari ahari. Ahubwo we yatekereje ko Simba atari muri icyo gitero kubera gusa ko umwe mu bakigabye atavuze ko Simba yari ahari cyangwa ngo avuge ko hari umusirikare mukuru n'umwe wari uhari[167].

Umutangabuhamya ushinjura wiswe GMA5

162. GMA5 ni Umuhutu. Mu buhamya bwe mu Rukiko, avuga ko nyuma y'urupfu rwa Perezida Habyarimana, hakwirakwijwe ibihuha bivuga ko Abatutsi barimo guhungira kuri za paruwasi ngo bategereze FPR. Uyu mutangabuhamya yiyumviye ubwe ko abantu bari bateraniye kuri paruwasi ya Kaduha kandi ko abajandarume bari boherejwe aho hantu kugira ngo babacungire umutekano. Ku itariki ya 22 Mata 1994, nyuma ya saa sita, GMA5 yabonye imirambo ku muhanda ugana kuri iyo paruwasi. Yumvise abantu bavuga ko impunzi zari zatewe n'abajandarume bari bayobowe na poromiye serija Ntamwemezi n'abantu bitwaraga gisirikare bari bayobowe na Rukokoma, Musonera na Katasi. Mu bantu bari kuri iyo paruwasi ku munsi wakurikiye uwo ubwicanyi bwakoreweho, nta n'umwe muri bo ushyira mu majwi Simba ku byerekeranye n'icyo gitero[168].

Umutangabuhamya ushinjura wiswe SBL1

163. SBL1 ni Umuhutu wahoze ari umukozi ukomeye wa Leta kandi yashinjwe kugira uruhare mu byaha byakorewe muri Perefegitura ya Gikongoro. Yemeza ko ku itariki ya 21 Mata Abatutsi biciwe kuri paruwasi ya Kaduha kandi ko, akurikije uko abizi, Simba atari ahari. Nta n'ubwo yigeze yumva bavuga ko Simba yaba

[167] Inyandikomvugo y'iburanisha, 24 Gashyantare 2005, imp. 7-8, 16, 26

[168] Inyandikomvugo y'iburanisha, 22 Gashyantare 2005, imp. 5-9, 11.

yarageze aho hantu igihe cy'ubwicanyi. Avuga kandi ko atigeze yumva hari umuntu uvuga ko Simba yari muri ako gace igihe ubwicanyi bwarimo gukorwa. SBL1 anahakana ko yagiye kuri paruwasi ya Kaduha hagati y'itariki ya 19 na 21 Mata no kuba yaritabiriye ubwicanyi bwahakorewe[169].

6.3 Isesengura ry'Urugereko

164. Abatangabuhamya biswe YH na KXX bavugwaho ko babaye ibyitso bya Simba. Bityo rero, Urugereko rurasuzuma ubuhamya bwabo mu Rukiko rubwitondeye cyane. Muri rusange, aba batangabuhamya bombi ntibavuguruzanya ku byo bavuga biboneye ku kuza kwa Simba kuri paruwasi ya Kaduha ku itariki ya 21 Mata, ku ijambo yabwiye abagabye igitero no ku kuba yaratanze intwaro mbere y'uko ava kuri iyo paruwasi.

165. Urugereko rusanga mu buhamya bwa YH mu Rukiko harimo ibyo avuga umuntu yakwibazaho. By'umwihariko, mu buhamya bwanditse yagejeje mbere ku bategetsi bo mu Rwanda, ntiyavuze ko yagize uruhare mu bwicanyi bwakorewe kuri paruwasi ya Kaduha. Uyu mutangabuhamya asobanura ko yabitewe n'uko yateganyaga gutanga ubwirege bwuzuye mu nkiko Gacaca. Urugereko rwemera icyo gisobanuro kandi rusanga mu cyiciro kibanza cy'urubanza rwe mu Rwanda yarageragezaga gupfobya uruhare yagize muri jenoside.

166. Urugereko rusanga kandi hagati y'ubuhamya YH yatanze mu Rukiko n'ubwanditse yagejeje mbere ku bategetsi bo mu Rwanda ku itariki ya 1 Ukwakira 1997, harimo ukuvuguruzanya ku birebana n'igihe yamaze mu gisirikare kuva mu mwaka wa 1991 kugera hagati muri Mata 1994. Mu nyandikomvugo y'ubuhamya yagejeje ku bategetsi bo mu Rwanda, YH yavuze ko yavuye mu gisirikare muri Kanama 1993, ko rero ibivugwa byabaye ari hafi kumara umwaka umwe akivuyemo. Muri ubwo buhamya yatanze ku itariki ya 1

[169] Ni kimwe no haruguru, imp. 19-21, 47; inyandikomvugo y'iburanisha, 23 Gashyantare 2005, urup. 35; inyandikomvugo y'ibiranisha, 24 Gashyantare 2005, imp. 38, 50.

Ukwakira 1997, yanavuze ko kuva muri Mata kugera muri Nyakanga 1994 yari afunze. Mu buhamya yatanze mu Rukiko, YH avuga ko atemera ibyanditse muri izo nyandikomvugo yagejeje ku bategetsi bo mu Rwanda ngo kuko bamukubise maze bakandika ibyo bishakiye. Ntavuga impamvu yaba yaratumye abategetsi bo mu Rwanda bashaka kwandika ko yavuye mu gisirikare muri Kanama 1993 aho kuba muri Mata 1994[170]. Urugereko ntirunyuzwe n'ibyo bisobanuro. Cyakora, rusanga ukuvuguruzanya hagati y'ubuhamya yatanze mu Rukiko n'ubwanditse yagejeje ku bategetsi bo mu Rwanda ku itariki ya 1 Ukwakira 1997 kugaragaza gusa ko uyu mutangabuhamya yageragezaga kwigurutsa ibyaha yaje kugera aho akemera.

167. Mu isesengura ry'ukwizerwa kwa YH, Urugereko rwanasuzumye ibindi bintu binyuranye bivugwa n'Ubwunganizi. Nk'urugero, rwasanze inyandiko yakozwe n'ubutegetsi igaragaza ko umwofisiye YH avuga ko bajyanye ku biro bya Perefegitura ya Gikongoro yari yaroherejwe gukorera muri Perefegitura y'Umutara mu majyaruguru y'u Rwanda kuva muri Werurwe 1994[171]. Urugereko rusanga iyo nyandiko itagaragaza nta shiti ahantu abategetsi bose bari hagati muri Mata kubera ibintu byabaye nyumva y'urupfu rwa Perezida. Urugereko ntirubona kandi akamaro k'ibyo Ubwunganizi buvuga ku nama yabaye mu mwaka wa 1993 aho YH yabonye bwa mbere Simba. Uyu mutangabuhamya avuga gusa akekeranya ko iyo nama yari yerekeranye n'amatora. Naho ku byerekeye ibivugwa ko hari ukuvuguruzanya hagati y'ubuhamya bwa YH mu Rukiko buvuga ko yageze mu gace avukamo hagati y'itariki ya 16 n'iya 19 Mata

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[170] Inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 13-17, 22, 25-30, 33-34; inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 21-22. Umutangabuhamya avuga ko yemera ubuhamya bwose bwanditse yatangiye mu Rwanda uretse bumwe bwo mu mwaka wa 1997. Asobanura ko yabusinye ariko batabanje kubumusomera. Inyandikomvugo y'iburanisha, 22 Nzeri 1004, urup. 18. Uyu mutangabuhamya yaje kuvuga ko atabusinye. Inyandikomvugo y'iburanisha, 23 Nzeri 2004, urup. 22; ikimenyetso gihamya cy'Ubwunganizi N° 19.

[171] Ikimenyetso gihamya cy'Ubwunganizi N° D147 (Imyanya abofisiye bo mu ngabo z'u Rwanda barimo: *« Situation Officiers Armée rwandaise »*, MINADEF, 5 Werurwe 1994).

n'ubuhamya bwanditse bwafashwe n'abapererezi b'Urukiko aho avuga ko yahungiye ku Gikongoro ku itariki ya 14 Mata nyuma y'igitero FPR yagabye i Butare, Urugereko rwemera igisobanuro cy'uyu mutangabuhamya kivuga ko yibeshye ku matariki. Ubwunganizi ntibwacukumbuye ibyo uyu mutangabuhamya avuga ku birebana n'igitero cya FPR.

168. Urugereko runyuzwe n'ubuhamya bwatanzwe na YH kandi rusanze ari ubwo kwemerwa no kwizerwa kuko avuga ibyo yiboneye byerekeranye n'uruhare rwa Simba mu bwicanyi bwabereye kuri paruwasi ya Kaduha. Byongeye kandi, kwizerwa k'uyu mutangabuhamya bishimangirwa n'uko ubuhamya bwe bushyigikirwa n'ubwa KXX. Mbere y'ibyabaye, YH yari asanzwe azi Simba kandi yaramwerekanye mu cyumba cy'iburanisha. Urugereko rusanga utuntu tudasobanutse mu buhamya bwa YH, nk'uko twasuzumwe haruguru, tudatuma rushidikanya ku buhamya yatanze mu Rukiko ku bintu yiboneye. Ubuhamya YH yatanze mu Rukiko bushobora gutuma aryozwa ibyaha biruta ibyo ashinjwa ubu mu Rwanda. Muri rusange, ubuhamya yatanze mu Rukiko ntibuvuguruzanya n'ubwanditse yagejeje ku bapererezi b'Urukiko ku itariki ya 9 Ukuboza 2001[172].

169. Urugereko rwahaye agaciro gake ubuhamya bwa KXX. Mu by'ukuri, byagoye uyu mutangabuhamya kuvuga neza uko ibintu byakurikiranye ku byerekeye ubwicanyi bwakorewe kuri paruwasi ya Kaduha. Kuva ubuhamya bwe butangira kugera burangira, KXX yakomeje kuvuga ko ubwo bwicanyi bwabaye nyuma y'iminsi mike Perezida Habyarimana apfuye[173]. Nta kintu kigaragaza ko uyu mutangabuhamya yari azi Simba mbere y'ibyabaye ku buryo byagaragaza ko yashoboye kumumenya nta kwibeshya igihe ibyo bintu byarimo kuba. Ibyo kandi

[172] Ikimenyetso gihamya cy'Ubwunganizi N° D18.

[173] KXX yabanje kuvuga ko igitero cyo kuri paruwasi ya Kaduha cyagabwe hashize iminsi ibiri Perezida Habyarimana apfuye, ariko nyuma aza kwisubiraho avuga ko cyagabwe hashize iminsi ibiri intwaro zibitswe kuri superefegitura. Mu ibazwa ry'inyongera ni bwo yahinduye ibyo avuga kuri icyo gitero kugira ngo bihure n'ibyo avuga mu buhamya yagejeje mbere ku bapererezi b'Urukiko, ni gutyo yavuze ko ibyo byabaye hashize ibyumweru bike Perezida apfuye. Reba inyandikomvugo y'iburanisha, 24 Nzeri 2004, imp. 2, 31, 40, 59; inyandikomvugo y'iburanisha, 23 Nzeri 2004, imp. 39-41, 48.

bishimangirwa n'uko atashoboye kumumenya mu cyumba cy'iburanisha. Byongeye kandi, mu buhamya bwanditse yagejeje ku bapererezi b'Urukiko, KXX ntavuga ku buryo busobanutse ko Simba yari kuri paruwasi ya Kaduha mu gitondo cyo ku itariki ya 21 Mata. Muri ubwo buhamya bwanditse, uyu mutangabuhamya avuga gusa, muri rusange, ko Simba yagize uruhare mu gitero cyagabwe aho hantu[174]. Urugereko rwemera ubuhamya bwe mu Rukiko aho gusa rusanga rufite ubundi bubushyigikira uko bikwiye, nk'urugero aho buhura n'ubwa YH. Kubera rero ko rushidikanya ku ukwizerwa kwa KXX, Urugereko ntirwemera ibyo uyu mutangabuhamya avuga, bidafite gishyigikira, ko Simba yafashe ijambo imbere y'imbaga y'abantu kuri santeri y'ubucuruzi ya Kaduha, akanaha intwaro abategetsi ba superefegitura hasigaye iminsi mike ngo kuri paruwasi ya Kaduha hagabwe igitero[175].

170. Urugereko rusanga muri rusange ubuhamya bwa KSK ku byo yiboneye byabereye kuri paruwasi bwakwizerwa. Rusanga muri ubwo buhamya KSK atavuga, mu buryo butaziguye, ko Simba cyangwa Bucyibaruta bari kuri iyo paruwasi igihe igitero cyagabwaga aho hantu ku itariki ya 21 Mata. By'umwihariko, ubuhamya bwe ku byo Simba yakoze ku munsi w'igitero bushingiye ku byo yumvanye

[174] Umutangabuhamya asobanura ko ibibazo by'Ubwunganizi byamuteye umunaniro kandi ko bitamutangaza aramutse yaratanze ibisubizo binyuranye nibyo yagejeje mbere ku bapererezi. Inyandikomvugo y'iburanisha, 24 Nzeri 2004, urup. 40-42.

[175] Mu buhamya bwe mu Rukiko, uyu mutangabuhamya ashaka kumvikanisha ko Simba yagiye mu yindi nama yabereye kuri santeri y'ubucuruzi ya Kaduha. Cyakora, yavuze ibyo bintu mu ibaza rinyomoza ubwo yasubizaga ibibazo ku bintu avuga mu nyandikomvugo y'ubuhamya yatanze mbere. Urugereko rusanga muri dosiye bidasobanutse neza niba uyu mutangabuhamya yarumvise imiterere y'ikibazo kubera ko avuga ko, mu ibaza ry'ibanze yavuze kuri iyo nama. Cyakora, muri iryo baza ry'ibanze umutangabuhamya yavuze gusa inama Burugumesitiri Gashugi yakoresheje ku wa 20 Mata. Umutangabuhamya yaje gusobanura ko atari mu nama yabereye kuri santeri y'ubucuruzi ya Kaduha hasigaye umunsi umwe ngo igitero kigabwe kandi Simba akaba yari ayirimo. Kubera iyo mpamvu, Urugereko ntiruha agaciro ibivugwa kuri icyo kibazo. Inyandikomvugo y'iburanisha, 22 Nzeri 2004, imp. 7-8, 24-25.

abandi kubera ko yari yahunze abagabye ibitero[176]. Mu buryo busobanuye kurushaho, ubuhamya bwe kuri Simba no ku bandi bategetsi bwibanda ahanini ku birebana n'uko bari kuri paruwasi mu minsi yabanjirije ubwicanyi.

171. Kubera ko KSK yari kuri paruwasi, Urugereko rwemera ko ashobora kuba yarabonye abategetsi banyuranye bo muri ako karere bahaza. Cyakora, dosiye ntigaragaza neza ko uyu mutangabuhamya yari azi abo bategetsi neza cyangwa ko hari impamvu zihagije zatumaga amenya Simba, Bucyibaruta, Hategekimana na Sebuhura urebye ukuntu hari mu bihe bikomeye kubera ibyabereye kuri iyo paruwasi. Ibyo KSK avuga byerekeranye no kuba abategetsi baraje kuri paruwasi na byo ntibirimo igisobanuro na kimwe gifatika cyatuma Urugereko rudashidikanya ko yashoboraga gukurikiranira hafi ibyabaga, akanashobora no kumenya neza abo bategetsi no kubatandukanya. Kubera iyo mpamvu, Urugereko ntirwapfa gushingira ku buhamya bwe mu Rukiko kubyerekeranye no kumenya abategetsi baje kuri paruwasi.

172. Ku birebana n'ukuntu KSK yamenye Simba, Urugereko rusanga ibyo avuga ko amuzi bishingiye gusa ku kuba yaramubonye inshuro zinyuranye ariko buri gihe amubona akanya gato, mu gihe cy'imyaka ibarirwa muri 20 cyangwa muri mirongo ingahe ubwo uwo yemeza ko ari Simba ngo yabaga ari kure cyangwa amunyuzeho mu modoka. Urugereko rusanga kandi bitangaje cyane kubona KSK yaba yarashoboye kubona Simba atwaye ipikipiki kuri santeri y'ubucuruzi ya Kaduha. Ni we mutangabuhamya wenyine uvuga ibyo bintu kuko abandi batangabuhamya bashinja n'abashinjura bavuga ko Simba yagendaga mu modoka ya Benz y'umweru cyangwa iya Toyota Hilux. KSK anavuga ko mu mwaka wa

[176] Mu ibaza ry'ibanze, KSK yavuze ko « Simba yari mu bagabye igitero », ariko nyuma aza kuvuga ko mu by'ukuri atabonye Simba umunsi icyo gitero kigabwa. Byongeye kandi, Porokireri yabajije uyu mutangabuhamya niba yarabonye Bucyibaruta igihe icyo gitero cyarimo kuba maze asubiza ko Bucyibaruta yaje ku Cyumweru guha Umubikira Melgitha abajandarume bo kumurinda, kandi ko uwo munsi atari wo igitero cyagabweho. Inyandikomvugo y'iburanisha, 20 Nzeri 2004, urup. 11; inyandikomvugo y'iburanisha, 21 Nzeri 2004, imp. 8-12, 17, 27.

1992, yabonye Simba na Bucyibaruta muri mitingi ya MDR yo gukura MRND ku butegetsi kandi abo bagabo bombi bari abarwanashyaka ba MRND[177].

173. Mu myanzuro yabwo, Ubwunganizi bunakemanga ukwizerwa kwa KSK kubera ko uyu mutangabuhamya yemeza ko Simba na mushiki we ari impanga, ko atashoboye kumenya ibiri kuri amwe mu mafoto ngo bitewe n'uko afite ibibazo by'amaso ndetse ko anakabya mu bigereranyo by'imibare atanga y'abagabye ibitero n'abakorewe ibyaha. Cyakora, Urugereko rusanga ibyo bitatuma rushidikanya ku birebana n'ukwizerwa kwa KSK muri rusange[178].

174. Rushingiye ku buhamya bwa KSK, nk'uko bushyigikirwa n'ubwa KXX, Urugereko rusanze mu minsi yakurikiye urupfu rwa Perezida Habyarimana, Abahutu bitwaraga gisirikare baratangiye kugaba ibitero ku Batutsi no gutwika amazu yabo, bigatuma Abatutsi bahungira kuri paruwasi ya Kaduha. Rushingiye ku buhamya bwa YH, Urugereko rusanze ku itariki ya 21 Mata, mu masaa kumi n'ebyiri za mu gitondo, Burugumesitiri wa Komini ya Karambo yaratwaye mu modoka abantu 20 bagabaga ibitero kandi bitwaje intwaro abajyana kuri paruwasi ya Kaduha. Abo bantu, barimo YH, abajandarume n'abarezerivisite, bamaze kugera kuri iyo paruwasi, haje Abahutu bitwaraga gisirikare babarirwa mu magana kandi bitwaje intwaro gakondo. Urugereko rusanga KSK n'abatangabuhamya bashinjura biswe GK1 na GL3 na bo bavuga ku birebana n'uruhare rw'abajandarume mu bwicanyi bwakorewe kuri paruwasi ya Kaduha.

175. Urugereko rusanze mu masaa tatu za mu gitondo, Simba yarageze kuri paruwasi ya Kaduha mu modoka ya Hilux y'umweru, maze agafata ijambo imbere y'abagabye igitero. Yababwiye kwica Abatutsi kuri iyo paruwasi kugira ngo

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[177] Inyandikomvugo y'iburanisha, 20 Nzeri 2004, imp. 31-34. Urugereko ruributsa ko icyo gihe Simba yari Perezida wa MRND muri Perefegitura ya Gikongoro. N'ubwo uyu mutangabuhamya ashobora kuba yaribeshye ku cyo iyo mitingi yari igamije, bituma umuntu arushaho kwibaza ibibazo ku kuntu azi Uregwa n'icyatumye ashobora kumumenya.

[178] Nk'uko bigaragaza mu kimenyetso gihamya N° D146 cyatanzwe n'Ubwunganizi, Tereza Nyirabusimba arusha Simba imyaka ibiri.

« bakureho umwanda uhari ». Amaze kuvuga iryo jambo, Simba yahaye imbunda n'amagerenade abagabye igitero maze ahita agenda. Ubwo rero abagabye igitero batangiye kwica Abatutsi bari kuri iyo paruwasi. Ibyabereye aho hantu bisobanurwa na YH wiboneye Simba amwegereye kandi ubuhamya bwe bushyigikirwa n'ubwa KXX. Urugereko rusanga mu buhamya bwe mu Rukiko, KSK avuga ko igitero cyatangiye mbere yaho mu masaa kumi n'imwe zo mu rukerera. Urugereko rusanga igihe KSK avuga ko igitero cyatangiriyeho ari ikigereranyo kandi ntikivuguruzanya n'ikivugwa na YH na KXX.

176. Mu gufata uwo mwanzuro, Urugereko rwanasuzumye ubuhamya bw'abatangabuhamya bashinjura biswe GK1, GL3, GMA5 na SBL1, n'ubw'uwitwa Rose Simba-Thiwa, bavuga bose ko Simba atagize uruhare muri ubwo bwicanyi. Urugereko rusanga nta n'umwe muri abo batangabuhamya wari kuri paruwasi ya Kaduha igihe harimo kugabwa igitero. Amakuru batanga ku byabaye ashingiye ku byo bumvanye abandi bityo Urugereko rukaba rushidikanya ku gaciro kahabwa ubuhamya bwabo. Ubuhamya bwabo mu Rukiko bushingiye ahanini ku kuvuga ko batumvise hari umuntu uvuga ko Uregwa yagize uruhare muri ubwo bwicanyi.

177. Mu isesengura ry'ubuhamya bwatanzwe mu Rukiko buvuga ko Simba yari kuri paruwasi ya Kaduha, Urugereko rwanazirikanye imyiregurire ye ya sinari mpari nk'uko bisobanurwa mu Cyiciro cya 9. Cyakora, Urugereko rusanga ubuhamya bwakwizerwa kandi bufite ubundi bubushyigikira bwa YH ndetse n'ukwivuguruza kunyuranye kuboneka mu myiregurire ya sinari mpari bituma, hashyizwe mu gaciro, ntawakwemera ko Simba ashobora kuba yari i Gitarama igihe icyo gitero cyagabwaga.

178. Urugereko rusanze Porokireri yaragaragaje ku buryo budashidikanywaho ko ubwo Abahutu bitwaraga gisirikare batangiraga gusahura no gutwika ingo z'Abatutsi, Abatutsi benshi bahungiye kuri paruwasi ya Kaduha, nk'uko bivugwa mu gika cya 27 cy'Inyandiko y'ibirego. Byongeye kandi, nk'uko bivugwa mu gika cya 32 cy'Inyandiko y'ibirego, rusanze Simba yarahaye intwaro abagabye

igitero kuri paruwasi ya Kaduha ku itariki ya 21 Mata. Rusanze na none icyo gitero cyagabwe kuri iyo paruwasi cyarahitanye Abatutsi benshi cyane, nk'uko bivugwa mu gika cya 34 cy'Inyandiko y'ibirego. Urugereko rusanze ibimenyetso rwagejejweho bidahagije gushyigikira ibivugwa kuva mu gika cya 28 kugera ku cya 31 by'Inyandiko y'ibirego.

7. UBWICANYI BWAKOREWE MURI KOMINE YA RUHASHYA, KU ITARIKI YA 29 MATA 1994

7.1 Inyandiko y'ibirego

179. Ibika kuva ku cya 47 kugera ku cya 52 by'Inyandiko y'ibirego bigira biti:

> 47. Muri Mata 1994, nyuma y'urupfu rwa Perezida, Aloys Simba yateguye ibitero bibiri bya karundura maze ategeka abasirikare bo mu ngabo z'igihugu, abantu bitwaraga gisirikare n'abasiviri b'Abahutu kugaba ibyo bitero ku Batutsi bari baravuye mu byabo bari muri Komine ya Ruhashya (Perefegitura ya Butar(e). Igitero cya mbere cyibasiye abavuye mu byabo bari kuri santeri y'ubucuruzi ya Rugogwe naho icya kabiri kigabwa ku bavuye mu byabo bari ku gasozi ka Gashoba.
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> 48. Aloys Simba yahaye intwaro abagabye ibyo bitero kandi abatwara mu modoka kugira ngo bajye gutera. Yatwaye Interahamwe azijyana ku kiraro cya Muhange kiri ku rubibi rwa Kinyamakara (Perefegitura ya Gikongoro) na Ruhashya (Perefegitura ya Butare). Interahamwe zahagurukiye aho hantu zijya kwirukankana no kwica impunzi zari zaravuye mu byazo muri Komine ya Ruhashya, iya Rusatira n'iya Nyabisindu, zo muri Perefegitura ya Butare.
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> 49. Aloys Simba n'abasirikare bamurindaga bagize uruhare muri ubwo bwicanyi kuko barashe Abatutsi bagerezagaza guhunga Interahamwe. Ibyo bitero byahitanye Abatutsi benshi bagizwe n'abagabo, abagore n'abana. Igihe ubwicanyi bwarimo gukorwa,

Aloys SIMBA na we yabaga aha amabwiriza abandi bicanyi ndetse anabashishikaza.

50. Mbere y'igitero cyagabwe kuri santeri y'ubucuruzi ya Rugogwe, mu mpera za Werurwe 1994, Aloys Simba yazanye intwaro zirimo imbunda ndende n'ingufi ku biro bya Komine ya Kinyamakara ari na ho zabitswe. Yahaye intwaro abagabaga ibitero kandi abaha n'amabwiriza asobanutse yerekeraney n'ukuntu bagombaga kugaba ibitero.

51. Aloys Simba, wari witwaje intwaro kandi yambaye imyenda ya gisirikare, yayoboye abantu barenga igihumbi mu bitero byagabwe muri Komine ya Ruhashya. Abasiviri bamwe bari bafite intwaro bo muri ako gace bagiye aho hantu bari mu modoka za burugumesitiri naho abandi bagenda mu i kamyoneti ya gisirikare yatanzwe na Aloys Simba. Aloys Simba yabaga buri gihe ahari, agenzura ibyakorwaga kandi atanga amategeko yo kugaba ibitero.

52. Ibitero byagabwe i Rugogwe n'i Gashoba, muri Komine ya Ruhashya byahitanye abantu babarirwa mu magana b'abagabo, abagore n'abana kandi benshi muri bo bari Abatutsi[179].

7.2 Ibimenyetso

Umutangabuhamya ushinja wiswe ANX

180. ANX ni Umuhutu, akaba yari umuhinzi muri Komine ya Kinyamakara muri Mata 1994. Mu gihe ibivugwa byabaga, yari afite hafi imyaka 18 kandi yari umuyoboke

[179] Ibivugwa n'ababuranyi kuri icyo kintu cyabaye tubisanga mu myanzuro nsozarubanza yanditse ya Porokireri, ibika 80-86 na 113-119 no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 657 - 742; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 3-4, 14-16, 59-60, 69; inyandikomvugo y'iburanisha, 8 Nyakanga 2005, imp. 13-14. Porokireri anavuga ku buhamya bwa KDD mu Rukiko bwerekeranye n'inama yabereye kuri CIPEP mu mujyi wa Gikongoro ku wa 26 Mata. Muri iyo nama, Simba yasabye ba burugumesitiri gufata ingamba zose za ngombwa ngo barimbure Abatutsi bose bari bahungiye muri Komine ya Ruhashya, Perefegitura ya Butare. Iyo nama isuzumwa birambuye mu Cyiciro cya 8.6.

wa MRND. Uyu mutangabuhamya ubu ufungiwe mu Rwanda yireze ibyaha imbere y'abategetsi bo mu Rwanda ku byerekeranye n'uruhare yagize mu bwicanyi mu gihe cya jenoside. Urubanza rwe rwaratangiye, ariko kubera ko abarokotse jenoside babyitambitsemo rwarasubitswe mu gihe hategerejwe ko hazashyirwaho abacamanza bashya bo kuruburanisha. ANX yizera ko ubwirege bwe buzatuma ababarirwa kandi akagirirwa imbabazi z'ibyaha yakoze. Yiyemerera ko yagiye mu gitero cyagabwe muri Komine ya Ruhashya kigamije kwica no gusahura, ariko avuga ko nta muntu yishe[180].

181. Mu buhamya bwe mu Rukiko, ANX avuga ko ku itariki ya 27 Mata 1994 nyuma ya saa sita, Alphonse Gasasira wari umukuru w'urubyiruko yakoresheje indangururamajwi maze agakoranyiriza abantu babarirwa hagati ya 500 na 2.000 ku muhanda uhuza Kamweru na Kirambi. Uyu mutangabuhamya yagiye aho abo bantu bari bateraniye kandi benshi muri bo bari abo muri Komine za Rukondo, Karama na Kinyamakara. Iyo mbaga y'abantu yahagaze ku Kamweru, hafi y'ikiraro cy'uruzi rwa Mwogo maze Charles Munyaneza wari Burugumesitiri wa Kinyamakara afata ijambo imbere y'abantu bagera kuri 500 bari bateraniye kuri urwo ruzi, ababwira ko bagomba kugaba igitero ku bantu bari barahungiye ku gasozi ka Rubaba n'aka Gashoba, muri Perefegitura ya Butare, bavuye mu ya Gikongoro. Munyaneza yavuze ko mbere yo gufata icyemezo cyo gutera izo mpunzi yari yabanje kugisha inama Laurent Bucyibaruta wari Perefe wa Perefegitura ya Gikongoro na Aloys Simba. Abo bantu bari bateraniye aho ntibagabye igitero ku itariki ya 27 Mata 1994 kubera ko batashoboye kwambuka urwo ruzi. Abapolisi ba Komine barashe ku mpunzi ariko ntihagira umuntu

[180] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 16, 26; inyandikomvugo y'iburanisha, 2 Ugushyingo 2004, imp. 1-4; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, urup. 7; inyandikomvugo y'iburanisha, 5 Ugushyingo 2004, imp. 8-9, 11, 30; ikimenyetso gihamya cya Porokireri N° P17. ANX anavuga ku itangwa ry'imbunda muri Komine ya Kinyamakara hagati muri Mata. Ibyo bisuzumwa mu Cyiciro cya 8.5.

n'umwe muri izo upfa kubera ko igihe abo bapolisi barasaga izo mpunzi zarambaraye hasi[181].

182. Ku itariki ya 28 Mata 1994, ANX n'abandi bantu bagabye igitero barenga 3.000 bateye kuri santeri ya Rwaniro n'iya Kirwa muri Komine ya Ruhashya. Icyo gihe na none, Munyaneza yabwiye iyo mbaga y'abantu kugaba igitero, ababwira ko byategetswe na Simba, Bucyibaruta, Sebuhura n'abasuperefe. Munyaneza yanemereye iyo mbaga y'abantu ko batari kuzakurikiranwa bazira ko bagiye muri icyo gitero. Abagabye igitero basahuye urusyo rw'i Rwaniro barangije batangira gutema insina no gutwika amazu. Abatutsi bahungiye ku gasozi ka Rubaba n'aka Gashoba[182].

183. Ku itariki ya 29 Mata 1994, saa ine za mu gitondo, abantu bagera ku 6.000 bagabye igitero cya mbere mu bitero bibiri byagabwe ku gasozi ka Rubaba, hari hahungiye abantu babarirwa mu bihumbi. Icyo gitero cya mbere, cyaturutse ku kiraro cyo kwa Rukeribuga, cyari kiyobowe n'abarezerivisite 50 bafite amagerenade n'inkota. Uko abagabye igitero bagendaga basatira impunzi, ANX we yagumye inyuma y'abarezerivisite ariko ari imbere y'imbaga y'abagabye igitero. Abantu bamwe mu mpunzi bamanutse ako gasozi kugira ngo bajye guhangana n'igitero ku buryo bageze muri metero nk'icumi z'aho abarezerivisite bari bari. Abarezerivisiti bateye amagerenade menshi mu gihe gito muri icyo gitero shuma cyamaze igihe kirenga isaha. Iyo babaga bagiye gutera generade, buri gihe abo barezerivisite babwiraga imbaga y'abantu babari inyuma kuryama hasi kugira ngo badakomereka. Abatutsi bari bamanutse ako gasozi barwanyije abagabye igitero bakoresheje amabuye n'intwaro gakondo bigeze aho abarezerivisite babwira iyo mbaga y'abagabye igitero gusubira inyuma kubera ko

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[181] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 20, 21, 24; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, imp. 7, 9, 12-14, 17, 19, 21-22; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 6-7.

[182] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 22-23; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, imp. 7-9, 12-14, 19, 22-23, 27.

amagerenade yari amaze kubashirana. Abagabye igitero bahunze mu masaa tanu n'igice bafata ibyerekezo bibiri : bamwe bagiye berekeza ku kiraro cyo kwa Rukeribuga abandi berekeza ku cya mwogo. Umutangabuhamya yakurikiye abahunze berekeza ku kiraro cya Mwogo[183].

184. ANX avuga ko abagabye igitero bageze ku kiraro cya Mwogo, Munyaneza yabahagaritse maze akababwira ati «Ntimugomba kuva aha. Maze guhamagara Koloneli Simba na Kapiteni Sebuhura kandi nabimenyesheje na perefe. Ntimugire ubwoba. Turabatsembatsemba». Munyaneza yari afite icyombo bavugiramo, bakanumva ibivugwa cyo mu bwoko bwa Motorola. Charles Kamana na we yari afite icyombo nk'icyo kandi na we yaje aho abagabye igitero bari kuri icyo kiraro. Hashize umwanya muto Munyaneza abwiye ijambo imbaga y'abantu bari aho, ANX yabonye amakamyo atatu yuzuye abajandarume n'abasirikare baturutse mu cyerekezo cyo ku biro bya Perefegitura ya Gikongoro. Uyu mutangabuhamya avuga ko agereranyije yabonye abajandarume 75 bitwaje imbunda zo mu bwoko bwa Kalashnikov n'amagerenade kandi ko yabonye abasirikare 75 na bo bafite imbunda. Simba na Kapiteni Faustin Sebuhura w'umujandarume bahageze nka saa sita, bahagereye rimwe n'ayo makamyo ariko bari ukwabo mu modoka ya Benz isizeho ibintu byo kuyiyoberanya. Simba yabonanye n'iyo mbaga y'abantu bari kuri icyo kiraro maze arababwira ati « Ubu tugiye kugenda. Mugomba kwinjira mu mazu, ariko ntimugire ibintu musahura mutaramara kwica abantu musanzemo. Nimumara kwica abantu, mugomba gusahura inka kandi nihagira ucika atishwe n'isasu, mugomba kumwirukankaho mukamwica». Yanababwiye

183 Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 23-24, 27; inyandikomvugo y'iburanisha, 3 Ugushyingo, imp. 10, 17-18, 21-28, 35-36; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 4, 30, 45.

ko batagomba kongera gukora nk'ibyabaye mu mwaka wa 1959, ubwo Abatutsi barokokaga bamaze kwambuka uruzi rwa Mwogo[184].

185. Igihe kimwe nyuma y'umwaka wa 1985, ANX yabonye Simba ku ishuri yongera no kumubona muri mitingi ya MRND yabereye ku isoko rya Nyaruhombo mu mwaka wa 1993. Buri gihe, Simba yibwiraga abari aho akavuga izina rye. Uyu mutangabuhamya yanabonye Simba inshuro ebyiri mu gice cya mbere cya Mata 1994 : ubwa mbere yamubonye mu nama yabereye kuri CIPEP ku itariki ya 9 Mata naho ubwa kabiri yamubonye hagati muri Mata ku biro bya Komine ya Kinyamakara. Uyu mutangabuhamya yerekanye Simba mu cyumba cy'iburanisha[185].

186. Ubwo Simba yari amaze kugera aho hantu mu masaa sita y'amanywa, abasirikare n'abajandarume bageze ku 150 bagose agasozi ka Rubaba maze barasa ku mpunzi. Kurasa byatangiye mu masaa sita bigera saa cyenda n'igice. Bamwe mu bagabye igitero, bari bitwaje intwaro gakondo, bagendaga inyuma y'abasirikare n'abajandarume maze bakirara mu mpunzi zabaga zacitse abo basirikare n'abajandarume, kugira ngo bazice. Abandi bagabye igitero bajyaga gusahura no gushakisha Abatutsi mu mazu munsi y'agasozi ka Rubaba. ANX yabanje kujya mu ngo ariko nta muntu n'umwe yishe kandi nta cyo yasahuye. Ntiyasahuye kubera ko abantu basahuraga bakava kuri ako gasozi mbere bahigwaga. Nyuma y'uko ANX ava mu ngo z'abantu, yakurikiye abasirikare. Muri gihe cyose igitero cyamaze, uyu mutangabuhamya yagumye mu ntera ya metero 15 z'ahantu Simba yari, munsi y'ako gasozi. Abasirikare n'abasahuraga babwiraga Simba uko ibintu byagenze, rimwe na rimwe bakabikora bagira ngo bamenye niba bagomba kwica

[184] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 24-25, 27; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, imp. 10-11; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 7-9, 11, 53; inyandikomvugo y'iburanisha, 5 Ugushyingo 2004, urup. 31.

[185] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 16-20; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, imp. 11, 15-16; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 67-70.

umuntu runaka babaga bafashe. Muri iyo mirwano, muri rusange abasirikare bari bayobowe na Simba naho abajandarume bayobowe na Sebuhura. Simba yabwiye Munyaneza ko hari no kuza abajandarume b'i Nyanza. Imirwano imaze gutangira, uyu mutangabuhamya yabonye abajandarume bagera munsi y'ako gasozi baje ku maguru, kandi bari baturutse mu cyerekezo cy'i Nyanza[186].

187. Hagati ya saa munani n'igice na saa cyenda z'amanywa, Charles Kamana yabwiye ANX ko abasirikare bari bashiriwe n'amasasu, ko ariko ku bw'amahirwe bari bagiye kubona andi. Mu ibaza rinyomoza, uyu mutangabuhamya yavuze ko mu by'ukuri yabonye abasirikare babwira Simba ko amasasu yarimo kubashirana maze akumva Simba abasezeranya ko agiye guhamagara ngo babazanire andi. Ubwo rero yabonye Simba ahamagara akoresheje icyombo cyo mu bwoko bwa Motorola ariko ntiyashoboye kumva ibyo avuga kubera ko yavugaga mu gifaransa. Hashize umwanya muto Simba ahamagaye, haje kajugujugu iturutse mu cyerekerekezo cy'i Nyanza. ANX avuga ko kubera ko bwari ubwa mbere abona kajugujugu, yagiye ahantu yaguye. Simba na Sebuhura bavuganye n'abari batwaye iyo kajugujgu kandi bagenzura igikorwa cyo gupakurura ibisanduku by'umukara byarimo amasasu. Iyo kajugujugu yamaze aho hantu igihe kiri hagati y'iminota 25 na 30[187].

188. Mbere gato ya saa cyenda n'igice z'amanywa, hari indege yanyuze hejuru y'agasozi ka Rubaba. Iyo ndege igihinguka, Simba na Munyaneza bategetse abasirikare kwihisha, banategeka abaturage kuryama hasi. Imbaga y'abaturage yari aho yahawe ayo mabwiriza mu magambo naho abasirikare bayahabwa hakoreshejwe icyombo bita *Walkie-talkie*. ANX yiboneye Simba na Munyaneza batanga iryo tegeko kubera ko yari hafi yabo. Icyo gihe, uyu mutangabuhamya

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[186] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, urup. 25; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 9-13,15, 18, 24-25, 28, 45-50, 53-54.

[187] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 25-26; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 55-65.

yatekereje ko iyo ndege ishobora kuba yarimo gufotora ubwicanyi kubera ko mu ntambara byari bimenyerewe ko abafotozi bafataga amafoto bari mu kirere[188].

189. Mu masaa cyenda n'igice z'amanywa, uyu mutangabuhamya yabonye umusirikare azaniye Simba umwana w'umuhungu n'uw'umukobwa bari bafatiwe ku musozi. Abo bana bavugaga ko atari Abatutsi maze uwo musirikare abasabira imbabazi agira ati « ntidushaka kurasa aba bana kubera ko batubwiye ko atari Abatutsi ». Simba yabwiye abo bana ati « kubera ko mwahisemo gukurikira Abatutsi, mugomba gufatwa kimwe na bo». Simba yahise rero abarasa bombi arabica. Hashize umwanya muto ibyo bibaye, abagabye igitero bagiye ku gasozi ka Gashoba ariko uyu mutangabuhamya we yisubiriye iwe mu rugo. Avuga ko ubwo yari mu nzira ataha yasahuye inka imwe ariko nyuma bakaza kuyimwambura[189].

Umutangabuhamya ushinja wiswe KSM

190. KSM ni Umututsikazi w'umuhinzi, akaba yari utuye muri Perefegitura ya Gikongoro muri Mata 1994[190]. Ku itariki ya 12 Mata 1994, yarokotse ubwicanyi bwakorewe ku biro bya Komine ya Kinyamakara maze ahunga yerekeza muri Komine ya Ruhashya, Perefegitura ya Butare, kugira ngo ashakishe abantu bo mu muryango we. Mu mpera za Mata, mu masaa munani z'amanywa, KSM yabonye abantu bateraniye hafi y'uruzi rwa Mwogo, ku rugabano rwa Gikongoro na Butare. Icyo gihe, uyu mutangabuhamya, wari amaze igihe ahunga, yarahagaze ngo yumve ibyavugirwaga muri iyo nama. Yumvise rero Simba abwira abaturage bo ku Gikongoro kwambuka uruzi bakajya muri Butare kwica Abatutsi bari bahahungiye. Simba yanabwiye Burugumesitiri wa Ruhashya ngo : « nudatanga abo Batutsi uzicanwa na bo ». Bukeye iyo nama yaraye ibaye, KSM yabonye

[188] Inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 35-37.

[189] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, urup. 26; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 38-39, 41-43.

[190] Inyandikomvugo y'iburanisha, 14 Ugushyingo 2004, imp. 67-76; inyandikomvugo y'iburanisha, 15 Ugushyingo 2004, imp. 6-8, 39, 41, 42; ikimenyetso gihamya cya Porokireri N° 10.

imodoka nyinshi zigera kuri urwo ruzi zirimo Simba, burugumesitiri, komanda wa jandarumori, abajandarume n'abapolisi ba komine. Barambutse bajya muri Ruhashya maze bagaba igitero ku Batutsi, basahura imitungo yabo indi barayisenya. Benshi muri abo Batutsi bararashwe barapfa kandi muri bo harimo n'abafashwe bahunga berekeza ku ruzi rwa Mwogo[191].

191. Uyu mutangabuhamya avuga ko yabonye Simba mu bwicanyi bwakorewe ku biro bya Komine ya Kinyamakara ku itariki ya 12 Mata 1994, no mu nama ebyiri zabereye ku isoko rya Nkenke no ku biro bya komine hafi y'iwe [KSM] mu mwaka 1993. Muri ubwo bwicanyi no muri izo nama zombi, uyu mutangabuhamya yabonye Simba aramumenya kubera ko yari yambaye imyenda ya gisirikare. Mu iburanisha, uyu mutangabuhamya yavuze ko, muri rusange, Simba ari umuntu munini kandi ko yakundaga kwambara indorerwamo. Mu cyumba cy'iburanisha, uyu mutangabuhamya yerekanye Uregwa ariko ajijinganya[192].

Uregwa

192. Simba ahakana ko yayoboye ibitero byagabwe muri Komine ya Ruhashya. Asobanura ko icyo gihe atari we wategekaga ingabo za Leta kandi ko kajugujugu zose zagenzurwaga n'ingabo z'u Rwanda. Asobanura ko hagati y'itariki ya 24 Mata n'iya 30 Gicurasi 1994, ahanini yagumye mu mushinga witwa *Crête Zaire-Nil* muri Komine ya Musebeya. Muri icyo gihe, yakundaga kuba ahinga ibirayi, akina amakarita akajya no guhaha mu isoko ryo muri ako gace[193]. Simba yemera ko, muri icyo gihe yanagiye mu nama azimwe na zimwe zabereye ku Gikongoro

[191] Inyandikomvugo y'iburanisha, 15 Nzeri 2004, imp. 9-14, 16-17, 43.

[192] Inyandikomvugo y'iburanisha, 14 Nzeri 2004, imp. 78-84; inyandikomvugo y'iburanisha, 15 Nzeri 2004, imp. 2-5, 9-10, 25-27.

[193] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 31, 33, 73-76; inyandikomvugo y'iburanisha, 23 Werurwe 2005, imp. 31-32; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 33-35.

n'i Butare. Yagiye i Kabgayi kuzana umukobwa we ku cyicaro cy'uwo mushinga kandi rimwe na rimwe yajyaga gusura mushiki we i Gifurwe[194].

Umutangabuhamya ushinjura wiswe NGJ2

193. NGJ2 ni Umuhutu, akaba yarahoze ari umutegetsi wo mu rwego rw'ibanze muri Perefegitura ya Gikongoro. Mu buhamya bwe mu Rukiko, avuga ko Burugumesitiri Munyaneza yamubwiye ko abaturage bo muri Komine ya Kinyamakara bitabiriye ubwicanyi bwakorewe muri Komine ya Ruhashya. Mu mpera za Mata cyangwa mu ntangiriro za Gicurasi, yabonye Munyaneza ava muri Komine ya Ruhashya afite ikamyo yuzuye ibisahurano. Munyaneza ntiyigeze abwira NGJ2 ko Simba yagiye mu bitero byagabwe muri Komine ya Ruhashya. Uyu mutangabuhamya avuga ko atigeze anumva ko hari kajugujugu yakoreshejwe mu gitero icyo ari cyo cyose[195].

7.3 Isesengura ry'Urugereko

194. Urugereko rwasesenguye ubuhamya bwa ANX rubyitondeye cyane kubera ko bivugwa ko yabaye icyitso cya Simba. Mbere na mbere, Urugereko ntirwemera ko uyu mutangabuhamya yashakaga kuvuga uruhare rwose yagize muri ubwo bwicanyi. Yemera ko yambutse ikiraro cya Mwogo afite igikoni kandi afite umugambi wo gukora ubwicanyi. Cyakora, muri icyo gitero cya karundura cyagabwe n'abantu babarirwa mu bihumbi kigahitana impunzi zitangira ingano, nta kindi kintu ANX yakoze uretse gutwara inka imwe na yo akaza kuyamburwa n'umuntu wasahuraga. Aho gufatanya n'abandi bantu babarirwa mu bihumbi bagabye icyo igitero, uyu mutangabuhamya we yisigariye inyuma muri metero 15 z'ahantu Simba yari. Ndetse no muri ako kaduruvayo katewe n'icyo gitero cya karundura, ANX yashoboye kumva amategeko yose Simba yatanze. Byongeye kandi, avuga ko Simba ari mu bantu bahamagariye abandi kwica Abatutsi ku

[194] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 7-8, 19, 23, 25, 75-76, 80-81.

[195] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp.19, 21, 57-58.

kiraro cya Mwogo ku itariki ya 15 Kanama 1994[196]. Nyamara ariko, hari ibimenyetso bigaragaza ko icyo gihe Simba yari yarahunze u Rwanda. Ibyo bintu ANX avuga mu buhamya bwe mu Rukiko byerekana ko ashaka gushinja Simba kabone n'iyo ibyo amushinja byaba nta shingiro bifite. Ibi bigaragarira mu byo avuga ku itangwa ry'intwaro rivugwa ko ryabereye muri Komine ya Kinyamakara hagati muri Mata maze agasa n'uvuga ko na Simba yabigizemo uruhare. Cyakora, uburyo abivuga butuma umuntu ashidikanya kuri ibyo bintu[197].

195. Mu buhamya bwanditse yagejeje mbere ku bapererezi b'Urukiko ku itariki ya 20 Kamena 2001, ANX ntavuga iby'igitero kinini cyagabwe ku gasozi ka Rubaba ariko ubuhamya bwe mu Rukiko bwibanda ahanini kuri icyo gitero. Muri ubwo buhamya yagejeje ku bapererezi, avuga ahubwo ko Simba yatanze intwaro ku biro bya Komine ya Kinyamakara hagati muri Mata. Anavuga ko Simba yagize uruhare mu bintu bibiri byabaye muri Kamena 1994 byerekeranye n'ibitero byo kurwanya FPR muri Komine ya Nyanza, Perefegitura ya Butare. Mu nyandikomvugo eshanu z'ubuhamya bwe zakozwe n'abategetsi bo mu Rwanda hagati y'umwaka wa 1998 n'uwa 2002, uyu mutangabuhamya ntiyavuze ibyo bitero cyangwa ngo avuge Simba. Asobanura ko atatanze ubuhamya bwuzuye kuri ibyo bintu kubera ko yari afite impungenge z'umutekano we. Impungenge ku mutekano we zishobora wenda kumvikana ku byerekeranye n'ubuhamya yageje ku bategetsi bo mu Rwanda ku mugaragaro. Cyakora, impungenge nk'izo ntizagombye kubaho ku buhamya yagejeje ku bapererezi b'Urukiko kubera ko ubusanzwe bubikwa mu ibanga kandi bugasibwamo amakuru yose yatuma umutangabuhamya amenyekana kugeza hasigaye igihe gito ngo urubanza rutangire. Byongeye kandi, Urugereko rusanga impungenge ANX avuga ko yari afite zerekeranye n'umutekano we zitaramubujije kuvuga, mu nyandikomvugo y'ubuhamya yatanze muri Kamena 2001, ko Simba yagize uruhare mu bwicanyi bubiri bwakozwe muri Kamena 1994. Urugereko ntirunyuzwe rero n'igisobanuro

[196] Inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, urup. 2.

[197] Reba Icyiciro cya 8.5.

uyu mutangabuhamya atanga ku ivuguruzanya riboneka hagati y'ubuhamya bwe mu Rukiko n'ubwanditse yatanze mbere[198].

196. Kubera ko rushidikanya, Urugereko ntirwapfa gushingira ku buhamya ANX yatanze mu Rukiko, hatabonetse ubundi bubushyigikira bihagije. Ubuhamya bwa KSM mu Rukiko ntibushyigikira ubwa ANX. N'ubwo KSM adashidikanya ko Simba yagize uruhare mu byaha byakorewe muri Komine ya Ruhashya, ubuhamya bwe ntibusobanutse kandi burahuzagurika. Byaramugoye gusubiza mu buryo bwumvikana kandi atajijinganya ibibazo byoroshye yabajijwe. Impamvu zituma yari azi Simba ku buryo yaba yaramubonye akamumenya na zo ntizifatika. Mu cyumba cy'iburanisha, yamwerekanye ajijinganya ndetse abikora nyuma yo kwemera ko mu gihe ibivugwa byabaga ibintu byari bikomeye kandi ko abantu

[198] Inyandikomvugo y'iburanisha, 5 Ugushyingo 2004, imp. 2-8, 11-18; ibimenyetso gihamya by'Ubwunganizi N° D41-D46. Inyandikomvugo z'ibazwa (pro justitia) uko ari eshanu zakozwe ku matariki ya 26 Kanama 1998, 25 Kanama 1999, 7 Ukwakira 1999, 17 Gashyantare 2000 na 7 Nyakanga 2002. Ku itariki ya 23 Werurwe 2004, mu buhamya yagejeje ku bapererezi b'Urukiko mbere gato y'itariki iburanisha ryagombaga gutangiriraho, uyu mutangabuhamya yavuze uruhare rwa Simba mu bwicanyi bwabereye ku gasozi ka Rubaba. Mbere y'uko iburanisha ritangira, Porokireri yamenyesheje ubwo buhamya Urugereko n'Ubwunganizi mu rwego rwo kuzuza inshingano ze nk'uko biteganywa n'Ingingo ya 66 (A)i(i) n'iya 77 *bis* (b) z'Amategeko. Cyakora, mu ibaza ry'ibanze ubwo buhamya ntibwakoreshejwe ndetse ntibwanatanzwe nk' ikimenyetso gihamya. Urugereko ruributsa kandi ko mu isoza ry'ubuhamya bwe mu Rukiko, ANX yavuze ko ku wa 2 Mutarama 2002 yanditse ibaruwa asobanuramo birambuye uruhare rwe n'urwa Simba mu bintu byabaye kuva ku itariki ya 27 kugera ku ya 29 Mata 1994. Inyandikomvugo y'iburanisha, 5 Ugushyingo, imp. 21-24, 26, 28-30. Mu ibaza ry'ibanze, iyo baruwa ntiyakoreshejwe ndetse ntiyanatanzwe nk'ikimenyetso gihamya. Reba urubanza rwa Simba, Icyemezo ku iyemerwa rya bimwe mu bimenyetso gihamya, 7 Nyakanga 2005, igika 5 (« Mu ibaza ry'inyongera, niho ANX yavuze ko hari inyandiko zo muri Matarama 2002. Yaba Porokireri cyangwa Ubwunganizi, nta n'umwe wamubajije ibibazo kuri izo nyandiko. Urugereko rwamusabye kuzitanga maze ruha ababuranyi umwanya wo kuzisuzuma no kongera guhamagaza umutangabuhamya. Cyakora, kugeza arangiza gutanga ibimenyetso bishinja, Porokireri ntiyasabye gutanga izo nyandiko nk'ibimenyetso gihamya cyangwa guhamagaza uyu mutangabuhamya. Kubera ibyo, Urugereko ntirwakiriye Icyifuzo cya Porokireri gisaba ko izo nyandiko zishyirwa muri dosiye»).

bari barahahamutse[199]. Ubuhamya bwe mu Rukiko buvuguruzanya n'ubwa ANX uvuga ko atari Simba wabwiye ijambo abagabye igitero bari bateraniye ku kiraro ko ahubwo ari Munyaneza warivuze.

197. Urugereko rwanasuzumye ubuhamya bw'umutangabuhamya ushinjura wiswe NGJ2 uvuga ko Simba atagize uruhare mu bwicanyi bwakorewe muri Komine ya Ruhashya. Ubuhamya bwa NGJ2 kuri iki kibazo bushingiye ahanini ku kuvuga ko atumvise hari umuntu uvuga ko Simba yagize uruhare mu bwicanyi bwakorewe muri Komine ya Ruhashya. Urugereko rusanga ibyo avuga bidagahije ku buryo bwabishingiraho ngo rube rwagira umwanzuro rufata ku bikorwa bya Simba muri icyo gihe.

198. Urugereko rwemera ubuhamya bwa ANX na KSM buvuga ko nyuma y'ikoraniro ryarimo abantu benshi ku kiraro cya Mwogo, muri Komine ya Kinyamakara, Interahamwe n'abandi bategetsi ba Leta bo muri Perefegitura ya Gikongoro bagabye igitero muri Komine ya Ruhashya mu mpera za Mata 1994. Ubuhamya bwabo kuri ibyo bitero bushyigikirwa n'ubw'umutangabuhamya ushinjura wiswe NGJ2. Cyakora, Urugereko ntirushobora gushingira kuri buhamya bwonyine ngo rwemere nta gushidikanya ibivugwa byihariye cyangwa ibisobanuro byatanzwe n'abo batangabuhamya ku ruhare rwa Simba muri ibyo bitero. Kubera iyo mpamvu, Urugereko rusanze Porokireri ataratanze gihamya y'ibyo aregera kuva ku gika cya 47 kugera ku cya 52 by'Inyandiko y'ibirego, ahavugwa ko Simba yari

[199] Inyandikomvugo y'iburanisha, 15 Nzeri 2004, imp. 3-4 (« Mbabwije ukuri, naramubonye ariko, nk'uko nabisobanuriye, nshobora kuba naribagiwe isura ye kubera ko namubonye mu ntambara kandi narahahamuwe n'ibyabaye, gusa nakundaga kumubona. Nk'uko mubyumva, ibyo bintu bimaze imyaka 10 bibaye kandi hari akaduruvayo ku buryo ntashoboraga gutandukanya abantu, ariko naramubonye icyo gihe …Nshobora kubabwira ibyo mbona ariko ntabyemeza neza kubera ko ubwo namubonaga hatari mu gihe cy'ibyishimo ahubwo hari mu bwicanyi. Nshobora kwibeshya ariko umuntu nabonye icyo gihe asa n'uriya uri iruhande rw'umuzungu. Mbivuze nkurikije uko umuntu nabonye yasaga. Mu by'ukuri, sinamwitegereje neza kubera ko narimo kwiruka ariko ndumva ari uriya muntu »).

mu bitero byagabwe muri Komine ya Ruhashya[200]. Kubera uyu mwanzuro, Urugereko rusanze atari ngombwa gusuzuma imyiregurire ya sinari mpari ya Simba yerekeranye n'icyo gihe kivugwa.

8. IBINDI BIMENYETSO KU MUGAMBI MUBISHA UHURIWEHO

8.1 Itangwa ry'intwaro ku biro bya Komine ya Rukondo muri Werurwe 1994

8.1.1 Inyandiko y'ibirego

199. Igika cya 21 cy'Inyandiko y'ibirego kigira kiti:

> Muri Mata 1994, nyuma y'Urupfu rwa Perezida Habyarimana, Aloys Simba yatanze izindi ntwaro ku biro bya Komine ya Rukondo. Icyo gihe, yahaye burugumesitiri imbunda zigeze kuri 40 zo mu bwoko bwa AK 47 kugira ngo na we azihe abakonseye maze na bo bazikwirakwize mu basiviri b'Abahutu[201]

8.1.2 Ibimenyetso

Umutangabuhamya ushinja wiswe YF

200. YF ni Umuhutu wari utuye hafi y'ibiro bya Komine ya Rukondo mu mwaka wa 1994. Muri uwo mwaka, uyu mutangabuhamya yari umuyoboke w'ishyaka PSD

[200] Mu buhamya bwe mu Rukiko, ANX avuga ku gitero cyagabwe ku gasozi ka Rubaba kandi yemeza ko Simba ubwe yishe impunzi. Cyakora, mu Nyandiko y'ibirego havugwa ku bitero byagabwe ku gasozi ka Gashoba no kuri santeri y'ubucuruzi ya Rugogwe. Ibyo bice by'ubuhamya bwa ANX mu Rukiko bituma umuntu yibaza niba Inyandiko y'ibirego imenyesha neza Uregwa ibyo ashinjwa. Reba urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, imp. 229-235. Cyakora, kubera umwanzuro ushingiye ku byabaye rwafashe, Urugereko rusanga atari ngombwa gusuzuma iki kibazo. Byongeye kandi, hari ugushidikanya ku bivugwa ko Simba yishe umuhungu n'umukobwa.

[201] Ibivugwa n'ababuranyi kuri icyo kintu cyabaye biri mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 320-324; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 27. Mu myanzuro nsozarubanza yayanditse ya Porokirer, nta cyo avuga icyo kintu.

ariko ubu ni umuyoboke wa FPR[202]. Kuva muri Mutarama kugera muri Werurwe 1994, yabonye abapolisi batandatu ba komine n'abashoferi babiri, bari baratojwe ibya gisirikare, baha imyitozo Abahutu bageze kuri 30. Iyo myitozo yabaga kabiri mu cyumweru kuva saa ine kugera saa sita z'amanywa, yamaze amezi atatu kandi abantu batojwe inshuro zigeze kuri 24. Inshuro ebyiri, YF yari ahantu iyo myitozo yakorerwaga ubundi yabaga ari hafi y'aho akababona bitoza[203].

201. Abatozwaga bakoreshaga imiheto n'imyambi kandi bakigishwa guhambura imbunda no kuyirashisha. Umwe mu batozwaga witwa Sabagiriwa, wari muramu wa Burugumesitiri, yabwiye YF ko bakoreshwaga iyo myitozo kugira ngo bazashobore kurwanya Inkotanyi no kwica Abatutsi b'ibyitso byazo. Sabagiriwa n'abantu bajyaga muri iyo myitozo babwiye uyu mutangabuhamya ko Didas Hategekimana, wari Burugumesitiri wa Komine ya Rukondo, yateguye iyo myitozo biturutse ku mabwiriza ya Simba[204].

202. Ubwo iyo myitozo yasozwaga muri Werurwe, YF yabonye Hategekimana atanga mu ruhame imbunda zo mu bwoko bwa Kalachnikov kandi yagendaga aha imbunda buri muntu wese wahawe imyitozo. Sabagiriwa yabwiye uyu mutangabuhamya ko Simba ari we wazanye izo mbunda ku biro bya Komine[205].

203. Nyuma y'urupfu rwa Perezida Habyarimana ku itariki ya 6 Mata, YF yabonye abo bantu bari baratorejwe ku biro bya Komine bica Abatutsi mu gace yari atuyemo, ndetse banasahura banatwika amazu yabo. Abagabye ibitero biciraga kuri za bariyeri Abatutsi cyangwa abantu batari abo muri ako gace.

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[202] Inyandikomvugo y'iburanisha, 6 Nzeri 2004, imp. 3, 27-29; inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 5-6, 12.

[203] Inyandikomvugo y'iburanisha, 6 Nzeri 2004, imp.4-8, 34-35, 37-39; inyandikomvugo y'iburanisha, 7 Nzeri 2004, imp. 2-4.

[204] Inyandikomvugo y'iburanisha, 6 Nzeri 2004, imp. 4, 8-9, 39, 47.

[205] Ni kimwe no haruguru, imp. 10-12, 47-48.

Umutangabuhamya avuga ko abashoboye gucika bahungiye kuri paruwasi ya Cyanika[206].

Uregwa

204. Simba avuga ko, nk'umujyanama muri gahunda y'ukwirwanaho kw'abaturage, ku itariki ya 24 Gicurasi 1994 yagiye muri Komine ya Rukondo akabonana na Hategekimana. Hategekimana yamweretse itsinda ry'urubyiruko rigizwe n'abantu 30 bari mu myitozo ariko nta ntwaro bari bafite, nta n'imyitozo ikwiye bahabwaga. Simba avuga ko ku itariki ya 25 Gicurasi yagiye kureba Majoru Bizimungu w'umujandarume maze akamusaba gutanga intwaro n'imyitozo muri iyo komine. Ku itariki ya 31 Gicurasi, Bizimungu yabwiye Simba ko yari yahaye Komine ya Rukondo imbunda 30 zo mu bwoko bwa Kalachnikov ndetse ko yari yaranashyizeyo abajandarume[207].

Umutangabuhamya ushinjura wiswe NGJ2

205. NGJ2 ni Umuhutu wahoze ari umutegetsi muri ako gace. Mu buhamya bwe mu Rukiko, avuga ko nyuma y'itariki ya 26 Mata 1994, ba burugumesitiri batangiye gushaka abasore no kubaha imyitozo ku biro by'amakomine mu rwego rwo gushyira mu bikorwa gahunda y'ukwirwanaho kw'abaturage. Burugumesitiri wa Komine ya Rukondo yabwiye uyu mutangabuhamya ko, nyuma y'uko Simba asabwe intwaro mu mpera za Gicurasi, abajandarume batanze imbunda ziri hagati ya 30 na 40 zo mu bwoko bwa Kalachnikov, baziha abantu bari baratonyijwe ngo bahabwe imyitozo[208].

8.1.3 Isesengura ry'Urugereko

206. Urugereko rwemera ko mu mwaka wa 1994, YF yari atuye muri Komine ya Rukondo kandi ko mu iburanisha yagerageje kuvuga ibintu uko byagenze

[206] Ni kimwe no haruguru, imp. 12-15.

[207] Inyandikomvugo y'iburanisha, 22 Gicurasi 2005, imp. 7-17.

[208] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 48, 53-54

atabeshya. Cyakora, bimwe mu byo avuga mu buhamya bwe bituma umuntu yibaza ku buryo ashobora kwibuka ibyabereye muri iyo Komine, by'umwihariko uruhare rwa Simba mu myitozo no mu itangwa ry'intwaro.

207. YF yabanje kuvuga ko yabonye imyitozo yose kubera ko yakorwaga mu gihe cy'imvururu zatumye abantu benshi bahagarika kujya ku mirimo yabo. Bamubajije icyatumye imirimo ye ihagaragara kuva muri Mutarama kugera muri Werurwe 1994 yasubije muri aya magambo: «Ndumva bitanyoroheye gusubiza icyo kibazo. Birangoye kugisubiza. Ndumva mwampa akanya ngo nshobore gusubiza icyo kibazo ». Nyuma yavuze ko yabonye iyo myitozo bidatewe n'uko akazi kari karahagaze ahubwo ko byatewe n'uko iyo myitozo yabaga mu mpera z'icyumweru igihe yabaga atagiye ku kazi[209].

208. Mu buhamya bwe mu Rukiko, Simba avuga ko yateguye amahugurwa muri Komine ya Rukondo kandi akorohereza abantu bo muri iyo komine kubona no gutanga imbunda zo mu bwoko bwa Kalachnikov muri Gicurasi 1994. Ubuhamya bwe bushyigikirwa n'ubwa NGJ2. Kubera ko YF avuga ko yashoboye kubona imyitozo kubera imvururu zariho n'imirimo ye ikaba yari yarahagaze, ubuhamya bwe busa n'ubushyigikira ubuhamya bushinjura buvuga ko ibyo bikorwa byabaye muri Gicurasi aho kuba hagati ya Mutarama na Werurwe. Igihe ibyo bintu byabereye ni ingenzi kubera ko Simba adashinjwa imyitwarire mibisha ku byerekeranye n'itangwa ry'intwaro nyuma ya Mata 1994.

209. Ibintu YF avuga ku ruhare Simba yaba yaragize mu myitozo no mu itangwa ry'intwaro muri Rukondo ni ibyo yumvanye abandi. Uyu mutangabuhamya yamenye iby'uruhare rwa Simba muri ibyo bikorwa kubera biganiro yagiranye na muramu wa Burugumesitiri ndetse n'amakuru yabwiwe n'abandi bantu banyuraga aho imyitozo yaberaga. Ubwo buhamya bushingiye ku nkuru mbarirano kandi budafite ubundi bubushyigikira ntibuhagije ku buryo Urugereko rwabuheraho ngo rufate umwanzuro uvuga ko Simba yagize uruhare mu myitozo yahawe abantu no

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[209] Inyandikomvugo y'iburanisha, 6 Nzeri 2004, imp. 34-35 na 37-39.

mu itangwa ry'intwaro kuva muri Mutarama kugera muri Werurwe, nk'uko YF abyemeza, cyangwa muri Mata 1994 nk'uko bivugwa mu Nyandiko y'ibirego.

210. Urugereko rusanga Porokireri ataratanze ibimenyetso bihamya ku buryo budashidikanywaho ibyo avuga mu gika cya 21 cy'Inyandiko y'ibirego.

8.2 Gukusanya amafaranga yo kugura intwaro, muri Komine ya Rukondo muri Werurwe 1994

8.2.1 Inyandiko y'ibirego

211. Ibika bya 13, 22 na 23 (b) by'Inyandiko y'ibirego bigira biti:

> 13. Muri mitingi yabereye mu isoko rya Kirambi, muri Komine ya Rukondo mu mwaka wa 1994, hasigaye iminsi mike ngo Perezida Habyarimana apfe, Aloys Simba yakusanyije amafaranga yo kugura intwaro zo kurwanya « inyenzi ». Icyo gihe, habonetse akayabo k'amafaranga.
>
> 22. Uretse icyo gikorwa cyo gutanga intwaro, Aloys Simba yashatse gutumiza intwaro hanze kuva muri Mata 1993. Muri Mata cyangwa Gicurasi 1994 cyangwa muri ayo mezi yombi, Aloys Simba yakusanyije amafaranga muri Perefegitura ya Gikongoro afatanyije na Perefe Bucyibaruta, Kapiteni Sebuhura, Burugumesitiri Semakwavu, abacuruzi bo muri ako karere n'abandi bantu, kugira ngo hagurwe intwaro n'amasasu byo guha Interahamwe. Aloys Simba ni we wakiraga ayo amafaranga.
>
> 23. (b). Muri Mata 1994, hasigaye iminsi mike ngo Perezida Habyarimana apfe, muri mitingi yabereye mu isoko rya Kirambi, muri Komine ya Rukondo, Aloys Simba yagize ati « Mwebwe Abanyarwanda ntimuzi ikigiye kuba. Buri muntu wese agomba gutunga intwaro kandi mugomba buri gihe kwitwaza intwaro gakondo zanyu. Ndashaka ko mwibuka ibyabaye mu mwaka wa 1959. Murebe uruhara rwanjye, Inyezi zankuruye hasi. Ntimugomba

> gukomeza kwigumira mu ngo zanyu. Mugomba gukinga inzugi kugira ngo injangwe zitabinjirana. Mugomba kandi guhiga inzoka mu bigunda maze mukazimena imitwe. Ababona ibintu bikomeye, nabagira inama yo guhunga. Uzaguma mu Rwanda wese azibonera ukuntu inzovu zirwana » [210].

8.2.2 Ibimenyetso

Umutangabuhamya ushinja wiswe ALS

212. ALS ni Umututsikazi. Mu buhamya bwe mu Rukiko, avuga ko yagiye mu nama y'abaturage yabereye ku isoko rya Kirambi, Komine ya Rukondo, muri Werurwe 1994, hasigaye ibyumweru bibiri cyangwa bitatu ngo Perezida apfe. Iryo soko riri ku rubibi rwa Komine ya Rukondo n'iya Karama, aho uyu mutangabuhamya yari atuye icyo gihe. Ku mugoroba, buri buke ngo iyo nama ibe, abakonseye b'amasegiteri n'abaresiponsabure b'amaserire babwiye abaturage bo muri ako gace kujya muri iyo nama biturutse ku mabwiriza ya Désiré Ngezahayo wari Burugumesitiri wa Karama. Bukeye, Abahutu n'Abatutsi bo muri Komine ya Karama n'iya Rukondo bateraniye ku isoko. ALS yagiye muri iyo nama kuko yabonye imodoka ya Frédéric Nzamurambaho, wari umuyoboke wa PSD akaba na Minisitiri w'Ubuhinzi n'Ubworozi. Yibwiraga ko Minisitiri yari gutanga ibishyimbo nk'uko yari yarabikoze mu zindi mitingi ashaka abayoboke b'ishyaka

[210] Ibyo ababuranyi bavuga kuri icyo kintu cyabaye biri mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 325-328, 589-606 na 1015-1020; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 26-28. Cyakora, Porokireri ntacyo avuga kuri icyo kibazo haba mu myanzuro nsozarubanza ye yanditse cyangwa iyo mu magambo. Urugereko rusanga no mu buhamya bwa KEI, KSU, ANX, KDD ndetse n'ubwa Simba ubwe, Uregwa yarasabye amafaranga yo kugura intwaro. Cyakora, mu myanzuro nsozarubanza yanditse, Porokireri nta cyo avuga kuri ibyo bintu. Mu myanzuro nsozarubanza yanditse ni ho avuga, ariko atabitindaho, ku nama imwe yaba yarabereye ku isoko rya Kabacuzi aho abantu basabwe gutanga amafaranga y'inkunga mu gitero cyagabwe i Nyanza muri Kamena 1994. Nk'uko abatangabuhamya benshi babivuga, iyo nama yabaye muri Kamena, bityo ikaba itarabaye mu gihe kivugwa ku gika cya 22 cy'Inyandiko y'ibirego. Mu by'ukuri rero, ubuhamya bwatanzwe ntibwacukumbuwe kandi Urugereko rwarabizirikanye mu gusuzuma ubuhamya ALS yatanze mu Rukiko .

rye. Muri iyo nama hari abategetsi benshi ba Leta nka Burugumesitiri Ngezahayo, Minisitiri Nzamurambaho na Burugumesitiri wa Komine ya Rukondo[211].

213. Abaturage bamaze guterana, Simba yaje yambaye imyenda ya gisirikare ari kumwe n'abasirikare batatu barimo uwitwa Rwamanywa. ALS yari azi ko Rwamanywa avuka muri Komine ya Mudasomwa. Ahawe ijambo na Minisitiri Nzamurambaho, Simba yavuze ijambo rigufi agira ati « Banyarwanda, Banyarwandakazi, mwibuke ibyabaye mu mwaka wa 1959. Murebe uruhara rwanjye, nta musatsi ngira ku mutwe. Imisatsi yanjye izongera kumera Inyenzi zigarutse mu Rwanda. Mufate rero intwaro gakondo zanyu, mufunge imiryango kugira ngo injangwe zitinjira mu nzu zanyu. Muhige inzoka mu bihuru maze muzimene umutwe ». Simba yarongeye aravuga ati «Mutange umusanzu wo gufasha ingabo kugira ngo zishobore kugura amasasu kandi mwese mugomba guhunga kuko abazasigara mu Rwanda bazibonera uko inzovu zirwana »[212].

214. ALS avuga ko nyuma y'iryo jambo rya Simba, hari umusirikare wakusanyije amafaranga y'umusanzu mu bantu bari aho bayafite, akagenda abaha resi maze arangije ayashyikiriza Simba. Nyuma yaho, abakuru b'amaserire bakusanyije amafaranga mu baturage bo mu maserire yabo maze bayashyikiriza burugumesitiri. Ingaragu zatangaga amafaranga 50, umugabo cyangwa umugore wubatse agatanga 100 naho abacuruzi bagatanga 2.000. Uyu mutangabuhamya asobanura ko umuntu yagombaga kwerekana resi kugira ngo ashobore kugira aho ajya nta nkomyi[213].

215. Icyo gihe, ALS ntiyumvaga ko ijambo rya Simba ryahamagariraga abantu kwica Abatutsi. Yumvaga ahubwo uwo musanzu wari ugamije kongerera ingabo ubushobozi kugira ngo zishobore kurwana n'Inkotanyi zari zarateye igihugu.

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[211] Inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp.42-43,55-57, 59-61, 63, 66-67; ikimenyetso gihamya cya Porokireri N° P3. Uyu mutangabuhamya yanatanze ubuhamya ku bwicanyi bwabereye kuri paruwasi ya Cyanika. Ubwo buhamya busuzumwa mu Cyiciro cya 3.

[212] Inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 43, 66-69, 71.

[213] Ni kimwe no haruguru, imp. 73-76, 78-79.

Nyuma yaho ni bwo yumvise amagambo ya Simba yarashakaga kuvuga kwica abasiviri b'Abatutsi mu mvururu zakurikiye urupfu rwa Perezida[214].

216. Nyuma y'iyo nama, umurezerivisite witwa Albert Nkurunziza yatangiye kwigisha intwaro urubyiruko rwo muri Komine ya Rukondo n'iya Karama. ALS yabonye imwe muri iyo myitozo yaberaga ku biro bya Komine ya Karama[215].

217. ALS yari yarabonye Simba mu mwaka wa 1959 kuri santeri y'ubucuruzi ya Gasarenda ubwo yarimo kurata ibigwi bye mu ntambara yabereye muri Nshili. Yongeye kumubona muri za 80 ubwo yari umudepite. Uyu mutangabuhamya avuga ko Simba afite inkovu mu gahanga ndetse ko afite n'uruhara. ALS yerekanye Simba mu cyumba cy'iburanisha[216] .

Umutangabuhamya ushinjura wiswe KDD

218. Muri Mata 1994, KDD yari umukozi wa Leta muri Komine ya Karama[217]. Mu buhamya bwe mu Rukiko, avuga ko yabonye Simba bwa mbere ku itariki ya 11 Mata 1994[218] i Karama. Byongeye kandi, mu ntangiriro za Kamena 1994, Simba yafashe ijambo mu nama yabereye ku isoko rya Kabacuzi mu mujyi wa Gikongoro, yari yitabiriwe n'abategetsi bo muri ako gace n'abaturage. Muri iyo nama, Simba yinginze abayijemo ngo batange amafaranga yo gufasha mu

[214] Ni kimwe no haruguru, imp. 71-72, 75-76, 78.

[215] Ni kimwe no haruguru, imp. 41-45.

[216] Ni kimwe no haruguru, imp. 44-, 51-55.

[217] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 14, 47-48; inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, urup. 3. KDD anavuga ku nama yabereye muri CIPEP ku Gikongoro ku wa 26 Mata. Iyo nama isuzumwa mu Cyiciro cya 8.6.

[218] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 15-16; inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 2-4.

kurwanya Inyenzi n'Inkotanyi i Nyanza. KDD anavuga ko gutoza urubyiruko muri Komine ya Karama na Rukondo byatangiye hafi y'itariki ya 27 Mata[219].

Umutangabuhamya ushinjura wiswe NGJ2

219. NGJ2 yari umukozi wa Leta muri Perefegitura ya Gikongoro. Mu buhamya bwe mu Rukiko, avuga ko mbere y'urupfu rwa Perezida nta nama n'imwe y'abaturage yabereye i Kirambi yo gukusanya amafaranga y'umusanzu. Yongeraho ko, mu by'ukuri, amagambo bitirira Simba yerekeranye n'uko imisatsi ye yakongera kumera yari yaravuzwe na Alexis Kanyarengwe wabaye Perezida wa FPR, ariko mu rwego rutandukanye n'urw'ibyarimo kuba muri icyo gihe[220].

8.2.3 Isesengura ry'Urugereko

220. ALS avuga ibintu yiboneye kandi, muri rusange, ntiyivuguruza ku byerekeranye n'uko, hasigaye ibyumweru bibiri cyangwa bitatu ngo Perezida apfe, Simba yasabye abaturage bo muri ako agace gutanga amafaranga y'umusanzu wo gufasha mu kurwanya Inyenzi. Urugereko rwemera ko mu mwaka wa 1994, ALS yabaga hafi y'ibiro bya Komine ya Rukondo bityo akaba yarashoboraga kumenya ibintu by'ingenzi byahaberaga icyo gihe, birimo inama yabereye i Kirambi.

221. N'ubwo ALS avuga ko KDD yari muri iyo nama, uyu mutangabuhamya na we ushinja avuga ko yabonye Simba bwa mbere ku itariki ya 11 Mata 1994 ni ukuvuga hashize ibyumweru bike nyuma y'igihe ALS avuga ko yaboneyeho KDD na Simba mu nama yabereye i Kirambi. Urugereko rusanga ibyo bintu bitangaje. Byongeye kandi, KDD avuga ko ku itariki ya 4 Kamena, Simba yasabye abantu bitabiriye inama y'abaturage yabereye ku isoko rya Kabacuzi gutanga amafaranga y'umusanzu wo gufasha mu kugaba igitero kuri FPR i Nyanza. Ibyo avuga bishyigikirwa na Simba ubwe wemera ko yagiye muri iyo

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[219] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 40; inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 35-38, 48.

[220] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 5-6, 24, 27.

nama[221]. KDD anavuga ko gutoza urubyiruko ku biro bya Komine ya Karama byatangiye mu mpera za Mata 1994.

222. Impamvu zitera uku kwivuguruza zishobora kumvikana niba ALS yaribeshye ko KDD yagiye muri iyo nama, cyangwa niba KDD yaribeshye ku nshuro ya mbere yaboneyeho Simba mu mwaka wa 1994. Cyakora, Urugereko rusanga ibyo KDD avuga kuri iki kibazo bihura n'ibyo Simba akivugaho.

223. Urugereko rusanga kandi gukusanya amafaranga yo kurwanya FPR ubwabyo atari icyaha. Birumvikana ko amagambo « Inyenzi » no « guhiga inzoka » yashoboraga kumvikana mu buryo bubiri hagamijwe kuvuga Abatutsi bose barimo n'abasiviri. Nyamara ariko, muri iyo nama ALS, w'Umututsi, ntiyumvise ayo magambo gutyo. Byongeye kandi, iyo myumvire ivuguruzwa n'uko muri iyo nama hari Frédéric Nzamurambaho, Umuhutu utari intagondwa wo muri PSD, waje kwicwa nyuma gato y'itariki ya 6 Mata 1994.

224. Kubera ibyo byose bimaze kuvugwa, Urugereko rusanga ibintu bidasobanutse kuri icyo kibazo[222]. Ntirushobora rero kwemera ubuhamya bwa ALS ku birebana n'inama yabereye i Kirambi, mu gihe budafite ubundi bubushyigikira.

225. Bityo rero, Urugereko rusanze Porokireri ataratanze ibimenyetso bihamya ku buryo budashidikanywaho ibivugwa mu bika bya 13, 22 na 23 (b) by'Inyandiko y'ibirego.

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[221] Ubuhamya bwa KDD mu Rukiko, inyandikomvugo y'iburanisha, 28 Ukwakira 2004, urup. 40; inyandikomvugo y'iburanisha, 10 Nzeri 2004, urup. 48; ubuhamya bwa Simba mu Rukiko, inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 82-85. Reba n'ubuhamya bwa ANX mu Rukiko, inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 28-29; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 66-69 (Inama yabereye ku Kabacuzi muri Kamena 1994).

[222] Byongeye kandi, mu buhamya yagejeje ku bapererezi b'Urukiko ku wa 2 Ugushyingo 2000, uyu mutangabuhamya avuga ko inama yabaye hasigaye amezi abiri ngo Perezida apfe aho kuba muri Werurwe. Uyu mutangabuhamya yasobanuriye abapererezi ko bakoze amakosa mu kwandika ubuhamya bwe ariko arayisinya avuga ko azabisobanura igihe kigeze. Inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 43, 52-53, 64-66; ikimenyetso gihamya cy'Ubwunganizi N° D6.

8.3 Inama y'abaturage ku biro bya Komine ya Nyamagabe, ku itariki ya 10 Mata 1994

8.3.1 Inyandiko y'ibirego

226. Kuva ku gika cya 35 kugera ku cya 37, Inyandiko y'ibirego igira iti:

> 35. Ku itariki ya 10 Mata 1994, cyangwa hafi y'iyo tariki, Bucyibaruta yakoresheje inama ku biro bya Komine ya Nyamagabe irimo Koloneli Aloys Simba, Kapiteni Faustin Sebuhura, Superefe Biniga, Semakwavu wari Burugumesitiri wa Komine ya Nyamagabe, uwari uhagarariye MRND, abakonseye b'amasegiteri, abandi bategetsi, n'abaturage basanzwe.
>
> 36. Muri iyo nama, Bucyibaruta yavuze ko adashaka « kumva ko hari Umututsi n'umwe waba utaragiye i Murambi, ko n'abahungiye muri za kiliziya bagomba kujya i Murambi». Yasobanuye ko «Abatutsi bacuze umugambi wo kwica Abahutu, ko rero Abahutu bagomba kubatanga bagatangira kubica».
>
> 37. Muri iyo nama, Aloys Simba yasabye Sebuhura kumenya abajandarume b'Ababatusi bo mu kigo yari ashinzwe, anasaba Semakwavu kumenya abasore bose bashoboraga guhabwa imyitozo ya gisirikare[223].

8.3.2 Ibimenyetso

Umutangabuhamya ushinja wiswe KEH

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[223] Ibyo ababuranyi bavuga kuri icyo kintu cyabaye biri mu myanzuro nsozarubanza yanditse ya Porokireri, ibika 123, 124 na 135, no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 339, 344, 526-555, 573 na 875; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 7,14, 58-59. Icyo kintu cyabaye gifite kandi aho gihuriye n'ubwicanyi bwakorewe ku ishuri ry'imyuga ry'i Murambi. Ubwo bwicanyi busuzumwa mu Cyiciro cya 4.

227. KEH ni Umututsi. Mu buhamya bwe mu Rukiko, avuga ko ku cyumweru ku itariki ya 10 Mata 1994, mu masaa tatatu za mu gitondo, yagiye ku biro bya Komine ya Nyamagabe ari kumwe n'inshuti ye François Gasana wari umwe mu bayobozi ba MDR akaba n'inshuti ya Burugumesitiri Félicien Semakwavu. Mbere yaho muri icyo gitondo, Gasana yahuye na KEH wajyaga ku kiriziya maze amenya ko uyu mutangabuhamya afite indangamuntu yanditsemo ko ari Umututsi. Gasana yasabye KEH ko bajyana ku biro bya Komine kugira ngo ahinduze iyo ndangamuntu bamuhe iyanditsemo ko ari Umuhutu kuko, muri ako agace, abantu bari batangiye guhiga Abatutsi. Bahageze, Gasana yavuganye na Burugumesitiri Semakwavu maze abwira uyu mutangabuhamya ko Semakwavu yari gukemura icyo kibazo avuye mu nama yari igiye gutangira[224].

228. KEH avuga ko, agereranyije, ku mbuga y'ibiro bya Komine hari hateraniye abantu babarirwa hagati ya 50 na 100. Yahabonye kandi abategetsi banyuranye bicaye imbere y'imbaga y'abantu. Muri abo bategetsi harimo Aloys Simba, Laurent Bucyibaruta wari Perefe wa Perefegitura ya Gikongoro, Kapiteni Faustin Sebuhura w'umujandarume na Burugumesitiri Semakwavu. Hari n'abakonseye b'amasegiteri n'abaresiponsabure b'amaserire. Uyu mutangabuhamya avuga ko ari Bucyibaruta wari uyoboye iyo nama yamaze hafi isaha[225].

229. KEH avuga ko Bucyibaruta yerekanye Simba nk'umushyitsi w'imena kandi ko Bucyibaruta yabivuze muri aya magambo: « Dufite hano umushyitsi kandi muramuzi. Ni umuntu ubahagarariye kuko ari umudepite wanyu. Ngiye kumusaba guhaguruka maze abaramutse ». Simba yasuhuje abaturage arongera aricara. Bucyibaruta yabwiye abakonseye b'amasegiteri kohereza Abatutsi i Murambi aho bari kurindirwa umutekano. Arangije kuvuga ibyo, yabwiye imbaga y'abantu bari

[224] Inyandikomvugo y'iburanisha, 31 Kanama 2004, imp. 58-60, 67, 81-84; inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 8-11, 20, 23, 31; ikimenyetso gihamya cya Porokireri N° P2. Mu iburanisha mu muhezo, KEH yasobanuye ko Gasana yari inshuti ye kandi ko bari bafite aho bahuriye mu rwego rw'akazi.

[225] Inyandikomvugo y'iburanisha, 31 Kanama 2004, imp 58-60, 80; inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 6, 10-11.

aho ko Abatutsi barimo gucura umugambi wo kwica Abahutu maze yerekana urupapuro avuga ko ari lisiti y'Abahutu bari kwicwa mbere y'abandi. Bucyibaruta arangije kuvuga, Simba yafashe ijambo abaza Sebuhura umubare w'Abatutsi b'abajandarume afite muri jandarumori. Sebuhura yamusubije ko agiye kubireba maze akamwohereza lisiti yabo. Simba yanasabye Semakwavu kumuha lisiti y'abasore bo muri buri segiteri bashobora guhabwa imyitozo yo gukoresha intwaro maze Semakwavu arabyemera[226].

230. KEH yari ahagana inyuma y'iyo mbaga y'abantu, nko muri metero 13 uvuye aho abategetsi bari ubwo bafataga amajambo. Icyo gihe, Simba yari yambaye kositimu y'ubururu bukeye. Uyu mutangabuhamya yamenye Simba kuko yari yaramubonye mbere ubwo yiyamarizaga ubudepite mu myaka ya za 80 ndetse no muri mitingi za MRND. KEH asobanura ko muri Mata 1994, Simba yari afite imyaka iri hagati ya 50 na 60 kandi ko yarimo kugenda azana uruhara. Uyu mutangabuhamya yumva icyo gihe Simba yari akiri umudepite kandi ari na Perezida wa MRND mu rwego rwa perefegitura. Yerekanye Simba mu cyumba cy'iburanisha[227].

231. Iyo nama irangiye, Simba, Sebuhura, Bucyibaruta, Semakwavu n'abandi bategetsi bo muri ako gace bakoranye inama bonyine mu biro bya Komine. Mbere y'uko na we ajya muri iyo nama, Gasana yasabye KEH kumutegerereza iruhande rw'inzu yari hafi aho. Hashize nk'iminota icumi, Gasana yaraje abwira uyu mutangabuhamya ko babujije Burugumesitiri Semakwavu gutanga indangamuntu nshya. Gasana yanagiriye inama KEH yo kutajya i Murambi kubera ko yari amaze kumenya ko abategetsi barimo gucura umugambi wo kwica impunzi zari

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[226] Inyandikomvugo y'iburanisha, 31 Kanama 2004, imp. 60-61, 84-85; inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 6-8, 12.

[227] Inyandikomvugo y'iburanisha, 31 Kanama 2004, imp. 61-63, 65, 80, 85; inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 1-3, 5, 8. Umutangabuhamya asobanura ko hagati ye n'abo bategetsi hari intera ijya kungana n'iri hagati yaho yari yicaye n'urukuta rw'icyumba cy'iburanisha. Ibipimo by'icyumba cy'iburanisha bigaragaza ko ari metero 13 na santimetero 40; inyandikomvugo y'iburanisha, 31 Kanama 2004, imp. 62, 65.

aho hantu. Yabwiye rero uyu mutangabuhamya gutaha kandi ko amwizeza kumurinda. Amaze kumubwira ibyo, Gasana yasubiye mu nama nuko KEH arataha[228].

Umutangabuhamya ushinjura wiswe SBL1

232. SBL1 ni Umuhutu wahoze ari umukozi mukuru muri Leta kandi washinjwe kugira uruhare mu byaha byakorewe muri Perefegitura ya Gikongoro. Amaze kwerekwa itangazo ryasomewe kuri Radiyo Rwanda, uyu mutangabuhamya yemeye ko abantu bari bagize Inama y'umutekano ya perefegitura bashobora kuba barakoze inama ku itariki ya 10 Mata 1994 kandi ko inama nk'iyo itashoboraga kubera mu ruhame. Inama y'umutekano ya perefegitura yari igizwe n'abantu bake barimo perefe, abakuru b'imirimo kuri perefegitura, perezida w'urukiko rwa mbere rw'iremezo, porokireri wa repubulika, komanda w'ikigo cya jandarumori, umukuru w'abasirikare muri ako karere, umukuru w'iperereza na burugumesitiri wa komine irimo icyicaro cya perefegitura[229].

8.3.3 Isesengura ry'Urugereko

233. KEH ari na we mutangabuhamya ushinja wenyine uvuga kuri icyo kintu cyabaye, atanga ubuhamya ku bintu yahagazeho kandi muri rusange ntiyivuguruza. Cyakora, Urugereko rugomba gusesengura ubuhamya bwe rubwitondeye cyane kubera ibibazo binyuranye byerekeranye n'ukuntu yamenye Simba. Ubuhamya bwe ko mbere y'igihe ibivugwa byababaga yari asanzwe azi Simba ntibufatika cyane kandi bushingiye ku bintu byari bimaze igihe kinini bibaye. Uyu mutangabuhamya avuga ko yabonye Simba mu gikorwa cyo kwiyamamaza cyabaye mu mpera z'imyaka ya za 80 no muri mitingi za MRND. Ibyo bintu

[228] Inyandikomvugo y'iburanisha, 31 Kanama 2004, imp. 63-64, 67; inyandikomvugo y'iburanisha, 1 Nzeri 2004, imp. 14-16.

[229] Inyandikomvugo y'iburanisha, 22 Gashyantare 2005, imp. 56-57; inyandikomvugo y'iburanisha, 23 Gashyantare 2005, imp. 49, 51-52; ikimenyetso gihamya cy'Ubwunganizi N° D95.

ubwabyo si ingenzi kubera ko perefe yerekanye Simba muri iyo nama. Cyakora na bwo, ibintu ntibinarushaho gusobanuka kuko KEH atavuga ko Perefe yavuze izina rya Simba mu buryo butaziguye[230]. Bucyibaruta yerekanye Simba avuga ko ari umuntu uhagarariye ako karere mu nteko ishinga amategeko, nyamara Simba yari amaze umwaka atakiri kuri uwo umwanya[231]. Byongeye kandi, uyu mutangabuhamya avuga ko Simba yari yambaye kositimu y'ubururu ariko ibyo bivuguruzanya n'ubundi buhamya bushinja ndetse n'ubushinjura buvuga ko muri kiriya gihe Simba yambaraga imyenda ya gisirikare iyo yabaga ari mu ngendo ze mu gihugu cyangwa mu ruhame.

234. SBL1 yemera ko abantu bagize inama y'umutekano ya perefegitura bashobora kuba barateranye ku itariki ya 10 Mata 1994. Anasobanura ko iyo nama igomba kuba yaritabiriwe n'abantu bagize iyo nama gusa kandi ko itabereye mu ruhame. Ntibisobanutse rero niba iyo nama ishobora kuba yarabaye ari imwe n'ivugwa na KEH, cyangwa niba zitandukanye. Kubera iyo mpamvu, ubuhamya bwa SBL1 ntibushyigikira cyangwa ngo buvuguruze ubwa KEH.

235. Urugereko rwanasuzumye ubuhamya bwa KEH mu rwego rw'ibimenyetso byatanzwe ku myiregurire ya sinari mpari yerekeranye n'icyo gihe, nk'uko bisobanurwa birambuye mu Cyiciro cya 9. Ubwo buhamya bushaka kumvikanisha ko Simba yagumye i Kigali kuva ku itariki ya 6 kugera ku ya 13 Mata kandi ubuhamya bw'abatangabuhamya bahamagajwe mu gushyigikira imyiregurire ya sinari mpari busobanura, mu buryo bushyize mu gaciro, ibyo Simba yakoze mu minsi yakurikiye urupfu rwa perezida maze bugatuma

[230] Inyandikomvugo y'iburanisha, 31 Kanama 2004, urup. 84 (« [Perefe Bucyibaruta] yaragize ati 'Dufite hano umushyitsi muzi kandi ni umuntu ubahagarariye kuko ari umudepite wanyu mu Nteko ishinga amategeko. Ngiye rero kumusaba guhaguruka maze abaramutse'. N'ibyo gusa yavuze maze Koloneli Simba arahaguruka asuhuza abantu, arangije asubira mu mwanya we aricara »).

[231] Muri kiriya gihe, uwari watoranyijwe kuzaba depite mu Nteko ishinga amategeko yari Superefe wa Superefegitura ya Karaba. Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 5. Mu makomine yari agize iyo Superefegitura harimo n'iya Nyamagabe.

Urugereko rushidikanya ku kwizerwa k'ubuhamya bwa KEH, igihe budafite ubundi bubushyigikira.

236. Urugereko rusanga Porokireri ataratanze ibimenyetso bihamya ku buryo budashidikanywaho ibyo avuga kuva ku gika cya 35 kugera ku cya 37 by'Inyandiko y'ibirego.

8.4 Guhamagarira abantu ibikorwa by'urugomo, kuri santeri y'ubucuruzi ya Nzega, Komine ya Nyamagabe, ku itariki ya 10 Mata 1994

8.4.1 Inyandiko y'ibirego

237. Igika cya 23 (e) cy'Inyandiko y'ibirego kigira kiti:

> Muri Mata 1994, Aloys Simba yafashe ijambo imbere y'abaturage bari bateraniye kuri santeri ya Nzega, muri Segiteri ya Gasaka, Komine ya Nyamagabe. Icyo gihe, yababajije impamvu bituramiye aho gukora nka bagenzi babo bo mu tundi duce[232].

8.4.2 Ibimenyetso

Umutangabuhamya ushinja wiswe KSS

238. KSS ni Umututsi. Mu buhamya bwe mu Rukiko avuga ko nyuma y'urupfu rwa Perezida Habyarimana yumvise ko Abatutsi barimo kugabwaho ibitero muri Komine ya Mudasomwa ituranye n'iye. Ku itariki ya 9 Mata, yabonye abantu bagaba ibitero byibasiye Abatutsi muri segiteri ye muri Komine ya Nyamagabe maze atabaza burugumesitiri, ariko na we guhagarika izo mvururu ntiyabishoboye[233].

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[232] Ibivugwa n'ababuranyi kuri icyo kintu cyabaye tubisanga mu myanzuro nsozarubanza yanditse ya Porokireri, igika 125 n'icya 135, no mu myanzuro nsozarubanza yanditse y'ubwunganizi, ibika 338-349, 533, 857; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 58-59.

[233] Inyandikomvugo y'iburanisha, 14 Nzeri 2004, imp. 6-7, 15-17.

239. Ku cyumweru tariki ya 10 Mata 1994, mu gitondo, KSS yahunze ibitero byagabwaga mu gace yari atuyemo maze ajya mu misa yabereye mu kiriziya muri Segiteri ya Gasaka, Komine ya Nyamagabe. Iyo misa yatangiye saa tatu irangira mu masaa ine n'igice za mu gitondo. Nyuma ya misa, uyu mutangabuhamya n'abandi bantu bari bavuye mu kiriziya bagiye kuri santeri y'ubucuruzi ya Nzega iri hafi aho maze basanga hateraniye abantu benshi b'Abahutu n'Abatutsi, ndetse n'Interahamwe zitwaje intwaro gakondo[234].

240. Bageze kuri iyo santeri y'ubucuruzi, KSS yabonye Aloys Simba avugana na François Gasana wari Perezida wa MDR muri Komine ya Nyamagabe kandi wari imbere y'imbaga y'abantu. Icyo gihe, kuri iyo santeri hari abantu bagera kuri 200 bahacaracaraga cyangwa se bahanyuraga. Ubwo yari mu ntera igeze kuri metero 12, uyu mutangabuhamya yumvise Simba abwira Gasana n'abantu bari bamukikije ati « Abandi batangiye gukora ariko mwe ntimuratangira». KSS yumvise ko ayo magambo yashakags kuvuga ko Abatutsi bagombaga kwicwa. Nyuma y'ayo magambo, Abatutsi bahise bava aho hantu[235].

241. Simba akimara kuvuga ibyo, Gasana yegereye KSS maze aramubwira ngo ahunge kubera ko Abatutsi bari bagiye kwicwa. Uyu mutangabuhamya yahise ava kuri iyo santeri y'ubucuruzi yihisha i Kirehe abigiriwemo inama na Gasana wamwijeje ko atezemera ko bamwica kubera ko yari yarabaye inyangamugayo mu kazi yamukoreraga[236].

242. Mbere y'uwo munsi, KSS yari yarabonye Simba inshuro ebyiri mu gikorwa cyo kwiyamamariza amatora mu mwaka wa 1988. Cyakora, ntazi ishyaka rya politiki

[234] Ni kimwe no haruguru, imp. 3, 5, 14-18, 20-21, 25-26, 36, 58-59, 62.

[235] Ni kimwe no haruguru, imp. 4-6, 8, 26, 27, 28, 32, 34-37. Umutangabuhamya asobanura ko intera yari iri hagati ye na Simba yareshyaga n'intera iri hagati y'aho yicaye mu cyumba cy'iburanisha n'umuryango uri ubumoso bwe. Ugendeye ku bipimo by'icyumba cy'iburanisha, iyo ntera ingana na metero 12 na santimetero 12. Ni kimwe no haruguru, urup. 6.

[236] Inyandikomvugo y'iburanisha, 14 Nzeri 2004, imp. 4, 5, 7, 11, 20-21, 26-27, 32, 34, 37-41, 60. Mu iburanisha muhezo, KSS yasobanuye icyo ahuriyeho na Gasana.

Simba yari arimo. Uyu mutangabuhamya yerekanye Uregwa mu cyumba cy'iburanisha[237].

8.4.3 Isesengura ry'Urugereko

243. KEH, ari nawe mutangabuhamya ushinja wenyine uvuga kuri icyo kintu cyabaye, avuga inkuru yahagazeho kandi ativuguruza haba mu ibazwa ry'ibanze cyangwa mu ibazwa rinyomoza. Ukuvuguruzanya kunyuranye Ubwunganizi buvuga hagati y'ubuhamya bwanditse yagejeje ku bapererezi b'Urukiko ku itariki ya 25 Nzeri 2000 n'ubwo yabagejejeho ku ya 19 Ugushyingo 2003 ntigukanganye kandi muri rusange ntikwatuma atizerwa[238]. Urugereko rusanga uyu mutangabuhamya yaragerageje kuvugisha ukuri kuri icyo kintu cyabaye.

244. KSS yabonye Simba ubwo kiriya kiganiro kigufi cyarimo kuba, kandi hari mu bihe bikomeye ndetse bihahamura. Muri icyo gitondo, uyu mutangabuhamya yari yagiye i Nzega ahunga ibitero byagabwaga ku Batutsi mu gace yari atuyemo. Misa yagiyemo yarahagaritswe kubera ibyo uyu mutangabuhamya yita « ibihe bikomeye ». Mu by'ukuri, Interahamwe zitwaje intwaro zateraniye haruguru ya kiriziya kugira ngo zice Abatutsi ndetse zinakoranira kuri santeri y'ubucuruzi ya Nzega, aho KSS yaba yarabonye Simba. Uretse abagabye ibitero bari bitwaje intwaro, hari abandi bantu bacaracaraga kuri iyo santeri aho uyu mutangabuhamya yanyuze iruhande rwa Simba, mbere gato y'uko ahunga ngo akize amagara ye.

245. Urugereko rw'Ubujurire rwashimangiye ko, ku nyungu z'ubutabera, Urugereko rwa Mbere rw'Iremezo rugomba buri gihe kwitonda cyane iyo rusuzuma ukuntu umutangabuhamya yabonye uregwa muri ibyo bihe bikomeye[239]. Kubera ko KSS

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[237] Inyandikomvugo y'iburanisha, 14 Nzeri 2004, imp. 8-10, 42-43.

[238] Ibimenyetso bihamya by'Ubwunganizi N° D13 na N° D14.

[239] Reba Inyandiko y'urubanza rwa Bagilishema mu bujurire, 12 Ukuboza 2002, igika 75; Inyandiko y'urubanza rwa Kupresikic na bagenzi be mu bujurire, 23 Ukwakira 2001, igika 39. Reba n'Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, 7 Kamena 2001, igika 532. Kuba umutangabuhamya

adatanga ibisobanuro bihagije ku kiganiro Gasana yagiranye na Simba, bituma izo mpungenge zikomeza kubaho. Kuba uyu mutangabuhamya yari azi Simba mbere y'icyo kintu cyabaye ntibifite uburemere cyane kandi bishingiye ku bintu byari byarabaye kera kuko uyu mutangabuhamya avuga ko yari yarabonye Simba inshuro ebyiri mu gikorwa cyo kwiyamamaza mu matora mu mwaka wa 1988. Urugereko rusanga rero bigoye kwemera ibyo avuga mu Rukiko ko Simba yari kuri Santeri y'ubucuruzi, mu gihe nta bundi buhamya bubishyigikira.

246. Urugereko rwanasuzumye ubuhamya bwa KSS mu Rukiko ruzirikana imyiregurire ya sinari mpari, nk'uko isobanurwa mu Cyiciro cya 9. Ibimenyetso byatanzwe mu gushyikira imyiregurire ya sinari mpari bishaka kumvikanisha ko Simba yagumye i Kigali kuva ku itariki ya 6 kugera ku ya 13 Mata, bityo bigatuma Urugereko rurushaho gushidikanya.

247. Urugereko rusanga Porokireri ataratanze ibimenyetso bihamya ku buryo budashidikanywaho ibivugwa mu gika cya 23 (e) cy'Inyandiko y'ibirego.

8.5 Itangwa ry'intwaro ku biro bya Komine ya Kinyamakara, hagati muri Mata 1994

8.5.1 Inyandiko y'ibirego

248. Igika cya 20 cy'Inyandiko y'ibirego kigira kiti :

> Mu cyumweru cyakurikiye urupfu rwa Perezida Habyarimana, Aloys Simba yajyanye ku biro bya Komine ya Kinyamakara ibisanduku bitatu birimo imbunda nka 50 zo mu bwoko bwa Kalashnikov. Izo mbunda, zari mu modoka ya Aloys Simba, zapakuruwe n'abasirikare maze abategeka gufatanya n'abapolisi ba komine kuziteranya no kuzitanga. Izo ntwaro zahawe abantu bitwaraga gisirikare n'abasiviri b'Abahutu bari barigishijwe gukoresha imbunda. Izo ntwaro zahise zikoreshwa mu

ashobora kwerekana uregwa mu cyumba cy'iburanisha nta gaciro kanini bifite. Reba Inyandiko y'urubanza rwa Kunarac na bagenzi be mu bujurire, 12 Kamena 2002, igika 320.

kwica abasiviri b'Abatutsi bari imbokoboko kandi biciwe mu ngo zabo no ku maduka yo kuri santeri y'ubucuruzi ya Rugogwe, muri Komine ya Ruhashya, Perefegitura ya Butare[240].

8.5.2 Ibimenyetso

Umutangabuhamya ushinja wiswe ANX

249. ANX ni Umuhutu, akaba yari umuhinzi muri Komine ya Kinyamakara muri Mata 1994. Ubwo yatangaga ubuhamya mu Rukiko, yari afunze ategereje kuburanishwa mu Rwanda, mu rubanza aregwamo icyaha cya jenoside[241].

250. ANX avuga ko rimwe, hagati muri Mata, Aloys Simba na Kapiteni Faustin Sebuhura w'umujandarume bashyikirije Charles Munyaneza, wari Burugumesitiri wa Komine ya Kinyamakara, ibisanduku bitatu birimo imbunda zo mu bwoko bwa Kalashnikov. Uwo munsi, hagati ya saa saba na saa munani n'igice z'amanywa, uyu mutangabuhamya yabonye Simba, wari wambaye imyenda ya gisirikare, na Sebuhura bagera ku biro bya Komine ya Kinyamakara mu modoka ya Simba yo mu bwoko bwa Mercedes Benz y'umweru ariko isize ibyondo, kandi bari kumwe n'abasirikare. ANX yari nko mu ntera ya metero 45 cyangwa 50 ku kayira kajya ku kigo nderabuzima, hafi ya kasho ya komine. Ibiro bya Komine byari bizitijwe ibiti by'amasadara. Abasirikare babiri n'abajandarume babiri bapakuruye ibyo bisanduku bitatu birimo imbunda nshya zo mu bwoko bwa Kalashnikov bazikura inyuma mu ikamyo ya gisirikare yari iherekeje Simba na

[240] Ibivugwa n'ababuranyi kuri icyo kintu cyabaye tubisanga mu myanzuro nsozarubanza yanditse ya Porokireri, igika 130, no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 684-723 (havugwa ku buhamya bwose ANX yatanze mu Rukiko).

[241] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, urup. 16; inyandikomvugo y'iburanisha, 2 Ugushyingo 2004, imp. 1-4; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, urup. 7; inyandikomvugo y'iburanisha, 5 Ugushyingo 2004, imp. 8-9, 11; ikimenyetso gihamya cya Porokireri N° P17. Umwirondoro wa ANX uvugwa mu gika cya 180 ku byerekeranye n'ubuhamya uyu mutangabuhamya yatanze mu Rukiko ku bitero byagabwe kuva ku itariki ya 27 kugera ku ya 29 Mata muri Komine ya Ruhashya, kandi bisuzumwa mu Cyiciro cya 7.

Sebuhura. Abasirikare n'abajandarume bakuye imbunda mu bisanduku, bashyiraho sharijeri maze barazigenzura barangije bazisubiza muri ibyo bisanduku. Simba na Munyaneza basinye mu ikaye, maze abapolisi bashyira ibyo bisanduku mu biro. Simba na Sebuhura bavuye aho hantu hashize nk'iminota 20 cyangwa 30[242].

251. Mu mpera za Mata cyangwa mu ntangiriro za Gicurasi, Munyaneza yatangiye izo mbunda kuri santeri ya Nyaruhombo, aziha urubyiruko rwari rwarahawe imyitozo Munyaneza yahaye imbunda zigera kuri 25 buri segiteri, kandi iyo komine yari gizwe n'amasegiteri icyenda[243]. Cyakora, ntiyatanze izo ntwaro mu gitero cya karundura cyagabwe muri Komine ya Ruhashya ku itariki ya 29 Mata[244].

Uregwa

252. Simba avuga ko atigeze ajya muri Komine ya Kinyamakara hagati muri Mata. Mu buhamya bwe mu Rukiko, avuga ko nk'umujyanama muri gahunda y'ukwirwanaho kw'abaturage, ku itariki ya 25 Gicurasi 1994 yasuzumye uko ibintu byari byifashe muri iyo komine. Uwo munsi yavuganye na Majoro Bizimungu w'umujandarume maze amusaba gutanga intwaro n'imyitozo muri iyo komine. Ku itariki ya 31 Gicurasi, Bizimungu yabwiye Simba ko yahaye Komine ya Kinyamakara imbunda 31 zo mu bwoko bwa Kalashnikov ndetse ko yanahashyize umujandarume umwe[245].

Umutangabuhamya ushinjura wiswe NGJ2.

253. NGJ2 ni Umuhutu, akaba yarahoze ari umutegetsi muri Perefegitura ya Gikongoro. Mu buhamya bwe mu Rukiko, avuga ko nyuma y'itariki ya 26 Mata,

[242] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, imp. 19-20; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 69-75, 79.

[243] Inyandikomvugo y'iburanisha, 1 Ugushyingo 2004, urup. 20; inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, urup. 28; inyandikomvugo y'iburanisha, 4 Ugushyingo 2004, imp. 72, 76-78, 80.

[244] Inyandikomvugo y'iburanisha, 3 Ugushyingo 2004, imp. 27-30.

[245] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 7-17.

ba burugumesitiri batangiye gushaka abasore no kubahera imyitozo ku biro by'amakomine kugira ngo bashyire mu bikorwa gahunda y'ukwirwanaho kw'abaturage. Burugumesitiri wa Komine ya Kinyamakara yabwiye uyu mutangabuhamya ko mu rwego rwo gushyira mu bikorwa icyifuzo gisaba intwaro cyari cyaragejejwe kuri Simba, abajandarume bari bahaye abo bantu batoranyijwe imbunda zo mu bwoko bwa Kalashnikov ziri hagati ya 30 na 40[246].

8.5.3 Isesengura ry'Urugereko

254. Urugereko rwamaze kuvuga ko rushidikanya ku buhamya bwa ANX mu Rukiko ku birebana n'ibitero byagabwe muri Komine ya Ruhashya kuva ku itariki ya 27 kugera ku ya 29 Mata 1994. Ku byerekeranye n'ikintu cyabaye gisuzumwa hano, Urugereko rusanga mu nyandikomvugo y'ubuhamya ANX yageje ku bapererezi b'Urukiko ku itariki ya 20 Kamena 2001, avuga ko atiboneye Simba atanga intwaro ko ahubwo yabyumvanye abantu, ariko ibyo binyuranye n'ibyo avuga mu buhamya bwe mu Rukiko[247]. Uko kwivuguruza kugaragara gutuma umuntu ashidikanya ku ukwizerwa k'uyu mutangabuhamya. ANX asobanura ko hari ibintu atari yabwiye abapererezi kubera ko atari yizeye ko arindiwe umutekano maze akongeraho ko bamaze kumwizeza umutekano ari bwo yabahaye ubuhamya burushijeho kuzura[248].

255. N'ubwo impungenge ANX yari afite ku mutekano we zishobora kuba zifite ishingiro ku byerekeranye n'ubuhamya yatanze ku mugaragaro abuha abategetsi bo mu Rwanda, ibyo si ko byamera ku buhamya yagejeje mbere ku bapererezi

[246] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 48, 53-54.

[247] Ikimenyetso gihamya cy'Ubwunganizi N° D41 (« Mu mpera za Mata 1994, Burugumesitiri Charles Munyaneza yahamagaje abantu bose bari barahawe imyitozo ya gisirikare n'abarezerivisite maze abaha imbunda. Ubwo twabazaga bamwe mu bantu bakoraga kuri komine aho izo ntwaro zari zaturutse, batubwiye ko ari Koloneli Simba wari warazizanye akaziha burugumesitiri". (ntibishimangiwe mu nyandiko y'umwirerere).

[248] Inyandikomvugo y'iburanisha, 5 Ugushyingo 2004, imp. 2-3.

b'uru Rukiko kuko yabutanze mu ibanga ryuzuye. Urugereko ntirushobora rero kwemera ubuhamya bwe igihe budafite ubundi bubushyigikira.

256. Niba koko izo ntwaro zarahawe ibiro bya Komine ya Kinyamakara hagati muri Mata, ntibyumvikana ukuntu zitakoreshejwe mu gitero cyagabwe muri Komine ya Ruhashya mu mpera z'uko kwezi. Ibyo byakumvikanisha ko, niba koko uyu mutangabuhamya yarabonye intwaro zitangirwa ku biro by'iyo komine, izo ntwaro zishobora kuba zaratanzwe mu mpera za Gicurasi kandi ibyo bihuye n'ibyo Simba avuga ndetse byemezwa n'umutangabuhamya ushinjura wiswe NGJ2. Ikibazo cyo kumenya igihe izo ntwaro zatangiwe ni ingenzi kubera ko Simba ataregwa imyitwarire mibisha nyuma ya Mata 1994.

257. Urugereko rwanasuzumye ubuhamya ANX yatanze mu Rukiko runazirikana imyiregurire ya sinari mpari yerekeranye n'icyo gihe, nk'uko isobanurwa mu Cyiciro cya 9. Ibimenyetso byatanzwe mu gushyigikira iyo myiregurire ya sinari mpari bishaka kumvikanisha ko Simba yagumye i Kigali kuva ku itariki ya 6 kugera ku ya 13 Mata, bityo bigatuma Urugereko rurushaho gushidikanya.

258. Porokireri ntiyatanze ibimenyetso bihamya nta gushidikanya ibivugwa mu gika cya 20 cy'Inyandiko y'ibirego ku birebana n'itangwa ry'intwaro.

8.6 Inama yabereye muri CIPEP ku itariki ya 26 Mata 1994

8.6.1 Inyandiko y'ibirego

259. N'ubwo iyo nama itavugwa mu Nyandiko y'ibirego, Porokireri avuga ko ibyo bimenyetso ari ingenzi mu kwerekana umugambi wo gukora icyaha no mu kurushaho kugaragaza ko hariho umugambi mubisha uhuriweho. Ubwunganizi bwasabye ko ibyo bimenyetso bitashyirwa muri dosiye kubera ko Uregwa atamenyeshejwe ibyo ashinjwa kuri ibyo bintu. Nk'uko bivugwa mu Cyiciro cya

1.2, Urugereko rwafashe icyemezo cyo kwakira ibyo bimenyetso kubera ko rusanga ari ingenzi ku bwicanyi bwakorewe ahantu hatanu havugwa[249].

8.6.2 Ibimenyetso

Umutangabuhamya ushinja wiswe KDD

260. KDD ni Umuhutu, akaba yari umukozi wa Leta muri ako karere muri Mata 1994. Ubwo yazaga gutanga ubuhamya mu Rukiko, yari yarajuririye igihano cyo kwicwa yari yarakatiwe mu Rwanda kubera uruhare yagize mu bwicanyi bwakorewe kuri paruwasi ya Cyanika. Uyu mutangabuhamya ahakana ko yari kuri paruwasi ya Cyanika ku itariki ya 21 Mata 1994, ahubwo akavuga ko yagiyeyo ku itariki ya 22 Mata 1994, nyuma y'ubwicanyi bwahakorewe. Mu nkiko zo mu Rwanda, KDD yemeye ibyaha bibiri ari byo gusaka amazu y'Abatutsi mu Ukwakira 1990 no gutwara Interahamwe mu modoka muri Kamena 1994 kugira ngo zijye kugaba igitero mu mujyi wa Nyanza wari wafashwe na FPR[250].

261. Ku itariki ya 26 Mata 1994, KDD yari mu nama yabereye muri CIPEP yari yanitabiriwe na Simba, Perefe Laurent Bucyibaruta, Minisitiri Daniel Mbangura, Kapiteni Faustin Sebuhura w'umujandarume, abasuperefe n'aba burugumesitiri bose ndetse n'abandi bategetsi bo muri ako karere. Uyu mutangabuhamya avuga ko Bucyibaruta yatumije iyo nama kugira ngo ageze kuri abo bantu amabwiriza yari yatanzwe na Minisiteri y'Ubutegetsi bw'Igihugu yategekaga abaturage

[249] Ibivugwa n'ababuranyi kuri icyo kintu cyabaye tubisanga mu myanzuro nsozarubanza yanditse ya Porokireri, ibika 62, 75, 85, 92, 114 na 131 no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 607-642 (havugwa ku buhamya bwa KDD mu Rukiko); inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp.15, 55, 61; inyandikomvugo y'iburanisha, 8 Nyakanga 2005, imp.1-4.

[250] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 14, 42, 47-49; ikimenyetso gihamya cya Porokireri N° P16. Umutangabuhamya anavuga ku nama yabereye ku biro bya Komine ya Karama ku wa 11 Mata, ku yabereye kuri CIPEP mu mujyi wa Gikongoro ku wa 13 Mata, no ku yabereye ku isoko rya Kirambi ku wa 4 Gicurasi (Komine ya Rukondo). Urugereko rurasuzuma ibyo bintu mu Cyiciro cya 1.2.

guhagarika ubwicanyi. Bucyibaruta ni we muntu wa mbere wafashe ijambo arangije ariha Simba[251].

262. Muri iyo nama, Simba yasabye abategetsi banyuranye bari aho, yitaga abayobozi b'ubwicanyi, kuvuga umubare w'abantu bishwe mu duce bategekaga. Damien Biniga, wari Superefe wa Superefegitura ya Munini, yavuze ko ku itariki ya 17 Mata yagabye igitero i Kibeho abifashijwemo n'abajandarume maze kigahitana Abatutsi 17.500 kandi ko yakoresheje lisansi kugira ngo asenye igisenge cya kiriziya. Sebuhura yavuze ko ku itariki ya 21 Mata yayoboye abajandarume bose bo ku Gikongoro n'Interahamwe zo muri Komine ya Mudasomwa mu bwicanyi bwahitanye Abatutsi barenga 20.000 i Murambi. Joseph Ntegeyintwali, wari Superefe wa Superefegitura ya Karaba, yavuze ko yayoboye ubwicanyi bwahitanye Abatutsi 10.000 kuri paruwasi ya Cyanika, abifashijwemo n'abajandarume, Interahamwe zo muri Komine ya Mudasomwa n'abaturage. Simba na we yavuze ko yayoboye ubwicanyi bwakorewe kuri paruwasi ya Kaduha, aho abaturage bishe Abatutsi 20.000[252].

263. Uyu mutangabuhamya avuga ko Simba yanasabye ba burugumesitiri gufata ingamba zose za ngombwa kugira ngo barimbure impunzi z'Abatutsi zari zahungiye muri Komine ya Ruhashya, Perefegitura ya Butare[253].

Uregwa

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[251] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, urup. 30; inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 26, 36, 44-45, 48-49, 67; ikimenyetso gihamya cya Porokireri N° P44.

[252] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 30-31; inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 26, 44, 48-49, 67. Mu buhamya yatanze ku wa 28 Ukwakira 2004, uyu mutangabuhamya avuga ko Daniel Mbangura yari Superefe wa Superefegitura ya Munini akaba yaranayoboye ubwicanyi bwakorewe i Kibeho. Cyakora, mu buhamya yatanze ku wa 10 Ugushyingo 2004, yavuze ko ari Damien Biniga. Kubera ko Biniga yari Superefe wa Superefegitura ya Munini, birashoboka ko uyu mutangabuhamya yibeshye avuga Mbangura mu buhamya yatanze ku wa 28 Ukwakira.

[253] Inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, urup. 36.

264. Mu buhamya bwe mu Rukiko, Simba avuga ko ku itariki ya 26 Mata 1994, we n'umuhungu we Robert bahuriye na Silas Mucumankiko, wari umuyobozi w'uruganda rukora itabi rwitwaga Tabarwanda, mu kabari k'umucuruzi witwa Majyambere ku Gikongoro. Avuga ko atagiye mu nama yabereye hafi aho kuri CIPEP kandi ko atazi ko iyo nama yatumijwe na Perefe Bucyibaruta[254].

Umutangabuhamya ushinjura wiswe SBL1

265. SBL1 ni Umuhutu, akaba yarahoze ari umukozi mukuru wa Leta. Mu buhamya yatanze mu Rukiko, avuga ku birebana n'inama y'Inama y'umutekano ya perefegitura yabereye kuri CIPEP ku itariki ya 26 Mata 1994, yari yitabiriwe n'abasuperefe na ba burugumesitiri. Abategetsi bo muri Leta bari muri iyo nama baganiriye ku bwicanyi bwakorewe ahantu hanyuranye maze ba burugumesitiri bavuga uko ibintu byifashe mu makomine yabo. Simba ntiyari muri iyo nama. Ku itariki ya 29 Mata, perefe Bucyibaruta yatanze itangazo ribuza abantu gukomeza gukora ubwicanyi, ubusahuzi n'ibindi bikorwa by'urugomo[255].

Umutangabuhamya ushinjura wiswe NGJ2.

266. NGJ2 ni Umuhutu, akaba yarahoze ari umutegetsi muri ako karere. Mu buhamya yatanze mu Rukiko, avuga ko ku itariki ya 26 Mata 1994 yagiye mu nama y'ababurugumesitiri n'abasuperefe yari igamije gusuzumira hamwe ikibazo cyo kugarura amahoro n'ikirebana n'ingamba z'ukwirengera kw'abaturage zirimo no gushyiraho amabariyeri. Simba ntiyatumiwe muri iyo nama kandi ntiyayijemo. Uyu mutangaubuhamya avuga ko muri iyo nama nta muntu n'umwe wigeze utanga amakuru ku bwicanyi. Ahubwo uyu mutangabuhamya yasuzumye inyandiko kugira ngo yemeze ukuri kwayo nuko avuga ko iyo nyandiko ari urutonde rw'ibyemezo byerekeranye n'umutekano, byafatiwe muri iyo nama.

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[254] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 17. 75-76.

[255] Inyandikomvugo y'iburanisha, 24 Gashyantare 2005, imp. 40-41, 44-45, 54; ikimenyetso gihamya cya Porokireri N° P44 n'ikimenyetso gihamya cy'Ubwunganizi N° D95.

NGJ2 asobanura ko iyo nyandiko ari iyo ku itariki ya 29 Mata aho kuba iya 26 Mata kuko nyuma y'iyo nama iyo nyandiko yandukuwe yose uko yakabaye[256].

8.6.3 Isesengura ry'Urugereko

267. Rushingiye ku buhamya bw'umutangabuhamya ushinja wiswe KDD n'ubw'abashinjura biswe NGJ2 na SBL1, Urugereko rwemera ko Perefe Bucyibaruta yatumije inama y'abategetsi bo muri ako agace,kuri CIPEP ku itariki ya 26 Mata 1994 kugira ngo bigire hamwe ibibazo by'umutekano birimo n'ubwicanyi bwari buherutse gukorwa. Cyakora, abatangabuhamya baravuguruzanya cyane ku byerekeranye n'uko Simba yaba yari muri iyo nama no ku miterere y'ibyasuzumwe ku bwicanyi bwari buherutse gukorwa muri ako karere.

268. KDD ni we mutangabuhamya wenyine uvuga ko Simba yari muri iyo nama kandi ko abategetsi bo muri ako karere bavuze ko bayoboye ubwicanyi bwari buherutse kuhakorerwa. Urugereko ruributsa ko ubwo uyu mutangabuhamya yatangaga ubuhamya mu Rukiko yari ategereje imikiririze y'urubanza rwe mu Rwanda ku bujurire bwe bwerekeranye n'igihano cyo kwicwa yakatiwe kubera ko yahamwe n'ibyaha byakorewe kuri paruwasi ya Cyanika ku itariki ya 21 Mata. Urugereko runasanga mu Nyandiko y'ibirego Simba ashinjwa ibyaha byerekeranye n'igitero cyagabwe kuri iyo Paruwasi ya Cyanika. Rusanga kandi ALS wari kuri iyo paruwasi igihe hakorerwaga ubwicanyi avuga ko KDD yari mu bantu bahagabye igitero. Ruributsa kandi ko KDD avuga ko nta ruhare na rumwe yagize mu bwicanyi bwakorewe kuri paruwasi ya Cyanika ahubwo ko agerageza kwegeka ubwo bwicanyi kuri Simba. Rushingiye ku bimaze kuvugwa, Urugereko rusanga rugomba gusesengura ubuhamya bwa KDD bubwitondeye cyane[257].

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[256] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 43-46; ikimenyetso gihamya cya Porokireri N° P44 n'ikimenyetso gihamya cy'Ubwunganizi N° D126.

[257] Inyandikomvugo y'iburanisha, 28 Ukwakira 2004, imp. 48-49; inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 24, 56. Na none, mu buhamya bwe bwanditse bwo ku wa 30 Ugushyingo 2001 no

269. Mu buhamya yatanze mu Rukiko kuri icyo kintu cyabaye, KDD ntiyivuguruza kandi ntajijinganya. Cyakora, ni ngombwa gusuzumana ubwitonzi ukwivuguruza kunyuranye kuri hagati y'ubuhamya yatanze mu Rukiko n'ubuhamya bunyuranye yagejeje ku bapererezi b'uru Rukiko ndetse no ku bategetsi bo mu Rwanda. Mu ibaruwa yo ku itariki ya 5 Nzeri 1997 uyu mutangabuhamya yandikiye Porokireri Mukuru w'u Rwanda, nta cyo avuga ku birebana n'inama yabaye ku itariki ya 26 Mata. Byongeye kandi nta n'ubwo ashinja Simba ku byerekeranye n'ubwicanyi bwakorewe muri perefegitura ya Gikongoro, ahubwo avuga ko ubwo bwicanyi bwaryozwa Perefe Bucyibaruta na Superefe Ntegeyintwali. Avuga Simba gusa ku byerekeranye n'igitero cyagabwe kuri FPR muri Perefegitura ya Butare muri Kamena 1994 kandi, nk'uko abivuga muri iyo baruwa, icyo gitero ntaho gihuriye n'amarorerwa yakorewe mu Rwanda mu mwaka wa 1994[258]. Urugereko rusanga KDD yaranditse iyo baruwa yo ku itariki ya 5 Nzeri 1997 mu rwego rwo kwiregura ku byaha yashinjwaga. Bityo rero, kuba iyo baruwa nta cyo ivuga ku nama yabaye ku itariki ya 26 Mata cyangwa ku birebana n'uko Simba yayigiyemo ntibyabuza ko KDD yizerwa.

270. Mu nyandikomvugo y'ibazwa rya KDD yakozwe n'abakozi bo muri bya Porokireri w'u Rwanda ku itariki ya 17 Kanama 2000, ntavugamo iby'inama yo ku itariki ya 26 Mata[259]. Iyo nyandikomvugo isa n'iyakozwe mu rwego rw'iperereza kuri Bucyibaruta kandi uyu mutangabuhamya ntiyabajijwe ibibazo kuri Simba. Iyo nyandikomvugo igaragaza ko inama yo ku itariki ya 26 Mata yari igamije guhagarika ubwicanyi. Ntihavugwamo ko abategetsi bo muri ako agace bayoboye ubwicanyi, ko Simba yari muri iyo nama cyangwa ko hari uruhare yaba yaragize muri ubwo bwicanyi. Bucyibaruta na Ntegeyintwali ni bo bashyirwa mu majwi. Muri iyo nyandikomvugo havugwa ko Simba yari mu nama yabereye ku

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mu ibaruwa yometseho yandikiye umuyobozi wa gereza ya Gikongoro, uyu mutangabuhamya ashinjamo Perefe Bucyibaruta n'abandi bantu. Ikimenyetso gihamya cy'Ubwunganizi N° D47.

[258] Ikimenyetso gihamya cy'Ubwunganizi N° D54.

[259] Ikimenyetso gihamya cy'Ubwunganizi N° D50.

isoko rya Kabacuzi muri Gicurasi, yerekeranye n'igitero cyagombaga kugabwa kuri FPR i Nyanza muri Kamena 1994.

271. Mu ibaruwa KDD yandikiye umuyobozi wa gereza ya Gikongoro mu mwaka wa 2001, niho avuga bwa mbere iby'inama yo ku itariki ya 26 Mata[260] ariko ntavugamo Simba. Avuga ahubwo ko Bucyibaruta na Sebuhura ari bo bateguye ubwicanyi bwakorewe kuri paruwasi ya Cyanika[261]. Urugereko rusanga kuba Simba atavugwa ku byerekeranye n'igitero cyagabwe mu Cyanika bishobora kuba byaratewe n'uko KDD yateguye iyo baruwa ashaka gutanga amakuru yihariye yasabwe kuri Bucyibaruta[262].

272. Urugereko rusanga kandi iyo baruwa yo mu mwaka wa 2001 yandikiwe umuyobozi wa gereza ya Gikongoro, ari yo KDD yashingiyeho cyane mu buhamya yagejeje ku bapererezi b'uru Rukiko ku itariki ya 30 Ugushyingo 2001. Kimwe n'iyo baruwa, ubwo buhamya bwibanda ahanini kuri Bucyibaruta[263].

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[260] Ikimenyetso gihamya cy'Ubwunganizi N° D49 (ibaruwa itagaragaza itariki yandikiweho). Muri ubwo buhamya bwanditse, umutangabuhamya avuga ko iyo nama yabaye ku wa 29 Mata, aho kuba ku wa 26 Mata. Asobanura ko atanga ubwo buhamya yitiranyije itariki iyo nama yabayeho n'itariki itangazo (ikimenyetso gihamya cya Porokireri N° 44) ryatangiweho nyuma y'iyo nama. Inyandikomvugo y'iburanisha, 10 Ugushyingo 204, imp. 48-49, 66.

[261] Ibimenyetso gihamya by'Ubwunganiz N° D47 na N° D49 i (« Ndemeza ko Laurent Bucyibaruta afatanyije na komanda wa jandarumori ya Gikongoro ari bo bishe Abatutsi bari barahungiye mu Cyanika»).

[262] Ikimenyetso gihamya cy'Ubwunganizi N° D49 («Munyeretse kopi y'ibaruwa nandikiye umuyobozi wa gereza ya Gikongoro. Ni jye rwose wayanditse kandi nabikoze kubera ko umuyobozi wa gereza yari yansabye kwandika ibyo nzi kuri Laurent Bucyibaruta»). Ikopi y'iyo baruwa yandikiye umuyobozi wa gereza ya Gikongoro yometse ku buhamya bwanditse uyu mutangabuhamya yatanze ku wa 30 Ugushyingo 2001 (ikimenyetso gihamya cy'Ubwunganizi N° D47); iyo kopi yanatanzwe nk'ikimenyetso gihamya cyihariye cy'Ubwunganizi N° D49.

[263] Inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 48-49, 65-67; ikimenyetso gihamya cy'Ubwunganizi N° D47, (ubuhamya yagejeje mbere ku bapererezi b'Urukiko) («Ntanze igitekerezo cyanjye ku myitwarire ya Laurent Buyibaruta wari Perefe wa perefegitura ya Gikongoro muri jenoside yakozwe muri Mata 1994»). Muri ubwo buhamya, kimwe no mu ibaruwa yandikiye umuyobozi wa gereza

Bityo rero, kuba mu buhamya KDD yagejeje ku bapererezi ku itariki ya 30 Ugushyingo 2001 atavuga Simba ku birebana n'inama yo ku itariki ya 26 Mata, nta kamaro kanini bifite. Cyakora, mu bika bitatu by'ubwo buhamya havugwamo ko Simba yatanze intwaro, agategura igikorwa cyo guha abantu imyitozo ndetse ko yagiye mu nama yabaye muri Kamena 1994. Kuba muri ubwo buhamya KDD avuga ibintu byinshi, bituma umuntu yibaza impamvu atatanze andi makuru kuri Simba ku byerekeranye n'ibyo bintu bindi byabaye.

273. Cyakora, Urugereko rutangazwa by'umwihariko no kuba mu buhamya yagejeje ku bapererezi b'uru Rukiko nyuma ku itariki ya 20 Ugushyingo 2003, KDD atagira icyo avuga ku nama yo ku itariki ya 26 Mata[264]. Ubwo buhamya bwibanda gusa kuri Simba. N'ubwo bigaragara ko muri ubwo buhamya hari hagamijwe gutanga amakuru y'inyongera kuri Simba ku bintu bivugwa mu buhamya bwa mbere KDD yagejeje ku bapererezi, nta hantu avuga iby'inama yabaye ku itariki ya 26 Mata. Kuba iyo nama itavugwa biratangaje cyane kuko mu Rugereko, uyu mutangabuhamya yashinje cyane Simba ko yagiye muri iyo nama yo ku itariki ya 26 Mata[265]. Urugereko ntirwapfa kwemera ko ibirebana no kuba Simba yaragiye muri iyo nama atari ikintu gikomeye cyari gutuma ubuhamya bwatanzwe mbere busobanuka neza kandi KDD yarabuvuzemo ibirebana n'iyo nama mu buryo butandukanuye cyane n'ubwo ayivugamo ubu.

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ya Gikongoro, umutangabuhamya avuga, yibeshya, ko inama yabaye ku wa 29 Mata, nk'uko bivugwa haruguru ku gisobanuro N° 260 cyo hasi ku rupapuro.

[264] Ubwo buhamya yabugejeje ku bapererezi hasigaye iminsi mike ngo Porokireri atange Icyifuzo gisaba guhindura Inyandiko y'ibirego. Mu byo yasabaga kongeramo harimo ihange ry'umugambi mubisha uhuriweho. Reba Urubanza rwa Simba mu rw'iremezo, Icyemezo ku cyifuzo gisaba guhindura Inyandiko y'ibirego, 27 Mutarama 2004, igika 3.

[265] Ikimenyetso gihamya cy'Ubwunganizi N° 48 (« Ubu ni ubwa kabiri mbajijwe n'abapererezi b'Urukiko. Hari ibintu nifuzaga gusobanura ku byo nababwiye »).

274. Mu ibaza rinyomoza, KDD yasobanuye ko mu buhamya yagejeje ku bapererezi b'Urukiko, atabajijwe ibibazo byihariye kuri Simba[266]. Urugereko ntirunyuzwe n'icyo gisobanuro. N'ubwo igisobanuro KDD atanga gishobora gutuma umuntu yumva impamvu atatanze amakuru menshi kuri Simba mu nyandikomvugo enye z'ubuhamya yatanze mbere buvugwa haruguru, ubuhamya yagejeje ku bapererezi ku itariki ya 20 Ugushyingo 2003 bwerekeye Simba gusa. Byongeye kandi, kuba uyu mutangabuhamya avuga, mu buryo butaziguye, kuri Simba mu isoza ry'ubuhamya yagejeje ku bapererezi ku itariki ya 30 Ugushyingo 2001 bwerekeranye n'uburyozwacyaha bwa Perefe Bucyibaruta, bifite icyo bihatse. Mu buhamya KDD yatanze mu Rukiko, asobanura ko mu buhamya bwe bwanditse yavuze kuri Simba « yashakaga kwerekana gusa ko Uregwa yagize uruhare mu bwicanyi bwabaye »[267]. Biratangaje kubona ko iyo avuga uruhare rwa Simba mu bwicanyi, nk'uko yabikoze mu buhamya yagejeje ku bapererezi b'Urukiko, uyu mutangabuhamya aterekana uruhare Simba yagize ubwe mu gitero cyagabwe kuri paruwasi ya Kaduha cyangwa ngo avuge uruhare yaba yaragize mu guhuza ibikorwa by'abandi bantu bari bayoboye ibitero. Ahubwo, ubwo KDD yasobanuraga uruhare Simba yagize muri ibyo bintu, mu buhamya yagejeje ku bapererezi ku itariki ya 20 Ugushyingo 2003, yashinje gusa Simba ubwicanyi bivugwa ko bwakorewe ku mabariyeri[268]. Incamake yo ku itariki ya 30 Kanama 2004 ku buhamya yari kuzatanga mu Rukiko, ni yo yonyine irimo amakuru ashinja Simba ku byerekeranye n'inama yabaye ku itariki ya 26 Mata.

275. Hashingiwe ku buhamya KDD, SBL1 na NGJ2 batanze mu Rukiko, biragaragara ko ku itariki ya 26 Mata kuri CIPEP habereye inama y'abategetsi bo muri ako

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[266] Inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 48-49, 65-67; Ibimenyetso gihamya by'Ubwunganizi N° D47 na N° 48.

[267] Inyandikomvugo y'iburanisha, 10 Ugushyingo 2004, imp. 71-73.

[268] Ikimenyetso gihamya cy'Ubwunganizi N° D48 (« Ku birebana n'iyicwa ry'Abatutsi muri Perefegitura ya Gikongoro, abantu bose biciwe kuri za bariyeri zinyuranye bishwe biturutse, mu buryo butaziguye, ku mabwiriza Koloneli Simba yatanze ». Ubwicanyi bwakorewe ku mabariyeri ntibuvugwa mu Nyandiko y'ibirego.

karere. Rushingiye ku buhamya bwa KDD na SBL1, Urugereko rwemera kandi ko muri iyo nama, abategetsi bo muri ako karere baganiriye ku bwicanyi bwari buherutse gukorwa muri Perefegitura. Urugereko rusanga nyuma yaho, Perefe Bucyibaruta yarategetse abategetsi bo muri ako karere guhagarika imvururu muri Perefegitura nk'uko byemezwa n'itangazo ryahise iyo nama irangiye[269].

276. Ikibazo cy'ingenzi Urugereko rwibaza ni icyo kumenya niba rwakwemera ubuhamya bushinja bwa KDD aho avuga ko muri iyo nama baganiriye ku bwicanyi kandi ko Simba yari ayirimo. Urugereko rusanga, ubuhamya KDD yatanze mu Rukiko avuga ko Simba yari muri iyo nama butanyomozwa n'ibyemezwa na SBL1 na NGJ2 batanga amakuru anyuranye kuri icyo kibazo, cyangwa ngo bunyomozwe n'imyiregurire ya sinari mpari ya Simba idafite ibimenyetso biyishyigikira. Urugereko ruzirikana ko aba batangabuhamya na bo bashinjwa kuba bari muri ibyo bitero bityo bakaba bafite impamvu zo kwigurutsa ibivugwa na KDD.

277. Amakuru atangwa na KDD ku byavugiwe muri iyo nama aramutse yemewe yose uko yakabaye, yashyigikira ubuhamya YH na KXX batanze mu Rukiko buvuga ko Simba yari kuri paruwasi ya Kaduha ku itariki ya 21 Mata. Yashyigikira na none ubuhamya bwa KSY buvuga ko Kapiteni Sebuhura yari ku ishuri ry'imyuga ry'i Murambi. Ubwo buhamya bwa KDD bwanatanga ibisobanuro ku byerekeranye n'uko ibitero byagabwe muri ako karere byari byarateguwe ndetse bigahurizwa hamwe, kandi ibyo binagaragarira mu buryo byagabwe. By'umwihariko, iyo umuntu asuzumye ubuhamya bwa KDD mu Rukiko abugereranya n'ibindi bimenyetso, asanga bwerekana ko Simba yari afite ibyo ahuriraho n'abategetsi bo muri ako karere n'abagabye igitero.

278. Cyakora, nk'uko bivugwa haruguru, hari aho Urugereko rushidikanya ku ukwizerwa k'ubuhamya bwa KDD. Bityo rero, mu gihe ubwo buhamya budafite ubundi bubushyigikira, Urugereko rusanga hataragaragajwe, ku buryo

[269] Ikimenyetso gihamya cya Porokireri N° P44.

budashidikanywaho, ko Simba yari mu nama yo ku itariki ya 26 Mata, kandi ko we n'abandi bategetsi bo muri ako karere bemeye muri iyo nama ko bayoboye ubwicanyi bwari buherutse kuhakorerwa. Kuba ubwo buhamya bushinja bugaragara bwa mbere mu ncamake y'ubuhamya KDD yari kuzatanga mu Rukiko yamenyekanishijwe iburanisha ritangiye, bituma umuntu abwibazaho byinshi.

8.7 Inama y'abaturage muri Komine ya Ntyazo, Perefegitura ya Butare, ku itariki ya 22 Gicurasi 1994

8.7.1 Inyandiko y'ibirego

279. Igika cya 23 (g) cy'Inyandiko y'ibirego kigira kiti:

> (g) Ku itariki ya 22 Gicurasi 1994, cyangwa hafi y'iyo tariki, Aloys Simba yagiye mu muhango wo kwimika Mathieu Ndahimana ku mwanya wa Burugumesitiri wa Komine ya Ntyazo, muri Perefegitura ya Butare. Icyo gihe, Aloys Simba yabwiye abari muri iyo nama kutagira Umututsi n'umwe basiga batamwishe, avuga ngo iyo wica imbeba ziri mu rugo iwawe ntusiga n'ihaka. Aloys Simba yasobanuriye abari aho ko umubano w'Abahutu n'Abatutsi umeze nk'uw'injangwe n'imbeba. Kugeza icyo gihe hari abagore benshi, abakobwa, ibimuga n'abantu basheshe akanguhe batari bakicwa, ariko nyuma yaho gato, kubera ayo magambo ye, Abatutsi bose bari basigaye muri ako gace barishwe[270].

8.7.2 Ibimenyetso

Umutangabuhamya ushinja wiswe YC

280. YC ni Umuhutu, kandi mu mwaka wa 2000 yemeye icyaha cya jenoside aregwa mu Rwanda. Mu mwaka wa 1997, yishyize mu maboko y'abategetsi bo mu

[270] Ibivugwa n'ababuranyi kuri icyo kintu cyabaye biri mu myanzuro nsozarubanza yanditse ya Porokireri, igika133 no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1028-1036, 1057.

Rwanda ku bushake bwe maze ahita atangira gufatanya na bo. Ku itariki ya 22 Gicurasi 1994, uyu mutangabuhamya yagiye mu muhango wo kwimika Mathieu Ndagijimana ku mwanya wa Burugumesitiri wa Komine ya Ntyazo, muri Perefegitura ya Butare kuko Burugumesitiri w'Umututsi wari ho mbere yari yishwe muri jenoside[271].

281. YC avuga ko muri uwo muhango, wabaye nyuma ya saa sita ukamara amasaha nk'abiri, hari abantu babarirwa hagati ya 500 na 1.000. Mu bantu bawitabiriye harimo Sylvain Nsabimana wari Perefe wa Perefegitura ya Butare, Koloneli Alphonse Ntezilyayo, Koloneli Tharcisse Muvunyi na Simba. Perefe yasuhuje imbaga y'abantu yari aho maze yerekana Simba nk'umuyobozi wa gahunda y'ukwirwanaho kw'abaturege muri Perefegitura ya Butare na Gikongoro. Perefe yerekanye kandi Koloneli Nteziryayo nk'umuyobozi wa gahunda y'ukwirwanaho kw'abaturage muri Butare. Perefe Nsabimana yanasobanuye impamvu uwo muhango wabaye maze yibutsa abantu ko ari ngombwa gukomeza kurwanya Inkotanyi n'ibyitso byazo. Perefe arangije kuvuga, Koloneli Nteziryayo yafashe ijambo rirerire ashishikariza Abahutu kugaba ibitero ku Batutsi barokotse ubwicanyi muri ako gace[272].

282. Nteziryayo amaze kuvuga, Simba na we yafase ijambo ryamaze nk'iminota 20 maze yemeza ko yari ashinzwe gahunda y'ukwirwanaho kw'abaturage muri Perefegitura ya Butare na Gikongoro. Yibukije abaturage ko igihugu cyari kikiri mu ntambara kandi ko bagombaga gukomeza gutsembatsemba ibyitso by'Inkotanyi byari bikiriho. Yasobanuye ayo magambo ye atanga urugero rw'injangwe n'imbeba. Yasabye Ajida Shefu Rekeraho guhaguruka maze atanga urugero ko Rekeraho yaba ari mu mwanya w'imbeba naho we Simba ari mu mwanya w'injangwe, nuko yongeraho ko buri gihe iyo injangwe ibonye imbeba

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[271] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 71-73; inyandikomvugo y'iburanisha, 27 Ukwakira 2004, imp. 33, 44-45, 47, 49-50. Ikimenyetso gihamya cya Porokireri N° 15.

[272] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 73-75; inyandikomvugo y'iburanisha, 27 Ukwakira 2004, imp. 9, 41-43, 52, 54. Ikimenyetso gihamya cy'Ubwunganizi N° D40.

iyica. Yasobanuye ko ibyo byasobanuraga urwango Abahutu bari bafitiye Abatutsi maze ashishikariza urubyiruko rwari aho kujya mu bigo bya Gisirikare kugira ngo ruhabwe imyitozo. Arangije kuvuga, abaturage bakomye amashyi. Nyuma yaho, Simba yaganiriye gato n'uyu mutangabuhamya[273].

283. YC avuga ko Simba yari azwi cyane muri ako karere nk'umudepite w'umuherwe n'umusirikare ukomeye kandi w'inshuti ya Perezida Habyarimana. Uyu mutangabuhamya yibuka ko yabonye Simba ari kumwe na Perezida Habyarimana ubwo basuraga Kaminuza y'i Butare mu mwaka wa 1986. Avuga ko yongeye kubona Simba ubwo yazaga muri Kaminuza mu isabukuru y'imyaka 50 yari imaze ishinzwe. Yongeraho ko yanamubonye mu yindi mihango yabereye i Kigali. Uyu mutangabuhamya yerekanye Simba mu cyumba cy'iburanisha[274].

284. Mu gitondo cyo ku itariki ya 23 Gicurasi 1994, YC yaganiriye n'umutegetsi ukorera muri segiteri yabereyemo uwo muhango wo kwimika burugumesitiri. Baganira, bari imbere y'ibiro bya komine maze uwo mutegetsi amwereka raporo yanditse igaragaza ko ku mugoroba ubanziriza uwo munsi hari haraye hishwe abantu 500 kubera amagambo yari yavugiwe muri uwo muhango. Nyuma yaho, uyu mutangabuhamya yumvise ko imirambo y'abo banyakwigendera yajugunywe mu ruzi rw'Akanyaru[275].

Uregwa

285. Simba yemera ko ku itariki ya 18 Gicurasi yagizwe umujyanama muri gahunda y'ukwirwanaho kw'abaturage muri Perefegitura ya Gikongoro na Butare ariko akemera gusa kuba umujyanama muri Gikongoro, Butare itarimo. Asobanura ko atari afite uburyo buhagije bwo gufatanya ayo maperefegitura yombi kubera ko Gikongoro ubwayo yari igizwe n'amakomine 13 naho Butare igizwe na 20. Ku itariki ya 22 Gicurasi, yamenyesheje Perefe Nsabimana ko adashobora kuba

[273] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 75-76; inyandikomvugo y'iburanisha, imp. 9-54.

[274] Inyandikomvugo y'iburanisha, 26 Ukwakira 2004, imp. 81-82.

[275] Ni kimwe no haruguru, imp. 76-77; inyandikomvugo y'iburanisha, 27 Ukwakira 2004, imp. 17, 19-23.

umujyanama muri gahunda y'ukwirwanaho kw'abaturage muri Butare. Icyo gihe, Nsabimana yari mu nzira ajya mu muhango wo kwimika burugumesitiri wa Komine ya Ntyazo maze asaba Simba kumuherekeza. Simba asobanura ko yemeye kujyana na we kubera ikinyabupfura kuko bwari ubwa mbere abonana na Nsabimana kandi ntiyashakaga ko uwo muperefe ajya muri uwo muhango wenyine. Muri uwo muhango, Simba yafashe ijambo maze asaba abaturage kureka gukomeza kwicana. Yanavuze ko umwanzi atari Umututsi, ko ahubwo ari FPR bityo bakaba baragombaga kwirinda kubyitiranya[276].

Umutangabuhamya ushinjura wiswe GM1

286. GM1 ni Umuhutu, akaba yari utuye muri Komine ya Muyaga mu mwaka wa 1994. Mu buhamya bwe mu Rukiko, avuga ko we n'abandi baturage bageze kuri 500, bagizwe ahanini n'Abahutu, bagiye mu muhango wo kwimika Burugumesitiri Ndahimana. Asobanura ko uwo muhango watangiye mu masaa tanu za mu gitondo ukamara nk'isaha n'igice. Yongeraho ko yumvise bavuga ko Burugumesitiri w'Umututsi wariho mbere yari yarishwe cyangwa ko yari yarahunze yaravuye muri ako gace[277].

287. GM1 avuga ko muri uwo muhango, Simba yafashe ijambo ryamaze iminota nka 15 avuga ku bibazo by'umutekano. Simba yasabye abaturage kudasubiranamo kubera ko ngo byatumaga akazi k'ingabo karushaho gukomera. Yababwiye ko bagomba ahubwo gutera ingabo mu bitugu bakanareba uko bakwirengera ubwabo. Uyu mutangabuhamya ntiyibuka niba yarumvise berekana Simba

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[276] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 2-5, 19-20; inyandikomvugo y'iburanisha, 23 Werurwe 2003, imp. 2-3; inyandikomvugo y'iburanisha, 23 Werurwe 2004, urup. 3 (mu gifaransa); ikimenyetso gihamya cya Porokireri N° P23; ikimenyetso gihamya cy'Ubwunganizi N° D110. Simba yongeyeho ko gahunda y'ukwirwanaho kw'abaturage yahagaze ku wa 10 Kamena 1994 nyuma y'uko bananiwe gufata Nyanza ngo bayambure FPR. Bamaze kureka iyo gahunda, bibanze ku kugarura amahoro mu baturage. Inyandikomvugo y'iburanisha, 22 Werurwe 2005, urup. 18

[277] Inyandikomvugo y'iburanisha, 7 Werurwe 2005, imp. 3-4, 6, 11, 13, 16; ikimenyetso gihamya cy'Ubwunganizi N° D118.

nk'umuyobozi wa gahunda y'ukwirwanaho kw'abaturage cyangwa niba Uregwa yaravuze ku Batutsi cyangwa ku mbeba. GM1 anasobanura ko nta mpunzi zari muri Komine ya Ntyazo. Muri uwo muhango, Simba yari yambaye imyenda ya gisiviri kandi yerekanywe na Perefe Nsabimana nk'umusirikare mukuru wari mu kiruhuko cy'izabukuru. Bwari ubwa mbere uyu mutangabuhamya abona Simba. Mu iburanisha yanze kwerekana Simba avuga ko byari kumugora kumwibuka kuko hari hashize imyaka 11 ibyo bintu bibaye[278].

8.7.3 Isesengura ry'Urugereko

288. Kuba Simba yaragiye mu muhango wo kwimika Burugumesitiri wa Komine ya Ntyazo agafata ijambo imbere y'imbaga y'abantu yari ihari ntibigibwaho impaka. Ikigibwaho impaka n'ibikubiye muri iryo jambo yahavugiye no kumenya niba ryaratumye haba ubundi bwicanyi muri ako gace. YC ni we wenyine utanga ubuhamya bumushinja kuri iki kibazo. Urugereko rusanga uyu mutangabuhamya afunze akaba yaremeye icyaha ku bikorwa bya jenoside byakorewe muri ako gace no mu nkengero zako. Ubwo yatangaga ubuhamya mu Rukiko, yari ategereje kuburanishwa. Bityo rero, Urugereko rwasuzumanye ubuhamya bwe rubwitondeye cyane.

289. Mu ibaza rinyomoza, Ubwunganizi bwavuze ko mu buhamya YC yageje ku bapererezi b'Urukiko ku itariki ya 12 Ukwakira 2001, nta cyo yavuze ku bwicanyi bwaba bwarakozwe nyuma y'amagambo yavugiwe muri uwo muhango. Nyamara ariko mu iburanisha, Urugereko rwavuze ko, mu by'ukuri, ubuhamya bwanditse bwa YC buhuye n'ubwo yatanze mu Rukiko[279].

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[278] Inyandikomvugo y'iburanisha, 7 Werurwe 2005, imp. 8-10, 14.

[279] Inyandikomvugo y'iburanisha, 27 Ukwakira 2004, imp. 25-30. Uyu mutangabuhamya yagejeje ku bapererezi b'Urukiko ubuhamya bukubiye mu nyandikomvugo esheshatu. Ubwo yasozaga itangwa ry'ibimenyetso bishinja, Porokireri yasabye gusa ko hashyirwa muri dosiye inyandikomvugo y'ubuhamya bwo ku wa 12 Ukwakira 2001. Urugereko ntirwemeye ko ubwo buhamya bushyirwa muri dosiye

290. Ubwunganizi bwanavuze ko hari ukwivuguruza hagati y'ubuhamya bwa YC mu Rukiko n'ubwo yageje ku bategetsi bo mu Rwanda nk'uko bukubiye mu nyandikomvugo esheshatu. Nk'urugero, muri izo nyandikomvugo, uyu mugantabuhamya ntavuga ko Simba yafashe ijambo mu muhango wo kwimika burugumesitiri kandi nta na hamwe avuga ku bwicanyi bwaba bwarakozwe nyuma y'uwo muhango. Byongeye kandi, mu nyandikomvugo y'ubuhamya bwe yakozwe n'abategetsi bo mu Rwanda ku itariki ya 15 Ukuboza 1999, YC avuga ko yagumye iwe umuhango wo kwimika burugumesitiri waraye ubaye. Uyu mutangabuhamya asobanura ko yatanze ubwo buhamya ubwo bamubazaga ku ruhare rwe bwite, ngo bityo bikaba ari yo mpamvu butarimo ibintu byose yibuka ku byabaye[280].

291. Inyandikomvugo esheshatu z'ubuhamya bwa YC nk'uko zafashwe n'abategetsi bo mu Rwanda kuva muri Kanama 1997 kugera mu Ukwakira 2000, zerekeranye ahanini n'uburyozwacyaha bwe n'ibikorwa yakoze kuva muri Mata kugera muri Nyakanga 1994[281]. Muri rusange, buri nyandikomvugo y'ubuhamya bwa YC yerekeranye n'ibintu binyuranye byabaye muri icyo gihe ariko cyane cyane ubuhamya bwe bwibanda ku myitwarire mibisha ye muri Mata. Izo nyandikomvugo z'ubuhamya bwe zigaragaza ko uyu mutangabuhamya atabajijwe ku muhango wo kwimika burugumesitiri cyangwa ku bintu byabaye nyuma y'uwo muhango. Nta wavuga rero ko izo nyandikomvugo z'ubuhamya yatanze mbere zirimo ibintu byose byabaye[282], bityo umuntu akaba yakumva impamvu butarimo amakuru ku ijambo Simba yavugiye aho hantu cyangwa ku bwicanyi

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nk'ikimenyetso gihamya. Urubanza rwa Simba mu rw'iremezo, Icyemezo ku iyemerwa rya bimwe mu bimenyetso, 7 Nyakanga 2005, ibika 2-3.

[280] Inyandikomvugo y'iburanisha, 27 Ukwakira 2004, imp. 41-44, 50-51, 54-55.

[281] Ibimenyetso gihamya by'Ubwunganizi N° D35-40.

[282] Nk'urugero, reba ikimenyetso gihamya cy'Ubwunganizi N° D 39 (**Ik.**: Hari icyo wongeraho? **Ig.**: Hari ibintu byinshi n'abantu benshi ntavuze. Hari ibintu navuze muri ubu buhamya ntangira mu Rukiko kandi ndacyakomeza.

bwaba bwarakurikiyeho. Kuba ubuhamya YC yagejeje ku bategetsi bo mu Rwanda butarimo ayo makuru biterwa n'ibibazo ubwo buhamya bwibanzeho.

292. Urugereko rusanga YC avuga ibintu yihagarariyeho ku muhango wo kwimika burugumesitiri. Yari ahantu ashobora gukurikira neza amagambo yahavugiwe kandi atanga ubuhamya bwumvikana kuri uwo muhango wo kwimika burugumesitiri. Rushingiye ku buhamya YC yatanze mu Rukiko, Urugereko rusanze Perefe Nsabimana yaragejeje ijambo ku mbaga y'abantu maze akabashishikariza gukomeza kurwanya Inkotanyi. Nyuma yaho, Koloneli Ntezilyayo yavuze ijambo rutwitsi ryibasiye Abatutsi. Biragaragara kandi ko na Simba yavuze ijambo rutwitsi ryibasiye Abatutsi kabone n'ubwo uyu mutangabuhamya ashobora kuba akabya inkuru mu bisobanuro bimwe byerekeranye n'iryo jambo.

293. Mu isesengura ry'ubuhamya bwa YC mu Rukiko, Urugereko rwanazirikanye ubwatanzwe na GM1. Cyakora, ibyo uyu mutangabuhamya avuga ntibivuguruza ibivugwa na YC. Mu by'ukuri, GM1 yemera ko ashobora kuba atarumvise buri kintu cyose cyavugiwe muri uwo muhango kubera ko yahageze atinze, akahava utararangira ndetse akaba yari ahagaze muri metero zirenga 100 uvuye aho abafashe ijambo bari bari[283]. Byongeye kandi, muri uwo muhango ni bwo bwa mbere GM1 yari abonye Simba, bityo akaba atarashatse kumwerekana mu cyumba cy'iburanisha. Urugereko rusanga YC yari ahantu yashoboraga gukurikira neza ibyabaye muri uwo muhango kurusha GM1.

294. Rushingiye ku buhamya bwa YC mu Rukiko, Urugereko rwemera ko uyu mutangabuhamya yanyuze ku biro bya komine ku itariki ya 23 Gicurasi maze akabona raporo ku bwicanyi bwakorewe muri ako gace. Kuba mu buhamya bwanditse yagejeje ku bategetsi bo mu Rwanda avuga ko yiriwe imbere y'iwe nta cyo bihinduraho cyane. Urugereko rusanga muri ubwo buhamya bwanditse hari

[283] Inyandikomvugo y'iburanisha, 7 Werurwe 2005, imp. 11-12, 14-16.

kandi aho avuga ko yagiye ku biro bya Komine[284]. Cyakora, Urugereko rusanga ubuhamya bwe ku birebana n'ubwicanyi ari ubwo akomora ku nkuru mbarirano kandi ntibufite ubundi bubushyigikira. Mu by'ukuri, nta kintu kigaragaza ko umutegetsi wo muri ako gace wamuhaye ayo makuru yiboneye ubwe ibyabaye. Bukeye, uyu mutangabuhamya yarahunze kubera ko ingabo za FPR zari zirimo gusatira ako gace, bityo ntiyashoboye gukurikirana ngo amenye ukuri kw'ayo makuru yabwiwe yerekeranye n'ubwo bwicanyi. YC amaze guhungira muri Kongo, ni bwo yongeye kumva abantu bavuga ku birebana n'ubwo bwicanyi. Byongeye kandi, nta kimenyetso kigaragaza ko abantu bari muri uwo muhango wo kwimika burugumesitiri bakoze koko ubwicanyi. Kubera rero ko nta bindi bimenyetso byakwizerwa byatanzwe, Urugereko ntirushobora kwemera ko amagambo yavugiwe muri uwo muhango yatumye muri ako gace hakorwa ubundi bwicanyi.

295. Urugereko rusanga Porokireri yaratanze ibimenyetso bihamya ku buryo budashidikanywaho ko Simba yavuze ijambo rutwitsi ryibasiye Abatutsi ubwo yari imbere y'imbaga y'abantu muri Komine ya Ntyazo. Cyakora, Porokireri ntiyagaragaje ibyo avuga mu gika cya 23 (g) cy'Inyandiko y'ibirego ko hari Abatutsi bishwe kubera iryo jambo.

9. Imyiregurire ya sinari mpari

9.1 Intangiriro

296. Nk'uko bisobanurwa birambuye hano hejuru, Porokireri yatanze ibimenyetso bishinja Simba ko yagize uruhare mu bwicanyi bwakorewe kuri Paruwasi ya Kibeho, iya Cyanika n'iya Kaduha, ku ishuri ry'imyuga rya Murambi no muri Komine ya Ruhashya. Ibyo bimenyetso bigaragaza ko Perezida Habyarimana akimara gupfa, Simba yari muri Perefegitura ya Gikongoro ahamagarira abantu gukora ibikorwa by'urugomo byibasiye Abatutsi, yitabira amanama ahuje

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[284] Ikimenyetso gihamya cy'Ubwunganizi N° D38 (« Uwo munsi nagiye mu biro, bukeye ku wa 24 Gicurasi 1994 ndahunga »).

abategetsi bo muri ako karere ndetse anaha intwaro abagabye ibitero muri ubwo bwicanyi.

297. Mu kwiregura, Simba avuga ko atari ahantu ibyabaha byakorewe igihe byakorwaga. Nk'uko bigaragara mu buhamya buvugwa hano hasi, mu minsi yakurikiye urupfu rwa Perezida Habyarimana ku itariki ya 6 Mata 1994, Simba yagumye iwe mu rugo i Kigali akoranya abantu bo mu muryango we, inshuti n'abaturanyi kugira ngo abarinde ibikorwa by'urugomo byakurikiye urwo rupfu. Kubera imirwano yatangiye i Kigali, ku itariki ya 13 Mata Simba yahungishije abantu bamwe abakura iwe mu rugo abajyana i Gitarama aho we n'abandi bantu bagumye kugera ku itariki ya 24 Mata. Nyuma yaho, yagiye kuba muri Komine avukamo ya Musebeya, Perefegitura ya Gikongoro, ariko yagiyeyo ari uko amaze kumenya ko hari umutekano kandi ko ubwicanyi bwahagaze.

298. Urugereko rwasuzumye iyo myiregurire ya sinari mpari mu byiciro bibiri[285]. Icyiciro cya mbere cyerekeranye n'ibyo Simba yakoze i Kigali kuva ku itariki ya 6 kugera ku ya 13 Mata no kuba yarahungiye mu mujyi wa Gitarama ku itariki ya 13 Mata. Iki cyiciro cy'iyo myiregurire ya sinari mpari gishyigikiwe n'ubuhamya bwa SML2, FMP1, MIB, Rose Simba-Thiwa, Monique Mujawamariya, AJT1 na FKP2. Ubuhamya bwabo ndetse n'ubwa Simba bugamije kunyomoza ibivugwa ko, Perezida akimara gupfa, Uregwa yahise ajya ku Gikongoro aho yahamagariye abantu gukora ibikorwa by'urugomo byibasiye Abatutsi, akabonana n'abategetsi bo muri ako karere n'abantu bitwara ga gisirikare bari bafite intwaro[286].

299. Icyiciro cya kabiri cy'iyo myiregurire ya sinari mpari cyerekeranye n'ukuntu Simba yakoresheje igihe cye mu mujyi wa Gitarama kuva ku itariki ya 14 kugera

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[285] Simba yiyambaza kandi imyiregurire ya sinari mpari ku birebana n'ibivugwa ko yagiye mu nama yabereye kuri CIPEP mu mujyi wa Gikongoro ku wa 26 Mata, no ku byerekeranye n'ubwicanyi bwabereye muri Komine ya Ruhashya ku wa 29 Mata. Urugereko rusuzuma ibi bice by'iyo myiregurire mu Byiciro byerekeranye n'ibyo bintu byombi byabaye, ruzirikana ko hatanzwe ibimenyetso bike ndetse hakaba nta muburanyi uhakana ko icyo gihe Simba yari muri Perefegitura ya Gikongoro.

[286] Reba Ibyiciro bya 3, 8.1-8.5.

ku ya 24 Mata ari yo tariki avuga ko yaviriye aho hantu akajya muri Komine ya Musebeya. Iki cyiciro cy'iyo myiregurire gishyigikirwa ahanini n'ubuhamya bwa SML2, AJT1, MIB, FMP1, FKP2, SIH, GMA3 na GL3. Ubuhamya bwabo ndetse n'ubwa Simba bugamije kunyomoza ibivugwa ko Simba yagiye mu bitero byagabwe ku ishuri ry'imyuga ry'i Murambi, kuri paruwasi ya Cyanika n'iya Kaduha ku itariki ya 21 Mata[287].

300. Mu gusesengura imyiregurire ya sinari mpari, Urugereko ruributsa ko ubukemuramanza bw'uru Rukiko n'ubw'urwa TPIY bwemeza ko, mu myiregurire ya sinari mpari, ushinjwa ashobora gutanga gusa ibimenyetso byatuma Urugereko rushidikanya ku bivugwa na Porokireri. Imyiregurire ya sinari ntacyo ihindura ku ihame ryerekana ufite inshingano yo gutanga ibimenyetso. Porokireri ni we wenyine ufite inshingano yo gutanga ibimenyetso bihamya ku buryo budashidikanywaho ibyo aregera. Mu by'ukuri, Porokireri agomba kugaragaza ku buryo budashidikanywaho ukuri kw'ibyo aregera kabone n'iyo uregwa yaba avuga ko atari ahantu icyaha cyakorewe igihe cyakorwaga[288].

9.2 Ibyo Uregwa yakoze i Kigali no mu mujyi wa Gitarama, kuva ku itariki ya 6 kugera ku ya 13 Mata

9.2.1 Ibimenyetso

Uregwa

301. Mu buhamya bwe mu Rukiko, Simba avuga ko yamenye ko Perezida Habyarimana yapfuye ari iwe i Kigali kuri *Avenue de la Justice* ku itariki ya 6 Mata. Muri iryo joro ryose, yaraye yumva amasasu avugira mu birindiro bya FPR

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[287] Reba Ibyiciro bya 4-7, 8.6

[288] Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 60. Reba n'Inyandiko y'urubanza rwa Kajelijeli mu bujurire, 23 Gicurasi 2005, ibika 42-43; Inyandiko y'urubanza rwa Delalic na bagenzi be mu bujurire, 20 Gashyantare 2001, igika 581; Inyandiko y'urubanza rwa Musema mu bujurire, 16 Ugushyingo 2001, igika 202; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire, 1 Kamena 2001, igika 113.

n'iby'ingabo za Leta muri Kigali no mu nkengero zayo. Uwo munsi, mu masaa ine z'ijoro, yatelefonwe na mwenewabo wiswe SML2 wari kwa Musenyeri i Kibungo kugira ngo amubaze icyo yakora. Simba yamugiriye inama yo kuguma aho ari, agategereza ko hagira igihinduka[289].

302. Bukeye, ku itariki ya 7 Mata mu masaa moya za mu gitondo, Simba yabonye ingegera n'amabandi basahura amazu y'ubucuruzi yo hafi y'ahantu yari atuye. Icyo gihe, abajandarume baraje maze barasa mu kirere kugira ngo birukane abo bantu. Uwo munsi na none, mu masaa ine cyangwa saa tanu za mu gitondo, umukobwa we witwa Rose Simba-Thiwa yatelefoneye i Luxemburg ngo abaze uko ibintu byifashe maze Simba amusubiza ko nta cyo abiziho. Mu masaa sita y'amanywa, inshuti ye y'Umututsi witwa Jean Gashumba akaba na sebukwe wa Rose yaterefonnye Simba amusaba ko yamutabara kuko inzu ye yari yasahuwe kandi akaba yaranatinyaga ko yakwicwa. Simba yamubwiye gutegereza kandi amwizeza kumufasha. Ubwo rero yasabye umujandarume witwa Irabukunda, yari azi wakomokaga muri Perefegitura ya Butare, kumufasha kuzana Gashumba. Icyo gihe, uwo mujandarume yari ku irondo ry'amanywa kandi yari anyuze ku rugo rwa Simba. Uwo mujandarume yagiye muri imwe modoka za Simba ajyana n'umuhungu wa Simba witwa Richard wari uzi aho Gashumba atuye. Bagarutse mu masaa saba cyangwa saa munani z'amanywa bari kumwe na Gashumba, umugore we, umwana we, na mwishywa we. Gashumba n'umuryango we ni bo bantu ba mbere bahungiye kwa Simba[290].

303. Hagati y'itariki ya 7 n'iya 12 Mata, mu nzu ya Simba hari impunzi zigera kuri 50 kandi iyo nzu yari igizwe n'ibyumba bine byo kuryamamo, uruganiriro, ibyumba bibiri b'ubwiyuhagiriro n'ibiro. Bashoboye kugaburira abo bantu bose kubera ko umugore wa Simba yari afite ka butike gacuruza ibiribwa mu gice cy'igorofa yabo cyari cyiringaniye n'ubutaka. Simba yasobanuye ko hafi y'iwe hari bariyeyi y'abasirikare kandi ko iyo bariyeri yacungwaga na bamwe mu basirikare

[289] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 38-40.

[290] Ni kimwe no haruguru, imp. 40-41, 47-48

bakoraga mu kigo cya gisirikare cyitwa *Camp Kigali* igihe yagitegekaga. Iyo we cyangwa umuhungu we bazengurukaga mu mujyi batabara abantu, abo basirikare barabaherekezaga[291].

304. Ku itariki ya 8 Mata mu gitondo, Rose yongeye guterefona Simba amusaba kujya kureba umuryango wa Shamukiga, Umunyarwanda wari uhagarariye Luxembourg mu Rwanda. Uregwa yageze kwa Shamukiga nyuma ya saa sita ariko asanga yapfuye. Uwo munsi ku mugoroba Simba yabimenyesheje Rose, maze Rose amusaba kujya gufasha umuvandimwe wa Shamukiga wari utuye i Nyamirambo. Bukeye mu gitondo, yagiye kuri uwo muvandimwe ariko asanga iwe bahasahuye kandi inzu yose bayijagajaze. Simba avuga kandi ko kuri iyo tariki ya 8 Mata ari bwo yazanye iwe umutangabuhamya wiswe MBI n'umuryango we[292].

305. Ku itariki ya 9 Mata, Simba yagiye mu rugo rw'umuhungu we witwa Robert maze amuzana iwe. Yanohereje umwe mu bahungu be gushaka mwishywa we witwa Eugène Rutaganda n'umuryango we kugira ngo abazane iwe [kwa Simba]. Ku itariki ya 10 Mata, umuryango w'umutangabuhamya wiswe FMP1 wahungiye kwa Simba[293].

306. Ku itariki ya 11 Mata, mu masaa kumi n'imwe z'umugoroba, umutangabuhamya wiswe SML2 yarashyize agera kwa Simba avuye muri Perefegitura ya Kibungo. Mu minsi yabanjirije ukuza kwe, Simba yavuganaga na we inshuro nyinshi kuri telefone ndetse akavugana n'abategetsi ba gisirikare muri Perefegitura ya Kibungo kugira ngo barebe uko SML2 yaza kandi bategure n'impapuro akeneye kugira ngo agaruke i Kigali. Yasabye umukuru w'ingabo muri Kibungo gukora uko ashoboye ngo afashe uwo SML2 kandi amuhe umuntu yizeye wo kumuherekeza. SML2 akigera kwa Simba, yamusabye gutabara se n'umuryango

[291] Ni kimwe no haruguru, imp. 42-44.

[292] Ni kimwe no haruguru, imp. 41-43.

[293] Ni kimwe no haruguru, imp. 41-42; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 2, 50-51.

we nuko Simba ahita ajyayo. Simba hari kandi ahandi hantu yohereje umuhungu we ngo agerageze gutabara undi mwana[294].

307. Ku itariki ya 12 Mata, Simba yagiye kuri hoteli ya *Mille Collines* gushaka amakuru ku ndege zijya mu mahanga kugira ngo we n'abantu bahungiye iwe bashobore kugenda. Wa mukobwa witwa Rose yamuterefonaga nibura nk'inshuro eshatu ku munsi amugira inama yo kuva mu gihugu ndetse amuha n'amakuru ku masosiyete y'indege. Simba yari yumvise ko abapilote ba Sabena bari muri iyo hoteli, bityo akaba yarashakaga kugerageza kuvugana na bo kuri icyo kibazo. Ageze kuri hoteli ya *Mille Collines* bamubwiye ko bidashoboka guhungisha abantu maze asubira iwe. Ubwo yavaga kuri iyo hoteli, yapepeye Monique Muhawamariya, kandi icyo gihe yari nko muri metero 10, ku isangano ry'imihanda iri hafi y'iyo hoteli[295].

308. Ubwo Simba yageraga mu rugo avuye kuri hoteli *Mille Collines*, yaterefonnye Rose amubwira ko nta kintu yashoboye kugeraho. Bakoreye hamwe lisiti y'abantu banyuranye bari kwa Simba ngo bategure neza uko babahungisha, bababonere amatike y'indege ndetse n'inkunga y'amafaranga[296].

309. Batangiye kuva i Kigali ku mugoroba wo ku itariki ya 12 Mata. Simba asobanura ko yumvise ko icyo gihe barimo kujyana i Burundi umurambo wa Perezida w'icyo gihugu, ariko ntiyibuka niba imodoka yawujyanye n'izawuherekeje zaravuye i Kigali ku itariki ya 10, iya 11 cyangwa iya 12 Mata. Umutangabuhamya wiswe MIB n'umugabo we bari bafite imodoka ifite pulake z'abadipolomate z'i Burundi kandi yizeraga gutambuka kuko imihanda bari bayifunguye ngo imodoka ziherekeje umurambo wa Perezida w'u Burundi zihite.

[294] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 41-45; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 62-63.

[295] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 45-46; inyandikomvugo y'iburanisha, 24 Werurwe 2005, urup. 63

[296] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 46-47; ikimenyetso gihamya cy'Ubwunganizi N^{o} D73.

Umuryango wa MIB wavuye i Kigali ku mugoroba ujyana n'abana ba Simba bato ari bo Rosaline na Robertine, n'abana babiri b'umutangabuhamya wiswe FMP1[297].

310. Ku itariki ya 13 Mata, mu gitondo, Simba yatwaye SML2 n'umugore wa Eugène Rutaganda witwa Pauline n'abana babo, abageza kuri bisi yahungishaga abagore b'abasirikare ibajyana i Gitarama. Ajida Shefu Mukamarutoke wari washinze ibirindiro imbere yo kwa Simba[298] ni we wamubwiye iby'icyo gikorwa cyo guhungisha imiryango y'abasirikare.

311. Simba yasubiye iwe maze we n'abantu babaga iwe bava i Kigali mu masaa ine za mu gitondo mu modoka zishoreranye. Asobanura ko Abatutsi n'abagore bagiye mu modoka imwe na we ya Benz naho abandi bakagenda muri Toyota y'ikamyoneti. Icyo gihe, yambaye imyenda ya gisirikare kandi afata ibyangombwa by'Abatutsi yari atwaye. Avuga ko yanyuze kuri bariyeri zigeze kuri 40 zirinzwe n'abasiviri kandi ko yabonye imirambo kuri zimwe muri izo bariyeri. Kuri imwe muri izo bariyeri, umuntu witwa Katange, wahoze akorera Gashumba, yamenye umugore wa Gashumba maze atangira gusakuza abwira Simba ko atwaye Agakotanyi. Simba yabwiye Katange ko nakomeza kuvuga ibyo bintu ategeka abantu bakamurasa. Kubera iyo mpamvu, Katange yarabaretse baragenda maze bagera i Gitarama mu masaa saba z'amanywa[299].

312. Bageze i Gitarama, Simba yajyanye abo bantu bose kwa mwishywa we witwa Emmanuel Niringiyimana. Amaze kuhabageza, yagiye gufata Albertine na Pauline mu kigo cya gisirikare cy'i Gitarama maze abazana muri urwo rugo. Simba yagiye ku ishami rya Banki ya Kigali kubikuza amafaranga maze ahabona inshuti ye ari we mutangabuhamya wiswe FKP2. Yanasuye umucuruzi witwa

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[297] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, urup. 48; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 51-54.

[298] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, urup. 51.

[299] Ni kimwe no haruguru, imp. 52-60. Simba asobanura ko ijambo agakotanyi bivuga Inkotanyi nto.

Ngirabatware nyuma ajyana umuryango wa FMP1 kuba kwa benewabo i Rango[300].

Umutangabuhamya ushinjura witwa SML2

313. SML2 ni Umututsikazi, akaba anafitanye amasano na Simba[301]. Mu buhamya yatanze mu Rukiko, avuga ko ubwo yari mu butumwa muri Perefegitura ya Kibungo yari yoherejwemo n'umuryango utagengwa na Leta yakoreraga ku itariki ya 6 Mata 1994, ari bwo yamenye ko indege ya Perezida yahanuwe. Ibyo bintu byamuteye impungenge maze aterefona Simba iwe nyuma ya saa moya za ni njoro nuko Simba aramubwira ngo natuze azongere amuhamagare bukeye kugira ngo na we abanze abaze amakuru, bityo ashobore kumuha ibisubizo ku byo yamubazaga. SML2 avuga ko ku itariki ya 7 Mata 1994, ibintu byari bimeze nabi cyane. Yabanje guterefona umugabo we, nyuma mu masaa tatu za mu gitondo aterefona Simba ngo amubaze niba ashobora kujya i Kigali nta cyo abaye. Simba yamubwiye ko kwari ukwigerezaho maze amugira inama yo gutegereza ndetse amwizeza ko agiye kubaza uko ibintu byifashe nuko akamuterefona. Mu masaa cyenda z'amanywa, Simba yaramuterefonye kugira ngo amuhumurize[302].

314. Ku itariki ya 8 Mata 1994, mbere ya saa sita, SML2 yavuganye na Simba kuri telefone. Mu masaa cyenda z'amanywa Simba yaramuterefonnye amubwira ko agiye kuvugana na Perefe n'umukuru w'ingabo muri Perefegitura ya Kibungo maze akongera kumuhamagara bukeye mu gitondo. Uyu mutangabuhamya yongeye guterefona Simba mu masaa tatu z'ijoro maze bavugana amasaha ageze kuri atatu. Nyuma yaho, Simba yongeye kumuhamagara amubwira ko yashoboye kuvugana na Perefe[303].

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[300] Ni kimwe no haruguru, imp. 60-62.

[301] Inyandikomvugo y'iburanisha, 13 Ukuboza 2004, urup. 23; inyandikomvugo y'iburanisha, 14 Ukuboza 2004, urup. 17; ikimenyetso gihamya cy'Ubwunganizi N° D 58.

[302] Inyandikomvugo y'iburanisha, 13 Ukuboza 2004, imp.23-24, 26-28.

[303] Ni kimwe no haruguru, imp. 30, 31-34.

315. Ku itariki ya 9 Mata 1994, Perefe yohereje abajandarume babiri ngo bajye gufata indangamuntu z'abantu bashakaga kujya i Kigali kugira ngo babakorere impapuro z'inzira. Uwo munsi, SML2 yavuganye kenshi kuri telefone na Simba n'umuhungu we Robert wari ukiba iwabo[304].

316. Ku itariki ya 10 Mata mu gitondo, SML2 yongeye guterefona Robert Simba maze Robert amubwira ko ibintu byarushagaho kumera nabi aho batuye kandi ko abantu barimo gukurwa mu ngo zabo. Mu ma saha ya mbere ya nyuma ya saa sita, uyu mutangabuhamya yavuganye n'umugore wa Simba kuri telefone maze amubwira ko Simba yagiye gushaka Robert n'umuryango barimo bashyirwaho iterabwoba n'abasirikare. SML2 avuga ko nyuma y'amasaha make yongeye guterefona maze akavugana na Robert wari wahungishijwe we n'abana be n'umwana w'umukobwa wari waraje kubasura. Nyuma yaho, uyu mutangabuhamya yavuganye na Simba amubwira ko impapuro z'inzira zakozwe kandi ko yari kuzibona bidatinze. Umukuru w'ingabo muri Kibungo yaterefonnye uyu mutangabuhamya amubwira ko impapuro z'inzira zabonetse, bityo akaba yarashoboraga kugenda bukeye bwaho. SML2 ntiyibuka neza itariki Robert Simba yahungishirijweho ariko azi neza ko bitabaye mbere y'itariki ya 9 Mata[305].

317. Ku itariki ya 11 Mata 1994, hagati ya saa kumi n'ebyiri na saa kumi n'ebyiri n'igice z'umugoroba, SML2 yahamagaye kenshi kuri telefone, buri gihe akavugana akanya gato na Simba n'abandi bantu bari iwe. Nyuma yagiye gufata impapuro z'inzira maze ajya i Kigali mu masaa moya cyangwa cyangwa saa moya n'igice za mu gitondo. Uyu mutangabuhamya avuga ko mu nzira hari umusirikare washatse kumubuza kugenda kubera ko yari Umututsikazi, ariko hakaba hari undi umusirikare wamumenye amaze kubona amazina mu ndangamuntu ye maze agategeka uwo wundi kumureka kuko yari yarigeze kuyoborwa na Simba kandi akaba yarabimushimiraga. SML2 yakomeje urugendo

[304] Ni kimwe no haruguru, urup. 35.

[305] Ni kimwe no haruguru, imp. 36-38; inyandikomvugo y'iburanisha, 13 Ukuboza 2004, urup. 44 (mu gifaransa); inyandikomvugo y'iburanisha, 14 Ukuboza 2004, imp. 19-20, 49-50

agera i Rwamagana aho we n'abantu bari kumwe bashoboye kujya mu modoka ya gisirikare yari igiye i Kigali. Uyu mutangabuhamya avuga ko bageze i Kigali mu masaa kumi n'igice z'umugoroba. Yageze mu rugo kwa Simba mu masaa kumi n'ebyiri cyangwa saa kumi n'ebyiri n'igice nuko ahasanga abantu bageze kuri 50[306].

318. SML2 yibuka ko yasanze kwa Simba hari abantu bakurikira: umuryango wa FMP1, akana k'agakobwa kari karaje gusura umuryango wa SML2 ubwo uyu muryango wahungishwaga, mwishywa wa Simba witwa Eugène hamwe n'umugore we n'abana babo batatu n'umuyaya, Gashumba hamwe n'umugore we n'umukobwa wabo na mwishywa we, na MIB. Asobanura ko mu bantu bari bahahungiye, Abahutu barutaga ubwinshi Abatutsi maze akongeraho ko batungwaga n'ibiryo n'ibindi bintu byavaga muri resitora no muri butike y'ibiribwa y'umugore wa Simba[307].

319. SML2 avuga ko ubwo yahageraga ku mugoroba, abantu bamubwiye ko se wabo Grégoire n'umuryango we bishwe kandi ko Simba yari yagerageje kubona imirambo yabo n'umwana bavugaga ko yari yarokotse ariko bikananirana. Uyu mutangabuhamya avuga ko yasabye Simba gutabara se wari i Nyamirambo. Ubwo rero, Simba n'umuhungu we Raymond bashatse abajandarume bo kubaherekeza ngo bajye i Nyamirambo. Hashize amasaha abiri, baragarutse bari kumwe na se wa SML2 ndetse na basaza be[308].

320. Ku itariki ya 12 Mata 1994, mu masaha ya mbere ya nyuma ya saa sita, umuvandimwe wa SML2 yaterefonnye kwa Simba maze asaba ko baza kumukura ku Muhima bakamuhungisha. Mu masaa kumi z'umugoroba, Simba yarahamukuye n'inshuti ye maze abajyana iwe[309].

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[306] Inyandikomvugo y'iburanisha, 13 Ukuboza 2004, imp. 38-41, 43-44.

[307] Ni kimwe no haruguru, imp. 45, 48, 50.

[308] Ni kimwe no haruguru, imp. 39, 42, 47, 50.

[309] Ni kimwe no haruguru, urup. 49.

321. Ku itariki ya 13 Mata, mu masaa tatu cyangwa saa tatu n'igice za mu gitondo, Simba yajyanye SML2 n'umugore wa mwishywa we Eugène Rutaganda muri *Camp Kigali* aho bavuye bakajya i Gitarama muri bisi ya gisirikare. Simba yasubiye mu rugo gufata abandi bantu bagombaga kugenda mu modoka isanzwe. Ubusanzwe kuva i Kigali ujya i Gitarama bitwara iminota 30 ariko kubera amabariyeri, urugendo rwamaze hafi amasaha abiri n'igice. Hashize igihe kiri hagati y'iminota 30 n'isaha, Simba yabasanze aho bari i Gitarama maze abajyana kwa Emmanuel, umwe muri bishywa be wari utuye hafi aho. Nyuma yaho uwo munsi cyangwa ku itariki ya 14 Mata, Simba yasubiye i Kigali kuzana abantu bari bahasigaye maze agarukana na bo uwo munsi. Icyo gihe, Simba yari yambaye imyenda ye ya gisirikare kugira ngo ijye imworohereza mu ngendo ze[310].

Umutangabuhamya ushinjura wiswe FMP1

322. FMP1 ni Umututsikazi, akaba yari uturanye na Robert Simba i Nyamirambo i Kigali muri Mata. Avuga ko nyuma y'urupfu rwa Perezida, abasirikare baje iwe gushaka abantu ngo bakoranaga n' «umwanzi ». Abasirikare basatse inzu ye, bamwaka amafaranga baragenda ariko nyuma bagaruka gutwara imodoka. Barashe mu kirere maze isasu rinyura hejuru y'icyumba cy'abana[311].

323. Ku itariki ya 9 Mata, Simba yagiye kwa FMP1 gutwara Robert Simba n'abana be bari bahari. Abo bana bari kwa FMP1 kuko nyina atari ahari. Kubera ko hariho umutekano muke, uyu mutangabuhamya na we yashakaga ko umuryango we uva aho hantu maze, abinyujije kuri Robert n'abandi bantu, ashobora kumvisha Simba kumwemerera guhungira iwe. Ku itariki ya 10 Mata nimugoroba, umuturanyi yatwaye mu modoka FMP1, umugabo we n'abana babo batatu abajyana kwa

[310] Ni kimwe no haruguru, imp. 50-54

[311] Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, imp. 41, 44, 46-48; ikimenyetso gihamya cy'Ubwunganizi N° D93.

Simba. Ubwo uyu mutangabuhamya yahageraga, yahasanze Simba wabasabye imbabazi kubera ko atari yashoboye kujya kubizanira[312].

324. Kuri iyo tariki ya 10 Mata, FMP1 yasanze kwa Simba hari izindi mpunzi zigeze kuri 50 zigizwe n'Abahutu n'Abatutsi. Muri izo mpunzi harimo umuryango wa Gashumba n'uwa MIB. Hari kandi na SML2 wahageze ku itariki ya 11 Mata. Uyu mutangabuhamya avuga ko Rose Simba yaterefonaga kenshi ngo agerageze kureba uko abo bantu bahungishwa bakajyanwa mu Burayi. Ku itariki ya 11 n'iya 12 Mata, FMP1 yabonye Simba inshuro nyinshi kandi asobanura ko akenshi Uregwa yabaga ari mu rugo uretse igihe yabaga yasohotse gato. Cyakora, yemera ko we yabaga ahugiye mu mirimo yo mu rugo bityo ntiyite ku kumenya ibya Simba[313].

325. Ku itariki ya 12 Mata, babiri mu bana ba FMP1 bavuye i Kigali bajyana n'umuryango wa MIB na babiri mu bana ba Simba mu modoka ifite pulake z'abadipolomate. Simba yahumurije FMP1 ko azongera kubonana n'abo bana[314].

326. Ku itariki ya 13 Mata mu masaa sita, FMP1 yavuye i Kigali ari kumwe na Simba mu modoka zishoreranye maze bagera i Gitarama mu masaa cyenda z'amanywa. Uyu mutangabuhamya n'umwana we hamwe na Robert n'umugore wa Gashumba, Clothilde, n'umukobwa wa Gashumba witwa Pamela bajyanye na Simba mu modoka ye ya Mercedes Benz y'umweru. Umugabo wa FMP1 yari abari inyuma mu modoka. Uyu mutangabuhamya avuga ikintu cyabaye bageze kuri Nyabarongo aho Simba, wari wambaye imyenda ya gisirikare, yagiye impaka n'abantu bari barinze bariyeri ngo babareke bagende, abumvisha ko abantu yari atwaye ari abo mu muryango we gusa. Bageze i Gitarama, Simba yajyanye uyu

[312] Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, imp. 43-44, 46-47, 49, 75, 80-81.

[313] Ni kimwe no haruguru, imp. 50-51, 57-58, 82.

[314] Ni kimwe no haruguru, imp. 52-54.

mutangabuhamya n'umugabo we hafi yaho mu Ruhango mu rugo rwa MIB maze bahasanga abana babo[315].

327. FMP1 yemera ko Simba yamwandikiye amusaba kuzaza mu Rukiko gutanga ubuhamya buvuga ko we Simba yari i Kigali kuva ku itariki ya 9 kugera ku ya 14 Mata. Anemera kandi ko yaganiriye ibyabaye na Rose na SML2. Uyu mutangabuhamya anavuga ko byari bimugoye kwibuka amatariki ndetse ko atibuka n'amatariki yabonananiyeho na Avoka wunganira Uregwa[316].

Umutangabuhamya ushinjura wiswe MIB

328. MIB ni Umututsikazi, akaba ari mwenewabo w'umugore wa Simba. Ku itariki ya 8 Mata, mu rugo rwe i Kigali haje abasirikare bagera kuri barindwi bashakisha Abatutsi, ariko ababwira ko nta Batutsi bari iwe. Abo basirikare basahuye amafaranga kandi bavuga ko bari kugaruka. Bamaze kugenda, MIB yumvise amasasu avugira mu rugo w'umuturanyi maze abona umwe mu baturanyi be b'Abatutsi yicwa. MIB yahise yumva ko abo basirikare nibagaruka bari kwica umuryango we nuko aterefona Simba ngo amubwire ibyari byabaye anamusabe kumufasha. Uwo munsi ku gicamunsi cyangwa mu kabwibwi, Simba yaraje maze abajyana iwe, ariko uyu mutangabuhamya ntiyibuka ibintu byinshi kuri uko kuntu bahungishijwe[317].

329. Ku itariki ya 8 Mata, Simba yazanye iwe umuhungu we Robert n'abana be babiri maze ku ya 9 Mata atabara umuryango wa FMP1. SML2 yahageze ku itariki ya 11 Mata. MIB yibuka ko Gashumba yari mu rugo kwa Simba kandi ko Rose na SML2 bakundaga guterefona. MIB avuga ko Simba yari yambaye imyenda ya

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[315] Ni kimwe no haruguru, imp. 51-55, 64, 70-75; ikimenyetso gihamya cy'Ubwunganizi N° D93.

[316] Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, imp. 63-64, 66-70, 78; ikimenyetso gihamya cy'Ubwunganizi N° D157.

[317] Inyandikomvugo y'iburanisha, 14 Gashyantare 2005, imp. 9, 11,-14, 33, 37-38, 81-82

gisiviri ndetse ko kenshi yabaga ari mu rugo uretse ubwo yabaga yagiye kuzana abandi bantu[318].

330. Ku itariki ya 12 Mata, MIB yavuye i Kigali ajya i Gitarama ari kumwe n'umugabo we, abana babo babiri n'abana babiri ba Simba ari bo Robertine na Rosaline. Kubera ko bari mu modoka ifite pulake z'abadipolomate z'i Burundi, bumvaga byari kuborohera kunyura ku mabariyeri kubera imodoka zari ziherekeje itwaye umurambo wa Perezida w'u Burundi kandi, muri rusange, mu Rwanda abantu bumvaga Abarundi bose ari Abahutu[319].

331. Ku itariki ya 13 Mata 1994 mbere ya saa sita, MIB yashyiriye Simba abana be i Gitarama, nyuma we n'umugabo we n'abana babo hamwe n'umuryango wa FMP1 bajya iwabo w'uyu mutangabuhamya mu Ruhango[320].

Umutangabuhamya ushinjura witwa Rose Simba Thiwa

332. Mu buhamya bwe mu Rukiko, umukobwa wa Simba witwa Rose Simba Thiwa avuga ko kuva ku itariki ya 7 kugera ku ya 13 Mata, ari iwe mu rugo i Luxembourg, yaterefonaga kenshi abantu bo mu muryango we mu rugo rwabo i Kigali kugira ngo bamubwire amakuru kandi anagerageze kureba uko yabahungisha bakava mu gihugu[321].

333. Ku itariki ya 7 Mata, Rose yavuganye na se kuri telefone nibura inshuro enye: ubwa mbere byari hagati ya saa ine na saa tanu za mu gitondo (isaha yo mu Rwanda), ubwa kabiri hari hashize isaha, ubwa gatatu byari nyuma ya saa sita naho ubwa kane byari nyuma ya saa kumi n'ebyiri z'umugoroba. Ku itariki ya 8 Mata bavuganye kuri telefone nibura inshuro eshatu: ubwa mbere byari mu gitondo cya kare, ubwa kabiri saa sita zaburaga gato naho ubwa gatatu byari

[318] Ni kimwe no haruguru, imp. 14-17, 37.

[319] Ni kimwe no haruguru, imp. 18-20, 32, 35.

[320] Ni kimwe no haruguru, imp. 20-32, 36.

[321] Inyandikomvugo y'iburanisha, 17 Gashyantare 2005, imp. 9-10, 25.

nyuma ya saa sita. Uyu mutangabuhamya asobanura ko yari yavuganye n'abategetsi b'Ububiligi n'aba Luxembourg ku kuntu umuryango we wahungishwa ukava mu Rwanda uramutse ushoboye kugera ku kibuga cy'indege ku itariki ya 8 cyangwa iya 9 Mata. Cyakora, Simba yamubwiye ko batashoboraga kujyayo kuko ku muhanda hari Interahamwe nyinshi cyane. Ku itariki ya 11 Mata, yamenye ko SML2 wari waragiye mu butumwa i Kibungo yari yashoboye kugera mu rugo kwa Simba[322].

334. Ku itariki ya 12 Mata, Rose yaterefonnye Simba hagati ya saa mbiri n'igice na saa tatu za mu gitondo maze amubwira kujyana abantu bari bahungiye iwe kuri hoteli ya Mille Collines kugira ngo bashobore guhungishwa. Ubwo yongeraga kumuterefona mu masaa cyenda z'amanywa, Simba yamubwiye ko yari yagiye kuri hoteli ya Mille Collines ariko agasanga nta muntu n'umwe ashobora kuhahungishiriza kuko yabonaga nta mutekano uhagije uhari. Ku mugoroba, yinginze Simba kujya ku kibuga anyuze mu muhanda ndetse anamusaba kumuha nomero za pasiporo z'abantu bari guhungishwa kugira ngo abategurire impapuro za ngombwa. Kuri uwo mugoroba, Simba yamwoherereje lisiti y'abo bantu kuri fagisi[323].

335. Ku itariki ya 13 Mata, Rose yongeye guterefona ise mu masaa moya za mu gitondo amusaba kujya ku kibuga cy'indege. Uwo munsi ku mugoroba, yavuganye na musaze we Richard ariko nyuma y'iyo tariki ntiyongeye gushobora kuvugana n'umuryango we kugeza muri Kanama 1994[324].

Umutangabuhamya ushinjura witwa Monique Mujawamariya

336. Monique Mujawamariya avuga ko muri Mata 1994 yaharaniraga uburenganzira bwa muntu akorana n'imiryango mpuzamahanga na yo iharanira ubwo

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[322] Ni kimwe no haruguru, imp. 10, 23-27, 39-40.

[323] Ni kimwe no haruguru, imp. 28-30, 32-34 ; ikimenyetso gihamya cy'Ubwunganizi N° D73.

[324] Inyandikomvugo y'iburanisha, 17 Gashyantare 2005, imp. 36-38, 43.

burenganzira yitwa *Human Rights Watch, Amnesty International* na *Fédération internationale des droits de l'homme*[325].

337. Ku itariki ya 12 Mata 1994 mu masaa sita z'amanywa, Monique Mujawamariya yari imbere y'irembo rya hoteli ya Mille Collines ubwo yabonaga Simba nko muri metero 7 cyangwa 8 kandi yari amaze amaze imyaka 32 azi Simba. Uyu mutangabuhamya avuga ko icyo gihe, Simba yari atwaye imodoka yo mu bwoko bwa Mercedes Benz y'umweru ku isangano ry'imihanda riri kuri iyo hoteli ari kumwe na Gashumba. Simba yahagaze iminota mike ku marembo ya hoteli maze we n'uyu mutangabuhamya barasuhuzanya bapeperana[326].

Umutangabuhamya ushinjura wiswe AJT1

338. AJT1 ni Umututsikazi washakanye na mwenewabo wa Simba[327]. Mu buhamya bwe mu Rukiko, avuga ko Simba n'abantu bazanye na we bageze iwe muri Komine ya Nyamabuye, Perefegitura ya Gitarama, ku itariki ya 13 Mata 1994 mu masaa saba z'amanywa maze bakahaguma kugera ku itariki ya 23 cyangwa iya 24 Mata 1994, ari yo tariki Simba yahaviriye akajya muri Komine ya Musebeya. Uyu mutangabuhamya yibuka abandi bantu bakurikira bazanye na Simba bakaguma mu rugo rwe: umuryango wa Eugène Rutaganda n'uwa Gasana, Collette na Ana Kobejo, Raymond na Robert Simba, umugore wa Robert Simba n'abana babo, Albertine, na Gashumba n'umugore we. N'ubwo AJT1 atibuka ko yabonye FMP1, avuga ko yumvise ko bamwe mu bantu bari bahungiye kwa Simba bari mu Ruhango[328].

[325] Inyandikomvugo y'iburanisha, 16 Gashyantare 2005, imp. 3-4, 6-7; ikimenyetso gihamya cy'Ubwunganizi N° D67.

[326] Inyandikomvugo y'iburanisha, 16 Gashyantare 2005, imp. 4-5; inyandikomvugo y'iburanisha, 17 Gashyantare 2005, imp. 3-4.

[327] Inyandikomvugo y'iburanisha, 11 Werurwe 2005, imp. 3, 24; ikimenyetso gihamya cy'Ubwunganizi N° D121.

[328] Inyandikomvugo y'iburanisha, 11 Werurwe 2005, imp. 3-4, 9, 22, 27.

Umutangabuhamya ushinjura wiswe FKP2

339. FKP ni Umuhutu wahoze ari umukozi mukuru wa Leta mu rwego rw'igihugu ndetse akaba yari yarigeze gukorana na Simba[329]. Mu buhamya bwe mu Rukiko, avuga ko nyuma y'urupfu rwa Perezida, yagumye iwe i Kigali kugera ku itariki ya 12 Mata ubwo yahungiraga i Gitarama. Ku itariki ya 9 Mata, muramu we (w'igitsina gore) yishwe n'isasu ryarashwe mu mirwano hagati ya FPR n'ingabo za Leta (FAR) ubwo yari asohotse iwe agiye gufata akuka hanze. Uyu mutangabuhamya yagerageje kumenyesha jandarumori iby'urwo rupfu ariko biba iby'ubusa maze aterefona Simba i Kigali. FKP2 avuga ko Simba yamubwiye ko nta cyo yari gukora kuko mu gace FKP2 yari atuyemo harimo kugwa amasasu. Simba yanamubwiye ko ahangayikishijwe n'umuhungu we [wa Simba] kandi ko bitari bimworoheye kuvugana na we[330].

340. Ku itariki ya 13 Mata, mu masaa saba cyangwa saa munani z'amanywa, FKP2 yagiye kuri Banki ya Kigali ahabona Simba yambaye imyenda ya gisirikare. Simba yamubwiye ko ari bwo yari akigera i Gitarama maze aramubwira ngo yihangane kuko yari yapfushije muramu we. Banaganiriye ku byerekeranye n'uko Simba yari yambaye gisirikare maze Simba amusobanurira ko iyo imyenda yamufashaga kunyura ku mabariyeri[331].

9.2.2 Isesengura ry'Urugereko

341. Porokireri avuga ko ubuhamya bwatanzwe mu gushyigikira imyiregurire ya sinari mpari butakwizerwa kandi ko bwanyomojwe mu ibaza rinyomoza[332]. Porokireri yerekana ibintu bimwe na bimwe bivuguruzanya mu buhamya bugamije gushyigikira iyo myiregurire ndetse akerekana n'ibindi bimenyetso byatanzwe

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[329] Inyandikomvugo y'iburanisha, 15 Ukuboza 2004, imp. 10-12.

[330] Ni kimwe no haruguru, imp. 14-17.

[331] Ni kimwe no haruguru, imp. 18, 40.

[332] Imyanzuro nsozarubanza ya Porokireri, ibika 134-176. Ibivugwa n'Ubwunganizi biri mu myanzuro nsozarubanza yabwo, ibika 827-959.

n'Ubwunganizi ngo bisa naho ari ibihimbano. Byongeye kandi, yaboneyeho kwibutsa inshuro zose abatangabuhamya bashinja bavuga ko babonye Simba muri Perefegitura ya Gikongoro mu gihe kivugwa mu Nyandiko y'ibirego. Porokireri avuga rero ko imyiregurire ya sinari mpari idashobora gutuma Urugereko rushidikanya ku byo aregera bityo ikaba itagomba kwemerwa yose uko yakabaye. Urugereko ruzirikana izo ngingo mu gusuzuma ibyo bimeyetso rwashyikirijwe.

342. Ubuhamya abatangabuhamya bose batanze ku myiregurie ya sinari mpari si ko Urugereko rubwemera. Buri mutangabuhamya ni inshuti bwite ya Simba cyangwa se ni mwenewabo. N'ubwo muri rusange abatangabuhamya batavuguruzanya ku byerekeranye n'ukuntu ibintu byakurikiranye, hari ibintu byinshi bavuguruzanyaho nko ku byerekeranye n'itariki nyayo abantu banyuranye bahungiye kwa Simba cyangwa ku byerekeranye n'abantu bari mu modoka zagiye i Gitarama. Byongeye kandi, mu bice bimwe by'ubuhamya bwabo mu Rukiko hagaragaramo kuryoshya inkuru kandi ibyo bishobora kuba biterwa n'uko baba bashaka kwibuka ibyo bibagiwe ku buryo byafasha Simba[333].

343. Cyakora, Urugereko rusanga Porokireri atarashoboye kugaragaza neza ko kuva ku itariki ya 6 kugeza ku ya 13 Mata, Simba atashoboraga kuba ari i Kigali no mu mujyi wa Gitarama, bityo ngo abe agaragaje ko icyo gihe Uregwa yarimo gukora ibikorwa bibisha muri Perefegitura ya Gikongoro. Urugereko ntirwemera ko abatangabuhamya bumvikanye bakanahimba ubuhamya bushyigikira imyiregurire ya sinari mpari ku byerekeranye n'igihe cyo kuva ku itariki ya 6 kugera ku ya 13 Mata. Mbere y'uko anashinjwa, Simba ntiyahwemye kuvuga ko icyo gihe yari i Kigali[334]. Mu mabaruwa yanditse mbere, yemezaga neza uko yakoresheje igihe

[333] Nk'urugero, FMP1 yakoresheje ajenda avuga ko yandikagamo ubwo ibivugwa byabaga. Uyu mutangabuhamya avuga ko buri gihe, yakoreshaga ajenda yandikamo gahunda yari afitanye n'abantu. Iyo umuntu asuzumye iyo ajenda asanga nta kintu cyanditswemo kuva mu ntangiriro y'igice cya kabiri cya Mata, kandi ibintu byose byanditswemo bisa n'aho byandikiwe rimwe. Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, urup. 78; ikimenyetso gihamya cy'Ubwunganizi N° D157.

[334] Ikimenyetso gihamya cya Porokireri N° P33 (ibaruwa yo ku wa 15 Weruwe 1995: « Nta n'ubwo nari kugira uwo mbuza kuzishyiraho [bariyeri zari hafi yo kwa Simba i Kigali] kubera ko ntari mpari! Navuye mu

cye ubwo yari i Kigali, ariko ugasanga atavuga neza igihe yagiriye muri Perefegitura ya Gikongoro[335]. Amabaruwa Rose Simba-Thiwa yandikiye Simba amugira inama yo gushaka ubuhamya bw'abantu yarokoye yemeza gusa ko Uregwa yafashije koko abantu benshi. Ibyo kandi bigaragara no buhamya SML2, FMP1 na MIB[336] batanze mu Rukiko. Urugereko rusanga rero amabaruwa Simba yandikiye abantu yarokoye abasaba kwemeza ko yari i Kigali muri icyo gihe kivugwa, atagaragaza ko yabasabaga gutanga ubuhamya bw'ikinyoma ko ahubwo yasabaga abo bantu yafashije kumushinjura kandi ibyo biremewe[337].

344. Mu gushyigikira ibyo avuga ko habayeho guhimba ubuhamya, Porokireri ashingira ahanini ku bibazo bituma haba amakenga ku cyiciro cya kabiri cy'imyiregurire ya sinari mpari cyerekeranye n'igihe cyo kuva ku itariki ya 14 kugera ku ya 24 Mata kandi ibikorwa Uregwa ashinjwa cyane ni ibyabaye muri icyo gihe. Nk'urugero, mu Ukwakira 1994, Rose Simba-Thiwa yaburiye se ko « amatariki ari ikintu gikomeye » kubera ko Perezida Sindikubwabo na Perefe Nsabimana « batwitse Butare » ku itariki ya 19 Mata[338]. Byongeye kandi, mu nyandiko Simba yanditse mbere, havugwamo amatariki anyuranye Simba

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mujyi wa Kigali ku wa 14 Mata 1994 mpunga intambara. Nabanje guhagarara i Gitarama, nza kuhava njya i Gikongoro, nyuma yaho njya i Bukavu… ») ; ikimenyetso gihamya cya Porokireri N° P36 (ibaruwa yo ku wa 28 Mata 2000 : « … kuva ku itariki ya 6 kugera ku ya 14 Mata 1994, ntitwigeze tuva i Kigali. Ndibuka ko muri icyo gihe, kuva ku itariki ya 9 kugera ku ya 14 Mata 1994, twese twari kumwe mu rugo kandi bibaye ngombwa mwaperereza ku byo mvuga. Byongeye kandi, niba ntibeshye twatandukanye ku wa 14 Mata 1944…. »); ikimenyetso gihamya cya Porokireri N° P46 (ajenda igaragaza ko Uregwa yagumye i Kigali kugera ku wa 14 Mata).

[335] Ikimenyetso gihamya cya Porokireri N° P33 (ibaruwa ivugwa haruguru yo ku wa 15 Werurwe 1995).

[336] Ikimenyetso gihamya cya Porokireri N° P29 (ibaruwa itagaragaza itariki yandikiweho: « Washaka abantu wajyanye kandi bashoboraga kwicwa maze ukabasaba kuguha ubuhamya bwanditse bugaragaza ko utashoboraga kugira igitekerezo cyo kwica Abatutsi cyangwa gukora jenoside.») ; ikimenyetso gihamya cya Porokireri N° P32 (ibaruwa yo ku wa 20 Ukwakira 1994 : « Ntiwibagirwe kandi ko bamwe mu bantu wafashije batifuza ko hari ikintu na gito mwakongera guhuriraho, ariko si bose»).

[337] Ikimenyetso gihamya cya Porokireri N° P36 (ibaruwa ivugwa haruguru yo ku wa 28 Mata 2000).

[338] Ikimenyetso gihamya cya Porokireri N° P32 (ibaruwa yo ku wa 20 Ukwakira 1994).

yagereyeho muri Gikongoro kandi ayo matariki ari hagati y'iya 29 Mata n'iya 10 Gicurasi. Ibyo rero bivuguruza ibyo avuga mu buhamya bwe mu Rukiko ko yahageze ku itariki ya 24 Mata[339]. Uko kwivuguruza gushobobora gutuma umuntu adashira amakenga igice cya nyuma cy'imyiregurire ya sinari mpari, gisuzumwa hasi mu Cyiciro cya 9.3.2, ariko ibyo ntibivuga ko umuntu agomba, byanze bikunze, no kudashira amakenga ku gice cya mbere cy'iyo myiregurire cyerekeranye n'igihe cyo kuva ku itariki ya 6 kugera ku ya 13 Mata.

345. Urugereko rusanga kandi abatangabuhamya banyuranye bahamagajwe mu Rukiko gushyigikira imyiregurire ya sinari mpari bavuguruzanya. Cyakora, ibyo bishobora kuba biterwa n'uko ibyabaye byatumye abantu bata umutwe cyane kandi hakaba hashize igihe kirekire bibaye. Byongeye kandi, urebye isano abo batangabuhamya bose bafitanye, ntibyatangaza baramutse barandikiranye mbere, bakaganira ku byabaye ndetse bagatanga n'amafaranga yo gukoresha mu kwiregura kwa Simba. Urugereko rusanga ubwumvikane no guhimba ubuhamya atari yo myanzuro rukumbi ishyize mu gaciro yafatwa kuri uko kuntu bagiye bavugana. Umuntu ashobora gusanga ibyo ari na ko bimeze hagati y'abantu barokotse babifashijwemo na Simba.

346. Mu gusuzuma ibimenyetso bishyigikira imyiregurire ya sinari mpari yerekeranye n'igihe cyo kuva ku itariki ya 6 kugera ku ya 13 Mata, Urugereko rwazirikanye ubuhamya bw'abatangabuhamya bashinja banyuranye bavuga ko babonye Simba muri Gikongoro muri icyo gihe. Muri abo batangabuhamya harimo ANX, KEH, KSS na KEL. Cyakora, nta na bumwe muri ubwo buhamya bufite ubundi bubushyigikira. Urugereko rwamaze kugaragaza ko rufite amakenga ku kwizerwa kw'abo batangabuhamya cyangwa ku byerekeranye n'ukuntu bashoboye kumenya Simba. Ayo makenga ntashingiye ahanini ku myiregurire ya sinari mpari ahubwo Urugereko rwarushijeho kugira ayo makenga rumaze gusuzuma

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[339] Ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba) n'ikimenyetso gihamya cya Porokireri N° P48 (ibaruwa yo ku wa 8 Gashyantare 2000).

ubuhamya bushyigikira iyo myiregurire[340]. Kubera ko hatanzwe ubuhamya bwinshi, budafite ubundi bubushyigikira kandi butakwizerwa buvuga ko Simba yari muri Perefegitura ya Gikongoro icyo gihe, bishobora gutuma Urugereko rukeka ko yaba yari ahari koko ariko ibyo ntibikuraho inshingano Porokireri afite yo kugaragaza, mu buryo budashidikanywaho, ibyo aregera.

347. Urugereko rusanga igice cya mbere cy'imyiregurire ya sinari mpari gisa n'igishyize mu gaciro, urebye uko ibintu byari byifashe igihe ibivugwa byabaga. Ku itariki ya 6 Mata, nta kintu kizwi Simba yari ahuriyeho na Guverinoma, igisirikare cyangwa ubuyobozi bwa MRND. Mu kiganiro yagiranye n'ikinyamakuru cya *Kanguka* ubwo yari akiri umudepite, Simba yashyigikiye ku mugaragaro Minisitiri w'Intebe Agathe[341], Amasezerano y'amahoro ya Arusha no kwinjiza mu mahoro FPR muri Guverinoma. We, umugore we n'abana bari batuye i Kigali kandi amenshi mu mazu ye yo guturamo no gucururizamo yari i Kigali, akaba yari afite n'indi mitungo muri Komine ya Bicumbi na Gikoro[342] zegereye umujyi wa Kigali. Bityo rero, birumvikana ko Simba yari kuguma iwe i

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[340] KSM, KEI, KDD na KSU na bo bavuga ko babonye Simba muri Perefegitura ya Gikongoro muri kiriya gihe. Urugereko ntirwemeye ubwo buhamya kubera ko, mu Nyandiko y'ibirego, Uregwa atamenyeshejwe mu buryo bikwiye ibyo bamushinja. Reba Icyiciro cya 1.2. Cyakora, ubwo buhamya nta cyo bwari guhindura ku mwanzuro w'Urugereko ku byerekeye imyiregurire ya sinari mpari.

[341] Ikimenyetso gihamya cy'Ubwunganizi N° D68 (inyandiko yo mu kinyamakuru itagaragaza itariki yandikiweho: « Iyi Guverinoma iyobowe na Madamu Agathe yashyizweho ku bwumvikane bw'amashayaka yose ayigize… Iyi Guverinoma igomba gushyirwaho kugira ngo ishyire umukono ku Masezerano y'amahoro hagati Guverinoma y'u Rwanda na FPR… **Ik. :** Ubona ute iyinjizwa rya FPR muri Guverinoma ? **Ig. :** Nizeye ko ibyo ivuga ari ukuri. Nkeka ko FPR yumvise ko idashobora gufata ubutegetsi ku ngufu. Niba koko ishaka amahoro, nemera ko bishoboka ko twahuriza hamwe imbaraga zacu hamwe tukubaka urwatubyaye, buri wese atanga umuganda we ku nyungu z'igihugu cyose»).

[342] Ikimenyetso gihamya cya Porokireri N° P33 (ibaruwa yo ku wa 15 Gicurasi 1995) n'ikimenyetso gihamya cya Porokireri N° P46 (ajenda: umugereka uriho lisiti y'imitungo). Urugereko ruzi kandi ko Simba yari afite inyungu mu mushinga wa Crête-Zaïre-Nil, wari muri Perefegitura ya Gikongoro. Byongeye kandi, mushiki we yari atuye muri Gikongoro.

Kigali kugira ngo yite mbere na mbere ku muryango we n'inshuti ze, anarebe uko yabatwara abahungisha kubera imirwano yari yubuye.

348. Hatanzwe ubuhamya bwinshi bw'abantu biboneye ibyabaye bushyigikira ubwa Simba mu buryo bunyuranye. Nk'urugero, SML2, MIB na FMP2 batanga amakuru arambuye kandi atavuguruzanya ku byo Simba yakoze i Kigali n'igihe yahungiraga i Gitarama. Bose uko ari batatu bahungiye kwa Simba kandi bavuga ko yari i Kigali muri kiriya gihe kivugwa, ndetse akaba yari i Gitarama ku itariki ya 13 Mata. Rose Simba-Thiwa wavuganaga na Simba kenshi kuri telefone na we yemeza ko Simba yari i Kigali muri kiriya gihe. Kubera ko yari ahangayikiye abantu bo mu muryango we, ubuhamya bwe busa n'ubushyize mu gaciro. Avuga ko yashishikarije se kujya kuri hoteli ya Mille Collines kugira ngo ategure uko bahunga bakava mu gihugu. Simba yemera ko yagiye kuri iyo hoteli ku itariki ya 12 Mata kureba uko yahungisha abantu bo mu muryango we bakava mu gihugu. Monique Mujawamariya, uharanira uburenganzira bwa muntu yemeza ko yamubonye kuri iyo hoteli. Byongeye kandi, FKP2 na we avuga ko muri kiriya gihe yaterefonnye Simba amusaba ko yamufasha kandi ko baganiriye akabona Simba nta ko atagize ngo abe yamufashiriza umuryango. AJT1 yashyigikiye ubuhamya buvuga ko Simba n'abantu bari kumwe bageze i Gitarama ku itariki ya 13 Mata. FKP2 na we avuga ko ku gicamunsi yabonye Simba i Gitarama.

349. Urugereko rusanga Simba ashobora kuba yarakoraga ingendo ajya muri Gikongoro anavayo. Cyakora, Porokireri ntiyatanze ibimenyetso bigaragaragaza ko izo ngendo zashobokaga muri icyo gihe, urebye ukuntu ibintu byari byifashe kandi, nk'uko byumvikana, hakaba hariho amabariyeri menshi n'ahantu henshi bagenzuriraga ibyangombwa ndetse n'uruvunganzoka rw'abantu bahungaga kubera imirwano yari yubuye. N'ubwo mu myiregurire ya sinari mpari hatavugwa ukuntu Simba yakoresheje igihe cye cyose, iyo uyisuzumye yose ukanazirikana ibimenyetso bishinja, usanga iyo myiregurire itanga igisobanuro gishyize mu gaciro kandi kidafite amakemwa ku bintu Simba yakoze hagati y'itariki ya 6 n'iya 13 Mata 1994.

9.3 Ibyo Uregwa yakoze i Gitarama no muri Gikongoro, kuva ku itariki ya 14 kugera ku ya 24 Mata 1994

9.3.1 Ibimenyetso

Uregwa

350. Mu buhamya bwe mu Rukiko, Simba avuga ko kuva ku itariki ya 13 kugera ku ya 24 Mata, we n'umuryango we n'uwa Gashumba babaye i Gitarama mu gipangu cyabagamo mwishywa we witwa Emmanuel Niringiyimana. Simba n'abo bantu bari kumwe babaga muri imwe mu nzu yari muri icyo gipangu itarimo abantu, kikaba cyari icya Kayibanda wari subusititi wa Porokireri[343].

351. Ku itariki ya 14 Mata, Simba n'umuhungu we Raymond basubiye i Kigali kuzana undi muryango n'umwe mu bantu bakodeshaga amazu ya Simba. Bavuye i Gitarama mu masaa tatu za mu gitondo bagaruka mu masaa kumi z'umugoroba. Simba asobanura ko urwo rugendo rutabagoye cyane kuko abantu bacungaga amabariyeri bamumenye bitewe n'uko bari baraye bamubonye[344].

352. Ku itariki ya 15 Mata, Simba n'umuhungu we Raymond hamwe n'umuvandimwe wa Kayibanda witwa Boniface bagiye i Rwinyana, muri Komine ya Mukingi, kuzana urufunguzo rw'imwe muri ayo mazu bacumbikagamo. Gashumba ntiyajyanye na bo kubera ko yari yagiye iwabo i Nyabikenge kureba uko umutekano wifashe[345].

353. Ku itariki ya 16 Mata mu masaa tatu za mu gitondo, Simba yatwaye AJT1 amujyana kuri disipanseri gukingiza umwana we. Igihe AJT1 yari kuri disipanseri, Simba yagiye ku ishuri ry'abaforomokazi kuzana umukobwa we wahigaga, ariko umuyobozi w'iryo shuri aramwangira kuko byashoboraga

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[343] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 60, 62-63, 65, 71; inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 35, 37.

[344] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, imp. 58, 63-64.

[345] Ni kimwe no haruguru, imp. 64-65.

gutuma abandi banyeshuri bagira ubwoba. Simba vuye aho yagiye gufata AJT1 n'umwana we maze basubira i Gitarama aho bageze mu masaa sita z'amanywa. Simba ntiyibuka niba uwo munsi hari ikintu AJT1 yavuze ku rupfu rw'ababyeyi be baguye kuri paruwasi ya Kaduha cyangwa ku ihotorwa rya Gasana na Monique. Cyakora, Simba avuga ko uyu mutangabuhamya yavuze kuri ibyo bintu ubwo bari bagiye kujya i Gatare muri Perefegitura ya Gikongoro[346].

354. Simba asobanura ko amaze kubona Gitarama itangiye kuzamo abantu benshi cyane, yiyemeje kubaza niba imihanda yari nyabagendwa bihagije kugira ngo arebe uko yajya ku cyicaro cy'umushinga wa Crête-Zaïre-Nil i Gatare, muri Komine ya Musebeya. Nyuma yaho kuri uwo munsi wo ku itariki ya 16 Mata, Simba n'umugore we, n'umwe mu bahungu be hamwe na Gashumba bavuye aho hantu bagenda berekeza ku Gikongoro. Bagiye kugera i Nyanza, muri Perefegitura ya Butare, bahuriye na MIB ku muhanda. Uyu mutangabuhamya yababwiye ko ari bwo yari akiva ku Kanyaru, ku mupaka n'u Burundi maze yumvisha Simba ko agomba gusubira i Gitarama akahamara nibura undi munsi umwe kubera ubwicanyi bwarimo gukorerwa kuri uwo muhanda[347].

355. Ku itariki ya 17 Mata, Simba na Gashumba bagiye i Kigali kuzana bimwe mu bintu bya Gashumba. Bashoboye kunyura ku mabariyeri, ariko FPR ibarasaho ubwo bari i Kigali mu nzu ya Gashumba. Ubwo barimo kuva i Kigali, Simba yatwaye mu mudoka mubyara we witwa Cyprien Munyangondo. Ubwo Simba yari ajyanye Munyangondo i Gitarama mu rugo rw'umucuruzi witwa Ngirabatware, FPR yakomeje kumurasaho we na Gashumba[348].

356. Mu gitondo cyo ku itariki ya 18 Mata, Simba n'umugore we hamwe na Gashumba bagiye i Mwendo, muri Komine ya Mukingi gusura kwa sebukwe wa Simba maze

[346] Ni kimwe no haruguru, imp. 65-66.

[347] Ni kimwe no haruguru, urup. 66; inyandikomvugo y'iburanisha, urup. 50. Umushinga wa Crête-Zaïre-Nil wari ugamije guteza imbere ubuhinzi n'ubworozi. Simba yari afite inyungu z'ubukungu muri uwo mushinga

[348] Inyandikomvugo y'iburanisha, 22 Werurwe 2005, urup. 67.

bagaruka nyuma ya saa sita. Simba yamaze indi minsi mike i Gitarama mbere yo kujya i Gikongoro. Ku itariki ya 20 n'iya 23 Mata, Simba yahuye na Silas Mucumankiko, na we ukomoka ku Gikongoro, wari umuyobozi w'uruganda rukora itabi rwitwa Tabarwanda akaba yari no mu gikorwa cyo gutanga amasegereti. Simba asobanura ko mu gihe cy'amahina, amasegereti agurwa cyane ku buryo Mucumankiko yemeye guha Simba n'umuhungu amasegereti. Mucumankiko na Simba bumvikanye ko bari kongera guhurira ku Gikongoro ku itariki ya 25 Mata[349].

357. Simba avuga ko ku itariki ya 24 Mata mu masaa ine za mu gitondo, yavuye i Gitarama mu mudoka ebyiri zishoreranye agiye ku Gikongoro. Icyo gihe, yari yambaye imyenda ye ya gisirikare kugira ngo bimworohere kunyura ku mabariyeri menshi bagendaga bahura na yo. Mu masaa sita z'amanywa, yahagaze akanya gato ku biro bya Superefegitura ya Kaduha, ariko kubera ko superefe atari ahari yikomereza urugendo ajya muri Komine ya Musebeya. Ntibyamugoye kunyura kuri bariyeri yari kuri santeri y'ubucuruzi hafi y'ibiro bya Superefegitura kubera ko yari azwi neza muri ako gace. Bageze hafi ya Paruwasi ya Kaduha, babonye imirambo y'abantu babarirwa hagati ya 20 na 40 ku nkengero z'umuhanda. Simba yahamagaye umusirikare wari wambaye imyenda ya gisirikare amubaza uko byari byagenze, ariko aho kumusubiza uwo musirikare yirebera hirya mu cyerekezo cy'abantu bagendaga[350].

358. Simba yageze i Gatovu, muri Komine ya Musebeya, mu masaa saba cyangwa saa munani z'amanywa. Yahagaze kwa mushiki we witwa Thérèse Nyaribusima ahamara iminota igera kuri 40, nyuma akomeza urugendo ajya ku cyicaro cy'umushinga wa Crête-Zaïre-Nil aho yageze hagati ya saa kumi na saa kumi

[349] Ni kimwe no haruguru, imp. 68-71

[350] Inyandikomvugo y'iburanisha, imp. 71-72.

n'imwe z'umugoroba. Uwungirije umuyobozi w'uwo mushinga yamujyanye muri imwe mu mazu y'uwo mushinga bacumbikiragamo abantu[351].

Umutangabuhamya ushinjura wiswe SML2

359. Mu buhamya bwe mu Rukiko, SML2 avuga ko hagati y'itariki ya 13 n'iya 24 Mata, Simba n'abandi bantu babarirwa hagati ya 15 na 20 babaga kwa Emmanuel Niringiyimana, i Gitarama. Muri icyo gihe, Simba yabaga ahanini ari mu rugo cyangwa ari mu mujyi wa Gitarama no mu nkengero zawo, uretse inshuro nke ubwo yabaga yagiye ahandi. Yasangiraga n'umuryango we, agakina amakarita cyangwa agasohoka agiye nko kuri banki cyangwa kugura ibiribwa n'ibindi bintu. SML2 avuga ko buri gihe Simba yakoraga ku buryo nta n'umwe mu bantu yari ashinzwe ugira icyo abura. Uyu mutangabuhamya asobanura ko ubwo yari i Gitarama ahanini we yitaga ku bana, agateka ndetse akanakora imirimo y'isuku[352].

360. SML2 yibuka ko Simba yagiye i Kigali ku itariki ya 14 Mata gufata undi muryango ngo awuzane i Gitarama. Umunsi umwe, Simba yafashe umukobwa w'uyu mutangabuhamya wari urwaye malariya maze amujyana ku bitaro by'i Kabgayi nuko asura n'umukobwa we witwa Regine wigaga mu ishuri ry'abaforomokazi ryari aho. Hagati y'itariki ya 18 n'iya 20 Mata, Simba yajyanye na Gashumba i Kigali naho, hagati y'itariki ya 20 n'iya 22 Mata, Simba n'umugore we bagiye gusura nyirabukwe wa Simba wari urwaye[353].

361. SML2 asobanura ko Simba n'abantu yari ashinzwe bavuye i Gitarama bakajya muri Perefegitura ya Gikongoro kubera imibereho yari yatangiye gukomera i Gitarama. Simba yari yabanje gutekereza ko bari kumara iminsi mike i Gitarama ategereje ko umutekano ugaruka i Kigali, ariko umutekano warushijeho kugenda uba mubi i Kigali. Uyu mutangabuhamya avuga ko hari umuntu wahohoteye

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[351] Ni kimwe no haruguru, imp. 72-74.

[352] Inyandikomvugo y'iburanisha, 13 Ukuboza 2004, imp. 54, 60-61

[353] Ni kimwe no haruguru, imp. 54, 59, 61-62.

Gashumba na Robert mu rugo rw'umuturanyi. Byongeye kandi, bumvaga babereye umutwaro mwishywa wa Simba witwa Niringiyimana [354].

362. Ku itariki ya 24 Mata, mu masaa ine za mu gitondo, SML2 yavuye i Gitarama ajya i Gikongoro mu modoka ebyiri zishoreranye. Uyu mutangabuhamya n'abana be, umugore wa Gashumba n'abana be hamwe na Raymond bajyanye na Simba mu modoka ye yo mu bwoko bwa Mercedes Benz. Abandi bantu bari kumwe bagiye mu i kamyoneti ya *double cabine* kandi banyuze ku mabariyeri menshi nta ngorane. Cyakora, SML2 yibuka ko bageze kuri paruwasi ya Kaduha yabonye abantu bagababaga ibitero, bitwaje imipanga, bakora ibintu bimeze nk'iby'amashitani. Akeka ko abo bantu bashobora kuba bari abaturage bo muri ako gace. Icyo gihe, abantu barimo guhunga kandi hari imivu y'amaraso n'imirambo myinshi ku nkengero z'imihanda. Abantu bari mu modoka batangiye kuvuza induru Simba yabwiye umuhungu we kuzamura ibirahure by'imodoka, asaba abana guhumiriza. SML2 yashyize umukobwa we mu gituza aramukomeza cyane ubwo imodoka yabo yari yazengurutswe n'abo bantu bagababaga ibitero. Uyu mutangabuhamya yibuka ko yabonye umusirikare wari kure y'imodoka yabo. Simba yabwiye Raymond gutwara imodoka gahoro cyane bishoboka kugira ngo atagira umuntu agonga. Abantu bose bari mu modoka batashywe n'ubwoba kandi nta n'umwe muri bo wagize icyo avuga. SML2 asobanura ko kuva intambara yatangira bwari ubwa mbere abona ubwicanyi nk'ubwo. Ibyo bintu byari biteye ishozi. Nyuma yaho, ubwo bari bahagaze ngo bafate akayaga, SML2 yabonye amarira mu maso ya Simba[355].

Umutangabuhamya ushinjura wiswe MIB

363. Ku itariki ya 14 Mata, MIB n'umugabo we batwaye mu modoka FMP1 n'umugabo we hamwe n'abana babo babageza ku mupaka w'u Burundi. Icyo gihe, umugabo wa FMP1 ntiyashoboye kwambuka umupaka ariko yaje

[354] Ni kimwe no haruguru, imp. 54, 60.

[355] Inyandikomvugo y'iburanisha, imp. 61-65; inyandikomvugo y'iburanisha, 14 Ukuboza 2004, imp. 56, 69-70.

kuwambuka hashize iminsi ibiri, ubwo MIB yamusubizagayo ku itariki ya 16 Mata[356].

364. MIB avuga ko ubwo yari avuye kujyana umugabo wa FMP1 ku mupaka ku nshuro ya kabiri, yahuye na Simba ku muhanda uhuza Perefegitura ya Butare n'iya Perefegitura. Icyo gihe, Simba yari agiye ku Gikongoro ari kumwe n'umugore we n'abana be, umuryango wa SML2 n'uwa Gashumba. MIB n'umugabo we babwiye Simba ko kugenda muri ako gace ari kumwe n'Abatutsi byari ukwigerezaho. Ubwo bashakaga kuvuga umugore wa Simba, uwa Gashumba na SML2. MIB asobanura ko bari babonye imirambo ku muhanda. Anavuga ko mu nyandikomvugo y'ubuhamya yatanze mbere atari yavuze ko bahuye kubera ko batabimubajijeho. Cyakora, uyu mutangabuhamya avuga ko yasezeye kuri Simba i Gitarama mu mpera z'uko kwezi [357].

Umutangabuhamya ushinjura wiswe FMP1

365. Ku itariki ya 14 Mata, MIB yagejeje FMP1 n'umuryango we ku mupaka w'u Burundi. FMP1 n'abana be batatu bambutse umupaka ariko umugabo we baramwangira kubera ko atari afite pasiporo. Umugabo w'uyu mutangabuhamya yaje gushobora kwambuka ku itariki ya 16 Mata[358].

Umutangabuhamya ushinjura wiswe FKP2

366. Mu buhamya bwe mu Rukiko, FKP2 avuga ko hafi y'itariki ya 20 Mata mu masaa sita z'amanywa, yahuriye na Simba ku isoko rya Gitarama. Icyo gihe, bombi barimo guhaha bari kumwe n'abagore babo[359].

Umutangubuhamya ushinjura wiswe AJT1

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[356] Inyandikomvugo y'iburanisha, 14 Gashyantare 2005, imp. 9, 11, 20-21, 32, 36.

[357] Ni kimwe no haruguru, imp. 22-23, 35, 37-39.

[358] Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, imp. 54-55, 65, 71-72.

[359] Inyandikomvugo y'iburanisha, 15 Ukuboza 2004, imp. 18-19, 39-44.

367. Mu buhamya yatanze mu Rukiko, AJT1 avuga ko amaze iminsi nk'itatu ageze i Gitarama, Simba yasubiye i Kigali mu masaa ine akagaruka mu masaa munani cyangwa saa cyenda z'amanywa. Bukeye, AJT1 yajyanye na Simba i Kabgayi gukingiza umwana we [AJT1] no gusura umukobwa wa Simba wahigaga mu ishuri ry'abaforomokazi. Aho i Kabgayi, abantu bari bari bararokotse ubwicanyi bwakorewe kuri paruwasi ya Kaduha babwiye uyu mutangabuhamya ko Gasana na Monique bari bishwe, kimwe n'ababyeyi na basaza b'uyu mutangabuhamya. AJT1 yongeraho ko bitari gushoboka ko Simba agira uruhare mu bwicanyi bwakorewe kuri paruwasi ya Kaduha kubera ko yari kumwe na we. N'iyo nta mabariyeri yari kuba ahari, kugera i Kaduha byari gutwara igihe kiri hagati y'amasaha ane n'atanu. Nyuma yaho uwo munsi, Simba yagiye i Rwinyana kureba nyirabukwe[360].

368. Umunsi wakurikiyeho, Simba yongeye kujya i Kigali. Uretse izo ngendo, ubundi yagumaga mu gipangu i Gitarama, agasangira amafunguro n'abantu bose bari bahari kandi agakina amakarita n'indi mikino. Uyu mutangabuhamya ntiyibuka niba hari umuntu ukomeye waje gusura Simba[361].

369. AJT1 avuga ko ku itariki ya 24 Mata, umugabo we yajyanye na Simba i Musebeya maze bakagaruka bukeye. Uyu mutangabuhamya avuga ko yavuye i Gitarama ku itariki ya 30 Gicurasi 1994 akajya muri Perefegitura ya Gikongoro kandi ko ahageze yabaye kwa mushiki wa Simba witwa Thérèse Nyirabusimba. Yibuka ko umunsi umwe Simba yahahagaze aje gutwara abana b'umucungamari wa komine wari warahahungiye witwa Gacendra[362].

Umutangubuhamya ushinjura wiswe AJG7

[360] Inyandikomvugo y'iburanisha, 11 Werurwe 2005, imp. 10-13, 15, 18-21.

[361] Ni kimwe no haruguru, imp. 10-12, 14, 22.

[362] Ni kimwe no haruguru, imp. 9, 22-25, 38-39.

370. AJG7 ni Umuhutu wigeze kugira icyo ahuriraho na Simba muri politiki[363]. Mu buhamya bwe mu Rukiko, uyu mutangabuhamya avuga ko Simba yageze muri Gikongoro hagati y'itariki ya 28 Mata n'icyumweru cya mbere cya Gicurasi 1994, ko kandi icyo gihe ubwicanyi muri ako gace bwari bwararangiye. Simba n'umuryango we hamwe n'abandi bantu bagumye ku cyicaro cy'umushinga wa Crête-Zaïre-Nil kugeza mu mpera za Kamena 1994, ubwo Simba yahungaga akava mu Rwanda. Uyu mutangabuhamya avuga ko yasuye Simba ku cyicaro cy'uwo mushinga inshuro eshanu cyangwa esheshatu kandi ko kenshi Simba yabaga akina amakarita n'abana[364].

Umutangubuhamya ushinjura wiswe SIH

371. SIH ni Umuhutu wakoraga hafi y'icyicaro cy'umushinga wa Crête-Zaïre-Nil mu mwaka wa 1994[365]. Mu buhamya bwe mu Rukiko, avuga ko Simba yageze ku cyicaro cy'uwo mushinga hafi y'itariki ya 25 Mata 1994. Uyu mutangabuhamya yabonanye na Simba bukeye bwaho ubwo Simba yari aje kumusaba inkunga. SIH avuga ko Simba yari afite isambu muri uwo mushinga, kimwe n'abandi bantu barimo Damien Biniga, Frédéric Nzamurambaho na Ambroise Murindagabo[366].

Umutangubuhamya ushinjura wiswe GMA3

372. GMA3 ni Umuhutu, akaba yari umurwanashyaka wa MRND kandi mu mwaka wa 1994[367] yakoraga hafi y'icyicaro cy'umushinga wa Crête-Zaïre-Nil. Avuga ko Simba yageze aho uwo mushinga wakoreraga imvururu zararangiye muri ako gace. Inzu ya Simba yari mu birometero nka bingahe uvuye aho uyu

[363] Inyandikomvugo y'iburanisha, 10 Werurwe 2005, imp. 3-6, 39, 48; ikimenyetso gihamya cy'Ubwunganizi N° D119.

[364] Inyandikomvugo y'iburanisha, 10 Werurwe 2005, imp. 7, 9-10, 12, 15-17, 28.

[365] Inyandikomvugo y'iburanisha, 16 Ukuboza 2004, imp. 33-37, 68, 74; ikimenyetso gihamya cy'Ubwunganizi N° D119.

[366] Inyandikomvugo y'iburanisha, 16 Ukuboza 2004, imp. 35-36, 38-43, 47, 61, 69, 71-72, 74, 76.

[367] Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, imp. 3-6, 21; ikimenyetso gihamya cy'Ubwunganizi N° D97.

mutangabuhamya yakoreraga, nko mu birometero 10 uvuye ku muhanda. GMA3 ashaka avuga ko icyo gihe, Simba « yabagaho nk'impunzi ». Uyu mutangabuhamya avuga ko atamenye ubwoko n'ibara by'imodoka ya Simba[368].

Umutangabuhamya ushinjura wiswe GL3

373. GL3 ni Umuhutu, akaba yarahoze ari umuyoboke wa PSD kandi mu mwaka wa 1994 yari atuye muri Segiteri ya Gikongoro, Komine ya Musebeya, Perefegitura ya Gikongoro[369]. Mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994, yabonye Simba n'umuryango we ubwo bageraga ku isoko rya Gatovu, i Gatore muri Komine ya Musebeya. Icyo gihe, bari mu modoka yo mu bwoko bwa Mercedes Benz y'umweru baturutse mu muhanda uhuza Gikongoro na Butare. Uyu mutangabuhamya avuga ko muri iyo modoka harimo abantu benshi, ko ariko atababaze. GL3 yamenye umugore wa Simba n'umuhungu we Richard, wari waramwize imbere ho imyaka mike. Uyu mutangabuhamya avuga ko ubwo Simba yari muri Gikongoro yacumbikaga mu mazu y'umushinga wa Crête Zaïre-Nil[370].

9.3.2 Isesengura ry'Urugereko

374. Nk'uko bivugwa hejuru, Simba atanga ibisobanuro byumvikana ku byo yakoze hagati y'itariki ya 6 n'iya 13 Mata 1994 ari yo tariki yagiriyeho kuba mu mujyi wa Gitarama. Simba avuga ko hagati y'itariki ya 14 na 24 Mata 1994 yagumye mu mujyi wa Gitarama, ariko rimwe na rimwe ku manywa akajya i Kigali cyangwa mu tundi duce tuhegereye. Amakuru atanga ashyigikirwa mu buryo bunyuranye n'abatangabuhamya. Cyakora, ibimenyetso bishyigikira igice kimwe y'imyiregurire ya sinari mpari ye bikubiyemo ibintu bituma umuntu ashidikanya cyane ku kuri kw'ibyo Simba avuga kandi, mu by'ukuri, ubwo buhamya

[368] Inyandikomvugo y'iburanisha, 21 Gashyantare 2005, imp. 7-10, 12, 23, 25-28.

[369] Inyandikomvugo y'iburanisha, 24 Gashyantare 2005, imp. 3-4

[370] Ni kimwe no haruguru, imp. 8-11, 20-21, 23-25

bushyigikira ibivugwa ko yageze muri Gikongoro mbere y'itariki we avuga ko yahagereye.

375. By'umwihariko, Simba yemera ko ku itariki ya 16 Mata yakoze urugendo yerekeza muri Perefegitura ya Gikongoro ari kumwe n'abandi bantu batatu kugira ngo arebe niba imihanda yari nyabagendwa ku buryo yajya kuhaba. MIB yemeza ko icyo gihe, Simba yagiye yerekeza muri Perefegitura ya Gikongoro maze bagahurira mu nzira i Nyanza, muri Perefegitura ya Butare. MIB avuga ko Simba yaretse gukomeza urugendo asubira mu mujyi wa Gitarama kubera ko yamugiriye inama ko gukomeza urugendo ari kumwe n'Abatutsi byari ukwigerezaho cyane. Ubuhamya Simba yatanze mu Rukiko n'ubwatanzwe na SML2 na AJT1 buvuga ko Simba yamaze iminsi umunani yakurikiyeho akina amakarita, ajya ku isoko ndetse rimwe na rimwe akanajya igihe gito i Kigali cyangwa mu tundi duce twegereye aho.

376. Urugereko rusanga ku itariki ya 16 Mata, Simba yari mu nzira agana mu karere avukamo, mu majyepfo y'u Rwanda. Yari umuntu ukomeye mu Rwanda kubera imirimo ya gisirikare n'iya politiki yari yarakoze. Urugereko ntirushidikanya ko abantu bubahaga Simba cyane cyane iyo yagendaga yambaye imyenda ya gisirikare. Mu buhamya bwe mu Rukiko, Simba yivugira ko ubwo bamuhagarikaga kuri bariyeri ku muhanda uhuza Kigali na Gitarama, yavuze ko yakwica umwe mu bagabaga ibitero aho gutanga umwe mu Batutsi yari atwaye. N'ubwo nta kintu yari ahuriyeho, ku buryo buzwi, na Guverinoma n'igisirikare, ubwo buhamya bwe bugaragaza ko umwanya Simba yari afite mu muryango nyarwanda watumaga abategetsi bamufasha mu ngendo ze. Ibyo bigaragazwa n'uko yashoboye kuvugana n'abategetsi bo hejuru muri Perefegitura ya Kibungo ngo bafashe SML2 gusubira i Kigali. Byongeye kandi, ntibyagoye Simba kumvisha abajandarume n'abasirikare ko bagomba kumuherekeza kugira ngo ajye gutabara abantu banyuranye muri Kigali yose mu minsi ya mbere yakurikiye urupfu rwa Perezida. Simba anivugira ko atatinyaga cyane bariyeri zo muri Perefegitura ya Gikongoro kuko yari azwi neza muri ako karere.

377. Kubera izo mpamvu, ntibyumvikana ukuntu inama Simba yagiriwe na MIB yari gutuma yisubiraho ntajye kuba muri Perefegitura ya Gikongoro niba koko icyo gihe yarashakaga kujyayo. N'ubwo binyuranye n'ibyo Simba avuga mu buhamya bwe, Urugereko runasanga MIB avuga ko muri urwo rugendo Simba yari kumwe n'abantu yari yariyemeje kurinda barimo SML2. Ibivugwa na SML2 ku rugendo Simba yakoze ajya muri Perefegitura ya Gikongoro bituma na none umuntu yumva ko Simba yavuye i Gitarama mbere y'igihe avuga ko yahaviriye. Mu by'ukuri, SML2 avuga ko ubwo Simba n'abantu bari kumwe banyuraga kuri paruwasi ya Kaduha, basanze Interahamwe zagose aho hantu. Urugereko ruributsa ko mu minsi yabanjirije ibitero simusiga ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Cyanika n'iya Kaduha byagabwe ku itariki ya 21 Mata, Interahamwe zarwanye n'Abatutsi bari barahahungiye. Byongeye kandi, Urugereko rusanga AJT1 yivuguruza hagati y'ubuhamya yatanze mu Rukiko n'ubwo yagejeje mbere ku bapererezi b'Urukiko aho avuga ko urebye Simba yavuye i Gitarama ubwo Guverinoma y'agateganyo yari ihimukiye[371].

378. Urugereko ruributsa kandi ko YF avuga ko Simba yari mu nama yabereye kuri CIPEP mu mujyi wa Gikongoro hagati y'itariki ya 16 n'iya 19 Mata[372]. Mu buhamya bwe mu Rukiko, SBL1 avuga ko Perefe wa Perefegitura ya Gikongoro n'uwa Perefegitura ya Butare bahuye ku itariki ya 16 Mata kandi ko na Perezida Sindikubwabo yasuye Perefegitura ya Gikongoro ku itariki ya 18 Mata, hasigaye iminsi itatu ngo ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Cyanika

[371] Guverinoma y'agateganyo yageze i Gitarama ku wa 12 Mata. Mu gusobanura uko kwivuguruza, AJT1 avuga ko yabonye ko Guverinoma y'agateganyo yahageze ari uko itangiye gushaka ahandi hantu h'inyongera ho gukorera. Inyandikomvugo y'iburanisha, 11 Werurwe 2005, imp. 41-42. Ibi bisa naho bishimangira ibivugwa ko Simba yavuye i Gitarama mbere y'igihe yemeza ko yahaviriye. Byongeye kandi, ibyo uyu mutangabuhamya avuga ko ku wa 16 Mata yabonye i Kabgayi abantu bari bararokotse ubwicanyi bwakorewe kuri paruwasi ya Kaduha, bituma umuntu yumva ko ashobora kuba yarajyanye na Simba aho hantu ubwo Simba yajyagayo avuye muri Gikongoro ku wa 1 Gicurasi.

[372] Reba igika cya 144

n'iya Kaduha hagabwe ibitero simusiga ku itariki ya 21 Mata[373]. Ibimenyetso bishinja bigaragaza kandi ko Simba yari ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha mu gitondo cyo ku itariki ya 21 Mata. Nk'uko bivugwa mu Cyiciro cya 4 n'icya 6, aba batangabuhamya bavuga ibintu biboneye kandi ubuhamya bwabo bufite ubundi bubushyigikira.

379. Urugereko ruzirikana ibyo kandi rugatangazwa n'ukwivuguruza hagati y'ubuhamya Simba yatanze mu Rukiko ku itariki yagereyeho muri Gikongoro n'ibyo yanditse mbere yaho. Muri ajenda ya Simba handitse ko yagiye muri Perefegitura ya Gikongoro ku itariki ya 29 Mata[374]. Yateguye iyo ajenda ashaka guhakana ibyo aregwa kandi yanayohereje umugore we ngo imufashe gukora dosiye yo gusaba ubuhungiro[375]. Asobanura ko ukwivuruguza kuboneka hagati y'ubuhamya yatanze mu Rukiko n'amatariki yanditse muri ajenda guturuka ku makosa y'imyandikire mu nyandiko yari ikiri umushinga[376], ariko iki gisobanuro ntikinyuze. Hari indi baruwa Simba avugamo ko yageze muri Gikongoro ku

[373] Inyandikomvugo y'iburanisha, 23 Gashyantare 2005, imp. 52-53; inyandikomvugo y'iburanisha, 24 Gashyantare 2005, imp. 38-39.

[374] Ikimenyetso gihamya cya Porokireri N° P46 (ajenda ya Simba).

[375] Inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 32, 40.

[376] Ni kimwe no haruguru, imp. 32-35 (« Nanditse mbeshyuza ibyo bintu kandi umushinga w'iyo nyandiko nari nkiwukoraho, ariko barawunyambuye. Kubera rero ko banyambuye iyo nyandiko ntarayirangiza, ntishobora gukoreshwa kuko itari yakarangira kandi sinari nakayigeza ku muntu waba uyikeneye. Sinari nakayirangiza bityo ikaba yari ikiri umushinga. Ni byo koko ko nanditse iyi nyandiko nshaka guhakana ibyo ndegwa….sinzi niba ibikubiye muri iyi nyandiko bivuga ibyo nakoze. Ngomba kuyirebamo kugira ngo menye ko…kandi iyi nyandiko ni umushinga ndetse nasanze nari nibeshye. Ntekereza ko iyi nyandiko nta muntu yabazwa kubera ko nsanga naribeshye…ndavuga ko iyi nyandiko ari umushinga. Nari nkiyikoraho bityo nkaba narashoboraga kugira ibyo mpinduramo kubera ko nta muntu n'umwe nari nakayereka. Nashoboraga kugira ibyo mpinduramo nk'uko ndimo kubikora ubu cyangwa … cyangwa nk'uko maze kubikora. Iri ni ikosa rya muntu kubera ko icyo gihe ntibukaga itariki nyakuri akaba ari yo mpamvu nanditse ibinyuranye n'ukuri. Ntabwo ari uko itariki nari nyizi nkayandika nabi, ahubwo nayibehyeho nk'uko byagendekera umuntu wese, ariko ubu namaze kugenda nibuka amatariki nyayo»).

itariki ya 29 Mata[377], hakaba n'indi yanditse nyuma y'iyo avuga ko yahageze ku itariki ya 10 Mata[378]. Mu ibaruwa yandikiye Minisiteri y'Ububanyi n'Amahanga ya Senegali muri Kanama 1995, mbere y'uko atangira kuregwa nyabyo, Simba avuga ko yavuye i Kigali akajya muri komine avukamo ya Musebeya, muri Perefegitura ya Gikongoro[379]. Urugereko rwumva ibyo bitavuga ariko ko nta gihe na gito yamaze i Gitarama. Mu yindi baruwa yanditse muri Werurwe 1995, Simba avuga ko yageze i Gitarama hafi y'itariki ya 14 Mata ariko ntavuge igihe yahamaze[380]. Ayo mabaruwa yose ashimangira ko Simba atamaze igihe kinini i Gitarama kandi ibyo bitandukanye n'ibyo avuga mu buhamya bwe mu Rukiko.

380. Urugereko ntirunyuzwe n'ibisobanuro Simba atanga ku kwivuguruza hagati y'ubuhamya yatanze mu Rukiko n'inyandiko yakoze mbere yaho, cyane cyane iyo ubisuzumye uzirikana n'ibisobanuro, urebye bitavuguruzanya cyane, atanga ku kuntu yakoresheje igihe cye i Kigali[381]. Uko kwivuguruza gutuma umuntu atekereza ko aho gusobanura mu buryo bwumvikana ibikorwa bye, Simba agerageza kuvuga ko atari muri Perefegitura ya Gikongoro igihe harimo kubera ubwicanyi bwibasiye imbaga y'abantu.

381. Urugereko rusanga ibimenyetso byatanzwe mu rwego rwo gushyigikira amakuru Simba atanga ku bikorwa bye hagati y'itariki ya 13 n'iya 24 Mata, bitagabanya ugushidikanya kwarwo. Abenshi mu batangabuhamya bashinjura batanze ubuhamya bushyigikira imyiregurire ya sinari mpari bafite icyo bahuriyeho cya hafi na Simba cyangwa ni abantu bo mu muryango we. N'ubwo ibyo bahuriyeho bidatuma ubuhamya bwabo buta agaciro, umuntu yatekereza ko icyo abo batangabuhamya bakwibagirwa gishobora kuvugwa mu buryo bufitiye inyungu Simba. Byongeye kandi, amakuru AJT1 na SML2 batanga ku kuntu Simba

[377] Ikimenyetso gihamya cya Porokireri N° P36 (Ibaruwa yo ku wa 28 Mata 2000).

[378] Ikimenyetso gihamya cya Porokireri N° P48 (Ibaruwa yo ku wa 8 Gashyantare 2000).

[379] Ikimenyetso gihamya cya Porokireri N° P47 (Ibaruwa yo ku wa 7 Kanama 1995).

[380] Ikimenyetso gihamya cya Porokireri N° P33 (Ibaruwa yo ku wa 15 Werurwe 1995).

[381] Inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 32-39, 40, 68.

yakoresheje igihe cye mu mujyi wa Gitarama abuzemo ibisobanuro birambuye cyangwa ibyanyura Urugereko. AJT1 na SML2 bavuga ko bagumaga mu gipangu bakora imirimo yo mu rugo.

382. Byongeye kandi, Urugereko rusanga amakuru FKP2 atanga ku birebana n'uko yahuye na Simba bwa kabiri adatuma rushobora gufata umwanzuro wemeza ko bahuye ku itariki ya 20 Mata. Mu ibaza rinyomoza, Porokireri yeretse uyu mutangabuhamya inyandikomvugo y'ubuhamya yatanze mbere aho avuga ko yabonanye na Simba inshuro ebyiri i Gitarama hagati y'itariki ya 13 n'iya 30 Mata. Uyu mutangabuhamya asobanura ko yavuze hagati y'ayo matariki kubera ko atari azi neza itariki nyayo bahuriyeho bwa kabiri[382].

383. Ubuhamya bwa GMA3, AJG7, GL3 na SIH busa n'ubushyigikira ibivugwa ko Simba yageze muri Gikongoro mu mpera za Mata 1994. Cyakora, ibyo GMA3 na AJG7 bavuga ku byerekeranye no kuba Simba yarahageze icyo gihe ntibisobanutse kandi n'ibyo bumvanye abandi. GL3 avuga ko yabonye Simba ku isoko rya Gatovu mu mpera za Mata cyangwa mu ntangiriro za Gicurasi. Ibyo avuga ntibishyigikira cyane ibivugwa n'abo batangabuhamya bandi kubera ahantu uyu mutangabuhamya yari ari ubwo yabonaga Simba ndetse akaba anashidikanya ku matariki. SIH na we ntavuga ibyo yiboneye ku birebana n'uko Simba yageze muri Gikongoro. Ubwo Simba yajyaga kumusaba inkunga ku itariki ya 25 Mata ni bwo yamenye ko ahari. Kubera izo mpamvu, Urugereko ruha agaciro gake ubuhamya bw'abo batangabuhamya cyangwa nta ko rubuha, cyane cyane iyo rubusuzumye ruzirikana ubuhamya bushinja kandi bufite ubundi bubushyigikira buvuga ko icyo gihe Simba yari muri Perefegitura ya Gikongoro.

384. Rumaze gusuzuma ibimenyetso byose byatanzwe mu gushyigikira imyiregurire ya sinari mpari, Urugereko rusanga byumvikana ko Simba yamaze igihe gito i Gitarama nyuma y'aho ahagereye ku itariki ya 13 Mata. Cyakora, hakurikijwe mpungenge zimaze kuvugwa hamwe n'ubuhamya bushinja bufite ubundi

[382] Inyandikomvugo y'iburanisha, 15 Ukuboza 2004, imp. 39-44.

bubushyigikira bwatanzwe n'abantu biboneye ibyabaye, Urugereko rusanga ushyize mu gaciro ubona ko Simba atagumye i Gitarama nyuma y'itariki ya 16 Mata. Rwemera ko nyuma y'iyo tariki Simba ashobora kuba yarakomeje kujya ahantu hanyuranye hanze ya Perefegitura ya Gikongoro. Cyakora, iyo Urugereko rusuzumye ibimenyetso bishyigikira imyiregurire ya sinari mpari ruzirikana n'ibimenyetso bishinja, ntirushidikanya ko ku itariki ya 21 Mata Simba yari ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha muri Perefegitura ya Gikongoro.

UMUTWE WA III : IMYANZURO YO MU RWEGO RW'AMATEGEKO

1. UBURYOZWACYAHA

385. Ashingiye ku ihange ry'umugambi mubisha uhuriweho, Porokireri ashaka kwerekana ko Simba agomba kuryozwa icyaha cy'ubwicanyi bwakorewe kuri paruwasi za Kibeho, Cyanika na Kaduha, ku ishuri ry'imyuga ry'i Murambi no muri Komine ya Ruhashya, hashingiwe ku Ngingo ya 6.1 ya Sitati[383]. Ingingo ya 6.1 ya Sitati ivuga imiterere imwe n'imwe y'uburyozwacyaha bw'umuntu nka gatozi ikurikizwa ku byaha Urukiko rufitiye ububasha bwo kuburanisha ariko ntivuga ku buryo butaziguye « umugambi mubisha uhuriweho ». Cyakora, Urugereko rw'Ubujurire rwemeje ko igikorwa cyo kwitabira umugambi mubisha uhuriweho ari kimwe mu miterere y'uburyozwacyaha iri mu mategeko mpuzamahanga ashingiye ku muco kandi ko kujya muri uwo mugambi ari uburyo bwo « gukora icyaha » buteganywa n'ingingo ya 6.1 ya Sitati[384].

1.2 Ibigize umugambi mubisha uhuriweho

386. Mu manza zaciwe, Ingingo ya 6.1 ya Sitati yagiye ifatwa nk'ikubiyemo uburyo butatu bw'umugambi mubisha uhuriweho, ari bwo ubu bukurikira: uburyo

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[383] Ibivugwa n'ababuranyi kuri iyi miterere y'uburyozwacyaha biri mu myanzuro nsozarubanza yanditse ya Porokireri, ibika 28-37 no mu myanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 65-132; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, imp. 2, 4-5, 16, 31-41.

[384] Iryo hame ryavuzwe bwa mbere n'Urugereko rw'Ubujurire mu rubanza rwa Tadic, 15 Nyakanga 1999, Inyandiko y'urubanza mu bujurire, ibika 188, 195-226. Reba n'Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, ibika 79-80, 99; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, ibika 461-462, 466, 468; Inyandiko y'urubanza rwa Vasiljevic mu bujurire, 25 Gashyantare 2004, ibika 94-95. Reba n'Urubanza rwa Rwamakuba, Icyemezo ku bujurire ku cyemezo cyerekeranye n'ikoreshwa ry'ihange ry'umugambi mubisha uhuriweho mu cyaha cya jenoside, 22 Ukwakira 2004, igika 31 (rwemera ko mu cyaha cya jenoside hashobora gukoreshwa ihange ry'umugambi mubisha uhuriweho).

bw'ibanze, uburyo buri kuri gahunda n'uburyo bwaguye[385]. Ubwo Porokireri yarimo asoza itangwa ry'ibimenyetso bishinja, yavuze ko ahanini ashinja Simba ashingiye ku buryo bw'ibanze[386] busaba ko abantu bose bafatanyije, bakoze icyaha bahuje umugambi, baba baritswemo n'igitekerezo kimwe cyo gukora icyo cyaha[387].

387. Ubukemuramanza bwimakajwe buteganya ko, kuri buri buryo bw'umugambi mubisha uhuriweho, igikorwa gifatika cyo gukora icyaha kigomba kuba kigizwe n'ibintu bitatu[388]. Icya mbere ni ngombwa ko icyo gikorwa kiba cyitabiriwe n'abantu benshi ariko si ngombwa ko kiba cyatunganyirijwe mu rwego rwa gisirikare, rwa politiki cyangwa urw'ubutegetsi. Icya kabiri, ni ngombwa ko haba hariho umugambi uhuriweho wo gukora icyaha giteganywa na Sitati. Si ngombwa ko uwo mugambi uba waracuzwe cyangwa waranonosowe mbere kuko ushobora guhita ubaho kandi ukagaragarira mu byabaye. Icya gatatu, ni ngombwa ko uregwa aba yaritabiriye uwo mugambi uhuriweho ugizwe no gukora kimwe mu byaha biteganywa na Sitati. Kwitabira uwo mugambi ntibivuga, byanze bikunze, ko uregwa aba yarakoze icyaha runaka giteganywa na Sitati (nk'ubwicanyi, itsembatsemba, urugaraguro cyangwa gusambanya ku gahato)

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[385] Inyandiko y'urubanza rwa Kvocka na bagenzi mu bujurire, 28 Gashyantare 2005, ibika 82-83; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, ibika 463-465; Inyandiko y'urubanza rwa Vasiljevic mu bujurire, 25 Gashyantare 2004, ibika 96-99; Inyandiko y'urubanza rwa Krnojelac mu bujurire, 17 Nzeri 2003, igika 30.

[386] Imyanzuro nsozarubanza yanditse ya Porokireri, igika 28; inyandikomvugo y'iburanisha, 8 Nyakanga 2005, urup. 6.

[387] Inyandiko y'Urubanza rwa Kvocka na bangenzi be mu bujurire, 28 Gashyantare 2005, igika 82; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 463; Inyandiko y'urubanza rwa Vasiljevic mu bujurire, 25 Gashyantare 2004, igika 97; Inyandiko y'urubanza rwa Krnojelac mu bujurire, 17 Nzeri 2003, igika 84.

[388] Inyandiko y'urubanza rwa Kvocka na bangenzi be mu bujurire, 28 Gashyantare 2005, igika 96; Urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 466; Inyandiko y'urubanza rwa Vasiljevic mu bujurire, 25 Gashyantare 2004, igika cya 100; Inyandiko y'urubanza rwa Krnojelac mu bujurire, 17 Nzeri 2003, igika 31.

ahubwo ashobora kuba yaratanze inkunga cyangwa umusanzu mu gushyira mu bikorwa uwo mugambi uhuriweho. Mu rubanza rwa Kvocka na bagenzi be, Urugereko rw'Ubujurire ruvuga ibyagenderwaho mu gutandukanya umugambi mubisha uhuriweho n'ubundi buryo bwo gukora icyaha nko gushyigikira abantu mu ikorwa ry'icyaha[389].

388. Igitekezo cyo gukora icyaha kigenda gitandukana bitewe na buri buryo bw'umugambi mubisha uhuriweho. Uburyo bw'ibanze busaba ko umuntu aba yaritswemo n'igitekerezo cyo gukora icyaha runaka kandi akaba asangiye icyo gitekerezo n'abandi bose bafatanyije[390]. Iyo icyaha gituruka kuri ubwo buryo, gisaba ko haba hariho igitekerezo cyihariye nk'igitekerezo cyo kuvangura abantu kandi uregwa, nk'umuntu wari mu mugambi uhuriweho, agomba kuba yari asangiye n'abandi icyo gitekerezo cyihariye[391].

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[389] Inyandiko y'urubanza rwa Kvocka na bagenzi mu bujurire, 28 Gashyantare 2005, igika 90 ("Iyo umuntu ushyigikiye abandi azi ko inkunga ye ifasha umuntu umwe gusa gukora icyaha kimwe rukumbi, uwo muntu aryozwa gusa icyaha cyo kuba yarashyigikiye ikorwa ry'icyo cyaha, kabone niyo gatozi yaba yari mu mugambi mubisha uhiriweho wavuyemo gukora ibindi byaha. Cyakora, iyo uregwa azi ko inkunga ye ishyigikira ikorwa ry'ibyaha bikorwa n'itsinda ry'abantu bari mu mugambi mubisha uhuriweho kandi akaba na we asangiye na bo icyo gitekerezo, ashobora na we kuryozwa icyaha, nka gatozi, ku byaha byakozwe hashyirwa mu bikorwa umugambi mubisha uhuriweho." Reba n'Inyandiko y'urubanza rwa Vasiljevic mu bujurire, 25 Gashyantare 2004, igika 102; Inyandiko y'urubanza rwa Tadic mu bujurire, 15 Nyakanga 1999, igika 229.

[390] Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 467; Inyandiko y'urubanza rwa Vasiljevic mu bujurire, 25 Gashyantare 2004, igika cy'i 101; Inyandiko y'urubanza rwa Krnojelac mu bujurire, 17 Nzeri 2003, igika 32.

[391] Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 18 Gashyantare 2005 ibika 109-110.

1.3 Kumenyesha uregwa ibyo ashinjwa

389. Uburyo n'ingano uregwa yitabiriye ikorwa ry'icyaha kivugwa ni ibintu by'ingenzi bigomba kuvugwa mu Nyandiko y'ibirego[392]. Iyo Porokireri ashaka gushingira ku ihange ry'umugambi mubisha uhuriweho kugira ngo avuge ko uregwa yaryozwa icyaha nka gatozi, agomba kubisobanura mu buryo bwumvikana mu Nyandiko y'ibirego kandi akanavuga uburyo bw'umugambi mubisha uhuriweho ashaka gushingiraho[393]. Byongeye kandi, agomba kuvuga intego y'uwo mugambi, abawitabiriye n'imiterere y'uruhare rw'uregwa muri uwo mugambi[394].

390. Ubwunganizi buvuga ko Inyandiko y'ibirego ifite inenge ku byerekeranye n'umugambi mubisha uhuriweho kubera ko idasobanura uko bikwiye ibintu bya ngombwa bigize uwo mugambi[395]. Ingingo z'Ubwunganizi kuri icyo kibazo zisa n'aho zibanda gusa ku gitekerezo cyo gukora icyaha. Urugereko ntirwakiriye inzo ngingo ubwo rwafataga icyemezo ku byifuzo by'ingoboka Ubwunganizi bwatanze iburanisha ry'urubanza ritaratangira[396]. Koko rero, mu cyemezo rwafashe ku itariki ya 14 Nyakanga 2004, Urugereko rwasobanuye ko imyanzuro mbanzirizarubanza ya Porokireri igaragaza ko yashakaga gushingira kuri ubwo

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[392] Ni kimwe no haruguru, ibika 28, 42; Urubanza rwa Krnojelac mu rw'iremezo, Icyemezo ku myandikire y'Inyandiko y'ibirego yahinduwe ya kabiri, 11 Gicurasi 2000, igika 16.

[393] Inyandiko y'urubanza rwa Krnojelac mu bujurire, ibika 138-145. Reba n'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, ibika 475-484, Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, ibika 41-42.

[394] Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, ibika 28, 42.

[395] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika 90.

[396] Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirizarubanza cyerekeranye n'inenge ziri mu myandikire y'Inyandiko y'ibirego, 6 Gicurasi 2004, ibika 9-12; Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi kirwanya Inyandiko y'ibirego yahinduwe ya kabiri, 15 Nyakanga 2004, ibika 5-11.

buryo bwose uko ari butatu bw'umugambi mubisha uhuriweho[397]. Byongeye kandi, muri icyo cyemezo Urugereko ruvuga ibika binyuranye by'Inyandiko y'ibirego bisobanura igitekerezo cyo gukora icyaha kuri buri buryo bw'umugambi mubisha uhuriweho[398]. Kubera iyo mpamvu, Urugereko ntiruri bugaruke kuri izo ngingo z'Ubwunganizi.

391. Mu myanzuro nsozarubanza y'Ubwunganizi, bunenga kandi uburyo Inyandiko y'ibirego isobanura ibindi bya ngombwa bigize uwo mugambi uhuriweho, ari ibyo ibi bikurikira: abantu bitabiriye uwo mugambi, icyo bumvikanyeho wari ugamije, igihe wacuriwe n'imiterere y'uruhare rw'Uregwa. Cyakora, Ubwunganizi ntibwabyukije ibyo bibazo mbere y'uko iburanisha ritangira ahubwo bwabikomojeho gusa mu myanzuro nsozarubanza yanditse yabwo[399]. Urugereko ntiruvuga ko mu Nyandiko y'ibirego Porokireri atashoboraga gusobanura mu buryo burushijeho kumvikana neza kandi mu myandikire iboneye ibyo bintu bya ngombwa bigize umugambi mubisha uhuriweho. Cyakora, ku birego byose uko ari bine byerekeranye n'uburyozwacyaha buteganywa n'Ingingo ya 6(1), Inyandiko y'ibirego ivuga ku « mugambi mubisha uhuriweho ». Ibyo rero bituma urwego ibivugwa mu Nyandiko y'ibirego byakozwemo rusobanuka. Byongeye kandi, mu rubanza rwa Krnojelac, Urugereko rw'Ubujurire rwavuze ko n'ubwo, mu Nyandiko y'ibirego, Porokireri afite inshingano rusange yo kuvuga ibyangombwa byose bigize umugambi mubisha uhuriweho, ibyo ntibivuga rimwe na rimwe ko aba ataramenyesheje mu buryo bukwiye uregwa ibyo ashinjwa iyo mu myanzuro mbanzirizarubanza yanditse, asobanuye birambuye ibyo aregera[400].

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[397] Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi kirwanya Inyandiko y'ibirego yahinduwe ya kabiri, 14 Nyakanga 2004, igika 6, igisobanuro N° 4 cyo hasi ku rupapuro.

[398] Urubanza rwa Simba, Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi kirwanya Inyandiko y'ibirego yahinduwe ya kabiri, 14 Nyakanga 2004, ibika 7-11.

[399] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika 90.

[400] Inyandiko y'urubanza rwa Krnojelac mu bujurire, 17 Nzeri 2003, igika 138. Reba n'Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, ibika 42-45; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, ibika 471, 472 na 474-476.

Muri uru rubanza, Porokireri yatanze ibisobanuro by'inyongera mu myanzuro mbanzirizarubanza yanditse.

392. Ku byerekenaye n'abantu bari bagize umugambi mubisha uhuriweho, mu gika cya 14 cy'Inyandiko y'ibirego, Porokireri avuga amazina y'abategetsi 8 bafatanyije na Simba mu « gucura » no « gutegura » jenoside[401]. Muri icyo gika, havugwa ko abo bantu « bafatanyije » na Simba, kandi ibyo bisubiramo amagambo akoreshwa kuri icyo cyaha ahavugwa mu buryo bwihariye umugambi mubisha uhuriweho. Byongeye kandi, mu Nyandiko y'ibirego havugwa uko bikwiye bantu baba koko baratsotsobye ibyaha byateguwe mu rwego rw'umugambi mubisha uhuriweho. Bamwe muri abo bantu bavugwa mu bika binyuranye by'Inyandiko y'ibirego byerekeranye n'itegurwa ry'ibitero[402].

393. Akenshi abantu bagiye muri uwo mugambi kandi bagatsotsoba ubwabo ibyaha bavugwa muri buri cyiciro cy'Inyandiko y'ibirego cyerekeranye n'ahantu runaka habereye ubwicanyi, herekanwa nk'ibyiciro by'abantu muri rusange bitabiriye itsotsobwa ry'ibyo byaha nk'Interahamwe cyangwa abajandarume, cyangwa herekanwa igihe n'ahantu ibyaha byakorewe. Muri uru rubanza, bitewe n'imiterere y'ibitero, Urugereko rusanga Porokireri atari gutanga amakuru yihariye kurushaho. Uburyo Inyandiko y'ibirego ivuga imikoranire ya Simba n'abantu bagabaga ibitero byerekana ko hakorwaga ibintu byumvikanyweho. Byongeye kandi, igika cya 58 cy'Inyandiko y'ibirego kivuga ko abagabaga ibitero bari muri uwo mugambi mubisha, ahasobanura ko hari igitekerezo cyo gukora icyaha mu buryo bw'ibanze bw'umugambi mubisha uhuriweho. Mu by'ukuri, muri icyo gika havugwa ko Simba n'« abantu bose bagize uruhare mu byaha

[401] Mu bantu bari kuri iyo lisiti harimo Faustin Sebuhura, Laurent Bucyibaruta, Damien Biniga, Denys Kamodoka, Juvenal Ndabarinze, Augustin Rwamanywa, Joachim Hategekimana na Charles Munyaneza. Mu Nyandiko y'ibirego yose havugwa ko abo bantu bagiranye ubwumvikane na Simba.

[402] Nk'urugero, mu gika cya 15 havugwa Israel Nsengiyumva na Landouald Karamage; mu gika cya 35 n'icya 37 havugwa Félicien Semakwavu naho mu gika cya 57 hakavugwa Interahamwe zitwa Ngoga, Nkusi na Innocent Bakundukize.

byakozwe » bari basangiye igitekerezo cyo gukora ibyaha aregwa. Byongeye kandi, nk'uko bivugwa mu myanzuro mbanzirizarubanza yanditse no mu myanzuro yo mu ikubitiro mu magambo, abantu bavugwa amazina n'abagabye ibitero bagombye gufatwa nk'abari bagize umugambi mubisha uhuriweho[403].

394. Inyandiko y'ibirego n'imyanzuro mbanzirizarubanza[404] bigaragaza neza ko umugambi mubisha uhuriweho wari ugamije kwica Abatutsi kuri paruwasi za Kibeho, Cyanika na Kaduha, ku ishuri ry'imyuga ry'i Murambi muri Perefegitura ya Gikongoro, no muri Komine ya Ruhashya muri Perefegitura ya Butare.

395. Mu myanzuro mbanzirizarubanza, hanasobanurwa ko kuba Simba yaritabiriye umugambi mubisha uhuriweho bigaragarira mu bikorwa bibisha bivugwa mu Nyandiko y'ibirego. Ku ruhande rwe, Simba aregwa kuba yarateguye ubwicanyi, agaha intwaro abagabye ibitero, agategeka abandi bantu gukora ubwicanyi cyangwa akabibashishikariza[405]. Mu myanzuro mbanzirizarubanza hanavugwa ko

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[403] Imyanzuro mbanzirizarubanza ya Porokireri, ibika 143 na 147 (« abategetsi bo muri ako karere barimo perefe, ba burugumesitiri, abakonseye n'abaresiponsabule b'amaserire, Interahamwe, abari muri gahunda y'ukwirwanaho kw'abaturage, abasirikare ba Leta [FAR], abajandarume n'abaturage b'Abahutu bakanguriwe gushyira mu bikorwa intego y'uwo mugambi mubisha uhuriweho »); inyandikomvugo y'iburanisha, 30 Kanama 2004, urup. 10 (« Mu kugaragaza ibyo Porokireri aregera, tuzatanga ibimenyetso bihamya ko hagati y'itariki ya 7 n'iya 30 Mata 1994, Aloys Simba n'abantu bavugwa mu Nyandiko y'ibirego bacuze, bagategura ndetse bagashyira mu bikorwa umugambi mubisha uhuriweho wari ugamije gusa kurimbura abaturage b'Abatutsi »).

[404] Imyanzuro mbanzirizarubanza ya Porokireri, igika 140 (havugwa ku bika by'Inyandiko y'ibirego bivuga ibikorwa bibisha birimo ubwicanyi bwakorewe ahantu hatanu). Reba n'inyandikomvugo y'iburanisha, 30 Kanama 2004, imp. 7-8 (« Porokireri azatanga ibimenyetso byerekana ko abasiviri b'Abatutsi babarirwa mu bihumbi bicanywe ubugome bwinshi i Murambi no [kuri Paruwasi za Kibeho, Cyanika na Kaduha), mu rwego rwa gahunda y'ubwicanyi bwacuriwe umugambi kandi bwateguzwe neza »).

[405] Imyanzuro mbanzirizarubanza ya Porokireri, ibika 140, 147-148; Inyandiko y'ibirego, ibika 19-21, 42-45, 50-51, 53-54, 57-62.

uwo mugambi mubisha wacuzwe hagati y'itariki ya 6 Mata n'iya 17 Nyakanga 1994[406].

396. Muri uru rubanza, Urugereko rusanze ukuntu Porokireri yamenyesheje Uregwa ihange rye ry'umugambi mubisha uhuriweho bitaravukije na gato Uregwa uburenganzira bwe bwo gucirwa urubana mu buryo buboneye.

1.4 Ikoreshwa ry'ihame ry'uburyozwacyaha muri uru rubanza

397. Mu myanzuro y'Urugereko ishingiye ku byabaye, rwasanze Interahamwe, abajandarume n'abaturage barishe abantu babarirwa mu bihumbi, bagizwe ahanini n'Abatutsi bari barahungiye kuri Paruwasi za Kibeho, Cyanika na Kaduha, ku ishuri ry'imyuga ry'i Murambi, no muri Komine ya Ruhashya muri Perefegitura ya Butare. Urugereko rugiye gusuzuma imiterere n'ingano by'uburyozwacyaha bwa Simba muri ubwo bwicanyi, niba hari uburiho.

Ibyabereye kuri paruwasi ya Cyanika n'iya Kaduha no ku ishuri ry'imyuga ry'i Murambi

398. Ubwicanyi bwakorewe ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Cyanika n'iya Kaduha ku itariki ya 21 Mata bwatangiye mu masaa cyenda z'ijoro ubwo Interahamwe n'abajandarume bafite imbunda n'amagerenade, batangiraga kwica abantu i Murambi. Mu masaa kumi n'ebyiri za mu gitondo, Perefe Bucyibaruta, Kapiteni Sebuhura na Burugumesitiri Semakwavu bagemuriye abagabye icyo gitero andi masasu ndetse bategeka kimwe cya kabiri cyabo kujya gufasha abandi bantu bari bagabye igitero kuri paruwasi ya Cyanika yari hafi aho. Simba yageze i Murambi mu masaa moya za mu gitondo abo bategetsi bamaze kugenda, aha abagabye igitero intwaro gakondo maze na bo bakomeza kwica.

399. Abagabye igitero ku ishuri ry'i Murambi bagiye no mu bwicanyi bwatangiye uwo munsi mu masaa mbiri za mu gitondo kuri paruwasi ya Cyanika. Abarokotse ibyo

[406] Imyanzuro mbanzirizarubanza ya Porokireri, igika 14.

bitero bavuga ko i Murambi no mu Cyanika hari Interahamwe zo muri Komine ya Mudasomwa. NGJ2 avuga ko abagabye igitero i Murambi bagiye no mu Cyanika ariko Urugereko ntirufite ibimenyetso bitaziguye bigaragaza ko Simba cyangwa abandi bategetsi bo muri ako karere, nka Perefe Bucyibaruta cyangwa Kapiteni Sebuhura, bari mu Cyanika.

400. Simba yageze kuri paruwasi ya Kaduha uwo munsi tariki ya 21 Mata, mu masaa tatu za mu gitondo, maze asanga hakoraniye abagabye igitero babarirwa mu magana. Benshi muri abo bantu bari bitwaje intwaro gakondo ariko hari n'abajandarume bageze kuri 50, abareserivisite n'abapolisi ba komine, bose bari bafite imbunda n'amagerenade kandi bamwe muri bo bari baraye batumijwe na Burugumesitiri Gashugi wabazanye aho mu gitondo. Simba yavuze ko Guverinoma yari ishyigikiye ibyarimo kuba maze asaba abagabye igitero « gukuraho umwanda » wari kuri paruwasi arangije abaha imbunda n'amagerenade. Ubwo rero abagabye igitero batangiye kwica Abatutsi bari kuri iyo paruwasi. Cyakora, Urugereko ntirwashyikirijwe ibimenyetso byakwizerwa bigaragaza ko Perefe Bucyibaruta na Kapiteni Sebuhura bari i Kaduha uwo munsi hagabweyo igitero.

401. Urugereko rusanga ubwicanyi bwakorewe ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Cyanika n'iya Kaduha ku itariki ya 21 Mata, bwakumvikana gusa nk'igikorwa cyari cyarateguwe kandi kigahurizwa hamwe kitabiriwe n'abantu bitwaraga gisirikare bafashijwe n'abajandarume bafite imbunda n'amagerenade. Abo bantu bakoranyijwe kandi bahabwa ibikoresho n'abategetsi bo muri ako karere n'abandi bantu bakomeye nka Simba, bashishikaje abagabye ibyo bitero, bakabaha amabwiriza n'intwaro. Ibyo bitero byamaze nk'amasaha 12 umunsi umwe kandi byahitanye Abatutsi babarirwa mu bihumbi bari bateraniye ahantu hatatu hegeranye. Kuba ibyo bitero, uko ari bitatu, byaritabiriwe n'imbaga y'abantu nta kundi byakumvikana uretse kubona ko byari byarateguwe mbere. Urugereko rusanga kandi mbere y'itariki ya 21 Mata, Interahamwe zari zitwaje ahanini intwaro gakondo zari zaragerageje kugaba ibitero ku mpunzi zari aho

hantu ariko bikaba iby'ubusa. Guhuriza hamwe ibikorwa byo kugaba ibitero, ababigabye bakabishishikarizwa kandi bagafashwa n'abajandarume ndetse hakanakoreshwa n'imbunda n'amagerenade, ni byo byatumye abagabye igitero batsotsoba mugambi wabo.

402. Hashingiwe ku bimenyetso byatanzwe, Urugereko rusanga nta wundi mwanzuro ushyize mu gaciro wafatwa uretse kuvuga ko hariho umugambi mubisha uhuriweho wo kwica Abatutsi bari aho hantu hatatu havugwa. Ikibazo cyo kumenya uburyo Simba yitabiriye uwo mugambi kirasuzumwa hano hasi. Urugereko rusanga intera ubwo bwicanyi bworetse imbaga bwafashe n'ukuntu bwakozwe mu buryo buboneye, byerekana byanze bikunze ko gushyira mu bikorwa uwo mugambi byitabiriwe n'abantu benshi kandi buri wese akaba yaragize uruhare rwihariye ahantu hamwe cyangwa henshi habereye ubwicanyi. Uretse abantu batsotsobye ubwo bwicanyi, mu bandi bantu bakomeye bitabiriye uwo mugambi harimo Simba, Perefe Bucyibaruta, Kapiteni Sebuhura na Burugumesitiri Semakwavu.

403. Simba yitabiriye uwo mugambi mubisha uhuriweho kubera ko yashyigikiye akanashishikaza abantu bakoze ubwicanyi ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha. Urugereko rusanga ibikorwa Simba yakoreye aho hantu hombi byaragize uruhare runini mu bwicanyi bwakurikiyeho[407]. KSY avuga ko Simba amaze kugenda, abagabye igitero i Murambi bakajije umurego muri icyo gitero. Byongeye kandi, kuba harakoreshejwe imbunda n'amagerenade Simba yatangiye kuri paruwasi ya Kaduha ni ikintu cy'ingenzi cyatumye abagabye igitero aho hantu bagera ku ntego yabo. Urugereko rusanga Simba yari umuntu

[407] Urugereko rusanga, muri rusange, mu mategeko Porokireri adasabwa kugaragaza byanze bikunze ko uregwa yagize uruhare runini mu mugambi mubisha uhuriweho. Byongeye kandi, si ngombwa ko Porokireri agaragaza ko iyo uregwa atabigiramo uruhare ibyo byaha bitashoboraga gukorwa. Cyakora, kuba uregwa yarabigizemo uruhare runini ni ikintu cy'ingenzi mu kwerekana ko yari asangiye n'abandi igiterekezo cy'uwo mugambi mubisha uhuriweho. Reba Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, imp. 97-98.

wubashywe mu muryango nyarwanda kandi wari uzwi cyane mu karere avukamo. Kubera iyo mpamvu, kuba Simba yari aho hantu n'ubwo atahatinze, byatumye abahagabye ibitero bumva ko yari ashyigikiye ibikorwa byabo, cyane cyane ko yari amaze kuvuga ko Guverinoma ibishyigikiye.

404. Byongeye kandi, kubera umwanya Simba yari afite mu muryango nyarwanda, kuba yari mu mugambi mubisha byatumye witabirwa n'abandi bantu bakomeye nka Perefe Bucyibaruta, Kapiteni Sebuhura, Burugumesitiri Semakwavu, n'abandi bategetsi bo muri ako karere. Rushingiye ku bimenyetso byatanzwe, Urugereko rusanga umwanzuro rukumbi ushyize mu gaciro wafatwa ari uko Simba yahurije hamwe ibikorwa bye n'iby'abo bantu mbere y'uko ibitero bigabwa. Mu gufata uyu mwanzuro, Urugereko ruributsa ko bisa nk'aho Simba yageze muri perefegitura ya Gikongoro hasigaye iminsi mike gusa ngo hagabwe ibitero, akaba yarahageze ari kumwe n'umuryango we ubwo bari bahunze bavuye i Kigali. Icyo gihe, Simba ntaho yari ahuriye ku buryo buzwi na Guverinoma cyangwa igisirikare. Nyamara ariko, ku itariki ya 21 Mata yari kumwe n'abajandarume n'Interahamwe. Kuri Paruwasi ya Kaduha, Simba yabwiye abagabye igitero ko Guverinoma yari yamusabye gusubira mu gisirikare maze arangije abashishikariza gutangira kugaba ibitero. Na none, yari afite ububiko bw'intwaro zirimo imbunda n'amagerenade yashakaga gutanga kandi nta gushidikanya ko yari yazihawe n'abategetsi ba gisiviri cyangwa aba gisirikare.

405. Porokireri avuga ko Simba yitabiriye igikorwa cyo gucura umugambi w'ubwicanyi bwakorewe ahantu hatatu ku itariki ya 21 Mata, ariko ntiyatanze ibimenyetso bitaziguye bishyigikira ibyo avuga. Byongeye kandi, Urugereko rwumva atari wo mwanzuro wonyine wafatwa hashingiwe ku bimenyetso byatanzwe. Mu by'ukuri, biranashoboka ko abategetsi bo muri ako karere baba barateguye umugambi wo kugaba ibitero noneho nyuma bagasaba Simba kubafasha mu kuwushyira mu bikorwa.

406. Urugereko rusanga haratanzwe ibimenyetso bihamya ku buryo budashidikanywaho ko Simba yari mu mugambi mubisha uhuriweho wo kwica

Abatutsi ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha, kubera ko yari aho hantu kandi akahakorera ibikorwa byihariye. Ubwo ku ishuri ry'imyuga ry'i Murambi harimo gukorerwa ubwicanyi, Uregwa yahaye abagabye ibitero ibyo kubafasha muri ubwo bwicanyi. Avuye i Murambi, yahaye imbunda n'amagerenade abari bagabye igitero kuri paruwasi ya Kaduha maze arababwira ngo « bakureho umwanda ».

407. Cyakora, Urugereko rushidikanya ko Simba yari no mu mugambi mubisha uhuriweho wo kwica Abatutsi kuri paruwasi ya Cyanika. Ntihatanzwe ibimenyetso bitaziguye bigaragaza ko yari aho hantu cyangwa ko yari azi ko iyo paruwasi na yo izibasirwa n'ibyo bikorwa cyangwa ko yabyemeye. Kubera iyo mpamvu, Urugereko rusanga hataratanzwe ibimenyetso bihamya ku buryo budashidikanywaho ko Simba yanitabiriye umugambi uhuriweho wo kwica Abatutsi kuri paruwasi ya Cyanika, cyangwa bihamya ko ubwo bwicanyi bwahakorewe umuntu yashoboraga kubwitega bitewe n'uruhare yagize mu mugambi mubisha uhuriweho wo gukora ubwicanyi ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha.

408. Ikibazo cyo kumenya niba Simba n'abandi bantu batanyije mu mugambi mubisha uhuriweho bari baritswemo n'igitekerezo cya ngombwa cyo gukora ibyaha ashinjwa gisuzumwa mu myanzuro yo mu rwego rw'amategeko Urugereko ruri bufate ku cyaha cya jenoside no ku byaha byibasiye inyokomuntu.

Ibyabereye kuri paruwasi ya Kibeho no muri Komine ya Ruhashya

409. Urugereko rusanga hataratanzwe ibimenyetso bihamya ku buryo budashidikanywaho ko ubwicanyi bwakorewe kuri paruwasi ya Kibeho no muri Komine ya Ruhashya bwari mu rwego rw'umugambi mubisha uhuriweho uvugwa hano hejuru. Mu by'ukuri, urebye ahantu n'igihe ubwo bwicanyi bwabereye kuri paruwasi ya Kibeho ku itariki ya 14 Mata no muri Komine ya Ruhashya ku itariki ya 29 Mata, usanga butashyirwa hamwe n'igitero cya karundura kandi giteguwe cyagabwe ku itariki ya 21 Mata nk'uko bivugwa haruguru.

410. Byongeye kandi, ubuhamya bwerekeranye n'ubwicanyi bwakorewe kuri paruwasi ya Kibeho ku itariki ya 14 Mata bwatanzwe gusa n'abantu bumvise abandi bavuga ibyahabereye. Urugereko rushidikanya kandi ku kwizerwa kw'ibimenyetso byatanzwe na Porokireri mu rwego rwo gushyigikira ibyo avuga ku gitero cyagabwe muri Komine ya Ruhashya. Hariho bimenyetso byerekana ko Interahamwe zo muri Komine ya Mudasomwa zavuye kuri santeri y'ubucuruzi ya Gasarenda zisakuza ngo zigiye kwica Abatutsi i Kibeho. Na none, Urugereko rusanga bamwe mu bategetsi bo muri ako karere, abajandarume n'Abahutu bitwaraga gisirikare bo muri Perefegitura ya Gikongoro baragiye mu gitero cyagabwe muri Komine ya Ruhashya. Cyakora, kubera ko hatatanzwe ibimenyetso byakwizerwa bisobanura birambuye ukuntu ibyo bitero byombi byagenze, Urugereko ntirwaha agaciro kanini ibyo bintu byabaye ngo rube rwagira umwanzuro rufata wemeza ko hari aho bihuriye n'umugambi mubisha uhuriweho uvugwa haruguru. Urugereko ntirushobora gushingira gusa ku buhamya bwakomotse ku nkuru mbarirano kandi budafite ubundi bubushyigikira, ngo rube rwaryoza Simba icyaha kuri ubwo bwicanyi bundi bubiri.

2. JENOSIDE

411. Mu kirego cya mbere cy'Inyandiko y'ibirego, Porokireri ashinja Simba icyaha cya jenoside, ashingiye ku Ngingo ya 2 ya Sitati.

412. Kugira ngo uregwa ahamwe n'icyaha cya jenoside, hagomba kugaragazwa ko yakoze ibikorwa birondorwa mu Ngingo ya 2 (2) ya Sitati afite igitekerezo cyihariye cyo kurimbura abantu bose bagize itsinda cyangwa igice cyabo, bazira icyo bari cyo kandi iryo tsinda rikaba ari rimwe mu ateganywa n'amategeko ari yo ubwenegihugu, ubwoko, cyangwa idini[408]. N'ubwo nta mubare w'abakorewe ibyaha ugomba guherwaho kugira ngo hemezwe ko habaye jenoside, umuntu

[408] Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, ibika 453-454; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, igika 662. Reba n'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, igika 48.

wakoze icyo cyaha agomba kuba yari afite igitekerezo cyo kurimbura nibura igice kinini cy'itsinda rivugwa[409]. Si ngombwa ko aba afite gusa igitekerezo kibisha cyo gukora jenoside kandi kuba afite impamvu ze bwite ntibiburizamo ibyo kubaa yaritswemo n'igitekerezo cyihariye cyo gukora jenoside[410].

413. Iyo nta bimenyeso bitaziguye bihari, igitekerezo cyo gukora jenoside gishobora kugaragarira mu bindi bikorwa n'ibintu bifitanye isano n'icyo cyaha[411]. Mu bintu bishobora kugaragaza icyo gitekerezo harimo uko ibintu byari byifashe muri rusange, ikorwa ry'ibindi byaha byibasiye iryo tsinda kandi mu buryo buri kuri gahunda, ingano y'amarorerwa yakozwe, kwibasira mu buryo buri kuri gahunda abantu bamwe kubera ko bagize itsinda ryihariye, cyangwa kuba ibikorwa bivangura abantu kandi bikabarimbura byarabaye kenshi[412].

414. Mu Nyandiko y'ibirego, Porokireri arega Simba ko yishe Abatutsi cyangwa cyangwa ko yabateye ububabare bubazahaza umubiri cyangwa mu mutwe. Cyakora, mu myanzuro nsozarubanza yanditse, Porokireri asaba Urugereko gusuzuma gusa ibimenyetso byatanzwe ku bwicanyi. Kugira ngo hemezwe ko umuntu yishe abantu bagize itsinda, Porokireri agomba kugaragaza ko uwo muntu yishe ku bushake umuntu umwe cyangwa benshi bagize iryo tsinda, ariko si ngombwa kugaragaza ko yicanye yabicuriye umugambi[413].

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[409] Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, igika 316.

[410] Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, ibika 302-304; Inyandiko y'urubanza rwa Niyitegeka mu bujurire, 9 Nyakanga 2004, ibika 48-53.

[411] Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire (impamvu), 1 Kamena 2001, igika 159.

[412] Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, ibika 261-262. Reba n'Inyandiko y'urubanza rwa Rutaganda mu bujurire, 26 Gicurasi 2003, igika 525; Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 454; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, igika 663.

[413] Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire (impamvu), 1 Nyakanga 2001, igika 151; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, igika 319.

415. Muri uru rubanza, nta muburanyi uhakana ko Abatutsi bagize rimwe mu matsinda avugwa mu mategeko mpuzamahanga nk'uko biteganywa na Sitati. Byongeye kandi, Urugereko rwamaze gufata umwanzuro uvuga ko Simba yari mu mugambi mubisha uhuriweho wo kwica Abatutsi ku ishuri ry'i Murambi no kuri paruwasi ya Kaduha kubera ko yahaye intwaro abakoze ubwo bwicanyi, akabashishikaza kandi agashyigikira ibikorwa byabo. Ku byerekeranye n'uburyozwacyaha bwa Simba, Urugereko rwafashe umwanzuro wemeza ko inkunga yatanze yagize uruhare runini mu bwicanyi bwakurikiyeho. Abagabye ibyo bitero bishe abasiviri b'Abatutsi babarirwa mu bihumbi aho hantu havugwa. Rushingiye ku kuntu ibyo bitero byagabwe, Urugereko rusanga abagabye ibitero barishe ku bushake abantu bagize rimwe mu matsinda avugwa mu mategeko mpuzamahanga.

416. Hakaurikijwe ubuhamya bwinshi rwumvise, Urugereko rwemera ko Perezida Habyarimana akimara gupfa, abasiviri b'Abatutsi bahise bibasirwa. Amazu yabo amaze gusahurwa no gutwikwa n'Abahutu bitwaraga gisirikare, Abatutsi benshi bahungiye ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha. Abo Batutsi babarirwaga mu bihumbi biciwe aho hantu umunsi umwe mu gihe cy'amasaha agera kuri 12. Kubera intera ubwo bwicanyi bwafashe n'urwego bwakozwemo, umwanzuro rukumbi ushyize mu gaciro wafatwa ni uyu : abagabye ibitero batsotsobye ubwo bwicanyi bari baritswemo n'igitekerezo cyo kurimbura Abatutsi bose cyangwa benshi muri bo. Abantu bose bitabiriye uwo mugambi mubisha uhuriweho, barimo na Simba, bari basangiye icyo gitekerezo kibisha cyo gukora jenoside.

417. Urugereko rufashe uyu mwanzuro nyuma yo gusuzuma ibivugwa n'Ubwunganizi ko Simba atari gukora jenoside kubera ubucuti bukomeye yari afitanye n'Abatutsi kandi akaba ataragiraga ibitekerezo by'intagondwa. Ubwunganizi buvuga ko ibyo ari byo byatumye yigizwayo ndetse n'umuryango we ukagabwaho ibitero muri Gikongoro[414]. Ntihatanzwe ibimenyetso bigaragaza ko Simba yari umwe mu

[414] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1045-1097; inyandikomvugo y'iburanisha, 8 Nyakanga 2005, imp. 15-16 (« Icya mbere ni ukubera ko ntari aho hantu ibyaha byakorewe, ariko

bantu bari bafite ibiterekezo by'intagondwa byo kwanga Abatutsi. Birashoboka ko yitabiriye uwo mugambi mubisha uhuriweho nk'umuntu wigeze kuba umusirikare mukuru n'umukozi wa Leta, kubera imyumvire itari yo yo gukunda igihugu cyangwa kubera ko yashakaga kwirengera hamwe n'abantu be[415]. Ubwo rwagiraga icyo ruvuga ku kibazo gisa n'iki cyo kuba umuntu uregwa atarashishikariye ubwicanyi cyangwa yarasetse ibirenge mu kwifatanya n'abantu bafite ikindi gitekerezo cyihariye cyo gukora icyaha (itoteza), Urugereko rw'Ubujurire rwavuze ibikurikira mu rubanza rwa Kvocka na bagenzi be:

> 232. Kvocka asubiza ko kwifatanya kwe n'Abayisilamu, ishyaka rya politiki yarimo n'inshingano yari afite nk'umupolisi wabigize umwuga ari ibintu bigaragaza ko nta gitekerezo cyo kuvangura yari afite.

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n'umutima nama wanjye ntiwari kunyemerera gukora ibyo byaha. Ndumva abanshinja batarashoboye kugaragaza urwangano rwihariye nari kuba mfitiye Abatutsi bo ku Gikongoro. Iyo nza kuba narashakaga kumena amaraso y'Abatutsi nari kubikorera i Kigali, cyane cyane ko no mu rugo iwanjye hari Abatutsi. Bwana Perezida, Abatutsi bo ku Gikongoro ni abaturanyi banjye, ni inshuti zanjye, inshuti zanjye zo mu bwana, bangiriye neza kandi barantoye. Ni iyihe mpamvu yari gutuma ngaba ibitero kuri abo bantu b'inzirakarengane »?)

[415] Urugereko ruzirikana ibyo Simba avuga asobanura impamvu yemeye kuba umujyanama muri gahunda y'ukwirwanaho kw'abaturage. Inyandikomvugo y'iburanisha, 22 Werurwe 2005, urup. 2 (« **Ik. :** Ni byo ko mu mwaka wa 1994 wemeye gukorera igihugu muri gahunda y'ukwirwanaho kw'abaturage nk'umujyanama wa Perefe wa Gikongoro? **Ig. :** Ni byo narabyemeye ariko numva ibyo atari icyaha kuko igihugu cyari mu ntambara kandi umuturage wese akaba yarasabwaga gutabara igihugu cye, akakirengera. Mu by'ukuri, umuturage mwiza ntashobora kwituramira kandi igihugu cye kiri mu ntambara »); inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 76-77 (« Nababwiye kandi ko kuba naremeye kujya muri gahunda y'ukwirwanaho kw'abaturage ntabitewe ni uko nemeraga cyane guverinoma […] sijye wabisabye ahubwo narabisabwe. Mbere y'uko mbisabwa nari ntuje aho nari nibereye. Ndibaza uko byari kungendekera iyo baza kuvuga ko nanze kwemera gukora imirimo bansabye. Nasanze rero iyo mbyanga byari kunkururira ikibazo. Ndababwira ko hari abantu benshi bapfuye, abantu benshi bakomeye n'abanyabwenge barapfuye bazira ko banze gufatanya n'abandi kubera ko hari ibyo batumvikanagaho »).

> 233. Urugereko rw'Ubujurire rwumva ko Kvocka ashaka kuvuga ko Urugereko rwa Mbere rw'Iremezo rwakoze ikosa ryo kutazirikana ibyo bintu ubwo rwasuzumaga igitekerezo cyo gukora icyaha yari afite, maze akavuga ko ibintu byihariye bimureba bitajyanye n'umwanzuro Urugereko rwa Mbere rw'Iremezo rwafashe uvuga ko yashakaga gushyigikira ishyirwa mu bikorwa ry'umugambi mubisha uhuriweho....Urugereko rwa Mbere rw'Iremezo rwasuzumye ibyo bimenyetso maze rwemeza ko abatangabuhamya benshi bavuga ko Uregwa yari umuntu wihanganira abandi, utari intagondwa kandi wari ufitanye ubucuti bukomeye n'Abayisilamu yashatsemo. Cyakora, Urugereko rw'Ubujurire rusanga uwo mwanzuro utabuza umucamanza usuzuma urubanza mu mizi yarwo kandi ushyira mu gaciro, kwemeza ashingiye ku bimenyetso byose byatanzwe ko Uregwa yari afite igitekerezo cyo gushyigikira ishyirwa mu bikorwa ry'umugambi mubisha uhuriweho wari ugamije gutoteza abandi bantu batari abaseribe[416].

418. Simba ubwe yari ahantu habiri hakorewe ubwicanyi. Yatanze intwaro gakondo, imbunda n'amagerenade abiha abagabye ibitero bari biteguye kwica Abatutsi babarirwa mu bihumbi. Uregwa yari anazi ko mu gihugu hose Abatutsi bari bibasiwe kandi nk'umuntu wahoze ari umuyobozi mu gisirikare yari azi icyari gukurikiraho ubwo yabwiraga abantu bagabye ibitero bitwaje intwaro « gukuraho umwanda ». N'iyo umuntu yakwemera ko ibyo Simba avuga ari ukuri, umwanzuro rukumbi ushyize mu gaciro wafatwa ni uko akora ibyo bintu yari yaritswemo n'igitekerezo cyo gukora jenoside.

419. Urugereko rusanze, nta gushidikanya, Simba ahamwa n'icyaha hashingiwe ku Ngingo ya 6 (1) ya Sitati, kubera ko yagiye mu mugambi mubisha uhuriweho wari ugamije kwica abasiviri b'Abatutsi bari bahungiye mu ishuri y'imyuga ry'i Murambi no kuri paruwasi ya Kaduha. Kubera iyo mpamvu, Urugereko rwemeje

[416] Inyandiko y'urubanza rwa Kavocka na bagenzi be mu bujurire, 28 Gashyantare 2005, ibika 224, 232-233 (ibisubirwamo byakuwe ahandi ntibyongewemo hano), igika 416.

ko Simba ahamwa n'icyaha cya jenoside ashinjwa mu kirego cya 1 cy'Inyandiko y'ibirego.

3. IBYAHA BYIBASIYE INYOKOMUNTU (ITSEMBATSEMBA)

420. Mu kirego cya 3 cy'Inyandiko y'ibirego, Porokireri ashinja Simba itsembatsemba nk'icyaha cyibasiye inyokomuntu giteganywa n'Ingingo ya 3 ya Sitati.

421. Kugira ngo kimwe mu bikorwa birondorwa mu Ngingo ya 3 ya Sitati gifatwe nk'icyaha cyibasiye inyokomuntu, Porokireri agomba kugaragaza ko habayeho ibitero rusange cyangwa biri kuri gahunda, byibasiye abaturage b'abasiviri kubera impamvu z'ubwenegihugu, iza politiki, iz'ubwoko cyangwa iz'idini[417]. Igitero kirangwa n'uko ari « rusange » ni ukuvuga iyo kigizwe n'abantu benshi, kikanarangwa kandi n'uko kiba « kiri kuri gahunda » ni kuvuga ko harebwa imiterere y'uko cyateguwe[418], ariko si ngombwa ko igitero kirangwa n'ibyo byombi icyarimwe. Uwakoze icyaha agomba kuba yari azi urwego rusange rw'icyo gitero akaba anazi ko ibikorwa bye byari mu rwego rw'icyo gitero. Cyakora, si ngombwa ko uwakoze icyaha aba asangiye umugambi cyangwa intego n'abagabye igitero rusange[419].

422. Kugira ngo icyaha cyitwe itsembatsemba ni ngombwa kugaragaza ko uregwa yitabiriye ubwicanyi rusange cyangwa buri kuri gahunda cyangwa ko, muri rusange, yashyize abantu benshi, cyangwa abantu bamwe, ariko biri kuri gahunda, mu nzitane z'ubuzima zagombaga gutuma byanze bikunze bapfa[420].

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[417] Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 516; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, igika 697.

[418] Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, ibika 328-329; Inyandiko y'urubanza rwa Kunarac na bagenzi be mu bujurire, 12 Kamena 2002, ibika 93-97.

[419] Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 478; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, igika 332. Reba n'Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, ibika 268-269.

[420] Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 522; Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 480.

Itsembatsemba ritandukanye n'ubuhotozi cyangwa ubwicanyi kubera ko ryibasira umubare munini w'abantu[421]. N'ubwo itsembatsemba ari igikorwa cyo kwica abantu benshi ntibivuga ko hari umubare w'ifatizo kugira ngo byitwe itsembatsemba[422]. Umugambi wo gukora itsembatsemba ugaragazwa n'igitekerezo cyo kwica cyangwa cyo gufatanya n'abandi mu bwicanyi bwibasiye imbaga[423].

423. Muri uru rubanza, hatanzwe ibimenyetso bishyigikira bihagije umwanzuro uvuga ko abaturage b'Abatutsi bo muri Perefegitura ya Gikongoro bagabweho ibitero rusange muri Mata 1994. Abatangabuhamya bavuga ko Perezida Habyarimana akimara gupfa ku itariki ya 6 Mata, Abahutu bitwaraga gisirikare batangiye gusahura no gutwika amazu y'Abatutsi. Ibyo rero ni byo byatumye Abatutsi babarirwa mu bihumbi bahungira ku maparuwasi abandi bagahungira ku bigo by'amashuri. Hashingiwe ku bimenyetso byatanzwe ku bwicanyi bwakorewe aho hantu hatanu ndetse no ku kuntu ubwo bwicanyi bwahitanye imbaga, nta wundi mwanzuro wafatwa kuri icyo kibazo. Rumaze gusuzuma ibimenyetso byose byatanzwe, cyane cyane ibyerekeranye n'ubwoko bw'abantu bari barahungiye aho hantu hanyuranye, Urugereko rusanze muri Mata 1994, muri Perefegitura ya Gikongoro, abaturage b'abasiviri b'Abatutsi baragabweho ibitero rusange bazira ubwoko bwabo.

424. Urugereko rusanga bitumvikana ukuntu igihe ubwicanyi bwo ku itariki ya 21 Mata bwarimo kuba, Simba n'abandi bantu bari mu mugambi mubisha uhuriweho bari kuba batazi ko ibikorwa byabo byari mu rwego rw'ibitero rusange byibasiye abaturage b'abasiviri b'Abatutsi. Kubera igihe yamaze i Kigali n'i Gitarama,

[421] Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 516. Reba n'Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 479; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, igika 340.

[422] Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 516.

[423] Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, 25 Gashyantare 2004, igika 701. Reba n'Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, 13 Ukuboza 2004, igika 522.

Simba yari azi ibintu byarimo kubera mu Rwanda hose. Abantu bahungiye iwe i Kigali bavugaga ko abasirikare bashakishaga Abatutsi. Ubwo Simba yavaga i Kigali ajya i Gitarama, yanyuze ku mabariyeri aho abantu bitwaraga gisirikare bashakaga kwica Abatutsi yari atwaye. MIB yamuburiye ko umuhanda ujya muri Gikongoro utari nyabagendwa kubera ko abagabaga ibitero bicaga Abatutsi. Urugereko rwamaze gufata umwanzuro wemeza ko ku itariki ya 21 Mata, Simba yari ahantu habiri hakorewe ubwicanyi aha intwaro abagabye ibitero ndetse anabagezaho ijambo. Byongeye kandi, abandi bantu bakomeye bari mu mugambi mubisha uhuriweho nka Perefe Bucyibaruta, Kapiteni Sebuhura na Burugumesitiri Semakwavu bagiye mu manama menshi y'abategetsi bo muri ako karere kugira ngo bigire hamwe ikibazo cy'umutekano muke warangwaga mu ifasi yabo. Ubwicanyi bwakozwe bahari kandi nibo bohereje abagabye ibitero kuri paruwasi ya Cyanika bavuye ku ishuri ry'imyuga ry'i Murambi. Urebye ingano y'amarorerwa yakozwe, ubona ko abagabye ibitero batsotsobye ubwo bwicanyi na bo bagomba kuba bari bazi urwego rusange rw'ibikorwa byabo. Ubuhamya bwa KEL bugaragaza ko Interahamwe zo muri Mudasomwa zari zaragiye mu bitero byagabwe mbere yaho muri ako karere kose. Benshi mu bagabye ibyo bitero bagiye mu bwicanyi bwakorewe aho hantu hanyuranye ku itariki ya 21 Mata.

425. Abagabye ibitero ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha bishe abasiviri b'Abatutsi babarirwa mu bihumbi. Nta kundi ibyo bintu byakwitwa uretse kuvuga ko ari ubwicanyi bwibasiye imbaga bwakozwe mu rwego rw'igitero rusange cyagabwe kuri abo bantu bazira ubwoko bwabo. Simba yagize uruhare muri ubwo bwicanyi bwibasiye imbaga kubera ko yari mu mugambi mubisha uhuriweho wari ugamije kwica Abatutsi bari barahungiye aho hantu. Byongeye kandi yabugizemo uruhare kuko yahaye intwaro ababukoze, akabashyigikira mu bikorwa byabo ndetse akabibashishikariza. Mu myanzuro rwafashe ku buryozwacyaha bwe, Urugereko ruvuga ko iyo nkunga Uregwa yatanze yagize uruhare runini mu bwicanyi bwakurikiyeho. Rushingiye ku kuntu ibitero byagabwe, ubwoko bw'intwaro zakoreshejwe n'umubare w'abantu

bahitanywe n'ibyo bitero, rusanze Porokireri yatratanze ibimenyetso bihamya mu buryo budashidikanywaho ko Simba n'abantu bagabaga ibitero biroshye babishaka mu bwicanyi bwahitanye imbaga y'Abatutsi.

426. Urugereko rusanze, nta gushidikanya, Simba ahamwa n'icyaha hashingiwe ku Ngingo ya 6 (1) ya Sitati kubera ko yari mu mugambi mubisha uhuriweho ugamije kwica Abasiviri b'Abatutsi ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha. Kubera iyo mpamvu, rwemeje ko Simba ahamwa n'itsembatsemba nk'icyaha cyibasiye inyokomuntu ashinjwa mu kirego cya 3 cy'Inyandiko y'ibirego[424].

[424] Reba Inyandiko y'urubanza rwa Semanza mu bujurire, 29 Gicurasi 2005, igika 318 (« Iyo umuntu ahamwe n'icyaha cya jenoside cyangwa icyo kuba icyitso cy'abakoze jenoside ntibivuga ko adashobora no guhamwa n'icyaha cyibasiye inyokomuntu ».

UMUTWE WA IV: IMIKIRIZE Y'URUBANZA

427. Kubera impamvu zivugwa muri iyi Nyandiko y'urubanza kandi rumaze gusuzuma ibimenyetso byose n'ingingo z'ababuranyi, Abacamanza bagize Urugereko rwa Mbere rw'Iremezo, babyumvikanyeho bose, bemeje ibi bikurikira kuri Simba:

Ikirego cya 1: AHAMWA na jenoside.

Ikirego cya 2: NTAHAMWA no kuba icyitso cy'abakoze jenoside.

Ikirego cya 3: AHAMWA n'itsembatsemba nk'icyaha cyibasiye inyokomuntu.

Ikirego cya 4: NTAHAMWA n'ubuhotozi nk'icyaha cyibasiye inyokomuntu.

UMUTWE WA V: IGENAGIHANO

1. INTANGIRIRO

428. Kubera ko rwamaze guhamya Simba icyaha cya jenoside gikubiye mu kirego cya 1 n'itsembatsemba nk'icyaha cyibasiye inyokomuntu rikubiye mu kirego cya 3 by'Inyandiko y'ibirego, Urugereko rugiye noneho kumugenera igihano gikwiye.

429. Igihano gitangwa kigomba kuba kigamije guhana, guca intege umuntu washaka gukora icyaha nk'icyo, gutuma ukatiwe yicuza no kurinda umuryango nyarwanda. Nk'uko biteganywa n'Ingingo ya 23 ya Sitati n'iya 101 y'Amategeko, mu gutanga igihano Urugereko ruzirikana urutonde rw'ibihano by'igifungo bitangwa mu Rwanda, uburemere bw'ibyaha, imyitwarire yose y'uhamwe n'icyaha n'ibintu byihariye bimwerekeyeho nk'impamvu nyongeragihano cyangwa nyoroshyagihano, n'uburyo harangijwe igihano urukiko rw'igihugu icyo ari cyo

cyose rwakatiye uregwa ku gikorwa kimwe[425]. Nk'uko Urugereko rw'Ubujurire rwabivuze, ibyo bintu si byo byonyine bishingirwaho mu kugena uregwa igihano gikwiye. Byongeye kandi, Urugereko rwa Mbere rw'Iremezo rukura mu gihano igihe uregwa yamaze yamaze afunze mbere y'uko yimurirwa mu Rukiko ndetse n'igihe yamaze afunzwe aburana[426].

2. INGINGO Z'ABABURANYI

430. Porokireri avuga ko Uregwa akwiye gukatirwa igihano cy'igifungo cya burundu[427]. Ashimangira ko ibyaha yahamijwe ari ibyaha biremereye, ko yabikoze yabigambiriye kandi biri kuri gahunda. Porokireri avuga ko Simba yakoresheje nabi ububasha yari afite, akagira uruhare mu byaha ku bushake kandi mu buryo butaziguye ndetse akaniyemeza guhakana ibyo byaha avuga ko atari ahantu byabereye igihe byakorwaga[428]. Porokireri avuga ku bindi bihano by'igifungo cya burundu byatanzwe n'uru Rukiko maze agasobanura ko hashingiwe ku mategeko y'u Rwanda ibyaha Simba yakoze bimushyira mu rwego rwa mbere rwa ba ruharwa kandi ko ibyo byaha bihanishwa igihano cyo kwicwa[429].

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[425] Ingingo ya 23 (1)-(3) ya Sitati n'Ingingo ya 101 (B)((i)-(iv) y'Amategeko.

[426] Inyandiko y'urubanza rwa Kajelijeli mu bujurire, 23 Gicurasi 2005, igika 290. Reba n'Ingingo ya 101 ((D) y'Amategeko.

[427] Imyanzuro nsozarubanza yanditse ya Porokireri, igika 210; inyandikomvugo y'iburanisha, 7 Nyakanga 2005, urup. 25.

[428] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 226-238.

[429] Ni kimwe no haruguru, ibika 217-222.

3. ISESENGURA RY'URUGEREKO

3.1 Uburemere bw'icyaha

431. Ibyaha byose biteganywa na Sitati y'Urukiko binyuranyije bikomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara[430]. Mu kugena igihano, Urugereko rwa Mbere rw'Iremezo rufite ububasha busesuye bwo kugena igihano. Ibyo bishingiye ku nshingano rufite yo gukatira umuntu igihano kimukwiye ku gite cye kugira ngo kibe kijyanye n'ibintu byihariye bimwerekeyeho n'uburemere bw'ibyaha yahamijwe[431].

432. Urugereko rw'ubujurire rwavuze ko mu kugena igihano gikwiye, « ibihano byakatiwe abantu bameze kimwe mu manza zimeze kimwe bigomba kugereranywa ». Cyakora, rwanavuze ko hari aho iyo mikorere igarukira kubera ko « buri rubanza rurimo ibintu byinshi binyuranye kuva ku mubare w'ibyaha n'imiterere yabyo kugera ku bintu byihariye byerekeranye n'uhamwe n'icyaha[432] ».

433. Urugereko rwahamije Simba icyaha cya jenoside n'itsembatsemba nk'icyaha cyibasiye inyokomuntu kubera ko yitabiriye umugambi mubisha uhuriweho wari ugamije kwica abasiviri b'Abatutsi ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha. Yitabiriye uwo mugambi mubisha uhuriweho aha intwaro abagabye ibitero ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha, ashishikaza ndetse anashyigikira abakoze ubwicanyi bwahitanye abasiviri b'Abatutsi babarirwa mu bihumbi. Urugereko rusanga kuba Simba yarateye iyo nkunga abagabye ibitero ndetse akanabashishikaza byaragize uruhare runini mu

[430] Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire (Impamvu), 1 Kamena 2001, igika 367 (hasubirwamo ibiteganywa n'Ingingo ya 1 ya Sitati).

[431] Inyandiko y'urubanza rwa Kajelijeli mu bujurire, 23 Gicurasi 2005, igika 291.

[432] Inyandiko y'urubanza rwa Kvocka na bagenzi be mu bujurire, 28 Gashyantare 2005, igika 681.

bwicanyi. Byongeye kandi, kuba yari mu mugambi mubisha uhuriweho bituma aba gatozi w'ibyaha byakozwe.

434. Nk'uko biteganywa n'amategeko y'u Rwanda, jenoside n'ibyaha byibasiye inyokomuntu bihanishwa igihano cyo kwicwa cyangwa igifungo cya burundu bitewe n'uruhare uregwa yabigizemo[433]. Ubukemuramanza bw'Urukiko buteganya ko, muri rusange, gatozi w'icyaha agomba guhabwa igihano kiruta icy'umuntu washyigikiye ikorwa ryacyo[434]. Cyakora, ibyo ntibivuga ko igihano cy'igifungo cya burundu ari cyo cyonyine gihabwa gatozi wahamwe n'icyaha cya jenoside n'itsembatsemba[435]. Muri uru Rukiko, muri rusange igihano cy'igifungo cya burundu gihabwa abantu bacuze umugambi cyangwa bategetse abandi gukora amarorerwa. Icyo gihano kinahabwa abantu bagize umurava mu gukora ibyaha cyangwa ababikoranye agashinyaguro[436], kandi abahabwa ibihano bikarishye kurusha abandi ni abantu bari abategetsi bakuru[437].

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[433] Itegeko Ngenga n° 08/96 ry'u Rwanda rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenoside cyangwa ibyaha byibasiye inyokomuntu byakozwe kuva ku tariki ya 1 Ukwakira 1990, Igazeti ya Leta ya Repubulika y'u Rwanda, umwaka wa 35, N° 17, 1 Nzeri 1996. Reba Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, igika 377 (« N'ubwo Sitati iteganya ko Urugereko rwa Mbere rw'Iremezo rwifashisha urutonde rusange rw'ibyaha by'igifungo bitangwa mu Rwanda, iyo Sitati ntiteganya ko Urugereko rugomba byanze bikunze kugendera kuri urwo rutonde. Iteganya gusa ko Urugereko rugomba kuruzirikana », hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Serushago mu bujurire, 6 Mata 2000, igika 30; Inyandiko y'urubanza rwa Nikolic mu bujurire, 4 Gashyantare 2005, igika 69.

[434] Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, igika 388.

[435] Nk'urugero, reba Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, 21 Gashyantare 2003, ibika 791-793, 832-834, 908-909, 924 (Uregwa yakatiwe igihano cy'igifungo cy'imyaka 25 kubera ko we ubwe yakoze ibyaha bivugwa).

[436] Inyandiko y'urubanza rwa Musema mu bujurire, 16 Ugushyingo 2001, igika 383 (rusanga abayobozi n'abacuze umugambi w'imirwano bagomba guhabwa igihano kiruta icy'abantu bari bakuriye kubera ko uburemere bw'icyaha ari cyo kintu cya mbere gishingirwaho mu gutanga igihano); Inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo, 16 Gicurasi 2003, igika 486 ; Inyandiko y'urubanza rwa Muhimana mu rw'iremezo, 28 Mata 2005, ibika 604-616 (Uregwa yari Konseye ariko Urugereko rwazirikanye uburyo

435. Mu gihe ibivugwa byababaga, Simba ntiyari afite umwanya uzwi muri Leta, mu gisirikare cyangwa mu nzego za politiki za Leta. Ku itariki ya 18 Gicurasi 1994, yagizwe umujyanama muri gahunda y'ukwirwanaho kw'abaturage ariko nta myitwarire mibisha aregwa hashingiwe kuri uwo mwanya. Byongeye kandi, Urugereko rusanga hataragaragajwe hataratanzwe ibimenyetso bidashidikanywaho bihamya ko ari Simba wateguye ubwicanyi bwabereye ku ishuri ry'imyuga ry'i Murambi no kuri paruwasi ya Kaduha cyangwa ngo hagaragazwe ko yagize uruhare mu icurwa ry'umugambi wabwo[438]. Byongeye kandi, uburyo Simba yitabiriye umugambi mubisha rusange ntibugaragaza ko yaba yarabigizemo umwete cyangwa ubugome ku buryo bwihariye.

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yakoranye ubugome icyaha cyo gusambanya ku gahato, akica, akangiza ibice by'umubiri by'abantu ndetse agasuzuguza abo yabikoreye).

[437] Ibihano by'igifungo cya burundu byakatiwe abategetsi bakuru nk'uko bigaragara mu manza zikurikira: Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo 15 Nyakanga 2004, ibika 505, 508 na 511 (Minisitiri w'imari) ; Inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo, 16 Gicurasi 2003, igika 499, 502 (Minisitiri w'itangazamakuru) ; Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, 22 Mutarama 2004, ibika 6, 764 na 770 (Minisitiri w'amashuri makuru n'ubushakashatsi mu by'ubuhanga). Byongeye kandi, igihano cy'igifungo cya burundu cyakatiwe abategetsi bo mu nzego zo hasi kimwe n'abantu batari bafite imyanya mu nzego za Leta. Nk'urugero, reba Inyandiko y'urubanza rwa Musema, 27 Mutarama 2000, ibika 999-1008 (Umuyobozi ukomeye w'uruganda rw'icyayi wagenzuraga abicanyi) ; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, 6 Ukuboza 1999, ibika 466-473 (Visi-Perezida wa kabiri w'Interahamwe mu rwego rw'igihugu).

[438] Reba Inyandiko y'urubanza rwa Krstic mu bujurire, 19 Mata 2004, ibika 253-255 (havugwa ko Urugereko rwa Mbere rw'Iremezo rwari rufite uburenganzira bwo kuzirikana umwanya ushinjwa yari afite ugereranyije n'abandi bantu bafatanyije ibyaha, kuko kuzirikana ibyo ari ngombwa kugira ngo umuntu yumve neza ibyo bintu byabaye no kugira ngo uregwa ashobore kugenerwa igihano gikwiye); Inyandiko y'urubanza rwa Babic mu bujurire ku birebana n'igihano, 18 Nyakanga 2005, igika 40 (havugwa ko « iyo bigaragaye ko uregwa yitabiriye umugambi mubisha uhuriweho mu buryo buziguye, ashobora gukatirwa igihano gito »).

By'umwihariko, ntiyitabiriye ubwe ubwicanyi kandi ntiyatindaga ahantu hakorewe ubwicanyi.

436. N'ubwo ibyaha Simba yakoze biremereye, Urugereko rusanga adakwiye guhabwa igihano gikarishye kurusha ibindi mu biteganywa na Sitati. Urugereko rugendera ku zindi manza zaciwe aho abaregwa batakatiwe ibihano by'igifungo cya burundu kandi Ingereko zaremeje ko bakoze, ku buryo butaziguye, icyaha cya jenoside n'icy'itsembatsemba.

437. Mu rubanza rwa Semanza, Urugereko rw'Ubujurire rwemeje ko igihano cy'igifungo cy'imyaka 25 ari cyo gikwiye guhabwa uregwa kubera ko yakoze, mu buryo butaziguye, icyaha cya jenoside n'icy'itsembatsemba ahantu habereye ubwicanyi[439]. Semanza yahoze ari burugumesitiri kandi mu gihe cy'ibyabaye hari hari hashize igihe gito agizwe umudepite ndetse akaba yari umuntu ufite ijambo cyane mu gace yakoreyemo ibyaha[440]. Mu rubanza rwa Gacumbitsi, Urugereko rwa Mbere rw'Iremezo rwafashe icyemezo cyo kumukatira igihano kimwe rukumbi cy'igifungo cy'imyaka 30 kuko rwasanze icyo gihano kijyanye n'intego z'igenagihano ku cyaha cya jenoside n'itsembatsemba nk'icyaha cyibasiye inyokomuntu[441]. Urugereko rwafashe uwo mwanzuro kuko rwari rwasanze uregwa, wari burugumesitiri ubwo yakoraga ibyaha, ataramaze igihe kinini mu icurwa ry'umugambi w'ibyabaye muri komine ye. Mu rubanza rwa Ruzindana, Urugereko rw'ubujurire rwemeje igihano cy'igifungo cy'imyaka 25 uregwa yakatiwe ku cyaha cya jenoside kubera ko yitabiriye «umugambi uhuriweho »

[439] Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, ibika 388-389

[440] Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, ibika 303-304, 573.

[441] Inyandiko y'urubanza rwa Gacumbitsi mu rw'iremezo, 17 Kamena 2004, ibika 334, 345, 352-353 na 356. Uregwa yari yahamwe kandi n'icyaha cyo gusambanya ku gahato kandi Urugereko rwa Mbere rw'Iremezo rwemeje ko kuba ibikorwa bimwe byo gusambanya ku gahato byarakoranywe ubugome bwihariye ari impamvu nyongeragihano. Ni kimwe no haruguru, igika 345.

wari ugizwe, nk'urugero, no guca ibice by'imibiri y'abantu yakoreye ibyaha no kubasuzuguza[442].

3.2 Ibintu byihariye byerekeranye n'Uregwa, impamvu nyongeragihano n'impamvu nyoroshyagihano

438. Urugereko rugiye gusuzuma ibintu byihariye byerekeranye n'Uregwa, impamvu nyongeragihano n'impamvu nyoroshyagihano. Impamvu nyoroshyagihano zigomba kugaragazwa gusa hashingiwe ku bintu bishoboka, naho impamvu nyongeragihano zigomba kugaragazwa ku buryo budashidikanywaho[443]. Impamvu yihariye ifatwa nka kimwe mu bigize icyaha uregwa yahamijwe ntiri bufatwe nk'impamvu nyongeragihano[444].

439. Mu mpamvu nyongeragihano, Urugereko rusanga harimo umwanya Simba yari afite mu muryango nyarwanda nk'umuntu wigeze kuba umusirikare mukuru n'umunyapolitiki ukomeye, nk'uko bivugwa mu Cyiciro cya 2 cy'imyanzuro ishingiye ku byabaye. Ijambo yari afite kubera iyo myanya rishobora kuba

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[442] Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire (Impamvu), 1 Kamena 2001, ibika 191, 194, 352; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, igihano, 21 Gicurasi 1999, igika 26. Mu mpamvu nyongeragihano harimo kuba Ruzindana yaraciye amabere y'umuntu wakorewe icyaha, akanamusatura inda, ari na ko amushinyagurira. Mu mpamvu zatumye Urugereko rwa Mbere rw'Iremezo rumukatira igihano gito kitari igifungo cya burundu harimo kuba Uregwa yari akiri muto. Rwanazirikanye ko kimwe mu byo igihano kigamije ari ukugira ngo uregwa abone umwanya wo kwicuza ibyo yakoze maze ye kuzabisubira.

[443] Inyandiko y'urubanza rwa Kajelijeli mu bujurire, igika 294; Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 502; Inyandiko y'urubanza rwa Semanza, 15 Gicurasi 2003, ibika 565, 574.

[444] Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 502; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, 15 Gicurasi 2003, igika 571; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, 21 Gashyantare 2003, igika 893.

ryaratumye abandi bantu bakurikiza urugero rwe kandi ibyo ni impamvu nyongeragihano[445].

440. Urugereko runasanga umubare munini w'abantu bahitanywe n'ubwicanyi ari impamvu nyongeragihano ku cyaha yahamijwe cya jenoside kandi icyo cyaha nta mubare w'ifatizo usabwa ngo kibe cyarabayeho[446]. Byongeye kandi, kuba Simba yaratangiye intwaro kuri paruwasi ya Kaduha aziha abagabaga ibitero ni ikintu kigomba kuzirikanwa. Izo ntwaro zagize uruhare runini mu bwicanyi bwakozwe mu bitero byagabwe ku itariki ya 21 Mata[447].

441. Urugereko rusanga hariho impamvu nyoroshyagihano nkeya. Mbere y'umwaka wa 1994, Simba yari amaze igihe kinini cy'ubuzima cye n'icy'akazi yitangira igihugu[448]. Mbere ya Mata 1994, asa n'aho atari afite ibitekerezo by'intagondwa mu rwego rwa politiki ariko ibyo ntibishobora na rimwe kumubera impamvu cyangwa urwitwazo rwo kudahanirwa uruhare yagize mu bwicanyi. Cyakora, bituma umuntu ashobora kumva ko yagiye mu bwicanyi kubera imyumvire mibi ku birebana no gukunda igihugu no kuyoboka Leta, aho kumva ko yari intagondwa cyangwa umuntu wanga Abatutsi. Urugereko rusanga kandi Simba adahakana ko mu Rwanda habaye jenoside ndetse yamaganye ubwicanyi bwibasiye imbaga bwahakorewe[449].

442. Urugereko rusanga kandi, nyuma y'urupfu rwa Habyarimana, Simba yaratabaye abantu benshi bo mu muryango we n'abandi bantu b'inshuti ze, ariko ntirubura kuzirikana ko yafashije gusa abantu yihitiyemo. Iyo myitwarire ye ikaba ifite uburemere buke nk'impamvu nyoroshyagihano.

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[445] Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, igika 336.

[446] Ni kimwe no haruguru, ibika 337-338.

[447] Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, 1 Ukuboza 2003, igika 962.

[448] Inyandiko y'urubanza rwa Semanza mu bujurire, 20 Gicurasi 2005, igika 398.

[449] Inyandikomvugo y'iburanisha, 24 Werurwe 2005, imp. 15-16.

443. Rushingiye ku buremere bw'ibyaha yakoze ndetse no ku bintu byihariye bimwerekeyeho, Urugereko rusanga hariho impamvu nyoroshyagihano nke.

3.3 Gukura mu gihano igihe Uregwa amaze afunzwe by'agateganyo

444. Simba yafatiwe muri Senegal ku itariki ya 27 Ugushyingo 2001 hashingiwe ku itegeko ry'Urukiko ryo kumwimurira ku Rukiko no kumufunga by'agateganyo. Arafunzwe rero kuva icyo gihe[450]. Kubera ibyo, mu gihano Simba akatirwa hagomba gukurwamo igihe cy'imyaka ine n'iminsi 16 amaze afunzwe kugera uyu munsi ku itariki ya 13 Ukuboza 2005.

4. UMWANZURO

445. Urugereko rubife ububasha busesuye bwo gukatira uregwa igihano kimwe rukumbi kandi rusanga iyo mikorere ikwiye ubusanzwe iyo ibyaha yakozwe n'uregwa biba birimu rwego rw'umugambi mubisha umwe[451]. Simba yahamijwe icyaha cya jenoside n'itsembatsemba nk'icyaha cyibasiye inyokomuntu hashingiwe ku bikorwa bimwe kandi byabaye umunsi umwe. Kubera impamvu zose zivugwa haruguru zijyanye n'iki kibazo, Urugereko **RUKATIYE** Aloys Simba igihano cy'

IGIFUNGO CY'IMYAKA MAKUMYABIRI N'ITANU

446. Muri icyo gihano Simba azakurirwamo igihe amaze afunzwe by'agateganyo kandi Urugereko rwasanze icyo gihe gihwanye n'imyaka ine n'iminsi cumi n'itandatu.

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[450] Urubanza rwa Simba mu rw'iremezp, Itegeko ryo kwimura Uregwa no kumufunga by'agateganyo, 23 Ugushyingo 2001.

[451] Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, 15 Nyakanga 2004, igika 497.

447. Uregwa azarangiriza iki gihano mu gihugu kizagenwa na Perezida w'Urukiko amaze kugisha inama Urugereko. Gerefiye azabimenyesha Leta y'u Rwanda n'icyo gihugu kizagenwa.

448. Mu gihe agitereje kwimurirwa mu gihugu azarangirizamo igihano akatiwe, Aloys Simba azakomeza kuba afunzwe mu buryo yari asanzwe afunzwemo.

449. Nk'uko biteganywa n'Ingingo ya 102 (B) y'Amategeko, niharamuka habayeho ubujurire, irangizarubanza rizasubikwa kugeza igihe Urugereko rw'Ubujurire ruzaba rwafatiye icyemezo kuri ubwo bujurire. Hagati aho, Aloys Simba azakomeza kuba afunzwe.

Bikorewe Arusha, tariki ya 13 Ukuboza 2005

Erik Møse	Sergei Alekseevich Egorov	Dennis C.M. Byron
Perezida w'Urugereko	Umucamanza	Umucamanza

[Kashe y'Urukiko]

UMUGEREKA I: UKO IBIREBANA N'IMIBURANISHIRIZE BYAGIYE BIKURIKIRANA

1. IBYABAYE MBERE Y'IBURANISHA

450. Simba yafatiwe mu gihugu cya Senegal ku itariki ya 27 Ugushyingo 2001, hashingiwe ku cyemezo cyo kumwimurira ku cyicaro cy'Urukiko no kumufunga by'agateganyo cyafashwe n'Umucamanza Andrésia Vaz ku itariki ya 23 Ugushyingo 2001[452]. Mu Nyandiko y'ibirego ya mbere yemejwe n'Umucamanza Winston Churchill Matanzima Maqutu ku itariki ya 8 Mutarama 2002, Simba yashinjwaga ibyaha bine bikurikira: jenoside ; kuba icyitso cy'abakoze jenoside, yaryozwa aramutse adahamwe na jenoside ; itsembatsemba nk'icyaha cyibasiye inyokomuntu ; n'ubuhotozi nk'icyaha cyibasiye inyokomuntu[453]. Ku itariki ya 9 Werurwe 2002, ubwo Simba yari arangije inzira zose zo kujuririra inkiko za Senegal, yashyizwe mu maboko y'abakozi b'uru Rukiko. Ku itariki ya 11 Werurwe 2002, yagejejwe Arusha muri gereza y'Umuryango w'Abibumbye. Ku itariki ya 18 Werurwe 2002, yitabye Urukiko bwa mbere maze ahakana ibyaha byose uko ari bine yashinjwaga mu Nyandiko y'ibirego.

451. Ku itariki ya 15 Mutarama 2004, habaye inama ntegurarubanza itagendeye ku mihango isanzwe ikurikizwa maze isuzumirwamo aho ibintu byari bigeze muri uru rubanza. Ku itariki ya 26 Mutarama 2004, Urugereko rwahaye Porokireri uruhushya rwo guhindura Inyandiko y'ibirego rumaze kubona ko ibyo yashakaga kongeramo bitarimo ibirego bishya ko ahubwo byari bigamije gusobanura neza ibyo aregera[454]. Kuri uwo munsi, Urugereko ntirwemeye ibyo Ubwunganizi

[452] Itegeko ryo kwimura Uregwa no kumufunga by'agateganyo, 23 Ugushyingo 2001.

[453] Icyemezo ku cyifuzo cya Porokireri gisaba Urugereko gusuzuma Inyandiko y'ibirego no kuyemeza ndetse no gufata ibindi byemezo bijyanye na yo, 8 Mutarama 2002.

[454] Icyemezo ku cyifuzo gisaba guhindura Inyandiko y'ibirego, 25 Mutarama 2004.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

bwavugaga mu cyifuzo cyabwo ko Inyandiko y'ibirego irimo inenge[455]. Ntirwemeye kandi icyifuzo cy'Ubwunganizi cyasabaga ko urubanza rwatangira, bitaba ibyo Uregwa agafungurwa. Urugereko rwasobanuye ko itariki y'iburanisha yari yararangije gushyirwaho kugira ngo iburanisha ritangire nta buzarire[456]. Byongeye kandi, ku itariki ya 26 Mutarama 2004, Urugereko ntirwemeye ibyo Ubwunganizi bwavugaga mu cyifuzo cyabwo cyasabaga ko Simba yarekurwa ngo kubera ko Ingingo ya 40 *bis* y'Amategeko itubahirijwe. Rwafashe icyo cyemezo rumaze kubona ko ibyo Ubwunganizi buvuga atari ukuri[457]. Inyandiko y'ibirego yahinduwe yatanzwe ku itariki ya 16 Gashyantare 2004.

452. Ku itariki ya 24 Gashyantare 2004, Urugereko rwemeye Icyifuzo cya Porokireri cyasabaga kwimurira ku cyicaro cy'Urukiko abatangabuhamya umunani bari bafungiwe mu Rwanda[458]. Ku itariki ya 4 Werurwe 2004, Urugereko rwashyizeho ingamba zo kubungabunga umutekano w'abatangabuhamya bashinja[459]. Ku itariki ya 11 Werurwe 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gufatira hanze y'Urukiko ubuhamya bw'umutangabuhamya utari ushoboye kurwitaba kubera impamvu z'uburwayi, kubera ko rwasanze ibyo bwasabaga butari bwabitangiye amakuru ahagije[460].

453. Hashingiwe ku cyemezo cyafashwe n'Urugereko ku itariki ya 5 Werurwe 2004, Simba yitabye Urukiko bundi bushya ku itariki ya 17 Werurwe 2004 maze

[455] Icyemezo ku cyifuzo cy'Ubwunganizi kivuga ko mu myandikire y'Inyandiko y'ibirego harimo inenge, 26 Mutarama 2004.

[456] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko urubanza rwatangira, bitaba ibyo Uregwa agafungurwa, 26 Mutarama 2004.

[457] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko Aloys Simba yafungurwa hashingiwe ku Ngingo ya 40 bis (h) na (k), 26 Mutarama 2004.

[458] Itegeko ryo kwimura abatangabuhamya, 24 Gashyantare 2004.

[459] Icyemezo ku cyifuzo cya Porokireri gisaba Urugereko gufata ingamba zo kurinda umutekano w'abatangabuhamya, 4 Werurwe 2004.

[460] Icyemezo ku cyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba ko ubuhamya bw'umutangabuhamya bwakumvirwa hanze y'Urukiko, 11 Werurwe 2004.

yongera guhakana ibyaha byose uko ari bine yashinjwaga mu Nyandiko y'ibirego yahinduwe[461]. Ku itariki ya 24 Werurwe 2004, Urugereko rw'Ubujurire ntirwakiriye ubujurire bw'Ubwunganizi bwerekeranye n'inenge bwavugaga ko ziri mu myandikiye y'Inyandiko y'ibirego. Urugereko rw'Ubujurire rwavuze ko nta bubasha bufite bwo gusuzuma icyo kibazo[462.] Ku itariki ya 28 Mata 2004, Urugereko rwemeye Icyifuzo cy'Ubwunganizi cyasabaga gusubika iburanisha kubera ko Porokireri yabumenyesheje ibimenyetso akerewe. Rwategetse ko gutangira iburanisha byimuriwe ku itariki ya 13 Gicurasi 2004[463]. Ku itariki ya 4 Gicurasi 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga ko bwamenyeshwa ubuhamya bwanditse umutangabuhamya witwa FAI yagejeje ku bapererezi b'Urukiko mu rundi rubanza. Urugereko rwavuze ko icyo kibazo cyagombye gushyikirizwa Urugereko II[464]. Ku itariki ya 6 Gicurasi 2004, Urugereko rwemeye kuri bimwe Icyifuzo cy'Ubwunganizi cyavugaga ko mu Nyandiko y'ibirego harimo inenge maze rutegeka Porokireri gutanga indi Nyandiko y'ibirego yahinduwe irimo amakuru y'inyongera asobanutse[465]. Ku itariki ya 10 Gicurasi 2004, Porokireri yatanze Inyandiko y'ibirego yahinduwe ya kabiri.

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461 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko Uregwa yakongera kwitaba Urukiko ngo yemere cyangwa ahakane ibyo ashinjwa, 5 Werurwe 2004.

462 Icyemezo cy'Urugereko rw'Ubujurire ku bujurire bwatanzwe na Aloys Simba ajuririra Icyemezo ku cyifuzo cyerekeranye n'inenge ziri mu myandikire y'Inyandiko y'ibirego, 24 Werurwe 2004.

463 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kwimurira ku yindi tariki itangira ry'iburanisha, 26 Mata 2004.

464 Icyemezo ku cyifuzo cyihutirwa cy'Ubwunganizi gisaba guhabwa inyandikomvugo y'ubuhamya umutangabuhamya yagejeje mbere ku bapererezi mu rubanza rwa Ndayambaje na bagenzi be, 4 Gicurasi 2004.

465 Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi cyerekeranye n'inenge ziri mu myandikire y'Inyandiko y'ibirego, 6 Gicurasi 2004. Mu cyemezo rwatanze ku wa 7 Kamena 2004, Urugereko rw'Ubujurire ntirwemeye impamvu zose, uretse imwe, z'ubujurire bw'Ubwunganizi ku cyemezo Urugereko rwa Mbere rw'Iremezo rwafashe ku wa 6 Gicurasi. Reba Icyemezo ku ishingiro ry'ubujurire, hakurikijwe Ingingo ya 72 (E) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 7 Kamena 2004.

454. Mu nama mbanzirizarubanza yo ku itariki ya 13 Gicurasi 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga kwimura itariki yo gutangira iburanisha. Cyakora, Urugereko rwaje gusubika itangira ry'iburanisha kubera ko umwe mu Bacamanza yashoboraga kutaboneka[466]. Ubwunganizi bwasabye Urugereko gutegeka Porokireri kubaza Simba ku birebana n'imyiregurire ya sinari mpari ye. Mu cyemezo rwafashe mu magambo, Urugereko ntirwemeye icyo cyifuzo ruvuga ko rudafite ububasha bwo gutegeka uko Porokireri agomba gukora iperereza rye. Ku itariki ya 21 Gicurasi 2004, Perezida w'Urukiko yamenyesheje ababuranyi ko iburanisha rizatangira ku itariki ya 16 Kanama 2004, kandi Ubwunganizi bwemeye iyo tariki mu byo bwamenyekanishije mbere bitanyuze mu nzira zisanzwe.

455. Ku itariki ya 14 Kamena 2004, Urugereko rwemeye Icyifuzo gishya cy'Ubwunganizi cyasabaga Urugereko ko umutangabuhamya runaka yatangira ubuhamya hanze y'Urukiko. Rwemeye icyo cyifuzo rumaze kubona ko Ubwunganizi bwari bwatanze amakuru yari akenewe[467]. Cyakora, Urugereko ntirwemeye ibindi byifuzo bisa n'icyo ku birebana n'abandi batangabuhamya kubera ko Ubwunganizi butari bwubahirije ibisabwa n'amategeko. Uwo munsi, Urugereko ntirwemeye no kwemera icyifuzo cy'Ubwunganizi cyarusabaga gutegeka Porokireri guhinduza mu gifaransa bimwe mu bimenyetso gihamya bye, gutanga lisiti y'abatangabuhamya bashinja yerekana uko bazakurikirana mu gutanga ubuhamya, gutanga ikigereranyo cy'igihe buri buhamya buzamara no kwerekana ibika by'Inyandiko y'ibirego ndetse n'ibirego abo batangabuhamya bari kuvugaho[468].

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[466] Inyandikomvugo y'iburanisha, 13 Gicurasi 2004, urup. 2

[467] Icyemezo ku cyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba ko ubuhamya bw'umutangabuhamya ushyigikira imyiregurire ya sinari mpari bwakumvirwa hanze y'Urukiko, 14 Kamena 2004.

[468] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutanga itegeko rushingiye ku Ngingo ya 73 *bis*, 17 Kamena 2004.

456. Ku itariki ya 14 Nyakanga 2004, Urugereko rwafashe ibyemezo bine mu nyandiko. Ntirwemeye icyifuzo cy'Ubwunganizi cyarusabga kutakira raporo ya Alison Des Forges no kwemeza ko uwo mutangabuhamya atari impuguke[469] muri uru rubanza. Urugereko ntirwemeye kandi icyifuzo cya Porokireri cyarusabaga kwemeza ko ababuranyi batagomba kujya impaka ku bimenyetso Des Forges yatanze mu rubanza rwabanjirije uru, kuko rwasanze ibyo bimenyetso bitujuje ibisabwa kugira ngo bishyirwe muri dosiye[470]. Byongeye kandi, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyavugaga ko Inyandiko y'ibirego yahinduwe ya kabiri yarimo amakosa y'imyandikire[471]. Urugereko rwananze icyifuzo cy'Ubwunganizi cyarusabaga gutegeka abategetsi bo mu Rwanda gutanga amadosiye y'imanza z'abatangabuhamya bashinja bafunze[472].

457. Ku itariki ya 29 Nyakanga 2004, Urugereko rw'Ubujurire ntirwemeye ubujurire bw'Ubwunganizi bwasabaga ko ibivugwa mu Nyandiko y'ibirego byabaye mu gihe kitari mu bubasha bw'Urukiko bivanwamo[473]. Ku itariki ya 4 Kanama 2004, Urugereko rwemeye Icyifuzo cya Porokireri cyasabaga kwimurira Arusha

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[469] Icyemezo ku cyifuzo cy'Ubwunganzi gisaba Urugereko kutemera ko Alison Des Forges ari impuguke muri uru rubanza no kutakira raporo ye, 14 Nyakanga 2004

[470] Icyemezo ku cyifuzo cya Porokireri gisaba ko ubuhamya bw'umutangabuhamya w'impuguke bwashyirwa muri dosiye, 14 Nyakanga 2004. Ku itariki ya 17 Kanama 2004 Urugereko ntirwemeye icyifuzo cya Porokireri gisaba uruhushya rwo kujurira Icyemezo cyo ku wa 14 Nyakanga. Reba Icyemezo ku cyifuzo cya Porokireri gisaba Uruhushya rwo kujuririra Icyemezo Urugereko rwafashe ku wa 14 Nyakanga 2004, aho rutemeye ko ko ubuhamya bw'umutangabuhamya w'impuguke bwashyirwa muri dosiye, 14 Kanama 2004.

[471] Icyemezo ku cyifuzo mbanzirizarubanza cy'Ubwunganizi kirwanya Inyandiko y'ibirego yahinduwe ya kabiri, 14 Nyakanga 2004. Ku itariki ya 30 Nzeri 2004, Urugereko rw'Ubujurire ntirwemeye ubujurire bw'Ubwunganizi ku cyifuzo cyo ku wa 14 Nyakanga 2004 ruvuga ko rudafite ububasha bwo gusuzuma ubwo bujurire. Reba Icyemezo ku ishingiro ry'ubujurire, hakurikijwe Ingingo ya 72 (E) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'ibimenyetso, 30 Nzeri 2004.

[472] Icyemezo ku « cyifuzo gisaba Urugereko gutegeka abategetsi bo mu Rwanda guha Porokireri amadosiye y'imanza z'abatangabuhamya bafunze, 14 Nyakanga 2004.

[473] Icyemezo ku bujurire ku cyemezo cyerekeranye n'ububasha bushingiye ku gihe, 19 Nyakanga 2004.

abatangabuhamya 14 bafungiye mu Rwanda[474]. Ku itariki ya 11 Kanama 2004, Gerefiye yanze icyifuzo cya Avoka mukuru wunganira Uregwa wasabaga kwemererwa kwegura kuri iyo mirimo ye[475].

458. Ku itariki ya 12 Kanama 2004, habaye mu muhezo inama ntegurarubanza. Ku itariki ya 16 Kanama 2004, iburanisha ryarasubitswe kugira ngo Urugereko rubanze rusuzume Icyifuzo cy'Avoka wungirije cyasabaga gusubika iburanisha kubera ko Avoka mukuru atari ahari bitewe n'impamvu z'uburwayi. Ku itariki ya 18 Kanama 2004, Urugereko rwemeye kuri bimwe Icyifuzo cy'Ubwunganizi maze rwemeza ko iburanisha rigomba gutangira bitarenze tariki ya 30 Kanama 2004[476]. Kuri iyo tariki ya 18 Kanama 2004, habaye kandi mu muhezo inama ntegurarubanza.

459. Ku itariki ya 25 Kanama 2004, Urugereko rwemeye Icyifuzo cy'Ubwunganizi cyasabaga ko hafatwa ingamba zo kurinda umutekano w'abatangabuhamya bashinjura[477]. Ku itariki ya 27 Kanama 2004, Urugereko rwahaye Porokireri uruhushya rwo guhindura lisiti y'abatangabuhamya agakuramo abatangabuhamya 12 (YA, KSD, DDG, ANQ, KCJ, XXG, XXI, KSH, YI, ALT, AMP na KSB) maze akongeramo bane (YD, KTB, KSK na KSM)[478].

2. ITANGWA RY'IBIMENYETSO BISHINJA

460. Iburanisha ryatangiye ku itariki ya 30 Kanama 2004 maze Porokireri atanga ibimenyetso bishinja mu byiciro bibiri by'iburanisha: kuva ku itariki ya 30

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[474] Itegeko rwo kwimura abatangabuhamya, 4 Kanama 2004.

[475] Icyemezo cyanga icyifuzo gisaba ko Avoka Sadikou yakurwa ku mirimo ye nka Avoka Mukuru mu rubanza rwa Aloys Simba, N° ICTR-01-76 (Ibiro bya Gerefiye), 11 Kanama 2004.

[476] Icyemezo kirebana n'isubikwa ry'iburanisha, 18 Kanama 2004.

[477] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gufata ingamba zo kurinda umutekano w'abatangabuhamya bashinjura, 25 Kanama 2004.

[478] Icyemezo ku cyifuzo cya Porokireri gisaba guhindura lisiti y'abatangabuhamya bashinja, 27 Kanama 2004.

Kanama kugera ku ya 24 Nzeri 2004 no kuva ku itariki ya 25 Ukwakira kugera ku ya 11 Ugushyingo 2004. Mu minsi 30 y'iburanisha, Porokireri yahamagaje abatangabuhamya 16, barimo umupererezi w'Urukiko kandi yatanze ibimenyetso gihamya 56. Ku itariki ya 11 n'iya 12 Ugushyingo habaye inama yo kwiga uko iburanisha ryari gukomeza.

461. Ku itariki ya 1 Nzeri 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga Urugereko kutemerera Porokireri gutanga ibimenyetso ku byaha byaba byarabaye mu gihe kitari mu bubasha bw'Urukiko. Muri icyo cyifuzo, Ubwunganizi bwanavugaga ko ibyo birego bidasobanutse[479]. Mu cyemezo Urugereko rwafashe mu magambo ku itariki ya 13 Nzeri 2004, rwemereye Porokireri gukura KTB kuri lisiti y'abatangabuhamya. Ku itariki ya 23 Nzeri 2004, Urugereko rwafashe icyemezo mu magambo giha Porokireri uruhushya rwo gukura KEC na KSQ kuri lisiti y'abatangabuhamya bashinja. Uwo munsi, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gutegeka Porokireri gukora iperereza kuri YH ku byerekeranye n'ibyaha yaba yarakoze no ku buhamya bw'ikinyoma yaba yaratanze. Ku itariki ya 29 Nzeri 2004, Urugereko rwongereye igihe rwari rwatanze cyo kwimurira Arusha abatangabuhamya bashinja biswe KDD, YG, YC, ANX, AMH na KEI[480].

462. Ku itariki ya 4 Ukwakira 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga kutakira ubuhamya bushinja bwa KSM. Ababuranyi basabwe kuzavuga ibyo bibazo mu myanzuro nsozarubanza yabo[481]. Uwo munsi, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga guhabwa amadosiye

[479] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kutakira ibimenyetso bishinja,, 1 Nzeri 2004.

[480] Icyemezo ku cyifuzo cyihutirwa cyane cya Porokireri gisaba Urugereko kongera igihe rwari rwatanze cyo kwimura abatangabuhamya hashingiwe ku Ngingo ya 90 *bis* (F), 29 Nzeri 2004.

[481] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kutakira ubuhamya bwa KSM, 4 Ukwakira 2004.

y'imanza z'abatangabuhamya bashinja. Porokireri ntiyari afite ayo madosiye kandi igihe cyari kitaragera ngo ategekwe kuyasaba[482].

463. Ku itariki ya 27 Ukwakira 2004, Urugereko rwafashe icyemezo mu magambo cyemerera Porokireri gukura AMH, YD na YG kuri lisiti y'abatangabuhamya bashinja. Ku itariki ya 28 Ukwakira 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gukura muri dosiye ubuhamya KDD yatanze hejuru y'indahiro[483]. Uwo munsi, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gutegeka Leta y'u Rwanda gutanga dosiye y'urubanza rwa KDD. Urugereko rwasobanuye ko Ubwunganizi butagaragaje ko, mbere yo gutanga icyo cyifuzo, bwari bwaragerageje kubona izo nyandiko[484]. Ku itariki ya 28 Ukwakira 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga guhamagaza mu Rukiko KEL kubera ko Ubwunganizi butagaragaje impamvu yumvikana yari gutuma uwo mutangabuhamya yongera guhamagazwa[485].

464. Ku itariki ya 1 Ugushyingo 2004, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gukura muri dosiye y'urubanza igice cy'ubuhamya KDD yatanze mu Rukiko. Ubwunganizi bwavugaga ko mu Nyandiko y'ibirego butamenyeshejwe ibyavuzwe n'uwo mutangabuhamya. Urugereko rwavuze ko igihe ruzaba rusesengura ibimenyetso aribwo ruzafata icyemezo ku gaciro kahabwa ubwo buhamya[486]. Uwo munsi, Urugereko rwategetse Porokireri gukora

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[482] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba guhabwa amadosiye y'imanza hashingiwe ku Ngingo ya 68 y'Amategeko, 4 Ukwakira 2004.

[483] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gukura muri dosiye ubuhamya KDD yatanze hejuru y'indahiro, 28 Ukwakira 2004.

[484] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka Leta y'u Rwanda gufatanya n'Urukiko, hashingiwe ku Ngingo ya 28, 28 Ukwakira 2004.

[485] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba guhamagaza KEL ngo abazwe ibindi bibazo binyomoza, 28 Ukwakira 2004.

[486] Icyemezo kirebana no gushyira muri dosiye ubuhamya bwa KDD, 1 Ugushyingo 2004.

uko ashoboye ngo abone dosiye y'urubanza rw'umutangabuhamya wiswe KDD[487].

465. Ku itariki ya 3 Ugushyingo 2004, Urugereko rwafashe icyemezo mu magambo cyo kwakira icyifuzo cy'Ubwunganizi cyarusabaga gushyira muri dosiye ubuhamya bwanditse bwa YA bufite aho buhuriye n'ibyo YF yavuze ubwo bwamubazaga ibibazo binyomoza.

466. Ku itariki ya 10 Ugushyingo 2004, Urugereko rwafashe icyemezo mu magambo cyemerera Porokireri gukura umutangabuhamya w'impuguke witwa Alison Des Forges kuri lisiti y'abatangabuhamya be. Uwo munsi, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga kumenya niba YH na KXX barimo gukurikiranwa mu nkiko ngo kubera ko abo batangabuhamya bishinja mu buhamya batanze mu Rukiko[488].

3. ITANGWA RY'IBIMENYETSO BISHINJURA

467. Ubwunganizi bwatangiye gutanga ibimenyetso bishinjura ku itariki ya 13 Ukuboza 2004. Ibyo bimenyetso byatanzwe mu byiciro bibiri by'iburanisha bikurikira: kuva ku itariki ya 13 kugera ku ya 16 Ukuboza 2004 no kuva ku itariki ya 14 Gashyantare kugera ku ya 24 Werurwe 2005. Mu minsi 23 y'iburanisha, Ubwunganizi bwahamagaje abatangabuhamya 20 barimo Simba kandi bwatanze ibimenyetso gihamya 159.

468. Ku itariki ya 25 Mutarama 2005, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gushyira muri dosiye ubuhamya bwanditse bw'umuntu wavuze ko adashaka kwitaba Urukiko, kubera ko butari bwujuje ibisabwa n'Ingingo ya 92 *bis* y'Amategeko[489]. Ku itariki ya 31 Mutarama 2005,

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[487] Icyemezo ku bintu byerekeranye na dosiye y'urubanza rwa KDD, 1 Ugushyingo 2004.

[488] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba amakuru arebana na YH na KXX, 10 Ugushyingo 2004.

[489] Icyemezo kirebana no gushyira muri dosiye inyandikomvugo y'ubuhamya bwatanzwe mbere, 25 Mutarama 2005.

Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga Abacamanza kujya gusura aho ibivugwa byabereye mu Rwanda. Urugereko rwavuze ko rutabona akamaro k'urwo rugendo, urebye aho urubanza rwari rugeze[490]. Ku itariki ya 4 Gashyantare 2005, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gutegeka abatangabuhamya biswe BJK1, IMG na ISG kwitaba Urukiko. Cyakora, rwemeye ko batanga ubuhamya bwabo bari i Kigali, hakoreshejwe ikoranabuhanga ry'amajwi n'amashusho (*video-link*)[491]. Ku itariki ya 7 Gashyantare 2005, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyarusabaga gutegeka SHB kwitaba Urukiko maze rugira inama Ubwunganizi kongera kugerageza kubonana na we[492].

469. Ku itariki ya 9 Gashyantare 2005, Urugereko ntirwemeye icyifuzo cy'Ubwunganizi cyasabaga ko FMP1 yatanga ubuhamya ari hanze y'Urukiko ariko rwategetse ko yabutanga ari i La Haye, hakoreshejwe ikoranabuhanga ry'amajwi n'amashusho[493]. Ku itariki ya 17 Gashyantare 2005, Urugereko rwategetse ko abatangabuhamya 8 bafunzwe (HBK, NGJ2, HNJ, GGJ1, RGJ1, BGN3, BGN1 na KGJ2) bimurirwa Arusha[494]. Mu ibaruwa yo ku itariki ya 9 Werurwe 2005, Ubwunganizi bwamenyekanishije ko bukuye abatangabuhamya biswe AJG5, BRJ1, HNJ, AJK2 na SKG kuri lisiti y'abatangabuhamya bashinjura. Mu iburanisha ryo ku itariki ya 14 Werurwe 2005, Ubwunganizi bwamenyeje Urugereko ko rwifuza gukura HNJ, SHB, IMA, IMG na ISG kuri lisiti y'abatangabuhamya bashinjura. Uwo munsi, Urugereko rwemeje ko

[490] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kujya mu Rwanda kureba ahantu ibivugwa byabereye, 31 Mutarama 2005.

[491] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka ko IMG, ISG na BJK batanga ubuhamya hifashishwe ikoranabuhanga ry'amajwi n'amashusho *(video-Link)*, 4 Gashyantare 2004

[492] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka SHB kuza mu Rukiko gutanga ubuhamya, 7 Gashyantare 2005.

[493] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko kumvira ubuhamya bwa FMP1 hanze y'Urukiko, 9 Gashyantare 2005.

[494] Itegeko ryo kwimura abatangabuhamya bafunze, 17 Gashyantare 2005.

Ubwunganizi butari bugifite impamvu yo kurusaba gutegeka IMA kurwitaba kuko bwari bwakuye uyu mutangabuhamya kuri lisiti y'abatangabuhamya bashinjura[495]. Mu ibaruwa rwanyujije ku rubuga rwa interineti ku itariki ya 21 Werurwe 2005, Ubwunganizi bwamenyekanishije ko bukuye BGN3, BGJ1 na SAG kuri lisiti y'abatangabuhamya bashinjura. Mu nama ntegurarubanza yo ku itariki ya 29 Werurwe 2005, Ubwunganizi bwakuye GGJ1, KGJ2 na BJK3 kuri lisiti y'abatangabuhamya bashinjura. Byongeye kandi, bwavuze ko raporo y'umutangabuhamya w'impuguke wabwo iramutse yemewe nk'ikimenyetso butakwirirwa bumuhamagaza gutanga ubuhamya mu Rukiko. Ku itariki ya 29 Werurwe 2005, Porokireri yavuze ko atemera ko uwo mutangabuhamya afite ubushobozi bwo kuba impuguke kandi ko arwanya ibyo avuga mu myanzuro ye, ariko yanavuze ko atifuza kumubaza ibibazo binyomoza.

470. Ku itariki ya 4 Gicurasi 2005, Urugereko ntirwemeye ikindi cyifuzo cy'Ubwunganizi cyongeraga kurusaba kujya gusura aho ibivugwa byabereye mu Rwanda. Urugereko rwasanze urwo rugendo rutari ngombwa muri uru rubanza[496]. Uwo munsi, Urugereko rwemeye Icyifuzo cy'Ubwunganizi cyarusabaga gutegeka abatangabuhamya bashinjura biswe BJK1 na HBK1 kuza gutanga ubuhamya mu Rukiko[497].

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[495] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka umutangabuhamya kurwitaba, 14 Werurwe 2005.

[496] Icyemezo ku cyifuzo cy'Ubwunganizi cyongera gusaba Urugereko kujya mu Rwanda gusura ahantu ibivugwa byabereye, 4 Gicurasi 2005.

[497] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka abatangabuhamya kwitaba Urukiko, 4 Gicurasi 2005.

4. IBINDI BIREBANA N'IMIBURANISHIRIZE

471. Ku itariki ya 22 Kamena 2005, ababuranyi batanze imyanzuro nsozarubanza yanditse. Ku itariki ya 7 Nyakanga 2004, Urugereko rwafashe icyemezo ku byifuzo byari byaratanzwe mu iburanisha bisaba gushyira muri dosiye ibimenyetso binyuranye[498]. Ku itariki ya 7 n'iya 8 Nyakanga 2005, ababuranyi bombi batanze imyanzuro nsozarubanza mu magambo. Mu iburanisha ryo ku itariki ya 7 Nyakanga, Perezida w'Urugereko yamenyesheje ababuranyi ko nyuma y'imishyikirano yagiranye n'Ishami rishinzwe gufasha abatangabuhamya n'abakorewe ibyaha mu byumweru bibiri byabanje, yasanze bigaragara neza ko BJK1 yari agitsimbaraye ku cyemezo cye cyo kutitaba Urukiko. HBK yari yarabanje kuvuga ko yemeye kuza gutanga ubuhamya ariko Urugereko ruza kumenyeshwa ko bitari gushoboka kumuzana Arusha mbere y'imyanzuro nsozarubanza mu magambo, kandi ababuranyi bari babimenyeshejwe mbere yaho muri icyo cyumweru. Ubwunganizi ntibwarwanyije ko ababuranyi batanga imyanzuro nsozarubanza mu magambo nk'uko byari biteganyijwe, ndetse ntibwanarwanyije ko iburanisha ripfundikirwa.

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[498] Icyemezo ku birebana no gushyira bimwe mu bimenyetso muri doiye, 7 Nyakanga 2005.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

UMUGEREKA WA II: UBUKEMURAMANZA N'IBISOBANURO BY'AMAGAMBO YAKORESHEJWE

1. UBUKEMURAMANZA

1.1 URUKIKO MPUZAMAHANGA MPANABYAHA RWASHYIRIWEHO U RWANDA (TPIR)

BAGILISHEMA

Urubanza Porokireri aburana na Ignace Bagilishema, N° ICTR-1995-1A-T, Inyandiko y'urubanza mu rw'iremezo, 7 Kamena 2001.

Urubanza Porokireri aburana na Ignace Bagilishema, N° ICTR-1995-1A-A, Inyandiko y'urubanza mu bujurire, 12 Ukuboza 2002.

BAGOSORA NA BAGENZI BE

Urubanza Porokireri aburana na Théoneste Bagosora na bagenze be, N° ICTR-98-41-T, Icyemezo ku cyifuzo cyerekeranye no gushyira iterabwoba ku mutangabuhamya (Urugereko rwa Mbere rw'Iremezo), 28 Ukuboza 2004.

Urubanza Porokireri aburana na Théoneste Bagosora na bagenze be, N° ICTR-98-41-AR93 & ICTR-98-41-AR93.2, Icyemezo ku bujurire bwa Porokireri bwerekeranye no kutakira ibimenyetso (Urugereko rw'Ubujurir(e), 19 Ukuboza 2003.

GACUMBITSI

Urubanza Porokireri aburana na Sylvestre Gacumbitsi, N° ICTR-2001-64-T, Inyandiko y'urubanza mu rw'iremezo, 17 Kamena 2004.

KAJELIJELI

Urubanza Porokireri aburana na Juvénal Kajelijeli, N° ICTR-99-44-T, Inyandiko y'urubanza mu rw'iremezo, 1 Ukuboza 2003.

KAMBANDA

Urubanza Porokireri aburana na Jean Kambanda, N° ICTR-97-23-S, Inyandiko y'urubanza mu rw'iremezo, 4 Nzeri 1998.

KAMUHANDA

Urubanza Porokireri aburana na Jean de Dieu Kamuhanda, N° ICTR-1999-54A-T, Inyandiko y'urubanza mu rw'iremezo, 22 Mutarama 2004.

Urubanza Porokireri aburana na Jean de Dieu Kamuhanda, N° ICTR-1999-54A-A, Inyandiko y'urubanza mu bujurire, 19 Nzeri 2005.

KAYISHEMA NA RUZINDANA

Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana, N° ICTR-1995-1-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gicurasi 1999.

Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana, N° ICTR-1995-1-A, Inyandiko y'urubanza mu bujurire (impamvu), 1 Kamena 2001.

MUHIMANA

Urubanza Porokireri aburana na Mikaeli Muhimana, N° ICTR-95-1B-T, Inyandiko y'urubanza mu rw'iremezo, 28 Mata 2005.

MUSEMA

Inyandiko Porokireri aburana na Alfred Musema, N° ICTR-1996-13-T, Inyandiko y'urubanza mu rw'iremezo, 27 Mutarama 2000.

Urubanza Porokireri aburana na Alfred Musema, N° ICTR-1996-13-A, Inyandiko y'urubanza mu bujurire, 16 Ugushyingo 2001.

NDINDABAHIZI

Urubanza Porokireri aburana na Emmanuel Ndindabahizi, N° ICTR-2001-71-I, Inyandiko y'urubanza mu rw'iremezo, 15 Nyakanga 2004.

NIYITEGEKA

Urubanza Porokireri aburana na Eliézer Niyitegeka, N° ICTR-1996-14-T, Inyandiko y'urubanza mu rw'iremezo, 16 Gicurasi 2003.

Urubanza Porokireri aburana na Eliézer Niyitegeka, N° ICTR-1996-14-A, Inyandiko y'urubanza mu bujurire, 9 Nyakanga 2004.

NTAGERURA NA BAGENZI BE

Urubanza Porokireri aburana na André Ntagerura na bagenzi be, N° ICTR-1999-46-T, Inyandiko y'urubanza mu rw'iremezo, 25 Gashyantare 2004.

NTAHOBALI NA NYIRAMASUHUKO

Urubanza Arsène Shalome Ntahobali na Pauline Nyiramasuhuko baburana na Porokireri, N° ICTR-97-21-AR73, Icyemezo ku bujurire bwa Pauline Nyiramasuhuko na Arsène Shalom Ntahobali bwerekeranye n'«Icyemezo ku cyifuzo cyihutirwa cyane cy'Ubwunganizi gisaba Urugereko kudashyira muri dosiye ibice bimwe by'ubuhamya bwa RV na QBZ » (Urugereko rw'Ubujurire), 2 Nyakanga 2004.

NTAKIRUTIMANA

Urubanza Porokireri aburana na Elizaphan Ntakirutimana na Gérard Ntakirutimana, N° ICTR-1996-10 & ICTR-1996-17-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gashyantare 2004.

Urubanza Porokireri aburana na Elizaphan Ntakirutimana na Gérard Ntakirutimana, N° ICTR-1996-10A & ICTR-1996-17-A, Inyandiko y'urubanza mu bujurire, 13 Ukuboza 2004.

RUTAGANDA

Urubanza Porokireri aburana na Georges Anderson Nderubumwe Rutaganda, N° ICTR-1996-3-T, Inyandiko y'urubanza mu rw'iremezo, 6 Ukuboza 1999.

*Urubanza Porokireri aburana na Georges Anderson Nderubumwe Rutaga*nda, N° ICTR-1996-3-A, Inyandiko y'urubanza mu bujurire, 26 Gicurasi 2003.

RWAMAKUBA

Urubanza André Rwamakuba aburana na Porokireri, N° ICTR-98-44-AR-72.4, Icyemezo ku bujurire bwerekeranye n'ikoreshwa ry'ihange ry'umugambi mubisha uhuriweho wo gukora jenoside, 22 Ukwakira 2004.

SEMANZA

Porokireri aburana na Laurent Semanza, N° ICTR-1997-20-T, Inyandiko y'urubanza mu rw'iremezo, 15 Gicurasi 2003.

Urubanza Porokireri aburana na Laurent Semanza, N° ICTR-1997-20-A, Inyandiko y'urubanza mu bujurire, 20 Gicurasi 2005.

Urubanza Laurent Semanza aburana na Porokireri, N° ICTR-1997-20-A, Icyemezo (Urugereko rw'Ubujurire), 31 Gicurasi 2000.

SERUSHAGO

Urubanza Porokireri aburana na Omari Serushago, N° ICTR-98-39-A, Inyandiko y'urubanza mu bujurire, 6 Mata 2000.

1.2 URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO ICYAHOZE CYITWA YUGOSILAVIYA (TPIY)

BABIC

Urubanza Porokireri aburana na Milan Babic, N° IT-03-72-A, Inyandiko y'urubanza mu bujurire ku gihano, 18 Nyakanga 2005.

DELALIC NA BAGENZI BE

Urubanza Porokireri aburana na Zejnil Delalić na bagenzi be, N° IT-96-21-A, Inyandiko y'urubanza mu bujurire, 20 Gashyantare 2001.

KRNOJELAC

Urubanza Porokireri aburana na Milorad Krnojelac, N° IT-97-25-A, Inyandiko y'urubanza mu bujurire, 17 Nzeri 2003.

Urubanza Porokireri aburana na Milorad Krnojelac, N° IT-97-25-T, Icyemezo ku myandikire y'Inyandiko y'ibirego yahinduwe ya kabiri, (Urugereko rwa Mbere rw'Iremezo), 11 Gicurasi 2000.

KRSTIĆ

Urubanza Porokireri aburana na Radislav Krstić, N° IT-97-33-A, Inyandiko y'urubanza mu bujurire, 19 Mata 2004.

KUNARAC NA BAGENZI BE

Urubanza Porokireri aburana na Dragoljub Kunarac na bagenzi be, N° IT-96-23-T & 96-23/1, Inyandiko y'urubanza mu bujurire, 12 Kamena 2002.

***KUPREŠKIĆ* NA BAGENZI BE**

Urubanza Porokireri aburana na Kupreškić, N° IT-95-16-A, Inyandiko y'urubanza mu bujurire, 23 Ukwakira 2001.

KVOCKA NA BAGENZI BE

Urubanza Porokireri aburana na Miroslav Kvocka na bagenzi be, N° IT-98-30/1-A, Inyandiko y'urubanza mu bujurire, 28 Gashyantare 2005.

NIKOLIC

Urubanza Porokireri aburana na Dragan Nikolic, N° IT-94-2-A, Inyandiko y'urubanza mu bujurire ku gihano, 4 Gashyantare 2005.

TADIĆ

Urubanza Porokireri aburana na Duško Tadić, N° IT-94-1-A, Inyandiko y'urubanza mu bujurire, 15 Nyakanga 1999.

VASILJEVIĆ

*Urubanza Porokireri aburana na Mitar Vasilje*vić, N° IT-98-32-A, Inyandiko y'urubanza mu bujurire, 15 Nyakanga 2004.

2. IBISOBANURO BY'AMAGAMBO YAKORESHEJWE

Amategeko

Amategeko Agenga Imiburanishirize n'Itangwa ry'ibimenyetso.

CDR

Impuzamugambi ziharanira Repubulika

CIPEP

Centre Intercommunal de Perfectionnement du Personnel [Ikigo mpuzamakomine gihugura abakozi]

CZN

Umushinga wa *Crête-Zaïre-Nil*

EMUJECO

Entreprise Murenzi Jean & Co

FPR

Front Patriotique Rwandais [Umuryango wa FPR]

Imyanzuro mbanzirizarubanza

Urubanza Porokireri aburana na Aloys Simba, N° 01-76-T, Imyanzuro mbanzirizarubanza ya Porokireri, hakurikijwe Ingingo ya 73 *bis* (B) (i) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, nk'uko yahinduwe hashingiwe ku cyemezo cyo ku itariki ya 6 Gicurasi 2004 Urugereko rwafashe ku cyifuzo cy'ingoboka mbanzirizarubanza cyerekeranye n'inenge z'imyandikire ziri mu Nyandiko y'ibirego yahinduwe (Urugereko rwa Mbere rw'Iremezo), yatanzwe ku wa 10 Gicurasi 2004.

Imyanzuro nsozarubanza ya Porokireri

Urubanza Porokireri aburana na Aloys Simba, N° 01-71-T, Imyanzuro nsozarubanza ya Porokireri yanditse, yatanzwe ku wa 22 Kamena 2005.

Imyanzuro nsozarubanza y'Ubwunganizi

Urubanza Porokireri aburana na Aloys Simba, N° 01-76-T, Imyanzuro y'Ubwunganizi irwanya Inyandiko y'ibirego yahinduwe ku itariki ya 10 Gicurasi 2004, yatanzwe ku wa 22 Kamena 2005.

Inyandiko y'ibirego

Urubanza Porokireri aregamo Aloys Simba, N° 01-76-T, Inyandiko y'ibirego yahinduwe hashingiwe ku cyemezo cyo ku wa 6 Gicurasi 2004, yatanzwe ku wa 10 Gicurasi 2004.

Inyandikomvugo z'iburanisha

Inyandikomvugo z'iburanisha zose zifashishijwe ni iziri mu cyongereza, kereka biramutse bivuzwe ukundi.

MDR

Muvoma iharanira demokarasi muri Repubulika

MRND

Muvoma Revolisiyoneri Nasiyonali iharanira Demokarasi n'Amajyambere

PSD

Ishyaka riharanira Demokarasi n'Imibireho y'Abaturage.

Paji y'Ubwanditsi bw'Urukiko

Ni ipaji yo mu idosiye y'imanza icungwa n'Ubwanditsi bw'Urukiko.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

UMUGEREKA WA III: INYANDIKO Y'IBIREGO

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

Urubanza N° ICTR-2001-76-1

Umwimerere: Icyongereza

POROKIRERI

arega

ALOYS SIMBA

INYANDIKO Y'IBIREGO YAHINDUWE

Hashingiwe ku cyemezo cyo ku wa 6 Gicurasi 2004

I. 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 arega :

Aloys Simba

1. **JENOSIDE**, iki cyaha kitamuhama akaba yaryozwa icyaha gikurikira :
2. **KUBA ICYITSO CY'ABAKOZE JENOSIDE**
3. **ITSEMBATSEMBA NK' ICYAHA CYIBASIYE INYOKOMUNTU** n'
4. **UBUHOTOZI NK' ICYAHA CYIBASIYE INYOKOMUNTU**

Ibyo byaha biteganywa n'Ingigo ya 2 n'iya 3 za Sitati y'Urukiko, nk'uko bisobanurwa hasi:

II. UREGWA

Aloys Simba yavukiye muri Komine ya Musebeya, Perefegitura ya Gikongoro muri Repubulika y'u Rwanda ku itariki ya 28 Gashyantare 1938. Igihe ibivugwa muri iyi Nyandiko y'ibirego byababaga, Aloys Simba yari Liyetona Koloneli mu Ngabo z'u Rwanda ari mu kiruhuko cy'izabukuru. Nyuma yo kuva mu ngabo z'igihugu kubera ikiruhuko cy'izabukuru yagiyemo mu Ukuboza 1988, yatorewe kuba umudepite mu Nteko Ishinga Amategeko maze akora iyo mirimo kuva mu mwaka wa 1989 kugeza mu wa 1993. Kuva ku itariki ya 5 Nyakanga 1991 kugeza ku ya 12 Nzeri 1993, Aloys Simba yari Perezida wa MRND muri Perefegitura ya Gikongoro. Hagati muri Gicurasi 1994, Minisitiri w'Ingabo muri Guverinoma y'Agateganyo yamugize umujyanama muri gahunda y'ukwirwanaho kw'abaturage muri Perefegitura ya Gikongoro n'iya Butare.

III. IBIREGO N'INCAMAKE Y'IBYABAYE

Ikirego cya 1: Jenoside

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Aloys Simba** icyaha cya **Jenoside**, giteganywa n'Ingingo ya 2(3)(a), (2)(a) na (b) ya Sitati, kubera ko ku itariki ya 7 Mata 1994 n'iya 30 Gicurasi 1994 cyangwa hagati y'ayo matariki, **Aloys Simba** yagize uruhare mu bikorwa byo kwica abaturage b'Abatutsi cyangwa ibyo kubatera ububabare buzahaza umubiri muri Perefegitura ya Gikongoro n'iya Butare, mu Rwanda, agamije kurimbura abantu bose bagize ubwoko cyangwa igice cyabo.

Hashingiwe ku Ngingo ya 6(1) ya Sitati : kubera ibikorwa bye byo gucura umugambi wa jenoside, guhamagarira abantu kuyikora ndetse no kubibategeka, kuyikora ubwe cyangwa, mu bundi buryo, ubwo ari bwo bwose, gushyigikira abandi bantu mu gucura umugambi wa jenoside, mu gutegura no mu gutsotsoba icyo cyaha. Yakoze ibyo bintu afatanyije n'abandi bantu mu rwego rw'umugambi mubisha uhuriweho. **Na/cyangwa**

Hashingiwe ku Ngingo ya 6(3) ya Sitati : kubera ko Uregwa yari azi kandi agomba no kumenya ibikorwa byakozwe n'Interahamwe, abantu bitwara gisirikare n'abasiviri yategekaga cyangwa ibyo abo bantu bateshutse gukora, ariko ntafate ingamba za ngombwa kandi zishyize mu gaciro ngo ahagarike ibyo bikorwa cyangwa abiburizemo,

ategeke ababikoraga kwitwara neza cyangwa abahanire ibyo bakoze mu rwego rwo gutegura no gutsotsoba icyaha aregwa.

Cyangwa, iki cyaha kiramutse kitamuhamye, akaba yarozwa icyaha gikurikira :

Ikirego cya 2: Kuba icyitso cy'abakoze jenoside

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Aloys Simba** icyaha cyo kuba **Icyitso cy'abakoze Jenoside**, giteganywa n'Ingingo ya 2(3)(e), na (2)(a)na (b) ya Sitati, kubera ko ku itariki ya 7 Mata 1994 n'iya 30 Gicurasi 1994 cyangwa hagati y'ayo matariki, **Aloys Simba** yagize uruhare mu bikorwa byo kwica Abatutsi cyangwa ibyo kubatera ububabare bubazahaza umubiri cyangwa mu mutwe muri Perefegitura ya Gikongoro n'iya Butare, mu Rwanda, agamije kurimbura abantu bose bagize ubwoko cyangwa igice cyabo.

Hashingiwe ku Ngingo ya 6(1) ya Sitati: kubera ibikorwa bye byo gucura umugambi w'icyo cyaha, guhamagarira abandi bantu kugikora ndetse no kubibategeka, kugikora ubwe cyangwa, mu bundi buryo, ubwo ari bwo bwose, gushyigikira abandi bantu mu gucura umugambi w'icyo cyaha, mu kugitegura no mu kugitsotsoba. Yakoze ibyo bintu afatanyije n'abandi mu rwego rw'umugambi mubisha uhuriweho.

1. Hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994, buri Munyarwanda gakondo yabarirwaga muri bumwe mu bwoko bukurikira: Abatutsi, Abahutu n'Abatwa.

2. Abakorewe ibyaha, bavugwa muri iyi Nyandiko y'ibirego, bari abasiviri b'Abatutsi n'Abasiviri b'Abahutu batari intagondwa bo muri Perefegitura ya Gikongoro n'iya Butare, ndetse n'abandi basiviri bari barahungiye muri ayo maperefegitura.

Incamake y'ibyabaye bivugwa mu kirego cya mbere n'icya kabiri:

3. **Aloys Simba** yari Liyetona Koloneli mu Ngabo z'u Rwanda (FAR) ari mu kiruhuko cy'izabukuru. Cyakora, mu gihe ibivugwa muri iyi Nyandiko y'ibirego byabaga, **Aloys Simba** yitwaye nk'aho yari akiri mu gisirikare. Muri Mata na Gicurasi 1994, yambaraga imyenda ya gisirikare mu ruhame ndetse, rimwe na rimwe, akagenda mu modoka za gisirikare.

4. Muri Mutarama 1993, nk'umusirikare n'umunyapolitiki mu karere ke, **Aloys Simba** yayoboye mitingi muri Perefegitura ya Gikongoro yo kurwanya Amasezerano ya Arusha, mu gihe abandi bayobozi ba MRND n'aba CDR bari bayoboye ibikorwa by'urugomo hirya no hino mu gihugu kugira ngo baburizemo inzira y'amahoro.

5. Nka ofisiye mukuru, **Aloys Simba** ntiyari akuriwe na perefe nk'uko byari bimeze ku bandi bategetsi ba gisiviri.

6. Hagati ya Mata na Nyakanga 1994, **Aloys Simba** yafatanyaga na **Laurent Bucyibaruta** kuyobora inama z'Inama y'umutekano ya Perefegitura.

7. **Aloys Simba** yari Depite mu Nteko Ishinga Amategeko mu Rwanda kandi yari umunyapolitiki w'icyamamare muri Perefegitura ya Gikongoro.

8. Ububasha bwa **Aloys Simba** bwakomokaga kandi ku kuba yarakoranye cyane na Perezida Habyarimana. Amateka y'u Rwanda nk'uko yigishwaga mu mashuri kuva ahagana mu mwaka wa 1975 kugeza muri za 80 yavugaga **Aloys Simba** nk'umuntu w'intwari, wari warafashije Perezida Habyarimana kujya ku butegetsi mu mwaka wa 1973.

9. Gikongoro yari imwe mu maperefegitura akennye kurusha andi mu Rwanda, ariko **Aloys Simba** yari umwe mu baturage bayo bakize kurusha abandi.

10. **Aloys Simba** yari afite ububasha budakomoka ku mategeko bwatumaga ategeka kandi akagenzura abasirikare, abajandarume, abarezerivisite, Interahamwe n'Abasiviri b'Abahutu muri Perefegitura ya Gikongoro no mu bice bimwe bya Perefegitura ya Butare. Ububasha bwe budashingiye ku mategeko bwaje gushimangirwa na Guverinoma y'Agateganyo ubwo, muri Gicurasi 1994, Minisitiri w'Ingabo yamugiraga « umujyanama » muri gahunda y'ukwirwanaho kw'abaturage muri Perefegitura ya Butare n'iya Gikongoro

11. **Aloys Simba** yahabwaga lisansi n'ubwo yari yarabaye ingume, bityo bikamwongerera ububasha muri Komine ya Musebeya.

12. Ubwo jenoside yakorwaga mu mwaka wa 1994, **Aloys Simba** yari amaze nibura umwaka umwe ayitegura muri Perefegitura ya Gikongoro n'iya Butare.

13. Muri mitingi yabereye mu isoko rya Kirambi, muri Komine ya Rukondo, mu mwaka wa 1994, hasigaye iminsi mike ngo Perezida Habyarimana apfe, **Aloys Simba** yakusanyije amafaranga yo kugura intwaro zo kurwanya « inyenzi ». Icyo gihe, habonetse akayabo k'amafaranga.

14. Mu gucura umugambi w'ubwicanyi bwabereye muri Perefegitura ya Gikongoro n'iya Butare muri Mata na Gicurasi 1994 no mu kubutegura, **Aloys Simba** yafatanyije n'abantu bakurikira:

- **Faustin Sebuhura**, wari Kapiteni muri jandarumori yo ku Gikongoro ;
- **Laurent Bucyibaruta**, wari Perefe wa Perefegitura ya Gikongoro;
- **Damien Biniga**, wari Superefe wa Superefegitura ya Munini (Gikongoro) ;
- **Denys Kamodoka**, wari umuyobozi w'Uruganda rw'icyayi rwa Kitabi (Gikongoro);
- **Juvénal Ndabarinze**, wari umuyobozi w'Uruganda rw'icyayi rwa Mata (Gikongoro);
- **Liyetona Koloneli Augustin Rwamanya**, wari umusirikare mukuru ushinzwe ibikoresho mu Ngabo z'u Rwanda (ex-FAR);
- **Joachim Hategekimana**, wari Superefe wa Superefegitura ya Kaduha (Gikongoro);
- **Charles Munyaneza**, wari Burugumesitiri wa Komine ya Kinyamakara;
- n'**abandi bantu** Porokirireri atazi.

15. Hagati ya 1991 na Kamena 1994, **Aloys Simba** n'abantu bose bamaze kuvugwa cyangwa bamwe muri bo, bakundaga guhurira ahantu hanyuranye ngo bacure umugambi wa jenoside. Mu hantu bahuriraga harimo muri butiki ya **Israel Nsengiyumva** no mu kabari ka **Landouald Karamage** kandi aho hombi ni kuri santeri y'ubucuruzi ya Gasarenda, muri Komine ya Mudasomwa. Banahuriraga mu kigo cya jandarumori mu mujyi wa Gikongoro. By'umwihariko, muri Mata na Gicurasi 1994, abantu bose bamaze kuvugwa cyangwa bamwe muri bo, bakundaga guhura mbere y'ibitero kugira ngo babone uko baha amabwiriza abakuru b'Interahamwe. Nyuma y'ibyo bitero, barongeraga bagahura kugira ngo bahane amakuru ku kuntu ibintu byagenze kandi biyakire bishimira ibyakozwe.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

16. Mu rwego rwo gucura umugambi wa jenoside no kuyitegura, hagati ya Werurwe 1993 na Mata 1994, bari ku Kigo cy'amakomine gihugura abakozi, CIPEP *[Centre intercommunal de perfectionnement du personnel]* ku Gikongoro, **Aloys Simba** n'abandi bantu bitabiriye igikorwa cyo gushaka Abahutu bitwaraga gisirikare no kubaha imyitozo, gushaka intwaro no kuzitanga, ndetse bahamagarira abandi bantu kwica Abatutsi.

17. Kuva muri Werurwe 1993 kugeza muri Mata 1994, ari kuri CIPEP i Gikongoro, **Aloys Simba** yacuze umugambi wo gushaka no guha imyitozo urubyiruko rw'Interahamwe z'Abahutu. Yateguye icyo gikorwa kandi aracyitabira. Urwo rubyiruko rwafashije abandi mu bitero byagabwe ahantu hanyuranye muri Perefegitura ya Gikongoro harimo i Kaduha, i Kibeho, i Murambi no mu Cyanika hamwe no muri Komine ya Ruhashya muri Perefegitura ya Butare.

18. By'umwihariko, muri Werurwe 1993 cyangwa hafi y'icyo gihe, **Aloys Simba,** afatanyije na **Perefe Bucyibaruta** na **Kapiteni Faustin Sebuhura,** yahuguye abantu bari bashinzwe gutoza imitwe yitwara gisirikare kandi bakoresha ibarura ry'Abahutu n'Abatutsi bose bari batuye muri perefegitura. Kubera amabwiriza ya Simba, abasore b'Abahutu mu makomine anyuranye ya Perefegitura ya Gikongoro baratoranyijwe maze bahabwa imyitozo ya gisirikare mu ishyamba rya Nyungwe n'ahandi hantu. Iyo myitozo yatangwaga n'abarezerivisite, abaporisi ba komine n'abandi bantu Porokireri atazi. By'umwihariko:

a) Muri Werurwe 1993, **Aloys Simba** yateguye kandi ahagarikira amahugurwa y'ababurugumesitiri, abakonseye b'amasegiteri n'abaresiponsabure b'amaserire muri Perefegitura ya Gikongoro. Ayo mahugurwa yabereye kuri CIPEP mu mujyi wa Gikongoro. Mu isoza ry'amahugurwa y'aba resiponsabure, buri wese muri bo yahawe amakaye abiri maze basabwa kwandikamo abaturage bo mu maserire yabo. Ikaye imwe yari igenewe kwandikwamo Abahutu naho indi ari iyo kwandikwamo Abatutsi.

b) **Aloys Simba** yagennye ko iyo myitozo y'abantu bitwaraga yari kujya ibera ku Kigeme (muri Komine ya Nyamagabe) no ku Mbuga (muri Komine ya Mudasomwa).

c) Muri Mutarama 1994, **Aloys Simba** yategetse burugumesitiri n'abakonseye ba Komine ya Kinyamakara gutoranya abasore bo guhabwa imyitozo ya gisirikare. Iyo myitozo yaje kubera mu kibaya cya Mwogo mu gihe cy'ibyumweru bitatu.

19. Mu gihe cy'ibyabaye kuva muri Mata kugera muri Kamena 1994, **Aloys Simba** yahaye intwaro abantu bitwara gisirikare n'abasiviri b'Abahutu bakoze ubwicanyi muri Perefegitura ya Gikongoro n'iya Butare. Yahaye imbunda abantu bitwara gisirikare kugira ngo bice Abatutsi, kandi kenshi abikora yifashishije abategetsi bo muri ako karere. Yahaye rero intwaro ba burugumesitiri kugira ngo bazihe abakonseye b'amasegiteri n'abaresiponsabure b'amaserire. Muri iki gikorwa, yafatanyije na K**apiteni Sebuhura** wari umujandarume.

20. Mu cyumweru cyakurikiye urupfu rwa Perezida Habyarimana, **Aloys Simba** yajyanye, ku biro bya Komine ya Kinyamakara, ibisanduku bitatu birimo imbunda nka 50 zo mu bwoko bwa Kalashnikov. Izo mbunda, zari mu modoka ya **Aloys Simba**, zapakuruwe n'abasirikare maze abategeka gufatanya n'abaporisi ba komine kuziteranya maze bakazitanga. Izo ntwaro zahawe abantu bitwara gisirikare n'abasiviri b'Abahutu bari barigishijwe gukoresha imbunda. Izo ntwaro zahise zikoreshwa mu kwica abasiviri b'Abatutsi batari bafite intwaro kandi abo banyakwigendera biciwe mu ngo zabo no ku maduka yo kuri santeri y'ubucuruzi ya Rugogwe, muri Komine ya Ruhashya, Perefegitura ya Butare.

21. Muri Mata 1994, nyuma y'Urupfu rwa Perezida Habyarimana, **Aloys Simba** yatanze izindi ntwaro ku biro bya Komine ya Rukondo. Icyo gihe, yahaye burugumesitiri imbunda zigeze kuri 40 zo mu bwoko bwa AK 47 kugira ngo na we azihe abakonseye maze na bo bazikwirakwize mu basiviri b'Abahutu.

22. Uretse icyo gikorwa cyo gutanga intwaro, **Aloys Simba** yashatse gutumiza intwaro hanze kuva muri Mata 1993. Muri Mata cyangwa Gicurasi 1994 cyangwa muri ayo mezi yombi, **Aloys Simba** yakusanyije amafaranga muri Perefegitura ya Gikongoro afatanyije na **Perefe Bucyibaruta**, **Kapiteni Sebuhura**, **Burugumesitiri Semakwavu**, abacuruzi bo muri ako karere n'abandi bantu, kugira ngo hagurwe intwaro n'amasasu byo guha Interahamwe. **Aloys Simba** ni we wakiraga ayo amafaranga.

23. **Aloys Simba** yakoze ibikorwa bivugwa muri iyi Nyandiko y'ibirego agamije kurimbura Abatutsi bose cyangwa igice cyabo. Muri za mitingi n'inama zinyuranye zabereye muri Perefegitura ya Gikongoro n'iya Butare mu gihe cy'ibyabaye hagati ya Mata na Nyakanga 1994 na mbere yaho, Uregwa yavugaga mu ruhame ko ashaka kurimbura Abatutsi kandi ahamagarira abandi bantu gukora nka we.

a) Muri Mata 1993, nyuma y'ibarura ry'Abatutsi n'Abahutu bo muri Perefegitura, **Aloys Simba** yavuze amagambo akurikira muri mitingi yabereye ku isoko ryo mu mujyi wa Gikongoro: «*Murabona ukuntu, muri iki gihe, Abatutsi ari benshi muri Gikongoro? Bisa n'aho ikamyo yuzuye umucanga yasekurana n'akamodoka gato».*

b) Muri Mata 1994, hasigaye iminsi mike ngo Perezida Habyarimana apfe, muri mitingi yabereye mu isoko rya Kirambi, muri Komine ya Rukondo, **Aloys Simba** yagize ati «Mwebwe Abanyarwanda ntimuzi ikigiye kuba. Buri muntu wese agomba gutunga intwaro kandi mugomba buri gihe kwitwaza intwaro gakondo zanyu. Ndashaka ko mwibuka ibyabaye mu mwaka wa 1959. Murebe uruhara rwanjye, Inyezi zankuruye hasi. Ntimugomba gukomeza kwigumira mu ngo zanyu. Mugomba gukinga inzugi kugira ngo injangwe zitabinjirana. Mugomba kandi guhiga inzoka mu bigunda maze mukazimena imitwe. Ababona ibintu bikomeye, nabagira inama yo guhunga. Uzaguma mu Rwanda wese azibonera ukuntu inzovu zirwana».

c) Ku itariki ya 9 Mata 1994, cyangwa hafi y'iyo tariki, ubwo yari kuri santeri y'ubucuruzi ya Rugogwe ari kumwe n'abasirikare 16, **Aloys Simba** yabwiye itsinda ry'Interahamwe ko Abatutsi ari abanzi kandi ko bose bagombaga kwicwa.

d) Ku itariki ya 9 Mata 1994, cyangwa hafi y'iyo tariki, kuri santeri y'ubucuruzi ya Gasarenda, amaze kumenya ko ubwicanyi bwakorewe muri ako gace, **Aloys Simba** yabwiye Interahamwe ati «Muri Komine ya Mudasomwa haracyari Abatutsi benshi mutari mwakoraho. I Kibeho na ho hari Abatutsi benshi cyane kandi n'ubwo atari muri Komine yanyu, mugomba kujyayo mugafasha bagenzi banyu».

e) Muri Mata 1994, **Aloys Simba** yafashe ijambo imbere y'abaturage bari bateraniye kuri santeri ya Nzega, muri Segiteri ya Gasaka, Komine ya Nyamagabe. Icyo gihe, yababajije impamvu bituramiye aho gukora nka bagenzi babo bo mu tundi duce.

f) Ku itariki ya 26 Mata 1994, cyangwa hafi y'iyo tariki, mu nama yahuje abategetsi bo muri ako karere yabereye mu mujyi wa Gikongoro iyobowe na **Aloys Simba**, Burugumesitiri wa Komine ya Muko yamenyesheje abari mu nama ko hari hakiri Abatutsi bagera ku 160 bahungiye ku biro bye. Mu kumusubiza, **Aloys Simba** afatanyije na Superefe **Mushengezi** na Kapiteni **Sebuhura** bavuze ko muri iyo perefegitura hari hakiri abantu bamwe basa n'aho batazi ko Perezida yapfuye, maze ntibagire icyo bakora mu makomine yabo.

g) Ku itariki ya 22 Gicurasi 1994, cyangwa hafi y'iyo tariki, **Aloys Simba** yagiye mu muhango wo kwimika Mathieu Ndahimana ku mwanya wa Burugumesitiri wa Komine ya Ntyazo, muri Perefegitura ya Butare. Icyo gihe, **Aloys Simba** yabwiye abari muri iyo nama kutagira Umututsi n'umwe basiga batamwishe, avuga ngo iyo wica imbeba ziri mu rugo iwawe ntusiga n'ihaka. **Aloys Simba** yasobanuriye abari aho ko umubano w'Abahutu n'Abatutsi umeze nk'uw'injangwe n'imbeba. Kugeza icyo gihe hari abagore benshi, abakobwa, ibimuga n'abantu basheshe akanguhe batari bakicwa, ariko nyuma yaho gato, kubera ayo magambo ye, Abatutsi bose bari basigaye muri ako gace barishwe.

24. Umugambi wa Simba wo kurimbura Abatutsi no guhamagarira abandi bantu kubarimbura ugaragarira cyane mu byo yakoze muri Komine ya Musebeya hagati ya Mata na Kamena 1994:

a) Muri Mata 1994, **Aloys Simba** yasubiye i Musebeya yambaye imyenda ya gisirikare kandi ari mu modoka ya MRND maze aravuga ngo «*Ibintu bimeze nabi. Ndetse nasabwe gusubira mu gisirikare kugira ngo mfashe abandi guhiga Abatutsi*».

b) Mbere y'uko **Aloys Simba** agera muri Musebeya, Burugumesitiri Viateur Higiro yari yarubahirije amabwiriza yo kurinda umutekano no kuburizamo ibitero. Cyakora akihagera, **Aloys Simba** yakuheyo amabwiriza ya Higiro maze ayobora jenoside muri Musebeya no mu tundi turere.

c) Muri Kamena 1994, **Aloys Simba** yahamagariye Abahutu «gukora» kandi aha abasore amafaranga abahembera ko bari bagabye ibitero ku Batutsi. Abategetsi ntibari bakeneye kubwirwa «kwica Abatutsi» kugira ngo bumve neza ko ibyo byari politiki [ya Leta] yemewe.

25. Ku itariki ya 7 Mata 1994 mu gitondo, cyangwa hafi y'icyo gihe, **Juvénal Ndabarinze** yageze kuri santeri ya Gasarenda muri Komine ya Mudasomwa kugira ngo abonane n'abandi bantu bateguye ubwicanyi barimo **Aloys Simba**, **Denis Kamodoka** na **Damien Biniga**. Icyo iyo nama yari igamije kigaragarira mu magambo Kamodoka yavuze ahamagarira abantu kwica Abatutsi. Uwo munsi, nyuma ya saa sita, abantu bo mu mitwe yitwaraga gisirikare bahawe intwaro zari zazanywe na **Koloneli Rwamanywa** kandi zatanzwe **Juvénal Ndabarinze** ahari.

26. Hagati y'itariki ya 7 Mata n'iya 30 Gicurasi 1994, abasiviri b'Abatutsi n'abasiviri b'Abahutu batari intagondwa batewe mu ngo zabo n'abantu bo mu mitwe yitwaraga gisirikare. Kubera iyo mpamvu, abategetsi bo muri ako karere bakoranyirije abo bantu baterwaga ahantu bumvaga bashobora kugirira umutekano cyangwa abo bantu bahungira aho hantu bijyanyeyo. Muri Perefegitura ya Gikongoro na Butare, mu hantu abo bantu bakoraniye harimo:

- Paruwasi n'ikigo nderabuzima by'i Kaduha muri Komine ya Karambo, Gikongoro
- Ishuri ry'imyuga ry'i Murambi muri Komine ya Nyamagabe, Gikongoro
- Agasozi ka Gashoba muri Komine ya Ruhashya, Butare
- Santeri y'ubucuruzi ya Rugogwe muri Komine ya Ruhashya, Butare
- Paruwasi ya Cyanika muri Komine ya Karama, Gikongoro
- Paruwasi ya Kibeho muri Komine ya Mubuga, Gikongoro

Ubwicanyi bwakorewe kuri paruwasi ya Kaduha

27. Guhera ku itariki ya 8 Mata 1994, kubera poropagande yo gutwika no gusahura ingo z'Abatutsi, abasiviri b'Abatutsi babarirwa mu bihumbi bavuye mu makomine yo muri

ako gace bahungira kuri paruwasi ya Kaduha, muri Komine ya Karambo, Perefegitura ya Gikongoro.

28. Ku itariki ya 19 n'iya 20 Mata 1994, cyangwa hafi y'ayo matariki, **Aloys Simba** yategetse abana, abagore n'abagabo bari bahungiye kuri iyo paruwasi no ku kigo nderabuzima bya Kaduha kwicukurira imva.

29. Ku itariki ya 19 Mata 1994, cyagwa hafi y'iyo tariki, **Aloys Simba** na **Joachim Hategekimana** bafashe ijambo imbere y'Abahutu bari bakoraniye kuri santeri y'ubucuruzi ya Kaduha. **Aloys Simba** yababwiye ko yari kujya ku Gikongoro kuzana imbunda n'amasasu maze akabitanga agarutse.

30. Ku itariki ya 20 Mata 1994, cyangwa hafi y'iyo tariki, **Aloys SIMBA** yagarutse i Kaduha azanye n'ikamyo irimo abasirikare, imbunda n'amasasu kugira ngo hagabwe igitero cya mbere cya karundura kuri paruwasi ya Kaduha hakoreshejwe imbunda. Izo ntwaro zabitswe mu biro bya superefegitura.

31. Ku itariki ya 20 Mata 1994, cyangwa hafi y'iyo tariki, **Aloys SIMBA** yamenyesheje abantu bari bateraniye kuri santeri y'ubucuruzi ya Kaduha ko nta kundi Abahutu bari kubigenza uretse kwica Abatutsi bose. Saa cyenda z'ijoro, yategetse abasirikare gutangira kurasa ku mpunzi z'Abatutsi ndetse anategeka abasiviri bari mu gitero gukurikira abasirikare kugira ngo bice Umututsi wese warokoka. Yanategetse abasirikare kurasa umuntu wese wagaragaza ubugwari muri icyo gitero. **Aloys SIMBA** yashyize abasirikare mu byimbo kugira ngo bagote Paruwasi ya Kaduha.

32. Kubera icyo gikorwa cya **Aloys Simba** cyo guhamagarira abantu ubwicanyi, mu masaa kumi n'imwe za mu gitondo abantu benshi barimo abasirikare, abajandarume, Interahamwe, abarezerivisite cyangwa abantu bari baravuye mu gisirikare, abantu bitwaraga gisirikare n'Abasiviri b'Abahutu, bagabye igitero kuri paruwasi ya Kaduha bakoresheje imbunda, amagerenade, imipanga, impiri n'izindi ntwaro gakondo. Icyo gihe, abasirikare n'abaporisi benshi bari biyoberanyije bigize abasiviri ariko bafite imbunda. Igitero cyarakomeje kugeza mu masaa kumi n'imwe z'umugoroba. Muri icyo gitero cyamaze urebye umunsi wose, **Aloys Simba** yazaniye kenshi amasasu abagabaga icyo gitero.

33. Mu gitero cyagabwe kuri paruwasi ya Kaduha, **Bucyibaruta** yahazanye abajandarume mu modoka kugira ngo bafashe abari bagabye icyo gitero. Abo bajandarume bivanze n'abari bagabye igitero maze na bo bakora ubwicanyi.

34. Icyo gitero cyahitanye abantu babarirwa mu bihumbi b'abagabo, abagore n'abana bari kuri paruwasi ya Kaduha, muri Perefegitura ya Gikongoro, ku itariki ya 21 Mata 1994 cyangwa hafi y'iyo tariki. Benshi mu bahitanywe n'icyo gitero bari Abatutsi kandi benshi mu bishwe bahambwe hagati y'itariki ya 23 n'iya 26 Mata 1994 i Kaduha no mu duce tuhegereye.

Ubwicanyi bwakorewe ku ishuri ry'imyuga ry'i Murambi

35. Ku itariki ya 10 Mata 1994, cyangwa hafi y'iyo tariki, **Bucyibaruta** yakoresheje inama ku biro bya Komine ya Nyamagabe irimo **Koloneli Aloys Simba**, **Kapiteni Faustin Sebuhura**, **Superefe Biniga**, **Semakwaku** wari Burugumesitiri w'iyo komine, uwari uhagarariye MRND, abakonseye b'amasegiteri, abandi bategetsi n'abaturage basanzwe.

36. Muri iyo nama, **Bucyibaruta** yavuze ko adashaka «kumva ko hari Umututsi n'umwe waba utaragiye i Murambi, ko n'abahungiye muri za kiriziya bagomba kujya i Murambi». Yasobanuye ko «Abatutsi bacuze umugambi wo kwica Abahutu, ko rero Abahutu bagomba kubatanga bagatangira kubica».

37. Muri iyo nama, **Aloys Simba** yasabye **Sebuhura** kumenya abajandarume b'Ababatusi bo mu kigo yari ashinzwe, anasaba **Semakwavu** kumenya abasore bose bashoboraga guhabwa imyitozo ya gisirikare.

38. Ku itariki ya 11 Mata 1994, cyangwa hafi y'iyo tariki, abasiviri b'Abatutsi babarirwa mu bihumbi bahunze ingo zabo bateranira kuri diyosezi ya Gikongoro. Bitegetswe na **Bucyibaruta** wari kumwe na **Sebuhura** na **Semakwavu** wari Burugumesitiri wa Komine ya Nyamagabe, abajandarume bashoreye izo mpunzi bazigeza ku ishuri ry'imyuga ry'i Murambi.

39. Ku itariki ya 20 Mata 1994, ku ishuri ry'imyuga ry'i Murambi hari hamaze guhungira abantu bageze ku bihumbi 40 biganjemo Abatutsi. Izo mpunzi zari zikikijwe n'amabariyeri kugira ngo zidashobora gutoroka kandi zashyizwe mu nzitane z'ubuzima

kugira ngo zizarimbuke. Izo mpunzi zimwe ibiryo n'amazi bityo zimwe muri izo zirapfa kubera inzara n'indwara.

40. Ku itariki ya 19 n'iya 20 Mata 1994, cyangwa hafi y'ayo matariki, abantu barimo **Aloys Simba**, Kapiteni **Sebuhura** wari umujandarume, Perefe **Bucyibaruta**, Superefe **Biniga** na Burugumesitiri **Munyaneza**, bafashe ingamba za ngombwa maze bategeka ingabo za Leta, abantu bitwara gisirikare n'abasiviri b'Abahutu kugota no kugaba ibitero ku bantu bari baravuye mu byabo bagahungira ku ishuri ry'imyuga ry'i Murambi. Mu nama yabereye mu kigo cya jandarumori mbere gato y'icyo gitero, **Aloys Simba** yashishikarije Kapiteni **Sebuhura**, Perefe **Bucyibaruta** na Superefe **Biniga** kugaba igitero ku Batutsi bari baravuye mu byabo bagahungira ku ishuri ry'imyuga ry'i Murambi.

41. Ku itariki ya 20 Mata 1994 nyuma ya saa sita, cyangwa hafi y'icyo gihe, **Bucyibaruta** yabonanye na Kapiteni **Sebuhura** mu biro bya burigade ya jandarumori. Icyo gihe, yamenyesheje **Sebuhura** iby'umugambi wo kugaba igitero mu rukerera ku itariki ya 21 Mata 1994. Byongeye kandi, yamutegetse kohereza, mu masaa saba z'ijoro z'iyo tariki ya 21 Mata 1994, abajandarume kugira ngo bajye gufasha Interahamwe kugaba igitero i Murambi kandi bakore ku buryo nta Mututsi urokoka ubwicanyi.

42. **Aloys Simba** yagiye i Murambi yambaye imyenda ya gisirikare. Yahageze mu ikamyo ipakiye imipanga maze aha Interahamwe iyo mihoro.

43. Ku itariki ya 21 Mata 1994, mu masaa cyenda z'ijoro, bitegetswe na **Bucyibaruta**, abagabye igitero benshi barimo abasirikare, abajandarume, Interahamwe n'abasiviri bitwaje intwaro bagose Murambi maze bahagaba igitero. Muri icyo gitero, abo bantu bakoresheje imbunda za rutura, izoroheje, amagerenade, imipanga, ibikoni n'izindi ntwaro gakondo. **Laurent Bucyibaruta** na **Faustin Sebuhura** barashe kuri izo mpunzi.

44. Igitero cyagabwe i Murambi cyarakomeje kugera ahagana saa moya za mu gitondo. Icyo gihe, hishwe abasiviri b'Abatutsi babarirwa mu bihumbi ndetse n'ibintu byabo birasahurwa. Muri icyo gitero, **Aloys Simba** yashyiriye imipanga abagabye igitero maze kirangiye arabahemba.

45. Ku itariki ya 21 Mata 1994, mu masaa moya za mu gitondo, **Laurent Bucyibaruta, Aloys Simba** na **Faustin Sebuhura** bagenzuye ahantu habereye ubwicanyi. Icyo gihe,

Aloys Simba yavuze ko yishimiye ibyagezweho mu gikorwa cyo kwica, naho **Laurent Bucyibaruta** ahemba abari bakoranye umurava mu bwicanyi, abagabira inka z'abakorewe ibyaha.

46. Icyo gitero cyagabwe ku ishuri ry'imyuga ry'i Murambi ku itariki ya 21 Mata 1994, cyangwa hafi y'iyo tariki, cyahitanye abantu babarirwa mu bihumbi b'abagabo, abagore n'abana kandi benshi mu bakiguyemo bari Abatutsi. Abishwe bahambwe mu byobo rusange byacukuwe n'abafungwa bo muri gereza ya Gikongoro nyuma gato y'igitero. Kubahamba byamaze hafi icyumweru.

Ubwicanyi bwakorewe muri Komine ya Ruhashya

47. Muri Mata 1994, nyuma y'urupfu rwa Perezida, **Aloys Simba** yateguye ibitero bibiri bya karundura maze ategeka abasirikare bo mu ngabo z'igihugu, abantu bitwaraga gisirikare n'abasiviri b'Abahutu kugaba ibyo bitero ku Batutsi bari baravuye mu byabo bari muri Komine ya Ruhashya (Perefegitura ya Butar(e). Igitero cya mbere cyibasiye abavuye mu byabo bari kuri santeri y'ubucuruzi ya Rugogwe naho icya kabiri kigabwa ku bavuye mu byabo bari ku gasozi ka Gashoba.

48. **Aloys Simba** yahaye intwaro abagabye ibyo bitero kandi abatwara mu modoka kugira ngo bajye gutera. Yatwaye Interahamwe azijyana ku kiraro cya Muhange kiri ku rubibi rwa Kinyamakara (Perefegitura ya Gikongoro) na Ruhashya (Perefegitura ya Butare. Interahamwe zahagurukiye aho hantu zijya kwirukankana no kwica impunzi zari zaravuye mu byazo muri Komine ya Ruhashya, iya Rusatira n'iya Nyabisindu, zo muri Perefegitura ya Butare.

49. **Aloys Simba** n'abasirikare bamurindaga bagize uruhare muri ubwo bwicanyi kuko barashe Abatutsi bagerezagaza guhunga Interahamwe. Ibyo bitero byahitanye Abatutsi benshi bagizwe n'abagabo, abagore n'abana. Igihe ubwicanyi bwarimo gukorwa, **Aloys SIMBA** na we yabaga aha amabwiriza abandi bicanyi ndetse anabashishikaza.

50. Mbere y'igitero cyagabwe kuri santeri y'ubucuruzi ya Rugogwe, mu mpera za Werurwe 1994, **Aloys Simba** yazanye intwaro zirimo imbunda ndende n'ingufi ku biro bya Komine ya Kinyamakara ari na ho zabitswe. Yahaye intwaro abagababaga ibitero kandi abaha n'amabwiriza asobanutse yerekeranye n'ukuntu bagombaga kugaba ibitero.

51. **Aloys Simba**, wari witwaje intwaro kandi yambaye imyenda ya gisirikare, yayoboye abantu barenga igihumbi mu bitero byagabwe muri Komine ya Ruhashya. Abasiviri bamwe bari bafite intwaro bo muri ako gace bagiye aho hantu bari mu modoka za burugumesitiri naho abandi bagenda mu ikamyoneti ya gisirikare yatanzwe na **Aloys Simba**. **Aloys Simba** yabaga buri gihe ahari, agenzura ibyakorwaga kandi atanga amategeko yo kugaba ibitero.

52. Ibitero byagabwe ku Rugogwe n'i Gashoba, muri Komine ya Ruhashya byahitanye abantu babarirwa mu magana bagizwe n'abagabo, abagore n'abana kandi benshi muri bo bari Abatutsi.

Ubwicanyi bwakorewe kuri paruwasi ya Cyanika

53. **Aloys Simba** yateguye abasirikare ba Leta, abantu bitwara gisirikare n'abasiviri b'Abahutu maze abategeka kugaba igitero kuri paruwasi ya Cyanika ku itariki ya 21 Mata 1994, cyangwa hafi y'iyo tariki. Icyo gitero cyahise gikurikira icyari cyagabwe ku ishuri ry'imyuga ry'i Murambi kandi cyahitanye abantu babarirwa mu magana b'abagabo, abagore n'abana bari baravuye mu byabo bagahungira kuri paruwasi ya Cyanika. Abenshi mu bakiguyemo bari Abatutsi.

54. Aloys Simba yagenzuye kandi ahuza ibikorwa by'ubwicanyi bwakorewe Abatutsi mu Cyanika kandi ategeka Interahamwe gufungira amayira yose umuntu wese wageragezaga guhunga

Ubwicanyi bwabereye i Kibeho

55. **Aloys Simba** na/cyangwa abantu bagenderaga ku mabwiriza ye kandi yari yarahaye imyitozo n'intwaro, bagiye nibura muri bumwe mu bwicanyi bwakorewe kuri koleji, ku kigo cy'amashuri abanza no ku bitaro i Kibeho muri Mata na Gicurasi 1994. Muri ibyo bitero, harimo kimwe cyagabwe n'ingabo z'igihugu, abantu bitwaraga gisirikare n'Abasiviri b'Abahutu ku bantu babarirwa mu bihumbi bari baravuye mu byabo bagahungira kuri iyo paruwasi.

56. Ku itariki ya 9 Mata 1994, cyangwa hafi y'iyo tariki, **Aloys Simba** yabwiye Interahamwe zari kuri santeri y'ubucuruzi ya Gasarenda kujya i Kibeho gufasha bagenzi bazo kwica Abatutsi.

57. **Aloys Simba** yahaye Intwaro Interahamwe zagiye mu gitero cyagabwe kuri paruwasi ya Kibeho. Muri izo Nterahamwe harimo Ngoga, Gakuru, Nkusi na Innocent Bakundukize.

58. **Aloys Simba** yari afite umugambi wo gukora ibikorwa bimaze kuvugwa, kandi yari awusangiye n'abandi bantu bose bagize uruhare mu byaha byakozwe.

Ikirego cya 3: Itsembatsemba nk'icyaha cyibasiye inyokomuntu

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Aloys Simba Itsembatsemba** nk'**icyaha cyibasiye inyokomuntu**, giteganywa n'Ingingo ya 3 (b) ya Sitati, kubera ko ku itariki ya 6 Mata n'iya 30 Gicurasi 1994, cyangwa hagati y'ayo matariki, ari muri Perefegitura ya Gikongoro n'iya Butare mu Rwanda, **Aloys Simba** yagize uruhare mu bikorwa byo kwica cyangwa kwicisha abantu mu bwicanyi bwahitanye imbaga mu rwego rw'ibitero rusange cyangwa biri kuri gahunda, byibasiye abaturage b'abasiviri bazira impamvu z'ubwoko cyangwa iza politiki.

Hashingiwe ku Ngingo ya 6(1) ya Sitati: kubera ibikorwa bye mu gucura umugambi w'icyo cyaha, guhamagarira abantu kugikora no kubibategeka, kugikora ubwe cyangwa, mu bundi buryo, ubwo ari bwo bwose, gushyigikira abandi bantu mu gucura umugambi w'icyo cyaha, mu kugitegura no mu kugitsotsoba. Yakoze icyo cyaha afatanyije n'abandi bantu mu rwego rw'umugambi mubisha uhuriweho. **Na/cyangwa**

Hashingiwe ku Ngingo ya 6(3) ya Sitati : kubera ko Uregwa yari azi kandi agomba no kumenya ibikorwa by'abantu yari akuriye, barimo abasirikare, abajandarume, abaporisi ba komine, Interahamwe, imitwe y'abasiviri bitwara gisirikare n'abandi basiviri, cyangwa ibyo bateshutswe gukora, ariko ntafate ingamba za ngombwa kandi zishyize mu gaciro ngo ahagarike ibyo bikorwa cyangwa abiburizemo, ategeke ababikoraga kwitwara neza cyangwa abahanire ibyo bakoze mu rwego rwo gutegura no gutsotsoba icyaha aregwa.

Incamake y'ibyabaye bivugwa mu kirego cya gatatu

59. Ibivugwa kuva ku cya 1 kugeza ku cya 58 bishingirwaho no muri iki cyiciro, bitiriwe byongera kwandukurwa.

60. Hagati y'itariki ya 6 Mata n'iya 17 Nyakanga 1994, mu Rwanda hose habaye ibitero rusange cyangwa biri kuri gahunda byibasiye abaturage b'abasiviri bazira impamvu za politiki cyangwa iz'ubwoko. Interahamwe zitwara gisirikare zagiye mu bikorwa by'imvururu zibasiye Abasiviri b'Abatutsi mu Rwanda hamwe n'Abasiviri b'Abahutu bafatwaga ko batavuga rumwe na MRND. Hishwe abasiviri b'Abatutsi babarirwa mu bihumbi amagana bagizwe n'abagabo, abagore n'abana, hamwe n'abasiviri b'Abahutu «batari intagondwa».

61. Hagati y'itariki ya 7 Mata n'iya 30 Gicurasi 1994, **Aloys Simba** yateguye ubwicanyi bwakorewe ahantu hanyuranye muri Perefegitura ya Gikongoro n'iya Butare, nko kuri Paruwasi n'ikigo nderabuzima by'i Kaduha, ku ishuri ry'imyuga ry'i Murambi, muri Komine ya Ruhashya, kuri paruwasi ya Cyanika n'iya Kibeho. Byongeye kandi na we yagiye muri ubwo bwicanyi bwakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byagabwe muri ayo maperefegitura yombi kimwe n'ahandi hose mu Rwanda.

62. **Aloys Simba** yahaye imyitozo n'intwaro abantu barimo Interahamwe n'abandi bantu bitwaraga gisirikare bagiye muri ibyo bitero. Yafashije mu gikorwa cyo gutwara mu modoka abasirikare, Interahamwe, abantu bitwaraga gisirikare n'abandi bantu maze bajya kugaba ibitero ahantu hamaze kuvugwa.

63. Abantu bahitanywe n'ubwo bwicanyi bari abasiviri kandi **Aloys Simba** yari azi ko ari bo. **Aloys Simba** yateguye ubwo bwicanyi ndetse na we arabukora. Ubwo bwicanyi bakozwe hashingiwe ku bwoko bw'abo bantu bibasiwe, ari bo Batutsi, cyangwa hashingiwe ku mpamvu za politiki, bishaka kuvuga ko hibasirwaga abantu batavugaga rumwe na MRND.

64. **Aloys Simba** na/cyangwa abantu yari akuriye bitabiriye, mu buryo butaziguye, ubwicanyi bwibasiye abasiviri ahantu hamaze kuvugwa n'ahandi muri Prefegitura ya Gikongoro n'iya Butare.

65. Ibyo bikorwa binyuranyije n'amategeko kandi ababikoze bari babigambiriye.

Ikirego cya 4: Ubuhotozi nk'icyaha cyibasiye inyokomuntu

Ashingiye ku Ngingo ya 3 (a) ya Sitati, Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Aloys Simba Ubuhotozi** nk'**Icyaha cyibasiye inyokomuntu**, kubera ko yagize uruhare mu bikorwa by'ubuhotozi mu rwego rw'ibitero rusange cyangwa biri kuri gahunda, byibasiye abaturage b'abasiviri bazira impamvu za politiki cyangwa ubwoko.

Hashingiwe ku Ngingo ya 6(1) ya Sitati : kubera ibikorwa yakoze mu gucura umugambi w'icyo cyaha, guhamagarira abandi bantu kugikora ndetse no kubibategeka, kugikora ubwe cyangwa, mu bundi buryo, ubwo ari bwo bwose, gushyigikira abandi bantu mu gucura umugambi w'icyo cyaha, mu kugitegura no mu kugitsotsoba. Yakoze icyo cyaha afatanyije n'abandi bantu mu rwego rw'umugambi mubisha uhuriweho.

Incamake y'ibyabaye bivugwa mu kirego cya 4

66. Ibivugwa kuva ku cya 1 kugeza ku cya 58 biri hano hejuru bishingirwaho no muri iki cyiciro, bitiriwe byongera kwandukurwa.

67. Ku itariki ya 20 Mata 1994, cyangwa hafi y'iyo tariki, ari mu kigo cya jandarumori mu mujyi wa Gikongoro, **Aloys Simba** yategetse kandi ahagarikira iyicwa ry'umujandarume w'Umututsi witwaga Ndagijimana.

68. Uwo mujandarume w'Umututsi yishwe mu rwego rwa gahunda yari yibasiye Abatutsi.

69. Ku itariki ya 21 Mata 1994, cyangwa hafi y'iyo tariki, mu masaa sita z'amanywa, ari hafi ya santeri y'ubucuruzi ya Kaduha, muri Komine ya Karambo, Perefegitura ya Gikongoro, **Aloys Simba** yarashe maze yica Gasana wari Subusititi wa Porokireri muri Perefegitura ya Gikongoro.

Ibikorwa bya Aloys Simba n'ibyo yateshutswe gukora, nk'uko bisobanurwa birambuye muri iyi Nyandiko y'ibirego bihanwa hakurikijwe Ingingo ya 22 n'iya 23 za Sitati y'Urukiko.

Bikozwe none ku itariki ya 10 Gicurasi 2004

Hassan Bubacar Jallow [Umukono], Porokireri.