Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda

UMURYANGO W'ABIBUMBYE

URUGEREKO RWA MBERE RW'IREMEZO, I

Urubanza n° ICTR-2001-71-T
IKINYARWANDA
Umwimerere : ICYONGEREZA

Abacamanza: Erik Møse, Perezida w'Inteko
Khalida Rachid Khan
Solomy Balungi Bossa

Gerefiye : Adama Dieng

Itariki urubanza rukirijweho: 15 Nyakanga 2004

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Ababuranyi: **POROKIRERI**

na

EMMANUEL NDINDABAHIZI

INYANDIKO Y'URUBANZA N'IGENABIHANO

Ibiro bya Porokireri

Charles Adeogun-Phillips
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Ubwunganizi

Me Pascal Besnier
Me Guillaume Marçais

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UMUTWE WA MBERE

INTANGIRIRO

1. Urukiko n'ububasha bwarwo

1. Uru rubanza *Porokireri aburanamo na Emmanuel Ndindabahizi,* rukijijwe n'Urugereko rwa Mbere rw'Iremezo, II (« Urugereko ») rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Urukiko »), rugizwe n'abacamanza Erik Møse, Perezida w'Inteko, Khalida Rachid Khan na Solomy Balungi Bossa.

2. Urukiko rwashyizweho n'Inama y'Umuryango w'Abibumbye Ishinzwe Amahoro ku Isi nyuma yo gusuzuma raporo zerekana ko mu Rwanda hakozwe ibikorwa bya jenoside n'ibindi bikorwa rusange, biri kuri gahunda kandi bigaragarira bose, binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara[1]. Imaze kubona ko ibyo bintu bibangamiye amahoro n'umutekano ku isi yose, imaze kubona ko gukurikirana abantu bakoze ibyaha bikomeye binyuranyije n'amategeko arengera abantu mu gihe cy'intambara byagira uruhare muri gahunda y'ubwiyunge no kugarura amahoro mu Rwanda, ku itariki ya 8 Ugushyingo 1994, Inama Ishinzwe Amahoro ku Isi, ishingiye ku Mutwe wa VII w'Amategekoshingiro y'Umuryango w'Abibumbye, yafashe Icyemezo cya 955 gishyiraho Urukiko.

[1] Inyandiko y'Umuryango w'Abibumbye : S/RES/955 (1994); Raporo y'ibanze y'Akanama k'impuguke kashyizweho hakurikijwe icyemezo 935 (1994) cy'Inama Ishinzwe Amahoro ku Isi (Inyandiko y'Umuryango w'Abibumbye S/1994/1125), Raporo isoza y'Akanama k'impuguke kashyizweho hakurikijwe icyemezo 935 (1994) cy'Inama Ishinzwe Amahoro ku Isi (inyandiko y'Umuryango w'Abibumbye S/1994/1405); Raporo z'Intumwa yihariye ku Rwanda y'Akanama kita ku Burenganzira bw'Ikiremwamuntu k'Umuryango w'Abibumbye (Inyandiko y'Umuryango w'Abibumbye S/1994/1157, Umugereka I na II)

3. Urukiko rugengwa na Sitati yometswe ku Cyemezo cya 955 (« Sitati ») kimwe n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso («Amategeko»)[2].

4. Nk'uko Sitati ibiteganya, Urukiko rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda, ibyaha bikomeye binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, kimwe n'Abanyarwanda bakekwaho kuba barakoreye bene ibyo byaha mu bihugu bituranye n'u Rwanda. Hakurikijwe ibiteganywa n'ingingo ya mbere ya Sitati, Urukiko rufite ububasha bwo guca imanza ku bikorwa byabaye kuva ku itariki ya 1 Mutarama n'iya 31 Ukuboza 1994. Ku byerekeranye n'ibyaha, Urukiko rufite ububasha bwo guca imanza ku byaha bya jenoside, ibyaha bikomeye byibasiye inyokomuntu n'ibyaha binyuranyije bikomeye n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Umugereka wa II w'ayo Masezerano, nk'uko biteganywa n'ingingo ya 2, iya 3 n'iya 4 za Sitati.

2. Uregwa

5. Emmanuel Ndindabahizi (« Uregwa ») yavutse mu wa 1950 ku Gasharu, muri Komine ya Gitesi, Perefegitura ya Kibuye, mu Rwanda[3]. Mu mwaka w'1964, ubwo yari arangije amashuri abanza ku Kirambo n'i Nyagato muri Komine ya Gitesi, Uregwa yize amashuri yisumbuye i Shyogwe, muri Perefegitura ya Gitarama (kuva mu mwaka wa 1964 kugeza mu wa 1967), no muri *Collège Officiel de Kigali* (kuva mu wa 1967 kugeza mu wa 1970)[4]. Mu mwaka wa 1974, yakuye muri Kaminuza y'i Butare impamyabumenyi y'icyiciro cya mbere mu by'ubukungu n'imbonezamubano, naho mu mwaka wa 1976 ahakura impamyabumenyi y'icyiciro cya kabiri mu by'icungamutungo[5].

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[2] Aya mategeko yemejwe bwa mbere ku itariki ya 5 Nyakanga 1995 n'abacamanza b'Urukiko, yahinduwe bwa nyuma n'inama rusange ya 14 y'abacamanza yateranye ku itariki ya 23 n'iya 24 Mata 2004. Sitati n'Amategeko biri kuri site y'Urukiko ari yo http://www.ictr.org.

[3] Mu buhamya bwe mu Rukiko, Uregwa yibutsa, muri make, amashuri yize n'imirimo yakoze. Inyandikomvugo y'iburanisha, 24 Ugushyingo 2003, Imp. 6-17.

[4] Ikimenyetso gihamya cy'Ubwunganizi, No 55

[5] Ibimenyetso gihamya N° 56 na 57 byatanzwe n'Ubwunganizi

Guhera mu Gushyingo 1976, Uregwa yakoze muri Koperative y'ubucuruzi yitwa TRAFIPRO, yari ifite icyicaro cyayo i Kigali, ikagira n'amaduka agera kuri 30 mu gihugu hose. Kugera mu mpera y'umwaka wa 1981 Uregwa yayoboraga ishami ry'imari ry'iyo koperative[6]. Muri uwo mwaka, Uregwa yagizwe umukuru w'ishami ry'ubutegetsi n'imari ry'ikigo cya Electrogaz i Kigali. Mu wa 1985 yimuriwe muri Minisiteri y'Imigambi ya Leta, maze ayobora ishami rishinzwe imari ikomoka imbere mu gihugu[7]. Kuva mu mwaka wa 1991 kugera mu wa 1992, Uregwa yaretse akazi ka Leta ajya gukora mu kigo cyigenga cyitwa *Audico* cyiga imishinga. Icyo kigo cyari cyarazobereye mu byerekeye ubugenzuzi bw'icungamari[8].

6. Mu mwaka wa 1992, Uregwa yayobotse Ishyaka Riharanira Demokarasi n'Imibereho Myiza y'Abaturage (Parti Social Démocrate « PSD »). Muri Nzeri uwo mwaka, yagizwe umuyobozi w'ibiro bya Minisitiri muri Minisiteri y'Imari, bityo muri iyo Minisiteri, akaba yari uwa kabiri nyuma ya Minisitiri. Yakoze iyo mirimo kugera ku itariki ya 6 Mata 1994[9]. Mu mwaka wa 1993 yatorewe kuba umunyamabanga mpuzabikorwa w'ishyaka rya PSD mu rwego rwa Perefegitura ya Kibuye[10]. Ku itariki ya 9 Mata 1994, Uregwa yagizwe Minisitiri w'Imari muri Guverinoma y'agateganyo. Yavuye mu Rwanda ajya i Goma, muri Repubulika Iharanira Demokarasi ya Kongo (Zayire), ku itariki ya 13 cyangwa iya 14 Nyakanga 1994, cyangwa muri ayo matariki[11].

3. Inyandiko y'ibirego

7. Hakurikijwe ingingo ya 2 n'iya 3 za Sitati, mu Nyandiko y'ibirego yahinduwe yo ku itariki ya 1 Nzeri 2003, Uregwa ashinjwa ibirego bitatu bikurikira: jenoside, itsembatsemba rigize icyaha cyibasiye inyokomuntu n'ubuhotozi bugize icyaha cyibasiye inyokomuntu. Mu Nyandiko y'ibirego yometswe uko yakabaye ku

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[6] Ikimenyetso gihamya N° 58 cyatanzwe n'Ubwunganizi
[7] Ikimenyetso gihamya N° 60 cyatanzwe n'Ubwunganizi
[8] Inyandikomvugo z'amaburanisha, 24 Ugushyingo 2003, imp. 14, 15; 27 Ugushyingo 2003, imp. 2, 3
[9] Ikimenyetso gihamya N° 61 cyatanzwe n'Ubwunganizi
[10] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2003, urup. 19
[11] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, urup. 15

mugereka A w'uru rubanza, uregwa aryozwa icyaha ku giti cye, nk'uko biteganywa n'igika cya 1 cy'ingingo ya 6 ya Sitati.

4. Iburanisha

8. Mu Nyandiko y'ibirego ya mbere, yemejwe n'umucamanza Pavel Dolenc ku itariki ya 5 Nyakanga 2001, Uregwa yashinjwaga ibirego bine ari byo: jenoside, gushishikariza abantu, mu ruhame kandi mu buryo butaziguye, gukora jenoside, ubuhotozi bugize icyaha cyibasiye inyokomuntu n'itsembatsemba rigize icyaha cyibasiye inyokomuntu[12]. Hakurikijwe manda yo kumufata yatanzwe kuri iyo tariki ya 5 Nyakanga 2001, Uregwa yafatiwe i Verviers mu Bubiligi ku itariki ya 12 Nyakanga 2001[13]. Mu cyemezo cyo ku itariki ya 10 Nyakanga 2001, umucamanza Dolenc yemeye Icyifuzo Porokireri yatanze ku itariki ya 26 Kamena 2001 asaba ko Inyandiko y'ibirego kimwe n'umwirondoro w'abagabo batanze ubuhamya mu bimenyetso bishyigikira iyo Nyandiko y'ibirego, bikomeza kugirwa ibanga, kugeza igihe Uregwa afatiwe[14]. Ku itariki ya 25 Nzeri 2001, Uregwa yimuriwe muri Gereza y'Urukiko, Arusha muri Tanzaniya.

9. Ku itariki ya 3 Ukwakira 2001, umucamanza Dolenc yahaye Porokireri uburenganzira bwo guhindura Inyandiko y'ibirego, akongeramo ikirego cyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu, no kuryoza Uregwa icyaha nk'umuntu ukuriye abandi nk'uko biteganywa n'igika cya cya 3 cy'ingingo ya 6 ya Sitati. Kuri uwo munsi, umucamanza Dolenc yafashe icyemezo gitegeka ko umwirondoro w'abatangabuhamya udatangazwa[15]. Inyandiko y'ibirego yahinduwe yo ku itariki ya 4 Ukwakira 2001, yatanzwe bukeye.

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[12] Icyemezo cyemeza Inyandiko y'ibirego, 5 Nyakanga 2001

[13] Manda yo kumufata n'Itegeko ryo kumwimura, kumufunga, gusaka no gufatira ibintu bye, 5 Nyakanga 2001

[14] *Order for Non-Disclosure* [Itegeko ryo kutamenyekanisha amakuru] (Urugereko rwa Mbere rw'Iremezo), 10 Nyakanga 2001.

[15] Icyemezo ku Cyifuzo Porokireri atanze wenyine asaba guhindura Inyandiko y'ibirego, hakurikijwe ingingo ya 50, gusuzuma no kwemeza Inyandiko y'ibirego yahinduwe n'ibimenyetso bijyanye nayo, 3 Ukwakira 2001 (Urugereko rwa Mbere rw'Iremezo). Muri icyo Cyemezo Urugereko rwatanze uburenganzira bwo guhindura ibindi bintu; *Order for Non-Disclosure* , 3 Ukwakira 2001.

10. Ku itariki ya ya 9 Ukwakira 2001, ubwo Uregwa yitabaga urukiko bwa mbere, umucamanza Navanethem Pillay yasubitse iburanisha kugira ngo amwongerere igihe gito cyo gusuzuma Inyandiko y'ibirego yahinduwe[16]. Ku itariki ya 19 ukwakira 2001, Uregwa yahakanye ibyaha bitanu yashinjwaga. Kuri uwo munsi, Porokireri yashyikirije Ubwunganizi inyandiko 27 z'ubuhamya bw'abagabo, busibwemo amakuru agaragaza umwirondoro wabo. Yatanze kandi ibindi bimenyetso 14 bishyigikira ibirego. Ku itariki ya 30 Gicurasi 2002, Inteko y'abacamanza yanze kwakira ingoboka Ubwunganizi bwatanze, ku itariki ya 19 Ugushyingo 2001, bushingiye ku nenge mu myandikire y'Inyandiko y'ibirego [17].

11. Mu kwakira 2002, Porokireri yahaye Ubwunganizi uburenganzira bwo gusuzuma inyandiko 76 zafashwe, zigakubirwa hamwe mu nyandiko yitwa « *List of documents seized from Emmanuel Ndindabahizi upon his arrest in Belgium* » [Urutonde rw'inyandiko zafatanywe Emmanuel Ndindabahizi, ubwo yafatirwa mu Bubiligi]. Ku itariki ya 4 Mata 2003, Porokireri yashyikirije Ubwunganizi izindi nyandiko nshya 11 z'ubuhamya bw'abagabo. Ubwo rero hatanzwe inyandiko 38 z'ubuhamya bwasibwemo umwirondoro w'abagabo bashoboraga kuzahamagarwa mu Rukiko.

12. Ku itariki ya 13 Kamena 2003, hakurikijwe ingingo ya 73 *bis* y'Amategeko, Porokireri yatanze Icyifuzo gisaba Ubwunganizi kwemera ibintu bimwe byabaye. Ku itariki ya 16 Kamena 2003, Ubwunganizi bwatanze igisubizo kuri icyo Cyifuzo[18].

13. Ku itariki ya 30 Kamena 2003, Urugereko rwakiriye Icyifuzo cya Porokireri gisaba gukura mu Nyandiko y'ibirego ikirego cyo guhamagarira abantu gukora jenoside, icyo gusambanya ku gahato kigize icyaha cyibasiye inyokomuntu, n'ikirego cyerekeranye n'uburyozwacyaha bw'umuntu ukuriye abandi

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[16] Inyandikomvugo y'iburanisha, 9 Ukwakira 2001, imp. 15, 16, 24 na 25. Umucamanza Pillay yategetse kandi ko hagira ibintu bito bihindurwa mu Nyandiko y'ibirego yo mu Gifaransa, kugira ngo ihure n'iy'umwimerere yo mu Cyongereza.

[17] Reba Icyemezo (ingoboka mbanzirizarubanza y'Ubwunganizi ku miterere y'Inyandiko y'ibirego), 30 Gicurasi 2002.

[18] *Prosecutor's Pre-Trial Brief* (« imyanzuro mbanzirizarubanza ya Porokireri»), umugereka B, 1 Kanama 2003.

buteganywa mu gika cya 3 cy'ingingo ya 6 ya Sitati. Ubwunganizi ntibwarwanyije icyo Cyifuzo[19].

14. Kuri iyo tariki, Urugereko rwanze kwakira Icyifuzo cy'Ubwunganizi gisaba kugena itariki urubanza rwatangiriraho, bitaba ibyo Uregwa akarekurwa by'agateganyo. Urugereko rwemeje ko urubanza ruzatangira mu mezi atandatu ya nyuma y'umwaka wa 2003, mbese nko muri Nzeri[20].

15. Ku itariki ya 20 Kanama 2003, Porokireri yongeye guhabwa uburenganzira bwo guhindura Inyandiko y'ibirego, kubera ko Urugereko rwari rumaze kubona ko ibyinshi mu byasabwaga guhindurwa ari ibijyanye n'ururimi cyangwa ibigamije gutuma iyo Nyandiko yumvikana kurushaho, kandi bigamije gutunganya kurushaho imiterere y'Inyandiko y'ibirego. Ibyasabwaga guhindurwa ntibyari bibangamiye inyungu z'Uregwa [21].

16. Ku itariki ya 1 Nzeri 2003, nyuma y'inama idasanzwe itegura urubanza yo ku itariki ya 30 Kanama 2003, habaye, mu muhezo, akanama mbanzirizarubanza. Muri ako kanama ababuranyi bemeye bimwe mu bintu bito byahinduwe mu Nyandiko y'ibirego, maze uwo munsi hatangwa Inyandiko y'ibirego yahinduwe[22].

17. Urubanza rwatangiye ku itariki ya 1 Nzeri 2003. Abatangabuhamya 15 bashinja, barimo umukozi w'iperereza n'umutangabuhamya w'impuguke, batanze ubuhamya mu gihe cy'iminsi 12 y'iburanisha. Ku itariki ya 30 Nzeri 2003, Porokireri yarangije gutanga bimenyetso bishinja. Kuri iyo tariki habaye inama ibanziriza itangwa ry'ibimenyetso bishinjura. Ubwunganizi bwatanze ibimenyetso bishinjura kuva ku itariki ya 27 Ukwakira kugera ku ya 28

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[19] Icyemezo ku Cyifuzo cya Porokireri gisaba guhindurwa Inyandiko y'ibirego (Urugereko rwa Mbere rw'Iremezo), 30 Kamena 2003.

[20] Icyemezo ku Cyifuzo gisaba kugena itariki y'itangira ry'urubanza rw'Uregwa, bitaba ibyo akaba akarekurwa by'agateganyo (Urugereko rwa Mbere rw'Iremezo), 30 Kamena 2003. Reba kandi Ibyemezo byafashwe mbere bikurikira : Icyemezo (Icyifuzo cya Porokireri gisaba kongererwa igihe), 11 Gashyantare 2003, Icyemezo (Icyifuzo cya Porokireri gisaba kongererwa ibihe byo gusubiza), 2 Mata 2003.

[21] *Decision on Prosecutor Motion for Leave to Amend Indictment* [Icyemezo ku Cyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego (Urugereko rwa Mbere rw'Iremezo), 20 Kanama 2003.

[22] Inyandikomvugo y'iburanisha, 1 Nzeri 2003, imp. 1,2

Ugushyingo 2003. Abagabo 19, barimo impuguke, batanze ubuhamya mu gihe cy'iminsi 15 y'iburanisha. Muri rusange abagabo 34 batanze ubuhamya mu gihe cy'iminsi 27 y'iburanisha. Inteko y'abacamanza yaburanishije uru rubanza mu masaha ya nyuma ya saa sita, kubera ko mbere ya saa sita, Urugereko rwa Mbere rw'Iremezo rwabaga ruburanisha urubanza *Porokireri aburanamo na Bagosora na bagenzi be.*

18. Ku itariki ya 15 Nzeri 2003, Urugereko rwemeye Icyifuzo cya Porokireri gisaba gukura mu Rwanda umutangabuhamya ufunze. Rwanakiriye Icyifuzo cy'Ubwunganizi gisaba ko hafatwa ingamba zo kurinda umutekano w'abatangabuhamya bashinjura[23]. Ku itariki ya 29 Nzeri 2003, bitewe n'uko Uregwa atari yabonye igihe gihagije cyo gutegura ukwiregura kwe, Urugereko rwanze kwakira ubuhamya bw'umugabo ushinja wiswe CGP, kubera ko umwirondoro we nyawo wari wamenyeshejwe Ubwunganizi hasigaye iminsi itatu gusa mbere y'itariki yagombaga kwitabiraho urukiko[24].

19. Ku itariki ya 2 Ukwakira 2003, Urugereko rwafashe Icyemezo cyerekeye kwimura abatangabuhamya bashinjura[25]. Ku itariki ya 22 Ukwakira 2003, Ubwunganizi bwatanze inyandiko ikubiyemo ingingo ku byabaye no ku mategeko zitumvikanwaho n'ababuranyi, nk'uko biteganywa n'agaka *ii* k'igika B cy'ingingo ya 73 *ter* y'Amategeko. Ku itariki ya 28 Ugushyingo 2003, Urugereko rwanze kwakira Icyifuzo Ubwunganizi bwatanze, bushingiye ku ngingo ya 92 *bis* y'Amategeko, busaba Urugereko kwakira inyandiko y'ubuhamya bw'umugabo wiswe DX, kubera ko uwo mugabo atashoboraga kwitaba urukiko Arusha bitewe n'impamvu z'uburwayi, umutekano n'akazi bye[26].

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23 *Order for Transfer of Witness CGC* [Itegeko ryo kwimura CGC] (ingingo ya 90 bis), 15 Nzeri 2003 ; *Decision on Defence Motion for Protection of Witnesses [*Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba gufata ingamba zo kurina umutekano w'abatangabuhamya], 15 Nzeri 2003.

24 Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 15 - 17.

25 *Order for Transfer of Defense Witnesses DC, DM, DN, DO, and DR, Pursuant to Rule 90 bis* – Itegeko ryo kwimura DC, DM, DN, DO na DR, hashingiwe ku ngingo ya 90 *bis* - (Urugereko rwa Mbere rw'Iremezo), 2 Ukwakira 2003.

26 Inyandikomvugo y'iburanisha, 28 Ugushyingo 2003, imp. 28-30.

20. Ku itariki ya 28 Ugushyingo 2003 mu magambo, no ku itariki ya 10 Ukuboza 2003 noneho mu nyandiko, Urugereko rwanze kwakira Icyifuzo cya Porokireri gisaba guhanira avoka w'Ubwunganizi wungirije ko yasuzuguye Urukiko, bitewe n'uko yitwaye mu kunyomoza umutangabuhamya wiswe CGL[27].

21. Ku itariki ya 28 Ugushyingo 2003, Urugereko rwakoresheje inama itegura urubanza, kugira ngo rwigire hamwe n'ababuranyi amatariki bagomba gutangiraho imyanzuro yabo ya nyuma. Nyuma yaho, ku itariki ya 20 Mutarama 2004, Porokireri yatanze imyanzuro nsozarubanza naho Ubwunganizi butanga iyabwo ku itariki ya 6 Gashyantare 2004. Ababuranyi batanze imyanzuro mu mugambo mu saha ya nyuma ya saa sita ku itariki ya 1 n'iya 2 Werurwe 2004.

5. Ibimenyetso

Amahame rusange

22. Nk'uko biteganywa n'igika A cy'ingingo ya 89 y'Amategeko, Urugereko ntirugendera ku mategeko y'igihugu iki n'iki agenga itangwa ry'ibimenyetso, ahubwo rugendera ku mategeko yarwo bwite. Mu gihe Amategeko yarwo ntacyo abivugaho, nk'uko biteganywa mu gika B cy'iyo ngingo, Urugereko rwakira ibimenyetso rukurikije amategeko agenga itangwa ry'ibimenyetso yatuma urubanza rucibwa nta karengane mu buryo bwubahiriza Sitati n'amahame rusange y'amategeko. Nk'uko biteganywa mu gika C cy'ingingo ya 89, Urugereko rushobora kwakira ikimenyetso cyose rubona gifite agaciro.

Gusuzuma ukwizerwa kw'abatangabuhamya

23. Ubukemuramanza bw'Urukiko bwagaragaje amahame rusange amwe n'amwe agenga isuzumwa ry'ibimenyetso. Mu gusuzuma ukwizerwa k'ubuhamya,

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[27] Ni kimwe no haruguru, urup. 18 ; *Decision on Prosecution's Motion for Sanctions against Defence Counsel* – Icyemezo ku Cyifuzo cya Porokireri gisaba guhana Avoka wunganira Uregwa (Urugereko rwa Mbere rw'Iremezo), 10 Ukuboza 2003.

Urugereko rushobora gushingira ku ngingo zinyuranye, zirimo ukwivuguruza hagati y'ubuhamya umugabo atangiye mu Rukiko n'ubuhamya bwanditse yatanze mbere, uguhuzagurika cyangwa ukuvuga ibintu bisa n'ibidashoboka bishobora gutera inenge ubuhamya bwe mu Rukiko, cyangwa ibindi bintu byihariye biranga ubuhamya bwe[28]. Izo ngingo zigomba gusuzumwa hifashishijwe ibindi bintu bishobora gusobanura ibyagarara nk'ihuzagurika. Muri ibyo bintu harimo igihe gishize, ububi bw'ibyabaye n'ibindi bintu bijyanye n'umuco. Nk'uko byavuzwe n'Urugereko rw'ubujurire rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze Cyitwa Yugosolaviya (« TPIY ») mu rubanza rwa *Kupreškić* :

> « Urugereko rwa Mbere rw'Iremezo rufite rwose ububasha bwo gusuzuma uko kwivuguruza, rufite ububasha bwo kureba, rushingiye ku buhamya bwose uko bwakabaye, niba umutangabuhamya yakwizerwa, niba ibyo avuga byakwemerwa maze rukemera cyangwa rukanga ingingo z'ingenzi z'ubuhamya bwe mu Rukiko. Kuba hari ho kwivuguruza mu buhamya, si byo byonyine byatuma Urugereko rwa Mbere rw'Iremezo rushyira mu gaciro, rwemeza ko ubuhamya bwose butakwizerwa ngo rubwange.
>
> Byongeye kandi, ibintu nk'igihe gishize hagati y'ibyabaye n'igihe umutangabuhamya atangiyeho ubuhamya mu Rukiko, kuba abandi bantu boshobora kumujya mu matwi, ukwivuguruza cyangwa kuba hariho ingorane igihe ibivugwaho byababaga, ntibyahita bibuza Urugereko rwa Mbere rw'Iremezo gushingira kuri ubwo buhamya. Ariko, Urugereko rwagombye kuzirikana ibyo bintu mu gihe cyo gusuzuma ubuhamya no kugena agaciro bwahabwa[29] »

[28] Urubanza rwa *Akayesu,* ibika 130-156 ; urubanza rwa *Bagilishema,* ibika 22 -25 ; Urubanza rwa *Semanza,* igika 36.

[29] Urubanza rwa *Kupreškić* mu bujurire*,* igika 31 ; Urubanza rwa *Musema* mu bujurire*,* igika 20 ; Urubanza rwa *Delalić* na bagenzi be mu bujurire*,* ibika 485, 496 - 498 ; Urubanza rw'*Akayesu,* ibika 142-143 ; Urubanza rwa *Kajelijeli,* igika 39 , 40 ; Urubanza rwa *Bagilishema,* ibika 22-25.

Kubera iyo mpamvu, Urugereko rufite ububasha bwo kwemeza ko zimwe mu ngingo z'ubuhamya umugabo umwe yatangiye mu Rukiko zakwizerwa, mu gihe izindi zitakwizerwa[30].

Ishyigikirwa ry'ibimenyetso

24. N'ubwo iyo abagabo barenze umwe batanze ubuhamya ku bikorwa bimwe byongera ukwizerwa k'ubuhamya butanzwe, Urugereko rusanga iyo atari impamvu simusiga yatuma ubwo buhamya bwemerwa. Birasanzwe ko igikorwa kimwe cy'ingenzi gishobora kugaragazwa hashingiwe ku buhamya budafite ubundi bubushyigikira, iyo Urugereko rusanga ubwo buhamya bwakwizerwa. Ariko, Urugereko rushobora kwemeza ko ubuhamya butakwizerwa kubera ko budafite ubundi bubushyigikira[31].

Ivuguruzanya hagati y'ubuhamya bwanditse bwatanzwe mbere n'ubuhamya butanzwe mu Rukiko.

22. Igihe cyose ababuranyi bavuze ko hari ukwivuguruza hagati y'ubuhamya bwanditse abagabo bamwe batanze mbere n'ubwo batangiye mu Rukiko, Urugereko rwazirikanye, ku buryo busesuye, izo ngingo mu gusuzuma ukwizerwa kw'abo batangabuhamya.

Ubuhamya umugabo atanze ku byo yumvanye abandi.

23. Urugereko rusanga ubuhamya umuntu atanze ku byo yumvanye abandi bushobora kwakirwa, kabone n'iyo bwaba budashyigikirwa n'ubuhamya butaziguye. Rushingiye ku ngingo ya 89 y'Amategeko no ku bukemuramanza

[30] Reba Urubanza rwa *Bagilishema,* igika 960.

[31] Urubanza rwa *Kayishema na Ruzindana* mu bujurire*,* igika 320 ; Urubanza rwa *Musema*, igika 36 ; Urubanza rwa *Rutaganda* mu bujurire*,* ibika 28-29 ; Urubanza rw'*Akayesu,* igika 134 ; Urubanza rwa *Kayishema na Ruzindana,* igika 70 ; Urubanza rwa *Musema,* ibika 45-46 ; Urubanza rwa *Kajelijeli*, ibika 41-42.

bw'Urukiko, Urugereko rwasuzumanye ubushishozi ubuhamya abagabo batanze ku byo bumvanye abandi[32].

Kumenya uregwa

24. Urugereko ntirwirengagiza ingorane n'ibibazo bijyanye no gusuzuma ibimenyetso byatanzwe mu kumenya Uregwa. Nk'uko byatangajwe n'Urugereko rw'Ubujurire rw'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho icyahoze cyitwa Yugosolaviya mu rubanza rwa *Kupreškić* :

> « … Urugereko rwa Mbere rw'Iremezo rushyira mu gaciro, rugomba kuzirikana ko hari ingorane mu kumenya uregwa mu rubanza uru n'uru. Rugomba kandi gusuzumana ubushishozi icyo kimenyetso mbere yo kwemeza ko Uregwa ahamwa n'icyaha rushingiye kuri iyo ngingo yonyine. Amategeko ahana ibyaha y'ibihugu byose byo ku isi yemera ko ari ngombwa gushishoza cyane, mbere yo kwemeza ko uregwa ahamwa n'icyaha, hashingiwe ku kuba yaramenywe n'umutangabuhamya umwe, na we wari mu bihe bibi. [33]»

Urugereko rwasesenguye kandi rusuzumana ubushishozi ubuhamya bushinja bugamije kwerekana Uregwa. Rwibanze cyane ku kumenya niba umutangabuhamya yari azi Uregwa mbere y'ibyabaye, niba yarashoboye kumubona neza, niba ubuhamya bwe bukwiye kwemerwa, uburyo yamubonyemo, niba ubuhamya bwe cyangwa uburyo yamumenyemo birangwa no guhuzagurika, niba bishoboka ko abandi bantu bamugiye mu matwi, niba mu gihe cy'ibyabaye yari mu bihe bimukomereye, igihe cyahise hagati y'ibyabaye n'igihe atangiye ubuhamya kuri ibyo bintu ndetse rukareba niba, muri rusange, umutangabuhamya yakwemerwa[34].

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[32] Urubanza rwa *Musema,* igika 51, Urubanza rw'*Akayesu* mu bujurire, ibika 286, 287, 290 na 292 ; Urubanza rwa Rutaganda mu bujurire, igika 34 , 35.

[33] Urubanza rwa *Kupreškić* mu bujurire; ibika 34 - 41.

[34] Urubanza mu bujurire rwa *Kayishema na Ruzindana,* igika 328 ; Urubanza rwa *Kayishema na Ruzindana,* ibika 71-75 ; Urubanza rwa *Niyitegeka,* igika 49 ; Urubanza rwa *Kunarac,* ibika 558 - 563.

Kwiregura gushingiye ku kuvuga ko uregwa atari aho icyaha cyakorewe igihe cyakorwaga (alibi)

25. Urugereko ruremera igisobanuro cya *alibi* gikurikira cyatanzwe n'Urugereko rwa Mbere rw'Iremezo mu rubanza rwa *Musema* :

> « Iyo Ushinjwa yireguje ingingo ya *alibi*, ntaba ahakanye gusa ko atakoze ibyaha ashinjwa, ahubwo aba anemeje ko igihe ibyo byaha byakorwaga yari ahandi hantu hatagira ihuriro n'aho byakorewe. Porokireri ni we ugomba kwerekana nta gushidikanya na gato ko uregwa yakoze icyaha koko. Mu kunyomoza alibi, Porokireri agomba gutanga ibimenyetso byerekana nta gushidikanya na gato, ko Uregwa yari aho hantu, kandi ko yakoze ibyaha aregwa. Alibi ntisaba gutangirwa ikimenyetso cyihariye. Iyo iyo myiregurire yumvikana ko ari ukuri, igomba kwemerwa.[35] »

Ibimenyetso bigamije kugaragaza ko igihe icyaha cyakorwaga uregwa yari ahandi hantu hatari aho cyakorewe, bigomba gusuzumirwa hamwe n'ibimenyetso bishinja bigamije kugaragaza ko ushinjwa yari aho icyaha cyakorewe igihe cyakorwaga kandi ko yagikoze[36].

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[35] Urubanza rwa *Musema,* igika 108 ; Urubanza rwa Musema mu bujurire*,* ibika 205, 206 (kwemeza mu bujurire imikirize y'urubanza mu rw'iremezo)
[36] Urubanza rwa *Ntakirutimana,* igika 466.

UMUTWE WA II

IMYANZURO KU BYABAYE

1. Intangiriro

26. Uyu mutwe ni incamake y'imyanzuro ku byabaye yafashwe n'Inteko y'Urugereko, hashingiwe ku bimenyetso bishinja n'ibishinjura byatanzwe ku bikorwa by'ingenzi bivugwa mu Nyandiko y'ibirego. Mu ikubitiro, mu cyiciro cya 2 gikurikira, Inteko irasuzuma ingingo z'Ubwunganizi zivuga ko ibyabaye bivugwa mu Nyandiko y'ibirego bidahuye neza n'ibimenyetso bishinja Porokireri yatanze mu rubanza, cyangwa ko bidasobanutse neza. Mu cyiciro cya 3, Urugereko rurasuzuma ibintu rusange byabaye, naho kuva ku cyiciro cya 4 kugera ku cya 8, rusuzuma buri tsinda ry'ibyabaye bivugwa mu Nyandiko y'ibirego.

27. Mu myanzuro nsozarubanza, Porokireri yemera ko atatanze ibimenyetso bishyigikira ibivugwa mu bika bya 6, 7, 14, 17, 18, 22, 23, 24 na 26 by'Inyandiko y'ibirego, bikubiyemo ibyo Uregwa ashinjwa ku bintu bitandatu byabaye[37]. Kubera iyo mpamvu, Urugereko rusanga ibyo bintu bitaratangiwe gihamya.

2. Inshingano yo kumenyekanisha ibimenyetso : ukudasobanuka ku Inyandiko y'ibirego n'amakosa ayirimo.

28. Agaka *a* k'igika cya 4 cy'ingingo ya 20 ya Sitati gakubiyemo ihame riteganywa n'amategeko mpuzamahanga agenga uburenganzira bw'ikiremwamuntu. Iryo hame rivuga ko umuntu wese uregwa afite uburenganzira bwo « kumenyeshwa, bidatinze, mu rurimi yumva kandi ku buryo burambuye, ubwoko bw'ibirego

[37] Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 45-51, 2 Werurwe 2004, urup. 66. Mu gika cya 17 n'icya 22 havugwa ibintu bimwe byabaye, kimwe no mu gika cya 18 n'icya 23, mu gushyigikira ibirego binyuranye bya jenoside n'itsembatsemba.

ashinjwa n'impamvu zabyo [38]». Kubera iyo mpamvu, nk'uko biteganywa n'igika cya 4 cy'ingingo ya 17 ya Sitati no mu gika C cy'ingingo ya 47 y'Amategeko, mu gutegura Inyandiko y'ibirego, Porokireri agomba kuvugamo neza ibyabaye, akanasobanura neza icyaha Uregwa ashinjwa. Mu nkiko zidahoraho, ubwo burenganzira n'izo nshingano bivuga ko mu Nyandiko y'ibirego Porokireri agomba kuvuga ibikorwa by'ingenzi ibirego bishingiyeyo, ariko akaba atagomba byanze bikunze gushyiramo ibimenyetso bizifashishwa mu kugaragaza ibyo bikorwa. N'ubwo agomba kuvuga neza ibirego ku buryo busobanutse kugira ngo Uregwa na we ashobore gutegura ukwiregura kwe[39], Porokireri ntasabwa gukora ibidashoboka ngo yerekane buri kantu kose mu bigize buri kimenyetso ateganya gutanga[40]. Kugira ngo hemezwe ko Inyandiko y'ibirego ifite inenge, Ubwunganizi bugomba kubanza kugaragaza ko kuba iyo Nyandiko idasobanutse cyangwa kuba irimo amakosa byatumye, ku buryo bwumvikana, uregwa adashobora kwiregura ku birego nyakuri ashinjwa.

[38] Amasezerano mpuzamahanga ku burenganzira bw'imbonezamubano n'ubwa politiki, ingingo ya 14, igika 3, agaka a (byanditswe kimwe muri Sitati) ; Amasezerano ya Amerika ku uburenganzira bw'ikiremwamuntu, ingingo ya 8, igika 2, agaka b : «… kumenyesha mbere, kandi mu buryo burambuye, Uregwa ibyo ashinjwa …» ; Amasezerano y'Uburaya ku burenganzira bw'ikiremwamuntu, ingingo ya 6, igika 3, agaka *a :* «…kumenyeshwa, bidatinze, mu rurimi yumva kandi mu buryo burambuye, ubwoko bw'ibirego ashinjwa n'impamvu abishinjwa…».

[39] Urubanza rwa *Kupreškić* mu bujurire*,* igika 95 (« Kubera ko ivuga ibirego mu buryo budasobanutse neza, Inyandiko yahinduwe yakorewe abashinjwa ntiyujuje ibisabwa by'ingenzi, ari byo kugaragariza uregwa, mu buryo burambuye, ibyo ashinjwa, kugira ngo ashobore gutegura ukwiregura kwe. ») ; Urubanza rwa Rutaganda mu bujurire*,* igika 301 (« Kubera iyo mpamvu, Inyandiko y'ibirego igomba kuba isobanutse bihagije, ni ukuvuga ko igomba guha uregwa amakuru yumvikana ku byabaye by'ingenzi biregerwa, n'uko byitwa mu mategeko ahana. ») ; urubanza rwa *Semanza,* igika 44 (« Ikibazo cy'ibanze umuntu yibaza mu kureba niba inyandiko y'ibirego yanditse mu magambo asobanutse cyangwa adasobanutse bihagije, ni icyo kumenya niba iyo Nyandiko ivuga mu buryo busobanutse ibyabaye biregerwa, kugira ngo imenyeshe neza uregwa ibyo ashinjwa, bityo ashobore gutegura ukwiregura kwe») ; Urubanza rwa *Ntakirutimana*, igika 42 ; Ku byerekeye uko kuvuga ibintu neza gusabwa : Mu rubanza rwa Rutaganda mu bujurire*,* igika 303 Urugereko rugira ruti (« Mbere yo gusuzuma niba igikorwa kiregerwa atari ingenzi cyangwa niba ukunyuranya hagati y'ibivugwa mu Nyandiko y'ibirego n'ibimenyetso byatanzwe ari guto, ubusanzwe Urugereko rwagombye kureba niba bitavutsa uregwa uburenganzira bwe. Nk'urugero, uko kuvutswa uburenganzira bishobora guterwa n'ukudasobanuka kw'ibirego ku buryo byatuma uregwa yibeshya ku miterere y'icyaha ashinjwa »).

[40] Urubanza rwa *Semanza,* igika 44 («Ikibazo cy'ibanze umuntu yibaza mu kureba niba Inyandiko y'ibirego isobanutse bihagije cyangwa niba atari ko bimeze, ni icyo kumenya niba iyo Nyandiko y'ibirego isobanura, mu buryo bujyanye n'ibiyivugwamo, ibintu by'ingenzi biregerwa, kugira ngo uregwa amenyeshwe neza ibyo ashinjwa, bityo ashobore gutegura ukwiregura kwe») ; Urubanza rwa *Ntagerura na bagenzi be,* igika 32 : (« Cyakora, Urugereko rusanga Porokireri atagomba gusabwa gukora ibidashoboka. Rwemera ko ubwoko cyangwa ingano y'ibyaha, kwibagirwa kw'abatangabuhamya cyangwa impungenge bafite ku mutekano wabo, bishobora gutuma Porokireri atubahiriza inshingano ahabwa n'amategeko, yo gutanga bidatinze amakuru arambuye. Iyo adashoboye kuvuga umunsi nyawo, Porokireri atanga ikigereranyo cy'amatariki gishyize mu gaciro ») (Niko bisemuwe).

29. Mu rubanza, iyo ibimenyetso bitandukanye n'uko byagombye kuba biteye, maze Ubwunganizi bukabirwanya mu buryo bwihariye, Urugereko ruteganya ingamba zirimo guhindura Inyandiko y'ibirego, gusubika urubanza cyangwa kutakira ibimenyetso birebwa n'icyo kibazo[41]. Cyakora, iyo inenge yo mu Nyandiko y'ibirego ituruka ku kimenyetso iki n'iki cyatanzwe mu rubanza, ivuzwe ari uko urubanza rugiye kurangira, Urugereko rushobora gusuzuma niba iyo nenge yarakosowe n'ibindi bintu byatumye Ubwunganizi busobanukirwa, nk'imyanzuro mbanzirizarubanza, ibimenyetso byamenyekanishijwe cyangwa impaka zagiwe mu iburanisha. Igihe Ubwunganizi bumenyesherejwe ibyo bimenyetso, n'ingaruka z'ibyo bimenyetso mu gutuma Uregwa ashobora gutegura ukwiregura kwe, kimwe n'ingaruka z'ibintu bishya byamenyekanishijwe Porokireri ashingiraho, ibyo byose ni ingenzi mu kureba niba amakuru yatanzwe nyuma yarakosoye inenge iri mu Nyandiko y'ibirego[42]. Iyo Ubwunganizi buvuze iyo nenge urubanza rurangiye, buba bufite inshingano yo kugaragariza Urugereko ko iyo nenge yabangamiye cyane itegurwa ry'ukwiregura, kabone n'ubwo haba hari andi makuru Porokireri yatanze ngo iyo nenge iveho[43].

30. Ubwunganizi bunenga Inyandiko y'ibirego buvuga ko idasobanutse kandi idahuye n'ibimenyetso bishinja byatanzwe mu rukiko. Kubera ko bwabonye ayo makosa urubanza rwaratangiye kandi bwararangije gukora iperereza, Ubwunganizi ntibwabonye umwanya wo gushaka ibimenyetso bivuguruza ibivugwa na Porokireri. Bunenga ko uruhare rw'Uregwa mu bitero byagabwe ku gasozi ka Gitwa rutasobanuwe bihagije, ko amatariki yaba yarakoreyeho ibyo bikorwa yaba atari yo cyangwa adasobanutse, ko ibikorwa byabaye muri Serire ya Gasharu bivugwa ko byabaye mu ntangiriro za Gicurasi kandi atari ko biteye, kuko abatangabuhamya bashinja bavuze ko byabaye mu mpera z'uko kwezi, kandi ko, ku byerekeye ibyo bikorwa, Inyandiko y'ibirego ifata umuntu umwe waba warahohotewe nk'aho ari abantu babiri banyuranye. Nta n'imwe muri izo

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[41] Urubanza rwa *Niyitegeka* mu bujurire, igika 194 ; Urubanza rwa *Kupreškić* mu bujurire*,* igika 92.
[42] Urubanza rwa *Niyitegeka* mu bujurire*,* igika 197.
[43] Ni kimwe no haruguru, igika 200.

nenge yavuzwe mu iburanisha. Mu gusoza, Ubwunganizi busanga bwararenganijwe no kuba Porokireri yaragerageje gukura mu Nyandiko y'ibirego ibika bimwe na bimwe, ubwo yatangaga imyanzuro nsozarubanza. Ubwunganizi busaba Urugereko guhanagura Inyandiko y'ibirego yose, cyangwa igice cyayo[44].

31. Porokireri avuga ko Inyandiko y'ibirego ishingiye neza neza ku bimenyetso yari afite ubwo yakoraga iyo Nyandiko. Avuga ko amakosa ishobora kuba yari ifite yakosowe n'ibimenyetso byamenyekanishijwe nyuma, kandi ko n'ibihe biyivugwamo byatanzwe mu buryo bucishirije, ariko ntibikabije. Naho ku ikosa ryerekeye Mukantabana, Porokireri avuga ko ryakosowe mu myanzuro mbanzirizarubanza yatanze hasigaye ukwezi ngo iburanisha ritangire. Ni ukuvuga rero ko Ubwunganizi butarenganijwe. Itariki ivugwa mu Nyandiko y'ibirego ku bikorwa byabereye kuri santeri [y'ubucuruzi] yo ku Gitaka ni imwe n'iyavuzwe mu buhamya bwanditse abagabo bane bashinja batanze kuri iyo ngingo. Ku byerekeye agasozi ka Gitwa, Porokireri yemeza ko ubuhamya bwatanzwe mu Rukiko bugaragaza ibyiciro bitatu by'ibikorwa byabaye hagati y'itariki ya 17 n'iya 25 Mata. Yemeza ko ayo matariki akubiye mu bihe bivugwa mu Nyandiko y'ibirego. Ibyo bihe bijyanye neza n'amatariki ibyo bikorwa bivugwa ko byabereyeho mu buhamya bw'abagabo bashinja, kandi ntacishirije cyane.

Amakosa yerekeye amatariki ibintu byabereyeho ku gasozi ka Gitwa

32. Nk'uko bivugwa mu gika cya 15 cy'Inyandiko y'ibirego, ibikivugwamo bikaba binasubirwamo muri make mu gika cya 20, «Mu minsi myinshi, hagati y'itariki ya 13 n'iya 26 Mata 1994 », Uregwa « yayoboye » cyangwa "yitabira" ibitero byibasiye abasiviri b'Abatutsi ku gasozi ka Gitwa. Mu gika cya 16 hatangwa ibisobanuro kuri kimwe muri ibyo bitero, hakavugwa ko ku itariki ya « 14 Mata 1994 cyangwa ahagana kuri iyo tariki », Uregwa « yorohereje » abagabye igitero cyangwa « akifatanya na bo » atera gerenade, atwara abasirikare n'*Interahamwe* ndetse akanaha amabwiriza abagabye icyo gitero. Ubwunganizi busanga ibyo

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44 Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 13-18, 22 - 23 ; Imyanzuro y'Ubwunganizi, ibika 62-83.

bisobanuro bitumvikane neza bihagije, kuko binyuranye n'ibivugwa mu buhamya bushinja buvuga ko ibyo bikorwa byabaye hagati y'itariki ya 20 n'iya 25 Mata 1994[45].

33. Abagabo batatu bashinja, biswe CGV, CGY na CGN, batanze ubuhamya ku byabereye ku gasozi ka Gitwa. CGV, uvuga wenyine ko Uregwa yateye gerenade, avuga ko igitero cyagabwe ahagana ku itariki ya 17 Mata. CGN yemeza ko hagati y'itariki ya 20 n'iya 24 Mata, Uregwa yashishikaje abagabye ibitero, kandi ko igitero cyagabwe hashize igihe gito Uregwa ahavuye. CGY avuga ko ku itariki ya 23 Mata, yabonye Uregwa ahamagarira abantu kugaba ibitero, kandi ko ibitero byagabwe mu minsi yakurikiyeho.

34. Buhereye ku matariki avugwa mu Nyandiko y'ibirego, Ubwunganizi bwashoboraga kumenya neza igihe ibikorwa bivugwa byakorewe. Bushyize mu gaciro, Ubunganizi bwashoboraga gukora iperereza kuri ibyo bikorwa no kubona ibimenyetso bishinjura. Inyandiko y'ibirego isa n'iyerekana ko Uregwa atitabiriye gusa igitero kimwe runaka, cyagabwe ku munsi uyu n'uyu mu gihe kivugwa. Ahubwo, iyo Nyandiko yumvikanisha ko yitabiriye ibyo bitero mu gihe cy'iminsi myinshi[46]. Amatariki avugwa muri iyo Nyandiko ashyize mu gaciro, uzirikanye imiterere y'ibyabaye. Abatangabuhamya bavuze ko guhera ku itariki ya 13 Mata, impunzi nyinshi z'Abatutsi zari zateraniye ku gasozi ka Gitwa, kandi ko igitero simusiga cya nyuma, cyarimo ibihumbi n'ibihumbi by'abantu, cyagabwe ku itariki ya 26 Mata. Abagabye igitero benshi bagose impunzi maze bazigabaho ibitero shuma muri icyo gihe cyose. Kubera ko ibitero byagabwe ku gasozi ka Gitwa byahoragaho kandi bizwi na bose, Porokireri yashyize mu gaciro agendera ku gihe cyose ibyo bikorwa byamaze, mu kugena amatariki Uregwa yaba yarabigiriyemo. Kubera iyo mpamvu, Ubwunganizi bwashoboraga, mu buryo bushyize mu gaciro, kwiregura ku byo Porokireri avuga mu Nyandiko y'ibirego.

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[45] Imyanzuro y'Ubwunganizi, igika 63 ; Inyandikomvugo y'iburanisha, 2 Werurwe 2004, igika 13.

[46] Urubanza rwa Rutaganda mu bujurire, igika 304. Amatariki ari mu Nyandiko y'ibirego ashobora kumvikana mu buryo bwinshi, igihe muri iyo Nyandiko y'ibirego havugwa ko ibyaha binyuranye byakozwe mu gihe cy'iminsi myinshi.

35. Ibyo ari byo byose, mu kurwanya ko Urugereko rwakira ibimenyetso Porokireri yatanze ku bitero byagabwe ku gasozi ka Gitwa, Ubwunganizi ntibushingira ku bisobanuro bitashyizwe nkana mu nyandiko y'ibirego. Bityo rero, Ubwunganizi ni bwo bwagombaga kugaragaza ko bwabangamiwe cyane mu gutegura ukwiregura kwabwo, ariko ntibwabikoze.

36. Urugereko rwanze kandi kwakira ibyo Ubwunganizi buvuga ko Inyandiko y'ibirego idasobanura niba Uregwa yarakoze icyaha nk'umuntu ukuriye abandi, umuntu ukuriwe n'abandi cyangwa niba yaragikoze nk'icyitso: igika cya 15 kigaragaza neza ko Uregwa yakoze ku giti cye ibikorwa ashinjwa, ko yayoboye ibitero kandi ko yabigiyemo. Mu gika cya 20 havugwamo ko yagiye mu bitero, ko yatwaye abagabye ibitero n'intwaro, cyangwa ko yaborohereje mu gukora urwo rugendo. Inyandiko y'ibirego isobanura kandi ko Uregwa aryozwa icyaha ku giti cye, hakurikijwe ibiteganywa mu gika cya 1 cy'ingingo ya 6 ya Sitati. N'ubwo uburyo Uregwa yagize uruhare mu byaha butarondowe, biragaragara cyane ko Uregwa yari ahari kandi ko yagize uruhare mu bitero, ku buryo bunyuranye. Kuri iyo ngingo, Inyandiko y'ibirego isobanura neza ibimenyetso byatanzwe mu rubanza.

Amakosa ku matariki y'ibyabereye kuri santeri yo ku Gitaka, muri Serire ya Gasharu

37. Nk'uko bivugwa mu gika cya 8 n'icya 9 cy'Inyandiko y'ibirego, bikanasubirwamo muri make mu gika cya 27 n'icya 28, mu ntangiriro y'ukwezi kwa Gicurasi, Uregwa yagiye muri Serire ya Gasharu, maze ashishikariza kwica abantu bamwe bavuzwe amazina. Abatangabuhamya bane bashinja biswe CGB, CGE, CGF na CGX batanze ubuhamya kuri icyo gikorwa. Batatu ba mbere bavuga ko, mu by'ukuri, Uregwa yagiyeyo mu mpera za Gicurasi, naho CGX wajijinganyaga mu kwibuka avuga ko Uregwa yagiyeyo mu ntangiriro z'uko kwezi. Ubwunganizi bwemeza ko bwakoreshejwe ikosa kandi ko bwarenganijwe, nko kuba butarashatse *alibi* ijyanye n'igihe cy'impera z'ukwezi kwa Gicurasi.

38. Mu buhamya bwanditse batanze mbere, aba batangabuhamya ntibavuga rumwe ku itariki Uregwa yagiriye ku Gasharu. CGB na CGF bavuga ko yagiyeyo mu ntangiriro za Gicurasi naho CGX ntavuga itariki Uregwa yagiriyeho. Mu nyandiko iri mu rurimi rw'icyongereza, CGE avuga gusa ko Uregwa yagiyeyo muri Gicurasi naho mu nyandiko iri mu gifaransa akavuga ko Uregwa yagiyeyo mu mpera z'uko kwezi. Imyanzuro mbanzirizarubanza ya Porokoreri igendera ku matariki avugwa mu nyandiko y'ubwo buhamya iri mu cyongereza.

39. N'ubwo hari ukunyuranya ku matariki ari mu Nyandiko y'ibirego n'ayo abatangabuhamya bavugiye mu Rukiko, bushyize mu gaciro, Ubwunganizi bwari bufite uburyo bwo kwiregura ku birego bya Porokireri. Kuba butarabwiwe itariki nyayo ntibyabubujije gushaka ibimenyetso bigaragaza *alibi*. Mu by'ukuri, ibindi bikorwa bivugwa mu Nyandiko y'ibirego, nko mu bika bya 11, 12 na 13, byagombaga na byo gutuma Ubwunganizi bukora ubushakashatsi muri urwo rwego, ku byabaye muri icyo gihe. Cyakora birumvikana ko Ubwunganizi bushobora kugendera kuri uko kwivuguruza hagati y'ubuhamya abagabo batangiye mu Rukiko n'ubuhamya bwanditse batanze mbere kugira ngo burwanye ukwizerwa kw'abo batangabuhamya.

<u>Amakosa ku mwirondoro wa Mukantabana na Nyiramaritete bakorewe ibyaha</u>

40. Mu gika cya 8 cy'Inyandiko y'ibirego, havugwamo ko mu ntangiriro z'ukwezi kwa Gicurasi, Uregwa yahamagariye abantu kwica abagabo babiri: Mukantabana na Karegeya. Mu gika cya 6 n'icya 26, Uregwa ashinjwa kuba, ku itariki ya 9 Mata cyangwa ahagana kuri iyo tariki, yaragiye ku Gasharu, akahashishikariza abantu kwica umugore witwa Thacienne Nyiramaritete. Mu gika cya 28 havugwa ko abo bantu batatu, ari bo Nyiramaritete, Mukantabana na Karegeya, bishwe bitegetswe n'Uregwa. Mu mugereka A w'imyanzuro mbanzirizarubanza yatanze hasigaye ukwezi kurenga ngo urubanza rutangire, Porokireri yemera iryo kosa ryo mu Nyandiko y'ibirego ryatewe no kutabona ko amazina « Mukantabana » na « Nyiramaritete » ari ay'umuntu umwe. Mu by'ukuri, muri iyo myanzuro,

incamake y'ubuhamya abagabo biswe CGE na CGF bari gutanga mu Rukiko igaragaza ko « Nyiramaritete » ari irindi zina rya Mukantabana.

41. Ubwunganizi ntibwatanze ikimenyetso kigaragaza ko kuba Porokireri yarakoze ikosa yongera mu Nyandiko y'ibirego umuntu wakorewe icyaha byatumye, ku buryo bugaragara, butiregura ku birego bya Porokireri. Icyashoboraga kubaho ni uko iri kosa riba ryaratumye Ubwunganizi bukora iperereza ku bantu batatu bafite amazina atatu atandukanye, kandi iyo bubikora bwari kubona amakuru amwe nk'ayo buba bwarabonye iyo bukora iperereza ku bantu babiri bafite aho bahuriye n'ayo mazina atatu. Imvune y'inyongera Ubwunganizi bwatewe n'iryo kosa ni nto cyane.

Ibirego bidafite ishingiro biri mu Nyandiko y'ibirego

42. Ubwunganizi buvuga ko bigaragara ko Inyandiko y'ibirego ifite inenge kandi ko bwakoze iperereza bushingiye ku makuru atari ukuri, kuko Porokireri yemeye ko atatanze ibimenyetso bishyigikira ibivugwa mu bika icyenda by'Inyandiko y'ibirego byerekeye ibintu bitanu bitandukanye byabaye.

43. Ubwunganizi ntibwerekanye ukuntu bwabangamiwe mu gutegura ukwiregura ku bindi birego bitewe n'uko Porokireri yemeye ko atatanze ibimenyetso bishyigikira ibirego bimwe. Ibyo bintu biboneka mu manza nyinshi. Hasigaye ukwezi ngo urubanza rutangire, Ubwunganizi bwamenyeshejwe gahunda y'ukuntu abagabo bashinja bazitaba Urukiko, bityo bukaba bwari buzi ibyo abo bagabo bari kuvuga mu Rukiko. N'ubwo bushobora kuba bwarakoze iperereza ritari ngombwa muri uru rubanza, Ubwunganizi ntibwerekanye ukuntu ibyo bintu byabubangamiye mu gutegura ukwiregura kwabwo ku bivugwa mu bika by'Inyandiko y'ibirego Porokoreri yatangiye ibimenyetso.

Umwanzuro

44. Kubera izo mpamvu, mu kwanzura, Urugereko rusanga Inyandiko y'ibirego itarimo inenge zaba zaratumye Ubwunganizi bubangamirwa mu gutegura ukwiregura kwabwo.

3. Ingingo rusange

3.1 Intangiriro

45. Porokireri atanga ibimenyetso ku ngingo zimwe na zimwe yumva ko ari ingenzi kugira ngo umuntu yumve neza uko ibintu byari biteye muri rusange ubwo ibyaha bivugwa mu Nyandiko y'ibirego byakorwaga. Cyakora, ibyo bimenyetso ntibireba, ku buryo bugaragara, igikorwa iki n'iki by'umwihariko. Mu bimenyetso yatanze harimo ibyerekeye ibintu byabanjirije ishyirwaho rya Guverinoma y'Agateganyo, kuba Uregwa yaragizwe Minisitiri w'Imari muri iyo Guverinoma na we akemera uwo mwanya, politiki ya Guverinoma y'Agateganyo ivugwa ko yari iyo gushishikariza abantu kwica Abatutsi mu Rwanda hose, kuba Uregwa yaragiye mu nama yabereye mu ruhame ku Kibuye ku itariki ya 3 Gicurasi 1994, iyobowe n'Abaminisitiri ba Guverinoma, akavugiramo ko ashyigikiye politiki y'iyo Guverinoma. Porokireri yerekanye kandi ingufu Uregwa yari afite mu Ishyaka Riharanira Demokarasi n'Imibereho Myiza y'Abaturage, zatumye umwe mu bayoboke b'iryo shyaka yegura ku mwanya w'ubuyobozi muri politiki bitewe n'uko umugore we yari Umututsikazi.

46. Porokireri avuga ko urebye imiterere y'ibirego, ibyo bimenyetso ari ingirakamaro. Muri rusange, avuga ko ibyo bimenyetso byari bigamije kwerekana « uko ibintu byari bimeze ubwo Uregwa yakoraga ibyaha ashinjwa mu Nyandiko y'ibirego ». By'umwihariko, Porokireri avuga ko kuba Uregwa yari umwe mu bagize Guverinoma y'Agateganyo, bigaragaza impamvu yakoze ibyaha ashinjywa, mu buryo bwihariye, mu Nyandiko y'ibirego. Ibyo bimenyetso

biragaragaza umugambi mubisha usabwa ku cyaha cya jenoside. Porokireri avuga kandi ko ibyo bimenyetso bituma umuntu yumva ko kuba byonyine Uregwa yari ahantu nko ku mabariyeri, byarashishikarije abantu gukora ibyaha[47].

47. Ubwunganizi buvuga ko ibyo bimenyetso byagombye kutakirwa cyangwa ko byagombye gusuzumanwa ubushishozi bukomeye. Buvuga ko ku itariki ya 7 Nyakanga 2003 Porokireri yahinduye Inyandiko y'ibirego, agakuramo ibika bine byashinjaga Uregwa jenoside, kubera uruhare yagize mu nama yabereye ku Kibuye ku itariki ya 3 Gicurasi, no kuba yari muri Guverinoma y'Agateganyo. Ubwunganizi buvuga ko, kubera iyo impamvu, Urugereko rutagombye kwemerera Porokireri kongera kugaruramo ibyo birego mu buryo buziguye[48].

48. Urugereko rusanga kuba Uregwa yari muri Guverinoma y'Agateganyo hari aho bihuriye n'Inyandiko y'ibirego. Ikibazo cyo kumenya niba Uregwa yari afite ubushobozi bwo kuyobora, guhamagarira abantu cyangwa kubashishikariza, ku buryo ubwo ari bwo bwose, kwica Abatutsi, gifitanye isano itaziguye no kuba ashinjwa ko yakoze ibyo bikorwa. Umurimo we muri Leta watumaga yashobora guhamagarira abantu gukora ibyaha akanabayobora, ni ingingo Porokireri ashobora gutangira ibimenyetso. Ayo ni amakuru rusange afite yemewe, atuma umuntu yumva ukuntu Uregwa yashoboye « gutanga amabwiriza », « kugenzura », "guhagarikira" « kuyobora » cyangwa « gutegeka » ko hakorwa ibyaha byihariye bivugwa mu Nyandiko y'ibirego. Mu by'ukuri, mu gice cya mbere no mu gika cya 1 cy'igice cya kabiri cy'Inyandiko y'ibirego havugwamo ko Uregwa yari Minisitiri muri Guverinoma y'Agateganyo. Ibimenyetso byerekeye umwanya yari afite muri Guverinoma kimwe n'ububasha bwe bijyanye n'Inyandiko y'ibirego, kuko bitanga amakuru ku kuntu ibintu byari biteye n'uko byagiye bigenda.

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47 Imyanzuro nsozarubanza ya Porokireri, imp. 36-66 ; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 2, 3, 5, 6, 14, 38.

48 Imyanzuro y'ubwunganizi, ibika 116, 117 na 125 ; inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 18 -20.

49. Porokireri avuga ko kuba Uregwa yari muri Guverinoma kimwe n'uruhare yagize mu nama yabereye ku Kibuye ku itariki ya 3 Gicurasi, ari ibintu by'ingenzi mu kugaragaza impamvu yakoze ibyaha ashinjwa mu Nyandiko y'ibirego. By'umwihariko, Porokireri avuga ko Uregwa yatoranyijwe bitewe nyine n'uko yakomokaga muri Perefegitura ya Kibuye kandi ashobora gufasha Guverinoma y'Agateganyo mu gukwirakwiza politiki irwanya Abatutsi mu karere ubusanzwe kashoboraga kutayitabira. Kubera iyo mpamvu, kuba yaragiye muri Guverinoma y'Agateganyo ubwabyo ni impamvu yatumye ahamagarira abantu ubwicanyi bwabereye ku Kibuye, nk'uko bivugwa mu Nyandiko y'ibirego. Uregwa yagiye muri Guverinoma y'Agateganyo nta gahato, nk'uko bigaragazwa n'inama yabereye ku Kibuye ku itariki ya 3 Gicurasi n'iyirukanwa ry'umutangabuhamya wiswe GKH ku mwanya w'ubudepite. Porokireri avuga kandi ko kuba Uregwa yaragumye muri Guverinoma agakorana na yo byababaye ngombwa ko akora ibyaha bivugwa mu Nyandiko y'ibirego[49]. Ubwunganizi burwanya uburyo Porokireri avuga impamvu zateye Uregwa kujya muri politiki. Butanga ibimenyetso bigaragaza ko Uregwa atagiye muri Guverinoma ku bushake, kandi ko kugira ngo atishyira mu makuba yakoze bike bishoboka mu byo yasabwaga gukora.

50. Urugereko rusanga kuba Uregwa yari umwe mu bagize Guverinoma bishobora kuba ari ingenzi mu gusuzuma impamvu yaba yarakoze ibyaha bivugwa mu Nyandiko y'ibirego. Kumenya iyo mpamvu ni ingenzi ku birebana n'ikorwa ry'icyaha cyane cyane iyo, nk'uko biteye muri uru rubanza, Ubwunganizi buvuga ko impamvu z'Uregwa zinyuranye n'iby'umuntu yakwibwira ahereye ku kuba Uregwa yari muri Guverinoma y'Agateganyo. Byongeye kandi, Urugereko ruzirikana ko ari ngombwa kwirinda gusuzuma ibibazo bidafite aho bihuriye n'ibirego bivugwa, kandi byarenganya umuburanyi kuruta uko byagira akamaro[50].

[49] Imyanzuro nsozarubanza ya Porokireri, imp. 37-40 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp.37, 38; 2 Werurwe 2004, imp. 68, 69.
[50] Urubanza rwa *Ngeze na Nahimana, I*cyemezo ku bujurire butanzwe urubanza rutararangira (Urugereko rw'ubujurire), *Separate Opinion of Judge Shahabuddeen, [*igitekerezo gitandukanye cy'Umucamanza

51. Cyakora, Urugereko ntirwemera ko ibyo bintu ari ingenzi mu kugaragaza ko Uregwa yari afite umugambi mubisha wo gukora icyaha. Iyo bidashidikanywaho, ibimenyetso bitaziguye ku myitwarire y'Uregwa biba byerekana bihagije igitekerezo yari afite ubwo yakoraga ibikorwa byihariye ashinjwa. Muri icyo gihe, kwemerera Porokireri agatanga ibimenyetso ku gitekerezo cy'Uregwa ku birebana n'ibindi bikorwa, biba ari ukubangamira Uregwa bitari ngombwa, kandi icyo kintu si ingenzi mu kugaragaza ibyaha bivugwa mu Nyandiko y'ibirego.

52. Ubwunganizi bunemeza kenshi ko kuba inyandiko zimwe zitarimo ubuhamya bwanditse bushinja Uregwa, byagombye gufatwa nk'aho ari ikimenyetso kigaragaza ko ari umwere. Ubwunganizi butanga urugero rwa raporo y'agateganyo y'akanama kaba karakoze iperereza ricukumbuye ku bwicanyi bwakorewe mu Rwanda mu mwaka wa 1994. Mu rubanza, Ubwunganizi bwatanze iyo raporo ndende ho ikimenyetso gihamya ku buhamya bwatanzwe mu Rukiko n'umugabo w'impuguke wabwo witwa Bernard Lugan. Iyo mpuguke ivuga ko Uregwa atavugwa na rimwe muri iyo raporo[51]. Urugereko rusanga iyo raporo yo mu kwezi kwa Gashyantare 1996 yitwa «iy'agateganyo». Nk'uko bivugwa mu iriburiro ryayo, iyo nyandiko ntivuga ko idakuka cyangwa ko ikubiyemo ibyabaye byose. Nta muntu n'umwe mu bayanditse wahamagajwe mu Rukiko. Uburyo yakozwe ntibwasuzumwe cyane cyane ku byerekeye ku byabaye bivugwa mu Nyandiko y'ibirego. Byongeye kandi, mu iburanisha nta muntu wigeze avuga ko hari raporo ya nyuma isimbura iriya y'agateganyo. Kubera iyo mpamvu, Urugereko ntirushobora gusuzuma niba iyo raporo ari ukuri, kandi rusanga ibiyikubiyemo bitavuguruza ibimenyetso byatanzwe na Porokireri.

Shahabuddeen], 5 Nzeri 2000, ibika 20-24 ; Urubanza rwa *Bagosora na bagenzi be, I*cyemezo cyerekeye iyakirwa ry'ubuhamya buteganywa bw'umugabo wiswe DBY (Urugereko rwa Mbere rw'Iremezo), ibika 10, 30-34 ; Urubanza rwa *Ntagerura, I*gitekerezo cyihariye kandi gitandukanye n'icy'abandi cy'Umucamanza Dolenc, igika 21.

[51] Inyandikomvugo y'iburanisha, 20 Ugushyingo 2003, imp. 14-17 ; ikimenyetso gihamya N° 52 cyatanzwe n'Ubwunganizi.

3.2 Umwanya Uregwa yari afite muri Guverinoma y'Agateganyo, kuva muri Mata kugera muri Nyakanga 1994

53. Uregwa avuga ko yabaye Minisitiri w'Imari muri Guverinoma y'Agateganyo kuva ku itariki ya 8 Mata 1994 kugera ubwo iyo Guverinoma ihungiye muri Kongo muri Nyakanga 1994. Ababuranyi ntibavuga rumwe ku buryo yabaye Minisitiri muri iyo Guverinoma no ku ruhare yayigizemo.

54. Uregwa yamenye ko Perezida Habyarimana yapfuye abibwiwe n'inshuti ye yamuterefonnye ku itariki ya 6 Mata mu ma saa mbiri cyangwa saa mbiri n'igice z'ijoro. Bukeye, mu ma saa tatu za mugitondo, umuzamu we yamubwiye ko muri ako gace abasirikare barimo kwinjira mu mazu bakica abantu. Yagiye kwihisha mu kazu gato k'umuturanyi batamukekeramo, kari muri metero 500 uvuye iwe, naho umugore we n'abana be babiri bihisha ku wundi muturanyi wari umusirikare mu ngabo z'u Rwanda. Uregwa yiboneye ubwe abasirikare bo mu mutwe urinda Perezida, babaga mu kigo cya gisirikare cyari hafi aho, bica imiryango y'amazu maze, nk'uko abivuga, bahica abantu. Na we yatinyaga kwicwa, kubera umwanya ukomeye yari afite mu ishyaka rya PSD ryafatwaga nk'irishyigikiye FPR[52].

55. Ku itariki ya 7 Mata nyuma ya saa sita, abasirikare ba FPR bavuye mu birindiro byabo kuri CND [Inama y'Igihugu Iharanira Amajyambere] hafi y'aho yari yihishe, maze batangira kwica abantu no kurwana n'izindi ngabo zihari. Uregwa yaterefonnye Hyacinthe Rafiki, babanaga mu ishyaka rya PSD, akaba yari n'Umuyobozi w'Ibiro bya Minisitiri muri Minisiteri y'Imirimo ya Leta, maze yemera kumucumbikira. Yavuye vuba na bwangu aho yari yihishe, ajya kwa Rafiki ku Kicukiro, nko muri kilometero imwe n'igice uvuye aho yari ari. Ahageze yasanze ho hasa n'ahari umutekano.

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[52] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2003, imp. 28- 31, 33-34.

56. Uregwa avuga ko ku itariki ya 8 Mata mu ma saa munani z'amanywa, Koloneli Tewonesiti Bagosora yaje kwa Rafiki, kandi ko yaba yarasabye Rafiki ko bajyana agahagararira PSD mu nama y'amashyaka ya politiki yagombaga kubera muri Minisiteri y'Ingabo i Kigali. Nk'uko Uregwa yabyumvise, ubwo Rafiki yamenyeshaga Bagosora ko Uregwa na we ari muri urwo rugo, Bagosora yamutumiye na we muri iyo nama. Rafiki n'umuryango we n'Uregwa bagiye kuri Minisiteri y'Ingabo bari mu modoka ya Rafiki ikurikiwe n'imodoka ya Jeep irimo Bagosora n'abasirikare. Mu nzira, barahagaze batwara François Ndungutse, na we wari umwe mu bayobozi ba PSD. Uyu mugabo kimwe na Rafiki bari muri Biro Politiki ya PSD, naho Uregwa akaba Perezida w'Ishyaka muri Perefegitura ya Kibuye[53]. Uregwa avuga ko atari azi niba Rafiki na Bagosora bari inshuti, kandi ko atazi icyatumye Bagosora aza iwe[54].

57. Inama bari batumiwemo basanze yarangiye, ariko bamwe mu bahagarariye amashyaka anyuranye bari bakicaye aho abandi bahagaze mu cyumba iyo nama yabereyemo. Babwiwe ko Guverinoma nshya y'Agateganyo yashyizweho, ko amashyaka yose yari ahagarariwe muri iyo Guverinoma, usibye PSD, kandi ko abahoze ari Abaminisitiri ba PSD bishwe. Icyo gihe ni bwo bababajije kuvuga abantu bo muri PSD babona bashyirwa mu myanya yagenewe iryo shyaka. Uregwa avuga ko Rafiki na Ndungutse bahise bafata icyemezo, kuko bari muri Biro Politiki y'Ishyaka. Bemeje ko Rafiki wari Umuyobozi w'Ibiro bya Minisitiri muri Minisiteri y'Imirimo ya Leta na we [Uregwa] wari Umuyobozi w'Ibiro bya Minisitiri muri Minisiteri y'Imari bagirwa abaminisitiri. Ntavuga umuntu wagombaga kuba Minisitiri w'Ubuhinzi kandi umuyobozi w'ibiro bya minisitiri muri iyo Minisiteri yari yishwe. Rafiki na Ndungutse bashyize umukono ku masezerano ya politiki akubiyemo ubwo bwumvikane. Abo ba Minisitiri bari bashyizweho by'agateganyo[55].

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[53] Ni kimwe no haruguru, imp. 37-39.
[54] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2003, imp. 6, 7.
[55] Inyandikomvugo z'amaburanisha, 24 Ugushyingo 2003, imp. 39-45; 27 Ugushyingo 2003, imp. 8-11.

58. Uregwa avuga ko icyo gihe atari azi uwari kuba Minisitiri w'Intebe, kimwe n'uko atari azi gahunda Guverinoma nshya yari kugenderaho. Ibintu byamuguye hejuru, kandi nta kundi yari kubigenza uretse kwemera ko Rafiki amugira Minisitiri w'Imari muri Guverinoma nshya y'Agateganyo. Bukeye, ku itariki ya 9 Mata, yarahiriye kuba Minisitiri muri Guverinoma y'Agateganyo[56].

59. Uregwa avuga ko atashoboye guhunga ava muri Kigali cyangwa mu Rwanda. Mu gitondo kare ku itariki ya 9 Mata, ubwo yari yaraye muri Hôtel Diplomate, hafi ya Minisiteri y'Ingabo, Uregwa yatiye Ndungutse imodoka, nuko ajyana n'umujandarume yahawe na Rafiki kureba umugore n'abana be, yari yamaze kumenya ko bahungiye mu kigo cy'ababikira ku Kicukiro. Amaze kubabona, yumvise ko ntaho yahungira kuko yakekaga ko FPR yagose umujyi, hari za bariyeri zirinzwe n'abicanyi n'abasirikare bo mu mutwe ushinzwe kurinda Perezida wa Repubulika, n'abajandarume bashoboraga kutamwemerera guhunga ndetse yari no kuba ashyize mu makuba Ndungutse wari wasigaye inyuma[57]. Uregwa avuga ko hagati y'itariki ya 11 n'iya 18 Gicurasi, yagiye i Nayirobi mu butumwa bwa Guverinoma. Icyo gihe, umuryango we wasigaye i Gitarama kwa Fidèle Uwizera wari Perefe wa Gitarama, hafi y'aho Guverinoma y'Agateganyo yakoreraga by'agateganyo[58]. Uregwa avuga ko iyo ahunga abana be bari kwicwa, kuko yari umukuru w'ishyaka ridakunzwe ryari ryamaze kwicirwa abayobozi bo hejuru bazira ko bafatwaga nk'aho bashyigikiye FPR[59].

60. Uregwa avuga ko inshingano ze z'ingenzi nka Minisitiri w'Imari wa Guverinoma y'Agateganyo zari ugushaka amafaranga, kongera gutangiza imirimo y'amabanki kugira ngo abakozi bashobore guhembwa, guha avansi abagemuriraga Leta no kwita ku bakozi ba Minisiteri y'Imari. Uregwa ahakana ko yari azi ibyatangazwaga n'abandi bantu bagize Guverinoma bari bashyigikiye

[56] Ni kimwe no haruguru, imp. 42-44; 25 Ugushyingo 2003, imp. 1-6.
[57] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, imp. 3-8.
[58] Ni kimwe no haruguru, imp. 23,24 ; n'inyandikomvugo y'iburanisha, 27 Ugushyingo 2003, imp.19-21, 46-49.
[59] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2003, imp. 48, 49.

ingengabitekerezo ya Hutu Pawa[60]. Anavuga ko atari ashinzwe umutekano, kandi ko ibibazo by'umutekano bitasuzumwe mu manama y'abaminisitiri, kubera ko byari bishinzwe akanama kihariye k'abaminisitiri. Nta muperefe cyangwa umuyobozi muri Guverinoma yamenye wirukanwe ku kazi bitewe n'uko yagerageje kurinda abasivili b'Abatutsi. Yumvaga inshingano rusange za Guverinoma y'Agateganyo zari ukugarura amahoro mu gihugu, kukiyobora no kukirinda inzara n'amapfa[61].

Bwana Bernard Lugan

61. Mu Rukiko, Bernard Lugan, umutangabuhamya w'impuguke watanzwe n'Ubwunganizi, avuga ko inama yo gushyiraho Guverinoma y'Agateganyo yabereye muri Minisiteri y'Ingabo i Kigali ku itariki ya 8 Mata, itangira saa mbili cyangwa saa tatu za mu gitondo. Abashyizeho Guverinoma bari Abahutu b'intagondwa. PSD ni ryo shyaka ryonyine ritari ryitabiriye iyo nama, kuko abaminisitiri cyangwa abandi bayobozi bakuru baryo bari bishwe, abandi bahunze. Abayobozi bo mu nzego ziciriritse z'iryo shyaka bahageze inama yarangiye, maze « bafatwaho ingwate »[62]. Iyo mpuguke ivuga ko Abahutu b'intagondwa bari bakeneye ko PSD ihagararirwa muri Guverinoma y'Agateganyo, kugira ngo berekane ko n'imitwe ya politiki y'Abahutu batari intagondwa yishyize hamwe n'andi mashyaka muri guverinoma[63].

62. Uregwa ntiyashoboraga kwanga kujya muri Guverinoma y'Agateganyo kuko iyo abikora yari gupfa. Yemeye kuba minisitiri kugira ngo yigure ye kwicwa kandi nta kundi yari kubigenza[64]. Inshingano ze muri iyo Guverinoma zari

[60] Ni kimwe no haruguru, imp. 11-13.
[61] Ni kimwe no haruguru, imp. 13-16, 18-21.
[62] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2003, imp. 51, 52.
[63] Ni kimwe no haruguru, imp. 52,53.
[64] Inyandikomvugo z'amaburanisha, 19 Ugushyingo 2003, imp. 52, 53, 20 Ugushyingo 2003, imp. 1, 2, 10 11, 44 na 45.

iz'« umuminisitiri ushinzwe imirimo ya tekiniki», akaba yari ashinzwe imirimo ya ngombwa ifasha inzego za Leta gukomeza gukora[65].

Madamu Alison Des Forges

63. Umutangabuhamya w'impuguke watanzwe na Porokireri witwa Alison Des Forges, avuga ko, ku itariki ya 8 Mata mu gitondo, muri Minisiteri y'Ingabo, Koloneli Théoneste Bagosora yakoresheje inama ihuje amashyaka anyuranye, yose ahuriye ku bitekerezo bya Hutu Pawa. Iyo nama yari igamije gushyiraho Guverinoma y'Agateganyo, igendera kuri gahunda ya Hutu Pawa, kandi isa nk'aho ishingiye ku mategeko, yitwaje ko icyubahiriza isaranganya rya za minisiteri mu mashyaka. PSD ni ryo shyaka rukumbi ritari rihagarariwe muri iyo nama yabaye mu gitondo[66].

64. Abateguye ishyirwaho rya Guverinoma nshya y'Agateganyo basa n'abashakishaga abahagarariye PSD**,** benshi muri bo bakaba bari bamaze kwicwa cyangwa bahunze, kugira ngo baze mu nama yabereye muri Minisiteri y'Ingabo. Ku itariki ya 8 Mata, Bagosora yagiye kwa Rafiki Nsengiyumva nuko azana Rafiki, Ndindabahizi na Ndungutse kuri Minisiteri y'Ingabo. Ubusanzwe, byari kuba ari ibintu bidasanzwe kubona bafata umuyobozi nka we, wo mu rwego rwa Perefegitura, ngo abe minisitiri**,** aho gufata umuyobozi wo mu rwego rw'igihugu, cyakora Uregwa ni we bahisemo kubera ubuhanga bwe mu icungamutungo[67]. N'ubwo urebye PSD itarimo igice cya Hutu Pawa**,** iryo shyaka ryari ryaracitsemo ibice mu bundi buryo mu rwego rwa politiki. Madamu Des Forges avuga ko abayoboke bari basigaye mu buyobozi bwa PSD bagombaga, byanze bikunze, kubarirwa mu bice bya Hutu Pawa. Cyakora, anasobanura ko urebye Uregwa atari akomeye muri politiki, ku buryo bitari byoroshye kumubarira mu bantu bakomeye bashyigikiye ingengabitekerezo ya Hutu Pawa. Iyo mpuguke ivuga ko

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[65] Inyandikomvugo y'iburanisha, 20 Ugushyingo 2003, imp. 13, 14.

[66] Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 13, 14, 16, 17 ; ikimenyetso gihamya N° 21 cyatanzwe na Porokireri (Raporo ya Alison Des Forges, umutangabuhamya w'impuguke), imp. 14-16.

[67] Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 14, 16-18.

Uregwa yari aho hantu ku buryo butunguranye[68]. Ivuga kandi ko benshi mu bari bahagarariye amaperefegitura yo mu majyepfo y'igihugu batoranyijwe ngo bashimangire gahunda ya Hutu Pawa mu turere ubusanzwe tutemeraga iyo ngengabitekerezo[69].

65. Iyo mpuguke ivuga ko Guverinoma y'Agateganyo yasakaje kandi igakomeza politiki ivuga ko, kubera ubwoko bwabo, Abatutsi bagombaga gufatwa nk'ibyitso bya FPR, ni ukuvuga nk'umwanzi. Yamagana ubwicanyi, Guverinoma ntiyari ibikuye ku mutima, kandi nko guhera hagati muri Mata, aho guhagarika ubwicanyi iyo Guverinoma yashakaga ko bwiyongera. Abayobozi ba politiki, by'umwihariko ba perefe ba Butare, Kibungo, wenda n'uwa Gitarama, bahagaritswe ku mirimo yabo kubera ko, mu by'ukuri, bari bashatse guhagarika iyicwa ry'Abatutsi. Perezida na Minisitiri w'Intebe bavuze amagambo, by'umwihariko ayo bavugiye i Butare ku itariki ya 19 Mata akanatangazwa kuri radiyo, avuga yeruye ko umuntu agomba guhitamo hagati yo gushyigikira gahunda ya jenoside ya Guverinoma no kuyirwanya. Kutagira aho ubogamira ntibyashobokaga. Guverinoma y'Agateganyo yagiye muri za perefegitura zo mu majyepfo y'igihugu, nka Gikongoro, Butare na Kibuye kugira ngo ikwize jenoside mu duce twasaga nk'aho tuyirwanya[70].

66. Iyi mpuguke ivuga ko izina ry'Uregwa nta hantu rigaragara mu gitabo cyitwa *Aucun témoin ne doit survivre,* cyangwa ko rivugwamo gake cyane[71]. Urugereko rwemeye ubwo buhamya.

Imyanzuro ku byabaye

67. Si ngombwa ko Urugereko rusobanura, mu buryo burambuye, imyanzuro rwafashe ku byabaye, cyangwa uburyo rwasuzumye ukwizerwa kw'ibimenyetso

[68] Ni kimwe no haruguru, imp. 13, 14, 16 - 18.
[69] Ni kimwe no haruguru, imp. 19, 20.
[70] Ni kimwe no haruguru, imp. 23-27 ; ikimenyetso gihamya N° 21 cyatanzwe na Porokireri, imp. 18-21.
[71] Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 40,41.

byerekeye kuba Uregwa yaragiye muri Guverinoma y'Agateganyo, kubera ko mu Nyandiko y'ibirego nta kirego gishingiye kuri ibyo bintu.

68. Muri rusange, Urugereko rusanga Uregwa yarabaye Minisitiri w'Imari muri Guverinoma y'Agateganyo kuva ku itariki ya 9 Mata 1994. Rusanga kandi na nyuma ya Nyakanga 1994 yarakomeje gukora iyo mirimo ari mu buhungiro. Yakoze imirimo yari ashinzwe, ni ukuvuga nko kujya mu manama y'abaminisitiri, kujya mu butumwa mu mahanga no guhagararira Guverinoma nk'umwe mu bagize intumwa zayo mu « manama yo kugarura amahoro » yasuzumirwagamo ibibazo by'umutekano. Urugereko rwabihereyeho rwemeza ko Uregwa yari azi ibyakorerwaga muri Guverinoma y'Agateganyo na politiki rusange yayo, kandi ko yakoresheje ububasha yahabwaga no kuba muri Guverinoma kubera umwanya yari afite.

3.3 Kuba Uregwa yaragiye mu nama yabereye ku Kibuye ku itariki ya 3 Gicurasi 1994

69. Porokireri atanga ibimenyetso byerekana ko Uregwa yagiye mu nama y'abagize Guverinoma yabereye mu biro bya Perefegitura ya Kibuye ku itariki ya 3 Gicurasi. Ibyavugiwe muri iyo nama byatangajwe kuri Radiyo Rwanda. N'ubwo iyo nama itavugwa mu Nyandiko y'ibirego, Porokireri yemeza ko ari ingenzi mu kugaragaza umugambi mubisha wa ngombwa ngo umuntu ahamwe n'icyaha cya jenoside, no mu kugaragaza ko Uregwa yagize uruhare, ku bushake kandi ku mugaragaro, muri politiki ya Guverinoma yo gukora jenoside. N'ubwo rusanga icyo kintu cyabaye kitagaraza umugambi mubisha, Urugereko rwemera ko gishobora kwifashishwa mu kugaragaza impamvu yatumye Uregwa ashishikarira gushyira mu bikorwa politiki ya Guverinoma yo gukora jenoside yibasiye Abatutsi.

70. Alison Des Forges, umutangabuhamya w'impuguke watanzwe na Porokireri, yasuzumye ibikubiye mu magambo yavugiwe mu nama yo ku itariki ya 3 Gicurasi, nk'uko asubirwamo mu nyandiko ivugwa ko ari inyandikomvugo y'iyo nama, yakozwe na Perefe wa Kibuye. Asanga ibyo Minisitiri w'Intebe yavuze ko mu gihugu hose hari abasirikare ba FPR yari amayeri agamije kumvisha abaturage b'abasivili ko ibyo bakoraga byari ukwirwanaho. Muri rusange, disikuru zari zigamije ibintu bibiri bikurikira: ubwicanyi bwagombaga gukomeza, ariko bugakorwa ku buryo bwihishiriye kurusha mbere[72].

71. Uyu mutangabuhamya w'impuguke yasuzumye buri kintu mu mvugo 10 zitirirwa Uregwa muri iyo nyandikomvugo y'iyo nama. Ku byerekeye ibyavuzwe mbere ku byitso no ku kamaro k'*Interahamwe*, umutangabuhamya avuga ko ibyitso byavugwaga ari abantu bari baragiye mu Masezerano ya Arusha bakumvikana na FPR. Kwari ugusubira mu gitekerezo kizwi Leta yari ifite kuri ayo Masezerano. Indi mvugo, isa n'isaba imbabazi, ivuga ko mbere PSD yigeze kubamo ibyitso. Iyo mvugo ihamagarira kandi Abahutu kwishyira hamwe. Umutangabuhamya yirinze kuvuga niba ijambo « gukora » rigomba kumvikana nk'aho rivuga, mu buryo buziguye, « kwica Abatutsi », nk'uko rijya rikoreshwa rimwe na rimwe. Cyakora asobanura ko Uregwa yahamagariye abayoboke ba PSD kwitabira gahunda y'ukwirinda kw'abaturage yashyizweho na Guverinoma y'igihugu, kugira ngo kwica Abatutsi bigendere kuri gahunda kandi bikurikirwe hafi kuko byari bigiye kurengera[73].

72. Nk'uko bigaragara mu nyandikomvugo y'iburanisha, Uregwa avuga ko inyandiko za FPR zafatanywe abayoboke bayo zerekanaga ko FPR yari yarateguye intambara kugira ngo itsembe Abahutu. Impuguke ivuga ko, muri rusange,

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[72] Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 29-31 ; ikimenyetso gihamya N° 30 cyatanzwe na Porokireri (inyandikomvugo y'inama yo ku Kibuye) ; ikimenyetso gihamya N° 21 cyatanzwe na Porokireri (Raporo ya Alison Des Forges, umutangabuhamya w'impuguke), urup. 26.
[73] Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 31-34.

inyandiko n'ahantu zari zihishe bitagaragazwaga, kugira ngo abaturage bumve ko hari amakuba abugarije bityo hashyirweho ingamba zo kwirinda. Naho ku byerekeye ibyo Uregwa yatangaje avuga ko FPR yashakaga kudindiza Guverinoma no kuyiyobora yonyine ku nyungu zayo bwite, umutangabuhamya yemera ko icyo cyari ikirego kimenyerewe, kigamije kwerekana ko ibibi byose biterwa n'akagambane ka FPR. Uregwa yatangaje kandi ko inyandiko zafashwe zerekanaga ko muri buri komine hari abasirikare ba FPR bagambiriye kurimbura Abahutu. N'ubwo byari bigoye kugera kuri uwo mugambi, umuntu agereranije umubare w'Abatutsi n'uw'Abahutu, umutangabuhamya avuga ko iyo mvugo mbisha yakundaga kugaruka kenshi muri poropagande yahitishwaga kuri radiyo. Umutangabuhamya avuga ko, uko abizi, abasirikare ba FPR bageze ku Kibuye guhera mu mpera za Kamena[74]. Uregwa yaba kandi yaratangaje ko abayobozi batumaga intego ya Guverinoma itagerwaho bagombaga guhita bashyirwa ahagaragara. Uyu mutangabuhamya yerekanae ko ibyo bifitanye isano n'ikurwa ku mirimo ry'abayobozi ba politiki batagaragazaga umurava mu kwibasira Abatutsi[75].

Umutangabuhamya wiswe DN

73. N'ubwo ari umugabo ushinjura, DN yahaye Porokireri ubuhamya ku nama yabereye ku Kibuye ku itariki ya 3 Gicurasi, itumijwe na Perefe wa Kibuye kandi yitabiriwe n'intumwa za Guverinoma zirimo Minisitiri w'Intebe, Jean Kambanda, n'Uregwa. DN avuga ko yari muri iyo nama, kuva itangiye kugeza irangiye kandi ko iyo nama yitabiriwe n'abantu bagera ku ijana. Avuga ko iyo nama yari iy'umutekano kandi ko nyuma yaje kumva Radiyo Rwanda ihitisha ibyayivugiwemo. DN avuga ko Minisitiri w'Intebe kimwe na Burugumesitiri wa Gishyita n'uwa Gisovu bavuze ko abantu bagombaga kuba maso ku byerekeye *Inkotanyi.* Asobanura ko iryo jambo ryashoboraga kuvuga abayoboke ba FPR bitwaje intwaro, cyangwa Abatutsi muri rusange, barimo n'abasivili. Abo bantu

[74] Ni kimwe no haruguru, imp. 21-23.
[75] Ni kimwe no haruguru, imp. 32-34 ; ikimenyetso gihamya N° 21 cyatanzwe na Porokireri (Raporo ya Alison Des Forges, umutangabuhamya w'impuguke).

bafashe ijambo bavugaga ko *Inkotanyi* ziri mu Bisesero no muri Gishyita, nyamara nta basirikare ba FPR bari muri utwo duce. Ibyo byatumye DN yumva ko abo bantu bafashe ijambo bari intagondwa zahamagariraga abantu kwica abasivili b'Abatutsi[76].

74. DN avuga ko ku itariki ya 3 Gicurasi, hari Abatutsi bari bariciwe mu duce tunyuranye twa Kibuye, kandi ko, byanze bikunze, Minisitiri w'Intebe yari abizi ariko, muri iyo nama, ntagire icyo avuga kuri ubwo bwicanyi, cyangwa ngo avuge ko ari ngombwa gukurikirana ababukoze. Umutangabuhamya yemeza ko abantu bashobora kuba barafashe uko kwicecekera nk'uburyo bwo gushyigikira ubwicanyi bwakomeje kubera ku Kibuye nyuma y'iyo nama, muri Gicurasi na Kamena[77].

75. DN avuga ko muri iyo nama, Uregwa yafashe ijambo agasubiza ku kirego cy'uwitwa Rwabukwisi waregaga PSD gukorana na FPR no kuyishyigikira. Avuga ko Uregwa yahakanye icyo kirego maze akavuga ko PSD yari muri Guverinoma. Nyuma, DN yeretswe amagambo yihariye yitirirwa Uregwa ari mu nyandiko isa nk'aho ari inyandikomvugo y'inama, maze yemeza ko Uregwa yavuze amagambo akurikira :

> Nta mutegetsi n'umwe mu Rwanda uzongera kurangara. Iyo abategetsi bo mu Rwanda baza gushyira hamwe, muri bo ntihabemo ibyitso, ibintu ntibibiba byarabaye bibi aka kageni mu Rwanda !
>
> …
>
> Ibyabaye byarabaye. Nta mutegetsi n'umwe uzongera gukorera umwanzi.
>
> …
>
> Yasabye abarwanashyaka ba PSD gufatanya n'abandi mu kubungabunga umutekano w'igihugu, no kudacibwa intege n'ibyitso byinshi byavumbuwe mu ishyaka ryabo. Mu y'ukuri, yavuze ko ibyo

[76] Inyandikomvugo y'iburanisha, 4 Ugushyingo 2003, imp. 2-6.
[77] Ni kimwe no haruguru, imp. 6, 7. Umutangabuhamya yemeza ko ubwicanyi bwakorewe ku Kibuye, ku kiliziya y'Abagatulika, muri Home Saint Jean , ku bitaro bya Mugonero, ku Mubuga n'i Nyange.

bintu byanagaragaye no mu yandi mashyaka menshi, ariko ntibiyabuze gukomeza imirimo yayo. Yahamagariye *«Abakombozi »* (urubyiruko rwa PSD) kwiyandikisha ari benshi mu bagomba kuzahabwa imyitozo igamije kurinda igihugu[78].

76. Mu buhamya bwe mu Rukiko, DN avuga ko, n'ubwo bwose yari Minisitiri, Uregwa atari gushobora kwamagana ku mugaragaro ubwicanyi kuko na we ubwe ntaho yari ahagaze, bitewe n'uko yari umuyoboke ya PSD. Avuga ko abayoboke ba PSD batarebwaga neza. Yongeraho ko abantu babiri gusa bamaganye ku mugaragaro ubwicanyi ari Tharcisse Kabasha wari umuyoboke wa MRND na Léonard Hitimana, wari umuyoboke wa MDR[79].

Umutangabuhamya wiswe GKH

77. GKH avuga ko yagiye mu nama y'abayobozi ba politiki yabereye kuri Perefegitura ya Kibuye ku itariki ya 3 Gicurasi. Avuga ko muri iyo nama, Guverinoma y'Agateganyo yari ihagarariwe na Minisitiri w'Intebe n'abaminisitiri batatu bakomoka ku Kibuye ari bo : Agnès Ntamabyariro, Eliezer Niyitegeka n'Uregwa. Avuga ko kuri iyo tariki, hari harabaye ubwicanyi muri Perefegitura yose ya Kibuye kandi ko Minisitiri w'Intebe yavuze ko iyo nama yari igamije kubuhagarika, ni ukuvuga « kugarura amahoro »[80]. Avuga ko Minisitiri w'Intebe yongeyeho ko FPR yari yarateye igihugu, bikaba byari ngombwa kuyirwanya no kuyitsinda, ko ariko n'ubwicanyi bwagombaga guhagarara. Avuga ko mu gusubiza Sikubwabo, wari Burugumesitiri wa Gishyita, wavugaga ko mu Bisesero hari abasirikare ba FPR, Minisitiri w'Intebe yagize ati : « Mutege amatwi, mugomba gushishoza. Mubanze murebe niba ari abasirikare ba FPR-*Inkotanyi* cyangwa niba ari Abatutsi bahahungiye. Niba ari Abatutsi, ni ukubihorera ariko niba ari abasirikare ba FPR bahari, mubitumenyeshe,

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[78] Ni kimwe no haruguru, imp. 14-16 ; ikimenyetso gihamya No 30 cyatanzwe na Porokireri
[79] Inyandikomvugo y'iburanisha, 4 Ugushyingo 2003, imp. 36-38.
[80] Inyandikomvugo z'amaburanisha, 1 Nzeri 2003, imp. 53-55; 2 Nzeri 2003, imp. 10-13. Umutangabuhamya avuga ko ubwicanyi bwakorewe kuri Home Saint Jean, kuri sitade ya Gatwaro, i Nyange, ku Mugonero no mu Bisesero.

tuzabatera inkunga mu kubarwanya». GKH avuga ko kuri iyo tariki inama yabereyeho, abasirikare ba FPR bari bataragera ku Kibuye, ko bari bakirwanira mu karere ka Gitarama[81].

78. Dogiteri Léonard Hitimana, na we wari muri iyo nama kandi wari mu gice cya MDR kitari intagondwa, yamaganye ubwicanyi, avuga ko bagombaga kwita ku bana bato bari barokotse ubwicanyi, maze bakajyanwa kwa muganga. Niyitegeka yasubije Dogiteri Hitimana ko ibyo bitamureba na gato. Umutangabuhamya yaje kumenya ko byabaye ngombwa ko Hitimana ahungira muri Kongo kubera ko yatotezwaga. GKH avuga ko muri iyo nama harimo abantu bafite imigambi mibisha[82].

79. GKH ntiyabashije kwibuka niba Uregwa yarafashe ijambo muri iyo nama[83].

Uregwa

80. Uregwa avuga ko yaherekeje Minisitiri w'Intebe Kambanda mu nama yabereye mu mazu ya Perefegitura ya Kibuye ku itariki ya 3 Gicurasi. Avuga ko iyo nama yari igamije kugarura amahoro. Yongeraho ko iyo nama itangiye, Perefe yavuze ku bibazo by'umutekano muke byari muri iyo Perefegitura mu wa 1992 n'uwa 1993, ndetse no muri Mata 1994. Avuga ko Perefe yibukije ko hari ikibazo cy'imitungo yafashwe, ko ariko asanga umutekano warimo kugenda ugaruka. Avuga ko Minisitiri w'Intebe na we yafashe ijambo yifashishije inyandiko, maze akavuga ku bikubiye mu nyandiko yo ku itariki ya 27 Mata. Ababurugumesitiri bari mu nama babajije ibibazo byerekeye gucengera kwa FPR, abandi bavuga ko hari abantu bamennye amaraso, bica abandi. Umutangabuhamya avuga ko Minisitiri w'Intebe yashubije ibibazo bari bafite[84], ko Uregwa yavuze ko mbere y'uko iyo nama iba, atari yakamenya ko kuri Sitade ya Gatwaro no muri Home

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81 Inyandikomvugo y'iburanisha, 1 Nzeri 2003, urup. 54
82 Ni kimwe no haruguru, imp. 54, 55
83 Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 10-13.
84 Inyandikomvugo z'amaburanisha, 25 Ugushyingo 2003, imp. 15, 16; 27 Ugushyingo 2003, imp. 24-26.

Saint Jean habereye ubwicanyi, kandi ko ku itariki ya 3 Gicurasi mu gitondo, nta murambo n'umwe yabonye ubwo yanyuraga mu muhanda Gitarama – Kibuye. Nyamara mu Rukiko, Uregwa yemera ko yari azi ko habaye ubwicanyi[85].

81. N'ubwo atari yateguye ijambo ryo kuvuga, Uregwa yashubije ibirego byari byatangiwe mu nama na Dogiteri Murego w'umuyoboke wa MDR, n'undi muntu witwa Rwabukwisi, bavugaga ko muri PSD harimo ibyitso bya FPR. Uregwa avuga ko mu gusubiza, yemeye ko muri PSD higeze kubamo ibyitso, nk'uko byari bimeze mu yandi mashyaka, ko ariko bitari bikirimo. Avuga ko yongeyeho ati : « Ntitubarwanya, ntituzabica »[86]. Uregwa yumvaga ko kubera icyo kirego, we n'ishyaka bari kugira amakuba, cyane cyane ko kuva ku itariki ya 6 Mata, hari abayoboke b'ishyaka rye bishwe kubera ibirego nk'ibyo[87].

82. Uregwa ahakana ko yashishikarije urubyiruko rwa PSD kwifatanya n'andi matsinda y'urubyiruko mu gikorwa cyo kwirengera kw'abaturage. Ahakana kandi ko mu gihe cyahise yigeze avuga ko bamwe mu bategetsi b'u Rwanda bari ibyitso, nk'uko byavugwaga mu nyandikomvugo y'inama yaba yarakozwe na Perefe Kayishema, kandi yashyizwe muri dosiye nk'ikimenyetso gihamya nomero 30, cyatanzwe na Porokireri. Avuga ko iyo nyandikomvugo ari impimbano[88].

83. Yifashishije bimwe mu byanditse muri icyo kiswe inyandikomvugo y'inama yo ku itariki ya 3 Gicurasi, Porokireri avuga ko iyo nama itari igamije guhagarika ubwicanyi bw'abasivili b'inzirakarengane, ko ahubwo yari igamije gukora ku buryo ubwicanyi burushaho gukorwa rwihishwa, kugira ngo amahanga atabimenya. Porokireri avuga kandi kuba abayobozi ba za serire barahawe imishahara nk'agahimbazamushyi kubera ukuntu bitanze mu kubungabunga umutekano, mu by'ukuri bwari uburyo bwo gushishikariza abantu kwica

[85] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, imp. 14-19.
[86] Ni kimwe no haruguru, imp. 16-19 ; Inyandikomvugo y'iburanisha, 27 Ugushyingo 2003, imp. 27-29.
[87] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2003, imp. 37, 38.
[88] Ni kimwe no haruguru, imp. 5, 6 na 32.

Abatutsi. Yongeraho ko Uregwa aryozwa ibyo bintu ku giti cye kuko yari Minisitiri w'Imari. Uregwa arwanya ibyo bintu byombi avuga ko nka Minisitiri w'imari, atari ashinzwe kwishyura imishahara. Avuga ko amagambo ari mu nyandikomvugo yaba yaravuzwe na Minisitiri w'Intebe asubiza impungenge za Sikubwabo, wari Burugumesitiri wa Gishyita, atari agamije gushishikariza abantu gukora ubwicanyi rwihishwa, ko ahubwo yari agamije gukora ku buryo abacengezi nyakuri ari bo bicwa gusa[89].

Bernard Lugan

84. Bwana Bernard Lugan, umutangabuhamya w'impuguke w'Ubwunganizi, avuga ko benshi mu bantu bari mu nama yabereye ku Kibuye ku itariki ya 3 Gicurasi bari intagondwa za Hutu Pawa, baba barafashe PSD nk'ishyaka ry'icyitso cya FPR n'Abatutsi. Avuga ko akarere ka Kibuye kabereyemo ubwicanyi bukabije, bityo akongeraho ko niba Uregwa yaravuze amagambo amwitirirwa yo gushyigikira Guverinoma ya Minisitiri w'Intebe, asanga bwari uburyo bwo kwigura. Uyu mutangabuhamya avuga ko amagambo yitirirwa Uregwa mu nyandikomvugo y'inama yeretswe n'Ubwunganizi, ari yo Uregwa yagombye nibura kuba yaravuze kugira ngo aticwa[90].

Gusuzuma ukwizerwa kw'abatangabuhamya

85. Mu rubanza rwa *Niyitegeka*, Urugereko rwa Mbere rw'Iremezo rwemeye ubuhamya DN yatanze ku magambo yavugiwe mu nama yabereye ku Kibuye ku itariki ya 3 Gicurasi[91]. Mu byo urwo Rugereko rwemeye muri ubwo buhamya harimo ibisobanuro DN atanga ku magambo « *inkotanyi* », « icyitso », n' « umwanzi » yakoreshejwe na Minisitiri w'Intebe na Eliyezeri Niyitegeka. Uwo mutangabuhamya avuga ko yumva ayo magambo ataravugaga abarwanashyaka ba FPR bafite intwaro, ko ahubwo yavugaga Abatutsi muri

[89] Ni kimwe no haruguru, urup. 32.
[90] Inyandikomvugo y'iburanisha, 20 Ugushyingo 2003, urup. 15.
[91] Urubanza rwa *Niyitegeka,* ibika 245-249.

rusange. Uyu mugabo yanasubiyemo igitekerezo cye, ahuriyeho na GKH na Alison Des Forges, kivuga ko icyo gihe nta basirikare ba FPR bari ku Kibuye. Anavuga ko, mu buryo buteruye, ariya magambo yavugaga Abatutsi bo muri ako karere. Mu buhamya yatanze mu Rukiko muri uru rubanza, DN yongera kuvuga ko, kubera ko atategetse ko ubwicanyi buhagarara, Minisitiri w'Intebe Kambanda asa n'uwavuze ateruye ko kwica abasivili bigomba gukomeza. Muri rusange, mu rubanza rwa *Niyitegeka*, Urugereko rwemeye ubuhamya DN yatanze ku nama yo ku itariki ya 3 Gicurasi. Urwo Rugereko rwavuze ko uwo mugabo yatanze ubuhamya bushyize mu gaciro bushinja kandi bukanashinjura Uregwa muri urwo rubanza .

86. Abajijwe impamvu abantu batari kumva ko Uregwa ashyigikiye ibyavugiwe muri iyo nama kandi yari ahagarariye Guverinoma y'Agateganyo kimwe na Kambanda na Niyitegeka, DN yasubije ko Uregwa atari kugaragaza ko atabishyigikiye kuko na we yashoboraga kugirirwa nabi :

> Mu bantu banyuranye bafashe ijambo muri iyo nama, bamwe muri bo [bahise bavuga icyo bashaka], bavuga beruye ibiba, [urebye] bashishikariza [abandi kwica]. Hari abandi bavuze amagambo ya politiki, [baca ibintu ku ruhande], batavuga beruye, […] wenda basa n'abagerageza guhisha ibiriho, birinda kwinjira mu bintu cyane … Ni yo mpamvu no mu bikorwa byacu ubwacu, iyo dukoze ibintu, tugerageza guca ibintu ku ruhande, umuntu ntahita yerura, [kubera ko umuntu ahise yerura, ashobora kwishyira mu makuba].
>
> Ubwo rero muri iyo nama, hari abantu bacaga ibintu ku ruhande. Bashobora kuba bari bafite ubwoba – kimwe nanjye – cyangwa se – simbizi -, bashyigikiye ibiba »[92].

Bamusubiriyemo ibyavuzwe na Tharcisse Kabasha na Léonard Hitimana bamaganye ku mugaragaro ubwicanyi, umutangabuhamya asubiza ati :

[92] Inyandikomvugo y'iburanisha, 4 Ugushyingo 2003, urup. 36

> « Ndagira ngo mvuge ko umutekano w'umuntu mu baturage uterwa n'ishyaka arimo …
>
> Abayoboke bose b'ishyaka rya PSD, nta gutoranya, bafatwaga nk'abashyigikiye FPR. Babafashe gutyo. No mu magambo yakoreshwaga, bafatwaga nk'abashyigikiye FPR. Ntibarebwaga neza. Ni yo mpamvu uburyo bitwaraga mu manama bwari bunyuranye cyane n'uburyo abantu bari muri MRND bitwaraga [nka Kabasha] kuko MRND ryari ishyaka rikomeye cyane. Andi mashyaka nka PSD, yashoboraga kwibasirwa cyane, yabaga ari mu ngorane zikomeye[93] ».

87. Urugereko rusanga rwakwizera ubuhamya DN yatanze mu Rukiko ku magambo yavugiwe mu nama yo ku itariki ya 3 Gicurasi n'uburyo asobanura ibyihishe inyuma y'amagambo ya Kambanda na Niyitegeka. Umutangabuhamya yibukije ibintu bitatu Uregwa yavuze biri mu nyandikomvugo y'inama. N'ubwo yemera ko ibyo bintu yabivuze mu nama yo ku itariki ya 3 Gicurasi, Uregwa atanga ibisobanuro bihuzagurika kandi biteye urujijo ku bikubiye muri ayo magambo. Urugereko rwemeye ibyo DN avuga kuri izo mvugo eshatu, ariko ntirwemera ibivugwa n'Uregwa, uhakana ko yashishikarije urubyiruko rwa PSD kwitabira gahunda yo kwirengera kw'abaturage. Porokireri ntiyashoboye kugaragaza ko ibindi bikubiye mu nyandikomvugo y'inama yakozwe na Kayishema byakwizerwa, kuko aterekanye ko iyo nyandiko atari impimbano kandi ntanatange ikimenyetso cyigenga gishyigikira ibikubiye muri iyo nyandiko.

88. DN asobanura, acishiriza, amagambo Uregwa yavuze. Yibwira ko ayo magambo yari afite ikindi kintu ahishe kandi ko byabaye ngombwa ko Uregwa ayavuga kubera ko yatinyaga kugirirwa nabi, bitewe n'uko yari umurwanashyaka wa PSD. Cyakora, DN yageze aho yemera ko adashobora kumenya impamvu Uregwa yavuze ariya magambo. Nta kintu Uregwa avuga ku kuba ayo magambo hari icyo

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[93] Ni kimwe no haruguru, imp. 37, 38

ahishe, kuko ahakana ko hari ikintu yavuze cyashoboraga gufatwa nko gushishikariza abantu kwica Abatutsi.

Imyanzuro ku byabaye

89. Mu kwanzura, Urugereko ruvuga ko ku itariki ya 3 Gicurasi 1994 hari inama yabereye kuri Perefegitura ya Kibuye. Iyo nama yahuje abayobozi bo mu rwego rwa politiki, barimo Kambanda wari Minisitiri w'Intebe, Niyitegeka wari Minisitiri w'Itangazamakuru n'Uregwa, bari bahagarariye Guverinoma y'Agateganyo. Impamvu yavuzwe y'iyo nama kimwe n'amagambo ya Kambanda byari ukugarura umutekano no guhagarika ubwicanyi bwari bwibasiye abasivili. Cyakora, hashingiwe ku byaba byarumviswe n'abantu bari muri iyo nama, mu by'ukuri ayo magambo yari agamije gushishikariza abantu, mu buryo buteruye cyangwa buziguye, gukomeza ubwicanyi.

90. Urugereko rusanga Uregwa yaritabiriye iyo nama nk'umuntu uhagarariye Guverinoma y'Agateganyo kandi na we arabyiyemerera. Uregwa yafashe ijambo ashima *Interahamwe* kandi ahamagarira urubyiruko rwa PSD kwitabira gahunda yo kwirengera kw'abaturage. Urugereko rusanga kandi Uregwa ataramaganye cyangwa ngo yitandukanye n'amagambo ya Minisitiri w'Intebe yashishikarizaga abantu, mu buryo buteruye cyangwa buziguye, kwica abasivili b'Abatutsi. Ahubwo, amagambo yivugiye yerekanaga ko yari ashyigikiye ibyavuzwe.

3.4 Kuba GKH yareguye, ku gahato, ku mirimo ye muri Kamena 1994

91. N'ubwo iki kintu cyabaye kitavugwa mu buryo bweruye mu Nyandiko y'ibirego, Porokireri akivuga mu gushyigikira ikirego gishinja Uregwa guhamagarira DN gukora jenoside, amuha umwanya w'ubudepite wari waragenewe GKH, nk'uko bisesengurwa mu cyiciro cya 2. Porokireri yongeraho ko icyo kintu cyabaye gifite akamaro mu kugaragaza umugambi wihariye wa ngombwa ku kirego cya

jenoside kiri mu Nyandiko y'ibirego, no mu kugaragaza uko ibintu byari bimeze, muri rusange, igihe ibyaha byakorwaga[94].

Umutangabuhamya wiswe GKH

92. GKH avuga ko yabaye umuyoboke w'ishyaka rya PSD muri Perefegitura ya Kibuye kuva iryo shyaka ryashingwa mu wa 1992. Mu wa 1993, ishyaka rya PSD ryamushyize mu bagombaga kurihagararira mu Nteko Ishingamategeko y'Inzibacyuho iteganywa n'Amasezerano ya Arusha[95]. Ku itariki ya 9 Mata 1994, undi muyoboke wa PSD wari inshuti ya GKH kuva kera, ukomoka muri Komine ya Bwakira na we avukamo, yaje iwe ku Kibuye maze amugira inama yo kwihisha. Iyo nshuti ye yamusobanuriye ko ashobora kugirirwa nabi kubera ko yafatwaga nk'umuyoboke wa PSD utari intagondwa ndetse n'umugore we akaba yari Umututsikazi. GKH, n'umugore we n'abana be bagiye mu rugo rw'iyo nshuti ye muri Komine ya Bwakira maze barahaguma kugera muri Nyakanga 1994, ubwo yahungaga akava mu Rwanda[96].

93. Hagati muri Kamena, Uregwa yasuye GKH muri Komine ya Bwakira, ku gasenteri k'ubucuruzi kari i Kirinda, ku muhanda wa Shyembe. Uregwa yaje mu modoka ye y'akazi yo mu bwoko bwa Daewoo ifite ibara rijya kuba ikijuju, ari kumwe n'umushoferi n'abamurinze babiri[97]. GKH avuga ko Uregwa yamubwiye ati :

> « Vuba aha bazarahira kandi nzi ko wahawe umwanya, nzi ko watowe kandi uhagabwa umwanya w'ubudepite mu Inteko nshinagamategeko y'inzibacyuho, hakurikijwe Amasezerano ya Arusha. Cyakora, birababaje, kubera imyitwarire yawe n'umugore wawe w'Umututsikazi, kandi hakaba hazasuzumwa ibintu bikomeye. Abantu

[94] Inyandikomvugo y'iburanisha, 1 Nzeri 2003, imp. 58, 59 ; Imyanzuro nsozarubanza ya Porokireri, imp. 47, 48.
[95] Ikimenyetso gihamya N° 3 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya) ; Inyandikomvugo z'amaburanisha, 1 Nzeri 2003, imp. 48, 49; 2 Nzeri 2003, imp. 4, 5.
[96] Inyandikomvugo z'amaburanisha, 1 Nzeri 2003, imp. 50, 51; 2 Nzeri 2003, imp. 14, 15 na 25-27.
[97] Inyandikomvugo z'amaburanisha, 1 Nzeri [2003], imp. 48, 49; 2 Nzeri 2003, imp. 26-29.

> bo mu ishyaka ryacu ntibakwishimiye kuko batinya ko nyuma y'inama wabwira umugore wawe ibyayivugiwemo, na we akabibwira basaza be. Byaba byiza weguye kuri uwo mwanya w'ubudepite, nkazagushakira akazi ahandi. […] Nuramuka utsimbaraye kuri uwo mwanya, kuba depite ni uburenganzira bwa we ariko sinzishingira umutekano wawe, uzabage wifashe[98] ».

94. GKH yemeye kwegura. Mu kubikora, yanditse ku rupapuro rudafite ikindi rwanditseho amagambo abwiwe n'Uregwa arangije ashyiraho umukono[99]. Umutangabuhamya ntiyibuka amagambo nyayo yakoreshejwe, ariko yibuka ibyari bikubiye muri iyo nyandiko : « Jyewe, [GKH], kubera inyungu z'umuryango wanjye, kugira ngo ndengere umuryango wanjye nanjye ubwanjye, neguye ku mwanya w'ubudepite bw'inzibacyuho ». GKH avuga ko yasimbujwe DN, wari umuyoboke wa PSD ukomoka ku Kibuye, warahiye mu mpera za Kamena cyangwa mu ntangiriro za Nyakanga[100].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

95. Ababuranyi ntibavuga rumwe ku kwizerwa kwa GKH[101]. Ubwunganizi buvuga ko ubuhamya uwo mugabo yatanze mu Rukiko budahuye n'ubuhamya bwanditse yahaye abakoraga iperereza ku birebana n'ibikubiye mu magambo yanditse mu ibaruwa ye yo kwegura. Muri ubwo buhamya bwanditse yatanze mbere, umugabo ntavuga ko hari ikintu ibaruwa yavugaga ku muryango we. Urugereko rusanga ubwo buhamya bwombi butanyuranye cyane, cyane cyane iyo umuntu azirikanye ko umutangabuhamya yemera ko atibuka amagambo nyayo yakoresheje mu ibaruwa ye yo kwegura. Byongeye kandi, mu buhamya bwanditse, umugabo avuga ko yeguye kubera umutekano w'umuryango we, n'ubwo atibuka neza niba

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[98] Inyandikomvugo y'iburanisha, 1 Nzeri 2003, imp. 49, 50.
[99] Ni kimwe no haruguru, imp. 49, 50 ; inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 20-22, 27, 28.
[100] Inyandikomvugo y'iburanisha, 1 Nzeri 2003, imp. 49-51.
[101] Imyanzuro nsozarubanza ya Porokireri, imp. 47, 48 ; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 33-35 ; Imyanzuro y'Ubwunganizi, igika 135 ; Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 18-21.

yarabivuze mu ibaruwa ye yo kwegura. Kubera igihe gishize ibyo bintu bibaye, uko kunyuranya kutanafite agaciro kanini, nta cyo kwahindura ku kwizerwa kwe.

96. Mu ibaza rinyomoza, GKH yavuze nanone ko Uregwa yamubwiye, ubwo bahuraga, ko abayoboke b'ishyaka batamwishimiye, kuko batamubonaga kenshi. Ubwunganizi bwavuze ko izo mpungenge zumvikanaga, niba icyo gihe umutangabuhamya yari yihishe hamwe n'inshuti ye, bityo ntiyitabire amanama y'ishyaka. Umutangabuhamya avuga ko niba ayo manama yarabaye, atayatumiwemo, kandi ko ishyaka rye ryari kumubona igihe cyose rishakiye kuko ajya i Bwakira yamenyesheje DN aho agiye[102].

97. Urugereko rusanga GKH yakwizerwa kuko yatanze ubuhamya busobanutse, burimo ukuri kandi bujyanye. Ubwunganizi ntibwatanze ikimenyetso kigaragaza ko hari inyungu uyu mutangabuhamya afite mu gushinja Uregwa .

Umutangabuhamya wiswe CGH

98. CGH avuga ko kuva hagati muri Mata kugeza mu mpera za Gicurasi, Uregwa yahuye na DN maze amwizeza kuzamuha umwanya w'ubudepite niyica Abatutsikazi bose bo muri Komine ye, harimo n'abashakanye n'Abahutu[103]. CGH yari azi ko GKH yari yaratorewe kuba Depite wa PSD uhagarariye Perefegitura ya Kibuye mu Nteko Ishingamategeko, ariko mu kiganiro Uregwa yagiranye na DN, havuzwe ko ari ngombwa kwirukana GKH kuko umugore we ari Umututsikazi. Muri Nyakanga 1994, CGH yakurikiye kuri radiyo imihango y'irahira rya DN[104].

[102] Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 15-17.
[103] Ni kimwe no haruguru, imp. 44-46.
[104] Ni kimwe no haruguru, imp. 45-47.

Gusuzuma ukwizerwa k'umutangabuhamya

99. Ubuhamya CGH yatanze mu Rukiko ku kuba Uregwa yaba yaragiye mu rugo kwa Burugumesitiri Karara, busuzumwa birambuye mu cyiciro cya 5. Urugereko rusanga rutakwizera ibyo uwo umutangabuhamya avuga byerekeranye n'uko yari mu cyumba cyabereyemo inama. Rusanga kandi hari ukwivuguruza gukomeye hagati y'ubuhamya yatanze mu Rukiko n'ubuhamya bwanditse yatanze mbere. Rusanga rutakwemera ibisobanuro uwo mugabo atanga ashaka gukemura ikibazo cy'uko kwivuguruza. Kubera impamvu zivugwa muri iki cyiciro, Urugereko ntirwemeye na gato ubuhamya bwa CGH.

Umutangabuhamya wiswe DN

100. DN avuga ko, nk'uko biteganywa n'Amasezerano ya Arusha, ishyaka rya PSD ryari ryaragenewe imyanya 11 mu Nteko Ishingamategeko. Buri shyaka ryagombaga kugena abarihagararira muri iyo Nteko. Mbere GKH yari yatorewe kuba Depite wa PSD uhagarariye Kibuye. Bitewe n'impamvu DN atamenye, GKH ntiyigeze arahirira kuba Depite. Mu mpera za Kamena, Uregwa yabwiye DN ko yatoranyirijwe kuba Depite wa PSD uhagarariye Kibuye. Cyakora, DN yashimangiye ko atasimbuye GKH, ko ahubwo yahawe umwanya mushya, kuko umubare w'abahagarariye PSD wari wiyongereye, ukava ku badepite 11 ukagera kuri 13[105]. DN avuga ko nyuma GKH yamubwiye ko yari yarahuriye n'Uregwa i Bwakira, bakavugana ku byo kumugira Depite. Yongera ho ko GKH atamubwiye ko Uregwa yamushyizeho iterabwoba :

> Q : [GKH] yakubwiye ko [Uregwa] yamushyizeho iterabwoba ?
> R : Iterabwoba, oya, (ntibyumvikana) nta terabwoba yambwiye. Nta terabwoba na busa. Simbizi, sinabajije neza ibyo baganiriye, ariko icyo nzi ni uko bavuganye. Kandi nibura nshingiye ku byo [GKH]

[105] Inyandikomvugo z'amaburanisha, 3 Ugushyingo 2003, imp. 24-26; 4 Ugushyingo 2003, imp. 26, 27.

yambwiye, nta terabwoba ryabaye muri icyo kiganiro. Bene iryo terabwoba ntiryabaye[106].

101. GKH ntavuga ko Uregwa yakoresheje iterabwoba kugira ngo DN ashyirwe kuri uwo mwanya [w'ubudepite]. DN avuga ko Uregwa na GKH ari bo bamushyize kuri uwo mwanya kuko bari abakuru ba PSD ku Kibuye[107]. DN yarahiye ku itariki ya 4 Nyakanga 1994 maze ku itariki ya 14 Nyakanga 1994 Guverinoma ihungira muri Kongo. Umutangabuhamya ntiyashoboye kujya mu nama z'Inteko Ishingamategeko[108].

Gusuzuma ukwizerwa k'umutangabuhamya

102. Amakuru y'ibanga yamenyeshejwe Urugereko agaragaza ko DN afite inyungu mu guhishira Augustin Karara, wari Burugumesitiri wa Komine ya Gitesi, mu wa 1994[109]. Porokireri asanga DN abeshya kugira ngo ahishire uwo mu Burugumesitiri. Porokireri avuga ko uwo Burugumesitiri yabaye icyitso cy'Uregwa mu gukora ibikorwa bibisha ku Kibuye. Ubu Augustin Karara afungiye mu Rwanda ategereje kuburanishwa ku cyaha cya jenoside. Umutangabuhamya w'impuguke watanzwe na Porokireri yavuze ko Burugumesitiri yagenzuraga, mu buryo butaziguye, abaturage basanzwe kurusha uko byari gukorwa n'abategetsi ba politiki mu rwego rw'igihugu. Yaba yarafatanyije n'Uregwa bigatuma hakorwa jenoside n'ibindi bikorwa bibisha[110]. Porokireri avuga kandi ko DN abeshya kugira ngo apfobye isano yari afitanye na Augustin Karara n'Uregwa, bityo anapfobye uruhare rwa Karara mu byaha byakozwe. Mu gusoza, Porokireri asanga umutangabuhamya ahuzagurika mu gusubiza ikibazo yabajijwe ku iterabwoba[111].

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106 Inyandikomvugo y'iburanisha, 3 Ugushyingo 2003, imp. 25, 26.
107 Inyandikomvugo y'iburanisha, 4 Ugushyingo 2003, imp. 27, 28.
108 Inyandikomvugo z'amaburanisha, 3 Ugushyingo 2003, imp. 24-27; 4 Ugushyingo 2003, imp. 25-28.
109 Ikimenyetso gihamya N° 40 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya).
110 Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 36-38 ; Ímyanzuro nsozarubanza ya Porokireri, imp. 46, 47, 49, 50.
111 Imyanzuro nsozarubanza ya Porokireri, imp. 47-50 ; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 9, 10, 35 - 38, Imyanzuro y'Ubwunganizi, ibika 552-572 ; inyandikomvugo y'iburanisha, 2 Werurwe

103. Urugereko rusanga DN adahwema kugerageza guhishira Burugumesitiri Karara ku byaha byose yaba yarakoze ku giti cye cyangwa ibyo yakoze bitewe n'imirimo izwi yari ashinzwe icyo gihe. Porokireri avuga ko kuba Burugumesitiri Karara yaragizwe Depite mu cyimbo cya GKH, byari ukumugororera kubera ibikorwa by'ubugome Uregwa yamushishikarije gukora. Inyungu DN afite mu gupfobya uruhare rwa Burugumesitiri muri ibyo bikorwa, zagize ingaruka ku buhamya bwe kuri iyo ngingo. Mu kwanzura, Urugereko ruvuga ko mu buhamya DN mu rukiko atanga kuri iyo ngingo, asa n'uhuzagurika ndetse agahunga ikibazo. Ntawakwemera neza ko DN wari mu ishyaka rimwe na GKH yaba nta makuru na make yamenye ku mpamvu zateye GKH kwegura, cyane cyane ko bavuganye nibura inshuro imwe mbere y'imihango yo kurahira.

104. Ibyo ari byo byose, ubuhamya bwa DN nta kamaro bufite mu gusuzuma ukuri kw'ibivugwa na GKH. Nta makuru ataziguye afite ku byo GKH yaganiriye n'Uregwa. Yemeza gusa ko GKH atari yaravuze ko Uregwa yamushyizeho iterabwoba ngo yegure. Birashoboka ko GKH atabwiye DN ko yashyizweho iterabwoba, kubera ko GKH ashobora kuba yaramenye ko yasimbujwe Burugumesitiri Karara, bityo akaba ashobora kuba yari azi ko Uregwa na Burugumesitiri bafitanye ubucuti bwa hafi. Ubuhamya bwa DN nta cyo buhungabanya ku kwizerwa kwa GKH.

105. Mu rubanza rwa *Niyitegeka*, DN yatanze mu Rukiko ubuhamya bushinja. Muri urwo rubanza, Urugereko rwasanze yakwizerwa[112]. Ubuhamya rukumbi bw'uwo mugabo urwo Rugereko rwifashishije ni ubwerekeye amagambo yavuzwe n'abayobozi ba politiki banyuranye, barimo Eliyezeri Niyitegeka, mu nama yabereye ku Kibuye ku itariki ya 3 Gicurasi[113]. Ubuhamya umugabo atanga mu Rukiko muri uru rubanza, butandukanye cyane n'ubwa mbere. Ubwo buhamya bwerekeye ibintu bishobora gushinja Burugumesitiri Karara kandi DN ashobora

2004, imp. 8 9, 54, 55, 60, 61 [igisobanuro cy'umusemuzi : mu nyandimvugo y'iburanisha yo ku itariki ya 2 Werurwe 2004, ibivugwa ku mp. 100-102 z'inyandiko yaryo ntibiri mu nyandiko yaryo iri mu gifaransa].

112 Urubanza rwa *Niyitegeka,* igika 249.

113 Iyo nama isuzumwa haruguru mu cyiciro cya 3.3.

kuba afite inyungu mu guhishira ibyo bintu. Umutangabuhamya ntiyahagaze ku byo avuga. Asubiramo gusa ibyo yabwiwe na GKH. Urugereko rusanga nta kwivuguruza guhari ruramutse ruvuze ko rutakwizera ubuhamya DN yatanze mu Rukiko bwerekeye impamvu zatumye GKH yegura. Kubera iyo mpamvu, ubwo buhamya ntibugomba guhabwa agaciro.

Umutangabuhamya wiswe DQ

106. DQ avuga ko ubwo yari umugenzuzi w'imari ya Leta muri Minisiteri y'Imari mu mwaka wa 1988 cyangwa uwa 1989, yumvise ko GKH, wari umucungamari i Butare, yaba yaranyereje umutungo. Umutangabuhamya atekereza ko nyuma GKH yaba yarabonye akazi ku Kibuye mu mushinga w'ubuhinzi w'Abasuwisi. DQ avuga ko GKH yaje kuba umukandida wa PSD ku mwanya w'ubudepite, uhagarariye perefegitura ya Kibuye[114]. Ibyo umutangabuhamya yibuka kuri iryo nyerezamutungo ntibifututse, bityo akaba atari ngombwa kubitindaho. Urugereko rusanga ibivugwa na DQ bidahungabanya ukwizerwa kwa GKH.

Uregwa

107. Uregwa avuga ko yahuriye na GKH i Kalinda, ku itariki ya 2 Kamena. GKH yamubwiye ko atifuza kujya mu mihango y'irahira no gusiga umuryango we kubera umutekano muke. Uregwa yongeraho ko GKH yamubwiye ko adashaka kujya ahantu atizeye kugirira umutekano. Uregwa avuga ko atagerageje guhatira umutangabuhamya kwisubiraho, kuko yabonaga GKH yumvaga nta mutekano afite. Yongeraho ko ahubwo yashatse gukora ku buryo PSD igumana umwanya yari yaragenewe mu Nteko Ishingamategeko. Mu gusoza, Uregwa avuga ko yaganiriye na GKH ku muntu ushobora kumusimbura nuko bemeranya kuri Burugumesitiri Karara[115].

[114] Inyandikomvugo y'iburanisha, 6 Ugushyingo 2003, imp. 18-20.
[115] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, imp. 23-25.

Imyanzuro ku byabaye

108. Urugereko rusanga ubuhamya GKH yatanze mu Rukiko ku miterere y'ikiganiro yagiranye n'Uregwa bwakwemerwa kurusha ubwatanzwe n'Uregwa. Ubwunganizi ntibwatanze ikimenyetso na kimwe cyatuma Urugereko rukemanga ubunyangamugayo n'ukutabogama by'umutangabuhamya. Urugereko rusanga GKH yaratanze ubuhamya bwumvikana, bw'ukuri, budahuzagurika kandi burambuye. Uregwa ntiyasobanuye impamvu ubuhamya bwa GKH butandukanye kariya kageni ku byerekeye n'ihura ryabo.

109. Urugereko rusanga mu ntangiriro cyangwa hagati muri Kamena 1994, Uregwa yarokeje igitutu GKH ngo areke umwanya w'ubudepite yari yaratorewe ngo ahagararire Perefegitura ya Kibuye, bitewe n'uko uyu mutangabuhamya yari afite umugore w'Umututsikazi.

3.5 Guhimba ibimenyetso n'akagambane k'abatangabuhamya

110. Porokireri n'Ubwunganizi bashinja abatangabuhamya bo ku ruhande bahanganye kuba baragambanye ngo batange ubuhamya bw'ikinyoma.

111. Porokireri avuga ko abatangabuhamya bashinjura biswe DR, DO, DM na DN bose bafungiye mu Gisovu, kimwe na mwene nyina w'Uregwa, Ezekias Seyeze. Avuga ko bafite rero impamvu zituma babeshya ngo bahishire Uregwa. Yongeraho ko babonye uburyo bwo gutegurira hamwe ubuhamya bw'ikinyoma[116]. Ubwunganizi bwo busanga CGX, CGE na CGB bose baremeye ko bashatswe na CGH ngo bahimbe ubwo buhamya. DF avuga ko CGH, wari umucungagereza, yigambye ko azahimba ibimenyetso bishinja Uregwa [117]. DC yemeza ko CGH yamujyanye kubonana n'umugenzacyaha wari kumwe n'abazungu babiri. Avuga ko abo bantu bamwijeje kumuha amadolari 50

[116] Imyanzuro nsozarubanza ya Porokireri, urup. 127.
[117] Inyandikomvugo z'amaburanisha, 2 Werurwe 2004, imp. 6, 7; 5 Ugushyingo 2003, imp. 32-33.

niyemera gutanga ubuhamya ku byaha Uregwa yakoze. DC yongeraho ko CGH abonye yanze, yavuze ko [DC] azavutswa ibintu yari afiteho uburenganzira muri gereza, kubera ko yanze gutanga ubuhamya bashaka[118].

112. Urugereko rusanga ibimenyetso byatanzwe bishyigikira ibyo birego bidafite ireme. Cyakora, igihe nikigera, Urugereko rurasuzumana ubushishozi ubuhamya bwatanzwe mu Rukiko, kugira ngo rushakishemo ibintu byerekana akagambane no guhimba ibimenyetso.

4. Ibyaha Uregwa yakoreye ku gasozi ka Gitwa muri Mata 1994

4.1 Intangiriro

113. Uregwa ashinjwa jenoside kubera ko yaba yaragiye mu mu bitero byagabwe ku gasozi ka Gitwa muri Mata 1994. Igika cya 15 n'icya 16 by'Inyandiko y'ibirego biteye bitya :

> 15. Mu gihe cy'iminsi myinshi, hagati y'itariki ya 13 n'iya 26 Mata 1994, Emmanuel Ndindabahizi yayoboye ibitero ku gasozi ka Gitwa byibasiye abasiviri bavugwaga ko ari Abatutsi, cyangwa abigiramo uruhare ajyanayo abasirikare n'*Interahamwe,* arasa cyangwa ategeka abari mu bitero kwica impunzi z'Abatutsi bakoresheje imbunda, za gerenade, imihoro n'impiri. Ibyo bitero byahitanye abantu benshi.
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> 16. Ku itariki ya 14 Mata 1994, cyangwa ahagana kuri iyo tariki, ku gasozi ka Gitwa, Emmanuel Ndindabahizi yategetse cyangwa yorohereza abantu kwica abasiviri bavugwaga ko ari Abatutsi, cyangwa abigiramo uruhare atera gerenade, anatwara abasirikare cyangwa *Interahamwe* gutera abo bantu bakoresheje imbunda, za gerenade, imihoro n'impiri, cyangwa abaha amabwiriza yo kubikora, ibyo bikaba byaratumye abantu benshi bapfa.

[118] Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 16, 17. Ikimenyetso gihamya N° 36 cyatanzwe n'Ubwunganizi.

Uregwa ashinjwa kandi icyaha cyibasiye inyokomuntu (itsembatsemba) kubera ibikorwa yaba yarakoreye ku gasozi ka Gitwa :

> 20. Mu gihe cy'iminsi myinshi, hagati y'itariki ya 13 n'iya 26 Mata 1994, Emmanuel Ndindabahizi yagiye mu bitero byibasiye impunzi z'abasivili b'Abatutsi zari ziteraniye ku gasozi ka Gitwa. Emmanuel Ndindabahizi yajyanye abasirikare cyangwa *Interahamwe* cyangwa intwaro ku gasozi ka Gitwa, cyangwa yatanze inkunga mu kubatwara, kandi yagabye ibitero byibasiye abasivili b'Abatutsi, atanga urugero akarasa ku itsinda ry'impunzi, atera gerenade isandara mu cyerekezo cy'ahantu hari itsinda ry'impunzi, cyangwa ategeka abagabye igitero kwica impunzi, abaha amabwiriza yo kubikora.
>
> 21. Kubera uruhare rwa Emmanuel Ndindabahizi mu bitero byagabwe ku gasozi ka Gitwa, abasivili benshi b'Abatutsi barakomeretse cyangwa baricwa.

Porokireri avuga ko Uregwa yari ku gasozi ka Gitwa inshuro eshatu zinyuranye, mu gihe kivugwa mu Nyandiko y'ibirego, nk'uko bisobanuye hasi mu magambo arambuye.

114. Uregwa ahakana ko yagiye ku gasozi ka Gitwa hagati y'itariki ya 6 Mata 1994 n'ukwezi kwa Nyakanga muri uwo mwaka[119].

4.2 Itangwa ry'intwaro, kujya mu bitero no guhamagarira abantu kubijyamo, hagati muri Mata 1994

[119] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, imp. 25, 26.

Umutangabuhamya wiswe CGV

115. CGV, w'Umututsi, avuga ko mu cyumweru gikurikira urupfu rwa Perezida, abaturanyi be b'Abahutu bamumenesheje mu rugo rwe i Gasero muri Komine ya Gitesi. CGV avuga ko itariki ya 15 Mata, cyangwa hafi yayo, we n'umuryango we wose bahungiye ku gasozi ka Gitwa, aho Abatutsi benshi bari bateraniye. Hashize iminsi nk'ibiri, mu ma saa munani z'amanywa, yabonye Uregwa mu ntangiriro z'agasozi ka Gitwa ari muri Toyota y'umweru ikurikiwe n'ikamyoneti ya *Daihatsu* y'icyatsi yuzuye abasirikare bambaye imyenda ya gisirikare n'*Interahamwe* zambaye imyenda y'umweru[120]. Yongeraho ko abari muri izo modoka zombi bazivuyemo, bakikiza Uregwa, wari ufite gerenade imwe mu ntoki n'izindi ebyiri ziri ku mukandara. Avuga ko bapakuruye amageranade n'amasasu muri Daihatsu nuko biratangwa[121]. Hashize nk'umunota umwe, Uregwa yateye gerenade ya mbere mu cyerekezo cy'impunzi. Bateye izindi gerenade, barasa n'amasasu ku mpunzi. Amwe muri ayo masasu yarashwe n'umuntu wari ku gasozi, kari hafi y'aka Gitwa, akoresheje imbunda ya mitarayeze[122]. Umutangabuhamya avuga ko yumvise umwe mu mpunzi bari kumwe witwa Jean wari agoronome wa Komine avuga ngo : « Ni [uguhunga] kuko harimo abasirikare, na Ndindabahizi yavuye i Kigali azanywe no kwica Abatutsi … i Kigali nta Batutsi bahari bo kwica, none aje kwica mu karere avukamo »[123]. Avuga ko muri icyo gitero, Uregwa yazamutse umusozi ari kumwe n'*Interahamwe*. Cyakora, umutangabuhamya yongeraho ko, bitewe n'uko yahunze igitero, atashoboye gukurikirana ibyo Uregwa akora. Avuga ko umuryango we waguye mu bitero byagabwe uwo munsi[124].

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[120] Ikimenyetso gihamya N° 17 cyatanzwe na Porokireri 17 (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano) ; Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 3-5, 9-23, 24, 25. Umutangabuhamya avuga ko ibyo bintu byabaye ahagana ku itariki ya 17 Mata kandi yemeza ko imodoka zari zaturutse mu muhanda ujya mu Gisovu. Mu myanzuro nsozarubanza yatanze mu magambo, Porokireri yemeza ko ibyo bintu byabaye hagati y'itariki ya 17 n'iya 20 Mata.

[121] Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 3-6, 23, 24.

[122] Ni kimwe no haruguru, imp. 4, 5, 6, 7, 23 – 25, 28.

[123] Ni kimwe no haruguru, imp. 4, 5, 18, 19.

[124] Ni kimwe no haruguru, imp. 6-9, 16,17.

116. CGV yumva ko Uregwa ari we wayoboye igitero cyagabwe uwo munsi, kuko ari we muntu wa mbere wateye gerenade. Byongeyeye kandi, bitewe n'uko yari Minisitiri muri Guverinoma, ni we muntu warushaga ijambo abandi bari aho hantu[125].

117. CGV avuga ko yamenye Uregwa hagati y'umwaka wa 1980 n'uwa 1985, ubwo Uregwa yari umucungamutungo w'iduka rya Trafipro ku Kibuye, aho umutangabuhamya yahahiraga. Avuga ko Uregwa ari umuntu uringaniye mu gihagararo, ufite izuru rigufi n'imisatsi igera mu gahanga. Mu Rukiko, umutangabuhamya yamenye Uregwa [126].

Gusuzuma ukwizerwa k'umutangabuhamya

118. Ababuranyi ntibavuga rumwe ku byerekeye ukwizerwa kwa CGV[127]. Ubwunganizi bwabwiye CGV ko ubuhamya bwanditse bunyuranye yatanze mbere butajyanye n'ubwo yatanze mu Rukiko ku byerekeye kuba Uregwa yari ari ku gasozi ka Gitwa. Mu buhamya bwanditse bwo ku itariki ya 26 Mata 2001, umutangabuhamya avuga ko yahungiye ku gasozi ka Gitwa hagati y'itariki ya 13 n'iya 14 Mata kandi ko uwo munsi yabonye Uregwa [128]. CGV asubiza ko atibuka neza amatariki, ko bishoboka ko icyo gitero cyagabwe ku itariki ya 13 cyangwa iya 14 Mata nk'uko yabivuze mu buhamya bwanditse yatanze mbere. Urugereko rusanga bishoboka kandi byumvikana ko umutangabuhamya atibuka neza amatariki, kubera igihe gishize n'uburyo ibyabaye bihahamura. Uko guhuzagurika ntikwatuma ubuhamya bwe butizerwa.

119. Ubwunganizi buvuga ko mu buhamya bwanditse bunyuranye yatanze mbere, uwo mugabo yemeza ko abasirikare n'*Interahamwe* batwawe muri izo modoka ebyiri,

[125] Ni kimwe no haruguru, imp. 4-6.
[126] Ni kimwe no haruguru, imp. 2 - 4, 7 – 10, 19, 20.
[127] Imyanzuro nsozarubanza ya Porokireri, imp. 48-54, 74 ; Imyanzuro y'Ubwunganizi, ibika 27-29, 77, 178-180, 831-875 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 27-29, 31, 32, 40, 41, 47-49; 2 Werurwe 2004, imp. 6, 7, 46, 47, imp. 50-54, imp. 68-70, 71,72.
[128] Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 19-22.

naho mu rukiko akavuga ko Uregwa yari mu modoka ye ari kumwe n'umushoferi we gusa[129]. Cyakora, Ubwunganizi ntibwababajije ibibazo umutangabuhamya kuri uko kwivuguruza buvuga. Urugereko rusanga bishoboka cyane ko uwo mutangabuhamya atabwiye abakora iperereza ko ivatiri y'Uregwa, yari yuzuye abasirikare n'*Interahamwe.* Uko kwivuguruza kuvugwa ntikwatuma uyu mutangabuhamya atizerwa.

120. Ubwunganizi buvuga ko ubuhamya CGV yatanze mu Rukiko ku byerekeye ibikorwa Uregwa yakoze mu gitero, buvuguruzanya n'ubuhamya bwanditse yatanze mbere abuha abakozi bashinzwe iperereza ku itariki ya 26 Mata 2001. Muri ubwo buhamya bwanditse, havugwamo ko Uregwa yari ahari, areba uko igitero kigabwa, ariko ntihavugwamo ko Uregwa yateye gerenade cyangwa ko yitanze atizigamye muri icyo gitero. Umutangabuhamya avuga ko abakozi bashinzwe iperereza bagomba kuba barumvise nabi uko yasobanuye ibyo Uregwa yakoze[130]. Urugereko rwibutsa ko mu buhamya bwanditse yatanze mbere CGV avuga, nk'uko abikora mu Rukiko, ko Uregwa yari afite gerenade mu ntoki kandi akongeraho ngo : « Batangiye kudutera, babanje kudutera za gerenade ». Mu buhamya bwanditse bwa kabiri bwiswe ubw' « inyongera », bwo ku itariki ya 4 Kamena 2001, umugabo asobanura ko mu by'ukuri Uregwa yateye gerenade. Urugereko rubona nta kwivuguruza kuri hagati y'ubuhamya umugabo yatanze mu Rukiko n'ubwanditse bunyuranye yatanze mbere[131].

121. Ubwunganizi bwemeza kandi ko CGV atasobanuye neza ukuntu yashoboye kwitegereza Uregwa kandi yarahungiraga mu cyerekezo kinyuranye n'aho Uregwa yari ari. Bwongeraho ko kuba CGV yaranze gutanga ikigereranyo cy'intera yari hagati ye n'Uregwa, ari uburyo bwo guhunga ikibazo gusa[132].

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[129] Ni kimwe no haruguru, imp. 23, 24. Ubwunganizi buvuga kandi ko hari ukwivuguruza ku byerekeye ubwoko bw'intwaro zapakuruwe mu mamodoka. Cyakora, mu ibaza rinyomoza nta kwivuguruza na kumwe kwagaragajwe neza, ndetse n'Uregwa ntiyanabajijwe kuri uko kwivuguruza kuvugwa.
[130] Ni kimwe no haruguru, imp. 14-17.
[131] Ikimenyetso gihamya N° 12 A cyatanzwe n'Ubwunganizi, (ubuhamya bwanditse bwo ku itariki ya 26 Mata 2001), n'ikimenyetso gihamya N° 13 cyatanzwe n'Ubwunganizi (ubuhamya bwanditse bwo ku itariki ya 4 Kamena 2001).
[132] Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 24-28.

Cyakora, umutangabuhamya asobanura ko yitegereje Uregwa nibura mu gihe cy'umunota umwe mbere y'uko gerenade iterwa. Avuga neza ko intera yari hagati ye n'Uregwa yendaga kureshya n'ubugari bw'icyumba cy'iburanisha[133]. Izo ngingo ntizihungabanya ukwizerwa k'umutangabuhamya.

122. Ubuhamya bwanditse CGV yatanze ku itariki ya 26 Mata 2001 burimo interuro zikurikira : « Kuri Gitwa, kimwe no ku Muyira Abatutsikazi basambanyijwe ku gahato, nyuma baricwa. Uretse umugore wabahaye ubuhamya ejo, abandi bagore bose biciwe aho ». Ubwunganizi n'abacamanza bamubajije ku mwirondoro w'umugore avuga mu buhamya bwe bwanditse, umutangabuhamya yashubije ko atamuzi[134]. Icyo gisubizo gisa n'ikivuguruza ubuhamya bwanditse yatanze mbere.

123. Ubwunganizi bwababajije impamvu CGV yategereje imyaka myinshi mbere yo gutanga ubuhamya ku Uregwa kandi mbere yari yaratanze ubuhamya mu nkiko zo mu Rwanda. Umutangabuhamya asubiza ko atashatse gushinja umuntu udahari kuko Uregwa ataburanishirijwe mu Rwanda[135]. Urugereko rwemera icyo gisobanuro.

124. Ubwunganizi bwakemanze ibyo CGV avuga ko yabonye Uregwa. Uyu mutangabuhamya avuga ko yabonye Uregwa kenshi hagati y'umwaka wa 1980 n'uwa 1985 mu iduka rya Trafipro ku Kibuye[136]. Porokireri avuga ko ntawakwemera ibyo Uregwa avuga ko atigeze akora akazi cyangwa kwimenyereza akazi (sitaji) mu iduka rya Trafipro ryo ku Kibuye, cyangwa ko atigeze ajyayo. Porokireri yongeraho ko icyemezo Ubwunganizi bwabonye cyatanzwe na Koperative Trafipro cyerekana ko Uregwa yakoze gusa mu biro

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[133] Ni kimwe no haruguru, imp. 24, 25 (« Navuga ko twebwe … umuntu yahera ku rukuta rwo kuri ruriya ruhande. Naho twe, twari nko ku yindi mpera y'icyumba cy'iburanisha»).
[134] Ni kimwe no haruguru, imp. 17, 18.
[135] Ni kimwe no haruguru.
[136] Ni kimwe no haruguru, imp. 2-4.

bya Trafipro i Kigali, kitabuza ko Uregwa ashobora kuba yarasuye iduka ryo ku Kibuye igihe yakoreraga iyo Koperative[137].

125. CGN na CGM na bo bavuga ko, muri icyo gihe, babonye Uregwa mu iduka rya Trafipro ku Kibuye[138]. N'ubwo Urugereko rwemera ko icyemezo cya Trafipro cyerekana ko Uregwa yakoze ku cyicaro cy'iyo Koperative i Kigali kuva ku itariki ya 10 Ugushyingo 1976 kugeza ku ya 31 Ukuboza 1981, ibyo ntibivuga ko, rimwe na rimwe, Uregwa atashoboraga kujya mu iduka ryo ku Kibuye muri icyo gihe. Ku rundi ruhande, Urugereko rwibaza ukuntu umutangabuhamya yemeza ko Uregwa yari umucungamutungo w'iduka ryo ku Kibuye.

126. Mu ibazwa rinyomoza, CGV avuga ko atamenye Uregwa, ko ahubwo ari umwe muri bagenzi be wamenye Emmanuel Ndindabahizi. Cyakora, mu gusubiza ikindi kibazo Ubwunganizi bwamubajije kuri iyo ngingo, umutangabuhamya yemeza ko yari azi neza Uregwa ku buryo yamumenye, n'ubwo yaherukaga kumubona mu mwaka wa 1986[139]. Ikibazo nk'icyo kigaragara kandi aho CGV yemeza ko Uregwa yateye gerenade. Ni we mutangabuhamya wenyine uvuga ko Uregwa yitabiriye igitero mu buryo butaziguye[140]. Nta kintu kigaragaza ko Uregwa yahawe amasomo cyangwa imyitozo ya gisirikare kugira ngo amenye uko bakoresha cyangwa batera gerenade. Uregwa yaba yarateye gerenade ayerekeza hejuru y'umusozi ariko, n'ubwo bishoboka, byashoboraga kumutera amakuba kubera ko abo yari kuyitera bari bamwegereye.

127. Yaba CGN cyangwa CGY bombi bari ku gasozi ka Gitwa cyangwa hafi yaho icyo gihe, nta n'umwe muri bo wavuze uko igitero cyagenze mu buryo bumwe na CGV[141]. Bashoboraga kumenya iby'icyo gitero, mu buryo buziguye cyangwa

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137 Imyanzuro nsozarubanza ya Porokireri, urup. 63 ; ikimenyetso gihamya N° 50 cyatanzwe n'Ubwunganizi (icyemezo cyatanzwe na Trafipro).

138 Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 2-4, 26; 15 Nzeri 2003, imp. 4-6, 21, 22, 48-51.

139 Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 18-20, 28, 29.

140 Inyandikomvugo z'amaburanisha, 1 Werurwe 2003, imp. 28, 29; 2 Werurwe 2003, imp. 68-70.

141 Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 18, 19 (CGN), imp. 36, 37 (CGY).

babyumvanye abandi bantu, kuko cyagabwe hakoreshejwe amagerenade n'amasasu na mitarayeze, kandi kikabera ku gasozi gafatanye n'ako bariho.

Imyanzuro ku byabaye

128. Ubuhamya CGV yatanze mu Rukiko ntibufite ubundi bubushyigikira kandi, buvuguruzwa, mu buryo buteruye, n'uko CGN na CGY bavuga ko nta cyo bazi kuri icyo gitero. Byongeye kandi, umutangabuhamya atanga ibisubizo bivuguruzanya ku mpamvu zatumye amenya Uregwa. Mu gusoza, Urugereko rusanga bishoboka ko Uregwa yaba atarateye gerenade mu buryo buvugwa n'umutangabuhamya. Kubera izo mpamvu, Urugereko rurashidikanya ko Uregwa yagiye mu gitero cyagabwe ku gasozi ka Gitwa ku itariki ya 17 Mata 1994, cyangwa ahagana kuri iyo tariki, cyangwa ko yorohereje abantu kugaba icyo gitero atwara *Interahamwe* akanatanga intwaro.

4.3 Gutanga intwaro no guhamagarira abantu [gukora icyaha] ku itariki ya 23 Mata

Umutangabuhamya ushinja wiswe CGY

129. CGY, w'Umututsi, yari atuye hafi yo ku Kibuye ubwo, ku itariki ya 7 Mata, yamenyaga ko Perezida yapfuye. Abonye ko umutekano ugenda urushaho kuba muke ku Kibuye, yavuye iwe ku itariki ya 11 Mata, ajya hanze y'umujyi, aho umuryango we wari utuye. *Interahamwe* zimaze gutera ku mirenge yegeranye n'uwo yarimo, we n'umuryango we bongeye guhunga ku itariki ya 15 Mata. Yafashe umugore we wari utwite n'umwe mu bana be wari ukiri muto abajyana ku nshuti ye y'Umuhutu yari ituye ku musozi wa Karongi. Nyina n'abandi bana be babiri bahungiye ku wundi muntu kuri uwo musozi, naho we n'abavandimwe

be b'abahungu bateranira hamwe n'izindi mpunzi nyinshi ku gasozi ka Gitwa[142]. CGY avuga ko kugera nibura ku itariki ya 20 Mata yakunze gukora urugendo hagati y'agasozi ka Gitwa na hariya hantu hombi abantu be bari bihishe i Karongi[143]. Ageze ku gasozi ka Gitwa, yahasanze impunzi zibarirwa mu bihumbi mirongo zo muri Perefegitura ya Kibuye n'izaturutse mu yandi maperefegitura zari zazanye ihene n'andi matungo yazo. Izindi mpunzi zahageze nyuma ye zije mu matsinda mato[144]. We yahungiye aho hantu kuko yumvaga bari kuhagirira umutekano kubera ubwinshi bwabo.

130. CGY avuga ko ku itariki ya 23 Mata mu ma saa tanu z'amanywa, yabonye Uregwa kuri bariyeri yari ku muhanda hafi y'agasozi ka Gitwa. Avuga ko icyo gihe Uregwa yari mu modoka ya kamyoneti y'umweru "*double cabine*" ari kumwe n'abajandarume babiri n'umushoferi. Iyo modoka ye yari ikurikiwe n'izindi ebyiri arizo Daihatsu y'ubururu yari itwaye abajandarume babarirwa hagati ya 6 na 10, n'*Interahamwe* zitarenga 20 zambaye amakoma mu mutwe, n'indi kamyoneti ijya kuba umweru yo mu bwoko bwa Toyota « Stout ». Iyi modoka yo yari irimo abajandarume bagera kuri batandatu n'izindi *Nterahamwe*, zitamenyekanye umubare, na zo zari zambaye amakoma mu mutwe[145]. Avuga ko agereranyije, Uregwa ahagera iyo bariyeri yari irinzwe n'abasivili bagera kuri batandatu, ariko mu gihe Uregwa yari aho hantu abandi bantu bagera kuri 30 cyangwa barenga barahateraniye[146].

131. CGY avuga ko Uregwa yavuganye n'abantu bari kuri bariyeri, ababaza niba hari abantu bakiza guhungira ku gasozi ka Gitwa. Bamushubije ko nta mpunzi zikiza kuri ako gasozi. Uregwa yavuze ko « noneho bagomba gushyira mu bikorwa,

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142 Ikimenyetso gihamya N° 7 cyatanzwe na Porokireri 7 (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano) ; Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 36, 37, 54 - 58.

143 Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 54, 55. Umutangabuhamya yabanje kuvuga ko hagati y'itariki ya 15 n'iya 26 Mata yajyaga aho hantu buri munsi akarara agarutse, nyuma aza guhindura avuga ko yahagaritse izo ngendo ku itariki ya 20 Mata, ubwo umugore we n'abana be bamusangaga ku gasozi ka Gitwa. Inyandikomvugo y'iburanisha, 9 Nzeri 2003, urup. 1.

144 Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 36, 37, 53, 54.

145 Ni kimwe no haruguru, imp. 40-43, 44 – 46, 57, 58. Umutangabuhamya asobanura ko bariyeri yari aho agasozi ka Gitwa gahurira n'umunara wa FM, usa n'aho ari umunara wo ku musozi wa Karongi.

146 Ni kimwe no haruguru, imp. 60, 61.

badatinze, umugambi wari wateguwe ». Hatanzwe imihoro igeze kuri 30 yari mu gikarito kimwe cyangwa byinshi byari muri Daihatsu kandi Uregwa yasobanuye ko « izo ntwaro zari zimaze gutangwa zagombaga gukoreshwa mu gushyira mu bikorwa umugambi bari bateguye, ndetse ko batagombaga kuzigumana batazikoresha »[147]. Abari bagiye kugaba ibitero nabo bahawe imyambaro ibahisha amasura. Abantu bari bateraniye aho, barimo abari basanganywe imihoro n'ibibando, bishimiye icyo gikorwa cyo gutanga intwaro. Uregwa yamaze kuri bariyeri igihe kitarenze igice cy'isaha, nyuma aragenda yerekeza ruguru ashoreranye n'izindi modoka[148]. CGY avuga ko ibyo yabonye byaberaga nko muri metero 26 uvuye aho yari yihishe, mu nzu y'ibiti iri haruguru gato y'iyo bariyeri[149].

132. Umutangabuhamya avuga ko umunsi Uregwa aza ku gasozi ka Gitwa nta gitero na kimwe cyagabwe aho hantu, ko ariko ku itariki ya 24 n'iya 25 Mata hagabwe uduteroshuma cyakora twose tugakomwa imbere n'impunzi zirwanyeho zikoresheje intwaro za gakondo zirimo imihoro. Abagabye utwo dutero nta mbunda bari bitwaje[150]. Umutangabuhamya avuga ko abantu bari barahawe intwaro zatanzwe n'Uregwa ku itariki ya 23 Mata na bo bari mu gitero cyo ku itariki ya 24 Mata[151]. Ku itariki ya 26 Mata, agasozi ka Gitwa katewe, mu mabanga yako yose, n'Abahutu benshi barimo bake bitwaje imbunda n'amagerenade kandi barazikoresheje. CGY avuga ko atazi aho izo mbunda zaturutse, ariko akeka ko zari zaratanzwe rwihishwa[152]. Icyo gitero cyahitanye Abatutsi benshi, abari bafite ingufu ni bo bonyine bashoboye guhunga.

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[147] Ni kimwe no haruguru, imp. 41-44, 61 - 63.
[148] Ni kimwe no haruguru, imp. 43 – 46, 62 - 63.
[149] Ni kimwe no haruguru, imp. 44, 45, 50 - 53, 60 - 62. Umutangabuhamya yabanje kuvuga ko yari mu ntera iri hagati ya metero 25 na 50, nyuma, yifashishije icyumba cy'iburanisha, avuga ko mu by'ukuri hareshyaga na metero zigeze kuri 26. Ushingiye ku cyumba cy'iburanisha wavuga ko yari mu ntera ya metero zigeze kuri 21, Uregwa yongeraho « metero zigeze kuri eshanu ».
[150] Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 45, 46; 9 Nzeri 2003, imp. 1-3.
[151] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 13, 44, 45, 46. Umutangabuhamya avuga ko Jean Munyangeyo, Martin Kanyamibwa, Jean Rwamasasu, Nyagasaza n'uwitwa Mathias ari bo bahawe intwaro zatanzwe ku itariki ya 23 Mata.
[152] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 1-3.

Umutangabuhamya avuga ko, mu bitero byagabwe ku gasozi ka Gitwa, atabonye Uregwa, undi muminisitiri wo muri Guverinoma cyangwa Perefe[153].

133. CGY avuga ko yamenye Uregwa mu mwaka wa 1968 cyangwa uwa 1969 igihe Uregwa yari akiri umusore. Icyo gihe, umutangabuhamya yigaga ku Kirambo n'Uregwa yiga mu mashuri yisumbuye. Avuga ko yamubonaga mu biruhuko ubwo Uregwa yabaga avuye ku murenge wa Gasharu avukamo, hafi yo ku Kirambo[154]. Nyuma y'umwaka wa 1990, mu gihe cy'amashyaka menshi, CGY avuga ko yabonye Uregwa mu manama ya PSD ku Kibuye, ahantu hitwa ku ngoro ya MRND[155]. Umutangabuhamya yavuze uko Uregwa ateye, aranamumenya mu cyumba cy'iburanisha[156].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

134. Urugereko rusuzuma ukwizerwa kwa CGY, rushingiye ku byavuzwe n'ababuranyi[157]. Ubwunganizi buvuga ko ubuhamya CGY yatanze mu Rukiko bwerekeranye n'isaha yagereyeho ku gasozi ka Gitwa buvuguruzwa n'ubuhamya bwanditse yatanze ku itariki ya 10 Gicurasi 2001. Ubwunganizi buvuga kandi ko ibisobanuro CGY atanga kuri uko kwivuguruza bidahwitse. Mu buhamya bwanditse yatanze mbere, uwo mugabo yemeza ko yagumye ku musozi wa Karongi kugeza ku itariki ya 21 Mata, mbere y'uko ajya ku gasozi ka Gitwa. Asobanura ko hagati y'itariki ya 15 n'iya 20 Mata yagiye akora urugendo hagati y'agasozi ka Gitwa n'ahantu habiri ku musozi wa Karongi, aho abantu bo mu muryango we bari bihishe. Yongeraho ko atashoboraga guhamana n'umuryango we ku musozi wa Karongi kuko abagaba ibitero bashakishaga impunzi mu mazu zari zihishemo. Yongeraho ko yajyaga aho hantu hombi ninjoro, ashyiriye ibyo kurya abandi bantu bo mu muryango we bari ku gasozi ka Gitwa, bivuye aho bari

[153] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 39, 40, 46, 47.
[154] Ni kimwe no haruguru, imp. 39, 40, Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 10, 11.
[155] Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 39, 40; 9 Nzeri 2003, imp. 10-12.
[156] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 40, 50, 51.
[157] Imyanzuro nsozarubanza ya Porokireri, imp. 24-26 ; Imyanzuro y'Ubwunganizi, ibika 28, 733 - 784 , 898 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 27, 28, 29-31, 47-49; 2 Werurwe 2004, imp. 6-8, 47- 49, 50-54.

bahishe ibiribwa ku musozi wa Karongi[158]. Bushingiye ku buhamya bwa CGN uvuga ko agasozi ka Gitwa kari kagoswe n'abagabye igitero, Ubwunganizi buvuga ko, urebye uko ibintu byari biteye, ntawakwemera ko uwo mutangabuhamya yatinyutse gukora ingendo za buri munsi hagati y'ako gasozi na Karongi[159].

135. Mu ibazwa rinyomoza, havuzwe kenshi ku buhamya bwanditse umugabo yatanze ku itariki ya 10 Gicurasi 2001. Cyakora, bitewe wenda no kwibagirwa, Ubwunganizi ntibwatanze iyo nyandiko ho ikimenyetso gihamya[160]. Urugereko rwasuzumye ibice by'ubuhamya bwanditse bw'umugabo byerekeranye n'urubanza, kugira ngo rurebe niba ibice Ubwunganizi bwatoranyije byaravuzwe mu rwego umugabo yabivuzemo. Ibyo bice ni ibi bikurikira :

> Ku itariki ya 15 Mata 1994, twasanze guhama aho hantu byari kudushyira mu makuba akomeye nuko bamwe muri twe bahungira ku gasozi ka Gitwa. Jyewe [n'abandi bantu bake] nahungiye ku musozi wa Karongi ahari umunara wa FM. Ngezeyo nahasanze inshuti yanjye … Yemeye kumpisha. Nagiye ku gasozi ka Gitwa gushaka abana banjye ngo na bo mbazane ku musozi wa Karongi ahari umunara wa FM. Umugore wanjye wari Umuhutukazi yari atwite, bityo akaba atarashoboraga kuzamuka n'amaguru umusozi cyangwa kujya aho ababyeyi be batuye. Namuhishe mu rundi rugo rw'Abahutu bari inshuti zacu. Nagumye ku musozi wa Karongi ahari umunara wa FM kugeza ku itariki ya 21 Mata … Nagiye kwihisha mu bihuru hafi y'agasozi ka Gitwa … Rimwe, mbere y'uko mbona Emmanuel Ndindabahizi, nabonye Minisitiri w'Itangazamakuru, Eliezer Niyitegeka … [K]enshi abasore nkanjye bajyaga mu nkengero z'agasozi ka Gitwa kureba niba ibitero bitegurwa … Ku gasozi ka Gitwa hagabwaga udutero shuma hafi buri munsi ariko Abatutsi bahahungiye bakirwanaho cyane …

158 Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 54-58; 9 Nzeri 2003, urup. 1
159 Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 46, 47.
160 Ni kimwe no haruguru, imp. 56-60, Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 10-12.

> [A]hagana ku itariki ya 23 Mata 1994 nabonye Emmanuel Ndindabahizi …

Iyo usuzumye inyandiko yose y'ubwo buhamya bwa CGY, usanga bwemeza ubwo yatanze mu Rukiko avuga ko ku itariki ya 15 Mata yagiye kuri Gitwa n'i Karongi, kandi ko kugeza ku itariki ya 21 Mata yakoze ingendo hagati y'utwo dusozi twombi. Ubwo buhamya bwerekana kandi ukuntu umutangabuhamya yari ahangayikishijwe n'umuryango we, wari wahungiye ahandi. Kubera iyo mpamvu, ubuhamya uyu mugabo yatanze mu Rukiko busobanura kurushaho ubwanditse yatanze mbere, aho kubuvuguruza.

136. Urugereko rusanga umuntu yakwemera ko CGY yakoze izo ngendo. CGY yemeye ko n'ubwo izo ngendo zashoboraga kumukururira amakuba akomeye cyane, yigerejeho arazikora ngo agemurire ibyo kurya umuryango we wari ubikeneye cyane. CGN ntavuga igihe agasozi ka Gitwa kagotewe, naho CGY akavuga ko ingendo yakoraga zari zajemo ingorane nyuma y'aho abasirikare bahagereye. Umutangabuhamya asobanura ko yagendaga ninjoro, bityo bikaba byumvikana ko batashoboraga gupfa kumubona. Byongeye kandi, nta we uzi neza aho abagabye ibitero bari bari, hagati y'umusozi wa Karongi n'agasozi ka Gitwa.

137. Mu ibazwa ry'ingenzi, CGY avuga ko azi neza itariki yaboneyeho Uregwa, kubera ko uwo munsi yumvaga radiyo. Ntiyabashije gusubiza ibibazo abacamanza n'Ubwunganizi bamubajije bashaka kumenya ikintu cy'umwihariko cyavuzwe kuri radiyo kimwibutsa iyo tariki[161]. Cyakora, mu ibazwa ry'inyongera, umutangabuhamya avuga ko yibuka ko ku itariki ya 26 Mata ari ho igitero simusiga cyagabwe ku gasozi ka Gitwa, kandi ko Uregwa yaje aho hantu, hasigaye iminsi itatu ngo hagabwe icyo gitero adashobora kwibagirwa[162].

[161] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 57-59.
[162] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 12, 13.

138. N'ubwo igice cy'ubuhamya umugabo yatanze mu Rukiko cyerekeye uburyo yumvaga radiyo kidasobanutse, Urugereko rusanga ibyo bitatuma uyu mugabo atizerwa. Kubera uburemere bw'ibyabaye mu gitero cya nyuma cyagabwe ku itariki ya 26 Mata, kuba umutangabuhamya asobanura ko yibuka neza iyo tariki birumvikana. Birashoboka kandi ko umutangabuhamya yibuka ko Uregwa yaje aho hantu hasigaye iminsi itatu [ngo igitero kigabwe]. Kubera izo mpamvu, Urugereko rusanga rwakwizera icyo gice cy'ubuhamya ndetse n'umutangabuhamya muri rusange.

139. Ubwunganizi bushimangira ko hari ukwivuguruza kunini hagati y'ubuhamya bwa CGY mu rukiko n'ubuhamya bwe bwanditse, ku byerekeye ibyo Uregwa yavugiye kuri bariyeri ku itariki ya 23 Mata. Mu Rukiko, umutangabuhamya avuga, inshuro ebyiri, ko Uregwa yavuze « umugambi » wagombaga guhita ushyirwa mu bikorwa. Cyakora, mu buhamya bwanditse yatanze mbere, uyu mugabo ntavugamo umugambi n'umwe n'ubwo yemeza ko abasivili babwiwe amagambo akurikira: « Muzi icyo mugomba gukoresha izo ntwaro[163] ». Umutangabuhamya asobanura ko ukunyurana hagati y'ubwo buhamya bwombi guterwa n'ikibazo cy'isemura. Yongeraho ko, muri rusange, avuga ibintu bimwe mu buhamya bwe bwanditse n'ubwo yatanze mu Rukiko. Urugereko rusanga uko kunyurana atari kunini.

140. Ubwunganizi buvuga ko hari ukunyuranya hagati y'ubuhamya bw'uyu mugabo muri uru rubanza n'ubwo yatanze mu rubanza rwa *Musema,* ku byerekeye ibitero byagabwe ku gasozi ka Gitwa hagati y'itariki ya 18 n'iya 26 Mata. Ubwunganizi bwemeza ko mu rubanza rwa *Musema,* CGY avuga ko ku itariki ya 18 Mata hagabwe igitero cyakurikiwe n'ikindi simusiga cyagabwe ku itariki ya 26 Mata, ko ariko nta gitero cyagabwe hagati y'ayo matariki yombi[164]. Umugabo yumva ubuhamya yatanze mu rubanza rwa *Musema* bwarandukuwe nabi, ko yari

[163] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 62, 63.
[164] Ni kimwe no haruguru, imp. 59, 60 ; Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 3-7 ; Imyanzuro y'Ubwunganizi, ibika 750-757.

yaravuze ibindi bitero bito[165]. Porokireri we avuga ko mu buhamya yatanze mbere mu Rukiko, uyu mugabo atavuze ibitero byagabwe ku itariki ya 24 n'iya 25 Mata, kubera ko byari bifite agaciro gato ubigereranyije n'igitero simusiga cyagabwe ku itariki ya 26 Mata. Urugereko rwemera igisobanuro cya Porokireri kuri uko kunyuranya. Mu buhamya yatanze mbere mu Rukiko, umutangabuhamya asa n'uwumva ko kuba harabaye cyangwa hatarabaye ibitero hagati y'itariki ya 18 n'iya 26 Mata, nta gaciro bifite, akaba ari yo mpamvu ashobora kuba yararetse kuvuga udutero duto. Urugereko rusanga mu buhamya bwanditse yatanze mbere ku itariki ya 10 Gicurasi 2001, buvugwa n'Ubwunganizi, umutangabuhamya avuga ko agasozi ka Gitwa katerwaga hafi buri munsi, ko ariko twari udutero duto. Muri ubwo buhamya havugwamo n'igitero gito cyagabwe ku itariki ya 25 Mata.

141. Ubwunganizi ntibwemera ko, ari ahantu yihishe, CGY yashoboye kwitegereza Uregwa. Mu byo bwibaza harimo ukuntu yari gushobora kumenya Uregwa yihishe aho hantu bitewe n'intera ndende yabatandukanyaga. Umutangabuhamya asobanura ko nta bimera byamubuzaga kureba ku muhanda, kandi ko yashoboye kwikinga inyuma y'inzu y'ibiti. Ubwunganizi buvuga ko atari gushobora kubona cyangwa kumva ibyaberaga kuri bariyeri, kubera ko yari yihishe. Cyakora umutangabuhamya we ashimangira ko yakomeje kubona Uregwa kugeza agiye [Uregwa][166]. Ubwunganizi bwarwanyije kandi ubuhamya bw'uyu mugabo, buvuga ko budasobanutse, ntibunashyigikirwe n'ubw'abandi batangabuhamya.

142. Urugereko rwemera ko umutangabuhamya yashoboye kubona Uregwa no kumva ibyo yavugiye mu ntera ya metero 25. Kuba umutangabuhamya yari yihishe inyuma y'inzu y'ibiti ntibivuga ko atashoboraga kubona Uregwa, cyangwa ko kumubona bitashobokaga. Byongeye kandi, yari aho hantu kugira ngo arebe imodoka zazaga. Urugereko rusanga rwakwizera ibisobanuro umugabo atanga ku hantu yari areba ibiba.

[165] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 6, 7.
[166] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 60-64 ; Imyanzuro y'Ubwunganizi, ibika 764-769.

143. Ubwunganizi ntibwemera ko umutangabuhamya yashoboye kumenya Uregwa. Buvuga ko uyu mutangabuhamya atabonye Uregwa mu mwaka wa 1968 cyangwa uwa 1969, kuko byumvikana ko Uregwa yasubiye muri serire avukamo aho kujya ku Kirambo aho umutangabuhamya yigaga. Cyakora, umutangabuhamya avuga ko Kirambo iri hafi y'aho Uregwa yari atuye[167]. Ubwunganizi bwababajije kandi ukuntu umutangabuhamya yashoboye kubona Uregwa muri mitingi za PSD mu mwaka wa 1990, kandi [umutangabuhamya] atari umuyoboke w'iryo shyaka. Umutangabuhamya asubiza ko yagiraga amatsiko kandi ko ayo manama yaberaga hafi y'aho yakoraga[168]. Urugereko rusanga ibyo bisobanuro byakwemerwa.

144. Ubwunganizi buvuga ko mu buhamya bwanditse yatanze mbere, CGY yemeza ko yabonye Uregwa bwa mbere mu mpera z'umwaka wa 1993, ubwo Uregwa yari avuye mu nama yaberaga mu mazu ya Perefegitura, n'igihe yatemberaga mu modoka muri Perefegitura ya Kibuye, aramutsa abayoboke b'ishyaka rye[169]. Cyakora, muri ubwo buhamya, umugabo avuga ko avuka muri segiteri imwe n'Uregwa kandi ko yari amuzi kuko yamubonye mu manama avugwa haruguru. Urugereko rusanga kuvuga igihe umugabo yahuriye n'Uregwa bwa mbere bitera urujijo, ariko ntibigaragaze neza ko ubwo buhamya buvuguruza ubwo yatanze mu Rukiko.

145. Ubwunganizi bwabajije CGY impamvu yategereje imyaka irenga irindwi mbere yo kuvuga izina n'imyitwarire by'Uregwa, haba imbere y'ubutegetsi bwo mu gihugu, cyangwa ubutegetsi mpuzamahanga. Umutangabuhamya asubiza ko mbere atigeze na rimwe abazwa ku ruhare rw'Uregwa [170]. Urugereko rwemera icyo gisobanuro.

146. Ubwunganizi buvuga ko umutangabuhamya agenda ahindagura ibyo yibuka ku byerekeye isaha Uregwa yagereye aho hantu n'igihe yahamaze. Ubwunganizi

[167] Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 39,40; 9 Nzeri 2003, imp. 10,11 ; Imyanzuro y'Ubwunganizi, igika 778.
[168] Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 39, 40; 9 Nzeri 2003, imp. 10, 11.
[169] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 11, 12.
[170] Ni kimwe no haruguru, imp. 8-10.

buvuga ko mu buhamya bwanditse bwo ku itariki ya 10 Gicurasi 2001, umugabo avuga ko Uregwa yageze ku gasozi ka Gitwa mu ma saa sita z'amanywa, kandi ko yahamaze iminota itageze kuri 20. Mu buhamya yatanze mu Rukiko, umugabo yemeza ko Uregwa yahageze mu ma saa tanu, kandi ko yahamaze iminota itageze kuri 30[171]. Urugereko rusanga uku kunyuranya atari kunini, kandi kudahungabanya na busa ukwizerwa k'ubuhamya bw'uyu mugabo.

147. Ubwunganizi bwasabye CGY gusobanura impamvu Minisitiri yaba yaragiye ku gasozi ka Gitwa agamije gusa gutanga imihoro, kandi benshi mu bagabye ibitero bari basanzwe batunze bene izo ntwaro. Ubwunganizi bwashatse kumenya impamvu Uregwa atajyanyeyo imbunda, umutangabuhamya avuga ko zakoreshejwe mu gitero cyo ku itariki ya 26 Mata[172]. Umutangabuhamya abona itangwa ry'imihoro n'imyenda isa yo kwiyoberanya ridatangaje, avuga kandi ko wenda n'imbunda zatanzwe ariko ntabibone. Urugereko rusanga gutanga imihoro mu byabaye mu mwaka wa 1994 bidatangaje. Kubera iyo mpamvu, Urugereko ntirubona impamvu n'imwe yatuma rutazirikana ubuhamya umugabo yatanze mu Rukiko.

148. Muri make, ubuhamya bwa CGY bugaragaza ko ku itariki ya 23 Mata 1994 Uregwa yatwaye abagabye igitero kandi aha imihoro Abahutu bari kuri bariyeri, hagati y'agasozi ka Gitwa n'aka Karongi kubatseho umunara wa FM. Uregwa yaje mu modoka y'umweru, ikurikiwe na Daihatsu yapakuruwemo imihoro, n'i Toyota yari itwaye abasivili n'*Interahamwe*. Urugereko rurafata icyemezo ku kwizerwa k'umugabo, rumaze gusuzuma ubuhamya abagabo bashinjura batanze mu Rukiko, kimwe na *alibi* yatanzwe.

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171 Imyanzuro y'Ubwunganizi, ibika 745, 746.
172 Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 8-10.

4.4 Gutanga intwaro no guhamagarira [abantu gukora icyaha] ku itariki ya 24 Mata

Umutangabuhamya ushinja wiswe CGN

149. CGN, w'Umututsi, avuga ko we n'abaturanyi be b'Abatutsi bamaze guterwa, yahunze akava mu rugo rwe, hafi y'agasozi ka Gitwa, maze agahungira kuri ako gasozi[173]. Avuga ko yabonye Abatutsi bicwa n'amazu yabo agatwikwa. Umutangabuhamya avuga ko ageze kuri ako gasozi, yahasanze impunzi z'Abatutsi zirenga 10.000[174]. Ku itariki ya 24 Mata, hagati ya saa yine n'igice na saa tanu, CGN yabonye imodoka ziza zegera agasozi ka Gitwa, mu muhanda uva ku Kibuye ugana i Karongi [175]. Avuga ko we n'abandi bantu babiri bamanutse bakajya kwihisha mu bihuru, haruguru y'umuhanda, muri metero ziri hagati ya 25 na 30 uvuye aho imodoka zari zahagaze, kugira ngo barebe niba muri abo bantu baje harimo abasirikare[176]. Umutangabuhamya yabonye Uregwa ahagaze iruhande rw'ivatiri y'umweru, kandi yari azi ko Uregwa yari asanzwe akoresha iyo modoka. Yanabonye imodoka y'icyatsi yo mu bwoko bwa Daihatsu, yari yazanye abajandarume babarirwa hagati ya 18 na 20 hamwe n*'Interahamwe* 50 zari inyuma muri karisori. Imodoka ya gatatu yari Toyota Hilux y'ubururu yaje nyuma, irimo Nambajimana, wari Konseye wa segiteri umutangabuhamya atuyemo. Iyo modoka yarimo kandi na Ruzindana wari uturutse i Rwamatamu, na Niyitegeka wahoze ari umunyamakuru[177].

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[173] Ikimenyetso gihamya N^{o} 6 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano) ; Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 4-6, 16, 17.

[174] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 8-10, 18, 19.

[175] Ni kimwe no haruguru, imp. 4, 5. Umutangabuhamya avuga ko yibuka ko yabonye Uregwa hagati y'itariki ya 20 n'iya 24 Mata. Cyakora, anibuka ko « hashize iminsi ibiri » impunzi zakwijwe imishwaro imishwaro ku gasozi ka Gitwa. Mu buhamya bwe mu Rukiko budafite ubundi bubuvuguruza, CGN avuga ko igitero cyakwije imishwaro impunzi cyagabwe ku itariki ya 26 Mata. Bityo Urugereko rwanzura ruvuga ko, nk'uko bivugwa mu buhamya bw'umugabo mu Rukiko, Uregwa yari yaragiye aho hantu ku itariki ya 24 Mata.

[176] Ni kimwe no haruguru, imp. 8-10, 11, 21, 22. Porokireri yemeza ko icyo gitero cyagabwe ku itariki ya 20 Mata. Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 29, 30.

[177] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 8 -11.

150. CGN avuga ko yabonye *Interahamwe* zivana muri Daihatsu igisanduku cy'imbaho n' imihoro mishya igeze kuri 50[178]. Uretse abantu baje mu modoka, aho hantu hari n'abandi basivili benshi. Imodoka zihageze n'igihe intwaro zatangwaga, abo basivili bakomye amashyi, barasakuza kandi barabyina, kuko, nk'uko umutangabuhamya abivuga, bakekaga ko abasirikare baje gutsemba Abatutsi bari bahungiye kuri ako gasozi[179]. Umutangabuhamya avuga ko yumvaga Uregwa ari we wari uyoboye abandi kandi ahagarikiye itangwa ry'intwaro kuko yari umuntu ukomeye ukorera Guverinoma mu gihe abandi bose bari abasiviri cyangwa abajandarume. Avuga ko Uregwa yafashe ijambo, akabwira abari aho ati : « Mugende, hari Abatutsi bigize kagarara, bananiranye … Hari Abatutsi ku gasozi … bigize kagarara, mugomba rero kubica. Mugomba kubica, kandi nimurangiza murabona ibihembo »[180].

151. Arangije kuvuga ayo magambo, Uregwa yaragiye ari muri ya vatiri y'umweru, yerekeza i Gisovu, ari kumwe n'umujandarume. Daihatsu y'icyatsi irimo abajandarume na Toyota y'ubururu zajyanye n'iyo vatiri. Abasivili bari baje muri Daihatsu bahamye aho hantu[181]. Abasivili bari bahawe imihoro bagabye igitero ku gasozi, ariko impunzi zashoboye kubasubiza inyuma zibatera amabuye[182]. CGN avuga ko buri munsi hagati y'itariki ya 14 n'iya 20 Mata, abasivili b'Abahutu bitwaje imihoro, udufuni n'impiri bateye Abatutsi bari bakoraniye ku gasozi ka Gitwa. Abagabye igitero bagose agasozi ku buryo nta mpunzi yashoboraga guhunga. Avuga ko agereranyije abagabye igitero bari abasivili bageze ku 50.000[183].

152. CGN avuga ko ku itariki ya 26 Mata, abajandarume baje kwifatanya n'abagabye igitero, maze barasa abasivili bari ku gasozi ka Gitwa. Avuga ko icyo gitero cyahitanye impunzi nyinshi, n'ubwo zimwe muri zo zashoboye guhunga zikajya

178 Ni kimwe no haruguru, imp. 5-8.
179 Ni kimwe no haruguru, imp. 12, 21 na 22.
180 Ni kimwe no haruguru, imp. 8-10.
181 Ni kimwe no haruguru, imp. 5, 6, 11, 12.
182 Ni kimwe no haruguru, imp. 11, 12.
183 Ni kimwe no haruguru, imp. 19, 20.

kwihisha. Umutangabuhamya yongeraho ko abantu bose bo mu muryango we bishwe[184].

153. Umutangabuhamya avuga ko Uregwa yari azwi cyane mu karere ke kandi ko yakundaga kumubona mu biruhuko n'ikindi gihe. Yibuka ko Uregwa yigaga muri kaminuza ahagana mu 1969 – 1971, kandi ko mbere ya 1980 yamubonaga kenshi mu iduka rya Trafipro ku Kibuye. Umutangabuhamya avuga kandi ko, mu gihe cy'amashyaka menshi, yari azi ko Uregwa ari umuyoboke wa PSD. Yibuka ndetse ko yamubonye inshuro ebyiri, mu mwaka wa 1992 no mu wa 1993, ari muri mitingi kuri sitade ya Kibuye[185]. Avuga ko mu buzima bwe yumva yarabonye Uregwa inshuro zigeze ku 10 cyangwa 11. Mu Rukiko CGN yamenye Uregwa kandi yemeje ko amuzi kuva kera[186].

Gusuzuma ukwizerwa k'umutangabuhamya

154. Ababuranyi bombi bavuze ku kibazo cy'ukwizerwa kwa CGN[187]. Ubwunganizi buvuga ko umutangabuhamya yatanze ibisubizo bidasobanutse cyangwa bivuguruzanya ku byerekeye itariki cyangwa amatariki yaboneyeho Uregwa. Mu ibazwa rinyomoza, umutangabuhamya ntiyabajijwe kuri uko kwivuguruza, kandi wenda yari gutanga ibisobanuro. Ubwunganizi ntibwanamubajije ku kwivuguruza mu bisobanuro yatanze ku mamodoka yazanye Uregwa n'abandi bantu bari bazirimo, ntibwabumajije niba harapakuruwe igisanduku kimwe cyangwa byinshi, nta n'icyo bwamubajije ku magambo Uregwa yabwiye abari aho. Urugereko rusanga ibyo bintu bidafite agaciro kanini. Rwemera ko bitari korohera umutangabuhamya gutanga amatariki nyayo, kubera ko hari hashize imyaka igeze ku icyenda ibintu bibaye.

[184] Ni kimwe no haruguru, imp. 12, 13, 18, 19.
[185] Ni kimwe no haruguru, imp. 3, 4.
[186] Ni kimwe no haruguru, imp. 4, 5, 13 - 16.
[187] Imyanzuro nsozarubanza ya Porokireri, imp. 23-25 ; Imyanzuro y'ubwunganizi, ibika 28, 77, 763, 786-830, 876-880 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 27-28, 29, 30, 47-49; 2 Werurwe 2004, imp. 6, 7, 45-54, 71, 72.

155. Ubwunganizi buvuga ko ibyo CGN avuga ku Uregwa no kuba yaramumenye ku gasozi ka Gitwa bisa n'ibidashoboka. Buvuga ko uyu mutangabuhamya atari gushobora kumva neza cyangwa kumenya Uregwa kubera ko Uregwa yari akikijwe n'ikivunge cy'abantu benshi kandi basakuza. Umutangabuhamya asobanura ko yari muri metero 25 cyangwa 30 gusa uvuye aho Uregwa yari ari kandi ko, bitewe n'uko yari yugarijwe n'amakuba, yari abanze amatwi cyane. Byongeye kandi, avuga ko Uregwa yasabye iyo mbaga y'abantu guceceka maze baraceceka kubera ko bari bamwubashye. Ubwunganizi bwibajije n'impamvu hatanzwe gusa imihoro 50 muri ibyo bihumbi by'abantu maze buvuga ko bitumvikana ukuntu imihoro yahabwa abantu bari bayisanganywe. Umutangabuhamya yemera ko benshi muri abo bantu bari bayisanganywe koko, ariko akongeraho ko iyo mihoro yari yazaniwe abantu bakennye cyane batashoboraga kuyigurira[188]. Ubwunganizi bweretse umutangabuhamya ifoto yerekana ko nta bihuru yari gushobora kwihishamo ubwo yitegerezaga ibiba. Porokireri yarabirwanyije avuga ko iyo foto yafashwe hashize igihe kinini ibivugwa bibaye, kandi ko umutangabuhamya yavuze ko ibihuru byari byaratwitswe kuva muri Mata 1994[189].

156. Urugereko rusanga iby'umutangabuhamya avuga ku byabaye bishobora kuba ari ukuri. Ubwunganizi ntibwagaragaje, nta gushidikanya na gato, ko nta bihuru byari aho hantu mu gihe ibyaha byakorwaga cyangwa ko bitashobokaga ko umutangabuhamya yihisha muri metero ziri hagati ya 25 na 30 uvuye aho Uregwa yari. Urugereko rusanga, ukurikije uburyo abisobanura, umutangabuhamya yarashoboraga kumva amagambo Uregwa yavuze ari muri iyo ntera. Umutangabuhamya ntavuga ko ubwo yabwiraga ijambo imbaga y'abantu yari iraho, Uregwa yari akikijwe n'abantu 50.000. Cyakora, avuga ko hari igihe abasiviri bagera ku 50.000 babaga bari ku mabanga y'agasozi ka Gitwa[190]. Uko ibintu byari biteye, nk'uko umutangabuhamya abivuga, ntibivuguruzanya no kuba yarumvise amagambo Uregwa yavuze. Itangwa ry'imihoro na ryo si ikintu

[188] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 25, 26.
[189] Ni kimwe no haruguru, imp. 22, 23.
[190] Ni kimwe no haruguru, imp. 19-21.

gitangaje, urebye uko ibintu byari bimeze mu Rwanda mu mwaka wa 1994. Mu gusoza, Urugereko rwemera ibyo umugabo ahamya ko ibihuru yari yihishemo byatwitswe nyuma y'ibyabaye.

157. Ubwunganizi buvuga ko nta wakwemera ko CGN yashoboye kumenya Uregwa. Mu buhamya bwanditse yatanze ku itariki ya 27 Mata 2001, umutangabuhamya avuga ko yari azi ko Uregwa ari Minisitiri w'Imari i Kigali, kandi ko yamubonaga iyo yazaga ku Kibuye. Ubwunganizi bwumva ko ibivugwa n'umutangabuhamya byabaye mbere ya 1994, kandi icyo gihe Uregwa ntiyari yarigeze aba Minisitiri. Ubwunganizi busanga igisubizo umugabo atanga mu ibazwa ry'ingenzi, avuga ko yigaga igihe Uregwa yari muri Kaminuza, kivuguruzanya n'icyo atanga mu ibazwa rinyomoza, aho avuga ko muri icyo gihe yari umuhinzi. Ubwunganizi buvuga ndetse ko Uregwa atigeze akora muri Trafipro ku Kibuye, kandi ko, kubera iyo mpamvu, ibindi umutangabuhamya avuga binyuranyije n'ibyo, atari ukuri. Byongeye kandi, Ubwunganizi bwemeza ko kwerekana Uregwa mu cyumba cy'iburanisha nta gaciro bifite kuko Uregwa yari we mugabo wenyine w'umwirabura utambaye ikanzu y'abacamanza cyangwa abanyamategeko cyangwa imyenda y'akazi y'abashinzwe umutekano. Mu gusoza, Ubwunganizi buvuga ko agatabo k'ibisobanuro gahabwa buri mutangabuhamya kaba karimo igishushanyo cyerekana neza umwanya Uregwa aba yicayemo mu cyumba cy'iburanisha.

158. Urugereko rusanga mu ibazwa rinyomoza, CGN avuga ko mu mwaka wa 1994 ari bwo yamenye ko Uregwa ari Minisitiri w'Imari[191]. Ubwunganizi ntibwasabye uwo mugabo gutanga ibisobanuro ku byo yavuze ko yari umuhinzi igihe Uregwa yigaga muri kaminuza. Birashoboka ko, muri icyo gihe, umutangabuhamya yigaga akanahinga. Kuba rimwe na rimwe Uregwa yari muri Trafipro yo ku Kibuye bishyigikirwa na CGV na CGX. Icyemezo Ubwunganizi bwahawe na Trafipro, kigamije kugaragaza ko Uregwa yakoraga ku cyicaro cya Trafipro i Kigali, ntikibuza ko rimwe na rimwe yashoboraga kuba ari mu iduka ryayo ryo

[191] Ni kimwe no haruguru, urup. 26.

ku Kibuye[192]. Urugereko rwemera ibyo umutangabuhamya avuga mu Rukiko ko kujya muri kaminuza byari ikintu cy'akarusho ku bantu bo mu karere ke kandi ko Uregwa yari azwi cyane. Uregereko rwemera ibisobanuro umugabo atanga ku buryo yamenyemo Uregwa.

159. Ubwunganizi buhamya ko umugabo ushinja wiswe CGY avuguruza CGN. Mu buhamya bwanditse yatanze ku itariki ya 3 Mata 2001, CGN yemeza ko CGY yamubwiye ko Uregwa yanyuze mu muhanda ugana kuri Komine ya Gisovu, kandi mu Rukiko avuga ko CGY yamubwiye ko Uregwa yahatanze intwaro[193]. Mu buhamya yatanze mu rukiko, CGY yiyemerera ko azi CGN kandi ko baganiriye ku byabaye mu mwaka wa 1994. Cyakora, avuga ko ntacyo bavuze cyerekeye Uregwa. Ahakana ko yagiye i Gisovu, kandi akavuga ko nta handi hantu yabonye Uregwa uretse ku gasozi ka Gitwa. Anavuga ko we na CGN baba mu nzu imwe, ariko agahakana ko bigeze baganira ku buhamya bwabo mu Rukiko[194].

160. Mu by'ukuri, ubuhamya bwa CGN na CGY batanze mu Rukiko buravuguruzanya ku byerekeye Gisovu, ariko uko kuvuguruzanya ntigukomeye ugereranyije n'ibindi bintu byabaye CGN yatanzeho ubuhamya mu Rukiko. Uko kwivuguruza kandi ntigutuma umuntu atekereza ko uyu mugabo yari agambiriye kuyobya Urugereko. Ahubwo, uko kwivuguruza gushyigikira imvugo ya CGY yemeza ko ataganiriye na CGN ku buhamya bwe, kandi ko nta n'undi mugambi bagiye ngo bavuge rumwe ku byabaye.

161. N'ubwo Ubwunganizi atari ko bubona, ubuhamya bwa CGN mu Rukiko ntibuhuzagurika kandi burumvikana. CGN asobanura, nta guhuzagurika, ukwivuguruza kwaba kuri hagati y'ubuhamya bwanditse bunyuranye yatanze

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[192] Ikimenyetso gihamya N° 58 cyatanzwe n'Ubwunganizi (icyemezo cya Trafipro). Umutangabuhamya ntiyemeza ko Uregwa yahakoraga : Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 26-28 (« bacuruzaga imyenda n'ibindi bikoresho byo mu rugo. Najyaga mubona aho hantu rimwe na rimwe maze nkibwira ko ahakora ; sinzi niba ari ho yakoraga, ariko yari umuntu uhakomeye »).

[193] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 26-29 ; Iyanzuro y'Ubwunganizi, ibika 876-878 ; ikimenyetso gihamya N° 6 cyatanzwe n'Ubwunganizi.

[194] Inyandikomvugo y'iburanisha, 8 Nzeri 2003, imp. 49-54.

mbere kandi ibisobanuro atanga birumvikana. Urugereko ruraza gufata umwanzuro wa nyuma ku buhamya bwa CGN, rumaze gusuzuma ubuhamya bwatanzwe mu Rukiko n'abagabo bashinjura, burimo n'ubushyigikira *alibi* y'Uregwa .

4.5 Kuba Uregwa atari ku gasozi ka Gitwa

Umutangabuhamya ushinjura wiswe DC

162. DC avuga ko yagiye mu bitero byibasiye Abatutsi mu wa 1994, ahereye muri Komine ye ya Rutsiro, ku itariki ya 11 Mata. Avuga ko yitabiriye ikindi gitero cyagabwe kuri sitade ya Gatwaro ku Kibuye, ku itariki ya 18 Mata. Avuga ko hashize nk'icyumweru kimwe, yagiye n'amaguru yerekeza ku gasozi ka Gitwa, ari kumwe n'abandi bantu bagera ku gihumbi, kugira ngo bagabe ibitero. Bagezeyo, bahasanze Burugumesitiri wa Komine ya Gishyita na ba Konseye ba Segiteri ya Kagabiro n'iya Gishyita[195]. Abasirikare bababwiye ko hari umujandarume wiciwe mu gitero cyagabwe ku gasozi, ko bagombaga gutaha bakagaruka bukeye, bamaze kwegeranya intwaro nyinshi kurushaho[196]. Bukeye, umutangabuhamya yibuka ko hari ku itariki ya 25 cyangwa ya 27 Mata, abagabye igitero baragarutse maze bafatanya n'imbaga nini y'abantu bagera ku 15.000, bagaba igitero kinini ku gasozi ka Gitwa cyamaze amasaha nk'icumi, kugeza hafi saa munani cyangwa saa cyenda z'amanywa. Nta muntu warokotse. Burugumesitiri wa Komine ya Gishyita yatanze itegeko ryo gutera[197]. DC avuga ko, mu bitero, yamaze iminsi ibiri ku gasozi ka Gitwa. Cyakora, avuga ko azi ko ibyo bitero byamaze iminsi ine cyangwa itanu. DC avuga ko nta mihoro yabonye itangwa ku gasozi ka Gitwa kandi ko nta muntu waje mu gitero atitwaje intwaro[198].

[195] Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 4-7.
[196] Ni kimwe no haruguru, imp. 8, 9.
[197] Ni kimwe no haruguru, imp. 8, 9, 24, 25, 38, 39.
[198] Ni kimwe no haruguru, imp. 7, 8, 12 - 14.

163. DC avuga ko ubwo yari aho hantu atabonye Uregwa ku gasozi ka Gitwa, kandi ko atigeze na rimwe yumva umuntu avuga ko yagiyeyo. Umutangabuhamya atekereza ko iyo Uregwa aza kujyayo, yari kubyumva kuko, byanze bikunze, Uregwa aba yaratanze amafaranga yo gushyigikira abagabye ibitero, bitewe n'uko yari umuntu ukomeye[199]. DC avuga ko nyuma, igihe DC yari afungiye mu Rwanda aregwa kuba yaragiye mu bwicanyi, atumvise izina ry'Uregwa rivugwa mu biganiro yagiranye n'izindi mfungwa ku byaha byakozwe mu mwaka wa 1994. Byongeye kandi, umutangabuhamya yemeza ko umuyobozi wa gereza yari afungiwemo yamuhaye amadolari 50, kugira ngo ashinje Uregwa [200].

164. DC avuga ko yabonye Uregwa rimwe mu mwaka wa 1991 cyangwa uwa 1992, ubwo Burugumesitiri wa Rutsiro yamubwiraga ko Uregwa ahari, kandi ko afite umwanya ukomeye mu biro bya Minisitiri w'Intebe. Avuga ko nyuma yaho atongeye kumubona na rimwe[201].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

165. Porokireri avuga ko DC yatanze ubuhamya bw'ikinyoma[202]. Yemeza ko mu bwirege bwe buri mu nyandikomvugo z'iburanisha zakozwe n'ubucamanza bwo mu Rwanda, DC atavuga ko yari ku gasozi ka Gitwa. Umutangabuhamya asubiza ko mu bundi bwirege yahaye Porokireri wo mu Rwanda, butari mu bimenyetso Porokireri yatanze mu iburanisha, avuga ko yagiye mu bitero byagabwe ku gasozi ka Gitwa[203].

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[199] Ni kimwe no haruguru, imp. 10-13, 24, 25. Umutangabuhamya avuga ko abandi bantu bakomeye, barimo burugumesitiri n'umujyanama umwe, bari barahaye amafaranga abantu bagabaga ibitero.

[200] Ni kimwe no haruguru, imp. 10, 11.

[201] Ni kimwe no haruguru, imp. 9, 10.

[202] Imyanzuro nsozarubanza ya Porokireri, imp. 64, 65, 104-112, 137, 138 ; Imyanzuro y'Ubwunganizi, ibika 186, 645 - 653 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 11-14, 30-32; 2 Werurwe 2004, imp. 6, 7, 27 - 30, 32-37, 50-55, 70, 71.

[203] Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 30-35, 38, 39. Umutangabuhamya avuga ko ubwirege bwe buri mu ibaruwa yandikiye Porokireri w'u Rwanda ku Kibuye, kandi ko mu bwirege yahaye Porokireri w'u Rwanda ku itariki ya 18 Ugushyingo 1995, ashobora kuba yaravuze ibyo bintu byabaye.

166. DC yiyemerera ko yagiye ku gasozi ka Gitwa mu minsi ibiri ya nyuma gusa y'ibitero. Porokireri asanga ko n'iyo umutangabuhamya yaba koko yari aho hantu, hari iminsi ibiri Uregwa ashobora kuba atari ku gasozi ka Gitwa. Porokireri yongeraho ko, kubera ko umuntangabuhamya yari yarabonye Uregwa inshuro imwe gusa mbere y'ibyabaye, igihe bakubitaniraga mu masangano y'imihanda, birashoboka ko atari kumumenya mu mbaga nini y'abantu bari aho bagabye igitero.

167. Porokireri avuga ko DC yahimbye ubuhamya yatanze mu Rukiko abisabwe na DN bigeze gufungirwa hamwe, kugira ngo Urugereko rwo kwizera abatangabuhamya bashinja. Avuga ko mu buhamya yatanze mu Rukiko, DC yagerageje kwirinda gushinja DN, arega undi muburugumesitiri kuba yarayoboye akanashyigikira ibitero. Porokireri yongeraho ko ubu DC afunze, bityo akaba nta cyo ahomba iyo arushaho kwishinja ibyaha kugira ngo ahishire Uregwa. Mu gusoza, Porokireri avuga ko Urugereko rwagombye kwanga ubu buhamya umugabo yatanze mu Rukiko kuko butakwizerwa, bitewe n'uko budafite ubundi bubushyigikira.

168. Urugereko rusanga ubuhamya DC yatanze mu Rukiko ku bintu byabereye ku gasozi ka Gitwa bufite agaciro gake ku byerekeye ibyaha Uregwa ashinjwa. Ibisobanuro umutangabuhamya atanga ku itariki n'ingano y'igitero cya nyuma cyagabwe ku gasozi ka Gitwa byashyigikiwe na CGN na CGY. Byongeye kandi, urebye ingano y'ibitero n'igihe byamaze, birashoboka cyane ko abagabaga ibitero bari muri ako gace baba baragiye mu bitero byagabwe ku gasozi ka Gitwa. Kubera ko nta bindi bisobanuro byatanzwe, Urugereko rusanga rutashingira ku byo Porokireri avuga ko ibyo bitero bitavuzwe mu manza zaburanishijwe mu Rwanda.

169. Urugereko ntirwemera ubuhamya umugabo yatanze mu Rukiko avuga ko, byanze bikunze, yari kumenya ingendo Uregwa yakoreye ku gasozi ka Gitwa. Abatangabuhamya bashinja bavuga ko Uregwa yari ku gasozi ka Gitwa mbere

y'uko DC ahagera. Nk'uko babivuga, basa nk'abamubonye igihe gito cyane. CGY we avuga ko urebye abantu batari benshi cyane. Kubera izo mpamvu, DC ashobora kuba ataramenye uruhare Uregwa yagize mu bitero byagabwe ku gasozi ka Gitwa. Byongeye kandi, umutangabuhamya ashobora kuba nyuma atarumvise izina ry'Uregwa rivugwa mu bantu bari mu gitero.

4.6 Imyiregurire ivuga ko Uregwa atari aho icyaha cyakorewe igihe cyakorwaga (*Alibi*)

Umutangabuhamya ushinjura wiswe DP

170. DP avuga ko mu mwaka wa 1994 yakoraga muri Banki Nkuru y'u Rwanda. Ku itariki ya 12 Mata, imirwano imaze gucogora, yavuye Kigali ahungira kwa sebukwe i Gitarama. Uwo munsi, mu ma saa moya za nimugoroba, Uregwa yaje kwa sebukwe, maze abwira umutangabuhamya ko Guverinoma yafashe icyemezo cyo kongera gufungura amabanki, ko rero agomba gusubira ku kazi. Mu minsi ibiri yakurikiyeho umutangabuhamya yafashije abandi mu gikorwa cyo kuvana amafaranga i Kigali akimurirwa mu mitamenwa yari muri banki ebyiri z'ubucuruzi z'i Gitarama. Muri icyo gikorwa, baherekejwe n'abasirikare bo mu kigo cya Kigali[204]. Kuva ku itariki ya 15 Mata kugeza ahagana mu mpera za Gicurasi, umutangabuhamya yari ashinzwe guha amafaranga abantu bishyurwa na Leta, by'umwihariko abakozi n'abagemurira Guverinoma[205].

171. DP atekereza ko kuva ku itariki ya 15 Mata kugera ahagana ku ya 28 Gicurasi yagiranaga inama n'Uregwa inshuro imwe cyangwa ebyiri ku munsi, uretse muri wikendi[206]. DP yahaga Uregwa raporo y'imicungire y'imari ya Guverinoma, nk'ibigomba kwishyurwa n'imyenda n'amafaranga asigaye kuri konti[207]. Izo nama zabaga ku masaha atandukanye y'umunsi, zikabera mu biro by'Uregwa mu

[204] Inyandikomvugo y'iburanisha, 7 Ugushyingo 2003, imp. 2, 5-9.
[205] Ni kimwe no haruguru, imp. 9-11.
[206] Ni kimwe no haruguru, imp. 13-15, 29-33.
[207] Ni kimwe no haruguru, imp. 11, 12, 27, 28.

mazu Guverinoma yakoreragamo, cyangwa muri imwe muri za banki z'ubucuruzi z'i Gitarama, aho umutangabuhamya yakoreraga. Izo nama ntizabaga ku masaha yagenwe kandi hafi y'igihe cyose iyo umutangabuhamya yajyaga mu biro by'Uregwa, yamusangagayo. Umugabo avuga ko Uregwa yari afite akazi kenshi ku buryo yasohokaga gake cyane[208]. Hari ubwo nyuma y'akazi DP n'Uregwa bahuriraga mu kabari kari i Murambi hafi y'aho Guverinoma yakoreraga, cyangwa bagahurira kwa nyina wabo w'umugore we wari inshuti y'Uregwa [209]. DP asanga muri kiriya gihe bitarashobokaga ko Uregwa abona uburyo cyangwa igihe cyo gutanga imihoro ku Kibuye, kubera ko umuhanda Gitarama – Kibuye wari mubi[210].

172. DP avuga ko Uregwa yavuye i Gitarama ahagana ku itariki ya 17 Gicurasi akajya i Nayirobi, aho yamaze hafi icyumweru ahagarariye Guverinoma mu mishyikirano y'ubucuruzi hagati y'u Rwanda n'ibihugu bituranye. Uregwa yakoze ingendo ebyiri zamaraga umunsi umwe, agiye mu manama ya Guverinoma yatumijwe na Minisitiri w'Intebe : ubwa mbere yagiye mu nama yabereye ku Kibuye mu ntangiriro za Gicurasi, ubwa kabiri ajya mu yindi nama yabereye ku Gikongoro muri Gicurasi[211]. Umutangabuhamya nta kindi gihe azi Uregwa atari i Gitarama, ariko yemera ko « atamubonaga kuri buri saha y'umunsi»[212].

173. Ahagana ku itariki ya 28 Gicurasi, DP yavuye i Gitarama bitewe n'ibitero bya FPR. Yagiye ku Gisenyi ari kumwe na Guverinoma maze ishyira icyicaro cyayo muri Hoteli Merdien. Umutangabuhamya yakomeje imirimo ye nka mbere, ariko hari akajagari ku buryo atabonaga Uregwa inshuro irenze imwe mu minsi ibiri

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[208] Ni kimwe no haruguru, imp. 17, 18. Avuga ko agereranyije hagati y'amabanki y'ubucuruzi n'aho Guverinoma yakoreraga yari intera y'ibirometero biri hagati ya 2 na 4 : ni kimwe no haruguru, imp. 12, 13, 24, 25.
[209] Ni kimwe no haruguru, imp. 28, 29. Umutangabuhamya avuga ko yamenyeye Uregwa muri Kaminuza, ko ariko kuva icyo gihe atongeye kumubona. Ni kimwe no haruguru, imp. 6, 7.
[210] Ni kimwe no haruguru, imp. 18, 19.
[211] Ni kimwe no haruguru, imp. 13-17.
[212] Ni kimwe no haruguru, imp. 16-18.

cyangwa itatu[213]. Ku itariki ya 14 Nyakanga, umutangabuhamya yagiye mu biro bye maze asanga ibintu byose babihambiriye. Uwo munsi, yavuye ku Gisenyi mu modoka ye, ari kumwe n'umuryango we, hashize iminsi ibiri agera i Goma muri Kongo. Ageze i Goma, DP yahasanze Uregwa .

Gusuzuma ukwizerwa k'umutangabuhamya

174. Porokireri ntarwanya *alibi* Uregwa atanga avuga ko hagati y'itariki ya 11 n'iya 18 Gicurasi yari i Nairobi[214]. Cyakora, avuga ko ubuhamya uyu mugabo atanga kuri *alibi* butakwizerwa kandi ko nta gaciro bufite[215]. Mu gusuzuma ubu buhamya, Urugereko rushingira ku mahame y'amategeko avugwa mu cyiciro cya 5 cy'umutwe wa I.

175. Urugereko rusanga umutangabuhamya ativuguruza cyane mu buhamya yatanze mu Rukiko. Ubuhamya Uregwa yatanze mu Rukiko ku byerekeye imirimo ye i Gitarama ntibivuguruza ibivugwa n'umutangabuhamya. Ntihatanzwe ikimenyetso na kimwe gishyigikira ibyo Porokireri akeka ko umutangabuhamya n'Uregwa bafite icyo bapfana kubera abagore babo. Birashoboka cyane ko ibyo Porokireri akeka ntaho bishingiye kubera ko umutangabuhamya yemeye, atabeshya, ko nyinawabo w'umugore we yari inshuti y'Uregwa kuva kera. Birashoboka ko Umutangabuhamya yaba yarahaga raporo Uregwa, kubera akajagari kari muri Guverinoma, bitewe n'ubucuti bari bafitanye kera muri Kaminuza cyangwa biturutse ku isano yabahuzaga iturutse kuri nyinawabo w'umugore w'Uregwa [sic].

176. Biragaragara ko imishyikirano umutangabuhamya yagiranaga n'Uregwa itabuza ko Uregwa yaba yaragiye ku gasozi ka Gitwa muri Mata cyangwa muri Gicurasi 1994. Ubwunganizi bwemera ko ubuhamya umugabo yatanze mu Rukiko

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213 Ni kimwe no haruguru, imp. 18-20, 30, 31.
214 Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 49-51.
215 Ikimenyetso gihamya N° 2 cyatanzwe na Porokireri (Raporo y'abakozi bashinzwe iperereza bo mu biro bya Porokireri)

budashyigikira *alibi* y'Urerwa ku byerekeranye n'«amasaha yose y'umunsi » muri kiriya gihe. Cyakora, Ubwunganizi buvuga ko kujya muri Perefegitura ya Kibuye bitari gushoboka cyane kandi ko iyo izo ngendo ziza kuba umutangabuhamya aba yarabimenye. Ubuhamya umugabo yatanze mu Rukiko burasa kandi n'ubugamije kwerekana ko, kubera imirimo ye, Uregwa atashoboraga kuba yarakoze urugendo rwa kirometero 150, ajyanywe no gutanga imihoro.

177. Urugereko rusanga nta gaciro rwaha ibyo DP avuga mu Rukiko ku byo yumva yari kumenya cyangwa ku gihe Uregwa yabaga arimo gukora imirimo ya Guverinoma. Nk'uko umutangabuhamya abyiyemerera, muri wikendi Uregwa ntiyakoraga cyane imirimo ya Guverinoma[216]. Urugereko rwemeza ko nta muburanyi ugomba kujya impaka ko iminsi ibiri Uregwa avugwa ko yari ku gasozi ka Gitwa, ni ukuvuga itariki ya 23 n'iya 24 Mata, ihurirana na wikendi[217]. Umutangabuhamya yemeye ko mu minsi itari iy'akazi yabonaga Uregwa gake cyane. Kubera iyo mpamvu, ubuhamya bwe bushyigikira *alibi* nta gaciro bufite ku byerekeye iminsi ya wikendi. Byongeye kandi, yamaze kubonana n'umutangabuhamya mu gitondo, Uregwa yashoboraga no kujya ku gasozi ka Gitwa mu cyumweru hagati, nko ku munsi w'umubyizi.

178. Umutangabuhamya ntasobanura icyo ashingiraho atekereza ko yari kumenya buri rugendo rwakozwe n'Uregwa, kabone n'iyo rwaba urw'umunsi umwe. Kubera ko nta bindi bisobanuro byatanzwe, Urugereko ntirwakwemera ko, byanze bikunze, umutangabuhamya aba yarumvise iby'urwo rugendo, ashingiye gusa kuko yajyaga kureba Uregwa buri munsi. Mu gusoza kuri iyi ngingo, Ubwunganizi buvuga ko urebye igihe Uregwa yamaraga mu biro bye, nk'uko bigaragara, bisa naho bidashoboka ko yaba yaragiye ku gasozi ka Gitwa ku munsi w'akazi. Cyakora, Urugereko rusanga iki kimenyetso nta gaciro kanini gifite, kuko kivuga gusa ibyo Uregwa agomba kuba yarakoze muri rusange.

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[216] Inyandikomvugo y'iburanisha, 7 Ugushyingo 2003, imp. 13-15.
[217] Joseph Whitaker, *Whitaker's Almanac* (Londres : *The Stationary Office,* 1999), urup. 93.

4.7 Imyanzuro ku byabaye

179. Mui kwanzura, Urugereko rusanga ubuhamya bw'abagabo bashinjura butatumye rushidikanya ku kwizerwa k'ubuhamya CGN na CGY batanze mu Rukiko. Rushingiye ku buhamya CGY yatanze mu Rukiko, Urugereko rusanga, ku itariki ya 23 Mata 1994, Uregwa yaraje mu modoka y'umweru ikurikiwe n'indi yo mu bwoko bwa Daihatsu, n'ikamyoneti ya Toyota kandi izo modoka zombi zari zitwaye *Interahamwe.* Imihoro yapakuruwe muri Daihatsu, ihabwa abagabye igitero bakoraniye kuri bariyeri. Uregwa yafashe ijambo, avuga ko imihoro igomba gukoreshwa uko byateganyijwe, cyangwa ko abari aho bazi icyo bagomba gukora, ni ukuvuga kwica Abatutsi.

180. Rushingiye ku buhamya CGN yatanze mu Rukiko, Urugereko rwanzura ruvuga ko ku itariki ya 24 Mata 1994, Uregwa yatwaye abantu bagabye igitero abajyana ku gasozi ka Gitwa. Abo bantu bahawe intwaro abihagarikiye kandi abashishikariza kugaba igitero cyibasiye abasivili b'Abatutsi bari bahungiye kuri ako gasozi. Mu byo Uregwa yavuze, harimo ko byari ngombwa kwica Abatutsi bari ku gasozi, kandi ko abari kubica bari kugororerwa. Nyuma yaho uwo munsi, hagabwe igitero kitagize icyo kigeraho, n'ubwo cyagabwe Uregwa yagiye.

181. Mu gusoza, rushingiye ku buhamya CGY, CGN na DC batanze mu Rukiko, Urugereko rusanga ku itariki ya 26 Mata 1994 abasivili, abasirikare cyangwa abajandarume baragabye igitero kinini ku gasozi ka Gitwa. Ntihatanzwe ikimenyetso na kimwe kigaragaza ko Uregwa yari ahari. Icyo gitero cyari kinini cyane, giturutse impande zose kandi abakigabye bakoresheje imbunda, za gerenade n'intwaro gakondo[218]. Bamwe mu bagabye icyo gitero bari bambaye amakoma mu mutwe naho abandi bambaye imyenda isa. Mu bihumbi by'abagabo, abagore n'abana b'Abatutsi bari ku gasozi ka Gitwa, harokotsemo

[218] Inyandikomvugo z'amaburanisha, 9 Nzeri 2003, imp. 1-3 (CGY); 30 Ukwakira 2003, imp. 8, 9.

mbarwa[219]. Umuryango wa CGN wose wahitanywe n'icyo gitero. CGY avuga ko icyo gitero kigabwa, abayobozi bo mu rwego rwo hejuru batari bahari, naho DC akavuga ko ibitero byagabwe bitegetswe na Burugumesitiri wa Komine ya Gishyita[220].

5. Uregwa ashinjwa guhamagarira abantu gukora ibyaha ubwo yakoranaga inama na Burugumesitiri wa Komine ya Gitesi, muri Mata cyangwa muri Gicurasi 1994.

182. Mu Nyandiko y'ibirego, Uregwa ashinjwa ibintu bikurikira:

> 19. Ahagana mu mpera za Gicurasi 1994, Emmanuel Ndindabahizi yari mu nama yebereye mu rugo rwa Burugumesitiri Augustin Karara, muri Komine ya Gitesi. Mu bantu bagera ku icumi bari batumiwe harimo Annociata Mukangirye, umugore wa Burugumesitiri na Barayata, umupolisi wa Komine. Ubwo barimo banywa, Emmanuel Ndindabahizi yavuze ko yatanze amabwiriza yo kwica Abatutsi kandi ko yatsembye Abatutsi b'abasivili bo muri serire ye. Yanabwiye abantu bari muri iyo nama ko Abahutu bashatse Abatutsikazi na bo bagomba kwicwa.

Mu gushyigikira ibyo avuga mu gika cya 19 cy'Inyandiko y'ibirego, Porokireri ashingira ku buhamya bwa CGH .

Umutangabuhamya ushinja wiswe CGH

183. CGH, w'Umututsi, avuga ko ku itariki ya 6 Mata 1994 yumvise radiyo itangaza ko Perezida Habyarimana yapfuye. Avuga ko mu minsi yakurikiyeho, abantu bishwe, inzu zigatwikwa, amatungo akibwa kandi akaribwa muri serire avukamo ya Gasharu. Mu gitondo cyo ku itariki ya 13 Mata, umutangabuhamya yabonye impunzi zihita zivuga ko zivuye mu Rutsiro n'i Mabanza kandi ko zigiye kuri

[219] Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 45-47 (CGY); 9 Nzeri 2003, imp. 1-3, 13,14, (CGN); 30 Ukwakira 2003, imp. 8, 9 (DC).

[220] Inyandikomvugo z'amaburanisha, 8 Nzeri 2003, imp. 46, 47; 30 Ukwakira 2003, imp. 8, 9.

sitade Gatwaro ku Kibuye[221]. Nyuma yaho uwo munsi, umutangabuhamya yagiye kuri sitade Gatwaro ari kumwe n'umugore we, abana be babiri n'umwe muri bakuru be. Bamaze kugera kuri sitade, umutangabuhamya yajyanye umugore we n'abana be kwa mubyara w'umugore we, ari we Augustin Karara, wari Burugumesitiri wa Komine ya Gitesi, nyuma asubira kuri sitade ya Gatwaro[222]. CGH avuga ko ku itariki ya 17 cyangwa ya 18 Mata, kuva mu ma saa saba z'amanywa kugera saa kumi n'imwe na mirongo ine za nimugoroba, sitade yatewe hakoreshejwe gerenade n'imbunda, kandi ko yihishe mu misarani maze akarokoka. Mu ma saa kumi n'ebyiri za nimugoroba, yavuye kuri sitade ashaka guhungira mu ishyamba, ariko ahura n'umupolisi yari azi ko ari inshuti ya Burugumesitiri Karara kandi bari barahuye kenshi[223]. Uwo mupolisi yamujyanye kwa Karara, mu ntera igera kuri kirometero imwe uvuye aho hantu, maze ahamara hafi ukwezi. Umutangabuhamya yamenye ko umugore we n'abana be boherejwe mu Gasura kwa nyina wa Karara[224].

103. Urugereko rusanga DN adahwema kugerageza guhishira Burugumesitiri Karara ku byaha byose yaba yarakoze ku giti cye cyangwa ibyo yakoze bitewe n'imirimo izwi yari ashinzwe icyo gihe. Porokireri avuga ko kuba Burugumesitiri Karara yaragizwe Depite mu cyimbo cya GKH, byari ukumugororera kubera ibikorwa by'ubugome Uregwa yamushishikarije gukora. Inyungu DN afite mu gupfobya uruhare rwa Burugumesitiri muri ibyo bikorwa, zagize ingaruka ku buhamya bwe kuri iyo ngingo. Mu kwanzura, Urugereko ruvuga ko mu buhamya DN mu rukiko atanga kuri iyo ngingo, asa n'uhuzagurika ndetse agahunga ikibazo. Ntawakwemera neza ko DN wari mu ishyaka rimwe na GKH yaba nta makuru na make yamenye ku mpamvu zateye GKH kwegura, cyane cyane ko bavuganye nibura inshuro imwe mbere y'imihango yo kurahira.

[221] Ikimenyetso gihamya N° 4 cyatanzwe na Porokireri (ifishi y'umwirondoro w'umutangabuhamya) ; Inyandikomvugo y'iburanisha, 2 Nzeri, imp. 37, 38, 62 - 64.
[222] Inyandikomvugo z'amaburanisha, 2 Nzeri 2003, imp. 37, 38, 63,64; 3 Nzeri, imp. 2, 3
[223] Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 37, 38, imp. 63-67
[224] Ni kimwe no haruguru, imp. 33-41, 66 , 67

184. CGH avuga ko mu mpera za Mata, mu ma saa mbiri n'igice za mu gitondo, Uregwa yasuye Burugumesitiri Karara ari kumwe n'umugenzacyaha witwa Barayata wakoraga kandi agatura hafi aho. Avuga ko Uregwa yari kumwe kandi n'abandi banyacyubahiro atashoboye kumenya[225]. Umutangabuhamya yabonye Uregwa aramumenya kuko bari barigeze guturana muri serire ya Gasharu, kandi akaba yari yaramubonye bwa nyuma kuri santeri yo ku Gitaka, ubwo Uregwa yakoraga muri Minisiteri y'Imari, avuye muri Trafipro. Yongeraho ko bari bariganye ku kigo cy'amashuri yo ku Kirambo, n'ubwo batari mu ishuri rimwe[226].

185. CGH avuga ko igihe Uregwa yari ahari na we yari mu cyumba baganiriragamo kandi ko yamwumvise agira ati :

> Jye mvuye i Kigali. Bishe, ni byo, ndetse bagera n'aho bica Abatutsikazi. Naho mwe mwaretse Abatutsikazi bashakanye n'Abahutu. Ngusabye kutongera gusiga Umututsikazi muri komine yawe. Sinshaka kongera kubona Abatutsikazi muri komine yawe[227].

Uregwa yabwiye Burugumesitiri Karara ngo : « Ningaruka ngasanga warakoze ibyo maze kukubwira, nzakugororera nkugire depite ». Nuko Uregwa aravuga ati : « Nimuze, njye kubereka intwaro nabazaniye ». Abantu bari aho bavuye mu nzu bajya ku isoko. Ari mu ntera igera kuri metero 200, umutangabuhamya yabonye imodoka ebyiri, ivatiri y'umukara n'imodoka itwara imizigo yo mu bwoko bwa Daihatsu. Hafi y'iyo modoka hari ibirundo by'imipanga n'amasuka. *Interahamwe* zapakiye intwaro mu ikamyo maze iragenda ikurikiwe n'ivatiri y'Uregwa. CGH avuga ko yaketse ko hari ahantu biteguraga gutera. Umutangabuhamya avuga

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225 Ni kimwe no haruguru, 2003 imp. 41-44, 70-72. Umutangabuhamya avuga ko Perefe Kayishema yaje ikindi gihe. Yibuka ko Kayishema yahaje mu mpera za Mata kubera ko ibyo byabaye hasigaye iminsi itatu ngo Kambanda aze ku Kibuye ku itariki ya 3 Gicurasi. Avuga ko umwe mu bandi bantu baje aho hantu ari subusititi wa Porokireri w'i Bukagira, cyakora ntiyibukaga izina rye.

226 Inyandikomvugo z'amaburanisha, 2 Nzeri 2003, imp. 42, 43; 3 Nzeri 2003, imp. 2, 3

227 Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 44, 45

kandi ko muri iyo nama, Uregwa yari yavuze ku bikorwa bye muri iyo Serire ya Gasharu. Ibyo bikorwa birasuzumwa hasi mu cyiciro cya 7[228].

186. CGH avuga ko nyuma yaho, hari abantu bo muri serire avukamo baje kwa Burugumesitiri gusaba amazi, maze bamenya umutangabuhamya. Nyuma yamenye ko abo bantu bagiye berekeza ku Gasharu, bakabwira Augustin Karara (nyiri ako kabari), Joël Ndabukiye n'Uregwa ko umutangabuhamya akiriho kandi ko yihishe kwa Burugumesitiri. Uregwa yaba yarabajije ngo : « Ni byo se koko ko Augustin Karara ahishe *Inyenzi* ? Mukore uko mushoboye kose, mutere urugo rwa Augustin Karara, nimusangayo *Inyenzi*, mutwike inzu ye…Ngiye gutegura igitero cyo kujya mu rugo kwa Karara[229] ». Karara, nyiri ako kabari, yaje kuburira Burugumesitiri Karara utari uhari icyo gihe. Yabwiye umugore wa Burugumesitiri ibyabaye. Uwo munsi nyuma ya saa sita, abajandarume baraje maze basaka urwo rugo. Cyakora ntibamenye ko umutangabuhamya ari Umututsi kubera ko batari bamuzi ku giti cye kandi ntiyasaga n'Abatutsi[230].

187. Burugumesitiri Karara agarutse, umugore we yamubwiye ko urugo rwe ruzaterwa CGH naramuka agumye aho. Bukeye, bajyanye umutangabuhamya bamuhisha ahandi hantu. Nyuma y'iminsi mike, umutangabuhamya yahungiye ku kirwa cy'Ijwi muri Kongo ari mu bwato bw'igiti bwatanzwe na Burugumesitiri Karara[231].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

188. Ubwunganizi bwemeza ko hari ivuguruzanya ryinshi hagati y'ubuhamya umugabo yatanze mu Rukiko n'ubuhamya bwanditse yahaye abakozi bashinzwe iperereza. Buvuga kandi ko hari ukwivuguruza hagati y'ibisubizo yatanze mu

[228] Ni kimwe no haruguru, imp. 44, 45
[229] Ni kimwe no haruguru, imp. 47, 48
[230] Ni kimwe no haruguru, imp. 50, 51
[231] Ni kimwe no haruguru, imp. 47-51; Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 8-11

ibaza ry'ibanze n'ibyo yatanze mu ibaza rinyomoza. Porokireri ashimangira ko umutangabuhamya ari uwo kwizerwa[232].

189. Inyandikomvugo y'ubuhamya bwashyikirijwe inkiko zo mu Rwanda mu mwaka wa 1995 zigaragaza ko babajije CGH uko yarokotse ubwicanyi bwo kuri sitade. Umutangabuhamya yashubije ko yavuye kuri sitade mu ma saa saba z'amanywa mbere gato y'uko ubwicanyi butangira, aherekejwe n'umupolisi woherejwe na Burugumesitiri Karara. Bamubajije kwerekana aho ubuhamya bwe bwanditse buhuriye n'ubwo yatanze mu rukiko, aho avuga ko ubwicanyi burimo gukorwa yarokotse ibitero kuko yihishe mu musarane, umutangabuhamya asubiza ko ubuhamya bwanditse burimo ikosa, ko batari bamubajije icyo kibazo cyangwa ko atari cyo gisubizo yari yatanze, kandi ko atasomye iyo nyandiko mbere yo kuyishyiraho umukono[233]. Umutangabuhamya ndetse agera aho avuga ko atazi gusoma, n'ubwo mu iburanisha yari yasomye, mu ijwi riranguruye, igice kimwe cy'ubuhamya bwe bwanditse[234].

190. CGH asubiza ahuzagurika kandi yivuguruza. N'ubwo ibyabaye mbere y'uko umutangabuhamya agera kwa Burugumesitiri bifite agaciro gato mu gusuzuma ibyo yabonye Uregwa akora cyangwa ibyo yumvise avuga, Urugereko rusanga ibisubizo bye bituma rushidikanya ku kwizerwa k'ubuhamya bwe muri rusange.

191. Ubwunganizi buvuga ko ibyo CGH yemeza ko yari mu cyumba igihe Uregwa yari mu rugo kwa Burugumesitiri Karara bidashoboka kandi ko bivuguruzanya. Ubwunganizi bwibaza impamvu uyu mutangabuhamya atagiye mu cyumba yari yahawe ngo yihishemo kubera ko yashoboraga kumenywa n'Uregwa wari uzi ko ari Umututsi. Umutangabuhamya avuga ko yumvaga Uregwa atamumenya, kuko hari hashize igihe kirekire batabonana, akaba adasa n'Abatutsi ndetse akaba yari

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[232] Imyanzuro nsozarubanza ya Porokireri, imp. 30-34 ; Imyanzuro y'Ubwunganizi, ibika 190-241; inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 32-36; 2 Werurwe 2004, imp. 6-10, 54-57
[233] Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 57-59 ; ikimenyetso gihamya N° 3 cyatanzwe n'Ubwunganizi.
[234] Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 58, 59

umuturage wo hasi ku buryo Uregwa atari kumwitaho[235]. Ubwunganizi buvuga ko ibyo ari byo byose, umutangabuhamya yakomeje kwemeza ko azi Uregwa bihagije ku buryo yamumenya, kandi ko biganye. Mu by'ukuri, mu iburanisha umutangabuhamya yavuze ati: « Nkeka ko [Uregwa] atijijishije, yanyibuka [236]». Ubwunganizi bumubajije impamvu yaba atarakenze ko Uregwa yamenya ko ari Umututsi wo muri Serire yabo ya Gasharu, umutangabuhamya asubiza ati:

> [Nari ntuje. Navuze ko n'iyo Ndindabahizi aza kumenya, bari kumbonera ahantu ho kumpisha kubera ko yari mu ishyaka rimwe na muramu wanjye Karara. Ntabwo bari gutinyuka kunyica][237].

Ubwunganizi busanga icyo gisobanuro kitumvikana. Bwemeza ko icyo gisobanuro kivuguruza ubuhamya yatanze mu Rukiko ku byerekeye ibyo Uregwa yavuze ngo yafashe ingamba kugira ngo Abahutu [bashatse Abatutsikazi] bicwe.

192. Mu Rukiko, CGH avuga ko azi Uregwa kuva kera, ko adashobora rero kwizera ko Uregwa yamuyoberwa. N'ubwo batareshya, umutangabuhamya avuga ko bakuriye ku murenge umwe, biga no ku ishuri rimwe. Mu ibaza rinyomoza, umutangabuhamya yemeye ko yari azi ko Uregwa ashobora kumumenya, ko ariko yumvaga baramutse bamumenye, Burugumesitiri n'Uregwa bari kumurinda, bakamushakira ahantu yihisha. CGH ntatanga igisobanuro na kimwe cyumvikana ku cyizere yari afite gisa n'ikivuguruza ibindi bice by'ubuhamya yatanze mu rukiko, aho avuga ko yumvaga Uregwa atamumenya. Ikindi kidashoboka ni ibyo yemeza ko yari mu cyumba kimwe n'abantu bakomeye muri Guverinoma bahaje kandi mu buhamya yatanze mu Rukiko, avuga ko yihishaga ngo abashyitsi batamubona, ko yari azi neza ko umucumbikiye amuhishe, ko yashoboraga kugira amakuba iyo bamuvumbura, kandi ko icyo gihe kwihisha byari bimworoheye. Biragoye kumva ukuntu umutangabuhamya yakwishora mu makuba kandi yarashoboraga, bitamugoye, kunyonyomba gato, akajya mu kindi

[235] Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 5, 6, 23, 24
[236] Ni kimwe no haruguru, imp. 5, 6
[237] Ni kimwe no haruguru, imp. 23, 24

cyumba. Urebye uko ibintu byari bimeze, ikindi kintu kitumvikana, ni ukuntu Burugumesitiri Karara yakwishyira mu ngorane bitari ngombwa, zo kugaragaraho ko ahisha Abatutsi.

193. Mu ibaza ry'ibanze, CGH avuga ko yavuye kwa Karara bitewe n'uko abaturage bo muri Serire ya Gasharu baje kwa Karara bakamumenya. Avuga ko uwo munsi nimugoroba Burugumesitiri Karara yamujyanye ku bwato bw'igiti, maze akagashya [umutangabuhamya] kugera ku kirwa cy'Ijwi. Mu buhamya bwanditse yatanze mbere, umugabo avuga ko Uregwa ari we wamumenye maze agategeka Karara, wari ufite akabari ku Gasharu, kumwica no gutwika inzu ya Burugumesitiri Karara. Umutangabuhamya avuga ko umuntu wanditse ubuhamya bwe yakoze ikosa[238]. Bamubajije igihe cyahise hagati y'igihe bamubwiriye ko bamumenye n'igihe yagiriye ku Ijwi, umugabo asubiza ko hari hashize iminsi myinshi, ko ariko bamujyanye kwihisha mu yindi nzu mu gihe bakimushakira ubwato[239]. Bamweretse ubuhamya bwanditse yatanze mbere, aho avuga ko yagiye bukeye baraye bamumenye, asubiza ko kumenya aho yahungiye nta gaciro kanini bifite, ko icy'ingenzi ari uko yahunze, akava kwa Burugumesitiri Karara[240].

194. Urugereko rusanga hagati yo kumenywa n'Uregwa no kumenywa n'abantu bo muri serire ye, hari itandukanirizo rinini, kimwe n'uko hari itandukanyirizo hagati yo kujya muri Kongo ku mugoroba w'uwo munsi bamumenyeyeho no kugenda hashize iminsi kubera ko nta bwato bwabonekaga. Uko kwivuguruza ntigushobora gusobanurwa no kwibagirwa k'umutangabuhamya cyangwa kumva nabi kw'uwakoze iperereza.

195. Ubwunganizi buvuga ko hari ukundi kwivuguruza no kunyuranya hagati y'ubuhamya umugabo yatanze mu Rukiko n'ubuhamya bwanditse yahaye abakora iperereza. Mbere, umutangabuhamya ntiyari yavuze itangwa ry'imihoro

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[238] Ni kimwe no harugru, imp. 7, 8
[239] Ni kimwe no haruguru, imp. 8-11
[240] Ni kimwe no haruguru, imp. 8-12, 23-25

ku isoko kandi Ubwunganizi buvuga ko ibyo ari ibintu bikomeye cyane ku buryo umuntu adashobora kubyibagirwa[241]. Mu buhamya bwanditse yatanze mbere y'ubu, CGH avuga ko Uregwa yasuye Burugumesitiri mu mpera za Gicurasi aho kuba mu mpera za Mata. Umutangabuhamya asubiza ko iryo ari ikosa ry'imyandikire[242]. Kuba yaramenywe n'abantu bo ku Gasharu ntibivugwa mu buhamya bwanditse yatanze mbere, aho asubiramo kenshi ko yamenywe n'Uregwa ubwe[243]. Umutangabuhamya ntavuga kandi ko Uregwa yasuye Burugumesitiri Karara, nta n'ikindi avuga ku Uregwa mu buhamya bwanditse yahaye abakozi b'abanyarwanda bakoraga iperereza ku byo Karara aregwa. Umutangabuhamya asobanura ko atavuze ku Uregwa kubera ko batamumubajijeho, kandi ko iperereza atari we ryarebaga. Bamubajije undi muntu wari kumwe na Karara, umutangabuhamya avuga ko atavuze Uregwa kubera ko yumvaga bamubaza abandi bantu bari bihishanye[244]. Mu gusoza kuri iyi ngingo, Ubwunganizi buvuga ko CGH yanavuze ko Uregwa yakoreraga Trafipro ku Kibuye. Ubwunganizi buvuga ko iryo ari kosa rusange abatangabuhamya benshi bashinja bakoze batanga ubuhamya bw'ikinyoma. Ubwunganizi buvuga ko ibyo byerekana kandi ko abo batangabuhamya bagambanye.

196. Urugereko rusanga ari ngombwa kwibutsa ko kuba itangwa ry'imihoro ritavugwa mu buhamya bwanditse umugabo yatanze mbere, ari ikintu gikomeye, ko ariko izindi ngingo zivugwa nta gaciro kanini zifite uzigereranyije n'ukunyuranya kwagaragajwe. Urugereko rusanga atari ngombwa gusuzuma izo ngingo zindi.

197. Mu kwanzura, Urugereko ruvuga ko rushidikanya ku buhamya CGH yatanze mu Rukiko bwerekeye urugendo Uregwa yagiriye kwa Burugumesitiri Karara n'uko yahitwaye. Ubuhamya bw'umugabo buvugwa haruguru burimo ukwivuguruza gukomeye kandi ibisobanuro atanga kuri uko kwivuguruza ntibifite ireme.

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[241] Ni kimwe no haruguru, imp. 27-29
[242] Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 71-73
[243] Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 7-10
[244] Ni kimwe no haruguru, imp. 56-59

Igisobanuro atanga avuga ko yari mu cyumba kimwe n'Uregwa gisa n'ikimuvuguruza, kandi urebye uko ibintu byari biteye, usanga ibyo avuga bidashoboka.

Umutangabuhamya ushinjura wiswe DN

198. DN, w'Umuhutu kandi wari mu rugo kwa Burugumesitiri Karara, anyomoza ubuhamya bwa CGH ku ngingo nyinshi z'ingenzi. Avuga ko umugore wa CGH yari mushiki wa Burugumesitiri Karara. Umutangabuhamya avuga ko ku itariki ya 18 Mata, Karara yohereje umupolisi wa komine witwa Mbonigaba kuri sitade Gatwaro gushaka CGH. Agiye kuri sitade bwa mbere, uwo mupolisi ntiyashoboye kubona CGH ariko ubwa kabiri yaramubonye, amaze kubaza, maze amujyana kwa Karara, hagati ya saa moya na saa tanu za mu gitondo. DN asobanura ko ibyo byabaye mbere y'ubwicanyi bwo kuri sitade, bwatangiye mu ma saa cyenda. CGH yagumye mu rugo kugeza hagati y'itariki ya 20 n'iya 25 Gicurasi, ubwo ibintu byari bimaze kudogera. Burugumesitiri Karara yakodesheje ubwato bw'igiti, yohereza CGH n'abandi bantu ku kirwa cy'Ijwi[245].

199. DN avuga ko ubwo yabaga kwa Burugumesitiri, CGH yirindaga ko abantu bamubona. Iyo habaga hari abashyitsi, yihishaga mu cyumba cye kubera ko abantu bakekaga ko Karara ahishe Abatutsi iwe. Byongeye kandi, Uregwa yasuye Burugumesitiri Karara muri Kamena, nyuma y'uko CGH ahungira muri Kongo[246].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

200. Rushingiye ku myanzuro rwafashe yerekeye ukwizerwa kwa CGH, Urugereko rusanga atari ngombwa gusuzuma agaciro kahabwa ubuhamya bwa DN n'ubwa CGH.

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[245] Ni kimwe no haruguru, imp. 37-41
[246] Ni kimwe no haruguru, imp. 39-42

Imyanzuro ku byabaye

201. Urugereko rusanga Porokireri ataragaragaje ko Uregwa yavugiye mu rugo rwa Burugumesitiri Karara amagambo amwitirirwa. Rusanga kandi Porokireri ataragaragaje ko Uregwa yerekanye cyangwa agatanga intwaro ku isoko riri hafi aho, nk'uko umutangabuhamya wiswe CGH abivuga.

6. Ibikorwa Uregwa yakoreye kuri bariyeri eshatu zo muri Komine ya Gitesi muri Gicurasi 1994

6. 1 Gutanga intwaro no guhamagarira [abantu gukora ibyaha] kuri bariyeri yo mu Gaseke mu mpera za Gicurasi 1994

202. Mu Nyandiko y'ibirego, Uregwa ashinjwa kuba yarakoze jenoside kuri bariyeri zari muri Perefegitura ya Kibuye, nk'iy'ahantu hitwa mu Gaseke :

> 5. Mu mezi ya Mata, Gicurasi na Kamena 1994, **Emmanuel Ndindabahizi** yategetse, mu buryo bweruye, abantu bari kuri bariyeri muri Perefegitura ya Kibuye, kwica abasivili b'Abatutsi. Rimwe na rimwe, ubwe yabwiraga abayobozi bo muri ako karere, amazina y'abantu bagomba kwicwa. Nk'uko byumvikana, abaturage bahitaga bitabira ibyo **Emmanuel Ndindabahizi** yavuze. Mu minsi yakurikiragaho, ndetse na kenshi mu masaha yakurikiragaho, abaturage bo muri ako karere n'imitwe y'abasivili yitwara gisirikare barateraga maze bakica Abatutsi, by'umwihariko, abantu babaga batunzwe agatoki.
>
> 11. Ku itariki ya 20 Gicurasi 1994 cyangwa ahagana kuri iyo tariki, **Emmanuel Ndindabahizi** yagenzuye cyangwa ahagarikira ibikorwa byabereye kuri bariyeri yo mu Gaseke cyangwa ibyabereye hafi y'ako karere. Yabikoze ategeka Bicikabaraguza Bigirimana, wasaga n'uyoboye iyo bariyeri, n'abandi bantu bari aho, barimo Komeza na Gaspard Bavuriki, kwica abasiviri b'Abatutsi. **Emmanuel**

> **Ndindabahizi** yatanze imihoro myinshi ayiha abagabo bagera kuri 20 bari kuri iyo bariyeri. Muri make **Emmanuel Ndindabahizi** yabwiye Bicikabaraguza Bigirimana ati : « Hano haca Abatutsi benshi, kuki mutabica ? ». **Emmanuel Ndindabahizi** akihatirimuka, abagabo bari kuri bariyeri bishe umuntu wari mu modoka yari igeze aho.

Mu Nyandiko y'ibirego, Uregwa ashinjwa kandi icyaha cyibasiye inyokomuntu (ubuhotozi) cyakorewe kuri bariyeri zo muri Perefegitura ya Kibuye :

> 25. Hagati muri Mata 1994, **Emmanuel Ndindabahizi** yahamagariye abantu bari kuri bariyeri muri Perefegitura ya Kibuye kwica abasivili b'Abatutsi kandi abategeka kubikora. Kenshi yabwiraga buri muyobozi wo muri ako karere, amazina y'abantu bagomba kwicwa. Nk'uko byumvikana, abaturage bahitaga bitabira ibyo **Emmanuel Ndindabahizi** yavuze. Mu minsi yakurikiragaho, ndetse na kenshi mu masaha yakurikiragaho, abaturage bo muri ako karere n'imitwe y'abasivili yitwara gisirikare barateraga maze bakica abantu b'Abatutsi, by'umwihariko, abantu babaga batunzwe agatoki.

Mu kugaragaza ibikorwa byabereye kuri bariyeri yo mu Gaseke, Porokireri ashingira ku buhamya umugabo wiswe CGC yatanze mu Rukiko[247].

Umutangabuhamya ushinja wiswe CGC

203. CGC ufungiye mu Rwanda aregwa jenoside, ise ni Umututsi naho nyina akaba Umuhutukazi. Mu Rugereko yavuze ko muri Mata 1994 yihishe mu bihuru muri segiteri avukamo, mbere gato y'ubwicanyi bwabereye kuri sitade Gatwaro ku Kibuye. Abifashijwemo n'abaturanyi, yagumye aho hantu kugeza ku itariki ya 20

[247] Imyanzuro nsozarubanza ya Porokireri, imp. 19-21 ; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, urup. 10

Gicurasi, ubwo afashwe n'Abahutu bagabye igitero[248]. Yababwiye ko nibamureka abaha amafaranga y'amanyarwanda 30.000 kandi ko hari umuntu wari urinze bariyeri yo mu Gaseke wari uyamurimo. Abo bantu bagabye igitero bamujyanye kuri bariyeri yo mu Gaseke, iri ku muhanda Kigali-Kibuye, muri Komine ya Gitesi, ku rugabano rwa Segiteri ya Kayenzi n'iya Ruragwe[249], ahantu hari urugendo rw'iminiota 40 n'amaguru uvuye aho bari bamufatiye. Bageze kuri bariyeri mu ma saa tanu z'amanywa, nuko umutangabuhamya yicara hasi, nko muri metero ebyiri uvuye kuri iyo bariyeri yari irinzwe n'Abahutu bagera kuri 20. Mu iburanisha mu muhezo, CGC yavuze amazina y'abantu batatu muri bo[250].

204. Nyuma yaho gato, Uregwa yageze kuri iyo bariyeri avuye ku Kibuye, ari mu modoka nini ya "Pajero" y'umweru[251]. Yasohotse mu modoka ari kumwe n'umushoferi we, ariko undi wa gatatu bari kumwe asigaramo. Uregwa, wari wambaye ikositimu y'umukara, yabajije abantu bari bateraniye aho, impamvu bareka Abatutsi bagahita kuri bariyeri batabishe. Ni bwo umushoferi afunguye inyuma mu modoka akuramo imihoro ayiha abantu bari barinze bariyeri. Nyuma, abo bantu bajyanye iyo mihoro mu kazu kari hafi y'umuhanda, aho abagabaga ibitero bari bahagaze. Uregwa yahaye kandi amafaranga abantu bagabaga ibitero. Wabonaga yihuta cyane ku buryo nyuma y'iminota mike yahise agenda yerekeza i Kigali[252]. Mbere y'itangwa ry'imihoro, umutangabuhamya yari yabonye umuntu umwe gusa witwaje icumu[253].

205. Hashize iminota mike Uregwa amaze kugenda, Umuhutu ugira icyo apfana na CGC, yageze kuri bariyeri, maze ashobora kumurekuza bidatinze. Uwo mugabo yari afite ijambo ku bantu barindaga bariyeri, kandi yabahaye amafaranga kugira

[248] Ikimenyetso gihamya N° 26 cyatanzwe na Porokireri 26 (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano), Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 25, 43, 44, 46-48, 53

[249] Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 23, 24,27. Umutangabuhamya avuga ko iyo bariyeri yari ahantu umuntu agenda iminota icumi avuye iwe. Yari yabwiye abakozi b'Urukiko bashinzwe iperereza aho iyo bariyeri iri : ikimenyetso gihamya N° 2 cyatanzwe na Porokireri, igishushanyo N° 2 (L0019877).

[250] Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 26-28, 38, 48, 50 na 53.

[251] Ni kimwe no haruguru, imp. 29, 36 na 37

[252] Ni kimwe no haruguru, imp. 29-31, 36, 37

[253] Ni kimwe no haruguru, imp. 48, 49

ngo barekure umutangabuhamya[254]. Mu minota mike yamaze kuri iyo bariyeri, umutangabuhamya nta muntu yabonye ayicirwaho. Cyakora, mu Rukiko avuga ko iyo bariyeri yari yarashyiriweho gufata no kwica Abatutsi. Anavuga ko abantu benshi biciwe kuri iyo bariyeri kandi ko yumvaga umunuko w'imirambo[255]. CGC yumvise bavuga ko umuntu witwa Nturusu, avuga ko wari icyotara, yiciwe kuri iyo bariyeri hashize nk'iminota itanu we arekuwe. Akeka ko uwo muntu yari afite se w'umunyaburayi, na nyina w'umunyarwandakazi, ko nyakwigendera atari « Umuhutu, Umututsi cyangwa umutwa», ko ariko yasaga n'« Abatutsi »[256]. Umutangabuhamya avuga ko DB yari umushoferi wa Nturusu[257].

206. CGC avuga ko azi Uregwa kuva mu myaka ya 1991 na 1992 ubwo Uregwa yazaga gusura mushiki we wari urwaye kandi wari unatuye muri segiteri imwe n'umutangabuhamya[258]. Mu Rugereko avuga ko yari mwenewabo wa hafi wa mushiki w'Uregwa, ko yabonye Uregwa ubwo yajyaga aza mu modoka gusura mushiki we. Umutangabuhamya avuga ko yabonye Uregwa mu modoka ye, mu ntera ingana n'ubugari bw'umuhanda. Yemeza ndetse ko yanamubonye kuri bariyeri igihe na we yari ahari, kubera ko yumvise abantu bavuga izina rye, bakanamwita Minisitiri w'Imari[259].

Umutangabuhamya ushinjura wiswe DB

207. Mu wa 1994, DB yari umushoferi w'imodoka itwara abarwayi ku bitaro bya Kibuye. Muri Gicurasi uwo mwaka, yagiye i Rubengera kugura mazutu, ahahurira n'umuforomo witwa Nors (irindi zina rya Nturusu) wamusabye kumujyana ku bitaro bya Kibuye. Mu gihe yari asubiyeyo ari kumwe na Nors, bageze kuri bariyeri yo mu Gaseke abayirinze barabahagarika babaza Nors ibibazo kandi bamushyiraho iterabwoba. Umutangabuhamya yaramuvuganiye,

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[254] Ni kimwe no haruguru, imp. 31, 32, 50
[255] Ni kimwe no haruguru, imp. 27, 33
[256] Ni kimwe no haruguru, imp. 33, 34, 50, 51 na 53
[257] Ni kimwe no haruguru, urup. 52, ikimenyetso gihamya N^{o} 16 cyatanzwe n'Ubwunganizi
[258] Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 21-23, 46, 53,54. Mu Rugereko, umutangabuhamya avuga ko yabonye Uregwa nibura inshuro eshatu, ariko nta bisobanuro bindi atanga.
[259] Ni kimwe no haruguru, urup. 55

bigeze aho barabarekura baragenda. Bongeye guhagarikwa n'abajandarume ku yindi bariyeri iri ku isangano ry'imihanda ku Kibuye, ariko na none baza kurekurwa bitegetswe n'umusirikare mukuru. Umutangabuhamya avuga ko Nors yari "icyotara", kuko se ari umunyaburayi naho nyina akaba umunyarwandakazi[260].

208. Umutangabuhamya amaze kugera ku bitaro ari kumwe na Nors, Nors yasobanuriye muganga ko arwaye, ariko akaba agarutse ku bitaro kubera ko ikiruhuko cye cyari cyarangiye. Muganga yemeye kumwongerera iminsi y'ikiruhuko, anamugira inama yo gusubira mu rugo, nabona imodoka imujyana. Ku itariki ya 26 Gicurasi, DB yagiye i Rubengera ari hamwe na Nors n'undi muntu. Yibuka neza iyo tariki kubera ko yanditse mu gitabo cy'ingendo z'imodoka ko uwo munsi yari yatwaye imodoka itwara abarwayi[261].

209. Mu Rukiko DB avuga ko bageze mu Gaseke, abantu bari barinze bariyeri bavuze ko Nors ari Umubiligi, bityo akaba ari icyitso cy'*Inkotanyi*. Bamutegetse kuva mu modoka, bamwambura igikapu, amadarubindi, ishati, ipantalo n'inkweto ze za sandale, bamusigira ikariso gusa. Barangije, bakuyeho ingiga yari ifunze umuhanda, maze bategeka umutangabuhamya kugenda. Umutangabuhamya avuga ko yakije imodoka akagenda ariko yagera imbere gato agahagarara. Umwe mu bantu bari barinze iyo bariyeri ufite impiri yaje yegera umutangabuhamya, uyu na we ahita yinjira mu modoka ye, ariko amaze gukubitwa impiri mu mugongo. Umutangabuhamya yatwaye imodoka buhoro n'uko ajya guhagarara iruhande rw'igiti cy'inturusu. Ni bwo yabonye abari mu gitero bagaruka bishimye, bava mu bihuru bamaze kwiciramo Nors[262].

210. Umutangabuhamya avuga ko yamenye bamwe mu bagabaga ibitero bari kuri iyo bariyeri, ndetse na nyuma ya 1994 agatangira gukora iperereza ku giti cye, kugira

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260 Ikimenyetso gihamya N° 32 cyatanzwe na Porokireri 32 (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano) ; Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 83-85, 90, 94-96, 98-100
261 Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 86-88
262 Ni kimwe no haruguru, imp. 87-90

ngo amenye amazina y'abandi. Avuga amazina y'abantu barindwi bagabaga ibitero yashoboye kumenya kuri bariyeri. Abo bantu ni Rwibasira, Ndigabo, Ligena, Siméon, Komeza, Bamuriki na Ndikuyeze[263]. Mu Rugereko, umutangabuhamya avuga ko atari azi Uregwa, kandi ko igihe yakoraga iperereza nta muntu wigeze avuga ko Uregwa yari kuri bariyeri mbere y'iyicwa rya Nors, cyangwa ngo amuvuge mu bantu bari kuri bariyeri[264].

Umutangabuhamya ushinjura wiswe DA

211. Mu Rugereko, DA, ufite icyo apfana na Nors, avuga ko muri Mata 1994 yari atuye i Kigali kandi ko muri Gicurasi yahungiye Kongo. Avuga ko ahungutse muri Kanama 1994, ari bwo umugore wa Nors yamubwiye ukuntu nyakwigendera yapfuye. Avuga ko uwo mugore yamubwiye ko umugabo we yari arwariye iwabo i Rubengera, kandi ko yari yarabuze uko ajya ku kazi kubera intambara. Yiyemeje gusubira ku kazi nuko ajyayo ari mu modoka y'ibitaro. Ku bitaro muganga yamubwiye ko atarakira neza, ko umushoferi agomba kumusubiza mu rugo[265]. Umugore wa Nors yakomeje abwira umutangabuhamya ko mu nzira atashye, abantu basohoye Nors mu modoka ku gahato kuri bariyeri yo mu Kayenzi maze baramwica. Yongeyeho ko Nors yishwe ku kagambane k'umwe muri bene wabo witwa Nkubito, wangaga Nors kuva kera, bityo akaba yari yabwiye abagizi ba nabi barinze bariyeri ko se wa Nors ari Umubiligi, kandi mu by'ukuri yari Umudage. Urwo rwango rwari rwaratangiye hasigaye nk'imyaka 20 ngo jenoside ibe. Bityo rero, Nkubito yitwaje amakimbirane yari hagati y'Abanyarwanda n'Ababiligi kugira ngo yicishe Nors[266]. Mu Rukiko, umutangabuhamya avuga ko umugore wa Nors yapfuye mu wa 1996.

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[263] Ni kimwe no haruguru, imp. 93, 94, ikimenyetso gihamya N° 33 cyatanzwe n'Ubwunganizi. Umutangabuhamya asobanura ko nta bundi yabonye Ndikuyeze uretse igihe yanyuraga kuri bariyeri bwa mbere agiye ku Kibuye. Izina « Bamuriki » rishobora kuba ari ubundi buryo bwo kuvuga « Bavuriki »

[264] Ni kimwe no haruguru, imp. 91-94, 94-96

[265] Ikimenyetso gihamya No 43 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano) ; Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, imp. 2, 3, 6; Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, imp. 3, 4 (inyandiko iri mu gifaransa).

[266] Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, imp. 3, 4, 12, 13, 14 na 15.

212. Mu Rugereko, DA avuga ko abantu benshi bari bamenye inkuru y'urupfu rwa Nors kandi ko Nkubito yigambaga ko « yicishije wa muzungu »[267]. Umutangabuhamya yavuze ko umugore wa Nors yamenye urupfu rw'umugabo we abibwiwe n'abaturanyi be maze hashira iminsi itatu akajya kwa DB kuvugana na we. Nkubito yari yarahungiye muri Kongo, bamufashe agarutse mu Rwanda, nyuma y'uko umwe mu bahungu ba Nors amureze mu butegetsi[268].

Umutangabuhamya ushinjura wiswe DC

213. Mu Rukiko, DC avuga ko mu mpera za Gicurasi, ubwo yari avuye ku Kibuye, asubiye iwe muri Komine ya Rutsiro, Segiteri ya Gatoki, yageze kuri bariyeri mu Gaseke yari irinzwe n'abantu bagera ku munani. Abo bantu bamubwiye ko hari imodoka itwaye umuzungu yahagaze ku Kibuye, maze bamusaba gutegerereza iyo modoka kuri bariyeri, kugira ngo abafashe kwica umuzungu[269].

214. DC avuga ko yategereje amasaha ageze kuri atatu kuri bariyeri mbere y'uko imodoka ihagera nyuma ya saa sita, ivuye ku Kibuye, irimo wa muzungu. Imodoka yari itwawe n'umuntu usheshe akanguhe kandi irimo n'undi muntu. Uwo muzungu yavuye mu modoka, nuko abagabaga ibitero bamucuza imyenda n'igikapu bye mbere y'uko umusore witwa Shofo amwicira muri metero icumi uvuye kuri iyo bariyeri[270]. Umutangabuhamya yamenye abandi bantu babiri bari barinze iyo bariyeri ari bo Gaspard Baviriki na Kapitolo. Avuga ko Kapitolo yavuze ko Nkubito yari yategetse kwica umuzungu. Umutangabuhamya avuga ko yamenye ko umuzungu bari bishe yitwaga Nors[271]. Mu Rugereko, avuga ko ubwo yari kuri iyo bariyeri atabonye Uregwa, ndetse nta n'umve abandi bantu bavuga ko Uregwa yari aho hantu[272].

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[267] Ni kimwe no haruguru, imp. 5, 6; Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, urup. 5 (inyandiko mu gifaransa).
[268] Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, imp. 3 -5
[269] Ikimenyetso gihamya N° 35 cyatanzwe n'Ubwunganizi (ifishe w'umwirondoro w'umutangabuhamya urindiwe umutekano), Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 2, 3, 13-16, 26,27
[270] Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 14, 15, 26 - 28
[271] Ni kimwe no haruguru, imp. 14-16
[272] Ni kimwe no haruguru, imp. 15-17

Gusuzuma ukwizerwa kw'abatangabuhamya.

215. Urugereko rurasuzumira hamwe ukwizerwa kw'aba batangabuhamya bane kubera ko ubuhamya bwabo bufite aho buhurira, bakanagira n'ibintu bibahuza. Rurabusuzumira kandi hamwe kubera ibivugwa n'ababuranyi[273]. Mu ibaza ry'ibanze, CGC avuga ko ashobora gusa gutanga ikigereranyo cy'itariki y'ibyabereye mu Gaseke. Cyakora mu ibaza rinyomoza, avuga ko azi neza ko ibyo bintu byabaye ku itariki ya 20 Gicurasi, ariko ntiyashobora kuvuga impamvu akibuka iyo tariki[274]. Urugereko rusanga ihindagurika ry'ibyo CGC yibuka risa n'iritangaje, kandi ntirwanyuzwe n'ibisobanuro yatanze kuri icyo kibazo[275]. Umuntu ashobora kumva ko umutangabuhamya atakwibuka itariki nyayo ibintu byabereyeho mu wa 1994, iyo nta kintu cyihariye gihari kimwibutsa. Cyakora, Urugereko rusanga na none, nk'uko yabivuze mu buhamya bwanditse yahaye abakora iperereza ku itariki ya 10 Ugushyingo 2000, uyu mutangabuhamya avuga ko ibyo bintu byabaye ku itariki ya 20 Gicurasi. Ku birebana n'amatariki ibyo bintu byabereyeho, Urugereko rusanga ibyo umutangabuhamya avuga mu ibaza rinyomoza binyuranye n'ibyo avuga mu ibaza ry'ibanze, bitagabanya ukwizerwa kwe. Cyakora, mu gusoza, Urugereko ruvuga ko ibivugwa byabaye ku itariki ya 20 Gicurasi 1994 cyangwa ahagana kuri iyo tariki.

216. Mu buhamya yatanze mu Rukiko, CGC avuga ko Nturusu yicirwa kuri bariyeri atari ahari, ko yabimenye nyuma yaho. Ibyo ariko birasa n'ibitandukanye n'ibyo avuga mu buhamya bwanditse bwo ku itariki ya 10 Ugushyingo 2000 yahaye abakozi b'Urukiko bashinzwe iperereza[276]. Yemera kandi ko igice kimwe cy'ubuhamya bwe bwanditse yatanze mbere atari ukuri, aho umuntu ashobora kumva ko yavuye muri komine ye ubwo yari mu bwihisho kuva muri Mata

[273] Imyanzuro nsozarubanza ya Porokireri, imp. 19-21, 85, 86, 104-108 ; Imyanzuro y'Ubwunganizi, ibika 36, 591-653, Inyandikomvugo y'iburanisha, 1 Werurwe 2003, imp. 10-16, n'Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 7, 8, 31-37, 50 - 52
[274] Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 23, 46, 53; Imyanzuro y'Ubwunganizi, ibika 599, 602, 607
[275] Inyandikomvugo y'iburanisha, 29 Nzeri 2003, urup. 52
[276] Ikimenyetso gihamya N° 28 cyatanzwe na Porokireri

kugeza muri Gicursi 1994. Akeka ko ayo makosa yatewe n'uko abakoze iperereza banditse nabi ibyo yavuze[277]. Urugereko rusanga ukwo kwivuguruza kudakomeye. Rusanga gushobora kumvikana umuntu arebye uburyo umutangabuhamya yavuganye n'abakoze iperereza. Urugereko rusanga na none hari igihe Umunyarwanda adatandukanya neza ibyo yiboneye ubwe n'ibyo yumvise.

217. Ubwunganizi buvuga ko bitumvikana ukuntu abantu bari barinze bariyeri batishe CGC, w'Umututsi wari kuri iyo bariyeri kandi Uregwa yaba yarahamagariye abo bantu kwica Abatutsi. Mu Rugereko, umutangabuhamya avuga ko n'ubwo yahuje amaso n'Uregwa, ashidikanya ko Uregwa yamubonye cyangwa yamumenye, kubera ko yumva icyo gihe Uregwa aba yaramwicishije[278]. Avuga ko abantu bari barinze bariyeri bamuretse, kubera ko bari bazi ko umuntu wamuyoboraga muri byinshi kandi akamurengera yari kuza kubabwira ngo bamurekure, kandi ko uyu muntu yari yohereje amabwiriza yo kutamwica. Ubwunganizi bushidikanya ku byo umutangabuhamya avuga ko Uregwa yagaye abantu barinze bariyeri kuba bareka Abatutsi bagahita aho kubica, n'ubwo mu Rugereko umutangabuhamya avuga ko aho hantu hiciwe Abatutsi benshi. Umutangabuhamya akeka ko Uregwa yari yahawe amakuru atari yo[279]. Ubwunganizi bushidikanya kandi ko umutangabuhamya akomoka mu batutsi, kubera ko mu buhamya bwe avuga ko yari mwene wabo w'umuntu wamuyoboraga muri byinshi akanamurengera, wari inshuti y'abantu bari barinze iyo bariyeri.

218. Urugereko rusanga ibivugwa bitarubuza kwizera CGC. Uregwa yaba yaramaze igihe gito cyane kuri iyo bariyeri kandi birashoboka ko yaba atarabonye umutangabuhamya cyangwa akaba yaramwitiranyije n'umwe mu bantu bari barinze iyo bariyeri. Kuba Uregwa yaragaragaje ko atishimye kubera ko barekaga Abatutsi bagahita kuri bariyeri nta cyo babatwaye, ntibivuguruza kuba muri ako karere byari bizwi ko iyo bariyeri yicirwagaho Abatutsi. Urugereko rwemera

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[277] Inyandikomvugo y'iburanisha, 29 Nzeri 2003, imp. 33, 34, 44
[278] Ni kimwe no haruguru, urup. 31
[279] Ni kimwe no haruguru, urup. 49.

kandi ko umutangabuhamya ari Umututsi nk'uko ubwe yabyemeje mu buhamya yatanze mu Rukiko no mu buhamya bwanditse yahaye abakozi b'Urukiko bashinzwe gukora iperereza, ku itariki ya 10 Ugushyingo 2000. Kuba nyina ari Umuhutukazi bishyigikira ibyo avuga ko mwene wabo, wamurengeraga kandi wamurekuje, ari Umuhutu. N'ubwo bidasanzwe ko Umututsi aregwa jenoside, umutangabuhamya yasobanuye neza impamvu aregwa ibyo bintu. Avuga ko, kubera ko batizeraga ko ari Umuhutu, abantu bari barinze bariyeri bukeye bamuhatiye kwica umuhungu w'Umututsi kugira ngo agaragaze ko atari Umututsi.

219. Ubwunganizi bushidikanya ko CGC yashoboye kumenya Uregwa. Buvuga ko umutangabuhamya yibuka gusa izina ry'irikirisitu rya mushiki w'Uregwa kandi akaba yarabonye Uregwa mu modoka ye aje gusura mushiki we mu wa 1991 na 1992. Urugereko rwemera ko umutangabuhamya yamenye Uregwa kubera ko mbere yari yaramuboneye hafi, ari mu modoka ye. Uregwa yari azwi cyane muri serire akomokamo, kandi mushiki we yari afitanye isano n'umutangabuhamya. Byongeye kandi, izina ry'Uregwa ryaravuzwe ubwo yari ageze kuri bariyeri, yambaye ikositimu y'umukara. Mu isuzuma rwakoze, Urugereko ruzirikana ko umutangabuhamya yari afite imyaka 17 mu mwaka wa 1994.

220. Ubwunganizi busanga CGC atakwizerwa cyane, iyo avuga ko, ku bw'amahirwe, yaje kumenya ko abakozi bashinzwe iperereza bari kuri Guest House ku Kibuye, bashakisha amakuru yerekeye Uregwa [280]. Urugereko ntirwashyikirijwe ikimenyetso na kimwe kinyomoza icyo gice cy'ubuhamya umugabo yatanze mu Rukiko. Naho kuvuga ko umutangabuhamya ashaka gushinja Uregwa kugira ngo afatwe neza muri gereza mu Rwanda, Urugereko ruributsa ko, mbere y'uko afatwa ku itariki ya 23 Ukuboza 2000, umutangabuhamya yari yarashinje Uregwa mu buhamya bwanditse yatanze ku itariki ya 10 Ugushyingo 2000.

[280] Ni kimwe no haruguru, urup. 45

221. Urugereko rugiye gusuzuma ubuhamya bwa DB. Uyu mutangabuhamya avuga ko, ashingiye ku iperereza yakoze ku giti cye nyuma y'umwaka wa 1994 ku bikorwa byabereye kuri bariyeri yo mu Gaseke, asanga nta ruhare na rumwe Uregwa yagize mu iyicwa rya Nors[281]. Iperereza uyu mugabo yakoze rishingiye ku byo abantu bumvanye abandi kandi ntanavuga aho yavanye ayo makuru. Kubera izo mpamvu, Urugereko rusanga ibimenyetso yabonye nyuma nta buremere bifite ugereranyije n'ubuhamya bwatanzwe mu Rukiko na CGC, wiboneye ibyabaye n'amaso ye.

222. Ubuhamya DB yatanze mu Rukiko ku byo yabonye kuri bariyeri ntibuhuye na bimwe mu bivugwa mu buhamya CGC yatanze mu Rukiko, cyangwa bugatuma ibyo bintu bikemangwa. Mu Rukiko, DB avuga ko abantu bagabaga ibitero bari kuri bariyeri bari bitwaje gusa impiri n'imihoro bishaje bavanye iwabo. Yongeraho ko atigeze abona intwaro nshya[282]. Porokireri avuga ko ubuhamya bw'uyu mugabo mu rukiko ku birebana n'ahantu intwaro zavuye bidafite aho bishingiye, bikaba byerekana neza ko umutangabuhamya yahawe amabwiriza yo kunyomoza ubuhamya bwa CGC mu Rukiko[283]. Urugereko rusanga bisa n'ibitari gushoboka ko, ukurikije uko ibintu byari bimeze nk'uko byavuzwe, umutangabuhamya abona neza ko abagabaga ibitero bitwaje imihoro mishya.

223. Porokireri avuga ko DB adakwiye kwizerwa. Igitabo cyandikwamo ingendo z'imodoka cyagombye kugaragaza ko ku itariki ya 26 Gicurasi umutangabuhamya yasubiye i Rubengera ari kumwe na Nors, kirimo inenge zituma umuntu ashidikanya ku byanditsemo. Amatariki yanditse mu murongo wabigenewe ntakurikirana uko iminsi yagendaga ikurikirana, kandi amwe muri yo, nk'iya 26 Gicurasi, yanditswe n'abantu banyuranye. Umutangabuhamya asobanurira Urugereko ko muganga n'umucungamari bari bashinzwe kwandika amatariki mu gitabo cy'ingendo z'imodoka ndetse akongeraho ko amatariki adakurikiranye ari ayanditswe n'umucungamari. Yongeraho ko we ubwe yanditse

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[281] Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 34, 35
[282] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 98-100
[283] Imyanzuro nsozarubanza ya Porokireri, urup. 106

itariki ya 26 Gicurasi noneho muganga akuzuza umurongo wahariwe ibisobanuro[284]. Porokireri yibaza ukuri kw'ibivugwa n'umutangabuhamya, ushaka kwemeza ko we na Nors bongeye kunyura kuri bariyeri yo mu Gaseke kandi bari bagiye kuhagirira amakuba ubwo bari bagiye ku Kibuye.

224. Urugereko rusanga DB akwiye kwizerwa. Ubuhamya yatanze mu Rukiko burumvikana ndetse burasobanuye bihagije, kandi Porokireri ntiyashoboye kugaragaza ukunyuranya gukomeye hagati yabwo n'ubuhamya bwanditse umugabo yatanze mbere, busa n'aho bwanditswe mu mwaka wa 1995 kandi buvugwa ko bwashyikirijwe Porokireri wo mu Rwanda ukorera ku Kibuye[285]. Inenge zivugwa mu gitabo cy'ingendo z'imodoka ntizifite agaciro kanini kandi icyo gitabo gihora cyuzuzwa. Umutangabuhamya ntasobanura igihe we na Nors bamaze ku Kibuye mbere yo gusubira i Rubengera, ariko igitabo cyandikwamo ingendo z'imodoka gisa n'icyerekana ko bageze ku Kibuye ku itariki ya 24 cyangwa iya 25 Gicurasi[286]. Urugereko rusanga ibyavuzwe n'umugabo bishoboka, aho avuga ko we na Nors bumvaga bashobora gusubira i Rubengera nta nkomyi, n'ubwo mbere abantu bari bashatse kubagirira nabi. Byongeye kandi, mu Rukiko CGC yemeza ko DB ari we mushoferi wari utwaye imodoka Nors yarimo ubwo bamuhagarikiraga kuri bariyeri[287].

225. Ubuhamya bwa DB ku iyicwa rya Nors ntibuvuguruza ubwa CGC. Mu Rukiko, CGC avuga ko Uregwa yagiye mbere y'uko Nors yicwa. Ubuhamya DB yatanze ku byo yumvanye abandi kandi butakwizerwa, ni bwo bwonyine buvuguruza ubuhamya CGC yatanze mu Rukiko ku byerekeye kuba Uregwa yaba yari kuri bariyeri mbere y'uko Nors ahagera. Kubera iyo mpamvu, mu kwanzura, Urugereko ruvuga ko ubuhamya bwa DB nta cyo bugabanya ku ukwizerwa kwa CGC.

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[284] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 96-99
[285] Ni kimwe no haruguru, imp. 89, 90
[286] Ni kimwe no haruguru, imp. 86-88. ikimenyetso gihamya N° 34 cyatanzwe n'Ubwunganizi
[287] Inyandikomvugo y'iburanisha, 29 Ukwakira 2003, urup. 52 ; ikimenyetso gihamya N° 16 cyatanzwe n'Ubwunganizi.

226. Ku byerekeranye n'ubuhamya DA yatanze mu Rukiko, ku rupfu rwa Nors, Urugereko rusanga ubwo buhamya bushingiye ahanini ku byo yumvanye umugore wa Nors, na we wari wabibwiwe na DB. Ikintu kimwe rukumbi cyihariye cy'ubuhamya yatanze mu Rukiko ni aho avuga ko uwitwa Nkubito, wari ufitanye amakimbirane na Nors kuva kera, yigambye ko yicishije uwo Nors. Na none, Urugereko rusanga ubuhamya bwe mu Rukiko butavuguruza ubwa CGC ku byerekeye kuba Uregwa yari kuri bariyeri no ku bikorwa yahakoreye mbere y'uko Nors ahagera.

227. Cyakora, Urugereko rusanga ubuhamya DC yatanze mu Rukiko buvuguruza, ku buryo bugaragara, ubwa CGC kubera ko DC avuga ko atabonye Uregwa kuri bariyeri n'ubwo yahamaze hafi amasaha atatu, mbere y'uko Nors ahagera.

228. Ubuhamya bwa DC ku byabereye kuri bariyeri yo mu Gaseke ntibwakwizerwa. Porokireri yatanze ibimenyetso gihamya bigizwe n'inyandiko ziturutse ku kirego umutangabuhamya yarezwe mu Rwanda. Muri izo nyandiko ntihavugwa ibikorwa byabereye kuri bariyeri yo mu Gaseke cyangwa ku gasozi ka Gitwa, mu gihe izo ngingo zombi ari zo ubuhamya bwa DC mu Rukiko bwagombaga kwibandaho. Umutangabuhamya avuga ko ku itariki ya 4 Werurwe 1998 yandikiye Porokireri w'u Rwanda ibaruwa yo kwirega icyaha kuri izo ngingo. Nyuma yaje gusa n'aho atanga ikindi gisobanuro ashaka kumvikanisha ko umutekano we wari guhungabana iyo aza kugira icyo avuga kuri ibyo bikorwa[288]. Urugereko rusanga nta baruwa n'imwe yigeze itangwaho ikimenyetso, bityo rukaba rutanyuzwe n'ibisubizo by'umutangabuhamya.

229. DC yasobanuriye Urugereko ko yagumye kuri bariyeri kubera ko abagabaga ibitero bari bayirinze bamusabye gutegereza ko imodoka itwaye umuzungu ihagera. Mu buhamya yatanze mu Rukiko kandi bukwiye kwizerwa, DB avuga ko we na Nors bamaze ku Kibuye nibura umunsi umwe mbere yo gusubira i Rubengera. Birashoboka cyane ko abagabaga ibitero batatekerezaga ko imodoka

[288] Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 31, 33.

irimo Nors yahita igaruka. Kubera iyo mpamvu, Urugereko rushidikanya ko umutangabuhamya yari kuri bariyeri mbere no mu gihe Nors yicwaga, bityo rukaba rwanze kwakira ubuhamya bwa DC.

Imyanzuro ku byabaye.

230. Urugereko rusanga rwakwizera ubuhamya CGC yatanze mu Rukiko ku byerekeye amagambo n'ibikorwa by'Uregwa kuri bariyeri yo mu Gaseke. Rusanga abatangabuhamya bashinjura bataratumye rushidikanya na gato ko ibikorwa bivugwa byabaye. Mu kwanzura, Urugereko rusanga, mu mpera za Gicurasi 1994, Uregwa yarahamagariye abantu bari barinze bariyeri yo mu Gaseke gutangira no kwica Abatutsi, kandi akabaha imihoro n'amafaranga.

231. Byongeye kandi, mu gusoza, Urugereko rusanga uwo munsi, hashize igihe gito Uregwa ahavuye, umuntu witwa Nors, uzwi no ku izina rya Nturusu, yafashwe akicirwa kuri bariyeri yo mu Gaseke. Imiterere y'ibyo bikorwa irasuzumwa nyuma mu cyiciro 1.2 cy'umutwe wahariwe imyanzuro ku mategeko.

6.2. Gutanga intwaro no guhamagarira abantu gukora ibyaha kuri bariyeri yo kuri Faye mu mpera za Gicurasi 1994

232. Mu Nyandiko y'ibirego, Uregwa ashinjwa ibikorwa bya jenoside byabereye ku yindi bariyeri yari ahantu hitwa Faye, ku muhanda Kibuye-Kigali, muri Perefegitura ya Kibuye :

> 13. Mu mpera za Gicurasi 1994, muri Segiteri ya Kayenzi, kuri Faye cyangwa hafi yaho, **Emmanuel Ndindabahizi** yayoboye cyangwa ajya mu bitero byibasiye Abatutsi, asaba cyangwa ategeka imitwe y'*Interahamwe* n'abandi bantu bari aho kwica abasiviri b'Abatutsi.

Porokireri yemeza ko ibikorwa byaba byarabereye kuri Faye, kandi bikubiye mu birego biri mu gika cya 25 cy'Inyandiko y'ibirego, bivugwa mu cyiciro cya 6.1 cyavuzwe haruguru. Avuga ko muri icyo gika, Uregwa ashinjwa kuba yarakoze icyaha cyibasiye inyokomuntu (ubuhotozi) « kuri bariyeri zo muri Perefegitura ya Kibuye ». Mu gushyigikira ibyo birego, Porokireri ashingira ku buhamya bwa CGK.

Umutangabuhamya ushinja wiswe CGK

233. Mu Rugereko, CGK, w'Umututsikazi, avuga ko muri segiteri yabo muri Komine ya Gitesi kwica Abatutsi byatangiye ku itariki ya 12 Mata. Akomeza avuga ko ku itariki ya 13 Mata, yahungiye muri Segiteri ya Kayenzi, akihisha mu rugo rw'umwe mu nshuti ze z'Abahutu. Nyuma y'ibyumweru nka bitatu, *Interahamwe* zageze muri urwo rugo zihiga Abatutsi maze umutangabuhamya ava mu nzu y'inshuti ye, ajya kwihisha mu bihuru ahitwa Faye, muri Segiteri ya Kayenzi. Yahageze mu ntangiriro za Gicurasi, ahamara ibyumweru bibiri[289]. Yari yihishe mu ntusi nko muri metero eshanu uvuye kuri bariyeri, ariko haruguru y'umuhanda, ku kagunguzi aho abantu batashoboraga kumubona. Bariyeri yari irinzwe n'abantu bagera kuri 15 bakaragaga imihoro n'impiri zitwa *ntampongano*. Abantu bari barinze iyo bariyeri batangiraga abagenzi, bakabasaba kwerekana indangamuntu zabo [290].

234. CGK avuga kandi ko umunsi umwe, mu ma saa saba z'amanywa, ari mu bwihisho, yabonye ivatiri y'umukara n'indi modoka yo mu bwoko bwa Daihatsu y'icyatsi zigera kuri bariyeri zivuye i Kigali. Uregwa yari muri iyo vatiri y'umukara, ari kumwe n'abandi bantu babiri cyangwa batatu bitwaje intwaro, barimo umushoferi. Muri Daihatsu harimo *Interahamwe* eshatu zitwaje

[289] Ikimenyetso gihamya n° 5 cyatanzwe na Porokireri (Ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano); inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 37-40, 51, 52, 55, 56.
[290] Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 39-41, 56-58, 58-60

imbunda[291]. Uregwa, wari wambaye ipantalo n'ishati by'umukara, yasohotse mu modoka nuko abaza abantu barinze bariyeri niba bamaze kwica Abatutsi bose. Baramushubije ngo : « Twaretse abagore…Abatutsikazi bashakanye n'Abahutu, n'abana babo ». Uregwa yabategetse gupakurura imihoro muri Daihatsu, ngo bayicishe abo bari baretse. Bamaze gupakurura imihoro myinshi, imodoka zombi zarongeye ziragenda[292].

235. Umutangabuhamya avuga ko yamaze ibyumweru bibiri kuri Faye, nyuma agahungira hafi y'umugezi witwa Nyabahanga, nko muri kirometero imwe uvuye ku Faye. Yaryaga ibijumba acukuye mu mirima n'imbuto zo mu bihuru kandi akanywa amazi y'uwo mugezi[293]. Muri Kamena, umuntu witwaje icumu yaramuteye aramukomeretsa. Avuga ko yahaye uwo muntu amafaranga y'amanyarwanda ibihumbi bitanu, maze akamureka[294]. Na none muri Kamena, umutangabuhamya yabonye indege mu kirere bamubwira ko ari iz'Abafaransa zije guhagarika intambara.

236. Mu buhamya bwe mu Rukiko, CGK avuga ko yari yarabonye Uregwa mbere y'umwaka wa 1994 ubwo Uregwa yari yaje kuri santeri y'ku Gitaka, muri Segiteri Gitesi, nko muri kirometero imwe uvuye aho ababyeyi be batuye. Umutangabuhamya avuga ko yabonye Uregwa inshuro nyinshi aho hantu mu mwaka wa 1990, 1991, na 1992. Avuga kandi ko azi ababyeyi b'Uregwa ndetse no mu Rukiko yerekanye Uregwa[295].

Gusuzuma ukwizerwa k'umutangabuhamya

237. Ababuranyi ntibavuga rumwe k'ukwizerwa kwa CGK[296].

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[291] Ni kimwe no haruguru, imp. 39, 40, 58, 59
[292] Ni kimwe no haruguru, imp. 40, 41, 43, 44
[293] Ni kimwe no haruguru, imp. 40, 41,51,52, 54, 55.
[294] Ni kimwe no haruguru, imp. 52,54, 60, 61.
[295] Ni kimwe no haruguru, imp. 40-43, 47-50.
[296] Imyanzuro nsozarubanza ya Porokireri, urup. 11 ; Imyanzuro y'Ubwunganizi, ibika 900-949 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 7-12, 15, 16, 33-35;, 2 Werurwe 2004, urup. 7, 8, 13, 14, 28-31.

238. Ubwunganizi bwemeza ko itariki umutangabuhamya avuga ko yaboneyeho Uregwa kuri bariyeri yo kuri Faye idahura n'ibisobanuro atanga ku ngendo zikurikiranye yakoze ajya kwihisha muri Mata no muri Gicurasi. Mu Rugereko, umutangabuhamya avuga ko kuva ku itariki ya 13 Mata, yamaze ibyumweru bitatu yihishe mu nzu i Kayenzi, maze mu ntangiriro za Gicurasi agahungira kuri Faye akahamara ibyumweru bibiri kandi ko ari icyo gihe yabonye Uregwa. Ibyo bisobanura ko yagombye kuba yaravuye kuri bariyeri ahagana muri Gicurasi hagati. Cyakora, umutangabuhamya akomeza kuvuga ko yabonye Uregwa mu mpera za Gicurasi aho kuba hagati muri uko kwezi[297]. Ubwunganizi bubona umutangabuhamya atsimbarara ku mpera za Gicurasi kugira ngo ye kuvuga ku gihe kiri hagati y'itariki ya 11 n'iya 18 Gicurasi, Uregwa afitiye *alibi*[298].

239. Biragaragara ko itariki umutangabuhamya avuga ko yaboneyeho Uregwa idahura n'uko ibikorwa avuga byagiye bikurikirana. Urugereko rusanga uko kudahura atari ikimenyetso kigaragaza ko yashakaga, ku bushake, kugerageza kujijisha Urukiko cyangwa kwerekana ko ibyabaye bitakozwe mu gihe Uregwa yatanzeho *alibi*. Cyakora, Urugereko rusanga ukwizerwa k'umutangabuhamya gukemangwa kubera ko yanga cyangwa ntashobore kumva ko ubuhamya bwe buhuzagurika.

240. Ubwunganizi bwibutsa ko mu buhamya batanze mu Rukiko, DC na DN bavuga ko nta bariyeri zari ahantu hitwa kuri Faye, ku muhanda Kibuye-Gitarama. Mbere, Urugereko rwari rwanze kwakira ibice bimwe by'ubuhamya bwa DC mu Rukiko kandi rusanga ubuhamya bwe butakwizerwa[299]. Byongeye kandi, mu buhamya yatanze mu Rukiko, CGM avuga ko, muri rusange, hari bariyeri nyinshi, n'ubwo atavuga, by'umwihariko, iyari kuri icyo gice cy'umuhanda Kibuye-Gitarama[300]. Cyakora, Urugereko rusanga DN akwiye kwizerwa kandi bigaragara ko ashobora kuba yari azi neza ako gace k'umuhanda. Mu buhamya bwe mu Rukiko, DN asobanura ko kuri iyo tariki ya 26 Gicurasi, hari bariyeri imwe

[297] Inyandikomvugo y'iburanisha, 3 Werurwe 2003, imp. 51, 52, 54-56.
[298] Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 49,50; 2 Werurwe 2004, imp. 29-31.
[299] Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 4, 34, 35
[300] Inyandikomvugo y'iburanisha, 15 Ukwakira 2003, imp. 34, 35

rukumbi hagati ya Kibuye na Rubengera, ari yo bariyeri y'i Gaseke[301]. Muri ubwo buhamya, DN avuga ko hari za bariyeri ku kiraro cy'i Nyabahanga n'i Gaseke[302]. Ibyo bikaba byerekana ko CGK ari we wenyine uvuga ko kuri Faye hari bariyeri kandi ubuhamya yatanze mu Rukiko buvuguruzwa, ku buryo butaziguye, n'ubwa DB na DN.

241. Ku byerekeye ahantu yari yihishe kuri Faye, mu buhamya yatanze mu Rukiko CGK agira ati: «Nta kintu cyo kunywa cyangwa cyo kurya nari mfite. Hari ubwo nashoboraga kubona umuneke mpawe n'abantu bahungaga kimwe na njye [303] ». Ubwunganizi buvuga ko ibi bidashoboka, maze bukemeza ko uyu mutangabuhamya abeshya. Iyo myumvire y'Ubwunganizi ku buhamya umugabo yatanze mu Rukiko (bwumva ko igihe cyose uyu mugabo yari yihishe mu ntera ya metero eshanu uvuye kuri bariyeri) ntishyize mu gaciro. Ku rundi ruhande, Urugereko rusanga umutangabuhamya atanga ibisobanuro bike ku ngendo yakoraga, ntawe umubonye, agiye gushaka ibyo kurya ubwo yari yihishe kuri bariyeri.

242. Urugereko rwasuzumye ukunyuranya kuvugwa mu buhamya bw'umugabo mu rukiko ku byerekeranye n'umubare w'abantu bari mu modoka Uregwa yajemo agera kuri bariyeri. Urugereko rusanga uko kunyuranya kwaba ari guto, kuramutse kuriho.

243. Kuba CGK yemeza ko yari afite inote y'ibihumbi bitanu by'amafaranga y'amanyarwanda yahaye umuntu wamuteye hafi y'umugezi wa Nyabahanga amaze kuva kuri Faye, bishobora kuba ari ukuri. Byongeye kandi kuba

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[301] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 99, 100 (« Ikibazo : Mu rugendo wakoze uva ku Kibuye ujya i Rubengera- ubwo wari ucyuye Nors iwe ku itariki ya 26 Mata- waba warabonye izindi bariyeri ubwo wakoraga urugendo rwo ku itariki ya 26 Mata ? Igisubizo : Oya. Nta yindi bariyeri nanyuzeho. Ikibazo : Nta zindi bariyeri wabonye hafi aho ? Igisubizo : Nshobora kuba narahuye n'abantu bari ku muhanda, ariko batari bashyizeho bariyeri. Bityo rero sinavuga ko ari bariyeri. Navuga ko ari agatsiko k'abagizi ba nabi »)

[302] Inyandikomvugo z'amaburanisha, 3 Ugushyingo 2003, imp. 32-35; 3 Ugushyingo 2003, urup. 37 (inyandiko iri mu gifaransa yerekana neza ko aho hantu ari i « Gaseke »).

[303] Inyandikomvugo z'amaburanisha, 3 Nzeri 2003, imp. 59, 60; 3 Nzeri 2003, urup. 63

atarashoboye kwibuka ibara ry'iyo noti ntibigaragaza ko ibyo avuga atari ukuri. Cyakora, Urugereko rusanga umutangabuhamya agenda ahindagura ibintu iyo avuga uburyo yatewemo hafi y'umugezi wa Nyabahanga. Mu ibazwa ry'ibanze, umutangabuhamya avuga ko yatewe n'umuntu witwaje icumu, ariko mu ibazwa rinyomoza akavuga ko bamuteye icyuma mu mutwe[304].

244. Abajijwe impamvu nyuma y'ibyabaye yategereje imyaka irindwi kugira ngo abivuge, CGK asubiza ko mbere yaho batari barigeze na rimwe bagira icyo babimubazaho, kandi ko yabibwiye abapererezi b'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda bari babimubajije. Urugereko rwemera icyo gisobanuro, cyane cyane ko umutangabuhamya avuga ko atazi abandi bantu bari mu gitero kuri bariyeri, ku buryo yashoboraga kubatangaho ubuhamya mu manza zo mu Rwanda[305]. Kuba umutangabuhamya atarashoboye kuvuga amazina nyayo y'ababyeyi b'Uregwa cyangwa ngo yibuke aho Uregwa yari atuye mbere y'umwaka wa 1994, ntibivuga ko ibyo ashingiraho avuga ko azi Uregwa bitahabwa agaciro.

245. Umutangabuhamya avuga ko Uregwa ari « umuntu munini cyane »[306]. Kubera ko rwitegereje Uregwa n'abagabo benshi b'Abanyarwanda baje gutanga ubuhamya mu Rukiko, Urugereko rusanga uburyo avuga uko Uregwa ateye atari ukuri kandi rushidikanya ko umutangabuhamya azi Uregwa. Ku byerekeye impungenge Ubwunganizi bwagaragaje kenshi buvuga ko umutangabuhamya ashobora guhera ku miterere y'icyumba cy'iburanisha, agacishiriza, akamenya Uregwa bitamugoye ahereye aho Uregwa ari, Urugereko rusanga kuba umutangabuhamya yarerekanye Uregwa mu cyumba cy'iburanisha bitarubuza gushidikanya ko yaba amuzi hashingiwe k'ukuntu yamuvuze mbere[307].

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304 Inyandikomvugo z'amaburanisha, 3 Nzeri 2003, imp. 40, 41, 52 – 54; 3 Nzeri 2003, imp. 42, 43, 55, 56. (mu nyandiko y'urubanza iri mu gifaransa, hakoreshwa amagambo « inkota » n' « icyuma »).

305 Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 61, 62

306 Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 45, 46

307 Ikimenyetso gihamya N° 48 cyatanzwe n'Ubwunganizi (Agatabo k'Urukiko kerekana uko icyumba cy'iburanisha giteye).

246. Ubuhamya bwa CGK mu Rukiko ntiburambuye kandi, nk'uko byavuzwe haruguru, burimo ingingo zivuguruzanya kandi zitumvikana. Byongeye kandi, ntibufite ubundi bubushyigikira, bityo Urugereko rukaba rushidikanya ku kwizerwa kwabwo.

Imyanzuro ku byabaye.

247. Urugereko rusanga bitaragarajwe, nta gushidikanya na gato, ko mu mpera za Gicurasi, Uregwa yabonywe kuri bariyeri yari hafi yo kuri Faye ku muhanda Kibuye-Gitarama.

6.3. Gutanga intwaro no gushishikariza abantu gukora ibyaha kuri bariyeri yari ku rutindo rwa Nyabahanga mu mpera z'ukwezi kwa Gicurasi 1994.

248. Mu Nyandiko y'ibirego, Uregwa ashinjwa icyaha cya jenoside yakoreye kuri bariyeri ya gatatu ku kiraro cya Nyabahanga muri Perefegitura ya Kibuye, ku muhanda Kibuye-Gitarama :

> 12. Ahagana mu mpera z'ukwezi kwa Gicurasi 1994, ku kiraro cya Nyabahanga cyangwa hafi yacyo, **Emmanuel Ndindabahizi** yagenzuye ibikorwa byaberaga kuri bariyeri cyangwa abigiramo uruhare ategeka *Interahamwe* n'abandi bantu bari aho kwica abasiviri b'Abatutsi. Byongeye kandi, yabigizemo uruhare aha imihoro myinshi abagabo bari aho kuri bariyeri, barimo Hasan Byiyingoma, ndetse anababwira muri make ngo : « Biragenda se ? Mwishe Abatutsikazi bashakanye n'Abahutu ? …Mujye kubica- Bashobora kuzabaroga - Mufate intwaro ».

Porokireri yemeza ko ibikorwa byaba byarabereye ku kiraro cya Nyabahanga bikubiye no mu gika cya 25 cy'Inyandiko y'ibirego, kivugwa mu cyiciro cya 6.1 cyavuzwe haruguru, ahavugwa ko Uregwa ashinjwa kuba yarakoze ubuhotozi bugize icyaha cyibasiye inyokomuntu « kuri bariyeri muri Perefegitura ya

Kibuye[308] ». Mu gushyigikira icyo kirego, Porokireri ashingira ku buhamya bwa CGM.

Umutangabuhamya ushinja wiswe CGM

249. CGM, w'Umututsi, avuga ko yatewe iwe ku munsi ukurikira uwo radiyo yatangarijeho urupfu rwa Perezida. Avuga ko we n'umugore we w'Umuhutukazi n'abana babo bashoboye guhunga bajya kwihisha kwa sebukwe. Bukeye, hagabwe ikindi gitero n'uko CGM anyura mu idirisha arahunga ajya kwihishya mu bihuru, aho yabashije kurokokera abikesha umugore we wamugemuriraga ibyo kurya kandi akamuburira amubwira ahantu ibitero byashoboraga kugabwa. Yagendaga yimuka aho yihishe kugira ngo batamuvumbura[309].

250. Mu mpera za Gicurasi 1994, CGM yabonye Uregwa kuri bariyeri yari hafi y'ikiraro cya Nyabahanga, ku muhanda Kibuye-Gitarama. Umutangabuhamya avuga ko Uregwa yahageze mu ma saa saba z'amanywa ari mu ivatiri y'umweru ikurikiwe n'imodoka yo mu bwoko bwa Daihatsu ifite ibara ry'icyatsi. Uregwa yasohotse muri iyo vatiri anyuze mu ruhande rw'iburyo, ni uko abaza DR, wari umwe mu bayobozi b'*Interahamwe* zirinze bariyeri, niba amuzi kandi niba ari wenyine aho hantu. DR yashubije ati : « Yego, ndabazi, ndabibuka » n'uko Uregwa aramubwira ati : « Ndi Minisitiri »[310]. Ubwo DR yahamagaye abantu baryamye hafi aho n'abandi banyweraga mu tubari tubiri twari hafi aho, arababwira ati : « Minisitiri amaze kuza »[311]. Abantu benshi baje biruka ; DR n'abandi bayobozi babiri b'*Interahamwe* b'Abahutu bitwa Abudullah na Patrice Miraso, bapakuruye imihoro mu modoka yo mu bwoko bwa Daihatsu. Nyuma, Uregwa yabategetse kwica Abatutsikazi bashakanye n'Abahutu, abivuga muri aya

[308] Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp.14-15.
[309] Ikimenyetso gihamya N^{o} 12 cyatanzwe na Porokireri (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp.5-6, 32-34. Aho kwa sebukwe w'umutangabuhamya batuye handitswe ku kimenyetso gihamya N^{o} 14 cyatanzwe na Porokireri. Umutangabuhamya n'umugore we w'Umuhutukazi baracyari kumwe : Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp. 6-7.
[310] Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp. 7-8, 10-12, 38-40, 44-47, 51-54.
[311] Ni kimwe no haruguru, imp.10-12

magambo : «Niba mutarishe Abatutsikazi bashakanye n'Abahutu, bazabaroga, niba abo bantu batarishwe, ni ngombwa kubica ». Wabonaga yihuta, yagiye hashize iminota itanu cyangwa itandatu ahageze[312].

251. CGM avuga ko abenshi mu Batutsi bari baratsembwe uretse Abatutsikazi bari barashakanye n'Abahutu maze abagabo babo bakabarengera. Avuga ko yumvise ko Uregwa amaze kugenda, abagabo bamwe b'Abahutu bishe abagore babo b'Abatutsikazi. Atanga urugero rw'uwitwa Gatwa wishe umugore we wa kabiri amutemesheje umuhoro [313].

252. CGM avuga ko yabonye Uregwa ubwo yari yihishe mu bihuru hafi y'urutoki. Agereranije yari yihishe mu ntera ya metero 30 cyangwa 35 uvuye aho Uregwa yari[314]. N'ubwo ubusanzwe yirindaga kunyura kuri za bariyeri, mu rukerera yaje kugera kuri iyo bariyeri atabishakaga maze arihisha. Avuga ko yamenye Uregwa akiva mu modoka, ko yamwitegereje maze akamenya ko ari we igihe Uregwa yavuganaga na DR n'abandi bantu bari bateraniye aho. CGM avuga ko abona Uregwa bwa mbere, yigaga mu mwaka wa kabiri w'amashuri abanza. Yongeraho ko yaba yarahigishije igihe gito cyangwa akahakorera umwimenyerezo[315]. Avuga kandi ko Habyarimana amaze kugera ku butegetsi, yabonye Uregwa mu iduka rya TRAFIPRO, ku Kibuye[316]. Mu iburanisha, umutangabuhamya yerekanye Uregwa[317].

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[312] Ni kimwe no haruguru, imp. 7- 8, 15-17, 48-49
[313] Ni kimwe no haruguru, imp. 8-10
[314] Ni kimwe no haruguru, imp. 12, 46-49. Mu ibaza rinyomoza, avuga n'intera ya metero 60, ariko igisubizo cye nticyumvikanaga neza (urup. 41). Mu kimenyetso gihamya N° 16 cyatanzwe na Porokireri, umutangabuhamya yashushanyije akaziga kerekana aho yari yihishe ku gishushanyo gifite nomero 4 kiri mu kimenyetso gihamya N° 2 cyatanzwe na Porokireri.
[315] Aho ishuri riri handitswe ku kimenyetso gihamya N° 13 cyatanzwe na Porokireri gifite.
[316] Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp.3-6, 48-51.
[317] Ni kimwe no haruguru, imp.21-22. Ubwunganizi bugaragaza ko mu bantu 13, Uregwa ari we wenyine w'umwirabura kandi wambaye gisiviri.

Gusuzuma ukwizerwa k'umutangabuhamya

253. Ukwizerwa kwa CGM kurakemangwa[318]. Ubwunganizi bubaza uyu mutangabuhamya impamvu atavuze izina ry'Uregwa mu buhamya yatanze mbere mu nkiko z'u Rwanda. Umutangabuhamya asobanura ko yumvaga Porokireri wo ku Kibuye amusaba gusa gushinja abantu bazwi ko bari mu Rwanda kandi bashobora kuhakurikiranirwa[319]. Urugereko rwemera icyo gisobanuro maze rugasanga cyakwizerwa.

254. Ubwunganizi busanga bidashoboka ko umutangabuhamya yamenya Uregwa. Buvuga ko bidashoboka cyane ko, ubwo yigaga mu mwaka wakabiri w'amashuri abanza, umutangabuhamya yabonye Uregwa, kuko Uregwa amurusha imyaka icumi y'amavuko kandi akaba yarigaga ahandi. Buvuga ko Uregwa atigishije cyangwa ngo akore umwimenyerezo ku ishuri umutangabuhamya yizemo. Buvuga ko CGM atabonye Uregwa kuri TRAFIPRO ku Kibuye, kuko Uregwa ahakana ko atigeze ahakora. Byongeye kandi, mu buhamya bwe bwanditse, umutangabuhamya ntavuga na rimwe ko yabonye Uregwa kuri TRAFIPRO. Ubwunganizi bwatanze ibimenyetso byanditse byerekana ko Uregwa yakoze ku cyicaro gikuru cya TRAFIPRO i Kigali, ari umukuru w'ishami ry'imari, kuva mu Gushyingo 1976 kugeza mu Kuboza 1981[320].

255. CGM yemera ko atazi neza icyo Uregwa yakoraga ku kigo cy'amashuri yigagaho ndetse akavuga ko yahamaze igihe gito. Kuba Uregwa yaramurutaga kandi yiga ku rindi shuri, ntibyatuma umutangabuhamya atakwizerwa. Urugereko nti rwumva kandi ko Uregwa adashobora kuba yarageze kuri Koperative TRAFIPRO ku Kibuye ubwo yakoraga ku cyicaro gikuru cy'iyo Koperative i Kigali. Umutangabuhamya yemeza ko Uregwa yahakoze « igihe gito gusa » ariko agakomeza kuvuga ko yahamubonye inshuro nyinshi. Asobanura kandi ko, ubwo

[318] Imyanzuro nsozarubanza ya Porokireri, imp. 22-23, 56-57, 125-126 ; Imyanzuro y'Ubwunganizi, ibika 654-730 ; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp.14-18, 33-35; Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp.36-42, 71-72
[319] Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp. 29-32
[320] Ikimenyetso gihamya N° 58 cyatanzwe n'Ubwunganizi

yabonanaga n'abakora iperereza ku itariki ya 27 Gashyantare 2001, nta buhamya yatanze ku byerekeranye na TRAFIPRO kubera ko «umuntu adashobora kuvuga ibintu byose »[321]. Urugereko rusanga ubuhamya abagabo bashinja batanze mu Rukiko buvuga ko babonye Uregwa ku iduka rya TRAFIPRO ku Kibuye bwakwemerwa kuruta ubw'Uregwa. Rushingiye ku bisobanuro birambuye biri mu buhamya, rushingiye kandi ku kuba Uregwa ashobora kuba yarasuye ishami rya TRAFIPRO, Urugereko rusanga rutakwemera ibyo Ubwunganizi buvuga ko abo batangabuhamya bose bagambanye ngo bavuge ko Uregwa yari mu iduka rya TRAFIPRO ku Kibuye.

256. Ubwunganizi bwemeza ko bitumvikana, ndetse bidashoboka ko umutangabuhamya yaba yarashoboye kwihisha hafi ya bariyeri ya Nyabahanga. Mu buhamya yatanze mu Rukiko, DR avuga ko bitashobokaga ko CGM yihisha ahantu avuga yihishe, cyane cyane ko aho hantu hari hagendwaga cyane[322]. CGM avuga ko yihishe kure cyane mu bihuru, kugira ngo batamubona. Yongeraho ko atihishe aho hantu yabigambiriye, ko ahubwo yari mu nzira imujyana ahandi yashoboraga kubona ibyo kurya. DR avuga kandi ko aho hantu hatari utubari tubiri, ko ahubwo hari utubari tugera ku munani, bityo akanyomoza ubuhamya bwa CGM[323].

257. Urugereko rusanga ibyo CGM yemeza ko yabonye DR kuri bariyeri, bishyigikirwa na DR ubwe, uvugira mu Rukiko ko yari aho hantu, n'ubwo uburyo abivuga butandukanye n'ubwa CGM. Ibyo bishimangira imvugo ya CGM yemeza ko yabonye ibikorerwa kuri bariyeri ariko abari bayiriho ntibamubone, akanyomoza DR uhakana atsemba ko iyo CGM aza kuba aho hantu aba yaravumbuwe byanze bikunze. Urugereko rwemera ko CGM yashoboraga kwihisha ntibamubone mu ntera igeze kuri metero 35 uvuye kuri bariyeri. Rusanga kandi CGM yarashoboraga kumva ibyo Uregwa avuga kubera ko,

[321] Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp. 48-50. Ubuhamya bwanditse CGM yatanze mbere bwemewe nk'ikimenyetso gihamya No 10 cyatanzwe n'Ubwunganizi.
[322] Inyandikomvugo y'iburanisha, 3 Ugushyingo 2003, imp. 2-3
[323] Ni kimwe no haruguru

nk'uko abivuga mu buhamya bwe mu Rukiko, Uregwa yavugaga mu ijwi riranguruye ubwo yahaga imbaga y'abantu amabwiriza mu Kinyarwanda [324].

258. Ubwunganizi bwemeza ko mu buhamya yatanze mu Rukiko, CGM yagiye ahindagura ibyo avuga ku byabaye byerekeranye n'uko yahunze ava iwe, itariki avuga ko yaboneyeho Uregwa, n'uko ibintu byagenze kuri bariyeri. Buvuga kandi ubwo buhamya buvuguruza ubwanditse yatanze[325]. Urugereko rusanga umutangabuhamya yarize kugera mwaka wa kane w'amashuri abanza, kandi kuva icyo gihe akaba akora akazi k'ubuhinzi. Yasohotse muri Perefegitura avukamo bwa mbere aje gutanga ubuhamya Arusha[326]. Ntiyahitaga yumva ibibazo byose bamubaza, kandi yavuze ko byari bimukomereye gusubiza adahuzagurika ku byerekeranye n'ibyabaye bitera guhahamuka, no kuvuga amatariki nyayo[327]. Cyakora, ubuhamya bwe mu Rukiko bushyize mu gaciro kandi ntibuhuzagurika. Byongeye kandi, avuga neza ibikorwa byabereye kuri bariyeri y'i Nyabahanga. Ubona avugisha ukuri iyo avuga ibyabaye. Nta kintu kigaragaza ko yashatse kuyobya Urugereko. Urugereko rusanga umutangabuhamya akwiye kwizerwa.

259. CGM avuga ko konseye witwa Pierre Mugemangango yategetse DR kurinda no kugenzura bariyeri[328]. DR yemera ko yari azi uwo mukonseye, ariko akavuga ko uwo mukonseye atigeze na rimwe agenzura iyo bariyeri. Yemeza ko abandi bayobozi bari bashinzwe Segiteri ya Gitarama aho iyo bariyeri yari iri. Urugereko rusanga ukuvuguruzanya kuvugwa mu buhamya bwatanzwe mu Rukiko kudakomeye kandi kutahungabanya ukwizerwa kwa CGM.

Umutangabuhamya wiswe DR

260. Mu buhamya yatanze mu Rukiko, DR avuga ko ari umwe mu bantu bari barinze bariyeri yari ku muhanda munini wa Gitarama-Kibuye, ku kiraro cya

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[324] Inyandikomvugo y'iburanisha, 15 Nzeri 2003, imp.14-15
[325] Imyanzuro y'Ubwunganizi, ibika 657-691
[326] Inyandikomvugo y'iburanisha, 5 Nzeri 2003, imp.50-51
[327] Inyandikomvugo y'iburanisha, 15 Nzeri 2003.
[328] Ni kimwe no haruguru, imp. 35-38, 41-42, 43-44, 53-54.

Nyabahanga, muri Segiteri ya Gitarama, mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena. Avuga ko iyo bariyeri yashyizweho bitegetswe na Etienne Ngerababyeyi, wari Konseye wa Segiteri ya Gitarama, maze akabwira Pierre Nsegureze wari umuyobozi wa Serire ya Kigesi, gutangira impunzi z'Abahutu zahungaga FPR zigana i Cyangugu no ku Kibuye. I Nyamuyeve hashinzwe « inkambi y'igihe gito » kugira ngo yakire impunzi. Avuga ko kuri iyo bariyeri, bagenzuraga indangamuntu, abantu bakekwaho kuba *Inkotanyi* cyangwa kuba muri FPR bagombaga gufatwa bagashyikirizwa abategetsi babishinzwe[329]. Kuri bariyeri hari umuntu umwe ufite imbunda, abandi bari bafite imihoro bakuye mu ngo, inkoni n'impiri. DR avuga ko yaje guhabwa gerenade kandi ko nta muntu wiciwe kuri iyo bariyeri. Cyakora, yongeraho ko Abatutsi bane biciwe hafi yaho, bishwe n'abandi bantu batari barinze iyo bariyeri[330].

261. DR avuga ko atabonye Uregwa kuri bariyeri, kandi ko atigeze yumva abantu bavuga ko yahageze. Yemeza ko aba yarabimenye iyo Uregwa aba yarahatangiye imihoro, kandi ko, ibyo ari byo byose, batari bakeneye imihoro kubera ko iyo bari bafite yari ihari ihagije. Asobanura ko wenda Uregwa ushobora kuba yaranyuze kuri iyo bariyeri yigendera ari kumwe n'abantu bamurinze, ariko ko atigeze yumva bivugwa [331].

262. Porokireri avuga ko ibisobanuro umutangabuhamya atanga ku mpamzu zatumye iyo bariyeri ishyirwaho « bitangaje ». Yibutsa kandi ko, n'ubwo umutangabuhamya uvuga ko atabonye Uregwa aho hantu, Uregwa yiyemera ko ku itariki ya 2 Kamena 1994 yanyuze muri uwo muhanda avuye i Gitarama ajya ku Kibuye. Porokireri abona bisa naho nta kuntu umutangabuhamya yaba atarumvise nibura bavuga ko Uregwa yahanyuze [332].

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329 Ikimenyetso gihamya N° 39 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro) ; Inyandikomvugo z'amaburanisha, 31 Ukwakira 2003, imp. 52-53; 3 Ugushyingo 2003, imp. 1-2, 6-7, 9-10.
330 Inyandikomvugo z'amaburanisha, 31 Ukwakira 2003, imp. 53-54; 3 Ugushyingo 2003, imp. 6-7.
331 Inyandikomvugo y'iburanisha, 3 Ugushyingo 2003, imp. 3-6
332 Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 17-18

Gusuzuma ukwizerwa k'umutangabuhamya

263. Urugereko rusanga ibisobanuro by'umutangabuhamya ku byerekeye intego y'iyo bariyeri, no kuba ashaka kwerekana ko nta gikorwa kibi yakoze, bitesha agaciro cyane ukwizerwa kwe. Biragaragara ko DR agamije kuvuga ko Uregwa ari umwere, kugira ngo wenda na we ubwe atazaregwa ko yagize uruhare mu byaha byakorewe kuri bariyeri. Kuba DR atemera ko Uregwa yanyuze kuri bariyeri nibura inshuro imwe, kandi Uregwa we abyiyemerera, bituma Urugereko rusanga umutangabuhamya akora uko ashoboye ngo Uregwa atagira igikorwa kibi abarwaho, cyaba gifite aho gihuriye n'iyo bariyeri. Rumaze gusuzuma ingingo z'ababuranyi, Urugereko rusanga ubuhamya bwa DR mu Rukiko butakwizerwa[333].

Imyanzuro ku byabaye.

264. Urugereko rusanga, ahagana mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena, Uregwa yarashinze abantu gutanga imihoro kuri bariyeri yari iruhande rw'ikiraro cya Nyabahanga, ku muhanda Kigali-Kibuye. Byongeye kandi, Urugereko rusanga Uregwa yarashishikarije abantu bari kuri bariyeri kwica Abatutsikazi bashakanye n'Abahutu.

6.4 Imyiregurire ivuga ko Uregwa atari aho icyaha cyakorewe igihe cyakorwaga (*Alibi*)

265. Ubuhamya bwa DP mu Rukiko, bwasuzumwe haruguru mu cyiciro cya 4.5 na bugenderwaho na none mu gusuzuma ibyo Uregwa ashinjwa ko muri Gicurasi 1994 yaba yaragiye kuri bariyeri muri Komine ya Gitesi. Kubera impamvu zivugwa muri icyo cyiciro, Urugereko rwemeza ko ubuhamya bwa DP mu Rukiko

[333] Ni kimwe no haruguru, imp. 17-18; Imyanzuro nsozarubanza ya Porokireri, imp. 96-99, Imyanzuro y'ubwunganizi, ibika 721-730.

budatuma na rimwe rushidikanya k'ukwizerwa k'ubuhamya CGC na CGM batanze mu Rukiko.

7. Kuba Uregwa ashinjwa ibikorwa byo guhamagarira [abantu gukora icyaha], yaba yarakoreye kuri santeri y'ubucuruzi yo ku Gitaka muri Gicurasi 1994

266. Uregwa ashinjwa kuba yarakoze jenoside, kubera ibikorwa yaba yarakoreye kuri santeri y'ubucuruzi yo ku Gitaka, muri Segiteri ya Gasharu :

8. Mu ntangiriro za Gicurasi 1994, Emmanuel Ndindabahizi, ari kumwe n'umusirikare, yahagaze kuri bariyeri muri Serire ya Gisharu. Joël Ndabukiye wari umukuru w'*Interahamwe* zo muri ako gace yari kuri iyo bariyeri. Emmanuel Ndindabahizi yashimiye abari aho kubera ubwitange bwabo, ariko ababurira ko abagabo babiri ari bo Karegeya na Mukantabana bakiriho. Emmanuel Ndindabahizi yabashishikarije ku mugaragaro kwica abo bantu, maze avuga ko Abatutsi bose bo mu karere nibicwa, Joël Ndabukiye azagirwa Perefe, umuhungu we akaba Burugumesitiri, naho Augustin Karara akaba Depite.

9. Mu ntangiriro za Gicurasi 1994, Joël Ndabukiye n'umuhungu we bishe Karegeya na Mukantabana babakubise impiri, naho *Interahamwe* zicira abandi basiviri b'Abatutsi muri iyo serire, zishyira mu bikorwa amabwiriza zari zahawe na Emmanuel Ndindabahizi.

10. Mu kwezi kwa Gicurasi 1994, kuri santeri y'ubucuruzi yo ku Gitaka muri Serire ya Gasharu, imbere y'urugo rwa Joël Ndabukiye, Emmanuel Ndindabahizi yahagarikiye ibikorwa byaberaga kuri bariyeri cyangwa abigiramo uruhare, ubwo yahaga *Interahamwe* n'abandi bantu bari aho, amabwiriza yo kwica abasiviri b'Abatutsi.

267. Emmanuel Ndindabahizi ashinjwa kandi ubwicanyi nk'icyaha cyibasiye inyoko muntu, kubera ibikorwa bikurikira :

> 27. Umunsi umwe mu ntangiriro za Gicurasi 1994, Emmanuel Ndindabahizi yategetse abantu ku mugaragaro kwica abasiviri babiri b'Abatutsi, ari bo Karegeya na Mukantabana, kandi atangaza ko Abatutsi baho bose nibicwa, Joël Ndabukiye na Augustin Karara bazagororerwa imyanya mu butegetsi bwo muri ako karere. Nyuma yaho gato Joël Ndabukiye n'umuhungu we bishe Karegeya na Mukantabana babakubise impiri.
>
> 28. Tatiana Nyiramaritere, Karegeya na Mukantabana bishwe bitegetswe, mu buryo butaziguye, na Emmanuel Ndindabahizi ubwe.

Umutangabuhamya ushinja wiswe CGF

268. Mu buhamya bwe mu Rukiko, CGF avuga ko mu mpera za Gicurasi 1994 yagiye kuri bariyeri yari kuri santeri y'ubucuruzi yo ku Gitaka. Bari bamuburiye ko abantu bari bagiye kwica umukobwa we yari yohereje kuvoma amazi kuri robine yari hafi ya bariyeri[334]. Bariyeri yari mu muhanda uva ku Kibuye ujya ku kigo nderabuzima cya Kirambo, yari hagati y'inzu ya Augustin Karara n'iya Joël Ndabukiye. Karara na Ndabukiye ni Abahutu. Karara yari afite akabari naho Ndabukiye ari Umuyobozi w'ikigo cy'amashuri abanza. Bariyeri yari yarashyizweho na Ndabukiye kandi ni na we wayigenzuraga[335]. N'ubwo uyu mutangabuhamya ari Umuhutu, umukobwa we yari agiye kwicwa bitewe n'uko

[334] Ikimenyetso gihamya No 8 cyatanzwe na Porokireri (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano), Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 25-27, 43-44, 45-48, 50-52.

[335] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 26-27. Umutangabuhamya avuga kandi ko uwitwa Rukundakuvunga (banita Rukunda) ari umwe mu bicanyi bari ku muhanda kuri bariyeri. Ni kimwe no haruguru, imp.33-34, 55-56. Iryo zina rikunze kwandikwa ku buryo bukurikira « Rukundakuvuga », kandi uretse mu gihe rwabigena ukundi, iyi myandikire ni yo Urugereko rwemeje.

nyina yari Umututsikazi. CGF avuga ko yabashije gukiza umukobwa we abifashijwemo n'abandi bantu bamuvuganiye[336].

269. Mu ma saa sita z'amanywa, ubwo CGF n'umukobwa we bari bakiri kuri iyo bariyeri, Uregwa yarahageze ari mu kavatiri k'umweru, hamwe n'umushoferi n'umusirikare[337]. Yamenye ko ari Uregwa kuko yumvise Karara avuga ngo : « Ndindabahizi araje. Ndindabahizi araje », kandi yari azi na bashiki b'Uregwa . Abantu bari aho barasakuje kubera ibyishimo, maze bimwereka ko hari umutegetsi uhageze. Umutangabuhamya yari yarumvise bavuga ko Uregwa ari Minisitiri w'Imari muri Guverinoma y'Agateganyo[338].

270. Uregwa yavuye mu modoka ye, maze avugana n'abantu bari kuri bariyeri ku muhanda, cyane cyane Ndabukiye na Karara. Yasabye kubona Karegeya. Bamubwiye ko Karegeya atari yicwa, ababaza i mpamvu[339]. Nyuma yasabye abantu bari aho guhiga Abatutsi aho bari hose kuko ari bo baryozwa urupfu rwa Perezida. Yanabagiriye inama yo kutarya inka z'Abatutsi, ahubwo bakazorora ngo kuko Abatutsi bazarimburwa. Yongeyeho ko abazakurikiza amategeko atanze bazahembwa amasambu[340]. CGF yari azi ko Karegeya, wari Umututsi w'umworozi, ari mubyara w'Uregwa. Ntiyari azi impamvu Uregwa ashaka gufata mubyara we, ariko avuga ko icyo gihe « nta rukundo rwari rukiri mu bantu »[341]. Hari n'ibibazo Uregwa yabajije Ndabukiye byerekeye Umututsikazi witwa Nyeramaritete. Yabimubajije muri aya magambo : « Bambwiye ko Tatiane Nyeramaritete akiriho. Ibyo bintu biteye bite ? Numvise kandi ko Nyeramaritete yaguhaye inka. Ningaruka bakambwira ko akiriho, bizaduteranya »[342]. Umutangabuhamya avuga ko yumvise ayo magambo ari nko muri metero

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[336] Ni kimwe no haruguru, imp.26-27, 50-52.
[337] Ni kimwe no haruguru, imp. 25-26, 27-28, 35-36.
[338] Ni kimwe no haruguru, imp. 27-28, 46-48.
[339] Ni kimwe no haruguru, imp. 28-30.
[340] Ni kimwe no haruguru, imp. 28-30.
[341] Ni kimwe no haruguru, imp. 230, 31 na 34-37.
[342] Ni kimwe no haruguru, imp.30-31, 34-35. Mu Nyandiko y'ibirego, mu myanzuro mbanzirizarubanza no mu nyandikomvugo z'iburanisha, izina Nyeramaritete ryanditse ku buryo bunyuranye. Urugereko rwemeje kwandika Nyiramaritete, keretse mu gihe rusubiramo ku buryo butaziguye amagambo y'inyandiko iryo zina ryanditse ukundi.

umunani[343] kandi ko Uregwa atatinze kuri bariyeri, ko yahavuye akerekeza ku Kibuye[344].

271. CGF avuga ko, hashize iminsi myinshi, yumvise ko Nyiramaritete na Karegeya bishwe ku munsi umwe n'abasiviri bitwaje amacumu, impiri n'imihoro. Ubwo bwicanyi ntiyabuhagazeho, bityo akaba adashobora kuvuga amazina y'ababukoze[345]. Avuga kandi ko yabonye mu nsi y'umuhanda icyobo cyari cyarajugunywemo imirambo, irimo uw'umugore w'Umututsikazi wari warashatswe na muramu we[346].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

272. Ababuranyi bombi bavuze ku kibazo cy'ukwizerwa kwa CGF[347]. Urugereko rusanga mu ibaza ry'ibanze no mu ibaza rinyomoza umutangabuhamya avuga, mu buryo bujyanye, uko ibintu byagenze. Rusanga kandi atanga ibisobanuro atanyura ibintu ku ruhande. Cyakora, Ubwunganizi bwemeza ko hari ukwivuguruza kwinshi hagati y'ubuhamya bw'umugabo mu Rukiko n'ubuhamya bwanditse yatanze mbere, ku itariki ya 19 Ukwakira 2000[348].

273. Ubwunganizi buvuga ko ibyo CGF yemeje mu iburanisha ko Uregwa yagiye ku Gasharu mu mpera za Gicurasi bivuguruza ubuhamya bwe bwa mbere, aho avuga ko ibyabereye kuri bariyeri byabaye mbere mu mpera za Mata. Mu buhamya yatanze mu Rukiko kimwe no mu bwanditse yatanze mbere, umugabo avuga ko imodoka yoherejwe na Burugumesitiri Karara yageze ku Gasharu muri Mata, kandi ko umushoferi yasabye ko yajyana Abatutsi kuri sitade ya Kibuye aho bari

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343 Ni kimwe no haruguru, imp. 31-32. Umutangabuhamya yabanje kuvuga ko agereranyije aho hantu hareshya na metero eshanu cyangwa asheshatu, ariko nyuma avuga ko agereranyije ari nka metero 8 na santimetero 40 (hangana n'intera iri hagati y'aho yari yicaye n'akazu k'abasemuzi).
344 Ni kimwe no haruguru, imp. 33-34.
345 Ni kimwe no haruguru, imp.30-32.
346 Ni kimwe no haruguru, imp.32-33.
347 Imyanzuro nsozarubanza ya Porokireri, ibika 13-17 ; imyanzuro y'Ubwunganizi, ibika 242-286; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 22-23, 47-48; Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp.6-8, 16-17, 54-56.
348 Ikimenyetso gihamya N° 9 cyatanzwe n'Ubwunganizi

kurindirwa umutekano[349]. Bushingiye ku buhamya DN yatanze mu Rukiko, Ubwunganizi buvuga ko imodoka ya Karara yahageze ku itariki ya 13 Mata. Nyamara mu buhamya bwanditse, CGF avuga ko yari yihishanye n'abantu bo mu muryango we, kandi ko yari yohereje umukobwa we kuvoma amazi « muri icyo cyumweru » umushoferi wa Karara yajemo.

274. Ibimenyetso bitanyomojwe byerekana ko ubwicanyi bwo kuri sitade ya Kibuye bwatangiye ku itariki ya 18 Mata 1994[350]. Bityo, nk'uko Ubwunganizi bubyemeza, imodoka yoherejwe na Burugumesitiri igomba kuba yarahageze mbere y'iyo tariki. Nyamara mu buhamya bwe mu Rukiko, CGF akomeza kuvuga ko iyo modoka yahageze muri Gicurasi. Cyakora, Urugereko rusanga uko kwibeshya ku matariki ubwa byo bitatuma ubuhamya bwe bushidikanywaho.

275. Ubwunganizi busanga bitangaje kumva ko umutangabuhamya yohereje umukobwa we kuvoma amazi, mu gihe we yari yihishanye n'umugore we. Urugereko ruributsa ko, mu muco nyarwanda, umukobwa w'umutangabuhamya yafatwaga nk'Umuhutukazi. Bityo bikaba byarashobokaga ko bagira icyo bamutuma. N'ubwo bamuhuruje ngo ajye kuri bariyeri gukiza umukobwa we, Urugereko rwemera ko umutangabuhamya yashoboraga no kuhaguma ku mugaragaro, n'ubwo bashoboraga kutamushira amakenga bitewe n'uko umugore we yari Umututsikazi. Urugereko ntirwirengagiza kandi ibyavuzwe n'umutangabuhamya, by'uko inzu ye yashenywe na we agakomereka, ariko rusanga ibyo byarabaye nyuma, amaze kohereza umugore we muri segiteri avukamo[351].

276. Ubuhamya bwanditse bwa CGF bugaragaza ko uyu mugabo yari asanzwe azi neza Uregwa, kandi ko yahise amumenya igihe yageraga kuri bariyeri.

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[349] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp. 40-42, 44 -46.
[350]Inyandikomvugo z'amaburanisha, 30 Ukwakira 2003, imp. 4-5 (DC), 3 Ugushyingo 2003, imp.34-35 (DN), inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 37-38 (CGH).
[351] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp.52-53, 56-58.

Umutangabuhamya yemeza kandi ko azi bashiki b'Uregwa [352]. Cyakora, mu Rukiko CGF yemera ko yabonye Uregwa bwa mbere kuri bariyeri, kandi ko yamumenye yumvise Karara amuvuga izina. Urugereko rusanga umutangabuhamya yarivuguruje[353].

277. Mu Rukiko, CGF anatanga buhamya kuri Mukantabana. Ku byerekeye amagambo ahamagarira abantu ubwicanyi Uregwa yaba yaravuze, Urugereko rusanga mu buhamya bwanditse CGF yatanze mbere, bigaragara neza ko na Mukantabana ubwe yari ahari igihe Uregwa yavuga amagambo amwibasiye. Ibyo ntibyumvikana, kandi umutangabuhamya avuga ko abakoze iperereza ari bo bibeshye. Cyakora, umuntu ahereye ku buryo avuga ibyo bintu mu buhamya bwe bwanditse ko « Uregwa yaje kugira icyo abwira » Mukantabana, akoresheje ijambo « wowe », iryo kosa ryari kuba ryarakosowe ubwo bamusomeraga ubuhamya bwe bwanditse[354].

278. Urugereko rwasuzumye kandi ibindi bintu bivugwa n'Ubwunganizi, birimo ko ibyo umutangabuhamya yavuze ari byo bituma atakwizerwa, kuko yemeje ko mbere atari yarigeze akandagira mbere mu cyumba cy'iburanisha, kandi mbere y'uko abagabo bose batanga ubuhamya mu Rukiko, Ibiro bya Gerefiye bibazana gusura icyo cyumba[355]. Urugereko rusanga iyo ngingo idafite akamaro.

279. Muri rusange, CGF yagaragaje ko yakwizerwa. Cyakora, hagati y'ubuhamya bwe mu Rukiko n'ubwo yatanze mu nyandiko, harimo ukwivuguruza gukabije ku bintu bine: icya mbere, mu buhamya bwe bwanditse avuga ko imodoka y'Uregwa

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[352] Ni kimwe no haruguru, imp. 46-50.

[353] Ni kimwe no haruguru, imp.34-35. Muri rusange Ubwunganizi bukemanga agaciro gahabwa ikimenyetso cyo kuba abatangabuhamya barerekanye Uregwa mu iburanisha. Reba umutwe wa I, icyiciro cya 5 cyavuzwe haruguru.

[354] Ku rupapuro rwa nyuma rw'ubuhamya hari igika kivuga ko inyandiko mu rurimi rw'Icyongereza yasemuwe mu magambo mu Kinyarwanda, kandi ko umutangabuhamya yumvise akanasobanukirwa n'ibyasemuwe. CGF yashyize umukono kuri urwo rupapuro. Urugereko rwasanze kandi mu buhamya bwe CGF yaremeje ko umutangabuhamya wiswe CGX yari ku muhanda kuri bariyeri, kandi ko yumvise Uregwa avuga « neza ibyo maze gusobanura ». Mu buhamya yatanze nyuma, CGX nta cyo yavuze kuri Mukantabana, ariko yavuze ko yabonye umutangabuhamya wiswe CGB ku muhanda kuri bariyeri.

[355] Inyandikomvugo y'iburanisha, 9 Nzeri 2003, imp.48-50.

yari umukara aho kuba umweru ; icya kabiri, izina rya Karegeya nta ho rivugwa ; icya gatatu, avuga ko Mukantabana yari ku Gitaka ubwo Uregwa yahazaga ; icya kane, avuga ko yari asanzwe azi Uregwa ku isura mbere yuko ajya ku Gitaka. Mu buhamya yatanze mu Rukiko, CGF yemeza ko iyo modoka yari umweru. Avuga ko abakoraga iperereza nta kibazo bamubajije kuri Karegeya, cyangwa se ko yibagiwe kuvuga izina rya Karegeya bitewe n'uko atari azi icyo ibazwa ryari rigamije, kandi ko yari afite igihunga[356]. Urugereko rusanga umutangabuhamya afite amashuri make kandi avuga ikinyarwanda gusa. Bityo, n'ubwo bishoboka ko haba harabayeho ukutumvikana neza hagati y'umutangabuhamya n'abakoraga iperereza banditse ubuhamya, Urugereko rusanga uko kwivuguruza ku ngingo enye kwiyongera ku ihindagurika ry'ibyo yibuka ku matariki Uregwa yaziyeho, ari ibintu bigomba kuzirikanwa mu gusuzuma ukwizerwa kwe. Urugereko rurasuzuma ubuhamya bwe rwifashishije ibindi bimenyetso byose bigiye gusuzumwa ku buryo burambuye kurushaho mu bika bikurikira.

Umutangabuhamya ushinja wiswe CGE

280. CGE, w'Umututsi, avuga ko urugo yabayemo kandi agakuriramo ruri nko muri metero 200 uvuye k'urw'ababyeyi b'Uregwa, muri Serire ya Gasharu, Komine ya Gitesi. Uregwa ntiyari agituye ku Gasharu, ariko umutangabuhamya yamubonaga kenshi iyo Uregwa yazaga gusura ababyeyi be. Yanamubonye kandi aje kurongora[357]. Umutangabuhamya yumvise abantu bavuga ko Uregwa yabaga i Kigali, kandi ko yari umukozi wo mu rwego rwo hejuru muri *Electrogaz*[358].

281. Umutangabuhamya yibuka ko yabonye Uregwa inshuro ebyiri. Asobanura ko rimwe yamubonye mu mwaka wa 1993, ubundi akamubona mu wa 1994. Kuri iyo nshuro ya mbere Uregwa yatangaga ingofero z'ishyaka PSD kuri santeri

[356] Ni kimwe no haruguru, imp. 52-53.
[357] Ikimenyetso gihamya N° 9 cyatanzwe na Porokireri (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 10 Nzeri 2003,imp. 5-6, 21-23, Inyandikomvugo y'iburanisha, 10 Nzeri 2003 (inyandiko mu rurimi rw'Igifaransa), urup. 5, ahavugwa neza ko Gasharu ari Serire (aho kuba Segiteri nk'uko biteye mu nyandiko iri mu rurimi rw'Icyongereza).
[358] Inyandikomvugo y'iburanisha, 10 Nzeri 2003, imp. 6-7, 22-24.

y'ubucuruzi yo ku Gitaka ku Gasharu, abifashijwemo n'uwitwa Albert Gatwa, ariko akaziha Abahutu gusa[359]. Umutangabuhamya asanga Uregwa yaratanze kandi ingofero muri Serire ya Nyagahinga. Akeka ko icyo gihe Uregwa yari umwe mu bayobozi ba PSD, mbere yo kuba Perezida w'iryo muri Perefegitura ya Kibuye mu mwaka wa 1994[360].

282. CGE yanabonye Uregwa kuri bariyeri yo kuri santeri y'ubucuruzi yo ku Gitaka, hafi ya saa sita z'amanywa, mu mpera z'ukwezi kwa Gicurasi mu mwaka wa 1994, ubwo yazaga mu kavatiri k'umweru, ari kumwe n'umushoferi n'umusirikare[361]. Iyo bariyeri yari hagati y'inzu ya Joël Ndabukiye, wari Diregiteri w'ishuri rya Kirambo, n'iya Augustin Karara, wari umucuruzi, bombi bakaba ari Abahutu[362]. Uregwa ahagera yahasanze Ndabukiye, wari umukuru wa bariyeri na Karara n'abandi bantu benshi barimo *Interahamwe* zitwaje impiri, imihoro, amacumu n'inkota[363]. Uregwa yababajije niba Karegeya atarapfa. Bamaze kumusubiza ko akiriho, Uregwa aravuga ati :

> « Niba atarapfa muravuga ngo mwica abantu kandi mubeshya, si byo? Nta bantu mwica. Niba atarapfa ni ukuvuga ko mudakora akazi kanyu… Ndabasaba kwica Abatutsi bose ku buryo … mu bihe bizaza, abana b'Abahutu bazabaza uko Abatutsi basaga[364] »

Uregwa yaje kongeraho ko bazagabana amasambu y'Abatutsi bamaze kwicwa. Abantu bari kuri bariyeri bahise bajya guhiga Karegeya maze baramwica. CGE avuga ko yumvise ko mu cyumweru cyakurikiye urugendo rw'Uregwa, Karegeya yiciwe mu gihuru, umurambo we ukaribwa n'imbwa[365]. Abantu bamwe bahawe amasambu y'Abatutsi nk'uko Uregwa yari yabibasezeranyije. Muri bo harimo

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[359] Ni kimwe no haruguru, imp. 5-7, 22-24.
[360] Ni kimwe no haruguru, imp. 6-7. Yibuka ko Perezida wa PSD ku Kibuye mu mwaka wa 1993 yari uwitwa Ndindabo.
[361] Ni kimwe no haruguru, imp.7-12.
[362] Ni kimwe no haruguru, imp. 7-9.
[363] Ni kimwe no haruguru, imp. 9-10, 12-13, 26-27. Mu bahutu bari kuri bariyeri umutangabuhamya yavuzemo kandi amazina ya Sendiragora, mwishywa w'Uregwa, na Rukundakuvuga (Rukunda), ariko ntavuga niba bari bahari ubwo Uregwa yazaga.
[364] Ni kimwe no haruguru, imp. 10-13, 29-30.
[365] Ni kimwe no haruguru, imp. 13-14, 18-19.

Ndabukiye na Seyeze, murumuna w'Uregwa. Umutangabuhamya yumva Uregwa yarifuzaga ko Karegeya apfa kugira ngo amutwarire isambu. Ni na ko byagenze amaze gupfa. Karegeya wari umuhinzi mworozi w'Umututsi yari mubyara w'Uregwa [366].

283. CGE yabonye ibyabereye kuri bariyeri yihishe mu gihuru, ahantu avuga ko hari nko muri metero umunani uvuye kuri bariyeri aho Uregwa n'abandi bantu bari bari[367]. Ubwo bwihisho yabuhisemo kugira ngo yumve imigambi y'abantu bagabaga ibitero. Yabuhisemo kandi bitewe n'uko nta muntu wari gukeka ko hari uwakwihisha bugufi bene ako kageni[368]. Avuga ko iyo bariyeri yari iyo kwica Abatutsi, kandi ko yiboneye ubwe aho bica abantu batatu ari bo Etienne Habimana, umurambo we ukaba warajugunywe mu cyobo rusange cyari hafi ya bariyeri, Serumondo na Siméon Nsengiyumva bita Mugambi waciwe umutwe na Rukunda. CGE anavuga ko yumvise ko Tatiana Nyiramaritete, Umututsikazi washakanye na Charles Munyankindi, yiciwe kuri bariyeri nyuma y'uko agerageza guhungira kwa Ndabukiye. Cyakora, avuga ko atiboneye ubwe bamwica[369]. Avuga ko na we ubwe yafatwaga nk'Umututsi kuko ise yari Umututsi (yapfuye mbere y'umwaka wa 1994) maze akongeraho ko yapfushije abavandimwe benshi mu byabaye mu mwaka wa 1994[370].

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[366] Ni kimwe no haruguru, imp. 12-13, 29-30.
[367] Ni kimwe no haruguru, imp. 9-10. Mbere umutangabuhamya yari yavuze ko agereranyije izo metero zari hafi eshanu, nyuma avuga ko zari 8 na santimetero 40 (hangana n'intera yari hagati ye n'urukuta rwari inyuma ya Porokireri)
[368] Ni kimwe no haruguru, imp. 10-12, 26-29.
[369] Ni kimwe no haruguru, imp.13-14, 33-34. Babiri muri abo bantu bishwe mbere y'uko Uregwa aza, undi yicwa nyuma. Nyuma y'ibaza rinyomoza, umutangabuhamya yavuze izina ry'undi muntu, Ateyum Habyarimana, wishwe mu mpera za Mata; ni kimwe no haruguru, imp. 32-34.
[370] Ni kimwe no haruguru, imp.15-18.

Gusuzuma ukwizerwa k'umutangabuhamya

284. Urugereko rusuzuma ukwizerwa kwa CGE rwifashishije ibivugwa n'ababuranyi[371]. By'umwihariko, Ubwunganizi busanga iby'umutangabuhamya yemeza bidashoboka, aho avuga ko yihishe muri metero nke uvuye kuri bariyeri. Ubwunganizi bwemeza ko ifoto y'ahantu umutangabuhamya avuga ko yari yihishe igaragaza ko bidashoboka kuhihisha. Buvuga ko n'iyo CGE yaba yarihishe aho hantu, ntawakwemera ibyo avuga ko yakoraga ingendo ava kandi agaruka mu bwihisho bwe, agenda akurura inda ahantu hagaragara ko nta bihuru byari bihari[372]. Buvuga kandi ko mu buhamya yatanze mu Rukiko, CGX, mwene wabo wa hafi w'uyu mutangabuhamya, avuga ko ahantu CGE avuga ko yari yihishe mu by'ukuri hagendwaga cyane[373].

285. Kuba kwihisha aho hantu byarashoboraga gukuririra umutangabuhamya amakuba akomeye si byo byabuza Urugereko kwemera ko ibyo avuga mu buhamya bwe ari ibintu bishoboka. Mu by'ukuri, mu gihe cy'amarorerwa adasanzwe yagwiriye u Rwanda mu mwaka wa 1994, abantu bakoresheje amayeri adasanzwe ngo babashe kurokoka. Umutangabuhamya asobanura ibintu ku buryo bwumvikana kandi budahuzagurika. Ahanini yagendaga ni njoro, ubwo abari kuri bariyeri babaga basinziriye. Ku ifoto, yashoboye kwerekana ahantu yari yihishe. Nk' nk'uko ikimenyetso kibyerekana, aho hantu ni haruguru ya bariyeri, ibyo bikaba byaratumaga bitorohera abari kuri bariyeri kumubona.

286. Ubwunganizi ntibwemera kandi ko umutangabuhamya yamenye Uregwa. Umutangabuhamya yemera ko yari akiri umwana ubwo Uregwa yavaga muri serire avukamo akajya kuba ahandi. Ubwunganizi busanga kandi ko umutangabuhamya abeshya iyo avuga ko yatashye ubukwe bw'Uregwa

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[371] Imyanzuro nsozarubanza ya Porokireri, imp. 16-17; Imyanzuro y'ubwunganizi, ibika 287-323 ; Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 17-18, 23-24, 47-48, n'Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 6-8, 16-17, 55-57, 70-71.

[372] Ikimenyetso gihamya N° 10 cyatanzwe na Porokireri. Ikimenyetso gihamya No 2 cyatanzwe na Porokireri cyerekana ko ifoto yafashwe mu mwaka wa 2003.

[373] Imyanzuro y'Ubwunganizi, igika cya 314.

yarongoye. Icyaba cyarabaye ni uko umutangabuhamya yaba yarashoboye kubona inshuro nke cyane Uregwa ahita mu modoka ye. Urugereko rusanga kuba umutangabuhamya yari azi Uregwa bifite ishingiro. Yakuriye mu rugo ruri muri metero zigeze kuri 200 uvuye ku rugo rw'Uregwa, kandi yamubonye inshuro nyinshi ubwo yajyaga aza iwabo, kugeza no mu mwaka wa 1993. Mu cyumba cy'iburanisha, umutangabuhamya yerekanye Uregwa[374]. Byongeye kandi, Urugereko rusanga umugabo avuga neza ko Uregwa yakoze muri *Electrogaz*, nyuma akaza kuba Minisitiri w'Imari.

287. Ubwunganizi bwemeza ko ku ngingo nyinshi z'ingenzi, ubuhamya bwa CGE mu Rukiko bwavugurujwe n'ubw'abagabo bamwe bashinjura. Abo bagabo bemeza ko Karegeya yahambwe, aho kuribwa n'imbwa, ko ubwicanyi bwakorewe inyuma y'amaduka, aho kuba kuri bariyeri, ko Uregwa atasabye ko Abatutsi bicirwa kuri bariyeri, ko ahubwo yashatse kumenya gusa uwishe mubyara we Karegeya. Ibyo bibazo bisuzumwa, ku buryo burambuye, nyuma yo gusuzuma ubuhamya abagabo bashinjura batanze mu Rukiko.

288. Ubwunganizi bwibaza ukuntu umutangabuhamya yahuye n'abakozi b'Urukiko bakora iperereza. Umutangabuhamya yemeza ko undi mutangabuhamya ushinjura wiswe CGH ari we wamusabye kujya kubonana n'abo bakozi. Ubwunganizi busanga ibyo bishimangira ibyo bwemeza ko abagabo bashinja bagambanye ngo bahimbe ubuhamya ku byabereye kuri bariyeri yo ku Gitaka[375]. Urugereko rusanga bidatangaje ko mu gihe umuntu wacitse ku icumu ashakwa n'abakora iperereza, yakwegera abandi bacitse ku icumu, bashobora kuba bazi ibyo Uregwa ashinjwa, cyane cyane mu karere gato nka Gasharu. Umutangabuhamya yemeye rwose ko bene iyo mibonano yabayeho kandi Urugereko rugasanga nta bushake buhari bwo guhisha ibyabaye.

[374] Inyandikomvugo y'iburanisha, 10 Nzeri 2003, imp. 17-19. Urugereko rusanga mu buhamya bwe mu Rukiko, umugabo atavuga ko « yagiye » mu rugo rw'Uregwa gutaha ubukwe bwe yari yamutumiyemo. Ni kimwe no haruguru, imp. 21-23.

[375] Ni kimwe no haruguru, imp. 20-22 ; Imyanzuro y'Ubwunganizi, ibika 27-28. DC yemeza ko CGH yagerageje kumuha amafaranga ngo ashinje Uregwa, na ho DF avuga ko CGH yigambye ko agiye gucura ibimenyetso bishinja Uregwa . Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, urup. 29, n'inyandikomvugo y'iburanisha, 30 Ukwakira, imp. 16-17.

289. Urugereko rurasuzuma ukwizerwa kwa CGE nirumara gusuzuma no kuvuga muri make ibimenyetso byatanzwe.

Umutangabuhamya ushinja wiswe CGX

290. CGX, umukecuru w'Umuhutukazi, ni mwene wabo wa CGE. Mu mwaka wa 1994 yari atuye muri Serire ya Gasharu muri Komine ya Gitesi. Avuga ko bamwe mu bana be bishwe kubera ko umugabo we wapfuye mbere ya Mata 1994 yari Umututsi[376].

291. CGX avuga ko umunsi umwe mu gitondo, yabonye Uregwa ku muhanda kuri santeri y'ubucuruzi yo ku Gitaka, kuri bariyeri y'*Interahamwe.* Iyo bariyeri yari imbere y'inzu y'umucuruzi witwa Karara, iyi nzu na yo ikaba iruhande rw'iya Ndabukiye wari umuyobozi w'ishuri[377]. Avuga ko agereranyije, asanga ibyo byarabaye hashize ibyumweru bine Perezida Habyarimana apfuye. Avuga ko yibagiwe itariki, kandi ko atakibuka ukwezi, ko ariko akeka ko hari muri Mata cyangwa muri Gicurasi[378]. Asobanura ko Uregwa yageze kuri bariyeri mu kavatiri, kandi ko yari akikijwe n'imbaga y'abantu. Muri abo bantu, umutangabuhamya avuga ko yamenyemo Ndabukiye, Karara, Jean Sibomana, Rukunda, Sendiragora na Abiya. Umutangabuhamya avuga ko yari ahagaze ku mugunguzi, atihishe, haruguru ya bariyeri, nko muri metero eshanu uvuye aho Uregwa yari[379].

292. Umutangabuhamya yumvise Uregwa abaza Ndabukiye aho inka ze ziri. Undi amusubiza ko *interahamwe* zazitwaye. Umutangabuhamya avuga ko ibyo byatumye yumva ko Uregwa yari yashinze amatungo ye Ndabukiye. Nyuma Uregwa yabajije aho Karegeya ari, n'uko Ndabukiye amusubije ko atahazi,

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[376] Ikimenyetso gihamya N° 11 cyatanzwe na Porokireri (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 10 Nzeri 2003, imp. 36-38.
[377] Inyandikomvugo y'iburanisha, 10 Nzeri 2003, imp. 37-39.
[378] Ni kimwe no haruguru, imp. 41-47.
[379] Ni kimwe no haruguru, imp. 39-42, 46-47. Umutangabuhamya yatangaje ko abo bantu bose bari Abahutu usibye Sibomana atamenye ubwoko bwe. Izina Sendirodoga ryandikwa kandi Senderodoga.

Uregwa avuga ko bagomba kumushakisha, aho yaba ari hose. Umutangabuhamya yari azi ko Karegeya ari mubyara w'Uregwa cyangwa umuhungu wa mubyara we. Nyuma yaje kumva abantu bigamba ko bishe Karegeya. Avuga ko atatinze kuri bariyeri, kuko yagombaga kujya kugaburira abana be bari bihishe[380].

293. Umutangabuhamya avuga ko mbere yari atuye ku gasozi kamwe n'Uregwa, ko ariko hari hashize igihe Uregwa ahavuye, kandi ko yumvaga abantu bavuga ko aba i Kigali. Avuga ko ubwa nyuma Uregwa aheruka ku gasozi kabo, mbere y'ibyabereye kuri bariyeri, ari igihe yari yarongoye, umutangabuhamya akaba yaratashye ubukwe bwe. Mu cyumba cy'iburanisha umutangabuhamya yerekanye Uregwa [381].

294. CGX avuga no ku bundi bwicanyi. Avuga ko umuhungu we yishwe na Rukunda wari witwaje inkota, amwicira kuri bariyeri yo ku Gitaka, hashize akanya gato Uregwa ahavuye[382]. Yongeraho ko benshi mu bandi bana be benshi na bo bishwe, bamwe muri bo bakaba barishwe barimo guhungira ku Kibuye. Avuga ko umwarimukazi witwa Nyiramaritete wari utuye i Kirambo na we yishwe, cyakora ntiyibuka niba byarabaye mbere cyangwa nyuma y'uko Uregwa ahagera. Mu gusoza, uyu mutangabuhamya avuga ko hafi ya bariyeri hari icyobo kandi ko nyuma yabonye bataburudo amagufa bayashyira mu masanduku[383].

Gusuzuma ukwizerwa k'umutangabuhamya

295. Mu gihe Porokireri asanga CGX yakwemerwa, Ubwunganizi bwo buvuga ko ibyo yibuka ku byabaye bitakwizerwa kandi ko ubuhamya bwe mu Rukiko buvuguruza ubw'abandi batangabuhamya bashinja[384]. Urugereko ruributsa ko umutangabuhamya ari umukecuru utazi gusoma no kwandika, kandi ko

[380] Ni kimwe no haruguru, imp.39-42, 48-49.
[381] Ni kimwe no haruguru, imp. 43-46.
[382] Ni kimwe no haruguru, imp.42-44. Nk'uko byavuzwe haruguru, Rukunda ni impine ya Rukunduvuga.
[383] Ni kimwe no haruguru, imp. 42-44.
[384] Imyanzuro nsozarubanza ya Porokireri, imp.13-14; Imyanzuro y'Ubwunganizi, ibika 324-342; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 16-18, 20-23, 27, 47-48; inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 6-8, 55-37.

bigaragara ko byamugoye kwibuka amatariki, haba mu buhamya bwe bwanditse cyangwa mu buhamya yatanze mu Rukiko[385].

296. Ubwunganizi bwemeza ko mu buhamya bwe mu Rukiko, CGX avuga ibintu bishinja atari yaravuze mu buhamya bwe bwanditse. Urugereko rusanga atari ko bimeze. Ubuhamya bwe bwanditse n'ubwo yatanze mu Rukiko buvuga ibintu by'ingenzi bisa. Ubuhamya atanga mu Rukiko bwuzuza ibyo yavuze mu buhamya bwanditse, ariko ntibwongeramo ibirego bishya. Ntawakwirengagiza ko atigeze na rimwe ashyira mu majwi Uregwa, haba ku byerekeye urupfu rw'umuhungu we, haba no ku rwa Nyiramaritete.

297. Ubwunganizi busanga ubuhamya bw'uyu mugabo mu Rukiko buvuguruza ubwa CGF, uvuga ko yari kuri bariyeri mbere y'uko Uregwa ahagera, igihe yagerageza gutabara umukobwa we. Cyakora, CGX we avuga ko CGF « yaje ahuruye yumvise imodoka ihinda. Ni ukuvuga ko yari aje kureba ikibaye »[386]. Urugereko rusanga ibyo bitahungabanya ukwizerwa kw'abo batangabuhamya bombi. Birashoboka rwose ko CGF yaba yarerekeje ku modoka amaze gutabara umukobwa we, kandi ko CGX yaba ataramenye ko uwo mukobwa yari agiye kwicwa. CGX avuga ko yamaze akanya gato kuri bariyeri. Kuba CGF yaba yarumvise Uregwa avuga iby'inka na Karegeya, na ho CGX akumva gusa ibya Nyiramaritete nta gaciro kanini bifite.

298. Ubwunganizi buvuga kandi ko ubuhamya bw'uwo mugabo buvuguruzanya n'ubwa CGE. CGX avuga ko avuye kuri bariyeri yazamutse mu nzira yanyurwagamo n'abandi bantu bose, haruguru ya bariyeri. Ubwunganizi bwemeza ko kuba iyo nzira iriho bivuguruza uburyo CGE yavuze imiterere y'ahantu yareberaga bariyeri. Urugereko ruributsa ko uwo mutangabuhamya atabashije kwerekana aho hantu ku ifoto. Cyakora, bitewe n'uko intera iri hagati

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[385] Mu buhamya bwanditse CGX yatanze mu mwaka wa 2001 havugwamo ko Karegeya yishwe hashize icyumweru kimwe nyuma y'ibyabereye ku muhanda kuri bariyeri. Mu buhamya bwe mu Rukiko avuga ko icyo gihe cyari amezi ane cyangwa atanu, bikaba bigaragara ko yibeshye mu buhamya yatanze mu Rukiko.
[386] Inyandikomvugo y'iburanisha, 10 Nzeri 2003, imp. 41-42.

y'inzira na bariyeri iterekanywe, kuba atarabashije kuherekana ntibihungabanya, byanze bikunze, ukwizerwa kwe[387]. Ukundi kunyuranya kuvugwa n'Ubwunganizi nta gaciro gufite.

299. CGX yemera ko muri Gicurasi 2001, we, CGE na CGB bagiye ku Kibuye kubonana n'abakora iperereza bo mu Biro bya Porokireri. Ubwunganizi busanga icyo ari ikimenyetso kigaragaza ko abantangabuhamya babonanaga maze bugakemanga ukwizerwa k'ubuhamya bwa CGX wemeza yemeza ko CGB yari ahari. Ubwunganizi buvuga ko CGB yari yabajijwe na Porokireri mbere. Kubera ko Urugereko rusanga CGX atarashatse guhisha ko yabonanye n'abandi batangabuhamya bashinja, rubona nta kagambane kabaye hagati y'abatangabuhamya. Ubuhamya bwa CGX mu Rukiko ntibusa n'ubwa bariya bagabo bandi babiri. Ntibitangaje kumva ko igihe yajyaga kubonana n'abakora iperereza, CGZ yajyane na mwenewabo wa hafi ari we CGE, wari waramaze gutanga ubuhamya bwanditse. Kuba CGB yaratanze ubuhamya bwe bwanditse mu Gushyingo 2000, ntibivuga ko na we atagombaga guherekeza CGX.

300. Ubuhamya bwa CGX ku byabaye ni bugufi kandi nta wabuheraho, nta gushidikanya, ngo yemeze ko Uregwa yategetse abantu kwica Karegeya. Ubuhamya yatanze mu Rukiko bushyigikira ubwa CGF wemeza ko yari kuri bariyeri igihe Uregwa yahageraga. Bushyigikira kandi ubwatanzwe n'abatangabuhamya benshi bashinja ku byerekeye umwirondoro w'abantu bari kuri bariyeri. Ubuhamya bw'uyu mugabo buraza gusuzumwa bwa nyuma hashingiwe ku bimenyetso byose byatanzwe.

Umutangabuhamya ushinja wiswe CGB

301. CGB, w'Umuhutu, avuga ko nyuma y'urupfu rwa Perezida Habyarimana muri Mata 1994, Abahutu bateye abasiviri b'Abatutsi aho yari atuye i Gahigiro. Avuga

[387] Ni kimwe no haruguru, imp.46-48. Umutangabuhamya avuga kandi ko ubusanzwe abantu banyuraga mu nzira iva i Mirambo yerekeza kuri santeri y'ubucuruzi yo ku Gitaka, ariko ntasobanura niba ari iyo nzira yaciye uwo munsi. Ni kimwe no haruguru, imp. 41-42.

ko ku itariki ya 14 Mata, cyangwa hafi yayo, we n'umuryango we bahungiye ku kiriziya ya Kirambo, hashira iminsi bakajya ku gasozi ka Gitwa. Avuga ko Gitwa imaze guterwa, yagiye i Kayenzi ahamara ibyumweru bibiri, yihishe mu mukoki hafi y'umugezi wa Nyakagenzi. Nyuma yagarutse muri Serire ya Gahigiro, yihisha mu rugo rw'Umuhutu maze ahamara ibyumweru bitatu kandi muri iyo nzu hari hihishe abandi Batutsi batatu. Umunsi umwe mu mpera za Gicurasi, ahagana saa kumi za mu gitondo, impunzi zavuye muri iyo nzu yari imaze guterwa cyangwa kugarizwa n'igitero cy'*Interahamwe*[388]. Icyo gihe, CGB yihishe mu gikoni gito cyari ahantu hitaruye, gifite nka metero ebyiri kuri eshanu, hafi y'inzu itari ituwe. Icyo gikoni cyubatswe n'Abasuwisi cyari nko muri metero 20 uvuye kuri bariyeri yo kuri santeri y'ubucuruzi yo ku Gitaka, muri Serire ya Gasharu[389].

302. Muri icyo gitondo, hagati ya saa tatu na saa yine, umutangabuhamya yabonye Uregwa agera kuri bariyeri mu modoka y'umweru, ari kumwe n'umusirikare[390]. Bariyeri yari irinzwe na Joël Ndabukiye, umuhungu we Emmanuel, n'uwitwa Rukunduvuga. Hari n'*Interahamwe z*anyweraga mu kabari kari aho, k'umucuruzi witwa Augustin Karara[391]. Abari muri ako kabari n'abari aho hafi bihutiye kujya kuramutsa Uregwa, kandi bishimiye ko aje. Yerekeje ku kabari, aho Karara yari ari, n'uko abantu baramukikiza[392]. Umutangabuhamya yumvise Uregwa avuga ngo :

> « Nje kubashimira … Ariko hari icyo mbagayaho : uwitwa Cyprien Karegeya n'uwitwa Mukantabana ari we Tatiana Nyiramaritete baracyariho. Nje nturutse i Kigali. I Kigali nta Mututsi n'umwe usigaye, bose baratsembwe. None mwe murakora iki ? Nimukora

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388 Ikimenyetso gihamya N^{o} 19 cyatanzwe na Porokireri (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 22 Nzeri 2004 (sic), imp. 2-5, 21- 23. Ikimenyetso gihamya cya Porokireri gifite nomero 20 kirimo izina ry'Umuhutu yari yihisheho.
389 Inyandikomvugo y'iburanisha, 22 Nzeri 2003, imp. 5-8, 9-10.
390 Ni kimwe no haruguru, imp. 5-9, 12-13 (Uregwa yaje ku muhanda kuri bariyeri ahagana mu mpera za Gicurasi, ari wo munsi yihishe mu gikoni), imp. 18-19, 22-24, 27-28.
391 Ni kimwe no haruguru, imp. 5-9, 27-28.
392 Ni kimwe no haruguru, imp. 5- 6, 27-28.

umurimo wanyu neza, tuzabishimira. Wowe Ndabukiye uzagirwa perefe, umuhungu wawe abe burugumesitiri. Naho Karara, azaba depite. Ndagiye, ngiye ku Kibuye. Ningaruka nsange nta Mututsi ukirangwa aha. Ni bwo nzabahemba, mbashyira mu myanya maze kuvuga, kugira ngo akarere kacu gatere imbere[393] ».

303. Nyuma y'iminota 15, Uregwa yagiye avuga ko agannye ku Kibuye. Umutangabuhamya yari azi ko Mukantabana yigisha ku kigo cy'amashuri cy'i Kirambo, kandi ko ari umugore w'uwitwa Charles Munyankindi. Cyprien Karegeya w'umworozi yari mubyara w'Uregwa. Mukantabana na Karegeya bari Abatutsi[394].

304. Hashize iminsi nk'ine, CGB yabonye Joël na Emmanuel Ndabukiye bicisha Karegeya impiri kuri bariyeri yari kuri santeri y'ubucuruzi yo ku Gitaka. Uwo munsi, yanabonye Joël na Emmanuel Ndabukiye n'undi muntu wa gatatu witwa Vuguziga bajyana Mukantabana. Nyuma umurambo we wagaruwe kuri bariyeri, uza kujugunywa mu cyobo hamwe n'imirambo y'abandi bantu bari bishwe. Umutangabumya yahereye kuri ibyo yemeza ko ari bo bamwishe. Avuga ko abandi bantu yamenye biciwe kuri iyo bariyeri ari Kiranyuye na Nahiko[395].

305. CGB avuga ko mbere y'umwaka wa 1994, CGB yari azi Uregwa. Yamubonye bwa mbere igihe yakoraga muri BRALIRWA, yongera kumubona agarutse iwabo gukoresha umuhanda ujya ku nzu y'ababyeyi be, cyangwa aje kubasura. CGB avuga ko ubusanzwe, Uregwa yazaga mu modoka ye, akayihagarika hafi y'umuhanda, akajya iwabo n'amaguru.Yongeraho ko izo ngendo zatangiye mu myaka ya za 70, kandi yibuka ko ubwa nyuma yabonye Uregwa ari mu mwaka wa 1987. Mu gusoza, avuga ko nyuma y'urupfu rwa Perezida mu mwaka wa 1994, yumvise Uregwa avuga ko ari Minisitiri w'Imari[396].

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[393] Ni kimwe no haruguru, imp. 8-10.
[394] Ni kimwe no haruguru, imp. 9-11. (mu nyandikomvugo z'amaburanisha, handitse ko umugabo wa Nyiramaritete yitwa Munyanhindi aho kuba Munyinkindi cyangwa Munyankindi).
[395] Ni kimwe no haruguru, imp.11-14, 31-33.
[396] Ni kimwe no haruguru, imp. 13-14, 28-31.

Gusuzuma ukwizerwa k'umutangabuhamya

306. Ababuranyi ntibavuga rumwe ku kwizerwa kwa CGB[397]. Ubwunganizi buvuga ko umutangabuhamya yaba yaravuye mu bwihisho bwasaga n'aho ari bwiza hafi y'umugezi wa Nyakagenzi, agasubira i Gahigiro kandi yari yarahunze ibitero byari byarahagabwe. Umutangabuhamya asobanura ko yasubiyeyo agiye kwihisha ku Muhutu wari waramwigishije mu ishuri ry'Abadivantisite kandi wari waramuhinduye akayoboka iryo dini[398]. Urugereko rusanga bishoboka ko umutangabuhamya yaba yariyemeje guhungira mu rugo rw'inshuti ye aho yashoboraga kubona nk'ibiryo kurya bitamugoye.

307. Ubwunganizi buvuga kandi ko bidashoboka ko CGB yaba yarihishe ahantu hegereye cyane na bariyeri irinzwe n'*Interahamwe*. Umutangabuhamya avuga ko yageze hafi y'igikoni saa kumi za mu gitondo, isaha umuntu atashoboraga kuva aho ari kuko bari kumubona. Yari azi ko hafi aho hari bariyeri ariko yiyemeza kuhihisha kubera ko yumvaga bidashoboka ko *Interahamwe* zaza gusaka hafi ya bariyeri yazo [399]. Nk'uko byavuzwe haruguru, Urugereko rusanga urebye uko ibintu byari bimeze mu Rwanda mu mwaka wa 1994, igitekerezo cyo kwihisha hafi y'ahantu habi cyumvikana kandi umutangabuhamya yamaze igihe gito mu gikoni. Urugereko runazirikana ko babiri mu batangabuhamya bane bashinja bari ku Gitaka bemeza ko bakoresheje ubwo buryo bumwe, budasanzwe.

308. CGB yeretswe ifoto maze avuga ko ari iya ha hantu hegereye bariyeri. Asobanura ko umuntu atashoboraga kubona igikoni kubera ko cyari gihishwe n'ibihuru byari byararenze aho hantu[400]. Urugereko rusanga ibyo avuga bishoboka. Asabwe gusobanura uburyo yabonaga ibyo kurya, umutangabuhamya avuga ko, mu minsi ine yamaze yihishe mu gikoni, umwarimu wari waramwigishije ari we

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[397] Imyanzuro nsozarubanza ya Porokireri, imp.15-16; Imyanzuro y'Ubwunganizi, ibika 343-375 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 16-20; 2 Werurwe 2004, imp. 56-57

[398] Inyandikomvugo y'iburanisha, 22 Nzeri 2003, imp. 21-22 ; Imyazuro y'Ubwunganizi, urup. 62

[399] Inyandikomvugo y'iburanisha, 22 Nzeri 2003, imp. 4-5, 22-23, 25-26

[400] Ni kimwe no haruguru, imp. 26-28.

wamuzaniraga ibiryo[401]. Ku kibazo cy'Ubwunganizi cyo kumenya uko inshuti ye yashoboye kumenya aho yihishe, umutangabuhamya asubiza ko inshuti zari zifite uburyo bwo kumenya aho inshuti zazo ziherereye, ko zakoreshaga ibimenyetso zumvikanyeho, kandi ko zashoboraga kugenda ni njoro hagati ya saa tanu na saa kumi[402]. Urugereko rwemera icyo gisobanuro, cyane cyane ko umutangabuhamya agaragaza ko yashoboraga kugenda ninjoro.

309. Ubwunganizi buvuga kandi ko hari ukunyuranya hagati y'ubuhamya CGB yatanze mu rukiko n'ubuhamya bwanditse yahaye abakora iperereza muri Gicurasi 2000. Mu buhamya bwanditse, avuga ko ibyo bintu byabaye mu ntangiriro za Gicurasi 1994, ariko mu Rukiko akavuga ko byabaye mu mpera z'uko kwezi. Urugereko rwibaza niba umutangabuhamya yarashatse ko ubuhamya bwe busa n'ubw'abandi bagabo bashinja bavuga ko ibyo bintu byabaye mu mpera za Gicurasi 1994. Cyakora, igisobanuro cy'umutangabuhamya gisa n'aho ari ukuri. Avuga ko kwibuka amatariki bimugora, ariko ko yibuka ko yageze muri Kongo ku itariki ya 4 Kamena 1994, ni ukuvuga hafi nyuma y'icyumweru amaze kubona Uregwa kuri bariyeri[403]. Avuga uko ibintu byagenze adahuzagurika, haba mu ibaza ry'ibanze cyangwa mu ibaza rinyomoza.

310. Mu buhamya bwanditse yatanze mbere, umutangabuhamya avuga ko yabonye bica Charles Munyankindi. Nyamara mu ibaza rinyomoza akemera ko atigeze yibonera ubwe nyakwigendera yicwa, ko ahubwo yabibwiwe n'umuntu waba waramwishe[404]. Mu buhamya bwanditse, umugabo avuga ko yabonye Mukantabana yicwa, ariko mu Rukiko akavuga ko yabonye gusa bazana umurambo we kuri bariyeri[405]. CBG yanze kwemera ko yivuguruje mu gusobanura ibintu bimwe na bimwe byabaye, yemeza ko yiboneye Mukantabana bamujyana noneho nyuma akavuga ko yabonye bazana umurambo we kuri

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[401] Ni kimwe no haruguru, imp. 11-12; 31-32
[402] Ni kimwe no haruguru, imp. 32-33
[403] Ni kimwe no haruguru, imp. 13-14, 22-24.
[404] Ikimenyetso gihamya N° 15 cyatanzwe n'Ubwunganizi (ubuhamya bwanditse,12 Ugushyingo 2000) ; Inyandikomvugo y'iburanisha, 22 Nzeri 2003, imp. 19-20.
[405] Inyandikomvugo y'iburanisha, 22 Nzeri 2003, imp. 11-12, 19-20

bariyeri, kandi ko yumvise ubwe Vuguziga, ukekwa kuba yarishe Munyankindi, yemera icyaha[406]. Urugereko rusanga uko kunyuranya hagati y'ubuhamya bwanditse n'ubwo yatangiye mu Rukiko atari kunini. Uko kunyuranya nta ho guhuriye n'uruhare Uregwa yagize kandi ntiguhungabanya ukwizerwa k'umutangabuhamya.

311. Ubwunganizi bwibukije ko mu buhamya bwanditse yatanze mbere, umugabo atavuga izina rya Augustin Karara. Umutangabuhamya asubiza ko abakoze iperereza bamubajije gusa umuntu wari urinze bariyeri. Kubera ko Karara yari yibereye mu kabari ke hafi aho, umutangabuhamya ntiyavuze izina rye [407]. Urugereko rusanga igika cy'ubuhamya bwanditse kivuga kuri icyo kibazo ari kigufi kandi kivuga ahanini ku bantu barindaga bariyeri.

312. CGB yemera ko abakoze iperereza bafatiye ubuhamya bwe bwanditse kuri *Guest House* yo ku Kibuye kandi ko yari kumwe n'abandi batangabuhamya bashinja. Ubwunganizi buvuga ko ibyo byerekana ko abatangubuhamya babonye uburyo bwo kugambana[408]. Urugereko ruributsa ko umutangabuhamya asubiza ko atari azi ko abandi batangabuhamya bazashinja Uregwa muri uru rubanza. Umunsi CGB abazwa, nta n'umwe mu bandi bagabo batanze ubuhamya mu Rukiko, wabajijwe n'abakoze iperereza[409].

313. Urugereko rusanga izina rya Karara nta na hamwe rigaragara mu buhamya bwanditse bwa CGB. Ikindi kandi, DL avuga ko igikoni cy'Abasuwisi cyari mu ntera iri hagati ya metero 120 na 150 uvuye kuri bariyeri. Urugereko rurasuzuma ukwizerwa k'ubuhamya bw'uyu mugabo rushingiye ku bimenyetso byose byatanzwe.

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[406] Ni kimwe no haruguru, imp. 19-20, 31-33.
[407] Ni kimwe no haruguru, imp. 27-28
[408] Ni kimwe no haruguru, imp. 33-34; Imyanzuro y'Ubwunganizi, igika cya 375.
[409] CGB yabajijwe ku itariki ya 12 Ugushyingo 2000. CGD yabajijwe ku itariki ya 9 Ugushyingo 2000. Ni we mugabo ushinja wenyine watanze ubuhamya bwanditse ku itariki ijya kwegera iyo CGB yabutangiyeho, ariko nta cyo avuga ku bikorwa byaba byarabereye kuri bariyeri yo ku Gitaka.

Umutangabuhamya ushinjura wiswe CGH

314. Ubuhamya bwa CGH mu Rukiko busuzumwa birambuye mu cyiciro II.5. Ubwo buhamya bwerekeye ibikorwa byabereye ku Gitaka, kubera ko umugabo avuga ko mu nama yabaye hashize igihe gito Uregwa ageze i Gasharu, Uregwa yagize ati :

> « Mvuye iwacu muri serire yanjye, nkaba nashakishaga Charles Munyankindi n'umuryango we. N'ubwo ntababonye, nasigiye ubutumwa Joël Ndabukiye ko abashakisha noneho akambwira ko abo bantu batakiriho »[410].

Munyankindi yari umwarimu w'Umututsi, akaba na mubyara w'umutangabuhamya n'umuturanyi w'Uregwa. Umugore wa Munyankindi, umutangabuhamya atavuga izina, na we yari umwarimukazi[411].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

315. Urugereko rusuzuma ikibazo cy'ukwizerwa kwa CGH mu cyiciro II.5. Rusanga uwo mutangabuhamya adakwiye kwizerwa, aho yemeza ko yari mu nama yahuje Uregwa na DN. Kubera iyo mpamvu, ubuhamya yatanze mu Rukiko ku magambo Uregwa yaba yaravugiye muri iyo nama na bwo ntibukwiye kwizerwa. Byongeye kandi, ntawakwirengagiza ko mu buhamya bwe mu Rukiko, umugabo atavuga izina rya Karegeya.

Umutangabuhamya ushinjura wiswe DJ

316. DJ avuka muri Serire ya Gasharu kandi Ababyeyi be ni Abatutsi. Mu mwaka wa 1994, we n'umugabo we w'Umuhutu[412], bari batuye muri Serire ya Gahigiro

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[410] Inyandikomvugo y'iburanisha, 2 Nzeri 2003, imp. 44-45.
[411] Ni kimwe no haruguru ; Inyandikomvugo y'iburanisha, 3 Nzeri 2003, imp. 5- 6

ihana imbibi n'iya Gasharu. Amaze kumenya ko Perezida Habyarimana yapfuye, hari ubwo yihishaga mu nzu, ubundi akajya mu gisenge cy'inzu ye, cyangwa akihisha hanze mu mirima y'amasaka. Avuga ko imvururu zitangira, abagore bashatswe n'Abahutu nta cyo babatwaraga, ariko ko nyuma y'ibyumweru bibiri ibintu byarahindutse[413]. Avuga ko ku manywa Umugabo we wari Umuhutu, yashoboraga kugenda nta nkomyi noneho buri mugoroba akamubwira ibyo yabonye byose, nk'urupfu rw'abantu bo mu muryango we. Avuga ko umugabo we yamubwiye ko se yishwe na Rukundavuga na Buregeya, bamwiciye ku Gitaka muri Serire ya Gasharu muri Mata. Yongeraho ko umugabo we yamubwiye ko nyuma yaho Joël Ndabukiye na Tabeya bigabije ibintu bye kandi ko Ndabukiye yari yamusabye guhamba sebukwe. Nyuma y'intambara, umugabo we yamweretse aho yari yarahambye se. Nyina w'umutangabuhamya na we yiciwe mu Kayenzi, muri Mata, yicwa na Rukundavuga afatanije na Niyongira. Byongeye kandi, intambara itangiye, barindwi mu bavandimwe be umunani biciwe ku Kibuye muri sitade Gatwaro. Bicishijwe amasasu cyangwa gerenade[414].

317. DJ yabwiwe n'umugabo we ko Uregwa yagiye ku Gasharu mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena, kandi ko yahavugiye ko umuntu wese uzica azafungwa. Umugabo we wari aho hantu yavuze ko Uregwa yabajije DL umuntu wari wari wamutegetse kwica. Uregwa yanabajije DL impamvu atahishe babyara be cyangwa impamvu atagize icyo akora kugira ngo baticwa kandi bari baramuhaye isambu. Nyuma yaho Uregwa yafungishije DL[415].

318. Umutangabuhamya avuga ko ubwicanyi bwahagaze nyuma y'uko Uregwa ahaza, kandi ko yasohotse mu bwihisho bwe ariko akaguma hafi y'urugo cyangwa mu nzu. Avuga ko iyo Uregwa aza kuba yaratanze itegeko ryo kwica aba yarabimenye kuko « […] byose byavugwaga. [Uwo ari we wese yashoboraga

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412 Ikimenyetso gihamya N^{o} 18 cyatanzwe n'Ubwunganizi (Ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano); Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 9-11, imp. 13-14

413 Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 30-31

414 Ni kimwe no haruguru, imp. 10-13, 18-20

415 Ni kimwe no haruguru, imp. 12-15, 22-23.

kujya gushaka amakuru ku byarimo kuba kandi mba narabimenye iyo atanga itegeko nk'iryo]». Nyuma y'intambara, DJ yamenye ko Sehire na Sekamonyo bayoboye ubwicanyi bwabereye mu karere ke[416].

319. DJ avuga ko CGB yari yihishe kwa mukuru w'umugabo we, wari uturanye nabo. Avuga ko we na CGB bahanaga amakuru buri joro ariko ko hagati muri Mata, CGB yahungiye muri Kongo mu bwato ari kumwe na bashiki be babiri, umwana we na karumuna ke. DJ avuga ko bahunze hashize nk'ibyumweru bibiri intambara itangiye. Umutangabuhamya yamenye ko bagiye kandi nyuma yaho ntiyongeye kubabona[417].

320. Umutangabuhamya avuga ko na mbere y'intambara yari azi Uregwa. Avuga ko Uregwa yazaga ku Gasharu nka kabiri mu mwaka gusura ababyeyi be, bapfuye mbere y'intambara. Nyuma, Uregwa yazaga gusura mushiki we na we wari utuye ku Gasharu. Avuga ko yamubonaga rimwe na rimwe aje kubasura, ubundi akumva gusa abantu babivuga. Imodoka ntizakundaga kuza ku Gasharu, bityo imodoka y'Uregwa ntiyashoboraga guhita bitamenyekanye[418].

<u>Gusuzuma ukwizerwa k'umutangabuhamya</u>

321. Ababuranyi ntibavuga rumwe k'ukwizerwa kwa DJ[419]. Porokireri yagerageje kugaragaza ko kubera isano yo mu muryango afitanye n'Uregwa n'isano iri hagati y'Uregwa n'abamukijije mu ntambara, DJ yagombaga kubitura iyo neza bamugiriye, bityo akaba nta kuntu atabogama. DJ yemera ko mwenewabo

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[416] Ni kimwe no haruguru, imp. 14-15.
[417] Ni kimwe no haruguru, imp. 15-18, 18-19, 24-25. Umutangabuhamya avuga ko mu mpera za Werurwe ari bwo yamenye ihanuka ry'indege ya Perezida, ko intambara yatangiye muri Mata. Ni kimwe no haruguru, urup. 18.
[418] Ni kimwe no haruguru, imp. 13-14, 23-24. Inyandikomvugo iri mu gifaransa yerekana neza ko rimwe na rimwe umutangabuhamya yiboneraga Uregwa yahaje.
[419] Imyanzuro nsozarubanza ya Porokireri, imp. 73-79; Imyanzuro w'Ubwunganizi, ibika 379-395; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 24-27; Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 57-58.

w'umugabo we yari yarashatswe na Ezekias Seyeze[420], murumuna w'Uregwa. DG, mwenewabo w'Uregwa, ni we wasabye DJ gutanga ubuhamya muri uru rubanza. Undi mwenewabo w'Uregwa wishwe muri jenoside yari yarabyaye muri batisimu umugabo wa DJ[421]. Umutangabuhamya avuga kandi ko ashimira abantu bamuhishe muri jenoside mu Rwanda mu mwaka wa 1994[422]. Porokireri avuga ko kuba ataravuze iyo sano mu muryango haba mu ibazwa ry'ibanze cyangwa mu buhamya bwe bwanditse, ari ikimenyetso kigaragaza ko abogamye. Nyamara Ubwunganizi bwo buvuga ko umutangabuhamya wapfushije se, nyina na batatu mu bavandimwe be, bishwe muri jenoside, adashobora gushinjura Uregwa kubera gusa ko bafitanye isano mu muryango cyangwa indi mpamvu. DJ avuga ko se yiciwe kuri santeri y'uburuci yo ku Gataka naho nyina akicirwa i Kayenzi. Avyga ko yumva DO yaragize uruhare mu iyicwa ryabo naho Ndabukiye akaba yaribye imirima ya se[423]. Byongeya kandi, umutangabuhamya ahakana imvugo ya Porokireri yemeza ko mu muco nyarwanda, isano yari hagati ye n'Uregwa ifatwa nk'isano yo mu muryango[424].

322. Urugereko rusanga Porokireri ataragaragaje ko umutangabuhamya yavugiraga Uregwa cyangwa ko yashakaga kubikora. Amasano ye mu muryango yashoboraga na yo gutuma avugira nabi Uregwa. Mu ibazwa rye, DJ ntiyashubije aca ibintu ku ruhande: mu ibazwa ry'ibanze nta kibazo na kimwe yabajijwe ku masano afitanye n'Uregwa kandi ubwo yabazwaga icyo kibazo mu ibazwa rinyomoza, yasubije avugisha ukuri.

323. Cyakora, ubuhamya bw'uyu mugabo bufite agaciro gato mu gusuzuma ibyaha Uregwa ashinjwa, kubera ko bwose bushingiye ku byo yumvanye umugabo we. Nta kintu na kimwe cyerekeranye n'ubwo buhamya cyatuma Urugereko rubugirira icyizere. Ntibwahabwa kandi agaciro nk'ubuhamya bushyigikira

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420 Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 21-23. Avuga kandi ko se amaze kwicwa, Seyeze, Ndabukiye na Tabeyo bari batwaye imwe mu mirima ye.
421 Ni kimwe no haruguru, imp.26-29.
422 Ni kimwe no haruguru, imp. 29-30.
423 Ni kimwe no haruguru, imp. 10-13.
424 Ni kimwe no haruguru, imp. 21-23, 26-27; 27-29.

ubundi, kubera ko umugabo we atahamagajwe ngo aze gutanga ubuhamya mu Rukiko. Rushingiye ku buhamya bw'abagabo biboneye ibyabaye rwashyikirijwe na Porokireri n'Ubwunganizi, Urugereko ruha agaciro gake cyane ubwo buhamya bwa DJ.

324. Ingingo imwe yo mu buhamya bwa DJ mu Rukiko umuntu ashobora kuvuga ko idashingiye ku byo yumvanye abandi ni uko muri Mata atongeye kubonana ni njoro na CGB wari wihishe hafi ye, no kuba CGB yaba yaragiye. Ibyo bivuguruza ibyo CGB yavugiye mu rubanza, ko atagiye muri Kongo mbere ya Nyakanga 1994 kandi ko yabonye Uregwa kuri santeri yo ku Gitaka mu mpera za Gicurasi[425]. Cyakora, Urugereko rusanga ahereye ku byo yiboneye, DJ yarashoboraga kwemeza gusa ko CGB yavuye aho yari yihishe hagati muri Mata, ariko ntavuge aho yagiye. Iyo mvugo nta cyo itwaye ubuhamya bwa CGB wemera ko, ku itariki ya 14 Mata 1994, yahunze akava i Gahigiro ariko nyuma akahagaruka avuye kwihisha ahandi hantu muri Perefegitura ya Kibuye.

Umutangabuhamya ushinjura wiswe DG

325. Muri Mata 1994, DG, w'Umututsi akaba na mwenewabo w'Uregwa, n'undi Mututsi, ari we DH, bahungiye ku Gasharu kwa mushiki w'Uregwa[426]. Bigitangira, yigumiraga mu nzu gusa. Hashize nk'iminsi itatu Perezida Habyarimana apfuye, DG yabonye abantu bagabye igitero bajyanye uwitwa Simon Higiro. Ntiyababonye n'amaso ye bica Higiro, ariko yaketse ko ari cyo bari bagamije. Umutangabuhamya avuga ko icyo gihe ariho Abatutsi batangiye kwicwa muri iyo serire. Nyuma yabanje kwihisha mu gisenge, noneho aza kwihisha mu byatsi byumye byari imbere mu rugo[427].

[425] Ni kimwe no haruguru, imp. 17-20.
[426] Ikimenyetso gihamya N° 19 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 35-36, 38-40.
[427] Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 35-36, 37-38, 48-49.

326. DG avuga ko mushiki w'Uregwa yamubwiye ko Cyprien Karegeya na Tatiana Mukantabana (bitaga Nyiramaritete) bishwe muri Gicurasi, ko Rukunduvuga ari we wishe Tatiana na ho Karegeya akicwa na DM afatanije na Niyonzira, na Ruganamanzi kuri santeri y'ubucuruzi yo ku Gitaka[428]. Asobanura ko atiboneye ubwe ubwo bwicanyi. Nk'uko abivuga, mu bandi bantu bishwe bazira ko ari Abatutsi, harimo Mutemberezi, Nkurunziza, Kajijira na Habimana[429].

327. Mu ntangiriro za Kamena, DG yamenye ko Uregwa yaje ku Gasharu, akahakoreshereza inama, agategeka abantu guhagarika kwica Abatutsi kandi agafungisha umugabo wakekwagaho kuba yarishe Umututsi. Umutangabuhamya ntiyiboneye n'amaso ye Uregwa. Ibyo yabibwiwe n'umuvandimwe w'Uregwa wari muri iyo nama, na mushiki w'Uregwa wavuze ko Uregwa yamusuye akamubwira ibyo yari yavuze[430]. Mushiki w'Uregwa yabwiye DG ko yamenyesheje musaza we ko ahishe Abatutsi babiri. Umutangabuhamya avuga ko kuba ataravuye mu bwihisho bwe ngo asuhuze Uregwa, byatewe gusa n'uko atari afitiye icyizere abantu bari kumwe na we[431].

328. Mu buhamya yatanze mu Rukiko, DG avuga ko yaganiriye n'abandi bantu barokotse ku byabaye mu mwaka wa 1994, ko ariko ko izina ry'Uregwa ritigeze rivugwa mu bantu bashinjwa ibyaha byakozwe muri jenoside[432].

329. Umutangabuhamya avuga ko Uregwa yasuraga umuryango we ku Gasharu nka rimwe mu mwaka. Avuga ko ababyeyi b'Uregwa bapfuye mu mwaka wa 1984 naho benewabo, barimo mushiki we, mwishywa we w'umuhungu, mukuru we na murumuna we bakaba bari bagituye muri iyo serire[433].

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428 Ni kimwe no haruguru, imp. 36, 37-38, 47-50, 54-55.
429 Ni kimwe no haruguru, imp. 36; 54-55.
430 Ni kimwe no haruguru, imp.38-40; 54-55.
431 Ni kimwe no haruguru, imp.38-40.
432 Ni kimwe no haruguru, imp. 40, 50-51.
433 Ni kimwe no haruguru, imp. 35-37

Gusuzuma ukwizerwa k'umutangabuhamya

330. Porokireri avuga ko ubuhamya bwa DG bushingiye ku byabaye atahagazeho, bityo akumva uwo mutangabuhamya adakwiye kwemerwa[434]. Porokireri yemeza ko umugabo yahawe amabwiriza yo kuvuguruza, mu buryo butaziguye, abatangabuhamya bashinja. Porokireri yongeraho ko DG azi abandi batangabuhamya barindwi bashinjura kandi ko yaba yarabashishikarije gutanga ubuhamya bubogamye bashinjura Uregwa, ariko ntiyatanze ikimenyetso na kimwe gishyigikira ibyo avuga. Porokireri yongeraho ko umutangabuhamya abogamye aho avuga ko abagize Guverinoma atari ko bose bangaga Abatutsi kandi nta cyo ashingiraho kugira ngo abyemeze[435]. Nyuma yo gusuzuma ibibazo bya Porokireri n'ibisubizo by'umutangabuhamya, biragaragara neza ko DG yemeza ibyo avuga ashingiye ku magambo yumvanye Uregwa ubwo yazaga kuri santeri yo ku Gitaka. Niba koko Uregwa yaravuze ayo magambo, ibyo umutangabuhamya avuga bifite ishingiro, naho kumushinja kubogama byo ntaho bishingiye. Urugereko ntiruha kandi agaciro kanini ubuhamya bwanditse umugabo yatanze mbere avuga ko mbere ya 1994, Uregwa yazaga ku Gasharu « kenshi » kuko mu Rukiko avuga ko Uregwa yahazaga inshuro imwe mu mwaka[436].

331. Urugereko ruha agaciro gake ubuhamya bwa DG mu Rukiko. Uyu mugabo ntiyari mu nama Uregwa yafashemo ijambo kandi ntiyiboneye Karegeya na Tatiana bicwa[437]. Ubuhamya bwe hafi ya bwose bushingiye ku bintu atahagazeho. Ashingira gusa ku byo mukuru w'Uregwa na mushiki we bamubwiye kandi bashobora kuba babogamye ndetse n'ubuhamya bwabo bukaba butaragiweho impaka mu Rukiko. Umutangabuhamya avuga ko Uregwa ngo yaba yaraje muri Kamena agahita ahagarika ubwicanyi bwakorerwa Abatutsi. Iyo mvugo nta shingiro ifite kandi isa naho irimo kubogama.

434 Imyanzuro nsozarubanza ya Porokireri, imp. 78-83 ; Imyanzuro y'Ubwunganizi, ibika 396-412; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 24-27; 2 Werurwe 2004, imp. 57-60

435 Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 43-45

436 Ni kimwe no haruguru, imp. 50-52

437 Ni kimwe no haruguru, imp. 45-50

Umutangabuhamya ushinjura wiswe DH

332. DH, w'Umututsi, yari afite imyaka 12 muri Mata 1994. Ubwo yumvaga radiyo itangaza ko Perezida Habyarimana yapfuye, yari atuye muri Segiteri ya Gasharu. Avuga ko Abantu bagize ubwoba bakajya kwihisha cyangwa bagahungira ahantu bumvaga bagirira umutekano. Karegeya yamujyanye kumuhisha kwa Joël Ndabukiye, ariko Karegeya we ajya kwihisha mu ishyamba[438]. Tatiana Mukantabana n'umukobwa we na bo bihishe kwa Ndabukiye hamwe n'uyu mutangabuhamya. Nyuma y'ibyumweru bibiri, ubwihisho bwabo bumaze gutahurwa, Karegeya yagarutse gushaka DH amujyana kwa mushiki w'Uregwa aho DG yari yihishe[439]. DH avuga ko yakiriwe neza, kandi ko Karegeya yari abanye neza n'Uregwa. Igihe yari ahari, inzu yarasatswe noneho kugira ngo batamubona ajya kwihisha mu nkike z'urugo[440].

333. DH avuga ko atabonye Karegeya yicwa, ko yumvise bavuga ko, mu minsi ya nyuma y'ukwezi kwa Mata, Karegeya yishwe n'abantu bagabaga ibitero, barimo DM, bakamutsinda munsi y'akabari kari hafi y'umugezi wa Nyabahanga. Yabibwiwe na mushiki w'Uregwa aho yari yahungiye. Mushiki w'Uregwa yaramubwiye ngo : «Wa muntu yabonetse ! ». […]. « Karegeya yabonetse. ». Umutangabuhamya avuga ko umucuruzi witwa Augustin Karara yari hafi y'aho Karegeya yiciwe kandi ko na we yabonye Nyakwigendera bamujyanye kumwica. Cyakora, DH nta wundi muntu azi wahagaze kuri ubwo bwicanyi. Avuga kandi ko yumvise abantu bavuga ko uwo munsi na Tatiana Mukantabana yishwe na Rukundavuga[441].

334. DH avuga ko mbere y'umwaka wa 1994 yari azi Uregwa kubera ko Uregwa yavaga iwe i Kigali akaza ku Gasharu nk'inshuro ebyiri mu mwaka. Nyuma

[438] Ikimenyetso gihamya N° 20 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano); Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 60-62, 73-74. Umutangabuhamya avuga ko abantu bari bahungiye mu kigo nderabuzima cya Kirambo.
[439] Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp.61-62, 64-66. Umutangabuhamya avuga ko ari « inzu ya Ndindabahizi » ariko ko ari mushiki wa Ndindabahizi wari uyituyemo.
[440] Ni kimwe no haruguru, imp. 68-69 ; ikimenyetso gihamya N° 22 cyatanzwe n'Ubwunganizi.
[441] Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 66- 68, 76- 77.

y'uko intambara itangira, Uregwa yaje ku Gasharu bwa mbere mu ntangiriro za Kamena[442]. Avuga ko atiboneye ubwe Uregwa, ko yabyumvanye mushiki w'Uregwa wanamubwiye ko yabwiye Uregwa ko ahishe abana mu nzu ye, ni uko Uregwa akamugira yo kuba ahabarekeye. DH avuga ko ubwo yumvise ko Uregwa ko atarwanya ko baguma aho kwa mushiki we kubera ko nta kibazo yagize cyo kwihisha aho hantu, ndetse na nyuma y'uko Uregwa agenda. Avuga kandi ko yumvise ko Uregwa yagiye ku Gitaka, akabaza uwishe abantu bo mu muryango we. Guhera umunsi Uregwa yahageze, ubwicanyi no gusaka mu mazu byahise bihagarara[443].

335. Umutangabuhamya avuga ko yatanze ubuhamya bushinja mu Rukiko mu rubanza rwabereye mu Rwanda rwerekeye iyicwa rya Karegeya. Avuga ko, nk'uko abizi, izina ry'Uregwa ritigeze rivugwa muri urwo rubanza. Avuga ko Karegeya yicwa Uregwa atari ahari, bityo akaba nta ho ahuriye n'ubwo bwicanyi. Yongeraho ko iyo Uregwa aba yaraje i Gasharu muri Mata cyangwa muri Gicurasi, aba yarabimenye byanze bikunze[444].

Gusuzuma ukwizerwa k'umutangabuhamya.

336. Porokireri avuga ko ubuhamya bwa DH bushingiye ku byo yumvanye ababibwiwe n'abandi, kandi ko ubuhamya yatanze mu Rukiko budakwiye kwizerwa na gato kuko yabutanze kubera isano afitanye n'Uregwa no gushaka kumwitura ineza yamugiriye amurokora mu ntambara, kandi na nyuma akanamufasha. Ubwunganizi bwo buvuga ko umutangabuhamya akwiye kwizerwa[445].

337. Urugereko ruributsa ko mu mwaka wa 1994, umutangabuhamya yari afite imyaka 12. Yihishe mu rugo igihe cyose kivugwa kandi ntiyigeze abona Uregwa. Mushiki

[442] Ni kimwe no haruguru, imp. 64-66, 67-68, 70.
[443] Ni kimwe no haruguru, imp. 67-68, 62-64.
[444] Ni kimwe no haruguru, imp. 72-73.
[445] Imyanzuro nsozarubanza ya Porokireri, imp. 83-87; Imyanzuro y'Ubwunganizi, ibika 413-428.

w'Uregwa ni we wamubwiye Uregwa yaje kubasura amubwira n'inkuru y'urupfu rwa Karegeya n'urwa Mukantabana, kandi ibyo Mushiki w'Uregwa yamubwiye cyangwa bimwe muri byo yanabyumvanye abandi bantu. Hashingiwe ku buhamya butaziguye bwatanzwe n'abagabo bashinja n'abashinjura, ubuhamya bw'uyu mugabo bwahabwa agaciro gato.

338. Ubwunganizi bwibanda ku kuba DH ari Umututsi bukanavuga ko atari gutanga ubuhamya bushinjura umuntu wagize uruhare mu iyicwa rya Karegeya, mwene wabo wa hafi wa DH[446]. Porokireri asubiza avuga ko umutangabuhamya afitanye isano ikomeye n'umuryango w'Uregwa. Umutangabuhamya ubwe yemera ko Abatutsi benshi biciwe ku Gasharu, kandi ko ashimira Uregwa n'umuryango we kubera ko bamukijije[447]. N'ubwo Porokireri atagaragaje ko DH abogamiye ku ruhande rw'Uregwa cyangwa ko ashobora kuba abogamye, Urugereko rusanga uburyo DH azi ibyabaye, yabwiwe na mushiki w'Uregwa, bushobora kuba burimo kubogama. Kubera ko rudashobora guhamya ko umugabo azi neza ibyabaye cyangwa ko atabogamye, Urugereko ntirushobora guha agaciro kanini ubuhamya bwa DH mu Rukiko. Cyakora, biratangaje kubona umutangabuhamya, ufite icyo apfana na Karegeya, yemera kuvugira umuntu ushinjwa kuba yarishe uwo Karegeya.

339. Urugereko rusanga, mu buhamya bwanditse yatanze mbere, DH atavuga ko yamaze iminsi kwa Joël Ndabukiye. Abivuga mu magambo make mu buhamya bwe mu rukiko, aho avuga ko yavuye muri iyo nzu, ubwihisho bwe bumaze « kuvumburwa ». Avuga ko atazi uruhare Ndabukiye yagize mu iyicwa rya Karegeya. Cyakora, mushiki we, ari we DI, bahuje umubyeyi umwe gusa, avuga ko mu ntambara yo mu mwaka wa 1994, Ndabukiye yari « yarahindutse », ndetse ko yirukanye iwe DH. DL ntahakana ko bishoboka ko Ndabukiye yaba yaragize uruhare mu iyicwa rya Karegeya.

446 Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 72-73.
447 Ni kimwe no haruguru, imp. 76-77.

Umutangabuhamya ushinjura wiswe DI

340. DI ni mushiki wa DH, ariko ntibahuje ababyeyi bombi. Mu mwaka wa 1994 yari afite imyaka 17 kandi yabanaga n'ababyeyi be bombi b'Abatutsi muri Serire ya Gasharu[448]. Nyuma y'urupfu rwa Perezida Habyarimana, ibitero bya mbere by'Abahutu byibasiye Abatutsi byarangwaga no gutwika amazu yabo. Abatutsi bagiye kwihisha mu bihuru cyangwa ku baturanyi. Abagabye ibitero babakurikiranaga yo bakabicisha imihoro, impiri n'ibyuma[449]. Ubwa mbere, DI yihishe mu bihuru ari kumwe na nyina na musaza we muto (utari DH). Hagati muri Mata, abari mu bitero barabavumbuye maze bica nyina, cyakora we na musaza we muto bashoboye kubacika. Hashize icyumweru, abagabaga ibitero bafashe musaza we nuko DI aza kumenya ko bamwishe uwo munsi. Avuga ko yongeye kubacika, ariko nyuma y'iminsi mike ubwo yashakishaga musaza we, baramufata bamujyana kuri santeri y'ubucuruzi yo ku Gitaka. Avuga ko DL wari inshuti y'umuryango we, yahaye amafaranga umukuru w'abagabye igitero kugira ngo amureke, n'uko amuhisha iwe. Yongeraho ko Cyprien Karegeya yamusuye, ubwo yari yihishe kwa DL[450].

341. Nyuma y'iminsi mike Karegeya amusuye, DI avuga ko urwo rugendo rwabaye mu cyumweru cya nyuma cya Mata, DL yamubwiye ko Karegeya yicishijwe impiri kuri santeri y'ubucuruzi yo ku Gitaka[451]. Ntazi neza niba Karegeya yarishwe DL ahari ariko yumvise ko ari DL wahambishije umurambo we[452]. Nyuma yaho, DI yaje kumenya ko DM yemeye ko yishe Karegeya[453]. DI avuga ko musaza we yishwe hashize nk'icyumweru nyina yishwe, Karegeya akicwa hashize ikindi cyumweru[454].

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[448] Ikimenyetso gihamya No 24 cyatanzwe n'Ubwunganizi (ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 89-90.
[449] Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 82-83.
[450] Ni kimwe no haruguru, imp. 83-85, 90-91.
[451] Ni kimwe no haruguru, imp. 83-85.
[452] Ni kimwe no haruguru, imp.95-97.
[453] Ni kimwe no haruguru, imp. 85-86, 96-97. Avuga ko yamenye ko DM yireze hasigaye amezi umunani cyangwa icyenda ngo aze gutanga ubuhamya mu Rukiko.
[454] Ni kimwe no haruguru, imp. 84-85.

342. DI avuga ko abantu bamubwiye ko mu ntangiriro za Kamena 1994, Uregwa yaje i Gasharu, kandi ko yababaye ndetse akarakara, yumvise ko hari abantu bishwe. Uregwa yategetse gufata umuntu witwa Gatete ariko uyu ashobora gucika. Avuga ko nyuma Uregwa yafatishije DL kubera ko yashinjwaga ubwicanyi[455]. Umutangabuhamya avuga ko gushinja Uregwa ubwicanyi bwibasiye Abatutsi i Gasharu ari ukumubeshyera[456].

Gusuma ukwizerwa k'umutangabuhamya.

343. Porokireri avuga ko DI adakwiye kwizerwa. Asobanura ko ubuhamya bwe mu Rukiko bushingiye ahanini ku byo yumvanye abandi kandi ko burimo ukubogama guterwa n'amasano yo mu muryango afitanye n'Uregwa no gushaka kumwitura ineza yamugiriye. Ubwunganizi bwo bubona umutangabuhamya akwiye kwizerwa kuko adashobora kubogamira ku Uregwa, kuko ari Umututsi kandi akaba ari mwenewabo wa hafi wa Cyprien Karegeya[457].

344. Urugereko rusanga mu mwaka wa 1994 DI yari afite imyaka 17. Nk'uko abivuga mu buhamya bwe mu Rukiko, mu gihe cyose cy'intambara yari yihishe. Ntiyiboneye ubwe Karegeya yicwa, DL niwe wamubwiye ko nyakwigendera yishwe. DI yamenye ko DM yemeye ko yishe Karegeya hasigaye amezi umunani gusa ngo aze Arusha gutanga ubuhamya. Ntiyabonye Uregwa mu ntambara ariko bamubwiye ko yaje i Gasharu muri Kamena, kandi ko yarakajwe n'iyicwa ry'Abatutsi. Nta kimenyetso cyatanzwe cyerekeye aho yakuye ayo makuru n'igihe yayamenyeye. Bityo ubuhamya bwa DI mu Rukiko nta gaciro kanini bufite mu gusuzuma imyitwarire y'Uregwa kuri bariyeri yo ku Gitaka cyangwa mu gusuzuma ingaruka zayo.

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[455] Ni kimwe no haruguru, imp. 86-87, 94-95, 97.
[456] Ni kimwe no haruguru, imp. 86-87.
[457] Imyanzuro nsozarubanza ya Porokireri, imp. 87-92 ; Imyanzuro y'Ubwunganizi, ibika 429-446; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 26-27; 2 Werurwe 2004, imp. 59-60.

345. Ubwunganizi bukomeza kuvuga ko kubera ko DI ari Umututsi, adashobora gutanga ubuhamya bushinjura umuntu wagize uruhare mu iyicwa rya mwenewabo Karegeya. Ku rundi ruhande, umutangabuhamya n'Uregwa bafite icyo bapfana mu muryango. DI afite impamvu zo kwitura ineza Uregwa kubera ko mushiki we yamuhishe mu mwaka wa 1994, kandi agakomeza kumufasha kugeza ashyingiwe. Urugereko rusanga atari ngombwa kwibaza byinshi ku cyo agamije, ariko rusanga ubuhamya bwose yatanze mu Rukiko, cyangwa igice cyabwo kinini, bushingije ku byo yabwiwe na DL. DL avuga ko yabonye Uregwa ubwo yazaga i Gasharu, anabona ubwicanyi bwahakorewe. Urugereko rusanga ibyiza ari uguhita rusuzuma ukwizerwa kwe. Rushobora kuza kongera gusuzuma ubuhamya bwa DI mu Rukiko, kuko bushobora kugira icyo bufasha mu gusuzuma ukwizerwa kwa DL.

346. Rushingiye kuri iyi myanzuro, Urugereko rusanga atari ngombwa gusuzuma izindi ngingo zatanzwe na Porokireri. Cyakora, rusanga Porokireri yibeshya, aho yemeza ko DL avuga ko Karegeya yapfuye mbere y'uko DI ahungira iwe. Ikindi kandi, uyu mutangabuhamya avuga ko DM yaba yarishe Karegeya, ariko DM ahakana ko yagize ruhare mu iyicwa rya nyakwigendera. DM avuga ko yari mu gitero cyishe Karegeya, ariko ko ku giti cye atigeze amukoraho.

Umutangabuhamya ushinjura wiswe DL

347. Mu mwaka wa 1994, DL, w'Umuhutu, yari umucuruzi woroheje kuri santeri y'ubucuruzi yo ku Gitaka. Mu minsi yakurikiye inkuru yatangajwe kuri radiyo ku itariki ya 7 Mata ivuga ko Perezida Habyarimana yapfuye, Abahutu batangiye kwica no gutsemba Abatutsi[458]. Ahagana ku itariki ya 20 Mata, Somayire Minani na murumuna wa Joël Ndabukiye witwaga Mbonyubwe, bombi bakomoka muri segiteri ibangikanye na Kayenzi, bashyize bariyeri muri metero nk'ebyiri uvuye

[458] Ikimenyetso gihamya No 25 cyatanzwe n'Ubwunganizi (Ifishi y'umwirondoro w'umutangabuhamya) ; Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 2-4, 17-19, 21-22.

aho umutangabuhamya yacururizaga kuri santeri y'ubucuruzi yo ku Gasharu[459]. Iyo bariyeri yahamaze ibyumweru nka bibiri. Abacaga kuri bariyeri bagombaga gutanga ihoro ariko nta muntu wahicirwaga. Ubwicanyi bwaberaga ahantu hari intera iri hagati ya metero 25 na 30 uvuye kuri iyo bariyeri, ariko naho akaba ari ku Gitaka. Agaco k'abantu bayobowe na DO, kandi bakomoka muri Segiteri ya Kayenzi kakurikiranaga abantu, kakabatera, kakabicira muri Segiteri ya Gasharu[460]. Umutangabuhamya avuga ko ubwicanyi bwarangiye mu mpera za Gicurasi [461].

348. Hagati muri Mata, umuntu yaje kubwira DL ngo : « Shobuja yafashwe. [Bamujyanye muri] Segiteri ya Buye »[462]. Umutangabuhamya asobanura ko "shebuja" wavugwaga ari Cyprien Karegeya wari waramuhaye ibintu byinshi, birimo isambu yubatsemo inzu. Umutangabuhamya yabonye agaco k'abantu benshi bari mu gitero bayobowe na DM bajyanye Karegeya, ariko ntiyiboneye iyicwa rye. Umutangabuhamya akeka ko Karegeya yiciwe kuri santeri y'ubucuruzi yo ku Gitaka. Nyuma baje kumwereka umurambo wa Karegeya n'uko aramuhambisha ku Gitaka, afashijwe na Gatwa, na we wari umucuruzi kuri santeri y'ubucuruzi yo ku Gasharu[463]. DL ni we wabwiye DI ko Karegeya yishwe, nyuma aza kumenya ko DM ari we wari uyoboye abicanyi. Asobanura ko icyo gihe atari azi izina rya DM ariko ko yari azi ko yadoderaga inkweto muri Segiteri ya Buye. Avuga ko yamenye izina rye mu mwaka wa 1998, ari uko abaririje[464].

349. Karegeya yicwa, DL yari acumbikiye DI mu nzu ye. Umuntu wamubwiye inkuru y'ifatwa rya Karegeya yanamuburiye ko « abo bantu bazaza gushaka uwo mukobwa bakamwicana na Cyprien »[465]. DL yahishaga DI hanze. Hashize iminsi, igitero cyaje gusaka inzu, nticyamubona. DL avuga ko DI yagumanye na we muri

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[459] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 3-4, imp. 18-21.
[460] Ni kimwe no haruguru, imp. 4-5, 20-21, 38-39.
[461] Ni kimwe no haruguru, imp. 24-25, 35-36.
[462] Ni kimwe no haruguru, imp. 8-9.
[463] Ni kimwe no haruguru, imp. 8-10, 14-17.
[464] Ni kimwe no haruguru, imp. 8-10, 30-33, 39-42.
[465] Ni kimwe no haruguru, imp. 8-9.

Mata, Gicurasi na Kamena 1994. Rimwe na rimwe ku manywa, yamuhishaga mu mirima y'amasaka maze nimugoroba akagaruka mu rugo[466].

350. DL avuga ko muri Mata yabonye igitero kiyobowe na DO gisohora Tatiana Nyiramaritete kwa Pascal Ruhara. Cyakora, ntazi niba nyakwigendera yarigeze kwihisha kwa Joël Ndabukiye[467].

351. DL avuga ko kuva yajya gutura i Kigali, Uregwa yazaga i Gasharu nka rimwe mu mwaka[468]. Nyuma y'aho intambara itangiriye, umutangabuhamya yabonye Uregwa ku Gasharu bwa mbere ari ku cyumweru, mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena[469]. Avuga ko icyo gihe, Uregwa yageze kuri santeri y'ubucuruzi muri minibisi itwawe n'umusirikare ari kumwe n'abana babiri n'undi muntu. Nyuma Uregwa yagiye gusura mushiki we, ahamara nk'isaha. Hagati y'amaduka n'urugo rwa mushiki we hari urugendo rw'iminota 15. DL yagiye ku kiriziya, avuyeyo asanga Uregwa ahagaze imbere y'imbaga y'abantu benshi bateraniye kuri santeri y'ubucuruzi[470]. Uregwa yari yarakajwe cyane n'urupfu rw'abantu bo mu muryango we[471]. Abantu bari aho bamubwiye ko Augustin Gatete ari we wateje ubwicanyi bwabereye ku Gasharu. Uregwa yabajije Gatete ati : « Ni nde wabategetse kwica abantu ? Ni nde [wishe] Abatutsi ? Abantu bo mu muryango wanjye batuye hano barihe ? »[472] Ubwo Gatete yahise acika, Uregwa ntiyashobora kumufata[473]. Uregwa noneho yabwiye DL ati: « Murabisobanura, muvuge ukuntu abo bantu bapfuye, kubera ko bari abaturanyi banyu »[474]. Mu ma saa munani, Uregwa yafashe DL amujyana ku biro bya Komine ya Gitesi, ku Kibuye. Bukeye bwaho, DL yafunguwe n'umuporisi.

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[466] Ni kimwe no haruguru, imp. 22-23.
[467] Ni kimwe no haruguruurup. 21-22
[468] Ni kimwe no haruguru, urup. 5. Umutangabuhamya avuga ko azi Uregwa ku isura kuva arongoye.
[469] Ni kimwe no haruguru, imp. 5-8, 31-35.
[470] Ni kimwe no haruguru, imp. 7-8.
[471] Ni kimwe no haruguru, imp. 6-7, 10-12.
[472] Ni kimwe no haruguru, imp. 7-8, 13-14.
[473] Ni kimwe no haruguru, imp. 11-12, 13-14.
[474] Ni kimwe no haruguru, imp. 10-12.

Umutangabuhamya akeka ko Uregwa ari we wamufunguje ubwe amaze kumenya ko yari ahishe DI[475].

352. DL avuga ko intambara itangiye, Burugumesitiri Karara yaje ku Gasharu n'uko ashishikariza abantu guhunga bagana ku Kibuye. Yatwaye abantu bamwe mu modoka ye. Umutangabuhamya akeka ko Karara yari yaje kubakiza, ariko ko atashoboye kugaruka i Gasharu bitewe n'umutekano wari warushijeho kuba muke. DL avuga ko mu ntambara atigeze agera kwa DN, avuga ko atigeze ava i Gasharu uretse umunsi afatwa[476].

353. DL avuga ko nta bihuru cyangwa ahandi hantu umuntu yashoboraga kwihisha ngo abone ibibera kuri bariyeri yo kuri santeri y'ubucuruzi yo ku Gasharu. Avuga kandi ko muri metero ziri hagati ya 120 na 150 uvuye kuri bariyeri, hari inzu yubatswe n'Abasuwisi, ifite igikoni cyitaruye. Avuga ko umuntu uri kuri bariyeri atashoboraga kubona iyo inzu cyangwa igikoni cyayo[477].

Gusuzuma ukwizerwa k'umutangabuhamya

354. Porokireri avuga ko DL adakwiye kwizerwa kubera ko hari ukwivuguruza hagati y'ubuhamya bwanditse yatanze mbere abuha abategetsi b'u Rwanda mu mwaka wa 1993, ubuhamya bwanditse yahaye abantu bakora iperereza b'Ubwunganizi n'ubuhamya yatanze mu Rukiko[478]. Ubwunganizi bushimangira ko ubuhamya bw'uyu mugabo bufite agaciro gakomeye kuko yabonye ibikorwa byose by'Uregwa kandi akumva ibyo avuga ubwo yazaga ku Gasharu. Kubera iyo mpamvu, buhakana, mu buryo butaziguye, ikimenyetso cya Porokireri kivuga ko Uregwa yahamagariye abantu kwica Abatutsi[479].

[475] Ni kimwe no haruguru, imp. 6-7, 12-14.
[476] Ni kimwe no haruguru, imp. 13-16.
[477] Ni kimwe no haruguru, imp. 14-16, 16-17.
[478] Ikimenyetso gihamya N° 25 cyatanzwe n'Ubwunganizi (ubuhamya yahaye abantu bakora iperereza b'Ubwunganizi ku itariki ya 6 Kanama 2003) ; ikimenyetso gihamya N° 33 cyatanzwe na Porokireri (ibaza ry'ubugenzacyaha bw'u Rwanda ryo ku itariki ya 31 Kanama 1998).
[479] Imyanzuro nsozarubanza ya Porokireri, imp. 94-97, Imyanzuro y'Ubwunganizi, ibika 447-482 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 24-27; 2 Werurwe 2004 ; imp. 7-8, 59-61.

355. Porokireri yemeza ko iyo DL avuga ko DM ari we wishe Karegeya, aba avuguruza ubuhamya bwa mbere bwanditse yahaye ubugenzacyaha bw'u Rwanda muri Kanama 1998, aho avuga ko atazi umuntu wishe Karegeya. Umutangabuhamya asobanura ko muri ubwo buhamya bwanditse yatanze mbere, avuga ko itsinda ry'abantu bagabaga ibitero ari ryo ryishe Karegeya ariko ko icyo gihe atari azi amazina yabo. Mu Rukiko, avuga ko yamenye umuntu wari uyoboye icyo gitero nyuma yuko DM abajijwe n'ubugenzacyaha avuye mu buhungiro muri Kongo mu mwaka wa 1998[480]. Nyuma mu buhamya bwe mu Rukiko, asobanura ko amaze kubazwa n'abakora iperereza, mu mwaka wa 1998 yagiye kubaririza, maze bituma amenya izina ry'umuntu wishe Karegeya[481]. Urugereko ntiruhakana ko ibyo bishoboka, ariko ruributsa ko kumenya uwishe Karegeya byaba byarafashe DL imyaka ine, mu mudugudu muto cyane nka Gasharu, n'ubwo DL yakomokaga ahandi.

356. Porokireri yemeza kandi ko DI avuga ko DL yaba yaravuze ko DM ari we wishe Karegeya mu gihe cy'ibyabaye mu mwakwa wa 1994. Cyakora ubuhamya bwa DI kuri iyo ngingo ntibusobanutse. Ubwo bamubazaga bati : «Ushingiye ku buhamya [bwa DL] cyangwa ku iperereza waba warakoze, watubwira umuntu wishe so ? » Yarasubije gusa ati: « Yego, nzi ko papa yishwe na [DM] »[482]. Ntasobanura niba ari DL wamubwiye iyo nkuru icyo gihe cyangwa niba iryo zina yararibwiwe nyuma.

357. Porokireri asanga DL atavugisha ukuri, iyo yemeza ko DI yagumye iwe kuva muri Mata kugeza muri Nyakanga. Yemeza ko DI avuga ko muri Mata 1994 yamaze kwa DL igihe gito maze agahungira kwa mushiki w'Uregwa kandi ibyo si ukuri. DI asobanura neza ko yagiye kuba kwa mushiki w'Uregwa nyuma

480 Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 40-42, Imyanzuro nsozarubanza ya Porokireri, imp. 95-96.
481 Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 40-42.
482 Ni kimwe no haruguru, imp. 82-83.

y'intambara[483]. Porokireri yemeza kandi ko hari ukuvuguruzanya hagati y'ibyo DI avuga ko Karegeya yaje kumureba igihe yari yihishe kwa DL, n'ubuhamya DL yahaye ubugenzacyaha bw'u Rwanda. Porokireri we yumva ko DL yashakaga kuvuga ko Karegeya yari yarapfuye ubwo yabwiraga DI kuza kwihisha iwe. Ku kibazo gikurikira : « Wamuhishe igihe kingana iki ? », umutangabuhamya asubiza ati :

> Kuva [Karegeya] yapfa …naramubwiye nti : « Kubera ko ababyeyi bawe bapfuye [Karegeya], [Twemere dupfire hamwe]. Aho kwirirwa wiruka umunsi wose kandi wihisha mu bihuru, [ngwino tugumane] »[484].

Porokireri ntiyasabye umutangabuhamya kugira icyo avuga ku byo akeka ko ari ukuvuguruzanya, kandi nta n'ubwo bigaragara ko DL yashakaga kuvuga ko yavuze ayo magambo *mbere* y'uko DI agera iwe.

358. Porokireri aributsa ko, mu buhamya bwanditse yatanze mbere abuha abakora iperereza b'Ubwunganizi mu mwaka wa 2003, DL avuga ko DM yemeye ko yishe Karegeya. Mu buhamya yatanze mu Rukiko, DL avuga ko atazi niba DM yaremeye icyaha, maze akongeraho ko abakoze iperereza bibeshye[485]. Porokireri yemeza kandi ko DM ahakana ko yishe Karegeya[486], ibyo akaba ari ikinyoma. DM avuga ko yari mu gaco k'abantu bishe Karegeya, n'ubwo ku giti cye atamukozeho.

359. N'ubwo ukwivuguruza kwa DL mu buhamya yatanze mu Rukiko no mu bwanditse yatanze mbere kudakomeye nk'uko Porokireri abivuga, Urugereko rusanga uwo mutangabuhamya adakwiye kwizerwa. Biranatangaje kumva akomeza kwemeza ko Joël Ndabukiye nta ruhare yagize kuri bariyeri kandi urugo

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[483] Ni kimwe no haruguru, imp. 86, 87. Porokireri asa n'uwitiranyije ubuhamya bwe bwanditse n'ubwa DH uvuga ko yahungiye kwa mushiki w'Uregwa amaze ibyumweru bibiri yihishe mu yindi nzu. Inyandikomvugo y'iburanisha, 27 Ukwakira 2003, imp. 61, 62, 64-66.

[484] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp.10-12

[485] Ni kimwe no haruguru, imp. 30-

[486] Imyanzuro nsozarubanza ya Porokireri, imp. 95, 96.

rwe rwegereye bariyeri. Iyo mvugo inavuguruzwa n'ubuhamya bwatanzwe mu Rukiko n'abagabo bashinja ikanavuguruzwa, mu buryo buteruye, n'ubuhamya bushinjura bwa DI uvuga ko mu ntambara yo mu mwaka wa 1994, Joël Ndabukiye « yari yarahindutse ». Byongeye kandi, biragoye kumva ukuntu DI yaba yarashoboye kwihisha kwa DL amezi atatu yose nta kibazo, kabone naho yamuhinduriraga ubwihisho, kandi « abantu bazi » ko yihishe iwe[487]. Mu gusoza, twavuga ko uretse Uregwa ubwe, DL ari we wenyine uvuga ko Uregwa yari kumwe n'abana babiri ubwo yazaga[488]. Ibyo bikaba bibyutsa ikibazo cyo kumenya niba umutangabuhamya avuga koko ukuri cyangwa niba avuga ku bindi byabaye bitandukanye n'ibyo abandi batangabuhamya bavuga.

360. Porokireri yemeza ko igice cy'ubuhamya bwa DL kivuga ko bidashoboka ko abantu bakwihisha hafi ya bariyeri kuri santeri y'ubucuruzi no ku ntera iri hagati y'igikoni cyubatswe n'Abasuwisi na bariyeri, cyahimbwe hagamijwe gusa kunyomoza abatangabuhamya bashinja.

361. Urugereko rubaye rusubitse gusuzuma burundu ukwizerwa k'umutangabuhamya kugeza igihe ruzaba rumaze gusuzuma ibimenyetso byose byerekeranye n'ibyabereye ku Gasharu.

Umutangabuhamya ushinjura wiswe DU

362. DU, w'Umututsikazi, yabanaga n'umugabo we w'Umuhutu muri Serire ya Kirambo mu mwaka wa 1994. Intambara itangiye nyuma y'urupfu rwa Perezida, ubwicanyi bwibasiye Abatutsi bwabanje gukorwa n'*Interahamwe* zikomoka i Kayenzi, zitwaje impiri, amacumu, imihoro n'ibisongo by'ibiti. Abonye mubyara

[487] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 23-25.
[488] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, imp. 18, 19.

we bari baturanye amaze kwicwa, DU yagiye kwihisha mu bihuru hafi y'umugezi wa Nyabahanga ari kumwe n'akuzukuru ke k'agakobwa kari gafite amezi abiri[489].

363. Mu mpera za Kamena, umugabo we yamubwiye ko Uregwa, yari asanzwe azi kuva kera, yaje ku Gitaka, akavuga ko ubwicanyi bugomba guhagarara. Umugabo we yahise amusohora aho yari yihishe amujyana mu rugo. Umutangabuhamya avuga ko nyuma y'urwo rugendo rw'Uregwa yakoreye aho ngaho, nta bwicanyi bwongeye kubaho ndetse ko umutekano wagarutse. Avuga ko atabonye Uregwa mu ntambara[490].

Gusuzuma ukwizerwa k'umutangabuhamya

364. Porokireri avuga ko DU adafite amakuru ataziguye ku rugendo Uregwa yakoreye ku Gasharu kandi ko yatanze ibisubizo biteye urujijo ku byerekeye itariki urwo rugendo rwaba rwarabereyeho. Ashimangira ko DU atari gushobora gukomeza kwihisha mu bihuru n'uruhinja rw'amezi abiri, amarira yarwo atamutamaje. Ubwunganizi bubona umutangabuhamya akwiye kwizerwa. Buvuga ko Porokireri akabya, iyo avuga ko ibyerekeye itariki bidasobanutse[491].

365. Urugereko rusanga ibyo DU avuga ku rugendo Uregwa yakoreye ku Gasharu byose yabyumvanye umugabo we, kandi ko amatariki avuga ari ugucishiriza. DU abanza kwemeza ko Uregwa yaje mu mpera za Kamena, nyuma akavuga ko adashobora kwibuka niba hari mu ntangiriro cyangwa mu mpera za Kamena. Mu gusoza, avuga ko hari « nyuma y'intambara ». Nk'uko Ubwunganizi bubivuga, DU yashakaga kuvuga nyuma y'ubwicanyi. Urugereko ruributsa ko ari Umututsikazi kandi ko ubuhamya bwe buziguye bushyigikira ubundi buhamya bw'abagabo bashinjura. Cyakora ubuhamya bwe bufite agaciro gato. Urugereko

[489] Ikimenyetso gihamya N° 27 cyatanzwe n'Ubwunganizi (Ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 47, 48.
[490] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 44, 45.
[491] Imyanzuro nsozarubanza ya Porokireri, imp. 97-99 ; imyanzuro y'Ubwunganizi, ibika 483-493; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 24, 25; 2 Werurwe 2004, imp. 59, 60.

rusanga atari ngombwa gusuzuma niba bishoboka ko yaba yarashoboye kwihisha wenyine n'uruhinja igihe kinini mu murima w'amasaka[492].

Umutangabuhamya wiswe DV

366. Ku itariki ya 6 Mata 1994, DV w'Umuhutu, yari ku Kibuye aho yigaga mu mashuri yisumbuye. Ubusanzwe yari atuye muri Segiteri ya Kayenzi ihana imbibi n'iya Gasharu. Ku itariki ya 7 Mata 1994, umuyobozi w'ishuri yigagaho yabamenyesheje ko Perezida Habyarimana yishwe kandi ko kubera umutekano ugenda urushaho kumera nabi, abanyeshuri bagomba gutaha iwabo. Uwo munsi DV yatashye iwabo aho yabanaga na nyirakuru, ahantu hari urugendo rw'iminota nk'itanu uvuye muri serire ya Gasharu[493].

367. Umutangabuhamya avuga ko nyuma y'urupfu rwa Perezida, muri serire yari atuyemo, Abahutu n'Abatwa bakomoka muri iyo serire n'ahandi bishe Abatutsi. Umugore wa Cyprien Karegeya, witwa Joséphine Nyirabagesera, na DI bihishaga rimwe na rimwe mu nzu cyangwa mu rutoki rwa nyirakuru. Babwiye DV ko bihishe no mu rugo rwa DL[494]. Umunsi umwe, mu mpera za Mata, igihe DV yarimo gukura ibijumba mu murima uri haruguru y'urutoki rwa nyirakuru yabonye umuntu witwa Ntirihirika, wari kumwe n'itsinda ry'abantu bagabye igitero, yirukankana Nyirabagesera, aramufata, amwicisha impiri. DI yahunze yerekeza i Kirambo. DV avuga ko yabibonye ari nko muri metero 100 cyangwa 150[495].

[492] Ubwo bamubazaga ukuntu yashoboye kwihisha n'uruhinja, umutangabuhamya yasubije ko umwana atariraga kubera ko rimwe na rimwe nyina yazaga kumuha ibere, kandi ko we ubwe yamuhaga icyo kunywa : Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, urup. 50.

[493] Ikimenyetso gihamya No 28 cyatanzwe n'Ubwunganizi (Ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 54-56, 66. Agereranyije, umutangabuhamya avuga ko hagati ya Kbuye na Gitaka hari urugendo rw'amasaha atatu umuntu agenda n'amaguru. Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, urup. 79.

[494] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 64, 67, 68

[495] Ni kimwe no haruguru, imp. 55-56, 68-69.

368. DV avuga ko abaturanyi be bamubwiye ko Cyprien Karegeya yiciwe ku Gitaka mu ntangiriro za Gicurasi akavuga ko atiboneye ubwe iyicwa rya nyakwigendera[496]. Avuga ko yabonye bariyeri ku Gasharu kandi ko mu bantu bari bayirinze yamenyemo Somayire na Mbonyumve. Yongeraho ko abo bantu bari bafite impiri n'inkoni. Cyakora, ntiyari azi niba hari abantu bari barahiciwe[497]. Umutangabuhamya yabonye imirambo ajya ku Gasharu. Yumvise bavuga iyicwa ry'umuntu ukomoka i Nyarubuye wishwe na DO kandi ko nyakwigendera aticiwe kuri bariyeri ko ahubwo yiciwe hafi yayo. Yumvise kandi urupfu rwa Tatiana waguye ahantu hitwa Nyabahanga[498]. Umutangabuhamya yumvise ko Gatete yishe abantu benshi, barimo Mbonimpa n'umugore w'uwitwa Fabien. Yumvise ko Uwimana yishe abantu i Gasharu, ariko nta zina ry'undi mwicanyi yamenye[499].

369. Umunsi umwe ku cyumweru nyuma ya saa sita muri Kamena, ubwo abantu benshi bari bavuye ku kiriziya, DV yabonye Uregwa afata ijambo kuri santeri y'ubucuruzi yo ku Gitaka. Ntiyari yarigeze amubona mbere, ariko abaturage batuye muri Serire ya Gasharu bamubwiye uwo ari we[500]. Uregwa yaba yaraje muri minibisi, ari kumwe n'abandi bantu babiri, cyakora aza cyangwa atangira ijambo rye, umutangabuhamya ntiyari ahari. Yumvise Uregwa abwira abantu ati: « Ntimukwiye kwica abantu. Muzi ko amaraso atembera mu mubiri wanyu ari amwe kuri buri wese[501] ». Uregwa yaba na none yarabajije ikibazo gikurikira : « Ntimwaba muzi abantu bagize uruhare mu bwicanyi ? », umugore witwa Colette yaba yaramusubije ko Gatete yabugizemo uruhare. DV avuga ko yumvise Uregwa avuga ngo : « Munzanire uwo Gatete» maze Gatete ahita ahunga[502]. DV yemeza kandi ko yumvise Uregwa abwira DL aya magambo : « Wishe abantu. Wabashyize he ? ». Uregwa yafashe DL, amutegeka kujya mu modoka ye, ni uko aramubwira ngo : « Uraza gusobanura imbere y'abategetsi uburyo wishe abo

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[496] Ni kimwe no haruguru, urup. 57.
[497] Ni kimwe no haruguru, imp. 62, 74.
[498] Ni kimwe no haruguru, imp. 74, 75.
[499] Ni kimwe no haruguru, imp. 71-73, 79, 80.
[500] Ni kimwe no haruguru, imp. 57, 58, 71, 76, 77.
[501] Ni kimwe no haruguru, imp. 57- 60, 76, 77.
[502] Ni kimwe no haruguru, imp. 58, 59, 71, 72, 77, 78.

bantu. DL yinjiye mu modoka y'Uregwa nta mananiza. Bukeye DV yabonye DL maze ahita yumva ko yaraye mu buroko ijoro rimwe gusa[503].

370. DV avuga ko abatangabuhamya babiri bashinja ari bo CGF na CGX, batari bahari igihe Uregwa yajyaga ku Gasharu. Yemeza ko umuryango wa CGX wari wishwe, kandi ko CGX yari yagiye kubana na musaza we. Ntibyari ngombwa ko CGF yihisha hafi ya bariyeri kuko ari Umuhutu kandi ntiyahigwaga n'abicanyi[504].

Gusuzuma ukwizerwa k'umutangabumya

371. Porokireri asanga ibivugwa na DV bivuguruzwa na DI na DL. Avuga kandi ko DV abogamye kubera ko yashakanye na DI ugira icyo apfana n'Uregwa. Ubwunganizi busanga DI na DL batavuguruzanya na gato mu buhamya batanze mu Rukiko. Buvuga ko DV, ufitanye isano n'Uregwa kubera gusa Karegeya, yagombye kuba yarakoze ku buryo uwishe Karegeya ahanwa, nyamara akaba yaratanze ubuhamya bushinjura Uregwa [505].

372. DV yari atuye muri serire ihana imbibi n'iya Gasharu. Asa nutagira icyo azi kigaragara ku bwicanyi bwakorewe Abatutsi bamwe na bamwe aho hantu, nka Simon Higiro n'uwitwa Habimana. Urugereko rusanga ibyo umutangabuhamya yemeza ko yabonye ibikorwa bimwe na bimwe byabereye ku Gasharu, bidashoboka cyane. Yari atuye ahantu hari urugendo rw'iminota itanu cyangwa itandatu gusa n'amaguru. Urugereko rwemera igisobanuro cy'umutangabuhamya uvuga ko yajyaga ku Gasharu kenshi guhaha no gusura bene wabo n'abaturanyi[506].

373. Ku byerekeranye no kuvuguruzanya kwaba kuri hagati y'ubuhamya bwe mu Rukiko n'ubwa DI, Porokireri yerekanye uburyo butandukanye

[503] Ni kimwe no haruguru, imp. 60-61, 71-72, 75-76, 77-78.
[504] Ni kimwe no haruguru, urup. 65.
[505] Imyanzuro nsozarubanza ya Porokireri, imp. 99-105; Imyanzuro y'Ubwunganizi, ibika 494-512 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 25, 26, 27; 2 Werurwe 2004, urup. 60.
[506] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 64-66, 71.

umutangabuhamya avugamo ahantu Nyirabagesera na DI bari bihishe. Porokireri avuga ko DI atigeze avuga ko rimwe Nyirabagesera yihishaga kwa DL, ubundi akihisha kwa nyirakuru wa DV, kandi ko, bitandukanye na DI, DV atavuga ko Nyirabagesera yihishaga no ku muvandimwe wa DI. Urugereko ruributsa ko mu ibaza rinyomoza, nta na rimwe DV yamenyeshejwe iryo vuguruzanya. Rumaze kugereranya neza ubwo buhamya bwombi, Urugereko rusanga umugabo yari gushobora gutanga ibisobanuro kuri iryo vuguruzanya risa n'iriboneka hagati y' ubwo buhamya[507]. Kubera izo mpamvu, Urugereko rusanga uku kuvuguruzanya kuvugwa nta cyo kubangamiraho ukwizerwa k'umutangabuhamya.

374. Ahubwo, kuba DV ahakana ko azi icyo Karegeya apfana n'Uregwa biteye kwibaza. Mu mwaka wa 1998, umutangabuhamya yarongoye mwenewabo wa Karegeya wabaga icyo gihe kwa mushiki w'Uregwa, afatwa nk'umwe mu bagize umuryango wabo. DV yageze aho ajya gusaba DI kwa mushiki w'Uregwa [508]. Mu Rubanza, abatangabuhamya benshi, bashinja cyangwa bashinjura, bemeza ko Karegeya yari mubyara w'Uregwa. Usanga abantu bose bo ku murenge bari bazi iyo nkuru.

375. Indi ngingo yashingirwaho mu gusuzuma ukwizerwa kwa DV ni uko yemeje ko ukuza k'Uregwa muri Kamena kwatumye ubwicanyi buhagarara i Gasharu. Biraruhije guhuza ibyo yemeje n'ibyo yavugiye mu rubanza, ahamya ko muri Kamena Abatutsi benshi bari baratsembwe, ko « [nta] bantu bahigwaga bari bakiriho »[509]. Asabwe gutanga ibisobanuro kuri uko kwivuguruza, DV yavuze ko mu by'ukuri hari hasigaye Abatutsi bake cyane muri Kamena, ariko ko mu byatumye hagira abantu barokoka, harimo n'uko Uregwa yavuze ko abagizi ba nabi bazahanwa[510]. Urugereko ntirunyuzwe bihagije n'icyo gisubizo.

[507] Imyanzuro nsozarubanza ya Porokireri, imp. 102-104. Nta na rimwe muri iryo vuguruzanya ryigeze rimenyeshwa umutangabuhamya mu ibaza rinyomoza.
[508] Inyandikomvugo y'iburanisha, 28 Ukwakira 2003, imp. 64, 69, 70.
[509] Ni kimwe no haruguru, urup. 71.
[510] Ni kimwe no haruguru, imp. 74, 79, 80.

376. Ibyo umutangabuhamya avuga kuri CGF na CGX bitera urujijo. Biragoye kwemera ko yashoboye kumenya ko abo batangabuhamya batari bahari igihe Uregwa yazaga ku Gasharu. Mu by'ukuri, ntavuga gusa ko atababonye, ahubwo anemeza ko batari ku Gasharu. Urugereko ntirwumva impamvu DV yitaye by'umwihariko kuri abo bantu babiri, cyangwa impamvu yibuka neza ko batari bahari, kandi hashize imyaka icyenda ibyo bintu bibaye. Kuba umutangabuhamya atarashoboye gusobanura, mu buryo bwumvikana, ukuntu yibuka ikintu gito ako kageni, bituma umuntu akeka ko yateguye ubuhamya kugira ngo ashobore gusubiza ibyo Porokireri avuga, n'ubwo ahakana ko atari azi ko abo bantu babiri batanze ubuhamya bushinja. Kubera izo mpamvu, Urugereko rusanga rutakwemera ibisobanuro yatanze mu iburanisha, yemeza ko batari bahari.

377. Urugereko rurasuzuma agaciro k'ubuhamya bw'uyu mugabo rwifashishije ibimenyetso byose rwashyikirijwe.

Umutangabuhamya wiswe DM

378. DM avuga ko ari Umuhutu, uvuka muri Serire ya Nyarusage, Segiteri ya Buye, ihana imbibi na Serire ya Gasharu. Ubu afungiye muri gereza ya Gisovu mu Rwanda. Avuga ko hashize iminsi itatu Perezida Habyarimana apfuye ku itariki ya 6 Mata 1994, Abahutu batangiye kwica Abatutsi no gusahura ibintu byabo[511].

379. DM avuga ko yiboneye iyicwa rya Cyprien Karegeya. Mu mpera za Mata, hagati ya saa sita na saa munani z'amanywa, umutangabuhamya yagiye ku Gitaka muri serire ya Gasharu, ageze i Gisiza, ahura n'abantu bashoreye Karegeya bari bavumbuye mu murima w'amasaka. Abo bantu bajyanye Karegeya ku Gitaka, bamwicaza imbere y'inzu ya DL. Umwe muri abo bantu witwa Ndagijimana yakubise impiri Karegeya mu bitugu. Abandi baravuha ngo : « Si byiza kumwicira imbere y'inzu y'umuntu. Mumujyane inyuma y'amazu ». Bajyanye

[511] Ikimenyetso gihamya No 37 cyatanzwe n'Ubwunganizi (Ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano umutekano umutekano) ; Inyandikomvugo z'amaburanisha, 30 Ukwakira 2003, imp. 42-44; 31 Ukwakira 2003, imp. 4-7.

Karegeya inyuma y'umurongo w'amazu ari munsi gato ya santeri y'ubucuruzi yo ku Gitaka, maze Rusagara na Misago baramukubita kugeza apfuye[512]. Uretse abo bantu batatu bahondaguye Karegeya, abandi bantu bari bagize iryo tsinda ni Ahingereje, Ruganamanzi na Rwasibo wari uyoboye ako gaco nk'uko umutangabuhamya abivuga[513]. Umutangabuhamya avuga ko yari ahagaze haruguru gato muri metero icumi uvuye ahantu Karegeya yiciwe.

380. Umutangabuhamya avuga ko ibyo abo bantu bakoze nta wabibategetse, kubera ko iyo haza kuba harakozwe inama ibitegura aba yarabimenye[514]. DL, Mwirinde, Jotham Sebarame na Nasoni Nsengimana baba na bo barabyiboneye[515]. N'ubwo nta ruhare nyirizina yagize mu iyicwa rya Karegeya, umutangabuhamya yumva icyo cyaha kimuhama kuko yari yitwaje impiri kandi ari kumwe n'abagabye igitero. Yemera ko yari mu bantu bari bagabaga ibitero maze akabisobanura muri aya magambo : « Abantu bambonaga bumvaga ko ndi umugizi wa nabi mu bandi »[516].

381. DM avuga ko yari azi Uregwa ku isura, ko yibuka ko yamubonye inshuro ebyiri mbere y'umwaka wa 1994. Avuga ko atari kuyoberwa ko Uregwa yaje kubera ko iyo yazaga abantu babivugaga kandi bakihutira kujya kumusuhuza. Umutangabuhamya yari aturanye n'abantu benshi bo mu muryango w'Uregwa , barimo ba se wabo, babyara be na mukuru we, kandi Uregwa yanyuraga hafi y'iwe iyo yabaga aje gusura abo benewabo[517].

382. Mu gihe cy'ibyabaye mu mwaka wa 1994, DM ntiyabonye Uregwa uretse muri Kamena. Umutangabuhamya avuga ko ubwo yarimo kunywa inzoga mu nzu ku

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512 Inyandikomvugo z'amaburanisha, 30 Ukwakira 2003, imp. 43-47; 31 Ukwakira 2003, imp. 10-17. Karegeya yiciwe inyuma y'amazu abiri: iya Myera n'iya Sebarame.

513 Inyandikomvugo z'amaburanisha, 30 Ukwakira 2003, imp. 44-47, 49; 31 Ukwakira 2003, imp. 10, 18, 19.

514 Inyandikomvugo z'iburanisha, 30 Ukwakira 2003, imp. 46-47; 31 Ukwakira 2003, imp. 17-18.

515 Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 5-6, 19-22. DL na Sebarame bari abacuruzi ku Gitaka ; amaduka yabo yari afunze ariko icyo gihe bari bahagaze hafi yayo.

516 Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 7-8, 10-11, 14-15.

517 Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 47-50.

Gitaka, abantu bari ku muryango bavuze ko Uregwa aje. We n'abantu benshi barasohotse bajya kureba Uregwa wabazaga ngo : « Ni nde wishe abantu batuye muri aka gace ? …Ni nde wabategetse kwica abantu ? ». Bose baracecetse n'uko Uregwa abaza by'umwihariko DL muri aya magambo : « Utuye hano. Ni nde wishe abaturanyi bawe ? …Ndakubaza umuntu wishe Karegeya ? Ntubona ko inzu ye bayisenye ». DL yaracecetse, ariko umuntu wasohotse mu kabari yavuze buhoro ko uwitwa Gatete yishe abantu. Bahamagaye Gatete n'uko Uregwa aramubaza ati: « Ni byo koko ni wowe watsembye abantu hano ? » Yumvise icyo kibazo, Gatete yahise ahunga. Uregwa rero yafashe DL, agira ati : « ndagufashe kubera ko utambwiye abishe bariya bantu kandi uturanye na bo, ntumbwire abatwaye inka zanjye »[518].

383. Umutangabuhamya asobanura ko ubwicanyi bwari bwahagaze kubera ko Abafaransa bari bahageze. Yemeza kandi ko ubwicanyi bwarangiye hagati muri Gicurasi 1994[519].

Gusuzuma ukwizerwa k'umutangabuhamya

384. Porokireri avuga ko Urugereko rwari rukwiye gusuzumana ubushishozi ubuhamya bwa DM, kandi rukavuga ko kugira ngo ubwo buhamya bwemerwe hagomba kugira ubundi bushyigikira ingingo zose z'ingenzi zibuvugwamo. Ubwunganizi bwemeza ko umutangabuhamya yakwizerwa ku byerekeye urupfu rwa Karegeya yahagazeho no ku byerekeye itariki Uregwa yagereyeho ku Gitaka; iyo tariki ikaba yaremejwe n'abandi batangabuhamya[520].

385. Urugereko ruributsa ko, muri iki gihe, DM afungiye muri gereza ya Gisovu mu Rwanda. Ku itariki ya 16 Ugushyingo 2002, hakurikijwe Itegeko Ngenga rishyiraho inkiko Gacaca, DM yireze ibyaha imbere ya parike y'u Rwanda ku

[518] Ni kimwe no haruguru, imp. 47, 48.
[519] Ni kimwe no haruguru, urup. 49.
[520] Imyanzuro nsozarubanza ya Porokireri, imp. 114-117; imyanzuro y'Ubwunganizi, ibika 513-526 ; Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp.59-61.

Kibuye[521]. Mu nyandikomvugo yo kwirega, yemeye ko yishe abantu bane, bose bakomoka muri Segiteri ya Buye, Perefegitura ya Kibuye kandi Karegeya (ukomoka i Gasharu) ntarimo. Iyo nyandikomvugo yo kwirega irimo kandi amazina y'abantu 28 bafatanyije gukora ibyaha, 25 muri bo bakomoka i Buye. Iyo lisiti ntirimo Ndagijimana, wari mu gitero kandi wabimburiye abandi mu gukubita Karegeya, na Rwasibo umutangabuhamya avuga ko ari we wari uyoboye abandi. Mu nyandikomvugo y'ukwirega harimo amazina ya Ruganamanzi (bita Rugenamanzi w'i Buye), Misago (w'i Buye), Rusagara (w'i Kayenzi) na Ahingwereje (w'i Buye)[522]. Ubwo bwicanyi bune, bwose bwabereye i Buye, buvugwaho gake mu mpera z'inyandikomvugo. Umutangabuhamya avuga ko icyo cyaha cyakozwe DL abireba.

386. Mu kwirega ibyaha, DM yemera ko ubwicanyi bw'abantu bane i Buye, cyakora ntiyemera ubwakorewe Karegeya ku Gasharu. Umutangabuhamya ntiyavugishije ukuri haba kuri Parike ya Kibuye, cyangwa mu Rugereko. Ibi ntibitangaje kuko abantu baregwa bafite inyungu mu gupfobya uruhare rwabo cyangwa se mu gutanga gusa amakuru basanga ari ngombwa kugira ngo babone inyungu zijyanye no kwirega icyaha. Urugereko rugomba kugaragaza ukuntu ubuhamya umugabo yatanze, ku ndahiro, mu Rukiko Arusha butakwizerwa kubera ko yivuguruje mu bwirege yatanze ku Kibuye.

387. Mu ibazwa rinyomoza, ubwo yerekwaga inyandiko y'ubwirege bwe, umutangabuhamya yasabwe kuvuga niba ashobora kubonamo izina rya Karegeya maze arasubiza ati : « Sindabona izina rye ». Icyo gisubizo gisa naho cyerekana ko iryo zina hari aho riri. Bamubajije kugira icyo avuga kuri Ndagijimana, yabanje kuvuga ko izina rye riri mu nyandiko y'ukwirega kwe. Bamubwiye ko ritarimo, arasubiza ati: « Navuze izina rya Ndagijimana. Ahari bibagiwe

[521] Ikimenyetso gihamya No 36 cyatanzwe na Porokireri (« Inyandikomvugo y'ukwirega, ukwemera icyaha no gusaba imbabazi ; Itegekongenga n° 40/2000 ryo ku itariki 26 Mutarama 2001 rishyiraho inkiko *gacaca*, (« ingingo 54-59-60-61 »). Umutangabuhamya avuga ko yemeye icyaha mu ibaruwa yo ku itariki 13 Ukuboza 1998 yandikiye Parike y'u Rwanda. Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 1-2.

[522] Ayo mazina uko ari ane avugwa mu mazina y'abantu bafatanije gukora icyaha kuri nomero 22, 14, 25 na 13, uko akurikirana. Izina riri kuri nomero 13 mu nyandikomvugo ni irya François Aygereje.

kuryandika, ariko ndibuka ko narivuze»[523]. Urugereko rusanga bitumvikana ko uhagarariye Parike ku Kibuye yaba yaribagiwe kwandika izina yabwiwe. Ubuhamya bwanditse buruzuye kandi burimo inyandiko y'uhagarariye parike ku Kibuye yerekana neza ko bukeneye kumenya abantu bafatanyije icyaha. Iyo nyandiko y'uhagarariye parike iteye itya : « [Umutangabuhamya] ntasobanura uruhare rwa buri muntu bafatanyije gukora icyaha ».

388. Niyo mpamvu, Urugereko rusanga umutangabuhamya abeshya iyo yemeza ko uhagarariye Parike yo ku Kibuye yemeraga ko yari yababwiye ukuri. Urugereko ntirwakwemera ibyo umutangabuhamya avuga ko yari afite inyandiko yemeza ko parike yo ku Kibuye yemeye ukwirega kwe. Bamweretse inyandiko ya Parike yo ku Kibuye ivuguruza imvugo ye, yavuze ko bamusabye kuvuga mu magambo make kubera ko nta mpapuro zihagije zari zihari. Na none icyo gisobanuro ntikinyuze Urugereko[524].

389. DM na none atanga igisubizo kitanyuze ku kibazo cyo kumenya impamvu atavuze Rwasibo, ukekwaho kuba yarayoboye igitero cyishe Karegeya. Yabanje kwemeza ko yavuze Rwasibo mu nyandiko zose, ariko ageze aho yemera ko atavuze Rwasibo mu kwirega yatanze ku Kibuye kubera ko yavuze ibyo yakoze ku giti cye. Iki gisubizo ntigihwitse, kubera ko mu kwirega kwe, asobanura uruhare yagize muri bumwe mu bwicanyi bwabereye i Buye, nko kuba yarahatiye uwakorewe icyaha gusohoka mu bihuru kugira ngo abandi bamwice. Yageze n'aho yirega ibindi bikorwa nko kurya inka no gusahura ibisakaye inzu.

390. Mu buhamya bwe, DM avuga ko ukwirega kwe imbere ya parike ya Kibuye atari bwo buhamya bwanditse bwonyine yatanze, ko izindi nyandiko z'ubwirege bwe bwe zatakaye. By'umwihariko, akomoza ku buhamya bwandikiwe muri gereza ya Gisovu, mu rwego rwa *gacaca*, aho avuga muri rusange ibintu byabaye yiboneye.

[523] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 5, 6, 14, 15, 18.
[524] Ni kimwe no haruguru, urup. 8 « Yego, ndabona iyo nyandiko. Ubusanzwe, iyo muntu yireze ibyaha imbere ya parike, hari igihe bamubaza ibibazo by'inyongera. Nzi neza ko nzagomba gusubiza ibindi bibazo imbere y'inkiko Gacaca. Bansabye kuvuga mu magambo make kubera ko batari bafite impapuro zihagije. Cyakora ubu ngubu, igihe nzaba ndi imbere y'inkiko Gacaca, nzabisobanura byose ».

Umutangabuhamya avuga ko afite inyandiko yemeza ko yavuze Karegeya, ariko Ubwunganizi ntibwayitanzeho ikimenyetso. Cyakora, bakomeje kumuhata ibibazo, umutangabuhamya ntiyashoboye kwemeza neza ko izina rya Karegeya riri muri izo nyandiko[525]. Umutangabuhamya yasobanuye ko yari afite ingorane zo gusoma inyandiko zandikishije intoki, akaba rero adashobora kumenya neza niba ibyo yavuze mu buhamya bwe bwanditse byarandukuwe neza [526].

391. Porokireri yemeza ko nta ruhare na rumwe DM yagize mu byabereye i Gasharu[527]. Umutangabuhamya avuga ko nta ruhare yagize muri ibyo bikorwa mu ibazwa rinyomoza, ubwo yavugaga kuri *Gacaca* abantu bafungiye muri gereza ya Gisovu bishyiriyeho bahereye ku turere bakomokamo[528]. DM avuga ko urebye nta ho ahuriye na DO, wari ushinzwe akarere karimo Serire ya Gasharu muri *Gacaca* yo muri gereza :

> « Narahageze nsanga Gacaca yarashyizweho, ariko nabonye [DO] ayifitemo umwanya. Kandi Segiteri yanjye itandukanye n'iye. Nta n'ubwo yigeze ambaza ibibazo ku byo naba narakoze kubera ko atazi ibyo nakoze. Jye ntuye muri Segiteri…[umutangabuhamya avuze iyo Segiteri] na ho we ari muri Segiteri ya Kayenzi[529] ».

Urugereko rusanga ahanini DM yarakoreye ibyaha mu Segiteri ya Buye. Cyakora, ibyo ntibibuza ko ashobora kuba yaragabye ibitero muri segiteri yegeranye n'iye, akahicira abantu. Abatangabuhamya benshi, barimo DO, bavuga ko abantu bakomoka mu turere bahana imbibi, nka Kayenzi, bishe kandi bagasahura ku Gasharu.

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[525] Ni kimwe no haruguru, imp. 14-16, 17-18.
[526] Ni kimwe no haruguru, urup. 18.
[527] Ni kimwe no haruguru, imp. 10, 11.
[528] Ni kimwe no haruguru, urup. 8 (« Twebwe…Abaregwa bemeye icyaha twari bake muri gereza. Twagize inama, inama y'abantu bemeye icyaha, inama(sic) zikomoka mu MaKomine yose ya Perefegitura…twitoyemo umukuru…tumwita Perefe. Perefe yashyizeho umuntu muri buri Komine ni uko tumwita Burugumesitiri…Muri Komine twakoze…twashyizeho abakonseye muri buri segiteri, ni uko buri mu konseye ashyiraho abantu muri buri serire, ari bo ba resiponsabule…Jye, ndavuga urwego rw'abaregwa bemeye icyaha »).
[529] Ni kimwe no haruguru, urup. 11.

392. Porokireri yemeza ko DO yemeye ko yagize uruhare runini cyane mu bitero byagabwe ku Gasharu, kandi ubwo bwirege bushyigikiwe n'ubuhamya bw'abandi bagabo. Cyakora ntavuga DM mu mubare w'abantu bakoreye ibyaha ku Gasharu. DM asubiza ko kwivuguruza kuri mu buhamya bwe bwanditse butandukanye kandi ko nta kunyuranya kuri hagati y'ubuhamya bwe n'ubwa DO. Avuga ko ku Gasharu, yagize uruhare gusa mu iyicwa rya Karegeya, ko atafatanyije na DO muri icyo gikorwa cyangwa mu bindi[530]. Urugereko rurasuzuma iyi ngingo igihe cyo gusuzuma ubuhamya DO yatanze mu Rukiko.

393. DM avuga ko nta muntu watanze itegeko ryo kwica Karegeya, ko abamwishe babikoze ku giti cyabo. Asobanura ko iyo haza kuba harabayeho itegeko iryo ari ryo ryose, haba harabanje kuba inama kandi aba yarayimenye[531]. Urugereko rusanga ahanini DM yarakoreye ibyaha muri Segiteri ya Kayenzi aho kubikorera i Gasharu. DM avuga ko yageze ku Gasharu umunsi Karegeya yicwa. Ntiyashoboraga rero kumenya niba inama nk'iyo yarabaye cyangwa niba itarabaye.

394. Porokireri asanga DM abeshya iyo avuga ko Uregwa atashoboye kujya i Gasharu mbere ya Kamena. Umutangabuhamya avuga ko iyo Uregwa aza kujyayo aba yarabimenye, ariko akemera ko yabonye Uregwa inshuro ebyiri gusa mbere y'umwaka wa 1994. Porokireri yemeza ko Uregwa yagiye i Gasharu inshuro zirenze ebyiri, kandi ko kuba umutangabuhamya avuga ko atamenye izindi ngendo Uregwa yakoze bituma umuntu ashidikanya ku byo avuga ko yari kumenya Urugerendo rwose Uregwa yari gukora. Cyakora, Urugereko rusanga Porokireri atareretse umutangabuhamya uko kuvuguruzanya avuga. Byongeye kandi, umutangabuhamya avuga ko *yabonye* Uregwa inshuro ebyiri gusa mbere y'umwaka wa 1994, ntavuga ko *yamenye* ko yaje kabiri gusa[532].

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530 Ni kimwe no haruguru, imp. 10, 11.
531 Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, imp. 46, 47.
532 Inyandikomvugo y'iburanisha, 30 Ukwakira 2003, urup. 47.

395. Urugereko rusanga ubuhamya bwa DM mu Rukiko bukurura ibibazo byinshi bitabonewe ibisubizo, ibyo bigatuma ukwizerwa kwe gukemangwa. Cyakora, ikibazo cy'ingenzi umuntu akomeza kwibaza ni icyo kumenya mpamvu yatuma uyu mutangabuhamya yemera ko yagize uruhare mu iyicwa rya Karegeya kandi atari byo. Porokireri yemeza ko bagenzi be bari bafungiye hamwe muri gereza ya Gisovu, nka murumuna w'Uregwa, Ezekias Seyeze, batumye atanga ubuhamya bw'ikinyoma ku ruhare yagize mu bintu byabereye i Gasharu. Umutangaguhamya ahakana ko murumuna w'Uregwa yamwoheje, agasobanura ko yasubije ibibazo by'abakoze iperereza baje muri gereza ya Gisovu. Yongeraho ko G*acaca* zo muri gereza, zitagenwe n'itegeko, zashishikarizaga abantu kwirega ibintu byose bakoze kandi zikagenzura niba abantu batabeshya cyangwa badapfobya ibikorwa bibisha bakoze[533]. Urugereko ntirufite ikimenyetso na kimwe cyatuma rufata icyemezo ku mvugo ya Porokireri, cyakora rusanga umutangabuhamya apfobya cyane uruhare yaba yaragize mu iyicwa rya Karegeya, avuga ko we yari indorerezi isanzwe yitwaje intwaro, n'ubwo «yakoze ibyaha nk'abandi». Inkurikizi mbi kuri iyo myitwarire y'umutangabuhamya, nyuma yo kwemera ko yishe abantu bane, zisa nkaho zidakomeye.

396. Mu kwanzura, Urugereko rusanga ubuhamya bwa DM butakwizerwa cyane kereka bufite ubundi bubushyigikira kurushaho.

Umutangabuhamya wiswe DO

397. DO, Umuhutu w'umuhinzi wari utuye muri Segiteri ya Kayenzi mbere y'ibyabaye mu mwaka wa 1994, yabaga muri Serire ya Nyagahinga muri Komine ya Gitesi. Serire ya Nyagahinga n'iya Gasharu zitandukanijwe n'umugezi. Perezida akimara gupfa, abaturage bishyize hamwe ngo babungabunge umutekano muri ako karere. Cyakora nyuma yaho, abantu bitwa *Abakiga* baje kwica Abatutsi bari bahungiye i Kirambo, kandi babwira abaturage bo muri ako karere ko bazabagirira nabi nibatitabira ubwicanyi. Ibitero byibasiye Abatutsi

533 Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 8-10.

byatangiye hashize iminsi ine nyuma y'urupfu rwa Perezida. Umutangabuhamya yemera ko yitabiriye ibitero birenze 20 byagabwe i Gasharu ho muri Komine ya Gitesi, no muri Segiteri ya Kayenzi n'iya Ruragwe[534]. Ibyaha yemeye ni byo afungiwe muri gereza ya Gisovu[535].

398. Umutangabuhamya avuga ko urebye abagabaga ibitero, na we arimo, bahuriraga iminsi yose muri Serire ya Gasharu, kuri santeri y'ubucuruzi y'ahitwa ku Gitaka, ubwo babaga bateye cyangwa bagiye gusangira icyo kunywa nyuma y'ibitero. Avuga kuri santeri y'ubucuruzi yo ku Gitaka hari harashyizweho bariyeri irinzwe na Sumayire Minani na Mbonyubwe. Avuga ko atigeze yumva ubwicanyi na bumwe bwabereye kuri bariyeri, cyakora azi ko hari ubwakorewe hafi yayo kandi na we yari aburimo[536].

399. Umunsi umwe ari ku wa mbere, mu ntangiriro za Gicurasi, mu ma saa munani, DO yabonye Cyprien Nsengiyumva wari umujandarume na Nsengiyumva, bitaga Rutomvu, bajyanye Tatiana Mukantabana kuri santeri y'ubucuruzi yo ku Gitaka bamuvanye aho yari yihishe kwa Joël Ndabukiye[537]. Umutangabuhamya n'abandi bantu bagabaga ibitero bajyanye uwo mugore kwa Pascal Rwuhara i Nyarubuye bahasahura ibintu byimukanwa yari yahabitse. Nyuma abagabye igitero bashatse kujyana uwo mugore i Nyabahinga, ariko umujandarume aranga, n'uko basubira kuri santeri y'ubucuruzi yo ku Gitaka, inyuma y'amaduka, nko muri metero 80 cyangwa 90 uvuye kuri bariyeri. DO yakubise Mukantabana impiri ebyiri, noneho Rutomva aramuhondagura aramuhwanya[538]. Umutangabuhamya avuga ko Mukantabana yicwa Ismael Mbarushimana, Mpitabakana na Frodouard Bakinahe mu bantu bari bahari. Ahakana yeruye ko Joël Ndabukiye yagize uruhare muri ubwo bwicanyi. Abana babiri ba Mukantabana na bo biciwe rimwe

[534] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 25-27, 41, 48, 49. Umutangabuhamya avuga ko yagize uruhare mu iyicwa ry'abantu barenze 20.
[535] Ikimenyetso gihamya No 38 cyatanzwe n'Ubwunganizi (Ifishi y'umwirondoro w'umutangabuhamya urindiwe umutekano) ; Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 23-26, 39-40.
[536] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 25- 27.
[537] Ni kimwe no haruguru, imp. 27- 29, 40-41.
[538] Ni kimwe no haruguru, imp. 27-30.

na we, kimwe n'umuntu witwa Zacharia Nyankiko[539]. DO avuga ko Mukantabana, bahimbaga « Nyiramaritete » yahigwaga n'abantu benshi[540].

400. DO avuga ko yumvise bavuga ko Karegeya, wari utuye i Gasharu kandi yari azi neza, yishwe hadashize iminsi irindwi Mukantabana apfuye, mu ntangiriro za Gicurasi. Avuga ko atiboneye urwo rupfu, ariko akemeza ko urupfu rwa Karegeya rwamenyekanye hose kandi ko yashakishijwe cyane mbere yo kwicwa. DO yamenye ko Karegeya yapfuye abyumvanye DL wamubwiye ko Karegeya yishwe n'igitero kivuye i Buye, kandi ko ari we wamuhambye. DO avuga ko DL yababajwe cyane n'iyo nkuru, akaba yaramubwiye ati: « Inshuti yanjye yishwe »[541]. Umutangabuhamya ntiyibuka umuntu n'umwe mu bagabye igitero kandi ntazi niba Rwasibo yari muri ubwo bwicanyi[542].

401. DO avuga ko yabonye Uregwa inshuro ebyiri mbere y'umwaka wa 1994. Yamubonye bwa mbere Uregwa akimara kurongora ubwo yari aje gusura umuryango we. Yamubonye bwa kabiri, mu mwaka wa 1992 ubwo Uregwa yari aje ku Gitaka gukoresha inama, batanzemo ingofero za PSD. DO avuga ko atabonye Uregwa mu byabaye mu mwaka wa 1994. Cyakora, umunsi umwe ari ku cyumweru, abantu bajyanaga nawe mu bitero bamubwiye Uregwa yaje ku Gitaka, agafata DL kandi ko « [bitari umukino] ». DO avuga ko yabasubije ati : « None se ko mwebwe mukomeje [kugenda] mutyo, barabafata namwe ». Bagiye mu mpinga y'agasozi maze babona imodoka inyura imbere y'inzu ya Ndabukiye, mu ntera ijya kungana na kilometero imwe. Nyuma bagiye kuri santeri y'ubucuruzi yo ku Gitaka. Abantu bavugaga ko DL yafashwe. Umutangabuhamya

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[539] Ni kimwe no haruguru, imp. 28-31, 39-41, 49 ; Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, urup. 29.

[540] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, urup. 30 ; ubanza iryo zina ry'irihimbano ryari ryarahawe Mukantabana kubera ko impuha zavugaga ko mu mwaka wa 1985 yaba yararoze umwarimukazi bigishaga hamwe witwa Jacqueline Nyirabakwiza.

[541] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 31,40, 41.

[542] Ni kimwe no haruguru, urup. 52. DM yavuze ko Rwasibo yari ku isonga ry'abantu bishe Karegeya. Umutangabuhamya wiswe DO yemeje ko Rwasibo yakomokaga mu Segiteri ya Kayenzi.

avuga ko ibyo byabaye nyuma y'urupfu rwa Mukantabana, ariko ntavuga itariki nyayo byabereyeho [543].

402. DO ahakana ko yashyizweho agahato ngo atange ubuhamya bushinjura Uregwa. Avuga ko nta nyungu afite mu gutanga ubuhamya bushinjura. Yemeza ko muri gereza nta muntu wamusabye kubeshya kandi ko nta muntu wari kumuhatira kubikora. Yongeraho ko imfungwa zishyize mu matsinda zigashyiraho *Gacaca* yazo, zishingiye ku turere zikomokamo, kandi zigamije gushishikariza abakoze ibyaha kwirega[544].

Gusuzuma ukwizerwa k'umutangabuhamya

403. Porokireri avuga ko DO ari umwicanyi ruharwa utagira impuhwe. Avuga kandi ko ubuhamya bwe mu Rukiko bugomba gusuzumanwa ubushishozi bukemerwa gusa ari uko bufite ubundi bubushyigikira. Yongeraho ko ubuhamya DO yatanze mu Rukiko ku rugendo Uregwa yakoreye i Gasharu no ku iyicwa rya Karegeya ari ubwo yumvanye abandi kandi ko butagombye kwakirwa nk'aho bushyigikira ubundi bwatanzwe, cyangwa nk'aho bufite agaciro kihariye. Ubwunganizi buvuga ko nta wakemanga ukwizerwa k'uyu mutangabuhamya. Ubuhamya bwe bwanditse buvuga ko Mukantabana yishwe mbere y'uko Uregwa ahagera bwakwizerwa[545].

404. Urugereko ruvuga ko DO yafatiwe mu Rwanda ku itariki ya 30 Ukuboza 1994, kandi akaba afungiye muri gereza ya Gisovu. Ku itariki ya 19 Kanama 2002, hakurikijwe Itegeko Ngenga rishyiraho inkiko *Gacaca,* DO yemereye imbere y'umushinjacyaha ko yakoze icyaha cy'ubuhotozi, icyo kuba mu mutwe w'abagizi ba nabi n'icy'ubusahuzi. Mu bwirege bwe, avuga ko yagize uruhare rutaziguye mu iyicwa ry'abantu bageze kuri 34. Muri abo bantu harimo Tatiana

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[543] Ni kimwe no haruguru, imp. 29-32.
[544] Ni kimwe no haruguru, urup. 33.
[545] Inyanzuro nsozarubanza ya Porokireri, imp. 117-124; Imyanzuro y'Ubwunganizi, ibika 527-551; Inyandikomvugo y'iburanisha, 2 Werurwe 2004, imp. 60, 61.

Mukantabana n'abana be babiri, na Zacharia Nyankiko[546]. Inyandikomvugo y'ubwirege irimo urutonde rw'abantu 33 bafatanyije gukora ibyaha binyuranye, kimwe n'urw'abatangabuhamya 27. Havugwamo kandi iyicwa rya Mukantabana n'abana be babiri. Ubwirege bwe bwemewe n'umukozi wo mu Rwanda wakiriye ubwo buhamya.

405. Mu bwirege bwe, DO yemera ko yishe Tatiana Mukantabana n'abana be babiri. Uburyo avuga icyaha cyakozwemo buhura n'uko abivuga mu buhamya yatanze mu Rukiko[547]. Ntatanga ibisobanuro by'inyongera k'ukuntu ibintu byaje kugenda nyuma cyangwa ku mwirondoro w'abakoze ibyaha binyuranye. Cyakora, ku rutonde rw'abantu bafatanyije gukora ibyaha hari amazina ahuye n'ayavuzwe mu buhamya yatanze mu Rukiko, ariko ntiyerekeye, mu buryo bweruye, iyicwa rya Mukantabana. Ayo mazina ni Mbarushimana, Mpitabakana, Bakinahe, Cyprien Nsengiumva na Nsengiumva (bahimba Rutomvu)[548]. Kubera iyo mpamvu, Urugereko rusanga nta kwivuguruza kuri hagati y'ubuhamya bwe mu Rukiko n'ubwirege yatanze mbere.

406. DO avuga ko Joël Ndabukiye atagize uruhare mu rupfu rwa Mukuntabana[549]. Porokireri yemeza ko mu bwirege yahaye abategetsi bo mu Rwanda, Do avuga Ndabakuriye n'umuhungu we mu bantu bafatanyije gukora ibyaha i Gasharu. Porokireri avuga kandi ko ntacyemeza ko abo bantu batagize uruhare mu rupfu rwa Mukuntabana. Urugereko ruvuga ko mu Bwirege bwe, DO avuga ko Ndabukiye ari umwe mu bantu bafatanyije ibyaha ku Kibuye. Cyakora, ibikorwa

[546] Nomero 24 na 25 ku rutonde. Mu bwirege bwe, avuga ko izo nzirakarengane eshatu zakomokaga muri Serire ya Kirambo, Segiteri ya Buye. Havugwamo ariko ko, ni na ko biteye, Mukantabana yari umugore wa Charles Munyankindi. Urugereko rusanga umutangabuhamya yaremeye ko yishe Tatiana Mukantabana n'abana be babiri babaga ku Gasharu mu mwaka wa 1994.
[547] « Ku byerekeye Mukantabana n'abana be babiri bari bihishe kwa Ndabukiye, Cyprien Nsengiumva na Rutonmvu bagiyeyo babazana ku Gitaka, bahahurira na Nyankiko wari utwawe na Froduard Bakinahe ».
[548] Abafatanyije gukora icyaha bakurikiranye kuri nomero 3, 12, 14, 30 na 31. Ukunyuranya hagati y'ubwirege n'ubuhamya batanze mu Rukiko ni guto : izina ry'irikirisitu rya Mbaruhishamane ni Jean de Dieu aho kuba Ismael, na ho Bakinahe akitwa Frouduard aho kuba Froduel.
[549] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 39-41.

bye n'amagambo ye byerekeye ibindi bintu byabaye[550]. Ubuhamya bwanditse nta cyo buvuga ku ruhare rwe mu rupfu rwa Mukantabana.

407. Ku itariki ya 6 Mutarama 2003, Joël Ndabukiye yireze ibyaha hakurikijwe imihango iteganywa n'Itegeko Ngenga rishyiraho inkiko *Gacaca*[551]. Yemeye ko yakoze icyaha cyo kuba mu mutwe w'abagizi ba nabi, bishe umwana wa Rwabyuma, bakaniba amatungo. Mu bwirege bwe avuga amazina atatu y'abantu bafatanyije gukora ibyaha, n'ay'abantu batatu babyiboneye. Avugamo kandi ko DO ari we wari ku isonga, na ho Sendiragora akaba umwicanyi[552]. Avuga ko yagerageje gukiza uwo mwana, kandi ko nta ruhare yagize mu iyicwa rya Karegeya cyangwa irya Mukantabana. Asobanura ko Karegeya yishwe na DM naho Mukantabana akicwa na DO. Umushinjacyaha wo mu Rwanda yanze kwakira ubwirege bwa Ndabukiye avuga ko Ndabukiye asa n'utemera ibyaha yakoze byose[553]. Urugereko ruvuga ko ubwirege bwa Ndabukiye budashyigikira imyanzuro ya Porokireri.

408. Porokireri avuga ko mu gusubiza DO yagiye ahunga ibibazo yabazwaga, kandi ko yagerageje gupfobya uruhare rwa Ndabukiye, avuga ko atazi umuntu witwa Emmanuel Ndabukiye, nyamara mu bwirege bwe akemera ko Emmanuel Ngendimana wari umuhungu wa Ndabukiye, ari umwe mu bantu bakoranaga. Cyakora mu buhamya bwe mu Rukiko, yemera yeruye ko azi umuntu witwa Emmanuel wari umuhungu wa Ndabukiye[554]. Byongeye kandi, mu bwirege bwe,

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550 Ndabukiye ni nomero 22 ku rutonde rw'abantu bafatanyije gukora ibyaha (akanaba nomero 16 ku rutonde rw'abatangabuhamya). Izina rye rivugwa mu byaha bibiri : guhamagarira abantu kwica umugore w'uwitwa Ngiriabanzi no gushyigikira ubwo bwicanyi, no gutwika inzu eshatu mu gace ka Gasharu cyangwa ka Gahigiro.

551 Ikimenyetso gihamya N° 38 cyatanzwe na Porokireri.

552 Ubwirege bwa DO (ikimenyetso gihamya nomero 39) gishyigikira iyi myumvire. Urupfu rw'umwana wa Rwabyuma ni kimwe mu byaha yemeye, kandi umutangabuhamya avuga ko Sendiragora (nomero 19 ku rutonde rw'abafatanyije gukora ibyaha) yishe uwo mwana.

553 Inyandiko yashyizweho iteye itya : « Ntiyerekana uruhare yabigizemo. Arasa n'utanga ubuhamya. Ubwirege bwe ntibwakiriwe. »

554 Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 49, 50.

DO avuga ko Emmanuel Ngendimana ari umwe mu bantu bafatanyije gukora ibyaha, akanavuga ubwicanyi bwinshi yagiyemo[555].

409. Mu myanzuro nsozarubanza, Porokireri agaruka na none ku byo DO yavuze mu iburanisha, ko we ubwe na Ezekias Seyeze (umuvandimwe w'Uregwa) bafatanyije kwica uwitwa Kanyoni, bamutsinze imbere y'urugo rwa Seyeze. Umutangabuhamya ntazi neza niba koko uwo muntu yaritwaga Siméon Higiro, ariko, ashingiye ku nyandiko z'ubwirege bwa Seyeze, yemera ko uwo muntu bita Higiro yishwe mu buryo bumwe n'ubwa Kanyoni. Umutangabuhamya avuga ko azi ko Seyeze ari mwenewabo wa hafi w'Uregwa, ariko ko atazi neza niba bava inda imwe. Mu bandi bantu umutangabuhamya avuga ko babonye Kanyoni yicwa, harimo Boniface Mgabo n'Uwimana. Cyakora ntiyabashije kuvuga niba umukobwa wa Cyprien Karegeya yarabyiboneye nk'uko bivugwa mu bwirege bwa Seyeze[556]. Urugereko rusanga DO asubiza adaca ibintu ku ruhande.

410. Rumaze gusuzuma ubuhamya bwose bwa DO mu Rukiko, Urugereko rwemeye ibyo avuga ko yishe Mukantabana kuko bihuje n'ibyo avuga mu bwirege bwe. Uruhare rwa Joël Ndabukiye ntirusobanutse, ariko nta cyerekana ko mu by'ukuri yishe Mukantabana. Karegeya yicwa DO ntiyari ahari, ahubwo yabyumvanye DL. Byongeye kandi ntiyabonye Uregwa ubwo yazaga ku Gitaka, kandi nta kintu yiyumviye Uregwa avuga icyo gihe. Igihe avuga ko ibyo bintu byabereye kirasuzumwa nyuma hamwe n'ubuhamya bwatanzwe n'abandi bagabo.

Umutangabuhamya wiswe DN

411. Hagati ya Gicurasi 1990 n'impera za Nyakanga 1994, DN yari umukozi wa Leta ku Kibuye kandi, kimwe n'Uregwa, yari n'umuyoboke w'Ishyaka Riharanira

[555] Ikimenyetso gihamya No 9 cyatanzwe na Porokireri (nomero ya 2 ku rutonde rw'abafatanyije gukora icyaha)
[556] Inyandikomvugo y'iburanisha, 31 Ukwakira 2003, imp. 35-37.

Demokarasi n'Imibereho Myiza y'Abaturage [557]. Avuga ko umunsi umwe, kare mu gitondo, mu mpera za Kamena, Uregwa yaje mu rugo kwa Burugumesitiri Karara, amaze gufungisha umuntu muri gereza ya komine. Nyuma DN yaje kumenya ko uwo muntu ari DL. Uwo munsi, Uregwa yari yafatiye uwo DL kuri santeri y'ubucuruzi yo ku Gitaka. DN yabihereyeho, yumva ko mbere mu gitondo, Uregwa yari yagiye muri Segiteri avukamo ya Gitesi. Uregwa yabwiye DN ko DL yasahuye, kandi ko atarengeye mubyara w'Uregwa na mwenewabo w'uwo mubyara we. Bukeye mu gitondo, amaze kubaza iyo mfungwa, DN yasanze akwiye kurekurwa, mu gihe hagitegerejwe ko umutekano ugaruka ngo iperereza rikorwe. Yagishije inama Uregwa, amubwira ko, urebye uko ibintu byari biteye mu gihugu, kuba umuntu atabujije ko undi yicwa atari impamvu ihagije yo kumufunga. DN yibuka ko DL atamaze igihe kirekire muri gereza[558].

412. DN avuga ko ku itariki ya 3 Gicurasi, Uregwa na we yari mu nama yatumijwe ku Kibuye na Minisitiri w'Intebe, Jean Kambanda. Iyo nama yavuzwe haruguru mu cyiciro cya 3.3. Uretse kuba barabonanye mu nama yo ku itariki ya 3 Gicurasi n'iyo mu mpera za Kamena, DN nta yandi makuru afite ku kuba Uregwa yaraje ku Kibuye mu ntambara[559].

Gusuzuma ukwizerwa kw'umutangabuhamya

413. Porokireri nta cyo yavuze cyihariye ku byo DN avuga ku Uregwa no kuri DL. Muri rusange, avuga ko DN abogamiye ku Uregwa, kubera ubucuti bafitanye n'inkunga ya politiki yamuteye mu mwaka wa 1994. Yongeraho ko, mu buhamya bwe, uyu mutangabuhamya, utegereje gucibwa urubanza mu Rwanda, yashatse gupfobya icyaha cye. Ubwunganizi bwo buvuga ko DN yakwizerwa[560].

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[557] Ikimenyetso gihamya N° 40 cyatanzwe n'Ubwunganizi (ifishi iranga umutangabuhamya urindiwe umutekano); Inyandikomvugo y'iburanisha, 3 Ugushyingo 2003, imp. 19-20, 23-24, 26-27.
[558] Inyandikomvugo z'iburanisha, 3 Ugushyingo 2003, imp. 28-31; 4 Ugushyingo 2003, imp. 31-33.
[559] Inyandikomvugo z'iburanisha, 3 Ugushyingo 2003, imp. 31-34; 4 Ugushyingo 2003, imp. 17,18.
[560] Imyanzuro nsozarubanza ya Porokireri, imp. 127-136 ; Imyanzuro y'Ubwunganizi, ibika 552-572 ; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 41, 42, 2 Werurwe 2004, imp. 8, 9.

414. Mu cyiciro cya 3.3, 3.4 na 5 by'umutwe wa 2, Urugereko rwanasuzumye ubuhamya bwa DN mu Rukiko. DN yafatiwe mu Rwanda ku itariki ya 6 Werurwe 1995 kandi ubu afungiye muri gereza ya Gisovu, ategerereje kuburanishwa[561]. Ibaruwa yo ku itariki ya 26 Werurwe 2001 DN yaba yarandikiye uhagarariye Parike ya Kibuye ifite akamaro kanini ku byerekeye ikiganiro Uregwa yagiranye na Burugumesitiri Karara[562]. Muri iyo baruwa, havugwa ko mu mwaka wa 1994, mu gihe cy'ibyabaye bivugwa, Uregwa yagiye ku Kibuye inshuro ebyiri: ku itariki ya 3 Gicurasi 1994 ubwo Minisitiri w'Intebe yazaga, no hagati y'itariki ya 15 n'iya 20 Kamena 1994, ubwo yabonanaga na GKH na DN. Ubwa kabiri Uregwa yaba yaraciye ku Gasharu, mbere yo kujya kwa Burugumestiri Karara mu rugo.

415. Iyo baruwa ivuga ko Uregwa yinubiraga ko inka ze zabaga i Gasharu zariwe ndetse n'« imiryango ya babyara be Karegeya na Kagigira ikicwa, mu gihe cya jenoside n'itsembatsemba ». Akigera kuri komine, Uregwa yahise afungisha DL, kubera ko yamukekagaho kuba yagize uruhare mu rupfu rwa benewabo. Hari abandi bantu batumijwe nyuma ngo babazwe, barimo Joël Ndabukiye n'abandi bantu batatu[563] ariko iperereza DN yakoze nta cyo ryagezeho. Hari kandi igika kivuga ingorane Uregwa yahuye na zo «mu rwego rumwe n'urw'indi miryango yashinjwaga ubugambanyi cyangwa gushyigikira FPR ». Byongeye kandi, izina ry'Uregwa ntiryigeze rivugwa muri *Gacaca* abantu bafungiye muri gereza ya Kibuye bikoreye ubwabo. Mu gusoza ibaruwa ye, DN asaba ko habazwa abantu bireze icyaha bo mu makomine ahana imbibi na Gasharu « kugira ngo ukuri kose kumenyekane »[564].

416. Urugereko rusanga ibaruwa yarandikanywe ubwitonzi bukabije. Kuvuga ko imiryango y'abashinjwaga gushyigikira FPR yari mu kaga, byafatwa nk'uburyo bwo kurengera mu cyayenge abayoboke b'ishyaka rya PSD, DN n'Uregwa

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[561] Inyandikomvugo y'iburanisha, 4 Ugushyingo 2003, imp. 1, 2.
[562] Ikimenyetso gihamya No 41 cyatanzwe n'Ubwunganizi.
[563] Ibaruwa ivuga ko umwe muri abo bantu yari muri gereza ya Gisovu, undi akaba yarapfuye, na ho uwa gatatu akaba yarahungiye muri Kongo.
[564]

barimo. Byongeye kandi, ibaruwa ntihakana ko Uregwa yaba yarakoze ibyaha. Iyo mvugo yoroheje kandi yigengesereye ihuye n'ubuhamya uyu mugabo yatanze mu iburanisha, kandi Urugereko rwayigendeyeho mu gusuzuma ukwizerwa kwe muri rusange. Kuba iyi baruwa yaranditswe muri Werurwe 2001 ishyigikira ubuhamya bw'abagabo benshi bashinjura bavuga ko DL yafashwe muri Kamena 1994, n'ubwo bwose icyo yafatiwe kidasobanutse neza, bifite icyo bivuga.

Uregwa

417. Uregwa avuga ko yavukiye ku gasozi ka Gasharu, kandi ababyeyi be bakaba ari Abahutu. Igihe yari akiri umwana muri za 1960, ako gasozi ntikari gatuwe cyane, ndetse ababyeyi be ni bo Bahutu bonyine bari bahatuye. Kugeza mu mwaka wa 1994, Abatutsi ni bo bari benshi kuri ako gasozi, ibyo bikaba atari ko byari biteye ku tundi dusozi bituranye, twari dutuwe ahanini n'Abahutu. Benewabo benshi b'Uregwa, barimo nyirasenge, bari barashakanye n'Abatutsi. Uwo nyirasenge yari afite umuhungu w'Umututsi witwa Karegeya kandi Uregwa avuga ko nta kibazo yari afitanye na Karegeya, ndetse ko imiryango yabo yumvikana[565]. Kuva mu mwaka wa 1990 yajyaga gusura mushiki we Mariana mu karere avukamo ka Gasharu inshuro imwe cyangwa ebyiri mu mwaka. Abandi bantu bo mu muryango we, nk'undi muhungu bava inda imwe, bari batuye na bo i Gasharu no mu zindi serire byegeranye.

418. Uregwa avuga ko, niba yibuka neza, ku itariki ya 26 Kamena ari bwo bwonyine yagiye i Gasharu hagati ya Mata na Nyakanga 1994. Yahanyuze agana ku Kibuye, ari muri minibisi yo mu bwoko bwa Nissan Eurovan, ari kumwe n'umushoferi we w'umujandarume. Muri iyo minibisi harimo kandi abana ba Uwizeye wari Perefe wa Gitarama, akaba yari yahawe abo bana ngo abajyane basange se. Uregwa avuga ko yahageze ku manywa mu ma saa sita, ahagarika imodoka ku Gitaka. Nta bariyeri yo ku muhanda yabonye, ariko yabonaga ibintu bidasanzwe : nta muntu wari ukiri mu mazu y'i Gasharu, amenshi muri yo akaba yari ay'Abatutsi. Ku

[565] Inyandikomvugo y'iburanisha, 24 ugushyingo 2003, imp. 1 - 3, 25, 26.

Gitaka, amazu menshi yari yasenywe[566]. Uregwa yazamutse agasozi agiye kureba mushiki we, wamubwiye ko ahishe abana b'Abatutsi ba benewabo barokotse ubwicanyi, anamubaza icyo yakora. Uregwa avuga ko yamushubije ko agomba kubareka, bakaguma aho bari.

419. Hashize nk'igice cy'isaha, yasubiye kuri santeri y'ubucuruzi yo ku Gitaka n'uko abantu bari aho mu kivunge batangira kumubaza ibibazo. Umusaza witotombaga, avuga ko yahishe umugore we, yamusabye kubwira abantu guha amahoro uwo mugore. Uregwa avuga ko yamushubije ati : «Mwumve, ndababaza impamvu mushaka kwica abantu b'inzirakarengane, ako kageni. Ni nde wabahaye uburenganzira bwo … ? » Avuga ko yababujije agira ati : « Nimwumve, ntimugomba … ntimugomba kwica … ntimugomba kwica ». Aribuka ko yongeyeho ngo : « Nihagira uwica, muzamwice na mwe »[567].Uregwa akeka ko DL yari umuyobozi wa Serire ya Gasharu, akaba n'inshuti ya bamwe mu bantu bo mu muryango we. Yamubajije rero uko byagenze n'uko DL atagize icyo amusubiza, Uregwa ararakara amwinjiza mu modoka ya minibisi. Imbaga yari aho yamubwiye kandi ko uwitwa Gatete yakoze ubwicanyi. Uregwa avuga ko Gatete yari umusore w'imyaka nka 20, wagiraga umwanda. Uregwa ntiyabonye uwo Gatete, kuko yahise anyonyomba agahunga akimara kumva abantu bavuze izina rye. Uregwa avuga ko ku Gasharu yahamaze igihe kitarenze isaha cyangwa isaha n'igice[568].

420. Uregwa yakuye DL ku Gasharu amujyana muri gereza ya Komine ku Kibuye, nyuma ashyira Uwizeye abana be bari bamushinze. Uwizeye, yari atuye aho umuntu ahingukira agisohoka ku Kibuye. Uregwa yaraye mu ihoteli, ari kumwe n'umukobwa we wari ufite imyaka 10, wari wasabye uruhushya rwo guherekeza abana b'Uwizeye. Bukeye mu gitondo, Uregwa yabonanye na Augustin Karara,

[566] Inyandikomvugo z'amaburanisha, 25 Ugushyingo 2003, imp. 18, 21; 27 Ugushyingo 2003, imp. 37, 38.
[567] Ni kimwe no haruguru, imp. 20-22.
[568] Ni kimwe no haruguru, imp. 21, 22.

wari Burugumesitiri wa Komine ya Gitesi, amusobanurira icyari cyamuteye kujyana DL muri gereza, anamusaba gukurikirana ibyo bintu[569].

421. Urugereko rwasuzumye ubuhamya bw'Uregwa, buhuye n'ibyavuzwe mbere n'abagabo bashinjura. Urugereko rusanga nta mutangabuhamya n'umwe ushinjura wigeze avuga ko Uregwa yari kumwe n'umukobwa we. Bavuga gusa ko yari kumwe n'abana babiri.

Gusuzuma ubuhamya muri rusange.

422. Urugereko rwasuzumye ukwizerwa kw'abatangabuhamya bane bashinja, n'ukw'abatangabuhamya 10 bashinjura. Rusanga urebye nta mutangabuhamya n'umwe muri bo rwakwizera buri wese afashwe ukwe. Ibibazo byerekeranye n'ukwizerwa k'ubuhamya bitakemuwe bigiye gusuzumwa, hashingiwe ku bimenyetso byose muri rusange, kugira ngo rurebe niba Porokireri yarubahirije inshingano afite zo gutangira ibimenyetso ibyo aregera.

423. Abatangabuhamya, baba abashinja cyangwa abashinjura, bose bemera ko muri Gicurasi na Kamena 1994, muri Serire ya Gasharu, Abatutsi bishwe n'Abahutu. Nta gushidikanya kandi ko kuri santeri y'ubucuruzi yo ku Gitaka, hagati ya Mata na Kamena 1994, higeze gushingwa bariyeri, hafi cyane yo kwa Joël Ndabukiye no kwa Augustin Karara. Cyakora, igihe iyo bariyeri yahamaze nticyumvikanwaho. Byongeye kandi, abatangabuhamya bashinja bavuga ko kuri iyo bariyeri hakorewe ubwicanyi, kandi ko hafi aho hari icyobo bajugunyagamo imirambo. DL, DO, DM na DV bemeza ko abantu batangiririrwaga kuri iyo bariyeri, ko ariko ubwicanyi bwakorerwaga hafi y'iyo bariyeri. Urugereko rusanga uko kutavuga rumwe kw'abatangabuhamya bashinja n'abashinjura kudakomeye.

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569 Ni kimwe no haruguru, imp. 20-23.

424. Itariki Ushinjwa yagereye aho hantu ntiyumvikanwaho. CGF, CGE na CGB bemeza ko Uregwa yaje mu mpera za Gicurasi. CGX avuga ko adashobora kwibuka itariki, ariko yumva Uregwa yaraje hashize ibyumweru bine Perezida apfuye (ni ukuvuga mu ntangiriro za Gicurasi). Ariko akongeraho ko hari muri Mata cyangwa muri Gicurasi. Abatangabuhamya bashinjura, bavuga ko bari bahari ubwo Uregwa yazaga, ntibavuga rumwe ku itariki. DL avuga ko Uregwa yaje mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena, na ho DM akibuka ko Uregwa yaje mu mpera za Kamena, mu gihe DV we avuga gusa ko hari ku cyumweru, muri Kamena. DN avuga ko Uregwa yajyanye DL kuri gereza ya komine mu mpera za Kamena, akongeraho ko Uregwa yari akimara kugera i Gasharu. DO yibuka ko ubwo hari ku cyumweru, hashize igihe gito Mukantabana yishwe, abantu bamubwiye ko Uregwa yari ku Gasharu kandi ko yafashe akanatwara DL.

425. Itariki nyayo Uregwa yaziyeho ni ingenzi, kubera ko Uregwa ashinjwa ko, ahageze, yashishikarije abantu kwica Abatutsi. By'umwihariko, yaba yarabaye intandaro y'urupfu rwa Karegeya na Mukantabana. Amatariki abo bantu biciweho na yo ntavugwaho rumwe. Mu iburanisha, CGB avuga ko mu mpera za Gicurasi, hashize iminsi ine Uregwa ahavuye, yabonye Joël Ndabukiye n'umuhungu we Emmanuel bica Karegeya. CGB avuga ko kuri uwo munsi yabonye Mukantabana atwawe na Ndabukiye n'umuhungu we hamwe n'undi muntu witwa Vuguziga. CGF we avuga ko yumvise ko Mukantabana na Karegeya biciwe umunsi umwe, mu mpera za Gicurasi, hashize iminsi myinshi Uregwa avuye aho hantu. CGE avuga ko yamenye ko Karegeya yishwe mu cyumweru cyakurikiye urugendo rw'Uregwa. Cyakora, DO we asobanura ko we n'abandi bantu bishe Mukantabana mu ntangiriro za Gicurasi, na ho DL akavuga ko muri Gicurasi yabonye Mukantabana mu maboko ya DO n'abandi bantu. DM avuga ko ari umwe mu bantu bishe Karegeya, mu mpera za Mata, bakaba baramwiciye hafi ya santeri y'ubucuruzi yo ku Gitaka. DL avuga ko hagati muri Mata, yumvise bavuga ko Karegeya yafatiwe muri Segiteri ya Buye. Yongeraho ko yabonye DM

n'abandi bantu bajyana Karegeya ndetse akanumva ko abagabye igitero bamwiciye i Gitaka.

426. N'ubwo uburyo abatangabuhamya bashinja n'abashinjura bavugamo ibyabereye ku Gitaka bunyurana, hari ibyo bahurizaho. Abagabo bashinja bemeza ko Uregwa yabwiye ijambo *Interahamwe* n'abandi bantu bari kuri bariyeri, bafite amacumu, imihoro n'izindi ntwaro, maze akabashishikariza kwica Abatutsi. CGE, CGF na CGB bibuka, by'umwihariko, ko Uregwa yahamagariye abantu ku mugaragaro kwica Karegeya. Uretse CGE, CGF na CGB bemeza ko Uregwa yanashyize mu majwi uwitwa Mukantabana (bahimba Nyiramaritete), avuga ko agomba kwicwa. Uregwa yakekaga ko Karegeya na Mukantabana bakiriho. CGF na CGE bavuga ko Uregwa yasezeranije amasambu umuntu wese wari gufasha abandi mu bwicanyi. CGB avuga ko Joël Ndabukiye, umuhungu we kimwe n'umucuruzi w'aho witwa Augustin Karara, bari bijejwe kuzamurwa mu ntera mu rwego rwa politiki. CGX avuga ko Uregwa yabajije aho Karegeya aherereye, kandi ko yongeyeho ko agomba kuvumburwa, aho yaba yihishe hose. N'ubwo mu iburanisha uwo mutangabuhamya atavuga ko yumvaga ayo magambo yerekeza ku iyicwa rya Karegeya, biragaragara ko nta kundi yakumvikana, ubuhamya bw'abandi bagabo buramutse bwemewe.

427. Abagabo bashinjura babona ibintu ukundi. DL, DM na DV bavuga ko Uregwa yabwiye ijambo abaturage bari kuri santeri y'ubucuruzi yo ku Gitaka, benshi muri bo bakaba bari batashye bavuye ku kiriziya. Bavuga ko Uregwa yari arakaye cyane kubera ubwicanyi bwakozwe, akaba yarakaga ibisobanuro. DL na DM bemeza ko Uregwa yabajije uwishe Karegeya maze abonye batamusubije afata DL, kugira ngo agire ibindi bibazo amubaza. DN ahamya ko Uregwa yajyanye DL kuri gereza ya Komine muri Kamena, kugira ngo abazwe iby'urupfu rwa Karegeya. DO avuga ko muri iyo minsi yamenye ko Uregwa yaje, kandi ko yari arakaye agafata abantu. Uwo mutangabuhamya avuga ko yabonye imodoka ihita kuri santeri y'ubucuruzi yo ku Gitaka, nyuma abari aho barebera baza kumubwira ko DL yafashwe n'Uregwa .

428. Ibivugwa n'ibyo byiciro byombi by'abatangabuhamya bisa nk'aho bidahuye. Urugereko rwatekereje ko bashobora kuba bavuga ibikorwa bibiri bitandukanye, ariko ruza gusanga bidashoboka. Nk'uko ibyo byiciro byombi by'abatangabuhamya bibivuga, imyitwarire y'Uregwa ubwayo irimo ibintu bivuguruzanya. Ntibyumvikana neza ukuntu Uregwa yaba yarashishikarije abantu kwica Karegeya, nyuma agahindukira agafata umuntu, amuziza kuba mu bishe nyakwigendera. Urugereko ruragendera ku ngingo y'uko abagabo batanga ubuhamya buvuguruzanya ku gikorwa kimwe rukumbi. Ubuhamya bwatanzwe kuri Mukantabana na Karegeya burasuzumwa ukwabwo.

Iyicwa rya Mukantabana

429. Babiri mu batangabuhamya bane bashinja, bemeza ko bari kuri bariyeri igihe Uregwa yahazaga, ntibavura ko Uregwa yavuze izina rya Mukantabana. CGX asobanura ko ibyo bintu atabihagazeho byose, naho CGE we akavuga ko yabibonye byose, yihishe mu bigunda, nko mu metero umunani uvuye aho Uregwa n'abandi bantu bari bari.

430. CGB avuga ko mu mpera za Gicurasi, yumvise Uregwa avuga izina rya Mukantabana mu bantu bagombaga kwicwa. Avuga kandi ko hashize nk'iminsi ine, yabonye Ndabukiye, umuhungu we na Vuguziga bica Mukantabana. Ubuhamya uwo mugabo yatanze ku rupfu rwa Mukantabana buvuguruzwa na DO uvuga ko yishe Mukantabana « mu ntangiriro za Gicurasi », akongeraho ko Ndabukiye nta ho ahuriye n'urwo rupfu. Ubuhamya bwe bushyigikiwe n'ubwirege bwe yagejeje ku bucamanza bwo mu Rwanda muri Kanama 2002, aho avuga amazina y'abantu bafatanyije gukora icyaha. Ntaho avuga izina rya Joël Ndabukiye, iry'umuhungu we cyangwa irya Vukugiza, ku byerekeranye n'iyicwa rya Mukantabana. Urugereko rwemera imvugo ya DO, n'ubwo atavuga itariki ubwo bwicanyi bwabereyeho. Nta gushidikanya ko DO yishe abantu benshi. Cyakora, asobanura, mu kuri kandi ku buryo burambuye, ubwicanyi yakoze. Ubuhamya bwe buhuye n'ubwirege yahaye mbere abategetsi bo mu Rwanda.

Ubwo buhamya bushyigikiwe kandi na DL, uvuga ko yabonye Mukantabana mu maboko ya DO, akababona kandi bava kwa Pascal Ruhara, nk'uko DO abivuga. Urugereko rwibajije niba DO ashaka gukingira ikibaba Ndabukiye, ariko ntaho rubona yaba abogamiye, kuko yirega ibyaha muri Kanama 2002, yashinje Ndabukiye ibindi byaha bikomeye[570]. Umutangabuhamya yahakanye ko nta muntu wigeze amutegeka kwica Mukantabana, kandi yemeza ko hari abantu benshi bashakaga kwica nyakwigendera.

431. Kubera iyo mpamvu, Urugereko rushidikanya ko CGB yaba, nk'uko abivuga mu iburanisha, yarabonye Joël Ndabukiye, umuhungu we Emmanuel na Vuguziga bica Mukantabana. Ibyo bituma umuntu yakwibaza niba CGB hari ibyo yongeye mu buhamya bwe, kugira ngo ahe ingufu ikirego cyo gushishikariza abantu ubwicanyi. Kuri iyi ngingo, Urugereko rusanga CGB yaba yarumvise Uregwa yizeza Augustin Karara kuzaba depite, Joël Ndabukiye akaba perefe, na ho umuhungu we akaba burugumesitiri. N'ubwo Uregwa yaba yaravuze ibyo bintu, biragoye kumva impamvu abandi batangabuhamya batamwumvise[571]. Ikindi kandi, ibyo CGF azi mu buryo buziguye kuri urwo rupfu, nta gaciro kanini bifite ugereranyije n'ubuhamya bwa DO na DL mu Rukiko.

432. Rumaze gusuzuma ibimenyetso byose uko byakabaye, Urugereko rusanga Porokireri ataragaragaje ko kuri bariyeri yo ku Gitaka, Uregwa yashishikarije abantu kwica Tatiana Mukantabana.

Iyicwa rya Karegeya

433. Ubuhamya bwa CGX mu Rukiko ntibusobanutse. Ntibuvuga ku buryo bweruye niba Uregwa yarashishikarije abantu gukora ubwicanyi. Ahubwo buvuga ko yabajije gusa aho Karegeya yari, kandi ko yashimangiye ko bagomba kumubona.

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[570] Urugero, ikimenyetso gihamya cya Porokireri nomero 39C, igice cya VI : «Cyakora Ndabukiye ntiyari kumwe na twe, kuko yari yasigaye i Karambo kandi yari yatubwiye ngo « mujye gukuraho uriya mwanda, maze mugaruke vuba kugira ngo dushobore gukomeza » ».

[571] Ikindi kibazo ni ukumenya niba CGB haba hari icyamuteye kwitiranya Karara wari Burugumesitiri na Karara w'umucuruzi. Ariko Urugereko nta ho rwashingira rutandukira.

CGX avuga ko yahise ava aho hantu kuko yumvaga nta mutekano ahafite. Ubuhamya bwa CGB, CGF na CGE mu Rukiko bwafasha kumenya niba umuntu ashobora gushingira kuri ayo magambo akemeza ko Uregwa yashakaga guhamagarira abantu gukora mu bwicanyi. Mu buhamya bwanditse yahaye abakora iperereza, CGF ntavuga izina rya Karegeya.

434. CGB avuga ko yumvise Uregwa ahamagarira abantu kwica Karegeya, kandi hashira iminsi mike akabona Joël Ndabukiye n'umuhungu we bicira Karegeya kuri bariyeri. Iyi mvugo ya nyuma ivuguruzwa, mu buryo butaziguye, n'abatangabuhamya bashinjura. DL avuga ko Karegeya yishwe muri Mata, kandi ko yamuhambishije. N'ubwo hari aho rushidikanya k'ukwizerwa kwa DL, Urugereko rusanga ubuhamya bwe kuri iyi ngingo hari aho bushyigikirwa na DI, mwenewabo wa hafi wa Karegeya. DI yemeza ko DL yigeze kumubwira ko Karegeya yishwe muri Mata. Ubuhamya bwa DO mu Rukiko bufite akamaro kuko Urugereko rwemeye ubwirege buvuga ko yishe Mukantabana. Avuga ko Karegeya yishwe hashize iminsi itageze kuri irindwi nyuma y'urupfu rwa Mukantabana (rwabaye mu ntangiriro ya Gicurasi cyangwa ahagana hagati muri uko kwezi). Yongeraho ko DL yababajwe cyane n'iyo nkuru. Byongeye kandi, DL na DO bavuga ko Karegeya yishwe n'abantu b'i Buye. Ubuhamya bwa CGB mu Rukiko bwerekeye guhamagarira abantu kwica Karegeya bugomba gusuzumirwa hamwe n'ukwizerwa kw'ibyo avuga ku rupfu rwa Karegeya. Kubera iyo mpamvu, Urugereko rusanga rutakwemera ubuhamya CGB yatanze mu Rukiko ku byerekeye guhamagarira abantu kwica Karegeya.

435. CGE na CGF ntibiboneye iyicwa rya Karegeya cyangwa irya Mukantabana. Cyakora bombi bavuga ko babonye Uregwa ashishikariza abantu kumwica, mu nama yabereye kuri santeri y'ubucuruzi yo ku Gitaka. Nk'uko byagaragajwe haruguru, hari aho ubuhamya bwa CGF mu Rukiko bunyuranya n'ubuhamya bwe bwanditse. Muri rusange, ubuhamya bwa CGE mu Rukiko bushyigikira ubwa CGF, ariko ntaho avuga ko Uregwa yagize icyo avuga kuri Karegeya. Ibyo bintu bituma Urugereko rushindikanya k'ukwizerwa kwabo. Byongeye kandi,

ubuhamya bwa CGE na CGF busa n'ubushaka kuvuga ko Karegeya yaba yarishwe mu mpera za Gicurasi, mu gihe abatangabuhamya bashinjura benshi bavuga ko yishwe mbere, Uregwa ataraza.

436. Hari ubuhamya bushinjura bwinshi buvuga ko Uregwa yageze ku Gitaka mu mpera za Gicurasi, cyangwa yenda muri Kamena[572]. Uburyo DL avuga yafashwemo n'Uregwa bushyigikirwa na DV, wiboneye DL afatwa. Bushyigikirwa kandi n'ubwa DO wumvise iby'iryo fatwa rikimara kuba n'ubwa DN wasanze DL kuri gereza ya komine maze akamufunguza. Ubwo buhamya buhuye kandi n'ibikubiye mu ibaruwa DN yandikiye uhagarariye Parike ya Kibuye muri Werurwe 2001. Iyo baruwa ivuga ko Uregwa yajyanye DL muri gereza ya komine hagati y'itariki ya 15 n'iya 20 Kamena 1994 kubera uburakari yatewe n'urupfu rwa benewabo barimo Karegeya. Iyo baruwa, Porokireri atigeze avuga ko ari impimbano kandi iriho kashe ya Repubulika y'u Rwanda, yanditswe mbere yuko uru Rukiko rutangira gukurikirana Uregwa.

437. Umwanzuro w'Urugereko ushingira k'ubuhamya bwatanzwe mu Rukiko na DI na DH kandi bakaba ari na benewabo ba hafi ba Karegeya. Abo bagabo bemeza ko Uregwa yabanaga neza na Karegeya, kandi ko bazi neza ko nta ruhare yagize mu iyicwa rye. N'ubwo buziguye, ubu buhamya bushingiye ku byavuzwe n'abantu biboneye ibyabaye. Byongeye kandi, abo bantu babanaga neza na Karegeya. N'ubwo nyuma hari inkunga batewe n'umwe muri benewabo w'Uregwa, ntibyoroshye kumva ko baba baratanze ubuhamya burengera Uregwa, iyo baza kuba bumva ko yagize uruhare mu rupfu rwa Karegeya. Urebye ukuntu agasozi ka Gasharu kangana, ukanareba umubare munini w'Abatutsi bahaguye muri jenoside, ubuhamya bwa bariya bagabo bwashingirwaho kuri iki kibazo n'ubwo butahabwa agaciro kanini cyane.

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[572] Abatangabuhamya bashinjura bose bavugwa muri iki gika bahuriza ku ngingo y'uko urwo rugendo rwabaye muri Kamena, usibye DL wemeza ko urwo rugendo rushobora kuba rwarabaye mu mpera za Gicurasi cyangwa muri Kamena.

438. Urugereko rusanga uburyo abatangabuhamya bashinjura bavugamo ukuza k'Uregwa muri Kamena 1994, bwakwizerwa bihagije, bityo umuntu akaba yashidikanya ku birego byerekeye guhamagarira abantu kwica Karegeya na Mukantabana. Ubuhamya bushinjura bugaragaza ko Uregwa yaje aho hantu Karegeya na Mukantabana barapfuye, ndetse ko bari barapfuye ku itariki abagabo bashinja bavuga ko urwo rugendo rwabereyeho. Ubwo buhamya buvuga kandi ko Uregwa yarakajwe cyane n'iyicwa rya mubyara we, maze agafata DL, akajya kumufungira muri gereza ya komine. Urugereko rusanga ibi bituma ukwizerwa kw'abatangabuhamya bashinja gushidikanywaho, iyo bavuga ko mu mpera za Gicurasi, Uregwa yahamagariye abantu kwica Karegeya na Mukantabana, kuri santeri y'ubucuruzi yo ku Gitaka.

Umwanzuro

439. Urugereko rusanga Ubwunganizi bwaratanze ibimenyetso bituma rushidikanya ku kirego kivuga ko Ushinjwa yahamagariye abantu abantu kwica Abatutsi, by'umwihariko Karegeya na Mukantabana, kuri santeri y'ubucuruzi yo ku Gitaka.

8. Itangwa ry'intwaro n'ibikorwa byo guhamagarira abantu [ubwicanyi] ku isoko rya Kibirizi, mu mpera za Gicurasi 1994

440. Inyandiko y'ibirego ntivuga, ku buryo bweruye, ibintu byabereye ku isoko rya Kibirizi i Rubengera, muri Komine ya Mabanza. Cyakora, Porokireri avuga ko ubuhamya bw'umugabo ushinja wiswe CGL buvuga ko Uregwa yari aho hantu, buvugwa kuva ku gika cya 1 kugera ku cya 5 by'Inyandiko y'ibirego, by'umwihariko bukavugwa mu gika cya 1 n'icya 4[573].

> 1. Kuva mu cyumweru cya mbere cya Mata 1994, kugera muri Gicurasi na Kamena 1994, Emmanuel Ndindabahizi yayoboye ibikorwa byo gutsemba abaturage b'abasiviri bavugwaga ko ari Abatutsi muri

[573] Inyandikomvugo y'iburanisha, 1 Werurwe 2004, ibika 35-36.

Perefegitura ya Kibuye. Ibyo bikorwa byabereye ahanini mu karere Emmanuel Ndindabahizi yakuriyemo, akanakazamukiramo mu ntera muri politiki ahereye mu rwego rw'ibanze n'urw'akarere, akaza kuba Minisitiri.

4. Muri Mata, Gicurasi na Kamena 1994, Emmanuel Ndindabahizi yahaye intwaro imitwe y'abasiviri yitwara gisirikare, kugira ngo ayorohereze kwica Abatutsi. By'umwihariko, Emmanuel Ndindabahizi ku giti cye yagenzuye bariyeri nyinshi cyangwa arazisura, agamije koroshya itangwa ry'intwaro zirimo imihoro na za gerenade. N'umwe kandi mu bateguye uburyo Interahamwe zatwarwaga, mu rwego rwo guha ingufu imitwe y'abasiviri yitwara gisirikare, zibajyana ahantu hagabwaga ibitero simusiga.

Porokireri yemeza kandi ko, ashingiye ku ngingo ya 93 A) y'Amategeko, ibyabereye ku isoko rya Kibirizi, bigaragaza imyitwarire yagambiriwe igomba kuzirikanwa mu gusuzuma ibyabaye byihariye bivugwa mu Nyandiko y'ibirego[574].

441. Urugereko rurabanza gusuzuma imiterere y'ibimenyetso. Nibiba ngombwa, ruraza gusuzuma niba ibyo bimenyetso hari igika bijyanye nacyo mu Nyandiko y'ibirego, cyangwa se niba hari aho bihuriye n'imyitwarire yagambiriwe ivugwa mu ngingo ya 93 y'Amategeko.

Umutangabuhamya ushinja wiswe CGL

442. CGL, w'Umututsikazi, avuga ko intambara itangiye yahunze akava iwe muri Komine ya Gitesi, akajya kwihisha ku Gitwa mu karere ka Karongi, n'ahandi, mbere y'uko ahungira ku nshuti y'Umuhutu i Rubengera muri Komine ya Mabanza[575]. Avuga ko mu mpera za Gicurasi, yagiye ku isoko rya Kibirizi, ryari

[574] Ni kimwe no haruguru, imp. 41-42, imyanzuro nsozarubanza ya Porokireri, imp. 33-34.
[575] Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 38-40.

hafi y'aho yabaga, agiye guhahira abari bamucumbikiye. Hagati ya saa tanu na saa sita z'amanywa, CGL yabonye Uregwa aho hantu, kandi yumva abantu bavuga ngo : « Muze tujye mu nama kumva ijambo rya Minisitiri»[576]. Hari abantu bari hagati ya 50 na 100 maze yumva Uregwa avuga ngo : « I Kigali bamaze kwica Abatutsi bose, kabone n'Abatutsikazi bashatswe na Abahutu »[577]. Ku isoko hari imodoka ebyiri, ari zo Daihatsu n'ivatiri. CGL yumvise Uregwa abwira abantu ngo bafate imihoro muri Daihatsu. Uyu mutangabuhamya avuga ko abo bantu bari *Interahamwe,* kandi ko mbere bari bambaye amakoma, bakagaba ibitero byahitanye abantu. Avuga ko izo *nterahamwe* zari zishimiye rwose guhabwa imihoro n'Uregwa maze zirayifata ziragenda. CGL avuga ko igihe Uregwa yavugaga ijambo hagati ye na we hari intera ya metero enye n'igice, ko ariko acyumva ayo magambo yahise agenda, kuko yatinyaga ko umutekano we wahungabana. Yongeraho ko ku isoko yahamaze iminota nka 30 mbere yo gutaha[578].

443. CGL avuga ko yamenye Uregwa mbere ya 1994 kandi ko yamubonye inshuro ebyiri mu mwaka wa 1993 ku kigo nderabuzima cya Kirambo, muri Komine ya Gitesi. Ubwa mbere, bamubwiye ko ari Uregwa, anumva ko yakoraga muri Minisiteri y'Imari i Kigali[579]. Mu Rukiko, umutangabuhamya yerekanye Uregwa .

444. CGL avuga ko ubwicanyi bwakomeje muri ako gace kugeza muri Kamena, kandi ko we yakomeje kwihisha ahantu hatandukanye kugeza muri Nyakanga, ubwo abasirikare b'Abafaransa bazaga, bakamujyana ahantu hitwa i Nyarushishi[580].

Umutangabuhamya ushinjura wiswe DF

445. DF, utarigeze ava i Rubengera mu gihe cyose cy'intambara mu mwaka wa 1994, avuga ko isoko rya Kibirizi ryari rifunze kugeza muri Kamena, kubera ko abantu

[576] Ni kimwe no haruguru, imp. 33-35.
[577] Ni kimwe no haruguru, urup. 35.
[578] Ni kimwe no haruguru, imp. 36-39, 56-58.
[579] Ni kimwe no haruguru, imp. 32-33, 48-49, 60-61.
[580] Ni kimwe no haruguru, imp. 39-41.

batashoboraga gutembera uko bashaka kandi ko amaduka yari gusahurwa iyo afungurwa muri icyo gihe. Avuga ko isoko ryari muri kirometero imwe n'igice uvuye i Rubengera ryongeye kurema buhoro buhoro muri Kamena, ubwo abasirikare b'Abafaransa bageraga muri ako karere. Umutangabuhamya avuga ko atazi inama n'imwe yabaye ngo amenye ko abantu baba barakoraniye ku isoko rya Kibirizi mbere y'icyo gihe. Yongeraho ko iyo Uregwa, wari umuminisitiri, ahaza, aba yarabimenye byanze bikunze[581]. Byongeye kandi, nta tangwa ry'imihoro yigeze yumva ryabereye ku isoko rya Kibirizi. Ibyo yumva bisa n'ibidashoboka, kuko buri muturage wo mu Rwanda atunze umuhoro. Avuga ko kwica Abatutsi muri Mabanza byahagaze ahagana mu mpera za Mata, Abatutsi bamaze gushira, uretse abari babashije guhunga cyangwa kwihisha[582].

446. DF yemeza ko mu mashuri yisumbuye, yize ku kigo kimwe n'Uregwa mu mwaka wa 1964 n'uwa1965. Avuga ko kuva icyo gihe atongeye kumubona kenshi, ariko ko yumvise bavuga ko yakoze muri Trafipro, muri Electrogaz no muri Minisiteri y'Imigambi ya Leta i Kigali. Yumvise kandi ko Uregwa yagizwe umukuru w'Ibiro bya Minisitiri muri Minisiteri, nyuma akaza kuba Minisitiri w'Imari muri Guverinoma « Gatabazi » [sic][583].

Gusuzuma ukwizerwa k'umutangabuhamya

447. Urugereko rwasuzumye ukwizerwa k'umutangabuhamya rushingiye ku bivugwa n'ababuranyi[584]. Ubwunganizi busanga CGL atarashoboraga kujya ku isoko nta bwoba, yidegembya bose bamurora, kandi yari yihishe ku nshuti ye y'Umuhutu, nk'uko abivuga. Umutangabuhamya yemera ko kujya ku isoko ku Batutsi byari kubashyira mu makuba, ariko akavuga ko bitewe n'uko asa n'Abahutukazi, batari kumenya ko ari Umututsikazi, cyane cyane ko atari azwi muri uwo mujyi, kuko yakomokaga mu yindi segiteri. Asobanura kandi ko nta ndangamuntu yari afite,

[581] Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, imp. 34-36.
[582] Ni kimwe no haruguru, imp. 35-36.
[583] Ni kimwe no haruguru, imp. 30-32 ; Inyandikomvugo y'iburanisha, 5 Uhushyingo 2003, urup. 30.
[584] Imyanzuro nsozarubanza ya Porokireri, imp. 33-34 ; Imyanzuro y'Ubwunganizi, ibika 137-175; Inyandikomvugo z'amaburanisha, 1 Werurwe 2004, imp. 36-37; 2 Werurwe 2004, imp. 42-46.

ko ntawari kuyimubaza, kuko yasaga n'ukiri muto, bityo bakaba bari kumufata nk'umwana. Ni yo mpamvu nta ndangamuntu yari akeneye[585]. Kuri iyo ngingo, Ubwunganizi busubiza ko icyo gihe umutangabuhamya yari afite imyaka 20, ko atari kwihisha niba abantu bari kumenya ko ari Umututsikazi (sic), ko ndetse n'Uregwa yari kumumenya, ko, niba koko batari kumenya ko ari Umututsikazi, atari kugira ubwoba yumvise ijambo ry'Uregwa ngo ahite agenda shishi itabona.

448. Igisobanuro cy'umutangabuhamya ku kujya ku isoko rya Kibirizi gishidikanywaho. Ntibyumvikana ukuntu yari kuba yahunze, haba mbere cyangwa nyuma y'uko ibikorwa bivugwa biba, ngo arengeho yumve ashobora kwidegembya ku isoko nta n'ikimuranga afite. Kuba byonyine nta ndangamuntu yari afite byari gutuma abantu bibaza ku bwoko bwe.

449. Ubwunganizi bwagaragaje ukwivuguruza hagati y'ubuhamya bw'uyu mugabo mu Rukiko n'ubwanditse yatanze mbere, maze bunenga ukuntu avuga, mu buryo budasobanutse, ibyabaye n'igihe avuga byaba byarabereyeho. Izi nenge zigaragara mu buhamya bwa CGL mu Rukiko, zituma Urugereko rutekereza ko mu kuvuga ibyabaye, uyu mutangabuhamya atavugisha ukuri kose, cyangwa ntavuge neza ibintu uko byagenze.

450. Kubera izo mpamvu, Urugereko rusanga ubu atari ngombwa kwibaza ku ukwizerwa cyangwa ku gaciro kahabwa ubuhamya bwa DF mu Rukiko bwerekeye i byabaye bivugwa.

Umwanzuro

451. Urugereko rusanga ubuhamya bwa CGL bushidikanywaho, kandi ko kugira ngo bwizerwe bugomba kugira ubundi bubushyigikira. Rusanga Porokireri ataragaragaje, nta gushidikanya na gato, ko mu mpera za Gicurasi Uregwa

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[585] Inyandikomvugo y'iburanisha, 16 Nzeri 2003, imp. 51-54, 59-61.

yatanze imihoro ku isoko rya Kibirizi i Rubengera, muri Komine Mabanza. Kubera iyo mpamvu, ingingo ya 93 y'Amategeko ntishobora gukoreshwa.

UMUTWE WA III

IMYANZURO KU MATEGEKO

1. Jenoside

1.1 Amategeko akurikizwa

452. Urugereko rurasuzuma amategeko akurikizwa ku birego bikubiye mu Nyandiko y'ibirego, byatangiwe gihamya nta gushidikanya na gato. Ku kirego cya 1 cy'Inyandiko y'ibirego, Uregwa ashinjwa ko yakoze jenoside ku gasozi ka Gitwa no kuri za bariyeri ku muhanda uhuza Kibuye na Gitarama.

453. Igika cya 2 cy'ingingo ya 2 ya Sitati gisobanura ko jenoside ari :

> « kimwe mu bikorwa bikurikira cyakozwe kigamije kurimbura abantu bose bahuriye ku bwenegihugu, ku bwoko cyangwa ku idini, cyangwa igice cyabo, bazira icyo bari cyo :
>
> a) Kwica abo bantu
> b) Kubatera ubumuga bwaba ubw'umubiri cyangwa ubwo mu mutwe ;
> c) Gushyira ku bushake abo bantu mu nzitane z'ubuzima zigomba gutuma bose cyangwa igice cyabo barimbuka ;
> d) Gushyiraho ingamba zigamije kubangamira iyororoka ryabo ;
> e) Kubanyaga urubyaro uruha abandi.

Mu Nyandiko y'ibirego, Ushinjwa aregwa gusa icyaha cya « jenoside » nk'uko biteganywa n'ingingo ya 2 3) a). Ntashinjwa ubundi buryo bwo gukora icyaha, buteganywa na Sitati, nko « guhamagarira abantu, mu ruhame kandi mu buryo butaziguye, gukora icyaha cya jenoside » (ingingo ya 2 3) c)) cyangwa « kuba icyitso cy'abakora jenoside » (ingingo ya 2 3) e)).

454. Kugira ngo habeho jenoside, ku bikorwa bivugwa kuva ku gaka a) kugeza kuri e) tw'igika cya 2 cy'ingingo ya 2 ya Sitati, hiyongeraho ko gatozi agomba kuba yari afite umugambi wihariye wo gutoranya abantu akorera ibyaha kubera ko bagize itsinda ririnzwe mu mategeko, agambiriye nibura kurimbura igice kinini cy'abo bantu[586]. Umugambi wa ngombwa ushobora kugaragazwa n'amagambo gatozi yavugiye mu ruhame, cyangwa, nk'uko biteye ku cyaha icyo ari cyo cyose, ukagaragazwa hashingiwe ku miterere y'ibintu[587]. Kurimbura igice kinini cy'abantu bagize itsinda si igikorwa gifatika kigize icyaha, ariko bishobora kwifashishwa mu kureba niba Uregwa yari agambiriye kugera kuri iyo ntego[588].

455. Inyandiko y'ibirego ivuga ko Uregwa aryozwa icyaha ku giti cye, hakurikijwe ingingo ya 6.1) ya Sitati iteganya ibi bikurikira :

> Umuntu uwo ari we wese wacuze umugambi, uwawuhamagariye abandi, uwategetse gukora icyaha, uwagikoze cyangwa ku bundi buryo ubwo ari bwo bwose, agafasha kandi agashyigikira gucura umugambi, gutegura, cyangwa gutsotsoba icyaha cy'ubugome kivugwa kuva ku ngingo ya 2 kugeza ku ya 4 y'iyi Sitati, akiryozwa ku giti cye.

586 Urubanza rwa *Semanza,* igika cya 312 ; Urubanza rwa *Krstic* mu bujurire, igika cya 12. (Habaho umugambi wo gukora jenoside usabwa mu ngingo ya 4 ya Sitati [y'Urukiko Nshinjabyaha Mpuzamahanga rwashyiriweho Icyahoze Cyitwa Yugosolaviya –TPIY] iyo ukekwaho icyaha yari afite umugambi wo kurimbura byibuze igice kinini cy'abantu barengerwa ») ; Urubanza rw'*Akayesu*, igika cya 521 ; (« uwakorewe icyaha ntiyibasirwa bivuye ku miterere ye ku giti cye, ahubwo biba bitewe n'ubwenegihugu bwe, ubwoko bwe cyangwa idini rye ; iurubanza rwa *Nahimana na bagenzi be,* igika cya 948.

587 Urubanza rwa *Rutaganda* mu bujurire*,* igika cya 525 (« Mu gihe nta bimenyetso bitaziguye byeruye bibonetse, *uburiganya bwihariye* bushobora kugaragazwa hashingiwe ku bikorwa byose byagira akamaro kimwe n'isuzuma ry'uko ibintu byari biteye ») ; Urubanza rwa *Ntagerura na bagenzi be,* igika cya 663 ; urubanza rwa *Semanza,* igika cya 313 ; urubanza rw'*Akayesu,* igika cya 523 ; urubanza rwa *Krstic* mu bujurire*,* igika cya 34 (« Mu gihe nta kimenyetso kitaziguye kibonetse, umugambi wo gukora jenoside ushobora kugaragarira mu buryo icyaha cyakozwemo ») ; urubanza rwa *Jelisic* mu bujurire*,* igika cya 47 (« Ku byerekeye ikimenyetso cy'umugambi mubisha wo gukora icyaha, mu gihe nta bimenyetso byeruye bitaziguye bibonetse, uwo mugambi ushobora kugaragazwa n'ibikorwa bimwe na bimwe n'uko ibintu byari byifashe, nk'ibyariho muri rusange, imikorere y'ibindi byaha bihanirwa byakozwe kuri gahunda bikibasira icyo gice cy'abantu, uburemere bw'amarorerwa yakozwe, kwibasira abahohoterwa bamwe ku buryo buri kuri gahunda bitewe no kuba babarirwa mu gice runaka cy'abantu, cyangwa uburyo ibikorwa by'ubugizi bwa nabi n'iby'ivangura byagiye bigaruka »).

588 Urubanza rwa *Krstic* mu bujurire, igika cya 35 ; inyandiko y'urubanza mu bujurire rw'*Akayesu,* ibika 497, 730.

Iyi ngingo yagura uburyo bwo gukora ibyaha biteganywa na Sitati, birimo na jenoside[589]. Mu myanzuro nsozarubanza mu magambo, Porokireri asobanura inyito mu rwego rw'amategeko, aha uburyo Uregwa yakozemo icyaha. Avuga ko, usibye mu gikorwa kimwe, Uregwa yakoze icyaha cyo guhamagarira abantu gukora jenoside, kubafasha no kubashyigikira mu kuyikora[590].

456. « Guhamagarira » (« *instigate* »), ni ugutuma umuntu akora icyaha cyangwa ukabimushishikariza, mu magambo cyangwa ukoresheje ubundi buryo bwo gutumanaho, ugambiriye ko icyo cyaha gikorwa[591]. Nk'uko biteganywa n'amahame remezo agenga uburyozwacyaha bw'umuntu wabaye icyitso, guhamagarira [abantu gukora icyaha] bibaho gusa iyo byatumye, ku buryo butaziguye kandi bugaragara, undi muntu akora icyaha[592]. Aho bitandukaniye n'icyaha cyo guhamagarira abantu, mu ruhame kandi ku buryo butaziguye, [gukora icyaha] umuntu aryozwa gusa ibikorwa byo guhamagarira [abantu gukora icyaha] iyo icyaha cyakozwe koko na gatozi cyangwa ba gatozi [593].

457. N'ubwo amagambo « gufasha » no « gushishikaza » atandukanye, hafi buri gihe akoreshwa hamwe, nk'uko biri mu ngingo ya 6.1) ya Sitati, agasobanura muri rusange igikorwa cyose cyo gufasha no gutera inkunga iyi n'iyi undi muntu, mu gukora icyaha[594]. Nk'uko biteye ku byerekeye guhamagarira [abantu gukora icyaha], « gufasha cyangwa gushishikaza » ni uburyo bw'uburyozwacyaha bw'icyitso, busaba ko umuntu aba yaragize uruhare rutaziguye kandi rugaragara mu ikorwa ry'icyo cyaha[595]. Gufasha no gushyigikira bishobora kugaragarira mu

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[589] Urubanza rwa *Semanza,* igika cya 377 ; urubanza rwa *Celebici,* igika cya 319.

[590] Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 4, 5. Imiterere y'uburyo bwo gukora icyaha yamaze kugaragazwa mu Nyandiko y'ibirego, nk'aho bujyanye n'ingingo ya 6 1) ; imyanzuro nsozarubanza ya Porokireri yagabanyije ibyo yashimangiraga aho kubyongera. Igikorwa cyonyine Uregwa yaba yaragiyemo ku buryo butaziguye ni igitero cyagabwe ku gasozi ka Gitwa ku itariki ya 17 Mata cyangwa hafi yayo, nk'uko byavuzwe n'umutangabuhamya ushinja wiswe CGV.

[591] Urubanza rwa *Semanza,* igika cya 381 ; Urubanza rw'*Akayesu,* igika cya 482.

[592] Urubanza rwa *Kayishema na Ruzindana* mu bujurire*,* igika cya 198 ; urubanza mu rwa *Bagilishema,* igika cya 30.

[593]Urubanza rwa *Nahimana na bagenzi be,* ibika 1015,1029 ; urubanza rwa *Musema*, igika 115.

[594] Inyandiko y'urubanza rwa *Semanza,* ibika 384, 385.

[595] Urubanza rwa *Kayishema na Ruzindana* mu bujurire*,* igika 198; Urubanza rwa *Krstic* mu bujurire*,* igika 137 ; urubanza rwa *Bagilishema,* ibika 32-33.

bikorwa, mu magambo yavuzwe cyangwa mu kuba gusa aho icyaha cyakorewe. Kuba umutegetsi yari aho icyaha cyakorewe igihe cyakorwaga cyangwa yari ahantu hasanzwe hazwi ko hakunze gukorerwa ibyaha, bishobora gutuma umuntu atekereza ko uwo mutegetsi yari ashyigikiye ibyo byaha, ibyo rero bikaba bishobora gufatwa nko gufasha cyangwa gushishikiza abantu bakoze ibyo byaha[596]. Si umwanya w'ubutegetsi ubwawo witabwaho, ahubwo ni ingufu umutegetsi yatera ikorwa ry'icyaha[597]. Ku byerekeye igitekerezo kihariye cyo gukora icyaha gisabwa, hagaragajwe ko atari ngombwa ko umuntu ufasha cyangwa ushishikariza abandi bantu mu gukora icyaha aba ahuje na gatozi umugambi wo gukora jenoside. Ahubwo agomba nibura kuba azi muri rusange umugambi wihariye waritse muri gatozi[598].

1.2 Guhuza amategeko n'imyanzuro ku byabaye

Agasozi ka Gitwa (igika cya 15 n'icya 16 by'Inyandiko y'ibirego)

458. Urugereko rusanga inshuro ebyiri, ku itariki ya 23 n'iya 24 Mata 1994, Uregwa yaragiye ku gasozi ka Gitwa. Muri icyo gihe, ibihumbi by'impunzi z'Abatutsi zari zakoraniye kuri ako gasozi, zatangatanzwe n'abantu bazirusha ubwinshi bari mu bitero, bagizwe ahanini n'abasiviri. Kuri izo nshuro zombi, Uregwa yahaye intwaro abagabye ibitero, bari bagose aho hantu. Byongeyeye kandi, mu mvugo cyangwa mu bikorwa, Uregwa yashishikarije abantu mu ruhame gutera abasiviri b'Abatutsi bari bahungiye ku gasozi ka Gitwa. Hari igihe yavuze ngo : « Mujyeyo! Hari Abatutsi bananiranye … Ku gasozi hari Abatutsi bananiranye. Mugomba rero kubica, kandi nimubica, muzahembwa. » Hari ubundi Uregwa

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[596] Urubanza rwa *Ntakirutimana,* ibika 788-789; urubanza rwa *Semanza,* ibika 384- 386 ; urubanza rwa *Kayishema na Ruzindana* mu bujurire*,* ibika 201-202.
[597] Urubanza rwa *Rutaganda* mu bujurire*,* igika cya 528.
[598] Urubanza rw'*Akayesu,* ibika 539-541; urubanza rwa *Semanza,* igika cya 388 (« Si ngombwa ko Uregwa aba afite igitekerezo cyihariye kimwe n'icya gatozi. Agomba ariko kuba azi iby'ingenzi mu biranga icyaha cyakozwe na gatozi, aha hakaba hanabarirwamo umugambi yari afite » ; urubanza rwa *Krstic* mu bujurire*,* igika cya 140 ; Urubanza rwa *Krnojelac,* igika cya 51 ; urubanza rwa *Aleksovski,* igika cya 162 ; urubanza rwa *Vasiljevic* mu bujurire*,* igika cya 102.

yavuze ko abagabaga ibitero bagombaga « guhita bashyira mu bikorwa umugambi wari wateguwe », ibyo bikaba bivuga kwica Abatutsi.

459. Rimwe muri izo nshuro ebyiri, Uregwa yagiye ku gasozi ka Gitwa ajyanyeyo abasiviri bageze kuri 50 bavugwa ko ari *Interahamwe*, bagiye gutera ingabo mu bitugu abagabaga ibitero. Izo *Nterahamwe* zaje mu ikamyo yari ishoreranye n'imodoka y'Uregwa .

460. Kuva ku itariki ya 17 Mata 1994, cyangwa ahagana kuri iyo tariki, abasiviri b'Abatutsi bari ku gasozi ka Gitwa bagabweho udutero shuma. Utwo dutero twarakomeje kugeza ku itariki ya 26 Mata, ubwo habwaga igitero kinini kikica ibihumbi by'abagabo, abagore n'abana. Igitero cyari kigizwe ahanini n'abasiviri bitwaje imbunda, za gerenade, imihoro n'izindi ntwaro. Uwo munsi, hishwe ibihumbi by'abantu, bazira ko ari Abatutsi. Ibyabereye ku gasozi ka Gitwa byari muri gahunda nini yo kurimbura Abatutsi mu Rwanda hose, kubera ubwoko bwabo, kandi ni nako byagenze muri Perefegitura ya Kibuye. Abagabo bashinja n'abashinjura batanze ubuhamya bukomeye, kandi butigeze buvuguruzwa, ku bwicanyi bwateguwe bwo kurimbura Abatutsi, kubera ubwoko bwabo, nyuma gato y'itariki ya 6 Mata[599]. Abagabye ibitero, babarirwa mu bihumbi, bari bitabiriye ibitero byagabwe ku Kibuye, bagiye no ku gasozi ka Gitwa. Abagabye

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[599] Umutangabuhamya w'Impuguke w'Ubwunganizi avuga ibi bikurikira : « [T]uri […] mu ntangiriro z'umwaka wa 1994 … Turumva neza ko amoko ashyamiranye … [I]ndege ya Perezida Habyarimana yahanuwe. Mu masaha akurikiyeho, kwica [...] Abatutsi biratangira [...] ubwo bwicanyi […] buzamara amezi menshi. » Inyandikomvugo y'iburanisha, 19 Ugushyingo 2003, urup. 48. Ubuhamya butaziguye burebana n'ubwo bwicanyi, bwiyongera ku bwo ku gasozi ka Gitwa, bwatanzwe na DC, DN, na CGH, bavuga ku gitero cyagaritse ingogo cyibasiye Abatutsi kuri sitade Gatwaro ku Kibuye ku itariki ya 18 Mata ; bwatanzwe kandi na DC na DN, bavuze ku bwicanyi bwo ku itariki ya 17 Mata, bwakorewe kuri *Home St. Jean ;* butangwa kandi na DC, wavuze ku bwicanyi bwo muri Komine ya Rutsiro, bwabaye hafi y'itariki ya 11 Mata. Ubwo buhamya bushimangira imyanzuro ku byabaye yagiye ifatwa n'Ingereko za Mbere z'Iremezo, ivuga ko mu Rwanda hagati y'ukwezi kwa Mata n'ukwa Kamena 1994, habaye ibitero rusange byibasiye abasiviri b'Abatutsi bazira ubwoko bwabo : urubanza rwa *Nahimana na bagenzi be,* ibika 120-121 ; urubanza rwa Semanza, igika cya 277; urubanza rwa *Niyitegeka,* ibika 392-394, 403 ; urubanza rwa *Kayishema na Ruzindana*, igika cya 289 ; urubanza rw'*Akayesu,* igika cya 126 ; urubanza rwa *Rutaganda,* ibika 371-377. Mu manza nyinshi, ibyo bitero rusange byiswe, mu buryo bweruye, jenoside, nko mu rwa *Nahimana*, igika cya 121 ; urubanza rwa *Kayishema na Ruzindana,* igika cya 291 ; n'urubanza rw'*Akayesu,* igika cya 126. Mu ikiza ry'urubanza rwa *Krstic,* igika cya 37, Urugereko rw'Ubujurire ruherutse kwemeza ko ubwicanyi bwakorwa rimwe cyangwa inshuro nyinshi zikurikiranye bushobora kwitwa jenoside, bitewe n'uko ibintu biba byifashe.

ibitero ntibari kuyoberwa ko ibikorwa byabo byari mu rwego rw'ubwicanyi rusange bwibasiye Abatutsi muri Perefegitura yose ya Kibuye no mu Rwanda hose.

461. Kabone n'iyo nta bundi bwicanyi bwaba bwarakozwe, igitero cyose cy'urugomo, cyibasiye ibihumbi by'abantu bahuje ubwoko, cyerekana ubwa cyo umugambi wa ngombwa wo kurimbura abantu bahuje ubwoko, cyangwa igice cyabo. Abagiye mu bitero byagabwe ku gasozi ka Gitwa ku itariki ya 26 Mata no ku minsi yabanjirije iyo tariki, bakoze jenoside.

462. Uregwa yahamagariye abantu gukora jenoside ku gasozi ka Gitwa, abatera inkunga aranabibashishikariza. Yahamagariye, mu buryo bweruye, abagabaye ibitero kwica « Abatutsi » bari bakoraniye aho hantu. Yatanze imihoro, kandi hari ubwo yazanye aho hantu abagabye ibitero bitwaje. Yagiye inshuro ebyiri ku gasozi ka Gitwa gutanga imihoro, no kubwira abagabaga ibitero kwihutira gutera batera Abatutsi. Mu mvugo ye no mu ngiro, Uregwa yagaragaje umugambi we wo gutuma Abatutsi ibihumbi n'ibihumbi bari ku gasozi ka Gitwa baterwa, bakicwa. Byongeye kandi, Uregwa yari azi neza ko amagambo ye n'ibikorwa bye biri mu rwego rusange rw'imvururu zishingiye ku bwoko, n'urw'ubwicanyi n'itsembatsemba byakorwaga mu Rwanda muri icyo gihe[600]. Urugereko rusanga ahamagarira abantu kwica Abatutsi ku gasozi ka Gitwa, Uregwa yari afite umugambi wo kurimbura Abatutsi bose cyangwa igice cyabo.

463. Amagambo n'ibikorwa by'Uregwa byatumye, ku buryo butaziguye kandi bugaragara, Abatutsi bicirwa ku gasozi ka Gitwa. Kandi koko, akihagera abantu bari bagabye ibitero baramukikije ndetse avuze ijambo bamutega amatwi. Kuba

[600] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2003, urup. 17 (« [nari nzi ko abantu bicwaga]… » ; Inyandikomvugo y'iburanisha, 28 Ugushyingo 2003, urup. 14 (inyandiko iri cyongereza) (« Ikibazo : Watubwira niba hari ubwicanyi bwakorwaga mu Rwanda guhera hafi y'itariki ya 7 Mata kugera hafi muri yakanga hagati ? … Igisubizo : Ubwicanyi bwarakorwaga … »).

yari Minisitiri muri Guverinoma byatumaga ijambo rye rigira agaciro kanini[601]. Hashize iminsi ibiri ahavuye bwa nyuma, hagabwe igitero simusiga, kandi hashize igihe gito avuye kuri ako gasozi hagabwe ibindi bitero bito.

464. Kubera amagambo yavuze, Uregwa ahamwa n'icyaha cyo guhamagarira abantu gukora jenoside. Kubera ibikorwa bye byo gutera inkunga y'ibikoresho, nko gutanga intwaro no gutwara abagabye ibitero, ndetse no kubabwira amagambo abashishikaza, Uregwa ahamwa n'icyaha cyo gutera inkunga no gushishikariza abantu gukora jenoside.

Bariyeri zo muri Komine ya Gitesi (ibika bya 11, 12 na 13 by'Inyandiko y'ibirego)

465. Urugereko rusanga muri Gicurasi 1994, ku nshuro ebyiri zitandukanye, Uregwa yarahagaze kuri bariyeri zari muri Komine ya Gitesi, ku muhanda uhuza Gitarama na Kibuye. Ahagana mu mpera za Gicurasi 1994, Uregwa yatanze imihoro n'amafaranga ahantu hitwa Gaseke, abiha abantu bari kuri bariyeri, ababaza ikibatera kureka Abatutsi bagaca kuri iyo bariyeri aho kubica, ibyo bikaba byari ukubabwira ko bagombaga kubica. Mu mpera za Gicurasi, kuri bariyeri yari hafi y'ikiraro cya Nyabahanga, Uregwa yahaye imihoro *Interahamwe* n'abandi bantu, abasaba kwica Umututsikazi wese washakanye n'Umuhutu.

466. Kugira ngo Uregwa ahamwe n'icyaha cyo guhamagarira abandi bantu gukora jenoside, cyangwa cyo gutera inkunga no gushyigikira ikorwa ryayo, ibikorwa bigize icyaha cyo gushishikaza bigomba gutuma, mu buryo butaziguye kandi bugaragara, undi muntu akora jenoside. Cyakora, hari ibimenyetso bike cyane ku bikorwa abantu bari kuri bariyeri bakoze Uregwa amaze kuhava. Urugereko rusanga ariko uwitwa Nors, bahimbaga Nturusu, yarahise yicwa Uregwa agitirimuka kuri bariyeri ya Gaseke. Kugira ngo abari kuri bariyeri bahamwe n'icyaha cya jenoside kubera urupfu rwa Nors, hagomba kugaragazwa ko bari

[601] Urugereko rw'ubujurire rwongeye kwemeza ko kuba Uregwa yari umutegetsi ari ingingo ishobora kugenderwaho mu gusuzuma ingufu yari afite mu guhamagarira abantu gukora jenoside. Urubanza rwa *Rutaganda* mu bujurire, igika 529.

bafite umugambi wo kurimbura Abatutsi bose, cyangwa igice cyabo, bakibasira umuntu bamuziza ko ari uwo muri ubwo bwoko[602].

467. Abatangabuhamya ntibavuga mu buryo bumwe inkomoko ya Nors. Umwe muri benewabo wa hafi asobanura ko se wa Nors yari Umudage, na ho nyina akaba Umunyarwandakazi, ariko ntavuga niba nyina wa Nors ari Umuhutukazi cyangwa Umututsikazi[603]. N'ubwo muri rusange mu muco nyarwanda, umwana afata ubwoko bwa se, muri uru rubanza, hari ibimenyetso bigaragaza ko abana bafite ba nyina b'Abatutsikazi na bo bibasirwaga[604]. Cyakora muri urubanza, si ko biteye kuko se wa Nors ari uwo mu bwoko butaba mu Rwanda. Hari umutangabuhamya uvuga ko abantu bari bagabye igitero bashatse kwica Nors, kubera ko yari umuzungu cyangwa umubiligi. Abandi batangabuhamya, barimo CGC, bavuga ko Nors yari « imvange » asa n'Abatutsi, bigasa n'ibivuga ko mu maraso ye harimo n'ay'Abatutsi[605].

468. Mu kugena niba Nors yarabarirwaga cyangwa atarabarirwaga mu itsinda ririnzwe mu mategeko, ni ukuvuga ubwoko bw'Abatutsi, ni ngombwa cyane kugaragaza umugambi uziguye abamwishe bari bafite. Mu rubanza rwa *Bagilishema,* Urugereko rwa Mbere rw'Iremezo rwavuze ibi bikurikira :

> Itsinda ry'abantu rishobora kuba ridasobanutse neza, bityo ntibyorohe kumenya nta shiti niba uwakorewe icyaha abarirwa cyangwa atabarirwa

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602 Mu myanzuro nsozarubanza ye, Porokireri asa n'uvuga ko atari ngombwa ko igikorwa cya jenoside kiba, kugira ngo Uregwa ahamwe n'icyaha cyo gutera inkunga no gushishikaza abakora jenoside, kandi yahakanye ko iyicwa rya Nors rifite aho rihuriye n'imyumvire ye : « Nyakubahwa Perezida, ntitwigeze tuvuga ko Nors hari aho ahuriye n'uru rubanza. [Ibikorwa byo guhamagarira [abantu gukora icyaha] ntibyagarukiraga kuri Nors. Nors yari aciye kuri iyo bariyeri gusa, ku buryo butateguwe]. Bityo rero, niba mwemera ibyavuzwe na « CGC », Uregwa agomba guhamwa n'icyaha cya jenoside, hashingiwe kuri icyo gikorwa gusa. » Inyandikomvugo y'iburanisha, 1 Werurwe 2004, urup. 14. Cyakora, mu gika cya 11 cy'Inyandiko y'ibirego, havugwamo mu magambo yumvikana, ko hari umuntu wiciwe kuri bariyeri y'i Gaseke, ako kanya Uregwa agitirimuka, kandi uburyo byabayemo busa n'ubwo Nors yishwemo. Kubera iyo mpamvu, Urugereko rusanga urupfu rwa Nors, nk'uko byakomeje kumera, rukubiye mu ngingo Porokireri ashingiraho. Rusanga kandi urwo rupfu rutagomba kwirengagizwa.

603 Inyandikomvugo y'iburanisha, 5 Ugushyingo 2003, urup. 14.

604 Ni ko byagenze nko ku mukobwa wa CGF. Inyandikomvugo y'iburanisha, 9 Nzeri 2003, urup. 27 (« Mu by'ukuri yahigwaga kubera ubwoko bwa nyina »).

605 Inyandikomvugo z'iburanisha, 29 Nzeri 2003, urup. 51 (CGC); 28 Ukwakira 2003, urup. 85 (DB)

mu gice kirinzwe mu mategeko. Byongeye kandi, abakoze jenoside bashobora kugena itsinda bibasira mu buryo budahuye neza n'uko abantu muri rusange bafata iryo tsinda, cyangwa n'uko rifatwa n'abandi baturage. Kubera iyo mpamvu, Urugereko rusanga ku byerekeye icyaha cya jenoside, niba ibimenyetso rwashyikirijwe bigaragaza ko gatozi afata umuntu ukorewe icyaha nkaho abarirwa mu gice kirinzwe mu mategeko, Urugereko rwafata uwo muntu ukorewe icyaha nk'ubarirwa mu itsinda ririnzwe mu mategeko [606].

469. Urugereko rwumva, nibura kuri bimwe, Nors yarafatwaga nk'Umututsi. Ubuhamya bwatanzwe muri uru rubanza bwerekana ko mu Rwanda mu mwaka wa 1994 isura y'umuntu cyari ikintu gikomeye, ndetse kamara, mu kwerekana ubwoko bwe[607]. Nors yafatwaga nk'Umututsi kubera ko asa nabo. Kuba umwe mu babyeyi b'umuntu ari Umunyaburaya ntibibuza uwo muntu gufatwa nk'Umututsi. Mu by'ukuri, abatangabuhamya benshi bavuga ko yari «icyotara », ibyo bigasa n'ibivuga ko yari imvange y'Umunyaburayi n'Umunyarwanda. Birasa n'ibidashoboka ko yari kwibasirwa iyo ajya gufatwa nk'Umuhutu cyangwa Umutwa. Kuba Nors yarishwe Uregwa akimara gusaba ko Abatutsi bicwa, bishyigikira, mu buryo buziguye, ibivugwa ko ari yo mpamvu yishwe. Byongeye kandi, kuba hari izindi mpamvu zatumye Nors yicwa (nko kuba ku ruhande rumwe yari Umubiligi), ntibivuga ko abicanyi batari baritswemo n'umugambi wo gukora jenoside[608]. Ruhereye kuri izi ngingo, Urugereko rusanga Nors yarishwe kubera ko yafatwaga nk'Umututsi, nibura ku gice kimwe..

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606 Urubanza rwa *Bagilishema,* igika cya 65 ; urubanza rwa *Musema,* igika cya 161 (Mu rwego rwo gushyira mu bikorwa Amasezerano yerekeye jenoside, biragaragara ko kuba umuntu abarirwa mu itsinda runaka, ntibishingira ku biherwaho bashyira umuntu mu itsinda, ahubwo hashyirwa imbere ibyo umuntu yitekerereza. Gatozi wa jenoside afata uwo muntu ukorerwa icyaha nk'aho ari mu gice cy'abantu bagomba kurimburwa. »)

607 Nk'uko bivugwa na CGL, CGH na CGC.

608 Urubanza rwa *Niyitegeka* mu bujurire*,* igika cya 53 : « Mu yandi magambo, imvugo « gutyo » iragaragaza umugambi wihariye wa ngombwa. Nta ho iyo mvugo ibuza ko Uregwa ahamwa n'icyaha cya jenoside, kabone n'iyo hari izindi mpamvu, mu rwego rw'amategeko, zidafite icyo zungura mu bisuzumwa. Bityo rero Urugereko rwa Mbere rw'Iremezo rwari mu kuri mu gufata iyo mvugo nk'isobanura ko ibikorwa bisuzumwa byagombye kuba byaribasiye abakorewe ibyaha kubera ko bagize ubwoko burengerwa mu mategeko, ariko *ntibe* ariyo *mpamvu* yonyine.

470. Ikibazo cyo kumenya niba mu kwica Nors abagabaga ibitero bari baritswemo cyangwa bataritswemo n'umugambi wo kurimbura Abatutsi bose cyangwa igice cyabo, kigomba gusuzumwa mu rwego rw'ubwicanyi bushingiye ku bwoko bw'abakorewe ibyaha icyo gihe mu Rwanda. Icya mbere, ibimenyetso byatanzwe muri uru rubanza bishimangira imyanzuro yafashwe mu manza nyinshi zaciwe. Iyo myanzuro ivuga ko bariyeri ari ahantu Abatutsi barobanurirwaga, maze bakahicirwa[609]. Icya kabiri, CGC avuga ko ari kuri bariyeri yumvise umunuko w'imirambo yarimo kubora, yumva banavuga ko abantu benshi bahiciwe, haba mbere, cyangwa nyuma y'uko Uregwa ahanyura. Icya gatatu, CGC ubwe yajyanywe kuri bariyeri, benda kuhamwicira kuko yari Umututsi, nyuma aza gukizwa n'umuntu wamurengeraga. Icya kane, mu Rukiko DC avuga ko abantu bari kuri bariyeri bamusabye kuhaguma ngo abafashe kwica Nors bakekaga ko atari gutinda kongera kunyura muri uwo muhanda ari mu modoka. Icya gatanu, abicanyi bari bazi neza ko hose muri Kibuye, nk'ahantu bagenzuriraga ibya ngombwa nko kuri bariyeri, Abatutsi bose bahafatirwaga, biri kuri gahunda, bakaharobanurirwa maze bakahicirwa. Ruhereye kuri ibyo bintu byabaye, Urugereko rusanga, mu kwica Nors, abantu bari kuri iyo bariyeri bari bagambiriye kurimbura Abatutsi bose cyangwa igice cyabo.

471. Kuba icyo gihe harishwe umuntu umwe gusa, ntibivuga ko abantu bishe uwo muntu batari baritswemo n'umugambi ugaragara wo kurimbura Abatutsi bose, cyangwa igice cyabo, bo muri Kibuye no mu Rwanda[610]. Ibyo bivuga rero ko abishe Nors bakoze jenoside.

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[609] Reba nk'ubuhamya bwa CGE, CGF, DL na DM m Rukiko ku byerekeye bariyeri yo kuri santeri ya Gitaka, ubwa DN ku byerekeye ubwicanyi bwabereye kuri za bariyeri (Inyandikomvugo y'iburanisha, 3 Ugushyingo 2003, urup. 9) n'ubwa Des Forges (Inyandikomvugo y'iburanisha, 24 Nzeri 2003), urup. 36.

[610] Byari byamaze kugaragazwa ko hashobora kubaho jenoside kabone n'iyo haba hahohotewe umuntu umwe gusa, mu gihe ababikoze bari bafite umugambi wa ngombwa wo gukora icyaha : Urubanza rwa *Musema*, igika cya 165, (« [k]ugira ngo icyaha kibe mu bigize jenoside, kimwe mu bikorwa bivugwa kigomba kuba cyarakorewe umuntu umwe cyangwa abantu benshi, bitewe n'uko uwo muntu cyangwa abo bantu bagize igice cy'abantu runaka cyangwa se babarirwa muri icyo gice ») ; urubanza rwa *Rutaganda*, igika cya 60 ; urubanza rwa *Semanza,* igika cya 316 ; William Schabas, *Genocide in International Law* (Cambridge : *Cambridge University Press, 2000*), urup. 234 (« Nta mpamvu igaragara ibuza ko iyicwa ry'umuntu umwe rifatwa nka jenoside, mu gihe ryabaye hagambiriwe kurimbura abantu bose bafite icyo bahuriyeho, cyangwa igice cyabo » [byasemuwe n'ibiro bya gerefiye]

472. Uregwa yashishikarije, mu buryo bweruye, abari kuri bariyeri kwica Abatutsi. Yabateye inkunga y'ibikoresho abaha imihoro n'amafaranga. Nors yafatiwe kuri bariyeri hashize akanya gato, cyangwa iminota mike, Uregwa ahanyuze. Kubera izo mpamvu, Uregwa yafashije abantu, mu buryo butaziguye kandi bugaragara, gukora icyaha cya jenoside kuri bariyeri yari i Gaseke.

473. Urugereko rwanzura ruvuga ko kubera ko yateye abantu inkunga, akanabashishikariza kwica Nors, Uregwa yahamagariye abantu gukora jenoside, abibafashamo kandi arabibashishikariza.

474. Urugereko rusanga CGM avuga ko Uregwa amaze kuhava, Abatutsikazi bashakanye n'Abahutu, bishwe. Cyakora, nta bimeyetso byerekana neza igihe n'ahantu ubwo bwicanyi bwakorewe. Ubwicanyi nk'ubwo bwavuzwe, mu buryo bweruye, n'umutangabuhamya ni ubwakozwe n'uwitwa Gatwa, wishe umugore we wa kabiri w'Umututsikazi. Uwo mutangabuhamya ntavuga niba Gatwa yari kuri bariyeri ubwo Uregwa yahanyuraga, cyangwa se niba hari ukuntu amagambo Uregwa yavugiye ku kiraro cya Nyabahanga yaba yaramuteye kwica uwo mugore. Urugereko rusanga Uregwa adahamwa n'icyaha cyo guhamagarira abantu gukora icyaha, kubibateramo inkunga no kubibashishikariza, kubera ko rutashyikirijwe ibimenyetso bihagije bigaragaza ko imyitwarire y'Uregwa kuri bariyeri byagize uruhare rutaziguye kandi rugaragara mu iyicwa ry'Abatutsikazi bashakanye n'Abahutu, cyangwa se abana babo.

2. Itsembatsemba nk'icyaha cyibasiye inyokomuntu

2.1 Amategeko akurikizwa

475. Ku kirego cya 2 cy'Inyandiko y'ibirego, Uregwa ashinjwa itsembatsemba nk'icyaha cyibasiye inyokomuntu, kubera ibyaha yakoreye ku gasozi ka Gatwa muri Mata 1994.

476. Nk'uko biteganywa n'ingingo ya 3 ya Sitati, Urukiko :

> … rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoze ibyaha by'ubugome bikurikira, mu gihe byakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri abo ari bo bose bazira ubwenegihugu bwabo, umutwe wa politiki barimo, ubwoko bwabo cyangwa idini ryabo :
>
> a) Ubuhotozi ;
> b) Itsembatsemba ;
> c) Gushyira mu bucakara ;
> d) Kumenesha ;
> e) Gufunga ;
> f) Kwica urubozo ;
> g) Gusambanya ku gahato ;
> h) Gutoteza bishingiye ku mpamvu za politiki, z'ubwoko n'iz'idini ;
> i) Ibindi bikorwa bibi birenze kameremuntu

477. Kugira ngo bifatwe nk'ibyaha byibasiye inyokomuntu, ibi byaha bivuzwe haruguru bigomba kuba byarakozwe mu rwego rw'igitero kirangwa n'ibintu bibiri bikurikira: icya mbere, igitero kigomba kuba ari rusange, cyangwa kiri kuri gahunda. « Kuba rusange » bivuga ko igitero kigomba kuba ari « kinini » cyangwa « cyaragabwe ahantu henshi », kandi kigahitana abantu benshi ; kuba « kiri kuri gahunda » bijyana no kuba kigendera ku bintu byateguwe, ibyo bigatandukana n'ibikorwa bihutiweho, cyangwa bidafite ikibihuje, byakozwe n'abantu ku giti cyabo[611]. Icya kabiri, igitero kigomba kuba cyibasiye « abaturage b'abasiviri abo ari bo bose bazira ubwenegihugu bwabo, umutwe wa politiki barimo, ubwoko bwabo cyangwa idini ryabo ». Mu yandi magambo, ni ukuvuga ko igitero uko

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[611] Urubanza rwa *Niyitegeka,* igika cya 439 ; urubanza rwa *Ntakirutimana,* igika cya 804 ; urubanza rwa *Semanza,* ibika 328, 329. Reba kandi urubanza rwa *Kunarac* mu bujurire, ibika 93-97, ku byerekeye imyumvire y'ayo magambo mu kugena ibyaha byibasiye inyokomuntu.

cyakabaye kigomba kuba cyaragabwe kubera izo mpamvu zihariye; si icyaha rero ubwa cyo kitabwaho[612].

478. Ikigenderwaho kivuga ko ibyaha birondorwa bigomba kuba byarakozwe mu « rwego » rw'igitero ni cyo cyerekana igitekerezo cyihariye kiranga ibyaha byibasiye inyokomuntu. Ntibiba bikiri ngombwa ko gatozi aba agambiriye gukora ivangura rishingiye ku mpamvu zavuzwe, ahubwo agomba nibura kuba azi ko igikorwa cye kiri mu rwego rw'igitero rusange cyangwa kiri kuri gahunda, cyibasiye abasiviri, kubera impamvu z'ivangura[613].

479. Usibye ibyo bintu rusange bigenderwaho ku cyaha cyibasiye inyokomuntu, kugira ngo Uregwa ahamwe n'icyaha cy'itsembatsemba, hagomba kugaragazwa ko yari afite umugambi wo gukora ibyaha byibasiye itsinda ry'abantu, kandi bigamije gutuma ubwicanyi bukorwa[614]. Icyo ni cyo gitandukanya icyo cyaha n'icy'ubwicanyi, kuko igikorwa kigize ubwicanyi gishobora kugaragazwa n'urupfu rw'umuntu umwe gusa, kandi bigaragara ko uwabukoze yari agambiriye kwica umuntu umwe, kabone n'iyo byaba byarabaye mu rwego rw'igitero rusange kandi kiri kuri gahunda. Icyaha cy'itsembatsemba gishobora gukorwa ku buryo buziguye, ugereranyije n'icy'ubwicanyi, nk'iyo nyir'ukurikora yagize uruhare mu gushyiraho ingamba zo kwica abantu benshi, ariko we ku giti cye ntagire umuntu yica[615]. Cyakora, ni ngombwa kugaragaza aho icyaha gihuriye n'ibikorwa by'Uregwa, havugwa amazina cyangwa imiterere y'abantu bakorewe icyaha, hakanerekanwa uko Uregwa yagize uruhare cyangwa yafatanyije n'abandi mu iyicwa ry'abo bantu bibasiwe[616]. Ikibazo cyo kumenya niba Uregwa yaragize uruhare ruhagije mu ikorwa ry'itsembatsemba kibonerwa igisubizo mu isuzuma nyaryo ry'ibyabaye.

[612] Urubanza rwa *Ntakirutimana,* igika cya 803 ; urubanza rwa *Semanza,* igika cya 331. Muri uru rubanza, si ngombwa gusuzuma igitekerezo cyihariye kigize icyaha cy'itoteza, kuko icyo cyaha kitari mu Nyandiko y'ibirego.

[613] Urubanza rwa *Niyitegeka,* igika cya 446 ; urubanza rwa *Ntakirutimana,* igika cya 803. Reba kandi urubanza rwa *Tadic* mu bujurire*,* igika cya 248.

[614] Urubanza rw'*Akayesu,* igika cya 591 (« mu miterere yacyo itsembatsemba ni icyaha gikorerwa itsinda ry'abantu »).

[615] Urubanza rwa *Krstic,* igika cya 498 (« Iriburiro ry'iri tegeko rituma umuntu atekereza ko ijambo itsembatsemba rishobora gukoreshwa ku byaha byakozwe bigambiriye kwica abantu benshi, byaba ako kanya nko kwicisha imbunda, byaba se ku buryo busa n'ubuziguye, nko gushyira abantu mu ngorane zibaviramo gupfa ») ; urubanza rwa *Vasiljevic,* igika cya 227 ; urubanza rwa *Kayishema na Ruzindana,* ibika 143, 146.,

[616] Urubanza rwa *Niyitegeka,* igika cya 450 (Uregwa agomba kuba « yaragize uruhare mu iyicwa ry'umuntu cyangwa ry'abantu bavuzwe ») ; urubanza rwa *Ntakirutimana,* igika cya 814 ; urubanza rw'*Akayesu,* igika cya 592.

480. Umugambi mubisha wa ngombwa ku byerekeye icyaha cy'itsembatsemba ugaragarira mu ruhare Uregwa yagize mu ifatwa ry'ingamba zibasiye igice kinini cy'abantu, zigamije gutuma benshi muri bo bapfa. Kubera ibyabaye byavuzwe muri uru rubanza, si ngombwa kureba niba uburangare bukomeye bwaba bugize igitekerezo cyihariye cyo gukora itsembatsemba[617].

2.2 Guhuza amategeko n'imyanzuro ku byabaye

Agasozi ka Gitwa (igika cya 20 cy'Inyandiko y'ibirego)

481. Ibimenyetso byatanzwe ntibigaragaza ko, mu bikorwa yakoreye ku gasozi ka Gitwa, Uregwa hari umuntu yishe ku giti cye.

482. Urugereko rwanzura ruvuga ko Uregwa yagiye inshuro ebyiri ku gasozi ka Gitwa, akahashishikariza abagabaga ibitero kwica Abatutsi bari bahahungiye, ndetse akanatanga imihoro n'izindi ntwaro. Hari n'ubwo yatwaye abantu bagabye ibitero, bavugwa ko bari *Interahamw*e, abajyana ku gasozi ka Gitwa. Kubera ko byari bizwi ko ari Minisitiri muri Guverinoma, abantu bazaga kumutega amatwi cyane kandi bamwubashye. Byanze bikunze, amagambo ye n'ibikorwa bye byateye akanyabugabo abagabaga ibitero. Koko rero, hashize iminsi ibiri gusa Uregwa ahavuye, igitero kinini cyagabwe kuri ako gasozi, gihitana ibihumbi by'abatutsi. Icyo gitero simusiga cyari cyabanjirijwe n'utundi dutero duto, kamwe muri two kakaba karagabwe Uregwa ahibereye, kandi bikaba bisa n'aho ari we watumye kagabwa.

483. Urugereko rusanga ibisabwa byihariye ngo icyaha cy'itsembatsemba kigaragazwe byujujwe. Uregwa yari afite umugambi wo kwicisha abatutsi benshi bari batangatanzwe ku gasozi ka Gitwa. Uwo mugambi yawugaragaje ku buryo

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617 Inyandiko y'urubanza rwa *Kayishema na Ruzindana,* igika cya 144 (hemezwa ko kwirengagiza gukabije guhagije) ; reba inyandiko y'urubanza rwa *Semanza,* igika cya 341 (biba ngombwa ko habaho umugambi wo gukora ubwicanyi cyangwa kubugiramo uruhare) ; inyandiko y'urubanza rwa *Vasiljevic,* igika cya 229 (hasabwa ubushake nyirizina bwo kwica cyangwa gutera ubumuga bukabije uzi ko bishobora kuvamo urupfu).

butaziguye ashishikariza abari mu gitero kwica abatutsi. Igikorwa kigize icyaha kigaragazwa no kuba yaratanze intwaro, agatwara abantu bagabaga ibitero kandi akabahamagarira yeruye kugaba icyo gitero. Kubera ko yari minisitiri, amagambo ye n'ibikorwa bye byateye akanyabugabo gahambaye abagabaga ibitero, kandi byerekanaga ko Leta ishyigikiye igitero simusiga cyagabwe hashize akanya gato. Kubera izo mpamvu, Uregwa yagize uruhare runini mu iyicwa ry'Abatutsi ryakurikiyeho.

484. Ibisabwa muri rusange ngo hagaragazwe icyaha cyibasiye inyokomuntu na byo byaratanzwe. Hari ibimenyetso simusiga byerekana ko muri kiriya gihe, mu Rwanda, no ku Kibuye by'umwihariko, ibitero rusange byibasiye Abatutsi. Uregwa yerekanye mu ruhame umugambi we wo kwica abasiviri bari bahungiye ku gasozi ka Gitwa, bazira ko bari Abatutsi, kandi azi ko mu Rwanda hose harimo kuba ubwicanyi bushingiye ku bwoko. Yari azi nibura ko ibyo bitero ari rusange kandi ko byarangwaga n'ivangura ndetse anazi ko igitero cyagabwe ku gasozi ka Gitwa cyari mu rwego rw'ibyo bitero rusange.

485. Ku byerekeye uburyo ibyo byaha byakozwe, Urugereko rwanzura ruvuga ko Uregwa ubwe yarakoze icyaha cy'itsembatsemba. Yagize kandi uruhare atanga inkunga mu byatumye Abatutsi bicirwa ku gasozi ka Gitwa ku itariki ya 26 Mata 1994. Ibyo yabikoze atanga intwaro, atwara mu modoka abagabye ibitero ndetse avuga amagambo ashishikaza abantu kandi, nk'uko byumvikana, biragaragara ko byasaga no kwerekana ko abategetsi bo muri guverinoma bashyigikiye icyo gitero. Urugereko rusanga mu magambo no mu bikorwa bye, Uregwa yarafashije, mu buryo butaziguye kandi bugaragara, abagabaga ibitero gukora icyaha cy'itsembatsemba ku gasozi ka Gitwa, bityo akaba agomba kuryozwa ko yahamagariye kandi agashishikariza abantu gukora icyo cyaha, ndetse akanabibafashamo.

3. Ubuhotozi nk'icyaha cyibasiye inyokomuntu

3.1 Amategeko akurikizwa

486. Ku kirego cya 3 cy'Inyandiko y'ibirego, Uregwa ashinjwa ubuhotozi nk'icyaha cyibasiye inyokomuntu. Muri rusange, Inyandiko y'ibirego ishingira ku buryo bw'uburyozwacyaha buteganywa mu ngingo ya 6.1) ya Sitati, ikavuga by'umwihariko ko Uregwa « yahamagariye abantu bari kuri za bariyeri zo muri Perefegitura ya Kibuye kwica abasiviri b'Abatutsi, kandi agategeka abantu kubikora. Rimwe na rimwe, yabwiraga buri mutegetsi wo mu nzego z'ibanze amazina y'abantu bagomba kwicwa». Kuri iyi ngingo, Porokireri arakomoza ku buhamya buvuga ko Uregwa yashishikarije abantu ubwicanyi kuri bariyeri eshatu zari i Gaseke, ku muhanda wa Kibuye–Gitarama, no kuri bariyeri yaba yarashyizwe kuri santeri y'ubucuruzi yo ku Gitaka.

487. Kwica umuntu ni ukumuvutsa ubuzima ku bwende, cyangwa kumutera, ku bushake, ubumuga bukomeye bw'umubiri n'ubwo mu mutwe, uzi neza ko ubwo bumuga bwamuviramo urupfu, cyangwa se ntugire impungenge ko uwo muntu ashobora gupfa[618]. Nk'uko biteye ku itsembatsemba, ubwicanyi buhanwa nk'icyaha cyibasiye inyokomuntu « iyo bwakozwe mu rwego rw'igitero rusange kandi kiri kuri gahunda, cyibasiye abaturage b'abasiviri abo ari bo bose, bazira ubwenegihugu bwabo, umutwe wa politiki barimo, ubwoko bwabo cyangwa idini ryabo », nk'uko biteganywa n'ingingo ya 3 ya Sitati. Izo ngingo zisabwa zasobanuwe haruguru, ubwo hasuzumwaga ibya ngombwa ngo hagaragazwe itsembatsemba rifatwa nk'icyaha cyibasiye inyokomuntu. By'umwihariko, Urugereko ruributsa ko umugambi mubisha wa ngombwa kugira ngo icyaha cyibasiye inyokomuntu kibeho usaba ko uwakoze icyaha aba azi ko igikorwa cye

[618] Urubanza rw'*Akayesu,* igika cya 589 ; urubanza rwa *Rutaganda,* igika cya 81 ; urubanza rwa *Musema,* igika cya 215. Reba Antonio Cassesse, *International Criminal Law* (Oxford : Oxford University Press, 2002), imp. 102-104. Mu zindi manza, bitewe n'imikoreshereze y'ijambo « ubuhotozi » mu nyandiko ya Sitati iri mu gifaransa, hasabwe ko ubwicanyi bugomba kuba « bwaragambiriwe ». Reba nko mu rubanza rwa *Semanza,* ibika 334-339. Urugereko rusanga atari ngombwa muri uru rubanza gusuzuma urwego rwisumbuye kurusha urundi, bitewe n'uko imiterere y'umugambi w'Uregwa itagibwaho impaka kuri iyi ntera y'urubanza.

kibarirwa mu rwego rw'igitero rusange cyangwa kiri kuri gahunda cyibasiye abaturage b'abasiviri kubera impamvu z'ivangura, bitabaye ngombwa ko Uregwa aba yaritswemo n'uwo mugambi mu gihe icyo gikorwa cyabaga.

488. Nk'uko bivugwa no haruguru, kugira ngo uwabikoze abiryozwe, ibikorwa byo guhamagarira [abantu gukora icyaha], kubibateramo inkunga no kubibashishikariza bigomba kuba byaratumye, mu buryo butaziguye kandi bugaragara, icyaha gikorwa[619].

3.2 Guhuza amategeko n'imyanzuro ku byabaye

Bariyeri zo muri Komini ya Gitesi (igika cya 25)

489. Mu cyiciro cya 6.1 cyahariwe imyanzuro ku byabaye no mu cyiciro cyakibanjirije, Urugereko rusuzuma, mu buryo burambuye, imyanzuro rwagezeho ku byerekeye uko ibintu byagiye bikurikirana kugera Nors apfuye kuri bariyeri yo ku Gaseke. Rushingiye kuri iryo suzuma, Urugereko rwanzura ruvuga ko abantu bari kuri bariyeri y'i Gaseke bitabiriye ibitero rusange kandi biri kuri gahunda byibasiye abasiviri b'abatutsi. Rwemeza kandi ko Nors yishwe mu rwego rw'icyo gitero kiri kuri gahunda. Nors yiciwe kuri bariyeri cyangwa hafi yayo azira ko ari Umututsi, cyangwa kubera ko yafatwaga nk'Umututsi. Ibyo ari byo byose, abishe Nors bari bafite umugambi wihariye wa ngombwa, kubera ko bari bagambiriye kwica Nors mu rwego rw'igitero rusange cyangwa kiri kuri gahunda cyibasiye Abatutsi, cyangwa se bitewe n'uko bari bazi ko kumwica byari gutuma icyo gitero rusange cyangwa kiri kuri gahunda, kigera ku ntego zacyo.

490. Rushingiye ku mpamvu zasuzumwe mu cyiciro kibanziriza iki zerekeranye no guhamagarira abantu gukora jenoside, ku bibateramo inkunga no

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[619] Urubanza rwa *Kayishema na Ruzindana* mu bujurire, igika cya 198 ; urubanza rwa *Krstic* mu bujurire, igika cya 137 ; urubanza rwa *Bagilishema,* ibika 32, 33. Muri uru rubanza, Urugereko rusanga atari ngombgwa gusuzuma ibyo Porokireri avuga ko hagaomba kugaragazwa igikorwa bifatika kigize abantu bashishikarijwe gukora. Inyandikomvugo y'iburanisha, 1 Werurwe 2004, imp. 4, 5.

kubibashishikariza, Urugereko rwanzura na none ruvuga ko Uregwa yagize uruhare rutaziguye kandi rugaragara mu ikorwa ry'icyaha cy'ubuhotozi nk' icyaha cyibasiye inyokomuntu. Kubera iyo mpamvu, ku byerekeye iyicwa rya Nors, nk'uko bivugwa mu kirego cya 3, Uregwa ahamwa n'icyaha cyo gushishikaza, gutera inkunga cyangwa gushyigikira abakoze icyaha cy'ubuhotozi nk'icyaha cyibasiye inyokomuntu.

4. Guhamwa n'ibyaha byinshi bikomoka ku gikorwa kimwe

491. Hagaragajwe ko Uregwa ashobora guhamwa n'ibyaha byinshi bikomoka ku gikorwa kimwe[620]. Birashoboka ko umuntu ahamwa n'ibyaha byinshi binyuranye ariko bishingiye ku myitwarire imwe, iyo kimwe muri ibyo byaha gifite ingingo yihariye itagaragara mu kindi cyaha[621]. Ubwunganizi buvuga ko, muri uru rubanza, umuntu adashobora gutandukanya ikirego cya jenoside n'icy'itsembatsemba nk'icyaha cyibasiye inyokomuntu. Buvuga kandi ko ibintu bya ngombwa ngo umuntu ahamwe n'icyaha ku kirego cya jenoside, ku ruhande rumwe, n'icy'ubuhotozi nk'icyaha cyibasiye inyokomuntu, ku rundi ruhande, bisa byose [622].

492. Mu rubanza rwa *Krstic,* Urugereko rw'Ubujurire rw'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho Icyahoze Cyitwa Yugosolaviya, ruherutse kongera kwemeza ubukemuramanza buvuga ko jenoside ifite ibintu bigaragara biyitandukanya neza n'itsembatsemba, akaba ari yo mpamvu umuntu ashobora guhamwa n'ibyaha byinshi. By'umwihariko, rwemeje ko aho jenoside inyuraniye n'ibyaha byibasiye inyokomuntu, ari uko ku byerekeye jenoside, atari ngombwa ko hagaragazwa niba yarakozwe mu rwego « rw'igitero rusange kandi kiri kuri gahunda »[623]. Kubera izo mpamvu, itsembatsemba n'ubuhotozi nk'icyaha

[620] Urubanza rwa *Musema* mu bujurire, igika 369 ; urubanza rwa *Kunarac* mu bujurire, igika 167.
[621] Urubanza rwa *Musema* mu bujurire, ibika 361, 363 ; urubanza rwa *Krstic* mu bujurire, igika cya 218 ; urubanza rwa *Semanza,* igika cya 409.
[622] Imyanzuro y'ubwunganizi, ibika 48-60.
[623] Urubanza rwa *Krstic* mu bujurire, igika cya 223 ; urubanza rwa *Musema* mu bujurire, igika cya 366.

cyibasiye inyokomuntu byifitemo byombi ingingo zibitandukanya neza na jenoside.

493. Urugereko rwanzura ruvuga ko rushobora guhamya Uregwa ibyaha byinshi, rushingiye ku bikorwa bimwe ashinjwa.

UMUTWE WA IV

IMIKIRIZE Y'URUBANZA

494. **KUBERA IZO MPAMVU**, rumaze gusuzuma ibimenyetso ku byabaye no ku mategeko byashyizwe muri dosiye,

495. **URUGEREKO**, ku bwumvikane bw'abacamanca bose bagize inteko, rwemeje ko Emmanuel Ndindabahizi :

Ku kirego cya 1 : Ahamwa n'icyaha cya jenoside

Ku kirego cya 2 : Ahamwa n'icyaha cy'itsembatsemba nk'icyaha cyibasiye inyokomuntu

Ku kirego cya 3 : Ahamwa n'icyaha cy'ubuhotozi nk'icyaha cyibasiye inyokomuntu.

UMUTWE WA V

IGENABIHANO

1. Amategeko akurikizwa n'amahame rusange akoreshwa mu kugena igihano

496. Amategeko Urugereko rukurikiza mu kugenera Uregwa igihano gikwiye akubiye mu ngingo za 22, 23 na 26 za Sitati no mu kuva ku ngingo y' i 101 kugera ku ya 104 y'Amategeko. Rushingiye ku ngingo ya 23 ya Sitati no ku ngingo ya 101 A) y'Amategeko, Urukiko rushobora kugena igihano cy'igifungo kigera ku gifungo cya burundu.

497. Iyo Uregwa ahamwa n'ibyaha byinshi, nk'uko bimeze muri uru rubanza, Urugereko rushobora gufata icyemezo cyo kumukatira igihano kimwe rukumbi cyangwa rukamukatira igihano kuri buri cyaha. Ubusanzwe, hatangwa igihano kimwe rukumbi iyo urugereko rusanze ibyaha bituruka ku mugambi umwe mubisha[624]. Iyo ibihano ari byinshi, Urugereko rwemeza niba buri gihano kigomba kurangizwa ukwacyo, cyangwa niba bigomba gukomatanyirizwa hamwe.

498. Kugira ngo rwemeze igihano Uregwa akwiye gukatirwa, Urugereko rwazirikanye amahame yashyizweho yerekeye kuryoza Uregwa ibyaha yakoze, gukoma imbere abashobora gukora no kurinda rubanda[625]. Rwahisemo uko gukoma imbere ibikorwa nk'ibyo kugira ngo rugaragaze ko « amahanga adashobora gukomeza kwihanganira ibyaha bikomeye binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'uburenganzira bw'ikiremwa muntu »[626]. Urugereko rwazirikanye kandi kuba Uregwa yaragaragaje ko ashobora kwitwara neza mu muryango nyarwanda[627].

[624] Urubanza rwa *Blaskic*, igika cya 807 ; Urubanza rwa *Krstic*, igika cya 725.
[625] Urubanza rwa *Kambanda*, igika cya 28, rwemejwe mu rubanza rwa *Aleksovski* mu bujurire, igika cya 66 ; urubanza rwa *Ntakirutimana*, igika cya 882.
[626] Urubanza rwa *Kambanda*, igika cya 28, rwemejwe mu rubanza rwa *Aleksovski* mu bujurire, igika cya 66. Reba na none urubanza rwa *Kayishema* (Igenabihano), igika cya 2 ; urubanza rwa *Ntakirutimana*, igika cya 882.
[627] Urubanza rwa *Blaskic*, igika cya 761 ; urubanza rwa *Kunarac*, igika cya 836 ; urubanza rwa *Serushago*, igika cya 39 ; urubanza rwa *Kayishema*, igika cya 2 ; rwemejwe mu rubanza rwa *Kayishema* mu bujurire, ibika 389, 390; urubanza rwa *Ntakirutimana*, igika cya 887.

499. Urugereko rwazirikanye uburemere bw'ibyaha Uregwa yakoze. Jenoside n'ibyaha byibasiye inyokomuntu, ni ibyaha birenze kamere.

500. Urugereko rwazirikanye kandi ihame ry'isumbana ry'ibihano, rivuga ko ibihano bikomeye kurusha ibindi bihabwa abantu bacuze umugambi wo gukora icyaha cyangwa bagategeka abandi bantu gukora ibikorwa birenze kamere cyangwa abantu berekanye ubugome bukabije mu gukora ibyaha by'ubugome cyangwa bakabigirana agashinyaguro gakabije. Iyo Uregwa ahamwe n'icyaha cya jenoside, ibyaha byibasiye inyokomuntu cyangwa n'ibikorwa binyuranyije n'Amasezerano y'i Jeneve cyangwa n'Umugereka wayo wa II, ihame ryerekeye isumbana ry'ibihano rituma Urugereko ruhana, rugakoma imbere kandi rukamagana rwivuye inyuma ibyo byaha mu buryo bujyanye n'uburemere bwabyo kandi bujyanye n'akababaro ababikorewe bagize[628].

501. Nk'uko byagenze mu manza zabanje Urukiko rwaciye, Urugereko rwifashishije kandi urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda[629].

502. Mu gusoza, mu gusuzuma impamvu zongera n'izigabanya uburyozwacyaha, Urugereko rwazirikanye imiterere yose y'urubanza n'imibereho bwite by'Uregwa. Rwakomeje kuzirikana ihame rivuga ko ibikorwa byagaragajwe nta gushidikanya na gato, ari byo byonyine bishingirwaho mu kugena igihano. Iryo hame kandi ni na ryo rigenderwaho mu gusuzuma impamvu zongera uburyozwacyaha; ndetse akaba ari ngombwa kwita ku mpamvu zoroshya uburyozwacyaha iyo izo mpamvu zagaragajwe hashingiwe ku bintu bishoboka kurusha ibindi. Urugereko rwongera kwemeza ko impamvu runaka itafatwa nk'impamvu yongera uburyozwacyaha igihe iyo ngingo ari imwe mu bintu bigize icyaha gisuzumwa[630].

2. Ingingo z'ababuranyi

503. Mu myanzuro nsozarubanza yatanze mu iburanisha, Porokireri avuga, mu magambo make, ku kibazo cyo kugena igihano. Avuga ko « muri rusange » igihano gisumba

[628] Ku byerekeye iby'uko buri muntu agenerwa igihano kimukwiriye n'ihame ryerekeye isumbana ry'ibihano, reba urubanza rwa *Ntakirutimana*, ibika 883-886, n'ubukemuramanza buvugwa muri urwo rubanza.
[629] Reba by'umwihariko isesengurwa mu mizi ryakozwe ku mategeko n'umuco bikurikizwa mu Rwanda ku byerekeye igenabihano mu rubanza rwa *Kayishema*, ibika 5-7, no mu rubanza rwa *Ntakirutimana*, igika cya 885.
[630] Urubanza rwa *Ntakirutimana*, igika cya 893 n'ubukemuramanza bwakurikijwe muri urwo rubanza kandi buvugwa mu nyandiko z'ibisobanuro zifite nomero 1183-1187.

ibindi ari cyo kigomba gutangwa kuri buri kirego muri bitatu biri mu Nyandiko y'ibirego[631]. Ku byerekeye impamvu zigabanya uburyozwacyaha cyangwa zibwongera, avuga ko kuba abaturage baragize uruhare mu ikorwa ry'ibyaha ari ingingo igomba kwitabwaho.

504. Ubwunganizi ntibwashatse kugira icyo buvuga ku byerekeye kugena igihano n'ubwo bwari bwabisabwe[632].

3. Impaka z'abacamanza

Imibereho bwite y'Uregwa, impamvu zigabanya n'izongera uburyozwacyaha

505. Emmanuel Ndindabahizi yavukiye i Gasharu, muri Segiteri ya Gitesi, Komine ya Gitesi, Perefegitura ya Kibuye, mu burengerazuba bw'u Rwanda, mu mwaka wa 1950. Afite imyaka 54, arubatse kandi afite abana batanu. Imibereho ye bwite ivugwa haruguru mu cyiciro cya 3 cy'umutwe wa 1. Afite impamyabumenyi ihanitse mu icungamutungo yabonye mu mwaka wa 1976. Kuva mu mwaka wa 1976 kugera mu wa 1981, yari umukuru w'imirimo muri Koperative Trafipro i Kigali. Kuva mu mwaka wa 1981 kugera mu wa 1985 yari umuyobozi muri Electrogaz i Kigali ashinzwe ubuyobozi n'icungamutungo. Mu mwaka wa 1985 yagizwe umukuru w'ishami ry'imari y'igihugu muri Minisiteri y'Igenamigambi. Kuva mu mwaka wa 1991 kugera muri Nzeri 1992, yaretse kuba umukozi wa Leta, aba umugishwanama w'impuguke muri sosiyete yitwa Audico i Kigali. Yaje gusubira muri Minisiteri y'Imari muri Nzeri 1992, agirwa Umuyobozi w'ibiro bya Minisitiri w'Imari. Yagumye kuri uwo mwanya kugeza ku itariki ya 6 Mata 1994. Ku itariki ya 9 Mata 1994, Uregwa yabaye Minisitiri w'Imari muri Guverinoma y'Agateganyo kandi yagumye kuri uwo mwanya kugeza ahunze muri Nyakanga 1994.

506. Ku byerekeye impamvu zoroshya ububi bw'icyaha, Urugereko ruzirikana ko mbere yo kwinjira muri Guverinoma y'agateganyo, Uregwa yari muri PSD, ishyaka rya politiki ryari rigizwe n'abantu batari intagondwa[633].

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[631] Inyandikomvugo y'iburanisha, 2 Werurwe 2004, urup. 64.
[632] Ni kimwe no haruguru, urup. 62.
[633] Inyandikomvugo y'iburanisha, 24 Nzeri 2003, imp. 13-14, 16-17 (Alison Des Forges).

507. Urugereko ruzirikana kandi ko Uregwa yahamwe n'ibyaha bike.

508. Muri uru rubanza, Urugereko rusanga impamvu zikurikira zongera uburyozwacyaha :

Uregwa yari umunyacyubahiro uzwi cyane kandi ufite ijambo muri Perefegitura akomokamo ya Kibuye, aho ibyaha byakorewe. Muri urwo rwego, yatatiye icyizere abaturage bari baramugiriye.

i) Mu gihe cy'ibyabaye, Uregwa yakoreraga Leta, ari muri Guverinoma y'agateganyo. Urugereko rusanga iyo ari impamvu yongera cyane uburyozwacyaha, kuko aho guharanira amahoro n'ubwiyunge akoresheje umwanya w'ubuminisitiri yari afite, Uregwa yateye inkunga kandi ashyigikira politiki ya jenoside. Yagiye kandi mu bwicanyi bwabereye ku gasozi ka Gitwa, bugahitana abantu ibihumbi n'ibihumbi.

ii) Uregwa yagize umwete mu guhamagarira abandi bantu gukora ibyaha abaha imihoro n'amafaranga. Yashishikarije abantu, mu ruhame, kwica Abatutsikazi bashakanye n'Abahutu.

509. Rumaze gusuzuma impamvu zigabanya n'izongera uburyozwacyaha, Urugereko rwanzura ruvuga ko, ku bireba Uregwa, impamvu zongera uburyozwacyaha zisumba impamvu zibworoshya.

Imikorere ijyanye no kugena ibihano

510. Mu kugena ibihano, Urugereko rukurikiza imikorere y'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda (TPIR) n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho Icyahoze cyitwa Yugosilaviya (TPIY). By'umwihariko, Urugereko ruvuga ko igihano kigomba mbere na mbere kuba gikwiranye n'uburemere bw'icyaha. Ba gatozi bahamwe n'icyaha cya jenoside cyangwa cy'itsembatsemba rigize icyaha cyibasiye inyokomuntu, bihama Uregwa, bahanishijwe ibihano by'igifungo kiva ku myaka 15 kikagera ku gifungo cya burundu.

Muri rusange, abantu bose bari bafite imyanya ikomeye y'ubuyobozi mu rwego rw'igihugu, nk'abari muri Guverinoma y'agateganyo, bahanishijwe igifungo cya burundu[634].

511. Urugereko rwifashisha kandi urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda. Ruributsa ko, mu mategeko akoreshwa mu Rwanda muri iki gihe, umuntu uhamwe n'ibyaha biremereye kuruta ibindi, byagereranwa n'ibyaha bya jenoside cyangwa ibyaha by'itsembatsemba rigize icyaha cyibasiye inyokomuntu, ashobora gukatirwa igihano cyo kwicwa. Ku byerekeye ibyaha bidakomeye cyane nk'ibyo, urukiko rwo mu Rwanda rufite ububasha bwo gutanga igihano cy'igifungo cya burundu. Ruhereye kuri ibyo, Urugereko rusanga Uregwa akwiye guhabwa igihano kiremereye.

KUBERA IZO MPAMVU, kandi rushingiye ku bimenyetso byose ku byabaye no ku mategeko byatanzwe n'ababuranyi, rugashingira no kuri Sitati n'Amategeko, Urugereko rwa mbere rw'iremezo ruhanishije Uregwa igihano gikurikira mu ruhame kandi ababuranyi bahari:

Kubera byaha yahamijwe, Urugereko **RUKATIYE** Emmanuel Ndindabahizi :

Igihano cy'igifungo cya burundu

Iki gihano kizarangirizwa mu gihugu kizagenwa na Perezida w'Urukiko, amaze kugisha inama Urugereko. Gerefiye azabimenyesha Guverinoma y'u Rwanda n'igihugu azafungirwamo.

Emmanuel Ndindabahizi azakomeza gufungwa mu buryo bumwe n'ubwo yari afunzwemo, kugeza yimuriwe aho azarangiriza igihano cye.

Hakurikijwe ingingo ya 102 B) y'Amategeko, Uregwa najurira, igihano kizasubikwa kugeza igihe urubanza mu bujurire ruzasomerwa, cyakora azakomeza gufungwa.

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634 Urubanza rwa *Kambanda* (Ubwemeracyaha ku birego bitandatu, birimo n'icyaha cya jenoside ; byemejwe mu bujurire), urubanza rwa *Niyitegeka* (wahamwe n'ibyaha bitandatu, birimo n'icyaha cya jenoside ; byemejwe mu bujurire) ; urubanza rwa *Kamuhanda* (wahamwe n'ibyaha bitatu, birimo n'icyaha cya jenoside ; ubu ruri mu bujurire).

Uru rubanza rushyizweho umukono ku itariki ya 12 Nyakanga 2004, kandi rusomwe ku itariki ya 15 Nyakanga 2004, Arusha, Tanzaniya.

Erik Mose	Khalida Rachid Khan	Solomy B. Bossa
Perezida w'Urugereko	Umucamanza	Umucamanza

[Kashe y'Urukiko]

UMUGEREKA A

Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda

UMURYANGO W'ABIBUMBYE

Urubanza n° ICTR-2001-71-I

Ikinyarwanda

Inyandiko y'Umwimerere : Icyongereza

POROKIRERI

aburana na

EMMANUEL NDINDABAHIZI

INYANDIKO Y'IBIREGO YAHINDUWE

(Hashingiwe ku Cyemezo cy'Urugereko rwa Mbere rw'Iremezo, I cyo ku itariki ya 1 Nzeri 2003)

Ashingiye ku bubasha ahabwa n'ingingo ya 17 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda (« Sitati y'Urukiko »), Porokireri w'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda ararega :

EMMANUEL NDINDABAHIZI

Icyaha cya JENOSIDE n'IBYAHA BYIBASIYE INYOKOMUNTU (ITSEMBATSEMBA n'UBUHOTOZI), biteganywa n'ingingo ya 2 n'iya 3 za Sitati y' Urukiko, nk'uko bisobanurwa mu bika bikurikira.

UREGWA

Emmanuel Ndindabahizi ni umunyarwanda wavukiye muri Komine ya Gitesi, Perefegitura ya Kibuye, mu Rwanda mu mwaka wa 1950. Yabaye Minisitiri w'Imari muri Guverinoma y'Agateganyo, kuva itariki ya 8 Mata 1994, iyo Guverinoma ishingwa, kugeza ivuye mu Rwanda ihunze hagati muri Nyakanga 1994.

II. IBIREGO N'INCAMAKE Y'IBYABAYE

Ikirego CYA 1 : JENOSIDE

Ashingiye ku ngingo ya *2 3) a) du Sitati y' Urukiko*, Porokireri w'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda ararega **Emmanuel Ndindahizi** icyaha cya **JENOSIDE**, kubera ko hagati y'itariki ya 7 Mata n'iya 14 Nyakanga 1994 cyangwa kuri ayo matariki, muri Perefegitura ya Kibuye, mu Rwanda, **Emmanuel Ndindabahizi** yakoze ubwicanyi cyangwa ibikorwa byo guteza abaturage b'abasiviri bavugwaga ko ari Abatutsi, ubumuga bukomeye bw'umubiri cyangwa mu mutwe. Icyo cyaha cyakozwe hagamijwe kurimbura abantu bose cyangwa igice cyabo, kubera ubwenegihugu bwabo, ubwoko bwabo cyangwa idini ryabo;

Nk'uko biteganywa n'ingingo ya 6 1) ya Sitati y' Urukiko : kubera ibikorwa Uregwa yakoze, acura umugambi wo gukora icyaha, agahamagarira abandi bantu kugikora, agategeka

ko gikorwa, akagikora ubwe cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha kandi agashishikariza abandi bantu gucura umugambi, gutegura cyangwa gukora icyaha aregwa.

Incamake y'ibyabaye byerekeranye n'ikirego cya 1 :

2. Kuva mu cyumweru cya mbere cya Mata 1994, kugera muri Gicurasi na Kamena 1994, Emmanuel Ndindabahizi yayoboye ibikorwa byo gutsemba abaturage b'abasiviri bavugwaga ko ari Abatutsi muri Perefegitura ya Kibuye. Ibyo bikorwa byabereye ahanini mu karere Emmanuel Ndindabahizi yakuriyemo, akanakazamukiramo mu ntera muri politiki ahereye mu rwego rw'ibanze n'urw'akarere, akaza kuba Minisitiri.

2. Kuva muri Mata kugera muri Kamena 1994, **Emmanuel Ndindabahizi** hari ibikorwa yakoreye muri Komine ya Gitesi n'iya Gishyita kandi yitabiriye ibikorwa byibasiye abantu bavugwaga ko ari Abatutsi. Yabyitabiriye akora ibikorwa by'ubugizi bwa nabi, ahamagarira abandi bantu kubikora kandi aranabibategeka.

3. Muri Mata, Gicurasi na Kamena 1994, **Emmanuel Ndindabahizi** yari ahari mu gihe cy'ibitero byinshi byibasiye abasiviri bavugwaga ko Abatutsi ku Kibuye. Yari ahari kandi inshuro nyinshi igihe ibyo bitero byagibwagaho impaka, na we abivugaho ndetse aha amabwiriza abantu bagize uruhare muri ibyo bitero.

4. Muri Mata, Gicurasi na Kamena 1994, Emmanuel Ndindabahizi yahaye intwaro imitwe y'abasiviri yitwara gisirikare, kugira ngo ayorohereze kwica Abatutsi. By'umwihariko, Emmanuel Ndindabahizi ku giti cye yagenzuye bariyeri nyinshi cyangwa arazisura, agamije koroshya itangwa ry'intwaro zirimo imihoro na za gerenade. N'umwe kandi mu bateguye uburyo Interahamwe zatwarwaga, mu rwego rwo guha ingufu imitwe y'abasiviri yitwara gisirikare, zibajyana ahantu hagabwaga ibitero simusiga.

5. Mu mezi ya Mata, Gicurasi na Kamena 1994, **Emmanuel Ndindabahizi** yategetse, mu buryo bweruye, abantu bari kuri bariyeri muri Perefegitura ya Kibuye, kwica abasivili b'Abatutsi. Rimwe na rimwe, ubwe yabwiraga abayobozi bo muri ako karere, amazina y'abantu bagomba kwicwa. Nk'uko byumvikana, abaturage bahitaga bitabira ibyo **Emmanuel Ndindabahizi** yavuze. Mu minsi yakurikiragaho, ndetse na kenshi mu masaha yakurikiragaho, abaturage bo muri ako karere n'imitwe y'abasivili yitwara gisirikare barateraga maze bakica Abatutsi, by'umwihariko, abantu babaga batunzwe agatoki.

6. Ku itariki ya 9 Mata 1994 cyangwa ahagana kuri iyo tariki, **Emmanuel Ndindabahizi** yafashe ijambo imbere y'imbaga y'abantu bari bateraniye kuri bariyeri, muri Serire ya Gisharu. Kuri iyo bariyeri hari Joël Ndabukiye wari umukuru w'*Interahamwe* zo muri ako gace, n'abaturage bo muri ako gace barimo umugore w'umwarimukazi witwa Tatiane Nyiramaritete, wavugwaga ko ari Umututsikazi. **Emmanuel Ndindabahizi** yabwiye ijambo iyo mbaga y'abantu mu ruhame maze abashishikariza kwica Abatutsi. Muri iryo jambo, yibasiye, ku buryo bweruye, Tatiane Nyiramaritete kandi yumvisha abantu ko batagomba kumureka bitwaje ko yari yarahaye inka Joël Ndabukiye.

7. Bukeye, Joël Ndabukiye n'*Interahamwe* ze basanze Tatiane Nyiramaritete mu murima hafi y'urugo rwe maze baramwica nk'uko **Emmanuel Ndindabahizi** yari yabibahamagariye mu ruhame.

8. Mu ntangiriro za Gicurasi 1994, Emmanuel Ndindabahizi, ari kumwe n'umusirikare, yahagaze kuri bariyeri muri Serire ya Gisharu. Joël Ndabukiye wari umukuru w'*Interahamwe* zo muri ako gace yari kuri iyo bariyeri. Emmanuel Ndindabahizi yashimiye abari aho kubera ubwitange bwabo, ariko ababurira ko abagabo babiri ari bo Karegeya na Mukantabana bakiriho. Emmanuel Ndindabahizi yabashishikarije ku mugaragaro kwica abo bantu, maze avuga ko Abatutsi bose bo mu karere nibicwa, Joël Ndabukiye azagirwa Perefe, umuhungu we akaba Burugumesitiri, naho Augustin Karara akaba Depite.

9. Mu ntangiriro za Gicurasi 1994, Joël Ndabukiye n'umuhungu we bishe Karegeya na Mukantabana babakubise impiri, naho *Interahamwe* zicira abandi basiviri b'Abatutsi muri iyo serire, zishyira mu bikorwa amabwiriza zari zahawe na Emmanuel Ndindabahizi.

10. Mu kwezi kwa Gicurasi 1994, kuri santeri y'ubucuruzi yo ku Gitaka muri Serire ya Gasharu, imbere y'urugo rwa Joël Ndabukiye, Emmanuel Ndindabahizi yahagarikiye ibikorwa byaberaga kuri bariyeri cyangwa abigiramo uruhare, ubwo yahaga *Interahamwe* n'abandi bantu bari aho, amabwiriza yo kwica abasiviri b'Abatutsi.

11. Ku itariki ya 20 Gicurasi 1994 cyangwa ahagana kuri iyo tariki, **Emmanuel Ndindabahizi** yagenzuye cyangwa ahagarikira ibikorwa byabereye kuri bariyeri yo mu Gaseke cyangwa ibyabereye hafi y'ako karere. Yabikoze ategeka Bicikabaraguza Bigirimana, wasaga n'uyoboye iyo bariyeri, n'abandi bantu bari aho, barimo Komeza na Gaspard Bavuriki, kwica abasiviri b'Abatutsi. **Emmanuel Ndindabahizi** yatanze imihoro myinshi ayiha abagabo bagera kuri 20 bari kuri iyo bariyeri. Muri make **Emmanuel Ndindabahizi** yabwiye Bicikabaraguza Bigirimana ati : « Hano haca Abatutsi benshi, kuki mutabica ? ». **Emmanuel Ndindabahizi** akihatirimuka, abagabo bari kuri bariyeri bishe umuntu wari mu modoka yari igeze aho.

12. Ahagana mu mpera z'ukwezi kwa Gicurasi 1994, ku kiraro cya Nyabahanga cyangwa hafi yacyo, **Emmanuel Ndindabahizi** yagenzuye ibikorwa byaberaga kuri bariyeri cyangwa abigiramo uruhare ategeka *Interahamwe* n'abandi bantu bari aho kwica abasiviri b'Abatutsi. Byongeye kandi, yabigizemo uruhare aha imihoro myinshi abagabo bari aho kuri bariyeri, barimo Hasan Byiyingoma, ndetse anababwira muri make ngo : « *Biragenda se ? Mwishe Abatutsikazi bashakanye n'Abahutu ? …Mujye kubica- Bashobora kuzabaroga - Mufate intwaro* ».

13. Mu mpera za Gicurasi 1994, muri Segiteri ya Kayenzi, kuri Faye cyangwa hafi yaho, **Emmanuel Ndindabahizi** yayoboye cyangwa ajya mu bitero byibasiye Abatutsi, asaba cyangwa ategeka imitwe y'*Interahamwe* n'abandi bantu bari aho kwica abasiviri b'Abatutsi.

14. Ku itariki ya 10 Mata 1994 cyangwa ahagana kuri iyo tariki, ku gasozi ka Karongi, **Emmanuel Ndindabahizi** yorohereje abantu kwica abasiviri bavugwaga ko ari Abatutsi. Yabikoze ajyanayo abasirikare, bitwaje imbunda n'amagerenade, n' *Interahamwe* zitwaje imihoro n'impiri, ngo batere impunzi z'Abatutsi. Icyo gitero cyahitanye abantu benshi.

15. Mu gihe cy'iminsi myinshi, hagati y'itariki ya 13 n'iya 26 Mata 1994, Emmanuel Ndindabahizi yayoboye ibitero ku gasozi ka Gitwa byibasiye abasiviri bavugwaga ko ari Abatutsi, cyangwa abigiramo uruhare ajyanayo abasirikare n'*Interahamwe,* arasa cyangwa ategeka abari mu bitero kwica impunzi z'Abatutsi bakoresheje imbunda, za gerenade, imihoro n'impiri. Ibyo bitero byahitanye abantu benshi.

16. Ku itariki ya 14 Mata 1994, cyangwa ahagana kuri iyo tariki, ku gasozi ka Gitwa, Emmanuel Ndindabahizi yategetse cyangwa yorohereza abantu kwica abasiviri bavugwaga ko ari Abatutsi, cyangwa abigiramo uruhare atera gerenade, anatwara abasirikare cyangwa *Interahamwe* gutera abo bantu bakoresheje imbunda, za gerenade, imihoro n'impiri, cyangwa abaha amabwiriza yo kubikora, ibyo bikaba byaratumye abantu benshi bapfa.

17. Ku itariki ya 20 Mata 1994, cyangwa ahagana kuri iyo tariki, ku gasozi ka Bisesero muri Komine ya Gishyita, **Emmanuel Ndindabahizi** yayoboye igitero cyagabwe ku basiviri bavugwaga ko ari Abatutsi cyangwa akigiramo uruhare ajyanayo abasirikare cyangwa *Interahamwe* cyangwa abaha amabwiriza yo kwica abo bantu bakoresheje imbunda, amagerenade imihoro n'impiri. Icyo gitero cyahitanye abantu benshi.

18. Ku itariki ya 10 Kamena 1994, cyangwa ahagana kuri iyo tariki, ku gasozi ka Bisesero, muri Komine ya Gishyita, **Emmanuel Ndindabahizi** yayoboye igitero cyagabwe ku basiviri bavugwaga ko ari Abatutsi cyangwa akigiramo uruhare ajyanayo abasirikare cyangwa *Interahamwe* cyangwa abaha amabwiriza yo kwica abo bantu bakoresheje imbunda, amagerenade n'impiri. Icyo gitero cyahitanye abantu benshi.

19. Ahagana mu mpera za Gicurasi 1994, Emmanuel Ndindabahizi yari mu nama yebereye mu rugo rwa Burugumesitiri Augustin Karara, muri Komine ya Gitesi. Mu bantu bagera ku icumi bari batumiwe harimo Annociata Mukangirye, umugore wa Burugumesitiri na Barayata, umupolisi wa Komine. Ubwo barimo banywa, Emmanuel Ndindabahizi yavuze ko yatanze amabwiriza yo kwica Abatutsi kandi ko yatsembye Abatutsi b'abasivili bo muri serire ye. Yanabwiye abantu bari muri iyo nama ko Abahutu bashatse Abatutsikazi na bo bagomba kwicwa.

Ikirego 2 : ICYAHA CYIBASIYE INYOKOMUNTU (ITSEMBATSEMBA)

Ashingiye ku ngingo ya 3 b) du Sitati y' Urukiko, Porokireri w'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda ararega **Emmanuel Ndindabahizi ICYAHA CYIBASIYE INYOKOMUNTU (ITSEMBATSEMBA)**, kubera ko hagati y'itariki ya 7 Mata n'iya 14 Nyakanga 1994, cyangwa kuri ayo matariki, muri Perefegitura ya Kibuye, mu Rwanda, **Emmanuel Ndindabahizi** yishe cyangwa akicisha abantu mu rwego rw'igitero rusange cyangwa kiri kuri gahunda cyibasiye abaturage b'abasiviri bazira umutwe wa politiki barimo cyangwa ubwoko bwabo, nk'uko bisobanurwa mu bika bikurikira:

Hashingiwe ku ngingo ya 6 1) ya Sitati y' Urukiko : kubera ibikorwa Uregwa yakoze acura umugambi wo gukora icyaha, agahamagarira abandi bantu kugikora, agategeka ko gikorwa, akagikora cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha kandi agashishikariza abandi bantu gucura mugambi, gutegura cyangwa gukora icyaha aregwa.

20. Mu gihe cy'iminsi myinshi, hagati y'itariki ya 13 n'iya 26 Mata 1994, Emmanuel Ndindabahizi yagiye mu bitero byibasiye impunzi z'abasivili b'Abatutsi zari ziteraniye ku gasozi ka Gitwa. Emmanuel Ndindabahizi yajyanye abasirikare cyangwa *Interahamwe* cyangwa intwaro ku gasozi ka Gitwa, cyangwa yatanze inkunga mu kubatwara, kandi yagabye ibitero byibasiye abasivili b'Abatutsi, atanga urugero akarasa ku itsinda ry'impunzi, atera gerenade isandara mu cyerekezo cy'ahantu hari itsinda ry'impunzi, cyangwa ategeka abagabye igitero kwica impunzi, abaha amabwiriza yo kubikora.

21. Kubera uruhare rwa Emmanuel Ndindabahizi mu bitero byagabwe ku gasozi ka Gitwa, abasivili benshi b'Abatutsi barakomeretse cyangwa baricwa.

22. Ku itariki ya 20 Mata 1994, cyangwa ahagana kuri iyo tariki, Emmanuel Ndindabahizi yagiye mu gitero cyibasiye impunzi z'abasiviri b'Abatutsi bari bakoraniye ku gasozi ka Bisesero muri Komine ya Gishyita. Ibyo bitero byahitanye abasiviri benshi b'Abatutsi.

23. Ku itariki ya 10 Kamena 1994, cyangwa ahagana kuri iyo tariki, Emmanuel Ndindabahizi yagiye mu bitero byakomeje kugabwa ku mpunzi z'abasiviri b'Abatutsi ku gasozi ka Bisesero muri Komine ya Gishyita. Ibyo bitero byahitanye abasiviri benshi b'Abatutsi.

24. Mu buryo Emmanuel Ndindabahizi yitabiriye ibyo bitero byagabwe ku gasozi ka Bisesero muri Kamena 1994, harimo kuba yarayoboye bisi ya ONATRACOM itwaye *Interahamwe* n'ikamyo itwaye abajandarume n'imihoro bigiye ku gasozi ka Bisesero. Yabigizemo uruhare kandi aha *Interahamwe* intwaro zirimo imihoro, agaha n'abagabye ibitero amabwiriza yo kwica Abatutsi bose badasize impinja. Yanateye kandi gerenade mu cyerekezo cy'impunzi.

Ikirego 3 : ICYAHA CYIBASIYE INYOKOMUNTU (UBUHOTOZI)

Ashingiye ku ngingo ya 3 a) ya Sitati y' Urukiko, Porokireri w'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda ararega **Emmanuel Ndindabahizi ICYAHA CYIBASIYE INYOKOMUNTU (UBUHOTOZI)** kubera ko hagati y'itariki ya 7 Mata n'iya 14 Nyakanga 1994, cyangwa kuri ayo matariki, muri Perefegitura ya Kibuye, mu Rwanda, **Emmanuel Ndindabahizi** yishe cyangwa akicisha abantu mu rwego rw'igitero rusange cyangwa kiri kuri gahunda kibasiye abaturage b'abasiviri kubera umutwe wa politiki barimo cyangwa ubwoko bwabo, nk'uko bisobanurwa mu bika bikurikira :

Hashingiwe ku ngingo ya 6 1) ya Sitati y' Urukiko : kubera ibikorwa Uregwa yakoze acura umugambi wo gukora icyaha, agahamagarira abandi bantu kugikora, agategeka ko

gikorwa, akagikora cyangwa, mu bundi buryo ubwo ari bwose, agafasha ndetse agashishikariza abantu gucura umugambi cyangwa gukora icyaha aregwa;

Cyangwa bitabaye ibyo

25. Hagati muri Mata 1994, **Emmanuel Ndindabahizi** yahamagariye abantu bari kuri bariyeri muri Perefegitura ya Kibuye kwica abasivili b'Abatutsi kandi abategeka kubikora. Kenshi yabwiraga buri muyobozi wo muri ako karere, amazina y'abantu bagomba kwicwa. Nk'uko byumvikana, abaturage bahitaga bitabira ibyo **Emmanuel Ndindabahizi** yavuze. Mu minsi yakurikiragaho, ndetse na kenshi mu masaha yakurikiragaho, abaturage bo muri ako karere n'imitwe y'abasivili yitwara gisirikare barateraga maze bakica abantu b'Abatutsi, by'umwihariko, abantu babaga batunzwe agatoki.

26. Ku itariki ya 9 Mata 1994, cyangwa ahagana kuri iyo tariki, **Emmanuel Ndindabahizi** yafashe ijambo imbere y'imbaga y'abantu bari bateraniye kuri bariyeri muri Serire ya Gisharu. Yabashishikarije kwica Abatutsi, yibasiye, mu buryo bweruye, umusiviri w'Umututsikazi witwa Tatiane Nyiramaritete. Hashize igihe gito, bukeye cyangwa ahagana kuri iyo tariki, Joël Ndabakuriye n'*Interahamwe* imwe bishe Tatiane Nyiramaritete. Ahamagarira abantu mu ruhame gukora icyo cyaha, **Emmanuel NDINDABAHIZI** yumvishaga abantu, mu buryo bweruye, ko batagomba kureka kwica Tatiane Nyiramaritete bitwaje ko yari yarahaye inka Joël Ndabukiye.

27. Umunsi umwe mu ntangiriro za Gicurasi 1994, Emmanuel Ndindabahizi yategetse abantu ku mugaragaro kwica abasiviri babiri b'Abatutsi, ari bo Karegeya na Mukantabana, kandi atangaza ko Abatutsi baho bose nibicwa, Joël Ndabukiye na Augustin Karara bazagororerwa imyanya mu butegetsi bwo muri ako karere. Nyuma yaho gato Joël Ndabukiye n'umuhungu we bishe Karegeya na Mukantabana babakubise impiri.

28. Tatiana Nyiramaritere, Karegeya na Mukantabana bishwe bitegetswe, mu buryo butaziguye, na Emmanuel Ndindabahizi ubwe

Bikorewe i La Haye, ku itariki ya 1 Nzeri 2003

Porokireri

[Umukono]

Carla Del Ponte

(Kashe y'Urukiko)

UMUGEREKA B

Umugereka B – INYANDIKO ZIFASHISHIJWE, IBISOBANURO N'IMPINAMAGAMBO ZAKORESHEJWE

A. Ubukemuramanza

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

URUBANZA RWA *AKAYESU*

Porokireri aburana na Jean-Paul Akayesu, urubanza n° ICTR-96-4-T, 2 Nzeri 1998 (« urubanza rwa Akayesu mu rw'iremezo»)

Porokireri aburana na Jean-Paul Akayesu, urubanza n° ICTR-96-4-A, 1 Kamena 2001 (« urubanza rwa Akayesu mu bujurire »)

URUBANZA RWA *BAGILISHEMA*

Porokireri aburana na Ignace Bagilishema, urubanza n° ICTR-95-1A-T, 7 Kamena 2001 (« Urubanza rwa Bagilishema mu rw'iremezo »)

URUBANZA RWA *BAGOSORA NA BAGENZI BE*

Porokireri aburana na Théoneste Bagosora na bagenzi be, urubanza n° ICTR-98-41-T, Icyemezo ku iyakirwa ry'ubuhamya bw'umugabo wiswe DBY mu Rukiko (Urugereko rwa Mbere rw'Iremezo), 18 Nzeri 2003

URUBANZA RWA *KAJELIJELI*

Porokireri aburana na Juvénal Kajelijeli, urubanza n° ICTR-99-44A-T, imikirize y'urubanza n'igenagihano, 1 Ukuboza 2003 (« urubanza rwa Kajelijeli mu rw'iremezo »)

URUBANZA RWA *KAMBANDA*

Porokireri aburana na Jean Kambanda, urubanza n° ICTR-97-23-S, imikirize y'urubanza n'igenagihano, 4 Nzeri 1998 (« urubanza rwa Kambanda mu rw'iremezo»)

URUBANZA RWA *KAMUHANDA*

Porokireri aburana na Jean de Dieu Kamuhanda, urubanza n° ICTR-99-54A-T, 22 Mutarama 2004 (« urubanza rwa *Kamuhanda* mu rw'iremezo»)

URUBANZA *KAYISHEMA NA RUZINDANA*

Porokireri aburana na Clément Kayishema na Obed Ruzindana, urubanza n° ICTR-95-1-T, 21 Gicurasi 1999 (« urubanza rwa *Kayishema na Ruzindana* mu rw'iremezo»)

Porokireri aburana na Clément Kayishema na Obed Ruzindana, urubanza n° ICTR-95-1-A, impamvu z'umwanzuro w'Urugereko mu bujurire, 1 Kamena 2001 (« urubanza rwa Kayishema na Ruzindana mu bujurire »)

URUBANZA RWA *MUSEMA*

Porokireri aburana na Alfred Musema, urubanza n° ICTR-96-13-T, 27 Mutarama 2000 («urubanza rwa *Musema* mu rw'iremezo»)

Porokireri aburana na Alfred Musema, urubanza n° ICTR-96-13-A, 16 Ugushyingo 2001 (« urubanza rwa Musema mu bujurire »)

URUBANZA *NAHIMANA NA BAGENZI BE*

Porokireri aburana na Ferdinand Nahimana na bagenzi be, urubanza n° ICTR-99-52-T, imikirize y'urubanza n'igenagihano, 3 Ukuboza 2003 (« urubanza rwa Nahimana mu rw'iremezo »)

URUBANZA RWA *NIYITEGEKA*

Porokireri aburana na Eliézer Niyitegeka, urubanza n° ICTR-96-14-T, imikirize y'urubanza n'igenagihano, 16 Gicurasi 2003 («urubanza rwa Niyitegeka mu rw'iremezo »)

Porokireri aburana na Eliézer Niyitegeka, urubanza n° ICTR-96-14-A, imikirize y'urubanza n'igenagihano, 9 Nyakanga 2003 («urubanza rwa *Niyitegeka* mu bujurire »)

URUBANZA RWA *NGEZE NA NAHIMANA*

Porokireri aburana na Hassan Ngeze na Ferdinand Nahimana, imanza n° ICTR-97-27-AR72 na ICTR-96-11-AR72, Icyemezo ku bujurire butanzwe hagati mu rubanza, *Separate Opinion of Judge Shahabuddeen [Igisobanuro cyihariye cy'Umucamanza Shahabudeen]*, 5 Nzeri 2000

URUBANZA RWA *NTAGERURA NA BAGENZI BE*

Porokireri aburana na André Ntagerura na bagenzi be, urubanza n° ICTR 99-46-T, imikirize y'urubanza n'igenagihano, 25 Gashyantare 2004 («urubanza rwa *Ntagerura* mu bujurire»)

Porokireri aburana na André Ntagerura na bagenzi be, urubanza n° ICTR 99-46-T, imikirize y'urubanza n'igenagihano, *Separate and Dissenting Opinion of Judge Dolen [Igisobanuro cyihariye cy'umucamanza Dolenc ku byo atavugaho rumwe na bagenzi be]*, 25 Gashyantare 2004

URUBANZA RWA *NTAKIRUTIMANA*

Porokireri aburana na Elizaphan na Gérard Ntakirutiman, imanza n° ICTR-96-10 na ICTR-96-17-T, imikirize y'urubanza n'igenagihano, 21 Gashyantare 2003 («urubanza rwa *Ntakirutimana* mu rw'iremezo »)

URUBANZA RWA *RUTAGANDA*

Porokireri aburana na Georges Anderson Nderubumwe Rutaganda, urubanza n° ICTR-96-3-T, imikirize y'urubanza n'igenagihano, 6 Ukuboza 1999 (« urubanza rwa *Rutaganda* mu rw'iremezo »)

Porokireri aburana na Georges Anderson Nderubumwe Rutaganda, urubanza n° ICTR-96-3-A, 26 Gicurasi 2003 (« urubanza rwa *Rutaganda* mu bujurire»)

URUBANZA RWA *SEMANZA*

Porokireri aburana na Laurent Semanza, urubanza n° ICTR-97-20-T, imikirize y'urubanza n'igenagihano, 15 Gicurasi 2003 (« urubanza rwa *Semanza* mu rw'iremezo »)

URUBANZA RWA *SERUSHAGO*

Porokireri aburana na Omar Serushago, urubanza n° ICTR-98-39-S, igenagihano, 5 Gashyantare 1999 («urubanza rwa *Serushago* mu rw'iremezo»)

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO ICYAHOZE CYITWA YUGOSOLAVIYA

URUBANZA RWA *ALEKSOVSKI*

Porokireri aburana na Zlatko Aleksovski, urubanza n° IT-95-14/1-A, 24 Werurwe 2000 (« urubanza rwa Aleksovski mu bujurire »)

URUBANZA RWA *BLA[KI]*

Porokireri aburana na Tihomir Blaškić, urubanza n° IT-95-14-T, 3 Werurwe 2000 (urubanza rwa *Blaškić* mu rw'iremezo»)

URUBANZA RWA *DELALI] NA BAGENZI BE*

Porokireri aburana na Zejnil Delalić, Zdravko Mucic (bahimba *« Pavo »*)*, Hazim Delić, Esad Landžo* (*alias « Zenga »*), urubanza n° IT-96-21-T, 16 Ugushyingo 1998 («urubanza rwa *Delali}* mu rw'iremezo»)

Porokireri aburana na Zejnil Delalić, Zdravko Mucic (bahimba *« Pavo »*)*, Hazim Delić, Esad Landžo* (*alias « Zenga »*), urubanza n° IT-96-21-A, 20 Gashyantare 2001 (« urubanza rwa *Delali}* mu bujurire»)

URUBANZA RWA *JELISI]*

Porokireri aburana na Goran Jelisić, urubanza n° IT-95-10-A, 5 Nyakanga 2001 (« urubanza rwa Jelisić mu bujurire»)

URUBANZA RWA *KRNOJELAC*

Porokireri aburana na Milorad Krnojelac, urubanza n° IT-97-25-A, 17 Nzeri 2003 (« urubanza rwa Krnojelac mu bujurire»)

URUBANZA RWA *KRSTI]*

Porokireri aburana na Radislav Krstić, urubanza n° IT-98-33-T, 2 Kanama 2001 (« urubanza rwa Krstić mu rw'iremezo »)

Porokireri aburana na Radislav Krstić, urubanza n° IT-98-33-A, 19 Mata 2004 («urubanza rwa Krstić mu bujurire»)

URUBANZA RWA *KUNARAC NA BAGENZI BE*

Porokireri aburana na Gragoljub Kunarac, Vukovic et Kovac, urubanza n° IT-96-23 et 96-23/1-A, 12 Kamena 2002 («urubanza rwa Kunarac mu bujurire»)

URUBANZA RWA *KUPRE[KI] NA BAGENZI BE*

Porokireri aburana na Zoran Kupreškić na bagenzi be, urubanza n° IT-95-16-A, 23 Ukwakira 2001 (« urubanza rwa Kupreškić mu bujurire »)

URUBANZA RWA *TADI]*

Porokireri aburana na Du{ko Tadić (alias « Dule »), urubanza n° IT-94-1-A, 15 Nyakanga 1999 («urubanza rwa Tadić mu bujurire»)

URUBANZA RWA *VASILJEVIĆ*

Porokireri aburana na Mitar Vasiljević, urubanza n° IT-98-32-A, 29 Ugushyingo 2002 (« urubanza rwa *Vasiljević mu rw'iremezo* »)

Porokireri aburana na Mitar Vasiljević, urubanza n° IT-98-32-A, 25 Gashyantare 2004 («urubanza rwa *Vasiljević mu bujurire* »)

B. *Izindi nyandiko*

1. Cassese, Antonio, *International Criminal Law* (Oxford : Oxford University Press, 2003), urup. 74

2. Alison Des Forges, *Aucun témoin ne doit survivre* (Paris : Éditions Karthala, Human Rights Watch et Fédération internationale des ligues des droits de l'homme, 1999)

3. Kittichaisaree, Kriangsak, *International Criminal Law* (Oxford : Oxford University Press, 2002), imp. 102-104

4. Schabas, William A., *Genocide in International Law* (Cambridge : Cambridge University Press, 2000), urup. 234

5. Whitaker, Joseph, Whitaker's Almanack (Londres : The Stationary Office, 1999), urup. 93

C. Ibisobanuro n'impinamagambo

CND

Inama y'Igihugu Iharanira Amajyambere (Conseil national de développement)

Imyanzuro y'Ubwunganizi

Porokireri aburana na Emmanuel Ndindabahizi, urubanza n° 01-71-T, Imyanzuro y'Ubwunganizi, 6 Gashyantare 2004

TPIR

Urukiko Mpanabyaha Mpuzamahanga rushinzwe gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha bikomeye binyuranyije n'amategeko mpuzamahanga arengera

abantu mu gihe cy'intambara, n'abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994.

Sitati ya TPIR

Sitati y' Urukiko

TPIY

Urukiko Mpuzamahanga rushinzwe gukurikirana abantu bakekwaho kuba barakoreye mu Cyahoze Cyitwa Yugosolaviya ibyaha bikomeye binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, kuva mu mwaka wa 1991.

Inyandiko y'ibirego

Porokireri aburana na Emmanuel Ndindabahizi, urubanza n° 01-71-T, Inyandiko y'ibirego yahinduwe, 1 Nzeri 2003

MDR

Ishyaka Riharanira Demokarasi muri Repubulika

MRND

Muvoma Revolisiyoneri iharanira Demukarasi n'Amajyambere

Imyanzuro mbanzirizarubanza ya Porokireri

Porokireri aburana na Emmanuel Ndindabahizi, urubanza n° 01-71-T, *Prosecutor's Pre-Trial Brief* [Imyanzuro mbanziriza rubanza ya Porokireri], 1 Kanama 2003

Imyanzuro nsozarubanza ya Porokireri

Porokireri aburana na Emmanuel Ndindabahizi, urubanza n^{o} ICTR-2001-71-T

Porokireri aburana na Emmanuel Ndindabahizi, urubanza n^{o} 01-71-T, Imyanzuro nsozarubanza ya Porokireri, 20 Mutarama 2004

PSD

Ishyaka rihanira Demokarasi n'imibereho myiza y'abaturage

FPR

Umuryango wa FPR

Amategeko

Amategeko y'Urukiko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso

Inyandikomvugo y'amaburanisha

Kereka bigaragazwa ukundi, amapaji yose y'inyandikomvugo avugwa muri uru rubanza ni ayo mu nyandiko yarwo yemewe iri mu gifaransa.

Urukiko

Urukiko Mpanabyaha Mpuzamahanga rushinzwe gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha bikomeye binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994.

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