Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

Umuryango w'Abibumbye

Umwimerere: Icyongereza

URUGEREKO RWA MBERE RW'IREMEZO II

Abacamanza:	Asoka de Silva, Perezida w'Inteko
	Flavia Lattanzi
	Florence Rita Arrey
Gerefiye:	Adama Dieng
Itariki:	12 Nzeri 2006

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POROKIRERI

aburana na:

THARCISSE MUVUNYI

Urubanza N° ICTR-2000-55A-T

INYANDIKO Y'URUBANZA

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Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

AMASHAKIRO

UMUTWE WA I:INTANGIRIRO 1

1. URUKIKO N'UBUBASHA BWARWO........ 1
2. INYANDIKO Y'IBIREGO 2
3. INCAMAKE Y'IMIBURANISHIRIZE 2
4. AMAVU N'AMAVUKO Y'URUBANZA MURI RUSANGE 3
5. KWAKIRA NO GUSUZUMA IBIMENYETSO 4

UMUTWE WA II:IMYANZURO ISHINGIYE KU BYABAYE 7

1. IBIBAZO BY'IKUBITIRO 7
2. THARCISSE MUVUNYI........ 13
3. IKIBAZO CYO KUMENYA UWAYOBORAGA ESO 13
   - 3.1. Ibivugwa mu nyandiko y'ibirego........ 13
   - 3.2. Ibimenyetso........ 14
   - 3.3. Isesengura ry'urugereko........ 22
4. INSHINGANO ZA MUVUNYI KU BIREBANA N'UMUTEKANO MURI PEREFEGITURA YA BUTARE N'IYA GIKONGORO........ 28
   - 4.1. Ibivugwa mu nyandiko y'ibirego........ 28
   - 4.2. Ibimenyetso........ 28
   - 4.3. Isesengura ry'Urugereko........ 37
5. IBIREGO BYIHARIYE THARCISSE MUVUNYI ASHINJWA........ 42
   - 5.1. Umuhango wo kurahiza perefe mushya wa Butare wabaye ku wa 19 mata 1994.... 42
     - 5.1.1. Ibivugwa mu nyandiko y'ibirego 42
     - 5.1.2. Ibimenyetso........ 43
     - 5.1.3. Isesengura ry'Urugereko........ 45
   - 5.2. Inama y'aba ofisiye ba ESO yabaye nyuma y'ijambo Perezida Théodore Sindikubwabo yavugiye mu muhango wo kurahiza perefe mushya........ 46
     - 5.2.1. Inyandiko y'ibirego 46
     - 5.2.2. Ibimenyetso........ 46
     - 5.2.3. Isesengura ry'Urugereko........ 48

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.3. Ishyirwaho ry'amabariyeri muri Perefegitura ya Butare 48
5.3.1. Ibivugwa mu nyandiko y'ibirego 48
5.3.2. Ibimenyetso 49
5.3.3. Isesengura ry'Urugereko 64
5.4. Inama nkangurambaga 67
5.4.1. Ibivugwa mu nyandiko y'ibirego 67
5.4.2. Inama zabereye kuri santeri y'ubucuruzi ya Nyantanga no ku biro bya Komini ya Nyakizu 68
5.4.3. Inama yabereye kuri bariyeri yari muri Serire ya Rumba, Segiteri ya Kibilizi .75
5.4.4. Inama yabereye i Gikonko, muri Komini ya Mugusa 77
5.4.5. Inama yabereye kuri Santere y'ubucuruzi ya Gikore 80
5.5. Guha intwaro abantu bo mu mitwe yitwara gisirikare 89
5.5.1. Ibivugwa mu nyandiko y'ibirego 89
5.5.2. Ibimenyetso 89
5.5.3. Isesengura ry'Urugereko 92
5.6. Igitero cyagabwe ku mpunzi zari zakomeretse, mu Bitaro bya Kaminuza i Butare 93
5.6.1. Ibivugwa mu nyandiko y'ibirego 93
5.6.2. Ibimenyetso 93
5.6.3. Isesengura ry'Urugereko 104
5.7. Igitero cyagabwe ku kigo cy'Abeneberika 108
5.7.1. Ibivugwa mu nyandiko y'ibirego 108
5.7.2. Ibimenyetso 109
5.7.3. Isesengura ry'Urugereko 115
5.8. Igitero cyagabwe ku barimu n'abanyeshuri b'Abatutsi muri Kaminuza y'i Butare 117
5.8.1. Ibivugwa mu nyandiko y'ibirego 117
5.8.2. Ibimenyetso 117
5.8.3. Isesengura ry'Urugereko 119
5.9. Ifatwa n'iyicwa ry'abapadiri babiri kuri Monasiteri y'i Gihindamuyaga 120
5.9.1. Ibivugwa mu nyandiko y'ibirego 120
5.9.2. Ibimenyetso 121

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.10. Ubwicanyi abasirikare n'Interahamwe bakoreye abasiviri b'abatutsi 121

5.10.1. Ibivugwa mu nyandiko y'ibirego 121

5.10.2. Ibitero byagabwe kuri Paruwasi ya Ngoma no ku kigo cy'amashuri cyo mu Matyazo………………………………………………………………….....123

5.10.3. Igitero cyagabwe kuri Groupe scolaire 131

5.10.4. Igitero cyagabwe ku mpunzi z'Abatutsi mu ishyamba rya Mukura 147

5.10.5. Ubwicanyi bwahitanye abasiviri kuri Paruwasi ya Cyanika no ku Kabutare. 151

5.10.6. Umwanzuro rusange ku iyicwa ry'abasiviri b'Abatutsi 152

5.11. Gusambanya ku gahato n'urugomo rushingiye ku gitsina byakozwe n'abasirikare n'interahamwe ubwo ibitero byagabwaga ku basiviri b'Abatutsi 153

5.11.1. Ibivugwa mu nyandiko y'ibirego 153

5.11.2. Ibimenyetso 153

5.11.3. Isesengura ry'Urugereko 160

5.12. Ibikorwa bya kinyamaswa abasirikare bakoreye abasiviri b'Abatutsi 165

5.12.1. Ibivugwa mu nyandiko y'ibirego 165

5.12.2. Ibyabereye kuri katederari y'i Butare no muri ESO 165

5.12.3. Ibyabereye mu kigo cy'Abeneberika 171

5.12.4. Ibyabereye muri Groupe scolaire 174

5.12.5. Ibyabereye ku mabariyeri anyuranye muri Butare na Gikongoro 178

UMUTWE WA III: AMATEGEKO AKURIKIZWA 181

1. UBURYOZWACYAHA NKA GATOZI BUTEGANYWA N'INGINGO YA 6(1) N'IYA 6(3) ZA SITATI .... ……………………………………………181

2. JENOSIDE 190

3. KUBA ICYITSO CY'ABAKOZE JENOSIDE 200

4. GUHAMAGARIRA ABANTU KU BURYO BUTAZIGUYE KANDI MU RUHAME GUKORA JENOSIDE 200

5. IBYAHA BYIBASIYE INYOKOMUNTU 205

5.1. Ibyangombwa rusange bigize ibyo byaha 205

5.2. Icyaha cy'ibanze - Gusambanya ku gahato 207

5.3. Ibyaha byibasiye inyokomuntu – Ibindi bikorwa bibi birenze kameremuntu 212

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

UMUTWE WA IV: IBYEMEZO BY'URUGEREKO 214

UMUTWE WA V: IGENAGIHANO 215

1. INTANGIRIRO 215
2. IBIVUGWA N'ABABURANYI 216
3. ISESENGURA RY'ABACAMANZA 217
   - 3.1. Uburemere bw'icyaha 217
   - 3.2. Ibintu byihariye k'uregwa, impamvu zongera ububi bw'icyaha n'impamvu nyoroshyacyaha 218
   - 3.3. Gukura mu gihano igihe Uregwa amaze afunzwe by'agateganyo 221

UMUGEREKA WA I: KWIBUTSA UKO IMIBURANISHIRIZE YAGENZE 223

UMUGEREKA WA II: UBUKEMURAMANZA 232

1. URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA (TPIR) 232
2. URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO ICYAHOZE CYITWA YUGOSILAVIYA (TPIY) 236

UMUGEREKA WA III: INYANDIKO Y'IBIREGO N'UMUGEREKA WAYO UKUBIYEMO IBISOBANURO BIRAMBUYE 241

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

UMUTWE WA I:INTANGIRIRO

1. URUKIKO N'UBUBASHA BWARWO

1. Uru rubanza Porokireri aburana na Muvunyi ruciwe n'Urugereko rwa Mbere rw'Iremezo II (« Urugereko ») rw'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda («Urukiko»), rugizwe n'abacamanza Asoka de Silva (Perezida w'Inteko), Flavia Lattanzi na Florence Rita Arrey.

2. Urukiko rwashyizweho n'Inama y'Umuryango w'Abibumbye Ishinzwe Amahoro ku Isi imaze gusuzuma raporo za LONI zigaragaza ko mu Rwanda habaye jenoside n'ibindi bikorwa rusange kandi biri kuri gahunda binyuranyije ku buryo bukomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara[1]. Inama Ishinzwe Amahori ku Isi, imaze kubona ko ibyo bintu bikomeje kubangamira amahoro n'umutekano mu rwego mpuzamahanga; imaze kwiyemeza guhagarika ibyo byaha no gufata ingamba zihamye kugira ngo ababikoze bashyikirizwe ubutabera; imaze kandi kubona ko, hakurikijwe uko ibintu byifashe mu Rwanda, gushyikiriza abo bantu ubutabera byagira uruhare mu bwiyunge bw'Abanyarwanda no mu kugarura amahoro; ikurikije ibikubiye mu mutwe wa 7 w'Amategekoshingiro y'Umuryango w'Abibumbye, ku itariki ya 8 Ugushyingo 1994, yafashe Icyemezo 955 gishyiraho Urukiko[2] .

3. Urukiko rugengwa na Sitati yometse ku Cyemezo 955 cy'Inama y'Umuryango w'Abibumbye Ishinzwe Amahoro ku Isi («Sitati»), n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso («Amategeko») [3].

4. Urukiko rufite ububasha bwo kuburanisha abantu baregwa kuba barakoreye mu Rwanda ibyaha binyuranyije ku buryo bukomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu

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[1] Raporo y'Umunyamabanga Mukuru w'Umuryango w'Abibumbye ku Rwanda 1994/924; Raporo y'Intumwa yihariye yashyizweho hashingiwe ku Cyemezo 935 1994/1125 cy'Inama Ishinzwe Amahoro ku Isi; Raporo y'Intumwa idasanzwe ku Rwanda Umugereka wa I n'uwa II.
[2] Inyandiko ya Loni: S/RES/955 (1994).
[3] Sitati n'Amategeko biri ku rubuga rwa interineti rw'Urukiko*: http://www.ictr.org*.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bituranye n'u Rwanda[4]. Nk'uko biteganywa n'Ingingo ya 2, iya 3 n'iya 4 za Sitati, Urukiko rufite kandi ububasha bwo kuburanisha abantu bakekwaho icyaha cya jenoside, ibyaha byibasiye inyokomuntu n'ibyaha binyuranyije ku buryo bukomeye n'Ingingo ya 3 ihuriweho y'Amasezerano y'i Jeneve (« Ingingo ya 3 ihuriweho ») n'Umugereka wa II w'ayo Masezerano. Nk'uko biteganywa n'Ingingo ya 7 ya Sitati, Urukiko rufite ububasha bwo gukurikirana gusa ibyaha byakozwe hagati y'itariki ya 1 Mutarama 1994 n'iya 31 Ukuboza 1994[5].

2. INYANDIKO Y'IBIREGO

5. Mu Nyandiko y'ibirego yatanzwe ku itariki ya 23 Ukuboza 2003, (« Inyandiko y'ibirego »), ifatiwe hamwe n'umugereka ukubiyemo ibisobanuro byihariye kuri iyo Nyandiko watanzwe ku itariki ya 28 Gashyantare 2005, Tharcisse Muvunyi (« Uregwa ») yashinjwe ibirego bitanu bikurikira, biteganywa n'Ingingo ya 2 n'iya 3 za Sitati: jenoside; cyangwa icyo cyaha kiramutse kitamuhamye, kuba icyitso cy'abakoze jenoside; guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside; gusambanya ku gahato; n'ibindi bikorwa birenze kamere muntu bigize ibyaha byibasiye inyokomuntu. Ashingiye ku gika cya 1 n'icya 3 by'Ingingo ya 6 ya Sitati, Porokireri yashinje Uregwa icyaha cya jenoside, icyo kuba icyitso cy'abakoze jenoside n'icyo gusambanya ku gahato. Ku byerekeranye n'ikirego cyo guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside, Uregwa aryozwa icyo cyaha hashingiwe gusa ku gika cya 1 cy'Ingingo ya 6, kuko igika cya 3 cy'iyo ngingo ya 6 gishingirwaho mu kumuryoza icyaha ku bindi bikorwa bibi birenze kameremuntu.

3. INCAMAKE Y'IMIBURANISHIRIZE

6. Ku itariki ya 5 Gashyantare 2000, Uregwa yafatiwe mu Bwongereza, maze yimurirwa muri gereza y'Umuryango w'Abibumbye Arusha, Tanzaniya [6] ku itariki ya 30 Ukwakira

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[4] Ingingo ya 1 n'iya 5 za Sitati.

[6] « Lisiti y'abafungwa ba TPIR - Aho dosiye zigeze ku itariki ya 9 Kamena 2005», http://www.ictr.org/ENGLISH/factsheets/detainee-f.htm.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

2000. Ku itariki ya 8 Ugushyingo 2000, Uregwa yitabye bwa mbere Urukiko imbere y'Umucamanza William Sekule maze ahakana ibyaha byose ashinjwa. Muri Gashyantare 2005, Urugereko rwanze kwakira Icyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego, ariko ruvuga ko, abishatse, Porokireri yatanga umugereka kuri iyo Nyandiko y'ibirego usobanura neza ibyo avuga ariko ntiyongeremo ibirego bishya. Urugereko rwavuze kandi ko aramutse yiyemeje kubigenza gutyo, Porokireri agomba gusobanura uburyo bw'uburyozwacyaha ashaka gushingiraho mu buteganywa mu gika cya 1 cyangwa icya 3 by'Ingingo ya 6 ya Sitati[7]. Iburanisha ry'urubanza ryatangiye ku itariki ya 28 Gashyantare 2005, ripfundikirwa ku ya 23 Kamena 2006. Mu minsi 47 y'iburanisha, Porokireri yahamagaje abatangabuhamya 24 barimo umupererezi, umuhanga mu by'imikoreshereze y'ururimi mu mibereheho n'imico y'abantu, n'umuhanga mu gusuzuma imikono mu nyandiko. Mu minsi 33 y'iburanisha, Ubwunganizi na bwo bwahamagaje abatangabuhamya 24 barimo impuguke imwe mu gusuzuma imikono mu nyandiko n'umuhanga mu by'imikoreshereze y'ururimi mu mibereho n'imico y'abantu. Byongeye kandi, Urugereko rwemeye ko muri dosiye hashyirwamo inyandiko z'ubuhamya umugabo ushinjura yatanze ku ndahiro mu mwanya w'ubuhamya yatangira mu iburanisha[8]. Uregwa yahisemo kudatanga ubuhamya mu rubanza rwe.

4. AMAVU N'AMAVUKO Y'URUBANZA MURI RUSANGE

7. Juvénal Habyarimana, wari Perezida w'u Rwanda, akimara gupfa ku itariki ya 6 Mata 1994, mu duce twinshi tw'igihugu abasiviri b'Abatutsi babarirwa mu bihumbi bagabweho ibitero kandi bicwa n'Abahutu bo mu mitwe yitwara gisirikare, hamwe n'abasirikare. Cyakora, muri Perefegitura ya Butare hakomeje kuba umutuzo kugeza ku itariki ya 19 Mata 1994, ubwo Perezida Théodore Sindikubwabo yajyagayo mu mihango yo gushyiraho perefe mushya. Mu ijambo rye, Sindikubwabo yaba yarahamagariye abaturage kwitabira ubwicanyi. Nyuma yaho, abasirikare bafatanyije n'Abahutu bo mu

[7] *Urubanza rwa Muvunyi,* Icyemezo ku Cyifuzo cya Porokireri gisaba uruhushya rwo gutanga Inyandiko y'ibirego yahinduwe, 23 Gashyantare 2005.
[8] Icyemezo mu magambo, 23 Kamena 2006.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mutwe w'Interahamwe witwara gisirikare bishe abasiviri benshi b'Abatutsi bari batuye i Butare hamwe n'impunzi zari zaturutse mu tundi turere tw'u Rwanda.

8. Mu Nyandiko y'ibirego, Porokireri avuga ko kubera ko yari amaze kugirwa Komanda w'agateganyo w'ikigo cy'Ishuri ry'abasuzofisiye (ESO), akaba n'umu ofisiye warushaga abandi ipete muri Perefegitura ya Butare, kuva ku itariki ya 7 Mata 1994 Uregwa yari ashinzwe ibikorwa by'abasirikare bose muri ako karere. Porokireri avuga kandi ko aho kurinda abaturage, abasirikare Uregwa yari akuriye bakoze ibikorwa bitandukanye binyuranyije ku buryo bukomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara. Ibyo bintu Porokireri avuga ni byo shingiro y'ibirego Uregwa ashinjwa mu nyandiko y'ibirego.

9. Ubwunganizi bwo buvuga ko Uregwa atigeze ashyirwa, ku buryo buzwi, mu mwanya uwo ari wo wose w'ubuyobozi bw'abasirikare, haba muri ESO cyangwa muri Perefegitura ya Butare. Buvuga ko, kubera iyo mpamvu, Uregwa ataryozwa, nk'umuntu ukuriye abandi, ibyaha byakozwe n'abasirikare. Ubwunganizi buvuga kandi ko hatagaragajwe ko Uregwa yitabiriye, ku buryo butaziguye, ikorwa ry'ibyaha, cyangwa ngo hagaragazwe ko yategetse abantu gukora ibyo byaha aregwa mu nyandiko y'ibirego.

5. KWAKIRA NO GUSUZUMA IBIMENYETSO

10. Nk'uko Amategeko abiteganya, Urugereko rwa Mbere rw'Iremezo rufite ububasha busesuye bwo kwakira ikimenyetso cyose kijyanye n'urubanza, iyo rusanga gifite agaciro[9]. Urugereko rw'Ubujurire rwemeje ko iyo Urugereko rwa Mbere rw'Iremezo rusuzuma niba ikimenyetso cyakwakirwa, rugomba gusa kureba niba kijyanye n'urubanza, rukanareba niba hari ibintu bihagije byerekana ko cyakwizerwa. Gusuzuma agaciro kahabwa icyo kimenyetso bikorwa iburanisha ryose rirangiye[10]. Kugira ngo rwakire kandi rusuzume ikimenyetso, Urugereko ntirugomba byanze bikunze kugendera

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[9] Ingingo ya 89 (C) igira iti: «Urugereko rushobora kwakira ikimenyetso cyose gifitanye isano n'urubanza iyo rubona gifite agaciro ».

[10] *Urubanza rwa Nyiramasuhuko,* Icyemezo ku bujurire bwa Nyiramasuhuko bwerekeranye no gushyira ibimenyetso muri dosiye, 4 Ukwakira 2004, ibika 5, 7.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ku mategeko y'ibihugu agenga ibimenyetso, ahubwo rukurikiza amategeko atuma urubanza rucibwa mu buryo buboneye.

11. Muri rusange, Urugereko rushobora gufata umwanzuro ku byabaye rushingiye ku buhamya butanzwe n'umugabo umwe gusa, iyo rusanga ubwo buhamya bujyanye n'urubanza kandi bwakwemerwa[11]. Si ngombwa rero ko ubuhamya buba bufite ubundi bubushyigikira kugira ngo hafatwe umwanzuro wo mu rwego rw'ibyabaye. Koko rero, Urugereko rw'Ubujurire rwemeje ko kuba ubuhamya bugomba kugira ubundi bubushyigikira atari ihame mu mategeko mpuzamahanga ashingiye ku muco, bityo ingereko za mbere z'iremezo zikaba zitagombye gusaba ko ubuhamya bugira ubundi bubushyigikira[12]. By'umwihariko, Ingingo ya 96 i) y'Amategeko iteganya ko ku birebana n'ibyaha by'ihohotera rishingiye ku gitsinda, atari ngombwa ko ubuhamya bw'uwakorewe icyo cyaha bugira ubundi bubushyigikira.

12. Kuba Urugereko rufite ububasha busesuye bwo kwakira ikimenyetso cyose kijyanye n'urubanza rusanga gifite agaciro, bishaka na none kuvuga ko n'ubwo hagomba gushyirwa imbere ubuhamya butaziguye, Urugereko rushobora no kwemera ubuhamya bushingiye ku nkuru mbarirano. Cyakora, kugira ngo rushyigikire mu buryo budashidikanywaho umwanzuro wo mu rwego rw'ibyabaye, Urugereko rushobora, kubera impamvu zishyize mu gaciro, gusuzuma niba ubuhamya bushingiye ku nkuru mbarirano bufite ibindi bimenyetso byatanzwe na Porokireri, bibushyigikira, byakwizerwa kandi bikemerwa.

13. Na none kandi, ubuhamya butanzwe n'ibyitso by'Uregwa cyangwa abatangabuhamya bafunze, bushobora kwemerwa mu Rugereko. Cyakora, iyo ari ngombwa, Urugereko rusuzumana ubushishozi ubwo buhamya kugira ngo urubanza rucibwe mu buryo buboneye kandi Uregwa ye kuvutswa uburenganzira bwe.

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[11] *Urubanza rwa Musema,* Inyandiko y'urubanza mu bujurire, igika 38; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 135; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, ibika 40, 41.

[12] *Urubanza rwa Tadić,* Inyandiko y'Urubanza mu bujurire, igika 539; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo igika 38.

14. Mu gusuzuma niba umutangabuhamya ari uwo kwizerwa, urugereko rwa Mbere rw'Iremezo rufite ububasha busesuye bwo gusuzuma ukwivuguruza kwabonetse hagati y'ubuhamya bwanditse uwo mutangabuhamya yatanze mbere n'ubwo yatanze mu iburanisha, kugira ngo rurebe uburemere bwahabwa uko kwivuguruza. Kuba gusa hariho ukwivuguruza ntibivuga ko umutangabuhamya atakwizerwa na gato[13]. Byongeye kandi, Urugereko rusanga abenshi mu batangabuhamya bitabye Urukiko baratejwe ububabare buzahaza umubiri no mu mutwe ku buryo butavugwa cyangwa bakabona ababikorewe mu gihe cy'ibyabaye mu Rwanda mu mwaka wa 1994. Akenshi, gutanga ubuhamya mu rukiko bituma umuntu yongera kwibuka ibintu biteye ubwoba byabaye, maze bikaba intandaro yo kugira ngo agaragaze akababaro kenshi afite ko mu mutwe no ku mutima. Ibyo rero bishobora gutuma uwo mutangabuhamya atavuga neza ibintu yabonye cyangwa byamubayeho, cyangwa bigatuma atabivuga mu buryo bwuzuye kandi budahuzagurika. Kubera ingaruka zo guhahamuka, bifatiwe hamwe n'igihe kinini gishize kuva mu mwaka wa 1994, Urugereko rusanga kuba gusa umutangabuhamya ahuzagurika mu byo avuga bitavuga ko atakwemerwa. Uko guhuzagurika kugira ingaruka ku gaciro ubuhamya bwahabwa ntabwo kugira ingaruka ku gusuzuma niba umutangabuhamya ari uwo kwemerwa.

<u>*Ibibazo byo kurinda umutekano w'abatangabuhamya*</u>

15. Urugereko rwafashe ibyemezo bigena ingamba zo kurinda umutekano w'abatangabuhamya bashinja n'abashinjura. Rwumvise kandi, mu muhezo, ubuhamya bwa benshi muri bo. Mu gusuzuma ubuhamya bwatanzwe mu Rukiko, rwazirikanye ko ari ngombwa kudahishurira itangazamakuru na rubanda umwirondoro w'abatangabuhamya barindiwe umutekano cyangwa bashobora kugirirwa nabi. Niyo mpamvu, mu kuvuga ubwo buhamya bwatanzwe mu Rukiko muri uru rubanza, Urugereko rwatoranyije amagambo rwumva ko yubahiriza ibyo bintu bibiri bya ngombwa, ari byo kurinda umutekano w'abatangabuhamya no gusuzuma ubuhamya bwabo mu buryo bwuzuye.

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[13] *Urubanza rwa Gacumbitsi,* Inyandiko y'Urubanza mu bujurire, ibika 74, 93.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Kwemeza ibintu bitagibwaho impaka n'ababuranyi

16. Urugereko rw'Ubujurire rwasanze ibikorwa byose bikurikira ari ibintu bizwi na rubanda, ku buryo ushyize mu gaciro usanga bitagombye kugibwaho impaka, maze rwemeza ko ababuranyi batagomba kubijyaho impaka hashingiwe ku ngingo ya 94 A) y'Amategeko: mu Rwanda habaye jenoside hagati y'itariki ya 6 Mata n'iya 17 Nyakanga 1994; muri icyo gihe, habaye ibitero rusange kandi biri kuri gahunda byibasiye abasiviri b'Abatutsi bazira ubwoko bwabo; mu Rwanda habaye imirwano itari iyo mu rwego mpuzamahanga; mu mwaka wa 1994, mu Rwanda hari ubwoko bw'Abatutsi, ubw'Abahutu n'ubw'Abatwa[14]. Urugereko rwemeje ko ibyo bintu bitagomba kugibwaho impaka bityo rwanga kwakira ikimenyetso cyose ababuranyi batanze babigaragaza cyangwa babirwanya. Ariko rero, ibyo ntibivuga ko Porokireri akuriweho inshingano afite yo kugaragaza, nta gushidikanya na gato, ko kubera imyitwarire n'imitekerereze ye, Uregwa aryozwa nka gatozi icyaha cya jenoside n'ibyaha byibasiye inyokomuntu nk'uko bivugwa mu nyandiko y'ibirego.

UMUTWE WA II: IMYANZURO ISHINGIYE KU BYABAYE

1. IBIBAZO BY'IKUBITIRO

Ibivugwa muri rusange

17. Urugereko rusanga mu bika bya 3.10, 3.10 (i), 3.11, 3.11 (i), 3.11 (ii), 3.12, 3.12 (i), 3.13, 3.14 na 3.16 hatavugwa imyitwarire mibisha isobanutse Uregwa yaba yaragize kandi Porokireri ntiyabigendeyeho mu kugaragaza ikirego icyo ari cyo cyose amushinja. Kubera iyo mpamvu, Urugereko nta myanzuro rufata ishingiye ku byabaye bivugwa muri ibyo bika.

[14] *Urubanza rwa Karemera na bagenzi be,* Icyemezo ku bujurire bwa Porokireri anenga icyemezo cyafashwe ku cyifuzo cy'ingoboka cyerekeranye n'ibyo ababuranyi batajyaho impaka, 16 Kamena 2006, ibika 22- 37.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Ibika by'Inyandiko y'ibirego Porokireri adashingiraho mu gushyigikira ibyo avuga

18. Urugereko ruributsa ko, mu myanzuro nsozarubanza ye mu magambo ku itariki ya 22 Kamena 2006, Porokireri yavuze ko adashingiye ku bivugwa mu bika bya 3.37, 3.38, 3.39, 3.42, 3.43, 3.44, 3.49, 3.50 na 3.51 kubera ko nta bimenyetso yatanze yo kubishyigikira[15]. Kubera iyo mpamvu, Urugereko nta myanzuro rufata ku byabaye bikubiye muri ibyo bika, bityo ntirubyakiriye.

Ibisobanuro by'Inyandiko y'ibirego

19. Mu myanzuro nsozarubanza yabwo mu magambo, Ubwunganizi buvuga ko Inyandiko y'ibirego ikubiyemo utuntu duke cyane bivugwa ko Uregwa yaba yarakoze. Buvuga ko, kubera iyo mpamvu, urebye ibivugwa ku byabaye byihariye biri mu nyandiko y'ibirego, Uregwa adashobora kumenya ibikorwa yaba yarakoze kugira ngo abyiregureho ku buryo bukwiye. Ubwunganizi buvuga ko mu nyandiko y'ibirego ahanini Muvunyi avugwa gusa muri rusange kandi ntihasobanurwe imyitwarire mibisha aregwa[16].

20. Ubwunganizi buvuga kandi ko mu nyandiko y'ibirego hatavugwa uburyo na bumwe busobanutse bw'uburyozwacyaha buteganywa n'Ingingo ya 6(1) ya Sitati. Buvuga ko Porokireri agomba kuvuga uburyo busobanutse bw'uburyozwacyaha buteganywa n'iyo ngingo, atabikora Inyandiko y'ibirego ikaba ifite inenge kandi itumvikana. N'ubwo butarwanya ko hari aho iyo nenge ishobora gukosorwa n'ibivugwa mu myanzuro mbanzirizarubanza, Ubwunganizi buvuga ko Urugereko rugomba kureba niba Porokireri yarabikoze, kandi hakazirikanwa uburenganzira Uregwa afite bwo gucirwa urubanza ku buryo buboneye, nk'ubwo guhabwa igihe n'uburyo bihagije ngo ategure imyiregurire ye[17].

21. Ku byerekeye jenoside, Ubwunganizi buvuga ko mu nyandiko y'ibirego Uregwa adashinjwa, ku buryo bwumvikana, ko yagize koko uruhare muri icyo cyaha. Kubera iyo

[15] Inyandikomvugo y'iburanisha, 22 Kamena 2006, imp. 18-19.
[16] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 19 Kamena 2006, ibika 32-33.
[17] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 19 Kamena 2006, ibika 37, 40. (Imyanzuro nsozarubanza yanditse ntirimo ibika 38, 39, 48, 49, 50 na 51).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mpamvu, busaba bukomeje Urugereko kwita gusa k'ukureba niba Uregwa yarakoze ubwe jenoside[18]. Ubwunganizi buvuga kandi ko mu nyandiko y'ibirego nta kintu na kimwe gisobanutse kivugwa ku buryo Uregwa yahanirwa icyaha cyo kuba icyitso cy'abakoze jenoside[19]. Byongeye kandi, Ubwunganizi buvuga ko mu nyandiko y'ibirego hatavugwa, ku buryo busobanutse bihagije, uburyozwacyaha buteganywa n'Ingingo ya 6(3) ya Sitati kugira ngo Urugereko rube rwabishingiraho ruhamya Uregwa icyaha[20].

22. Muri rusange, Urugereko ruvuga ko Ubwunganizi bugomba kunenga imyandikire y'Inyandiko y'ibirego mu mihango mbanzirizarubanza, kandi mu gihe cy'iburana bukabyutsa mu gihe gikwiye ikibazo icyo ari cyo cyose ku birebana n'ingingo runaka yaba ifite inenge[21]. Ibyo ari byo byose, Urugereko rurasuzuma ibyo Ubwunganizi buvuga ko Porokireri atasobanuye ku buryo bwihariye uburyo bw'uburyozwacyaha, buteganywa n'Ingingo ya 6(1) ya Sitati. Urugereko rusanga, n'ubwo byaba byiza ubwo buryo busobanuwe mu nyandiko y'ibirego, nta ngingo n'imwe y'amategeko itegeka ko ariko bigomba kugenda, kereka iyo Porokireri avuga ko hari umugambi mubisha uhuriweho[22]. Mu rubanza rwa Semanza mu bujurire, Urugereko rw'Ubujurire rwibukije imikorere imaze igihe kinini yimakajwe ivuga ko Porokireri avuga gusa ibiteganywa n'Ingingo ya 6(1), maze rwongeraho ko kuri buri kirego byaba « ari byiza » gusobanura uburyo bw'uburyozwacyaha buteganywa n'Ingingo ya 6(1). Ariko rero, Urugereko rw'Ubujurire ntirwavuze ko ibyo bigomba kubahirizwa byanze bikunze[23]. Mu rubanza rwa Gacumbitsi mu rw'iremezo, benshi mu bacamanza bavuze ko, mu kureba niba uburyo bw'uburyozwacyaha bw'Uregwa bwarasobanuwe bihagije kugira ngo ashobore kumenya neza kandi bidatinze ibirego aregwa, Inyandiko y'ibirego igomba gusuzumwa yose uko

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[18] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 19 Kamena 2006, igika 53.

[19] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 19 Kamena 2006, igika 71.

[20] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 19 Kamena 2006, igika 94.

[21] *Urubanza rwa Niyitegeka,* Inyandiko y'Urubanza mu bujurire, ibika 199, 200.

[22] *Urubanza rwa Gacumbitsi,* Inyandiko y'Urubanza mu bujurire, ibika 166, 167, n'ubukemuramanza buvugwamo.

[23] *Urubanza rwa Semanza,* Inyandiko y'Urubanza mu bujurire, igika 259. Reba na none igitekerezo cyihariye cy'Umucamanza Shahabuddeen mu nyandiko y'*Urubanza rwa Gacumbitsi* mu bujurire, igika 56. Muri icyo gitekerezo, uwo mucamanza avuga ko itegeko Urugereko rw'Ubujurire rwatanze mu rubanza rwa *Semanza* atari itegeko ry'imikorere ryagenderwaho hose maze akongeraho ko «umuntu adashobora gukuraho imikorere imaze igihe kinini ikurikizwa ngo ashyireho itegeko ryerekeranye n'ibyo « umuntu yagombye gukora ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

yakabaye[24]. Rumaze gusuzuma ibirego byose biri mu nyandiko y'ibirego, Urugereko rusanga Uregwa yaramenyeshejwe ko Porokireri ashaka kugaragaza uburyozwacyaha bwe nka gatozi kubera gutegeka, cyangwa gufasha no gutera inkunga abandi bantu mu gukora jenoside cyangwa ibyaha byibasiye inyokomuntu.

23. Ku birebana no gusobanura uburyo bw'uburyozwacyaha buteganywa n'Ingingo ya 6(3) ya Sitati, Urugereko rusanga Inyandiko y'ibirego isobanura bihagije: (a) ko Uregwa yari akuriye abo yategekaga bagaragajwe bihagije kandi ko yabagenzuraga nyabyo, kubera ko yari afite uburyo n'ubushobozi bwo kuburizamo imyitwarire mibisha yabo cyangwa kuyibahanira; (b) ko abo bantu yari akuriye bakoze ibyaha runaka; (c) ko Uregwa yari azi cyangwa yagombaga kumenya ko abantu akuriye bari biteguye gukora ibyaha cyangwa ko babikoze ariko ntafate ingamba za ngombwa kandi zishyize mu gaciro zo kuburizamo ibyo bikorwa cyangwa guhana ababikoze[25].

Kumenyesha Uregwa ibyo ashinjwa

24. Hakurikijwe Ingingo ya 20(4)(a) ya Sitati, Uregwa afite uburenganzira bwo « kumenyeshwa bidatinze, mu rurimi yumva kandi ku buryo burambuye, imiterere y'ibyaha ashinjwa n'impamvu bashingiraho bamurega ». Urugereko rw'Ubujurire rwemeje ko ibiteganywa n'iyo ngingo, bifatiwe hamwe n'Ingingo ya 47 (C) y'Amategeko, byerekana ko Porokireri afite inshingano yo « kuvuga ibikorwa by'ingenzi ibirego biri mu nyandiko y'ibirego bishingiyeho, aho gutanga ibimenyetso bigomba kugaragaza ibyo bikorwa »[26]. Agomba rero kumenya dosiye mbere y'urubanza no gusobanura neza, ku buryo bwose bushoboka, ibikorwa byose bivugwa mu nyandiko y'ibirego[27].

25. Urugereko rusanga mu myanzuro ye, Porokireri yaravuze ko n'ubwo mu nyandiko

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[24] *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu bujurire, igika 123.
[25] *Urubanza rwa Blaškić,* Inyandiko y'urubanzamu bujurire, igika 218.
[26] *Urubanza rwa Semanza,* Inyandiko y'urubanza mu bujurire, igika 85; *Urubanza rwa Ntakiturimana,* Inyandiko y'urubanza mu bujurire, igika 25; *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu bujurire, igika 49; *Urubanza rwa Kupreškić,* Inyandiko y'urubanza mu bujurire, igika 88.
[27] *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'iremezo, igika 14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

y'ibirego yaba ataravuze neza iyicwa rya Karegeya, yamenyesheje bihagije Ubwunganizi ikimenyetso cyerekeranye n'icyo gikorwa ku buryo cyakwemerwa kubera ko yatanze adakerewe inyandiko y'ubuhamya bw'umutangabuhamya wiswe YAA idasibwemo amakuru agaragaza umwirondoro we ndetse agashyira mu myanzuro mbanzirizarubanza incamake y'ubuhamya uwo mugabo yari gutanga mu Rukiko. Ashingiye ku rubanza rwa Ntakirutimana mu bujurire, Porokireri avuga ko kwakira icyo kimenyetso nta cyo byarenganyijeho Ubwunganizi[28]. Rumaze gusuzuma imyanzuro mbanzirizarubanza n'inyandiko y'ubuhamya bwa YAA, Urugereko rusanga Ubwunganizi bwarahawe igihe amakuru yumvikana neza kandi adahuzagurika ku bikorwa by'ingenzi birebana n'iyicwa rya Karegeya[29].

26. Urugereko rusanga kandi igitero cyagabwe ku mpunzi z'Abatutsi mu ishyamba rya Mukura kitavugwa ku buryo bweruye mu nyandiko y'ibirego. Ariko rero, uretse no kuba ituzuye, lisiti y'ahantu habereye ubwicanyi buvugwa mu gika cya 3.40 ntabwo irambuye, ahubwo itanga gusa ingero kuri icyo gitero. Rumaze gusuzuma Inyandiko y'ibirego yose uko yakabaye n'ibimenyetso Porokireri yamenyesheje nyuma Ubwunganizi, Urugereko rusanga Ubwunganizi bwaramenyeshejwe mu gihe gikwiye, mu buryo bwumvikana neza kandi budahuzagurika, amakuru kuri icyo gitero n'igitekerezo cya Porokireri cyo kugitangira ibimenyetso. Urugereko rusanga mu ncamake y'ubuhamya iri mu myanzuro mbanzirizarubanza, abatangabuhamya biswe XV na YAK bateganyaga gutanga mu Rukiko, Porokireri avuga ko abo batangabuhamya bombi bagomba kuvuga ku gitero abasirikare bo muri ESO n'Interahamwe bagabye ku mpunzi mu ishyamba rya Mukura[30]. Byongeye kandi, mu buhamya bwabo bwanditse batanze mbere y'urubanza, abo batangabuhamya bombi bavuze kuri icyo gitero kandi ubwo buhamya bwamenyeshejwe Ubwunganizi hasigaye nibura iminsi 21 mbere y'uko buri wese muri bo aza kubutanga mu rukiko nk'uko Urugereko rwari rwabitegetse. Bityo rero, Urugereko rusanga ruramutse ruzirikanye ubuhamya bwatanzwe ku gitero cyagabwe mu ishyamba rya

[28] Inyandikomvugo y'iburanisha, 22 Kamena 2006, urup. 19.
[29] *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, igika 27.
[30] Imyanzuro mbanzirizarubanza ya Porokireri, yatanzwe ku itariki ya 24 Mutarama 2005.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Mukura, ntaho ubushobozi Uregwa afite bwo kwiregura bwaba bubangamiwe[31].

27. Mu myanzuro nsozarubanza yabwo yanditse, Ubwunganizi bubyutsa ibibazo byinshi ku byo bunenga, buvuga ko butamenyeshejwe uko bikwiye ibimenyetso bimwe Porokireri yemerewe gutanga, hanyuma bugasaba Urugereko kutakira ibyo bimenyetso kugira ngo rutarenganya Uregwa. Urugereko ruributsa ko mu iburanisha, Ubwunganizi bwanenze ubuhamya abagabo benshi batanze mu Rukiko buvuga ko butari bwabumenyeshejwe uko bikwiye. Kubera ko rwasuzumye ibyo bibazo rukabifataho icyemezo mu nyandiko cyangwa mu magambo[32], ntirubigarukaho cyane cyane ko ubibyutsa atashoboye kugaragaza ko hari impamvu zidasanzwe zatuma rubikora.

28. Ubwunganizi busaba Urugereko kudashingira ku buhamya bw'umugabo ushinja wiswe QX. Ubwunganizi busobanura ko ubwo nk'uko bukubiye muri make mu myanzuro mbanzirizarubanza butumvikana neza ndetse ko butanerekana ko hari icyo Uregwa ashinjwa. Mu gusoza kuri iki kibazo, Ubwunganizi buvuga ko Uregwa atamenyeshejwe uko bikwiye ibirebana n'ubuhamya QX yatanze mu iburanisha, bityo akaba atarabonye umwanya uhagije wo kwitegura kubunyomoza[33]. Urugereko ruributsa ko mu gihe cy'iburanisha, Ubwunganizi bwatanze Icyifuzo gisaba Urugereko gukura muri dosiye ubuhamya bw'uwo mugabo buvuga ko butari bwabonye igihe gihagije cyo gutegura neza ibyo kubwireguraho, ko kandi igihe uwo mugabo yatangaga ubwo buhamya Uregwa atari ahagarariwe na avoka ubifitiye ububasha. Urugereko rusanga izi ngingo zigamije kubyutsa ikibazo cyarangije gukemurwa. Ibyo aribyo byose, rusanga igihe ubwo buhamya bwatangwaga mu Rukiko, Uregwa yari yunganiwe na avoka w'agateganyo kandi no mu kindi gihe cy'iburanisha yagenewe umwunganira mu rubanza. Kubera ko ubwo buhamya mu Rukiko bwatanzwe mu kwezi k'Ukuboza 2003, Ubwunganizi bwabonye igihe gihagije cyo gusuzuma ubuhamya bwa QX, gukora irindi perereza no kunyomoza abatangabuhamya bashinja, n'icyo guhamagaza abatangabuhamya bashinjura

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[31] Ubuhamya bwanditse bw'umutangabuhamya wiswe YAK, 7 Kamena 2000, n'ubuhamya bwanditse bw'umutangabuhamya wiswe XV, 12 Mutarama 2001.

[32] Nk'urugero, reba Icyemezo mu magambo cyo ku itariki ya 14 Werurwe 2005, Icyemezo ku Cyifuzo cya Tharcisse Muvunyi gisaba Urugereko kutakira ubuhamya bwa AFV, TM, QCS, QY na QBP, n'Icyifuzo gisaba gukura ubuhamya bwa QY mu bimenyetso, 20 Kamena 2005.

[33] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 19 Kamena 2006, igika 97.

kugira ngo bavuguruze ubwo buhamya cyangwa berekane ko atari ubwo kwemerwa cyangwa kwizerwa. Kubera rero ko Ubwunganizi butakoze ibyo muri icyo gihe, Urugereko rusanga aho iburanisha rigeze ubu budashobora gusaba Urukiko kutita ku buhamya bwa QX.

29. Ubwunganizi bunenga kandi ubuhamya abagabo bashinja biswe YAO na YAN batanze mu Rukiko, buvuga ko abo batangabuhamya bagombaga kuvuga ku kirego cya jenoside cyangwa icyo kuba icyitso cy'abakoze jenoside, ko ariko Uregwa atigeze amenyeshwa mu buryo bukwiye ibirebana n'ubuhamya bwabo ku kirego cy'ibindi bikorwa bibi birenze kameremuntu, bityo akaba atarashoboye kwitegura kubyireguraho[34]. Rumaze gusuzumana ubwitonzi incamake z'ubuhamya bw'abo bagabo nk'uko bukubiye mu myanzuro mbanzirizarubanza ya Porokireri no mu nyandiko zakozwe mbere y'urubanza, Urugereko ntirushidikanya ko abo batangabuhamya bavuga, ku buryo bugaragara, ibikorwa byo gukubita bishobora gutuma Uregwa akurikiranwaho icyaha cy'ibindi bikorwa birenze kamere muntu. Bityo rero, ibyo Ubwunganizi buvuga ko butahawe ayo makuru mu buryo bukwiye nta shingiro bifite.

2. THARCISSE MUVUNYI

30. Tharcisse Muvunyi ni Umunyarwanda, yavukiye muri Komine ya Mukarange, Perefegitura ya Byumba, ku itariki ya 19 Kanama 1953. Yari mu gisirikare cy'u Rwanda afite ipete rya Liyetona Koloneli, akaba yarakoreraga muri ESO kuva ku itariki ya 1 Werurwe 1994[35].

3. IKIBAZO CYO KUMENYA UWAYOBORAGA ESO

3.1. Ibivugwa mu nyandiko y'ibirego

31. Igika cya 2.2 n'icya 2.3 bigira biti:

[34] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 119, 368, 375.
[35] *Urubanza rwa Muvunyi,* Igisubizo cy'Uregwa ku Cyifuzo cya Porokireri gisaba urugereko kwemeza ibitagibwaho impaka n''ababuranyi, cyatanzwe ku itariki ya 27 Mutarama 2005; reba na none ikimenyetso gihamya cyahawe nimero D.5, cyakiriwe muri dosiye ku itariki ya 24 Gicurasi 2005.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

2.2. Mu gihe ibivugwa muri iyi Nyandiko y'ibirego byabaga, kugeza ubwo yavaga mu Rwanda, Tharcisse Muvunyi yari Komanda w'ishuri rya ESO. Yagizwe Komanda w'iryo shuri ku itariki ya 7 Mata 1994, ubwo Koloneli Marcel Gatsinzi, wari umukuriye, yari amaze kugirwa Umugaba mukuru w'agateganyo w'ingabo z'u Rwanda.

2.3. Nka komanda wa ESO, Uregwa yari akuriye aba ofisiye n'abandi basirikare bo muri iryo shuri. Yari akuriye kandi yagenzuraga jandarumori, ikigo cya Ngoma, n'ibikorwa byose bya gisirikare muri Perefegitura ya Butare.

3.2. Ibimenyetso

Umutangabuhamya ushinja wiswe KAL

32. Umutangabuhamya ushinja wiswe KAL, ni Umututsi, yabaye umusirikare mu ngabo z'u Rwanda kuva mu mwaka wa 1991 kugera mu wa 1994[36]. Ubwo yinjiraga mu gisirikare mu mwaka wa 1991, yoherejwe muri ESO i Butare mu mahugurwa y'amezi atandatu. Icyo gihe iryo shuri ryategekwaga na Koloneli Marcel Gatsinzi[37].

33. Ku itariki ya 6 Mata 1994, KAL yigaga muri MECATR, ishuri rya gisirikare ryigishaga ubukanishi n'itumanaho rya gisirikare, kandi yabaga mu kigo cya gisirikare cya Kanombe. Mu buhamya bwe, avuga ko ku mugoroba w'iyo tariki, we na bagenzi be boherejwe kurinda ikigo cya MECATR. Yagarutse muri ESO hagati y'itariki ya 14 n'iya 20 Mata 1994[38], asanga Koloneli Tharcisse Muvunyi ari we komanda w'ikigo, kandi yari akiri kuri uwo mwanya ubwo uyu mutangabuhamya yavaga kuri ESO akajya ku Gikongoro muri Kamena 1994[39]. Muri icyo gihe, Uregwa yatangaga amategeko umutangabuhamya yagombaga kubahiriza. Umutangabuhamya yabonye Uregwa afata ijambo mu nama ebyiri zabereye iwe [Uregwa]. Cyakora, KAL avuga ko atigeze avugana

[36] Inyandikomvugo y'iburanisha (mu muhezo), 1 Werurwe 2005, urup.4; Ikimenyetso gihamya cyahawe nimero P.1, ifishi y'umwirondoro wa KAL (yashyizweho ubujeni) yakiriwe muri dosiye ku itariki ya 1 Werurwe 2005.
[37] Inyandikomvugo y'iburanisha (mu muhezo), 5 Werurwe 2005, imp. 5, 7.
[38] Inyandikomvugo y'iburanisha, 1 Werurwe 2005, urup.8; Inyandikomvugo y'iburanisha (mu muhezo), 3 Werurwe 2005, urup. 23.
[39] Inyandikomvugo y'iburanisha, 2 Werurwe 2005, urup. 11; Inyandikomvugo y'iburanisha (mu muhezo), 7 Werurwe 2005, urup. 2.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

n'Uregwa ku buryo butaziguye kubera ko ngo yari umusirikare wo hasi, bityo bikaba bitari kumworohera kuvugana na komanda w'ikigo[40].

34. KAL avuga ko, nyuma yo kugirwa Umugaba mukuru w'igisirikare, rimwe na rimwe Koloneli Gatsinzi yajyaga ajya gusura ESO ariko ntahatinde, hagati ya Mata na Kamena 1994. Icyo gihe kajugujugu yamutwaraga yagwaga muri ESO ikaza kongera kuguruka. Amaze gusimburwa ku mirimo ye yo kuba Umugaba mukuru w'igisirikare, Gatsinzi yasubiye i Butare ariko atari we komanda wa ESO. Ku bw'umutangabuhamya, abantu bose bari bazi ko Gatsinzi yari yahawe uwo mwanya kugira ngo yite ku mishyikirano yo kurangiza intambara hagati ya Guverinoma y'u Rwanda na FPR[41].

Umutangabuhamya ushinja wiswe YAA

35. Umutangabuhamya wiswe YYA yari umusirikare mu ngabo z'u Rwanda kandi yabaga kuri ESO hagati ya Mata na Kamena 1994, n'ubwo bwose muri icyo gihe bamwoherezaga gukorera ahantu hatandukanye. Mu buhamya bwe, avuga ko ku itariki ya 7 cyangwa iya 8 Mata 1994, Koloneli Marcel Gatsinzi wategekaga ESO yagizwe Umugaba mukuru w'agateganyo w'igisirikare maze yimukira i Kigali[42]. YAA avuga ko Koloneli Tharcisse Muvunyi yasimbuye Gatsinzi maze atangira gutegeka ESO ku itariki ya 8 cyangwa iya 9 Mata, n'ubwo abasirikare batamenyeshejwe ko Gatsinzi yahinduriwe imirimo. YAA avuga ko ku itariki ya 12 cyangwa iya 13 Mata 1994, yoherejwe ku rugamba i Kigali ariko yongera kugaruka muri ESO ku itariki ya 16 Gicurasi maze arahaguma kugera ku itariki ya 8 Kamena 1994, ubwo yajyaga ku Gikongoro akahava ajya i Cyangugu[43]. Igihe cyose yamaze muri ESO, YAA yabonaga Muvunyi hafi buri munsi, yari azi aho ibiro bye biri mu kigo cya ESO kandi yamubonaga aha abasirikare amabwiriza. Uyu mutangabuhamya avuga ko hagati y'itariki ya 16 Gicurasi n'iya 8

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[40] Inyandikomvugo y'iburanisha, 2 Werurwe 2005, urup. 11; Inyandikomvugo y'iburanisha (mu muhezo), 7 Werurwe 2005, imp. 9, 14.
[41] Inyandikomvugo y'iburanisha, 2 Werurwe 2005, imp. 2, 3; Inyandikomvugo y'iburanisha (mu muhezo), 7 Werurwe 2005, imp. 6, 7.
[42] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 32.
[43] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 17, 34, 35, 41.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Kamena 1994, Muvunyi ari we wari komanda wa ESO[44].

36. Mu buhamya bwe, YAA avuga ko abantu bose bari muri ESO bagenderaga ku mategeko ya Muvunyi[45]. Yongeraho ariko ko Koloneli Munyengango na we yari muri ESO mu gihe ibivugwa byabaga, ko ariko atategekaga kubera ko yari arwaye[46].

Umutangabuhamya ushinja wiswe YAP

37. Umutangabuhamya ushinja wiswe YAP avuga ko yakoraga ku bitaro bya Kaminuza y'i Butare kandi ko yabaga hafi ya ESO[47]. Mu buhamya bwe, YAP avuga ko n'ubwo atigeze abona Muvunyi, yari azi ko Muvunyi ari we wari komanda wa ESO kandi byari bizwi n'abantu bose. Yarazi abasirikare bari bakuriwe na Muvunyi nka Kapiteni Nizeyimana na Suliyetona Bizimana. Abo basirikare bamubwiye ko Muvunyi ari we komanda wabo. YAP yumva Muvunyi yari komanda wa ESO mbere na nyuma y'urupfu rwa Perezida Habyarimana[48]. Mu ibazwa rinyomoza, YAP yavuze ko yumva Marcel Gatsinzi atari komanda wa ESO mbere y'urupfu rwa Perezida Habyarimana, n'ubwo ngo yumvise radiyo ivuga ko hari urubanza rwa Gacaca Gatsinzi yivugiyemo ko yari komanda wa ESO[49].

Umutangabuhamya ushinja wiswe XV

38. Uyu mutangabuhamya avuga ko yakoraga ku bitaro bya Kaminuza y'i Butare mu mwaka wa 1994[50]. Avuga ko ahagana ku itariki ya 15 cyangwa iya 16 Mata 1994, yabonye ibaruwa yashyizweho umukono n'umuyobozi w'ibitaro bya Kaminuza y'i Butare na komanda Muvunyi, imutegeka gusubira ku kazi ku bitaro[51]. Umunsi umwe, muri Gicurasi 1994, Muvunyi yaje ku bitaro. Icyo gihe uyu mutangabuhamya yari kumwe n'inshuti ye

[44] Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2005, imp. 34, 35.
[45] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, urup. 11.
[46] Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2005, imp. 16, 17 (ibaza rinyomoza).
[47] Ikimenyetso gihamya cyahawe nimero P.17 (cyashyizweho ubujeni) cyakiriwe muri dosiye ku itariki ya 6 Kamena 2005.
[48] Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, urup. 36.
[49] Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, imp. 19, 23, 37.
[50] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 9.
[51] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 9.

ari na yo yamubwiye ko « uwo muntu yari Muvunyi kandi ko ari we wategekaga abasirikare, baba abari imbere mu bitaro cyangwa hanze yabyo »[52].

Umutangabuhamya ushinja wiswe CCQ

39. Umutangabuhamya wiswe CCQ uvuka i Butare, avuga ko yari azi neza abategetsi baho. Mu buhamya bwe, avuga ko Marcel Gatsinzi yari komanda wa ESO kugeza ubwo intambara yo muri Mata 1994 yatangiraga, ko ariko n'Uregwa ariho yabaga icyo gihe. Avuga ko kuva aho intambara itangiriye, yakundaga kubona Muvunyi na Munyengango babaga muri ESO, ndetse yibuka ko Muvunyi yasimbuye Gatsinzi ku buyobozi bwa ESO nyuma y'urupfu rwa Habyarimana, by'umwihariko kuva ku itariki ya 20 Mata[53].

Umutangabuhamya ushinja wiswe NN

40. Umutangabuhamya wiswe NN yari suzofisiye mu gisirikare cy'u Rwanda kuva muri Mata kugera muri Kamena 1994. Mu buhamya bwe, avuga ko Liyetona Koloneli Muvunyi yasimbuye Koloneli Gatsinzi ku mwanya wa komanda wa ESO. Avuga ko yari muri ESO ubwo Uregwa yahazaga muri Werurwe 1994, ariko ko atibuka niba icyo gihe Gatsinzi yari yungirijwe na Muvunyi cyangwa Munyengango. NN yongeyeho ko n'ubwo Augustin Bizimungu yasimbuye Koloneli Gatsinzi ku mwanya w'Umugaba mukuru w'igisirikare, Gatsinzi atasubiye ku mirimo ye nka komanda wa ESO kugera mu mpera za Gicurasi 1994. Bityo rero, Uregwa yakomeje kuyobora ESO kugeza icyo gihe. Umutangabuhamya avuga ko Koloneli Munyengango na we yari muri ESO ariko ko yari arwaye. Yongeraho ko na Koloneli Mugemanyi yari ahari, ko ariko yahageze nyuma y'itariki ya 16 Mata 1994[54].

Umutangabuhamya ushinjura witwa Augustin Ndindiliyimana

41. Umutangabuhamya ushinjura witwa Jenerali Augustin Ndindiliyimana, yari Umugaba

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[52] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 21.
[53] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, imp. 14, 15, 23-25.
[54] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 4-5; Inyandikomvugo y'iburanisha (mu muhezo), 19 Nyakanga 2005, urup. 53; inyandiko mvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, imp. 12, 24.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mukuru wa jandarumori mu mwaka wa 1994[55]. Avuga ko Koloneli Marcel Gatsinzi yari komanda wa ESO ku itariki ya 6 Mata 1994[56]. Asobanura ko ku itariki ya 7 Mata, Gatsinzi yagizwe Umugaba mukuru w'agateganyo w'igisirikare mu Rwanda, maze akimukira i Kigali gukora imirimo mishya yari amaze gushingwa. Ku itariki ya 17 Mata 1994, Gatsinzi yasimbuwe kuri uwo mwanya na Koloneli Augustin Bizimungu (waje kugirwa jenerali). Augustin Ndindiliyimana avuga ko mu gihe Gatsinzi yari umugaba mukuru w'igisirikare w'agateganyo, Liyetena-Koloneli Muvunyi ari we wabaye komanda wa ESO kabone n'ubwo nta cyemezo cyamushyiraga muri uwo mwanya[57]. Avuga kandi ko nyuma y'itariki ya 17 Mata, Gatsinzi yasubiye muri ESO maze akongera « kuyobora abasirikare n'ishuri yari ashinzwe mbere » kugeza ubwo uyu mutangabuhamya yavaga mu Rwanda muri Kamena[58]. Augustin Ndindiliyimana yongeraho ko atigeze na rimwe abona itangazo rigira Muvunyi komanda wa ESO[59].

Umutangabuhamya ushinjura wiswe MO83

42. Umutangabuhamya ushinjura wiswe MO83 yari umusirikare mu ngabo z' u Rwanda kuva mu mwaka wa 1985 kugera mu wa 1994, kandi yakoreye muri ESO mu bihe bitandukanye hagati y'umwaka wa 1989 n'uwa 1993. Mu buhamya bwe, avuga ko atari muri ESO mu mwaka wa 1994 ko ariko yibwira ko muri Mata 1994, umukuru wa ESO yari Koloneli Gatsinzi[60]. Avuga kandi ko Gatsinzi yagumye kuri uwo mwanya kugeza ubwo FPR yafataga umugi wa Butare, cyakora ntavuga itariki byabyereyeho. Avuga ko Gatsinzi yakomeje kuba komanda wa ESO muri icyo gihe cyose n'ubwo hari igihe yahavaga agiye mu mishyikirano na FPR. Umutangabuhamya asobanura ko iyo Gatsinzi yagendaga, abandi bayoboraga ESO ari ukumusigariraho gusa[61]. Umutangabuhamya

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[55] Augustin Ndindiliyimana ashinjwa muri uru Rukiko ibyaha bikurikira: ubwumvikane bugamije gukora jenoside, jenoside, kuba icyitso cy'abakoze jenoside, ibyaha byibasiye inyokomuntu, n'ibyaha by'intambara.
[56] Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, urup.31.
[57] Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 43.
[58] Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, imp. 32, 34.
[59] Inyandikomvugo y'iburanisha, 8 Ukuboza 2005, urup. 2.
[60] Inyandikomvugo y'iburanisha, 12 Ukuboza 2005, urup. 14.
[61] Inyandikomvugo y'iburanisha, 12 Ukuboza 2005, urup. 8.

avuga ko atigeze abona itangazo rigira Muvunyi komanda wa ESO[62].

Umutangabuhamya ushinjura wiswe MO 31

43. Uyu mutangabuhamya yabaye umusirikare mu ngabo z'u Rwanda kuva mu mwaka wa 1976 kugera mu wa 1994 kandi avuga ko azi Muvunyi kuva mu wa 1982[63]. Kuva hagati muri Gicurasi kugera hagati muri Kamena 1994, yari afite umwanya wo hejuru mu gisirikare muri Perefegitura ya Butare[64].

44. MO31 avuga ko ubwo yageraga i Butare muri Gicurasi 1994[65], yasanze nta komanda wa ESO uhari. Cyakora, hari aho avuga ko Jenerali Major Marcel Gatsinzi yari komanda wa ESO kuva ku itariki ya 17 Mata kugera ku ya 5 Nyakanga 1994[66]. Na none, uyu mutangabuhamya avuga mu gihe cyose yakoreye i Butare, nta na rimwe yigeze asabwa guha raporo komanda wa ESO ndetse ko atigeze akora ibikorwa bya gisirikare bihuriweho n'abasirikare bo mu bindi bigo bya gisirikare byari muri ako karere[67].

45. Uyu mutangabuhamya avuga ko nyuma y'ukwezi nka kumwe akorera i Butare yabonye teregaramu iturutse muri Minisiteri y'ingabo imumenyesha ko akuwe ku mirimo ye[68]. Uwo munsi, Muvunyi na we yabonye telegaramu imumenyesha ko akuwe ku mirimo yari ashinzwe muri ESO. MO31 avuga ko muri Kamena 1994, kajugujugu yaguye mu kigo cya ESO ikahamara akanya gato. Avuga ko yabajije Muvunyi umuntu wari muri iyo ndege, maze akamusubiza ko yari minisitiri w'ingabo kandi ko yaboneyeho akanya ko kumubaza impamvu yimuriwe ahandi, maze ngo Minisitiri akamubwira ko bamwimuye kubera ko we n'uwitwa Ndayambaje batagifitiwe icyizere na Guverinoma, ndetse ko bakekwaho kuba ibyitso bya FPR. Uyu mutangabuhamya avuga ko Muvunyi yamubwiye ko Guverinoma yabonaga ko we na Ndayambaje batashoboraga kurwanirira umugi wa

[62] Inyandikomvugo y'iburanisha, 12 Ukuboza 2005, urup. 14; Inyandikomvugo y'iburanisha, 13 Ukuboza 2005, urup. 15.
[63] Inyandikomvugo y'iburanisha (mu muhezo), 14 Ukuboza 2005, imp. 34, 36.
[64] Inyandikomvugo y'iburanisha (mu muhezo), 14 Ukuboza 2005, imp. 34, 36.
[65] Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 9.
[66] Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 11.
[67] Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 16.
[68] Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 6.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Butare uramutse utewe na FPR[69].

Umutangabuhamya ushinjura wiswe MO30

46. Umutangabuhamya wiswe MO30 avuga ko mu mwaka wa 1992 we n'umuryango we bavuye i Kigali bakimukira i Butare, bakahaguma kugera ahagana ku itariki ya 30 Kamena 1994, ubwo yajyaga ku Gikongoro[70]. Ubwo yari i Butare yamenyanye n'abantu bakomeye bo muri uwo mugi, bari bafite imyanya ikomeye muri Leta, muri rubanda no mu bucuruzi. Ku itariki ya 28 Mata 1994, MO30 n'umwe muri bagenzi be bakoranaga bagiye kureba Muvunyi muri ESO ngo bamusabe lisansi/mazutu yo gukoresha mu ruganda rwabo, kubera ko byavugagwa ko Minisiteri y'Ingabo ari yo yari ishinzwe iby'itangwa rya lisansi na mazutu. Bageze muri ESO, mugenzi wa MO30 yavuganye na Muvunyi maze uyu amusubiza ko ntacyo yabamarira kuko « umukuru w'ikigo, ari we Marcel Gatsinzi » atari ahari, ko yari yagiye i Kigali[71].

Umutangabuhamya ushinjura wiswe MO46

47. Umutangabuhamya ushinjura wiswe MO46 yabaye umusirikare mu ngabo z'u Rwanda kuva mu mwaka wa 1971 kugera mu wa 1994 kandi yari azi Muvunyi kuva kera[72]. Muri Mata 1994, MO46 yakoraga muri Minisiteri y'Ingabo. Ku itariki ya 20 Mata 1994 cyangwa hafi y'iyo tariki, yoherejwe mu butumwa bwo kujya kureba ibyaberaga i Butare. Ageze muri ESO, yateganyaga kubonana na Koloneli Marcel Gatsinzi yari azi ko ari we wari komanda w'ikigo cya ESO. Cyakora, kubera ko Gatsinzi atari ahari, MO46 yabonanye na Liyetona Koloneli Muvunyi wari S-4 ashinzwe ibikoresho bya gisirikare. MO46 yabwiye Muvunyi ko Minisiteri y'Ingabo yamwohereje « kubera ko bakekaga ko ubwicanyi bwageze muri Butare » kandi ko byari ngombwa ko bagira icyo bakora kugira ngo babuhagarike. Muvunyi yamushubije ko ntacyo ashobora gukora ku bwicanyi kubera ko havugwaga ko Nizeyimana ari we wari komanda, maze agira inama MO46 ko niba

[69] Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 28.
[70] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 5, 15.
[71] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 15.
[72] Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2006, imp. 57, 58.

ashaka guhagarika ubwicanyi yavugana na Nizeyimana na Hategekimana[73]. MO46 yabwiye Urugereko ko avugana na Muvunyi yari azi neza ko komanda wa ESO yari Marcel Gatsinzi, aho kuba Muvunyi[74]. Asobanura kandi ko nyuma y'aho Gatsinzi abereye Umugaba mukuru w'agateganyo w'igisirikare ku itariki ya 7 Mata, nta muntu wagizwe komanda cyangwa komanda w'agateganyo w'ikigo cya ESO[75]. Avuga ko Gatsinzi yakomeje kuyobora ESO ari na ko akora imirimo yo kuba Umugaba mukuru w'igirisikare kandi ko ibyo bintu ari ko byari bikimeze kugeza ubwo umutangabuhamya yavaga ku mirimo ye muri Minisiteri y'Ingabo ku itariki ya 13 Gicurasi 1994[76]. MO46 avuga ko iyo komanda yahabwaga undi mwanya w'agateganyo, yakomezaga gukora imirimo ye ya komanda kugeza avanyweho cyangwa asimbuwe n'undi. Asobanura ko, kubera umurimo yakoraga muri Minisiteri y'Ingabo, iyo haza gushyirwaho komanda cyangwa komanda w'agateganyo wo gusimbura Gatsinzi ku mwanya wa komanda wa ESO, aba yarabimenye[77].

Umutangabuhamya ushinjura wiswe MO15

48. Mu gihe cy'ibyabaye mu mwaka wa 1994, MO15 yigishaga muri ESO[78]. Avuga ko ubwo yageraga muri ESO mu mwaka wa 1992, yasanze Koloneli Marcel Gatsinzi ari we komanda wa ESO kandi ko yagumye kuri uwo mwanya kugera ku itariki ya 7 Mata 1994 ubwo yagirwaga Umugaba mukuru w'agateganyo w'igisirikare cy'u Rwanda. Uyu mutangabuhamya yongeraho ko Gatsinzi atasimbuwe ku mwanya wa komanda wa ESO[79]. Abajijwe niba ESO yari ifite komanda wungirije, MO15 yabanje kuvuga ko ESO itari ifite komanda wungirije ariko nyuma aza kuvuga ko iyo Gatsinzi yabaga adahari

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[73] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 39: «Yarambwiye ati niba ari Minisitiri wakohereje ni byiza ariko abaturage bavuga ko Nizeyimana na Komanda w'ikigo bashobora kuba bafite uruhare mu bwicanyi. Niba ushaka ko ubwicanyi buhagarara nta bushobozi mbifitiye ahubwo genda uvugane na Nizeyimana na Hategekimana nibo bashobora guhagarika ubwicanyi ».

[74] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 38

[75] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, imp. 13, 14. Cyakora reba Ingingo ya 8 y'Itegeko N° 23/1986 « Rishyiraho kandi rigena imitunganyirize y'ishuri ry'abasuzofisiye » ryakiriwe muri dosiye nk'ikimenyetso gihamya cyahawe nimero D.49 ku itariki ya 13 Werurwe 2006. Iryo tegeko riteganya ko mu gihe Komanda wa ESO adahari cyangwa adashobora gukora imirimo ye, asimburwa na Komanda wungirije wa ESO.

[76] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.

[77] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.

[78] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 22.

[79] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2006, imp. 28, 32.

yasimburwaga na Liyetona Koloneli Baramyeretse[80]. Avuga ko Muvunyi yageze muri ESO muri Werurwe 1994 maze akagirwa S-1/S-4. Kapiteni Ilidefonse Nizeyimana akaba yari S-2/S-3 ashinzwe amasomo n'ibikorwa bya gisirikare[81].

Um*utangabuhamya ushinjura wiswe MO23*

49. Umutangabuhamya wiswe MO23, wigaga muri ESO mu mwaka wa 1994, avuga ko nyuma y'iminsi itatu cyangwa ine Jenerari Bizimungu agizwe umugaba mukuru w'ingabo, Koloneli Gatsinzi yaje muri ESO maze agakomeza gukora imirimo ye ya komanda w'icyo kigo. Umutangabuhamya avuga ko igihe cyose yabaga ari ku izamu ku marembo ya ESO, yabonaga Gatsinzi ahaza hafi buri munsi maze akajya mu biro bye[82].

3.3. Isesengura ry'urugereko

50. Inyandiko y'ibirego ivuga ko kuva ku itariki ya 7 Mata 1994 kugera ava mu Rwanda, Tharcisse Muvunyi yari komanda wa ESO, akaba yarashyizwe kuri uwo mwanya ubwo Koloneli Marcel Gatsinzi, wari umukuriye, yari amaze kugirwa Umugaba mukuru w'agateganyo w'igisirikare. Iyo nyandiko ivuga kandi ko nka komanda wa ESO, Muvunyi ari we wari ukuriye abandi ba ofisiye n'abasirikare bato muri ESO kandi ko yari akuriye ikigo cya Ngoma, anagenzura ibikorwa bya gisirikare muri Butare. Mu gushyigikira ibivugwa mu nyandiko y'ibirego ko Muvunyi yari Komanda w'agateganyo w'ikigo cya ESO kuva ku itariki ya 7 Mata 1994, Porokireri ashingira ku buhamya bw'abatangabuhamya biswe KAL, YAA na NN bari abasirikare kandi bakoreye muri ESO mu bihe bitandukanye hagati ya Mata na Kamena 1994. Abo batangabuhamya uko ari batatu bavuga ko Muvunyi yayoboye ESO ubwo hagati y'itariki ya 7 n'iya 9 Mata 1994 Marcel Gatsinzi yari amaze kugirwa Umugaba mukuru w'agateganyo w'igisirikare. N'ubwo hatatanzwe ikimenyetso kigaragaza ko Uregwa yashyizwe kuri uwo mwanya n'icyemezo runaka, kuvuga ko Muvunyi yabaye komanda wa ESO bishingiye ku Itegeko N° 23/1986 rishyiraho kandi rigena imituganyirize ya ESO, riteganya ko iyo komanda

[80] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2006, imp. 25, 28, 32.
[81] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2006, urup. 28.
[82] Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, imp. 19-20.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

adahari, asimburwa mu mirimo ye n'umwungirije[83]. KAL, YAA na NN bose bahuriza ku mvugo ko muri icyo gihe kivugwa, Muvunyi yahaga abasirikare bo muri ESO amabwiriza. N'ubwo Koloneli Munyengango na we yari muri ESO, Urugereko rwumva yari ahari kubera impamvu z'uburwayi. Ubuhamya bwa KAL, YAA na NN buvuga ko Muvunyi yabaye komanda wa ESO nyuma y'uko Gatsinzi agizwe umugaba mukuru w'igisirikare w'agateganyo bushyigikirwa n'ubwatanzwe n'abatangabuhamya biswe YAP na XV, bombi bakaba bari abasiviri kandi bari batuye i Butare muri Mata 1994. Ubuhamya bwa XV, buvuga ko Muvunyi ari umwe mu bantu babiri basinye ibaruwa imutegeka gusubira ku kazi, na bwo bushimangira ibivugwa ko Muvunyi yari komanda wa ESO muri Mata na Gicurasi 1994.

51. Abatangabuhamya bashinjura batanga ibisobanuro binyuranye ku byerekeranye n'umuntu wari komanda ESO nyuma y'uko Gatsinzi agizwe Umugaba mukuru w'igisirikare w'agateganyo mu ngabo z'u Rwanda. Mu gusuzuma ubuhamya bwabo, Urugereko ruraha agaciro kisumbuye ubuhamya bw'abatangabuhamya bari muri ESO mu mezi arebana cyane n'ibivugwa, ni ukuvuga kuva muri Mata kugera muri Kamena 1994. Kuri iyi ngingo, Urugereko rusanga MO83 yaravuye muri ESO mu mwaka wa 1993. Rusanga kandi M031 yivuguruza kuko avuga ko Gatsinzi yari komanda wa ESO kuva ku itariki ya 17 Mata kugera ku ya 5 Nyakanga, ariko agahindukira akemeza ko ageze i Butare muri Gicurasi 1994 yasanze ESO nta komanda ifite. Nyuma kandi, uyu mutangabuhamya avuga ko Muvunyi yabonye telegaramu ahagana mu gice cya kabiri cya Kamena 1994 imukura ku mirimo yari ashinzwe muri ESO. Muri rusange, usanga ahubwo ubuhamya bwa MO31 bushyigikira ibivugwa ko Muvunyi ari we musirikare wari usumbije ipete abandi muri ESO. Urugereko rusanga ubuhamya bwa MO31, buvuga ko Muvunyi yari muri ESO kugera hagati muri Kamena 1994, bushyigikira ibivugwa n'abatangabuhamya bashinja biswe KAL na YAA bakoraga muri ESO bityo bakaba bazi, ku buryo butaziguye, ibyaberega muri icyo kigo buri munsi. Byongeye kandi, kuba MO46 avuga ko ku itariki ya 20 Mata 1994 yagiye muri ESO mu butumwa bwa

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[83] Itegeko N° 23/1986 ryakiriwe muri dosiye nk'ikimenyetso gihamya cyahawe nimero D.49 ku itariki ya 13 Werurwe 2006. Ingingo yaryo ya 8 iteganya ko: « [Komanda wungirije] ashinzwe guhuza ibikorwa n'amasomo kandi asimbura Komanda w'ishuri mu gihe adahari cyangwa afite impamvu imubuza gukora imirimo ye ».

Minisiteri y'Ingabo, ntabonane na Gatsinzi ahubwo akabonana na Muvunyi, ni impamvu y'inyongera ituma umuntu yumva ko Muvunyi yakoraga nka komanda wa ESO iyo Gatsinzi yabaga adahari. Abatangabuhamya bashinjura biswe MO36 na MO30 bavuga ko bitabiriye inama nyinshi za komite ishinzwe umutekano zaberaga mu biro bya perefe kandi ko Muvunyi yazizagamo ahagarariye ESO[84]. Muri rusange, ubu buhamya bushyigikira umwanzuro uvuga ko Muvunyi yari afite ububasha bwa komanda wa ESO hakurikijwe amategeko, bityo akaba yari akuriye nyabyo abasirikare ba ESO n'ubwo atari yarashyizweho kuri uwo mwanya n'icyemezo runaka. Nk'uko byemejwe n'Urugereko rw'Ubujurire [rwa TPIY] mu rubanza rwa Čelebiči, kuba umuntu atarashyizwe ku mirimo n'icyemezo runaka ntibyamubuza kuryozwa icyaha, hapfa gusa kugaragazwa ko yagenzuraga nyabyo ibikorwa by'abantu yari akuriye[85]. Kugenzura nyabyo bivuga ubushobozi nyabwo ukuriye abandi afite bwo kubuza abo akuriye gukora ibyaha cyangwa kubahana igihe babikoze, kandi ubwo bubasha bushobora guturuka ku mwanya w'ubuyobozi yakomoraga ku mategeko cyangwa atayakomoragaho. Iyo hagaragajwe ko uwo muntu yari afite ububasha akomora ku itegeko, urukiko rushobora guhita rufata umwanzuro ushingiye kuri icyo kimenyetso gicukumbuwe maze rukemeza ko yagenzuraga abandi nyabyo. Icyo kimenyetso gicukumbuwe gishobora kuvuguruzwa hagaragajwe ko umuntu wari ukuriye abandi atari agifite ububasha bwa ngombwa bwo kugenzura abo bantu kandi barakoze ibyaha koko[86].

52. Urugereko rugomba kandi kumenya igihe Muvunyi yamaze akora imirimo ya komanda wa ESO. KAL na YAA bavuga ko Muvunyi yakoze imirimo ya komanda wa ESO kuva ku itariki ya 7 Mata kugera muri Kamena 1994. Ubuhamya bw'umutangabuhamya ushinja wiswe NN bunyuranye gato n'ubwo ku byerekeranye n'imirimo y'ubuyobozi ya Muvunyi. Mu buhamya bwe mu Rukiko, uyu mugabo avuga ko mu mpera za Gicurasi, Gatsinzi yasubiye muri ESO nka komanda w'icyo kigo. Umutangabuhamya ushinjura witwa Augustin Ndindiliyimana avuga ko yagiye i Butare ku itariki ya 4 Gicurasi 1994

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[84] Inyandikomvugo y'iburanisha (mu muhezo), 7 Werurwe 2006, urup. 23; Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 23.
[85] *Urubanza rwa Delalić na bagenzi be,* Inyandiko y'urubanza mu bujurire, igika 196.
[86] *Urubanza rwa Delalić na bagenzi be,* Inyandiko y'urubanza mu bujurire, igika 197.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

nk'Umugaba mukuru wa jandarumori y'igihugu, akagirana inama n'abayobozi ba gisirikare muri ako karere. Avuga ko Muvunyi yaje muri iyo nama nk'uhagarariye ESO[87].

53. Ubwunganizi buvuga ko abatangabuhamya bashinjura biswe KAL, YAA na NN batakwizerwa[88]. Ku byerekeye KAL na YAA, Ubwunganizi buvuga ko bari baratorotse urugamba kuko muri Mata 1994 bari baroherejwe ku rugamba i Kigali ariko bakaza gusubira mu kigo cya ESO i Butare nta mabwiriza cyangwa uruhushya babiherewe. Ubwunganizi ntibwemera kandi ko YAA yasubiye muri ESO i Butare ku itariki ya 16 Gicurasi 1994, ahubwo buvuga ko uyu mutangabuhamya yasinye nibura inyandiko z'ubuhamya eshatu avugamo ko yasubiye muri ESO mu mpera za Gicurasi. Kubera izo mpamvu, Ubwunganizi buvuga ko Urugereko rutagombye kwizera ubuhamya bwa KAL na YAA. Urugereko ntirwemera ibivugwa n'Ubwunganizi.

54. Urugereko rusanga kuba KAL na YAA baratorotse urugamba i Kigali bagasubira i Butare ubwabyo bidahagije ngo umuntu anenge ubuhamya bwabo ku byabaye biboneye ubwo bari muri ESO. Rumaze gusuzumana ubushishozi uko bavuye i Kigali bagasubira muri ESO i Butare n'imiterere rusange y'ubwicanyi bwakorwaga mu Rwanda, Urugereko rusanga guhunga urugamba ubwabyo nta cyo bitubyaho ukwizerwa cyangwa ukwemerwa k'ubuhamya bwabo ku birebana n'ikibazo cy'uwari komanda wa ESO mu mezi ya Mata na Gicurasi 1994.

55. Ku byerekeranye no kwivuguruza ku itariki YAA yaba yarasubiriyeho muri ESO, Urugereko rusanga mu buhamya bwanditse yatanze ku itariki ya 18 n'iya 22 Nzeri 2000, uyu mugabo avuga, inshuro eshatu zitandukanye, ko yasubiye i Butare mu mpera za Gicurasi[89]. Mu buhamya bwe mu Rukiko, YAA avuga ko yasubiye muri ESO ku itariki ya 16 Gicurasi 1994[90]. Urugereko rusanga uku kunyuranya ari guto ku buryo bitabuza

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[87] Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, urup. 34; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 43.

[88] Imyanzuro nsozarubanza yanditse ya Tharcisse Muvunyi, imp. 44, 46, 59.

[89] Ubuhamya bwanditse bw'umutangabuhamya wiswe YAA, 18 na 22 Nzeri 2000. YAA yasobanuye ko yabonanye n'abapererezi kuri ayo matariki avugwa haruguru.

[90] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, urup. 8; Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2005, imp. 17, 18 (ibaza rinyomoza).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

YAA kwizerwa. Byongeye kandi, Urugereko rusanga ubwo yabazwaga mu ibaza rinyomoza kuri uko kwivuguruza, YAA yarashubije ko mu mwaka wa 2000, amaze kubona uko kunyuranya, yabibwiye umwe mu bakozi b'ubushinjacyaha bakora iperereza wamusezeranyije ko azabikosora. Ashimangira ko yabwiye abakoraga iperereza ko yasubiye i Butare hagati muri Gicurasi aho kuba mu mpera z'uko kwezi. Urugereko rusanga uyu mutangabuhamya yaratanze ibisobanuro bihagije kuri uko kwivuguruza hagati y'ubuhamya bwe bwanditse yatanze mbere n'ubwo yatanze mu Rukiko.

56. Ku byerekeye NN, Ubwunganizi buvuga ko Urugereko rutagombye kwemera ubuhamya bwe kubera ko yabanje guhabwa amadolari y'amanyamerika 5.000 kugira ngo yemere kuza gutanga ubuhamya bushinja mu Rukiko, bityo ubuhamya bwe bukaba bufite inenge. Rumaze gusuzumana ubushishozi ibivugwa n'Ubwunganizi, ubuhamya bwa NN n'uburyo ibiro bya Porokireri byamuhaye amadolari y'amanyamerika 5.000, Urugereko rusanga uyu mutangabuhamya yarahawe ayo mafaranga nk'indihano ku bintu n'umutungo yatakaje kubera ko yari avuye mu Rwanda huti huti akajya mu kindi gihugu, asize inzu ye n'ubucuruzi bwe. Urugereko rusanga byarabaye ngombwa ko NN ahunga u Rwanda kubera ko we n'umuryango we bashyizweho iterabwoba n'abantu batari bishimiye ko avugana n'abapererezi bo mu Biro bya Porokireri, ko kandi ashobora gutanga ubuhamya mu Rukiko. Urugereko rusanga kandi ayo mafaranga NN yahawe ku itariki ya 7 Gicurasi 2005[91], ataratumye hari icyo ahindura ku buhamya yatanze ku matariki ya 18, 19 na 20 Nyakanga 2005. Umwanzuro w'Urugereko kuri iyi ngingo ushyigikirwa n'uko, ubuhamya bwa NN imbere yarwo ku byerekeranye n'umwanya Muvunyi yari afite nka komanda wa ESO, bujyanye muri rusange n'ubuhamya bwanditse yahaye abapererezi bo mu biro bya Porokireri ku itariki ya 16 Nyakanga 1998, ni

[91] Igisubizo cya Porokireri ku Cyemezo Urugereko rwafashe ku Cyifuzo cye gishingiye ku ngingo ya 66 (C) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso gisaba ko yakurirwaho inshingano yo gutanga amakuru y'inyongera ku mutangabuhamya ushinja wiswe NN no gufata ingamba zihariye zo kurinda umutekano w'abatangabuhamya, hashingiwe ku ngingo ya 69(A) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 13 Nyakanga 2005. Ku Cyifuzo hometseho urupapuro rw'ubwishyu rwahawe nimero « C » rwasinywe na NN ku itariki ya 7 Gicurasi 2005, yemeza ko abapererezi babiri bo mu Biro bya Porokireri bamuhaye amadolari 5. 000 y'amanyamerika. Ku Cyifuzo hometseho kandi ubuhamya bwanditse bwakozwe hejuru y'indahiro n'Umuyobozi w'iperereza mu Biro bya Porokireri bwahawe nimero « A » busobanura uko agashami ashinzwe kagiranye ubwumvikane n'umutangabuhamya wiswe NN n'uburyo ayo madolari yatanzwemo.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ukuvuga imyaka irindwi mbere y'uko yiyemeza gutanga ubuhamya mu Rukiko cyangwa ahabwa iyo ndihano[92].

57. Urugereko rusanga n'ubwo Muvunyi atigeze ashyirwaho n'icyemezo runaka ku mwanya wa komanda wa ESO, bitaramubujije gukomeza kuba umusirikare urusha abandi ipete n'umuyobozi w'abasirikare muri ako karere, afite ububasha bwo gufata ibyemezo bya buri munsi ku bigomba gukorwa muri ESO. Kubera iyo mpamvu, rumaze gusuzuma ibimenyetso byose byatanzwe na Porokireri n'Ubwunganizi, Urugereko rufashe imyanzuro ikurikira mu rwego rw'ibyabaye:

- Ku itariki ya 6 Mata 1994, Koloneli Marcel Gatsinzi yari komanda wa ESO, naho Tharcisse Muvunyi ni we wamukurikiraga mu mapete;

- Ku itariki ya 7 Mata 1994, Gatsinzi yagizwe Umugaba mukuru w'igisirikare w'agateganyo mu ngabo z'u Rwanda kandi yakoze iyo mirimo kugera ku itariki ya 17 Mata 1994;

- N'ubwo hari igihe ashobora kuba yaragiye asubira i Butare, Gatsinzi ntiyasubiye ku mwanya wa komanda wa ESO;

- Nk'umusirikare mukuru wa kabiri mu mapete muri ESO, Koloneli Tharcisse Muvunyi yakoze imirimo ya komanda wa ESO, ubwo Marcel Gatsinzi wari umukuriye, agizwe Umugaba mukuru w'igisirikare w'agateganyo ku itariki ya 7 Mata 1994. N'ubwo atashyizweho n'icyemezo runaka cyangwa itangazo iryo ari ryo ryose ry'ubutegetsi, Muvunyi yabaye komanda wa ESO hashingiwe ku Itegeko N° 23/1986 rishyiraho kandi rigena imitunganyirize ya ESO. Iryo tegeko riteganya ko iyo komanda adahari, asimburwa by'agateganyo n'umwungirije;

- Muvunyi yakoze iyo mirimo kugeza hagati muri Kamena 1994, kandi muri icyo gihe, yagenzuraga nyabyo ibikorwa by'abasirikare bo muri ESO.

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[92] Ubuhamya bwanditse bw'umutangabuhamya wiswe NN bwo ku itariki ya 16 Nyakanga 1998.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

4. INSHINGANO ZA MUVUNYI KU BIREBANA N'UMUTEKANO MURI PEREFEGITURA YA BUTARE N'IYA GIKONGORO

4.1. Ibivugwa mu nyandiko y'ibirego

58. Igika 3.21 n'icya 3.22 by'*Inyandiko y'ibirego* bigira biti:

> 3.21. Muri Perefegitura ya Butare, umuyobozi wa ESO yabaga ari ofisiye wa gisirikare urusha abandi ipete kandi ushinzwe ibikorwa by'umutekano muri Perefegitura ya Butare n'iya Gikongoro. Yashyiraga mu bikorwa amategeko ahawe n'ubuyobozi bukuru bwa gisirikare, nk'uko yabaga yatanzwe n'Umugaba mukuru w'igisirikare. Iyo habaga hari umutekano muke, perefe yashoboraga kwiyambaza jandarumori cyangwa igisirikare kugira ngo agarure amahoro.
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> 3.22. Nk'umuyobozi ukuriye abandi basirikare muri perefegitura, Tharcisse Muvunyi yari mu rwego rwa gisirikare rushinzwe kubungabunga umutekano w'abasiviri muri perefegitura. Dore zimwe mu nshingano yari afite kubera uwo mwanya: Gukorana na perefe mu birebana n'umutekano; Kuba umwe mu bagize inama ya perefegitura ishinzwe umutekano; Gutuma perefe abona uburyo butuma akora neza imirimo ye nk'umusiviri uhagarariye Guverinoma ufite umwanya wo hejuru kurusha abandi; Gutabara abaturage igihe bari mu kaga, no gukora indi mirimo iyo ari yo yose ya ngombwa kugira ngo ishuri rishinzwe guhugura abasirikare rigende neza.

4.2. Ibimenyetso

Umutangabuhamya ushinja wiswe KAL

59. Umutangabuhamya wiswe KAL avuga ko uretse ESO, mu gihe cy'ibyabaye hagati ya Mata na Nyakanga 1994, muri Butare hari ibindi bigo bibiri bya gisirikare ari byo ikigo cya gisirikare cya Ngoma n'ikigo cya jandarumori cya Tumba[93]. Ikigo cya Ngoma cyayoborwaga na Liyetona Hategekimana, naho icya Tumba kikayoborwa na Kapiteni

[93] Inyandikomvugo y'iburanisha (mu muhezo), 1 Werurwe 2005, urup. 9.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Rutayisire. Abo bayobozi b'ibyo bigo byombi bategekwaga na komanda mukuru w'akarere ka gisirikare ari nawe wari komanda wa ESO. Nk'uko KAL abivuga, nka komanda wa ESO, Tharcisse Muvunyi ni we wari umusirikare ukuriye abayobozi b'ibigo by'ingabo muri Butare kandi akaba yari ashinzwe Perefegitura ya Butare n'iya Gikongoro[94]. Koloneli Muvunyi ntiyigeze asimburwa ku mwanya wa komanda w'ikigo mu gihe cy'intambara[95].

60. Mu ibazwa ry'ibanze, KAL yakunze kwita Uregwa *komanda w'akarere* [commandant de place], kandi uwo mwanya wari uwa komanda wa ESO wari ukuriye abandi bayobozi b'ibigo muri Butare na Gikongoro. Umuyobozi w'ikigo cya Ngoma n'uw'icy'i Tumba bari bakuriwe na *komanda w'akarere*[96]**.** Abajijwe niba amagambo *« commandant de place »* ari kimwe na « *area commander* » [komanda w'akarere], KAL yarashubije ati: « twakundaga kuvuga « *commandant de place* » aho kuvuga « *area* commander »[97]. Mu ibazwa rinyomoza, Avoka wunganira Uregwa yasabye KAL gusobanura itandukaniro riri hagati ya « *sector commanding officer* » [komanda w'akarere k'imirwano] na « *area commanding officer* » [komanda w'akarere]. Mu gusubiza, KAL yaragize ati: « kugeza muri Nyakanga 1994, *komanda w'akarere k'imirwano* yitwaga *komanda Ops*. « *Ops* » ni amagambo ahinnye asobanura « *operations* » [ibikorwa bya gisirikare] ». Aho rero ni ahantu haberaga imirwano. … komanda *Ops*, niwe wari komanda w'akarere k'imirwano. Nababwiye ko komanda w'akarere k'imirwano yari akuriye komanda w'akarere[98] ».

<u>Umutangabuhamya ushinja wiswe YAA</u>

61. Uyu mutangabuhamya avuga ko ESO yayoborwaga na komanda, yunganiwe n'abandi ba ofisiye bane. Abo ba ofisiye bari bashinzwe iby'ubutegetsi n'abakozi (S-1), iperereza

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[94] Inyandikomvugo y'iburanisha (mu muhezo), 1 Werurwe 2005, imp. 12-15. Umutangabuhamya yaragize ati:« … muri icyo gihe ikigo cya ESO cyategekwaga na Koloneli Muvunyi. Ikigo cya gisirikare cy'i Ngoma cyategekwaga na Liyetona Hategekimana. Navuze kandi ko ikigo cy'i Tumba cyategekwaga na Kapiteni Rusigariye. Ariko rero nk'uko nabivuze, aba bombi bari bakuriwe na komanda wa ESO. Ni gutyo inzego z'ubuyobozi zari ziteye ».

[95] Inyandikomvugo y'iburanisha (mu muhezo), 7 Werurwe 2005, imp. 11-12.

[96] Inyandikomvugo y'iburanisha (mu muhezo), 1 Werurwe 2005, imp. 12, 16.

[97] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 2-3.

[98] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 2-3.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

(S-2), amahugurwa n'ibikorwa bya gisirikare (S-3) n'ibikoresho (S-4)[99]. Uretse ESO, i Butare hari ibindi bigo bya gisirikare bibiri, ari byo ikigo cya Ngoma n'ikigo cya jandarumori, cyari kizwi ku izina rya « *groupement* » y'i Butare, kikaba cyari ku gasozi ka Tumba. YAA asobanura ko n'ubwo ibyo bigo byombi byari bifite abayobozi babyo, byose byari bikuriwe na komanda wa ESO ari we wari komanda w'akarere. YAA yibutsa ko muri Mata 1994, komanda w'ikigo cya Ngoma yari Hategekimana, naho komanda w'ikigo cya jandarumori cya Tumba akaba yari Major Cyriaque Habyarabatuma[100]. Uyu mutangabuhamya avuga kandi ko Muvunyi yari komanda w'akarere[101].

62. Umutangabuhamya yasobanuye na none ko « akarere » byashakaga kuvuga ibigo binyuranye byari muri perefegitura imwe. Umusirikare urusha ipete abandi bose muri ibyo bigo yahitaga aba komanda w'akarere. Uwo musirikare yabaga afite inshingano zose zo guhuza ibikorwa bya gisirikare n'iby'umutekano aho hantu, harimo n'ibikorwa bya gisirikare n'ibya jandarumori. YAA avuga ko komanda w'akarere yashyirwagaho n'umugaba mukuru w'igisirikare kandi ko yagombaga kwemeza amaraporo yose avuye aho hantu, yoherejwe mu biro by'umugaba mukuru w'igisirikare[102].

63. Ku byerekeye indi mirimo ya *komanda w'akarere*, YAA asobanura ko yari ashinzwe mbere na mbere umutekano muri ako karere. Kubera impamvu z'ibikorwa bya gisirikare, *komanda w'akarere* yashoboraga gusaba inkunga y'abasirikare bo mu bindi bigo, mu karere ashinzwe. *Komanda w'akarere* yari afite kandi ububasha mu ifasi ya perefegitura ya Gikongoro, hari ikigo cya jandarumori. Kubera iyo mpamvu, YAA avuga ko nka *komanda w'akarere*, komanda wa ESO yari ashinzwe ibikorwa bya gisirikare by'abasirikare bo mu kigo cya ESO n'abo mu kigo cya gisirikare cya Ngoma ndetse n'ibikorwa by'abajandarume bo mu kigo cya Tumba n'icya Gikongoro[103].

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[99] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 27, 28.
[100] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 34, 35.
[101] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 34.
[102] Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2006, urup. 9.
[103] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 36. Umutangabuhamya yaragize ati: « Komanda w'akarere yari ashinzwe umutekano mu karere abifashijwemo na ba komanda b'ibigo muri Butare kandi niwe wahuzaga ibikorwa byose, ku buryo komanda w'akarere yashoboraga gusaba inkunga y'abandi basirikare mu bikorwa bya gisirikare. Ububasha bwe rero bwageraga no muri Perefegitura ya Gikongoro.

64. YAA atandukanya *komanda w'akarere* na *komanda w'akarere k'imirwano*. Avuga ko amagambo *komanda w'akarere k'imirwano* yatangiye gukoreshwa mu ntambara kandi akoreshwa ku turere twarimo imirwano. Naho ba *komanda w'akarere* bo bari basanzweho na mbere y'intambara. Asobanura ko amagambo *« komanda* w'akarere *k'imirwano »* na *« komanda w'akarere »*. Nyamara ariko, umutangabuhamya avuga ko atigeze amenya ko muri Butare hari *komanda w'akarere* k'imirwano[104].

<u>*Umutangabuhamya ushinja wiswe NN*</u>

65. Umutangabuhamya ushinja wiswe NN avuga ko Koloneli Marcel Gatsinzi yari komanda wa ESO muri 1994 kandi ko, kubera uwo mwanya, yari *komanda w'akarere* ka Butare-Gikongoro, karimo kompanyi y'i Ngoma na jandarumori y'i Tumba i Butare n'ikigo cya jandarumeri cyo ku Gikongoro. Kuri we, ibyo bishaka kuvuga ko komanda wa ESO yari akuriye abandi bakomanda bo muri ibyo bigo bindi[105].

66. Umutangabuhamya atanga itandukanyirizo riri hagati ya *komanda w'akarere* na *komanda w'akarere k'imirwano*. Avuga ko umwanya wa *komanda w'akarere k'imirwano* washyizweho intambara itangiye mu mwaka wa 1990, naho uwa *komanda w'akarere* ukaba wari usanzweho. Mbere y'intambara, *komanda w'akarere* yari ashinzwe ibibazo by'ubutegetsi kandi ategeka ndetse akuriye ibigo bya gisirikare na jandarumori. Cyakora intambara itangiye, *komanda w'akarere* yashinzwe n'ibikorwa bya gisirikare mu karere ke. Umutangabuhamya asobanura ko ijambo ryo mu gifaransa « *place* » ryashakaga kuvuga ahantu cyangwa akarere runaka karimo ibigo bya gisirikare bikuriwe cyangwa bitegekwa na *komanda w'akarere*. Buri kigo cya gisirikare cyabaga gifite komanda wacyo ariko akaba akuriwe na *komanda w'akarere*. NN avuga ko atigeze yumva na rimwe hari umuntu wagizwe *komanda w'akarere* kandi arushwa ipete n'abandi basirikare bo muri ako karere[106].

67. Mu buhamya bwe mu Rukiko, NN avuga ko kwitwa *komanda w'akarere k'imirwano*

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[104] Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2006, imp. 9, 10.
[105] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup. 12.
[106] Inyandikomvugo y'iburanisha (mu muhezo), 19 Nyakanga 2005, imp. 40, 43, 48.

bivuga kuba umuyobozi w'abasirikare n'ibikorwa byabo ku rugamba. *Commandant de secteur* yategekaga za inite cyanga batayo zakoreraga muri ako karere ashinzwe. Ba komanda ba za batayo bari bakuriwe na *komanda w'akarere k'imirwano*[107].

Umutangabuhamya ushinja wiswe YAN

68. Umutangabuhamya ushinja wiswe YAN avuga ko muri Gicurasi 1994 yari muri *Economat général* i Butare aho yashimuswe n'abasirikare bo muri ESO bayobowe na Liyetona Gakwere. Baramukubise maze bamujyana muri ESO ariho yabonye abasirikare n'Interahamwe zitwaje amahiri, amacumu n'imbunda kandi zambaye n'imyenda idoze mu bitenge. Umutangabuhamya ntazi niba yarakubiswe n'Interahamwe cyangwa abasirikare[108].

69. YAN avuga kandi ko nyuma yajyanywe kuri burigade yari muri metero 400 uvuye kuri ESO, urenze gato ahitwa mu cyarabu (*quartier arabe)* i Butare. Kuri burigade, yafungiwe mu cyumba ari kumwe n'Abatutsi bagera nko kuri 15 b'i Tumba n'ahandi hantu. YAN yabonye abasirikare n'abajandarume kuri burigade n'ubwo atamenye uwabategekaga. Abajandarume bari bambaye ingofero z'umutuku naho abasirikare bambaye ingofero z'umukara cyangwa iz'amabara ya simoko. Igihe yari afunze, bakundaga kuza kubatwaramo abantu: abajandarume bafunguraga ibyumba maze bagaha abasirikare abo bantu. YAN avuga kandi ko yumvise kenshi umujandarume wari ubarinze avugira kuri telefone. Umutangabuhamya agira ati: « igihe cyose batwaraga abantu, umujandarume yavugaga ko ari Muvunyi watanze itegeko ryo kubatwara »[109].

70. Na none, YAN avuga ko yaje kurekurwa akava kuri burigade nyuma y'uko umuntu atakambiye Muvunyi ngo arekurwe, ko ariko abajandarume batabyishimiye. Abisobanura muri aya magambo: « abajandarume bababajwe n'uko ntari naragiye mu bandi. Bibazaga impamvu Muvunyi atatangaga itegeko ryo kunjyana. Nyuma, naje kurekurwa ».

[107] Inyandikomvugo y'iburanisha (mu muhezo), 19 Nyakanga 2005, imp. 41, 42.
[108] Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, imp. 4-7.
[109] Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, imp. 7-9.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinja wiswe YAO

71. Umutangabuhamya ushinja wiswe YAO avuga ko ubwo yari kuri katederali ya Butare yashimuswe n'abasirikare bayobowe na Liyetona Gakwerere. Bamujyanye muri ESO aho yabonye Muvunyi wategetse abo basirikare kumujyana kuri burigade, aho yamaze ibyumweru byinshi afungiye kandi akubitwa n'abasirikare n'abajandarume. Asobanura ko abasirikare n'abajandarume batandukanywaga n'imyenda yabo: hari abari bambaye ingofero z'umutuku, abari bambaye ingofero z'umukara, abari bambaye ingofero zifite amabara ya simoko n'abari bambaye imyenda y'icyatsi kibisi[110].

Umutangabuhamya ushinjura witwa Augustin Ndindiliyimana

72. Augustin Ndindiliyimana avuga ko *komanda w'akarere* mu ngabo z'igihugu yabaga ari komanda mu karere arimo, washyirwagaho n'umugaba mukuru w'igisirikare kandi akaba yari ashinzwe akarere runaka ka gisirikare. Mu nshingano za *komanda w'akarere* harimo gushaka abantu binjira mu ngabo, gucunga abarezerivisiti, guhuza ibikorwa by'abasirikare n'izindi ngabo zo mu bigo binyuranye byo muri ako karere, gutegura imihango y'ingabo mu gihe cy'amahoro no kwitabira ibikorwa bya perefegitura[111].

73. Ndindiliyimana asobanura kandi ko komanda w'akarere k'imirwano yari atandukanye na komanda w'akarere. Avuga ko komanda w'akarere k'imirwano yabaga ari umusirikare mu karere runaka kaberamo imirwano, ashinzwe kurengera ako karere. Iyo bavugaga « *secteur opérationnel* » babaga bashaka kuvuga akarere kaberamo imirwano. Muri Mata 1994, yari azi ko hari uturere tw'imirwano twa Gisenyi, Ruhengeri, Rulindo, Mutara, Kigali na Kibungo. Avuga ko urebye Butare itari akarere k'imirwano. Mu ibaza rinyomoza, yemeza ko atigeze abona ubutumwa buvuga ko Butare yari yarabaye akarere k'imirwano[112]. Ndindiliyimana avuga kandi ko inyandiko yatanzwe na Porokireri ivuga ko Muvunyi yari komanda w'akarere k'imirwano, itavuga ukuri kubera ko urebye nta muntu wakwiyita komanda w'akarere k'imirwano atarashyizweho na minisitiri

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110 Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 14.
111 Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, urup. 30.
112 Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, imp. 22, 23.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

w'ingabo[113].

74. Ndindiliyimana avuga ko, kubera impamvu z'umutekano, Perefegitura ya Butare yari igabanyijwemo amasegiteri atatu ariyo: segiteri yo hagati, yagenzurwaga na ESO, segiteri y'amajyaruguru yagenzurwaga na kompanyi y'i Ngoma na, segiteri y'amajyepfo yagenzurwaga na za inite z'abajandarume bo mu kigo cya Tumba. Komanda wa buri segiteri yari ashinzwe gutanga raporo ku byaha bito n'ibiremereye byakorewe muri segiteri ye ndetse agafata n'ingamba zose za ngombwa kugira ngo ababikoze bahanwe. Buri ngabo y'igihugu yakoze icyaha yashoboraga gukurikiranwa n'ubushinjacyaha cyangwa igahabwa igihano cyo mu rwego rwa disipuline ya gisikare. Cyakora, ubwo buryo bwombi bwo guhana bwashoboraga gukoreshwa icyarimwe[114].

75. Ku byerekeye imibanire ya za inite za gisirikare zinyuranye zari muri Butare, Augustin Ndindiliyimana avuga ko, nk'umukuru w'ishuri rya gisirikare, komanda wa ESO yari afite inzego ebyiri zimukuriye: ku byerekeranye n'amasomo n'imyigishirize yahabwaga amabwiriza na Minisiteri y'ingabo, naho ku bijyanye n'ubutegetsi, yari akuriwe n'umugaba mukuru w'igisirikare. Komanda w'ikigo cya Ngoma yari akuriwe n'umugaba mukuru w'igisirikare, naho komanda w'ikigo cya jandarumori cya Tumba yari akuriwe n'umugaba mukuru wa jandarumori ku bibazo byerekeranye na jandarumori[115].

Umutangabuhamya ushinjura wiswe MO83

76. Mu buhamya bwe mu Rukiko, MO83 avuga ko ubusanzwe *komanda w'akarere* ashyirwaho n'ubuyobozi bukuru bw'igisirikare bubitegetswe na minisiteri y'ingabo. Ubuyobozi bukuru bw'igisirikare bwohereza telegaramu igaragaza izina rya *komanda w'akarere*, ipete rye, abo akuriye, akarere azayobora n'imiterere y'ububasha bwe. *Komanda w'akarere* ntiyabaga, byanze bikunze, ari *komanda w'akarere k'imirwano* mu karere runaka. Umutangabuhamya asobanura ko nta muntu n'umwe washoboraga kwiha inshingano za *komanda w'akarere*, kuko yari kubihanirwa n'ubuyobozi bukuru

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113 Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 47.
114 Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, urup. 9.
115 Inyandikomvugo y'iburanisha, 6 Ukuboza 2005, imp. 24, 31.

bw'igisirikare. Umutangabuhamya avuga ko atigeze na rimwe abona itangazo rishyiraho Muvunyi nka *komanda w'akarere* ka Butare[116].

<u>*Umutangabuhamya ushinjura wiswe MO31*</u>

77. Mu buhamya bwe mu Rukiko, MO31 avuga ko *komanda w'akarere* yari ahagarariye Minisiteri y'ingabo muri perefegitura kandi ko yari ashinzwe guhuza ibikorwa byerekeranye n'ubuyobozi bw'ingabo. Yari ashinzwe imirimo y'ubuyobozi bw'ingabo, akoranira hafi na Perefe. Avuga ko ubwo yari i Butare, kuva hagati muri Gicurasi kugera hagati muri Kamena 1994, *komanda w'akarere* ka Butare yari Marcel Gatsinzi[117].

78. MO31 avuga ko mu ntambara yo mu mwaka wa 1994, mu Rwanda hari uturere turindwi tw'imirwano ari two: Gisenyi, Ruhengeri, Byumba, Kibungo, Mutara yaje gusimburwa na Nyanza, Rulindo n'Umujyi wa Kigali[118]. Utwo turere twashyizweho n'umugaba mukuru w'igisirikare kandi buri karere k'imirwano kabaga gafite komanda wako, wabaga akuriwe n'umugaba mukuru w'igisirikare. Mu buhamya bwe mu Rukiko, MO31 avuga ko ubwo yoherezwaga mu kindi kigo cya gisirikare i Butare, nta cyemezo icyo ari cyo cyose cyangwa itangazo rigira perefegitura ya Butare akarere k'imirwano yigeze amenya. Yongeraho ko iyo icyo cyemezo kiza gufatwa, umugaba mukuru w'igisirikare aba yaramwoherereje telegaramu ibimumenyesha[119]. Avuga kandi ko muri icyo gihe, atigeze amenyeshwa ko akuriwe na komanda wa ESO ndetse ntiyigeze na rimwe akora ibikorwa bihuriweho n'abandi basirikare bo mu bindi bigo byo muri ako karere[120].

<u>*Umutangabuhamya ushinjura wiswe MO46*</u>

79. Mu buhamya bwe mu Rikiko, MO46 avuga ko umwanya wa *komanda w'akarere* wariho mu gihe cya « *Garde nationale* » [ingabo z'igihugu], ni ukuvuga mbere y'ishyirwaho rya

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116 Inyandikomvugo y'iburanisha, 13 Ukuboza 2005, imp. 13, 14.
117 Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 16.
118 Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, imp. 23, 24.
119 Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, imp. 23, 24.
120 Inyandikomvugo y'iburanisha (mu muhezo), 15 Ukuboza 2005, urup. 16.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

jandarumeri n'ingabo z'u Rwanda[121]. Umutangabuhamya avuga ko *Garde nationale* yari ifite inshingano yo kubahirisha amategeko, kubungabunga umutekano no kurwanya umwanzi waturuka hanze y'igihugu[122]. Asobanura ko umwanya wa *komanda w'akarere* wari uzwi mu ngabo gusa[123]. Yongeyeho ko *komanda* w'akarere yari umuntu w'ingenzi guhera ku ihirikwa ry'ubutegetsi bwariho mu mwaka wa 1973 kubera ko byavugwaga ko muri icyo gihe yagombaga gusimbura perefe[124].

80. MO46 avuga ko umwanya wa *komanda w'akarere* washyizweho n'Iteka N° 13[125]. Nyuma y'ishyirwaho rya jandarumeri nk'urwego rutandukanye n'igisirikare cy'u Rwanda, umwanya wa *komanda w'akarere* wavuyeho kimwe n'iteka rimaze kuvugwa. Ahubwo, hariho indi ngingo yavugaga ko ibindi byose binyuranyije n'ibyo ngibyo bivuyeho[126]. Uyu mutangabuhamya asobanura ko *komanda w'akarere* yari komanda w'ikigo cya gisirikare kandi niwe wagenaga abagomba kujya ku izamu[127]. Yongeraho ko iyo umwanya wa *komanda w'akarere* uza kugumaho wari kugeraho ugasimbuzwa uwa « komanda w'ikigo »[128].

<u>Umutangabuhamya ushinjura wiswe MO23</u>

81. Mu buhamya bwe mu Rukiko, MO23 avuga ko nyuma y'itariki ya 6 Mata 1994, muri ESO hari kompanyi eshatu z'abasirikare: kompanyi y'ingoboka yagumaga mu kigo; kompanyi ishinzwe kurinda ikigo na kompanyi ishinzwe gutabara akaba ari na yo yari ishinzwe umutekano w'umujyi wa Butare[129]. MO23 avuga ko hari ubufatanye hagati y'abasirikare ba ESO n'abajandarume. Nk'urugero, MO23 nawe wari umusirikare wa kompanyi ishinzwe gutabara kandi yabaga ari kuri za bariyeri mu mujyi wa Butare, avuga ko abantu bafatwaga nk'Inkotanyi ku mabariyeri bashyikirizwaga burigade ya

[121] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup.12.
[122] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup.12.
[123] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup.12.
[124] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup.12.
[125] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.
[126] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.
[127] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.
[128] Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.
[129] Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, imp. 15, 16.

jandarumori yari ishinzwe ubugenzacyaha[130]. Umutangabuhamya yongeraho ko muri ESO hari harashyizweho nibura inite imwe y'abapolisi ba gisirikare, igizwe n'abasirikare n'abajandarume, ikaba yari ishinzwe gufata abasirikare batorotse akazi[131].

4.3. Isesengura ry'Urugereko

82. Inyandiko y'ibirego ivuga ko komanda wa ESO ari we Muvunyi, yari umusirikare urusha abandi ipete kandi yari ashinzwe ibikorwa by'umutekano muri Perefegitura ya Butare n'iya Gikongoro. Porokireri avuga ko, mu gutunganya inshingano ze zo kubungabunga umutekano w'abaturage muri izo perefegitura zombi, Uregwa yakoranaga na perefe n'abandi bayobozi bo mu karere ba gisiviri n'aba gisirikare. Perefe niwe wari umutegetsi ukuriye abandi mu buyobozi bwa gisiviri. Porokireri avuga ko Muvunyi yari *komanda w'akarere*, bityo akaba yari ashinzwe ubuyobozi bwa gisirikare muri ako karere ndetse n'ibikorwa bya gisirikare mu bigo bya gisirikare byo muri perefegitura ya Butare n'iya Gikongoro, birimo ikigo cya gisirikare cya Ngoma n'ikigo cya jandarumori cyo ku gasozi ka Tumba. Byongeye kandi, Porokireri avuga ko n'ubwo Uregwa ashobora kuba atari afite ububasha akomora ku mategeko ku kigo cya gisirikare cya Ngoma n'icya jandarumori cya Tumba, yagenzuraga nyabyo ibikorwa by'abasirikare bo muri ibyo bigo[132]. Mu myanzuro nsozarubanza ye yanditse, Porokireri avuga ko kubera ko ku itariki ya 7 Mata 1994 Muvunyi yari umusirikare urusha abandi ipete muri ESO, byanze bikunze niwe wakoze imirimo ya komanda w'icyo kigo ubwo uwari umukuriye ari we Marcel Gatsinzi, yari amaze guhabwa indi mirimo i Kigali.

83. Mu gushyigikira ibyo avuga, Porokireri ashingira ku buhamya bwa KAL, YAA na NN. Ashingira kandi no ku buhamya bw'abatangabuhamya bashinjura ari bo Ndindiliyimana, MO83 na MO31 mu kugaragaza ko, mu byabaye mu mwaka wa 1994, mu gisirikare cy'u Rwanda hariho umwanya wa *komanda w'akarere*, ko kenshi uwo mwanya wabaga ufitwe n'umusirikare urusha abandi ipete muri buri perefegitura, ndetse ko mu nshingano

130 Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, imp. 16, 17, 29.
131 Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, urup. 17.
132 Imyanzuro nsozarubanza yanditse ya Porokireri, Umutwe wa III cyane cyane ibika 129-132, 160, 161, 189, 190, 193.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

z'umuntu wari kuri uwo mwanya harimo ubuyobozi n'ibikorwa bya gisirikare mu bigo binyuranye by'abasirikare n'abajandarume muri perefegitura.

84. Urugereko rwasuzumye ubuhamya bwa KAL buvuga ko nka komanda w'akarere, Muvunyi yari akuriye abandi bakomanda bose muri Perefegitura ya Butare. Byongeye kandi, Urugereko rwibutsa ubuhamya bw'umutangabuhamya ushinja wiswe YAA buvuga ko Muvunyi yari ashinzwe guhuza ibikorwa bya gisirikare muri perefegitura ya Butare n'iya Gikongoro. Kubyerekeye umutangabuhamya ushinja wiswe NN, Urugereko rwibutsa ko atavuga ko Muvunyi yabaye *komanda w'akarere*, ko ahubwo avuga ko Muvunyi yasimbuye Gatsinzi ku buyobozi bwa ESO.

85. Urugereko rwasuzumye kandi ubuhamya bw'abatangabuhamya bashinjura banyuranye ku byerekeranye n'umwanya wa *komanda w'akarere*. Augustin Ndindiliyimana yatanze itandukanyirizo hagati ya *komanda w'akarere* na *komanda w'akarere k'imirwano*, maze avuga ko *komanda w'akarere* aba ashinzwe ahanini imirimo y'ubuyobozi naho *komanda w'akarere* k'imirwano ashinzwe ibikorwa bya gisirikare. Urugereko rusanga kandi, nk'uko Ndindiliyimana abivuga, Butare itari kamwe mu turere dutandatu tw'imirwano twari mu Rwanda mu mwaka wa 1994, bityo ikaba itari ifite komanda w'akarere k'imirwano. Rusanga kandi ubuhamya bwe bugaragaza ko komanda w'ikigo cya Ngoma yari akuriwe, ku buryo butaziguye, n'umugaba mukuru w'igisirikare, naho komanda w'ikigo cya jandarume cya Tumba agakurirwa, ku buryo butaziguye, n'umugaba mukuru wa jandarumori, ari we Ndindiliyimana ubwe. Naho komanda wa ESO, yari afite abamukuriye babiri, bitewe n'ikibazo kiriho. Ku bibazo byerekeranye n'amasomo, yari akuriwe na Minisiteri y'ingabo z'igihugu naho ku bibazo by'ibikorwa bya gisirikare agakurirwa n'umugaba mukuru w'igisirikare. Urugereko rusanga Augustin Ndindiliyimana yarasobanuye, mu buryo budahuzagarika kandi bwakwizerwa, itandukanirizo riri hagati ya komanda w'akarere na komanda w'akarere k'imirwano. Yanasobanuye kandi mu buryo bwumvikana inzego z'ubuyobozi zayoboraga ibikorwa by'abasirikare babaga mu bigo by'ingabo muri Butare mu mwaka wa 1994.

86. N'ubwo rugomba gusuzuma, ariko rutabushira amakenga, ubuhamya bwa MO31 uvuga

ko Gatsinzi yagumanye umwanya we wa komanda wa ESO nyuma y'itariki ya 6 Mata, Urugereko ntirwabura kuzirikana ko ubwo buhamya bushyigikira ubwa Ndindiliyimana ku byerekeranye n'imiterere y'inzego za gisirikare mu Rwanda no kuba mu mwaka wa 1994 hariho uturere tw'imirwano. By'umwihariko, aba batangabuhamya bombi bahuriza ku kuvuga ko Butare itari akarere k'imirwano bityo ikaba itari ifite *komanda w'akarere* k'imirwano. MO31 na we avuga ko *komanda w'akarere* yari ashinzwe ibirebana n'ubuyobozi bwa gisirikare aho gushingwa ibirebana n'imirwano, kandi ko yashyirwagaho na Minisiteri y'ingabo. Kuri iki kibazo, kuba MO31 avuga ko mu gihe yakoreraga i Butare atari akuriwe na komanda wa ESO ko ahubwo yari akuriwe n'umugaba mukuru w'igisirikare ni ikintu gikomeye cyane. Ibyo avuga bishyigikira ibivugwa na Ndindiliyimana.

87. Urugereko rusanga ubuhamya bw'abatangabuhamya bashinjura biswe MO83 na MO46 ku birebana n'umwanya wa komanda w'akarere bushyigikira muri rusange ubwa Ndindiliyimana na MO31. Rumaze gusuzuma Iteka nº 13, Urugereko rusanga n'ubwo riteganya umwanya wa komanda w'akarere, ryerekeranye na *« Garde nationale »* yaje kuvanwaho[133]. Cyakora, Urugereko ntirwumva ukuntu iryo teka cyangwa Ingingo yaryo iyo ari yo yose byaba byarakomeje gukoreshwa mu mwaka wa 1994.

88. Urugereko ruributsa ko mu ibaza rinyomoza rya Ndindiliyimana, Porokireri yagerageje gushyirisha muri dosiye inyandiko zavugwaga ko ziriho umukono w'Uregwa nka « komanda w'akarere Butare-Gikongoro ». Urugereko rwanze kuzakira nk'ibimenyetso gihamya ariko ruzishyiraho ikimenyetso kiziranga « PID1 » kugira ngo zizashobore kumenyekana. Cyakora, rwavuze ko Porokireri afite uburenganzira bwo kuzatanga nyuma ibimenyetso bigaragaza ko izo nyandiko ari inyandikomvaho kandi ko zakwizerwa[134]. Nyuma yaho, Urugereko rwemeye icyifuzo cya Porokireri gisaba guhamagaza umuhanga mu gusuzuma imikono mu nyandiko z'abantu. Uwo mutangabuhamya yasuzumye izo nyandiko zashyizweho ikimenyetso PID1 azigereranya

[133] Iteka Nº 13 ryakiriwe muri dosiye nk'ikimenyetso gihamya cyahawe nimero «P.29», ku itariki ya 7 Ukuboza 2005.
[134] Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 34.

n'amasinya atagibwaho impaka y'Uregwa, maze yanzura avuga ko amasinya ari ku nyandiko zigibwaho impaka ari ay'Uregwa[135]. Urugereko rwanemeye Icyifuzo cy'Ubwunganizi gisaba guhamagaza na bwo umuhanga mu gusuzuma imikono mu nyandiko z'abantu kugira ngo anyomoze ibyavuzwe n'uwahamagajwe na Porokireri. Uwo mutangabuhamya yasuzumye za nyandiko azigereranya n'amwe mu masinya azwi y'Uregwa maze avuga ko adashobora kwemeza, nta gushidikanya, ko Uregwa ari we wasinye ku nyadiko zashyizweho ikimenyetso PID1. Yabwiye Urugereko ko hari amasinya azwi y'Uregwa yari make cyane ku buryo atashoboye kuyagereranya n'ari kuri izo mpapuro zigibwaho impaka nta kwibeshya. Yongeyeho ko fotokopi zatanzwe kugira ngo zisuzumwe zitameze neza kandi ko bishoboka cyane ko ayo masinya yiganwe. Kubera ko ibi bitekerezo by'aba batangabuhamya bombi bivuguruzanya, Urugereko ntirushobora kwemeza, nta gushidikanya, ko ayo masinya ari ku nyandiko ziriho ikimenyetso PID1 ari ay'Uregwa koko. Kubera iyo mpamvu, ntirwakiriye izo nyandiko nk'ikimenyetso gihamya.

89. Urugereko rusanga mu buhamya bwe, QX avuga ko Liyetona Hategekimana, icyo gihe wari komanda w'ikigo cya Ngoma, yafatanyije n'abasirikare bo muri ESO kugaba ibitero ku mpunzi zari kuri Paruwasi ya Ngoma ku itariki ya 30 Mata 1994 cyangwa hafi y'iyo tariki. Rusanga kandi undi mutangabuhamya ushinja wiswe TQ avuga ko ku itariki ya 29 Mata 1994, Hategekimana, ari kumwe n'abasirikare babiri bo muri ESO aribo Liyetona Modeste Gatsinzi na Kapiteni Nizeyimana, yayoboye igitero simusiga cyagabwe ku Batutsi bari bahungiye muri « *Groupe scolaire* » [y'i Butare]. Urugereko rwanasuzumye ubuhamya bw'umutangabuhamya ushinjura wiswe MO23 buvuga ko, bitegetswe na Muvunyi, ku itariki ya 8 Mata 1994 muri ESO hashyizweho inite y'abapolisi ba gisirikare igizwe n'abasirikare n'abajandarume, kugira ngo ijye ifata abasirikare batorotse akazi. Byongeye kandi, YAO wafatiwe mu kigo cy'Abenebikira na YAN wafatiwe muri « *économat général* », bavuga ko bamaze gufatwa bajyanywe muri ESO, nuko bakahabona Muvunyi. Bavuga ko, bitegetswe na Muvunyi, bajyanywe kuri burigade ya jandarumori bakahafungirwa. Urugereko rwibutsa kandi ko YAN avuga ko

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[135] Ikimenyetso gihamya cyahawe nimero P.37, cyakiriwe muri dosiye ku itariki ya 8 Gicurasi 2006.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

yarokotse kubera umuntu wamusabiye imbabazi Muvunyi n'ubwo benshi mu bantu bari bafunganywe kuri iyo burigade batwawe bakicwa. Yongeraho ko yarokotse kubera ko Uregwa atategetse ko bamujyana.

90. Ikibazo Urugereko rufite ni icyo kumenya niba rushingiye ku bimenyetso byose rwashyikirijwe, Porokireri yaratanze ibimenyetso bihamya ko kuva muri Mata kugera muri Kamena 1994, Tharcisse Muvunyi yarakoze imirimo ya komanda w'akarere, ashinzwe umutekano muri Perefegitura ya Butare n'iya Gikongoro. Urugereko rusanga Porokireri atarabigaragaje ku buryo budashidikanywaho. Mu by'ukuri, ntihagaragajwe, ku buryo busobanutse neza ko umwanya wa komanda w'akarere wabagaho mu gisirikare cy'u Rwanda mu mwaka wa 1994, ngo hagaragazwe niba wari umwanya w'ubuyobozi gusa cyangwa niba umuntu wari kuri uwo mwanya yari ashinzwe n'ibikorwa birebana n'imirwano. Urugereko rusanga mu myanzuro mbanzirizarubanza ye, Porokireri avugamo impuguke mu bya gisirikare ariko ntiyigeze ayihamagaza ngo itange ubuhamya mu Rukiko, kandi ubuhamya bw'impuguke nk'iyo bwari gufasha Urugereko. Cyakora, Urugereko rwemera ko, nka komanda w'agateganyo wa ESO, Uregwa yategekaga ikigo cya ESO ashinzwe umutekano w'abaturage b'abasiviri mu karere ko hagati muri Perefegitura ya Butare ndetse anashinzwe ibikorwa by'abasirikare bo muri ESO muri ako karere.

91. Hatitawe ku mwamzuro warwo uvuga ko Porokireri atagaragaje mu buryo budashidikanywaho ko Uregwa yakoze imirimo ya *komanda w'akarere*, mu gusuzuma uburyozwacyaha bwe nk'umuntu wari ukuriye abandi, Urugereko rurazirikana ibintu bikurikira: kumenya niba Uregwa yaragenzuraga nyabyo ibikorwa by'abantu yari akuriye mu rwego rw'ubushobozi bufatika yari afite bwo kuburizamo ibyo bikorwa cyangwa guhana ababikoze; kumenya niba yari azi cyangwa yagombye kuba yari azi ko abantu yari akuriye bakoze ibyaha runaka cyangwa ko bari bagiye kubikora; no kumenya niba atarafashe ingamba za ngombwa kandi zishyize mu gaciro zo kuburizamo ikorwa ry'ibyaha cyangwa guhana ababikoze. Byongeye kandi, Urugereko rugomba gusuzuma, rukurikije imiterere ya buri kibazo, uburyozwacyaha bw'Uregwa mu bikorwa byihariye byakozwe n'abantu yari akuriye muri ESO bafatanyije n'izindi inite zo mu kigo cy'i

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Ngoma cyangwa zo muri jandarumori. Nk'uko bivugwa mu rubanza rwa Čelebič mu rugereko rwa Mbere rw'Iremezo, mu gusuzuma uburyozwacyaha bw'umuntu ukuriye abandi, Urugereko rugomba buri gihe kuzirikana ukuntu ibintu byari byifashe no kumenya uburyo abantu bashobora kwihishamo ngo badakurikiranwa ku byaha ndengakamere bakoze[136].

5. IBIREGO BYIHARIYE THARCISSE MUVUNYI ASHINJWA

5.1. Umuhango wo kurahiza perefe mushya wa Butare wabaye ku wa 19 mata 1994

5.1.1. Ibivugwa mu nyandiko y'ibirego

92. Igika cya 3.19 n'icya 3.20 by'Inyandiko y'ibirego biragira biti:

> 3.19. Ku itariki ya 19 Mata 1994, i Butare habereye umuhango, witabiriwe n'abantu benshi, wo kurahiza Perefe mushya ari we Sylvain Nsabimana. Iyo nama, yatangajwe ikanategurwa na Guverinoma y'agateganyo, yabereye i Butare ku ngoro ya MRND. Muri uwo muhango, Perezida Théodore Sindikubwabo yavuze disikuru rutwitsi, ahamagarira abaturage b'i Butare, ku mugaragaro kandi ku buryo bweruye, gukurikiza urugero rwo mu yandi ma perefegitura, bityo bagatangira kwica. Yamaganye bikomeye abo yise « ba nyirantibindeba », ni ukuvuga abumvaga batarebwa n'ibyarimo kuba, n'uko arababwira ati: « Nimuve mu nzira » maze yongeraho ati « nimutureke dukore ». Minisitiri w'Intebe, Jean Kambanda wakurikiyeho mu gufata ijambo, ntiyavuguruje Perezida wa Repubulika.
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> 3.20. Liyetona Koloneli **Tharcisse Muvunyi** yitabiriye iyo nama, ari na yo ya mbere yagiyemo nka Komanda w'ibikorwa bya gisirikare muri Perefegitura ya Butare. Kuba Liyetona Koloneli **Tharcisse Muvunyi** yari muri iyo nama kandi ntiyitandukanye n'amagambo yavuzwe na Perezida wa Repubulika, yagaragarije abaturage ko abasirikare bashyigikiye ubwicanyi.

[136] *Urubanza rwa Delalić na bagenzi be,* Inyandiko y'urubanza mu rw'iremezo, igika 377.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.1.2. Ibimenyetso

Umutangabuhamya ushinja wiswe YAA

93. Mu buhamya bwe mu Rukiko, YAA avuga ko i Butare ibintu byahindutse nyuma y'ijambo Théodore Sindikubwabo, wari Perezida w'agateganyo, yavugiye mu muhango wo kurahiza perefe mushya ari we Sylvain Nsabimana[137]. Umutangabuhamya yumvise iryo jambo kuri Radiyo Rwanda i Kigali ku itariki ya 19 Mata 1994, ni ukuvuga uwo munsi iyo mihango iba kandi hari hasigaye icyumweru kimwe ngo ave i Kigali[138]. Muri uwo muhango, Perezida Théodore Sindikubwabo yahamagariye abaturage « kugira icyo bakora » kandi avuga ko « abumva bitabareba » « bagomba guhaguruka bagakora ». YAA avuga ko ijambo « gukora » icyo gihe ryashakaga kuvuga ubwicanyi bwakorwaga n'Interahamwe. Yemeza ko iyo disikuru yahamagariye abaturage bo muri Butare kwitabira ubwicanyi kubera ko mbere yayo ubwicanyi butari bwagatangira muri Butare[139].

Umutangabuhamya ushinja wiswe NN

94. Umutangabuhamya ushinja wiswe NN avuga ko nta mvururu cyangwa ubwicanyi byari byarabaye i Butare mbere y'uko Perezida ahaza. Ku itariki ya 19 Mata 1994, Perezida Théodore Sindikubwabo yavuze ijambo mu nama yabaye ubwo yasuraga Butare, kandi NN yumviye iryo jambo kuri radio. Muri iyo nama, Sindikubwabo yashimangiye ko abaturage b'i Butare bitwaraga nk'aho batarebwa n'ibyarimo kuba. Ku munsi wakurikiye urwo ruzinduko rwa Perezida, i Butare habaye imvururu maze ubwicanyi buratangira. Akomeza avuga ko iyo urebye iyo disikuru n'ingaruka zayo, Perezida yashakaga kubwira abaturage b'i Butare ko bagomba gukora nk'abaturage bo mu yandi maperefegitura[140].

95. N'ubwo atari muri yo nama, NN avuga ko azi abayitabiriye kubera ko buri gihe iyo Perezida yajjayaga i Butare yakirwaga n'abantu bamwe. NN yemeza ko abategetsi

[137] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, imp.14, 15.
[138] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, urup.17.
[139] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, imp. 14, 15, 16.
[140] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 31, 32.

bakurikira bari muri iyo nama: perefe, komanda w'akarere, burugumesitiri n'abandi bategetsi bo mu rwego rwa perefegitura. Muri make, Théodore Sindikubwabo yakiriwe n'abayobozi ba gisiviri na gisirikare bo muri ako karere[141].

Umutangabuhamya ushinjura wiswe MO01

96. Ku itariki ya 6 Mata 1994, MO01 yakoraga mu i seminari nkuru ya Nyakibanda, iri nko mu birometero icyenda uvuye i Butare[142]. Yagumye yo kugeza ahungiye mu mahanga mu ntangiriro za Nyakanga 1994[143]. MO01 avuga ko hagati y'itariki ya 1 Gicurasi n'iya 1 Nyakanga 1994, yagiye kwa musenyeri i Butare nibura inshuro eshanu. Mu buhamya bwe, uyu mutangabuhamya avuga ko n'ubwo yumvise kuri radiyo bavuga ko Perezida Théodore Sindikubwabo yaje i Butare, atigeze yumva ko Perezida yavuze ijambo mu nama yabaye ku itariki ya 19 cyangwa ku ya 20 Mata 1994. Ku itariki ya 20 Mata, uyu mutangabuhamya yagiye ku Karubanda maze agaruka mu iseminari Nkuru hashize icyumweru kimwe. Cyakora, MO01 yibuka ko yumvise bavuga ko Perezida yari yaje i Butare mu rugendo rwo kugarura amahoro[144].

Umutangabuhamya ushinjura wiswe MO37

97. Uyu mutangabuhamya yabaga i Nyamirambo, muri Perefegitura ya Kigali igihe Perezida w'u Rwanda yapfaga ku itariki ya 6 Mata 1994[145]. Kubera ko i Kigali umutekano wagendaga urushaho kuba mubi, MO37 na fiyanse we biyemeje kujya i Butare, hashize nk'icyumweru Perezida apfuye. Bageze i Butare, basanze hari ituze ndetse bashobora no kugenda n'amaguru bakajya mu misa kwa Musenyeri[146]. Cyakora, ku itariki ya 19

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[141] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 33, 34: NN aragira ati: "Ndashaka rero kuvuga ko mbere y'uko Perezida wa Repubulika aza i Butare muri icyo gihe cy'amahina ndetse no mu gihe Perezida Habyarimana yari akiri Perezida aho yajyaga hose yakirwaga na Perefe wa Perefegitura agiyemo, umukuru w'ingabo muri ako karere, abayobozi ba gisirikare n'ababurugumesitiri. N'ubwo ubwunganizi buvuga ko ntagiye muri iyo nama, nshobora kuvuga ko ntigeze njya aho Perezida Habyarimana yabaga yagiye hose. Nyamara ariko, iyo yazaga i Butare nabaga ndi mu bajyaga kumwakira. Nk'urugero, iyo yakoreshaga inama muri sitade abo bayobozi ni bo bazaga kumwakira. Niyo mpamvu rero mvuga ko abo bayobozi bitabiriye inama yakoreshejwe na Sindikubwabo".

[142] Inyandikomvugo y'iburanisha (mu muhezo), 22 Werurwe 2006, imp. 4-5.

[143] Inyandikomvugo y'iburanisha (mu muhezo), 22 Werurwe 2006, imp. 4-5.

[144] Inyandikomvugo y'iburanisha (mu muhezo), 22 Werurwe 2006, urup.18 (ibaza rinyomoza).

[145] Inyandikomvugo y'iburanisha (mu muhezo), 9 Gashyantare 2006, urup.11.

[146] Inyandikomvugo y'iburanisha (mu muhezo), 9 Gashyantare 2006, urup.14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

cyangwa hafi y'iyo tariki, Musenyeri wa diyosezi ya Butare yababwiye ko bitari bikiri ngombwa ko baza mu misa maze abagira inama yo kuguma mu rugo. MO37 avuga ko ubwo bageraga i Butare, Jean-Baptiste Habyarimana ari we wari Perefe. Nyamara ariko, ku itariki ya 20 Mata, Habyarimana ntiyari akiri perefe kuko yari yaraye akuweho ku itariki ya 19 Mata, na Perezida Théodore Sindikubwabo mu ijambo yavugiye mu muhango wo kurahiza perefe mushya ari we Nsabimana. Umutangabuhamya asobanura kandi ko nyuma y'iryo jambo rya Perezida, ibyerekeranye n'umutekano mu mugi wa Butare byahindutse cyane kuko Perefe Habyarimana amaze kuvaho ubwicanyi bwatangiye[147].

5.1.3. Isesengura ry'Urugereko

98. Urugereko rusanga ubuhamya bw'abatangabuhamya bashinja n'abashinjura bugaragaza ko ku itariki ya 19 Mata 1994, Perezida Théodore Sindikubwabo yavuze ijambo imbere y'imbaga y'abantu i Butare mu mihango yo kurahiza Perefe mushya wa Butare ari we Sylvain Nsabimana. Urugereko rusanga kandi, n'ubwo abatangabuhamya bashinja biswe NN na YAA bumviye iryo jambo kuri radiyo, ibyo bavuga byari birikubiyemo bisa cyane ku buryo bakwizerwa. Ibimenyetso bigaragaza ko i Butare ubwicanyi rusange bwibasiye Abatutsi bwatangiye nyuma y'ijambo rya Perezida. Byongeye kandi, Urugereko rwemera igisobanuro YAA aha ijambo rya Perezida aho avuga ko, ubwo Perezida yavugaga ati « muhaguruke mukore » na « mugire icyo mukora », mu by'ukuri yahamagariraga abaturage kwishora mu bikorwa by'urugomo. Byongeye kandi, Urugereko rwasuzumye raporo z'abahanga mu by'imikoreshereze y'ururimi mu mibereho n'imico by'abantu batanzwe na Porokireri n'Ubwunganizi. Rumaze kuzisuzuma, Urugereko rwasanze mu rwego rw'intambara yabaye mu Rwanda mu mwaka wa 1994, ayo magambo yarumvikanaga ko ari ahamagarira abantu kwica Abatutsi[148].

99. Cyakora, nta buhamya bwakwizerwa Urugereko rwigeze rwumva buvuga ko Muvunyi yari muri iyo nama. Rushingiye ku bimenyetso byose rwashyikirijwe n'imiterere

[147] Inyandikomvugo y'iburanisha (mu muhezo), 9 Gashyantare 2006, urup.15.
[148] Inyandikomvugo y'iburanisha, 6 Nyakanga 2005, imp. 15-22.

y'urubanza, Urugereko rusanga Porokireri ataragaragaje, mu buryo budashidikanywaho, ko Muvunyi yari mu nama yabaye ku itariki ya 19 Mata 1994 ubwo Perezida Théodore Sindikubwabo yahamagariraga Abahutu « guhaguruka bagakora », ayo magambo akaba yarumvikanaga ko yari ukubakangurira kwica Abatutsi.

5.2. Inama y'aba ofisiye ba ESO yabaye nyuma y'ijambo Perezida Théodore Sindikubwabo yavugiye mu muhango wo kurahiza perefe mushya

5.2.1. Inyandiko y'ibirego

100. Igika cya 3.23 cy'*Inyandiko y'ibirego* kigira kiti:

> 3.23. Nyuma y'uruzinduko rwa Perezida Sindikubwabo, Liyetona Koloneli **Tharcisse Muvunyi,** ashingiye ku bubasha yahabwaga n'amategeko n'ubundi atayakomoragaho kuri ba ofisiye no ku basirikare bo muri ESO, yatumije inama y'aba ofisiye n'aba suzofisiye bo muri iryo shuri. Muri iyo nama yabamenyesheje ko ibyifuzo bya Perezida bigomba gufatwa nk'amategeko agomba gushyirwa mu bikorwa.

5.2.2. Ibimenyetso

Umutangabuhamya ushinja wiswe NN

101. Mu buhamya bwe mu Rukiko, NN avuga ko ku itariki ya 20 Mata 1994, mu kigo cya ESO, Liyetona Koloneli Muvunyi yakoresheje, inama yitabiriwe n'aba ofisiye n'abasuzofiye babarirwa hagati ya 10 na 15, barimo Kapiteni Nizeyimana[149]. Abitabiriye iyo nama bayimenyeshejwe mu butumwa bwari bwanditse mu gifaransa ku kibaho. Ubwo butumwa bwavugaga ko iyo nama yari iy'aba ofisiye n'abasuzofisiye bo hejuru bo muri ESO[150].

102. NN akomeza avuga ko muri iyo nama yamaze isaha imwe, Muvunyi yasubiyemo ibyo Perezida Théodore Sindikubwabo yari yavuze ko abanyabutare ntacyo bari bitayeho

[149] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 36, 37-38; Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, imp. 28, 30-32 (ibaza rinyomoza).
[150] Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, urup.28 (ibaza rinyomoza).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kandi ko bumvaga ibyarimo kuba bitabareba[151]. Muvunyi yabwiye rero abitabiriye iyo nama ko ibyo Perezida yari yavuze byagombaga gufatwa nk'amategeko agomba gushyirwa mu bikorwa[152]. Inama irangiye ubwicanyi bwaratangiye[153].

103. NN avuga kandi ko Muvunyi yamaganye abantu bamwe ko bakoraga ibintu bataherewe uruhushya. Umutangabuhamya yumvise ko Muvunyi ari we yashakaga kuvuga kubera ko yari yagiye ku mupaka w'u Rwanda n'u Burundi afasha Abatutsi guhunga imirwano. Koko rero, Kapiteni Nizeyimana na Muvunyi bombi bari bamubajije iby'urwo rugendo ku itariki ya 19 Mata 1994[154].

Umutangabuhamya ushinjura wiswe MO15

104. MO15 avuga ko ku itariki ya 20 Mata, Muvunyi yatumije inama y'abakuru b'imirimo muri ESO. N'ubwo MO15 atari muri iyo nama, uwari umukuriye yamubwiye ko iyo nama yayobowe na Muvunyi wavuze ko bagomba kongera ingufu mu birebana no kwirinda muri ESO kubera ko umutekano wari warushijeho kuba mubi i Butare[155]. Mu gitondo cyo ku itariki ya 20 Mata 1994, Muvunyi yayoboye iperu ry'abasirikare maze ababwira ko bagomba kongera ingufu ku birebana no kwirinda kandi bakaba maso kugira ngo bafate abantu basahuraga baba abasiviri cyangwa abasirikare. MO15 yongeraho ko amaze kuvuga ayo magambo, Muvunyi yagiye maze abasirikare bagasigara bategekwa na Kapiteni Nizeyimana. Nyuma, uyu mutangabuhamya yumvise Nizeyimana abwira bamwe mu basuzofisiye ko ibyo Muvunyi amaze kuvuga ku mutekano atari byo, ko amagambo ya Perezida Théodore Sindikubwabo agomba gufatwa nk'itegeko, ndetse ko

[151] Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, urup. 38.
[152] Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, urup. 37.
[153] Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, urup. 37.
[154] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup. 37.
[155] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, imp. 11, 12. Umutangabuhamya wiswe MO15 aragira ati: «Nyuma y'ijambo rya Sindikubwabo, umu ofisiye mukuru wari muri Butare ari we Liyetona Koloneli Tharcisse Muvunyi yakoresheje inama abakuru b'imirimo muri ESO ku itariki ya 20 nyuma ya saa sita. Iyo nama yari yitabiriwe n'abakuru b'imirimo n'abakomanda batatu ba kompanyi zari i Butare ». Abajijwe n'Uwunganira Uregwa icyo iyo nama yagezeho, MO15 yashubije muri aya magambo: «Nk'uko nabivuze, sinari muri iyo nama. Sinari umukuru w'umurimo cyangwa ngo mbere umukuru wa kompanyi. Cyakora komanda wanjye niwe wambwiye ibyavugiwe muri iyo nama. Yambwiye rero ko iyo nama yari yayobowe na Liyetona Koloneli Muvunyi wavuze ko umutekano warushijeho kuba mubi i Butare, ko bagombaga gukaza umurego mu kurinda ikigo cya ESO kandi ko kompanyi ishinzwe umutekano mu mugi yagombaga kurushaho kuba maso ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Muvunyi ari icyitso cya FPR[156].

5.2.3. Isesengura ry'Urugereko

105. Urugereko rwemera ubuhamya bw'umutangabuhamya ushinja wiswe NN buvuga ko ku itariki ya 20 Mata 1994, Muvunyi yakoresheje inama y'aba ofisiye ba ESO, agasubiramo ibikubiye mu ijambo rya Perezida Théodore Sindikubwabo. Urugereko rusanga kandi Muvunyi yarabwiye abitabiriye iyo nama ko bagombaga kumva icyo Perezida wa Repubulika yashakaga kuvuga maze bagafata amagambo ye nk'itegeko rigomba gushyirwa mu bikorwa. Urugereko rwemera kandi ko hashize igihe gito iyo nama irangiye, ubwicanyi bwahise butangira i Butare.

106. Urugereko rwasuzumye ubuhamya bw'umutangabuhamya ushinjura wiswe MO15 buvuga ko ku itariki ya 20 Mata umu ofisiye wari umukuriye yamubwiye ko Muvunyi yakoresheje inama y'abakuru b'imirimo bo muri ESO akababwira ko umutekano warimo kugenda urushaho kuba muke muri Butare kandi ko bagomba kongera ingufu mu birebana no kwirinda muri ESO. Ku byerekeranye no kumenya niba ari Muvunyi cyangwa ari Nizeyimana wavuze ko amagambo ya Perezida Théodore Sindikubwabo yagombaga gufatwa nk'itegeko, Urugereko ruha agaciro kanini ubuhamya bwa NN wari muri iyo nama, aho kugaha ubwa MO15 uvuga gusa ibyo yumvise.

107. Kubera iyo mpamvu, Urugereko rusanze mu nama y'aba ofisiye ba ESO yabaye ku itariki ya 20 Mata 1994, Muvunyi yarababwiye ko bagomba gufata amagambo ya Perezida Théodore Sindikubwabo nk'Itegeko rigomba gushyirwa mu bikorwa.

5.3. Ishyirwaho ry'amabariyeri muri Perefegitura ya Butare

5.3.1. Ibivugwa mu nyandiko y'ibirego

108. Igika cya 3.33 n'icya 3.34 bigira biti:

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[156] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup.16.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.33. Ku itariki ya 27 Mata 1994, Guverinoma y'agateganyo yategetse ko hashyirwaho za bariyeri, kandi izi ko izo bariyeri zari izo kurobanura Abatutsi n'ibyitso byabo kugira ngo bicwe. Iryo tegeko ryarubahirijwe, bariyeri zishyirwaho muri Butare.

3.34. Izo bariyeri zitwaga ko ari izo kugenzura ko nta ntwaro zihita no kubuza umwanzi gucengera. Bariyeri zari i Rwasave, Rwabuye, imbere ya Hotel Faucon, imbere y'ikigo cya gisirikare cy'i Ngoma, imbere ya Hotel Ibis, ku isangano ry'imihanda rigana ku bitaro bya kaminuza, iruhande rwo kwa Bihira n'imbere y'ishuri rya ESO. Abarindaga izo bariyeri basakaga abasiviri bahanyuze kugira ngo bagenzure indangamuntu zabo kandi banabuze umwanzi gucengera.

5.3.2. Ibimenyetso

Umutangabuhamya ushinja wiswe QX

109. QX ni umupadiri w'Umututsi, akaba ku itariki ya 4 no ku ya 5 Ukuboza 2003, yaratanze ubuhamya ari i Kigali hanze y'icyicaro cy'Urukiko[157]. Muri ubwo buhamya, avuga ko itariki ya 7 Mata 1994 ariho umuntu yamubwiye kuri telephone ko Perezida Habyarimana yapfuye. Nyuma yaho, yaje kwemezwa iyo nkuru n'uko abyumviye mu makuru mu itangazo ryahise kuri Radiyo Rwanda rinasaba abaturage kuguma mu ngo. Muri icyo gihe yumvise kandi *Radio France Internationale* itangaza ko i Kigali ubwicanyi bwari bwatangiye[158].

110. Uyu mutangabuhamya yumvise kandi abantu bavuga ko i Butare, abayoboke ba MRND bari batangiye gushyira za bariyeri mu mihanda no mu mayira. Yongeraho ko kubera ko hari igihe « abantu bemererwaga gusohoka kugira ngo bajye guhaha », rimwe yasohotse nuko ageze hafi y'ikigo cy'i Ngoma, asanga abasirikare bitwaje intwaro bashyizeho

[157] Icyemezo ku Cyifuzo cyihutirwa cyane cya Porokireri gisaba ko ubuhamya bwa QX bwafatirwa hanze y'icyicaro cy'Urukiko, hashingiwe ku ngingo ya 71 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 11 Ugushyingo 2003. Urugereko rwasanze kuba QX ageze mu zabukuru kandi adafite amagara mazima ari impamvu zidasanzwe ziteganywa n'Ingingo ya 71 y'amategeko. Urugereko rwazirikanye kandi ko ubuhamya bw'uyu mutangabuhamya bwerekeranye n'ubwicanyi yiboneye bwakorewe kuri Paruwasi ya Ngoma ku itariki ya 30 Mata 1994.

[158] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 3.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bariyeri kandi bayirinze. Avuga ko « umuntu wese wahanyuraga yagombaga kwerekana indangamuntu ye »[159].

111. QX avuga ko hari ikindi gihe yagiye guha amasakaramentu abarwayi maze agasanga bariyeri hafi ya Paruwasi y'i Ngoma irinzwe n'abasiviri bitwaje amahiri n'ibyuma. Avuga ko abantu bose banyuraga kuri bariyeri bagombaga kwerekana indangamuntu zabo kandi uwo basangaga ari Umututsi yaricwaga. N'ubwo mu kugenda abarinze iyo bariyeri batamwatse indangamuntu, mu kugaruka bamusabye kuyerekana, maze ababwira ko yari yayisize mu rugo. Bamuhaye umuntu bajyana kugira ngo yerekane iyo ndangamuntu. Bageze mu rugo, QX yeretse uwo muntu indangamuntu ye maze nawe aramubwira ati: « ngwino tugende, hari ibyo ugomba gusobanurira abarinze bariyeri ». Ageze kuri iyo bariyeri, yahasanze umuntu wo mu bwoko bw'Abahutu wamubwiye « gusubira mu rugo » maze amwizeza ko ari busobanurire abarinze bariyeri uko bimeze[160].

Umutangabuhamya ushinja wiswe KAL

112. KAL ni umusirikare wakoreraga muri ESO mu mwaka wa 1994. Avuga ko igihe kimwe hagati ya Mata na Kamena 1994, yasohotse muri ESO agiye kugura amata hafi yo mu Cyarabu. Ageze hafi y'umuryango wa kabiri wa ESO ahantu hitwa mu Cyarabu, yahasanze bariyeri ikoreshejwe ibiti bitambitse mu muhanda. Benshi mu bantu bari barinze iyo bariyeri bari abasirikare bo muri ESO, barimo Kaporali Mazimpaka na Kaporali Niyibizi bigaga mu cyitwaga *« ESO nouvelle formule »*. KAL avuga ko bahagarikaga abantu kuri bariyeri kugira ngo barebe niba ari Abatutsi cyangwa ibyitso by'Inkotanyi. Asobanura ko ijambo Inkotanyi ryavugaga abataravugaga rumwe na Guverinoma yariho icyo gihe, abantu bari ku rugamba barwana n'ingabo za Leta cyangwa abari baracengeye muri Butare. Yongeraho ko n'Abatutsi bafatwaga

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[159] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 14. Umutangabuhamya avuga ko hari bariyeri « hafi y'ikigo cya gisirikare …irinzwe n'abasirikare bafite intwaro ».
[160] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, imp.13, 14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

nk'Inkotanyi[161.]

113. KAL avuga ko, kuri iyo bariyeri, abantu basangaga ari Abatutsi cyangwa Inkotanyi babajyanaga muri ESO. Nyuma yaho bakaza gusohorwa muri icyo kigo n'abasirikare barimo Liyetona Bizimana na Liyetona Gatsinzi, ndetse n'abanyeshuri ba « *ESO nouvelle formule* ». Abasirikare batwaraga abo basiviri basaga n'abafite amategeko bagenderaho. Basaga n'abahawe uruhushya rwo kwica abantu kandi wabonaga bishimiye ibyo bakoraga[162]. KAL yemera ko atiboneye n'amaso ye ubwicanyi bwakorewe umuntu uwo ari we wese wakuwe muri ESO. Cyakora, yongeraho ko abantu bose bari bazi ko ubwicanyi bukorwa, kandi ko abasirikare babukoraga bagarukaga mu kigo bigamba ku mugaragaro ibyo bakoze[163].

<u>*Umutangabuhamya ushinja wiswe YAA*</u>

114. YAA yari umusirikare muri ESO mu mwaka wa 1994. Avuga ko ku itariki ya 7 cyangwa ku ya 8 Mata 1994, yabonye bariyeri yari yashyizwe mu Cyarabu, ahantu hari intera iri hagati ya metero 100 na 200 uvuye kuri ESO. Iyo bariyeri yari irinzwe n'abasirikare bageze kuri 12 bo muri ESO kandi bafite intwaro. Buri wese yari yitwaje intwaro zirimo imbunda zo mu bwoko bwa FAL, R-4 cyangwa J-3. Izo mbunda zari zimwe n'izakoreshwaga muri ESO kandi zarimo amasasu[164].

115. YAA avuga ko abantu bahagarikirwaga kuri bariyeri, bagategekwa kwerekana indangamuntu zabo. Bamwe muri bo bakubitishwaga intwaro. Abo basangaga ari

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[161] Inyandikomvugo y'iburanisha (mu muhezo), 2 Werurwe 2005, imp. 7, 8, 12.

[162] Inyandikomvugo y'iburanisha (mu muhezo), 7 Werurwe 2005, urup. 35.

[163] Inyandikomvugo y'iburanisha, 7 Werurwe 2005, imp. 35-37. KAL aragira ati: «Abasirikare banyuraga kuri iyo bariyeri binjira mu kigo kandi bigamba ko bafashe abantu. Ntibyari bigoye kumenya ibyarimo kuba. Ibyo ari byo byose, uko abantu bagendaga bahanyura, twabonagamo abo tudasanzwe tuzi, kandi nta kuntu umuntu atashoboraga kumenya ibirimo kuba. Byaravugwaga… sinigeze nibonera n'amaso yanjye ubwicanyi bwakorewe hanze ya ESO, ariko ababaga babukoze barabyigambaga. Hari abakiri mu Rwanda, mushobora kubasanga mu maperefegitura anyuranye ».

[164] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 42. YAA aragira ati: « Ubusanzwe, uretse ku iperu ryabaga mu gihe cyo kuzamura ibendera, buri musirikare yari afite intwaro ye. Ubundi kandi, hari inzu yabikwagamo amasasu, ari naho abasirikare b'abanyeshuri babikaga imbunda zabo iyo babaga bagiye mu ishuri. Cyakora, kuva ku itariki ya 6 Mata 1994, buri musirikare yaba uw'umunyeshuri cyangwa utari we, yabaga afite imbunda irimo amasasu ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Abatutsi bakubitirwaga aho kuri bariyeri mu gihe Abahutu bo babarekaga bagatambuka. Yibuka ko ku iperu ry'abasirikare ryabaye ku itariki ya 7 Mata 1994, Kapiteni Nizeyimana yemeje ko indege ya Perezida Habyarimana yari yahanuwe na FPR. YAA asobanura kandi ko kubera ko, muri rusange, Abatutsi babaga mu Rwanda bafatwaga nk'ibyitso bya FPR, nabo baregwaga ko bishe Perezida[165].

116. Ku itariki ya 12 cyangwa ku ya 13 Mata 1994, YAA n'itsinda rito ry'abasirikare ba ESO boherejwe i Kigali. Agenda, yabonye bariyeri ya kabiri kuri *Hotel Faucon*. Iyo bariyeri yagenzurwaga n'itsinda ry'abasirikare b'abanyeshuri bo muri ESO bari hagati ya 10 na 12, bakaba bari bitwaje imbunda zo mu bwoko bwa FAL, R-4 na J-3. Bamwe muri bo bari bitwaje n'amagerenade. N'ubwo atatinze cyane kuri iyo bariyeri, YAA yabonye ko abasirikare bagenzuraga indangamuntu z'abantu bacaga kuri bariyeri.[166]

117. Umutangabuhamya wiswe YAA yabonye izindi bariyeri ebyiri mu mugi wa Butare. Imwe yari ku isangano ry'umuhanda ujya ku Gikongoro n'uwinjira mu mugi wa Butare, indi yari i Rwabuye. Izo bariyeri zombi zari zirinzwe n'Interahamwe zifite imbunda, amagerenade n'intwaro gakondo nk'imipanga n'amacumu. YAA yabonye kandi izindi bariyeri ku muhanda uva i Butare ujya i Kigali kandi kuri buri bariyeri abantu basabwaga kwerekana ibyangombwa byabo[167].

Umutangabuhamya ushinja wiswe XV

118. Mu gihe ibivugwa byabaga, Umutangabuhamya wiswe XV yakoraga ku bitaro bya Kaminuza y'i Butare. Ku itariki ya 7 Mata, yamenye ko Perezida Habyarimana yapfuye abyumviye kuri Radiyo Rwanda. Bukeye, « abaturage bose bari ku dusozi, kandi hategetswe ko hashyirwaho za bariyeri cyane cyane mu mugi wa Butare ».

[165] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 43, aho YAA agira ati: « Nkurikije ibyavugwaga muri rusange, iyo bavugaga FPR, abantu bumvaga ko Abatutsi baba mu gihugu bari ibyitso bya FPR. Byongeye kandi, ku iperu ryabaye mu gitondo cyo ku itariki ya 7, Kapiteni Nizeyimana yavuze ko indege ya Perezida Habyarimana yari yahanuwe na FPR. Ibyo rero byashakaga kuvuga ko Abatutsi bafatwaga nk'ibyitso bya FPR nabo bagomba kubiryozwa ».

[166] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 42-43.

[167] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup.43. Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, urup. 7.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya avuga ko mu mugi bariyeri zashyizweho n'abasirikare bo mu kigo cya ESO n'icya Ngoma, kandi zaberagaho ibikorwa by'urugomo rukabije. Yibutse amazina y'abasirikare babiri bo muri ESO yabonye kuri bariyeri, ari bo « Rapide » na « Kazungu ». Uwo witwaga Kazungu ni ryo ryari izina rye ry'irihimbano kubera ko yari inzobe. Kuri izo bariyeri abantu bakekwagaho kuba Abatutsi bagombaga kwerekana indangamuntu zabo kandi bashoboraga kugirirwa nabi kubera gusa uko basa[168].

Umutangabuhamya ushinja wiswe CCQ

119. Ku itariki ya 20 Mata 1994, umutangabuhamya wiswe CCQ yajyanye umugore we ku ivuriro rya *Groupe scolaire* i Butare abifashijwemo n'umupadiri wo kuri paruwasi ya Ngoma. Umugore we yari amaze gufatwa n'indwara y'umutima. Mu nzira, banyuze kuri bariyeri yari kuri *Hotel Faucon* irinzwe n'abasirikare, babarirwa hagati ya batandatu n'icumi, n'*Interahamwe.* Umwe muri abo basirikare yarabahagaritse abasaba kumwereka indangamuntu zabo. CCQ yari azi bamwe mu basirikare bari kuri iyo bariyeri kuko bavukaga muri segiteri ye, kandi yari azi ko bakora muri ESO[169].

120. CCQ n'umugore we berekanye indangamuntu zabo zanditsemo ko ari Abahutu[170]. Padiri wari kumwe nabo nta ndangamuntu yari afite, ariko yari afite ikindi cya ngombwa kigaragaza ko ari padiri kandi ari Umututsi. Kuri iyo bariyeri, padiri yabajijwe ibibazo mu gihe cy'isaha n'igice mbere y'uko bamureka agatambuka. Bamubajije ibibazo kubera ko abasirikare bari bahawe itegeko ryo guhagarika Abatutsi bose. CCQ amaze kubinginga ababwira ko nibatabareka ngo batambuke umugore yitaba Imana, nibwo babaretse baragenda. Ariko abasirikare bavuze ko mu gihe kiratenze iminota 15, Padiri

[168] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp.7-8.
[169] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, imp. 14, 23.
[170] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup. 15. Uwo mutangabuhamya yaragize kandi ati: « Indangamuntu yanjye yari yanditsemo ko ndi Umuhutu. … Nyamara ariko sinari uwo mu bwoko bw'Abahutu. Ndi Umututsi ariko umugore wanjye yari Umuhutukazi. … Mu ndangamuntu yanjye hari handitsemo ko ndi Umuhutu kubera ko mu wa 1959 data yahinduye ubwoko mu ndangamuntu ye nyuma y'ishingwa ry'ishyaka MDR. Ubwo data yasabaga indangamuntu yandikishijemo ko ari Umuhutu. Nguko uko natwe abana be twafashe ubwo bwoko. … kwari ukugirango twirengere kubera ko icyo gihe hari intambara isa n'iyo mu wa 1994. Ariko rero, icyo gihe ubwicanyi ntibwafashe intera nk'iyo mu wa 1994 ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

agomba kugaruka aho kuri bariyeri anyuze inzira imwe n'iyo twari tunyuzemo[171].

121. CCQ anasobanura ko Abahutu bari bemerewe kunyura kuri za bariyeri nta nkomyi mu gihe Abatutsi birukanwaga, bagatwikirwa amazu kandi bakagabwaho ibitero hakoreshejwe imbunda n'intwaro gakondo. Avuga ko bariyeri zashyizweho mu rwego rwo kugaba ibitero ku Batutsi[172].

122. CCQ avuga ko bavuye kuri bariyeri yo kuri Hotel Faucon, bageze imbere yo kwa Bihira bahasanga indi. N'ubwo kuri iyo bariyeri nta bintu byari bitambitse mu muhanda, hari abasirikare bafite intwaro maze barabahagarika bababaza aho bagiye. Babashubije ko bajyanye umurwayi kwa muganga. CCQ yongeraho ko bahagaze akanya gato kuri iyo bariyeri kuko abasirikare basanze bari bakorewe igenzura kuri bariyeri ibanza[173].

123. Kuri iyo bariyeri ya kabiri, CCQ yabonye abasore batatu barebare basa n'aho ari Abatutsi. Abasirikare barimo babasaba kubereka indangamuntu zabo. Yanabonye umwe muri abo basirikare afite inkota iriho amaraso ayizunguza avuga ko barangije kwica *Inyenzi*. CCQ yumvise ko ibyo bishaka kuvuga ko abasirikare bari bamaze kwica Abatutsi[174].

124. Bamaze kugera ku bitaro, CCQ yasize umugore we ajya kugura ibiryo. Yanyuze inzira bari banyuzemo mbere bajya ku ivuriro. Ubwo rero yanyuze kuri ya bariyeri yari imbere yo kwa Bihira, maze abona imirambo ya ba basore batatu yari yasize kuri bariyeri. Iyo mirambo yari yajugunywe mu muferege, kandi ba nyakwigendera bari bicishijwe amasasu. CCQ yabamenye kubera imyenda bari bambaye bityo ashobora kumenya ko ari ba basore batatu yari yabonye mbere. Yakomeje inzira ajya kugura ibiryo mu mugi maze

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[171] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup. 15. Ku rupapuro rwa 31 rw'inyandikomvugo y'iburanisha, umutangabuhamya asobanura ko umupadiri yari yamuhaye amafaranga y'amanyarwanda ari hagati ya 1. 000 na 2. 000 kugira ngo ayahe abasirikare, ariko abasirikare banze kuyakira.

[172] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup. 16.
« Ikibazo: Kuki uvuga ko abasirikare bari bahawe amabwiriza yo gufata Abatutsi?
Igisubizo: Ni uko ibintu byari bimeze mu Rwanda. Twese twari tubizi. Twari tuzi ibirimo kuba. Bari baratangiye kuduhiga, gutwika amazu yacu, kutugabaho ibitero bakoresheje imbunda, ibihiri n'ibindi. Murumva rero ko izo bariyeri zari zifite impamvu zashyiriweho. Nk'ubwo, ntibatubajije ibyangombwa by'imodoka ahubwo badusabye gusa kwerekana indangamuntu zacu».

[173] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup.16.

[174] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup. 16.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

agaruka ku ivuriro kureba umugore we[175].

125. CCQ yanabwiye Urugereko ko ku itariki ya 21 Mata 1994 ubwo yari agiye gusura umuryango we mu Matyazo, yabonye Muvunyi ari kumwe na Roberi Kajuga[176], n'abasirikare kuri bariyeri yari imbere ya Hotel Faucon. Yari ku rundi ruhande rw'umuhanda aho Muvunyi na bagenzi be bari bahagaze, ariko yababonaga baganira. Avuga ko Muvunyi yarimo guha abasirikare amategeko. Bamusabye gutanga indangamuntu, arayerekana maze akomeze urugendo rwe[177].

126. CCQ avuga kandi ko muri Butare hari za bariyeri nyinshi. Abivuga muri aya magambo: « kuva mu Matyazo kugera i Tumba unyuze kuri *Groupe scolaire* hari za bariyeri kandi nazinyuzeho zose. Izo bariyeri zari ahantu hakurikira: mu Matyazo, ku kigo cy'abasirikare cy'i Ngoma, imbere y'ahitwaga kuri « *Extension universitaire* », imbere ya Hotel Faucon, Imbere yo kwa *Bihira* hari bariyeri yari igizwe n'abasirikare gusa, imbere yo kwa Pauline Nyiramasuhuko, ku Mukoni, n'i Tumba. Aho hantu hose narahanyuze »[178].

Umutangabuhamya ushinja wiswe YAN

127. Umutangabuhamya ushinja wiswe YAN yabaga muri Perefegitura ya Gikongoro ubwo indege ya Perezida Habyarimana yahanurwaga. Mu ntambara, yavuye ku Gikongoro ajya i Butare maze acumbika muri *Procure,* hazwi ku izina rya *Economat général*, hafi ya Groupe scolaire. Muri Gicurasi hagati, abasirikare bo muri ESO bayobowe na Liyetona Gakwerere baramufashe bamujyana muri ESO bamutwaye inyuma mu ikamyoneti y'igitare ifite ikizuru kimwe. Nyuma yaho, yafungiwe kuri burigade mu gihe kiri hagati y'ibyumweru bibiri na bitatu. Afunguwe, yabonye bariyeri nyinshi harimo izari aha hakurikira: imbere yo kwa *Bihira*, iruhande rwa Kaminuza, hafi y'inzu ya Nyiramasuhuko, n'imbere ya Hotel Faucon. Izo bariyeri zose zari zirinzwe n'abasirikare

[175] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup. 17.
[176] Mu wa 1994, abantu bavugaga ko Kajuga ari we mukuru w'Interahamwe mu Rwanda.
[177] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, imp. 17-18.
[178] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup. 19.

n'*Interahamwe*. YAN avuga ko abasirikare bakoranaga n'*Interahamwe* kandi bagafatanya kugenzura bariyeri. Avuga ko *Interahamwe* ari « abicanyi » bari barahawe imyitozo ya gisirikare, bambaye imyenda idoze mu bitenge kandi bafite imbunda n'intwaro gakondo nk'imipanga[179].

128. Porokireri amubajije ukuntu yashoboye kunyura kuri izo bariyeri zose ntibamwice, YAN yasubije ko yabonaga izo bariyeri ariko akirinda kuzinyuraho[180].

<u>Umutangabuhamya ushinja wiswe AFV</u>

129. Ubwo indege ya Perezida yahanurwaga ku itariki ya 6 Mata 1994, umutangabuhamya wiswe AFV yari umukozi w'ibitaro bya Kaminuza y'i Butare. Avuga ko ku itariki ya 20 Mata 1994 yatangiriwe kuri bariyeri ubwo yari atashye avuye ku bitaro. Iyo bariyeri yari irinzwe n'abasirikare « barenze bane » bafite imbunda, imikandara iriho amasasu, na za gerenade. Iyo bariyeri yari mu isangano ry'umuhanda ujya kuri Laboratwari ya Kaminuza n'ujya ku bitaro bya Kaminuza. AFV avuga ko abo basirikare bari abo muri ESO kuko bari bafite intwaro n'imyenda ya gisirikare ifite amabara yatumaga amenya ko ari abasirikare bo muri ESO. Ariko kubera ubwoba ntiyabonye ingofero abo basirikare bari bambaye cyangwa ngo abone niba bari bazambaye. Byongeye kandi, yumvaga ari abasirikare bo muri ESO kubera ko iyo bariyeri yari ahantu umuntu yagenda nk'iminota 10 gusa uvuye ku kigo cya ESO, kandi abasirikare barasimburanaga kuri iyo bariyeri[181].

130. AFV avuga ko abasirakare bakaga abagenzi indangamuntu kandi bakavangura Abahutu n'Abatutsi. Abari bafite indangamuntu zanditsemo ko ari Abahutu barabarekaga bagatambuka naho Abatutsi bakabagumisha kuri bariyeri bakabasaka. Avuga ibyamubayeho ubwe kuri iyo bariyeri, AFV asobanura ko bamusatse, bakamukubita kandi abasirikare bamubaza niba yibwira ko ari igitangaza. Banamubajije ukuntu

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[179] Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, urup.10.Izo bariyeri zacungwaga n'abasirikare n'Interahamwe. Interahamwe zakoranaga n'abasirikare. Iyo bashakaga kwica umuntu barabikoraga. Byagaragaraga ko bari bafatanyije gucunga izo bariyei. Ubwo Porokireri yamusabaga gusobanura Interahamwe icyo aricyo, YAN yaragize ati: «Interahamwe bari abicanyi bari barahawe imyitozo ya gisirikare. Bari bambaye imyenda ibaranga idoze mu bitenge. Ni abantu bari barahawe imyitozo. Ntibari bameze nk'abandi bantu. Bari barahawe imyitozo ».

[180] Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, urup. 11.

[181] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 5.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

atinyuka kujya ku kazi. Umutangabuhamya yongeraho ko umukobwa bari hamwe, bagera kuri iyo bariyeri, yishwe n'abasirikare ahari, bamaze kubona ko ari Umututsikazi, ariko uwo mukobwa akaba yari yaciye indangamuntu ye. Umurambo we wajugunywe mu muferege[182].

131. Byongeye kandi AFV avuga ko umwe mu basirikare yabwiye bagenzi ati, « Turebe igitsina cy'uyu Mututsikazi. Bishoboka bite ko mukora kandi abandi badakora »? Nyuma yaho yabwiye bagenzi be ko bagomba kumuherekeza, noneho akazagaruka bukeye kubiyereka. Avuga ko kuri we yumvise uwo musirikare ashaka kuvuga ko bari bumwice bamaze kureba igitsina cye. AFV avuga ko abasirikare babiri bafite intwaro bamujyanye bamukuye kuri bariyeri bavuga ko bamujyanye iwe. Ariko baramukubise bamujyana mu ishyamba. Mu nzira, abasirikare bamukubitaga bavuga ko bagiye kureba igitsina cye kugira ngo barebe niba ari umuntu udasanzwe. Baramutukaga cyane. Agira ati, « numvise ko bagiye kungirira nabi, urebye ukuntu bankubitaga n'ukuntu bari bishe umukobwa twari kumwe. Numvise ko bagiye kunyica ». Ni yo mpamvu yasabye abo basirikare kumwica ako kanya aho kumujyana hirya kumwica urubozo[183].

132. N'ubwo yabinginze ngo bamwicire aho hantu, abasirikare bamujyanye mu ishyamba riri «hafi yo ku Mukoni, umuntu amanuka yerekeza kuri Kaminuza ». Avuga ko agereranyije hagati y'iyo bariyeri n'aho bamujyanye hari intera ya metero zigeze kuri ebyiri, ariko yongeraho ko hari intera ingana n'iri hagati yaho abaregwa bicara n'umuryango w'icyumba cy'iburanisha. Yongera ho ati « Umuntu ari kuri bariyeri yashoboraga kubona iryo shyamba ». Umutangabuhamya avuga ko bamujyanye mu ishyamba hagati ya saa kumi n'igice na saa kumi n'imwe za nimugoroba. Ariko ashimangira ko ari ukugereranya kuko yari afite ubwoba kandi ko atarebye ku isaha. Nyuma yaho abasirikare

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[182] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 13. Uwo mutangabuhamya yavuze ibyamubayeho kuri bariyeri agira ati: « Babwiraga abagenzi kwerekana indangamuntu zabo maze bagacagura Abatutsi n'Abahutu. Iyo umuntu yabaga afite indangamuntu yanditsemo ko uri « Umuhutu » » baramurekaga agatambuka naho Abatutsi bakabasigarana. Baradusakaga … Baransatse, bantegeka kwerekana indangamuntu, ari na ko banyuka inabi. Bambajije niba ndi umuntu w'igitangaza, maze bambaza ukuntu ntinyuka kujya ku kazi. … Numvise ko bagiye no kungirira nabi kubera ko bari bamaze kwica umukobwa twari kumwe bakajugunya umurambo we mu muferege. … Nari nazanye n'uwo mukobwa, nta ndangamuntu yari afite kuko yari yayiciye. Abo basirikare bamaze kuvumbura ko turi Abatutsikazi, bamunyiciye mu maso maze bajugunya umurambo we mu muferege ».

[183] Inyandikomvugo y'iburanisha, 21 Kamena 2005, imp. 14, 15.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bamusambanyije ku gahato[184].

<u>Umutangabuhamya ushinja wiswe YAQ</u>

133. Umutangabuhamya wiswe YAQ avuga ko ku itariki ya 24 Mata 1994 yabonye Muvunyi kuri bariyeri yari muri Serire ya Rumba, Segiteri ya Kibilizi, ariko kumwe n'abategetsi bo muri Leta bo muri ako karere, barimo Nteziryayo na Kalimanzira. Umutangabuhamya yari mu bantu barinze iyo bariyeri. Avuga ko Muvunyi n'abandi bantu bageze ku 10, barimo abasirikare, bahageze bari mu modoka ya Toyota y'igitare, itari iya gisirikare. Bwari ubwa mbere Umutangabuhamya abona Muvunyi, kandi ntiyari azi amazina y'abategetsi bari kumwe na we kugeza ubwo bababeretse mu « nama y'umutekano » yabereye hafi y'iyo bariyeri ku manywa. YAQ avuga ko Gasana, wari umuyobozi wa MDR-*Power*, yerekanye Muvunyi muri iyo nama yari iyobowe na Muvunyi na Alphonse Nteziryayo. Mu ibazwa rinyomoza, YAQ ahakana ko mu buhamya bwanditse yatanze ku itariki ya 4 Gashyantare 2000 yavuze ko kuri bariyeri Muvunyi yari kumwe na Nteziryayo na Kalimanzira, avuga ko yavuze ahubwo ko Muvunyi yari kumwe na Nteziryayo na Nsabimana nk'uko abisubiramo imbere y'Urugereko[185].

134. Uregwa, kimwe n'abandi basirikare b'aba ofisiye bafashe ijambo imbere y'imbaga y'abantu. Uregwa yaragize ati: « ejo mu gitondo cya kare, nindasanga imirambo kuri bariyeri, nzafata umwanzuro ko muri Abatutsi kandi nzizanira abasirikare maze tureke abagabye ibitero baturutse i Shyanda baze, ndetse banabice»[186] . Bukeye, ni ukuvuga ku itariki ya 25 Mata 1994, Uregwa yagarutse kuri iyo bariyeri kureba niba ubwicanyi bwatangiye. Umutangabuhamya avuga ko Uregwa ahageze yasanze imirambo kuri bariyeri – « umuntu wa mbere wishwe ni Umututsi witwaga Rwabigwi, hishwe kandi na Rubanda, Isador Mutiganda na Kayiranga. Ayo ni yo mazina nibuka ariko ndumva hari imirambo igeze kuri irindwi »[187].

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184 Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 15.
185 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 4, 5, 8, 16, 19.
186 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 6.
187 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 7.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinjura wiswe MO01

135. Umutangabuhamya ushinjura wiswe MO01 avuga ko ku itariki ya 14 Mata 1994, cyangwa hafi y'iyo tariki, yagiye i Butare avuye mu i Seminari nkuru ya Nyakibanda. Avuga ko yanyuze mu muhanda unyura kuri Kaminuza y'i Butare, ahagana ku isangano ry'imihanda imbere yo kwa Bihira[188]. Agenda cyangwa agaruka, ntiyabonye abasirikare ku muhanda, ndetse nta na bariyeri yabonye ku isangano ry'imihanda imbere yo kwa Bihira[189]. Ku itariki ya 20 Mata, MO01 yavuye mu Iseminari nkuru ya Nyakibanda agiye muri Seminari nto ya Karubanda aho yamaze icyumweru. Yanyuze umuhanda yari yaciyemo ku itariki ya 14 Mata, kandi icyo gihe ntiyabonye abasirikare ndetse ntiyanabona bariyeri kwa *Bihira*[190].

136. Umutangabuhamya wiswe MO01 avuga ko muri Kamena 1994, agiye kwa Musenyeri i Butare, yabonye bariyeri ku isangano ry'imihanda kwa *Bihira*[191]. Avuga ko iyo bariyeri yari irinzwe n'abasiviri kuko umuntu wamubwiye kwerekana icyangombwa atari yambaye imyenda cyangwa ingofero bya gisirikare[192].

Umutangabuhamya ushinjura wiswe MO23

137. Umutangabuhamya wiswe MO23 wigaga mu ishuri rya ESO *Nouvelle formule*, muri Mata 1994, yari muri kompanyi ishinzwe gutabara, ikaba yari ishinzwe umutekano mu mugi wa Butare, iyoborwa na Liyetona Gakwerere[193]. Kompanyi ishinzwe gutabara yari imwe muri za inite zashyizweho ku itariki ya 8 Mata 1994 na Kapiteni Nizeyimana mu nama Muvunyi nawe yarimo. Umutangabuhamya avuga ko, muri iyo nama, Muvunyi yafashe ijambo imbere y'abasirikare akabagira inama yo kubahiriza amategeko. Hanashyizweho kompanyi ishinzwe kurinda ikigo cya ESO maze ishingwa Liyetona

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188 Inyandikomvugo y'iburanisha, 22 Werurwe 2006, urup. 12.
189 Inyandikomvugo y'iburanisha, 22 Werurwe 2006, imp. 12.
190 Inyandikomvugo y'iburanisha, 22 Werurwe 2006, urup. 10.
191 Inyandikomvugo y'iburanisha, 22 Werurwe 2006, urup. 12.
192 Inyandikomvugo y'iburanisha, 22 Werurwe 2006, urup. 19.
193 Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, imp.14, 15.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Bizimana, na kompanyi y'ingoboka yagumye mu kigo iyobowe na Liyetona Gatsinzi[194].

138. MO23 avuga ko kompanyi ishinzwe gutabara yari ishinzwe gushyiraho za bariyeri muri Butare. Avuga ko bariyeri imwe yari ku muryango wa kabiri wa ESO, indi iri mu Cyarabu, izindi zikaba kuri Hotel Faucon, hoteli Ibis no ku isangano ry'imihanda imbere yo kwa Bihira[195]. MO23 avuga ko yoherejwe gucunga bariyeri yo kwa Bihira yashyizweho ku itariki ya 9 Mata, ariko ahamara iminsi ibiri gusa. MO23 avuga ko iyo bariyeri yakuweho Komite ya Perefegitura ya Butare imaze kwemeza ko itakiri ngombwa. Mu gihe MO23 yari kuri bariyeri, nta muntu n'umwe yigeze ahafatira[196].

Umutangabuhamya ushinjura wiswe MO30

139. Umutangabuhamya wiswe MO30 avuga ko, uko abizi, nta bariyeri zari i Butare kuva ku itariki ya 7 kugeza ku ya 8 Mata 1994. Ariko, hagati y'itariki ya 8 n'iya 10 Mata yabonye bariyeri imwe gusa « ahagana ku mangazini ya Bihira », ahari ka rompuwe gatoya ku muhanda ugana kuri Katederali ya Butare. Iyo bariyeri yahamaze nk'umunsi umwe cyangwa ibiri gusa maze ikurwaho ku itariki ya 11 Mata[197]. Hagati y'itariki ya 7 n'iya 21 Mata, MO30 ntiyagiye mu Cyarabu cyangwa kuri ESO kandi muri icyo gihe nta bariyeri yabonye zirinzwe n'abasirikare[198].

140. MO30 avuga ko nyuma y'itariki ya 20 cyangwa iya 21 Mata 1994, hari bariyeri nyinshi i Butare[199]. Yibuka izari aha hakurikira: imbere ya Hotel Faucon, hagati y'urugo rwa Minisitiri Nyiramasuhuko na koleji y'abaporoso, no hafi ya Laboratwari y'ibitaro bya Kaminuza. Iyo bariyeri ya nyuma yari irinzwe n'abasore b'abasiviri atekereza ko bari abanyeshuri bari baragumye mu kigo cya Kaminuza. MO30 avuga ko nta bariyeri yigeze abona kwa Bihira muri Gicurasi 1994[200].

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194 Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, urup. 14.
195 Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, urup. 15.
196 Inyandikomvugo y'iburanisha (mu muhezo), 16 Werurwe 2006, imp. 16, 17, 29, 31.
197 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp.10, 28, 29.
198 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup.11.
199 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 29.
200 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 12, 13.

Umutangabuhamya ushinjura wiswe MO48

141. Muri Mata 1994, umutangabuhamya wiswe MO48 yabaga muri Komini ya Mugusa, Perefegitura ya Butare[201]. Ku itariki ya 7 Mata, yumvise inkuru y'uko Perezida yapfuye maze abona abaturage muri komini ye baguye mu kantu. Avuga ko hashize nk'ibyumweru bibiri Perezida apfuye, ahagana ku itariki ya 20 Mata 1994, Tharcisse Singisabana, wari konseye wa segiteri ye, yasabye abaturage gutangira kurara amarondo kuko « ibintu byari bimeze nabi[202] ». Abaturage, barimo Abahutu n'Abatutsi, bari batangiye kwicana[203].

142. MO48 avuga ko icyatumye bariyeri zishyirwaho kwari ukugira ngo abantu badafite indangamuntu bafatwe bajyanwe ku biro bya komini. Abacungaga za bariyeri basakaga kandi mu mifuka no mu bikapu bareba ko nta muntu ufite intwaro. Asobanura ko abantu baturutse muri Uganda aribo bari *Inkotanyi* kuko bakoranaga na FPR[204].

143. MO48 avuga ko yoherejwe gucunga bariyeri yari i Cyamugasa, mu birometero 7 cyangwa 8 uvuye ku biro bya Komini ya Mugusa ku muhanda ujya Cyiri-Gikonko. Amaserire yose yasabwaga gutanga abasiviri bitwaje intwaro gakondo kugira ngo bacunge za bariyeri[205]. Yacunze bariyeri iminsi ine gusa nyuma y'ishyirwaho ryayo kuko yarwaye malariya maze agasaba umukuru wa serire uruhushya rwo kureka gukora ako kazi. Muri icyo gihe yamaze kuri bariyeri, nta musirikare yahabonye kandi nta muntu yabonye ahicirwa. Byongeye kandi abantu bacunze bariyeri adahari ntibigeze bavuga ko hari umuntu wahiciwe. Yongeraho ko mu by'ukuri abari bacunze za bariyeri batari bafite ububasha bwo kwica, bari barababujije kugira umuntu n'umwe bashyiraho iterabwoba, kandi nta mbunda bari bafite[206].

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[201] Inyandikomvugo y'iburanisha, 14 Werurwe 2006, urup. 34. Ikimenyetso gihamya cyahawe N° D.53 cyakiriwe muri dosiye ku itariki ya 14 Werurwe 2006.
[202] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 37, 44.
[203] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 44; Inyandikomvugo y'iburanisha, 16 Werurwe 2006, urup. 4 (ibaza rinyomoza).
[204] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 46-47.
[205] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 37, 38.
[206] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 47, 48.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinjura wiswe MO69

144. Umutangabuhamya wiswe MO69 yabaga i Kigali n'umuryango we ku itariki ya 6 Mata 1994. Muri Gicurasi yimukiye i Butare kubera impamvu z'umutekano. I Butare, MO69 yabonye za bariyeri ahantu henshi harimo iyari mu isangano ry'umuhanda ujya ku Gikongoro n'uwinjira mu mugi wa Butare, n'iyari kuri Hotel Faucon. Yabanje kuvuga ko bariyeri yari kuri Hotel Faucon yari icunzwe n'« insoresore[207] », ariko nyuma avuga ko iyo bariyeri yari icunzwe n'abasirikare bari « bambaye imyenda isanzwe y'ingabo z'igihugu n'ingofero ». Yongeraho ariko ko « hafi aho hari abandi bantu[208] ».

Umutangabuhamya ushinjura wiswe MO73

145. Ku itariki ya 16 Mata 1994, cyangwa hafi y'iyo tariki, umutangabuhamya wiswe MO73 n'umuryango we bavuye mu rugo rwabo muri Komini ya Rubungo i Kigali, bamaze kumenya ko urugo rwabo rugiye guterwa n'*Interahamwe*. Bafashe imodoka maze berekeza iya Butare, bahagera hashize amasaha agera kuri atanu, maze bacumbika muri Hotel Faucon. Avuga ko kuva i Rubungo kugera i Butare, no kurinda bagera kuri Hotel Faucon, nta bariyeri n'imwe banyuzeho[209].

146. MO73 avuga ko ku itariki ya 20 Mata cyangwa hafi y'iyo tariki, we n'umuryango we bavuye kuri Hotel Faucon bakajya muri ESO kubera ko ku itariki ya 19 Mata 1994 umutekano wari warushijeho kuba muke i Butare[210]. Muri ESO, Koloneli Muvunyi yacumbikiye umutangabuhamya n'umuryango we muri imwe mu mazu y'aba ofisiye yari nko muri metero 50 uvuye ku icumbi ry'akazi rya Koloneli Muvunyi. Bagumye muri ESO kugeza ahagana ku itariki ya 21 Gicurasi 1994, ubwo Muvunyi yabahaga abasirikare batandatu bo kubaherekeza bari muri kamyoneti, maze bambuka umupaka bajya i Burundi[211].

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[207] Inyandikomvugo y'iburanisha (mu muhezo), 9 Gashyantare 2006, urup. 50.
[208] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 59.
[209] Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, imp. 17, 19.
[210] Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, urup. 23.
[211] Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, urup. 31.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

147. MO73 avuga ko ubwo yari muri ESO muri Mata na Gicurasi 1994, imbere y'icyo kigo hari bariyeri[212]. Avuga kandi ko ku itariki ya 23 cyangwa iya 24 Mata yagiye n'amaguru ava kuri ESO agera kuri Kaminuza y'i Butare gufata ibintu bye, anyuze ku ibitaro bya Kaminuza. Nta bariyeri yabonye irinzwe n'abasirikare kandi nta n'iyo yabonye kuri laboratwari ya Kaminuza. Ariko avuga ko hari bariyeri yari i Kagaro ku gahanda gato kajya ku muhanda munini Kigali/Butare. Iyo bariyeri yari iruhande rwa Kaminuza kandi uwo mutangabuhamya atekereza ko yari irinzwe n'abanyeshyuri bo mu ishami ry'amategeko[213]. Byongeye kandi, igihe yari muri ESO, yagiye mu mugi hagati i Butare hagati y'inshuro enye n'eshanu anyuze imbere ya Hotel Faucon, ko kandi buri gihe yahanyuraga yabonaga imbere y'iyo hoteli bariyeri irinzwe n'abasirikare. Ntiyabonye abantu bashyirwaho iterabwoba cyangwa bakorerwa ibikorwa bibi kuri bariyeri, kandi ntiyigeze yumva hari uvuga ko ibintu nk'ibyo byabaye « kubera ko abantu bavugaga ko abasirikare barinze za bariyeri bitwaraga neza »[214].

<u>*Umutangabuhamya ushinjura wiswe MO15*</u>

148. Umutangabuhamya ushinjura wiswe MO15 avuga ko mu rwego rwo kubungabunga umurtekano muri Butare, hashyizweho za bariyeri ahantu hanyuranye hagati y'itariki ya 8 n'iya 10 Mata 1994. Hamwe mu hashyizwe izo bariyeri ni aha hakurikira: hafi y'ikigo cya ESO mu Cyarabu, kuri Hotel Faucon, mu masangano y'umuhanda ugana ku Gikongoro n'ugana i Kigali, no kwa *Bihira*[215]. Izo bariyeri zose zacungwaga n'abasirikare bari bagize kompanyi ishinzwe gutabara *(compagnie d'intervention)* yategekwaga na Liyetona Gakwerere. Umutangabuhamya yahakanye, yivuye inyuma, ko abasiviri bacunze za bariyeri[216]. Abasirikare basabaga abantu banyura kuri izo bariyeri kwerekana indangamuntu kugira ngo baburizemo icengera ry'ingabo za FPR mu karere bagenzura[217].

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212 Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, urup. 10.
213 Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, urup. 26.
214 Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, urup. 27.
215 Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 6.
216 Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 6.
217 Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 6; Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2006, urup. 4.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

149. MO15 yabanje kuvuga ko bariyeri yo kwa *Bihira* yakuweho hashize iminsi icyenda ishyizweho[218]. Ariko nyuma, yaje kuvuga ko ubwo yavaga i Butare ku itariki ya 3 Gicurasi 1994 yasize bariyeri yo kuri Hotel Faucon, iyo mu masangano y'umuhanda ujya i Kigali n'ujya ku Gikongoro n'iyo kwa *Bihira,* zikiriho[219].

5.3.3. Isesengura ry'Urugereko

150. Rushingiye ku buhamya bwatanzwe n'abagabo bashinja biswe XV, QX, KAL na YAA, n'abatangabuhamya bashinjura biswe MO15 na MO23, Urugereko rusanze muri Butare bariyeri zarashyizweho mu minsi yakurikiye urupfu rwa Perezida Habyarimana.

151. Urugereko rusanze kandi inyinshi muri izo bariyeri zarashyizweho kandi zigacungwa n'abasirikare, cyane cyane abo muri ESO. Koko rero, kompanyi yari ishinzwe gutabara yashyizweho muri ESO ku itariki ya 8 Mata 1994, ikaba yari ishinzwe by'umwihariko gushyiraho no gucunga za bariyeri mu mugi wa Butare. Nk'uko umutangabuhamya ushinjura wiswe MO23 abivuga, iyo kompanyi yashyizeho ayo amabariyeri hafi ya Hotel Faucon, kuri Hotel Ibis, kwa *Bihira* no mu Cyarabu hafi ya ESO. Abatangabuhamya biswe KAL, YAA, XV, CCQ, YAN, AFV, MO15 na MO23 bavuga bose ko abasirikare bo muri ESO bagize uruhare mu gushyiraho no gucunga za bariyeri. By'umwihariko, Urugereko ruzirikana ubuhamya bwatanzwe mu Rukiko n'abagabo bashinja biswe KAL na YAA, bombi bakoraga muri ESO mu wa 1994 kandi bamenye neza, kuri bariyeri zinyuranye i Butare, abasirikare bo muri ESO kuko bari basanzwe babazi.

152. Urugereko rusanze ibimenyetso bishinja byatanzwe na Porokireri bishyigikirwa cyane n'ibishinjura byatanzwe n'Ubwunganizi. Koko rero, umutangabuhamya Ndindiliyimana, hamwe n'abiswe MO01, MO23, MO30, MO48, MO69, MO73 na MO15 bose bemeje ko muri Butare hari za bariyeri nyinshi kandi bavuga ko izo bariyeri zari zarashyiriweho guhagarika abantu hakagenzurwa indangamuntu zabo kugira ngo hajonjorwemo abasirikare b'abacengezi ba FPR. Abatangabuhamya bashinjura b'abasirikare nka Ndindiliyimana, abiswe MO23 na MO15 bavuga bose ko bariyeri z'i Butare zacungwaga

[218] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 4.
[219] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 4.

n'abasirikare bo muri ESO.

153. Urugereko rusanze mu bihe bitandukanye, kuva ku itariki ya 7 Mata kugera hagati muri Kamena 1994, ahantu hakurikira hari za bariyeri: muri metero 100 cyangwa 200 uvuye ku kigo cya ESO, nk'uko bigaragazwa n'ubuhamya bwatanzwe mu Rukiko n'abatangabuhamya biswe KAL, YAA, MO23, MO73 na MO15; ku kigo cy'i Ngoma, nk'uko bigaragazwa n'ubuhamya bw'abatangabuhamya biswe QX na CCQ; kuri Hotel Faucon, nibura ku itariki ya 20 cyangwa iya 21 Mata, nk'uko byavuzwe n'abatangabuhamya biswe YAA, CCQ, YAN, MO69, MO30, MO23, MO73 na MO15; kuri hoteli Ibis, nk'uko bivugwa mu buhamya bwatanzwe mu Rukiko n'umutangabuhamya wiswe MO23; nibura hafi ya Kaminuza y'i Butare nk'uko bivugwa n'abatangabuhamya biswe CCQ, YAN, AFV, MO01, MO30 et MO73; kwa *Bihira*, nk'uko bivugwa n'abatangabuhamya biswe CCQ, MO15 na MO23; mu Matyazo, nk'uko bivugwa n'abatangabuhamya biswe QX na CCQ; i Rwabuye, nk'uko bivugwa n'umutangabuhamya wiswe YAA; mu masangano y'umuhanda ugana i Kigali n'ugana ku Gikongoro, nk'uko bivugwa n'abatangabuhamya biswe YAA na MO15; i Cyamugasa aho umutangabuhamya wiswe MO48 yakoraga; muri Serire ya Rumba aho umutangabuhamya wiswe YAQ avuga ko yakoze; n'ahandi hantu henshi nk'uko bivugwa n'umutangabuhamya wiswe YAA.

154. Nta kimenyetso cyatanzwe gihamya ko za bariyeri zari mu Matyazo, muri Rwabuye n'i Cyamugasa zacungwaga n'abasirikare. Urugereko rusanze bariyeri yo muri Rwabuye yaracungwaga n'abasiviri bafite intwaro, ni ukuvuga Interahamwe. Byongeyeye kandi, birashoboka cyane ko bariyeri yari ku kigo cy'i Ngoma yarindwaga n'abasirikare bo muri icyo kigo, kandi Porokireri ntiyagaragaje ko hari igihe abasirikare bo muri ESO bari aho hantu. Mu gusoza kuri iki kibazo, Urugereko rusanze abasirikare n'abasiviri bafite intwaro barafatanyije kenshi. Ingero: ku itariki ya 20 Mata umutangabuhamya wiswe CCQ avuga ko yabonye kuri Hotel Faucon abasirikare babarirwa hagati ya batandatu n'icumi bari kumwe n'Interahamwe nyinshi zifite intwaro gakondo; CCQ avuga kandi ko yiboneye Uregwa imbere ya Hotel Faucon aganira na Roberi Kajuga, bivugwa ko yari umukuru w'Interahamwe, ari kumwe n'abandi basirikare n'izindi *Interahamwe*. Cyakora,

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kubera ko nta wundi umutangabuhamya washyigikiye ubwo buhamya, Urugereko rusanze byaba ari ukudashishoza gushingira kuri ubwo buhamya cyangwa kubushingiraho uvuga ko Muvunyi yafatanyije n'abantu yari akuriye, cyangwa ko yabategetse gufatanya n'Interahamwe kuri iyo bariyeri cyangwa akemera ko bafatanya na zo[220].

155. Urugereko rusanze kuri izo bariyeri, umusiviri wese wahanyuraga yarasakwaga hagamijwe kugenzura umwirondoro we. Rusanze kandi n'ubwo ubutegetsi bwavugaga ko izo bariyeri zashyiriweho kubuza abasirikare b'umwanzi gucengera, mu by'ukuri zarakoreshejwe mu gucagura abasiviri b'Abatutsi kugira ngo bicwe. Abatangabuhamya bashinja biswe YAA, CCQ, AFV, KAL, QX, XV na YAN bose bavuga ko abantu bacungaga za bariyeri i Butare bagenzuraga indangamuntu.

156. Rumaze gusuzuma ubuhamya bw'umutangabuhamya wiswe YAQ, buvuga ko Muvunyi yari kuri bariyeri muri Serire ya Rumba ku itariki ya 24 Mata 1994, Urugereko rusanze ubwo buhamya atari ubwo kwemerwa. Koko rero, YAQ yari Interahamwe akaba afite impamvu zamutera gukabya inkuru ku ruhare rwa Muvunyi muri jenoside, agamije koroshya uruhare yagize ubwe muri jenoside. Byongeye kandi, nta wundi mutangabuhamya washyigikiye ibyo avuga kuri icyo kibazo.

157. Rushingiye ku bimenyetso byose bishinja n'ibishinjura byatanzwe, Urugereko ntirushidikanya ko hagati y'itariki ya 7 Mata n'iya 15 Kamena 1994, ahantu hanyuranye muri Butare hashinzwe za bariyeri zicungwa n'abasirikare bo mu kigo cya ESO. Ibyavugwaga ku mugaragaro n'uko izo bariyeri zari zigamije kubuza abasirikare b'umwanzi gucengera, ariko mu by'ukuri zakoreshejwe mu gucagura Abatutsi ngo bicwe. Urugereko rusanze Muvunyi yari azi cyangwa yaragombaga kuba azi ko izo bariyeri zariho kubera impamvu zikurikira: kuba hariho bariyeri nyinshi muri Butare; kuba kuri izo bariyeri harakorewe ubwicanyi bukomeye; kuba zimwe muri izo bariyeri

[220] *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu bujurire, igika 75; *Urubanza rwa Kupreškić,* Inyandiko y'urubanza mu bujurire, igika 39. Mu izo manza zombi, Urugereko rw'ubujurire rwasabye ko hagomba kuba «Ubwitonzi bukomeye » mbere yo kwiyemeza gushingira ku kuba umuntu yaramenye undi kandi hari mu bihe bikomeye.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

zari zegereye ikigo cya ESO no kuba abasirikare bo muri ESO baroherejwe ku buryo buri kuri gahunda gucunga izo bariyeri. Rusanze rero Muvunyi atarafashe ingamba za ngombwa kandi zishyize mu gaciro ngo ahagarike ubwicanyi abasirikare bo muri ESO bakoreye abasiviri b'Abatutsi kuri izo bariyeri.

5.4. Inama nkangurambaga

5.4.1. Ibivugwa mu nyandiko y'ibirego

158. Igika cya 3.24 n'icya 3.25 bigira biti:

> 3.24. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, Liyetona Koloneli **Tharcisse Muvunyi**, ari hamwe na Perezida wa gahunda y'ukwirengera kw'abaturage *(Civil defense)* muri Perefegitura ya Butare, waje nyuma kuba Perefe w'iyo perefegitura, n'abandi bantu bakomeye bo muri iyo perefegitura, bagiye mu makomine atandukanye ya Perefegitura ya Butare, byitwa ko bajyanywe no gukangurira abaturage bo muri ayo makomine kurengera igihugu. Nyamara mu by'ukuri, bashakaga kubahamagarira gukora ubwicanyi bwibasiye Abatutsi. Ayo manama yo guhamagarira abaturage gukora ubwicanyi yabereye ahantu hanyuranye muri Perefegitura ya Butare. Muri ho havugwa nk'aha hakurikira:
>
> - Muri Komine ya Mugusa, ahagana mu mpera za Mata 1994;
> - Kuri santeri y'ubucuruzi ya Gikore, ahagana mu ntangiriro za Gicurasi 1994;
> - Ku biro bya Komine ya Muyaga, hagati y'itariki ya 3 n'iya 5 Kamena 1994;
> - Muri Segiteri ya Nyabitare, ho muri Komine ya Muganza, ahagana mu ntangiriro za Kamena 1994.
>
> 3.125. Mu nama zivugwa hejuru mu gika cya 3.24, mu bazitabiriye hafi ya bose bakaba bari Abahutu, Liyetona Koloneli **Muvunyi,** afatanyije n'abategetsi bo muri utwo duce, yavugiye mu ruhame amagambo akarishye yibasiye Abatutsi. Ayo magambo yavugaga akoresheje imigani ya kinyarwanda akaba yarayagejeje ku baturage baho no ku bantu bitwaraga gisirikare. Abaturage bumvise ko iyo migani ibahamagarira gutsembatsemba Abatutsi, kandi buri gihe izo nama zakurikirwaga

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

n'ubwicanyi bwibasiraga Abatutsi bari batuye muri ayo makomine cyangwa bari barahahungiye.

5.4.2. Inama zabereye kuri santeri y'ubucuruzi ya Nyantanga no ku biro bya Komini ya Nyakizu

5.4.2.1. Ibimenyetso

Umutangabuhamya ushinja wiswe CCR

159. Umutangabuhamya ushinja wiswe CCR avuga ko ku itariki ya 6 Mata 1994 ubwo indege ya Perezida Habyarimana yahanurwaga, yari atuye muri Komini ya Nyakizu, Perefegitura ya Butare.

160. Ku itariki ya 20 Mata, ahagana mu ma saa ine za mu gitondo, CCR yumvise itangazo ryanyujijwe mu ndangururamajwi yari ku modoka rihamagarira abaturage kwitabira « inama y'umutekano » kuri santeri y'ubucuruzi ya Nyantanga. Yagiye muri iyo nama yabaye hagati ya saa munani na saa cyenda z'amanywa. Iyo nama yitabiriwe n'abantu bo mu moko yose baturutse mu masegiteri atatu yabariwaga mu yari agize komini [ya Nyakizu]. Iyo nama yitabiriwe kandi na Koloneli Tharcisse Muvunyi, Kapitene Niyomugabo, Liyetona Emmanuel, omoniye umwe w'abasirikare nibura, Perefe wa Perefegitura ya Butare n'abandi bategetsi benshi bo mu rwego rwa komini n'urwa perefegitura[221].

161. Abayobozi benshi bafashe ijambo icyo gihe. Mu ijambo rye, burugumesitiri yavuze ko inama yatumijwe kubera ko umukuru w'abasirikare mu karere, ari we Koloneli Tharcisse Muvunyi yifuje kuza aho ngaho kugira ngo « agenzure uko ibintu byifashe » kandi abwire abaturage « ikigomba gukorwa ». Mu ijambo rye, Koloneli Muvunyi yaragize ati: « Mbese muzi ko turi mu ntambara. Turimo kurwana n'umwanzi nk'uko twamurwanyije kera, uwo mwanzi akaba ari Inyenzi. Muri iki gihe akaba yariyise irindi zina ari ryo FPR. Ni intambara ikomeye, niyo mpamvu tubasaba kudutera inkunga. Mwebwe baturage

[221] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 3.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mugomba kudufasha mu rwego rwa gahunda yacu yo kwirengera kw'abaturage[222] ». Muvunyi yongeyeho ko bukeye hazaba indi nama azaheramo abaturage ba Komini ya Nyakizu intwaro[223].

162. Bukeye ku itariki ya 21 Mata, habaye koko inama ya kabiri ku biro bya Komini ya Nyakizu. Muri iyo nama Tharcisse Muvunyi n'abandi bategetsi bagejeje ijambo ku baturage. Burugumesitiri yabwiye abitabiriye iyo nama ko « Guverinoma yafashe icyemezo cyo gushyiraho gahunda yo kwirengera kw'abaturage » maze asaba Uregwa gusobanura imiterere y'intambara n'ingamba zigomba gufatwa. Muvunyi yibukije abaturage inama yari yaraye ibaye maze agira ati: « Ikibazo kiriho ubu ni uko igihugu cyacu kiri mu ntambara turwana n'umwanzi wiyise FPR kandi ari umwe twarwanyije kera witwaga *Inyenzi* ». Yakomeje agira ati: « Intambara turwana ubu irakaze, irakomeye kubera ko uwo mwanzi arwana intambara yo mu rwego rwa gisirikare kandi agakoresha ibyitso bye. Twebwe abasirikare banyu, turi ku ruhembe rw'urugamba, twaje kubakangurira kurwanya ibyitso bibarimo. […] FPR – Inyenzi yahaye intwaro ibyitso byayo. Niyo mpamvu natwe tubazaniye intwaro kugira ngo muhangane n'ibyo byitso ». Yongeyeho ati: « Ibintu bigomba kumvikana neza, birazwi hose, abanyarwanda bose barabizi, ibyo byitso mvuga ni Abatutsi, n'Abahutu b'ibigwari. Abo bose bagomba kwicwa. Tugomba kuvanaho uwo mwanda[224] ». CCR avuga ko abaturage bumvise neza ko ijambo « Inyenzi » Muvunyi yakoresheje yashakaga kuvuga Abatutsi. Ku byerekeye ijambo « ibyitso », Muvunyi yasobanuye ko ashaka kuvuga abaturage b'Abatutsi. Ku byerekeye ijambo « ibyitso », Muvunyi yasobanuye ko ashaka kuvuga abaturage b'Abatutsi[225].

163. CCR avuga ko muri iyo nama hatanzwe intwaro maze nimugoroba abantu bakicirwa ku biro bya Komini ya Nyakizu. Bukeye, umutangabuhamya yabonye abantu umunani bicirwa kuri santeri y'ubucuruzi ya Nyantanga.

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[222] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 4.
[223] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 4.
[224] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 12.
[225] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 5.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinjura wiswe MO81

164. Umutangabuhamya ushinjura wiswe MO81 ni Umututsi, akaba avuga ko ikigo nderabuzima cya Nyantanga cyasaga nk'ikiri hamwe na santeri y'ubucuruzi ya Nyantanga[226]. Avuga ko icyo kigo nderabuzima na santeri y'ubucuruzi byari bitandukanyijwe n'ibiti ariko ko umuntu uhagaze ku kigo nderabuzima yashoboraga kubona neza santeri y'ubucuruzi cyangwa yaba ahagaze kuri santeri y'ubucuruzi akabona ku kigo nderabuzima[227].

165. MO81 avuga ko i Nyantanga hakomeje kuba umutekano kugeza ahagana ku itariki ya 15 Mata, ubwo abantu batangiye kwicana, gusenya amazu no gusahura[228]. Kubera iyo mpamvu, we n'umuryango we barihishe kugera mu mpera z'ukwezi kwa Kamena cyangwa mu ntangiriro za Nyakanga ubwo yahungiraga mu Burundi[229]. Avuga ko atigeze amenya inama iyo ariyo yose yaba yarabereye kuri santeri y'ubucuruzi ya Nyantanga, iyobowe n'abategetsi bakuru bo muri Perefegitura ya Butare mbere y'itariki ya 15 Mata. Asobanura ko iyo inama nk'iyo iza kuba aba yarabimenye kubera ko santeri y'ubucuruzi iri hafi y'aho yari atuye. Avuga ko mbere y'itariki ya 15 Mata atigeze abona abasirikare ku kigo nderabuzima cy'i Nyantanga cyangwa kuri santeri y'ubucuruzi yaho.

Umutangabuhamya ushinjura wiswe MO67

166. Umutangabuhamya ushinjura wiswe MO67 asobanura ahantu santeri y'ubucuruzi ya Nyantanga yari iherereye[230]. Avuga ko umunsi umwe mu ma saa tanu z'amanywa, hashize nk'icyumweru Perezida apfuye, ubwo yari ku kazi, yumvise abantu bavuza induru bavuga ko Inkotanyi zije maze abaturage batangira guhunga. Nawe yahungiye muri Segiteri ya Kibangu, ahamara ibyumweru bigeze kuri bibiri mbere yo gusubira i

[226] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, imp. 28-29.
[227] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, urup. 32.
[228] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, urup. 33.
[229] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, imp. 34, 35.
[230] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, imp. 4, 5.

Nyantanga[231].

167. Umutangabuhamya avuga ko atigeze na rimwe yumva inama y'abaturage yaba yarabereye kuri santeri y'ubucuruzi ya Nyantanga cyangwa ngo abone imodoka iyo ariyo yose ya gisirikare muri ako gace mbere y'ibyabaye muri icyo gitondo. Avuga ko yakomeje gukorera hafi ya santeri y'ubucuruzi kugeza ahunga ava mu Rwanda muri Nyakanga 1994[232].

Umutangabuhamya ushinjura wiswe MO68

168. Umutangabuhamya ushinjura wiswe MO68 yemeza kandi ko ikigo nderabuzima cya Nyantanga cyari hafi ya santeri y'ubucuruzi. Avuga ko iyo haza kubera inama, umuntu wese wari ku kigo nderabuzima yari kumva ibiyivugirwamo[233].

169. Ahagana ku itariki ya 15 cyangwa iya 16 Mata, MO68 yumvise abantu bavuza induru biruka. Yari azi ko abantu barimo gupfa ariko ntamenye abicwaga cyangwa ababicaga. Mbere y'uko imvururu zitangira ku itariki ya 15 Mata, ntiyari yarigeze na rimwe yumva inama y'abaturage abategetsi ba Guverinoma yo muri Perefegitura ya Butare bakoreshereje kuri santeri y'ubucuruzi ya Nyantanga[234].

Umutangabuhamya ushinjura wiswe MO39

170. Umutangabuhamya ushinjura wiswe MO39 yabaga muri Komini ya Nyakizu[235] hagati ya Mata na Nyakanga 1994. Avuga ko hashize nk'icyumweru n'igice Perezida Habyarimana apfuye, yajyanye na Burugumesitiri Ntagazwa i Nyantanga maze abona hari umutekano muke. Ariko avuga ko muri urwo rugendo Burugumesitiri Ntagazwa nta jambo yavuze, kandi ko atanatumije cyangwa ngo ajye mu nama i Nyantanga. Yongeraho ko icyo gihe

231 Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, imp. 9, 10, 11.
232 Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, imp. 11, 12.
233 Inyandikomvugo y'iburanisha (mu muhezo), 6 Gashyantare 2006, imp. 23, 24, 27, 32, 33.
234 Inyandikomvugo y'iburanisha (mu muhezo), 6 Gashyantare 2006, urup. 28.
235 Inyandikomvugo y'iburanisha, 10 Gashyantare 2006, urup. 8.

atabonye Tharcisse Muvunyi cyangwa undi musirikare uwo ari we wese[236].

5.4.2.2. Isesengura ry'Urugereko

171. Urugereko rwasuzumye ubuhamya abagabo batanze kuri izo nama zaba zarabereye kuri santeri y'ubucuruzi ya Nyantanga no ku biro bya Komini ya Nyakizu ku itariki ya 20 n'iya 21 Mata 1994. Porokireri ashingira ku buhamya bumwe gusa umutangabuhamya wiswe CCR yatanze mu Rukiko. Urugereko rusanga Ubwunganizi bwaranenze cyane ubwo buhamya buvuga ko umutangabuhamya atari uwo kwemerwa. Ubwunganizi buvuga ko ubuhamya bwanditse umugabo yatanze mbere y'urubanza butandukanye cyane n'ubwo yatanze mu iburanisha. By'umwihariko, Ubwunganizi buvuga ko mu buhamya butatu bwanditse yatanze mu wa 2001, uyu mutangabuhamya avuga gusa inama yabereye kuri santeri y'ubucuruzi ya Nyantanga ku itariki ya 10 Mata 1994[237], ariko ntavuge na rimwe inama yaba yarabereye ku biro bya Komini ya Nyakizu, n'ubwo mu buhamya bwanditse yatanze ku itariki ya 22 Gashyantare 2001, avuga ko hari umuntu yumvanye inkuru ko ku biro bya komini hatangiwe intwaro ku itariki ya 11 Mata 1994. CCR avuga ko, mu by'ukuri, habaye inama ebyiri, imwe ikaba yarabereye kuri santeri y'ubucuruzi ya Nyantanga ku itariki ya 20 Mata 1994 naho indi ikaba yarabereye ku biro bya Komini ya Nyakizu ku ya 21 Mata 1994. Urugereko rusanga ku itariki ya 18 Gicurasi 2005, ni ukuvuga hasigaye gusa iminsi ibiri ngo CCR atange ubuhamya imbere yarwo, Porokireri yaratanze incamake y'amakuru uwo mutangabuhamya yateganyaga kugeza ku rugereko, avuga ko uwo mutangabuhamya azakosora itariki ya « 10 Mata 1994 » iri mu buhamya bwanditse yatanze ku itariki ya 22 Gashyantare 2001, akayisimbuza iya « 20 Mata 1994 » ndetse akanakosora itariki ya « 11 Mata 1994 » akayisimbuza iya « 21 Mata 1994 ».

172. Urugereko rusanga hari ukwivuguruza kunini hagati y'ubuhamya CCR yatanze mu iburanisha n'ubuhamya bwanditse yatanze mbere ku birebana n'amatariki n'umubare

[236] Inyandikomvugo y'iburanisha, 10 Gashyantare 2006, imp. 10, 11.

[237] Abapererezi bo mu Biro bya Porokireri bafashe ubuhamya bwanditse bw'umutangabuhamya wiswe CCR ku itariki ya 22 Gashyantare, ku ya 24 Gicurasi no ku ya 28 Kanama 2001. Ubwo buhamya ntibwatanzwe nk'ikimenyetso gihamya, ariko hashingiwe ku cyemezo cy'Urugereko bwamenyeshejwe undi muburanyi hasigaye nibura iminsi 21 mbere y'uko uwo mutangabuhamya atanga ubuhamya mu Rukiko.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

w'inama Uregwa yaba yaravugiyemo amagambo yibasira Abatutsi. Kuba Porokireri yarahengereye hasigaye iminsi ibiri gusa ngo uwo mutangabuhamya aze imbere y'urugereko, agatanga incamake y'ibiteganyijwe kuzavugwaho n'uwo mutangabuhamya ashaka uburyo byahura n'ingingo ze z'urubanza, Urugereko rubona ibyo bintu ntawabishira amakenga.

173. Uretse ukwivuguruza kuboneka hagati y'ubuhamya CCR yatanze mu Rukiko n'ubuhamya bwanditse yatanze mbere y'iburanisha, Urugereko rusanga CCR yarafungiwe mu Rwanda imyaka itandatu, kuva mu wa 1996 kugeza mu wa 2002 azira ko mu wa 1994 yaba yarishe abantu barimo nyina, umugore we, n'umuhungu we[238]. Mu iburanisha, umutangabuhamya yavuze ko nta muntu yishe ndetse yemeza ko yagizwe umwere n'urukiko Gacaca. Yongeraho ko umuntu wishe umugore we yireze icyo cyaha, ko kandi nyina yapfuye igihe we yari afunze. Ubwunganizi buvuga ko CCR atagizwe umwere, ko ahubwo yafunguwe by'agateganyo. Urugereko rusanga ku itariki ya 27 Mata 2006, Porokireri yaratanze inyandiko y'itegeko ry'Urukiko rwa Mbere rw'Iremezo rwa Butare ryo ku itariki ya 11 Ugushyingo 2002, rifungura by'agateganyo CCR. Muri iryo tegeko, Urukiko rwategekaga CCR kujya yitaba abategetsi b'i Butare buri gihe runaka. Iryo tegeko ryanavugaga ko ibirebana n'ifungurwa ry'agateganyo byahagarara ari uko umutangabuhamya agizwe umwere cyangwa ahamwe n'ibyaha aregwa[239]. Urugereko rusanga Ubwunganizi butaragaragaje ko kuba CCR yarafungiwe mu Rwanda mbere kubera icyaha cya jenoside, byamutera impamvu zo kubeshya Urukiko agira ngo abategetsi b'u Rwanda bagire icyo bamumarira[240]. Nyamara ariko, kubera ko CCR akekwaho kuba yaragize uruhare muri jenoside, Urugereko rugomba gusuzumana amakenga ubuhamya bwe.

174. Ubuhamya CCR yatanze mu Rukiko bugomba gusuzumirwa hamwe

[238] Ibimenyetso gihamya byahawe numero D.2, D.3 na D.4 by'Ubwunganizi (byose byashyizweho ubujeni) byakiriwe muri dosiye ku itariki ya 23 Gicurasi 2005.
[239] Raporo ya Porokireri yatanzwe ku itariki ya 27 Mata 2006, hakurikijwe Amabwiriza y'urugereko rwa Mbere rw'Iremezo yo ku itariki ya 24 Gicurasi 2005.
[240] *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, igika 181, ahavugwa ko kuba umutangabuhamya ufunzwe bishobora gutuma abeshya kugira ngo ubutegetsi bwamufunze bugire icyo bumumarira ubwabyo ntibihagije kugaragaza ko yatanze ubuhamya bw'ikinyoma mu Rukiko.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

n'ubw'abatangabuhamya bashinjura biswe MO67, MO68, MO81 na MO39. Urugereko rusanga umutangabuhamya wiswe MO39 atari uwo kwemerwa. Koko rero, ubwo yatangaga ubuhamya mu Rukiko, yarahuzaguritse kandi ahakana ibintu bigaragara. Nk'urugero, yavuze ko hagati ya Mata na Nyakanga 1994 atigeze na rimwe abona abasirikare muri Komini ya Nyakizu cyangwa ngo yumve hari uvuga ko habereye ubwicanyi. Ariko rero, Urugereko rusanga abandi batangabuhamya bashinjura biswe MO67, MO68, na MO81 basobanura, mu buryo budahuzagurika kandi bwumvikana, ibyabeyereye i Nyantanga muri Mata 1994. Bavuze ibintu bimwe ku hantu hari santeri y'ubucuruzi ya Nyantanga, kandi buri wese muri bo avuga ko nta bwicanyi bwahabereye mbere y'itariki ya 15 Mata 1994, ko ariko uwo munsi abaturage bagize ubwoba bikaba ngombwa ko bihisha kubera hari abantu bavuzaga induru bavuga ngo Inkotanyi zaje. Buri wese muri abo batangabuhamya ahakana ko abategetsi ba gisiviri n'aba gisirikare baje kuri santeri y'ubucuruzi ya Nyantanga muri Mata 1994. Urugereko rusanga, mu iburanisha, abatangabuhamya bashinjura bemeza bose ko mbere y'itariki ya 15 Mata 1994, ndetse na nyuma yaho, nta nama n'imwe yabereye kuri santeri ya Nyantanga. Umutangabuhamya wiswe CCR we avuga ko aho hantu habereye inama ku itariki ya 20 Mata 1994. Urugereko rwemeye ubuhamya bw'abatangabuhamya bashinjura.

175. Kubera ukwivuguruza kuri hagati y'ubuhamya bwanditse umutangabuhamya wiswe CCR yatanze mbere y'iburanisha n'ubwo yatanze mu Rukiko, ndetse ubwo buhamya bukaba budafite ubundi bubushyigikira, kandi n'abatangabuhamya bashinjura batatu bari bahari bakaba bavuga ko, uko babizi, nta nama n'imwe yabereye kuri santeri y'ubucuruzi ya Nyantanga, Urugereko rusanze Porokireri ataragaragaje, ku buryo budashidikanywaho, ko ku itariki ya 20 Mata 1994 kuri santeri y'ubucuruzi ya Nyantanga habereye inama Uregwa yafatiyemo ijambo imbere y'abaturage. Byongeye kandi, Urugereko rushidikanya ku buhamya CCR yatanze mu iburanisha avuga ko ku itariki ya 21 Mata 1994 ku biro bya Komini ya Nyakizu harabereye indi nama Uregwa yahereyemo abaturage intwaro. Aha naho, Porokireri ntiyashoboye gutanga ikimenyetso gihamya ko iyo nama yabayeho.

5.4.3. Inama yabereye kuri bariyeri yari muri Serire ya Rumba, Segiteri ya Kibilizi

5.4.3.1. Ibimenyetso

Umutangabuhamya ushinja wiswe YAQ

176. Umutangabuhamya ushinja wiswe YAQ yavuze ko mu wa 1994 yari atuye i Nyabiduha, Segiteri ya Kibilizi, Komini ya Mugusa, Perefegitura ya Butare. Mu gihe cy'iburanisha imbere y'Urugereko yemeye ko yakoze jenoside, nk'uko yanabyemeye imbere y'abategetsi bo mu Rwanda. Avuga ko yacunze za bariyeri, yasahuye, yishe Abatutsi kandi ko yabatwikiye. Ku itariki ya 24 Mata 1994, mu ma saa saba, ubwo yari kuri bariyeri yo muri Serire ya Rumba, Segiteri ya Kibilizi, Uregwa yarahaje ari mu modoka y'umweru yo mu bwoko bwa Toyota ari kumwe na Koloneli Alphonse Nteziryayo, uwitwa Nsabimana waje kugirwa nyuma perefe, Kalimanzira wari umukozi wa Leta mukuru w'i Butare, hamwe n'abandi bantu. Uregwa yari yambaye imyenda ya gisirikare yitwa «simoko» n'ingofero y'umukara ifite ikirangantego. Hari abantu b'uruvunganzoka aho kuri bariyeri yari hagati y'aho imihanda igana i Butare, Rubona na Gikongoro ihurira, imbere y'inzu y'uwitwa Sakindi[241].

177. Uregwa, kimwe n'abandi ba sirikare b'aba ofisiye bafashe ijambo imbere y'iyo mbaga y'abantu. Mu ijambo rye, Uregwa yaragize ati: « ejo mu gitondo cya kare, nindasanga imirambo kuri bariyeri, nzafata umwanzuro ko muri Abatutsi kandi nzizanira abasirikare maze tureke abagabye ibitero baturutse i Shyanda baze, ndetse banabice »[242]. Bukeye, ni ukuvuga ku itariki ya 25 Mata 1994, Uregwa yagarutse kuri iyo bariyeri kureba niba ubwicanyi bwatangiye. Umutangabuhamya avuga ko Uregwa ahageze yasanze imirambo kuri bariyeri – « umuntu wa mbere wishwe ni Umututsi witwaga Rwabigwi. Hishwe kandi na Rubanda, Isador Mutaganda na Kayiranga. Ayo ni yo mazina nibuka ariko ndumva hari imirambo igeze kuri irindwi »[243].

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[241] Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 4-5.
[242] Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 6.
[243] Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 7.

178. YAQ yavuze ko mbere y'uko Muvunyi afata ijambo, umusirikare wari wazanye na we yabajije ikibazo muri aya magambo akarishye: « Mwa Bahutu mwe bo muri aka karere, mwaba muzi uko bakata umuhogo? » « Mwa bahutu mwe bo muri aka karere, mwaba muzi uko baca abantu ijosi? ». Ubwo uwo musirikare yafashe ijosi rye, yereka abaturage uko bigenda. Arangije, Nteziryayo yafashe ijambo agira ati: « Kuva none, mumenye neza ko ayandi makomini yose yarangije ndibwira ko muzi ko mugomba gutangira kurya inka z'Abatutsi bari muri aka karere no gutwika amazu yabo[244].

179. YAQ yavuze ko nyuma y'ayo magambo, abayobozi ba MRND bakwirakwije ibibiriti mu baturage, ari na bwo abo baturage batangiye gutwika amazu y'Abatutsi no kurya amatungo yabo. YAQ yavuze kandi ko ubwicanyi bwatangiye bukeye ku itariki ya 25 Mata 1994[245].

5.4.3.2. Isesengura ry'Urugereko

180. Umutangabuhamya wiswe YAQ yemeye ko yabonye icyitso mu bwicanyi bwa jenoside yo mu wa 1994, bityo Urugereko rukaba rugomba gusuzumana amakenga ubuhamya bwe. Rwasuzumye ubuhamya bwe buvuga ko ubwo yari ari kuri bariyeri muri serire ya Rumba ku itariki ya 24 Mata 1994, Uregwa yaje kuri iyo bariyeri ari kumwe n'abandi bategetsi ba gisirikare n'aba gisiviri, noneho agatonganya abayicungaga, ababwira ko nazagaruka ku munsi ukurikiraho ntayisangeho imirambo azababafata bose nk'Abatutsi, kandi akazana igitero giturutse mu yindi komini kikabica. Kubera iryo terabwoba, hari Abatutsi bishwe bukeye.

181. Urugereko ruributsa ko Urukiko rushobora gufata umwanzuro wemeza ko igikorwa runaka cyabayeho rushingiye ku buhamya bw'umutangabuhamya umwe rukumbi iyo rubona ubwo buhamya bufite akamaro, bwakwizerwa kandi ko bufite agaciro katuma

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[244] Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 6.

[245] Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 6-7. Umutangabuhamya wiswe YAO yaragize ati: « Nyuma yaho abategetsi basubiriyeyo, umukuru wa MRND ari we Leonidas, yahaye ibibiriti Muvoza …n'uko dutangira gutwika amazu uwo mugoroba no kurya inka… Bucyeye bwaho ku itariki ya 25, ubwicanyi bwaratangiye. Kubera ko yari yavuze ko ari bugaruke kureba niba abaturage batangiye kwica abantu, yaragarutse asanga hari imirambo kuri iyo bariyeri ».

ukuri ku bivugwa by'ingenzi mu nyandiko y'ibirego kugaragazwa[246]. Nyamara ariko, rusanga kubera imiterere y'uru rubanza, ubuhamya bwa YAQ butakwizerwa cyangwa ngo bwemerwe bihagije ku buryo rwabushingiraho rufata umwanzuro udashidikanywaho wemeza ko ku itariki ya 24 Mata 1994 hari inama yabereye kuri bariyeri yo muri serire ya Rumba, aho Uregwa yaba yarakanguriye abaturage kwica Abatutsi. Urugereko rero ntirushobora gushingira kuri ubwo buhamya, bityo rukaba rusanze Porokireri atarashoboye kugaragaza ku buryo budashidikanywaho ko Muvunyi yagiye kuri bariyeri yo muri serire ya Rumba ku itariki ya 24 Mata 1994 cyangwa ko yategetse abantu bari kuri iyo bariyeri kwica Abatutsi, batabikora bakicwa ubwabo n'igitero kivuye mu yindi komini.

5.4.4. Inama yabereye i Gikonko, muri Komini ya Mugusa

5.4.4.1. Ibimenyetso

<u>Umutangabuhamya ushinja wiswe YAQ</u>

182. Umutangabuhamya wiswe YAQ yibuka ko yari mu nama yabereye i Gikonko muri Komini ya Mugusa muri Mata cyangwa Gicurasi 1994. Iyo nama ikaba yari yahamagajwe na burugumesitiri wa Komini ya Mugusa, ari we André Kabayiza[247].

183. Abenshi mu bari mu nama bari Abahutu bafite intwaro, ariko YAQ yavuze ko harimo n'Abatutsi bari bafite indangamuntu zanditsemo ko ari Abahutu. Ubwo YAQ n'abandi bantu bari kumwe bageraga ku biro bya komini, babonye Muvunyi, Nteziryayo na Kalimanzira bicaye mu modoka yo mu bwoko bwa Toyota. Hari abandi bantu bari bakikije iyo modoka. Inyuma mu modoka hari umusirikare wari ufashe imbunda nini yari hejuru kuri iyo modoka. Muvunyi yari yambaye imyenda ya gisirikare afite na

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[246] *Urubanza rwa Tadić,* Inyandiko y'urubanza mu bujurire, igika 65; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, igika 38; *Urubanza rwa Aleksovski,* Inyandiko y'urubanza mu bujurire, igika 62; *Urubanza rwa Musema,* Inyandiko y'urubanza mu bujurire, igika 31.

[247] Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 8.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

masotera[248].

184. Umuntu wa mbere wafashe ijambo ni Nteziryayo, wavuze ibi bikurikira: « Turabona Inkotanyi zimaze kwigarurira igihugu cyose kubera ko zageze n'i Butare. None mwebwe baturage, ntabwo muza kurwanya Inkotanyi nk'uko twabibabwiye. Musubire iwanyu mu makomini yanyu mutsembatsembe. Abatutsi bakiriho, baba abakobwa, abagabo, abagore babohojwe cyangwa se abandi bose basa nabo, mubice. Inkotanyi zimaze kwigarurira igihugu cyose, nimutabica bazabwira Inkotanyi ibyo mwakoze[249].

185. Gasana, wari konseye wa segiteri, yafashe ijambo avuga ko mu gihe Nteziryayo arimo asaba abaturage kujya gutsembatsemba Abatutsi, we Gasana azi ko burugumesitiri hari Umututsi ahishe. Gasana yongeyeho ko atari ngombwa kujya gushaka inzoka mu bihuru kandi n'imbere y'imiryango yabo zihari. YAQ avuga ko iryo jambo « inzoka », ryashakaga kuvuga Abatutsi. YAQ avuga ko Gasana yavugaga Abatutsi burugumesitiri yari yarahishe ku biro bya komini, cyane cyane uwitwa Vincent Nkurikiyinka wari inshuti ya burugumesitiri[250].

186. Nyuma y'ijambo rya Gasana, Uregwa yabwiye burugumesitiri ati: « ni gute uhishira Umututsi kandi uri burugumesitiri? Ugomba kumutanga kugira ngo yicwe ». Yunzemo ati « iyo inzoka yizingiye ku gisabo, icyo gisabo kigomba kumenwa kugira ngo iyo nzoka yicwe »[251]. YAQ yavuze ko, mu gusubiza ijambo rya Muvunyi, burugumesitiri yategetse abantu kujya munsi y'ibiro bya Komini maze bakavumbura Vincent, Umututsi wari uhihishe. Abari mu gitero bavuye aho inama yaberaga bagana ku biro bya Komini maze bafata Vincent bamujyana iwe baramwica. Nyuma, abaturage basubiye mu makomini yabo gutsembatsemba Abatutsi bari bararokotse, nk'uko bari basabwe kubikora[252].

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248 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 9-10.
249 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 9-10.
250 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 9-10.
251 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, urup. 10.
252 Inyandikomvugo y'iburanisha, 31 Gicurasi 2005, imp. 10-11.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinjura witwa MO80

187. Umutangabuhamya ushinjura wiswe MO80 ni Umuhutu, muri Mata 1994 akaba yari utuye muri Komini ya Mugusa, Segiteri ya Kibilizi. Avuga ko nyuma y'icyumweru kimwe cyangwa bibiri Perezida Habyarimana apfuye, Gasana wari konseye wa segiteri yategetse ko bashyiraho amabariyeri muri Komini ya Mugusa. MO80 yashyizwe kuri bariyeri yari mu masangano y'umuhanda munini uva i Butare n'ujya muri Komini ya Mugusa, hafi y'inzu ya Sakindi, iyo bariyeri akaba yarayicunze ibyumweru bigera kuri bibiri[253]. Avuga ko muri icyo gihe yahamaze, nta nama rusange yagiyemo yaba yarahuriwemo n'abantu bo muri Mugusa, Ndora, Uyaga na Muganza[254], yewe ko atigeze yumva hari n'uvuga ko inama nk'iyo yabayeho. Avuga ko n'ubwo bitoroshye kumenya amanama abera muri komini muri rusange, iyo inama nk'iyo ibera muri Segiteri ye aba yarayimenye[255].

188. MO80 na we yemeje ko umusiviri w'Umututsi witwa Vincent Nkurikiyinka yavumbuwe aho yari yihishe ku biro bya Komini maze abari mu bitero bakamujyana iwe bakamwicirayo. Abo bari mu bitero bari Abahutu bari barangajwe imbere na konseye Gasana. Ibyo bikaba byarabaye mu kwezi kwa gatanu hagati.[256].

5.4.4.2. Isesengura ry'Urugereko

189. Rumaze gusuzuma ubuhamya bw'umutangabuhamya wiswe YAQ ku birebana n'inama yabereye i Gikonko umunsi umwe muri Mata cyangwa Gicurasi 1994, Urugereko rwemera ibyo avuga kandi rusanga ubuhamya bwe bwaremejwe kuri bimwe n'umutangabuhamya ushinjura wiswe MO80. N'ubwo uyu mutangabuhamya ahakana ko nta nama rusange yabereye muri segiteri ye muri Mata cyangwa Gicurasi 1994, yemeye ko adashobora guhamya ko nta nama zabereye ahandi muri iyo komini. Urugereko

[253] Inyandikomvugo y'iburanisha (mu muhezo), 13 Gashyantare 2006, urup. 26; Inyandikomvugo y'iburanisha (mu muhezo), 14 Gashyantare 2006, urup. 4.
[254] Inyandikomvugo y'iburanisha (mu muhezo), 14 Gashyantare 2006, urup. 10.
[255] Inyandikomvugo y'iburanisha (mu muhezo), 14 Gashyantare 2006, urup. 22.
[256] Inyandikomvugo y'iburanisha (mu muhezo), 14 Gashyantare 200, urup. 9; Inyandikomvugo y'iburanisha (mu muhezo), 15 Gashyantare 2006, urup. 5.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

rusanga kuba MO80 ataramenye iby'inama yabereye i Gikonko bitavuga ko iyo nama itabaye. Rusanga kandi abo batangabuhamya bombi bemeza ko konseye Gasana ari we wari umuyobozi w'igitero cyari kigizwe n'abantu bafite intwaro, ko Vincent yakuwe ku biro bya Komini ya Mugusa kandi ko yishwe muri Mata cyangwa Gicurasi 1994.

190. Rumaze gusuzuma ibimenyetso byose byatanzwe, Urugereko rwemera nta gushidikanya, ko muri Mata cyangwa Gicurasi 1994, Muvunyi yavuze ijambo imbere y'abaturage bo mu bwoko bw'Abahutu i Gikonko, kandi rwemera ko Porokireri yagaragaje ku buryo budashidikanywaho ko Muvunyi yatonganyije burugumesitiri wa Gikonko amuziza ko yahishe Umututsi kandi ko yamusabye gushumuriza uwo Mututsi abicanyi. Urugereko rwemera ibyo YAQ yavuze kuri iki kibazo kandi rusanga Muvunyi yarakoresheje umugani w'ikinyarwanda uvuga ngo: « Iyo inzoka yizingiye ku gisabo, icyo gisabo kigomba kumenwa kugira ngo iyo nzoka yicwe ». Rusanga kandi abo baturage barumvise ko ayo magambo abahamagarira kwica Abatutsi[257]. Urugereko rusanga na none abo baturage barumvise ko abakangurira kwica uwo mututsi witwaga Vincent. Rushingiye ku bimenyetso bidashidikanywaho Porokireri yatanze, rusanze Umututsi witwa Vincent yarakuwe mu bwihisho yarimo kandi akicwa n'agatsiko k'abagizi ba nabi kari karangajwe imbere na konseye Gasana, amagambo ya Muvunyi akaba ari yo yabaye nyirabayazana y'ubwo bwicanyi.

5.4.5. Inama yabereye kuri Santere y'ubucuruzi ya Gikore

5.4.5.1. Ibimenyetso

<u>*Umutangabuhamya ushinja wiswe YAI*</u>

191. Umutangubuhamya ushinja wiswe YAI avuga ko yitabiriye «inama y'umutekano » yabereye kuri santere y'ubucuruzi ya Gikore ahagana mu mpera za Gicurasi 1994. Iyo nama ikaba yaratangiye mu ma saa saba, kandi yaritabiriwe na Koloneli Muvunyi, Jean-Baptiste Ruzindana, Laurent wari Superefe wa Perefegitura ya Butare, Dominique

[257] Raporo y'umutangabuhamya w'impuguke wahamagajwe na Porokireri, ari we Evarisite Ntakirutimana, yagejejwe ku Rugereko ku itariki ya 6 Nyakanga 2005.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Ntawukuliryayo wari Superefe ya Superefegitura ya Gisagara na Burugumesitiri wa Komini ya Nyaruhengeri[258]. Hari kandi n'ibihumbi by'abantu bo muri ako karere, cyane cyane Abahutu bari bavuye muri Komini ya Nyaruhengeri, iya Kigembe n'iya Muganza[259].

192. Mu ijambo rye, Muvunyi yibukije abaturage ko igihugu kiri mu ntambara kandi ko cyirwana *n'Inkotanyi.* Yababwiye ko Inkotanyi zibanza gucengera uturere zishaka gutera, maze agira ati: « mu karere kacu, *Inkotan*yi zahageze kera ». Yarabihanangirije, ababwira ko bagomba kuba maso, bitaba ibyo « zikazabinjirana mu mazu yabo ». Yanababwiye «gukaza umurego kuri za bariyeri, gukora amarondo no kubungabunga byimazeyo umutekano »[260]. Ku kibazo cy'Abahutu bari barabohoje Abatutsikazi, Uregwa yabagiriye inama ikurikira: « abo bagore, nimubohereze iwabo ». YAI avuga ko, kubera ko amazu y'Abatutsi yari yarasenywe, « ibintu byabo bigasahurwa », ayo magambo ya Muvunyi yashakaga kuvuga ko « abo bantu bagombaga gushumurizwa abicanyi[261] ».

193. YAI avuga na none ko, Muvunyi yerekanye inzu yari imbere ye yari yarasenywe igice, maze akavuga ati « Ntimubona iriya nzu yasenywe, ibyo muzabibazwa. Mugomba gushyira hasi ariya mazu y'Abatutsi agihagaze; muri ayo matongo, mukahahinga kandi mukahatera insina, maze mukareba uko bizagenda[262] ». YAI avuga ko, muri ayo magambo, Muvunyi yagira ngo hatazagira umenya ibyabaye, maze bityo « bikazaruhanya gukurikirana ababikoze[263] ». Yongeraho ko, muri iyo nama Muvunyi yavugaga ku buryo « butajenjetse ».

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[258] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup. 6: Uyu mutangabuhamya ntiyibuka amazina y'abandi bantu bazanye n'Uregwa.

[259] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup. 6: Yongeyeho ko hari mo n'Abatwa bakeya « kuko icyo gihe Abatwa nta bibazo bari bafite ».

[260] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, imp. 7-8.

[261] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup. 8. «Ikibazo: Ushobora kutubwira aho amazu y'abo bantu yari ari? Amazu yabo yari he?

Igisubizo:Yavugaga aho abo bantu bakomokaga, aho bari bavuye ubwo bahungaga. Ndibutsa ko ari i Gikore mu gice cy'amajyepfo ku mupaka w'u Burundi. Abo bantu bavaga imihanda yose bashaka kwambuka bagana mu Burundi kugira ngo bahunge, bashakisha aho bakwishyira bakizana.

Ikibazo: Bwana mutangabuhamya, nk'uko ubizi, ubwo iyo nama yabaga amazu y'Abatutsi byayagendekeye bite?

Igisubizo: Amazu y'Abatutsi yari yarasenywe n'ibintu byabo birasahurwa. Kuvuga ko abo bantu bagomba gusubira iwabo ntabwo byari byo. Ahubwo kwari ukubashumuriza abicanyi ».

[262] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup 9.

[263] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup 9.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

194. Nyuma y'ijambo rya Muvunyi, Jean-Baptiste Ruzindaza yafashe ijambo maze yibutsa amagambo akubiye muri Bibiriya, aho umuhanuzi Jeremiah yavuze ibirebana n'umwanzi waturutse mu majyaruguru yica, asenya ibintu byose. YAI avuga ko ibyo Ruzindaza yavuze bitari isengesho ry'amahoro ahubwo byari « isengesho rya shitani » kuko « ryahamagariraga abantu kwica ». Yibuka ko Ruzindaza yakanguriye abaturage kuba maso kugira ngo Inkotanyi zidacengera mu karere kabo. Ruzindaza yavuze kandi ko bibabaje kuba Abahutu bataratojwe kwica, kandi ko ababyeyi b'Abahutu bagombaga gushishikariza abana babo « kuzobera mu birebana no kwica[264] ». Mu gusoza, YAI avuga ko Ruzindana yakoresheje umugani wa Kinyarwanda uvuga ngo: « Wanga kumenera igihugu cyawe amaraso, imbwa zikayanywera ubusa », ibyo bikaba bishaka kuvuga ko abantu batagomba gutinya kumenera amaraso yabo igihugu[265].

<u>*Umutangabuhamya ushinja wiswe CCP*</u>

195. Umutangabuhamya ushinja wiswe CCP avuga ko yabonye Uregwa bwa mbere mu nama yabereye i Gikore muri Gicurasi cyangwa Kamena1994. Iyo nama yabereye imbere yo kwa Venuste Nkulikiyukuri kandi yari yitabiriwe n'abaturage b'amoko yose. Yari irimo kandi n'abategetsi bamwe nka Muvunyi, Alphonse Nteziryayo wari Perefe wa Butare, Ruzindaza, Burugumesitiri Charles Kabeza, abakonseye b'amasegiteri n'abaresiponsabure ba za serire[266]. Nteziryayo, Muvunyi na Ruzindaza nibo bafashe ijambo muri iyo nama.

196. CCP avuga ko ubwo abo bategetsi bagezaga ijambo ku bari mu nama, yari nko muri metero 4 cyangwa 5, aho yabarebaga kandi abumva neza. Avuga ko Perefe Nteziryayo yabwiye abaturage ko igihugu cyatewe n'Inyenzi/Nkotanyi, ko kandi yakanguriye urubyiruko kujya kurwanya *Inkotanyi*, kuzihashya no kwigarurira imitungu yazo. CCP yibuka ko Nteziryayo yakoresheje ijambo « « inzoka » ashaka kuvuga Abatutsi, kandi ko yavuze ngo amagi y'inzoka agomba kumenwa. CCP avuga ko Nteziryayo yarangije ijambo rye yihanangiriza abari mu nama agira ati: «iyo wanze guha igihugu cyawe

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[264] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup. 10.
[265] Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, imp. 41-42.
[266] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 4.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

amaraso, imbwa ziyanywera ubusa ». Avuga ko ayo magambo ya Perefe yamuteye ubwoba kuko yashishikarizaga abaturage kujya kwica abo bantu bitwaga « inzoka », naho ayo « magi » Nteziryayo yavugaga bakaba bari abana b'Abatutsi, harimo n'impinja, bagombaga kwicwa[267].

197. Mu ijambo rye, Muvunyi yabwiye abasore b'Abahutu bari bararongoye abakobwa b'Abatutsikazi kubica cyangwa kubirukana. Uregwa yakoresheje umugani w'ikinyarwanda avuga ngo Abatutsikazi bagomba « kugwa ahandi kuko bashobora kuroga abagabo babo b'Abahutu. Yabwiye abari mu nama ko Abatutsi ari inzoka zigomba kwicwa n'amagi yazo agahonyorwa. Yongeyeho amagambo akurikira: « Nzi ko mwahishe abakobwa, n'abana. Mugende mubashakishe, mubice ». CCP avuga ko ayo magambo ya Muvunyi yahamagariraga abasore b'Abahutu kwica abakobwa b'Abatutsikazi, naho kuvuga « inzoka » bikaba byarasobanuraga ko Abatutsi n'abana babo bagombaga kwicwa[268].

198. CCP avuga kandi ko Muvunyi yerekanye inzu yari yarasenywe igice, yari imbere y'aho bakoreraga inama, asaba abaturage kuyisenya yose maze aho yari iri bakahahinga. Mu ibaza rinyomoza, CCP yashimangiye ibyo yari yavuze, yongeraho ko iyo nzu yari iy'umupadiri kandi ko Uregwa yasabye abaturage kuyisenya yose maze bakahatera inzuzi. CCP avuga ko, asaba abaturage gusenya iyo nzu no gutera inzuzi mu itongo, Muvunyi yashakaga ko « basibanganya ibimenyetso byose bya jenoside mu Rwanda[269].

199. CCP avuga ko Ruzindaza yabaye uwa gatatu mu gufata ijambo, kandi ko yavuze ijambo

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[267] Inyandikomvugo y'iburanisha, 9 Kamena 2005, imp. 5-6. « Numvise ayo magambo anteye ubwoba kuko yitaga abantu inzoka. Avuga ko inzoka zigomba kwicwa. Iyo wita umuntu inzoka kandi ukavuga ko igomba kwicwa, ubwo uba urengurira k'umuntu. Iyo bavuga amagi, babaga bashaka kuvuga abana bakiri bato barimo n'impinja zikivuka. Murumva na mwe ko ayo magambo yari ateye ubwoba ».

[268] Inyandikomvugo y'iburanisha, 9 Kamena 2005, imp. 6-7. Ku rupapuro rwa 26, mw'ibaza rinyomoza, umutangabuhamya wiswe CCP yaragize ati: « Abantu bari barabohoje abo bagore bagombaga kubica cyangwa kubamenesha ». [Muvunyi]…yavuze ko abantu bari barabohoje abo bakobwa bagomba kubica, abatabishoboye bakababamenesha. Yari afite impungenge ngo ko abo bagore bazatsemba Abahutu babaroze, nta mpuhwe rero yari abafitiye ».

[269] Inyandikomvugo y'iburanisha, 9 Kamena 2005, imp. 6, 41. « Ndumva nababwiye ko uyu muntu, Tharcisse Muvunyi, yatunze agatoki inzu y'umupadiri yari yasenywe igice maze agasaba ko isenywa yose, aho yari iri hagaterwa inzuzi; inzuzi ni imboga zirandaranda zigapfuka agace kose zirimo. Ntushobora kubona ubutaka buriho inzuzi ».

afite Bibiriya mu ntoki, asaba Imana kwigisha Abahutu kwica « nk'uko Abatutsi bakura biga kwica [270] ».

200. Inama yamaze nk'isaha imwe irangira nyuma ya saa sita. CCP avuga ko, umunsi wakurikiyeho mu gitondo, « habaye amahano, nk'uko byari byaraye bivuzwe, amabwiriza yari yaraye atanzwe yarakurikijwe, maze abantu baricwa ». Asobanura ko abahitanwe n'ayo marorerwa bari Abatutsi, ko bishwe n'Abahutu, ko ariko Abahutu bose batitabiriye ubwo bwicanyi[271].

201. CCP avuga ko nta ruhare na ruto yagize muri ubwo bwicanyi[272]. Nyamara ariko, avoka uwunganira Uregwa yibukije ubuhamya bwanditse CCP yatanze ku itariki ya 19 Ukwakira 1999, mbere y'uko urubanza rutangira, aho yemeraga ko yahize, akanica Abatutsi[273]. Umutangabuhamya yemera bimwe muri ubwo buhamya ariko akavuga ko atigeze yitabira ubwicanyi bwibasiye Abatutsi[274].

Umutangabuhamya ushinjura wiswe MO78

202. Umutangabuhamya ushinjura wiswe MO78 avuga ko, ku itariki ya 23 cyangwa iya 24 Gicurasi 1994, yagiye mu nama rusange yabereye muri Segiteri ya Gikore muri Komini ya Nyaruhengeri[275]. Avuga ko iyo nama yayobowe na Burugumesitiri wa Komini ya Nyaruhengeri ari we Charles Kabeza, ko kandi yari igamije kwimakaza amahoro muri

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[270] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 7.
[271] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 8.
[272] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 16. Umutangabuhamya wiswe CCP avuga ko yafunzwe mu wa 1996 ubwo yari atahutse avuye i Burundi aho yari yarahungiye, akekwaho kuba yarakoze icyaha cyo gusambanya ku gahato mu wa 1994. Avuga ko yaje kurekurwa nyuma y'aho iperereza rigaragarije ko ari umwere ku birebana n'icyo cyaha. Nyamara ariko, CCP yemera ko mu gihe ibivugwa byabaga mu wa 1994, agatsiko k'abicanyi kamusabye gucunga abantu batatu- umukobwa na basaza be babiri- mu gihe karimo kica abantu. Yarabacunze kugeza ubwo yabashubije abo bicanyi bagarutse, kubera ko bavugaga ko babajyana kwa Bucumi kugira ngo yemeze ko ari Abahutu.
[273] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 16. CCP yaragize ati: « Urupfu rw'abo bantu babiri ni rwo rwabimburiye ubwicanyi iwacu kuko muri icyo gitondo Murwanashyaka bahimbaga Zona, akaba yari Umuhutu, yaje kundeba mu rugo ari kumwe n'abandi ntibuka amazina, maze bansaba kujyana na bo mu gikorwa cyo guhiga Abatutsi bari bateguye… Bavuze ko banyica nindamuka nanze kubakurikira. Twashakishije Abatutsi muri segiteri yacu, tubakoranyiriza hamwe, turabica maze imirambo yabo tuyiroha mu kiyaga ».
[274] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 16.
[275] Inyandikomvugo y'iburanisha, 16 Gashyantare 2006, imp. 13, 15.

Komini ya Nyaruhengeri, no gushimangira ubumwe mu baturage[276]. Umutangabuhamya yongeyeho ko abayobozi benshi barimo Tharcisse Muvunyi, Alphonse Nteziryayo, Sylvain Nsabimana (Perefe wa Butare), Rosendarusa na Dominic Ntawukuriryayo, bari muri iyo nama[277].

203. Muri iyo nama, Muvunyi yafashe ijambo avuga ko iyo nama igamije kugarura umutekano mu karere, hanyuma ashishikariza abaturage kugira ubumwe. Yababwiye ko intambara ishyamiranyije umutwe wa FPR n'ingabo z'u Rwanda kandi ko bitareba abaturage. Yanasabye abaturage kurwanya abasirikare batoroka igisirikare, anasaba abatunze ibikoresho bya gisirikare kubisubiza kugira ngo bidatera abaturage ubwoba[278].

204. MO78 ntiyibuka niba Muvunyi cyangwa undi wese mu bafashe ijambo yaba yarasabye abaturage kwikiza abagore babo b'Abatutsikazi cyangwa kurimbura amazu y'Abatutsi no guhinga icyo ari cyo cyose mu matongo yabo. Uwo mutangabuhamya anavuga ko, mu bantu bafashe ijambo muri iyo nama nta n'umwe yigeze yumva akoresha umugani wa kinyarwanda cyangwa avuga isengesho[279]. Yemeza ko azi umutangabuhamya ushinja wiswe YAI, ariko akaba atazi niba uwo YAI yaraje mu nama yabereye i Gikore ku itariki ya 23 cyangwa iya 24 Gicurasi 1994. MO78 avuga ko atazi umutangabuhamya ushinja wiswe CCP[280].

Umutangabuhamya ushinjura wiswe MO30

205. Umutangabuhamya ushinjura wiswe MO30 avuga ko yabonye Muvunyi mu manama yabereye mu ruhame ku biro bya komini cyangwa kuri sitade Amohoro mu gihe cy'ibyabaye mu wa 1994. Izo nama zabaga zahamagajwe na Perefe mu rwego rwo

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[276] Inyandikomvugo y'iburanisha, 16 Gashyantare 2006, urup. 16.
« Ikibazo. Iyo nama se yari igamije iki cyangwa havugwaga ko igamije iki?
Igisubizo. Babwiye abaturage ko ari inama yo kugarura umutekano muri Komine ya Nyaruhengeri yose kandi ko abayobozi bari kuza gukoresha iyo nama bagombaga kubwira abaturage ko bari kumwe n'abo baturage; ko bifuzaga kugarura umutekano mu baturage ».
[277] Inyandikomvugo y'iburanisha, 16 Gashyantare 2006, urup. 15.
[278] Inyandikomvugo y'iburanisha, 16 Gashyantare 2006, imp. 16, 17.
[279] Inyandikomvugo y'iburanisha, 16 Gashyantare 2006, urup. 19.
[280] Inyandikomvugo y'iburanisha, 16 Gashyantare 2006, imp. 20, 21.

guhamagarira abaturage gushyira hamwe no kugarura umutekano mu karere[281]. Uwo mutangabuhamya asobanura ko Muvunyi yaje muri izo nama nk'umuntu woherejwe cyangwa uhagarariye ubutegetsi bwariho. MO30 avuga ko, muri Gicurasi 1994, muri Komini y'Umujyi ya Ngoma, habereye inama yari irimo abayobozi ku rwego rwa komini n'urwa perefegitura hamwe n'abantu bikorera ku giti cyabo, nk'umutangabuhamya ubwe. Hagati mu kwezi kwa Kamena, Muvunyi na Jenerari Gatsinzi bombi bari mu nama rusange yayobowe na Perefe. Muri iyo nama, abayobozi babwiye abaturage uko bagomba kwitwara mu kazi, mu nzira no mu ngo zabo[282].

5.4.5.2. Isesengura ry'Urugereko

206. Urugereko rwasuzumye ingingo z'Ubwunganizi zigamije gusaba ko ubuhamya bw'umutangabuhamya ushinja wiswe YAI n'uwiswe CCP butakwakirwa kubere ko abo bombi bafashwe bagafungwa mu bihe binyuranye bazira ibya jenoside. CCP yemera ko, mu wa 1996, yafashwe akekwaho kuba yarasambanyije umugore ku gahato mu wa 1994, akavuga ariko ko nyuma y'aho basanze ari umwere, akarekurwa. Anemera ko, igihe cy'ibyabaye mu wa 1994, Abahutu bari mu mutwe witwaraga gisirikare bamusabye kwifatanya nabo mu guhiga no kwica Abatutsi, kandi ko bamukangishije kumwica aramutse yanze kwifatanya na bo. Nyamara ariko, avuga ko atigeze yitabira ubwicanyi kubera ko abo bicanyi bari bamushinze gucunga umukobwa w'Umututsikazi na basaza be babiri, ariko nyuma y'aho ba bicanyi bakaza kubisubiza. Asobanura ko abo bantu bari bagizwe imbohe yabasubije abo bicanyi kuko bari bamubwiye ko bazabashyira uwitwa Buchumi kugira ngo yemeze ko ari Abahutu cyangwa atari bo. Uko byaje kugendekera abo bantu uko ari batatu ntibisobanutse neza. Kubera ko ibimenyetso byavuzwe haruguru bigaragaza ko CCP yabaye icyitso cy'ubwicanyi bwa jenoside mu Rwanda mu wa 1994, Urugereko rurasuzumana amakenga ubuhamya bwe.

207. Ubwunganizi na none buvuga ko ubuhamya bw'umutangabuhamya wiswe CPP butafatwaho ukuri kuko uwo mutangabuhamya yavuze ko Koloneli Nteziryayo yagiye

[281] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 21, 23.
[282] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 23.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mu nama y'i Gikore nka Perefe wa Butare, nyamara ibyo bikaba bidashoboka kuko Nteziryayo yagizwe perefe ku itariki ya 17 Kamena 1994. Ubwunganizi bwatanze ikimenyetso gihamya cyahawe nimero D13, kikaba ari ibaruwa y'Inama y'Abaminisitiri mu Rwanda ishyira Nteziryayo ku mwanya wa perefe guhera ku itariki ya 17 Kamena 1994[283]. Urugereko rusanga uko kwibeshya ku mwanya Nteziryayo yari afite icyo gihe cy'inama y'i Gikore nta cyo bitwaye ku birebana n'ikibazo kigomba gusuzumwa kandi muri rusange rusanga uko kwibeshya bidatuma ukwizerwa kwa CCP guhungabana. Urugereko rwumvise abandi batangabuhamya bavuze ko mu wa 1994, Nteziryayo yari perezida wa gahunda yo kwirwanaho kw'abaturage i Butare, mbere yo kugirwa perefe[284]. Kubera uko ibintu byari byifashe mu Rwanda mu wa 1994, kuba yaba yari ari mu nama y'umutekano cyangwa inama yo gukangurira abaturage, bifitanye byombi isano n'inshingano zijyana n'uwo murimo yari afite icyo gihe.

208. Ku birebana n'umutangabuhamya wiswe YAI, Urugereko rusanga kugeza umunsi yatangiyeho ubuhamya bwe, uwo mutangabuhamya yari afungiye mu Rwanda kubera ko ashinjwa kuba yarishe Umututsi witwaga Mukunzi hamwe n'umugore we n'abana be. Yahakanye ko nta ruhare yagize mu iyicwa ry'abari bagize umuryango wa Mukunzi, avuga ahubwo ko yabahishe mu nzu iwe kugira ngo abakize abicanyi ariko bakaza kuvumburwa, bakicwa. Aracyategereje gucirwa urubanza ku birebana n'iyicwa ry'abari bagize umuryango wa Mukunzi. Urugereko ruributsa umwanzuro wafashwe n'Urugereko rw'Ubujurire uvuga ko, kuba umutangabuhamya ufunze yashobora kubeshya kugira ngo abe yabona inyungu runaka yahabwa n'ubutegetsi bumufunze, ubwabyo bidahagije kugira ngo umuntu yemeze ko uwo mutangabuhamya avuga ibinyoma[285]. Urugereko ariko ruzasuzumana amakenga ubuhamya bwa YAI.

209. Urugereko rwasuzumanye ubushishozi ubuhamya bwa YAI na CCP. Aba batangabuhamya bombi bavuga ko hari inama yabereye i Gikore mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 kandi ko Tharcisse Muvunyi yayijemo akabwira

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[283] Ikimenyetso gihamya cyahawe nimero D.13, cyakiriwe muri dossier ku itariki ya 9 Kamena 2005.

[284] Reba ubuhamya bw'umutangabuhamya ushinja wiswe TQ, Inyandikomvugo y'iburanisha, 30 Kamena 2005, imp. 30-31.

[285] *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, igika 181.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

abaturage ijambo, nk'uko n'abandi bategetsi ba gisirikare n'aba gisiviri babikoze. Urugereko rwemera ko muri iyo nama Muvunyi yashishikarije abasore b'Abahutu kwirukana abagore babo b'Abatutsikazi, kandi ko abagore b'Abatutsikazi bashobora kuroga abagabo babo. Rwemera kandi ko yise Abatutsi inzoka zigomba kwicwa n'amagi yazo akaribatwa, akaba yaranategetse abaturage ko inzu y'umupadiri w'Umututsi yari yashenywe igice bayirimbura, noneho mu itongo bakahatera imyaka. Inkuru z'abatangabuhamya bombi bashinja ku birebana n'amagambo Muvunyi yavugiye i Gikore zirasa ku buryo butangaje. Nta kimenyetso Urugereko rwashyikirijwe cyatuma ruvuga ko abo batangabuhamya baba barahimbye izo nkuru cyangwa ko baba barumvikanye kugira ngo bahurize ku byo bazavuga. Kubera izo mpamvu, Urugereko rusanga ibyo abatangabuhamya bavuze ku birebana n'ibyabereye mu nama y'i Gikore no ku magambo Uregwa yahavugiye bikwiye kwemerwa.

210. Byongeye kandi, Urugereko rusanga ubuhamya bw'abatangabuhamya bashinja biswe YAI na CCP bushimangirwa n'ubw'umutangabuhamya ushinjura wiswe MO78 wemeza ko yabonye Muvunyi mu nama rusange yabereye i Gikore ku itariki ya 23 cyangwa iya 24 Gicurasi 1994, Nteziryayo na Nsabimana na bo bakaba bari muri iyo nama. Nyamara ariko, Urugereko ntirwemera ibyo MO78 avuga ko mu madisikuru yabo, Muvunyi n'abandi bategetsi bari bashyigikiye amahoro n'umutekano kandi ko bahamagariye abaturage kubana kivandimwe, kubera ko YAI na CCP batanze ubuhamya buvuguruza ibyo mu buryo busobanutse neza kandi budahuzagurika.

211. Kubera izo mpamvu, Urugereko rusanze Porokireri yaragaragaje ku buryo budashidikanywaho ko, mu nama yabereye i Gikore muri Gicurasi 1994, Muvunyi yavuze ijambo rigamije guhamagarira abaturage kwica Abatutsi, kwangiza imitungo yabo, kwumvisha abaturage ko Abatutsi aribo mwanzi, akaba yaranabashebeje abita inzoka n'abarozi. Urugereko rusanga kandi abumvise ijambo rye bararifashe nk'iribahamagarira kwica Abatutsi, kandi Uregwa akaba yari azi ko ari uko barifata nyine.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.5. Guha intwaro abantu bo mu mitwe yitwara gisirikare

5.5.1. Ibivugwa mu nyandiko y'ibirego

212. Igika cya 3.26 kigira kiti:

> 3.26. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Liyetona Koloneli Muvunyi yahaye intwaro zirimo za gerenade abantu bari mu mitwe yitwara gisirikare, kugira ngo bagabe ibitero ku Batutsi.

5.5.2. Ibimenyetso

Umutangabuhamya ushinja wiswe KAL

213. Umutangabuhamya ushinja wiswe KAL avuga ko yagiye mu nama yabereye mu ibanga kwa Liyetona Koloneli Muvunyi, ahantu hitwa *« Joli Bois »* mu kigo cya ESO. Muri iyo nama kandi hari Liyetona Bizimana hamwe na Burugumesitiri wa Komini ya Ngoma n'uwa Komini ya Huye. Avuga ko, muri rusange, iyo ababurugumesitiri bakoranaga inama, kwabaga ari ukugira ngo bisabire imbunda ubwabo cyangwa bazisabire abasiviri batorezwaga mu kigo cya *ESO*. Anasobanura ko ababurugumesitiri bari baratoranije abasiviri bazatozwa gukoresha imbunda. Nyuma y'iyo nama, « abantu baje mu kigo kuhaherwa imyitozo yamaze icyumweru »[286]. Imyitozo yatangwaga n'abasirikare bo mu kigo cya *ESO*. Kapiteni Nizeyimana wari ushinzwe ibikorwa bya gisirikare n'imyitozo mu kigo cya *ESO* yazaga rimwe na rimwe kureba uko gahunda y'imyitozo igenda. KAL avuga ko, iyo abo basiviri babaga barangije gahunda y'imyitozo, boherezwaga mu makomini « guhiga umwanzi », kandi ko bahabwaga intwaro z'ubwoko butandukanye mbere yo kuva mu kigo, nk'izo mu bwoko bukurikira: kalashnikov, *R-4*, *FAR*, *G 3* na za gerenade[287].

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[286] Inyandikomvugo y'iburanisha (mu muhezo), 1 Werurwe 2005, urup. 28.
[287] Inyandikomvugo y'iburanisha (mu muhezo), 2 Werurwe 2005, imp. 4, 5.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinja wiswe YAA

214. Umutangabuhamya ushinja wiswe YAA avuga ko ubwo yagarukaga mu kigo cya *ESO* avuye i Kigali muri Gicurasi 1994, yasanze Kapiteni Nizeyimana na Suliyetona Modeste Gatsinzi bakorera i Mata muri Perefegitura ya Gikongoro, aho bahaga Interahamwe n'Abarundi imyitozo yo gukoresha imbunda. Avuga ko Nizeyimana yajyaga agaruka rimwe na rimwe muri *ESO* gushaka ibikoresho n'amasasu bakeneraga mu myitozo, hamwe n'ibindi bikoresho birimo lisansi, n'ibiribwa by'abakurikiraga imyitozo. Umutangabuhamya yamenye ko Nizeyimana na Gatsinzi bakoreraga i Mata kubera ko yaganiraga nabo iyo bazaga mu kigo cya *ESO*. YAA yongeraho ko, amaze guhunga ava mu kigo cya *ESO* ku itariki ya 8 Kamena 1994, yahuriye na Suliyetona Modeste Gatsinzi mu mugi wa Gikongoro. Gatsinzi yari muri kamiyoneti hamwe n'abanyeshuri bo muri *ESO* ivuguruye. Icyo gihe YAA yavuganye na Gatsinzi wamwibwiriye ko ari gukorera i Mata aho yari ashinzwe guha *Interahamwe* imyitozo[288].

Umutangabuhamya ushinja wiswe CCR

215. Umutangabuhamya ushinja wiswe CCR avuga ko, mu nama yabereye muri Komini ya Nyakizu ku itariki ya 21 Mata 1994, Muvunyi yabwiye abaturage ko nyuma y'inama haza gutangwa intwaro, asobanura ko ababanza kuzihabwa ari abazi kuzikoresha, abantu bavuye mu gisirikare, n'abahoze ari abapolisi[289].

216. Umutangabuhamya wiswe CCR avuga ko mu gihe iyo nama yarimo, yabonye ikamyo ya gisirikare yo mu bwoko bwa *CTA* y'icyatsi kibisi kijimye irimo intwaro zitwikirije ihema, ariko ntasobanura uburyo yabashije kumenya ko iyo kamyo yari ipakiye intwaro. N'ubwo uwo mutangabuhamya atari ahari ubwo intwaro zatangwaga, nyuma y'aho yahuye nibura n'abantu batatu bafite intwaro, bamubwira ko baziherewe muri ya nama kandi ko ari zimwe mu zatanzwe n'Uregwa[290].

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[288] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, imp. 27, 28.
[289] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 5.
[290] Inyandikomvugo y'iburanisha, 20 Gicurasi 2005, urup. 12. Ku kibazo yari abajijwe na Porokireri cyo kumenya uburyo yamenye ko hari intwaro zatanzwe kandi aho zatangiwe atari ahari, umutangabuhamya wiswe CCR yasubije

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Umutangabuhamya ushinjura wiswe MO67

217. Umutangabuhamya ushinjura wiswe MO67 asobanura ko santeri y'ubucuruzi ya Nyantanga iri muri Komini ya Nyakizu, Perefegitura ya Butare[291]. Avuga ko kuva ku munsi Perezida yapfiriyeho kugeza muri Nyakanga ubwo yajyaga ku Gikongoro, atigeze abona kuri santere y'ubucuruzi ya Nyantanga hatangirwa intwaro, yewe ntiyigeze anumva ko hari izahatangiwe[292].

Umutangabuhamya ushinjura wiswe MO68

218. Umutangabuhamya ushinjura wiswe MO68 avuga ko nta ntwaro zigeze zitangirwa kuri santere y'ubucuruzi ya Nyantanga, kandi ko i Nyantaga aho yari atuye, atigeze abona imodoka ya gisirikare cyangwa imbunda muri kiriya gihe cyose cy'ibyabaye mu wa 1994[293].

Umutangabuhamya ushinjura wiswe MO81

219. Umutangabuhamya ushinjura wiswe MO81 avuga ko mbere y'itariki ya 15 Mata 1994 nta musirikare n'umwe yigeze abona mu karere karimo santere y'ubucuruzi ya Nyantanga, kandi ko nta n'abasirikare yabonye batanga intwaro haba kuri iyo santere ubwayo cyangwa ahandi hantu. Avuga ko yavuye mu Rwanda agahungira i Burundi aho yamaze nk'ukwezi n'igice, mbere yo kugaruka mu Rwanda mu mpera za Kamena cyangwa mu ntangiriro za Nyakanga[294].

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muri aya magambo: « Nabimenye kubera impamvu ebyiri …Iya mbere ni uko ikamyo yarimo izo ntwaro yari ihagaze ahongaho, yari ikamyo yo mu bwoko bwa *CTA*; na none kandi, nyuma y'itangwa ry'intwaro, nabonye abantu batatu bari bazifite…. Augustin Kabayiza yaje aho nakoreraga afite imbunda nshya yo mu bwoko bwa *G-3*. Mbere nta mbunda yari asanzwe atunze. Yatweretse iyo mbunda yigamba ko ayitunze. Nafashe iyo mbunda mu ntoki. Ibyo yabivuze kubera ko yari umurezerivisiti. … Uwitwa Jean Baptiste Bazaramba nawe yari afite imbunda yo mu bwoko bwa kalachnikov nshyashya. Kaganwa wahoze ari umuporisi wa komini nawe yari afite imbunda ishaje yo mu bwoko bwa *machine-gun.*

[291] Inyandikomvugo y'iburanisha (mu muhezo), 6 Gashyantare 2006, imp. 4, 22.

[292] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, urup. 12.

[293] Inyandikomvugo y'iburanisha (mu muhezo), 6 Gashyantare 2006, imp. 22, 30, 32, 33.

[294] Inyandikomvugo y'iburanisha (mu muhezo), 7 Gashyantare 2006, imp. 32, 34, 35.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.5.3. Isesengura ry'Urugereko

220. Urugereko rusanga mu myanzuro ye nsozarubanza, Porokireri nta cyo avuga ku gika cya 3.26 cy'Inyandiko y'ibirego. Bityo, Urugereko ntirushobora kumenya abatangabuhamya bashinja bashyigikira ikirego kivugwa muri icyo gika, cyangwa niba Porokireri ateganya kugitangira ibimenyetso cyangwa kukireka. Ariko kubera ko Porokireri atamenyesheje Urugereko mu buryo bweruye ko ateganya kureka icyo kirego, Urugereko rugomba gushakisha niba mu bimenyetso byatanzwe harimo ibishyigikira icyo kirego.

221. Umutangabuhamya wiswe KAL ni we wenyine wavuze ko Muvunyi yakoranye inama na Burugumesitiri wa Komini ya Ngoma n'uwa Komini ya Huye, ko nyuma y'iyo nama abasiviri bagiye mu kigo cya *ESO* guhabwa imyitozo kandi nyuma yayo bakaba barahawe intwaro bakanasabwa kujya « guhiga umwanzi », byashakaga kuvuga abasiviri b'Abatutsi. Urugereko rurashidikanya cyane ku buhamya bwatanzwe na KAL kuri iki kibazo. Koko rero, uyu mutangabuhamya ntasobanura igihe iyo nama yaba yarabereye, kandi apfa kuvuga gusa nta gihamya ko « akenshi iyo ababurugumesitiri bakoranaga inama, babaga bazanywe no gusabira intwaro abantu bitorezaga mu kigo cya *ESO,* bakaba bari abasiviri, cyangwa se bakaba bazanywe no kwisabira intwaro ubwabo, kandi cyane cyane babaga baje gutanga raporo mu kigo cya *ESO*[295] ». Nta wundi mutangabuhamya washyigikiye ubu buhamya.

222. Urugereko rwemera ko iyo mu wa 1994 abasiviri baza kuba baratorejwe mu kigo cya *ESO,* bakanahaherwa intwaro, iyo nkuru yari kuba kimomo. Kuba mu bandi batangabuhamya bashinja ushyizemo n'umutangabuhamya wiswe YAA n'uwiswe NN bakoraga mu kigo cya *ESO* nta n'umwe wigeze akomoza kuri icyo kibazo, bituma Urugereko rushidikanya kurushaho ku birebana n'ukwemerwa kw'inkuru y'umutangabuhamya wiswe KAL. Urugereko rusanga rero Porokireri ataragaragaje ku buryo budashidikanywaho ko Muvunyi yahaye imyitozo abasiviri bitwaraga gisirikare cyangwa ko yabahaye intwaro mu kigo cya *ESO* mu wa 1994.

[295] Inyandikomvugo y'iburanisha (mu muhezo), 1 Werurwe 2005, urup. 28.

223. Na none, Urugereko rushidikanya ku bivugwa n'umutangabuhammya wiswe YAA ko muri Mata 1994 hari *Interahamwe* zaherewe imyitozo i Mata, ziyihabwa n'abasirikare bo muri *ESO* ari bo Nizeyimana na Modeste Gatsinzi. Koko rero, uyu mutangabuhamya yabanje kuvuga ko yumvise ko abo ba ofisiye bombi bo muri *ESO* ivuguruye batozaga *Interahamwe* n'Abarundi, nyuma aza kuvuga ko yahuriye na Gatsinzi ku Gikongoro ari kumwe n'abanyeshuri ba *ESO* ivuguruye bari mu ikamyo, kandi ko Gatsinzi ari we wamwibwiriye ko yatozaga *Interahamwe* i Mata. Urugereko rusanga izo mvugo zivuguruzanya ku buryo rushidikanya ko Muvunyi yaba yaratanze intwaro zo gukoresha mu itozwa ry'abasiviri kugira ngo babashe kugaba ibitero ku Batutsi nk'uko bivugwa mu nyandiko y'ibirego. Urugereko rwamaze gufata umwanzuro (ku birebana « n'amanama yo gushishikaza »), uvuga ko iby'umutangabuhamya wiswe CCR avuga ku birebana n'inama yaba yarabereye ku biro bya Komini ya Nyakizu ku itariki ya 21 Mata 1994 atari ibyo kwemerwa, bityo rero ntirwiriwe rusuzuma ibivugwa ko muri iyo nama Muvunyi yakwirakwije intwaro mu bantu.

5.6. Igitero cyagabwe ku mpunzi zari zakomeretse, mu Bitaro bya Kaminuza i Butare

5.6.1. Ibivugwa mu nyandiko y'ibirego

224. Igika cya 3.29 kigira kiti:

> 3.29. Ku itariki ya 15 Mata cyangwa hafi y'iyo tariki, Liyetona Koloneli **Muvunyi**, ari kumwe n'itsinda ry'abasirikare, yagiye mu gitero cyagabwe ku bitaro bya Kaminuza y'i Butare cyibasiye impunzi z'Abatutsi zari zakomeretse. Abagabye igitero bavanguye Abatutsi n'Abahutu maze bica impunzi z'Abatutsi.

5.6.2. Ibimenyetso

Umutangabuhamya ushinja wiswe XV

225. Umutangabuhamya wiswe XV wakoraga mu bitaro bya Kaminuza i Butare mu wa

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

1994[296] avuga ko kubera ko umutekano warushijeho kuba muke nyuma y'urupfu rwa Perezida w'u Rwanda ku itariki ya 6 Mata 1994, yagumye mu rugo iwe hamwe n'umugore we w'Umuhutukazi, abana babo bane n'abakozi babiri kugeza ahagana ku itariki ya 15 cyangwa iya 16 Mata[297]. Kuri imwe muri ayo matariki yombi, XV yagejejweho ibaruwa yashyizweho umukono n'Umuyobozi « w'icyo kigo cya Kaminuza » [Ibitaro] hamwe na « komanda Muvunyi », imutegeka gusubira ku kazi. Umutangabuhamya yavuze ko yubahirije iryo tegeko, agasubira mu kazi ku bitaro bya Kaminuza, ko ariko icyo gihe « abantu bari bataratangira kwicwa ». Avuga ko ahagana ku itariki ya 18 cyangwa iya 19 Mata, uwari umukuriye mu kazi yamusabye guhagarika akazi kubera ko ku misozi yegeranye na Nyarutovu: « amazu yari yatangiye gutwikwa, n'abantu batangiye guhunga ». Kubera iyo mpavu, umutangabuhamya yagumye iwe guhera kuri iyo tariki kugeza ahagana ku itariki ya 21 Mata 1994. Muri icyo gihe, umugore we yajyanye abana ku bitaro bya Kaminuza kuko « ari ho na we yakoraga, akaba yaratekerezaga ko abana be bazahagirira umutekano ». Muri icyo gihe, amazu y'abaturanyi be yaratwitswe, abaturage babwirwa ko bagomba kwirindira umutekano[298]. Icyatumye umuryango we uva aho ku bitaro n'uko gusa umukuru w'imirimo kuri ibyo bitaro yavuze ko « atifuza impunzi ku bitaro, avuga ko ari *Inyenzi*[299] ».

226. Umutangabuhamya wiswe XV yasubiye ku bitaro ku itariki ya 21 Mata cyangwa hafi y'iyo tariki amaze kurokoka igitero abasirikare baturutse mu kigo cya ESO n'icya Ngoma hamwe n'Interahamwe bari bagabye ku mpunzi mu ishyamba rya Mukura[300]. Ageze ku bitaro, yahasanze impunzi ndetse n'abasirikare bambaye imyenda ya gisirikare kandi bafite imbunda. Nyuma y'umwanya muto, *Interahamwe* zageze aho maze zifatanya n'abasirikare gusaba impunzi kwerekana ibyangombwa. Avuga ko umuntu uwo ari we wese wabaga adafite ibyangombwa « yafatwaga nk'Umutusi cyangwa bakavuga ko ari Umututsi w'Inyenzi ». Avuga kandi ko batamwatse indangamuntu kubera ko umusirikare

[296] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 9; Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, urup. 26.
[297] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 8-9.
[298] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 9.
[299] Inyandikomvugo y'iburanisha, 17 Gicurasi 2005, urup. 1.
[300] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 13.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

umwe yari yarigeze gufasha kera, yakoze uko ashoboye kugira ngo ibya ngombya bye bitagenzurwa[301].

227. XV avuga ko Muvunyi yagiye mu bitaro mu kwezi kwa Gicurasi ari kumwe n'abandi basirikare bo mu rwego rwa ba ofisiye, hamwe n'umudamu witwa Nyiramasuhuko. N'ubwo hari ahandi uyu mutangabuhamya yavuze ko yabonye Muvunyi mbere y'iyi tariki, aho yemezaga ko yamubonye « mu mujyi wa Butare » n'ubundi « ubwo yari avuye i Taba », mu buhamya bwe kuri iki kibazo avuga ko umwe muri bagenzi be ari we wamubwiye ko uwo muntu waje mu bitaro kuri uwo munsi ari Muvunyi, kandi ngo uwo mugenzi we yongeyeho ko « ari we ukuriye abasirikare bari mu bitaro n'abari hanze yabyo, ko kandi bari bazanywe no kureba niba akazi gakorwa neza »[302]. XV avuga ko, icyo gihe Muvunyi yamaze ku bitaro iminota igera kuri 20, kandi ko n'ubwo atabashaga kumva ibyo Muvunyi yavugaga, yari ahagaze nko « mu ntambwe 12 hepfo ye », akaba yarabashaga kumubona avugana n'abasirikare n'abasiviri[303].

228. Muvunyi amaze kuhava, abasirikare bakomeje kugenzura ibyangombwa by'impunzi ku manywa, maze ninjoro bashimuta abantu « bajya kubica ». XV avuga ko yiboneye ku giti cye umusirikare witwa Phillip Jeans ukomoka ku Kibuye impunzi yakomokaga i Ngoma ayirashe, anongeraho ko mushiki we yashimuswe n'abasirikare ari ku cyumweru kandi ko atagarutse[304]. Avuga ko ubwo yari ku bitaro, yabonye abandi bantu bicwa barimo uwitwa Claude Dogo n'umwana wari urwaye diyabete[305].

229. XV avuga kandi ko impunzi nyinshi zari inkomere zinashonje. Nyamara ntibyabujije abasirikare n'Interahamwe kuzishimuta, kandi byaragaragaraga ko « babaga bazijyanye kuzicira ku byobo rusange ». Iby'uko impunzi zicwaga, umutangabuhamya yabibwiwe n'imwe mu mpunzi abasirikare bari bajyanye maze ikaza kubacika ubwo bageragezaga

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[301] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 16. Imbere y'Urugereko, umutangabuhamya wiswe VX yavuze ibi bikurikira: «Icyo bankoreye ni uko --- hari umusirikare nari nafashije ---- abadogiteri bo bari babizi, ni abaforomokazi bari banasabye gufasha uwo musirikare. Nyuma uwo musirikare yarambwiye ari: «Uyu Mututsi yamfashe nabi, nzamumanukana hariya hepfo maze mwiture ».

[302] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 18, 21.

[303] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 21, 23.

[304] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 23, 24.

[305] Inyandikomvugo y'iburanisha (mu muhezo), 18 Gicurasi 2005, urup.41.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kuyicisha isuka; icyo gihe ikaba yaramubwiye ko izindi mpunzi zari zishwe[306]. XV avuga ko yabashije kurokoka kubera ko yari yambaye itabuliya no kubera ko abaforomokazi bari bamuhaye imfunguzo zabo, bikajya bimufasha kuva mu cyumba kimwe ajya mu kindi. Avuga ko ubwo mushiki we yashimutwaga, nyuma yaho kuri uwo munsi yavuye mu bitaro abifashijwemo n'umukozi w'ibitaro wamushyize mu modoka y'ibitaro itwara abarwayi[307].

Umutangabuhamya ushinja wiswe YAP

230. Umutangabuhamya ushinja wiswe YAP yari umukozi w'ibitaro bya Kaminuza hagati ya Mata na Nyakanga 1994[308]. Avuga ko n'ubwo ku giti cye atari azi Tharcisse Muvunyi, yari azi ariko ko ari umuyobozi w'ikigo cya *ESO*, « kubera ko abantu bose babivugaga[309] ». YAP anavuga ko yari inshuti ya bamwe mu basirikare bo muri *ESO* kandi ko abenshi muri bo bajyaga bamubwira Muvunyi ari we komanda wabo. Bamwe muri abo basirikare ni Kaporari Rwagihangi, Kaporari Bicamumpaka, uwitwa Adela, na Kaporari Mamishi[310].

231. YAP avuga ko, ku itariki ya 7 Mata, amaze kumenya ko Perezida Habyarimana yapfuye, yagiye ku bitaro maze agasanga hari ibintu byinshi byahindutse. Hari abakozi bake cyane, umubare w'impunzi z'Abatutsi wariyongereye, kandi abasirikare barinjiye mu kigo cy'ibitaro. Zimwe mu mpunzi zari zavuye muri Gikongoro, izindi zavuye i Nyuruteja, i Mpare, i Vumbi no muri Komini ya Runyinya. Impunzi zari zavuye muri Gikongoro n'i Nyaruteja zari zakomeretse, naho izari zavuye mu yandi makomini ntizari zakomeretse ariko zari zaje zihunga uduce twari twibasiwe n'ibitero[311]. YAP avuga ko, imwe mu mpunzi zari zavuye i Kigali yamubwiye ko mu rugendo rwo kuva i Kigali baza i Butare, bari abantu icyenda. Bageze ku kigo cy'i Ngoma, abasirikare bo muri icyo kigo

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306 Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup.17.
307 Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 24.
308 Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 2.
309 Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 19, 36. Mu ibaza rinyomoza, umutangabuhamya wiswe YAP yavuze ko yari azi ko Muvunyi yari Komanda w'ikigo cya ESO haba mbere haba na nyuma y'urupfu rwa Perezida Habyarimana.
310 Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, urup. 39.
311 Inyandikomvugo y'iburanisha, 6 Kamena 2005, imp. 2-4.

bakubita umunani muri bo kugeza banogotse, maze imirambo yabo ijugunywa i Mubumbano muri Komini ya Gishamvu. Burugumesitiri wa Gishamvu, ari we Pascal Kambanda, yajyanye iyo mirambo kuyisuzumisha kugira ngo bamenye icyishe abo bantu. Iyo mpunzi yari yaje mu bitaro bya Kaminuza y'i Butare guca mu cyuma. Uko ni ko iyo mpunzi yahuye na YAP. YAP avuga kandi ko iyo mpunzi yaje gupfa nyuma[312].

232. YAP avuga ko, akiri ku bitaro, umusirikare wo muri ESO witwa Bizimana (alias Rwatsi cyangwa Ruhati) yatozaga Abarundi bahungiye ku bitaro, gukoresha imbunda no kuyihambura bakongera bakayiteranya[313]. Yavuze ko, abasore b'Abarundi babaga mu mahema hafi y'ibitaro by'abana. Amaze kumenya ibyahakorerwaga, yabibwiye Jotham Hakizumukika wari umuyobozi w'ibitaro wamwijeje ko abimenyesha komanda wa ESO, ari na bwo yamubwiraga ko Muvunyi ariwe komanda wa ESO. YAP avuga ko nyuma y'iminsi itatu, yabajije Jotham icyavuye mu mishyikirano yagiranye na komanda wa ESO, maze akamusubiza ko komanda wa ESO yamubwiye ko bidashoboka guhana umusirikare mu bihe by'intambara[314].

233. YAP avuga na none ko, nyuma yo ku itariki ya 20 Mata 1994, yamenye ko ku bitaro hariho komite y'amahina [*comité de crise*] yari igizwe na Dr. Karemera wari umuyobozi w'ishami ryigishaga iby'ubuganga, Dr. Gatera wari umuyobozi wa serivisi y'imbagwa [*chirurgie*], n'abandi basiviri nka Twahirwa na Shimyumukiza. Uyu mutangabuhamya avuga kandi ko iyo komite yari igizwe na none n'abasirikare 18 bo muri ESO barimo Nizeyimana, Mberabagabo, Sekimonyo, Suliyetona Rwanyonga wigaga mu ishami ry'ubuvuzi, Muzungu na Nzema. Avuga ko iyo komite byitwaga ko ishinzwe kubungabunga umutekano mu bitaro, ariko ko mu by'ukuri yacaguraga abantu ikabica[315].

234. YAP avuga ko umutekano umaze guhungabana, yahagaritse akazi ku itariki ya 18 Mata 1994. Igihe kinini yabaga yihishe iwe kugeza ku itariki ya 3 Nyakanga, uretse inshuro

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[312] Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 4.
[313] Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 3.
[314] Inyandikomvugo y'iburanisha, 6 Kamena 2005, imp. 3-4.
[315] Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 15.

enye yagiye ku bitaro bya Kaminuza[316]. Avuga ko ajyayo bwa mbere ku itariki ya 20 Mata 1994, yabonye umukaporali witwa Kayitana avuye mu kigo cya ESO wari wahawe amabwiriza yo gusaka ku bitaro. Yongeraho ko bitwazaga « isaka », ariko mu by'ukuri « bazanywe no gushakisha Abatutsi mu kigo cy'ibitaro [317]». Uyu mutangabuhamya yemera ko ativuganiye na Kayitana, ariko ko yari ahari ubwo Kayitana yavuganaga na « diregiteri[318] ».

235. YAP yongeraho ko yaje kuva ku bitaro ubwo abantu bari bashinzwe gusaka bari bahageze, ariko ko yabonye ibyo bakoze byose. Avuga ko yanyereye akajya ahantu hatari kure ya ESO n'ibitaro bya Kaminuza, maze akitegereza ibyakorwaga[319]. Iryo saka ryakorwaga n'agatsiko k'abantu barimo Nyimyumukiza, Dr. Gatera, Dr. Karemera, umuyobozi wungirije wa Kaminuza, abasirikare n'Interahamwe. Abo basakaga baje gutegeka impunzi z'Abatutsi kurira kamyoneti itukura y'ibitaro. Iyo kamyoneti yazitunze inshuro nyinshi.

236. YAP avuga ko, abasirikare na zimwe mu mpuzi zari zarokotse bamubwiye nyuma yaho ko iyo kamyoneti yajyanaga impunzi ku mashuri abanza ya EER. By'umwihariko, hari umugore warokotse wamubwiye ko impunzi zavanywe ku bitaro bya Kaminuza zajyanwe ku mashuri abanza ya EER[320]. Uwo mugore na none yamubwiye ko impunzi zarokotse ubwo zavaga ku bitaro bya Kaminuza zijyanwa kuri EER, zaje gukurwa aho kuri EER zikajyanwa ku biro bya perefegitura. Zimwe muri izo mpunzi byababaye ngombwa ko zihungira i Kabilizi, naho izindi zijyanwa i Cyarwa aho ziciwe. YAP akomeza avuga ko, izindi mpunzi zajyanywe hafi y'icyuma cya ELECTROGAZ kigabanya ubukana bw'amashanyarazi (transformer/transformateur) cyari « cyegeranye » n'ibitaro bya Kaminuza, maze ziba ariho zicirwa. Na none avuga ko impunzi zari zasigaye zaje kugera mu ishyamba ry'i Rango, zikarokorwa n'Inkotanyi/FPR[321].

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[316] Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, imp. 24-25.
[317] Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 6.
[318] Inyandikomvugo y'iburanisha, 7 Kamena 2005, urup. 17.
[319] Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, urup. 8.
[320] Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 13.
[321] Inyandikomvugo y'iburanisha, 6 Kamena 2005, imp. 13-14.

237. Agaruka ku bitaro ku nshuro ya kabiri muri Gicurasi, YAP yari aherekeje umwe mu baturanyi be wari wamuhuruje bitewe n'uko YAP yakoraga ku bitaro. Yahagumye hafi « iminota 30 … Mbese ntiyageraga ku isaha »[322]. Bahageze, yabonye hari abasirikare benshi haba aho imodoka zihagarara, haba no mu birongozi. YAP yavuze ko kuba ibitaro byari hafi ya ESO, byatumye inyubako zabyo nk'ikigo cya gisirikare, ko kandi uretse bake muri bo, abandi basirikare bose yabonye bari abo muri ESO kandi bari bitwaje intwaro[323].

238. YAP yagarutse ku bitaro inshuro ya gatatu nyuma yo ku wa 18 Mata, hari ku cyumweru mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994. Kuri iyo nshuro, yasanze ibitanda byo mu bitaro by'abana n'ibyo mu bitaro by'abarwayi indwara z'uruhu byariho abasirikare. Yavuganye akanya gato na Diregiteri w'ibitaro, yongera gusubirayo ku wa kabiri wakurikiyeho agiye gufata umushahara we[324]. Akomeza avuga ko, kuri uwo wa kabiri (ku nshuro ya kane ahagera), Diregiteri w'ibitaro yari yohereje imodoka y'abarwayi kujya kumukura iwe, kandi ni na yo yamusubijeyo. Nyamara ariko, nta cyo avuga ku byo yaba yarabonye ku bitaro kuri iyo nshuro.

Umutangabuhamya ushinja wiswe AFV

239. Mu gihe cy'ibyabaye muri Mata 1994, umutangabuhamya wiswe AFV yari umukozi w'ibitaro bya Kaminuza y'i Butare. Avuga ko ubusanzwe yajyaga ku kazi n'amaguru. Ariko ku itariki ya 7 Mata, bitewe n'urupfu rwa Perezida Habyarimana, « umutekano waje kuba mukeya. Abantu ntibashoboraga kugenda, hari harashyizweho za bariyeri. Abatutsi ntibashoboraga kugenda. Basabwaga kwerekana ibibaranga kandi n'aho bashoboraga guca hose, bari guhura na bariyeri ziriho abasirikare ». Bitewe n'iryo hungabana rikomeye ry'umutekano, ku itariki ya 7 Mata imodoka yo ku kazi yaje kumutwara imujyana ku kazi. Ku itariki ya 19 no ku ya 20 Mata, iyo modoka ntiyaje

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[322] Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, urup. 26.
[323] Inyandikomvugo y'iburanisha, 6 Kamena 2005, urup. 16.
[324] Inyandikomvugo y'iburanisha (mu muhezo), 6 Kamena 2005, imp. 17-18. Umutangabuhamya wiswe YAP yavuze ko yasubiye ku bitaro ku nshuro ya gatatu kubera ko abasirikare bo muri ESO bari bamuzi, bazi ko ari uwo mw'itorero ry'abapentekositi, bakaba bari bamusabye kubasura ku bitaro kugira ngo basengane. Bamwemereye kurinda umutekano we akaba ari yo mpamvu yagiyeyo.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kumutwara, bikaba byarabaye ngombwa ko ajya ku kazi n'amaguru. Ku itariki ya 20 Mata, ageze ku kazi, yabonye hari abasirikare benshi bidasanzwe kandi bafite intwaro. Byari bidasanzwe kuko ubundi habaga hari « abasirikare bakeya baje kwivuza kandi ntibababaga bitwaje intwaro »[325]. Avuga ko abasirikare bari bafite intwaro kandi ko bari bambaye imyenda ya simoko « nk'iyo yari asanzwe abona abasirikare bo muri ESO bambaye ». Kubera imyenda bari bambaye kandi na ESO ikaba itari kure y'ibitaro bya Kaminuza, yibwiye ko abo basirikare baturukaga muri ESO. AFV avuga ko atigeze amenya icyo abo basirikare bakoraga ku bitaro kandi ko yahavuye mu ma saa saba y'amanywa, bakimara kuhagera. Yahavuye bitewe n'uko Diregiteri w'ibitaro, witwaga Jotham, yari yamwangiye kwinjira mu modoka y'ibitaro amuziza ko ari Umututsikazi. Avuga ko Jotham yamubwiye ati: « Sohoka, akanyu kashobotse [326]». AFV avuga ko yasubiye mu rugo n'amaguru uwo munsi nyuma ya saa sita, kandi ko yanyuze kuri bariyeri yari icunzwe n'abasirikare[327].

Umutangabuhamya ushinja wiswe YAK

240. Umutangabuhamya ushinja wiswe YAK avuga ko ku itariki ya 25 Mata 1994 cyangwa ahafi y'iyo tariki, yavuye mu rugo kwa nyirasenge mu ma saa cyenda, agahungira ku bitaro bya Kaminuza y'i Butare. Avuga ko yaciye mu ishyamba ari ninjoro kuko nta kundi yari kugera ku bitaro.

241. Ageze ku bitaro bya Kaminuza, YAK yabonye amahema impunzi z'Abarundi zabagamo. Izo mpunzi zitabwagaho n'umuryango witwa «Abaganga batagira umupaka » *(Médecins sans frontières/Doctors without borders)*. Uretse abo Barundi, hari n'abasirikare bari bavuye muri ESO. Yamenye ko bavaga muri ESO kuko iyo umuntu yabaga ahagaze aho bakirira abantu ku bitaro, yashoboraga kubabona baza baturutse muri ESO.

242. YAK avuga ko hashize iminsi itanu ageze ku bitaro, Muvunyi yahaje ari kumwe n'umugore wari ufite ipeti rya majoro n'abasirikare babiri bari bambaye ingofero za

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[325] Inyandikomvugo y'iburanisha, 21 Kamena 2005, imp. 3-4.
[326] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 4.
[327] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 4.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

gisirikare z'umukara. Bwari ubwa mbere abona Muvunyi; impunzi y'umugore ni yo yamubwiye ko uwo mugabo ari Muvunyi. Icyo gihe, Muvunyi yari yambaye imyenda ya gisirikare y'ibara rimwe, nta ngofero yari yambaye. Iminota mikeya mbere y'uko Muvunyi ahagera, haje otobisi yari itwaye abasirikare b'inkomere. Muvunyi yari yaje mu modoka itukura yo mu bwoko bwa Hilux. Uwo mu majoro w'umugore wari kumwe na Muvunyi yarabajije ati: « Izi ni impunzi? Nta biryo nabazaniye, nimubareke basubire aho baturutse ». Muvunyi yahise abaza umwe mu basirikare barindaga aho ngaho icyo izo mpunzi zakoraga ku bitaro. Mu gihe abasirikare barimo gutwara kuri burankari bagenzi babo b'inkomere, Muvunyi, arengurira ku mpunzi, yaravuze ati « Baracyakora iki hano[328] »?

243. Umutangabuhamya wiswe YAK yavuze na none ko, ubwo yari ari ku bitaro bya Kaminuza, abasirikare bo muri ESO baje gusaba impunzi z'abagore kubakurikira muri ESO kugira ngo babahe ibyo kurya. Abakobwa barabakurikiye. Baje kugaruka barira. Abo bakobwa babwiye YAK n'izindi mpunzi ko, aho kubaha ibyo kurya, abo basirikare babasambanyije ku gahato[329].

244. YAK atanga na none amakuru ku bikorwa by'Interahamwe yitwaga Diogène Harindintwali n'umugore witwa Mukamurera bari « bazwi na rubanda ». Abo bantu uko ari babiri, barazaga bakavugana n'abasirikare aho ku bitaro bya Kaminuza. Uwo mugore yagendagendaga mu impunzi maze akagenda atunga agatoki zimwe muri zo. Abasirikare babaga bamugenda inyuma bahitaga bakura abo batunzwe agatoki mu bandi. Abantu bose batunzwe agatoki bakanakurwa mu bandi, bari impunzi z'abasore. YAK yavuze ko, hafi impunzi 20 cyangwa 30 zakuwe mu zindi muri ubwo buryo. Interahamwe Diogène yurije zimwe mu mpunzi mu modoka yo mu bwoko bwa Toyota ya « *double cabine* », izindi zijyanwa n'abasirikare ku maguru mu kigo cya ESO. Avuga ko izo mpunzi zajyanywe zitoranyijwe mu zindi ku bitaro zishwe zose uretse imwe gusa. Imirambo imwe n'imwe yashyinguwe hafi ya laboratwari. YAK n'abandi bantu baje gushyingura

[328] Inyandikomvugo y'iburanisha, 29 Kamena 2005, imp. 34-35.
[329] Inyandikomvugo y'iburanisha, 29 Kamena 2005, urup. 35.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mu cyubahiro iyo mirambo nyuma y'umwaka wa 1994[330]. Avuga ko, uwo muntu umwe rukumbi warokotse ubwo bwicanyi akiriho, abana n'umuryango we mu Rwanda.

Umutangabuhamya ushinja wiswe NN

245. Umutangabuhamya ushinja wiswe NN avuga ko muri Gicurasi 1994, ari bwo yamenye iby'iyicwa ry'Abatutsi ryabereye ku bitaro bya Kaminuza y'i Butare. Avuga ko mu gihe cy'ubwicanyi atari i Butare, ko Kolonel Gatsinzi yari yamwohereje i Cyangugu, bityo rero akaba yaramenye iby'ubwicanyi ahindukiye[331]. NN avuga ko abantu bakoze ubwo bwicanyi ari abasirikare b'inkomere bari baraturutse i Kanombe, hamwe n'abasirikare bo muri ESO bari bashinzwe kurinda ibitaro. Avuga ko bamwe mu bakozi b'ibitaro hamwe n'inkomere z'Abatutsi baguye muri ubwo bwicanyi. Izo nkomere z'Abatutsi zabaga mu mahema mu kigo cy'ibitaro. NN yavuze ko nyuma y'ibitero, bamusabye kujya kurokora umukozi w'ibitaro w'umugore wari wakomerekejwe n'ibyo bitero. Abifashijwemo n'umwe mu badogiteri b'ibitaro, yabashije kujyana uwo mukozi iwe mu rugo, maze nyuma yaho amugeza ku mupaka w'u Rwanda n'u Burundi[332]. NN avuga ko nta muntu yigeze abona yicirwa mu kigo cya ESO[333].

Umutangabuhamya ushinja wiswe YAA

246. Umutangabuhamya ushinja wiswe YAA avuga ko, mu wa 1994, ibitaro bya Kaminuza y'i Butare byari nko muri metero 400 y'ikigo cya ESO kandi ko « umuntu uri mu kigo cya ESO yashoboraga guhamagara aranguruye ijwi uri ku bitaro bya Kaminuza, akamwumva neza[334] ». Avuga ko ibyo bitaro byari birinzwe n'abasirikare bo muri ESO. Yaje kuba mu kigo cya ESO avuye i Kigali ahagana ku itariki ya 16 Gicurasi 1994 kubera impungenge z'umutekano we. Ku itariki ya 8 Kamena 1994, umugore we

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[330] Inyandikomvugo y'iburanisha, 29 Kamena 2005, imp. 35-36.
[331] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp.53-54. « Ndibuka ko ntari mpari ubwicanyi buba. Koloneli Gatsinzi yari yaranyohereje i Cyangugu, ngaruka ubwicanyi bwarabaye ». Porokireri amubajije niba yibuka ukwezi Koloneli Gatsinzi yamwoherejeho i Cyangugu, umutangabuhamya wiswe NN yasubije agira ati: « Hari mu kwezi kwa Gicurasi ».
[332] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 53-54.
[333] Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, urup. 41.
[334] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2005, urup. 29.

w'Umututsikazi atangiye kugira ibise, yamujyanye ku bitaro bya Kaminuza y'i Butare aherekejwe n'umusirikare wo muri ESO witwa Kirezi, wari ushinzwe ibibazo by'ubuzima muri ESO, n'umukaporali witwa Modeste Kayitana[335]. Kirezi yiyambaje dogiteri Jotham wo ku bitaro bya Kaminuza, uwo muganga amubwira ko nta cyo yabamarira. Ubwo, YAA na Kirezi biyemeje kujyana uwo mugore wari ku nda ku bitaro. Bahageze, YAA yabonye ibitaro birinzwe n'abanyeshuri bo muri ESO. By'umwihariko yabonye uwitwa Sekimonyo wari ufite ipete rya serija n'abandi banyeshuri batanu bo muri ESO. Abo nibo bamuherekeje, we n'umugore we, bamugeza ku nzu y'ababyeyi y'aho mu bitaro[336].

247. YAA avuga ko yumvise havugwa ko abantu biciwe ku bitaro, ariko ko we nta bwicanyi yigeze abona bukorwa. Avuga ko yasabye umuforomokazi guha umugore we icyumba cyo kuruhukiramo amaze kubyara, maze uwo muforomokazi akamugira inama yo kugumana n'umugore we muri icyo cyumba kuko yashoboraga kwicwa[337]. Uwo muforomokazi yabwiye kandi YAA ko abasirikare bo muri ESO bishe abantu ku bitaro kandi ko « abo basirikare batari barazanywe no kurinda abarwayi, ko ahubwo bagize uruhare mu ku batsembatsemba[338]. YAA anavuga ko uwo muforomokazi yamusabye ko agumana n'umugore we kuko yari Umututsikazi, kandi ko abantu biciwe ku bitaro bari Abatutsi. Umugore we amaze kubyara, YAA yahisemo kumusubiza mu kigo cya ESO kubera ko « nta handi hantu bari bafite ho kujya »[339].

<u>Umutangabuhamya ushinjura wiswe MO73</u>

248. Umutangabuhamya ushinjura wiswe MO73 avuga ko ubwo yari muri ESO mu mpera z'ukwezi kwa Mata no mu ntangiriro y'ukwa Gicurasi 1994, yagiye ku bitaro bya

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335 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2005, urup. 10.
336 Inyandikomvugo y'iburanisha, 9 Werurwe 2005, urup. 29; Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2005, urup. 10.
337 Inyandikomvugo y'iburanisha, 9 Werurwe 2005, urup. 29: YAA yavuze ko yasabye umuforomokazi kubaha icyumba kugira ngo umugore we aruhukiremo amaze kubyara, maze umuforomokazi akamusubiza muri aya magambo: « Nta kibazo icyumba nshobora kukibaha, ariko ugomba kuhaguma ukarinda umugore wawe. Nugenda ushobora kugaruka ugusanga umugore wawe yapfuye ».
338 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 30.
339 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2005, urup. 10. « Nta bwo nasubiye muri ESO ari uko hari umutekano ahubwo nta handi nari kujya. Uretse ibyo kandi, niho nabaga ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Kaminuza inshuro ebyiri agiye gusurayo umuntu wari inshuti ye[340]. Kuri izo nshuro zombi, nta bantu yabonye bahacunga umutekano, kandi uko ibintu byari bimeze aho mu bitaro byasaga nk'uko byari bimeze na mbere y'itariki ya 6 Mata 1994. MO73 avuga ko iyo nshuti ye yamubwiye ko Interahamwe zajyaga ziza gushimuta abarwayi ku bitaro, kandi ko yakekaga ko abo bashimuswe bishwe cyangwa bagiriwe nabi ku bundi buryo. Avuga ko nta musirikare n'umwe yigeze abona kuri izo nshuro zombi yagiye ku bitaro[341].

Umutangabuhamya ushinjura wiswe MO30

249. Umutangabuhamya ushinjura wiswe MO30 avuga ko yagiye ku bitaro bya Kaminuza y'i Butare inshuro ebyiri mu kwezi kwa Gicurasi n'ukwa Kamena 1994[342]. Avuga ko ubwa mbere yari agiye kwivuza igisebe ku kiganza ubwo yari yakomerekeye ku kazi. Kubera ko yari azi umuganga ukuriye serivisi y'ibagiro ry'ibitaro, yahise ajya mu ibagiro maze bamudoda ku rutoki. Ubwa kabiri, yari agiye kureba umuntu witwa Jonathan. MO30 avuga ko kuri izo nshuro zombi atigeze abona abantu bacunga umutekano aho ku bitaro, kandi ko yashoboraga gutembera nta nkomyi mu bitaro, ariko ko nta muntu n'umwe wigeze amwaka ibyangombwa[343].

5.6.3. Isesengura ry'Urugereko

250. Inyandiko y'ibirego ivuga ko, ku itariki ya 15 Mata 1994 cyangwa hafi y'iyo tariki, Uregwa, ari hamwe n'itsinda ry'abasirikare, yagiye mu gitero cyagabwe ku nkomere z'impunzi zari ku bitaro bya Kaminuza y'i Butare. Icyo gitero cyari kigamije kuvangura Abatutsi n'Abahutu no kwica Abatutsi. Porokireri asobanura ko Muvunyi aryozwa icyaha nka gatozi hakurikijwe igika cya 1 n'icya 3 by'Ingingo ya 6 ya Sitati. Mu gushyigikira icyo kirego, Porokireri ashingira ku buhamya bw'abatangabuhamya bashinja biswe XV, YAP, AFV, YAK, NN na YAA. Uregwa yahamagaje abatangabuhamya bashinjura biswe MO73 na MO30 bo kunyomoza ibyo ashinjwa kuri icyo kirego.

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340 Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, imp. 26-27.
341 Inyandikomvugo y'iburanisha (mu muhezo), 6 Werurwe 2006, urup. 28.
342 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, urup. 14.
343 Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2006, imp. 12, 13.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

251. Urugereko rusanga ubuhamya bwa XV burimo ukwivuguruza gutuma butakwemerwa. Byongeye kandi, hari ukunyuranya kunini hagati y'amatariki ibintu bivugwa mu nyandiko y'ibirego byabereyeho n'amatariki XV avuga. Nk'urugero, Inyandiko y'ibirego ivuga ko igitero cyagabwe ku mpunzi cyabaye ahagana ku itariki ya 15 Mata 1994, mu gihe XV avuga ko yakomeje kujya ku kazi kugera ahagana ku itariki ya 19 Mata, maze ahagana ku itariki ya 21 Mata agahungira mu ishyamba rya Mukura aho yaba yararokokeye igitero cyagabwe ku mpunzi. Na none kandi, atitaye ku mutekano muke wariho kandi byaragaragaraga ko Abatutsi bicirwaga ku bitaro bya Kaminuza, umutangabuhamya yahahungishirije umugore we n'abana be kandi na we ubwe arahajya. Byongeye kandi, Urugereko ntirubona neza igihe nyacyo umuryango wa XV wohererejwe ku bitaro n'igihe wahamaze.

252. Hari kandi ukwivuguruza ku birebana n'igihe mushiki wa XV yapfiriye. Mu ibaza ry'ibanze, XV yavuze ko abasirikare bo muri ESO bashimuse mushiki we hamwe n'izindi mpunzi, kandi ko abo bashimuswe batongeye kuboneka. Nyamara ariko, mu ibaza rinyomoza, byaje kugaragara ko hari aho XV yareze umudogiteri indishyi z'akababaro kubera urupfu rwa mushiki we[344], ibyo akaba yarabiregeye mu nkiko zo mu Rwanda.

253. Urugereko rurashidikanya kandi ku buhamya bwa XV burebana no kuba Uregwa yaba yaragiye mu bitaro bya Kaminuza y'i Butare, kubera ko uyu mutangabuhamya adashobora gusobanura igihe urwo rugendo rwabereye n'icyo rwaba rwari rugamije. Byongeye kandi, rimwe avuga ko yari asanzwe azi Muvunyi kandi ko yari yaramubonye mbere, ubundi akavuga ko umwe mu bantu bakoranaga ku bitaro yamubwiye ko umusirikare w'umu ofisiye waje aho uwo munsi wo muri Gicurasi ari « Komanda Muvunyi ». Mu gusoza kuri iki kibazo, Urugereko rusanga Ubwunganizi bwarabashije kwerekana ko XV atari umutangabuhamya wo kwemerwa, bugaragaza ukwivuguruza gukomeye kuri hagati y'ubuhamya bwanditse yatanze mbere y'urubanza n'ubwo yatanze mu iburanisha. Kubera izo mpamvu zose zimaze kuvugwa, Urugereko rusanga ubuhamya

344 Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 24; Inyandikomvugo y'iburanisha, 17 Gicurasi 2005, imp. 11-12; Inyandikomvugo y'iburanisha, 18 Gicurasi 2005, imp.5-6, 39.

bwa XV budashyigikira ibivugwa mu nyandiko y'ibirego ko Muvunyi yagiye mu gitero cyagabwe ku nkomere z'impunzi ku bitaro bya Kaminuza by'i Butare ku itariki ya 15 Mata 1994 cyangwa hafi y'iyo tariki.

254. Urugereko rusanga, muri rusange, umutangabuhamya wiswe YAP avugisha ukuri kandi yakwizerwa, bityo rukaba nta mpamvu rufite yo gukemanga ubuhamya bwe. YAP asa n'aho yari azi benshi mu basirikare bo muri ESO bari ku bitaro bya Kaminuza y'i Butare, yanavuze amazina ya bamwe muri bo. Yabonye abo basirikare inshuro eshatu yagiye ku bitaro. Ubwo yajyagayo bwa mbere, ari hafi y'ibitaro ahantu yashoboraga kubona neza ibiba, yabonye abasirikare n'Interahamwe batwara abantu mu ikamyoneti. Urugereko rusanga igitero YAP avuga cyagabwe ku mpunzi z'Abatutsi ku bitaro bya Kaminuza y'i Butare gisa n'aho cyabaye ku itariki ya 20 Mata, ariko nta kintu na kimwe gihamya ko Uregwa yari ahari icyo gitero kigabwa cyangwa ko yakigizemo uruhare ku bundi buryo ubwo ari bwo bwose. Urugereko rusanga rero n'ubwo YAP ari umutangabuhamya wakwemerwa, ubuhamya bwe butarashoboye kugaragaza ibivugwa mu gika cya 3.29 cy'Inyandiko y'ibirego.

255. Urugereko rwemera ubuhamya bwa AFV buvuga ko ku itariki ya 20 Mata yabonye abasirikare benshi ku bitaro bya Kaminuza maze agatekereza ko bavuye muri ESO. Nyamara ariko, ntacyo avuga ku birebana n'ishimutwa cyangwa iyicwa ry'impunzi ku bitaro, kandi nta na rimwe avuga ko Muvunyi yari aho hantu.

256. Urugereko rusanga n'ubwo hashize igihe kinini ndetse mu wa 1994 umutangabuhamya wiswe YAK akaba yari afite imyaka 15 gusa, urebye ibimenyetso byose byatanzwe, usanga uyu mutangabuhamya ari uwo kwizerwa kandi avugisha ukuri ku bintu byose yabonye ku bitaro bya Kaminuza y'i Butare muri Mata na Gicurasi 1994.

257. Urugereko rusanga umutangabuhamya wiswe NN avuga ibyo yumvanye abandi ku birebana n'igitero cyagabwe ku mpunzi zari ku bitaro bya Kaminuza y'i Butare muri Mata 1994. Nyamara ariko, ubuhamya bwe bushimangirwa n'abandi batangabuhamya bashinja, barimo abiswe YAK, YAP, AFV na XV. Urugereko rwamaze gufata

umwanzuro uvuga ko kuba Ibiro bya Porokireri byarahaye NN amadolari 5000 y'Abanyamerika nk'indihano y'ibyo yatakaje mu bigendana no gutanga ubuhamya, bidasobanura ko atari umutangabuhamya wo kwemerwa.

258. Urugereko rusanga Inyandiko y'ibirego ivuga ko igitero cyagabwe ku mpunzi zari ku bitaro bya Kaminuza y'i Butare cyabaye ahagana ku itariki ya 15 Mata 1994, mu gihe umutangabuhamya wiswe YAA yemera ko yavuye i Kigali ajya i Butare ahagana ku itariki ya 16 Gicurasi 1994, ni ukuvuga hashize ukwezi kose icyo gitero kivugwa kibaye. Nk'uko bigaragara, ibyo YAA avuga ku bwicanyi bwabereye ku bitaro bya Kaminuza ni ibyo akomora ku nkuru mbarirano kubera ko nta bwicanyi na bumwe yigeze ahagararaho, akaba yarumvise gusa ko Abatutsi bishwe. Nk'umusirikare wakoreraga muri ESO, YAA ubwe yari azi Uregwa ariko nta na rimwe avuga ko yari aho hantu hagabwe igitero. Cyakora, ibyo avuga nk'umutangabuhamya wiboneye ibyabaye, ko ku bitaro hari abasirikare bo muri ESO, bishyigikira ubuhamya abandi batangabuhamya batanze buvuga ko babonye abasirikare n'Interahamwe bashimuta impunzi z'Abatutsi ku bitaro, bakazica.

259. Urugereko rusanga ubuhamya bwa MO73 bunyuranye n'ubw'abandi batangabuhamya, kandi muri rusange atari ubwo kwizerwa. Mu gihe benshi mu batangabuhamya bavuga ko, mu gihe ibivugwa byababaga, abasirikare bo muri ESO bari ku bitaro bya Kaminuza kandi ko bagenzuraga indangamuntu, bakanavangura Abatutsi n'Abahutu, MO73 we avuga ko inshuro zose yagiye kuri ibyo bitaro muri Mata na Gicurasi, nta musirikare n'umwe yigeze ahabona. MO73 avuga ko Interahamwe ari zo zonyine zashimuse abantu ku bitaro, maze akarengera abasirikare avuga ko ntaho bahuriye n'icyo gikorwa. Kubera ko anavuga ko we na se bakijijwe n'Uregwa, Urugereko rusanga bishoboka ko MO73 yaje gutanga ubuhamya kugira ngo yiture ineza Uregwa, aho kurufasha gutahura ukuri.

260. Urugereko rusanga MO30 yaragiye ku bitaro bya Kaminuza muri Gicurasi na Kamena 1994, ni ukuvuga hashize igihe kinini hagabwe ibitero bivugwa byibasiye impunzi. Kubera iyo mpamvu, n'ubwo muri rusange ai umutangabuhamya wo kwizerwa, ubuhamya bwe nta kamaro bufite ku birebana n'ikibazo kirimo gusuzumwa.

261. Nyuma yo gusuzuma ibimenyetso byose Porokireri yatanze, Urugereko rusanga hataragaragajwe, ku buryo budashidikanywaho, ko Muvunyi yagiye mu gitero cyagabwe ku mpunzi z'Abatutsi ku bitaro bya Kaminuza by'i Butare ku itariki ya 15 Mata 1994 cyangwa hafi y'iyo tariki. Ariko rero, Urugereko rwashyikirijwe ibimenyetso bigaragaza ko, nyuma gato y'itariki ya 20 Mata 1994, abasirikare bo muri ESO bafatanyije n'Interahamwe n'abasiviri, bashimuse ku bitaro bya Kaminuza impunzi zari hagati ya 20 na 30 maze barazica. Urugereko ruzirikana ko ESO yari yegeranye n'ibitaro bya Kaminuza, kandi runazirikana ko kuri ibyo bitaro hari impunzi nyinshi z'Abatutsi n'abasirikare bo muri ESO. Rumaze kwita ku bintu byose bijyanye n'iki kirego, Urugereko ntirushidikanya na gato ko Uregwa yagombye kuba yari azi iby'igitero abasirikare bo muri ESO bagabye ku mpunzi z'Abatutsi ku bitaro bya Kaminuza by'i Butare ku itariki ya 15 Mata 1994 cyangwa hafi y'iyo tariki. Nyamara, n'ubwo yari akuriye abo basirikare kandi afite n'uburyo bwo kubatabara, nta cyo yakoze ngo aburizemo icyo gitero cyangwa ngo ahane abasirikare biroshye mu bwicanyi.

5.7. Igitero cyagabwe ku kigo cy'Abeneberika

5.7.1. Ibivugwa mu nyandiko y'ibirego

262. Igika cya 3.27 kigira kiti:

> 3.27. Ku itariki ya 30 Mata 1994, Liyetona Koloneli **Muvunyi**, akoresheje ububasha yakomoraga ku mategeko n'ubwo atayakomoragaho, yategetse abasirikare bo mu kigo cy'i Ngoma kujya mu kigo cy'Abeneberika (Icyitonderwa cy'umusemuzi: uwanditse umwimerere ashobora kuba yarashatse kuvuga Abenebikira) gushimuta impunzi zari zihari, zirimo abagore n'abana. Icyo gitero, cyayobowe n'umuliyetona, cyashimuse abantu 25 barimo abana ba Porofeseri Karenzi, kandi abo bantu ntawongeye kubabona.

5.7.2. Ibimenyetso

<u>*Umutangabuhamya ushinja wiswe QCQ*</u>

263. Umutangabuhamya ushinja wiswe QCQ avuga ko agereranyije, mu wa 1994 yari afite imyaka 11. Yabaga mu kigo cy'Abeneberika ubwo intambara yatangiraga mu wa 1994 kandi yapfushije ababyeyi mu ntambara[345].

264. QCQ avuga ko, ku itariki ya 6 Mata 1994, ababikira bo muri icyo kigo bamubwiye ko bumvise radiyo itangaza ko Perezida Habyarimana yapfuye. Nyuma yaho, nta kintu cyongeye gukorwa muri icyo kigo ndetse n'amateraniro ya buri munsi y'amasengesho yarahagaze kandi bumvaga nta mutekano bagifite[346].

265. QCQ avuga ko nyuma yaho impunzi ziturutse i Butare, Kigali na Gikongoro zaje muri icyo kigo, zimubwira ko zahunze uturere zari zituyemo kubera ibitero zagabwagaho n'Interahamwe n'abasirikare. Avuga ko hari impunzi zigera kuri 27, zirimo abasore n'inkumi, abagore, abana, ndetse n'uruhinja rw'amezi 18[347], kandi ko bose bishwe, « uretse abana bake bari hamwe nabo »[348].

266. QCQ avuga ko, ubwo yari mu kibikira, *Interahamwe* n'abasirikare bagabye ibitero byinshi aho hantu. Mu gitero cya mbere, abagabye ibitero ntibinjiye mu kigo kubera ko umubikira witwa Frédérique yahuriye na bo ku rugi rwinjira mu kigo, maze akababwira ko nta Batutsi barimo[349].

267. QCQ avuga ko igitero cya kabiri na cyo cyagabwe n'*Interahamwe* n'abasirikare. Interahamwe zari zambaye imyenda isanzwe, zitwaje imbunda, ibikoni n'imipanga kandi zifite n'imbwa. Avuga ko yamenye abasirikare kubera ko bari bambaye imyenda y'iniforume yabo. Bamwe muri bo bari bambaye ingofero zitukura, abandi bambaye

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[345] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2005, urup. 23.
[346] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 25.
[347] Inyandikomvugo y'iburanisha (mu muhezo), 14 Werurwe 2005, urup. 25.
[348] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 26.
[349] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 26.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

amapantalo ya gisirikare, kandi bari batwaye imbunda ku ntugu[350].

268. QCQ avuga ko muri icyo gitero yari muri metero zitageze kuri eshanu uvuye aho abakigabye bari bari. Abagabye igitero basabye impunzi kwerekana indangamuntu zabo ariko hari impunzi zitari zizifite. Avuga ko abagabye igitero bavuze ko abangaga kwerekana indangamuntu ari ibyitso by'*Inkotanyi*, kandi ko bambuye zimwe muri izo mpunzi ibintu byazo. Abagabye igitero bitaga impunzi zimwe *Inkotanyi* kubera gusa isura n'igihagararo byazo. Avuga ko abagabye igitero bari Abahutu kandi bavugaga ko Abatutsi ari *Inyenzi* n'*Inkotanyi*[351]. Avuga ko abagabye igitero bamukubise kandi ko babajije ababikira niba yari asanzwe aba muri icyo kigo, maze abo babikira bakabyemeza[352].

269. QCQ atanga amakuru ku birebana n'undi mwana wakubiswe n'abagabye igitero. Avuga ko nyina w'uwo mwana yabasabye imbabazi maze bakamusubiza ko umwana bareka ari uw'umukobwa, naho ko umuhungu bagomba kumwica kuko « badashobora kubabarira inzoka ». Bamaze kugenzura neza ko ari umukobwa, bamuhaye ababikira ariko nyina aricwa[353]. QCQ avuga ko nyuma yaho ari we witaye kuri uwo mwana[354].

270. QCQ avuga ko hari abandi bana bari mu kibikira baje kwicwa n'abasirikare n'*Interahamwe*. Avuga ko « abo bana bose bishwe uretse Diane, Cécile na Théodosie». By'umwihariko, avuga ko abana bitwa Thierry, Solange na Marc Karenzi bishwe. Asobanura ko abana ba Karenzi bageze mu kibikira bakomeretse: « Solange yari yakomeretse mu mutwe, imyenda ye yacitse, naho musaza we Marc Karenzi yavaga amaraso ku kaguru ». QCQ akomeza avuga ko abasirikare n'Interahamwe ari bo bakubise abo bana bakabakomeretsa.[355]

271. QCQ avuga ko n'ubwo impunzi zishwe adahari azi ko zishwe kuko yabonye abasirikare

[350] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 26.
[351] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 27.
[352] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 28.
[353] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 28.
[354] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, imp. 30-31.
[355] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 29.

n'*Interahamwe* bazitwara mu modoka yo mu bwoko bwa Hilux. Nyuma kandi, abo basirikare bagarutse mu kibikira gushaka inzoga maze babwira QCQ n'abandi «ibyabaye »[356].

272. QCQ akomeza avuga ko, hashize iminota igera ku 10 batwaye impunzi mu modoka yo mu bwoko bwa Hilux, abasirikare bongeye kugaba igitero mu kibikira. Banyoye inzoga mbere yo kugaba ikindi gitero. Babaze abana bari bahari maze babwira ababikira ko «nta n'umwe muri bo ugomba kubura ». Bagarutse, umwe muri abo basirikare yaravuze ati:«ntimubona ko aba bana basa n'*Inkotanyi*?».Undi musirikare aramusubiza ati: «wasinze, ngwino tugende», maze barikubura baragenda[357].

273. QCQ avuga ko mu gitero cya gatatu, abakigabye baje bashaka uturadiyo two mu ntoki abantu bavuganiramo twitwa « *walkie-talkies* ». Icyo gihe, bambuye bamwe mu babikira amavara kugira ngo barebe niba ivara hari ibimenyetso ryasize ku ruhanga rwabo. Babikoraga bashaka kureba niba nta muntu wiyoberanyije yigize umubikira[358]. QCQ avuga ko atari azi ESO[359].

<u>*Umutangabuhamya ushinja wiswe QCM*</u>

274. Umutangabuhamya ushinja wiswe QCM avuga ko azi Idelphonse Hategekimana nka Komanda w'ikigo cya Ngoma cyari nko mu birometero bibiri uvuye ku kigo cy'Abenebikira aho QCM yabaga[360]. Avuga ko icyo kigo cyari muri Serire ya Buye, i Butare[361], kandi ko yakigezemo mu wa 1992[362], ari na bwo yabonye bwa mbere Hategekimana[363]. Avuga ko uwo musirikare yakundaga kujya muri icyo kigo kuko umwe mu bakibagamo witwa Fréderique Marie, yari inshuti ye. Avuga ko, muri jenoside, Hategekimana yari anazwi ku izina rya « Bikomago ». Iryo rikaba ari izina

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356 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 29.
357 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 30.
358 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 30.
359 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 31.
360 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, imp. 4-5.
361 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 3.
362 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 17.
363 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 3.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ry'umusirikare w' Umurundi wari warishe abantu benshi nyuma y'ihotorwa rya Perezida Ndadaye[364].

275. QCM avuga ko ku itariki ya 30 Mata 1994, yabonye Hategekimana i Buye yambaye imyenda ya gisirikare, afite agakoni mu ntoki kandi ari kumwe n'abasirikare benshi, abasiviri n'*Interahamwe*[365]. Avuga ko yabonye imodoka ebyiri zihagaze, imwe yanditseho « ONU » n'indi y'umushinga « GK », ariko ntiyamenye niba Hategekimana n'abo bantu bandi bari baje muri izo modoka. Avuga ko Hategekimana yari kumwe n'abasirikare bageze ku 100 cyangwa barenga[366], bari baturutse mu kigo cya ESO n'icy'i Ngoma.[367] Abasirikare bari bafite imbunda, naho abasiviri, bageraga ku ijana, bari bafite ibikoni n'imipanga[368]. Interahamwe zahagaze inyuma y'igipangu iruhande rw'aho imodoka zari zihagaze hanze y'ikigo[369].

276. QCM yamenyemo abantu bamwe kandi arabibuka kuko bari mu itsinda ry'abantu baje mu kibikira. Muri abo bantu harimo muganga w'indwara z'umutima witwa Pierre Mugabo, umuhungu we Remy Mugabo, uwitwa Ignace, umwarimu witwa Velence wo muri *Groupe* scolaire, umuntu bahimbaga Nyati, umuntu Hategekimana yitaga Makete na porofeseri Blaise[370].

277. QCM avuga ko, mu ma saa tanu z'amanywa ku itariki ya 30 Mata 1994, yabonye iryo tsinda ry'abantu barengaga 200 rigota ikigo cy'ababikira[371]. Ikigo cy'ababikira cyari gifite urukuta rw'inyuma rufite imiryango ibiri n'urukuta rw'imbere rufite inzugi ebyiri abantu binjiragamo bagana mu kigo. Icyo kigo cyarimo ababikira bageze kuri 40 bamwe muri bo bakaba bari bahahungiye baturutse mu duce dutandukanye. Hari kandi abaturanyi bari bahahungiye n'izindi mpunzi zigera kuri 45 zaje mu bihe bitandukanye. Izo mpunzi zari

[364] Inyandikomvugo y'iburanisha, 11 Nyakanga 2005, urup. 4.
[365] Inyandikomvugo y'iburanisha, 11 Nyakanga 2005, urup. 4.
[366] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 5.
[367] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 28.
[368] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 5.
[369] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 27.
[370] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 5.
[371] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 6.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

zigizwe ahanini n'abana[372].

278. QCM avuga ko ababikira bahishaga abantu bakihagera. Ubwo ababikira bari mu byumba byabo, abagabye igitero baraje, cyakora batangiye kurasa mu kirere, bamwe mu babikira bagize ubwoba, basohoka mu byumba byabo. QCM avuga ko ababikira bafunguriye abagabye igitero imiryango y'ikigo kubera ko bari bavuze ko nibatatabakingurira, babica[373]. Mu gihe abagabye igitero bahondaga ku rugi, mameya yahamagaye Burugumesitiri Kanyabashi kuri telefoni, ariko QCM ntiyamenye uko byagenze kuko Kanyabashi atatabaye[374].

279. QCM avuga ko abagabye igitero bavugaga ko baje gutwara abasiviri bose bari mu kibikira. Bamaze kurasa mu kirere, basatse ikigo cy'ababikira bashaka abantu bahihishe maze bavangura impunzi n'abandi bantu. Ababikira bagumye mu nzu, naho impunzi zirimo n'abana, zishyirwa mu modoka y'umushinga wa GK maze zijyanwa n'abasirikare.[375] QCM avuga ko hari abana babiri b'Abahutu bari bashyizwe mbere mu itsinda ry'abo basiviri, ariko ko Hategekimana yategetse umusirikare kubasubiza mu kibikira, kubera ko bari Abahutu[376].

280. QCM avuga ko abasirikare basabye ababikira kwerekana indangamuntu zabo ariko bakanga. Bamaze kwanga, Hategekimana yajunguje urupapuro mu kirere maze abaza aho Mameya aherereye. Ababikira bamweretse Mameya, maze Hategekimana aramubwira ati: «Uru rupapuro rwo gufata naruhawe na Muvunyi ngo nze hano gufata abasiviri bahari»[377]. QCM akomeza avuga ko Hategekimana yisomeye ubwe iyo nyandiko[378] maze akababwira ko imuhesha uburenganzira bwo gufata no kwica abantu yari yaje gushakisha[379]. QCM avuga ko yabajije Hategekimana niba ashobora kumuha urwo

[372] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, imp. 7-8.
[373] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 9.
[374] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 17.
[375] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 9.
[376] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 10.
[377] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 19; Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 10.
[378] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 19.
[379] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 10.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

rupapuro ariko undi akanga, ari yo mpamvu atigeze arwisomera ubwe[380].

281. QCM avuga ko impunzi zari zigizwe ahanini n'Abatutsi. Harimo n'Abahutu bake ariko Abatutsi ni bo bonyine bategetswe kujya mu mamodoka. Hategekimana yashoboye kumenya impunzi z'Abatutsi kubera ko yaberetswe n'umubikira wari inshuti ye[381]. QCM avuga ko amaze kumenya ko abana bari bwicwe, yinginze Hategekimana ngo babareke ariko akanga avuga ko ubwo bamaze kugera mu maboko y'Interahamwe adashobora kubarokora[382].

282. QCM avuga ko, ubwo burizaga abo bana imodoka, yakomeje kwinginga abagabye ibitero ngo babareke ndetse akanagerageza ubwe kwinjira muri iyo modoka, maze Porofeseri Blaise akamukubita ikintu gifite ubugi, amubwira ngo nagende si abana be[383].

283. QCM avuga kandi ko yabonye Remy Mugabo akubita umunyeshuri bari bariganye mu ishuri ryisumbuye, amwita Inyenzi. Avuga kandi ko muri icyo gihe abasirikare bari aho nta cyo bakoze ngo babuze Remy Mugabo gukubita uwo muntu[384].

284. Umutangabuhamya avuga ko imodoka zatwaye impunzi z'Abatutsi zavuye ku kigo cy'ababikira mu ma saa saba z'amanywa, ko ariko abasirikare bakagarutse mu kigo mu ma saa cyenda ku gicamunsi, baje kumara inzoga zari zasigaye mu munsi mukuru abari mu kigo bari bagize. Abajije abo basirikare aho bashyize abana, bamusubije ko babashyikirije Interahamwe[385].

285. QCM avuga ko yari azi gusa ko Koloneli Muvunyi yari Komanda w'ikigo cya ESO. Avuga ko nta na rimwe bari barigeze babonana, kandi ko atashoboraga kumumenya isura[386]. Avuga ko ariko mu bagabye igitero yashoboye kumenyamo abasirikare barenga 20 bari bavuye muri ESO, akaba yari abazi amasura kubera ko bari abaturanyi be ariko

[380] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 19.
[381] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 11.
[382] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, imp. 10-11.
[383] Inyandikomvugo y'iburanisha (mu muhezo) 11 Nyakanga 2005, urup. 13.
[384] Inyandikomvugo y'iburanisha (mu muhezo) 11 Nyakanga 2005, urup. 13.
[385] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 14.
[386] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 10.

atazi amazina yabo[387].

5.7.3. Isesengura ry'Urugereko

286. Inyandiko y'ibirego ivuga ko, ku itariki ya 30 Mata 1994, Uregwa yategetse abasirikare bo mu kigo cy'i Ngoma gushimuta impunzi, zirimo abagore n'abana, zari mu kigo cy'Abenebikira. Ivuga ko mu bantu 25 bakuwe muri icyo kigo nta n'umwe wongeye kuboneka. Mu gushyigikira ibyo avuga, Porokireri yahamagaje mu Rukiko abatangabuhamya biswe QCQ na QCM.

287. Mu wa 1994, umutangabuhamya ushinja wiswe QCQ yari afite hafi imyaka 11 kandi ntiyavuze itariki nyayo ibintu avuga byabereyeho. Urugereko rusanga n'ubwo mu wa 1994 QCQ yari umwana, hakaba hanashize igihe kinini ibivugwa bibaye, uyu mutangabuhamya yakwemerwa, ndetse yavuze neza mu buryo budashidikanywaho ibyo yakorewe. Nyamara ariko, ikidasobanutse neza mu buhamya bwe ni aho abo basirikare bateye ku kigo cy'abenebikira bari baturutse, ndetse n'itariki icyo gitero cyabereyeho.

288. Nyuma yo gusuzuma ubuhamya QCM yatangiye mu Rukiko, Urugereko rusanga uyu mutangabuhamya ari uwo kwemerwa. Yavuze ibintu yiboneye ndetse n'ibyo yakorewe kandi ubuhamya bwe buhuye cyane n'ubwa QCQ. Nta gushidikanya ko QCM yari azi ko Hategekimana yari Komanda w'ikigo cya gisirikare cy'i Ngoma: yari yaramubonye mbere kubera ko yari afite inshuti mu kibikira yakundaga kuza gusura. Yari anamuzi no ku izina ry'irihimbano rya: « Bikomago ».

289. Rushingiye ku buhamya abatangabuhamya biswe QCM et QCQ batanze mu rukiko, Urugereko rwemera ko, ku itariki ya 30 Mata 1994 cyangwa hafi y'iyo tariki, abasirikare n'abasiviri, bayobowe na Liyetona Hategekimana wo mu kigo cy'i Ngoma, bagabye igitero ku kigo cy'Abenebikira maze batwara abasiviri benshi b'Abatutsi badafite intwaro, bajya kubica. Ariko rero, Urugereko ntirwashyikirijwe ikimenyetso na kimwe kitaziguye kigaragaza ko Muvunyi yategetse ko icyo gitero kigabwa. Rushingiye k'ukuntu ibintu byose byari bimeze, harimo n'ibivugwa ko Hategekimana yerekanye

[387] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 24.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

agapapuro avuga ko ari akamuha uburenganzira bwo gusaka yahawe n'Uregwa, Urugereko rugomba kureba niba rushyize mu gaciro rushobora kwemeza niba koko Muvunyi yarategetse ko icyo gitero kigabwa. Urugereko rusanga nta bimenyetso biziguye bihari byatuma rwemeza, nta gushidikanya, ko Muvunyi yategetse abasirikare bo muri ESO cyangwa abo mu kigo cy'i Ngoma kugaba igitero ku kigo cy'Abenebikira.

290. Nyamara ariko, rushingiye ku gika cya 10, agace ka 2, cy'umugereka urimo ibisobanuro byihariye, Urugereko rugomba no kureba niba Uregwa agomba kuryozwa, nk'umuntu wari ukuriye abandi, igitero cyagabwe ku kigo cy'Abenebikira. Kuri icyo kibazo, ni ngombwa kuzirikana ko Uregwa yari umusirikare wo mu rwego rwa ofisiye urusha abandi ipete muri Butare; ko igitero cyari cyateguwe neza kandi kikaba cyaribasiye by'umwihariko ikigo cy'ababikira n'Abatutsi bari bahahungiye; ko kandi abasirikare bo mu kigo cy'i Ngoma bafatanyije n'abo muri ESO n'Interahamwe. Urugereko ruributsa ko umutangabuhamya wiswe QCM avuga ko azi bamwe mu bagabye ibitero. Yashoboye kumenya mo abageze kuri 20, avuga ko bari baturutse muri ESO. Urugereko ruzirikana kandi ubuhamya bwatanzwe n'umutangabuhamya ushinja witwa Ghandi Shukry buvuga ko ikigo cy'ababikira kiri mu ntera ya metero 1 700 uvuye ku kigo cya ESO, mu gace ko hagati muri Perefegitura ya Butare, abasirikare bo muri ESO bari bashinzwe kurinda.

291. Urugereko rwagejejweho ibimenyetso bigaragaza ko abasirikare bo mu kigo cy'i Ngoma bafatanyije n'abo muri ESO, barimo Kapiteni Nizeyimana, liyetona Modeste Gatsinzi na liyetona Gakwerere, mu gitero bagabye ku mpunzi z'abasiviri zari mu mazu ya Groupe scolaire n'ahandi hantu. Ibyo bimenyetso byose bigaragariza Urugereko ko guhuza ibikorwa mu rwego nk'urwo rwo hejuru rw'ibikorwa bya gisirikare bitari gushoboka Uregwa atabizi, kandi yari umusirikare wo mu rwego rwa ofisiye urusha abandi ipete muri Butare. Rushingiye ku bimenyetso biziguye, Urugereko rwemera nta gushidikanya, ko Uregwa yari azi ko abasirikare bo mu kigo cya ESO n'icy'i Ngoma ndetse n'Interahamwe bagabye igitero ku mpunzi z'Abatutsi zari mu kigo cy'Abenebikira. N'ubwo yagenzuraga nyabyo abasirikare bo muri ESO, Uregwa nta ngamba yafashe za ngombwa kandi zishyize mu gaciro, ngo aburizemo icyo gitero anahane abakigabye.

5.8. Igitero cyagabwe ku barimu n'abanyeshuri b'Abatutsi muri Kaminuza y'i Butare

5.8.1. Ibivugwa mu nyandiko y'ibirego

292. Igika cya 3.34 i) kigira kiti:

> 3.34 i) Byongeye kandi, mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abasirikare bo muri ESO bagiye muri Kaminuza y'u Rwanda i Butare kwica abarimu n'abanyeshuri b'Abatutsi. Babikoze mu rwego rw'umugambi wo gutsembatsemba abanyabwenge b'Abatutsi. Kubera ububasha yari afite ndetse n'uburyo ubwo bwicanyi bwari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byarimo gukorwa, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

5.8.2. Ibimenyetso

Umutangabuhamya ushinja wiswe KAL

293. Umutangabuhamya ushinja wiswe KAL avuga ko yamenye Serija Majoro Sibomana, wigaga muri ESO ariko afite ipete rya serija majoro. Nyuma uwo Sibomana yahawe uruhushya rwo kwiga muri Kaminuza. KAL avuga ko Sibomana yashimutaga abanyeshuri muri Kaminuza akabajyana mu kigo cya ESO, ko yakoranaga n'abasirikare nk'aho yari yarasubiye mu gisirikare[388].

294. KAL avuga ko Serija Major Sibomana yari ashinzwe kumenya abanyeshuri bari *Inkotanyi*. Sibomana ubwe n'abandi basirikare bajagajaze umugi bashaka abanyeshuri nk'abo, bakaburiza amakamyo yabaga yambuwe ba nyirayo maze bakabajyana mu kigo cya ESO. Nyuma yaho, abo banyeshuri babaga bashimuswe bavanwaga mu kigo cya ESO bakajyanwa hanze kwicirwayo[389].

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[388] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp. 6-7 (ibaza rinyomoza).

[389] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005 urup. 10 (ibaza ry'ibanze ry'inyongera). Abajijwe uko byagendekeraga abanyeshuri basohorwaga muri ESO, umutangabuhamya yasubije agira ati: «Umuntu wese wazanywe mu kigo cya ESO, ntabwo ari abo banyeshuri gusa, umuntu wese basohoraga muri icyo kigo yaricwaga. Ibyo ntibyabaga gusa ku banyenshuri byabaga ku bantu bose ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

295. KAL akomeza kuvuga ko Sibomana atakoraga wenyine. Avuga ko Sibomana n'abandi basirikare batari bakiri mu gisirikare, bri barahawe amategeko na Komanda w'ikigo yo gushakisha *Inkotanyi*[390]. Asobanura ko hari ubwo Sibomana yajyanaga n'abanyeshuri bo muri ESO ivuguruye, ko hari akaduruvayo cyane, kandi ko yajyanaga n'undi muntu wese yabaga ashaka[391].

296. Urugereko rumubajije ukuntu yamenye ko ari Komanda w'ikigo wahaga Sibomana amabwiriza, KAL yasubije ko abantu bose bari bazi ko Komanda yari yaratanze amabwiriza. Umutangabuhamya yasobanuye ko ibyo bikorwa bitabaye mu minsi ibiri cyangwa itatu gusa, ko ahubwo byamaze igihe kinini. Yongeyeho ko buri munsi Sibomana yajyaga guhiga abo banyeshuri abitegetswe na Komanda w'ikigo[392].

Umutangabuhamya ushinja wiswe NN

297. Umutangabuhamya ushinja wiswe NN avuga ko Ajida shefu witwa Damien Ntamuhanga yitabiriye ubwicanyi bwibasiye abanyeshuri muri Kaminuza y'i Butare. Ntamuhanga yari umukuru w'itsinda ryari rishinzwe kurwanya abantu basahura, rikaba ryari rigizwe n'abajandarume batandatu n'abandi basirikare. Iyo kipi yashyizweho na Bizimana hakurikijwe ibyari byavugiwe mu nama Muvunyi yayoboye ku itariki ya 20 Mata. N'ubwo iryo tsinda ryari rishinzwe kubuza abasirikare gusahura, nyamara ryagiye kwica abanyeshuri muri Kaminuza[393].

298. NN atanga ibisobanuro birambuye k'ubwicanyi bwabereye muri Kaminuza. Avuga ko yarokoye umunyeshurikazi wigaga muri Kaminuza abisabwe n'umuryango w'uwo munyeshurikazi. Avuga ko uwo munyeshurikazi yamubwiye ko Ntamuhanga n'abaporisi ba gisirikare yari akuriye bishe abanyeshuri muri Kaminuza, ko babyigambaga ku mugaragaro kandi bakavuga n'uko ubwicanyi bwagenze. Uwo mukobwa NN yarokoye yigaga mw'ishami ry'ubuganga ryari hafi y'ibitaro bya Kaminuza, aho kuba imbere mu

[390] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005 urup. 11 (ibaza ry'ibanze ry'inyongera).
[391] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 11 (ibaza ry'ibanze ry'inyongera).
[392] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 11 (ibaza ry'ibanze ry'inyongera).
[393] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup. 49.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kigo cya Kaminuza. Ishami ry'ubuganga ryari mu birometero bibiri uvuye ku kigo cya ESO. Uwo mukobwa yamubwiye ko abasirikare bishe abantu muri Kaminuza ari abo mu itsinda ry'abaporisi ba gisirikare bayoborwaga na Ntamuhanga. NN yongeraho ko iyo hagira umuntu umenya ko yagiye kurokora uwo mukobwa «yari kugira ibibazo».[394]

299. NN avuga ko Ajida Shefu Innocent Sibomana ari we wari ushinzwe kuyobora agatsiko k'abicanyi kishe abanyeshuri muri Kaminuza[395], kandi ko hagati muri Gicurasi, Koloneli Macel Gatsinzi yavanye Ntamuhanga k'ubuyobozi bw'abaporisi ba gisirikare[396].

5.8.3. Isesengura ry'Urugereko

300. Inyandiko y'ibirego ivuga ko abasirikare bo muri ESO bagiye kwica abanyeshuri b'Abatutsi muri Kaminuza y'i Butare mu rwego rw'umugambi wo gutsemba Abatutsi b'abanyabwenge. Ivuga kandi ko kubera umwanya n'ububasha yari afite, Uregwa yari azi, cyangwa yagombaga kuba yari azi ko ibyo bikorwa byarimo gukorwa kubera ko byari rusange, ariko ntafate ingamba zo guhagarika ubwicanyi cyangwa guhana ababukoze.

301. Urugereko rusanga umutangabuhamya ushinja wiswe KAL atarigeze yerekana aho ashingira yemeza ko Uregwa yatanze amabwiriza yo gushimuta no kwica Abatutsi b'abanyabwenge. KAL nta mabwiriza ayo ari yo yose yanditse yigeze abona ategeka abantu gukora ibyo avuga, kandi ntiyigeze yumva ubwe Uregwa atanga amabwiriza nk'ayo. Asa nk'aho akeka ko amabwiriza nk'ayo yatanzwe kubera ko abantu bose bari babizi. Urugereko rusanga Porokireri ataragaragaje, ku buryo budashidikanywaho, ko Uregwa yatanze amabwiriza yo gushimuta no kwica Abatutsi b'abanyabwenge. Igisigaye ni ukumenya niba Uregwa yari azi cyangwa yaragombaga kuba yari azi ko ibyo bitero byabaga, urebye inshuro byabaye, ababikoze n'imyanya bari bafite.

302. Urugereko ruributsa ko umutangabuhamya ushinja wiswe NN avuga ko Ajida shefu

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394 Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup. 50.
395 Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup. 50.
396 Inyandikomvugo y'iburanisha (mu muhezo), 20 Nyakanga 2005, urup. 19 (ibaza rinyomoza).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Sibomana yari umwe mu bayoboye ibitero byagabwe ku Batutsi b'abanyabwenge muri Kaminuza y'i Butare, kandi ko Sibomana na Ntamuhanga bari mu itsinda ry'abaporisi ba gisirikare ryashyizweho n'Uregwa ku itariki ya 20 Mata 1994. NN avuga ko iryo tsinda ryari ryashyiriweho kurwanya abantu basahuraga ariko ryageze aho rihinduka agaco k'abicanyi, rishimuta kandi ryica abantu muri Kaminuza. NN ubwe yagize uruhare mu kurokora umunyeshurikazi, wamubwiye ko Ntamuhanga n'abandi basirikare bo mu itsinda ry'abaporisi ba gisirikare bicaga abantu muri Kaminuza kandi ko babyigambaga ku mugaragaro. Byongeye kandi, ubuhamya bwa NN ku bikorwa bya Sibomana bishyigikirwa cyane n'ubwa KAL.

303. Urugereko rusanga mu batangabuhamya 24 bashinjura, nta n'umwe wagize icyo avuga by'umwihariko ku birebana n'iki kirego. Rushingiye ku bimenyetso rwashyikirijwe, Urugereko rusanga abasirikare bo muri ESO barahize bahereye ruhande abarimu n'abanyeshuri b'Abatutsi bo muri Kaminuza y'i Butare, kandi barabica. Kubera ko ibyo bitero byari rusange no kubera ko ikigo cya ESO cyari hafi rwa Kaminuza y'i Butare[397], Urugereko rusanga Uregwa yaragombaga kuba yari azi ko ibitero byagabwaga. Rusanga na none, nka Komanda wa ESO, Uregwa atafashe ingamba n'imwe yo guhagarika ubwicanyi bwakorwaga n'abasirikare bo muri ESO cyangwa ngo abahane kubera imyitwarire yabo mibisha, kandi yarabifitiye ubushobozi. Urugereko rusanga rero Porokireri yaratanze ibimenyetso byerekana, ku buryo budashidikanywaho, ko ibyo avuga mu gika cya 3.34 i) [cy'*Inyandiko y'ibirego*] bifite ishingiro.

5.9. Ifatwa n'iyicwa ry'abapadiri babiri kuri Monasiteri y'i Gihindamuyaga

5.9.1. Ibivugwa mu nyandiko y'ibirego

304. Igika cya 3.28 cy'*Inyandiko y'ibirego* kigira kiti:

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[397] Ikimenyetso gihamya cyahawe numero P.6 cyakiriwe ku itariki ya 16 Werurwe 2005.

3.28. Ku itariki ya 4 Gicurasi 1994 cyangwa hafi y'iyo tariki, Liyetona Koloneli Muvunyi yategetse ko bamuzanira abapadiri bo muri Monasiteri y'i Gihindamuyaga, hanyuma avangura Abahutu n'Abatutsi, maze abapadiri babiri b'Abatutsi barimo baza kwicwa.

5.9.2. Ibimenyetso

305. Kubera ko Urugereko nta kimenyetso na kimwe rwashyikirijwe gishyigikira ibivugwa mu gika cya 3.28 cy'Inyandiko y'ibirego, rusanga Porokireri atarashoboye gutanga ibimenyetso by'ibyo avuga.

5.10. Ubwicanyi abasirikare n'Interahamwe bakoreye abasiviri b'abatutsi

5.10.1. Ibivugwa mu nyandiko y'ibirego

306. Ibika bya 3.30, 3.31, 3.35, 3.36, 3.40, 3.46 na 3.48 by'*Inyandiko y'ibirego* bigira biti:

3.30. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Liyetona Koloneli **Muvunyi** yari afite inshingano yo kubungabunga umutekano n'umudendezo w'abaturage b'abasiviri muri perefegitura no gukora ku buryo abasirikare yayoboraga bagira disipuline. Nyamara ariko, yateshutse kuri izo nshingano. Inshuro nyinshi muri Mata 1994, Liyetona Koloneli **Muvunyi** yirinze cyangwa yanze gutabara abantu bari mu kaga, cyangwa abamwiyambaje. Muri abo bantu havugwa cyane cyane abari muri *Groupe scolaire* no kuri Paruwasi ya Ngoma, hiciwe impunzi z'Abatutsi.

3.31. Liyetona Koloneli **Muvunyi** yahamagariye kenshi abantu barimo Interahamwe n'abasirikare gukora ibikorwa by'ubwicanyi, gushimuta no kwangiza imitungo y'abandi. Yabashishikarije, anaborohereza gukora ibyo bikorwa cyangwa yemera ko babikora.

3.35. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abantu bitwara gisirikare, ni ukuvuga Interahamwe, babifashijwemo n'abasirikare, bitabiriye ubwicanyi bwibasiye abasiviri b'Abatutsi muri Perefegitura ya Butare n'ahandi.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.36. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, ba ofisiye n'abandi basirikare bari bakuriwe na Liyetona Koloneli **Muvunyi** bagize uruhare mu bwicanyi bwibasiye abasiviri b'Abatutsi n'Abahutu batari intagondwa bo mu mashyaka ataravugaga rumwe n'ubutegetsi. Bamwe muri abo basiviri b'Abatutsi barafashwe bajyanwa mu kigo cya gisirikare cy'i Ngoma, cyangwa muri ESO, aho baje kwicirwa.

3.40. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abasiviri babarirwa mu bihumbi bari biganjemo Abatutsi, barishwe muri Perefegitura ya Butare, cyane cyane ahantu hakurikira:

- Kuri Paruwasi ya Ngoma, muri Komine ya Ngoma;
- Ku ivuriro ryo mu Matyazo, mu Matyazo;
- Kuri Paruwasi ya Kibeho, muri Komine ya Mugusa;
- Mu kigo cy'Abeneberika i Sovu, muri Komine ya Huye;
- Muri « Groupe scolaire », Ngoma;
- Muri «Economat général », muri Komine ya Ngoma;
- Kuri Paruwasi ya Nyumba, muri Komine ya Gatare;
- Mu gace gatuwemo n'Abayisilamu, muri Komine ya Ngoma.

3.45. Ku itariki ya 30 Mata 1994 cyangwa hafi y'iyo tariki, Paruwasi ya Ngoma yagabweho igitero. Padiri mukuru w'iyo Paruwasi yahuruje abasirikare bo mu kigo cy'i Ngoma, n'uko hashize isaha, Suliyetona Niyonteze, wari wungirije umuyobozi w'icyo kigo, azana n'abasirikare batandatu. Aho gutabara, Suliyetona Niyonteze yabajije Padiri mukuru uwamuhaye uburenganzira bwo gucumbikira Inyenzi zingana zityo hafi y'ikigo cya gisirikare. Ubwo yatangiye kubara impunzi zari zihari maze ava kuri Paruwasi nta cyo akoze ngo ahagarike igitero. Kubera umwanya w'ubuyobozi yari afite ndetse n'uburyo ubwicanyi bwari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

3.46 Uwo munsi saa kumi n'imwe z'umugoroba cyangwa hafi y'iyo saha, hari umuliyetona waje kuri iyo Paruwasi gufata padiri mukuru ariko asanga yahunze. Nyuma yaho, Interahamwe n'abasirikare bagabye igitero ku mpunzi zari aho kuri paruwasi

zarimo abagore n'abana. Nk'umutegetsi, **Muvunyi** ntiyigeze abungabunga umutekano cyangwa umudendezo w'impunzi, ahubwo yashishikaje abagabye ibitero.

3.48. Ku itariki ya 24 Mata cyangwa hafi y'iyo tariki, abasirikare bo mu kigo cya gisirikare cy'i Ngoma n'abo muri ESO bagabye igitero ku mpunzi zari muri *Groupe scolaire,* zarimo impfubyi zari zaravanywe mu kigo cy'Umuryango utabara imbabare ku Kacyiru no mu bindi bigo birera imfubyi. Icyo gihe, abasirikare bo mu kigo cy'i Ngoma bari bayobowe n'umuliyetona, naho abo muri ESO boherejwe n'umukapiteni ariko bayobowe na Suliyetona Niyonteze. Umuntu wari ushinzwe izo mpfubyi yahuruje ESO akoresheje telefone maze avugana na Liyetona Koloneli **Muvunyi,** wanze kubatabara igihe ubwicanyi bwakorwaga.

307. Mu ikubitiro, Urugereko rusanga nta buhamya na bumwe rwagejejweho ku birebana n'ibitero byagabwe kuri Paruwasi ya Kibeho n'iya Nyumba. Ahubwo, hari ubuhamya rwagejejweho ku birebana n'ibitero byagabwe kuri Paruwasi ya Cyanika no mu ishyamba rya Mukura, nyamara ibyo bitero ntaho bivugwa ku buryo bweruye mu nyandiko y'ibirego. Kubera ko haruguru hari aho rwemeje ko Ubwunganizi bwamenyeshejwe, mu buryo bukwiye, ko Porokireri yateganyaga gutanga ibimenyetso kuri ibyo bitero, Urugereko rurasuzuma ubuhamya bubyerekeyeho bwatanzwe mu rukiko. Mu bice bikurikira, rurita ku bimenyetso birebana n'ibitero byagabwe aha hakurikira: kuri Paruwasi ya Ngoma, ku kigo cy'amashuri cyo mu Matyazo, muri *Groupe scolaire*, mu ishyamba rya Mukura no kuri Paruwasi ya Cyanika.

5.10.2. Ibitero byagabwe kuri Paruwasi ya Ngoma no ku kigo cy'amashuri cyo mu Matyazo

5.10.2.1. Igitero cyagabwe kuri Paruwasi ya Ngoma

<u>*Umutangabuhamya ushinja wiswe QX*</u>

308. Umutangabuhamya ushinja wiswe QX avuga ko ahagana ku itariki ya 7 Mata 1994, ubwicanyi bwatangiye mu karere ka Butare, bityo abaturage bagatinya gusohoka mu mago yabo. Avuga ko ku itariki ya 8 Mata, abasirikare batwaye umusore witwaga

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Rugomboka maze umurambo we uza kuboneka nyuma mu ishyamba. Ku itariki ya 14 Mata, umutangabuhamya yumvise abantu bavuga ko Umwamikazi Rosalie Gicanda yishwe. Uwo munsi, yabonye umwotsi uturuka ahagana muri Komini ya Runyinya, maze abaturage benshi batangira guhunga ako karere kuko aho hantu amazu yari yatwitswe n'abantu bishwe. Avuga ko Burugumesitiri Kanyabashi yabujije impunzi kwinjira mu mugi wa Butare, maze zikajya ku kigo nderabuzima cyo mu Matyazo. Avuga ko ku itariki ya 21 Mata, yumvise amasasu y'urufaya, n'ibintu bituragurika mu Matyazo. Nyuma yaho yabonye abantu banyaganwa bahungira kuri Paruwasi ya Ngoma. Abahungaga bihishaga « mu mirima y'amasaka cyangwa mu bihuru maze mu ijoro bagakambakamba bagana kuri Paruwasi kwihishayo[398] ». Inyinshi mu mpunzi zari zakomeretse mu mutwe kandi zasaga naho « zatemwe, zakomerekejwe n'ibintu bifite ubugi ».

309. Ku itariki ya 21 Mata, hari umugore watelefonye QX n'undi muntu bari kumwe maze abagira inama yo guhunga bakava kuri Paruwasi ya Ngoma kubera ko yari yamenye ko hari igitero cyategurwaga cyo kujya kuhabicira. Bamaze kumenya iyo nkuru, QX n'uwo muntu baraye mu gihuru. Ariko bagarutse kuri Paruwasi bukeye, biyemeje kuhaguma. Icyo gihe, « impunzi zakomeje kwisuka » kuri Paruwasi ya Ngoma[399].

310. QX avuga ko, nyuma y'iminsi ibiri cyangwa itatu, Konseye wa Segiteri ya Matyazo yazanye kuri Paruwasi ya Ngoma, mu ikamyoneti, « imfubyi nyinshi zari ziciwe ababyeyi mu ijoro ryo ku itariki ya 21 ». Abo bana rero bongereye umubare w'impunzi zabarirwaga hagati ya 480 na 490 zari zahungiye kuri Paruwasi. Yongeraho ko izo mpunzi zose zari Abatutsi, «nta musirikare n'umwe wari uzirimo » kandi nta n'imwe muri zo yari ifite intwaro[400].

311. Ku itariki ya 29 Mata 1994, QX yumvise itsinda ry'abantu rihondagura ku rugi rwo ku marembo ya Paruwasi. We n'abantu bari kumwe bumvise ko batewe maze biyemeza gutelefona ku kigo cya gisirikare cy'i Ngoma, cyari muri metero ziri hagati ya 600

[398] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 17.
[399] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 17.
[400] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 18.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

cyangwa 700 uvuye aho, basaba inkunga n'abasirikare bo kubarinda. Hashize nk'iminota 50 bahamagaye, kuri Paruwasi haje umusirikare w'umusuzofisiye ari kumwe n'abandi basirikare. Uwo mu suzofisiye yabajije ibyarimo kuba, anabaza niba aho hantu hari impunzi. Yasubiyeyo avuga ko azagaruka bukeye[401].

312. Bukeye mu ma saa ine za mu gitondo, umutangabuhamya wiswe QX amaze « kubona abasirikare bahagaze imbere ku mbuga ya Paruwasi », yarasohotse arabasuhuza. Umu ofisiye wategekaga iryo tsinda ry'abasirikare yamubajije aho Padiri mukuru ari. QX yamusubije ko Padiri mukuru adahari maze asubirayo, ahasiga abasirikare yari ayoboye. Nyuma, umutangabuhamya yaje kumenya ko uwo mu ofisiye yitwaga Ildephonse Hategekimana kandi ko yategekaga ikigo cy'abasirikare cy'i Ngoma. Yongeraho ko abo basirikare bari bazanye n'abasiviri benshi bari bahagaze inyuma ya kiriziya kandi « bafite ibyuma[402] ».

313. Hategekimana amaze kugenda, babiri mu basirikare basigaye aho « binjiye mu kiriziya, basohora impunzi zose ». Imbaga y'abantu bafite intwaro bari bategerereje hanze ku muryango w'amarembo ya Paruwasi binjiye mu kigo « bashaka kwica izo mpunzi ». QX yasabye abo basirikare uruhushya rwo gusubiza abantu mu kiriziya ngo basenge. Abasirikare barabyemeye. Kubera ko yari azi ko impunzi zigiye kwicwa, QX yazinjije mu kiriziya maze zisengera hamwe[403]. Ibyo birangiye, bazijeje ko nta muntu uri buzice kandi ko amabisi aza kuzijyana ahantu zashoboraga kurindirwa umutekano. Nyuma yaho, abasirikare batangiye kujonjora impunzi maze bakazishyira mu matsinda y'abantu bane cyangwa batanu, bakabasohora mu kiriziya. QX yumvise abantu barokotse bavuga ko iyo izo mpunzi zageraga hanze, zagabizwaga imbaga y'abasiviri bafite intwaro, bakazijyana kuzica. QX avuga ko izo mpunzi zatwawe « zicishwaga impiri kandi ko iyo umuntu yituraga hasi bahitaga bamuhwanya. Ni yo mpamvu nta wahohotewe wavuzaga induru iyo babaga barimo kwicwa kubera ko babakubitaga mu mutwe kandi bagakora ku buryo

401 Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 19.
402 Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 20.
403 Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 21.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bahita bahwana[404] ». QX ahamya ko mu bantu bari kuri Paruwasi ya Ngoma harimo « abana bari biciwe ababyeyi mu ijoro ryo ku itariki ya 21 » kandi abo bana bari bazanywe na Konseye wa Segiteri ya Matyazo[405].

314. QX yasobanuye ko icyamubwiye ko impunzi zakuwe mu kiriziya zishwe ari uko yabonye « imirambo myinshi idendeje ku butaka ». Umusirikare yamusabye kubwira umwe mu bapadiri kuva mu bwihisho, maze we n'abandi bantu bumvikana n'uwo musirikare ko bamuha 500.000 Frw kugira ngo atica uwo mupadiri. Nyamara ariko, bakoze ku buryo bazajya bayamuha urusorongo kugira ngo ajye akomeza kuza kubarinda[406].

Umutangabuhamya ushinja wiswe CCQ

315. Umutangabuhamya ushinja wiswe CCQ avuga ko ku itariki ya 20 Mata 1994, byabaye ngombwa ko atelefona kuri Paruwasi ya Ngoma atabaza kubera ko umugore we yari amaze kubikwa n'indwara y'umutima. Umupadiri bavuganye yaje kubareba ari mu modoka maze we n'umugore we abajyana ku bitaro bya *Groupe scolaire* i Butare[407]. Bajya ku bitaro banyuze kuri bariyeri nyinshi, harimo iyo kuri Hotel Faucon no kwa Bihira. Uwo mupadiri amaze kuhabageza, yasubiye kuri paruwasi ariko mbere yo kugenda abwira CCQ ngo nyuma aze kureba niba yagezeyo amahoro.

316. CCQ avuga ko ku itariki ya 21 Mata 1994, yabanje kujya mu Matyazo, ku kigo cy'amashuri cy'urusengero rw'abapentekositi, aho bamwe mu bantu bo mu muryango we bari bahungiye. Nyuma yarakomeje agera kuri Paruwasi ya Ngoma kugira ngo amenye amakuru ya wa mupadiri wari wamufashije we n'umugore we. Ageze kuri paruwasi, yahasanze impunzi nyinshi. Izo mpunzi zabanje kugira ubwoba zitekereza ko ashobora kuba ari umwicanyi, ariko nyuma zihumurizwa n'uko zabonye avugana na padiri. Bukeye ku itariki ya 22 Mata, CCQ yasubiye kuri Paruwasi ya Ngoma. Ku itariki ya 24 Mata, ubwo yanyuraga kuri iyo paruwasi agiye mu Matyazo yabonye imirambo

[404] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 22.
[405] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup.18.
[406] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup.24.
[407] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup.14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

y'impunzi zari zahiciwe. Yitegereje iyo mirambo, yabonye ko abo bantu bicishijwe amasasu. Yakomeje inzira agera mu Matyazo kureba ko abantu bo mu muryango we bakiriho[408].

Ubwicanyi bwakorewe ku kigo cy'amashuri cyo mu Matyazo

Umutangabuhamya ushinja wiswe CCQ

317. Mu ijoro ryo ku itariki ya 21 Mata 1994, CCQ yari ku ishuri ry'i Matyazo hamwe n'abantu bo mu muryango we n'izindi mpunzi nyinshi. Abagabye igitero bateye amagerenade ku mpunzi, bazirasa bakoresheje imbunda, ndetse banazitwikisha lisansi. Bamwe mu bantu bo mu muryango wa CCQ, barimo bashiki be, ba se wabo/ba nyirarume, ba nyirasenge/nyinawabo, barokotse icyo gitero ariko bakomeretse. Nyuma y'icyo gitero, abo bantu bo muryango we bagumye muri Segiteri ya Matyazo kugeza ubwo bahiciwe muri Gicurasi[409].

Umutangabuhamya ushinja wiswe QX

318. Umutangabuhamya ushinja wiswe QX avuga ko, ku itariki ya 14 Mata 1994 yabonye umwotsi uturuka ahagana muri Komini ya Runyinya. Abaturage benshi batangiye guhunga ako karere kubera ko amazu yari yatwitswe, kandi n'abantu bishwe[410]. Kubera ko Burugumesitiri Kanyabashi yabujije impunzi kwinjira mu mugi wa Butare, izo mpunzi zagiye ku kigo nderabuzima cyo mu Matyazo. Byari biteganyijwe ko zihavanwa zikimurirwa kuri Paruwasi ya Simbi, ariko hari umupadiri waje kuvuga ko yahuye « n'abaturage bafite imipanga n'amacumu, berekezaga kuri Paruwasi ya Simbi kwica impunzi zari zahahungiye [411] ». Ku itariki ya 21 Mata 1994, CCQ yumvise amasasu y'urufaya n'ibintu biturikira mu Matyazo. Nyuma yabonye abantu banyaganwa bahungira kuri Paruwasi ya Ngoma. Abahungaga bihishaga « mu mirima y'amasaka, mu

[408] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup.19.
[409] Inyandikomvugo y'iburanisha, 26 Gicurasi 2005, urup.19.
[410] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup.14.
[411] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 15.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bihuru, ni njoro bakagenda bububa bajya kuri Paruwasi kwihishayo [412] ». Impunzi nyinshi zari zakomeretse mu mutwe kandi zasaga n'aho «zatemwe, zakomerekejwe n'ibintu bifite ubugi ». Avuga ko ku itariki ya 21 Mata hishwe « Abatutsi bari batuye mu Matyazo kimwe n'impunzi zari ku kigo nderabuzima cyo mu Matyazo ». Umugabo warokotse igitero cyagabwe ku kigo nderabuzima cyo mu Matyazo ni we wabwiye QX ayo makuru[413].

Umutangabuhamya ushinja wiswe QY

319. Umutangabuhamya ushinja wiswe QY yari afite imyaka 17 muri Mata 1994. Icyo gihe yabaga mu Matyazo, muri Serire ya Tonga[414]. Ku itariki ya 7 Mata 1994, yabonye abaturage bo muri komini ye bahaha ibintu bakabihunika, kandi umutekano wari watangiye kuba muke. Avuga ko uwo munsi haje abasirikare mu modoka maze bagasahura ibintu by'uwitwa Ngarambe. QY yatekereje ko abo basirikare bari baturutse mu kigo cya ESO kuko ari cyo kigo cyari cyegereye aho yari atuye. Avuga ko abo basirikare batwaye Ngarambe bakamwicira ku Karubanda hafi y'icyobo cyari gihari. Avuga ko uwo munsi nimugoroba, Abatutsi bakoranirijwe ku kigo cy'amashuri cyo mu Matyazo.

320. Abonye umutekano urushaho kuba muke, QY yiyemeje kujya ku kigo cy'amashuri abanza cyo mu Matyazo, cyari ahantu yakoresha iminota 10 agenda n'amaguru avuye iwe. Uretse impunzi nyinshi yahasanze, yanahasanze *Interahamwe* zitwaje intwaro gakondo n'imbunda. Avuga ko impunzi zageze aho hantu mu ma saa kumi n'ebyiri za nimugoroba maze mu ma saa mbili z'ijoro zikicwa n'abasirikare n'*Interahamwe*. Yabanje kuvuga ko ari umwe mu bantu batatu barokotse icyo gitero, nyuma ariko avuga ko ari we wenyine waharokokeye.

[412] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup.17.
[413] Inyandikomvugo y'iburanisha (mu muhezo), 4 Ukuboza 2003, urup. 17.
[414] Inyandikomvugo y'iburanisha, 8 Kamena 2005, imp. 11, 12. Mu ibaza rinyomoza avoka wunganira Uregwa yibukije QY ko mu buhamya bwanditse yatanze ku itariki ya 15 Mutarama 1997 yavuze ko mu wa 1994 yari atuye muri Serire ya Ruhenda. Nyamara, mu buhamya yatanze hejuru y'indahiro imbere y'Urugereko, uwo mutangabuhamya yavuze ko atigeze atura i Ruhenda, ko gusa « yavanze ibintu » ubwo yatangaga ubuhamya mu wa 1997 kubera ko hari hashize igihe gito intambara irangiye. Yongeyeho ko ubwo yatangaga ubwo buhamya bwe mu wa 1997, yari atuye muri Serire ya Tonga.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

321. QY avuga ko Interahamwe zari ziyobowe n'abagabo babiri bazwi ku mazina ya Janvier na Bakare. Imodoka yuzuye abasirikare yasesekaye aho mu gihe Interahamwe zagabaga igitero ku mpunzi. Abo basirikare na bo biroshye muri icyo gitero, maze basuka lisansi ku mpunzi baratwika. Impunzi zagerageje kuzimya umuriro zikoresheje imyenda yazo. QY yari mu ishuri ryafashwe n'ikibatsi cy'umuriro. Yarasohotse, agerageza kuvugana n'umusirikare yari asanzwe azi, amusaba kumutabara, ariko aho kumutabara yamutemye mu mutwe n'umuhoro. Abasirikare barashe n'amasasu kugira ngo impunzi zidasohoka mu muriro wagurumanaga mu mashuri. QY amaze gukomereka, yaje gusanga n'ikiganza cye cyahiye bitewe wenda, nk'uko yabiketse, n'isakoshi yo mu ntoki yari afite yari yafashwe n'umuriro. Yeretse abacamanza inkovu yo mu mutwe aho yatemeshejwe umuhoro, abereka n'ikiganza cye cy'ibumoso cyahiye bikabije. Inyinshi mu mpunzi zaguye muri icyo gitero. Umutangabuhamya ari mu bantu batatu barokotse icyo gitero. Yaje kujyanwa n'Interahamwe zari zije gusonga abataranogoka, zimukuye aho yari arambaraye mu mirambo.

5.10.2.2. Isesengura ry'Urugereko

322. Inyandiko y'ibirego ivuga ko Interahamwe, zibifashijwemo n'abasirikare bayoborwaga n'Uregwa, zishe abasiviri b'Abatutsi hamwe n'abanyepolitiki b'Abahutu batari intagondwa muri Perefegitura ya Butare n'ahandi. Ivuga kandi ko Abatutsi bahungiye i Ngoma, muri *Groupe scolaire* y'i Butare n'ahandi hantu, bagabweho igitero kandi bicwa n'abasirikare Uregwa yayoboraga, bafatanyije n'Interahamwe, ko kandi abahohotewe bari aho hantu hatandukanye, batabaje inshuro nyinshi ikigo cya ESO n'icy' i Ngoma ndetse n'Uregwa ariko ko batigeze batabarwa. Mu gika cya 17, icya 21, n'icya 27 by'umugereka usobanura neza Inyandiko y'ibirego, Porokireri avuga ko Muvunyi aryozwa nka gatozi ibyaha byakozwe muri ibyo bitero, hakurikijwe ibiteganywa n'Ingingo ya 6(1) n'iya 6.3 za Sitati.

323. Urugereko ruributsa ko kubera impamvu zidasanzwe, umutangabuhamya wiswe QX yemerewe gutanga ubuhamya imbere yarwo iburanisha ry'uru rubanza ritaratangira. Rusanga QX yaravuze ku buryo budahuzagurika kandi bwakwizerwa ibyo yiboneye kuri

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Paruwasi ya Ngoma muri Mata 1994. Rusanga rero Porokireri yaragaragaje ku buryo budashidikanywaho ko hari igitero simusiga cyagabwe ku itariki ya 29 Mata 1994 ku mpunzi z'Abatutsi, zarimo imfubyi, zari kuri Paruwasi ya Ngoma. Icyo gitero kikaba cyari kigizwe n'abasirikare bo mu kigo cy'i Ngoma n'Interahamwe. Nta kimenyetso gihamya ko abasirikare bo muri ESO bagiye muri icyo gitero cyangwa ko Muvunyi ubwe yategetse ko kigabwa. Bitewe n'uko ibyinshi mu byavuzwe na QX byakozwe n'abasirikare bo mu kigo cy'i Ngoma, ikibazo gisigaye ni ukumenya niba Uregwa hari ububasha ubu n'ubu yari afite kuri icyo kigo. Nk'uko byavuzwe haruguru, Uregwa yari komanda koko w'ikigo cya ESO. Ariko rero, kubera ko bitagaragajwe ku buryo budashidikanywaho ko yari na komanda w'akarere ka gisirikare ka Butare na Gikongoro, ntashobora kuryozwa ibikorwa byakozwe n'abasirikare b'ikigo cya gisirikare cy'i Ngoma. Igisigaye na none ni ukureba niba Porokireri yaratanze ibimenyetso bihagije bihamya ku buryo budashidikanywaho ko abasirikare bo muri ESO bafatanyije n'abo mu kigo cy'i Ngoma muri ibyo bitero.

324. Urugereko rusanga ubuhamya bwa CCQ ku birebana n'iyicwa ry'impunzi z'Abatutsi kuri Paruwasi ya Ngoma bushimangira ubwatanzwe na QX. N'ubwo abo batangabuhamya bombi banyuranya gato ku matariki ibintu batangaho ubuhamya byabereyeho, Urugereko rusanga uko kunyuranya guterwa n'igihe gishize kuva mu wa 1994 kugeza ku itariki batangiyeho ubuhamya, hamwe n'ingaruka ihahamuka rikomoka ku byo babayemo rishobora kugira ku myibukire yabo. Uko kunyuranya guto kuboneka mu buhamya bwabo ntacyo guhindura ku kuri kw'inkuru bavuga ku birebana n'igitero cyagabwe n'abasirikare n'Interahamwe kuri Paruwasi ya Ngoma n'iyicwa ry'abasiviri b'Abatutsi babarirwa mu magana batari bafite intwaro, bari kuri iyo Paruwasi.

325. Ku byerekeye igitero cyo mu Matyazo, Urugereko rusanga abatangabuhamya bashinja batavuga rumwe ku birebana n'aho cyabereye. Abatangabuhamya biswe CCQ na QY bavuze ku gitero cyagabwe ku kigo cy'amashuri abanza cyo mu Matyazo ku itariki ya 21 Mata 1994 cyangwa hafi y'iyo tariki, naho umutangabuhamya wiswe QX avuga ku cyagabwe ku kigo nderabuzima cyo mu Matyazo ku itariki ya 21 Mata 1994. CCQ ntavuga niba yari aho hantu ubwo icyo gitero cyagabwaga, ntanavuga abakigabye abo ari

bo. QY yumvise gusa urusaku rw'amasasu n'ibindi byaturikiraga ahagana mu Matyazo, naho ku birebana n'iyicwa ry'impunzi ku kigo nderabuzima cyo mu Matyazo ku itariki ya 21 Mata 1994, ibyo avuga abikomora ku nkuru mbarirano.

326. Ubuhamya bwa QY buvuga ko igitero cyo ku kigo cy'amashuri abanza yo mu Matyazo cyagabwe n'Interahamwe n'abasirikare bo muri ESO nyuma y'itariki ya 7 Mata 1994 ntibuhuye n'ubw'abandi batangabuhamya bashinja. Urugereko rusanga rero impunzi z'Abatutsi zari ku mashuri abanza yo mu Matyazo zaragabweho igitero ku itariki ya 21 Mata 1994 cyangwa hafi y'iyo tariki. Nyamara ariko, kubera ko nta kimenyetso cyakwizerwa cyatanzwe kigaragaza umwirondoro w'abagabye icyo gitero, rusanga ntaho rwahera rukiryoza Uregwa. Bityo rero, ibivugwa ku gitero cyo mu Matyazo nta shingiro bifite.

327. Na none kandi, Urugereko ntirushidikanya ko igitero simusiga cyagabwe ku itariki ya 29 Mata 1994 cyangwa hafi y'iyo tariki ku mpunzi z'Abatutsi zari kuri Paruwasi ya Ngoma. Ikimenyetso rukumbi cyatanzwe ni icyerekana ko icyo gitero cyagabwe n'abasirikare bo mu kigo cy'i Ngoma bategekwaga na Liyetona Hategekimana. Nta kimenyetso cyerekana ko n'abasirikare bo muri ESO bagize uruhare muri icyo gitero. Nta n'icyatuma umuntu avuga ko Uregwa yategetse ko icyo gitero kigabwa, ko yashishikarije kugikora, ko yafashije cyangwa yateye inkunga abakigabye. Ikindi kandi, nta ho umuntu yahera avuga ko Uregwa yamenye iby'icyo gitero cyangwa ko yagombaga kuba yari akizi. Bityo rero, Urugereko rusanga Porokireri ataragaragaje ku buryo budashidikanywaho ko Uregwa yaryozwa igitero cyagabwe ku mpunzi zari kuri Paruwasi ya Ngoma ku itariki ya 29 Mata 1994.

5.10.3. Igitero cyagabwe kuri *Groupe scolaire*

5.10.3.1. Ibimenyetso

Umutangabuhamya ushinja wiswe QBE

328. Umutangabuhamya ushinja wiswe QBE yakoraga muri *Groupe scolaire* muri Mata na

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Gicurasi 1994. Yavuze ko yiboneye ubwe ibitero bibiri byagabwe muri *Groupe scolaire* mu gice cya kabiri cya Mata 1994[415]. Igitero cya mbere cyagabwe n'itsinda ry'abantu basaga n'abayobowe n'umuntu w'Interahamwe wari wambaye imyenda idoze mu gitenge. QBE nta zina ry'uwo muntu avuga, ariko ahamya ko byaje kugaragara nyuma ko yari umujepe. Mu gihe igitero cya mbere cyabaga, abakigabye baturutse hanze y'ikigo babifashishijwemo na bamwe mu bakozi ba *Groupe socolaire* barimo Faustin Twagirayezu, Faustin Niyonzima, Jean Paul, Jean Marie na Diogène[416].

329. QBE avuga ko ubwo icyo gitero cyari kirimbanyije, yasohotse mu nzu yari arimo ariko abagabye igitero bakamutegeka kudatirimuka, bityo yicara imbere y'ibiro bya diregiteri. Ari aho, yabonye abagabye igitero basohora impunzi mu mazu abanyeshuri bararagamo, bazikusanyiriza ku kibuga cy'umupira w'intoki *[volley ball],* bagenzura indangamuntu zabo, maze bavangura Abahutu n'Abatutsi. Ababaga badafite indangamuntu bashyirwaga muri rimwe muri ayo matsinda yombi hakurikijwe isura n'igihagararo byabo[417].

330. QBE avuga ko muri icyo gitero cya mbere nta mpunzi n'imwe yishwe kubera ko umugabo witwa Bicunda yahaye abagabye igitero amafaranga y'amanyarwanda agera ku 200.000 ngo bareke izo mpunzi. QBE avuga ko kuva ibyo byaba, impuha zakwirakwijwe zivuga ko ari [QBE] muri FPR, ko kandi ari we waguriye abagabye igitero kugira ngo Abatutsi baticwa[418].

331. QBE avuga ko igitero cya kabiri na cyo cyabaye mu gice cya kabiri cya Mata. Umunsi umwe ku mugoroba mu ma saa kumi n'imwe ubwo yiteguraga kuva aho kuri *Groupe scolaire,* yabonye imodoka ya gisirikare ifite amabara ya « *madowadowa* » itwawe n'umusirikare wambaye iniforume. Yagerageje kuyihagarika, abaza umushoferi aho yari agiye. Umushoferi ntiyigeze amusubiza cyangwa ngo ahagarare, ahubwo yamusubije gusa ko azi ko ari umuyoboke wa FPR. Nyuma yaho uwo mushoferi yasohotse mu kigo

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[415] Inyandikomvugo y'iburanisha mu muhezo 15 Kamena 1994, urup. 20; Inyandikomvugo y'iburanisha, 16 Kamena 1994 (mu muhezo), urup. 5.
[416] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, imp. 27, 28, 29.
[417] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 21.
[418] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, imp. 21, 22, 24.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ari muri ya modoka[419]. QBE yaje kubwirwa na Bicunda wasaga n'aho azi abo basirikare ko uwari utwaye iyo modoka ya gisirikare ari Liyetona Gatsinzi wo mu kigo cya gisirikare cy'i Ngoma. Bicunda yamubwiye kandi ko Liyetona Gatsinzi uwo yasize avuze ko azagaruka bukeye kumwica [QBE] ngo amuziza ko ahisha Inkotanyi muri *Groupe scolaire*[420].

332. QBE avuga ko, uwo munsi mu ma saa kumi n'ebyiri, we n'abandi bantu bari kumwe muri *Groupe scolaire* baje kubona ko abantu bashoboraga kwinjira mu kigo, ariko ko byari bibujijwe kugisohokamo. Ni uko byagendekeye ababikira babiri bakoraga ku bitaro by'i Butare, bagombaga guca mu kigo kugira ngo batahe aho babaga. Binjiye mu kigo ariko abasirikare bababuza gusohoka ku buryo byabaye ngombwa ko baharara iryo joro. Kubera ibyabaye kuri abo babikira, akurikije n'uko yari yaraye ahuye na Liyetona Gatsinzi, no kuba umuryango munini w'ikigo wari urinzwe n'abasirikare babiri, byatumye QBE abona ko bugarijwe n'igitero cy'abasirikare b'ikigo cy'i Ngoma[421].

333. Amaze kubona neza ko ikigo cya *Groupe scolaire* cyugarijwe n'igitero, QBE yafashe icyemezo cyo gutabaza ikigo cya ESO kubera ko ari cyo cyari hafi aho, nko muri kilometero imwe cyangwa ebyiri uvuye kuri *Groupe scolaire*. Yatelefonnye ku izamu asaba kuvugana na komanda w'ikigo. Bamuhaye umuntu yibwiye ko ari we wari komanda w'ikigo cya ESO. QBE yabwiye uwo muntu ko ikigo cya *Groupe scolaire* cyugarijwe n'igitero, hanyuma amusaba kohereza abasirikare bo gutabara abantu bari aho mu kigo. Komanda w'ikigo yamwemereye kuza kubatabara. Nyamara, QBE n'izindi mpunzi bategereje ijoro ryose ariko ntawigeze aza kubatabara. QBE yaje kumenya ko komanda w'ikigo cya ESO yari Tharcisse Muvunyi ariko yemeye ko atari asanzwe amuzi kandi ko ntaho bari barigeze bahurira[422].

334. QBE avuga ko bukeye, hagati ya saa mbiri na saa tatu, *Groupe scolaire* yagabweho igitero. Liyetona Gatsinzi wari uhagaze hafi y'amazu y'ubuyobozi bw'ikigo yeretse QBE

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[419] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 22.
[420] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 22.
[421] Inyandikomvugo z'iburanisha (mu muhezo), 15 Kamena 2005, imp. 22, 25, 26; Inyandikomvugo y'iburanisha, 16 Kamena 2005, imp. 18, 37.
[422] Inyandikmvugo y'iburanisha (mu muhezo), 15 Kamena 2005, imp. 22, 23, 26, 30.

urupapuro rutanga uburenganzira bwo gusaka, aramubwira ngo arusome, ubundi amusaba kwigirayo. N'ubwo yari afite ubwoba bwo gusoma iyo nyandiko, QBE yemereye Gatsinzi ko yayisomye. Mu gihe yasabwaga gusoma urwo rupapuro, QBE yabonye abasirikare n'Interahamwe bayobowe n'umujandarume witwa Diogène binjira mu kigo. Muri icyo gihe, Gatsinzi yasabye QBE kujya kumufungurira imiryango y'amazu y'icyo kigo kugira ngo arebe niba ko nta Nkotanyi zihishemo. QBE yazengurutse ikigo ari kumwe na Gatsinzi, amufungurira inzugi zimwe na zimwe, yirinda ariko gufungura amazu yari azi ko arimo impunzi. Liyetona yagiye azishyiraho ikimenyetso cy'umusaraba, avuga ngo azagaruka nyuma kugenzura ibyo byumba[423].

335. QBE avuga ko ubwo bavaga mu nzu z'ikigo ari kumwe na Gatsinzi, yabonye haje itsinda ry'abasirikare, baturutse impande zose. Abo basirikare bari bafatanyije n'Interahamwe zifite intwaro za gakondo, zisa n'iziyobowe na Faustin Twagiramungu. Abo basirikare bafatanyije n'abasiviri, bavumbuye impunzi zimwe, zarimo n'abana bari bavuye mu kigo cy'imfubyi i Kigali. Barazisohoye, bazisaba kwerekana indangamuntu zazo, bavangura Abahutu n'Abatutsi. Aho ni ho umutangabuhamya yaboneye ko, mu by'ukuri, batashakaga Inkotanyi ahubwo ko bashakaga Abatutsi, bitewe n'uko abantu bamwe babitaga Inkotanyi hakurikijwe isura n'igihagararo byabo gusa[424].

336. QBE avuga ko mu gihe abasirikare barimo bavangura Abatutsi n'Abahutu, ari na ko bakubitaga Abatutsi, banababasaba kuryama ku rubaraza rw'inzu irimo ibiro bya diregiteri. Ubwo rero, abasirikare bazanye imodoka ebyiri za kamyoneti zo mu bwoko bwa Mazda, imwe yari iy'Umuryango utabara imbabare indi ari iya sosiyete EMUJECO, maze bapakiramo izo mpunzi bafashijwe n'Interahamwe, Diogène na Jean Marie. Imodoka zakoze urugendo inshuro ebyiri zitunda izo mpunzi. Urugendo rwa kabiri zarukoze hashize iminota igera kuri 30 nyuma y'urwa mbere. Izo modoka zavuye ku ishuri mu ma saa cyenda. Mu gihe zari mu modoka, impunzi zakomezaga gukubitwa ndetse zimwe muri zo zenda gupfa. QBE avuga ko atongeye kubona izo mpunzi. Bigeze mu ma saa

[423] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 27; Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2006, imp. 44, 45.
[424] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, imp. 27, 28; Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, imp. 48, 49, 51, 52.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kumi n'ebyiri z'umugoroba uwo munsi, hari umubikira wamubwiye ko izo mpunzi ziciwe hafi ya *CARAES* y'i Butare, ibitaro bivura indwara zo mu mutwe by'i Butare. Umwe mu mpunzi zajyanywe kuri uwo munsi yitwaga Vincent wari ushinzwe imfubyi z'Umuryango utabara imbabare. QBE avuga ko abagabye igitero bari abasirikare bagera kuri mirongo itanu, bafashijwe n'Interahamwe n'abarimu bamwe bo kuri iryo shuri. Avuga ko impunzi zigera ku ijana z'Abatutsi zatwawe muri ubwo buryo[425].

337. QBE avuga ko muri uwo mugoroba, Liyetona Gatsinzi yagarutse kuri Groupe scolaire ari kumwe n'undi musirikare. Bombi bamusabye kujyana na bo mu biro bye bamutegeka kubaha amafaranga. Yabanje kubaha amafaranga ibihumbi mirongo ine by'amanyarwanda, ariko bamusabye andi angana nk'ayo y'inyongera nayo arayabaha babona kuva aho. QBE avuga ko kugeza ubwo yavaga mu kigo cya *Groupe scolaire* mu mpera za Gicurasi, nta bindi bitero byongeye kuhagabwa ariko abantu bakomeje gushimutwa no kwicwa[426].

Umutangabuhamya ushinja wiswe TQ

338. Umutangabuhamya ushinja wiswe TQ avuga ko muri *Groupe scolaire* hagabwe igitero simusiga ku itariki ya 29 Mata 1994 hagati ya saa kumi n'ebyiri n'igice z'umugoroba na saa moya z'ijoro cyangwa hafi y'icyo gihe. Igitero kigabwa, TQ ntiyamenye uwakigabye ariko yaje kumenya nyuma ko cyagabwe na Suliyetona Modeste Gatsinzi, wari umusirikare mu ngabo z'u Rwanda kandi akaba yarabaga muri ESO. TQ avuga ko Modeste Gatsinzi yari aherekejwe n'abandi basirikare n'abasiviri nka Faustin Twagirayesu, wigishaga muri *Groupe scolaire* y'i Butare, akaba kandi yari na resiponsabule wa serire ya Kabutare. Abitwa Ndora na Muterere nabo bari bahari[427].

339. TQ avuga ko abagabye igitero barengagaga 50. Abasirikare bari bambaye iniforume yabo ya simoko kandi bitwaje imbunda. Muri icyo gihe TQ ntiyamenye ko abo basirikare bari

[425] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, imp. 28, 29; Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, imp. 46, 49, 51, 52.
[426] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, imp. 29, 30.
[427] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, imp. 25, 26.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

abo muri ESO, yaje kubimenya nyuma abibwiwe n'abantu bakurikiranye ibyabaye[428]. Nathan Bicunda wari Diregiteri wa SULFO i Kigali, akaba yari yarahungiye mu kigo cy'imfubyi ku itariki ya 7 Mata 1994[429], yabwiye umutangabuhamya ko yari azi Modeste Gatsinzi, ko yavuye muri ESO. Hari n'abandi bantu babwiye TQ ko babonye abasirikare bo muri ESO. Hari n'umusikare w'umusore wabwiye TQ ko mu basikare bagabye igitero harimo abo muri ESO[430]. TQ yibuka ko abasirikare batangiye kugota ikigo cya *Groupe scolaire* ku munsi wabanjirije uw'igitero cyagabweho[431].

340. TQ avuga ko ubwo igitero cyagabwaga ku itariki ya 29 Mata 1994, yari mu cyumba bariramo ari kumwe n'impfubyi. Yabonye abari mu gitero bahagaze imbere y'ibiro bya Diregiteri w'ikigo, hanyuma bakwira mu kigo cyose basaba abantu bari mu byumba byo kuraramo gusohoka. Impunzi zateraniye mu kibuga cya *Volley-ball* imbere y'ibiro by'umuyobozi w'ikigo. Icyo gihe nibwo Abatutsi bavanguwe mu bandi bantu[432]. Umwe mu bafurere yari ahagaze imbere y'ibiro bya Diregiteri w'ikigo ku buryo yashoboraga kubona aho impunzi zateraniraga mu kibuga cya *Volley-ball*[433]. Muri abo bantu, TQ yamenyemo zimwe mu nshuti ze, Vincent Wutabariyo, impfubyi 18 z'Umuryango utabara imbabare, hamwe n'abana n'impunzi. Abakozi 10 b'Umuryango utabara imbabare nabo bari mu bantu bari kuri icyo kibuga. Abo bantu bose bajyanwe ku rubaraza, bategekwa kuryama hasi. Abasirikare n'Interahamwe babirayemo, barabakubita, bababambura imyenda, baburiza imodoka maze bajya kubicira mu Rwasave. TQ avuga ko impunzi zirenga 140 zajyanywe mu Rwasave, hari intera igera kuri birometero bibiri uvuye ku kigo[434]. TQ avuga ko yasabye umwe mu bafurere kubimenyesha ubutegetsi ariko ntazi niba yarabikoze[435].

341. TQ avuga ko hari Umututsi witwa Bicunda wari impunzi ariko ko we atajyanywe hamwe

428 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 26.
429 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 15.
430 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 26.
431 Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 44, 45 (ibaza ry'ibanze ry'inyongera)
432 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, imp. 27, 28.
433 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 27.
434 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 28.
435 Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 29.

n'abandi kwicwa[436] kubera ko hari umusirikare wavuze ati: « Bariya bantu bo mu muryango wa Muvunyi nibigire hafi[437] ». Ubwo, Bicunda n'abantu bo mu muryango we bagiye ukwabo, nta muntu wabakozeho[438]. Nyamara ariko, hari umwana wa Bicunda witwaga Kibwa utaragiye mu ruhande rw'umuryango we, maze ajyanwa hamwe n'izindi mpunzi aricwa. TQ avuga ko nyuma yamenye ko hari imodoka itwara abarwayi yoherejwe kujya gushaka uwo mwana ariko igasanga yishwe[439]. Uwo mwana ni we muntu wenyine wahamagarijwe imodoka itwara abarwayi uwo munsi[440].

342. Mu gitondo cyo ku itariki ya 29 Mata 1994, TQ yasabye umutangabuhamya wiswe QBE gutabaza komanda wa ESO, kubera ko ari we wari umukuru w'abasirikare bari bagabye igitero[441]. QBE yabwiye TQ ko yaterefonye kuri ESO akavugana na Koloneli Muvunyi[442], wamubwiye ko agomba kubanza kumenya abasirikare bagabye icyo gitero hanyuma akabona kuba yakohereza abatabara[443]. Nyamara ariko ntacyakozwe. TQ yavuze kandi ko bitamutangaza niba QBE yaravuze ko yahamagaye kuri telefoni muri ESO mu ijoro ryo ku itariki ya 28 Mata 1994 aho kuba mu gitondo cyo ku itariki ya 29 Mata 1994[444]. TQ yaje kumenya nyuma ko Koloneli Muvunyi yanze gutabara ngo kubera ko atamenye abo basirikare abo ari bo. Nyuma ya saa sita uwo munsi, TQ yasabye QBE kumenyesha Koloneli Muvunyi na perefe ko abantu bashimuswe[445].

343. Mu ibaza rinyomoza, TQ yavuze ko ubwo yatangaga ubuhamya bwe imbere y'abapererezi b'Urukiko ku itariki ya 28 n'iya 29 Nyakanga 1998, yari azi bamwe muri abo bagabye ibitero mu mazina ariko atazi neza imyirondoro yabo. Yavuze ko yari azi

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[436] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 28.
[437] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 28.
[438] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 28; Inyandikomvubo y'iburanisha, 30 Kamena 2005, imp 22, 23 (ibaza ry'ibanze ry'inyongera).
[439] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 23 (ibaza rinyomoza).
[440] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 45 (ibaza ry'ibanze ry'inyongera).
[441] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 27; Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 45, 46 (ibaza ry'ibanze ry'inyongera).
[442] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 27; Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup.12 (ibaza rinyomoza)
[443] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 27. Kubera ko hari igice cy'umurongo kibura mu nyandikomvugo y'icyongereza hifashishijwe iy'igifaransa.
[444] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 12, 13, 14 (ibaza rinyomoza).
[445] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 27.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Liyetona Modeste Gatsinzi, n'ubwo yamumenye uwo munsi w'igitero. Yamubonye uwo munsi, hanyuma akomeza kumubona nyuma yaho, nko mu minsi ya mbere ya Gicurasi, ubwo uwo mu ofisiye yabaga agendagenda hirya no hino mu mugi. N'ubwo yamenye izina rya Gatsinzi kuri uwo munsi w'igitero[446], TQ avuga ko kubera impamvu ze bwite ataribwiye abapererezi igihe bafataga ubuhamya bwe ku itariki ya 28 n'iya 29 Nyakanga 1998[447]. Asobanura ko icyo gihe na we yari afite dosiye yakorewe, kandi ko yari yaramenye ko Gatsinzi yari afite umwanya muri FPR yari yarayobotse, bityo kubera impamvu z'umutekano akaba yaragize ubwoba bwo kuvuga izina ry'uwo mu ofisiye[448].

344. Igihe yazaga gutanga ubuhamya imbere y'Urukiko mu rubanza rwiswe urwa Butare ni bwo bwa mbere TQ yavuze ku ruhare rwa Modeste Gatsinzi mu gitero cyo ku itariki ya 29 Mata 1994[449]. Ntiyibuka niba hari undi musirikare yaba yaravuze amazina ubwo yatangaga ubwo buhamya[450]. Ubu noneho avuga ko azi ko Kapiteni Nizeyimana wakoreraga muri ESO mu wa 1994, Mugabarigira na Hategekimana bari mu gatsiko k'abasirikare bagabye igitero kuri *Groupe scolaire* ku itariki ya 29 Mata 1994[451]. TQ avuga ko yamenye amazina yabo ubwo yaburanaga imbere y'Urukiko rwa gisirikare mu Rwanda[452]. TQ avuga ko atamenye uwari ukuriye abo basirikare bagabye igitero ku itariki ya 29 Mata 1994[453]. TQ avuga ko kuba nta kintu na kimwe yigeze avuga kuri Nizeyimana mu buhamya bwe imbere y'Urukiko mu rubanza rwiswe urwa Butare, byatewe n'uko nta kibazo yabajijwe kirebana na we[454]. TQ avuga kandi ko ubwo igitero cyagabwaga, hari umuntu wari inshuti ya Nathan Bicunda wamuhaye amakuru ku birebana n'abasirikare bari mu gitero cyo ku itariki ya 29 Mata 1994[455]. TQ avuga ko ikigo cya Ngoma

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[446] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 11 (ibaza rinyomoza).
[447] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, imp. 11, 12 (ibaza rinyomoza).
[448] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup.12 (ibaza rinyomoza).
[449] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, imp.13, 14 (ibaza rinyomoza).
[450] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, imp. 13, 14, 15 (ibaza rinyomoza).
[451] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 15 (ibaza rinyomoza)
[452] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 40, 41 (ibaza ry'ibanze ry'inyongera).
[453] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 15 (ibaza rinyomoza).
[454] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 16 (ibaza rinyomoza).
[455] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 17. (ibaza rinyomoza).

cyayoborwaga na Hategekimana[456].

345. Ku birebana n'abasiviri bari mu gitero cyo ku itariki ya 29 Mata 1994, TQ yibuka Diogène Nsabimana yari asanzwe azi kubera ko bize ku ishuri rimwe kandi bakaba barakoranye[457]. TQ ntiyibuka niba Nsabimana yaragize uruhare no mu gitero cyo ku itariki ya 21 Mata 1994, ariko yibuka ko yakoraga muri *Groupe scolaire* muri icyo gihe igitero cyabaga, kandi ko ari we wakinguraga ibyumba byo kuraramo[458]. TQ avuga na none ko uwitwa Jean-Marie Ovibar nawe yari mu gitero cyo ku itariki ya 29 Mata 1994[459].

346. TQ avuga ko mu bagabye igitero cyo ku itariki ya 29 Mata 1994, we n'abandi bantu bashoboye kumenyamo abasirikare bo mu kigo cya ESO, ko ariko mu rubanza rwaburanishijwe n'Urukiko rwa Gisirikare mu Rwanda, Modeste Gatsinzi yavuze amazina ya ba ofisiye bamwe bo mu kigo cy'i Ngoma barimo Mugabarigira na Hategekimana[460].

347. Nyuma y'icyo gitero, umwuka wabaye mubi muri *Groupe scolaire*. Urwikekwe mu bantu rwariyongereye. Abatutsi bavuga ngo Abahutu barabagambanira. Abahutu badashaka kwegera Abatutsi kugira ngo hatagira umuntu ubica yabitiranyije na bo[461].

348. TQ avuga ko, akurikije ibyo azi, nta cyakozwe kugira ngo igitero cyagabwe muri *Groupe scolaire* ku itariki ya 29 Mata 1994 kiburizwemo. Asanga abayobozi ba gisirikare barashoboraga kuburizamo icyo gitero kubera ko abasirikare ari bo bari bahagarariye ubwicanyi[462].

349. TQ avuga ko ubwo igitero cyo ku itariki ya 29 Mata 1994 cyagabwaga, atatekereje guhuruza Koloneli Munyamunyi [Icyitonderwa cy'umusemuzi : uwanditse urubanza ashobora kuba

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[456] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 44 (Ibaza ry'ibanze ry'inyongera).
[457] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 18 (ibaza rinyomoza).
[458] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 18 (ibaza rinyomoza).
[459] Inyandikomvugo y'iburanisha (mu muhezo), 28 Kamena 2005, urup. 19 (ibaza rinyomoza).
[460] Inyandikomvugo y'iburanisha, 28 Kamena 2005, urup. 2.
[461] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 29.
[462] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 29.

yarashakaga kuvuga Koloneli Muvunyi] n'abasirikare be bari mu muhanda bacunga umutekano[463]. Icyo gihe ntiyari azi Munyamunyi. TQ avuga ko abo basirikare bari barinze icyo kigo cy'ishuri bari bazi ko cyagabweho igitero, kandi ko iyo babishaka baba bararwanye ku bana n'impunzi. TQ avuga ko kuri uwo munsi, we n'abandi bari kumwe bamenye ababagabyeho igitero, ni ukuvuga abasirikare bo mu kigo cya ESO bari bayobowe na Liyetona Gatsinzi. Abo basirikare bari boherejwe na komanda wa ESO kandi bari kumwe n'abandi basirikare bo mu kigo cy'i Ngoma[464].

350. TQ avuga ko yamenyesheje abakuru b'Umuryango utabara imbabare iby'igitero cyo ku itariki ya 29 Mata 1994, ko kandi we n'abandi bari kumwe bashatse gutabaza abategetsi barimo na Perefe[465], uretse ko nta raporo yanditse yakozwe kuri ibyo[466]. TQ anakeka ko yabwiye uwitwa Pierre Antonio Costa wari uhagarariye Ubutaliyani mu rwego rw'ubucuruzi *(«Consul»)*, n'umubikira witwa Annonciata uko ibintu byari byifashe muri rusange. Avuga ko n'ubwo yari yasabye umutangabuhamya wiswe QBE kubimenyesha Perefe, atibuka niba QBE hari igisubizo yamuhaye kuri ibyo[467]. Mu buhamya QT yatanze mu rubanza rwitiriwe « Butare » mu wa 2004, yavuze ko yumvirije ikiganiro QBE yagiranye na Perefe Nsabimana kuri telefone akaba yaranumvise ibyavuzwe na QBE icyo gihe[468]. Nyamara ariko, ntiyigeze yemeza ko ari Perefe wavuganaga na QBE icyo gihe[469].

Umutangabuhamya ushinja wiswe NN

351. Umutangabuhamya ushinja wiswe NN avuga ko yari umusirikare muri ESO kuva muri Mata kugeza muri Kamena 1994[470]. Avuga ko ESO yari igizwe n'amatsinda abiri y'abasirikare. Itsinda rya mbere ryari riyobowe na Kapiteni Nizeyimana kandi ryari ririmo n'abandi basirikare bafite amapete barimo Ajida shefu Kayinamura, Suliyetona Bizimana na Suliyetona Gakwerere. Iryo tsinda ryari rigizwe cyane cyane n'abasirikare

[463] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 21, 22 (ibaza rinyomoza)
[464] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup.24 (ibaza rinyomoza).
[465] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 23, 24 (ibaza rinyomoza).
[466] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 24 (ibaza rinyomoza).
[467] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 24 (ibaza rinyomoza).
[468] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 26 (ibaza rinyomoza).
[469] Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, imp. 26, 27 (ibaza rinyomoza).
[470] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup. 4.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bakomokaga mu majyaruguru y'u Rwanda, bari intagondwa kandi bagize uruhare mu bwicanyi bwasakaye hose bwibasiye abasiviri b'Abatutsi. Itsinda rya ka kabiri ryari rigizwe n'abasirikare barwanyaga ubwicanyi, ririmo umutangabuhamya ubwe, Abatutsi, n'abandi bantu basa n'Abatutsi, n'abatakomokaga mu majyaruguru y'u Rwanda kandi batari bashyigikiye ubwicanyi. Iryo tsinda ryari rifite « uburyo bwihariye bwo gushakisha amakuru », kandi abari barigize bageragezaga kumenya ibirebana n'ubwicanyi kugira ngo bamenye ababwitabiraga.[471]

352. NN avuga ko Suliyetona Gatsinzi, wari umusirikare muri ESO, yitabiriye ubwicanyi bwakorewe muri *Groupe scolaire*, ahiciwe impfubyi zo muri SOS ya Kacyiru zari zahungiye i Butare[472]. Avuga ko, mu bantu b'impunzi bari muri *Groupe scolaire*, abenshi bari abana kandi ko yababonye ubwo yajyaga gusura uwitwa Bicunda. Yongeraho ko impunzi zose yabonye zari abasiviri. Ntiyiboneye n'amaso ye uko ubwicanyi bwakozwe, ariko yabonye umurambo w'umwe mu bana ba Bicunda mu buruhukiro bw'ibitaro. Avuga ko agereranyije, ubwicanyi bwakorewe muri *Groupe scolaire* bwabaye mu mpera za Gicurasi.[473]

Umutangabuhamya ushinja MO38

353. Umutangabuhamya ushinja wiswe MO38, ni Umututsikazi. Avuga ko mu wa 1994 yari umuforomokazi, atuye ku Kacyiru, muri Perefegitura ya Kigali. Avuga ko ku itariki ya 6 Mata 1994 ari bwo yumvise iby'urupfu rwa Perezida Habyarimana, akaba yaranumvise icyo gihe urusaku rw'amasasu[474]. Ku itariki ya 7 Mata, hari umuntu wamuhamagaye kuri telefone amumenyesha ko abantu bishwe mu gace ka Kiyovu, kandi ko abagabye ibitero bashakaga inzu y'umutangabuhamya wiswe M38 bagamije kumwica, we n'abagize umuryango we[475].

354. MO38 avuga ko we n'umuryango we bagiye mu kigo cy'impfubyi cyo ku Kacyiru,

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[471] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 42-43.
[472] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, urup.52.
[473] Inyandikomvugo y'iburanisha (mu muhezo), 18 Nyakanga 2005, imp. 55, 56.
[474] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, urup. 21.
[475] Inyandikomvugo y'iburanisha (mu muhezo), 14 Ukuboza 2005, urup. 6.

baharara amajoro abiri. Ku itariki ya 9 Mata 1994, babajyanye vuba na bwangu i Butare hamwe n'abandi bana bo muri icyo kigo[476]. Bageze i Butare saa tatu n'igice z'ijoro barara muri *Groupe scolaire*. Avuga ko Butare yari ituje ubwo bahageraga, ariko ko umutekano waje gukendera ahagana ku itariki ya 20 Mata[477]. Avuga ko ku itariki ya 21 Mata, Interahamwe zagabye igitero muri *Groupe scolaire* zigamije kwica abana b'impfubyi. Abagabye igitero bavanguye abana maze babashyira mu matsinda abiri bakurikije amoko yabo. MO38 yabanje kuvuga ko abana bari barinzwe n'izindi mpunzi, ariko nyuma avuga ko abasirikare aribo babarinze Interahamwe. Yongeraho ko abatangabuhamya bashinja biswe TQ na QBE bahaye Interahamwe 500.000 Frw kugira ngo zireke abo bana[478].

355. MO38 avuga kandi ko abasirikare n'Interahamwe bagabye ikindi gitero muri *Groupe scolaire* ku itariki ya 29 Mata mu ma saa 12 za mu gitondo[479]. Abasirikare bagumye hanze y'ikigo, naho Interahamwe zikinjiramo ziri kumwe n'uwitwa Diogène noneho zitegeka impunzi zose kujya ku kibuga. Abasirikare n'Interahamwe babwiye impunzi, zarimo n'abana, kuryama hasi maze zirabikora. Avuga ko we n'umuryango we basabwe kuva mu zindi mpunzi, n'uko aza kumenya nyuma ko babikoze kubera ko Koloneli Marcel Gatsinzi yari yasabye abasirikare kubarinda[480]. Avuga ko izindi mpunzi zishwe maze imirambo yazo ikajugunywa mu byuzi byo ku Kabutare[481].

356. MO38 nta mubare runaka atanga w'abantu bari muri Groupe scolaire ubwo icyo gitero cyagabwaga, ariko avuga ko bari benshi barimo n'impfubyi zari zavuye i Kigali. Avuga ko abana barenga 14 bishwe muri icyo gitero cyagabwe n'Interahamwe, « zihagarikiwe n'abasirikare ». Abahohotewe bose bari abasiviri b'Abatutsi kandi nta ntwaro bari bafite[482], naho abasirikare n'Interahamwe bari bitwaje intwaro zo mu bwoko bunyuranye. MO38 avuga ko abasirikare bagabye igitero muri *Groupe scolaire* bavuze ko bari abo

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[476] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, urup. 22; Inyandikomvugo y'iburanisha (mu muhezo), 14 Ukuboza 2005, urup. 8.
[477] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, urup. 25.
[478] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, imp. 28, 29.
[479] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, imp. 32, 33.
[480] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, urup. 35.
[481] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, urup. 36.
[482] Inyandikomvugo y'iburanisha, 14 Ukuboza 2005, urup. 21 (ibaza rinyomoza).

muri Gisenyi[483].

5.10.3.2. Isesengura ry'Urugereko

357. Inyandiko y'ibirego ivuga ko, ku itariki ya 24 Mata 1994 cyangwa hafi y'iyo tariki, impunzi zari muri *Groupe scolaire,* zirimo n'impfubyi Umuryango utabara imbabare wari wahungishirije i Butare uzivanye i Kigali, zagabweho igitero n'abasirikare bo mu kigo cya gisirikare cy'i Ngoma n'icya ESO. Ubwo icyo gitero cyagabwaga, uwari ushinzwe impfubyi yatelefonnye mu kigo cya ESO avugana n'Uregwa amusaba kubatabara, ariko Uregwa ntiyohereje abasirikare bo kurinda impunzi.

358. Rumaze gusuzuma ubuhamya bwa QBE, Urugereko rusanga uwo mutangabuhamya ari uwo kwemerwa byimazeyo. QBE avuga ko abasirikare bari bayobowe na Liyetona Modeste Gatsinzi, bafatanyije n'Interahamwe, bagabye igitero muri *Groupe scolaire*. Rushingiye ku bimenyetso byose rwashyikirijwe, Urugereko rusanga Liyetona Gatsinzi yari mu by'ukuri uwo muri ESO aho kuba uwo mu kigo cya gisirikare cy'i Ngoma nk'uko QBE yabivuze, ariko ko uko kwibeshya kukaba kutatuma ubuhamya bwe butizerwa. Rusanga na none QBE yemeza ko yahamagaye kuri telefone mu kigo cya ESO maze akavugana na komanda ubwe w'ikigo, n'ubwo bitazwi neza niba koko uwo bavuganye ari Uregwa. Ibyo ari byo byose, QBE avuga ko ikigo cya ESO ari cyo cyari hafi ya *Groupe scolaire* kurusha ibindi bigo bya gisirikare, kubera ko cyari kuri kilometero imwe cyangwa ebyiri gusa. Umuntu ashyize mu gaciro, birumvikana ko nka ofisiye warushaga abandi amapeti muri icyo kigo mu mpera za Mata 1994, Uregwa yagombye kuba yaragize icyo akora ngo arinde impunzi zari muri *Groupe scolaire* cyangwa ngo abuze abasirikare yategekaga kugaba igitero muri iryo shuri. Kubera ibitero byagiye bigabwa hato na hato muri *Groupe scolaire*, Uregwa yagombaga kuba yari azi ko byagabwaga, ariko nta ngamba n'imwe yafashe yo kubikumira cyangwa guhana ababigabye.

359. Ubuhamya bwa TQ buhuye n'ubwa QBE ku birebana n'igitero cyagabwe n'abasirikare

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[483] Inyandikomvugo y'iburanisha, 14 Ukuboza 2005, imp. 20, 26 (ibaza rinyomoza).

bo muri ESO muri *Groupe scolaire* ku itariki ya 29 Mata 1994 cyangwa hafi y'iyo tariki. Mu buhamya bwe, TQ ashaka kugaragaza ko Uregwa yari azi byibuze ko igitero cyagabwe, n'ubwo yaba atari we ubwe wategetse ko kigabwa. Ubuhamya bwa TQ buhuye n'ibivugwa na QBE ko yahamagaye komanda wa ESO, amusaba ko yabatabara. Rushingiye ku buhamya bw'aba batangabuhamya bombi, Urugereko rusanga Bicunda n'umuryango we, bari Abatutsi, batarishwe kubera ko bari bafite icyo bahuriyeho n'Uregwa.

360. Urugereko rusanga ubuhamya bwa NN n'ubwa MO38 buhuza mu ngingo zose z'ingenzi n'ubwa QBE na TQ. Mu by'ukuri, ibikorwa byose by'ingenzi bikurikira byarashimangiwe kandi bitangirwa gihamya ku buryo budashidikanywaho na gato: igitero cyagabwe kuri Groupe scolaire ku itariki ya 29 Mata 1994 n'abasirikare n'Interahamwe, Uregwa yarokoye umuryango wa Bicunda, umwana umwe wa Bicunda yishwe mu gitero kubera ko abakigabye bibeshye ku mwirondoro we, umusirikare wo muri ESO witwa Liyetona Modeste Gatsinzi yayoboye agatsiko k'abasirikare n'abasiviri bagabye igitero. Rusanga TQ avuga ko yamenye mu gihe cy'imiburanishirize y'imanza z'inshinjabyaha mu Rwanda, ko Hategekimana wo mu ikigo cya gisirikare cy'i Ngoma na Nizeyimana wo muri ESO bari mu gitero cyagabwe muri *Groupe scolaire*. Ubu buhamya iyo busuzumiwe hamwe n'ubwatanzwe na QBE aho avuga ko yemeza ko abasirikare bo mu kigo cya gisirikare cy'i Ngoma ari bo bagabye igitero muri *Groupe scolaire,* bugaragaza ko igitero kivugwa cyagabwe n'abasirikare bo mu kigo cya ESO bafatanyije n'abo mu cy'i Ngoma.

361. Kubera ko umutangabuhamya wiswe MO38 yagerageje nkana koroshya uruhare Uregwa yagize mu kumurokora we n'umuryango we, Urugereko ntirwemera ubuhamya bwe ko Koloneli Gatsinzi ari we warokoye umuryango we. Ntirwemera kandi n'ibyo uwo mutangabuhamya avuga ko *Groupe scolaire* yagabweho igitero n'agatsiko k'Interahamwe kabifashijwemo n'abasirikare bo ku Gisenyi. Urugereko rusanga mu buhamya bwe harimo ubushake bwo gukingira ikibaba abasirikare bo muri ESO n'Uregwa wari komanda wabo, ku birebana n'ubwicanyi bwakorewe muri *Groupe scolaire.* Urugereko ruributsa ko rwamaze gufata umwanzuro wemeza ko abasirikare bo

muri ESO bagenzurwaga nyabyo n'Uregwa. Na none, Urugereko rusanga Uregwa yarakijije umuryango wa Bicunda, yarohereje imodoka itwara abarwayi gutabara umwe mu bana ba Bicunda, umutangabuhamya wiswe QBE yarahamagaye kuri telefone mu kigo cya ESO maze akamenyesha umuntu waba yari komanda w'ikigo cya gisirikare iby'igitero kivugwa, kandi abagabye igitero bari bayobowe na Liyetona Modeste Gatsinzi wo muri ESO. Ibyo byose bikaba bigaragaza ko Uregwa yari azi iby'icyo gitero ariko akaba ntacyo yakoze kugira ngo akiburizemo, agihagarike cyangwa se ahane abakigabye.

362. Urugereko rusanga ubuhamya bw'umutangabuhamya ushinjura wiswe TQ burimo ibintu byinshi bivuguruzanya. Urugero: mu gihe cy'ibaza rinyomoza byaragaragaye ko TQ yanze nkana kuvuga izina rya Liyetona Modeste Gatsinzi mu buhamya yahaye abapererezi ba TPIR mu wa 1998, nyamara ariko akaba yararivuze mu wa 2004 ubwo yatangaga ubuhamya mu rukiko mu rubanza rwitiriwe « Butare ». Iyo myitwarire idahwitse ishobora gusobanurwa n'uko nawe yari akurikiranyweho icyaha mu rubanza imbere y'Urukiko rwa gisirikare mu Rwanda, bityo akaba yaratinyaga kuvuga izina rya Gatsinzi. TQ yavuze kandi ko amazina y'abasirikare bamwe bari mu gitero cyagabwe muri *Groupe scolaire*, nka Nizeyimana, Mugabarigira na Hategekimana wari komanda w'ikigo cya gisirikare cy'i Ngoma, yayamenye kubera imanza zaburanishijwe mu Rwanda. Avuga ko Modeste Gatsinzi ari we wavuze bwa mbere ko abasirikare bo mu kigo cya gisirikare cy'i Ngoma, nka Mugabarigira na Hategikimana, bitabiriye ubwicanyi bwakorewe muri *Groupe scolaire*, ibyo Gatsinzi akaba yarabivuze mu gihe cy'urubanza rwabereye mu Rwanda. Nyamara ariko, rumaze gusuzuma inyandiko gihamya zose n'ubuhamya bugenda bushyigikirana ku birebana n'igitero cyagabwe muri *Groupe scolaire*, Urugereko rusanga TQ avugisha ukuri kandi nta buryarya ibyo yahagazeho aho hantu ku itariki ya 29 Mata 1994. Byongeye kandi, rusanga TQ yaragizwe umwere n'Urukiko rwa gisirikare rw'u Rwanda ku itariki ya 20 Mutarama 2003, ku birebana n'ibyaha bya jenoside yari akurikiranyweho mu Rwanda[484].

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[484] Urubanza rwaciwe n'Urukiko rwa gisirikare rwa Repubulika y'u Rwanda ku itariki ya 20 Mutarama 2003 rwakiriwe muri dosiye nk'ikimenyetso gihamya cyahawe numero P.25B. Reba Inyandikomvugo y'iburanisha (mu muhezo), 30 Kamena 2005, urup. 33.

363. Urugereko rusanga, nka komanda w'umusigire w'ikigo cya ESO akaba kandi yari n'umusirikare wari ukuriye abandi basirikare muri Butare igihe ibivugwa byabaga mu mpera za Mata 1994, Uregwa yari afite inshingano yo kubuza abasirikare yategekaga kugaba igitero ku Batutsi b'abasiviri bari barahungiye muri *Groupe scolaire*, icyo kigo cy'ishuri kikaba cyari muri kilometero zitarenga ebyiri uvuye kuri ESO. Ruzirikanye imiterere y'icyo gitero cyagabwe kuri *Groupe scolaire* n'uko cyanganaga, rusanga nta kuntu Uregwa atashoboraga kumenya ibyacyo. Nka ofisiye mukuru wari ufite ipeta riruta iry'abandi muri Butare, yari afite inshingano zihariye zo gukora iperereza ku birebana n'ibyaha biteganywa n'amategeko ahana byakozwe n'abasirikare yari akuriye cyangwa bashoboraga gukora, no kuburizamo ikorwa ry'ibyo byaha cyangwa guhana ababikoze. Ku birebana n'ibyo, Urugereko ruributsa ibyemejwe mu rubanza rwa Kayishema na Ruzindana ko abasirikare bakuru bafite inshingano zikomeye zo gushakisha amakuru ku birebana n'ibikorwa by'abasirikare bakuriye mu gihe bazi ko abo basirikare barimo bakora ibyaha cyangwa se bari hafi kubikora, cyangwa se bakurikije uko ibintu byari byifashe bakaba baragombaga kumenya ko barimo kubikora cyangwa bari hafi kubikora[485].

364. Ubuhamya bw'abatangabuhamya bashinja biswe QBE na TQ bugamije cyane cyane kwerekana ko abasirikare bo mu kigo cya ESO n'abo mu cy'i Ngoma bafatanyije mu kugaba igitero muri *Groupe scolaire.* N'ubwo QBE yahise ahamagara kuri telefone mu kigo cya ESO asaba ko bakohereza abantu bo kurinda impunzi, zarimo impfubyi z'Umuryango utabara imbabare n'abakozi b'uwo muryango, nta gikorwa cyo kubatabara kigeze kibaho. Kabone n'iyo Uregwa yaba atari we ubwe wakiriye telefone ihuruza, ibyo ari byo byose umuryango wa Bicunda warokotse kubera amabwiriza ye. Nta gushidikanya rero ko yari azi iby'icyo gitero kandi ko yari afite uburyo bwo kukiburizamo, ariko nta cyo yabikozeho. Bityo rero, Urugereko rusanze Porokireri yaragaragaje ku buryo budashidikanywaho ko abasirikare bo muri ESO bafatanyije n'abantu bo mu kigo cya gisirikare cy'i Ngoma n'Interahamwe, bishe itsinda ry'Abatutsi b'abasiviri mu gitero bagabye muri *Groupe scolaire* ku itariki ya 29 Mata 1994. Nka

[485] *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 227.

komanda w'umusigire wa ESO, kandi nka ofisiye wari ufite ipete ryasumbaga iry'abandi basirikare muri Butare, Uregwa yari azi ko abo yari akuriye bazagaba icyo gitero, ariko nta ngamba n'imwe yafashe yo kugikumira cyangwa yo guhana abakigabye.

5.10.4. Igitero cyagabwe ku mpunzi z'Abatutsi mu ishyamba rya Mukura

5.10.4.1. Ibimenyetso

Umutangabuhamya ushinja wiswe XV

365. Umutangabuhamya ushinja wiswe XV, wakoraga mu bitaro bya Kaminuza, avuga ko umutekano watangiye guhungabana guhera ku itariki ya 7 Mata 1994 nyuma yaho inkuru y'uko Perezida w'u Rwanda yapfuye isakariye muri komini ye. Abasirikare bashyizeho amabariyeri kandi bakajya basaba Abatutsi kwerekana indangamuntu zabo.[486] Avuga ko yafashe icyemezo cyo kuguma iwe n'umuryango we kubera umutekano muke wariho icyo gihe. Ku itariki ya 15 cyangwa ku ya 16 Mata, yabonye ibaruwa yasinywe na Diregiteri w'ibitaro hamwe na « Komanda Muvunyi »yamusabaga kugaruka ku kazi, ubwo nyine akaba yarahise akagarukaho. Nyamara ariko, ahagana ku itariki ya 18 cyangwa ya 19 Mata, yongeye guhagarika akazi biturutse ku mabwiriza yari yahawe na shebuja ku kazi kubera ko « amazu yarimo atwikwa n'abantu barimo bahunga. »[487]

366. XV avuga kandi ko ahagana ku itariki ya 21 Mata, amazu y'abaturanyi be yatwitswe kandi ko « abaturage bari basabwe kubungabunga umutekano wabo ». XV yahisemo rero kujya mu ishyamba rya Mukura aho inshuti ze zimwe zari zamaze guhungira. Ageze mu ishyamba rya Mukura, yahasanze impunzi z'Abatutsi zigera kuri 800, muri zo hakaba harimo n'« abana, abakecuru, abasaza, abasore n'inkumi ». Hashize igihe gito impunzi zigeze mu ishyamba, « abasiviri n'Interahamwe barabimenye » maze batangira kuzica ». XV avuga ko, impunzi zirwanyeho « zikoresheje inkoni n'ibindi bikoresho», ariko ntizabishoboye kubera ko abasirikare bahamagawe kugira ngo batera Interahamwe ingabo mu bitugu. XV yongeraho ko abo basirikare bo mu kigo cya ESO n'icy'i Ngoma

486 Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 7.
487 Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 8, 9.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bahise baza bitwaje intwaro n'amagerenade[488].

367. XV avuga ko nyuma y'ibitero « yabonye imirambo » maze agatorokera mu bihuru yerekeza mu kabande ka Tumba[489].

Umutangabuhamya ushinja wiswe YAK

368. Mu wa 1994, umutangabuhamya ushinja wiswe YAK yari umunyeshuri, afite imyaka 15. Yari atuye muri Komini ya Huye, Perefegitura ya Butare. Avuga ko ku itariki 7 Mata 1994 ariho yumvise ko indege ya Perezida Habyarimana yahanuwe, Perezida agapfa. Hanavuzwe kandi ko yahitanywe n'Inyenzi, iryo jambo Inyenzi rikaba ryarasobanuraga Abatutsi. Guhera kuri iyo tariki, umwuka wahise uhinduka muri Komini ye. Bigitangira, hashyizweho amarondo yakorwaga n'Abahutu n'Abatutsi bafatanyije. Nyuma ariko Abahutu bashyizeho « uburyo bwabo bwo guhererekanya amakuru » kuko batashakaga gukora amarondo hamwe n'Abatutsi. Amarondo ya nijoro yari asanzwe akorwa n'Abahutu n'Abatutsi yahagaze hagati y'itariki ya 15 n'iya 17 Mata 1994 cyangwa hafi y'ayo matariki. YAK avuga ko Abahutu bo mu masegiteri ahana imbibi n'iyabo batangiye kwambara amashara no kuzenguruka hirya no hino. Bategetse abandi Bahutu kwambara nabo batyo, no gushyira amashara hejuru y'inzu zabo, batabikora nabo bakicwa. YAK avuga ko ubwo bwari uburyo bwo kuvangura Abahutu n'Abatutsi. Aragira ati: « Umuntu yumvaga hari ikintu kirimo gutegurwa, nyuma y'aho baratwica »[490].

369. Kubera icyo kibazo cy'umutekano wagendaga urushaho kuba muke, YAK n'abandi Batutsi baraye ijoro mu gihuru cyari hafi y'ikigo cy'amashuri. Ibyumba by'amashuri byaje kuzura impunzi ku buryo zose zitakwirwagamo. Impunzi zari zaturutse mu masegiteri ahana imbibi n'iyabo nka Dudinana, Runyinya, Karama na Vumbi. Impunzi zinjiye mu mashuri ariko nyuma ziza kugabwaho igitero n'abantu bambaye amashara. Abagabo bamwe bagerageje kwirwanaho ariko baza gusanga bidashoboka. Ubwo,

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[488] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, imp. 9, 13.
[489] Inyandikomvugo y'iburanisha, 16 Gicurasi 2005, urup. 13.
[490] Inyandikomvugo y'iburanisha, 29 Kamena 2005, urup. 26.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

impunzi zafashe icyemezo cyo kujya ku Gasharu, zikaba zarabarirwaga hagati ya 4.000 na 5.000[491]. Izo mpunzi zanyuze ku Gasharu maze zikambika ahantu hari akanunga mu ishyamba rya Mukura, hitwa Nyagasoze. Kubera ko bari bamaze iminsi batarya, umugabo umwe yabaze inka ye aha izindi mpunzi inyama. Mu gihe impunzi ziteguraga kurya, zagabweho igitero n'agatsiko k'abasiviri, cyakora zishobora gukumira icyo gitero cya mbere[492].

370. Nyuma gato y'icyo gitero cya mbere, hari ikindi gitero cyagabwe n'abasirikare baturutse mu muhanda wa kaburimbo, baje mu makamyo ya gisirikare yitwa siteya. YAK avuga ko agereranije, abo basirikare bageraga ku ijana kandi ko bari bitwaje intwaro bambaye na iniforume ya gisirikare, n'ingofero z'umukara ziriho ikirangantego cy'ingabo z' u Rwanda. YAK avuga ko yaketse ko abo basirikare bari bavuye muri ESO kuko hari indi mpunzi y'Umututsi yari yamubwiye ko Interahamwe yitwa Diogene Harindintwari yagiye gushaka inkunga mu kigo cya ESO. Yashoboraga gutandukanya abasirikare n'abajandarume kuko abajandarume bambaraga ingofero zitukura naho abasirikare bakambara iz'umukara. YAK anavuga ko abasirikare bo muri ESO bari abanyeshuri[493].

371. YAK avuga ko abasirikare bakimara kuhagera, barashe gerenade eshatu zari zikwikiye ku ku mbunda zabigenewe. Bazirashe mu cyerekezo cy'impunzi ariko ntizagira uwo zifata. Ubwo, abasirikare batangiye kurasa ku mpunzi zari zirunze ahantu hamwe kubera zari zatewe no kubona abasirikare; kwirunda hamwe byoroherereje abasirikare «akazi» [494]. YAK avuga ko abantu bamwe bari bahagaze hafi ye bituye hasi ariko we agashobora kunyerera akajya kwihisha mu murima w'amasaka. Amasasu yamaze nk'amasaha abiri avuga. Urusaku rw'amasasu ruhosheje, YAK yabonye abasirikare binjira mu ishyamba rya pinusi riri hafi aho nyuma basubira mu makamyo yabo, bagenda berekeza i Butare.

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[491] Inyandikomvugo y'iburanisha, 29 Kamena 2005, urup. 27.
[492] Inyandikomvugo y'iburanisha, 29 Kamena 2005, imp. 28, 29.
[493] Inyandikomvugo y'iburanisha, 29 Kamena 2005, urup. 30.
[494] Inyandikomvugo y'iburanisha, 29 Kamena 2005, imp. 29, 30. Umutangabuhamya wiswe YAK yaragize ati: « Twe impunzi twari tunyanyagiye aho hantu. Twabonye abasirikare, kandi nkatwe abasiviri ntitwari tubamenyereye. Nagize ubwoba kuko abo basirikare batari bazanywe no kudutabara. Twumvaga hari ikintu kigiye kuba. N'uko twirunda hamwe, kandi urebye bisa nk'aho byaborohereje akazi …Twaregeranye bityo kuturasa biraborohera. Isasu rimwe ryashoboraga gufata abantu barenga umwe kandi ni cyo abo basirikare bifuzaga ».

Abasirikare bamaze kugenda, « abaturage baraje, bagenda banogonora abatari bahitanywe n'amasasu ». Avuga ko ari aho yari yihishe mu murima w'amasaka yashoboraga kumva imipanga ivuga, n'imiborogo y'impunzi zicwaga. «Iyo miborogo yahagaze mu ma saa cyenda y'amanywa, ariko yategereje ko bwira ngo ajye kwa nyinawabo/nyirasenge wari wararongowe n'umugabo w'Umuhutu. Avuga ko yagiye imvura irimo kugwa kandi ari mu mwijima ku buryo n'abacungagaga bariyeri bari batashye. Yageze kwa nyinawabo/nyirasenge mu masaa mbiri n'igice z'ijoro. Mu ma saa cyenda y'ijoro, ni ho yahavuye asanga izindi mpunzi ku bitaro bya Kaminuza by'i Butare[495].

5.10.4.2. Isesengura ry'urugereko

372. Urugereko rusanga ubuhamya bw'abatangabuhamya bashinja biswe XV na YAK bushimangirana ku birebana n'igitero cyagabwe ku mpunzi mu ishyamba rya Mukura ndetse no ku birebana n'abari bagize icyo gitero. Urugereko rusanga abasirikare bo mu kigo cya ESO n'abo mu kigo cy'i Ngoma baragiye muri icyo gitero kandi barafatanyije bya hafi n'Interahamwe. Urugereko rusanga kandi Uregwa, nka Komanda w'umusigire wa ESO akaba yari na ofisiye urusha abandi ipete muri Butare, yagombye kuba yari azi ko igitero cyagabwe ku basiviri b'Abatutsi mu ishyamba rya Mukura. Kubera umubare munini w'impunzi zari mu ishyamba rya Mukura n'imiterere y'ibitero zagabweho n'Interahamwe, Uregwa yagombaga kuba yari azi uko izo mpunzi byazigendekeye. Nyamara aho kurinda izo mpunzi no kubuza Interahamwe gukomeza kuzihohotera, abasirikare ba ESO bari bakuriwe n'Uregwa kandi abayobora, biroshye mu bwicanyi bwibasiye impunzi. Bityo, Urugereko rusanze Porokireri yaragaragaje ku buryo budashidikanywaho ko abasirikare ba ESO, bategekwaga n'Uregwa, bafatanyije n'abandi basirikare bo mu kigo cy'i Ngoma n'Interahamwe kugaba igitero ku mpunzi z'abasiviri b'Abatutsi mu ishyamba rya Mukura no kuzica. Urugereko rusanze Uregwa yaragombaga kuba azi icyo gitero kizagabwa ariko nta cyo yakoze ngo akiburizemo cyangwa ahane abakigabye.

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[495] Inyandikomvugo y'iburanisha, 29 kamena 2005, urup. 33.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.10.5. Ubwicanyi bwahitanye abasiviri kuri Paruwasi ya Cyanika no ku Kabutare

5.10.5.1. Ibimenyetso

Umutangabuhamya ushinja wiswe YAO

373. Umutangabuhamya ushinja wiswe YAO avuga ko yamenye iby'urupfu rwa Perezida w'u Rwanda ku itariki ya 7 Mata 1994. Avuga ko icyo gihe yabaga mu rugo rw'ababyeyi be, hamwe n'abavandimwe be batanu, bose b'Abatutsi. Perezida amaze gupfa, abantu bo mu gace yari atuyemo barahindutse. Abagize umuryango we bari bafite ubwoba, ni bwo bafashe icyemezo cyo kuva mu rugo bakajya gushaka ubuhungiro ahandi. We yaraye mu gihuru, naho ababyeyi be n'abavandimwe be bahungira kuri Paruwasi ya Mushubi. Ababyeyi be, umwe mu bavandimwe be w'umuhungu hamwe n'abandi bantu nka Kageruka, Rugambara na Félicité bishwe mu ijoro ryo ku itariki ya 7 Mata. Iyo nkuru yayibwiwe na barumuna be bari kumwe n'ababyeyi igihe bapfaga[496].

374. YAO avuga ko amaze kumenya inkuru y'urupfu rw'ababyeyi be yakomeje guhunga kugira ngo na we batamwica. Yagiye mu rugo rwa nyinawabo/nyirasenge, nyuma ajya kuri Paruwasi ya Cyanika. Ageze kuri paruwasi, yahasanze abapadiri babiri bahabaga. Nyuma yaho haje izindi mpunzi ziturutse muri Karama no muri Rukondo zirimo abagabo, abagore n'abana. Impunzi zari zinaniwe kandi zisa nabi. YAO avuga ko yaganiriye na zimwe muri izo mpunzi zikamubwira ko zahunze kubera ko zagabweho ibitero, inka zabo zikanyagwa. Zimwe muri zo zamubwiye ko abaturanyi bazo bari bishwe akaba ariyo mpamvu zari zafashe icyemezo cyo guhunga[497]. YAO avuga ko yamenye ko, ku itariki ya 16 Mata 1994, hari igitero cyagabwe ku mpunzi zari kuri Paruwasi ya Cyanika. « Yumvise bavuga ko bahateye za gerenade ariko ntabwo yabonye abagabye igitero »[498]. Ku itariki ya 17 Mata 1994, yavuye kuri paruwasi ya Cyanika ajya kuri katedarari y'i Butare aho yasanze umupadiri n'izindi mpunzi. Yavuze ko kuva kuri paruwasi ujya kuri katedarari hari intera ndende, bakaba barakoresheje amasaha agera

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[496] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 7.
[497] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 8.
[498] Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 8.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

kuri atatu kugira ngo bagere yo.

375. YAO avuga ko ku itariki ya 20 Mata 1994, ubwo yari kuri katedarari, abasirikare baje bakajyana impunzi ku Kabutare. Abo basirikare bari bambaye imyenda ya gisirikare bitwaje n'imbunda. Bategetse impunzi kugenda n'uko barazishorera bari ku maguru. Bamaze kugera ku Kabutare, bategetse impunzi kuryama hasi n'uko batangira kuzirasa. Abenshi mu mpunzi barapfuye, bamwe barakomereka abandi bake bararokoka. Avuga ko kuba hari abarokotse byatewe n'uko igihe abasirikare bategekaga impunzi kuryama hasi, zimwe zaguye hejuru y'izindi noneho izari hasi zikarokoka. YAO avuga ko ari umwe mu bagize amahirwe yo kurokoka.

5.10.5.2. Isesengura ry'Urugereko

376. Rushingiye ku buhamya bwa YAO, Urugereko ntirubasha kwemeza ko hari igitero cyagabwe mu Cyanika, ntirwanemeza ko Uregwa cyangwa se abo yari akuriye bakitabiriye. Ntawakwemeza niba YAO yari ari mu Cyanika ubwo icyo gitero kivugwa cyagabwaga cyangwa niba avuga gusa ibyo yumvanye abandi bantu. Ikindi kandi, nta kimenyetso yatanze kigaragaza abagabye icyo gitero abo ari bo. Kubera izo mpamvu, Urugereko rusanze kiriya kirego Porokireri ataragitangiye ibimenyetso ku buryo budashidikanywaho.

5.10.6. Umwanzuro rusange ku iyicwa ry'abasiviri b'Abatutsi

377. Mu gusoza, Urugereko rusanga Porokireri yaragaragaje ku buryo budashidikanywaho ko Uregwa, nk'umuyobozi w'ikigo cya ESO, yarazi ko abasirikare bo muri ESO bagabye ibitero ku mpunzi zari muri *Groupe scolaire.* Rusanga na none Uregwa yaragombaga kumenya ko hari ibitero byagabwe mu ishyamba rya Mukura. Rusanga cyakora Porokireri ataragaragaje ko Uregwa ubwe yagiye mu bitero byagabwe ku mpunzi z'Abatutsi zari kuri Paruwasi ya Ngoma, ku ishuri ryo mu Matyazo no kuri Paruwasi ya Cyanika, ko yarazi cyangwa ko yagombaga kuba azi ko ibyo bitero byagabwe.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.11. Gusambanya ku gahato n'urugomo rushingiye ku gitsina byakozwe n'abasirikare n'interahamwe ubwo ibitero byagabwaga ku basiviri b'Abatutsi

5.11.1. Ibivugwa mu nyandiko y'ibirego

378. Igika cya 3.41 n'icya 3.41 (i) bigira biti:

> 3.41. Mu gihe ibivugwa haruguru mu gika cya 3.40 byabaga, abagore n'abakobwa benshi basambanyijwe ku gahato kandi bakorerwa ibikorwa by'urugomo rushingiye ku gitsina. Bakorewe ibyo bikorwa aho hantu, cyangwa barashimutwa cyangwa bajyanwa ahandi hantu ku ngufu maze basambanywa ku gahato, banakorerwa urundi rugomo rushingiye ku gitsina. Ibyo byose byakozwe n'Interahamwe n'abasirikare bo mu kigo cy'i Ngoma. Kubera ububasha yari afite n'uburyo ibyo bikorwa byari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.
>
> 3.41(i). Kenshi, ibyo bikorwa byo gusambanya ku gahato byagiye biba bibi kurushaho bitewe n'uko abantu benshi basambanyaga umuntu umwe, umuntu umwe agasambanywa inshuro nyinshi, abakobwa b'amasugi bagateshwa ubusugi bwabo, abakobwa bagasambanyirizwa ku ngufu imbere ya ba nyina cyangwa abandi bantu bo mu muryango, ibyo bikorwa bikaba byararangwaga no guhutaza abahohotewe no kubatesha agaciro. Byongeye kandi, abenshi mu bakorewe urwo rugomo rushingiye ku gitsina baricwaga nyuma yaho.

5.11.2. Ibimenyetso

Umutangabuhamya ushinja wiswe AFV

379. Umutangabuhamya wiswe AFV ni Umututsikazi, akaba yarakoraga ku bitaro bya Kaminuza by'i Butare ubwo Perezida Habyarimana yapfaga[499]. Ku itariki ya 20 Mata 1994 mu ma saa saba, ubwo yari atashye iwe avuye ku kazi, yahagaritswe n'abasirikare

[499] Inyandikomvugo y'iburanisha (mu muhezo), 21 Kamena 2005, imp. 2, 28; Ikimenyetso gihamya cyahawe nimero P.21 (cyashyizweho ubujeni).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bari kuri bariyeri aho umuhanda ujya ku bitaro bya Kaminuza uhurira n'ujya kuri laboratwari ya Kaminuza[500]. Hari abasirikare bagera kuri bane bafite imbunda kandi bambaye imyenda ya gisirikare irimo utudomo tw'amabara isa n'iy'abasirikare bo mu kigo cya ESO. Bari banafite za gerenade n'amasasu ku mikandara. AFV ntiyabonye ingofero abo basirikare bari bambaye, yewe nta nazi niba hari izo bari bambaye. Avuga ko abo basirikare bari abo mu kigo cya ESO kubera ko iyo bariyeri itari kure y'icyo kigo, kandi ko abasirikare bayisimburanwagaho[501].

380. AFV avuga ko kuva ku kigo cya ESO kugera aho iyo bariyeri yari iri hari urugendo rw'amaguru rw'iminota igera ku icumi[502]. Abasirikare bakaga abahisi n'abagenzi indangamuntu, bakavangura Abahutu n'Abatutsi. Bemereraga Abahutu gutambuka, Abatutsi bakabategeka gutegereza bakanabasaka[503].

381. AFV avuga ko abasirikare bamusatse, bakamukubita, bamubaza niba yibwira ko ari igitangaza. Bamubajije impamvu yari yatinyutse kujya ku kazi, kandi bamwambura imfunguzo z'ibiro. Yari afite ubwoba ko abo basirikare bashobora kumugirira nabi kuko bari bamaze kwica umukobwa w'Umututsikazi bari bafatanyije urugendo kugera kuri bariyeri, bamaze kuvumbura ko yashwanyuye indangamuntu ye agira ngo ahishe ubwoko bwe. Umurambo w'uwo mukobwa bawutaye mu muferege[504].

382. Umwe mu basirikare yaravuze ati: « reka turebe igitsina cy'uyu Mututsikazi. Bishoboka bite ko ugikora kandi abandi badakora? »; hanyuma arongera ati: « Reka tumuherekeze, ariko ejo azaze kunyiyereka[505] ». AFV yatekereje ko abasirikare bashakaga kuvuga ko nibamara kureba imyanya ndangagitsina ye bari bumwice[506]. Abasirikare babiri bafite imbunda bavuze ko bagiye kumuherekeza kugera iwe, ariko si ko byagenze. Ahubwo mu by'ukuri, baramukubise maze bamujyana mu gashyamba[507].Yabasabye kumwica

[500] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 5.
[501] Inyandikomvugo y'iburanisha, 21 Kamena 2005, imp. 4, 5, 26 (ibaza rinyomoza).
[502] Inyandikomvugo y'iburanisha (mu muhezo), 21 Kamena 2005, imp. 11, 21 (ibaza rinyomoza).
[503] Inyandikomvugo y'iburanisha, 21 Kamena 2005, imp. 12, 13.
[504] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 13.
[505] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 14.
[506] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 14.
[507] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

akokanya aho kumujyana kumwica urubozo[508].

383. Bageze mu gihuru, umwe mu basirikare yakomeje kumukubita no kumutuka. Undi musirikare yamuvanyemo ipantaro. Bamwambuye imyenda, bamwambura n'ikariso maze baramwicaza bamuhambiriza umupira we wo kwifubika kandi bamupfuka amaso bakoresheje indi myenda. Yarivumbuye maze abasaba kumwica aho kumusambanya ku gahato. Umwe mu basirikare yamufashe umutwe awuhonda ku butaka maze ata ubwenge[509].

384. Azanzamutse, yasanze abamuhohoteye bagiye. Yumvise afite intege nkeya cyane, atanabasha kwegeranya amaguru, abona kandi ko yavuye amaraso menshi. Guhaguruka byaramunaniye[510], abona kandi ava amaraso mu gitsina n'ubwo hatabonaga. Yarinze agera mu rugo akiva amaraso[511], noneho ageze ku rumuri abona ibintu by'umweru bimeze nk'amazi byamumenetseho ku gace ko mu nsi y'umukondo hafi y'igitsina. Avuga ko kuba yaravaga amaraso mu gitsina kandi hari ibintu by'umweru bimeze nk'amazi byamumenetseho ku gace ko mu nsi y'umukondo hafi y'igitsina, byatumye atekereza ko abo basirikare babiri bari bamusambanyije ku gahato[512].

385. AFV avuga ko igihe ibi byabaga, yari umukobwa wihaye Imana, w'isugi utari warigeze asambana na rimwe, ariko ko ubu atakiri isugi kubera ko abasirikare bamuvukije ubwo busugi.[513]

Umutangabuhamya ushinja wiswe QY

386. Umutangabuhamya ushinja wiswe QY ni Umututsikazi, akaba yari fite imyaka 17 mu wa 1994[514]. Avuga ko nyuma y'itariki ya 7 Mata 1994, umutekano umaze kuba muke muri

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[508] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 15.
[509] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup.15: Umutangabuhamya wiswe AFV yasubiye mu magambo yavuzwe n'umwe mu basirikare agira ati: «Ntitumwice tutabanje kureba igitsina cy'Umututsikazi ».
[510] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 16.
[511] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 17.
[512] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 17.
[513] Inyandikomvugo y'iburanisha (mu muhezo), 21 Kamena 2005, urup. 18; Inyandikomvugo y'iburanisha (mu muhezo), 21 Kamena 2005, urup. 28 (ibaza rinyomoza).
[514] Ikimenyetso gihamya cyahawe nimero P.18 (cyashyizweho ubujeni).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

serire ye, yagiye ku kigo cy'amashuri abanza cyo mu Matyazo hari intera umuntu yagenda n'amaguru iminota igera ku icumi avuye aho yari atuye[515]. Icyo kigo cy'amashuri kimaze kugabwaho igitero, yahungiye ahantu hatandukanye hanyuma aza kugera ku biro bya Perefegitura aho yasanze abasirikare n'abajandarume bitwaje intwaro[516].

387. QY yamenye ko bari abajandarume kubera ko bari bambaye ingofero z'ibara ry'umutuku[517]. Avuga ko abasirikare basambanyaga abakobwa ku gahato. N'ubwo atibuka igihe yamaze ku biro bya Perefegitura, azi ko nyuma we n'izindi mpunzi bajyanwe kuri E.E.R n'abasirikare n'insoresore z'indorerezi[518].

388. Impunzi zageze kuri E.E.R mu ma saa 12 za nimugoroba. Nyuma yaho gato, QY yajyanwe n'umusirikare, wari wambaye imyenda ya gisirikare kandi yitwaje imbunda, mu gashyamba maze amusambanya ku gahato. QY akeka ko uwo musirikare yabarizwaga muri ESO, kubera ko E.E.R « yari hafi cyane y'ikigo cya ESO. Na none kandi, abasirikare bari ku biro bya perefegitura bari abo muri ESO »[519]. Bageze mu gashyamba, uwo musirikare yamutegetse kuvanamo imyenda. Ubwo, uwo musirikare yavanyemo ipantalo ye, asigarana ikariso, hanyuma yinjiza igitsina cye mu cye. QY yavuye amaraso. Uwo musirikare yamujyanye munsi y'ako gashyamba, amutegeka kuryama, arabikora. QY yongeraho ibi bikurikira: « Maze kuryama, yarongeye ashyira igitsina cye mu cyange, maze akomeza kunsambanya nk'uko yari yabigenje mbere. Hanyuma, arambwira ati: « Ubu rero tumaze kuvanga amaraso, sinkikwishe ». Nyuma y'uko gusambanywa ku gahato, « yaraviriranye cyane » mu myanya ndangagitsina kandi imyenda ye yari yatose. Uwo musirikare yamusubije mu zindi mpunzi[520].

389. QY avuga ko umunsi umwe hagati ya Mata na Nyakanga 1994, hari abasirikare

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515 Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 13.
516 Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 14.
517 Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 18.
518 Inyandikomvugo y'iburanisha, 8 Kamena 2005, imp. 18, 19; Inyandikomvugo y'iburanisha (mu muhezo), 13 Kamena 2005, urup. 18 (ibaza rinyomoza) ; Inyandikomvugo y'iburanisha (mu muhezo), 14 Kamena 2005, urup. 30 (ibaza rinyomoza).
519 Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 19.
520 Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 19.

bamuvanye ku biro bya perefegitura bakamujyana ahantu mu Rwabayanga. Ntiyashoboye kumenya abo bari bo kubera ko byabaye ni njoro kandi abantu bari « mu bihe bikomeye cyane ». Abo basirikare bamujyanye ahantu hari akabari na resitora, nyuma yaho bamushyira mu « kazu gato kari kameze nk'umusarani ». Ubwo, bamushyize ku gitanda cyari muri ako kazu. Akomeza agira ati: « Umwe yangiye hejuru, undi atagaranya amaguru yanjye, undi ajya iruhande maze afata ukuguru kwanjye kumwe maze undi afata ukundi. Umwe muri abo basirikare yangiye hejuru, maze banjyaho basimburana, barangije barataha ». Porokireri amusabye gusobanura neza icyo ashaka kuvuga iyo avuga ngo « bangiyeho basimburana », QY yasubije agira ati: « buri wese yinjizaga igitsina cye mu cyange »[521].

390. QY avuga ko hashize nk'ibyumweru bitatu ibyo bimubayeho, yongeye gusambanywa ku gahato n'umusirikare mu gikari cy'ibiro bya Perefegitura. Ntiyibuka neza ukwezi byabereyemo ariko asobanura ko uwo musirikare yamujyanye mu kazu gato cyane ari na ko yamusambanyirijemo. Aragira ati: « yanyegetse ku rukuta … maze ansambanya ku gahato… Yafashe igitsina cye, acyinjiza mu cyange ». Uwo musirikare yamusize muri ako kazu. Nyuma yaho QY yaje kuhava asubira aho izindi mpunzi zari ku biro bya Perefegitura[522].

391. QY avuga kandi ko umunsi umwe hagati ya Mata na Nyakanga 1994, yavanywe ku biro bya perefegitura n'umuntu « wari wambaye imyenda ya gisiviri » maze amujyana « kwa Mahenga »[523]. Ubw'uwo mugabo yamujyanaga, hari abasirikare ku biro bya Perefegitura. QY n'izindi mpunzi zari ku biro bya Perefegitura bagiye basambanywa ku gahato n'abantu benshi. Ibyo gusambanywa ku gahato byose byakorwaga abasirikare bahari, kubera ko « ubirebye, basaga nk'abahabaga »[524].

392. QY avuga ko aho « kwa Mahenga » hari akabari n'ibyumba byo gucumbikamo kandi ko hagati yaho n'ibiro bya perefegitura hari intera umuntu agenda n'amaguru nk'iminota

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[521] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 21.
[522] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 22.
[523] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 23; Inyandikomvugo y'iburanisha (mu muhezo), 14 Kamena 2005, urup. 21.
[524] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 23.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

irindwi. Ageze « kwa Mahenga », yahabonye abasirikare « bari barabohoje abandi bakobwa » kandi barahababafungiraniye[525]. Abo bakobwa bari mu byumba biteganye n'icye. Yashoboraga kubabona ari ku rubaraza ariko adashobora kubavugisha. Uwamubohoje yamufungiraniye mu cyumba nk'iminsi ibiri cyangwa itatu, maze akajya agaruka kumusambanya igihe cyose ashakiye. Yari yarabaye nk'umugore we[526]. Asobanura uko abagore bari barabohorejwe « kwa Mahenga » bari bamerewe muri rusange, agira ati: « Twari twarabaye abagore babo, ntitwabaga tuzi igihe bashobora kuzira kudukura aho twari turi. Twari twarabaye nk'abagore babo. Nta n'umwe wasigaye adasambanyijwe ku gahato… Hari abantu benshi basambanyijwe ku gahato kandi abenshi muri bo barapfuye. Hari ndetse n'abahahamutse, n'ababyaranye n'ababasambanyije ku gahato »[527]. Uwari wamubohoje yamusubije ku biro bya perefegitura ubwo hatangazwaga ko « kwa Mahenga » hazasakwa. Nyuma yaho, bitegetswe na Perefe, we n'izindi mpunzi burijwe amabisi maze bava aho ku biro bya Perefegitura bajyanwa mu ishyamba rya Nyange[528].

393. Mu gihe cy'ibaza rinyomoza, QY yabajijwe ku birebana n'uwitwa Mazimpaka maze asubiza ko yasambanyijwe ku gahato n'uwo mugabo ku biro bya Perefegitura. Asobanura ko atibuka igihe byabereye, niba byari mbere cyangwa nyuma yo gusambanywa ku gahato n'abasirikare batatu mu Rwabayanga. Yongeraho ko Mazimpaka yari umusirikare cyangwa umujandarume[529], kandi ko yamenye izina rye nyuma ubwo yaburanishirizwaga mu Rwanda[530].

<u>*Umutangabuhamya ushinja wiswe TM*</u>

394. Umutangabuhamya ushinja wiswe TM ni Umututsikazi akaba n'umuhinzi, yabaga ku Gikongoro kandi yari afite imyaka 44 ubwo ibivugwa byabaga[531]. Avuga ko umunsi

[525] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 23.
[526] Inyandikomvugo y'iburanisha, 8 Kamena 2005, imp. 23-24.
[527] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 24.
[528] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 24.
[529] Inyandikomvugo y'iburanisha (mu muhezo), 14 Kamena 2005, imp. 18, 19, 24 (ibaza rinyomoza).
[530] Inyandikomvugo y'iburanisha (mu muhezo), 14 Kamena 2005, Urup. 17 (ibaza rinyomoza).
[531] Ikimenyetso gihamya cyahawe nimero P.22 (cyashyizweho ubujeni).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

umwe ahagana hagati muri Mata 1994, agatsiko k'abasiviri n'abasirikare kaje iwe guhiga Abatutsi. Birutse ku mwana w'Umututsi, babanaga witwaga Rusunika maze baramwica[532]. Mu basirikare bari muri ako gatsiko harimo Katabirora, Sebuhoro n'undi bitaga « Umujepe »[533]. TM yari azi neza Katabirora na Sebuhoro kandi yari yarababonye mbere bacunga bariyeri yari nko muri kilometero imwe uvuye iwe. Yabonaga kenshi Katabirora wakoreraga mu mugi wa Gikongoro[534]. TM akeka ko Katabirora yari Umuhutu. Mu bandi bantu baje iwe harimo Ndayisaba, Ntawuhiganayo na Isidore. Abasirikare bari bitwaje imbunda naho abasiviri bitwaje udufuni n'imipanga[535].

395. TM avuga ko bamaze kwica Rusunika, wari umwana w'Umututsi, abagabye igitero bagarutse maze bakamusambanya ku gahato. Katabirora ni we watangiye, ashatse kwanga yaramukubise[536]. TM avuga ko ubwo yasambanyagwa ku gahato yari afite inda y'amezi atandatu. Hashize iminsi itatu, yakubise igihwereye. Avuga ko kugeza n'ubu akibabara mu mugongo no mu mutwe[537].

Umutangabuhamya ushinja wiswe YAI

396. Umutangabuhamya ushinja wiswe YAI avuga ko mu mpera za Gicurasi 1994, mu nama yabereye i Gikore yarebanaga n'umutekano, Muvunyi yavuze ku birebana n'abagabo b'Abahutu bari barabohoje Abatutsikazi maze akabasaba «kubohereza iwabo»[538]. YAI avuga ko ubwo Muvunyi yasabaga ko abo bagore boherezwa iwabo, yashakaga kuvuga ko bagomba gushumurizwa abicanyi kubera ko ingo z'abo bagore zari zarasenywe[539].

Umutangabuhamya ushinja wiswe CCP

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532 Inyandikomvugo y'iburanisha, 22 Kamena 2005, imp. 3-4.
533 Inyandikomvugo y'iburanisha, 22 Kamena 2005, urup. 7.
534 Inyandikomvugo y'iburanisha, 22 Kamena 2005, urup. 6: « Abo basirikare bakoraga mu mugi wa Gikongoro ariko sinari nzi aho ikigo cyabo cyari, sinigeze njyayo ».
535 Inyandikomvugo y'iburanisha, 22 Kamena 2005, urup. 3.
536 Inyandikomvugo y'iburanisha, 22 Kamena 2005, urup. 4.
537 Inyandikomvugo y'iburanisha, 22 Kamena 2005, urup. 4.
538 Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, urup. 8.
539 Inyandikomvugo y'iburanisha, 25 Gicurasi 2005, imp. 8-9, 41.

397. Umutangabuhamya ushinja wiswe CCP ni Umuhutu[540]. Avuga ko muri Gicurasi 1994 yari mu nama yabereye i Gikore[541] kandi ko yumvise Muvunyi asaba Abahutu bari bararongoye abakobwa b'Abatutsikazi kubica cyangwa, batabishobora, bakabirukana kugira ngo bazicirwe ahandi[542]. CCP avuga ko Muvunyi yavuze ko abo bakobwa bagombaga gupfa kubera ko bashoboraga kuroga abagabo babo b'Abahutu[543].

Umutangabuhamya ushinja wiswe YAK

398. Umutangabuhamya ushinja wiswe YAK yari afite imyaka 15 mu wa 1994[544]. Umuryango we umaze kwicwa, yahungiye mu bitaro bya Kaminuza i Butare[545]. Avuga ko abasirikare bo muri ESO baje ku bitaro bya Kaminuza maze bagashukashuka abakobwa bari bahari. Kubera ko impunzi zari zishonje, abasirikare babwiye abo bakobwa kubakurikira muri ESO kugira ngo babahe ibiryo. Nyamara ariko, abo bakobwa bagarutse barira. YAK yumvise indi mpunzi ivuga ko abo bakobwa basambanyijwe ku gahato n'abasirikare bo muri ESO[546].

399. YAK avuga ko abasirikare bari mu kigo cy'ibitaro bya Kamunuza bavaga muri ESO. Avuga ko iyo umuntu yabaga ahagaze aho bakirira abantu ku bitaro, yashoboraga kubona abasirikare baturuka muri ESO[547].

5.11.3. Isesengura ry'Urugereko

400. Inyandiko y'ibirego ivuga ko Interahamwe n'abasirikare bo mu kigo cya gisirikare cy'i Ngoma basambanyije ku gahato abagore n'abakobwa benshi, banabakorera ibikorwa by'urugomo rushingiye ku gitsina. Nyamara ariko, Porokireri, mu gika cya 82 cy'imyanzuro ye mbanzirizarubanza, avuga ko Interahamwe, abasirikare bo mu kigo cya

[540] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 8.
[541] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 3.
[542] Inyandikomvugo y'iburanisha, 9 Kamena 2005, imp. 6-7.
[543] Inyandikomvugo y'iburanisha, 9 Kamena 2005, urup. 6.
[544] Ikimenyetso gihamya cyahawe nimero P.24, cyakiriwe muri dosiye ku itariki ya 29 Kamena 2005 (cyashyizweho ubujeni).
[545] Inyandikomvugo y'iburanisha, 29 Kamena 2005, urup. 33.
[546] Inyandikomvugo y'iburanisha, 29 Kamena 2005, imp. 35-36.
[547] Inyandikomvugo y'iburanisha, 29 Kamena 2005, urup. 34.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

gisirikare cya Ngoma n'abo mu cya ESO, hamwe n'abo muri jandarumori bakoze ibikorwa byo gusambanya ku gahato. Yamenyesheje kandi mu mpinamyanzuro ye yo mu ikubitiro ko azatanga ikimenyetso kigaragaza ko abasirikare bo mu kigo cya ESO n'abo mu cy'i Ngoma bayoborwagwa n'Uregwa, bakoze ibikorwa byo gusambanya ku gahato. Hasigaye kumenya niba mu kuvuga abasirikare bo muri ESO mu myanzuro ye mbanzirizarubanza no mu mpinamyanzuro ye yo mu ikubitiro, Porokireri yarujuje inshingano ze zo kumenyesha mbere ubwunganizi icyo kirego mu buryo bwumvikana kandi mu gihe gikwiye.

401. Hakurikijwe Ingingo ya 20.4(a) ya Sitati, Uregwa afite uburenganzira bwo kumenyeshwa imiterere y'ibyaha ashinjwa n'impamvu bashingiraho bamurega. Nk'uko Urugereko rw'Ubujurire rwabyemeje, iyo ngingo iyo isuzumiwe hamwe n'iya 47 (C) y'Amategeko itegeka Porokireri « gusobanura ibyabaye by'ingenzi ibirego bikubiye mu nyandiko y'ibirego bishingiraho, ariko ntategetswe kwerekana mu nyandiko y'ibirego ibimenyetso ateganya gushingiraho agaragaza ibyo byabaye »[548]. Urugereko rusanga ubuhamya bw'abatangabuhamya biswe AFV na QY bavugamo ko basambanyijwe ku gahato n'abasirikare bo muri ESO budashimangira ikirego cyumvikana kandi gisobanuye neza cy'Inyandiko y'ibirego, gishinja abasirikare b'ikigo cya gisirikare cy'i Ngoma n'Interahamwe kuba baragize uruhare muri ibyo bikorwa byo gusambanya ku gahato. Urugereko, rusanga ibivugwa ko abasirikare bo muri ESO bakoze ibyaha byo gusambanya ku gahato i Butare mu wa 1994 ari ibikorwa bikomeye byagombaga gusobanurwa mu nyandiko y'ibirego, ntabwo ari ikimenyetso gisobanura ibintu ku buryo burambuye gishobora gutangwa nyuma.

402. Ubukemuramanza bw'inkiko zidahoraho bugaragaza ko rimwe na rimwe bitewe n''uko ibintu byifashe, Porokireri ashobora, mu gihe cy'imyanzuro mbanzirizarubanza, icy'ihererekanya ry'ubuhamya bwanditse bw'abatangabuhamya cyangwa cy'impinamyanzuro yo mu ikubitiro, gukosora inenge iyo ari yo yose yo mu nyandiko

[548] *Urubanza rwa Semanza,* Inyandiko y'urubanza mu bujurire, igika 85; *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, igika 25; *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu bujurire, igika 49; *Urubanza rwa Kupreškić,* Inyandiko y'urubanza mu bujurire, igika 88.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

y'ibirego, ashyikiriza Ubwunganizi mu gihe gikwiye amakuru yumvikana kandi adahuzagurika[549]. Bityo, Inyandiko y'ibirego itumvikana neza, cyangwa ifite inenge runaka, ishobora gukosorwa hakoreshejwe ubwo buryo, iyo ari ukubera gusa ko ibyo Porokireri avuga bidasobanutse neza. Nk'uko Urugereko rw'Ubujurire rwa TPIY rwabyemeje, « kugira ngo Inyandiko y'ibirego ibe isobanutse ku buryo buhagije, igomba by'umwihariko kugaragaza mu buryo burambuye kandi busobanutse neza ibyo Uregwa ashinjwa kugira ngo abimenye maze abone uko ategura imyiregurire ye »[550].

403. Nyamara ariko, muri uru rubanza, Urugereko rusanga ikibazo giteye ukundi. Ku birebana n'icyaha cyo gusambanya ku gahato, rusanga Inyandiko y'ibirego ntaho idasobanutse. Ivuga mu buryo bwumvikana ko abasirikare bo mu kigo cya gisirikare cy i Ngoma bakoze ibyaha byo gusambanya ku gahato, icyo kirego kikaba cyumvikana kandi gisobanuye neza kitarimo ikintu na kimwe gitera urujijo. Isuzuma ricukumbuye ry'ibirego bikubiye mu nyandiko y'ibirego rigaragaza ko Porokireri yatandukanije neza ibikorwa by'urugomo abasirikare bo mu kigo cya gisirikare cy'i Ngoma bashinjwa n'ibishinjwa abo muri ESO. Ibirego bimwe bishinjwa abasirikare byo mu bigo byombi bya gisirikare, ni ukuvuga icy'i Ngoma n'icya ESO, ibindi bikavugwamo gusa abo ikigo kimwe cyangwa ikindi. Ntawavuga rero ko Porokireri yakoze ikosa ryo gukurikirana gusa abasirikare bo mu kigo cya gisirikare cy'i Ngoma ku birebana n'ikirego cyo gusambanya ku gahato. Nyamara ariko, mu gihe cy'itangwa ry'ibimenyetso mu rukiko, byaragaragaye ko ibyaha byo gusambanya ku gahato bitakozwe n'abasirikare bo mu kigo cya gisirikare cy'i Ngoma, ko byakozwe ahubwo n'abo mu kigo cya ESO. Kuba nta bimenyetso biriho bihamya ibikubiye mu kirego runaka, ntibivuga ko icyo kirego gifite inenge.

404. Kuba Porokireri yaraciye ruhinganyuma mu myanzuro ye mbanzirizarubanza akavuga ko ari abasirikare bo muri ESO, abo mu kigo cya gisirikare cy'i Ngoma n'Interahamwe bakoze ibikorwa byo gusambanya ku gahato, umuntu yabibonamo ko ari uguhindura

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[549] *Urubanza rwa Kupreškić,* Inyandiko y'urubanza mu bujurire, igika 114; reba kandi *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu bujurire, igika 55; *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, igika 27; *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu bujurire, igika 195.

[550] *Urubanza rwa Kupreškić,* Inyandiko y'urubanza mu bujurire, igika 88.

ikirego ku buryo bukomeye. Biragaragara ko Uregwa atabonye uko yiregura kuri icyo kirego kinyuranye cyane n'icyari gisanzweho. Bityo rero, hakurikijwe Ibivugwa mu nyandiko y'ibirego, Urugereko rusanga Uregwa yaba areganyijwe haramutse hasuzumwe ibimenyetso bishinja abasirikare bo muri ESO ibikorwa byo gusambanya ku gahato.

405. Amategeko ateganya ko Porokireri adashobora guhindura ikirego gikubiye mu nyandiko y'ibirego cyangwa kuyishyiramo ikirego gishya hadakurikijwe inzira ziteganywa n'amategeko. Ingingo ya 50 y'Amategeko iteganya ibirebana no guhindura *Inyandiko y'ibirego*. Inyandiko y'ibirego yemejwe ishobora gusa guhindurwa iyo bitangiwe uruhushya n'umucamanza ubifitiye ububasha cyangwa n'Urugereko rwa Mbere rw'Iremezo, bitewe n'uko ibintu byifashe. Iyo Inyandiko y'ibirego bayongeyemo ibirego bishya kandi Uregwa yaramaze kwitaba Urugereko rwa Mbere rw'Iremezo bwa mbere, Uregwa yongera kurwitaba kugira ngo ashobore kuburana yemera cyangwa atemera ibyaha bishya ashinjwa.

406. Izo ngingo zaba ari impfabusa kandi nta n'icyo zaba zimaze niba Porokireri yashoboraga guhindura ibirego bisanzweho, abimenyesheje gusa Ubwunganizi mu mpinamyanzuro ye yo mu ikubitiro cyangwa mu myanzuro ye mbanzirizarubanza. Nk'uko bivugwa haruguru, iyo ibirego bisanzweho bidasobanutse cyangwa bifite izindi nenge, izo nenge zishobora gukosorwa iyo ubwunganizi bumenyeshejwe mu gihe gikwiye, amakuru asobanutse neza kandi adahuzagurika arebana n'icyo kibazo. Nyamara ariko, iyo ari ibirego bishya, icyifuzo gisaba guhindura Inyandiko y'ibirego kigomba gushyikirizwa Urugereko.

407. Inyandiko y'ibirego ivuga muri rusange ko Uregwa yari Komanda w'umusigire wa ESO kuva ahagana ku itariki ya 7 Mata 1994. Bityo, ikibazo cy'uburyozwacyaha bwe ku birebana n'ibikorwa by'urugomo abo yari akuriye bashinjwa ni ikintu gikomeye kigomba gusobanurwa neza mu nyandiko y'ibirego. Ni ukuvuga ko icyo kibazo kitafatwa nk'aho ari udusobanuro turambuye Porokireri ashobora kongeramo nyuma uko yishakiye. Urugereko ruributsa ko Porokireri yatanze icyifuzo gisaba uruhushya rwo guhindura *Inyandiko y'ibirego*, harimo no gukuramo ikirego cyo gusambanya ku gahato, ariko

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Urugereko rwarabyanze kubera ko icyifuzo cye cyari cyatanzwe urubanza rugiye gutangira kandi kurutinza bikaba byari kuba bihungabanyije uburenganzira bw'Uregwa[551] Icyo kibazo cyagejejwe no mu Rugereko rw'Ubujurire, rwasobanuye itandukanyirizo riri hagati y'ikirego gishya n'ibikorwa by'ingenzi bishyigikira ikirego gisanzweho[552]. Nyamara ariko, biragaragara ko muri uru rubanza Porokireri atashakaga guhindura ikirego kirebana no gusambanya ku gahato.

408. Mu kugaragaza ikirego cyo gusambanya ku gahato, Porokireri ashingira ku buhamya bw'abatangabuhamya batatu ni ukuvuga abiswe AFV, QY na TM bose baba barasambanyijwe ku gahato. Ashingira kandi ku bw'abatangabuhamya biswe YAI, CCP, na YAK kugira ngo yerekane ko Uregwa yari azi cyangwa yagombaga kumenya ko igikorwa cyo gusambanya ku gahato cyarimo gikorerwa abatutsikazi hirya no hino i Butare. N'ubwo nta mutangabuhamya n'umwe Ubwunganizi bwatanze kugira ngo bwerekane ko ubwo buhamya burebana no gusambanya ku gahato butakwizerwa, buvuga ariko ko ubuhamya bw'abo batangabuhamya bashinja atari ubwo kwemerwa.

409. Rumaze gusuzumana ubushishozi ubuhamya bw'abatangabuhamya bashinja biswe AFV, QY na TM, Urugereko rusanga ibyo bavuze ko basambanyijwe ku gahato byakwemerwa. Ruzirikana rwose ingaruka ugusambanywa ku gahato bigira ku bahohotewe kandi rubafitiye impuhwe. Nyamara ariko, rukurikije imiterere yihariye cyane y'icyaha cyo gusambanya ku gahato gikubiye mu nyandiko y'ibirego n'imiterere y'ibimenyetso byatanzwe mu rubanza, Urugereko rusanga Porokireri ataragaragaje mu buryo budashidikanywaho ko Uregwa agomba kuryozwa icyaha cyo gusambanya ku gahato, nk'uko gikubiye mu kirego cya 4 cy'Inyandiko y'ibirego.

[551] *Urubanza rwa Muvunyi,* Icyemezo ku cyifuzo cya Porokireri gisaba uruhushya rwo gutanga Inyandiko y'ibirego yahinduwe (Urugereko rwa Mbere rw'Iremezo), 23 Gashyantare 2005.
[552] *Urubanza rwa Muvunyi*, Icyemezo ku bujurire bwerekeranye n'icyemezo cyafashwe ku cyifuzo cy'ingoboka (Urugereko rw'Ubujurire), 12 Gicurasi 2005.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.12. Ibikorwa bya kinyamaswa abasirikare bakoreye abasiviri b'Abatutsi

5.12.1. Ibivugwa mu nyandiko y'ibirego

410. Igika cya 3.47 kigira giti:

> 3.47. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, abasirikare bo muri ESO n'abo mu kigo cya gisirikare cy'i Ngoma bakoreye abasiviri b'Abatutsi ibikorwa bya kinyamaswa babakubitagura inkoni, amashami y'ibiti n'ibibuno by'imbunda cyangwa bimwe muri ibyo.

5.12.2. Ibyabereye kuri katederari y'i Butare no muri ESO

5.12.2.1. Ibimenyetso

<u>Umutangabuhamya ushinja wiswe YAO</u>

411. Umutangabuhamya ushinja wiswe YAO avuga ko, abasirikare bageze kuri katederari y'i Butare ku itariki ya 17 Gicurasi 1994 maze bakamubona aho yari yihishe mu kabati kari muri sakirisitiya ya katederali. Bamusohoyemo noneho umwe muri bo witwa Gakwerere, amutegeka kwigaragura mu cyondo. Abandi baramukubise, bamwita Inyenzi[553].

412. YAO avuga ko abasirikare bamujyanye « ku icumbi rya Musenyeri », aho basohoye undi muntu. Avuga ko bageze yo, abasirikare bamwe bavuye mu modoka maze bakinjira mu nzu, ariko we akaguma mu modoka hamwe n'umusirikare umwe. Abasirikare binjiye mu nzu bavuga ko bagiye gushakisha Inyenzi, maze basohoramo umuntu bamukubita, bamutera imigeri, bamukubita ibibuno by'imbunda[554]. Bavuye ku icumbi rya Musenyeri, abasirikare babajyanye mu modoka mu kigo cy'ababikira bitwa *« Petites Sœurs »* maze bahavana ababikira babiri. Abo babikira babwiye YAO ko abasirikare bishe abantu muri icyo kigo[555].

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553 Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 10, 11.
554 Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 13.
555 Inyandikomvugo y'iburanisha, 21 Werurwe 2005, imp. 12,13.

413. YAO avuga ko bavuye mu kigo cy'ababikira, abasirikare babajyanye mu modoka muri ESO. Bahageze, Liyetona Gakwerere yavuganye na Muvunyi. Hanyuma Gakwerere na Muvunyi bahamagaye umwe muri ba babikira bari bazanye maze baravugana. N'ubwo YAO atumvise ikibazo abasirikare babajije uwo mubikira, yumvise ariko umubikira abwira Gakwerere na Muvunyi ko abantu baje mu kigo cy'ababikira bari impunzi zititwaje intwaro. Muvunyi yabajije uwo mubikira impamvu atari yakoze ilisiti y'impunzi zose zari mu kigo cy'ababikira, ariko uwo mubikira nta cyo yamusubije. YAO yashoboye kubona ko Muvunyi yavugaga « arakaye ku buryo bugaragara ». YAO avuga ko Muvunyi yasabye abasirikare kumujyana hamwe na YAN kuri burigade naho uwo mubikira bari bamaze guhata ibibazo bakamujyana mu kigo cy'ababikira[556]. YAO avuga ko Muvunyi yari ahari igihe abasirikare babatwaraga. Burigade yakoreraga mu mazu abiri yafungirwagamo abantu kandi yari hafi cyane ya ESO. Avuga ko bakoresheje nk'iminota ine kugira ngo bave kuri ESO bagere kuri burigade, mu modoka.

Umutangabuhamya ushinja wiswe YAN

414. Umutangabuhamya ushinja wiswe YAN avuga ko yabaga muri Perefegitura ya Gikongoro igihe indege yari itwaye Perezida Habyarimana yahanurwaga ku itariki ya 6 Mata 1994. Hafi y'itariki ya 15 Mata, yagiye ahitwa kuri « *procure* » (muri Ekonoma)[557]. Ahageze, yahasanze impunzi z'Abatutsi zigera kuri 20 zari zahahungiye zizera ko amazu ya kiriziya atazagabwaho ibitero.[558]

415. YAN avuga ko ubwo yageraga i Butare hafi y'itariki ya 15 Mata, yasanze nta bikorwa by'urugomo biharangwa[559]. Nyamara ariko, ahagana hagati muri Gicurasi, yafatiwe aho yari acumbitse kuri "*procure*" n'abasirikare bo muri ESO, bari bayobowe na Liyetona Gakwerere. YAN avuga ko yari azi ko abo basirikare bavuye muri ESO kubera ko yari azi Gakwerere kuva cyera. Yari azi kandi ko icyo gihe ibyo byabaga, abasirikare bo mu

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556 Inyandikomvugo y'iburanisha, 21 Werurwe 2005, urup. 14.
557 Inyandikomvugo y'iburanisha, 4 Gicurasi 2005, urup. 4: «Iyo mvuze « *Procure* » mba nshaka kuvuga « *Economat général* », ikaba iri hafi ya *Groupe scolaire* y'i Butare. Iyo umanutse gato ugera ku Kigo nderabuzima cya Kabutare, kandi *Economat* iteganye na katederali y'i Butare ».
558 Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, imp. 4-5.
559 Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, urup. 15.

kigo cya gisirikare cy'i Ngoma bari barajyanywe ku rugamba, bityo rero ko umugi wa Butare wagenzurwaga n'abasirikare bo muri ESO[560]. YAN avuga ko ubwo abasirikare bamufataga, bamushinjaga ko ari Inyenzi ko kandi yarashe n'imbunda. Yababwiye ko atigeze atunga imbunda, kandi ko atigeze arasa. Avuga ko abasirikare bamuteye imigeri bakamukubita n'ibibuno by'imbunda, maze bakamujugunya inyuma muri kamyoneti yari iy'umuryango wa Nyiramasuhuko. Ibyo bikorwa bibi byamuteye ibikomere byinshi mu maso, mu ruhande rwe rw'ibumoso no mu mbavu. Yakomerekejwe kandi na bayoneti, akaba yarabwiye Urugereko, ubwo yatangaga ubuhamya ko agifite inkovu yakomotse kuri icyo gisebe.

416. YAN avuga ko ubwo yafatirwaga kuri « *procure* », impunzi zimwe zishwe. Aragira ati: « Nafatiwe kuri «*procure* », hanyuma barahansohora bajya kumfunga. Banshinjaga ko ndi Inyenzi ko kandi narashe ngo kubera ko bari bumvise urusaku rw'isasu. Niyo mpamvu bankuye aho hantu. Abandi bantu bari bahari barishwe »[561]. YAN avuga kandi ko umunyezamu wo kuri «*procure* » yarashwe isasu agapfa kubera ko yari yagerageje kurwanya igitero cy'abasirikare. YAN avuga ko abo basirikare bari bafite umugambi wo « gukora jenoside, gutsembatsemba Abatutsi ». Yongeraho ati « abantu bose bashoboye kubona barabishe »[562].

417. YAN avuga ko ubwo bamujugunyaga muri kamyoneti inyuma, yasanzemo umukobwa (umutangabuhamya wiswe YAO) wari wavanywe kuri katedarari y'i Butare. Bombi bajyanywe muri ESO aho babonye « abasirikare benshi n'interahamwe zari zambaye ibitenge ». Akomeza avuga ko Interahamwe zimwe zari zitwaje imbunda, izindi zitwaje imipanga n'ibibando. Avuga ko muri ESO bongeye kumugirira nabi. Aragira ati: « baranyukanyutse, bantera imigeri kandi bangirira nabi, bankoreye ibikorwa bibi birenze kameremuntu »[563]. Avuga ko yatakambiye umusirikare yari azi ngo amugoboke, ariko akamusubiza ko agomba kubanza kubazwa.

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560 Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, imp. 4-5.
561 Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, urup. 4.
562 Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, urup. 18.
563 Inyandikomvugo y'iburanisha, 30 Gicurasi 2005, imp. 6-7.

418. YAN n'umukobwa bari bazanye hamwe muri kamyoneti (umutangabuhamya wiswe YAO) bajyanywe kuri burigade, barafungwa. Burigade yari nko muri metero 400 uvuye kuri ESO, kandi yari yegereye ibiro bya Perefegitura ya Butare. Avuga ko hari izindi mpunzi zari zifungiye kuri burigade ko kandi ubwo yari afunze, abajandarume bazaga gusohora abari bafunze. Bakora ibyo, abo bajandarume babaga bavuga ko barimo bubahiriza amabwiriza ya Muvunyi wari wasabye ko abantu runaka batwarwa. YAN avuga ko hari umujandarume wari wicaye mu biro hafi y'icyumba yari afungiwemo ko kandi igihe cyose telefone yavugaga yumvaga avuga ko ari Muvunyi uhamagaye, atanga amabwiriza yo gutwara abantu. Avuga ko abantu bajyanwe muri ubwo buryo batigeze bagaruka, « barabatwaraga bakajya kubica »[564].

419. YAN yabwiye Urugereko ko yafungujwe n'umuntu wagiye kumuvugira kwa Muvunyi. Amaze gufungurwa, abajandarume bo kuri burigade bamubwiye ko atazashobora guca ku mabariyeri yose, bamugira inama yo kuguma kuri burigade ngo ahicirwe n'inzara[565]. Ntibyamuciye intege, ahubwo yafashe icyemezo cyo kuva kuri burigade, asubira kuri *« Procure ».*

Umutangabuhamya ushinjura wiswe MO72

420. Umutangabuhamya ushinjura wiswe MO72 avuga ko, ku itariki ya 17 Gicurasi 1994, Liyetona Gakwerere n'umwe mu bo yari akuriye bamujyanye mu kigo cya ESO[566] hamwe n'abandi babikira batatu bo mu kigo cy'ababikira bitwa *«Petites soeurs de Jésus »,* babatwara hejuru muri kamyoneti hamwe n'abandi bantu batatu, barimo Callixte n'abatangabuhamya biswe YAN na YAO.[567] Yibuka ko akigera muri ESO yahabonye amabisi atatu yari yuzuyemo abarikiri bagombaga kujyanwa ku rugamba. Hari n'abandi bantu bahabaga cyangwa bahakoraga.[568]

564 Inyandikomvugo y'iburanisha (mu muhezo), 30 Gicurasi 2005, imp. 13-14.
565 Inyandikomvugo y'iburanisha (mu muhezo), 30 Gicurasi 2005, urup. 10.
566 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 9.
567 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 13. Uyu mutangabuhamya yavuze amazina nyakuri y'abatangabuhamya biswe YAN na YAO, mu iburanisha mu muhezo.
568 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 13.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

421. M072 avuga ko Liyetona Gakwerere yabwiye abantu bari muri ESO ko abo babikira n'abandi bantu bari kumwe muri kamyoneti barashe ku basirikare. Avuga ko abari mu mabisi bayavuyemo maze bakamukikiza we n'izindi mpunzi Gakwerere yari yazanye muri ESO[569]. Bahutaje impunzi, bakurura imyenda yazo bazita Inyenzi, ariko ntibazikubise[570], uretse umuntu umwe wagerageje gusagarira umutangabuhamya wiswe YAN akoresheje ikintu cy'icyuma[571]. YAN yatakambiye omoniye w'abasirikare muri ESO, ariko amusubiza ko adashobora kumutabara[572].

422. MO72 avuga kandi ko umutangabuhamya ushinja wiswe YAO atigeze asagarirwa igihe cyose bamaze muri ESO. Avuga ko abasirikare batigeze bafata YAO mu buryo butandukanye n'ubw'abandi bantu bari bafashwe[573]. Nyamara ariko, avuga ko imyenda ya YAO yari yajandamye ariko ko atamenye icyari cyabiteye[574].

423. MO72 avuga ko atigeze ahura na Tharcisse Muvunyi kandi ko atigeze abonana nawe igihe yari mu kigo cya ESO[575]. Avuga ko Liyetona Gakwerere ari we wenyine waje kubavugisha. Yongeraho ko omoniye w'abasirikare muri ESO yavuze ko ababikira bari barahinduye ikibikira indiri y'Inyenzi[576].

5.12.2.2. Isesengura ry'Urugereko

424. Urugereko rusanga ubuhamya bw'abatangabuhamya YAO na YAN buhuza ku buryo butangaje ku birebana n'itariki bafatiweho, umwirondoro w'ababagabyeho igitero, ibyababayeho ubwo bafatwaga n'igihe bari bafungiwe muri ESO no kuri burigade ya jandarumori. Bombi bavuga ko bafashwe n'abasirikare bari bayobowe na Liyetona Gakwerere wo muri ESO, bakabatwara hejuru muri kamyoneti, babakubita ibibuno by'imbunda, babatera imigeri kandi babanyukanyuka, hanyuma bakabajyana muri ESO.

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569 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 13.
570 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 15; urup. 25 (ibaza rinyomoza).
571 Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.
572 Inyandikomvugo y'iburanisha (mu muhezo), 13 Werurwe 2006, urup. 13.
573 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 15; urup. 25 (ibaza rinyomoza).
574 Inyandikomvugo y'iburanisha (mu muhezo), 15 Werurwe 2006, urup. 15; urup. 25 (ibaza rinyomoza).
575 Inyandikomvugo y'iburanisha, 15 Werurwe 2006, urup. 16.
576 Inyandikomvugo y'iburanisha, 15 Werurwe 2006, urup. 15.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

By'umwihariko, Liyetona Gakwerere yasabye YAO kwigaragura mu byondo mu gihe abandi basirikare barimo bamutera imigeri, bamwita Inyenzi.

425. N'ubwo umutangabuhamya ushinjura wiswe MO72 ahakana ko abatangabuhamya YAN na YAO batagiriwe nabi mu kigo cya ESO ubwo bajyanwagayo, iyo usuzumye ubuhamya bwe bwose uko bwakabaye, usanga bushyigikira mu by'ukuri ubw'abatangabuhamya bashinja. Koko rero, MO72 avuga ko we na bariya batangabuhamya bashinja babiri bari mu mubare w'abantu bafashwe maze bakajyanwa n'abasirikare bari bayobowe na liyetona Gakwerere muri ESO, bari hejuru muri kamyoneti, ku itariki ya 17 Gicurasi 1994. Avuga kandi ko ubwo bari muri ESO, YAN na YAO bahutajwe n'abasirikare n'Interahamwe kandi ko YAN yakangishijwe ikintu gifite ubugi. Byongeye kandi, MO72 avuga ko bariya batangabuhamya babiri bashinja bakuwe muri ESO maze bagafungirwa kuri burigade yari nko muri metero 400 uvuye ku kigo cya ESO.

426. Rumaze gusuzuma ibimenyetso byose byatanzwe ku birebana n'ibyo bikorwa, Urugereko rwemera mu buryo budashidikanywaho ko, ku itariki ya 17 Gicurasi 1994 cyangwa hafi yayo, abatangabuhamya bashinja biswe YAO na YAN bafashwe n'abasirikare bo muri ESO bari bayobowe na Liyetona Gakwerere kandi ko bakubiswe bikabije ibibuno by'imbunda n'ibindi bikoresho, ku buryo ibyo bikorwa by' urugomo byakomerekeje cyane mu mutwe no muri mugabuzi umutangabuhamya wiswe YAN. Ntirushidikanya kandi ko YAO, w'umugore, yategetswe kwigaragura mu byondo, agakubitwa bamwita Inyenzi. Mu gusoza, Urugereko rusanga abantu bagize uruhare mu bikorwa by'urugomo rwakorewe YAO na YAN bari bakuriwe n'Uregwa.

427. Rwitaye ku byabaye byose bifite aho bihuriye n'iki kibazo, Urugereko rusanga Porokireri yaratanze ibimenyetso bihamya ku buryo budashidikanywaho ko Uregwa yamenye iby'icyo gitero abo yari akuriye bagabye ku basiviri b'Abatutsi. Rusanga kandi yaramenye ko abo yari akuriye bagiriye nabi abo basiviri b'Abatutsi, ariko akaba nta cyo yakoze ngo aburizemo icyo gitero cyangwa se ahane abakigiyemo.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

5.12.3. Ibyabereye mu kigo cy'Abeneberika

5.12.3.1. Ibimenyetso

Umutangabuhamya wiswe QCQ

428. Umutangabuhamya ushinja wiswe QCQ, avuga ko ikigo cy'Abeneberika cyakiriye impunzi z'Abatutsi zigera kuri 27 zari zavuye i Butare, i Kigali no ku Gikongoro, muri Mata 1994[577]. Muri icyo gihe, icyo kigo cyagiye kigabwaho ibitero ariko icya kabiri muri byo ni cyo cyari simusiga kuko abari mu kigo bose icyo gitero cyabasohoyemo ku ngufu[578]. Muri icyo gitero, abasirikare n'Interahamwe, baje bitwaje imbunda, ibibando, imipanga kandi bari kumwe n'imbwa, maze binjira ku ngufu mu kibikira basohora impunzi aho zari zihishe bazishyira mu busitani, zimanitse amaboko[579].

429. QCQ avuga ko abasirikare n'interahamwe bacaguye impunzi bakurikije perefegitura zikomokamo, barazikubita, bazisaba kwerekana indangamuntu zazo, no kuririmba zivuga ko FPR ariyo nyirabayazana y'ingorane zazo[580]. Avuga ko impunzi zimwe zitari zifite indangamuntu kandi ko hari n'izindi zanze kuzerekana[581]. Abagabye igitero bategekaga impunzi zimwe na zimwe kubereka indangamuntu zazo. Rimwe na rimwe, hari impunzi bitaga Inkotanyi bakurikije amasura yazo. Avuga ko abagabye igitero bitaga Abatutsi Inkotanyi n'Inyenzi[582], ko kandi abasirikare bamwe n'interahamwe bacuje impunzi[583] ibintu byazo.

430. QCQ yibuka ko « abana ba Karenzi », bitwaga Solange, Marc na Thiery Karenzi, umuto muri bo akaba yari afite imyaka irindwi, bakuwe aho bari bihishe hatandakunye kandi bagakubitwa. Ubwo bageraga mu busitani, imyenda ya Solange yari yacitse kandi yavaga amaraso ku mutwe; Marc we yari afite igikomere ku kuguru. Thierry nta cyo bari

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[577] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, imp. 25, 26.
[578] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 26.
[579] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, imp. 25-26.
[580] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 26.
[581] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 27.
[582] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 27.
[583] Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 27.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bamutwaye kuko bari baketse ko ari Umuhutu, ariko nyuma yaje gushyirwa mu itsinda ry'abagombaga kwicwa[584]. QCQ asobanura kandi ko abana bari bavuye i Byumba bari babashyize ukwabo uretse Diane, Cécile na Théodise. Bamaze kuvangura impunzi bashingiye ku bwoko bwazo, impunzi z'Abatutsi bazitwaye mu modoka yo mu bwoko bwa Hilux, abagabye igitero bagenda bazihagazeho[585]. Uwo munsi, abasirikare bagarutse gukura byeri mu kibikira kandi babwiye abahabaga ko bishe impunzi[586].

Umutangabuhamya wiswe QCM

431. Umutangabuhamya wiswe QCM avuga ko yabonye imbaga y'abantu bagera kuri 200 ku itariki ya 30 Mata 1994, mu ma saa tanu. Mu bari bagabye igitero bitwaje intwaro harimo abasirikare 100, ndetse banarenga, bari baturutse mu kigo cya ESO n'icy'i Ngoma kandi bayobowe na Liyetona Hategekimana. Harimo n'Interahamwe n'abasiviri 100 cyangwa barenga[587]. QCM yibuka ko abasirikare bari bafite imbunda, abasiviri bitwaje ibibando n'imipanga[588]. Yibuka ko ubwo icyo gitero cyagabwaga, mu kigo hari ababikira 40 n'impunzi zigera kuri 45 abenshi muri zo bakaba bari abana[589].

432. Bamaze gukangisha ababikira ko nibadafungura imiryango yinjira mu kigo babica, abagabye igitero binjiye mu kigo maze barasa mu kirere. Ibyo byatumye abandi babikira bava mu mazu bararagamo[590]. Abari bagabye igitero bavuze ko baje gushaka abasiviri bose bari mu kigo. Abasirikare basohoye abantu aho bari bihishe, babavangura bashingiye ku moko yabo, maze bashyira Abatutsi ku ruhande rumwe[591]. QCM avuga ko umwe mu babikira wari inshuti ya Hategekimana ari we wamufashije gutahura impunzi z'Abatutsi[592].

433. QCM avuga ko abasirikare basabye ababikira kwerekana indangamuntu zabo. Babyanze,

584 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 29
585 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 29
586 Inyandikomvugo y'iburanisha, 14 Werurwe 2005, urup. 29
587 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 5.
588 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 5.
589 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, imp. 7-8.
590 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 9
591 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 9.
592 Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 10.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Hategikimana yabasomeye inyandiko yavugaga ko ari manda yatanzwe na Tharcisse Muvunyi yo gufata abasiviri bari mu kigo cy'ababikira[593]. QCM avuga ko yasabye kubona iyo nyandiko ariko Hategekimana akanga kuyimwereka[594].

434. QCM avuga ko abasirikare bakubise impunzi z'Abatutsi ubwo bazivanguraga mu bandi basiviri, bazipakira mu modoka ya « GDK » kandi bazitegeka kuryama hasi[595]. Nyuma yaho, abasirikare n'abandi basiviri bazitwaye mu modoka mu ma saa saba y'amanywa, bazihagaze hejuru[596]. QCM avuga ko yatakambiye Hategekimana ngo agirire imbabazi abana ariko akanga avuga ko abashyikirijwe Interahamwe batashoboraga kurokorwa[597].

435. QCM avuga na none ko abantu bagera kuri 25 abasirikare bakuye mu kigo cy'ababikira batongeye gucibwa iryera[598]. Yongeraho ko abasirikare bongeye kugaruka mu kigo nyuma y'amasaha 2 gufata inzoga[599]. Avuga ko yabajije abasirikare aho bajyanye abana, maze bakamusubiza ko babashyikirije Interahamwe.

5.12.3.2. Isesengura ry'Urugereko

436. Urugereko rwasuzumye ubuhamya bw'abatangabuhamya biswe QCQ na QCM buvuga ko, muri Mata 1994, agatsiko k'abasirikare n'Interahamwe bitwaje intwaro bayobowe na Liyetena Hategekimana bagabye igitero ku mpunzi z'Abatutsi mu kigo cy'Abeneberika. Izo mpunzi zarimo nibura abana 25 bari baturutse mu ma perefegitura anyuranye y'u Rwanda. Abagabye igitero babanje gucagura ababikira n'izindi mpunzi, harimo n'abo bana, bashingiye ku maperefegitura bakomokagamo cyangwa ku bwoko bwabo. Impunzi z'Abatutsi zaracunagujwe, bazita Inkotanyi cyangwa Inyenzi kandi zitandukanywa n'abandi, zifatwa nabi n'abasirikare n'Interahamwe. QCQ na QCM basobanura ku buryo buhuje uko izo mpunzi zafashwe, uko zakubiswe, zikajugunywa inyuma mu modoka,

[593] Inyandikomvugo y'iburanisha, 11 Nyakanga 2005, imp. 19-20.
[594] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 10.
[595] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 11.
[596] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, imp. 11, 13.
[597] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, imp. 10, 11.
[598] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 11.
[599] Inyandikomvugo y'iburanisha (mu muhezo), 11 Nyakanga 2005, urup. 14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

zikanyukwanyukwa n'abasirikare n'Interahamwe. Abo batangabuhamya bavuga kandi ko abajyanwe batigeze bagaruka, bakaba bagomba kuba barapfuye.

437. Urugereko rusanga abatangabuhamya bashinja biswe QCQ na QCM batanga amakuru y'ukuri kandi yakwizerwa ku birebana n'ibyo babonye mu kigo cy'Abeneberika muri Mata 1994. By'umwihariko, rusanga n'ubwo yari akiri muto muri icyo gihe (imyaka 10), QCQ asobanura mu buryo buhwitse kandi budahuzagurika ibyo yabonye n'ibyamubayeho uwo munsi w'injyanamuntu muri Mata 1994. Ni yo mpamvu, Urugereko rusanga muri Mata 1994, abasirikare bayobowe na Liyetona Hategekimana kandi bari kumwe n'Interahamwe, baragabye igitero mu kigo cy'Abeneberika, bagakorera amarorerwa impunzi zarimo n'abana benshi.

5.12.4. Ibyabereye muri *Groupe scolaire*

5.12.4.1. Ibimenyetso

<u>*Umutangabuhamya ushinja wiswe TQ*</u>

438. Umutangabuhamya ushinja wiswe TQ avuga ko ku itariki ya 16 Mata 1994, muri *Groupe scolaire y'i Butare* hari hamaze guhungira abantu nka 700, barimo abana b'imfubyi 400, abarezi babo 30 n'abandi bantu bakuze, bari bazanywe mu modoka n'Umuryango utabara imbabare ubakuye ku Kacyiru, muri Perefegitura ya Kigali[600].

439. Ku itariki ya 29 Mata 1994, hafi ya saa kumi n'ebyiri n'igice cyangwa saa moya z'umugoroba, igitero simusiga cyagabwe mu kigo cya *Groupe scolaire*. TQ avuga ko, abari bagabye igitero barimo abasirikare barenga 50 bitwaje intwaro, bari bavuye muri ESO kandi bambaye iniforume ya *« simoko »*[601]. Bamaze guteranyiriza impunzi ku kibuga cy'umupira w'intoke (*volley-ball)*, batangiye kuvangura Abatutsi n'izindi mpunzi[602]. Abasirikare bashyize ku ruhande abantu bamwe, barimo imfubyi 18 n'abakozi 10 b'Umuryango utabara imbabare bafatwaga ko ari Abatutsi. Nyuma, bategetse impunzi

[600] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, imp. 20-21.
[601] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 26.
[602] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, imurup. 26.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

z'Abatutsi kuryama hasi, batangira kuzikubita bikomeye, babifashijwemo n'Interahamwe. Nyuma, impunzi zajyanywe mu Rwasave mu modoka, TQ akaba yaraje kumenya ko zishwe zose[603]. Avuga ko abantu barenga 140 bajyanwe mu Rwasave uwo munsi[604].

Umutangabuhamya ushinja wiswe QBE

440. Umutangabuhamya ushinja wiswe QBE avuga ko igitero cya mbere cyagabwe muri *Groupe scolaire* mu gice cya kabiri cya Mata 1994 n'agatsiko k'abantu basaga n'abayobowe n'Interahamwe[605]. Igitero kigitangira, QBE yarasohotse, bamutegeka kwicara imbere y'ibiro bya diregiteri[606]. Abari bagabye igitero basohoye impunzi aho zari mu mazu abanyeshuri bararagamo, baziteranyiriza ku kibuga cya *volley-ball.* Nyuma, bavanguye Abatutsi n'Abahutu bashingiye ku ndangamuntu cyangwa ku isura[607].

441. QBE avuga ko umunsi umwe ni mugoroba mu gice cya kabiri cya Mata 1994, ari bwo hagabwe igitero cya kabiri[608]. Mu ma saa kumi n'imwe y'umugoroba, ubwo yiteguraga kuva muri icyo kigo, yahuye n'imodoka ifite ibara ry'*amadowadowa* irimo umusirikare[609]. Yabajije uwo musirikare icyo yakoraga mu kigo cya *Groupe scolaire*, maze aramusubiza ati « nari nzi ko uri umuyoboke wa FPR » Uwo munsi, saa kumi n'ebyiri z'umugoroba, hari abandi bantu bateraniye muri *Groupe scolaire*. Amaze kubitekerezaho, yabonye ko n'ubwo byashobokaga kwinjiramo, gusohokamo bitashobokaga[610]. Yahise yumva ko batewe[611], kandi ko ababateye bari abasirikare bo mu kigo cya gisirikare cy'i Ngoma[612].

442. Umutangabuhamya avuga ko yaje gutelefona mu kigo cya ESO agasaba kuvugisha

[603] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 28
[604] Inyandikomvugo y'iburanisha (mu muhezo), 27 Kamena 2005, urup. 28.
[605] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, imp. 27-28.
[606] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 28.
[607] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 21.
[608] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 22.
[609] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 22.
[610] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 22.
[611] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 37.
[612] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 26.

komanda[613], ko bamuhaye umuntu wasaga n'aho ariwe wari ushinzwe ikigo, kandi ko yaje kumenya nyuma ko yari Tharcisse Muvunyi[614]. Avuga ko Komanda yamwemereye kohereza abasirikare bo gutabara ariko ko nta n'umwe waje.

443. Bukeye bwaho mu gitondo, Liyetona Gatsinzi yaje muri Groupe scolaire afite urupapuro rwo gusaka. QBE yamutembereje mu kigo, amufungurira ibyumba bimwe, uretse ibyo yari azi ko byihishemo abantu[615]. Liyetona Gatsinzi yashyize ikimenyetso cy'umusaraba ku nzugi z'ibyo byumba, avuga ko azagaruka nyuma kugenzura[616]. QBE avuga ko ubwo yavaga muri ayo mazu ari kumwe na Liyetona Gatsinzi, abasirikare bari bahageze, bakwiriye hirya no hino muri *Groupe scolaire*[617].

444. QBE avuga ko abarimu bamwe ba *Groupe scolaire* bafashije abasirikare bari bayobowe na Gatsinzi hamwe n'Interahamwe, maze bavumbura impunzi zimwe, zarimo n'abana bari bavuye mu kigo cy'imfubyi i Kigali[618], barazisohora, bazisaba kwerekana indangamuntu zazo, bavangura Abahutu n'Abatutsi[619]. Umutangabuhamya yibuka ko abasirikare n'Interahamwe bakubitaga Abatutsi ubwo babavanguraga n'abandi[620]. Nyuma Babategetse kuryama hasi ku rubuga rw'ibiro bya Diregiteri wa *Groupe scolaire*[621]. Impunzi z'Abatutsi zigera ku 100 zapakiwe zose mu makamyoneti 2 yo mu bwoko bwa Mazda, barazijyana[622]. Izo modoka zahavuye mu ma saa cyenda y'igicamunsi kandi zatwaye izo mpunzi inshuro 2. Hagati y'inshuro ya mbere n'iya kabiri, haciyemo nk'iminota 30[623]. QBE yongeraho ko kubera gukubitwa cyane n'abasirikare n'Interahamwe, impunzi zimwe zendaga gupfa ubwo zajyanwaga[624].

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[613] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 38.
[614] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 24.
[615] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 27.
[616] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 27.
[617] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup 45.
[618] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 28.
[619] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 28.
[620] Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 49.
[621] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 28.
[622] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 51.
[623] Inyandikomvugo y'iburanisha (mu muhezo), 15 Kamena 2005, urup. 51.
[624] Inyandikomvugo y'iburanisha (mu muhezo) 15 Kamena 2005, urup. 29; Inyandikomvugo y'iburanisha (mu muhezo), 16 Kamena 2005, urup. 52.

Umutangabuhamya ushinjura wiswe MO38

445. Umutangabuhamya wiswe MO38 avuga ko, mu ijoro ryo ku itariki ya 28 Mata, ubwo yari muri *Groupe scolaire*, yabonye abasirikare bagose ikigo[625]. Bukeye bwaho mu ma saa kumi n'ebyiri za mu gitondo, inzugi zose z'ikigo zari zifunze. Interahamwe zinjiye mu kigo zitegeka impunzi gusohoka, abasirikare bo bari bagumye inyuma y'ikigo[626]. MO38 avuga ko Interahamwe ari zo zategetse abantu kuryama hasi[627]. Avuga ko yumvise abasirikare bavuga ko bavuye ku Gisenyi, ko nta mbabazi bagira kandi ko nta we basiga batamwishe. Avuga ko abatangabuhamya biswe TQ na QBE bari mu mpunzi ziboshywe, bategetswe kuryamisha inda hasi kugira ngo badashobora gutelefona kuri ESO. Avuga na none ko umugabo we yari aryamye hafi muri metero imwe uvuye aho QBE na TQ bari baryamye. Asobanura ko ibyo yashoboye kubibonera mu idirishya[628].

446. MO38 avuga ko n'ubwo Tharcisse Muvunyi atohereje abasirikare imbere mu kigo, yabohereje ariko kukirinda. Yongeraho ko buri gihe uko Interahamwe zateraga ikigo, abantu batelefonaga muri ESO, maze abasirikare bakoherezwa kukirinda Interahamwe[629].

5.12.4.2. Isesengura ry'Urugereko

447. Urugereko ruributsa ko rwamaze gufata umwanzuro wemeza ko ubuhamya bwa MO38 ku birebana n'uruhare rw'abasirikare mu gitero cyagabwe muri *Groupe scolaire,* atari ubwo kwemerwa. Bityo rero, rushingiye ku buhamya bwa TQ na QBE, rusanze mu gitero cyagabwe ku mpunzi z'Abatutsi zari mu kigo cya Groupe scolaire ku itariki ya 30 Mata 1994, abasirikare bo muri ESO bari bayobowe na Liyetona Modeste Gatsinzi baravanguye Abatutsi, barimo imfubyi, n'izindi mpunzi, babategeka kuryama hasi ku kibuga cya *volley-ball,* kandi barabakubita bikomeye cyane. Urugereko rusanze na none

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[625] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, imp. 32-33; Inyandikomvugo y'iburanisha (mu muhezo), 14 Ukuboza 2005, imp. 17-18, 23 (ibaza rinyomoza).
[626] Inyandikomvugo y'iburanisha (mu muhezo), 13 Ukuboza 2005, imp. 32-33; Inyandikomvugo y'iburanisha (mu muhezo), 14 Ukuboza 2005, imp. 17-18 (ibaza rinyomoza).
[627] Inyandikomvugo y'iburanisha, 13 Ukuboza 2005, urup. 35.
[628] Inyandikomvugo y'iburanisha, 13 Ukuboza 2005, imp. 33-34; Inyandikomvugo y'iburanisha, 14 Ukuboza 2005, urup. 26 (ibaza rinyomoza).
[629] Inyandikomvugo y'iburanisha, 14 Ukuboza 2005, imp. 22-24 (ibaza rinyomoza); urup. 30 (Ikibazo cy'umucamanza).

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mu mubare w'abantu bahohotewe ako kageni harimo nibura abana b'imfubyi b'Abatutsi 18, hamwe n'abakozi b'umuryango utabara imbabare.

448. Byongeye kandi, Urugereko rwemera ko Muvunyi yari azi ko icyo gitero cyateguwe cyangwa cyarimo kuba, ariko ntiyafashe ingamba za ngombwa kandi ziri mu gaciro kugira ngo akiburizemo. Rusanze kandi abari bagabye igitero baragenzurwaga nyabyo na Muvunyi kubera ko, nk'uko bivugwa haruguru[630], bumviye amategeko bari bahawe yo kutica abo mu muryango wa Bicunda. Bityo rero, iyo ashaka gukiza n'izindi mpunzi aba yarabikoze. Urugereko rusanga Uregwa yari afite ububasha bwo kuburizamo cyangwa guhagarika ibikorwa bibi birenze kameremuntu byakorewe abasiviri b'Abatutsi, ariko nta cyo yakoze.

5.12.5. Ibyabereye ku mabariyeri anyuranye muri Butare na Gikongoro

5.12.5.1. Ibimenyetso

<u>*Umutangabuhamya ushinja wiswe YAA*</u>

449. Umutangabuhamya ushinja wiswe YAA avuga ko hari bariyeri yari yashyizweho mu cyarabu, hagati y'itariki ya 7 n'iya 8 Mata, cyangwa ndetse mu ijoro ryo ku itariki ya 6 Mata[631]. YAA yayibonye hagati y'itariki ya 6 n'iya 12 Mata ubwo yari agiye kugura ibintu mu mangazini. Yibuka ko iyo bariyeri yariho abasirikare 12 bo muri ESO bambaye amapantaro n'amashati by'icyatsi cyijimye, amakote ya simoko, n'inkweto n'ingofero bya gisirikare. Buri wese yarafite imbunda kandi irimo amasasu. Avuga ko abantu bahagarikwaga kuri iyo bariyeri bagombaga kwerekana indangamuntu, kandi ko bamwe muri bo bakubitishwaga intwaro[632]. Abenshi mu bahafatirwaga bari Abatutsi kandi barakubitwaga, Abahutu bo bakemererwa gutambuka[633]. N'ubwo atavuze ku buryo bweruye impamvu Abatutsi bari bibasiwe n'abasirikare, YAA akeka ko ar'uko muri

[630] Reba isesengura ry'Urugereko ku birebana n'igitero cyagabwe kuri *Groupe scolaire.*
[631] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 42.
[632] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 42.
[633] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, urup. 43.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

rusange bafatwaga nk'ibyitso bya FPR[634].

Umutangabuhamya ushinja wiswe QY

450. Umutangabuhamya ushinja wiswe QY avuga nawe ko yabonye bariyeri mu cyarabu mu ntangiriro za Mata 1994[635]. Yibuka ko ubwo yayigeraga iruhande, abasirikare bo muri ESO bamubajije aho yavaga n'aho yajyaga. Yabasubije ko avuye ku bitaro bya Kaminuza aho yari yagiye kwivuza igikomere yari yatewe n'Abahutu. Avuga ko abo basirikare baramuretse agatambuka amaze kubabwira ko se ari Umuhutu, naho nyina akaba Umututsikazi. Avuga ko ariko bamwambitse ubusa, bakitegereza ibice bimwe by'umubiri we baseka[636].

Umutangabuhamya ushinja wiswe AFV

451. Umutangabuhamya ushinja wiswe AFV avuga ko ku itariki ya 20 Mata 1994, mu ma saa saba z'amanywa, yageze kuri bariyeri yari kuri *laboratwari* y'ibitaro bya Kaminuza yariho abasirikare batatu bafite intwaro n'imikandara iriho amasasu n'amagerenade[637]. Basabaga abahisi n'abagenzi kubereka indangamuntu zabo kandi bakavangura Abatutsi n'Abahutu[638], Abahutu bakemererwa gutambuka, Abatutsi bagategekwa gutegereza no gusakwa[639].

452. AFV avuga ko, abasirikare bamusatse, bakamukubita bamubaza niba yibwira ko ari igitangaza. Umwe mu basirikare yaravuve ati: « reka turebe igitsina cy'uyu Mututsikazi. Bishoboka bite ko ugikora kandi abandi badakora[640] »?

453. AFV avuga ko abasirikare babiri bitwaje intwaro bamuherekeje kuva kuri bariyeri, bavuga ko bamugeza iwe, ko ariko bamujyanye mu gashyamba[641]. Mu nzira, bagendaga

[634] Inyandikomvugo y'iburanisha (mu muhezo), 8 Werurwe 2005, imp.41-43.
[635] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 17.
[636] Inyandikomvugo y'iburanisha, 8 Kamena 2005, urup. 18.
[637] Inyandikomvugo y'iburanisha, 21Kamena 2005, urup. 12.
[638] Inyandikomvugo y'iburanisha, 21Kamena 2005, urup. 13.
[639] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 13.
[640] Inyandikomvugo y'iburanisha, 21Kamena 2005, urup. 14.
[641] Inyandikomvugo y'iburanisha, 21Kamena 2005, urup. 14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bamukubita bamubwira ngo bagiye kureba igitsina cye kugira ngo barebe aho ataniye n'abandi[642]. Bamukuyemo imyenda n'ikariso maze baramwicaza, bamubohesha umupira we wo kwifubika kandi bamupfuka amaso bakoresheje indi myenda ye[643]. Yabasabye kumwica aho kumusambanya ku gahato. Umwe mu basirikare yamufashe umutwe awuhonda ku butaka maze ata ubwenge[644]. Azanzamutse, yasanze ava amaraso mu gitsina, kandi adashobora kwegeranya amaguru.

Umutangabuhamya ushinjura wiswe MO15

454. Umutangabuhamya ushinjura wiswe MO15 avuga ko muri Mata 1994, hashyizweho bariyeri mu cyarabu, kuri *Hotel Faucon,* mu masangano y'umuhanda uva ku Gikongoro n'uva i Kigali, no kwa Bihira[645]. Avuga ko kompanyi y'ingoboka ari yo yari ishinzwe gushyira abantu ku mabariyeri, ikaba yarayoborwaga na Liyetona Gakwerere wo muri ESO[646].

455. N'ubwo atari azi amabwiriza yahabwaga aboherezwaga ku mabariyeri, uyu mutangabuhamya avuga ko abasirikare bari bahari kugira ngo barinde umutekano mu mujyi wa Butare[647]. Asobanura ko abasirikare bakaga indangamuntu abantu banyuraga ku mabariyeri[648]. Avuga ko abasirikare bari bafite uburenganzira bwo gutambuka, ariko ko atari azi niba abasiviri batari bafite indangamuntu na bo barashoboraga gutambuka[649]. Mu gihe cy'ibaza rinyomoza, umutangabuhamya yasobanuye ko byari bizwi na bose ko umwanzi yihishaga mu mpunzi, agakora ibikorwa by'iterabwoba mu gihugu, kandi ko abanzi bari abayoboke ba FPR[650].

5.12.5.2. Isesengura ry'Urugereko

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[642] Inyandikomvugo y'iburanisha, 21Kamena 2005, imp. 14 -15.
[643] Inyandikomvugo y'iburanisha, 21Kamena 2005, urup. 16.
[644] Inyandikomvugo y'iburanisha, 21 Kamena 2005, urup. 16.
[645] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 4.
[646] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 4.
[647] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 6.
[648] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 6.
[649] Inyandikomvugo y'iburanisha (mu muhezo), 9 Werurwe 2006, urup. 6.
[650] Inyandikomvugo y'iburanisha (mu muhezo), 10 Werurwe 2006, urup. 14.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

456. Rumaze gusuzuma ubuhamya bw'abatangabuhamya bashinja biswe YAA, AFV na QY n'ubw'umutangabuhamya ushinjura wiswe MO15, Urugereko rwemera nta gushidikanya ko abasirikare bo muri ESO bafashe, bagasaka kandi bagakubita abasiviri benshi b'Abatutsi ku mabariyeri anyuranye mu mujyi wa Butare hagati y'ukwezi kwa Mata n'ukwa Kamena 1994. AFV na QY bari mu bibasiwe n'ibyo bikorwa by'urugomo. Kubera umubare munini w'amabariyeri yari mu mihanda i Butare, ibitero rusange byibasiye Abatutsi kuri ayo mabariyeri, kuba ayo mabariyeri yari yegereye ikigo cya ESO, no kuba abasirikare b'icyo kigo baroherezwaga kuri ayo mabariyeri, Urugereko rusanga Muvunyi yaragombaga kubimenya. Nka komanda w'ikigo cya ESO, Muvunyi yari afite ibikoresho n'abantu ba ngombwa kugira ngo ahagarike ibikorwa binyuranyije n'amategeko byakorwaga n'abo yari akuriye ku mabariyeri, ariko ntabyo yakoze. Nta n'icyo kandi yakoze ngo ahane abakoze ibyo byaha.

UMUTWE WA III: AMATEGEKO AKURIKIZWA

457. Mu bika bikurikira, Urugereko rurasuzuma amategeko akurikizwa ku birebana n'uburyozwacyaha nka gatozi muri uru rubanza, mbere yo gusuzuma ibyaha byihariye bivugwa mu nyandiko y'ibirego no gufata imyanzuro yo mu rwego rw'amategeko ku ruhare rw'Uregwa.

1. UBURYOZWACYAHA NKA GATOZI BUTEGANYWA N'INGINGO YA 6(1) N'IYA 6(3) ZA SITATI

458. Mu nyandiko y'ibirego n'umugereka wayo ukubiyemo ibisobanuro byihariye, Porokireri ashinja Uregwa, nka gatozi, hashingiwe ku ngingo ya 6(1) ya Sitati, icyaha cya jenoside, cyaramuka kitamuhamye, akamushinja icyaha cyo kuba icyitso cy'abakoze jenoside. Amushinja kandi icyaha cyo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside, n'icyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu. Uregwa ashinjwa kandi, nk'uwari ukuriye abandi, hashingiwe ku ngingo ya 6(3 ya Sitati, icyaha cya jenoside, icyo kuba icyitso cy'abakoze jenoside, icyo gusambanya ku gahato

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

n'ibindi bikorwa bibi birenze kameremuntu nk'ibyaha byibasiye inyokomuntu[651].

459. Ihame ry'uburyozwacyaha nka gatozi kubera gukora ibikorwa binyuranyije ku buryo bukomeye n'amategeko mpanabyaha mpuzamahanga, ni kimwe mu bimenyetso ngenderwaho by'impinduka mu mitekerereze, cyerekana ko amategeko mpuzamahanga atashyizweho gusa n'ibihugu kugira ngo abe ari byo agenga, ko ahubwo ayo mategeko ashobora no kugenga abantu ku giti cyabo. Muri iki gihe biremewe ko ihame ry'uburyozwacyaha nka gatozi kubera ibikorwa binyuranyije mu buryo bukomeye n'amategeko mpuzamahanga, nk'uko rishimangirwa n'Ingingo ya 6(1) ya Sitati, rikomoka ku mategeko mpuzamahanga ashingiye ku muco karande[652]. Koko rero, byaragaragaye kuva Amasezerano y'i Versailles yashyirwaho umukono, cyane cyane kuva ku manza zaciriwe i Nuremberg n'i Tokyo, ko ibyaha binyuranye n'amategeko mpuzamahanga ari ibikorwa by'abantu ku giti cyabo, bityo rero guhanira abo bantu imyitwarire yabo mibisha, hatitawe ku mwanya runaka bafite mu nzego z'ubuyobozi, bikaba ari byo byonyine byatuma amahame y'ingenzi y'ayo mategeko agira agaciro n'umumaro.

Ingingo ya 6(1)

460. Mu bukemuramanza bw'Inkiko mpuzamahanga zidahoraho hemejwe, hashingiwe ku

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[651] *Urubanza rwa Muvunyi,* Inyandiko y'ibirego yatanzwe ku itariki ya 23 Ukuboza 2003; Umugereka ukubiyemo ibisobanuro birambuye ku nyandiko y'ibirego watanzwe ku itariki ya 28 Gashyantare 2005. Nk'uko Ingingo ya 6(1) ya Sitati ya TPIR ibitegenya: « 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 icyo ari cyo cyose kivugwa mu Ngingo ya 2 kugeza ku ya 4 z'iyi Sitati, akiryozwa nka gatozi ».

Ingingo ya 6(3) ya Sitati igira iti: « Kuba igikorwa icyo ari cyo cyose kivugwa mu Ngingo ya 2 kugeza ku ya 4 z'iyi Sitati cyarakozwe n'uyoborwa ntibibuza umukuriye kukiryozwa, iyo yari azi cyangwa yaragombaga kuba yari azi ko uwo akuriye agiye gukora icyaha cyangwa ko yagikoze ariko uwo umukuriye ntafate ingamba za ngombwa kandi zishyize mu gaciro kugira ngo aburizemo ikorwa ry'icyo cyaha cyangwa ngo ahane abagikoze ».

[652] *Urubanza rwa Delalić na bagenzi be,* Inyandiko y'urubanza mu rw'Iremezo, igika 321, n'inkomoko y'inyandiko zifashishijwe.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ngingo ya 6(1), ko icyaha kitaryozwa gusa uwagitsotsobye, ko kinaryozwa icyitso cyafashije abandi mu ikorwa ry'icyo cyaha cyangwa cyabateye inkunga mu bundi buryo ubwo ari bwo bwose[653]. Iyo miterere y'ubufatanyacyaha ikubiyemo gucura umugambi w'ibikorwa by'abatsotsobye icyaha, kubibahamagarira, kubibategeka, kubafasha no kubibashyigikiramo. Byongeye kandi, ni ngombwa ko uruhare rw'Uregwa ruba rwaratumye, ku buryo bufatika, icyo cyaha gitsotsobwa[654]. Urugereko rusanga uburyozwacyaba bw'icyitso hashingiwe ku ngingo ya 6(1) rutandukanye n'icyaha cyo kuba icyitso muri jenoside ubwacyo giteganywa n'Ingingo ya 2(3)(e) ya Sitati.

461. Igitekerezo cyihariye gisabwa kugira ngo Uregwa aryozwe icyaha hashingiwe ku ngingo ya 6(1) ya Sitati kigaragazwa hashingiwe ku miterere y'ubufatanyacyaha buvugwa na Porokireri. Umuntu wese Uregwa kuba yarakoze icyaha runaka, nka gatozi, agomba kuba yari afite igitekerezo cyo gukora icyo cyaha[655]. Umuntu uwo ari we wese Uregwa ubufatanyacyaha nk'icyitso kubera icyaha cyatsotsobwe n'undi akiryozwa gusa, hashingiwe ku ngingo ya 6(1), iyo Porokireri agaragaje ko Uregwa yari azi ko gatozi afite igitekerezo cyo gutsotsoba icyo cyaha[656]. Si ngombwa ko baba basangiye umugambi. Ihame ry'uko Uregwa agomba gusa kuba azi igitekerezo cya gatozi utsotsoba icyaha, rikoreshwa no ku birebana no gufasha no gushyigikira mu ikorwa rya jenoside[657].

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653 *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'Iremezo, igika 473; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'Iremezo, igika 196; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'Iremezo, igika 377; *Urubanza rwa Delalić na bagenzi be (Čelebiči),* Inyandiko y'urubanza mu rw'Iremezo, igika 319.

654 *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'Iremezo, igika 207, rwemejwe n'Urugereko rw'Ubujurire mu gika 186 cy'inyandiko y'urubanza; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'Iremezo, igika 379; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'Iremezo, igika 126; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'Iremezo, igika 759.

655 *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'Iremezo, igika 387; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu bujurire, igika 187: «… Ni yo mpamvu umwanzuro wose werekeye uruhare rw'Uregwa ku buryo butaziguye usaba ko aba yarishoye ubwe mu bikorwa bigize icyaha giteganywa na Sitati kandi akabikora abizi neza ».

656 *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu bujurire, igika 186; *Urubanza rwa Aleksovski*, Inyandiko y'urubanza mu bujurire, igika 162; *Urubanza rwa Tadić*, Inyandiko y'urubanza mu bujurire, igika 229; *Urubanza rwa Blaškić*, Inyandiko y'urubanza mu bujurire, ibika 46, 49, 50.

657 *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu bujurire, ibika 500 na 501, hamwe n'inyandiko zifashishijwe; *Urubanza rwa Krstić*, Inyandiko y'urubanza mu bujurire, ibika 140 na 143. Ariko, reba ibyanditswe na G. Mettraux mu cyo yise «*International Crimes and the ad-hoc Tribunals »* [Ibyaha mpuzamahanga n'Inkiko zidahoraho], 2005, urup. 287, wagize ugushidikanya gukomeye ku mibonere y'icyo cyemezo, aho avuga ko bitewe

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

462. Rumaze gusuzuma ibisabwa rusange kugira ngo habeho uburyozwacyaha nka gatozi hashingiwe ku ngingo ya 6(1), Urugereko rugiye noneho gusuzuma imiterere inyuranye y'ubufatanyacyaha nk'uko yagaragajwe n'ubukemuramanza. Isesengura ry'Urugereko riribanda ariko ku birebana gusa n'ubufatanyacyaha buvugwa muri uru rubanza.

Gukora icyaha

463. Muri rusange, « Gukora » icyaha nk'uko byumvikana mu ngingo ya 6(1) ya Sitati, ni ukuba « Uregwa ubwe yaragitsotsobye ku buryo butaziguye » cyangwa se yarateshutse ku nshingano ze ziteganywa n'amategeko kandi uko guteshuka guhanwa n'amategeko. Binakubiyemo kadi gufatanya n'abandi gukora icyaha mu rwego rw'umugambi mubisha uhuriweho[658]. Kubera ko gukora icyaha mu rwego rw'umugambi mubisha uhuriweho bitaregewe muri uru rubanza, iyi miterere y'uburyozwacyaha nta cyo rwiririwa ruyisuzuma. Nk'uko byavuzwe haruguru, umuntu wese Uregwa kuba yarakoze icyaha, nk'uwagitsotsobye, agomba kuba yari afite igitekerezo gisabwa kugira ngo icyo cyaha kibeho[659].

Guhamagarira abantu gukora icyaha

464. Kugira ngo umuntu akurikiranweho « guhamagarira » abandi gukora icyaha, hashingiwe ku ngingo ya 6(1), agomba kuba yarashishikaje cyangwa ku bundi buryo yarakanguriye undi muntu gutsotsoba icyaha giteganywa na Sitati. Uko guhamagarira abantu gukora icyaha bigomba kuba bifitanye isano rikomeye n'itsotsobwa ry'icyo cyaha.

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n'uko ibintu byifashe, umuntu yagombye guhamwa n'icyaha cyo gufasha no gushishikariza abandi gukora icyaha ar'uko bigaragaye ko uwo muntu wafashije kandi akanashishikaza abandi yari afite igitekerezo cyihariye cyo gukora jenoside.

658 *Urubanza rwa Gacumbitsi*, Inyandiko y'urubanza mu bujurire, igika 60; *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu bujurire, igika 462; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu bujurire, igika 187, rusubiramo kandi rushyigikira ibyanditswe mu *rubanza rwa Tadić*, Inyandiko y'urubanza mu bujurire, igika 188. Reba na none *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'iremezo, igika 385; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'iremezo, igika 764; *Urubanza rwa Kamuhanda*, Inyandiko y'urubanza mu rw'iremezo, igika 595.

659 *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 387; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu bujurire, igika 187: « … Ni yo mpamvu umwanzuro wose werekeye uruhare rw'Uregwa ku buryo butaziguye usaba ko aba yarishoye ubwe mu bikorwa bigize icyaha giteganywa na Sitati kandi akabikora abizi neza ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Guhamagarira abantu gukora icyaha bitandukanye no kubibakangurira kuko byo atari ngombwa ko bikorwa ku buryo butaziguye kandi mu ruhame. Bityo rero, Uregwa ashobora kuryozwa icyaha cyo guhamagarira abantu gukora icyaha, hashingiwe ku ngingo ya 6(1), n'iyo yaba yarabikoze mu buryo buteruye kandi adashishikaye, Porokireri apfa gusa kuba yashoboye kugaragaza ko hari isano hagati y'iyo myifatire y'Uregwa n'itsotsobwa ry'icyo cyaha[660].

465. Mu kugaragaza ko Uregwa yari afite igitekerezo cyo guhamagarira abantu gukora icyaha giteganywa na Sitati, ni ngombwa gutanga ibimenyetso bihamya ko, ku buryo butaziguye cyangwa buziguye, yari afite umugambi wo gutuma icyo cyaha gikorwa cyangwa wo kugishoramo abandi, cyangwa se ko yari azi ko itsotsobwa ry'icyo cyaha rishobora gukomoka ku myifatire ye[661].

466. Ibyo Uregwa yakoze ahamagarira abandi gukora icyaha bigomba kuba byaratumye ku buryo bugaragara icyo cyaha gitsotsobwa, kandi biri mu rwego rw'imiterere y'ubufatanyacyaha ifite aho ihuriye na buri cyaha giteganywa na Sitati. Nyamara ariko, gukangurira abandi ku buryo butaziguye kandi mu ruhame gukora icyaha bibaho gusa mu birebana na jenoside gusa kandi ubwabyo bihanwa nk'icyaha. Ni yo mpamvu, Porokireri agomba gutanga ibimenyetso bihamya ko Uregwa gukangurira abandi ku buryo butaziguye kandi mu ruhame gukora jenoside, yari asangiye umugambi wihariye na gatozi watsotsobye icyaha.

<u>Gutegeka abantu gukora icyaha</u>

467. Kugira ngo Uregwa aryozwe gutegeka abandi gukora icyaha, nk'uko biteganywa n'Ingingo ya 6(1), bisaba ko aba afite umwanya w'ubuyobozi maze akawitwaza atanga

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[660] *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 482; *Urubanza rwa Bagilishema*, Inyandiko y'urubanza mu rw'iremezo, igika 30; *Urubanza rwa Kamuhanda*, Inyandiko y'urubanza mu rw'iremezo, igika 593; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 381; *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, igika 381.

[661] *Urubanza rwa Bagilishema*, Inyandiko y'urubanza mu rw'iremezo, igika 31. Reba na none *Urubanza rwa Blaskic,* Inyandiko y'urubanza mu rw'iremezo, igika 278; *Urubanza rwa Kordić na Cerkez*, Inyandiko y'urubanza mu rw'iremezo, ibika 386 na 387; *Urubanza rwa Naletilić na Martinović*, Inyandiko y'urubanza mu rw'iremezo, igika 60.

amabwiriza agomba kubahirizwa yo gukora icyaha gihanwa na Sitati cyangwa ku bundi buryo ubwo ari bwo bwose amuhatira kugikora[662]. Mu rubanza rwa *Semanza,* Urugereko rw'Ubujurire rwemeje ko mu kugaragaza ko hariho igikorwa gifatika kigize icyaha cyo gutegeka abandi gukora icyaha, nk'uko biteganywa n'Ingingo ya 6(1), atari ngombwa [...] kugaragaza ko Uregwa yari akuriye mu buryo buteganywa n'amategeko gatozi watsotsobye icyaha[663]. Ariko rero, ikimenyetso cy'isano nk'iyo gishobora gukoreshwa mu kugaragaza ko Uregwa yari afite umwanya w'ubuyobozi kubera ko aba yarashoboye gutegeka undi gukora igikorwa runaka.

468. Uburyozwacyaha bw'uwatanze amategeko yo gukora icyaha bushobora na none kugaragazwa n'ibimenyetso biziguye, ariko nk'uko byemejwe n'ubukemuramanza, Urugereko rugomba gusuzuma ibyo bimenyetso ku buryo bwuzuye kandi rutabishira amakenga.

<u>Gufasha no gushishikariza abantu gukora icyaha</u>

469. Gufasha no gushishikaza ni bimwe mu bikorwa Uregwa aryozwa nk'icyitso. Ufasha kandi agashishikariza abandi gukora icyaha, ni umuntu utera inkunga abandi ku buryo bituma ba gatozi bashobora gutsotsoba icyaha. Ni ngombwa rero ko imyifatire y'uwafashije kandi agashishikaza mu ikorwa ry'icyaha iba yatumye rwose icyo cyaha gitsotsobwa na gatozi, kabone n'ubwo iyo myifatire yaba itabarirwa mu bya ngombwa bigize icyaha cyatsotsobwe[664].

470. Ubukemuramanza busobanura mu buryo budahindagurika amagambo « gufasha no gushyigikira», maze bukemeza ko afite ibisobanuro bitandukanye mu rwego rw'amategeko. Gufasha biganisha ku gutera inkunga, naho gushishikaza bikaganisha ku

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[662] *Urubanza rwa Bagilishema*, Inyandiko y'urubanza mu rw'iremezo, igika 30.
[663] *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 361, nk'uko byanditswe mu *rubanza rwa Kordić na Čerkez,* Inyandiko y'urubanza mu bujurire, igika 28.
[664] *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu rw'iremezo, igika 140; *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, igika 33, hashingiwe ku byanditswe mu *rubanza rwa Furundžija*, Inyandiko y'urubanza mu rw'iremezo, igika 199, ahasobanurwa ko imyifatire y'umuntu ufasha kandi ushishikariza undi gukora icyaha atari kamara ngo icyo cyaha gikorwe.

korohereza, gutera akanyabugabo cyangwa kugira inama abandi mu gukora icyaha[665]. Igitekerezo gisabwa kugira ngo Uregwa aryozwe gufasha no gushishikaza mu ikorwa ry'icyaha ni uko aba azi ko imyifatire ye (byaba igikorwa gifatika yakoze, cyangwa se guteshuka ku nshingano ze) izatuma gatozi atsotsoba icyaha[666]. Ku birebana no gufasha no gushishikariza abantu gukora jenoside, igisabwa rukumbi ku birebana n'igitekerezo cyo gukora icyaha ni ukugaragaza ko Uregwa yari azi umugambi wo gukora jenoside w'uwatsotsobye icyaha; si ngombwa ko aba asangiye na we uwo mugambi wihariye[667].

471. Gufasha no gushishikaza mu gukora icyaha birebana « n'ibikorwa byose byo gutera inkunga cyangwa gushyigikira byatumye ku buryo bugaragara icyaha cya jenoside gitsotsobwa »[668]. N'ubwo amagambo gufasha no gushishikaza asa nk'aho avuga kimwe, aratandukanye. Gufasha ni ugutera inkunga umuntu mu gikorwa cye. Gushishikaza ni ukorohereza umuntu mu ikorwa ry'icyaha umwereka ko wifatanyije na we[669]. Bityo gufasha byonyine cyangwa gushishikaza byonyine bishobora kuba bihagije kugira ngo umuntu aryozwe icyaha nka gatozi, si ngombwa rero ko aba yakoze ibyo byombi. Na none kandi, si ngombwa ko umuntu ufasha cyangwa ushishikaza abandi aba ari aho icyaha cyatsotsobewe[670]. Byongeye kandi, Urugereko rw'ubujurire rwa TPIY rwemeje ko kugira ngo Uregwa aryozwe gufasha no gushyigikira mu ikorwa ry'icyaha, ari ngombwa kugaragaza ko yari azi ko ba gatozi bari bafite umugambi wo gukora icyo cyaha[671].

472. Uregwa ashobora kuryozwa gufasha no gushishikaza iyo yateshutse ku nshingano ze, nko mu gihe yabaye « indorerezi yemera ibirimo gukorwa », ni ukuvuga iyo umuntu uri mu mwanya w'ubuyobozi yari ari aho icyaha cyakorewe cyangwa nibura hafi yaho, ku

665 *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 384; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, igika 596; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, ibika 42 na 43.
666 *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, igika 768; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, igika 599.
667 *Urubanza rwa Krstić*, Inyandiko y'urubanza mu bujurire, ibika 140 na 143.
668 *Urubanza rwa Blagojevic na Jokic*, Inyandiko y'urubanza mu rw'iremezo, igika 777; reba na none *Urubanza rwa Brdjanin na Talić,* Inyandiko y'urubanza mu rw'iremezo, igika 729; *Urubanza Krnojelać*, Inyandiko y'urubanza mu rw'iremezo, ibika 88-90.
669 *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 484. Reba na none *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 384.
670 *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 484.
671 *Urubanza rwa Vasiljević,* Inyandiko y'urubanza mu bujurire, igika 142.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

buryo kuba ari aho hantu bituma ba gatozi batsotsoba icyaha bibwira ko yemera ibyo barimo gukora, abibashishikariza cyangwa abibateramo akanyabugabo. Ku birebana n'igitekerezo cyo gukora icyaha, kugira ngo indorerezi yemera ibirimo gukorwa iryozwe icyaha, ni ngombwa kugaragaza ko kuba ari aho icyaha cyakorewe ba gatozi bagitsotsobye babifashe nk'aho yemera ibyo bakora cyangwa ko abibashishikariza[672].

Ingingo ya 6(3)

473. Ingingo ya 6(3) ya Sitati ivuga ihame ry'uburyozwacyaha bw'ukuriye abandi muri rusange, nk'uko rikubiye mu mategeko mpuzamahanga ashingiye ku muco karande kandi riteganywa ku buryo bweruye mu Masezerano Mpuzamahanga y'i Jeneve anyuranye yerekeranye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara. N'ubwo mu ntangiriro iryo hame ryakurikijwe ku birebana n'abakuriye abandi mu rwego rwa gisirikare kubera ibyaha byakozwe n'abo bakuriye mu gihe cy'intambara (niho imvugo « uburyozwe bw'ukuriye abandi » yaturutse), bisigaye byemewe rwose ko bitewe n'uko ibintu byifashe, abasiviri bakuriye abandi nabo baryozwa ibyaha byakozwe n'abo bakuriye kimwe n'uko bigenda ku basirikare[673]. Mu rubanza rwa *Kayishema na Ruzindana,* Urugereko rwa Mbere rw'Iremezo rwigaruriye ibikubiye muri Sitati y'i Roma ishyiraho Urukiko Mpanabyaha Mpuzamahanga Ruhoraho (CPI), ku birebana n'igitekerezo gisabwa kugira ngo abakuriye abandi mu rwego rwa gisirikare baryozwe ibyakozwe n'abo bakuriye, ubigereranyije n'igisabwa ku birebana n'abandi bantu bakuriye abandi[674]. Muri urwo rubanza, urugereko rwasanze Ingingo ya 28 ya Sitati ya *CPI* itegeka abakuriye abandi mu rwego rwa gisirikare guhagurukira kurushaho kugenzura ibikorwa by'abo bakuriye kandi bagenzura nyabyo iyo « bari bazi cyangwa

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672 *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 692; *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, ibika 34, 36.

673 *Urubanza rwa Akayesu mu rw'Iremezo,* igika 491, ahavugwa ko ikurikizwa ry'ihame ry'uburyozwacyaha bw'ukuriye abandi w'umusiviri ari ikintu abantu batavugaho rumwe. Nyamara ariko, mu *rubanza rwa Kayishema na Ruzindana*, *mu rwa Musema no mu rwa Kajelijeli,* TPIR yemeje ko abakuriye abandi b'abasiviri baryozwa ibyakozwe n'abo bakuriye hashingiwe ku ngingo ya 6(3). Reba na none *urubanza rwa Čelebič,* Inyandiko y'urubanza mu rw'Iremezo rwa TPIY, igika 378, aho urwo rugereko rwemeje ko « …ihame ry'uburyozwacyaha bw'ukuriye abandi rikurikizwa ku basiviri iyo gusa bagenzura abo bakuriye mu buryo bumeze kimwe n'ubw'abakuriye abandi mu rwego rwa gisirikare ».

674 *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'Iremezo, ibika 227, 228.

baragombaga kumenya ko abo basirikare barimo gukora ibyaha cyangwa bari hafi kubikora ». Iyo bimeze gutyo, ukuriye abandi mu rwego rwa gisirikare afite inshingano yo gufata ingamba za ngombwa kandi zinyuze mu gaciro kugira ngo aburizemo ikorwa ry'ibyaha cyangwa ahane ababikoze. Ku rundi ruhande, ukuriye abandi atari umusirikare aryozwa icyaha gusa iyo yari azi ko abo akuriye barimo gukora ibyaha cyangwa bari hafi kubikora cyangwa yarirengagije nkana kwita ku makuru asobanutse neza ku birebana n'ibyo bikorwa byabo. Urugereko rumaze kwemera uwo mwanzuro, rusanga imiterere y'akazi ka gisirikare na disipuline bigendana bihuje n'inshinga ukuriye abandi mu rwego rwa gisirikare afite yo kuba maso, gukurikiranira hafi amakuru yerekeranye n'ibikorwa bibisha abo akuriye bashobora gukora, no kuburizamo ibyo bikorwa cyangwa guhana ababikoze biramutse bibaye.

474. Uregwa yaba umusiviri cyangwa umusirikare, Porokireri agomba gutanga ibimenyetso bigaragaza ibisabwa bine bya ngombwa kugira ngo umuntu aryozwe icyaha hakurikijwe Ingingo ya 6(3). Agomba kugaragaza ku buryo budashidikanywaho ko Uregwa yari akuriye ba gatozi b'icyaha runaka giteganywa na Sitati; ko yari azi cyangwa yagombaga kumenya ko icyaha runaka kigiye gukorwa cyangwa cyamaze gukorwa; ko yagenzuraga nyabyo ba gatozi ku buryo yari kubabuza gukora icyo cyaha, akanabahana; ko atafashe ingamba za ngombwa kandi zikwiriye kugira ngo icyo cyaha kidakorwa cyangwa ahane abagikoze[675]

475. N'ubwo kuba Uregwa yari afite ububasha akomora ku mategeko bishobora kugira akamaro mu kugenzura niba yaragenzuraga abo akuriye nyabyo, umwanya yari afite ntuhagije kugenderwaho wonyine ngo hemezwe ko yari afite ububasha bufatika bwo « kuburizamo » ikorwa ry'icyaha cyangwa «guhana » abagikoze. Nk'uko Urugereko rw'Ubujurire rwabyemeje mu rubanza rwa *Kajelijeli mu bujurire,* ububasha cyangwa ubutegetsi butuma ukuriye abandi aryozwa icyaha hashingiwe ku ngingo ya 6(3), bushobora kuba ari ubwo akomora ku mategeko (*de jure*) cyangwa atabukomoraho

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675 *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu bujurire, igika 143; *Urubanza rwa Bagilishema*, Inyandiko y'urubanza mu bujurire, igika 35; *Urubanza rwa Delalić na bagenzi be (Čelebiči)*, Inyandiko y'urubanza mu bujurire, igika 182; *Urubanza rwa Blaskić,* Inyandiko y'urubanza mu bujurire, ibika 53-85.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bitewe n'uko ibintu byifashe *(de facto)*[676]. Ibi birashaka kuvuga ko kureba niba ukuriye abandi yarabagenzuraga nyabyo, ari ngombwa gusuzuma niba yari afite ubushobozi bwo kubabuza gukora ibyaha cyangwa kubahana igihe babikoze. Iyo bigaragaye ko Uregwa yari afite ububasha bushingiye ku mategeko, urukiko urwo ari rwo rwose rushobora kwemeza, kugeza igihe hatangiwe ibimenyetso bibyemeza ukundi, ko ubwo bubasha bwe bukubiyemo n'ubwo kugenzura nyabyo abo akuriye. Cyakora uko kwemeza ibintu, mbere y'itangwa ry'ibimenyetso bibyemeza ukundi gushobora gusubirwaho iyo bigaragaye ko ukuriye abandi atari agifite ububasha bwa ngombwa bwo kugenzura abo akuriye bakoze ibyaha bivugwa[677].

2. JENOSIDE

476. Mu kirego cya mbere cyo mu nyandiko y'ibirego, Porokireri ashinja Uregwa jenoside kubera ibikorwa bye cyangwa ibyo yateshutswe gukora. Ibyo bikorwa ni byo bituma Uregwa aryozwa icyaha cy'ubwicanyi bwibasiye Abatutsi n'icyo kubakorera ibikorwa bibazahaza umubiri cyangwa mu mutwe, agamije kubarimbura bose cyangwa igice cyabo. Ibi birego bishingiye ku ngingo ya 6(1) ya Sitati iteganya uburyozwacyaha bw'Uregwa nka gatozi, no ku ngingo ya 6(3) iteganya uburyozwacyaha bw'Uregwa nk'umuntu wari ukuriye abandi kubera ibyakozwe n'abo yari akuriye.

477. Sitati irimo urutonde rw'ibikorwa bifatika byihariye bigize icyaha cya jenoside. Ingingo ya 2(2) ya Sitati igira iti[678]: « Jenoside ni kimwe mu bikorwa bikurikira cyakozwe kigamije kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwenegihugu, ku bwoko cyangwa ku idini, bazira icyo bari cyo:

a) Kwica abo bantu;

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[676] *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu bujurire, igika 85.

[677] *Urubanza rwa Delalić na bagenzi be (Čelebič),* Inyandiko y'urubanza mu bujurire, igika 197.

[678] Hashingiwe ku ngingo ya 2 n'iya 3 z'Amasezerano mpuzamahanga yerekeye gukumira no guhana icyaha cya jenoside (« Amasezerano yerekeye Jenoside ») yemejwe n'Inteko rusange y'Umuryango w'abibumbye ku itariki ya 9 Ukuboza 1948. Amasezerano mpuzamahanga kuri jenoside afatwa nk'igice cy'amategeko ashingiye ku muco mpuzamahanga; ibi tubisanga mu itangazo rikubiyemo igitekerezo cy'Urukiko ryasohowe n'Urukiko Mpuzamahanga rwa Loni *[International Court of Justice]* mu mwaka wa 1951 ku byerekeye ukwifata kwa bamwe mu gihe cyo gusinya ayo masezerano.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

b) Kubateza ububabare buzahaza umubiri cyangwa mu mutwe;

c) Gushyira ku bushake abo bantu mu nzitane z'ubuzima zigomba gutuma bose cyangwa igice cyabo barimbuka;

d) Gushyiraho ingamba zigamije kubabuza kubyara;

e) Kubanyaga urubyaro ukarushyira mu rindi tsinda.

478. Jenoside ni icyaha cyihariye kubera ko kirangwa n'umugambi mubisha wihariye (*dolus specialis*) ariwo: kuba icyaha cyarakoranywe igitekerezo cyihariye cyo kurimbura abantu bose bahuriye ku bwenegihugu, ku bwoko cyangwa ku idini, cyangwa igice cyabo, bazira icyo bari cyo[679].

Igitekerezo cyo gukora icyaha

479. Mbere yo kwemeza ko Uregwa ahamwa n'icyaha cya jenoside, hagomba gutangwa ikimenyetso gihamya ko yari afite igitekerezo cyo gukora icyaha, cyiyongera ku gikorwa icyo ari cyo cyose kigize icyaha cya jenoside, nk'uko birondorwa mu ngingo ya 2(2) ya Sitati[680]. Niyo mpamvu hagomba kugaragazwa ko uwakoze icyaha yakoze nibura kimwe mu bikorwa bivugwa mu ngingo ya 2(2) afite igitekerezo cyihariye cyo kurimbura abantu bose bahuriye ku bwenegihugu, ku bwoko cyangwa ku idini, cyangwa igice cyabo, ayo matsinda y'abantu akaba ari ateganywa n'Amasezerano mpuzamahanga[681]. N'ubwo nta mubare w'ifatizo w'abantu bagomba kwicwa kugira ngo ubwicanyi bwitwe jenoside, Porokireri agomba gutanga ibimenyetso bigaragaza ku buryo budashidikanywaho ko gatozi yari afite igitekerezo cyihariye cyo kurimbura abantu bose bahuriye ku isano

679 *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 15*; Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, igika 59.

680 *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, ibika 311-313.

681 Ingingo ya 2(2) ya Sitati; *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'iremezo, igika 412; *Urubanza rwa Ndindabahizi,* Inyandiko y'urubanza mu rw'iremezo, ibika 453-454; *Urubanza rwa Ntagerura na bagenzi be,* Inyandiko y'urubanza mu rw'iremezo, igika 662. Reba kandi *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu bujurire, igika 48; *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, igika 784; *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, ibika 60-61; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, igika 164; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, igika 49; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 91; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 517.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

runaka, cyangwa igice cyabo, bazira icyo bari cyo. Icyo gitekerezo cyihariye kigomba kwibasira igice kitari gito cy'iryo tsinda ry'abantu[682]. Byongeye kandi Uregwa ashobora guhamwa n'icyaha cya jenoside kabone n'iyo impamvu ze bwite zatumye akora icyo cyaha zaba zarazimbye igitekerezo cyo gukora jenoside[683].

480. Mu rubanza rwa *Akayesu* mu rw'Iremezo, Urugereko rwasanze iyo Uregwa atireze cyangwa ngo yemere icyaha biba bigoye kugaragaza ko yari afite igitekerezo cyo gukora jenoside. Ariko kandi, Urugereko rwasanze bishoboka kumenya igitekerezo Uregwa yari afite hashingiwe ku bintu bimwe na bimwe[684]. Bityo rero, iyo bidashoboka kubona ibimenyetso bitaziguye bigaragaza igitekerezo cy'Uregwa, icyo gitekerezo gishobora gucukumburwa hashingiwe ku bijyanye n'ibyabaye n'uko ibintu byari byifashe[685]. Mu kugerageza kureba niba Uregwa yari afite igitekerezo cyo gukora jenoside, Urugereko rushobora gushingira ku bintu binyuranye bikubiyemo ibi bikurikira: uko ibintu byari byifashe muri rusange ubwo icyaha cyakorwaga; kuba abibasiwe n'ibitero biri kuri gahunda baraziraga ko bari mu itsinda runaka rivugwa mu masezerano mpuzamahanga; kuba ba gatozi bashobora kuba baribasiye abantu bo muri iryo tsinda mu bindi bikorwa bakoze; intera amarorerwa yafashe n'ingano y'abantu bibasiwe; inshuro ibikorwa bya kirimbuzi byibasiye amatsinda amwe y'abantu byakozwe; kureba niba gatozi yarahisemo abo agomba kwibasira akurikije ko bahuriye ku itsinda runaka rivugwa mu masezerano mpuzamahanga cyangwa niba yari afite umugambi wo kurimbura abagize iryo tsinda

[682] *Urubanza rwa Simba*, Inyandiko y'urubanza mu rw'iremezo, igika 412; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 316.
[683] *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu bujurire, ibika 302-304; *Urubanza rwa Niyitegeka*, Inyandiko y'urubanza mu rw'iremezo, ibika 48-53.
[684] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 523. Reba kandi *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, ibika 62-63; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, ibika 166-167; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, ibika 61-63; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 93; *Urubanza rwa Jelišić,* Inyandiko y'urubanza mu rw'iremezo, igika 73.
[685] *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'iremezo, igika 413; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu bujurire, igika 159; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu bujurire, igika 525; *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu bujurire, igika 40, ahavugwa ko « bitewe n'imimerere y'igitekerezo ubwacyo, igitekerezo umuntu yari afite ntigishobora kugaragazwa hakoreshejwe ibimenyetso bitaziguye. Uregwa wenyine ni we uba azi uko umutima we uteye, kandi nta wakwizera ko we ubwe yakwemera ko yari afite igitekerezo cyo gukora jenoside. Ni ngombwa rero akenshi ko icyo gitekerezo kigaragazwa hashingiwe ku bimenyetso biziguye. Reba kandi *urubanza rwa Krstić,* Inyandiko y'urubanza mu mu bujurire, igika 34; *Urubanza rwa Jelisić,* Inyandiko y'urubanza mu bujurire, igika 47.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

bose cyangwa igice cyabo abaziza icyo bari cyo[686].

481. Urugereko rwemera iyi mitekerereze kandi ruzagendera kuri ubu bukemuramanza mu kureba niba Uregwa, muri uru rubanza, yari afite igitekerezo cyihariye cyo gukora jenoside.

« Kurimbura abantu bagize itsinda runaka »

482. Ingingo ya 2 ya Sitati isaba ko hatangwa ikimenyetso gihamya ko gatozi yakoze kimwe mu bikorwa ivuga afite umugambi wo kurimbura abantu bagize itsinda runaka. Inteko zinyuranye z'Urugereko rwa Mbere rw'Iremezo z'uru Rukiko zakunze gusobanura aya magambo ku buryo bwaguye, ku buryo hadakubiyemo gusa ibikorwa byakozwe hagamijwe kwica ahubwo hakubiyemo n'ibindi bikorwa bitahitanye ababikorewe.[687]

« Bose cyangwa igice cyabo »

483. Kugira ngo Uregwa ahamwe n'icyaha cya jenoside, Porokireri agomba gutanga ibimenyetso bihamya ku buryo budashidikanywaho ko yari afite umugambi wo kurimbura abantu bose bagize itsinda runaka cyangwa igice cyabo abaziza icyo bari cyo[688]. Nibura, hagomba gutangwa ibimenyetso bigaragaza ko uwo mugambi wari uwo kurimbura igice kitari gito cy'abantu bagize iryo tsinda[689], hatitawe ku mubare nyawo w'abahohotewe[690].

« Amatsinda arengerwa hakurikijwe ibivugwa n'amategeko mpuzamahanga »

484. Ubukemuramanza bw'Urukiko bugaragaza ko n'ubwo Sitati idasobanura neza ibigomba

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686 *Urubanza rwa Semanza,* Inyandiko y'urubanza mu bujurire, ibika 261-262; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu bujurire, igika 525; *Urubanza rwa Ndindabahizi*, Inyandiko y'urubanza mu rw'iremezo, igika 454; *Urubanza rwa Ntagerura na bagenzi be,* Inyandiko y'urubanza mu rw'iremezo, igika 663.
687 *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 95.
688 *Urubanza rwa Bagilishema*, Inyandiko y'urubanza mu rw'iremezo, igika 58; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, igika 165; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, igika 60; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, ibika 95, 96 na 98; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 521.
689 *Urubanza rwa Bagilishema*, Inyandiko y'urubanza mu rw'iremezo, igika 64.
690 *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 316.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

gushingirwaho mu kugena niba itsinda runaka riri mu rwego rw'avugwa mu ngingo ya 2 agomba kurengerwa, ingereko za mbere z'iremezo zakunze gukemura iki kibazo zikurikije uko ibintu biba byifashe muri buri rubanza, zitaye ku ngingo zifatika no ku myumvire yarwo; cyane cyane uko ibintu byari byifashe muri icyo gihe cy'amateka hamwe n'umugambi wihariye wa gatozi.[691] Mu rubanza rwa *Karemera,* Urugereko rw'Ubujurire rwashyigikiye icyemezo cy'Urugereko rwa Mbere rw'Iremezo cy'uko « kuba Abatwa, Abatutsi n'Abahutu ari amatsinda y'abantu arengerwa hashingiwe ku bivugwa mu Masezerano mpuzamahanga yerekeye Jenoside » ari ikintu ababuranyi batagomba kujyaho impaka[692]. Muri uru rubanza, ababuranyi ntibahakana ko Abatutsi bagize itsinda rirengerwa nk'uko bivugwa muri Sitati.

« Bazira icyo bari cyo »

485. Amagambo « bazira icyo bari cyo » asobanura ko igikorwa kibujijwe cyakorewe umuntu azizwa ko ari mu bagize itsinda runaka, ku buryo uwakorewe icyaha mu by'ukuri adafatwa nk'umuntu ku giti cye ahubwo afatwa nk'itsinda abarirwamo[693].

« Kwica abagize itsinda runaka »

486. Ntibihagije ko Porokireri atanga ibimenyetso bigaragaza ko Uregwa yari afite igitekerezo cyo gukora jenoside, ahubwo agomba no kugaragaza ko yishe abigambiriye agahitana umuntu umwe cyangwa abantu benshi, bagize itsinda rirengerwa hakurikijwe

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[691] Urugero, reba *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, igika 65; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, ibika 161-163; *urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, ibika 56-58; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 98; *n'Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 702. Reba kandi *Urubanza rwa Jelisić*, Inyandiko y'urubanza mu rw'iremezo, ibika 69-72 (Aha Urugereko rwemeranyijwe n'ingingo ishingiye ku myumvire y'umuntu ku giti cye ku byerekeye inyito y'ijambo « itsinda »;ariko kandi Urugereko rwasanze icyari kigamijwe n'abanditsi b'Amasezerano mpuzamahanga yerekeye jenoside kwari ukugena amatsinda hakurikijwe ingingo zifatika).

[692] *Urubanza rwa Karemera na bagenzi be,* Icyemezo cyafashwe ku bujurire bwa Porokireri bwerekeranye n'icyemezo cy'Urugereko rwa mbere rw'iremezo ku birebana n'ibitagomba kugibwaho impaka n'ababuranyi (Urugereko rw'Ubujurire), 16 Kamena 2006, igika 25; Icyemezo ku cyifuzo cya Porokireri gisaba Urugereko kwemeza ibintu bimwe na bimwe bitagomba kutagibwaho impaka n'ababuranyi » (Urugereko rwa Mbere rw'Iremezo), 9 Ugushyingo 2005, igika 8.

[693] *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'iremezo, igika 410; Urubanza rwa *Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 521.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Amasezerano mpuzamahanga, kandi ryibasiwe by'umwihariko. Si ngombwa ko hagaragazwa ko icyo cyaha cyacuriwe umugambi[694].

« Gutera abagize itsinda runaka ububare bubazahaza umubiri cyangwa mu mutwe »

487. N'ubwo amagambo «gutera ububabare buzahaza umubiri » no « gutera ububabare buzahaza mu mutwe » atasobanuwe muri Sitati, ingereko za mbere z'iremezo 'zinyuranye zasanze uwashyizeho amategeko yari agamije guhana ibikorwa bikabije by'urugomo byibasiye umubiri, kabone n'iyo ibyo bikorwa byaba bitaviriyemo uwabikorewe gupfa. Ku ruhande rumwe, ubuzahare bw'umubiri bwumvikana nk'ubuterwa n'ibikorwa byo kwangiza imyanya ndangagitsina hamwe n'ibindi bikorwa bizahaza bikomeye amagara y'uwabikorewe cyangwa bikamutera icyasha ku mubiri, bikangiza bikomeye ingingo ze z'umubiri zigaragara hanze, ingingo zo mu mubiri imbere cyangwa ingingo zituma umuntu yumva cyangwa amenya ibimukikije[695]. Uregwa ashobora guhamwa n'icyaha cyo kuzahaza umubiri uwo yagiriye nabi kabone n'iyo ibikorwa by'Uregwa bitateye ubumuga buhoraho cyangwa budakira[696]. Ku rundi ruhande, imvugo « kuzahaza mu mutwe » isobanura ko habayeho urugomo rukabije rwateye uwahohotewe guhungabana mu bwonko[697]. Kugira ngo Uregwa ahamwe n'icyaha cyo kuzahaza umuntu ku mubiri cyangwa mu mutwe hakurikijwe Sitati, ni ngombwa kwerekana ko yari afite igitekerezo cyo gukora jenoside ariko hakiyongeraho ko

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[694] *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, ibika 55, 57-58; *Urubanza rwa Musema*, Inyandiko y'urubanza mu rw'iremezo, igika 155; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, ibika 49, 50 na 60; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, ibika 99, 103; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 499-501; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 319. Reba kandi *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu bujurire, igika 151.

[695] *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 109; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 320. Reba kandi raporo Akanama gashinzwe amategeko mpuzamahanga kakoze nyuma y'inama yako yabaye kuva ku itariki ya 6 Gicurasi kugeza ku ya 26 Nyakanga 1996, mu inama yako ya 51, umugereka nº 10 (A/51/10) urup 91: « Ibikorwa bizahaza abantu bagize itsinda runaka umubiri cyangwa mu mutwe bigomba kuba bikabije cyane ku buryo bigaragara nk'ibigamije kurimbura abagize iryo tsinda bose cyangwa igice cyabo ».

[696] *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, igika 59; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, igika 156; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, igika 51; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 108; *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 502.

[697] *Urubanza rwa kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 110; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 321.

yabikoze agambiriye kuzahaza umubiri cyangwa mu mutwe umuntu umwe cyangwa benshi bagize itsinda runaka rirengerwa n'Amasezerano mpuzamahanga kandi ko uwahohotewe cyangwa abahohotewe ari bamwe mu bagize iryo tsinda[698].

« Ibindi bikorwa bivugwa »

488. Urugereko nta cyo ruvuga ku bindi bikorwa bigize icyaha cya jenoside bivugwa mu ngingo ya 2(2) ya Sitati kubera ko bitabyukijwe muri uru rubanza. Ibyo bikorwa akaba ari ibi bikurikira: Gushyira ku bushake abo bantu mu nzitane z'ubuzima zigomba gutuma bose cyangwa igice cyabo barimbuka; Gushyiraho ingamba zigamije kubabuza kubyara; no kubanyaga urubyaro rwabo ukarushyira mu rindi tsinda.

Imyanzuro y'Urugereko ku buryozwacyaha bw'Uregwa ku birebana na jenoside

489. Mu kirego cya mbere cy'Inyandiko y'ibirego, Porokireri ashinja Uregwa nka gatozi, hakurikijwe Ingingo ya 6(1) ya Sitati, kubera ibikorwa binyuranye bigize icyaha cya jenoside.

490. Mu rwego rwo kugaragaza ko Uregwa akwiye kuryozwa icyaha nka gatozi, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati, Porokireri ashingira ku bika bikurikira by'Inyandiko y'ibirego: 2.2, 2.3, 3.10 (ii) – 3.10 (v), 3.15, 3.17, 3.19, 3.20-3.30, 3.31, 3.32 3.33, 3.34, 3.36, 3.40, 3.41-3.41 (i), 3.46, 3.48 na 3.52.

491. Inyandiko y'ibirego kandi ishinja Uregwa icyaha cya jenoside hashingiwe ku ngingo ya 6(3) ya Sitati. Iyo ngingo igira iti: « Kuba igikorwa icyo ari cyo cyose kivugwa kuva ku ngingo ya 2 kugeza ku ya 4 z'iyi Sitati cyarakozwe n'uyoborwa ntibibuza umukuriye kukiryozwa ku giti cye, iyo yari azi cyangwa yaragombaga kuba yari azi ko uwo akuriye agiye gukora icyaha cyangwa ko yagikoze ariko uwo umukuriye ntafate ingamba za ngombwa kandi zishyize mu gaciro kugira ngo aburizemo ikorwa ry'icyo cyaha cyangwa

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[698] *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, ibika 55, 59; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, ibika 154, 156; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, ibika 49, 51 na 60; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, ibika 100, 108-110, 112-113; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 502, 712, 721.

ngo ahane abagikoze ».

492. Mu rwego rwo kugaragaza ko Uregwa akwiye kuryozwa icyaha nk'uwari ukuriye abandi nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati, Porokireri ashingira ku bika bikurikira by'*Inyandiko y'ibirego*: 2.2, 2.3, 3.10 (ii)-3.10 (v), 3.17, 3.19, 3.20-3.30, 3.31, 3.32-3.34 (i), 3.35-3.43, 3.45 na 3.52.

493. Mu iburanisha, Urugereko rwumvise ubuhamya bwinshi burimo ubushinja n'ubushinjura. Ubwo buhamya bwari bugamije kugaragaza ko mu minsi no mu byumweru byakurikiye urupfu rwa Perezida Habyarimana rwabaye ku itariki ya 6 Mata 1994, abasiviri b'Abatutsi bo mu karere ka Butare bibasiwe n'ibitero byari bigambiriye kubatsemba. Muri icyo gihe, ibikorwa bisa n'ibivugwa mu ngingo ya 2(2) ya Sitati byakorewe abaturage b'Abatutsi, bikorwa n'abasirikare bo mu kigo cya gisirikare cya ESO n'icya Ngoma hamwe n'Interahamwe, zari zigizwe n'Abahutu bitwaraga gisirikare.

494. Rumaze gusuzumana ubushishozi ibimenyetso Porokireri yatanze agamije gushimangira ikirego cya 1 cy'Inyandiko y'ibirego (Jenoside), rusanga hari byibura abatangabuhamya 18 bashinja batanze ubuhamya bushyigikira ikirego cya jenoside[699]. Bimwe mu bikorwa byagaragajwe n'ubwo buhamya ni ibi bikurikira: Uregwa yari Komanda w'umusigire w'ishuri ry'abasuzofisiye (ESO) ry'i Butare kandi uwo murimo wamuhaga ububasha ku basirikare bo muri iryo shuri no ku bandi basirikare; ESO yari ishinzwe kubungabunga umutekano mu gace ko hagati ka Perefegitura ya Butare karimo umujyi wa Butare ubwawo; abasirikare bo muri ESO bari bonyine cyangwa bafatanyije n'abasirikare bo mu kigo cya gisirikare cy'i Ngoma ndetse n'Interahamwe, bagabye ibitero byahitanye abasiviri b'abatutsi benshi batitwaje intwaro, hirya no hino mu mujyi wa Butare, hagati ya Mata na Gicurasi 1994; hakurikijwe uburyo ibyo bitero byagabwemo, Uregwa yari azi cyangwa yagombaga kumenya ko byagabwe; Uregwa yari afite ububasha bwo kugenzura nyabyo abasirikare bo muri ESO bagabye ibyo bitero kubera ko yari afite abantu n'ibikoresho bihagije byo kumufasha kuburizamo ibyo bitero cyangwa se guhana abari

[699] Abatangabuhamya bashinja biswe QX, KAL, YAA, QCQ, YAO, XV, CCR, CCQ, YAN, YAQ, YAP, CCP, QBE, TM, TQ, YAK, QCM, na NN.

babigabye; icya nyuma, Uregwa nta ngamba n'imwe ya ngombwa kandi inyuze mu gaciro yafashe kugira ngo abuze abasirikare bo muri ESO cyangwa Interahamwe kugaba ibitero cyangwa se ngo ahane ababigabye.

495. Ikibazo Urugereko rufite ni icyo kumenya niba hari ibimenyetso bigaragaza nta shiti ko Uregwa yacuze umugambi wo gukora jenoside, ko yashishikarije abandi kuyikora, ko yategetse abandi kuyikora, ko we ubwe yayikoze cyangwa, ku bundi buryo ubwo ari bwo bwose, akaba yarafashije akanashyigikira abacuze umugambi, abateguye cyangwa abashyize mu bikorwa jenoside. N'ubwo nta kimenyetso na kimwe kigaragaza ku buryo bwizewe cyangwa budashidikanywaho ko Uregwa ubwe yagize uruhare mu gikorwa icyo ari cyo cyose mu bivugwa bigize icyaha cya jenoside, Urugereko rusanga, muri rusange, hari ibimenyetso bihagije kandi by'impurirane bisa n'ibyerekana ko Uregwa, bitewe n'umwanya we w'ubuyobozi, yari azi cyangwa yagombaga kumenya ko abasirikare bo muri ESO hamwe n'abandi bantu bakoraga ibikorwa bya jenoside. Urugereko rusanga kandi n'ubwo yari afite ububasha bwo kugenzura nyabyo abo basirikare, Uregwa yarirengagije nkana gufata ingamba za ngombwa kandi zinyuze mu gaciro zigamije kuburizamo ibyo byaha cyangwa guhana ababikoze.

496. Rushingiye ku buhamya bunyuranye bwatangiwe mu rukiko, Urugereko rusanze Uregwa ubwe yari afite umugambi wo kurimbura abantu bose cyangwa igice cy'abantu bo mu bwoko bw'Abatutsi, abaziza icyo bari cyo. Urugero: ubwo abasirikare bo muri ESO biteguraga kugaba ibitero ku basiviri b'Abatutsi batari bafite intwaro bari muri *Groupe scolaire*, Uregwa yanze gutabara izo mpunzi, ahubwo atanga amabwiriza yo gukura umuryango umwe mu zindi mpunzi z'Abatutsi anategeka ko hatagira uhutaza abagize uwo muryango. Na none, ubwo umwe mu bana bo muri uwo muryango yajyanwaga hamwe n'izindi mpunzi z'Abatutsi bamwibeshyeho, Uregwa yohereje imodoka yo kumushaka mu rwego rwo kugerageza kumurokora. Imyitwarire y'Uregwa muri rusange kuri iki kibazo igaragaza ko n'ubwo atabyatuye, yari ashyigikiye ibikorwa by'abasirikare bo muri ESO. Bikaba bigaragazwa n'ibi bikurikira: kuba yararetse itsinda rigizwe n'abasirikare benshi yategekaga risohoka mu kigo rifite intwaro n'amasasu maze rikagaba igitero ku mpunzi zidafite intwaro; no kuba yarategetse abo basirikare kutica

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

abagize umuryango wa Bicunda cyangwa kubahohotera ku bundi buryo, akarekera benshi muri izo mpunzi z'Abatutsi mu maboko y'abakoraga jenoside. Uko gushyigikira atatuye ibyakorwaga kwateye inkunga kandi gushishikariza abicanyi mu kwica abasiviri b'Abatutsi bari muri *Groupe scolaire.* Hakurikijwe uko ibintu byari byifashe muri rusange mu Rwanda mu wa 1994 ndetse by'umwihariko muri Butare, nta washidikanya ko Uregwa yari azi ko abasirikare bo muri ESO yategekaga, bagabye igitero cyangwa biteguraga kukigaba ku basiviri b'Abatutsi badafite intwaro bari bari muri *Groupe scolaire,* babaziza gusa ko ari Abatutsi. Kubera ko yemeye atatuye iyo myitwarire y'abasirikare bo muri ESO, Uregwa yagize uruhare rufatika mu ikorwa rya jenoside. Kubera iyo mpamvu, Urugereka rwemeje ko Uregwa agomba kuryozwa icyaha nka gatozi kubera ko yafashije akanashyigikira abakoze jenoside, hakurikijwe Ingingo ya 6(1) ya Sitati.

497. Ikindi kandi, Urugereko rusanze Uregwa agomba kuryozwa, nk'uwari ukuriye abandi mu kazi, urupfu rw'abasiviri b'Abatutsi biciwe n'abasirikare bo muri ESO mu bitaro bya Kaminuza y'i Butare, muri Kaminuza y'i Butare, mu kigo cy'Abeneberika, mu ishyamba rya Mukura no kuri za bariyeri zinyuranye zari hirya no hino mu mujyi wa Butare. Kubera ko, nka komanda wa ESO, Uregwa yari afite abantu benshi yategeka akanagira n'ibikoresho bihagije, yari afite ububasha bwo kugenzura nyabyo abagabaga ibitero; ibi biravuga ko yari afite ibikoresho bihagije byari gutuma aburizamo ubwicanyi cyangwa ahana ababukoraga. Nyamara, Uregwa nta ngamba n'imwe ya ngombwa cyangwa inyuze mu gaciro yafashe kugira ngo aburizemo ubwicanyi cyangwa ahane ababukoraga. Kubera izo mpamvu zose, Urugereko rwemeje ko Uregwa yakoze icyaha cya jenoside, nk'ukuriye abandi, hakurikijwe Ingingo ya 6(3) ya Sitati.

498. Bityo rero, Urugereko rusanze Muvunyi ahamwa n'icyaha cya jenoside, hakurikijwe Ingingo ya 6(1) ya Sitati, kubera igitero cyagabwe muri *Groupe scolaire*. Rusanze kandi ahamwa na jenoside hakurikijwe Ingingo ya 6(3) ya Sitati, kubera ibitero byibasiye ibitaro bya Kaminuza y'i Butare, Kaminuza y'i Butare, ikigo cy'Abenebikira, ishyamba rya Mukura n'ibikorwa byabereye kuri za bariyeri zinyuranye hirya no hino muri Butare.

3. KUBA ICYITSO CY'ABAKOZE JENOSIDE

499. Urugereko ruributsa ko ikirego cya 2 cy'Inyandiko y'ibirego cyagombaga gusuzumwa ari uko ikirego cya 1 kitemewe. Kubera ko Urugereko rwamaze kwemeza ko Uregwa ahamwa n'icyaha cya jenoside gikubiye mu kirego cya mbere, si ngombwa gusuzuma ikirego cya 2 cyo kuba icyitso cy'abakoze jenoside[700]. Bityo rero, Urugereko ntirucyakiriye.

4. GUHAMAGARIRA ABANTU KU BURYO BUTAZIGUYE KANDI MU RUHAME GUKORA JENOSIDE

500. Urugereko rusanga Sitati isobanura icyaha cya jenoside mu ngingo ya 2(2), kandi na none iyo ngingo ya 2(3)(c) iteganya ko guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside bigomba guhanwa nk'icyaha cyihariye. Urugereko rusanga mu rwego rw'amategeko mpuzamahanga nta bukemuramanza buhagije buriho ku byerekeye iki cyaha cyo guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside. Mu rubanza rwa *Akayesu* n'urwa *Nahimana,* uru Rukiko rwifashishije imikirize y'urubanza rwa *Streicher* n'urwa *Fritzsche,* zaciwe n'Urukiko Mpuzamahanga rwa Gisirikare, kuko muri izo manza guhamagarira abantu ubwicanyi n'itsembatsemba byahawe inyito y'icyaha cyibasiye inyokomuntu[701]. Nyuma y'imanza zakijijwe n'Urukiko rw'i *Nuremberg,* mu rubanza rwa *Akayesu* bwabaye ubwa mbere urukiko mpuzamahanga rusuzuma ibirebana n'uko gushishikariza abantu mu ruhame kandi ku buryo butaziguye gukora jenoside ari icyaha cyihariye. Mu rubanza rwa *Akayesu*, Urugereko rwa Mbere rw'Iremezo rwitaye ku kureba icyo « guhamagarira abantu gukora icyaha » bisobanura mu mategeko yo mu muryango remezo wa « *common law »* n'ayo mu muryango remezo wa « *civil law* »[702] maze rufata umwanzuro w'uko, hakurikijwe Amasezerano

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[700] *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, igika 654.

[701] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 550; *Urubanza rwa Nahimana,* Inyandiko y'urubanza mu rw'iremezo, ibika 981-982.Urukiko mpuzamahanga rwa gisirikare ntirwashoboraga gusuzuma ibirebana no guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora icyaha runaka, kubera ko icyo gikorwa cyiswe icyaha bwa mbere mu Masezerano y'i Jeneve yo mu wa 1948.

[702] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 555: « Mu muryango remezo w'amategeko

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mpuzamahanga yerekeye icyaha cya jenoside n'Ingingo ya 2(3)(c) ya Sitati, gushishikariza abantu mu ruhame kandi ku buryo butaziguye gukora icyaha bisobanura:

> « gutuma ku buryo butaziguye umuntu cyangwa abantu batsotsoba icyaha cya jenoside, hakoreshejwe amadisikuru, urusaku cyangwa itera bwoba bibereye ahantu h'igiterane cyangwa mu nama, inyandiko, ibitabo cyangwa ibindi byanditswe na imprimeri biguzwe cyangwa byatangiwe ubuntu, byagurishijwe cyangwa byatangarijwe mu biterane cyangwa mu nama, amatangazo amanitse cyangwa atamanitse yeretswe rubanda, cyangwa ubundi buryo bwose bwo kumenyekanisha amakuru hakoreshejwe ibyuma bifata amajwi cyangwa byerekana amashusho »[703].

501. Uru rugereko rusanga Urugereko rw'Ubujurire rwaremeye rutabyatuye igisobanuro cyatanzwe mu rubanza rwa *Akayesu* ku birebana no guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside, kandi rusanga icyo gisobanuro cyarakomeje kugenda kigenderwaho kuva icyo gihe mu byemezo binyuranye by'Urukiko[704]. Uru Rugereko na rwo rwemeye icyo gisobanuro hamwe n'icyahawe amagambo « ku buryo butaziguye » no « mu ruhame » agaragara mu byangombwa bigize icyo cyaha.

502. Kugira ngo guhamagarira abantu gukora icyaha bibe ku buryo « butaziguye », ntibihagije gukomoza kuri icyo cyaha hakoreshejwe amagambo y'urujijo cyangwa aziguye, ahubwo ni ngombwa ko igikorwa cyitwa ko gihamagarira abantu gukora icyaha gituma umuntu runaka yitabira gukora icyaha. Kugira ngo umuntu amenye ko igikorwa cyo

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witwa «*Common Law*», guhamagarira abantu gukora icyaha bisobanura kuboshya cyangwa kubumvisha ko bagomba gukora icyaha. Mu muryango remezo w'amategeko witwa «*Civil Law*», […] hahanwa gushishikariza ku buryo butaziguye kandi mu ruhame bikozwe mu buryo bwo gusembura; ubwo busembure bugasobanura igikorwa kigamije ku buryo butaziguye gusembura undi kugira ngo akore icyaha cy'ubugome cyangwa icyaha gikomeye hakoreshejwe amadisikuru, urusaku cyangwa iterabwoba, cyangwa ubundi buryo bwose bwo gutumanaho hakoreshejwe ibyuma byumvikanisha amajwi cyangwa bigaragaza amashusho. Ubwo busembure nk'uko busobanurwa mu mategeko ya *Civil Law* buteye kimwe no gushishikariza mu ruhame kandi ku buryo butaziguye gukora itsembabwoko biteganywa n'Ingingo ya 2 ya Sitati… ».

[703] *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 559.

[704] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu bujurire; *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'iremezo, igika 431; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'iremezo, ibika 850-855; *Urubanza rwa Nahimana,* Inyandiko y'urubanza mu rw'iremezo, ibika 1011-1015.

guhamagarira abantu gukora icyaha cyabaye ku buryo « butaziguye », ni ngombwa gusuzuma uko ibintu byari byifashe ubwo cyabaga[705]. Umuco, ururimi n'urwego ababwirwa barimo bishobora gutuma umuntu amenya niba koko disikuru iyi n'iyi yarakozwe mu rwego rwo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside. Ikintu cya mbere Urugereko rwa Mbere rw'Iremezo rugomba kwitaho ni ukureba niba abantu bagejejweho ubwo butumwa barahise babusobanukirwa[706].

503. Urugereko rwemera ibyavuzwe mu rubanza rwa *Akayesu* ko abashyizeho Amasezerano mpuzamahanga yerekeye jenoside bifuje guhana gusa ishishikaza rikorewe mu ruhame, bityo ntibitaye ku ishishikaza ryakorerwa mu mwiherero. Kugira ngo Urugereko rwemeze ko « ishishikaza » ryakorewe « mu ruhame », rugomba gushingira ku hantu ryabereye kandi rukagerageza kumenya niba harashoboraga kugerwa n'abantu batoranyijwe gusa cyangwa n'abantu runaka gusa[707]. Si ngombwa ko ubwo butumwa bugezwa ku mubare runaka w'abantu cyangwa ko butangwa hakoreshejwe uburyo ubu n'ubu bwo gutumanaho, tuvuge nka radiyo, televiziyo cyangwa indangururamajwi. Nyamara ariko umubare w'abantu hamwe n'uburyo bwakoreshejwe bishobora kuba ibimenyetso bishyigikira ko ishishikaza ryabereye mu ruhame.

504. Mu rubanza rwa *Akayesu*, Urugereko rwa Mbere rw'Iremezo rwasobanuye muri aya amagambo igitekerezo cyihariye kigize icyaha cyo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside:

> Igitekerezo cyihariye cy'icyaha cyo guhamagarira ku buryo butaziguye kandi mu ruhame gukora jenoside kigaragarira mu mugambi wo gutuma ku buryo butaziguye undi muntu akora jenoside. Bisaba ko ukora icyaha agira ubushake, mu byo akora, bwo gutuma umuntu cyangwa abantu abwira, bagira igitekerezo cyo gukora icyo cyaha. Ni ukuvuga ko ukangurira abandi gukora jenoside nawe

[705] *Urubanza rwa Nahimana,* Inyandiko y'urubanza mu rw'iremezo, igika 1004, ahavugwa ko mu ngingo zikomeye zigomba kwitabwaho iyo umuntu ashaka kumenya inkurikizi z'amagambo runaka harimo uko ibintu byari byifashe muri icyo gihe.

[706] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 557-558; *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'iremezo, igika 431; *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, igika 852.

[707] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 555.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ubwe aba afite byanze bikunze igitekerezo cyihariye cyo gukora jenoside, ari cyo kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwenegihugu, ubwoko cyangwa idini bazira icyo bari cyo[708].

505. Urugereko rw'Ubujurire rwemeje kandi rushimangira imisesengurire y'Urugereko rwa Mbere rw'Iremezo ku birebana n'igitekerezo cyihariye kigize icyaha cyo guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside[709]. Nk'icyaha ubwacyo cyihariye kabone n'ubwo cyaba ari nyirabayazana y'ikindi cyangwa ikigamijwe kitagezweho, guhamagarira abantu gukora jenoside birahanwa ubwabyo hatitawe ku kureba niba icyari kigamijwe cyaragezweho cyangwa cyitaragezweho[710].

Imyanzuro y'Urugereko ku ruhare rw'Uregwa mu guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside.

506. Mu kirego cya 3 cy'Inyandiko y'ibirego, Uregwa ashinjwa ibikorwa byo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside kubera ko yateguye kandi agakora icyaha giteganywa n'igingo ya 6(1) ya Sitati. Icyo kirego kimushinja kandi kuba yarakanguriye abandi gukora icyo cyaha, cyangwa mu bundi buryo ubwo ari bwo bwose, yarabafashije kandi yarabashishikarije kugicurira umugambi, kugitegura cyangwa kugitsotsoba. Icyo kirego gishingiye ku gika cya 3.24, icya 3.25, n'icya 3.32 by'Inyandiko y'ibirego nk'uko bigaragara mu mugereka uyisobanura. Urugereko rwarangije gufata umwanzuro wemeza ko Porokireri atashoboye gutanga ibimenyetso bihamya ibivugwa muri icyo gika.

507. Urugereko rwafashe umwanzuro wemeza ko, mu nama yabereye i Gikonko muri Mata

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[708] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 560; rusubiramo kandi rushyigikira ibyanditswe mu *rubanza rwa Nahimana*, Inyandiko y'urubanza mu rw'iremezo, igika 1012; *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, igika 854.

[709] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 222-224. Reba *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'iremezo, igika 431; *Urubanza rwa Nahimana*, Inyandiko y'urubanza mu rw'iremezo, igika 1012; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'iremezo, igika 854.

[710] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 562: « jenoside ibarirwa mu rwego ry'ibyaha bikomeye cyane ku buryo igikorwa cyo gushishikariza abantu ku buryo butaziguye kandi mu ruhame kuyikora kigomba guhanwa ukwacyo, kabone n'ubwo umugambi nyirubwite yari agamije waba utagezweho». Reba na none *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'iremezo, igika 431; n'*Urubanza rwa Nahimana*, Inyandiko y'urubanza mu rw'iremezo, igika 1013.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

cyangwa Gicurasi 1994, Uregwa yafashe ijambo imbere y'imbaga y'Abahutu b'igitsinagabo, agereranya Abatutsi n'inzoka zigomba kwicwa. Rwasanze kandi yaracyashye Burugumesitiri wa Gikonko ko yahishe Umututsi, maze amusaba kumuzana kugira ngo yicwe. Ibyo byatumye imbaga y'abantu ijya kuzana Umututsi witwaga Vincent Nkurikiyinka maze iramwivugana. Urugereko rusanga aya magambo yavugiwe mu ruhame abwirwa abasiviri b'Abahutu aho bari bakoraniye, yari agamije kubahamagarira kwica Abatutsi. Nk'uko Ntakirutimana, umuhanga mu by'isesengurandimi abivuga, mu kinyarwanda kwita Abatutsi inzoka ni ukubakatira urwo gupfa. Urugereko rwemera ko Muvunyi yari azi ko abo bantu yabwiraga bari busobanukirwe neza imigambi ya jenoside yari mu magambo ye, ko rero yari yaritswemo n'umugambi wo kurimbura Abatutsi bose cyangwa igice cyabo, bazira icyo bari cyo.

508. Urugereko rusanga kuba Uregwa yarasabye ko Vincent Nkurikiyinka asohorwa kugira ngo yicwe, umuntu yabifata ko yategetse abantu gukora jenoside. Ariko kubera ko Porokireri yabivuzeho ashyigikira gusa ikirego cyo gushishikariza abantu gukora jenoside, Urugereko ntirubifata nk'ikirego cya jenoside.

509. Urugereko rwamaze kandi gufata umwanzuro wemeza ko, mu nama rusange yabereye i Gikore muri Gicurasi 1994, Muvunyi yafashe ijambo maze ahamagarira abantu kwica Abatutsi no gusenya imitungo yabo, abita abanzi mu bihe by'intambara, abatesha agaciro abagereranya n'inzoka n'ibindi bikoko bifite ubumara. Kubera umwuka w'ubwicanyi wariho hagati y'amoko mu Rwanda mu wa 1994, intambara yari ishyamiranyije inyeshyamba za FPR yari yingajemo Abatutsi n'ingabo z'u Rwanda zari ziganjemo Abahutu, umuco n'ururimi by'igihugu, Urugereko rusanga abaturage barabonye mu magambo ya Muvunyi intabaza yo kwica cyangwa, mu bundi buryo ubwo ari bwo bwose, kwikiza Abatutsi. Rusanga kandi Uregwa yari azi ko ayo magambo ye ari bufatwe gutyo n'abo yabwirwaga, ko rero yari afite umugambi wo kurimbura abantu bose, cyangwa igice cyabo, bo mu bwoko bw'Abatutsi.

510. Porokireri yagaragaje ibyangombwa byose bigize icyaha cyo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside nk'uko giteganywa n'Ingingo ya

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

2(3)(c) ya Sitati, ku birebana n'inama yabereye i Gikonko muri Mata 1994 n'iyabereye i Gikore muri Gicurasi 1994. Bityo rero, Urugereko rusanze Uregwa ahamwa n'icyo cyaha nka gatozi hakurikijwe Ingingo ya 6(1) ya Sitati.

5. IBYAHA BYIBASIYE INYOKOMUNTU

5.1. Ibyangombwa rusange bigize ibyo byaha

511. Urugereko rusanga hakurikijwe Ingingo ya 3 ya Sitati, inyito « ibyaha byibasiye inyokomuntu » igizwe n'ibintu bibiri. Icya mbere (Ibintu rusange), icyaha cyibasiye inyokomuntu kigomba gukorwa « mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri abo ari bo bose bazira ubwenegihugu, ubwoko cyangwa idini »[711]. Icya kabiri, harondorwa ibyaha bitandatu byihariye (by'ibanze) bikurikiwe n'ikindi cyiciro cy'ibitari iby'ibanze kigizwe « n'ibindi bikorwa bibi birenze kameremuntu » byitwa ibyaha byibasiye inyokomuntu, iyo bikozwe mu rwego rw'ibitero rusange cyangwa biri kuri gahunda, byibasiye abaturage b'abasiviri kubera imwe mu mpamvu iyo ari yo yose z'ivangura zavuzwe[712]. Ibyo bintu bisabwa uko ari bibiri ku birebana n'ibyaha byibasiye inyokomuntu nk'uko biteganywa na Sitati, uru Rukiko rwagiye rubisobanura kandi rubikurikiza mu manza nyinshi rwaciye[713].

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[711] Ingingo ya 3 ya Sitati igira iti: «Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoze ibyaha 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) Gucira ishyanga; e) Gufunga; f) Ibikorwa by'urubozo; g) Gusambanya ku gahato; h) Gutoteza bishingiye ku mpamvu za politiki, iz'ubwoko n'iz'idini; i) Ibindi bikorwa bibi birenze kameremuntu.

[712] *Urubanza rwa Kupreškić*, Inyandiko y'urubanza mu rw'iremezo, igika 563; *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 585.

[713] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 578-586; *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, ibika 64-78; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, ibika 199-213; *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, ibika 72-83; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, ibika 657-676; *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu rw'iremezo, ibika 802-804; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, ibika 324-333; *Urubanza rwa Muhimana,* Inyandiko y'urubanza mu rw'iremezo, ibika 523-530; *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'iremezo, ibika 420-421.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

512. Hari ubukemuramanza bwinshi kandi butayegayezwa ku nyito ya buri jambo rikoreshwa mu gusobanura ibigize mu rusange icyaha cyibasiye inyokomuntu. Ijambo «igitero » risobanura igikorwa cyose cyangwa ibikorwa byose binyuranyije n'amategeko biri mu rwego rw'ibivugwa mu duka kuva kuri a) kugera kuri i) tw'Ingingo ya 3 ya Sitati[714]. Mu mategeko mpuzamahanga ashingiye ku muco karande, amagambo « ibitero rusange » cyangwa « biri kuri gahunda » agomba kumvikana rimwe ukwaryo irindi ukwaryo; si ngombwa ko ibitero rusange biba biri no kuri gahunda[715]. Ijambo « rusange » ryerekeza ku gitero simusiga kandi cyahitanye abantu benshi. Amagambo «biri kuri gahunda » ashaka kuvuga ko igitero kigomba kuba cyarateguwe, ni ukuvuga ko ibikorwa by'ubugizi bwa nabi bihutiyeho bitinjira muri icyo gisobanuro kandi si ngombwa ko igitero kiba gikomoka ku mpamvu za politiki cyangwa ku mugambi runaka[716]. Ariko rero, politiki cyangwa umugambi runaka bishobora kugenderwaho mu kugaragaza ko abaturage b'abasiviri bibasiwe n'igitero nk'icyo cyangwa ko icyo gitero cyari rusange cyangwa kiri kuri gahunda.

513. Mu rubanza rwa *Akayesu* hasobanuwe ko « abaturage b'abasiviri » ari abantu batari mu mirwano ku buryo butaziguye, harimo n'abasirikare bishyize mu maboko y'abo barwana cyangwa bashyize intwaro hasi, n'abantu batagishoboye kurwana kubera uburwayi, ibikomere, gufungwa cyangwa kubera indi mpamvu iyo ari yo yose[717]. Kuba mu « baturage b'abasiviri » hivanzemo abandi batari abasiviri ntibibuza ko bafatwa nk'abasiviri. Mu rubanza rwa Bagilishema, Urugereko rwa Mbere rw'Iremezo, rushingiye ku rubanza rwa *Blaškić*, rwavuze ko mu kwemeza ko hibasiwe « abaturage b'ababasiviri », nka kimwe mu bisabwa kugira ngo habeho ibyaha byibasiye inyokomuntu, rugomba kureba « abahohotewe uko bari bameze mu gihe ibyaha

[714] *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, igika 867; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 327; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, igika 581.

[715] *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'iremezo, igika 421; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 328; *Urubanza rwa Tadić,* Inyandiko y'urubanza mu rw'iremezo, ibika 646-648.

[716] *Urubanza rwa Muhimana,* Inyandiko y'urubanza mu rw'iremezo, igika 527; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'iremezo, ibika 871-872; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 329; *Urubanza rwa Musema*, Inyandiko y'urubanza mu rw'iremezo, ibika 203-204.

[717] *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 582; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, igika 207; *Urubanza rwa Semanza,* Inyandiko y'urubanza mu rw'iremezo, igika 330.

byakorwaga aho kureba urwego bari basanzwe barimo »[718].

514. Mu rubanza rwa *Akayesu*, Urugereko rw'Ubujurire rwavuze ko, uretse ibirebana n'icyaha cyo gutoteza, amategeko mpuzamahanga arengera abantu mu gihe cy'intambara adasaba ko hagomba kugaragazwa umugambi w'ivangura ku byaha byose byibasiye inyokomuntu. Mu guteganya ko icyaha cyibasiye inyokomuntu kivugwa mu ngingo ya 3 ya Sitati kigomba kuba cyakozwe mu rwego rw'igitero cyibasiye abaturage b'abasiviri bazira impamvu z'ubwenegihugu, za politiki, z'ubwoko cyangwa z'idini, Inama Ishinzwe Amahoro ku Isi ntiyashakaga guha iyo nshoza ikindi gisobanuro gitandukanye n'igitangwa n'Amategeko mpuzamahanga ashingiye ku mucokarande cyangwa gushyiramo indi ngingo nshya y'amategeko[719]. Yashakaga ahubwo ko ububasha bw'Urukiko bugarukira gusa ku byaha byibasiye inyokomuntu biri mu byo yashyize ku rutonde. Bishatse kuvuga ko, kuba uwahohotewe n'icyaha cyibasiye inyokomuntu ari umwe mu bagize itsinda rivugwa nta kamaro bifite, iyo hashoboye kugaragazwa ko uwabikoze yibasiye abaturage b'abasiviri kubera imwe mu mpamvu z'ivangura zavuzwe[720].

5.2. Icyaha cy'ibanze - Gusambanya ku gahato

515. Ingingo ya 3 ya Sitati irondora, ariko itabimaze inyuma, ibikorwa bigize ibyaha byibasiye inyokomuntu birimo: ubuhotozi, itsembatsemba, gushyira abantu mu bucakara, gucira ishyanga, gufunga, ibikorwa by'urubozo, gusambanya ku gahato, gutoteza n'ibindi bikorwa bibi birenze kameremuntu. Ikirego cya 4 cy'*Inyandiko y'ibirego* gishinja

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718 *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, igika 79, aho bavuga ibyanditswe mu *rubanza rwa Blaskic,* Inyandiko y'urubanza mu rw'iremezo, igika 214.

719 *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 464-465. Koko rero, Urugereko rw'Ubujurire rwasanze impamvu yatanzwe mu ngingo ya 5 ya Sitati ya TPIY ivuga ko ibyaha byibasiye inyokomuntu « bigomba kuba byarakozwe mu gihe cy'intambara » itajyanye n'amategeko mpuzamahanga ashingiye ku muco karande, ko Inama Ishinzwe Amahoro ku Isi yashakaga gusa kwerekana urubibi ntarengwa rw'ubwoko bw'ibyaha byibasiye inyokomuntu Urukiko rushobora gukemura, kandi ko isano hagati y'ibyaha byibasiye inyokomuntu n'intambara atari icyangombwa gishya kigize ibyo byaha. Reba *Urubanza rwa Tadić,* « Icyemezo ku bujurire bunenga icyemezo cyafashwe ku cyifuzo kibyutsa ingoboka y'iburabubasha », 2 Ukwakira 1995, ibika 139-140.

720 *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 584; *Urubanza rwa Muhimana*, Inyandiko y'urubanza mu rw'iremezo, igika 529.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Uregwa icyaha cyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu. Urugereko rurasuzuma muri aka gace ibisabwa kugira ngo gusambanya ku gahato bifatwe nk'icyaha cyibasiye inyokomuntu.

516. Icyaha cyo gusambanya ku gahato nk'icyaha cyibasiye umuntu (kivugwa mu ngingo ya 3 ya Sitati) ni igikozwe gusa mu rwego rw'igitero rusange cyangwa kiri kuri gahunda, cyibasiye abaturage b'ababasiviri bazira ubwenegihugu bwabo, umutwe wa politiki barimo, ubwoko bwabo cyangwa idini ryabo. Hagomba na none gutangwa ikimenyetso kigaragaza ko gatozi yabikoze azi urwego igitero cyagabwemo cyangwa azi ko igikorwa cyangwa ibikorwa bye byari mu rwego rw'icyo gitero. Si ngombwa ariko ko aba asangiye umugambi cyangwa intego n'abakigabye. « Igitero » ni ikintu gitandukanye n'ibikorwa bivugwa mu ngingo ya 3 ya Sitati. Kugira ngo gatozi ahamwe n'icyaha cyibasiye inyokomuntu, hagomba kugaragazwa ko igitero gishingiye ku mpamvu z'ivangura, ko ari rusange cyangwa kiri kuri gahunda, ko kandi cyibasiye abaturage b'abasiviri[721].

517. Ubukemuramanza bw'inkiko mpuzamahanga zidahoraho bwungukiye byinshi mu gisobanuro cyo gusambanya ku gahato. Mbere, mu rubanza rwa *Akayesu*, uru Rukiko rwavuze ko imisesengurire y'inshoza y'igitekerezo cyo gusambanya ku gahato yarushaho kugirira akamaro amategeko mpuzamahanga, kandi ko imitekerereze iyo ari yo yose ishingiye ku bikoresho cyangwa ku bice by'umubiri yaba idahwitse. Muri urwo rubanza,

[721] *Urubanza rwa Semanza,* Inyandiko y'urubanza mu bujurire, ibika 268-269; 327-332; *Urubanza rwa Muhimana* , Inyandiko y'urubanza mu rw'iremezo, ibika 524-526; *Urubanza rwa Gacumbitsi,* Inyandiko y'urubanza mu rw'iremezo, igika 297; *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, igika 657; *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, ibika 864; 869-871; *Urubanza rwa Kordić na Čerekez,* Inyandiko y'urubanza mu bujurire, igika 94; *Urubanza rwa Blaškić,* Inyandiko y'urubanza mu bujurire, igika 101, hifashishijwe ibyanditswe mu *rubanza rwa Kunarać na bagenzi be,* Inyandiko y'urubanza mu mu bujurire, igika 94. *Urubanza rwa Ntakirutimana,* Inyandiko y'urubanza mu rw'iremezo, igika 804; *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, igika 77; *Urubanza rwa Rutaganda,* Inyandiko y'urubanza mu rw'iremezo, igika 68; *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 123; *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, ibika 202-203; *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu bujurire, igika 516; *Urubanza rwa Ndindabahizi,* ibika 478; Urubanza rwa *Akayesu* igika 579; *Urubanza rwa Simba,* igika 421; *Urubanza rwa Tadić,* Inyandiko y'urubanza mu bujurire, ibika 248, 646-649; *Urubanza rwa Krnojelać,* Inyandiko y'urubanza mu rw'iremezo, igika 55; *Urubanza rwa Krstić*, Inyandiko y'urubanza mu rw'iremezo, igika 480; *Urubanza rwa Kordić na Čerkez* , Inyandiko y'urubanza mu rw'iremezo, igika 178; *Urubanza rwa Blaškić,* Inyandiko y'urubanza mu rw'iremezo, igika 202; *Urubanza rwa Kupreškić*, Inyandiko y'urubanza mu rw'iremezo, igika 544.

Urugereko rwahisemo gusobanura gusambanya ku gahato « nk'igikorwa icyo ari cyo cyose gishingiye ku gitsina gikorewe undi muntu bitumvikanyweho »[722]. Mu buryo bwaguye, hakurikijwe imikirize y'urubanza rwa *Akayesu*, gusagarira umuntu bishingiye ku gitsina birimo no gusambanya ku gahato bifatwa nk'igikorwa icyo ari cyo cyose mpuzabitsina gikorewe umuntu ku ngufu. Urugereko rusanga icyo gisobanuro cyarashimangiwe no mu rubanza rwa Musema, urwa Niyitegeka n'urwa Muhimana[723].

518. Nyamara ariko, mu rubanza rwa *Furundžija* n'urwa *Kunarac*, Ingereko za mbere z'Iremezo za TPIY zongeye gusobanura gusambanya ku gahato ko ari ukwinjiza mu gitsina ibice bimwe by'umubiri cyangwa ibindi bintu, hakoreshejwe ingufu cyangwa agahato[724]. Urugereko rw'Ubujurire rwemeje kuri bimwe igisobanuro cyo gusambanya ku gahato cyatanzwe mu rubanza rwa *Kunarac*, aho rwavuze ko gusambanya ku gahato ari ukwijinza imboro cyangwa ikindi kintu icyo ari cyo cyose mu gituba, mu nnyo cyangwa mu kanwa k'uhohoterwa, bigakorwa ku ngufu cyangwa ku gahato. Rwavuze ariko ko urubanza rwa *Furundžija* n'izarubanjirije zatangaga igisobanuro kitaguye ukigereranyije n'icyatanzwe mu mategeko mpuzamahanga ngo kuko kwibanda ku gahato, ku ngufu cyangwa gukangisha uhohoterwa gukoresha ingufu byaba ari ukwirengagiza izindi mpamvu zishobora kugaragaza igikorwa runaka cyo kwinjiza ikintu mu gitsina bitumvikanyweho cyangwa ko uwagikorewe atabishakaga. Kubera izo mpamvu, rwasobanuye gusambanya ku gahato muri aya magambo:

> Ukwinjiza imboro cyangwa ikindi kintu icyo ari cyo cyose, n'aho byaba ari buhoro: a) mu gituba cyangwa mu nnyo by'uhohoterwa b) kwinjiza imboro, n'aho byaba ari buhoro, mu kanwa k'uhohoterwa. Ibyo byose bigakorwa usambanywa atabyemeye. Kwemera kugomba kuba ku bushake, nyir'ubwite azi neza icyakora, n'umutimanama we, bitewe n'uko ibintu byifashe[725].

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[722] *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'iremezo, ibika 598, 686-688.
[723] *Urubanza rwa Musema,* Inyandiko y'urubanza mu rw'iremezo, igika 229; *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'iremezo, igika 456; *Urubanza rwa Muhimana*, Inyandiko y'urubanza mu rw'iremezo, igika 551.Reba n'*urubanza rwa Delalic*, Inyandiko y'urubanza mu rw'iremezo, ibika 478-479.
[724] *Urubanza rwa Furundžija*, Inyandiko y'urubanza mu rw'iremezo, igika 185.
[725] *Urubanza rwa Kunarać,* Inyandiko y'urubanza mu bujurire, ibika 127-128.

519. Igitekerezo cyo gukora icyaha kigaragarira mu « mugambi wo kwinjiza igitsina […] no kuba ubikora azi neza ko uwo abikorera atabyemera »[726].

520. Mu rubanza rwa *Muhimana*, uru Rukiko rwasanze ibisobanuro byatanzwe mu rubanza rwa *Akayesu* n'urwa *Kunarac*, ku birebana no gusambanya ku gahato, bitavuguruzanya. Rwavuze ko, n'ubwo mu rubanza rwa *Akayesu*, hakoreshwa amagambo rusange « kwinjiza ikintu bishingiye ku gitsina », mu rubanza rwa *Kunarac*, hatangwa ingingo zishobora gutuma uko kwinjiza ikintu bishingiye ku gitsina bifatwa ko ari ugusambanya ku gahato »[727].

521. Urugereko ruremera iryo sesengura kandi rusanga mu kwamagana ugusambanya ku gahato, amategeko mpuzamahanga aba agamije guhana ibikorwa bikomeye binyuranyije n'ukwishyira ukizana mu birebana n'igitsina. Bibangamira rero uko kwishyira ukizana, ibikorwa byose birebana n'igitsina byo mu bwoko bw'ibivugwa mu rubanza rwa *Kunarac* bikorewe umuntu atabyemeye cyangwa atabigizemo uruhare ku bushake bwe. Kuba ubikorerwa aba atabyemeye ni ingingo ikomeye y'igikorwa cyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu. Iyo igikorwa gishingiye ku gitsina kibaye ugikorewe atabishaka, hakoreshejwe agahato cyangwa ingufu, bishobora kugaragaza ko cyakozwe uwahohotewe atabyemeye[728].

522. Urugereko rusanga ibisobanuro byatanzwe mu rubanza rwa *Akayesu* no mu rwa *Kunarac*

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[726] *Urubanza rwa Kunarać,* Inyandiko y'urubanza mu rw'iremezo, ibika 412 437 na 460; *Urubanza rwa Kunarać*, Inyandiko y'urubanza mu bujurire, igika 128.

[727] *Urubanza rwa Muhimana,* Inyandiko y'urubanza mu rw'iremezo, igika 550; *Urubanza rwa Kunarać*, Inyandiko y'urubanza mu bujurire, igika 128.

[728] Ingingo ya 96 ii) y'Amategeko iragira iti: «ii) Uregwa ntashobora kwireguza ko yakoze ibyo bikorwa ku bwumvikane n'uwahohotewe niba: (a) uwahohotewe yarakorewe ibikorwa by'urugomo, yarashyizweho agahato, yarafungiranwe cyangwa yarahahamuwe, cyangwa yarakangishijwe gukorerwa ibyo bikorwa cyangwa se yaratinyaga kubikorerwa; cyangwa (b) uwahohotewe ashyize mu gaciro yarabonaga ko aramutse atitanze, hari undi muntu washobora gukorerwa ibyo bikorwa, gukangishwa kubikorerwa cyangwa se wagira izindi mpamvu zatuma atinya kubikorerwa ». Reba na none *urubanza rwa Kunarać,* Inyandiko y'urubanza mu rw'iremezo, igika 457: « Ihame ry'ibanze rusange mu by'ukuri muri iyo miryango remezo y'amategeko ni uko ibikorwa bihungabanya ku buryo bukomeye uburenganzira bw'umuntu ku gitsina cye bigomba guhanwa. Uburenganzira bw'umuntu ku gitsina cye buba buhungabanyijwe iyo umuntu akorewe ibikorwa bishingiye ku gitsina atabyemeye ku bwende bwe, cyangwa mu bundi buryo ubwo ari bwo bwose akaba yabikoze atabishaka ».

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ku cyaha cyo gusambanya ku gahato bigaragaza ko ikigamijwe ari ukurinda ubusugire bw'uburenganzira bwa muntu ku birebana n'igitsina cye, bityo rero ko bitavuguruzanya. Byumvikanye uko bikwiye, igisobanuro cyaguye gitangwa mu rubanza rwa *Akayesu* kibona gusambanya ku gahato « ari ukwinjiza ikintu bishingiye ku gitsina » » cyaba gikubiyemo n'inshoza yo «kwinjiza ikintu mu gitsina » bivugwa mu rubanza rwa *Kunarac*. Urugereko rusanga rero icyaha cyo gusambanya ku gahato kibaho iyo umuntu yinjije imboro ye cyangwa ikindi kintu icyo ari cyo cyose mu gituba, mu nnyo cyangwa mu kanwa k'uhohoterwa, bigakorwa uhohoterwa atabyemeye cyangwa atabigizemo uruhare ku bushake bwe. Icyo gihe, igitekerezo cyihariye cyo gukora icyaha kiba kigizwe n'umugambi umuntu aba afite wo kwinjiza ikintu bishingiye ku gitsina kandi azi neza ko ubikorerwa atabyemeye[729].

523. Mu nyandiko y'ibirego, Porokireri avuga ko Uregwa aryozwa nk'ukuriye abandi, hashingiwe ku ngingo ya 6.3 ya Sitati, ibikorwa byo gusambanya ku gahato bivugwa mu gika cya 3.41 n'icya 3.41 i); akanaryozwa ibikorwa bivugwa mu mugereka usobanura neza *Inyandiko* y'ibirego, hashingiwe ku ngingo ya 6.1, kubera ko yafashije akanashishikariza abantu gusambanya ku gahato[730].

524. Ibimenyetso byatanzwe muri urubanza bigaragaza ko Abatutsikazi, bamwe muri bo ndetse bakaba bari bafite imyaka 17 gusa, basambanyijwe ku gahato n'abasirikare muri Mata no muri Gicurasi 1994, muri Perefegitura ya Butare n'iya Gikongoro. Ibimenyetso byatanzwe mu iburanisha bigaragaza ko abatangabuhamya biswe TM, QY na AFV basambanyijwe ku gahato mu duce tunyuranye twa Perefegitura ya Butare hagati ya Mata na Gicurasi 1994. Byaranagaragajwe ko buri gihe uwasambanywaga ku gahato yinjizwaga ikintu mu gituba kandi atabyemeye. Ikindi ni uko buri gikorwa cyabaye mu rwego rw'ibitero rusange byibasiye abasiviri muri Butare mu wa 1994. Bityo rero ibisabwa kugira ngo habeho icyaha cyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu biruzuye.

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[729] *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'iremezo, igika 709.

[730] *Urubanza rwa Muvunyi*, ICTR-2000-55A-T. « Inyandiko y'ibirego », 23 Ukuboza 2005; «Inyandiko ya Porokireri imenyesha ko atanze umugereka ukubiyemo ibisobanuro birambuye by'Inyandiko y'ibirego hakurikijwe amabwiriza y'Urugereko rwa Mbere rw'Iremezo », 28 Gashyantare 2005.

525. Nyamara ariko, kugira ngo icyaha gihame Uregwa, Porokireri agomba kwerekana ko Uregwa yafashije kandi agashishikariza abantu gusambanya ku gahato cyangwa akaba, mu buryo ubwo ari bwo bwose, yabiryozwa nk'uwari ukuriye ababikoze.

526. Kubera ko rwamaze gufata umwanzuro wemeza ko ibimenyetso byatanzwe bidashyigikira ikirego cyihariye ko abasirikare bo mu kigo cy'i Ngoma bakoze ibyaha byo gusambanya ku gahato, bikaba byaba ari ukurenganya no kubangamira Uregwa ibyo bimenyetso biramutse byemewe, Urugereko rwemeje ko Uregwa ADAHAMWA n'icyaha cyo gusambanya ku gahato ashinjwa mu kirego cya 4 cy'Inyandiko y'ibirego.

5.3. Ibyaha byibasiye inyokomuntu – Ibindi bikorwa bibi birenze kameremuntu

527. Mu kirego cya 5 cy'Inyandiko y'ibirego Tharcisse Muvunyi ashinjwa, hashingiwe ku ngingo ya 3(i) ya Sitati ya TPIR, kuba yarakoze « ibindi bikorwa bibi birenze kameremuntu ». Icyo cyaha gikubiyemo ibikorwa byose, n'ubwo bitafatwa ku buryo bweruye nk'ibyaha byibasiye inyokomuntu, bigereranywa n'ibikorwa bivugwa ku bika a) kugera kuri h) by'Ingingo ya 3 ya Sitati kubera kamere, imiterere, ingano, n'uburemere bwabyo[731]. Kuba harateganyijwe icyiciro cy'ibindi bikorwa bitarondorwa mu ngingo ya 3 byerekana ko biruhije gukora urutonde rwuzuye rw'ibikorwa byose by'urugomo kandi ko itegeko rigomba kugoragozwa hakurikijwe uko ibintu byifashe[732]. Urugereko rw'Ubujurire rwa TPIY ruherutse kugaragaza ko icyaha « cy'ibindi bikorwa bibi birenze kameremuntu » kitanyuranyije n'ihame rivuga ko nta cyaha kibaho iyo kidateganyijwe n'itegeko, kubera ko gikubiyemo ibikorwa byose binyuranyije n'amategeko mpuzamahanga ashingiye ku muco karande[733]. Urugereko rugena uko ruhuye n'ikibazo runaka niba igikorwa iki n'iki kiri mu rwego rw'ibivugwa mu ngingo ya 3(i)[734].

528. Nk'uko bisobanurwa n'ubukemuramanza, igikorwa gifatika kigize « ibindi byaha birenze

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[731] *Urubanza rwa Bagilishema,* Inyandiko y'urubanza mu rw'iremezo, igika 92; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, ibika 150-151; *Urubanza rwa Musema*, Inyandiko y'urubanza mu rw'iremezo, igika 232.
[732] Reba *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'Iremezo, ibika 149-150.
[733] *Urubanza rwa Stakić,* Inyandiko y'urubanza mu bujurire, igika 315.
[734] *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'Iremezo, igika 151, byavuzwe mu *rubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, igika 932.

kameremuntu » gikubiyemo ubugizi bwa nabi bushingiye ku gitsina[735], kwimura abasiviri ku gahato[736], guca ingingo z'umubiri, guhondagura n'ubundi bwoko bwose bw'ibikorwa bizahaza umubiri w'umuntu[737].

529. Ibikorwa umuntu yakoze cyangwa ibyo yateshutswe gukora bigomba kuba byarateje ku buryo bwagambiriwe ububabare buzahaza umubiri cyangwa mu mutwe, cyangwa byarateye ibikomere, cyangwa se byarahungabanyije bikomeye agaciro ka muntu[738]. Iyo igikorwa kirenze kameremuntu gikozwe hari undi muntu ubireba, «icyo gihe Uregwa abiryozwa gusa iyo yari yaritswemo n'umugambi wo gutera uwo muntu wundi ububabare bumuzahaza mu mutwe, cyangwa iyo yari azi neza ko igikorwa cye kiri butere ububabare buzahaza mu mutwe maze ntiyiteho kumenya niba icyo gikorwa kiri butere abandi ubwo bubabare cyangwa kitari bububatere »[739]. Bityo rero, iyo Uregwa mu gihe yakoraga icyaha atari azi ko hari undi muntu ubireba, ntashobora kuryozwa kuba yarateje uwo muntu wundi ububare bwo mu mutwe.

Imyanzuro y'Urugereko ku birebana n'uburyozwacyaha bw'Uregwa ku bindi bikorwa bibi birenze kameremuntu

530. Urugereko ruributsa imyanzuro yarwo ku birebana n'ibi bikurikira: ibyakorewe abatangabuhamya biswe YAN na YAO kuri *Economat général*, kuri Katederali ya Butare no kuri ESO; ibyakorewe abagore babiri b'Abatutsikazi biswe QY na AFV bakojejwe isoni ku mugaragaro kuri za bariyeri zinyuranye zari muri Butare; inkoni abasirikare ba ESO bahondaguye abasiviri b'Abatutsi ndetse n'ukuntu babakomerekereje mu kigo cy'Abeneberika no muri *Groupe scolaire.* Kubera ibyo, rusanga ibikorwa abasirikare ba

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[735] *Urubanza rwa Kamuhanda,* Inyandiko y'urubanza mu rw'Iremezo, igika 710; *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'Iremezo, ibika 465-467; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'Iremezo, igika 916; *Urubanza rwa Akayesu,* Inyandiko y'urubanza mu rw'Iremezo, igika 688.

[736] *Urubanza rwa Stakić*, Inyandiko y'urubanza mu bujurire, igika 317; *Urubanza rwa Krstić,* Inyandiko y'urubanza mu rw'Iremezo, igika 52.

[737] *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'Iremezo, ibika 465-467; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'Iremezo, ibika 934-936.

[738] *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'Iremezo, igika 151.

[739] *Urubanza rwa Kayishema na Ruzindana,* Inyandiko y'urubanza mu rw'iremezo, igika 153, byavuzwe mu *rubanza rwa Kamuhanda;* Inyandiko y'urubanza mu rw'iremezo, igika 717; *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu rw'Iremezo, igika 932.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ESO bakoreye abo bantu birenze kameremuntu, nk'uko biteganywa n'Ingingo ya 3(i) ya Sitati. Urugereko rusanga muri ibyo byose byabaye Uregwa yaragombaga kumenya ko abo yari akuriye bakoraga ibyo bikorwa binyuranyije n'amategeko. Rusanga kandi yaragenzuraga nyabyo ibikorwa byabo ariko ntiyafashe ingamba za ngombwa kandi zishyize mu gaciro kugira ngo abiburizemo cyangwa ahane ababikoze. Kuba Urugereko rwemeza ko Uregwa yagenzuraga nyabyo ibikorwa by'abo yari akuriye, rubishingira by'umwihariko k'ukuntu yari afite ibikoresho byose n'abantu ukuvuga abantu bo muri ESO, akaba yarashoboraga kohereza ingabo ze kugira ngo ziburizemo ibyo byaha cyangwa zihane ababikoze. Nk'urugero, Urugereko rusanga igihe igitero cyagabwaga muri *Groupe scolaire*, Uregwa ataratanze gusa amabwiriza yo kutagirira nabi umuryango wa Bicunda, ahubwo yaranagerageje gukiza umwana wa Bicunda amaze kumenya ko uwo mwana yari yajyananywe n'izindi mpunzi zari zigiye kwicwa. Rushingiye ku ngingo ya 6(3) ya Sitati, Uregwa aryozwa rero nk'ukuriye abandi, ibikorwa ibyakozwe n'abo yari akuriye, bityo akaba ahamwa n'ibindi bikorwa bibi birenze kameremuntu nk'ibigize ibyaha byibasiye inyokomuntu.

UMUTWE WA IV: IBYEMEZO BY'URUGEREKO

531. Kubera impamvu zasobanuwe muri iyi nyandiko y'urubanza, kandi rumaze gusuzuma ibimenyetso byose n'ingingo byatanzwe n'ababuranyi, Urugereko rwa Mbere rw'Iremezo, ku bwumvikane bw'abacamanza bose barugize, rwemeje ibi bikurikira ku birebana na Tharcisse Muvunyi:

- Ikirego cya 1: Jenoside: ICYAHA KIRAMUHAMA.
- Ikirego cya 2: Kuba icyitso cy'abakoze jenoside: IKIREGO NTICYAKIRIWE.
- Ikirego cya 3: Guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside: ICYAHA KIRAMUHAMA.
- Ikirego cya 4:Ibyaha byibasiye inyokomuntu (Gusambanya ku gahato): ICYAHA NTIKIMUHAMA.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

- Ikirego cya 5: Ibyaha byibasiye inyokomuntu (Ibindi bikorwa bibi birenze kameremuntu): ICYAHA KIRAMUHAMA

UMUTWE WA V: IGENAGIHANO

1. INTANGIRIRO

532. Mu cyemezo cyayo 955 (1994) gishyiraho Urukiko, Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye yafashe umwanzuro wemeza ko gukurikirana abantu bakekwaho kuba barakoze ibikorwa binyuranyije ku buryo bukomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara mu Rwanda mu wa 1994, byatuma intego z'ubutabera, izo guca intege abashobora gukora ibyaha, iz'ubwiyunge bw'abenegihugu, izo kugarura no kubungabunga amahoro muri icyo gihugu zigerwaho. Izo ntego zihura mu buryo busesuye n'izo igihano kigamije, ari zo: gutanga impongano y'icyaha, guca intege abashobora gukora icyaha, kugorora uwahamwe n'icyaha no kurinda umuryango nyarwanda. Mu kugenera Uregwa igihano ku byaha bimuhama, Urugereko ruragendera kuri izo ntego no ku ngingo za Sitati n'iz'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso zirebana n'ibihano. Ingingo ya 23 ya Sitati ivuga ko Urukiko rugena ibihano by'igifungo gusa. Mu kugena ibirebana n'igifungo, Urugereko rwa Mbere rw'Iremezo rwifashisha urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda, ruzirikana kandi uburemere bw'icyaha n'ibindi byihariye birebana n'uwahamwe n'icyaha. Iyo ngingo ya 23 iha ububasha Urugereko bwo gukoresha amahame abiri mu kugena ibihano, ari yo kwita ku busumbane bw'ibihano no ku bintu byihariye birebana n'Uregwa[740].

533. Ingingo ya 101 y'Amategeko, iha Urugereko rwa Mbere rw'Iremezo ububasha bwo kugena igihano cy'igifungo kimara igihe runaka cyangwa cya burundu. Iyo rugena igihano, ruzirikana impamvu zongera ububi bw'icyaha n'impamvu nyoroshyacyaha. Impamvu zongera ububi bw'icyaha zigomba kugaragazwa ku buryo budashidikanywaho,

[740] *Urubanza rwa Musema,* Inyandiko y'urubanza mu bujurire, igika 380, n'inyandiko zifashishijwe ziruvugwamo.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

naho impamvu nyoroshyacyaha zigomba gusa kugaragazwa hakurikijwe ibintu birusha ibindi gushoboka[741]. Iyo rugennye igihano cy'igifungo kimara igihe runaka, Urugereko rwa Mbere rw'Iremezo ruzirikana igihe uwakatiwe amaze afunze by'agateganyo, ni ukuvuga kuva ku itariki yafatiweho kugeza ku yo asomeweho urubanza rumuhamya icyaha runamukatira igihano.

2. IBIVUGWA N'ABABURANYI

534. Mu myanzuro ye nsozarubanza yanditse no mu yo yatanze mu magambo, Porokireri yavuze ko ibyaha Uregwa ashinjwa, by'umwihariko jenoside no gusambanya ku gahato, mu miterere yabyo ari ibyaha bikomeye bigomba guhanishwa igihano kirusha ibindi uburemere giteganywa na Sitati, ko ubukemuramanza bw'uru Rukiko n'ubw'inkiko zo mu Rwanda, ku birebana n'igenagihano, bwemera ko jenoside no gusambanya ku gahato bihanishwa igihano kirusha ibindi uburemere, kandi ko hakurikijwe Itegeko Ngenga ryo mu Rwanda, Uregwa ashobora guhanishwa igihano cyo kwicwa aramutse ahamwe n'ibyaha byo mu rwego rwa mbere.

535. Porokireri avuga kandi ko, nka ofisiye wo mu rwego rwo hejuru wari ushinzwe kurinda abasiviri muri Perefegitura ya Butare, Uregwa yatatiriye ububasha bwe kubera ko yaretse abo yari akuriye bagakora ibyaha ndengakamere bivugwa mu nyandiko y'ibirego, no kuba ubwe yarahamagariye abaturage gukorera jenoside Abatutsi. Porokireri avuga ko izo ari impamvu zongera ububi bw'ibyaha zigomba gufatwa gutyo.

536. Porokireri avuga kandi ko Uregwa nta mpamvu nyoroshyacyaha n'imwe iriho yamugirira akamaro, kandi ko aticujije na gato ibyo yakoze cyangwa ibyo abo yari akuriye bakoze. Mu gusoza kuri iki kibazo, Porokireri avuga ko ikimenyetso cyatanzwe n'Ubwunganizi kirebana n'imico myiza y'Uregwa nta kamaro gifite, ko kitagomba kwitabwabo kubera ko, muri uru rubanza, hataburanishwa ibirebana n'imico ye.

[741] *Urubanza rwa Kajelijeli,* Inyandiko y'urubanza mu bujurire, igika 294; *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'Iremezo, igika 438; *Urubanza rwa Muhimana,* Inyandiko y'urubanza mu rw'Iremezo, igika 590.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

537. Ubwunganizi ntibwagize icyo buvuga ku birebana n'igenwa ry'igihano haba mu myanzuro yabwo nsozarubanza haba n'iyo mu magambo. Bwatsimbaraye ku kuvuga gusa ko Uregwa ari umwere. Ariko rero, hashingiwe ku ngingo ya 92 *bis* y'Amategeko, Ubwunganizi bwashyikirije Urugereko ubuhamya bwanditse bwatanzwe hejuru y'indahiro n'umukobwa w'Uregwa yemezamo ko, mu buzima bwe bwose, Uregwa yabaye umuntu waranzwe n'imico myiza, wubaha amategeko, utarigeze akorera ivangura uwo ari we wese rishingiye ku bwoko cyangwa ku idini[742]. Uwo mukobwa yongeye ho ko nk'umusirikare, Uregwa yafataga kimwe abo yari akuriye kandi ko yabahaga amahirwe angana, atitaye ku bwoko bwabo. Avuga ko nk'umuntu wari warashatse, akanagira abana, Uregwa yafashaga umuryango we ko kandi yarangwaga n'ubudahemuka, by'umwihariko abahungu be babiri n'umukobwa we yashyigikiye mu bihe byose kugira ngo babe abaturage b'inyangamugayo kandi babana n'abandi mu bwihanganirane. Uwo mukobwa yasabye akomeje Urugereko ko, mu gihe rwasanga Uregwa ahamwa n'icyaha icyo ari cyo cyose akurikiranweho, rwamugenera igihano ruzirikanye ubuzima bwe bwose n'ukuntu yitaye ku muryango we no ku kiremwamuntu, runazirikana kandi ko ari inyangamugayo, ko yubaha kandi agafata abantu bose mu buryo bukwiye.

3. ISESENGURA RY'ABACAMANZA

3.1. Uburemere bw'icyaha

538. Urugereko rwasuzumye ibivugwa na Porokireri ko jenoside, guhamagarira abantu mu ruhame kandi ku buryo butaziguye gukora jenoside, no gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu, mu miterere yabyo, ari ibyaha bikomeye bigomba guhanishwa ibihano bikaze. Rusanga kandi ibyaha byose Urukiko rufitiye ububasha bwo kuburanisha, mu miterere yabyo ari ibyaha bikomeye kandi bihungabanya umutimamuntu. Bityo rero, rukoresheje ububasha bwarwo busesuye bwo kugena igihano gikwiye, Urugereko

[742] « Icyifuzo cya Tharcisse Muvunyi gisaba ko hakwakirwa ubuhamya bwanditse bw'umutangabuhamya hakurikijwe Ingingo ya 92 *bis* », cyatanzwe ku itariki ya 16 Gicurasi 2006. Urugereko rwakiriye ubwo buhamya bwanditse, mu cyemezo rwafashe mu magambo ku itariki ya 23 Kamena 2006,

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

rurazirikana imiterere n'ingano y'uruhare by'Uregwa mu mikorere y'icyaha, kimwe n'indi bintu byihariye birebana nawe kugira ngo agenerwe igihano gihuye neza n'uburemere bw'icyaha yakoze. Urugereko rwitaye ku mategeko ry'u Rwanda ahanisha igihano cyo kwicwa cyangwa cy'igifungo cya burundu[743] abakoze ibyaha bya jenoside n'ibyaha byibasiye inyokomuntu bo mu rwego rwa mbere n'urwa kabiri. Bitewe n'impamvu zitandukanye, gusambanya ku gahato bihanishwa igihano cy'igifungo kuva ku myaka 5 kugeza ku myaka 40[744]. Urugereko rwasuzumye kandi ubukemuramanza bw'uru rukiko rusanga igihano cy'igifungo cya burundu gikatirwa muri rusange abari mu myanya y'ubuyobozi bacuze umugambi w'amarorerwa cyangwa bategetse abandi kuyakora, kikanakatirwa kandi abakoranye ibyaha umurava cyangwa ubugome byihariye[745].

3.2. Ibintu byihariye k'uregwa, impamvu zongera ububi bw'icyaha n'impamvu nyoroshyacyaha

539. Urugereko rusanga igihe ibivugwa mu nyandiko y'ibirego byabaga, by'umwihariko kuva ku itariki ya 7 Mata kugeza ku ya 15 Kamena 1994, cyangwa ahagana kuri iyo tariki, Uregwa yari ofisiye mukuru mu gisirakare cy'u Rwanda. Rwamaze gufata umwanzuro ko kuva ku itariki ya 7 Mata kugeza ku ya 15 Kamena 1994, yari ofisiye mu gisirikare wari

[743] Itegeko Ngenga ryo ku itariki ya 30 Kanama 1996 rirebana n'imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenoside cyangwa ibyaha byibasiye inyokomuntu byakozwe kuva ku itariki ya 1 Ukwakira 1990. Ingingo ya 2 y'iryo tegeko ishyira abaregwa mu rwego rwa mbere n'urwa kabiri mu buryo bukurikira:
Urwego rwa mbere: a) Umuntu ibyaha yakoze cyangwa ibikorwa by'ubufatanyacyaha bishyira mu bacuze umugambi, abawuteguye abawushishikarije abandi abagenzuye n'abayoboye jenoside cyangwa ibindi byaha byibasiye inyokomuntu; b) Umuntu wari icyo gihe mu nzego z'ubuyobozi mu rwego rw'igihugu, urwa perefegitura, urwa komini, urwa segiteri cyangwa urwa serire, mu mashyaka ya politiki, mu gisirikare, mu madini, mu mitwe yitwara gisirikare ku buryo butemewe n'amategeko, akaba yarakoze ibyo byaha cyangwa akoshya abandi kubikora; c) Umwicanyi ruharwa wamamaye aho yari ari cyangwa aho yanyuze kubera umwete yagize mu bwicanyi cyangwa ubugome bukabije yabukoranye; d) Umuntu wakoze ibikorwa byo kwangiza no kwica urubozo imyanya ndangabitsina.
Urwego rwa kabiri: Umuntu ibyaha yakoze cyangwa ibikorwa by'ubufatanyacyaha bishyira mu mubare w'abishe batari mu rwego rwa mbere cyangwa bakoze ibikorwa bikomeye byagiriwe abantu bikabaviramo gupfa, hamwe n'ibyitso bye. Ingingo ya 14 iteganya ko abantu bahamwe n'ibyaha bo mu rwego rwa mbere n'urwa kabiri bahanishwa igihano cy'urupfu cyangwa igifungo cya burundu.

[744] *Urubanza rwa Muhimana,* Inyandiko y'urubanza mu rw'Iremezo, igika 592, havugwamo Ingingo ya 360 n'iya 361 z'igitabo cy'amategeko ahana ibyaha mu Rwanda.

[745] *Urubanza rwa Simba,* Inyandiko y'urubanza mu rw'Iremezo, igika 434; *Urubanza rwa Muhimana,* Inyandiko y'urubanza mu rw'Iremezo, ibika 606-614, hibutswa umwete n'ubugome bukabije Uregwa yakoranye ibyaha byibasiye abo yahohoteye; *Urubanza rwa Niyitegeka,* Inyandiko y'urubanza mu rw'Iremezo, igika 486.

ufite ipeti risumbye iry'abandi i Butare. Uretse no kuba yari ofisiye mukuru, Uregwa yari ikirangirire i Butare n'ahandi mu gihugu nk'umuntu wakoraga siporo anakina umupira w'intoki witwa « *basketball* », wajyaga mu marushanwa ngororamubiri n'indi mikino ari kumwe n'abagenzi be b'abasirikare ndetse n'abaturage b'abasiviri. Umwanya we mu kazi n'uko yafatwaga mu muryango nyarwanda byatumaga Uregwa afatwa nk'umwe mu bantu bari bakomeye i Butare bashoboraga gutuma ibintu bijya mu buryo ubu n'ubu, harimo no guhindura imyifatire yabo yari akuriye. Kubera ishingano ze, Uregwa yagombaga kandi yashoboraga gufata ingamba zose zinyuze mu gaciro kugira ngo akumire ibitero ibyo ari byo byose byibasiraga abaturage b'abasiviri. Kuba atarabujije abasirikare yategekaga gukora amarorerwa atagira ingano yibasiye abasiviri b'Abatutsi muri Butare, Urugereko rusanga ari mpamvu yongera ububi bw'icyaha. Byongeye kandi, rufata nk'impamvu zongera ububi bw'icyaha ibyabaye bikurikira:

- Kuba abasirikare bari bakuriwe n'Uregwa, bafatanyije n'abasiviri bitwaraga gisirikare, baratoranyije abana b'imfubyi mu bandi bantu bari muri *Groupe scolaire* maze bakabica babaziza ubwoko bwabo.

- Kuba Uregwa yaramaganye Burugumesitiri wa Komini ya Nyakizu amuziza ko yari yahishe umugabo w'Umututsi. Hakurikijwe amabwiriza ye, uwo Mututsi akaba yaravanywe aho yari yihishe maze agashumurizwa imbaga y'abantu bari bitwaje intwaro bakamwica.

540. Urugereko rwasuzumye kandi ubuhamya bw'abatangabuhamya benshi bashinjura bavuga ko Uregwa yarinze akanarokora abasiviri b'Abatutsi, barimo uwahoze ari Musenyeri wa Butare, umutangabuhamya wiswe M073 n'umuryango we, umuryango wa Bicunda n'abana ba mushiki w'umutangabuhamya wiswe MO69. Aho kumubera impamvu nyoroshyacyaha zirebana n'ibyabaye, Urugereko rusanga ahubwo kuba yarakoresheje ububasha yari afite maze akarinda abasiviri bamwe gusa ashingiye ku bucuti cyangwa ku masano yari afitanye na bo, bigaragaza ko yakoresheje nabi ububasha bwe. Yari afite inshingano zo kurinda abasiviri bose bari mu mazi abira, atitaye ku bwoko bwabo n'umubano bwite yari afitanye na bo. Byongeye kandi, Urugereko rusanga Uregwa yari

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

umwe mu bantu bari bashinzwe kubungabunga umutekano w'abaturage b'abasiviri i Butare. Kubera ko yakoresheje ububasha bwe, ijambo yari afite ku bantu n'uburyo yari afite mu rwego rw'akazi, mu kurinda inshuti ze n'umuryango we, nyamara akareka umubare munini w'abasiviri b'Abatutsi ukicwa n'abakoze jenoside, Urugereko rusanga Uregwa yaratatiye icyizere yari yaragiriwe n'umuryango nyarwanda kandi yarateshutse ku nshingano ze.

541. Urugereko rusanga nanone abatangabuhamya benshi baravuze ko, n'ubwo yari ofisiye wari ufite ipeta risumba iry'abandi muri ESO no muri Perefegitura ya Butare, Uregwa mu by'ukuri nta bubasha na buke yari afite. Liyetona Nizeyimana yaba ari we wari ufite ububasha nyakuri bwo gufata ibyemezo muri ESO, akaba ari na we wakoze ibyinshi mu byaha Uregwa ashinjwa cyangwa wabicuriye umugambi. Byongeye kandi, abayobozi mu rwego rwa politiki n'urwa gisirikare b'i Kigali baba bataragiriraga cyane Uregwa icyizere ku buryo akenshi bakekaga ko ashyigikiye FPR. Urugereko rusanga ibyo bidashobora kumubera impamvu nyoroshyacyaha kubera ko rwamaze gufata umwanzuro ko yari afite ububasha nyabwo bwo kugenzura abasirikare bo muri ESO kandi ko yari azi neza ko abo yari akuriye bakoraga ibyaha. Ibyo ari byo byose, iyo aza kubona bidashoboka gutegeka abo yari akuriye kwitwara neza, yagombaga nibura kumenyesha abari bamukuriye imyifatire mibisha y'abo basirikare. Kubera ko yituramiye ngo kubera ko ntacyo yashoboraga gukora ku birebana n'ibyaha bikomeye byakorwaga n'abo yari akuriye, Uregwa yateshutse nibura ku nshingano ze.

542. Nyamara ariko, urugereko rusanga, uretse ibyo guhamagarira abantu gukora ibyaha, Porokireri ataratanze ibimenyetso bihamya ko Uregwa, igihe iki n'iki, yategetse ku buryo butaziguye gukora ibyaha bimuhama, cyangwa ko yari aho ibyo byaha byakorewe mu gihe byakorwaga, cyangwa ko yabigizemo uruhare ku buryo butaziguye, cyangwa se ko yashishikarije ikorwa ryabyo. Ibyo, Urugereko rukaba rugomba kubizirikana mu igenagihano.

543. Urugereko rufata kandi nk'impamvu nyoroshyacyaha imico myiza y'Uregwa mbere yo mu wa 1994, kuba yarashatse afite n'abana batatu no kuba yaramaze igihe kinini

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

cy'ubuzima bwe akora akazi ko kurinda ubusugire bw'igihugu cye. Byongeye kandi, abatangabuhamya benshi bashinjura bavuze ko Uregwa yari umuntu wubashywe cyane kandi w'umunyamwete, wakoraga siporo cyane, akanakina umupira w'intoki witwa *«basketball»*, kandi wagize uruhare runini mu busugire bw'umuryango nyarwanda afatanyije n'abagenzi be b'abasirikare n'abaturage b'abasiviri. Byongeye kandi, ibimenyetso byatanzwe bigaragaza ko mbere yo mu wa 1994, Uregwa atigeze akorera ivangura uwo ari we wese rishingiye ku bwoko.

544. Rumaze gusuzuma ibimenyetso byose, no gushyira ku munzani impamvu zongera ububi bw'icyaha n'impamvu nyoroshyacyaha, Urugereko rwemera ko hariho impamvu zimwe z'inyoroshyacyaha.

545. Urugereko rukatiye Tharcisse Muvunyi igihano cy'igifungo cy'imyaka 25.

3.3. Gukura mu gihano igihe Uregwa amaze afunzwe by'agateganyo

546. Urugereko rusanga Uregwa yarafatiwe mu Bwongereza ku itariki ya 5 Gashyantare 2000, agafungwa kuva kuri iyo tariki, ku buryo amaze mu buroko imyaka 6 n'amezi 7 n'iminsi 6. Hakurikijwe Ingingo ya 101(D) y'Amategeko, igihe Uregwa amaze afunzwe, kuva yafatwa kugeza akatirwa, kigomba gukurwa mu gihe cy'igifungo yakatiwe.

547. Hakurikijwe Ingingo ya 102(A), urubanza rurangizwa rukimara gusomwa. Nyamara ariko, haramutse habayeho ubujurire, irangizarubanza rirasubikwa kugeza igihe hafatiwe icyemezo kuri ubwo bujurire.

548. Hakurikijwe Ingingo ya 103 y'Amategeko, Tharcisse Muvunyi azaguma mu maboko y'u Rukiko mu gihe agitegereje kwimurirwa mu gihugu azarangirizamo igihano cye niba nta bujurire bubayeho cyangwa kugeza igihe hazafatirwa icyemezo ku bujurire.

549. Uru rubanza ruciwe mu rurimi rw'icyongereza, ai na rwo rugenderwaho. Urugereko rutegetse Gerefiye guhindura bidatinze uru rubanza mu rurimi rw'igifaransa n'urw'ikinyarwanda.

550. Urubanza rusomwe ku itariki ya 12 Nzeri 2006, kandi rushyizweho umukono ku itariki ya 17 Nzeri, Arusha (Tanzaniya).

Asoka de Silva	Flavia Lattanzi	Florence Rita Arrey
[Perezida]	[Umucamanza]	[Umucamanza]

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

UMUGEREKA WA I: KWIBUTSA UKO IMIBURANISHIRIZE YAGENZE

1. INTANGIRIRO

1.1. Urukiko n'ububasha bwarwo

1. Uru rubanza Porokireri aburana na Tharcisse Muvunyi ruciwe n'Urugereko rwa Mbere rw'Iremezo II (« Urugereko ») rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Urukiko ») rugizwe n'abacamanza Asoka da Silva (Perezida w'inteko), Flavia Lattanzi na Florence Rita Arrey.

2. Urukiko rwashyizweho n'Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye imaze gusuzuma raporo zemewe z'Umuryango w'Abibumye zagaragazaga ko mu Rwanda habaye jenoside n'ibindi bikorwa binyuranyije ku buryo bukomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, byakozwe mu rwego rw'ibikorwa rusange kandi biri kuri gahunda. Inama Ishinzwe Amahoro ku Isi, imaze kubona ko ibyo bintu bibangamiye amahoro n'umutekano mu rwego mpuzamahanga; imaze kwiyemeza guhagarika ibyaha nk'ibyo no gushyikiriza inkiko ababikoze; imaze kwiyumvisha ko gushyikiriza inkiko abo bantu byashyigikira inzira y'ubwiyunge bikanagarura amahoro; ishingiye ku mutwe wa VII w'Amategeko Shingiro y'Umuryango w'Abibumbye, yafashe, ku itariki ya 8 Ugushyingo 1994, Icyemezo 955 gishyiraho Urukiko.

3. Urukiko rugengwa na Sitati yarwo yometse ku Cyemezo 955 cy'Inama Ishinzwe Amahoro ku Isi (« Sitati ») n'Amategeko yarwo Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso (« Amategeko »).

4. Urukiko rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibikorwa binyuranyije ku buryo bukomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'Abanyarwanda bacyekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda. Ingingo ya 2, iya 3 n'iya 4 za Sitati ziha Urukiko

ububasha bushingiye ku kiburanwa bwo kuburanisha ibikorwa bya jenoside, ibyaha byibasiye inyoko muntu, n'ibikorwa binyuranyije ku buryo bukomeye n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya II. Ingingo ya mbere ya Sitati ikaba igena ko Urukiko rufite ububasha bwo gusuzuma gusa ibikorwa byakozwe hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994.

1.2. Uregwa

5. Inyandiko y'ibirego ivuga ko Tharcisse Muvunyi (« Uregwa ») yavukiye muri Komimi ya Mukarange, Perefegitura ya Byumba, mu Rwanda, ku itariki ya 19 Kanama 1953.

6. Na none Inyandiko y'ibirego ivuga ko, ku itariki ya 7 Mata 1994, Uregwa yagizwe Komanda w'ishuri ry'abasuzofisiye (ESO), ishuri ryigishaga ibya gisirikare riri muri Perefegitura ya Butare. Kubera uwo mwanya, Uregwa yaba yarategekaga abasirikare bo muri iryo shuri, abajandarume, ikigo cya gisirikare cy'i Ngoma, akanagenzura n'ibikorwa byose bya gisirikare muri Perefegitura ya Butare.

1.3. Imiburanishirize

1.3.1. Icyiciro mbanzirizarubanza

7. Ku itariki ya 2 Gashyantare 2000, umucamanza Yakov Ostrosvsky yasinye urwandiko rwo gufata no gufunga Uregwa, n'itegeko ryo kumwimurira ku cyicaro cy'Urukiko. Uwo munsi kandi, uwo mucamanza yemeje Inyandiko y'ibirego ikomatanyije yo ku itariki ya 21 Mutarama 2000, anasinya itegeko ryo kutayishyira ahagaragara mu gihe itaramenyeshwa abayiregwamo bose ari bo, Tharcisse Muvunyi, Ildephonse Hategekimana na Ildephonse Nizeyimana.

8. Muvunyi yafatiwe mu Bwongereza ku itariki ya 5 Gashyantare 2000, maze yimurirwa muri gereza y'Umuryango w'Abibumbye iri Arusha muri Tanzaniya ku itariki ya 30

Ukwakira 2000. Yitabye Urukiko bwa mbere ku itariki ya 8 Ugushyingo 2000, maze aburanira imbere y'umucamanza William Sekule ahakana ibyaha ashinjwa.

9. Ku itariki ya 6 Gashyantare 2001, umucamanza Yakov Ostrovsky yemeye icyifuzo cya Porokireri cyasabaga ko havanwaho itegeko ryo kudashyira ahagaragara Inyandiko y'ibirego yo mu ikubitiro.

10. Ku itariki ya 25 Mata 2001, umucamanza Mehmet Güney yategetse ko hashyirwaho ingamba zimwe na zimwe zo kurengera abatangabuhamya bashinja zirimo kubaha amazina y'amahimbano, kuburanisha mu muhezo no kutamenyesha rubanda amakuru yatuma rumenya imyirondoro y'abatangabuhamya.

11. Urugereko rwa Mbere rw'Iremezo III rugizwe n'Abacamanza Lloyd G. Williams (Perezida w'inteko), Andresia Vaz na Khalida Rashid Khan, ni rwo rwitaye ku birebana n'imiburanishirize mbanzirizarubanza hagati y'itariki ya 11 Ugushyingo 2003 n'iya 7 Ukuboza 2004. Kuva muri Mutarama 2005, urubanza rwashinzwe Urugereko rwa Mbere rw'Iremezo II, ruburanishwa n'aba bacamanza baruciye.

12. Ku itariki ya 15 Mata 2003, Gerefiye yanze kwakira icyifuzo cy'Uregwa cyo kwirukana Avoka mukuru umwunganira yagenewe ku buntu ari we Me Michael Fisher. Uregwa yasabye Perezida w'Urukiko gusesa icyemezo cyafashwe na Gerefiye, ariko icyifuzo cye nticyakiriwe ku itariki ya 12 Nzeri 2003. Cyakora, mu cyemezo cyafashwe ku itariki ya 18 Ugushyingo 2003, Urugereko rwa Mbere rw'Iremezo III rwafashe umwanzuro wemeza ko kuba Uregwa na Avoka mukuru umwunganira nta mishyikirano bagirana ari ikintu kibangamiye imiburanishirize, bikaba rero byafatwa nk'ibintu bidasanzwe nk'uko biteganywa n'Ingingo ya 45(H) y'Amategeko, bityo rutegeka Gerefiye gusezerera Avoka mukuru wunganira Uregwa. Ku itariki ya 19 Ugushyingo 2003, Me Michael Fisher yasimbuwe na Me Francis Musei, nka Avoka w'agateganyo.

13. Ku itariki ya 11 Ugushyingo 2003, Urugereko rwa Mbere rw'Iremezo III rwemeye ko ubuhamya bw'umutangabuhamya wiswe QX bwumvirwa mu Rwanda. Ku itariki ya 27 Ugushyingo 2003, Urugereko rwa Mbere rw'Iremezo III rwanze kwakira icyifuzo

cy'Uregwa cyasabaga kwemererwa kujuririra icyo cyemezo, maze ruvuga ko Avoka w'agateganyo azahagararira Uregwa nk'uko bikwiye igihe cy'ubwo buhamya. Me William Taylor yagizwe Avoka mukuru wunganira Uregwa ku itariki ya 7 Mutarama 2004.

14. Mu nama ntegurarubanza yo ku itariki ya 7 Ukuboza 2004, hateganyijwe ko iburanisha ry'urubanza rigomba gutangira ku itariki ya 28 Gashyantare 2005. Porokireri yategetswe gutanga imyanzuro mbazirizarubanza mbere y'itariki ya 25 Mutarama 2005.

1.3.2. Inyandiko y'ibirego

15. Ku itariki ya 11 Ukuboza 2003, Urugereko rwa Mbere rw'Iremezo III rwemeye icyifuzo cya Porokireri cyasabaga gutandukanya urubanza rw'Uregwa n'iz'abandi no kumuburanisha wenyine, kubera ko rwasanze inyungu z'ubutabera zisaba ko Uregwa yacirwa urubanza bidatinze. Ku itariki ya 22 Ukuboza 2003, Porokireri yatanze *Inyandiko y'ibirego* yahinduwe (« *Inyandiko y'ibirego* ») ifite nomero ICTR-2000-55A.

16. Ku itariki ya 23 Gashyantare 2005, Urugereko rwanze kwakira icyifuzo cya Porokireri cyasabaga uburenganzira bwo guhindura Inyandiko y'ibirego hagamijwe gusobanura kurushaho ibyabaye bishyigikira ibirego no gukuramo ikirego cya kane n'icya gatanu, ari byo gusambanya ku gahato n'ibikorwa bibi birenze kameremuntu nk'ibyaha byibasiye inyokomuntu, kuko rwasanze mu byo Porokireri yasaba guhindura harimo ibintu umunani byari ibirego bishya. Urugereko rwa Mbere rw'Iremezo rwemeye icyifuzo cya Porokireri cyasabaga uburenganzira bwo kujuririra icyemezo cyarwo, ariko Urugereko rw'Ubujurire rwemeje icyemezo cyafashwe mu rwa Mbere rw'Iremezo. Urugereko rw'ubujurire rwavuze ko n'ubwo Urugereko rwa Mbere rw'Iremezo rwakoze amakosa mu kwita ibirego bishya ibintu bimwe mu byo Porokireri yashakaga guhindura, rwakoresheje mu buryo buboneye ububasha bwarwo aho rwasanze kwemera ko ibintu bihindurwa ku matariki yegereje itangira ry'urubanza byazarutinza, bityo bikabangamira Uregwa. Ku itariki ya 24 Kamena 2005, Porokireri yatanze umugereka ugamije gusobanura neza ibyabaye bivugwa mu nyandiko y'ibirego, nta bindi birego yongeyemo.

17. Inyandiko y'ibirego yahinduwe ikubiyemo ibirego bitanu: jenoside; kuba icyitso cy'abakoze jenoside, mu gihe icyaha cya jenoside cyaramuka kitamuhamye; guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside; gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu, n'ibindi bikorwa bibi birenze kameremuntu nk'ibyaha byibasiye inyokomuntu.

18. Muri iyo nyandiko y'ibirego havugwamo ko ibyo byaha byakorewe mu Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukoboza 1994 muri Perefegitura ya Butare, mu Rwanda, aho Abahutu, Abatutsi n'Abatwa bafatwaga nk'amoko atandukanye. Inyandiko y'ibirego ivuga ko muri icyo gihe, ibitero byo mu rwego rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri bazira imitwe ya politiki barimo cyangwa ubwoko bwabo, kandi ko mu Rwanda hari intambara itari iyo mu rwego mpuzamahanga.

19. Na none, Inyandiko y'ibirego ivuga ko, kubera umwanya yari afite, Uregwa yari azi cyangwa se yagombaga kuba azi ko ubwicanyi n'andi marorerwa byakorerwaga i Butare n'abantu yategekaga ariko akaba ntacyo yakoze kugira ngo abiburizemo cyangwa se abihagarike.

Icyiciro cy'iburanisha

20. Iburanisha ry'urubanza rw'Uregwa ryatangiye ku itariki ya 28 Gashyantare 2005. Mu minsi 76 y'iburanisha, Urugereko rwumvise ubuhamya bw'abatangabuhamya 47, barimo 24 bashinja habariwemo n'umupererezi n'abatangabuhamya babiri b'impuguke, na 23 bashinjura habariwemo umwe w'impuguke.

21. Ku itariki ya 24 Werurwe 2005, Porokireri yatanze icyifuzo gisaba guhamagaza abatangabuhamya 29 b'inyongera kuko Urugereko rutari rwamwemereye kuvana ibirego bibiri mu nyandiko y'ibirego. Urugereko rwasabye Porokireri kongera gusuzuma urutonde rw'abatangabuhamya be b'inyongera, akongeramo gusa abo ubuhamya buzashyigikira ikirego cya kane n'icya gatanu, ari byo gusambanya ku gahato n'ibindi bikorwa bibi birenze kameremuntu nk'ibyaha byibasiye inyokomuntu. Porokireri

yongeye ku rutonde rw'ibanze rw'abatangabuhamya bashinja amazina atandatu. Mu cyemezo rwafashe ku itariki ya 20 Kamena 2005, Urugereko rwanze kwakira icyifuzo cy'Ubwunganizi cyari kigamije gusaba ko ubwo buhamya bw'inyongera butakwakirwa. Urugereko rwavuze ko inyandikomvugo z'abo batangabuhamya zagaragazaga ko ubuhamya bwabo buzaba buje gushyigikira ikirego cya kane n'icya gatanu.

22. Ku itariki ya 27 Kamena 2005, Ubwunganizi bwatanze icyifuzo cyasabaga ko ubuhamya bw'umutangabuhamya wiswe TQ butakwakirwa kubera ko yahoze ari umukozi wa Komite Mpuzamahanga y'Umuryango Utabara Imbabare *(ICRC)* kandi akaba yaratanze ubuhamya mu rubanza rwitiriwe Butare. Mu cyemezo cyo ku itariki ya 13 Ukwakira 2005, Urugereko rwanze kwakira icyo cyifuzo kubera ko rwasanze mu buhamya bwa mbere bw'uwo mutangabuhamya, bigaragara ko mu gihe kivugwa yari umukozi wa Sosiyeti mbiligi y'umuryango utabara imbabare *(BRCS),* rukaba kandi rwarasanze iyo sosiyete atari iyo mu rwego mpuzamahanga bityo ruvuga ko bitayibuza gutanga amakuru umukozi wayo yaba azi.

23. Porokireri yarangije gutanga ibimenyetso bye ku itariki ya 20 Nyakanga 2005.

24. Ku itariki ya 15 Kanama 2005, Ubwunganizi bwatanze icyifuzo gisaba ko Uregwa yahanagurwaho ibyaha hakurikijwe ibiteganywa n'Ingingo ya 98 *bis*. Ku itariki ya 14 Ukwakira 2005, Urugereko rwanze kwakira icyifuzo cy'Uregwa kuri buri cyaha, kubera ko rwasangaga hari ibimenyetso bihagije umucamanza usuzuma ibyabaye ushyira mu gaciro yashobora guheraho yemeza ko Uregwa ahamwa na buri cyaha muri bitanu aregwa. Urugereko rwemeje ko guhamwa na buri cyaha kivugwa mu kirego cya mbere n'icya kabiri byashingira ku ngingo ya 6(1) n'iya 6(3) za Sitati; ku kirego cya gatatu, guhamwa n'icyaha byashingira ku ngingo ya 6(1) Sitati, kandi ko Ingingo ya 6(3) ya Sitati ishobora gushingirwaho mu kwemeza ko Uregwa yakoze ibyaha bivugwa mu kirego cya kane n'icya gatanu.

25. Ku itariki ya 20 Ukwakira 2005, Urugereko rwafashe ingamba zo kurinda abatangabuhamya bashinjura zari zasabwe n'Ubwunganizi kandi Porokireri atari yagize

icyo anengaho, ariko rusaba Ubwunganizi gushyikiriza Porokireri inyandiko z'ubuhamya zitarimo ibice bisibasibye n'amakuru yose arebana n'umwirondoro wa buri mutangabuhamya hasigaye nibura iminsi 21 ngo umutangabubuhamya atange ubuhamya bwe. Urugereko rwafashe umwanzuro uvuga ko ingamba z'inyongera zo kwita ku batangabuhamya zasabwe n'Ubwunganizi Porokireri akazitambamira zabangamira inshingano ya Porokireri yo guhererekanya amakuru, bityo zikaba zabangamira inyungu z'ubutabera.

26. Ku itariki ya 6 Ukwakira 2005, Ubwunganizi bwatanze icyifuzo cyasabaga gusubika urubanza kuva ku itariki ya 14 Ugushyingo 2005 kugeza mu ntangiriro z'umwaka wa 2006. Urugereko rwasanze ibibazo byavuzwe na Avoka wunganira Uregwa byari kuba byarasuzumiwe mu ikipe y'Ubwunganizi, maze ntirwakira icyifuzo cyabwo, ahubwo rubutegeka gutangira gutanga ibimenyetso byabwo ku itariki ya 14 Ugushyingo 2005.

27. Ku itariki ya 25 Ukwakira 2005, Porokireri yatanze icyifuzo gisaba ko yagezwaho amakuru yamufasha kumenya umwirondoro w'abatangabuhamya bashinjura. Yavugaga ko kugeza icyo gihe yari yaramenyeshejwe gusa izina ry'umutangabuhamya wa mbere ushinjura wiswe MO60 kandi ko nta yandi makuru yari afite kuri uwo mutangabuhamya cyangwa ku wundi mutangabuhamya uwo ari we wese muri 39 bashinjura. Ku itariki ya 9 Ugushyingo 2005, Urugereko rwibukije icyemezo rwafashe ku itariki ya 20 Ukwakira 2005 maze rwongera gusobanura kurushaho imiterere y'amakuru ubwunganizi bugomba gutanga ku birebana n'abatangabuhamya babwo kugira ngo imyirondoro yabo ishobore kumenyekana.

28. Ku itariki ya 14 Ugushyingo 2005, Ubwunganizi bwatanze icyifuzo cyihutirwa gisaba isubikwa ry'urubanza. Uwo munsi, Urugereko rwafashe icyemezo mu magambo gitegeka Ubwunganizi gushyikiriza Porokireri inyandiko z'ubuhamya bw'abatangabuhamya babwo batatu ba mbere, ari bo abiswe MO60, M070 na MO38 bitarenze ku itariki ya 21 Ugushyingo 2005 kandi bugatangira gutanga ibimenyetso byabwo ku itariki ya 5 Ukuboza 2005. Ku birebana n'abandi batangabuhamya bashinjura, Urugereko rwategetse Ubwunganizi gushyikiriza Porokireri amakuru azamufasha kumenya imyirondoro yabo

bitarenze iminsi 21 mbere y'uko batanga ubuhamya, kandi rwimurira iburanisha ry'urubanza ku itariki ya 5 Ukuboza 2005.

29. Ubwunganizi bwatangiye gutanga ibimenyetso byabwo ku itariki ya 5 Ukuboza 2005.

30. Ku itariki ya 21 Ukuboza 2005, Avoka mukuru wunganira Uregwa yatanze icyifuzo cyo kwirukana umwungirije avuga ko batumvikana kandi ko atanumvikana n'abandi bagize ikipe y'Ubwunganizi.

31. Mu ibaza rinyomoza rya Augustin Ndindiliyimana, umutangabuhamya ushinjura, ku itariki ya 7 Ukuboza 2005, Porokireri yashatse gutanga mu rubanza inyandiko zitandukanye ngo zaba zarashyizweho umukono n'Uregwa nka « Komanda w'akarere ka Butare-Gikongoro ». Urugereko rwavuze ko zitakwakirwa nk'ibimenyetso gihamya, ariko rutegeka ko zihabwa numero PID1 yo kuziranga, runavuga kandi ko Porokireri ashobora kugagaragaza nyuma ko izo nyandiko ari imvaho abinyujije ku batangabuhamya azahamagaza mu rubanza.

32. Ku itariki ya 31 Mutarama 2006, Porokireri yatanze icyifuzo gisaba Urugereko kwemera inyandiko zahawe numero PID1. Mu cyemezo cyarwo cyo ku itariki ya 28 Gashyantare 2006, Urugereko rwanze kwakira icyo cyifuzo ruvuga ko izo nyandiko uko ari eshatu, umuntu atazitinzeho zidakwiye kwakirwa hakurikijwe Amategeko n'ubwo zisa nk'aho zifite aho zihuriye n'uru rubanza. Ku itariki ya 30 Werurwe 2006, Porokireri yatanze icyifuzo cy'inyongera gisaba uburenganzira bwo gutumiza impuguke mu gusuzuma inyandiko yitwa Antipas Nyanjwa kugira ngo yemeze ko inyandiko zahawe numero PID1 ari imvaho.Urugereko rwafashe umwanzuro uvuga ko kumva umutangabuhamya kuri izo nyandiko bijyanye n'icyari kigamijwe cy'ibanze cyo kumenya ukuri ku byabaye Uregwa ashinjwa, kandi ko Bwana Nyanjwa afite ubumenyi bwatuma atanga ubuhamya muri urwo rwego. Urugereko rwavuze kandi ko Ubwunganizi buzahabwa umwanya, nibubishaka, wo gutanga ibimenyetso bivuguruza cyangwa binenga ku bundi buryo ubwo ari bwo bwose ubwo buhamya bw'impuguke.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

33. Ku itariki ya 20 Werurwe 2006, Ubwunganizi bwatanze icyifuzo gisaba uruhushya rwo kongera umubare w'abatangabuhamya babwo no guhindura urutonde rwabo. Bwasabaga uburenganzira bwo kongeraho umutangabuhamya watanze ubuhamya mu rubanza rwiswe « *Militaire II* » no mu rwiswe « *Gouvernement II »,* buvuga ko yaba afite amakuru ashinjura yagira akamaro mu mikirize y'uru rubanza. Rumaze gusuzuma inyandikomvugo z'iburanisha zikubiyemo ubuhamya bw'umutangabuhamya wiswe AOG mu rubanza rwiswe *« Militaire II »,* rwafashe icyemezo ku itariki ya 28 Werurwe 2006 cyo kutakira icyifuzo cy'Ubwunganizi. Urugereko rwasanze nta mvugo n'imwe y'uwo mutangabuhamya muri urwo rubanza irebana ku buryo butaziguye n'icyaha icyo ari cyo cyose Muvunyi ashinjwa mu nyandinko y'ibirego. Rwasanze kandi muri izo manza zabanje, uwo mutangabuhamya yaratanze ubuhamya bushinja, kandi ko Ubwunganizi nta kimenyetso gifatika na kimwe bwagaragaje cyerekanaga ko yari yiteguye gutanga ubuhamya bushinjura.

34. Porokireri n'Ubwunganizi batanze imyanzuro nsozarubanza yanditse ku itariki ya 15 Kamena 2006, naho iyo mu magambo bayivuga ku itariki ya 22 Kamena 2006 no ku ya 23 Kamena 2006.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

UMUGEREKA WA II: UBUKEMURAMANZA

1. URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA (TPIR)

AKAYESU

Urubanza Porokireri aburana na Jean-Paul Akayesu, N° ICTR-96-4-T, Inyandiko y'urubanza mu rw'iremezo, 2 Nzeri 1998.

Urubanza Porokireri aburana na Jean-Paul Akayesu, N° ICTR-96-4-A, Inyandiko y'urubanza mu bujurire, 1 Kamena 2001.

BAGILISHEMA

Urubanza Porokireri aburana na Ignace Bagilishema, N° ICTR-95-1A-T, Inyandiko y'urubanza mu rw'iremezo, 7 Kamena 2001.

Urubanza Porokireri aburana na Ignace Bagilishema, N° ICTR-95-1A-A, Inyandiko y'urubanza mu bujurire, 12 Ukuboza 2002.

GACUMBITSI

Urubanza Porokireri aburana na Sylvestre Gacumbitsi, N° ICTR-2001-64-T, Inyandiko y'urubanza mu rw'iremezo, 17 Kamena 2004

Urubanza Porokireri aburana na Gacumbitsi, N° ICTR-2001-64-A, Inyandiko y'urubanza mu bujurire, 7 Nyakanga 2006

KAJELIJELI

Urubanza Porokireri aburana na Juvénal Kajelijeli, N° ICTR-98-44A-T, Inyandiko y'urubanza mu rw'iremezo, 1 Ukuboza 2003,

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Urubanza Porokireri aburana na Kajelijeli, N° ICTR-99-44-A, Inyandiko y'urubanza mu bujurire, 23 Gicurasi 2005

KAMUHANDA

Urubanza Porokireri aburana na Kamuhanda, N° ICTR-95-54A-T, Inyandiko y'urubanza mu rw'iremezo, 22 Mutarama 2004

Urubanza Porokireri aburana na Kamuhanda, N° ICTR-95-54A-A, Inyandiko y'urubanza mu bujurire, 19 Nzeri 2005

KAREMERA NA BAGENZI BE

Urubanza Porokireri aburana na Karemera na bagenzi be, N° ICTR-98-44-A, Icyemezo ku bujurire bwa Porokireri ajuririra icyemezo cy'ingoboka cyafashwe ku birebana n'ibyo ababuranyi batajyaho impaka (mu bujurire), 16 Kamena 2006.

Urubanza rwa Karemera na bagenzi be, N° ICTR-98-44-T, Icyemezo ku cyifuzo cya Porokireri ku birebana n'ibyo ababuranyi batajyaho impaka (mu rw'iremezo), 9 Ugushyingo 2005.

KAYISHEMA NA RUZINDANA

Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana, N° ICTR-95-1-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gicurasi 1999.

Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana, N° ICTR-95-1-A, Inyandiko y'urubanza mu bujurire, 1 Kamena 2001.

MUHIMANA

Urubanza Porokireri aburana na Muhimana, N° ICTR-95-1B-T, Inyandiko y'urubanza mu rw'iremezo, 28 Mata 2005.

MUSEMA

Urubanza Porokireri aburana na Musema, N° ICTR-96-13-T, Inyandiko y'urubanza mu rw'iremezo, 27 Mutarama 2000.

Urubanza Porokireri aburana na Musema, N° ICTR-96-13-A, Inyandiko y'urubanza mu bujurire, 16 Ugushyingo 2001.

MUVUNYI

Urubanza Porokireri aburana na Muvunyi, N° ICTR-2000-55A-PT, Icyemezo ku cyifuzo cya Porokireri gisaba uruhushya rwo gutanga Inyandiko y'ibirego yahinduwe (mu rw'iremezo), 23 Gashyantare 2005.

Urubanza Porokireri aburana na Muvunyi, N° ICTR-2000-55A-T, Icyemezo ku bujurire bwa Porokireri ajuririra icyemezo cy'ingoboka cyafashwe n'Urugereko rwa Mbere rw'Iremezo II, 23 Gashyantare 2005 (mu bujurire), 12 Gicurasi 2005.

NAHIMANA NA BAGENZI BE

Urubanza Porokireri aburana na Nahimana na bagenzi be, N° ICTR-99-52-T, Inyandiko y'urubanza mu rw'iremezo, 3 Ukuboza 2003,

NDINDABAHIZI

Urubanza Porokireri aburana na Ndindabahizi, N° ICTR-2001-71-I, Inyandiko y'urubanza mu rw'iremezo, 15 Nyakanga 2004

NIYITEGEKA

Urubanza Porokireri aburana na Niyitegeka, N° ICTR-96-14-T, Inyandiko y'urubanza mu rw'iremezo, 16 Gicurasi 2003

Urubanza Porokireri aburana na Niyitegeka, N° ICTR-96-14-A, Inyandiko y'urubanza mu bujurire, 9 Nyakanga 2004

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

NTAGERURA NA BAGENZI BE

Urubanza Porokireri aburana na Ntagerura na bagenzi be, N° ICTR-99-46-T, Inyandiko y'urubanza mu rw'iremezo, 25 Gashyantare 2004

NTAHOBALI NA NYIRAMASUHUKO

Urubanza Nyiramasuhuko aburana na Porokireri, N° ICTR-98-42-T, Icyemezo ku bujurire bwa Nyiramasuhuko burebana n'iyakirwa ry'ibimenyetso, 4 Ukwakira 2004, igika cya 5 n'icya 7.

NTAKIRUTIMANA

Urubanza Porokireri aburana na Elizaphan Ntakirutimana na Gérard Ntakirutimana, N° ICTR-96-10-A, na ICTR-96-17-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gashyantare 2003.

Urubanza Porokireri aburana na Elizaphan Ntakirutimana na Gérard Ntakirutimana, N° ICTR-96-10-A na N° ICTR-96-17-A, Inyandiko y'urubanza mu bujurire, 13 Ukuboza 2004.

RUTAGANDA

Urubanza Porokireri aburana na Rutaganda, N° ICTR-96-3-T, Inyandiko y'urubanza mu rw'iremezo, 6 Ukuboza 1999.

Urubanza Porokireri aburana na Rutaganda, N° ICTR-96-3-A, Inyandiko y'urubanza mu bujurire, 26 Gicurasi 2003.

RUTAGANIRA

Urubanza Porokireri aburana na Rutaganira, N° ICTR-95-1C-T, Inyandiko y'urubanza mu rw'iremezo, 14 Werurwe 2005.

SEMANZA

Urubanza Porokireri aburana na Semanza, N° ICTR-97-20-T, Inyandiko y'urubanza mu rw'iremezo, 15 Gicurasi 2003.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Urubanza Porokireri aburana na Semanza, N° ICTR-97-20-A, Inyandiko y'urubanza mu bujurire, 20 Gicurasi 2005.

SERUSHAGO

Urubanza Porokireri aburana na Serushago, N° ICTR-98-39-T, Inyandiko y'urubanza mu rw'iremezo, 5 Gashyantare 1999.

SIMBA

Urubanza Porokireri aburana na Simba, N° ICTR-01-76-T, Inyandiko y'urubanza mu rw'iremezo, 13 Ukuboza 2005.

2. URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO ICYAHOZE CYITWA YUGOSILAVIYA (TPIY)

ALEKSOVSKI

Urubanza Porokireri aburana na Aleksovski, N° IT-95-14/1-A, Inyandiko y'urubanza mu bujurire, 24 Werurwe 2000

BLAGOVEJIĆ NA JOKIĆ

Urubanza Porokireri aburana na Blagovejić na Jokić, N° IT-02-60-T, Inyandiko y'urubanza mu rw'iremezo, 17 Mutarama 2005.

BLAŠKIĆ

Urubanza Porokireri aburana na Blaškić, N° IT-95-14-T, Inyandiko y'urubanza mu rw'iremezo, 3 Werurwe 2000.

Urubanza Porokireri aburana na Blaškić, N° IT-95-14-A, Inyandiko y'urubanza mu bujurire, 29 Nyakanga 2004.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

BRDJANIN NA TALIĆ

Urubanza Porokireri aburana na Brdjanin na Talić, N° IT-99-36-T, Inyandiko y'urubanza mu rw'iremezo, 1 Nzeri 2004.

DELELIĆ NA BAGENZI BE (ČELEBIĆI)

Urubanza Porokireri aburana na Delalić na bagenzi be, N° IT-96-21-T, Inyandiko y'urubanza mu rw'iremezo, 16 Ugushyingo 1998.

Urubanza Porokireri aburana na Delalić na bagenzi be, N° IT-96-21-A, Inyandiko y'urubanza mu bujurire, 20 Gashyantare 2001.

FURUNDŽIJA

Urubanza Porokireri aburana na Furundžija, N° IT-95-17/1-T, Inyandiko y'urubanza mu rw'iremezo, 10 Ukuboza 1998.

GALIĆ

Urubanza Porokireri aburana na Galić, N° IT-98-29-T, Inyandiko y'urubanza mu rw'iremezo, 5 Ukuboza 2003.

JELIŠIĆ

Urubanza Porokireri aburana na Jelišić, N° IT-95-10-T, Inyandiko y'urubanza mu rw'iremezo, 14 Ukuboza 1999.

Urubanza Porokireri aburana na Jelišić, N° IT-95-10-A, Inyandiko y'urubanza mu bujurire, 5 Nyakanga 2001.

KORDIĆ NA CERKEŽ

U*rubanza Porokireri aburana na Kordić na Cerkež,* N° IT-95-14/2-T, Inyandiko y'urubanza mu rw'iremezo, 26 Gashyantare 2001.

Urubanza Porokireri aburana na Kordić na Cerkež, N° IT-95-14/2-A, Inyandiko y'urubanza mu bujurire, 17 Ukuboza 2004.

KRNOJELAC na bagenzi be

Urubanza Porokireri aburana na Krnojelac, N° IT-97-25-T, Inyandiko y'urubanza mu rw'iremezo, 15 Werurwe 2002.

KRSTIĆ

Urubanza Porokireri aburana na Krstić, N° IT-98-33-T, Inyandiko y'urubanza mu rw'iremezo, 2 Kanama 2001.

Urubanza Porokireri aburana na Krstić, N° IT-98-33-A, Inyandiko y'urubanza mu bujurire, 19 Mata 2004

***KUNARAC* NA BAGENZI BE**

Urubanza Porokireri aburana na Dragoljub Kunarac na bagenzi be, N° IT-96-23 na IT-96-23/1, Inyandiko y'urubanza mu rw'iremezo, 22 Gashyantare 2001.

Urubanza Porokireri aburana na Dragoljub Kunarac na bagenzi be, N° IT-96-23 na IT-96-23/1-A, Inyandiko y'urubanza mu bujurire, 12 Kamena 2002.

KUPREŠKIĆ NA BAGENZI BE

Urubanza Porokireri aburana na Kupreškić na bagenzi be, N° IT-95-16-T, Inyandiko y'urubanza mu rw'iremezo, 14 Mutarama 2000.

Urubanza Porokireri aburana na Kupreškić na bagenzi be, N° IT-95-16-A, Inyandiko y'urubanza mu bujurire, 23 Ukwakira 2001.

KVOČKA NA BAGENZI BE

Urubanza Porokireri aburana na Kvočka na bagenzi be, N° IT-98-30/1-T, Inyandiko y'urubanza mu rw'iremezo, 2 Ugushyingo 2001.

Urubanza Porokireri aburana na Kvočka na bagenzi be, N° IT-98-30/1-A, Inyandiko y'urubanza mu bujurire, 28 Gashyantare 2005.

NALETILIĆ NA MARTINOVIĆ

Urubanza Porokireri aburana na Naletilić na Martinović, N° IT-98-34-T, Inyandiko y'urubanza mu rw'iremezo, 31 Werurwe 2003.

STAKIĆ

Urubanza Porokireri aburana na Stakić, N° IT-97-24-T, Inyandiko y'urubanza mu rw'iremezo, 31 Nyakanga 2003.

Urubanza Porokireri aburana na Stakić, N° IT-97-24-T, Inyandiko y'urubanza mu bujurire, 22 Werurwe 2006.

TADIĆ

Urubanza Porokireri aburana na Tadić, Icyemezo ku bujurire bw'Ubwunganizi bujuririra icyemezo ku kibazo cy'ingoboka cyerekeye iburabubasha, 2 Ukwakira 1995.

Urubanza Porokireri aburana na Tadić, N° IT-94-1-T, Inyandiko y'urubanza mu rw'iremezo, 7 Gicurasi 1997.

Urubanza Porokireri aburana na Tadić, N° IT-94-1-A, Inyandiko y'urubanza mu bujurire, 15 Nyakanga 1999.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

VASILJEVIĆ

Urubanza Porokireri aburana na Vasiljević, N° IT-98-32-T, Inyandiko y'urubanza mu rw'iremezo, 29 Ugushyingo 2002.

Urubanza Porokireri aburana na Vasiljevic, No IT-98-32-A, Inyandiko y'urubanza mu bujurire, 25 Gashyantare 2004.

UMUGEREKA WA III: INYANDIKO Y'IBIREGO N'UMUGEREKA WAYO UKUBIYEMO IBISOBANURO BIRAMBUYE

UMURYANGO W'ABIBUMBYE

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

Umwimerere: Icyongereza

URUBANZA N° ICTR-2000-55A-T

POROKIRERI

ABURANA NA

THARCISSE MUVUNYI

INYANDIKO Y'IBIREGO

1. Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, ashingiye ku bubasha ahabwa n'Ingingo ya 17 ya Sitati Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (Sitati), ashinja:

Tharcisse Muvunyi

Icyaha cya **JENOSIDE** cyangwa, kiramutse kitamuhamye, akamushinja **KUBA ICYITSO CY'ABAKOZE JENOSIDE.** Amushinja kandi **GUHAMAGARIRA ABANTU KU BURYO BUTAZIGUYE KANDI MU RUHAME GUKORA**

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

JENOSIDE, N'IBYAHA BYIBASIYE INYOKOMUNTU. Ibi byaha byose biteganywa n'Ingingo ya 2 n'iya 3 za Sitati.

2. UREGWA: THARCISSE MUVUNYI

2.1. **Tharcisse Muvunyi** yavukiye muri Komine ya Mukarange, Perefegitura ya Byumba, ku itariki ya 19 Kanama 1953.

2.2. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, kugeza ubwo yavaga mu Rwanda, **Tharcisse Muvunyi** yari Komanda w'ishuri rya ESO. Yagizwe Komanda w'iryo shuri ku itariki ya 7 Mata 1994, ubwo Koloneli Marcel Gatsinzi, wari umukuriye, yari amaze kugirwa umugaba mukuru w'agateganyo w'ingabo z'u Rwanda.

2.3. Nk'umuyobozi wa ESO, Uregwa yari akuriye aba ofisiye n'abandi basirikare bo muri iryo shuri. Yari akuriye kandi yagenzuraga jandarumori, ikigo cy'abasirikare cy'i Ngoma, n'ibikorwa byose bya gisirikare muri Perefegitura ya Butare.

3. INCAMAKE Y'IBYABAYE

3.1. Ibyaha bivugwa muri iyi Nyandiko y'ibirego byakorewe mu Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994.

3.2. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, u Rwanda rwari rugabanyijemo amaperefegitura 11 ari yo: Butare, Byumba, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Perefegitura y'Umugi wa Kigali (PVK), Kigali-Ngari na Ruhengeri. Buri perefegitura yari igabanyijemo amakomine n'amasegiteri.

3.3. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, Perefegitura ya Butare yari igizwe n'amakomine 20 ari yo: Nyakizu, Kigembe, Gishamvu, Ngoma, Runyinya,

Maraba, Ruhashya, Mbazi, Shyanda, Muyaga, Mugusa, Nyaruhengeri, Ndora, Muganza, Kibayi, Rusatira, Nyabisindu, Ntyazo, Muyira na Huye.

3.4. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Abatutsi, Abahutu n'Abatwa bari bazwi nk'amoko atandukanye.

3.5. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, mu Rwanda hose habaye ibitero rusange cyangwa biri kuri gahunda, byibasiye abaturage b'abasiviri bazira amashyaka barimo cyangwa ubwoko bwabo.

3.6. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, mu Rwanda hari intambara itari mu rwego mpuzamahanga ishyamiranyije Guverinoma y'u Rwanda na FPR. Abakorewe ibyaha bavugwa muri iyi nyandiko y'ibirego, bari muri Perefegitura ya Butare, barimo abasiviri b'Abatutsi, n'abasiviri b'abahutu batari intagondwa. Abo bantu bari mu matsinda ateganywa n'amategeko hakurikijwe Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Umugereka wayo wa kabiri (II). Byongeye kandi, abo bantu ntabwo bari mu mirwano.

Guverinoma

3.7. Nk'uko biteganywa n'Itegeko Nshinga ryo ku itariki ya 10 Kamena 1991, ubutegetsi nyubahirizategeko bushinzwe Perezida wa Repuburika, afashijwe na Guverinoma igizwe na Minisitiri w'Intebe n'Abaminisitiri. Abagize Guverinoma bashyirwaho na Perezida wa Repuburika abisabwe na Minisitiri w'Intebe. Minisitiri w'Intebe ayobora imikorere ya Guverinoma. Guverinoma ishyiraho ndetse ikayobora politiki y'igihugu. Kubera iyo mpamvu, Guverinoma igenzura imikorere y'abakozi ba Leta n'iy'ingabo. Minisitiri w'Intebe agenera imirimo ba Minisitiri hamwe n'abandi bayobozi akuriye. Iyo Minisitiri w'Intebe yeguye cyangwa avuyeho ku mpamvu iyo ari yo yose, Guverinoma na yo iregura.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.7.i) Abaminisitiri bashyira mu bikorwa politiki ya Guverinoma, nk'uko iba yagenwe na Minisitiri w'Intebe. Umukuru wa Guverinoma ni we ubabaza ibirebana n'imirimo yabo. Mu kurangiza inshingabo zabo, Abaminisitiri bifashisha inzego z'ubutegetsi bwite bwa Leta n'iz'uturere zikora imirimo igengwa na Minisiteri bashinzwe.

Ubutegetsi bw'igihugu mu turere

3.8. Perefe ahagarariye ubutegetsi nyubahirizategeko muri perefegitura. Ashyirwaho na Perezida wa Repubulika abisabwe na Minisitiri w'Ubutegetsi bw'Igihugu ari na we umukuriye mu mirimo ye. Perefe agenzura imirimo ya Leta n'inzego zayo muri perefegitura yose.

3.8(i). Nk'umuyobozi wa perefegitura, perefe ashinzwe kubahiriza ituze, umudendezo wa rubanda n'umutekano w'abantu n'ibintu. Mu mirimo ye yo kubungabunga ituze n'umudendezo wa rubanda, perefe ashobora kwitabaza abasirikare na Jandarumori y'igihugu. Perefe akuriye abakozi bose ba Leta n'abandi bose bakora imirimo ifite aho ihurira n'inzego za Leta muri perefegitura, barimo ababurugumesitiri n'abakonseye b'amasegiteri.

3.8 (ii).Kimwe na Perefe, Burugumesitiri ahagarariye ubutegetsi nyubahirizategeko muri komine. Ashyirwaho na Perezida wa Repubulika abisabwe na Minisitiri w'Ubutegetsi bw'Igihugu kandi akuriwe na Perefe. Akuriye abakozi bakorera muri komine ye. Ashinzwe kandi umutekano mu rwego rwo kubungabunga amahoro no kubahirisha amategeko.

Ingabo z'Igihugu

3.9. Ingabo z'Igihugu (*FAR*) zari zigizwe n'igisirikare (*AR*) na jandarumori y'igihugu (*GN*). Ingabo z'igihugu ntizari zifite ubuyobozi bukuru zihuriyeho, bityo zikaba

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

zarayoborwaga, ku buryo butaziguye, na Minisitiri w'Ingabo. Perezida wa Repuburika ni we wari Umugaba w'ikirenga w'Ingabo z'Igihugu.

3.9 (i). Igisirikare cy'u Rwanda cyayoborwaga n'umukuru wa etamajoro afashijwe n'abasirikare bakuru bane bayoboraga ibiro bine ari byo: G-1 (Ibiro bishinzwe abakozi n'ubuyobozi), G-2 (Ibiro bishinzwe iperereza no kuneka), G-3 (Ibiro bishinzwe ibikorwa bya gisirikare) na G-4 (Ibiro bishinzwe ibikoresho).

3.9 (ii). U Rwanda rwari rugabanyijemo uturere tw'ibikorwa bya gisirikare tunyuranye kandi buri karere kari gafite umuyobozi wako. Na none, mu gisirikare hari inite z'ingenzi ari zo: umutwe wari ushinzwe kurinda Perezida (abajepe), batayo y'aba « *para-commandos* », na batayo y'imbanzirizagutabara (*reconnaissance*). Mu turere tw'ibikorwa bya gisirikare no muri za inite z'ingenzi, abasirikare bari bagabanyijemo amakompanyi.

3.9 (iii). Hashingiwe ku mapete yabo n'imirimo bakoraga, ba ofisiye mu ngabo z'u Rwanda bari bafite inshingano zo gukora ku buryo abasirikare bakuriye bubahiriza amategeko rusange ya disipuline, kabone n'iyo abo basirikare babaga batari muri za inite bayobora.

3.9(iv). Jandarumori y'igihugu yari ishinzwe kubungabunga umudendezo wa rubanda n'amahoro, no kugenzura ko amategeko ariho mu gihugu yubahirizwa.

3.9(v). Jandarumori y'igihugu yari ikuriwe na Minisitiri w'Ingabo, ariko yashoboraga gukora imirimo yayo yo kubungabunga umudendezo wa rubanda n'amahoro, bisabwe n'umuyobozi wo mu karere ubifitiye ububasha, ari we perefe. Kubera impamvu zihutirwa cyane, perefe yashoboraga kubisaba mu magambo akoresheje nka telefone. Iyo yabisabaga byagombaga guhita bikorwa. Byongeye kandi, Jandarumori y'igihugu yagombaga kumenyesha perefe amakuru yose arebana n'umudendezo wa rubanda. Jandarumori yari inafite inshingano zo gutabara umuntu wese uri mu kaga.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Amashyaka ya politiki n'imitwe yitwara gisirikare

3.10. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, amashyaka akomeye yari mu Rwanda ni MRND, CDR, MDR, PSD na PL. FPR yari umuryango wa politiki na gisirikare utaravugaga rumwe n'ubutegetsi bwariho.

3.10 (i).Amenshi mu mashyaka ya politiki yari yarashyizeho amashami y'urubyiruko. Ishami ry'urubyiruko rwa MRND ryitwaga « Interahamwe », naho iry'urubyiruko rwa CDR rikitwa « Impuzamugambi ». Nyuma, abari bagize ishami ry'urubyiruko rwa MRND benshi bahawe imyitozo ya gisirikare, bituma iryo shami rihinduka umutwe witwara gisirikare.

3.10 (ii).Guhera mu mpera z'umwaka wa 1990 kugera muri Nyakanga 1994, abasirikare, abagize Guverinoma, abayobozi mu bya politiki, abakozi ba Leta n'abandi bantu bakomeye bumvikanye hagati yabo ndetse bumvikana n'abandi bantu ngo bacure umugambi bagamije gutsemba abasiviri b'Abatutsi no kwica abantu batavugaga rumwe n'ubutegetsi, kugira ngo bagume kuri ubwo butegetsi. Mu byari bigize uwo mugambi harimo guhembera urwango n'imvururu bishingiye ku moko, gutoza abantu ibya gisirikare no kubaha intwaro, no gukora amalisiti y'abantu bagombaga kwicwa. Mu rwego rwo gushyira mu bikorwa uwo mugambi, abo bantu bateguye ubwicanyi bwibasiye Abatutsi, n'Abahutu batari intagondwa, bategeka abandi bantu gukora ubwo bwicanyi kandi na bo ubwabo barabukora. **Tharcisse Muvunyi** yateguye uwo mugambi, arawitabira kandi awushyira mu bikorwa.

3.10 (iii).Nyuma y'aho FPR igabiye igitero mu Ukwakira 1990, udutsiko tw'abantu bamwe bo muri Guverinoma y'u Rwanda n'abo mu nzego z'igisirikare cy'u Rwanda z'icyo gihe twatangiye kuvuga ko Abatutsi bari abanzi kandi ko bagombaga kwicwa.

3.10 (iv).Abo bantu bavugaga ko umwanzi w'ibanze yari Umututsi wari imbere mu gihugu cyangwa hanze yacyo ufite inyota y'ubutegetsi, utemera ibyagezweho na Revolisiyo yo

mu wa 1959, akaba ashaka gufata ubutegetsi akoresheje intwaro. Bavugaga kandi ko umwanzi wo mu rwego rwa kabiri ari umuntu wateraga inkunga, iyo ari yo yose, umwanzi w'ibanze cyangwa abari bamushyigikiye.

3.10 (v).Guhera muri Mata kugera muri Nyakanga 1994, abantu bakomeye barimo abagize Guverinoma n'abategetsi bo mu turere, bahamagariye abandi bantu kubiba urwango no gutera imvururu. Muri abo bantu harimo Théodore Sindikubwabo wari Umukuru w'Igihugu icyo gihe, Jean Kambanda wari Minisitiri w'Intebe, Perefe wa Butare n'ababurugumesitiri banyuranye bo muri Perefegitura ye. Abasirikare bakomeye, barimo **Tharcisse Muvunyi**, hamwe n'abandi bantu bitabiriye ubwicanyi bwibasiye Abatutsi « n'ibyitso byabo ».

Imyitozo y'imitwe yitwaraga gisirikare

3.11. Amashyaka ya politiki ashyiraho amashami y'urubyiruko rwayo, yari agamije ibintu bibiri: guhamagarira urubyiruko kwitabira amatwara ya politiki no kuyarucengezamo. MRND na CDR byakurikiye urugero rw'amashyaka MDR na FPR yari yarashinze imitwe y'urubyiruko. Guhangana kwariho muri icyo gihe cy'uruhando rw'amashyaka menshi kwatumye ubushyamirane bukaza umurego. Interahamwe n'Impuzamugambi zatangiye guta umurongo ubwo zashorwaga mu bikorwa by'urugomo hagamijwe kubangamira imyigaragambyo y'amashyaka ataravugaga rumwe n'ubutegetsi.

3.11 (i).Kugira ngo igihe nikigera cyo gutsembatsemba Abatutsi n'ibyitso byabo bizashobore gukorwa uko byateguwe kandi mu buryo bwihuse, byabaye ngombwa gushyiraho umutwe witwara gisirikare ufite inzego zizwi, unafite intwaro kandi wuzuzanya n'abasirikare. Kugira ngo uwo mutwe witwara gisirikare ugire inzego ziwuhagarariye mu gihugu hose, hashyizweho za komite z'Interahamwe ku rwego rwa perefegitura. Icyo cyemezo, cyafashwe na komite ya MRND mu rwego rw'igihugu muri Kamena 1993, cyashyizwe mu bikorwa n'abanyapolitiki mu duce bayoboraga.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.11 (ii).Guhera mu mwaka wa 1993 ndetse na mbere yaho, mu rwego rwo gucengeza mu Nterahamwe ibitekerezo by'ubutagondwa, abayobozi ba MRND bafatanyije n'aba ofisiye bo mu ngabo z'igihugu, bafashe icyemezo cyo guha imyitozo ya gisirikare n'intwaro abari bashyigikiye kurusha abandi ibitekerezo byabo by'ubutagondwa, n'abandi basore n'inkumi b'imburamikoro.

3.13. Ku itariki ya 6 Mata 1994, mu ma saa mbiri n'igice z'ijoro, indege yari itwaye abantu barimo Juvénal Habyarimana wari Perezida wa Repubulika, yarashwe iri hafi kugwa ku kibuga cy'indege cy'i Kigali (Rwanda). Mu bantu bayiguyemo harimo Perezida, na Koloneli Déogratias Nsabimana wari Umugaba mukuru w'igisirikare cy'u Rwanda.

3.12 (i).Ibyo bikimara kuba, abayobozi ba MRND n'abasirikare bakuru bashyizeho Guverinoma y'agateganyo igizwe n'abantu batoranyijwe mu nama yabaye ku itariki ya 8 Mata. Iyo Guverinoma yari yiganjemo abantu bo mu ishyaka rya MRND n'abo mu gice cyitwaga « pawa » cy'ayandi mashyaka ya politiki. Nta Mututsi n'umwe wigeze atumirwa cyangwa ngo ashyirwe muri Guverinoma.

3.13. Guverinoma y'Agateganyo ikimara kujyaho, abenshi mu baminisitiri bahise bashyigikira umugambi w'itsembatsemba wariho, kandi bakora ibishoboka byose ngo uwo mugambi ushyirwe mu bikorwa. Bahamagariye abaturage kwikiza « umwanzi n'ibyitso bye », ndetse banababaha intwaro. Bakuye ku mirimo yabo abayobozi batarwanyaga ubwicanyi maze babasimbuza ababushyigikiye. Banashyizeho amabwiriza agamije korohereza abantu kwica Abatutsi, n'abahutu batari intagondwa.

3.14. Bidatinze, ku itariki ya 8 Mata, Guverinoma nshya yatumiye abaperefe bose mu nama i Kigali kugira ngo basuzume uko ibintu byari byifashe mu gihugu muri icyo gihe. Iyo nama y'amahina, yabaye ku itariki ya 11 Mata 1994, yitabiriwe n'abaminisitiri bose n'abaperefe bose uretse uwa Butare (Jean Baptiste Habyalimana), Ruhengeri na Cyangugu. Muri iyo nama, hasuzumwe uko ubwicanyi bwari bwifashe muri buri perefegitura.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.15. Ubwicanyi bwibasiye Abatutsi, n'Abahutu batari intagondwa bwabaye mu Rwanda hose. Muri buri perefegitura, abategetsi ba gisiviri n'aba gisirikare, hamwe n'abantu bari mu mitwe yitwara gisirikare bitabiriye umugambi wo gutsembatsemba kandi bubahiriza amabwiriza n'amategeko yatanzwe ngo uwo mugambi ushyirwe mu bikorwa. Bahamagariye abaturage b'abasiviri kwica umwanzi n'ibyitso bye. Abategetsi bahaye imbunda abasiviri n'abantu bitwaraga gisirikare. Bategetse ko ubwicanyi bukorwa, bafasha kandi babashishikariza abandi bantu kubukora ndetse na bo ubwabo barabwitabira.

3.16. Abategetsi ba gisiviri n'aba gisirikare b'igihugu babonye ko Perefegitura ya Butare yari irengayobora ugereranyije n'ibyaberaga ahandi, ariko aho gufata ingamba zihutirwa kugira ngo bahagarike ubwicanyi, ku itariki ya 17 Mata, Guverinoma y'agateganyo yakuye ku mirimo yabo abayobozi benshi bari baranze kugira uruhare mu bwicanyi, barimo Jean Baptiste Habyalimana wari Perefe wa Butare. Mu gukuraho Perefe Habyalimana, Guverinoma y'agateganyo yari igamije guhamagarira abaturage kwitabira ubwicanyi. Byongeye kandi, abasirikare n'Interahamwe boherejwe i Butare kugira ngo batize umurindi mu gutangira ubwicanyi.

3.17. Kuva ku itariki ya 7 Mata 1994, mu Rwanda hose hakozwe ubwicanyi bwibasiye Abatutsi, n'abanyapolitiki benshi batavugaga rumwe n'ubutegetsi bwariho. Ibi byaha byari bimaze igihe kinini bicurirwa umugambi kandi bitegurwa n'abategetsi bakuru ba gisiviri n'aba gisirikare bari bahuriye ku ngengabitekerezo y'Abahutu b'intagondwa, kandi byakozwe n'abantu bitwara gisirikare, abasirikare n'abajandarume, bakurikiza amategeko n'amabwiriza ya bamwe muri abo bayobozi. Rimwe na rimwe, abo bantu bakoraga ibyo byaha bagendera ku malisiti yari yarakozwe mbere. Muri Perefegitura ya Butare, ubwicanyi bwatangiye ku itariki ya 19 Mata 1994, uretse ahantu hake cyane bwatangiye mbere, nko muri Komine ya Nyakizu.

3.18. Hari impamvu eshatu z'ingenzi zatumye ubwicanyi budatangira kare muri Perefegitura ya Butare. Ukurikije amateka, iyo Perefegitura yari ituwe n'Abatutsi benshi babanaga mu

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

mahoro n'Abahutu nyamwinshi. Mu ntangiriro y'uruhando rw'amashyaka menshi, ishyaka PSD ni ryo ryari ku isonga mu bya politiki muri Perefegitura ya Butare, ku buryo nta mwanya munini MRND yari ihafite nk'uko byari bimeze ahandi mu gihugu. Ni yo mpamvu umutwe w'Interahamwe utahasakaye cyane, n'abayoboke b'uwo mutwe bakaba bari bake. Byongeye kandi, Jean Baptiste Habyalimana (PSD), wari Perefe wa Perefegitura ya Butare, akaba n'umuperefe umwe rukumbi w'Umututsi mu gihugu cyose, yanze ku mugaragaro gushyigikira ubwicanyi muri Perefegitura ye kandi yari yashoboye kuhabungabunga ituze, uretse ahantu hake cyane, nko muri Komine ya Nyakizu. Kubera izo mpamvu, ubwicanyi bugitangira, abaturage bo mu yandi ma perefegitura babarirwa mu bihumbi, biganjemo Abatutsi, bahungiye muri Peregitura ya Butare.

IBIVUGWA BYIHARIYE

3.19. Ku itariki ya 19 Mata 1994, i Butare habereye umuhango, witabiriwe n'abantu benshi, wo kurahiza Perefe mushya ari we Sylvain Nsabimana. Iyo nama yatangajwe ikanategurwa na Guverinoma y'agateganyo, yabereye i Butare ku ngoro ya MRND. Muri uwo muhango, Perezida Théodore Sindikubwabo yavuze disikuru rutwitsi, ahamagarira abaturage b'i Butare, ku mugaragaro kandi ku buryo bweruye, gukurikiza urugero rwo mu yandi ma perefegitura, bityo bagatangira kwica. Yamaganye bikomeye abo yise «ba nyirantibindeba», ni ukuvuga abumvaga batarebwa n'ibyarimo kuba, n'uko arababwira ati: «Nimuve mu nzira» maze yongeraho ati «nimutureke dukore». Minisitiri w'Intebe, Jean Kambanda wakurikiyeho mu gufata ijambo, ntiyavuguruje Perezida wa Repubulika.

3.20. Liyetona Koloneli **Tharcisse Muvunyi** yitabiriye iyo nama, ari na yo ya mbere yagiyemo nka Komanda w'ibikorwa bya gisirikare muri Perefegitura ya Butare. Kuba Liyetona Koloneli **Tharcisse Muvunyi** yari muri iyo nama kandi ntiyitandukanye n'amagambo yavuzwe na Perezida wa Repubulika, yagaragarije abaturage ko abasirikare bashyigikiye ubwicanyi.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.21. Muri Perefegitura ya Butare, umuyobozi wa ESO yabaga ari ofisiye wa gisirikare urusha abandi ipete kandi ushinzwe ibikorwa by'umutekano muri Perefegitura ya Butare n'iya Gikongoro. Yashyiraga mu bikorwa amategeko ahawe n'ubuyobozi bukuru bwa gisirikare, nk'uko yabaga yatanzwe n'Umugaba mukuru w'igisirikare. Iyo habaga hari umutekano muke, perefe yashoboraga kwiyambaza jandarumori cyangwa igisirikare kugira ngo agarure amahoro.

3.22. Nk'umuyobozi ukuriye abandi basirikare muri perefegitura, **Tharcisse Muvunyi** yari mu rwego rwa gisirikare rushinzwe kubungabunga umutekano w'abasiviri muri perefegitura. Dore zimwe mu nshingano yari afite kubera uwo mwanya:

- *Gukorana na perefe mu birebana n'umutekano;*
- *Kuba umwe mu bagize inama ya perefegitura ishinzwe umutekano;*
- *Gutuma perefe abona uburyo butuma akora neza imirimo ye nk'umusiviri uhagarariye Guverinoma ufite umwanya wo hejuru kurusha abandi;*
- *Gutabara abaturage igihe bari mu kaga, no gukora indi mirimo iyo ari yo yose ya gombwa kugira ngo ishuri rishinzwe guhugura abasirikare rigende neza.*

3.23. Nyuma y'uruzinduko rwa Perezida Sindikubwabo, Liyetona Koloneli **Tharcisse Muvunyi,** ashingiye ku bubasha yahabwaga n'amategeko n'ubundi atayakomoragaho kuri ba ofisiye no ku basirikare bo muri ESO, yatumije inama y'aba ofisiye n'aba suzofisiye bo muri iryo shuri. Muri iyo nama yabamenyesheje ko ibyifuzo bya Perezida bigomba gufatwa nk'amategeko agomba gushyirwa mu bikorwa.

3.24. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Liyetona Koloneli **Tharcisse Muvunyi**, ari hamwe na Perezida wa gahunda y'ukwirengera kw'abaturage (Civil *defense*) muri Perefegitura ya Butare, waje nyuma kuba Perefe w'iyo perefegitura, n'abandi bantu bakomeye bo muri iyo perefegitura, bagiye mu makomine atandukanye ya Perefegitura ya Butare, byitwa ko bajyanywe no gukangurira abaturage bo muri ayo makomine kurengera igihugu. Nyamara mu by'ukuri, bashakaga kubahamagarira gukora ubwicanyi bwibasiye Abatutsi. Ayo manama yo guhamagarira abaturage gukora

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ubwicanyi yabereye ahantu hanyuranye muri Perefegitura ya Butare. Muri ho havugwa nk'aha hakurikira:

- *Muri Komine ya Mugusa, ahagana mu mpera za Mata 1994;*
- *Kuri santeri y'ubucuruzi ya Gikore, ahagana mu ntangiriro za Gicurasi 1994;*
- *Ku biro bya Komine ya Muyaga, hagati y'itariki ya 3 n'iya 5 Kamena 1994;*
- *Muri Segiteri ya Nyabitare, ho muri Komine ya Muganza, ahagana mu ntangiriro za Kamena 1994.*

3.25. Mu nama zivugwa hejuru mu gika cya 3.24, mu bazitabiriye hafi ya bose bakaba bari Abahutu, Liyetona Koloneli **Muvunyi,** afatanyije n'abategetsi bo muri utwo duce, yavugiye mu ruhame amagambo akarishye yibasiye Abatutsi. Ayo magambo yavugaga akoresheje imigani ya kinyarwanda akaba yarayagejeje ku baturage baho no ku bantu bitwaraga gisirikare. Abaturage bumvise ko iyo migani ibahamagarira gutsembatsemba Abatutsi, kandi buri gihe izo nama zakurikirwaga n'ubwicanyi bwibasiraga Abatutsi bari batuye muri ayo makomine cyangwa bari barahahungiye.

3.26. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, Liyetona Koloneli **Muvunyi** yagize uruhare rutaziguye mu itangwa ry'intwaro, zirimo n'amagerenade, zahawe abo bantu bitwaraga gisirikare kugira ngo bagabe ibitero ku Batutsi.

3.27. Ku itariki ya 30 Mata 1994, Liyetona Koloneli **Muvunyi**, akoresheje ububasha yakomoraga ku mategeko n'ubwo atayakomoragaho, yategetse abasirikare bo mu kigo cy'i Ngoma kujya mu kigo cy'Abeneberika (Icyitonderwa cy'umusemuzi: uwanditse umwimerere ashobora kuba yarashatse kuvuga Abenebikira) gushimuta impunzi zari zihari, zirimo abagore n'abana. Icyo gitero, cyayobowe n'umuliyetona, cyashimuse abantu 25 barimo abana ba Porofeseri Karenzi, kandi abo bantu ntawongeye kubabona.

3.28. Ku itariki ya 4 Gicurasi 1994 cyangwa hafi y'iyo tariki, Liyetona Koloneli Muvunyi yategetse ko bamuzanira abapadiri bo muri Monasiteri y'i Gihindamuyaga, hanyuma avangura Abahutu n'Abatutsi, maze abapadiri babiri b'Abatutsi barimo baza kwicwa.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.29. Ku itariki ya 15 Mata cyangwa hafi y'iyo tariki, Liyetona Koloneli **Muvunyi**, ari kumwe n'itsinda ry'abasirikare, yagiye mu gitero cyagabwe ku bitaro bya Kaminuza y'i Butare cyibasiye impunzi z'Abatutsi zari zakomeretse. Abagabye igitero bavanguye Abatutsi n'Abahutu maze bica impunzi z'Abatutsi.

3.30. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Liyetona Koloneli **Muvunyi** yari afite inshingano yo kubungabunga umutekano n'umudendezo w'abaturage b'abasiviri muri perefegitura no gukora ku buryo abasirikare yayoboraga bagira disipuline. Nyamara ariko, yateshutse kuri izo nshingano. Inshuro nyinshi muri Mata 1994, Liyetona Koloneli **Muvunyi** ntiyatabaye cyangwa yanze gutabara abantu bari mu kaga, cyangwa abamwiyambaje. Muri abo bantu havugwa cyane cyane abari muri *Groupe scolaire* no kuri Paruwasi ya Ngoma, hiciwe impunzi z'Abatutsi.

3.31. Liyetona Koloneli **Muvunyi** yahamagariye kenshi abantu barimo Interahamwe n'abasirikare gukora ibikorwa by'ubwicanyi, gushimuta no kwangiza imitungo y'abandi. Yabashishikarije, anaborohereza gukora ibyo bikorwa cyangwa yemera ko babikora.

3.32. Mu gihe cy'ibyabaye bivugwa muri iyi nyandiko y'ibirego, ibibazo birebana n'umudendezo n'umutekano by'abaturage b'abasiviri muri perefegitura byigirwaga mu nama z'Akanama ka Perefegitura gashinzwe umutekano. Mu bari bagize ako kanama harimo abahagarariye abasirikare n'abashinzwe gahunda yo kwirengera kw'abaturage (*civil defense*), nka Liyetona Koloneli **Muvunyi**, Koloneli **Alphonse Nteziryayo**, Liyetona Koloneli **Aloys Simba** wari mu kiruhuko cy'izabukuru; harimo kandi n'abari bahagarariye ubutegetsi bwa gisiviri nka **Callixte Kalimanzira** wari Umuyobozi mu Biro bya Minisitiri w'Ubutegetsi bw'Igihugu, **Joseph Kanyabashi** wari Burugumesitiri wa Komine ya Ngoma, **Jean Baptiste Ruzindaza** wari Perezida w'Urukiko rwa Mbere rw'Iremezo, n'umuyobozi wungirije wa Kaminuza y'u Rwanda i Butare.

3.33. Ku itariki ya 27 Mata 1994, Guverinoma y'agateganyo yategetse ko hashyirwaho za bariyeri, kandi izi ko izo bariyeri zari izo kurobanura Abatutsi n'ibyitso byabo kugira ngo bicwe. Iryo tegeko ryarubahirijwe, bariyeri zishyirwaho muri Butare.

3.34. Izo bariyeri zitwaga ko ari izo kugenzura ko nta ntwaro zihita no kubuza umwanzi gucengera. Bariyeri zari i Rwasave, Rwabuye, imbere ya Hotel Faucon, imbere y'ikigo cya gisirikare cy'i Ngoma, imbere ya Hotel Ibis, ku isangano ry'imihanda rigana ku bitaro bya kaminuza, iruhande rwo kwa Bihira n'imbere y'ishuri rya ESO. Abarindaga izo bariyeri basakaga abasiviri bahanyuze kugira ngo bagenzure indangamuntu zabo kandi banabuze umwanzi gucengera.

3.34(i).Byongeye kandi, mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abasirikare bo muri ESO bagiye muri Kaminuza y'u Rwanda i Butare kwica abarimu n'abanyeshuri b'Abatutsi. Babikoze mu rwego rw'umugambi wo gutsembatsemba abanyabwenge b'Abatutsi. Kubera ububasha yari afite ndetse n'uburyo ubwo bwicanyi bwari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byarimo gukorwa, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

3.35. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abantu bitwara gisirikare, ni ukuvuga Interahamwe, babifashijwemo n'abasirikare, bitabiriye ubwicanyi bwibasiye abasiviri b'Abatutsi muri Perefegitura ya Butare n'ahandi.

3.36. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, ba ofisiye n'abandi basirikare bari bakuriwe na Liyetona Koloneli **Muvunyi** bagize uruhare mu bwicanyi bwibasiye abasiviri b'Abatutsi n'Abahutu batari intagondwa bo mu mashyaka ataravugaga rumwe n'ubutegetsi. Bamwe muri abo basiviri b'Abatutsi barafashwe bajyanwa mu kigo cya gisirikare cy'i Ngoma, cyangwa muri ESO, aho baje kwicirwa.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

3.37. Inshuro nyinshi, Liyetona Koloneli **Muvunyi** yategetse, mu buryo butaziguye, abasirikare n'abantu bitwara gisirikare kugaba ibitero. Yanabibateyemo inkunga y'ibikoresho, abaha nk'amamodoka yo kubatwara n'amagerenade.

3.38. Nk'urugero, Liyetona Koloneli **Muvunyi** yatanze amagerenade yakoreshejwe mu gitero cyahitanye impunzi ku isoko ryo muri Segiteri ya Kabilizi, yo muri Komine ya Mugusa.

3.39. Muri icyo gihe na none, abasirikare bo mu kigo cy'i Ngoma, inshuro zitandukanye bishe ku mugaragaro abasiviri b'Abatutsi cyangwa abantu bakekwagaho kuba Abatutsi, babarashe n'imbunda zabo z'akazi. Kubera ububasha yari afite ndetse n'uburyo ibyo bikorwa byari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

3.40. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abasiviri babarirwa mu bihumbi bari biganjemo Abatutsi, barishwe muri Perefegitura ya Butare, cyane cyane ahantu hakurikira:

- *Kuri Paruwasi ya Ngoma, muri Komine ya Ngoma;*
- *Ku ivuriro ryo mu Matyazo, mu Matyazo;*
- *Kuri Paruwasi ya Kibeho, muri Komine ya Mugusa;*
- *Mu kigo cy'Abeneberika i Sovu, muri Komine ya Huye;*
- *Muri « Groupe scolaire », Ngoma;*
- *Muri «Economat général », muri Komine ya Ngoma;*
- *Kuri Paruwasi ya Nyumba, muri Komine ya Gatare;*
- *Mu gace gatuwemo n'Abayisilamu, muri Komine ya Ngoma*.

3.41. Mu gihe ibivugwa haruguru mu gika cya 3.40 byabaga, abagore n'abakobwa benshi basambanyijwe ku gahato kandi bakorerwa ibikorwa by'urugomo rushingiye ku gitsina. Bakorewe ibyo bikorwa aho hantu, cyangwa barashimutwa cyangwa bajyanwa ahandi

hantu ku ngufu maze basambanywa ku gahato, banakorerwa urundi rugomo rushingiye ku gitsina. Ibyo byose byakozwe n'Interahamwe n'abasirikare bo mu kigo cy'i Ngoma. Kubera ububasha yari afite n'uburyo ibyo bikorwa byari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

3.41(i). Kenshi, ibyo bikorwa byo gusambanya ku gahato byagiye biba bibi kurushaho bitewe n'uko abantu benshi basambanyaga umuntu umwe, umuntu umwe agasambanywa inshuro nyinshi, abakobwa b'amasugi bagateshwa ubusugi bwabo, abakobwa bagasambanyirizwa ku ngufu imbere ya ba nyina cyangwa abandi bantu bo mu muryango, ibyo bikorwa bikaba byararangwaga no guhutaza abahohotewe no kubatesha agaciro. Byongeye kandi, abenshi mu bakorewe urwo rugomo rushingiye ku gitsina baricwaga nyuma yaho.

3.42. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, Liyetona Koloneli **Muvunyi** yagize uruhare mw'itegura ry'amalisiti y'abantu bagombaga kwicwa, biganjemo abanyabwenge b'Abatutsi n'Abatutsi bakomeye cyangwa agira uruhare mu gutahura abo bantu. Ayo malisiti yahabwaga abasirikare n'abantu bitwara gisirikare, bagahabwa amategeko yo gufata cyangwa kwica ababaga banditse kuri ayo malisiti. Abasirikare n'Interahamwe bashyize mu bikorwa ayo mategeko.

3.43. Ubwo bwicanyi bwakozwe n'abasirikare bwabaye kimwe mu bikorwa byakomye imbarutso y'ubwicanyi n'andi marorerwa muri Butare. Cyakora, ubwicanyi bwatangiye gukara nyuma y'ijambo Perezida yavuze ku itariki ya 19 Mata. Kubera umwanya yari afite n'uburyo ubwo bwicanyi bwari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

3.44. Ku itariki ya 21 Mata 1994 cyangwa hafi y'iyo tariki, bamwe mu bantu barokotse mu gitero cyagabwe mu Matyazo bahungiye kuri Paruwasi ya Ngoma. Muri izo mpunzi harimo abana 62 bari bakomeretse bafite hagati y'amezi 16 n'imyaka 5. Abo bana

bazanywe kuri iyo Paruwasi na konseye wa segiteri kubera ko abasirikare barindaga bariyeri yari imbere ya ESO bamubujije kubajyana ku bitaro bya kaminuza kubavuza.

3.45. Ku itariki ya 30 Mata 1994 cyangwa hafi y'iyo tariki, Paruwasi ya Ngoma yagabweho igitero. Padiri mukuru w'iyo Paruwasi yahuruje abasirikare bo mu kigo cy'i Ngoma, n'uko hashize isaha, Suliyetona Niyonteze, wari wungirije umuyobozi w'icyo kigo, azana n'abasirikare batandatu. Aho gutabara, Suliyetona Niyonteze yabajije Padiri mukuru uwamuhaye uburenganzira bwo gucumbikira Inyenzi zingana zityo hafi y'ikigo cya gisirikare. Ubwo yatangiye kubara impunzi zari zihari maze ava kuri Paruwasi nta cyo akoze ngo ahagarike igitero. Kubera umwanya w'ubuyobozi yari afite ndetse n'uburyo ubwicanyi bwari rusange, Liyetona Koloneli **Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, nyamara ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze.

3.46. Uwo munsi saa kumi n'imwe z'umugoroba cyangwa hafi y'iyo saha, hari umuliyetona waje kuri iyo Paruwasi gufata padiri mukuru ariko asanga yahunze. Nyuma yaho, Interahamwe n'abasirikare bagabye igitero ku mpunzi zari aho kuri paruwasi zarimo abagore n'abana. Nk'umutegetsi, **Muvunyi** ntiyigeze abungabunga umutekano cyangwa umudendezo w'impunzi, ahubwo yashishikaje abagabye ibitero.

3.47. Mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abasirikare bo muri ESO n'abo mu kigo cya gisirikare cy'i Ngoma bakoreye abasiviri b'Abatutsi ibikorwa bya kinyamaswa babakubitagura inkoni, amashami y'ibiti n'ibibuno by'imbunda cyangwa bimwe muri ibyo.

3.48. Ku itariki ya 24 Mata cyangwa hafi y'iyo tariki, abasirikare bo mu kigo cya gisirikare cy'i Ngoma n'abo muri ESO bagabye igitero ku mpunzi zari muri *Groupe scolaire,* zarimo impfubyi zari zaravanywe mu kigo cy'Umuryango utabara imbabare ku Kacyiru no mu bindi bigo birera imfubyi. Icyo gihe, abasirikare bo mu kigo cy'i Ngoma bari bayobowe n'umuliyetona, naho abo muri ESO boherejwe n'umukapiteni ariko bayobowe

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

na Suliyetona Niyonteze. Umuntu wari ushinzwe izo mpfubyi yahuruje ESO akoresheje telefone maze avugana na Liyetona Koloneli **Muvunyi,** wanze kubatabara igihe ubwicanyi bwakorwaga.

3.49. **Tharcisse Muvunyi** yashakaga ko ibitero bivugwa muri iyi Nyandiko y'ibirego byagabwe ku bantu bahohotewe bavuzwe haruguru, bibarirwa mu rwego rw'intambara itari mpuzamahanga, kuko abasiviri b'Abatutsi bafatwaga nk'abanzi ba Guverinoma n'ibyitso bya FPR cyangwa kimwe muri ibyo.

3.50. **Tharcisse Muvunyi** yiyemeje gutsemba umwanzi ari we Mututsi nk'uko bisobanurwa haruguru kuva ku gika cya 3.10(ii) kugeza ku cya 3.10(v). Yabikoze ashyira mu bikorwa politiki ya Guverinoma yo gutsinda FPR.

3.51. Liyetona Koloneli **Muvunyi** yashakaga ko igikorwa cyo guhamagarira abantu gukora ubwicanyi n'icy'ubwicanyi, bivugwa mu nyandiko y'ibirego, bibarirwa mu rwego rw'intambara itari mpuzamahanga yo kurwanya FPR. Kubera ibikorwa yakoze mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Uregwa yashakaga kurandura ikintu cyose cyatera inkunga FPR muri Perefegitura ya Butare. Uregwa yashakaga kandi ko ibikorwa binyuranye by'urugomo rushingiye ku gitsina bivugwa haruguru mu gika cya 3.47 n'icya 3.47(i) n'ibyo guhamagarira abantu kubikora, bibarirwa mu rwego rw'intambara itari mpuzamahanga yo kurwanya FPR, kandi bigafasha Guverinoma y'u Rwanda kugera ku ntego yari ifite yo gutsinda umwanzi n'ibyitso bye.

3.52. Liyetona Koloneli **Muvunyi**, yitwaje umwanya w'ubuyobozi yari afite kandi afatanyije n'abandi bantu, yagize uruhare mu gucura umugambi no gutegura amarorerwa avugwa haruguru, cyangwa gushyira mu bikorwa uwo mugambi uhuriweho, n'ingamba zo kuwutsotsoba. Ibyo byaha byakozwe na we n'abo bari bafatanyije nka ba gatozi, bikorwa n'abantu yabiteyemo inkunga cyangwa abo yari akuriye, abizi neza kandi abishyigikiye.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

IBIREGO

Ibikorwa binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara bivugwa muri ibi birego byakorewe muri Repubulika y'u Rwanda kuva ku itariki ya 1 Mutarama kugera ku ya 31 Ukuboza 1994, kandi byerekeranye n'ibyabaye bivugwa haruguru kuva ku gika cya 2.1. kugera ku cya 3.52.

Kubera ibyo bikorwa bisobanurwa mu bika byavuzwe kuri buri kirego, Uregwa yacuze umugambi wo kubikora, awukangurira abandi, abategeka kubikora, arabikora ubwe cyangwa, mu bundi buryo ubwo ari bwo bwose, afasha kandi ashishikariza abandi bantu gucura umugambi wo gukora ibyo bikorwa, kubitegura cyangwa kubikora.

Na none kandi, Uregwa yari azi cyangwa yagombaga kumenya ko abantu yari akuriye biteguraga gukora ibyo bikorwa cyangwa ko bakoze kimwe cyangwa byinshi mu bikorwa biteganywa n'Ingingo ya 2 n'iya 3 za Sitati, ariko ntiyafashe ingamba za ngombwa kandi ziri mu gaciro zo kubiburizamo cyangwa guhana ababikoze.

IKIREGO CYA 1:

Kubera ibyo **Tharcisse Muvunyi** yakoze cyangwa yateshutswe gukora, ashinjwa kwica Abatutsi no kubatera ububabare buzahaza umubiri cyangwa mu mutwe, agamije kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwoko bazira icyo bari cyo. Kubera iyo mpamvu, yakoze nka gatozi icyaha cya **JENOSIDE** giteganywa n'Ingingo 2(3)(a) ya Sitati kandi gihanwa hashingiwe ku ngingo ya 22 n'iya 23 z'iyo Sitati.

Ibyo bikorwa ni ibivugwa by'umwihariko mu bika 2.2, 2.3, 3.10(ii)-3.10(v), 3.15, 3.17, 3.19, 3.20, 3.23-3.30, 3.31, 3.32, 3.36-3.38, 3.40, 3.41-3.41(i), 3.43, 3.46, 3.48, 3.49, 3.50, 3.51, na 3.52. Akaba abishinjwa hashingiwe ku ngingo ya 6(1) ya Sitati.

Ibyo bikorwa bivugwa kandi mu ibika 2.2, 2.3, 3.10(ii)-3.10(v), 3.17, 3.19, 3.20, 3.23- 3.30, 3.31, 3.32, 3.34, 3.34(i), 3.35-3.43, 3.45, na 3.52. Akaba abishinjwa hashingiwe ku ngingo ya

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

6(3) ya Sitati.

ARAMUTSE ADAHAMWE N'ICYAHA KIMAZE KUVUGWA,

IKIREGO CYA 2:

Kubera ibyo **Tharcisse Muvunyi** yakoze cyangwa yateshutswe gukora, ashinjwa kwica Abatutsi no kubatera ububabare buzahaza umubiri cyangwa mu mutwe, agamije kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwoko bazira icyo bari cyo. Kubera iyo mpamvu, yakoze nka gatozi icyaha cyo **KUBA ICYITSO CY'ABAKOZE JENOSIDE** giteganywa n'Ingingo 2(3)(e) ya Sitati kandi gihanwa hashingiwe ku ngingo ya 22 n'iya 23 z'iyo Sitati.

Ibyo bikorwa ni ibivugwa by'umwihariko mu bika 2.2, 2.3, 3.10(ii)-3.10(v), 3.15, 3.17, 3.19, 3.20, 3.23-3.30, 3.31, 3.32, 3.36-3.38, 3.40, 3.41-3.41(i), 3.43, 3.46, na 3.48-3.52. Akaba abishinjwa hashingiwe ku ngingo ya 6(1) ya Sitati.

Ibyo bikorwa bivugwa kandi mu bika 2.2, 2.3, 3.10(ii)-3.10(v), 3.17, 3.19, 3.20, 3.23- 3.30, 3.31, 3.32, 3.33(i), 3.34, 3.35, 3.36-3.38, 3.39, 3.40, 3.41-3.41(i), 3.42 na 3.43. Akaba abishinjwa hashingiwe ku ngingo ya 6(3) ya Sitati.

IKIREGO CYA 3:

Kubera ibyo **Tharcisse Muvunyi** yakoze cyangwa yateshutswe gukora, ashinjwa kwica Abatutsi no kubatera ububabare buzahaza umubiri cyangwa mu mutwe, agamije kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwoko bazira icyo bari cyo. Kubera iyo mpamvu, aryozwa nka gatozi icyaha cyo **GUHAMAGARIRA ABANTU KU BURYO BUTAZIGUYE KANDI MU RUHAME GUKORA JENOSIDE** giteganywa n'Ingingo 2(3)(e) ya Sitati kandi gihanwa hashingiwe ku ngingo ya 22 n'iya 23 z'iyo Sitati.

Ibyo bikorwa ni ibivugwa by'umwihariko mu bika kuva ku cya 3.23 kugeza ku cya 3.25, akaba abishinjwa hashingiwe ku ngingo ya 6(1) ya Sitati.

IKIREGO CYA 4:

Kubera ibyo yakoze cyangwa yateshutswe gukora, **Tharcisse Muvunyi** ashinjwa icyaha cyo gusambanya ku gahato cyakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko bwabo. Kubera iyo mpamvu, yakoze nka gatozi **ICYAHA CYIBASIYE INYOKOMUNTU** giteganywa n'Ingingo ya 3(g) ya Sitati, kandi gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati y'u Rukiko.

Ibyo bikorwa ni ibivugwa kuva ku gika cya 3.41 kugeza ku cya 3.41(i), kandi abishinjwa hashingiwe ku ngingo ya 6(3) ya Sitati.

IKIREGO CYA 5:

Kubera ibyo **Tharcisse Muvunyi** yakoze cyangwa yateshutswe gukora, ashinjwa ibindi bikorwa bibi birenze kameremuntu byakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko bwabo. Kubera iyo mpamvu, yakoze nka gatozi **ICYAHA CYIBASIYE INYOKOMUNTU** giteganywa n'Ingingo ya 3(i) ya Sitati, kandi gihanwa hashingiwe ku ngingo ya 22 n'iya 23 za Sitati y'u Rukiko.

Ibyo bikorwa ni ibivugwa kuva ku gika cya 3.44 kugeza ku cya 3.49, kandi abishinjwa hashingiwe ku ngingo ya 6(3) ya Sitati.

Arusha, tariki ya 22 Ukuboza 2003,
Porokireri
[Umukono]

Kashe y'Urukiko

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

UMURYANGO W'ABIBUMBYE

URUGEREKO RWA MBERE RW'IREMEZO II

INYANDIKO Y'IBANGA

Abacamanza: Asoka de Silva, Perezida w'Inteko
Flavia Lattanzi
Florence R. Arrey

Gerefiye: Adama Dieng

Itariki: 28 Gashyantare 2005

Inyandiko ya Porokireri imenyesha ko atanze umugereka ukubiyemo ibisobanuro by'Inyandiko y'ibirego, hakurikijwe amabwiriza y'Urugereko rwa Mbere rw'Iremezo

Ibiro bya Porokireri

Charles Adeogun-Phillips, avocat géneral principal
Adesola Adeboyejo, avocat général
Renifa Madenga, avocat général adjoint
Dennos Mabura, juriste chargé du dossier

Ubwunganizi

Me W.E Taylor
Me Cynthia Cline

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Inyandiko ya Porokireri imenyesha ko atanze umugereka ukubiyemo ibisobanuro by'*Inyandiko y'ibirego* hubahirizwa amabwiriza y'Urugereko rwa Mbere rw'Iremezo

1. Ku itariki ya 19 Mutarama 2005, Porokireri yashyikirije Urugereko icyifuzo yise « *Icyifuzo cya Porokireri gisaba uruhushya rwo guhindura Inyandiko y'ibirego, ashingiye ku ngingo ya 73 n'iya 50 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso »*. Muri icyo cyifuzo, Porokireri yasabaga Urukiko kumuha uruhushya rwo guhindura *Inyandiko y'ibirego* ikubiye mu mushinga w'*Inyandiko y'ibirego* yahinduwe iri ku mugereka.

2. Ku itariki ya 26 Mutarama 2005, Avoka wunganira Tharcisse Muvunyi yagejeje ku rugereko igisubizo yise «Igisubizo ku cyifuzo cya Porokireri. Ku itariki ya 2 Gashyantare 2005 Porokireri yahawe kopi y'icyemezo cy'Urugereko gishyiraho ingenabihe kimusaba gutanga kunonosora imyanzuro ye. Porokireri yasubije atanga umushinga w'*Inyandiko y'ibirego* yahinduwe.

3. Ku itariki ya 24 Gashyantare 2005, Urugereko rwa Mbere rw'Iremezo rwafashe icyemezo. Rwanze kwakira umushinga w'*Inyandiko y'ibirego* yahinduwe, rusaba Porokireri gutegura no kurushyikiriza umugereka ukubiyemo ibisobanuro binonosoye ku *nyandiko y'ibirego* ya mbere yatanzwe ku itariki ya 23 Ukuboza 2004.

4. Ashingiye ku cyemezo cyavuzwe hejuru, Porokireri atanze Umugereka ukubiyemo ibisobanuro binonosoye wometse kuri iki cyifuzo.

Bitanzwe ku itariki ya 28 Gashyantare 2005

(Umukono)	(Umukono)
Charles Adeogun-Phillips	Adesola Adeboyejo

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UMURYANGO W'ABIBUMBYE

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

POROKIRERI

Aburana na

THARCISSE MUVUNYI

UMUGEREKA UKUBIYEMO IBISOBANURO BIRAMBUYE BY'INYANDIKO Y'IBIREGO

Ibiro bya Porokireri:

Charles Adeogun-Phillips

Adesola Adeboyejo

Renifa Madenga

Dennis Mabura

Avoka wunganira Uregwa

Me W.E. Taylor

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

IBIREGO

Ikirego cya mbere n'icya kabiri: JENOSIDE cyangwa, icyo cyaha kiramutse kitamuhamye, KUBA ICYITSO CY'ABAKOZE JENOSIDE

1. Mu gika cya 3.4 cy'Inyandiko y'ibirego, Porokireri avuga ko mu Rwanda hari ubwoko nyamuke buzwi ku izina ry'Abatutsi, kandi Guverinoma ikabifata gutyo mu rwego rw'amategeko. Byongeye kandi, abaturage nyamwinshi bari abo mu bwoko buzwi mu rwego rw'amategeko ku izina ry'Abahutu.

2. Mu gika cya 3.10 cy'Inyandiko y'ibirego, Porokireri avuga ko **Tharcisse Muvunyi** yari afite igitekerezo cyo kurimbura ubwoko bw'Abatutsi abaziza icyo bari cyo. Kubera ububasha yari afite, akora wenyine cyangwa afatanije n'abandi bantu, yicishije Abatutsi benshi.

Uko ububasha n'ubugenzuzi bya Tharcisse Muvunyi byanganaga

3. Mu gika cya 2.2 cy'Inyandiko y'ibirego, Porokireri avuga ko ku itariki ya 7 Mata 1994 cyangwa ahagana kuri iyo tariki, **Tharcisse Muvunyi** yagizwe umuyobozi w'ishuri rya ba suzofiye (ESO), ubwo uwari umukuriye mu kazi ari we Koloneli Marcel Gatsinzi, yari amaze kugirwa Umugaba mukuru w'igisirikare w'agateganyo,

4. Mu gika cya 2.3, n'icya 3.21 by'Inyandiko y'ibirego, Porokireri avuga ko, nk'umuyobozi w'ishuri rya ESO muri Perefegitura ya Butare, **Tharcisse Muvunyi** ari we wari usumbije abandi basirikari ipete ashinzwe ibikorwa bijyana n'umutekano muri Perefegitura ya Butare n'iya Gikongoro. Muri urwo rwego, Tharcisse Muvunyi yashyiraga mu bikorwa amategeko y'ubuyobozi bukuru bw'igisirikare uko yabaga yatanzwe n'umugaba mukuru w'igisirikare.

5. Mu gika cya 2.3, n'icya 3.21 by'Inyandiko y'ibirego, Porokireri avuga ko, nk'umuyobozi w'ishuri rya ESO, Uregwa yategekaga ba ofisiye n'abasirikare bo muri iryo shuri. Yari afite ububasha kuri jandarumori n'ikigo cy'i Ngoma kandi agenzura ibikorwa by'ibyo

bigo, kimwe n'uko yari ashinzwe ibikorwa byose bya gisirikari byaberaga muri Perefegitura ya Butare.

6. Mu gika cya 3.22 cy'Inyandiko y'ibirego, Porokireri avuga ko, nk'umutegetsi w'igisirikare wari usumbije abandi bose umwanya muri perefegitura, **Tharcisse Muvunyi** yari mu rwego rwa gisirikare rushinzwe kubungabunga umutekano w'abasiviri muri perefegitura, ko kandi zimwe mu nshingano zari izi zikurikira: Gukorana na perefe mu birebana n'umutekano; Kuba umwe mu bagize inama ya perefegitura ishinzwe umutekano;Gutuma perefe abona uburyo butuma akora neza imirimo ye nk'umusiviri uhagarariye Guverinoma ufite umwanya wo hejuru kurusha abandi;Gutabara abaturage igihe bari mu kaga no gukora indi mirimo, iyo ari yo yose, ya ngombwa kugira ngo ishuri rishinzwe guhugura abasirikare rigende neza.

Ibisobanuro birambuye

Ibyabereye muri Perefegitura ya Butare guhera ku itariki ya 19 Mata 1994

7. Mu gika cya 3.19 cy'Inyandiko y'ibirego, Porokireri avuga ko ku itariki ya 19 Mata 1994, i Butare habereye umuhango, witabiriwe n'abantu benshi, wo kurahiza Perefe mushya ari we Sylvain Nsabimana. Iyo nama yatangajwe ikanategurwa na Guverinoma y'agateganyo, yabereye i Butare ku ngoro ya MRND. Muri uwo muhango, Perezida Théodore Sindikubwabo yavuze disikuru rutwitsi, ahamagarira abaturage b'i Butare, ku mugaragaro kandi ku buryo bweruye, gukurikiza urugero rwo mu yandi ma perefegitura, bityo bagatangira kwica. Yamaganye bikomeye abo yise «ba nyirantibindeba», ni ukuvuga abumvaga batarebwa n'ibyarimo kuba, n'uko arababwira ati: «Nimuve mu nzira» maze yongeraho ati «nimutureke dukore». Minisitiri w'Intebe, Jean Kambanda, wakurikiyeho mu gufata ijambo, ntiyavuguruje Perezida wa Repubulika.

8. Mu gika cya 3.20 cy'Inyandiko y'ibirego, Porokireri avuga ko Liyetona Koloneli **Tharcisse Muvunyi** yitabiriye iyo nama nk'umuyobozi w'ibikorwa bya gisirikari muri Perefegitura ya Butare. Kubera ko yari ari muri uwo muhango kandi akaba

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

ataritandukanyije n'amagambo yavuzwe na Perezida wa Repubulika, Liyetona Koloneli **Tharcisse Muvunyi** yagaragarije neza abaturage ko abasirikare bashyigikiye ubwicanyi.

Kubera ibikorwa byose bivugwa mu gika cya 3.20 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yafashije kandi ashishikariza abandi gucura umugambi wo gukora ibyaha, gutegura cyangwa gutsotsoba ibyo byaha, nk'uko biteganywa n'Ingingo ya 6.1 ya Sitati.

9. Mu gika cya 3.23 cy'Inyandiko y'ibirego, Porokireri avuga ko nyuma y'uruzinduko rwa Perezida Sindikubwabo, Liyetona Koloneli **Tharcisse Muvunyi,** ashingiye ku bubasha yahabwaga n'amategeko n'ubundi atayakomoragaho kuri ba ofisiye no ku basirikare bo muri ESO, yatumije inama y'aba ofisiye n'aba suzofisiye bo muri iryo shuri. Muri iyo nama yabamenyesheje ko ibyifuzo bya Perezida bigomba gufatwa nk'amategeko agomba gushyirwa mu bikorwa.

Kubera ibikorwa byose bivugwa mu gika cya 3.20 n'icya 3.23 by'*Inyandiko y'ibirego*, Porokireri avuga ko Uregwa yategetse kandi yahamagariye abandi gukora ibyaha cyangwa mu bundi buryo ubwo ari bwo bwose, yabafashije, abashishikariza gucura umugambi, gutegura cyangwa gutsotsoba ibyo byaha, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Ibyabereye mu kigo cy'Abeneberika cy'i Sovu, muri Komini ya Huye

10. Mu gika cya 3.27 cy'Inyandiko y'ibirego, Porokireri avuga ko ku itariki ya 30 Mata 1994, Liyetona Koloneli **Muvunyi**, akoresheje ububasha yakomoraga ku mategeko n'ubwo atayakomoragaho, yategetse abasirikare bo mu kigo cy'i Ngoma kujya mu kigo cy'Abeneberika (Icyitonderwa cy'umusemuzi: uwanditse umwimerere ashobora kuba yarashatse kuvuga Abenebikira) gushimuta impunzi zari zihari, zirimo abagore n'abana. Icyo gitero, cyayobowe n'umuliyetona, cyashimuse abantu 25 barimo abana ba Porofeseri Karenzi, kandi abo bantu ntawongeye kubabona.

Kubera ibikorwa byose bivugwa mu gika cya 3.27 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yategetse abantu gukora ibyaha, ko yahamagariye cyangwa ko yafashije akanashishikariza mu bundi buryo ubwo ari bwo bwose gucura umugambi, gutegura cyangwa gutsotsoba ibyo byaha, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa bivugwa mu gika cya 3.27 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yari azi cyangwa yagombaga kumenya ko abo akuriye biteguraga gukora cyangwa ko bari bakoze kimwe cyangwa byinshi mu bikorwa bivugwa mu ngingo ya 2(3) (a) na (e) ya Sitati ariko ntiyafashe ingamba za ngombwa kandi zumvikana kugira ngo aburizemo ibyo bikorwa cyangwa ngo ahane ababikoze, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ibyabereye ku bitaro bya Kaminuza by'i Butare

11. Mu gika cya 3.29 cy'*Inyandiko y'ibirego*, Porokireri avuga ko, ku itariki ya 15 Mata cyangwa hafi y'iyo tariki, Liyetona Koloneli **Tharcisse Muvunyi**, ari kumwe n'itsinda ry'abasirikare, yagiye mu gitero cyagabwe ku bitaro bya Kaminuza y'i Butare cyibasiye impunzi z'Abatutsi zari zakomeretse. Abagabye igitero bavanguye Abatutsi n'Abahutu maze bica impunzi z'Abatutsi.

Kubera ibikorwa byose bivugwa mu gika cya 3.29 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yategetse, yahamagariye abantu gukora ibyaha cyangwa ko yafashije akanashishikariza abantu gucura umugambi, gutegura cyangwa gutsotsoba ibyo byaha nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa byose bivugwa mu gika cya 3.29 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yari azi cyangwa yagombaga kumenya ko abo yari akuriye biteguraga gukora cyangwa ko bari bakoze kimwe cyangwa byinshi mu bikorwa bivugwa mu ngingo ya 2(3)(a) na e) ya Sitati, ariko ntiyafashe ingamba za ngombwa kandi zumvikana kugira ngo aburizemo ibyo bikorwa cyangwa ngo ahane ababikoze, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ibyabereye kuri za bariyeri muri Perefegitura ya Butare

12. Mu gika cya 3.33 cy'*Inyandiko y'ibirego*, Porokireri avuga ko ku itariki ya 27 Mata 1994, Guverinoma y'agateganyo yategetse ko hashyirwaho za bariyeri, kandi izi ko izo bariyeri zari izo kurobanura Abatutsi n'ibyitso byabo kugira ngo bicwe. Iryo tegeko ryarubahirijwe, kandi n'ubundi izo bariyeri zari zaramaze gushyirwaho muri Butare.

13. Mu gika cya 3.34 cy'*Inyandiko y'ibirego*, Porokireri avuga ko bariyeri zitwaga ko ari izo gutahura abafite intwaro no kubuza umwanzi gucengera. Bariyeri zari i Rwasave, Rwabuye, imbere ya Hotel Faucon, imbere y'ikigo cya gisirikare cy'i Ngoma, imbere ya Hotel Ibis, ku isangano ry'imihanda rigana ku bitaro bya Kaminuza, iruhande rwo kwa Bihira n'imbere y'ishuri rya ESO. Abarindaga izo bariyeri basakaga abasiviri bahanyuze kugira ngo bagenzure indangamuntu zabo kandi banabuze umwanzi gucengera.

14. Hari abantu babonye Liyetona Koloneli **Tharcisse Muvunyi** kuri bariyeri yari iri imbere yo kwa Bihira aha abasirikare be amabwiriza.

15. Ku itariki ya 20 Mata1994 cyangwa hafi y'iyo tariki, abasirikare bari boherejwe kurinda bariyeri yari iri imbere yo kwa Bihira bishe abasiviri batatu b'Abatutsi, hanyuma bajugunya imirambo yabo mu muferege hafi y'Ikigo nderabuzima cya Kaminuza.

Kubera ibikorwa byose bivugwa mu gika cya 3.33 n'icya 3.34 by'Inyandiko y'ibirego no mu gika cya 14 n'icya 15 by'uyu mugereka, Porokireri avuga ko Uregwa yategetse kandi agahamagarira abantu gukora ibyaha, ko yafashije, akanashishikariza mu bundi buryo ubwo ari bwo bwose gucura umugambi, gutegura cyangwa gutsotsoba ibyo byaha, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa byose bivugwa mu gika cya 3.33 n'icya 3.34 by'Inyandiko y'ibirego no mu gika cya 14 n'icya 15 by'uyu mugereka, Porokireri avuga ko Uregwa yari azi cyangwa yagombaga kumenya ko abo yari akuriye biteguraga gukora cyangwa ko bari bakoze kimwe cyangwa byinshi mu bikorwa bivugwa mu ngingo ya 2(3)(a) na e) ya Sitati, ariko ntiyafashe ingamba za ngombwa kandi zumvikana kugira

ngo aburizemo ibyo bikorwa cyangwa ahane ababikoze, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ibyabereye muri Kaminuza y'i Butare

16. Mu gika cya 3.34 (i) cy'Inyandiko y'ibirego, Porokireri avuga ko abasirikare bo muri ESO bayoborwaga na Liyetona Koloneli Tharcisse Muvunyi abasirikare bo muri ESO bagiye muri Kaminuza y'u Rwanda i Butare kwica abarimu n'abanyeshuri b'Abatutsi. Babikoze mu rwego rw'umugambi wo gutsembatsemba abanyabwenge b'Abatutsi.

Kubera ibikorwa byose bivugwa mu gika cya 3.34(i) cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yategetse kandi agahamagarira abantu gukora ibyaha, ko yafashije akanashishikariza mu bundi buryo ubwo ari bwo bwose gucura umugambi, gutegura cyangwa gutsotsoba ibyo byaha, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa byose bivugwa mu gika cya 3.34 (i) cy'Inyandiko y'ibirego, Porokireri avuga ko, kubera ko yari afite ububasha ku basirikari bo muri ESO no kubera ko ubwicanyi bwari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa birimo kuba, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ibyabereye mu kigo cya gisirikari cy'i Ngoma no mu kigo cya ESO

17. Mu gika cya 3.36 cy'Inyandiko y'ibirego, Porokireri avuga ko, mu kwezi kwa Mata n'ukwa Gicurasi 1994, ba ofisiye n'abandi basirikare bari bakuriwe na Liyetona Koloneli **Tharcisse Muvunyi** bagize uruhare mu bwicanyi bwibasiye abasiviri b'Abatutsi, n'Abahutu batari intagondwa bo mu mashyaka ataravugaga rumwe n'ubutegetsi. Bamwe muri abo basiviri b'Abatutsi barafashwe bajyanwa mu kigo cya gisirikare cy'i Ngoma, cyangwa muri ESO, aho baje kwicirwa. Liyetona Koloneli **Tharcisse Muvunyi** yahaye abasirikare n'abantu bitwaraga gisirikare amabwiriza mu buryo butaziguye yo kugaba ibyo bitero.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Kubera ibikorwa byose bivugwa mu gika cya 3.36 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yategetse, akanahamagarira abantu gukora ibyaha, ko yafashije akanashishikariza mu bundi buryo ubwo ari bwo bwose gucura umugambi, gutegura cyangwa gutsotsoba ibyo byaha, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa byose bivugwa mu gika cya 3.36 cy'Inyandiko y'ibirego, Porokireri avuga ko, kubera ububasha yari afite ku basirikari bo mu kigo cya ESO no kubera ko ubwicanyi bwari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa birimo kuba, ariko ntiyafashe ingamba kugira ngo abiburizemo, abihagarike cyangwa ngo ahane ababikoze, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ibyakozwe n'abo Muvunyi yari akuriye bo muri ESO no mu kigo cya gisirikare cy'i Ngoma

18. Mu gika cya 3.37 cy'Inyandiko y'ibirego, Porokireri avuga ko inshuro nyinshi, Liyetona Koloneli **Muvunyi** yategetse, mu buryo butaziguye, abasirikare n'abantu bitwara gisirikare kugaba ibitero. Yanabibateyemo inkunga y'ibikoresho, abaha nk'amamodoka yo kubatwara n'amagerenade.

19. Mu gika cya 3.38 cy'Inyandiko y'ibirego, Porokireri avuga ko, nk'urugero, Liyetona Koloneli **Muvunyi** yatanze amagerenade yakoreshejwe mu gitero cyahitanye impunzi ku isoko ryo muri Segiteri ya Kabilizi, muri Komine ya Mugusa.

20. Mu gika cya 3.39 cy'Inyandiko y'ibirego, Porokireri avuga ko nanone muri icyo gihe, abasirikare bo mu kigo cy'i Ngoma, inshuro zitandukanye, bishe ku mugaragaro abasiviri b'Abatutsi cyangwa abantu bakekwagaho kuba Abatutsi, babarashe n'imbunda zabo z'akazi.

21. Mu gika cya 3.40 cy'Inyandiko y'ibirego, Porokireri avuga ko mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, abasiviri babarirwa mu bihumbi bari biganjemo Abatutsi, bishwe muri Perefegitura ya Butare, cyane cyane ahantu hakurikira:

- *Kuri Paruwasi ya Ngoma, muri Komine ya Ngoma;*
- *Ku ivuriro ryo mu Matyazo, mu Matyazo;*
- *Kuri Paruwasi ya Kibeho, muri Komine ya Mugusa;*
- *Mu kigo cy'Abeneberika i Sovu, muri Komine ya Huye;*
- *Muri « Groupe scolaire », Ngoma;*
- *Muri «Economat général », muri Komine ya Ngoma;*
- *Kuri Paruwasi ya Nyumba, muri Komine ya Gatare;*
- *Mu gace gatuwemo n'Abayisilamu, muri Komine ya Ngoma*.

Kubera ibikorwa byose bivugwa kuva ku gika cya 3.37 kugeza ku cya 3.40 by'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yategetse kandi agakangurira abantu gukora ibyo byaha, cyangwa mu buryo ubwo ari bwo bwose akabafasha kandi akabashishikariza kubicurira umugambi, kubitegura cyangwa kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa byose bivugwa kuva ku gika cya 3.37 kugeza ku cya 3.40 by'Inyandiko y'ibirego, Porokireri avuga ko, kubera umwanya yari afite w'ubuyobozi ku basirikare bo muri ESO no kubera ko ubwicanyi bwari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa se yagombaga kumenya ko ibyo byaha byakorwaga, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Itegurwa ry'urutonde rw'amazina y'abantu bagombaga kwicwa

22. Mu gika cya 3.42 cy'Inyandiko y'ibirego, Porokireri avuga ko mu gihe ibivugwa muri iyi nyandiko y'ibirego byabaga, Liyetona Koloneli **Muvunyi** yagize uruhare mw'itegurwa ry'amalisiti y'abantu bagombaga kwicwa, biganjemo abanyabwenge b'Abatutsi n'Abatutsi bakomeye cyangwa agira uruhare mu gutahura abo bantu. Ayo malisiti yahabwaga abasirikare n'abantu bitwara gisirikare, bagahabwa amategeko yo gufata cyangwa kwica ababaga banditse kuri ayo malisiti. Abasirikare n'Interahamwe bashyize mu bikorwa ayo mategeko.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

23. Mu gika cya 3.43, Porokireri avuga ko ubwo bwicanyi bwakozwe n'abasirikare bwabaye kimwe mu bikorwa byakomye imbarutso y'ubwicanyi n'andi marorerwa muri Butare. Cyakora, ubwicanyi bwatangiye gukara nyuma y'ijambo Perezida yavuze ku itariki ya 19 Mata.

Kubera ibikorwa byose bivugwa mu gika cya 3.42 n'icya 3.43 by'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yategetse, akanakangurira abantu gukora ibyo byaha, cyangwa mu bundi buryo ubwo ari bwo bwose abafasha kandi abashishikariza kubicurira umugambi, kubitegura cyangwa kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Byongeye kandi, kubera ibikorwa bivugwa mu gika cya 3.42 n'icya 3.43 by'Inyandiko y'ibirego, Porokireri avuga ko, kubera umwanya yari afite wo kuyobora abasirikare bo muri ESO no kuba ubwicanyi bwari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa se yagombaga kumenya ko ibikorwa nk'ibyo byakorwaga, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoze, nk'uko bitegenywa n'Ingingo ya 6(3) ya Sitati.

Ibyabereye kuri Paruwasi ya Ngoma, Komini ya Ngoma

24. Mu gika cya 3.45 cy'Inyandiko y'ibirego, Porokireri avuga ko ku itariki ya 30 Mata 1994 cyangwa hafi y'iyo tariki, Paruwasi ya Ngoma yagabweho igitero. Padiri mukuru w'iyo Paruwasi yahuruje abasirikare bo mu kigo cy'i Ngoma, n'uko hashize isaha, Suliyetona Niyonteze, wari wungirije umuyobozi w'icyo kigo, azana n'abasirikare batandatu. Aho gutabara, Suliyetona Niyonteze yabajije Padiri mukuru uwamuhaye uburenganzira bwo gucumbikira Inyenzi zingana zityo hafi y'ikigo cya gisirikare. Ubwo yatangiye kubara impunzi zari zihari maze ava kuri Paruwasi nta cyo akoze ngo ahagarike igitero.

25. Mu gika cya 3.46 cy'*Inyandiko y'ibirego*, Porokireri avuga ko uwo munsi saa kumi n'imwe z'umugoroba cyangwa hafi y'iyo saha, hari umuliyetona waje kuri iyo Paruwasi gufata padiri mukuru ariko asanga yahunze. Nyuma yaho, Interahamwe n'abasirikare bagabye igitero ku mpunzi zari aho kuri paruwasi zarimo abagore n'abana.

Kubera ibikorwa byose bivugwa mu gika cya 3.45 n'icya 3.46, Porokireri avuga ko kubera umwanya yari afite wo kuyobora abasirikare bo muri ESO no kuba ubwicanyi bwari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa se yagombaga kumenya ko ibyo bikorwa byakorwaga, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoraga, nk'uko biteganywa n'Ingingo ya 6(3) ya sitati.

Ibyabereye muri Groupe scolaire y'i Butare

26. Mu gika cya 3.48 cy'Inyandiko y'ibirego, Porokireri avuga ko itariki ya 24 Mata cyangwa hafi y'iyo tariki, abasirikare bo mu kigo cya gisirikare cy'i Ngoma n'abo muri ESO bagabye igitero ku mpunzi zari muri *Groupe scolaire,* zarimo impfubyi zari zaravanywe mu kigo cy'Umuryango utabara imbabare ku Kacyiru no mu bindi bigo birera imfubyi. Icyo gihe, abasirikare bo mu kigo cy'i Ngoma bari bayobowe n'umuliyetona, naho abo muri ESO boherejwe n'umukapiteni ariko bayobowe na Suliyetona Niyonteze. Umuntu wari ushinzwe izo mpfubyi yahuruje ESO akoresheje telefone maze avugana na Liyetona Koloneli **Muvunyi,** wanze kubatabara igihe ubwicanyi bwakorwaga.

27. Porokireri avuga ko muri icyo gitero, Abatutsi bari muri izo mpunzi, mu mfubyi no mu bayobozi b'Umuryango utabara imbabare bavanguwe n'Abahutu, hashingiwe ku isura no ku bibaranga byabo maze barakubitwa. Nyuma yaho bajyanywe mu mamodoka maze baricwa.

Kubera ibikorwa byose bivugwa mu gika cya 3.48 cy'Inyandiko y'ibirego no mu gika cya 30 cy'uyu mugereka, Porokireri avuga ko Uregwa yafashije, akanashishikariza abantu gucura umugambi wo gukora ibyo byaha, kubitegura no kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byongeye kandi, kubera ibikorwa byose bivugwa mu gika cya 3.48 cy'Inyandiko y'ibirego no mu gika cya 30 cy'uyu mugereka, Porokireri avuga ko, kubera umwanya yari afite wo kuyobora abasirikare bo muri ESO no kuba ubwicanyi bwari rusange, Liyetona Koloneli **Tharcisse**

Muvunyi yari azi cyangwa se yagombaga kumenya ko ibyo byaha byakorwaga, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoraga, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ikirego cya gatatu: GUHAMAGARIRA ABANTU MU RUHAME KANDI KU BURYO BUTAZIGUYE GUKORA JENOSIDE

Ibisobanuro birambuye

Uruhare rw'Uregwa mu manama nkangurambaga muri Butare

28. Mu gika cya 3.32 cy'Inyandiko y'ibirego, Porokireri avuga ko muri Mata 1994 cyangwa hafi y'icyo gihe, ibibazo birebana n'umudendezo n'umutekano by'abaturage b'abasiviri muri perefegitura byigirwaga mu nama z'Akanama ka Perefegitura gashinzwe umutekano. Mu bari bagize ako kanama harimo abahagarariye abasirikare n'abashinzwe gahunda yo kwirengera kw'abaturage (*civil defense*), nka Liyetona Koloneli **Muvunyi**, Koloneli **Alphonse Nteziryayo**, Liyetona Koloneli **Aloys Simba** wari mu kiruhuko cy'izabukuru; harimo kandi n'abari bahagarariye ubutegetsi bwa gisiviri nka **Callixte Kalimanzira** wari Umuyobozi mu Biro bya Minisitiri w'Ubutegetsi bw'Igihugu, **Joseph Kanyabashi** wari Burugumesitiri wa Komine ya Ngoma, **Jean Baptiste Ruzindaza** wari Perezida w'Urukiko rwa Mbere rw'Iremezo, n'umuyobozi wungirije wa Kaminuza y'u Rwanda i Butare.

Kubera ibikorwa byose bivugwa mu gika cya 3.32 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yacuze umugambi wo gukora ibyo byaha cyangwa mu bundi buryo ubwo ari bwo bwose yafashije kandi ashishikariza abantu gucura umugambi wo kubikora, wo kubitegura cyangwa wo kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

29. Mu gika cya 3.24 cy'Inyandiko y'ibirego, Porokireri avuga ko Liyetona Koloneli **Tharcisse Muvunyi**, ari hamwe na Perezida wa gahunda y'ukwirengera kw'abaturage *(Civil defense*) muri Perefegitura ya Butare, waje nyuma kuba Perefe w'iyo perefegitura,

n'abandi bantu bakomeye bo muri iyo perefegitura, bagiye mu makomine atandukanye ya Perefegitura ya Butare, byitwa ko bajyanywe no gukangurira abaturage bo muri ayo makomine kurengera igihugu. Nyamara mu by'ukuri, bashakaga kubahamagarira gukora ubwicanyi bwibasiye Abatutsi. Ayo manama yo guhamagarira abaturage gukora ubwicanyi yabereye ahantu hanyuranye muri Perefegitura ya Butare, harimo aha hakurikira: *muri Komini ya Mugusa, kuri santeri ya Gikore, ku biro bya Komini ya Muyaga no muri Segiteri ya Nyabitare iri muri Komini ya Muganza.*

Kubera ibikorwa byose bivugwa mu gika cya 3.24 cy'Inyandiko y'ibirego, Porokireri avuga ko Uregwa yakoze ibyo byaha, akanakangurira abantu kubikora cyangwa mu bundi buryo ubwo ari bwo bwose akabafasha, akanabashishikariza kubicurira umugambi, kubitegura cyangwa kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

30. Mu gika cya 3.25 cy'*Inyandiko y'ibirego*, Porokireri avuga ko, mu nama zimaze kuvugwa hano hejuru, Liyetona Koloneli **Tharcisse Muvunyi,** afatanyije n'abategetsi bo muri utwo duce, yavugiye mu ruhame amagambo akarishye yibasiye Abatutsi. Ayo magambo yavugaga akoresheje imigani ya kinyarwanda akaba yarayagejeje ku baturage baho no ku bantu bitwaraga gisirikare. Abaturage bumvise ko iyo migani ibahamagarira gutsembatsemba Abatutsi, kandi buri gihe izo nama zakurikirwaga n'ubwicanyi bwibasiraga Abatutsi bari batuye muri ayo makomine cyangwa bari barahahungiye.

Kubera ibikorwa byose bivugwa mu gika cya 3.25 cy'Inyandiko y'ibirego, Uregwa yakoze ibyo byaha cyangwa, ku bundi buryo ubwo ari bwo bwose, afasha anashishikariza abantu kubicurira umugambi, kubitegura cyangwa kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

Byahinduwe mu kinyarwanda, byemezwa na TPIR/SSL

Ikirego cya kane: GUSAMBANYA KU GAHATO NK'ICYAHA CYIBASIYE INYOKOMUNTU

Ibisobanuro birambuye

Ibyaha byo gusambanya ku gahato n'ibindi bikorwa by'urugomo bishingiye ku gitsina

31. Mu gika 3.41 cy'Inyandiko y'ibirego, Porokireri avuga ko mu gihe ibivugwa haruguru mu gika cya 3.40 byababaga, abagore n'abakobwa benshi basambanyijwe ku gahato kandi bakorerwa ibikorwa by'urugomo rushingiye ku gitsina. Bakorewe ibyo bikorwa aho hantu, cyangwa barashimutwa cyangwa bajyanwa ahandi hantu ku ngufu maze basambanywa ku gahato, banakorerwa urundi rugomo rushingiye ku gitsina. Ibyo byose byakozwe n'Interahamwe n'abasirikare bo mu kigo cy'i Ngoma.

32. Mu gika cya 3.41 (i) cy'Inyandiko y'ibirego, Porokireri avuga ko ibyo bikorwa byo gusambanya ku gahato byagiye biba bibi kurushaho bitewe n'uko abantu benshi basambanyaga umuntu umwe, umuntu umwe agasambanywa inshuro nyinshi, abakobwa b'amasugi bagateshwa ubusugi bwabo, abakobwa bagasambanyirizwa ku ngufu imbere ya ba nyina cyangwa abandi bantu bo mu muryango, ibyo bikorwa bikaba byararangwaga no guhutaza abahohotewe no kubatesha agaciro. Byongeye kandi, abenshi mu bakorewe urwo rugomo rushingiye ku gitsina baricwaga nyuma yaho.

Kubera ibikorwa byose bivugwa mu gika cya 3.41 n'icya 3.41(i), Porokireri avuga ko Uregwa yafashije akanashishikariza abantu gucura umugambi wo gukora ibyo byaha, kubitegura cyangwa kubitsotsoba, nk'uko biteganywa n'Ingingo ya 6(1) ya Sitati.

33. Byongeye kandi, kubera ibikorwa byose bivugwa mu gika cya 3.41 n'icya 3.41(i), Porokireri avuga ko, kubera umwanya yari afite wo kuyobora abasirikare bo muri ESO no kuba ubwo bwicanyi bwari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa yagombaga kumenya ko ibyo bikorwa byakorwaga, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa guhana ababikoraga, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.

Ikirego cya gatanu: IBINDI BIKORWA BIBI BIRENZE KAMEREMUNTU NK'IBYAHA BYIBASIYE INYOKOMUNTU

Ibisobanuro birambuye

Ibyakozwe n'abantu bari bakuriwe na Tharcisse Muvunyi bo muri ESO no mu kigo cya gisirikare cy'i Ngoma

34. Mu gika 3.44 cy'*Inyandiko y'ibirego*, Porokireri avuga ko, ku itariki ya 21 Mata 1994 cyangwa hafi y'iyo tariki, bamwe mu bantu barokotse mu gitero cyagabwe mu Matyazo bahungiye kuri Paruwasi ya Ngoma. Muri izo mpunzi harimo abana 62 bari bakomeretse bafite hagati y'amezi 16 n'imyaka 5. Abo bana bazanywe kuri iyo Paruwasi na konseye wa segiteri kubera ko abasirikare barindaga bariyeri yari imbere ya ESO bamubujije kubajyana ku bitaro bya Kaminuza avurwe.

35. Mu gika 3.47 cy'Inyandiko y'ibirego, Porokireri avuga ko mu gihe ibivugwa muri iyi nyandiko y'ibirego byababaga, abasirikare bo muri ESO n'abo mu kigo cya gisirikare cy'i Ngoma bakoreye abasiviri b'Abatutsi ibikorwa bya kinyamaswa bababakubitagura inkoni, amashami y'ibiti n'ibibuno by'imbunda cyangwa bimwe muri ibyo.

Kubera ibikorwa bivugwa mu gika cya 3.44 n'icya 3.47 by'Inyandiko y'ibirego, Porokireri avuga ko, kubera umwanya yari afite wo kuyobora abasirikare bo muri ESO no kuba ibyo bikorwa byari rusange, Liyetona Koloneli **Tharcisse Muvunyi** yari azi cyangwa se yagombaga kumenya ko byakorwaga, ariko ntiyafashe ingamba zo kubiburizamo, kubihagarika cyangwa se guhana ababikoraga, nk'uko biteganywa n'Ingingo ya 6(3) ya Sitati.