Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

Umuryango w'Abibumbye

URUGEREKO RWA MBERE RW'IREMEZO III

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POROKIRERI

aburana na

Callixte KALIMANZIRA

Urubanza N° ICTR-05-88-T

INYANDIKO Y'URUBANZA

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Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

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UMUTWE WA I – INTANGIRIRO

1. INYANDIKO Y'IBIREGO

1. Ku itariki ya 21 Nyakanga 2005 Porokireri yashyikirije Urukiko Inyandiko y'ibirego ashinjamo Callixte Kalimanzira maze Umucamanza yemeza iyo nyandiko ku munsi ukurikiyeho. Ashingiye ku Ngingo ya 2(3) ya Sitati y'Urukiko, Porokireri arega Kalimanzira ibyaha bitatu ari byo jenoside, kuba icyitso cy'abakoze jenoside, no guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside. Porokireri avuga ko hashingiwe ku Ngingo ya 6 (1) ya Sitati, Kalimanzira agomba kuryozwa buri cyose muri ibyo byaha nka gatozi.

2. Inyandiko y'ibirego yose uko yakabaye yometse kuri iyi Nyandiko y'urubanza mu Mugereka wa III.

2. INCAMAKE Y'IMIBURANISHIRIZE

3. Ku itariki ya 1 Nzeri 2005, hatanzwe urwandiko rwo gufata Kalimanzira no kumwimurira ku cyicaro cy'Urukiko. Ku itariki ya 8 Ugushyingo 2005, Kalimanzira yishyize mu maboko y'abakozi b'Urukiko i Nairobi muri Kenya maze uwo munsi arara agejejwe muri gereza y'Umuryango w'Abibumbye Arusha. Nyuma y'iminsi mike, ubwo yitabaga Urukiko bwa mbere, yahakanye ibyaha byose uko ari bitatu ashinjwa mu Nyandiko y'ibirego[1].

4. Urubanza rwa Kalimanzira rwatangiye kuburanishwa ku itariki ya 5 Gicurasi 2008. Porokireri yarangije gutanga ibimenyetso bishinja ku itariki ya 30 Kamena 2008, amaze guhamagaza abatangabuhamya 24 mu minsi 16 y'iburanisha. Ubwunganizi bwatangiye gutanga ibimenyetso bishinjura ku itariki ya 17 Ugushyingo 2008 maze bubitanga mu byiciro bibiri. Icyiciro cya mbere cyarangiye ku itariki ya 4 Ukuboza 2008, naho icya kabiri gitangira ku ya 26 Mutarama 2009 kirangira ku ya 11 Gashyantare 2009, ubuhamya bwa nyuma bukaba bwaratanzwe na Kalimanzira ubwe. Mu minsi 21 y'iburanisha, Ubwunganizi bwahamagaje abatangabuhamya 42. Porokireri yatanze ibimenyetso gihamya byose hamwe 82, naho Ubwunganizi butanga 117. Ibyemezo Urugereko rwafashe ku byifuzo by'ingoboka n'amategeko

[1] Inyandikomvugo y'iburanisha, 14 Ugushyingo 2005, urup. 9 (Kwitaba Urukiko bwa mbere).

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rwatanze byose hamwe ni 19. Imyanzuro nsozarubanza yanditse yatanzwe ku itariki ya 2 Mata 2009, naho iyo mu magambo itangwa ku ya 20 Mata 2009.

5. Uko imiburanishirize y'uru rubanza yagenze bivugwa mu magambo arambuye mu Mugereka wa I wometse kuri iyi Nyandiko y'urubanza.

3. AMAVU N'AMAVUKO Y'URUBANZA N'UKO RWAGENZE MURI MAKE

6. Hagati y'itariki ya 6 Mata n'iya 17 Kamena 1994, mu Rwanda hari intambara itari mpuzamahanga. Muri icyo gihe, harimo no kubera jenoside yibasiye Abatutsi ndetse n'ibitero rusange cyangwa biri kuri gahunda byibasiraga abasiviri b'Abatutsi kubera ubwoko bwabo. Muri icyo gihe na none, Abanyarwanda babarirwaga mu moko atatu atandukanye kandi ayo moko yari agize amatsinda agomba kurindwa mu mategeko nk'uko biteganywa n'Amasezerano yerekeranye no gukumira no guhana icyaha cya jenoside[2]. Muri ibyo bitero, bamwe mu Banyarwanda bishe abantu bafatwaga ko ari Abatutsi cyangwa babatera ububabare buzahaza umubiri cyangwa mu mutwe. Ibyo bitero byahitanye abantu benshi cyane bo mu bwoko bw'Abatutsi[3].

7. Callixte Kalimanzira yavukiye muri Perefegitura ya Butare mu mwaka wa 1953. Porokireri avuga ko kuva ku itariki ya 6 Mata kugera ku ya 25 Gicurasi 1994, Kalimanzira ari we wakoraga by'agateganyo imirimo ya Minisitiri w'Ubutegetsi bw'Igihugu kubera ko Faustin Munyazesa atari ahari. Anavuga ko Kalimanzira yari umuyoboke ukomeye w'ishyaka rya MRND, akaba ari na we wayoboye gahunda mu nama yabereye mu Ngoro ya MRND ku itariki ya 19 Mata 1994. Iyo nama yari igamije gutangiza ubwicanyi bwibasiye Abatutsi muri Perefegitura ya Butare kugira ngo naho buhabere nk'uko byari bimeze mu tundi duce tw'igihugu. Kalimanzira, wari ukunzwe kandi yubashywe cyane n'abaturage bo muri ako karere, aregwa kuba yakoresheje nabi ububasha yari afite kuko yategetse, agashishikariza kandi agamahagarira abaturage bo muri Perefegitura ya Butare kwica abaturanyi babo b'Abatutsi.

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[2] Amasezerano yerekeranye no gukumira no guhana icyaha cya jenoside. Icyemezo cya 260 (III) cy'Inama Rusange y'Umuryango w'Abibumbye cyo ku itariki ya 9 Ukuboza 1948.

[3] *Urubanza Porokireri aburana na Kalimanzira*, N^{o} ICTR-05-88-I, Icyemezo ku bintu bizwi na bose ababuranyi batagomba kujyaho impaka, 22 Gashyantare 2006.

8. Ubwunganizi bwo buvuga ko Kalimanzira atari umunyapolitiki, ko ahubwo yari umuntu waharaniraga guteza imbere no kongerera ubushobozi abaturage bo mu gace akomokamo abinyujije mu bikorwa by'ubuhinzi kandi akabikora atavangura Abahutu n'Abatutsi. Buvuga ko mu mirimo ye nk'umukozi wa Leta, Kalimanzira yari umunyamurava n'inyangamugayo kandi ko mu buzima bwe atigeze arangwa n'ibitekerezo byo kwanga Abatutsi. Kalimanzira avuga akomeje ko ubwo yagirwaga Umuyobozi w'Ibiro bya Minisitiri w'Ubutegetsi bw'Igihugu yakoraga akazi ko kuba umuntu w'impuguke gusa, ko nta bubasha na buke yari afite mu bya politiki. Yemeza ko muri Mata na Gicurasi 1994 yagumye muri Perefegitura ya Gitarama uretse inshuro nke yahavuye. Ahakana rero ko yari ahantu byinshi muri biriya bintu Porokireri amurega byabereye. Iyo myiregurire ya sinari mpari ya Kalimanzira ivugwaho birambuye mu cyiciro cya III.1.2.

9. Rumaze gusuzuma ibimenyetso byose rwashyikirijwe, Urugereko rwahamije Kalimanzira icyaha ku kirego cya mbere (jenoside), n'icya gatatu (guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside) byo mu Nyandiko y'ibirego. Rwasanze Kalimanzira ataryozwa ibyaha bikubiye mu kirego cya kabiri (kuba icyitso cy'abakoze jenoside) Porokireri yasabaga ko yaryozwa mu gihe adahamwe n'icyaha ku kirego cya mbere. Urugereko rwamukatiye igihano cy'igifungo cy'imyaka 30 kigomba kuvanwamo igihe yari amaze afunze. Mu Mutwe wa II, Urugereko rurasuzuma bimwe mu bibazo by'ikubitiro, n'ibindi bibazo ababuranyi babyukije mu myanzuro nsozarubanza yanditse batanze. Mu Mutwe wa III, Urugereko ruratanga imyanzuro yarwo ishingiye ku byabaye no ku mategeko yerekeranye n'ibyabaye bivugwa n'ibyaha Uregwa ashinjwa mu Nyandiko y'ibirego. Umutwe wa IV wahariwe imikirize y'urubanza naho uwa V uharirwa igenagihano.

UMUTWE WA II – IBIBAZO BY'IKUBITIRO

1. INTANGIRIRO

10. Mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi bwabyukije ibibazo binyuranye byerekeranye no gusuzuma ibimenyetso, inshingano za Porokireri zo kumenyekanisha ibimenyetso, n'uburenganzira bw'Uregwa bwo kumenyeshwa ibyo ashinjwa. Mu Myanzuro nsozarubanza ye mu magambo, Porokireri yagize icyo avuga kuri bimwe muri ibyo bibazo bivugwa n'Ubwunganizi, ndetse na we mu Myanzuro nsozarubanza yanditse ye avuga ibibazo bike byerekeranye no kumenyekanisha imyiregurire ya sinari mpari, amakosa yakozwe mu kuvuga ibihe ibintu bivugwa mu Nyandiko y'ibirego byabereyeho n'ibyerekeranye no kureka bimwe mu birego.

2. INENGE ZIVUGWA KU BURYO POROKIRERI ASOBANURA IBIREGO MU NYANDIKO Y'IBIREGO

2.1. Kudasobanura ko Uregwa yari afite ububasha budakomoka ku mategeko

11. Ubwunganizi buvuga ko Porokireri adasobanura neza ibyo avuga ko Kalimanzira yari afite ububasha budakomoka ku matageko. Mu gika cya kabiri cy'Inyandiko y'ibirego yanditse mu cyongereza havugwamo ububasha Uregwa yari afite budakomoka ku mategeko, ariko ubwo bubasha ntibuvugwa mu Nyandiko y'ibirego yanditse mu gifaransa. Kubera ko Inyandiko y'ibirego yo mu gifaransa ari yo y'umwimerere, umuntu ayihinduye uko bikwiye mu rundi rurimi ntihagombye kugaragaramo ubwo bubasha budakomoka ku mategeko nk'uburyo bushoboka Porokireri avuga ko bwatumaga Kalimanzira agira ijambo cyangwa ububasha ku muntu uwo ari we wese muri Perefigitura ya Butare[4].

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[4] Ni ngombwa kuzirikana ko mu Nyandiko y'ibirego y'umwimerere ya mbere yakorewe Kalimanzira iri mu gifaransa yatanzwe ku itariki ya 9 Kamena 2005, aho bavuga ku bubasha bwa Kalimanzira mu gika cya 2, harimo amagambo « budakomoka ku mategeko ». Iyo Nyandiko y'ibirego iri mu gifaransa yemejwe ku itariki ya 21 Kamena 2005 nyuma yo guhindurwa hakurikijwe Ingingo ya 47 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso. Muri iyo Nyandiko y'ibirego yahinduwe ntihakoreshwa amagambo « budakomoka ku mategeko » ariko bishobora kuba byaratewe no kwibeshya ubwo bayandikaga. Izo Nyandiko z'ibirego zombi zashyizwe mu nyandiko ikubiyemo ibimenyetso bishyigikira ibirego yashyikirijwe Kalimanzira kimwe n'Inyandiko y'ibirego yemejwe.

12. Mu gukemura ikibazo nk'icyo kigaragara mu Nyandiko y'ibirego yanditse mu gifaransa, ari yo w'umwimerere, ahakoreshejwe ijambo « gukora » nk'uburyo bw'uburyozwacyaha bw'Uregwa ku kirego cya 3 (reba Umutwe wa III.4) ariko ntirikoreshewe mu nyandiko yayo yahinduwe mu cyongereza[5], Porokireri avuga ko iryo kosa ryakozwe ubwo iyo Nyandiko y'ibirego yahindurwaga mu cyongereza ridakanganye ndetse ko Ubwunganizi butaharenganiye cyane kubera ko:

> «Ubwunganizi bwa Kalimanzira bukoresha igifaransa, bityo bukaba bwagombye kuba bwarakoresheje Inyandiko y'ibirego y'igifaransa ari yo mwimerere kugira ngo bumenye ibyaha Callixte Kalimanzira aregwa. Byongeye kandi, ubwo Kalimanzira yitabaga Urukiko bwa mbere ku itariki ya 14 Ugushyingo 2005, Gerefiye yamusomeye Inyandiko y'ibirego harimo n'igika cya 18. Icyo gihe, Inyandiko y'ibirego yasomwe ni iy'umwimerere yanditse mu gifaransa».[6]

13. Cyakora ibyabaye hano bitandukanye n'ibyo Porokireri avuga. Biratangaje kubona hari ikirego gishya kigaragara gusa mu Nyandiko y'ibirego yahinduwe mu cyongereza igatangwa hashize amezi abiri iy'umwimerere yanditse mu gifaransa itanzwe. Urugereko rusanga haba mu Nyandiko y'ibirego yasomwe ubwo Kalimanzira yitabaga Urukiko bwa mbere[7], mu Nyandiko y'ibirego yo mu gifaransa yakosowe, cyangwa mu Myanzuro mbanzirizarubanza ya Porokireri nta na hamwe havugwamo ko Kalimanzira yari afite ubwo bubasha budakomoka ku mategeko. Nk'uko bigaragara mu mitekerereze ya Porokireri kuri iki kibazo, kuba mu gika cya 2 cy'Inyandiko y'ibirego iri mu gifaransa, ari na yo y'umwimerere, hatavugwamo ubwo bubasha budakomoka ku mategeko, bishobora gutera inenge iyo Nyandiko y'ibirego.

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5 Reba inyandikomvugo y'iburanisha, 13 Gashyantare 2009, imp. 19-21 (Inama ntegurarubanza) ubwo Urugereko rwabyutsaga icyo kibazo bwa mbere.

6 Imyanzuro ya Porokireri yiswe «Ibivugwa na Porokireri ku gika cya 18 cy'Inyandiko y'ibirego nk'uko yabisabwe n'Urugereko rwa Mbere rw'Iremezo ku itariki ya 13 Gashyantare 2009 », 17 Gashyantare 2009, igika 4.

7 Ubwo Kalimanzira yitabaga Urukiko bwa mbere ku itariki ya 14 Ugushyingo 2005, uwari uhagarariye Gerefiye mu cyumba cy'iburanisha ntiyasomeye Uregwa « Icyiciro cya II. Uregwa », ni ukuvuga igika cya 1 n'icya 2 by'Inyandiko y'ibirego. Cyakora, Kalimanzira yemeje ko yahawe Inyandiko y'ibirego n'« izindi nyandiko zijyanye na yo » (reba inyandikomvugo y'iburanisha, 14 Ugushyingo 2005, urup. 3). Kubera ko bamusomeye inyandiko y'ibirego y'umwimerere iri mu gifaransa, nta kuntu muri iyo nyandiko hari kuba harimo ububasha buvugwa yari afite budakomoka ku mategeko.

14. Ubwunganizi buvuga ko Urugereko rutagomba gusuzuma icyo kibazo cy'ububasha budakomoka ku mategeko kubera ko iyo nenge itigeze ikosorwa mu zindi nyandiko zatanzwe nyuma[8]. Cyakora, Urugereko rusanga mu Myanzuro mbanzirizarubanza Ubwunganizi bwatanze hasigaye amezi atandatu n'igice ngo bubyutse iki kibazo, buvuga ko Porokireri yemeza ko Kalimanzira yari afite ububasha bukomoka ku mategeko n'ubutayakomokaho muri Perefegitura ya Butare[9]. Biragaragara rero ko, kuva mbere, Ubwunganizi bwari buzi ko muri uru rubanza havugwamo ikibazo cy'ububasha budakomoka ku mategeko Kalimanzira yaba yari afite ku bantu bo muri Perefegitura ya Butare. Bwari buzi kandi ko icyo kintu ari kimwe mu byo Porokireri avuga. Kuba rero ubwo bubasha budakomoka ku mategeko butavugwa mu Nyandiko y'ibirego iri mu gifaransa ntibyatumye Ubwunganizi buharenganira cyangwa ngo bitere urujijo. Mu by'ukuri, imyiregurire ya Kalimanzira ishingiye ku kuba yari umuntu ukomeye kandi uzwiho imyitwarire myiza muri Butare yose. Bityo rero, kuba yari afite ububasha budakomoka ku mategeko si ikintu cyagibwaho impaka cyane (reba n'akiciro ka III.1.1.4). Ikibazo gihari ni ukumenya niba yarakoresheje nabi ubwo bubasha agambiriye gukora jenoside. Bityo rero, ibyo Ubwunganizi busaba Urugereko ko rutagomba guha agaciro ibivugwa ko Kalimanzira yari afite ububasha adakomora ku mategeko, nta shingiro bifite.

2.2. Kutavuga uruhare rwa Kalimanzira nk'umuntu wari ukuriye abandi

15. Ubwunganizi buvuga ko Kalimanzira aregwa gusa ko yakoze ibyaha nka gatozi, hashingiwe ku Ngingo ya 6 (1) ya Sitati y'Urukiko. Busobanura rero ko kubera ko Kalimanzira adashinjwa nk'umuntu wari ukuriye abandi hashingiwe Ngingo ya 6 (3) ya Sitati, uburyozwacyaha bwe nk'umuntu wari ukuriye abandi nk'uko buvugwa butagombye gusuzumwa hashingiwe ku bubasha, ubwo ari bwo bwose, yaba yari afite ku bantu yari akuriye. Urugereko ntirwemera iyi ngingo y'Ubwunganizi kubera impamvu zikurikira :

16. Mu gika cya 2(vii) cy'Inyandiko y'ibirego havugwa ko, kubera imyanya yagiye agira muri Leta, Kalimanzira yari afite « ububasha bukomoka ku mategeko n'ubutayakomokaho» ku bategetsi banyuranye n'abasiviri muri Butare, « kuko

[8] Reba Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igisobanuro 998 cyo hasi ku rupapuro.

[9] Reba Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 10.

yashoboraga gutegeka abo bantu gukora cyangwa kudakora ibikorwa binyuranyije n'amategeko, kandi akaba yarashoboraga kubafatira ibyemezo byo mu rwego rwa disipuline cyangwa kubahanira ibyo bakoze binyuranyije n'amategeko cyangwa ibyo bateshutse gukora». Ayo magambo rero ni amwe n'akoreshwa mu kuvuga ko agomba kuryozwa icyaha nk'umuntu ukuriye abandi. Cyakora, Ingingo ya 6 (3) ya Sitati si yo yonyine ishingirwaho mu kuryoza uregwa ibyaha yakoze akoresha nabi ububasha akomora cyangwa adakomora ku mategeko. Ibimenyetso byerekeranye n'ububasha bukomoka cyangwa budakomoka ku mategeko bishobora no gufasha mu kugaragaza ko, mu rwego rw'ibyabaye, Uregwa aryozwa icyaha hashingiwe ku buryo bwo gukora icyaha buteganywa mu Ngingo ya 6 (1) ya Sitati. Mu by'ukuri, hari igihe usanga guhamya uregwa icyaha hashingiwe ku Ngingo ya 6 (1) ya Sitati ari byo bikwiye cyane kurusha kukimuhamya hashingiwe ku Ngingo ya 6 (3), n'ubwo yaba yari afite ububasha akomora ku mategeko[10].

17. Igice cya mbere cya ziriya nteruro ziciyeho akarongo haruguru cyerekeranye n'ibivugwa ko Kalimanzira yari afite ububasha bwo gutegeka abandi bantu gukora ibyaha. Nk'uko biteganywa mu Ngingo ya 6 (1) ya Sitati, gutegeka abantu gukora icyaha ni bumwe mu buryo bwo gukora icyaha. Ku bijyanye no gutegeka abantu gukora icyaha, umuntu ufite umwanya w'ubuyobozi[11] ashobora kuryozwa icyaha

[10] Nk'urugero, ku kirego kimwe no ku bikorwa bimwe, iyo uburyozwacyaha bw'uregwa bushingiye ku Ngingo ya 6 (1) na 6 (3) ya Sitati kandi bikaba bishoboka ko uregwa yahamwa n'icyaha hashingiwe ku biteganywa muri ibyo bika by'iyo ngingo, Urugereko rwa Mbere rw'Iremezo rugomba kumuhamya icyaha rushingiye ku Ngingo ya 6 (1) ya Sitati gusa, maze kuba yari akuriye abandi rukabifata nk'impamvu nyongeragihano. Reba Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 487; Inyandiko y'urubanza rwa Kajelijeli mu bujurire, igika cya 81. Reba kandi Inyandiko y'urubanza rwa Galić mu bujurire, igika cya 186; Inyandiko y'urubanza rwa Jokić mu bujurire, ibika 23-28; Inyandiko y'urubanza rwa Kordić na Čerkez mu bujurire, ibika 34-35; n'iy'urwa Blaškić mu bujurire, igika cya 91.

[11] Si ngombwa kugaragaza ko, mu rwego rw'amategeko, uregwa yari akuriye umuntu watsotsobye icyaha: Inyandiko y'urubanza rwa Galić mu bujurire, igika cya 176; Inyandiko y'urubanza rwa Gacumbitsi mu bujurire, igika cya 182; Inyandiko y'urubanza rwa Kamuhanda mu bujurire, igika cya 75; Inyandiko y'urubanza rwa Semanza mu bujurire, igika cya 361; n'Inyandiko y'urubanza rwa Kordić na Čerkez mu bujurire, igika cya 28.

kubera ko yategetse undi kugikora[12] iyo uwo muntu wabitegetswe yaje koko kugikora[13].

18. Ibi bitandukanye n'uburyozwacyaha bw'umuntu ukuriye abandi buvugwa mu Ngingo ya 6 (3) ya Sitati, kuko muri iyi ngingo atari ngombwa kugaragaza ko uwakoze icyaha yari yahawe itegeko ryo kugikora cyangwa ko hari ububasha bwakoreshejwe mu kumuha amabwiriza yo kugikora. Iyi ngingo ivuga ahubwo ko guteshukwa kuburizamo icyaha cyangwa kudahana uwagikoze ubwabyo ari icyaha. Bityo rero, kuba Porokireri ataravuze ku buryozwacyaha bw'umuntu ukuriye abandi buteganywa n'Ingingo ya 6 (3) ya Sitati ntibisobanura ko ibivugwa ko Kalimanzira yari afite ububasha bukomoka n'ubudakomoka ku mategeko nta gaciro bifite. Kuba Kalimanzira yari afite ububasha bukomoka n'ubudakomoka ku mategeko ku baturage n'abategetsi bo muri Perefegitura ya Butare ndetse n'urwego ubwo bubasha bwarimo ni ikintu gishingiye ku byabaye cy'ingenzi mu kureba niba ashobora kuryozwa nka gatozi icyaha cyo gutegeka abandi bantu gukora jenoside.

19. Agace gasigaye k'interuro ziciyeho akarongo haruguru kerekeranye n'ubushobozi Kalimanzira yari afite bwo gukoresha buriya bubasha bukomoka n'ubudakomoka ku mategeko buvugwa kugira ngo abuze abantu gukora ibyaha cyangwa abahane igihe babikoze. Guteshukwa kubikora si icyaha kidateganywa n'Ingingo ya 6 (3) ya Sitati gusa ahubwo kinateganywa n'Ingingo ya 6 (1) ya Sitati n'ubwo izo ngingo zombi zibiteganya mu buryo butandukanye. Kubera ko Porokireri atigeze avuga ko Uregwa agomba kuryozwa icyaha nk'umuntu wari ukuriye abandi, si ngombwa ko Urugereko rwirirwa ruvuga ibisabwa kugira ngo hashingirwe ku Ngingo ya 6 (3) ya Sitati. Igikenewe gusa ni ukugaragaza ukuntu ibikorwa byo guteshukwa gukora ibisabwa n'amategeko bishobora kuviramo nyir'ukubikora kuryozwa icyaha nka gatozi hakurikijwe Ingingo ya 6 (1) ya Sitati. Hakenewe kandi no kugaragaza ukuntu umwanya w'ubutegetsi ushobora kugira aho uhurira n'ubu buryo bw'uburyozwacyaha.

20. Nk'uko biteganywa n'Ingingo ya 6 (1) ya Sitati, iyo umuntu ateshutswe kugira icyo akora bishobora kumuviramo kuryozwa icyaha nka gatozi iyo yari afite inshingano yo

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[12] Inyandiko y'urubanza rwa Galić mu bujurire, igika cya 176; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu bujurire, igika cya 365; n'Inyandiko y'urubanza rwa Kordić na Čerkez mu bujurire, ibika 28-29.

[13] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 481.

mu rwego rw'amategeko yo kugira icyo akora cyangwa kuburizamo ikorwa ry'icyaha. Iyo atagize icyo akora bishobora gufatwa nk'igikorwa gifatika cyo gukora icyaha, guhamagarira abandi kugikora, cyangwa kubashyigikira mu kugikora. Rimwe na rimwe, iyo uregwa yari afite umwanya w'ubutegetsi akaba yari n'ahantu icyaha cyakorewe mu gihe cyakorwaga, bishobora gutuma umuntu yumva ko kwituramira kwe ari uburyo bwo gushyigikira abagikoze kuko yabibemereye akanabibashishikariza mu buryo buteruye. Kuri Kalimanzira, ibi bihuye by'umwihariko n'ibivugwa ko yagiye mu nama zigamije guhamagarira abantu gukora jenoside kandi ko kuba yari ahari byari bihagije mu gushyigikira ibyazivugiwemo no kubishishikariza abantu. Cyakora, si ngombwa kubanza kugaragaza ko Uregwa yari akuriye abandi kugira ngo hemezwe ko agomba kuryozwa icyaha cyo gushyigikira ba gatozi b'icyaha giteganywa n'Ingingo ya 6 (1) ya Sitati. Umwanya w'ubutegetsi uregwa yari afite ni kimwe mu bintu byinshi, bijyanye n'uko ibintu byari byifashe, bishobora gutuma hagaragazwa ingano y'inkunga yatanze mu ikorwa ry'icyaha[14]. Bityo rero, kuba Kalimanzira yaba yari afite ububasha bukomoka n'ubudakomoka ku mategeko ku baturage n'abategetsi bo muri Perefegitura ya Butare n'urwego ubwo bubasha bwarimo ni ikintu kijyanye n'uko ibintu byari byifashe cyafasha mu gusuzuma niba yaryozwa nka gatozi kuba ataraburijemo ikorwa rya jenoside cyangwa ngo ahane abayikoze.

21. Mu gusoza, Urugereko rusanga ikibazo Ubwunganizi bwabyukije nta shingiro gifite. Urugereko ntirusuzuma uburyozwacyaha bw'umuntu ukuriye abandi buteganywa n'Ingingo ya 6 (3) ya Sitati kubera ko butavugwa mu Nyandiko y'ibirego. Rurasuzuma gusa niba Kalimanzira agomba kuryozwa icyaha nka gatozi hashingiwe

[14] Inyandiko y'urubanza rwa Orić mu bujurire, ibika 42-43; Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 478; Inyandiko y'urubanza rwa Blagojević na Jokić mu bujurire, igika cya 195; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu bujurire, ibika 33, 370; Inyandiko y'urubanza rwa Orić mu rw'iremezo, igika cya 273; n'Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire, ibika 201-202. Reba n'Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika cya 865, aho bagira bati « Hakurikijwe Ingingo ya 6 (1), imiterere y'ububasha umuntu afite ni kimwe mu byo Urugereko rushingiraho mu gusuzuma uruhare uwo muntu yagize mu ikorwa ry'icyaha, acura umugambi, awushishikariza abandi, ategeka gukora, cyangwa ku bundi buryo, ubwo ari bwo bwose, ashyigikira abandi mu gucura umugambi, gutegura cyangwa gukora icyaha kivugwa kuva ku Ngingo ya 2 kugeza ku ya 4. By'umwihariko, kuba umutegetsi yari ahari igihe icyaha cyakorwaga bishobora kuvuga ko icyo gikorwa cyemewe cyangwa gishyigikiwe, ndetse n'abagikora bakabona ko icyo gikorwa kinyuze mu mategeko»

ku Ngingo ya 6 (1) ya Sitati kubera ibikorwa bivugwa yateshutswe gukora. Mu kubisuzuma, igihe cyose rusanga ari ngombwa, Urugereko rurazirikana ibivugwa ko Uregwa yari afite ububasha bukomoka n'ubudakomoka ku mategeko.

2.3. Amakosa yakozwe mu kuvuga ibihe bimwe mu byabaye byabereyeho

22. Mu Myanzuro nsozarubanza yanditse ye, Porokireri yemera ko mu kuvuga ibihe ibyabaye aregera byabereyeho hari ahantu habiri yibeshye akavuga ibihe bitari byo[15]. Aha mbere ni mu gika cya 23 aho avuga ko Uregwa yahamagariye abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside, ubwo yari ku kibuga cy'umupira w'amaguru cya Nyabisagara. Aha kabiri ni mu gika cya 24, aho avuga ko Uregwa yahamagariye abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside, ubwo yari ku kigo cy'amashuri abanza cya Rwamiko. Aho kuvuga ko ibyo bintu byombi, bivugwa ko kimwe cyabaye hashize iminsi mike ikindi kibaye, byabaye mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, Inyandiko y'ibirego ivuga ko byabaye mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994.

23. Porokireri asobanura ko ibimenyetso yavuze mu gushyigikira ibivugwa muri ibyo bika byo mu Nyandiko y'ibirego ifite ibisobanuro biyiherekeje ndetse n'ibice byo mu Myanzuro mbanzirizarubanza bivuga ku bijyanye na biriya bika hamwe n'ibimenyetso yatanze mu gihe cy'iburanisha, byose byerekeranye na kiriya gihe cyo mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994. Avuga rero ko Ubwunganizi bwamenyesherejwe igihe, mu buryo busobanutse kandi budahuzagurika ibintu byabaye muri kiriya gihe kivugwa. Porokireri yibutsa ko Ubwunganizi nta kibazo bwabyukije ku birebana n'icyo gihe kivugwa ibi bintu byombi byabereyeho, bukaba ndetse ibyo bihe ari byo bwashingiyeho butanga ibimenyetso bishinjura. Ikindi kandi, mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi ntibwigeze bubyutsa icyo kibazo, bukaba butaranigeze bugikomozaho ubwo bwatangaga Imyanzuro nsozarubanza mu magambo. Urugereko rusanga iryo kosa ridakanganye cyane ku buryo ryaba ryaratumye Ubwunganizi bubangamirwa cyane mu gutegura imyiregurire yabwo. Bityo rero, Urugereko rwemeye ko ibihe nyakuri bivugwa mu gika cya 23 n'icya 24 by'Inyandiko y'ibirego bigomba gufatwa ko ari impera za Gicurasi cyangwa intangiriro za Kamena 1994.

[15] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 231, 254.

2.4. Kuvanaho bimwe mu birego byo mu Nyandiko y'ibirego

24. Mu gika cya 11 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cya jenoside kubera ko yatanze itegeko ryo kwica abasiviri b'Abatutsi 100 bari kuri bariyeri yari hafi y'umugezi wa Buzana n'abari mu i Rango ku birometero bike uvuye aho hantu. Amurega kuba na we ubwe hari bamwe muri abo bantu yakubise kugeza igihe bapfiriye.

25. Mu gika cya 16 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cya jenoside kubera ko, hashize iminsi ibiri Perezida Habyarimana apfuye, yahaye intwaro Bonaventure Nkundabakora muri Komine ya Kigembe. Icyo cyaha kandi akimushinja kubera ko yazanaga intwaro zifite ubugi ku biro bya Komine ya Muganza uko zakenerwaga. Bivugwa ko izo ntwaro zahawe abaturage bihagarariwe na Callixte Kalimanzira kandi zigakoreshwa mu kwica Abatutsi.

26. Mu gika cya 19 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside kubera ko mu nama yabereye ku isoko ryo ku Gisagara mu mpera za Werurwe 1994 ikoreshejwe n'abategetsi bo muri ako gace, Uregwa yahamagariye abantu gufata intwaro kugira ngo bitegure kurwanya « umwanzi ». Anamurega kuba yarashishikarije abantu gukora intwaro gakondo maze akabizeza kuzabaha imbunda.

27. Porokireri yaje kuvanaho ibyo birego kubera ko nta bimenyetso bibishyigikira yatanze mu iburanisha[16]. Urugereko rero ntirwirirwa rubisuzuma.

3. INENGE ZIRI MU NYANDIKO Y'IBIREGO

28. Mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi buvuga ko mu gika cya 15 cy'Inyandiko y'ibirego hagaragaramo ibintu bidasobanutse ndetse ko hari ibintu binyuranye byabaye abatangabuhamya bashinja batanzeho ubuhamya kandi bitari mu Nyandiko y'ibirego[17]. N'ubwo hari ibyo Porokireri yatangiye ibindi bisobanuro mu

[16] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 2.

[17] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 1125.

Myanzuro mbanzirizarubanza ye, Ubwunganizi buvuga ko ibyo bintu bishya byavuzwe bikererewe cyane bityo bukaba bwaraharenganiye bikomeye[18].

29. Urugereko rurasuzuma ibyo bintu mu cyiciro cyahariwe isesengura ryarwo kuri icyo kibazo. Hari n'aho Urugereko rusuzuma, rubyibwirije, ibibazo byerekeranye no kuba Uregwa ataramenyeshejwe neza ibyo ashinjwa, kabone n'iyo Ubwunganizi bwaba butarabyukije icyo kibazo ku mugaragaro. Urugereko rubikora rushingiye ku miterere y'imyanzuro nsonzarubanza yanditse ya Porokireri n'uko asobanura ibintu cyane cyane ku byerekeranye n'igika cya 8 n'icya 27 by'Inyandiko y'ibirego. Urugereko ruributsa ko Imyanzuro nsozarubanza atari inyandiko yashingirwaho mu kwemeza niba Uregwa yaramenyeshejwe ibyaha ashinjwa[19]. Urugereko rwasuzumye ibyo Ubwunganizi bwagiye burwanya n'ibibazo bwabyukije rushingiye ku mahame asanzwe akoreshwa agendanye na byo nk'uko bigiye kwibutswa mu bikurikira.

3.1 Amategeko akurikizwa

30. Hashingiwe ku Ngingo ya 20 (4)(a), 20 (4)(b), 20 (2) n'iya 17 (4) za Sitati, kimwe n'iya 47 (C) y'Amategeko, Porokireri afite inshingano yo gusobanura mu nyandiko y'ibirego ibirego ashinja uregwa n'ibikorwa by'ingenzi bibishyigikira kugira ngo uregwa amenye ibyaha ashinjwa. Kumenya niba igikorwa runaka ari ingenzi biterwa n'imiterere y'ibyo Porokireri avuga. Imiterere y'imyitwarire mibisha uregwa ashinjwa ni ikintu cy'ingenzi cyane mu kugena ingano y'ukuntu Porokireri agomba gusobanura buri gikorwa mu byo avuga mu nyandiko y'ibirego. Nk'urugero, iyo Porokireri avuga ko uregwa yakoze nka gatozi ibyo bikorwa bibisha, agomba gusobanura birambuye ibintu by'ingenzi nk'umwirondoro w'uwakorewe icyaha, ahantu n'igihe ibyo bintu byabereye, n'uburyo byakozwemo. Inyandiko y'ibirego itarimo ibyo bisobanuro iba ifite inenge. Akarengane katerwa no kuba inyandiko y'ibirego ifite inenge gashobora kubonerwa umuti mu bihe bidasanzwe iyo Porokireri yahaye uregwa nta gukererwa, amakuru asobanutse kandi adahuzagurika, amusobanurira neza ibyabaye ashingiraho amushinja ibyaha. Ibyo rero biba bikemuye ikibazo cyaterwaga no kuba Inyandiko y'ibirego itamenyeshaga uregwa mu buryo bukwiye ibyaha ashinjwa. Urugereko

[18] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1139-1157.

[19] Inyandiko y'urubanza rwa Bagosora na bagenzi be mu rw'iremezo, igika cya 122.

rw'Ubujurire rwemeje ko hari igihe Porokireri ashobora gutanga amakuru nk'ayo mu myanzuro mbanzirizarubanza[20].

31. « Gukosora » inenge iri mu nyandiko y'ibirego ni ugusobanura kurushaho kandi mu buryo bwumvikana ibintu biyikubiyemo bitari bisobanutse neza cyangwa byari byaravuzwe mu buryo bwa rusange gusa, bigakorwa hiyambajwe ubundi buryo bw'imenyekanishamakuru butari inyandiko y'ibirego ubwayo. Icyo gihe, ibikorwa by'ingenzi bishobora kuba, hashyizwe mu gaciro, byerekeranye n'ibirego ni byo byonyine bishobora kumenyeshwa uregwa muri ubwo buryo. Mu rwego rw'inshingano ze zo kumenyesha uregwa ibyo amushinja, iyo Porokireri atanze gusa ubuhamya bwanditse cyangwa ibimenyetso gihamya ashobora kuzifashisha, muri rusange ibyo ntibiba bihagije ngo uregwa abe amenyeshejwe ibyabaye by'ingenzi Porokireri ateganya kugaragaza mu iburanisha. Kuba mu makuru Porokireri yamenyesheje Ubwunganizi harimo igikorwa cy'ingenzi ntibihagije ngo abe amenyesheje uregwa, mu buryo bushyize mu gaciro, ko amushinja icyo gikorwa. Porokireri asabwa kumenyesha Uregwa ko mu rubanza azashingira kuri icyo gikorwa cy'ingenzi mu gusobanura ibyo aregera, akanamubwira uburyo azabikora. Uregwa asabwa gusa gutegura imyiregurire ye ashingiye ku bikorwa by'ingenzi bivugwa mu nyandiko y'ibirego, aho gushingira ku bintu byose yamenyeshejwe bishobora gushyigikira ibindi birego by'inyongera cyangwa kongera intera y'ibirego byari bisanzweho. Rimwe na rimwe, bitewe n'ubwinshi bw'amakuru Porokireri amenyesha Ubwunganizi, iyo nta bindi bisobanuro byatanzwe ubuhamya bwanditse ntibushobora kumenyesha Uregwa, uko bikwiye, ko ikintu runaka kibuvugwamo kiri mu byo Porokireri amushinja. Ikibazo cy'ingenzi ni ukumenya niba, hashyizwe mu gaciro,

[20] Inyandiko y'urubanza rwa Muvunyi mu bujurire, igika cya 18; Inyandiko y'urubanza rwa Seromba mu bujurire, ibika 27, 100; Inyandiko y'urubanza rwa Simba mu bujurire, ibika 63-64; Inyandiko y'urubanza rwa Muhimana mu bujurire, ibika 76, 82, 167, 195, 217; Inyandiko y'urubanza rwa Gacumbitsi mu bujurire, ibika 49, 57-58; Inyandiko y'urubanza rwa Ndindabahizi mu bujurire, igika cya 16; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu bujurire, ibika 27-28, 65; Inyandiko y'urubanza rwa Kamuhanda mu bujurire, ibika 17, 24; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, ibika 25, 27, 48; n'Inyandiko y'urubanza rwa Niyitegeka mu bujurire, ibika 193-195. Reba n'Inyandiko y'urubanza rwa Naletilić na Martinović mu bujurire, igika cya 45; Inyandiko y'urubanza rwa Kupreškić na bagenzi be mu bujurire, ibika 89-92, 114; n'Inyandiko y'urubanza rwa Kvočka na bagenzi be mu bujurire, igika cya 34.

Ubwunganizi buba bwaramenyeshwejwe ibyaha Porokireri ashinja uregwa bukabona n'umwanya wo gukora iperereza ngo bushobore kubyireguraho[21].

32. Ni ngombwa gutandukanya inyandiko y'ibirego itavuga ibintu mu buryo busobanutse neza n'inyandiko y'ibirego itavugwamo ibirego bimwe na bimwe. N'ubwo, nk'uko byavuzwe haruguru, bishoboka gukemura ikibazo cy'ukudasobanuka neza kw'inyandiko y'ibirego, ibirego bishya cyangwa ibyo Porokireri yibagiwe gushyiramo bishobora kongerwamo mu buryo bwemewe n'amategeko, hakurikijwe Ingingo ya 50 y'Amategeko. Mu rwego rw'amategeko, ikirego cyangwa icyaha ni inyito ihabwa ibikorwa by'ingenzi biranga icyo kirego cyangwa icyo cyaha. Mu nyandiko y'ibirego, Porokireri agomba gusobanura neza ibikorwa binyuranije n'amategeko ashinja uregwa (ni ukuvuga ikirego cyangwa icyaha), n'ibikorwa Uregwa yakoze cyangwa ibyo yateshutswe gukora, bituma akurikiranwaho gukora igikorwa kinyuranije n'amategeko (ni ukuvuga ibikorwa by'ingenzi). Umuntu avuga ko hari « ikirego» iyo hari icyaha gishya ndetse n'igihe havuzwe ibintu bishya bishobora gutuma habaho uburyozwacyaha hashingiwe ku bintu bitavugwa mu nyandiko y'ibirego[22].

33. Kuvuga ko Uregwa atamenyeshejwe ibirego ashinjwa bigomba gukorwa mu buryo busobanutse neza kandi nta gukererwa. Icyo kibazo kigomba kuvugwa urubanza rutaratangira kuburanishwa mu mizi yarwo, nk'urugero bigakorwa hatangwa icyifuzo kirwanya imiterere y'inyandiko y'ibirego, cyangwa bigakorwa igihe hatanzwe ikimenyetso ku gikorwa cy'ingenzi gishya. N'ubwo kutavuga icyo kibazo igihe icyo kimenyetso gitanzwe bitabuza Ubwunganizi kukivuga nyuma, Urugereko rwa Mbere

[21] Inyandiko y'urubanza rwa Muvunyi mu bujurire, igika cya 166; Inyandiko y'urubanza rwa Simič mu bujurire, igika cya 24; Inyandiko y'urubanza rwa Naletilić na Martinović mu bujurire, igika cya 27; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, igika cya 27; n'Inyandiko y'urubanza rwa Kupreškić na bagenzi be mu bujurire, igika cya 323; reba n'*Urubanza Porokireri aburana na Bagosora na bagenzi be*, N° ICTR-98-41-T, Icyemezo ku cyifuzo cya Kabiligi gisaba kutemera ubuhamya (Urugereko rwa Mbere rw'Iremezo), 4 Nzeri 2006, ibika 3, 7.

[22] Inyandiko y'urubanza rwa Karera mu bujurire, igika cya 293; n'Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu bujurire, igika cya 32. Reba n'Inyandiko y'urubanza rwa Muvunyi mu bujurire, igika cya 20, hasubirwamo ibivugwa mu cyemezo ku bujurire bwerekeranye n'icyemezo cyafashwe mu rubanza rwa Bagosora na bagenzi be, igika cya 29. Reba n'*Urubanza Porokireri aburana na Nchamihigo*, N° ICTR-01-63-I, Icyemezo ku cyifuzo gisaba guhindura Inyandiko y'ibirego (Urugereko rwa Mbere rw'Iremezo), 14 Kamena 2006, igika cya 20.

rw'Iremezo rugomba gusuzuma niba icyo kibazo cyaravuzwe bitinze cyane ku buryo noneho Porokireri ataba ari we ugifite inshingano yo kugaragaza ko yamenyeshe Uregwa uko bikwiye icyaha amushinja, ahubwo Ubwunganizi akaba ari bwo bufite inshingano yo kugaragaza ko ubushobozi uregwa afite bwo kwiregura bwabangamiwe bikomeye. Mu bintu by'ingenzi Urugereko rushingiraho rusuzuma icyo kibazo harimo kureba niba Ubwunganizi bwarasobanuye, mu buryo bwumvikana, impamvu yatumye butabyutsa icyo kibazo igihe icyo kimenyetso cyatangwaga, no kureba niba bwaragaragaje ko nyuma yaho bwihutiye kukibyutsa kare bishoboka[23].

3.2 Ingaruka zikomatanyijwe ziturուka ku nenge ziri mu nyandiko y'ibirego

34. Mu byiciro binyuranye bigize isesengura rwakoze, Urugereko rwasanze Inyandiko y'ibirego ifite inenge ku bintu byinshi, kubera ko hari ibyabaye by'ingenzi bitavugwamo (nk'urugero reba utwiciro III.2.3.1, III.2.7.1, na III.4.9.1). Urugereko kandi rwasanze kuri byinshi muri ibyo bikorwa by'ingenzi bitashyizwe mu Nyandiko y'ibirego, ikibazo cyarabonewe umuti kuko mu myanzuro mbanzirirubanza ye, Porokireri yatanze adakerewe amakuru asobanutse kandi adahuzagurika. Urugereko rw'Ubujurire rwemeje ko n'iyo Urugereko rwa Mbere rw'Iremezo rwasanga nyuma yo gutanga inyandiko y'ibirego, Porokireri yaratanze izindi nyandiko zikosora inenge ziyirimo, urwo Rugereko rugomba gusuzuma niba izo nenge zitarabujije uregwa gutegura ukwiregura kwe uko bikwiye bityo bikabangamira uburenganzira afite bwo kuburanishwa mu buryo buboneye[24].

35. Inyandiko y'ibirego yamenyesheje Ubwunganizi uko bikwiye ibintu by'ingenzi Porokireri aregera, ari byo ko Kalimanzira yagize uruhare rukomeye mu gushishikariza abantu gukora jenoside muri Perefegitura ya Butare. Urugereko rusanga ku hantu hose Porokireri yashoboye gukosora inenge zari mu Nyandiko y'ibirego, ibikorwa by'ingenzi bishya byongewemo bidahindura cyane ibyo aregera. Hose usanga ibikorwa by'ingenzi bivugwa mu nyandiko zatanzwe nyuma y'Inyandiko y'ibirego byerekeranye n'igika runaka kivuga ibintu muri rusange kandi ibyo bikorwa bisobanura neza ibirego bivugwa muri icyo gika, ariko ntibigire icyo

[23] *Urubanza Porokireri aburana na Bagosora na bagenzi be*, Icyemezo ku bujurire bwerekeranye n'icyemezo cy'Urugereko rwa Mbere rw'Iremezo, ibika 45-46.

[24] *Urubanza Porokireri aburana na Bagosora na bagenzi be*, Icyemezo ku bujurire bwerekeranye n'icyemezo cy'Urugereko rwa Mbere rw'Iremezo, igika cya 26.

bihindura nyakuri ku bivugwa cyangwa ngo bigire ibintu bishya byongera ku byo Porokireri aregera. Ubwunganizi bwireguye kuri ibyo bikorwa by'ingenzi bishya kuko bwanyomoje, mu buryo bucukumbuye, abatangabuhamya bashinja. Byongeye kandi, Porokireri arangije gutanga ibimenyetso bishinja, Ubwunganizi bwahawe amezi ane n'igice yo kwitegura ngo butangire gutanga ibimenyetso bishinjura. Bwabonye rero igihe gihagije cyo gukora iperereza ngo burusheho kwiregura kuri ibyo bikorwa by'ingenzi bishya. N'ubwo rero hari ibikorwa by'ingenzi Porokireri atavuga mu Nyandiko y'ibirego, Urugereko rusanga Ubwunganizi butaraharenganiye cyane. Rusanga kandi urubanza rwaraburanishijwe nta karengane kuko Porokireri yaboneye umuti ingaruka zikomatanyijwe zituruka ku nenge ziri mu Nyandiko y'ibirego.

4. KUTUBAHIRIZA INSHINGANO YO KUMENYEKANISHA IBIMENYETSO

36. Mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi buvuga ko Kalimanzira yavukijwe uburenganzira bwe bwo gucirwa urubanza ruboneye kubera ko Porokireri akenshi yagiye atubahiriza ibyo asabwa mu Ngingo 68 (A) y'Amategeko. Mu by'ukuri, iyo ngingo itegeganya ko Porokireri agomba kumenyesha Ubwunganizi adatinze ikimenyetso cyose yumva ko gishobora gushinjura uregwa, kugabanya uburyozwacyaha, cyangwa gutuma ibimenyetso bishinja bikemangwa[25]. Ikibazo cya mbere Ubwunganizi bwabyukije ni ikijyanye n'inyandiko Porokireri yateganyaga gukoresha mu ibaza rinyomoza ; icya kabiri ni icyerekeranye n'amadosiye y'abatangabuhamya bashinja yaturutse mu nkiko Gacaca ; naho icya gatatu kikaba icyerekeranye n'inyandikomvugo z'iburanisha ndetse n'ubuhamya bwanditse bw'abatangabuhamya batanze ubuhamya mu rubanza rwitiriwe urwa Butare. Buri cyiciro muri ibyo bitatu byerekeranye no kutubahiriza amategeko nk'uko bivugwa, kirasuzumwa ukwacyo.

4.1 Inyandiko zakoreshejwe mu ibaza rinyomoza

37. Ubwunganizi buvuga ko Porokireri yateshutse ku nshingano ze zo kumenyekanisha ibimenyetso nk'uko biteganywa n'Ingingo ya 68 (A) y'Amategeko kubera ko igihe

[25] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1169-1196.

ibaza rinyomoza ryabaga ryatangiye ari bwo yabumenyeshaga inyandiko ashaka gukoreshamo. Buvuga ko n'Ubwo Urugereko rwamwihanangirije kenshi Porokireri yakomeje iyo ngeso[26].

38. N'ubwo Urugereko rwagiye rushishikariza umuburanyi ugiye kubaza ibibazo binyomoza guha undi muburanyi inyandiko ateganya gukoresha kandi akabikora mbere y'uko atangira kunyomoza umutangabuhamya[27], nta tegeko ribiteganya rihari. Ibi ahubwo biri mu rwego rwo kuyobora iburanisha muri rusange, Urugereko rukaba ari rwo rufite ububasha bwo kugenzura uko bikorwa[28]. Ubwunganizi nta shingiro bufite na mba mu kuvuga ko ibyo Porokireri yakoze binyuranije n'Ingingo ya 68 (A) y'Amategeko, kuko umuburanyi umwe ashobora guhitamo kutamenyekanisha ibimenyetso bimwe kugira ngo aze gutungura mugenzi we. Cyakora, bitewe n'uko ibintu byifashe, iyo Porokireri akomeje kuvunira ibiti mu matwi ntiyubahirize amabwiriza yatanzwe n'Urugereko yo gutanga izo nyandiko mbere yo gutangira ibaza rinyomoza, ibyo bishobora gutuma umuntu yibaza niba atabikorana umutima mubi agamije kubangamira Ubwunganizi.

39. Ubwo Ubwunganizi bwabyutsaga iki kibazo, nta rugero na rumwe bwigeze butanga cyangwa ngo buvuge igihe na kimwe Porokireri yaba yarabushyikirije akerewe ibimenyetso yateganyaga gukoresha. Bityo rero, Urugereko ntirugomba byanze bikunze gusuzuma iki kibazo. Cyakora, kugira ngo urubanza ruburanishwe mu buryo buboneye kandi n'uburenganzira bw'Uregwa bwubahirizwe, Urugereko rusanga ari ngombwa kugira icyo ruvuga ku ngingo z'Ubwunganizi.

40. Iyo umuntu asuzumye dosiye y'urubanza asanga hari inshuro nibura esheshatu Porokireri yashyikirije Ubwunganizi ibimenyetso yateganyaga kwifashisha mu kunyomoza abatangabuhamya bashinjura ariko akabushyikiriza ibyo bimenyetso

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[26] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1171 and 1177.

[27] Reba inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 47 (BCF) ubwo Urugereko rwatangaga amabwiriza nk'aya bwa mbere muri uru rubanza.

[28] *Urubanza Porokireri aburana na Bagosora na bagenzi be*, N° ICTR-98-41-AR73, Icyemezo ku bujurire bwerekeranye n'icyemezo cy'Urugereko rwa Mbere rw'Iremezo kirebana no kumenyekanisha ibimenyetso bishinjura hashingiwe ku Ngingo ya 66 (B) y'Amategeko (Urugereko rw'Ubujurire), 25 Nzeri 2006, igika cya 6.

yamaze gutangira ibaza rinyomoza[29]. Ku nshuro eshanu muri izo, Urugereko rwihanangirije Porokireri rumutegeka gukurikiza amabwiriza yarwo amutegeka ko mbere yo gutangira ibaza rinyomoza agomba gushyikiriza Ubwunganizi ibimenyetso ateganya gukoresha[30]. Ubwo rwihanangirizaga Porokireri ku nshuro ya gatatu, Urugereko rwamaganye, nta guca ku ruhande, iyo ngeso ye yo kutubahiriza amabwiriza yarwo[31].

41. Buri gihe uko icyo kibazo cyavukaga, Urugereko rwasuzumaga niba Ubwunganizi bushobora kurenganywa n'uko bwamenyeshejwe butinze ibimenyetso maze rugashakira umuti ukwiye icyo kibazo aho rusanze ari ngombwa[32]. Urugereko rwemeje ko Porokireri atakoranye ibyo bintu ubugome cyangwa umutima mubi. Rusanze kandi nta karengane na gake Ubwunganizi bwakorewe. Kubera iyo mpamvu, ibyo Ubwunganizi buvuga ko ibyo bintu byavukije Kalimanzira uburenganzira afite bwo kuburanishwa mu buryo buboneye, nta shingiro bifite.

4.2 Amadosiye yo mu nkiko Gacaca

42. Ubwunganizi buvuga kandi ko Porokireri atubahirije inshingano ze zo kumenyesha Uregwa ibimenyetso bishinjura nk'uko biteganywa n'Ingingo ya 68 (A) y'Amategeko kuko atigeze atanga dosiye n'imwe yo mu nkiko Gacaca y'umutangabuhamya ushinja

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[29] Reba inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, urup. 32 (MGR); inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 54 (Sylvestre Niyonsaba); inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 75-76 (Jean Marie Vianney Harindintwali); inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 11 (KXC); inyandikomvugo, 27 Mutarama 2009, imp. 39-40 (Albert Barikwinshi); inyandikomvugo y'iburanisha, 2 Gashyantare 2009, urup. 16 (ACB6).

[30] Reba inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, urup. 32 (MGR); Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 54 (Sylvestre Niyonsaba); Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 76-77 (Jean Marie Vianney Harindintwali); Inyandikomvugo y'iburanisha, 27 Mutarama 2009, imp. 38-39 (Albert Barikwinshi), Inyandikomvugo y'iburanisha (Barikwinshi); Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, urup. 16 (ACB6).

[31] Reba Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 76-77 (Jean Marie Vianney Harindintwali).

[32] Nk'urugero, reba inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, urup. 33 (MGR), n'inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 40 (Albert Barikwinshi), aho Urugereko rwasuzumye niba byari ngombwa kongerera Ubwunganizi igihe mbere y'uko bwongera kubaza umutangabuhamya ibibazo by'inyongera kugira ngo bushobore kubanza gusoma ibiri muri izo nyandiko; reba n'inyandikomvugo y'iburanisha, 2 Gashyantare 2009, urup. 16 (ACB6), aho Urugereko rwasanze Ubwunganizi butararenganijwe bikomeye.

n'umwe. Buvuga ko Porokireri ashobora kuba yari afite izo dosiye kubera ko ubwo yabazaga ibibazo binyomoza, yashoboye gutanga amadosiye yo mu nkiko Gacaca ya bamwe mu batangabuhamya bashinjura kugira ngo agaragaze ko ubuhamya bwabo budakwiye kwizerwa. Ubwunganizi bunavuga ko Porokireri yabwimye ayo madosiye abigambiriye, kuko ku nshuro nke bwashoboye kubona dosiye y'umutangabuhamya ushinja muri Gacaca buyishakiye, byagaragaye ko iyo dosiye yatumye bushobora kugaragaza, ku buryo budasubirwaho, ko ubuhamya bw'uwo mutangabuhamya butakwizerwa[33].

43. Ashingiye ku byabaye bivugwa mu rubanza, Porokireri ni we ugena ibimenyetso bigomba kumenyekanishwa hakurikijwe Ingingo ya 68 y'Amategeko. Iyo uregwa ashaka kwerekana ko Porokireri yateshutse ku nshingano ze zo kumenyekanisha ibimenyetso, agomba: (1) kugaragaza ikimenyetso nyirizina ashaka icyo ari cyo; (2) kugaragaza ukuntu gishobora kumushinjura, (3) no kugaragaza ko Porokireri agifite cyangwa akigenzura. Nk'uko Urugereko rw'Ubujurire rwabyemeje, guha Ubwunganizi ibimenyetso bishobora gushinjura Uregwa biri mu nshingano za Porokireri zo gufasha mu migendekere myiza y'ubutabera, kandi bifite akamaro kamwe nk'ako gukurikirana umuntu wakoze icyaha. Porokireri aba yizeweho gukorana umutima mwiza mu kurangiza inshingano ze. Iyo rusanze Porokireri atarubahirije ibiteganywa n'Ingingo ya 68 y'Amategeko, Urugereko rusuzuma niba ibyo byaratumye Uregwa aharenganira bityo akaba yaravukijwe uburenganzira bwe bwo kuburanishwa mu buryo buboneye[34].

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[33] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1172-1177.

[34] Nk'urugero, reba *Urubanza Porokireri aburana na Joseph Kanyabashi*, N° ICTR-96-15-T, Icyemezo ku cyifuzo cya Kanyabashi gisaba kumenyeshwa ibimenyetso hashingiwe ku Ngingo ya 68 y'Amategeko (Urugereko rwa Mbere rw'Iremezo), 25 Gashyantare 2009, igika cya 22; *Urubanza Porokireri aburana na Karemera na bagenzi be*, N° ICTR-98-44-AR73.13, Icyemezo ku « bujurire bwa Joseph Nzirorera bwerekeranye n'icyemezo ku cyifuzo cya cumi gishingiye ku Ngingo ya 68 y'Amategeko » (Urugereko rw'Ubujurire), 14 Gicurasi 2008, igika cya 12 ; *Urubanza Porokireri aburana na Karemera na bagenzi be*, N° ICTR-98-44-AR73.7, Icyemezo ku bujurire bwerekeranye n'icyemezo kirebana n'uruhare uburyo bwa elegitoroniki Porokireri yakoresheje mu kohereza Ubwunganizi inyandiko rwagize mu kubahiriza inshingano afite zo kumenyekanisha ibimenyetso (Urugereko rw'Ubujurire), 30 Kamena 2006, ibika 8-9; *Urubanza Porokireri abura na Karemera na bagenzi be*, N° ICTR-98-44-AR73.6, Icyemezo ku bujurire bwa Joseph Nzirorera bwerekeranye n'icyemezo ku cyifuzo cy'ingoboka (Urugereko rw'Ubujurire), 28 Mata 2006, igika cya 16. Reba n'*Urubanza Porokireri aburana na Kordić na Čerkez*, N° IT-95-14/2-A, Icyemezo ku byifuzo

44. Kuri iki kibazo, Ubwunganizi bwavuze ibyo bimenyetso bwashakaga, ariko Porokireri ahakana avuga ko atabifite cyangwa ko atari we ubigenzura[35]. Mu kugaragaza ko Porokireri afite cyangwa agenzura ibimenyetso bwasabaga, Ubwunganizi buvuga ibintu bisa n'ibifitirano bwemeza ko niba Porokireri yarashoboye kubona amadosiye ya Gacaca ya bamwe mu batangabuhamya bashinjura agomba no kuba afite amadosiye yose ya Gacaca y'abatangahamya bashinja. Iki gisobanuro butanga nticyujuje igisabwa cya gatatu kivugwa haruguru mu byo uregwa agomba kugaragaza.

45. Ubwunganizi bwashoboraga gushingira ku Ngingo ya 66 (B) y'Amategeko bugasaba « gusuzuma ibitabo, inyandiko, amafoto, n'ibindi bimenyetso byose bifatika [Porokireri] afite cyangwa agenzura, bikenewe mu gutegura ukwiregura k'Uregwa ». Nk'uko biteganywa n'Ingingo ya 67 (C) y'Amategeko, iyo Ubwunganizi buza kubigenza butyo, Porokireri na we yari kuba abonye uburenganzira bwo gusuzuma ibitabo, inyandiko, amafoto n'ibindi byose byaba bifitwe n'Ubwunganizi. Ubwunganizi ntibwigeze busaba ibyo bintu.

46. Ubwunganizi bwanashoboraga kwiyambaza Urugereko. Mu by'ukuri, bimaze kumenyerwa ko, iyo biri mu nyungu z'ubutabera, Ubwunganizi bushobora gusaba Urugereko kubwira Porokireri gushaka uburyo yabona amadosiye amwe y'imanza akayashyikiriza Ubwunganizi, cyane cyane ay'imanza zo mu Rwanda abatangabuhamya bashinja baburanyemo. Iyo ibintu byabaga bimeze gutyo, Urugereko rwagiye rwibwiriza rugategeka Porokireri gukora ibishoboka byose ngo abone ayo madosiye y'imanza akenewe kandi rukabikora rushingiye ku Ngingo ya 98 y'Amategeko[36]. Nk'uko biteganywa n'Ingingo ya 54 y'Amategeko, Urugereko rushobora no gutanga amategeko iyo rusanga ari ngombwa kugira ngo urubanza ruburanishwe neza. Ingereko za Mbere z'Iremezo zagiye zifashisha izi Ngingo iyo

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bisaba kongererwa igihe cyo gutanga imyanzuro y'ubujurire (Urugereko rw'Ubujurire), 11 Gicurasi 2001, igika cya 14.

[35] Inyandikomvugo y'iburanisha, 20 Mata 2009, urup. 13 (Imyanzuro nsozarubanza mu magambo).

[36] Ni ngombwa kwibutsa ko Ingingo ya 98 y'Amategeko idaha ababuranyi uburenganzira na buke bwo gusaba kwemererwa gutanga ibimenyetso by'inyongera. Urugereko mu bushishozi bwarwo ni rwo rureba niba ari ngombwa.

zasangaga, nk'urugero, ayo makuru ashobora kuba ari ingenzi mu gutegura ukwiregura cyangwa mu gusuzuma ukwizerwa kw'abatangabuhamya bashinja[37].

47. Muri uru rubanza, ikibazo cyo gusaba Porokireri gutanga amadosiye yo mu nkiko Gacaca cyabyukijwe kare iburanisha rigitangira ubwo Ubwunganizi bwabaza umutangabuhamya ushinja ibibazo binyomoza. Icyo gihe, Urugereko rwemeye gufasha Ubwunganizi muri icyo kibazo. Ubwunganizi bwavuze ko buteganya gutanga icyifuzo cyanditse kugira ngo busobanure neza inyandiko busaba Porokireri kumenyekanisha cyangwa izo yabufasha kubona[38]. Cyakora, kubera ko Ubwunganizi butigeze butanga icyo cyifuzo, ntacyo bwashingiraho buvuga ko Porokireri atubahirije inshingano ze zo kumenyekanisha ibimenyetso byerekeranye n'amadosiye yo mu nkiko Gacaca y'abatangabuhamya bashinja.

4.3 Inyandikomvugo z'iburanisha zo mu rubanza rwitiriwe Butare

48. Ubwunganizi buvuga kandi ko, hakurikijwe Ingingo ya 68 (A) y'Amategeko, Porokireri atubahirije inshingano ze zo kumenyekanisha ibimenyetso bishinjura kubera ko atahaye Uregwa inyandikomvugo z'iburanisha zerekeranye n'ubuhamya bw'abatangabuhamya barindwi mu rubanza rwitiriwe Butare n'ubuhamya bwanditse batanze mbere muri urwo rubanza bavuga ku bintu byabereye ku gasozi ka Kabuye[39]. Iki kibazo Urugereko rwagifasheho umwanzuro mu cyemezo rwatanze ku itariki ya

[37] *Urubanza Porokireri aburana na Karemera na bagenzi be*, N^o ICTR-98-44-T, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba Urugereko gutegeka abatangabuhamya bashinja kurwitaba ngo batange ubuhamya (Urugereko rwa Mbere rw'Iremezo), 10 Gicurasi 2007, igika cya 15; *Urubanza Porokireri aburana na Karemera na bagenzi be*, N^o ICTR-98-44-T, Icyemezo ku byifuzo bisaba Urugereko gutegeka Porokireri kureka Ubwunganizi bukagenzura ibimenyetso afite no kubahiriza inshingano afite yo kumenyekanisha ibimenyetso, rukanategeka abatangabuhamya kuzana amadosiye y'imanza baburanyemo n'ibyangombwa bahawe n'ibiro bishinzwe abinjira n'abasohoka mu gihugu (Urugereko rwa Mbere rw'Iremezo), 14 Nzeri 2005, ibika 7-8; *Urubanza Porokireri aburana na Karera*, N^o ICTR-01-74-T, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko Porokireri yabumenyesha ibindi bimenyetso (Urugereko rwa Mbere rw'Iremezo), 1 Nzeri 2006, ibika 5-7; *Urubanza Porokireri aburana na Simba*, N^o ICTR-01-76-T, Icyemezo ku bibazo birebana na dosiye y'urubanza rw'umutangabuhamya wiswe KDD (Urugereko rwa Mbere rw'Iremezo), 1 Ugushyingo 2004, igika cya 11.

[38] Reba inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 15 [mu muhezo], 16-19 (BDC).

[39] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1178-1196; reba n'inyandikomvugo y'iburanisha, 20 Mata 2009, imp. 29-30 (Inyanzuro nsozarubanza mu magambo).

13 Gashyantare 2009[40], none Ubwunganizi burasa n'ubushaka kurusaba kukigarukaho.

49. Urugereko rwa Mbere rw'Iremezo rushobora gusubira ku cyemezo rwafashe iyo rusanze hari ikintu gishya rutari ruzi ubwo rwafataga icyo cyemezo. Rushobora no kubikora iyo hari ikintu cy'ingenzi cyahindutse mu kuntu ibintu byari byifashe, cyangwa iyo rusanze hari impamvu ituma rwemera ko rwari rwibeshye ubwo rwafataga icyo cyemezo ku buryo hagira umuburanyi kirenganya[41]. Mu Myanzuro nsozarubanza yanditse n'iyo mu magambo, Ubwunganizi bwagiye busubiramo gusa ingingo zikubiye mu cyifuzo bwari bwaratanze mbere, bityo bukagaragaza ko butanyuzwe n'icyemezo Urugereko rwafashe ku itariki ya 13 Gashyantare 2009. Urugereko rugiye rero gusobanura impamvu rusanga rutaribeshye mu gufata kiriya cyemezo n'ukuntu rusanga nta muburanyi kirenganya.

50. Ku itariki ya 9 Gashyantare 2009, Ubwunganizi bwa Kilimanzira bwatanze icyifuzo gisaba Urugereko kutemera ubuhamya bw'abatangabuhamya bashinja biswe BXG, BDK, BDC, BWO, BCF, BBO, na BXK, cyangwa, bitabaye ibyo, rukongera kubahamagaza ngo babazwe ibindi bibazo binyomoza[42]. Ku itariki ya 13 Gashyantare, Porokireri yatanze igisubizo mu magambo kuri icyo cyifuzo maze uwo munsi Ubwunganizi na bwo butanga igisubizo mu magambo ku gisubizo cya Porokireri[43].

51. Nk'uko bimeze n'ubu, icyo gihe Ubwunganizi bwavuze ko Porokireri atubahirije nkana ibiteganywa n'Ingingo ya 68 (A) y'Amategeko kuko atamenyekanishije kare hashoboka inyandikomvugo z'iburanisha zerekeranye n'ubuhamya bw'abatangabu-

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[40] Icyemezo mu magambo ku cyifuzo cy'Ubwunganizi gisaba kutemera ubuhamya cyangwa kongera guhamagaza abatangabuhamya cyatanzwe ku itariki ya 9 Gashyantare (Urugereko rwa Mbere rw'Iremezo), 13 Gashyantare 2009.

[41] Nk'urugero, reba *Urubanza Porokireri aburana na Karemera na bagenzi be*, Icyemezo ku cyifuzo cya Joseph Nzirorera gisaba Urugereko gusubira ku cyemezo rwafashe ku itariki ya 2 Ukuboza 2008 (Urugereko rwa Mbere rw'Iremezo), 27 Gashyantare 2009, igika cya 2; *Urubanza Porokireri aburana na Bagosora na bagenzi be*, N° ICTR-98-41-T, Icyemezo ku cyifuzo cya Bagosora gisaba kwemererwa kujurira icyemezo cyerekeranye no kwakira nk'ikimenyetso gihamya inyandiko z'itumanaho cyangwa icyo cyemezo kigasubirwamo, 8 Gicurasi 2007, igika cya 5.

[42] icyifuzo gisaba kutemera ubuhamya cyangwa, bitaba ibyo, abatangabuhamya biswe BXG, BDK, BDC, BWO, BCF, BBO na BXK bakongera guhamagazwa, 9 Gashyantare 2009.

[43] Inyandikomvugo y'iburanisha, 13 Gashyantare 2009, imp. 4-9 (Inama ntegurarubanza).

hamya barindwi batanze ubuhamya mu rubanza rwitiriwe Butare ku bintu byabereye ku gasozi ka Kabuye. Ubwunganizi buvuga ko Porokireri yakerewe cyane kubumenyesha ibimenyetso busanga bishinjura Uregwa kuko yatanze ibyo bimenyetso ku itariki ya 16 Nyakanga 2008 (ni ukuvuga hashize iminsi 16 arangije gutanga ibimenyetso bye). Buvuga ko bwaharenganiye kubera ko byatumye budashobora kwifashisha izo nyandikomvugo z'iburanisha mu gihe cyo kubaza abatangabuhamya mu rubanza rwa Kalimanzira ibibazo binyomoza, ndetse ntibinatume bushobora gukora iperereza ku batangabuhamya batanze ubuhamya mu rubanza rwitiriwe Butare ngo burebe niba hari amakuru y'ingirakamaro batanga ashobora gufasha Kalimanzira mu myiregurire ye.

52. Abatangabuhamya bitabye Urukiko mu rubanza rwitiriwe Butare batandukanye n'abo mu rwa Kalimanzira. Ubuhamya bw'abatangabuhamya bo mu rubanza rwitiriwe Butare ku byabereye ku gasozi ka Kabuye buhuye n'ubw'abo mu rwa Kalimanzira, ariko nta na hamwe abatangabuhamya bo mu rubanza rwitiriwe Butare bavuga ko Kalimanzira yari kuri ako gasozi. Ubwunganizi buvuga rero ko ubwo buhamya bushinjura Uregwa. Byongeye kandi, muri uru rubanza ubwo Porokireri yamenyekanishaga ibimenyetso bishinjura hari hashize imyaka ine abatangabuhamya bo mu rubanza rwitiriwe Butare batanze ubuhamya bwabo. Ubwunganizi buvuga ko kubera ko Ibiro bya Porokireri bifatwa nk'urwego rumwe, mbere cyane y'uko Porokireri amenyekanisha ibyo bimenyetso, abakozi bo mu biro bye bari mu rubanza rwa Kalimanzira bari bazi iby'izo nyandikomvugo z'iburanisha mu rubanza rwitiriwe Butare. Buvuga rero ko ibyo bigaragaza ko Porokireri yiyemeje nkana kudatanga ibyo bimenyetso kugeza igihe bisigara ntacyo bikimariye Ubwunganizi.

53. Mu gushaka ukuntu icyo kibazo cyabonerwa umuti, Ubwunganizi bwasabye Urugereko kutemera ubuhamya bw'abatangabuhamya bashinja biswe BXG, BDK, BDC, BWO, BCF, BBO, na BXK, bitaba ibyo abo batangabuhamya bakongera guhamagazwa kugira ngo babazwe ibindi bibazo binyomoza. Ubwunganizi bwanasabye Urugereko gutegeka Porokireri kumenyekanisha ubuhamya bwanditse abatangabuhamya barindwi bo mu rubanza rwitiriwe Butare (EV, EP, RT, TW, QAQ, QBZ na FAU) batanze mbere y'uko batanga ubuhamya mu Rukiko muri urwo rubanza. Mu gusoza kuri iki kibazo, Ubwunganizi busaba ko, hashingiwe ku Ngingo ya 89 (C) n'iya 92*bis* (D) z'Amategeko, inyandikomvugo z'iburanisha zikubiyemo ubuhamya bw'abatangabuhamya bashinja biswe EV, EP, RT, TW, QAQ, QBZ na

FAU bitabye Urukiko mu rubanza rwitiriwe Butare, zakwakirwaho ibimenyetso bihamya, kimwe n'ubuhamya bwanditse abo batangabuhamya batanze mbere yo gutanga ubuhamya mu Rukiko.

54. Ubwunganizi buvuga ko amagambo Porokireri yakoresheje mu mutwe w'ibaruwa yanditse amenyekanisha ibimenyetso bishinjura ashingiye ku Ngingo ya 68 (A) y'Amategeko[44] agaragaza, mu buryo buteruye, ko Porokireri yemera ko atubahirije ibivugwa muri iyo Ngingo n'ibyo igamije[45]. Cyakora, Urugereko rwo si ko rubibona. Iyo baruwa ya Porokireri ivuga gusa ko yasanze ibyo bimenyetso bishobora kuba byagirira Kalimanzira akamaro mu gutegura ukwiregura kwe. Porokireri asobanura rero ko yatanze ibyo bimenyetso ku bushake[46].

55. Ibyo bimenyetso Porokireri yamenyekanishije ni inyandikomvugo z'iburanisha zafashwe mu iburanisha mu ruhame ziri ahakusanyirijwe inyandiko zerekeranye n'imanza zigenewe rubanda rwose, ku rubuga rwa interineti rw'Urukiko ari rwo www.ictr.org. Cyakora, kuba rubanda ishobora kubona izo nyandikomvugo z'iburanisha ubwabyo ntibikuraho inshingano Porokireri afite zo kumenyekanisha ibimenyetso bishinjura nk'uko biteganywa n'Ingingo ya 68 (A) y'Amategeko. Porokireri agomba gusuzuma ashishikaye ibimenyetso afite ngo arebe ko harimo ibishobora gushinjura uregwa maze nibura amumenyeshe ko ibyo bimenyetso biriho. Iyo nshingano ya Porokireri yo kumenyekanisha ibimenyetso bishinjura ni ingenzi mu gutuma urubanza ruburanishwa mu buryo buboneye, kandi ni imwe mu nshingano za Porokireri ikomeye kurusha izindi.

56. Nk'uko byavuzwe mbere, iyo Uregwa ashaka kwerekana ko Porokireri atubahirije inshingano ze zo kumenyekanisha ibimenyetso nk'uko biteganywa n'Ingingo ya 68 (A) y'Amategeko, icyo gihe agomba: (1) kugaragaza icyo kimenyetso nyirizina ashaka icyo ari cyo; (2) kugaragaza ukuntu gishobora kumushinjura ; (3) no kugaragaza ko Porokireri agifite cyangwa akigenzura.

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[44] « Kumenyekanisha ibimenyetso: kumenyesha Ubwunganizi bwa Kalimanzira ko hari ibimenyetso bishobora kuba byabugirira akamaro».

[45] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1184-1185; reba n'inyandikomvugo y'iburanisha, 20 Mata 2009, urup. 30 (Imyanzuro nsozarubanza mu magambo).

[46] Inyandikomvugo y'iburanisha, 13 Gashyantare 2009, urup. 5 (Inama ntegurarubanza).

57. Muri uru rubanza, Ubwunganizi bwasobanuye neza ibimenyetso bwasabaga, bunagaragaza ko Porokireri afite ibyo bimenyetso kandi abigenzura. Imvugo ngo « azi neza » yakunze kumvikana nk'aho isobanura ko Porokireri agomba kuba afite icyo kimenyetso gisabwa[47], ibyo bikaba bigomba kumvikana nk'Ibiro bya Porokireri muri rusange. Porokireri afite inshingano zo kumenyekanisha ibimenyetso bishobora gushinjura uregwa byatanzwe mu zindi manza zifite aho zihuriye n'urwo aburanamo. Iyi nshingano ihoraho nta kureba niba ibyo bimenyetso ari ibintu na rubanda yose yemerewe kumenya cyangwa niba ari ibanga[48]. Ntacyo rero bimaze cyane kumenya niba umukozi w'Ibiro bya Porokireri waburanaga muri uru rubanza yari azi ibyo bimenyetso cyangwa atari abizi.

58. Ku byerekeranye n'ikintu cya kabiri Ubwunganizi bugomba kugaragaza, iyo umuntu asuzumye izo nyandikomvugo z'iburanisha asanga nta hantu na hamwe Kalimanzira avugwamo. Cyakora, abo batangabuhamya ntibavuga ko batabonye Kalimanzira ku gasozi ka Kabuye ariko mu by'ukuri ntibamuvuga kubera ko batigeze babazwa ibibazo bimwerekeyeho. Ubwo buhamya ntibuvuguruza ubwatanzwe mu rubanza rwa Kalimanzira. Nta kintu na kimwe kigaragaza ko abatangabahumaya bo mu rubanza rwitiriwe Butare bari bazi Kalimanzira. Yewe n'iyo byagaragara ko bari bamuzi cyangwa ko hari icyo bamwumviseho, kuba batavuga ko yari ku gasozi ka Kabuye muri kiriya gihe kivugwa, ubwabyo ntibisobanura ko adashobora kuba yari ahari. Bityo rero, Ubwunganizi ntibwagaragaje, mu buryo buboneka, ukuntu ubuhamya bwa bariya batangabuhamya barindwi bo mu rubanza rwitiriwe Butare bwashoboraga gushinjura Uregwa.

59. Kubera ko rusanze Porokireri ataranyuranije n'ibiteganywa n'Ingingo ya 68 (A) y'Amategeko, Urugereko ntirwemeye ibyo Ubwunganizi busaba ko hafatwa ingamba zo gukemura icyo kibazo nko kutemera ubuhamya bwa bariya batangabuhamya cyangwa kongera kubahamagaza. Cyakora, rushingiye ku Ngingo ya 89 (C) n'iya 92*bis* (D) z'Amategeko, Urugereko rwakiriyeho nk'ikimenyetso gihamya

[47] Inyandiko y'urubanza rwa Kajelijeli mu bujurire, igika cya 262 (» Mbere ya byose Ubwunganizi bugomba kubanza bukagaragaza ko Porokireri yari afite koko ibyo bimenyetso »).

[48] *Urubanza Porokireri aburana na Brđanin*, N° IT-99-36-A, Icyemezo ku cyifuzo cy'ujurira gisaba kumenyeshwa ibimenyetso hashingiwe ku Ngingo ya 68 y'Amategeko, no ku cyifuzo gisaba Urugereko gutegeka Gerefiye guha Ubwunganizi ibimenyetso bimwe na bimwe (Urugereko rw'Ubujurire), 7 Ukuboza 2004, urup. 4; Inyandiko y'urubanza rwa Blaškić mu bujurire, igika cya 267.

inyandikomvugo z'iburanisha zikubiyemo ubuhamya bw'abatangabuhamya bitabye Urukiko mu rubanza rwitiriwe Butare. Rwabikoze kubera ko rusanga izo nyandikomvugo zifite agaciro, zikagira n'aho zihuriye cyane n'ibivugwa byabereye ku gasozi ka Kabuye (n'ubwo zidashinjura Uregwa)[49]. Urugereko rwasobanuye ko muri izo nyandikomvugo z'iburanisha mu rubanza rwitiriwe Butare hagomba kuvanwamo ibice bivuga ku bikorwa bya Kalimanzira n'imyitwarire ye[50].

60. Ni ngombwa kuzirikana ko icyifuzo cya mbere cy'Ubwunganizi cyatanzwe hashize hafi amezi arindwi Porokireri amenyekanishije biriya bimenyetso Ubwunganizi burwanya. Urugereko rwasuzumye ibyo Ubwunganizi buvuga byose nk'uko rwagiye rubigenza no ku bindi bibazo byinshi bwagiye bubyutsa bukerewe, no ku byerekeranye n'ubuhamya bwatanzwe mu rubanza rwitiriwe Butare, bwo bikaba ari ubwa kabiri bikozwe. Urugereko rumaze kubisuzuma, rusanze atari ngombwa gusubira ku cyemezo rwafashe kuri icyo kibazo. Rusanze Ubwunganizi ntaho bushingira mu byo bwagiye bugarukaho buvuga ko, ku bijyanye n'ubuhamya bwatanzwe mu rubanza rwitiriwe Butare, Porokireri atubahirije inshingano afite zo kumenyekanisha ibimenyetso hashingiwe ku Ngingo ya 68 (A) y'Amategeko.

5. KUMENYESHA KO UREGWA ATEGANYA KWIREGUZA IMYIREGURIRE YA SINARI MPARI

61. Mu Myanzuro nsozarubanza yanditse ye, Porokireri avuga ko Ubwunganizi butamumenyesheje mu buryo bukwiye ko Uregwa yateganyaga gushingira ku myiregurire ya sinari mpari. Avuga ko kumenyekanisha iyo myiregurire urubanza rwenda kurangira bigabanya agaciro kayo[51]. Ku itariki ya 4 Gashyantare 2009, umutangabuhamya ushinjura witwa Marc Siniyobewe, wa gatatu mu babanjirije uwa nyuma, avuga ku bintu Kalimanzira yakoze muri Perefegitura ya Gitarama kuva hagati muri Mata kugera mu mpera za Gicurasi 1994. Avuga rero ko Kalimanzira yari muri Gitarama ku matariki y'ingenzi Porokireri avuga ko Uregwa yari muri

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[49] Ibimenyetso gihamya N° D82-D97.

[50] Nk'urugero, reba ikimenyetso gihamya N° D92E (B), imp. 15-18 [inyandikomvugo y'iburanisha, 24 Gashyantare 2004, imp. 26-29 [mu muhezo] (QBZ)] aho QBZ avuga ku bijyanye no kuba Kalimanzira yarazanye intwaro ku biro bya Komine ya Muganza.

[51] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 299, 317.

Perefegitura ya Butare. Umunsi ukurikiyeho, Salomé Mukantwali (umugore wa Kalimanzira) mu buhamya bwe yavuze ko yari kumwe n'umugabo we i Kigali no mu mujyi wa Butare ku bihe bimwe na bimwe by'ingenzi. Ubuhamya bw'aba batangabuhamya bombi bushimangira ubwa Kalimanzira ari na we watanze ubuhamya bwa nyuma.

62. Kalimanzira akitaba Urukiko bwa mbere mu mwaka wa 2005, yavuze ko kugera muri Kamena 1994 yakoreraga i Gitarama hamwe n'abandi bari bagize Guverinoma, nyuma akaza kuhava akajya i Butare[52]. Mu kwiregura ku bivugwa ko akenshi yabaga ari muri Perefegitura ya Butare, harimo ibyo avuga ko kuva hagati muri Mata kugera mu mpera za Gicurasi 1994 urebye asa n'aho atigeze ava i Gitarama. Porokireri yari asanzwe rero azi ibyo bintu Kalimanzira avuga[53]. Cyakora, Ubwunganizi ntibwatanze amakuru asobanutse kandi ahagije kuri ibyo bintu. Byongeye kandi, Ubwunganizi ntibwanigeze bumenyesha Porokireri ko, mu buhamya bwe, Marc Siniyobewe yari kuvuga ko kuri ariya matariki y'ingenzi nk'iya 20 n'iya 23 Mata 1994 yabonye Kalimanzira. Biragaragara neza ko ibyo ari ugushyigikira imyiregurire ya sinari mpari ku birego birebana n'ibyabereye ku gasozi ka Kabuye. Kuba umugore w'Uregwa na we yemeza akomeje ko kuva ku itariki ya 6 kugera ku ya 11 Mata 1994, Kalimanzira yari mu rugo bari kumwe, na byo bigaragaza ko ari ugushyigikira imyiregurire ya sinari mpari ku kirego kirebana n'ibyabereye mu nkambi ya Kanage.

63. Hakurikikijwe Ingingo ya 67 (A) (ii) (a) y'Amategeko, iyo Ubwunganizi buteganya kwifashisha imyiregurire ya sinari mpari, bugomba kubimenyesha Porokireri kare hashoboka mbere y'uko iburanisha ritangira. Mu kubimumenyesha, Ubwunganizi bugomba kugaragaza neza aho uregwa avuga ko yari ari igihe ibyaha ashinjwa byakorwaga, bugatanga amazina y'abagabo babizi n'aho babarizwa, n'ibindi bimenyetso byose Uregwa ateganya gushingiraho mu kugaragaza iyo myiregurire ya sinari mpari. Iyo ngingo igamije guha Porokireri uburyo buboneye bwo gutegura ibimenyetso bye no gukora iperereza rihamye ku bijyanye n'iyo myiregurire ya sinari

[52] Inyandikomvugo y'iburanisha, 14 Ugushyingo 2005, urup. 9 (Kwitaba Urukiko bwa mbere).

[53] Imyanzuro isubiza «Icyifuzo cya Porokireri gisaba Urugereko gutegeka Ubwunganizi kubahiriza Ingingo ya 73 *ter* y'Amategeko n'ibyemezo rwafashe », ibika 17-25. Iyo myanzuro ni iyo ku itariki ya 22 Ukwakira 2008 kandi yatanzwe ku ya 28 Ukwakira 2008; reba n'Imyanzuro mbanzirizarubanza y'Ubwunganizi, igika cya 20, n'incamake zometseho z'ubuhamya ACB8, AK14 (Marc Siniyobewe), AX100, BB06, BB08, FG1, FG2, FG3, na MZ20 bari gutanga mu Rukiko.

mpari.

64. Mbere y'iburanisha ndetse n'igihe ryabaga, Ubwunganizi ntibwigeze butanga inyandiko imenyesha ko bwateganyaga kwifashisha imyiregurire ya sinari mpari. Porokireri ni we wasabye Urugereko gutegeka Ubwunganizi kumuha amakuru yose nk'uko biteganywa n'Ingingo ya 67 (A)(ii)(a) y'Amategeko kandi yabisabye abonye ko Imyanzuro mbanzirizarubanza y'Ubwunganizi isa n'ivuga ko buteganya guhamagaza abatangabuhamya bo kwemeza ko Uregwa atari aho ibyaha aregwa byakorewe mu gihe byakorwaga[54]. Icyo gihe, Urugereko ntirwategetse Ubwunganizi gukora ibyo Porokireri yasabaga kuko rwasangaga kuba Porokireri yaracukumbuye akabona bishoboka ko Ubwunganizi bwahamagaza abatangabuhamya bo gushyigikira imyiregurire ya sinari mpari, bidasobanura ko Ubwunganizi bwamenyekanishije ko Uregwa yari kwifashisha imyiregurire ya sinari mpari[55].

65. Kuva na mbere, Ubwunganizi bwagiye buhakana ko bwifashishaga imyiregurire ya sinari mpari nyirizina, bukemeza ko ibihe Porokireri avuga ko biriya byaha ashinja Uregwa byakorewemo bikabije kudasobanuka ku buryo bitatuma bushobora kumenyekanisha ko buteganya kwifashisha iyo myiregurire[56]. Cyakora, Urugereko rusanga bigaragara neza ko Ubwunganizi bwatanze ibimenyetso bishyigikira imyiregurire ya sinari mpari, bityo bukaba bwaragombaga gutanga inyandiko imenyekanisha ko buteganya kwifashisha iyo myiregurire, nk'uko biteganywa n'Ingingo ya 67 (A)(ii)(a) y'Amategeko.

66. Ingingo ya 67 (B) y'Amategeko igira iti « Kuba Ubwunganizi butaramenyesheje Porokireri mu nyandiko ubwo buryo bwo kwiregura ntibibuza uregwa uburenganzira bwo kubukoresha». Ibiteganywa n'iyi ngingo bijyanye n'ihame rivuga ko Uregwa agomba gufatwa nk'umwere kugeza igihe Porokireri agaragarije, nta gushidikanya, ko

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[54] Icyifuzo cya Porokireri gisaba Urugereko gutegeka Ubwunganizi kubahiriza ibiteganywa n'Ingingo ya 73*ter* y'Amategeko no kubahiriza ibyemezo rwafashe, 22 Ukwakira 2008.

[55] Icyemezo gikomatanyije ku cyifuzo cya Porokireri gisaba Urugereko gutegeka Ubwunganizi kubahiriza ibiteganywa n'Ingingo ya 73*ter* y'Amategeko no ku byifuzo by'Ubwunganizi bisaba kwemererwa guhindura lisiti y'abatangabuhamya bashinjura (Urugereko rw'Ubujurire), 13 Ugushyingo 2008, igika cya 7.

[56] Reba inyandikomvugo y'iburanisha, 20 Mata 2009, urup. 47 (Imyanzuro nsozarubanza mu magambo); reba Imyanzuro isubiza «Icyifuzo cya Porokireri gisaba Urugereko gutegeka Ubwunganizi kubahiriza Ingingo ya 73 *ter* y'Amategeko n'ibyemezo rwafashe », ibika 17-25. Iyo myanzuro ni iyo ku itariki ya 22 Ukwakira 2008 kandi yatanzwe ku ya 28 Ukwakira 2008.

icyaha kimuhama. Muri uru rubanza, nk'uko bisanzwe bigenda muri uru Rukiko, Urugereko rurasuzuma iyo myiregurire ya sinari mpari[57]. Cyakora, urebye uko ibintu biteye, Urugereko rusanga kuba Ubwunganizi butarubahirije ibiteganywa n'Ingingo ya 67 (A)(ii)(a) y'Amategeko, bishobora gutuma umuntu yumva ko bwacuze iriya myiregurire ya sinari mpari bugamije kuvuguruza ibyo Porokireri avuga. Urugereko ruzazirikana ibyo mu gihe ruraba rusuzuma niba iyo myiregurire ya sinari mpari ya Kalimanzira ikwiye kwemerwa cyangwa kwizerwa.

67. Imyiregurire ya sinari mpari Kalimanzira yifashishije irasesengurwa ku buryo burambuye mu kiciro ka III.1.2.

6. IBIBAZO BIREBANA N'IBIMENYETSO BYATANZWE

68. Ubwunganizi busaba Urugereko kwemeza ko Kalimanzira ari umwere bitaba ibyo rukemeza ko Porokireri atashoboye gutanga ibimenyetso bigaragaza ku buryo budashidikanywaho ibyaha byose amushinja. Buvuga ko urebye ibibazo byose byagaragaye byerekeranye n'ukwizerwa kw'abatangabuhamya bashinja ndetse n'ukuntu ubuhamya bwatanzwe mu Rukiko bwagiye buhuzagurika ndetse bukavuguruzanya ku bintu binyuranye, bigaragara neza ko hari ugushidikanya ku byerekeranye no kuba Kalimanzira yarakoze ibyaha ashinjwa. Ubwunganizi bwongeraho ko iyo habayeho ugushidikanya, n'iyo kwaba ari guto, uregwa ari we ugomba kubyungukiramo, bityo akaba yahanagurwaho icyaha[58].

69. Ingingo ya 20 (3) ya Sitati iteganya ko umuntu wese warezwe afatwa nk'umwere kugeza igihe ibyaha bimuhamye. Ingingo ya 87 (A) y'Amategeko yo iteganya ko Uregwa ahamwa n'icyaha gusa iyo, ku bwiganze bw'amajwi, Abacamanza bagize Urugereko basanze kimuhama nta gushidikanya. Porokireri ni we wenyine ufite inshingano yo kugaragaza ku buryo budashidikanywaho ko uregwa ahamwa n'icyaha. Ubwunganizi ntibusabwa na rimwe kugaragaza ko uregwa ari umwere. N'ubwo atari ngombwa ko Ubwunganizi butanga ibimenyetso bivuguruza ibivugwa na Porokireri, iyo butanze ibimenyetso bituma habaho gushidikanya ku bijyanye n'ukuri kw'ibyo Porokireri avuga, icyo gihe Porokireri ntaba arangije inshingano ye yo kugaragaza ko

[57] Inyandiko y'urubanza rwa Rukundo mu rw'iremezo, igika cya 539; Inyandiko y'urubanza rwa Nchamihigo mu rw'iremezo, igika cya 20.

[58] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1224-1311.

Uregwa ahamwa n'icyaha. Uregwa agomba kugirwa umwere iyo ibimenyetso byatanzwe bigaragaza ko, hashyizwe mu gaciro, hari undi mwanzuro wafatwa utari uwemeza ko uregwa ahamwa n'icyaha. Iyo Urugereko rutizeye cyangwa rudashingiye ku bimenyetso bishinjura, ntibivuga byanze bikunze ko uregwa ahamwe n'icyaha. Urugereko rugomba na none kureba niba ibimenyetso rwemera bigaragaza ku buryo budashidikanywaho ko Uregwa ahamwa n'icyaha[59].

70. Ubwunganizi busaba Urugereko kuzirikana ko hari abatangabuhamya bashinja babaye ibyitso mu byaha Uregwa ashinjwa cyangwa batanze ubuhamya budafite ubundi bubushyigikira, cyangwa byombi. Buvuga ko mu rubanza rwa Rukundo ruherutse gucibwa mu rw'iremezo, Urugereko rwemeje ko ubuhamya butanzwe n'umuntu wabaye icyitso cy'Uregwa budafite ubundi bubushyigikira butagomba kwizerwa bityo bukaba butagomba kwitabwaho. Ibyo bigaragarira mu mwanzuro rwafashe muri urwo rubanza ku buhamya bw'umutangabuhamya wiswe BLP. Muri uru rubanza, Ubwunganizi busaba Urugereko ko na rwo rwabigenza gutyo nta kujenjeka, ku buryo rwajya ruhita rwanga kwita ku buhamya bw'umutangabuhamya wabaye icyitso cy'Uregwa igihe cyose rusanze budafite ubundi bubushyigikira[60].

71. Ingingo ya 89 (C) y'Amategeko iteganya ko Urugereko rwa Mbere rw'Iremezo rufite ububasha bwo kwakira ikimenyetso cyose gifitanye isano n'urubanza iyo rubona gifite agaciro. Urugereko rw'Ubujurire buri gihe cyose rwagiye rwemeza ko Urugereko rwa Mbere rw'Iremezo ari rwo rushobora gusuzuma, mu buryo buboneye, agaciro k'ibimenyetso, kandi ko rushingiye ku isesengura rwakoze, urwo Rugereko rushobora gushingira ku buhamya bw'umutangabuhamya umwe rukumbi mu kwemeza ko igikorwa cy'ingenzi runaka cyagaragajwe. Kubera iyo mpamvu, Urugereko ntirusaba ko ubuhamya bugomba kuba, byanze bikunze, bufite ubundi bubushyigikira kugira ngo rubone kubushingiraho rufata umwanzuro ku kintu cyabaye. N'ubwo Urugereko rwa Mbere rw'Iremezo rushobora kumva ko byarushaho

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[59] Inyandiko y'urubanza rwa Rukundo mu rw'iremezo, ibika 36-37; Inyandiko y'urubanza rwa Nchamihigo mu rw'iremezo, igika cya 13; Inyandiko y'urubanza rwa Kayishema mu bujurire, igika cya 117; n'Inyandiko y'urubanza rwa Niyitegeka mu bujurire, ibika 60-61.

[60] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1197-1223.

kuba byiza ubuhamya bw'umutangabuhamya runaka bufite ubundi bubushyigikira, ibyo si ngombwa ndetse si n'itegeko mu mikorere y'uru Rukiko[61].

72. Ubukemuramanza bw'uru Rukiko bwagaragaje kandi ko nta muntu ugomba kumva ko ubuhamya bw'abatangabuhamya babaye ibyitso by'uregwa kimwe n'ubw'abafungwa butagomba kwakirwa cyangwa ubwabyo ngo bitume butizerwa, cyane cyane iyo mu ibaza rinyomoza uwo mutangabuhamya wabaye icyitso cy'uregwa abajijwe mu buryo burambuye. Cyakora, kubera ko abatangabuhamya babaye ibyitso by'uregwa bashobora kugira inyungu mu kumushinja, mu kureba agaciro kahabwa ubuhamya bwabo Urugereko rugomba gusuzumana ubushishozi ukuntu ibintu byose byagenze mu itangwa ry'ubwo buhamya, ndetse byaba ngombwa rukabusuzuma rubwitondeye kugira ngo urubanza rushobore kuburanishwa mu buryo buboneye kandi Urugereko rwirinde kugwa mu mutego w'umutangabuhamya ushobora gutanga ubuhamya kubera inyungu ze zihishe inyuma. Na none, Urugereko rwa Mbere rw'Iremezo rugomba nibura gusobanura muri make impamvu yatumye rwemera ubuhamya bw'umutangabuhamya ushobora kuba yari afite inyungu zamuteye gushinja Uregwa[62].

73. Byongeye kandi, bitewe n'uko ibintu byifashe mu rubanza, bishobora kuba ngombwa gukoresha ubushishozi mu gusuzuma ubuhamya bw'abatangabuhamya bashinjwa gusa ibyaha bimwe n'iby'uregwa. Cyakora, akenshi usanga impamvu zatera abo batangabuhamya gutanga ubuhamya bw'ikinyoma zishobora gutandukana, ku buryo bugaragara, n'iz'abatangabuhamya bavugwa ko bagize uruhare mu byaha bimwe n'ibyo uregwa ashinjwa. Bityo rero, igihe cyose hatari impamvu zidasanzwe, urugereko rwaba rushyize mu gaciro ruramutse rudafashe ubuhamya bw'abatangabuhamya bashinjwa ibyaha bimwe n'iby'uregwa ngo rubusuzume mu

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[61] Inyandiko y'urubanza rwa Karera mu bujurire, igika cya 45; Inyandiko y'urubanza rwa Niyitegeka mu bujurire, igika cya 92; Inyandiko y'urubanza rwa Rutaganda mu bujurire, igika cya 29; Inyandiko y'urubanza rwa Musema mu bujurire, ibika 36-38; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, igika cya 132; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire, ibika 154, 187, 320, 322; Inyandiko y'urubanza rwa Čelebići mu bujurire, igika cya 506; Inyandiko y'urubanza rwa Aleksovski mu bujurire, ibika 62-63; Inyandiko y'urubanza rwa Tadić mu bujurire, igika cya 65; n'Inyandiko y'urubanza rwa Kupreškić na bagenzi be mu bujurire, igika cya 33.

[62] Inyandiko y'urubanza rwa Niyitigeka mu bujurire, igika cya 98; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu bujurire, ibika 203-206; n'Inyandiko y'urubanza rwa Krajišnik mu bujurire, igika cya 146.

buryo bumwe n'ubw'abatangabuhamya babaye ibyitso by'uregwa hakurikijwe inyito isanzwe ry'iryo jambo « icyitso »[63].

74. N'ubwo Ubwunganizi atari ko bubibona, kuba ubuhamya bw'umutangabuhamya w'icyitso budafite ubundi bubushyigikira ntibisobanura ko bugomba byanze bikunze kutizerwa. Mu rubanza rwa Rukundo mu rw'iremezo, ubwo Urugereko rwasuzumaga ubuhamya bwa BLP nta cyo rwahinduye ku biteganywa n'amategeko kuri icyo kibazo[64]. Muri urwo rubanza rwa Rukundo, Urugereko rwasuzumanye ubushishozi bukwiye ubuhamya bwa BLP wavugwagaho kuba yarabaye icyitso cy'Uregwa. BLP ntiyari icyitso cy'Uregwa gusa, ahubwo yari yaranafunguwe by'agateganyo mu Rwanda. Ubuhamya bwanditse yatanze mbere buvuguruzanya n'ubwo yatanze mu Rukiko. Yananiwe kumenya Uregwa mu cyumba cy'iburanisha ndetse havuka n'ikibazo cyo kumenya niba ataratanze ubuhamya bw'ikinyoma[65]. Izi ni zimwe mu mpamvu zatumye Urugereko rubona ko rwashingira ku buhamya bwe ari uko gusa habonetse ubundi bubushyigikira cyangwa rusanze ubwabwo bushyigikira ubundi buhamya bwakwizerwa. Bityo rero, ingano y'ubushishozi Urugereko rugomba gusuzumana ubuhamya bw'umutangabuhamya wabaye icyitso cy'Uregwa budafite ubundi bubushyigikira, igenwa hakurikijwe uko ibintu biteye kuri buri mutangabuhamya.

75. N'ubwo hagomba gushyirwa imbere ubuhamya butaziguye, ibyo ntibivuga ko Urugereko rwa Mbere rw'Iremezo rudashobora kwemera ubuhamya bushingiye ku nkuru mbarirano. Urugereko rwa Mbere rw'Iremezo rufite ububasha busesuye bwo gusuzamana ubushishozi ubwo buhamya bushingiye ku nkuru mbarirano, bitewe n'uko ibintu byifashe mu rubanza. Cyakora, kugira ngo Urugereko rushobore gufata umwanzuro wo mu rwego rw'ibyabaye, ku buryo budashidikanywaho, ku buhamya bushingiye ku nkuru mbarirano, hari igihe biba ngombwa ko Porokireri atanga ibindi bimenyetso byakwizerwa[66].

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[63] Inyandiko y'urubanza rwa Ntagurera na bagenzi be mu bujurire, igika cya 234.

[64] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1210-1212.

[65] Inyandiko y'urubanza rwa Rukundo mu rw'iremezo, ibika 139-146.

[66] Inyandiko y'urubanza rwa Rukundo mu rw'iremezo, igika cya 39; Inyandiko y'urubanza rwa Muvunyi mu rw'iremezo, igika cya 13; Inyandiko y'urubanza rwa Rutaganda mu bujurire, igika cya 34; reba n'Ingingo ya 89 y'Amategeko.

76. Mu kwemeza niba ubuhamya bw'umutangabuhamya runaka bukwiye kwemerwa, Urugereko rwa Mbere rw'Iremezo rufite ububasha busesuye bwo gusuzuma ukuvuguruzanya hagati y'ubuhamya bwanditse uwo mutangabuhamya yatanze mbere n'ubwo yatanze mu Rukiko. Rufite kandi n'ububasha busesuye bwo kugena uburemere bwahabwa uko kuvuguruzanya. Urugereko ni rwo rugomba kwemeza niba ukuvuguruzanya kuvugwa guhagije kugira ngo rushidikanye ku buhamya bw'umutangabuhamya runaka kandi rushobora kwemera ubwo buhamya n'iyo bwaba buvuguruzanya[67].

[67] Inyandiko y'urubanza rwa Rukundo mu rw'iremezo, igika cya 42; Inyandiko y'urubanza rwa Muvunyi mu rw'iremezo, igika cya 14; Inyandiko y'urubanza rwa Gacumbitsi mu bujurire, igika cya 74; n'Inyandiko y'urubanza rwa Kajelijeli mu bujurire, igika cya 96.

UMUTWE WA III – IMYANZURO Y'URUGEREKO

77. Hafashwe ingamba zo kubungabunga umutekano w'abenshi mu batangabuhamya bashinja n'abashinjura kugira ngo rubanda itamenya umwirondoro wabo[68]. Urugereko rugiye gusobanura neza, uko bishoboka kose, icyo rwashingiyeho mu mitekerereze yarwo. Cyakora mu kubikora, ruririnda gutanga amakuru ayo ari yo yose yatuma umwirondoro w'abatangabuhamya babungabungiwe umutekano umenyekana.

1. IMYANZURO YO MU IKUBITIRO

1.1 Uregwa

78. Mu gika cya 2 cy'Inyandiko y'ibirego, Porokireri arondora imyanya inyuranye Kalimanzira yaba yaragize mu butegetsi bwite bwa Leta mu gihe cyose yakoraga. Porokireri avugamo kandi ishyaka rya politiki yarimo ndetse na bamwe mu bantu bakoranaga mu bya politiki. Porokireri abivuga ashaka gushyigikira ibyo yemeza ko, muri Perefegitura ya Butare, Kalimanzira yari afite ijambo n'ububasha bihagije byo gukora ibyaha ashinjwa. Ubuhamya bwatanzwe mu rubanza bugaragaza ko ahanini Kalimanzira adahakana ibivugwa aha kuko ahakana gusa ko i) yasimbuye by'agateganyo Minisitiri w'Ubutegetsi bw'Igihugu hagati y'itariki ya 6 Mata n'iya 5 Gicurasi 1994, ii) yari umurwanashyaka ukomeye wa MRND, iii) kandi yari afite ububasha bukomoka n'ubudakomoka ku mategeko ku bantu bo muri Butare.

1.1.1 *Imirimo Uregwa yakoze*

79. Porokireri avuga ko Kalimanzira yari umukozi mukuru wa Leta wakoze imirimo inyuranye, kandi Kalimanzira ibyo ntabihakana. Kalimazira yavukiye muri Segiteri ya Nyagahuru (muri Komine ya Muganza, Perefegitura ya Butare) mu mwaka wa 1953. Kalimanzira arubatse kandi afite abana batanu. Ababyeyi be n'abavandimwe be batanu bose bari abahinzi, kandi ntibigeze biga ngo barenge amashuri abanza. Mu bantu bo mu muryango we, Kalimanzira ni we wenyine wari warize amashuri ya

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[68] *Urubanza Porokireri aburana na Callixte Kalimanzira*, N° ICTR05-88-I, Icyemezo ku cyifuzo cya Porokireri gisaba ko hafatwa ingamba zo kubungabunga umutekano w'abatangabuhamya, 8 Ugushyingo 2007; *Urubanza Porokireri aburana na Callixte Kalimanira*, N° ICTR-05-88-I, Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko hafatwa ingamba ingamba zo kubungabunga umutekano w'abatangabuhamya, 14 Ukuboza 2007.

kaminuza, kandi ni umwe mu bantu batatu bo mu rungano rwe mu karere k'iwabo bari bafite impamyabushobozi ya kaminuza. Kalimanzira arangije amashuri yisumbuye yizemo iby'ubwarimu, yabonye buruse yo kwiga muri kaminuza y'u Rwanda. Aho gukomeza kwiga iby'uburezi, Kalimanzira yiyemeje kwiga ubuhinzi kugira ngo azafashe mu guteza imbere ubuhinzi n'amajyambere arambye mu karere avukamo[69].

80. Kalimanzira arangije kaminuza mu mwaka wa 1981, yasubiye iwabo afite impamyabushobozi ihanitse mu by'ubuhinzi, maze atangira gukoresha ubumenyi n'ubuhanga yize mu gace k'iwabo ka Kirarambogo. Malariya yari yarabaye karande muri ako gace karimo igishanga cya Kirarambogo hakaba n'ikibazo cy'imirire mibi. Kugira ngo agabanye ubukana bw'ibyo bibazo, Kalimanzira yigishije abaturage bo muri ako karere kubyaza icyo gishanga umusaruro bahinga umuceri n'ibindi bihingwa, bakanorora amafi. Yashoboye kubonera imishinga ye, yarimo n'uwo gushinga amakoperative, inkunga y'amafaranga yatanzwe n'abagiraneza bo muri ako karere n'umuryango utagengwa na Leta witwa INADES (*Institut africain pour le développement économique et social*).[70]

81. Kalimanzira yakoreye INADES imyaka itanu muri Perefegiura ya Gisenyi, akaba yaratijwe uwo muryango hashingiwe ku Iteka rya Perezida wa Repubulika. Kalimanzira asobanura ko kubera ko abarangizaga kaminuza bose bahitaga baba abakozi ba Leta, Guverinoma ni yo yagombaga kwemerera umuntu gukora ahandi hantu hatari muri Leta[71].

82. Muri Nyakanga 1986, Kalimanzira yagizwe superefe i Butare. Mu buhamya bwe mu Rukiko, avuga ko atigeze asaba uwo mwanya kandi ko utamushimishije na gato, cyane cyane ko muri icyo gihe byari biteganijwe ko yasimbura Umuyobozi Mukuru

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[69] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 2 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 4 (Salomé Mukantwali); reba n'ibimenyetso gihamya N^{o} P13, P34, P35, P38, na P45.

[70] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 3 (Callixte Kalimanzira); reba n'ibimenyetso gihamya N^{o} P41 na P42.

[71] Reba ibimenyetso gihamya N^{o} P28, P31, P32, na P37 byerekana ko uhagarariye INADES yabisabye ku itariki ya 7 Nyakanga 1981, kandi ko ku itariki ya 30 Ukuboza 1981 Guverinoma yashyize Kalimanzira muri Minisiteri y'Ubuhinzi maze igahita imutiza INADES binyujijwe mu Iteka rya Perezida wa Repubulika.

wa INADES kandi asobanura ko uwo mwanya ari wo yari guhitamo. Yumvaga adafite ibisabwa ngo ashobore gukora imirimo y'ubutegetsi, kandi ntiyishimiye kubona amafaranga yahembwaga agabanuka kubera uwo mwanya mushya yari ahawe. Cyakora, avuga ko atashoboraga kwanga umwanya ahawe na Guverinoma kuko yashoboraga kubihanirwa. Kubera iyo mpamvu, Kalimanzira n'umugore we basubiye muri Prefegitura ya Butare akomokamo, aho yabaye superefe kugera muri Gicurasi 1987, hanyuma asimbura perefe by'agateganyo kugera mu Ugushyingo 1987[72].

83. Nyuma yaho, Kalimanzira yimuriwe muri Perefegitura ya Byumba aba Superefe wa Superefegitura ya Ngarama ihana imbibi n'igihugu cya Uganda. Asobanura ko yarushijeho kudashimishwa n'uwo mwanya yagumyeho kugera muri Kanama 1989, ndetse ko yagiranye ibibazo n'abategetsi bo muri ako karere bacuruzaga amatungo mu buryo bwa magendu. Kalimanzira na Faustin Munyazesa, wari Perefe wa Byumba muri icyo gihe, bagerageje guhagarika ubwo bucuruzi bwa magendu no kugarura amahoro mu karere, ariko abategetsi bo mu nzego zo hejuru harimo na Minisitiri w'Ubutabera barabarwanya, maze bibaviramo gukurwa muri ako karere no kwimurirwa muri Perefegitura ya Gitarama[73].

84. Abifashijwemo na Faustin Munyazesa wabaye Perefe wa Perefegitura ya Gitarama, muri Nzeri 1989, Kalimanzira yahawe umwanya muri Minisiteri y'Ubuhinzi n'Ubworozi akorera muri Superefegitura ya Ruhango. Muri Gicurasi 1990, Kalimanzira yazamuwe mu ntera agirwa Umuhuzabikorwa wa serivisi zishinzwe ubuhinzi muri Perefegitura ya Kigali. Avuga ko uwo mwanya wamushimishije kubera ko wasabaga imirimo mike ijyanye n'ubutegetsi, akazi kenshi kakarebana n'ubuhinzi. Muri Mata 1991, Kalimanzira yimuriwe muri Perezidansi, aho yagizwe Diregiteri ushinze amajyambere y'icyaro. Yakubiswe n'inkuba kuko yatakaje ibintu byose yagenerwaga mbere birimo imodoka maze ahabwa icumbi ryo mu rwego rwo hasi,

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[72] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 6-7 (Callixte Kalimanzira); reba n'ibimenyetso gihamya N° P26 na P27.

[73] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 7-10 (Callixte Kalimanzira); reba n'ibimenyetso gihamya N° P23 na P40.

kandi akaba nta bantu yari akuriye. Byongeye kandi, ntiyishimiye ahantu hashya yakoreraga[74].

85. Kalimanzira yakoze muri Perezidansi kuva muri Mata kugeza mu Ukuboza 1991, kandi muri icyo gihe ni bwo Faustin Munyazesa yagizwe Minisitiri w'Ubutegetsi bw'Igihugu n'Amajyambere ya Komine. Kalimanzira asobanura ko kuba baragiye bamwimura mu kazi ke kuva mu mwaka wa 1986 kugeza mu wa 1991, mu mpamvu zabiteye harimo kuba atarashatse kunyura ku bandi bantu ngo ashakishe imyanya myiza kurushaho. Avuga ko yababajwe no kuba yarahawe akazi akagenda yimurirwa ku myanya itandukanye mu bice binyuranye by'igihugu, bitewe akenshi n'irondakarere cyangwa kwihimura. Muri Mutarama 1992, Minisitiri Munyazesa, wumvaga ikibazo cya Kalimanzira, yamugize Umunyamabanga Mukuru muri Minisiteri y'Ubutegetsi bw'Igihugu, nyuma muri Nzeri 1992 aba Umuyobozi w'Ibiro bya Minisitiri uwo mwanya akaba ari wo yari akiriho muri Mata 1994[75].

1.1.2 *Imirimo Uregwa yakoze kuva ku itariki ya 6 Mata kugera ku ya 25 Gicurasi 1994*

86. Porokireri avuga ko Kalimanzira yakoraga imirimo ya Minisitiri w'Ubutegetsi bw'Igihugu igihe Faustin Munyaneza atari ahari guhera ku itariki ya 6 Mata kugera ku ya 25 Gicurasi 1994[76]. Cyakora, Kalimanzira arabihakana akavuga ko yari umukozi usanzwe, ko kandi n'ubwo haba hari inyandiko yasinye mu mwanya wa Minisitiri, atigeze akora imirimo y'ibanze ya Minisitiri, yari ikiri mu nshingano za Munyazesa. Kalimanzira avuga ko yagumye ku mwanya we w'Umuyobozi w'Ibiro bya Minisitiri kandi ko igihe kinini yari i Gitarama aho yakomeje gukora imirimo isanzwe nko guhemba abakozi no gushyira mu bikorwa ibyemezo byafatwaga na Guverinoma. Kalimanzira avuga ko nta nama ya Guverinoma yigeze ajyamo kandi ko

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[74] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 10-12 (Callixte Kalimanzira); reba n'ibimenyetso gihamya N° P15, P18, P19, P20, P21, P22 na P25.

[75] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 7-13 (Callixte Kalimanzira); reba n'ibimenyetso gihamya N° P14, P15, P16, P44 na P46.

[76] Igika cya 2(v) cy'Inyandiko y'ibirego; Imyanzuro mbanzirizarubanza ya Porokireri, igika cya 48; Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 8-16.

nta cyemezo cyo mu rwego rwa politiki cyangwa ingamba yigeze afata zerekeranye n'uko ibintu byari byifashe icyo gihe[77].

87. Ukurikije Igazeti ya Leta y'u Rwanda yo ku itariki ya 22 Ugushyingo 1992, umuyobozi w'ibiro bya minisitiri ni we mutegetsi wa kabiri usumba abandi mu ntera muri Minisiteri y'Ubutegetsi bw'Igihugu. Asimbura minisitiri mu mirimo ye ya buri munsi igihe adahari cyangwa adashoboye gukora iyo mirimo[78]. Mu gihe kivugwa, Kalimanzira yasinye koko, mu mwanya wa Minisitiri w'Ubutegetsi bw'Igihugu utari mu gihugu, inyandiko zirimo n'izitanga amazina y'abantu bo gushyira mu myanya y'ubutegetsi bwite bwa Leta[79].

88. Urugereko rusanga muri Mata na Gicurasi 1994 hari ibihe bidasanzwe ku buryo minisiteri itari gushobora gukora kimwe n'uko yakoraga mu gihe cy'amahoro. Ubwo rero muri minisiteri Kalimanzira ashobora kuba yarakoze imirimo ijya gutandukana n'inshingano ziteganywa mu Igazeti ya Leta y'u Rwanda (ikimenyetso gihamya D102). Cyakora, mu buhamya yatanze mu Rukiko, Kalimanzira yagiye aca ku ruhande mu gusobanura ibyerekeranye n'akazi n'imirimo yakoze, akabipfobya aho bibaye ngombwa n'igihe bishoboka. Ubuhamya Kalimanzira yahaye Urugereko bukubiyemo amakuru make cyane ku byerekeranye n'akazi yakoze muri kiriya gihe, birenze ibyo yavuze byo gusinya impapuro z'imishahara y'abakozi, gukora ku buryo imodoka ziba zifite lisansi, gutegura ishyirwaho ry'abaperefe n'ababurugumesitiri no gusuhuza impunzi,

89. Urugereko rwemeye ibyo Kalimanzira avuga ko yari umukozi wa Leta n'ubwo yari n'umujyanama wa Minisitiri w'Ubutegetsi bw'Igihugu mu bya politiki. Kalimanzira yari umukozi ufite impano mu byo akora, ushoboye akazi, wizerwa kandi ushimwa cyane n'abakoresha be ndetse na bagenzi be bakoranaga. Kalimanzira yashoboraga kuba yaratoranyijwe ngo asimbure ku mugaragaro Munyazesa utarigeze arahirira kuba minisitiri nyuma y'itariki ya 9 Mata. Cyakora, yakomeje kuba Umuyobozi

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[77] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 29, 45 n'Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 44 (Callixte Kalimanzira); reba n'Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 1099-1100.

[78] Ikimenyetso gihamya N° D102, urup. 1754.

[79] Nk'urugero, reba ibimenyetso gihamya N° P47, P53 na P48.

w'ibiro bya Minisitiri mu gihe umwanya wa Minisitiri wamaze hafi amezi abiri nta muntu uwuriho kugeza igihe Édouard Karemera awushyiriweho.

90. Mu bihe bikomeye nk'ibyo, hari umuntu wagombaga, byanze bikunze, gufata ibyemezo bya ngombwa birenze ibyerekeranye n'imirimo isanzwe igihe Munyazesa atari ahari, kandi urebye Kalimanzira ni we wari kubikora. Cyakora, Urugereko rusanga Porokireri ataragaragaje ibyo bintu ku buryo budashidikanywaho, kandi Kalimanzira si we ugomba gutanga ibimenyetso bibinyomoza. Umwanya Kalimanzira yari ariho mu rwego rw'amategeko ntugaragaza, byanze bikunze, imirimo yakoraga idakomoka ku mategeko cyangwa uko ibintu byari byifashe muri ibyo bihe bidasanzwe bya jenoside yacaga ibintu kubera intambara yari ishyamiranyije abanegihugu. Urugereko rusanga mu bihe bidasanzwe nk'ibyo, muri Guverinoma y'Agateganyo Kalimanzira ashobora kuba yaragize uruhare rwo gushyira mu bikorwa ibyemezo byafashwe kurusha uko we yaba yarabifataga. Bityo rero, n'ubwo guhera ku itariki ya 6 Mata kugeza ku ya 25 Gicurasi 1994 muri Minisiteri y'Ubutegetsi bw'igihugu Kalimanzira ari we wasumbaga abandi bakozi mu ntera, anayobora ibikorwa bya buri munsi muri iyo minisiteri, ibyo ntibivuga ko yabaye Minisitiri w'Ubutegetsi bw'igihugu w'agateganyo. Ahubwo, Urugereko rusanga imirimo ya Minisitiri mu rwego rwa politiki yaba yarakozwe n'abantu bari mu nzego za politiki muri Guverinoma y'Agateganyo.

1.1.3 *Kuba mu ishyaka rya politiki*

Kuba umurwanashyaka wa MRND

91. Porokireri avuga ko Kalimazira yari umurwanashyaka ukomeye wa MRND kandi wari umaze igihe muri iryo shyaka, anarishyigikiye cyane[80]. Cyakora, ibyo Kalimanzira arabihakana agasobanura ko, n'ubwo mu Rwanda hagiyeho politiki igendera ku mashyaka menshi, we nta shyaka yagiyemo[81]. Mu by'ukuri, mu buhamya bwe mu Rukiko yavuze ko amashyaka menshi mashya yose atangiye gukora, abakozi

[80] Igika 2(vi) cy'Inyandiko y'ibirego; Imyanzuro mbanzirizarubanza ya Porokireri, igika cya 47; Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 23-24.

[81] MRND yari ishyaka rya politiki rimwe rukumbi kugeza ubwo politiki ishingiye ku mashyaka menshi yatangiraga mu Rwanda mu mwaka wa 1991. Politiki ishingiye ku mashyaka menshi yagize ingaruka ku miterere y'inzego z'ubutegetsi haba ku rwego rw'uturere cyangwa urw'igihugu guhera mu mwaka wa 1992. (Reba Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika cya 60).

ba Leta bafite imirimo y'ubutegetsi bahawe by'umwihariko amabwiriza yo kutagira aho babogamira, bakarenga amashyaka ya politiki kugira ngo bashobore gufasha buri muntu wese batitaye ku ishyaka rye. Kalimanzira avuga ko politiki y'amashyaka menshi mu Rwanda yaranzwe n'akajagari, akaba yarahisemo kutajya mu bikorwa bya politiki kuko byakururaga umwuka mubi, amahane n'ubushyamirane hagati y'amoko. Ashimangira ko yari umukozi usanzwe gusa, ko atitaga na rimwe kuri politiki cyangwa ku bikorwa bya politiki[82].

92. Cyakora, hari ibimenyetso byatanzwe bisa n'ibigaragaza ko Kalimanzira yari afite aho abogamiye muri politiki kurusha uko abivuga. Nk'urugero, umutangabuhamya ushinja wiswe AZC yari azi Kalimanzira nk'umuntu wari umurwanashyaka ukomeye wa MRND[83]. Byongeye kandi, umutangabuhamya ushinja wiswe BCA avuga ko yahawe umwanya wo mu rwego rwa politiki abifashijwemo na bagenzi be bo muri MRND barimo Kalimanzira[84]. Kuba Kalimanzira yarabaye umujyanama mu bya politiki wa Minisitiri Munyazesa wari umuyoboke wa MRND, bisa n'ibigaragaza ko yabaye umuyoboke wa MRND mbere yo guhabwa umwanya muri Minisiteri y'Ubutegetsi bw'Igihugu, kandi ko biri mu byatumye awuhabwa. N'ubwo avuga ko yabisabwe na minisitiri we, Kalimanzira yaniyamamaje mu matora yo ku itariki ya 31 Gicurasi 1993 maze atsindira kwinjira muri komite ya Perefegitura y'ishyaka rya MRND yarimo Théodore Sindikubwabo na Bernadette Mukarurangwa[85].

93. Gukomera kwa Kalimanzira kwaterwaga n'umwanya wo hejuru yari afite muri Minisiteri y'Ubutegetsi bw'Igihugu, no kuba yari umuntu uzwi n'abaturage kandi bamwemera, cyane cyane muri Butare. Kalimanzira we avuga ko atakoraga politiki kandi ko itamushishikazaga. Cyakora, Ibyo avuga anenga ukuntu yahoraga ahindurirwa imirimo bityo ntagume hamwe no kuba akenshi avuga ko yazize ibintu bya ruswa n'irondakarere nta kuntu bitagaragaza ko yari yitaye kuri politiki. Urugereko ntirwemera ibyo Kalimanzira avuga ko atajyaga muri politiki cyangwa ko nta cyo politiki yari imubwiye. Urugereko rusanga ahubwo amagambo akarishye

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[82] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 13-16, 25 (Callixte Kalimanzira).

[83] Ikimenyetso gihamya N^o D37; reba n'inyandikomvugo y'iburanisha, 25 Kamena 2008, urup. 41 (AZC).

[84] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 42 [mu muhezo] (BCA).

[85] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 14 n'inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 35 (Callixte Kalimanzira); reba n'ikimenyetso gihamya N^o P52.

kandi adashimishije akoresha anenga ubutegetsi bwa Habyarimana ari uguhisha uwo yari we, urebye ukuntu yemeye kwiyamamaza mu matora ya MRND akemera n'imyanya mu butegetsi bwite bwa Leta yagendaga arushaho kugiramo inyungu. Kuba ishyaka rya MRND ritari rikunzwe muri Butare, ariko Kalimanzira akarijyamo ndetse akaniyamamaza mu matora y'abagize Komite ya Perefegitura, bigaragaza ko yafashe, abizi neza, icyo cyemezo cyaje kumuviramo inyungu kuko cyatumye azamurwa mu ntera akagirwa Umuyobozi w'ibiro bya Minisitiri muri Minisiteri y'Ubutegetsi bw'igihugu. N'ubwo Urugereko rusanga ibi bitavuga ko yari umurwanashyaka «witangaga atizigama » w'ishyaka rya MRND, Urugereko rwemera ko Kalimanzira yari umuyoboke ukomeye wa MRND kandi witabiraga ibikorwa by'iryo shyaka.

Imikoranire ye na Perezida na Minisitiri w'Intebe

94. Mu gika cya 2 cy'Inyandiko y'ibirego havugwa ko Kalimanzira yakoranaga cyane na Perezida Théodore Sindikubwabo na Minisitiri w'Intebe Jean Kambanda. Mu Myanzuro nsozarubanza yanditse ye, Porokireri avuga ko ibimenyetso bigaragaza ku buryo budashidikanywaho ko bakoraniraga hafi mu rwego rwa politiki. Cyakora, usanga ibyo avuga bishingiye ku bimenyetso biziguye, cyane cyane ku kuba abo bategetsi bose bakomoka mu karere kamwe ka Perefegitura ya Butare[86]. Ikimenyetso kimwe rukumbi kigaragaza ko abo bagabo bari hamwe ni icyerekeranye n'inama yabereye mu ngoro ya MRND ku itariki ya 19 Mata 1994 (reba akiciro ka III.2.2). Cyakora no muri iyo nama, uruhare rwa Kalimanzira ruvugwa ntirurenga urwo kuba yari umuyobozi wa gahunda kandi ibyo ntibigaragaza ko yakoranaga n'abo bategetsi. Ahubwo, Kalimanzira yakoranaga na Minisitiri Faustin Munyazesa wari waragize uruhare kurusha abandi mu izamurwa rye mu ntera kandi wavukaga muri Kigali. Porokireri rero ntiyabashije kugaragaza ku buryo budashidikanywaho ibyo bintu avuga.

1.1.4 *Ububasha bukomoka ku mategeko n'ubutayakomokaho*

95. Porokireri avuga ko Kalimanzira yari afite ububasha bukomoka ku mategeko n'ubutayakomokaho ku byiciro binyuranye by'abaturage bo muri Perefegitura ya

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[86] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 17-22.

Butare[87]. Cyakora, Kalimanzira ibyo arabihakana. Porokireri avuga ko ububasha bukomoka ku mategeko Kalimanzira yari afite ku bakozi bo ku rwego rwa perefegitura, urwa komine, n'abandi bategetsi bo mu nzego z'ibanze bwakomokaga ku mwanya we muri Minisiteri y'Ubutegetsi bw'Igihugu aho yari umutegetsi mukuru wa kabiri (akurikira Minisitiri ubwe). Porokireri yongeraho ko ububasha budakomoka ku mategeko Kalimanzira yari afite bwari bushingiye ku mwanya we nk'umuntu ukomeye mu baturage bo muri Butare wari ufite ijambo n'ububasha, kuko yari yarabaye Superefe hanyuma agasimbura by'agateganyo perefe wa Butare. Porokireri avuga kandi ko ubwo bubasha Kalimanzira yabukomoraga ku mwanya yari afite muri Minisiteri y'Ubutegetsi bw'Iguhugu.

96. Igazeti ya Leta yo ku itariki ya 22 Ugushyingo 1992 irondora serivisi zinyuranye zo muri Minisiteri y'Ubutegetsi bw'Igihugu n'Amajyambere ya Komine ndetse n'inshingano zazo. Muri iyo gazeti harimo n'imbonerahamwe igaragaza uko imyanya y'imirimo inyuranye yo muri iyo minisiteri isumbana n'uko abategetsi bagenda barutana[88]. Iyo mbonerahamwe igaragaza ko Minisitiri w'Ubutegetsi bw'Igihugu ari we wari ukuriye ku buryo butaziguye umuyobozi w'ibiro bya minisitiri. Iyo usuzumye birambuye lisiti ya za serivisi za Minisiteri y'Ubutegetsi bw'Igihugu n'imbonerahamwe y'uko imyanya y'imirimo isumbana, usanga nyuma minisitiri, umuyobozi w'ibiro bya minisitiri ari we mutegetsi wasumbaga abandi. Mu nshingano z'umuyobozi w'ibiro bya minisitiri harimo guhuza no kugenzura imirimo ya buri munsi ya minisiteri ndetse no gusimbura minisitiri igihe adahari[89].

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[87] Igika 2(vii) cy'Inyandiko y'ibirego; Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 25-28.

[88] Ikimenyetso gihamya N^{o} D102, imp. 1754, 1759.

[89] Igice cy'Igazeti ya Leta (urup. 1754) kijyana n'ibyo kigira kiti « *Inshingano bwite z'umuyobozi w'ibiro bya minisitiri : -Kuyobora no guhuza ibikorwa by'abajyanama, iby'ushinzwe itangazamakuru n'ibya serivisi zunganira izindi muri ibyo biro bya minisitiri, guha umurongo ibyo bikorwa no kubigenzura ; -Gutanga akazi no gukurikirana uko gakorwa; -Gushyiraho politiki rusange ya minisiteri no gukurikirana ishyirwamubikorwa ry'ingamba n'ibyemezo bya Guverinoma mu birebana n'inshingano za minisiteri; -Guhuriza hamwe no kugenzura amadosiye n'izindi nyandiko bigomba kwemezwa cyangwa gushyirwaho umukono na minisitiri; -Kugenzura, afatanyirije hafi n'umuyobozi mukuru, gahunda y'ibikorwa bya minisiteri by'igihe gito cyangwa kirekire no gukora raporo y'umwaka ya minisiteri; -Kuyobora inama y'abakozi ba minisiteri;- Guhuriza hamwe ibikorwa by'ubufatanye bireba minisiteri; Kwita ku mikoranire hagati ya minisiteri n'inzego za politiki, iz'imibereho myiza y'abaturage n'itangazamakuru; - Gusigariraho minisitiri, mu mirimo isanzwe, igihe adahari cyangwa adashoboye kuboneka ; - Gukora akandi kazi kose yashingwa na minisitiri* ».

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

97. Minisiteri y'Ubutegetsi bw'Igihugu yari ifite ububasha, bushingiye ku mategeko, ku nzego z'ubutegetsi bwa perefegitura n'ubwa komine mu Rwanda, kandi umuntu uwo ari we wese wari ushinzwe kuyobora minisiteri yabaga afite ubwo bubasha. Muri Mata 1994, ubwo Minisitiri w'Ubutegesi bw'Igihugu Faustin Munyazesa yari mu butumwa bw'akazi muri Tanzaniya, yasimbuwe na Kalimanzira. Munyazesa atagarutse mu Rwanda, Kalimanzira yakomeje kuyobora minisiteri kugeza igihe Edouard Karemera ashyiriweho ku itariki ya 25 Gicurasi 1994. Cyakora, ububasha Kalimanzira yahabwaga n'amategeko bwagarukiraga mu kuyobora imirimo isanzwe ya buri munsi y'iyo minisiteri.

98. Kuba Kalimanzira yaba yararengeye imipaka y'ububasha yakomoraga ku mategeko ni ikindi kibazo. Kubera ko, mu gihe yari ashinzwe Minisiteri y'Ubutegetsi bw'Igihugu, Uregwa yari afite ububasha bukomoka ku mategeko ku bategetsi ba perefegitura, aba komine n'abandi bo mu nzego zibanze, umuntu ashobora kumva ko yashoboraga no kuba yari anabafiteho ububasha budakomoka ku mategeko. Byongeye kandi, kubera ko Kalimanzira yamaze hafi amezi abiri ayobora Minisiteri y'Ubutegetsi bw'Igihugu by'agateganyo, umuntu ashobora kumva ko, mu gihe cy'ibyabaye, yakomeje kugira ijambo muri Guverinoma y'Agateganyo.

99. Ku byerekeranye n'ijambo yari afite muri Butare by'umwihariko, nta muntu uhakana ko Kalimanzira yari umuntu ushimwa, ukunzwe kandi wubashywe cyane. Abatangabuhamya banyuranye, baba abashinja cyangwa abashinjura, bemeza ibyo bintu. Kalimanzira yari mu banyabwenge bo muri Butare, kandi abantu bamushimiraga cyane uburyo yihatiye kuzana amajyambere arambye igihe yari agoronome. Abantu bibukaga neza imirimo yakoze mbere nka Superefe kandi bari bazi ndetse banishimiye ukuntu yazamuwe mu ntera agahabwa umwanya ukomeye muri Leta. Kubera ko, ahantu nko mu Rwanda, abantu baba mu nzego zigenda zisumbana, kuba Kalimanzira yari umuntu wo mu rwego rwo hejuru kandi uvugwa neza, wongeyeho n'imyanya ikomeye kandi igenda isumbana yagiye ahabwa muri Leta, byatumaga byanze bikunze agenda arushaho kugira icyubahiro cyinshi n'ijambo mu baturage ba Perefegitura ya Butare.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

1.2 Imyiregurire ya sinari mpari

100. Ku itariki ya 4 Gashyantare 2009, Urugereko rwumvise Marc Siniyobewe, umwe mu batangabuhamya batatu ba nyuma, avuga ko hagati y'itariki ya 18 Mata n'iya 30 Gicurasi 1994 Kalimanzira atari ahantu ibyaha byakorewe igihe byakorwaga. Ubuhamya bwe bwakurikiwe, ku itariki ya 5 Gashyantare 2009, n'ubwa Salomé Mukantwali (umugore wa Kalimanzira) na we uvuga ko hagati y'itariki ya 6 n'iya 11 Mata 1994 no hagati y'itariki ya 31 Gicurasi n'iya 17 Nyakanga 1994 umugabo we atari aho ibyaha byakorewe igihe byakorwaga. Nyuma y'abo, ku itariki ya 10 n'iya 11 Gashyantare 2009, Kalimanzira yatanze ubuhamya yiregura maze ashimangira ibivugwa mu bimenyetso byatanzwe mu gushyigikira imyiregurire ye ya sinari mpari.

1.2.1. *Ibimenyetso*

101. Indege ya Perezida Habyarimana ihanuka ku itariki ya 6 Mata 1994, Kalimanzira n'umugore we bari mu rugo i Kigali. Kalimanzira avuga ko mu minsi yakurikiyeho, we n'umuryango we bubahirije amabwiriza yatangwaga kuri radiyo avuga ko abantu bose bagombaga kuguma mu ngo zabo kugeza igihe hari gutangirwa andi mabwiriza. Kalimanzira avuga ko atigeze ava mu rugo kugera ku itariki ya 11 Mata 1994, ubwo yahamagazwaga mu nama kuri Hôtel des Diplomates. Asobanura ko ari yo nshuro ya mbere yongeye gukoresha imodoka, abifashijwemo n'umuntu bakoranaga[90]. Umugore we Salomé yameze ibyo bintu avuga ko Aloys Ngendahimana, wakoranaga na Kalimanzira, yahamagaye Uregwa akamubwira ko akenewe mu nama, maze akanamwemerera kumutwara kugera ku biro bya Perefegitura ya Kigali kugira ngo ashobore kuhasanga imodoka y'akazi yakoreshaga (kamyoneti yo mu bwoko bwa Toyota Hilux itukura ya *double cabin*) n'umushoferi wayo Issa Ngeze[91]. Porokireri yemera ibyo Kalimanzira avuga ko yari i Kigali ku itariki ya 11 Mata 1994[92].

102. Iyi ni yo myiregurire ya sinari mpari Kalimanzira yatanze ku byo Porokireri amushinja mu gika cya 20 cy'Inyandiko y'ibirego, ko ku itariki ya 9 Mata 1994

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[90] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 23 (Callixte Kalimanzira); reba n'ikimenyetso gihamya N° D109.

[91] Inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 6 (Salomé Mukantwali).

[92] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 311.

yashishikarije impunzi z'Abarundi zari muri Serire ya Kanage, (Komine ya Kibayi, Perefegitura ya Butare) gukora jenoside (Reba akiciro ka III.4.3)[93].

103. Kubera amasasu n'ibisasu byakomezaga kuraswa hirya no hino mu mujyi wa Kigali, ku itariki ya 12 Mata 1994 Kalimanzira yohereje umugore we n'abana i Butare batwawe n'umushoferi we, kuko yatekerezaga ko bari kuhagirira umutekano. Yafashe icyemezo cyo kuguma i Kigali kugira ngo akomeze gukora kandi ategereze ko Minisitiri we, Faustin Munyazesa (Minisitiri w'Ubutegetsi bw'Ighugu), agaruka avuye mu butumwa. Kalimanzira avuga ko bukeye bwaho ku mugoroba, umushoferi we Ngeze yagarutse maze akamubwira ko abaminisitiri banyuranye n'abandi bakozi bakuru ba Leta bari bahunze bava muri Kigali bakimurira ibiro byabo muri Perefegitura ya Gitarama. Ubwo rero Kalimanzira yashatse imodoka yo kumujyanayo, nuko ku itariki ya 14 Mata 1994 ava i Kigali ajya i Gitarama[94].

104. Nyuma y'urugendo rw'ibirometero bigera kuri 50 uvuye i Kigali, saa kumi n'imwe z'umugoroba Kalimanzira yageze i Murambi (Perefegitura ya Gitarama) aho Guverinoma yari yarahungiye, ikahashinga icyicaro cyayo. Akihagera, yabonye ko ahagenewe ibiro hatari hahagije kuko abakozi «babyiganaga nk'inzuki», ndetse ko n'ibikoresho by'akazi byari bike cyane. Yamenye kandi ko abandi bari barahageze ku itariki ya 12 Mata 1994, akaba yarasanze bahamaze iminsi ibiri. Kubera ko i Murambi Kalimanzira atari afite ahantu ho gukorera cyangwa kuryama, ku itariki ya 16 Mata 1994 yagiye kureba Perefe wa Gitarama kugira ngo amusabe ibiro, maze perefe amuha ahantu ho gukorera mu biro bya Perefegitura ya Gitarama. Kalimanzira yafatanyaga ibiro n'abandi bakozi bane gusa ba Minisiteri y'Ubutegetsi bw'Igihugu baje i Gitarama barimo n'umutangabuhamya ushinjura witwa Marc Siniyobewe[95].

105. Kalimanzira avuga ko mu gihe cy'ukwezi n'igice kugera mu mpera za Gicurasi yagumye i Gitarama ari ho akorera[96] uretse iminsi mike avuga ko yagiye ahava. Iyi ni

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[93] Mu gika cya 16, Porokireri anarega Kalimanzira kuba yaratanze intwaro muri Komine ya Kigembe hashize iminsi ibiri indege ihanutse. Cyakora, Urugereko ntirusuzuma icyo kirego kubera ko mu iburanisha Porokireri atatanze ikimenyetso na kimwe kuri ibyo bintu (reba akiciro ka II.2.2.4).

[94] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 23-25 (Callixte Kalimanzira); Inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 6 (Salomé Mukantwali).

[95] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 25-27 (Callixte Kalimanzira).

[96] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 27 (Callixte Kalimanzira).

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yo myiregurire ya sinari mpari Kalimanzira atanga kuri byinshi mu byo Porokireri amushinja, nk'uko bisesengurwa mu bikurikira. Kalimanzira yemera ko ku itariki ya 19 Mata 1994 yagiye mu nama yabereye mu ngoro ya MRND mu mujyi wa Butare nk'uko bivugwa mu gika cya 7 cy'Inyandiko y'ibirego (Reba akiciro ka III.2.2). Umugore we Salomé avuga ko uwo munsi nyuma y'inama, Kalimanzira yaje kubasura we n'abana, ariko akahamara iminota icumi gusa mbere yo gusubira i Gitarama. Mu ibazwa ry'ibanze, Kalimanzira yavuze ko, uretse ku itariki ya 19 Mata 1994, nta kindi gihe yagiye i Butare ubwo yari i Gitarama[97]. Yakomeje kubyemeza no mu ibazwa rinyomoza kugeza ubwo Porokireri amweretse inyandiko y'ikiganiro cyanyuze kuri radiyo kivuga ko yari i Butare mu nama yahuje abagize inama y'umutekano ya perefegitura yabaye ku itariki ya 6 Mata 1994. Kalimanzira yavuze ko yari yaribagiwe iyo nama, maze yemera ko yayigiyemo[98].

106. Kalimanzira avuga ko yanavuye i Gitarama ku itariki ya 21 Mata 1994 akajya i Kibungo kwimika Anaclet Rudakubana wari wagizwe perefe mushya. Kalimanzira n'umushoferi we na Perefe Rudakubana bavuye i Gitarama saa tatu za mu gitondo bagera i Kibungo saa kumi n'ebyiri z'umugoroba nyuma y'urugendo rurerure kandi rugoye. Umuhango wo kwimika perefe wamaze iminota iri hagati ya 30 na 45. Kalimanzira avuga ko yiyemeje kurara i Kibungo, kubera ko yatinyaga ko FPR yari hafi kugaba igitero. Bukeye ni bwo yageze i Gitarama saa kumi n'ebyiri z'umugoroba ananiwe cyane kubera urugendo, kandi ntiyabashije gusubira ku kazi kugeza bukeye bwaho ku itariki ya 23 Mata 1994[99]. Mu buhamya bwe mu Rukiko, Siniyobewe yemeza ibyo bintu kuko avuga ko ku itariki ya 21 cyangwa iya 22 Mata 1994 atabonye Kalimanzira i Gitarama, kandi ko ari we wari washakiye Kalimanzira na perefe lisansi n'imodoka byo kubajyana i Kibungo[100]. Porokireri yemera ko ku itariki ya 21 Mata 1994, Kalimanzira yari muri Perefegitura ya Kibungo mu muhango wo kwimika perefe mushya. Ibyo kandi byemezwa n'inyandiko y'ikiganiro cyahise kuri radiyo[101].

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[97] Inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 9 (Salomé Mukantwali).

[98] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 18-23 (Callixte Kalimanzira).

[99] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 39-42 (Callixte Kalimanzira).

[100] Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 24 (Marc Siniyobewe).

[101] Reba ikimenyetso gihamya N° D104 n'Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 311.

107. Kalimanzira avuga ko atigeze ava i Gitarama muri wikendi yo ku matariki ya 23 na 24 Mata 1994 no mu minsi mike yakurikiyeho. Iyo ikaba ari yo myiregurire ye ya sinari mpari ku byo Porokireri avuga, mu gika cya 9 n'icya 10 by'Inyandiko y'ibirego, ko Kalimanzira yitabiriye kandi akayobora ubwicanyi bwabereye ku gasozi ka Kabuye. (Reba akiciro ka III.2.4). Kalimanzira yemera ko hari urugendo rumwe yakoreye hanze ya Gitarama ku itariki ya 3 Gicurasi 1994 ubwo yajyaga i Ngororero muri Perefegitura ya Gisenyi kugira ngo afashe mu gikorwa cyo gutuza abantu benshi bahageraga bavanywe mu byabo muri iyo minsi. Siniyobewe ashyigikira ubwo buhamya bwa Kalimanzira, aho avuga ko guhera ku itariki ya 23 Mata kugeza ku ya 30 Gicurasi yakoranye na Kalimanzira i Gitarama hafi buri munsi[102].

108. Ku itariki ya 30 Gicurasi 1994, Gitarama yaratewe maze bituma muri ako karere buri wese ahungana ubwoba ku buryo byateje akaduruvayo. Kalimanzira yahavuye ari kumwe n'umujandarume ukomoka i Butare, afata umuhanda werekeza muri Perefegitura ya Kibuye. Kubera ko umuhanda uhuza Kigali na Butare wari wafashwe, bagombye guca kure kugira ngo banyure mu mihanda irimo umutekano kurushaho. Byabaye ngombwa ko ijoro ryo ku itariki ya 30 Gicurasi 1994 barara muri Perefegitura ya Gikongoro mbere yo kugera i Butare ku ya 31 Gicurasi 1994. Ahageze, Kalimanzira yahise ajya kureba umuryango we mu nzu bakodesherejwe n'inshuti yabo yitwa Jean-Baptiste Sebalinda[103].

109. Kalimanzira avuga ko ageze i Butare yamaze iminsi mike ari kumwe n'umugore n'abana be bari barahahamutse kugira ngo abahumurize. Nyuma yaho, ahagana mu mpera z'icyumweru cya mbere cya Kamena 1994, we n'umushoferi we bagiye gusura abantu bo mu muryango we i Kirarambogo. Kalimanzira avuga ko bagenda ntaho yahagaze n'ubwo hari abantu yasuhuje. Yanyuze mu muhanda uva i Butare ukanyura muri Komine ya Shyanda n'iya Ndora ukagera muri Komine ya Muganza. Ubwo

[102] Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 25 (Marc Siniyobewe).

[103] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 47-48 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 10 (Salomé Mukantwali); reba n'inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 26 (Marc Siniyobewe).

yanyuraga muri Komine ya Ndora akabona uburyo ibintu byari byangijwe, ni bwo yabonye ukuntu ibintu byari byadogereye[104].

110. Kalimanzira avuga ko yagumye i Butare n'umugore we n'abana kugeza ku itariki ya 30 Kamena 1994. Yongeraho ko muri Kamena atakomeje gukora, bityo akaba atarakurikiye Guverinoma ubwo yimukaga ikajya gukorera ku Gisenyi. Avuga ko igihe kinini yagumye mu rugo, uretse inshuro nke nk'igihe yajyaga mu muhango wo kurahiza Alphonse Nteziryayo, wari wagizwe Perefe mushya wa Butare, wabereye ku biro bya Komine ya Ngoma ku itariki ya 21 Kamena 1994, no mu muhango wo kwakira intumwa ya Papa, Karidinali Etchegaray ku itariki ya 24 Kamena 1994[105]. Iyi ni yo myiregurire ya sinari mpari Kalimanzira atanga ku bivugwa ko muri Kamena yagiye ahantu hanyuranye muri Perefegitura ya Butare. Muri ibyo bintu, harimo ibyo Porokireri avuga, mu gika cya 12 n'icya 14 by'Inyandiko y'ibirego, ko ubwo Kalimanzira yari ku biro bya Komine ya Gikonko ku itariki ya 5 Kamena 1994, yahamagariye abaturage gukora ubwicanyi.

111. Ku itariki ya 30 Kamena 1994, Kalimanzira n'umuryango we barahunze bava i Butare bajya mu gice cyiswe *Zone Turquoise* muri Perefegitura ya Gikongoro, maze bahamara ibyumweru bibiri. Ku itariki ya 16 Nyakanga 1994, barahavuye bajya muri Perefegitura ya Cyangugu, baharara ijoro rimwe mbere yo kwambuka umupaka bajya muri Zayire ku itariki ya 17 Nyakanga 1994[106].

1.2.2. *Isesengura ry'Urugereko*

112. Ubukemuramanza buteganya ko iyo Urugereko rusuzuma imyiregurire ya sinari mpari, rugomba gusa kureba niba uregwa yaratanze ibimenyetso byatuma rushidikanya, mu buryo bushyize mu gaciro, ku bimenyetso bishinja. Uregwa ntafite inshingano yo gutanga ibindi bimenyetso ku myiregurire ye ya sinari mpari. N'iyo Urugereko rwakwanga kwemera iyo myiregurire cyangwa rukanga kuyishingiraho, ntibikuraho inshingano Porokireri afite yo kugaragaza, nta gushidikanya, ibyo aregera

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[104] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 49 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 10 (Salomé Mukantwali).

[105] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 52-53 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, imp. 10-11 (Salomé Mukantwali).

[106] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 53, 58-59 (Callixte Kalimanzira).

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cyangwa ngo bitume iyo nshingano ijya ku wundi muburanyi. Porokireri ni we buri gihe ufite inshingano yo kugaragaza ibyo aregera[107].

113. Urugereko ruributsa ko Kalimanzira atamenyekanishije ko yateganyaga gushingira ku myiregurire ya sinari mpari (Reba akiciro ka II.5). N'ubwo bitamubuza kwireguza ubwo buryo, ibyo bishobora kugabanya agaciro kabwo kuko bituma umuntu yibaza niba iyo myiregurire ya sinari mpari itarahimbwe nyuma kugira ngo ijyane n'ibyo Uregwa ashinjwa[108]. Muri uru rubanza, Urugereko rwagombaga kwita, by'umwihariko, kuri icyo kibazo cyerekeranye no kuba imyiregurire ya sinari mpari itaba yarahimbwe nyuma. Abatangabuhamya b'ingenzi bashyigikira iyo myiregurire ni abahamagajwe bwa nyuma n'Ubwunganizi ari bo: Salomé Mukantwali (umugore wa Kalimanzira), Marc Siniyobewe (inshuti ya hafi y'umuryango), na Kalimanzira ubwe. Bityo rero, Ubwunganizi bwari bufite, hakiri kare, ubushobozi bwo kubonana na bo no kumenya ubuhamya bari gutanga kugira ngo bube bwabimenyekanisha mbere y'uko Porokireri atangira gutanga ibimenyetso bishinja.

114. Mu byo Porokireri avuga harimo amatariki asobanutse neza n'andi asa n'aho ari rusange. Imyiregurire ya sinari mpari ya Kalimanzira na yo itanga, kuri bimwe, amatariki asobanutse, ku bindi igatanga amatariki rusange. Iyo myiregurire ye yashyirwa mu byiciro bitatu by'ingenzi:

- Kuva ku itariki ya 6 kugeza ku ya 14 Mata 1994, Kalimanzira yari iwe mu rugo i Kigali uretse ku itariki ya 11 Mata ubwo yajyaga mu nama. Ku itariki ya 12 Mata, yohereje umugore we n'abana i Butare, maze ku itariki ya 14 Mata ava i Kigali ajya i Gitarama;

- Kuva ku itariki ya 14 Mata kugeza ku ya 30 Gicurasi 1994, Kalimanzira yagumye i Murambi/Gitarama akorana na Guverinoma y'Agateganyo. Kalimanzira avuga ko yahavuye inshuro nke zizwi. Umutangabuhamya ushinjura, witwa Marc Siniyobewe, ashimangira ibivugwa mu buhamya bwa

[107] Inyandiko y'urubanza rwa Bagosora na bagenzi be mu rw'iremezo, igika cya 1943; Inyandiko y'urubanza rwa Simba mu bujurire, igika cya 184, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Simba mu rw'iremezo, igika cya 303.

[108] Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika cya 107.

Kalimanzira kuko avuga ko ku itariki ya 23 Mata 1994 Kalimanzira yari i Gitarama;

- Kuva ku itariki ya 30 Gicurasi kugeza muri Nyakanga 1994, Kalimanzira yagiye i Butare aguma iwe mu rugo usibye inshuro eshatu muri Kamena. Nyuma yaho yagiye mu gice cyiswe *«Zone Turquoise»*, aza kuhava ahungira muri Zaïre.

Ibyerekeranye n'igihe kiri hagati y'itariki ya 6 n'iya 14 Mata

115. Mu buhamya bwa Kalimanzira n'ubw'umugore we harimo ibintu bimwe na bimwe bidashobora kwemerwa. Ku kibazo cyo kubona imodoka, umugore we avuga ko Kalimanzira yari afite imodoka y'akazi n'umushoferi wayiparikaga imbere y'ibiro bya Segiteri ya Biryogo buri munsi amaze kugeza Kalimanzira mu rugo[109]. Kalimanzira n'umugore bavuga ko hagati y'itariki ya 6 n'iya 11 Mata, Kalimanzira atashoboye kugera ku modoka ye y'akazi cyangwa kuvugana n'umushoferi we. Cyakora, telefone zari zigikoraga nk'uko bigaragazwa na telefone ya Aloys Ngendahimana (wari Umuyobozi Mukuru muri Minisiteri y'Ubutegetsi bw'Igihugu) Kalimanzira yaba yarakiriye ku itariki ya 11 Mata, ndetse n'ubuhamya bw'umutangabuhamya wiswe AX100 uvuga ko yakoresheje telefone ya Kalimanzira[110]. Byongeye kandi, ntibyumvikana ukuntu Ngendahimana, wari ukuriwe na Kalimanzira, yashoboye kubona imodoka ariko Kalimanzira ntayibone. Ntibinumvikana ukuntu abategetsi batashoboraga kuva mu ngo zabo ngo bage guhangana n'ibibazo byariho muri icyo gihe cy'amahina. Iyo umushoferi wa Kalimanzira atajya gutwara shebuja mu bihe bikomeye nka biriya by'umutekano muke yari kuba ateshutse bikomeye ku nshingano ze. Inshingano zihariye za Minisiteri y'Ubutegetsi bw'Igihugu zatumaga biba ngombwa ko avugana n'abategetsi b'amaperefegitura n'amakomine. Umuntu agomba rero, byanze bikunze, kumva ko umushoferi wa Kalimanzira yajyaga gutwara shebuja kandi ko Kalimanzira yakoze imirimo ye y'ubutegetsi.

[109] Inyandikomvugo y'iburanisha, 5 Gashyantare 2009, imp. 6-7 (Salomé Mukantwali).

[110] Inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 6 (Salomé Mukantwali); Inyandikomvugo y'iburanisha, 29 Mutarama 2009, urup. 36 (AX100).

116. Ku kibazo cyerekeranye no kumenya amakuru, Kalimanzira n'umugore we bavuga ko Uregwa atamenyaga uko ibintu byari byifashe muri Guverinoma. Ubwo yatangaga ubuhamya mu Rukiko, ku byerekeranye n'icyo inama yahamagajwemo ku itariki ya 11 Mata yari igamije, Kalimanzira yagiye aca ikibazo iruhande avuga gusa ko yayimenyeye mu itangazo ryahise kuri radiyo, naho umugore we akavuga ko yayibwiwe na Ngendahimana wari umuterefonnye. Kalimanzira avuga kandi ko muri iryo tangazo ari bwo yamenye ko iyo nama yari kuyoborwa na Minisitiri w'Ubutegetsi bw'Igihugu, yaba adahari ikayoborwa na Minisitiri w'Intebe[111]. Urugereko rusanga bitakumvikana ukuntu Kalimanzira yamenye inama yo ku itariki ya 11 Mata bimutunguye gutyo. Igishoboka cyane ni uko yagombye kuba yaragize uruhare mu itegurwa ry'inama, iyo ari yo yose, yahuje abaperefe bose, cyane cyane iyagombaga kuyoborwa na Minisitiri we.

117. Kalimanzira avuga ko, amaze kwimurira umuryango we i Butare ku itariki ya 12 Mata, yasigaye i Kigali kugira ngo akomeze akazi ke. Cyakora, nyuma yaho ahita yivuguruza akavuga ko atari afite akazi kandi inisitiri we atari ahari. Asobanura ko yirirwaga aho ntacyo akora ategereje ko Minisitiri agaruka ndetse akongeraho ko atari afite akanunu ku bintu byarimo kuba cyangwa ngo amenye uko byari kugenda[112]. Urugereko rusanga Kalimanzira yigira nyoni nyinshi. Mu gihe nka kiriya cy'amahina, nk'Umuyobozi w'Ibiro bya Minisitiri, Kalimanzira yagombye kuba yaragiye amenyeshwa ibintu byose byabaga, cyane cyane igihe Minisitiri atari ahari. Ikindi umuntu atakwemera ni ibyo Kalimanzira avuga ko yamenye ko Guverinoma yimukiye i Gitarama abibwiwe n'umushoferi we ku mugoroba wo ku itariki ya 13 Mata. Ubwo FPR yasatiraga cyane Kigali, ku itariki ya 12 Mata, Guverinoma yimukiye i Gitarama iva muri Hôtel des Diplomates, aho Kalimanzira yari yaraye agiye mu nama yayobowe na Minisitiri w'Intebe. Kalimanzira avuga ko ageze i Murambi ku itariki ya 14 Mata, yahasanze abakozi ba Leta benshi[113] bari barahunze Kigali mu buryo butunguranye. N'iyo Urugereko rwakwemera ibyo Kalimanzira

[111] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 23 (Callixte Kalimanzira).

[112] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 24 (Callixte Kalimanzira).

[113] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 26 (Callixte Kalimanzira).

avuga ko Guverinoma yimukiye i Gitarama bitateguwe kandi bikaba hutihuti mu buryo butunguranye[114], ntirwakemera ibyo avuga ko ari we wabimenye bwa nyuma.

Ibyerekeranye n'igihe kiri hagati y'itariki ya 14 Mata kugera ku ya 30 Gicurasi

118. Ku byerekeranye n'iki gihe, imyiregurire ya sinari mpari ya Kalimanzira ishyigikirwa n'umutangabuhamya ushinjura witwa Marc Siniyobewe. Uyu mutangabuhamya avuga ko yakoraga muri Minisiteri y'Ubutegetsi bw'Igihugu, kandi ko avuye i Kigali yahungiye iwabo muri Perefegitura ya Ruhengeri maze ku itariki ya 18 Mata 1994 akahava akajya ku kazi i Murambi (Gitarama). Avuga ko yahuye na Kalimanzira kuri iyo tariki ndetse ko yamubonaga no ku minsi yose yakurikiyeho kugeza ku itariki ya 30 Gicurasi uretse ku ya 19 Mata ubwo Kalimanzira yagiye muri Perefegitura ya Butare, ku itariki ya 21 n'iya 22 Mata ubwo Kalimanzira yagiye muri Perefegitura ya Kibungo, rimwe muri Gicurasi ubwo Kalimanzira yagiye muri Perefegitura ya Gisenyi, no ku yindi minsi mike ashobora kuba yaribagiwe. Uyu mutangabuhamya asobanura ko ku itariki ya 23 Mata 1994 yabonye Kalimanzira mu gitondo na nimugoroba, ariko ko atamubonye igihe cya saa sita cyangwa nyuma yaho gato[115]. Siniyobewe ni we mutangabuhamya w'ingenzi mu gushyigikira imyiregurire ya sinari mpari ya Kalimanzira ku byerekeranye n'ibyo Porokireri avuga ko uwo munsi Kalimanzira yari ku gasozi ka Kabuye.

119. Kuba ku kirego kiremereye kurusha ibindi Kalimanzira ashinjwa Ubwunganizi bwaravuze bukerewe ko buteganya kwireguza uburyo nk'ubwo bwihariye bwa sinari mpari, bisa n'ibigaragaza cyane ko abatangabuhamya babwirijwe ibyo bagomba kuvuga kandi bigategurwa kugira ngo banyomoze ibyo Porokireri ashinja Uregwa. Niba, mu biganiro yagiranye na bo mbere, Uregwa yarabwiye abagize ikipe y'Ubwunganizi ko atari ahantu ibyaha byakorewe igihe byakorwaga, Ubwunganizi bwagombaga kubimenyesha Porokireri. Kuba rero butarabikoze bitera umuntu kwibaza igihe bwagiriye igitekerezo cyo kwifashisha Siniyobewe nk'umutanga-buhamya ushyigikira imyiregurire ya sinari mpari. Ibi kandi byashyigikira umwanzuro ucukumbuye wavuga ko ubwo buryo bwo kwiregura bwahimbwe nyuma.

[114] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 3 (Callixte Kalimanzira).

[115] Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, imp. 17-25 (Marc Siniyobewe).

120. Siniyobewe yaje gutanga ubuhamya mu Rukiko nk'inshuti y'umuryango wa Kalimanzira, na we avuga ko Kalimanzira ari umwere[116]. Cyakora, hari impamvu nyinshi zituma ubuhamya bwe bushidikanywaho. Nk'urugero, avuga ko atigeze yumva kuri RTLM bakoresha amagambo azimije bashaka kuvuga ubwoko bw'Abatutsi, kandi ntiyanumvise kuri iyo radiyo hakoreshwa amagambo akangurira abantu kwanga Abatutsi cyangwa abahamagarira kubatsembatsemba[117]. Yabanje kuvuga ko atibuka niba yarumvise kuri iyo radiyo amagambo nk'ayo ahamagarira abantu gukora ibyo bintu. Cyakora, Porokireri amubajije ukuntu abasha kwibuka amatariki nyayo ibintu byabereyeho mu gihe hashize imyaka 15 ibivugwa bibaye ariko ntiyibuke ibiganiro byahamagariraga urwango byanyuze kuri radiyo mu Ukwakira 1993[118], yatanze igisobanuro kidafashe avuga ko atari kumenya ko kuri radiyo bigishaga urwango kubera ko atajyanaga radiyo ku kazi cyangwa ngo ayumve ubwo yabaga asinziriye. Urugereko rusanga Siniyobewe ari umwe mu bantu 42 bashinze Radiyo RTLM muri Mata 1993[119]. Kuba yigira nyoni nyinshi akavuga ko atazi intego y'iyo radiyo n'ibiganiro byayo, bigaragaza rero ko ahunga ikibazo ndetse akaba abogamye.

121. Muri rusange kandi, Siniyobewe yagize ikibazo cyo kwibuka amatariki, ariko abasha gutanga ibisobanuro nyabyo ku gihe kiri hagati y'itariki ya 19 n'iya 23 Mata n'iminsi yakurikiyeho, aho abatangabuhamya banyuranye bavuga ko babonye Kalimanzira hafi y'agasozi ka Kabuye (Reba akiciro ka III.2.4). Avuga ko yibuka, by'umwihariko, itariki ya 23 Mata kubera ko uwo munsi ageze ku kazi mu gitondo hagati ya saa mbiri na saa tatu nk'uko byari bisanzwe, yasanze Kalimanzira yamaze gusinya lisiti zo guhemberaho abakozi. Asobanura ko ari we [Siniyobewe] wari wasize izo lisiti mu biro. Yibuka ko atabonye Kalimanzira mu gihe cy'amanywa, ariko akongera kumubona ku mugoroba[120]. Uburyo Siniyobewe yibuka neza ibyabaye ku itariki ya 23 Mata butandukanye n'uko yibuka ibindi bintu byabaye, nk'itariki Kalimanzira yagiriyeho mu butumwa i Ngororero, kuko atabasha kugira ikindi kintu yibuka

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116 Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, imp. 54-55 (Marc Siniyobewe).

117 Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, imp. 49-52 (Marc Siniyobewe).

118 Ikimenyetso gihamya N° P78.

119 Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, imp. 50-52 (Marc Siniyobewe); Ikimenyetso gihamya N° P77.

120 Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 24 (Marc Siniyobewe).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

cyerekeranye n'uwo munsi uretse kuvuga ko yaba yaragiyeyo muri Gicurasi cyangwa mu mpera za Mata[121].

122. Ibyo ni na byo byaranze ubuhamya bwa Kalimanzira kuko avuga ko kimwe mu bintu by'ingenzi yakoze mu byumweru bitandatu yamaze i Gitarama kwari ukugenzura itegurwa ry'amalisiti yo guhemberaho abakozi no kuyasinya[122]. Iyi ngingo y'ubuhamya bw'abo bombi ntifashe. Ibimenyetso byatanzwe bigaragaza ko abakozi ba Leta bahembwaga n'indi minisiteri, kandi imishahara yabo ikaba yaranyuzwaga kuri konti zabo muri banki[123]. Mu buhamya bwe, Kalimanzira asobanura birambuye uburyo abakozi ba Leta n'abagengwa na kontaro bahembwaga maze akavuga ko hari uburyo bubiri bwakoreshwaga mu guhemba abakozi ba Leta kuko ku bagengwa na kontaro nka ba nyakabyizi n'abashoferi, imishahara yabo yavaga ku ngengo y'imari yihariye. Asobanura kandi ko ubwo buryo bwombi bwakoreshwaga bwatumaga adahembwa umushahara we[124]. Kuba yibanda by'umwihariko ku gusobanura uburyo bwakoreshwaga mu gikorwa gito nk'icyo cyasabaga gusa umukono we, bigaragaza ko aca ku ruhande ikibazo cyerekeranye n'akazi n'imirimo yakoze ubwo yari i Gitarama. Nta muntu wakwemera ko mu ntambara, Kalimanzira yashoboraga kuba ahugiye mu gukora iby'imishahara y'abashoferi, ba nyakabyizi n'abandi bakozi bagengwa na kontaro mu gihe we atabonaga umushahara we.

123. Ubuhamya bwa Kalimanzira bwerekeranye n'igihe yamaze i Gitarama no ku kazi yakoraga ntibwakwizerwa kubera ibyo avugamo ndetse n'ibyo atavuga. Ahanini, Kalimanzira yemera gusa ingendo yaherewe ibimenyetso gihamya cyangwa ahabonetse inyandiko y'ibiganiro bya radiyo bigaragaza ko yari ahantu runaka. Yemeza ko muri Mata na Gicurasi 1994 yagiye i Butare inshuro imwe gusa mu nama yabereye mu Ngoro ya MRND maze agahakana yivuye inyuma ubuhamya Pauline Nyiramasuhuko yitangiye mu rubanza rwe avuga ko ku itariki ya 16 Gicurasi 1994 Kalimanzira yari mu nama yahuje abagize inama ya perefegitura y'umutekano yabereye mu mujyi wa Butare. Cyakora, Porokireri amweretse inyandiko y'ikiganiro

[121] Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 25 (Marc Siniyobewe).

[122] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 32-33 (Callixte Kalimanzira).

[123] Ikimenyetso gihamya Nº P79.

[124] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 32-33 n'inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 12-15 (Callixte Kalimanzira).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

cyanyuze kuri radiyo kivuga, ku buryo budasubirwaho, ko yari muri iyo nama, Kalimanzira yemeye ko yayigiyemo ndetse yongeraho ko hashobora kuba hari n'ibindi bintu byabaye yibagiwe[125].

124. Kalimanzira nta makuru yatanze ku kazi yakoze i Gitarama hamwe na Guverinoma n'abaminisitiri kandi yagiye anyura ibintu ku ruhande mu buhamya bwe bwerekeranye n'uko yakoreshaga igihe cye (reba n'akiciro ka III.1.1.2). Yemera ko ku itariki ya 25 Gicurasi 1994, Edouard Karemera yagizwe minisitiri mushya w'Ubutegetsi bw'Igihugu, ariko ntatanga amakuru ku kuntu bakoranye. Nk'Umuyobozi w'Ibiro bya Minisitiri, Kalimanzira yagombaga gukorana na Minisitiri mushya cyangwa agasezererwa. Kuba adatanga igisobanuro na kimwe kuri iki kibazo bigaragaza ko aca ibintu ku ruhande ku birebana n'mikoranire ye n'inzego za politiki.

125. Ikindi gitera impungenge kurushaho ni uburyo Kalimanzira yigira nyoni nyinshi ku byerekeranye n'ukuntu ibintu byari byifashe icyo gihe hanze ya Gitarama. Avuga inkuru idashobora kwemerwa yerekeranye n'ukuntu ku itariki ya 24 Mata 1994 yohereje bamwe mu bantu bakoranaga mu makomine yegereye aho hantu kugira ngo bakore iperereza ku bihuha byavugaga ko FPR yari hafi kugaba igitero i Murambi. Ubwo abo bantu bari bagarutse ku mugoroba w'uwo munsi, umwe muri bo yabwiye Kalimanzira ko hari Abatutsi bari bahungiye muri Komine ya Mukingi, maze Kalimanzira ahita afatanya na perefe mu gushakisha bisi na lisansi kugira ngo bage kurokora izo mpunzi bazizazane i Murambi[126]. Ibyo avuga biributsa, n'ubwo bitandukanye gato, ubuhamya bwa Siniyobewe uvuga ko burugumesitiri wa Komine ya Mukingi yitabaje Kalimanzira kubera impunzi z'Abatutsi zari hafi kwicwa, maze Kalimanzira agaherako atabara. Siniyobewe yashinzwe gutanga lisansi ariko ntiyabasha guhita abikora kubera ko yari afite «akandi kazi» maze birakaza Kalimanzira. Siniyobewe akerewe gutanga lisansi, Kalimanzira yaramutonganyije kubera ko yazariye[127]. N'ubwo Siniyobewe agerageza guha Kalimanzira isura y'umusamariya mwiza, uko abisobanura byumvikanisha ko Kalimanzira yafashe

[125] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 20-24 (Callixte Kalimanzira).

[126] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 43 (Callixte Kalimanzira).

[127] Inyandikomvugo y'iburanisha, 4 Gashyantare 2009, imp. 26-27, 55 (Marc Siniyobewe).

ingamba zo kurokora abo Batutsi abitewe gusa no kugira ngo atazaryozwa ko yituramiye ntagire icyo akora[128].

126. Kubera ko hari ibimenyetso byinshi bigaragaza ko muri iyo wikendi Abatutsi babarirwa mu bihumbi biciwe ku gasozi ka Kabuye mu gihe abandi barenga abo bicirwaga muri Butare no mu Rwanda hose ariko Kalimanzira akavuga ko atari abizi, Urugereko rutewe impungenge n'uburyo iyi nkuru ipfobya imiterere y'ibintu muri icyo gihe. Uregwa yari ahangayikishijwe gusa no gucengera kwa FPR kandi yagaragaje ubwo bwoba n'ahandi hantu, nk'igihe ku itariki ya 21 Mata muri Perefegitura ya Kibungo, yararaga ijoro adasinziriye nk'uko abyivugira. Ni na yo mpamvu kandi mu cyumeru cya mbera cya Kamena atagize ahantu ahagarara ku muhanda ubwo yagendaga n'imodoka ajya iwabo i Kirarambogo[129]. Urugereko rusanga kuba Kalimanzira yaragaragazaga ko ahangayitse bishyigikira ibyo abatangabuhamya bashinja banyuranye bavuga ko Kalimanzira yahoraga ahamagarira abaturage gushyiraho za bariyeri no kwitwaza intwaro igihe cyose (nk'urugero, reba akiciro ka III.2.7 n'aka III.4.9).

127. Ku byerekeranye n'inzira yaba yaranyuze ajya cyangwa ava muri Perefegitura ya Kibungo, ibimenyetso byatanzwe bigaragaza ko Kalimanzira yagiye i Kibungo ku itariki ya 21 Mata 1994 ajyanywe no kwimika perefe mushya. Cyakora, avuga ko ku mugoroba wo ku itariki ya 22 ari bwo yagarutse i Gitarama kubera ko yaraye i Kibungo mu ijoro ryo ku itariki ya 21, n'ubwo atasinziriye kubera gutinya igitero FPR yari hafi kugaba kuri uwo mujyi. Yari aryamiye rero amajanja kugira ngo abe yahunga baramutse batewe. Mu by'ukuri, mu buhamya bwe, Kalimanzira avuga ko Kibungo yafashwe na FPR ku itariki ya 22 Mata, hashize amasaha make ahavuye agasubira i Gitarama. Avuga ko kuba yarahavuye mbere gato y'uko icyo gitero kihagabwa ari imana yagize[130]. Kubera ko yari yahawe abajandarume babiri bo kumuherekeza muri urwo rugendo, ntibyumvikana ukuntu Kalimanzira yari gutegereza ngo ibintu byari bisanzwe ari bibi bigere iwa Ndabaga, ku buryo abandi

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[128] Reba inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 55 (Marc Siniyobewe): «Muri icyo gihe, Kalimanzira yihutiye gushaka amamodoka maze aza kumbwira ngo nohereze amabisi yo gutwara abo bantu kugira ngo hatagira uwicirwa aho hantu, kuko kubisobanura byari kutugora ».

[129] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 40-41, 49 (Callixte Kalimanzira).

[130] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 40-41 (Callixte Kalimanzira).

bantu batangiye guhunga mbere y'uko we cyangwa abari bamucunze bemeza ko byari byiza ko ava aho hantu. Urugereko ntirwemera ko Kalimanzira yaraye muri Perefegitura ya Kibungo mu ijoro ryo ku itariki ya 21 Mata 1994.

128. Mu buhamya bwe mu Rukiko, Kalimanzira avuga ko ku itariki ya 30 Gicurasi 1994 Guverinoma yahunze ikava i Gitarama huti huti, akaba yarashinzwe gusaranganya lisansi imodoka zose z'abategetsi kandi byakozwe hatifashishijwe ipompu[131]. Urugereko rusanga ibi na none bigaragaza ko Kalimanzira aca ku ruhande ibyerekeranye n'uruhare rwe n'ibyo yakoze ubwo yari i Gitarama kandi ko ashaka gupfobya urwego yari arimo ndetse n'ububasha yari afite. Urugereko ntirwemera ko umuyobozi w'ibiro bya Minisitiri w'Ubutegetsi bw'Igihugu yaba yarashinzwe akazi nk'ako. Kubera ko hatatanzwe amakuru ku yindi mirimo ikomeye kurushaho yaba yarashinzwe muri kiriya gihe cy'amahina, nta muntu wapfa kwemera ibyo Kalimanzira avuga ko yari umukozi wicisha bugufi kandi wizerwa.

Ibyerekeranye n'igihe kiri hagati y'itariki ya 31 Gicurasi n'iya 17 Nyakanga

129. Kalimanzira avuga ko yavuye i Gitarama mu mudoka ye y'akazi yari itwawe n'umushoferi we witwa Avit Mpabanyanga, kandi ko byabaye ngombwa ko bazenguruka bakanyura muri Perefegitura ya Gikongoro, bakaharara ijoro rimwe. Kalimanzira n'umugore we bavuga ko amaze kugera aho umuryango we wabaga mu mujyi wa Butare ku itariki ya 31 Gicurasi 1994, Uregwa atongeye kuva mu rugo cyangwa ngo ajye kure yarwo usibye inshuro eshatu. Ibyo avuga ku rugendo rwa mbere yakoze mu cyumweru cya mbere cya Kamena ubwo yajyaga gusura abantu bo mu muryango we i Kirarambogo biratangaje. Yaciye mu muhanda uva muri Segiteri y'Umujyi wa Butare ukanyura muri Komine ya Shyanda n'iya Ndora, hanyuma ukanyura ku Gisagara ugakomeza kugera iwabo muri Komine ya Muganza. Yari amenyereye uyu umuhanda cyane ku buryo yivugira ko yari azi buri muryango wari utuye kuri uwo muhanda. Avuga ko muri urwo rugendo ari bwo bwa mbere yabonye ko ibintu byari byaradogereye n'ubwo mbere yari yarumvise ko muri izo Komine hari harabereye ubwicanyi. Avuga ko yakomeje urugendo adahagaze kubera gutinya ko yagirirwa nabi no kubera guhangayikishwa n'ibikorwa by'ubucengezi bya FPR[132]. Kubera ko akomoka muri ako akarere akaniyemerera ko yari azi abaturage baho bose

[131] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 47 (Callixte Kalimanzira).

[132] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 49 (Callixte Kalimanzira).

ndetse akaba yaranabusuhuzaga uko imodoka ye yatambukaga, Urugereko rusanga rutakwemera ibyo avuga ko yari abafitiye ubwoba. By'umwihariko, ukurikije uko ibintu byari byifashe, ntibishyize mu gaciro kumva ko Kalimanzira yahoranaga ubwoba bwinshi kubera ibikorwa by'ubucengezi bya FPR. Ibyo kandi bishyigikira ubuhamya bushinja buvuga ko yari ashishikajwe cyane no gukora ku buryo abaturage bose, by'umwihariko abacungaga bariyeri, baba bafite intwaro buri gihe.

130. Ikindi kintu gitangaje ni ibyo Kalimanzira avuga ko yanyuze ku nzu ya Charles Hategekimana yita ko yari inshuti ye kugira ngo ayirebe. Kalimanzira avuga ko yababajwe n'urupfu rwa Hategekimana, kandi ko abantu bamushinje urupfu rw'uwo mugabo ndetse n'isenywa ry'inzu ye mu gihe we nta cyo yari abiziho ubwo yahanyuraga muri Kamena[133]. Rumaze gusuzuma iyi ngingo y'ubuhamya bwa Kalimanzira, Urugereko rusanga iyo ataza kuba azi ko Hategekimana yishwe nta mpamvu yari gutuma ajya kureba iyo nzu ye muri kiriya gihe. Muri iki gice cy'ubuhamya, Uregwa arasa n'ugamije kuvuga ko yari inshuti y'uwo nyakwigendera no kwerekana ko yababajwe n'iyicwa rye abatangabuhamya bavugaho muri uru rubanza[134].

131. Kalimanzira avuga kandi ko mbere yo gusura abantu bo mu muryango we, yahagaze akanya gato kuri santeri ya Buseruka (Segiteri ya Rwamiko, Komine ya Kibayi) kugira ngo arebe uko inzu ye yari aho imeze. Ibi birasa n'ibisubiza, ku buryo buziguye, bimwe mu bikubiye mu buhamya bw'abandi batangabuhamya bashinja bavuga ko yari ahari ndetse bakavuga n'ibikorwa yahakoreye icyo gihe (reba utwiciro III.4.6.1 na III.4.8.1). Ahavuye, yagiye muri muri Segiteri ya Nyaguhuru (Komine ya Muganza) asanga nyina, abavandimwe be, na bashiki be bakiriho usibye umugabo wa mushiki we w'Umututsi wari warishwe. Kubera ko yashakaga guhita asubira aho umugore we n'abana bari bari ngo abarinde kuko abasirikare ba FPR bari hafi kuhagera, Kalimanzira yamaze isaha imwe gusa muri Nyaguhuru, hanyuma asubira mu mujyi wa Butare n'imodoka nta hantu ahagaze uretse ko ku muhanda yagendaga apepera abantu mu buryo bwo kubasuhuza[135].

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133 Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 50-51 (Callixte Kalimanzira).

134 Nk'urugero, reba inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 47-50 (BCZ) n'inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 29-30 (KXL); reba n'akiciro III.4.6.1.

135 Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 51-52 (Callixte Kalimanzira).

132. Mu buhamya bwe mu Rukiko, Kalimanzira avuga ko mu byumweru byakurikiyeho yavuye mu rugo inshuro ebyiri gusa. Avuga ko muri icyo gihe atashyikiranaga na Guverinoma, bikaba byarageze hagati muri Kamena ataramenya ko Guverinoma yimukiye muri Perefegitura ya Gisenyi. Yongeraho ko yamenyaga amakuru y'aho intambara igeze ari uko asohotse akajya ku muhanda kubaza abagenzi[136]. Aha na none, nta muntu wakwemera ibyo Kalimanzira avuga ko atavuganaga n'abandi bategetsi. N'ubwo Kalimanzira yiyemerera ko yagiye mu muhango wo kurahiza Alphonse Nteziryayo wari wagizwe Perefe mushya wa Perefegitura ya Butare, ari we cyangwa umugore we, nta n'umwe uvuga uburyo Uregwa yamenye ibyerekeranye n'uwo muhango[137]. Abatangabuhamya bashinja banavuga ko yagiye mu muhango wo kwimika Élie Ndayambaje nka burugumesitiri mushya wa Komine ya Muganza (reba akiciro ka III.2.3.6). Byongeye kandi, iyo aza kumara igihe kirenga ukwezi nta muntu uzi irengero rye, ntibyari gushoboka ko agirwa Minisitiri w'Imibereho Myiza y'Abaturage n'Impunzi muri Guverinoma yo mu buhungiro.

133. Umugore wa Kalimanzira ashyigikira ubuhamya umugabo we yatanze mu Rukiko ku byo yakoze muri Kamena. Cyakora, Urugereko rusanga ubwo buhamya bwe bufite agaciro gake kubera ko afitanye isano na Kalimanzira ndetse akaba atarabaga buri gihe ari mu rugo. Mu by'ukuri avuga ko yakoraga ku bitaro by'i Butare aho yari akenewe kubera ko abaganga n'abaforomo b'Abatutsi bose bari barishwe[138].

Umwanzuro w'Urugereko

134. Urugereko rwemera ko Kalimanzira yari i Kigali mu minsi yakurikiye ihanuka ry'indege ya Perezida, ko yimukiye i Gitarama hamwe na Guverinoma y'Agateganyo, ko ku itariki ya 19 Mata yari mu nama yabereye mu ngoro ya MRND, ko yari muri Perefegitura ya Kibungo ku itariki ya 21 Mata, kandi ko yagiye mu Ngororero rimwe muri Gicurasi. Cyakora, Urugereko ntirwemera ko ikindi gihe cyose gisigaye yabaga ari i Gitarama. Mu by'ukuri, rwasanze yarabeshye ku byerekeranye no kuba yari mu nama yahuje abagize Inama y'Umutekano ya Perefegitura ya Butare ku itariki ya 16 Gicurasi 1994. Yashoboraga gukoresha amamodoka no kubona lisansi.

[136] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 52 (Callixte Kalimanzira).

[137] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 52 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 10 (Salomé Mukantwali).

[138] Inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 11 (Salomé Mukantwali).

By'umwihariko, Urugereko rusanga ubuhamya bwe n'ubwa Siniyobewe buvuga ko yari i Murambi ku itariki ya 23 Mata 1994 bwarahimbwe nyuma, bityo bukaba budatuma rushidikanya ku byo abatangabuhamya bashinja bavuze ko bamubonye ku gasozi ka Kabuye cyangwa ahandi hantu hose muri Perefegitura ya Butare hagati ya Mata na Gicurasi 1994.

135. Urugereko runafata umwanzuro nk'uwo ku gihe Kalimanzira avuga ko yari mu rugo rwe mu mujyi wa Butare uretse inshuro eshatu zavuzwe. Urugereko rwemera ko mu cyumweru cya mbere cya Gicurasi, Kalimanzira yagiye iwabo i Kirarambogo kureba abantu bo mu muryango we, akajya mu muhango w'irahira rya Nteziryayo, akajya no kwakira Karidinali Etchegaray. Cyakora, Urugereko ntirwemera ko ikindi gihe cyose Uregwa atavuye mu rugo. Mu by'ukuri, bamaze kumwereka inyandiko y'ikiganiro cyanyuze kuri radiyo, ntiyashoboye gukomeza guhakana ko, ku itariki ya 3 Kamena 1994, yagiye mu nama yigaga iby'ukwirengera kw'abaturage n'umutekano muri Perefegitura ya Gikongoro[139]. Yemeye kandi ko ashobora kuba yaribagiwe izindi nshuro yavuye mu rugo muri kiriya gihe[140].

136. Kubera impamvu zimaze kuvugwa, Urugereko ntirwemera imyiregurire ya sinari mpari ya Kalimanzira. Cyakora, Urugereko ruributsa ko ibyo bidakuraho inshingano ya Porokireri yo kugaragaza ku buryo budashidikanywaho ibyo avuga.

1.3. Guhimba ibimenyetso

137. Kimwe mu byo Ubwunganizi bwashingiyeho imyiregurire yabwo ni ukuvuga ko muri gereza zo mu Rwanda hari gahunda n'umuco wo guhimba ibimenyetso. Ibyo byari bigamije gutesha agaciro byinshi mu bimenyetso bishinja kuri bimwe mu bintu byabaye, hagamijwe gushyigikira ibyo Ubwunganizi buvuga ko Kalimanzira ashinjwa ibinyoma[141].

1.3.1. *Ibimenyetso*

Umutangabuhamya ushinjura witwa Albert Barikwinshi

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[139] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 31 (Callixte Kalimanzira).

[140] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 26 (Callixte Kalimanzira).

[141] Nk'urugero, reba Imyanzuro mbanzirizarubanza y'Ubwunganizi, igika cya 17 n'Imyanzuro nsozarubanza yanditse y'ubwunganizi, ibika 327, 349, 389, 425-426, 575, 604, 739, 838, 937, 974, 1086, 1220-1221, na 1286.

138. Barikwinshi, wigeze gufungirwa muri gereza ya Karubanda, atanga ubuhamya ku ishyirahamwe ryitwa «Ukuri» rigamije ahanini gushishikariza imfungwa kwirega ibyaha. Iryo shyirahamwe rizwi n'abayobozi ba gereza n'abandi bategetsi kandi ibiro byaryo byegeranye n'iby'umuyobozi wa gereza. Rifite inzego zihamye, Perezida waryo akaba yitwa François Buhoyiki naho Visi Perezida akitwa Nkuyubwatsi. Ubushinjacyaha bw'u Rwanda na bwo bwitabaza iryo shyirahamwe igihe cyose hari amakuru bukeneye[142].

139. Barikwinshi yabaye umunyamuryango w'ishyirahamwe «Ukuri » kuva mu mwaka wa 2000 kugera mu wa 2007, ukuyemo igihe yari yararekuwe by'agateganyo, cyangwa ari mu ngando. Hagati y'umwaka wa 2000 n'uwa 2003 yari umunyamuryango usanzwe nta nshingano zihariye afite. Mu mwaka wa 2003, yashinzwe kumvisha abantu bakomoka muri komine avukamo ya Gishamvu ko bakwiriye kwirega. Barikwinshi yasabye Perezida Buhoyiki umwanya mu buyobozi bw'ishyirahamwe kubera ko imfungwa zifite imirimo zahabwaga ibiryo byiza kurushaho. Abiherewe uruhushya na Perezida Buhoyiki, ari na we wari umukuriye, Barikwinshi yatumizaga inama z'abantu bavuka muri Komine ya Gishamvu bagateranira ku kibuga cy'umupira w'intoki kiri mu gice cya gereza ya Karubanda cyitwa Rwandex. Barikwinshi yavuganaga n'abantu bari muri gereza, akabashishikariza kwirega ibyaha ndetse akamenya ababuzaga abandi kwirega[143].

140. Barikwinshi avuga ko Lucien Simbayobewe, Ignace Yirirwahandi, Deo Nuwayo (bahimba Kigango), Jérôme Singirankabo (bahimba Rutwitsi), na Chrysologue Bimenyimana ari bo bayobozi b'ishyirahamwe «Ukuri» bashishikarizaga abo bafunganywe na bo kwirega no kwemera ibyaha bakanafasha ubushinjacyaha kumenya abafungwa bashinjwa ibyaha bimwe na bimwe byakorewe muri komine cyangwa segiteri runaka. Ku byerekeye kwemera icyaha, ishyirahamwe «Ukuri» rifasha ubushinjacyaha ribwoherereza raporo rikanabumenyesha ibyagezweho mu nama. Ubwo rero, ubushinjacyaha buha Perezida Buhoyiki amabwiriza y'uko ibintu bigomba kugenda, maze na we akayashyikiriza abandi banyamuryango

[142] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 60-61 (Albert Barikwinshi).

[143] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 60-61, n'inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 3 (Albert Barikwinshi).

b'ishyirahamwe «Ukuri». Imfungwa zandika ubwirege bwazo, maze inyandiko zabwo zikohererezwa ubushinjacyaha, na bwo bukazohereza mu nkiko Gacaca[144].

141. Kugira ngo umuntu ufunze atange ubwirege, Barikwinshi yabanzaga kuvugana na we maze akamubaza ibibazo. Nyuma yaho, Barikwinshi yamusobanuriraga inyungu zo kwirega maze uwo mufungwa yakwemera, akegera ishyirahamwe «Ukuri» kugira ngo abe umunyamuryango kandi banamufashe kwandika ubwirege bwe. Hari igihe abategetsi babaga bafungiye muri gereza batiregaga kandi barashishikarije abandi gukora ibyaha. Iyo ishyirahamwe «Ukuri» ryananirwaga kumvisha abo bategetsi ko bakwiriye kwirega, hari ubwo babahimbiraga ubwirege maze bakabarega ku bayobozi ba gereza. Icyo gihe, Perezida Buhoyiki yavuganaga n'ubushinjacyaha kugira ngo agishe inama ku buryo barega uwo mutegetsi. Bashakaga rero umwe mu banyamuryango b'ishyirahamwe «Ukuri» ukomoka muri komine y'uwo mutegetsi akamuhimbira ibirego maze akamushinja avuga, nk'urugero, ko uwo mutegetsi yayoboye igitero cyangwa ko yakoresheje inama[145].

142. Mu guhimba ibirego, abanyamuryango b'iryo shyirahamwe bakomoka muri komine runaka bahuriraga hamwe maze bakaganira ku bategetsi babo mbere yo kwemeza uburyo bazabashinja. Ubwo Perezida Buhoyiki yumvaga ubuhamya bwacuzwe, yasanga atanyuzwe akaba ari we ubabwira ibyo bagomba kuvuga. Barikwinshi yitabiraga izo nama. Muri Gicurasi 2000, yumvise ikiganiro Singirankabo yagiranye na Simbayobewe bavugana ibyerekeye Komine ya Muganza na Kalimanzira. Muri icyo kiganiro, Singirankabo yavuze ko agomba gushinja Kalimanzira kugira ngo ubwirege bwe bushobore kwizerwa. Ubwo yabajije Simbayobewe ukuntu yari gushinja Kalimanzira kandi atari amuzi neza ndetse ataramubonye muri jenoside. Simbayobewe yagiriye Singirankabo inama yo kubaza Yirirwahandi uburyo yabigenje, bishatse kuvuga ko Yirirwahandi yari yarahimbye ubuhamya bushinja Kalimanzira[146].

143. Uretse icyo kiganiro, nta kindi Barikwinshi yumvise cyerekeranye no gushinja Kalimanzira ibinyoma. Cyakora, Barikwinshi yibuka ko rimwe inama irangiye, umugore ukora mu bushinjacyaha yabajije Perezida Buhoyiki niba hari

[144] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 2 (Albert Barikwinshi).

[145] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, imp. 3-4 (Albert Barikwinshi).

[146] Inyandikomvugo y'iburanisha, 27 Mutarama 2008, imp. 4-6 (Albert Barikwinshi).

abatangabuhamya afite biteguye gushinja Kalimanzira maze Buhoyiki akamusubiza ko byose byari byateganijwe, kandi ko abatangabuhamya bari biteguye. Cyakora, Barikwinshi ntiyumvise uwo mugore avuga ko bagombaga gushinja Kalimanzira ibinyoma[147].

144. Barikwinshi avuga ko Perezida Buhoyiki yamugiriye inama yo gushinja abantu bahoze ari abategetsi bo muri komine ye niba ashaka ko ubwirege bwe bwemerwa. Perezida Buhoyiki yanamusabye gushinja Joseph Kanyabashi, ariko aranga kubera ko nta cyo yari afite amushinja. Ubwo Perezida Buhoyiki yagiriye Barikwinshi inama yo gushinja Kanyabashi ibinyoma, amubwira ko we n'abandi bafungwa babikoze, bityo na we akaba agomba kwemera kubikora. Barikwinshi asobanura ko abantu bemeraga guhimba ubuhamya babikuragamo inyungu eshatu z'ingenzi. Iya mbere, ubwirege bwabo bwaremerwaga. Iya kabiri, ishyirahamwe «Ukuri» ryabagiriraga icyizere maze bagahabwa imyanya y'ubuyobozi mu ishyirahamwe. Iya nyuma, bashobora kujya Arusha gutanga ubuhamya bagahabwa amafaranga n'imyambaro. Barikwinshi ntazi niba muri izo nyungu harimo n'iyo kurekurwa mbere y'igihe[148].

145. Ishyirahamwe «Ukuri» ni ryo ryatangaga imyanya y'ubuyobozi muri gereza, kandi Barikwinshi atanga ingero z'abanyamuryango b'ishyirahamwe «Ukuri» bahawe imyanya abantu barwaniraga. Simbayobewe yari ashizwe umutekano muri Rwandex, ibyo bigatuma aba uwa kabiri mu buyobozi[149]. Nuwayo yahawe umwanya wo kujyana abafungwa hanze ya gereza bagiye mu mirimo, aho kenshi bahabwaga umuceri. Singirankabo yari ashinzwe umutekano, akaba yari akuriwe na komiseri. Yirirwahandi yari ashinzwe ibigemurwa muri gereza, nyuma ariko yaje kujya mu Itorero ry'Abapantekoti maze yiyemeza kuva mu ishyirahamwe Ukuri amaze gusaba imbabazi abo yashinje ibinyoma bose. Bimenyimana yazamuwe mu ntera agirwa umuyobozi w'igikoni cya Rwandex. Barikwinshi yumvise ko Bimenyimana yaje

[147] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 7 (Albert Barikwinshi).

[148] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, imp. 7-8 (Albert Barikwinshi).

[149] Umutangabuhamya ushinjura witwa Jean de Dieu Rutabana anavuga ko Lucien Simbayobewe yari ashinzwe umutekano mu gice kimwe cya gereza ya Karubanda (reba inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 11).

gutanga ubuhamya Arusha, akaba rero akeka ko iyo yaba ari yo mpamvu yatumye azamurwa mu ntera[150].

Umutangabuhamya ushinjura witwa Jean de Dieu Rutabana

146. Rutabana avuga ko yamaze imyaka 11 muri gereza mu Rwanda, nyuma akaza gucika agahungira i Burundi. Asobanura ko yamaze imyaka myinshi muri gereza ya Karubanda no mu gice cya Rwandex. Rimwe, umukozi wo mu bushinjacyaha yegereye Rutabana n'abandi bakomoka muri komine ye ya Mpare [*sic*]. Rutabana avuga ko uwo musubusititi yabahaye ibiryo, maze akabasaba gufasha parike bashinja Joseph Kanyabashi, ukomoka muri Komine ya Mpare, ko na we yaje muri komine yabo agategeka abaturage kwica abantu no gushyiraho bariyeri. Abafungwa banze kubikora, bavuga ko batabonye Kanyabashi i Mpare igihe biriya byarimo kuba, maze subusititi abasaba kubitekerezaho. Yanababwiye ko babyungukiramo bagiye gutanga ubuhamya Arusha, maze abasaba ko bagaruka kumureba baramutse bisubiyeho bakemera gushinja Kanyabashi. Mu Rukiko, Rutabana ntiyabajijwe ibibazo ku byaba byarakozwe mu rwego rwo gushinja Kalimanzira ibinyoma[151].

147. Rutabana avuga ko n'ubwo atigeze ajya mu ishyirahamwe «Ukuri», yari azi ko rigizwe n'itsinda ry'abantu bahaga amakuru inkiko Gacaca zakoraga zikurikije amakomine, binyuze mu bushinjacyaha. Rutabana avuga ko ishyirahamwe «Ukuri» ryari rifite ibiro muri gereza, ariko ko atigeze abyinjiramo kubera ko bitabaga bifunguye ngo abantu babe babyinjiramo uko bashatse[152].

Umutangabuhamya ushinjura wiswe FJS

148. Umutangabuhamya wiswe FJS avuga ko akigaruka mu Rwanda avuye mu buhungiro, bamufashe «bakamusaba kujya gushinja abantu bamwe na bamwe». Avuze ko adashobora gutanga amakuru bamwifuzagaho, «baramuhondaguye maze bamujugunya muri gereza», aho yamaze imyaka itandatu mbere yo kurekurwa, adashinjwe cyangwa ngo aburanishwe. Kubera ko FJS atabajijwe ibindi bibazo kuri

[150] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, imp. 8-11 (Albert Barikwinshi).

[151] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 11-14 (Jean de Dieu Rutabana).

[152] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 11 (Jean de Dieu Rutabana).

iyi ngingo, Urugereko rwumva ko, mbere yo gufungwa, atari yasabwe gushinja Kalimanzira[153].

Umutangabuhamya ushinjura witwa Félicien Kajyibwami

149. Kajyibwami avuga ko yashishikarijwe gukorana na komisiyo yakoraga iperereza ku ruhare rw'u Bufaransa muri jenoside, atanga ubuhamya ku byo yabonye muri Nyakanga 1994 ubwo yari mu nkambi yari mu gace karindwaga n'ingabo z'Abafaransa kiswe *«Zone Turquoise»*. Bamusabye gushinja abasirikare b'Abafaransa ibikorwa birimo gusambanya ku gahato abacitse ku icumu, gukina umukino wa basiketi hejuru y'imibiri y'abapfuye no guha ibyo kurya Abahutu ariko bakabyima Abatutsi. Kajyibwami yanze kubikora avuga ko nta bikorwa nk'ibyo yabonye biba, bituma afatwa, yitwa umwanzi wa Leta. Yaje kubasha gucika, maze ahungira muri Malawi. Kajyibwami nta cyo avuga ku byerekeranye no guhimba ubuhamya bushinja Kalimanzira[154].

1.3.2. *Isesengura ry'Urugereko*

150. Urugereko rusanga abatangabuhamya bashinjura banyuranye bafungiye mu Rwanda cyangwa barigeze kuhafungirwa[155]. Muri bo, bane gusa ni bo bavuga ko basabwe gushinja abandi bantu ibinyoma kandi Barikwinshi ni we wenyine uvuga ibyerekeranye no guhimba ubuhamya bushinja Kalimanzira.

151. Barikwinshi yafunzwe imyaka myinshi ashinjwa kuba yarakoze jenoside. Ku ruhande rumwe, avuga ko n'ubwo nta cyaha yakoze, yiyemeje kwirega kugira ngo ashobore kurekurwa hakiri kare. Asobanura ko, mu guhimba ubwirege bwe, yifashishije amakuru yahawe n'abandi bafungwa. Ku rundi ruhande, avuga ko yagiye mu gikorwa cyo guhiga Abatutsi muri Arboretum hafi ya Kaminuza y'u Rwanda i Butare (reba akiciro ka III.2.3.4.1). Barikwinshi yemeza ko nta muntu yashinje ibinyoma, ko yabeshye gusa ku bikorwa bye bwite kugira ngo afungurwe. Cyakora, ntiyemera ko hari inyandiko yo mu butabera yasinye azi neza ko irimo ibinyoma abitewe n'inyungu

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[153] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, urup. 43 [mu muhezo] (FJS).

[154] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, imp. 26-28 (Félicien Kajyibwami).

[155] Nk'urugero, AK42, AM02, AM14, BTH, FJS, KBF, KUW, KXC, MAS, MVE, NDA, NGB, NJV, ABZ, Harindintwali, Kajyibwami, na Barikwinshi.

ze bwite[156]. Byongeye kandi, avuga ko kugira ngo afatwe neza muri gereza yafashije abandi bafungwa guhimbira ibirego abandi bantu. Hashize igihe gito afunguwe, inkiko Gacaca zemeje ko ubwirege bwe bwari ubuhimbano, maze arongera arafatwa. Barikwinshi yaje gushobora guhunga, ava mu Rwanda. Ubu aracyari impunzi yahunze ubutabera[157]. Urugereko rusanga kuba uyu mutangabuhamya agaragaza ko kuri we ukuri kudahora ari kumwe bituma umuntu ashidikanya ko ubuhamya bwe bwakwizerwa cyangwa ngo bushingirweho.

152. Bamusabye gutanga ingero zifatika z'abandi bategetsi bahimbiwe ibirego mu buryo yavuze, Barikwinshi yatanze ingero ebyiri zidafite mu by'ukuri ikindi zigaragaza usibye amatiku y'imbere muri gereza, aho bamwe mu bafungwa bagiye bashinjwa na bagenzi babo ibikorwa nk'ibyo kugerageza gutoroka, kugira ngo bakurwe ku myanya babaga bafite muri gereza kandi yifuzwaga n'abandi bafungwa[158]. Barikwinshi anavuga ko bigeze kumusaba guhimba ubuhamya bushinja Kanyabashi ibinyoma, ariko ngo akanga kubera ko nta cyo yari afite amushinja. Cyakora, ibi ntibijyana n'ubuhamya bwe busigaye ahubwo birabuvuguruza. Niba yari yiteguye kumvisha abo bafunganywe guhimba ubuhamya bushinja abandi bantu ibinyoma, ntibyumvikana ko yari kuzuyaza kubikora ubwe, cyangwa ko yari kwanga kubikora abisabwe. Byongeye kandi, niba yarahawe umwanya mwiza muri gereza kubera akazi ko kumvisha abandi ko bagomba gucura ubuhamya bw'ikinyoma, ntibyumvikana ukuntu yagumye kuri uwo mwanya kandi yaranze kubikora ubwe.

153. Ubuhamya bwa Barikwinshi bwerekeranye n'uburyo bwakoreshwaga mu guhamagaza abafungwa bo muri komine imwe n'ikomokamo umutegetsi runaka kugira ngo bahimbe ubuhamya bw'ikinyoma bushinja uwo mutegetsi, ntibusobanura impamvu ubuhamya bushinja Kalimanzira ukomoka muri Komine ya Muganza bwari guhimbwa na Singirankabo, Simbayobewe, cyangwa Yirirwahandi, kandi nta n'umwe muri bo ukomoka muri Komine ya Muganza. N'ubwo Kalimanzira yabaye muri Komine ya Kibayi igihe gito, umuntu umwe muri abo bafungwa ni we wenyine ukomoka muri Komine ya Kibayi. Byongeye kandi, kubera ko nta n'umwe muri abo bafungwa ukomoka muri Komine ya Gishamvu, Barikwinshi avukamo, ibyo bituma

[156] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 30 (Albert Barikwinshi).

[157] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 55-56 (Albert Barikwinshi).

[158] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 5 (Albert Barikwinshi).

umuntu yibaza impamvu Barikwinshi yaje muri iyo nama yavugiwemo ibyo gushinja Kalimanzira ibinyoma. Barikwinshi ntatanga ibisobanuro byumvikana kuri uku kunyuranya kuboneka hagati y'ibyo avuga n'ibyo yari yavuze mbere mu Rukiko ku mikorere y'ishyirahamwe «Ukuri».

154. Byongeye kandi, nk'uko Barikwinshi abyivugira, gukusanya ubuhamya bwakoreshwa Arusha ntiyari intego y'ingenzi y'ishyirahamwe «Ukuri»[159]. Inama ivugwa yaba yarabaye muri Gicurasi 2000, ni ukuvuga imyaka itanu mbere y'uko Kalimanzira aregwa muri uru Rukiko. Mu gushyigikira ibyo buvuga ko mu Rwanda Kalimanzira atigeze aba mu bantu bakekwaho cyangwa bakurikiranyweho gukora jenoside, Ubwunganizi bwatanze, nk'ibimenyetso gihamya, amalisiti anyuranye y'abantu bakekwagaho kuba barakoze jenoside, kandi nta zina rya Kalimanzira riri kuri ayo malisiti[160]. Ibi byatuma umuntu yibaza impamvu abantu bari kuganira kuri Kalimanzira mu nama y'ishyirahamwe «Ukuri», cyane cyane mu myaka icyenda ishize.

155. Ibisobanuro Barikwinshi yagerageje gutanga ku byerekeranye n'uko kunyuranya ntibinyuze. Avuga ko inama yavugwagamo ibyabereye muri Komine ya Muganza, ariko ko baganiriye kuri Kalimanzira kubera ko Singirankabo yashinjwaga ibyaha byakorewe ku gasozi ka Kabuye kandi akaba yari yasabwe gushinja Kalimanzira n'ubwo atari yaramubonye kuri ako gasozi. Cyakora, agasozi ka Kabuye kari muri Komine ya Ndora, kandi mu buhamya bwabo muri uru Rukiko, yaba Singirankabo, Simbayobewe, cyangwa Yirirwahandi nta n'umwe muri bo uvuga ko Kalimanzira yagize uruhare mu bwicanyi bwabereye kuri ako gasozi.

156. Ubuhamya bwa Barikwinshi ntibugaragaza ko mu batangabuhamya bashinja hari n'umwe ushinja Kalimanzira ibinyoma muri uru Rukiko. Niba mu rwego rw'izindi manza Gacaca haba hari ibirego bahimbiye Kalimanzira mu Rwanda cyangwa batarabimuhimbiye, ibyo ntaho bihuriye n'uru rubanza. Ni ngombwa kuvuga ko mu ibazwa rinyomoza, Ubwunganizi butigeze bubaza umutangabuhamya n'umwe ushinja ibibazo byerekeye ishyirahamwe «Ukuri», kandi nyamara bamwe muri bo barafungiwe muri iyo gereza ya Karubanda. Urugereko rusanga rero ubuhamya bwa

[159] Inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 5 (Albert Barikwinshi).

[160] Reba ibimenyetso gihamya N° D98, D99, na D100.

Barikwinshi nta cyo bugabanya ku kwizerwa k'umutangabuhamya ushinja uwo ari we wese watanze ubuhamya muri uru rubanza.

2. JENOSIDE

157. Mu kirego cya 1 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cya jenoside ashingiye ku Ngingo ya 2 (3)(a) ya Sitati ndetse akamushinja icyaha nka gatozi ashingiye ku Ngingo ya 6 (1). Mu kugaragaza uburyozwacyaha bwa Kalimanzira ku cyaha cya jenoside, Porokireri ashingira ku bivugwa kuva mu gika cya 1 kugera ku cya 17 mu Nyandiko y'ibirego.

2.1 Amategeko akurikizwa

158. Kugira ngo uregwa ahamwe n'icyaha cya jenoside, ni ngombwa kugaragaza ko yakoze kimwe mu bikorwa biteganywa n'Ingingo ya 2 (2) ya Sitati, afite igitekerezo cyihariye cyo kurimbura itsinda ry'abantu bose cyangwa igice cyabo, bazira icyo bari cyo, kubera ko bahuriye ku bwenegihugu, ku bwoko, cyangwa idini (« igitekerezo cyo gukora jenoside »). N'ubwo nta mubare fatizo w'abantu bagomba kuba barishwe kugira ngo havugwe ko habayeho icyaha cya jenoside, umuntu ukoze icyo cyaha agomba kuba yaragikoze afite igitekerezo cyo kurimbura nibura igice kinini cy'abo bantu. Si ngombwa ko aba yari afite gusa umugambi mubisha wo gukora jenoside kandi kuba yari afite impamvu ze bwite ntibimubuza kuba yari afite igitekerezo cyihariye cyo gukora jenoside[161]. Amategeko akurikizwa ku byerekeye igitekerezo cyo gukora jenoside asesengurwa mu magambo arambuye mu kiciro ka III.5.1.

159. Mu Nyandiko y'ibirego, Kalimanzira ashinjwa kwica Abatutsi no kubatera ububabare buzahaza umubiri cyangwa mu mutwe. Kuba abantu bo mu bwoko bw'Abatutsi bari

[161] Inyandiko y'urubanza rwa Bagosora na bagenzi be mu rw'iremezo, igika cya 2115; Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 492, 496, 522-523; Inyandiko y'urubanza rwa Niyitegeka mu bujurire, ibika 48-54; Inyandiko y'urubanza rwa Gacumbitsi mu bujurire, ibika 39, 44; Inyandiko y'urubanza rwa Brđanin mu rw'iremezo, ibika 681, 695; Inyandiko y'urubanza rwa Seromba mu bujurire, igika cya 175; Inyandiko y'urubanza rwa Simba mu rw'iremezo, igika cya 412; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika cya 316; Inyandiko y'urubanza rwa Simba mu bujurire, igika cya 269; Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, ibika 302-304; Inyandiko y'urubanza rwa Krnojelac mu bujurire, igika cya 102, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Jelisić mu bujurire, igika cya 49.

mu cyiciro kirengerwa n'amategeko ni ikintu kitagibwaho impaka[162]. Kugira ngo umuntu avuge ko habayeho ubwicanyi bwibasiye abantu bagize ubwoko, ni ngombwa kugaragaza ko gatozi yishe abigambiriye umuntu umwe cyangwa benshi bagize ubwo bwoko. Amagambo « gutera ububabare buzahaza umubiri » yerekeranye n'ibikorwa by'urugomo rushingiye ku gitsina, ibikorwa bikomeye by'urugomo rwibasiye umubiri, byangiza amagara y'umuntu, bikamutera ubusembwa ku mubiri cyangwa bikamukomeretsa bikomeye ku ngingo z'umubiri zo hanze cyangwa iz'imbere mu mubiri cyangwa bigahindura bikomeye ibyumviro bye, ariko bitamuviriyemo gupfa. Ububabare « buzahaza bikomeye mu mutwe» burenze gutera umuntu ubuzahare bwo mu mutwe budakomeye cyangwa bw'igihe gito. Cyakora, si ngombwa ko ububabare buzahaza umubiri cyangwa mu mutwe buba ari ubuhoraho cyangwa budashobora gukira. Mu bigize ubwo bubabare hashobora kubamo ibyaha by'urugomo rushingiye ku gitsina birimo gusambanya ku gahato[163].

160. Ku birebana n'ikirego cya 1, Inyandiko y'ibirego ivuga uburyo bwose bwo gukora icyaha buteganywa n'Ingingo ya 6 (1) ya Sitati. Mu by'ukuri, havugwa ko Kalimanzira « yacuze umugambi, akawuhamagarira abandi, agategeka abandi bantu gukora icyaha, akagikora cyangwa, ku bundi buryo ubwo ari bwo bwose, akabashyigikira mu gucura umugambi, gutegura cyangwa gutsotsoba ibyaha ». byongeye kandi, mu Nyandiko y'ibirego havugwa ko Kalimanzira yakoresheje umwanya w'ubutegetsi yari afite kugira ngo ahamagarire kandi ategeke abantu yari akuriye gukora jenoside[164].

[162] *Urubanza Porokireri aburana na Kalimanzira*, Icyemezo ku bintu bitagibwaho impaka (Urugereko rwa Mbere rw'Iremezo), 22 Gashyantare 2008; *Urubanza rwa Karemera na bagenzi be*, Icyemezo ku bujurire bwa Porokireri bwerekeranye n'icyemezo ku bintu ababuranyi batagomba kujyaho impaka (Urugereko rw'Ubujurire), 16 Kamena 2006, igika cya 25.

[163] Inyandiko y'urubanza rwa Bagosora na bagenzi be mu rw'iremezo, igika cya 2117; Inyandiko y'urubanza rwa Semanza mu bujurire, igika cya 192; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire, ibika 110, 151; Inyandiko y'urubanza rwa Seromba mu bujurire, ibika 46-49; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, igika cya 664; Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika cya 815; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, igika cya 664; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, ibika 321-322; Inyandiko y'urubanza rwa Gacumbitsi mu rw'iremezo, igika cya 292; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 706-707.

[164] Reba Inyandiko y'ibirego, ibika 2, 6.

161. « Gukora icyaha » bisobanura, mbere na mbere, kugitsotsoba. « Gucura umugambi » bivuga ibikorwa byo gutegura no gukora icyaha. « Guhamagarira » bisobanura gushora umuntu mu cyaha. Ku byerekeranye no gutegeka ko icyaha gikorwa, umuntu ufite umwanya w'ubutegetsi ashobora kuryozwa icyaha kubera ko yategetse undi muntu gukora icyaha, maze uwo muntu na we akaza kugikora. «gushyigikira » bisobanura gutera abantu inkunga ngo bakore icyaha, gutuma bagikora cyangwa gutera abantu akanyabugabo kugira ngo icyo cyaha gikorwe. Bityo rero, n'iyo Kalimanzira yaba « atarikoreye» ubwe jenoside, uruhare rwe rushobora kugaragazwa hashingiwe ku miterere iyo ari yo yose y'uburyozwacyaha iteganywa n'Ingingo ya 6 (1). Igitekerezo cyo gukora icyaha (*mens rea*) kigenda gihinduka bitewe n'imiterere y'uburyozwacyaha. Iyo uregwa ashinjwa kuba yaracuze umugambi, akawuhamagarira abandi, akabategeka gukora cyangwa akabashyigikira mu gukora icyaha cya jenoside, hashingiwe ku Ngingo ya 6 (1), Porokireri agomba kugaragaza ko ibikorwa uregwa yakoze cyangwa ibyo yateshutswe gukora, byatumye, ku buryo bugaragara, habaho ibikorwa bya jenoside. Byongeye kandi, kugira ngo uregwa aryozwe icyaha cyo gushyigikira abandi gukora icyaha cya jenoside, agomba kuba gusa yari azi ko gatozi afite igitekerezo cyihariye cyo gukora jenoide. Cyakora, ku byerekeranye no gucura umugambi wo gukora icyaha, guhamagarira abandi bantu kugikora no gutegeka ko gikorwa, uregwa agomba kuba asangiye icyo gitekerezo na gatozi[165].

2.2 Inama yabereye mu « Ngoro ya MRND », ku itariki ya 19 Mata

162. Mu gika cya 7 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cya jenoside kubera uruhare yagize nk'umuyobozi wa gahunda mu nama y'abagize Guverinoma y'Agateganyo n'abategetsi bo mu karere yabereye mu « Ngoro ya MRND » mu mujyi wa Butare ku itariki ya 19 Mata 1994. Kalimanzira aregwa kuba yarashyigikiye ikorwa ry'icyaha cya jenoside, kubera ko atagaragaje ko adashyigikiye amagambo rutwitsi yavugiwe muri iyo nama. Ayo magambo ni yo yateje ubwicanyi bwakurikiyeho bwibasiye ibihumbi by'Abatutsi muri Perefegitura ya Butare yose.

163. Kalimanzira yemera ko yari muri iyo nama ariko agahakana uruhare Porokireri avuga ko yayigizemo.

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165 Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika 478-483, 492; Inyandiko y'urubanza rwa Seromba mu bujurire, igika cya 65; Inyandiko y'urubanza rwa Kordić na Čerkez mu bujurire, igika cya 26; Inyandiko y'urubanza rwa Krstić mu bujurire, igika cya 140.

2.2.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe AZM

164. Umutangabuhamya wiswe AZM yari mu nama yabereye mu « Ngoro ya MRND » mu mujyi wa Butare ku itariki ya 19 Mata 1994, igamije gusimbura perefe wa Butare w'Umututsi witwaga Jean-Baptiste Habyalimana, hagashyirwaho Sylvain Nsabimana w'Umuhutu. Kubera imirimo yakoraga, AZM yatumiwe na porokireri witwa Mathias Bushishi., Iyo nama yatangiye mu masaa yine za mu gitondo, AZM akaba yarayijemo akerewe gato. Yibuka ko icyumba cy'inama cyendaga kuzura, kirimo abantu bagera kuri 300, barimo abakuru b'imirimo muri Butare, abayobozi b'amashyaka ya politiki n'ab'amadini, ba burugumesitiri b'amakomine atandukanye, n'abofisiye b'abasirikare. Mu banyacyubahiro bari aho harimo Minisitiri w'Intebe, Minisitiri w'Itangazamakuru, Minisitiri w'Ubutabera, Minisitiri w'Imari na Kalimanzira. Théodore Sindikubwabo (Perezida w'Agateganyo w'u Rwanda) yahageze mu buryo butunguranye mu masaa munani asanga inama yenda kurangira. AZM asobanura ko Minisitiri w'Ubutegetsi bw'Igihugu atari ari muri iyo nama kuko atari mu gihugu[166].

165. Abayoboye iyo nama, barimo Minisitiri w'Intebe na Kalimanzira, bari bicaye kuri podiyumu imbere. Kalimanzira « yari ameze » nk'aho ari we muyobozi wa gahunda kandi mbere yo guha umuntu ijambo yabanzaga kuvuga uwo muntu uwo ari we. Iyo umuntu yarangizaga kuvuga bamukomeraga amashyi, kandi mu bafashe ijambo harimo Eliézer Niyitegeka (Minisitiri w'Itangazamakuru). AZM yibuka disikuru ya Jean Kambanda (Minisitiri w'Intebe), washimangiye ko intambara yariho yari iya nyuma, ko byari ngombwa kuyitsinda kandi ko bagombaga kuyirwana « kugira ngo mu gihugu habe umutekano no kwirinda ko igihugu cyacikamo ibice cyangwa ngo gifatwe n'umwanzi ». Minisitiri w'Intebe Kambanda yanavuze ko « hari abantu bari babangamiye umutekano w'igihugu », kandi ko « bagombaga gushakisha abo bantu bagahangana na bo»[167].

166. Umutangabuhamya AZM yibuka ko mu ijambo rye, Perezida Sindikubwabo yakoresheje imvugo ijimije itoroshye kumva. Yabwiye imbaga y'abantu bari aho ko yari avuye muri Perefegitura ya Gikongoro, kandi ko agereranyije n'ibyo yahabonye,

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[166] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 5-7 (AZM).

[167] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 7-8 (AZM).

abantu benshi muri Butare batari bitaye ku bintu byarimo biba. Yavuze ko hari umuntu « wari wamubajije niba nta bagabo baba muri Butare», maze agasubiza ko ntabo kuko abari basigaye bari bashishikajwe n'inyungu n'« inda zabo » gusa. Perezida Sindikubwabo yavuze ko hari abantu FPR yarimo kwigisha gukoresha intwaro i Kinihira kandi ko abo bantu bagombaga gushakishwa « bagashyikirizwa ubutegetsi ». Yanavuze ko abategetsi badashaka gufatanya na we bagomba kwirukanwa, bagasimbuzwa gusa abiteguye gukora. Perezida yakoresheje ijambo ry'ikinyarwanda « gukora ». AZM yaje gusobanukirwa ko ryavugaga kwica Abatutsi, n'ubwo atari yabyumvise igihe Perezida yavugaga[168].

167. Muri iyo nama, AZM ntiyigeze na rimwe yumva Kalimanzira yamagana ibyavugwaga. Kalimanzira ntiyafashe ijambo cyangwa ngo agire icyo avuga ashyigikira cyangwa yamagana ibyavugwaga. AZM yibuka ko iyo nama yarangiye mu masaa cyenda n'igice z'amanywa, hanyuma agataha. Nyuma y'iyo nama, Abahutu batangiye kwica Abatutsi[169].

Umutangabuhamya ushinja wiswe BCA

168. Umutangabuhamya wiswe BCA yagiye mu nama yabereye mu « Ngoro ya MRND » mu mujyi wa Butare ku itariki ya 19 Mata 1994 kandi yari yayitumiwemo kubera imirimo yakoraga. Iyo nama, yatangiye mu masaa yine za mu gitondo ikarangira mu masaa cyenda z'amanywa, yabereye mu cyumba cyashoboraga kwakira abantu bagera ku 1.000. Hari abantu barenze 100, barimo Perezida Sindikubwabo, Minisitiri w'Intebe Kambanda, « abaminisitiri bose, barimo Nyiramasuhuko, Niyitegeka, Nsabumukunzi », ba burugumesitiri, abakuru b'imirimo muri Perefegitura ya Butare, na Kalimanzira. BCA yibuka ko mu bantu bafashe ijambo muri iyo nama harimo Perezida Sindikubwabo, Minisitiri w'Intebe Kambanda, Minisitiri Niyitegeka, na Joseph Kanyabashi (burugumesitiri wa Komine ya Ngoma). Kalimanzira ni we wayoboraga gahunda[170].

169. Ku byerekeye disikuru ya Minisitiri w'Intebe Kambanda, BCA yibuka gusa ko Kambanda yibukije abantu bari bateraniye aho ko umwanzi wa Guverinoma y'u

[168] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 8-9 (AZM).

[169] Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 10 (AZM).

[170] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 46-47 (BCA).

Rwanda yari FPR. BCA yibuka neza ijambo rya Perezida Sindikubwabo, wamaganye abaturage ba Butare kubera ko nta cyo bari bitayeho, ntibagire n'icyo bakora ku byerekeranye n'intambara ya FPR. BCA yibuka kandi ko Perezida yavuze ko hari abantu bahabwaga imyitozo yo gukoresha intwaro i Kinihira, kandi ko byari ngombwa « kwikiza abo bantu »[171].

170. Porokireri yamubajije, mu buryo butaziguye, niba Perezida yarakoresheje ijambo « gukora », maze BCA asubiza ko yarikoresheje kandi yongeraho ko ubusanzwe iryo jambo risobanura ko « umuntu aba afite akazi agomba gukora ». BCA asobanura ko n'ubwo muri iyo nama, atumvise ko iryo jambo rifite ikindi gisobanuro kidasanzwe, kubera ubwicanyi bwakurikiyeho yasobanukiwe ko iryo jambo ryari amarenga, ko ryashakaga kuvuga kwica FPR n'ibyitso byayo. Ibyitso byashakaga kuvuga ahanini Abatutsi, ariko harimo n'Abahutu batavugaga rumwe n'ubutegetsi. Ubwicanyi bwo muri Perefegitura ya Butare bwatangiye ku itariki ya 20 Mata 1994 kandi BCA yiboneye ubwe abantu bicirwa ku isangano ry'imihanda, hirya gato y'ingoro ya MRND yari yaraye ibereyemo iyo nama[172].

Callixte Kalimanzira

171. Kalimanzira yemera ko yari mu nama yabereye mu « ngoro ya MRND » mu mujyi wa Butare ku itariki ya 19 Mata 1994, ariko agahakana ko ari we wari uyoboye gahunda y'iyo nama. Mu buhamya bwe mu Rukiko, avuga ko yagiye muri iyo nama ari kumwe n'imodoka nyinshi z'abaminisitiri zahagurutse i Murambi (Perefegitura ya Gitarama) mu masaa tatu za mu gitondo, maze zikagera ku ngoro ya MRND nka saa yine na mirongo ine za mu gitondo. Iyo nama, yagombaga kuberamo umuhango wo kurahiza Sylvain Nsabimana wari wagizwe perefe mushya wa Butare, ntiyari yatumiwemo rubanda, ahubwo yitabiriwe n'icyiciro kimwe cy'abanyapolitiki. Mu bantu bari bahari harimo abakuru b'imirimo muri Perefegitura ya Butare, ababurugumesitiri, abakonseye, abayobozi b'amadini, abarimu, n'abantu bari baherekeje abaminisitiri. Avuga ko agereranyije iyo nama yitabiriwe n'abantu barenga gato 100[173].

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[171] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 47 (BCA).

[172] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 48-49 (BCA).

[173] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 34-35 (Callixte Kalimanzira).

172. Iyo nama yaratunguranye kuko yatangajwe kuri radiyo ku itariki ya 18 Mata 1994, ku buryo abategetsi bo muri Perefegitura ya Butare batabonye igihe gihagije cyo kuyitegura. Yayigiyemo rero kugira ngo afashe abandi kuyitegura no kwakira abashyitsi. Asobanura ko ibyo byari ngombwa kubera impamvu ebyiri : iya mbere ni uko abategetsi ba Perefegitura ya Butare batari bamenyereye abategetsi bashya bo muri Guverinoma y'Agateganyo, barimo Minisitiri w'Intebe mushya. Kalimanzira asobanura ko muri Butare byari bisanzwe ko abanyacyubahiro bakirwa n'abategetsi ba perefegitura. Yafashije rero abandi mu gikorwa cyo kubakira kubera ko we yakomokaga muri Butare kandi akaba yari azi abategetsi bari bavuye i Murambi. Impamvu ya kabiri ni uko hari ikibazo cy'umutekano kubera ko hari mu gihe cy'intambara kandi mu mujyi wa Butare hakaba hari harabaye ibitero[174].

173. Iyo nama yayobowe na Minisitiri w'Intebe. Abashyitsi bahageze nka saa yine n'igice za mu gitondo, ariko inama ubwayo itangira mu masaa sita kubera ko Perezida yahageze atinze. Kalimanzira avuga ko, mu by'ukuri, icyo yakoze gusa ari ukwakira abashyitsi no kwita ku mutekano. Yafashije abaminisitiri yari azi kubona aho bicara kuri podiyumu barebana n'abandi banyacyubahiro na rubanda. Nyuma yaho, yasubiye ku muryango w'icyumba cy'inama gufasha abazaga bakererewe cyangwa abifuzaga kugenda cyangwa kujya kwihagarika, no kubuza abasivili batazwi kwinjira. Kalimanzira yemeza ko atafashe ijambo kandi ko atigeze yicara mu gihe cyose iyo inama yamaze. Ahakana atsemba ko yayoboye gahunda y'iyo nama maze akavuga ko ari Minisitiri w'Intebe werekanye abashyitsi, akaba ari na we watangaga amajambo[175].

174. Kalimanzira yumvise ijambo ryavuzwe na Minisitiri w'Intebe Kambanda n'irya Perezida Sindikubwabo, ariko ntiyayakurikiraniye hafi kubera ko yari ahugiye mu kureba abashyitsi binjiraga n'abasohokaga. Ntiyibuka uwabanje gufata ijambo. Yibuka ko Minisitiri w'Intebe yavuze ukuntu ibintu byari byifashe icyo gihe, asobanura uburyo guverinoma nshya yashyizweho, avuga ku ntambara n'ahantu hanyuranye haberaga imirwano muri Kigali, noneho akangurira abaturage kuba maso. Kalimanzira yari asanzwe azi byinshi mu byavuzwe na Minisitiri w'Intebe. Ku

[174] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 35-36 (Callixte Kalimanzira).

[175] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 36-37 n'inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 5-6 (Callixte Kalimanzira).

byerekeranye n'ijambo rya Perezida, Kalimanzira yibuka gusa ko yagiriye inama abaperefe, akabaha n'amabwiriza, kandi Kalimanzira avuga ko Perezida yasaga n'utari wateguye ijambo rye[176].

175. Kalimanzira avuga ko atafashe ayo magambo yavuzwe nk'aho yakanguriraga abantu gutangiza ubwicanyi muri Butare. Yibuka ko nyuma y'inama habaye umuhango wo kwakira abashyitsi kandi abantu baraganiraga bisanzwe. Asobanura ko atafashe amakuru yatanzwe mu nama nk'aho ari mashya, yihariye cyangwa adasanzwe, ndetse ko nta muntu yumvise ahamagarira undi kwica. Icyo yasobanukiwe ahubwo icyo gihe, ni uko amagambo yavuzwe yasabaga abaturage kutica abaturanyi babo no guhagarika ubwicanyi. Cyakora, birashoboka ko abantu bamwe bibwiye ko hari ibindi bintu byavuzwe kubera uko ibintu byari bimeze icyo gihe. Yasubiye i Murambi ari kumwe n'abamimisitiri yari yazanye na bo, ariko ageze mu nzira ahagarara gato ngo asure umugore n'abana be[177].

2.2.2 *Isesengura ry'Urugereko*

176. Abatangabuhamya AZM na BCA bafungiwe bombi muri gereza imwe, kandi bategereje gucirwa urubanza nyuma yo kwemera ko bagize uruhare mu bikorwa bya jenoside bavuga ko byatangijwe n'amagambo yavugiwe muri iriya nama. Bashobra rero kuba bafite impamvu zo gushinja Kalimanzira ibinyoma. Cyakora, ibyo ubwabyo ntibyatuma ubuhamya bwabo butizerwa. Urugereko ntirwigeze rwumva ko baba barashinje Kalimanzira mu bwirege bwabo.

177. Ubuhamya bwa AZM ku nama yabereye mu ngoro ya MRND bushimangirwa n'ubwa Kalimanzira ku bibazo byose bitagibwaho impaka. Ku kibazo kigibwaho impaka cyerekeranye n'uruhare rwa Kalimanzira muri iyo nama, kuba AZM avuga ko Kalimanzira « yasaga » nk'aho ari we uyoboye gahunda ubwabyo si ukumushinja: « nta kintu yakoraga by'umwihariko, uretse kuvuga abantu bagombaga gufata ijambo. Yamaraga kuvuga izina ry'ugiye gufata ijambo akamuhereza mikoro »[178]. BCA avuga

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[176] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 37-38 n'inyandikomvugo y'iburanisha 11 Gashyantare 2009, urup. 5 (Callixte Kalimanzira).

[177] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 38 n'inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 7 (Callixte Kalimanzira).

[178] Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 7 (AZM).

ko Kalimanzira yari umuyobozi wa gahunda, ariko ntiyabajijwe birambuye kuri iki kibazo. Mu gice gisigaye cy'ubuhamya bwe mu Rukiko, BCA ntavuga byinshi kuri Kalimanzira. Ubuhamya bwe ku bindi bintu byabaye, nko kuvuga ko Kalimanzira yagize uruhare mu myitozo yo kurarisha imiheto muri Komine ya Muganza (reba akiciro ka III.2.8), na bwo ntibuvuga byinshi kuri Kalimanzira. Byongeye kandi, hatitawe ku ruhare rwa Kalimanzira, kuba AZM na BCA bari muri iyo nama ntibishobora kubabera impamvu yo gukurikiranwa.

178. Kubera ibyo rero, Urugereko rusanze nta kintu kigaragaza ko AZM cyangwa BCA bari bafite impamvu zo gushinja Kalimanzira ibinyoma ku byerekeranye n'uruhare yagize mu nama yabereye mu ngoro ya MRND.

179. Ku rundi ruhande, mu buhamya bwe ku ngingo zigibwaho impaka, Kalimanzira ahunga ibibazo. Ku byerekeranye n'uruhare rwe muri iyo nama, avuga ko ubusanzwe umuyobozi wa gahunda ari umuntu utanga amajambo mu makwe, aho kuba mu nama zakoranyije abategetsi[179]. Cyakora, mu ibaza rinyomoza, avuga ko Minisitiri w'Intebe Kambanda ari we watangaga ijambo, maze akabyemeza yifashishije inyandiko[180]. Disikuru Minisitiri w'Intebe Kambanda yavuze, yashyizwe muri dosiye nk'ikimenyetso gihamya[181], igaragaza ko, muri iyo nama, yerekanye Perezida Sindikubwabo n'abaminisitiri, ariko ntigaragaza ko hari umuntu wari wamuhaye ijambo cyangwa ko hari abandi bantu na we yahaye ijambo arangije kuvuga.

180. Byongeye kandi, nta wakwemera ibyo Kalimanzira avuga ko atashoboraga kuba umuyobozi wa gahunda ndetse ngo anakurikirane ibyo abafashe amajambo bavuga kubera ko ngo yari ahugiye mu kwakira abanyacyubahiro ku muryango no kubuza abantu batatumiwe kwinjira mu cyumba cy'inama. Mu by'ukuri, n'ubwo ashobora kuba yarakiriye abanyacyubahiro ku muryango, ibyo ntibyamubujije kuvuga mu buryo burambuye, mu Rukiko, ibyari bikubiye mu ijambo rya Minisitiri w'Intebe Kambanda, kandi Porokireri ntatinda ku kuba iyo disikuru ishobora kuba yari rutwitsi[182]. Avuga ko atakurikiranye ijambo rya Perezida Sindikubwabo rivugwa ko

[179] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 36 (Callixte Kalimanzira).

[180] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, urup. 6 (Callixte Kalimanzira).

[181] Reba ikimenyetso gihamya N^{o} D114.

[182] Inyandikomvugo y'iburanisha, 20 Mata 2009, imp. 54-55 (Imyanzuro nsozarubanza y'ababuranyi mu magambo).

ryari rutwitsi kandi Perezida yaraje atinze ku buryo Uregwa atari agifite abanyacyubahiro bo kwakira bityo akaba yari afite umwanya wo gutega amatwi iryo jambo. Naho ku byerekeranye no kureba niba nta bantu batabyeremewe binjira mu cyumba cy'inama, biraruhije kwemera ko abakozi ba perefegitura bari gusaba ko Kalimanzira yafasha mu gikorwa cyo kumenya abategetsi bo muri ako karere.

181. Urugereko rusanze ubuhamya bwa AZM mu Rukiko, nk'uko bushyigikirwa n'ubwa BCA, ari ikimenyetso cyakwizerwa kigaragaza ko n'ubwo atafashe ijambo mu nama, Kalimanzira yagiye avuga amazina y'umutegetsi ugiye gufata ijambo maze akamuhereza mikoro. Ubu buhamya buhuye n'ibyo Ubwunganizi buvuga mu Myanzuro mbanzirizarubanza yabwo ko umuyobozi wa gahunda « yakoraga gusa umurimo wo kwakira abantu, akaba atari afite ububasha bwo kubuza umuntu kuvuga ibintu byabaga bikubiye mu ijambo rye»[183].

182. Nta muburanyi uhakana ko mu nyandiko y'ubwemeracyaha ya Kambanda yasomwe mu gihe cy'iburanisha,[184] Kambanda wahoze ari Minisitiri w'Intebe yemera uburyozwacyaha kubera ko ijambo Perezida Sindikubwabo yavugiye mu nama yabereye mu ngoro ya MRND ku itariki ya 19 Mata 1994 ryatumye habaho ibikorwa bya jenoside. Cyakora, Urugereko rusanga, ku byerekeye Kalimanzira, muri rusange ibimenyetso bitagaragaza ko Uregwa ashobora kuba yarashyigikiye, mu bitekerezo cyangwa muri politiki kandi ku buryo bugaragara, ijambo rya Sindikubwabo, urebye uburyo bwihariye inama yakozwemo. Nk'umukozi wa Leta, Kalimanzira yari akuriwe na Perezida na Minisitiri w'Intebe. Ku bantu bari muri iyo nama, ububasha ubwo ari bwo bwose ashobora kuba yari afite nta cyo byari bivuze ugereranyije n'ubwa Perezida na Minisitiri w'Intebe. Ubuhamya bwerekeranye n'uruhare ruto yagize mu nama no kuba Minisitiri w'Intebe Kambanda ataramwerekanye muri iyo nama akabikora kuri Perezida Sindikubwabo n'abaminisitiri, bigaragaza ko yari umunyapolitiki woroheje umugereranyije n'abandi banyapolitiki bari aho icyo gihe. N'ubwo Kalimanzira yari umuntu wubashywe cyane muri Butare, Perezida na Minisitiri w'Intebe na bo bakomokaga muri Butare ku buryo batari bakeneye cyane inkunga cyangwa gushyigikirwa na Kalimanzira muri ako karere.

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[183] Imyanzuro mbanzirizarubanza y'Ubwunganizi, igika cya 15.

[184] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 8-9 (Callixte Kalimanzira).

183. Kubera izo mpamvu, kuba Kalimanzira yari mu cyumba cy'inama igihe amajambo yavugwaga cyangwa kuba ataramaganye bimwe mu byahavugiwe, ntibyashoboraga kugira uruhare rugaragara mu ikorwa ry'ibyaha bavuga ko byatewe n'ayo majambo. Bityo rero, Urugereko rusanze Kalimanzira nta cyaha yaryozwa hashingiwe ku ruhare yagize mu nama yabereye mu ngoro ya MRND ku itariki ya 19 Mata 1994.

2.3 Izindi nama n'ingendo byabereye muri Butare, hagati ya Mata na Nyakanga

184. Mu gika cya 8 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira jenoside, kubera ko yagiye muri Perefegitura ya Butare inshuro zinyuranye hagati ya Mata n'igice cya mbere cya Nyakanga 1994, ari kumwe n'abategetsi bakuru bo muri Guverinoma y'Agateganyo barimo Théodore Sindikubwabo, Jean Kambanda, na Pauline Nyiramasuhuko, ndetse n'abategetsi bakuru bo muri ako karere nka Alphonse Nteziryayo, n'abofisiye bakuru ba FAR nka Tharcisse Muvunyi. Izo ngendo zari zigamije gukangurira abaturage politiki ya Guverinoma no kubahamagarira kwica Abatutsi. Bivugwa ko izo ngendo zatumye muri Butare hose hicwa Abatutsi babarirwa mu bihumbi.

185. Kugira ngo ashyigikire ibyo bintu avuga, mu Myanzuro nsozarubanza ye, Porokireri ashingira ku buhamya bw'abatangabuhamya batandatu bavuga ku bintu byabaye bitanu, ari byo:

i. Umutangabuhamya wiswe AZM avuga ko Kalimanzira yagiye mu nama zinyuranye z'Inama y'Umutekano ya Perefegitura ya Butare muri Mata no muri Gicurasi 1994. Avuga ko muri izo nama havugiwemo ibyo kwica Abatutsi, gutanga imitungo y'Abatutsi no gushyira mu bikorwa gahunda y'ukwirengera kw'abaturage. Ari kumwe n'abagize Inama y'Umutekano ya Perefegitura, Kalimanzira yanagiye muri Komine ya Mugusa n'iya Kibayi maze abwira abaturage bo muri ayo makomine gusenya amazu y'Abatutsi bapfuye;

ii. Umutangabuhamya wiswe BWI avuga ko Kalimanzira yari mu nama y'abaturage y'umutekano yabereye ku kibuga cy'umupira cyari hafi y'ibiro bya Komine ya Muganza mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994. Muri iyo nama, Kalimanzira yahamagariye imbaga y'abantu kwica Abatutsi;

iii. Umutangabuhamya wiswe FAC avuga ko mu mpera za Gicurasi, Kalimanzira yari mu nama y'abaturage yabereye iruhande rw'irimbi riri hafi ya Kaminuza y'i Butare mu mpera za Gicurasi cyangwa muri Kamena 1994. Muri iyo nama, Uregwa yategetse abaturage gushakisha Abatutsi bari bihishe no kubica;

iv. Umutangabuhamya wiswe AZT avuga ko Kalimanzira yari mu nama y'abaturage yabereye ahitwa Nyirakanywero muri Segiteri ya Nyabitare (Komine ya Muganza) mu ntangiriro za Kamena 1994, maze akabwira abaturage ko bagomba kurwanya ibyitso;

v. Abatangabuhamya biswe BCA na BBB bavuga ko Kalimanzira yari mu muhango wo kwimika Élie Ndayambaje nka burugumesitiri mushya wa Komine ya Muganza ku itariki ya 21 cyangwa iya 22 Kamena 1994. Icyo gihe, Ndayambaje yabwiye abaturage kwica Abatutsi bari bararokotse, ariko Kalimanzira ntiyabyamagana[185].

186. Ubwunganizi buhakana ibyo bintu ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

2.3.1 *Kumenyesha Uregwa ibyo ashinjwa*

187. Mu Myanzuro nsozarubanza yabwo, Ubwunganizi buvuga ko mu Nyandiko y'ibirego Porokireri adasobanura ikintu cya mbere, icya gatatu n'icya gatanu mu byabaye bimaze kuvugwa haruguru[186]. Cyakora, Ubwunganizi ntibusobanura impamvu bwatinze kubyutsa icyo kibazo.

188. Urugereko ruributsa ko ku itariki ya 6 Kamena 2008, Ubwunganizi bwasabye Urugereko kutemera ko abatangabuhamya batandatu bashinja batanga ubuhamya kubera ko incamake z'ubuhamya bagombaga gutanga mu Rukiko ziri mu Myanzuro mbanzirizarubanza ya Porokireri zarimo ibyabaye bitavugwa mu Nyandiko y'ibirego[187]. Urugereko rwemeye icyo cyifuzo kuri bimwe. Ku bice by'icyo cyifuzo bitakiriwe, Urugereko rwafashe umwanzuro uvuga ko nyuma y'ibimenyetso

[185] Imyanzuro nsozarubanza ya Porokireri, ibika 43-75.

[186] Imyanzuro nsozarubanza y'Ubwunganizi, igika cya 1140.

[187] Reba Icyifuzo gisaba ko abatangabuhamya bashinja biswe BWM, BWN, BXB, BXC, BXD na BXL batemererwa gutanga ubuhamya, 9 Kamena 2008.

byatanzwe na Porokireri, rwasanze nta kintu Ubwunganizi bugomba kwireguraho kuri ibyo bintu buvuga[188]. Ubwunganizi bwashoboraga kubyutsa ibyo bibazo mu cyifuzo cyo ku itariki ya 6 Kamena 2008. Urugereko ntirugomba rero, byanze bikunze, gusuzuma ikibazo kivuzwe bwa mbere mu Myanzuro nsozarubanza y'Ubwunganizi. Cyakora, iyo Ubwunganizi budahise bubyutsa ikibazo igihe ikimenyetso gitanzwe ntibivuga ko budashobora kubikora nyuma[189]. Kugira ngo iburanisha ribe mu buryo buboneye kandi n'uburenganzira bw'Uregwa bwubahirizwe, Urugereko rusanze ari ngombwa gusuzuma ibibazo Ubwunganizi bwabyukije no kuba ikintu cya kabiri n'icya kane mu byabaye bivugwa haruguru bitarashyizwe mu Nyandiko y'ibirego (Ubwunganizi butarwanyije ku buryo butaziguye)[190].

189. Urugereko rugiye, mbere na mbere, kureba niba kuba harongeweho ibintu bitanu byabaye byavuzwe haruguru byafatwa nk'ibirego bishya Porokireri yongeyeho cyangwa bigafatwa nk'ibintu by'ingenzi bishya. Urugereko ruributsa ko ibikorwa by'ingenzi bishyigikira ikirego ari byo byitwa icyaha runaka mu rwego rw'amategeko. Mu byo Porokireri avuga mu Nyandiko y'ibirego, agomba gusobanura neza ibintu binyuranyije n'amategeko biregerwa (ikirego) n'ibikorwa uregwa yakoze cyangwa ibyo yateshutswe gukora bituma avuga ko uregwa yakoze ibintu binyuranyije n'amategeko (ibikorwa by'ingenzi)[191].

190. Iyo Urugereko rusomye Inyandiko y'ibirego nk'umububumbe, rusanga mu gika cya 6 cyayo havugwa ko amakuru arambuye ashyigikira ikirego cya 1 n'icya 2 atangwa kuva mu gika cya 7 kugera ku cya 17, bityo Ubwunganizi bukaba bwaramenyeshejwe ko igika cya 8 gikubiyemo ikirego cyihariye. Urugereko rusanga, n'ubwo igika cya 8 kivuga ibintu muri rusange, kirimo ikirego kivuga ko Uregwa yagiye muri Butare inshuro nyinshi kugira ngo akangurire abaturage politiki ya Guverinoma kandi

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[188] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko abatangabuhamya bashinja biswe BWM, BWN, BXB, BXC, BXD na BXL batemererwa gutanga ubuhamya (Urugereko rwa Mbere rw'Iremezo), 24 Kamena 2008; Icyemezo ku cyifuzo gisaba ko Uregwa agirwa umwere (Urugereko rwa Mbere rw'Iremezo), 3 Nzeri 2008.

[189] *Urubanza Porokireri aburana na Bagosora na bagenzi be*, Icyemezo ku bujurire bwerekeranye n'icyemezo ku cyifuzo, igika cya 45.

[190] Inyandiko y'urubanza rwa Semanza mu rw'iremezo, ibika 42, 45; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire ibika 95, 97; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, igika cya 52.

[191] *Urubanza Porokireri aburana na Muvunyi,* Icyemezo ku bujurire bwerekeranye n'icyemezo ku cyifuzo cy'ingoboka, igika cya 19.

abahamagarire[192] kwica Abatutsi. Cyakora, igika cya 8 ntigisobanura neza igihe n'ahantu Kalimanzira yakoreye ibyo bintu cyangwa uko yabikoze. Uretse ahantu hamwe havugwa hasi, Urugereko rusanga ibintu byabaye bivugwa haruguru bigamije guha Ubwunganizi amakuru arambuye ikirego kiri mu gika cya 8 gishingiyeho. Ibyo bintu byabaye rero ni ibikorwa by'ingenzi bishyigikira ikirego[193].

191. Kuba Porokireri atarashyize ibyo bikorwa by'ingenzi mu gika cya 8, bitera inenge Inyandiko y'ibirego. Urugereko rugomba gusuzuma niba, mu rwego rwo gukosora iyo nenge, Porokireri yarahaye Ubwunganizi, nta gukererwa, amakuru yumvikana, adahuzagurika asobanura ibyabaye ikirego cyo mu gika cya 8 gishingiyeho. Urugereko ruributsa ko kugira ngo rumenye niba amakuru yatanzwe nyuma akosora inenge iri mu nyandiko y'ibirego, ari ngombwa kumenya igihe ayo makuru yatangiwe, akamaro ayo makuru yagiriye uregwa mu gutegura ukwiregura kwe n'ingaruka ibyo bintu bishya by'ingenzi byatanzwe bishobora kugira ku bivugwa na Porokireri[194].

192. Mu Myanzuro mbanzirizarubanza ye, Porokireri avuga ku byerekeranye no kuba Kalimanzira yari muri Butare kuva muri Mata kugera muri Nyakanga 1994. By'umwihariko, Porokireri avuga ko abantu babonye Kalimanzira ku Gisagara muri Komine ya Ndora arimo gushishikariza no gutegeka abaturage kwica Abatutsi ; muri Komine ya Muganza aho yitabiriye inama z'abaturage zavugiwemo ibyerekeranye no kugaba ibitero ku Batutsi kandi Abaturage bakabishishikarizwa; muri Segiteri ya Nkubi (Komine ya Ngoma) mu gice cya kabiri cya Mata 1994 aho yashishikarije

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[192] Mu gika cya 8 cy'Inyandiko y'ibirego hakoreshwa ijambo « *incite* » (guhamagarira), si « *instigate* » (gukangurira). Urugereko rurashaka gusobanura ko ahangaha ijambo « *incite* » ryerekeranye n'icyaha cya jenoside nk'uko kivugwa mu Ngingo ya 2 (3)(a) cyakozwe hakoreshejwe uburyo bwo gukangurira buvugwa mu Ngingo ya 6 (1); ntiryerekeranye n'icyaha cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside nk'uko giteganywa n'Ingingo ya (3)(c). Ku byerekeranye n'ibisobanuro birambuye ku itandukanirizo riri hagati yo guhamagarira [abandi gukora icyaha] nk'icyaha no kubahamagarira [gukora icyaha] nk'uburyo bw'uburyozwacyaha, reba akiciro ka III.4.1.

[193] Ku byerekeranye n'isuzuma ry'igihe ibikorwa by'ingenzi bishya bishobora gushyigikira ibirego bitandukanye uregwa ashinjwa, reba *Urubanza rwa Muvunyi*, Icyemezo ku bujurire bwa Porokireri bwerekeranye n'icyemezo Urugereko rwa Mbere rw'Iremezo II rwafashe ku cyifuzo cye cy'ingoboka, 23 Gashyantare 2005, ibika 33 na 35.

[194] Inyandiko y'urubanza rwa Niyitegeka mu bujurire, igika cya 197; Inyandiko y'urubanza rwa Kupreškić na bagenzi be mu bujurire, ibika 119-121.

abaturage kwirwanaho bahangana n'abanzi babo b'Abatutsi; muri Segiteri ya Sahera (Komine ya Ngoma) muri Mata 1994, aho yavuze ko Abatutsi bagombaga kwicwa; mu nama yabereye hafi ya Kaminuza y'u Rwanda i Butare mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 aho yatanze amabwiriza yo kwica Abatutsi[195].

193. Byongeye kandi, mu nyandiko yometse ku Myanzuro mbazirizarubanza ya Porokireri, havugwa ko ubuhamya bw'abatangabuhamya 39, barimo abiswe AZM, BWI, FAC, AZT, BCA na BBB bwerekeranye n'ibivugwa n'igika cya 8. Iyo nyandiko ikubiyemo incamake y'ubuhamya abo batangabuhamya bari kuza gutanga kandi yerekana ibika byo mu Nyandiko y'ibirego buri buhamya bwari kwibandaho.

194. Incamake y'ubuhamya bwa AZM igaragaza ko uyu mutangabuhamya yari kuza kuvuga ko mu gihe cya jenoside, Kalimanzira ari umwe mu bagize Inama y'Umutekano ya Perefegitura ya Butare, kandi ko yajyaga mu nama z'iyo nama. Inama y'umutekano yatangaga intwaro, amasasu n'abasirikare bo kwica Abatutsi muri Perefegitura ya Butare. Ibyo bihuye n'ibyo AZM avuga mu buhamya bwe bwanditse bwamenyeshejwe Ubwunganizi ku itariki ya 15 Ugushyingo 2005 mu nyandiko ikubiyemo ibimenyetso bishyigikira ibirego, nk'uko biteganywa n'Ingingo ya 66 (A) y'Amategeko.

195. Incamake y'ubuhamya bwa AZM igaragaza kandi ko uyu mutangabuhamya yari kuza kuvuga ko muri Gicurasi 1994 Kalimanzira yagiye mu nama yabereye muri Komine ya Kibayi, ari kumwe n'abandi bategetsi, maze abitabiriye iyo nama bagahamagarira abaturage kwibasira Abatutsi[196]. Kalimanzira yasabye abaturage gusenya amazu yose

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[195] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 54, 63.

[196] Urugereko rusanga AZM avuga ko ubwo abagize inama y'umutekano bahagararaga bwa mbere muri Komine ya Kibayi, Koloneli Nteziryayo yafashe ijambo mu nama y'abaturage maze akabwira abo baturage ko bagombaga kwitabara, ko umwanzi ari kubacengeramo, bityo bakaba baragombaga kuba maso. Yanavuze ko hari Abahutu bahishe Abatutsi, ko abo Batutsi bagombaga « gusohorwa aho bihishe». AZM yumvise bivuga ko abo Batutsi bagombaga kwicwa. AZM ntiyibuka ahantu Kalimanzira yari ari ubwo Nteziryayo yafataga iryo jambo, cyakora yumva Kalimanzira yari akiri kumwe na bo [inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 20-21 (AZM)]. Urugereko rusanga ibikorwa by'ingenzi byavuzwe hifashishijwe ubuhamya bwa AZM bitavugwa mu buhamya bwe bwanditse bwamenyekanishijwe mu nyandiko ikubiyemo ibimenyetso bishyigikira ibirego cyangwa mu Myanzuro mbanzirizarubanza ya Porokireri. Kubera iyo mpamvu, Porokireri ntiyamenyeshe Uregwa, uko bikwiye, ibyo bintu bindi amurega. Ibyo ari byo byose, Porokireri arasa n'aho

y'Abatutsi bari barishwe cyangwa barahunze, kugira ngo abanyamahanga batamenya ko Abatutsi batewe. Urugereko rusanga Ubwunganizi butaramenyeshejwe, mu buryo bwumvikana kandi budahuzagurika, ibyerekeranye n'iki kirego, kubera ko bitavugwa mu ncamake isibwemo amakuru agaragaza umwirondoro wa AZM. Iyo ncamake yatangiwe hamwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego. Byongeye kandi, Urugereko rusanga ibivugwa ko Kalimanzira yabwiye abaturage gusenya amazu bidashyigikira ikirego cyo guhamagarira abantu gukora jenoside. Rusanga ahubwo ibyo bintu byerekeranye n'ubundi buryo bw'imyitwarire mibisha, bityo bikaba byagura, mu buryo butemewe, ikirego kivugwa mu gika cya 8.

196. Incamake y'ubuhamya bwa BWI igaragaza ko mu byo uyu mutangabuhamya yari kuza kuvugaho harimo ko yabonye Kalimanzira mu nama yabereye ku kibuga cy'umupira w'amaguru hafi y'ibiro bya Komine ya Muganza, mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994. Icyo gihe, Kalimanzira yabwiye abaturage ko bagomba kurwanya Abatutsi, ari we mwanzi, aho bamubonye hose. Yanategetse abaturage kwica ibyitso by'Inkotanyi, ni ukuvuga Abatutsi. Ibi bihuye n'ubuhamya bwanditse bwa BWI, bwatangiwe hamwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

197. Incamake y'ubuhamya bwa FAC igaragaza ko uyu mutangabuhamya yari kuza kuvuga ko yabonye Kalimanzira ari kumwe n'abandi bategetsi mu nama yabereye hafi ya Kaminuza y'u Rwanda i Butare mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994. Icyo gihe, Kalimanzira yashishikarije abaturage kwica Abatutsi, kandi nyuma y'iyo nama Abatutsi batangiye kwicwa. Ibi bihuye n'ubuhamya bwanditse bwa FAC bwatangiwe hamwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

198. Urugereko ruributsa kandi ko FAC atangiye gutanga ubuhamya mu Rukiko, Ubwunganizi bwarwanyije igice cy'ubuhamya bwe, buvuga ko mu Myanzuro mbanzirizarubanza ye, Porokireri atari yabumenyesheje ibyerekeranye n'ibikubiye muri icyo gice cy'ubuhamya. Ubwunganizi bwavuze ko ubuhamya bwa FAC Porokireri yabumenyesheje ari ubuvuga gusa ku byerekeranye no kuba Kalimanzira yari mu nama yabereye hafi ya Kaminuza y'u Rwanda i Butare, muri Kamena 1994.

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adashingira kuri ibyo bikorwa by'ingenzi mu gushyigikira ikirego kivugwa mu gika cya 8 kandi yemera ko bishoboka ko Kalimanzira atari muri iyo nama (Imyanzuro mbanzirizarubanza ya Porokireri, igika cya 47).

Urugereko rwafashe umwanzuro uvuga ko rutari kwita kuri icyo gice kindi cy'ubuhamya bwe[197]. Bityo rero, Ubwunganizi bwamenyeshejwe neza ubuhamya bwa FAC ku byerekeranye no kuba Kalimanzira yari muri iyo nama yabaye muri Kamena 1994.

199. Incamake y'ubuhamya bwa AZT igaragaza ko mu byo uyu mutangabuhamya yari kuza kuvugaho harimo ko yabonye Kalimanzira n'abandi bategetsi mu nama yabereye ahitwa Nyirakanywero, muri Komine ya Muganza mu ntangiriro za Kamena 1994. Imbaga y'abantu yari aho yabwiwe ko umuntu wese wari gufatwa ahishe Umututsi yari kwicanwa na we. Ibi bihuye n'ubuhamya bwanditse bwa AZT buvuga ko ibyo bintu byavuzwe na Kalimanzira. Ubwo buhamya bwanditse bwatangiwe hamwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

200. Incamake y'ubuhamya bwa BBB igaragaza ko mu bintu uyu mutangabuhamya yari kuza gutangaho ubuhamya harimo ko yabonye Kalimanzira muri Kamena 1994 mu muhango wo kwimika Élie Ndayambaje nka burugumesitiri wa Komine ya Muganza. Icyo gihe, Ndayambaje yavuze ko Abatutsi bari bihishe bagombaga kwicwa, naho Alphonse Nteziryayo asaba abaturage guhamba imirambo y'abantu bari bishwe no gusenya amazu yabo. Kalimanzira ntiyamaganye ayo magambo. Ibi bihuye n'ibivugwa mu buhamya bwanditse bwa BBB bwatangiwe hamwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

201. Kubera ibimaze kuvugwa haruguru, Urugereko rusanze, uretse igice kimwe cy'ubuhamya bwa AZM nk'uko bivugwa haruguru, Ubwunganizi bwarahawe amakuru asobanutse kandi adahuzagurika ku byabaye by'ingenzi Porokireri yifuza gushingiraho ku byerekeranye n'ibivugwa mu gika cya 8 cy'Inyandiko y'ibirego. Cyakora, Ubwunganizi bwavuze, muri rusange, ko Porokireri yakerewe kubumenyesha ayo makuru ku buryo nyuma y'Imyanzuro mbanzirizarubanza ya Porokireri, butashoboye gukora iperereza rihagije kuri ibyo bintu bishya byaba byarabaye[198]. Imyanzuro mbanzirizarubanza ya Porokireri yatanzwe ku itariki ya 16 Mata 2008, hasigaye ibyumweru bitatu ngo urubanza rutangire. Byongeye kandi, iyo Myanzuro yatanzwe mu cyongereza kandi Ubwunganizi bukoresha igifaransa. Ubwunganizi bwatangiye gutanga ibimenyetso bishinjura ku itariki ya 17 Ugushyingo

[197] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 4-5 [mu muhezo] (FAC).

[198] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika 1141 n'igisobanuro N° 1003 cyo hasi ku rupapuro.

2008, hashize amezi ane Porokireri arangije gutanga ibimenyetso bishinja. Urugereko rusanga icyo gihe cyari gihagije kugira ngo Ubwunganizi bube bwarateguye ukwiregura kwabwo.

202. Urugereko rusanga kandi Ubwunganizi bwarashoboye kwiregura ku bivugwa na Porokireri byerekeranye n'ibikubiye mu gika cya 8 cy'Inyandiko y'ibirego. Mu by'ukuri, Ubwunganizi bwabajije ibibazo binyomoza abatangabuhamya bashinja biswe AZM, BWI, FAC, AZT, BCA na BBB. Abatangabuhamya bashinjura bitwa Félicien Kajyibwami, Albert Barikwinshi, Jean de Dieu Rutabana, Innocent Mukuralinda, abiswe AK42, MKB, KXC na AM02, batanze ubuhamya bunyomoza ibivugwa byerekeranye n'ibikubiye mu gika cya 8 cy'Inyandiko y'ibirego. Mu Myanzuro mbanzirizarubanza yabwo, Ubwunganizi bwahakanye by'umwihariko bimwe muri ibyo birego, nk'ibivuga ko Kalimanzira yari mu nama yabereye hafi ya Kaminuza y'u Rwanda i Butare[199]; ko Kalimanzira yajyaga mu nama zahuje abagize Inama y'umuteknao ya Perefegitura ya Butare[200]; ko yari mu nama yabereye kuri santeri ya Nyirakanywero, Segiteri ya Nyabitare[201]; ko yari mu mihango yo kurahiza Élie Ndayambaje[202]. Bwanashingiye kandi ku myiregurire ya sinari mpari[203]. Biragaragara neza rero ko Ubwunganizi bwari buzi ibigize ibirego bya Porokireri kandi ko bwashoboye kubyireguraho mu rubanza rwose.

203. Urugereko rusanga kuba Porokireri ataravuze ibintu by'ingenzi byabaye ashingiraho ku kirego kiri mu gika cya 8 cy'Inyandiko y'ibirego bitarabangamiye Ubwunganizi mu myiregurire yabwo. Kubera iyo mpamvu, Urugereko rusanze, kubera ko Porokireri yatanze amakuru asobanutse, adahuzagurika kandi nta gukererwa, yarakosoye inenge yo mu gika cya 8 cy'Inyandiko y'ibirego cyerekeranye n'ibirego bivugwa haruguru.

204. Mu gusoza kuri iki kibazo, Urugereko rusanga kandi mu Myanzuro nsozarubanza, mu cyiciro kiswe «Guhamya Uregwa ibyaha binyuranye icya rimwe », Porokireri avuga ko ibimenyetso ku bivugwa mu bika bya 20, 23 na 24 by'Inyandiko y'ibirego,

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[199] Imyanzuro mbanzirizarubanza yanditse y'Ubwunganizi, ibika 22-23.

[200] Imyanzuro mbanzirizarubanza yanditse y'Ubwunganizi, ibika 24-25.

[201] Imyanzuro mbanzirizarubanza yanditse y'Ubwunganizi, ibika 30-31.

[202] Imyanzuro mbanzirizarubanza y'Ubwunganizi, ibika 32-33.

[203] Imyanzuro mbanzirizarubanza y'Ubwunganizi, ibika 26-27, 36.

byerekeranye by'umwihariko n'ikirego cya 3, binafite aho bihuriye n'ibivugwa mu gika cya 8 cy'Inyandiko y'ibirego[204]. Inyandiko y'ibirego ntigaragaza ko hari aho ibivugwa muri ibyo bika bihuriye n'ikirego cya 1 n'icya 2 kandi mu by'ukuri, igika cya 6 cy'Inyandiko y'ibirego kivuga ko ibivugwa kuva ku gika cya 7 kugera ku cya 17 ari byo byonyine byerekeranye n'ibyo birego. Ashingiye ku Nyandiko y'ibirego yonyine, Kalimanzira ntiyari gusobanukirwa ko ibivugwa mu bika bya 20, 23 na 24 ari byo ashinjwa ku kirego cya 1 n'icya 2. Urugereko rusanga ahanini Porokireri ashaka guhindura Inyandiko y'ibirego kugira ngo yagure ibivugwa mu kirego cya 1 n'icya 2, ariko ibyo ntibyemewe. Kubera iyo mpamvu, Urugereko ntirwita kuri ibyo bimenyetso ku byerekeranye n'igika cya 8[205].

2.3.2 *Inama zakozwe n'abagize Inama y'Umutekano ya Perefegitura ya Butare*

205. Porokireri avuga ko Kalimanzira yagiye mu nama zinyuranye z'Inama y'Umutekano ya Perefegitura ya Butare, muri Mata no muri Gicurasi 1994. Mu byigirwaga muri izo nama harimo kwica Abatutsi, ukuntu bahagarika amakimbirane hagati y'Abahutu yaterwaga no kurwanira imitungo y'Abatutsi bapfuye, no gushyira mu bikorwa gahunda y'ukwirengera kw'abaturage. Porokireri avuga ko muri izo nama, nta kintu cyavuzwe ku byemezo byagombaga gufatirwa abababaga bakoze ubwicanyi[206].

206. Ubwunganizi buvuga ko Kalimanzira yagiye mu nama imwe gusa muri izo zivugwa. Byongeye kandi, Kalimanzira yireguza uburyo bwa sinari mpari, avuga ko, uretse mu bihe bimwe gusa byihariye, yakoreraga i Murambi (Perefegitura ya Gitarama) kuva ku itariki ya 14 Mata kugera ku ya 31 Gicurasi 1994 (reba akiciro ka III.1.2).

2.3.2.1 Ibimenyetso

Umutangabuhamya ushinja wiswe AZM

207. Mu buhamya bwe mu Rukiko, AZM avuga ko yari umwe mu bagize Inama y'Umutekano ya Perefegitura ya Butare kandi ko, nyuma y'itariki ya 19 Mata 1994, Kalimanzira yagiye mu nama zimwe. Izo nama zose zabaga mu masaa yine za mu

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[204] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 321.

[205] Inyandiko y'urubanza rwa Karera mu bujurire, ibika 365-370; Inyandiko y'urubanza rwa Muvunyi mu bujurire, ibika 155-156.

[206] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 43-47.

gitondo zikabera mu ngoro ya MRND mu mujyi wa Butare[207]. Inama ya mbere yabaye ku itariki ya 21 Mata 1994 iyobowe na Sylvain Nsabimana, perefe mushya wa Butare kandi mubayitabiriye harimo Kalimanzira n'abakuru b'imirimo muri Butare na burugumesitiri wa Komine y'Umujyi wa Butare. Abari muri iyo nama bavuze ku bwicanyi bwari bwaraye bubereye ku Itaba. Iyo nama yari igamije kumenya abantu bakorewe ibyaha abo ari bo ariko icyo bakoze gusa ni ugushyiraho komite yo gupererereza ku kuntu ibintu byari byagenze. Iyo nama yamaze igihe gito cyane, kitarenze iminota 10[208].

208. Indi nama yabaye bukeye, ku itariki ya 22 Mata mu masaa tatu n'igice za mu gitondo. Yabereye mu ngoro ya MRND kandi na yo yari iyobowe na Perefe Nsabimana ariko AZM ntiyibuka niba Kalimanzira yari ayirimo. AZM avuga ko azi neza ko iyo nama yabaye kuri iyo tariki kubera ko ari bwo komite yari yaraye ishyizweho, ku itariki ya 21 Mata, yatanze raporo yayo yavugagamo ko abantu bari bishwe n'abasirikare. Komanda w'abasirikare wari uri aho yasabwe gushakira icyo kibazo umuti[209].

209. AZM asobanura ko hagati y'itariki ya 22 Mata n'iya 10 Gicurasi, nta nama z'Inama y'Umutekano zatumijwe muri Butare kubera ko ngo bashakaga ko ubwicanyi bwibasiye Abatutsi bukomeza. Inama yakurikiyeho yabaye ku itariki ya 10 Gicurasi 1994 iyobowe na Perefe Nsabimana kandi Kalimanzira yari ayirimo. AZM avuga ko baganiriye ku kuntu bahamba imirambo y'abantu bose bari bishwe, maze biyemeza gushaka tingatinga yo gukoresha muri icyo gikorwa. Basabye kandi burugumesitiri kubwira abaturage guhamba imirambo ndetse n'imfungwa zisabwa gufasha muri icyo gikorwa. Abari muri iyo nama ntibaganiriye ku byemezo byafatirwa abakoraga ubwicanyi. AZM anibuka ko Burugumesitiri wa Komine ya Ntyazo yaje muri iyo nama maze agasaba ko bamuha abasirikare bo kwica Abatutsi muri komine ye, avuga ko bari bananiranye. Muri iyo nama, Burugumesitiri wa Komine ya Nyaruhengeri yavuze ko nta masasu afite maze arayasaba. Komanda w'abasirikare basabaga ibyo byose yababwiye ko bagomba kwitabaza abapolisi ba komine[210].

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[207] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 10-20, 66 [mu muhezo] (AZM).

[208] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 11-12 (AZM).

[209] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 12-13 (AZM).

[210] Inyandikomvugo y'iburanisha, 17 kamena 2008, imp. 13-15 (AZM)

210. Inama yakurikiyeho yabaye hashize nk'icyumweru, ku itariki ya 16 cyangwa iya 17 Gicurasi 1994. AZM avuga ko Kalimanzira yari ayirimo n'ubwo atari mu bantu bagize Inama y'Umutekano ya Perefegitura ya Butare, kandi ko nta muntu wavuze impamvu Uregwa yari muri iyo nama. AZM asobanura ko kubera ko perefe yashoboraga gutumira uwo ashatse, yibwiye ko Kalimanzira yafashaga perefe mushya mu byerekeranye no kuyobora. AZM yanibwiye ko wenda Kalimanzira yari ahagarariye Guverinoma muri iyo nama, kubera ko Butare yari mu bihe bidasanzwe bitewe n'uko ubwicanyi bwarimo kubera ahandi mu gihugu, uretse muri Butare[211].

211. AZM asobanura ko muri iyo nama, hasuzumwe ikibazo cy'Abahutu barwaniraga imitungo y'Abatutsi bari bishwe. Bavuze ku byerekeranye no kugarura amahoro, gusaba abaturage guhagarika ubwicanyi no kugarura umutekano. Basabye ba burugumesitiri gukemura icyo kibazo ariko ntibagira icyo bavuga ku bantu bakoraga ubwicanyi[212].

212. Indi nama yabaye hashize iminsi nk'ine nyuma y'iyo kandi Kalimanzira yari ayirimo. Iyo nama yabaye nyuma y'uko Minisitiri w'Intebe atanze amabwiriza yerekeranye na gahunda y'ukwirengera kw'abaturage. AZM avuga ko abari bayirimo bafashe icyemezo cyo kugenderera amakomine amwe yo muri Perefegitura ya Butare kugira ngo basobanurire abaturage ibyerekeranye n'iyo gahunda[213].

Callixte Kalimanzira

213. Kalimanzira avuga ko atashoboraga kwitabira inama z'abagize Inama y'Umutekano ku itariki ya 21 cyangwa iya 22 Mata, kubera ko icyo gihe yari i Kibungo mu muhango wo kwimika perefe mushya wabaye ku itariki ya 21 Mata. Yongeraho ko agarutse, ku munsi ukurikiyeho, yahise aboneza i Gitarama adahagaze i Butare. Kalimanzira akomeza avuga ko atigeze ajya muri Perefegitura ya Butare muri Gicurasi 1994, ndetse akanahakana ko yagiye mu nama y'abagize inama y'umutekano i Butare ku itariki ya 10 Gicurasi. Kalimanzira ahakana kandi ko yagiye mu nama yahuje abagize inama y'umutekano i Butare ku itariki ya 16 Gicurasi ari kumwe na Pauline Nyiramasuhuko. Cyakora, yageze aho arabyemera, mu ibaza rinyomoza,

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211 Inyandikomvugo y'iburanisha, 17 kamena 2008, imp. 14-15 (AZM).

212 Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 17 (AZM).

213 Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 18 (AZM).

amaze kwisomera inyandiko bamweretse y'ikiganiro cyahise kuri Radiyo Rwanda kigaragaza ko yari ahari[214].

Ikimenyetso gihamya N^o 113 cyatanzwe n'Ubwunganizi

214. Ikimenyetso gihamya N^o D113 ni inyandikomvugo y'inama yabaye ku itariki ya 10 Gicurasi 1994 yari iteraniyemo abakozi n'abakuru b'imirimo muri Perefegitura ya Butare, kandi iyobowe na Perefe Nsabimana. Iyo nyandikomvugo igaragaza ko iyo nama yatangiye saa tatu n'igice za mu gitondo ikarangira saa tanu z'amanywa, kandi irimo amazina y'abantu 29 bari muri iyo nama, ariko nta zina rya Kalimanzira ririmo.

2.3.2.2 Isesengura ry'Urugereko

215. Kalimanzira avuga ko mu bihe bivugwa, yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

216. Umutangabuhamya AZM yemeye ko yakoze icyaha cya jenoside maze ashyirwa mu rwego rwa mbere kandi ategereje icyemezo ku bujurire bwe[215]. Mu buhamya bwe mu Rukiko, avuga ko ari umwe mu bantu bari bagize Inama y'Umutekano ya Perefegitura ya Butare, kandi yemera ko bateshutse ku nshingano zabo zo kubungabunga umutekano w'Abatutsi bishwe bo barebera[216]. AZM ashobora rero kuba afite impamvu zo gupfobya ibikorwa bibisha by'inama y'umutekano ku byerekeranye n'icyaha cya jenoside kugira ngo uburyozwacyaha bwe butiyongera.

217. N'ubwo Kalimanzira ahakana yivuye inyuma ko atageze muri Butare muri Gicurasi 1994, yemeye ko yagiye mu nama imwe y'inama y'umutekano bamaze kumwereka inyandiko y'ikiganiro cyahise kuri Radiyo Rwanda kigaragaza ko yayigiyemo. Urugereko ntirwemera ibyo Kalimanzira avuga ko yari yibagiwe ko yari muri iyo nama. Kubera ko yabyemeye ari uko bamweretse inyandiko y'ikiganiro cyahise kuri Radiyo Rwanda, Urugereko rusanga rutakwizera ubuhamya bwe buvuga ko nta yindi nama y'inama y'umutekano n'imwe yigeze ajyamo.

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[214] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 16-20, 23-24 (Callixte Kalimanzira).

[215] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 66 [mu muhezo] n'inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 24 [mu muhezo] (AZM).

[216] Inyandikomvugo y'iburanisha, 16 Kamena 2009, urup. 66 [mu muhezo] (AZM).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

218. Kalimanzira avuga kandi ko atashoboraga kujya mu nama yahuje abagize inama y'umutekano ku itariki ya 21 Mata kubera ko uwo munsi yarimo kwimika perefe mushya wa Kibungo, ndese akaba yaraye aho i Kibungo. Cyakora, Urugereko ruributsa ubuhamya bwa AZM buvuga ko inama zose z'Inama y'Umutekano ya Perefegitura ya Butare zatangiraga mu masaa yine z'amanywa. Ibyo kandi ni na ko bimeze no ku yabaye ku itariki ya 21 Mata, itararengeje iminota 10[217]. Kalimanzira avuga ko yavuye i Gitarama ku itariki ya 21 Mata mu masaa tatu za mu gitondo, akagera i Kibungo nyuma y'amasaha icyenda, ni ukuvuga mu masaa kumi n'ebyiri z'umugoroba[218]. Urugereko rusanga rero nta kuvuguruzanya kuri hagati y'ubuhamya bwa AZM n'ubwa Kalimanzira kuko mu gitondo Uregwa yashoboraga rwose kujya muri iyo nama mu mujyi wa Butare kandi akagerera igihe muri Perefegitura ya Kibungo kugira ngo yimike perefe mushya muri uwo mugoroba. Imyiregurire ya sinari mpari ya Kalimanzira ntituma Urugereko rushidikanya ku buhamya bwa AZM.

219. Ubwunganizi bushingira kandi ku kimenyetso gihamya N^o D113, bukemeza ko iyo nyandikomvugo ari iy'inama yahuje abagize inama y'umutekano ku itariki ya 10 Gicurasi, kandi ko igaragaza ko Kalimanzira atari ayirimo[219]. Urugereko rusanga icyo kimenyetso gihamya N^o D113 kigaragaza neza ko ari inyandikomvugo y'inama y'abakozi, aho kuba inama yahuje abagize inama y'umutekano, kubera ko iyo nyandikomvugo yerekana ko iyo nama yarimo abakozi n'abandi bakuru b'imirimo muri Butare, kandi ko yabaye kugira ngo perefe mushya ahure n'abakozi be. Kubera ko iyi nyandikomvugo ivuguruza ubuhamya bwa AZM buvuga ko inama yahuje abagize inama y'umutekano ku itariki ya 10 Gicurasi yabaye saa yine z'amanywa, bitewe n'uko iyo nyandiko igaragaza ko perefe yari mu yindi nama kuva saa tatu za mu gitondo kugeza saa tanu z'amanywa, Urugereko rusanga ikimenyetso gihamya N^o D113 kitagaragaza ko perefe atashoboraga kujya mu nama yahuje abagize inama y'umutekano mbere gato cyangwa nyuma y'inama y'abakozi, cyangwa ngo kigaragaze ko AZM yibeshye ku isaha nyayo inama yahuje abagize inama y'umutekano yabereyeho.

[217] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 11-12 (AZM).

[218] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 39-42 (Callixte Kalimanzira).

[219] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 799-800.

220. Urugereko rero rusanze Kalimanzira yaragiye mu nama zinyuranye zahuje abagize Inama y'Umutekano ya Perefegitura ya Butare muri Gicurasi 1994. Cyakora, Urugereko rusanga AZM avuga ko inama y'umutekano yateganywaga n'amategeko muri buri perefegitura kandi ko yari imaze igihe kinini iriho[220]. Ku byerekeranye n'ibyavugiwe muri izo nama, ibimenyetso bigaragaza ko inama yo ku itariki ya 21 Mata yari igamije kwiga ibyerekeranye no gukora iperereza ku bwicanyi bwari bwaraye bubaye, no gushakisha abantu bari babukoze. Mu nama yo ku itariki ya 16 cyangwa iya 17 Gicurasi havugiwemo ikibazo cy'Abahutu barwaniraga imitungo y'Abatutsi bapfuye n'icyo kugarura amahoro. Mu nama yo ku itariki ya 21 cyangwa iya 22 Gicurasi havugiwemo ibyerekeranye n'amabwiriza ajyanye na gahunda y'ukwirengera kw'abaturage. AZM avuga ko mu nama yo ku itariki ya 10 Gicurasi, hari umuburugumesitiri wasabye inkunga yo kwica Abatutsi naho undi agasaba amasasu, ariko komanda w'abasirikare akanga gutanga izo nkunga. AZM avuga kandi ko, kugira ngo ubwicanyi bushobore gukomeza nta nkomyi, nta nama zakozwe kuva mu mpera za Mata kugera mu ntangiriro ya Gicurasi.

221. Urugereko ruributsa ko mu gika cya 8 cy'Inyandiko y'ibirego Kalimanzira ashinjwa kuba yarazengurutse muri Butare, akangurira abaturage politiki ya Guverinoma kandi akabahamagarira kwica Abatutsi. Inyandiko y'ibirego ivuga ko icyo gikorwa cyavuyemo ubwicanyi bwahitanye Abatutsi babarirwa mu bihumbi muri Perefegitura ya Butare. Nyuma yo gusuzuma ibimenyetso rwashyikirijwe, Urugereko rusanga ubuhamya bwa AZM budashyigikira ibyo bintu Porokireri avuga. By'umwihariko, nta bimenyetso bihagije byatuma Urugereko rufata umwanzuro uvuga ko, mu nama zahuje abagize inama y'umutekano havugiwemo amagambo ahamagarira abantu ubwicanyi. Byongeye kandi, ntihatanzwe ibimenyetso bigaragaza aho inama y'umutekano yari ihuriye n'abaturage ndetse ntihanatanzwe ibimenyetso bihagije bigaragaza ko inama y'umutekano cyangwa Kalimanzira bakanguriye abaturage politiki iyo ari yose ya Guverioma. Urugereko rusanga kandi rutaba rushyize mu gaciro ruramutse rufashe imyanzuro ishingiye kuri ibyo bimenyetso. Mu gusoza kuri iki kibazo, n'ubwo Urugereko rwemera ko Abatutsi babarirwa mu bihumbi biciwe muri Butare, ntihatanzwe ibimenyetso bigaragaza ko hari ahantu inama y'umutekano yari ihuriye n'ubwo bwicanyi. Kubera iyo mpamvu, Porokireri ntiyagaragaje mu buryo budashidikanywaho ibyo bintu avuga.

[220] Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 27 (AZM).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

2.3.3 *Inama y'umutekano yabereye ku kibuga cy'umupira w'amaguru cyo muri Komine ya Muganza*

222. Porokireri avuga ko Kalimanzira yafashe ijambo mu nama y'abaturage yabereye ku kibuga cy'umupira w'amaguru hafi y'ibiro bya Komine ya Muganza, mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994. Avuga ko muri iyo nama, Kalimanzira yahamagariye abaturage kwica Abatutsi no gukora amarondo kugira ngo bashakishe Abatutsi bari bihishe. Ayo magambo yatumye muri ako karere kose hakomeza kubera ubwicanyi bwibasiye imbaga y'Abatutsi[221].

223. Ubwunganizi buhakana ko Kalimanzira yari muri yo nama. Byongeye kandi, Kalimanzira ashingira ku myiregurire ye ya sinari mpari maze akavuga ko uretse ibihe bimwe byihariye, yakoreraga i Murambi (Perefegitura ya Gitarama) kuva ku itariki ya 14 Mata kugera ku ya 31 Gicurasi 1994 (reba akiciro ka III.1.2).

2.3.3.1 Ibimenyetso

Umutangabuhamya ushinja wiswe BWI

224. Umutangabuhamya wiswe BWI avuga ko nyuma y'urupfu rwa Perezida Habyarimana yabonye Kalimanzira inshuro ebyiri. Asobanura ko kuri izo nshuro zombi, yamubonye mu nama zabereye ku kibuga cy'umupira hafi y'ibiro bya Komine ya Muganza, muri Segiteri ya Remera[222].

225. Inama ya mbere yabaye mu mpera za Mata cyangwa mu ntangiriro za Gicurasi kandi BWI yagiye mu nama y'umutekano abisabwe n'umuserire. Yahageze mu gitondo mbere y'uko inama itangira asanga bamwe mu bategetsi bahageze kandi hari abaturage benshi, bagizwe n'abasiviri n'abasirikare. Hashize iminota nka 20 BWI ahagaze, abandi bategetsi barahageze maze Chrysologue Bimenyimana (Burugumesitiri wa Komine ya Muganza) atangiza inama. Abo bategetsi barimo Kalimanzira, Dominique Ntawukuriryayo (superefe wa Gisagara), na Alphonse Nteziryayo n'abasirikare[223].

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[221] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 51.

[222] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 28-29, 34 (BWI).

[223] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 28-30, 44 (BWI).

226. Burugumesitiri Bimenyimana ni we wafashe ijambo bwa mbere maze yerekana abategetsi. Yakurikiwe na Nteziryayo wabwiye abaturage ko Abatutsi barimo bateza umutekano muke, bityo bakaba baragombaga gushakishwa kubera ko bari abanzi b'abaturage. Nteziryayo arangije kuvuga, Kalimanzira na we yafashe ijambo, abwira abaturage ko ibyitso by'Inkotanyi ari byo byarimo guteza umutekano muke. Yabwiye abaturage ko batagomba gusahura imitungo y'Abatutsi, ko ahubwo bagomba kubatsembatsemba. Yongeyeho ko nyuma abategetsi bari kuzatanga imitungo y'Abatutsi bazaba bishwe. Yasobanuye ko kubera ko Abatutsi bari bashyigikiye Inkotanyi, abaturage bagombaga kubanza gutsemba ibyitso by'izo Nkotanyi. Yanabwiye abaturage ko bagombaga gukora amarondo amanywa n'ijoro kugira ngo babashe gutahura ibyitso aho byari byihishe hose. Kalimanzira ni we wafashe ijambo bwa nyuma kandi yamaze iminota iri hagati ya 45 na 60 avuga, mu gihe inama yose yamaze nk'amasaha abiri[224].

227. Inama irangiye, BWI yaratashye ariko agenda mbere y'uko Kalimanzira ahava. Mbere y'iyo nama, ubwicanyi bwari bwaratangiye kandi na nyuma yayo abaturage bakomeje guhiga Abatutsi. By'umwihariko, abaturage bajyaga gushakisha Abatutsi aho babaga bihishe, maze bakabica. BWI yibwira ko abo Batutsi bari bihishe bari kurokoka iyo hataza kuba iyo nama[225].

Umutangabuhamya ushinjura witwa Félicien Kajyibwami

228. Ku itariki ya 8 Gicurasi 1994, Kajyibwami yari ku muhanda ujya Kirarambogo muri Komine ya Muganza, noneho aza guhagarikwa kuri bariyeri n'abantu bagera ku icumi bayigenzuraga. Abo bantu bamwise Inkotanyi kandi Kajyibwami asobanura ko bashakaga kuvuga ko ari Umututsi. Ubwo abantu batangiye gukoranira aho hantu bashaka kureba Inkotanyi. Kajyibwami avuga ko yagerageje kubasobanurira ko atari Umututsi, anababwira ko yajyaga akinira umupira w'amaguru ku kibuga cya Komine ya Muganza akanakorana n'abahinzi bo muri ako gace mu bishanga. Yibutse ko yari yarigeze gukorana na Kalimanzira, kandi ko Kalimanzira yakomokaga muri ako

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[224] Iyandikomvugo y'iburanisha, 21 Gicurasi 2009, urup. 33 (BWI).

[225] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 33-34 (BWI).

karere. Ubwo rero yabwiye abo bantu bagenzuraga bariyeri ko yari yarigeze gukorana na Kalimanzira, kuko yibwiraga ko byari gutuma abo bantu batuza[226].

229. Kajyibwami avuga ko abo bantu bacungaga iyo bariyeri bamushubije ko kuva intambara yatangira nta makuru ya Kalimanzira bari bafite, noneho babwira Kajyibwami ko, kubera ko ari Inkotanyi, ari we ushobora kuba yarishe Kalimanzira. Abo bantu batangiye kumutera ubwoba, bamucira mu maso, ndetse banamukuramo imyenda yari yambaye. Abonye bagiye kumwica, Kajyibwami yababwiye ko yari yariganye na Burugumesitiri Bimenyimana, maze abasaba ko bamugeza kwa burugumesitiri wari uzi ko atari Umututsi[227].

230. Kubera ko abaturage bari bazi ko bwari buke hakaba inama y'umutekano ku biro bya komine, baramuretse noneho bukeye bamujyana ku biro bya komine mu masaa moya n'igice cyangwa saa mbiri za mu gitondo. Ubwo Kajyibwami yumvise ko hari hagiye kuba inama koko, kandi n'abaturage batangiye kuza. Iyo nama yatangiye mu masaa yine za mu gitondo, ibera mu cyumba cy'inama cy'ibiro bya komine. Iyo nama yitabiriwe n'abakonseye ba segiteri zari zigize Komine ya Muganza n'abandi bakozi b'iyo komine[228].

231. Kajyibwami yibwiye ko iyo nama yari iyobowe na Burgumesitiri Bimenyimana. Inama irangiye, Kajyibwami yabonanye na burugumesitiri mu biro bye, maze burugumesitiri amubaza niba Kalimanzira yarapfuye. Burugumesitiri Bimenyimana yavuze ko n'ubwo yaherukaga kubona Kalimanzira bwa nyuma muri Mata mu mujyi wa Butare, atigeze yumva igihuha kivuga ko Kalimanzira yapfuye. Burugumesitiri Bimenyimana yaje guha Kajyibwami urwandiko rwemeza ko ari Umuhutu kugira ngo ashobore kugera iwe[229].

2.3.3.2 Isesengura ry'Urugereko

232. Kalimanzira avuga ko mu gihe ibivugwa byabaga, yari ku kazi i Murambi (Perefegitura ya Gitarama). Nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

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[226] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, imp. 30-31 (Félicien Kajyibwami).

[227] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, urup. 31 (Félicien Kajyibwami).

[228] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, urup. 32 (Félicien Kajyibwami).

[229] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, imp. 9, 32-33 (Félicien Kajyibwami).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

233. Kajyibwami asobanura ko Burugumesitiri Bimenyimana yamubwiye ko yaherukaga kubona Kalimanzira muri Mata mu mujyi wa Butare. Urugereko rusanga ubu buhamya bushingiye ku nkuru mbarirano, ndetse ko, ibyo ari byo bose, butavuguruza ubwa BWI, kuko inama ishobora kuba yarabaye nyuma yaho gato. Kubera iyo mpamvu, Urugereko ntiruha agaciro kanini ubwo buhamya bwa Kajyibwami.

234. Urugereko rusanga mu gihe abandi batangabuhamya bashinja bavuga ku nama zabereye ku kibuga cy'umupira w'amaguru cya Komine ya Muganza, BWI ari we wenyine uvuga ko inama y'umutekano yabereye kuri icyo kibuga mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994.

235. Nk'urugero, abatangabuhamya biswe BCA na BBB bavuga ko babonye Kalimanzira mu nama yabereye hafi y'ibiro bya Komine ya Muganza, ku kibuga cy'umupira w'amaguru, muri Gicurasi (reba akiciro ka III.2.8.1) no mu iyimikwa rya Élie Ndayambaje muri Kamena (Reba akiciro ka III.2.3.6). Nta n'umwe muri abo batangabuhamya bombi, uvuga ko hari inama yari yarabereye kuri icyo kibuga mbere y'icyo gihe[230]. BWI avuga ko BCA yagiye mu nama yabereye ku kibuga cy'umupira mu mpera za Mata cyangwa mu ntangiriro za Gicurasi. Cyakora, BCA ntavuga ko yagiye mu nama yabaye mbere ku kibuga cy'umupira w'amaguru, kandi Porokireri ntiyamubajije ibibazo kuri icyo kintu. Kubera imirimo BCA yakoraga, kuba nta cyo avuga kuri iyo nama na Porokireri ntagire ibibazo ayimubazaho bituma umuntu yibaza niba iyo nama koko yarabaye.

236. Kubera iyo mpamvu, Urugereko rusanze Porokireri ataragaragaje ku buryo budashidikanywaho ko Kalimanzira yagiye mu nama y'abaturage yasuzumirwagamo iby'umutekano ku kibuga cy'umupira w'amaguru hafi ya Komine ya Muganza, mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994.

2.3.4 *Inama yabereye ku irimbi n'igikorwa cyo gushakisha abantu cyabereye muri Arboretum*

237. Porokireri avuga ko muri Kamena 1994, hari inama yabereye ku irimbi riri hafi ya Kaminuza y'u Rwanda muri Butare. Iyo nama yitabiriwe n'abategetsi banyuranye

[230] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 6 (BBB).

barimo Kalimanzira, wategetse imbaga y'abantu bari aho gushakisha Abatutsi bari bihishe no kubica[231].

238. Ubwunganizi buhakana ko Kalimanzira yari muri iyo nama kandi Kalimanzira yireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

2.3.4.1. Ibimenyetso

Umutangabuhamya ushinja wiswe FAC

239. Mu buhamya bwe mu Rukiko, umutangabuhamya wiswe FAC avuga ko Joseph Kanyabashi (wari Burugumesitiri wa Komine ya Ngoma) yamutumiye mu nama. Iyo nama yabaye bukeye mu masaa tatu n'igice za mu gitondo, ku irimbi rya Kaminuza, hafi y'ishyamba ryitwa « Arboretum », kandi yitabiriwe n'abantu bagera ku 2.000 bari baturutse imihanda yose[232]. Hari abategetsi banyuranye, barimo Burugumesitiri Kanyabashi, Alphonse Nteziryayo, Sylvain Nsabimana (wari perefe wa Butare), abasuperefe n'ababurugumesitiri b'amakomine yegereye aho hantu[233].

240. Umutangabuhamya FAC avuga ko Kalimanzira yari muri iyo nama yatumijwe kugira ngo bige ikibazo cy'Abatutsi bari bakihishe n'icy'Abahutu bari batangiye kwica abandi Bahutu. Kalimanzira ni we wahaye ikaze abantu bari bitabiriye iyo nama kandi ni we mutegetsi wo mu rwego rwo hejuru wari uhari. Kalimanzira yategetse abantu gusaka amazu bakareba niba nta mwanzi wihishemo no gushakisha ahantu hose mu ishyamba no mu bihuru kugira ngo barebe niba nta Nkotanyi zihihishe. FAC yumvise ijambo « Inkotanyi » rishaka kuvuga abarwanyi baturutse mu Buganda n'abaturanyi be. Asobanura ko muri icyo gihe mu Rwanda, « umwanzi » byavugaga Umututsi. FAC yibuka ko Kalimanzira yihanangirije abantu akababuza kugira Umututsi bahisha, kugira ngo iminsi mikuru niba mu gihugu hose muri Nyakanga, he kuzaba hasigaye n'Inkotanyi n'imwe. Abafashe ijambo nyuma ye, ari bo Perefe Nsabimana na Burugumesitiri Kanyabashi, na bo basubiyemo ibyo yari amaze kuvuga[234].

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[231] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 53.

[232] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 6-7, 31 (FAC).

[233] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 7 (FAC).

[234] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 8-10 (FAC).

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241. Bamaze guhabwa ayo mabwiriza, FAC n'abandi bantu bari mu nama bahise bajya gushakisha Abatutsi bari bihishe. Abatutsi babiri bo muri Segiteri ya Tumba barishwe. Mu minsi yakurikiyeho, FAC yagiye mu gitero cyahitanye umwana w'Umututsi. Yafashije kandi abandi guta abana batandatu b'Abatutsi mu musarani. FAC avuga ko Abatutsi batatu bari bihishe mu nzu ye na bo baje kwicwa kubera ko atari afite ubushobozi bwo kugurira abicanyi ngo be kubica[235].

242. Umutangabuhamya FAC anasobanura ko mbere y'iyo nama, mu masaa moya n'igice cyangwa saa mbiri za mu gitondo, bajagajaze ishyamba rya Arboretum bagasangamo imirambo itatu y'abantu bari barishwe, ariko ntibahabona umuntu n'umwe muzima. Icyo gikorwa cyamaze hafi isaha[236].

Umutangabuhamya ushinjura wiswe Albert Barikwinshi

243. Barikwinshi avuga ko muri Kamena 1994, Konseye Vianney yamusabye kwifatanya n'abandi gukora umuganda bagashakisha abantu mu ishyamba rya Arboretum, hafi ya Kaminuza[237]. Bukeye kuwa gatandatu, Barikwinshi yajyanywe ku irimbi rya Kaminuza muri bisi maze ahasanga andi mabisi atatu n'abantu bagera kuri 500. Umujandarume witwaga Habyarabatuma yavuganye n'abakonseye bose, hanyuma abakonseye na bo bategeka abo bantu kugota ishyamba rya Arboretum no kuvuga baranguruye ko umuntu wese wihishe atagombaga kugira icyo atinya. Abakonseye bavuze ko abajandarume bari kugenda imbere kandi barasa. Abo bakonseye bongeyeho ko bumvise ko Inkotanyi zashoboraga kuba zageze i Save, bityo bikaba byari ngombwa gusaka mu ishyamba bakareba ko Inkotanyi zitahihishe[238].

244. Barikwinshi yinjiye mu ishyamba nk'uko yari yabitegetswe maze arasakuza cyane. Hashize iminota itanu yumvise amasasu avugira mu ishyamba hagati. Amaze nk'isaha n'iminota 40 ashakisha, Barikwinshi yasanze Habyarabatuma na Kaporali Gatwaza

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235 Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 9-10 (FAC).

236 Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 9, 28-29 (FAC).

237 Inyandikomvugo y'iburanisha, 26 Mutarama 2009, urup. 57 n'inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 14 (Albert Barikwinshi).

238 Inyandikomvugo y'iburanisha, 26 Mutarama 2009, urup. 57 n'inyandikomvugo y'iburanisha, 27 Mutarama 2008, imp. 14-16 (Albert Barikwinshi).

bafashe umusore w'Umututsi n'umugore[239]. Yabonye ko abo Batutsi bari bashonje, bananiwe cyane kandi ko bari bamaze iminsi muri iryo shyamba. Abo Batutsi bajyanywe mu kigo [cya Jandarumori] mu modoka irimo abajandarume, ariko Barikwinshi ntazi uko byabagendekeye[240].

245. Habyarabatuma yabwiye abantu bose ko bagomba guteranira hamwe maze abashimira akazi bakoze. Yabasobanuriye ko igikorwa bari bavuyemo cyari ingirakamaro kubera ibibazo by'umutekano byari mu gihugu hose, maze abashishikariza gukomeza gukora ibikorwa nk'ibyo mu minsi iri mbere. Arangije kuvuga ayo magambo, yaberetse perefe mushya wa Butare, ariko Barikwinshi ntiyibuka izina rye[241].

246. Barikwinshi avuga ko atabonye Kalimanzira mbere y'igikorwa cyo gusaka mu ishyamba rya Arboretum, igihe cyakorwaga cyangwa nyuma yacyo, ndetse ko atigeze yumva ko habaye ikindi gikorwa nk'icyo. Anavuga ko abantu 500 batashoboraga gukwirwa muri iryo rimbi[242].

Umutangabuhamya ushinjura witwa Jean de Dieu Rutabana

247. Rutabana avuga ko muri Kamena 1994, resiponsabule wa Serire y'Agasharu yamubwiye ko umuganda wari usanzwe ukorerwa muri serire yabo wari gukorerwa mu ishyamba rya Arboretum. Muri uwo muganda, hari hagamijwe gusaka muri iryo shyamba kugira ngo barebe niba nta Nkotanyi zihishemo. Nk'uko yari amaze kubisabwa, Rutabana yuriye bisi saa mbiri za mu gitondo, kandi hari ku wa gatandatu. Bageze ku irimbi rya Kaminuza hashize nk'iminota nka 15[243].

248. Akigera ku irimbi hafi ya Arboretum, Rutabana yahasanze Habyarabatuma, wari komanda wa Jandarumori muri Butare. Habyarabatuma yamaze nk'iminota itanu avugana n'abakonseye b'amasegiteri atandukanye. Barangije kuvugana, abo bakonseye na bo bagejeje amabwiriza ku baturage, maze bababwira ko itsinda rimwe

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239 Inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 26 (Albert Barikwinshi).

240 Inyandikomvugo y'iburanisha, 26 Mutarama 2009, urup. 59 (Albert Barikwinshi).

241 Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 58; inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 16 (Albert Barikwinshi).

242 Inyandikomvugo y'iburanisha, 26 Mutarama 2009, urup. 59; inyandikomvugo y'iburanisha, 27 Mutarama 2009, urup. 17 (Albert Barikwinshi).

243 Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 7-8, 17, 22 (Jean de Dieu Rutabana).

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ryari gusaka riturutse i Cyarwa naho irindi rigahera i Save kandi ko abajandarume bari kugota ishyamba kugira ngo batangire umuntu wese wari kugerageza guhunga[244].

249. Gusaka byatangiye saa mbiri za mu gitondo. Abajandarume batangiye kurasa naho abaturage batangira gutera akamo. Icyo gikorwa cyo gusaka cyamaze nk'isaha n'igice. Bafashe umusore n'umukobwa bababashyira Habyarabatuma. Rutabana yumvaga abo bantu atari Inkotanyi kubera ukuntu bari bameze kuko bari bashonje kandi yabonaga ari Abatutsi bari baraje kwihisha aho hantu kubera ko bahigwaga. Bitewe n'uko bari bababwiye ko Inkotanyi zitwazaga intwaro kandi zikambara imyambaro ya gisirikare, yabonaga abo bantu ari Abatutsi basanzwe. Ntiyashoboye kumenya uko byaje kubagendekera nyuma[245]. Birangiye, Habyarabatuma yafashe ijambo gato, abwira abaturage ko bagomba « gutema ibihuru » mu maserire yabo kugira ngo barebe niba nta Nkotanyi zihishemo. Yanaberetse perefe mushya, ariko Rutabana ntiyibuka izina rye[246].

250. Rutabana ntiyabonye Kalimanzira mu nama yabaye nyuma y'igikorwa cyo gusaka cyangwa igihe Habyarabatuma yaberekaga perefe mushya. Avuga ko agereranyije hari abantu babarirwa hagati ya 400 na 500, kandi avuga ko aho hantu hatashoboraga kuba hari abantu 2.000. Hari amabisi ane gusa yazanaga abantu aho hantu kandi abantu bagera ku 100 ni bo bonyine baje n'amaguru[247]. Rutabana asobanura ko nta nama yashoboraga kuba mbere y'isaka kubera ko abantu bari bihishe mu ishyamba bashoboraga kumva urusaku maze bagahunga[248]. Rutabana avuga ko nta rindi saka ryakorewe muri Arboretum muri Kamena 1994[249].

2.3.4.2. Isesengura ry'Urugereko

251. Mu gihe kivugwa, Kalimanzira avuga ko yari iwe mu rugo mu mujyi wa Butare. Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

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[244] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 8, 19 (Jean de Dieu Rutabana).

[245] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 8-9, 20-21 (Jean de Dieu Rutabana).

[246] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 8-9, 19 (Jean de Dieu Rutabana).

[247] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 9-10, 18 (Jean de Dieu Rutabana).

[248] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 10 (Jean de Dieu Rutabana).

[249] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 9-10 (Jean de Dieu Rutabana)

252. Urugereko rusanga bariya batangabuhamya bose uko ari batatu, bavuga kuri icyo kintu cyabaye, bakekwaho kuba baragize uruhare muri jenoside cyangwa barahamwe n'icyaha cya jenoside. Rutabana yakatiwe igihano cy'igifungo cy'imyaka 30, ariko nyuma aza gutoroka ahungira i Burundi[250]. Barikwinshi yafungiwe mu Rwanda akekwaho kugira uruhare muri jenoside, ariko afunguwe ahungira mu Burundi kuko yumvise ko yari kongera gufatwa[251]. FAC yahamijwe icyaha n'urukiko Gacaca rwo muri Segiteri ya Tumba kubera ko yasahuye akajya no mu bitero mu gihe cya jenoside, akaba yaranafatanyije n'abandi mu bindi byaha ndetse akaba n'icyitso. Yakatiwe igifungo cy'imyaka 25 ariko yarajuriye[252]. FAC yemera kandi ko yirukanywe ku kazi yakoraga nk'umucungamari kubera kunyereza umutungo no kuba yari afite ibibazo by'uburwayi bwo mu mutwe bitewe n'impanuka y'imodoka yigeze kugira[253].

253. Abo batangabuhamya uko ari batatu bari mu gikorwa cyo gusaka muri Arboretum, kandi bose bashobora kuba bafite impamvu zo kubeshya ku byerekeranye n'inama zabaye mbere cyangwa nyuma zigamije kubahamagarira gukora jenoside. Ku byerekeranye na Barikwinshi na Rutabana, aba batangabuhamya bafite impamvu zumvikana zo guhakana ko izo nama zabaye cyangwa ko bazizi kubera ko batorotse. FAC yemera ko yagiye mu bitero byababaye nyuma y'inama yabereye ku irimbi, bityo akaba ari icyitso. Afite rero impamvu igaragara yo gupfobya uruhare rwe muri ubwo bwicanyi bwatumye akatirwa igihano yajuririye, niba abona ko gushinja Kalimanzira n'abandi bategetsi kuba baramuhamagariye gukora ibyaha, bishobora kumugirira akamaro mu rubanza rwe. Ubuhamya bw'abo batangabuhamya bugomba rero kwitonderwa.

254. Porokireri yemeza ko ubuhamya bwa FAC bushyigikirwa n'inyandiko zatanzwe nk'ibimenyetso[254]. Mu ibaza rinyomoza, beretse Kalimanzira ibaruwa yo ku itariki ya 24 Gicurasi 1994 Burugumesitiri Kanyabashi yandikiye abakonseye batandukanye. Kalimanzira yemera ko iyo baruwa yavugaga ko inama y'umutekano yari yafashe

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[250] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 6-7 (Jean de Dieu Rutabana).

[251] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 53-56 (Albert Barikwinshi).

[252] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 9, 14-17, 23 [mu muhezo] (FAC).

[253] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 25 [mu muhezo] (FAC).

[254] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 56.

icyemezo cyo gukora umuganda ku itariki ya 27 Gicurasi 1994, bagatema ibihuru kugira ngo abagizi ba nabi babure aho bihisha. Cyakora, Kalimanzira yemeza ko igikorwa nk'icyo cyari ikintu gisanzwe mu Rwanda, ko burugumesitiri yari ashinzwe gutegeka abasiviri gukora akazi nk'ako, kandi ko muri icyo gihe we yari yibereye i Gitarama[255].

255. Urugereko rusanga nta muburanyi uhakana ko habaye igikorwa cyo kujagajaga Arboretum kandi ko Kalimanzira atari aho hantu. Kubera iyo mpamvu, ibaruwa ivugwa nta gaciro ifite kuri iki kibazo. Byongeye kandi, ibaruwa yanditswe na Burugumesitiri Kanyabashi ntishyigikira ikintu cy'ingenzi gikubiye mu buhamya bwa FAC, aho avuga ko Kalimanzira yari mu nama yabaye nyuma y'igikorwa cyo gusaka cyabaye muri Gicurasi cyangwa muri Kamena 1994, kandi ko, by'umwihariko, Uregwa yasabye abaturage gushakisha umwanzi n'Inkotanyi bari bihishe.

256. Urugereko rusanga ibice bimwe by'ubuhamya bwa FAC bitera gushidikanya ku byerekeranye na kiriya gikorwa. FAC avuga ko bajagajaze Arboretum mbere y'inama Kalimanzira yabwiriyemo abaturage gusaka mu ishyamba no mu bihuru bashakisha Inkotanyi. Cyakora, uyu mutangabuhamya ntasobanura impamvu yatumye batangira gusaka mbere y'inama cyangwa ngo avuge umuntu ushobora kuba yarabahaye amabwiriza yo kubikora. Kubera ko rusanga ubuhamya bwa FAC bugomba kwitonderwa ndetse bukaba budafite ubundi bwakwizerwa bubushyigikira, Urugereko rusanga ubwo buhamya butakwizerwa cyane ku buryo rwabushingiraho ruhamya Uregwa icyaha. Kubera iyo mpamvu, Porokireri ntiyagaragaje ku buryo budashidikanywaho ko Kalimanzira yari mu gikorwa cyo gushakisha abantu mu ishyamba rya Arboretum cyangwa ko yari mu nama iyo ari yo yose yaba yarabereye hafi aho.

2.3.5 *Inama yabereye muri Nyirakanywero*

257. Porokireri avuga ko Kalimanzira yari mu nama yabereye muri Nyirakanywero muri Segiteri ya Nyabitare (Komine ya Muganza) mu ntangiriro za Kamena 1994. Icyo

[255] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 54-57 (Callixte Kalimanzira).

gihe, Kalimanzira yari kumwe n'abandi bategetsi kandi yafashe ijambo ategeka abaturage kurwanya ibyitso bya FPR[256].

258. Ubwunganizi buhakana ko Kalimanzira yari muri iyo nama ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

2.3.5.1. Ibimenyetso

Umutangabuhamya ushinja wiswe AZT

259. Umutangabuhamya wiswe AZT avuga ko yabonye Kalimanzira inshuro eshatu mu mwaka wa 1994[257]. Ku nshuro ya gatatu yamubonye mu nama yabereye muri Nyirakanywero, hafi y'isoko ryo muri Segiteri ya Nyabitare[258]. AZT avuga ko agereranyije, iyo nama yabaye mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 kandi ni abantu bamubwiye ko yari kuba. Iyo nama yitabiriwe n'imbaga y'abantu baturutse mu makomine anyuranye, kandi AZT yamenyemo abantu bari baturutse mu masegiteri arindwi y'iyo komine[259]. Iyo mbaga y'abantu yateraniye ahantu hacuramye munsi y'isoko. N'ubwo bari bamubwiye ko inama yari gutangira saa yine za mu gitondo, iyo nama yaje gutangira mu masaa munani z'amanywa. AZT yakurikiranye iyo nama kugeza irangiye[260].

260. Hashize igihe gito, hatangiye kuza imodoka zizanye Alphonse Nteziryayo (AZT avuga ko yari perefe wa Butare)[261] wayoboye inama, Koloneli Muvunyi, Kalimanzira, n'abandi bantu AZT atari azi. Nteziryayo yabwiye imbaga y'abantu bari aho ko igihugu cyari gifite abanzi bane: (1) Amerika, (2) Museveni, (3) Inyenzi Inkotanyi, n'(4) ibyitso byazo (ni ukuvuga Abatutsi). Yongeyeho ko umuntu wari gufatwa ahishe

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[256] Imyanzuro nsozarubanza ya Porokireri, igika cya 59.

[257] Inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 24 (AZT).

[258] Inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 27 (AZT).

[259] Inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 27 n'inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 23, 25 (AZT).

[260] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 25-28 (AZT).

[261] Ku itariki ya 17 Kamena 1994 ni bwo Alphonse Nteziryayo yagizwe perefe wa Butare (reba Ikimenyetso gihamya N° D107).

Umututsi yari gushyikirizwa abategetsi maze agahanwa. Muvunyi na we yavuze amagambo nk'ayo[262].

261. Kalimanzira na we yafashe ijambo maze abwira abari aho ko bagomba kurwanya « ibyitso » bimazeyo. Yanavuze ko kugenzura amabariyeri byatangiye kandi ko umuntu wese bari gusanga yarenze ku mabwiriza yari gufatwa nk'icyitso. Kalimanzira yategetse ko Abatutsi bihishe bashakishwa maze asaba abacunze za bariyeri kuba maso. Nyuma y'iyo nama, AZT n'abandi bantu bahise batangira gushakisha Abatutsi mu mazu, mu bihuru no ku dusozi. We n'abantu bari kumwe mu itsinda rimwe babonye Umututsikazi wari wafashwe n'irindi tsinda maze baramwica[263].

Umutangabuhamya ushinjura wiswe AK42

262. Umutangabuhamya wiswe AK42 avuga ko yagiye mu nama ebyiri z'abaturage zabaye hagati ya Mata na Kamena 1994[264]. Inama ya mbere yabereye ku isoko rya Nyirakanywero ku itariki ya 23 Gicurasi 1994[265] kandi yari iyobowe na Sylvain Nsabimana (perefe wa Butare). AK42 yabwiwe ko muri iyo nama bari kuvugiramo ibibazo by'umutekano kandi ko yari gutangira mbere ya saa sita. AK42 yibuka iyo tariki kubera ko yari ahishe Umututsi mu nzu ye maze bigatuma akurikirana ibyavugwaga mu nama, kugira ngo amenye niba urugo rwe rwari guterwa[266].

263. AK42 avuga ko iyo nama yatangiye nyuma ya saa sita kubera ko abategetsi baje batinze. AK42 yibuka ko mu bategetsi bayijemo harimo Chrysologue Bimenyimana (Burugumesitiri wa Komine ya Muganza), Perefe Nsabimana, Koloneli Muvunyi, Koloneli Nteziryayo, Porokireri wa Repubulika, Ruzindana, na superefe wa Gisagara. Iyo nama ntiyatinze kandi yabereye ahantu hacuramye kandi abategetsi bari bicaye ku ntebe naho abaturage, bageraga kuri 300, bicaye hasi imbere y'abategetsi. Icyo gihe, abategetsi babwiye abaturage ko bagomba kureka gutera abaturanyi babo, bagahagarika ubwicanyi maze bagakomeza gukora imirimo yabo isanzwe. Bavuze

[262] Inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 27-28 (AZT).

[263] Inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 28-29 (AZT).

[264] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 4 [mu muhezo] (AK42).

[265] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 5 (AK42).

[266] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 5, 9 (AK42).

kandi ko imirwano yagendaga isatira iyo komine. Muri make, abaturage bagombaga kwirinda ubugizi bwa nabi ubwo ari bwo bwose, no kwita ku mutekano w'abaturage[267].

264. AK42 avuga ko Kalimanzira atari muri iyo nama kandi ko we yayigumyemo kugeza irangiye. Yongeraho ko nta zindi nama zabereye ku isoko muri Gicurasi[268].

Umutangabuhamya ushinjura wiswe MKB

265. Umutangabuhamya wiswe MKB ni Umuhutukazi wiciwe umugabo we n'abana be bane muri Mata 1994 bazira ko ari Abatutsi[269]. MKB avuga ko yagiye mu nama yabereye ku isoko rya Nyirakanywero mu mpera za Gicurasi 1994 nyuma ya saa sita, nyuma y'uko ubwicanyi buhagaze hagati muri Gicurasi 1994. Yamenye ko iyo nama yari kuba abibwiwe n'abandi baturage ubwo yari mu nzira ajya gushaka ifumbire yo gushyira mu murima we w'umuceri. MKB yabonye abategetsi baza mu modoka zabo, berekeza ku isoko maze arabakurikira[270].

266. MKB yicaye hasi hamwe n'abandi baturage, imbere y'abategetsi bari bicaye ku ntebe. Muri abo bategetsi yamenyemo Chrysologue Bimenyimana, Tharcisse Muvunyi, Alphonse Nteziryayo, Déo Ngayabewura na Élie Ndayambaje. Muvunyi na Nteziryayo bavuze ku bibazo by'umutekano maze basaba abaturage kudakomeza kwicana hagati yabo ahubwo bakarinda umutekano wabo n'uw'Abatutsikazi bashatswe n'Abahutu[271].

267. MKB yakurikiranye iyo nama yose yamaze nk'isaha imwe. Kalimanzira ntiyari ayirimo, kandi MKB yibuka ko Uregwa yari amaze igihe kinini atagera muri segiteri yabo. Nta yindi nama yumvise ko yaba yarabereye ku isoko hagati ya Mata na Kamena 1994[272].

Umutangabuhamya ushinjura wiswe KXC

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[267] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 5-6 (AK42).

[268] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 6, 10 (AK42).

[269] Inyandikomvugo y'iburanisha, 1 Ukuboza 2008, urup. 7 [mu muhezo] (MKB).

[270] Inyandikomvugo y'iburanisha, 1 Ukuboza 2008, urup. 9 (MKB).

[271] Inyandikomvugo y'iburanisha, 1 Ukuboza 2008, imp. 9-10, 18-19 (MKB).

[272] Inyandikomvugo y'iburanisha, 1 Ukuboza 2009, urup. 10 (MKB).

268. Umutangabuhamya wiswe KXC yagiye mu nama yabereye ku isoko rya Nyirakanywero mu cyumweru cya kabiri cya Gicurasi 1994. Burugumesitiri Bimenyimana ni we wabwiye KXC iby'iyo nama, kandi uyu mutangabuhamya avuga ko abaturage bo muri Segiteri ya Rwamiko (Komine ya Kibayi) bayibwiwe n'umuntu wazengurutse muri iyo segiteri n'imodoka, avugira mu ndangururamajwi, abwira abaturage kujya mu nama[273].

269. Igihe iyo mitingi yabaga, ubwicanyi bwari bwarahagaze. KXC yahageze saa tanu za mu gitondo, ariko inama itangira nka saa munani z'amanywa kubera ko abashyitsi bahageze batinze. Abategetsi baje mu mamodoka. Abaturage bicaye mu kibuga, mu gice cyo haruguru cy'aho hantu hacuramye, naho abategetsi bicara ku ntebe. Iyo nama yavugiwemo ibibazo by'umutekano kandi yarangiye mu masaa kumi z'umugoroba. Iyo nama yakoreshejwe kugira ngo bahumurize abaturage bo muri ako gace kuko bamwe muri bo, cyane cyane Abatutsikazi bari barashatswe n'Abahutu, bari bafite ubwoba [274].

270. Tharcisse Muvunyi, Alphonse Nteziryayo, Chrysologue Bimenyimana na Élie Ndayambaje bari muri iyo nama[275]. KXC yibuka ko Burugumesitiri Bimenyimana ari we wafashe ijambo bwa mbere akerakana abategetsi maze agakurikirwa na Nteziryayo, Muvunyi na Perezida w'urukiko rwa mbere rw'iremezo. Muri rusange, Nteziryayo yavuze ku mutekano na FPR yari mu Bugesera[276]. KXC asobanura kandi ko Muvunyi yavuze ku banzi bane b'u Rwanda. Muvunyi yategetse ko imbibi z'amasegiteri zirindwa, abantu bagakora amarondo nijoro, amabariyeri akongerwa, kandi abizeza kongera umubare w'abajandarume[277].

271. Umutangabuhamya KXC avuga ko Kalimanzira atari muri iyo nama[278]. Yemeza ko nta zindi nama zabereye kuri santeri ya Nyirakanywero hagati ya Mata na Kamena 1994 kuko ngo iyo ziza kuba, aba yarabimenye byanze bikunze. Cyakora, avuga ko

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[273] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, imp. 2-3 (KXC).

[274] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, imp. 3-5, 13 (KXC).

[275] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 4 (KXC).

[276] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 16 (KXC).

[277] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, imp. 16-17 (KXC).

[278] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 4 (KXC).

hari indi nama imwe yabereye muri Komine ya Muganza muri Kamena, igihe burugumesitiri mushya yarahizwaga[279].

2.3.5.2. Isesengura ry'Urugereko

272. Kalimanzira yemeza ko mu gihe kivugwa yari iwe mu rugo rwe mu mujyi wa Butare. Cyakora, nk'uko bivugwa, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

273. Rushingiye ku byo abatangabuhamya bose bashinja n'abashinjura bavuga kuri icyo kintu cyabaye, Urugereko rusanga bose bari mu nama yabereye ku isoko rya Nyirakanywero muri Segiteri ya Nyabitare. Ubuhamya bwabo burahuye ku bintu binyuranye, nko ku byerekeranye n'uko abategetsi baje bakererewe[280], abategetsi bari bahari[281], ahantu abaturage n'abategetsi bari bicaye[282], n'uko Nteziryayo yavuze ku banzi bane b'u Rwanda[283]. Urugereko rusanga AZT mu buhamya bwe yibeshya akavuga ko Alphonse Nteziryayo yari perefe wa Butare icyo gihe, kandi yarashyizweho ku itariki ya 17 Kamena 1994. Cyakora, Urugereko rusanga uko kwibeshya kudakanganye cyane, bityo kukaba kutarubuza kwemeza ibivugwa hano[284].

274. Cyakora, AZT ni we mutangabuhamya wenyine uvuga ko Kalimanzira yari muri iyo nama kandi ko yayifashemo ijambo. Urugereko rusanga AZT yarakatiwe igihano cy'igifungo cya burundu, ariko akaba yarajuriye ndetse akaba yari icyitso muri icyo

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[279] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, imp. 5, 19, 20 [mu muhezo] (KXC).

[280] Inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 28 (AZT); inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 5 (AK42); inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 3 (KXC).

[281] Inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 27 (AZT); inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 6 (AK42); inyandikomvugo y'iburanisha, 1 Ukuboza 2008, urup. 10 (MKB); inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 4 (KXC).

[282] Inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 25 (AZT); inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 5 (AK42); inyandikomvugo y'iburanisha, 1 Ukuboza 2008, imp. 9-10 (MKB); inyandikomvugo y'iburanisha, 2 Ukuboza 2008, imp. 3-4 (KXC).

[283] Inyandikomvugo y'iburanisha, 20 Kamena 2008 urup. 28 (AZT); inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 17 (KXC).

[284] Reba Imyanzuro nsozarubanza y'Ubwunganizi, igika cya 658.

kintu cyabaye, kuko yiyemerera ko hari Umututsi yishe nyuma y'iyo nama[285]. Kubera rero ko ashobora kuba afite impamvu yo gushinja Kalimanzira, Urugereko rusanga ubuhamya bwe bugomba kwitonderwa.

275. Abatangabuhamya bashinjura batanze ubuhamya butavuguruzanya kuri iyo nama, kandi bose bemeza, bivuye inyuma, ko Kalimanzira atari ayirimo. AK42 yafungiwe mu Rwanda ariko aza gufungurwa atagize icyo ashinjwa. Yongeye gusabwa kwitaba ubutabera, yahisemo guhunga ava mu Rwanda[286] kuko yari amaze gushinjwa ko yagize uruhare muri jenoside[287]. Urugereko rusanga kandi AK42 yarakoranye na Kalimanzira igihe yari impunzi muri Kenya[288]. Kubera rero ko avuga bari inshuti cyane ndetse ngo Kalimanzira akaba yari ameze nk'umuvandimwe we[289], ibyo byatuma umuntu atekereza ko, mu buhamya bwe, AK42 ashobora kuba abogabamiye kuri Kalimanzira.

276. Umutangabuhamya MKB ntiyigeze ashinjwa kugira uruhare muri jenoside. Urugereko ntirwemera ibyo Porokireri avuga ko bitumvikana ukuntu MKB yaba yaragiye mu nama nyuma y'uko hafi y'abantu bose bo mu muryango we bishwe[290]. Mu by'ukuri, Urugereko rusanga ibisobanuro uyu mutangabuhamya yatanze byakwizerwa, kubera ko bamaze gusahura inzu ye bagatwara ibintu bye byose, yavuye iwe akajya gushakira umuceri umwana we w'Umututsi. Urugereko rusanga kandi, urebye ibibazo MKB yari afite, byumvikana kuba uyu mutangabuhamya yari ashishikajwe no kumenya ibyari kuvugirwa mu nama y'umutekano[291].

277. Umutangabuhamya KXC yamaze imyaka umunani afungiye mu Rwanda, maze aza kugirwa umwere n'Urukiko Gacaca[292]. Kubera imirimo yakoraga, Urugereko rusanga KXC yarashoboraga kumenya iby'inama zaberaga muri segiteri ye kandi yari

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[285] Inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 18 [mu muhezo] (AZT).

[286] Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, urup. 66 [mu muhezo] (AK42).

[287] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 27-34 [mu muhezo] (AK42).

[288] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 3 [mu muhezo] 16, 20 (AK42).

[289] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 15 (AK42).

[290] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 64.

[291] Inyandikomvugo y'iburanisha, 1 Ukuboza 2008, urup. 7, 14-15 (MKB).

[292] Inyandikomvugo y'iburanisha, 2 Ukuboza 2008, urup. 6 (KXC).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

kumenya Kalimanzira iyo uyu aza kuba muri iyo nama[293]. Urugereko rusanga ubuhamya bwa MKB na KXC bwakwizerwa.

278. Kubera ibimaze kuvugwa, by'umwihariko ubuhamya bwa AZT budafite ubundi bubushyigikira, n'ubuhamya bwakwizerwa kandi butavuguruzanya bwa MKB na KXC, Urugereko rusanze Porokireri atagaragaje ku buryo budashidikanywaho ko Kalimanzira yari mu nama yabereye ku isoko rya Nyirakanywero, muri Segiteri ya Nyabitare.

2.3.6 *Umuhango wo kwimika Élie Ndayambaje ku mwanya wa burugumesitiri*

279. Porokireri avuga ko Kalimanzira yari mu muhango wo kwimika Élie Ndayambaje ku mwanya wa burugumesitiri wa Komine ya Muganza. Uwo muhango wabereye mu ruhame hafi y'ibiro bya Komine ya Muganza, ahagana ku itariki ya 21 cyangwa iya 22 Kamena 1994. Muri iyo nama, Ndayambaje yagaye imbaga y'abantu bari aho kubera ko bafashaga Abatutsi kwihisha, maze abategeka kwica Abatutsi bari bararokotse. Porokireri avuga ko n'ubwo Kalimanzira atafashe ijambo, Uregwa yagaragaje ko ashyigikiye ubwicanyi bwakurikiyeho kubera ko atamaganye amagambo ya Ndayambaje. Yagaragaje kandi ko yorohereje Ndayambaje mu bikorwa byo guhamagarira abantu gukora ubwicanyi[294].

280. Ubwunganizi buvuga ko Kalimanzira atari muri uwo muhango kandi Kalimanzira yiyambaza imyiregurire ya sinari mpari (reba akiciro ka III.1.2).

2.3.6.1.Ibimenyetso

Umutangabuhamya ushinja wiswe BCA

281. Umutangabuhamya wiswe BCA avuga ko yari mu muhango wo kwimika Élie Ndayambaje ku mwanya wa burugumesitiri mushya wa Komine ya Muganza wabaye ku itariki ya 21 cyangwa iya 22 Kamena 1994. BCA yibuka ko mu bategetsi bari muri uwo muhango harimo Kalimanzira, Alphonse Nteziryayo (perefe mushya wa Butare), Sylvain Nsabimana (wahoze ari perefe wa Butare), Dominique Ntawukulilyayo (superefe wa Gisagara), na Pauline Nyiramasuhuko. Muri uwo muhango, Ndayambaje

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[293] Inyandikomvugo y'iburanisha, 1 Ukuboza 2008, urup. 70 [mu muhezo] (KXC).

[294] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 69-70.

yabwiye abari aho ko « iyo ushaka gukura umwanda mu nzu yawe, utawurunda imbere y'amashyiga. » BCA avuga ko yasobanukiwe ko Ndayambaje yashakaga kuvuga ko abantu bari bahishwe bagomba gushyirwa ahagaragara maze na bo bakicwa[295]. BCA ntiyibuka ko Kalimanzira yaba yarafashe ijambo muri uwo muhango[296]. Nyuma y'iyo nama, Abatutsi n'Abahutu batavugaga rumwe n'ubutegetsi basohowe mu bwihisho bwabo maze baricwa[297].

Umutangabuhamya ushinja wiswe BBB

282. Umutangabuhamya wiswe BBB avuga ko yabonye Kalimanzira inshuro eshatu nyuma y'urupfu rwa Perezida Habyarimana. Inshuro ya nyuma ni igihe basubizaga Élie Ndayambaje ku mwanya wa burugumesitiri wa Komine ya Muganza muri Kamena, mu muhango wabereye hafi y'ibiro bya Komine ya Muganza. BBB yageze aho hantu mbere y'uko umuhango utangira, kandi hari Abahutu babarirwa hagati ya 200 na 300. Mu bategetsi bitabiriye uwo muhango harimo Kalimanzira, Chrysologue Bimenyimana (wahoze ari burugumesitiri wa Komine ya Muganza), Perefe Nteziryayo, resiponsabule wa serire na konseye wa segiteri. Célestin Habyambere, wayobaraga gahunda, yafashe ijambo maze yerekana Ndayambaje avuga ko ari we burugumesitiri mushya wa Muganza[298].

283. Mu ijambo rye, Ndayambaje yabanje gushimira abaturage kubera icyizere bari bamufitiye cyo kubabera burugumesitiri. Nyuma yaho yagaye imbaga y'abantu bari aho akoresheje imvugo izimije, avuga ngo aho gukubura bajyana umwanda hanze, bo bawugarura mu nzu. Kubera ko abaturage batahise basobanukirwa n'ayo magambo, Célestin Habyambere yabasobanuriye ko mu ngo zabo hihishe abana, abuzukuru n'abagore bose b'Abatutsi, ko abo bantu ari bo mwanda, bityo bakaba baragombaga kubasuka hanze. Nyuma y'ayo magambo, abaturage bagiye kwica abo bantu. Kalimanzira ntiyafashe ijambo muri iyo nama[299].

Umutangabuhamya ushinjura wiswe AM02

[295] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 50-51 (BCA).

[296] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 58 [mu muhezo] (BCA).

[297] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 50-51 (BCA).

[298] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 6, 18-20 (BBB).

[299] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 19-20 (BBB).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

284. Umutangabuhamya wiswe AM02 yari umupolisi wa Komine ya Muganza kuva mu mwaka wa 1992 kugera mu mpera za Kamena 1994. Muri jenoside, yarindaga ibiro bya Komine ya Muganza[300]. Ahagana ku itariki ya 20 cyangwa iya 21 Kamena 1994, yari ku kazi ku biro bya komine mu muhango wo kwimika Élie Ndayambaje nka burugumesitiri mushya wa komine. Uwo muhango wabaye mu masaa kumi z'umugoroba ubera mu gashyamba, nko muri metero 50 uvuye ku biro bya komine. AM02 yabonye imodoka z'abategetsi ziza maze akuraho bariyeri yari ku irembo ry'ibiro bya komine kugira ngo bashobore guhagarika imodoka zabo imbere mu gipangu. Iyo nama ntiyatinze cyane, kuko itamaze n'isaha kandi irangiye, abategetsi bagiye kwicira akanyota mu biro bya komine. Barangije, AM02 yongeye gukuraho bariyeri kugira ngo bashobore kugenda. Ntiyabonye Kalimanzira, kandi yemeza ko aba yaramubonye cyangwa yarumvise ko yari ahari[301].

Umutangabuhamya ushinjura wiswe AK42

285. Umutangabuhamya wiswe AK42 yagiye mu nama ebyiri z'abaturage hagati ya Mata na Kamena 1994[302]. Inama ya kabiri yari iyo kwimika Élie Ndayambaje nka burugumesitiri mushya wa Komine ya Muganza. Iyo nama yabereye mu gashyamba, hafi y'ibiro bya Komine ya Muganza hagati y'itariki ya 20 Kamena n'impera za Kamena 1994, hagati ya saa munani na saa munani n'igice z'amanywa. AK42 yahageze inama itaratangira, arahaguma kugeza irangiye. Hari abantu bagera kuri 400 barimo abategetsi nka perefe mushya Nteziryayo, uwahoze ari burugumesitiri, burugumesitiri mushya, abakonseye n'abaserire. AK42 yemeza ko Kalimanzira ataje muri iyo nama kuko iyo aza kuhaba nta kuntu uyu mutangabuhamya atari kumubona kubera ko bari inshuti cyane kandi Uregwa akaba yari n'umutegetsi uzwi cyane, udashobora kugera ahantu ngo bye kumenyekana[303].

Umutangabuhamya ushinjura witwa Innocent Mukuralinda

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300 Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, imp. 6, 8 [mu muhezo] (AM02).

301 Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, urup. 13-14, 31-32 [mu muhezo] (AM02).

302 Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 4 [mu muhezo] (AK42).

303 Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 7, 11 (AK42).

286. Mukuralinda yari umucungamari wa Komine ya Kibayi kuva mu mwaka wa 1981 kugeza ahunze igihugu ku itariki ya 7 Nyakanga 1994[304]. Ku itariki ya 22 Kamena 1994, yagiye mu muhango wo kwimika Élie Ndayambaje nka burugumesitiri mushya wa Komine ya Muganza akaba yari asimbuye Chrysologue Bimenyimana. Uwo muhango wabereye hafi y'ibiro bya Komine ya Muganza, mu gashyamba kari muri metero ziri hagati ya 20 na 30 uvuye ku biro bya komine. Iyo nama yatangiye saa munani n'igice z'amanywa, ariko Mukuralinda yakerereweho nk'iminota itanu cyangwa icumi, kandi yasanze ari Bimenyimana ufite ijambo. Mu bandi bategetsi bari bahari harimo Perefe Nteziryayo, Dominique Ntawukulilyayo (superefe wa Gisagara), na Bernadette Mukarurangwa (Depite). Mukuralinda ntiyabonye Kalimanzira kandi inama irangiye, uyu mutangabuhamya yaramukije abategetsi maze ajyana na bo aho bagombaga kwiyakirira[305].

2.3.6.2. Isesengura ry'Urugereko

287. Kalimanzira avuga ko mu gihe kivugwa yari iwe mu mujyi wa Butare. Yongeraho ko yagiye no mu muhango wa kwimika Alphonse Nteziryayo nka perefe mushya wa Butare ku itariki ya 21 Kamena 1994. Cyakora nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

288. Urugereko rusanga Ubwunganizi budahakana ko Élie Ndayambaje yarahijwe nka burugumesitiri mushya wa Komine ya Muganza ku itariki ya 22 Kamena 1994 cyangwa hafi yayo, kubera ko abatangabuhamya bashinjura banyuranye bavuga ko bagiye muri uwo muhango.

289. AM02 yari umupolisi mu mwaka wa 1994. Yamaze imyaka ine afungiye mu Rwanda, ariko aza gutoroka gereza ava mu gihugu[306]. Ubuhamya bwe bunasesengurwa ku byerekeranye n'ibyo Kalimanzira aregwa ko yahamagariye abantu gukora ibyaha kuri bariyeri yari i Kajyanama (reba akiciro ka III.4.4). AM02 ashimangira ko iyo Kalimanzira aza kuba mu muhango wo kwimika burugumesitiri aba yaramubonye, n'ubwo we ubwe atawugiyemo. Urugereko ntirwemera ibyo avuga. Kuba gusa atarabonye Kalimanzira anyura mu irembo ry'ibiro bya komine ngo ajye guparika

[304] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, urup. 3 (Innocent Mukuralinda).

[305] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 8-9, 41-42 (Innocent Mukuralinda).

[306] Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, imp. 7, 31 [mu muhezo] (AM02).

imodoka ye cyangwa ngo amubone igihe bakiraga abategetsi, ntibivuga ko Kalimanzira atagiye muri iyo nama. Mukuralinda ubu aba mu buhungiro mu mahanga kandi n'ubwo avuga ko nta byaha yakoze muri jenoside, yashinjwe ko yabigizemo uruhare[307]. Urugereko rwabonye uyu mutangabuhamya yaragiye ahunga ibibazo mu ibaza rinyomoza kandi rusanga ubuhamya bwe butakwizerwa. Ku byerekeranye na AM02, Urugereko ntiruha agaciro kanini ibyo Ubwunganizi buvuga ko kuba Mukuralinda atarabonye Kalimanzira, bivuga ko Uregwa atari ahari. Ubuhamya bwa AK42 bwasuzumwe na bwo ku byerekeranye n'ibyo Kalimanzira ashinjwa ko yahamagariye abantu gukora ibyaha ku kibuga cy'umupira w'amaguru cya Nyabisagara (reba akiciro ka III.4.5.6). AK42 yafungiwe mu Rwanda, ariko nyuma aza kurekurwa atagize icyaha na kimwe ashinjwe. Yahungiye hanze y'u Rwanda ubwo yongeraga guhamagarwa ngo yitabe urukiko[308]. Urugereko rwasanze ashobora kubogamira kuri Kalimanzira kubera ko yakoranye na we ubwo bari mu buhungiro muri Kenya[309], kandi yafataga Kalimanzira nk'umuvandimwe we[310]. Ubuhamya bwe buvuga ko atabonye Kalimanzira mu muhango wo kwimika burugumesitiri ntibivuguruza ubw'umuntu wari uhibereye uvuga ko Uregwa yari ahari.

290. Umutangabuhamya BBB yireze ko yakoze jenoside, ariko ategereje kuburanishwa ku cyaha atemera[311]. Yatanze ubuhamya bwerekeranye n'ibindi birego kandi Urugereko rwasuzumye niba akwiye kwizerwa. Urugereko rusanga yari icyitso mu bintu byabaye bivugwa mu gika cya 17 cy'Inyandiko y'ibirego, ari byo guhamagarira abantu gukora icyaha ku kibuga cy'umupira w'amaguru cya Komine ya Muganza muri Gicurasi. Kubera iyo mpamvu, Urugereko rusanga ubuhamya bwe kuri iki kibazo bugomba kwitonderwa (reba akiciro ka III.2.8.2). BCA yemeye na we ko yakoze jenoside kandi ubu arafunze[312].

291. Ubuhamya bwa BBB na BCA burashyigikirana. Bombi bibuka, batavuguruzanya, ko Ndayambaje n'abandi bategetsi bari muri iyo nama. Ubuhamya bwabo bushyigikirwa

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[307] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 3-4, 10-13, 21, 29-40 (Innocent Mukuralinda).

[308] Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, urup. 66 [mu muhezo] (AK42).

[309] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, imp. 3 [mu muhezo], 16, 20 (AK42).

[310] Inyandikomvugo y'iburanisha, 27 Ugushyingo 2008, urup. 15 (AK42).

[311] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 3, 6 [mu muhezo] (BBB),

[312] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 41 [mu muhezo] (BCA).

n'uko Kalimanzira yakomokaga muri Komine ya Muganza kandi ko kujya mu muhango wo kurahiza ababurugumesitiri n'abaperefe byari mu nshingano ze. Ibi bigaragazwa n'uko Kalimanzira yemeye ko yari mu muhango wo kurahiza Alphonse Nteziryayo ku itariki ya 21 Kamena 1994[313]. Urugereko rusanga kuba ubuhamya bwabo bunyuranya ku tuntu duto tuvugwa n'Ubwunganizi bidakanganye cyane kandi ntibyabuza ubwo buhamya kwizerwa[314]. Rumaze gusuzumana ubushishozi ubuhamya bwabo, Urugereko rusanga ubuhamya bwa BBB na BCA bwakwizerwa. Urugereko rwemera ko Ndayambaje yafashe ijambo muri iyo nama, cyane cyane ko yari igamije kumwimika nka burugumesitiri mushya. N'ubwo nta muntu uvuga ko Kalimanzira yafashe ijambo muri iyo nama, Urugereko rusanga yari ayirimo ariko ntiyamagane amagambo ya Ndayambaje. Urugereko rwemera kandi ubuhamya bwa BBB na BCA buvuga ko Abatutsi bishwe nyuma y'uwo muhango wo kwimika burugumesitiri mushya.

292. Urugereko rusanga, hashingiwe ku bimenyetso byatanzwe, umwanzuro rukumbi ushyize mu gaciro wafatwa ari uvuga ko Kalimanzira yari azi ko ijambo rya Ndayambaje ryahamagariraga abantu bari mu iyo nama kwica Abatutsi. Rusanga kandi yari azi ko ayo magambo yari kugira uruhare runini mu myitwarire y'abo bantu bishe Abatutsi. Urugereko rusanga kandi kuba Kalimanzira yari aho hantu igihe Ndayambaje yavugaga ijambo rye, byarateye Ndayambaje akanyabugabo mu gikorwa cye cyo guhamagarira abantu gukora jenoside. Kubera ko Kalimanzira yari umutegetsi wari wubashywe cyane muri Butare, ariko by'umwihariko wakomokaga muri Komine ya Muganza, ari n'umukozi mukuru muri Leta, akanyabugabo yateye abantu kagize uruhare runini mu gukora icyo cyaha cya jenoside. Kubera imyanya y'ubutegetsi n'imirimo bari bashinzwe, Kalimanzira agombaga kumenya ko Ndayambaje n'abandi bantu bari muri iyo nama bari kumva ko kuba yari aho ubwo Ndayambaje yavugaga ijambo bwari uburyo bwo gushyigikira, gushishikaza no kwemera atabyeruye igikorwa cya Ndayambaje cyo guhamagarira abantu gukora ibikorwa bya jenoside. Yagombaga kandi kumenya ko kuba yari aho, igihe Ndayambaje yavugaga ijambo, byari kugira uruhare runini mu bwicanyi bwakurikiyeho.

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[313] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 52-53 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, imp. 10-11 (Salomé Mukantwali).

[314] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 508-510, 591-593.

293. Kalimanzira agaragaza hano ndetse n'ahandi, igitekerezo cyo kurimbura ubwoko bw'Abatutsi (reba akiciro ka III.5.2). Kubera izo mpamvu, Urugereko rusanze Kalimanzira ahamwa, ku buryo budashidikanywaho, n'icyaha cyo gushyigikira abantu mu gukora jenoside kubera ko yari mu muhango wo kwimika Élie Ndayambaje ku itariki ya 22 Kamena 1994 cyangwa hafi y'iyo tariki.

2.4 Ibyabereye ku gasozi ka Kabuye ku itariki ya 23 Mata

294. Mu gika cya 9 n'icya 10 by'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cya jenoside ashingiye ku bwicanyi bwabereye ku gasozi ka Kabuye (Komine ya Ndora) hafi y'itariki ya 23 Mata 1994. Kalimanzira aregwa kuba ubwe yarashishikarije Abatutsi b'abasiviri guhungira ku gasozi ka Kabuye, abizeza ko bari kuharindirwa umutekano, bagahabwa n'ibyo kurya. Yabikoze kugira ngo abashuke bageyo maze kubica byorohe. Kalimanzira ngo yaba yarashatse abapolisi ba komine n'abasirikare kugira ngo bafashe abaturage muri icyo gitero. Yaba kandi yaraganiriye n'abategetsi bo muri ako karere ibyerekeranye n'aho ubwicanyi bwari bugeze kuri ako gasozi, ndetse ngo yaba ubwe yaragenzuye ibitero kugira ngo bigere ku ntego yabyo y'itsembatsemba. Ibyo byatumye ku gasozi ka Kabuye hicirwa Abatutsi babarirwa mu bihumbi.

295. Mu kwiregura, Kalimanzira yifashisha uburyo bwa sinari mpari akavuga ko ku itariki ya 23 Mata 1994 n'iminsi yakurikiyeho, yakoreraga i Murambi (Perefegitura ya Gitarama) (reba akiciro ka III.1.2).

2.4.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe BBO

296. Umutangabuhamya wiswe BBO avuga ko mu mpera za Mata 1994, konseye wa segiteri yabo yategetse ko Abahutu bose n'impunzi z'Abarundi muri Segiteri ya Mukindo (Komine ya Kibayi) bagomba kujya ku Gasozi ka Kabuye kwica Abatutsi. Konseye yavuze ko ayo mabwiriza yari yaturutse mu bategetsi bo hejuru, kandi ko imbaga y'abantu yari iteraniye ku Gasozi ka Kabuye yari ibangamiye umutekano w'Abahutu. Bitwaje intwaro bari baherewe ku kigo cy'impunzi z'Abarundi muri Serire ya Kanage (reba akiciro ka III.4.2.1), BBO n'impunzi z'Abarundi, ndetse n'abandi basiviri, bakoze urugendo rw'amasaha atanu cyangwa atandatu n'amaguru

mbere yo kugera ku Gasozi ka Kabuye. Konseye n'abapolisi ba komine baturutse muri Komine ya Kibayi kandi bitwaje imbunda, na bo bagiye ku Gasozi ka Kabuye, ariko bo bagenda mu modoka[315].

297. Umutangabuhamya BDC avuga ko nyuma y'ijambo rya Superefe Ntawukulilyayo, abapolisi n'abasirikare bahise baherekeza itsinda ry'abo n'iry'impunzi baberekeza ku gasozi ka Kabuye, aho basanze izindi mpunzi nyinshi kurushaho zaturutse mu duce duturiye aho hantu. BDC yibuka ko bageze kuri ako gasozi hakibona. Nyuma yaho, Kalimanzira na Superefe Ntawukulilyayo na bo barahageze mu modoka, bari kumwe n'abasirikare n'abapolisi. Kalimanzira na Superefe basohotse mu modoka, bareba hirya no hino, barangije baragenda muri iyo modokaBBO avuga ko bahagurutse kare cyane mu gitondo, bakagera ku Gasozi ka Kabuye nko mu masaa sita, maze abandi bantu bagabye igitero bavuye mu yandi makomine nka Ndora na Muganza bakaza kuhabasanga. Asobanura ukuntu bagose Abatutsi bari kuri ako gasozi, bakagerageza kubagabaho igitero, cyakora ngo Abatutsi bakirwanaho batera amabuye maze abagabye igitero bagasubira inyuma ndetse n'abari bakiyoboye bagashya ubwoba. BBO n'abandi bantu baketse ko muri izo mpunzi z'Abatutsi hashobora kuba harimo Inkotanyi zifite intwaro. Hashize igihe gito, Kalimanzira na Koloneli Tharcisse Muvunyi bageze aho hantu bazanye abasirikare bagera ku 150 mu mabisi abiri. Mu by'ukuri, BBO avuga ko abategetsi hafi ya bose bo muri Perefegitura ya Butare bari aho hantu. BBO avuga ko abasirikare barasaga ku mpunzi z'Abatutsi bihishe mu basiviri bari bagabye igitero. Cyakora, ibyo byatumye abo basiviri bahunga kuko batinyaga ko baraswa. BBO na bagenzi be bakoze urugendo rw'amasaha atanu cyangwa atandatu n'amaguru basubira muri Segiteri ya Mukindo aba ari ho barara. Bukeye mu gitondo, basubiye ku gasozi ka Kabuye maze BBO ahasanga imirambo ibarirwa mu magana[316].

Umutangabuhamya ushinja wiswe BDC

298. Umutangabuhamya BDC ni Umuhutukazi, mu mwaka wa 1994 akaba yari yarashakanye n'umugabo w'Umututsi. Muri Mata 1994, we n'umuryango we bavuye mu rugo rwabo bahunga kubera ko mu gace bari batuyemo hari hatangiye ibikorwa

[315] Inyandikomvugo y'iburanisha, 19 Kamena 208, imp.44 (BBO).

[316] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 44-47 n'inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 11-13 (BBO).

by'ubwicanyi no gutwika amazu. Babanje kujya ku isoko ryo ku Gisagara, nyuma bahungira ku gasozi ka Kabuye[317].

299. Mu buhamya bwe, BDC avuga ko we n'umuryango we bavuye mu rugo ari ku wa gatandatu mu gitondo muri Mata, bakagera ku isoko ryo ku Gisagara mu masaa sita, maze bakahasanga impunzi nyinshi, abapolisi, abasirikare,[318] Dominique Ntawukulilyayo (superefe wa Gisagara) na Kalimanzira. BDC asobanura ukuntu Superefe Ntawukulilyayo yabwiye abantu bari bateraniye aho kwegerana maze akabategeka kujya ku gasozi ka Kabuye abizeza ko bari buharindirirwe umutekano. BDC avuga ko igihe iryo jambo ryavugwaga, Kalimanzira yari ahagaze iruhande rwa Superefe Ntawukulilyayo ariko we ntiyagira icyo avuga. Yemeza ko yari hagati mu isoko, akaba yarabonaga neza Kalimanzira na superefe[319].

300. Umutangabuhamya BDC avuga ko nyuma y'ijambo rya Superefe Ntawukulilyayo, abapolisi n'abasirikare bahise babaherekeza hamwe n'izindi mpunzi baberekeza ku gasozi ka Kabuye, aho basanze izindi mpunzi zaturutse mu duce duturiye aho hantu. BDC yibuka ko bageze kuri ako gasozi hakibona. Nyuma yaho, Kalimanzira na Superefe Ntawukulilyayo na bo barahageze baje mu modoka, bari kumwe n'abasirikare n'abapolisi. Kalimanzira na superefe basohotse mu modoka, bareba hirya no hino, hanyuma basubira mu modoka baragenda[320].

301. BDC avuga ko bamaze kugenda, impunzi zagabweho igitero. Abasirikare n'abapolisi batangiye kurasa ku mpunzi, na zo zirwanaho zitera amabuye abazigabagaho igitero. Ntiharashwe amasasu menshi cyane kandi n'ubwo uwo munsi hari abantu bapfuye, BDC n'abantu bo mu muryango we bahisemo kuguma aho ngaho, maze barara ku gasozi ka Kabuye. Bukeye mu gitondo, ku cyumweru, abagabye igitero bongeye kurasa amasasu ariko noneho yari menshi kurushaho. Abagabye igitero bagose impunzi, bazirasaho baturutse mu mpande zitandukanye, nko ku gasozi ka Gahondo. BDC asobanura ko ku cyumweru nijoro, ubwo harimo kugwa imvura nyinshi barimo

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[317] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 26-27 (BDC).

[318] Ijambo «impunzi» hano rikoreshejwe mu buryo busanzwe kandi risobanura umuntu wese wari wavuye iwe ashaka aho ahungira. Cyakora, Abanyarwanda b'Abatutsi bahungiye ahantu hanyuranye mu Rwanda hose, mu buryo bukwiye bitwa «abantu bavanywe mu byabo ».

[319] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 27-28 (BDC).

[320] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 28-29 (BDC).

no kugabwaho ibitero, we n'abantu bo mu muryango we bahungiye ku rundi ruhande rw'ako gasozi maze bihisha mu bihuru[321].

302. Ku wa mbere mu gitondo, BDC yasubiye ku gasozi, ha hantu impunzi zari zateraniye mbere, kugira ngo afate ibintu bye. Yahabonye imirambo y'abantu b'ibitsina byombi n'ibigero bitandukanye inyanyagiye hirya no hino, kandi myinshi muri yo yari iy'Abatutsi. Mu buhamya bwe, yaje kwibuka ko yabonye Interahamwe zisahura zikaniba inka. BDC avuga ko abisabwe n'umugabo we, yavuye ku gasozi ka Kabuye muri icyo gitondo ajya mu rugo rw'ababyeyi be. BDC avuga ko umugabo we yamusobanuriye ko we [umutangabuhamya] yashoboraga kurokoka kubera ko ari Umuhutukazi ko ariko we avuye kuri ako gasozi yakwicwa kubera ko yari Umututsi. BDC ntiyongeye kubona umugabo we[322].

Umutangabuhamya ushinja wiswe BCF

303. Umutangabuhamya wiswe BCF avuga ko ku wa gatatu, tariki ya 20 Mata 1994, Abatutsi bo muri Komine ya Kibayi n'iya Muganza batangiye kugera ku isoko rya Gisagara. BCF avuga ko bahaje kuko hari abategetsi, bakibwira rero ko bari kuharindirwa umutekano. Yibuka ko impunzi zamaze iminsi itatu aho ku isoko mbere y'uko zijya ku gasozi ka Kabuye. N'ubwo adashobora kugereranya ngo avuge umubare w'impunzi zari aho, BCF avuga ko aho ku isoko hari huzuye abantu ku buryo zimwe mu mpunzi zagiye mu maduka[323].

304. Umutangabuhamya BCF avuga ko ku wa gatandatu, tariki ya 23 Mata 1994, saa mbiri za mu gitondo, yafunguye iduka nk'uko byari bisanzwe. Mu masaa munani z'amanywa, Kalimanzira na Superefe Ntawukulilyayo baje aho ku isoko mu modoka y'ikamyoneti ya « *double cabin* » y'umweru. Superefe Ntawukulilyayo ni we wari utwaye naho Kalimanzira yicaye mu mwanya w'umugenzi. Muri iyo modoka harimo n'abapolisi bafite imbunda, bambaye ingofero z'ibyuma z'umukara n'amakote maremare. Muri abo bapolisi, BCF yamenyemo burigadiye witwa Vincent. BCF

[321] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 29-32 (BDC).

[322] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 32-33 (BDC).

[323] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 10-11 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 10-12 (BCF).

yibuka ko Superefe yahagaritse iyo kamyoneti ku muhanda, aho binjirira bajya mu isoko, maze Kalimanzira akaba ari we ubanza gusohoka, abapolisi bagakurikiraho[324].

305. Umutangabuhamya BCF avuga ko Kalimanzira na Superefe Ntawukulilyayo binjiye mu isoko maze superefe akabwira abapolisi batatu bari bavuye ku biro bya komine kuvuza amafirimbi. Zumvise amafirimbi, impunzi zaregeranye, maze BCF na we yegera abandi. BCF yibuka ko hagati ye na Kalimanzira hari metero zitageze kuri ebyiri. BCF yibuka kandi ko superefe yabwiye ijambo izo mpunzi adakoresheje indangururamajwi kandi Kalimanzira yari amuhagaze iruhande. Superefe yategetse impunzi kujya ku gasozi ka Kabuye, aho ngo zari kurindirwa umutekano zigahabwa ibiryo n'aho zikinga. Amaze gutanga ubutumwa bwe, Superefe Ntawukulilyayo yasabye impunzi kubugeza no ku zindi mpunzi zari aho ku isoko[325].

306. Umutangabuhamya BCF avuga ko kubera ko yari Umututsi kandi akabona abicanyi bambaye amashara bafite n'intwaro, yahise asanga izindi mpunzi maze berekeza i Kabuye. Nta kintu na kimwe yajyanye. Yibuka ko kubera umubare munini w'impunzi, urugendo rwabatwaye isaha imwe n'igice aho kuba iminota iri hagati ya 15 na 20 nk'uko bisanzwe. BCF avuga ko bitewe n'uko bari baturutse ahantu hatandukanye, atari azi abantu benshi muri izo mpunzi. Cyakora, avuga amazina y'abantu babiri bo muri Muganza barokotse ari bo: Cassien na Bizunu. BCF yongeraho ko abapolisi baherekeje izo mpunzi kugera ku rugo rwa Superefe Ntawukulilyayo[326].

307. Umutangabuhamya BCF avuga ko bageze ku gasozi ka Kabuye ku gicamunsi, bakajya ku gace kirengeye kurusha utundi, naho abafite abana bato bagatangira kubashakira ibyo kurya. Yibuka ko uretse impunzi zari zateraniye ku isoko ryo kuri santeri y'ubucuruzi ya Gisagara, hari abandi Batutsi baje kuri ako gasozi baturutse mu tundi turere, ubwo amazu yabo yari amaze gutwikwa n'Abahutu[327].

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[324] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008 imp. 11-19, 33 (BCF).

[325] Iinyandikomvugo y'iburanisha 5 Gicurasi 2008, imp. 10-12 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 27-29 (BCF).

[326] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 12-13 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 32-33 (BCF).

[327] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008 urup. 13 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 33 (BCF).

308. Umutangabuhamya BCF avuga ko ijoro riguye, haje kamyoneti ebyiri zigahagarara ku ntangiriro y'agasozi impunzi zari ziteraniyeho. Yibuka ko izo modoka zimaze kuhagera, hakomeje kuza izindi mpunzi ziturutse mu duce twa kure nka Dahwe na Gahondo. BCF asobanura ko Kalimanzira na Superefe Ntawukulilyayo bari imbere muri imwe muri izo modoka, naho inyuma hari abasirikare benshi n'abapolisi. Imodoka ya kabiri yari yuzuye abasirikare. BCF yongeraho ko nta mugore yabonye mu bantu bari muri izo modoka[328].

309. Umutangabuhamya BCF avuga ko Kalimanzira na Superefe n'abasirikare bavuye muri izo modoka maze abasirikare bagahita bagota agasozi bagatangira kurasa ku mpunzi. Impunzi zatangiye gusubira inyuma ariko zibura aho zihungira zigeze mu mpiga y'agasozi. BCF yibuka ko batangiye kurasa, Kalimanzira yamaranye na Superefe Ntawukulilyayo umwanya muto nyuma aragenda. BCF asobanura ko hagati y'igihe imodoka zahagereye n'igihe batangiriye kurasa haciyemo umwanya, kuko abagabye ibitero bategereje ko bwira bihagije kugira ngo hatagira umenya abo ari bo[329].

310. Umutangabuhamya BCF avuga ko kurasa byahagaze imvura itangiye kugwa maze hakijima burundu. Ibyo byatumye ashobora guhungira ku kandi gasozi gateganye n'aka Kabuye, mu cyerekezo cya kiriziya na Gisagara. Yibuka ko yihishe mu ishyamba ry'abapadiri, akaza kugera mu rugo rwa nyina n'umugabo we [wa nyina] hashize iminsi ine[330].

Umutangabuhamya ushinja wiswe BWO

311. Umutangabuhamya wiswe BWO ni Umututsi warokotse wapfushije abantu benshi bo mu muryango we mu gitero cyagabwe ku gasozi ka Kabuye. Mu buhamya yatanze mu Rukiko, BWO avuga ko, hashize ibyumweru bibiri cyangwa bitatu Perezida Habyarimana apfuye, yavuye iwe akajya ku isoko ryo ku Gisagara. Asobanura ko muri Serire ya Kabuye hari umwuka mubi ku buryo Abahutu bari bagabye igitero iwe

[328] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, urup. 13 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008 imp. 33-37 (BCF).

[329] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, urup. 14 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008 urup. 39 (BCF).

[330] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 39-40 (BCF).

bakamutwikira. Kuva iwe ujya ku isoko hari urugendo rw'iminota 15 n'amaguru, kandi yibuka ko ajyayo yari kumwe n'abaturanyi n'abantu bo mu muryango we[331].

312. Umutangabuhamya BWO avuga ko ageze ku isoko mu masaa kumi n'ebyiri n'igice cyangwa saa moya z'umugoroba, yasanze hateraniye imbaga y'abantu. BWO avuga ko agereranyije abo bantu bageraga ku 2.000, bose ari abasiviri b'Abatutsi, bo mu bigero byose kandi baturutse muri Komine za Kibayi, Muganza, Nyaruhengeri, Ndora, na Muyaga. BWO asobanura ko bari baje aho ku isoko ryo ku Gisagara kubera ko bibwiraga ko abategetsi baho bari kubarindira umutekano. We n'umuryango we baraye amajoro abiri aho ku isoko, hafi y'ikigo cy'Abizeramariya. Yibuka ko amaduka yari afunze, ndetse ko iyo impunzi zahageraga zatekaga ibyo kurya cyangwa zikarya ibyo zazanye[332].

313. Umutangabuhamya BWO avuga ko ku munsi wa gatatu, mu masaa cyenda z'amanywa, Superefe Ntawukulilyayo yabwiye ijambo iyo mbaga y'abantu bari bateraniye aho. BWO yibuka ko Superefe yahageze n'amaguru aturutse ku biro bya komine kandi ko imodoka ye, ya Hilux itukura, yari iparitse iruhande rw'umuhanda, imbere y'iduka rya Kayikana. BWO avuga ko yamenye superefe kandi ko uyu yari atuye ahantu umuntu yagenda iminota 15 n'amaguru uvuye iwe [BWO]. Superefe Ntawukulilyayo yari kumwe n'abapolisi babiri, uyu mutangabuhamya avuga ko bitwaga Patern na Munyankindi. Abo bapolisi bari bambaye imyenda isa y'icyatsi, ingofero z'umukara zifite igikinga, kandi bitwaje imbunda[333].

314. Umutangabuhamya BWO avuga ko umwe muri abo bapolisi yavugije ifirimbi, maze abantu bari aho ku isoko bagaceceka. Superefe, akoreshje indangururamajwi kugira ngo yumvikane, yafashe ijambo imbere y'impunzi zari ziteraniye aho maze azibwira kujya ku gasozi ka Kabuye, aho ngo zari kurindirwa umutekano. Impunzi zatangiye kwegeranya ibintu byazo zitangira kugenda nko hagati ya saa kumi n'ebyiri n'igice na

[331] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 24-25, 33 (BWO).

[332]Iinyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 25-26 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 60-62 (BWO).

[333] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 62-64 (BWO).

saa moya z'umugoroba. BWO n'abantu bo mu muryango we ndetse n'amatungo, bajyanye n'izindi mpunzi, bajya ku gasozi ka Kabuye nko mu masaa mbiri z'ijoro[334].

315. Umutangabuhamya BWO avuga ko Superefe Ntawukulilyayo yohereje abantu bo guherekeza impunzi. Muri abo bantu, harimo Innocent Gakeri ukomoka i Dahwe, ariko ntibaherekeje impunzi ngo bazigeze aho zari zigiye. BWO yibuka ko agasozi ka Kabuye urebye katari kure, kandi ko urugendo rwose rwakozwe ari nijoro. Yibuka kandi ko hari umuhanda umwe rukumbi ugana kuri ako gasozi, kandi ko kubera ko impunzi zari nyinshi cyane, urugendo rwatwaye amasaha abiri aho kuba hagati y'iminota 30 na 40 nk'uko byari bisanzwe. BWO avuga ko impunzi zavuye ku isoko ryo ku Gisagara ari zo zageze ku gasozi ka Kabuye bwa mbere, ariko nyuma hakaza kuza n'izindi ziturutse mu tundi duce[335].

316. Umutangabuhamya BWO avuga ko umunsi n'ijoro bya mbere bagereyeho kuri ako gasozi nta kintu kidasanzwe cyabaye. Cyakora, yibuka ko bukeye Abahutu b'abasiviri bitwaje amacumu, imihoro n'amahiri baje kwiba amatungo y'impunzi. Icyo gitero cyamaze iminsi ibiri, maze impunzi zibonye zimwe muri zo zimaze kwicwa ubwo zagerageza gusubiza inyuma abagabye icyo gitero, zaretse abo bantu batwara amatungo yazo. Ku munsi wa gatatu, habaye igitero cya kabiri kigabwe n'Abahutu b'abasiviri n'Interahamwe. Icyo gitero cyatangiye saa mbiri n'igice za mu gitondo kimara nk'isaha imwe. BWO yibuka ko cyari gikaze kuruta ibyakibanjirije kandi ko noneho kitari kigamije kwiba amatungo. Impunzi zabashije kwirwanaho zisubiza inyuma abagabye icyo gitero, n'ubwo zimwe muri zo zishwe[336].

317. Umutangabuhamya BWO avuga ko mu masaa tanu cyangwa saa sita z'amanywa, Kalimanzira yageze ku gasozi ka Kabuye mu ikamyoneti itukura, ari kumwe n'umugore wari wicaye imbere ku ntebe y'umugenzi kandi Uregwa yari aherekejwe n'umusirikare wari wicaye inyuma. Uwo musirikare na Kalimanzira bavuye mu modoka, maze itsinda ry'impunzi zigera kuri 70 zirabegera, zirongojwe imbere

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[334] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, urup. 26, inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 64, 69, n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 2 (BWO).

[335] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 26-27, inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 65 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 3 (BWO).

[336] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 27-28 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 69-70 (BWO).

n'umusaza witwa Boniface Ndanga w'i Kigarama, muri Segiteri ya Muganza. Boniface ni we weretse izindi mpunzi Kalimanzira maze azibwira ko zigomba kumubwira iby'ibitero kuko yari umutegetsi uje kubabungabungira umutekano. BWO avuga ko n'ubwo hagati ye na Kalimanzira hari abantu benshi, barimo na Boniface, [BWO] yari hafi bihagije ku buryo yumvise ibyo bavuganye. Boniface yabwiye Kalimanzira ko abasiviri babateye, bakiba inka, bakica na zimwe mu mpunzi. Kalimanzira yabijeje ko yari kurinda impunzi ndetse akanazibungabungira umutekano[337].

318. Umutangabuhamya BWO avuga ko hashize umwanya muto, haje itsinda ry'abasiviri baturutse muri Serire ya Dahwe maze bahagarara inyuma y'imodoka. BWO yongeraho ko yaketse ko bari bazanye na Kalimanzira kuri ako gasozi, ariko bakaza kuhagera nyuma kuko bo bagendaga n'amaguru. Yibuka ko Kalimanzira yabwiye abo bagabo ngo «mugomba guhita mubica kuko abandi barangije kera». Yashakaga kuvuga ko bagombaga kwica Abatutsi. BWO avuga ko impunzi zahunze, ariko abatari bafite intege zo kwiruka bakicirwa aho. Kalimanzira yaje kuva kuri ako gasozi mu modoka ye[338].

319. Umutangabuhamya BWO avuga ko nyuma yaho bikiri mbere ya saa sita, imodoka yazanye abasirikare ku Gisagara, bafatanya urugendo n'Interahamwe berekeza ku gasozi ka Kabuye n'amaguru maze bahagera saa saba z'amanywa. Ba basiviri bagabye igitero baturutse i Dahwe na bo bagarutse kuri ako gasozi. BWO yibuka ko abasirikare n'Interahamwe bahise batangira kurasa naho abandi bagabye igitero bagakoresha imihoro n'izindi ntwaro zifite ubugi. Igitero cyarakomeje kugera bibaye mu gicuku ariko BWO yasize abasirikare bakirasa ubwo yahunganga hagati ya saa yine n'igice na saa tanu z'ijoro. BWO asobanura ko yacitse abicanyi kubw'imana kandi ntashobora kuvuga inzira yanyuzemo ava kuri ako gasozi. Icyo gitero cyahitanye abantu benshi bo mu muryango we barimo abavandimwe b'igitsina gabo

[337] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 28-30 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 6-7, 9 (BWO).

[338] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 30-31 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 8-9 (BWO).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

na bashiki be umunani, babyara be batatu, na ba nyirarume cyangwa ba sewabo bane.[339]

Umutangabuhamya ushinja wiswe BXG

320. Umutangabuhamya wiswe BXG ni Umututsi warokotse ubwicanyi bwo ku gasozi ka Kabuye kandi abantu benshi bo mu muryango we barahaguye. Amaze kumva inkuru y'urupfu rwa Perezida Habyarimana ku itariki ya 7 Mata 1994, yagumye iwe kugera ku wa gatanu nyuma ya saa sita, ku tariki ya 22 Mata ubwo, abisabwe n'ababyeyi be, yagiye gusura muramu we w'igitsina gore n'abana be batanu aho bari batuye muri Serire ya Kabuye[340].

321. Mu buhamya bwe mu Rukiko, BXG avuga ko ku wa gatandatu tariki ya 23 Mata 1994, yabonye Kalimanzira kuri bariyeri yo Mukabuga, aho imihanda ijya i Muganza n'i Kabuye ihurira. BXG asobanura ko yagiye kuri bariyeri, yari muri metero 10 cyangwa 15 uvuye kwa mukuru we, kugira ngo arebe ko amasaha yakwicuma. Yongeraho ko iyo bariyeri yari irinzwe n'abagabo batatu b'Abahutu. BXG avuga ko icyo gihe ubwicanyi bwari butaratangira muri ako gace, bityo akaba nta bwoba yari afite.

322. Umutangabuhamya BXG yibuka ko Kalimanzira yageze kuri iyo bariyeri mbere ya saa sita mu ivatiri y'umweru isa n'iya Superefe Dominique Ntawukulilyayo. Uyu mutangabuhamya anibuka ko icyo gihe Kalimanzira yari kumwe n'abasirikare babiri bambaye imyenda ya gisirikare n'ingofero z'umukara, bitwaje imbunda za Kalashnikov ndetse n'umushoferi wambaye imyenda ya gisiviri. Asobanura ko we, nk'umuturage usanzwe, atatinyutse kuvugisha Kalimanzira kuko yari umutegetsi mukuru. Cyakora, hagati ye n'aho Uregwa yari ari hari intambwe ziri hagati y'eshanu na zirindwi bityo akaba yarumvaga ibyo bavugaga byose[341].

323. Umutangabuhamya BXG avuga ko Kalimanzira amaze gusohoka mu modoka na ba basirikare babiri, yabajije Callixte Bushakwe aho agejeje ikibazo cy'Abatutsi. Bushakwe, wari resiponsabure wa Serire anayobora abantu barindaga bariyeri,

339 Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 31-33 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 11 (BWO).

340 Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 5-7, 16 (BXG).

341 Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 7-9, 16-18 (BXG).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

yashubije ko Abatutsi bose bishwe, ariko umwe mu bagabo bari kuri bariyeri witwa Isidore ahita amuvuguruza abwira Kalimanzira ko Bushakwe abeshya kuko Abatutsi bari birwanyeho bagasubiza inyuma ibitero. BXG yibuka ko Kalimanzira yaciriye kuri Bushakwe anashaka kumukubita urushyi arangije abwira Isidore kumwereka aho Abatutsi bari. Abo bantu bavuye aho kuri bariyeri berekeza muri Segiteri ya Dahwe. BXG asobanura ko Abatutsi bo mu makomine ya Kibayi, Muganza, Ndora na Ngoma bari bateraniye ahitwa «Wabitama» (ni ukuvuga agasozi ka Kabuye) kandi ko bari bashoboye gusubiza inyuma igitero[342].

324. Umutangabuhamya BXG avuga ko imodoka yagarutse kuri bariyeri nyuma y'iminota 30 maze Isidore akayivamo. Kalimanzira yakomeje yerekeza ku Gisagara. BXG asobanura ko amaze kubona abo bantu no kumva amagambo Bushakwe yavuze ku iyicwa ry'Abatutsi, yatangiye kugira ubwoba kuko ibintu byagendaga birushaho kumera nabi nuko asubira mu rugo kwa mukuru we. Amaze gufata ibintu bimwe yari gukenera, yagiye i Wabitama ari kumwe na muramu we w'igitsina gore n'abana be batanu [ba muramu we]. Bahageze saa sita bajya aho izindi mpunzi zari ziri. BXG avuga ko, agereranyije, aho hantu hari impunzi zibarirwa hagati ya 40.000 na 50.000[343].

325. Umutangabuhamya BXG yamaze iminsi ibiri ku gasozi ka Kabuye. Avuga ko igitero cya mbere yiboneye n'amaso ye cyagabwe ku wa gatandatu, ari na wo munsi yagereyeho kuri ako gasozi. Yibuka ko abapolisi b'Abahutu bafite intwaro bari bavanze n'abasiviri bagabye igitero bitwaje intwaro gakondo. BXG asobanura ko abo bapolisi bari bambaye imyenda y'icyatsi kibisi n'ingofero z'umukara, kandi yashoboye kuvuga amazina ya bamwe muri bo kuko yasanze ari abo mu gace yari atuyemo. BXG yibuka ko Abatutsi bashoboye gusubiza inyuma icyo gitero ariko uwo munsi nyuma ya saa sita hakagabwa ibindi bitero birimo n'abasirikare. Bumaze kwira, abagabye igitero barekeye aho kurasa ariko bukeye mu gitondo ku cyumweru barasubira, kugera ijoro riguye ubwo imvura nyinshi yagwaga. BXG yihishe mu murima w'amasaka maze ku wa mbere nimugoroba aracika ava kuri ako gasozi[344].

Umutangabuhamya ushinja wiswe BWK

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342 Inyandikomvugo y'iburanisha, 22 gicurasi 2008, imp. 9-12, 19-20, 22 (BXG).

343 Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 11, 23 (BXG).

344 Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 12-13, 23-25, 27 (BXG).

326. Umutangabuhamya wiswe BWK avuga ko yabonye Kalimanzira ku itariki ya 23 Mata 1994. Icyo gihe, uyu mutangabuhamya yari yagiye gusura iwabo muri Serire ya Kabuye, kuko umuturanyi yari yamubwiye ko musaza we yapfuye. Ageze mu rugo rw'ababyeyi be, BWK yasanze musaza we ahari kandi ari muzima. Hari kandi impunzi nyinshi zari zaraye zihageze ziturutse ku gasozi ka Muganza n'aka Dahwe, kubera ko bari bazitwikiye amazu. Izo mpunzi zari Abatutsi b'abasiviri b'ibitsina byombi kandi bo mu bigero bitandukanye, kuva ku bana kugera ku bantu bakuru[345].

327. Umutangabuhamya BWK avuga ko yavuye mu rugo rw'ababyeyi be ari kumwe n'impunzi zigera kuri 13 kuko yabonaga nta mutekano uhari. Yari afite igitekerezo cyo kujyana izo mpunzi mu nzu yabagamo kuko yumvaga hari umutekano. BWK yibuka ko ubwo barimo kugenda n'amaguru ku muhanda uva ku Gisagara ujya i Kabuye, bahuye n'ikamyoneti ya *«double cabin»* y'umweru, hafi y'urugo rw'umugabo witwa Misago. Icyo gihe, byari nka saa munani cyangwa saa cyenda z'amanywa. BWK yabonye Kalimanzira muri iyo modoka ari kumwe n'umushoferi w'umusiviri n'abasirikare babiri bicaye inyuma mu gice kidatwikiriye. Abo basirikare bari bafite imbunda kandi bambaye imyenda ya simoko n'ingofero z'icyatsi kibisi z'ibyuma. BXG asobanura ko yamenye Kalimanzira kuko mbere yaho yari yarigeze kumubona inshuro imwe ndetse na nyuma akaza kubwirwa uwo ari we[346].

328. Kalimanzira yarahagaze ababaza aho bagiye nuko umugore umwe amusubiza ko barimo guhunga kubera ko amazu yabo yatwitswe. BWK yabwiye Kalimanzira ko ajyanye abo bantu ahantu hari umutekano kurushaho. Kalimanzira yakomeje amubaza niba afite ibikenewe byose ngo ashobore kugaburira buri wese muri abo bantu. Yabategetse kujya ku gasozi ka Kabuye kuko ngo hari umutekano kandi nta kintu cyari kubabaho. Banze gukora ibyo ababwiye kuko byasabaga ko bahindura icyerekezo, nuko ba basirikare babiri babaza niba batumvise neza. BWK asobanura

345 Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 17-18 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 59 (BWK).

346 Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 18-19, 21 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 60-62 (BWK).

ko kuri we yumva Kalimanzira yaravugaga abashyiraho iterabwoba kandi yumvaga barimo kubabuza kugenda[347].

329. Umutangabuhamya BWK avuga ko mu gihe cy'iminota irindwi, Kalimanzira yabakurikiye n'imodoka ubwo berekezaga ku gasozi ka Kabuye. Bageze aho imihanda ijya i Dahwe, Kirarambogo na Kabuye ihurira, bahuye n'umugabo w'Umuhutu witwa Gakeri wari uturutse mu cyerekezo cya Kirarambogo. Gakeri yari wenyine, adafite n'intwaro kandi BWK yari amuzi kuko yari atuye muri Segiteri ya Dahwe. Kalimanzira yategetse Gakeri guherekeza abo bantu bakajya ku gasozi ka Kabuye noneho we akomeza yerekeza Dahwe/Kirarambogo. BWK yibuka ko we n'abantu bari kumwe bakoresheje hafi iminota 35 kugira ngo bagende intera ya kilometero 1,3 iri hagati y'iryo sangano ry'imihanda n'agasozi ka Kabuye. Ubwo bari mu nzira bagenda, Gakeri yabwiye BWK ko umugabo wari muri ya modoka ari Kalimanzira[348].

330. Umutangabuhamya BWK avuga ko bageze ku gasozi ka Kabuye, bagiye aho izindi mpunzi zari ziri. Yongeraho ko yategereje ko iminota 40 irangira, hanyuma akava kuri ako gasozi agasubira imuhira konsa umwana we muto. Asobanura ko na mbere hose yari azi ko adashobora kuguma ku gasozi ka Kabuye, ariko akaba yarakurikije amategeko ya Kalimanzira kuko yari yabateye ubwoba avuga ngo niyongera kugira uwo ahura na we ku muhanda uwo muntu ashobora kugira ibibazo. N'ubwo nta gitero na kimwe yiboneye n'amaso ye ku gasozi ka Kabuye, ubwo yari ahari, BWK yumvise amasasu mu ijoro kandi ntiyongeyeye kubona umuntu n'umwe mu bo bajyanye kuri ako gasozi. BWK asanga abo bantu bashobora kuba barahiciwe[349].

Umutangabuhamya ushinja wiswe BDK

331. Umutangabuhamya wiswe BDK yibuka ko ubwicanyi bwo ku gasozi ka Kabuye bwatangiye ari ku wa gatandatu nimugoroba, hashize nk'ibyumweru bibiri Perezida

[347] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 19 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 63 (BWK).

[348] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 20-21, inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 64 n'inyandikomvugo y'iburanisha, 30 Gicurasi 2008, imp. 3-4 (BWK).

[349] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 21 n'inyandikomvugo y'iburanisha, 30 Gicurasi 2008, imp. 4-6 (BWK).

Habyarimana apfuye. Ubwo yari iwe kuri uwo mugoroba, yumvise amasasu maze asanga yaravugiraga ku gasozi ka Kabuye. Yibuka kandi ko ku cyumweru nijoro haguye imvura nyinshi cyane. BDK anavuga ko ku wa mbere mu gitondo, Interahamwe n'impunzi z'Abarundi bagabye ikindi gitero[350].

332. Mu buhamya bwe mu Rukiko, BDK avuga ko ku wa mbere, nyuma y'ubwicanyi bwo ku gasozi ka Kabuye, ubwo yari avuye kuvoma kuri robine yari mu gipangu kwa Fidèle Uwizeye, yabonye itsinda ry'abantu bahagaze imbere y'inzu y'Uwizeye. BDK yamenyemo Kalimanzira, Superefe Ntawukulilyayo, Bernadette Mukaruranga, Fidèle Uwizeye, Joseph Kamanza na Vincent. Yumvise bavugana ibyerekeranye n'ubwicanyi bwo ku gasozi ka Kabuye[351] maze yumva Kalimanzira avuga ko kurasa byatumye abantu bakwira imishwaro kandi ko isasu ridashobora gufata umuntu wihishe mu gihuru. Yavuze rero ko bagomba gukoresha intwaro gakondo. BDK yibuka ko bavuze ku itsinda ry'abantu ryari kuza, rikoherezwa muri Serire ya Nyakibungo no ku gasozi ka Kabuye kuhakora ubwicanyi bakoresheje intwaro gakondo.[352]

Umutangabuhamya ushinja wiswe BWL

333. Umutangabuhamya wiswe BWL avuga ko yabonye Kalimanzira aha umuntu imbunda kuri bariyeri yitwaga iya Jaguar (reba na none akiciro ka III.4.3.1). Avuga ko Kalimanzira yabwiye abantu bari kuri bariyeri ya Jaguar boherezaga abantu ku gasozi ka Kabuye ko bagomba kubarindira umutekano. Yemeza kandi ko Kalimanzira ari we wategetse ko Abatutsi boherezwa ku gasozi ka Kabuye ndetse ko imbunda yatanze kuri bariyeri ya Jaguar yari iyo gukoresha ku gasozi ka Kabuye.[353]

Abandi batangabuhamya bashinja

334. Umutangabuhamya wiswe BCZ yagiye mu bwicanyi bwabereye ku gasozi ka Kabuye mu gihe cy'iminsi itatu (Kuva ku wa gatandatu kugera ku wa mbere) muri Mata 1994. Yibuka gusa ko Superefe Ntawukulilyayo yatanze amategeko yo kugaba igitero

[350] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 47-48 [mu muhezo] (BDK).

[351] BDK anita agasozi ka Kabuye «Wabitama ».

[352] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 49-52 [umuhezo] (BDK).

[353] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 44, 46 na 62 (BWL).

akanavuga uko kigomba kugabwa. BCZ yemeza ko mu minsi itatu yamaze ku gasozi ka Kabuye atigeze na rimwe abona Kalimanzira[354].

335. Umutangabuhamya BBB na we yatanze ubuhamya ku ruhare yagize mu bwicanyi bwo ku gasozi ka Kabuye. Ashinja Superefe Ntawukulilyayo, ariko nta ruhare na ruto avuga Kalimanzira yaba yaragize muri ubwo bwicanyi.[355]

Umutangabuhamya ushinjura wiswe AK11

336. Umutangabuhamya wiswe AK11 n'abantu bo mu muryango we bahungiye ku gasozi ka Kabuye muri Mata 1994. AK11 avuga ko hafi y'itariki ya 19 Mata 1994, ari ku wa gatatu[356], ahantu yari atuye haje impunzi nyinshi cyane z'Abatutsi. Yibuka ko izo mpunzi zamubwiye ko zahungaga kubera ko zahigwaga bukware n'abantu bashaka kuzica, kandi ko zashakaga guhungira mu gihugu cy'abaturanyi cy'u Burundi. Amaze kubyumva, AK11 n'abantu bo mu muryango we n'abandi baturage bo mu gace k'iwabo bagizwe ahanini n'Abatutsi, biyemeje gukurikira izo mpunzi[357].

337. Umutangabuhamya AK11 n'abantu bo mu muryango we bavuye mu rugo rwabo kuri uwo wa gatatu mu masaa cyenda z'amanywa, bagenda berekeza ku Gisagara. Bageze ku isoko ryo ku Gisagara uwo munsi ijoro riguye, kandi isoko ryari ryaremye. Baraye ku mbuga isoko riremeraho hakanakinirwa umupira w'amaguru igihe isoko ritaremye. Bukeye ku wa kane, bakomeje urugendo berekeza i Burundi, ariko baza gusubizwa inyuma n'abantu bafite intwaro. Basubiye kuri iryo soko ryo ku Gisagara bagerayo nka saa kumi n'igice z'umugoroba. Cyakora, bamaze kubona batahagirira umutekano, biyemeje gutaha bagasubira iwabo mu rugo. Ubwo bari mu nzira bataha, bahuye n'impunzi z'Abatutsi hafi y'agasozi ka Kabuye maze zibagira inama yo kugumana na zo kugira ngo baze gushobora kwirwanaho. AK11 n'abantu bo mu muryango we bakurikiye izo mpunzi bajya ku gasozi ka Kabuye maze bahasanga izindi mpunzi nyinshi. AK11 yibuka ko nta mpunzi yabonye ku kandi gasozi ako ari ko kose ndetse

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[354] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 57, 59-60 (BCZ).

[355] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 11-13, 41-44 (BBB).

[356] Ku wa gatatu hari ku itariki ya 20 Mata in 1994.

[357] Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 6-8 (AK11).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

akemeza ko impunzi zose zari ku ibanga ry'agasozi ka Kabuye, ahateganye na Segiteri ya Dahwe[358].

338. Mu ijoro ryo ku wa kane, AK11 n'abantu bo mu muryango we baraye ku gasozi ka Kabuye. Asobanura ukuntu abantu bakuru ariko kandi badashaje bakwirakwiriye hirya no hino ku gasozi ka Kabuye bagakora amarondo kugira ngo barinde umutekano w'abagore n'abana. AK11 avuga ko nta bitero byagabwe muri iryo joro, ariko ko yumvise ko uwo munsi mbere y'uko bwira, Abahutu bari bagerageje kwiba amatungo y'Abatutsi. AK11 yibuka ko bukeye ku wa gatanu nyuma ya saa sita, batewe n'igitero cyaturutse ku gasozi ka Gahondo (gateganye n'aka Kabuye) maze bakagerageza kwirwanaho bakoresheje intwaro gakondo n'amabuye. Ibitero byahagaze mu masaa kumi n'imwe z'igicamunsi ubwo ababigabye batahaga. AK11 avuga ko ku wa gatanu nijoro yaraye ku gasozi ka Kabuye kandi yibuka ko nta bitero byagabwe muri iryo joro[359].

339. Umutangabuhamya AK11 avuga ko nta bitero byagabwe ku wa gatandatu nyuma ya saa sita. Mu gitondo, abagabye ibitero, barimo abambaye imyenda ya gisirikare n'ingofero z'abajandarume, batangiye kwiyegeranya ku gasozi ka Gahondo, kandi bari benshi kuruta abari baraye bateye ndetse bari baturutse ahantu hatandukanye. Mu masaa kumi z'umugoroba, AK11 yabonye umurongo muremure w'abasiviri barangajwe imbere n'abasirikare bitwaje imbunda. Abo bantu berekeje mu gishanga kiri hagati y'agasozi ka Kabuye n'aka Gahondo maze bahageze bagota agasozi, batangira no kuzamuka basatira impunzi. Impunzi zasubiye inyuma, ariko bidatinze, zibura aho zihungira, n'uko zitangira kuvuza induru no kurira kubera gutinya gupfa. Zibonye nta kundi zagira, impunzi zatangiye gutera amabuye n'amacumu, maze abasirikare barasa amasasu. Igitero cyagejeje saa kumi n'ebyiri z'umugoroba. Icyo gihe, abasirikare bari bamaze gushiririrwa n'amasasu kandi hari hagiye kugwa imvura nyinshi. Imvura iguye, AK11 n'abandi bashoboye guhunga bava kuri utwo dusozi[360].

340. Umutangabuhamya AK11 avuga ko atabonye Kalimanzira ku Gasozi ka Kabuye kandi ko nta muntu yigeze yumva avuga ko Uregwa yahageze mu gihe cy'ibitero. AK11 asobanura ko iyo Kalimanzira ahagera aba yarabimenye kuko Uregwa yari

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358 Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 7-9 (AK11).

359 Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 9-10 (AK11).

360 Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 9-14 (AK11).

azwi cyane bityo abantu bakaba bari kubiganiraho. AK11 yongera kwemeza ko nyuma y'ibitero byo ku gasozi ka Kabuye nta na rimwe yigeze yumva ko Kalimanzira yagize uruhare urwo ari rwo rwose mu gutegura ibyo bitero. Mu gusoza, AK11 avuga ko, nyuma y'ibitero, yumvise ko abasirikare bageze ku gasozi ka Kabuye mu ma modoka. Cyakora, yongeraho ko atumvise ko Kalimazira yaba yari muri imwe muri izo modoka[361].

Umutangabuhamya ushinjura wiswe FCS

341. Umutangabuhamya wiswe FCS ni Umututsi warokotse kandi avuga ko yahungiye ku gasozi ka Kabuye ku wa gatatu, tariki ya 20 Mata 1994, maze akahasanga abantu benshi ndetse akaharara. Bukeye mu gitondo, yasanze abantu bagabaga ibitero baraye baje gusahura ibintu by'impunzi. Kubera iyo mpamvu, nyuma ya saa sita uwo munsi, we n'abandi bantu bavuye kuri ako gasozi bahungira ku isoko ryo ku Gisagara. Ubwo barimo kuva ku gasozi ka Kabuye, yabonye izindi mpunzi zihaza. Ageze ku Gisagara, FCS n'abandi bantu bagiye ku gasanteri hafi y'isoko, maze baharara amajoro abiri. Ku wa gatandatu tariki ya 23 Mata 1994, saa tatu n'igice mu gitondo, yabonye aho hantu hagera abantu atazi ariko nyuma baje kwivuga. Abo bantu ni burugumesitiri na superefe n'abandi bantu bakoranaga. Byageze aho bafata ijambo imbere y'imbaga y'abantu bari bateraniye aho. Burugumesitiri yafashe ijambo, akurikirwa na superefe wabwiye impunzi kwimukira ku gasozi ka Kabuye aho ngo zari kurindirwa umutekano. Ubwo abo bategetsi bafataga ijambo, FCS yari ahagaze nko ku ntera ya metero 10 uvuye aho bari bari. Impunzi zahise ziva aho hantu mu mutuzo zigera ku gasozi kavuzwe mu masaa tanu z'amanywa[362].

342. Bahageze, FCS yasanze kuri ko gasozi hakiri impunzi nyinshi. Yagiye ha hantu yari ku wa gatatu kandi yizeraga ko noneho bari kurindirwa umutekano, ariko bidatinze, uwo munsi yahise abona ko ba basahuzi bagarutse. Mu masaa kumi n'ebyiri z'umugoroba, yabonye aho hantu hagera umupolisi wa komine maze yibwira ko azanywe no kurinda umutekano w'impunzi. Cyakora, yaribeshyaga kuko ahubwo yumvise amasasu avuga akanabona abantu benshi cyane bishyira hamwe bagatangira gutera amabuye ku mpunzi no kuzitera bakoresheje inkoni. Amaze kubona ko abo bazanywe no kwica, atari ugusahura, FCS n'abandi bantu bahise bahunga, bakwira

[361] Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 13-16, 21, 23, na 29 (AK11).

[362] Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 43-48 (FCS).

imishwaro. Bamwe biciwe mu nzira ariko we n'undi muntu bashobora kugera mu gishanga kiri kure y'ako gasozi maze baraharara. Ubwo yari aho hantu, yumvaga amasasu kandi ntiyongeye gusubira ku gasozi ka Kabuye. Mu gusoza ubuhamya bwe mu Rukiko, FCS yavuze ko atigeze na rimwe yumva umuntu avuga Kalimanzira kandi ngo igihe yari ku gasozi ka Kabuye nta modoka yigeze abona[363].

Umutangabuhamya ushinjura wiswe ACB6

343. Mu mwaka wa 1994, Umutangabuhamya wiswe ACB6 yari atuye hafi y'agasozi ka Kabuye. Avuga ko hashize nk'ibyumweru bibiri Perezida Habyarimana apfuye, we n'abantu bo mu muryango we bahungiye ku gasozi ka Kabuye kubera ko ahantu yari atuye Abahutu n'Abatutsi bari batangiye kwicana. Yibuka ko bavuye iwabo bakajya kuri ako gasozi ari ku wa gatatu, ukaba wari umunsi w'isoko. Bagiye ari nka saa cyenda cyangwa saa kumi z'amanywa bakurikiye abaturanyi babo bahungaga. Bageze kuri ako gasozi nka saa kumi n'ebyiri z'umugoroba, bakaba rero baratinze mu nzira kubera ko bajyanye n'amatungo yabo. ACB6 yongeraho ko baraye mu mpinga y'ako gasozi, bari kumwe n'abantu benshi bavuye mu makomine atandukanye. Avuga ko nta kintu cyabaye muri iryo joro kandi ko ku wa kane bagumye kuri ako gasozi, bashakisha ibiribwa mu mirima yari ku gasozi bituranye ka Gahondo.[364]

344. Umutangabuhamya ACB6 avuga ko ku wa kane nijoro, we n'abantu bo mu muryango we baraye kuri ako gasozi kandi ko na none nta kibazo bagize. Cyakora, ku wa gatanu ibintu byarahindutse. Mu masaa tanu z'amanywa, ACB6 n'abandi bantu babonye abantu benshi bateranira ku gasozi ka Gahondo, maze batangira gutera amabuye no kugaba ibitero ku mpunzi zari ku gasozi ka Kabuye. Yibuka ko impunzi z'Abatutsi zirwanyeho kandi ko na we yatanze umuganda muri icyo gikorwa yegeranya amabuye yo gutera abagabaga ibyo bitero. Yibuka kandi ko nyuma ya saa sita, ibitero byahagaze igihe gito bikongera kubura saa kumi z'umugoroba. Abagabye ibyo bitero bageze aho baragenda bashubijwe inyuma n'impunzi, kandi bagiye bajyanye n'inka

[363] Inyandikomvugo y'iburanisha, 29 Mutarama 2009, imp. 48-49 (FCS).

[364] Inyandikomvugo y'iburanisha, 29 Mutarama 2009, urup. 54 n'inyandikomvugo y'iburanisha, 2 Gashyantare 2009, imp. 4-7 (ACB6).

nyinshi bibye. Ku wa gatanu nijoro, ACB6 n'abantu bo mu muryango we baraye kuri ako gasozi kandi nta bindi bibazo bagize[365].

345. Ku wa gatandatu mu gitondo, abagabye igitero baragarutse ari benshi cyane kandi bafite imbunda. ACB6 avuga ko igitero cyatangiye saa tanu z'amanywa, kikaza guhagarara umwanya muto mbere y'uko noneho gikaza umurego mu masaa cyenda z'amanywa, maze kigakomeza kugera ijoro riguye. ACB6 yari hafi y'impinga y'agasozi ka Kabuye; ibitero bikaba byarazaga biturutse ku gasozi ka Gahondo. ACB6 yibuka ko Abatutsi bakomeje kwirwanaho, kugera imvura itangiye kugwa ari nyinshi noneho bamwe mu bagabye igitero bagataha, abandi bakahasigara ndetse bagasahura. Bamwe mu Batutsi bagerageje kuva kuri ako gasozi ngo bahungire ku biro bya komine ku Gisagara, ariko babatangirira mu nzira. Ibyo rero byatumye uyu mutangabuhamya n'abandi bantu bajya kwihisha mu mirima y'amasaka no mu ntoki. Ku cyumweru mu gitondo, ACB6 yavuye mu bwihisho asubira ku gasozi ka Kabuye, nyuma aza gutaha ariko asanga inzu ye barayitwitse. Ni we wenyine warokotse mu bantu bo muryango we. Nyuma yaho, yagiye kubana n'umukecuru w'Umuhutukazi wari inshuti y'umuryango we[366].

346. Umutangabuhamya ACB6 avuga ko nta modoka yabonye yegera agasozi ka Kabuye, kuva aho ahagereye ari ku wa gatatu kugeza igihe ahaviriye ari ku cyumweru. Yongeraho ko abagabye igitero batanyuze mu muhanda kuko nta mihanda iri muri ako gace. Avuga ko kuva ageze kuri ako gasozi ku wa gatatu kugera igihe ahaviriye ku cyumweru atahabonye Kalimanzira cyangwa ngo yumve hari uvuga ko yahaje. Asobanura ko mu by'ukuri atigeze na rimwe abona Kalimanzira mu mwaka wa 1994.[367]

Umutangabuhamya ushinjura witwa Denis Ndamyumugabe

347. Mu mwaka wa 1994, Ndamyumugabe yabaga muri Serire ya Gitwa (Segiteri ya Dahwe, Komine ya Muganza). Kuva aho yari atuye ujya ku gasozi ka Kabuye hari urugendo rw'iminota itanu n'amaguru. Avuga ko ku wa gatatu, Perezida

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[365] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, imp. 8-9 (ACB6).

[366] Inyandikomvugo y'iburanisha, 2 Gashyantare 2009, imp. 9-12 (ACB6).

[367] Inyandikomvugo y'iburanisha, 29 Mutarama 2009, urup. 54 n'inyandikomvugo y'iburanisha, 2 Gashyantare 2009, urup. 11 (ACB6).

Habyarimana amaze ibyumweru bibiri apfuye, konseye wa segiteri ye yateranije abaturage bo muri ako gace ku biro bya segiteri, ababwira ko bagomba kwirwanaho barwanya Abatutsi benshi batazwi bateraniye ku gasozi ka Kabuye, kandi bashoboraga guteza umutekano muke kubera ko igihugu cyari mu ntambara. Ndamyumugabe yibuka ko uwo mukonseye yategetse abaturage ba Dahwe kwirukana abo Batutsi bakabakura kuri ako gasozi. Ndamyumugabe yari azi ko Abatutsi bahungiye ku gasozi ka Kabuye kuko batinyaga kwicwa. Cyakora, kubera ko bababwiye ko utitabira icyo gikorwa yashoboraga guhanwa, Ndamyugabe na bagenzi be bakurikije amategeko ya Konseye, bahita bajya kuri ako gasozi[368].

348. Ndamyumugabe yibuka ko bahageze nka saa saba z'amanywa bagatangira gutera Abatutsi amabuye, na bo bakabatera andi birwanaho. Abagabye igitero bamaze kunanirwa, basubiye mu maserire yabo, bukeye bagaruka kuri ako gasozi. Ibintu byakomeje kugenda bityo mu gihe cy'iminsi ine, ni ukuvuga kuva ku wa gatatu kugera ku wa gatandatu, ari wo munsi igitero cya nyuma cyagabwe, noneho kirimo n'abasirikare. Bakomeje gutera kugera ijoro riguye, ari na bwo hagwaga imvura nyinshi noneho bagataha. Asubiyeyo ku cyumweru, yasanze nta muntu uhari wo kugabaho igitero. Ndamyumugabe yemeza ko atigeze na rimwe abona imodoka ku gasozi ka Kabuye. Anemeza ko muri iyo minsi ine atigeze na rimwe abona Kalimanzira kandi ko atigeze yumva hari umuntu uvuga ko Uregwa yigeze kuza ku gasozi ka Kabuye[369].

Umutangabuhamya ushinjura wiswe NGB

349. Umutangabuhamya wiswe NGB yagiye mu bitero bibiri byagabwe ku gasozi ka Kabuye mu minsi ibiri ikurikirana. Nyuma y'itariki ya 20 Mata 1994, abantu bo muri Segiteri ya Rwamiko bagiye mu rugo kwa NGB bitwaje intwaro gakondo, bamubwira kubakurikira ngo bagabe igitero ku gasozi ka Kabuye. Asanze ko adashobora kwanga, yafashe umuhoro we maze arabakurikira. Bahagaze muri Serire ya Gahondo muri Segiteri ya Dahwe, iteganye n'agasozi ka Kabuye. Icyo gihe, yabonye ko impunzi zari zateraniye ku gasozi ka Kabuye ku ruhande ruteganye neza na Gahondo. Bidatinze, burigadiye wungirije yabahaye amabwiriza yo kugaba igitero, nuko barabikora. NGB n'abantu bari bagabye igitero bamanutse agasozi ka Gahondo, bambuka akabande ka

[368] Inyandikomvugo y'iburanisha, 28 mutarama 2009, imp. 3-4 (Denis Ndamyumugabe).

[369] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 2-7 (Denis Ndamyumugabe).

Kabuye maze batangira kuzamuka agasozi ka Kabuye. Avuga ko bazamuka ako gasozi batanyuze mu muhanda kubera ko nta wari uhari[370].

350. Igitero cya mbere yagiyemo, cyatangiye mbere ya saa sita kimara nk'amasaha atatu kandi cyahagaritswe n'uko impunzi zashoboye kwirwanaho. Ku munsi ukurikiyeho, burigadiye yahaye NGB imbunda n'amasasu atanu, kugira ngo abungabunge umutekano muri segiteri ye. Ubwo yari mu nzira ataha, imodoka itwaye abajandarume n'abapolisi yamugezeho irahagarara, maze babwira NGB kuyijyamo nuko arabikora. Basubiranye ku gasozi ka Gahondo, aho umuhanda urangirira maze bazamuka ako gasozi kugera mu mpinga. Bari kuri iyo mpinga, undi burigadiye yatanze itegeko ryo kugaba igitero ku mpunzi zari ku gasozi ka Kabuye. Igitero cyagabwe mbere ya saa sita, batangirira gutera mu cya kabiri cy'agasozi nuko barakomeza bagera mu mpinga yako kandi icyo gitero cyarakomeje kugera ku mugoroba, gihagarikwa gusa n'uko bwari bumaze kwira ndetse n'imvura iguye. Hari n'abandi bantu benshi bagabye igitero baturutse mu tundi duce. NGB ntiyigeze abona imodoka ku gasozi ka Kabuye haba mbere y'igitero, igihe cyarimo kuba cyangwa nyuma yaho. Nta bindi bitero azi byaba byaragabwe nyuma. NGB yari azi Kalimanzira kandi avuga ko atigeze amubona cyangwa ngo yumve ko yaba yaragize uruhare urwo ari rwo rwose mu bitero byagabwe ku gasozi ka Kabuye. NGB anavuga ko iyo Kalimanzira aza kubigiramo uruhare yari kuba yarumvise abantu babivuga muri gereza, aho abantu bavuka muri komine imwe bishyira hamwe bakaganira ku byabaye[371].

Umutangabuhamya ushinjura witwa Athanase Nzabakirana

351. Mu buhamya yatanze mu Rukiko, Nzabakirana avuga ko yagiye ku gasozi ka Kabuye hashize nk'ibyumweru bibiri Perezida Habyarimana apfuye. Asobanura ko impunzi z'Abarundi zabaga muri Komine ya Kibayi, zitwaje intwaro gakondo zirimo imihoro n'ibihiri, zaje zikamushyiraho iterabwoba, zimubwira ko natajyana na zo ku gasozi ka Kabuye gusahura imitungo y'Abatutsi bari bahahungiye zimugirira nabi. Ubwo Nzabakirana yafashe agakoni ajyana n'abandi bantu bagera kuri 300 kuri ako gasozi kandi bagezeyo hashize nk'isaha imwe. Yibuka ko bageze mu kabande kari munsi y'ako gasozi bagerageje gutera impunzi, ariko zibakabasubiza inyuma zitera

[370] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 21-23 (NGB).

[371] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 23-26 (NGB).

amabuye. Icyo gitero cyatangiye mu masaa tanu za mu gitondo kimaze kuneshwa, Nzabakirana yasubiye mu rugo arahaguma ngo atongera guhatirwa gusubira kuri ako gasozi mu bindi bitero. Avuga ko atabonye umutegetsi n'umwe cyangwa imodoka ku gasozi ka Kabuye. Yongeraho ko nta n'umuhanda wageragayo ndetse ko atigeze abona Kalimanzira hagati ya Mata na Nyakanga 1994[372].

Umutangabuhamya ushinjura witwa Alphonse Nsabimana

352. Mu buhamya bwe mu Rukiko, Nsabimana avuga ko muri Mata 1994, umunsi umwe nyuma ya saa sita, hashize nk'ibyumweru bibiri Perezida Habyarimana apfuye, amajipe abiri ya gisirikare atwaye abasirikare bagera kuri 25 yageze kuri bariyeri we n'abandi bagabo bane bacungaga kandi iyo bariyeri yari ku rugabano rwa Segiteri ya Muzenga n'iya Kinazi (Komine ya Ndora). Bamwe muri abo basirikare bavuye mu modoka bategeka Nsabimana na bagenzi be bane kujyana na bo ku gasozi ka Kabuye kugira ngo birukane impunzi zari zihari. Babiri muri bagenzi ba Nsabimana barabyanze, abo basirikare bahita babarasa barapfa. Nsabimana na bagenzi be basigaye babibonye batyo, barabyemeye maze burira imwe muri izo modoka nuko bajya ku gasozi ka Kabuye banyuze mu muhanda w'i Gisagara. Abasirikare basize imodoka ku kandi gasozi kari hafi aho maze babanyuza mu kabande kari hagati y'agasozi ka Gahondo n'aka Kabuye[373].

353. Nsabimana avuga ko nta mpunzi basanze kuri ako gasozi baparitseho imodoka, ko ariko bageze mu kabande yahabonye abantu benshi, n'impunzi nyinshi zari ku gasozi ka Kabuye. Abasirikare bari imbere y'abandi ni bo bagiye basatira impunzi. Umutangabuhamya yumvise amasasu avuga mu gihe cy'amasaha nk'atatu maze hagwa imvura nyinshi n'inkuba zirakubita. Nsabimana asobanura ko atagize uruhare muri icyo gitero kubera ko nta mpunzi n'imwe yashoboye guhunga amasasu ngo igere aho yari ahagaze[374].

354. Nsabimana avuga ko atigeze abona Kalimanzira muri imwe muri izo modoka bazanye. Yongeraho ko atigeze anamubona igihe igitero cyagabwaga ku gasozi ka Kabuye cyangwa ngo amubone mu kabande. Mu by'ukuri, mu mwaka wa 1994, uyu

[372] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 33-35 (Athanase Nzabakirana).

[373] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 36-37 (Alphonse Nsabimana).

[374] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 38-39 (Alphonse Nsabimana).

mutangabuhamya ntiyigeze na rimwe abona Kalimanzira. Mu gusoza, Nsabimana avuga ko na nyuma y'ibitero atigeze yumva hari umuntu uvuga ko yabonye Kalimanzira ku gasozi ka Kabuye. Yongera kwemeza ko imodoka yabonye ziparitse ari amajipe abiri gusa bari bagiyemo bajya aho hantu[375].

Umutangabuhamya ushinjura wiswe AM14

355. Mu buhamya bwe mu Rukiko, Umutangabuhamya wiswe AM14 avuga ko hafi y'itariki ya 20 Mata 1994, Abatutsi benshi cyane bazanye n'amatungo yabo ku isoko ryo ku Gisagara, ari na ho hakinirwaga umupira w'amaguru, kandi bahamaze iminsi mike. AM14 avuga ko yagiyeyo kureba izo impunzi maze akabona ibyahaberaga, ahagararanye n'inshuti ze iruhande rwa robine. Umunsi umwe, nyuma ya saa sita, AM14 yumvise bavuga ko burugumesitiri yategetse izo mpunzi kuva aho hantu zikajya ku gasozi ka Kabuye kuko ngo ari ho hari umutekano. Uyu mutangabuhamya avuga ko n'ubwo atiboneye burugumesitiri atanga iryo tegeko, uwo munsi yabonye burugumesitiri kuri iyo mbuga y'isoko. AM14 avuga ko atagiye muri ibyo bitero. Azi ibyabereye ku gasozi ka Kabuye kuko abantu benshi babiganiriyeho nyuma yaho cyane byararangiye ndetse no muri gereza. Avuga ko atigeze yumva hari umuntu uvuga izina rya Kalimanzira ku byerekeranye n'ubwicanyi bwakorewe ku gasozi ka Kabuye[376].

Umutangabuhamya ushinjura wiswe AX88

356. Umutangabuhamya wiswe AX88 yahamagajwe kugira ngo avuguruze uwiswe BDK ku byerekeranye n'ikiganiro abantu bagiranye ku bundi bwicanyi bwari gukorwa. Avuga ko igihe ku gasozi ka Kabuye harimo gukorerwa ubwicanyi, robine yo kwa Fidèle Uwizeye itakoraga, kuko umugabo wari ushinzwe gukoresha ipompu y'amazi yari Umututsi, bityo akaba yari yihishe. AX88 anavuga ko Kalimanzira atigeze ajya mu nama yabereye kwa Uwizeye nyuma y'urupfu rwa Perezida Habyarimana[377].

[375] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 40 (Alphonse Nsabimana).

[376] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 64-65 (AM14).

[377] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 18-19, 22 [mu muhezo] (AX88).

2.4.2 *Isesengura ry'Urugereko*

357. Ibivugwa mu gika cya 9 n'icya 10 by'Inyandiko y'ibirego, hamwe n'ibimenyetso byatanzwe mu iburanisha bishobora gushyirwa mu byiciro bitatu by'ibyabaye: (1) kohereza Abatutsi ku gasozi ka Kabuye, (2) ubwicanyi bwabereye ku gasozi ka Kabuye, (3) kugenzura ubwicanyi no kuganira ku bundi bwicanyi bwari gukorerwa ku Gasozi ka Kabuye nyuma yaho. Kalimanzira avuga ko mu gihe kivugwa mu Nyandiko y'ibirego yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myiregurire ya sinari mpari (reba akiciro ka III.1.2.2).

Kohereza Abatutsi ku gasozi ka Kabuye bavuye ku isoko ryo ku Gisagara

358. Mu buhamya bwabo mu Rukiko, abatangabuhamya BCF na BDC bavuga ku ruhare Kalimanzira yagize mu kohereza impunzi z'Abatutsi ku gasozi ka Kabuye zivuye ku isoko ryo ku Gisagara ku wa gatandatu tariki ya 23 Mata 1994. Umutangabuhamya BWO na we avuga ko hakoreshejwe amayeri ashoboka ngo bashuke Abatutsi bave ku isoko ryo ku Gisagara bajye ku gasozi ka Kabuye, ariko akongeraho ko atahabonye Kalimanzira. Abo batangabuhamya uko ari batatu barokotse ubwicanyi bwabereye ku gasozi ka Kabuye.

359. BCF avuga ko ari Umututsi, kandi ko mu gihe ibivugwa byabaga, yacuruzaga urwagwa ku muhanda munini umanuka ujya ku isoko ryo ku Gisagara[378]. Ubwunganizi bwahamagaje abatangabuhamya biswe AM52 na AM14 kugira ngo bavuguruze ibyo BCF avuga kuri iki kibazo. AM52 avuga ko yari afite iduka ku isoko ryo ku Gisagara kandi ko yari azi BCF. Asobanura ko BCF yakundaga kuba ari ku isoko ariko ko nta duka cyangwa akabari azi yigeze agira aho hantu[379]. AM14 na we avuga ko nta duka cyangwa akabari azi BCF yari afite aho hantu. Yongeraho ko ashidikanya ku bwoko bwa BCF, ariko akemera ko atari azi BCF neza[380]. Urugereko rusanga izo ngingo zidafite agaciro kanini kandi muri rusange ntizihungabanya

[378] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 7 [mu muhezo] (BCF).

[379] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 3-8 [mu muhezo] (AM52); reba n'ibimenyetso gihamya N° D45 na D46.

[380] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 67 na 73 (AM14); reba n'ibimenyetso gihamya N° D50, D51 na D52.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

ubuhamya bwa BCF. Urugereko rusanga ibivugwa na AM52 na AM14 bidatuma rushidikanya ku buhamya bwa BCF.

360. Ubwunganizi buvuga ko mu buhamya bwanditse bukubiyemo ibyo BCF yabwiye abapererezi b'uru Rukiko muri Werurwe 2003, nta hantu na hamwe avuga ko yacuruzaga urwagwa[381]. Busobanura ko uyu mutangabuhamya avuga gusa ko ku itariki ya 23 Mata 1994, yari umwe mu mpunzi nyinshi cyane zari zikoraniye ku isoko. Urugereko rusanga ubwo buhamya butavuguruzanya n'ubwo yatanze mu Rukiko. Ahubwo kuba BCF yarongeye ibisobanuro ku ngingo idafite akamaro kanini bituma ibyo avuga by'ingenzi birushaho kwizerwa. Hari ikintu ariko gikomeye kurushaho: Urugereko rusanga mu buhamya bwanditse yatanze muri Werurwe 2003, BCF yemeza ko Superefe Ntawukulilyayo na Kalimanzira bafashe ijambo, ariko imbere y'Urugereko akavuga ko superefe ari we wenyine wafashe ijambo. Mu ibaza rinyomoza, BCF yasobanuye ko ubuhamya bwe bushobora kuba bwaranditswe nabi, maze akemeza ko atigeze avuga ko Kalimanzira yafashe ijambo[382]. Urugereko rwemeye icyo gisobanuro kandi rusanga yaritwararitse kurushaho mu buhamya yatanze mu Rukiko. Iyo aza kuba yarabeshye ashaka gushinja Kalimanzira ibinyoma, birashoboka cyane ko uyu mutangabuhamya yari kwemeza ko [Uregwa] yafashe ijambo imbere y'imbaga y'abantu bari aho. Urugereko rusanga rero BCF yakwizerwa.

361. Umutangabuhamya BDC, watanze ubuhamya mu Rukiko hashize iminsi itatu BCF atanze ubwe, na we avuga ko Kalimanzira yari ku isoko ryo ku Gisagara. Cyakora, yongeraho ko ari superefe gusa wafashe ijambo. Ubwunganizi buvuga ko BCF na BDC bagambanye kugira ngo bavuge ibintu bimwe kuri iki kibazo[383]. Urugereko ntirwemera ibyo Ubwunganizi buguva kuko nta nshingiro bifite. BDC ni Umuhutukazi warokotse wiciwe umugabo w'Umututsi n'abana, kandi ubuhamya bwe bushyigikira ubwa BCF ku zindi ngingo. Abo batangabuhamya bombi bavuga ko hari ku wa gatandatu nyuma ya saa sita, ko abapolisi bari bahari, ko superefe yijeje impunzi ko zari kurindirwa umutekano ndetse ko bahise bohereza impunzi ku gasozi ka Kabuye. Mu buhamya bwabo, BDC na BCF banyuranya ku bintu bimwe na bimwe, nko ku byerekeranye no kumenya niba superefe yarakoresheje

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381 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 153; ikimenyetso gihamya N^o D3.

382 Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 44 (BCF).

383 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 155-156.

indangururamajwi ubwo yabwiraga ijambo imbaga y'abantu, ku myenda abapolisi bari bambaye no kubyerekeranye no kuba aho hantu hari abasirikare. Urugereko rusanga uko kunyuranya kudakanganye ndetse kukaba gushobora kuba guterwa n'igihe gishize ibyo bavuga bibaye, ahantu buri wese yareberaga ibyo bintu ndetse no kuba icyo gihe hari akaduruvayo.

362. Mu nyandikomvugo y'ubuhamya yakozwe n'abapererezi b'Urukiko muri Werurwe 2003, BDC avuga ko Superefe Ntawukuliryayo na «bamwe mu banyacyubahiro» ari bo bonyine bafashe ijambo[384]. Kubera ko ubuhamya bwanditse bwari bufite umutwe witwa: *«Re: Kalimanzira, Callixte»*, kandi akaba avuga izina rya Kalimanzira mbere na nyuma y'ibyabereye ku isoko ryo ku Gisagara, Ubwunganizi buvuga ko iyo BDC aza kuba yarabonye Kalimanzira, yari kumuvuga byanze bikunze[385]. Urugereko rusanga kuba BDC ataravuze, ku buryo bweruye, ko Kalimanzira yari ku isoko bidatuma rushidikanya ku kwizerwa kwe. Kalimanzira ashobora no kuba yari mu bandi «banyacyubahiro» BDC avuga. Uyu mutangabuhamya ashobora kuba yarasanze atari ngombwa kuvuga ko Kalimanzira yari aho hantu kubera ko Uregwa atafashe ijambo mbere y'imbaga y'abantu bari bahari.

363. Ubuhamya bwa BDC na BCF bushyigikirwa kandi n'ubwa BDJ. Mu ibaza rinyomoza, babajije BDJ ibibazo bisaba gusobanura birambuye maze, nta kuzuyaza uyu mutangabuhamya asubiza ko yabonye Kalimanzira ku isoko ryo ku Gisagara ku itariki ya 23 Mata 1994[386]. BWO ni Umututsi wacitse ku icumu, akaba yarapfushije abantu benshi bo mu muryango we, baguye ku gasozi ka Kabuye. Ubuhamya bwe na bwo bushyigikira ubwa BCF na BDC ku ngingo nyinshi, ariko hakaba n'izo bunyuranyaho na bwo. Ikintu cy'ingenzi ahangaha ni uko BWO avuga ko yaraye amajoro abiri ku isoko ryo ku Gisagara mbere y'uko Superefe Ntawukulilyayo aza agategeka impunzi kuhava zikajya ku gasozi ka Kabuye aho ngo zari kurindirwa umutekano. Cyakora, BWO ntavuga ko Kalimanzira yari aho hantu. BWO yari yicaye mu mpunzi zageraga kuri 2.000, kure y'ahantu superefe yavugiye ijambo. Superefe amaze gutanga amabwiriza, uyu mutangabuhamya yahise ajya ku gasozi ka

[384] Ikimenyetso gihamya N° D10.

[385] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 208.

[386] Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 60 (BDJ).

Kabuye[387]. Niba ibyo BWO avuga byabereye ku isoko ryo ku Gisagara ari bimwe n'ibya BDC na BCF ubwo babonaga Kalimanzira, BWO ashobora kuba atarabonye Uregwa kubera ko yari yicaye mu mbaga y'impunzi.

364. Cyakora, kuba ubuhamya BWO yatanze mu Rukiko butandukanye n'ubwa BDC na BCF ku zindi ngingo, bigaragaza ko ibyo uyu mutangabuhamya avuga bitandukanye n'ibyo abo bandi bavuga ko byabaye. Nk'urugero, BWO avuga ko superefe yavuye ku biro bya komine akajya ku isoko n'amaguru ari kumwe n'abapolisi babiri n'abandi Batutsi benshi bari bahungiye ku biro bya komine[388]. Byongeye kandi, BWO avuga ko Superefe amaze kubaha amategeko yo kuva ku isoko, we ari mu mpunzi za mbere zageze ku gasozi ka Kabuye. Yongeraho ko bahageze, bamaze iminsi mike bafite agahenge mbere y'uko haba ibitero n'ubwicanyi bwibasiye imbaga[389]. BDC na BCF bo bavuga ko uwo munsi bagereyeho ku gasozi ka Kabuye bavuye ku isoko, bagabweho ibitero bikaze byarimo n'imbunda[390]. Kubera iyo mpamvu, Urugereko rusanga BWO ashobora kuba avuga inkuru y'irindi tsinda ry'impunzi zirukanywe mbere ku isoko maze zikajya ku gasozi ka Kabuye, mu gihe BDC na BCF bo bari mu itsinda ryagiyeyo nyuma. Urugereko rusanga Ubwunganizi nta shingiro bufite mu kuvuga ko BWO yiyemeje gushinja Kalimanzira byanze bikunze[391]. BWO yaritwararitse avuga gusa ibyo yiboneye ubwe kandi ibyo bituma ubuhamya bwe burushaho kwizerwa.

365. Abatangabuhamya bashinjura biswe AM14 na FCS bashyigikira ubuhamya bw'abatangabuhamya bashinja bavuga ko ku wa gatandatu tariki ya 23 Mata 1994, impunzi z'Abatutsi zari ziteraniye ku isoko ryo ku Gisagara zasabwe kuva aho hantu zikajya ku gasozi ka Kabuye, bazizeza ko zari kuharindirwa umutekano. Nta muburanyi uhakana ibyo bintu. Cyakora, FCS na AM14 bashinja Burugumesitiri wa Komine ya Ndora na superefe ko bohereje impunzi ku gasozi ka Kabuye. N'ubwo

[387] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 64-69 (BWO); reba n'ikimenyetso gihamya N^o D4.

[388] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 62-63 (BWO).

[389] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 26-28 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 69-70 (BWO).

[390] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 27-32 (BDC); inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 12-14 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp. 32-40 (BCF).

[391] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 280.

Ubwunganizi buvuga ko ibyo bivuguruza ubuhamya bushinja bwemeza ko Kalimanzira yari aho hantu, Urugereko rwo si ko rubibona. Ari ubuhamya bwa AM14 bushingiye ku nkuru mbarirano, ari n'ubwa FCS wiboneye ibyabaye, nta na bumwe muri bwo buhamya bushaka kumvikanisha ko Kalimanzira atari ahari. Byongeye kandi, FCS avuga ku bintu byabaye ku wa gatandatu mu gitondo, mu gihe abatangabuhamya bashinja bo bavuga ko byabaye nyuma ya saa sita. Ubwunganizi buvuga ko bidashoboka ko impunzi zaba zaragiye mu byiciro binyuranye kubera ko nta mutangabuhamya ushinja ubivuga[392].

366. Kubera ko abo batangabuhamya bashinja bari mu mpunzi zategetswe kuva aho hantu, kandi bakaba bavuga ibyabaye bakurikije uko babibonye, birumvikana ko batari kuguma kuri iryo soko ngo babe barabonye ukuntu ibindi byiciro by'impunzi byirukanwa. Nta n'ukuntu kandi bari kumenya ko ikindi gihe, hari irindi tsinda ry'impunzi ryategetswe kuva ku isoko. Urugereko rusanga bitari gushoboka ko impunzi zibarirwa mu bihumbi zigerera ku isoko icya rimwe. Bityo rero, Urugereko rusanga bishoboka ko uko zageraga ku isoko ariko zagendaga zitegekwa kuhava mu byiciro binyuranye. Bityo, ubuhamya bwa FCS butanga amakuru y'inyongera ku kuntu Abatutsi benshi cyane gutyo bageze ku gasozi ka Kabuye.

367. Urugereko rusanga Porokireri yaragaragaje, ku buryo budashidikanywaho ko ku wa gatandatu, tariki ya 23 Mata 1994, Kalimanzira yari ku isoko ryo ku Gisagara, ahagaze iruhande rwa superefe ubwo uyu yategekaga Abatutsi bari bahateraniye kujya ku gasozi ka Kabuye kandi akabizeza ko bari kuharindirwa umutekano. Nk'uko bivugwa mu cyiciro gikurikira, izo mpunzi ntizarinzwe ahubwo abantu benshi cyane muri zo biciwe kuri ako gasozi.

Kohereza Abatutsi ku gasozi ka Kabuye, Umuhanda Gisagara-Kabuye

368. Porokireri yahamagaje umutangabuhamya wiswe BWK w'Umututsikazi warokotse jenoside. Mu buhamya bwe mu Rukiko, BWK avuga ko ku wa gatandatu tariki ya 23 Mata 1994, yabonye Kalimanzira mbere gato ya saa cyenda z'amanywa. Icyo gihe, Uregwa yari mu modoka hafi yo kwa Misago, mu muhanda uva i Kabuye werekeza ku Gisagara. Uyu mutangabuhamya yari kumwe n'izindi mpunzi nka 13 bagenda

[392] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 181.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

bava muri Serire ya Kabuye maze Kalimanzira ababwira kujya ku gasozi ka Kabuye, abizeza ko bari kuhagirira umutekano.

369. Ubwunganizi buvuga ko hari ukuvuguruzanya gutatu hagati y'ubuhamwa bwa BWK mu Rukiko n'ubuhamya bwanditse yahaye abapererezi b'uru Rukiko muri Nzeri 2007, ni ukuvuga amezi umunani mbere y'uko yitaba Urukiko[393]. Icya mbere, mu buhamya yatanze muri Nzeri 2007, BWK avuga ko yabonye Kalimanzira ku muhanda, hafi yo kwa Misago «hafi y'itariki ya 21 Mata 1994», ariko mu bwo yatanze mu Rukiko akavuga ko hari ku itariki ya 23 Mata. Urugereko rusanga nta kwivuguruza kurimo kuko kuvuga ko byari «hafi y'itariki ya 21 Mata 1994» ari ikigereranyo cy'itariki nyayo ya 23 Mata yavuze mu Rukiko. Icya kabiri, mu buhamya bwanditse yatanze mbere, BWK avuga ko Kalimanzira yari kumwe n'abantu umunani mu modoka ye, nyuma ageze mu Rukiko avuga ko bari batatu. N'ubwo iyo mibare yombi itandukanye cyane, yerekeranye n'ikintu kidakomeye cyane, bityo Urugereko rukaba rusanga uko kunyuranya kutagaragaza ko ubuhamya bwa BWK ari ubuhimbano. Icya nyuma, mu buhamya bwanditse yatanze mbere, BWK avuga ko umushoferi wa Kalimanzira yari yambaye imyenda ya simoko ya gisirikare, ariko mu Rukiko akavuga ko yari yambaye imyenda ya gisiviri. Ubwunganizi buvuga ko, mu Rukiko, uyu mutangabuhamya yahinduye imvugo kugira ngo ahuze n'abandi batangabuhamya bashinja bavuga ko Kalimanzira yari atwawe n'umushoferi w'umusiviri. Cyakora mu kuvuga ibyo, Ubwunganizi buranivuguruza kuko buvuga ko ubuhamya bwa BWK budafite ubundi bubushyigikira. Urugereko rusanga ibyo bitatuma rushidikanya ku buhamya bwa BWK kuko imyambarire y'umushoferi wa Kalimanzira idafite agaciro kanini.

370. Ubuhamya bwa BWK bufite ubundi bubushyigikira kubera ko abandi batangabuhamya bashinja bavuga ko Kalimanzira yari hafi y'isoko ryo ku Gisagara kandi igihe bavuga ko bamuboneyeho urebye ni kimwe. BWK ashobora kuba rero yaramubonye mbere cyangwa nyuma gato y'uko Abatutsi birukanwa ku isoko. Ubuhamya bwa BWK bushyigikirwa kandi, kuri bimwe, n'ubwa BWO uvuga ko umusiviri witwa Gakeri yategetswe guherekeza impunzi zigiye ku gasozi ka Kabuye[394].

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[393] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 12-15; reba n'ikimenyetso gihamya N° D9.

[394] Inyandikomvugo y'iburanisha, 12 Gicurasi 2008, urup. 65 (BWO).

371. Urugereko rwemera, ku buryo budashidikanywaho, ubuhamya bwa BWK bityo rugasanga ubuhamya bwe bwakwizerwa. Ubuhamya bwe, kimwe n'ubwa BDC na BCF (buvugwa haruguru ku byerekeranye n'isoko ryo ku Gisagara) bushyigikira ibivugwa mu gika cya cyenda cy'Inyandiko y'ibirego ko ku itariki ya 23 Mata 1994, Kalimanzira ubwe yashishikarije Abatutsi guhungira ku gasozi ka Kabuye kandi abizeza ko bari kuharindirwa.

Ubwicanyi bwo ku gasozi ka Kabuye

372. Abatangabuhamya biswe BWO, BCF, BDC na BBO bavuga bose ko babonye Kalimanzira ku gasozi ka Kabuye ku wa gatandatu tariki ya 23 Mata 1994 cyangwa hafi y'iyo tariki. Mbere yaho uwo munsi, BXG yari yabanje kubona Kalimanzira kuri bariyeri yari hafi aho. BWO, BCF, BDC na BXG barokotse ibitero byagabwe ku gasozi ka Kabuye, naho BBO we yari muri ibyo bitero.

373. N'ubwo ubuhamya bwa BBO mu Rukiko buhuye n'ubwa BWO, BCF na BDC ku byerekeranye n'igihe (impera za Mata) n'ahantu (ku gasozi ka Kabuye) ibivugwa byabereye n'uko ibintu byagenze (uko Abatutsi birwanyeho ibitero bije), ubwo buhamya bwe bunyuranye n'ubw'abarokotse, babonye ibyabaye bari ahandi hantu hatandukanye n'aho BBO yari ari. BBO ni we mutangabuhamya wenyine uvuga ko Kalimanzira yaje ku gasozi ka Kabuye ari kumwe na Koloneli Tharcisse Muvunyi, bazanye bisi ebyiri za ONATROCOM zirimo abasirikare 150. Ni na we kandi mutangabuhamya wenyine uvuga ko Kalimanzira yabwiye impunzi z'Abarundi uko zigomba kugaba igitero.

374. Ubwunganizi buvuga ko BBO yivuguruza mu buhamya yatanze mu Rukiko kubera ko avuga ko yabonye Kalimanzira ku gasozi ka Kabuye, ariko bamubaza uko yamumenye agasubiza ko yumvise abandi bavuga ko Kalimanzira yari aho hantu. Ubwunganizi buvuga ko ibyo bigaragaza ko ubuhamya bwa BBO bushingiye ku nkuru mbarirano[395]. Ubwunganizi buvuga kandi ko hari ukwivuguruza kunyuranye

[395] Imyanzuro nsozarubanza yanditse, ibika 62-64; reba inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 46 (BBO): « Umusirikare witwa Alphonse n'umurezerivisite w'umusaza witwa Habyarimana bavuze kuri Kalimanzira maze baravuga ngo : «Noneho ubwo Muvunyi na Kalimanzira bahageze, ak'aba Batutsi karashobotse'. Sinitaye kuri abo bategetsi kubera ko ntari nzi ko umunsi umwe nzabazwa ibibazo biberekeyeho. Numvise bavuga izina rye, kandi kubera ko nari nzi – cyangwa nabonaga abo bategetsi bazanywe no kudufasha,

mu buhamya bwanditse BBO yatanze mbere. Uretse ukwivuguruza kuvugwa haruguru ku byerekeranye n'ibyo BBO avuga ku byabereye mu nkambi ya Kanage (reba akiciro ka III.4.2.2), Ubwunganizi busanga mu buhamya bwanditse yahaye abapererezi b'uru Rukiko ku itariki ya 20 Ukwakira 1999, BBO atavugamo ko Kalimanzira cyangwa Muvunyi bageze ku gasozi ka Kabuye bazanye bisi ebyiri zipakiye abasirikare. Muri ubwo buhamya, avugamo gusa Élie Ndayambaje (wabaye burugumesitiri wa Komine ya Muganza igihe ibivugwa byabaga na mbere yaho)[396]. Cyakora, Urugereko rusanga mu buhamya bwanditse yatanze mbere mu mwaka wa 2001, Kalimanzira na Muvunyi bari mu bantu yashinje kujyana abasirikare ku gasozi ka Kabuye ngo bafashe abagabye igitero[397].

375. Umutangabuhamya BBO ni umwicanyi ubyiyemerera. Yamaze imyaka 11 muri gereza kubera uruhare yagize muri jenoside, ariko ubu yarafunguwe[398]. Yanatanze ubuhamya ku bintu byabereye mu nkambi ya Kanage ariko Urugereko rwavuze ko ubwo buhamya bugomba kwitonderwa, kandi rwasanze ubuhamya bwe bwonyine budahagije ngo rube rwabushingiraho ruhamya Uregwa icyaha. Rwafashe rero umwanzuro uvuga ko Kalimanzira atari mu nkambi ya Kanage mu minsi yakurikiye urupfu rwa Perezida (reba akiciro ka III.4.2.2). Urugereko rusanga hari ugushidikanya ku kuntu BBO yashoboye kubona no kumenya Kalimanzira mu gihe cy'ibyabaye. BBO avuga ko mu nkambi ya Kanage ari ho yabonye kandi akamenya bwa mbere Kalimanzira, ubwo Pierre Canisius Kajyambere (Burugumesitiri wa Komine ya Kibayi) yamwerekanaga. Kubera ko Urugereko rwamaze kwemeza ko Kalimanzira atari mu nkambi ya Kanage, rushidikanya ko BBO yashoboye kumenya Kalimanzira ku gasozi ka Kabuye. Bityo rero, Urugereko ntirushobora gushingira ku buhamya bwa BBO, keretse rufite ubundi bwakwizerwa bubushyigikira cyangwa na bwo hakaba hari ubundi bwakwizerwa bushyigikira.

376. Umutangabuhamya BXG ni Umututsi w'umucikacumu kandi wapfushije abantu benshi bo mu muryango we, baguye ku gasozi ka Kabuye. Ubuhamya bwe

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kandi numvaga koko ko ariko ari byo, kuko nari narigeze kumva uwo mugabo bamuvuga. Numvise iryo zina mu nkambi y'impunzi ».

[396] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 80-82; reba n'ikimenyetso gihamya N° D20.

[397] Ikimenyetso gihamya N° D21.

[398] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 48 (BBO).

bushyigikira, ku bivugwa bike, ubwatanzwe n'abandi batangabuhamya bashinja ku byabereye ku gasozi ka Kabuye. Cyakora, ni we mutangabuhamya wenyine uvuga ko ku wa gatandatu tariki ya 23 Mata 1994, mbere gato ya saa sita z'amanywa, yabonye Kalimanzira kuri bariyeri yo mu Kabuga muri Serire ya Kabuye, ari mu ivatiri y'umweru itwawe n'umushoferi kandi ari kumwe n'abasirikare babiri bafite intwaro. Avuga ko Kalimanzira yarakaye cyane amaze kumva ko Abatutsi bo ku gasozi ka Kabuye bashoboye kwirwanaho. Ubwunganizi buvuga ko mu buhamya bwa BXG harimo ukwivuguruza, nk'aho avuga ko yamaze iminota 30 kuri bariyeri, igihe Kalimanzira yari amaze gutongana na Konseye Bushakwe ku byerekeranye n'uko byagombaga kugendekera Abatutsi. Ubwunganizi buvuga ko ibyo BXG avuga ko Kalimanzira yarakaye bigaragaza ko Uregwa atari azi uko ibintu byari bimeze ku gasozi ka Kabuye maze bikavuguruza ibyo Porokireri avuga ko Kalimanzira yitabiriye ibintu byahakorewe ndetse akanagenzura uko bikorwa[399].

377. Ubwunganizi buvuga ko hari ukundi kwivuguruza kuboneka hagati y'ubuhamya bwanditse BXG yatanze mbere abuha abapererezi b'uru Rukiko n'ubwo yatanze mu Rukiko[400]. Mu buhamya bwanditse yatanze mu Ukwakira 2007, BXG yemeza ko ahunga yahise ajya ku gasozi ka Kabuye ku itariki ya 18 Mata kuko yatinyaga ko naguma mu rugo bamwica. Cyakora, mu buhamya bwe mu Rukiko avuga ko atigeze ava iwe, uretse ku itariki ya 22 Mata yagiye kureba muramu we w'igitsina gore. Yongeraho ko nta cyo yatinyaga ndetse ko nta n'ubwoba yagize, ku munsi ukuriyeho, ubwo yabonaga Kalimanzira kuri bariyeri yo Mukabuga. Mu buhamya bwanditse yatanze mu Ukwakira 2007, BXG anavuga ko ku itariki ya 20 Mata 1994 yavuye ku gasozi ka Kabuye agiye gushaka ibiryo maze akabona Kalimanzira kuri bariyeri yo mu Kabuga yari imbere neza y'inzu ye [BXG]. Cyakora, mu buhamya yatanze mu Rukiko, uyu mutangabuhamya avuga ko ibyo byabaye ku itariki ya 23 Mata 1994, bibera kuri bariyeri yo mu Kabuga, imbere y'inzu y'umuvandimwe we w'igitsina gabo.

378. Urugereko ntirwemera ibivugwa n'Ubwunganizi ko ukwivuguruza kuri mu buhamya bwa BXG kugaragaza ko ibyo avuga ari ibifitirano. Mu by'ukuri, rusanga nta mpamvu BXG afite yo kubeshya kuko iyo aza kuba abeshya, yari kuvuga ko

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399 Imyanzuro nsozarubabanza yanditse y'Ubwunganizi, ibika 26-33.

400 Imyanzuro nsozarubabanza yanditse y'Ubwunganizi, ibika.34-42; Ikimenyetso gihamya N° D13.

Kalimanzira yari ku gasozi ka Kabuye. Byongeye kandi, uko kunyuranya gushobora kuba guturuka ku gihe gishize ibyo avuga bibaye, ku buryo ubuhamya yatanze mbere bwanditswe n'ingorane zijyanye no kwibuka ibintu bihahamura byabaye. Muri rusange ubuhamya bwa BXG buhura n'ubundi bwatanzwe ku bintu byabereye ku gasozi ka Kabuye, bityo Urugereko rugasanga BXG yakwizerwa.

379. Mu buhamya BDC na BCF batanze mu Rukiko, bavuga ko bavuye ku isoko ryo ku Gisagara maze urebye bakagerera ku gasozi ka Kabuye icya rimwe ku itariki ya 23 Mata 1994 nyuma ya saa sita. Bombi bavuga ko nyuma yaho ku gicamunsi babonye Kalimanzira agera ku gasozi ka Kabuye, ari kumwe na Superefe Ntawukuliryayo mu modoka imwe kandi bazanye abasirikare n'abapolisi. BCF avuga ko yabonye imodoka ebyiri z'amakamyoneti, iya kabiri muri izo yari izanye abandi basirikare n'abapolisi, ariko BDC we avuga imodoka imwe gusa. BCF avuga ko abasirikare batangiye kurasa ku mpunzi Kalimanzira na superefe bagumye ku gasozi ka Kabuye, naho BDC akavuga ko yababonye bagenda n'imodoka mbere y'uko kurasa bitangira. BDC avuga ko bagiye bagasiga abasirikare n'abapolisi bari baje babaherekeje, ariko mu ibazwa rinyomoza arivuguruza akavuga ko abo basirikare n'abapolisi batasigaye ahubwo basubiranyeyo na Kalimanzira na superefe[401].

380. Ubwunganizi buvuga ko BCF yivuguruza inshuro eshatu mu buhamya bwanditse yatanze mbere abuha abapererezi b'uru Rukiko[402]. Busobanura ko mu buhamya bwanditse yatanze muri Werurwe 2003, BCF avuga ko Kalimanzira na superefe baje ku gasozi ka Kabuye mu makamyoneti atandukanye kandi afite amabara ajya gutandukana, bari kumwe n'abajandarume. Cyakora mu buhamya yatanze mu Rukiko, BCF avuga ko baje mu modoka imwe, bari kumwe n'abasirikare n'abapolisi. Muri ubwo buhamya bwanditse yatanze mu mwaka wa 2003, BCF anavuga ko superefe amaze kuhagera, yahumurije impunzi azibwira ko abantu bitwaje intwaro yazanye na bo mu mamodoka bazanywe no kuzirinda. Cyakora mu bwo yatanze mu Rukiko, BCF ntiyavuze niba superefe yarafashe ijambo kandi ntiyanashoboye

[401] Gereranya inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 29 n'inyandikomuvugo y'iburanisha, 20 Gicurasi 2008, urup.29 (BDC).

[402] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 158-162; reba n'ikimenyetso gihamya N^{o} D3.

kubyemeza[403]. BCF asobanura ko abanditse ubuhamya yahaye abapererezi bashobora kuba bataramwumvise neza ndetse bakanabwandika nabi kandi mu ibaza rinyomoza yatsimbaraye kuri icyo gitekerezo cye.

381. Urugereko rusanga ukwivuguruza kose kwaboneka mu buhamya bwanditse bwa BDC na BCF cyangwa hagati y'ubuhamya bwanditse bwabo bombi kwaba kudatangaje kubera igihe kinini gishize ibyo bavuga bibaye. Urugereko ruzirikana kandi ko aba batangabuhamya batize, batazi gusoma no kwandika, ndetse bakaba, nk'abacikacumu, barahahamutse cyane. Urugereko rusanga ibintu by'ingenzi ubwo buhamya buhurizaho birusha ireme utuntu duke butandukaniraho. Kubera izo mpamvu, Urugereko rusanze BDC na BCF bakwizerwa.

382. Umutangabuhamya BWO mu buhamya bwe ashyigikira ibivugwa na BCF na BDC kuri bimwe na bimwe, hakaba n'ibyo anyuranyaho na bo. Ubuhamya bwe mu Rukiko bugaragaza ko yari mu mpunzi za mbere zageze ku gasozi ka Kabuye, zikahamara iminsi mike zifite agahenge mbere y'uko hatangira kubera ibitero n'ubwicanyi bikaze. Bityo rero, BWO ashobora kuba yarageze ku gasozi ka Kabuye mbere ya BDC na BCF. Cyakora, umunsi BWO yaboneyeho Kalimanzira ni na wo bagabweho igitero simusiga kandi ni na wo munsi yahunzeho akava ku gasozi ka Kabuye. BWO yabonye Kalimanzira aza ku gasozi ka Kabuye mu masaa sita cyangwa mbere yaho gato, mu ikamyoneti itukura ari kumwe n'umusirikare n'umugore. Itsinda ry'impunzi zari zihebye zaramwegereye maze azizeza ko zigiye kurindwa, ariko arangije arahindukira ategeka irindi tsinda ry'abasiviri guhita bica izo mpunzi. Ibi bintu avuga binyuranye cyane n'ibivugwa na BDC na BCF. Birumvikana ko BWO avuga ku kindi kintu kinyuranye, na cyo cyabaye ku itariki ya 23 Mata 1994 cyangwa hafi y'iyo tariki.

383. Rumaze gusuzuma ubuhamya bwa BWO ku iyirukanwa ry'impunzi ku isoko ryo ku Gisagara, Urugereko rusanga uyu mutangabuhamya yakwizerwa. Ku bivugwa aha, n'ubwo ahanini ubuhamya bwe budafite ubundi bubushyigikira, Urugereko rwemera ibyo avuga kuko rusanga nta mpamvu afite yo kubeshya kandi yagaragaje ko avuga ukuri kuko yirinze kwemeza ko Kalimanzira yari ku isoko, kuko atahamubonye. Kubera ko BWO yahuye na Kalimanzira bwa mbere mu mwaka wa 1990, nyuma

[403] Gereranya ikimenyetso gihamya N^o D3 n'inyandikomvugo y'iburanisha, 12 Gicurasi 2008, imp.44-46 (BCF).

yaho akongera kumubona inshuro irenze imwe, Urugereko rusanga BWO yari gushobora kumenya Kalimanzira[404].

384. Ubwunganizi bwahamagaje abatangabuhamya batatu bacitse ku icumu ari bo FCS, AK11, na ACB6, n'abatangabuhamya bane bari mu bagabye ibitero ari bo Denis Ndamyumugabe, uwiswe NGB, Athanase Nzabakirana, na Alphonse Nsabimana, kugira ngo bugaragaze ko ibivugwa ko Kalimanzira yagize uruhare mu bwicanyi bwabereye ku gasozi ka Kabuye bikwiye gushidikanywaho. Mu buhamya bwabo, abo batangabuhamya bose bemeza ko batabonye Kalimanzira kuri ako gasozi, ndetse ko batigeze banumva ko hari uruhare yagize mu bintu byahabereye. Cyakora, abatangabuhamya banyuranye bashinja, barimo BCZ, BBB, BWK na BXG, bavuga ko batabonye Kalimanzira ku gasozi ka Kabuye, ndetse n'abatangabuhamya benshi bahamagajwe n'Urukiko mu rubanza rwiswe urwa Butare, ngo bavuge ku ruhare rwa Elie Ndayambaje, ntibavuga ko babonye Kalimanzira kuri ako gasozi (reba akiciro ka II.4.3). Urugereko rusanga ibyo ariko bitavuga ko Kalimanzira atari ari ku gasozi ka Kabuye.

385. Mu byo Kalimanzira ashingira yiregura, avuga ko imodoka zitashoboraga kugera ku gasozi ka Kabuye. Iyo myiregurire igamije kwerekana ko ibyo abatangabuhamya bashinja bavuga ko babonye Kalimanzira aza mu ikamyoneti nta shingiro bifite. Cyakora, abatangabuhamya bashinjura, ari bo Alphonse Nsabimana n'uwiswe NGB, bavuga ko bageze kuri ako gasozi bari mu modoka. Baba barakagezeho cyangwa bakagera hafi yako, ibyo nta gaciro kanini bifite kubera ko abantu bose batageze ku gasozi ka Kabuye baturutse mu cyerekezo kimwe.

386. Rumaze gusuzumana ubushishozi ibimenyetso bishinjura, Urugereko rusanga ibyo bimenyetso bitavuguruza ibyo Porokireri avuga. Ahubwo mu by'ukuri, Urugereko rusanga ku bintu byinshi ibyo bimenyetso bishyigikira ibivugwa na Porokireri. AK11, ACB6, NGB, Athanase Nzabakirana na Denis Ndamyumugabe bemeza ibyo BDC, BWO na BXG bavuga ko mu minsi ibanziriza ku wa gatandatu tariki ya 23 Mata 1994, impunzi z'Abatutsi zari ku gasozi ka Kabuye zari zabashije gukumira ibitero binyuranye byazigabweho. Byongeye kandi, AK11, FCS, ACB6 na Denis Ndamyumugabe bemeza ubuhamya bwa BDC, BCF, BWO na BXG buvuga ko ku wa

[404] Inyandikomvugo y'iburanisha, 5 Gicurasi 2008, imp. 33-34 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 12 (BWO).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

gatandatu tariki ya 23 Mata 1994, ibitero byagabwe ku mpunzi z'Abatutsi byari bikaze cyane kurusha ibya mbere, birimo n'abasirikare ndetse hakanakoreshwa imbunda, ku buryo impunzi zitari zigishoboye kubirwanya maze nijoro zigahunga. Iyo umuntu asuzumiye hamwe ibimenyetso bishinja n'ibishinjura, asanga ibyo bimenyetso bitanga ibisobanuro birambuye ku kuntu ubwicanyi bwagenze ku gasozi ka Kabuye.

387. Ibimenyetso byose byatanzwe bigaragaza ko impunzi zibarirwa mu bihumbi n'ibihumbi zatewe kandi zikicwa n'abagabye igitero benshi batazwi umubare. Ibyo byabereye ahantu hagari kandi bimara igihe kirekire, ku buryo nta mutangabuhama umwe wari gushobora kuvuga ibintu byose byabaye cyangwa ngo abone abantu bose bari bahari. Urugereko rusanga ibimenyetso bishinjura bidatuma habaho ugushidikanya, gushyize mu gaciro, ku bivugwa n'abatangabuhamya biboneye ibyabaye ko Kalimanzira yari ku gasozi ka Kabuye.

Isesengura ku bundi bwicanyi bwabereye ku gasozi ka Kabuye

388. Mu batangabuhamya bashinja, BDK ni we wenyine uvuga ku bivugwa mu gika cya 10 cy'Inyandiko y'ibirego, ko Kalimanzira n'abandi bategetsi bo muri ako karere bahuriye mu nzu ya Fidèle Uwizeye bakigira hamwe izindi ngamba zafatwa kubera ko abagabye ibitero bari bananiwe gutsembatsemba Abatutsi batagira ingano bari bateraniye ku gasozi ka Kabuye. BDK avuga ko mu gitondo cyo ku wa mbere, tariki ya 25 Mata 1994, yumvise ibyo bavugaga ubwo yari amaze kuzuza indobo amazi ayavomye kuri robine yari mu gipangu kwa Uwizeye. Ubwunganizi bwahamagaje AX88 ngo avuguruze BDK avuga ko icyo gihe robine itakoraga kuko Umututsi wayikoragaho yari yarabuze, bityo abe agaragaje ko BDK atakwizerwa. Ubuhamya bw'abo batangabuhamya buvuguruzanya ku buryo butaziguye.

389. Iyo umuntu yumvise ubuhamya bw'aba batangabuhamya bombi usanga, harimo ikintu gisa no guhangana hagati yabo. Abo batangabuhamya bombi ni Abatutsikazi kandi, kubera ahantu bari bari, bakwiye koko gutanga ubuhamya kuri ibyo bintu, niba koko byarabaye. AX88 ahakana atsemba ko ibyo bintu byabaye mu gihe BDK we avuga ko yabihagazeho. Byongeye kandi, bose bagombye kumenya, nta gushidikanya, niba koko iyo robine yarakoraga cyangwa itarakoraga. Kuba ubuhamya

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

bwabo buvuguruzanya cyane kuri iki kibazo, bigaragaza ko umwe muri bo abeshya cyangwa bombi bakaba babeshya.

390. Urugereko ntirunyuzwe na gato n'ibisobanuro birebire kandi kenshi bivuguruzanya bitangwa na AX88 ku mpamvu iyo robine itakoraga. Icya mbere, AX88 avuga ko umugabo w'Umututsi wakoreshaga ipompu y'amazi yari yaragiye kwihisha ndetse ko, uretse we nta wundi muntu wari kwatsa moteri itanga umuriro yakoreshaga iyo pompu y'amazi[405]. Kugira ngo umuntu abone amazi, nta kundi yari kubigenza uretse kuvoma amajerikani 13 buri munsi ku iriba ryari ahantu umuntu agenda iminota 50 n'amaguru[406]. Bamubwiye ko byari kuba byiza kurushaho iyo bashaka umuntu wo gusimbura umugabo w'Umututsi watsaga iyo moteri itanga umuriro yakoresha ipompu y'amazi, AX88 yatanze ibisobanuro binyuranye ariko nta na kimwe muri byo cyafashije Urugereko kurushaho gusobanukirwa n'ibyo avuga.

391. Cyakora, Urugereko ntirwananyuzwe, mu buryo bwuzuye, n'ubuhamya bwa BDK uvuga ko yasuhuje abo bategetsi maze agahagarara ngo yumve ibyo bavuga[407]. Umuntu yashidikanya ko Abahutu b'abagambanyi bari kuganira ibintu nk'ibyo kandi bazi ko hafi aho hari umugore w'Umututsikazi ubumva. Ikindi kintu gikomeye kurushaho ni uko BDK avuga ko yumvise gusa igice cy'icyo kiganiro, bityo ibyo avuga bikaba bidatandukanye cyane n'inkuru mbarirano. Kubera izo mpamvu, Urugereko rusanga ubuhamya bwa BDK bwonyine budahagije ngo bube bwashingirwaho mu kugaragaza, mu buryo budashidikanywaho, ibivugwa mu gika cya 10 cy'Inyandiko y'ibirego.

Umwanzuro w'Urugereko

392. Urugereko rusanga ibivugwa mu gika cya 9 cy'Inyandiko y'ibirego byaragaragajwe ku buryo budashidikanywaho na gato. Ku wa gatandatu tariki ya 23 Mata 1994, Kalimanzira yagiye ku isoko ryo ku Gisagara aho impunzi z'Abatutsi zibarirwa mu bihumbi zari ziteraniye zihunga ibikorwa by'ubwicanyi, ubusahuzi, no gutwika amazu byaberaga mu duce zari zituyemo. Icyo gihe, Superefe Ntawukulilyayo yategetse izo mpunzi kuva aho zikajya ku gasozi ka Kabuye, azizeza ko zari

[405] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 17, 31 [mu muhezo] (AX88).

[406] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 31-32 [mu muhezo] (AX88).

[407] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 14 [mu muhezo] (BDK).

kuharindirwa. Kalimanzira yari ahagaze iruhande rwa superefe, ariko we nta cyo yavuze. Yerekanye rero ko ashyigikiye mu buryo buteruye ibyo superefe yari amaze kuvuga, maze bituma impunzi zizera ko umutekano wazo uzarindwa koko nk'uko superefe yari amaze kubivuga. Uwo munsi, ku muhanda wa Gisagara-Kabuye, Uregwa yahagaritse impunzi 13 zavaga muri Serire ya Kabuye maze azitegeka gusubira ku gasozi ka Kabuye, azizeza ko nta cyo zari kuba. Imyitwarire ye mbere yaho uwo munsi, kuri bariyeri yo mu Kabuga, igaragaza ko yari azi ko ku gasozi ka Kabuye Abatutsi barimo kugabwaho ibitero, ndetse ko yashakaga ko izo mpunzi zicwa. Kubera izo mpamvu, yashishikarije ubwe Abatutsi guhungira kuri ako gasozi kugira ngo kubica byorohe. Kalimanzira yari azi neza ingaruka y'ibyo bintu ndetse ni yo mpamvu yari abishishikayemo.

393. Nyuma yaho uwo munsi wo ku itariki ya 23 Mata 1994, Kalimanzira yageze ku gasozi ka Kabuye ari kumwe n'abasirikare n'abapolisi. Kugeza uwo munsi, impunzi z'Abatutsi zari zarashoboye gukumira ibitero zikoresheje inkoni n'amabuye, ariko icyo gihe ntizashoboye guhangana n'amasasu. Kubera ko ku wa gatandatu haje abasiviri bagabye igitero barutaga kure abajyaga baza mbere, igitero cyagabwe uwo munsi cyageze ku ntego yacyo kuko cyahitanye impunzi z'Abatutsi zibarirwa mu bihumbi maze bituma haba akaga gakomeye. Uruhare Kalimanzira yagize mu gushukashuka Abatutsi ngo bajye ku gasozi ka Kabuye, no kuba nyuma yaho yarazanye abandi bantu bitwaje intwaro ngo bafashe abandi mu gitero, byagize uruhare runini muri icyo gitero cyose. Ibikorwa Kalimanzira yakoreye aho hantu ndetse n'ahandi, bigaragaza ko yari yaritswemo n'igitekerezo cyo kurimbura ubwoko bw'Abatutsi (reba akiciro ka III.5.2). Kubera izo mpamvu, Urugereko rusanga Kalimanzira ahamwa, ku buryo budashidikanywaho, n'icyaha cyo gushyigikira abantu mu gukora jenoside ku itariki ya 23 Mata 1994 ku gasozi ka Kabuye.

2.5 Ibyabereye kuri bariyeri yo kwa Sakindi, mu ntangiriro za Gicurasi

394. Mu gika cya 13 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cya jenoside kubera ko mu ntangiriro za Gicurasi 1994, yahagaze kuri bariyeri yari muri Segiteri ya Kibilizi maze akabwira abayicungaga ko bagomba guhiga Abatutsi mu ibanga ngo kubera ko hari abanyamahanga bakurikiranaga ibyarimo kubera mu Rwanda. Yanabasabye gusenya amazu y'Abatutsi, bakanasibanganya amatongo, no gukwirakwiza inkuru ivuga ko amahoro yagarutse, bityo bagashuka Abatutsi maze

bakava mu bwihisho. Iyo bariyeri yari hafi y'urugo rw'umuntu witwa Sakindi[408], akaba ari yo mpamvu Urugereko ruyita «Bariyeri yo kwa Sakindi.»

395. Ubwunganizi buhakana ko Kalimanzira yigeze ajya kuri iyo bariyeri. Byongeye kandi, Kalimanzira yifashisha imyiregurire ya sinari mpari avuga ko kuva ku itariki ya 14 Mata kugeza ku ya 30 Mata 1994, yakoreraga i Murambi (Perefegitura ya Gitarama) (reba akiciro ka III.1.2).

2.5.1 *Ibimenyetso*

Ubuhamya bw'umutangabuhamya ushinja wiswe AZH

396. Mu buhamya bwe mu Rukiko, Umutangabuhamya wiswe AZH avuga ko yabonye Kalimanzira inshuro esheshatu nyuma y'urupfu rwa Perezida Habyarimana. AZH avuga ko ku nshuro ya mbere yahuriye na Kalimanzira muri Serire ya Kabanga (Segiteri ya Kibilizi, Komine ya Mugusa), (reba akiciro ka III.2.7.2). Ku nshuro zindi eshatu, AZH avuga ko yabonye Kalimanzira kuri bariyeri yo kwa Sakindi, yari muri Serire ya Ramba (Segiteri ya Kibilizi), aho umuhanda ujya i Save (ukagera no mu mujyi wa Butare) uhurira n'ujya i Rubona ndetse n'undi ujya i Gikonko[409].

397. Umutangabuhamya AZH abona Kalimanzira bwa mbere hari ku itariki 24 Mata 1994. Icyo gihe, Uregwa yari yaje kuri bariyeri yo kwa Sakindi hagati ya saa sita na saa munani z'amanywa, ari mu modoka itukura ya « *double cabin* », ari kumwe na Alphonse Nteziryayo (koloneli) Tharcisse Muvunyi (koloneli), n'abasirikare. AZH ni umwe mu bantu bacungaga iyo bariyeri kandi bamwe muri bo bari Abatutsi. AZH avuga ko icyo gihe, Kalimanzira nta cyo yavuze, ariko ko Koloneli Nteziryayo yabwiye abari kuri bariyeri ko bagombaga gutera ingo z'Abatutsi, bagatwika inzu zabo maze bagatwara amatungo yabo. Koloneli Muvunyi yabashyizeho iterabwoba avuga ko nagaruka bukeye ntabone imirambo kuri iyo bariyeri azohereza abasirikare bakabica bose. AZH avuga ko bamaze kugenda, we na bagenzi biraye mu ngo

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[408] Nk'urugero, reba Imyanzuro mbanzirizarubanza, igika cya 61 n'incamake yometseho y'ubuhamya bwanditse AZH yari gutanga mu Rukiko.

[409] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 9-12 (AZH).

z'Abatutsi baratwika barya n'inka zabo. Bukeye, kuri iyo bariyeri yo kwa Sakindi ubwicanyi bwaratangiye kandi harundwa imirambo nk'uko byari byasabwe[410].

398. Umutangabuhamya AZH yabonye Kalimanzira bwa kabiri mu cyumweru cya mbere cya Gicurasi 1994, ubwo Uregwa yari agarutse kuri bariyeri yo kwa Sakindi, hagati ya saa tanu na saa sita z'amanywa. Icyo gihe, Uregwa yari mu modoka y'umweru ya « *double cabin* », ari kumwe na Dominique Ntawukulilyayo (Superefe wa Gisagara), kandi na none bari kumwe n'abasirikare. Kalimanzira yategetse AZH n'abandi bantu kwirinda gusakuza igihe barimo guhiga Abatutsi. Kalimanzira yanabasabye gusobanurira abaturage ko ubwicanyi bwahagaze. AZH avuga ko babivugaga kugira ngo Abahutu bahishe Abatutsi bumve ko abo Batutsi bashoboraga kuva mu bwihisho kandi ntibagire icyo baba. AZH avuga ko amategeko ya Kalimanzira yatumye, uwo munsi, abagabaga ibitero bavumbura umusore w'Umututsi witwa Nyangezi maze baramwica. Bukeye bwaho, hari n'abandi Batutsi bavumbuwe maze baricwa[411].

399. Ku nshuro ya gatatu ari na yo ya nyuma, AZH yabonye Kalimanzira mu cyumweru gikurikira icyo yamubonyeho bwa kabiri kandi hari hakiri muri Gicurasi 1994. Icyo gihe, Kalimanzira yari yongeye kugaruka kuri iyo bariyeri yo kwa Sakindi ari kumwe na Superefe Ntawukulilyayo mu modoka. Uregwa yategetse AZH n'abandi bantu gusenya inkuta zose z'amazu y'Abatutsi zari zigihagaze, bagahinga muri ayo matongo baringaniza, bagateramo insina ubundi bagasasamo ibyatsi. Kalimanzira yanabategetse kwica abantu bari barahawe indangamuntu mu buryo butemewe n'amategeko mu mwaka wa 1959 kugira ngo bahishe ko ari Abatutsi. AZH avuga ko ayo mategeko ya Kalimanzira yatumye uwo munsi hicwa umugore witwa Nakure n'umuhungu we, Karuganda na Munyahindi[412].

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410 Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 9-12 n'inyandikomvugo y'iburanisha, 24 Kamena 2008, urup. 24 (AZH).

411 Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp.10-11 n'inyandikomvugo y'iburanisha, 24 Kamena 2008, imp.27-30(AZH).

412 Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 11-12 (AZH).

400. Uretse izo nshuro eshatu, AZH avuga ko Kalimanzira yanyuraga kuri bariyeri yo kwa Sakindi kenshi, ndetse n'igihe AZH yabaga atayiriho[413]. Cyakora, AZH ntavuga uko yabimenye.

Umutangabuhamya ushinjura wiswe MVE

401. Mu buhamya MVE yatanze mu Rukiko, avuga ko bariyeri yo kwa Sakindi, muri Serire ya Ramba, yashyizweho ku itariki ya 7 Mata 1994 bitegetswe na Vincent Nkulikiyinka (Konseye wa Segiteri ya Kibirizi). MVE asobanura ko yarindaga iyo bariyeri inshuro ebyiri mu cyumweru, kandi ko, mu byumweru bibiri bya mbere, Abatutsi bafatanyaga n'abandi gucunga iyo bariyeri. Abatutsi baretse kuyijyaho babonye ko barimo guhigwa. MVE yibuka ko André Kabayiza (Burugumesitiri wa Komine ya Mugusa) yanyuraga kenshi kuri iyo bariyeri yo kwa Sakindi mu modoka ntibamuhagarike. MVE ntiyibuka ko hari abandi bategetsi yabonye banyura kuri iyo bariyeri cyangwa ngo yumve abantu babivuga. Muri abo bategetsi harimo Koloneli Nteziryayo, Koloneli Muvunyi, cyangwa Kalimanzira. MVE ashimangira ko iyo hagira umutegetsi uza kuri iyo bariyeri agategeka abantu gukora ubwicanyi, yari kubimenya byanze bikunze[414].

2.5.2 *Isesengura ry'Urugereko*

402. Kalimanzira avuga ko mu gihe ibivugwa byababaga, yari ku kazi i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyireguriye ye ya sinari mpari (reba akiciro ka III.1.2.2).

403. Umutangabuhamya AZH yemeye icyaha kandi ahamwa na cyo kubera uruhare yagize muri genoside maze akatirwa igifungo cy'imyaka 9, afungirwa muri gereza ya Karubanda. Yafunguwe mu mwaka wa 2003 amaze kwemera gufasha inkiko Gacaca, atanga ubuhamya igihe cyose akenewe, ashinja abantu bamuhamagariye gukora jenoside ndetse n'ibyitso bye[415]. AZH yanashinje Kalimanzira ku byerekeranye n'ibindi byaha byakorewe muri Komine ya Mugusa (reba utwiciro III.2.6 na III.2.7.2). N'ubwo yarekuwe, Urugereko rusanga atarafungurwa ari bwo yahaye

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[413] Inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 10 (AZH).

[414] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, imp. 56-58, 61 (MVE).

[415] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 3-6 [mu muhezo] (AZH).

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abapererezi b'uru Rukiko ubuhamya bwanditse ashinjamo Kalimanzira. Bityo rero, ashobora kuba yari afite inyungu mu gushinja Kalimanzira ibinyoma. Yemera ko ibyo avuga yakoze yabishishikarijwe na Kalimanzira, bityo akaba yakwitwa icyitso cy'Uregwa. Urugereko rero rugomba kwitondera ubuhamya yatanze mu Rukiko.

404. AZH yeretswe ubuhamya bwanditse butatu yahaye abapererezi b'uru Rukiko kuva mu mwaka 2000[416], bukaba bugaragaramo ibintu byinshi bivuguruza ubwo yatanze mu Rukiko. Byongeye kandi, AZH yeretswe inyandiko y'ubwirege bwe mu Rwanda, yiyemereye ko muri ubwo bwirege yashinje Sylvain Nsabimana, Alphonse Nteziryayo, Tharcisse Muvunyi na André Kabayiza gusa, kandi ko atavugamo uburyo Kalimanzira yabahamagariye gukora ibyaha ndetse ntanavuge imiterere y'amategeko yabahaye kuri bariyeri yo kwa Sakindi[417]. Mu buhamya bwanditse yahaye abapererezi b'uru Rukiko muri Gashyantare 2000, ni bwo bwa mbere AZH yavuze izina rya Kalimanzira. Muri ubwo buhamya, avuga ko, ku itariki ya 24 Mata 1994, Uregwa yaje «kuri bariyeri yacu», ari kumwe na Muvunyi na Nteziryayo. Avuga kandi ko, hashize iminsi mike, Kalimanzira yagarutse kuri iyo bariyeri ari kumwe na Kabayiza, akavuga ko ahangayikishijwe n'ukuntu amahanga abona ibirimo kuba[418]. Mu buhamya bwanditse yatanze muri Werurwe 2001, AZH yongera kuvuga ku byabaye ku itariki ya 24 Mata 1994, ariko urebye asa n'ubivuga mu buryo butandukanye n'ubwa mbere kuko atavugamo Kalimanzira, ahubwo akavuga ko ari Kabayiza wari uherekeje Muvunyi na Nteziryayo[419]. Mu buhamya bwanditse yatanze mu Ukuboza 2001, AZH avuga ku byabaye ku itariki ya 24 Mata 1994 ariko ntavugemo Kalimanzira. Avuga ahubwo ko Uregwa na Kabayiza baje kuri bariyeri yo kwa Sakindi mu ntangiriro za Gicurasi, maze Uregwa agategeka abantu bayicungaga gushuka Abatutsi kugira ngo bave mu bwihisho, kubica mu ibanga kugira ngo amahanga atabimenya, no gusenya amazu y'abantu bishwe[420]. Cyakora, mu buhamya yatanze mu Rukiko muri Kamena 2008, AZH avuga ku byabaye ku itariki ya 24 Mata 1994 maze agashinja Kalimanzira asobanura ko byabereye kuri bariyeri yo kwa

[416] Reba ibimenyetso gihamya N° D30, D31, na D32.

[417] Ikimenyetso gihamya N° D29.

[418] Ikimenyetso gihamya N° D30.

[419] Ikimenyetso gihamya N° D31.

[420] Ikimenyetso gihamya N° D32.

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Sakindi. Muri ubwo buhamya yemeza ko muri Gicurasi 1994, Kalimanzira yagarutse kuri iyo bariyeri inshuro ebyiri ari kumwe na Ntawukulilyayo, aho kuba Kabayiza.

405. N'ubwo AZH atavuga Kalimanzira mu bwirege bwe, ibyo ntibivuga byanze bikunze ko ubuhamya bwanditse yatanze nyuma ari ubuhimbano. Cyakora, imiterere n'uburemere bw'ibintu bivuguruzanya biboneka no mu buhamya yatanze mu Rukiko bituma umuntu ashidikanya ku kwizerwa k'ubwo buhamya bwe. Uyu mutangabuhamya yahawe umwanya wo gusobanura impamvu yivuguruza ariko atanga ibisubizo bitanyuze. Hari aho yageze asa n'uvuga ko yakwibuka neza ibyaha Kalimanzira yakoze, baramutse bamubajijie ibindi bibazo cyangwa bakamuha izindi ngingo zatuma yibuka[421].

406. Mu batangabuhamya bashinjura, MVE ni we wenyine uvuga ku byerekeye bariyeri yo kwa Sakindi. Yahamwe n'ibyaha yakoze hagati ya Mata na Nyakanga 1994, ariko ibyo byaha ntibirebana n'ibyabereye kuri bariyeri yo kwa Sakindi. Ubu uyu mutangabuhamya yarafunguwe kuko yarangije igihano cye[422]. Cyakora, mu buhamya bwe mu Rukiko, MVE yemera ko yajyaga gucunga bariyeri kabiri mu cyumweru. Urugereko rusanga rero ashobora kuba afite inyungu mu gupfobya ibikorwa bibisha byakorewe kuri iyo bariyeri.

407. Umutangabuhamya MVE ntahakana ko iyo bariyeri yariho kandi yibuka ko Kabayiza yayinyuragaho kenshi mu modoka. Asobanura ko Abahutu n'Abatutsi bakoranaga kuri bariyeri kugeza ubwo Abatutsi batangiye guhigwa. Ibyo birumvikana kurusha ibyo AZH avuga mu buhamya bwanditse ko kugeza ku itariki ya 24 Mata 1994, Abahutu n'Abatutsi bari bagikorana kuri bariyeri, kandi ibyo bisa n'ibidashoboka rwose. Cyakora, Urugereko ntirwemera ibyo MVE avuga ko nta wundi mutegetsi wigeze anyura kuri iyo bariyeri, ndetse ko yaba Muvunyi, Nteziryayo, cyangwa Kalimanzira nta n'umwe muri bo wari kunyura kuri bariyeri yo kwa Sakindi ngo ye kubimenya. Mu by'ukuri, Urugereko rusanga mu buhamya MVE yatanze mu Rukiko

[421]Inyandikomvugo y'iburanisha, 24 Kamena 2008, urup. 8 (AZH): «Sinzi niba mushaka kunyibutsa ibindi byaha yaba yarakoze kugira ngo nibuke ibihe yaba yarabikoreye. […] Nashakaga kuvuga ko uko mwagenda mumbaza ibibazo, ni ko nshobora kugenda nibuka inshuro yakoze ibyo byaha noneho nkazibabwira ».

[422] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 54 [mu muhezo] (MVE).

avuga ko atari azi abo bategetsi ndetse ko atigeze yumva abantu babavuga mu mwaka wa 1994[423].

408. Urugereko ruributsa ko igipimo ngenderwaho mu itangwa ry'ibimenyetso ari uko Porokireri agomba kugaragaza ku buryo budashidikanywaho ibyo avuga. Kubera ugushidikanya guterwa n'uko ubuhamya bwa AZH mu Rukiko buvuguruzanya n'ubwanditse yatanze mbere kandi ubwo buhamya bukaba budafite ubundi bubushyigikira, Urugereko rusanga ubuhamya bwa AZH ku ruhare rwa Kalimanzira mu byabereye kuri bariyeri yo kwa Sakindi budahagije ngo rube rwabushingiraho ruhamya Kalimanzira icyaha.

2.6 Ibyabereye muri Komine ya Mugusa ku itariki ya 5 Kamena

409. Mu gika cya 12 n'icya 14 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cya jenoside yemeza yashishikarije abantu kuri santeri yo ku Gasagara muri Segiteri ya Mugusa gutsemba Abatutsi, bataretse n'abakiri mu nda za ba nyina. Nyuma yaho uwo munsi, mu ijambo yavugiye i Gikonko ku biro bya komine[424], Kalimanzira yaba yarategetse abaturage b'Abahutu kwica Abatutsi bose bari bakiriho, harimo n'abagore, abana, abasaza n'abakecuru, kugira ngo abo bantu batazarega abicanyi, FPR iramutse itsinze intambara. Ibyo byatumye abantu bakurikira bahita bicwa: Mukamazimpaka, Salafina Nyaraneza, Mukaruyonza na nyina, Nyaramisago, Goretha Umubeyeyi, Anasthasia Nakabonye, Apolinaraia, abakobwa babiri ba Kimonyo, n'abandi bana b'Abatutsi bari hagati ya 10 na 15.

410. Ubwunganizi buhakana ibyo bintu byose, bukavuga ko ubwinshi muri ubwo bwicanyi bwabaye nibura mu kwezi kwabanjirije ukuvugwa. Byongeye kandi, Kalimanzira ashingira ku myiregurire ya sinari mpari maze akavuga ko, kuva tariki 31 Gicurasi kugeza 30 Kamena 1994, yari iwe mu mujyi wa Butare, uretse inshuro nke zizwi nko mu cyumweru cya mbere cya Kamena ubwo yagiye i Kirarambogo gusura abantu bo mu muryango we (reba akiciro ka III.1.2).

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[423] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 58 (MVE).

[424] Ibiro bya Komine Mugusa biri muri Segiteri ya Gikonko.

2.6.1. *Ibimenyetso*

Umutangabuhamya ushinjura witwa AZC

411. Ku itariki ya 5 Kamena 1994, AZC yabonye Kalimanzira muri Komine ya Mugusa kuri santeri y'ubucuruzi ya Gasagara[425]. Icyo gihe, Kalimanzira yahageze ari mu modoka y'umweru ya «*double cabin*» ari kumwe na Koloneli Tharcisse Muvunyi, n'abandi basirikare. Bahagaze imbere ya AZC, wari uhagararanye n'abandi bantu 30, maze babasaba kubegera. Abandi bantu bari kuri bariyeri yari hafi aho na bo baraje barabegera. Kalimanzira yababwiye ko yaje gukoresha inama y'abaturage ku biro bya Komine ya Mugusa, muri Segiteri ya Gikonko, nuko yongeraho ko muri iyo nama hari kuvugirwamo ibyo kwica Abatutsi no gufomoza abagore batwite[426].

412. Uwo munsi saa saba z'amanywa, AZC yagiye i Gikonko ku biro bya komine, mu nama Kalimanzira yari yavuze. Uyu mutangabuhamya ahageze yasanze inama yatangiye, André Kabayiza wari Burugumesitiri wa Komine ya Mugusa yamaze kwerekana abatumirwa n'umushyitsi w'icyubahiro. AZC yakurikiye ijambo rya Kalimanzira wahamagariye abantu bari aho, babarirwa hagati ya 300 na 400, kwica Abatutsi barokotse icyiciro cya mbere cy'ubwicanyi, ashaka kuvuga ahanini abakecuru n'abana batari bishwe. Kalimanzira yaburiye abari aho ko bazagira akaga nibadakurikiza amabwiriza ye, kuko ngo Abatutsi bari kurokoka bashoboraga kuzarega abicanyi Inkotanyi zimaze gufata ubutegetsi. Umwe mu bantu bari aho amubajije impamvu ako kazi katakorwa n'abasirikare, Koloneli Muvunyi yashubije ko nta basirikare bahagije bari gufasha muri icyo gikorwa, maze yongeraho ko abaturage bagombaga gukemura icyo kibazo nk'uko bari barabigenje mu bwicanyi bwakozwe mbere hatitabajwe abasirikare[427].

413. Inama irangiye, Kalimanzira yategetse abari aho gusenya amazu no kuvanaho ikintu cyose cyagaragaza ko yigeze kuhaba, badasize n'ingo zikikije amazu y'Abatutsi bishwe cyangwa batari bicwa. Ibyo byari bigamije gukuraho burundu ikintu cyose

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[425] Mu buryo bwo kwibeshya, mu nyandikomvugo y'iburanisha handitse santeri y'ubucuruzi ya «Gisagara» iri muri Komine ya Ndora. Kugira ngo umenye uko aho hantu handikwa neza ku izina rya Gasagara, reba inyandikomvugo y'iburanisha ryo ku itariki ya 25 Kamena 2008 urup.43 (AZC).

[426] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 42, 63 (AZC).

[427] Inyandikomvugo y'iburanisha, 25 Kamena 2008 imp. 42-43, 66 (AZC).

cyagaragaza ko aho hantu hari umuntu wari uhatuye. Inama yarangiye mu masaa kumi z'umugoroba, maze Kalimanzira na Koloneli Muvunyi baragenda. AZC avuga ko nyuma y'iyo nama, abantu «bashyushye imitwe», kubera ko «bari bahamagariwe cyangwa bashishikarijwe gukora ubwicanyi», maze bakurikiza amabwiriza bari bahawe yo kwica Abatutsi bari barokotse ubwicanyi bwa mbere bwakozwe muri Mata. AZC azi ko ku bantu 30 biciwe muri Segiteri ya Nyarubuye kubera ibyavugiwe muri iyo nama, 11 biciwe muri Serire ya Gasenyi, naho 19 bicirwa muri Serire ya Karukambira, kandi muri bo harimo abana n'abakecuru. N'ubwo AZC atazi abantu biciwe i Karukambira, azi hafi y'abantu bose biciwe muri Gasenyi: abana b'abakobwa bitwa Mukamazimpaka, Salafina Nyaraneza, Joséphine Mukaruyonza na Nyaramisago; umugabo witwa Kimonyo n'abakobwa be babiri; umuhungu w'umusore witwa Kayumba; n'abakecuru babiri bitwa Anasthasia Nakabonye[428] na Estérie. Abo bishwe bose bari Abatutsi kandi amazu yabo yose yarasenywe[429].

Umutangabuhamya ushinja wiswe AZH

414. AZH avuga ko ku itariki ya 5 Kamena 1994, yagiye mu nama yayobowe na Kalimanzira ku kibuga cy'umupira cy'i Gikonko imbere y'ibiro bya komine. Muri iyo nama, Kalimanzira yafashe ijambo maze abwira abamwumvaga ko bagomba gutsemba Abatutsi bari bararokotse, badasize abakobwa b'Abatutsikazi bagizwe abagore n'Abahutu ndetse n'Abatutsi bahinduje ubwoko mu mwaka wa 1959 bakigira Abahutu. Uregwa yavuze ko abantu bose bari bahishe Abatutsi na bo bagombaga kwicwa baramutse banze gutanga abantu bahishe. Kalimanzira yongeyeho ko bagombaga kwica Abatutsi bose basigaye kugira ngo hatagira n'umwe muri bo urokoka maze akazarega abagabaga ibitero ku Nkotanyi ziramutse zifashe ubutegetsi. AZH yibuka ko iyo nama yitabiriwe n'abakonseye, abaserire, abakozi ba komine n'abaturage. Inama ihumuje, AZH na bagenzi be bahise bajya gukangurira abandi baturage kwica Abatutsi basigaye, kandi abo baturage barabikoze[430].

Umutangabuhamya ushinjura wiswe NDA

[428] Inyandikomvugo y'iburanisha, ikubiyemo ubuhamya bwa AZC igaragaraza uko «Anastasie Nakabonye» byandikwa. Urugereko ruragendera ku izina «Anasthasia Nakabonye» riri mu Nyandiko y'ibirego kugira ngo hatabaho kunyuranya kuri iryo zina.

[429] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 43-44 (AZC).

[430] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 12-14 (AZH).

415. Mu buhamya yatanze mu Rukiko, umutangabuhamya wiswe NDA avuga ko abantu batanu, mu bo umutangabuhamya ushinja wiswe AZC avuga ko bishwe nyuma y'inama yo ku itariki ya 5 Kamena 1994, bapfuye nibura hasigaye ukwezi kumwe ngo iyo nama ibe, kandi ko umwe muri abo bantu akiriho[431] :

- Kimonyo yiciwe kuri bariyeri yari muri Segiteri ya Nyarubuye muri Mata 1994; n'ubwo nta ruhare yagize mu iyicwa rya nyakwigendera, NDA yafashije abandi mu kumuhamba;

- Joséphine Mukamazimpaka yiciwe muri Serire ya Gasenyi hafi y'itariki ya 29 Mata cyangwa iya 1 Gicurasi 1994, hashize nk'iminsi ibiri se apfuye kandi NDA yari azi neza ise. NDA yamenye iby'urupfu rwa Joséphine abibwiwe na Idelphonse Nyandwi, wari waramugize umugore ku ngufu. Nyakwigendera yishwe na Sebazungu;

- Nyandwi yanabwiye NDA ko Joséphine yiciwe hamwe n'abandi bantu batandatu, barimo Salafina Nyaraneza[432] ;

- NDA yamenye iby'urupfu rwa Anasthasia Nakabonye[433] uyu nyakwigendera yaraye yishwe, muri Mata 1994. NDA avuga ko yabibwiwe na Célestin Nsereko, wagize uruhare mu iyicwa rye. Yongeraho ko nyuma yaho bari muri gereza, yafashije Nsereko kwandika ubwiregе bwe;

- NDA ari muri gereza yumvise umuntu yirega ko yishe Kayumba muri Mata 1994 kuko ngo yamuhambye ari muzima. Kayumba yari musaza wa Salafina Nyaraneza;

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[431] Inyandikomvugo y'iburanisha, 1 Ukuboza 2008, imp. 45-48 (NDA).

[432] Inyandikomvugo y'iburanisha, ikubiyemo ubuhamya bwa NDA igaragaza uko izina «Seraphina Nyiraneza » ryandikwa. Urugereko ruragendera ku izina «Salafina Nyaraneza» riri mu Nyandiko y'ibirego kugira ngo hatabaho kunyuranya kuri iryo zina.

[433] Inyandikomvugo y'iburanisha, ikubiyemo ubuhamya bwa NDA igaragaza uko izina rya «Anastasie Nakabonye» ryandikwa. Urugereko ruragendera ku izina «Anasthasia Nakabonye» rigaragara mu Nyandiko y'ibirego kugira ngo hatabaho kunyuranya kuri iryo zina.

- Estérie[434] aracyariho kandi yari nyina wa Salafina Nyaraneza.

Umutangabuhamya ushinjura wiswe AM28

416. Mu buhamya bwe mu Rukiko, AM28 avuga ko hagati ya Mata na Kamena 1994, yagiye mu nama eshatu muri Komine ya Mugusa, kandi imwe gusa muri zo ni yo yari iy'abaturage. Yemeza ko Kalimanzira atitabiriye inama n'imwe muri izo ngizo. AM28 asobanura ko iyo nama y'abaturage yabereye muri Segiteri ya Gikonko, hafi y'ibiro bya Komine ya Mugusa, mu mpera za Gicurasi 1994. Yibuka ko ari cyo gihe iyo nama yabereye kuko byari nyuma ya Mata, ubwicanyi bwarahagaze, mbere gato y'andi marorerwa yakorewe mu gace k'iwabo muri Kamena iyo nama ikirangira[435].

417. Muri iyo nama havugiwe ibibazo by'umutekano kandi AM28 yari ayirimo kuva igitangira kugeza ihumuje. AM28 avuga ko mu bantu bayitabiriye harimo Burugumesitiri Kabayiza, uwungirije burugumesitiri, abanyamabanga, abakozi bo mu biro bishinzwe ubucungamari n'abakonseye b'amasegiteri anyuranye. Cyakora, avuga ko nta bategetsi baturutse hanze ya komine bitabiriye iyo nama, kuko ngo iyo bahaba, bari kuberekana nk'uko byari bisanzwe bigenda. AM28 yibuka ko uwo munsi Burugumesitiri Kabayiza ari we wafashe ijambo bwa mbere, kandi ko inama ijya guhumuza abakonseye banyuranye bavuze uko ibintu byifashe mu masegiteri bayoboraga.

418. Byageze aho, abantu bo muri Segiteri ya Kibilizi batangira gusakuza bavuga ko hari ibyitso bya FPR bitishwe. Konseye wa Segiteri Kibilizi, Umututsi witwa Vincent Nkulikiyinka, ntiyari muri iyo nama kuko yari yaravuye muri segiteri ye agahungira ku biro bya Komine ya Mugusa. Inama irangiye, abantu bose baratashye uretse abakomoka muri Segiteri ya Kibirizi, basigaye bavugana na Burugumesitiri Kabayiza, wagayaga imyitwarire yabo. Hashize iminsi ibiri, AM28 yasubiye ku biro bya komine, ahageze Burugumesitiri Kabayiza amubwira ko abaturage b'i Kibilizi

[434] Inyandikomvugo y'iburanisha, ikubiyemo ubuhamya bwa NDA igaragaza uko izina «Asterie» ryandikwa. Urugereko ruragendera ku izina «Estérie» rigaragara mu Nyandikomvugo y'iburanisha irimo ubuhamya bwa AZC, kugira ngo hatababaho kunyuranya kuri iryo zina.

[435] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, urup. 30 (AM28).

bamuhatiye gutanga Konseye Nkulikiyinka. Burugumesitiri ntiyamenye uko byagendekeye uwo mukonseye[436].

419. AM28 asobanura ko kuva ku itariki ya 6 Mata kugeza avuye mu Rwanda atigeze abona Kalimanzira, ndetse ko atigeze yumva ko hari uvuga ko hari inama Uregwa yagiyemo. N'ubwo atari azi Kalimanzira, yumvaga abantu bamuvuga, kandi yemeza ko iyo Kalimanzira agira inama ajyamo mu zo AM28 yagiyemo muri Komine ya Mugusa, baba baramwerekanye[437].

2.6.2. *Isesengura ry'Urugereko*

420. Kalimanzira avuga ko mu gihe ibivugwa byabaga, yari iwe mu mujyi wa Butare, uretse igihe yagiye gusura umuryango we i Kirarambogo, mu cyumweru cya mbere cya Kamena. Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

421. Umutangabuhamya AZC yari umuntu ukomeye mu gace yari atuyemo kandi ntiyari afunze ubwo yatangaga ubuhamya mu Rukiko. Mu by'ukuri, AZC yafunguwe muri Nyakanga 2007 amaze imyaka 11 muri gereza kuko yari yarakatiwe igihano cy'igifungo cy'imyaka 24, icyo gihano kigasubikwa imyaka 8 naho itanu akayikoramo imirimo nsimburagifungo, akaba ari na yo agikora n'ubu, agenzurirwa hafi n'inkiko zo mu Rwanda. Yireze ibyaha byose yakurikiranyweho birimo gushyiraho bariyeri, kugurisha ibintu by'abari bishwe, no kuba icyitso cy'abakoze ubwicanyi mu karere k'iwabo. Ubwicanyi AZC avuga ko Kalimanzira yahamagariye abantu mu nama yo ku itariki ya 5 Kamena, burimo ubwo AZC yaryojwe. Ubwo rero, uyu mutangabuhamya yabaye icyitso cy'Uregwa muri icyo cyaha. Urugereko rwishimiye ubushake AZC yagaragaje bwo gutanga ubuhamya bw'ukuri kugira ngo mu Rwanda hatongera kuba ibintu nk'ibyabaye mu mwaka wa 1994[438]. Cyakora, kubera ko mbere y'uko afungurwa ari bwo yahaye abapererezi b'uru Rukiko ubuhamya bwanditse ashinjamo Kalimanzira, mu Rukiko AZC ashobora kuba yarasubiyemo ibyo yavuze muri ubwo buhamya bwanditse yatanze afite inyungu zo

[436] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, urup. 31 (AM28).

[437] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 29, 32 (AM28).

[438] Inyandikomvugo y'iburanisha, 25 Kamena 2008, urup. 47 [mu muhezo] (AZC).

gushinja Kalimanzira ibinyoma. Kubera izo mpamvu, Urugereko ruritondera ubuhamya yatanze mu Rukiko.

422. Umutangabuhamya AZH yakatiwe igihano cy'igifungo cy'imyaka icyenda. Yafunguwe mu mwaka wa 2003 amaze kwemera icyaha no kwiyemeza gufasha inkiko Gacaca, atanga ubuhamya, igihe cyose bibaye ngombwa, bushinja abantu bamuhamagariye gukora jenoside ndetse n'abo bafatanyije muri ibyo byaha[439]. Muri rusange, ubuhamya bwa AZH mu Rukiko ku byerekeranye n'inama yo ku itariki ya 5 Kamena 1994, buhuye n'ubuhamya bwanditse yatanze mbere abuha abapererezi b'uru Rukiko, uretse ku birebana n'uruhare rwa Kalimanzira. Mu buhamya bwanditse yatanze muri Gashyantare 2000, AZH avuga gusa Koloneli Muvunyi, Koloneli Nteziryayo, Burugumesitiri Kabayiza, na Konseye Gasana ku byerekeye inama yabereye i Gikonko. Ibisobanuro atanga muri ubwo buhamya ku iyicwa rya Konseye Nkulikiyinka bihuye n'ibitangwa na AM28 mu buhamya bwe mu Rukiko[440]. Mu buhamya bwanditse yatanze muri Werurwe 2001 avuga ku ruhare rwa Kabayiza muri jenoside, AZH ntavuga inama yabereye i Gikonko ku biro bya komine ku itariki ya 5 Kamena 1994[441]. Mu buhamya bwanditse yatanze mu Ukuboza 2001 ni ho AZH avuga bwa mbere inama yabereye i Gikonko ku biro bya komine ku itariki ya 5 Kamena 1994 maze agashinja Kalimanzira na Kabayiza. Muri ubwo buhamya, avuga ko inama ivugwa mu buhamya bwanditse yatanze muri Gashyantare 2000, yabaye ku itariki ya 8 Kamena aho kuba ku ya 5 z'uko kwezi[442]. Mu buhamya yatanze mu Rukiko, AZH asobanura ko ari Kalimanzira wenyine wafashe ijambo mu nama yabereye ku biro ya komine i Gikonko, ku itariki ya 5 Kamena 1994, ariko yagera aho akavuga, ntawe ubimubajije, ko mu bategetsi bari aho harimo Superefe Ntawukulilyayo. Ashimangira ko inama yo ku itariki ya 5 Kamena 1994 ari yo ya nyuma yagiyemo, kandi ko inama yavugiwemo iby'urupfu rwa Nkulikiyinka itabaye ku itariki ya 8 Kamena, ko ahubwo yabaye muri Gicurasi 1994[443].

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439 Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 3-6 [mu muhezo] (AZH).

440 Ikimenyetso gihamya N° D30.

441 Ikimenyetso gihamya N° D31.

442 Ikimenyetso gihamya N° D32.

443 Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 33-36 (AZH).

423. Umutangabuhamya AZH anavuga ku byerekeranye n'ibyabaye kuri bariyeri yo kwa Sakindi. Kuri iki kibazo, Urugereko rwabanje gusanga ubuhamya bwe bugomba gusuzumanwa ubushishozi ariko rugeze aho rusanga butakwizerwa. (reba akiciro ka III.2.5.2). Ahangaha, nk'uko rwabikoze ku buhamya AZH yatanze ku byerekeranye na bariyeri yo kwa Sakindi, Urugereko rusanga ukwivuguruza kunyuranye mu buhamya bwanditse AZH yatanze mbere ndetse no mu bwo yatangiye mu Rukiko gutuma ubuhamya bwe butakwizerwa, bityo bukaba budashobora gushyigikira ubwa AZC. Kubera ko ubuhamya AZH yatanze mu Rukiko kuri icyo kintu cyabaye butakwizerwa, ibyo bituma habaho ugushidikanya, gushyize mu gaciro, ku byerekeranye no kumenya niba Urugereko rushobora gushingira ku buhamya bwa AZC bwonyine kugira ngo ruhamye Uregwa icyaha kuri iki kirego. Kubera ko rutashyikirijwe ikindi kimenyetso na kimwe cyemeza cyangwa gishyigikira ibivugwa na AZC, Urugereko rusanga Porokireri atarashoboye kuzuza inshingano ze zo kugaragaza ibyo aregera.

2.7 Gushyiraho no kugenzura za bariyeri, kuva hagati muri Mata kugeza mu mpera za Kamena

424. Mu gika cya 15 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira jenoside kubera ko kuva hagati muri Mata kugeza mu mpera za Kamena, yahamagariye abaturage gushyiraho za bariyeri akanabibahera amabwiriza hagamijwe kwica Abatutsi. Porokireri avuga ko Kalimanzira yagaragaye kenshi kuri izo bariyeri ziciweho Abatutsi benshi, agenzuraga ibyazikorerwagaho.

425. Porokireri avuga ko ubuhamya bw'abatangabuhamya banyuranye bugaragaza ko Kalimanzira yagize uruhare rutaziguye mu ishyirwaho rya za bariyeri no mu bikorwa byazikoreweho mu makomine ya Muganza, Ndora, Kibayi na Mugusa, muri Perefegitura ya Butare. Porokireri avuga ko Kalimanzira yategetse ko bariyeri zishyirwaho kuko zari uburyo buboneye kandi bwizewe bwo gukurikirana uko jenoside yakorwaga muri ako karere. Byongeye kandi, we ubwe yasuye za bariyeri, anagenzura imikorere yazo kugira ngo abazirindaga bakomeze gushakisha no kwica Abatutsi, cyane cyane akora uko ashoboye ngo abo bantu barindaga bariyeri babe bafite intwaro[444].

[444] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 157.

426. Mu Myanzuro nsozarubanza ye, Porokireri ashingira ahanini ku buhamya bwa BDJ, AZH, BXK na BXG mu kugaragaza ibyo avuga mu gika cya 15 cy'Inyandiko y'ibirego[445]. By'umwihariko:

i. Umutangabuhamya BDJ avuga ko Kalimanzira yayoboye inama yaberaga ku biro bya Komine ya Ndora muri Kamena 1994, maze agaya abayirimo kubera ko ngo batari bashyizeho amabariyeri. Yanategetse abari muri iyo nama gusenya amazu y'Abatutsi bishwe, kugira ngo bahishe ibimenyetso byagaragaza ko habaye ubwicanyi[446] ;

ii. Umutangabuhamya AZH avuga ko muri Mata 1994, Kalimanzira yategetse ishyirwaho rya bariyeri muri Serire y'Akabanga, Komine ya Mugusa, kugira ngo abuze Abatutsi guhunga jenoside yari itangiye muri Butare[447] ;

iii. BXK avuga ko Kalimanzira yatanze intwaro kuri bariyeri yari ku muhanda uhuza umujyi wa Butare na Gisagara hafi y'itariki ya 22 Mata 1994, kugira ngo yorohereze abantu kwica Abatutsi;

iv. Umutangabuhamya BXG avuga ko mu mpera za Mata 1994, Kalimanzira yabajije ibibazo abantu bari kuri bariyeri muri Serire ya Kabuga, kugira ngo amenye niba Abatutsi bose bo muri ako gace barishwe.

427. Kalimanzira ahakana ibyo bintu byose maze akireguza uburyo bwa sinari mpari (akiciro ka III.1.2).

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[445] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 157-181. Urugereko rusanga muri iyo myanzuro, Porokireri avuga, yihitira, ku buhamya bwa BBB, BXH, BWL, BCN, BCK na BDE no ku gisobanuro N° 393 cyo hasi ku rupapuro. Ubuhamya bw'aba batangabuhamya busuzumwa ahandi muri iyi Nyandiko y'urubanza.

[446] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 168-170. Porokireri yemeza ko ibyo BDJ avuga ko Kalimanzira yategetse abantu bacungaga bariyeri kujya bitwaza intwaro, binajyanye n'ibivugwa mu gika cya 15. Iki gice cy'ubuhamya bwa BDJ kinashingirwaho mu gusuzuma ibivugwa mu gika cya 27 cy'Inyandiko y'ibirego (reba akiciro ka III.4.9).

[447] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 176-177. Porokireri yemeza ko ibyo AZH avuga ko Kalimanzira yatanze amabwiriza kuri bariyeri yari hafi y'inzu ya Sakindi muri Segiteri ya Kibilizi (Komine ya Mugusa) binajyanye n'ibivugwa mu gika cya 15 cy'Inyandiko y'ibirego. Iki gice cy'ubuhamya bwa AZH kinashingirwaho mu gusuzuma ibivugwa mu bika bya 13 na 25 by'Inyandiko y'ibirego (reba utwiciro twa III.2.5 na III.4.7).

2.7.1 *Kumenyesha Uregwa ibyo ashinjwa*

428. Nk'uko bivugwa haruguru (reba akiciro ka II.3), mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi buvuga ko ibivugwa mu gika cya 15 cy'Inyandiko y'ibirego bidasobanutse. Busaba ko icyo kirego kitakwakirwa kubera ko Porokireri atavuga bariyeri nyazo Kalimanzira yaba yarashyizeho, akanagenzura imikorere yazo[448].

429. Urugereko rusanga muri rusange igika cya 15 kitarimo ibisobanuro bya ngombwa byagombye kuba mu Nyandiko y'ibirego. Nibura, Porokireri yagombye kuba yarahaye Kalimanzira amakuru ajyanye n'igihe n'ahantu yahamagariye abantu gukora icyaha, ndetse n'igihe n'ahantu yagenzuriye imikorere ya bariyeri. Mu gika cya 15, havugwa igihe cy'amezi abiri n'igice, ariko ntihavugwe ahantu cyangwa amabariyeri ibyaha byaba byarakoreweho. Urugereko rusanga iki kirego ubwacyo gifite inenge kubera ko kitarimo amakuru asobanutse ya ngombwa yatuma Kalimanzira amenya neza ibyo aregwa. Urugereko rugiye noneho gusuzuma niba Porokireri yarahaye Ubwunganizi, nta gukererwa, amakuru yumvikana, adahuzagurika ku byabaye iki kirego gishingiyeho, mu rwego rwo gukosora iyo nenge.

430. Incamake y'ubuhamya BDJ yari gutanga mu Rukiko yometse ku Myanzuro mbazirizarubanza, yerekeranye n'ibivugwa mu gika cya 15. Iyo ncamake igaragaza ko, mu byo BDJ yari gutangaho ubuhamya, harimo inama yabereye ku biro bya Komine ya Ndora muri Kamena 1994, aho Kalimanzira yatonganyije Burugumesitiri Célestin Rwankubito imbere y'abantu bari bayirimo, amuziza ko atari yashyizeho amabariyeri muri ako gace. Amakuru yatanzwe ahangaha arasobanutse kandi ahuye n'ubuhamya bwanditse BDJ yatanze mbere bwamenyeshejwe Ubwunganizi mu nyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

431. Incamake y'ubuhamya AZH yari gutanga mu Rukiko na yo yerekeranye n'ibivugwa mu gika cya 15. Iyo ncamake igaragaza ko mu byo AZH yari kuvugaho mu Rukiko, harimo ikintu cyabereye kuri santeri ya Kabanga muri Segiteri ya Kibilizi, Komine ya Mugusa, mu ntangiriro za Mata 1994, aho Kalimanzira n'abandi bategetsi bategetse abaturage gushyiraho amabariyeri no kujyana Abatutsi bafashwe kuri ISAR-Rubona cyangwa ku biro bya komine i Gikonko. Aya makuru arasobanutse kandi ahuye

[448] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 1125.

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n'ubuhamya bwanditse AZH yatanze mbere bwamenyeshejwe Ubwunganizi mu nyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

432. Incamake y'ubuhamya BXK yari gutanga mu Rukiko na yo yerekeranye n'ibivugwa mu gika cya 15. Iyo ncamake igaragaza ko mu Rukiko, BXK yari kuvuga ko yahunze akava ku gasozi ka Kabuye ari kumwe n'izindi mpunzi nyinshi, agiye gushaka uwamufasha, maze mu gice cya kabiri cya Mata 1994 akabona Kalimanzira kuri bariyeri zegeranye cyane zari ku muhanda wa Kabuye-Gisagara. BXK yari kuvuga ko yabonye Kalimanzira aha imbunda abantu bacungaga izo bariyeri maze akabategeka kwica impunzi z'Abatutsi nuko na bo bakabikora. Aya makuru arasobanutse, kandi muri rusange ajyanye, kuri byinshi, n'ubuhamya bwanditse BXK yatanze mbere, bwamenyeshejwe Ubwunganizi ku itariki ya 3 Ukuboza 2007[449]. Porokireri anavuga kuri ibyo bintu byabaye mu Myanzuro yo mu ikubitiro mu magambo[450].

433. Incamake y'ubuhamya BXG yari gutanga mu Rukiko iri mu Myanzuro mbanzirizarubanza ntiyerekeranye n'ibivugwa mu gika cya 15. Iyo ncamake igaragaza ko mu Rukiko, BXG yari kuvuga ko yabonye Kalimanzira kuri bariyeri muri Segiteri ya Gisagara, Komine ya Ndora hafi y'itariki ya 20 Mata 1994, maze akabona Uregwa acira umuntu mu maso amuziza ko yamubeshye ku byerekeranye n'uko byari byagendekeye Abatutsi, abeshya ko bose bishwe, kandi mu by'ukuri bari barashoboye kwirwanaho ngo baticwa, ku gasozi ka Kabuye. Aya makuru ntiyerekeranye n'ibivugwa ko yahamagariye abantu gushyiraho amabariyeri cyangwa kugenzura ibyazikorerwagaho. Ubuhamya bwa BXG ntibujyanye n'ibivugwa mu gika cya 15, kandi Uregwa ntiyanamenyeshejwe, mu buryo bukwiye, ko bwerekeranye n'ibyo bintu. Kubera iyo mpamvu, Urugereko ntirusuzuma ubwo buhamya hano, ahubwo rubusuzuma ku bivugwa mu Nyandiko y'ibirego ku byabereye ku gasozi ka Kabuye (reba akiciro ka III.2.4).

434. Muri make rero, Ubwunganizi bwahawe amakuru asobanutse kandi adahuzagurika ku bivugwa ko Kalimanzira yahamagariye abantu gushyiraho za bariyeri cyangwa ko

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[449] Reba n'ikimenyetso gihamya N° D7.

[450] Reba inyandikomvugo y'iburanisha, 5 Gicurasi 2008, urup. 4 (Imyanzuro yo mu ikubitiro mu magambo): «Ku byerekeranye n'ubwicanyi bwo ku gasozi ka Kabuye, yanahamagariye abandi kwica Abatutsi kuri bariyeri yari ku muhanda Butare-Gisagara muri Komine ya Ndora. Na none, Kalimanzira yabwiye abantu bacungaga iyo bariyeri kwica Abatutsi kandi atanga imbunda zo kubafasha muri ubwo bwicanyi ».

yazigenzuye kuri santeri y'Akabanga muri Mata 1994, ku biro bya Komine ya Ndora muri Kamena 1994, no kuri bariyeri yari ku muhanda w'i Gisagara muri Mata 1994.

435. Ku byerekeranye no kumenyekanisha amakuru nta gukererwa, Ubwunganizi buvuga, muri rusange, ko butashoboraga gukora iperereza rihagije ku byabaye by'ingenzi bishya, bumaze kubona Imyanzuro mbanzirizarubanza yanditse Porokireri yatanze hasigaye ibyumweru bitatu gusa ngo urubanza rutangire[451]. Cyakora, kubera impamvu zimwe n'izivugwa ku kiciro ka III.2.3.1, z'uko AZH, BDJ na BXK babajijwe ibibazo binyomoza ku buryo buhagije, kandi nyuma y'uko Porokireri arangije gutanga ibimenyetso bishinja, Ubwunganizi bukaba bwari bufite amezi ane n'igice kugira ngo butangire gutanga ibimenyetso bishinjura, Urugereko rusanga Ubwunganizi bwarahawe igihe gihagije kugira ngo butegure imyiregurire yabwo. Ubwunganizi ntibwaharenganiye cyane mu gutegura ukwiregura kwabwo ku bivugwa mu gika cya 15 cy'Inyandiko y'ibirego. Bityo rero, ku byerekeranye n'ibirego bivugwa haruguru, Urugereko rusanga Porokireri yarakosoye inenge yari mu gika cya 15 cy'Inyandiko y'ibirego, kubera ko yatangiye igihe amakuru yumvikana kandi adahuzagurika arebana n'ibyo birego.

436. Mu gusoza kuri iki kibazo, Urugereko rusanga mu Myanzuro nsozarubanza ye, Porokireri avuga ko ibimenyetso byerekeranye n'ibivugwa mu bika 21, 22, 25 na 26 by'Inyandiko y'ibirego mu gushyigikira ikirego cya 3, binerekeranye n'ibivugwa mu gika cya 15 cy'Inyandiko y'ibirego[452]. Inyandiko y'ibirego ntivuga ko ibivugwa muri ibyo bika byerekeranye, mu buryo ubwo ari bwo bwose, n'ikirego cya 1 n'icya 2. Mu by'ukuri, mu gika cya 6 cy'Inyandiko y'ibirego havugwa ko ibivugwa kuva gika cya 7 kugeza ku cya 17 ari byo byonyine byerekeranye n'ibyo birego. Ashingiye ku Nyandiko y'ibirego yonyine, Uregwa ntiyari kumva ko ashinjwa ibivugwa mu bika 21, 22, 25 na 26 ku kirego cya 1 n'icya 2. Urugereko rusanga Porokireri ashaka ahanini guhindura Inyandiko y'ibirego kugira ngo yagure ibirego ahereye ku bivugwa mu kirego cya mbere n'icya 2, ibyo bikaba bitemewe. Kubera izo mpamvu,

[451] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 1141 n'igisobanuro cya 1003 cyo hasi ku rupapuro.

[452] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 321.

Urugereko ntiruri buzirikane ibyo bimenyetso ku byerekeranye n'ibivugwa mu gika cya 15 cy'Inyandiko y'ibirego[453].

2.7.2 *Santeri ya Kabanga*

437. Porokireri avuga ko, muri Mata 1994, Kalimanzira yategetse ishyirwaho rya bariyeri muri Serire ya Kabanga, Komine ya Mugusa, kugira ngo babuze Abatutsi guhunga, jenoside imaze gutangira muri Perefegitura ya Butare.

438. Ubwunganizi buhakana ibyo bintu byose ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

2.7.2.1. Ibimenyetso

Umutangabuhamya ushinja wiswe AZH

439. Mu buhamya yatanze mu Rukiko, umutangabuhamya wiswe AZH avuga ko yabonye Kalimanzira inshuro esheshatu nyuma y'urupfu rwa Perezida Habyarimana. AZH yibuka ko ubwo yari ahagaze iruhande rw'umuhanda muri Serire ya Kabanga, Komine ya Mugusa muri Mata 1994, ari bwo yabonye Kalimanzira bwa mbere. Icyo gihe yabonye Uregwa aza mu modoka ari kumwe na Sylvain Nsabimana na Konseye Gasana. AZH yibuka ko Kalimanzira yabanje kubibwira, mbere yo kubaha amabwiriza yo gushyiraho za bariyeri no guhagarika kandi bagafata abantu bose batazi baturukaga mu tundi duce. Kalimanzira yababwiye ko Inkotanyi zari abanzi, kandi abasobanurira ko zaje ziturutse mu mahanga. Nsabimana yababwiye ko nibaramuka bafashe Inkotanyi bagomba kuzishyikiriza ubutegetsi kugira ngo buzirindire umutekano. Cyakora, AZH asobanura ko ahubwo zajyanwaga muri ISAR Rubona maze zikahicirwa[454].

440. AZH anibuka ko Kalimanzira na Nsabimana bamaze kugenda, Konseye Gasana yatumiye abarwanyashaka ba MRND mu nama yabereye ku biro bya komine, maze ababwira ko avuye muri Mugusa mu nama yari igamije gutegura ubwicanyi. Yanabasobanuriye ko Kalimanzira avuga Inkotanyi, yashakaga kuvuga Abatutsi. AZH yumva Konseye Gasana ataravugiye ibyo bintu ku muhanda kuko hari Abatutsi

[453] Inyandiko y'urubanza rwa Karera mu bujurire, ibika 365-370; Inyandiko y'urubanza rwa Muvunyi mu bujurire, ibika 155-156.

[454] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 7-8 (AZH).

kandi akaba atarashakaga ko bahunga. Mu gusoza, AZH avuga ko abantu batangiye gushyiraho za bariyeri nk'uko Kalimanzira yari yabitegetse, kandi icyo gikorwa gitangira mbere y'uko Uregwa ava aho hantu[455].

Umutangabuhamya ushinja wiswe FJS

441. Mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, FJS yiboneye ubwe abasirikare babiri bashyira bariyeri imbere y'inzu ye muri Segiteri ya Kibilizi[456]. Avuga ko abo basirikare bavuze ko Inkotanyi zari zamaze kugera i Ntyazo, kandi ko mu rwego rwo kuzikoma imbere, bariyeri zagombaga gushyirwaho[457]. FJS yibuka igihe bariyeri zashyiriweho, kuko ari na cyo gihe Vincent Nkulikiyinka, wari Konseye wa Segiteri ya Kibilizi, yahungiye ku biro bya komine nyuma akaza kwicwa. Icyo gihe ni na bwo abaturage boherejwe i Cyiri kurwanya Inkotanyi[458].

Umutangabuhamya ushinjura wiswe MVE

442. MVE ni Umuhutu w'umuhinzi wari utuye muri Segiteri ya Kibilizi mu mwaka wa 1994[459]. Avuga ko mu mpera za Gicurasi 1994, muri Serire ya Kabanga aho imihanda Sakindi-Gikonko ihurira, hashyizweho bariyeri. Yibuka icyo gihe kubera ko iyo bariyeri yashyizweho nyuma y'inama yabereye Gikonko, ku kibuga cy'umupira w'amaguru, hafi y'ibiro bya Komine ya Mugusa. Muri iyo nama, burugumesitiri yabwiye abaturage ko bagomba guhangana n'Inkotanyi zari ziteraniye i Cyiri[460]. Cyakora, umwe mu bantu bari muri iyo nama yavuze ko adashobora kujya kurwanya Inkotanyi mu gihe burugumesitiri we ahishe imwe muri zo mu biro bye. MVE n'abandi bantu bagiye ku biro bya Komine maze bahasanga Konseye Vincent

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[455] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 8-9 (AZH)

[456] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 40, 45, 48-50 [mu muhezo](FJS).

[457] Ntyazo ni komine iri mu majyaruguru ya Perefegitura ya Butare (Nk'urugero, reba ikimenyetso gihamya N° P5).

[458] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 51-52 [mu muhezo](FJS).

[459] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 53 [mu muhezo](MVE).

[460] Urugereko rwabonye ko mu nyandikomvugo y'iburanisha iri mu cyongereza, aho hantu handitswe nka «Nkiri »; naho mu nyandikomvugo y'iburanisha iri mu gifaransa, handitswe «Cyiri ». Urugereko rwasanze inyandikomvugo y'iburanisha iri mu gifaransa ari yo ijyanye n'ukuri: Inyandikomvugo y'iburanisha, 3 Gashyantare 2009, urup. 60 (mu cyongereza); urup. 71 (mu gifaransa) (MVE).

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Nkulikiyinka w'Umututsi.[461] Nyuma y'urupfu rw'uwo mukonseye, muri Serire Kabanga hashyizwe bariyeri[462].

2.7.2.2. Isesengura ry'Urugereko

443. Mu gihe ibivugwa byababaga, Kalimanzira avuga ko yari ku kazi i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

444. Ubuhamya bwa AZH n'ukwizerwa kwe, ku byerekeranye n'ibindi bintu byabaye, byasuzumwe mu kiciro ka III.2.6.2 (Komine ya Mugusa, 5 Kamena 1994) no mu kiciro ka III.2.5.2 (Bariyeri yo kwa Sakindi, Gicurasi 1994). Muri utu twiciro, Urugereko rwafashe rwasanze ubuhamya bwe bugomba kwitonderwa. Kubera ko AZH yabaye icyitso mu byaha bimwe Kalimanzira aregwa, Urugereko rusanga rutaba rushishoze ruramutse rugendeye ku buhamya bwe aho budafite ubundi bubushyigikira. Urugereko runafashe umwanzuro nk'uwo ku byo avuga kuri icyi kintu cyabaye. Ubwunganizi buvuga ko hari ukwivuguruza guteye impungenge hagati y'ubuhamya bwe bwanditse n'ubwo yatanze mu Rukiko. Nk'urugero, mu buhamya bwanditse yahaye abakozi bo mu Biro bya Porokireri muri Gashyantare 1999, avuga ko ari Perefe Nsabimana wabwiye abaturage gushyiraho za bariyeri aho kuba Kalimanzira[463].

445. Kubera izo mpamvu, Urugereko rusanga rutaba rushishoze ruramutse rugendeye ku buhamya bwa AZH bwonyine ku byerekeranye n'icyo kintu cyabaye. Bityo rero, Porokireri ntiyagaragaje, ku buryo budashidikanywaho, ko Kalimanzira yategetse ishyirwaho rya bariyeri muri Serire Kabanga kugira ngo babuze Abatutsi guhunga ako gace.

2.7.3 *Ibintu byabereye ku biro bya Komine ya Ndora*

446. Porokireri avuga ko muri Kamena 1994, Kalimanzira yarogoye inama yari iyobowe na Burugumesitiri Célestin Rwankubito ku biro bya Komine ya Ndora. Avuga ko icyo

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[461] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009 imp. 59-60 (MVE).

[462] Inyandikomvugo y'iburanisha, 3 Gashyantare 2009 urup. 61; inyandikomvugo y'iburanisha, 4 Gashyantare 2009 imp. 4, 7-8 (MVE).

[463] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 878-893; ikimenyetso gihamya Nº D30.

gihe, Kalimanzira yagaye abari bayirimo kubera ko batari barashyize za bariyeri mu mihanda yo muri iyo komine, maze anabawira ko bagomba gusenya burundu amazu y'Abatutsi bapfuye[464].

447. Ubwunganizi buhakana ko Kalimanzira yari muri iyo nama ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

2.7.3.1. Ibimenyetso

Umutangabuhamya ushinja wiswe BDJ

448. BDJ avuga ko mu ntangiriro za Kamena 1994, yagiye mu nama yabereye ku biro bya Komine ya Ndora. Uyu mutangabuhamya yibuka ko iyo nama yatangiye saa tatu za mu gitondo, iyobowe na Burugumesitiri Célestin Rwankubito. Rwankubito yafashe ijambo abwira abitabiriye iyo nama barimo abakonseye b'amasegiteri, ba resiponsabure b'amaserire, abaserire n'abashinzwe umutekano muri ako gace, ko yatumije iyo nama kugira ngo bige uburyo bagabanya abantu ibintu by'abishwe. BDJ anibuka ko icyo gihe ari bwo Rwankubito yabaye aretse kuvuga kuko Kalimanzira yari aje arakaye maze agahita afata ijambo avuga cyane mu ijwi rikanika[465].

449. Kalimanzira yagaragaje ko arakajwe n'uko atari yabonye amabariyeri mu rugendo rwe kuva i Butare maze agira ati « Biragaragara ko muri Komine ya Ndora hari ibyitso by'Inkotanyi ». Kalimanzira yanavuze ko Inkotanyi zari zigiye gufata Butare yose kubera ko abaturage ba Ndora bari bituramiye[466]. BDJ yibuka ko Kalimanzira yababwiye ko, kubera izo mpamvu, mu byumweru bibiri yari gukura burugumesitiri ku mirimo ye. Kalimanzira yanahaye abari mu nama amabwiriza yihutirwa, ababwira ko bagomba gusenya amazu y'Abatutsi bapfuye, bagatera insina mu matongo yabo kugira ngo Umuryango w'Abibumbye utamenya ibyabaye[467]. BDJ asobanura ko, avuga Inkotanyi, Kalimanzira yashakaga kuvuga abantu bose batitabiraga ibikorwa byaberaga kuri za bariyeri zari zashyiriweho gukumira umwanzi. BDJ avuga ko abategetsi basobanuriye abaturage ko umwanzi ari Umututsi. Inama yarangiye mu

[464] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 159.

[465] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 49-50 (BDJ).

[466] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 50-51 (BDJ).

[467] Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 51 n'inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 10 (BDJ).

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masaa ine za mu gitondo maze amategeko ya Kalimazira ahita ashyirwa mu bikorwa[468].

Ikimenyetso gihamya N° 54 cyatanzwe na Porokireri

450. Ikimenyetso gihamya N° P54 ni ibaruwa yo ku itariki ya 16 Kamena 1994 Célestin Rwankubito yandikiye Perefe wa Butare yometseho inyandikomvugo y'inama yabereye muri Komine ya Ndora ku itariki ya 10 Kamena. Iyo nyandikomvugo ivuga ko inama yatangiye saa tatu n'igice za mu gitondo, iyobowe na Burugumesitiri Rwankubito igamije ahanini gusuzuma uko barinda ibintu by'abantu badahari. Ubwo barimo kuganira ku mabwiriza ya Minisitiri w'Intebe yerekeranye n'ingamba za gahunda y'ukwirengera kw'abaturage, Umuyobozi w'ibiro bya Minisitiri muri Minisiteri y'Ubutegetsi bw'Igihugu n'amajyambere ya Komine yaraje avuga ko ababajwe n'uko nta bariyeri zashyizweho kandi byari byaratangiwe amabwiriza. Yanasabye ko amazu y'abantu bagiye yasenywa burundu, kandi vuba bishoboka, kuko mu minsi yari igiye kuza, abanyamahanga bari kujyayo gukora iperereza.

2.7.3.2. Isesengura ry'Urugereko

451. Mu gihe ibivugwa byababaga, Kalimanzira avuga ko yari iwe mu rugo mu mujyi wa Butare. Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myiregurire ya sinari mpari (reba akiciro ka III.1.2.2).

452. Umutangabuhamya BDJ yigeze gukurikinwa mu nkiko kubera uruhare yagize muri jenoside. Mu byaha yireze harimo kwitabira igikorwa cyo gucunga za bariyeri n'ubwicanyi bwakorewe ku gasozi ka Kabuye. Yakatiwe igihano cy'igifungo cy'imyaka 11, afungurwa mu mwaka wa 2007[469]. Cyakora, kubera ko nta kintu cyerekana ko hari inyungu uyu mutangabuhamya yagira aramutse ashinje Kalimanzira ibinyoma muri uru rubanza, Urugereko rusanze yakwizerwa.

453. Byongeye kandi, ubuhamya bwa BDJ mu Rukiko, bushyigikirwa n'ikimenyetso gihamya N° P54. Urugereko rwasanze iyi nyandikomvugo yujuje ibyagombwa

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[468] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 51-52 (BDJ).

[469] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 62-63 [mu muhezo](BDJ).

bihagije byo kuba imvaho igihe yakirwaga nk'ikimenyetso[470]. N'ubwo Kalimanzira mu buhamya bwe avuga ko iyo nyandikomvugo ari impimbano, Urugereko ntirubyemera[471]. Rumaze gusuzuma ikimenyetso gihamya N^o P54, Urugereko rusanga ari inyandikomvugo y'inama BDJ atangaho ubuhamya. Rusanga kandi iyo nyandiko igaragaza ko Kalimanzira yarogoye iyo nama. N'ubwo hari utuntu duto tudahuye hagati y'iyi nyandikomvugo n'ubuhamya bwa BDJ mu Rukiko, imiterere y'utwo tuntu ntiyabuza Urugereko kwizera ubuhamya bwa BDJ cyangwa iyo nyandikomvugo ubwayo.

454. Urugereko rusanga kandi hari ibimenyetso bidashingiye ku bindi bigaragaza ko hashize igihe gito iyo nama ibaye, Célestin Rwankubito yasimbujwe Fidèle Uwizeye ku mwanya wa burugumesitiri wa Komine ya Ndora ku itariki ya 17 Kamena 1994[472]. Umuntu azirikanye umwanya Kalimanzira yari afite muri Minisiteri y'Ubutegetsi bw'Igihugu aho yagiraga uruhare mu gushyiraho no kuvanaho ba burugumesitiri, kuba Rwankubito yarirukanywe ku kazi, bishyigikira ubuhamya BDJ yatanze mu Rukiko avuga ko Kalimanzira yakangishije ko ashobora gukuraho burugumesitiri akamusimbuza undi.

455. Urugereko ntirwemera ibivugwa n'Ubwunganizi ko ibyo BDJ avuga ko Kalimanzira yavuze ko nta bariyeri yabonye ku muhanda uva i Butare bidashobora kwemerwa, kuko abandi batangabuhamya bavuga ko kuri uwo muhanda hari nibura bariyeri eshanu[473]. Urugereko rusanga ikimenyetso gihamya N^o P54 kitavuga ko Kalimanzira yababajwe n'uko nta bariyeri ziriho, ko ahubwo yababajwe n'imikorere cyangwa imitunganyirize yazo mibi idakurikije amabwiriza yari yatanzwe mbere. Urugereko rusanga iyi nyandikomvugo y'iyo nama ari yo igaragaza neza ibyavuzwe na Kalimanzira.

456. Urugereko rwemera ibivugwa na BDJ maze rukanzura ruvuga ko Porokireri yagaragaje, ku buryo budashidikanywaho, ko ku itariki ya 10 Kamena 1994, Kalimanzira yagiye mu nama yabereye ku biro bya Komine ya Ndora, akagaragaza ko

[470] Reba Icyemezo ku cyifuzo cya Porokireri gisaba kwakira inyandiko nk'ibimenyetso, hashingiwe ku Ngingo ya 92bis (C) n'iya 89 (C), (ibanga), 11 Nyakanga 2008.

[471] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 27-29 (Callixte Kalimanzira).

[472] Ikimenyetso gihamya N^o D107, urup.16.

[473] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 405.

arakajwe no kuba abantu bo muri ako karere bataragize umuhate mu gushyiraho za bariyeri mu buryo buboneye no kuzikoresha neza, bityo agahamagarira abantu kuzishyiraho no kuzirinda ndetse akanabibashishikariza. Urugereko rwemera kandi ubuhamya bwa BDJ buvuga ko Kalimanzira yabwiye imbaga y'abantu ko bariyeri zari zigamije kubuza ibyitso by'Inkotanyi gufata Butare, kandi ko abaturage bahise bashyira mu bikorwa ayo mabwiriza y'Uregwa kuko yari umutegetsi ukomeye. Cyakora, ntihatanzwe ibimenyetso bigaragaza ko bariyeri zashyizweho cyangwa zikongera gutunganywa Kalimanzira amaze gutanga amabwiriza, cyangwa ngo, ku buryo burushijeho, hatangwe ibimenyetso bigaragaza ko hari ubwicanyi bwakozwe kubera amategeko ya Kalimanzira muri iyo minsi ya nyuma ya jenoside. Urugereko rusanze rero Porokireri ataragaragaje, ku buryo budashidikanywaho, ko amabwiriza ya Kalimanzira yagize uruhare runini mu ikorwa rya jenoside.

457. N'ubwo Urugereko rusanga Kalimanzira yaranahaye iyo mbaga y'abantu amabwiriza yo gusibanganya amatongo y'Abatutsi bishwe kugira ngo urupfu rwabo rutamenyekana, Urugereko rusanga icyo kimenyetso kitajyanye n'ibivugwa mu gika cya 15 ko Kalimanzira yahamagariye abantu gushyiraho no kugenzura za bariyeri. Urugereko ntirushobora rero gushingira kuri icyo kimenyetso ngo rwemeze ko Uregwa ahamwa n'icyaha.

2.7.4 *Bariyeri yo ku muhanda Butare-Gisagara*

458. Porokireri avuga ko hafi y'itariki ya 22 Mata 1994, Kalimanzira yahaye abantu intwaro kuri bariyeri yari ku muhanda uhuza umujyi wa Butare na Gisagara, maze agategeka umugabo wari kuri iyo bariyeri gukoresha intwaro amuhaye mu kwica Abatutsi. Nyuma yaho, Abatutsi biciwe kuri iyo bariyeri[474].

459. Ubwunganizi buhakana ibyo bintu ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

2.7.4.1.

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[474] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 171-175.

2.7.4.2.Ibimenyetso

Umutangabuhamya ushinja wiswe BXK

460. BXK ni Umututsi wahungiye ku gasozi ka Kabuye ku itariki ya 20 Mata 1994. Amaze kurokoka ibitero, yavuye aho hantu hashize amajoro abiri ibitero bibaye maze ajya kureba perefe i Butare ari kumwe n'izindi mpunzi zigera kuri 20, kuko bumvaga ubutegetsi bwari kubafasha[475]. BXK avuga ko ubwo bari mu nzira bagana i Butare, babahagaritse kuri bariyeri yari ku muhanda munini uhuza Butare na Gisagara, aho uwo muhanda uhurira n'akayira kagana ku gasozi ka Kabuye, maze bakabategeka kwicara hasi[476]. BXK anasobanura ko iyo bariyeri yari ku rugabano rwa Ndora na Gisagara, mbere yo kugera kuri Paruwasi ya Gisagara no ku biro bya Komine ya Ndora[477].

461. BXK yageze kuri iyo bariyeri hafi saa tanu z'amanywa, ikaba yari irinzwe n'abasiviri b'Abahutu, bari barahawe imyitozo kandi bari bafite imihoro n'amahiri[478]. BXK yamenye bamwe muri bo bityo akavuga ko yahabonye Ferederiko, Bihehe, Deny na Sylvestre Sentore. BXK avuga ko asanga iyo bariyeri yari imaze igihe gito ishyizweho kuko itsinda yari arimo ari ryo rya mbere ryayihagaritsweho, nyuma hakaza kuza abandi bantu babarirwaga hagati ya 150 na 200. BXK ntiyagerageje guhunga ngo ave kuri iyo bariyeri, kuko ngo bari bumvise ko ahantu hose hari za bariyeri kandi bakaba bataratinyaga gupfa[479].

462. BXK avuga ko saa saba z'amanywa, Kalimanzira yageze kuri iyo bariyeri mu ivatiri itukura ari kumwe n'umushoferi gusa. Kalimanzira yabajije umugabo wacungaga iyo bariyeri impamvu bicaje Abatutsi hasi aho kubica. Kalimanzira yanababajije impamvu badafite imbunda, maze akura imbunda yo mu bwoko bwa Kalashnikov mu modoka ye ayihereza Ferederiko, na we ayiha Interahamwe yitwa Sylvestre Sentore.

[475] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 6-7, 21 n'inyandikomvugo y'iburanisha, 19 Gicurasi, imp. 21, 23 (BXK).

[476] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 7 (BXK).

[477] Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 24-26 (BXK).

[478] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 8 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 32 (BXK).

[479] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 7-8 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 28, 37-38 (BXK).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

Ubwo Kalimanzira yavuye kuri iyo bariyeri yerekeza iya Gisagara. BXK asobanura ko hagati y'ahantu yari yicaye n'aho Kalimanzira na Ferederiko bavugiraga hari intera ya metero eshatu cyangwa zitagezeho, bityo akaba yarashoboye kubona no kumva ibyo bavugaga[480].

463. BXK avuga ko Abahutu basatse izo mpunzi z'Abatutsi nk'uko Kalimanzira yari yabisabye, mbere y'uko bazicuza utwazo no kuzijyana ku cyobo cy'umusarani cyari mu rugo rw'uwitwa Gasana, ari na ho ziciwe. BXK yibuka ko ya mbunda yakoreshejwe mu kurasa impunzi, ndetse ko abandi bagabo bakoresheje imihoro. BXK yashoboye gucika kandi kuva icyo gihe, yabonye umuntu umwe gusa warokotse muri izo mpunzi. BXK yumva ko abandi bantu bari kumwe, bose bishwe uwo munsi[481].

2.7.4.2. Isesengura ry'Urugereko

464. Mu gihe ibivugwa byababaga, Kalimanzira avuga ko yari ku kazi i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

465. Mu Myanzuro nsozarubanza yabwo, Ubwunganizi buvuga ko ubuhamya bwa BXK bwerekeranye n'ibintu byabaye bivugwa mu gika cya 21 cy'Inyandiko y'ibirego, ahavugwa ko Kalimanzira yahaye Marcel Ntirusekanwa imbunda kuri bariyeri yitwaga iya Jaguar, yari imbere ya kiriziya yo ku Gisagara, maze akamubwira kuyikoresha mu kwica Abatutsi[482]. Cyakora, Ubwunganizi buvuga ko bariyeri BXK avuga igomba gutandukanywa na bariyeri yitwaga iya Jaguar[483]. Mu buhamya yatanze mu Rukiko, BXK avuga ko umuntu ari kuri bariyeri yahagaritsweho atashoboraga kubona kiriziya yo ku Gisagara[484]. Byongeye kandi, BXK asobanura ko Kalimanzira yatanze imbunda ya mitarayeze [MG] yo mu bwoko bwa Kalashnikov,

[480] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 8-10 (BXK).

[481] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 9-11 (BXK).

[482] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 311-314.

[483] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 405 (2).

[484] Mu gika cya 21 cy'Inyandiko y'ibirego, havugwa ko bariyeri yitwaga iya Jaguar «yari imbere ya kiriziya y'Abagatolika yo ku Gisagara. BXK agira ati «Umuntu uri kuri bariyeri -- cyangwa, nibura bariyeri mvuga, ntashobora kubona paruwasi, kubera ko umuntu arenze bariyeri hari ikoni, mbere yo kugera kuri paruwasi ». Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 26.

ko atari imbunda isanzwe. BXK yari azi iby'imbunda kuko abasirikare bari baramwigishije uko bakoresha intwaro, akaba rero yarashoboye kumenya, atibeshya, imbunda ya Kalashnikov ku ifoto bamweretse[485]. Icya nyuma kuri iki kibazo, BXK avuga ko imbunda yahawe Ferederiko aho kuba Marcel[486]. Urugereko rusanga BXK avuga ikindi kintu gitandukanye n'ibyabaye bivugwa mu gika cya 21 cy'Inyandiko y'ibirego, kandi icyo kintu gisuzumwa mu buryo burambuye mu kiciro ka III.4.3.

466. Ubwunganizi buvuga ko hari ukuvuguruzanya kwinshi hagati y'ubuhamya BXK yatanze mu Rukiko n'ubwanditse yatanze mbere, ku buryo adashobora kwizerwa[487]. Nk'urugero, Ubwunganizi buvuga ko mu buhamya yatanze mu Rukiko, BXK avuga kuri bariyeri imwe gusa, kandi mu buhamya bwanditse avuga ko zari ebyiri, ndetse akavuga ibyo Kalimanzira yakoze ku yindi bariyeri[488]. Cyakora, ubwo yabazwaga ibibazo binyomoza kuri iyo ngingo, BXK yashubije, adahuzagurika, ko hari bariyeri ebyiri zegeranye cyane, kandi ko yahagaritswe ku ya mbere, ariko akanabona iya kabiri[489]. Ku byabereye kuri bariyeri ya kabiri, BXK yanze kwemeza ibyo avuga mu buhamya bwanditse, kuko yavuze ko atabyiboneye ubwe ahubwo yabyumvanye abandi [490]. Ku birebana n'iki kibazo,Urugereko rwemera ubuhamya bwe.

467. Ubwunganizi bunavuga ko mu buhamya bwe bwanditse, BXK avuga ko yabanje kujya ku isoko ryo ku Gisagara, aho Superefe Ntawukulilyayo yamubwiye we n'izindi mpunzi ngo bahungire ku gasozi ka Kabuye[491]. Cyakora, mu buhamya bwe mu Rukiko, BXK avuga ko ahunga yahise ajya i Kabuye, atanyuze ku Gisagara[492]. Mu ibazwa rinyomoza, BXK yasobanuye ko yibuka neza ko yabwiye abapererezi bo mu Biro bya Porokireri ko yavuye iwe agahungira ku Wabitama, aho izindi mpunzi zari ziri. Hari ubuhamya bwakiriwe bwemeza ko « Wabitama » ari irindi zina

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[485] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 9 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 33-34 (BXK); Ikimenyetso gihamya N° D6, ifoto 2D.

[486] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 9 (BXK).

[487] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 229-233, 237-247.

[488] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 240-244; Ikimenyetso gihamya N° D7.

[489] Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 44-47 (BXK).

[490] Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 47 (BXK).

[491] Imyanzuro isoza y'Ubwunganizi, ibika 231-232; Ikimenyetso gihamya No D7.

[492] Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 42 (BXK).

ry'agasozi ka Kabuye[493]. BXK anasobanura ko mbere yo guhungira i Kabuye, yabanje kujya ku isoko ryo ku Gisagara, ko yasubiye iwe aho kujyana n'izindi mpunzi z'i Gisagara, ku gasozi ka Kabuye. Mu buhamya bwe asa n'aho avuga ko yari ku isoko ryo ku Gisagara umunsi ubanziriza uwo yahunzeho[494]. Urugereko rwemera iki gisobanuro.

468. Hari ukwivuguruza kumwe BXK atatangiye igisobanuro ariko ntigukanganye: mu gutanga ibisobanuro ku bantu bacungaga za bariyeri, mu buhamya bwe bwanditse bariyeri avuga ko Sylvestre Sentore yacungaga itandukanye n'iyo avuga mu bwo yatanze mu Rukiko[495]. Urugereko rusanga uko kwivuguruza guterwa n'igihe kirekire gishize hagati y'igihe ibivugwa byabereye mu mwaka wa 1994, igihe yatangiye ubuhamya bwanditse mu Ukwakira 2001, n'igihe yatangiye ubuhamya mu Rukiko mu mwaka wa 2008. Byongeye kandi, hari n'ikibazo cyerekeranye n'ibyo avuga yakoze amaze guhunga ava kuri bariyeri. Mu buhamya bwanditse avuga ko yasubiye ku gasozi ka Kabuye, mu gihe mu bwo yatanze mu Rukiko avuga ko yahunze yerekeza i Burundi[496]. Urugereko rwemera igisobanuro atanga kivuga ko habaye ikosa mu kwandika ubuhamya yahaye abapererezi[497].

469. Urugereko rusanga kandi ubuhamya bwanditse bwa BXK buvuga ko hafi y'inzu ya Gasana hari icyobo cyiciweho Abatutsi, bushyigikirwa n'ubw'umutangabuhamya ushinjura witwa Harindintwali. Mu by'ukuri, Harindintwali yemera ko yarindaga bariyeri yitwaga iya Jaguar ndetse akavuga ko hafi y'inzu ya Gasana hari icyobo rusange[498].

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[493] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, urup. 31 (BDK); inyandikomvugo y'iburanisha, 22 Gicurasi 2008, urup. 6 (BXG).

[494] Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 42-43 (BXK).

[495] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 240-241; ikimenyetso gihamya N^{o} D7; inyandikomvugo y'iburanisha, 9 Gicurasi 2008, imp. 8-9 n'inyandikomvugo y'iburanisha, 19 Gicurasi 2008, imp. 46-47 (BXK).

[496] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 235; ikimenyetso gihamya N^{o} D7; inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 11 (BXK).

[497] Inyandikomvugo y'iburanisha, 19 Gicurasi 2008, urup. 47-48 (BXK).

[498] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 1, 3 (Jean Marie Vianney Harindintwali).

470. Muri make rero, Urugereko rusanga BXK yakwizerwa. Urugereko ntirwemera ibyo Ubwunganizi buvuga ko ubuhamya bwe butakwizerwa kubera, by'umwihariko, ko BXK avuga ko impunzi zavuye ku gasozi ka Kabuye zigiye gusaba ubufasha, na nyuma yo kugabwaho ibitero, cyangwa ko zagumye kuri bariyeri kubera ko icyo gihe zari zitaramenya ko abacungaga iyo bariyeri bashakaga kuzigirira nabi[499]. Urugereko rusanga ibyo bintu byashoboka. Mu by'ukuri, ibimenyetso byashyikirijwe Urugereko bivuga ko imbaga y'Abatutsi yakoraniye ku gasozi ka Kabuye kuko bari babwiwe ko bari kuharindirwa umutekano. Biranashoka kandi ko na nyuma yo guterwa, impunzi zakomeje gutekereza ko abategetsi bashoboraga kuziha ubufasha, cyangwa ko zari zitaramenya ko ari abategetsi bari bateguye ibyo bitero bakanashishikariza abantu kubijyamo.

471. Mu guhakana ibyo bintu, Ubwunganizi bushingira kandi ku myiregurire ya sinari mpari. Buvuga ko Kalimanzira atari kuba kuri iyo bariyeri ku itariki ya 22 Mata saa saba z'amanywa nk'uko BXK abivuga, kubera ko icyo gihe Uregwa ashobora kuba yari mu muhanda wa Kibungo-Gitarama[500]. Ibimenyetso byashyikirijwe Urugereko bigaragaza ko ku itariki ya 21 Mata, Kalimanzira yari i Kibungo aho yari yagiye kwimika perefe mushya nk'uko byemezwa na Marc Siniyobewe. Ubwunganizi rero bubiheraho bukavuga ko Kalimanzira atari kuba yageze kuri iyo bariyeri umunsi ukurikiyeho[501]. N'ubwo Urugereko rwemera ko Kalimanzira yagiye i Kibungo mu muhango w'irahira wabaye ku itariki ya 21 Mata, ntirwemera iyo myiregurire ya sinari mpari ye. Nta wakwemera ubuhamya buvuga ko Uregwa yaraye i Kibungo kandi ubwe yivugira ko FPR yari igiye gutera aho hantu (reba akiciro ka III.1.2.2).

472. Byongeye kandi, Urugereko rusanga n'ubwo BXK mu buhamya bwe mu Rukiko avuga ko yahungiye ku gasozi ka Kabuye ku itariki ya 20 Mata kandi ngo akaharara amajoro abiri gusa, uyu mutangabuhamya ashobora kuba yaribeshye ku munsi nyawo cyangwa igihe nyacyo byabereyeho, kubera igihe kinini gishize ibyo bintu bibaye. Mu buhamya bwe bwanditse yatanze mu Ukwakira 2007, BXK avuga ko yamaze « iminsi itatu n'amajoro atatu» ku gasozi ka Kabuye, ibi byasobanura ko yageze kuri iyo

[499] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 224-226

[500] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 255.

[501] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 254, 256; ikimenyetso gihamya N° D104, urup. 19; inyandikomvugo y'iburanisha, 4 Gashyantare 2009, urup. 24 (Marc Siniyobewe).

bariyeri ku itariki ya 23 Mata, bityo Kalimanzira akaba yari yaravuye i Kibungo[502]. Ibyo ari byo byose, imyiregurire ya sinari mpari ya Kalimanzira ntituma Urugereko rushidikanya ku buhamya BXK yatanze mu Rukiko.

473. Rushingiye ku bimaze kuvugwa, Urugereko rusanga Porokireri yaragaragaje ku buryo budashidikanywaho ko muri Mata 1994, Kalimanzira yahagaze kuri bariyeri yari ku muhanda wa Butare-Gisagara, akabaza abagabo bayicungaga impamvu badafite intwaro n'impamvu bategetse Abatutsi kwicara hasi aho kubica. Ubwo Kalimanzira yahaye intwaro umugabo wari kuri iyo bariyeri. Nyuma yaho, Abatutsi bacujwe utwabo, bajyanwa ku cyobo kiri hafi aho maze barahicirwa.

474. Urugereko rusanga kandi Porokireri yaragaragaje ku buryo budashidikanywaho ko, kubera ibyo bintu yakoze, Kalimanzira yahamagariye abantu gukora jenoside kandi abibashyigikiramo. Urugereko ruributsa ko uregwa ashobora gukora icyaha mu buryo bunyuranye buteganywa n'Ingingo ya 6 (1) ya Sitati kandi ko Urugereko rushobora guhamya uregwa icyaha rushingiye ku buryo burenze bumwe bwo kugikora, iyo bibaye ngombwa ko uregwa aryozwa imyitwarire ye yose[503]. Abaza abo bagabo bari kuri bariyeri impamvu batishe Abatutsi bari bafungiye aho hantu, Kalimanzira yatumye abo bagabo bica abo Batutsi. Atanga intwaro yakoreshejwe mu kwica nibura bamwe muri abo Batutsi, Kalimanzira yagize uruhare mu iyicwa ry'abo Batutsi. Urugereko rusanga amagambo ya Kalimanzira n'ibikorwa bye byaragize uruhare rukomeye mu iyicwa ry'abo Batutsi bari bafatiwe kuri bariyeri, kandi yabikoze yabigambiriye. Kuri iyo bariyeri kimwe n'ahandi hantu, Kalimanzira yagaragaje igitekerezo cyo kurimbura Abatutsi (reba akiciro ka III.5.2). Kubera izo mpamvu, Urugereko rusanze, nta gushidikanya, Kalimanzira yarakoze icyaha cyo guhamagarira abantu gukora jenoside no kubibashyigikiramo, kuri bariyeri yo ku muhanda Butare-Gisagara cyangwa hafi yayo, ku itariki ya 22 Mata 1994.

2.8 Ibyabereye ku kibuga cy'umupira w'amaguru cyo muri Komine ya Muganza, muri Gicurasi

475. Mu gika cya 17 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cya jenoside avuga ko mu nama y'abaturage yabereye ku kibuga cy'umupira w'amaguru

[502] Ikimenyetso gihamya Nº D7.

[503] Inyandiko y'urubanza rwa Nahimana mu bujurire, igika cya 483.

cyo muri Komine ya Muganza yari igamije kwigisha abantu gukoresha intwaro, Kalimanzira ubwe yerekanye uko barashisha umuheto. Porokireri avuga ko abigishijwe gukoresha intwaro, bigenzurwa na Kalimanzira, baje kujya mu bwicanyi bwibasiye Abatutsi muri ako gace.

476. Mu Myanzuro nsozarubanza yanditse ye, Porokireri avuga ko iyo nama itari igamije cyane cyane kwigisha abantu gukoresha intwaro ahubwo ko ahanini yari igamije guhamagarira abantu kwica Abatutsi bashoboraga kuba bararokotse icyiciro cya mbere cy'ubwicanyi[504].

477. Ubwunganizi buvuga ko n'ubwo hari inama zishobora kuba zarabereye ku kibuga kiri hafi y'ibiro bya Komine ya Muganza hagati ya Mata na Kamena 1994, nta n'imwe muri zo Kalimanzira yagiyemo. Busobanura kandi ko imyitozo yo gukoresha intwaro umutangabuhamya ushinjura yagiyemo igaragaza gusa ko hariho gahunda y'ukwirengera kw'abaturage yagenzurwaga n'abasirikare aho kuba iyo guhamagarira abantu kwica Abatutsi[505]. Byongeye kandi, Kalimanzira ashingira ku myiregurire ye ya sinari mpari yemeza ko, uretse inshuro nke zizwi, guhera ku itariki ya 14 Mata kugera ku ya 31 Gicurasi 1994 yakoreraga i Murambi (Perefegitura ya Gitarama) (reba akiciro ka III.1.2.).

2.8.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe BCA

478. Umutangabuhamya wiswe BCA yabonye Kalimanzira muri Gicurasi 1994 mu nama y'abaturage yabereye ku kibuga cy'umupira w'amaguru, hafi y'ibiro bya Komine ya Muganza. Muri iyo nama, abaturage bo muri ako gace barenga 100 biganjemo Abahutu b'igitsina gabo bigishijwe ibyerekeranye n'ukwirengera kw'abaturage, bahabwa n'imyitozo yo kurashisha imiheto kugira ngo bazashobore gufasha ingabo z'u Rwanda (FAR) kurwanya FPR iramutse igeze muri ako gace. BCA avuga ko muri iyo myitozo Kalimanzira yagerageje kurasa insina bakoreshaga nk'intego ariko

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[504] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 182-185.

[505] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 515-519.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

arayihusha. BCA yibuka ko Dominique Ntawukulilyayo (superefe wa Gisagara) na Alphonse Nteziryayo (Liyetona Koloneli) na bo bari muri iyo nama[506].

Umutangabuhamya ushinja wiswe BBB

479. Umutangabuhamya wiswe BBB yabonye Kalimanzira muri Gicurasi 1994 mu nama yabereye ku kibuga cy'umupira w'amaguru, hafi y'ibiro bya Komine ya Muganza. Mu bari muri iyo nama harimo Chrysologue Bimenyimana wari Burugumesitiri wa Komine ya Muganza, Nteziryayo waje kuzaba Perefe wa Butare, Konseye wa Segiteri ya Remera, na resiponsabure wa serire. Kalimanzira yari ahagaze iruhande rw'imodoka, avugana na Burugumesitiri Bimenyimana hamwe na Nteziryayo. Nyuma yaho, BBB yagiye ku kibuga cy'umupira w'amaguru hari hateraniye imbaga y'abasiviri b'igitsina gabo b'Abahutu babarirwa hagati ya 300 na 400 kandi bakomokaga muri segiteri zose za Komine ya Muganza. Bidatinze, abategetsi bageze aho ku kibuga bavuye ku biro bya komine, maze Kalimanzira afata ijambo imbere y'iyo mbaga y'abantu. BBB yibuka ko Kalimanzira yababwiye ko bari bahamagajwe kugira ngo bitegure kurwana n'Inkotanyi maze babohoze agace ka Ntyazo[507] kugira ngo Abatutsi badafata igihugu[508].

480. BBB avuga ko hakurikiyeho kwigisha abantu kurashisha imiheto bakoresha ingiga y'igiti nk'intego. Kalimanzira yagerageje kurasa iyo ntego akoresheje umuheto n'umwambi ariko arayihusha. Nyuma y'iyo myitozo yo kumasha, inama yarakomeje. BBB yibuka ko abaturage babwiye abategetsi ko badafite imiheto ihagije maze Nteziryayo abizeza kuzabaha ibice by'ibyuma na ferabeto byo gucuramo amacumu n'imyambi. Kalimanzira yanategetse abaturage kwica «ibyitso» ni ukuvuga abantu bari bakihishe kandi BBB yumvise ko Uregwa ashaka kuvuga Abatutsi. BBB avuga ko n'ubwo Kalimanzira atakoresheje indangururamajwi, yamwumvaga neza kuko yari amwegereye. Yongeraho ko ubwo Kalimanzira yavugaga abantu bari bacecetse. Nyuma y'imyitozo, Nteziryayo n'abasirikare bari bihishe barashishije imbunda kugira

[506] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 49-50 (BCA).

[507] Ntyazo ni komine iri mu majyaruguru ya Perefegitura ya Butare (nk'urugero, reba Ikimenyetso gihamya N° P5).

[508] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 13-15 (BBB).

ngo abaturage bamenyere urwo rusaku kandi babashishikarize kugaragaza ubutwari[509].

481. BBB avuga ko nyuma y'iyo nama, abantu barushijeho kugira umutima mubi. Hagabwe ibitero binyuranye kandi hicwa abantu benshi, cyane cyane Abatutsikazi n'abana batari bakicwa kugeza icyo gihe. BBB ubwe yagiye mu gitero cyagabwe ku Mututsi witwa Riel Ntakavoro maze kiramutwara, kimuvanye iwe mu rugo. Nyuma y'inama yabereye muri Segiteri ya Remera bukeye bwaho, BBB na none yagiye mu gitero cyahitanye abuzukuru babiri b'Abatutsi b'Umuhutu witwa Anastase Misago[510].

Umutangabuhamya ushinja wiswe BWI

482. Umutangabuhamya wiswe BWI yabonye Kalimanzira mu nama yabereye ku kibuga cy'umupira w'amaguru, imbere y'ibiro bya Komine ya Muganza, mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 mbere ya saa sita. Mu bandi bategetsi bari muri iyo nama hari Nteziryayo, Superefe Ntawukulilyayo, na Burugumesitiri Bimenyimana kandi bahageze nka saa tanu z'amanywa. BWI yibuka ko yari yicaye nko muri metero 20 uvuye aho Kalimanzira yari ari. Yongeraho ko berekanye Kalimanzira bavuga ko ari Umunyamabanga Mukuru muri Minisiteri y'Ubutegetsi bw'Igihugu. BWI asobanura ko Kalimanzira yavuze ko iyo nama ari iy'umutekano kandi ko Inkotanyi ari zo mwanzi, ko ariko zari zashegeshwe maze asaba abaturage kuzirwanya bakoresheje intwaro gakondo. BWI yibuka kandi ko umusirikare umwe yarashe mu kirere kugira ngo abo baturage bamenyere urusaku rw'imbunda bashoboraga kumva zivugira muri Ntyazo[511].

483. BWI avuga ko nyuma y'ibyo, Kalimanzira yayoboye imyitozo yo gukoresha intwaro ashinga umutumba wo gukoresha nk'intego maze bawigiraho kumasha. Kalimanzira yagerageje kumasha ariko ahusha intego. BWI yavuye aho imyitozo itararangira kandi agenda yasize Kalimanzira akiri kuri icyo kibuga cy'umupira w'amaguru. BWI atekereza ko kuva igihe yaboneye Kalimanzira bwa mbere n'igihe yaviriye ku kibuga cy'amaguru hashize amasaha ari hagati y'abiri n'atatu. Nyuma y'inama, abantu bari bahawe imyitozo boherejwe kurwana n'Inkotanyi zari zageze muri Ntyazo. Abatutsi

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[509] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 16-17 (BBB).

[510] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 17-18 (BBB).

[511] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 34-35 (BWI).

bo muri Komine ya Muganza na bo barishwe, kandi bamwe muri bo bishwe n'abantu bari muri iyo nama. BWI avuga ko n'ubwo nta bwicanyi yiboneye ubwe, yumvise abicanyi bigamba ko babukoze[512].

Umutangabuhamya ushinjura wiswe KAS

484. Umutangabuhamya wiswe KAS ntiyavuye muri Komine ya Muganza guhera ku itariki ya 6 Mata kugera muri Nyakanga 1994 ubwo yavaga mu Rwanda agahungira i Burundi. Muri icyo gihe, yagiye mu nama imwe gusa yabereye ku kibuga cy'umupira w'amaguru, muri Segiteri ya Remera hafi y'ibiro bya Komine ya Muganza, mu mpera za Gicurasi 1994[513].

485. Mu buhamya bwe mu Rukiko, KAS avuga ko yamenye iyo nama amaze gusoma itangazo ritumira abaturage bo muri ako gace, ryari rimanitse mu kabari kari hafi y'aho yacururizaga. KAS avuga ko yageze aho inama yabereye mbere y'uko itangira, kandi yahavuye irangiye. Uyu mutangabuhamya yibuka ko hari Nteziryayo, Burugumesitiri Bimenyimana, umukozi wari ushinzwe ibarura witwa Célestin, Burigadiye witwa Pierre, n'abakonseye b'amasegiteri anyuranye ya Komine ya Muganza. KAS yari yicaye hasi kandi yabonaga abategetsi neza[514].

486. KAS avuga ko atabonye Kalimanzira muri iyo nama kandi ko Burugumesitiri Bimenyimana na Nteziryayo ari bo bonyine bafashe ijambo. KAS asobanura ko iyo nama iba, ubwicanyi bwari bwarahagaze, kandi ko na nyuma yayo nta bundi bwicanyi bwabaye. KAS ntiyabonye herekanwa uko bakoresha imbunda, kandi nta yindi nama azi yabereye ku biro bya Komine ya Muganza haba mbere cyangwa nyuma y'iyo[515].

Umutangabuhamya ushinjura witwa Athanase Nzabakirana

487. Mu buhamya bwe mu Rukiko, Nzabakirana avuga ko igihe kimwe, ahagana mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, yakurikiye imyitozo isa n'iya gisirikare yamaze iminsi itatu ibera ku kibuga cy'umupira w'amaguru, iruhande rw'ibiro bya Komine ya Muganza. Bayobowe n'umusirikare, we n'abandi bantu 50

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[512] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 36-37 (BWI).

[513] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 6-7 (KAS).

[514] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 9 (KAS).

[515] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 10 (KAS).

bahawe imyitozo irimo kwihisha, guhambura imbunda no kuzirashisha. Ntibigeze bereka abantu uko barashisha imiheto kandi nta mutegetsi wari uhari. Usibye iyo myitozo y'iminsi itatu, nta yindi myitozo Nzabakirana azi yabereye kuri icyo kibuga[516].

2.8.2 *Isesengura ry'Urugereko*

488. Kalimanzira ahakana ko yagiye muri iyo nama, ndetse akongeraho ko atigeze ajya muri Perefegitura ya Butare muri Mata cyangwa Gicurasi, uretse ku itariki ya 19 Mata yagiyeyo mu nama yabereye mu ngoro ya MRND. Kalimanzira anemera ko yagiye mu nama yahuje abagize Inama y'Umutekano ya Perefegitura ya Butare yabereye i Butare ku itariki ya 16 Gicurasi. Cyakora, yemeye iyo nama ari uko, mu ibazwa rinyomoza, bamweretse inyandiko y'ikiganiro cyanyuze kuri radiyo[517]. Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

489. Urugereko rusanga abatangabugamya bashinja baratanze ubuhamya butavuguruzanya kuri iyo nama. BCA, BBB na BWI bavuga bose ko, mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, hari inama yabereye ku kibuga cy'umupira w'amaguru hafi y'ibiro bya Komine ya Muganza maze imbaga y'abaturage bayitabiriye igahabwa imyitozo yo kurashisha imiheto[518]. Buri wese muri aba batangabuhamya avuga ko iyo nama yari igamije kwigisha gukoresha intwaro kugira ngo bashobore kurwana na FPR cyangwa Inkotanyi zari hafi kugera muri Ntyazo[519]. BBB na BWI bavuga ko harashwe isasu kugira ngo abantu bari aho bamenyere urusaku rw'imbunda[520].

490. Byongeye kandi, abatangabuhamya bashinja bavuga bose ko muri iyo nama hari abategetsi, kandi batanga ibisobanuro bimwe n'ubwo bidahuye neza kuri abo bategetsi bari bahari. BCA, BBB na BWI bavuga ko Alphonse Nteziryayo yari

[516] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 35-37 (Athanase Nzabakirana).

[517] Inyandikomvugo y'iburanisha, 11 Gashyantare 2009, imp. 25-26 (Callixte Kalimanzira).

[518] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 13-14 (BBB); inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 49 (BCA); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 36 (BWI).

[519] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 16 (BBB); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 35, 42, 44, 47-48 (BWI); inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 49-50 (BCA).

[520] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 17 (BBB); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 35 (BWI).

ahari[521]; BCA na BWI bibuka ko Superefe Dominique Ntawukulilyayo yari ahari[522], naho BBB na BWI bakibuka ko Burugumesitiri Chrysologue Bimenyimana yari ahari[523]. Urugereko rusanga kuba ibyo bavuga bisa, bituma ubuhamya bwabo bwakwizerwa bityo rukaba rutemera ibyo Ubwunganizi buvuga ko kuba ubuhamya bwabo bavuguruzanya gato bituma butakwizerwa aho kuvuga ko ari ibintu byumvikana kubera igihe gishize ibintu bibaye ndetse n'uburyo buri wese muri abo batangabuhamya yiboneye ibyo bintu[524].

491. Ku byerekeranye no kuba Kalimanzira yari muri iyo nama, Urugereko rusanga BCA, BBB na BWI batanga ubuhamya butavuguruzanya kandi burambuye kuri icyo kintu. Bose bavuga ko Kalimanzira ubwe yeretse abantu uko barashisha umuheto yifashishije umutumba nk'intego, naho BCA na BBB bakibuka ko Kalimanzira yarashe ariko agahusha intego[525].

492. BCA yemera ko yitabiriye jenoside[526]. BBB na we yemera ko yitabiriye jenoside ndetse akajya no mu bitero byibasiye Abatutsi nyuma y'amagambo Kalimanzira yavugiye muri iyo nama ahamagarira abantu gukora ibyo bintu[527]. Uyu mutangabuhamya yabaye rero icyitso mu cyaha Uregwa ashinjwa bityo akaba afite impamvu zo gupfobya uruhare rwe [umutangabuhamya] muri ibyo bikorwa. Ibyo rero bituma ubuhamya bwe bugomba gusuzumanwa ubushishozi. Cyakora, Urugereko rusanga ubwo buhamya bwe bushyigikirwa kuri byinshi n'ubwa BWI, maze nyuma gusuzuma ubuhamya bwa BCA na BBB mu Rukiko rukaba rusanga ubwo buhamya bwakwizerwa ndetse ahanini bukaba bwashingirwaho. Ibyo Ubwunganizi bunenga

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[521] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 14 (BBB); inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 49 (BCA); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 34 (BWI).

[522] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 50 (BCA); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 35 (BWI).

[523] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 14 (BBB); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 35 (BWI).

[524] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, 498-502.

[525] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 16 (BBB); inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 50 (BCA); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 36 (BWI).

[526] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 41 [mu muhezo] (BCA).

[527] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 17-18 (BBB).

kuri ubwo buhamya ntibikanganye kandi ntibyabuza aba batangabuhamya kwizerwa muri rusange[528].

493. Ku byerekeranye n'ibimenyetso bishinjura, KAS avuga ko mu mpera za Gicurasi 1994 yagiye mu nama yabereye ku kibuga cy'umupira cy'i Remera, hafi y'ibiro bya Komine ya Muganza[529]. KAS yibuka kandi ko muri iyo nama hari abategetsi banyuranye barimo Nteziryayo, Burugumesitiri Bimenyimana n'abakonseye banyuranye[530]. Cyakora, KAS ntiyabonye herekanwa uko bakoresha intwaro ndetse ntiyahabonye Kalimanzira[531]. KAS ntiyabajijwe icyo inama yari igamije cyangwa ikintu cyayibereyemo, kandi avuga ko yayikurikiranye kugeza irangiye[532]. Kubera iyo mpamvu, ntibisobanutse niba inama avuga ari yo abatangabuhamya bashinja bagiyemo.

494. Byongeye kandi, Nzabakirana avuga ko imyitozo yo gukoresha intwaro yabereye ku kibuga cy'umupira w'amaguru, hafi y'ibiro bya Komine ya Muganza. Cyakora, inama yagiyemo yamaze iminsi itatu, iyobowe n'umusirikare ndetse nta bategetsi bahari, kandi herekanywe uko bakoresha imbunda aho kuba imiheto n'imyambi[533]. Urugereko rusanga iyi ari indi nama itandukanye n'iyo abatangabuhamya bashinja bavuga.

495. Abo batangabuhamya bashinjura bombi bavuga ko iyo ku biro bya Komine ya Muganza haza kubera izindi nama zisa n'iyo bari kubimenya[534]. KAS avuga ko yari kumenya izo nama zindi kubera ko amatangazo yamanikwaga aho yacururizaga inzoga, kandi yari no kubona abantu bahanyura bazijyamo[535]. Cyakora, kubera ko yasubiye ku ishuri ahagana mu mpera za Gicurasi akaba buri munsi yarigaga guhera

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[528] Reba Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 482-483, 496-507; 536-547; 550-559; 579-580.

[529] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 7 (KAS).

[530] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 7-8 (KAS).

[531] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 10 (KAS).

[532] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 7 (KAS).

[533] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 35-36 (Athanase Nzabakirana).

[534] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 10-11, 15-16 (KAS); inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 36-37 (Athanase Nzabakirana).

[535] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 15-16 (KAS).

saa mbiri za mu gitondo kugeza saa munani z'amanywa, ndetse akaba yemera ko atashoboraga kubona ibiro bya komine ari aho yacururizaga inzoga ku mugoroba, Urugereko ntirwemera ko yari kubasha kumenya inama yose yari kuba yabaye[536]. Ku byerekeranye na Nzabakirana, Urugereko rusanga yari atuye ahantu umuntu yagenda isaha n'amaguru avuye ku biro bya komine, bityo ibyo yemeza ko nta yindi myitozo yatanzwe kubera ko nta wundi muntu yabonye wayigiyemo, bikaba bidahagije kugira ngo habeho gushidikanya ku buhamya bushinja[537].

496. Muri make rero, Urugereko ntirwemera ibyo Ubwunganizi busaba ko hafatwa umwanzuro uvuga ko iyo nama idashobora kuba yarabayeho kubera ko KAS na Nzabakirana batayizi. Mu by'ukuri, bisa n'aho buri wese muri aba batangabuhamya yagiye mu nama itandukanye n'iyo undi yagiyemo kandi umwe atazi ko inama undi yagiyemo yabayeho. Kuba bataramenye iyo nama ntibituma habaho gushidikanya ku buhamya bwakwizerwa bwatanzwe n'abatangabuhamya bashinja bavuga ko yabayeho. Mu gusoza kuri iki kibazo, Urugereko rusanga ubuhamya bw'aba batangabuhamya bashinjura bombi hari aho bushyigikira ibyo Porokireri avuga ko ku kibuga cy'umupira w'amaguru cyo hafi y'ibiro bya komine, habereye inama z'abaturage, by'umwihariko bakaherekerwa uko intwaro zikoreshwa.

497. Abandi batangabuhamya bashinjura banyuranye bavuga ku nama zabereye muri Komine ya Muganza, ariko ntibavuga imyitozo yabereye ku kibuga cy'umupira w'amaguru[538]. Urugereko rusanga benshi muri abo batangabuhamya batarabajijwe, mu buryo butaziguye, kuri iki kibazo cyihariye, kandi ibyo ari byo byose, nta kintu kigaragaza ko abo batangabuhamya bari bafite impamvu yihariye yo kumenya inama yose ishobora kuba yarabereye muri Komine ya Muganza.

498. Kubera iyo mpamvu, Urugereko rusanze, nta gushidikanya, mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, ku kibuga cy'umupira w'amaguru, kiri hafi y'ibiro bya Komine ya Muganza, harabereye inama yari igamije kwigisha abaturage gukoresha intwaro, kandi ko Kalimanzira yayigiyemo akanerekana ubwe uko barashisha umuheto.

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[536] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 12-13, 15-16 (KAS).

[537] Inyandikomvugo y'iburanisha, 28 Mutarama 2009, imp. 36-37 (Athanase Nzabakirana).

[538] Urugero, AM02, AK42, AM122, KUW, KXC na MKB.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

499. Nk'uko bivugwa haruguru, Porokireri yemeza ko iyo nama itari igamije mbere na mbere kwigisha abantu gukoresha intwaro, ko ahubwo yari igamije kubahamagarira kwica Abatutsi. Cyakora, Urugereko rusanga abatangabuhamya bashinja badahuriza bose kuri icyo kintu.

500. BCA avuga ko iyo nama yabaye mu rwego rwa gahunda yo kwirengera kw'abaturage kandi ko abaturage beretswe ukuntu bafasha ingabo z'u Rwanda igihe FPR yaba igeze muri ako gace[539]. Byongeye kandi, BWI avuga ko Kalimanzira yatangaje ko iyo nama yari iy'umutekano, ko Inkotanyi zari zashegeshwe, maze asaba abaturage gufata intwaro gakondo zabo bakajya kurwanya umwanzi. Kalimanzira yasobanuye ko umwanzi ari Inyenzi-Inkotanyi. Harashwe amasasu kugira ngo abaturage bamenyere urusaku rw'imbunda, bityo bibategure bazajye ku rugamba kurwanya umwanzi muri Ntyazo. Icyo gihe, abantu bashoboraga kumva urusaku rw'imbunda rwaturukaga mu cyerekezo cya Ntyazo. BWI avuga ko yumvise «Inyenzi» n'«Inkotanyi» bishaka kuvuga Abatutsi kubera ko mbere yaho hari abaturage bari barabikanguriwe[540].

501. N'ubwo ubuhamya bwa BBB buhuza n'ubw'abandi batangabuhamya bashinja buvuga ko Kalimanzira yabwiye imbaga y'abantu bari aho ko barimo guhabwa imyitozo kugira ngo bazarwane n'Inkotanyi muri Ntyazo, BBB ni we wenyine wibuka ko Kalimanzira yabwiye iyo mbaga ko mbere yo kujya muri Ntyazo bagombaga gusiga bikijije ibyitso, ni ukuvuga abantu bari barahishe. BBB yumvise ko iryo jambo «ibyitso» ryashakaga kuvuga Abatutsi[541]. Urugereko rusanga ibi BBB atarabivuze mu buhamya bwanditse yatanze mbere, aho avuga gusa ko Kalimanzira yari muri iyo nama kandi akerekana uko barashisha umuheto[542]. Kuba ibyo bintu yarabivugiye mu Rukiko gusa kandi ari ingenzi ku bivugwa na Porokireri, bituma ukwizerwa kw'ibyo yibuka kuri iki kibazo kugabanuka.

502. Ni ngombwa kuzirikana ko nta wundi mutangabuhamya ushinja uvuga ibintu nk'ibyo. BWI yatanze ubuhamya ku yindi nama y'umutekano yabaye mbere ku kibuga

[539] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 49-50 (BCA).

[540] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 35-36 (BWI).

[541] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 15-16 (BBB).

[542] Ikimenyetso gihamya N° D14E: « Callixte Kalimanzira yatweretse ukuntu barashisha umuheto, kandi we ubwe yagerageje kumasha insina, ariko arayihusha; Alphonse Nteziryayo yabajije abaturage niba biteguye guhangana n'umwanzi, tumusubiza ko twiteguye. »

cy'umupira w'amaguru, hafi y'ibiro bya Komine ya Muganza, maze muri iyo nama Kalimanzira agategeka imbaga y'abantu yari aho gutsemba ibyitso by'Inkotanyi, ashaka kuvuga Abatutsi (reba akiciro ka III.2.3.3)[543]. Kubera ko BWI yari yamaze kuvuga ko Kalimanzira yahamagariye imbaga y'abantu kwica Abatutsi bari bihishe, Urugereko rusanga kuba BWI atavuga ko Kalimanzira yavugiye ibyo bintu muri iyi nama, ari ikintu gikomeye.

503. Urugereko rusanga hakiriho gushidikanya ku ntego y'iyo nama. Rusanga iyo nama ishobora kuba gusa yari mu rwego rwa gahunda yemewe y'ukwirengera kw'abaturage kugira ngo abaturage bo muri ako gace bigishwe uko bakoresha intwaro maze bazashobore kurwana ku rugamba kuko intambara yari igeze hafi. Kubera iyo mpamvu, kuba Kalimanzira yari muri iyo nama ndetse akayigiramo uruhare ubwabyo ntibyaba impamvu yashingirwaho mu kumuhamya icyaha. Ku byerekeranye n'ibivugwa na Porokireri ko Kalimanzira yanategetse rubanda rwari aho kwica abasiviri b'Abatutsi, Urugereko rusanga rutaba rushishoje ruramutse ruhamije Uregwa icyaha hashingiwe gusa ku buhamya bwa BBB. Mu by'ukuri, Urugereko rwamaze gufata umwanzuro uvuga ko ubuhamya bwa BBB bugomba kwitonderwa ndetse runasanga nta bundi bubushyigikira. Kubera ibyo rero, Urugereko rusanga Porokireri ataragaragaje, ku buryo budashidikanywaho, ko Kalimanzira yahamagariye imbaga y'abantu kwica Abatutsi mu nama yabereye hafi y'ibiro bya Komine ya Muganza mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994.

3. KUBA ICYITSO CY'ABAKOZE JENOSIDE

504. Mu kirego cya 2 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cyo kuba icyitso cy'abakoze jenoside hashingiwe ku Ngingo ya 2 (3)(e) ya Sitati. Anavuga ko, hashingiwe ku Ngingo ya 6(1) ya Sitati, Kalimanzira yaryozwa icyaha nka gatozi. Kubera ko Uregwa yakurikiranwa ku kirego cya 2 ari uko gusa icya 1 kitamuhamye, Urugereko ruramutse rumuhamije icyaha cya jenoside, ntirushobora kumuryoza icyo kuba icyitso cy'abakoze jenoside.

505. Kubera rero ko rwasanze Kalimanzira ahamwa n'icyaha ku kirego cya 1, Urugereko rusanze ikirego cya 2 nta shingiro kigifite.

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[543] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 32-33 (BWI).

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

506. Mu kirego cya 3 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside, hashingiwe ku Ngingo ya 2(3)(c) ya Sitati. Anavuga ko Kalimanzira yaryozwa icyaha nka gatozi hashingiwe ku Ngingo ya 6 (1) ya Sitati. Kuva ku gika 18 kugeza ku cya 27 by'Inyandiko y'ibirego harondorwa ibyabaye bijyana n'iki cyaha Porokireri avuga ko Kalimanzira akwiye kuryozwa nka gatozi.

507. Mu gika cya 18 cy'Inyandiko y'ibirego havugwa uburyo Kalimanzira yakoze icyaha bujyana n'ikirego cya 3, ari bwo kuba «yaracuze umugambi w'icyaha, agakangurira abandi kugikora, akabibategeka cyangwa akabashyigikira, mu buryo ubwo ari bwo bwose, mu gucura umugambi, gutegura cyangwa gutsotsoba ibyaha». Muri ubwo buryo burondorwa ntiharimo ko we yatsotobye icyaha. Cyakora, mu byabaye bivugwa kuva ku gika cya 19 kugeza ku cya 27 harimo ko Kalimanzira yakoze, mu buryo butaziguye, icyaha kivugwa mu kirego cya 3.

508. Urugereko rwasabye ababuranyi kugira icyo bavuga ku kibazo cyo kumenya niba kuba ibyo bintu bitavugwa bigaragaza ko Inyandiko y'ibirego irimo inenge[544], ariko Ubwunganizi ntibwagira icyo bubivugaho. Porokireri yavuze ko ashingira ku Nyandiko y'ibirego iri mu gifaransa, ari yo mwimerere kandi ko havugwamo « gukora » nka bumwe mu buryo bwo gukora icyaha. Yongeyeho ko ibyanditse mu gika cya 18 mu Nyandiko y'ibirego iri mu cyongereza ari ikosa ryakozwe ubwo iyo nyandiko yahindurwaga muri urwo rurimi[545]. Kubera ko ahanini Ubwunganizi bukoresha ururimi rw'igifaransa, Urugereko rwizera ko Uregwa atarenganijwe no kuba ubwo buryo bwo gukora icyaha butavugwa mu Nyandiko y'ibirego iri mu cyongereza (reba akiciro ka II.2.2.1). Urugereko rusanga rero « gukora », nk'uburyo bw'uburyozwacyaha, byarasobanuwe uko bikwiye ku kirego cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside.

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[544] Inyandikomvugo y'iburanisha, 13 Gashyantare 2009, imp. 19-20 (Inama ntegurarubanza).

[545] Ingingo za Porokireri ku gika cya 18 cy'Inyandiko y'ibirego, nk'uko byasabwe n'Urugereko rwa Mbere rw'Iremezo ku itariki ya 13 Gashyantare 2009, zatanzwe ku itariki ya 17 Gashyantare 2009.

4.1. Amategeko akurikizwa

509. Guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside ni icyaha giteganywa n'Ingingo ya 2 (3)(c) ya Sitati, ibyo kandi biterwa n'uko Ingingo ya III y'Amasezerano yerekeranye na jenoside yinjijwe mu gisobanuro cya jenoside gitangwa muri Sitati. Ingingo ya 2 (3) ya Sitati, ihuye n'Ingingo ya III y'Amasezerano yerekeranye na jenoside, iteganya ibikorwa bitanu bihanirwa, birimo jenoside ubwayo, no guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside. Sitati y'uru Rukiko n'Amasezerano yerekeranye na jenoside bisobanura icyaha cya jenoside nk'ibikorwa ibyo ari byo byose birimo kwica no guteza ububabare buzahaza umubiri cyangwa mu mutwe bigamije kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwenegihugu, ubwoko cyangwa ku idini (« igitekerezo cyo gukora jenoside »). Cyakora, haba mu Masezerano yerekeranye na jenoside cyangwa muri Sitati, nta bindi bisobanuro bitangwa ku gikorwa cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside.

510. Mu gusobanura igikorwa cyo « guhamagarira abantu mu buryo butaziguye kandi mu ruhame, gukora jenoside », abanditse Amasezerano yerekeranye na jenoside bashatse kuvuga icyaha gitegura ikindi, kubera ko atari ngombwa kugaragaza ko guhamagarira abantu gukora jenoside byageze ku ntego byari bigamije ari yo ya jenoside. Birahagije kugaragaza ko uregwa yahamagariye abantu mu buryo butaziguye kandi mu ruhame gukora jenoside (igikorwa kigize icyaha), kandi ko yari afite igitekerezo cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside (igitekerezo cyo gukora icyaha). Icyo gitekerezo ubwacyo gisaba ko uregwa aba agambiriye gukora jenoside. Kubera ko icyo cyaha gitegura ikindi, bituma hafatwa ingamba hakiri kare zo kuburizamo ibikorwa bigize jenoside[546].

511. Akenshi, aho gukora icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside bitandukaniye no gukora jenoside binyuze mu kubakangurira kuyikora ntihagaragara neza. Ijambo « guhamagarira » rivuga kimwe no « gukangurira », « guteza » no « gushishikariza » kandi ayo magambo yose akoreshwa kimwe mu kuvuga imyitwarire igaragaza bumwe mu buryo jenoside

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[546] Inyandiko y'urubanza rwa Bikindi mu rw'iremezo, igika cya 419; Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 678; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 560-562.

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ishobora gukorwa. Cyakora, itandukanyirizo hagati y'ayo magambo rirakomeye kandi rigomba kwitabwaho.

512. Ukurikije Ingingo ya 6 (1) ya Sitati, gukangurira abantu gukora icyaha ni uburyo bwo gukora icyaha. Uregwa aryozwa icyo cyaha gusa iyo gukangurira abantu [gukora icyaha] byagize uruhare rukomeye mu ikorwa rya kimwe mu byaha biteganywa kuva mu Ngingo ya 2 kugera ku ya 4 za Sitati. Guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora icyaha byo ntibisaba kugaragaza ko byagize uruhare urwo ari rwo rwose mu ikorwa ry'ibikorwa bigize jenoside[547].

513. Aho bitandukaniye h'ingenzi ni uko guhamagarira abantu gukora icyaha bigomba kuba byarakozwe mu buryo « butaziguye » kandi « mu ruhame ». Ibyo bivuga ko ingano y'uko biba bitegura ikindi cyaha ifite aho igarukira. Mu yandi magambo, kugira ngo bibe icyaha, guhamagarira abantu gukora icyaha ariko icyaha ubwabyo ntigikorwe, bigomba kuba byarakozwe mu buryo butaziguye kandi mu ruhame. Cyakora, gukora jenoside binyuze mu gukangurira abantu byo ntibisaba kuba byarakozwe mu buryo butaziguye cyangwa mu ruhame kugira ngo bibe icyaha gihanirwa[548].

514. Ubukemuramanza bw'uru Rukiko bwemeje ko ku byerekeranye no guhamagarira abantu gukora icyaha, icyo « mu buryo butaziguye » bishatse kuvuga kirenze gukoresha amagambo adasobanutse cyangwa kubivuga mu buryo buziguye, ku buryo nyir'uguhamagarira abandi gukora icyaha aba azi ko abantu abwira bumva ko abahamagarira gukora jenoside. Cyakora, ubwo bukemuramanza busanga imvugo iteruye ishobora kuba « uburyo butaziguye» bwo guhamagarira abantu gukora icyaha, ibyo ariko bikaba bigomba gusuzumwa hazirikanwa umuco n'amagambo bijyana n'iyo mvugo, abantu babwirwa, uruhande rwa politiki uyikoresha arimo, ndetse

[547] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 678.

[548] Mu rubanza rwa Akayesu mu rw'iremezo, Urugereko rwasanze ibigenderwaho bya «mu buryo butaziguye» kandi «mu ruhame» bijyana n'icyaha cyo gukangurira abantu gukora jenoside giteganywa n'Ingingo ya 6 (1) ya Sitati (reba igika cya 481). Mu rubanza rwa Akayesu mu bujurire, Urugereko rwasanze iyo myumvire ikosamye maze rwemeza ko atari ngombwa guhamagarira abantu [gukora icyaha] bivugwa mu Ngingo ya 6 (1) ya Sitati bigomba kuba, byanze bikunze, byarakozwe «mu buryo butaziguye» cyangwa «mu ruhame» (reba Inyandiko y'urubanza rwa Akayesu mu bujurire, ibika 474-483).

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n'igice cy'abaturage akomokamo[549]. Nk'urugero, kubera uko ibintu byari byifashe muri jenoside yabaye mu Rwanda, mu zindi manza byagaragaye ko guhamagarira abaturage kwishyira hamwe bakarwanya «umwanzi rukumbi», cyangwa «bagakora», cyangwa guhamagarira «rubanda nyamwinshi» «guhaguruka no gushakisha ahantu hose hashoboka», no «kutagira n'umwe basiga», byagaragaye ko byari uguhamagarira abantu gutsemba Abatutsi[550]. Kubera ibyo rero, Urugereko rurasuzuma niba ukurikije umuco nyarwanda n'uko ibintu byari byifashe igihe ibivugwa byabaga, buri gikorwa ukwacyo cyo gukangurira abantu gukora ibyaha cyafatwa cyangwa kitafatwa nk'aho cyakozwe mu buryo butaziguye. Ibyo urugereko rurabikora rureba uko abantu babwirwaga bumvise amagambo yavuzwe[551]. Rimwe na rimwe, kuba amagambo yavuzwe yaratumye habaho ibikorwa bigize jenoside bishobora kuba ikimenyetso kigaragaza ko, ukurikije uko ibintu byari byifashe, abantu babwirwaga bumvise ko ayo magambo yabahamagariraga gukora jenoside, kandi ko icyo ari cyo nyir'ukuyavuga yari agamije. Cyakora, icyo si cyo kimenyetso cyonyine kigomba gutangwa kugira ngo hafatwe umwanzuro uvuga ko intego y'ayo magambo (ndetse n'iya nyir'ukuyavuga) yari uguhamagarira abantu gukora jenoside[552].

515. Ubukemuramanza bw'uru Rukiko bwemeje kandi ko mu kureba niba guhamagarira abantu gukora icyaha byafatwa nk'ibibereye «mu ruhame» umuntu agomba gushingira ku hantu byabereye, akanareba niba harabwirwaga abantu batoranyijwe cyangwa batatoranyijwe cyangwa se bake. Guhamagarira abantu gukora icyaha bifatwa nk'ibyakorewe «mu ruhame» iyo bibaye mu majambo mbwirwaruhame, bivuzwe mu ijwi risakuza cyangwa mu magambo ashyira iterabwoba ku bantu, bigakorerwa ahantu hateranira abantu benshi cyangwa ahantu rubanda iteraniye, cyangwa binyuze mu igurisha ry'inyandiko, mu ikwirakwiza ryazo, mu kuzishyira ku isoko cyangwa mu kuzimanika ahantu hateranira abantu benshi cyangwa aho abantu bateraniye, cyangwa bigakorwa hamanikwa amatangazo ahantu abantu bateranira,

[549] Inyandiko y'urubanza rwa Bikindi mu rw'iremezo, igika cya 387; inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 700, 711, na 713; inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo, igika cya 431; inyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 557-558.

[550] Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 334-365; inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo, ibika 433-435; inyandiko y'urubanza rwa Bikindi mu rw'iremezo, igika cya 423.

[551] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 698-700.

[552] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurirwe, igika cya 709.

cyangwa mu bundi buryo bwose bw'itumanaho rikoresha amajwi n'amashusho[553]. Kubera ko iki ari icyaha gitegura ikindi, kuba umuntu yashobora guhamagarira undi gukora jenoside biherereye ntibyitabwaho. Igikorwa cyo guhamagarira abantu gukora jenoside kibereye mu ruhame ku buryo bugaragara ni cyo cyonyine gishobora guhanwa hashingiwe ku Ngingo ya 2 (3)(c) ya Sitati[554].

516. Amategeko akurikizwa ku guhamagarira gukora icyaha ashobora kuvugwa mu magambo make ku buryo bukurikira:

- Guhamagarira abantu gukora jenoside bigatuma hakorwa ibikorwa bya jenoside bihanwa hashingiwe ku Ngingo ya 2 (3)(a) n'iya 6 (1) za Sitati zifatiwe hamwe, nk'icyaha cyo gukangururira abantu gukora jenoside ;

- Guhamagarira abantu gukora jenoside bigatuma hakorwa igikorwa cya jenoside kandi bishobora gufatwa nk'aho byakozwe « mu buryo butaziguye » kandi « mu ruhame » bigahanirwa nk'icyaha cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside hashingiwe ku Ngingo ya 2 (3)(c) ya Sitati, cyangwa bigahanirwa nk'icyaha cyo gukora jenoside binyuze mu kuyikangurira abantu, hashingiwe ku Ngingo ya 2 (3)(a) n'iya 6 (1) za Sitati zifatiwe hamwe;

- Guhamagarira abantu gukora icyaha ntibivemo igikorwa cya jenoside ariko bikaba bifatwa ko byakozwe «mu buryo butaziguye » kandi «mu ruhame » bihanwa hashingiwe gusa ku Ngingo ya 2 (3)(c) ya Sitati ; naho

- Guhamagarira abantu gukora jenoside ariko ntibitume habaho igikorwa cya jenoside kandi bikaba bitafatwa nk'aho byakozwe «mu buryo butaziguye » kandi «mu ruhame » ntibihanirwa hashingiwe kuri Sitati.

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553 Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 556, 559.

554 Igihe Amasezerano yerekeranye na jenoside yemezwaga, abari bahagarariye ibihugu bemeranyijwe by'umwihariko ko guhamagarira umuntu umwe ku giti cye gukora jenoside bitazafatwa nk'icyaha. Batsindagiye rero ko igihanirwa gusa ari uguhamagarira abantu, mu ruhame, gukora icyo cyaha, reba *Yearbook of the United Nations, UN Fiftieth Edition, 1945-1995, Martinus Nijhoff Publishers, 1995* hamwe n'Incamake y'inyandikomvugo y'Inama ya Komisiyo ya gatandatu y'Inama rusange y'Umuryango w'Abibumbye, 21 Nzeri - 10 Ukuboza 1948, Inyandiko z'Inama Rusange y'Umuryango w'Abibumbye.

4.2. Ibyabereye mu nkambi y'impunzi ya Kanage, tariki ya 9 Mata

517. Mu gika cya 20 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside kubera ijambo yabwiye impunzi z'Abarundi mu nkambi yo muri Serire ya Kanage (Segiteri ya Mukindo, Komine ya Kibayi) hafi y'itariki ya 9 Mata 1994. Muri iryo jambo, Kalimanzira yababwiye ko Guverinoma y'Agateganyo ibizera, ko Perezida Juvénal Habyarimana yari yarabitayeho kandi ko na Perezida Sindikubwabo azabigenza atyo. Yanababwiye ko umwanzi wabirukanye mu Burundi ari we wahanuye indege yari itwaye Perezida Habyarimana na Perezida Ntaryamira. Yasabye izo mpunzi z'Abarundi kuguma mu gihugu, azibwira ko yazizaniye intwaro gakondo zo kwirwanaho bahangana n'« umwanzi ».

518. Ubwunganizi buhakana ko iyo nama Porokireri avuga yabayeho. Byongeye kandi, Kalimanzira yireguza uburyo bwa sinari mpari avuga ko guhera ku itariki ya 7 kugeza ku ya 11 Mata 1994 yari iwe mu rugo i Kigali kandi adafite imodoka (reba akiciro ka III.1.2).

4.2.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe BBO

519. Porokireri yahamagaje umutangabuhamya umwe gusa uvuga kuri iyi nama, ari we uwiswe BBO. Mu buhamya yatanze mu Rukiko, BBO avuga ko yamenye ko Juvénal Habyarimana (Perezida w'u Rwanda) yapfuye abyumvise kuri Radiyo Burundi mu gitondo cyo ku itariki ya 7 Mata 1994. BBO avuga ko nyuma yaho gato, yabonye Kalimanzira mu nkambi y'impunzi z'Abarundi, muri Serire ya Kanage (« Inkambi ya Kanage»). BBO asobanura ko atari impunzi muri iyo nkambi ko ahubwo yari yagiyeyo kubera ko yari ahafite inshuti y'umukobwa[555].

520. BBO avuga ko abategetsi batumije inama aho mu nkambi ya Kanage kugira ngo bagire icyo babwira impunzi z'Abarundi. Uyu mutangabuhamya yibuka ko mu bategetsi bari muri iyo nama harimo Kalimanzira, Élie Ndayambaje (wari warigeze kuba burugumesitiri wa Komine ya Muganza akaza kongera gushyirwa kuri uwo mwanya), Tharcisse Muvunyi (Koloneli), na Pierre Canisius Kajyambere

[555] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 38 (BBO).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

(Burugumesitiri wa Komine ya Kibayi). N'ubwo BBO atari yarigeze abona Kalimanzira mbere, Burugumesitiri Kajyambere yerekanye abategetsi bari aho, avuga ko Kalimanzira ari Umunyamabanga mukuru muri Minisiteri y'Ubutegetsi bw'Igihugu[556].

521. BBO avuga ko inama igitangira, Burugumesitiri Kajyambere yafashe ijambo maze asaba impunzi z'Abarundi kwihangana kubera uko ibintu byari bimeze mu gihugu. BBO yibuka ko ari Koloneli Muvunyi wakurikiyeho mu gufata ijambo kugira ngo amenyeshe impunzi ko Perezida Habyarimana na Cyprien Ntaryamira (Perezida w'u Burundi) bari bishwe, ndetse anashishikarize izo mpunzi z'Abarundi kuguma mu Rwanda no gufatanya n'Abahutu bo mu Rwanda. BBO yibuka kandi ko Koloneli Muvunyi yavuze ko yazaniye impunzi intwaro nke zo kwirwanaho igihe Inkotanyi zaramuka ziteye ziturutse i Burundi, kandi ko yateganyaga gukura abajandarume mu nkambi ya Kanage akabasimbuza abasirikare[557].

522. BBO avuga ko nyuma ya Koloneli Muvunyi, Kalimanzira yafashe ijambo maze ahanini agasubiramo amagambo ya Koloneli Muvunyi ariko akongeraho ko Guverinoma y'u Rwanda yafataga ibyitso bya FPR nk'abanzi b'igihugu. Kalimanzira yanavuze ko abantu bumva Radiyo Muhabura (BBO yise «radiyo y'Inkotanyi») aho kumva Radiyo Rwanda bafatwa nk'ibyitso by'Inkotanyi kandi ko Guverinoma y'u Rwanda itari gukomeza kubarindira umutekano. BBO avuga ko yakurikiraga neza amajambo yavugwaga kubera ko hagati y'ahantu yari ahagaze n'aho abo bategetsi bari bari hari intera iri hagati ya metero 10 na 15, kandi ngo bakoreshaga indangururamajwi kubera umubare munini w'impunzi[558].

523. BBO avuga ko mbere yo kuva mu nkambi ya Kanage, abategetsi basize ibisanduku bitatu by'intwaro gakondo zirimo imihoro, inkota, n'udufuni kugira ngo abayobozi b'inkambi bazitange mu mpunzi, kandi izo ntwaro zahise zitangwa. BBO asobanura ko atashoboraga guhabwa intwaro kubera ko yari Umunyarwanda, akaba atari

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[556] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 39-40 (BBO).

[557] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 40-41 (BBO).

[558] Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 40-41 (BBO).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

impunzi. Cyakora yongeraho ko wa mukobwa w'inshuti wari impunzi yamuhaye umuhoro bari bamuhaye[559].

524. BBO asobanura ko nyuma y'iryo jambo habaye umwuka mubi. Impunzi zari ifite ubwoba ko Inkotanyi zishobora gutera ziturutse i Burundi zikagaba igitero ku mpunzi zo mu nkambi ya Kanage. N'ubwo nta gitero nk'icyo cyabaye cyangwa ngo FPR itere iturutse i Burundi, BBO yibuka ko impunzi zakomeje kugira ubwoba, maze hashira iminsi mike zigatangira gutura ubwoba bw'Inkotanyi abasiviri b'Abatutsi[560]. BBO n'impunzi z'Abarundi bakoreshje za ntwaro bahawe mu kwica Abatutsi bari bahungiye ku biro bya Komine ya Kibayi no ku gasozi ka Kabuye (Komine ya Ndora)[561].

Umutangabuhamya ushinjura wiswe MGR

525. MGR yari afite butike imbere y'inkambi ya Kanage ku rundi ruhande rw'umuhanda. MGR avuga ko buri munsi yabaga ari muri butike guhera saa moya za mu gitondo kugera saa mbiri z'umugoroba usibye rimwe na rimwe ku manywa iyo yajyaga kurya ku isoko ryari hafi aho. Kubera ko yari yegeranye n'inkambi, buri gihe impunzi zazaga kugura ibintu muri butike ye. Na nyuma y'urupfu rwa Perezida Habyarimana, MGR yakomeje gucuruza muri iyo butike ye buri munsi kugeza ahunze u Rwanda mu mpera za Kamena 1994[562].

526. MGR avuga ko atigeze yumva ko hari inama yabereye mu nkambi ya Kanage irimo Burugumesitiri Kajyambere, Koloneli Muvunyi, Ndayambaje cyangwa Kalimanzira. Asobanura ko atazi Koloneli Muvunyi cyangwa Kalimanzira kandi ko impunzi z'Abarundi zitigeze zivuga ko habaye inama nk'iyo irimo uwo ari we wese muri abo bantu bavugwa. MGR anavuga ko nta na rimwe Burugumesitiri Kajyambere yigeze aza mu nkambi kubera ko yari yarashyizeho umuntu uyishinzwe. Mu gusoza, MGR yemeza ko nta ntwaro zari gutangirwa mu nkambi ya Kanage ngo ye kubibona cyangwa ngo abyumvane abakiriya be cyangwa inshuti ze. Yongera kuvuga ko butike ye yari ku muhanda umwe rukumbi winjira ukanasohoka mu nkambi, bityo rero

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[559] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 42 (BBO).

[560] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 43 (BBO).

[561] Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 44 (BBO).

[562] Inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, urup. 25 (MGR).

bikaba bitari gushoboka ko inama nk'iriya yaba cyangwa ngo abategetsi nk'abo bahaze maze ye kubimenya[563].

Umutangabuhamya ushinjura wiswe SRA

527. Mu mwaka wa 1994, SRA yakoraga ahantu hari urugendo rw'iminota 15 n'amaguru, uvuye ku nkambi ya Kanage. Avuga ko yabaga ari ku kazi guhera saa kumi n'ebyiri za mu gitondo ku wa mbere kugeza saa kumi n'ebyiri z'umugoroba ku wa gatanu, muri wikendi agataha iwe nko muri metero 20 uvuye ku nkambi ya Kanage. Nyuma y'urupfu rwa Perezida Habyarimana, SRA yakomeje gukora kugeza mu ntangiriro za Kamena 1994[564].

528. Umutangabuhamya SRA avuga ko atigeze yumva ko hari abategetsi baje mu nkambi ya Kanage hagati y'itariki ya 6 Mata na Kamena 1994. Yongeraho ko nta modoka yigeze abona hafi y'iyo nkambi itwaye Ndayambaje, Burugumesitiri Kajyambere, Koloneli Muvunyi, cyangwa Kalimanzira. Uyu mutangabuhamya asobanura ko atari azi Koloneli Muvunyi, ariko ko yari azi Ndayambaje, Burugumesitiri Kajyambere na Kalimanzira by'umwihariko kubera ko yari yarigeze kumubona ubwo yakoraga [SRA] muri koperative y'uburobyi. SRA yemeza ko kubera akazi yakoraga n'uburyo yabonanaga kenshi n'impunzi z'Abarundi, nta kuntu atari kumenya ko mu nkambi ya Kanage habereye inama nk'iyo cyangwa hagatangirwa intwaro[565].

Umutangabuhamya ushinjura wiswe KBF

529. Mu buhamya bwe mu Rukiko, KBF avuga ko bitewe n'imirimo yakoraga, muri Gicurasi 1994 yagiye mu nama yabereye ku kibuga cy'umupira w'amaguru cya Nyabisagara cyari muri metero 100 uvuye ku biro bya Komine ya Kibayi (reba akiciro ka III.4.6.1). N'ubwo KBF avuga ko ari yo nama yonyine yagiyemo muri Komine ya Kibayi hagati ya Mata na Nyakanga 1994, yemera ko hashobora kuba harabaye izindi nama. KBF yari azi Kalimanzira maze akavuga ko Uregwa atari muri iyo nama. Uyu mutangabuhamya anemeza ko guhera muri Mata 1994 kugera ahunga

[563] Inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, imp. 25-27, 29-31 (MGR).

[564] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 11, 13, 17 (SRA).

[565] Inyandikomvugo y'iburanisha, 26 Mutarama 2009, imp. 13-15 (SRA).

u Rwanda muri Nyakanga 1994 atigeze abona Kalimanzira cyangwa agira icyo yumva bamuvugaho[566].

Abandi batangabuhamya bashinjura

530. Mu buhamya bwabo mu Rukiko, Kalimanzira n'umugore we Salomé bavuga bombi ko mu minsi yakurikiye urupfu rwa Perezida Habyarimana, Kalimanzira yagumye iwe mu rugo i Kigali. Bongeraho ko ku itariki ya 11 Mata ari bwo yavuye mu rugo bwa mbere agiye mu nama yabereye muri Hôtel des Diplomates. Bombi bakomeza kuvuga ko kugeza kuri iyo tariki Kalimanzira atari afite imodoka[567].

4.2.2 *Isesengura ry'Urugereko*

531. Urugereko ntirwemera ibyo Kalimanzira avuga ko mbere y'itariki ya 11 Mata 1994 atari afite imodoka, cyangwa ko atigeze ava mu rugo mbere y'iyo tariki (reba akiciro ka III.1.2.2). Cyakora, kuba Urugereko rutemera imyiregurire ya sinari mpari ya Kalimanzira ntibikuraho inshingano Porokireri afite yo kugaragaza ku buryo budashidikanywaho ibyo aregera.

532. BBO ni we mutangabuhamya rukumbi uvuga kuri iki kibazo. Avuga ko ari Umututsi, ariko akaba yariyitaga umwe mu mpunzi z'Abahutu b'Abarundi kubera ubwoba yaterwaga n'Inkotanyi no kuba yarafatanyije n'izo mpunzi mu bwicanyi bwibasiye abasiviri b'Abatutsi. Kubera iyo mpamvu, ubwo yari agarutse mu Rwanda ahungutse, BBO yarafashwe afungirwa muri gereza ya Karubanda ashinjwa ubwicanyi, maze aza kwirega mu mwaka wa 1998. Ubwirege bwe bwaremewe nuko afungwa imyaka 11[568]. BBO yemera ko yagiye mu bitero byagabwe ku gasozi ka Kabuye maze akavuga ko na Kalimanzira yabigizemo uruhare (Reba akiciro ka III.2.4.1). Asobanura ko muri ibyo bitero yakoresheje intwaro yari yarahawe na Kalimanzira mu nkambi ya Kanage. Kubera ko ibyo bituma BBO aba icyitso mu byaha Uregwa ashinjwa, ubuhamya bwe bugomba kwitonderwa. Urugereko rusanga BBO yararangije igihano kandi ntakigaragaza ko gushinja Kalimanzira ibinyoma hari icyo byamufasha mu byo aregwa. Cyakora, mu mwaka wa 2001 ni bwo bwa mbere BBO

566 Inyandikomvugo y'iburanisha, 17 Ugushyingo 2009, imp. 14-15 (KBF).

567 Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, urup. 23 (Callixte Kalimanzira); inyandikomvugo y'iburanisha, 5 Gashyantare 2009, urup. 6 (Salomé Mukantwali).

568 Inyandikomvugo y'iburanisha, 19 Kamena 2008, urup. 48 (BBO).

yavuze Kalimanzira mu buhamya bwanditse yahaye abapererezi b'uru Rukiko. Kubera ko icyo gihe yari akiri muri gereza ategereje kuburanishwa[569], ashobora kuba yaratekerezaga ko gushinja Kalimanzira ibinyoma hari icyo byamumarira.

533. N'ubwo avuka mu yindi komine, mu ibazwa rinyomoza BBO yavuze ko yatuye muri Komine ya Kibayi guhera muri Gicurasi 1993, maze akahaguma kugera ahunze u Rwanda muri Nyakanga 1994. Cyakora, mu buhamya bwanditse yahaye abapererezi b'uru Rukiko, avuga ko mu Ukwakira 1993 yari i Burundi, kandi ko yahunze u Rwanda mu mpera za Gicurasi 1994[570]. Byongeye kandi, mu buhamya bwanditse bwa mbere yahaye abapererezi b'uru Rukiko mu Ukwakira 1999[571], BBO ntavugamo Kalimanzira cyangwa ibyabereye mu nkambi ya Kanage, ahubwo avugamo ibindi bintu bitandukanye cyane n'ibyo, kandi byabaye hashize iminsi itatu Perezida Habyarimana apfuye. Ibisobanuro BBO atanga avuga ko yatinyaga gutanga amakuru menshi no kuba yakwivuguruza aramutse akomeje kubazwa ibibazo bituma ukwizerwa kwe gushidikanywaho[572].

534. Abatangabuhamya bashinjura biswe KBF, MGR na SRA, bahamagajwe kugira ngo banyomoze ubuhamya bwa BBO, bavuga ko batigeze bumva hari umuntu uvuga ko iyo nama yabaye. KBF yemera ko muri Komine ya Kibayi hashobora kuba harabereye izindi nama zitari iyo yavuzeho. Kubera akazi yakoraga, SRA yamaraga iminsi itanu yose mu cyumweru atari hafi y'inkambi ya Kanage, bityo rero, nta shingiro afite mu kuvuga ko nta kuntu atari kumenya ko iyo nama yabaye. MGR yakoreraga imbere neza y'inkambi, ariko ibyo avuga, muri rusange, ko nta kuntu atari kumenya ko intwaro zatangiwe mu nkambi cyangwa ko abategetsi bahaje, na byo nta shingiro bifite. By'umwihariko, ibyo MGR avuga ko nyuma y'urupfu rwa Perezida buri munsi yakomeje gucuruza muri butike ye bivuguruza ibyo Ubwunganizi buvuga ko, kimwe n'abandi bantu bose, nyuma y'ihanurwa ry'indege, Kalimanzira yagumye mu rugo iwe kubera amabwiriza yari yatanzwe kuri radiyo.

535. Urugereko ruributsa igipimo ngenderwaho gikoreshwa mu isuzuma ry'ibimenyetso, rukaba rero rushidikanya kuba rwashingira ku buhamya bwa BBO budafite ubundi

[569] Ikimenyetso gihamya N^o^ D21.

[570] Reba ibimenyetso gihamya N^o^ D20 na D21.

[571] Ikimenyetso gihamya N^o^ D20.

[572] Reba Inyandikomvugo y'iburanisha, 19 Kamena 2008, imp. 55 na 61 (BBO).

bubushyigikira. Urugereko ntirwemera ko Kalimanazira yagumye mu rugo iwe mu minsi yakurikiye urupfu rwa Perezida kandi kubera impamvu zisa n'izo, rushidikanya ko Kalimanzira yagiye mu nkambi ya Kanage. Kubera ko rutahawe andi makuru cyangwa ibindi bisobanuro, Urugereko rusanga igishoboka ari uko mu bihe bikomeye nka biriya, ndetse na minisitiri we akaba atari ahari, Kalimanzira yari afite ibibazo bikomeye kurushaho yagombaga kwitaho i Kigali.

4.3 Ibyabereye kuri bariyeri ya Jaguar, hagati muri Mata

536. Mu gika cya 21 cy'Inyandiko y'ibirego, Porokireri arega Kalimanzira icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside kubera ko hagati muri Mata 1994 yagiye kuri bariyeri ya «Jaguar» yari imbere ya kiriziya y'Abagatorika yo ku Gisagara. Icyo gihe, yahaye imbunda Marcel Ntirusekanwa wari ushinzwe iyo bariyeri, maze amutegeka kuyikoresha mu kwica Abatutsi.

537. Ubwunganizi buvuga ko abatangabuhamya bashinja babeshya, ariko bukemera ko Kalimanzira yanyuze kuri iyo bariyeri ya Jaguar, uretse ko icyo gihe ngo hari muri Kamena. Byongeye kandi, Kalimanzira yifashisha imyiregurire ya sinari mpari akavuga ko guhera ku itariki ya 14 Mata kugeza ku ya 30 Gicurasi 1994 yakoreraga i Murambi/Gitarama, ndetse ko ku itariki ya 21 n'iya 22 Mata 1994 yari mu butumwa muri Perefegitura ya Kibungo (reba akiciro ka III.1.2).

4.3.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe BWL

538. Mu buhamya bwe mu Rukiko, umutangabuhamya wiswe BWL avuga ko, rimwe mu muri Mata 1994 mbere gato y'ubwicanyi bwabereye ku gasozi ka Kabuye, yabonye Kalimanzira kuri bariyeri ya Jaguar[573] yari hafi ya paruwasi ya Gisagara. Kalimanzira yageze kuri iyo bariyeri mu modoka y'umweru ari kumwe n'abandi bantu babiri bambaye imyenda ya gisiviri. Kalimanzira yavuye mu modoka yibwira abari aho, arangije avuga ko byari ngombwa kubungabunga umutekano w'Abatutsi bari boherejwe ku gasozi ka Kabuye. Mu bantu bari kuri bariyeri harimo «Marcel»,

[573] Mu nyandikomvugo y'ubuhamya bwa BWL mu Rukiko handitsemo bariyeri yiswe iya «*Jagwa* ». Urugereko rurakoresha imyandikire ya «Jaguar» ikoreshwa mu Nyandiko y'ibirego kugira ngo hatabaho kunyuranya kuri iryo zina.

«Sylvestre», «Bihehe», na «Pakome». Ubwo Kalimanzira yafashe imbunda yari ku ntebe y'inyuma muri iyo modoka, maze ayihereza Marcel cyangwa Sylvestre. Aba bagabo bombi bari abasirikare bari mu kiruhuko cy'izabukuru. BWL abibonye yagize ubwoba aragenda[574].

Umutangabuhamya ushinja wiswe BCN

539. Umutangabuhamya wiswe BCN mu buhamya yatanze mu Rukiko avuga ko mu nama yabereye hafi y'ikigo cy'ababikira b'Abizeramariya mu mpera za Mata 1994, Kalimanzira yemeye ko yari kuzaha abaturage intwaro zo kwirwanaho bahangana n'Abatutsi. BCN yibuka ko mu cyumweru kimwe, Kalimanzira yakoze ibyo yari yabaseranije maze azana imbunda kuri bariyeri yitwaga iya Jaguar[575] yari imbere ya kiliziya yo ku Gisagara. Iyo bariyeri yari yashyizweho ku gitekerezo cya Fidèle Uwizeye, hashize icyumweru kimwe Perezida Habyarimana apfuye. Kalimanzira yageze kuri iyo bariyeri mu masaa tanu z'amanywa mu modoka y'umweru ya *double cabin*, ari kumwe na Fidèle Uwizeye ndetse n'umushoferi. Kalimanzira yari yicaye imbere iruhande rw'umushoferi naho Uwizeye yicaye ku ntebe y'inyuma[576].

540. Mu bantu bari kuri iyo bariyeri harimo Marcel Ntirusekanwa, Jean Twagirayezu, Segundo Ngiriwonsanga, Dionisios Kabandana, Laurent Ngirente, Patern Harerimana, Siridi Iyakaremye, Louis Hakizimana, Casimir Bwanakeye, «Pakome», «Metero», «Bihehe» na Sylvestre Sentore. Kalimanzira amaze guhagarara kuri iyo bariyeri yabwiye Uwizeye guha abo bantu imbunda. Atavuye mu modoka, Uwizeye yafashe imbunda imwe mu zindi nyinshi zari ku ntebe y'inyuma maze ayinyuza mu idirishya ry'imodoka ayihereza Marcel wari warahoze ari umusirikare. Ubwo Kalimanzira yabwiye abo bantu bose bari kuri bariyeri ko iyo mbunda yagombaga gukoreshwa mu kwica Abatutsi. Kalimanzira yanabategetse kugenzura indangamuntu ya buri muntu wese, bakabuza Umututsi uwo ari we wese gutambuka kuri iyo bariyeri. Marcel amaze gufata iyo mbunda, imodoka yaragiye. BCN avuga ko amategeko ya

[574] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 44-47, 59-62 (BWL).

[575] Reba Ikimenyetso gihamya N° D36.

[576] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 3-4, 17-20 (BCN).

Kalimanzira yubahirijwe kandi ko iyo mbunda yakoreshejwe mu kwica abantu benshi barimo Umututsi witwaga Alexandre Rubayiza[577].

541. Nyuma yaho, BCN yumvise ko Kalimanzira yahaye abandi bantu intwaro zari zasigaye mu modoka ye. BCN anavuga ko Kalimanzira yanyuze kuri iyo bariyeri ya Jaguar izindi nshuro zinyuranye kandi ko buri gihe yahaga abayicunga amabwiriza yo kwica Abatutsi. Ku nshuro imwe muri izo ngizo, Kalimanzira yababajije impamvu atabona imirambo aho hantu, maze bamusubiza ko imirambo yari mu cyobo rusange cyari hafi y'iyo bariyeri[578].

Umutangabuhamya ushinja wiswe BCK

542. Umutangabuhamya wiswe BCK yarindaga bariyeri ya Jaguar, yari imbere ya kiliziya yo ku Gisagara, inshuro ziri hagati y'eshatu n'enye mu cyumweru, kandi yari aho hantu ubwo iyo bariyeri yashyirwagaho mu mpera za Mata 1994. BCK avuga ko mu mpera za Mata 1994, Kalimanzira yageze kuri iyo bariyeri mu modoka y'umweru cyangwa itukura, yo mu bwoko bwa Toyota *double cabin*, mu masaa tanu n'igice cyangwa saa sita z'amanywa, ari kumwe n'abasirikare batatu. Icyo gihe, Uregwa yahagaritse imodoka, nuko avamo hamwe n'abo basirikare batatu. Kalimanzira amaze gusuhuza buri wese, yabajije uwaba azi gukoresha imbunda. Mu bantu bari kuri iyo bariyeri harimo Lucien Simbayobewe, Jean Twagirayezu, «Patern», hamwe na «Sylvestre» na Marcel Ntirusekanwa, bari barigeze kuba abasirikare. Ubwo Kalimanzira yahereje Marcel imbunda «ayinyujije mu idirishya ry'imodoka», maze abwira abo bantu bose ko iyo mbunda yagombaga gukoreshwa kuri bariyeri mu kwica Inkotanyi/Inyenzi n'abandi banzi bose bari kugerageza kunyura kuri iyo bariyeri. Kalimanzira yabibukije ko umwanzi yari Umututsi, maze abizeza ko yari kubazanira izindi mbunda. Arangije kuvuga ayo magambo, Kalimanzira n'abasirikare bari kumwe bavuye aho hantu berekeza ku Gisagara[579].

543. BCK avuga ko kuri iyo bariyeri abantu batoranywaga hakurikijwe ubwoko bwabo, Abahutu ni bo bonyine bacungaga iyo bariyeri, kandi Abahutu batazwi banyuraga kuri bariyeri na bo bashyirwaga ahantu hatandukanye n'ah'Abatutsi. Yongeraho ko

[577] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 5, 20-24 (BCN).

[578] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 5, 8-9 (BCN).

[579] Inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 6-9, 14-15 (BCK).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

amabwiriza Kalimanzira yatanze yo kwica Abatutsi yubahirijwe bityo akaba yibuka, by'umwihariko, ko Umututsi witwaga «Alexandre» yiciwe kuri iyo bariyeri[580].

Umutangabuhamya ushinjura witwa Sylvestre Niyonsaba

544. Niyonsaba ni umuhungu wa Joseph Sentore, uyu akaba kandi ari we «Sylvestre» cyangwa «Sylvestre Sentore» uvugwa na BWL, BCN na BCK[581]. Mu buhamya bwe mu Rukiko, Niyonsaba avuga ko yari umupolisi wa Komine ya Ndora kugeza mu mwaka wa 1994. Mu rwego rw'imirimo yari ashinzwe, burugumesitiri yamuhaye imbunda, akaba yarayitwazaga iyo yabaga ari ku kazi. Muri Mata 1994, Niyonsaba ari mu bantu ba mbere batangiye gucunga bariyeri ya Jaguar, kandi yakomeje kubikora kugeza muri Kamena 1994. Iyo yabaga ari kuri bariyeri, yabaga afite iyo imbunda kandi yibuka ko ari we wenyine wari ufite imbunda kuri bariyeri, kuko abandi bakoreshaga intwaro gakondo gusa. Mu bantu bakundaga kuba bari kuri bariyeri ya Jaguar harimo Jérôme Singirankabo, Jérôme Rubayiza, Vianney Harindintwali, «Pakome», «Emmanuel», «Eugene» n'abandi bantu bake[582].

545. Niyonsaba avuga ko n'ubwo Marcel Ntirusekanwa na we yakundaga kuba ari kuri iyo bariyeri yitwaga iya Jaguar, mu by'ukuri atayirindaga kuko yari ashaje. Niyonsaba yabonye Marcel afite imbunda kuri bariyeri inshuro imwe gusa. Kenshi Marcel yasetsaga abantu avuga ko ashobora kurashisha imbunda kubera ko yari yarigeze kuba umusirikare. Bityo rero, rimwe Niyonsaba yahereje Marcel imbunda ye yavanyemo sharijeri amukinisha, kugira ngo arebe niba koko ibyo yavugaga ari ukuri[583].

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580 Inyandikomvugo y'iburanisha, 26 Kamena 2008, urup. 9 (BCK).

581 Reba Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 218. Mu gika cya 257 cy'Imyanzuro nsozarubanza yanditse y'Ubwunganizi, baribeshye bavuga ko Joseph Sentore, se wa Sylvestre, ari we Kalimanzira yahaye intwaro kuri bariyeri yiswe iya Jaguar. Mu Nyandiko y'ibirego nta hantu na hamwe havugwa ko Joseph yahawe intwaro, iyo ari yo yose, kuri bariyeri yiswe iya Jaguar ndetse nta n'umutangabuhamya n'umwe ubivuga. Inyandiko y'ibirego ivuga gusa ko Marcel ari we wahawe imbunda, kandi ibyo bishyigikirwa na BCN na BCK, mu gihe BWL we atashoboye kwemeza niba ari «Marcel» cyangwa «Sylvestre ». BCN na BCK bavuga «Sylvestre» cyangwa «Sylvestre Sentore» nk'umwe mu bantu bari kuri bariyeri.

582 Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 35-37 (Sylvestre Niyonsaba).

583 Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 39-40 (Sylvestre Niyonsaba).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

546. Niyonsaba avuga ko hagati muri Kamena 1994, yabonye Kalimanzira inshuro ebyiri kuri bariyeri ya Jaguar kandi ko icyo gihe Uregwa yari mu modoka y'umweru ya *double cabin*, ari kumwe n'umushoferi. Niyonsaba n'abandi bagabo bavanyeho ingiga y'igiti yakoreshwaga mu gufunga umuhanda, maze bareka Kalimanzira aratambuka. Niyonsaba yibuka ko Kalimanzira yabapepeye ariko ntasohoke mu modoka. Kalimanzira ntiyavugishije abantu bacungaga bariyeri, kandi nta kintu yavanye mu modoka ngo agihereze umuntu uwo ari we wese mu barindaga bariyeri cyangwa mu bari bahahagaze. Kalimanzira yahanyuraga aturutse mu cyerekezo cya Butare, hanyuma agakomeza yerekeza ku Gisagara. Niyonsaba yongeraga kubona Kalimanzira ubwo yabaga asubiye i Butare ari muri ya modoka, kandi nta muntu n'umwe mu bacungaga bariyeri yavugishije cyangwa ngo agire icyo amuha[584].

Umutangabuhamya ushinjura witwa Jean Marie Vianney Harindintwali

547. Harindintwali, wabaga kenshi acunga bariyeri yiswe iya Jaguar hagati ya saa saba na saa kumi z'amanywa, avuga ko nta muntu n'umwe wiciwe kuri iyo bariyeri, ndetse ko nta n'icyobo rusange cyari hafi yayo. Harindintwali avuga ko hafi y'urugo rwa Gasana ari ho hari icyobo rusange, ariko ko hari kure ya bariyeri. Anashimangira ko atigeze ajya mu gikorwa icyo ari ryose cyo gutandukanya Abahutu n'Abatutsi kuri iyo bariyeri, kandi ko nta n'Abatutsi azi bigeze bajonjorwa muri ubwo buryo, cyangwa ngo bicwe maze imirambo yabo ijugunywe mu cyobo[585].

4.3.2 *Isesengura ry'Urugereko*

548. Mu gihe ibivugwa byabaga, Kalimanzira avuga ko yakoreraga i Murambi (Perefegitura ya Gitarama), uretse ku matariki ya 21 na 22 Mata 1994 ubwo yajyaga muri Perefegitura ya Kibungo kwimika Perefe mushya akanagaruka. Nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ya sinari mpari ya Kalimanzira (Reba akaciro ka III.1.2.2).

549. Mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi bwibeshya bufata ubuhamya bwa BXK nk'aho bwerekeranye n'ibyabaye bivugwa mu gika cya 21 cy'Inyandiko y'ibirego. Bunashingira ku kuvuguruzanya hagati y'ubwo buhamya

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584 Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 40-41 (Sylvestre Niyonsaba).

585 Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 1-3 (Jean Marie Vianney Harindintwali).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

n'ubwa BCN, BCK and BWL maze bukavuga ko abo batangabuhamya bose badakwiye kwizerwa[586]. Cyakora, muri iyo Myanzuro nsozarubanza yabwo, hari ahandi Ubwunganizi bwemeza ko bariyeri BXK avuga mu buhamya bwe mu Rukiko itandukanye n'iya Jaguar[587]. Ubwunganizi bwamenyeshejwe ko ubuhamya bwa BXK bwari kuba bwerekeranye n'ibivugwa mu gika cya 15 aho kuba icya 21 cy'Inyandiko y'ibirego[588]. Nk'uko bivugwa mu kiciro ka III.2.7.4.2, Urugereko rusanga ubuhamya bwa BXK mu Rukiko bwerekeranye n'ikindi kintu cyabaye cyihariye, kandi Urugereko ntirugisuzuma ahangaha. Bityo rero, Urugereko ntirwemera ibyo Ubwunganizi buvuga ko ubuhamya bwa BXK bugaragaza ko BCN, BCK na BWL batakwizerwa.

550. Umutangabuhamya BWL ni Umututsi wari ufite imyaka 18 y'amavuko mu gihe cy'ibyabaye. Ubwunganizi buvuga ko nta muntu wakwemera inkuru ye ku byabaye. Nk'urugero, BWL asobanura ko yanyuze kuri bariyeri ya Jaguar kubera ko yari avuye ku iduka aho umukoresha we yari yamutumye kugura itomati ziseye zo mu dukopo[589]. BWL avuga kandi ko anyuze kuri iyo bariyeri batamugenzuye. Ubwunganizi buvuga ko nta wapfa kwemera ko umukoresha yatuma hanze umusore w'Umututsi hagati muri jenoside, kandi ngo uwo musore anyure kuri bariyeri batamugenzuye. Cyakora, si ukuvuga ko ibyo bintu bidashoboka. Urugereko rwemera igisobanuro cya BWL kivuga ko atagaragaraga nk'umuntu ukuze bihagije ku buryo yari kuba yarafashe indangamuntu[590]. Mu buhamya bwanditse yahaye abapererezi b'uru Rukiko muri Nzeri 2007, BWL avuga ko yakundaga kunyura kuri bariyeri ya Jaguar akabona ubwicanyi bwahaberaga, ariko ntagire ikibazo kuko abantu batari bazi ko ari Umututsi[591]. Muri ubwo buhamya bwe mu Rukiko, BWL anavuga ko igihe ibyo bintu byabaga, ubwicanyi bwari butaratangira mu gace k'iwabo[592]. Urugereko rwemera ko BWL atibasiwe kubera izo mpamvu.

586 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 311-314.

587 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 405 (2).

588 Imyanzuro mbanzirizarubanza ya Porokireri, Umugereka A.

589 Inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 45 (BWL).

590 Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 42-43 [mu muhezo] 60 (BWL).

591 Ikimenyetso guhamya N^o D25.

592 Inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 44 (BWL).

551. Ubwunganizi bwanabajije BWL ukuntu yajyaga guhaha kandi mbere yari yavuze ko muri kiriya gihe amaduka yari afunze. Uyu mutangabuhamya yasobanuye ko nyir'iduka yamufunguriraga kubera bashebuja be[593]. Icya nyuma, ku birebana na BWL, Ubwunganizi buvuga ko ubuhamya bwanditse yatanze mbere avuga ko yabonye Kalimanzira ahereza Marcel imbunda, bunyuranye gato n'ubwo yatanze mu Rukiko avuga ko yabonye imbunda ihabwa Marcel cyangwa Sylvestre[594]. Urugereko rusanga ibi bishaka kuvuga ko mu buhamya yatanze mu Rukiko hejuru y'indahiro yigengesereye kurushaho, bityo ibyo avuga bikaba byakwemerwa kandi bikizerwa.

552. Umutangabuhamya BCN yarindaga bariyeri ya Jaguar. Mu mwaka wa 1994, yarafashwe akatirwa igihano cy'igifungo cy'imyaka 20 kubera ko yakoze jenoside, maze arekurwa mu Ukuboza 2007[595]. Ntibigaragara neza niba ibyaha yakoze akanabyiregа birimo ubwicanyi, bifitanye isano n'ibyo Kalimanzira ashinjwa muri iyi Nyandiko y'ibirego. Ubwo yatangaga ubuhamya mu Rukiko, BCN yari yararangije igihano cye, kandi nta cyatuma umuntu avuga ko gushinja Kalimanzira ibinyoma hari icyo byari kumumarira mu byaha yari akurikiranyweho. Cyakora, kubera ko rusanga hari ibindi bintu binyuranye BCN ashinja Kalimanzira bigizwe ahanini no guhamagarira abaturage gukora ubwicanyi, Urugereko rwasuzumye niba, ashinja Kalimanzira n'abandi bategetsi kuba baramuhamagariye gukora jenoside, BCN yari afite inyungu mu gupfobya uruhare rwe mu bwicanyi. Urugereko rwasanze atari ko bimeze.

553. Ubwunganizi ntibwagaragaje mu by'ukuri ko ubuhamya bwa BCN butakwizerwa. Bwabyukije akabazo gato kerekeranye no kumenya niba umuntu wari kuri bariyeri yarashoboraga cyangwa atarashoboraga kubona inzu ya Dominique Ntawukulilyayo (superefe wa Gisagara)[596], kubera ko hatanzwe ubuhamya buvuguruzanya kuri iki kibazo. Urugereko rusanga ibyo bidafite akamaro kubera ko kuba bariyeri ya Jaguar yariho n'ahantu yari iri ugereranyije n'inzu yari superefe ntawe ubijyaho impaka kandi byari byegeranye.

[593] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 62-63 (BWL).

[594] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 68-69 (BWL).

[595] Inyandikomvugo y'iburanisha, 25 Kamena 2008, urup. 12 (BCK).

[596] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 16, 24-25 (BCK)

554. Umutangabuhamya BCK ni Umuhutu kandi, kimwe na BCN, yarindaga bariyeri ya Jaguar muri Mata 1994. BCK ubu arafunze kubera igihano cy'igifungo cy'imyaka 30 yakatiwe n'urukiko Gacaca muri Kamena 2007, nyuma yo guhamwa n'icyaha cya jenoside[597]. Mbere y'uko aza gutanga ubuhamya muri uru Rukiko, BCK yari yararangije inzira zose z'ubujurire mu rubanza rwe. Ntibigaragara neza niba ibyaha yakoze akanabyiregа, birimo ubwicanyi, bifitanye isano n'ibyo Kalimanzira ashinjwa mu Nyandiko y'ibirego. Cyakora, Urugereko rusanga ubuhamya bwe bugomba kwitonderwa.

555. Ubwunganizi bwashoboye kwerekana ukwivuguruza kuri hagati y'ubuhamya BCK yatanze mu Rukiko n'inyandiko yo muri Gacaca yo mu Ukwakira 2001. Muri iyo nyandiko yo muri Gacaca, BCK avuga ko Kalimanzira yahaye Sylvestre imbunda, naho mu Rukiko akavuga ko yayihaye Marcel[598]. Urugereko rwemera igisobanuro BCK yatanze avuga ko ibiri mu nyandiko yo muri Gacaca bitanditswe uko yabivuze kuko atari we wayiyandikiye, bityo akavuga ko ibyanditsemo bidahuye neza n'ibyo yavuze.

556. Ubwunganizi buvuga ko mu buhamya batanze mu Rukiko, abatangabuhamya bashinja batatu bavuguruzanya cyane[599]. Cyakora, nyuma yo gusuzumana ubushishozi ubwo buhamya ndetse no kwanga kwemera ubuhamya bwa BXK kuri iki kibazo, Urugereko rusanga ibivugwa n'Ubwunganizi nta shingiro bifite. Ubwunganizi buvuga ko ubuhamya bwa BCN ari ikinyoma ndetse ko budafite ubundi bubushyigikira aho avuga ko Kalimanzira yanyuze kuri iriya bariyeri inshuro zinyuranye[600]. Cyakora, ubwo buhamya bushyigikirwa n'ubwa Sylvestre Niyonsaba uvuga ko yabonye Kalimanzira kuri iriya bariyeri inshuro zinyuranye, uretse ko hari muri Kamena 1994[601].

557. Muri rusange, ubuhamya bwa BWL, BCK na BCN buhuriza ku bintu byinshi, nk'itariki ibivugwa byabereyeho, kuba Marcel ari we wahawe imbunda, no kuba Kalimanzira yaraje mu modoka y'umweru bavuga ko yari ikamyoneti. Byongeye

[597] Inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 12, 28 [mu muhezo] (BCK).

[598] Inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 33-35 (BCK); reba n'ikimenyetso gihamya N° D39.

[599] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 303.

[600] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 306.

[601] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 40 (Sylvestre Niyonsaba).

kandi, hari ibindi bintu binyuranye abatangabuhamya babiri bashinja bagenda bashyigikiranaho: BCN na BWL bavuga bombi ko Kalimanzira yahageze ari kumwe n'umushoferi n'umuntu w'umusiviri BCN avuga ko yitwaga Fidèle Uwizeye; BWL na BCK bavuga bombi ko Kalimanzira yavuye mu modoka; BCN na BCK bavuga ko intwaro yari imbunda, naho BWL akavuga ko atazi ibyerekeranye n'intwaro, bityo akaba nta cyo yayivugaho; BCN na BCK bibuka iyicwa ry'Umututsi witwa «Alexandre». Hari amagambo aba batangabuhamya bose uko ari batatu bagenda bitirira Kalimanzira n'ubwo ayo magambo atari amwe. Birumvikana rwose ko hashobora kubaho utuntu duto aba batangabuhamya bagenda bavuguruzanyaho. Mu by'ukuri, hashize imyaka 15 ibivugwa bibaye kandi icyo gihe abantu bari barahahamutse ndetse bahangayitse. Byongeye kandi, abantu ntibakurikirana ibintu mu buryo bumwe ndetse bagenda bibuka ibintu bitewe n'ukuntu babibayemo. Cyakora, kuba hari aho abo batangabuhamya banyuranya ntibihagije ngo Urugereko rube rwashidikanya, mu buryo bushyize mu gaciro, ku kwemerwa cyangwa ukwizerwa kwabo.

558. Ubwunganizi bwahamagaje abatangabuhamya babiri barindaga bariyeri ya Jaguar, kimwe na BCN na BCK. Harindintwali yahunze ubutabera akaba aba mu buhungiro kandi arashakishwa n'inkiko Gacaca kubera ibyaha by'ubwicanyi n'ubusahuzi[602]. Ubuhamya bwe buvuga ko atigeze abona hari umuntu uvangurwa cyangwa yicirwa kuri iyo bariyeri, ntibujyana n'ibyo yiyemerera ubwe ko hafi y'inzu ya Gasana hari icyobo rusange[603]. Avuga ko iyo nzu yari kure cyane y'iyo bariyeri ya Jaguar, ariko BXK akavuga ko byari byegeranye (reba akiciro ka III.2.7.4)[604]. Kuba Harindintwali yarahunze ubutabera ndetse akaba yaranarindaga bariyeri, bigaragaza ko afite inyungu yo kwigurutsa ibikorwa bibisha byose bivugwa. Kubera iyo mpamvu, Urugereko rufite impamvu zo kutemera ibyo avuga.

559. Niyonsaba na we aba mu buhungiro, kandi ntarasubira mu Rwanda kuva yavayo mu mwaka wa 1994[605]. Kuba ashobora kuba yihishe ubutabera, umuntu yakwibaza

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[602] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 68-69 n'inyandikomvugo y'iburanisha, 19 Ugushyingo, imp. 6-7 (Jean Marie Vianney Harindintwali); Reba n'ibimenyetso gihamya N° P57 na P58.

[603] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, urup. 3 (Jean Marie Vianney Harindintwali).

[604] Inyandikomvugo y'iburanisha, 9 Gicurasi 2008, urup. 10 (BXK).

[605] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 34-35 (Sylvestre Niyonsaba).

ukuntu na we ataba afite inyungu mu guhakana ibikorwa bibisha byose byakorewe kuri bariyeri ya Jaguar. Mu buhamya yatanze mu Rukiko, Niyonsaba avuga ko yagendanaga imbunda mu buryo bwemewe n'amategeko, ngo kuko yari umupolisi wa komine mu gihe cy'ibyabaye. Cyakora, umwirondoro we watanzwe n'Ubwunganizi ugaragaza ko muri icyo gihe yari umufundi wubaka, aho kuba umupolisi. Urugereko ntirwemera igisobanuro atanga avuga ko mbere atari yavuze ko yabaye umupolisi kubera ko bamubajije umurimo cyangwa umwuga yakoraga, kandi Abanyarwanda bakaba badafata akazi k'ubupolisi nk'umwuga[606]. Kubera urwego rw'ubuhamya yasabwaga gutanga, kuba ataravuze ko yabaye umupolisi ni ikintu gikomeye gikeneye ibisobanuro birenze gupfa kuvuga gusa ngo ijambo iri n'iri risobanura iki n'iki. Urugereko kandi ntirwanyuzwe n'inkuru ishinyagura ya Niyonsaba uvuga ukuntu rimwe yaretse Marcel, ngo kuko yari umusaza, agafata imbunda ye mu rwego rwo kumukinisha. Cyakora, Niyonsaba yemera ko Marcel yari yarahoze ari umusirikare nk'uko bivugwa n'abatangabuhamya bashinja. Ibyo ari byo byose, kuba Niyonsaba yarabonye Kalimanzira muri Kamena 1994 ntibibuza ko Kalimanzira yaba yarahaje no muri Mata 1994.

560. Ubuhamya bw'abatangabuhamya bashinja bugenda bashyigikirana kuri iki kibazo kandi Urugereko rusanga bwakwemerwa ndetse bukizerwa. Ubuhamya bushinjura ntibwatumye habaho ugushidikanya gushyize mu gaciro kuri ubwo buhamya bushinja. Kubera iyo mpamvu, Urugereko rusanga umunsi umwe mu gice cya kabiri cya Mata 1994, Kalimanzira yarahagaze kuri bariyeri yitwaga iya Jaguar, agaha Marcel Ntirusekanwa imbunda imbere y'abandi bantu bacungaga iyo bariyeri. Amaze gutanga iyo mbunda, Kalimanzira yabwiye abantu bari aho bose ko yagombaga gukoreshwa mu kwica Abatutsi.

561. N'ubwo ukurikije uko bivugwa mu gika cya 21 cy'Inyandiko y'ibirego, umuntu ashobora kumva ko Marcel yari wenyine kuri bariyeri akaba ari we wahawe amabwiriza na Kalimanzira, mu Myanzuro mbanzirizarubanza yanditse Porokireri

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[606] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 60 (Sylvestre Niyonsaba): «Iwacu, kuba umuntu ari umupolisi ntibifatwa nk'umwuga cyangwa umurimo. Ni akazi umuntu ahabwa. Nk'urugero, iyo wigeze kuba umusirikare ukava mu gisirikare, ushobora kuba umupolisi. Byongeye kandi, iyo umupolisi yitwaye nabi arirukanwa ntiyongere kwitwa umupolisi, bityo rero kuba mu gipolisi si umwuga. Noneho rero, ubwo bambazaga umurimo cyangwa umwuga nakoraga, nashubije ko nari umufundi wubaka kubera ko kuba umupolisi atari umwuga, si umurimo ».

asobanura ko icyo gikorwa kivugwa cyo guhamagarira abantu kwica Abatutsi cyabereye mu ruhame. Iyo mbunda ntiyahawe Marcel ku giti cye cyangwa ntiyatanzwe ngo Marcel ayikoreshe wenyine kuko iyo mbunda n'amabwiriza byari bigenewe abo bantu bose bari aho. Guhamagarira abantu kwica Abatutsi byakozwe mu magambo asobanutse kandi ataziguye ndetse bibera mu ruhame bigenewe itsinda ritihariye ry'abantu.

562. Ukurikije rero uko ibintu biteye, nta we ushyira mu gaciro washidikanya ko abantu bari aho kuri bariyeri bumvise ko ibikorwa n'amagambo bya Kalimanzira bibahamagarira gukora jenoside yibasira Abatutsi. Hashyizwe mu gaciro kandi, nta washidikanya ko Kalimanzira yari agamije kubahamagarira, ku buryo butaziguye kandi mu ruhame, gukora ibyo bikorwa. Aha kimwe n'ahandi, Kalimanzira yagaragaje igitekerezo cyo kurimbura ubwoko bw'Abatutsi (reba akiciro ka III.5.2). Kubera izo mpamvu, Urugereko rusanga, nta gushidikanya, Kalimanzira ahamwa n'icyaha cyo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside kuri bariyeri yitwaga iya Jaguar nk'uko bivugwa mu gika cya 21 cy'Inyandiko y'ibirego.

4.4 Bariyeri ya Kajyanama, mu mpera za Mata

563. Mu gika cya 22 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside, kubera ko mu mpera za Mata 1994, yagiye kuri bariyeri yari ku isangano ry'imihanda i Kirarambogo, aho Segiteri ya Muganza n'iya Remera zihanira imbibi, ari kumwe n'abajandarume maze akibutsa abacungaga iyo bariyeri ko bagomba kuba bitwaje intwaro kandi bakica Abatutsi. Icyo gihe, Kalimanzira yakubise umuntu urushyi amuziza ko atitwaje intwaro, undi utari ufite intwaro amwinjiza mu modoka ye ku gahato.

564. Ubwunganizi buhakana ko Kalimanzira yageze kuri iyo bariyeri muri kiriya gihe kivugwa. Byongeye kandi, Kalimanzira ashingira ku myiregurire ye ya sinari mpari ivuga ko guhera ku itariki ya 14 Mata kugeza ku ya 30 Gicurasi 1994 yakoreraga i Murambi (Perefegitura ya Gitarama) (reba akiciro ka III.1.2).

565. Kubera ko iyo bariyeri yari muri Serire ya Kajyanama (Segiteri ya Remera, Komine ya Muganza)[607], Urugereko rurayita «bariyeri ya Kajyanama»[608].

4.4.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe BBB

566. Umutangabuhamya BBB avuga ko bariyeri ya Kajyanama yashyizweho bwa mbere mu mwaka wa 1990 bakaza kuyikuraho, maze igasubizwaho Perezida Habyarimana amaze iminsi ibiri apfuye. Bariyeri yari igizwe n'ingiga z'ibiti zatambikwaga mu muhanda kugira zibuze imodoka gutambuka, kandi yagenzurwaga na resiponsabure wa Serire ya Kajyanama hamwe na konseye wa Segiteri ya Remera. BBB avuga ko abagenzuraga iyo bariyeri na we arimo, bari barahawe amabwiriza n'abayobozi babo yo kwihisha mu bihuru igihe cyose haje imodoka kugira ngo hatagira ikintu kibabaho baramutse batewe. Iyo babaga bamaze kumenya abari mu modoka ni bwo bagarukaga kuri bariyeri. BBB avuga ko yacungaga iyo bariyeri inshuro eshatu cyangwa enye mu cyumweru kuva mu gitondo kugeza ku mugoroba[609].

567. Umutangabuhamya BBB avuga ko umunsi umwe, Perezida Habyarimana amaze nk'ibyumweru bibiri apfuye, ubwo yari yihishe mu gashyamba, yabonye Kalimanzira agera kuri iyo bariyeri mu modoka itukura yo mu bwoko bwa Toyota idatwikiriye i nyuma, ari kumwe n'umushoferi n'abajandarume bagera kuri batanu, bafite imbunda kandi bambaye ingofero zitukura zibaranga. BBB yegereye bariyeri igihe Kalimanzira yarimo gusohoka mu modoka, maze ahagarara nko kuri metero eshatu uvuye aho Uregwa yari ari. BBB yibuka ko hari umugabo watambutse, maze Kalimanzira akamubaza aho intwaro ye iri. Uwo mugabo ashubije ko nta yo afite, Kalimanzira yamukubise urushyi maze abajandarume bamujugunya mu modoka. Ubwo

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[607] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 6 (BBB); inyandikomvugo y'iburanisha, 22 Gicurasi 2008, urup. 41 [mu muhezo] (BXH); inyandikomvugo y'iburanisha, 25 Ugushyingo 2008, urup. 26 [mu muhezo] (AM29); inyandikomvugo y'iburanisha, 25 Ugushyingo 2008, urup. 43 [mu muhezo] (AM05); reba n'ibimenyetso gihamya N° P2, P3, D13, D59, na D61.

[608] Iri ni na ryo zina Ubwunganizi bwakoresheje. Nk'urugero, reba Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 435.

[609] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 6-7, 22-23, 33-34 (BBB).

Kalimanzira yategetse BBB kumwereka intwaro ye maze umutangabuhamya amwereka umuhoro yari yahishe mu ikoti, nuko Kalimanzira aranyurwa[610].

568. Umutangabuhamya BBB avuga ko kuri iyo bariyeri Kalimanzira yahamaze iminota iri hagati ya 15 na 20, kandi ko yabajije abantu bari aho niba bazi umwanzi wabo uwo ari we. Uwo munsi mu bantu bari bafatanyije na BBB gucunga bariyeri harimo Matabaro Cyama, Jean «Gashurushuru» Mutabazi, Emmanuel Ruganji, Joseph Senkunda (resiponsabure wa Serire ya Kajyanama), Célestin Mtamugabumwe n'abandi baturage benshi BBB atibuka amazina. Bashubije icyo kibazo bemeza ko bazi umwanzi uwo ari we, maze Kalimanzira ababwira ko abantu barwana na bo ari Abatutsi kandi ko ari «babi», maze abategeka kwica Abatutsi no kubabuza gutambuka kuri bariyeri. Kalimanzira yavuye kuri iyo bariyeri mu modoka, agenda yarekeza ku Gisagara, nyuma yo kuvuga ko yari agiye guta wa mugabo ku mupaka kugira ngo bimubere isomo[611].

569. Umutangabuhamya BBB avuga ko uwo munsi, mu masaa mbiri z'umugoroba, yongeye kubona kuri bariyeri wa mugabo Kalimanzira yari yakubise urushyi, kandi icyo gihe abacungaga bariyeri nijoro barimo bamubaza ibibazo. BBB avuga ko abagabo bacungaga bariyeri bashatse kwica uwo mugabo ariko bakabireka kubera ko yari afite indangamuntu yanditsemo ko ari Umuhutu. Cyakora, BBB yemera ko ibyo bintu yabyumvanye bagenzi be ku munsi ukurikiyeho kubera ko we ategereye iyo bariyeri bihagije ngo yiyumvire ibyavugwaga igihe ibyo bintu byababaga. Mu gusoza, BBB avuga ukuntu Kalimanzira amaze kugenda, abantu bashyize mu bikorwa amabwiriza ye, bagahindura imikorere n'imyitwarire yabo bongera umubare w'ibitero bakanica Abatutsi. By'umwihariko, BBB avuga ko aho hantu hiciwe Umututsi bitaga Lensi de Karama wo muri Komine ya Ndora[612].

Umutangabuhamya ushinja wiswe BXH

570. Umutangabuhamya BXH wari utuye hafi ya bariyeri ya Kajyanama avuga ko, umunsi umwe mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994 mu masaa saba cyangwa saa munani z'amanywa, yumvise imodoka ubwo yarimo asana urugo rwe.

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[610] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 7-8, 34 (BBB).

[611] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 8-9, 33 (BBB).

[612] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 9-10, 40 (BBB).

Ubwo yagiye guhagarara imbere y'inzu ye kugira ngo arebe iyo modoka, maze abona Kalimanzira agera kuri bariyeri mu ikamyoneti itukura, ku muhanda werekeza i Kirarambogo. BXH avuga ko icyo gihe hagati ye na Kalimanzira hari intera ya metero esheshatu cyangwa zirindwi, kandi Kalimanzira yari ari kumwe n'abasirikare cyangwa abajandarume bane cyangwa batanu bitwaje intwaro[613].

571. Umutangabuhamya BXH yibuka ko uwo munsi kuri bariyeri hari abantu banyuranye barimo Cyama Matabaro, Senkunda, Bwenakweri, Gashurushuru, Tomasi Nikombama na Manueli Ruganji. BXH avuga ko yabonye Kalimanzira abaza abatari bitwaje intwaro icyo bakoraga n'uburyo bari kwirwanaho umwanzi aramutse anyuze aho. Abonye batamushubije, Kalimanzira yavuye mu modoka, bituma bahunga. Yacakiye umugabo umwe, amushyira mu modoka ye ku ngufu, maze aramujyana. BXH asobanura ko Kalimanzira atigeze avugisha, mu buryo budasanzwe ubwo ari bwo bwose, uwo mugabo yafashe. BXH avuga atari yitwaje intwaro kuko atakoraga kuri iyo bariyeri, ariko avuga ko yumva Kalimanzira yamurebaga[614].

572. Umutangabuhamya BXH avuga ko bukeye bwaho yongeye kubona wa mugabo Kalimanzira yari yatwaye. Icyo gihe, uwo mugabo yari agiye gusangira agacupa n'inshuti ze, azisobanurira ibyari byaraye bimubayeho. BXH yumvise uwo mugabo avuga ko Kalimanzira yamubwiye ko azamwiyicira ubwe niyongera gusanga adafite intwaro[615].

Umutangabuhamya ushinjura wiswe AM05

573. Umutangabuhamya AM05 yacunze bariyeri ya Kajyanama mu mwaka wa 1992 no guhera muri Mata 1994 kugeza muri Nyakanga 1994. Ibyaberaga kuri bariyeri byakurikiranwaga na ba resiponsabure ba serire zombi ari zo Kajyanama na Kigarama kandi abaturage b'izo serire zombi barimo «Thomas», «Joachim» na Claver Kamere bafatanyaga mu gucunga iyo bariyeri. AM05 yari atuye hafi ya bariyeri kandi yabaga ahari buri munsi. Uyu mutangabuhamya avuga ko rimwe mu mpera za Kamena cyangwa mu ntangiriro za Nyakanga 1994, yabonye Kalimanzira anyura imbere y'iwe ku muhanda werekeza i Kirarambogo. Icyo gihe, Kalimanzira yari mu modoka

[613] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 41-42 [mu muhezo] 45-46 (BXH).

[614] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 42-44 [mu muhezo] 45, 48-51 (BXH).

[615] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 45-46 (BXH).

y'umweru ari kumwe n'umushoferi gusa. AM05 yibuka ko yari ahagaze kuri bariyeri ubwo yabonaga Kalimanzira atambuka apepera abantu ariko ntahagarare cyangwa ngo agire umuntu avugisha. Ntibyari ngombwa ko Kalimanzira anyura kuri bariyeri kubera ko umuhanda ujya i Kirarambogo wanyuraga munsi yayo. Uwo munsi, nyuma yaho ku mugoroba, AM05 yabonye Kalimanzira muri uwo muhanda ataha, kandi ni yo nshuro yonyine yabonye Kalimanzira mu mwaka wa 1994[616].

574. Umutangabuhamya AM05 avuga ko atigeze yumva ko Kalimanzira yaba yarahagaze kuri bariyeri agashyira iterabwoba ku bantu cyangwa agakubita urushyi umuntu amuziza ko adafite intwaro. Yongeraho ko atigeze anumva ko hari umugabo Kalimanzira yaba yarashyize mu modoka ku ngufu akamujyana. AM05 asobanura ko yabaga ari kuri bariyeri amanywa n'ijoro kubera ko yari hafi y'urugo rwe bikaba byaranavugwaga ko FPR yicaga abantu mu ngo zabo nijoro. AM05 anavuga ukuntu abandi baturage na bo bararaga kuri iyo bariyeri akongeraho ko ku manywa abantu bayiteraniragaho kugira ngo baganire be kwicwa n'urungu. Byongeye kandi, AM05 yibuka ko abona Kalimanzira atambuka yabibwiye abandi bagabo barindaga iyo bariyeri kubera ko Kalimanzira yari umuntu uzwi cyane, bishatse kuvuga ko iyo ibivugwa haruguru biza kuba, uyu mutangabuhamya yari kubimenya. AM05 yemeza kandi ko atazi umuntu n'umwe wiciwe kuri iyo bariyeri[617].

Umutangabuhamya ushinjura wiswe AM29

575. Umutangabuhamya AM29 yarindaga bariyeri ya Kajyanama n'ubwo yemera ko atabaga ayiriho buri gihe. Asobanura ko iyo bariyeri yari igizwe n'ingiga y'igiti cyari gitambitse mu muhanda. Mu ntangiriro za Kamena 1994, AM29 yabonye Kalimanzira kuri iyo bariyeri kandi icyo gihe Uregwa yari mu muhanda wa Kirarambogo mu modoka yerekeza mu mujyi wa Butare. AM29 yibuka ko Kalimanzira yari kumwe n'umushoferi, akaba yaragendaga apepera abantu ariko adahagaze cyangwa ngo ave mu modoka, kandi uyu mutangabuhamya ntiyabonye abasirikare. AM29 avuga ko hagati ya Mata na Nyakanga 1994 atongeye kubona Kalimanzira cyangwa ngo yumve ko yaba yaraje kuri bariyeri akagira umuntu ashyiraho iterabwoba amuziza ko adafite

616 Inyandikomvugo y'iburanisha, 25 Ugushyingo 2008, imp. 43-47 [mu muhezo] 48, 50 (AM05).

617 Inyandikomvugo y'iburanisha, 25 Ugushyingo 2008, imp. 50-52; imp. 55-57 [mu muhezo] (AM05).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

intwaro. Yongeraho ko uretse n'ibyo atigeze yumva ko hari umuntu Uregwa yaba yarurije imodoka ku ngufu ngo ajye kumuhanira ko nta ntwaro yitwaje[618].

Umutangabuhamya ushinjura wiswe AM02

576. Umutangabuhamya AM02 ntiyarindaga bariyeri ya Kajyanama ariko yari atuye ndetse akorera hafi yayo. Mu buhamya bwe mu Rukiko, avuga ko iyo bariyeri yashyizweho bwa mbere hagati ya 1992 na 1993 ku mpamvu z'umutekano kubera ko hari intambara ishyamiranyije abanegihugu. AM02 avuga ko mu cyumweru cya mbere cya Kamena, ubwo yari hafi y'iyo bariyeri ari nyuma ya saa sita, haje imodoka y'umweru yerekeza muri Komine ya Ndora. Kalimanzira yapepeye abantu ari mu modoka igenda kandi yari kumwe n'umushoferi. AM02 ntiyumvise hari umuntu uvuga ko Kalimanzira yaba yaranyuze kuri iyo bariyeri ikindi gihe hagati ya Mata na Kamena 1994, ndetse ntiyigeze yumva ko hari umuntu wiciwe kuri iyo bariyeri[619].

4.4.2 *Isesengura ry'Urugereko*

577. Kalimanzira avuga ko igihe ibivugwa byababaga yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

578. Mu Nyandiko y'ibirego havugwa ko Kalimanzira yakubise umuntu urushyi agatwara n'undi ku ngufu. Cyakora, Ubuhamya bwatanzwe mu Rukiko buvuga ko umuntu wakubiswe ari na we watwawe ku ngufu. Uko kunyuranya ntigukanganye kandi Ubwunganizi ntibwabangamiwe mu kwiregura kuri byo bintu bivugwa na Porokireri, uretse ko nta n'icyo buvuga kuri icyo kibazo.

579. Umutangabuhamya BBB ashinjwa jenoside ubu akaba afungiye muri gereza ya Karubanda. BBB yireze ibikorwa by'ubwicanyi n'ubusahuzi, ariko ahakana ikindi cyaha ashinjwa cyo gusambanya abagore ku gahato[620]. BBB ntarahamwa n'icyaha cyangwa ngo akatirwe igihano ku byaha yemeye birimo ubwicanyi bwabereye ku gasozi ka Kabuye, ubwicanyi Kalimanzira na we ashinjwa mu Nyandiko y'ibirego.

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[618] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2008, imp. 26-29 [mu muhezo] 30-31 (AM29).

[619] Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, imp. 8-12 [mu muhezo] (AM02).

[620] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 57-59 [mu muhezo] (BBB); reba n'ikimeyetso gihamya N° D15.

Rusuzuma niba BBB yaba afite inyungu yo gushinja Kalimanzira ibinyoma kugira ngo apfobye uruhare rwe muri ibyo byaha, Urugereko rusanga iyo BBB aza kuba agamije gushinja Kalimanzira ibinyoma yari kuba yarabikoze no mu buhamya bwanditse yatanze ku byabereye ku gasozi ka Kabuye (reba akiciro ka III.2.4.1) atavuzemo Kalimanzira, ahubwo akavuga Dominique Ntawukulilyayo (superefe wa Gisagara) wenyine. Rumaze gusuzumana ubushishozi ubuhamya bwe kuri icyo kintu cyabaye no ku bindi bintu (reba akiciro ka III.2.8.2), Urugereko rusanga BBB yakwizerwa.

580. Ubwunganizi buvuga ko mu ibaza rinyomoza rya BBB bwasanze uyu mutangabuhamya yivuguruza. Ku kibazo cyo kumenya uwamusabye kumwereka intwaro ye, mu ibaza ry'ibanze BBB yashubije ko ari Kalimanzira, ariko mu ibazwa rinyomoza avuga ko ari umujandarume. Bamubwiye ko yivuguruza kuri iki kibazo, BBB yakomeje kwemeza ko batamwumvise neza, maze asubiramo ko ari Kalimanzira wamubajije ku byerekeranye n'intwaro ye[621]. Urugereko rwemera icyo gisobanuro.

581. Ubwunganizi buvuga ko BBB atakwizerwa kubera ko hari ukwivuguruza gukomeye kandi kunyuranye hagati y'ubuhamya yatanze mu Rukiko n'ubwanditse yahaye abapererezi b'uru Rukiko[622]. Nk'urugero, mu buhamya bwanditse yatanze mu mwaka wa 2001, BBB avuga ko Kalimanzira yamukubise urushyi amuziza ko atitwaje intwaro, hanyuma ayimweretse Kalimanzira amusaba imbabazi[623]. Cyakora, mu buhamya yatanze mu Rukiko, BBB avuga ko Kalimanzira yakubise umuntu urushyi maze akamutwara amuziza ko atitwaje intwaro[624]. BBB yashimangiye ko nta mpamvu afite yo guhindura ibyo yavuze mbere kuri iki kibazo. Mu by'ukuri, ubuhamya bwe bwari kuba bushinja Kalimanzira kurushaho iyo mu Rukiko aza kuvuga ko ari we Uregwa yakubise urushyi aho kuba undi muntu. Ubwo buhamya bwari no kuba bujyanye n'ibivugwa mu Nyandiko y'ibirego ko Kalimanzira yakubise urushyi umuntu umwe, undi akamutwara, kandi ibyo byari kuba bihuye n'ibyo avuga mu buhamya bwanditse BBB yatanze mbere.

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[621] Inyandikomvugo y'iburanisha, 16 Kamena 2008, urup. 37 (BBB).

[622] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 484-489.

[623] Ikimenyetso gihamya Nº D14.

[624] Inyandikomvugo y'iburanisha, 16 Kamena 2008, imp. 50-51 (BBB).

582. Ubwunganizi buvuga ko hari ukundi kwivuguruza gukomeye mu buhamya bwanditse BBB yatanze mbere, nko ku byerekeranye n'ahantu Kalimanzira yasize wa muntu utari witwaje intwaro, n'ibyerekeranye no kumenya niba barabanje kuboha uwo muntu mbere yo kumwinjiza mu modoka ya Kalimanzira. Buvuga ko ibyo bintu bigaragaramo ukwivuguruza gukomeye. Nyuma yo kubisuzumana ubushishozi, Urugereko rwemera ibisobanuro BBB yatanze avuga ko hakozwe amakosa mu kwandika ubuhamya yahaye abapererezi. Urugereko rusanga uku kwivuguruza kutagaragaza ko umutangabuhamya atavugisha ukuri cyangwa ko atakwizerwa. Imiterere y'uko kwivuguruza ntiyatuma umuntu ashidikanya, mu buryo bushyize mu gaciro, ku bintu by'ingenzi bigize ubuhamya bwa BBB mu Rukiko.

583. Umutangabuhamya BXH ntiyigeze akurikiranwaho ibyaha kandi aracyatuye mu Rwanda. Ntiyigeze afungwa cyangwa ngo ahamwe n'icyaha[625]. Nta muntu uhakana ko uyu mutangabuhamya yari azi Kalimanzira kubera ko mu myaka ya za 80 yigeze kumara umwaka urenga akora ku cyuzi cyororerwamo amafi muri Komine ya Muganza, ayoborwa na Kalimanzira[626]. Igihe ibivugwa byababaga, BXH yari atuye ahantu yashoboraga kubona neza bariyeri ya Kajyanama[627]. Ubwunganizi buvuga ko ubuhamya bwa BXH mu Rukiko budashyize mu gaciro kuko ngo avuga ko Kalimanzira yabwiye abantu kuri bariyeri ko bakwiye kwitwaza intwaro kugira ngo birwaneho bahangana n'umwanzi, nyamara agashyira iterabwoba kuri umwe muri bo avuga ko yari kumwica nagaruka agasanga nta ntwaro yitwaje[628]. Urugereko ntirwemeranya n'Ubwunganizi. Mu gihe jenoside yarimo kuba ndetse hari n'ubwoba ko FPR yari igiye kugaba ibitero, byari byoroshye kuvuga amagambo nk'ayo.

584. Ubwunganizi bwahamagaje abatangabuhamya batatu bafite bose impamvu yo kwitandukanya n'ibikorwa bibisha bivugwa byakorewe kuri iyo bariyeri. Abo batangabuhamya bose ubu baba mu buhungiro mu gihugu kimwe kandi bashobora kuba barahunze ubutabera. Kimwe na BBB, babiri muri bo bacungaga bariyeri ya Kajyanama, naho usigaye yakoraga hafi yayo. AM05 na AM02 bemeza ko batigeze bumva ko hari umuntu wiciwe kuri iyo bariyeri. AM05 na AM29 bacungaga iyo

[625] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 53-54 [mu muhezo] (BXH).

[626] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, urup. 40 [mu muhezo] (BXH).

[627] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 41-42 [mu muhezo] (BXH).

[628] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 441.

bariyeri kimwe na BBB uvuga ko aho hantu habereye ubwicanyi. Muri Mata 1994, AM02 yari umupolisi, bityo gukora iperereza ku iyicwa ry'abasiviri mu gace k'iwabo bikaba byari kuba biri mu nshingano ze. Amaze imyaka ine muri gereza, AM02 yaratorotse ahunga igihugu.

585. Aba batangabuhamya bose uko ari batatu bavuga ko babonye Kalimanzira anyura kuri bariyeri atavuye mu modoka ye cyangwa ngo agire umuntu avugisha. AM29 na AM02 bavuga ko ibyo byabaye muri Kamena, naho AM05 akavuga ikintu gisa n'icyo ariko cyabaye mu mpera za Kamena cyangwa mu ntangiriro za Nyakanga. AM29 yemera ko yacunze iyo bariyeri inshuro enye gusa, ariko agakomeza kuvuga ko azi ko Kalimanzira atigeze ahanyura, ko atigeze ashyira iterabwoba ku bantu abaziza ko batitwaje intwaro cyangwa ngo atware ku ngufu umugabo utari witwaje intwaro. Byongeye kandi, AM02, utararindaga iyo bariyeri ariko agakorera hafi yayo, na we avuga ko iyo Kalimanzira aza kuhanyura yari kubimenya. AM05 na we avuga ko yabaga ari kuri bariyeri amanywa n'ijoro bityo akaba yaramenyaga ikintu cyose cyahaberaga. Urugereko rusanga aya makabyankuru yo kuba ahantu igihe cyose nta gaciro kanini yahabwa. Byongeye kandi, AM05 avuga ko bariyeri yari yarashyizweho kubera impamvu z'umutekano, nyamara akavuga ko nta muntu wabaga afite intwaro kugira ngo yubahirize uwo mutekano. Ibi bivuguruza ubuhamya AM02 yatanze mu Rukiko avuga ko bitwazaga inkoni n'ibihiri.

586. Ubwunganizi buvuga ko abatangabuhamya bashinja bahimbye inkuru ivuga ko Kalimanzira yanyuze kuri iyo bariyeri muri Mata. Busobanura ko bahimba ibyo bintu bashingiye ku kintu cyabaye muri Kamena, ubwo Uregwa yahanyuraga agapepera abantu. Ubwunganizi buvuga ko Urugereko rukwiriye kwemera ubuhamya bwa AM05, AM02 na AM29 buvuga ko batumvise hari uvuga ibintu BBB na BXH bavugaho mu Rukiko kubera ko ahantu haba abantu bake nko muri Serire ya Kajyanama, n'iyo imodoka itambutse biba ari ikintu gikomeye, bityo kuba uwari superefe yarahanyuze bikaba byari ikintu buri wese yari kumva kivugwa[629]. Urugereko ntirunyuzwe n'ibyo Ubwunganizi buvuga ahangaha. Kuba Kalimanzira yaba yaranyuze kuri iriya bariyeri muri Kamena no muri Nyakanga cyangwa muri Nyakanga gusa ntibivuga ko atari kuba yarahanyuze no muri Mata 1994.

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[629] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 459-460.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

587. Nyuma yo gusuzumana ubushishozi ubuhamya bwe, Urugereko rusanga BBB yakwizerwa. Ubuhamya bwe mu Rukiko bushyigikirwa n'ubwa BXH na we wizerwa n'Urugereko. Ubuhamya bw'aba batangabuhamya bombi bugenda bushyigikirana ku bintu by'ingenzi bivugwa, nko kuba Kalimanzira yaratonganyije umugabo amuziza ko atitwaje intwaro maze akamushyira mu modoka ku gahato. Mu buhamya bwabo mu Rukiko, BBB na BXH banavuga bombi ko Kalimanzira yari kumwe n'abajandarume batanu, kandi ko bukeye bongeye kubona wa mugabo Kalimanzira yari yatwaye. Aba batangabuhamya bombi banahuriza ku gihe ibyo bivugwa byabereyeho. Ubwunganizi buvuga ko ubuhamya bwa BBB na BXH mu Rukiko bunyuranya ku byerekeranye n'umushoferi wari utwaye imodoka, uburyo umugabo utari ufite intwaro yafashwe, umwirondoro w'uwo muntu, n'amagambo Kalimanzira yavuze[630]. Uko kunyuranya ntigukanganye urebye igihe gishize ibintu bibaye no kuba hari igihe abantu babona ikintu kimwe bari ahantu hatandukanye.

588. Urugereko rwanasuzumanye ubushishozi ukunyuranya kuri hagati y'uburyo BBB na BXH buri wese yibuka amagambo Kalimanzira yavuze. BBB avuga ko Kalimanzira yategetse abacungaga bariyeri kubuza Abatutsi gutambuka kuri iyo bariyeri, avuga ko ari abantu «babi», bakaba n'«abanzi», bityo bakaba baragombaga kwicwa. Cyakora, BXH yibuka ko Kalimanzira yababajije uburyo bakwirwanaho umwanzi aramutse ahanyuze. Urugereko rusanga ibyo BXH yibuka ijambo ku rindi byuzuzwa n'ibya BBB wibuka icyo amagambo Uregwa yavuze yashakaga kuvuga. BXH yari indorerezi, naho BBB yari mu bantu bavugwa Kalimazira yahamagariraga kwica Abatutsi. Uburyo BBB yafashe ayo magambo n'icyo yumvise ashatse kuvuga ni ikintu gikomeye mu kureba niba uko guhamagarira abantu kuvugwa kwarabaye mu buryo butaziguye. Urugereko ntirwemera ibyo Ubwunganizi buvuga ko ibivugwa na BBB na BXH bidahura cyangwa ko ari ibihimbano. Urugereko rwemera ubuhamya bwa BBB na BXH bityo rugasanga bwakwizerwa nta gushidikanya. Kubera izo mpamvu, Urugereko rusanze mu mpera za Mata 1994 Kalimanzira yarageze kuri bariyeri ya Kajyanama agatonganya umugabo maze akamutwara amuziza ko adafite intwaro.

589. Urugereko ruributsa ko guhamagarira abantu kurwanya umwanzi ubwabyo atari icyaha, cyane cyane iyo bigaragaza neza ko uwo « mwanzi » uvugwa ari FPR gusa,

[630] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 442-449.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

ko hatarimo n'abasiviri b'Abatutsi. Cyakora hano, Urugereko rusanga igihe Kalimanzira yahamagariraga abantu bacungaga bariyeri ya Kajyanama kujya bitwaza intwaro kugira ngo « bivune » « umwanzi » ushobora kuhanyura, abantu barumvise ko abahamagarira kwica Abatutsi, ndetse ko yashakaga ko abantu abwira bumva ko ari cyo ashatse kuvuga. Kuba Kalimanzira yarakubise urushyi uriya mugabo utari witwaje intwaro akanamutwara ku gahato byongereye uburemere icyo gikorwa cyo guhamagarira abantu gukora ibyo kandi binatuma bumva ko bagomba koko kubikora. Ahamagarira abantu ibyo bintu, Kalimanzira yabikoreye mu ruhame (kuri bariyeri), abibwira abantu utavuga ngo bari mu itsinda runaka rizwi (abacungaga iyo bariyeri n'undi muntu wese warebaga cyangwa wumvaga ibyahaberaga). Kuri iyo bariyeri n'ahandi hantu, Kalimanzira yagaragaje umugambi yari afite wo kurimbura Abatutsi (reba akiciro ka III.5.2). Kubera iyo mpamvu, Urugereko rusanze, ku buryo budashidikanywaho, Kalimanzira yarahamagariye abantu, mu buryo butaziguye kandi mu ruhame gukora jenoside, ubwo yari kuri bariyeri ya Kajyanama mu mpera za Mata 1994.

4.5 Ibyabereye ku kibuga cy'umupira w'amaguru cya Nyabisagara, mu mpera za Gicurasi/intangiriro za Kamena

590. Mu gika cya 23 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira kuba yarahamagariye abantu mu buryo butaziguye kandi mu ruhame gukora jenoside, kuko yagiye mu nama y'abaturage yabereye muri Komine ya Kibayi ku kibuga cy'umupira w'amaguru cy'i Nyabisagara, aho we n'abandi bantu bafashe ijambo bagashimira Abahutu kubera ubwitange bagaragazaga mu kwica Abatutsi. Urugereko ruributsa ko rwemeye ko ibintu bivugwa byabaye mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 (reba akiciro ka II.2.3).

591. Ubwunganizi buhakana ko iyo nama yabayeho. Byongeye kandi, Kalimanzira ashingira ku myiregurire ye ya « sinari mpari », akavuga ko kugera ku itariki ya 30 Gicurasi yakoreraga i Murambi (Perefegitura ya Gitarama), nyuma akaza kujya iwe muri Segiteri y'Umujyi wa Butare, akahaguma kugera ku itariki ya 30 Kamena 1994, uretse gusa inshuro nke zizwi yagiye ahava, zirimo igihe yajyaga gusura abantu bo mu muryango we i Kirarambogo mu cyumweru cya mbere cya Kamena (reba akiciro ka III.1.2).

4.5.1 Ibimenyetso

Umutangabuhamya ushinja wiswe BCZ

592. Mu buhamya yatanze mu Rukiko, BCZ avuga ko hagati y'itariki ya 24 Gicurasi n'iya 10 Kamena 1994 yabonye Kalimanzira mu nama yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara kiri nko muri metero 100 uvuye ku biro bya Komine ya Kibayi. Nk'umwe mu baturage bo muri ako gace, BCZ yari yatumiwe muri iyo nama na Pierre Canisius Kajyambere (Burugumesitiri wa Komine ya Kibayi). Mu bategetsi bari bayitabiriye harimo Kalimanzira, Burugumesitiri Kajyambere, Dominique Ntawukulilyayo (superefe wa Superefegitura ya Gisagara), Célestin Harindintwali na « Sebalinda ». N'ubwo atashoboye kumenya abategetsi bose bari bahari, BCZ yamenyemo Kalimanzira kuko yari asanzwe amuzi neza kuva mu myaka ya za 80[631].

593. BCZ avuga ko yahageze iyo nama yatangiye, asanga Célestin Harindintwali ari we ufite ijambo arimo kumvisha abayirimo ko bagomba kwirindira umutekano bakabuza umwanzi gucengera muri iyo komine. BCZ avuga ko ahagera, yasanze abandi bategetsi barangije kuvuga. Asobanura ko ijambo nyamukuru ryavuzwe na Kalimanzira kuko ari we wasumbaga mu ntera abategetsi bose bari bahari. Kalimanzira yabanje gushimira abaturage kuba bayitabiriye ari benshi no kuba barakoze uko bashoboye kose ngo bikize umwanzi. Uregwa yongeyeho ko « batagomba kwirara » kubera ko hari hakiri abandi banzi bihishe mu mazu atakibamo abantu no mu bihuru. BCZ asobanura ko muri icyo gihe « umwanzi » byavugaga uwitwa Umututsi wese iyo ava akagera[632].

594. BCZ avuga ko Kalimanzira yasabye Burugumesitiri Kajyambere gutegura gahunda y'umuganda muri iyo komine kugira ngo bashakishe umwanzi wihishe mu bihuru banasenye amazu y'Abatutsi bapfuye. Uregwa yanategetse abaturage gusenya amazu yose asigaye y'Abatutsi maze muri ayo matongo bagateramo insina n'ibindi bihingwa, kubera ko imiryango mpuzamahanga yashoboraga kwibaza irengero ry'abantu bahoze batuye muri ayo mazu. Icyo gihe, Kalimanzira yongeyeho ko nta muntu n'umwe, cyane cyane umugabo,wagombaga kujya ajya ku muhanda atitwaje intwaro, maze ategeka ko buri muntu wese agomba kuba yitwaje intwaro. BCZ

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[631] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 43-46 (BCZ).

[632] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 46-47 (BCZ).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

yibuka kandi ukuntu Kalimanzira, amaze kubona ko intwaro zihari ari nke, yasabye abantu kujya mu bacuzi bagacurisha imyambi ndetse bakabangisha n'imiheto. Yanahamagariye urubyiruko kwitabira imyitozo ya gisirikare kandi ategeka abari barayitangiye kuyikomeza kubera ko Inkotanyi zagendaga zirushaho gusatira ako gace. BCZ avuga ko Kalimanzira mu gusoza ijambo rye yongeye gushimira abaturage kuba bari bitabiriye iyo nama ari benshi ndetse ashimangira akamaro ko gukurikiza amabwiriza yari amaze kubaha[633].

595. BCZ avuga ko abo bategetsi bakoreshaga indangururamajwi kugira ngo abari muri iyo nama bashobore kubumva kandi ko, Kalimanzira mu ijambo rye yavuganaga igitsure. Uyu mutangabuhamya yongeraho ko uko bavugaga « umwanzi », buri gihe yumvaga bashaka kuvuga Umututsi. Ku munsi wakuriye uw'iyo nama yitabiriwe n'abantu babarirwa mu magana, BCZ n'abandi baturage bashyize mu bikorwa amategeko Kalimanzira n'abo bategetsi bandi bari baraye babahaye. Bakoze rero umuganda, ariko ntibabona Umututsi n'umwe usigaye wo kwica. Cyakora, basenye amazu arimo iya Vincent Bimenyimana n'iya Charles Hategekimana bari barishwe maze batera insina muri ayo matongo[634].

Umutangabuhamya ushinjura wiswe AKK

596. Kuva Perezida Habyarimana apfa kugera muri Nyakanga 1994, AKK yari muri Komine ya Kibayi. Mu mpera za Gicurasi 1994, yagiye mu nama yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara yatumiwemo abaturage bose ba Komine ya Kibayi. AKK yamenye ko iyo nama yari kuba abibwiwe na konseye wa segiteri ye. Uyu mutangabuhamya avuga ko yari muri iyo nama kuva itangira kugera irangiye maze agasobanura ko yatangiye saa sita z'amanywa ikamara nk'amasaha abiri. Avuga ko haba mbere y'iyi nama cyangwa nyuma yaho, nta zindi nama azi zaba zarabereye muri Komine ya Kibayi kandi avuga ko iyo ziza kuba aba yarazitumiwemo cyangwa akabona abantu bazirimo[635].

597. AKK avuga ko muri iyo nama hari abategetsi ba komine nka burugumesitiri, uwungirije burugumesitiri n'abakonseye b'amasegiteri anyuranye. Yibuka ko hari

[633] Inyandikomvugo y'iburanisha, 24 Kamena 2008, urup. 47 (BCZ).

[634] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 47-50 (BCZ).

[635] Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, imp. 41-43; urup. 57 [mu muhezo] (AKK).

n'abategetsi banyuranye baje baturutse hanze y'iyo komine barimo Sylvain Nsabimana (perefe wa Perefegitura ya Butare), Alphonse Nteziryayo na Tharcisse Muvunyi. Abategetsi bari bicaye imbere y'abaturage, naho mu baturage harimo abicaye imbere hasi n'abahagaze inyuma. Yemeza ko atigeze abona Kalimanzira muri iyo nama[636].

598. AKK avuga ko abategetsi banyuranye bafashe ijambo muri iyo nama kandi babimburiwe na burugumesitiri washimiye abo bashyitsi kuba baje maze abereka abaturage. Hakurikiyeho Perefe Nsabimana na we akurikirwa na Koloneli Nteziryayo. AKK ntiyibuka ko hari undi muntu wafashe ijambo kandi yari yicaye nko ku murongo wa kane cyangwa wa gatanu uturutse imbere ku buryo yabonaga abo bategetsi neza. Yari asanzwe azi Kalimanzira neza kandi yemeza ko iyo Uregwa aza kuba ahari atari kugenda atamusuhuje we n'umugabo we[637].

Umutangabuhamya ushinjura wiswe BTH

599. Ku itariki ya 24 Gicurasi 1994, BTH yagiye mu nama yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara yatumijwe na Burugumesitiri Kajyambere. Iyo nama yatangiye mu masaa tanu za mu gitondo imara nk'amasaha abiri. Mu bantu bari bahari harimo Burugumesitiri Kajyambere, Perefe Nsabimana, Koloneli Nteziryayo na Célestin Harindintwali. Abo bategetsi bari bicaye imbere naho abaturage buzuye icya kabiri cy'icyo kibuga, bamwe bicaye hasi imbere, abandi bahagaze inyuma. Uyu mutangabuhamya avuga ko iyo nama yari igamije kuvuga ku kibazo cy'umutekano. Abategetsi bamenyesheje abaturage ko bagomba kwirindira umutekano maze babakangurira kujya bazenguruka hirya no hino bagenzura, byanashoboka bakarwanya FPR bakoresheje intwaro gakondo. Yibuka ko icyo gihe hari bamwe mu baturage batemeye ayo mabwiriza yo kuvuga ngo bazarwanishe intwaro gakondo. BTH asobanura ukuntu ababyemeye bahawe imyitozo yo kurashisha umuheto. Muri iyo myitozo bafataga insina bakaba ari yo bigiraho kurasa intego. BTH avuga ko atigeze abona Kalimanzira muri iyo nama cyangwa ngo amubone ahabereye iyo

636 Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, imp. 43-44 (AKK).

637 Inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, urup. 44 (AKK).

myitozo yo kurashisha imiheto yatanzwe iriya nama irangiye. Mu by'ukuri, avuga ko atigeze abona na rimwe Kalimanzira kuva muri Mata kugera muri Nyakanga 1994[638].

Umutangabuhamya ushinjura wiswe KBF

600. Umutangabuhamya KBF avuga ko kubera imirimo yakoraga, yagiye mu nama yabaye hagati muri Gicurasi 1994 cyangwa mu mpera z'uko kwezi itumijwe na Burugumesitiri Kajyambere. Iyo nama yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara kiri kuri metero 100 uvuye ku biro bya Komine ya Kibayi kandi yamaze amasaha nk'abiri yitabirwa n'abaturage babarirwa hagati ya 300 na 400. Mu bategetsi bari bahari harimo Koloneli Nteziryayo, Koloneli Muvunyi, Perefe Nsabimana, Superefe Ntawukulilyayo, Burugumesitiri Kajyambere na Célestin Harindintwari wakoraga muri Minisiteri y'Imirimo ya Leta. Abo bategetsi bari bicaye imbere y'abaturage kandi ntibakoresheje indangururamajwi[639].

601. Abari muri iyo nama basabwe kwirindira umutekano bakarwanya Inkotanyi zagendaga zisatira ako gace. KBF yibuka ko abategetsi baje mu modoka eshanu zishoreranye kandi yemeza ko hagati ya Mata na Nyakanga 1994 ari iyo nama yonyine yagiyemo muri Komine ya Kibayi, n'ubwo yemera ko hari izindi zishobora kuba zarabaye. KBF yari azi neza Kalimanzira maze akemeza ko Uregwa atari muri iyo nama, kuko ngo iyo ahaba aba yaramubonye. Anavuga ko kuva muri Mata 1994 kugera muri Nyakanga 1994 ubwo yahungaga ava mu Rwanda atigeze abona Kalimanzira cyangwa ngo agire icyo yumva abantu bamuvugaho[640].

Umutangabuhamya ushinjura witwa Innocent Mukuralinda

602. Mukuralinda yari umucungamari wa Komine ya Kibayi kuva mu mwaka wa 1981 kugera ku itariki ya 7 Nyakanga 1994 ubwo yahungaga akava mu Rwanda. Avuga ko ku itariki ya 24 Gicurasi 1994 yagiye mu nama yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara. Uko abizi, iyo ni yo nama yonyine yabereye muri Komine ya Kibayi muri gihe cy'ibyabaye. Burugumesitiri Kajyambere, bakoranaga buri munsi, ni we wamenyesheje Mukuralinda ko iyo nama yari kuba, anamubwira ko

[638] Inyandikomvugo y'iburanisha, 25 Ugushyingo 2008, imp. 7-9 (BTH).

[639] Inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, imp. 13-14 (KBF).

[640] Inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, imp. 14-15 (KBF).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

igamije kuvuga ku bibazo by'umutekano. Mbere y'uko iyo nama itangira, uyu mutangabuhamya yagiye ku biro bya komine gufasha mu gikorwa cyo gutera intebe. Yibuka ko iyo nama yatangiye mu masaa yine n'igice za mu gitondo kandi ko yitabiriwe n'abategetsi bakurikira : Perefe Nsabimana, Superefe Ntawukulilyayo, Mathias Bushishi (umushinjacyaha wa Repubulika muri Perefegitura ya Butare), Jean-Baptiste Ruzindaza (Perezida w'Urukiko rwa mbere rw'iremezo rwa Butare), Koloneli Muvunyi na Koloneli Nteziryayo. Cyakora, avuga ko Kalimanzira atari ahari. Asobanura ko mbere yo kujya kuri icyo kibuga, abo bategetsi babanje gukorana inama na burugumesitiri mu biro bya komine, ariko ko atazi ibyayivugiwemo kuko atayigiyemo[641].

603. Muri buhamya bwe mu Rukiko, Mukuralinda avuga ko iyo nama y'abaturage yitabiriwe n'abantu babarirwa hagati ya 300 na 400 kandi ko we yari yicaye ku murongo wa mbere. Muri iyo nama bavuze ku bibazo by'umutekano, by'umwihariko ku bijyanye n'uburyo bwo kurwana intambara ya kinyeshyamba kandi uyu mutangabuhamya avuga ko yumvaga ari uburyo bwo gutera akanyabugabo abaturage. Yibuka ko abaturage bo muri ako gace basabwe gufatanya bakirindira umutekano kubera ko ingabo za FPR zagendaga zisatira Butare. Mukuralinda avuga ko Kalimanzira atari muri iyo nama maze agasobanura ko iyo ahaba aba yaramubonye kuko yari amuzi neza[642].

Umutangabuhamya ushinjura wiswe KXL

604. Mu buhamya yatanze mu Rukiko, KXL avuga ko mu mpera za Gicurasi 1994 hari umupolisi wamubwiye ko hari inama yari kubera ku biro bya Komine ya Kibayi. Icyo gihe bariho bahamagarira abaturage kuzajyayo kugira ngo bahabwe imyitozo yo kurashisha imiheto maze bazabohoze Komine ya Ntyazo yari yarafashwe n'Inkotanyi. Babwiye KXL ko yashoboraga guhanwa aramutse atagiye muri iyo nama. Bukeye bwaho mu masaa yine za mu gitondo, KXL yageze i Nyabisagara ariko asanga inama yahabereye yarangiye ahubwo abantu barimo kwitoza kurasa intego bakoresheje imiheto. Yagiye mu itsinda ry'abantu bo muri Segiteri ya Rwamiko kugira ngo na we yige kumasha. Iyo myitozo yo kurashisha imiheto irangiye, abantu bose baratashye bamaze guhabwa amabwiriza yo gukomereza imyitozo mu masegiteri yabo, kugira

[641] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 4-7 (Innocent Mukuralinda).

[642] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, urup. 7 (Innocent Mukuralinda).

ngo bitegure kuzajya kurwana muri Ntyazo. Cyakora, KXL avuga ko batigeze bajya muri Ntyazo. Yemeza ko atigeze abona Kalimanzira ubwo abantu barimo guhabwa imyitozo yo kurashisha imiheto ndetse ko, mu by'ukuri atigeze anamubona hagati ya Mata na Nyakanga 1994[643].

605. Umutangabuhamya KXL anavuga ko yari azi Vincent Bimenyimana na Charles Hategekimana, bombi bakaba bari Abatutsi. Asobanura ko bombi bishwe muri Mata 1994 kandi ko mu minsi bishwemo inzu ya Hategekimana yatwitswe igasenywa burundu, naho iya Bimenyimana igasenyuka kubera ko abaturanyi be basahuye amategura yari ayisakaye n'ibiti byari biyubatse. Bimenyimana yari afite indi nzu yacururizagamo yari nto kuri iriya, ariko yo ntiyangiritse cyane[644].

4.5.2 *Isesengura ry'Urugereko*

606. Kalimanzira yemeza ko mu gihe ibivugwa aha byabaga, yakoreraga i Murambi (Perefegitura ya Gitarama), cyangwa ko yari iwe mu rugo muri Segiteri y'Umujyi wa Butare, uretse mu cyumweru cya mbere cya Kamena ubwo yajyaga gusura abantu bo mu muryango we muri Segiteri ya Nyagahuru muri Komine ya Muganza. Nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myireguregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

607. Urugereko ruributsa ko mu gika cya 23 cy'Inyandiko y'ibirego havugwa gusa ko Kalimanzira yashimiye Abahutu umurava bari bagaragaje mu kwica Abatutsi. Muri icyo gika ntihavugwa, ku buryo bweruye, ko Kalimanzira yabahamagariye kurushaho gukaza umurego mu kwica Abatutsi. Cyakora, Urugereko rusanga n'ubwo muri icyo gika havugwa mu buryo buteruye ko Uregwa yabahamagariye gukomeza icyo gikorwa, Porokireri yabisobanuye neza mu Myanzuro mbanzirizarubanza yatanze[645]. Bityo rero, Ubwunganizi bwamenyeshejwe, mu buryo bukwiye, ibyo Porokireri ashinja Uregwa birimo kuba yarahamagariye abantu gukomeza gukora ubwicanyi, kandi nta n'ikibazo bwigeze bubyutsa.

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[643] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 29, 36-38 (KXL).

[644] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 29-30 (KXL).

[645] Reba incamake y'ubuhamya BCZ yari kuza gutanga mu Rukiko yometse ku Mugereka A w'Imyanzuro mbanzirizarubanza ya Porokireri.

608. Umutangabuhamya BCZ yarezwe kuba yarishe Abatutsi i Kirarambogo no ku gasozi ka Kabuye, gusahura amazu y'Abatutsi no kuyasenya ndetse no kujya mu bitero binyuranye[646]. Mu buhamya bwe mu Rukiko, yemera ko yakurikije amabwiriza Kalimanzira yatanze muri iriya nama bityo akajya mu bikorwa byo gushakisha Abatutsi bo kwica no gusenya amazu yabo. Yabaye rero icyitso mu byaha Uregwa ashinjwa. Yaje gutanga ubuhamya muri uru Rukiko yararekuwe, akaba yari amaze hafi imyaka 12 afunze. Cyakora mu buhamya bwe mu Rukiko, asubiramo ibyo avuga mu buhamya bwanditse yatanze agifunze kandi icyo gihe ashobora kuba yaratanze ubuhamya ashaka gupfobya uruhare rwe bwite yagize muri ibyo byaha. Cyakora, rumaze gusuzumana ubushishozi ubuhamya bwe, Urugereko rusanga nta kigaragaza ko ari cyo cyabimuteye. Mu ibaruwa ye y'ubwirege, BCZ ntavugamo Kalimanzira kandi nta n'ubwo avuga ko Kalimanzira yagize uruhare rw'ingenzi mu bikorwa bya jenoside. Mu by'ukuri, BCZ yarireze anavuga ko yagiye mu bwicanyi bwakorewe ku gasozi ka Kabuye mu gihe cy'iminsi itatu, ariko avuga ko atigeze ahabona Kalimanzira[647].

609. Mu buhamya bwabo, abatangabuhamya bashinjura bavuga bose ko hafi y'itariki ya 24 Gicurasi 1994 ku kibuga cy'umupira w'amaguru cy'i Nyabisagara habereye inama yitabiriwe na Nteziryayo na Muvunyi. BCZ avuga ko inama Kalimanzira yagiyemo yabaye hafi y'itariki ya 25 cyangwa iya 26 Gicurasi 1994, hashize icyumweru habaye iriya Nteziryayo na Muvunyi barimo[648]. Mu buhamya bwanditse bwa mbere BCZ yahaye abapererezi b'uru Rukiko, avuga ku nama yayobowe na Nteziryayo, cyakora mu bundi buhamya bwanditse yatanze nyuma akavuga ku nama Kalimanzira yagiyemo[649].

610. Urugereko rusanga inama ivugwa na BCZ itandukanye n'ivugwa n'abatangabuhamya bashinjura maze rugasanga kuba imwe yarabayeho bitabuza n'indi kuba yarabaye. Ubwunganizi buvuga ko inama yo ku itariki ya 24 Gicurasi 1994 ari yo yonyine yabereye muri Komine ya Kibayi hafi y'iyo tariki, bityo ngo inama ya kabiri ivugwa

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646 Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 54-55 [mu muhezo] (BCZ).

647 Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 57, 59-60 (BCZ).

648 Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 63-64 (BCZ).

649 Reba ibimenyetso gihamya N° D33, D34 na D35.

na BCZ ari iyo uyu mutangabuhamya yihimbiye kugira ngo ashinje Kalimanzira[650]. Urugereko ntirwemera ibivugwa n'Ubwunganizi, rukaba rusanga ahubwo ubuhamya bw'abatangabuhamya bashinjura bwumvikanisha ko habayeho inama irenze imwe. KBF yemera ko muri Komine ya Kibayi hashobora kuba harabaye izindi nama[651]. Mu myanzuro mbanzirarubanza, Ubwunganizi bwari bwavuze ko mu Rukiko, AKK yari gutanga ubuhamya ku nama ebyiri zabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara. Cyakora, mu Rukiko uyu mutangabuhamya yashimangiye ko azi inama imwe gusa[652]. Mu ibaza ry'ibanze, Mukuralinda yari yavuze ko atari azi indi nama y'« umutekano » yaba yarabereye muri Komine ya Kibayi cyakora mu ibaza rinyomoza aza guhindura avuga ko habayeho indi nama y'umutekano ariko « ihuje abantu bake»[653]. BTH we ntiyabajijwe ibibazo ku byerekeranye n'uko hashobora kuba harabaye izindi nama. Kubera ko mu gice kinini cya Mata na Gicurasi 1994 KXL yari yihishe, Urugereko rusanga ubuhamya bwe mu Rukiko butatuma habaho gushidikanya, gushyize mu gaciro, ku byerekeranye n'igihe inzu ya Bimenyimana n'iya Hategekimana zasenyewe ndetse n'uburyo zasenywemo. Nta muntu uhakana ko abo bantu bombi bishwe n'inzu zabo zigasenywa. Mu buhamya bwe, na Kalimanzira yivugira ko mu ntangiriro za Kamena 1994 yiboneye ukuntu inzu ya Hategekimana yari yarangiritse cyane[654]. Kubera izo mpamvu rero, ibimenyetso byatanzwe n'Ubwunganizi ntibivuguruza ku buryo bugaragara ubuhamya bwa BCZ.

611. Urugereko rwemera igisobanuro BCZ yatanze avuga ko mu bwirege bwe atavugamo Kalimanzira kubera ko avugamo gusa ibyaha we ubwe yakoze, ari byo ubwicanyi no kujya mu bitero, ndetse n'abantu bafatanyije. Asobanura ko icyo gihe yumvaga atari ngombwa kuvuga inama zitigeze ziba nyirabayazana y'ubwicanyi nk'iriya avuga ko Kalimanzira yarimo ku kibuga cy'umupira w'amaguru cy'i Nyabisagara. Birashoboka ko mbere y'ubuhamya bwanditse BCZ yahaye abapererezi b'uru Rukiko mu Ukwakira 2001[655], atavuze Kalimanzira kubera ko icyo gihe batamubajije ibibazo kuri Kalimanzira. Biranashoboka ko BCZ yaba ataravuze iyo nama mbere yo mu

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[650] Reba Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 1072.

[651] Inyandikomvugo y'iburanisha, 17 Ugushyingo 2008, urup. 13 (KBF).

[652] Reba inyandikomvugo y'iburanisha, 26 Ugushyingo 2008, urup. 56-57 [mu muhezo] (AKK).

[653] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 7, 20, 25-26 (Innocent Mukuralinda).

[654] Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 50-51 (Callixte Kalimanzira).

[655] Ikimenyetso gihamya N° D35.

Ukwakira 2001 kubera ko ashobora kuba yarabonye ibyayivugiwemo n'ingaruka yagize (nta bwicanyi bwayikurikiye kubera ko nta Batutsi bigeze babona)[656] bidakomeye ugereranije n'ibindi bintu yavuzeho.

612. Urugereko rusanga ubuhamya bwa BCZ bukwiye kwemerwa no kwizerwa. Iyo aza kuba agamije gushinja Kalimanzira ibinyoma, yari kugenda arushaho kumushinja mu buhamya bwe no mu bindi bintu yavuze. Hari n'abandi batangabuhamya bashinja bavuga ko hari n'ikindi gihe Kalimanzira yagiye ahamagarira abantu gusenya amazu y'Abatutsi bapfuye no gutera ibiti n'ibyatsi muri ayo matongo kugira ngo basibanganye ibimenyetso by'ibyaha byakozwe bityo amahanga acururuke[657]. Ibi bishobora kwerekana imyitwarire yagiye iranga Uregwa cyangwa uburyo yakoragamo ibintu. Ibyo Kalimanzira avuga mu buhamya bwe mu Rukiko ko mu mpera z'icyumweru cya mbere cya Kamena ubwo yari mu nzira igana i Kirarambogo kureba abantu bo mu muryango we, yahagaze ku nzu ya Hategekimana na byo bishyigikira ibivugwa ko yari muri Komine ya Kibayi ahagana mu gihe iyo nama ivugwa yabereye[658].

613. Kubera izo mpamvu, Urugereko rusanze mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, Kalimanzira yaragiye mu nama y'abaturage yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara, agashimira abari bayitabiriye umurava bagaragaje mu kwikiza umwanzi, ariko akanababwira ko batagomba kwirara, ahubwo bagakomeza kwitwaza intwaro ndetse akanahamagarira imbaga y'abantu bari aho gukomeza gushakisha abanzi bihishe mu bihuru cyangwa mu ngo z'abandi bantu, kandi abo bantu barabikoze. Yanabategetse gusenya amazu y'Abatutsi bapfuye no gutera ibiti muri ayo matongo kandi na byo byarakozwe. Rushingiye kuri ayo mabwiriza yihariye Uregwa yatanze adafite aho ahuriye cyane n'imirwano yo mu rwego rwa gisirikare, rukanazirikana icyo BCZ yumvise Kalimanzira ashaka kuvuga, Urugereko rusanze ijambo « umwanzi » ryaravugaga Umututsi uwo ari we wese.

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656 Inyandikomvugo y'iburanisha, 24 Kamena 2008, urup. 66 (BCZ).

657 Reba inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 21 (AZM); inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 43-44 (AZC); inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 11-12 (AZH).

658 Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 50-51 (Callixte Kalimanzira).

614. Urugereko rusanze Kalimanzira ahamagarira abantu kwica Abatutsi bari bihishe, yarabikoze mu buryo butaziguye, bityo abantu bagahita bitabira ibyo ababwiye. Yavugiye ibyo bintu ahantu hateranira abantu benshi kandi abibwira abaturage benshi bari bamuteze amatwi. Kalimanzira yategetse abari aho kwica Abatutsi bose bari bakiriho, gusenya amazu yabo no gusibanganya ibimenyetso byose byashoboraga kugaragaza ko aho hantu higeze kuba Abatutsi. Ibyo rero bigaragaza, nta gushidikanya, ko yari agamije guhamagarira abantu bari aho gukora ibikorwa bya jenoside. Aho hantu ndetse n'ahandi, Kalimanzira yagaragaje umugambi yari afite wo kurimbura Abatutsi (reba akiciro ka III.5.2). Bityo rero, Urugereko rusanze, ku buryo budashidikanywaho, ubwo yari ku kibuga cy'umupira w'amaguru cya Nyabisagara mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994, Kalimanzira yarahamagariye abantu, ku buryo butaziguye kandi mu ruhame, gukora jenoside.

4.6 Ibyabereye ku kigo cy'amashuri abanza cya Rwamiko, mu mpera za Gicurasi / intangiriro za Kamena

615. Mu gika cya 24 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira kuba yarahamagariye abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside, kubera ko nyuma y'iminsi mike habaye inama ku kibuga cy'umupira w'amaguru cya Nyabisagara, yashimye abantu bari ku kigo cy'amashuri abanza cya Rwamiko « akazi » bari bakoze. Yanabasabye gukomeza kuba maso, bagakomeza kwitwaza intwaro no kwica Abatutsi. Urugereko ruributsa ko rwarangije kwemera ko ibyo bintu byabaye mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 (reba akiciro ka II.2.3).

616. Ubwunganizi buhakana ko iyo nama yabayeho. Byongeye kandi, Kalimanzira ashingira ku myiregurire ye ya sinari mpari maze akavuga ko kugera ku itariki ya 30 Gicurasi yakoreraga i Murambi (Perefegitura ya Gitarama), nyuma yaho akaba yari mu rugo iwe mu mujyi wa Butare kugera ku itariki ya 30 Kamena 1994, uretse inshuro nke zizwi yahavuye, nk'igihe yajyaga i Kirarambogo kureba abantu bo mu muryango we mu cyumweru cya mbere cya Kamena (reba akiciro ka III.1.2).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

4.6.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe AZT

617. Umutangabuhamya AZT avuga ko yabonye Kalimanzira muri Segiteri ya Rwamiko mu mpera za Gicurasi 1994. Icyo gihe, uyu mutangabuhamya yari mu bantu barenga 50 bari bateraniye mu rugo kwa Kalimanzira baje kumuramutsa kuko bari bumvise ko yaje. Yibuka ko iyo nzu, ubusanzwe yakoregwamo ubucuruzi, yari iri ku muhanda umwe n'ikigo cy'amashuri abanza cya Rwamiko, ariko ku ruhande ruteganye n'urwo icyo kigo cyariho. Yibuka kandi ko Kalimanzira yashimye abaturage barwanyaga Abatutsi n'ibyitso bya FPR, maze akihanangiriza abatarabikoraga. AZT yemeza ko Kalimanzira yashishikaje abarimo kwica Abatutsi ababwira ko bagomba gukomeza maze anenga abatitabiraga ubwicanyi. Uyu mutangabuhamya yavuye aho inama yaberaga nyuma y'iminota nka 20, Kalimanzira atararangiza kuvuga[659].

Umutangabuhamya ushinja wiswe BCZ

618. Mu buhamya bwe mu Rukiko, BCZ avuga ko hagati y'itariki ya 25 Gicurasi n'iya 10 Kamena 1994, habaye inama ku kibuga cy'umupira w'amaguru cy'i Nyabisagara (reba igice akiciro ka III.4.5.1). Hashize ibyumweru bibiri nyuma y'iyo nama, yongeye kubona Kalimanzira ku kigo cy'amashuri abanza cya Rwamiko. Icyo gihe, BCZ yari yagiye kuri icyo kigo mu nama y'abantu babarirwa hagati ya 20 na 30 bari barashyizwe muri « komite y'amahina ». Mu bandi bantu bari bagize iyo komite harimo Jonathan Niyongana, Jean Rupari, Sylvestre Manzi na Ignace Yirirwahandi. Iyo nama yari igamije kurebera hamwe uko bagabanya abantu imitungo y'Abatutsi bapfuye yari yaribwe. TBCZ yibuka ko icyo gihe hafashwe icyemezo cyo kugurisha iyo mitungo maze amafaranga ayivuyemo agasaranganywa abaturage[660].

619. Umutangabuhamya BCZ avuga ko Kalimanzira yinjiye mu cyumba cy'ishuri iyo nama yaberagamo maze agasuhuza abagize iyo «komite y'amahina ». Yababajije niba barimo « gukora akazi uko bikwiye» ndetse ababaza n'impamvu batitwaje intwaro. Bamusobanuriye ko impamvu batitwaje intwaro kubera ko bari mu nama, ariko ababurira ababwira ko umwanzi « ashobora kubagwa gitumo » maze abagira inama

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[659] Inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 24-25 n'inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 21, 23, 27 (AZT).

[660] Inyandikomvugo y'iburanisha, 24 Kamena 2008, urup. 50 (BCZ).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

yo kujya bitwaza intwaro buri gihe. Kalimanzira yarababwiye ati « N'ubwo mwikijije umwanzi ntimugomba noneho kwituramira. Ntimwibwire ko byarangiye». Yanababwiye ko ari we muyobozi wa gahunda y'ukwirengera kw'abaturage, nuko abategeka kubwira abaturage ko bagomba kujya bitwaza intwaro aho bari hose. Yababwiye ko batagomba kwitwara nk'abantu bo ku gasanteri ka Buseruka[661] ngo wasangaga bitemberera nta ntwaro bitwaje. BCZ avuga ko nyuma y'ibyo, Kalimanzira yabasabye gushakira buri wese intwaro, batabishobora bakabimumenyesha. Uyu mutangabuhamya yongeraho ko iyo Kalimanzira yavugaga « umwanzi » yabaga ashaka kuvuga Umututsi naho « kumwikiza » akaba yarashakaga kuvuga « kumwica »[662].

620. Kalimanzira yabasabye gukomeza kuba maso, arangije aragenda ; yari mu modoka yo mu bwoko bwa Hilux y'umweru. Icyo gihe Uregwa ntiyari kumwe n'abasirikare cyakora muri kabine y'inyuma harimo umusore, naho inyuma muri iyo modoka harimo ipikipiki. BCZ avuga ko yibuka ko mbere yo kugenda, Kalimanzira yatanze urugero kuri uwo musore avuga ko bahuriye ku muhanda [Kalimanzira] akamuhagarika kubera ko atari afite ibyangombwa[663].

Umutangabuhamya ushinjura wiswe KXL

621. Umutangabuhamya KXL avuga ko hagati ya Mata na Nyakanga 1994 atigeze abona Kalimanzira. Cyakora, asobanura ko kuva muri Kanama 1993 kugera mu ntangiriro za Gicurasi 1994 atigeze agira ahantu atarabukira, kuko akenshi yabaga yihishe mu rugo. Avuga ko mu mpera za Gicurasi 1994 yagiye mu nama yayobowe na Burugumesitiri Kajyambere ku kibuga cy'imikino cy'ikigo cy'amashuri abanza cya Rwamiko kiri muri Segiteri ya Rwamiko. Uyu mutangabuhamya avuga ko iyo nama yabanjirije iyabereye i Nyabisagara kandi ko, uko abizi, ni yo yonyine yabereye i Rwamiko. Asobanura ko iyo nama yabaye kubera ko abantu bari baratangiye guharabika abakire no kubica babita « abarozi ». Burugumesitiri Kajyambere yategetse ko ibyo bitero bihagarara, agira abaturage inama yo kujya bajyana abo « barozi » ku biro bya komine aho kubica. Iyo nama yamaze igihe gito cyane kandi

[661] Buseruka ni santeri y'ubucuruzi iri muri Segiteri ya Rwamiko.

[662] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 50-51 (BCZ).

[663] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 52, 69-70 (BCZ).

nta n'ubwo abari bayirimo bigeze bicara. KXL avuga ko Kalimanzira atari muri iyo nama[664].

622. Umutangabuhamya KXL avuga ko atigeze yumva abantu bavuga « komite y'amahina », ariko akemera ko muri Segiteri ya Rwamiko hari itsinda ry'abantu bafashe icyemezo cy'uko imitungo y'Abatutsi bapfuye yari yarasahuwe igomba kugurishwa. Mu bantu bari bagize iryo tsinda harimo Elie Rwangineza, Jonathan Niyongana, Jean Rupari na Ignace Yirirwahandi wari umuyobozi waryo[665].

Umutangabuhamya ushinjura wiswe MAS

623. Mu mwaka wa 1994, MAS yari afite iduka n'akabari kuri santeri ya Buseruka. Iryo duka ryari nko kuri metero 100 uvuye ku kigo cy'amashuri abanza cya Rwamiko, ku buryo umuntu uri kuri iryo duka yashoboraga kubona icyo kigo cy'amashuri. MAS avuga ko atigeze ava muri ako gace kuva ku itariki ya 6 Mata kugera muri Nyakanga 1994 ubwo yahungiraga i Burundi. Yongeraho ko kuva hagati muri Gicurasi 1994 iryo duka ryakoraga[666].

624. Umutangabuhamya MAS avuga ko mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 yagiye mu nama yabereye ku kigo cy'amashuri abanza cya Rwamiko. Yibuka ko yamenye iby'iyo nama ubwo yari mu nzira agiye ku kazi maze akabona abantu benshi bateraniye kuri icyo kigo. Agiye aho iyo nama yaberaga, yasanze Burugumesitiri Kajyambere avuga. MAS avuga ko abaturage bose ba Segiteri ya Rwamiko bitabiriye iyo nama kandi ko hari n'umunyamabanga, umusirikare na Konseye wa Segiteri ya Rwamiko. Cyakora, avuga ko atigeze ahabona Kalimanzira. Muri iyo nama havuzwe ku bibazo by'umutekano, abantu bamwe bita abandi « abarozi». Uyu mutangabuhamya asobanura ko atigeze yumva bavuga ko hari izindi nama zabereye kuri icyo kigo cy'amashuri abanza cya Rwamiko hagati ya Mata na Nyakanga 1994 cyangwa ngo habe hari izindi nama yagiyemo zahabereye muri icyo gihe. MAS ntiyigeze yumva abantu bavuga ibya « komite y'amahina » kandi

[664] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 27-29, 36 (KXL).

[665] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 32-34 [mu muhezo] (KXL).

[666] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 46-48 (MAS).

asobanura ko muri jenoside Jonathan Niyongana, Ignace Yirirwahandi na Jean Rupari bari bayoboye amatsinda y'abicanyi[667].

625. Umutangabuhamya MAS avuga ko ahantu rukumbi yabonye Kalimanzira ari kuri santeri ya Buseruka mu ntangiriro za Kamena 1994 ubwo Uregwa yari imbere y'inzu yacururizagamo areba iyo yari yarahoze atuyemo. Icyo gihe, Kalimanzira yari yaje mu modoka y'umweru ari kumwe n'umushoferi, maze asohokera ku ruhande rw'umugenzi nuko abantu batanu cyangwa batandatu bajya kumusuhuza. MAS avuga ko icyo gihe nta muntu n'umwe Kalimanzira yigeze avugisha, ko ahubwo yarebye iyo nzu maze agasubira mu modoka akigendera[668].

Umutangabuhamya ushinjura wiswe NJV

626. Umutangabuhamya NJV yari atuye hafi ya santeri ya Buseruka kandi avuga ko mu ntangiriro za Kamena 1994 yabonye Kalimanzira ahagaze imbere y'inzu ye muri iyo santeri. Yibuka ko icyo gihe, Kalimanzira yaje mu modoka akareba inzu ye nk'umunota umwe maze akagenda yerekeza muri Segiteri ya Nyagahuru aho abantu bo mu muryango we bari batuye. Yongeraho ko atongeye kubona Kalimanzira muri Segiteri ya Rwamiko hagati ya Mata n'intangiriro za Nyakanga 1994[669].

627. Umutangabuhamya NJV avuga ko mu mpera za Gicurasi 1994, yagiye mu nama yabereye ku kigo cy'amashuri abanza cya Rwamiko. Iyo nama yari yatumijwe na Burugumesitiri Kajyambere kandi yavugiwemo ibibazo by'umutekano kubera amacakubiri yari mu baturage. NJV asobanura ko bamwe mu baturage bashakaga kwica abo bitaga amabandi n'abantu babi. Uyu mutangabuhamya avuga ko atabonye Kalimanzira muri iyo nama kandi ko atigeze na rimwe yumva hari uvuga « komite y'amahina ». Yongeraho ko muri icyo gihe atigeze yumva ko hari inama irimo abantu bageze kuri 40 yabereye ku kigo cy'amashuri abanza cya Rwamiko maze akemeza ko iyo iza kuba nta kuntu atari kubimenya kuko yari atuye hafi cyane y'icyo kigo cy'amashuri[670].

[667] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 48-50 (MAS).

[668] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 50 (MAS).

[669] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 70-71 [mu muhezo] 72-73 (NJV).

[670] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 73 (NJV).

Callixte Kalimanzira

628. Mu buhamya bwe mu Rukiko, Callixte Kalimanzira avuga ko mu mpera z'icyumweru cya mbere cya Kamena 1994 yagiye i Kirarambogo gusura abantu bo mu muryango we. Ubwo yari mu nzira yerekeza muri Segiteri ya Nyagahuru, yahagaze muri Segiteri ya Rwamiko iminota itarenze icumi kugira ngo arebe uko inzu ye yari kuri santeri ya Buseruka imeze maze asanze itarasenywe yikomereza urugendo. Yongeraho ko icyo gihe yari kumwe n'umushoferi[671].

4.6.2 *Isesengura ry'Urugereko*

629. Mu gihe ibivugwa byabaga, Kalimanzira yemeza ko yakoreraga i Murambi (Perefegitura ya Gitarama), cyangwa ko yari yibereye mu rugo iwe mu mujyi wa Butare, uretse mu cyumweru cya mbere cya Kamena ubwo yajyaga gusura abantu bo mu muryango we muri Segiteri ya Nyaguhuru (Komine ya Muganza). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

630. Ibimenyetso Porokireri yatanze mu gihe cy'iburanisha bivuga ku bintu bibiri bitandukanye. Mu gika cya 24 cy'Inyandiko y'ibirego, havugwamo, ku buryo busonabutse neza, igikorwa kimwe rukumbi cyo guhamagarira abantu gukora ibyaha, aho kuba ibikorwa bibiri. Hanavugwa, mu buryo busobanutse, ko Kalimanzira yagiye ku kigo cy'amashuri abanza cya Rwamiko, ntihavugwa ko yagiye hafi cyangwa hakurya y'umuhanda uva kuri icyo kigo. Cyakora, mu Myanzuro mbanzirizarubanza ye, Porokireri avuga ko AZT na BCZ bari kuvuga kuri icyo kintu cyabereye ku kigo cy'amashuri abanza cya Rwamiko. Mu buhamya yatanze mu Rukiko, BCZ avuga ibintu bihuye neza n'ibyo Porokireri yari yavuze ko uyu mutangabuhamya yari gutangaho ubuhamya. Cyakora, mu buhamya yatanze mu Rukiko, AZT we avuga ko Kalimanzira yahamagariye abaturage gukora ibyaha ari imbere y'inzu ye iri kuri santeri ya Buseruka ku muhanda uteganye n'ikigo cy'amashuri. N'ubwo bishoboka ko ibyo bintu byabereye umunsi umwe, igihe n'ahantu AZT avuga ko Uregwa yahamagariye abantu gukora ibyaha bitandukanye n'ibivugwa na BCZ. AZT mu bahamya bwe avuga gusa ko Kalimanzira yari hafi y'aho ibintu bivugwa mu gika cya 24 cy'Inyandiko y'ibirego byabereye.

[671] Inyandikomvugo y'iburanisha, 10 Gashyantare 2008, imp. 48-51 (Callixte Kalimanzira).

631. Mu isesengura ry'ibyo BCZ avuga kuri iki kibazo, Urugereko rwifashisha isensengura rwakoze ry'ubuhamya yatanze ku bivugwa ko byabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara (reba akiciro ka III.4.5.2). Ubuhamya bwe bushyigikirwa n'ubw'umutangabuhamya ushinja wiswe AZT, n'ubw'abatanga-buhamya bashinjura biswe MAS na NJV kuko abo batangabuhamya bose bavuga ko mu ntangiriro za Kamena 1994, Kalimanzira yari kuri santeri ya Buseruka. Ubuhamya BCZ yatanze mu Rukiko avuga ko yabonye umusore n'ipikipiki mu modoka y'umweru ya Kalimanzira hanze kuri kiriya kigo cy'amashuri na bwo bushyigikirwa n'ubw'umutangabuhamya ushinja wiswe BDE uvuga ko muri Gicurasi cyangwa Kamena 1994, Kalimanzira yamufatiye kuri bariyeri ya Nyarusange akamushyira mu modoka y'umweru ku gahato n'ipikipiki ye maze akamujyana ku biro bya Komine ya Ndora, ariko mu nzira agahagarara kuri santeri ya Buseruka nk'iminota 15 (reba akiciro ka III.4.8.1). Kalimanzira na we ubwe yemeye ko mu cyumweru cya mbere cya Kamena yahagaze kuri santeri ya Buseruka ubwo yari agiye gusura abantu bo mu muryango we.

632. Ubuhamya bwa KXL na bwo bushyigikira ubwa BCZ ku byerekeranye n'uko muri Segiteri ya Rwamiko hari itsinda ry'abantu bari bashinzwe kugena uko bagenza imitungo y'Abatutsi bapfuye, ndetse bukanabushyigikira ku byerekeranye n'abantu bari bagize iryo tsinda. N'ubwo MAS urebye atigeze yumva ko hariho « komite y'amahina », asobanura ko bariya bantu BCZ avuga ko bari bagize iyo « komite y'amahina » bari mu mutwe w'abagizi ba nabi. Nta wakwemera ibyo NJV na MAS bemeza, bivuye inyuma, ko iyo inama BCZ avuga iza kuba yarabaye nta kuntu batari kubimenya[672]. Muri kiriya gihe, NJV yari afite imyaka iri hagati 13 na 19, kandi hafi y'iminsi yose yabaga akora mu mirima yari hafi aho. MAS we igihe kinini yabaga yibereye mu iduka rye ryari muri metero 100 uvuye ku kigo cy'amashuri abanza cya Rwamiko. Nta kuntu rero bari kumenya iby'iyo nama batabyumvanye abandi, kereka iyo baza kuba bari mu bagize iriya « komite y'amahina », kandi bivugira ko batigeze bumva ko iyo komite yabayeho. Ibimenyetso byatanzwe n'Ubwunganizi ntibituma Urugereko rushidikanya ku kuri k'ubuhamya BCZ yatanze mu Rukiko.

[672] Inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, imp. 62-63 [mu muhezo] (MAS); inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 73 (NJV).

633. Urugereko rusanga abantu barimo BCZ barateranye kugira ngo bagene uko bagabanya abantu imitungo y'Abatutsi bari barapfuye. Runasanga inama BCZ avuga yarabereye ku kigo cy'amashuri abanza cya Rwamiko. Rwemeye kandi ubuhamya bwa BDE n'ubwa BCZ (reba n'akiciro ka III.4.8.2), rukaba rusanga ibyo bintu byombi byarabereye umunsi umwe. Mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena, Kalimanzira yaje muri Segiteri ya Rwamiko azanywe no kureba uko inzu ye yari kuri santeri ya Buseruka imeze. Ageze kuri bariyeri ya Nyarusange, yafashe BDE amutwara mu modoka ye, nuko ageze kuri santeri ya Buseruka ajya gato mu nama y'abagize « komite y'amahina » yaberaga ku mashuri abanza ya Rwamiko.

634. Urugereko ruributsa ko kugira ngo ruhamye Uregwa icyaha rushingiye ku Ngingo ya 2 (3)(c) ya Sitati, hagomba kuba haragaragajwe ko uwo muntu yahamagariye abandi, « mu buryo butaziguye » kandi « mu ruhame », gukora icyaha. Ibyo bituma hagenwa aho icyaha gitegura ikindi kigarukira (reba akiciro ka III.4.1). Kumenya niba iriya nama abagize « komite y'amahina » bakoreye ku mashuri abanza ya Rwamiko yari inama umuntu wese yashoboraga kujyamo cyangwa niba yari inama y'abantu bake, bigomba gusuzumwa hashingiwe ku byabaye no ku gipimo ngenderwaho mu gusuzuma ibimenyetso, nta gushidikanya. Kuri iki kibazo, Urugereko rusanze hataratanzwe ibimenyetso bihagije byagaragaza ko umuntu wese yashoboraga kujya muri iyo nama. Mu buhamya yatanze mu Rukiko, BCZ yivugira ko iyo nama yari yatumiwemo abantu babarirwa hagati ya 20 na 30 gusa bari barashyizwe muri « komite y'amahina ». Ntiyari inama y'abaturage bose, kandi ntiyabereye ahantu rubanda rwose rwemerewe kujya. N'ubwo Kalimanzira atari we wari wayitumije ndetse akaba yarahaje mu buryo butitezwe, nta muntu wari kwanga cyangwa kurwanya ko ayizamo kubera ko yari umutegetsi uzwi.

635. Ubwo buhamya bwa BCZ bunagaragaza ko Kalimanzira yari azi ko iriya nama yari iy'abagize « komite y'amahina » gusa kuko ari ko abita akanabatandukanya, mu buryo bugaragara, n'«abandi bantu » cyangwa « abaturage » :

> « Nuko [Kalimanzira] yongeraho ngo « Nk'abagize "komite y'amahina" » mugomba kubikangurira abaturage ». Kalimanzira yatubwiye ko ari we muyobozi w'icyo bitaga « gahunda y'ukwirengera kw'abaturage.

Yadusabye rero gukangurira abaturage bose kujya bitwaza intwaro aho bari hose»[673]

636. Bityo rero, Porokireri ntiyagaragaje ku buryo budashidikanywaho ko iyo nama yabereye mu ruhame. Urugereko rusanga kuba Kalimanzira yari mu nama ya «komite y'amahina» ku mashuri abanza ya Rwamiko akabwira abayirimo amagambo yavuzwe bitafatwa nko guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside.

4.7 Ibyabereye kuri bariyeri yiswe iya Sakindi, muri Gicurasi

637. Mu gika cya 25 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside, kubera ko muri Gicurasi 1994 yabwiye abantu bitwaje intwaro bacungaga bariyeri yiswe iya Sakindi muri Segiteri ya Kibilizi ko bagomba kwica Abatutsi mu ibanga, bagasenya amazu yabo, maze bagatera insina muri ayo matongo kugira ngo abanyamahanga batazabona ko aho hantu higeze amazu. Yanabasabye kubeshya Abatutsi ko amahoro yagarutse kugira ngo bave aho bihishe maze bicwe bitagoranye.

638. Urugereko rusanga ibivugwa mu gika cya 25 cy'Inyandiko y'ibirego bisa n'ibivugwa mu gika cya 13 cy'iyo nyandiko. Mu Myanzuro mbanzirizarubanza ye, Porokireri avuga gusa ikintu kimwe cyabereye kuri bariyeri yiswe iya Sakindi muri Gicurasi 1994. Cyakora, AZH ari na we wenyine mu batangabuhamya bashinja uvuga ku byabereye kuri bariyeri yiswe iya Sakindi, yibuka ko yahabonye Kalimanzira inshuro eshatu zitandukanye, ebyiri muri zo hakaba hari muri Gicurasi 1994. Porokireri ashingira ku bintu byose byabaye kuri izo nshuro zombi mu kugaragaza ibyo avuga mu gika cya 13 n'icya 25[674]. Uko bigaragara, Porokireri ntavuga ko muri Gicurasi Kalimanzira yaje kuri iyo bariyeri inshuro ebyiri zitandukanye ngo ku nshuro ya mbere atange amabwiriza anyuranye n'ayo yatanze ku ya kabizi[675].

639. Urugereko ruributsa ko mu Nyandiko y'ibirego Porokireri agomba kuvuga, mu buryo busobanutse kandi bwuzuye, ibyaha aregera kugira ngo Uregwa ashobore kumva neza

[673] Reba inyandikomvugo y'iburanisha, 24 Kamena 2008, urup. 51 (BCZ).

[674] Reba Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 139, 268-272.

[675] Gereranya imyanzuro mbanzirirzarubanza ya Porokireri, igika cya 61 n'incamake yometseho y'ubuhamya AZH yari kuza gutanga mu Rukiko n'Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 272.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

ibyaha akurikiranyweho. Cyakora, Urugereko rusanga kuba Porokireri ataravuze ibyo birego mu buryo busobanutse neza bitarabujije urubanza kuburanishwa mu buryo buboneye. Iyo umuntu asuzumye neza dosiye y'urubanza, asanga Ubwunganizi (butigeze bunabyutsa icyo kibazo) bwarumvise imiterere y'ibyaha Uregwa akurikiranyweho, kandi ntibwabangamiwe mu gutegura imyiregurire y'Uregwa. Mu iburanisha, Ubwunganizi ntibwigeze burwanya ko AZH atanga ubuhamya, kandi bwagerageje kunyomoza uko bikwiye ibyo yavuze.

640. Rushingiye ku bimenyetso byerekeranye n'ibivugwa mu gika cya 13 cy'Inyandiko y'ibirego n'isesengura ry'ibyo bimenyetso nk'uko byasuzumwe birambuye mu kiciro ka III.2.6, Urugereko rusanze ubuhamya bwa AZH bwonyine butakwizerwa bihagije ngo rube rwabushingiraho mu guhamya Uregwa icyaha.

4.7.1 *Ibimenyetso*

641. Reba ibivugwa ku kiciro ka III.2.6.1.

4.7.2 *Isesengura ry'Urugereko*

642. Reba ibivugwa mu kiciro ka III.2.6.2.

4.8 Ibyabereye kuri bariyeri y'i Nyarusange, muri Gicurasi

643. Mu gika cya 26 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside, kubera ko muri Gicurasi 1994 yashishikarije abantu bacungaga bariyeri gukomeza kugenzura indangamuntu z'abantu bose no gushakisha umwanzi, ari we Mututsi. Porokireri avuga ko icyo gihe Kalimanzira yagaye Umuhutu wari unyuze kuri iyo bariyeri ari ku ipikipiki amuziza ko adafite intwaro yo kwicisha Abatutsi.

644. Ubwunganizi buhakana ibyo bintu uko byakabaye kandi Kalimanzira abyireguraho yifashishije uburyo bwa « sinari mpari » (reba akiciro ka III.1.2).

645. Urugereko rusanga igika cya 26 cy'Inyandiko y'ibirego kidasobanura iyo bariyeri Kalimanzira yaba yarahaniyeho uwo muntu wari ku ipikipiki. Cyakora, mu ncamake y'ubuhamya BDE yari gutanga mu Rukiko iri mu Myanzuro mbanzirizarubanza ya Porokireri, havugwa birambuye ibyerekeranye n'ubwo buhamya, hakanavugwa ko iyo bariyeri yari muri Serire ya Nyarusange. Ibyo bihuye n'ibivugwa mu buhamya

bwanditse bwa BDE Porokireri yamenyesheje Ubwunganizi mu nyandiko ikubiyemo ibimenyetso bishyigikira ibyo avuga. Byongeye kandi, Ubwunganizi ntibwabyukije ikibazo cyerekeranye no kuba butaramenyeshejwe, mu buryo bukwiye, ibyo byabaye bivugwa. Kubera izo mpamvu, Urugereko rusanga Ubwunganizi bwaramenyeshejwe uko bikwiye ibyo byabaye. Mu kuvuga iyo bariyeri, Urugereko rurajya ruyita « bariyeri y'i Nyarusange»[676].

4.8.1 *Ibimenyetso*

Umutangabuhamya ushinja wiswe BDE

646. BDE avuga ko Perezida Habyarimana amaze gupfa mu karere ka Gisagara hashyizweho za bariyeri maze bituma abantu batongera kugenda uko bishakiye. Asobanura ko izo bariyeri zari zigamije kuvumbura Abatutsi ngo bicwe. BDE yashoboraga rero kugenda nta nkomyi kubera ko mu ndangamuntu ye hari handitsemo ko ari Umuhutu. Uyu mutangabuhamya yibuka ko umunsi umwe muri Gicurasi cyangwa Kamena 1994, ubwo yari ku ipikipiki ye agarutse ku isoko ryo ku Gisagara avuye guhaha ku isoko rya Nyabitare, bamuhagarikiye kuri bariyeri ya Nyarusange nko mu masaa munani z'amanywa. BDE ahabonye Kalimanzira, yagerageje kumusuhuza ariko undi aramusunika abwira abantu bacungaga iyo bariyeri ko bagomba kujya bitondera abantu bagenda ku mapikipiki kuko bafashaga Inkotanyi kunyura kuri za bariyeri. Uregwa yabategetse gufata iyo pikipiki bakayigumana bakanabuza BDE kuva aho hantu[677].

647. Umutangabuhamya BDE avuga ko amaze kuvuga ayo magambo, Kalimanzira yagiye akamara nk'iminota iri hagati ya 40 na 60 ataragaruka. Uyu mutangabuhamya yumva Uregwa yari yagiye i Nyagahuru gusura ababyeyi be. Agarutse, Kalimanzira yabajije BDE impamvu atari yitwaje intwaro maze ategeka abantu bacungaga iyo bariyeri gushyira iyo pikipiki na BDE mu modoka ye. Iyo modoka yari kamyoneti y'umweru. Icyo gihe, Kalimanzira yari kumwe n'abasirikare batatu cyangwa bane bafite intwaro kandi bambaye imyenda ya gisirikare. BDE asobanura ko atigeze agerageza kwanga kuko yumvaga Kalimanzira arusha burugumesitiri ububasha bityo akaba

[676] Iryo zina ni na ryo Ubwunganizi bwakoresheje. Nk'urugero, reba Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 608 n'ibikurikiraho.

[677] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 17-19, 29, 35-36, 38 (BDE).

yaramusumbaga mu ntera. Uyu mutangabuhamya yongeraho ko n'Abahutu bane cyangwa batanu bacungaga iyo bariyeri bamurushaga imbaraga[678].

648. Umutangabuhamya BDE avuga ko bagiye mu modoka bakagenda berekeza ku biro bya Komine ya Ndora, mu nzira bagahagarara kuri santeri ya Buseruka nk'igihe cy'iminota 15. Yibuka ko bageze ku biro bya komine, abapolisi ba komine bavanye ya pikipiki mu modoka Burugumesitiri Fidèle Uwizeye akayifatira abitegetswe na Kalimanzira wahise ajya i Butare nk'uko BDE abivuga, ariko akaba nta gihamya abifitiye. Uyu mutangabuhamya asobanura ko yabonye Uwizeye akamumenya kandi ko yari amaze imyaka nk'itatu amuzi, ariko ko batari baziranye. N'ubwo Uwizeye yari burugumesitiri wa Komine ya Ndora, BDE avuga ko yumvaga nta bubasha bukomeye afite muri iyo komine kuko muri uko kwezi kwa Kamena ari bwo yari akimara gushyirwaho[679].

649. Umutangabuhamya BDE avuga ko Kalimanzira amaze kugenda, yasabye Burugumesitiri Uwizeye kumusubiza ipikipiki ye undi akamubwira ngo abe yihanganye maze bakaza kuyimusubiza hashize iminsi itatu. Asobanura ko atazi impamvu yari yatumye ipikipiki ye ifatirwa, ariko yumva byaratewe n'uko atari yitwaje intwaro no kuba Kalimanzira yaratekerezaga ko amapikipiki yakoreshwaga mu gutwara Inkotanyi[680].

Umutangabuhamya ushinja wiswe BCZ

650. Umutangabuhamya BCZ avuga ko mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena 1994 yagiye mu nama Kalimanzira yajemo ku mashuri abanza ya Rwamiko (reba akiciro ka III.4.6.1). Iyo nama irangiye, Kalimanzira yuriye imodoka ye y'i kamyoneti Hilux y'umweru aragenda, ari kumwe n'umusore wari wicaye ku ntebe y'inyuma ya shoferi, naho mu gice cy'inyuma kijyamo imizigo hari ipikipiki. Kalimanzira yabasobanuriye ko yahuriye n'uwo musore ku muhanda maze

[678] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 19-21, 29-33 (BDE).

[679] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 19-21, 29, 34, 39 (BDE).

[680] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 21-22 (BDE).

akamuhagarika kubera ko nta byangombwa yari afite. BCZ avuga ko nta basirikare cyangwa umushoferi yigeze abona bari kumwe na Kalimanzira[681].

Umutangabuhamya ushinjura wiswe AM52

651. Umutangabuhamya AM52 mu buhamya yatanze mu Rukiko avuga ko muri Mata 1994 mu karere ka Gisagara Abarundi n'abandi bantu bazaga baturutse hanze y'ako karere batangiye kujya biba ibintu by'abaturage b'aho ngaho. Asobanura ko ibyo byatumye abantu bahungisha ibintu byabo by'agaciro bakabibitsa mu biro bya Komine ya Ndora aho bumvaga bifite umutekano. Umwe mu babitseyo ibintu byabo ni umuvandimwe wa AM52 w'igitsina gabo wiswe BDE akaba yarajyanyeyo ipikipiki ye hafi y'itariki ya 20 Mata 1994. Nyuma yaho, hashize igihe kitageze ku byumweru bibiri iyo pikipiki yibanywe n'izindi nyinshi. AM52 yibuka ko nyuma y'iperereza ryakozwe n'abapolisi iyo pikipiki yagaruwe ku biro bya komine muri uko kwezi. Uyu mutangabuhamya avuga ko uwo muvandimwe we atigeze agira ikindi kibazo avuga cyerekeranye n'ipikipiki ye, cyane cyane igishyira mu majwi Kalimanzira[682].

Umutangabuhamya ushinjura wiswe KUW

652. KUW mu buhamya bwe mu Rukiko avuga ko bariyeri y'i Nyarusange yashyizweho hashize icyumweru kimwe Perezida Habyarimana apfuye, bitegetswe na Chrysologue Bimenyimana wari Burugemsitiri wa Komine ya Muganza na Isaïe Sikubwabo wari Konseye wa Segiteri ya Dahwe, kugira ngo babuze abantu batazwi kunyura muri ako gace. Iyo bariyeri ni yo yonyine yari muri Serire ya Nyarusange kandi abaturage bajyaga ibihe byo kuyirinda. Nyuma, iyo bariyeri yaje kuvanwaho nko ku itariki ya gatanu cyangwa ya gatandatu Gicurasi 1994 kubera ko uwo muhanda wari utakigendwa bitewe n'imvura nyinshi yagwaga. KUW avuga ko atigeze abona Kalimanzira kuri iyo bariyeri cyangwa ngo yumve ko hari umugabo yaba yarakubise urushyi amuziza ko atitwaje intwaro. Akomeza avuga ko atanigeze yumva ko hari umugabo ufite ipikipiki Uregwa yasunitse akamwigizayo, cyangwa ngo ategeke abantu bacungaga iyo bariyeri kutemera ko amapikipiki atambuka. Asobanura ko iyo ibintu nk'ibyo biba aba yarabyumvise byanze bikunze kuko bari kubimubwira, dore

[681] Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 50-52, 69-70 (BCZ).

[682] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 12-15 [mu muhezo] (AM52).

ko yari atuye hafi y'iyo bariyeri. Yongeraho ko ahantu hirengeye haruguru y'iyo bariyeri hari utubari, ku buryo iyo ibivugwa biza kuba abantu bari kubivuga[683].

4.8.2 *Isesengura ry'Urugereko*

653. Kalimanzira avuga ko mu gihe ibyo bintu bivugwa byabaga, yakoreraga i Murambi (Perefegitura ya Gitarama), cyangwa yibereye iwe mu rugo mu mujyi wa Butare, uretse mu cyumweru cya mbere cya Kamena ubwo yajyaga gusura abantu bo mu muryango we muri Segiteri ya Nyagahuru (Komine ya Muganza). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

654. Urugereko rusanga ubuhamya bwa BDE na BCZ bwakwizerwa. Rusanga kandi ibintu byinshi Ubwunganizi buvuga, cyane cyane ku byekeranye n'ukwizerwa k'ubuhamya bwa BDE bidatuma, ku buryo bushyize mu gaciro, rushidikanya ko ibivugwa ari ukuri.

655. Ingingo z'ingenzi Ubwunganizi bwatanze zerekeranye, mbere na mbere, no kuba BDE avuga ko yagiye ajya mu makomine anyuranye ya Perefegitura ya Butare nta nkomyi. Ubwunganizi buvuga ko ibyo atari ukuri kubera ko na BDE ubwe yivugira ko umukozi we yahagaritse akazi kubera ko kugenda byari bigoye, ndetse n'ibimenyetso byatanzwe muri uru rubanza bikaba bigaragaza ko kugira ngo umuntu ashobore kugira aho ajya yagombaga kuba afite ibyangombwa byatanzwe n'ubutegetsi[684]. Cyakora, BDE asobanura ko n'ubwo we yashoboraga kuva iwe akajya kugura ibiribwa, umukozi we watwaraga tagisi atari gushobora gukomeza gukora akazi ke kubera ko yashoboraga kuba yajyana iyo modoka ahantu kure akaza kugera aho batamuzi akahagirira amakuba[685]. Urugereko rusanga ibi bisobanuro byumvikana. Mu by'ukuri, birashoboka ko muri Gicurasi cyangwa Kamena 1994 abantu bashobora kuba baravaga mu ngo zabo bakajya kugura ibiribwa, ariko bakirinda kujya mu duce batazwimo kubera ko muri icyo gihe hari umutekano muke.

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683 Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 47-49, 51-52, 57 [mu muhezo] (KUW).

684 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 616, 627-630.

685 Inyandikomvugo y'iburanisha, 18 Kamena, imp. 19, 25 [mu muhezo], 36, 38 (BDE).

656. Byongeye kandi, ikimenyetso gihamya Ubwunganizi bushingiraho bwemeza ko kugira ngo umuntu agire aho ajya yagombaga kuba yitwaje ibyangombwa bitanzwe n'ubutegetsi, cyerekeranye, by'umwihariko, na Felix Semwaga wari visi perezida wa komite ya gahunda y'ukwirengera kw'abaturage ya Perefegitura ya Butare akaba yarahawe icyo cyangombwa kugira ngo ajye kugenzura za bariyeri[686]. Urugereko rusanga rutashingira kuri icyo kimenyetso gihamya ngo rwemeze, nk'uko Ubwunganizi bubisaba, ko kugira ngo umuntu anyure kuri za bariyeri yagombaga kuba afite uruhushya nk'urwo.

657. Ubwunganizi buvuga ko hari ibindi bintu BDE yivuguruzaho mu buhamya yatanze mu Rukiko maze rukabiheraho ruvuga ko uyu mutangabuhamya abeshya. Ibyo ni nk'ibyerekeranye n'igihe avuga ko Kalimanzira yagereye kuri iyo bariyeri, igihe Kalimanzira yamaze ataragaruka kuri iyo bariyeri, ahantu santeri ya Buseruka iherereye n'ukwezi ibivugwa byabayemo[687]. Buvuga ko ibyinshi mu byo BDE avuga mu buhamya yatanze mu Rukiko binyuranye n'ibyo avuga mu buhamya bwanditse yatanze mu Ukwakira 2001[688].

658. Urugereko rusanga ibyinshi mu bivugwa ko BDE yivuguruzaho bishobora kuba biterwa n'igihe gishize biriya bintu bibabye, cyangwa BDE akaba yarabitangiye ibisobanuro mu Rukiko cyangwa bikaba bidakanganye ku buryo nta wavuga ko ubuhamya bwe atari ukuri. Nk'urugero, mu ibaza rinyomoza, BDE yasobanuye ko n'ubwo mu buhamya bwanditse yatanze mu Ukwakira 2001 avuga ko ibyo bintu byabaye muri Gicurasi 1994[689], mu Rukiko yavuze ko hari muri Gicurasi cyangwa muri Kamena 1994 kubera ko atibukaga neza itariki[690]. Ubwunganizi bunavuga ko ubuhamya bwa BDE mu Rukiko butakwizerwa kuko avuga ko biriya bintu biba Fidèle Uwizeye yari amaze ukwezi ari burugumesitiri, kandi ku itariki ya 17 Kamena 1994 ari bwo yashyizwe kuri uwo mwanya[691]. Mu buhamya bwe mu Rukiko, BDE

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686 Ikimenyetso gihamya N^o D18.

687 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 617-620.

688 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika, ibika 621-625.

689 Ikimenyetso gihamya N^o D17.

690 Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 38-39 (BDE).

691 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 620, 624.

yibuka ko Uwizeye yabaye burugumesitiri muri Kamena[692]. Biragaragara ko yarimo kugerageza kuvuga igihe nyacyo ibyo bintu byabereyeho ariko akaba atazi itariki nyayo. Rukurikije igihe kinini gishize ibyo bintu bibaye, Urugereko rusanga kuba BDE atarashoboye guhita yibuka itariki nyayo burugumesitiri yashyiriweho, ashingiye ku gihe biriya bintu avuga byabereye, bitamubuza kwizerwa.

659. Byongeye kandi, Ubwunganizi bumweretse ubuhamya bwanditse yatanze mu Ukwakira 2001 aho avuga ko Kalimanzira yageze kuri bariyeri agasanga barimo kugenzura indangamuntu maze bukamubwira ko ibyo binyuranye n'ibyo avuga mu buhamya bwe mu Rukiko ko ageze kuri bariyeri yasanze Kalimanzira yamaze kuhagera, BDE yasobanuye ko we na Kalimanzira basa n'abahagereye rimwe, cyangwa umwe akahagera hashize iminota mike gusa undi ahageze[693]. Urugereko rusanga Kalimanzira yaba yarahageze mbere gato cyangwa nyuma gato ya BDE icyo atari ikibazo gikomeye cyatuma hemezwa ko ubuhamya bwa BDE atari ukuri.

660. Mu gusoza kuri iki kibazo, ku byerekeranye no kumenya niba hari umwanya uhagije hagati y'igihe BDE avuga ko Kalimanzira yaviriye kuri bariyeri n'igihe yagarukiye aho hantu avuye gusura ababyeyi i Nyagahuru, Urugereko rusanga BDE avuga ko yatekereje ko Kalimanzira yari agiye gusura ababyeyi be kubera ko abantu bacungaga bariyeri ari ko bamubwiye, kandi akaba yari azi umuhanda wajyaga mu gace abo babyeyi bari batuyemo ariko atazi neza aho ari ho[694]. Kubera ko, mu by'ukuri, BDE atari azi neza aho Kalimanzira yari agiye, nta wavuga ko kiriya gihe Kalimanzira yamaze atari kuri iyo bariyeri kidahuye n'igihe yari gukoresha ajya i Nyagahuru.

661. Urugereko rusanga kandi ubuhamya bwa BCZ mu Rukiko bushyigikira ku bintu by'ingenzi ubwa BDE, ari byo kuba inyuma mu modoka ya Kalimanzira harimo umugabo n'ipikipiki ye, ibara ry'iyo modoka ndetse n'ubwoko bwayo[695]. Rusanga kandi haratanzwe ibimenyetso bigaragaza ko ikigo cy'amashuri abanza ya Rwamiko

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692 Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 21 (BDE).

693 Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 31 (BDE).

694 Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 29-30 (BDE).

695 Inyandikomvugo y'iburanisha, 24 Kamena 2008, imp. 52, 69 (BCZ); inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 32-33 (BDE).

kiri kuri santeri ya Buseruka[696]. Kubera izo mpamvu, ibyo BDE avuga ko bahagaze kuri santeri ya Buseruka ntibivuguruza ubuhamya bwa BCZ buvuga ko yabonye Kalimanzira imbere y'ikigo cy'amashuri abanza cya Rwamiko[697].

662. Urugereko rwanasuzumye ubuhamya bwa AM52 n'ubwa KUW maze rusanga ubuhamya bwabo budatuma rushidikanya, ku buryo bushyize mu gaciro, ku bwo BDE yatanze mu Rukiko. N'ubwo AM52, uva inda imwe na BDE, yemeza ko ipikipiki ya BDE yashyizwe mu biro bya Komine ya Ndora, asobanura ko BDE yashyizeyo iyo pikipiki ku itariki ya 20 Mata 1994, ikaza kwibwa muri uko kwezi ariko bakaza kuyigarura hadashize ibyumweru bibiri yibwe[698]. Kubera iyo mpamvu, ubuhamya bwe mu Rukiko ntibusobanura ko ubwo buhamya budashobora kuba bwombi ari ukuri kuko BDE avuga ko yahuye na Kalimanzira muri Gicurasi cyangwa muri Kamena. Byongeye kandi, kuba AM52 avuga ko atigeze yumva hari umuntu uvuga Kalimanzira ku byerekeranye n'ipikipiki ya BDE, si byo byatuma ubuhamya bwa BDE bushidikanywaho. Urugereko ntirwashyikirijwe ibimenyetso bigaragaza ko iyo ibyo bintu biza kuba byarabaye, AM52 yari kuba yarabyumvise[699]. Mu gusoza kuri iki kibazo, Urugereko rwibutsa ko AM52 yavuye mu Rwanda mu mwaka wa 1994, kuva icyo gihe akaba atarasubirayo, kandi akaba aregwa kuba yaragize uruhare muri jenoside[700].

663. Ku byerekeranye na KUW, Urugereko rusanga uyu mutangabuhamya yemera ko yayoboraga iriya bariyeri ndetse ko yiciweho abantu. N'ubwo avuga ko nta ruhare yagize muri ubwo bwicanyi, yireze kuba yarishe umuntu muri jenoside maze akatirwa igihano cy'igifungo cy'imyaka icumi[701]. Hagati y'ahantu KUW yari atuye n'aho iyo bariyeri yari iri hari urugendo rw'iminota itanu, kandi kubera imirimo yakoraga afite inyungu zo gupfobya ibyahabereye. Urugereko ntirwakwemera ibyo KUW avuga ko

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[696] Umutangabuhamya ushinjura wiswe MAS avuga ko santeri ya Buseruka iri muri Segiteri ya Rwamiko, kandi ko hari n'ikigo cy'amashuri abanza n'amaduka: inyandikomvugo y'iburanisha, 24 Ugushyingo 2008, urup. 27.

[697] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 1054.

[698] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 15 (AM52).

[699] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 12 [mu muhezo] (AM52).

[700] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 22, 28-30, 32 [mu muhezo] (AM52).

[701] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 48-49 [mu muhezo], 52-54 (KUW).

yari kumenya ikintu cyose cyabereye kuri iyo bariyeri[702]. Ntirunemera ibyo avuga ko iriya bariyeri yavanyweho hafi y'itariki ya 5 Gicurasi 1994 kubera ngo ko hagwaga imvura nyinshi igatuma umuhanda udakomeza kuba nyabagendwa[703]. Muri dosiye hari ibindi bimenyetso bigaragaza ko nyuma y'icyo gihe, iyo bariyeri yari ikiriho[704], kandi, uko byagenda kose, nta wakwemera ibyo KUW avuga. Urugereko ntirwemera ko muri jenoside iyo bariyeri yari kuvanwaho kubera gusa ko harimo kugwa imvura nyinshi, nibura bari kuyirekeraho igasigara nta muntu uyicunze.

664. Kubera izo mpamvu, Urugereko rusanze Porokireri yaragaragaje, ku buryo budashidikanywaho, ko muri Gicurasi cyangwa Kamena 1994 BDE yafungiwe kuri bariyeri muri Komine ya Nyarusange [*sic*]. Rusanze icyo gihe Kalimanzira yari kuri iyo bariyeri, agategeka abantu bayicunze kubuza BDE kuhava no kugumana ipikipiki ye. Agarutse, Kalimanzira yabwiye abantu gushyira iyo pikipiki mu modoka ye maze ajyana BDE n'iyo pakipiki ku biro bya Komine ya Ndora, aho babitse iyo pikipiki mu gihe cy'iminsi itatu.

665. Urugereko rusanze ariko ibyo bintu bitafatwa nko guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside. Kugira ngo guhamagarira abantu gukora [icyaha] bifatwe nk'icyaha, bigomba kuba byarakozwe mu buryo butaziguye kandi mu ruhame. Cyakora, Urugereko rusanze bitarakozwe mu buryo butaziguye.

666. Urugereko ruributsa ko mu kwemeza niba igikorwa runaka cyo guhamagarira abantu [gukora icyaha] cyarakozwe mu buryo butaziguye cyangwa buziguye rureba ahanini niba abantu bahamagariwe [gukora icyo cyaha] barahise bumva ko barimo guhamagariwa kugikora[705]. Kuri iki kibazo, BDE avuga ko n'ubu akibaza icyateye Kalimanzira gukora ibyo bintu. Atekereza ko byatewe n'uko Kalimanzira yavuze ko ipikipiki ye yakoreshwaga mu gutwara Inkotanyi no kuba [BDE] atari yitwaje

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[702] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 47-48 [mu muhezo], 51-52 (KUW).

[703] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, urup. 49 [mu muhezo], (KUW).

[704] AZT avuga ko mu mpera za Gicurasi 1994, yabonye Kalimanzira asohoka mu modoka maze agakubita umugabo urushyi kuri bariyeri yari muri Serire ya Nyarusange muri Segiteri ya Rwamiko: inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 24-25.

[705] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 698-700, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 557-558.

intwaro[706]. BDE yumva icyatumye Kalimanzira amubaza impamvu atitwaje intwaro ari uko « icyo gihe intambara yacaga ibintu », bityo abaturage bakaba baragombaga kwitwaza intwaro gakondo kugira ngo birwaneho bivuna Inkotanyi[707]. N'ubwo BDE avuga ko yumvise Inkotanyi bishaka kuvuga Abatutsi kubera ko ari bo bicishwaga intwaro gakondo, asa n'uwumvise ko byari ngombwa kwitwaza intwaro kugira ngo umuntu ashobore kwitabara.

667. Muri make, ibimenyetso byatanzwe ntibihagije ngo Urugereko rube rwabishingiraho rwemeze ko BDE yumvise ko ibikorwa n'amagambo bya Kalimanzira byari bigamije kumuhamagarira kwica Abatutsi. Urugereko runasanga ibimenyetso byatanzwe bidahagije ngo rube rwabishingiraho rwemeza ko abantu bacungaga iyo bariyeri bashobora kuba barumvise ibyo bintu muri ubwo buryo. Ntihatanzwe ibimenyetso bigaragaza ko nyuma yaho, BDE cyangwa abantu bacungaga iyo bariyeri bagiye kwica Abatutsi[708]. Kubera izo mpamvu, Urugereko rusanze Porokireri ataragaragaje mu buryo budashidikanywaho ko amagambo n'ibikorwa bya Kalimanzira byari bigamije guhamagarira abantu kwica Abatutsi aho kubahamagarira kwirengera kubera ko icyo gihe hari intambara ishyamiranije abenegihugu. Kubera izo mpamvu rero, Porokireri ntiyagaragaje, mu buryo budashidikanywaho, ko muri Gicurasi cyangwa Kamena 1994, Kalimanzira yahamagariye, mu buryo butaziguye kandi mu ruhame, abantu bari kuri bariyeri y'i Nyarusange gukora jenoside.

4.9 Kwitwaza intwaro, kuva hagati muri Mata kugera muri Kamena

668. Mu gika cya 27 cy'Inyandiko y'ibirego, Porokireri ashinja Kalimanzira ko yahamagariye abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside, kubera ko kuva hagati muri Mata kugera muri Kamena 1994 yagenzuye niba buri muntu yitwaje intwaro yo kwicisha Abatutsi, maze ntazuyaze kwihanangiriza, gukubita abo asanze badafite intwaro cyangwa kubashyiraho iterabwoba ababwira ko yari kubahana yihanukiriye. Nk'urugero, mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994, Kalimanzira yakubise ubuhiri umugabo w'Umuhutu utari witwaje intwaro.

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[706] Inyandikomvugo y'iburanisha, 18 Kamena 2008, urup. 22 (BDE).

[707] Inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 19-20 (BDE).

[708] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya709, igisobanuro cya 1674 cyo hasi ku rupapuro.

669. Mu Myanzuro nsozarubanza ye mu magambo, Porokireri avuga ko AZT, BCK, BDJ, BDK na AZC batanze ubuhamya ku bivugwa mu gika cya 27 cy'Inyandiko y'ibirego maze bagaragaza ko kuva muri Mata kugera muri Kamena 1994, Kalimanzira yazengurutse mu makomine aturanye ari yo Ndora, Muganza na Mugusa, kugira ngo arebe ko abaturage b'abasiviri baho bitwaje intwaro zo kwicisha Abatutsi. Abo yabonaga batitwaje intwaro yarabihanangirizaga, akabashyiraho iterabwoba cyangwa akabakubita nk'uburyo bwo kubakangurira ubwicanyi. Abo batangabuhamya bavuga ku bintu bitanu bitandukanye, bikurikira :

i. AZT avuga ko mu mpera za Mata cyangwa mu ntangiriro za Kamena, Uregwa yakubise urushyi umugabo utari witwaje intwaro kuri bariyeri yari muri Serire ya Nyarusange ;

ii. BCK avuga ko Kalimanzira yaje ku gahanda ko kuri santeri ya Kabuye maze akubita ubuhiri umugabo utari witwaje intwaro;

iii. BDJ avuga ko muri Gicurasi 1994, Kalimanzira yahagaze kuri bariyeri y'i Kabuye maze akagaya abagabo bari bayicunze kuko batari bitwaje intwaro. Yarabihanangirije ababwira ko abantu batitwaje intwaro bari kwicwa kubera ko bagombaga gufatwa nk'abanzi ;

iv. BDK avuga ko mu mpera za Gicurasi 1994, Kalimanzira yafashe ijambo imbere y'imbaga y'abantu bari bateraniye ku isoko ryo ku Gisagara maze ategeka abagabo bari bahari kwitwaza intwaro zo guhashya umwanzi ari we Mututsi, no kwica abagore bato b'Abatutsikazi bari bakiriho. Yanahembye umugabo wari witwaje intwaro ;

v. AZC we avuga ko umunsi umwe, nyuma ya saa sita, muri Kamena 1994, Kalimanzira yabonye abagabo babiri batitwaje intwaro i Mutarama maze arahagarara, abategeka kurira imodoka ye, abajyana mu yindi komine nuko abahanisha gusubira aho yabakuye n'amaguru[709].

670. Kalimanzira ahakana ibi birego maze akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

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[709] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 281-292.

4.9.1 *Kumenyesha Uregwa ibyo ashinjwa*

671. Mu Myanzuro nsozarubanza yanditse yabwo, Ubwunganizi bwabyukije ikibazo cyerekeranye no kuba Porokireri atarabumenyesheje ibikorwa by'ingenzi byerekeranye n'ikintu cya kane kivugwa haruguru, ni ukuvuga ibintu byabereye ku isoko ryo ku Gisagara[710].

672. Urugereko rusanga n'ubwo mu nteruro ya mbere y'igika cya 27, Porokireri asobanura muri rusange ibyo akurikiranyeho Uregwa, mu nteruro ya kabiri avugamo ikintu kimwe gusa gisobanurwa haruguru, ari cyo kuba Kalimanzira yarakubise ubuhiri umugabo utari witwaje intwaro. Mu Nyandiko y'ibirego, Porokireri ntavugamo ibikorwa by'ingenzi ibindi birego bishingiyeho, kandi muri byo harimo n'icyo Ubwunganizi buvuga. Bityo rero, Inyandiko y'ibirego ifite inenge kuri iyo ngingo kuko ituma umuntu yibaza niba Ubwunganizi bwaramenyeshejwe, uko bikwiye, ibyo bikorwa by'ingenzi. Kubera impamvu zimwe n'izivugwa mu kiciro ka III.2.3.1, n'ubwo Ubwunganizi bwabyukije icyo kibazo bukerewe, Urugereko rusanga ari ngombwa gusuzuma ingingo bwatanze ndetse n'ikibazo cyo kuba ibyo bintu bindi birondorwa haruguru bitavugwa mu Nyandiko y'ibirego. Urugereko rugiye rero gusuzuma ikibazo kijyanye no kuba mu Nyandiko y'ibirego hatavugwa ibikorwa by'ingenzi bishingirwaho ku kintu cya mbere, icya kabiri n'icya gatatu bivugwa haruguru.

673. Mu Myanzuro mbanzirizarubanza ye, mu cyiciro asobanuramo ibyabaye, Porokireri ntavuga na rimwe kuri ibyo bintu. Cyakora, mu Mugereka A wometse ku Myanzuro mbanzirizarubanza ya Porokireri, buri ncamake y'ubuhamya bwa AZT, BDJ, BDK na AZC ivuga ku bivugwa mu gika cya 27 cy'Inyandiko y'ibirego.

674. Mu ncamake y'ubuhamya AZT yari kuza gutanga mu Rukiko, bigaragara ko mu byo uyu mutangabuhamya yari kuvuga harimo ko muri Gicurasi 1994, i Nyarusange hafi y'uruzi rw'Akanyaru, Kalimanzira yakubise umugabo utari witwaje intwaro, abandi akabatonganya. Ibi bihuye n'ibyo AZT avuga mu buhamya bwe bwanditse bwo mu Ugushyingo 2002 bwamenyeshejwe Ubwunganizi mu nyandiko ikubiyemo ibimenyetso bishyigira ibirego.

[710]Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 1140.

675. Mu ncamake y'ubuhamya BDJ yari kuza gutanga mu Rukiko, biragaragara ko mu byo uyu mutangabuhamya yari kuvuga harimo ko muri jenoside Kalimanzira yashishikarije abantu kwitwaza intwaro. Iyo ncamake ivuga ikintu kimwe cyihariye cyabereye kuri bariyeri yari muri Serire ya Kabuye, Segiteri ya Gisagara, Komine ya Ndora muri Gicurasi. Icyo gihe, Kalimanzira yabajije uyu mutangabuhamya impamvu we n'abandi bantu batari bitwaje intwaro, maze ababwira ko ashaka ko abantu bajya bitwaza intwaro kuri za bariyeri. Ubuhamya bwanditse bwa BDJ, na bwo bwamenyeshejwe Ubwunganizi kimwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego, buhuye n'ibyo avuga ko Kalimanzira yatonganyaga abantu asanze batitwaje intwaro. Cyakora, uyu mutangabuhamya ntavugamo ruriya rugero rutangwa haruguru.

676. Mu ncamake y'ubuhamya BDK yari kuza gutanga mu Rukiko, biragaragara ko mu byo uyu mutangabuhamya yari kuvugaho harimo inama yabereye kuri santeri ya Gisagara aho Kalimanzira yahaye amafaranga umuntu wari witwaje intwaro igizwe n'icyuma cy'imodoka gishaje. Ibi bihuye n'ibyo BDK avuga mu buhamya bwanditse, buri mu nyandiko ikubiyemo ibimenyetso bishyigikira ibirego.

677. Mu ncamake y'ubuhamya AZC yari kuza gutanga mu Rukiko, biragaragara ko uyu mutangabuhamya yari gutanga ingero zigaragara ku bihano Kalimanzira yahaye abantu abaziza ko batitwaje intwaro muri jenoside, ariko ntihatangwa ibisobanuro kuri izo ngero. Cyakora, mu buhamya bwe bwanditse bwo mu Ukwakira 2001 bwamenyeshejwe Ubwunganizi hamwe n'inyandiko ikubiyemo ibimenyetso bishyigikira ibirego, AZC avuga ko hari abagabo babiri bamubwiye ko nyuma y'inama yabereye ku biro bya Komine ya Gikonko [*sic*], Kalimanzira yahuye na bo batitwaje intwaro ubwo yari i Butare. Icyo gihe, Uregwa yategetse abo bagabo babiri kurira imodoka ye maze abajyana muri Komine ya Mbazi abatayo.

678. Urugereko rusanga Porokireri yarahamagaje AZC kugira ngo agaragaze gusa « imyitwarire Kalimanzira yari asanganywe» ari yo yo gukora ku buryo abaturage bo muri kariya gace bitwaza intwaro[711]. Cyakora, Urugereko rusanga, mu buryo bushyize mu gaciro, hakiri ugushidikanya ku byerekeranye no kumenya niba iyo myitwarire ivugwa Uregwa yari asanganywe yafatwa nk'icyaha cyangwa se niba hari aho ihuriye,

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[711] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 286.

mu buryo ubwo ari bwo bwose, n'uburyozwacyaha bwa Kalimanzira. Rushingiye ku bimenyetso byose rwashyikirijwe, Urugereko rusanga Porokireri ataragaragaje ko nta zindi mpamvu zishoboka zaba zarateye Kalimanzira kugira imyitwarire ivugwa. By'umwihariko, Porokireri ntiyagaragaje ko ibyo Uregwa yakoze bitari bigamije guhamagarira abaturage kwitabara kubera ko hari mu gihe cy'intambara ishyamiranije abenegihugu. Ibyo ari byo byose, Urugereko rwasanze ubuhamya bwa AZC bugomba kugira ubundi bubushyigikira ku byerekeranye n'ibindi bintu bivugwa byabereye muri Komine ya Mugusa (reba akiciro ka III.2.6.2). Byongeyeye kandi, ubuhamya bwe bushingiye ku nkuru mbarirano na bwo ntibwakwizerwa kubera ko budafite ubundi bubushyigikira. Bityo rero, Urugereko ntirugira ikindi rusuzuma kuri ibyo bintu bivugwa ahangaha.

679. Mu gusoza kuri iki kibazo, Urugereko rusanga mu Myanzuro mbanzirizarubanza ye no mu ncamake zometseho z'ubuhamya bwari gutangwa mu Rukiko, Porokireri asobanura gusa mu buryo burambuye kandi bwumvikana ibyo bintu bivugwa muri rusange mu gika cya 27 cy'Inyandiko y'ibirego, uretse ku byerekeranye n'ubuhamya AZC yari gutanga mu Rukiko.

680. Ku byerekeranye no kumenyesha amakuru Ubwunganizi nta gukererwa, Urugereko rusanga Ubwunganizi bwarabajije AZT, BDK na AZC ibibazo binyomoza kuri byo bintu bivugwa[712]. Nk'uko bivugwa haruguru (reba utwiciro twa III.2.3.1 na III.2.7.1), Urugereko rusanga mu gihe cy'amezi ane n'igice mbere y'uko butangira gutanga ibimenyetso bishinjura, Ubwunganizi bwarabonye igihe gihagije cyo gukora iperereza. Mu Myanzuro mbanzirizarubanza yabwo, Ubwunganizi bwahakanye, mu buryo butaziguye, bimwe muri ibyo bintu bivugwa maze rwemeza muri rusange ko igihe ibivugwa byabaga Kalimanzira yari muri Komine ya Gitarama [sic][713]. Kubera izo mpamvu, Urugereko rusanze ubushobozi Kalimanzira yari afite bwo kwiregura butarabangamiwe cyane.

681. Rushingiye ku Myanzuro mbanzirizarubanza ya Porokireri no ku buhamya bwanditse bwatanzwe, Urugereko rusanze Porokireri yaramenyesheje Ubwunganizi, mu buryo

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[712] Inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 26-27, 34 (AZT); inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 2-5 (BDK); inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 68-69 (AZC).

[713] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 20, 36-38 53-54.

bukwiye, ibikorwa by'ingenzi biriya bintu bine bya mbere bivugwa haruguru bishingiyeho.

4.9.2 *Bariyeri yo muri Serire ya Nyarusange*

682. Porokireri avuga ko mu mpera za Gicurasi 1994, kuri bariyeri yo muri Serire ya Nyarusange, Kalimanzira yakubise urushyi umugabo utari witwaje intwaro maze akamubaza uko yabigenza aramutse ahuye n'Inyenzi[714].

683. Ubwunganizi buhakana ibyo bintu ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

4.9.2.1. Ibimenyetso

Umutangabuhamya ushinja wiswe AZT

684. Umutangabuhamya AZT avuga ko mu mpera za Gicurasi 1994, yabonye Kalimanzira asohoka mu modoka maze akubita urushyi umugabo kuri bariyeri yo muri Serire ya Nyarusange, Segiteri ya Rwamiko. Asobanura ko ibyo yabibonye ari mu kabari kari nko muri metero umunani cyangwa icyenda uvuye kuri iyo bariyeri. Yibuka ko yahise ajya aho byari bimaze kubera kugira ngo amenye impamvu uwo mugabo akubiswe urushyi. Ahageze, bamubwiye ko uwo mugabo yakubiswe kubera ko atari yitwaje intwaro. Bavugaga ko Kalimanzira yari yabajije uwo mugabo yakubise ngo « Nk'ubu uramutse uhuye n'Inyenzi wabigenza ute ? » AZT asobanura ko muri kiriya gihe, Inyenzi byavugaga Abatutsi. Yongeraho ko atari azi uwo mugabo wakubiswe ndetse ko atigeze anamuvugisha[715].

Umutangabuhamya ushinjura wiswe KUW

685. KUW avuga ko mu mpera za Gicurasi 1994, nta bariyeri n'imwe yari mu gace k'iwabo[716]. Asobanura ko hashize icyumweru kimwe Perezida apfuye, hari bariyeri yashyizweho bitegetswe na Burugumesitiri Bimenyimana na Konseye Sikubwabo, ariko mu ntangiriro za Gicurasi ikavanwaho kubera ko hagwaga imvura nyinshi

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[714] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 282.

[715] Inyandikomvugo y'iburanisha, 20 Kamena 2008, imp. 25-27 n'inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 30, 34-35 (AZT).

[716] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 57-58 [mu muhezo] (KUW).

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bigatuma umuhanda iyo bariyeri yari iriho udakomeza kuba nyabagendwa. Yemeza ko nyuma y'iyo bariyeri nta yindi yashyizwe muri Serire ya Nyarusange[717].

4.9.2.2. Isesengura ry'Urugereko

686. Kalimanzira yemeza ko mu gihe ibivugwa byabaga, yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera iyo myiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

687. KUW yemera ko ari we wari ushinzwe bariyeri y'i Nyarusange kandi ko iyo bariyeri yiciweho abantu, n'ubwo avuga ko atagize uruhare muri ubwo bwicanyi. Yanireze kuba yarishe umuntu muri jenoside maze ahanishwa igihano cy'igifungo cy'imyaka icumi[718]. Urugereko rwamaze kuvuga inyungu KUW yari afite mu gupfobya ibyabereye kuri iriya bariyeri (akiciro ka III.4.8.2).

688. KUW avuga ko kubera imirimo yakoraga, abaturage bagombaga kumumenyesha ikintu cyose cyabereye kuri iyo bariyeri[719]. Ubwunganizi bunavuga ko muri serire nto nka Nyarusange nta kuntu ikintu nka kiriya cyari kuhabera ngo KUW abiyoberwe. Cyakora, Urugereko ntirwemera ko kuba atarumvise bavuga ko icyo kintu cyabaye bisobanura byanze bikunze ko kitabaye.

689. Byongeye kandi, hari umutangabuhamya ushinja kandi ukwiye kwizerwa wiswe BDE uvuga ku kintu cyamubayeho kuri iyo bariyeri mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena. Ibi bivuguruza ibyo KUW avuga ko iyo bariyeri yavanyweho ku itariki ya 5 Gicurasi 1994 (reba akiciro ka III.4.8). Urugereko ntirunemera ibyo KUW avuga ko iyo bariyeri yavanyweho icyo gihe kandi hari muri jenoside. Hari ibindi bintu KUW ahisha bishobora kuba byarabaye kuko avuga ko nta kintu cyabereye kuri iyo bariyeri[720]. Cyakora, yemera ko atabaga buri gihe ari kuri iyo bariyeri kubera ko yayicungaga rimwe mu minsi itanu ndetse akemera ko hagati y'aho yabaga n'aho iyo bariyeri yari iri hari urugendo rw'iminota itanu, kandi ko iyo yabaga

[717] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 48-49, 57-58 [mu muhezo] (KUW).

[718] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 48-49 [mu muhezo], 52-54 (KUW).

[719] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 48-49 [mu muhezo], 51-52 (KUW).

[720] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 51-52 (KUW).

ari iwe mu rugo atashoboraga kubona ibyayiberagaho[721]. Urugereko rusanga ubuhamya bwa KUW budakwiye kwizerwa.

690. Ku byerekeranye na AZT, Urugereko rusanga inkiko zo mu Rwanda zaramuhamije icyaha maze zikamukatira igihano cy'igifungo cya burundu kubera uruhare yagize muri jenoside[722], ariko arimo kugerageza kujurira. AZT yanatanze ubuhamya ku bindi bivugwa (reba utwiciro III.2.3.5 na III.4.6). N'ubwo rwasanze ari ngombwa ko hagira ubundi buhamya bushyigikira ubwo yatanze ku bivugwa mu gika cya 8 cy'Inyandiko y'ibirego byerekeranye n'inama y'abaturage yabereye muri Nyirakanywero, Urugereko rusanga impamvu rwashingiyeho rufata uwo mwanzuro zitashingirwaho mu gusuzuma ubuhamya bwe kuri iki kibazo. Rumaze gusuzumana ubushishozi ubuhamya bwe, rusanze bwakwemerwa kandi bukizerwa.

691. Ubwunganizi buvuga ko Urugereko rutagomba kwemera ubuhamya AZT yatanze mu Rukiko kuri icyo kintu cyabaye kubera ko buvuguruzanya n'ubwanditse yahaye abapererezi b'uru Rukiko mu Ugushyingo 2002. Icya mbere, buvuga ko ubwo buhamya bwanditse busa n'ubwumvikanisha ko AZT yiboneye ubwe Kalimanzira akubita urushyi uriya mugabo utari witwaje intwaro ndetse akanamwiyumvira asobanura impamvu imuteye kubikora, mu gihe mu buhamya yatanze mu Rukiko asobanura ko abona Uregwa akubita urushyi uwo mugabo we yari hirya y'aho hantu kandi ko abandi bantu ari bo bamubwiye icyatumye uwo mugabo akubitwa[723]. Icya kabiri, Ubwunganizi buvuga ko mu buhamya bwanditse AZT avuga ko Kalimanzira yaje ku ipikipiki, nyamara mu Rukiko akavuga ko yaje mu modoka[724]. Urugereko rwemera igisobanuro AZT yatanze avuga ko utwo tuntu tugenda tudahura ndetse n'utundi tugaragara ahandi twatewe n'uburyo ubwo buhamya bwe bwanditswe. Rusanga rero nta washingira kuri utwo tuntu ngo avuge ko AZT yivuguruza mu

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[721] Inyandikomvugo y'iburanisha, 3 Ukuboza 2008, imp. 47-49 [mu muhezo] (KUW).

[722] Inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 30 [mu muhezo] (AZT).

[723] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 662, inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 25 n'inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 34 (AZT).

[724] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, igika cya 661; ikimenyetso gihamya N° D24; inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 25 n'inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 23 (AZT).

buhamya bwe, bityo ngo yemeze ko ubuhamya bwe budakwiye kwizerwa cyangwa kwemerwa[725].

692. Ubwunganizi bwanakemanze ukuri k'ubuhamya AZT yatanze mu Rukiko kubera ko atashoboye kuvuga isaha biriya bintu byabereyeho, kandi mu buhamya bwanditse yatanze mbere avuga ko ibyo bintu byabaye mu masaa saba z'amanywa[726]. Urugereko rusanga ibi na byo bidakanganye urebye igihe kinini gishize hagati y'umwaka wa 1994, ubwo ibivugwa byabaye, n'umwaka wa 2002 ubwo yatangaga ubuhamya bwanditse n'igihe yatangiye ubuhamya mu Rukiko. Rusanga rero ibyo bitabuza AZT kwizerwa.

693. Kubera izi mpamvu zose zimaze kuvugwa, Urugereko rusanze Porokireri yaragaragaje ku buryo budashidikanywaho ko mu mpera za Gicurasi 1994, Kalimanzira yakubitiye umugabo urushyi muri Serire ya Nyarusange amuziza ko atitwaje intwaro. Cyakora, rusanga Porokireri ataragaragaje ku buryo budashidikanywaho ko icyo gikorwa cyujuje ibisabwa n'amategeko kugira ngo gifatwe nk'icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside.

694. Urugereko ruributsa ku kugira ngo hemezwe ko igikorwa runaka cyo guhamagarira abantu [gukora icyaha] cyabaye mu buryo butaziguye cyangwa buziguye ahanini hibandwa ku kureba niba abo bantu bahamagariwe ibyo bintu barahise bumva ibyo bahamagariwe gukora[727]. Ntihatanzwe ibimenyetso bitaziguye kuri uwo muntu wakubiswe urushyi cyangwa ku magambo Kalimanzira yavuze icyo gihe. AZT avuga ko bamubwiye ko, kuri iyo bariyeri, Kalimanzira yabajije uwo muntu yakubise uko yari kubigenza aramutse ahuye n'Inyenzi. AZT yanongeyeho ko yumvaga iryo jambo Inyenzi rishaka kuvuga Umututsi. Urugereko ntirwashyikirijwe ibimenyetso bigaragaza ko AZT cyangwa uwo muntu wakubiswe bumvise ko ibyo bintu byari ukubahamagarira kwica Abatutsi. Ntirwanashyikirijwe ibimenyetso bigaragaza ko

[725] Inyandikomvugo y'iburanisha, 23 Kamena 2008, imp. 30-32 (AZT).

[726] Imyanzuro nsonzarubanza yanditse y'Ubwunganizi, igika cya 660; inyandikomvugo y'iburanisha, 20 Kamena 2008, urup. 26; inyandikomvugo y'iburanisha, 23 Kamena 2008, urup. 27 (AZT).

[727] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 698-700, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 557-558.

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nyuma baje gukora ibyo bintu[728]. Muri make, Porokireri ntiyagaragaje ko Kalimanzira akora ibyo bintu yari agamije guhamagarira abantu kwica abasiviri b'Abatutsi. Urugereko ntirunemera ko kuba Uregwa yarakubise umuntu umwe rukumbi urushyi akanamunenga byujuje ibisabwa n'amategeko kugira ngo icyo cyaha cyitwe ko cyakorewe mu ruhame. Kubera izo mpamvu, Urugereko rusanze Porokireri ataragaragaje ku buryo budashidikanywaho ko Kalimanzira akubita urushyi umugabo utari witwaje intwaro muri Serire ya Nyarusange, yakoze icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora [jenoside].

4.9.3 *Ibyabereye ku muhanda uhuza Butare na Muganza*

695. Porokireri avuga ko mu mpera za Mata cyangwa mu ntangiriro za Gicurasi, ubwo Kalimanzira yari ku muhanda i Kabuye, yakubise igikoni umugabo amuziza ko atitwaje intwaro[729].

696. Ubwunganizi buhakana ibyo bintu byose uko byakabaye ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

4.9.3.1. Ibimenyetso

Umutangabuhamya ushinja wiswe BCK

697. Mu buhamya yatanze mu Rukiko, BCK avuga ko mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994, yabonye Kalimanzira hafi y'ikigo cy'ivuriro ry'amatungo hafi y'i Kabuye ku muhanda uhuza Butare na Muganza. BCK yibuka ko ubwo we n'inshuti ze enye bari basubiye kuri bariyeri yiswe iya Jaguar bavuye kunywa mu kabari kari kuri santeri ya Kabuye, Kalimanzira yabanyuzeho mu masaa saba n'iminota 20 z'amanywa ari mu modoka maze akabategeka guhagarara. Icyo gihe, Uregwa yabajije inshuti ya BCK yitwa Vianney impamvu agenda atitwaje intwaro kandi hari mu ntambara, nuko afata igikoni cya BCK arakimukubita [Vianney]. BCK

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[728] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 709, igisobanuro cya 1674 cyo hasi ku rupapuro.

[729] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 282.

yibuka ko Vianney yatemye igiti cyo gukoresha nk'igikoni. Nyuma y'ibyo, Kalimanzira yakomeje urugendo yerekeza muri Komine ya Muganza[730].

Umutangabuhamya ushinjura witwa Jean Marie Vianney Harindintwali

698. BCK avuga ko Kalimanzira yakubitiye Harindintwali hafi ya santeri ya Kabuye. Cyakora mu buhamya yatanze mu Rukiko, Harindintwali avuga ko Kalimanzira atigeze amukubita ndetse akongeraho ko BCK yari inzererezi n'igisambo, bityo akaba atari inshuti ye. Halindintwari anahakana ko abo bagabo bandi babiri, bavugwa ko bari aho uwo munsi, bari inshuti ze. Asobanura ko ubwo bose bacungaga bariyeri yitwaga iya Jaguar atigeze ajyana na bo mu kabari[731].

4.9.3.2. Isesengura ry'Urugereko

699. Kalimanzira avuga ko mu gihe ibivugwa byabaga, yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

700. Kuri iki kibazo, Urugereko rwumvise ubuhamya bubiri buvuguruzanya ku buryo bugaragara. BCK avuga ko yafashe ubuhiri bwe [BCK] akabukubita mugenzi we amuziza ko atitwaje intwaro. Ubwunganizi na bwo bwahamagaje Harindintwali, bivugwa ko yakubiswe na Kalimanzira, maze ahakana ko ibyo bintu byigeze biba.

701. Harindintwali aba mu buhungiro hanze y'u Rwanda, ariko ahakana ko yahunze ubutabera bw'u Rwanda. Yigeze gufungwa aza kurekurwa amaze imyaka ibiri mu buroko nuko nyuma ava mu gihugu[732]. N'ubwo yeremera ko yacungaga bariyeri yitwaga iya Jaguar, uyu mutangabuhamya avuga ko nta cyaha azi cyahakorewe ndetse ko nta n'icyo we yakoze[733]. Ku buhamya bwe bwerekeranye na bariyeri ya Jaguar, Urugereko rusanga hari impamvu yatuma rutemera ibyo avuga (reba akiciro ka III4.3.2).

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[730] Inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 10-11, 23-25 (BCK).

[731] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, urup. 70 n'inyandikomvugo y'iburanisha, 21 Ugushyingo 2008, urup. 5 (Jean Marie Vianney Harindintwali).

[732] Inyandikomvugo y'iburanisha, 18 Ugushyingo 2008, imp. 68-69 (Jean Marie Vianney Harindintwali).

[733] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 1-5 (Jean Marie Vianney Harindintwali).

702. Bamweretse dosiye yo muri Gacaca igaragaza ko hari ibyaha akurikiranyweho, ikanagaragaza ko na BCK na Pacôme ari ibyitso bye, Harindintwali yemeye ko ari we uvugwa muri iyo dosiye, ariko avuga ko atazi iby'icyo kirego cyangwa abamurega[734]. Urugereko rusanga hari ibimenyetso bihagije bigaragaza ko izo nyandiko zitari impimbano ku buryo rwakwemera ko ibyo bimenyetso gihamya ari ibyo muri dosiye ya Gacaca. Urugereko rusanga kandi Harindintwali yemera ko yakoranye na Pacôme kuri bariyeri ya Jaguar[735]. Rusanga kuba ahakana ko hari aho ahuriye na BCK ndetse na Pacôme nta shingiro bifite, kandi ibyo avuga ntibyakwizerwa cyangwa ngo byemerwe.

703. Urugereko rusanga BCK yarakatiwe n'inkiko. Yireze ibyaha yakoze hagati ya Mata na Nyakanga 1994 kandi inkiko zo mu Rwanda zarabimuhamije[736]. Cyakora, kubera ko yamaze gukatirwa igihano cy'igifungo cy'imyaka 30 kandi akaba yararangije inzira zose zo kujurira, gushinja Kalimanzira ibinyoma ntacyo byari guhindura ku gihano yakatiwe. Urugereko rusanga rwakwemera kandi rukizera ubuhamya bwa BCK ku bivugwa ko byabereye kuri bariyeri ya Jaguar (reba akiciro ka III.4.3.2). Ubwunganizi ntibwabashije kugaragaza ko BCK yivuguruza mu buhamya yatanze mu Rukiko cyangwa ngo bugaragaze ko hari ukuvuguruzanya hagati y'ubwo buhamya n'ubwanditse yatanze mbere.

704. Urugereko rusanga ubuhamya bwa BCK bwakwemerwa kandi bukizerwa, bityo rukaba rubwemera nta gushidikanya. Kubera iyo mpamvu, Urugereko rusanga Porokireri yaragaragaje ku buryo budashidikanywaho ko mu mpera za Mata cyangwa mu ntangiriro za Gicurasi, ku muhanda i Kabuye, Kalimanzira yakubise Harindintwari igikoni amuziza ko atitwaje intwaro.

705. Urugereko rwemera kandi ubuhamya bwa BCK buvuga ko Kalimanzira yabajije inshuti ya BCK impamvu atari yitwaje intwaro kandi hari mu ntambara. Cyakora, Urugereko rusanga ibimenyetso rwashyikirijwe bidahagije ngo rube rwabiheraho rufata umwanzuro uvuga ko, mu magambo ye cyangwa mu bikorwa bye, Kalimanzira

[734] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, imp. 6-9 (Jean Marie Vianney Harindintwali); Ibimenyetso gihamya N° P57 na P58.

[735] Inyandikomvugo y'iburanisha, 19 Ugushyingo 2008, urup. 2 (Jean Marie Vianney Harindintwali).

[736] Inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 11-12; imp. 27-29 [mu muhezo] (BCK); Ikimenyetso gihamya N° D39.

yari agamije guhamagarira abantu kwica abasiviri b'Abatutsi. Porokireri ntiyatanze ibimenyetso bigaragaza ko abantu bose bari aho bumvise ko ari bwo butumwa ashatse gutanga cyangwa ko bagiye koko kwica Abatutsi[737]. Bityo rero, Urugereko rusanze Porokireri ataragaragaje ko Kalimanzira yahamagariye abantu ku buryo butaziguye kandi mu ruhame gukora jenoside, kubera ko yakubise igikoni umugabo utari witwaje intwaro ku muhanda i Kabuye.

4.9.4 *Ibyabereye kuri bariyeri y'i Kabuye*

706. Porokireri avuga ko muri Gicurasi 1994, Kalimanzira yahagaze kuri bariyeri yari i Kabuye maze agatonganya abantu babiri bayirindaga kubera ko batari bitwaje intwaro. Kalimanzira yanababwiye ko byari ngombwa kwica abantu batitwazaga intwaro kuko bagombaga gufatwa nk'abanzi. Icyo gihe, Kalimanzira yasobanuye ko umwanzi ashaka kuvuga ari Umututsi[738].

707. Ubwunganizi buhakana ibyo bitu byose ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

4.9.4.1. Ibimenyetso

Umutangabuhamya ushinjura wiswe BDJ

708. Umutangabuhamya BDJ ni Umututsi wakoraga akazi k'ubumotari akorera umucuruzi. Yahishe ko ari Umututsi, maze nyuma y'ubwicanyi atorerwa gufasha resiponsabure [wa serire] kugarura ituze n'umutekano. Uyu mutangabuhamya avuga ko muri Mata 1994, Kalimanzira yahagaze kuri bariyeri yari acunze ahantu umuhanda ugana i Kabuye uhurira n'ujya i Muganza. Icyo gihe, Kalimanzira yari avuye ku Gisagara yerekeza i Kirarambogo kandi yahageze mu masaa sita ari mu modoka y'ikamyoneti ya *double cabin* ari kumwe n'umusirikare wari umurinze. BDJ asobanura ko we na resiponsabule wa serire ari bo bonyine bacungaga iyo bariyeri kubera ko icyo gihe ubwicanyi bwasaga n'ubwarangiye. BDJ yibuka ko atarafite intwaro maze bigatuma Kalimanzira amutonganya ari mu modoka ye. Kalimanzira yavuze ko atangajwe no

[737] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 698-700, 709, igisobanuro cya 1674 cyo hasi ku rupapuro, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 557-558.

[738] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 284.

gusanga BDJ kuri bariyeri adafite intwaro, bityo akaba atari ashoboye guhangana n'umwanzi. BDJ anibuka ko Uregwa yababuriye avuga ko abantu batitwaje intwaro bagombaga kwicwa kubera ko bagombaga gufatwa nk'abanzi. BDJ avuga ko Kalimanzira yabasobanuriye ko «umwanzi» ari Umututsi. Guhera icyo gihe, BDJ yatangiye kwitwaza intwaro[739].

4.9.4.2. Isesengura ry'Urugereko

709. Kalimanzira avuga ko mu gihe ibivugwa byabaga, yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora, nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

710. Urugereko rusanga BDJ yarireze ko yakoreye Abatutsi ibyaha birimo gucunga bariyeri no kujya mu bitero byagabwe ku gasozi ka Kabuye. BDJ yakatiwe igihano cy'imyaka 11 y'igifungo, maze arekurwa mu mwaka wa 2007[740]. BDJ yatanze ubuhamya ku bindi bintu bivugwa kandi Urugereko rusanga ubuhamya bwe bwakwizerwa (reba akiciro ka III.2.6.2).

711. Ubwunganizi buvuga ko ubuhamya bwa BDJ butakwizerwa kubera ko bitumvikana ukuntu abantu babiri gusa ari bo bacungaga bariyeri, kandi BDJ atitwaje intwaro[741]. Cyakora, BDJ asobanura ko umubare w'abantu barindaga bariyeri wari waragabanutse kubera ko icyo gihe ubwicanyi bwasaga n'ubwarangiye[742]. Urugereko ntirwemera ibyo Ubwunganizi buvuga ko kuba BDJ yari Umututsi wiyitaga Umuhutu bituma nta muntu wakwemera ibyo avuga ko icyo gihe atari yitwaje intwaro.

712. Ubwunganizi bunavuga ko bidashoboka cyane ko ibyo BDJ avuga byaba byarabonywe n'abantu babiri gusa, kandi mu buhamya bwe avuga ko iyo bariyeri yari ahantu hazwi cyane, hafi yayo hakaba hari n'akabari ka resiponsabure[743]. Cyakora, kubera ko BDJ asobanura ko Kalimanzira yagumye mu modoka, uyu mutangabuhamya akaba yarahagaze hafi y'iyo modoka ubwo Kalimanzira

[739] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 52, 54 [mu muhezo] 55, 60 n'inyandikomvugo y'iburanisha, 18 Kamena 2008, imp. 5-6 [mu muhezo] (BDJ).

[740] Inyandikomvugo y'iburanisha, 17 Kamena 2008, imp. 62-63 [mu muhezo] (BDJ).

[741] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 391-394, 399-401.

[742] Inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 52 (BDJ).

[743] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 391-394.

yabavugishaga[744], Urugereko rusanga bishoboka ko nta wundi muntu wabonye ibyabaye uretse abari kuri iyo bariyeri.

713. Ubwunganizi buvuga kandi ko kuva resiponsabure bari kumwe kuri bariyeri yarapfuye, nta buhamya bundi bushyigikira ubwa BDJ[745]. Cyakora, Urugereko rusanga muri dosiye hari ibimenyetso bitagendeye ku bindi bigaragaza ko resiponsabure yapfuye[746]. Bityo rero, Urugereko rusanga BDJ yakwizerwa.

714. Urugereko rusanga ingingo y'Ubwunganizi ivuga ko ibyo bintu bidashobora kuba byarabayeho idakwiriye kwemerwa. Abatangabuhamya benshi bavuga ko Kalimanzira yabatonganyije kubera ko batitwaje intwaro. Byongeye kandi, Kalimanzira ubwe yagaragaje ko yari afite impungenge z'umutekano we muri uwo muhanda[747]. Ubu buhamya buhuye n'ubwatanzwe n'abandi batangabuhamya.

715. Kubera ibyo rero, Urugereko rusanga Porokireri yaragaragaje ku buryo budashidikanywaho ko Kalimanzira yatonganyije abantu babiri bacungaga bariyeri yari i Kabuye abaziza ko batitwaje intwaro. Cyakora, kubera ko amagambo yavuze atari asobanutse akaba asa n'uwabwiraga abo bantu babiri bonyine, Urugereko ntirwemera ko ibikorwa n'amagambo bya Kalimanzira byari bitaziguye cyangwa byabereye mu ruhame ku buryo buhagije kugira ngo bibe byarahamagariraga abantu, ku buryo butaziguye kandi mu ruhame gukora jenoside.

716. Urugereko ruributsa ko BDJ avuga ko Kalimanzira yabwiye abantu babiri kujya bitwaza intwaro kubera ko abatazitwaje bagombaga gufatwa nk'umwanzi. Urugereko rusanga aya magambo adasobanutse, bityo bikaba bihagije ngo habeho gushidikanya ku cyo Uregwa yashakaga kuvuga. Kimwe mu bisobanuro bishoboka ni uko abantu bagombaga kwitwaza intwaro, kugira ngo bashobore kwitabara. Ntibisobanutse neza niba avuga ayo magambo, Kalimanzira yari agamije guhamagarira abantu kwica

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744 Inyandikomvugo y'iburanisha ,17 Kamena 2008, urup. 55 (BDJ).

745 Imyanzuro nsozarubanza y'Ubwunganizi, igika cya 396; inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 52 (BDJ).

746 Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 10, 32 [mu muhezo] (BXG); inyandikomvugo y'iburanisha, 17 Kamena 2008, urup. 54 [mu muhezo] (BDJ).

747 Inyandikomvugo y'iburanisha, 10 Gashyantare 2009 urup. 45 (Callixte Kalimanzira).

abasiviri b'Abatutsi, cyangwa niba ba bantu babiri yatonganyije ari ko babyumvise[748]. Kubera ibyo rero, Urugereko rusanze Porokireri ataragaragaje ku buryo budashidikanywaho ko kuri bariyeri y'i Kabuye muri Gicurasi 1994, Kalimanzira yahamagariye abantu ku buryo butaziguye kandi mu ruhame gukora jenoside.

4.9.5 *Ibyabereye ku isoko ryo ku Gisagara*

717. Porokireri avuga ko mu mpera za Gicurasi 1994, Kalimanzira yagiye mu nama yabereye ku isoko ryo ku Gisagara, agategeka abantu b'igitsina gabo bari aho kwitwaza intwaro, ndetse agaha umugabo umwe amafaranga kubera ko yari yitwaje intwaro. Kalimanzira yanategetse abantu kwica abakobwa b'Abatutsikazi bari baragizwe abagore ku ngufu n'abagabo b'Abahutu. Nyuma y'iyo nama, abaturage bishe abakobwa bakiri bato b'Abatutsikazi bari barihishe, hanyuma bongera kujya bitwaza intwaro[749].

718. Ubwunganizi buhakana ibivugwa byose muri ubu buhamya ndetse Kalimanzira akireguza uburyo bwa sinari mpari (reba akiciro ka III.1.2).

4.9.5.1. Ibimenyetso

Umutangabuhamya ushinja wiswe BDK

719. Umutangabuhamya BDK ni Umututsikazi wari warashatswe n'Umuhutu, kandi muramu we wari umutegetsi, na we yari yarashatse Umututsikazi. BDK avuga ko mu mpera za Gicurasi 1994, yagiye mu nama yabereye ku isoko ryo ku Gisagara abihatiwe na Fidèle Uwizeye wamubwiye ko kujya muri iyo nama y'abaturage byari itegeko. BDK yagiye muri iyo nama n'amaguru ari kumwe n'umuturanyi we witwa Cecile n'umugabo we wabagendaga imbere, kandi BDK yari ahetse umwana. Uyu mutangabuhamya yibuka ko inama yabaye saa yine za mu gitondo, kandi ko abaturage bari bicaye hasi, naho abategetsi bicaye ku ntebe imbere yabo. BDK avuga ko agereranyije iyo nama yarimo abantu barenze gato ijana[750].

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[748] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 698-700, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Akayesu mu rw'iremezo, ibika 557-558.

[749] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 285.

[750] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 54-56 (BDK).

720. BDK avuga ko ahagera yasanze superefe yarangije kuvuga, Kalimanzira ari we ufite ijambo. BDK yibuka ko Kalimanzira yari ahagaze hagati y'aho abategetsi bari bicaye n'aho abaturage bari bicaye, kandi ko yagaye abagabo bari aho kubera ko batari bitwaje intwaro. Yababwiye ko bibagirwa vuba kubera ko biyibagije ko bataratsinda umwanzi burundu. BDK asobanura ko umwanzi byashakaga kuvuga Umututsi. Uyu mutangabuhamya yibuka kandi ko Kalimanzira yategetse abagabo ko bagombaga buri gihe guhora bitwaje intwaro, ndetse anahagurutsa Johane Rondoni wari witwaje ubuhiri bukwikiyemo imisumari anafite icyuma yitaga Kayitusha yavanye ku modoka yapfuye. Imbere y'imbaga y'abantu, Kalimanzira yashimye uwo mugabo anamutangaho urugero rw'«umugabo nyawe». Yanamuhaye amafaranga kugira ngo aze kwigurira icyo kunywa[751].

721. BDK avuga ko Kalimanzira yategetse ko abakobwa bakiri bato b'Abatutsikazi bari bararongowe ku gahato bicwa kubera ko ngo bashoboraga kuzateza ibibazo. Cyakora, Uregwa yavuze, mu magambo yumvikana, ko nta muntu wagombaga gukora ku Batutsikazi bari barashatswe n'Abahutu mbere y'intambara. BDK avuga ko Kalimanzira avuze ayo magambo, yagize ubwoba maze we na Cecile basubira mu rugo inama itararangira[752].

722. BDK avuga ko iyo nama yabaye hashize icyumweru nta bitero biba, ariko nyuma yayo bikubura. BDK avuga kandi ko yaje kumenya abantu bapfuye n'aho Interahamwe zabajyanye kubicira kubera ko yumvise abantu babivuga bakanabyigamba[753]. Uyu mutangabuhamya asobanura ko muri abo bakobwa bishwe harimo Maria Mukashema, Eugénie Kabatezi, Donatila Kazibaga, Mukagakwaya Rwamukwaya na Rehema Muriminyondo[754].

4.9.5.2. Isesengura ry'Urugereko

723. Kalimanzira avuga ko mu gihe ibivugwa byabaga yakoreraga i Murambi (Perefegitura ya Gitarama). Cyakora nk'uko bivugwa haruguru, Urugereko ntirwemera imyiregurire ye ya sinari mpari (reba akiciro ka III.1.2.2).

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[751] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 55-56 (BDK).

[752] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 57-58 (BDK).

[753] Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, imp. 58-59 (BDK).

[754] Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, urup. 5 (BDK).

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

724. Ubwunganizi buvuga ko ubuhamya bwa BDK mu Rukiko burimo ukwivuguruza kwinshi. Buvuga ko uyu mutangabuhamya yivuguruza ku birebana n'igihe avuga ko yaviriyeho muri iyo nama. Bwongeraho ko bigoye kwemera ko muramu we yaba yaramuhatiye kujya muri iyo nama kandi ari Umututsikazi; ko n'iyo yaba yarahatiwe kuyijyamo bigoye kumva ko yayivamo itararangira kuko abantu bari kubibona, cyane cyane ko atari mu itsinda ry'abantu bari bibasiwe kubera ko yari yararongowe mbere y'intambara[755]. Mu ngingo Ubwunganizi butanga kuri iki kibazo, nta n'imwe muri zo ifatika, kandi kuba hashize igihe kinini ibyo bintu bibaye bishobora kuba impamvu BDK adashobora kwibuka neza isaha nyakuri yaviriyeho muri iyo nama. Byongeye kandi, Urugereko rwanyuzwe n'ibisobanuro uyu mutangabuhamya yatanze ku myitwarire ye.

725. Urugereko rusanga kuba BDK yaravuye mu nama itararangira kubera ubwoba bitabuza ubuhamya bwe kwizerwa, n'ubwo bwose BDK yayigiyemo ari uko gusa abihatiwe na muramu we. Byongeye kandi, mu ibazwa rinyomoza, BDK yasobanuye icyo kintu gisa no kwivuguruza maze avuga ko amaze kumva amagambo ya Kalimanzira, yarijije umwana we kugira ngo abashe gusohoka agiye kumuhoza bityo ntihagire umukeka[756].

726. Ku byerekeranye n'igihe yaviriye muri iyo nama, mu ibazwa ry'ibanze BDK yavuze ko yahavuye akimara kumva Kalimanzira atanze itegeko ryo kwica abakobwa b'Abatutsikazi[757]. Mu ibaza rinyomoza, BDK yavuze ko yahavuye mu cyayenge amaze kumva Kalimanzira avuga Rundoni[758]. Ubwunganizi buvuga ko niba ibyo ari ukuri, BDK atari kubasha kumva Kalimanzira atanga itegeko ryo kwica abakobwa b'Abatutsikazi, kuko avuga ko, mbere yo gutegeka ko abakobwa b'Abatutsikazi bicwa, Kalimanzira yabanje gushima Rundoni ko yitwaje intwaro[759]. Urugereko rusanga Ubwunganizi budahuza aya magambo n'urwego yavuzwemo. Iyo umuntu asuzumye ikibazo umutangabuhamya yari abajijwe ndetse n'igisubizo cyose yatanze, asanga BDK ativuguruza na rimwe mu buhamya bwe.

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755 Imyanzuro nsozarubanza yanditse y'Ubwunganizi, ibika 115-118, 126, 141.

756 Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 4-5 (BDK).

757 Inyandikomvugo y'iburanisha, 20 Gicurasi 2008, urup. 58 (BDK).

758 Inyandikomvugo y'iburanisha, 21 Gicurasi 2008, imp. 4-5 (BDK).

759 Inyandikomvugo y'iburanisha 20, Gicurasi 2008, urup. 57 (BDK).

727. Urugereko rusanga BDK yaratanze ubuhamya ku nama yabereye hafi ya robine, maze akavuga ko muri iyo nama yumvise abantu barimo Kalimanzira baganiraga ku byerekeranye no gukomeza gukora ubwicanyi ku gasozi ka Kabuye (reba akiciro ka III.2.4). N'ubwo Urugereko rwasanze rutashingira ku byo avuga kuri icyo kibazo, impamvu rwashingiyeho rufata uwo mwanzuro ntizirebana n'ubuhamya bwe kuri iki kibazo kandi ntizibuza kuba muri rusange BDK yakwizerwa. Urugereko rusanga rero ubuhamya bw'uyu mutangabuhamya bwakwemerwa kandi bukizerwa.

728. Kubera izo mpamvu, Urugereko rusanga Porokireri yaragaragaje ku buryo budashidikanywaho ko Kalimanzira yagiye mu nama yabereye ku isoko ryo ku Gisagara mu mpera za Gicurazi 1994. Ubuhamya bwatanzwe na BDK kandi Urugereko rwemera, buvuga ko Kalimanzira yagaye abantu bari muri iyo nama kubera ko batari bitwaje intwaro, akanababwira ko bataratsinda umwanzi burundu. Kalimanzira kandi yahembye umugabo wari witwaje intwaro maze ahamagarira imbaga y'abantu bari aho kwica abakobwa bakiri bato b'Abatutsikazi bari bararongowe ku ngufu kubera ko ngo bashoboraga kuzateza ibibazo.

729. Kalimanzira avuze «umwanzi», BDK yumvise ko ashaka kuvuga Umututsi. Urugereko rusanga imbaga y'abantu bari muri iyo nama na yo yarabyumvise gutyo. Muri kiriya gihe FPR yari ikiri kure, Kalimanzira avuga ko umwanzi atari yagatsindwa burundu, ndetse agategeka ko abakobwa b'Abatutsikazi bicwa, yagaragaje neza ko abanzi yashakaga kuvuga bari abasiviri b'Abatutsi. Uyu mwanzuro ushyigikirwa n'ubuhamya bwa BDK buvuga ko n'ubwo inama yabaye hashize icyumweru nta bitero bibaye, nyuma yayo ibitero byongeye kubura ndetse uyu mutangabuhamya avuga amazina y'abantu banyuranye bishwe[760]. Urugereko rusanga, hashingiwe kuri ibyo bimenyetso, umwanzuro umwe rukumbi, ushyize mu gaciro wafatwa ari uvuga ko Kalimanzira yari agamije guhamagarira iyo mbaga y'abantu kwitwaza intwaro kugira ngo bice abasiviri b'Abatutsi. Aha kimwe n'ahandi, Kalimanzira yagaragaje igitekerezo yari afite cyo kurimbura Abatutsi (reba akiciro ka III.5.2). Kubera izo mpamvu, Urugereko rusanga Kalimanzira ahamwa, ku buryo budashidikanywaho, n'icyaha cyo guhamagarira abantu ku buryo butaziguye

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[760] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika cya 709, igisobanuro cya 1674 cyo hasi ku rupapuro.

kandi mu ruhame gukora jenoside, mu nama yabereye ku isoko ryo ku Gisagara mu mpera za Gicurasi 1994.

5. IGITEKEREZO CYO GUKORA ICYAHA CYA JENOSIDE

5.1 Amategeko akurikizwa

730. Urugereko ruributsa ko kugira ngo uregwa ahamwa n'icyaha cya jenoside hagomba kugaragazwa ko yakoze kimwe mu bikorwa biteganywa n'Ingingo ya 2 (2) ya Sitati afite igitekerezo cyihariye cyo kurimbura abantu bose cyangwa igice cyabo bagize itsinda rirengerwa n'amategeko (»igitekerezo cyo gukora icyaha cya jenoside») (reba akiciro ka III.2.1). Igitekerezo cyo gukora icyaha cya jenoside ni kimwe kandi mu bintu bigize icyaha cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenoside (reba akiciro ka III.4.1). «Kurimbura itsinda» bivuga «kuririmbura hakoreshejwe ibintu bifatika cyangwa ibibabuza kororoka, bitari ugukuraho ibiranga ubwenegihugu, ururimi rwabo, idini ryabo, umuco wabo cyangwa ikindi cyose cyaba kibaranga». Nta mubare fatizo w'abakorewe ibyaha ugomba kugerwaho kugira ngo hagaragajwe ko habaye jenoside, kandi si ngombwa kugaragaza ko uwakoze icyo cyaha yari agambiriye kurimbura burundu itsinda ry'abantu rirengerwa n'amategeko. Cyakora, kugira ngo hagaragazwe igitekerezo cyo gukora icyaha cya jenoside, ni ngombwa kwerekana ko uwakoze icyo cyaha yari agambiriye kurimbura nibura igice kinini cy'abantu bagize iryo tsinda[761].

731. Ubusanzwe, kubera imiterere yacyo, igitekerezo ntigikunze kugaragazwa n'ibimenyetso bitaziguye. Kubera iyo mpamvu, ubukemuramanza bwemera ko igihe nta bimenyetso bitaziguye bihari, igitekerezo umuntu wakoze icyaha yari afite gishobora kugaragarira mu byabaye n'uko ibintu byari byifashe bishobora kugaragaza, nta gushidikanya, ko icyo gitekerezo cyariho. Cyakora, ni ngombwa ko aba ari wo mwanzuro rukumbi ucukumbuye ushyize mu gaciro ushobora kugerwaho hashingiwe ku bimenyetso byose byatanzwe. Hakurikijwe ubukemuramanza bw'uru Rukiko, igitekerezo cyo gukora icyaha cya jenoside gishobora kugaragarira mu bintu cyangwa mu bimenyetso bimwe na bimwe, birimo ibi bikurikira: a) kuba muri rusange hariho n'ibindi bikorwa bibi byibasiye iryo tsinda ku buryo buri kuri

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[761] Inyandiko y'urubanza rwa Seromba mu rw'iremezo, igika cya 319; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, ibika 315-316.

gahunda, byaba byarakozwe n'uregwa cyangwa n'abandi bantu, b) intera y'amarorerwa yakozwe, c) kuba byarabaye mu rwego rusange, d) kuba byarakorewe mu karere cyangwa mu gihugu runaka, e) kuba abakorewe ibyaha baribasiwe ku buryo buri kuri gahunda kandi byagambiriwe kubera ko bari mu itsinda runaka, f) kuba abagize andi matsinda bataribasiwe muri icyo gihe, g) amatwara ya politiki yatumye habaho ibyo bikorwa bivugwa, h) kuba ibyo bikorwa by'irimbura bishingiye ku ivangura byarakozwe kenshi, no kuba i) ibyo bikorwa bibangamira imizi y'iryo tsinda cyangwa bifatwa gutyo n'ababikoze[762].

5.2 Isesengura ry'Urugereko

732. Mu myanzuro yarwo ishingiye ku byabaye yavuzwe haruguru, Urugereko rwasanze hari ibimenyetso bitaziguye bigaragaza ko Kalimanzira yari afite igitekerezo cyo gukora jenoside. Rwasanze kandi hari n'ibimenyetso biziguye icyo gitekerezo kigaragariramo.

733. Umutangabuhamya wiswe BXG yatanze ubuhamya butaziguye ku myitwarire n'amagambo bya Kalimanzira kuri bariyeri yo mu Kabuga ku itariki ya 23 Mata 1994. Muri icyo gitondo, Kalimanzira yabajije Callixte Bushakwe, wari resiponsabure wa serire akaba n'umukuru w'itsinda ry'abacungaga iyo bariyeri, aho yari ageze n'ikibazo cy'Abatutsi. Bushakwe yamushubije ko Abatutsi bose bishwe, ariko umwe mu bantu bari kuri bariyeri witwa Isidore amuca mu ijambo abwira Kalimanzira ko Bushakwe abeshya, kandi ko Abatutsi bari bashoboye kwirwanaho bahangana n'ibitero. Ibyo byarakaje Kalimanzira waciriye Bushakwe ndetse agashaka no kumukubita urushyi. Ubwo Kalimanzira yasabye Isidore kumwereka aho Abatutsi bari, maze bajya mu modoka berekeza muri Segiteri ya Dahwe[763].

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[762] Inyandiko y'urubanza rwa Bagosora na bagenzi be mu rw'iremezo, igika cya 2116; Inyandiko y'urubanza rwa Seromba mu bujurire, igika cya 176, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Seromba mu rw'iremezo, igika cya 320; Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 524-525; Inyandiko y'urubanza rwa Simba mu bujurire, igika cya 264; Inyandiko y'urubanza rwa Gacumbitsi mu bujurire, ibika 40-41; Inyandiko y'urubanza rwa Rutaganda mu bujurire, igika cya 525; Inyandiko y'urubanza rwa Semanza mu bujurire, igika cya 262, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Jelisić mu bujurire, igika cya 47; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire, ibika 147-148.

[763] Inyandikomvugo y'iburanisha, 22 Gicurasi 2008, imp. 9-12, 19-20, 22 (BXG).

734. Ubu buhamya ndetse n'ibindi bimenyetso byakwizerwa byerekeranye n'imyitwarire ya Kalimanzira kuri uwo munsi (reba akiciro ka III.2.4.2), ari byo (1) kuba yarashyigikiye mu buryo buteruye icyemezo cya Superefe Ntawukulilyayo cyo kwirukana Abatutsi ku isoko ryo ku Gisagara akabohereza ku gasozi ka Kabuye, no (2) kuba yarohereje abantu bafite intwaro bo gutera abandi inkunga mu bwicanyi bwo ku gasozi ka Kabuye, bigaragaza ko Kalimanzira yari azi ko Abatutsi bo ku gasozi ka Kabuye bari kwicwa, kandi ni na cyo yari agambiriye. Kalimanzira yabonye impunzi z'Abatutsi zibarirwa mu bihumbi zari zateraniye ku gasozi ka Kabuye zizera kurindirwa umutekano, kandi yari azi ko ibikorwa bye byari kugira uruhare rukomeye mu iyicwa ryazo. Kuba abantu benshi cyane muri izo mpunzi barishwe bigaragaza ko Kalimanzira yari agamije kurimbura Abatutsi bose cyangwa igice kinini cyabo.

735. Abatangabuhamya BCN na BCK na bo batanze ubuhamya butaziguye buvuga ko mu gice cya kabiri cya Mata 1994, Kalimanzira yahaye imbunda umwe mu bantu bacungaga bariyeri ya Jaguar kandi abwira abantu bose bari aho ko iyo mbunda yagombaga gukoreshwa mu kwica Abatutsi (reba akiciro ka III.4.3). Kalimanzira yanabategetse gukomeza kugenzura indangamuntu kugira ngo hatagira Umututsi uhatambuka. Yavuze ko Inyenzi-Inkotanyi n'abandi bashobora kuba ari abanzi bageragezaga kuhatambuka[764]. Kubera amabwiriza yahaye abantu bari kuri bariyeri ya Jaguar yo kudatandukanya abasiviri n'abarwanyi, Kalimanzira yagaragaje igitekerezo cyo kurimbura Abatutsi abaziza icyo bari cyo.

736. Umutangabuhamya BBB avuga ibintu nk'ibyo byabereye kuri bariyeri ya Kajyanama, aho Kalimanzira yarakajwe cyane no kubona umugabo utitwaje intwaro, maze akamukubita ndetse akamutwara ku ngufu kugira ngo yerekane ko abacungaga bariyeri bagombaga kuba bitwaje intwaro buri gihe kugira ngo babashe kwirwanaho bahangana n'«umwanzi». Icyo gihe, abantu bumvise ko «umwanzi» bishaka kuvuga Umututsi (reba akiciro ka III.4.4). N'ubwo mu gihe cy'intambara ubusanzwe amabwiriza nk'ayo atafatwa nk'anyuranyije n'amategeko (nk'urugero reba akiciro ka III.2.8.2), kuri iyi bariyeri kimwe no ku ya Jaguar, amabwiriza yari agamije kwibasira abasiviri b'Abatutsi kimwe n'abarwanyi.

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[764] Inyandikomvugo y'iburanisha, 25 Kamena 2008, imp. 5, 20-24 (BCN); inyandikomvugo y'iburanisha, 26 Kamena 2008, imp. 6-9, 14-15 (BCK).

737. Umutangabuhamya BCZ avuga ko mu nama y'abaturage yabereye ku kibuga cy'umupira w'amaguru cy'i Nyabisagara mu mpera za Gicurasi cyangwa mu ntangiriro za Kamena, Kalimanzira yashimye abitabiriye iyo nama kubera umurava bagize mu kwica umwanzi kandi abasaba kutirara kubera ko ngo hari hakiri abanzi bihishe mu bihuru no mu mazu (reba akiciro ka III.4.5). BCZ asobanura ko icyo gihe «umwanzi» byavugaga Umututsi uwo ari we wese. Kalimanzira yanasabye abari muri iyo nama gusenya amazu yose y'Abatutsi yari asigaye maze bagatera insina n'ibindi bihingwa mu matongo yabo. Kubera ko yashyigikiye ubwicanyi bwibasiye Abatutsi akanaha imbaga y'abantu amabwiriza yo kuzimangatanya ibimenyetso byagaragaza aho ingo z'Abatutsi bishwe zari ziri, Kalimanzira yagaragaje igitekerezo yari afite cyo kurimbura Abatutsi.

738. Izi nshuro si zo zonyine Kalimanzira yagaragaje igitekerezo cyo kurimbura Abatutsi. Izo ni ingero zigaragaza neza kurusha izindi igitekerezo Kalimanzira yari afite. Kubera ibimaze kuvugwa muri uru rubanza, Urugereko rumaze no gusuzuma ibimenyetso byose byatanzwe, rusanze Kalimanzira yari afite igitekerezo cyihariye cya ngombwa kigize icyaha cya jenoside, ni ukuvuga igitekerezo cyo kurimbura Abatutsi bose cyangwa igice cyabo, abaziza icyo bari cyo.

UMUTWE WA IV – IMIKIRIZE Y'URUBANZA

739. Kubera impamvu zivugwa muri iyi Nyandiko y'urubanza, rumaze gusuzuma ingingo n'ibimenyetso byose byatanzwe, Urugereko rwemeje ko Callixte Kalimanzira

AHAMWA n'icyaha cya jenoside ku kirego cya mbere ;

AHAMWA n'icyaha cyo guhamagarira abantu, ku buryo butaziguye kandi mu ruhame, gukora jenoside ku kirego cya gatatu ;

Ikirego cya kabiri cyo kuba icyitso cy'abakoze jenoside **NTAKIGIKURIKIRANYWEHO.**

UMUTWE WA V – IGIHANO

1. INTANGIRIRO

740. Kubera ko Urugereko rwahamije Kalimanzira icyaha cya jenoside n'icyo guhamagarira abantu ku buryo butaziguye kandi mu ruhame gukora jenoside, rugomba kumugenera igihano gikwiye.

741. Amategeko agenderwaho mu igenagihano ni Ingingo ya 22 n'iya 23 za Sitati no kuva ku Ngingo ya 99 kugeza ku ya 106 z'Amategeko. Umuntu wahamijwe icyaha n'Urukiko ashobora guhanishwa igihano cy'igifungo kimara igihe runaka cyangwa igifungo cya burundu[765]. Igihano gitangwa kiba kigamije guha uwahamwe n'icyaha igihano kimukwiriye, guca intege uwashaka gukora icyaha nk'icyo, gutuma uwakoze icyaha yicuza no kurinda umuryango mugari w'abantu. Rushingiye ku Ngingo ya 23 ya Sitati no ku ya 101 y'Amategeko, Urugereko ruzirikana urutonde rusange rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda, uburemere bw'icyaha, imyifatire yose y'uregwa, ibintu byihariye birebana n'uregwa, birimo impamvu nyongeragihano, impamvu ngabanyagihano n'igihe uwahamwe n'icyaha yamaze muri gereza y'urukiko rw'igihugu afungiwe icyaha nk'icyo[766]. Cyakora, ibi si byo byonyine byitabwaho mu kugena igihano gikwiye. Ingereko za Mbere z'Iremezo zifite ububasha busesuye bwo kugena igihano gikwiye, kubera ko zifite inshingano zo gukora ku buryo uhamwe n'icyaha akatirwa igihano ku giti cye, kugira ngo icyo gihano kijyane n'ibintu byihariye bimuranga n'uburemere bw'icyaha yakoze[767]. Byongeye kandi, Urugereko rwa Mbere rw'Iremezo rukura mu gihano gitanzwe igihe cyose uregwa yamaze muri gereza ategereje kwimurirwa mu Rukiko n'igihe yamaze afunzwe urubanza rurimo kuburanishwa[768].

742. Ku byerekeranye no kugena igihano gikwiye, Urugereko rw'Ubujurire rwavuze ko «ibihano bihabwa abantu bamwe mu manza zisa bigomba gusa ». Cyakora,

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[765] Ingingo ya 101 (A) y'Amategeko.

[766] Ingingo ya 23 (1)-(3) ya Sitati n'Ingingo ya 101 (B)(i)-(iv) y'Amategeko.

[767] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 1037, 1046; Inyandiko y'urubanza rwa Seromba mu bujurire, igika cya 228; Inyandiko y'urubanza rwa Ndindabahizi mu bujurire, igika cya 132, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Semanza mu bujurire, igika cya 312.

[768] Inyandiko y'urubanza rwa Kajelijeli mu bujurire, igika cya 290. Reba Ingingo ya 101 (C) y'Amategeko.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

rwongeyeho ko iyo mitekereze ifite aho igarukira kubera ko «buri rubanza rufite ibintu byinshi rutandukaniyeho n'izindi, birimo umubare n'ubwoko bw'ibyaha byakozwe n'ibintu byihariye byerekeranye n'uregwa»[769].

2. KUGENA IGIHANO

743. Porokireri avuga ko Kalimanzira akwiye gukatirwa igihano cy'igifungo cya burundu[770]. Ubwunganizi ntacyo buvuga ku gihano kuko buvuga ko Kalimanzira yagombye kugirwa umwere kuri buri kirego[771].

2.1 Uburemere bw'ibyaha

744. Ibyaha byose biteganywa na Sitati y'Urukiko ni ibyaha binyuranyije bikomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara[772]. Urugereko rwazirikanye ko mu mategeko yo mu Rwanda, bitewe n'imiterere y'uruhare rw'uregwa, icyaha cya jenoside gishobora guhanishwa igihano cy'igifungo cya burundu[773]. Mu bukemuramanza bw'Urukiko, muri rusange gatozi w'icyaha ahanishwa igihano gikarishye kurusha uwashyigikiye abandi mu kugikora[774]. Cyakora, ibyo byonyine ntibivuga ko igifungo cya burundu ari cyo gihano cyonyine gikwiye gukatirwa gatozi w'icyaha[775]. Muri uru Rukiko, igihano cy'igifungo cya burundu gihabwa muri rusange abantu bacuze umugambi cyangwa bategetse abandi gukora amarorerwa n'abakoranye ibyaha umurava mwinshi cyangwa ubugome

[769] Inyandiko y'urubanza rwa Kvočka na bagenzi be, igika 681.

[770] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 322; inyandikomvugo y'iburanisha, 20 Mata 2009 imp. 22-23 (Imyanzuro nsozarubanza y'ababuranyi mu magambo).

[771] Imyanzuro nsozarubanza yanditse y'Ubwunganizi, urup. 248.

[772] Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujurire, igika cya 367 (hasubirwamo ibiteganywa n'Ingingo ya 1 ya Sitati).

[773] Itegeko Ngenga N° 8/96 ryo mu Rwanda, rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenoside cyangwa ibyaha byibasiye inyokomuntu byakozwe kuva ku itariki 1 Ukwakira 1990, ryasohowe mu Igazeti ya Leta y'u Rwanda, Umwaka wa 35. N° 17, 1 Nzeri 1996, nk'uko ryahinduwe n'Itegeko Ngenga N° 66/2008 ryo ku itariki ya 21/11/2008 rihindura kandi rikuzuza Itegeko Ngenga N° 31/2007 ryo ku itariki ya 25/07/2007 rirebana n'ikurwaho ry'igihano cyo kwicwa.

[774] Inyandiko y'urubanza rwa Semanza mu bujurire, igika cya 388.

[775] Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, ibika 791-793, 832-834, 908-909, 924 (aho akatirwa igifungo cy'imyaka 25 kubera ko yakoze icyaha nka gatozi).

burenze kamere[776]. Abakoze ibyaha bakatirwa ibihano bikarishye kurusha ibindi, akenshi usanga ari abantu bari abategetsi bo hejuru[777]. Urugereko rwasuzumye kandi ibihano byakatiwe abantu bahamwe gusa n'icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside. Ibyo bihano biri hagati y'igifungo cy'imyaka 12 n'igifungo cya burundu[778].

745. Urugereko rwahamije Kalimanzira icyaha cyo gushyigikira abantu gukora icyaha cya jenoside mu muhango wo kwimika Élie Ndayambaje (reba akiciro ka III.2.3.6.2) no ku gasozi ka Kabuye (reba akiciro ka III.2.4.2). Byongeye kandi, Urugereko rwasanze Kalimanzira ahamwa n'icyaha cyo gushyigikira abantu mu gukora jenoside no kubahamagarira kuyikora, byabereye kuri bariyeri yari ku muhanda Butare-Gisagara (reba akiciro ka III.2.7.4.2) kandi yakoze ibyo byaha mu buryo buziguye. Urugereko rwasanze kandi Kalimanzira ahamwa n'icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside kuri bariyeri yitwaga iya Jaguar (reba akiciro ka III.4.3.2), kuri bariyeri ya Kajyanama (reba akiciro ka III.4.4.2), ku kibuga

[776] Inyandiko y'urubanza rwa Musema mu bujurire, igika 383 (havugwamo ko abayobozi n'abacuze umugambi w'intambara runaka bagomba guhanishwa ibihano bisumbye iby'abantu bari bakuriye, hazirikanwa ko uburemere bw'icyaha ari cyo kintu kigomba kwitabwaho mu igenwagihano); Inyandiko y'urubanza rwa Nchamihigo mu rw'iremezo, igika 395 (nka subusititi wa mbere, Urugereko rwasanze yaragaragaje umurava ukabije mu bwicanyi); Inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo, igika cya 486; Inyandiko y'urubanza rwa Muhimana mu rw'iremezo, ibika 604-616 (Konseye, ariko havugwamo ubugome bukabije uregwa yasambanyijemo abakorewe ibyaha akabica, akabaca ingingo z'umubiri ndetse akanabakoza isoni).

[777] Abategetsi bo hejuru muri Guverinoma bagiye bakatirwa igihano cy'igifungo cya burundu mu: Inyandiko y'urubanza rwa Ndindabahazi mu rw'iremezo, ibika 505, 508, 511 (Minisitiri w'Imari); Inyandiko y'urubanza rwa Niyitegeka mu rw'iremezo, ibika 499, 502 (Minisitiri w'Itangazamakuru); Inyandiko y'urubanza rwa Kambanda mu rw'iremezo, ibika 44, 61-62 (Minisitiri w'Intebe); Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, ibika 6, 764, 770 (Minisitiri w'Amashuri Makuru n'Ubushakashatsi mu by'Ubuhanga). Byongeye kandi, ibihano by'igifungo cya burundu byagiye bihabwa n'abategetsi bo mu nzego zo hasi n'abandi bantu batari bafite imyanya muri Guverinoma. Nk'urugero, Inyandiko y'urubanza rwa Nchamihigo mu rw'iremezo, ibika 395-396 (Subusititi wa mbere muri Perefegitura ya Cyangugu); Inyandiko y'urubanza rwa Musema mu rw'iremezo, ibika 999-1008 (umuyobozi ukomeye w'uruganda rw'icyayi wagenzuraga abicanyi); Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, ibika 466-473 (Visi-Perezida wa kabiri w'Interahamwe mu rwego rw'igihugu).

[778] Inyandiko y'urubanza rwa Akayesu mu rw'iremezo (igifungo cya burundu); Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo (igifungo cy'imyaka 15); Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo (igifungo cy'imyaka 12); Inyandiko y'urubanza rwa Bikindi mu rw'iremezo (igifungo cy'imyaka 15).

cy'umupira w'amaguru cy'i Nyabisagara (reba akiciro ka III.4.5.2), no ku isoko ryo ku Gisagara (reba akiciro ka III.4.9.5.2). Kalimanzira yakoze ibyo byaha nka gatozi.

746. Urugereko ruzirikana uko bikwiye ububi bw'ibyaha Kalimanzira yakoze. Jenoside ni icyaha gisumba ibindi, gihungabanya amahame remezo umuryango w'abatuye isi ugenderaho kandi abantu bafata ko ari agahomamunwa. Urugereko ruvuga ko guhamagarira abandi bantu mu buryo butaziguye kandi mu ruhame gukora jenoside, na byo bifite uburemere nk'ubw'icyo cyaha. Guhana icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame bishingiye ku bubi bwihariye bw'igikorwa cyo guhamagarira itsinda ry'abantu ridasobanutse neza gukora icyaha cy'ubugome nka jenoside, bityo bikaba byatuma, muri rusange, habaho ibikorwa by'imvururu n'iby'ubugizi bwa nabi bishobora kutagira gitangira.

747. Urugereko rusanga kandi ibyaha Kaliminzira yahamijwe byerekeranye n'ibyo yakoreye muri perefegitura akomokamo, akaba atari ibyaha yakoze mu rwego rw'igihugu. Byongeye kandi, n'ubwo yari Umuyobozi w'ibiro bya Minisitiri muri Minisiteri y'Ubutegetsi bw'igihugu, bityo akaba yari afitiwe icyizere akagira n'ijambo byatumye ashobora gukora bimwe mu bikorwa bibisha yakoze, ahanini ibyaha yahamijwe ntibifite aho bihuriye n'imirimo yakoraga cyangwa ububasha yari afite mu rwego rw'igihugu.

2.2 Ibintu byihariye byerekeye Uregwa

748. Urugereko rufite ububasha busesuye mu kureba ibintu bigize impamvu nyoroshyagihano n'impamvu nyongeragihano n'agaciro byahabwa. Mu gihe impamvu nyongeragihano zigomba kugaragazwa ku buryo budashidikanywaho, impamvu nyoroshyagihano zo zigomba kugaragazwa gusa hashingiwe ku « bintu bishoboka kurusha ibindi »[779]. Kuba hagaragajwe ko hariho impamvu nyoroshyagihano ntibivuga byanze bikunze ko bigomba kugirira inyungu uregwa mu igenagihano. Bivuga gusa ko Urugereko rwa Mbere rw'Iremezo rugomba kuzirikana izo mpamvu nyoroshyagihano mu cyemezo cyarwo cya nyuma[780].

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779 Inyandiko y'urubanza rwa Simba mu bujurire, igika 328; Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, igika 1038.

780 Inyandiko y'urubanza rwa Niyitegeka mu bujurire, igika 267.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

2.2.1 *Impamvu nyongeragihano*

749. Porokireri avuga ko mu mpamvu nyongeragihano muri uru rubanza harimo kuba Kalimanzira yarakoresheje nabi ijambo n'ubutegetsi yari afite, umurava yagize mu ikorwa rya jenoside bityo agatatira ikizere abaturage bari bamufitiye, n'uruhare rwe nka gatozi n'urw'ubuyobozi mu ikorwa ry'ibyaha byamuhamye[781]. Ubwunganizi ntacyo buvuga ku mpamvu nyongeragihano.

750. Urugereko ruzirikana ijambo n'icyubahiro Kalimanzira yari afite muri Butare nk'umuntu wahoze ari superefe, no kuba yari umwe mu bantu batatu gusa bo mu kigero cye bakomoka mu karere k'iwabo bize kaminuza. Yari akunzwe kandi ashimwa n'abaturage kubera ibyo yakoze kugira ngo ateze imbere abaturage bo mu gace avukamo binyuze mu bikorwa byo guteza imbere ubuhinzi muri ako gace. Ijambo yari afite kubera ibyo bikorwa ndetse n'umwanya ukomeye yari afite muri Minisiteri y'Ubutegetsi bw'Igihugu byatumaga abandi bantu bashobora gukurikiza urugero rwe, kandi ibyo ni impamvu nyongeragihano. Ikintu gikomeye cyane kurusha ibyo ni uko yashishikarije impunzi z'Abatutsi gukoranira ku gasozi ka Kabuye kandi aziko abantu babarirwa mu bihumbi muri zo bari kuhicirwa, bityo aba atatiye icyizere abaturage bari bafite ko we n'abandi bategetsi bari kubarinda.

751. Cyakora, Urugereko rusanga ibikorwa bya Kalimanzira bitaragaragayemo umurava cyangwa ubugome budasanzwe. Mu by'ukuri, nta muntu yishe ubwe kandi yamaraga umwanya muto cyane ahantu hakorewe ubwicanyi. Urugereko rwazirikanye uburyo Kalimanzira yakoze ibyaha ubwo rwasuzumaga uburemere bwabyo.

2.2.2 *Impamvu nyoroshyagihano*

752. Kubera ko nta zindi ngingo zatanzwe kuri iki kibazo, Urugereko rusanga hari izindi mpamvu nyoroshyagihano nke. Kalimanzira afite imyaka 55. Umugore we avuga ko ari umugabo ufite imico myiza, umukunda ndetse agakunda n'abana be. Mbere ya jenoside, Uregwa yamaze igihe kinini akorera Leta mu gihugu cye kandi amaze guhunga igihugu cye, ntiyigeze yihisha, kuko yabagaho ku mugaragaro akorera umuryango utagengwa na leta kugira ngo afashe impunzi. Ubwunganizi bwagerageje kwerekana ko, mbere ya jenoside, Kalimanzira atigeze agira ibitekerezo byo kwanga

[781] Imyanzuro nsozarubanza yanditse ya Porokireri, ibika 325, 331; inyandikomvugo y'iburanisha, 20 Mata 2009, imp. 23-25 (Imyanzuro nsozarubanza mu magambo).

Abatutsi, ariko ibimenyetso nk'ibyo ntibishobora kumuhanaguraho ibyaha bye. Imico myiza ya Kalimanzira mbere na nyuma y'intambara ntiyafatwa nk'impamvu nyoroshyagihano.

753. Porokireri avuga ko nta mpamvu nyoroshyagihano ziriho, kandi ko ibimenyetso bitagaragaza ko Kalimanzira yishyize ubwe mu maboko y'Urukiko[782]. Ubuhamya bwa Kalimanzira n'ubw'umudamu we mu Rukiko bugaragaza ko igihe abapererezi b'uru Rukiko bamushakishaga i Nairobi, Kalimanzira atagerageje guhunga ndetse ko yubahirije gahunda yo kubonana na bo igihe cy'iminsi myinshi, hanyuma akaza kwiyemeza kwishyira mu maboko y'Urukiko ngo azanwe Arusha aho yakomeje gufungirwa kugeza uyu munsi[783]. Urugereko rusanga ibimenyetso bishyigikira umwanzuro uvuga ko yishyize mu maboko y'Urukiko ku bushake bwe, maze rugasanga ibyo ari impamvu nyoroshyagihano.

2.3. Gukura mu gihano igihe Uregwa amaze afunzwe

754. Ku itariki ya 8 Ugushyingo 2005, Kalimanzira yishyize mu maboko y'abakozi b'Urukiko i Nairobi, muri Kenya, maze uwo munsi agezwa muri gereza y'Umuryango w'Abibumbye Arusha. Kuva icyo gihe kugeza ubu aracyafunze. Hashingiwe ku Ngingo ya 101 (C) y'Amategeko, mu gihano Kalimanzira ari bukatirwe hagomba gukurwamo igihe amaze afunze kuva ku itariki ya 8 Ugushyingo 2005. Urugereko rwarabaze rusanga icyo gihe kingana n'imyaka 3, amezi 7 n'iminsi 14.

3. UMWANZURO

755. Urugereko rufite ububasha busesuye bwo kugena igihano kimwe rukumbi. Iyo mikorere ubusanzwe ni yo iba ikwiye iyo ibyo ibyaha bishobora gufatwa nk'aho byakozwe mu rwego rw'umugambi mubisha umwe gusa. Byongeye kandi, iyo Urugereko rubishatse, birakwiye gutanga igihano kimwe ku byaha byose uregwa

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[782] Imyanzuro nsozarubanza yanditse ya Porokireri, igika cya 325; inyandikomvugo y'iburanisha, 20 Mata 2009 urup. 25 (Imyanzuro nsozarubanza mu magambo).

[783] Inyandikomvugo y'iburanisha, 5 Gashyantare 2009 imp. 13-14 (Salomé Mukantwali); Inyandikomvugo y'iburanisha, 10 Gashyantare 2009, imp. 59, 61 (Callixte Kalimanzira).

yahamijwe. Urugereko rufata icyemezo nk'icyo iyo, hatitawe ku nyito yabyo, ibyaha uregwa ashinjwa byakorewe ahantu hamwe kandi mu gihe runaka[784].

756. Kubera izo mpamvu zimaze kuvugwa, Urugereko **RUKATIYE Callixte Kalimanzira IGIHANO CY'IGIFUNGO CY'IMYAKA 30.**

757. Iki gihano kirahita kirangizwa, kandi hashingiwe ku Ngingo ya 101 (C) y'Amategeko, Kalimanzira agomba gukurirwamo igihe amaze afunze. Urugereko rwasanze icyo gihe kingana n'imyaka 3, amezi 7 n'iminsi 14.

758. Igihano kimaze gutangwa kizarangirizwa mu gihugu Perezida w'Urukiko azagena amaze kugisha inama Urugereko. Gerefiye azamenyesha icyo cyemezo Leta y'u Rwanda n'igihugu kizaba kagenwe ngo Uregwa azarangizemo igihano.

759. Callixte Kalimanzira araguma muri gereza y'Urukiko mu buryo afunzwemo kugeza igihe azimurirwa mu gihugu azarangirizamo igihano cye.

760. Hashingiwe ku Ngingo ya 102 (B) y'Amategeko, niharamuka habayeho ubujurire, irangizagihano rizasubikwa kugeza igihe hafatiwe icyemezo kuri ubwo bujurire. Cyakora, Uregwa azakomeza kuba afunze.

Bikorewe Arusha, mu rurimi rw'icyongereza, ku itariki ya 22 Kamena 2009.

Dennis C. M. Byron	Gberdao Gustave Kam	Vagn Joensen
Perezida w'Inteko	Umucamanza	Umucamanza

[Kashe y'Urukiko]

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[784] Inyandiko y'urubanza rwa Nahimana na bagenzi be mu bujurire, ibika 1042-1043; Inyandiko y'urubanza rwa Simba mu rw'iremezo, igika cya 445; Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, igika cya 497; Inyandiko y'urubanza rwa Kambanda mu bujurire, igika cya 111.

UMUGEREKA WA I – UKO IMIBURANISHIRIZE YAGENZE

761. Callixte Kalimanzira yafatiwe i Nairobi ku itariki ya 8 Ugushyingo 2005 ubwo yishyiraga mu maboko y'Urukiko. Urubanza rwe rwatangiye ku itariki ya 5 Gicurasi 2008 rupfundikirwa ku ya 13 Gashyantare 2009. Mu minsi 16 y'iburanisha, Porokireri yahamagaje abatangabuhamya 23. Ubwunganizi bwatangiye gutanga ibimenyetso bishinjura ku itariki ya 17 Ugushyingo 2008 maze mu minsi 21 y'iburanisha, buhamagaza abatangabuhamya 42, harimo n'Uregwa.

1. ICYICIRO CYABANJIRIJE IBURANISHA

762. Callixte Kalimanzira yafatiwe i Nairobi muri Kenya ku itariki ya 8 Ugushyingo 2005, ubwo yishyiraga mu maboko y'abakozi b'Urukiko, hashingiwe ku rwandiko rwo gufata n'itegeko ryo kumwimurira ku cyicaro cy'Urukiko no kumufunga byatanzwe n'Umucamanza Sergei Alekseevich Egorov ku itariki ya 1 Nzeri 2005.[785] Mu Nyandiko y'ibirego ya mbere, yemejwe n'Umucamanza Egorov ku itariki ya 22 Nyakanga 2005[786], Kalimanzira yashinjwaga ibirego bitanu ari byo: (1) jenoside, (2) icyo cyaha kitamuhama akaryozwa kuba icyitso cy'abakoze jenoside; (3) guhamagarira abantu, ku buryo butaziguye kandi mu ruhame, gukora jenoside[787]. Kalimanzira yashyikirijwe abakozi b'Urukiko, agera muri gereza y'Umuryango w'Abibumbye Arusha uwo munsi yafashweho. Ku itariki ya 14 Ugushyingo 2005, yitabye Urukiko bwa mbere maze ahakana ibyaha byose bikubiye mu birego byose uko ari bitatu ashinjwa mu Nyandiko y'ibirego.

763. Ku itariki ya 29 Nzeri 2006, Gerefiye yasezereye Pierre Shillewaert ku mwanya wa Avoka mukuru, asaba Uregwa kumushyikiriza amazina atatu y'abandi bavoka bashobora kumwunganira kugira ngo hatoranywemo undi[788].

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[785] Urwandiko rwo gufata n'Itegeko ryo kwimurira Callixte Kalimanzira ku cyicaro cy'Urukiko no kumufunga (Umucamanza Egorov),1 Nzeri 2005.

[786] Icyemezo cyo kwemeza Inyandiko y'ibirego yakorewe Callixte Kalimanzira (Umucamanza Egorov), 22 Nyakanga 2005.

[787] Inyandiko y'ibirego yakorewe Callixte Kalimanzira, Ibiro bya Porokireri, 21 Nyakanga 2005.

[788] Icyemezo gisezerera Bwana Pierre Schillewaert ku mwanya wa Avoka mukuru wunganira Callixte Kalimanzira (Gerefiye), 29 Nzeri 2006.

764. Ku itariki ya 5 Kamena 2007, Urugereko rutegura urubanza mu rw'iremezo, rwanze icyifuzo cy'Ubwunganizi cyasabaga ko Uregwa yafungurwa by'agategenyo[789].

765. Ku itariki ya 11 Nyakanga 2007, habaye inama nteguraruba nza idakurikije imihango isanzwe, kugira ngo hasuzumwe aho imyiteguro y'urubanza yari igeze. Muri iyo nama, hemejwe ko urubanza rwari gutangira kuburanishwa ku itariki ya15 Mutarama 2008, haramutse habonetse icyumba cyo kuruburanishirizamo. Nyuma yaho, mu nama ntegurarubanza yabaye ku itariki ya 29 Ukwakira 2007, hemejwe ko urubanza rwari gutangira hafi y'itariki ya15 Werurwe 2008.

766. Ku itariki ya 8 Ugushyingo 2007, Urugereko rwategetse ko hafatwa ingamba zo kurinda umutekano w'abatangabuhamya icumi bashinja[790]. Ku itariki ya 13 Ukuboza 2007, habaye indi nama ntegurarubanza maze Ubwunganizi busaba ko itariki yo gutangira iburanisha yakwigizwayo. Ku itariki ya 14 Ukuboza 2007, Urugereko rwategetse ko hashyirwaho ingamba zo kurinda umutekano w'abatangabuhamya icyenda bashinjura [791].

767. Ku itariki ya 22 Gashyantare 2008, Urugereko rwemeye icyifuzo cya Porokireri kirusaba kwemeza ko ababuranyi batajya impaka ku bintu bimwe binyuranye bizwi na bose, byerekeranye n'uko ibintu byari byifashe mu Rwanda hagati y'itariki ya 6 Mata 1994 n'iya 17 Nyakanga 1994[792].

768. Ku itariki ya 19 Werurwe 2008, Perezida yemeje ko uru rubanza rwari gutangira kuburanishwa ku itariki ya 28 Mata 2008[793].

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[789] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko Uregwa yafungurwa by'agateganyo (Urugereko rwa Mbere rw'Iremezo), 5 Kamena 2007.

[790] Icyemezo ku cyifuzo cya Porokireri gisaba ko hafatwa ingamba zo kurinda umutekano w'abatangabuhamya (Urugereko rwa Mbere rw'Iremezo), 8 Ugushyingo 2007.

[791] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba ko hafatwa ingamba zo kurinda umutekano (Urugereko rwa Mbere rw'Iremezo), 14 Ukuboza 2007.

[792] Icyemezo ku cyifuzo gisaba Urugereko kwemeza ko ababuranyi batajya impaka ku bintu bizwi na bose (Urugereko rwa Mbere rw'Iremezo), 22 Gashyantare 2008.

[793] Itegeko rishyiraho itariki y'itangira ry'iburanisha (Perezida), 19 Werurwe 2008.

769. Ku itariki ya 4 Mata 2008, Urugereko rwategetse ko abatangabuhamya bashinja biswe AZM, AZT, BBB, BCA, BCI, BCK, BCN, BDI, BDL, BXC, BXD, BXL na FAC bimurirwa muri gereza y'Umuryango w'Abibumbye, Arusha[794].

770. Ku itariki ya 8 Mata 2008, Umunyamabanga Mukuru w'Umuryango w'Abibumbye yashyizeho Abacamanza badahoraho, ari bo Arrey na Park, kugira ngo baburanishe uru rubanza. Ku itariki ya 10 Mata 2008, Umucamaza Weinberg de Roca yagizwe Perezida w'Inteko[795]. Cyakora, ku itariki ya 29 Mata 2008, kubera ibintu bishya byavutse bikagira ingaruka ku itangira ry'urubanza, ndetse bikaba ngombwa guhindura Abacamanza bari bagize inteko, Perezida w'Urukiko yishyizeho ngo abe Perezida w'inteko muri uru rubanza[796].

771. Ku itariki ya 30 Mata 2008, habaye inama ntegurarubanza maze Urugereko rwemera, mu magambo, bimwe mu bikubiye mu cyifuzo cy'Ubwunganizi cyasabaga kwigizayo itariki yo gutangira iburanisha. Rwabyemeye rumaze kubona ko Porokireri atubahirije inshingano ze zo kumenyekanisha amakuru nk'uko byari byategetswe mu cyemezo cy'Urugereko cyo ku itariki ya 8 Ugushyingo 2007. Muri iyo nama, hemejwe ko iburanisha ryari gutangira ku itariki ya 5 Gicurasi 2008[797].

772. Ku itariki ya 2 Gicurasi 2008, Ibiro bya Perezida byasohoye Itegeko rishyira Abacamanza badahoraho, ari bo Vagn Joensen na Gberdao Gustave Kam, mu Rugereko rwa Mbere rw'Iremezo III. Muri iryo tegeko, hanemejwe ko iburanisha ryari gutangira ku itariki ya 5 Gicurasi 2008.[798]

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794 Icyemezo ku cyifuzo gisaba kwimurira muri gereza y'Urukiko abatangabuhamya bafunze (Urugereko rwa Mbere rw'Iremezo), 4 Mata 2008.

795 Itegeko rigena Inteko y'Abacamanza bazaburanisha urubanza (Urugereko rwa Mbere rw'Iremezo), 10 Mata 2008.

796 Itegeko rigena Inteko nshya y'Abacamanza bazaburanisha Urubanza (Perezida), 29 Mata 2008.

797 Icyemezo mu magambo ku cyifuzo cy'Ubwunganizi kivuga ko Porokireri atubahiriye inshingano yo kumenyekanisha ibimenyetso ivugwa mu Itegeko rishyiraho ingamba zo kurinda umutekano w'abatangabuhamya kikanasaba ko itariki y'itangira ry'iburanisha yakwigizwayo. (Urugereko rwa Mbere rw'Iremezo), 30 Mata 2008.

798 Itegeko rishyiraho Abacamanza badahoraho mu nteko izaburanisha uru rubanza (Urugereko rwa Mbere rw'Iremezo), 2 Gicurasi 2008.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

2. ITANGWA RY'IBIMENYETSO BISHINJA

773. Urubanza rwatangiye kuburanishwa ku itariki ya 5 Gicurasi 2008. Porokireri yatanze ibimenyetso bishinja mu byiciro bibiri by'iburanisha ari byo kuva ku itariki ya 5 Gicurasi 2008 kugeza ku ya 22 Gicurasi 2008 no kuva ku itariki ya 16 Kamena 2008 kugeza ku ya 26 Kamena 2008. Mu minsi 16 y'iburanisha, Porokireri yahamagaje abatangabuhamya 24 anatanga ibimenyetso gihamya 82.

774. Ku itariki ya 16 Kamena 2008, Urugereko rwemeye icyifuzo cya Porokireri gisaba kongera igihe cyo gufungira muri gereza y'Urukiko abatangabuhamya bafunze nk'uko byategetswe mu itegeko ryo kwimura abatangabuhamya bafunze rwari rwatanze ku itariki ya 4 Mata 2008. Rwategetse rero ko abatangabuhamya bashinja bafunze ari bo AZM, AZT, BBB, BCA, BCI, BCK, BDI, BDL, BXC, BXL na FAC bimuriwe muri Gereza y'Umuryango w'Abibumbye, bakomeza kuhafungirwa kugera igihe kitarenga itariki ya 18 Nyakanga 2008[799].

775. Ku itariki ya 24 Kamena 2008, Urugereko rwemeye, kuri bimwe, icyifuzo cy'Ubwunganizi gisaba kutemerera abatangabuhamya bashinja biswe BWM, BWN, BXB, BXC, BXD na BXL gutanga ubuhamya ku iyicwa ry'uwitwa Rwigimba n'umuryango we, n'iry'uwitwa Mazimpaka[800].

776. Ku itariki ya 30 Kamena 2008, mu nama ntegurarubanza, Urugereko rwafashe mu magambo icyemezo cy'agateganyo, maze rutegeka ko Ubwunganizi butangira gutanga ibimenyetso bishnjura mu mpera z'Ukwakira 2008, bugakomeza mu gihe kigera ku byumweru bitanu.

777. Porokireri arangije gutanga ibimenyetso bye, mu nama ntegurarubanza yabaye ku itariki ya 30 Kamena 2008, Ubwunganizi bwatanze icyifuzo gisaba gutangira gutanga ibimenyetso byabwo ku itariki ya 17 Ugushyingo 2008.

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799 Icyemezo ku cyifuzo cya Porokireri gisaba kongera igihe cyo gufungira muri Gereza y'Urukiko abantangabuhamya bafunze, nk'uko byari byarategetswe mu «Itegeko ryo kwimurira muri gereza y'Urukiko abatangabuhamya bafunze» ryatanzwe ku itariki ya 4 Mata 2008 (Urugereko rwa Mbere rw'Iremezo), 16 Kamena 2008.

800 Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kutemerera abatangabuhamya bashinja biswe BWM, BWN, BXB, BXC, BXD na BWL gutanga ubuhamya (Urugereko rwa Mbere rw'Iremezo), 24 Kamena 2008.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

778. Ku itariki ya 7 Nyakanga 2008, Umucamanza Joensen yatanze itegeko ritegeka Ubwunganizi gutanga, bitarenze tariki ya 8 Nyakanga 2008, ikimenyetso kigaragaza ko bwatanze ku tariki ya 20 Kamena 2008 igisubizo, mu buryo buteganyijwe, ku cyifuzo cy'ingoboka Porokireri yatanze gisaba ko ibintu bimwe na bimwe byashyirwa muri dosiye[801].

779. Ku itariki ya 8 Nyakanga 2008, Urugereko rwatanze Itegeko rishyiraho ingengabihe y'iburanisha, rwemera icyifuzo cy'Ubwunganizi gisaba kwigizayo itariki yo gutangira gutanga ibimenyetso byabwo bikaba guhera ku ya 17 Ugushyingo 2008. Urugereko rwategetse Ubwunganizi gutanga ingingo zabwo, nk'uko biteganywa n'Ingingo ya 98 *bis* y'Amategeko, mu gihe kitarenze iminsi irindwi Urugereko rumaze gufata ibyemezo ku Byifuzo bibiri bya Porokireri byari bigitegereje. Urugereko rwategetse ko Ubwunganizi butanga ingingo zabwo, nk'uko biteganywa n'Ingingo ya 73 *ter*, bitarenze tariki ya 17 Nzeri 2008, bukanatanga, bitarenze tariki ya 17 Ukwakira 2008, gahunda y'uko buteganya kuzahamagaza abatangabuhamya bashinjura[802].

780. Ku itariki ya 10 Nyakanga 2008, Urugereko rwemeye icyifuzo cya Porokireri gisaba ko inyandiko 45 n'inyandiko zijyanye na zo zahinduwe mu zindi ndimi, zishyirwa mu bimenyetso, hashingiwe ku Ngingo ya 89 (C). Rwemeye icyo cyifuzo rumaze kubona ko Ubwunganizi butagaragaje, ku buryo bunyuze, ko bwashyikirije Ishami rishinzwe imirimo y'Ingereko igisubizo cyabwo, mbere y'itariki ntarengwa yari yigijweyo ikagirwa iya 30 Kamena 2008[803].

781. Ku itariki ya 11 Nyakanga 2008, Urugereko rwatanze icyemezo cy'ibanga, cyemera kuri bimwe icyifuzo cya Porokireri gisaba kwakira inyandiko hashingiwe ku Ngingo ya 92*bis* n'iya 89 (C) z'Amategeko. Rwanemeje ko ubuhamya bwanditse bw'umutangabuhamya wiswe BDA witabye imana budashobora kwakirwaho

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[801] Icyemezo cy'agateganyo (Urugereko rwa Mbere rw'Iremezo), 7 Nyakanga 2008.

[802] Itegeko rishyiraho ingengabihe y'iburanisha n'inyandiko ikosora, 8 Nyakanga 2008.

[803] Icyemezo ku cyifuzo cya Porokireri gisaba ko inyandiko zimwe zakwakirwa nk'ibimenyetso – Ingingo ya 89(C) y'Amategeko (Urugereko rwa Mbere rw'Iremezo), 10 Nyakanga 2008.

ikimenyetso ariko rwemera ko ibaruwa yoherezaga raporo y'ibyavugiwe mu nama yabaye muri Kamena 1994 yo ishobora kwakirwa[804].

782. Ku itariki ya 13 Kanama 2008, Urugereko rwasohoye inyandiko irimo ibyakosowe mu itegeko rishyiraho ingengabihe y'iburanisha ryatanzwe ku itariki ya 8 Nyakanga 2008. Kubera ko ikosa ry'imyandikire ryari rimaze gukosorwa, byatumye icyifuzo cy'Ubwunganizi cyasabaga Urugereko gusubira mu itegeko rishyiraho ingengabihe y'iburanisha kiba kitakiri ngombwa.[805]

783. Ku itariki ya 25 Kanama 2008, Urugereko, rubyibwirije, rwafashe icyemezo gitegeka ababuranyi kurumenyesha niba ibimenyetso rwashyikirijwe bihagije mu gushyigikira ibintu bimwe bivugwa muri uru rubanza no kuvuga ingaruka zo mu rwego rw'amategeko zaturuka ku mwanzuro uwo ari wose ushobora kugerwaho. Urugereko rwategetse ko Porokireri yagombaga gutanga ingingo ze bitarenze tariki ya 29 Kanama 2008 naho Ubwunganizi ntiburenze tariki ya 1 Nzeri 2008[806]

784. Ku itariki ya 26 Kanama 2008, Urugereko rwanze kwemera icyifuzo cy'Ubwunganizi cyasabaga uburenganzira bwo kujuririra icyemezo rwafashe ku itariki ya 10 Nyakanga 2008. Rwavuze ko icyo cyifuzo kitari cyujuje ibisabwa mu Ngingo ya 73(B) maze rutegeka ko icyifuzo cy'Ubwunganizi cyongera gutangwa nk'inyandiko itari ibanga[807].

785. Ku itariki ya 3 Nzeri 2008, Urugereko rwafashe icyemezo kivuga ko Ubwunganizi butagomba kwiregura ku bivugwa bitari mu Nyandiko y'ibirego. Kubera iyo mpamvu, icyifuzo Ubwunganizi bwatanze ku itariki ya 30 Kamena 2008 busaba

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[804] Icyemezo ku cyifuzo cya Porokireri gisaba ko inyandiko zakwakirwa nk'ibimenyetso, hashingiwe ku Ngingo ya 92bis(C) n'iya 89(C) (Urugereko rwa Mbere rw'Iremezo), 11 Nyakanga 2008 (ibanga).

[805] Inyandiko irimo ibyakosowe mu Itegeko rishyiraho ingengabihe y'iburanisha (Urugereko rwa Mbere rw'Iremezo), 13 Kanama 2008.

[806] Itegeko ry'agateganyo (Urugereko rwa Mbere rw'Iremezo), 25 Kanama 2008.

[807] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba uburenganzira bwo kujuririra icyemezo cy'Urugereko ku cyifuzo cya Porokireri gisaba ko inyandiko zimwe zakwakirwa nk'ibimenyetso (Urugereko rwa Mbere w'Iremezo), 26 Kanama 2008.

uburenganzira bwo kujuririra icyemezo Urugereko rwafashe ku itariki ya 24 Kamena 2008 nta shingiro cyari kigifite[808].

786. Ku itariki ya 4 Nzeri 2008, Urugereko rwemeje ko icyifuzo cy'Ubwunganizi cyasabaga kwemererwa kujya kuri gereza y'Umuryango w'Abibimbye muri wikendi nta shingiro cyari kigifite, kubera ko Ubwunganizi bwari bwanasabye bugahabwa uruhushya nk'urwo n'Umuyobozi wa Gereza y'Umuryango w'Abibumbye[809].

787. Mu cyemezo gikomatanyije rwafashe ku itariki ya 1 Ukwakira 2008, Urugereko rwa Mbere rw'Iremezo rwanze icyifuzo cya Porokireri cyasabaga ko umubare w'abatangabuhamya bashinjura wagabanywa, rwemera icyifuzo cy'Ubwunganizi cyasabaga kongera Callixte Kalimanzira kuri lisiti y'abatangabuhamya bashinjura[810].

788. Ku itariki ya 13 Ugushyingo 2008, Urugereko rwa Mbere rw'Iremezo rwafashe icyemezo gikomatanyije rwemera icyifuzo cy'Ubwunganizi cyasabaga guhindura lisiti y'abatangabuhamya bashinjura, runabutegeka kugabanya umubare w'amasaha y'ibaza ry'ibanze bwateganyaga kuri buri mutangabuhamya ushinjura bukurikije uko bari gukurikirana, hagamijwe kugira ngo Ubwunganizi bushobore kurangiza gutanga ibimenyetso bishinjura mu minsi 20 y'iburanisha. Muri icyo cyemezo, Urugereko rwanemeye, kuri bimwe, icyifuzo cya Porokireri cyasabaga guhabwa impongano, kubera ko Ubwunganizi butashoboye gutanga, mu buryo bwuzuye, bukwiye kandi nta gukererwa, ubuhamya bwanditse bw'abatangabuhamya bashinjura n'amakuru ku myirondoro yabo n'uburyo bari gukurikirana no kumenyekanisha ko bwateganyaga kwireguza uburyo bwa sina mpari. Urugereko rwategetse Ubwunganizi gukosora inenge zose zari zikiriho mu byerekeranye no kumenyekanisha amakuru, no gutanga, bitarenze tariki ya 14 Ugushyingo 2008, amakuru arambuye bihagije kandi yuzuye ku mwirondoro wa buri mutangabuhamya ushinjura ndetse, n'aho bishoboka, bugatanga

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[808] Icyemezo ku birebana n'ibyo Ubwunganizi butagomba kwireguraho (Urugereko rwa Mbere rw'Iremezo), 3 Nzeri 2008.

[809] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba uburenganzira bwo gusura Callixte Kalimanzira kuri gereza y'Umuryango w'Abibumbye ku wa gatandatu tariki 13 no ku cyumweru tariki ya 14 Nzeri 2008 (Urugereko rwa Mbere rw'Iremezo), 4 Nzeri 2008.

[810] Icyemezo gikomatanije ku cyifuzo cya Porokireri gisaba ko umubare w'abatangabuhamya bashinjura wagabanuka, no ku cyifuzo cy'Ubwunganizi gisaba kongera Callixte Kalimanzira kuri lisiti y'abatangabuhamya bashinjura (Urugereko rwa Mbere rw'Iremezo), 1 Ukwakira 2008.

ubuhamya bwanditse bw'abatangabuhamya bashinjura budasibyemo amakuru atuma bamenyekana[811].

3. ITANGWA RY'IBIMENYETSO BISHINJURA

789. Ku itariki ya 17 Ugushyingo 2008, Ubwunganizi bwatangiye gutanga ibimenyetso bishinjura maze bikorwa mu byiciro bibiri by'iburanisha: kuva ku tariki ya 17 Ugushyingo 2008 kugeza ku ya 4 Ukuboza 2008 no kuva ku itariki ya 26 Mutarama 2009 kugeza ku ya 11 Gashyantare 2009. Mu minsi 21 y'iburanisha, Ubwunganizi bwahamagaje abatangabuhamya 42, barimo na Kalimanzira, bunatanga inyandiko 117 nk'ibimenyetso gihamya.

790. Ku itariki ya 16 Mutarama 2009, Urugereko rwanze kwemera icyifuzo Porokireri yatanze mu magambo arusaba kutemera ko abatangabuhamya bashinjura biswe CA1, FJS, AK11, FCS, FG1, FG3, FVC, BB06, BB08 na MZ20 batanga ubuhamya. Urugereko rwemeye icyo cyifuzo ku byerekeranye n'umutangabuhamya wiswe FG2, rumuvana ku rutonde rw'abatangabuhamya bashinjura maze rwemeza ko kuri FAG, icyo cyifuzo kitari kigifite impamvu gishingiyeho. Urugereko rwanemeje ko icyifuzo cy'Ubwunganizi cyasabaga guhindura lisiti y'abatangabuhamya bukongeramo abandi nta shingiro cyari kigifite ku birebana n'abatangabuhamya biswe MDS na RTE. Rwemeye icyo cyifuzo ku byerekeranye n'abatangabuhamya biswe FAR, FAT, MVE na MVT.[812]

791. Ku itariki ya 19 Mutarama 2009, Urugereko rwemeye icyifuzo cy'Ubwunganizi cyasabaga kuvanaho ingamba zo kurindira umutekano abatangabuhamya biswe ABY, ABZ, AU106, AK14 na MZ16[813].

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[811] Icyemezo gikomatanyije ku cyifuzo cya Porokireri gisaba ko Ubwunganizi bwakubahiriza ibiteganywa n'Ingingo ya 73*ter* no ku cyifuzo cy'Ubwunganizi gisaba guhindura lisiti y'abatangabuhamya (Urugereko rwa Mbere rw'Iremezo), 13 Ugushyingo 2008.

[812] Icyemezo gikomatanije ku cyifuzo Porokireri yatanze mu magambo, asaba ko umubare w'abatangabuhamya bashinjura wagabanuka, no ku cyifuzo cy'Ubwunganizi gisaba guhindura lisiti y'abatangabuhamya bashinjura. (Urugereko rwa Mbere rw'Iremezo), 16 Mutarama 2009.

[813] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kuvanaho ingamba zo kurinda umutekano w'abatangabuhamya biswe ABY, ABZ, AU106, AK14 na MZ16 (Urugereko rwa Mbere rw'Iremezo), 19 Mutarama 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

792. Ku itariki ya 27 Mutarama 2009, Urugereko rwemeje ko icyifuzo cy'Ubwunganizi cyasabaga kwimura umutangabuhamya wiswe AX55 kitakiri ngombwa, kubera ko Ubwunganizi bwivugiye ko butakimuhamagaje[814]. Uwo munsi na none, Urugereko rwemeye icyifuzo cy'Ubwunganizi cyasabaga kuvanaho ingamba zo kurindira umutekano abatangabuhamya biswe AB19 na AK01[815].

793. Ku itariki ya 13 Gashyantare 2009, Ubwunganizi bwashoje itangwa ry'ibimenyetso bishinjura, mu nama yasuzumaga aho urubanza rugeze. Urugereko rwanafashe icyemezo mu magambo cyemera icyifuzo cy'Ubwunganizi cyasabaga kwakira, nk'ikimenyetso, inyandikomvugo z'iburanisha, hashingiwe ku Ngingo ya 92 (D). Cyakora, rwanze kwemera icyifuzo Ubwunganizi bwatanze ku itariki ya 9 Gashyantare 2009 burusaba kwanga ubuhamya bw'abatangabuhamya cyangwa kongera kubahamagaza.

794. Ku itariki ya 2 Werurwe 2009, Urugereko rwemeye, kuri bimwe, icyifuzo cy'Ubwunganizi cyasabaga kwakira inyandiko nk'ibimenyetso gihamya hashingiwe ku Ngingo ya 89 (C) y'Amategeko.[816]

795. Ku itariki ya 3 Werurwe 2009, Urugereko rwemeye icyifuzo cya Porokireri cyarusabaga kwakira inyandikomvugo y'iburanisha iri mu cyongereza nk'ikimenyetso gihamya. Iyo nyandikomvugo y'iburanisha yari yarakiriwe mbere nk'ikimenyetso gihamya ku itariki ya 13 Gashyantare 2009[817]. Uwo munsi (tariki ya 3 Werurwe 2009), Urugereko rwatanze itegeko rishyiraho ingengabihe y'iburanisha maze rutegeka ababuranyi gutanga Imyanzuro nsozarubanza yanditse bitarenze tariki ya 2 Mata 2009. Rwemeje ko Imyanzuro nsozarubanza mu magambo yari gutangwa

[814] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kwimurira muri gereza y'Urukiko umutangabuhamya AX55 (Urugereko rwa Mbere rw'Iremezo), 27 Mutarama 2009.

[815] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kuvanaho ingamba zo kurinda umutekano w'abatangabuhamya biswe AB19 na AK01» (Urugereko rwa Mbere rw'Iremezo), 27 Mutarama 2009.

[816] Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kwakira inyandiko zimwe nk'ikimenyetso gihamya (Urugereko rwa Mbere w'Iremezo), 2 Werurwe 2009; reba n'inyandiko ikubiyemo ibyakosowe – Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kwakira, nk'ibimenyetso gihamya, inyandiko zimwe zatanzwe ku itariki ya 2 Werurwe 2009 (Urugereko rwa Mbere rw'Iremezo), 24 Werurwe 2009.

[817] Icyemezo ku cyifuzo cya Porokireri gisaba kwakira nk'ikimenyetso gihamya inyandikomvugo y'iburanisha iri mu cyongereza, iki kimenyetso gihamya kikaba cyari cyakiriwe ku itariki ya 13 Gashyantare 2009 (Urugereko rwa Mbere rw'Iremezo), 3 Werurwe 2009.

ku itariki ya 17 Mata 2009 kandi rugenera buri muburanyi iminota itarenze 90 yo gutanga ingingo ze mu magambo, n'iminota 30 yo gusubiza[818]. Mu ibaruwa rwatanze kuri interineti, Urugereko rwimuye itariki y'itangwa ry'Imyanzuro nsozarubanza mu magambo rubishyira ku ya 20 Mata 2009.

796. Ku itariki ya 24 Werurwe 2009, Urugereko rwatanze inyandiko ikubiyemo ibyakosowe ku cyemezo rwafashe ku cyifuzo cy'Ubwunganizi cyasabaga kwakira inyandiko zimwe zatanzwe ku itariki ya 2 Werurwe 2009. Muri icyo cyemezo, rwavuzemo ko rusanga izindi nyandiko ebyiri z'inyongera zidashobora kwakirwa[819].

797. Ku itariki ya 20 Gicurasi 2009, Urugereko rwatanze itegeko ryemeza ko urubanza rwari gusomerwa mu ruhame ku itariki ya 16 Kamena 2009[820]. Cyakora, ku itariki ya 25 Gicurasi 2009, Urugereko rwatanze inyandiko ikosora iryo tegeko, maze rwimurira isomwa ry'urubanza mu ruhame ku itariki ya 22 Kamena 2009[821].

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[818] Itegeko rigena ingengabihe y'iburanisha (Urugereko rwa Mbere rw'Iremezo), 3 Werurwe 2009.

[819] Inyandiko ikubiyemo ibyakosowe – Icyemezo ku cyifuzo cy'Ubwunganizi gisaba kwakira inyandiko zimwe zatanzwe ku itariki ya 2 Werurwe 2009 (Urugereko rwa Mbere rw'Iremezo), 24 Werurwe 2009.

[820] Itegeko rishyiraho ingengabihe y'iburanisha (Urugereko rwa Mbere rw'Iremezo), 20 Gicurasi 2009.

[821] Inyandiko ikubiyemo ibyakosowe - Itegeko rigena ingengabihe y'iburanisha (Urugereko rwa Mbere rw'Iremezo), 25 Gicurasi 2009.

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

UMUGEREKA WA II : INYANDIKO ZIFASHISHIJWE N'IBISOBANURO BY'AMAGAMBO

1. UBUKEMURAMANZA

1.1. Urukiko Mpanambyaha Mpuzamahanga Rwashyiriweho u Rwanda

Akayesu

Urubanza Porokireri aburana na Jean-Paul Akayesu, N° ICTR-96-4-T, Inyandiko y'urubanza mu rw'iremezo, 2 Nzeri 1998

Bagosora na bagenzi be

Urubanza Porokireri aburana na Bagosora na bagenzi be, N° ICTR-98-41-AR73, Icyemezo ku bujurire bwa Aloys Ntabakuze bwerekeranye n'ibibazo by'amategeko byabyukijwe n'icyemezo cyafashwe n'Urugereko rwa Mbere rw'Iremezo I ku itariki ya 29 Kamena 2006 ku cyifuzo gisaba kutemera ibimenyetso, (Urugereko rw'Ubujurire), 18 Nzeri 2006

Urubanza Porokireri aburana na Bagosora na bagenzi be, N° ICTR-98-41-T, Inyandiko y'urubanza mu rw'iremezo, 18 Ukuboza 2008

Bikindi

Urubanza Porokireri aburana na Bikindi, N° ICTR-01-72-T, Inyandiko y'urubanza mu rw'iremezo, 2 Ukuboza 2008

Urubanza rwitiriwe Cyangugu

Urubanza Porokireri aburana na Bagambiki na bagenzi be, N° ICTR-99-46-A, Inyandiko y'urubanza mu bujurire, 7 Nyakanga 2006

Gacumbitsi

Urubanza Porokireri aburana na Sylvestre Gacumbitsi, N° ICTR-01-64-T, Inyandiko y'urubanza mu rw'iremezo, 16 Kamena 2004

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

Urubanza Porokireri aburana na Sylvestre Gacumbitsi, N° ICTR-01-64-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

Urubanza Juvénal Kajelijeli aburana na Porokireri, N° ICTR-98-44A-A, Inyandiko y'urubanza mu bujurire, 23 Gicurasi 2005

Kamuhanda

Urubanza Jean de Dieu Kamuhanda aburana na Porokireri, N° ICTR-95-54A-A, Inyandiko y'urubanza mu bujurire, 19 Nzeri 2005

Karera

Urubanza François Karera aburana na Porokireri, N° ICTR-01-74-A, Inyandiko y'urubanza mu bujurire, 2 Gashyantare 2009

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, ICTR-95-1-A, Inyandiko y'urubanza mu bujurire, 1 Kamena 2001.

Muhimana

Urubanza Porokireri aburana na Mikaeli Muhimana, N° ICTR-95-1B-T, Inyandiko y'urubanza n'igenagihano mu rw'iremezo, 28 Mata 2005

Urubanza Mikaeli Muhimana aburana na Porokireri, N° ICTR-95-1B-A, Inyandiko y'urubanza mu bujurire, 21 Gicurasi 2007

Musema

Urubanza Porokireri aburana na Alfred Musema, N^{o} ICTR-96-13-T, Inyandiko y'urubanza mu rw'iremezo, 27 Mutarama 2000

Urubanza Porokireri aburana na Alfred Musema, N^{o} ICTR-96-13-A, Inyandiko y'urubanza mu bujurire, 16 Ugushyingo 2001

Muvunyi

Urubanza Porokireri aburana na Tharcisse Muvunyi, N^{o} ICTR-00-55A-T, Icyemezo ku bujurire bwa Porokireri ku cyemezo cyafashwe ku itariki ya 23 Gashyantare 2005 n'Urugereko rwa Mbere rw'Iremezo II, (Urugereko rw'Ubujurire) 12 Gicurasi 2005

Urubanza Porokireri aburana na Tharcisse Muvunyi, N^{o} ICTR-00-55A-A, Inyandiko y'urubanza mu rw'iremezo, 12 Nzeri 2006

Urubanza Tharcisse Muvunyi aburana na Porokireri, N^{o} ICTR-00-55A-A, Inyandiko y'urubanza mu bujurire, 29 Kanama 2008

Nahimana na bagenzi be

Urubanza Ferdinand Nahimana na bagenzi be baburana na Porokireri, N^{o} ICTR-99-52-A, Inyandiko y'urubanza mu bujurire, 28 Ugushyingo 2007

Nchamihigo

Urubanza Porokireri aburana na Nchamihigo, N^{o} ICTR-01-63-I, Inyandiko y'urubanza mu rw'iremezo, 12 Ugushyingo 2008

Ndindabahizi

Urubanza Emmanuel Ndindabahizi aburana na Porokireri, N^{o} ICTR-01-71-A, Inyandiko y'urubanza mu bujurire, 16 Mutarama 2007

Niyitegeka

Urubanza Eliézer Niyitegeka aburana na Porokireri, N^{o} ICTR-96-14-A, Inyandiko y'urubanza mu bujurire, 9 Nyakanga 2004

Ntagerura na bagenzi be

Urubanza Porokireri aburana na André Ntagerura na bagenzi be, N° ICTR-99-46-A, Inyandiko y'urubanza mu bujurire, 7 Nyakanga 2006

Ntakirutimana

Urubanza Porokireri aburana na Elizaphan Ntakirutimana na Gérard Ntakirutimana, N^os^ ICTR-96-10-A na ICTR-96-17-A, Inyandiko y'urubanza mu bujurire, 13 Ukuboza 2004

Rukundo

Urubanza Porokireri aburana na Rukundo, N° ICTR-01-70-T, Inyandiko y'urubanza mu rw'iremezo, 27 Gashyantare 2009

Rutaganda

Urubanza Porokireri aburana na Rutaganda, N° ICTR-96-3-A, Inyandiko y'urubanza mu bujurire, 26 Gicurasi 2003

Semanza

Urubanza Porokireri aburana na Laurent Semanza, N° ICTR-97-20-T, Inyandiko y'urubanza mu rw'iremezo, 15 Gicurasi 2003

Urubanza Laurent Semanza aburana na Porokireri, N° ICTR-97-20-A, Inyandiko y'urubanza mu bujurire, 20 Gicurasi 2005

Seromba

Urubanza Porokireri aburana na Athanase Seromba, N° ICTR-2001-66-T, Inyandiko y'urubanza mu rw'iremezo, 13 Ukuboza 2006

Urubanza Porokireri aburana na Athanase Seromba, N° ICTR-2001-66-A, Inyandiko y'urubanza mu bujurire, 12 Werurwe 2008

Simba

Urubanza Porokireri aburana na Aloys Simba, N° ICTR-01-76-T, Inyandiko y'urubanza mu rw'iremezo, 13 Ukuboza 2005

Urubanza Aloys Simba aburana na Porokireri, N° ICTR-01-76-A, Inyandiko y'urubanza mu bujurire, 27 Ugushyingo 2007

1.2. Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho Icyahoze Ari Yugosolaviya

Aleksovski

Urubanza Porokireri aburana na Aleksovski, N° IT-95-14/1A, Inyandiko y'urubanza mu bujurire

Blagojević na Jokić

Urubanza Porokireri aburana na Vidoje Blagojević na Dragan Jokić, N° IT-02-60-A, Inyandiko y'urubanza mu bujurire, 9 Gicurasi 2007

Blaškić

Urubanza Porokireri aburana na Tihomir Blaškić, N° IT-95-14-A, Inyandiko y'urubanza mu bujurire, 29 Nyakanga 2004

Brđanin

Urubanza Porokireri aburana na Brđanin, N° IT-99-36-T, Inyandiko y'urubanza mu rw'iremezo, 9 Mutarama 2004

Čelebići

Urubanza Porokireri aburana na Mucić na bagenzi be, N° IT-96-21-A, Inyandiko y'urubanza mu bujurire, 20 Gashyantare 2001

Galić

Urubanza Porokireri aburana na Stanislav Galić, N° IT-98-29-A, Inyandiko y'urubanza mu bujurire, 30 Ugushyingo 2006

Jesilić

Urubanza Porokireri aburana na Goran Jesilić, N° IT-95-10-A, Inyandiko y'urubanza mu bujurire, 5 Nyakanga 2001

Jokić

Urubanza Porokireri aburana na Miodrag Jokić, N^{o} IT-01-42/1-A, Inyandiko y'urubanza mu bujurire ku igenagihano, 30 Kanama 2005

Kordić na Čerkez

Urubanza Porokireri aburana na Dario Kordić na Mario Čerkez, N^{o} IT-95-14-/2-A, Inyandiko y'urubanza mu bujurire, 17 Ukuboza 2004

Krajišnik

Urubanza Porokireri aburana na Momčilo Krajišnik, N^{o} IT-00-39-A, Inyandiko y'urubanza mu bujurire, 17 Werurwe 2009

Krnojelac

Urubanza Porokireri aburana na Krnojelac, N^{o} IT-97-25-A, Inyandiko y'urubanza mu bujurire, 17 Nzeri 2003

Krstić

Urubanza Porokireri aburana na Radislav Krstić, N^{o} IT-98-33-T, Inyandiko y'urubanza mu rw'iremezo, 8 Gashyantare 2001

Urubanza Porokireri aburana na Radislav Krstić, N^{o} IT-98-33-A, Inyandiko y'urubanza mu bujurire, 19 Mata 2004.

Kupreškić na bagenzi be

Urubanza Porokireri aburana na Kupreškić na bagenzi be, N^{o} IT-96-16-A, Inyandiko y'urubanza mu bujurire, 23 Ukwakira 2001

Kvoćka na bagenzi be

Urubanza Porokireri aburana na Miroslav Kvoćka na bagenzi be, N^{o} 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

Urubanza Porokireri aburana na Mladen Naletilić na Vinko Martinović, N° IT-98-34-A, Inyandiko y'urubanza mu bujurire, 3 Gicurasi 2006

Orić

Urubanza Porokireri aburana na Naser Orić, N° IT-03-68-T, Inyandiko y'urubanza mu rw'iremezo, 30 Kamena 2006.

Urubanza Porokireri aburana na Naser Orić, N° IT-03-68-A, Inyandiko y'urubanza mu bujurire, 3 Nyakanga 2008

Simić

Urubanza Porokireri aburana na Blagoje Simić, N° IT-95-9-A, Inyandiko y'urubanza mu bujurire, 28 Ugushyingo 2006

Tadić

Urubanza Porokireri aburana na Tadić, N° IT-94-1-A, Inyandiko y'urubanza mu bujurire, 15 Nyakanga 1999

2. IBISOBANURO BY'AMAGAMBO YAKORESHEJWE N'IMPINAMA-GAMBO

Amategeko

Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

CDR

Impuzamugambi ziharanira Repubulika

FPR

Umuryango wa FPR

Impinamyanzuro yo mu ikubitiro y'Ubwunganizi

Urubanza Porokireri aburana na Callixte Kalimanzira, N° ICTR-05-88-T, Imyanzuro ibanziriza itangwa ry'ibimenyetso bishinjura, yatanzwe mu ibanga ku itariki ya 17 Nzeri 2008[822]

Impinamyazuro yo mu ikubitiro ya Porokireri

Urubanza Porokireri aburana na Callixte Kalimanzira, N° ICTR-05-88-PT, Imyanzuro mbanzirizarubanza ya Porokireri, yatanzwe ku itariki ya 16 Mata 2008

Imyanzuro nsozarubanza mu magambo

Inyandikomvugo y'iburanisha, 20 Mata 2009

Imyanzuro nsozarubanza yanditse y'Ubwunganizi

Urubanza Porokireri aburana na Callixte Kalimanzira, N° ICTR-05-88-T, Imyanzuro nsozarubanza yatanzwe mu ibanga ku itariki ya 2 Mata 2009[823]

Imyanzuro nsozarubanza yanditse ya Porokireri

Urubanza Porokireri aburana na Callixte Kalimanzira, N° ICTR-05-88-T, Inyandiko y'ibanga y'Imyanzuro nsozarubanza ya Porokireri, yatanzwe ku itariki ya 2 Mata 2009[824]

Inyandiko ikubiyemo ibimenyetso bishyigikira ibirego

Urubanza Porokireri aburana na Callixte Kalimanzira, N° ICTR-05-88-I, Inyandiko idasohoka hanze y'Urukiko – Inyandiko zishyigikira Inyandiko y'ibirego yakorewe Callixte Kalimanzira (Ingingo ya 66 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso), yatanzwe mu ibanga ku itariki ya 16 Ugushyingo 2005

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[822] Urugereko rwarebye n'inyandiko yahinduwe mu rurimi rw'icyongereza y'Imyanzuro y'Ubwunganizi ibanziriza itangwa ry'ibimenyetso bishinjura.

[823] Imyanzuro nsozarubanza y'Ubwunganizi yasuzumiwe hamwe n'inyandiko iyikosora: *Urubanza Porokireri aburana na Callixte Kalimanzira,* N° ICTR-05-88-T, Inyandiko ikosora amakosa yo mu Myanzuro nsozarubanza, yatanzwe mu ibanga ku itariki ya 17 Mata 2009. Urugereko kandi rwarebye inyandiko y'Imyanzuro nsozarubanza y'Ubwunganizi yahinduwe mu rurimi rw'icyongereza hamwe n'inyandiko iyikosora.

[824] Kuri uwo munsi Porokireri yatanze n'inyandiko y'Imyanzuro nsozarubanza igenewe rubanda.

Inyandiko y'ibirego ikosoye

Urubanza Porokireri aburana na Callixte Kalimanzira, N^o ICTR-05-88-I, Inyandiko yatanzwe ku itariki ya 31 Ukwakira 2007, Ikosora ry'amagambo yanditse nabi mu Nyandiko y'ibirego yatanzwe ku itariki ya 21 Nyakanga 2005

Inyandiko y'ibirego isobanuye

Urubanza Porokireri aburana na Callixte Kalimanzira, N^o ICTR-05-88-I, Inyandiko y'ibirego isobanuye yatanzwe mu ibanga ku itariki ya 20 Kamena 2007

Inyandiko y'ibirego

Urubanza Porokireri aburana na Callixte Kalimanzira, N^o ICTR-05-88-I, Inyandiko y'ibirego yatanzwe ku itariki ya 21 Nyakanga 2005

Kwitaba Urukiko bwa mbere

Inyandikomvugo y'iburanisha, 14 Ugushyingo 2005

MDR

Mouvement Démocratique Républicain [Ishyaka riharanira demokarasi muri Repuburika]

MRND

Mouvement Républicain National pour la Démocratie et le Développement [Muvoma Iharanira Repubulika, Demokarasi n'Amajyambere]

PL

Parti Libéral [Ishyaka riharanira ukwishyira ukizana kwa buri muntu]

RTLM

Radiyo RTLM

Sitati

Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, rwashyizweho n'Inama Ishinzwe Amahoro ku Isi, mu cyemezo 955

TPIR cyangwa Urukiko

Urukiko Mpanabyaha Mpuzamahanga rushinzwe gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibikorwa bya jenoside n'ibindi bikorwa binyuranije bikomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya 1 Mutarama n'iya 31 Ukuboza 1994

urup. (imp.)

Urupapuro (impapuro)

UMUGEREKA WA III: INYANDIKO Y'IBIREGO

Urukiko Mpanabyaha Mpuzamahanga

Rwashyiriweho u Rwanda

Umuryango
w'Abibumbye

Ibiro bya Porokireri
Amahoro Hotel, P.O.Box 749, Kigali, Rwanda
Fax: +1-212-963-4001 - Tel.: +25084266 or +1-212-963-9906

Urubanza N° ICTR-2005-88-I

POROKIRERI

aburana na

CALLIXTE KALIMANZIRA

INYANDIKO Y'IBIREGO

Yatanzwe ku itariki ya 21 Nyakanga 2005

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/TPIR

I. Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, ashingiye ku bubasha ahabwa n'Ingingo ya 17 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Sitati y'Urukiko »), arega

Callixte Kalimanzira ibyaha bikurikira :

I. **JENOSIDE,** hashingiwe ku Ngingo ya 2(3)(a) n'iya 6(1) za Sitati**;** cyangwa, icyo cyaha kiramutse kitamuhamye, akaryozwa

II. **KUBA ICYITSO CY'ABAKOZE JENOSIDE,** hashingiwe ku Ngingo ya 2(3)(e) n'iya 6(1) za Sitati;

III. **GUHAMAGARIRA ABANTU MU RUHAME KANDI KU BURYO BUTAZIGUYE GUKORA JENOSIDE,** hashingiwe ku Ngingo ya 2(3)(c) n'iya 6(1) za Sitati.

II. UREGWA

1. **Callixte Kalimanzira** yavukiye muri Komine ya Muganza, Perefegitura ya Butare, mu Rwanda, mu mwaka wa 1953. Afite impamyabumenyi ihanitse mu by'ubuhinzi kandi yagiye agira imyanya ikomeye inyuranye mu buyobozi bwa Leta.

2. Igihe ibivugwa muri iyi Nyandiko y'ibirego byabaga, Callixte Kalimanzira yari icyegera cya Perezida Théodore Sindikubwabo na Minisitiri w'Intebe Jean Kambanda, kubera ko bakomokaga mu ntara imwe, kandi Kalimanzira na Perezida Sindikubwabo bakaba bari mu ishyaka rimwe rya politiki. Byongeye kandi, yari umwe mu bantu bake cyane bakomokaga muri iyo ntara bari abakozi bakuru ba Leta.

   Yabaye umukozi mukuru wa Leta mu myanya ikurikira:

   (i) Superefe i Butare n'i Byumba;

   (ii) Umuhuzabikorwa w'inzego zishinzwe ubuhinzi muri Perefegitura ya Kigali;

   (iii) Umuyobozi w'Ishami rishinzwe amajyambere y'icyaro muri Perezidansi ya Repubulika;

   (iv) Umunyamabanga Mukuru muri Minisiteri y'Ubutegetsi bw'igihugu;

(v) Umuyobozi w'Ibiro bya Minisitiri muri Minisiteri y'Ubutegetsi bw'Igihugu, akaba yaragumye kuri uwo mwanya muri Guverinoma y'Agateganyo. Hagati y'itariki ya 6 Mata n'iya 25 Gicurasi yari umusimbura wa Minisitri w'Ubutegetsi bw'Igihugu;

(vi) Umuyoboke ukomeye w'ishyaka rya MRND; kandi

(vii) kubera ibyo, muri Perefegitura ya Butare, yari afite ububasha yakomoraga ku mategeko kuri ba burugumesitiri, abakonseye ba segiteri, abayobozi ba serire, ba nyumbakumi, abakozi bo mu nzego z'ubutegetsi, abajandarume, abapolisi ba komine, Interahamwe, abantu bitwaraga gisirikare n'abasiviri, kubera ko yashoboraga gutegeka abo bantu gukora cyangwa kudakora ibikorwa binyuranyije n'amategeko, kandi akaba yarashoboraga kubafatira ibyemezo ku birebana na disipuline cyangwa kubahanira ibyo bakoze binyuranyije n'amategeko cyangwa ibyo bateshutse gukora.

III. IBIREGO N'INCAMAKE Y'IBYABAYE

3. Perefegitura ya Butare iri mu majyepfo y'u Rwanda ikaba ihana imbibi n'u Burundi. Mu mwaka wa 1994, yari izwiho kuba ituwe n'Abatutsi benshi. Mu rwego rwa politiki, yari indiri y'Ishyaka ryo kwishyira ukizana (PL) ritavugaga rumwe na MRND. Ibyo biri mu byabujije Interahamwe kuhashinga imizi. Mu ntangiriro za Mata, Perefe wayo Jean Baptiste Habyarimana, wari Umututsi akaba n'umuyoboke wa PL, yarwanyije ubwicanyi ku mugaragaro.

4. Mu gihe ibivugwa byose muri iyi Nyandiko y'ibirego byabaga, mu Rwanda hari itsinda ry'abantu nyamuke bari bagize ubwoko bw'Abatutsi, kandi Ubutegetsi bwo mu Rwanda bwababafataga gutyo ku buryo buzwi. Abenshi mu baturage bari abo mu bwoko bw'Abahutu kandi na bo Ubutegetsi bwo mu Rwanda bwababafataga gutyo ku buryo buzwi.

5. Hagati y'itariki ya 6 Mata n'iya 17 Nyakanga 1994, mu Rwanda hose, by'umwihariko muri Perefegitura ya Butare, Interahamwe, abapolisi ba komine, abajandarume, abasirikare bo mu ngabo z'u Rwanda (FAR) n'abasiviri bitwaje intwaro bagabye ibitero byibasiye abaturage b'abasiviri babonaga ko ari Abatutsi cyangwa ko bashyigikiye Abatutsi. Muri ibyo bitero, bamwe mu baturage b'Abanyarwanda bishe abantu bakekwagaho kuba Abatutsi, cyangwa babatera ubumuga bubazahaza umubiri

cyangwa mu mutwe. Ibyo bitero byahitanye abantu benshi byabonaga ko ari abo mu bwoko bw'Abatutsi.

IKIREGO CYA 1: JENOSIDE

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Callixte Kalimanzira** icyaha cya **jenoside** giteganywa n'Ingingo ya 2(3)(a) ya Sitati, kubera ko hagati y'itariki ya 1 Mutarama 1994 n'iya 31 Ukuboza 1994, **Callixte Kalimanzira** yagize uruhare mu bwicanyi bwakorewe Abatutsi cyangwa mu bikorwa bikomeye byabateye ububabare bwabazahaje umubiri cyangwa mu mutwe, agamije kurimbura abantu bose bo muri ubwo bwoko cyangwa se igice cyabo bazira icyo bari cyo.

Cyangwa, icyo cyaha kiramutse kitamuhamye, akaryozwa:

IKIREGO CYA 2: KUBA ICYITSO CY'ABAKOZE JENOSIDE

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Callixte Kalimanzira** icyaha cyo **kuba icyitso cy'abakoze jenoside** giteganywa n'Ingingo ya 2(3)(e) ya Sitati, kubera ko hagati y'itariki ya 1 Mutarama 1994 n'iya 31 Ukuboza 1994, **Callixte Kalimanzira** yabaye icyitso mu bwicanyi bwakorewe Abatutsi cyangwa mu bikorwa byabateye ububabare bwabazahaje umubiri cyangwa mu mutwe, agamije kurimbura abantu bose bo muri ubwo bwoko cyangwa se igice cyabo bazira icyo bari cyo.

INCAMAKE Y'IBYABAYE BIREBANA N'IKIREGO CYA 1 N'ICYA 2

<u>*Uburyozwacyaha nka gatozi*</u>

6. Hashingiwe ku Ngingo ya 6(1) ya Sitati, **Callixte Kalimanzira** aryozwa nka gatozi icyaha cyo gukora jenoside cyangwa icyo kuba icyitso cy'abakoze jenoside kubera ko yacuze umugambi wo gukora ibyaha, yahamagariye kandi yategetse abantu kubikora, na we ubwe yarabikoze cyangwa, ku bundi buryo ubwo ari bwo bwose, yashyigikiye mu kubicurira umugambi, mu kubitegura cyangwa se mu kubitsotsoba. Byongeye kandi, **Callixte Kalimanzira,** yifashishije umwanya yarimo nk'uko bivugwa haruguru mu cyiciro cya II (cyiswe «Uregwa »), yahamagariye kandi yategetse abo yari akuriye gukora ibyaha bivugwa muri iyi Nyandiko y'ibirego. Ibikorwa

bishingirwaho mu kumuryoza icyaha nka gatozi bisobanuye ku buryo burambuye hano hasi kuva ku gika cya 7 kugeza ku cya 17.

Kuba Uregwa yarageze muri Perefegitura ya Butare kandi akayikoramo ingendo hirya no hino nyuma y'itariki ya 6 Mata 1994 ahamagarira abantu gukora jenoside ndetse anayiyobora

7. Mu rwego rwo gutangiza ubwicanyi bwibasiye Abatutsi muri Perefegitura ya Butare, Perezida Sindikubwabo, aherekejwe n'abategetsi benshi bari muri Guverinoma y'Agateganyo, yasuye Butare ku tariki ya 19 Mata 1994 kugira ngo ahamagarire abaturage gukora jenoside. Kubera ko Minisitiri w'Ubutegetsi bw'Igihugu atari ahari, **Callixte Kalimanzira** wari Umuyobozi w'Ibiro bya Minisitiri muri Minisiteri y'Ubutegetsi bw'Igihugu ni we wayoboye gahunda muri iyo nama yahuje abayobozi bo muri Guverinoma y'Agateganyo n'abaturage. Yahaye ijambo abayijemo bahamagariye abaturage kwica Abatutsi nk'uko byari byatangiye gukorwa mu zindi perefegitura. Amagambo rutwitsi yavuzwe muri iyo nama n'abari bagize Guverinoma y'Agateganyo, kandi **Callixte Kalimanzira** atigeze yamagana, yabaye imbarutso y'ubwicanyi bwahitanye Abatutsi babarirwa mu bihumbi muri Perefegitura ya Butare. Bityo, **Callixte Kalimanzira** yashyigikiye abantu mu gukora ubwicanyi bwakurikiyeho bwibasiye Abatutsi.

8. Hagati ya Mata n'igice cya mbere cya Nyakanga 1994, **Callixte Kalimanzira** yagiye i Butare inshuro zinyuranye ari kumwe n'abategetsi bakuru bo muri Guverinoma y'Agateganyo barimo Perezida Théodore Sindikubwabo, Minisitiri w'Intebe Jean Kambanda na Minisitiri w'Umuryango n'Iterambere ry'Abali n'Abategarugori, Pauline Nyiramasuhuko, n'abayobozi bakuru bo muri ako karere nka Perefe Alphonse Nteziryayo na ba ofisiye bakuru bo mu Ngabo z'u Rwanda (FAR) barimo Tharcisse Muvunyi. Icyari kigamijwe muri izo ngendo **Callixte Kalimanzira** yagiyemo, kwari ugukangurira abaturage politiki ya Guverinoma no kubahamagarira kwica Abatutsi. Kubera ibyo, muri Perefegitura ya Butare hishwe Abatutsi babarirwa mu bihumbi.

*Kuba **Callixte Kalimanzira** yaragize uruhare mu bwicanyi bwabereye ku gasozi ka Kabuye, muri Komine ya Ndora, Segiteri ya Gisagara.*

9. Ku itariki ya 23 Mata 1994 cyangwa hafi yayo, abasiviri b'Abatutsi babarirwa mu bihumbi bateraniye ku gasozi ka Kabuye kari muri Komini ya Ndora. **Callixte**

Kalimanzira ubwe yabashishikarije guhungira kuri ako gasozi abizeza ko bazarindwa bagahabwa n'ibiribwa. Aho kurindwa, bagabweho igitero n'Abahutu maze baricwa, **Callixte Kalimanzira** abizi kandi abireba. Ndetse **Callixte Kalimanzira** ubwe yashakishije abapolisi ba komine n'abasirikare bo kongerera igitero ingufu. Ku gasozi ka Kabuye haguye Abatutsi babarirwa mu bihumbi.

10. Ku itariki ya 23 Mata 1994 cyangwa hafi yayo, ubwo ku gasozi ka Kabuye hagabwaga ibitero, **Callixte Kalimanzira** n'abayobozi bo muri ako gace barimo Dominique Ntawukuriryayo wari Superefe, Fidèle Uwizeye, na Bernadette Mukarurangwa wari depite, baganiriye ku migendekere y'ubwicanyi bwaberaga kuri ako gasozi, icyo gihe bakaba bari imbere yo kwa Burugumestiri Fidèle Uwizeye. Bamaze kubona ko abagabye igitero batabashije gutsemba abantu bose bari bateraniye ku gasozi ka Kabuye kubera ko bari benshi cyane, bafashe icyemezo cyo kujya kugenzura uko byifashe kuri ako gasozi. Bityo, **Callixte Kalimanzira** ubwe yagenzuye ibitero byagabwe ku Batutsi bari bateraniye ku gasozi ka Kabuye, byahitanye ababarirwa mu bihumbi.

Kuba Callixte Kalimanzira yaragize uruhare mu bwicanyi bwabereye kuri bariyeri yari ku mugezi witwa Buzana no mu bwabereye mu i Rango

11. Mu mpera za Mata 1994, **Callixte Kalimanzira** yajyanye Abatutsi bagera ku ijana barimo abagore, abagabo n'abana kuri bariyeri yari ku mugezi witwa Buzana, aho Komine ya Ngoma n'iya Nyaruhengeri zihurira. Icyo gihe **Callixte Kalimanzira** yari kumwe na Koloneli Tharcisse Muvunyi na Koloneli Alphonse Nteziryayo baherekejwe n'abasirikare babarindaga. Benshi mu Batutsi bajyanyweyo bari bafite ibikomere bikomeye ku mubiri, by'umwihariko ku dutsinsino. **Callixte Kalimanzira** yafashe icyemezo ko Abatutsi batari bagifite imbaraga zo gukomeza urugendo bagomba kwicirwa aho kuri bariyeri, anatanga itegeko ko abandi bajya kubicira mu i Rango ku birometero bike uvuye kuri iyo bariyeri. **Callixte Kalimanzira** yayoboye igikorwa cyo kwica Abatutsi bari bananiwe cyane batagishoboye gukomeza urugendo, ndetse ubwe hari abo yahondaguye kugeza bavuyemo umwuka. Abatutsi bari basigaye bajyanywe mu Irango aho abagera kuri 50 muri bo biciwe, bitegetswe na we.

Ibindi bikorwa byo guhamagarira abantu kwica Abatutsi kandi byakurikiwe

n'ubwicanyi

12. Ku itariki ya 5 Kamena 1994 cyangwa hafi yayo, **Callixte Kalimanzira** yagiye kuri Santere ya Gasagara, muri Segiteri ya Mugusa, ari kumwe na Koloneli Tharcisse Muvunyi n'abasirikare, ahamagarira abaturage kwica Abatutsi bataretse n'abari bakiri mu nda za ba nyina. Nyuma yaho, ari ku biro bya Komine ya Gikonko [sic], yabwiye ijambo abari aho avuga ko Abatutsi bose bari bakiriho, harimo abagore, abakobwa, abasaza n'abana bagombaga kwicwa. Kubera ayo magambo yo guhamagarira abantu kwica abandi, abagore n'abakobwa barishwe.

13. Mu ntangiriro za Gicurasi 1994, Callixte Kalimanzira yahagaze kuri bariyeri yari muri Segiteri ya Kibilizi maze abwira abayicungaga ko bagomba guhiga Abatutsi mu ibanga ngo kubera ko hari abanyamahanga bakurikiranaga ibyarimo kubera mu Rwanda. Yanabategetse kurimbura amazu yose y'Abatutsi, bakanasibanganya ibisigisigi byayo byose, no kubwira Abatutsi ko amahoro yagarutse kugira ngo bave mu bwihisho.

14. Ku itariki ya 5 Kamena 1994 cyangwa hafi yayo, **Callixte Kalimanzira** yafashe ijambo imbere y'abaturage b'Abahutu bari ku biro bya Komine ya Gikonko [sic], ategeka ko Abatutsi bose bakiriho bicwa, harimo abagore, abakobwa, abasaza n'abana ngo kubera ko FPR iramutse itsinze urugamba bashobora kuzaba abatangabuhamya bo gushinja abakoze ubwicanyi. Iyo nama ikirangira, abakecuru babiri n'abakobwa umunani barishwe, ari bo: Mukamazimpaka, Nyaraneza Salafina, Mukaruyonza na nyina, Nyaramisago, Goretha Umubyeyi, Anasthasia Nakabonye, Apolinaria, n'abakobwa babiri ba Kimonyo. Na none kandi, abana b'Abatutsi babarirwa hagati ya 10 na 15 na bo bishwe kubera itegeko **Callixte Kalimanzira** yari yahaye abaturage b'Abahutu.

Guhamagarira abantu gushyiraho za bariyeri, kuzigenzura, no guhamagarira abaturage gufata intwaro kugira ngo bice Abatutsi

15. Guhera hagati muri Mata kugeza mu mpera za Nyakanga 1994, **Callixte Kalimanzira** yahamagariye abaturage gushyiraho za bariyeri kugira ngo bice Abatutsi. Akenshi, ubwe yabaga ari kuri izo bariyeri kugira ngo agenzure uko zikora. Abatutsi benshi biciwe kuri izo bariyeri zari zashyizweho bitegetswe na **Callixte Kalimanzira** kandi ari na we uzigenzura.

*Uruhare rwa **Callixte Kalimanzira** mu itangwa ry'intwaro*

16. Perezida Juvénal Habyarimana amaze iminsi ibiri apfuye, **Callixte Kalimanzira** yagiye muri Komine ya Kigembe mu modoka yarimo isanduku yuzuye imipanga, ayiha Bonaventure Nkundabakora anamwibutsa ko yujuje amasezerano yari yamuhaye yo kumuzanira intwaro. Iyo mipanga yatanzwe na **Callixte Kalimanzira** yakoreshejwe mu kwica Abatutsi. Na none kandi, **Callixte Kalimanzira** yagemuraga buri gihe intwaro zifite ubugi ku biro bya Komine ya Muganza zigashyirwa mu bubiko bw'intwaro bwari buhari. Izo ntwaro zakwirakwijwe mu baturage bihagarariwe na **Callixte Kalimanzira** kandi zakoreshejwe mu kwica Abatutsi.

*Uruhare rwa **Callixte Kalimanzira** mu myitozo yo gukoresha intwaro yahawe abaturage*

17. Muri Gicurasi 1994, ku kibuga cy'umupira w'amaguru cyo muri Komine ya Muganza habereye ikoraniro ryari rigamije kwigisha abaturage gukoresha intwaro. **Callixte Kalimanzira,** Chrysologue Bimenyimana wari Burugumesitiri wa Komine ya Muganza, na Alphonse Nteziryayo wari Perefe wa Perefegitura ya Butare bari muri iryo koraniro. **Callixte Kalimanzira** ubwe yeretse abari mu nama uburyo barashisha umuheto. Abaturage bigishijwe gukoresha intwaro bihagarariwe na **Callixte Kalimanzira** bagize uruhare mu bwicanyi bwibasiye Abatutsi muri ako karere nyuma y'icyo gihe.

IKIREGO CYA 3: GUHAMAGARIRA ABANTU MU BURYO BUTAZIGUYE KANDI MU RUHAME GUKORA JENOSIDE

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Callixte Kalimanzira icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenoside,** giteganywa n'Ingingo ya 2(3)(c) ya Sitati y'Urukiko, kubera ko, hagati y'itariki ya 1 Mutarama 1994 n'iya 17 Nyakanga 1994, yahamagariye abantu mu ruhame kandi mu buryo butaziguye gukora ubwicanyi bwibasiye Abatutsi no kubateza ububabare bukomeye bubazahaza umubiri cyangwa mu mutwe, hagamijwe kurimbura abagize ubwo bwoko bose cyangwa se igice cyabo bazira icyo bari cyo. Mu bantu yahamagariye gukora ibyo byaha, harimo abayobozi bo mu karere, abapolisi ba komine, Interahamwe, abajandarume, abasirikare n'abasiviri.

INCAMAKE Y'IBYABAYE BIREBANA N'IKIREGO CYA 3

Uburyozwacyaha nka gatozi

18. Hashingiwe ku Ngingo ya 6 (1) ya Sitati, **Callixte Kalimanzira** aryozwa nka gatozi kuba yarahamagariye abantu mu buryo butaziguye kandi mu ruhame gukora jenoside kubera ko yakanguriye abantu gukora icyo cyaha, yacuze umugambi wacyo, yategetse abandi kugikora kandi na we ubwe yaragikoze, cyangwa se ku bundi buryo ubwo ari bwo bwose yashyigikiye abantu mu gucura umugambi w'icyo cyaha, mu kugitegura cyangwa mu kugitsotsoba. Ibikorwa bishingirwaho mu kumuryoza icyaha nka gatozi bisobanuye ku buryo burambuye hano hasi kuva ku gika cya 19 kugeza ku cya 27.

19. Mu mpera za Werurwe 1994, abategetsi bo mu karere bakoreye inama muri Serire ya Nyamigango, Segiteri ya Gisagara, Komine ya Ndora (kuri santere y'ubucuruzi ya Gisagara). Muri iyo nama, **Callixte Kalimanzira** yafashe ijambo ahamagarira abaturage gufata intwaro kugira ngo bitegure kurwanya « umwanzi ». Yashishikarije kandi abazi gukora ibikoresho gakondo kubikora, anizeza abaturage kuzabaha imbunda.

20. Ku itariki ya 9 Mata 1994 cyangwa hafi yayo, hari inama yabereye muri Serire ya Kanage, Segiteri ya Mukindo, Komine ya Kibayi. Muri iyo nama, **Callixte Kalimanzira** yabwiye impunzi z'Abarundi ko Guverinoma y'Agateganyo izizera, ko Perezida Juvénal Habyarimana yari yarazitayeho kandi ko na Perezida Sindikubwabo azabigenza atyo, anazibwira ko umwanzi wazirukanye mu Burundi ari we wishe Perezida Habyarimana na Perezida Ntaryamira. Yakomeje azinginga ngo ntizizasohoke mu gihugu, azibwira ko icyari cyamuzanye kwari ukuzizanira intwaro gakondo zo kwirwanaho zihangana n'« umwanzi ».

21. Ahagana hagati muri Mata 1994, **Callixte Kalimanzira** yagiye kuri bariyeri yitwaga iya Jaguar yari imbere ya kiliziya y'Abagatorika yo ku Gisagara ari kumwe n'abasirikare batatu maze aha imbunda Marcel Ntirusekanwa wari ushinzwe iyo bariyeri. **Callixte Kalimanzira** yabwiye Marcel Ntirusekanwa ko iyo mbunda yagombaga gukoreshwa mu kwica Abatutsi.

22. Mu mpera za Mata 1994, **Callixte Kalimanzira** yagiye kuri bariyeri yari aho Segiteri ya Muganza n'iya Remera zihurira haca umuhanda ugana i Kirarambogo, ari mu

modoka yari itwaye abajandarume. Yabwiye abitsindagira abacungaga iyo bariyeri ko bagombaga kuba bafite intwaro bose kandi ko bagombaga kwica Abatutsi. Icyo gihe, **Callixte Kalimanzira** yakubise umuntu urushyi amuziza ko nta ntwaro yari afite, undi utari ufite intwaro amwinjiza mu modoka ye ku gahato maze akomeza yerekeza ku Gisagara.

23. Mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994, **Callixte Kalimanzira** yagiye mu nama y'abaturage yabereye ku kibuga cy'umupira w'amaguru cya Nyabisagara muri Komine ya Kibayi. Muri iyo nama, abafashe ijambo barimo na **Callixte Kalimanzira** bashimiye abaturage b'Abahutu umurava bagaragaje mu kugerageza kurimbura Abatutsi.

24. Mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994, mu minsi mike yakurikiye inama y'abaturage yabereye ku kibuga cy'umupira w'amaguru cya Nyabisagara, ku biro bya Komine ya Kibayi ivugwa haruguru mu gika cya 23, **Callixte Kalimanzira** yagiye ku kigo cy'amashuri abanza cya Rwamiko maze ashimira abari mu nama kubera « akazi » bakoze. Yabasabye kandi gukomeza kuba maso no gukomeza kwitwaza intwaro no kwikiza Abatutsi.

25. Muri Gicurasi 1994, **Callixte Kalimanzira** yahagaze kuri bariyeri yari ahitwa Sakindi muri Segiteri ya Kibirizi, maze abwira abantu bayicungaga ko bagomba kwica Abatutsi mu ibanga, bagasenya amazu yabo maze bagatera urutoki mu matongo yabo kugira ngo hatagira ikimenyetso gisigara abanyamahanga bashobora kubona. Yanababwiye ko bagomba kubwira Abatutsi bihishe ko amahoro yagarutse kugira ngo bave mu bwihisho, ayo akaba yari amayeri yo kugira ngo bajye ahagaragara maze babice.

26. Muri Gicurasi 1994, **Callixte Kalimanzira** yageze ahantu hari bariyeri ari mu ikamyoneti *(pick-up)* yari itwaye abasirikare bafite intwaro. Yavuye mu modoka maze ashishikariza abacungaga iyo bariyeri gukomeza kugenzura buri wese no gushakisha umwanzi ari we Mututsi. Icyo gihe, **Callixte Kalimanzira** yahamagaye umuntu wari ku ipikipiki barimo bagenzura aho kuri bariyeri ariko indangamuntu ye yanditsemo ko ari Umuhutu, amutwama amuziza ko atitwaje intwaro yo kwica Abatutsi kandi amabwiriza yaratanzwe.

27. Guhera hagati muri Mata kugeza muri Kamena 1994, **Callixte Kalimanzira** yagenzuraga niba buri wese yitwaje intwaro yo kwica Abatutsi kandi ntiyazuyazaga kwiyama abatazitwaje, ndetse akageza n'aho abakubita anababwira ko ashobora kubafatira ibihano biremereye. Mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994, **Callixte Kalimanzira** ubwe yakubise Umuhutu impiri amuziza ko atitwaje intwaro yo kwica Abatutsi.

Arusha, Tanzaniya

Ku itariki ya :

Hassan Bubacar Jallow
Porokireri