

ICTR-05-84-I
25-02-2014
(49/ter - 1/ter)

Urubanza rwa Joseph Serugendo N° ICTR-2005-84-I

49/ter
JN
12 Kamena 2006



Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho
u Rwanda

UMURYANGO
W'ABIBUMBYE

URUGEREKO RWA MBERE RW'IREMEZO I

Umwimerere : icyongereza

Abacamanza : Erik Møse, Perezida
Jai Ram Reddy
Sergei Alekseevich Egorov

Gerefiye : Adama Dieng

Itariki: 12 Kamena 2006

POROKIRERI

aburana na

JOSEPH SERUGENDO

Urubanza n° ICTR-2005-84-I

JUDICIAL RECORDS/ARCHIVES
RECEIVED
UNICTR

2014 FEB 25 A 9:58

INYANDIKO Y'URUBANZA RUGENA IGIHANO

Ibiro bya Porokireri

Hassan Bubacar Jallow
Stephen Rapp
William Egbe

Ubwunganizi

Bwan Cecil Maruma

AMASHAKIRO

AMASHAKIRO	i
I. AMAVU N’AMAVUKO Y’IBURANISHA N’AMASEZERANO Y’UBWEMERACYAHA	1
II. IBYABAYE	6
III. AMATEGEKO AKURIKIZWA MU IGENAGIHANO.....	10
A. IBIZIRIKANWA MURI RUSANGE	10
B. INGINGO YA 23 YA SITATI N’INGINGO YA 101 Y’AMATEGEKO	12
IV. IBINTU BIGOMBA KUZIRIKANWA MU IGENAGIHANO.....	13
A. IMPAMVU ZONGERA IGIHANO.....	15
i) Ibivugwa n’abaturanyi	15
ii) Imyanzuro y’Urugereko	16
B. IMPAMVU ZIGABANYA IGIHANO.....	17
i) Ibivugwa n’abaturanyi.....	17
ii) Imyanzuro y’Urugereko	18
C. IBIKURIKIZWA N’INKIKO Z’U RWANDA MU IGENAGIHANO	24
D. IGIHANO CYASABWE N’ABATURANYI.....	25
V. IGENAGIHANO	26
A. UBUREMERE BW’IBYAHA	26
B. IMIBEREHO BWITE Y’UREGWA N’IMPAMVU ZONGERA N’IZIGABANYA UBURYOZWACYAHA.....	29
C. GUKURA MU GIHANO IGIHE UREGWA AMAZE AFUNZWE	31
VI. ICYEMEZO CY’URUKIKO	31
IMIGEREKA.....	31
I. UBUKEMURAMANZA N’IBISOBANURO BY’AMAGAMBO YAKORESHEJWE.....	32
A. UBUKEMURAMANZA BWA TPIR.....	32
i) Urugereko rw’Ubujurire	32
ii) Urugereko rwa Mbere z’Iremezo	32
B. UBUKEMURAMANZA BWA TPIY	34
i) Urugereko rw’Ubujurire	34
ii) Urugereko rwa Mbere rw’Iremezo	35
C. IBISOBANURO BY’AMAGAMBO.....	35
II. INYANDIKO Y’IBIREGO	36

I. AMAVU N'AMAVUKO Y'IBURANISHA N'AMASEZERANO Y'UBWEMERACYAHA

1. Mu Nyandiko y'ibirego yemejwe n'Umucamanza Sergei Alekseevich Egorov ku itariki ya 22 Nyakanga 2005, Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda yaregaga Joseph Serugendo ubwumvikane bugamije gukora jenocide, jenocide, kuba icyitso cy'abakoze jenocide, guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenocide n'itoteza nk'icyaha cyibasiye inyokomuntu.
2. Serugendo yafashwe ku itariki ya 16 Nzeri 2005 azanwa ku Rukiko ku itariki ya 23 Nzeri 2005. Ku itariki ya 30 Nzeri 2005, yitabye Urukiko bwa mbere ahakana ibirego bitanu yashinjwaga mu Nyandiko y'ibirego. Cyakora, yahise atangira kugirana imishyikirano na Porokireri kugira ngo afatanye na we atizigamye kandi azemere ibyaha yari yahakanye.
3. Ku itariki ya 12 Mutarama 2006, ababuranyi batanze icyifuzo bahuriyeho gisaba Urugereko gusuzuma amasezerano y'ubwemeracyaha hagati ya Joseph Serugendo na Porokireri¹. Uwo muni, Porokireri yanasabye uruhushya rwo guhindura Inyandiko y'ibirego². Mu mushinga w'Inyandiko y'ibirego yahinduwe, Porokireri yakuyeho ibirego bitanu³ maze asigara ashinja Serugendo ibirego bibiri⁴.

¹ Icyifuzo cyatangiwe hamwe n'ababuranyi bombi gisaba Urugereko gusuzuma amasezerano y'ubwemeracyaha hagati ya Joseph Serugendo n'Ibiro bya Porokireri, cyatanze mu ibanga ku itariki ya 12 Mutarama 2006.

² Icyifuzo Porokireri yatanze ashingiye ku ngingo za 72, 73, 50 na 51 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso asaba guhindura Inyandiko y'ibirego, cyatanze mu ibanga ku itariki ya 12 Mutarama 2006.

³ Ikirego cya mbere: Ubwumvikane bugamije jenocide (ingingo ya 6 (1) ya Sitati) ; Ikirego cya kabiri : jenocide (ingingo ya 6 (1) na (3) ya Sitati) ; Ikirego cya gatatu: kuba icyitso cy'abakoze jenocide (ingingo ya 6 (1) na (3) ya Sitati) ; Ikirego cya kane : guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenocide (ingingo ya 6 (1) na (3) ya Sitati) ; Ikirego cya 5: itoteza nk'icyaha cyibasiye inyokomuntu (ingingo ya 6 (1) na (3) ya Sitati).

⁴ Ikirego cya mbere : Guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora jenocide (ingingo ya 6 (1) ya Sitati) ; Ikirego cya kabiri : itoteza nk'icyaha cyibasiye inyokomuntu (ingingo ya 6 (1) ya Sitati).

46/ter

4. Ku itariki ya 16 Gashyantare 2006, ababuranyi batanze inyandiko bahuriyeho y'amasezerano y'ubwemeracyaha. Muri ayo masezerano, Serugendo yemeye kwemera icyaha ku birego bibiri ashinjwa mu mushinga w'Inyandiko y'ibirego yahinduwe ari byo : guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenocide, nk'uko biteganywa n'ingingo ya 2 (3)(c) n'iya 6(1) za Sitati y'Urukiko, n'itoteza nk'icyaha cyibasiye inyokomuntu, nk'uko biteganywa n'ingingo ya 3 (h) n'iya 6 (1) z'iyo Sitati.
5. Mu iburanisha ryabaye ku itariki ya 15 Werurwe 2005, hakurikijwe ingingo ya 62 bis y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso (« Amategeko ») kugira ngo Urugereko rwumve icyo Serugendo atekereza ku birego ashinjwa, Urugereko rwemeye icyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego⁵. Muri iryo buranisha, Serugendo yemeye ibyaha aregwa mu Nyandiko y'ibirego yahinduwe. Impande zombi zemeranyijwe ko kwemera icyaha k'Uregwa n'uru rubanza rugena igihano bishingiye ku Nyandiko y'ibirego yahinduwe no ku masezerano y'ubwemeracyaha.
6. Mu masezerano y'ubwemeracyaha havugwa ko Serugendo yiyemeje kwemera ibyaha bibiri bivugwa haruguru⁶. Havugwamo kandi ko « yasobanukiwe n'ingaruka ndetse n'uburemere bw'ibyaha yakoreye mu Rwanda mu mwaka wa 1994⁷ ». Kubera amakuru yuzuye kandi y'ukuri Uregwa yatanze ku bintu byabaye mu Rwanda mu mwaka wa 1994, n'uruhare rwe bwite muri ibyo bintu, amasezerano y'ubwemeracyaha agaragaza ubushake Serugendo afite « bwo gutanga umuganda muri gahunda ikenewe y'ubwiyunge bw'Abanyarwanda »⁸.
7. Mu masezerano y'ubwemeracyaha havugwa ko Serugendo yiyemeje kwemera icyaha «ku bushake, nta gahato »⁹. Byongeye kandi, yumva neza ko ayo masezerano akuraho uburenganzira afite bwo kuba yafatwa nk'umwere igihe cyose atari yahamwa n'icyaha, agakuraho n'uburenganzira bugenerwa uregwa mu rubanza ruburanishijwe mu buryo

⁵ Inyandikomvugo y'iburanisha ku bwemeracyaha, 15 Werurwe 2006, urup. 5

⁶ Amasezerano y'ubwemeracyaha, igika 2.

⁷ Ni kimwe no haruguru, igika 4.

⁸ Ni kimwe no haruguru, igika 12.

⁹ Ni kimwe no haruguru, igika 66. Reba na none inyandikomvugo y'iburanisha, 15 Werurwe 2006, urup. 6

45/ter

busanzwe¹⁰. Mu byo Serugendo yiyemeje muri aya masezerano, harimo gufatanywa na Porokireri¹¹.

8. Kubera ko Serugendo yemeye icyaha, agafatanywa na Porokireri nta buryarya akanubahiriza inshingano zose zikubiye muri ayo masezerano, Porokireri yiyemeje gusaba Urugereko guhanisha Serugendo igifungo kiri hagati y'imyaka 6 na 14¹². Cyakora, ku byerekeranye n'igihano, Urugereko ntirugomba byanze bikunze kugendera kuri ayo masezerano ababuranyi bagiranye¹³.
9. Ibirego bibiri Serugendo ashinjwa mu Nyandiko y'ibirego yahinduwe biteganywa n'ingingo ya 2 n'ya 3 za Sitati. Mu masezerano y'ubwemeracyaha no mu bukemuramanza bw'Urukiko havugwa ibintu by'ingenzi bikurikira bigize icyaha cyo guhamagarira abandi bantu, mu buryo butaziguye kandi mu ruhame, gukora icyaha cya jenocide giteganywa n'ingingo ya 2 (3) c) ya Sitati :

- Uregwa yahamagariye abantu gukora jenocide ;
- Kubibahamagarira byakozwe mu buryo butaziguye;
- Kubibahamagarira byakozwe mu ruhame ;
- Uregwa yari afite igitekerezo cyihariye cyo gukora jenocide, ni ukuvuga kurimbura abantu bese, cyangwa igice cyabo, bahuriye ku bwenehugu, ubwoko cyangwa idini¹⁴.

¹⁰ Ubwo burenganzira burimo ubu bukurikira: guhakana ibyaha no gusaba ko Porokireri agaragaraza, ku buryo budashidikanywaho, ibyaha amurega mu Nyandiko y'ibirego yahinduwe bigakorwa mu rubanza rutabogamye kandi ruburanishijwe mu ruhame ; gutegura ibimenyetso bye bishinjura no kubitanga mu rubanza nk'urwo; kubaza cyangwa undi muntu akamubariza abatangabuhamya bashinja mu rubanza rwe no kwemererwa gutanga no kubaza abatangabuhamya bashinjura mu buryo bumwe nk'ubw'abashinja (Amasezerano yo kwemera icyaha, igika 65).

¹¹ Ni kimwe no haruguru, ibika 51-53.

¹² Ni kimwe no haruguru, igika 59. Urwo rwego rw'ibihano rwasubiwemo. Reba Imyanzuro ya nyuma ya Porokireri ibanziriza igenagihano, igika 5, n'ibukurikira.

¹³ Ingingo ya 62 bis B) y'Amategeko.

¹⁴ Amasezerano y'ubwemeracyaha, igika 24. Ku byerekeranye n'ubukemuramanza, nk'urugero reba, imanza zikurikira : *Urubanza rwa Nahimana na bagenzi be*, Inyandiko y'urubanza mu rw'iremezo, ibika 1071, 1072 na 1080 ; *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu rw'iremezo, ibika 850-854 ; *Urubanza rwa Semanza*,

44/ter

10. Mu masezerano y'ubwemeracyaha no mu bukemuramanza bw'Urukiko, havugwa ibintu bikurikira bigize itoteza nk'icyaha cyibasiye inyokomuntu, giteganywa n'ingingo ya 3 h) ya Sitati:

- Uregwa yakoze bimwe mu byaha bibangamira uburenganzira bw'ibanze cyangwa shingiro bw'ikiremhamuntu;
- Ibyaha bivugwa byakozwe kubera impamvu z'ivangura zishingiye kuri politiki cyangwa ubwoko ;
- Uregwa yari azi neza cyangwa yari afite impamvu zo kumenya urwego rusange yakozemo ibyo byaha;
- Ibyaha bivugwa byakozwe mu rwego rw'igitero rusange cyangwa kiri kuri gahunda, cyibasiye abatwaga b'abasiviri ;
- Ibyo bitwaga byagabwe ku bantu bazira amashyamba ya politiki barimo, ubwoko bwabo cyangwa idini ryabo¹⁵.

11. Mu iburanisha ryo ku itariki ya 15 Werurwe 2006, Urugereko rwarebye niba kwemera icyaha bishingiye ku bikorwa bihagije ngo hagaragazwe ibyaha byaregwe n'uruhare rwa Serugendo mu ikorwa ryabyo¹⁶. Kubera ko rwasanze Uregwa yaremeye icyaha ku bushake, azi ingaruka zabyo kandi adahuzagurika, nk'uko biteganywa n'ingingo ya 62 B) y'Amategeko, Urugereko rwahamije Serugendo buri cyaha yemeye¹⁷.

Inyandiko y'urubanza mu rw'iremezo, ibika 347-350 ; *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, ibika 21, 22.

¹⁵ Amasezerano y'ubwemeracyaha, igika 26. Ku byerekeye ubukemuramanza, nk'urugero reba, *Urubanza rwa Krnojelac*, Inyandiko y'urubanza mu bujirire, ibika 181-188 ; *Urubanza rwa Nahimana na bagenzi be*, Inyandiko y'urubanza mu rw'iremezo, ibika 1001, 1012-1017 na 1069-1072 ; *Urubanza rwa Niyitegeka*, Inyandiko y'urubanza mu rw'iremezo, igika 431 ; *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, ibika 559-562.

¹⁶ Inyandikomvugo y'iburanisha ku bwemeracyaha, 15 Werurwe 2006, imp. 8, 9. Byongeye kandi, abaturanyi bemeranya ko iyo Porokireri aza gutanga ibimenyetso afite mu rubanza ngo agaragaze ibyabaye bivugwa mu masezerano y'ubwemeracyaha, Uregwa yari guhamwe n'ibyaha byose aregwa mu Nyandiko y'ibirego yahinduwe (Amasezerano y'ubwemeracyaha, ibika 30, 49).

¹⁷ Inyandikomvugo y'iburanisha ku bwemeracyaha, 15 Werurwe 2006, imp. 8, 9. Ingingo ya 62 B) y'Amategeko igira iti : « Iyo Uregwa yemeye icyaha nk'uko biteganywa mu gika A) v) cyangwa agasaba kwisubira ngo yemere

43/ter

12. Urugereko rwashyikirijwe imyanzuro ya Porokireri yerekeranye n'igenagihano ku itariki ya 3 Gicurasi 2006, naho iy'Ubwunganizi ruyishyikirizwa ku ya 18 Gicurasi 2006.
13. Ku itariki ya 1 Kamena 2006, habaye iburanisha ku igenagihano. Muri iryo buranisha, Ubwunganizi bwahamagaje abagabo babiri batanze ubuhamya ku mico myiza y'Uregwa mbere y'ibyabaye mu Rwanda, no ku kuntu yafashije Abatutsi muri jenocide¹⁸. Byongeye kandi, Urugereko rwemeye ko ubuhamya bwanditse bw'abagabo bane bashinjura bushyirwa muri dosiye nk'ibimenyetso. Ubwo buhamya bwose bwavugaga ku mico myiza Uregwa yari afite mbere y'ibyabaye n'ukuntu yari ashoboye akazi¹⁹.
14. Serugendo yatanze ubuhamya bugufi mu magambo kandi ashyira muri dosiye inyandiko ebyiri z'ubuhamya yari yaranditse agaragaza ko yicuza, abikuye ku mutima, ibyo yakozwe kandi ko abisabira imbabazi Abanyarwanda²⁰. Bukeye, ku wa gatanu tariki ya 2 Kamena 2006, Urugereko rwakijije urubanza mu magambo maze rusoma incamake yarwo.

icyaha yari yarahakanye, Urugereko rugomba kugenzura niba ubwemeracyaha bwe: i) bwarabaye nta gahato kandi ku bwende, ii) ko yabikoze azi neza icyo yiyemeje, iii) ko butarimo guhuzagurika, kandi ko iv) bushingiye ku bimenyetso bihagije mu kugaragaza icyaha n'uruhare uregwa yagize mu ikorwa ryacyo, hitawe ku bimenyetso by'ukuri cyangwa ko hagati y'uregwa na Porokireri nta kunyuranya gukomeye kuriho ku birebana n'uko ibintu byagenze, rwasanga ari uko bimeze rukaba rwakwemeza ko uregwa ahamwa n'icyaha maze rugategeka Gerefiye gushyiraho itariki y'isomwa ry'urubanza rumugenera igihano ».

¹⁸ Umutangabuhamya wiswe AX avuga ko muri jenocide Uregwa yamukijije akamukura mu menyo y'abagabye ibitero (Inyandikomvugo y'iburanisha, 1 Kamena 2006, imp. 5-9). Umutangabuhamya wiswe BG avuga ku mibanire myiza hagati y'Uregwa n'abantu bo mu moko yose. Avuga kandi n'amagara y'abantu bo mu muryango we (Ni kimwe no haruguru, imp. 9-20).

¹⁹ Ubwo buhamya bwanditse bwashyizwe muri dosiye nyuma y'icyemezo cy'Urukiko cyitwa "Icyemezo ku Cyifuzo gisaba ko ubuhamya bwanditse bushyirwa mu bimenyetso", hashingiwe ku ngingo ya 92 *bis*, cyo ku itariki ya 1 Kamena 2006.

²⁰ Ibimenyetso gihamya n° 11 na 12 by'Ubwunganizi.

II. IBYABAYE

15. Jozefu Serugendo yavukiye i Kipushi (muri Repubulika Iharanira Demokarasi ya Kongo) ku itariki ya 24 Kanama 1953²¹.
16. Mu gihe cy'ibyabaye bivugwa mu Nyandiko y'ibirego yahinduwe, Serugendo yari umwe mu bagize Komite yagize igitekerezo cyo gushinga RTLM (*Comité d'initiative*), ari na bo bari bagize inama y'ubuyobozi bw'iyi sosiyete, akaba n'umujyanama mu bya tekini kuri radiyo RTLM. Yari umuyobozi w'agashami ka Radiyo Rwanda gashinzwe gusana no gutunganya ibyuma mu Kigo k'Igihugu Gishinzwe Itangazamakuru (« ORINFOR »). Yari kandi umwe mu bagize Komite y'igihugu yaguye y'Umutwe w'Interahamwe za MRND, iyo komite ikaba yari ifite ububasha ku Nterahamwe z'i Kigali²².
17. Urugereko rugiye gusuzuma ibyabaye byerekeranye na buri kirego kivugwa mu Nyandiko y'ibirego yahinduwe. Ruributsa ko rugomba kuzirikana ibivugwa mu masezerano y'ubwemeracyaha n'ibyabaye ayo masezerano ashingiyeho. Uregwa yemeye ko ibyo bivugwa byose ari ukuri.
18. Mu Nyandiko y'ibirego yahinduwe, Porokireri avuga ko mu wa 1994, by'umwihariko mu gihe kiri hagati y'itariki ya 6 Mata n'ya 17 Nyakanga, abasirikare, Interahamwe zitwara gisirikare n'abasiviri bitwaje intwari bateye Abanyarwanda nyamuke bitwa « Abatutsi ». Babateye babaziza ko ari Abatutsi kandi bari bagamije kubarimbura bose cyangwa igice cyabo²³. Ibyo bitero byahitanye ibihumbi amagana by'abasiviri²⁴.
19. Amasezerano y'ubwemeracyaha avuga ko mu wa 1994, mu Rwanda hagabwe ibitero rusange, kandi biri kuri gahunda, byibasiye abaturage b'abasiviri, cyane cyane Abatutsi kimwe n'Abahutu batari intagondwa, bazira amashyamba ya politiki barimo n'ubwoko bwabo. Mu gihugu hose ibyo bitero byahitanye abantu amagana, bagizwe ahanini

²¹Imyanzuro ya mbere ya Porokireri ku igenagihano (Mu bikurikira yitwa "Imyanzuro ya Porokireri ku igenagihano"), igika 23.

²² Ni kimwe no haruguru, igika 24.

²³ Inyandiko y'ibirego yahinduwe, ibika 5, 6.

²⁴ Ni kimwe no haruguru.

41/ter

n’abasiviri. Ikimenyimenyi ni uko ubwo bwicanyi bwakozwe ntawe busize, kandi bwibasiye abantu badafite intwari bari mu byiciro byose - abagore, abana, urubyiruko n’abantu basheshe akanguhe – biciwe kuri za bariyeri cyangwa ahantu bari bahungiyeyo²⁵.

20. Ibyaha Serugendo ashinjwa birebana n’Interahamwe na poropagande y’ubwicanyi, ibiganiro byahise kuri RTLM no kongera gukoresha RTLM muri Nyakanga 1994. Ku byerekeranye n’icya mbere muri ibyo bibazo, mu gihe kiri hagati y’umwaka wa 1992 n’itariki ya 17 Nyakanga 1994, Serugendo yaba yarakoresheje amanama na mitingi za politiki kugira ngo acengeze amatwara mu Nterahamwe, azikangurire kandi azihamagarire kwica Abatutsi cyangwa kubateza ubuzahare bukomeye bw’umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura ubwoko bw’Abatutsi. Yabikoze nk’umwe mu bari bagize umutwe w’Interahamwe witwaraga gisirikare kandi yafatanyije n’abandi bayobozi ba MRND²⁶.
21. Serugendo yemera ko kuva mu ntangiriro z’umwaka wa 1992 kugera mu wa 1994, nk’umwe mu bagize umutwe w’Interahamwe witwaraga gisirikare kandi afatanyije n’abandi bayobozi ba MRND n’ab’umutwe w’Interahamwe, yateguye amanama na za mitingi kugira ngo bahamagarire Interahamwe kwica Abatutsi cyangwa kubatera ubuzahare bukomeye bw’umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura ubwoko bw’Abatutsi²⁷.
22. Byongeye kandi, kuva ku itariki ya 8 Mata 1993 kugera muri Nyakanga 1994, Serugendo, afatanyije n’abandi bantu, yaba yarafashe ingamba za ngombwa zo gushinga RTLM, kuyishakira imari, no gukoresha ishami ryayo rya radiyo kugira ngo bakwirakwize ubutumwa bwibasiye Abatutsi kandi bahembere urwango hagati y’Abahutu n’Abatutsi. Babikoze bafite intego yo kwica Abatutsi cyangwa kubatera ubuzahare bukomeye bw’umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura abantu bo mu bwoko bw’Abatutsi²⁸. Serugendo yemera ko muri icyo gihe, we n’abandi bantu bafashe ingamba

²⁵ Amasezerano y’ubwemeracyaha, ibika 31, 32. Uregwa yemera ko kuva ku itariki ya 7 Mata kugera hagati muri Nyakanga 1994, ubwicanyi bw’abaturage b’abasiviri bwibasiye ahanini Abatutsi bari mu Rwanda, (igika 32).

²⁶ Inyandiko y’ibirego yahinduwe, igika 8.

²⁷ Amasezerano y’ubwemeracyaha, igika 33.

²⁸ Inyandiko y’ibirego yahinduwe, igika 9.

40/ter

za ngombwa zo gushinga RTLTM, kuyishakira imari no gukoresha ishami ryayo rya radiyo. Iyo radiyo ni yo yakwirakwije ubutumwa bwibasiye Abatutsi hagamijwe guhembera urwango rushingiye ku moko kugira ngo barimbure abantu bagize ubwoko bw'Abatutsi²⁹.

23. Inyandiko y'ibirego ivuga ko kuva ku itariki ya 8 [Nyakanga] 1993 kugera ku ya 4 Nyakanga 1994, RTLTM yumvikaniraga i Kigali ikwirakwiza ubutumwa bwibasiye Abatutsi³⁰. Hagati ya Mata na Nyakanga 1994, RTLTM yari hamwe mu hantu Abanyarwanda bakuraga amakuru, yahitishije amakuru aranga aho Abatutsi bari, inahamagarira Abanyarwanda guhiga Abatutsi bose no kubica³¹. Muri icyo gihe, RTLTM yahitishije ubutumwa bwatumye mu Rwanda hose hicwa ibihumbi amagana by'abasiviri³². Serugendo yemera ko mu mwaka wa 1993 no mu wa 1994, RTLTM yahitishije ibiganiro bigamije gukwirakwiza ubutumwa bwibasiye Abatutsi. Yemera kandi ko ubwo butumwa bwatumye koko mu Rwanda hose hicwa ibihumbi amagana by'abasiviri b'Abatutsi³³.
24. Nk'umwe mu bantu bagize igitekerezo cyo gushinga RTLTM [*Comité d'initiative*] n'umujyanama wa RTLTM mu bya tekini, Serugendo yaba yarateye inkunga akanashishikaza abakozi ba RTLTM bahitishaga ibiganiro, mu gihe RTLTM yamaze ikora kuva ku itariki ya 8 Nyakanga 1993 kugera ku ya 17 Nyakanga 1994³⁴. By'umwihariko, mu gihe kiri hagati y'itariki ya 6 n'ya 12 Mata 1994, ari kumwe n'insoresore zitwaraga gisirikare kandi zitwaje intwari, Serugendo yaba yaragiye muri sitidiyo ya RTLTM gutanga inkunga mu bya tekini no gutera akanyabugabo abakozi b'iyo radiyo kugira ngo ibiganiro byayo bidahagarara³⁵. Serugendo yemera ko yatanze inkunga mu bya tekini kandi agatera n'abakozi akanyabugabo, ibyo bikaba byarafashije RTLTM gukomeza guhitisha ibiganiro byayo muri kiriya gihe kivugwa³⁶.

²⁹ Amasezerano y'ubwemeracyaha, igika 34.

³⁰ Inyandiko y'ibirego yahinduwe, igika 11.

³¹ Ni kimwe no haruguru, igika 13.

³² Ni kimwe no haruguru, igika 14.

³³ Amasezerano y'ubwemeracyaha, ibika 36, 39.

³⁴ Inyandiko y'ibirego yahinduwe, igika 10.

³⁵ Ni kimwe no haruguru, igika 12.

³⁶ Amasezerano y'ubwemeracyaha, igika 37.

39/ter

25. Ku itariki ya 4 Nyakanga 1994, cyangwa hafi y'iyi tariki, ingabo za FPR zashyize insakazamajwi ya RTLM yari i Kigali. Ibyo byatumye iyo radiyo idashobora guhitisha ibiganiro byayo. Nyuma yaho, Serugendo yaba yarakoranye inama n'abakozi bakomeye ba RTLM kuri Hoteli Méridien i Gisenyi kugira ngo bige uko bashyira ku Gisenyi indi sitidiyo n'ubundi buryo bwo guhitisha ibiganiro³⁷. Yemera ko yagiye muri iyo nama kugira ngo RTLM ishobore gukomeza ibiganiro byayo³⁸.
26. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, abatekinisiye ba RTLM bakuriwe na Serugendo baba barajyanye ku mpinga y'umusozi wa Muhe, uri hafi ya Gisenyi, ibikoresho bya RTLM bashoboye kurokora i Kigali. Bakoresheje ibyuma by'itangazamakuru byari bihasanzwe kugira ngo bashyireho sitidiyo y'amaburakindi, bityo RTLM ishobore gusubukura ibiganiro byayo. Ibyo biganirwa byakomeje gukwirakwiza ubutumwa buhamagarira abantu kwica no gutsembatsemba Abatutsi, no gukomeretsa abasigaye mu Rwanda hose. Muri icyo gihe, Uregwa yaba yaratanze inkunga mu bya tekiniye yatumye abanyamakuru ba RTLM bafatira ku makaseti ibiganirwa byigisha abantu gutsembatsemba Abatutsi. Nyuma, ibyo biganirwa byahitishwaga kuri RTLM yavugiraga ku musozi wa Muhe³⁹.
27. Serugendo yemera ko yatanze iyo nkunga mu bya tekiniye. Yemera kandi ko yafashije akanashyigikira abandi bantu mu kwica Abatutsi, kubera ko yashoboye gushyira ku musozi wa Muhe insakazamajwi y'amaburakindi, akanaha RTLM ubushobozi bwo kongera guhitisha ibiganirwa⁴⁰.
28. Porokireri avuga ko Serugendo aryoze icyaha hashingiye ku bikorwa bimaze kuvugwa kubera ububasha yakomoraga ku kuba umwe mu bari bagize *Comité d'initiative*, n'imirimo yari afite yo kugenzura no gucunga RTLM. Kubera umwanya yari afite, bivugwa ko yategekaga abakozi akuriye, barimo abatekinisiye n'abandi bakozi basanzwe⁴¹. Nk'umwe mu bagize komite y'igihugu y'umutwe w'Interahamwe witwaraga gisirikare, Serugendo

³⁷ Inyandiko y'ibirego yahinduwe, ibika 15, 27.

³⁸ Amasezerano y'ubwemeracyaha, igika 40.

³⁹ Inyandiko y'ibirego yahinduwe, ibika 17, 18.

⁴⁰ Amasezerano y'ubwemeracyaha, igika 41.

⁴¹ Inyandiko y'ibirego yahinduwe, igika 3.

38/ter

yaba kandi yarategukaga Interahamwe zitwaraga gisirikare⁴². By'umwihariko, yaba yarategutse abantu yari akuriye kubera imirimo ye, gukora ibikorwa bivugwa haruguru. Yaba kandi yarahamagariye, agafasha ndetse agashishikariza abantu atari akuriye gukora ibyo bikorwa⁴³.

29. Serugendo yemera ko, nk'umwe mu bari bagize *Comité d'initiative* (Inama y'ubuyobozi) n'umujyanama wa RTLM mu bya tekini, yategukaga abatekinisiye ba RTLM n'abandi bakozi basanzwe nk'uko bivugwa haruguru⁴⁴. Yemera kandi ko mu gihe cy'ibyabaye bivugwa, yari azi ko hari abantu batotezwaga bazira amashyamba barimo, akanemera ko ahantu henshi Abatutsi bibasirwaga kubera ivangura⁴⁵. Yemera ko n'ubwo yari azi ibyo bintu, yakomeje gukorera RTLM⁴⁶.
30. Kubera izo mpamvu, Urugereko rusanze hagaragajwe ibikorwa n'igitekerezo bigize ibyaha Uregwa yemeye.

III. AMATEGEKO AKURIKIZWA MU IGENAGIHANO

A. IBIZIRIKANWA MURI RUSANGE

31. Urukiko rwashyiriweho gukurikirana no guhana abantu bakoze amarorerwa yabereye mu Rwanda kugira ngo ruce burundu umuco wo kudahana, igihugu gishobore kongera kwiyubaka ndetse habe n'ubwiyunge mu Banyarwanda⁴⁷. Nk'urwego rwashyizweho hakurikijwe Umutwe VII w'Amategoko shingiro y'Umuryango w'Abibumbye, Urukiko

⁴² Ni kimwe no haruguru, igika 4.

⁴³ Ni kimwe no haruguru, ibika 7, 19. Byongeye kandi, Uregwa yaba yaragiye mu mugambi mubisha uhuriweho ugamiye kandi ufite ingaruka yitezwe yo guhamagarira abandi bantu, mu buryo butaziguye kandi mu ruhamwe, gukora jenocide yibasiye Abatutsi mu Rwanda hose. (Ni kimwe no haruguru, igika 4).

⁴⁴ Amasezerano y'ubwemeracyaha, igika 35.

⁴⁵ Ni kimwe no haruguru, ibika 46, 47.

⁴⁶ Ni kimwe no haruguru, igika 48.

⁴⁷ *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, igika 454; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 1 ; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 19.

37/ter

rufite kandi inshingano zo gutanga umusanzu mu kugarura no kubungabunga amahoro n'umutekano mpuzamahanga⁴⁸.

32. Kwemera icyaha bivuga ko uregwa yemeye ibirego byose ashinjwa uko bivugwa mu nyandiko y'ibirego kandi ko yemera kuryozwa ibikorwa bye. Ibyo bituma ubwiye bushobora kugerwaho vuba⁴⁹. Kwemera icyaha bituma kandi abahohotewe batongera gukomeretswa imitima bibutswe ibyababayeho. Nk'ingaruka itaziguye, kwemera icyaha bituma Urukiko rukoresha umutungo muke n'igihe gito, n'ubwo urebye ibyo atari impamvu ikomeye igabanya uburyozwacyaha⁵⁰.
33. Mu bukemuramanza bwa TPIR n'ubwa TPIY, amahame shingiro yemejwe mu gutanga igihano ni ugutuma icyaha kitongera gukorwa⁵¹ no guha impongano uwagikoze⁵². Mu bukemuramanza bw'Urukiko, kuba uwakatiwe ashobora kwisubiraho na byo byemewe nk'imwe mu mpamvu igihano gitangwa⁵³.
34. Urugereko rusanga iyo uregwa yemeye icyaha, aba ateye intambwe ikomeye mu nzira zivuzwe hejuru⁵⁴. Muri uru rubanza, umuntu yazirikana ko, kubera ko yemera icyaha,

⁴⁸ icyemezo 955 cy'Inama y'Umuryango w'Abibumbye Ishinzwe Amahoro ku Isi, inyandiko S/Res/955 (1994), 8 Ugushyingo 1994.

⁴⁹ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 146; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 50.

⁵⁰ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 131 ; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 146.

⁵¹ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, ibika 110- 112 ; *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, igika 455 ; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 2 ; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 20 ; *Urubanza rwa Tadić*, Inyandiko y'urubanza mu bujurire, igika 48 ; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 806.

⁵² *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, ibika 108, 109; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 2 ; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 20 ; *Urubanza rwa Aleksovski*, Inyandiko y'urubanza mu bujurire, igika 185.

⁵³ *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 2 ; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 806.

⁵⁴ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 114; *Urubanza rwa Nikolić*, Inyandiko y'urubanza mu rw'iremezo, igika 93.

36/ter

Uregwa atanga urugero rushobora gutuma abandi bantu bemera uruhare rwabo bwite bagize mu bwicanyi bwabereye mu Rwanda mu mwaka wa 1994⁵⁵.

B. INGINGO YA 23 YA SITATI N'INGINGO YA 101 Y'AMATEGEKO

35. Ingingo ya 23 ya Sitati ikubiyemo bimwe mu byo Urugereko rwa Mbere rw'Iremezo rugomba kuzirikana mu kugena igihano. Ibice by'izo ngingo byerekeranye n'iki kibazo bigira biti:

1. Urugereko rwa Mbere rw'Iremezo rugena ibihano by'igifungo gusa. Mu kugena ibihano by'igifungo, Urugereko rwa Mbere rw'Iremezo rwifashisha urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda.
2. Mu kugena igihano, Urugereko rwa Mbere rw'Iremezo ruzirikana ibintu binyuranye, nk'uburemere bw'icyaha n'imibereho y'uwakatiwe [---]

36. Mu bice byayo birebana n'iki kibazo, ingingo ya 101 y'Amategeko yongeraho ibi bikurikira:

- A) Umuntu uhamijwe icyaha n'Urukiko ashobora guhanishwa igihano cy'igifungo, gishobora no kuba icya burundu.
- B) Mu kugena ibihano, Urugereko rwa Mbere rw'Iremezo ruzirikana ibiteganywa n'ingingo ya 23 ya Sitati mu gika cya 2 ndetse n'ibi bikurikira:
 - i) Impamvu zongera uburyozwacyaha;
 - ii) Impamvu zigabanya uburyozwacyaha, harimo n'uburyo uregwa yafashije Porokireri mbere cyangwa nyuma yo guhamwa n'icyaha;
 - iii) Urutonde rusange rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda; [---]

37. Yaba Sitati cyangwa Amategeko, nta na kimwe gisobanura neza urutonde rw'ibihano bitangwa ku byaha Urukiko rufitiye ububasha bwo kuburanisha. Urugereko rwa mbere

⁵⁵ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 129; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 53.

35/ter

rw'iremezo rufite uburenganzira busesuye bwo kugena igihano gikwiye. Cyakora, Sitati n'Amategeko bigaragaza ibintu bigomba kuzirikanwa mu igenagihano⁵⁶.

IV. IBINTU BIGOMBA KUZIRIKANWA MU IGENAGIHANO

38. Porokireri avuga ko mu kugena igihano cyahabwa umuntu wese uregwa, Urugereko rwagombye kugendera ku « ntego z'amategeko ahana zirimo imwe igamije gutuma igihugu kirushaho kugendera ku mategeko, kugira ngo hashobore kubaho amahoro mu mu ryango w'abantu. Iyo ntego igerwaho hatanzwe ibihano bitarenganya kandi bijyanye n'ihame rivuga ko mu gutanga igihano, Urugereko rugomba kuzirikana uburemere bw'icyaha, ingano y'uburyozwacyaha, kuba ari ngombwa guca intege umuntu wakoze icyaha n'abandi bashobora kugikora, guha impongano uwakoze icyaha, no kuba ari ngombwa gushishikariza abantu kwemera uruhare buri wese yagize muri jenocide yabaye mu mwaka wa 1994 maze bakemera kuryozwa ibikorwa byabo »⁵⁷. Ubwunganizi buvuga ko mu kugena igihano, Urugereko rukwiye kuzirikana cyane amasezerano y'ubwemeracyaha Uregwa yemeramo icyaha kandi akanemera kuryozwa ibyo yakoze byose⁵⁸.
39. Uburemere bw'icyaha ni ikintu kitabwaho cyane mu kugena igihano gikwiye.⁵⁹ Mu gusuzuma uburemere bw'icyaha, ni ngombwa kuzirikana imiterere ya cyo, “imiterere

⁵⁶ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 109.

⁵⁷ Imyanzuro ya Porokireri ku igenagihano, igika 21.

⁵⁸ Imyanzuro y'Ubwunganizi ibanziriza igenagihano, hashingiwe ku ngingo ya 100 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso (mu bikurikira yitwa: “ Imyanzuro y'Ubwunganizi ku igenagihano”), ibika 18, 19.

⁵⁹ *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, igika 449; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 8; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 21; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 57; *Urubanza rwa Jelisić*, Inyandiko y'urubanza mu bujurire, igika 101; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 731; *Urubanza rwa Furundžija*, Inyandiko y'urubanza mu bujurire, igika 249; *Urubanza rwa Aleksovski*, Inyandiko y'urubanza mu bujurire, igika 182.

34/ter

yihariye y'urubanza, uburyo uregwa yakozemo icyaha ndetse n'ingano y'uruhare rwe"⁶⁰. Igihano kigomba gushingira ku "ihame rizwi rivuga ko uregwa agomba kuryozwa icyaha yakoze hakurikijwe uburemere bwacyo"⁶¹. Urugereko ruzirikana kandi ko rugomba gukora ku buryo igihano kijyana n'imibireho bwite y'uregwa"⁶².

40. Mu kugena igihano, Urugereko rugomba kuzirikana impamvu zose zongera igihano n'izikigabanya. Cyakora, rufite uburenganzira busesuye bwo kugena agaciro izo mpamvu zahabwa⁶³. Impamvu zongera igihano zigomba kugaragazwa ku buryo budashidikanywaho⁶⁴, naho impamvu zigabanya igihano zo zishobora kwemerwa iyo zisa nk'aho ari ukuri kurusha uko zaba zisa nk'aho atari ukuri⁶⁵.
41. Gufatanywa na Porokireri ku buryo bufatika ni yo mpamvu yonyine ngabanya gihano iteganywa n'Amategeko. Cyakora, Urukiko kenshi rufata nk'impamvu ngabanya gihano kwemera icyaha,⁶⁶ gufatanywa na Porokireri⁶⁷, kwicuza bivuye ku mutima⁶⁸, kuba uregwa

⁶⁰ *Urubanza rwa Jelisić*, Inyandiko y'urubanza mu bujurire, igika 101; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 731; *Urubanza rw'Aleksovski*, Inyandiko y'urubanza mu bujurire, igika 182.

⁶¹ *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 58; *Urubanza rw'Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 40; *Urubanza rw'Akayesu*, Inyandiko y'urubanza mu bujurire, igika 40, *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 414.

⁶² *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 110; *Urubanza rwa Muhimana*, Inyandiko y'urubanza mu rw'iremezo, igika 594; *Urubanza rwa Mucić n'abagenzi be*, Inyandiko y'urubanza mu bujurire, ibika 717-719.

⁶³ *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 777.

⁶⁴ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 111; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 763.

⁶⁵ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 111.

⁶⁶ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 140; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, ibika 150, 151; *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, ibika 53, 54; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 35; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, ibika 46-50.

⁶⁷ *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, ibika 56-58; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, ibika 31-33; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, ibika 46-50.

yarafashije abahohotewe,⁶⁹ kuba uregwa nta bindi byaha yakoze mbere⁷⁰, uburwayi⁷¹, imibereho mbonezamubano y'uregwa n'iy'umuryango we⁷², n'izindi. Zimwe mu mpamvu ngabanya gihano zishobora kuba zidafitanye isano itaziguye n'icyaha kivugwa⁷³.

A. IMPAMVU ZONGERA IGIHANO

i) Ibivugwa n'ababuranyi

42. Porokireri avuga ko kuba icyaha cyo guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenocide n'icy'itoteza ari ibyaha bikomeye kandi bidashobora kwihanganirwa na gato ubwabyo ni impamvu nyongera ngihano⁷⁴.
43. Byongeye kandi, Porokireri avuga ko umurimo n'ububasha Serugendo yari afite nk'umwe mu bagize *Comité d'initiative* no kuba yari umujyanama mu bya tekini wa RTLM, ibyo

⁶⁸ *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo,, ibika 69-72; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 40; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujurire, igika 788.

⁶⁹ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 159 (impamvu itakiriwe kubera ibyabaye bivugwa mu rubanza); *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, igika 470; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu bujurire, igika 38; *Urubanza rwa Mucić*, Inyandiko y'urubanza mu bujurire, ibika 775, 776.

⁷⁰ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 165; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 129; *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 59 .

⁷¹ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 175; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 136; *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu rw'iremezo, igika 898; *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, igika 471.

⁷² *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, ibika 143, 144; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 121; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 36; *Urubanza rwa Kunarac*, Inyandiko y'urubanza mu bujurire, igika 408.

⁷³ *Urubanza rwa Jokić*, Inyandiko y'urubanza mu rw'iremezo, igika 100; *Urubanza rwa Stakić*, Inyandiko y'urubanza mu rw'iremezo, igika 920.

⁷⁴ Imyanzuro ya Porokireri ku igenagihano, igika 31.

32/ter

byatumye ateguka abantu yari akuriye barimo abatekinisiye n'abandi bakozi basanzwe ba RTLM⁷⁵.

44. Kubera ibikorwa bye, Joseph Serugendo yatumye RTLM ishobora gukomeza ibiganiro byayo muri icyo gihe kivugwa. Ibyo bikorwa byakozwe igihe yajyaga muri sitidiyo ya RTLM mu gihe kiri hagati y'itariki ya 6 n'ya 12 Mata 1994, byari ibyo kugenzura ibikoresho by'iyi radiyo, gutanga inkunga mu bya tekini no gutera akanyabugabo abakozi⁷⁶. Ibyo bikorwa rero byafashije RTLM, yari hamwe mu hantu h'ingenzi Abanyarwanda bakuraga amakuru, guhitisha amakuru aranga aho Abatutsi bari, no guhamagarira Abanyarwanda guhiga Abatutsi bese kugira ngo babice. Ibyo byatumye hicwa ibihumbi amagana by'abasiviri⁷⁷.
45. Ubwunganizi bwemera ko ibyaha Uregwa yemeye ari ibyaha bikomeye, ariko bukavuga ko mu masezerano y'ubwemeracyaha icyo kintu cyazirikanywe mu kugena urwego rw'ibihano Uregwa yahabwa⁷⁸.

ii) Imyanzuro y'Urugereko

Uburemere bw'ibyaha n'ububasha Uregwa yari afite

46. Urugereko rusanga uburemere bw'ibyaha byemejwe n'ingano y'uruhare rwa Serugendo mu ikorwa ryabyo ari ibintu by'ingenzi bigomba kuzirikanwa mu gusuzuma impamvu zongera igihano. Jenocide n'ibyaha byibasiye inyokomuntu ni ibyaha bikomeye kubera ko bitihanganirwa kandi bikaba ari agahomamunwa⁷⁹.
47. Ni ngomba kuzirikana impamvu zihariye z'urubanza, zirimo uburyo uregwa yakoze ibyaha ashinjwa n'ingano y'uruhare rwe mu ikorwa ryabyo⁸⁰. Urugereko rusanga kuba Serugendo

⁷⁵ Ni kimwe no haruguru, igika 32.

⁷⁶ Ni kimwe no haruguru

⁷⁷ Ni kimwe no haruguru, igika 36.

⁷⁸ Imyanzuro y'Ubwunganizi ku igenagihano, ibika 22, 23.

⁷⁹ *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 48.

⁸⁰ *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 18; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika 28 n'icya 29; *Urubanza rwa Kambanda*, Inyandiko

31/ter

yari umwe mu bayobozi ba RTL, ububasha yari afite ku bakozi b'iyo radiyo n'uruhare rugaragara yagize kugira ngo iyo radiyo ikomeze gukora, ari impamvu zongera uburyozwacyaha.

48. Bityo, nk'uko biteganywa mu bukemuramanza bw'Urukiko, umwanya w'ubuyobozi Serugendo yari afite wujuje ibisabwa ngo witwe impamvu yongera uburyozwacyaha kubera ingaruka zikomeye cyane zaturutse ku kuba yarakoresheje nabi ububasha yari afite⁸¹.
49. Cyakora, Urugereko rusanga mu wa 1994, Serugendo atari umuntu ukomeye cyane cyangwa ufite ijamba rinini mu Rwanda⁸². Nta n'ubwo yigeze avugira kuri RTL amagambo ya gashozantambara cyangwa yibasira Abatutsi, cyangwa ngo akore ibikorwa by'urugomo mu gihe cy'ubwicanyi bwabereye mu Rwanda.

B. IMPAMVU ZIGABANYA IGIHANO

i) Ibivugwa n'ababuranyi

50. Porokireri n'Ubwunganizi bavuga ko muri uru rubanza hari impamvu zifatika zigabanya uburyozwacyaha.⁸³ By'umwihariko, bavuga ko Serugendo yemeye icyaha adakerewe, ko arwaye kandi ko yafatanyije cyane na Porokireri⁸⁴.
51. Ababuranyi bombi bemera kandi ko mbere y'ibyabaye mu mwaka wa 1994, Serugendo yari umuntu w'imico myiza, utarigeze aba intagondwa cyangwa ngo akurikiranwe mu nkiko⁸⁵. Mu gusoza, bavuga ko Uregwa yicujije ibyaha yemeye ko yakoze⁸⁶.

y'urubanza mu rw'iremezo, igika 469; *Urubanza rwa Kupreskić na bagenzi be*, Inyandiko y'urubanza mu bujirire, igika 852; *Urubanza rwa Mucić na bagenzi be*, Inyandiko y'urubanza mu bujirire, igika 731.

⁸¹ *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, ibika 28, 29; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 468.

⁸² Umwunganira avuga ko umwanya Uregwa yari afite muri RTL icyo gihe wari umwanya w'umukozi wo mu rwego ruciriritse, wari muni y'uw'umuyobozi w'ishami muri icyo kigo (Imyanzuro y'Ubwunganizi ku igenagihano, igika 26).

⁸³ Imyanzuro ya Porokireri ku igenagihano, igika 40.

⁸⁴ Ni kimwe no haruguru, ibika 41- 44; Imyanzuro y'Ubwunganizi ku igenagihano, ibika 39-53.

ii) Imyanzuro y'Urugerekoa) Kwemera icyaha

52. Urugereko rwemera ibyo ababuranyi bavuga ko kuba Serugendo yaremeye icyaha bizafasha mu butabera no muri gahunda y'ubwiyunge bw'Abanyarwanda, ndetse bikarinda abahohotowe kuvunika baza gutanga ubuhamya mu Rukiko⁸⁷.
53. Byongeye kandi, umuntu yavuga ko kuba yemera icyaha, Serugendo atanze urugero rushobora gushishikariza abandi bantu kwemera uruhare bagize mu bwicanyi bwakorewe mu Rwanda mu mwaka wa 1994⁸⁸.
54. Porokireri avuga ko ari ngombwa guha agaciro kuba Serugendo atarakoresheje amayeri ngo yemere icyaha ku munota wa nyuma, kugira ngo abigiremo inyungu. Mu kwemera icyaha adakerewe, byatumye Urukiko rukoresha amafaranga make n'igihe gito. Yafashije Urukiko n'umuryango mpuzamahanga mu gukoresha igihe gito, abantu bake n'umutungo muke⁸⁹. Ubwunganizi bwongeraho ko Uregwa yafashe icyemezo cyo kwemera icyaha mu ikubitiro kubera ko yicuzaga abikuye ku mutima ibyo yakoze kandi ko kuba yaremeye icyaha bishobora gutuma we n'umuryango we bagirirwa nabi⁹⁰.
55. Ubukemuramanza bw'Urukiko bwemera ko kwemera icyaha bishobora kuzirikanwa mu kugabanyiriza uregwa igihano kubera ko bishobora, bitewe n'uko ibintu bimeze, kuba ikimenyetso cy'uko yihannye, ko avugisha ukuri, ko yiteguye kuryozwa ibyo yakoze⁹¹, akaba anashaka ko ukuri kujya ahagaragara⁹². Bishobora kandi kuba umuganda mu

⁸⁵ Imyanzuro ya Porokireri ku igenagihano, igika 45; Imyanzuro y'Ubwunganizi ku igenagihano, igika 29.

⁸⁶ Imyanzuro ya Porokireri ku igenagihano, igika 47; Imyanzuro y'Ubwunganizi ku igenagihano, igika 28.

⁸⁷ Imyanzuro ya Porokireri ku igenagihano, igika 41; Imyanzuro y'Ubwunganizi ku igenagihano, igika 32.

⁸⁸ Imyanzuro ya Porokireri ku igenagihano, igika 41; Imyanzuro y'Ubwunganizi ku igenagihano, igika 36.

⁸⁹ Imyanzuro ya Porokireri ku igenagihano, igika 42.

⁹⁰ Imyanzuro y'Ubwunganizi ku igenagihano, ibika 33, 34.

⁹¹ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 139; *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, ibika 54, 55; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, ibika 52, 53.

⁹² *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 150.

kubungabunga amahoro no mu bwiyunge⁹³, guha urugero abandi bantu bakoze ibyaha,⁹⁴ gutuma abagabo batavunika baza gutanga ubuhamy mu Rukiko, no gufasha Urukiko gukoresha igihe gito n'umutungo muke⁹⁵. Igihe Uregwa yemereye icyaha na cyo kirazirikanwa⁹⁶.

56. Urugereko rusanga mu masezerano y'ubwemeracyaha no mu bwirege bwe, Serugendo avuga ko ashaka kuvuga ukuri kugira ngo atange umuganda mu kugaragaza ukuri, akabikora avuga ibyo yiboneye n'ibyo yumvise⁹⁷.
57. Urugereko rwemera ibyemezo Urukiko rwafashe mbere bivuga ko abantu bemera icyaha bagomba kugira inyungu babivanamo kugira ngo bishishikarize n'abandi bantu kwemera icyaha⁹⁸. Byongeye kandi, Urugereko rwemera ko kuba Uregwa yemera icyaha, bishobora gutanga umuganda mu bwiyunge bw'Abanyarwanda⁹⁹. Ni ngombwa kandi kuvuga ko, kubera ko Uregwa yemereye icyaha kare urubanza rutarangira, byatumye abahohotewe bataza gutanga ubuhamy ngo bongere gutekereza ku bintu bibi byababayeho.
58. Urugereko rusanga kuba Serugendo yarisubiyeho akemera icyaha, ari impamvu igabanya uburyozwacyaha¹⁰⁰. Ubwirege bwe bwaherekejwe no kwemera mu ruhamu uruhare rwe¹⁰¹.

⁹³ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 146; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 50.

⁹⁴ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 129, *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 53.

⁹⁵ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 151; *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 53; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu rw'iremezo, igika cya 35.

⁹⁶ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 131.

⁹⁷ Amasezerano y'ubwemeracyaha, igika 5.

⁹⁸ *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 55.

⁹⁹ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 146; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 50.

¹⁰⁰ *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 54.

¹⁰¹ Inyandikomvugo y'iburanisha ku igenagihano, 1 Kamena 2006, imp. 22, 23; ibimenyetso gihamya N° 11 na 12 by'Ubwunganizi.

28/ter

Byongeye kandi, kuba yaremeye icyaha adakerewe byatumye ubutabera bugenda neza ndetse binatuma Urukiko rukoresha umuntungo muke¹⁰².

59. Kubera izo mpamvu, Urugereko rwemera ko kuba Serugendo yaremeye icyaha bifite akamaro kuko byerekana ko yiteguye kuryozwa ibyo yakoze, kandi bizatanga umuganda mu bwiye bw'Abanyarwanda.
60. Urugereko rusanze ubwemeracyaha bwa Joseph Serugendo ari ikintu gikomeme cyatuma agabanyirizwa igihano.

b) Gufatanya na Porokireri

61. Porokireri n'Ubwunganizi bemeranya ko Serugendo yafatanyije na Porokireri ku buryo bufatika¹⁰³. Basobanura ko ubwo bufatanye bwerekeranye n'ibintu byinshi, kandi ko bwatumye hasobanuka ibintu byinshi mu maperereza ya Porokireri, ndetse bugashyira ahagaragara ibindi byaha Porokireri atari azi¹⁰⁴. Umuntu yashobora rero kuvuga ko Serugendo yatanze urugero rushobora kuba rwashishikariza abandi bantu kwemera uruhare bagize mu bwicanyi bwakorewe mu Rwanda mu mwaka wa 1994.
62. I bivugwa n'ababuranyi bigaragaza neza ko Serugendo yafatanyije na Porokireri ku buryo bufatika. Urugereko rusanga iyi ari impamvu ikomeye igabanya uburyozwacyaha.

c) Ukwicuza

¹⁰² *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 53.

¹⁰³ Imyanzuro ya Porokireri ku igenagihano igika 44 (Ivuga ku mabazwa yavuyemo impapuro zirenga 120 z'amakuru yerekeranye n'izindi manza zitabururishwa mu Rukiko); Imyanzuro y'Ubwunganizi ku igenagihano ibika 41, 42 na 45 (ibyo bika bisobanura ko yafatanyije na Porokireri "atajenjeka kandi yabyiyemeje". Hanasobanurwa ko ubwo bufatanye bwari bukomeye kandi bukomeza). Reba na none Imyanzuro ya nyuma ya Porokireri ibanziriza igenagihano, igika 5, n'Inyandikomvugo y'iburanisha ku igenagihano, 1 Kamena 2006, imp. 25, 26 na 28-30.

¹⁰⁴ Imyanzuro y'Ubwunganizi ku igenagihano igika 44.

27/ter

63. Iyo uregwa yicujije abikuye ku mutima, bishobora gufatwa nk'impamvu igabanya uburyozwacyaha¹⁰⁵. Mu masezerano y'ubwemeracyaha no mu iburanisha ku igenagihano, Serugendo yicujije mu ruhame ibyaha yakoze kandi agaragaza ko bimubabaje.¹⁰⁶ Urugereko rwemera ko yicujije abikuye ku mutima.
64. Kubera iyo mpamvu, Urugereko rusanze ukwicuza kwa Serugendo ari impamvu igabanya uburyozwacyaha.

d) Imico myiza

65. Ababuranyi bombi bavuga ko, uko babizi, Serugendo yagiraga ingeso nziza kandi ko mbere ya 1994 atari intagondwa¹⁰⁷. Kuba Uregwa atarigeze akurikiranwa mu nkiko na cyo ni ikintu kigomba kurizikanwa mu kumugabanyiriza igihano.

e) Imibereho bwite y'Uregwa n'imiterere y'umuryango we

66. Ubukemuramanza bw'Urukiko bufata imibereho bwite y'umuntu, nk'izabukuru¹⁰⁸ n'imiterere y'umuryango we¹⁰⁹, nk'impamvu zigabanya uburyozwacyaha. Cyakora muri rusange, Urukiko rubiha agaciro gato¹¹⁰.
67. Urugereko rusanga Serugendo yubatse kandi afite imyaka 53. Rusanga ibyo bintu byose hamwe ari imibereho bwite y'Uregwa ishobora kuzirikanwa mu kumugabanyiriza igihano n'ubwo bwose bifite agaciro gato.

¹⁰⁵ Urubanza rwa Rutaganda, ibika 157,158; *Urubanza rwa Ruggiu*, Inyandiko y'urubanza mu rw'iremezo, igika 70; Urubanza rwa Serushago, igika 41.

¹⁰⁶ Amasezerano y'ubwemeracyaha, igika 21; Inyandikomvugo y'iburanisha, 1 Kamena 2006, imp. 22, 23.

¹⁰⁷ Imyanzuro ya Porokireri ku igenagihano igika 46; Imyanzuro y'Ubwunganizi ku igenagihano igika 29.

¹⁰⁸ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 175; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 136; *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu rw'iremezo, igika 898.

¹⁰⁹ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 146; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 120; *Urubanza rwa Kunarac*, Inyandiko y'urubanza mu bujirire, igika 366.

¹¹⁰ Nk'uko TPIY ibivuga, "ibyo bintu byerekeranye n'imibereho bwite bihuriweho n'abaregwa benshi" (*Urubanza rwa Banović*, Inyandiko y'urubanza mu rw'iremezo, igika 75).

f) Kuba hari abantu yafashije mu bahoterwaga

68. Mu iburanisha ku igenagihano, Ubwunganizi bwahamagaje umutangabuhamywa wiswe AX w'Umututsi wavuze ko ku itariki ya 10 cyangwa ku ya 11 Mata 1994, ubwo yahigwaga n'abagabye igitero, Serugendo yamukijije amutwara mu modoka ye kandi yanga kumuha imbaga y'abantu bari bariye karungu¹¹¹. Porokireri ntiyanenze ubwo buhamya.
69. Urugereko rwemera ko muri jenocide Serugendo yarokoye AX kandi rufata icyo gikorwa nk'impamvu igabanya uburyozwacyaha.

g) Uburwayi

70. Vuba aha basanze Serugendo arwaye indwara y'igikatu idakira¹¹². Ababuranyi bombi bemera ko amagara ye make no kuba abaganga basanga nta cyizere cyo gukira gihari, bigomba kuzirikanwa mu kumugenera igihano gikwiye¹¹³.
71. Urugereko rwabonye ibikubiye muri raporo ya muganga y'ibanga, Uregwa yashyize muri dosiye ku itariki ya 1 Kamena 2006 mu iburanisha ku igenagihano. Nk'uko bigaragara muri iyo raporo, Uregwa arwaye indwara y'igikatu idakira kandi idashobora kubagwa. Nta gihe kinini ashigaje cyo kubaho. Byongeye kandi, birashoboka ko azakenera gukurikiranwa kenshi na muganga agahabwa n'imiti yo kumugabanyiriza ububabare¹¹⁴.
72. Mu igenagihano, Urukiko rwa TPIR¹¹⁵ n'urwa TPIY¹¹⁶ zifata uburwayi bw'umuntu nk'impamvu igabanya igihano. Cyakora, uburemere ubwo burwayi buhabwa bugenda butandukana. Nta bukemuramanza buriho bwerekeranye n'uruhare uburwayi budakira

¹¹¹ Inyandikomvugo y'iburanisha, 1 Kamena 2006, imp. 5-8.

¹¹² Ni kimwe no haruguru, imp.25, 26

¹¹³ Ni kimwe no haruguru, imp. 25-27, 29 na 30

¹¹⁴ Ikimenyetso gihamya N° 13 cy'Ubwunganizi (cy'ibanga)

¹¹⁵ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 175; *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 136; *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu rw'iremezo, igika 898; *Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, igika 471

¹¹⁶ *Urubanza rwa Strugar*, Inyandiko y'urubanza mu rw'iremezo, igika 469; *Urubanza rwa Plavšić*, Inyandiko y'urubanza mu rw'iremezo, igika 106.

25/ter

bugira ku kugabanya igihano¹¹⁷. Urugereko rushyigikiye igitekerezo cya TPIY kivuga ko iyo uburwayi bw'uregwa budashobora gutuma akomeza gufungwa, Urukiko rugomba gufata ingamba za ngombwa¹¹⁸.

73. Ababuranyi bombi bafata uburwayi bwa Serugendo nk'impamvu ikomeye yatuma agabanyirizwa igihano, ariko ntibasaba ko yafungurwa kugira ngo avuzwe.¹¹⁹ Cyakora, bombi bavuga ko, hatitawe ku gihano yahabwa, agomba gukomeza kuvurwa ndetse ko, bibaye ngombwa, yakwimurirwa ahandi hantu hakwiye akavurirwayo¹²⁰.
74. Urugereko rusanga uburwayi bw'Uregwa, nk'uko bigaragazwa na raporo ya muganga, ari impamvu ikomeye igabanya uburyozwacyaha. Byongeye kandi, agomba guhindurirwa uburyo afunzwemo kubera ko akeneye imiti yo kumworohera ububabare no gukomeza kuvurwa.

¹¹⁷ Mu manza rwashyikirijwe, Urukiko rwa TPIY rwigeze gusuzuma rimwe ingaruka z'indwara zidakira, n'ubwo rwabikoze igihe urubanza rwaburanishwaga aho kubikora mu igenagihano, (Icyemezo ku Cyifuzo cyo kurekura by'agateganyo ushinjwa ari we Momir Talić, 20 Nzeli 2002). Kubera ko Talić yari arwaye indwara y'igikatu idakira, akaba atarashoboraga kuburanishwa ndetse no kuba bitarashobokaga ko yavurwa afunze, Urukiko rwamwemereye gufungurwa by'agateganyo maze rutegeka ko afungishwa ijisho akarindirwa aho arwariye mu bitaro. Nyuma yaho, Talić yaje gupfa ku itariki ya 28 Gicurasi 2003 (Icyemezo cyo kureka gukurikirana Momir Talić).

¹¹⁸ Urukiko rwa TPIY rwasanze rwaba rutujuje inshingano za rwo ruramutse rutazirikanye uburwayi bukomeye bwa Talić, maze rukirengagiza ko rwashyiriweho kwemeza, kurengera no gukoresha amategeko arengera abantu mu gihe cy'intambara (Icyemezo ku Cyifuzo gisaba Urugereko kurekura Momir Talić by'agateganyo), 20 Nzeli 2002, urup.11.

¹¹⁹ Inyandikomvugo y'iburanisha ku igenagihano, 1 Kamena 2006, imp. 31, 32 (Porokireri yemera ko uburwayi bw'uregwa bushobora gutuma igihano cye kigabanywa cyane, ariko agasobanura ko igihano kitagomba kuba gito cyane kubera uburemere bw'ibyaha uregwa ashinjwa. Ku rupapuro rwa 26, Ubwunganizi bugira buti: "Icyo Uregwa akeneye ubu, ahanini si igihano cy'igifungo, ahubwo ni ukuvurwa. Kandi urebye igihano cy'igifungo nta kamaro cyaba gifite". Kubera iyo mpamvu, Ubwunganizi bushaka ko igihano cy'Uregwa kigabanywa bitewe n'uburwayi bwe (n'urugero, reba amagambo akurikira kuri urwo rupapuro: "Ni yo mpamvu nsaba Urugereko rwa Mbere rw'Iremezo kuzirikana ko Uregwa arwaye indwara y'igikatu atazakira maze rugafata icyo kintu nk'impamvu ikomeye igabanya uburyozwacyaha bwe. Ndasaba kandi Urugereko rwa Mbere rw'Iremezo gutanga igihano kiri munsu cyane y'icyasabwe")

¹²⁰ Inyandikomvugo y'iburanisha ku igenagihano, 1 Kamena 2006, urup.32.

C. IBIKURIKIZWA N'INKIKO Z'U RWANDA MU IGENAGIHANO

75. N'ubwo nta muburanyi n'umwe uvuga by'umwihariko ko hagomba gukurikizwa imikorere y'inkiko zo mu Rwanda ku byerekeye igenagihano, Urugereko ruributsa ingingo ya 23 ya Sitati n'ya 101 y'Amategeko ziteganyaga ko Urukiko rugomba kuzirikana urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko z'u Rwanda. Cyakora, Urugereko ntirugomba byanze bikunze kugendera ku mikorere y'inkiko zo mu Rwanda ku byerekeranye n'igenagihano¹²¹.
76. Mu mategeko y'u Rwanda, jenocide n'ibyaha byibasiye inyokomuntu bishobora guhanishwa igihano cyo kwicwa cyangwa icy'igifungo cya burundu, bitewe n'imiterere y'uruhare rw'Uregwa muri ibyo byaha¹²².
77. Ubukemuramanza busanga hashobora kwifashishwa Itegeko ngenga ry'u Rwanda rishyiraho inkiko Gacaca¹²³ ndetse n'iririhindura rikanaryuzuzwa¹²⁴, kuko ayo mategeko ateganyaga ibigomba gukurikizwa ku bantu bemeye ibyaha byibasiye inyokomuntu. Umuntu

¹²¹ *Urubanza rwa Semanza*, Inyandiko y'urubanza mu bujirire, igika 377 (“Inshingano Urugereko rwa Mbere rw'Iremezo rufite yo ‘gukoresha urutonde rusange rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda’ ntvugaga ko rugomba byanze bikunze kugendera kuri urwo rutonde”); *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 164; *Urubanza rwa Serushago*, Inyandiko y'urubanza mu bujirire, igika 30; *Urubanza rwa Nikolić*, Inyandiko y'urubanza mu bujirire, igika 69.

¹²² Itegeko ngenga ry'u Rwanda N° 8/96 rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu, byakozwe kuva ku itariki ya mbere Ukwakira 1990, ryasohotse mu igazeti ya Leta ya Repubulika y'u Rwanda, umwaka wa 35, N° 17, ku itariki ya 1 Nzeri 1996.

¹²³ Itegeko ngenga ry'u Rwanda rigenga ishyiraho ry'Inkiko Gacaca n'imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu, byakozwe hagati y'itariki ya mbere Ukwakira 1990 n'ya 31 Ukuboza 1994, Igazeti ya Leta ya Repubulika y'u Rwanda, umwaka wa 40, N° 6, 15 Werurwe 2001(mu bikurikira riritwa “Itegeko-ngenga ryo ku itariki ya 26 Mutarama 2001”).

¹²⁴ Itegeko ngenga rihindura kandi rikuzuzwa itegeko ngenga N° 40/2000 ryo ku itariki ya 26 Mutarama 2001 rigenga ishyiraho ry'Inkiko Gacaca n'imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu, byakozwe hagati y'itariki ya mbere Ukwakira 1990 n'ya 31 Ukuboza 1994, Igazeti ya Leta ya Repubulika y'u Rwanda, umwaka wa 40, N° 14, 15 Nyakanga 2001 (mu bikurikira riritwa “Itegeko ngenga rihindura kandi rikuzuzwa Itegeko ngenga ryo ku itariki ya 26 Mutarama 2001”).

23/ter

wese w'umuyobozi mu rwego rw'akarere¹²⁵, washishikarije abandi bantu gukora icyaha cyibasiye inyokomuntu ashobora, hujujwe ibisabwa bimwe na bimwe,¹²⁶ guhanishwa igihano cy'igifungo kitari muni y'imyaka 25 gishobora no kugera ku gifungo cya burundu, iyo yemeye icyaha¹²⁷.

78. Urugereko ruzirikana kandi ingingo ya 83 yo mu Gitabo cy'amategeko ahana ibyaha mu Rwanda iteganya ko iyo hariho impamvu zoroshya cyaha, ibihano bihindurwa cyangwa bikagabanywa kuri ubu buryo: igihano cyo kwicwa gisimbuzwa igihano cyo gufungwa kitari muni y'imyaka itanu; igihano cyo gufungwa burundu gisimbuzwa igihano cy'igifungo cy'igihe kitari muni y'imyaka ibiri naho igihano cyo gufungwa cy'igihe cy'imyaka itanu kugeza kuri makumyabiri cyangwa kirengeje imyaka makumyabiri gishobora kugabanywa kugeza ku gifungo cy'umwaka umwe¹²⁸.

D. IGIHANO CYASABWE N'ABABURANYI

79. Mu masezerano y'ubwemeracyaha, Porokireri yiyemeje gusabira Uregwa igihano cy'igifungo kiri hagati y'imyaka 6 na 14¹²⁹. Cyakora mu iburanisha ku igenagihano, Porokireri yarahinduye maze asaba ko Joseph Serugendo yahabwa igihano cy'igifungo kiri hagati y'imyaka 6 na 10 kubera ko, kugera icyo gihe Uregwa yari yarafatanyije na we ku buryo bufatika¹³⁰.
80. Ababuranyi bombi bemera ko, nk'uko biteganywa n'ingingo ya 62 *bis* B) y'Amategeko, Urugereko rwa Mbere rw'Iremezo rutagomba, byanze bikunze, kugendera kuri icyo cyifuzo. Cyakora, Urugereko rwemeje ko Ingerereko za Mbere z'Iremezo zigomba

¹²⁵ Ingingo ya 51 y'Itegeko ngenga ryo ku itariki ya 26 Mutarama 2001 n'ingingo ya mbere y'Itegeko ngenga rihindura kandi rikuzuzanya Itegeko ngenga ryo ku itariki ya 26 Mutarama 2001.

¹²⁶ Ingingo ya 56 y'Itegeko ngenga ryo ku itariki ya 26 Mutarama 2001.

¹²⁷ Ni kimwe no haruguru, ingingo ya 68.

¹²⁸ *Urubanza rwa Bisengimana*, Inyandiko y'urubanza mu rw'iremezo, igika 195, hasubirwamo ibiteganywa mu Gitabo cy'amategeko ahana ibyaha mu Rwanda, (Itegeko-teka N° 21/77 ryo ku wa 18 Kanama 1977).

¹²⁹ Amasezerano y'ubwemeracyaha, urup. 59. Porokireri yiyemeje kumusabira igihano kiri muri urwo rwego rw'ibihano, Uregwa aramutse yemeye gufatanyije na we ku buryo bufatika (ni kimwe no haruguru, igika 60).

¹³⁰ Reba Imyanzuro ya nyuma ya Porokireri ibanziriza igenagihano, igika 5.

22/ter

kuzirikana, uko bikwiye, icyifuzo cy'ababuranyi no gusobanura impamvu rwashingiyeho rufata icyemezo mu gihe igihano gitanzwe gitandukanye cyane n'icyasabwe¹³¹.

V. IGENAGIHANO

A. UBUREMERE BW'IBYAHA

81. Ibyaha byose biteganywa na Sitati y'Urukiko ni ibyaha binyuranya bikomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara¹³². Urugereko rwa Mbere rw'Iremezo rufite ubwisanzure busesuye mu kugena igihano. Cyakora, ubwo bwisanzure bufite aho bugarurika, kuko rugomba kugena ibihano bikwiye buri muntu uregwa bishingiye ku mibereho bwite ye n'uburemere bw'ibyaha byamuhamye¹³³.
82. Ku byerekeranye no kugena igihano gikwiye, Urugereko rw'Ubujurire rwatangaje ko abaregwa bameze kimwe kandi bakoze ibyaha mu buryo busa bakwiye guhabwa ibihano bisa. Cyakora, ruvuga ko iryo hame ubwaryo rifite aho rigarukira kuko «muri buri rubanza haba harimo ibintu byinshi binyuranye kuva ku mubare w'ibyaha n'uburemere bwabyo kugera ku mibereho bwite y'uregwa»¹³⁴.
83. Rushingiyeye ku ngingo ya 6 (1) ya Sitati, Urugereko rwahamije Serugendo icyaha cya jenocide n'icy'itoteza nk'icyaha cyibasiye inyokomuntu kubera uruhare rw'ubuyobozi yagize muri RTLM. Nk'uko bigaragara mu bukemuramanza bw'Urukiko, muri rusange igihano gihabwa gatozi w'icyaha kiba kiremereye kurusha igihabwa umuntu washyigikiye cyangwa wateye inkunga gatozi¹³⁵. Cyakora, ibyo ntibivuga ko igifungo cya burundu ari

¹³¹ *Urubanza rwa Nikolić*, Inyandiko y'urubanza mu bujurire, igikac ya 89 : “izo mpamvu, hamwe n'inshingano Urugereko rwa Mbere rw'Iremezo ruhabwa n'ingingo ya 23 2) ya Sitati yo guca urubanza no kuvuga impamvu rushingiyeho rufata ibyemezo bituma umuntu uhamwe n'icyaha akoresha neza uburenganzira afite bwo kujurira ndetse bikanatuma Urugereko rw'ubujurire “rwumva, rukanasuzuma impamvu Urugereko rwa Mbere rw'iremezo rwashingiyeho rufata ibyemezo”.

¹³² *Urubanza rwa Kayishema na Ruzindana*, Impamvu z'icyemezo cy'ubujurire, urup. 367.

¹³³ *Urubanza rwa Kajelijeli*, Inyandiko y'urubanza mu bujurire, igika 291.

¹³⁴ *Urubanza rwa Kvočka*, Inyandiko y'urubanza mu bujurire, igika 681.

¹³⁵ *Urubanza rwa Semanza*, Inyandiko y'urubanza mu bujurire, igika 388.

21/ter

cyo gihano rukumbi gihabwa ba gatozi b'icyaha cya jenocide n'ibyaha byibasiye inyokomuntu¹³⁶. Muri rusange, Urukiko rukatira igihano cy'igifungo cya burundu abantu bacuze umugambi wo gukora amarorerwa cyangwa bagategeka abandi kuyakora. icyo gihano gihabwa kandi abantu bitabiriye ikorwa ry'ibyo byaha bafite umwete cyangwa ubugome bwihariye¹³⁷. Urebye muri rusange, abantu bakatirwa ibihano birushije ibindi kuremera ni abari abayobozi bo mu rwego rwo hejuru¹³⁸.

84. Mu gihe cy'ibyabaye bivugwa, nta mirimo izwi Serugendo yakoraga mu butegetsi bwite bwa Leta, mu buyobozi bw'ingabo cyangwa ubw'amashyaka ya politiki yo mu Rwanda. Byongeye kandi, ntiyigeze ubwe ahitisha ubutumwa burwanya Abatutsi muri icyo gihe kivugwa. Cyakora, imirimo ye yo mu rwego rwa tekini n'uruhare rwe rw'ubuyobozi ni ibintu bikomeye byatumye RTLIM ishobora gukomeza guhitisha ubutumwa nk'ubwo.
85. N'ubwo ibyaha Serugendo yakoze bikomeye, Urugereko rusanga adakwiye guhanishwa igihano kirusha ibindi gukomera giteganywa na Sitati. Kuri iki kibazo, Urugereko rushobora kwifashisha izindi manza abaregwa bahamijwemo icyaha cyo kwitabira ku buryo

¹³⁶ Nk'urugero, reba *Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu rw'iremezo, ibika 791-793, 832-834, 908, 909 na 924 (aho Uregwa yakatiwe igihano cy'igifungo cy'inyaka 25 kubera uruhare yagize mu ikorwa ry'ibyo byaha).

¹³⁷ *Urubanza rwa Muhimana*, Inyandiko y'urubanza mu rw'iremezo, ibika 604-616 (n'ubwo Uregwa yari konseye [wa segiteri] gusa, Urugereko ruvuga ukuntu n'ubugome bwinshi, Uregwa yasambanyije ku gahato abagore, akica, agaca abantu yahohoteye ibice by'umubiri kandi akabatesha agaciro); *Urubanza rwa Niyitegeka*, Inyandiko y'urubanza mu rw'iremezo, igika 486; *Urubanza rwa Musema*, Inyandiko y'urubanza mu bujirire, igika 383 (kivuga ko abantu bayoboze abandi n'abateguye ibikorwa by'ubushyamirane runaka baryozwa icyaha kurusha abandi, hiseguriwe ko uburemere bw'icyaha ari cyo kintu cy'ingenzi kizirikanwa mu igenagihano).

¹³⁸ Abayobozi bakuru bo mu butegetsi bwite bwa Leta bakatiwe ibihano by'igifungo cya burundu mu rubanza rwa Ndindabahizi, ibika 505, 508 na 511 (Minisitiri w'Imari); *Urubanza rwa Niyitegeka*, Inyandiko y'urubanza mu rw'iremezo, ibika 499, 502(Minisitiri w'Itangazamakuru); *Urubanza rwa Kamuhanda*, Inyandiko y'urubanza mu rw'iremezo, ibika 6,764 na 770 (Minisitiri w'Amashuri Yisumbuye n'Ubushakashatsi mu by'Ubuganga) n'*Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, ibika 44, 61 na 62 (Minisitiri w'Intebe). Ibihano by'igifungo cya burundu byakatiwe kandi abayobozi bo mu nzego zo hasi kimwe n'abantu bari batakoraga mu butegetsi bwite bwa Leta. Nk'urugero, reba *Urubanza rwa Musema*, Inyandiko y'urubanza mu rw'iremezo, ibika 999-1008 (Umuyobozi mukuru w'uruganda rw'icyayi wari ufite ijamba ku bandi kandi wagenzuraga abicanyi); n'*Urubanza rwa Rutaganda*, Inyandiko y'urubanza mu rw'iremezo, ibika 466-473 (Visi Perezida wa kabiri w'Interahamwe ku rwego rw'igihugu).

20/ter

butaziguye ikorwa ry'icyaha cya jenocide n'ibyaha byibasiye inyokomuntu nyamara ntibahanishwe ibihano by'igifungo cya burundu.

86. Mu rubanza rwa Semanza, Urugereko rw'Ubujurire rwasanze Uregwa akwiye igihano cy'igifungo cy'imyaka 25 kubera ko yakoze, ku buryo butaziguye, jenocide n'itsembatsemba ahantu habereye ubwicanyi¹³⁹. Mu gihe cy'ibyabaye, Semanza wigeze kuba burugumesitiri yari amaze igihe gito agizwe umudepite kandi yari afite ijamba mu gace kakorewemo ibyaha yaregwaga¹⁴⁰. Mu rubanza rwa Gacumbitsi, Urugereko rwa Mbere rw'Iremezo rwasanze gukatira Uregwa igihano kimwe cy'igifungo cy'imyaka 30, bijyanye, ku buryo buhagije, n'intego z'Urukiko iyo rutanga ibihano ku byaha bya jenocide n'itsembatsemba nk'icyaha cyibasiye inyokomuntu¹⁴¹. Mu gufata uwo mwanzuro, Urugereko rwa Mbere rw'Iremezo rwasanze Uregwa, wari burugumesitiri mu gihe cy'ibyabaye ashinjwa, ataritabiriye igihe kinini itegurwa ry'ibintu byabereye muri komine ye. Mu rubanza rwa Ruzindana, Urugereko rw'Ubujurire rwemeje igihano cy'igifungo cy'imyaka 25 Uregwa yari yakatiwe mu rw'iremezo ku cyaha cya jenocide. Rwafashe icyo cyemezo kubera ko Uregwa yagize uruhare mu gushyira mu bikorwa intego cyangwa umugambi uhuriweho, ibyaha byamuhanye bikaba byarimo icyo guca ingingo z'umubiri w'umuntu yahohoteye no kumutesha agaciro¹⁴².

87. Rumaze gusuzuma ibikurikizwa muri uru Rukiko no muri TPIY mu igenagihano, Urugereko rusanga kugeza ubu, ba gatozi cyangwa abantu babaye ibyitso bahamwe

¹³⁹ *Urubanza rwa Semanza*, Inyandiko y'urubanza mu bujurire, ibika 388, 389.

¹⁴⁰ *Urubanza rwa Semanza*, Inyandiko y'urubanza mu rw'iremezo, ibika 303, 304 na 573.

¹⁴¹ *Urubanza rwa Gacumbitsi*, Inyandiko y'urubanza mu rw'iremezo, ibika 334, 345, 352, 353 na 356. Gacumbitsi yanahamwe n'icyaha cyo gusambanya ku gahato abagore kandi Urugereko rwa Mbere rw'Iremezo rwatangaje ko uburyo bwihariye bwa kinyamaswa yakoresheje mu gusambanya ku gahato abagore ari impamvu ikomeye yongera uburyozwacyaha (ni kimwe no haruguru, igika 345).

¹⁴² *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu bujurire, ibika 191, 194, na 352; *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 26. Nk'impamvu yongera uburyozwacyaha, Ruzindana yaciye amabere umwe mu bantu yahohoteye kandi amusatura inda amuseka ku buryo bugaragara. Mu ngingo Urugereko rwa Mbere rw'Iremezo rwazirikanye mu kumukatira igihano kiri muni y'igifungo cya burundu, harimo kuba yari akiri muto kandi igihano icyo ari cyo cyose kikaba kigamije gushaka ko uwakozwe icyaha yikosora.

19/ter

n'itoteza nk'icyaha cyibasiye inyokomuntu, baragiye bahanishwa ibihano biva ku gifungo cy'imyaka itanu kugera ku gifungo cya burundu¹⁴³. Muri rusange, abantu bahamwe n'ibyaha byoroheje bahanishijwe ibihano byoroheje¹⁴⁴.

B. IMIBEREHO BWITE Y'UREGWA N'IMPAMVU ZONGERA N'IZIGABANYA UBURYOZWACYAHA

88. Urugereko rugiyeye gusuzuma imibereho bwite ya Serugendo ndetse n'impamvu zongera uburyozwacyaha n'izibugabanya.
89. Muri rusange, Urugereko rwemeranya na Porokireri ko igihano kirusha ibindi uburemere kigomba guhabwa abantu bakoze ibyaha biremeye kurusha ibindi muri buri bwoko bw'ibyaha. Rwemera ndetse ko rugomba kuzirikana ibihano byatanzwe ku byaha bisa n'ibyaho Uregwa yakoze¹⁴⁵. Byongeye kandi, muri rusange, birakwiye kudatanga igihano kirusha ibindi uburemere iyo uregwa yemeye icyaha. Urugereko ruributsa ko ubwirege bukwiye kugira agaciro buhabwa kugira ngo bishishikarize abandi bantu kwirega. Na none, kuba Serugendo yaremeye icyaha bishobora gufasha mu nzira y'ubwiyunge bw'Abanyarwanda¹⁴⁶.
90. Mu mpamvu zongera uburyozwacyaha, Urugereko rusanga Serugendo yari afite imirimo y'ubuyobozi muri RTL. Kubera ijamba yakomoraga kuri iyo mirimo, birashoboka rwose

¹⁴³ Imyanzuro ya Porokireri ku igenagihano, igika 19.

¹⁴⁴ Vincent Rutaganira yakatiwe igifungo cy'imyaka 6 kubera ko yabaye icyitso cy'abakoze itsembatsemba nk'icyaha cyibasiye inyokomuntu, bitewe n'ibyaho yatashutswe gukora (*Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 40); Elizaphan Ntakirutimana yakatiwe igihano cy'igifungo cy'imyaka 10 kubera ko yafashije kandi agashishikaza abantu bakoze icyaha cya jenocide (*Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu rw'iremezo, ibika 790, 921); icyo gihano cyemejwe n'Urugereko rw'Ubujurire (*Urubanza rwa Ntakirutimana*, Inyandiko y'urubanza mu bujurire, igika 570); na Laurent Semanza wakatiwe igihano cy'igifungo cy'imyaka 8 kubera ko yahamagariye abantu gukora ubuhotozi bw'abantu batandatu, nk'icyaha cyibasiye inyokomuntu (*Urubanza rwa Semanza*, Inyandiko y'urubanza mu rw'iremezo, igika 588).

¹⁴⁵ Imyanzuro ya Porokireri ku igenagihano, igika 19.

¹⁴⁶ *Urubanza rwa Rutaganira*, Inyandiko y'urubanza mu rw'iremezo, igika 146; *Urubanza rwa Kambanda*, Inyandiko y'urubanza mu rw'iremezo, igika 50.

18/ter

ko abandi bakozi bakurikije urugero rwe¹⁴⁷. Birumvikana kandi ko umubare w'abakorewe ibyaha byatewe n'uko habayeho gukangurira abantu gukora jenocide n'itoteza, na wo ari impamvu yongera uburyozwacyaha. Serugendo yabigizemo uruhare rufatika kubera ko yafashije radiyo gukomeza gukora.

91. N'ubwo Uregwa yakoze ibyaha bikomeye kandi akaba yari afite n'umwanya uzwi, Urugereko rusanga akwiriye kugabanyirizwa igihano ku buryo bugaragara, kubera ko yemeye icyaha akicuza mu ruhamwe ibyo yakoze kandi agafatanya ku buryo bufatika na Porokireri. Imibereho y'umuryango we, imico myiza yari afite mbere y'ibyabaye bivugwa ahangaha, kuba atari yarigeze akurikiranwa mu nkiko n'imyaka ye na byo ni impamvu zigabanya uburyozwacyaha ariko kandi zitahabwa agaciro kanini.
92. Urugereko rusanga uburwayi bwa Serugendo no kuba nta gihe kinini ashigaje cyo kubaho, kubera ko agenda arushaho kuremba, ari impamvu zikomeye zatuma agabanyirizwa igihano.
93. Urugereko rusanga ababuranyi bombi baratangiye hamwe amasezerano y'ubwemeracyaha akubiyemo n'icyifuzo cyabo ku gihano. Rusanga kandi nyuma Porokireri yaratanze urwego rw'ibihano ruto ku rwatanzwe mbere kubera ko Serugendo yafatanyije na we ku buryo bufatika¹⁴⁸. N'ubwo Urugereko rutagomba byanze bikunze kugendera kuri icyo cyifuzo, icyo cyifuzo kirufasha mu kwemeza urwego rw'igihano cyahabwa Uregwa¹⁴⁹. Rusanga Uregwa agomba gukatirwa igihano cyoroheje kurusha ibindi biri mu rwego rw'ibihano rwatanzwe.
94. Byongeye kandi, biragaragara ko Serugendo adashobora kurangiza igihano mu buryo busanzwe bw'igifungo. Bamusanganye vuba aha indwara y'igikatu idakira, afite amagara make kandi abaganga basanga izamuhitana. Kubera iyo mpamvu, Urukiko rugomba gukomeza gukora ku buryo avurwa uko bikwiye, harimo no kumushyira mu bitaro igihe cyose ari ngombwa. Iyi shingano igomba gushyirwa mu cyemezo cy'Urukiko gikubiye mu nyandiko y'urubanza.

¹⁴⁷ *Urubanza rwa Semanza*, Inyandiko y'urubanza mu bujirire, igika 336.

¹⁴⁸ Reba Imyanzuro ya nyuma ya Porokireri ibanziriza igenagihano, igika 5.

¹⁴⁹ *Urubanza rwa Nikolić*, Inyandiko y'urubanza mu bujirire, (urubanza rugena igihano), igika 89.

C. GUKURA MU GIHANO IGIHE UREGWA AMAZE AFUNZWE

95. Serugendo yafashwe ku itariki ya 16 Nzeri 2005, afungwa n’Urukiko kuva icyo gihe. Hakurikijwe ingingo ya 101 D) y’Amategeko, Uregwa afite uburenganzira bwo gukurirwa mu gihano igihe amaze afunzwe. Kugeza uyu munsu inyandiko y’urubanza itangiweho, Serugendo amaze iminsi 270 afunze¹⁵⁰.

VI. ICYEMEZO CY’URUKIKO

Kubera izo mpamvu, rumaze gusuzuma ibimenyetso byose n’ibyavuzwe n’abaturanyi, **Urugereko,**

RUHANISHIJE Joseph Serugendo igihano rukumbi cy’**IGIFUNGO CY’IMYAKA ITANDATU (6)**;

RUTEGETSE Gerefiye gukora ku buryo Joseph Serugendo akomeza kuvurwa uko bikwiye, harimo no gushyirwa mu bitaro igihe cyose ari ngombwa.

Hakurikijwe ingingo ya 101 D) y’Amategeko, igihe Serugendo amaze afunzwe kigomba gukurwa mu gihano akatiwe. Nk’uko imibare y’Urugereko ibigaragaza, icyo gihe amaze afunzwe kingana n’iminsi 270.

Bikorewe Arusha, ku itariki ya 12 Kamena 2006.

Erik Mose

Jai Ram Reddy

Sergei Alekseevich Egorov

Perezida [umukono]

Umucamanza [umukono]

Umucamanza [umukono]

[Kashe y’Urukiko]

IMIGEREKA

¹⁵⁰ *Urubanza rwa Kajelijeli*, Inyandiko y’urubanza mu bujurire, igika 290.

I. UBUKEMURAMANZA N'IBISOBANURO BY'AMAGAMBO YAKORE-SHEJWE

A. UBUKEMURAMANZA BWA TPIR

i) Urugereko rw'Ubujurire

Urubanza Porokireri aburana na Serushago, N° ICTR-98-39-A, impamvu z'imikirize y'urubanza, 6 Mata 2000;

Urubanza Porokireri aburana na Akayesu, N° ICTR-96-4-A, Inyandiko y'urubanza, 1 Kamena 2001;

Urubanza Porokireri aburana na Kayishema na Ruzindana, N° ICTR-95-1-A, impamvu z'imikirize y'urubanza, 1 Kamena 2001;

Urubanza Porokireri aburana na Musema, N° ICTR-96-13-A, Inyandiko y'urubanza, 16 Ugushyingo 2001;

Urubanza Porokireri aburana na Ntakirutimana, N° ICTR-96-10-A na ICTR-96-17-A, Inyandiko y'urubanza, 13 Ukuboza 2004;

Urubanza Porokireri aburana na Semanza, N° ICTR-97-20-A, Inyandiko y'urubanza, 20 Gicurasi 2005;

Urubanza Porokireri aburana na Kajelijeli, N° ICTR-99-44-A, Inyandiko y'urubanza, 23 Gicurasi 2005.

ii) Urugereko rwa Mbere z'Iremezo

Urubanza Porokireri aburana na Akayesu, N° ICTR -96-4-T, Inyandiko y'urubanza, 2 Nzeri 1998;

Urubanza Porokireri aburana na Kambanda, N° ICTR-97-23-S, Inyandiko y'urubanza, 4 Nzeri 1998;

Urubanza Porokireri aburana na Serushago, N° ICTR-98-39-T, Inyandiko y'urubanza, 5 Gashyantare 1999;

Urubanza Porokireri aburana na Kayishema na Ruzindana, N° ICTR-95-1-T, Inyandiko y'urubanza, 21 Gicurasi 1999;

Urubanza Porokireri aburana na Rutaganda, N° ICTR-96-3-T, Inyandiko y'urubanza, 6 Ukuboza 1999;

Urubanza Porokireri aburana na Musema, N° ICTR-96-3-T, Inyandiko y'urubanza, 6 Ukuboza 1999;

Urubanza Porokireri aburana na Ruggiu, N° ICTR-967-32-T, Inyandiko y'urubanza, 1 Kamena 2000.

Urubanza Porokireri aburana na Bagilishema, N° ICTR-95-1A-T, Inyandiko y'urubanza, 7 Kamena 2001;

Urubanza Porokireri aburana na Ntakirutimana, N° ICTR-96-10-T na ICTR-17-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gashyantare 2003;

Urubanza Porokireri aburana na Semanza, N° ICTR-97-T, Inyandiko y'urubanza, 15 Gicurasi 2003.

Urubanza Porokireri aburana na Niyitegeka, N° ICTR-96-14-T, Inyandiko y'urubanza, 16 Gicurasi 2003;

Urubanza Porokireri aburana na Kajelijeli, N° ICTR-99-44-T, Inyandiko y'urubanza, 1 Ukuboza 2003;

Urubanza Porokireri aburana na Kamuhanda, N° ICTR-95-54-T, Inyandiko y'urubanza, 22 Mutarama 2004;

Urubanza Porokireri aburana na Gacumbitsi, N° ICTR-01-64-T, Inyandiko y'urubanza, 17 Kamena 2004;

Urubanza Porokireri aburana na Ndindabahizi, N° ICTR-2001-71-I, Inyandiko y'urubanza, , 15 Nyakanga 2004;

Urubanza Porokireri aburana na Rutaganira, N° ICTR-95-1C-T, Inyandiko y'urubanza, 14 Werurwe 2005;

Urubanza Porokireri aburana na Muhimana, N° ICTR-95-1B-T, Inyandiko y'urubanza, 28 Mata 2005;

Urubanza Porokireri aburana na Bisengimana, N° ICTR-00-60-T, Inyandiko y'urubanza, 13 Mata 2006;

B. UBUKEMURAMANZA BWA TPIY

i) Urugereko rw'Ubujurire

Urubanza Porokireri aburana na Tadić, N° IT-94-1-S, Inyandiko y'urubanza, 26 Mutarama 2000;

Urubanza Porokireri aburana na Aleksovski, N° IT-95-14/1-A, Inyandiko y'urubanza, 25 Werurwe 2000;

Urubanza Porokireri aburana na Furundžija, N° IT-95-17/1-A, Inyandiko y'urubanza, 21 Nyakanga 2000;

Urubanza Porokireri aburana na Mucić na bagenzi be, N° IT-96-21-A, Inyandiko y'urubanza, 20 Gashyantare 2001;

Urubanza Porokireri aburana na Jelisić, N° IT-95-10-A, Inyandiko y'urubanza, 5 Nyakanga 2001;

Urubanza Porokireri aburana na Kupreškić na bagenzi be, N° IT-95-16-A, Inyandiko y'urubanza, 23 Ukwakira 2001;

Urubanza Porokireri aburana na Kunarac, N° IT-96-23-A/A, Inyandiko y'urubanza, 12 Kamena 2002;

Urubanza Porokireri aburana na Krnojelac, N° IT-97-25-A, Inyandiko y'urubanza, 17 Nzeri 2003;

Urubanza Porokireri aburana na Nikolić, N° IT-94-A, Inyandiko y'urubanza, 4 Gashyantare 2005;

Urubanza Porokireri aburana na Kvočka na bagenzi be, N° IT-98-30/1-A, Inyandiko y'urubanza, 28 Gashyantare 2005.

ii) Urugereko rwa Mbere rw'Iremezo

Urubanza Porokireri aburana na Plavšić, N° IT-00-39 & 40/1-S, Inyandiko y'urubanza, 27 Gashyantare 2003;

Urubanza Porokireri aburana na Stakić, N° IT-97-24-T, Inyandiko y'urubanza 31 Nyakanga 2003;

Urubanza Porokireri aburana na Banović, N° IT-02-65/1-S, Inyandiko y'urubanza, 28 Ukwakira 2003;

Urubanza Porokireri aburana na Jokić, N° IT-01-42/1-S, Inyandiko y'urubanza, 18 Werurwe 2004;

Urubanza Porokireri aburana na Strugar, N° IT-01-42-T, Inyandiko y'urubanza, 31 Mutarama 2005;

C. IBISOBANURO BY'AMAGAMBO

Amasezerano y'ubwemeracyaha

Urubanza Porokireri aburana na Serugendo, N° ICTR-2005-84-I, Amasezerano y'ubwemeracyaha hagati ya Joseph Serugendo n'Iburo bya Porokireri, inyandiko yasubiwemo kandi igakosorwa ku itariki ya 16 Gashyantare 2006

Inyandiko y'ibirego yahinduwe

Urubanza Porokireri aburana na Serugendo, N° ICTR-2005-84-I, Inyandiko y'ibirego yahinduwe igashyirwaho umukono ku itariki ya 16 Gashyantare 2006, igatangwa ku ya 15 Werure 2006 mu rurimi rw'igifaransa n'icyongereza.

Urugereko

Urugereko rwa Mbere rw'Iremezo I

Imyanzuro y'Ubwunganizi ku igenagihano

Urubanza Porokireri aburana na Serugendo, N° ICTR-2005-84-I, Imyanzuro y'Ubwunganizi ibanziriza igenagihano, hashingiwe ku ngingo ya 100 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, yatanzwe ku itariki ya 18 Gicurasi 2006.

Imyanzuro ya Porokireri ku igenagihano

Urubanza Porokireri aburana na Serugendo, N° ICTR-2005-84-I, Imyanzuro ya mbere ya Porokireri ibanziriza igenagihano, yatanzwe ku itariki ya 3 Gicurasi 2006.

Imyanzuro ya nyuma ya Porokireri ibanziriza igenagihano

Urubanza Porokireri aburana na Serugendo, N° ICTR-2005-84-I, Imyanzuro ya nyuma ya Porokireri ibanziriza igenagihano yo ku itariki ya 31 Gicurasi 2006, yatanzwe ku itariki ya 1 Kamena 2006.

II. INYANDIKO Y'IBIREGO



UMURYANGO
W'ABIBUMBYE

**Urukiko Mpanabyaha Mpuzamahanga rwagenewe u
Rwanda**

Umwimerere: icyongereza
INYANDIKO Y'IBANGA

**POROKIRERI
aburana na
JOSEPH SERUGENDO**

Urubanza n° ICTR-2005-84-I

INYANDIKO Y'IBIREGO YAHINDUWE

Hashingiwe ku Cyemezo cyatanzwe ku itariki ya 15 Werurwe 2006

- I. Ashingiye ku bubasha ahabwa n'ingingo ya 17 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Sitati »), Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Porokireri »), ararega:

Joseph Serugendo

Ibyaha bikurikira:

Ikirego cya 1: Guhamagarira abantu, mu ruhame kandi ku buryo butaziguye, gukora jenocide, hashingiwe ku Ngingo ya 2 (3) (c), n'iya 6 (1) za Sitati.

Ikirego cya 2: Itoteza nk'icyaha cyibasiye inyokomuntu, hashingiwe ku Ngingo ya 3 (h) n'iya 6 (1) za Sitati.

II. UREGWA

1. **Joseph Serugendo** yavukiye i Kipushi muri Repuburika Iharanira Demokarasi ya Kongo ku itariki ya 24 Kanama 1953.
2. Mu gihe cy'ibyabaye byose bivugwa muri iyi Nyandiko y'ibirego, **Joseph Serugendo** yari:
 - (a) Umwe mu bagize Komite yagize igitekerezo cyo gushinga RTLM s.a. (*Comité d'initiative*), ari na bo bari bagize inama y'ubuyobozi b'iyo sosiyete. Yari n'umujyanama mu bya tekini kuri radiyo RTLM;
 - (b) Umukuru w'ishami rishinzwe kwita ku byuma bya radiyo kuri Radiyo Rwanda, mu Kigo cy'igihugu cy'itangazamakuru (ORINFOR);
 - (c) Umwe mu bagize Komite y'umutwe w'Interahamwe za MRND mu rwego rw'igihugu. Iyo Komite yari ifite ububasha ku Nterahamwe za Kigali.
3. Kubera ko yari umwe bagize igitekerezo cyo gushinga RTLM s.a. akaba n'umujyanama mu bya tekini w'iyo sosiyete, kubera ububasha yahabwaga n'iyo mirimo n'uruhare yari afite mu gucunga no kugenzura imirimo y'abantu yari akuriye, **Joseph Serugendo** yari afite ububasha kuri abo bantu akuriye barimo abatekinisiye ba RTLM n'abandi bakozi babafashaga.
4. Nk'umwe mu bagize Komite y'Interahamwe mu rwego rw'igihugu, **Joseph Serugendo** yari afite ububasha ku Nterahamwe.

III. IBIREGO N'INCAMAKE Y'IBYABAYE

5. Mu gihe cy'ibyabaye byose bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda, hari ubwoko bw'abantu nyamuke bitwa Abatutsi, kandi na Leta yemeraga ko ubwo bwoko buriho. Hari kandi n'ubwoko bugizwe n'abantu nyamwinshi bitwa Abahutu, na bwo Leta yemeraga ko buriho.
6. Mu mwaka wa 1994, by'umwihariko mu gihe kiri hagati y'itariki ya 6 Mata n'ya 17 Nyakanga 1994, mu Rwanda hose, abasirikare, Interahamwe n'abasiviri bitwaje intwari bibasiye Abatutsi, babagabaho ibitero babaziza icyo bari cyo. Bari bagamije kwica Abatutsi cyangwa kubatera ububabare bukomeye, no kurimbura Abatutsi bose bo mu Rwanda cyangwa igice cyabo. Ibyo bitero byagabwe mu rwego rw'ibikorwa rusange cyangwa biri kuri gahunda, byahitanye ibihumbi amagana by'Abatutsi.

IKIREGO CYA 1**GUHAMAGARIRA ABANTU, MU RUHAME KANDI KU BURYO BUTAZIGUYE, GUKORA JENOSIDE**

Porokireri arega **Joseph Serugendo** ICYAHA CYO GUHAMAGARIRA ABANTU, MU RUHAME KANDI KU BURYO BUTAZIGUYE, GUKORA JENOSIDE, giteganywa n'ingingo ya 2 (3) (c) ya Sitati, kubera ko ku itariki ya 1 Mutarama n'ya 17 Nyakanga 1994 cyangwa mu gihe kiri hagati y'ayo matariki, mu Rwanda hose, **Joseph Serugendo** yahamagariye abantu, ku buryo butaziguye kandi mu ruhame, kwica Abatutsi cyangwa kubatera ububabare bukomeye bw'umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura abantu bose bo muri ubwo bwoko cyangwa igice cyabo, nk'uko bisobanuye kuva ku gika cya 7 kugera ku cya 18.

INCAMAKE Y'IBYABAYE BYEREKERANYE N'IKIREGO CYA MBERE*Uburyozwacyaha bw'umuntu nka gatozi*

7. Hashingiwe ku Ngingo ya 6 (1) ya Sitati, Uregwa, **Joseph Serugendo** aryozwa nka gatozi icyaha cyo guhamagarira abantu, mu buryo butaziguye kandi mu ruhame, gukora icyaha cya jenocide, kubera ko yacuze umugambi wo gukora icyo cyaha, agahamagarira kandi agategeka abantu kugikora, akagikora na we ubwe, cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha kandi agashishikariza abantu gucura no gutegura umugambi wo gukora icyo cyaha, cyangwa kugitsotsoba. Ku byerekeranye n'ikorwa ry'icyo cyaha, **Joseph Serugendo** yitwaje imyanya yari afite ivugwa kuva mu gika cya 2 kugera ku cya 4 maze ateguka abantu yari afiteho ububasha gukora icyo cyaha. Yanahamagariye, afasha kandi ashishikariza abandi bantu atari akuriye ndetse atagenzuraga, gukora icyo cyaha. Byongeye kandi, Uregwa yari mu mugambi mubisha uhuriweho wari ugamiye guhamagarira abantu, mu ruhame kandi ku buryo butaziguye, gukora jenocide yibasiye Abatutsi mu Rwanda hose. Kugira ngo agere kuri uwo mugambi mubisha, Uregwa yafatanyije n'abayobozi n'abayoboze ba MRND ndetse n'Interahamwe, barimo Bernard Maniragaba, Ephrem Nkezabera, n'abandi batazwi. Yafatanyije kandi n'abandi bantu bagize uruhare mu ishingwa rya RTLM no mu mikorere yayo, nka Ferdinand Nahimana, Jean-Bosco Barayagwiza, Phocas Habimana, Georges Ruggiu na Félicien Kabuga. Yanafatanyije n'abandi bantu batazwi. Ibyo byose Uregwa yabikoze nka gatozi cyangwa yifashisha abantu yari akuriye, kandi byabaye kuva nibura mu ntangiriro z'umwaka wa 1992 ku itariki itazwi neza, kugeza ku itariki ya 17 Nyakanga 1994, nk'uko bisobanurwa ku buryo burambuye kuva ku gika cya 8 kugera ku cya 18.

Interahamwe na poropagande y'ubwicanyi

8. Kuva ku itariki itazwi yo mu ntangiriro z'umwaka wa 1992 kugeza ku ya 17 Nyakanga 1994, **Joseph Serugendo** nk'umwe mu bari mu mutwe w'Interahamwe witwara gisirikare, yacuze umugambi afatanyije n'abandi bayobozi ba MRND n'ab'Interahamwe,

7/ter

barimo Bernard Maniragaba na Ephrem Nkezabera. Uwo mugambi wari ugamije gutegura no gukoresha amanama na za mitingi hagamijwe gucengeza amatwara mu Nterahamwe, kuzikangurira no kuzihamagarira kwica Abatutsi cyangwa kubatera ububabare bukomeye bw'umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura abantu bagize ubwo bwoko.

Ibiganiro bya RTLM

9. Kuva ku itariki ya 8 Mata 1993 kugera muri Nyakanga 1994, **Joseph Serugendo**, Ferdinand Nahimana, Jean-Bosco Barayagwiza, Phocas Habimana na Félicien Kabuga n'abandi bantu, bafashe ingamba za ngombwa zo gushinga RTLM, kuyishakira imari no kugena imikorere y'ishami ryayo rya radiyo kugira ngo ikwirakwize ubutumwa burwanya Abatutsi kandi ihembere urwango hagati y'Abahutu n'Abatutsi. Babikoze bafite intego yo kwica Abatutsi cyangwa kubatera ububabare bukomeye bw'umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura ubwo bwoko.
10. **Joseph Serugendo**, nk'umwe mu bagize komite yagize igitekerezo cyo gushinga RTLM s.a. akaba n'umujoyanama mu bya tekini wa radiyo RTLM, yari afite ububasha ku batekinisiye b'iyo radiyo no ku bandi bakozi babafashaga. Ni muri urwo rwego yafashije kandi akorohereza abakozi ba RTLM guhitisha ibiganiro mu gihe cyose iyo radiyo yamaze ikora, ni ukuvuga guhera ku itariki ya 8 Nyakanga 1993 kugera ku ya 17 Nyakanga 1994.
11. Kuva ku itariki ya 8 Nyakanga 1993 kugera ku ya 4 Nyakanga 1994, RTLM yumvikaniraga i Kigali ikwirakwiza ubutumwa burwanya Abatutsi, hagamijwe kurimbura ubwo bwoko.
12. Mu gihe kiri hagati y'itariki ya 6 Mata 1994 n'ya 12 Mata 1994 cyangwa hafi yayo, **Joseph Serugendo** ari kumwe n'insoresore zitwara gisirikare kandi zitwaje intwara, yakunze kujya muri sitidiyo ya RTLM, maze agakora ibishoboka ngo ibiganiro bya RTLM bidahagarara, akareba ko ibyuma by'iyo radiyo bikora neza, agatanga inkunga

6/ter
mu bya tekiniiki kandi akanatera akanyabugabo abakozi. Kubera iyo myitwarire, yafashije kandi ashishikariza RTLM gusakaza ubutumwa buhamagarira abantu kwica Abatutsi.

13. Mu gihe kiri hagati y'itariki ya 6 Mata 1994 n'ya 17 Nyakanga 1994, RTLM, yari hamwe mu hantu h'ingenzi Abanyarwanda bakuraga amakuru. Iyo radiyo yahitishije amakuru aranga aho Abatutsi bihishe kandi ahamagarira Abanyarwanda guhiga Abatutsi bose no kubica.
14. Kuva mu kwezi kwa Mata kugeza mu byumweru bibanza bya Nyakanga 1994, RTLM yahitishije ubutumwa buhamagarira abantu kwica ibihumbi amagana by'abasiviri b'Abatutsi mu Rwanda hose.

Iyimurwa rya Radiyo RTLM n'imikorere yayo muri Nyakanga 1994

15. Ku itariki ya 4 Nyakanga 1994 cyangwa hafi yayo, ingabo za FPR zinjiye muri Kigali zisenya insakazamajwi ya RTLM, maze bituma iyo radiyo itongera guhitisha ibiganiro byayo. Kuri iyo tariki cyangwa hafi yayo, **Joseph Serugendo** yakoranye inama na Barayagwiza, Ruggiu, Nahimana, Habimana n'abandi bakozi bakuru ba RTLM, muri *Hotel Méridien*, ku Gisenyi. Abo bantu bize ukuntu bashyira ku Gisenyi indi sitidiyo n'ibindi bikoresho byo gusakaza amakuru, kugira ngo RTLM ibashe gukomeza ibiganiro byayo.
16. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, abatekinisiye ba RTLM bari bakuriwe na **Joseph Serugendo** bajyanye ku musozi wa Muhe hafi yo ku Gisenyi, ibyuma bya radiyo RTLM bari bashoboye kuvana i Kigali bahunga. Bifashishije insakazamajwi na anteni byari byarashinzwe kuri uwo musozi muri Mutarama 1994, maze bacomeka sitidiyo y'amaburakindi kuri ibyo bikoresho byo gusakaza amajwi, bityo RTLM yongera gusubukura ibiganiro byayo. Mu biganiro byayo, RTLM yakomeje guhamagarira abayumva gutsembatsemba abasiviri b'Abatutsi mu Rwanda hose no kubatera ibikomere. Kubera ko yashoboye gushinga anteni y'amaburakindi ku musozi wa

5/ter

Muhe, akanaha RTLM ubushobozi bwo kongera guhitisha ibiganiro, **Serugendo** yafashije kandi ashishikaza iyo radiyo mu gikorwa cyo guhamagarira abantu kwica Abatutsi.

17. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, **Joseph Serugendo** yatanze inkunga mu bya tekiniki yatumye abanyamakuru ba RTLM, nka Bemeri na Habimana, bajya ku musozi wa Muhe inshuro nyinshi, kugira ngo bakomeze guhitisha ibiganiro bihamagarira abantu gutsembatsemba Abatutsi n'ibitso byabo. Kubera icyo gikorwa, **Serugendo** yafashije RTLM kandi arayishishikaza mu gikorwa cyo guhamagarira abantu kwica Abatutsi.
18. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, **Joseph Serugendo** yatanze inkunga ya tekiniki yatumye abanyamakuru ba RTLM, nka Georges Ruggiu, bashobora gufatira kuri kasete ibiganiro bihamagarira abantu gutsembatsemba Abatutsi n'ibitso byabo. Yohereje ayo makaseti ku musozi wa Muhe maze ibiganiro biyariho bihitishwa kuri Radiyo RTLM. Kubera iyo mpamvu, **Serugendo** yafashije kandi ashishikaza RTLM mu gikorwa cyo guhamagarira abantu kwica Abatutsi.

IKIREGO CYA 2

ITOTEZA NK'ICYAHA CYIBASIYE INYOKOMUNTU

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda arega **Joseph Serugendo** ITOTEZA NK'ICYAHA CYIBASIYE INYOKOMUNTU, giteganywa n'ingingo ya 3 (h) ya Sitati, kubera ko ku itariki ya 1 Mutarama n'ya 17 Nyakanga 1994, cyangwa mu gihe kiri hagati y'ayo matariki, mu Rwanda hose, hari ibikorwa **Joseph Serugendo** yakoze cyangwa yateshutswe gukora, mu rwego rw'ibitero rusange cyangwa biri kuri gahunda byari byibasiye Abatutsi n'Abahutu barwanyaga ivanguramoko, bazira ubwoko cyangwa ibitekerezo byabo bya politiki. Ibyo yakoze cyangwa yateshutswe gukora bibangamiye uburenganzira bw'ibanze bwa muntu, nk'uko bisobanuye kuva ku gika cya 19 kugera ku cya 30.

INCAMAKE Y'IBYABAYE BYEREKERANYE N'IKIREGO CYA 2*Uburyozwacyaha bw'umuntu nka gatozi*

19. Hashingiwe ku Ngingo ya 6 (1) ya Sitati, Uregwa ari we **Joseph Serugendo** ariyozwa nka gatozi itoteza nk'icyaha cyibasiye inyokomuntu, kubera ko yacuze umugambi wo gukora icyo cyaha, agategeka kandi agahamagarira abantu kugikora, akagikora ubwe, cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha kandi agashishikariza abantu gucura no gutegura umugambi wo gukora icyo cyaha, cyangwa kugitsotsoba. Ku byerekeranye n'ikorwa ry'icyo cyaha, **Joseph Serugendo** yitwaje imyanya yari afite ivugwa kuva mu gika cya 2 kugera ku cya 4 maze ateguka abantu, yari afiteho ububasha, gukora icyo cyaha. Yanahamagariye, afasha kandi ashishikariza abandi bantu atari akuriye ndetse atagenzuraga, gukora icyo cyaha. Byongeye kandi, Uregwa yari mu mugambi mubisha uhuriweho wari ugamije guhamagarira abantu, mu ruhame kandi ku buryo butaziguye, gukora jenocide yibasiye Abatutsi mu Rwanda hose. Kugira ngo agere kuri uwo mugambi mubisha, Uregwa yafatanyije n'abayobozi n'abayoboze ba MRND ndetse n'Interahamwe, barimo Bernard Maniragaba, Ephrem Nkezabera, n'abandi batazwi. Yafatanyije kandi n'abandi bantu bagize uruhare mu ishingwa rya RTLM no mu mikorere yayo, nka Ferdinand Nahimana, Jean-Bosco Barayagwiza, Phocas Habimana, Georges Ruggiu na Félicien Kabuga. Yanakoranye n'abandi batazwi. Ibyo byose Uregwa yabikoze nka gatozi cyangwa yifashisha abantu yari akuriye, kandi byabaye nibura kuva ku itariki ya 1 Mutarama kugera ku ya 17 Nyakanga 1994, nk'uko bisobanurwa birambuye kuva ku gika cya 20 kugera ku cya 30.

Interahamwe na poropagande y'ubwicanyi

20. Kuva ku itariki itazwi yo mu ntangiriro z'umwaka wa 1992 kugeza ku ya 17 Nyakanga 1994, **Joseph Serugendo** nk'umwe mu bari mu mutwe w'Interahamwe witwaraga gisirikare, yacuze umugambi afatanyije n'abandi bayobozi ba MRND n'ab'Interahamwe, barimo Bernard Maniragaba na Ephrem Nkezabera. Uwo mugambi wari ugamije

3/ter

gutegura no gukoresha amanama na za mitingi hagamijwe gucengeza amatwara mu Nterahamwe, kuzikangurira no kuzihamagarira kwica Abatutsi cyangwa kubatera ububabare bukomeye bw'umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura abantu bagize ubwo bwoko.

Ibiganiro bya RTL

21. Kuva ku itariki 8 Mata 1993 kugera muri Nyakanga 1994, **Joseph Serugendo**, Ferdinand Nahimana, Jean-Bosco Barayagwiza, Phocas Habimana na Félicien Kabuga n'abandi bantu, bafashe ingamba za ngombwa zo gushinga RTL, kuyishakira imari no kugena imikorere y'ishami ryayo rya radiyo kugira ngo ikwirakwize ubutumwa burwanya Abatutsi kandi ihembere urwango hagati y'Abahutu n'Abatutsi. Muri icyo gikorwa, bari bafite intego yo kwica Abatutsi cyangwa kubatera ububabare bukomeye bw'umubiri cyangwa ubwo mu mutwe, hagamijwe kurimbura ubwo bwoko.
22. **Joseph Serugendo**, nk'umwe mu bagize komite yagize igitekerezo cyo gushinga RTL s.a. akaba n' umujyanama mu bya tekini wa radiyo RTL, yari afite ububasha ku batekinisiye b'iyo radiyo no ku bandi bakozi babafashaga. Ni muri urwo rwego yafashije kandi akorohereza abakozi ba RTL guhitisha ibiganiro mu gihe cyose iyo radiyo yamaze ikora, ni ukuvuga guhera ku itariki ya 8 Nyakanga 1993 kugera ku ya 17 Nyakanga 1994.
23. Kuva ku itariki ya 8 Nyakanga 1993 kugera ku ya 4 Nyakanga 1994, RTL yumvikaniraga i Kigali ikwirakwiza ubutumwa burwanya Abatutsi, hagamijwe kurimbura ubwo bwoko.
24. Kuva mu gihe kiri hagati y'itariki ya 6 Mata 1994 n'ya 12 Mata 1994 cyangwa hafi yayo, **Joseph Serugendo** ari kumwe n'insoresore zitwara gisirikare kandi zitwaje intwara, yakunze kujya muri sitidiyo ya RTL, agakora ibishoboka ngo ibiganiro bya RTL bidahagarara, akareba ko ibyuma by'iyo radiyo bikora neza, agatanga inkunga mu bya tekini kandi akanatera akanyabugabo abanyamakuru n'abandi bakozi. Mu

2/ter

gukora gutyo, yafashije kandi yorohereza abantu gusakaza ubutumwa buhamagarira abandi kwica Abatutsi.

25. Mu gihe kiri hagati y'itariki ya 6 Mata 1994 n'ya 17 Nyakanga 1994, RTLM yari hamwe mu hantu h'ingenzi Abanyarwanda bakuraga amakuru. Iyo radiyo yahitishije amakuru aranga aho Abatutsi bihishe kandi ahamagarira Abanyarwanda guhiga Abatutsi bose no kubica.
26. Kuva muri Mata kugeza mu byumweru bibanza bya Nyakanga 1994, RTLM yahitishije ubutumwa buhamagarira abantu kwica ibihumbi amagana by'abasiviri b'Abatutsi mu Rwanda hose.

Iyimurwa rya radiyo RTLM n'imikorere yayo muri Nyakanga 1994

27. Ku itariki ya 4 Nyakanga 1994 cyangwa hafi yayo, ingabo za FPR zinjije muri Kigali zisenya insakazamajwi ya RTLM, maze bituma iyo radiyo itongera guhitisha ibiganiro byayo. Kuri iyo tariki cyangwa hafi yayo, **Joseph Serugendo** yakoranye inama na Barayagwiza, Ruggiu, Nahimana, Habimana n'abandi bakozi bakuru ba RTLM, muri *Hotel Méridien*, ku Gisenyi. Abo bantu bakoze umushinga wo gushyira ku Gisenyi indi sitidiyo n'ibindi bikoresho byo gusakaza amakuru, kugira ngo ibiganiro bya RTLM bidahagarara.
28. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, abatekinisiye ba RTLM bari bakuriwe na **Joseph Serugendo** bajyanye ku musozi wa Muhe hafi yo ku Gisenyi, ibyuma bya radiyo RTLM bashoboye guhungana bava i Kigali. Bifashishije insakazamajwi na anteni byari byarashinzwe kuri uwo musozi muri Mutarama 1994, maze bacomeka sitidiyo y'amaburakindi kuri ibyo bikoresho byo gusakaza amajwi, bityo RTLM yongera gusubukura ibiganiro byayo. Mu biganiro byayo, RTLM yakomeje guhamagarira abayumva gutsembatsemba abasiviri b'Abatutsi mu Rwanda hose no kubatera ibikomere. Kubera ko yashoboye gushinga anteni y'amaburakindi ku musozi wa Muhe, akanaha RTLM ubushobozi bwo kongera guhitisha ibiganiro, **Serugendo**

1/ter

yafashije abandi bantu kandi araborohereza mu gikorwa cyo guhamagarira abandi kwica Abatutsi.

29. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, **Joseph Serugendo** yatanze inkunga mu bya tekinike yatumye abanyamakuru ba RTLTM nka Bemmeriki na Habimana bajya ku musozi wa Muhe inshuro nyinshi, kugira ngo bakomeze guhitisha ibiganiro bihamagarira abantu gutsembatsembe Abatutsi n'ibytso byabo. Kubera icyo gikorwa, **Serugendo** yafashije abandi bantu kandi araborohereza mu gikorwa cyo guhamagarira abandi kwica Abatutsi.
30. Mu gihe kiri hagati y'itariki ya 5 n'ya 14 Nyakanga 1994, **Joseph Serugendo** yatanze inkunga ya tekinike yatumye abanyamakuru ba RTLTM, nka Georges Ruggiu, bashobora gufatira kuri kasete ibiganiro bihamagarira abantu gutsembatsembe Abatutsi n'ibytso byabo. Yohereje ayo makaseti ku musozi wa Muhe maze ibiganiro biyari ho bihitishwa kuri radiyo RTLTM. Kubera icyo mpamvu, **Serugendo** yafashije abandi bantu kandi araborohereza mu gikorwa cyo guhamagarira abandi kwica Abatutsi.

Ibyo **Joseph Serugendo** yakoze, n'ibyo yateshutswe gukora bisobanurwa mu buryo burambuye muri iyi Nyandiko y'ibirego, bihanwa hashingiwe ku ngingo ya 22 n'ya 23 za Sitati.

Bikorewe Arusha (Tanzaniya), kuri iyi tariki ya 15 Werurwe 2006

Porokireri

Hassan Bubacar Jallow

[Umukono]