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**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Haburanisha abacamanza: Khalida Rachid Khan, Perezida
Lee Gacuiga Muthoga

Emile Francis Short

Gerefiye: Bwana Adama Dieng

Itariki: 28 Mata 2005

URUGEREKO RWA MBERE RW'IREMEZO ICYUMBA CYA III

HABURANA

POROKIRERI

NA

MIKAELI MUHIMANA

Urubanza n° ICTR- 95-1B-T

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IKIZA RY'URUBANZA N'IGENABIHANO

Ibiro bya Porokireri:

Mr. Charles Adeogun-Philips
Mr. Wallace Kapaya
Ms. Renifa Madenga
Ms. Florida Kabasinga
Ms. Maymuchka Lauriston

Ubwunganizi:

Porofeseri Nyabirungu mwene Songa
Me Kazadi Kabimba

UMUTWE WA MBERE – INTANGIRIRO

A. URUKIKO N'UBUBASHA BWARWO

1. Urubanza Porokireri aburana na Mika Muhimana rugiye gusomwa n'Urugereko rwa mbere rw'iremezo icyumba cya III ("Urugereko") rw'Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe u Rwanda (Urukiko) rugizwe n'abacamanza Khalida Rachid Khan, Perezida, Lee Gacuiga Muthoga na Emile Francis Short.
2. Urukiko rugendera kuri Sitati yometswe ku Cyemezo cya 955 cy' Inama ya Loni Ishinzwe Amahoro ku Isi ("Sitati") no ku Mategeko Agenga Imiburanishirize n' Itangwa ry' Ibimenyetso ("Amategeko").¹
3. Urukiko rufite ububasha bwo gucira imanza abantu bagize uruhare mu byaha bikomeye byakorewe mu Rwanda binyuranyije n'amategeko mpuzamahanga arengera ikiremwamuntu, n'Abanyarwanda babikoreye mu bihugu bituranye n'u Rwanda.² Rufite ububasha bwo gukurikirana gusa ibyaha bya jenocide, ibyaha byibasiye inyokomuntu n'ibyaha bikomeye binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Umugereka wayo wa II, byakozwe hagati y'itariki ya 1 Mutarama n'itariki ya 31 Ukuboza 1994.³

¹ Abacamanza b'Urukiko bemeje Amategeko yarwo ku itariki ya 5 Nyakanga 1995, hanyuma aza guhindurwa ku itariki ya 23-24 Mata 2004 mu Nama rusange y'Abacamanza ya 14. Sitati n'Amategeko biboneka ku rubuga rw'Urukiko ari rwo "<http://www.ictr.org>".

² Ingingo ya mbere n'ya 5 za Sitati.

³ Ingingo ya mbere n'ya 7 za Sitati. Nk'uko bisobanurwa mu gika cya 2 cy'Inyandiko y'ibirego, ibivugwa byabereye mu Rwanda hagati y'itariki ya 1 Mutarama n'ya 31 Nyakanga 1994 (Ingingo ya 2 n'ya 3 za Sitati).

B. UREGWA

211/ter

4. Mikayeli Muhimana, ari we Mika Muhimana, yavukiye muri Selire Kagano, Segiteri Gishyita, Komini Gishyita, Perefegitura ya Kibuye, mu Rwanda, ku itariki ya 24 Ukwakira 1961.⁴ Yabaye Konseye wa Segiteri Gishyita mu w'1990.⁵
5. Uregwa yafatiwe i Daresalamu muri Tanzaniya ku itariki ya 8 Ugushyingo 1999, bahita bamuzana uwo munsu muri gereza ya Loni iri Arusha, muri Tanzaniya.⁶

C. IBIREGO

6. Inyandiko y'ibirego, yahinduwe ku itariki ya 21 Mutarama 2004, irimo ibirego bine: jenocide cyangwa bitaba ibyo, kuba icyitso cy'abakoze jenocide, ubuhotozi nk'icyaha cyibasiye inyokomuntu, no gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu. Ibikorwa ibyo birego bishingiyeho byabereye byose mu karere ka Bisesero no mu duce twinshi twa Komini Gishyita, Perefegitura ya Kibuye mu Rwanda, hagati ya Mata na Kamena 1994.

D. IBURANISHA RY'URUBANZA

7. Iburanisha ry'urubanza ryatangiyeho ku itariki ya 29 Werurwe 2004. Mu minsi 34 iburanisha ryamaze, Urugereko rwumvise Abatangabuhamya 52, muri bo 19 bakaba bari aba Porokireri, naho 33 ari ab' Ubwunganizi.
8. Porokireri n'Ubwunganizi batanze imyanzuro nsozarubanza mu magambo imbere y'u Rugereko, ku itariki ya 18, iya 19 n'ya 20 Mutarama 2005.

⁴Igika cya 3 cy'Imyanzuro nsozarubanza y'Ubwunganizi.

⁵Igika cya 3 cy'Imyanzuro nsozarubanza y'Ubwunganizi

⁶ Urwandiko rwo gufata no kujyana muri gereza rwo ku itariki ya 26 Ukwakira 1999.

A. INTANGIRIRO

Ibirego bitakiriwe kubera ko bitatangiwe ibimenyetso

9. Porokireri nta bimenyetso yagaragaje bishyigikira ibirego bikubiye mu gika cya 5 (d) (iii), cya 6 (c) (v), cya 6 (d) (i), cya 7 (b) (i), cya 7 (c) (ii) n'icya 7 (d) by'Inyandiko y'ibirego. Kubera iyo mpamvu, Urugereko ntirwakiriye ibyo birego.

B. GUTANDUKANYA UBWOKO BW'ABATUTSI, ABAHUTU N'ABATWA

10. Porokireri avuga ko:

Mu gihe cyose kirebana n'Inyandiko y'ibirego, mu Rwanda hari ubwoko bwa ba nyamuke bitwa abatutsi, kandi bari bazwi gutyo ku mugaragaro na Leta. Hari kandi ubwoko bwa ba nyamwinshi bitwa abahutu, nabo bakaba bari bazwi gutyo ku mugaragaro na Leta.⁷

11. Urugereko rurasanga Ubwunganizi budahakana iyo mvugo, kandi abatangabuhamyaga b'impande zombi bavuze ko ibyabaye mu Rwanda mu w'1994 byarebaga abatutsi, abahutu n'abatwa.⁸ Bityo rero Urugereko rusanze koko mu Rwanda hari abantu bazwi nk'abatutsi, abahutu n'abatwa.

⁷ Igika cya 4 cy'Inyandiko y'ibirego.

⁸ Ubwunganizi bwometse ku Myanzuro mbanzizirubanza yitwa : « icyifuzo cya Porokireri kirebana n'iyemerwa ry'ibimenyetso », hakaba harimo kwemeza ko « hagati y'itariki ya mbere Mata n'ya 30 Kamena 1994 abatutsi, abahutu n'abatwa bari bazwi nk'amoko atatu atandukanye ».

C. ALIBI (IBYO UREGWA AVUGA KO ATARI AHO ICYAHA CYAKOREWE IGIHE CYAKORWAGA)

12. Mu rubanza Uregwa yireguje alibi, avuga ko bidashoboka ko yaba yarakoze ibyaha ashinjwa byabereye ahantu hatari iwe. Uregwa yazanye abatangabuhamya bemeza ko atigeze atirimuka iwe i Gishyita hagati y'itariki ya 8 n'ya 16 Mata kubera ko yari mu cyunamo cy'umuhungu we muri iyo minsi yose.

13. Mu rubanza rwa Niyitegeka, Urugereko rw'ubujurire rwavuze ko igihe uregwa yiregura akoresha alibi,

“aba gusa ahakana ko nta kuntu yari gushobora gukora ibyaha aregwa,” kubera ko atari aho ibyaha byakorewe ubwo byakorwaga. Ni ibintu bidashidikanywaho mu bukemuramanza bw'Inkiko zombi [urwagene u Rwanda n'urwagene icyahoze cyitwa Yugosilaviya] ko mu gukoresha alibi icya ngombwa ari uko uregwa atanga ibimenyetso bishobora gutuma umuntu ashidikanya ku byo Porokireri avuga. Porokireri ni we ufite inshingano zo kwerekana ku buryo budashidikanywaho na gato ko ibyo aregera byabayeho koko, akerekana ko iyo alibi itatuma umuntu ashidikanya na gato ko ibikorwa bivugwa ari ukuri.”⁹

14. No mu rubanza rwa Musema hemejwe ko:

“mu gukoresha alibi yishinjura, uregwa ntaba gusa ahakana kuba yarakoze ibyaha aregwa, ahubwo aba anavuga ko yari ari ahandi hatari aho ibyaha byakorewe igihe byakorwaga. Porokireri ni we ugomba kwerekana ku buryo budashidikanywaho ko ibyaha bihama uregwa. Mu gushimangira ireme ry'ibirego, igihe alibi ikoreshejwe mu gushinjura, Porokireri agomba kwerekana ku buryo budashidikanywaho ko uregwa yari aho ibyaha byakorewe, kandi ko yabikoze, bityo bigatesha agaciro alibi ishinjura. Si ngombwa ko alibi itangirwa ibimenyetso byihariye. Ni

⁹ Igika cya 60 ry'Urubanza rwa Niyitegeka (AC).

ukuvuga ko iyo ibyo uwireguje alibi avuga bishobora gufatwa nk'ukuri, 208/ter
biba bihagije kugira ngo iyo alibi yemerwe.”¹⁰

15. Urugereko ruragendera kuri ubwo bukemuramanza mu gusuzuma alibi yashyigikiwe n'abatangabuhamya bashinjura. Urugereko rurasanga ibimenyetso by'abo batangabuhamya bashinjura bitatuma rushidikanya bihagije ko uregwa atari ari mu duce ibyaha aregwa kuba yarakoze cyangwa yaragizemo uruhare byabereyemo. Ibi ariko ntibibuza uregwa kuba yakomeza gufatwa nk'umwere. Urugereko rwageze kuri uyu mwanzuro urebana n'ibyabaye ruzirikana ko Porokireri ari we ufite inshingano yo kugaragaza ku buryo budashidikanywaho na gato ko ibyo uregwa ashinjwa bimuhama.

***D. UBUHOTOZI NO GUSAMBANYA KU GAHATO BYAKOREWE
LANGWIDA KAMUKINA NA GORETI MUKASHYAKA, MU MUJYI
WA GISHYITA, KU ITARIKI YA 7 MATA 1994.***

16. Porokireri avuga ko :

Ku itariki ya 7 Mata 1994 cyangwa hafi yayo, mu mujyi wa Gishyita, Segiteri Gishyita, Komini Gishyita, Mika Muhimana yazanye iwe mu nzu abagore babiri b'abasivili, ari bo Goreti Mukashyaka na Langwida Kamukina, maze abasambanya ku gahato. Hanyuma yabasohoye mu nzu bambaye ubusa, ahamagara Interahamwe n'abandi basivili ngo baze barebe uko abatutsikazi bambaye ubusa basa. Mika Muhimana yategetse Interahamwe gutandukanya amaguru y'abo bakobwa kugira ngo ababarebaga babone neza ibituba byabo.¹¹

Ku itariki ya 7 Mata 1994 cyangwa hafi yayo, mu mujyi wa Gishyita, Segiteri Gishyita, Komini Gishyita, Mika Muhimana yajyanye iwe abagore babiri, ari bo Goreti Mukashyaka na Langwida Kamukina, maze

10. Igika cya 60 ry'Urubanza rwa Niyitegeka (AC).

¹¹ Igika cya 6 (a) (i) cy'Inyandiko y'ibirego.

Ibimenyetso

Ibimenyetso bishinje

17. Umutangabuhamya ushinje wiswe AP, w'umututsikazi, yavuze ko ku itariki ya 7 Mata 1994, yafashwe n'umupolisi wa komini witwa Ruhindura, abitegetswe na Konseye Muhimana, biturutse ku mabwiriza ya Burugumesitiri Sikubwabo; impamvu ngo ari uko uwo mutangabuhamya yari yohereje inka ze mu Bisesero. Umutangabuhamya AP avuga ko nta cyo Muhimana yakoraga atabitegetswe na Sikubwabo, kandi abo bagabo babaga bari kumwe igihe cyose¹³.

Umutangabuhamya yafunguwe muri kasho; yanasobanuye ko muri icyo gihe mu Rwanda, abatutsi ari bo bonyine bafungwaga batyo. Nyuma amaze gufungurwa, yabonye Uregwa, hamwe na Burugumesitiri Sikubwabo n'Interahamwe, bicisha ubuhiri abagabo b'abatutsi babiri b'abagaronome, Nkundiye na Murindahabi. Umutangabuhamya yavuze ko yabonye Uregwa azamuye ubuhiri abukubita umwe muri abo bagabo mu mutwe avuga ati: "Uku ni ko umututsi yicwa." Amaze kubona ibyo, yahise yiruka ajya mu rugo. Umutangabuhamya AP yabwiye n'abahambye imirambo ko imibiri yabo yariho ibimenyetso by'aho bakubiswe imipanga.¹⁴

¹² Igika cya 7 (a) cy' Inyandiko y'ibirego.

¹³ Inyandikomvugo y'iburanisha ryo ku wa 30 Werurwe 2004, urup.41.

¹⁴ Inyandikomvugo y'iburanisha ryo ku wa 30 Werurwe 2004, imp. 22-23, 41-41, 43, 45-48

18. Umutangabuhamya AP yavuze ko uwo muni, ahagana saa moya za nimugoroha, Uregwa, wari “inshuti y’amagara y’umuryango”, yaje gusura umugabo witwa Ruhigira. Uregwa agiye, yatwaye abakobwa ba Ruhigira babiri b’abatutsikazi: umwe yitwaga Langwida w’imyaka 18, n’uwitwaga Imakulata w’imyaka 21. Abo bakobwa bakurikiye Uregwa mu nzu ye ku bushake bwabo kuko bari bazi ko ari inshuti yashoboraga kubahisha. Umutangabuhamya AP yakurikiye Uregwa hamwe n’abo bakobwa babiri kuko yari yizeye ko ari bwemere kumuhishira abana. Ari nko muri metero 15, umutangabuhamya yumvise abakobwa bataka, bavugira hejuru izina ry’Uregwa bati “Ntitwari tuzi ko ushobora kudukorera ibi”.¹⁵ Mu majwi yumvise mu nzu, umutangabuhamya yamenyemo irya Burugumesitiri Sikubwabo wabwiraga abo bakobwa ngo “baceceke”.¹⁶
19. Imiborogo irangiye, umutangabuhamya yabonye Muhimana asohokana abo bakobwa abashoreye, bambaye ubusa, bagenda “batagataga”. Muhimana yahamagaye abasore bari mu nzu ngo nibasohoke abereke “uko abakobwa b’abatutsikazi bateye”.¹⁷ Umutangabuhamya AP yavuze ko habonaga kubera amashanyarazi yo mu nzu y’Uregwa, kandi ko abo basore batangira gukubita abo bakobwa ubuhiri yabirebaga neza. Amaze kubona iryo kubitwa, yamenye ko intambara yatangiye, arahunga.¹⁸

Ibimenyetso bishinjura

20. **Abatangabuhamya bashinjura biswe DN¹⁹, TQ14²⁰, TQ1²¹, DR²², DI²³, NT1²⁴, TQ13²⁵, na DJ²⁶** bavuze ko batigeze bumva ko Uregwa haba hari abagore

¹⁵ Inyandikomvugo y’iburanisha ryo ku wa 30 Werurwe 2004, imp. 24, 27

¹⁶ Inyandikomvugo y’iburanisha ryo ku wa 30 Werurwe 2004, imp. 23-27, 29; Inyandikomvugo y’iburanisha ryo ku wa 31 Werurwe 2004, urup.7.

¹⁷ Inyandikomvugo y’iburanisha ryo ku wa 30 Werurwe 2004, imp. 24, 27.

¹⁸ Inyandikomvugo y’iburanisha ryo ku wa 30 Werurwe 2004, imp. 24, 29.

¹⁹ Inyandikomvugo y’iburanisha ryo ku wa 18 Kanama 2004, urup. 11.

²⁰ Inyandikomvugo y’iburanisha ryo ku wa 25 Kanama 2004, urup. 25.

²¹ Inyandikomvugo y’iburanisha ryo ku wa 23 Kanama 2004, imp. 5-6.

²² Inyandikomvugo y’iburanisha ryo ku wa 1 Nzeri 2004, imp. 5-7.

²³ Inyandikomvugo y’iburanisha ryo ku wa 1 Nzeri 2004, imp. 42-43.

²⁴ Inyandikomvugo y’iburanisha ryo ku wa 26 Kanama 2004, imp. 10-11.

²⁵ Inyandikomvugo y’iburanisha ryo ku wa 25 Kanama 2004, imp. 5-6.

²⁶ Inyandikomvugo y’iburanisha ryo ku wa 2 Nzeri 2004, imp. 11.

yasambanyije ku gahato mu nzu ye muri Mata 1994. Abatangabuhamya NT1²⁷/ter 205/ter DR²⁸, na TQ13²⁹ banavuze ko, mu muco w'Abanyarwanda, "bidashoboka" ko umugabo wubatse yagira uwo asambanya ku gahato mu rugo rwe.

21. **Umutangabuhamya ushinjura wiswe DQ** yavuze ko mu mvururu zo muri Mata 1994 Langwida atari i Gishyita. Yanahakanye yimazeyo ko Muhimana atasambanyije Goreti ku gahato, "kubera ko byari kuba inkuru ndende cyane". Umutangabuhamya DQ yasobanuye ko Goreti yahungiyeye muri kiliziya yo ku Mubuga. Umutangabuhamya DI nawe yavuze ko Langwida yahungiyeye muri kiliziya yo ku Mubuga.³⁰

Imyanzuro y'Urugereko

Imyanzuro ku cyaha cyo gusambanya ku gahato

22. Mu gushinja Uregwa ko yasambanyije ku gahato Langwida Kamukina na Goreti Mukashyaka, Porokireri ashingira ku buhamya bw'umugabo wiswe AP.
23. Urugereko rusanze ubuhamya bw'umugabo wiswe AP budahuzagurika. Ikindi kandi, ubwo buhamya ntabwo bwigeze bugira icyo buhindukaho kubera ibaza rinyomoza rirerire AP yakorewe n'Ubwunganizi. Urugereko rwemera ko umutangabuhamya yari azi Uregwa mu gihe cy'imvururu kandi rwemera ibisobanuro yatanze ku mpamvu yatumye yari ari hafi y'aho isambanya ku gahato ryabereye. N'ubwo byagaragaraga ko yari afite igihunga avuga ku byabaye ku itariki 7 Mata 1994, Urugereko rusanga yarasubizaga atajijinganya kandi nta gikabyo cyari mu buhamya bwe. Bityo, Urugereko rusanze ubuhamya bwe bukwiye kwemerwa no kwizerwa.

²⁷ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, imp. 10-11.

²⁸ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeri 2004, imp. 5-7.

²⁹ Inyandikomvugo y'iburanisha ryo ku wa 25 Kanama 2004, imp. 5-6.

³⁰ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeri 2004, imp. 38-39, 42-43.

24. Ubwunganizi buvuga ko ubuhamya bwa AP budahuje “n’Inyandiko y’ibirego yahinduwe” ku birebana n’imyaka y’abagiriwe nabi bombi.³¹ Urugereko rusanze ibyo Ubwunganizi buvuga aha bidafite ishingiro kubera ko Inyandiko y’ibirego ihinduye itavuga imyaka y’abagiriwe nabi.
25. Urugereko rusanze kandi kuba abatangabuhamya bashinjura benshi batarigeze bumva ko Uregwa haba hari abantu yasambanyije ku gahato mu nzu iwe ku itariki ya 7 Mata 1994, bitavuga ko bidashobora kuba byarabaye. Abatangabuhamya ntibasobanuye impamvu ituma bemeza ko iyo Uregwa aza gusambanya abantu ku gahato baba barumvise bivugwa. Urugereko rusanze iyi ngingo yabo idafite ishingiro. Urugereko kandi ntirwemera ibyavuzwe ko mu muco w’Abanyarwanda bidashoboka ko umugabo washatse agira uwo asambanyiriza ku gahato mu rugo rwe. Urugereko rwemera ko mu mico y’ahantu hose, imyitwarire nk’iyo itemewe, ariko ntibivuga ko idashobora kubaho.
26. N’ubwo umutangabuhamya wiswe DQ yavuze ko Langwida atari i Gishyita mu mvururu zo mu w’i 1994, Ubwunganizi ntibwatanze ibimenyetso bibigaragaza. Urugereko kandi rusanga hari ivuguruzanya hagati y’ubuhamya bw’umugabo DQ wavuze ko Langwida atari i Gishyita mu mvururu zo mu w’i 1994, n’ubw’umugabo wiswe DI wavuze ko Langwida yahungiyeye muri kiliziya yo ku Mubuga.
27. Urugereko rwasuzumye ingingo y’Ubwunganizi buvuga ko mu Nyandiko y’ibirego no mu buhamya bwanditse bwa AP, havugwa ko abakobwa babiri basambanyijwe ku gahato bitwaga Goreti Mukashyaka na Langwida Kamukina, ariko uwo mugabo AP mu buhamya yatanze imbere y’Urugereko akaba avuga ko amazina y’abo bakobwa ari Imakulata Mukakayiro na Langwida Kamukina.³² Porokireri yemeza ko umutangabuhamya yatanze igisobanuro gihagije kuri iri nyuranya ry’amazina³³.

³¹ Imyanzuro nsozarubanza y’Ubwunganizi, igika cya 227.

³² Imyanzuro nsozarubanza y’Ubwunganizi, ibika bya 226-227.

³³ Imyanzuro nsozarubanza y’Ubwunganizi, urup. 93, Igika cya 36.

28. Mu buhamya bwe bwanditse bwo ku itariki ya 30 Kanama 1999³⁴/_{203/ter} umutangabuhamya AP avuga ko abakobwa basambanyijwe ku gahato ari Langwida Kamukina na Goretti Mukashyaka, bene Ruhigira. Mu buhamya yatangiye imbere y'Urugereko yavuze Imakulata Mukashyaka na Langwida Kamukina, bakaba bari abakobwa ba Ruhigira. Ariko yongeyeho, ati: "Nshobora kuba naribeshye ku mazina yabo kubera ko hashize igihe kinini. Iyo abantu bapfuye ushobora kwibagirwa amazina yabo, ariko ntiwibagirwa ishusho yabo".³⁵
29. Urugereko rusanga umutangabuhamya AP afitanya isano na Ruhigira, kuko imiryango yabo yashyingiranye, akaba yari azi neza abahohotewe. Urugereko rwemeye ibisobanuro by'umutangabuhamya ko igihe ibintu bimaze bibaye cyatumye avanga amazina y'abo bakobwa bava inda imwe, kandi rwemeye ko aho umutangabuhamya AP yavuze Imakulata Mukashyaka cyangwa aho yavuze izina rya Mukakayiro, yashakaga kuvuga Goretti Mukashyaka umuvandimwe wa Langwida Kamukina, umukobwa wa Ruhigira.
30. Rumaze kumva kandi Ubwunganizi buvuga ko Umutangabuhamya AP adakwiye kwemerwa kuko afitanye isano na konseye uriho ubu wa Segiteri Gishyita, wasimbuye Uregwa, bityo ubuhamya bwe bukaba bubogamye kandi bukaba buri mu kagambane ka Konseye w'ubu ko kwambura Uregwa umutungo we,³⁶ Urugereko rusanze Ubwunganizi butarigeze bubaza umutangabuhamya kuri uko kubogama mu gihe cy'ibaza rinyomoza. Ikindi kandi, mu gusuzuma niba ubuhamya bw'umugabo AP bukwiye kwemerwa, Urugereko rwazirikanye ibivugwa n'Ubwunganizi ko yaba abogamye. Urugereko rusanze bidashobora gutesha ubuhamya bwe agaciro.
31. Bityo, Urugereko rusanze ingingo y'Ubwunganizi ivuga ko ubuhamya bw'umugabo AP budakwiye kwemerwa nta shingiro ifite.

³⁴ Bwakiriwe nk'ikimenyetso gihamya D2 (kitatangajwe)

³⁵ Inyandikomvugo y'iburanisha ryo ku wa 31 Werurwe 2004, urup. 5.

³⁶ Imyanzuro nsozarubanza y'Ubwunganizi, igika cya 230.

32. N’ubwo umutangabuhamyaga AP atiboneye n’amaso ye Goreti na Langwida, basambanywa ku gahato, Urugereko rushingira ku ngingo zikurikira rwemeza ko Uregwa yabasambanyije ku gahato: umutangabuhamyaga yabonye Uregwa ajoyana abo bakobwa mu nzu iwe; yumvise baboroga, bavugaga Uregwa mu izina kandi bavugaga ko “batatekerezaga ko ashobora kubakorera iby’o”; ikindi kandi, umutangabuhamyaga yabonye Uregwa asohora abo bakobwa mu nzu ye abashoreye, bambaye ubusa, anabona “bagenda batagataga”.
33. Urugereko kandi rusanze nyuma yo gusambanyaga abo bakobwa ku gahato, Uregwa yarabakojeje isoni igihe yahamagaraga abandi ngo baze barebe “uko abakobwa b’abatutsikazi bateye”.

Imyanzuro ku cyaha cy’ubuhotozi

34. Ibivugwa mu gika cya 7 cy’Inyandiko y’ibirego ko Langwida Kamukina na Goreti Mukashyaka baba barishwe n’Interahamwe Uregwa ahari, bituruka ku ruhererekane rw’ibyabaye bivugwa mu gika cya 6 (a) (i) mu Nyandiko y’ibirego, byasesenguwe haruguru.
35. Urugereko rwasanze Uregwa yarajyanye abo bakobwa bombi mu nzu ye, abasambanyaga ku gahato, ariko Porokireri nta bimenyetso yatanze byerekana ko abo bakobwa bishwe n’Interahamwe Uregwa ahari, cyangwa ko banishwe.
36. Bityo rero, Urugereko rusanze ikirego cyo mu gika cya 7(a) cy’Inyandiko y’ibirego nta shingiro gifite.

E. IBITERO BYAGABWE KU BATUTSI I KIZIBA, NYARUTOVU NA NGENDOMBI, HAGATI Y’ITARIKI YA 8 N’IYA 11 MATA 1994

Ibivugwa na Porokireri

37. Porokireri avugaga ko:

Ku itariki ya 8 Mata 1994 cyangwa ahagana kuri iyo tariki, mu gitondo, Mika Muhimana n'abandi barimo Karoli Sikubwabo bakoranije abantu b'abasivili, abajandarume n'abapolisi ba komini kuri santere y'ubucuruzi ya Kiziba, babaha intwano n'amasasu byo kwica abasivili b'abatutsi. Izo ntwaro n'amasasu byari ibyo gutsembatsemba abaturage b'abatutsi bo muri za Komini Gishyita na Gisovu.³⁷

Akarere ka Bisesero gafata kuri Komini ya Gishyita n'iya Gisovu muri Perefegitura ya Kibuye. Nyuma y'uko hagabwa ibitero byibasiye abasivili b'abatutsi bari bahungiyeye mu bigo muri Perefegitura ya Kibuye hagati ya Mata na Kamena 1994, ibihumbi by'abatutsi barokotse bahungiyeye hanze ku misozi y'imanga kandi ifite utununga yo mu Bisesero, bahagira ubuhungiro bwabo bwa nyuma.³⁸

Ku itariki ya 9 Mata 1994 cyangwa ahagana kuri iyo tariki, muri selire ya Nyarutovu iri mu karere ka Bisesero, Mika Muhimana, hamwe n'Interahamwe, abapolisi ba komini n'abasirikari, bahize kandi batera abasivili b'abatutsi bari bahungiyeye ku misozi ya Nyarutovu.³⁹

Muri Gicurasi 1994, Mikaeli Muhimana, Kelementi Kayishema, Obedi Ruzindana, Interahamwe n'abajandarume, bahize kandi batera abasivili b'abatutsi bari bahungiyeye ku misozi ya Kabakobwa, Gitwa, Kanyinya na Ngendombi iri mu karere ka Bisesero.⁴⁰

Ibimenyetso

Ibimenyetso bishinje

38. **Abagabo bashinje biswe AW, W, BB, na BC** batanze ubuhamya ku bitero byagabwe mu Kiziba, ku musozi wa Nyarutovu, no ku musozi wa Ngendombi, aho hose hakaba ari mu Bisesero kandi hegeranye.

³⁷ Inyandiko y'Ibirego, igika cya 5 (a).

³⁸ Inyandiko y'Ibirego, igika cya 5 (d).

³⁹ Inyandiko y'Ibirego, igika cya 5 (d)(ii)

⁴⁰ Inyandiko y'Ibirego, igika cya 5 (d)(iv)

39. **Umutangabuhamy**a ushinja wiswe **AW** yavuze ko, ku itariki ya 8 Mata 1994/200/ter yahungiyeye ku musozi wa Nyarutovu, ahagera nka saa saba z'amanywa. Yasobanuye ko ahagaze ku musozi wa Nyarutovu, hari urugendo rw'amaguru rw'iminota nka 30 gusa kugera i Gishyita, yashoboraga kubona amamodoka ahagaze imbere y'inzu y'Uregwa. Nyuma uwo munsu, Uregwa yayoboye igitero cy'abantu 3000 ku musozi wa Nyarutovu. Umutangabuhamy yabonye Uregwa aza mu modoka ya minibisi itukura ya Komini, ari kumwe na Sikubwabo n'Interahamwe eshanu. Bahagaritse imodoka mu Kiziba maze bagaba igitero ku gasozi; byari hagati ya saa tanu na saa kumi z'amanywa. Uregwa yari aharekejwe n'abapolisi ba Komini benshi, barimo Bonifasi, Rwigimba, Munyansanga na Ruhindura; umutangabuhamy akaba yari abazi bese.⁴¹
40. Uregwa, Sikubwabo n'abapolisi bari bitwaje imbunda. Uregwa yavugiyeye mu ndangururamajwi, ati: "Mugomba kubica. Mugomba kubatsembatsemba mukabamara mu mashyamba. ...Inyenzi zigomba gutsembatsembwa. Zigomba kuvumburwa mu mashyamba yose".⁴²
- Umutangabuhamy yavuze ko mu bishwe muri icyo gitero harimo Rwagasana, Rwakayiro, Gasana, kimwe n'abagore n'abana.⁴³
41. Umutangabuhamy ushinja wiswe **W** yavuze ko ku itariki 9 Mata 1994 mu gitondo, abatutsi b'i Nyarutovu hamwe n'abahutu bake, batewe n'abantu baturutse kuri santere ya Musenyi na Segiteri ya Gishyita, bakaba bari babanje gukuka ko ari abantu baje gusahura. Bagerageje kubarwanya bakoresheje amabuye, ariko bidatinze barushijwe amaboko nyuma y'aho Burugumesitiri Sikubwabo, na Muhirwa, Konye wa Segiteri Musenyi bahururiye, bari hamwe n'abapolisi ba komini bambaye imyambaro ya gipolisi, baje gutera inkunga abagabye igitero. Sikubwabo n'abapolisi uko ari batatu bari bitwaje intwari. Uregwa yari muri icyo gitero, yitwaje imbunda ndende kandi yambaye ishata yera n'ipantaro y'umukara. Abajandarume baje muri icyo gitero bari mu modoka

⁴¹ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, imp. 5-8.

⁴² Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, imp. 5, 7.

⁴³ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, imp. 5-8

- imwe. Umutangabuhamya avuga ko, iyo abagabye igitero babaga bashigajye amasasu make, Uregwa yabongeraga andi.⁴⁴
42. Umutangabuhamya W yavuze ko uwo munsu, nka saa tanu za mu gitondo, abantu bo mu karere ka Bisesero baje gufasha abagabye igitero. Nyuma, abagabye igitero basubiye inyuma bajya mu Dukoni, naho impunzi zijya ku musozi wa Rurebero.⁴⁵ Abagabye igitero bahamye munsu y'umusozo, hagati yabo n'impunzi hari umurima w'ikawa.
43. Umutangabuhamya W avuga ko muri icyo gitero, Uregwa yarashe umusore w'umututsi witwaga Manweli ari muri metero ziri hagati ya 20 na 30. Manweli yari muri metero 2 cyangwa 3 z'aho umutangabuhamya yari ari igihe bamurasaga ku kirenge akagwa. Umutangabuhamya W yari azi Manweli, mwene Munyanshongore wo muri Selire Karama, Segiteri Musenyi. Manweli yari afite hagati y'imyaka 18 na 20. Bamwe mu batutsi bahetse Manweli bamumanukana umusozo, nyuma aza kujyanwa mu bitaro byo ku Mugonero.⁴⁶
44. Umutangabuhamya W yavuze ko igitero cyo ku itariki ya 9 Mata 1994 cyamaze isaha, ko nta bantu cyahitanye, uretse bane bakomeretse. Yavuze ko icyatumye hakomereka abantu bake atekereza ko ari uko mu mpunzi harimo abahutu, abagabye igitero bakaba batashakaga kugira umuhutu bica bamwitiranije n'umututsi.⁴⁷
45. Hanyuma, kuri icyo tariki ya 9 Mata 1994, abajandarume baturutse ku Kibuye baje gufasha abagabye igitero. Abajandarume basabye abahutu kureka kurwanya abatutsi, babwira abatutsi ngo bamanuke, babasezeranya kubarinda. Umutangabuhamya yavuze ko we n'izindi mpunzi zabanje kutemera ko abajandarume bari bubarindire umutekano kubera ko mu bagabye igitero harimo

⁴⁴ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 3-7, 39; Inyandikomvugo y'iburanisha ryo ku wa 29 Mata 2004, urup. 39.

⁴⁵ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 34.

⁴⁶ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 7, 34, 39-41.

⁴⁷ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 4; Reba n'inyandikomvugo y'iburanisha: Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 39

abategets. Impunzi zageze aho ziramanuka kubera ko nta kundi zashoboraga kugira. Abatutsi bambuwe intwaro zabo za gakondo ari zo ubuhiri, amacumu n'imipanga.⁴⁸

46. Umutangabuhamya W yavuze ko ku itariki ya 11 Mata 1994, yabonye ibitero byinshi byagabwe ku mpunzi z'abatutsi, abahutu bari kumwe na zo bamaze kugenda. Yavuze ko Uregwa, Sikubwabo, Kananura hamwe n'abandi basivili, abapolisi, abajandarume n'abasirikare bateye impunzi z'abatutsi kuri santere ya Kiziba muri Selire ya Karama, ku misozi ya Nyarutovu na Ngendombi.⁴⁹
47. Umutangabuhamya W yavuze ko igitero cyo mu Kiziba cyo ku itariki ya 11 Mata 1994 cyatangiyeye saa mbiri za mu gitondo. Cyari kiyobowe na Rwigimba wahoze ari umupolisi wa komini, kigizwe n'abantu baturutse i Musenyi. Igitero cya kabiri cyo mu Kiziba cyatangiyeye saa ine za mu gitondo. Cyari kigizwe n'abantu baturutse i Gishyita kandi kiyobowe n'Uregwa. Umutangabuhamya yabonye Uregwa ari nko muri metero 15. Uregwa yari yitwaje imbunda azamuka mu muhanda agana aho bari. Abantu barwanyije icyo gitero bakoresha amabuye n'intwaro za gakondo.⁵⁰
48. Umutangabuhamya W avugaga ko Burugumesitiri Sikubwabo amaze kuzana abantu bo gutera inkunga abari bagize igitero, ingufu z'impunzi zaragabanutse. Umutangabuhamya W yavuze ko abantu bamwe bicishijwe imipanga, abandi bicishwa imbunda n'Uregwa cyangwa na Sikubwabo, ariko ntiyashoboye kumenya abo barashe abo ari bo. Imvura itangiye kugwa, abagabye igitero basubiye inyuma. Ariko imvura icogoye, bongeye gutera, abandi abantu benshi baricwa. Impunzi z'abatutsi zahunze ziva muri Segiteri Musenyi ariko ibitero birazikurikirana, kugera muri Selire Nyarutovu, Segiteri Bisesero.⁵¹
49. Umutangabuhamya W yavuze ko na none ku itariki ya 11 Mata 1994, impunzi zongeye guterwa muri Selire Nyarutovu, Segiteri Bisesero. Umutangabuhamya

⁴⁸ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 4, 35-36.

⁴⁹ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 8-9.

⁵⁰ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 8-10, 41-42.

⁵¹ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 8-9.

- yavuze ko mbere yo gutera, abari bagize igitero, bari bageze ku 100, basaga n'aho bakora inama, kandi Uregwa yari ahari. Abantu bakomeje kuza gufasha abagize igitero, maze bimaze kugera nka saa sita cyangwa saa saba za ku manywa, baba babaye benshi. Ariko umutangabuhamya ntiyashoboye kumenya umubare wabo.⁵²
- 197/ter
50. Umutangabuhamya W yavuze ko mu gitero cyagabwe muri Ngendombi, hagati ya za segiteri za Nyarutovu na Gitwa, impunzi enye zishwe na gerenade ituritse. Umutangabuhamya yanumvise Uregwa abwira Interahamwe ko uzica umututsi witwa Kabanda wari umucuruzi kuri santere ya Gishyita, azahabwa igihembo. Umutangabuhamya yavuze ko yumva Uregwa asezeranya Interahamwe icyo igihembo, yari mu ntera iri hagati ya metero 20 na 30 z'Uregwa. Umugoroba wegereje, kuri icyo tariki ya 11 Mata 1994, abagabye igitero bavuye aho. Habanje kugenda abasivili, abategetsu n'abasirikare basigara barasa ku mpunzi, nyuma na bo baragenda.⁵³
51. Umutangabuhamya ushinje wiswe BB yavuze ko ku wa gatandatu ku itariki ya 9 Mata 1994 ahagana saa tanu za mu gitondo, we n'abo bari kumwe ku rusengeru rw'Abadiventisiti mu Mugonero bumvise ingoma n'ibidomoro bivuga. Byavugiraga mu cyerekezo cya Segiteri Musenyi ihana imbibi na Segiteri Gishyita. Umutangabuhamya BB yavuze ko ingoma zari ikimenyetso cy'abaturage b'i Musenyi gihuriza, kivuga ko batewe. Abagabo basize abagore mu rusengeru baboneza i Musenyi. Umutangabuhamya yasobanuye ko mu muco w'Abanyarwanda, icyo umuntu atabaje, abandi bajya "kureba ibyabaye". Yasobanuye ko agasozi ka Nyarutovu kari hagati y'aho batuye na Musenyi.⁵⁴
52. Umutangabuhamya BB n'abandi bageze ku musozi wa Kiziba muri Musenyi, bahasanze abantu nka 200 hirya ya santere. Umutangabuhamya yabonye umupolisi wa komini witwa Rwigimba ari nko muri metero 20, ayoboye igitero. Abagabye igitero basahuye amazu y'abatutsi barayasenya, bananyaga inka

⁵² Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 8-10.

⁵³ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 8-10.

⁵⁴ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 3, 16, 18.

n'intama. Bishe kandi abantu benshi.⁵⁵ Umutangabuhamy BB yari nko muri 196/ter
metero 30 z'Uregwa, waje ku ipikipiki ayisiga ku muhanda maze ajya mu bandi
bagabye igitero. Uregwa yari yitwaje imbunda na gerenade. Uregwa na Rwigimba
barashe ku bantu, abantu na bo bagerageza kwirwanaho batera abagabye igitero
amabuye. Umwe mu barashwe yari umututsi witwaga Asiyeli Rwakayiro.⁵⁶

53. Umutangabuhamy BB yavuze ko we na Rwakayiro bahungiyeye ku musozi wa
Ngendombi, uri nko muri metero 500 uvuye mu Ngendombi. Mu ma saa saba,
barahagaze kugira ngo barebe uko ibintu vyifashe. Igitero ariko cyakurikiranye
impunzi mu Ngendombi. Umutangabuhamy yavuze ko yabonye Uregwa, nko
muri metero 16, yitwaje imbunda n'amagerenade. Umutangabuhamy yavuze ko
Uregwa aticishije umupanga kubera ko yari umuyobozi, akaba atarashakaga ko
amaraso amujyaho".⁵⁷ Uregwa yahisemo kurashisha imbunda ye no gutera
amagerenade. Umutangabuhamy yabonye abantu bagwa, Uregwa abateyemo
gerenade. Gerenade yaturitse yishe Kamili, Ndahimana, n'umusore w'i Musenyi
Umutangabuhamy atazi izina. Hari n'uwitwa Nguriso warashwe.
Umutangabuhamy ari muri metero ziri hagati ya 16 na 20, yabonye Uregwa
arasa umututsi w'umuhinzi witwaga Musherefu, aragwa; yari iruhande
rw'Umutangabuhamy.⁵⁸

54. Umutangabuhamy BB n'izindi mpunzi bamaze kugera mu mpinga ya
Ngendombi, babonye igitero gisubira inyuma. Impunzi zasubiye aho igitero
cyabereye, gutabara abacitse ku icumu. Umutangabuhamy yavuze ko abagabye
igitero bari bicishije Ndahimana imipanga. Yabonye igituzo cya Kamili
bagisatuye kandi yavuye amaraso mu maso. Umutangabuhamy yari azi Kamili
wari utuye mu Kiziba, na Ndahimana wari ufite ababyeyi baturanye n'uwo
mutangabuhamy. Abonye ko mu Ngendombi nta mutekano uhari, BB yahungiyeye
ku musozi wa Muyira we n'umugore we n'abana babo batandatu, bahagera ku
itariki ya 9 Mata 1994 nimugoroba.⁵⁹

⁵⁵ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 3, 5, 17.

⁵⁶ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 4-5, 17-18.

⁵⁷ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 6.

⁵⁸ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 5-6, 8-10, 19, 22.

⁵⁹ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 6-7, 19-22.

55. **Umutangabuhamya ushinja wiswe BC** yavuze ko abantu bo mu karere k'iwabo, abahutu n'abatutsi, babanje guhungira hamwe ku musozi kuko batari bazi ababateye abo ari bo n'icyo bagamije. Ntabwo bari bazi ko ibitero byari byibasiye abatutsi gusa. Uregwa yabwiye impunzi zari zahungiyeye ku gasozi, ko ababateye ari amabandi. Yabihanangirije ko bitaba byiza kurwanya abantu bitwaje imbunda bakoresheje amabuye n'imipanga. Uregwa yahereyeko abambura intwara zabo, abwira umupolisi wa komini witwaga Ruhindura kuziyana mu nzu ya Kazimiri Ngendahayo, umuhutu wari resiponsabule wa selire. Umutangabuhamya yavuze ko Uregwa yabwiye abahutu "kwitandukanya n'abatutsi kuko akabo kari kashobotse".⁶⁰ Abagabye igitero bategereje ko abahutu bagenda, hanyuma batangira kurasa ku batutsi b'impunzi bari basigaye. Umutangabuhamya BC yavuze ko nyuma y'ibi, yabonye ko Uregwa yari "yibasiye" abatutsi, kandi mu by'ukuri, kuva uwo muni, Uregwa yagabye ibitero ku mpunzi z'abatutsi buri muni.⁶¹
56. Umutangabuhamya BC yavuze ko mu ijoro ryo ku wa gatanu ku itariki ya 8 Mata 1994, umugore witwaga Lewona yishwe n'abagabye igitero. Ibyo byatumye Umutangabuhamya BC n'umuryango we bahungira mu karere ka Bisesero hari udusozi twinshi, aho abandi batutsi bashoboraga kubafasha. Umutangabuhamya BC n'umuryango we bageze ku musozi wa Kigarama ho mu Bisesero, ku wa gatandatu ku itariki ya 9 Mata 1994.⁶²
57. Umutangabuhamya BC yavuze ko ku cyumweru, tariki ya 10 Mata 1994, Uregwa, aherekejwe n'abapolisi ba Komini bitwaga Ruhindura na Rwigimba, yayoboye agatsiko k'Interahamwe zaturutse ku Gisenyi no mu Ruhengeri, bagaba igitero ku musozi wa Ngendombi. Umutangabuhamya yamenye ko abateye ari Interahamwe kuko bari bambaye amakoma gusa. Umutangabuhamya yavuze ko Interahamwe zambaraga amakoma kugira ngo zifatanye n'amashitani. Ahagana saa munani z'amanywa, abatutsi bamaze gutsinsura icyo gitero, umutangabuhamya yabonye

⁶⁰ Inyandikomvugo y'iburanisha ryo ku wa 20 Mata 2004, p. 39.

⁶¹ Inyandikomvugo y'iburanisha ryo ku wa 20 Mata 2004, imp. 34, 36, 38-39, 51-52, 54.

⁶² Inyandikomvugo y'iburanisha ryo ku wa 20 Mata 2004, imp. 38-39, 57.

Muhimana atera gerenade mu muhanda. Gerenade yaraturitse yica abatutsi/94/ter benshi. Abatishwe na gerenade ituritse “basonzwe” n’abagabye igitero bakoresheje imipanga. Umutangabuhamya yavuze ko muri icyo gitero, Muhimana n’abo bari kumwe baririmbaga ngo: “Mubatsembetsembe. Mubavumbure mu mashyamba”.⁶³

58. Umutangabuhamya BC yavuze ko izuba rijya kurenga, yabonye Uregwa amwicira abana “bunyamaswa”. Umutangabuhamya yavuze ko Uregwa yakegese umuhogo w’umwana we w’imfura, aca abandi bana be babiri amaboko. Yatemye umutangabuhamya ibiganza, icy’ibumoso kiracika, anamutema mu mutwe no mu bitugu akoresheje umupanga. Umutangabuhamya wari wataye ubwenge yazanzamuwe n’umugabo we nka saa kumi n’ebyiri za nimugoroba. Mu buhamya yatangiye imbere y’Urugereko, Umutangabuhamya BC yerekanye ikininifu cy’ikiganza cye cy’ibumoso n’inkovu ku kiganza cye cy’iburyo, ku rutugu, no ku mutwe.⁶⁴

Ibimenyetso bishinjura

59. **Abatangabuhamya bashinjura biswe DM,⁶⁵ TQ13,⁶⁶ TQ1,⁶⁷ na NT1⁶⁸** bavuze ko batigeze bumva ko hari intwari zatangiye mu Kiziba mu mvururu zo mu w’i 1994. Umutangabuhamya TQ1 yavuze ko umuhungu wa Muhimana bamushyinye ku itariki ya 10 Mata 1994. Kuva uwo muni kugeza umuni baviriyeho mu kiriyo, ku itariki ya 16 Mata 1994, Uregwa yahamye iwe mu rugo.⁶⁹

Imyanzuro y’Urugereko

⁶³ Inyandikomvugo y’iburanisha ryo ku wa 20 Mata 2004, imp. 38, 42, 55, 57-59.

⁶⁴ Inyandikomvugo y’iburanisha ryo ku wa 16 Mata 2004, imp. 36-38, 59, 64.

⁶⁵ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, urup.28.

⁶⁶ Inyandikomvugo y’iburanisha ryo ku wa 25 Kanama 2004, urup.4.

⁶⁷ Inyandikomvugo y’iburanisha ryo ku wa 23 Kanama 2004, urup.3

⁶⁸ Inyandikomvugo y’iburanisha ryo ku wa 26 Kanama 2004, urup.8

⁶⁹ Inyandikomvugo y’iburanisha ryo ku wa 23 Kanama 2004, imp. 3-4, 12, 15, 31.

60. Mu myanzuro mbanzizarubanza, Porokireri yashingiye ku buhamya bw'umugabo W mu kwerekana ko Uregwa yahamagaye abagabye ibitero, akabaha imbunda n'amasasu ku ri santere y'ubucuruzi ya Kiziba, nk'uko bivugwa mu gika cya 5 (a) cy'Inyandiko y'ibirego.⁷¹ Ariko, mu myanzuro nsozarubanza ya nyuma, mu gushyigikira ibivugwa muri iki gika, Porokireri avuga ko ashingira ku buhamya bw'abagabo W, BB, na BC, no ku ubw'abandi bagabo bose batanze ku byabaye bivugwa mu gika cya 6 (a) (i)- (iii) cy'Inyandiko y'ibirego bishimangira ikirego cya III, n'ibivugwa mu gika cya 7 (a) (i) cy'Inyandiko y'ibirego bishimangira ikirego cya IV⁷². Urugereko rusanze ubuhamya bw'aba bagabo buvuga ku bitero byagabwe mu Kiziba, i Nyarutovu no mu Ngendombi, naho iki gika cy'Inyandiko y'ibirego kikaba kivuga gusa ihamagara ry'abantu n'itangwa ry'intwaro n'amasasu kuri santere yo mu Kiziba. Bityo ubuhamya butangwa kuri ibyo bitero bukaba butareba iki gika.
61. Urugereko rusanze nta mutangabuhamya watanzwe wo kwemeza ko, “ku itariki ya 8 Mata 1994 cyangwa ahagana kuri iyo tariki, mu gitondo”, ku maduka yo mu Kiziba, Uregwa yahaye “abasivili, abajandarume, n'abapolisi ba komini...imbunda n'amasasu byo kwica abasivili b'abatutsi” cyangwa ko “izo mbunda n'amasasu byatanzwe kugira ngo bikoreshwe mu gutsembatsemba abatutsi bo muri za Komini Gishyita na Gisovu”, nk'uko bivugwa mu gika cya 5 (a) cy'Inyandiko y'ibirego. Ubuhamya bwatanzwe ahubwo bwerekeye uko intwaro zakoreshejwe mu gitero cyo mu Kiziba, n'uko zagiye zongerwa.
62. Bityo, Urugereko rusanze Porokireri nta bimenyetso ayatanze byakwemeza ibyo avuga mu gika cya 5 (a) cy'Inyandiko y'ibirego.

Ibitero by'i Nyarutovu

⁷⁰ Inyandiko y'Ibirego, igika cya 5 (a).

⁷¹ Imyanzuro mbanzizarubanza ya Porokireri, Igice cya IV Gukosora, N°20 (Umutangabuhamya W)

⁷² Imyanzuro nsozarubanza ya Porokireri, urup. 19, igika cya 41.

63. Urugereko rusanga ubuhamya bwatanzwe n'abagabo biswe W na AW ku byo biboneye bijyanye n'ibitero by'i Nyarutovu bukwiye kwemerwa. Ibimenyetso byatanzwe n'Ubwunganizi ntibutuma umuntu yashidikanya kuri ibi bitero, kandi nta mutangabuhamya ushinjura wigeze ahinyuza ubuhamya bwatanzwe n'abatangabuhamya biswe W na AW kuri ibyo bitero. Kuba Uregwa yiregura avuga ko atari aho icyaha cyakorewe igihe cyakorwaga, ko ngo atigeze avu mu rugo iwe hagati y'itariki ya 10 n'ya 16 Mata 1994, ntibihwitse; Urugereko rukaba rutabyemera. Urugereko rubona ko n'iyo umuntu yakwemera ko Uregwa yari mu cyunamo cy'umuhungu we hagati y'itariki ya 8 n'ya 16 Mata 1994, bitabuza ko yashobora kuba yaragiye mu bitero by'i Nyarutovu. Urugereko ntirwemera ubuhamya bw'Umutangabuhamya wiswe TQ1 uvuga ko Uregwa yagumye mu rugo iwe hagati y'itariki ya 10 n'ya 16 Mata 1994. Abatangabuhamya bashinja, bakwiye kwemerwa ndetse n'umutangabuhamya ushinjura wiswe DC, babonye Uregwa ahantu hatandukanye hatari mu rugo iwe hagati y'itariki ya 8 n'ya 16 Mata 1994.
64. Rushingiye ku buhamya bw'abatangabuhamya biswe W na AW, Urugereko rusanze Uregwa yaragiye mu bitero binini byagabwe ku mpunzi z'abatutsi i Nyarutovu hagati y'itariki ya 8 n'ya 11 Mata 1994.
65. Urugereko rubonye ko umutangabuhamya wiswe AW adahuza n'umutangabuhamya wiswe W ku itariki igitero cya mbere cyagabweho i Nyarutovu. umutangabuhamya wiswe AW yavuze ko icyo gitero cyabaye ku itariki ya 8 Mata 1994, naho Umutangabuhamya wiswe W avuga ko cyabaye ku itariki ya 9 Mata 1994. Urugereko rusanga bidatangaje ko abatangabuhamya banyuranya ku gihe n'itariki ibintu byabereyeho, kubera ko batanga ubuhamya ku bintu bimaze imyaka irenga icumi.
66. Urugereko rusanga mu gitero cya mbere, cyatangiyeye mu gitondo ku itariki ya 8 cyangwa iya 9 Mata 1994, abatutsi b'i Nyarubuye baratwe n'abantu baturutse i Gishyita n'i Musenyi. Izi mpunzi z'abatutsi zaganjwe ubwo abayobozi ba Komini baje bakifatanya n'abari bagabye igitero. Rushingiye ku buhamya

umutangabuhamyanya wiswe W yatanze ku bintu yiboneye, Urugereko rusanga Uregwa yari afite intwari kandi yaragize uruhare muri icyo gitero, azanira amasasu abagabaga ibitero. Byongeye kandi Urugereko rusanga Uregwa yararashye umusore w'umututsi witwaga Manweli mu kirenge nuko uwo Manweli yitura hasi. Uretse Manweli, abandi bantu benshi bakomerekeye muri icyo gitero mbere y'uko abagabaga ibitero bagenda, berekeza i Dukoni naho abatutsi bacitse ku icumu, bagahungira ku musozi wa Rurebero.

67. Urugereko rusanga ku itariki ya 11 Mata 1994, igitero cya kabiri cyaragabwe ku musozi wa Nyarutovu no mu duce twegeranye nawo ari two Kiziba, Nyarutovu na Ngendombi. Ibi bitero byagabwe ku batutsi nyuma yaho impunzi z'abahutu zihaviriye. Mu bagabye ibitero aho hantu, harimo Uregwa, Burugumesitiri Sikubwabo, umugabo witwaga Kananura, abandi baturage b'abasivili, abapolisi n'abasirikare.
68. Bityo rero, Urugereko rusanze Porokireri yarerekanye ku buryo budashikanywaho na gato ko Uregwa yahize, akanagaba ibitero ku batutsi b'abasivili bari bahungiyeye mu misozi ya Nyarutovu nk'uko bikubiye mu gika cya 5 (d)(ii) cy'Inyandiko y'ibirego.

Igitero cyo ku musozi wa Ngendombi

69. Porokireri yafashishije ubuhamyanya bw'abagabo biswe BB, BC na W mu gushyigikira ikirego ashinja Uregwa, ko yagiye mu gitero cyo ku musozi wa Ngendombi cyabaye mu kwezi kwa Mata 1994. Incamake y'ubuhamyanya bw'abo batangabuhamyanya yatanzwe haruguru.
70. Ubwunganizi, mu gusubiza kuri iyi ngingo, buvuga ko Uregwa atamenyeshejwe mu buryo bukwiye ibijyanye n'ibyo aregwa muri icyo gika. By'umwihariko Ubwunganizi buvuga ko "imyanzuro mbanzizirubanza ya Porokireri itagaragaza umutangabuhamyanya umushinja icyo cyaha". Byongeye kandi "kubera ko ikirego

kidasobanutse, umuntu ntashobora kumenya igikorwa gifatika cya jenocide kijyanye n'ibivugwa muri iki gika cyo mu Nyandiko y'ibirego yahinduwe".⁷³

71. Urugereko rwasesenguye imyanzuro mbazirizarubanza ya Porokireri. Igika cya 58 kigira kiti:

...abatangabuhamya biswe AW, BU, BG, BB, BE, BP, AT, AP, BF, BC, W na C bazatanga ubuhamya ku byaha bya jenocide, ubuhotozi no gusambanya ku gahato Mika Muhimana yakoreye ku musozi no mu bibaya bitandukanye byo mu karere ka Biseseo. Abatangabuhamya bazavuga ukuntu babonye Mika Muhimana ku giti cye cyangwa se afatanyije n'abandi nka Kilimenti Kayishema, Karoli Sikubwabo, Obedi Ruzindana n'abandi, batanga intwari kandi bakajya mu bitero byagabwe ku batutsi b'abasivili, bakanabakorera ibyaha byibasira ibitsina.

72. Urugereko rusanga iki gika cyo hejuru cyaramenyeshye Uregwa mu buryo bugaragara ibyo abatangabuhamya bazavugaho mu gushyigikira ikirego kiri mu gika cya 5 (d) (iv) cy'inyandiko y'ibirego. Uregereko kandi rusanga icyo gika cyo mu Nyandiko y'ibirego cyarasobanuye bihagije aho igitero ashinjwa cyagabwe kandi rusanga imyanzuro mbanzirizarubanza iha Uregwa ibindi bisobanuro kuri icyo kirego.⁷⁴

73. Ku byerekaranye n'uko Ubwunganizi buvuga ko ngo ikirego kidasobanutse neza bigatuma umuntu atamenya igikorwa gifatika kijyanye n'ikirego cya jenocide muri iki gika cy'inyandiko y'ibirego yahinduwe, Urugereko rusanga ikirego ubwacyo nk'uko kiri mu gika cya 5 (d) (iv) cy'inyandiko y'ibirego aho bavuga ko " Uregwa yagize uruhare mu guhiga no kugaba ibitero ku batutsi b'abasivili ", kiramutse kigaragajwe ko ari ukuri, cyaba ubwacyo ari igikorwa gifatika cya jenocide. Ibindi ashinjwa byashobora kuba ibikorwa bifatika bya jenocide byamenyeshejwe Uregwa mu bika 54-58 by'imyanzuro mbanzirizarubanza ndetse no mu mugereka wayo uvuga incamake y'ibyo umugabo wiswe BC azatangaho

⁷³ Imyanzuro nsozarubanza y'Ubwunganizi, igika 188

⁷⁴ Imyanzuro mbanzirizarubanza ya Porokireri, *ikosora ry'igice*, igice cya IV, Nimeru 15 (umutangabuhamya wiswe BB); Nimeru 18 (Umutangabuhamya wiswe BC)

- ubuhamya. Kubera izo mpamvu, Urugereko rusanze ibyo Ubwunganizi bukemanga ku birebana n'iyi ngingo, nta ishingiro bifite.
74. Urugereko rwamaze kwemeza ko ubuhamya bw'umugabo wiswe W ku birebana n'igitero cy'i Nyarutovu, bukwiye kwemerwa. Urugereko rwemera kandi ubuhamya bw'abagabo bashinja biswe BB na BC. Batanze ubuhamya bukwiye kugenderwaho mu magambo arambuye, ku bintu byabereye ku musozi wa Ngendombi muri Mata 1994. Umutangabuhamya wiswe BB yari hafi y'Uregwa kandi yavuze ibyo Uregwa yakoze mu magambo arambuye.
75. Urugereko rusanga kuba Ubwunganizi buvuga ko ubuhamya bw'umugabo wiswe BC budakwiye kwemerwa nta shingiro bifite. Urugereko rusanga ko umutangabuhamya ativuguruje ubwo yavugaga uburyo abana be bishwe, nk'uko Ubwunganizi bubibona.⁷⁵
76. Rushingiye ku buhamya bw'abagabo biswe BB, BC na W, Urugereko rusanga igitero cyagabwe ku mpunzi z'abatutsi ku musozi wa Ngendombi cyarabaye hagati y'itariki ya 9 n'ya 11 Mata 1994, kandi Uregwa, ari kumwe n'abapolisi ba Komini babiri na Ruzindana, yarayoboye agatsiko k'Interahamwe kagabye icyo gitero. Rushingiye ku buhamya budahuzagurika kandi bushimangirana, bw'abo bagabo uko ari batatu, Urugereko rusanga Uregwa yari yitwaje imbunda n'amagerenade kandi yarateye gerenade ku mbaga y'impunzi z'abatutsi, bigatuma benshi muri bo bapfa. Abatangabuhamya biswe BB na BC bavuze ko abatarahise bicwa n'ayo magerenade baje "guhohozwa" hakoreshejwe imipanga. Rushingiye ku buhamya bw'umugabo wiswe BC, Urugereko rwemera ko icyo gitero cyari kigamije kuvumbura abatutsi aho bari bihishe mu ishyamba kugira ngo babatsembatsembe.
77. Byongeye kandi, Urugereko rusanga ku itariki ya 10 Mata 1994, nyuma y'igitero cyagabwe ku mpunzi ku musozi wa Ngendombi, Uregwa yarishe abana batatu b'umutangabuhamya wiswe BC. Uregwa yakomerekeje umutangabuhamya

⁷⁵Imyanzuro nsozarubanza y'Ubwunganizi nyuma y'isoza ry'urubanza, ibika 188 na 189

wiswe BC ku biganza, ku rutugu no mu mutwe akoresheje umupanga. Yamuciyeye,^{188/ter}
ikiganza cy'ibumoso.

78. Urugereko rusanga muri Mata 1994, Uregwa hamwe n'abandi, yarahize abatutsi b'abasivili, kandi akabagabaho igitero ku musozi wa Ngendombi. Icyo gitero cyahitanye abatutsi benshi, abandi barakomereka cyane. Ariko kandi nta bimenyetso Urugereko rubona birwemeza ko Uregwa yahize, akanagaba igitero ku batutsi bari bahungiye i Mutiti.
79. Bityo rero, Urugereko rusanze Porokireri yererekanye ku buryo budashidikanywaho na gato ko Uregwa yakoze ibyaha ashinjwa mu gika cya 5 (d) (ii) bijyanye n'ibitero byo ku musozi wa Ngendombi.

F. INAMA YABEREYE MU RUGO RW'UREGWA MU MUJYI WA GISHYITA, HAGATI MURI MATA 1994

Ibivugwa na Porokireri

80. Porokireri avuga ko:

Ku itariki ya 7 Mata 1994 cyangwa se ahagana kuri iyo tariki, Mika Muhimana yakoresheje inama iwe mu rugo mu mujyi wa Gishyita, Segiteri ya Gishyita, Komini ya Gishyita. Mu bari muri iyo nama harimo Burugumesitiri wa Gishyita, Karoli Sikubwabo n'umucuruzi witwa Obedi Ruzindana. Nyuma yaho gato, ibikorwa by'ubwicanyi, gusambanya abagore ku gahato n'andi marorerwa bitangira muri Komini ya Gishyita.⁷⁶

Ibimenyetso

Ibimenyetso bishinja:

⁷⁶ Inyandiko y'ibirego, igika cya 6 (a)

81. **Umutangabuhamya wiswe AQ**, w'umututsikazi, yavuze ko hagati muri Mata 1994, Muhimana, Ruzindana na Sikubwabo bahamagaje inama mu mbuga iri imbere y'inzu ya Muhimana. Umutangabuhamya wiswe AQ yari hafi y'abantu benshi bari bitabiriye iyo nama ariko ntiyashoboye kumva ibyo bayivugiyemo. Umutangabuhamya yavuze ko mbere y'iyi nama, yari yumvise Uregwa avuga ko azakoresha inama ,agashishikariza abahutu kwica abatutsi.⁷⁷

Ubuhamya bushinjura

82. **Umutangabuhamya ushinjura wiswe TQ13** avuga ko atigeze abona Karoli Sikubwabo cyangwa Obedi Ruzindana i Gishyita ku itariki ya 7 Mata 1994, cyangwa ngo yumve hari umuntu uvuga ko hari inama yakoreshejwe ku itariki ya 7 Mata 1994 mu muji wa Gishyita.⁷⁸
83. **Abatangabuhamya bashinjura biswe TQ14⁷⁹, DJ⁸⁰ na NT1⁸¹** bavuze ko nta nama zakoreshejwe kuri santere ya Gishyita ku itariki ya 7 Mata 1994. Umutangabuhamya wiswe TQ14 yasobanuye ko nta nama yagiyemo, kandi ko nta nama yigeze yumva zaba zarokoreshejwe n'abayobozi muri Mata, Gicurasi cyangwa Kamena mu w'i 1994.⁸²
84. Umutangabuhamya ushinjura wiswe NT1 yemeje ko nta nama zakoreshejwe kuri santere ya Gishyita muri Mata no muri Kamena 1994. Yongeyeho ko mu gihe cy'intambara, burugumesitiri atashoboraga gukoresha inama kubera umutekano muke.⁸³

⁷⁷ Inyandikomvugo y'iburanisha yo ku wa 15 Mata 2004, imp. 13-14, 42-45, 47

⁷⁸ Inyandikomvugo y'iburanisha ryo ku wa 25 Kanama 2004, urup. rwa 5 n'urwa 9

⁷⁹ Inyandikomvugo y'iburanisha ryo ku wa 25 Kanama 2004, urup. 25

⁸⁰ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeli 2004, imp. 73-74

⁸¹ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, imp. 4-6

⁸² Inyandikomvugo y'iburanisha ryo ku wa 25 Kanama 2004, urup. 41

⁸³ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, imp. 21-22, 25-26

85. **Umutangabuhamy** ushinjura wiswe **DS**, wari utuye hafi y'urugo rw'Uregwa yavuze ko atigeze yumva ko abayobozi ba komini baba barakoresheje abaturage inama ku itariki ya 7 Mata 1994.⁸⁴
86. **Umutangabuhamy** ushinjura wiswe **DR** yavuze ko ku itariki ya 7 Mata 1994 ahagana sa tanu n'igice za mu gitondo, yanyuze mu rugo rw'Uregwa, akahamara igihe cy'amasaha nk'abiri. Yavuze ko igihe yari ahari, atigeze abona inama iyo ari yo yose, kandi ko atigeze abona Burugumesitiri Sikubwabo cyangwa Obedi Ruzindana.⁸⁵
87. **Umutangabuhamy** ushinjura **DI** yavuze ko mu ntambara, Uregwa atumvikanaga na Sikubwabo kubera ko Uregwa “yari yarashatse umututsikazi kandi Sikubwabo akaba atarakundaga abagabo bashatse abatutsikazi ”.⁸⁶

Imyanzuro

88. Urugereko rusanze nta bimenyetso bihagije rwashyikirijwe rwashingiraho ruhamya Uregwa ibikubiye mu gika cya 6 (a) cy'Inyandiko y'ibirego no mu gika cya 40 cy'imyanzuro mbanzizarubanza⁸⁷, bishinja Uregwa kuba we n'abandi barakoze inama yo gucura imigambi yo kugaba ibitero ku batutsi b'abasivili. Rushingiye ku buhamya bw'umugabo wiswe AQ, Urugereko rusanga hari inama y'abayobozi yakorewe mu rugo rw'Uregwa hagati muri Mata 1994. Nta kintu ariko kigaragaza ko iyo nama yari igamiye ikintu kibi. Porokireri ntiyashoboye kugaragaza aho iyo nama yaba ihuriye n'ibikorwa by'ubwicanyi, byo gusambanya ku gahato cyangwa ibindi bikorwa by'ubugizi bwa nabi, byaba byarabaye yuma yayo.

G. GUSAMBANYA KU GAHATO NO KWICA SIPERANSIYA MUKAGASANA, HAGATI MURI MATA 1994

⁸⁴ Inyandikomvugo y'iburanisha ryo ku wa 7 Nzeli 2004, imp. 8, 21

⁸⁵ Inyandikomvugo y'iburanisha ryo ku wa 31 Kanama 2004, imp. 13-15, 76, 77

⁸⁶ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeli 2004, urup. 46

⁸⁷ Reba kandi imyanzuro ya Porokireri mbanzizarubanza, ikosora ry'igice cya IV, numero 3 ((Umutangabuhamy wiswe AQ)

Ibivugwa na Porokireri

89. Porokireri avuga ko:

Ku itariki ya 14 Mata 1994 cyangwa ahagana kuri iyo tariki, iwe mu mujyi wa Gishyita, Segiteri ya Gishyita, Komini ya Gishyita, Mika Muhimana yasambanyije ku gahato umututsikazi witwa Siperansiya Mukagasana, anamuha Interahamwe yitwa Gisambo kugira ngo nayo imusambanye. Uwo Gisambo yasambanyirije ku gahato Siperansiya Mukagasana mu rugo rwa Mikaeli Muhimana kandi uyu abireba.⁸⁸

Ku itariki ya 14 Mata 1994 cyangwa ahagana kuri iyo tariki, mu mujyi wa Gishyita, Segiteri ya Gishyita, Komini ya Gishyita, Mika Muhimana yategetse Interahamwe yitwa Gisambo kwica umugore w'umusivili witwa Siperansiya Mukagasana. Uwo Gisambo yiciye uwo mugore imbere ya Mikayeli Muhimana, mu rugo rwe.⁸⁹

Ibimenyetso

Ibimenyetso bishinja

90. **Umutangabuhamya ushinja wiswe AQ**, wabaga mu rugo rw'Uregwa, yavuze ko hashize icyumweru intambara itangiye, yabonye Uregwa asambanya Siperansiya Mukagasana ku gahato inshuro enye zitandukanye. Uyu mutangabuhamya avuga ko izo nshuro zose yamusambanyirije mu rugo iwe, hacagamo umunsi umwe cyangwa ibiri, kandi bikaba byarabaga ari hagati ya sa kumi n'imwe na sa kumi n'ebiri za nimugoroba. Umutangabuhamya yavuze ko kumusambanya ku gahato byamaraga hagati y'iminota 30 n'isaha imwe, kandi muri icyo gihe Uregwa yabaga yambaye ubusa neza neza.⁹⁰

91. Umutangabuhamya wiswe AQ avuga ko yakurikiraga bucece Uregwa iteka iyo yahuburaga Siperansiya mu cyumba yabagamo, amukurura “nk'ihene”, amujyanye mu cye. Yavuze ko ubwo Siperansiya yasambanywaga ku gahato bwa mbere, yagerageje kwigobotora Uregwa ariko biramunanira. Uregwa yaje

⁸⁸ Inyandiko y'ibirego, igika cya 6 (a) (ii)

⁸⁹ Inyandiko y'ibirego, igika cya 7 (a) (i)

⁹⁰ Inyandiko-mvugo y'ibburanisha ryo ku wa 15 Mata 2004, imp. 8, 15-17, 55-58

gusunikira Siperansiya ku buriri, amuvanamo imyenda, amusambanya ku gahato^{184/ter} Umutangabuhamya avuga ko gusambanya Siperansiya ku gahato inshuro ya gatatu, byamaze hagati y'iminota 30 n'isaha. Umutangabuhamya yavuye aho hantu amaze kubona mukuru we asambanywa ku gahato inshuro nyinshi.⁹¹

92. Umutangabuhamya wiswe AQ yavuze kandi ko Interahamwe yitwa Gisambo, yazaga kenshi mu rugo rw'Uregwa "mu ntambara", yasambanyije Siperansiya ku gahato inshuro ebyiri. Umutangabuhamya yabonye Gisambo akurura Siperansiya wavuzaga induru, amwinjiza mu nzu y'Uregwa. Umutangabuhamya ariko ntiyashoboye kubona uko yamusambanyaga ku gahato kubera ko Gisambo yamaze kwinjira, agafunga urugi.⁹²
93. Umutangabuhamya yanavuze ko hagati muri Mata 1994, Uregwa, Ruzindana n'Interahamwe nyinshi baje mu modoka, bavuye mu gitero, bahagarara imbere y'inzu y'Uregwa. Uregwa na Ruzindana bohereje Interahamwe ebyiri gusohora Siperansiya mu nzu y'Uregwa, zimuzana ku modoka. Uregwa yaje kugaruka saa tatu za n'ijoro, atari kumwe na Siperansiya. Nta muntu wongeye kubona Siperansiya nyuma y'aho, umutangabuhamya agatekereza ko Uregwa yamwishe.⁹³
94. Umutangabuhamya wiswe AQ yavuze ko muri Mata 1994, Uregwa yamusambanyije ku gahato inshuro eshatu zitandukanye mu nzu ye. Ku nshuro ya mbere, Uregwa yafunguye urugi rw'icyumba cye ku ngufu ubwo yari aryamye. Nuko Uregwa amwambura imyenda, amusambanya ku gahato. Umutangabuhamya avuga ko ubwo ibyo byabaga, yari afite imyaka cumi n'itanu y'amavuko irengaho gato, kandi yari atarigera agira imibonano mpuzabitsina mbere y'ubwo yasambanywaga ku gahato. Hashize iminsi nk'ibiri cyangwa itatu nyuma y'iyo nshuro ya mbere, Uregwa yasanze umutangabuhamya mu cyumba cye ari nijoro, arongera amusambanya ku gahato. Yagumye mu rugo rw'Uregwa

⁹¹ Inyandiko-mvugo y'iburanisha ryo ku wa 15 Mata 2004, imp. 15-16, 57

⁹² Inyandiko-mvugo y'iburanisha ryo ku wa 15 Mata 2004, urup. 18

⁹³ Inyandiko-mvugo y'iburanisha ryo ku wa 15 Mata 2004, imp. 17-19

n'ubwo bwose yari yahasambanyirijwe ku gahato kubera ko nta handi yari afite yakwihisha.⁹⁴

103/ter

Ibimenyetso bishinjura

95. **Umutangabuhamya ushinjura wiswe DA** yavuze ko atigeze yumva bavuga ko Muhimana yaba yaragize umuntu n'umwe asambanya ku gahato mu nzu iwe mu gihe yahabaga.⁹⁵
96. **Umutangabuhamya ushinjura wiswe DQ** yavuze ko atigeze yumva bavuga ko Muhimana yasambanyije Siperansiya ku gahato. Yavuze ko Muhimana atashoboraga gusambanya Siperansiya Mukagasana ku gahato.⁹⁶
97. **Umutangabuhamya ushinjura wiswe NT1** yavuze ko atigeze yumva bavuga ko Uregwa yasambanyije Siperansiya Mukagasana ku gahato. Yavuze ko nta kuntu Uregwa yaba yaragize uwo asambanya ku gahato ku itariki ya 7 Mata 1994 kubera ko umugabo ufite umugore adashobora kugira uwo asambayiriza ku gahato mu rugo rwe, "cyane cyane bakiri bato".⁹⁷ Yanavuze ko abantu bitwa abakiga bashobora kuba barashimuse Siperansiya Mukagasana hagati y'ukwezi kwa Gicurasi n'ukwa Kamena 1994, igihe Uregwa atari ari iwe.⁹⁸
98. **Umutangabuhamya ushinjura wiswe DR** yavuze ko atigeze na rimwe yumva mu manza za gacaca bavuga ko hari umugore waba warasambanyijwe ku gahato muri Segiteri ya Gishyita. Yongeyeho ko atumva ukuntu Muhimana yashoboraga gusambanya abagore ku ngufu, akabikorera mu rugo rwe yabanagamo n'umugore we.⁹⁹

⁹⁴ Inyandikomvugo y'iburanisha ryo ku wa 15 Mata 2004, imp. 25, 28-30

⁹⁵ Inyandikomvugo y'iburanisha ryo ku wa 16 Kanama 2004, imp. 19-20

⁹⁶ Inyandikomvugo y'iburanisha ryo ku wa 18 Kanama 2004, imp. 37-38

⁹⁷ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, urup. 11

⁹⁸ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, imp. 3, 10-11

⁹⁹ Inyandiko-mvugo y'iburanisha ryo ku wa 1 Nzeli 2004, imp. 5-7

99. **Umutangabuhamya ushinjura wiswe DJ** yavuze ko Siperansiya Mukagasana yabaga mu rugo rw'Uregwa. Umutangabuhamya yiboneye, ari mu metero 50, uko Siperansiya yasohowe mu rugo rw'Uregwa ku manywa y'ihangu, akinjizwa mu modoka ya Obedi Ruzindana. Uwo munsu Muhimana ntiyari ahari kubera ko yari yagiye gushyingura mubyara we. Umutangabuhamya ntiyigeze yumva hari uvuga ko Uregwa yaba yarasambanyije Mukagasana ku gahato mbere y'uko ashimutwa.¹⁰⁰
100. **Umutangabuhamya ushinjura wiswe DI** yavuze ko mu gihe Muhimana yari yagiye gushyingura umuntu mwene wabo, Interahamwe zo mu Bugarama zashimuse Siperansiya zimukuye mu rugo rw'Uregwa.¹⁰¹
101. **Umutangabuhamya ushinjura wiswe TQ1** yavuze ko atarazi Siperansiya. Byongeye kandi, yavuze ko atigeze yumva bavuga ko haba hari umugore waba warasambanyijwe ku gahato muri Komini ya Gishyita. Umutangabuhamya yanavuze ko yajyaga ajya kuri santere ya Gishyita, bityo iyo haza kuba hari umuntu wahasambanyirijwe ku gahato, yari kubimenya.¹⁰²

Imyanzuro y'Urugereko

Imyanzuro ku icyaha cyo gusambanya ku gahato

102. Urugereko rwemera ubahamya bwatanzwe n'umugabo ushinja wiswe AQ. Urugereko rwemera ko uwo mutangabuhamya wiswe AQ, wabaga mu rugo rw'Uregwa, yiboneye isambanywa ku gahato rya Siperansiya. Yasobanuye mu magambo arambuye uburyo Uregwa yasambanyije Siperansiya ku gahato inshuro nyinshi. Umutangabuhamya ntiyigeze akabya inkuru mu buhamya bwe kuko yiyemereye ko atigeze abona n'amaso ye ibivugwa ko Gisambo yasambanyije Siperansiya ku gahato kubera ko Gisambo yari yafunze urugi.

¹⁰⁰ Inyandiko-mvugo y'iburanisha ryo ku wa 2 Nzeli 2004, imp. 11-12, 14

¹⁰¹ Inyandiko-mvugo y'iburanisha ryo ku wa 1 Nzeli 2004, imp. 40, 43-44

¹⁰² Inyandiko-mvugo y'iburanisha ryo ku wa 23 Kanama 2004, imp. 16-17, 23

103. Urugereko rwemera ubuhamya bw'umutangabuhamya wiswe AQ uvuga ko ^{181/ter} n'uwakorewe icyaha, babaga mu rugo rw'Uregwa igihe yasambanywaga ku gahato, kandi ko yabonye Siperansiya asambanywa ku gahato inshuro nyinshi. Umutangabuhamya yashoboye kubona ibyo Uregwa yakoreye uwo yasambanyije ku gahato kuko urugi rw'icyumba barimo rwari rufunguye, Uregwa akaba iteka yarakuraga mo imyenda ye yose. Umutangabuhamya yavuze ko ubwa mbere, "hashize nk'icyumweru intambara itangiye" yabonye uwakorewe icyaha akurubanza ayanwa mu cyumba, agerageza kwiyaka Uregwa. Uregwa yamusunikiye ku gitanda, amwambura imyenda, amusambanya ku gahato. Urugereko rusanga ko itariki umutangabuhamya yagereranyije ko ari yo Uregwa yasambanyirije ho Siperansiya bwa mbere ku gahato, ihura n'ivugwa mu gika cya 6 (a) (ii) cy'Inyandiko y'ibirego.
104. Urugereko rwasanze ko n'ubwo abatangabuhamya bashinjura bamwe bavuze ko batigeze bumva ko hari abantu Uregwa yaba yarasambanyirije iwe ku gahato ku itariki ya 7 Mata 1994, bitavuze ko ibyo byaha bitakozwe. Urugereko ntirwemera ubuhamya bw'abatangabuhamya bashinjura bemeza ko Uregwa atashoboraga gusambanyiriza abagore ku ngufu mu rugo iwe, aho n'umugore we yabaga. Abatangabuhamya babivuga ntibabitangiye impamvu zihwitse.
105. Ku birebana n'ikirego cyo mu Nyandiko y'ibirego gishinja Uregwa kuba yarahaye Interahamwe yitwa Gisambo umukobwa witwa Siperansiya, akamusambanyiriza ku gahato mu rugo rw'Uregwa kandi Uregwa ahari, Urugereko rusanga nta bimenyetso rwashyikirijwe bishyigikira iki kirego gishinja Uregwa kuba yarahaye Gisambo Siperansiya, cyangwa kuba Siperansiya yarasambanyijwe ku gahato Uregwa areba. Byongeye kandi, n'ubwo umutangabuhamya wiswe AQ yavuze ko yabonye Gisambo akurura Siperansiya amwinjiza mu nzu y'Uregwa, Siperansiya ataka, umutangabuhamya ntiyashoboye kubona iryo sambanywa ku gahato kubera ko Gisambo yamaze kwinjira, agafunga urugi. Kubera izo mpamvu, Urugereko rusanga Porokireri atarashoboye kwerekana ko Uregwa yahaye Gisambo Siperansiya kandi ko Gisambo yamusambanyije ku gahato, Uregwa areba.

106. Urugereko ruzirikana ingingo rwashyikirijwe n'Ubwunganizi buvuga ko umutangabuhamya wiswe AQ abogamye, bityo Urugereko rukaba rwarasuzumanye ubuhamya bwe ubwitonzi n'ubushishozi. Nyamara, Urugereko rusanga uwo mutangabuhamya yibuka ibyabaye ku buryo bukwiye kwemerwa no kwizerwa.
107. Urugereko ruri busuzume icyaha Uregwa ashinjwa cyo kuba yarasambanyije umutangabuhamya ku gahato mu gice cy'urubanza Urugereko rusuzumamo ibikorwa bitaregewe.
108. Rushingiye ku buhamya bw'umugabo wiswe AQ wahagaze ku byo yatanzeho ubuhamya, Urugereko rusanze Porokireri yarerekanye ku buryo budashidikanywaho na gato ko Uregwa yasambanyirije Siperansiya Mukagasana ku gahato iwe nk'uko abishinjwa mu gika cya 6 (a) (ii) cy'Inyandiko y'ibirego.

Imyanzuro ku cyaha cy'ubuhotozi

109. Ikirego kiri mu gika cya 7 (a) (i) cy'Inyandiko y'ibirego, gishinja Uregwa kuba yarategetse Interahamwe yitwa Gisambo kwica Siperansiya, gihera ku byabaye bivugwa mu gika cya 6 (a) (ii) cy'Inyandiko y'ibirego, bikaba byasuzumwe haruguru.
110. Urugereko rwemera ubuhamya bwatanzwe n'umugabo wiswe AQ uvuga ko Uregwa hamwe n'abandi bantu bajyanye Siperansiya mu modoka, kandi ko Uregwa yaje kugaruka iwe atari kumwe na Siperansiya. Ariko nta buhamya bwemeza ko Uregwa yategetse Gisambo kwica Siperansiya, cyangwa ko Siperansiya yishwe. Bityo rero, Urugereko rusanze ikirego kiri mu gika cya 7 (a) (i) cy'Inyandiko y'ibirego nta shingiro gifite.

H. IBYABEREYE KU KILIZIYA YO KU MUBUGA – GUSAHURA IBIRIBWA, KUYA KU ITARIKI YA 11 KUGEZA KU YA 15 MATA 1994

Ibivugwa na Porokireri

111. Porokireri avuga ko:

Hagati y'itariki ya 8 n'ya 14 Mata 1994, abasivili b'abatutsi bagera ku 5600 bahungiyeye kuri kiliziya gatolika yo ku Mubuga, muri Komini ya Gishyita, bahunze ibitero byibasiraga abatutsi b'abasivili muri perefegitura ya Kibuye yose. Nyuma y'aho abo batutsi b'abasivili batangiye guteraranira kuri kiliziya gatolika yo ku Mubuga hagati y'itariki ya 8 n'ya 14 Mata 1994, Mika Muhimana, afatanyije n'abandi bantu barimo Karoli Sikubwabo na Kilimenti Kayishema, basuraga kenshi iyo kiliziya bareba impunzi, mu rwego rwo kwitegura kubagabaho igitero.¹⁰³

Hagati y'itariki ya 14 n'ya 15 Mata 1994, Mika Muhimana, afatanyije na Karoli Sikubwabo, abajandarume, Interahamwe n'abasirikare, basahuye ibiribwa kuri kiliziya yo ku Mubuga, byari byatanzwe n'imiryango yita ku mbabare nka KARITASI, byo kugaburira impunzi zari zahahungiyeye. Ibyo byatumye izo mpunzi zibura ibizitunga mu gihe zari kuri iyo kiliziya.¹⁰⁴

Ibimenyetso

Ibimenyetso bishinja

112. **Umutangabuhamya ushinja wiswe AV** yavuze ko yahungiyeye kuri kiliziya gatolika yo ku Mubuga ku itariki ya 11 Mata 1994. Yahasanze abagabo, abagore n'abana, benshi bari bahahungiyeye. Uwo muni yahageze, umutangabuhamya, ari inyuma ya kiliziya, yabonye Mika Muhimana, Ryandikayo na Visenti Rutaganira banyura hafi aho bagana mu gipadiri. Umutangabuhamya ntiyongeye kubabona uwo muni.¹⁰⁵

¹⁰³ Inyandiko y'ibirego, igika cya 5 (b)

¹⁰⁴ Inyandiko y'ibirego, igika cya 5 (b) (i)

¹⁰⁵ Inyandikomvugo y'iburanisha ryo ku wa 1 Mata 2004, imp. 36-37, 54

113. **Umutangabuhamy** **ushinja wiswe AF** yavuze ko yahungiyeye “jenoside” kuri kiliziya gatolika yo ku Mubuga ku itariki ya 13 Mata 1994.¹⁰⁶
114. Umutangabuhamy yavuze ko ku itariki ya 14 Mata 1994 “ abantu ba Mika ”¹⁰⁷ batwaye Padiri Gahinda mu modoka, nyuma aricwa. Kuri uwo munsu, Padiri Mariseli wari wungirije padiri mukuru wa Paruwasi, yanze ko ibiribwa byazanywe na CARITAS bihabwa abatutsi bari bahahungiyeye, n’ubwo umutangabuhamy yari yabisabye. Umutangabuhamy avuga ko Karoli Sikubwabo, Mika Muhimana, hamwe n’abandi bantu, baje ku kiliziya bavugana na Padiri Mariseli mu gipadiri. Nyuma gato y’uwo mubonano wabo, urubwiruko rukomoka i Ngiyuranga rwatwaye bya biribwa bya CARITAS mu mamodoka no ku mapikipiki. Sikubwabo yabwiye Padiri Mariseli ko “ agiye gukemura ikibazo cy’impunzi zari mu kiliziya”.¹⁰⁸ Umutangabuhamy yavuze ko Uregwa ntacyo yigeze avuga.¹⁰⁹

Ibimenyetso bishinjura

115. **Umutangabuhamy ushinjura wiswe DA** yavuze ko ku itariki ya 12 Mata 1994 yahungiyeye kuri kiliziya yo ku Mubuga, abantu bakaba baravugaga ko hari umutekano. Umutangabuhamy avuga ko impunzi nyinshi zari zakoraniye aho kuri kiliziya, yari irinzwe n’abajandarume. Yavuze ko impunzi zari mu kiliziya zari zifite amazi yo kunywa kandi ko umuryango CARITAS wabahaga ibiryo bike. Yavuze ko ibyo biribwa byaje gusahurwa n’abantu bahagabye igitero.¹¹⁰
116. **Umutangabuhamy ushinjura wiswe DD** yavuze ko ibiribwa byahabwaga impunzi zari ku kiliziya byatangwaga n’umuryango witwa CARITAS. Umutangabuhamy yavuze ko nyuma, ibyo biribwa bya CARITAS byaje gusahurwa; mu babisahuye harimo Burugumesitiri Sikubwabo n’umucuruzi

¹⁰⁶ Inyandikomvugo y’iburanisha ryo ku wa 28 Mata 2004, imp. 28, 50

¹⁰⁷ Inyandikomvugo y’iburanisha ryo ku wa 28 Mata 2004, urup. 52

¹⁰⁸ Inyandikomvugo y’iburanisha ryo ku wa 28 Mata 2004, imp. 24-25, 27; inyandikomvugo yo ku wa 29 Mata 2004, urup. 15

¹⁰⁹ Inyandikomvugo y’iburanisha ryo ku wa 28 Mata 2004, urup. 50

¹¹⁰ Inyandikomvugo y’iburanisha ryo ku wa 16 Kanama 2004, imp. 23-25, 27; reba n’inyandikomvugo y’iburanisha mu rurimi rw’igifaransa yo ku wa 16 Kanama 2004, imp. 28, 47

witwa Ryandikayo. Umutangabuhamy yavuze ko atahabonye Uregwa, kandi ko 177/ter
iyi aza kuhamubona, yari kumumenya.¹¹¹

117. Umutangabuhamy DD yavuze ko nta bategetsi baturutse ku Kibuye bigeze babara impunzi zari ku kiliziya. Yavuze ko hari umujandarume wigeze kubaza uko izo mpunzi zanganaga.¹¹²
118. **Umutangabuhamy ushinjura wiswe DF** yavuze ko, kuva ku itariki ya 8 Mata 1994, abantu bari baturiyeye paruwasi bahungiyeye kuri kiliziya yo ku Mubuga.¹¹³
119. **Umutangabuhamy ushinjura wiswe DL** yavuze ko iby'isahura ryabereye ku Mubuga, yaryumvise. Yavuze ko Burugumesitiri Sikubwabo na Konseye Visenti Rutaganira bari mu basahuye umuceri, amapikipiki n'amamodoka. Umutangabuhamy yavuze ko izina rya Mika ritigeze rivugwa mu manza za gacaca. Abantu bavuze ko Konseye Rutaganira yahamagariye abantu kwitabira ubwicanyi bwakorewe ku kiliziya.¹¹⁴
120. **Umutangabuhamy ushinjura wiswe DC** yavuze ko ku itariki ya 12 Mata 1994 nimugoroba, yahunze, ari wenyine, ahungira kuri kiliziya yo ku Mubuga, aho yasanze izindi mpunzi, zakomeje kwiyongera. Abajandarume, bagombye kuba barinda izo mpunzi, bari bakikije kiliziya. Impunzi zari zikoraniye ku kiliziya zahawe ibiribwa byari byatanzwe na CARITAS.¹¹⁵
121. Umutangabuhamy DC yavuze ko ibiribwa bya CARITAS byasahuwe areba ku itariki ya 12 cyangwa ya 13 Mata 1994, bugiye kwira. Umutangabuhamy yavuze ko Uregwa “yari ahagaze aho. Ntacyo yakoraga, nta kintu nigeze mbona akora. Sinigeze mbona hari umuntu yica, ariko yari ahari ”.¹¹⁶

¹¹¹ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, imp. 13-14

¹¹² Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, imp. 14

¹¹³ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, urup. 3

¹¹⁴ Inyandikomvugo y'iburanisha ryo ku wa 31 Kanama 2004, imp. 67, 72

¹¹⁵ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup. 4-5

¹¹⁶ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, imp. 5-6

Ibyabaye mbere y'igitero cyo kuri kilizaya yo ku Mubuga

122. Ku birebana n'ibyabereye kuri Kiliziya yo ku Mubuga, Porokireri ashingira ahanini ku buhamya bw'abagabo biswe AV na AF.
123. Urugereko rusanga umutangabuhamya wiswe AF avuga mu buryo bwumvikana kandi bukwiye kwemerwa uko ibintu byagenze uhereye ku itariki ya 14 Mata 1994, bikaza gusozwa n'igitero cyagabwe bukeye bwaho mu gitondo. Byongeye kandi, Urugereko rusanga abatangabuhamya biswe AV na AF batanga amakuru arambuye kandi ahamye ku bintu byabanjirije igitero cyo kuri kiliziya yo ku Mubuga, kandi ibyo bavuga kuri icyo gitero, babihurizaho. Kubera izo mpamvu, Urugereko rusanga ubuhamya abagabo biswe AV na AF batanga ku gitero cyo kuri kiliziya yo ku Mubuga bukwiye kwemerwa no kwizerwa.
124. Ubwunganizi buvuga ko hari ibyo abatangabuhamya biswe AV na AF banyuranyaho mu byo bavuga ku byabanjirije igitero cyo ku kiliziya yo ku Mubuga. Ubwunganizi buvuga ko umutangabuhamya wiswe AV yavuze ko Uregwa yaje ku kiliziya mu modoka, naho umutangabuhamya wiswe AF we akaba yibuka ko Uregwa yaje ku maguru. Byongeye kandi, umutangabuhamya wiswe AF yavuze ko igitero cyatangiyeye saa kumi n'ebiyili za mu gitondo, naho umutangabuhamya wiswe AV avuga ko, agereranyije, asanga igitero cyaratangiyeye saa yine za mu gitondo. Urugereko rusanga ibi abatangabuhamya banyuranyaho ari ibintu bidakwiye guhabwa uburemere kandi bikaba bituruka ku buryo abo batangabuhamya babonaga icyo gitero.
125. Ubwunganizi buvuga ko ubuhamya bw'umugabo wiswe AF budakwiye kwemerwa. Buvuga ko bitumvikana ukuntu Uregwa yari kubwira umututsi ibanga ry'uko Interahamwe zatorezwaga mu ishyamba rya Nyungwe. Urugereko ntirwemera iyi ngingo Ubwunganizi butanga. Umutangabuhamya ntiyigeze avuga

ko Uregwa yamubwiye we ubwe iby'iyoye myitozo, ahubwo umutangabuhamya yavuze ko “yamwumvise abivuga”.¹¹⁷

Gutegura igitero

126. Urugereko rusanga Ubwunganizi butigeze buhakana ko abaturage benshi b'abasivili bagiye ku kiliziya yo ku Mubuga, bahunga ibitero byagabwaga muri ako gace.
127. Inyandiko y'ibirego ivuga ko hagati y'itariki ya 8 n'ya 13 Mata 1994 “abatutsi b'abasivili bagera nko ku bihumbi bitanu na magana atandatu bahungiye ku kiliziya gatolika yo ku Mubuga”.¹¹⁸ Rumaze gusuzuma ibimenyetso rwashyikirijwe na Porokireri n'Ubwunganizi, rusanga bidahagije kugira ngo rushobore kumenya umubare nyawo w'abantu bari bahungiye ku kiliziya, ariko ikigaragara ni uko bari benshi. Umugabo wiswe AF, watanze ubuhamya Urugereko rwemera, yavuze uko ibintu byari byifashe mu magambo ahinnye, agira ati impunzi zari mu kiliziya zari izo mu bwoko bw'abatutsi kandi “kiliziya yari yuzuye yenda gusandara...nta bwinyagamburiro umuntu yari afite”.¹¹⁹
128. Ku birebana n'ikirego cy'uko Uregwa hamwe n'abandi bantu bazaga ku kiliziya kenshi “kureba impunzi bategura igitero”, Ubwunganizi buvuga ko ibimenyetso Porokireri yashyikirije Urugereko mu gushyigikira iki kirego bidahagije. Ubwunganizi buvuga ko umutangabuhamya atigeze avuga ko yabonye Uregwa “ajya kuri kiliziya gatolika kenshi” cyangwa ko mbere y'itariki ya 15 Mata 1994, mu myitwarire ye, nta kintu kibi yigeze kubona akora”.¹²⁰
129. Rushingiye ku buhamya bwumvikana kandi buhamye bw'umugabo wiswe AV, Urugereko rusanga Uregwa yaragiye ku kiliziya gatolika yo ku Mubuga ku itariki ya 11 Mata 1994. Urugereko ariko rusanga Porokireri atarashoboye kwerekana ko Uregwa yagiye ku kiliziya kenshi ajyanywe no “kureba uko impunzi zifashe”

¹¹⁷ Inyandikomvugo y'iburanisha ryo ku wa 28 Mata 2005, urup. 23

¹¹⁸ Inyandiko y'ibirego, igika cya 5 (b)

¹¹⁹ Inyandikomvugo y'iburanisha ryo ku wa 28 Mata 2005, urup. 26

¹²⁰ Imyanzuro y'Ubwunganizi isoza iburana, igika cya 141 n'icya 143

mu rwego rwo gutegura igitero. Kubera izo mpamvu, Urugereko rusanze ikirego/174/ter
kiri mu gika cya 5 (b) cy'Inyandiko y'ibirego nta shingiro gifite.

Isahurwa ry'ibiribwa bya CARITAS

130. Urugereko rwemera ubuhamya bw'umugabo wiswe AF, uvuga ko yiboneye Uregwa ku itariki ya 14 Mata 1994, ari ahasahuwe ibiribwa CARITAS yari yarazaniye impunzi. Umutangabuhamya, yari asanzwe azi Uregwa mbere y'ibyabaye mu w'1994, yanashoboye kumwerekana mu cyumba cy'iburanisha. Aho yari ari, yarebaga neza abasahuraga kuko umuryango w'icumbi ry'abapadiri wari uteganye n'aho yari ahagaze mu kiliziya.¹²¹
131. Ubuhamya bwatanzwe n'umugabo ushinjura wiswe DC buhuza n'ubw'atanzwe n'umugabo wiswe AF uvuga ko yabonye Uregwa aho isahura ryabereye, uretse ko we avuga ko isahura ryabaye ku itariki ya 12 n'ya 13 Mata 1994, aho kuba ku ya 14 Mata, nk'uko umugabo wiswe AF yabivuze mu buhamya bwe. Kubera igihe gishize ibivugwa bibaye, ntibitangaje ko habaho kudahuza ku matariki.
132. Rushingiye ku buhamya bw'umugabo wiswe AF, buhura n'ubw'umugabo wiswe DC, Urugereko rusanga Uregwa yari ari ahasahurwaga ibiribwa byazanywe na CARITAS. Kubera ko yahamaze umwanya, akaba kandi yari umukonseye, Urugereko rusanga Uregwa yarashishikarije abantu gusahura ibiribwa byari bigenewe impunzi zo mu kiliziya. Bityo rero, Urugereko rusanze Porokireri yarerekanye ku buryo budashidikanywaho na gato ko Uregwa yakoze icyaha ashinjwa mu gika cya 5 (b) (i) cy'Inyandiko y'ibirego.

**IGITERO CYO KU KILIZIYA YO KU MUBUGA KU ITARIKI YA 15 MATA
1994**

Ibivugwa na Porokireri

¹²¹ Inyandikomvugo y'iburanisha ryo ku wa 28 Mata 2004, urup. 26-27

Hagati y'itariki ya 14 n'ya 15 Mata 1994, Mika Muhimana, afatanyije na Karoli Sikubwabo n'abasirikare, yahaye amagerenade n'imbunda Interahamwe kandi n'abaturage b'abasivili, ku kiliziya gatolika yo ku Mubuga kugira ngo bazikoreshe mu kugaba igitero ku basivili b'abatutsi bari bahungiyeye muri iyo kiliziya yo ku Mubuga.¹²²

Ku itariki ya 15 Mata 1994, cyangwa ahagana kuri iyo tariki, Mika Muhimana ari kumwe na Kilimenti Kayishema, Obedi Ruzindana, abasirikare, Interahamwe, abasivili bitwaje intwari n'abapolisi ba komini, yagabye igitero ku batutsi b'abasivili bari bahungiyeye muri kiliziya gatolika yo ku Mubuga, bakoresheje imbunda, amagerenade, imipanga, n'izindi ntware za gakondo, bica abasivili b'abatutsi barenga ibihumbi bitanu bari barahungiyeye muri iyo kiliziya gatolika yo ku Mubuga.¹²³

Mu gitero cyagabwe ku batutsi b'abasivili bari barahungiyeye mu kiliziya gatolika yo ku Mubuga ku itariki ya 15 Mata 1994, Mika Muhimana yishe abantu amagana barimo Kaihura, akomeretsa n'abandi benshi.¹²⁴

Ibimenyetso

Ibimenyetso bishinje

134. **Umutangabuhamya ushinje wiswe AF** yavuze ko mu ijoro ryo ku wa 14 Mata 1994, abantu, bari bahawe urufunguzo rw'urugi rwo mu gipadiri ku Mubuga, baje bagafata abatutsikazi bari bihishemo, bakabasambanya ku gahato, bakabakorera ibikorwa by'urugaraguro, nyuma bakabica. Umutangabuhamya yiyemerera ko atiboneye ibyabereye muri icyo gitero kuko hari mu gipadiri imbere, kandi we yari yihishe mu kiliziya.¹²⁵

¹²² Inyandiko y'ibirego, igika cya 5 (b) (ii)

¹²³ Inyandiko y'ibirego, igika cya 5 (b) (iii)

¹²⁴ Inyandiko y'ibirego, igika cya 7 (b)

¹²⁵ Inyandikomvugo y'iburanisha ryo ku wa 28 Mata 2004, imp. 27-31

135. Bukeye bwaho mu gitondo, ku itariki ya 15 Mata 1994, bamaze kugeza mu rutoki imirambo y'abantu bari baguye mu gitero cyo mu gi padiri, abagabaga ibitero bahindukiriye abari bihishe mu kiliziya. Umutangabuhamya, warebaga Muhimana ari nko muri metero icumi, yabonaga asa nk'aho ari we uyoboye icyo gitero. Yavuze ko Muhimana yari yambaye imyenda ya gisirikare, kandi ko Muhimana na Sikubwabo “ bahoranaga ”, bakaba bari kumwe na Konseye wa Segiteri ya Mubuga, Visenti Rutaganira, undi mukonseye, witwa Mugwa, n'umucuruzi witwa Ryandikayo n'abasore benshi bakomoka kuri santere ya Younahonga. Uregwa, Sikubwabo na Visenti Rutaganira bose bari bitwaje imbunda.¹²⁶
136. Benshi mu mpunzi zari mu kiliziya bari bagisinziriye ubwo abagabye igitero bayigotaga. Umutangabuhamya AF yavuze ko abateye bavugije amafirimb, bigatuma abari bagisinziriye bakanguka. Impunzi zafungiyeye imbere inzugi, zikoze mu cyuma, kugira ngo ababateraga batinjira bakabica urubozo, bakoresheje imipanga, impiri n'amacumu, bari bitwaje. Zagerageje gukumira ababateraga zibatera amatafari zavanaga ku rukuta rwa kiliziya atari afashe neza. Babonye bananiwe kwinjira mu kiliziya banyuze mu miryango, abo bari bateye, barimo Muhimana na Sikubwabo, barashe amasasu mu kiliziya, bateramo amagerenade n'ibyuka bihuma amaso, hagwa impunzi nyinshi. Umutangabuhamya wiswe AF ntiyashoboye kumenya abishwe n'amasasu cyangwa amagerenade yakoreshejwe n'abo bagabye ibitero.¹²⁷
137. Nyuma y'icyo igitero, uyu mutangabuhamya yasohotse mu kiliziya kugira ngo arebe ikerekezo abateye bafashe. Ubwo ni bwo yasanze umugore witwa Kolodine mu mirambo y'abantu bari bishwe. Indi mpunzi yabagiriye inama yo guhungira i Burundi, bambutse ishyamba rya Nyungwe. Umutangabuhamya yemeye icyo gitekerezo, bashyira nzira. Nyuma umutangabuhamya yumvise ko, ku itariki ya

¹²⁶ Inyandikomvugo y'iburanisha ryo ku wa 28 Mata 2004, imp. 16, 25, 30, 32, 35

¹²⁷ Inyandikomvugo y'iburanisha ryo ku wa 28 Mata 2004, imp. 30-31; Inyandikomvugo y'iburanisha ryo ku wa 29 Mata 2004, imp. 17-18

17 Mata 1994, abagabaga ibitero baje gushobora kumena inzugi za kiliziya bagatsembatsemba impunzi zari zisigaye.¹²⁸

138. Umutangabuhamya ushinja wiswe AV yavuze ko, ku itariki ya 15 Mata 1994, saa yine za mu gitondo, yari ari mu kiliziya yo ku Mubuga n’abavandimwe be, uretse murumuna we umwe wari kumwe n’ababyeyi be kuri disipanseri. Kiliziya yari yagoswe n’Interahamwe nyinshi, ubwo Mika Muhimana yazaga, atwaye imodoka yo mu bwoko bwa Suzuki y’ubururu. Uregwa, hamwe n’umujandarume wari umuherekeje, bombi bari bambaye imyenda ya gisirikare. Bakuye mu modoka ikarito “iringaniye” y’amagerenade. Uregwa yateretse iyo karito ku ngazi za kiliziya zari imbere ye, ahegeranye n’umuryango ugana mu gipadiri, ariko ntiyigeze yinjira mu kiliziya. Umutangabuhamya ntiyashoboye kugereranya intera yari hagati ye na Muhimana ariko yamubonye atera Gerenade mu kiliziya. Gerenade yaguye nko muri metero eshanu z’aho yari ari. Yamukomerekeje ku mutwe, ku ntugu no ku gikanu. Abandi bantu benshi bakomerekejwe bikomeye n’icyo gisasu, baravirirana. Umutangabuhamya AV yavuze ko yari afite ubwoba kandi ko atashoboye kwitegereza neza ibyabaye byose. Ariko yashoboye kubona ko iyo Gerenade Muhimana yateye yajanjaguye umutwe w’umututsi witwaga Kaihura, iramuhitana.^{129 130}

Ibimenyetso bishinjura

139. **Umutangabuhamya ushinjura wiswe DA** yavuze ko ahagana ku itariki ya 15 Mata 1994, ari hafi y’ingazi zigana kuri alitari mu kiliziya yo ku Mubuga, yabonye abantu benshi barimo abajandarume, baza ku kiliziya guhumuriza impunzi. Umutangabuhamya DA ahamya ko abantu atashoboye kumenya batangiye kurasa. Yavuze ko igitero gitangira, abakigabye bateye Gerenade hagapfa abantu bake gusa. Inzugi za kiliziya zifunguwe, abantu bakarwanira mu miryango basohoka, abagabye igitero bakoresheje intwari zitandukanye zirimo

¹²⁸ Inyandikomvugo y’iburanisha ryo ku wa 29 Mata 2004, urup. 17

¹²⁹ Inyandikomvugo y’iburanisha ryo ku wa 1 Mata 2004, imp. 29, 36-39, 48-49, 53-54

¹³⁰ Urugereko rwasanze izina “Kaihura” ryanditse mu buryo butandukanye (“Kayihura”, “Kayihra” etc) mu nyandiko z’iburanisha mu gifaransa no mu cyongereza, ariko bigaragara ko hose ari umuntu umwe uvugwa. None kugira ngo hose bise, Urugereko ruzajya rukoresha “Kaihura”

impiri, imipanga, imbunda, na gerenade, bica abantu benshi. Umutangabuhamya ntiyabonye umwanya wo kumenya abari muri icyo gitero ariko yashoboye kubonamo.¹³¹

140. Umutangabuhamya wiswe DA yavuze ko abantu bihishaga muni y'imirambo, bakipfusha. Umutangabuhamya yasohokeye mu muryango munini wa kiliziya nuko ajya inyuma mu gikari, yihisha mu nzu ntoya yari inyuma ya kiliziya. Yavuye aho yari yihishe nijoro nka saa moya, anyura mu bihuru ajya kwa Muhimana. Yari wenyine. Umutangabuhamya ntiyibuka igihe yagereyeyo, ariko yasanze Muhimana asinziriye.¹³²
141. **Umutangabuhamya ushinjura wiswe DD** yavuze ko, ku itariki ya 12 Mata 1994, yavuye mu misozi, akajya ku kiliziya yo ku Mubuga, bakaba bari bamubwiye ko hari umutekano. Umutangabuhamya yavuze ko, ku itariki ya 14 Mata 1994, abatutsi bari ku kiliziya, batewe. Yavuze ko icyo gitero “ kitari kinini”. Icyo gitero cyari kigizwe ahanini n’abajandarume. Baraje bararasa, bica abantu bake, nuko baragenda.¹³³
142. Umutangabuhamya DD yavuze ko mu ijoro ryo ku wa 14 Mata 1994 abajandarume batwaye ku ngufu *abakobwa ba Musenyeri*, barabica. Yumvise abo bakobwa bataka. Umutangabuhamya yavuze ko impunzi zabajije umujandarume uko byagenze, arasubiza ati “ Namwe ejo muzicwa”.¹³⁴
143. Umutangabuhamya DD yahungiyeye mu misozi yo mu Bisesero ku itariki ya 15 Mata 1994. Ari aho mu Bisesero, yumvise urusaku rwinshi rw’amasasu, abona n’igitero cyagabwe ku kiliziya yo ku Mubuga. Kubera ko atari ari ku kiliziya yo ku Mubuga ku itariki ya 15 Mata 1994, umutangabuhamya ntiyashoboraga kumenya abantu bagabye icyo gitero abo ari bo.¹³⁵

¹³¹ Inyandikomvugo y’iburanisha ryo ku wa 16 Kanama 2004, imp. 23-26, 40, 59-60

¹³² Inyandikomvugo y’iburanisha ryo ku wa 16 Kanama 2004, imp. 17, 25-26,57-58; ikimenyetso gishinjura D40

¹³³ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, imp. 13-14, 19

¹³⁴ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, urup. 14

¹³⁵ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, imp. 18-19

144. Umutangabuhamya ushinjura wiswe DF yemeje ko kiliziya yo ku Mubuga yagabweho igitero. Yavuze ko atagiye muri icyo gitero cyangwa se ngo abone ibyakibereyemo. Umutangabuhamya yavuze ko icyo gitero cyabaye umunsi wakurikiye iyicwa rya ba bakobwa ku irimbi, ariko ntiyashoboye kwibuka itariki icyo gitero cyagabweho. Umutangabuhamya yavuze ko ahantu ha mbere icyo gitero cyo kuri paruwasi cyagiye hari, ku icumbi ry'abapadiri. Yavuze ko impunzi zari zakoraniye mu kiliziya zishwe muri icyo gitero. Umutangabuhamya ntiyigeze yumva ko hari intwaro zatangiwe ku kiliziya yo ku Mubuga, akaba kandi ataramenye ubwoko bw'intwaro zakoreshejwe muri icyo gitero.¹³⁶
145. **Umutangabuhamya ushinjura wiswe DL** yavuze ko yumviye iby'ubwicanyi bwakorewe ku kiliziya yo ku Mubuga mu nama za gacaca, ari muri gereza, abyumvanye abandi. Yavuze ko abajandarume, bari barinze kiliziya, bafatanyije n'abaturage, ari bo bishe abantu bari mu kiliziya. Akurikije ibyo yumvise mu buhamya bw'abireze ibyaha, muri gereza, ibitero byagabwe ku kiliziya yo ku Mubuga byayobowe na Konseye Visenti Rutaganira. Umutangabuhamya yavuze ko atigeze yumva hari umuntu uvuga ko haba hari intwaro zatangiwe ku kiliziya yo ku Mubuga.¹³⁷
146. Umutangabuhamya wiswe DL yavuze ko izina ry'Uregwa ritavuzwe n'abantu bireze ibyaha mu nama za gacaca muri gereza ya Gisovu ku bijyanye n'ibitero byo ku kiliziya no ku irimbi. Byongeye kandi, ntabwo izina ry'Uregwa ryigeze rivugwa na rimwe mu nama za gacaca ku bijyanye n'ibyabereye muri Segiteri ya Bisesero. Umutangabuhamya wiswe DL yongeyeho ko iyo Uregwa agira urahare cyangwa akayobora ibitero byo mu Bisesero, yari kubimenya.¹³⁸
147. **Umutangabuhamya ushinjura wiswe DZ** yavuze ko, ahagana saa yine n'igice za mu gitondo,¹³⁹ abajandarume bitwaje intwaro bakoraniye abagabo b'abahutu bagera nko kuri 800 bo kuri santere ya Selire ya Ryaruhanga, maze babategeka

¹³⁶ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, imp. 6, 12-13, 15-17

¹³⁷ Inyandikomvugo y'iburanisha ryo ku wa 31 Kanama 2004, urup. 66

¹³⁸ Inyandikomvugo y'iburanisha ryo ku wa 31 Kanama 2004, imp. 68-69, 72-73; Gihamya D75

¹³⁹ Nta tariki yanditswe muri iyo nyandikomvugo y'iburanisha

kujya ku kiliziya yo ku Mubuga, bagenda babakubita. Bageze ku kiliziya, 168/ter umutangabuhamya yumvise abatutsi “bataka” kubera ko “ bari babonye ko abantu baje kubica”.¹⁴⁰ Umutangabuhamya yavuze ko abo bantu bategetswe kwica abatutsi bose bari busohoke mu kiliziya.” Umutangabuhamya ariko yavuze ko mu masaha ane icyo gitero cyamaze, nta muntu yishe, kubera ko “ nta mututsi washoboye gusohoka muri iyo kiliziya” kuko bose biciwe imbere mu kiliziya. Umutangabuhamya DZ yagize ati: “ abajandarume, n’uwahoze ari burugumesitiri wa Gishyita, Karoli Sikubwabo, ni bo bari batuyoboye”.¹⁴¹

148. Nyamara ubwo Porokireri yabazaga umutangabuhamya niba kwemera ko yagize uruhare mu gitero cyo ku Mubuga harimo no kwica abatutsi bari bihishe mu kiliziya, DZ yarashubije ati, “ubivuze utyo ntiwaba wibeshye”.¹⁴²

149. Umutangabuhamya DZ yavuze ko yari azi Uregwa, kandi ko atari mu gitero cyo ku kiliziya. Mu ibaza rinyomoza, Umutangabuhamya yavuze ko intwari zakoreshejwe mu kwica abatutsi zari iz’abajandarume na konseye wa Segiteri ya Gishyita. Ariko abacamanza bamusabye gusobanura iby’iyi nteruro, umutangabuhamya yashimangiye ko atigeze avuga Uregwa ahubwo ko yavuze Burugumesitiri Sikubwabo.¹⁴³

150. **Umutangabuhamya ushinjura wiswe DAA** yavuze ko abatutsi bahungiyeye imbere mu kiliziya kubera ko mu kigo cya paruwasi, nta mutekano wari uhari. Umutangabuhamya yavuze ko, mu ma saa tatu za mu gitondo, abajandarume bakubise, bakanarasa ku mpunzi zari mu kiliziya. Bahamagaye abaturage b’ababasivili gufatanya na bo. Umutangabuhamya DAA yavuze ko ari Visenti Rutaganira wamubwiye ngo yitabire iki gitero. Yavuze ko Burugumesitiri Sikubwabo ari we muntu wari ukomeye cyane mu bayoboye kiriya gitero cyo ku kiliziya. Hari kandi abajandarume, abasirikare, ndetse na Visenti Rutaganira, Konseye wa Segiteri ya Mubuga. Burugumesitiri Sikubwabo na Rutaganira

¹⁴⁰ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, urup. 31

¹⁴¹ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, imp. 27, 30, 35, 50

¹⁴² Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, urup. 35

¹⁴³ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, imp. 30, 36-37, 41

bahereye abagabaga igitero aho amabwiriza yo kugota kiliziya, bakagaba igitero, Umutangabuhamya DAA yahakanye ko Uregwa yari mu bitabiriye icyo gitero.¹⁴⁴

151. Umutangabuhamya DAA yavuze ko igitero cy'uwo muni cyamaze amasaha abiri. Agereranyije, umutangabuhamya DAA asanga abajandarume bari muri icyo gitero bararutaga ubwinshi abaturage b'abasivili bari bakirimo: abajandarume bagera ku 2000 naho abasivili bagera ku 1500, bose hamwe bakaba nk'abantu 3500. Umutangabuhamya ntiyibuka niba hari intwaro zatanzwe. Yavuze ko benshi mu basirikare n'abajandarume bari aho bari bafite intwaro, zirimo amagerenade n'imbunda umutangabuhamya atashoboye kumenya neza ubwoko bwazo. Abo basirikari n'abo bajandarume bari batamirije ibikandara by'amasasu. Abaturage b'abasivili bari bitwaje imipanga, impiri, n'izindi ntware. Umutangabuhamya DAA yahakanye yivuye inyuma ko Mika yari mu bagabye icyo igitero.¹⁴⁵

152. **Umutangabuhamya ushinjura wiswe DC** yavuze ko, ku cyumweru cyakurikiye urupfu rwa Perezida, akaba yumva ko hari ku itariki ya 10 Mata 1994, ubwo yari kuri santere yikorera imirimo ye, yabonye abaturage, bari bagizwe ahanini n'abagore n'abana babo, bikoreye ibirago bagana kuri kiliziya yo ku Mubuga gushaka ubuhungiro. Abajandarume, bari barashyizwe ku kiliziya gucunga umutekano w'impunzi babarasheho, banatera amagerenade kuri kiliziya, barayisenya.¹⁴⁶

153. Umutangabuhamya ushinjura wiswe DC, yavuze ko, ubwo yari yarahungiyeye ku kiliziya yo ku Mubuga, yumvise bavuga ko "abakobwa ba Musenyeri" bajanywe ku irimbi, baricwa. Umutangabuhamya ariko ntiyegeze yumva hari uvuga ko hari abantu basambanyijwe ku gahato. Yavuze ko yumvise abantu bavuga ko abagize uruhare muri icyo gitero cyo ku irimbi ari Interahamwe zo mu Ryaruhanga n'ibirara byaho.¹⁴⁷

¹⁴⁴ Inyandikomvugo y'iburanisha ryo ku wa 31 Kanama 2004, imp. 2-4, 6, 8, 17, 26

¹⁴⁵ Inyandikomvugo y'iburanisha ryo ku wa 31 Kanama 2004, imp. 4, 6-8, 17

¹⁴⁶ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, imp. 45-46

¹⁴⁷ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup. 6; reba n'inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup. 7, mu rurimi rw'igifaransa

154. Umutangabuhamya wiswe DC yavuze ko yavuye ku Mubuga ibiribwa byazanywe na CARITAS, byaraye bisahuwe, nko ku itariki ya 14 Mata 1994, agereranyije, ubwo igitero cyagabwaga kuri kiliziya mu gitondo kare. Impunzi zatewe ibyuka bihuma amaso, umwe mu bajandarume barindaga kiliziya abwira impunzi ko “ ibyazo byarangiye” azigira inama yo guhunga. Umutangabuhamya n’abandi bagiye gushaka ubuhungiro mu ngo z’inshuti zabo cyangwa mu bihuru. Umutangabuhamyanya yavuze ko abantu bamwe bishwe.¹⁴⁸

Imyanzuro y’Urugereko

155. Porokireri ashingira ku buhamya bw’abagabo biswe AV na AF mu gushinja Uregwa kuba yaratanze intwaro ku kiliziya yo ku Mubuga, no kuba yaragiye mu gitero cyakurikiyeho, ndetse akagira uruhare mu iyicwa ry’umututsi witwaga Kaihura. Urugereko ruributsa ko rwemeye ubuhamya bw’abagabo biswe AV na AF.

Itangwa ry’intwaro n’igitero cyagabwe ku kiliziya

156. Rushingiye ku buhamya bw’umugabo wiswe AF, buhura n’ubuhamya bw’umugabo wiswe AV¹⁴⁹, Urugereko rusanga ku itariki ya 15 Mata 1994 mu gitondo Uregwa yaragiye mu gitero cyagabwe ku kiliziya yo ku Mubuga. Uregwa, hamwe n’abandi bayobozi bo muri ako karere, nka Burugumesitiri Sikubwabo na Konseye Rutaganira, bagize uruhare rukomeye muri icyo gitero, kandi bese bari bitwaje imbunda.¹⁵⁰ Abateye, bagose kiliziya, nuko bavugiriza amafirimbi impunzi zari zikingiraniye mo imbere. Babonye ko bananiwe kumena inzugi za kiliziya, abagabye igitero barimo Uregwa na Burugumesitiri Sikubwabo, bateyemo amagerenade, banarasamo amasasu, bica nyinshi muri izo mpunzi z’abatutsi.

¹⁴⁸ Inyandikomvgo y’iburanisha ryo ku wa 17 Kanama 2004, imp. 6, 7

¹⁴⁹ Urugereko rusuzuma byihariye ubuhamya bw’umugabo wiswe AV mug ice kirebana n’ihotorwa rya Kaihura

¹⁵⁰ Inyandikomvgo y’iburanisha ryo ku wa 28 Mata 2004, imp. 29-30

157. Urugereko ariko ntirwemera ko Uregwa yari mu bayoboze icyo gitero cyo kuri 165/ter kiliziya yo ku Mubuga, nk'uko abishinjwa na Porokireri. Urugereko rusanga ubuhamya bw'abagabo biswe AV na AF ku birebana n'uruhare Uregwa yagize muri icyo gitero busa nk'aho bwerekana ibyo bitekerezo, bashingiye k'uko Uregwa yari konseye. Nta kintu Uregwa yavuze cyangwa yakoze muri icyo gitero kigaragaza ko yari mu bari bakiyoboze. Urugereko rusanga kuba Uregwa yari konseye, kuba yaragaragaye hamwe n'abayobozi bakomeye bo muri ako karere aho igitero cyabereye, no kuba yarateye gerenade, bidahagije ubwabyo kugira ngo rwemeze ko Uregwa yari umwe mu bari bayoboze icyo gitero.
158. Byongeye kandi, Urugereko rusanga Porokireri atarerekanye ko, hagati y'itariki ya 14 n'ya 15 Mata 1994, Uregwa, afatanyije na Karoli Sikubwabo n'abasirikare, yahaye amagerenade n'imbunda Interahamwe n'abaturage b'abasivili ku kiliziya gatolika yo ku Mubuga, nk'uko abimushinja mu gika cya 5 (b) (ii) cy'inyandiko y'ibirego. Rushingiye ku buhamya bw'umugabo wiswe AV, Urugereko rwemera ko Uregwa yateye gerenade imwe ayivanye mu ikarito yajyanye ku kiliziya ayivanye mu modoka ye. Ariko nta kimenyetso Porokireri yashyikirije Urugereko cyerekana ko Uregwa, cyangwa se undi muntu uwo ari we wese, yahaye amagerenade yari asigaye mu ikarito abari bagose kiliziya. Nta n'ikimenyetso Porokireri yashyikirije Urugereko cyerekana ko haba hari n'izindi ntwaro zaba zaratanzwe ku kiliziya gatolika yo ku Mubuga. Ikimenyetso kirebana n'iki kibazo Urugereko rwabonye ni icyatanzwe n'Ubwunganizi, buvuga ko abajandarume bari mu gitero cyo ku kiliziya bari bafite ibikoresho bihagije. Ariko n'ubwo bamwe mu batangabuhamya bashinjura bari bari muri icyo gitero, nta n'umwe wigeze abona cyangwa se yumva ko haba hari intwaro zatangiye ku kiliziya.
159. Ubwunganizi buvuga ko Uregwa yari mu rugo iwe ubwo icyo gitero kivugwa cyabaga. Mu ku bishyigikira, bwifashisha ubuhamya bw'Abagabo biswe TQ1, DZ, DA na DAA.
160. Umutangabuhamya TQ1 avuga ko Uregwa yari mu cyunamo cy'umuhungu we igihe kiriya gitero cyabaga. Urugereko ariko rusanga ubuhamya bw'uyu mugabo

buhuzagurika ku bijyanye n'igihe yaba yari ari mu rugo rw'Uregwa muri icyo/ter
gihe kivugwa. Umutangabuhamya yavuze ko yabaga ari mu rugo rw'Uregwa
igihe cyose hagati ya saa kumi n'ebiri za mu gitondo na saa kumi n'ebiri za
nimugoroba, kandi ko, ukurikije umuco, abaturanyi bose bajyaga mu kiriyo.
Nyamara ntiyashoboye kwibuka amazina y'umuntu n'umwe mu bari baraho.
Byongeye kandi, hari aho yivuguruzaga mu buhamya bwe: Yabwiye Urugereko ko
yajyaga gusenga buri munsu kandi akagaruka saa kumi n'ebiri za nimugoroba.
Ubwo abacamanza bamubazaga ibibazo, yasubizaga bya nyirarureshwa. Kubera
izi mpamvu zose, Urugereko ntirwemera ubuhamya bw'umugabo wiswe TQ1.
Umutangabuhamya ushinjura wiswe DC yabwiye Urugereko ko Uregwa yari ku
kiliziya yo ku Mubuga ku itariki ya 12 cyangwa iya 13 Mata 1994, ubwo ibiribwa
byazanywe na KARITASI byasahurwaga. Byongeye kandi, umutangabuhamya
ushinjura wiswe TQ28 yavuze ko Uregwa yari mu bantu babakiriye we na se mu
gitondo ku itariki ya 16 Mata 1994 mu ma saa mbiri cyangwa mu ma saa tatu za
mu gitondo, ubwo bageraga ku nzu ya CCDFP i Gishyita. Bityo rero, Urugereko
ntirwemera ko Uregwa atigeze aha iwe muri kiriya gihe cy'icyunamo.

161. Urugereko rwasuzumye ubuhamya bw'abagabo biswe DZ na DAA, bavugaga ko bari muri icyo gitero ariko ko batahabonye Uregwa. Urugereko ariko rubona ubuhamya bwabo butabuza Urugereko kwizera ubuhamya rwashyikirijwe na Porokireri buvugaga ko Uregwa yari ari ku kiliziya ubwo igitero cyayigabwagaho. N'ubwo bishoboka rwose ko aba batangabuhamya bari kumenya Uregwa iyo bamubona muri icyo gitero, na none birashoboka ko bashobora kuba bataramubonye kandi ahari. Umutangabuhamya wiswe DZ yemeye ko muri icyo gitero we atari yashyizwe ku kiliziya nyirizina, ko ahubwo yari afite ibirindiro ku muhanda uri hafi ya kiliziya, aho yagombaga gutangira abatutsi bahungaga.
162. Mu gusuzuma ubuhamya bw'umugabo wiswe DA, Urugereko rwazirikanye ko afitanye isano ya hafi n'Uregwa. N'iyi Urugereko rwakwemera ubuhamya bwe buvugaga ko yari aho igitero cyabereye ubwo cyabaga kandi ko atahabonye Uregwa, ibi ntibivugaga ko Uregwa atari aho icyo gitero cyabereye, cyangwa ko atakigiyemo. Umutangabuhamya ashobora kuba yari ari ahantu atashoboraga

kubona Uregwa, cyane cyane ko yari yihishe ubwo igitero cyabaga. Igitero cyo ku kiliziya cyatangiye mu ma saa yine za mu gitondo, kandi umutangabuhamya yavuze ko yavuye mu bwihisho bwe sa moya za nimugoroba agera mu rugo rw'Uregwa nijoro, asanga Uregwa asinziriye. Bityo rero, Uregwa ashobora kuba yaragize uruhare muri icyo gitero, agasubira iwe mbere yuko umutangabuhamya ahagera.

163. Urugereko rusanga nta bimenyetso bihagije rwashingiraho rwemeza ko Uregwa yatanze intwari ku kiliziya nk'uko abishinjwa mu gika cya 5 (b) (ii) cy'Inyandiko y'ibirego.
164. Rushingiye ku buhamya bw'abagabo biswe AV na AF, Urugereko rusanze Porokireri yarerekanye ku buryo budashidikanywaho na gato, ko mu gitondo cyo ku itariki ya 15 Mata 1994, Uregwa, afatanyije n'abandi bantu, yagabye igitero ku batutsi b'abasivili benshi bari barahungiyeye ku kiliziya yo ku Mubuga, nk'uko abishinjwa mu gika cya 5 (b) (iii) cy'Inyandiko y'ibirego.

Iyicwa rya Kaihura

165. Rushingiye ku buhamya bw'umugabo wiswe AV, Urugereko rwemera nk'uko byagaragajwe haruguru, ku itariki ya 15 Mata 1994, ahagana saa yine za mu gitondo, Uregwa yateruye ikarito yarimo amagerenade mu modoka yari yajemo, akayiterekera ku ngazi za kiliziya yo ku Mubuga. Uregwa yateye mu kiliziya imwe muri ayo magerenade avanye muri ya karito. Iyo gerenade yaraturitse, ikomeretsa bikomeye umutangabuhamya n'abandi bantu benshi, inajanjagura umutwe w'umututsi witwaga Kaihura, arapfa.
166. Ubwunganizi buvuga ko umutangabuhamya wiswe AV atashoboye gusobanura neza umuntu bavuga ko yahitanywe na gerenade yatewe n'Uregwa, uzwi gusa nka "Kaihura" mu Nyandiko y'ibirego. Urugereko rusanga mu buhamya bwe, umutangabuhamya yaravuze mu buryo bwumvikana ko uwahitanywe n'iyi gerenade yari umututsi witwaga Kaihura, kandi Ubwunganizi ntibwashoboye

kwerekana aho ubuhamya bw'uyu mugabo bwaba buhuzagurika kuri iyi ngingo¹⁵¹ ter
Urugereko rurazirikana ko iyo ibintu bimeze nk'uko byari bimeze icyo gihe, aho
impunzi amagana n'amagana zari zicucikanye, mu bihe bizikomereye, byagorana
kumenya amakuru arambuye kuri buri muntu wagiriwe nabi. Urugereko rwemera
ko uwo, umutangabuhamya yavuze ko yari Kaihura, ari we uvugwa mu gika cya 7
(b) cy'Inyandiko y'ibirego.

167. Bityo rero, Urugereko rusanze Porokireri yarerekanye ku buryo
budashidakanywaho na gato ko Uregwa yishe umututsi w'umusivili witwaga
Kaihura ateye gerenade mu kiliziya, nk'uko abishinjwa mu gika cya 7 (b)
cy'Inyandiko y'ibirego. Ikindi kandi icyo gitero Uregwa yarimo, cyahitanye
abantu amagana.

J. GUSAMBANYA KU GAHATO NO KWICA KOLETA, ALUFONSINA, NA ANYESI MU IRIMBI RYA PARUWASI YA MUBUGA, KU ITARIKI YA 15 MATA 1994

Ibivugwa na Porokireri

168. Mu nyandiko y'ibirego, Porokireri ashinja :

Mika Muhimana, kuba, afatinyije n'abandi bantu, barimo Interahamwe
zitwa Kigana, Tewofile na Byamwenga, ku itariki ya 15 Mata 1994
cyangwa ahagana kuri iyo tariki, barakuye kuri disipanseri yo ku
Mubuga, abatutsikazi b'abasivili ari bo: umukobwa witwaga Koleta wo
ku Mubuga, Anyesi Mukagatare, wari umukozi wa disipanseri yo ku
Mubuga na Alufonsina, babajyana mu nkengero z'irimbi riri hagati ya
Paruwasi ya Mubuga na disipanseri yo ku Mubuga, aho Mika Muhimana
yasambanyije ku gahato AV-K.¹⁵¹

Ku itariki ya 15 Mata 1994 cyangwa ahagana kuri iyo tariki,
Interahamwe zasambanyije ku gahato abakobwa babiri ari bo Koleta wo

¹⁵¹ Inyandiko y'ibirego, igika cya 6 (b)

ku Mubuga na Alufonsina, kuri Paruwasi ya Mubuga, bahawe amabwiriza na Mika Muhimana wari ubahagarikiye.¹⁵² 161/ter

Ku itariki ya 15 Mata 1994, cyangwa ahagana kuri iyo tariki, kuri Paruwasi ya Mubuga, Mika Muhimana yategetse Interahamwe gusatura inda z'abagore babiri ari bo Koleta, wari utuye ku Mubuga, na Alufonsina, kugira ngo barebe uko mu nda h'umututsikazi hameze. Basatuye inda z'abo bagore bombi, bahasiga ubuzima.¹⁵³

169. Mu myanzuro mbanzizarubanza ye, Porokireri avuga muri make ku buhamya umugabo azatanga, muri aya magambo:

Ku itariki ya 15 Mata 1994, Muhimana ashyira mu bikorwa umugambi yari asangiye n'Interahamwe Kigana, Tewofile na Byamwenge, yafashe abatutsikazi barimo uwitwa Koleta n'umukobwa witwa Anyesi Mukagatare wakoraga kuri disipanseri yo ku Mubuga, abajyana ahitaruye mu irimbi riri hagati ya paruwasi na disipanseri. Muhimana yavuze ko byaba atari byo, kwica abo bakobwa, batabanje kubasambanya ku gahato. Muhimana yasambanyije Anyesi ku gahato bunyamaswa. Muhimana yategetse Interahamwe gusambanya abandi bakobwa ku gahato no kubica, babasatuye inda.¹⁵⁴

Ibimenyetso

Ibimenyetso bishinja

170. **Umutangabuhamya ushinja wiswe AV** yavuze ko, ku itariki ya 15 Mata 1994 mu ma saa sita, igitero cyo ku kiliziya yo ku Mubuga gicogoye ariko akiri mu kiliziya imbere, murumuna we yaje kumubwira ko ababyeyi babo bari biciwe kuri disipanseri. Ubwo yagiye kureba imirambo y'ababyeyi be, anyuze mu gashyamba, aho yahuye n'Uregwa, yitwaje imbunda, ari kumwe na Ryandikayo, hamwe n'izindi nterahamwe nyinshi zari zitwaje intwaro za gakondo.

¹⁵² Inyandiko y'Ibirego, igika cya 6 (b) (i)

¹⁵³ Inyandiko y'Ibirego, igika cya 7 (b) (i)

¹⁵⁴ Imyanzuro-mbanziriza rubanza ya Porokireri, ikosorwa ry'igice cya IV, (Umutangabuhamya wiswe AV)

Umutangabuhamya yihishe muri metero eshanu z'aho Uregwa yari ari 160/ter
Umutangabuhamya yavuze ko yashoboraga kubona ibyabaga byose kubera ko
yari yihishe mu nsi y'igiti cya Nyakobwa kidafite amababi menshi yashoboraga
kumukingiriza. Umutangabuhamya yongeyeho ko iyo Uregwa ataza kuba ahuze
nawe yari kumubona kubera ko nta cyari kimukingirije. Uregwa n'abamurindaga
bari bashoreye abakobwa batandatu bamanuka mu muhanda, bagana ku irimbi,
riri nko mu rugendo rw'iminota itanu uturutse kuri disipanseri. Muri abo
abakobwa, umutangabuhamya yamenyemo abatutsikazi batatu bitwaga Koleta,
Alufonsina na Anyesi.¹⁵⁵

171. Umutangabuhamya AV yavuze ko Uregwa yabwiye abantu be ko yashakaga
gusambanya ku gahato abo bakobwa mbere yo kubica. Kugira ngo abereke ko
atakinaga, Uregwa yafashe Anyesi Mukagatare wakoraga kuri disipanseri yo ku
Mubuga, nuko amutegeka kwikuramo imyenda. Yanze kwiyambura, Uregwa
yamukubise urushyi, maze kubera ubwoba, Anyesi afungura ibipesu by'ishati
n'ijipo bye. Uregwa yategetse Anyesi kuryama kuri iyo myenda ye, ubwo na we
yikuramo ishati, ayiha umugabo bari kumwe. Uregwa yakuyemo imyenda ye
y'imbere nuko asambanya Anyesi ku gahato. Anyesi yaratakaga, asaba Uregwa
guhita amwica aho kumwica urubozo. Umutangabuhamya avuga ko Interahamwe
zari zazanye na Muhimana zitashoboraga kubona ibyo yakoreraga Anyesi kubera
ko zari zabitaruye. Amaze kumusambanya ku gahato, Uregwa yambaye imyenda
ye maze akangisha gutera Anyesi bayoneti, bituma Anyesi asaba Uregwa
kumwicisha imbunda aho kumwicisha bayoneti. Uregwa yarisekeye maze
asunikira Anyesi wari ucyambaye ubusa aho ba bakobwa bandi bari bari. Uregwa
yabwiye za nterahamwe gusambanya ku gahato abo bakobwa bandi. Uregwa
yabwiye izo nterahamwe ati, “ Igihe kirageze. Mukomeze mukore akazi kanyu,
kandi nimumara kwica abo bantu, mugomba kureba uko basa”.¹⁵⁶
Umutangabuhamya ntiyashoboye kwihanganira gukomeza kureba ibyabaga,
yahise agenda akururukira ku nda, yerekeza ku kiliziya. Umusore witwa Cum, na
we wari warahungiyeye ku kiliziya, yaje kubwira umutangabuhamya ko izo

¹⁵⁵ Inyandikomvugo y'iburanisha ryo ku wa 1 Mata 2004, imp. 36, 39-41, 55; Inyandikomvugo
y'iburanisha ryo ku wa 5 Mata 2004, imp. 9-11, 20

¹⁵⁶ Inyandikomvugo y'iburanisha ryo ku wa 1 Mata 2004, imp. 40-41

nterahamwe zamaze gusambanya abo bakobwa ku gahato, zikabajyana ku muhanda “zikabacagagura”.¹⁵⁷

172. Umutangabuhamya ushinja wiswe AF yavuze ko hari impunzi nyinshi z’abatutsi, ahanini zari zigizwe n’abagore n’abana, zihishe mu byumba bya Paruwasi ya Mubuga. Ubwo mu gipadiri haterwaga, umutangabuhamya yari imbere muri kiliziya; uko ibintu byagenze akaba yarabibwiwe n’umukobwa w’umututsikazi witwa Kolodine, wacitse ku icumu. Mu ijoro ryo ku wa 14 rishyira uwa 15 Mata 1994, Padiri Mariseli yabwiye abagore n’abakobwa bari mu gipadiri ati, “Namaze guha abagaba ibitero imfunguzo. Mugomba gusohokamo. Nimutavamo, abateye barafungura inzugi, maze babice”.¹⁵⁸ Ariko kubera ubwoba, abo bakobwa banze gusohoka. Nijoro, abagabaga ibitero baraje basambanya ku gahato, bica urubozo “ [bitumvikana] “ banica abo bakobwa. Bukeye mu gitondo, imwe mu mirambo yabo, yajugunywe mu rutoke.¹⁵⁹

Ibimenyetso bishinjura

173. **Umutangabuhamya ushinjura wiswe DAA** yavuze ko mbere y’uko afungwa mu Rwanda ntiyari yarigeze yumva hari umuntu uvuga ko haba hari umugore wasambanyirijwe ku gahato mu irimbi ryo ku Mubuga. Yavuze ko nta kuntu ibi byari kuba, ntibimenyekane.¹⁶⁰
174. **Umutangabuhamya ushinjura wiswe DC** yavuze ko ku mugoroba wo ku itariki ya 12 Mata 1994, yagiye ari wenyine yerekeza ku kiliziya yo ku Mubuga, aho impunzi zari zimaze iminsi zikoraniye. Umutangabuhamya yabonye kandi abajandarume batatu nibura ku kiliziya, bagombaga kuba barinze umutekano kuri iyo kiliziya. Yavuze ko yabonye Muhimana ku kiliziya, ariko ko nta kintu yigeze abona akora, kandi ko nta muntu yabonye yica.¹⁶¹

¹⁵⁷ Inyandikomvugo y’iburanisha ryo ku wa 1 Mata 2004, imp. 36, 40-41

¹⁵⁸ Inyandikomvugo y’iburanisha ryo ku wa 28 Mata 2004, urup. 27

¹⁵⁹ Inyandikomvugo y’iburanisha ryo ku wa 28 Mata 2004, imp. 27-31

¹⁶⁰ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, urup. 5

¹⁶¹ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, urup. 4-6

175. Umutangabuhamya wiswe DC yavuze ko mu gihe yari ku kiliziya, yumvise abantu bavuga ko “ abakobwa ba Musenyeri” bajyanywe ku irimbi kwicwa, ariko ko atabihagazeho. Ntabwo yigeze yumva hari umuntu uvuga ko hari abagore basambanyijwe ku gahato. Umutangabuhamya yabwiwe ko abo bagizi ba nabi bari Interahamwe zo mu Ryaruhanga n’ibirara byaho.¹⁶²
176. **Umutangabuhamya ushinjura wiswe DL** yavuze ko umugore we ari umututsikazi, kandi ko kubera ko byahwihwiswaga ko abatutsi n’ibytso byabo bazaterwa, umugore we n’abana be bahungiye ku kiliziya ya Paruwasi ya Mubuga, ku cyumweru tariki ya 9 Mata 1994, nimugoroba. Umutangabuhamya yagiye gusura umugore we n’abana be kuri paruwasi ku wa mbere, asanga abantu benshi barahungiyeye. Ubwo umutangabuhamya yasubiranye mu rugo n’abana be naho umugore we ahama kuri paruwasi kugeza ku wa gatatu, ubwo yagarutse mu rugo aherekejwe n’umujandarume umutangabuhamya yari yahaye amafaranga 3000. Umugore w’umutangabuhamya yarakotse ibyabaye mu w’1994.¹⁶³
177. Umutangabuhamya DL yavuze ko atigeze yumva bavuga ko hari abagore baba barasambanyirijwe ku gahato ku irimbi ryo ku Mubuga. Umutangabuhamya yavuze ko yari azi umwana w’umukobwa witwa Tereza, umwana w’umuturanyi, warokotse icyo gitero cyo ku irimbi. Umutangabuhamya yavuze ko yasuye Tereza kabiri, akanamubaza ku byabereye aho ku irimbi izo nshuro zombi. Tereza yavuze ko abo bakobwa bakubiswe impiri, ariko ntiyavuze ko basatuwe inda.¹⁶⁴
178. Umutangabuhamya wiswe DL avugaga ko, mu bantu bireze ibyaha mu nama za gacaca zo muri gereza ya Gisovu, nta wigeze avugamo izina ry’Uregwa, haba ku bijyanye n’ibitero byo ku kiliziya no ku irimbi, cyangwa se ku birebana n’ibyabereye muri “iyu” segiteri.¹⁶⁵
179. **Umutangabuhamya ushinjura wiswe DF** yavuze ko yari ahari ubwo abakobwa bari barahungiyeye mu gipadiri kuri Paruwasi ya Mubuga, bicirwaga mu irimbi.

¹⁶² Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, urup. 6

¹⁶³ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, imp. 62-66

¹⁶⁴ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, imp. 67-70

¹⁶⁵ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, imp. 68-73

Yavuze ko nta muntu yishe, ariko ko yari ahari, bicwa. Umutangabuhamya^{157/ter} ntiyashoboye kwibuka itariki cyangwa umunsi byabereyeho, ariko yibuka ko icyo igihe ukwezi kwakaga cyane. Umutangabuhamya yavuze ko yajyanywe ku icumbi ry'abapadiri, hari abajandarume, akomanga ku rugi, avugisha abakobwa bari imbere mu nzu, we ari hanze. Abo bakobwa bahise bakingura kuko bari bamuzi. Umutangabuhamya yavuze ko bamukoresheje ibi ku gahato kubera ko abo bakobwa bamwizeraga, bitewe n'uko yajyaga abaha ibikoresho bakeneraga. Abari bagabye igitero ubwo basanze abakobwa aho bari bari, babasobanurira ko ngo bagiye kubimurira ku Kibuye kubera impamvu z'umutekano. Abo bakobwa, kimwe n'abandi bantu, bavuye mu icumbi ry'abapadiri, ryari ryegereye irimbi, nta gahato bashyizweho. Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, imp. 6-8, 14-18¹⁶⁶

180. Umutangabuhamya yavuze ko impunzi zimaze kugera ku irimbi, abagabye igitero bagiye bica ebyiri cyangwa eshatu icyarimwe, bakoresheje impiri. Umutangabuhamya yavuze ko abagabye igitero bari benshi kuruta abicwaga aho ku irimbi, kandi ko hiciwe hagati y'abantu 15 na 25. Umutangabuhamya yavuze ko abo bakobwa batigeze basambanywa ku gahato mbere yo kwicwa cyangwa ngo basaturwe inda nyuma yo kwicwa, kubera ko Sikubwabo n'abajandarume bahise babwira abari bagabye igitero, kuhava. Umutangabuhamya yavuze ko imirambo y'abo bakobwa bayisize aho mu irimbi.¹⁶⁷
181. Umutangabuhamya wiswe DF yavuze abiciwe ku irimbi abo ari bo: abakobwa b'Abahire, abakobwa bo mu muryango wa Heremani, abakobwa bari bashinzwe imfubyi, harimo uwitwaga Karege, na Heremani Muzungu n'umugore we. Umutangabuhamya yavuze ko abandi bose bishwe bari abakobwa b'abatutsikazi.¹⁶⁸
182. **Umutangabuhamya ushinjura wiswe DG** yavuze ko, mu ijoro ryo ku itariki ya 14 rishyira iya 15 Mata 1994, ahagana saa munani cyangwa saa munani n'igice za

¹⁶⁶ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, imp. 6-8, 14-18

¹⁶⁷ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, imp. 7, 9-10, 17

¹⁶⁸ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, imp.7-8, 10, 18, 22-24

nijoro, umusore witwa “Philner” ari hamwe n’abajandarume babiri, yaje mu rugo, rw’umutangabuhamya, bamubwira ko bashaka imodoka ye. Umutangabuhamya yanze kuyibaha, bamujyana kureba komanda wabo, basanga atari mu nkambi yabo. Abo bajandarume n’umutangabuhamya bakomeje mu muhanda ugana ku irimbi, bashakisha komanda, bahura n’imodoka ebyiri zitwaye “ abakobwa ba Musenyeri ”. Komanda yababwiye ko ikibazo yakiboneye umuti, ko batagikeneye kureba umutangabuhamya. Umutangabuhamya asanga Philner n’abajandarume barashakaga imodoka ye ngo bayitwaremo abo bakobwa, ariko hakaba hari habonetse indi modoka yo kubatwara.¹⁶⁹

183. Umutangabuhamya DG yavuze ko, abajandarume na burugumesitiri bamaze kubijyaho inama, abo bakobwa bajanywe ku irimbi baherekejwe n’abaturage, harimo n’umutangabuhamya. Yavuze ko abo bakobwa bari nka 25, kandi ko bari kumwe n’umugabo witwa Heremani Muzungu n’umugore we. Abo bakobwa bajanywe mu mudoka ebyiri; kuva aho bakuwe kugera ku irimbi, hari nka metero 160. Baherekejwe na burugumesitiri, abajandarume n’abaturage bitwaje impiri kandi bose bagenda ku maguru. Umutangabuhamya ntiyari azi amazina y’abo bakobwa, ariko yavuze ko babitaga “ abakobwa ba Musenyeri ”.¹⁷⁰ Imodoka zari zihagaze hafi y’irimbi, abaturage bagenda ahasigaye n’amaguru. Umutangabuhamya yavuze ko abantu bakoresheje nk’iminota itanu kugera ku irimbi. Yavuze ko imwe muri izo modoka yari iy’umucuruzi wabaga kuri santere, ikaba yari yafashwe na burugumesitiri. Imodoka ya kabiri yari iy’undi mucuruzi wo kuri iyo santere yari yafashwe n’abajandarume.¹⁷¹

184. Umutangabuhamya DG yavuze ko bamaze kugera ku irimbi insoresore zasohoye abakobwa mu mamodoka zibicira imbere y’abantu bose bahari, ukwezi kuva. Umutangabuhamya avuga ko abo bakobwa bishwe bazira ko bari abatutsi.¹⁷²

185. Umutangabuhamya DG yahakanye ko abo bakobwa basambanyijwe ku gahato mbere y’uko bicwa. Avuga ko Sikubwabo yavanye abo bakobwa mu gipadiri,

¹⁶⁹ Inyandikomvugo y’iburanisha ryo ku wa 30 Kanama 2004, imp.46-47

¹⁷⁰ Inyandikomvugo y’iburanisha ryo ku wa 30 Kanama 2004, imp.46-47

¹⁷¹ Inyandikomvugo y’iburanisha ryo ku wa 30 Kanama 2004, imp. 50, 53

¹⁷² Inyandikomvugo y’iburanisha ryo ku wa 30 Kanama 2004, imp. 47, 49; 61-62

- abajandarume bakaburiza izo modoka uko zari ebyiri. Umutangabuhamya^{155/ter} yasanze bitari gushoboka ko abakobwa bavanwa mu mamodoka bagasambanywa ku gahato. Ntiyari yarigeze yumva hari uvuga ko basambanyijwe ku gahato; yavuze ko icyo yabonye ari iyicwa ryabo gusa.¹⁷³
186. Umutangabuhamya DG yavuze ko atashoboye kumenya abari bagize igitero, uretse umusore umwe witwa Tewofili Urikumwenimana. Umutangabuhamya ntabwo yari azi amazina y’abandi basore bari muri icyo gitero bageze kuri 30 bazanywe na burugumesitiri. Yavuze ko yari azi Muhimana neza, ariko ko atamubonye ku irimbi.¹⁷⁴
187. **Umutangabuhamya ushinjura wiswe DD** yavuze ko yagiye ku kiliziya yo ku Mbuga ku itariki ya 12 Mata 1994, kubera ko bari bamubwiye ko hari umutekano. Yageze ku kiliziya nka saa sita z’amanywa ku itariki 12 Mata [1994], ahasanga abantu benshi. Yagumye mu kiliziya kugeza hagati ya saa kumi n’igice na saa kumi n’imwe za mu gitondo ku itariki 15 Mata 1994.¹⁷⁵
188. Umutangabuhamya DD yavuze ko mu museke ku itariki 15 Mata 1994, yanyuze mu idirishya rya kiliziya ryari ritarinzwe n’abajandarume agahunga. Yavuze ko “hatabonaga neza ariko umuntu yashoboraga kubona.” Yiboneye imirambo y’abakobwa ba Musenyeri inyanyagiye mu irimbi. Yanavuze ko imirambo batari bayisatuye inda kandi ko nta wigeze amubwira ko abo bakobwa bari basambanyijwe ku gahato.¹⁷⁶
189. **Umutangabuhamya ushinjura wiswe DZ** yavuze ko yari azi Anyesi Mukagatare mbere y’intambara, ko yari “umukobwa muto wari ukirangiza CERAI.” Yongeyeho ko nyuma y’intambara Anyesi yahungiyeye ahandi hantu, akaba atarongeye kumubona. Umutangabuhamya DZ ntabwo yari azi Alufonsina cyangwa Koleta.¹⁷⁷

¹⁷³ Inyandikomvugo y’iburanisha ryo ku wa 30 Kanama 2004, urup. 49.

¹⁷⁴ Inyandikomvugo y’iburanisha ryo ku wa 30 Kanama 2004, imp. 48, 54, 67.

¹⁷⁵ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, urup. 13.

¹⁷⁶ Inyandikomvugo y’iburanisha ryo ku wa 17 Kanama 2004, imp. 15-18, 21.

¹⁷⁷ Inyandikomvugo y’iburanisha ryo ku wa 31 Kanama 2004, urup. 31.

190. **Umutangabuhamya ushinjura wiswe DA** yavuze ko atigeze yumva bavuga ko hari abantu basambanyijwe ku gahato ku Mubuga cyangwa hafi yaho. Ariko, yavuze ko izindi mpunzi zageze ku Mubuga mbere ye zamubwiye ko zasanze imirambo y'abakobwa mu irimbi ryo ku Mubuga. Umutangabuhamya DA ntabwo azi abishe abo bakobwa kandi nta n'ubwo yigeze yumva ko abo bakobwa basambanyijwe ku gahato cyangwa basatuwe inda.¹⁷⁸

Imyanzuro y'Urugereko

Gusambanya ku gahato

191. Porokireri ashingira ku buhamya bw'umugabo wiswe AV mu gushyigikira ikirego kivuga ko Uregwa yasambanyije ku gahato Anyesi Mukagatare, kikanavuga ko abandi bakobwa babiri basambanyijwe n'Interahamwe ku gahato Uregwa ahari.
192. Ubwunganizi buvuga ko icyaha cyo gusambanya Anyesi Mukagatare ku gahato Uregwa ashinjwa n'umutangabuhamya AV kitari mu Nyandiko y'ibirego. Kubera iyo mpamvu Uregwa akaba adashobora gutegura imyiregurire ku kirego nk'icyo. Bunavuga ko ubuhamya butanzwe n'umugabo mu rukiko budashobora gukoreshwa mu guhindura Inyandiko y'ibirego.¹⁷⁹
193. Isesengura ry'igika cya 6 (b) cy'Inyandiko y'ibirego (harimo n'igice cy'igika cya 6 (b) (i)) rigaragaza ko Uregwa aregwa ku giti cye kuba yarasambanyije umututsikazi mu irimbi ku itariki ya 15 Mata 1994, ari we mutangabuhamya wiswe AV, kandi akanategeka ko abandi bakobwa babiri basambanywa ku gahato. Ubuhamya bwatanzwe bugaragaza ko atari umutangabuhamya AV wasambanyijwe ku gahato n'Uregwa, ko ahubwo ari umwe mu bakobwa batwawe ku ngufu, wasambanyijwe ku gahato n'Uregwa.

¹⁷⁸ Inyandikomvugo y'iburanisha ryo ku wa 16 Kanama 2004, imp. 25-26, 41, 54.

¹⁷⁹ Imyanzuro nsozarubanza y'Ubwunganizi, igika cya 254.

194. Urugereko rusanga ku itariki ya 27 Gashyantare 2004, Porokireri atanga imyanzuro mbanzizarubanza yaramenyeshije Ubwunganizi ko Umutangabuhamya AV-K (wabaye Umutangabuhamya AV nyuma), mu by'ukuri atigeze asambanywa ku gahato nk'uko bivugwa mu gika cya 6 (b) mu Nyandiko y'ibirego, ko ahubwo yabonye abagore bavugwa muri icyo gika basambanywa ku gahato;¹⁸⁰ abo bagore bakaba ari Koleta, Anyesi Mukagatare n'Alufonsina bo ku Mubuga. Urugereko rusanga kandi mu mugereka wometse ku Myanzuro mbanzizarubanza, Porokireri atanga mu magambo ahinnye, ibisobanuro bikurikira by'ubuhamya buzatangwa n'umugabo AV:

Ku itariki ya 15 Mata 1994, Muhimana afatanyije n'*Interahamwe* Kigana, Tewofili na Byamwenge, bafashe *abatutsikazi*, barimo Koleta n'umukobwa witwa Anyesi Mukagatare wakoraga kuri disipanseri yo ku Mubuga, babajyana ahantu hihereye mu irimbi ryo ku Mubuga hagati ya paruwasi na disipanseri. Muhimana yavuze ko bitaba byiza kwica abo bakobwa batabanje kubasambanya ku gahato. Muhimana yasambanyije Anyesi ku gahato bunyamaswa. Muhimana yategetse *Interahamwe* gusambanya abandi bakobwa no kubica babasatuye inda.¹⁸¹

195. Mbere yo gusoza urubanza, Porokireri yasabye Urugereko mu magambo, gukosora “ikosa ryakozwe mu iyandika” ry'Inyandiko y'ibirego, rugahindura izina ry'umugore waba yarasambanyijwe ku gahato n'Uregwa, uvugwa mu gika cya 6 (b) cy'Inyandiko y'ibirego aho kuba “AV-K” rikaba “Anyesi”.¹⁸² Porokireri yasobanuye ko iryo kosa ryakozwe mu itegura ry'Inyandiko y'ibirego kubera ko umutangabuhamya AV-K nawe izina rye rya gikirisitu ari “Anyesi” ibyo bikaba byarateye urujijo mu gihe cy'itegura ry'Inyandiko y'ibirego. Ariko, Porokireri yavuze ko Ubwunganizi bwari bwamenyeshajwe iryo kosa ry'inyandiko kuva aho Imyanzuro mbanzizarubanza itangiwe. Abacamanza babajije Ubwunganizi niba bwemera ko iryo kosa rikosorwa, Ubwunganizi buvuga ko nta mpamvu bubona yatuma bwanga. Ubwunganizi ariko bwavuze ko bugomba kubanza bukareba niba

¹⁸⁰ Imyanzuro mbanza-rubanza ya Porokireri, igika cya 47.

¹⁸¹ Imyanzuro mbanza-rubanza ya Porokireri, Umugereka N° 5.

¹⁸² Inyandikomvugo y'iburanisha ryo ku wa. 30 Mata 2004, urup. 76.

- ari byo, kubera ko butari bufite inyandiko ibivuga aho ngaho.¹⁸³ Gusa ntabwo Urugereko rwagarutse kuri iyi ngingo Ubwunganizi bumaze gutangira gutanga ingingo zishinjura.
196. Urugereko rusanga kuva igihe yashyikirijwe Inyandiko y'ibirego, Uregwa yarabwiye igihe n'aho aregwa kuba yarasambanyirije umututsikazi ku gahato. Inyandiko y'ibirego yavuze neza amazina y'abakobwa uko ari batatu Uregwa hamwe n'abandi baba barajyanye ku irimbi ku gahato. Umwe muri abo bakobwa bavugwa ni Anyesi Mukagatare, akaba ari na we umugabo AV avuga mu buhamya bwe ko yasambanyijwe ku gahato. Urugereko kandi rusanga mu myanzuro mbanzizirubanza ya Porokireri, haratanzwe ibisobanuro bihagije birebana n'ubuhamya umugabo AV azatanga, ibi bikaba byarakozwe hakiri kare bihagije ku buryo Uregwa yashoboraga gutegura imyiregurire ye. Urugereko rukaba rusanga uburenganzira bw'Ubwunganizi bwo kwiregura kuri iki kirego cya Porokireri butabangamiwe, binakubitiyeho ko Ubwunganizi bwatanze abagabo benshi bo gushinjura kuri iki kirego. Bityo, Urugereko rusanze inenge yari mu Nyandiko y'ibirego yarakosowe n'ibyo Ubwunganizi bwamenyeshejwe byatanzwe ku buryo buhamye, bisobanutse neza, kandi byatanzwe ku gihe.
197. Urugereko rwamaze kwerekana ko ubuhamya bw'umugabo AV bukwiye kwemerwa kandi bukaba bwagenderwaho. Byongeye kandi, Urugereko rusanga yarashoboye kumenya neza Uregwa mu byabereye ku irimbi, akaba yarabirebaga ntakimukingirije.
198. Rushingiye ku buhamya bwatanzwe n'Umugabo AV, Urugereko rusanze, ku itariki ya 15 Mata 1994, Uregwa, ari kumwe n'agatsiko k'Interahamwe, baratwaye ku ngufu abakobwa b'abatutsi batandatu bakabajyana mu irimbi riri hafi ya Kiliziya yo ku Mbuga. Uregwa yabwiye Interahamwe ati: "ntihagire uwica aba bakobwa mbere y'uko tubasambanya ku gahato."¹⁸⁴ Yahise asingira Anyesi Mukagatare, amutegeka kwiyambura akaryama hasi. Hanyuma yamugiye

¹⁸³ Inyandikomvugo y'iburanisha ryo ku wa 30 Mata 2004, urup. 77.

¹⁸⁴ Inyandikomvugo y'iburanisha ryo ku wa 30 Mata 2004, urup. 40.

hejuru, amusambanya ku gahato bunyamaswa, ataka anamusaba imbabazi ngo arekere aho. 181/ter

199. Amaze kumusambanya ku gahato, Uregwa yasunikiye Interahamwe uwo mukobwa yambaye ubusa, arazibwira ati: “Noneho nimumwice, ariko mbere yo kumwica mubanze mwitonde murebe ibyo munda bye uko bisa.” Nyuma abwira Interahamwe gukomeza “akazi” kazo ku bandi bakobwa, anazitegeka ko zibanza zikabasatura inda mbere yo kubica.
200. Urugereko rwahawe ubuhamya butanzwe n’umugabo utiboneye ibyabaye kuri abo bakobwa, ariko ubwo buhamya ntibufite ibimenyetso bihagije byerekana ko basambanyijwe ku gahato bivuye ku mategeko y’Uregwa.
201. Urugereko rusanze ibimenyetso byatanzwe n’Ubwunganizi byo gushinjura Uregwa ku kirego cyo gusambanya Anyesi Mukagatare ku gahato bidafite ireme. Abatangabuhamya biswe DAA, DC, DA na DL bavuze ko batigeze bumva ko hari abantu baba barasambanyirijwe ku gahato mu irimbi. Urugereko rutekereza ko ibyo bavuga bishoboka, ariko bikaba bitavuga ko gusambanya ku gahato bitabaye. Ikindi kandi, Urugereko ruributsa ko rwasanze umugabo wiswe DA atari uwo kwemerwa.
202. Abagabo biswe DG na DF batanze ubuhamya ku byo babonye cyangwa bumvise birebana n’abakobwa bajyanywe mu irimbi, ariko ntaho bavuga ko Uregwa yari ahari cyangwa ko abakobwa basambanyijwe ku gahato. Amazina yavuzwe n’Umutangabuhamya DF atandukanye n’ayo AV yavuze, kandi ntiyashoboye no kwibuka itariki ibi byabereyeho. Birakomeye kumenya niba aba batangabuhamya bavuga ku byabaye bimwe.
203. Ubwunganizi bwatanze ibimenyetso ku rupfu rw’umuhungu w’Uregwa, ku gihe cy’ikiriyo, no ku ishyingurwa rye ku itariki ya 10 Mata 1994. Ariko, nk’uko byasobanuwe mbere, iyi *alibi* Urugereko ntiruyemera, kuko iterekana ko Uregwa atashoboraga kujya ahandi hantu. Nk’uko byavuzwe mbere, abatangabuhamya

bashinja biswe AV na AF, n'umutangabuhamya ushinjura wiswe DC, bese bavuga ko Uregwa yari kuri kiliziya yo ku Mubuga ku itariki ya 15 Mata 1994.

204. Bityo rero, Urugereko rusanze Porokorireri yatanze ibimenyetso bidashidikanywaho na gato byo guhamya ibirego biri mu gika cya 6 (b) cy'Inyandiko y'ibirego ndetse no mu bice byo mu myanzuro mbanzizarubanza byerekeranye n'icyo kibazo, ari byo: ko ku itariki ya 15 Mata 1994, Uregwa, hamwe n'agatsiko k'Interahamwe, batwaye ku ngufu abakobwa b'abatutsikazi, bakabajyana mu irimbi riri hafi ya kiliziya yo ku Mubuga. Uregwa yahise asambanya ku gahato umwe muri abo bakobwa, witwaga Anyesi Mukagatare.
205. Urugereko rusanze nta bimenyetso bihagije byatanzwe byerekana ko abakobwa babiri b'abatutsikazi bitwaga Alufonsina na Koleta, basambanyijwe ku gahato n'Interahamwe Uregwa ahari kandi ari na we ubitegetse. Bityo, Urugereko rusanze ibirego biri mu gika cya 6(b) (i) cy'Inyandiko y'ibirego nta shingiro bifite.

Ubuhotozi

206. Porokireri ashingira ku buhamya bw'umugabo wiswe AV mu kwerekana ko abakobwa babiri b'abatutsikazi, Alufonsina na Koleta basatuwe inda kandi bakicwa Uregwa ahari cyangwa abitegetse.
207. Urugereko ruributsa umwanzuro warwo wavuzwe hejuru ko, rushingiye ku buhamya bwatanzwe bukwiye kwemerwa no kwizerwa bwatanzwe na AV, Uregwa yategetse Interahamwe zari kumwe na we mu irimbi gukomeza "akazi kazo" ku bandi bakobwa, anazibwira kandi gusatura abo bakobwa inda mbere yo kubica.
208. Ariko, umutangabuhamya AV ntabwo yavuze ko yiboneye n'amaso ye abo bakobwa bicwa, kuko amaze kubona Anyesi asambanywa ku gahato yahunze akururukira ku nda. Urugereko rukaba rusanze ubuhamya bw'ibyo umugabo AV

yumvanye abandi budahagije ku buryo umuntu yabushingiraho yemeza ko Alufonsina na Koleta bishwe. ^{149/ter}

209. Urugereko rusanze nta buhamya buhagije bugaragaza ko abakobwa babiri b'abatutsikazi bitwa Alufonsina na Koleta basatuwe inda, bakicwa bivuye ku mategeko y'Uregwa, cyangwa Uregwa areba. Bityo, Urugereko rukaba rusanze ikirego cyo mu gika cya 7 (b) (i) cyo mu Nyandiko y'ibirego nta shingiro gifite.

K. UTWARA KU NGUFU NO GUSAMBANYA KU GAHATO JOZIYANA, MARIYANA NA MARITA – IKIGO CYA MUGONERO, ITARIKI YA 13 N'IYA 14 MATA 1994.

Ibivugwa na Porokireri

210. Porokireri avuga ko:

Hagati y'itariki ya 14 na 16 Mata 1994, Mika Muhimana, afatanyije na Karoli Sikubwabo, Interahamwe yitwa Gisambo n'abandi, bavanye abatutsikazi b'abasivili bitwaga Joziyana, Mariyana Gafurafura, na Marita Gafurafura mu kigo cya Mugonero aho bari bahungiyeye, babajyana ku biro bya Komini Gishyita aho babasambanyirije ku gahato inshuro nyinshi.¹⁸⁵

Ibimenyetso

Ibimenyetso bishinje

211. Umutangabuhamya ushinje wiswe BI yavuze ko ku itariki ya 13 no kuya 14 Mata 1994, Uregwa amaze kubonana n'abajandarume, we, n'abandi barimo Burugumesitiri Sikubwabo, n'umugabo witwa Gisambo, bagiye ku nzu abagore bakoraga mu bitaro byo ku Mugonero bacumbikagamo, mu kigo cya Mugonero. Umutangabuhamya avuga ko bamaze umwanya muri icyo nzu, hanyuma basohoka

¹⁸⁵ Inyandiko y'ibirego, Igika cya 6 (c).

bashoreye abakobwa batatu bakoraga mu bitaro, aribo: Marita, Mariyana na Joziyana. Uregwa yabwiye abo bakobwa kwinjira mu modoka, hanyuma imodoka iragenda, itwawe na Sikubwabo. Umutangabuhamya yibuka ko Marita na Mariyana bavaga inda imwe, bakaba bari abakobwa ba Gafurafura.¹⁸⁶

212. Umutangabuhamya wiswe BI yavuze ko bukeye, ku itariki ya 14 Mata 1994, yabonye Uregwa agaruye abo bakobwa ku nzu yabo. Baje mu modoka, bari kumwe n'abapolisi ba komini babiri, imodoka ihagarara imbere y'ibiro by'itorero [rya Mugonero]. Abakobwa bavuye mu modoka uko ari batatu, iragenda. Ibi umutangabuhamya yabirebaga ari muri metero ziri hagati ya 35 na 45.¹⁸⁷
213. Umutangabuhamya BI yavuze ko abo bakobwa bamubwiye, we n'abandi, ko babajyanye i Gishyita, Sikubwabo, Uregwa, na Gisambo bakabasambanya ku gahato. Ariko ntibasobanuye uwo buri wese yasambanyije ku gahato.¹⁸⁸

Ibimenyetso bishinjura

214. **Umutangabuhamya ushinjura wiswe TQ28**, wari ku kigo cya Mugonero, kuri Ngoma, ahagana ku itariki ya 12 Mata 1994, yahakanye ko Muhimana yaba yarasambanyije Joziyana ku gahato ku itariki ya 16 Mata 1994. Yavuze ko iyo ikintu nk'icyo kiba mu kigo cya Mugonero aba yarabimenye, kuko yari ashinzwe kurinda ikigo, akizengurukamo, mbere y'uko ahungira i Gishyita. Umutangabuhamya yavuze ko, muri Mata 1994, abakobwa ba Gafurafura bitwaga Mariya na Marita, batabaga mu kigo cya Mugonero.¹⁸⁹
215. Umutangabuhamya TQ28 yavuze ko atigeze abona cyangwa yumva ko hari uwasambanyije undi ku gahato mu bitaro by'ikigo cyo ku Mugonero muri icyo gihe. Yavuze ko yabonye Uregwa i Gishyita ku itariki ya 16 Mata 1994, kandi ko Uregwa atashoboraga kuba ari i Ngoma n'i Gishyita umunsi umwe. Ariko umutangabuhamya yemeye ko, bitewe n'umuvuduko w'imodoka umuntu arimo,

¹⁸⁶ Inyandikomvugo y'iburanisha ryo ku wa 30 Mata 2004, imp. 6, 7.

¹⁸⁷ Inyandikomvugo y'iburanisha ryo ku wa 30 Mata 2004, imp. 6-7, 35, 38.

¹⁸⁸ Inyandikomvugo y'iburanisha ryo ku wa 30 Mata 2004, urup. 7.

¹⁸⁹ Inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 2-5, 50-51.

- kuva i Gishyita kugera i Ngoma byashoboraga gufata isaha imwe cyangwa hasi yayo.¹⁹⁰
216. **Umutangabuhamya ushinjura wiswe TQ7** yahakanye ko Marita atigeze asambanywa ku gahato i Gishyita muri Mata 1994, kubera ko icyo gihe atari ku Mugonero cyangwa i Gishyita. Yavuze ko muri Mata 1994, umuvandimwe wa Marita, witwaga Mariya Mukeshimana atabaga i Gishyita, ko ahubwo yabaga i Kigali. Yashoje avuga ko bidashoboka ko Mariya yaba yarasambanyijwe ku gahato i Gishyita muri Mata 1994.¹⁹¹
217. Umutangabuhamya TQ7 yavuze ko ahunga ava ku kigo cya Mugonero, nta byaha byo gusambanya ku gahato byari byarahakorewe. Yavuze ko agarutse nta wigeze amubwira ko mu kigo hari umuntu waba warahasambanyirijwe ku gahato. Umutangabuhamya rero ntiyemeje ko mu kigo cya Mugonero higeze habera isambanywa ku gahato cyangwa ko Joziyana Mukeshimana yaba yarasambanyijwe ku gahato muri Mata 1994.¹⁹²
218. **Umutangabuhamya ushinjura wiswe ARI** yavuze ko muri Mata 1994, Marita yari yaragiye mu mahugurwa i Kabgayi, muri Perefegitura ya Gitarama. Yavuze kandi ko mu w'i 1994, umwe mu bakobwa ba Gafurafura witwaga Mariya Mukeshimana yabaga i Kigali¹⁹³.
219. Umutangabuhamya ARI yavuze ko Yoziyana Mukeshimana yari umukobwa w'Amosi Karera. Yavuze ko Yoziyana ari we Janeti cyangwa Yohanita; ko yari yarahinduye izina rye kugira ngo ashobore kwiyandikisha mu ishuri amaze gutsindwa ikizami cya Leta.¹⁹⁴
220. Umutangabuhamya ARI yavuze ko atigeze abona Mariya cyangwa Mariyana mu kigo cy'ibitaro cya Mugonero, aho yari ari kugeza ku itariki ya 12 Mata 1994

¹⁹⁰ Inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 22, 51-52.

¹⁹¹ Inyandikomvugo y'iburanisha ryo ku wa 23 Kanama 2004, imp. 40-43.

¹⁹² Inyandikomvugo y'iburanisha ryo ku wa 23 Kanama 2004, urup. 45.

¹⁹³ Inyandikomvugo y'iburanisha ryo ku wa 2 Nzeri 2004, imp. 45-47.

¹⁹⁴ Inyandikomvugo y'iburanisha ryo ku wa 2 Nzeri 2004, urup. 47-49.

nimugoroba. Kubera ko atari ari ku bitaro ku itariki ya 13 n'ya 14 Mata 1994/146/ter
uyu mutungabuhamya ntiyashoboye kuvuga niba Uregwa yarajyanye Mariya na
Mariyana iwe i Gishyita. Umutangabuhamya yiyemereye ko atari mu rugo
rw'Uregwa, bityo akaba atarashoboraga kumenya niba abo bakobwa bari
bahari.¹⁹⁵

221. **Umutangabuhamya ushinjura wiswe TQ8** yavuze ko yabonye Mariya
Mukeshimana mu bantu bari bahungiye mu Kanserege muri Mata 1994 bahunga
Inkotanyi. Umutangabuhamya yavuze ko ku itariki ya -12 Mata 1994, Mariya,
mugenzi we Rasheli, hamwe n'abandi bantu, basabye abajandarume
kubaherekeza ngo bambuke ikibaya cya Kacyiru. Kubera iyo mpamvu,
abajandarume, barimo na TQ8, baherekeje Mariya na bagenzi be bajyaga kuri
kiliziya y'Umuryango Mutagatifu. Babagejeje ku Kimicanga maze bo basubira
mu kigo.¹⁹⁶

222. Umutangabuhamya wiswe TQ8 yavuze ko yanyuranye n'abandi basore kuri
kiliziya y'Umuryango Mutagatifu ku itariki ya 20 Mata 1994 akongera akabonayo
Mariya na bagenzi be. Umutangabuhamya yarabavugishije nuko arakomeza ajya i
Nyamirambo gusura inshuti ze.¹⁹⁷

Imyanzuro y' Urugereko

Gutwara no gusambanya abantu ku gahato

223. Urugereko rwemera ibimenyetso bigaragaza ko Uregwa, Sikubwabo na Gisambo
batwaye Yoziyana, Marita na Mariyana babajyanye mu modoka.¹⁹⁸ Nyamara nta
bimenyetso bihagije Urugereko rubona birwemeza ko Uregwa yaba hari umugore
n'umwe muri abo yasambanyije ku gahato.

¹⁹⁵ Inyandikomvugo y'iburanisha ryo ku wa 2 Nzeri 2004, urup. 65.

¹⁹⁶ Inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 59, 67; reba kandi inyandikomvugo yo
mu gifaransa yo ku wa 24 Kanama 2004, urup. 57, 67.

¹⁹⁷ Inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 59, 67.

¹⁹⁸ Urugereko rusanze abatangabuhamya bita abo bakobwa babiri bava inda imwe (abakobwa ba
Gafurafura) Mariyana, Mariya, Mariya cg Marita. Urugereko rwemera ko abo bagore bavugwa
n'abatangabuhamya aribo ba bandi bavugwa mu Nyandiko y'ibirego.

224. Umutangabuhamya umwe gusa, uwiswe BI, ni we watanze ubuhamya kuri iryo sambanywa ku gahato. Ntabwo yiboneye n'amaso ye iryo sambanywa ku gahato rikorwa. Abo bagore bamubwiye ko basambanyijwe ku gahato ariko ntibigize bamubwira bati runaka yasambanyije ku gahato runaka cyangwa se ngo bumubwire mu buryo burambuye uko basambanyijwe ku gahato.
225. Urugereko rusanze Porokireri atashoboye gutanga ibimenyetso byemeza ko Uregwa yagize uruhare muri uko gutwara no gusambanya ku gahato abasivili b'abatutsikazi batatu, ibyaha bivugwa ko byabereye mu kigo cyo ku Mugonero. Bityo, Urugereko rwemeje ko ibirego biri mu gika cya 6 (c) cy'Inyandiko y'ibirego nta shingiro bifite.

L. IGITERO CYAGABWE KU MPUNZI Z'ABATUTSI KU KIGO CYO KU MUGONERO, KU ITARIKI YA 16 MATA 1994

Ibivugwa na Porokireri

226. Porokireri avuga ko:

Hagati y'itariki ya 9 n'ya 16 Mata 1994, abaturage b'abasivili, biganjemo abatutsi, bagera ku bihumbi bitandatu, bakoraniye mu rusengero, mu bitaro no mu ishuri ry'abaforomokazi byo ku Mugonero, muri Segiteri Ngoma, Komini Gishyita, bahunga ibitero byagabwaga ku batutsi b'abasivili hose muri Perefegitura ya Kibuye. Mu ma saa tatu za mu gitondo ku itariki ya 16 Mata 1994, Mikaeli Muhimana, afatanyije n'abandi, barimo Kelimenti Kayishema, Karoli Sikubwabo, Obedi Ruzindana, abasirikare, abapolisi ba komini n'Interahamwe, bagabye igitero ku baturage b'abasivili bari bahungiyeye ku rusengero, mu bitaro no mu ishuri ry'abaforomokazi byo ku Mugonero. Abateye bakoresheje imbunda, amagerenade, impanga, impiri n'izindi ntwaro za gakondo, bica abantu banakomeretsa bikabije abandi muri ba baturage b'abasivili ibihumbi bitandatu bari bahungiyeye muri urwo rusengero, mu bitaro no mu ishuri ry'abaforomokazi byo ku Mugonero byavuzwe haruguru.¹⁹⁹

¹⁹⁹ Inyandiko y'ibirego, igika cya 5 (c)

Ibimenyetso

Ibimenyetso bishinja

227. **Abatangabuhamya bashinja biswe BG, BI, AT, AU, BH na BJ** bose bavuze ko bahungiyeye mu kigo cyo ku Mugonero i Ngoma mu minsi yakurikiye iyicwa rya Perezida Yuvenali Habyarimana. Aba batangabuhamya bose bavuze ko abatutsi batagira ingano bakomoka mu ma segiteri y’aho hafi na bo bahungiyeye mu kigo cyo ku Mugonero. Abatangabuhamya biswe BI na AT bavuze ko abatutsi bahungiyeye muri icyo kigo kubera ko na mbere ariho bahungiraga ubwicanyi bwabibasiraga. Abatangabuhamya biswe BG na BI bavuze ko bagereranyije ku itariki ya 16 Mata 1994 mu kigo cyo ku Mugonero hari impunzi zibarirwa hagati ya 40 000 na 50 000.²⁰⁰
228. Abatangabuhamya biswe BG, BI na AT bavuze ko abagabye ibitero bahagaritse imodoka zabo imbere y’ibiro bya Dogiteri Ntakirutimana, bagatera amagerenade mu mpunzi bakanazirasaho. Umutangabuhamya BI yavuze ko impunzi zabanje kugerageza kwimira ababagabyeho igitero zibatera amabuye. Yongeyeho ko yabonye Uregwa arasa ku mpunzi, kandi ko hishwe abantu benshi muri icyo gitero.²⁰¹
229. Umutangabuhamya wiswe BG yavuze ko ku itariki ya 16 Mata 1994 saa mbiri za mu gitondo “abantu b’ibikomerezwa” baje mu modoka nyinshi, maze bakayobora igitero cyagabwe ku kigo cyo ku Mugonero. Abatangabuhamya bashinja biswe AT, BH na AU bavuze ko ikigo cyo ku Mugonero cyabanje guterwa n’abahutu badafite intwari, icyo gitero kikamara “nk’iminota cumi n’itanu”, nyuma hagakurikiraho ikindi igitero saa tatu za mu gitondo, cyari kigizwe n’abasivili n’abasirikare bari baturutse i Gishyita bari mu modoka esheshatu, zimwe muri zo ari iza komini. Mu bari batwaye izo modoka harimo: Pasitoro Elizafani

²⁰⁰ Inyandikomvugo y’iburanisha ryo ku wa 5 Mata 2004, imp. 33-34, inyandikomvugo y’iburanisha ryo ku wa 30 Mata 2004, urup. 3-4, 34; inyandikomvugo y’iburanisha ryo ku wa 19 Mata 2004, urup. 6; inyandikomvugo y’iburanisha ryo ku wa 7 Mata 2004, urup. 18; inyandikomvugo y’iburanisha ryo ku wa 8 Mata 2004, imp. 7, 25-26, 28; inyandikomvugo y’iburanisha ryo ku wa 6 Mata 2004, imp. 44-45; inyandikomvugo y’iburanisha ryo ku wa 1 Mata 2004, urup. 37. Mata 2004

²⁰¹ Inyandikomvugo y’iburanisha ryo ku wa 8 Mata 2004, imp. 8, 35; inyandikomvugo y’iburanisha ryo ku wa 19 Mata 2004, imp. 8, 10; inyandikomvugo y’iburanisha ryo ku wa 30 Mata 2004, imp. 7-9, 44.

Ntakirutimana, Obedi Ruzindana, Sikubwabo wari Burugumesitiri wa Komini,^{143/ter} Gishyita, Dogiteri Jeraridi Ntakirutimana wari umuganga ku bitaro byo ku Mugonero, na Kayishema wari Perefe wa Perefegitura ya Kibuye, imodoka ye ikaba yari iherekejwe n'ikamyo itwaye abasirikare. Umutangabuhamya AT yavuze ko Uregwa yaje yicaye inyuma mu modoka yari itwawe na Obedi Ruzindana, kandi ko yari afite imbunda ku rutugu. Umutangabuhamya ushinja wiswe AU yavuze ko aho yari ari mu rusengero rwo ku Mugonero yabonye Uregwa, wari witwaje imbunda afite n'icyuma, ahagera azanye n'abagabye igitero "baza baririmba". Umutangabuhamya AU yavuze ko Uregwa, wari kumwe na Ezekiya Ntakirutimana, yari ayoboye abagabye icyo gitero bakaba bari bitwaje imipanga, impiri zikwikiyemo imisumari, ibikoni, n'amacumu. "Batangiye kwica abantu saa tatu, saa yine hari imirambo myinshi y'abishwe".²⁰²

230. Umutangabuhamya wiswe BG yavuze ko n'ubwo atigeze abona uwarashe isasu rya mbere, yaje kubwirwa n'indi mpunzi ko umwe mu bajandarume " bari baraje byitwa ko bazanywe no kubarinda " ari we warashe isasu rya mbere. Nuko noneho impunzi z'abatutsi ziraswa urufaya. Abagabye igitero " biraye mu mpunzi maze bazitemesha imihoro". Umutangabuhamya yavuze ko " byose byari byateguwe neza ". Abateye bagose ahantu hagenewe guhagarika imodoka ku bitaro byo ku Mugonero, aho umutangabuhamya BG yari yagiye kwihisha, nuko yirukira mu rusengero, ruri nko muri metero ziri hagati y'i 100 n'i 150 uvuye aho.²⁰³

231. Umutangabuhamya wiswe BG yavuze ko Interahamwe zakurikiranye impunzi zirukiye mu rusengero rwo ku Mugonero, zigafungura inzugi n'amadirishya ku mbaraga, zikarasa mu rusengero zikanateramo amageranade, zikica benshi muri izo mpunzi abandi benshi bagakomereka, harimo n'umutangabuhamya wiswe BG. Umutangabuhamya yavuze ko yabonye abateye bamena lisansi bashaka

²⁰² Inyandikomvugo y'iburanisha ryo ku wa 5 Mata 2004, urup. 33; inyandikomvugo y'iburanisha ryo ku wa 7 Mata 2004, urup. 3, 20; inyandikomvugo y'iburanisha ryo ku wa 8 Mata 2004, imp. 7-8; inyandikomvugo y'iburanisha ryo ku wa 19 Mata 2004, imp. 7-10, 47-48, 89.

²⁰³ Inyandikomvugo y'iburanisha ryo ku wa 5 Mata 2004, urup. 36; inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, imp. 14-16.

kuhatwika “ariko umuriro wazimijwe n’amaraso yari yuzuye ahantu hose”²⁰⁴ 142/ter Abateye bamaze kumena inzugi z’urusengero, umutangabuhamya BG yashoboye gucika anyuze mu karyango gato k’inyuma, yirukira mu bitaro byo ku Mugonero.²⁰⁵

232. **Umutangabuhamya ushinja wiswe BI** yavuze ko atashoboye kwinjira mu kigo cyo ku Mugonero kubera ko cyari cyagoswe n’Uregwa, Sikubwabo, Kanyabungu, Ndayisaba n’abandi benshi bari bagabye igitero hamwe n’abo. Umutangabuhamya yavuze ko Uregwa “yari yitwaje imbunda” kandi “ko yakomeje kurasa kuri abo bantu”. Burugumesitiri Sikubwabo yahagaze imbere y’urugi rw’urusengero abwira abahutukazi bashakanye n’abatutsi gusohokamo. Mu bagore basohotse mu rusengero umutangabuhamya yashoboye kumenyamo abagore babiri bakiri bato bitwa Nyiragwiza na Nyareri, bari barashakanye n’abatutsi. Abo bagore basize abana babo mu rusengero kubera ko abo bana bafatwaga nk’abatutsi. Umutangabuhamya yavuze ko nyuma y’ibi “byabereye” ku rusengero yahungiyeye muri kimwe mu byumba by’ibitaro.²⁰⁶
233. **Umutangabuhamya ushinja wiswe AT** yavuze ko ku itariki ya 16 Mata 1994 saa mbiri za mu gitondo abahutu b’abasivili bake bitwaje gusa imihoro n’impiri bateye impunzi z’abatutsi zari zikoraniye mu kigo cyo ku Mugonero, bigaragara ko bari baje kwiba inka zabo. Izo mpunzi zirwanyeho zikoresheje amabuye, nuko mu minota cumi n’itanu ziba zimaze guhashya icyo gitero. Impunzi zimaze kunesha abaziteye, abajandarume barindaga izo mpunzi bazibwiye ko ziri bwongere guterwa kandi ko zigomba kwirwanaho kuko abajandarume batari bushobore kuzicungira umutekano. Nuko abajandarume baragenda.²⁰⁷
234. **Umutangabuhamya ushinja wiswe AU** yavuze ko “intambara yatangiye” ari ku wa gatandatu mu ma sa tatu za mu gitondo. Abantu bateye urusengero rwo ku Mugonero aho we n’umuryango we bari bahungiyeye, bica abana be babiri na nyina na se. Umutangabuhamya wiswe AU yavuze ko abo bateye “bicaga abatutsi

²⁰⁴ Inyandikomvugo y’iburanisha ryo ku wa 5 Mata 2004, urup. 36.

²⁰⁵ Inyandikomvugo y’iburanisha ryo ku wa 6 Mata 2004, urup. 16.

²⁰⁶ Inyandikomvugo y’iburanisha ryo ku wa 30 Mata 2004, imp. 9, 45.

²⁰⁷ Inyandikomvugo y’iburanisha ryo ku wa 19 Mata 2004, imp. 7-8.

gusa”. Ababyeyi be bamaze kwicwa, umutangabuhamya yavuye mu rusengero/ter ajya kwihisha mu kumba gato kari aho babagira abarwayi mu bitaro.²⁰⁸

Ibimenyetso bishinjura

235. **Umutangabuhamya ushinjura wiswe DI** yavuze ko Burugumesitiri Sikubwabo yakoresheje igitugu agategeka abaturage kujya mu bwicanyi mu kigo cyo ku Mugonero muri Mata 1994. Umutangabuhamya, yitwaje impiri, hamwe n’abaturanyi be Keranguza, Semariza na Nikobahoze, barahagurutse bajya mu kigo, nuko bafatanyije n’Interahamwe n’abasirikare baturutse mu Bugarama no ku Mugonero, bagaba igitero agereranya ko “cyatangiyeye saa yine kikarangira saa cyenda za ku manywa”. Umutangabuhamya yavuze ko impunzi z’abatututsi zashoboye gukumira abaziteraga kugeza ubwo Interahamwe n’abasirikare baje gufasha abaziteraga.²⁰⁹
236. Umutangabuhamya wiswe DI yavuze ko “Mika atari” muri icyo gitero, kubera ko yari mu cyunamo cy’umuhungu we; “Burugumesitiri yari yamusoneye”. Umutangabuhamya yanavuze ko “nta na limwe yigeze”abona Uregwa ari hamwe na Burugumesitiri Sikubwabo cyangwa se ngo “yumve hari umuntu uvuga ko hari umukobwa cyangwa umugore wasambanyijwe ku gahato mu gitero” muri Komini Gishyita. Umutangabuhamya DI yavuze ko Uregwa atigeze agira umuntu yicisha impiri kubera ko abajyaga mu bitero badafite imbunda cyangwa gerenade aribo bicaga abantu muri ubwo buryo.²¹⁰
237. **Umutangabuhamya ushinjura wiswe ARI** yavuze ko yakoze mu bitaro byo ku Mugonero kugeza muri Mata 1994, icyo gihe akaba yarahavuye kubera ibibazo by’umutekano mucye byaterwaga n’amabandi yaturukaga ku Mpembe, ku Mugonero n’i Gishyita.²¹¹
238. Kubera ko hari hamaze igihe hari impuha zivuga ko ibitaro byo ku Mugonero bigiye kuzaterwa, umutangabuhamya wiswe ARI, umuryango we n’uwa

²⁰⁸ Inyandikomvugo y’iburanisha ryo ku wa 7 Mata 2004, imp. 3-4, 15-16.

²⁰⁹ Inyandikomvugo y’iburanisha ryo ku wa 1 Nzeri 2004, imp. 37-39.

²¹⁰ Inyandikomvugo y’iburanisha ryo ku wa 1 Nzeri 2004, imp. 40, 55-56.

²¹¹ Inyandikomvugo y’iburanisha ryo ku wa 2 Nzeri 2004, urup. 44.

Pasitoro Yakobo Ushizimpumu bavuye mu ngo zabo saa kumi n'ebiri za mu gitondo ku itariki ya 16 Mata 1994, bahungira ku nzu ya CCDF i Gishyita, ugereranyije aho akaba hari hagati ya kilometero eshanu na kilometero indwi uvuye ku kigo cyo ku Mugonero.²¹²

239. Umutangabuhamya wiswe ARI yavuze ko ku itariki ya 16 Mata 1994, hagati ya saa yine za mu gitondo na saa sita z'amanya, ubwo yari ari muri CCDF i Gishyita, yumvise imiborogo ituruka mu kigo cyo ku Mugonero nyuma aza no kumva abantu bacitse ku icumu bavuga iby'igitero cyagabwe kuri icyo kigo. Umutangabuhamya yabwiye ko icyo kigo cyatewe n'Interahamwe ziturutse i Cyangugu, i Rubengera no mu majyaruguru y'u Rwanda. Umutangabuhamya yavuze ko atigeze yumva hari umuntu uvuga ko Obedi Ruzindana yari mu bayoboze icyo gitero cyangwa se ko Burugumesitiri Sikubwabo, Elizafani Ntakirutimana cyangwa Jeraridi Ntakirutimana bagiye muri ibyo bitero. Porokireri amubajije uwo yaba azi ko ari we waryozwa ibya kiriya gitero cyo ku kigo cyo ku Mugonero, umutangabuhamya yashubije ko nta muntu azi wemeye ko ibyo bivugwa byabaye koko.²¹³
240. **Umutangabuhamya ushinjura TQ28** yavuze ko Perezida Habyarimana yaraye apfuye, ku itariki ya 7 Mata 1994, we n'umuryango we bahungiyeye aho se yakoraga, ku kigo cy'ibitaro byo ku Mugonero. Mu rwego rwo gucunga umutekano, bakoraga amarondo aho mu kigo kandi n'umutangabuhamya yayajyagamo. Ku itariki ya 12 Mata 1994 umutangabuhamya n'umuryango we bavuye mu kigo cyo ku Mugonero bajya kuba ku isoko rya Kabahinyuza riri hafi aho, i Ngoma, bakaba baragumye aho kugeza ku itariki ya 16 Mata 1994, ubwo bahungiraga kuri CCDFP i Gishyita.²¹⁴
241. Umutangabuhamya wiswe TQ28 avugaga ko we n'umuryango we bageze kuri CCDFP ku itariki ya 16 Mata 1994, bakiriwe n'abayobozi ba Gishyita, barimo uwahoze ari burugumesitiri Sikubwabo n'uwahoze ari konseye, Muhimana,

²¹² Inyandikomvugo y'iburanisha ryo ku wa 2 Nzeri 2004, imp. 71, 75.

²¹³ Inyandikomvugo y'iburanisha ryo ku wa 2 Nzeri 2004, imp. 67-68, 75.

²¹⁴ Inyandikomvugo y'iburanisha ryo ku wa 23 Kanama 2004, imp. 72-74; inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 2, 17-19, 26, 31-32, 51, 53-54.

- bumvise ibibazo byabo maze babereka aho baryama. Umutangabuhamya yavuze ko Uregwa yamaranye n'izo mpunzi nk'iminenta mirongo itatu nyuma akagenda.²¹⁵
242. Umutangabuhamya TQ28 yavuze ko ku itariki ya 16 Mata 1994 “yagiye kenshi ku isoko” ry'i Gishyita. Yavuze ko inshuro zose yagiyeyo kuri iyo tariki yasangagayo Uregwa ari kumwe n'abandi bantu, uretse ko atigeze abona icyo Uregwa yabaga akora. Kubera ko Umutangabuhamya yabonye Uregwa i Gishyita ku itariki ya 16 Mata 1994, yumva ko Uregwa adashobora kuba yari ari ku bitaro byo ku Mugonero kubera ko “Mika atari gushobora kuba ari i Ngoma ngo abe ari n'i Gishyita mu gihe kimwe”. Umutangabuhamya ariko yemeye ko kuva i Gishyita ujya i Ngoma mu modoka umuntu yakoresha igihe kitageze ku isaha.²¹⁶
243. Ku itariki ya 17 Mata 1994, ubwo yari ari kuri CCDFP, umutungabuhamya wiswe TQ28 yumvise ko ikigo cy'ibitaro byo ku Mugonero cyatewe, kikaba cyaratewe ku itariki ya 16 Mata 1994. Umutangabuhamya yumvise ko abahateye bari baturutse hirya no hino, ahantu hategeranye. Ubwunganizi bumubajije niba Mika yari ari muri icyo gitero, umutungabuhamya yashubije ko atigeze “yumva izina rya Mika mu bantu bagabye icyo gitero”.²¹⁷
244. **Umutangabuhamya ushinjura wiswe DS** yabwiye Urugereko ko nta muntu wigeze amubwira ko Uregwa yari mu bagabye ibitero byo ku Mubuga, ku bitaro byo ku Mugonero, cyangwa mu Bisesero.²¹⁸ Umutangabuhamya yavuze ko yari yarumvise bivugwa ko hari abantu biciwe ku bitaro byo ku Mugonero no mu Bisesero ariko ko we ubwe atagiye muri ibyo bitero.²¹⁹
245. **Umutangabuhamya ushinjura wiswe DK** yavuze ko yari azi ibitaro byo ku Mugonero kubera ko yari yarigeze kuhavurirwa. Umutangabuhamya yavuze ko

²¹⁵ Inyandikomvugo y'iburanisha ryo ku wa 23 Kanama 2004, imp. 73, 75-76; inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 23, 33-35, 39.

²¹⁶ Inyandikomvugo y'iburanisha ryo ku wa 23 Kanama 2004, imp. 76-77; inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 39-40, 51-52.

²¹⁷ Inyandikomvugo y'iburanisha ryo ku wa 24 Kanama 2004, imp. 1-1, 53.

²¹⁸ Inyandikomvugo y'iburanisha ryo ku wa 7 Nzeri 2004, imp. 7-8.

²¹⁹ Inyandikomvugo y'iburanisha ryo ku wa 7 Nzeri 2004, imp. 7, 21.

n'ubwo mu nama za gacaca abanyururu bavuze ku bwicanyi bukomeye, 138/ter
bwakorewe ku bitaro byo ku Mugonero, nta muntu n'umwe wavuze ko Uregwa
yagiye muri ibyo bitero.²²⁰

Imyanzuro y'Urugereko

246. Urugereko rwasuzumanye ubushishozi ibimenyetso rwashyikirijwe hamwe n'ingingo z'ababuranyi. Rushingiye ku buhamya buhurizwaho n'abagabo bashinja biswe BG, BI, AT, AU, BJ na BH, Urugereko rusanze Uregwa yaragiye mu gitero cyagabwe ku basivili b'abatutsi ku kigo cyo ku Mugonero ku itariki ya 16 Mata 1994. Ariko, Urugereko rusanze mu bu buhamya bw'umugabo ushinja wiswe BH harimo uguhuzagurika gukomeye ku birebana n'icyo gitero; bityo rero Urugereko rukaba rutabufataho ukuri.
247. Urugereko rusanze ubuhamya bw'abagabo bashinja biswe BG, BI, AT, na AU ku birebana n'igitero cyo ku Mugonero cyo ku itariki ya 16 Mata 1994, bwakwemerwa kandi bukizerwa.
248. Ubwunganizi busaba Urugereko kutakira ubuhamya bwanditse bw'umugabo wiswe BG bwo ku itariki ya 14 Ugushyingo 1995 n'ubwo ku itariki ya 24 Ukwakira 1999 ngo kubera ko buvuguruzanya, ndetse akaba yaranagiye ahuzagurika mu byo yavuze igihe yatangaga ubuhamya mu rukiko.²²¹ Ubwunganizi bwibutsa aho umutangabuhamya yavuze ko abateye batwitse urusengeru rwo ku Mugonero bakoresheje lisansi maze umuriro ukazimwa "n'amaraso yari yakwiriye ahantu hose".²²² Ubwunganizi buvuga ko ibi "atari ukuri kuko bidashoboka kandi bitumvikana ukuntu amaraso yazimya umuriro nk'uwo".²²³ Urugereko rusanga n'ubwo ibyo umutangabuhamya yavuze bishobora kuba atari byo mu rwego rw'ubumenyi, bitabuza ko umutangabuhamya yakwemerwa.

²²⁰ Inyandikomvugo y'iburanisha ryo ku wa 8 Nzeri 2004, urup. 35.

²²¹ Imyanzuro y'ubwunganizi isoza urubanza, igika cya 165.

²²² Imyanzuro y'ubwunganizi isoza urubanza, igika cya 165. Inyandikomvugo y'iburanisha ryo ku wa 5 Mata 2004, urup. 36.

²²³ Imyanzuro y'ubwunganizi isoza urubanza, igika cya 165.

249. Ubwunganizi buvuga ko ubuhamya bwanditse bwa mbere, bwo ku itariki ya 14 Ugushyingo 1995, n'ubwa kabiri, bwo ku itariki ya 24 Ukwakira 1999, bw'uyu mugabo budahura. Mu buhamya bwe bwa mbere bwanditse, umugabo ntiyigeze avuga ko yabanje kwihisha mu rusengero mbere yo kujya kwihisha muri umwe mu misarane y'ibitaro. Urugereko rusanga ubwo buhamya bwombi, bunyuranye gato gusa, cyane cyane iyo umuntu azirikanye ko umutangabuhamya yiyemereye ko mu wa 1995 yari yarahamuwe n'ibyabaye, harimo no gupfusha abana be babiri, kandi n'igice kinini cy'uwo mwaka akaba yarakimaze mu bitaro.²²⁴
250. Urugereko rusanze umutangabuhamya ushinjura wiswe DI yaravuze ko yagiye mu bitero byagabwe ku Mugonero ku mategeko ya Burugumesitiri Sikubwabo. Yanavuze kandi ko Burugumesitiri atigeze atunarika Uregwa ngo ajye mu bitero byo ku kigo cyo ku Mugonero kubera ko Uregwa yari aherutse gupfusha umuhungu we. Urugereko ntirufataho ukuri ubuhamya bw'umugabo wiswe DI aho avuga ko bitashobokaga ko Uregwa yari kuba ari mu bitero byo ku kigo cyo ku Mugonero. Kubera umubare munini w'abari bagize ibyo bitero, ubukana bwabyo n'igihe byamaze, birashoboka rwose ko umutangabuhamya atashoboye kumenya ko Uregwa yari ahari cyangwa ko yari muri icyo gitero. Byongeye kandi, n'iyi umuntu yafata ko Uregwa yari mu cyunamo cy'umuhungu we, nta kimenyetso cyerekana ko atigeze ava mu rugo iwe kuri uwo muni. Urugereko rwabonye ko kuva ku kigo cyo ku Mugonero kugera mu rugo rw'Uregwa i Gishyita hari urugendo rw'isaha imwe gusa mu modoka.
251. Byongeye kandi, mu ibaza rinyomoza, Urugereko rwabonye ko umutangabuhamya yiyemereye ko afitanye isano n'Uregwa, rishingiye ku bushyiringirane. Na none kandi mu ibaza rinyomoza, Porokireri yeretse umutangabuhamya inyangiko yiyemereyemo muri gacaca kuba yarishe impunzi mu bitero byo ku Mugonero n'i Gitovu. Ibiri muri uko kwemera icyaha

²²⁴ Inyangikomvugo y'iburanisha ryo ku wa 6 Mata 2004, urup. 7.

kw'umutangabuhamya binyuranyije n'ubuhamya bwe mu ibaza ry'ingenzi aho, 136/ter
yavuze ko n'ubwo yagiye mu bitero byo ku Mugonero nta muntu yigeze yica.²²⁵

252. Umutangabuhamya ushinjura wiswe ARI yavuze ko atari ku kigo cyo ku Mugonero ku itariki ya 16 Mata 1994, ariko ko ari aho yari yahungiyeye muri CCDF, yumvise imiborogo ituruka mu kigo mu masaa yine za mu gitondo. Kuba umutangabuhamya yemeza gusa ko atigeze yumva hari umuntu uvuga ko hari abayobozi bo muri ako karere bagiyeye muri icyo gitero byonyine ntibihagije kunyomoza ubuhamya Urugereko rwemera kandi buhurizwaho n'abagabo benshi buvuga ko abayobozi bo muri ako karere, barimo Uregwa, Pasitoro Elizafani Ntakirutimana, Dogiteri Jeraridi Ntakirutimana, Perefefu Kayishema, na Burugumesitiri Sikubwabo bari mu bakoze amarorerwa yabereye mu kigo cyo ku Mugonero ku itariki ya 16 Mata 1994. Bityo rero, Urugereko rubona nta cyo ubuhamya bw'umugabo wiswe ARI buhindura ku buhamya buhurizwaho n'abagabo bashinje ku birebana n'ibyaha Uregwa ashinjwe kuba yarakoreye ku kigo cyo ku Mugonero ku itariki ya 16 Mata 1994.
253. Umutangabuhamya ushinjura wiswe TQ28 yemeye ko atari mu kigo cyo ku Mugonero ubwo icyo kigo cyaterwaga ku itariki ya 16 Mata 1994. Ariko umutangabuhamya yavuze ko yabonye Uregwa i Gishyita, ubwa mbere mu ma saa mbiri cyangwa mu ma saa tatu za mu gitondo, yongera kumubona nyuma yaho uwo munsu. Urugereko ntirwemera ubuhamya bw'uyu mugabo uvuga ko ngo kubera ko "yagiye kenshi" kuri santere ya Gishyita ku itariki ya 16 Mata 1994 akahabona Uregwa, adashobora kuba yaragiye mu bitero byo ku Mugonero, hagati y'ibilometoro bitanu na bilindwi uvuye aho, ukurikije uko umutangabuhamya agereranya iyo ntera. Urugereko rusanga umutangabuhamya ataravuze inshuro ndetse n'amasaha yaboneyeho Uregwa uwo munsu. Bityo rero, Urugereko rusanga ubuhamya bw'umugabo wiswe TQ28 nta cyo buhindura na busa ku buhamya Urugereko rwemera kandi buhurizwaho n'abatangabuhamya bashinje bavuze ko Uregwa yagiye mu bitero byo mu kigo cyo ku Mugonero uwo munsu mu gitondo no ku gicamunsu.

²²⁵ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeri 2004, urup. 51.

254. Abatangabuhamyanya bashinjura biswe DS na DK ntibiboneye n'amaso yabo ibyaha byakorewe mu kigo cyo ku Mugonero ku itariki ya 16 Mata 1994. Nyamara aba batangabuhamyanya bombi bemeza ko, hashize imyaka ibyo bibaye, mu nama za gacaca zo muri gereza ya Gishyita nta muntu wigeze avuga izina ry'Uregwa ku birebana n'igitero cyo ku kigo cyo ku Mugonero. Urugereko ntirunyuzwe n'ubu buhamya.
255. Rushingiye ku buhamya bw'abagabo bashinja n'abashinjura, Urugereko rusanze hagati y'itariki ya 9 n'iya 16 Mata 1994 ibihumbi n'ibihumbi by'abaturage b'abasivili, biganjemo abatutsi, barahungiyeye mu kigo cyo ku Mugonero kiri muri Segiteri ya Ngoma, Komini ya Gishyita, aho hantu abantu na mbere bakaba barakundaga kuhahungira.
256. Uregwa yageze mu kigo cyo ku Mugonero mu gitondo cyo ku itariki ya 16 Mata 1994, ari mu modoka. Haje imodoka zishoreranye kandi Uregwa yari kumwe na Kelimenti Kayishema, Karoli Sikubwabo, Obedi Ruzindana, Elizafani Ntakirutimana, Jeraridi Ntakirutimana, n'abasirikare bari mu ikamyo. Muri abo bateye harimo kandi abaturage b'abasivili, Interahamwe n'abajandarume. Nyamara ubuhamyanya ntibwerakana, nk'uko bivugwa mu gika cya 5 (d) (i) cy'Inyandiko y'ibirego, ko abapolisi ba komini bagiye muri icyo gitero.
257. Rushingiye ku buhamya bwatanzwe n'abagabo bashinja n'abashinjura, Urugereko rusanze igitero simusiga cyaragabwe ku kigo cyo ku Mugonero, icyo gitero kikaba cyarahitanye abasivili b'abatutsi benshi abandi benshi bagakomeretswa. Abateye bakoresheje imbunda, amagerenade, imipanga, impiri n'izindi ntwaro za gakondo, bica kandi bakomeretsa bikomeye abasivili b'abatutsi bari bakoraniye muri icyo kigo.
258. Muri icyo gitero, Uregwa, Sikubwabo, Kanyabungu, Ndayisaba n'abandi bari bateye aho bagose urusengeru rwo mu kigo cyo ku Mugonero; ubwo Burugumesitiri Sikubwabo yafashe ijamba imbere y'imbaga y'impunzi zari

imbere mu rusengeru, asaba abahutukazi bashakanye n'abatutsi gusohoka, Bamwe muri abo bagore baramwumviye, basigamo abana babo, kuko bo bafatwaga nk'abatutsi. Urugereko rusanga iri tegeko burugumesitiri yatanze rigaragaza ko abateye bari bibasiye impunzi z'abatutsi zari zikoraniye mu rusengeru.

259. Rushingiye ku buhamya bw'abagabo bashinja biswe BG, BI, BJ, AT, AU, na AV, Urugereko rusanga Uregwa yari mu bagabye igitero ku kigo cyo ku Mugonero ku itariki ya 16 Mata 1994. Igitero cyo ku Mugonero gitangira yari ahari, ari kumwe n'abandi bayobozi bo muri ako karere, kandi yari yegeranye na Burugumesitiri Sikubwabo ubwo uyu yahaga abahutukazi uruhushya rwo gusohoka mu rusengeru, nyuma yaho igitero kigakomeza. Byongeye kandi, muri icyo gitero Uregwa yakoresheje imbunda ye yica anakomeretsa abasivili b'abatutsi bari bibasiwe n'igitero.
260. Kubera izo mpamvu, Urugereko rusanze Porokireri yatanze ibimenyetso bidashidikanywaho na gato byerekana ko Uregwa yakoze ibyaha ashinjwa mu gika cya 5 (c) cyo mu Nyandiko y'ibirego.

M. GUSAMBANYA KU GAHATO N'UBUHOTOZI MU KIGO CYO KU MUGONERO, KU ITARIKI YA 16 MATA 1994.

Isambanywa ku gahato n'Ihotorwa bya Mukasine Kajongi Ibivugwa na Porokireri

261. Porokireri avuga ko:

Ku itariki ya 16 Mata 1994, ku kigo cyo ku Mugonero, Mika Muhimana, afatanyije n'Interahamwe ebyiri, basambanyije ku gahato abasivili b'abatutsikazi muri kimwe mu byumba by'ishuri ry'abaforomo. Mika Muhimana yasambanyije ku gahato bunyamaswa uwitwa Mukasine

Kajongi, amwambika n'ubusa kugira ngo abahisi n'abagenzi babone imyanya ndangagitsina ye.²²⁶ 133/ter

Ku itariki ya 16 Mata 1994, ku rusengero, ku ivuriro no ku ishuri byo ku Mugonero, Mika Muhimana, afatanyije n'Interahamwe ebyiri, bishe umusivili w'umugore witwa Mukasine n'undi umwe, muri kimwe mu byumba by'ishuri ry'abaforomo ryo ku Mugonero.²²⁷

Ibimenyetso

Ibimenyetso bishinja

262. **Umutangabuhamya ushinja wiswe AT** yavuze ko ku itariki ya 16 Mata 1994 yahungiyeye ku bitaro byo ku Mugonero, nyuma y'igitero cyagabwe ku rusengero rwa Ngoma, aho yari yabanje guhungira. Mu ma saa tanu za mugitondo yinjiye mu cyumba cy'ibagiro, kiri mu nzu yo hasi y'ibyo bitaro. Umutangabuhamya yavuze ko icyo cyumba yamazemo umunsi wose cyarimo ibitanda bitatu biriho amagodora, n'imirambo 30 iri hasi. Urugi n'amadirishya by'icyo cyumba byari byamenwe. Umutangabuhamya AT yihishe mu mirambo, yipfushije, kandi aho yari ari yashoboraga kubona umuntu wese wakwinjira muri icyo cyumba. Iyo mirambo yari yegereye ibitanda kandi yari ikiva amaraso. Amaraso yamujojoberaga mu kanwa. Ubwo abateye binjiraga muri icyo cyumba, yari yuzuyeho amaraso, ari muri icyo mirambo, badashobora kumutandukanya n'abo bari bapfuye.²²⁸
263. Umutangabuhamya AT yavuze ko aho yari ari muni y'imirambo, yabonye abakobwa batatu biroha muri icyo cyumba cy'ibagiro bafite impumu nyinshi. Barambaraye kuri bya bitanda bitatu byari nko muri metero enye n'igice uturutse aho umutangabuhamya yari arambaraye. Umutangabuhamya yamenye abo bakobwa abo ari bo. Umwe yitwaga Mukasine, yari umukobwa wa Isaka Kajongi, umucungamari w'Itorero ry'Abadivantisiti, akaba yari umukozi wayoborwaga mu kazi na Ntakirutimana. Mukasine ni bwo yari akirangiza kwiga ishuri

²²⁶ Inyandiko y'ibirego, igika cya 6 (c) (i).

²²⁷ Inyandiko y'ibirego, igika cya 7 (c).

²²⁸ Inyandikomvugo y'iburanisha ryo ku wa 19 Mata, imp. 11, 13, 18, 35, 38-39.

ry'abaforomokazi. N'ubwo Umutangabuhamyari wiswe AT atari azi amazina y'abo bakobwa, yamenye ko bari abakobwa ba Amosi Karera, wakoraga muri laboratwari y'ibitaro. Umutangabuhamyari yavuze ko umwe yari umwarimukazi naho undi ari umunyeshurikazi.²²⁹

264. Umutangabuhamyari AT yavuze ko abo abakobwa bamaze kwinjira muri icyo cyumba, haciye akanya gato Uregwa na we akinjira. Uregwa yaje aherekejwe n'abahungu ba Kanyabungo; umutangabuhamyari akaba yaravuze ko bari abasirikare, kimwe na se ubabyara. Kwa Kanyabungo bari baturanye n'umutangabuhamyari, akaba yarajyaga ababona mu biruhuko. Akimara kwinjira, Uregwa yagiye aho Mukasine yari ari, naho abahungu ba Kanyabungo basanga ba bakobwa ba Amosi Karera. Uregwa yafashe Mukasine amutegeka kwiyambura vuba. Mukasine azamura amaboko asaba Uregwa imbabazi ariko arazimwima. Mukasine yanze kwiyambura, Uregwa yamutuye hasi, amwambura imyenda ye ku ngufu, amuvanamo n'ikaliso.²³⁰ Nuko Muhimana akubita Mukasine ikibuno cy'imbunda, atandukanya amaguru ye akoresheje ingufu, amusambanya ku gahato. Mukasine yaratakaga kubera kubabara. Ba bakobwa bandi babiri na bo baratakaga ubwo abahungu ba Kanyabungo babasambanyaga ku gahato. Umutangabuhamyari yavuze ko atashoboraga gutandukanya abo bahungu bavaga indimwe bityo rero akaba atarashoboraga kumenya ko umuhungu uyu n'uyu ariwe wasambanyije ku gahato umukobwa uyu n'uyu, muri ba bandi babiri. Umutangabuhamyari yavuze ko urebye, abo bantu batatu basambanyije abo bakobwa ku gahato barangirije rimwe, kandi ko agereranyije icyo gikorwa cyamaze nk'iminota itanu. Uregwa arangije, yambaye imyenda ye maze afata imbunda ye yari yarambitse hasi.²³¹

265. Umutangabuhamyari AT yavuze ko abo bagizi ba nabi barangije bavuze bati, “Aba bakobwa ni inyenzi, ntabwo twabasiga aha. Ntabwo twabisiga aha ari bazima”. Nuko Uregwa aravugaga, ati “Twice bariya babiri –ziriya nyenzi...ngiye kubara

²²⁹ Inyandikomvugo y'iburanisha ryo ku wa 19 Mata, imp. 14, 52.

²³⁰ Inyandikomvugo y'iburanisha ryo ku wa 19 Mata, imp. 15-18.

²³¹ Inyandikomvugo y'iburanisha ryo ku wa 19 Mata, imp. 4, 14, 16.

ningeza kuri gatatu turasire icyarimwe”.²³² Nuko Uregwa arabara agejeje kuri gatatu umutangabuhamya yumva amasasu aravuze ahita yumva ko ba bakobwa bishwe. Ibyo birangiye, Uregwa yafashe amaguru ya Mukasine arayatandukanya, ati “Buri muhisi n’umugenzi arebe uko igituba cy’umututsikazi gisa”.²³³

Ibimenyetso bishinjura

266. **Umutangabuhamya ushinjura wiswe TQ28** yavuze ko nta muntu yigeze abona asambanya abagore ku gahato cyangwa se ngo yumve hari umuntu uvuga ko haba hari umuntu waje ku bitaro byo ku Mugonero gusambanya abagore ku gahato.²³⁴
267. **Umutangabuhamya ushinjura wiswe TQ7** yavuze ko nta muntu wari gushobora gusambanyiriza umugore ku gahato mu bitaro byo ku Mugonero muri Mata 1994 kubera abantu benshi bari bahuzuye, n’amatungo yabo n’ibintu byabo kugera no mu murembo y’ikigo. Yavuze ko yavuye ku bitaro nta mugore wari wahasambanyirizwa ku gahato, kandi ko n’aho agarukiye atigeze yumva hari umuntu uvuga ko haba hari umugore wahasambanyirijwe ku gahato.²³⁵
268. **Abatangabuhamya bashinjura biswe AR1 na TQ28** bombi bavuze ko umukobwa wa Kajongi, Joyi Mukasine, yigaga muri Kaminuza i Butare kandi ko atari i Ngoma muri Mata 1994. Umutangabuhamya wiswe TQ28 yavuze ko bidashoboka ko uwo mukobwa yaba yarasambanyirijwe ku gahato mu kigo cyo ku Mugonero ku itariki ya 16 Mata 1994.²³⁶

Imyanzuro y’Urugereko

Imyanzuro y’Urugereko ku birebana n’icyaha cyo gusambanya ku gato

²³² Inyandikomvugo y’iburanisha ryo ku wa 19 Mata 2004, urup. 16.

²³³ Inyandikomvugo y’iburanisha ryo ku wa 19 Mata 2004, imp. 15-18.

²³⁴ Inyandikomvugo y’iburanisha ryo ku wa 24 Kanama 2004, imp. 22, 51.

²³⁵ Inyandikomvugo y’iburanisha ryo ku wa 23 Kanama 2004, urup. 50.

²³⁶ Inyandikomvugo y’iburanisha ryo ku wa 24 Kanama 2004, imp. 6-7; Inyandikomvugo y’iburanisha ryo ku wa 2 Nzeri 2004, imp. 51-52.

269. Bushingiye ku bintu bidahuza biri mu buhamya bwanditse umugabo ushinjira, wiswe AT yatanze muri 1996, 1999 na 2002, mbere y'uko aza gutanga ubuhamya imbere y'Urugereko; ibyo bidahuza bikaba birebana n'umubare ndetse n'umwirondoro w'abantu Uregwa ashinjwa ko yarasambanyije ku gahato, Ubwunganizi buvuga ko Urugereko rudakwiye kwizera cyangwa ngo rwemere ubuhamya bw'uwo mugabo. Rumaze gusuzumana ubwitonzi n'ubushishozi ubuhamya bwanditse bw'umugabo AT, n'ubwo yatanze imbere y'Urukiko, Urugereko rusanze ubwo buhamya bunyuranya ku bintu bidafite agaciro kagaragara ku buryo bitarubuza kwemera ibyo umutangabuhamya yarubwiye muri rusange ku birebana n'ibyaha byo gusambanya ku gahato.
270. Ubwunganizi bwibukije ko umutangabuhamya AT yibutse iby'isambanywa ku gahato rya Mukasine Kajongi bwa mbere mu buhamya bwe bwanditse bwo ku wa 12 Ugushyingo 1999. Ubwunganizi bukavuga ko kuba atarabivuze mu buhamya bwe bwanditse bwa mbere bwo mu wa 1996 bituma umuntu atakwemera ubuhamya bwe. Urugereko ruributsa ko umutangabuhamya yasobanuye, mu gihe cy'ibaza rinyomoza, ko ubuhamya bwe bwanditse bwo muri 1996 bwibanze ku gitero ubwacyo, ko butibanze ku bintu ibi n'ibi byabaye muri icyo gitero. Urugereko rusanga kandi mu buhamya bwe bwanditse bwaje gukurikira ubwo muri 1999 no muri 2002, ndetse n'igihe yatangaga ubuhamya imbere y'Urugereko, umutangabuhamya atigeze ahuzagurika mu gihe yabaga asobanura ukuntu Mukasine Kajongi yasambanyijwe ku gahato. Kubera izo mpamvu, Urugereko rubona ko kuba umutangabuhamya ataragize icyo avuga ku isambanywa ku gahato rya Mukasine Kajongi mu buhamya bwe bwanditse bwo mu wa 1996, byonyine bitatuma rutemera ubuhamya bwe.
271. Ubwunganizi buvuga ko uburyo umutangabuhamya wiswe AT avugamo aho icyumba cy'ibagiro mu bitaro byo ku Mugonero gihereye budakwiye kwemerwa; avuga ko ngo ari ho yari yihishe ubwo yiboneraga Uregwa n'abandi bantu basambanya abakobwa ku gahato. Mu gushyigikira iyi mvugo, Ubwunganizi bwibutsa ubuhamya bwatanzwe n'umugabo ushinjira wiswe AR1 wavuze ko igice cy'ibagiro kitari gifite ibyumba byinshi, kandi ko ibyumba

ababaga babazwe barwarizwagamo byari kure y'igice cy'ibagiro. Urugereko rwibutsa ko umutangabuhamya atigeze avuga ko igice cy'ibagiro cyari kigizwe n'ibyumba byinshi. Umutangabuhamya yavuze gusa ko igice cy'ibagiro, gihereye mu nzu yo hasi y'ibitaro, gifite ibyumba birenze bibiri. Ubwunganizi kandi buvuga ko aho umutangabuhamya yavuze ko yari yihishe, hatandukanye n'aho yabwiye uru Rugereko ko yari yihishe mu cyumba cy'ibagiro mu rubanza rwa Ntakirutimana. Kubera ko umutangabuhamya yahahamuwe n'ibyabaye ubwo byabaga, kubera igihe gishize bibaye, no kubera ko umutangabuhamya atari asanzwe aza igice cy'ibagiro cy'iby bitaro, Urugereko rusanga kuba yaravuze ahanu hatandukanye avuga aho yihishe mu bitaro byo ku Mugonero bitatuma rutemera ubuhamya bwe.

272. Urugereko rwemera kandi uburyo umutangabuhamya AT asobanuramo ukuntu yihishe muni y'imirambo kandi ko ari aho, yashoboraga kubona Uregwa n'abandi bakoze ibyaha. Urugereko rwemera ubuhamya bw'umugabo AT aho avuga ko ageranyije yari nko kuri metero enye n'igice uturutse aho Uregwa yari ari ubwo "yafataga imbunda ye,...agakubitisha Mukasine ikibuno cy'iyombunda...agatandukanya amaguru ye akoresheje ingufu,...agafata imboro ye akayijomba mu gituba cya Mukasine".²³⁷ Rushingiye ku buryo burambuye umutangabuhamya yasobanuyemo uko iryo sambanywa ku gahato ryagenze, ukuntu yari yegereye aho ibyaha byakorewe, n'ukuntu asobanura mu buryo bwumvikana ko Uregwa n'abo bandi bakoze ibyaha batashoboraga kumubona iyo yeguraga umutwe akongera akawurambika aho yari yihishe kubera ko "bari bahuze basambanya ku gahato abo bakobwa b'abangavu", Urugereko rusanze ubuhamya bw'uyu mugabo burebana n'ibi bukwiye kwemerwa no kwizerwa.

273. Urugereko rwamaze kwemera ubuhamya bw'umugabo wiswe AT. Rushingiye ku buhamya bwe, Urugereko rusanze Uregwa yarategetse Mukasine Kanjogi kwiambura imyenda. Yanze, Uregwa yirengagije imbabazi yamusabaga, amutura hasi, amuvanamo imyenda ku gahato, amuvanamo n'ikaliso. Nuko

²³⁷ Inyandikomvugo y'iburanisha ryo ku wa 19 Mata 2004, urup. 16.

amukubita ikibuno cy'imbunda ye, atandukanya amaguru ye akoresheje imbaraga ajomba imboro ye mu gituba cye. \$28/ter

274. Muri icyo gihe kimwe, kandi ahantu hamwe naho Uregwa yasambanyiriziga Mukasine Kajongi ku gahato mu nzu yo hasi y'ibitaro byo ku Mugonero, abasirikare babiri basambanyije ku gahato abakobwa b'Amosi Karera mu maso y'Uregwa. Kuba Uregwa yari aho abo basirikare basambanyirije abo bakobwa ku gahato, no kuba we ubwe yarasambanyije Mukasine ku gahato, Uregwa yashishikariye abo basirikare babiri gusambanya ku gahato abakobwa b'Amosi Karera.
275. Kubera izo mpamvu Urugereko rusanze Porokireri yatanze ibimenyetso bidashidikanywaho na gato byemeza ko Uregwa ahamwa n'ibyaha ashinjwa mu gika cya 6 (c) (i) cyo mu Nyandiko y'ibirego.

Ibyemezo by'Urugereko ku birebana n'icyaha cy'Ubuhotozi

276. Urugereko rusanze bamaze gusambanya ku gahato Mukasine Kanjogi n'umukobwa umwe w'Amosi Karera, Uregwa ahari, abakoze ibyo byaha baravuze bati "Aba bakobwa ni inyenzi, ntabwo turi bubasige aha. Ntitubasiga bakiri bazima". Urugereko rusanga Uregwa yaragize ati "Reka twice bariya babiri...ziriya nyenzi...Ndabara ngeze kuri gatatu noneho turasire rimwe". Nuko Uregwa arabara agejeje kuri gatatu umutangabuhamya wiswe AU yumva amasasu aravuze. Urugereko rwemera ubuhamya bw'uyu mutangabuhamya uvuga ko abo bakobwa bagomba kuba barishwe. Urugereko rusanze Mukasine Kajongi n'umukobwa wa Amosi Karera barishwe ku itariki ya 16 Mata 1994, mu bitaro byo ku Mugonero, bishwe n'abagizi ba nabi bubahirizaga amabwiriza y'Uregwa. Uregwa yari ahari abo bakobwa bicwa, kandi yashishikariye abicanyi gukora icyo cyaha.

277. Kubera izo mpamvu, Urugereko rusanze Porokireri yatanze ibimenyetso, bidashidikanywaho na gato byemeza ko Uregwa ahamwa n'icyaha ashinjwa mu gika cya 7 (c) cy'Inyandiko y'ibirego.

Isambanywa ku gahato rya Yohanita, Tereza Mukabutera na Ewujeniya mu bitaro byo ku Mugonero.

Ibivugwa na Porokireri

278. Porokireri avuga ko:

Ku itariki ya 16 Mata 1994 mu gice cy'ibagiro ry'ibitaro byo ku Mugonero, Mika Muhimana, afatanyije n'Interahamwe ebyiri, basambanyirije hamwe abatutsikazi bitwa Yohanita, Tereza Mukabutera na Ewujeniya, kandi ari nako babatuka.²³⁸

Ibimenyetso bishinja

279. **Umugabo ushinja wiswe BH** yavuze ko ku itariki ya 16 Mata 1994 ku mugoroba ijoro rigiye kugwa yahungiyemo mu nzu yo hasi y'ibitaro byo ku Mugonero. Yavuze ko ari muri icyo nzu, yabonye abakobwa batatu, Yohanita, Ewujeniya na Mukabutera birukira mu kindi cyumba kiri hagati y'icyumba cy'ibagiro na farumasi. Umutangabuhamya yavuze ko yashoboraga kubona ibyaberaga muri icyo cyumba kindi kubera ko “urugi runini cyane rwaho rwari rwamenwe”.²³⁹
280. Umutangabuhamya BH Ushinja yavuze ko yabonye Muhimana n'abahungu ba Kayabungo: Alufonsi Kayabungo wari agaronome, na Muhayimana Kayabungo wari umusirikare, binjira mu cyumba ba bakobwa bari bihishemo. Umutangabuhamya BH yumvise abo bagabo batatu babwira ba bakobwa guhitamo “kwicwa cyangwa gusambanywa ku gahato”.²⁴⁰ Umutangabuhamya yavuze ko abo bagabo babwiye ba bakobwa ko birata, nuko bati “ubu tugiye kubakoresha icyo dushaka kubera ko muri mu maboko yacu”. Umutangabuhamya yavuze ko yabonye Uregwa na ba bagabo bandi “bafungura lisani zabo maze

²³⁸ Inyandiko y'ibirego, igika cya 6 (c) (iii)

²³⁹ Inyandikomvugo y'iburana ryo ku wa 8 Mata 2004, im 7-8, 33-34, 51-52.

²⁴⁰ Inyandikomvugo y'iburana ryo ku wa 8 Mata 2004, urup. 9.

basambanya ba bakobwa ku gahato”.²⁴¹ Umutangabuhamy yavuze ko Uregwa yasambanyije ku gahato Yohanita, Alufonsi agasambanya ku gahato Virijiniya naho Muhayimana agasambanya ku gahato Mukabutera. Abo bagabo barangije icyo gikorwa cyabo cy’urugomo, ba bakobwa babajije niba bari bubakure mu bitaro cyangwa se niba babareka bagapfa. Abo bagabo babigiyeho inama maze Uregwa arasubiza ati, “Nitubajyana bashobora kuturega, kandi bishobora kutugwa nabi”. Umutangabuhamy yavuze ko nyuma yabonye Interahamwe atazi zica abo bakobwa.²⁴²

Imyanzuro y’Urugereko

281. Mu gushyigikira ibyo ashinja Uregwa mu gika cya 6 (c) (iii) cy’Inyandiko y’ibirego, Porokireri ashingira gusa ku buhamya bw’umugabo wiswe BH. Urugereko ruributsa icyemezo rwafashe ku ukwemerwa k’ubuhamy bw’umugabo wiswe BH ku birebana n’igitero cyo ku kigo cyo ku Mugonero.²⁴³ Urugereko na none rusanga rutakwizera ubuhamy bw’umugabo wiswe BH ku birebana n’isambanywa ku gahato rya Yohanita, Tereza Mukabutera na Ewujeniya.
282. Kubera izo mpamvu Urugereko rwemeje ko ibyaha Uregwa ashinjwa mu gika cya 6 (c) (iii) cy’Inyandiko y’ibirego nta shingiro bifite.

Isambanywa ku gahato ry’umutangabuhamy wiswe BJ, Mukasine na Murekatete

Ibivugwa na Porokireri

283. Porokireri avuga ko:

Ku itariki ya 16 Mata 1994, mu kigo cyo ku Mugonero, Mika Muhimana n’Interahamwe basambanyije hamwe ku gahato abasivili b’abatutsikazi bitwa Mukasine na Murekatete, bari abakozi b’isuku mu bitaro,

²⁴¹ Inyandikomvugo y’iburana ryo ku wa 8 Mata 2004, urup. 10.

²⁴² Inyandikomvugo y’iburana ryo ku wa 8 Mata 2004, imp.10, 18-19, 38-41, 51.

²⁴³ Reba igice L haruguru.

n'umusivili w'umuhutukazi wiswe BJ-K. Mika Muhimana yaje nyuma 125/ter
gusaba imbabazi BJ-K amubwira ko yamusambanyije ku gahato
“yamwibeshyeho” ko ari umututsikazi.²⁴⁴

Ibimenyetso

Ibimenyetso bishinja

284. **Umutangabuhamya ushinja wiswe BJ** yavuze ko ku itariki ya 16 Mata 1994, mu ma saa tatu za mu gitondo yarimo arera abana b'abakoresha be mu rugo rwabo. Kubera induru yumvise kandi akanabona impunzi zaturukaga ahantu hirya no hino, harimo iziva i Gishyita, Rwamatamu, na Mpembe zihuta zigana ku kigo cyo ku Mugonero, yumvise ko intambara yatangiye. Ubwo yavuye mu rugo rw'abakoresha be ajyanye n'abana babo, bajya mu kigo cyo ku Mugonero, aho abakoresha be bari bamaze guhungira. Umutangabuhamya BJ yasigiye abo bana nyina ubabyara mu rusengeru. Kubera ko abagabaga ibitero bicaga impunzi zari zikoraniye muri icyo kigo, umutangabuhamya yarirutse ahungira mu bitaro byo ku Mugonero, yihisha mu cyumba yeretse Urugereko akakita icyumba numero ya 3. Yihisha hamwe n'abandi bakobwa babiri, yavuze ko bitwaga Murekatete na Mukasine. Umutangabuhamya yavuze ko yumvaga “abantu baboroga hirya no hino”.²⁴⁵

285. Umutangabuhamya wiswe BJ yabwiye Urugereko ko Uregwa yinjije mu cyumba cya 3, aho we yari yicaye ku gitanda na Murekatete na Mukasine. Uregwa yari aherekejwe n'abagabo babiri. “Umwe muri bo yari afite impiri, undi afite umupanga n'igisongo”.²⁴⁶ Umutangabuhamya wiswe BJ yavuze ko Uregwa yabategetse kubakurikira uko bari abagabo batatu mu kindi cyumba cyari kirimo ibitanda bitatu.²⁴⁷ Abakobwa bakoze uko bategetswe. Bageze muri icyo cyumba, umutangabuhamya yise icyumba cya 4, Uregwa yategetse abo bakobwa kuvanamo imyenda no kuryama bagaramye kugira ngo abo bagabo babone

²⁴⁴ Inyandiko y'ibirego, igika cya 6 (c) (ii).

²⁴⁵ Inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, imp. 36-37.

²⁴⁶ Inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, urup. 40.

²⁴⁷ Inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, urup. 48.

imyanya ndangabitsina y'abatutsikazi. Asubiza ibibazo yabazwaga na Porokirerij²⁴⁸/^{24/ter} umutangabuhamya yasobanuye ko "Mika ariwe" wategetse abo bakobwa kuryama bagaramye. "Abantu bose bubahirizaga ibyo Mika yavugaga".²⁴⁸ Umutangabuhamya wiswe BJ yakoze ibyo Uregwa yamutegetse kubera ko yumvaga nabikora ari burokoke. Uregwa, wari wambaye ishata y'umweru n'ipantalo y'ikoboyi, yivanyemo imyenda ye, amusambanya ku gahato, atitaye ku mbabazi yamusabaga; ibi byamaze nk'iminota itatu. Umutangabuhamya yavuze ko yari afite imyaka cumi n'itanu y'amavuko, akiri isugi kandi ko yababaraga, ubwo Uregwa yamusambanyaga ku gahato. Abagabo bari hamwe na Muhimana basambanyije Murekatete na Mukasine ku gahato mu gihe Uregwa yasambanyaga umutangabuhamya wiswe BJ ku gahato.²⁴⁹

286. Umutangabuhamya BJ yavuze ko Uregwa yakangishije abo bakobwa kujomba ibisongo mu bituba byabo mbere yo kubica. Ariko mbere yuko Uregwa ashya ibyo mu bikorwa, Interahamwe yitwa Ngendahimana, yari ituranye n'umutangabuhamya wiswe BJ, yamubajije impamvu yari yaje kwihisha hamwe n'abatutsikazi kandi ari umuhutukazi. Yumvise ayo magambo, Uregwa yavuze ko "atarazi" ko umutangabuhamya wiswe BJ ari umuhutukazi, nuko baramureka akiza amagara ye, yirukira gutaha iwabo mu rugo kuko bamubwiye ko natinda mu nzira Interahamwe zishobora kwibeshya ko ari umututsikazi zikamwica. Umutangabuhamya wiswe BJ yabwiye Urugereko ko atigeze na rimwe yongera kubona Murekatete cyangwa Mukasine nyuma yaho basambanyirijwe ku gahato.²⁵⁰

Ibimenyetso bishinjura

287. **Abatangabuhamya bashinjura biswe AR1 na TQ7** bombi bavuze ko bitashobokaga ko Ewujeniya Murekatete yasambanyirizwa ku gahato mu kigo cyo ku Mugonero ku itariki ya 16 Mata 1994 kubera ko atari ahari.

²⁴⁸ Inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, urup. 39.

²⁴⁹ Inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, urup. 37.

²⁵⁰ Inyandikomvugo y'iburanisha ryo ku wa 6 Mata 2004, imp. 37-38, 41-42, 50.

Umutangabuhamya ushinjura wiswe AR1 yavuze ko muri Mata 1994,^{123/ter}
Ewujeniya Murekatete yari i Kigali.²⁵¹

Imyanzuro y'Urugereko

288. Porokireri ashingira ku buhamya bw'umugabo wiswe BJ mu kwerekana ko Uregwa, n'Interahamwe basambanyirije hamwe ku gahato uyu mutangabuhamya n'abakobwa babiri b'abatutsikazi, Mukasine na Murekatete, bari abakozi b'isuku mu bitaro byo ku Mugonero.
289. Urugereko rusanze ubuhamya bw'umugabo wiswe BJ bukwiye kwemerwa no kwizerwa, rushingiye ku kuntu yatanze ubuhamya bwe neza atajijinganya kandi ku buryo burambuye, ndetse no ku myifatire ye imbere y'Urugereko ubwo yatangaga ubuhamya.
290. Ubwunganizi buvuga ko Urugereko rudakwiye kwemera ubuhamya bw'umugabo wiswe BJ kubera ko ubwo Uregwa, ari mu nzu yo hasi, yavugaga ko ashaka kureba imyanyandanga gitsina y'umututsikazi, umutangabuhamya atigeze amubwira ko we ari umuhutukazi. Urugereko rwemera ibisobanuro by'umutangabuhamya kuri iyi ngingo, uvuga ko we icyo gihe atari yakamenye ko abatutsi ari bo bibasiwe, ko yari azi ko Abanyarwanda bose ari bamwe kubera ko bari banahungiyeye hamwe. Urugereko rwemera ibi bisobanuro by'umutangabuhamya, bityo rukaba rutanyuzwe n'ibivugwa n'Ubwunganizi.
291. Urugereko rusanze Uregwa yarasambanyije ku gahato umutangabuhamya wiswe BJ, umuhutukazi w'umwangavu, mu nzu yo hasi y'ibitaro byo ku Mugonero ku itariki ya 16 Mata 1994, yibwira ko ari umututsikazi. Muri icyo gihe kimwe kandi, abagabo babiri bari baherekeje Uregwa, basambanyije ku gahato abakobwa bandi babiri bitwa Mukasine na Murekatete, ariko ubwoko bwabo bukaba butazwi.

²⁵¹ Inyandikomvugo y'iburanisha ryo ku wa 2 Nzeri 2004, imp. 48, 51; inyandikomvugo y'iburanisha ryo ku wa 23 Kanama 2004, urup. 45.

292. Kubera izo mpamvu, Urugereko rusanze Porokireri yatanze ibimenyetso, bidashidikanywaho na gato byerekana ko Uregwa ahamwa n'icyaha ashinjwa mu gika cya 6 (c) (ii) cy'Inyandiko y'ibirego.

Isambanywa ku gahato ry'uwiswe AU, Makulata Mukabarore, Yozefina Mukankwaro na Berinadeta, mu bitaro byo ku Mugonero

Ibivugwa na Porokireri

293. Porokireri avuga ko:

Ku itariki ya 16 Mata 1994, mu kigo cyo ku Mugonero, Mika Muhimana, afatanyije n'Interahamwe, bagiye muri kimwe mu byumba by'ibagiro byo munzu y'ishuri ry'abaforomokazi mu kigo cyo ku Mugonero nuko basambanya hamwe ku gahato abatutsikazi AU, Imakulata Mukabarore na Yozefina Mukankwaro. By'umwihariko, Mika Muhimana yasambanyije ku gahato AU.²⁵²

Ku itariki ya 16 Mata 1994, mu kigo cyo ku Mugonero, Mika Muhimana, afatanyije n'Interahamwe bagiye muri kimwe mu byumba by'ibagiro byo munzu y'ishuri ry'abaforomokazi mu kigo cyo ku Mugonero nuko viciar hamwe abasivili b'abatutsikazi bitwa Imakulata Mukabarore, Berinadeta Mukangorero na Yozefina Mukankwaro.²⁵³

Ibimenyetso

Ibimenyetso bishinja

294. **Umutangabuhamya ushinja wiswe AU** yavuze ko ubwo yageraga mu kigo cyo ku Mugonero, imbuga iri imbere y'icyo kigo yari yuzuye impunzi zitabarika, harimo n'abantu baturutse mu Bisesero n'ahandi.²⁵⁴

²⁵² Inyandiko y'ibirego, igika cya 6 (c) (iv).

²⁵³ Inyandiko y'ibirego, igika cya 7 (c) (i).

²⁵⁴ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, imp. 17-19.

295. Umutangabuhamyia wiswe AU yavuze ko we n'izindi mpunzi bahungiye igitero²⁵⁵ cyagabwe ku rusengeru rwo ku Mugonero ku bitaro biri aho hafi, nuko bakajya kwihisha mu cyumba cy'ibagiro kiri mu nzu yo hasi. We n'abo bari kumwe binjiye mu cyumba gito mu bitaro, icyumba cya kabiri ibumoso iyo winjiye mu nzu yo hasi. icyo cyumba, umuntu yashoboraga gushyiramo amagodora abiri hasi agakwirwamo kandi akaba yarashoboraga kuryamwaho n'abantu umunani. Umutangabuhamyia n'izo mpunzi zindi barambaraye aho hasi, maze begekaho urugi, ariko ntibafunga n'urufunguzo.²⁵⁵
296. Umutangabuhamyia wiswe AU yavuze ko Uregwa, wari witwaje icyuma n'imbunda, yinjiye muri icyo cyumba gito, ari hamwe n'Interahamwe "nk'esheshatu" zirimo Ezekiyasi Ntakirutimana n'Alufonsi Kanyabungo. Umutangabuhamyia yatakambiye Uregwa ngo ye kumwica aho kwumva ibyo yamubwiraga, ahubwo yamukangishije ko ari bumwice.²⁵⁶
297. Uregwa yategetse Umutangabuhamyia kwiyambura, yanze kubikora uko Uregwa yabishakaga, Uregwa akoresha icyuma aca ikabutura, amakaliso abiri n'akandi kenda umutangabuhamyia yari yambaye. Uregwa, wari wambaye ipantaro y'ikoboyi, ishata y'umweru n'ikaliso y'umweru, yariyambuye, asunikira umutangabuhamyia hasi. Umutangabuhamyia yaramutakambiye amusaba imbabazi ariko Uregwa amukangisha ko ari bumwice. Nuko Muhimana amujya hejuru, amusambanya ku gahato. Ubwo yamusambanyaga ku gahato, yahondaga umutwe we hasi anamusezeranya ko ari "bumuvane aho hantu abahohotewe bari. Yanavugaga ko abatutsi bashyizwe mu maboko yabo kandi ko bagomba kwicwa."²⁵⁷ Umutangabuhamyia yavuze ko yari yizeye ibyo Uregwa yari yamusezeranyije kubera ko yari umutegetsi bityo akaba yarashoboraga kumukiza. Muhimana ntiyigeze atabara umutangabuhamyia nk'uko yari yabimusezeranije; ahubwo yamusambanyije ku gahato kabiri. Umutangabuhamyia yavuze ko izo nshuro ebyiri Uregwa yamusambanyije ku gahato zamaze amasaha. Amaze kumusambanya ku gahato, Uregwa yamusize muri icyo cyumba.

²⁵⁵ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, imp. 4, 7, 22-23.

²⁵⁶ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, imp. 6, 23.

²⁵⁷ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, imp. 4-6, 31-32.

Umutangabuhamy yihishe mu mirambo kugeza ubwo yatorokaga mu ma saa munani z'ijoro, akagenda yerekeza ku kiyaga cya Kivu.²⁵⁸

298. Mu gihe yasambanywaga ku gahato, umutangabuhamy wiswe AU yabonye Interahamwe zisambanya ku gahato abakobwa bato benshi n'abagore mu kirongozi, zirangije zirabica. Ezekiyasi Ntakirutimana ni imwe muri izo nterahamwe umutangabuhamy yashoboye kumenya. Umutangabuhamy yavuze ko ibi byose byakorewe mu maso y'Uregwa. Umutangabuhamy ushinje wiswe AU kandi yavuze ko bamwe muri abo bakobwa bato bahawe "bombo"²⁵⁹, kandi Interahamwe zikabasezeranya ko ziri bubavane aho ngaho. N'ubwo umutangabuhamy atarazi amazina y'abagore n'abakobwa bato bose Interahamwe zakoreye urugomo rushingiye ku gitsina, umutangabuhamy yashoboye kumenyamo abagore batatu bari bakiri bato: Imakulata Mukabarore, Yozefina Mukangwiro na Berinadeta, wari uturanye n'umutangabuhamy.²⁶⁰

Ibimenyetso bishinjura

299. Abatangabuhamy biswe AH7 na TQ28 bombi bavuze ko batashoboraga kwemeza ko hari abasambanyijwe ku gahato mu bitaro byo ku Mugonero muri Mata 1994. Umutangabuhamy wiswe AH7 yavuze ko nta gusambanya ku gahato yigeze yumva kwabereye mu karere k'iwabo haba mbere cyangwa nyuma yi 1994.²⁶¹ Umutangabuhamy wiswe TQ28 na we yavuze ko atigeze abona cyangwa yumva umuntu waba yarasambanyije ku gahato mu bitaro byo ku Mugonero.²⁶²

Imyanzuro y'Urugereko

Imyanzuro yerekeranye n'icyaha cyo gusambanya ku gahato

²⁵⁸ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, imp. 6-8, 10-11, 21, 24, 33-38.

²⁵⁹ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, urup. 23.

²⁶⁰ Inyandiko y'iburanisha ryo ku wa 7 Mata 2004, imp. 5, 9, 32-33, 36.

²⁶¹ Inyandikomvugo y'iburanisha, 6 Nzeri 2004, urup. 46; Inyandikomvugo y'iburanisha, 24 Kanama 2004, urup. 22, 51.

²⁶² Inyandikomvugo y'iburanisha, 24 Kanama 2004, urup. 22, 51.

300. Porokireri ashingira ku buhamya bw'umugabo wiswe AU mu kwemeza ikirego gikubiye mu gika cya 6 (c) (iv) cyo mu Nyandiko y'ibirego kivuga ko Uregwa hamwe n'Interahamwe basambanyirije hamwe ku gahato abagore b'abatutsikazi biswe AU, Imakulata Mukabarore na Yozefina Mukankwaro. Ku buryo bwihariye, Porokireri buvuga ko Uregwa yasambanyije ku gahato umutangabuhamya wiswe AU.
301. Ubwunganizi buvuga ko umutangabuhamya wiswe AU atakwemerwa kubera ko ubuhamya bwe ku mwirondoro w'abandi basambanyijwe ku gahato buhuzagurika, akaba kandi atarashoboye kwibuka amazina yabo yose.
302. Rushingiye ku buhamya bw'umugabo wiswe AU, Urugereko rusanga bwakwemerwa, Urugereko rusanze Uregwa yarasambanyije ku gahato umutangabuhamya wiswe AU inshuro ebyiri ku itariki ya 16 Mata 1994, mu nzu yo hasi y'ibitaro byo ku Mugonero.
303. Porokireri anashinja Uregwa kuba yarafatanyije n'abandi, bagasambanya ku gahato Imakulata Mukabarore na Yozefina Mukankwaro. Kubera aho yari ari, kandi kubera ko icyo gihe yasambanywaga ku gahato bunyamaswa, Urugereko rusanze yarashoboraga kutabona ibyakorerwaga abandi bakobwa mu kirongozi.
304. Bityo, Urugereko rusanze nta gushidikanya na gato ko Uregwa ubwe yasambanyije ku gahato umutangabuhamya wiswe AU mu nzu yo hasi y'ibitaro byo ku Mugonero ku itariki ya 16 Mata 1994 nk'uko bivugwa mu gika cya 6 (c) (iv) cy'Inyandiko y'ibirego. Ariko, Urugereko rusanze Porokireri atarashoboye kugaragaza ko *Interahamwe* zasambanyije ku gahato Imakulata Mukabarore na Yozefina Mukankwaro, mu maso y'Uregwa.

Imyanzuro ku cyaha cy'ubuhotozi

305. Porokireri ashingira ku buhamya bw'umugabo wiswe AU mu gushyigikira ikirego gikubiye mu gika cya 7 (c) (i) cyo mu Nyandiko y'ibirego kivuga ko Uregwa yafatanyije n'Interahamwe bakica Imakulata Mukabarore, Berenadeta Mukangorero na Yozefina Mukankwaro, bamaze gusambanywa ku gahato.
306. Kubera impamvu zavuzwe hejuru ku birebana n'isambanywa ku gahato ry'abandi bagore, Porokireri ntiyashoboye kugaragaza icyo cyaha. Bityo Urugereko rukaba rusanze ikirego gikubiye mu gika cya 7 (c) (i) cy'Inyandiko y'ibirego nta shingiro gifite.

N. Gusambanya ku gahato umutangabuhamya wiswe BG ku itariki ya 22 Mata 1994

Ibivugwa na Porokireri

307. Porokireri avuga ko:

Ku itariki ya 22 Mata 1994 cyangwa hafi yayo, Mika Muhimana yemereye umusivili wari witwaje intwaro witwa Mugonero gufungira iwe umututsikazi wiswe BG-K. Mugonero yamumaranye ibyumweru byinshi, amusambanya ku gahato inshuro nyinshi.²⁶³

Ibimenyetso

Ibimenyetso bishinja

308. Umutangabuhamya wiswe BG yavuze ko, mu ijoro ryo ku wa 16 Mata 1994, yazamutse imisozi agana i Gitwa, kandi ko bukeye yakomeje kugenda yerekeza mu Bisesero. Nk'uko abandi benshi babyibwiraga, yahungiyeye mu Bisesero kubera ko yatekerezaga ko imiterere y'ako karere k'imisozi miremire n'amashyamba, yajyaga guca intege abagabaga ibitero. Ariko Uregwa hamwe n'abandi bari mu bitero bakurikiranye impunzi z'abatutsi mu Bisesero. Umutangabuhamya yavuze

²⁶³ Inyandiko y'ibirego, Igika cya 6 (d).

ko igitero cyahitanye abo cyashoboye kwica bose mbere yo kuhaya^{17/ter}
Umutangabuhamya wiswe BG yavuze ko yabonye Uregwa mu Bisesero inshuro
nyinshi kandi amwumva ashishikariza abo bari kumwe mu gitero guhiga *abatutsi*
bari bahungiye muri ako karere.²⁶⁴

309. Umutangabuhamya wiswe BG yavuze ko ku itariki ya 22 Mata 1994, nka saa cyenda n'igice zo ku manywa, Uregwa hamwe n'Interahamwe, zirimo uwitwa Mugonero, bamusanze aho yari yihishe ku musozi wo mu Bisesero. Yari kumwe n'abandi *batutsi* barindwi. Abari bagize icyo gitero bajyanye izo mpunzi z'*abatutsi* hafi y'umuhanda, bazitegeka kwicara zirambije. *Interahamwe* zahereye zica izindi mpunzi. Umutangabuhamya yavuze ko amategeko yo kwica agomba kuba yari yaratanzwe mbere, ariko ko Uregwa, wari umuntu ukomeye, nta cyo yakoze ngo ahagarike ubwicanyi bwakorwaga areba. Umutangabuhamya ntiyabonye uko buri mpunzi yishwe, ariko yumvaga bataka mbere yo gupfa.²⁶⁵
310. Umutangabuhamya wiswe BG yavuze ko *Interahamwe* yitwaga Mugonero yasabye Uregwa uruhusa rwo kumutwara kugira ngo “yumve impumuro y'*umututsikazi*”. Umutangabuhamya yavuze ko ibi byavugaga ko yashakaga kumusambanya ku gahato. Uregwa yahaye Mugonero uruhusa rwo gutwara uwo mutangabuhamya, maze Mugonero amujyana mu nzu ye, i Muramba muri *Segiteri* ya Gishyita, *Komini* ya Gishyita. Mu minsi ibiri yakurikiyeho, Mugonero yamugumanye mu nzu ye, arinzwe n'*Interahamwe*, amusambanya ku gahato “inshuro eshatu”, mbere y'uko amutoroka ku itariki ya 24 Mata 1994.²⁶⁶

Ibimenyetso bishinjura

311. Umutangabuhamya ushinjura wiswe DAB yavuze ko Mugonero, wari umuhinzi, yasabye umutangabuhamya wiswe BG ko amurongora, nuko

²⁶⁴ Inyandikomvugo y'iburanisha, 5 Mata 2004, urup. 4, 36-37.

²⁶⁵ Inyandikomvugo y'iburanisha, 5 Mata 2004, pp. 38, 40; Inyandikomvugo y'iburanisha, 6 Mata 2004, urup. 14.

²⁶⁶ Inyandikomvugo y'iburanisha, 5 Mata 2004, pp. 41-42; Inyandikomvugo y'iburanisha, 6 Mata 2004, urup. 24-27, 29.

umutangabuhamya BG yemera “kujya kubana na we nk’umugore we”²⁶⁷ 116/ter Umutangabuhamya wiswe DAB yavuze ko yagiye kwa Mugonero hashize umunsi umwe umutangabuhamya wiswe BG ahageze, akaba yaramusuraga buri munsi igihe yari ari mu nzu, kandi ko Mugonero atigeze asambanya umutangabuhamya BG ku gahato.²⁶⁸

312. Umutangabuhamya wiswe DAB yavuze ko Umutangabuhamya BG yavuye kwa Mugonero mu mpera z’ukwezi kwa Mata cyangwa mu ntangiriro y’ukwezi kwa Gicurasi. Umutangabuhamya DAB yavuze ko Umutangabuhamya BG atashakaga kuva mu nzu ya Mugonero. Ariko *Interahamwe* zigabye igitero i Gisovu mu karere ka Gisagara, Mugonero utarashakaga ko “umugore” we yicwa, yaramuherekeje amujyana iwabo, ahitwa Ambara, ari mu nzira ajya muri Kongo. Umutangabuhamya wiswe DAB yarabaherekeje. Umutangabuhamya yavuze ko Mugonero yahaye Umutangabuhamya wiswe BG udufaranga two kwirwanaho. Yanabwiye umutangabuhamya ati: “Nzaza kumutwara nyuma y’intambara”.²⁶⁹

313. Umutangabuhamya ushinjura wiswe DAC yavuze ko ku itariki ya 16 Mata 1994, ari iwe n’umugore we, bumvise ibintu biturikira mu gitero cyari cyagabwe ku bitaro byo ku Mugonero. Umutangabuhamya wiswe BG wakoraga mu nzu y’ababyeyi y’ibitaro, yageze iwabo w’umutangabuhamya wiswe DAB nka saa cyenda z’amanywa. Umutangabuhamya DAC yavuze ko umutangabuhamya BG yamaranye ibyumweru bibiri n’umutangabuhamya wiswe DAC n’umugore we, bagerageza kumuhoza kubera ko yari ahangayikishijwe n’ababyeyi be n’uwari waramusabye Samweli Cyibitoki, yibwiraga ko yapfuye.²⁷⁰

314. Umutangabuhamya DAC yavuze ko Mugonero yavuganye n’umutangabuhamya BG inshuro nyinshi igihe yabaga iwabo w’umutangabuhamya DAC. Yavuze ko Mugonero yibukije umutangabuhamya wiswe BG ko yari amuzi ku Kibuye, ko

²⁶⁷ Inyandikomvugo y’iburanisha, 25 Kanama 2004, urup. 59-60.

²⁶⁸ Inyandikomvugo y’iburanisha, 25 Kanama 2004, urup. 5, 60, 63.

²⁶⁹ Inyandikomvugo y’iburanisha, 25 Kanama 2004, urup. 60-62.

²⁷⁰ Inyandikomvugo y’iburanisha, 25 Kanama 2004, urup. 45-46, 49-51.

yari inshuti ya se kandi ko yari umunyabintu mu rugo rwa ~~19~~5/ter umutangabuhamya yavuze ko, hari ubundi umutangabuhamya wiswe BG yaganiriye na Mugonero ku muhanda bamara igihe kigera ku isaha. Nyuma y'icyo kiganiro, umutangabuhamya wiswe BG yabwiye umutangabuhamya DAC ko yemeye kuba “umugore” wa Mugonero, kubera ko umugabo we bamwishe.²⁷¹

315. Umutangabuhamya DAC yavuze ko umutangabuhamya BG yifuzaga kurongorwa na Mugonero. Umutangabuhamya DAC yavuze ko Mugonero atashoboraga guhatira umutangabuhamya BG kuba umugore we. Umutangabuhamya yavuze ko Mugonero yazaniye imyenda umutangabuhamya BG, anamwemerera kujya mu kiliziya gusenga. Umutangabuhamya wiswe DAC yavuze ko yibwira ko Mugonero atashoboraga kuba yarasambanyije umutangabuhamya wiswe BG ku gahato.²⁷²

316. Umutangabuhamya DAC yavuze ko yasuye ababyeyi b'umutangabuhamya BG, abimusabye. Icyo gihe, umutangabuhamya yasanze nyina w'umutangabuhamya BG mu rugo, yarakubiswe cyane, anamenya ko se w'umutangabuhamya BG na *fiyanse* we, Samweli bahungiyeye i Kongo. Umutangabuhamya wiswe BG amaze kumva iyo nkuru, yiteguye gutana na Mugonero. Umutangabuhamya yavuze ko Mugonero yemeye ko agenda, kubera ko babyara be bamuneguraga ko agiye kurongora *umututsikazi*. Umutangabuhamya yavuze kandi ko Mugonero yari afite gahunda yo kujya kuzana umutangabuhamya BG nyuma y'intambara.²⁷³

317. Umutangabuhamya DAC yafashije umutangabuhamya BG guhungira muri Kongo. Yahinduye indangamuntu ye, anamuherekeza ku Kibuye mu bwato.²⁷⁴

Imyanzuro y'urugereko

²⁷¹ Inyandikomvugo y'iburanisha, 25 Kanama 2004, urup. 45, 51.

²⁷² Inyandikomvugo y'iburanisha, 25 Kanama 2004, urup. 55-57.

²⁷³ Inyandikomvugo y'iburanisha, 25 Kanama 2004, urup. 45-46.

²⁷⁴ Inyandikomvugo y'iburanisha, 25 Kanama 2004, urup. 46.

318. Hakurikijwe ibimenyetso n'ingingo by'ababuranyi, Urugereko rusanze ubuhamya bw'uwiswe BG buvuga ko Uregwa yahaye *Interahamwe* yitwa Mugonero uruhushya rwo kumutwara ku gahato no kumusambanya ku gahato, bwakwemerwa.
319. Urugereko rwemeye ubuhamya bw'Umutangabuhamya BG buvuga ko ku itariki 22 Mata 1994, ku musozi wa Bisesero, Uregwa, Mugonero n'agatsiko k'*Interahamwe* bamusanze, we n'izindi mpunzi, aho bari bihishe. Mugonero yasabye Uregwa gutwara umutangabuhamya kugira ngo ashobore "kwumva impumuro y'*umututsikazi*". Biragaragara ku Rugereko ko, rushingiye ku buhamya bw'umutangabuhamya, ayo magambo ya Mugonero yavugaga ko yashakaga kumusambanya ku gahato. Urugereko rusanze Uregwa yaramuhaye uruhushya, hanyuma Mugonero akajyana umutangabuhamya mu nzu ye i Muramba. I Muramba, umutangabuhamya yafungiranywe mu cyumba kirinzwe n'*Interahamwe*; ni ho yasambanyirijwe ku gahato inshuro nyinshi kugeza igihe atorokeye ku itariki ya 24 Mata 1994.
320. Urugereko rwumvise imvugo y'Ubwunganizi ivuga ko umutangabuhamya yemeye ku bwende bwe "kurongorwa" na Mugonero, wamurindiye umutekano. Ubwunganizi bwashyigikiye iyo mvugo bushingiye ku buhamya bwatanzwe n'umugabo wiswe DAC, ariko Urugereko rusanga uyu mutangabuhamya adakwiye kwemerwa.
321. Ubwunganizi kandi ntibwemera ubuhamya bw'uwiswe BG kubera ko atashoboye kuvuga uko imodoka yatwawemo ajalanwa mu nzu ya Mugonero yasaga, uko idirishya ry'icyumba yari afungiyemo ryanganaga, n'ukuntu yashoboye gutoroka anyuze mu idirishya ry'inzu yari igoswe n'*Interahamwe*.
322. Rumaze gusuzuma ibimenyetso n'ingingo by'ababuranyi, Urugereko rusanze ibyo Umutangabuhamya wiswe BG avuga ku itwarwa rye n'isambanywa rye ku gahato bikwiye kwemerwa no kwizerwa. Kubera ko abantu batishyiraga ngo bizane mu Bisesero muri icyo gihe, Urugereko ntirwemera ubuhamya

bw'abagabo bashinjura biswe DAB na DAC buvuga ko umutangabuhamya ^{BG}_{13/ter} yemeye “kurongorwa” cyangwa kubana na Mugonero, Interahamwe yari yarafashije abandi kwica izindi mpunzi zari zihishe hamwe n'umutangabuhamya. Urugereko rusanze ubuhamya bw'abagabo DAB na DAC bukemangwa. Urugereko rurasanga inyuranya riboneka mu buhamya bw'uwiswe BG aho avuga uko yatwawe n'uko yasambanyijwe ku gahato, nk'uburyo yafunzwemo kugeza igihe atoroka, ridafite ireme, bityo rikaba ritagabanya ukwemerwa n'ukwizerwa kw'ubwo buhamya.

323. Bityo, Urugereko rusanze Uregwa yaremereye Mugonero gutwara umutangabuhamya wiswe BG, azi neza ko yashakaga kumusambanya ku gahato. Urugereko rusanze Mugonero yarasambanyije ku gahato umutangabuhamya wiswe BG inshuro nyinshi mu nzu ye, nk'uko bivugwa mu gika cya 6 (d) cyo mu Nyandiko y'ibirego.

O. Igitero cyagabwe ku musozi wa Kanyinya, muri Gicurasi 1994.

Ibivugwa na Porokireri

324. Porokireri avuga ko:

Akarere ka Bisesero gafata kuri Komini ya Gishyita n'iya Gisovu muri Perefegitura ya Kibuye. Nyuma y'ibitero byagabwe ku basivili b'abatutsi bari bateraniye ahantu hari ibigo muri Perefegitura yose ya Kibuye hagati y'ukwezi kwa Mata n'ukwa Kamena 1994, ibihumbi by'abatutsi barokotse ubwicanyi bahungiyeye hanze ku misozi ihanamye kandi irimo utununga yo mu Bisesero kuko ariho honyine hari hasigaye bashoboraga guhungira.²⁷⁵

²⁷⁵ Inyandiko y'ibirego, igika cya 6 (d).

Muri Gicurasi 1994, Mikaeli Muhimana, Kilimenti Kayishema, Obedi Ruzindana, Interahamwe n'abajandarume, bahize kandi batera abasivili b'abatutsi bari bahungiyeye ku misozi ya Kabakobwa, Gitwa, Kanyinya na Ngendombi, mu karere ka Bisesero.²⁷⁶

112/ter

Ibimenyetso

Ibimenyetso bishinje

325. **Umutangabuhamya ushinja wiswe BI** yavuze ko, hagati muri Gicurasi 1994, ari kumwe n'izindi mpunzi zari ku musozi wa Kanyinya, yabonye imodoka itwaye abasirikare izamuka igana aho bari bari. Uregwa hamwe n'abandi bavuye mu modoka yahagaze mu ntera ya metero ziri hagati ya 30 na 40 uvuye aho umutangabuhamya yari ari. Uregwa yabwiye impunzi ngo zigire hafi ye, ariko impunzi ziranga. Uregwa yagize ati: "Mureke mbabwire, twaje kubahumuriza, kubabwira ko nta ngorane zizongera kubaho. Mugende muzane abarwayi bose n'impunzi, duhurire ku ishuri ryo ku Mubuga, maze tubahe ibyo kurya n'imiti."²⁷⁷ Amaze kubwira impunzi ngo bazahurire ku mashuri abanza yo ku Mubuga bukeye bw'aho mu gitondo cya kare, Uregwa n'igitero bari kumwe bafashe imodoka baragenda. Umutangabuhamya wiswe BI yavuze ko impunzi zitagiye ku mashuri yo ku Mubuga bukeye bwaho kubera ko batekerezaga ko ari umutego babateze.²⁷⁸
326. **Umutangabuhamya ushinja wiswe AP** yabwiye Urugereko ko adashobora kwibuka amatariki ibintu byabereyeho igihe yari mu misozi yo mu Bisesero. Ariko, yavuze ko yibuka ko yabonye Uregwa muri Gicurasi 1994, amaze nk'ukwezi mu Bisesero. Umunsi umwe, Uregwa, aherekejwe n'umupolisi wa Komini, baje mu modoka ya Toyota itukura ya Komini ; bageze ku musozi wa Kanyinya nka saa munani z'amanya. Yavugije ingoma, ahamagara impunzi ngo zitabe inama, ariko zanga kuza, uretse umuntu umwe witwa Ruzindana

²⁷⁶ Inyandiko y'Ibirego, igika cya 5 (d) (v).

²⁷⁷ Inyandikomvugo y'iburanisha, 30 Mata 2004, urup. 16.

²⁷⁸ Inyandikomvugo y'iburanisha, 30 Mata 2004, urup. 17-18.

wavuganye n'Uregwa. Uregwa yabwiye Ruzindana ko bukeye bwaho nka saa 1/ter tatu za mu gitondo, azagaruka I Kanyinya azanye n'abazungu, kandi ko bazaba bazanye ibiribwa n'imiti, byo guha abashonje n'abarwayi.²⁷⁹

327. Umutangabuhamya AP yavuze ko Uregwa koko yagarutse bukeye mu gitondo. Ariko nta biribwa cyangwa imiti yazanye nk'uko yari yabibasezeranije. Ahubwo yaje n'amabisi yuzuye abantu bateye. Bari benshi ku buryo bari bakwiriye ku gasozi kose. Ibindi bitero by'abantu bitwaje impiri n'imbunda na byo byaje mu makamyoneti. Uregwa yari yambaye imyenda itukura n'amashara. Bamwe bari bambaye imipira y'amaboko magufi yera n'amakabutura. Abandi bari bazingiye ibibabi by'ikawa ku mutwe. Igitero cya Kanyinya cyatangiyeye nka saa tanu za mugitondo.²⁸⁰

328. Umutangabuhamya ushinja wiswe AP yavuze ko Nyagahigi yiciwe ku musozi wa Kanyinya. Yavuze ko yumvise Nyagahigi abwira Uregwa ati: "Ubwo ari wowe undashe, ngwino unogonore."²⁸¹

329. **Umutangabuhamya ushinja wiswe AW** yavuze ko, ku wa gatandatu, hashize iminsi ibiri cyangwa itatu umusozi wa Rugona utewe, yongeye kubona Uregwa ku musozi wa Kanyinya, uri mu rugendo rw'amaguru rw'iminota 20 kuva ku musozi wa Rugona. Umutangabuhamya yavuze ko Uregwa n'abasirikare babiri baje mu modoka itukura itwawe na Obedi Ruzindana. Bamaze kugera aho, Uregwa yabajije impunzi niba zizi abagumye kuzitera. Umutangabuhamya yashubije ko ari Uregwa na Obedi Ruzindana bazanaga ibitero. Uregwa yabajije umutangabuhamya umubare w'*abatutsi* basigaye mu itsinda ryabo. Umutangabuhamya yamushubije ko *abatutsi* bose bishwe. Uregwa yabwiye impunzi zari ku musozi wa Kanyinya, kuzahateranira ku wa mbere, bagahabwa imfashanyo z'umuryango utabara imbabare (*Croix Rouge*). Impunzi ntabwo zumviye Uregwa kuko zakekaga ko aho kubateranyiriza aho ngo bahabwe

²⁷⁹ Inyandikomvugo y'iburanisha, 30 Werurwe 2004, urup. 33.

²⁸⁰ Inyandikomvugo y'iburanisha, 30 Werurwe 2004, urup. 34; Inyandikomvugo y'iburanisha, 31 Werurwe 2004, urup. 20

²⁸¹ Inyandikomvugo y'iburanisha, 31 Werurwe 2004, urup. 19.

imfashanyo, yari yaje kuneka umubare w'abatutsi basigaye kugira ngo azabatsembatsembe.”²⁸²

Ibimenyetso bishinjura

330. **Umutangabuhamya wiswe NM6** watanzwe n'Ubwunganizi nk'umutangabuhamya wemeza ko Uregwa yari ahandi hatari aho icyaha cyakorewe ubwo cyakorwaga, yavuze ko yabonye Uregwa inshuro 15 ku maduka y'i Gishyita hagati y'itariki ya 9 n'ya 27 Gicurasi 1994. Ariko mu rukiko umutangabuhamya yashoboye kuvuga amatariki ane gusa avuga ko yabonyeho Uregwa, itariki ya 9, iya 13, iya 25 n'ya 27 Gicurasi 1994. Umutangabuhamya yavuze ko kuri ayo matariki yashoboye kubona Uregwa akanya gato gusa.²⁸³
331. **Umutangabuhamya wiswe AH8** watanzwe n'Ubwunganizi nk'umutangabuhamya wemeza ko Uregwa yari ahandi hatari aho icyaha cyakorewe ubwo cyakorwaga, yari umucuruzi hagati ya Mata na Kamena 1994. Yari azi neza Uregwa kubera ko umuvandimwe we yari inshuti y'Uregwa. Mu gihe kivugwa, yabonye Uregwa inshuro esheshatu mu cyumweru ahantu hanyuranye muri Gishyita.²⁸⁴
332. **Umutangabuhamya ushinjura wiswe DY** yavuze ko yitabiriye ibitero byibasiye *Selire* ya Karora, muri *Segiteri* za Mara na Murangara muri *Komini* ya Gishyita. Yanavuze ko yari mu bitero byagabwe mu karere ka Bisesero. Umutangabuhamya yavuze ko igitero kinini cya gatatu cyagabwe ku musozi wa Muyira ku itariki ya 13 Gicurasi 1994. Ntiyashoboye kwibuka itariki ibindi bitero byagabweho. Umutangabuhamya yavuze amazina y'abayoboye ibitero mu Bisesero, ariko ntiyavuzemo izina ry'Uregwa. Byongeye kandi,

²⁸² Inyandikomvugo y'iburanisha, 14 Mata 2004, urup. 14-15.

²⁸³ Inyandikomvugo y'iburanisha, 2 Nzeri 2004, urup. 78-82; Inyandikomvugo y'iburanisha, 6 Nzeri 2004, urup. 2-6, 9-10, 15.

²⁸⁴ Inyandikomvugo y'iburanisha, 6 Nzeri 2004, urup. 60, 62.

umutangabuhamya yavuze ko nta gusambanya ku gahato byigeze biba mu bitero byo mu Bisesero yitabiriye.²⁸⁵

333. **Umutangabuhamya ushinjura wiswe DK** yavuze ko yitabiriye ibitero binyuranye byagabwe mu Bisesero, muri za *Segiteri* za Bisesero, Mara na Murangara, n'ibindi bitero bitatu byagabwe mu Bisesero. Umutangabuhamya yemeye ko yagize uruhare muri ibyo bitero imbere y'inzego z'ubutabera mu Rwanda. Yavuze ko, muri za *gacaca* zabereye muri gereza, izina ry'Uregwa ritigeze rivugwa, kandi ko ngo nta n'ubwo isambanya ku gahato ryavuzwe. Ariko, Porokireri yatanze ikimenyetso cyerekana ko uyu mutangabuhamya mbere yari yemeye ko yabonye umuntu asambanywa ku gahato.²⁸⁶
334. **Umutangabuhamya ushinjura wiswe DL** yavuze ko yemeye ko yagize uruhare mu bikorwa by'ubugome yitabira igitero cyagabwe mu karere ka Bisesero mbere y'itariki 9 Gicurasi 1994. Yavuze ko yahatiwe kujya muri icyo gitero. Mbere yo gutera, *Burugumesitiri* Sikubwabo, abifashijwemo n'abapolisi n'abandi bantu, yaje mu muji, ahatira abantu kujya mu igitero. Abanze barakubiswe. Umutangabuhamya yahakanye ko Uregwa yayoboye kandi ko yagize uruhare mu bitero byo mu Bisesero. Yavuze ko iyo Uregwa abikora, aba yarabimenye. Yavuze ko muri za *gacaca* havuzwe ko Visenti Rutaganira yahamagariye abantu kwitabira ubwicanyi bwabereye ku kiliziya, kandi ko izina rya Muhimana ritigeze rivugwa.²⁸⁷
335. **Umutangabuhamya ushinjura wiswe DF** yavuze ko, mu mpera za Mata 1994, Burugumesitiri Sikubwabo yaje kuri santere ya Mubuga aho umutangabuhamya yari atuye, ashishikariza abaturage kwitabira ibitero byo mu Bisesero. Umutangabuhamya yitabiriye ibitero birenze icumi mu karere ka Bisesero, ariko ntiyibuka neza amazina y'imisozi ibyo bitero byagabweho. Yavuze ko atigeze abona Muhimana hagati ya Mata na Kamena 1994. Byongeye kandi, avuga ko

²⁸⁵ Inyandikomvugo y'iburanisha, 6 Nzeri 2004, urup. 26-31.

²⁸⁶ Ikimenyetso gihamya P-90 (E); Ikimenyetso gihamya P-91 (E); Inyandikomvugo y'iburanisha, 8 Kanama 2004, urup. 42; Inyandikomvugo y'iburanisha, 8 Nzeri 2004, urup. 34-36, 40.

²⁸⁷ Inyandikomvugo y'iburanisha, 31 Kanama 2004, urup. 67, 70, 72, 76.

atigeze yumva bavuga ko mu karere ka Bisesero habaye isambanywa ku gahato.²⁸⁸ 108/ter

336. **Umutangabuhamya ushinjura wiswe DD** yavuze ko avuye kuri kiliziya yo ku Mubuga, yahungiyeye mu misozi ya Bisesero. Umutangabuhamya hamwe n'izindi mpunzi ntibahungiyeye ku musozi umwe gusa mu Bisesero, ahubwo bahungiyeye ku misozi myinshi nka Mubuga, Muyira, Mutiti na Kanyinya. Umutangabuhamya yavuze ko atabonye Uregwa mu giteri cyagabwe i Kanyinya.²⁸⁹

Imyanzuro y'urugereko

Igitero cyo ku musozi wa Kanyinya

337. Urugereko rusanze Porokireri yatanze ikimenyetso cyerekeranye gusa n'uko Uregwa yitabiriye igitero cyagabwe ku musozi wa Kanyinya muri Gicurasi 1994. Porokireri ashingira ku buhamya bw'abagabo biswe AP, AW, na BI mu kugaragaza ko Uregwa yitabiriye iki gitero.
338. Urugereko ruributsa imyanzuro rwafashe mbere ivuga ko abatangabuhamya biswe AP, AW na BI bakwiye kwemerwa.²⁹⁰ Ikindi kandi, ku byerekeye ibyabereye ku musozi wa Kanyinya, Urugereko rusanze ubuhamya bwatanzwe n'abiswe AP na AW bushyigikirana. Abatangabuhamya bombi babonye Uregwa ku musozi wa Kanyinya hagati mu kwezi kwa Gicurasi 1994. Bombi bibutse ko Uregwa yaje mu modoka itukura ari kumwe n'abandi bantu, kandi ko yasezeranyije impunzi ko azagaruka azizaniye imfashanyo. Urugereko rukaba rushingira ku buhamya bwabo kuri iyi ngingo. Ariko, Urugereko rusanga ibyo umutangabuhamya wiswe BI avuga bifite aho bitandukaniye n'ibyo abatangabuhamya biswe AP na AW bavuga, Urugereko rukaba rushidikanya niba yaravugaga ku gitero kimwe n'icy'abandi bavuzeho. Ku buryo bwihariye, Umutangabuhamya wiswe BI avuga ko Uregwa yabwiye impunzi ngo ze kuguma ku musozi, ahubwo zijye ku mashuri

²⁸⁸ Inyandikomvugo y'iburanisha, 31 Kanama 2004, urup. 4-5, 11-14.

²⁸⁹ Inyandikomvugo y'iburanisha, 17 Kanama 2004, urup. 15; Mu nyandiko yo mu gifaransa aha hantu bahise Muhira. Reba igifaransa Inyandikomvugo y'iburanisha, 17 Kanama 2004, urup. 18.

²⁹⁰ Reba Ibyiciro D, E, na L, uko bikurikirana.

abanza yo ku Mbuga guhabwa ibiribwa n’imiti. Bityo, Urugereko ntirushingira
107/ter
ku buhamya bw’umugabo wiswe BI kuri iyi ngingo.

339. Rushingiye ku buhamya bw’Umutangabuhamya wiswe AP, Urugereko rusanze Uregwa yarageze ku musozi wa Kanyinya nka saa tanu za mu gitondo muri Gicurasi 1994, aherekewe n’abandi, avuza ingoma ahamagara impunzi ngo zize mu nama. Umwe gusa mu mpunzi akaba ari we wagiye akavugana n’Uregwa. Uregwa yabwiye uwo mugabo ko azagaruka bukeye bwaho, azanye n’abazungu, bazanye iibiribwa n’imiti.
340. Nyuma y’uko Uregwa aza ku musozi wa Kanyinya bwa mbere, impunzi nyinshi z’abatutsi zarahagumye. Bukeye mu gitondo, Uregwa yaragarutse, ariko atari kumwe n’abatanga imfashanyo, nta n’ibiribwa cyangwa imiti azanye. Ahubwo yazanye na za bisi zuzuye abantu baje kugaba igitero, n’amakamyoneti apakiye impiri n’imbuda. Benshi mu bagabye igitero bari bambaye imyenda yera, ariko Uregwa yari yambaye imyenda itukura, bituma Umutangabuhamya wiswe AP abona ko ari we wari uyoboye igitero. Abagabye igitero “bafashe umusozi wose”, impunzi zisanga uburyo zari zisigaranye bwari ubwo kugerageza kujijisha igitero bivanga n’abakirimo.²⁹¹ Ariko nta cyo byatanze kuko igitero cya kirimbuze cyahise kigabwa ku mpunzi z’abatutsi, benshi muri bo bakicwa cyangwa bagakomerera. Urugereko rusanze Uregwa yaritabiriye ubu bwicanyi bwakorewe impunzi z’abatutsi, akarasa umugabo witwa Nyagihigi, akamukomeretsa.
341. Ubwunganizi buvuga ko ibimenyetso bya Porokireri bidakwiye kwizerwa. Ku buryo bwihariye, buvuga ko ubuhamya bw’umugabo wiswe AW buhuzagarika aho avuga uko imodoka Uregwa yagendagamo igihe yajyaga mu bice binyuranye by’akarere ka Bisesero yasaga. Ubwunganizi bukavuga ko Umutangabuhamya wiswe AW yivuguruzaga ku ibara ry’imodoka Uregwa yajemo. Urugereko rusanze, aho umutangabuhamya avugaga imodoka itukura n’iyera mu buhamya bwe, aba avugaga ibyabaye ahantu hatandukanye. Bityo Urugereko rukaba rusanga ibyo Ubwunganizi buvuga nta shingiro bifite.

²⁹¹ Inyandikomvugo y’iburanisha, 30 Werurwe 2004, urup. 34.

342. Urugereko rusanze ubuhamya bushinjura bw'abagabo biswe DY, DK, DL, na DF, aho bavuze ko bagiye mu bitero bitandukanye byagabwe mu karere ka Biseseo, budatuma ubuhamya bushinja bukemangwa. Abatangabuhamya ntibasobanuye neza igihe n'ahantu ibitero bagiyemo byabereye n'uruhare bagize mu bwicanyi. Icy'ingenzi Ubwunganizi bushaka kugaragaza ni uko aba batangabuhamya batigeze babona Uregwa mu bitero, cyangwa ngo babe barumvise mu manza za *gacaca* mu Rwanda ko Uregwa yaba yaritabiye ibitero. Urugereko ntirunyuzwe n'ubuhamya bushinjura. Urugereko rusanga ibi bitero byaragabwaga n'abantu benshi cyane bigakwirakwira ahantu hanini. Bityo, kuba aba batangabuhamya bashinjura batarabonye Uregwa mu bitero cyangwa ngo bumve ko yaba yarabyitabiriye ntibivuga ko atabizemo uruhare.
343. Byongeye kandi, Urugereko ntirunyuzwe n'ubuhamya bw'umugabo ushinjura wiswe DD uvuga ko igihe umusozi wa Kanyinya uterwa, yari yahahungiyeye, ariko ko atigeze abona Uregwa. Urugereko rusanga uwo musozi wari wuzuyeho abantu benshi: abagabye igitero n'impunzi. Uregwa n'umutangabuhamya DD rero bashobora kuba bari bahari, umwe ntabone undi.
344. Umutangabuhamya wiswe NM6, ufitanye isano n'umwe mu bapererezi b'Ubwunganizi, yavuze ko yabonye Uregwa ku matariki amwe n'amwe, harimo n'itariki ya 13 Gicurasi 1994, ubwo yabonye Uregwa mu iduka rye. Abacamanza bamubajije igituma yibuka ko yagiye ku iduka ry'Uregwa inshuro eshatu ku itariki 13 Gicurasi 1994, mu gitondo, nyuma ya saa sita na nimugoroba, umutangabuhamya ntiyashoboye gutanga impamvu yihariye yatumye akora izo ngendo zose. Urugereko rusanze ubuhamya bwe butakwemerwa. Umutangabuhamya AH8, nawe uzi neza umupererezi w'Ubwunganizi, yavuze ko yabonye Uregwa ari iwe inshuro nk'esheshatu mu cyumweru, kuva ku itariki 13 Mata 1994, ku masaha anyuranye, ariko muri izo nshuro akaba nta nimwe yibuka neza. Urugereko rukaba rusanga ubu buhamya budahwitse. N'iyi bwakwemerwa, ntabwo byavugaga ko Uregwa atarashoboraga kuba yari ku musozi wa Kanyinya no kuba yari umwe mu bagabye igitero.

345. Kubera iyo mpamvu , ku byerekeye ibirego bikubiye mu gika cya 5 (d) (v) cy’Inyandiko y’ibirego, Urugereko rusanze Porokireri yarerekanye ku buryo budashidikanywaho na gato ko muri Gicurasi 1994, Uregwa hamwe n’abandi bantu, bahize, bakanatera abasivili b’*abatutsi* bari bahungiyeye ku musozi wa Kanyinya mu karere ka Bisesero, ho mu Rwanda.

P. Ibitero byagabwe ku musozi wa Muyira muri Gicurasi 1994.

Ibivugwa na Porokireri

346. Porokireri avuga ko:

Akarere ka Bisesero gafata kuri Komini ya Gishyita n’iya Gisovu muri Perefegitura ya Kibuye. Nyuma y’uko hagabwa ibitero byibasiye abasivili b’*abatutsi* bari bahungiyeye mu bigo muri Perefegitura ya Kibuye hagati ya Mata na Kamena 1994, ibihumbi by’*abatutsi* barokotse bahungiyeye hanze ku musozi y’imanga kandi ifite utununga yo mu Bisesero, bahagira ubuhungiro bwabo bwa nyuma.²⁹²

Ku itariki ya 13 n’iya 14 Gicurasi 1994 cyangwa hafi y’ayo matariki, Mika Muhimana, Kilimenti Kayishema, Obedi Ruzindana, Karoli Sikubwabo, *Interahamwe*, abajandarume n’abandi basivili bagiye mu bitero byagabwe ku basivili b’*abatutsi* bari bahungiyeye ku musozi ya Gitwa/Muyira mu Bisesero, maze bica icyo gihe abasivili b’*abatutsi* barenga ibihumbi icumi.²⁹³

Ibimenyetso

Ibimenyetso bishinja

²⁹² Inyandiko y’ibirego, igika cya 5 (d).

²⁹³ Inyandiko y’ibirego, igika cya 5 (d) (vi).

347. **Umutangabuhamy** ushinja wiswe **AW** yavuze ko ku itariki ya 13 cyangwa 14/10/ter 14 Mata 1994 cyangwa hafi y'ayo matariki, Uregwa yayoboye igitero cy' abantu 3000 kirimo abasirikare n' *Interahamwe*, batera umusozi wa Muyira. Uregwa yaje akurikiwe n'amakamyoneti umunani n'amabisi umunani yuzuye *Interahamwe*. Abandi bagabye igitero baje ku maguru. Umutangabuhamy yabonye abagabye igitero bitwaje imbunda, amagerenade, imipanga, n'imigano isongoye, bazamuka umuhanda wa Gishyita bagana aho yari ari. Abagabye igitero, barimo Uregwa, bagose uwo umusozi. Uregwa yari yitwaje imbunda, yari asanzwe agendana. Mu bari bagize igitero hari: Visenti Rutaganira, *Konseye* wa Mubuga; Ndimbati, *Burugumesitiri* wa Gisovu; Musema, Diregiteri w'uruganda rw'icyayi rwa Gisovu; na Ruzindana, "wari wavuye i Muramba".²⁹⁴
348. Umutangabuhamy AW avuga ko igitero cyo ku musozi wa Muyira cyatangiye saa cumi n'ebiyiri za mugitondo kigakomeza kugeza saa kumi n'ebiyiri za nimugoroba. Ntiyashoboye kugenerereza umubare w'abantu bishwe, ariko yavuze ko yabonye imirambo myinshi. Umutangabuhamy yasubiye mu rugo gushaka ibyo kurya, ariko nyuma agaruka mu zindi mpunzi ku musozi wa Muyira, bahihisha iryo joro. Mu gitondo ku itariki ya 14 Gicurasi 1994, ikindi gitero cyagabwe ku musozi wa Muyira, kiyobowe n'Uregwa, Ndimbati, na *Musema*. Umutangabuhamy yavuze ko icyo gitero na cyo cyatangiye saa kumi n'ebiyiri mu gitondo, kikarangira saa kumi n'ebiyiri za nimugoroba.²⁹⁵
349. Umutangabuhamy ushinja wiswe W yavuze ko, ku itariki ya 13 Gicurasi 1994, hagabwe ibitero ku misozi myinshi irimo Muyira, Gitwa, Mataba, Gititi, Kigarama na Kazirandimwe. Yavuze ko igitero cyagabwe kuri Muyira cyatangiye hagati ya saa tatu na saa ine za mu gitondo, hamaze kugera amabisi munani arimo *Interahamwe* zatojwe, zifite imbunda n'intwara za gakondo. Umutangabuhamy yasobanuye ko izo bisi zari iz'ikigo cya Leta cyitwa ONATRACOM. Yavuze ko ibitero byagabwaga biturutse mu Rubazo naho ababigabaga, babaga bavuye mu Rutsiro no ku Kibuye. Amabisi yazanye *Interahamwe* yahagaze ahantu hitwa

²⁹⁴ Inyandikomvugo y'iburanisha, 14 Mata 2004, imp. 15-17, 56; Reba inyandiko-mvugo y'urubanza mu Gifaransa: Inyandikomvugo y'iburanisha, 14 Mata 2004, urup. 17.

²⁹⁵ Inyandikomvugo y'iburanisha, 14 Mata 2004, imp. 17-18.

Kucyapa ku rugabano rwa *Komini* ya Gishyita na *Komini* ya Gisovu. Abagabye, ibitero basohotse mu mabisi, barabanza bavugana umwanya muto, hanyuma batangira kurasa ku mpunzi. Umutangabuhamya yanavuze ko *Interahamwe* zari zifite intwari zitera amabombe.²⁹⁶

350. Umutangabuhamya wiswe W yabonye Uregwa n'agatsiko ke ku musozi wari hafi aho. Yavuze ko Uregwa yari yambaye gisivili afite "imbunda ntoya imeze nka masotera."²⁹⁷ Visenti Rutaganira wari uhagaze iruhande rw'Uregwa imbere y'abandi bari bagize igitero, na we yari afite imbunda. Nyuma ya saa sita, nka saa munani cyangwa saa cyenda, Uregwa, ari muri metero nka 20, yarashe mushiki w'umutangabuhamya W, wari ufite imyaka 14 cyangwa 15, wamugendaga imbere nko muri metero ebyiri. Umutangabuhamya aje gutwara umurambo wa mushiki we, yabonye indi mirambo myinshi hafi yawo ariko nta muntu n'umwe mu bapfuye yashoboye kumenya. Abagabye igitero batwaye ku gahato murumuna w'umutangabuhamya w'imyaka irindwi, babitegetswe na Visenti Rutaganira. Umutangabuhamya W ntiyongeye kubona murumuna we.²⁹⁸
351. Umutangabuhamya ushinje wiswe BH yavuze ko ku itariki ya 13 cyangwa ya 14 Gicurasi 1994, nka saa mbiri za mu gitondo, yabonye Uregwa ayoboye kimwe mu bitero byinshi byagabwe ku musozi wa Muyira.²⁹⁹ Amabisi yazanye abagabye ibitero baturutse mu mpande zose z'u Rwanda. Uregwa yaje mu modoka ya Komini, ari kumwe na Sikubwabo, Nzandake, Ruzindana, Kayishema n'Interahamwe. Umutangabuhamya wiswe BH yavuze ko Uregwa yayoboye igitero cy'abantu bavuye i Gishyita naho konseye wa *Segiteri* ya Mubuga ayobora ikindi. Umutangabuhamya ntiyashoboye kumenya abayoboye ibindi bitero byagabwe biturutse impande zose.³⁰⁰
352. Umutangabuhamya wiswe BH yari akikijwe n'abagabye igitero kandi hagati ye n'Uregwa hari akagezi gusa. Uregwa, wari witwaje imbunda, yarasaga ku

²⁹⁶ Inyandikomvugo y'iburanisha, 27 Mata 2004, imp. 15-17, 48-50.

²⁹⁷ Inyandikomvugo y'iburanisha, 27 Mata 2004, imp. 22.

²⁹⁸ Inyandikomvugo y'iburanisha, 27 Mata 2004, imp. 19-23.

²⁹⁹ Inyandikomvugo y'iburanisha, 8 Mata 2004, urup. 12.

³⁰⁰ Inyandikomvugo y'iburanisha, 8 Mata 2004, urup. 13, 43.

bantu. Umutangabuhamya yavuze ko impunzi zaterwaga amagerenade, 102/ter
zikanaraswa amasasu. Ntiyashoboye kugereranya umubare w'abaguye muri
ibyo bitero. Yavuze ko abarokotse bishwe bukeye.³⁰¹

353. Umutangabuhamya wiswe BH yavuze ko bukeye bwaho, nka saa mbiri za mu gitondo, Uregwa hamwe na Sikubwabo bageze ku musozi wa Muyira bari mu modoka ya *komini*, barongera bagaba igitero ku mpunzi zari zarokotse zari ziteraniye ku musozi wa Muyira. *Interahamwe* nyinshi z'i Gishyita, zitwaje imipanga zazanye n'Uregwa. Mu bagabye igitero, uregwa yashoboye kumenya abantu benshi bakomeye barimo Ruzindana, Kayishema na Konseye wa Mubuga. Igitero cyarakomeje kigeza nka saa munani z'amanywa, abagabye igitero benshi bafata imodoka baragenda, ariko *Interahamwe* ziguma aho abantu bari biciwe kugeza nka saa kumi n'ebiyiri za nimugoroba.³⁰²
354. Umutangabuhamya wiswe BH yavuze ko *Interahamwe* zari zaraturutse i Cyangugu zitatahaga nijoro, ahubwo zacumbikirwaga mu rugo rw'Uregwa. Yavuze ko, ku manywa, we n'izindi mpunzi bari ku musozi wa Nyarutovu, utari kure y'aho Uregwa yari atuye, bashoboraga kureba i Gishyita, amaduka yari hafi y'inzu y'Uregwa n'imodoka nyinshi zari ziri imbere y'urugo rw'Uregwa. Umutangabuhamya yavuze ko yabonye kenshi Uregwa atwaye imodoka ari kumwe n'*Interahamwe*, bagana ku musozi impunzi zari zakoraniyeho. Nyuma y'igitero cyagabwe ku musozi wa Muyira, umutangabuhamya yahungiyeye ku musozi wa Runyangingo hafi yaho.³⁰³
355. **Umutangabuhamya ushinja wiswe BI** yavuze ko ku itariki ya 13 Gicurasi 1994, we n'izindi mpunzi bagarutse ku musozi wa Muyira guhamba ababo bishwe, no guhungisha inkomere, bagubwa gitumo n'abagabye igitero, ku Cyapa. Abagabye igitero bari bageze i Muyira mbere, impunzi zihagera nka saa mbiri n'igice za mu

³⁰¹ Inyandikomvugo y'iburanisha, 8 Mata 2004, imp. 12-13.

³⁰² Inyandikomvugo y'iburanisha, 8 Mata 2004, imp. 14, 43.

³⁰³ Inyandikomvugo y'iburanisha, 8 Mata 2004, imp. 14, 44-45, 52-53.

- gitondo, kandi umutangabuhamya yabonye Uregwa mu ntera ya metero 101/ter³⁰⁴ cyangwa 40.³⁰⁴
356. Umutangabuhamya wiswe BI yavuze ko Uregwa yagabye igitero ku mpunzi zari ku musozi wa Muyira. Yavuze ko Uregwa yari aherekewe na *Burugumesitiri* wa *Komini* ya Gishyita, *Burugumesitiri* wa *Komini* ya Gisovu, *Perefe*, Minisitiri Eliyezeri Niyitegeka, Musema, uwungirije *burugumesitiri* witwaga Kananira, *abakonseye* ba za *segiteri* zo muri *Komini* ya Gishyita barimo Visenti Rutaganira, Ntakirutimana n’abantu baturutse mu majyaruguru y’igihugu. Bamwe mu bagabye igitero baje mu makamyi y’ikigo cya Kora. Uregwa yari yitwaje imbunda, ayirashisha, naho *Interahamwe* zikoresha imipanga. Igitero cyarakomeje kigeza nka saa kumi n’igice za nimugoroba, hicwa impunzi nyinshi cyane.³⁰⁵
357. Umutangabuhamya wiswe BI yavuze ko bukeye, ku itariki ya 14 Gicurasi 1994, ikindi gitero nk’icyo cyagabwe kuri Muyira. Impunzi zahunze zigana ku musozi wa Kiziba, hafi ya Karongi, mu yahoze ari *Komini* ya Gitesi. Impunzi zihageze zimiriwe n’imodoka z’abagabye igitero, amasasu yabo atuma zisubira inyuma, zigana ku musozi wa Muyira; igitero cyabategereje ku Kiraro, ku rubibi rwa Gitesi na Gisovu. Haguye abantu benshi. “Imirambo yabaye nk’urugomero rubuza amazi gutemba, akagezi kari gahari gahinduka amaraso”.³⁰⁶
358. **Umutangabuhamya ushinja wiswe BU** yavuze ko kuva mu kwezi kwa Gicurasi 1994 kugeza intambara irangira, Uregwa, yitwaje imbunda, yayoboye udutsiko tw’*Interahamwe* muri buri gitero cyagabwe mu Bisesero, harimo n’icyagabwe ku musozi wa Muyira.³⁰⁷
359. Umutangabuhamya wiswe BU yavuze ko ku musozi wa Muyira, yabonye hafi Uregwa asambanya ku gahato umukobwa witwaga Yozefina Uwamilya. Umutangabuhamya yari azi uwo mututsikazi Yozefina kuva avuka mu w’i 1971.

³⁰⁴ Inyandikomvugo y’iburanisha, 30 Mata 2004, imp. 19-20.

³⁰⁵ Inyandikomvugo y’iburanisha, 30 Mata 2004, imp. 18, 54-55.

³⁰⁶ Inyandikomvugo y’iburanisha, 30 Mata 2004, urup. 19.

³⁰⁷ Inyandikomvugo y’iburanisha, 16 Mata 2004, imp. 35-37, 43.

Umutangabuhamya yari yihishe mu gihuru ubwo yabonaga Uregwa akurura 100/ter
Yozefina muri metero nka 20, uvuye aho yari yihishe. Yozefina yasabye
abagabye igitero kumubabarira ntibamwice. Uregwa yaravuze ati: “Mumpe
umwanya mbanze mbonane n’uyu mukobwa w’umwirasi”.³⁰⁸ Uregwa yabwiye
Interahamwe ati: “Uyu mukobwa asanzwe yirata cyane, none reka
tumwihimureho”³⁰⁹ Yategetse Yozefina kwiyambura. Yanze, Uregwa yamutuye
hasi, amwambura imyenda afashijwe n’*Interahamwe*, amujya hejuru,
amusambanya ku gahato. N’ubwo Umutangabuhamya BU yavuze ko atabonye
imboro y’Uregwa yinjira mu gituba cy’uwo mukobwa, yemeje ko
yamusambanyije ku gahato, kubera ukuntu Uregwa yari hejuru ye kandi
umukobwa aboroga kubera ububabare. Umutangabuhamya yavuze ko Uregwa
amaze gusambanya Yozefina ku gahato, yamusigiye *Interahamwe*, zimuca
amaguru n’amaboko, zimusiga aho ngo apfe yumva.³¹⁰

Ibimenyetso bishinjura

360. Urugereko ruributsa ubuhamya bwa “*alibi*” bwatanzwe n’abagabo **bashinjura biswe NM6 na AH8**, n’ubuhamya bushinjura bw’abiswe **DK, DL na DF** bumaze kuvugwa hejuru mu magambo ahinnye.³¹¹
361. **Umutangabuhamya ushinjura wiswe DY** yavuze ko bamushyizeho agahato, bamubwira ko ahabwa igihano niyanga kujya mu bitero bitatu byagabwe mu Bisesero. Avuga ko igitero cya gatatu ari cyo cyari gikomeye cyabaye ku itariki ya 13 Gicurasi 1994, ariko ko atibuka itariki ibindi bitero byagabweho. Mbere y’icyo gitero yahuye n’abayobozi n’abasirikare. Abo bayobozi bose bivuze amazina. Barimo Sikubwabo, Rutaganira, Nshimyumukiza n’abapolisi ba komini. Avuga ko uregwa atari kumwe nabo.³¹²

³⁰⁸ Inyandikomvugo y’iburanisha, 16 Mata 2004, urup. 39.

³⁰⁹ Inyandikomvugo y’iburanisha, 16 Mata 2004, urup. 45.

³¹⁰ Inyandikomvugo y’iburanisha, 16 Mata 2004, imp. 37-40, 43, 45, 47-49.

³¹¹ Reba haruguru icyiciro O, Ubuhamya bushinjura.

³¹² Inyandikomvugo y’iburanisha ryo ku wa 6 Nzeli 2004, imp. 26-31.

362. Umutangabuhamya wiswe DY yavuze ko mu gitero cyo ku musozi wa Muyira³¹³ we n'abandi basivili bategetswe kuguma mu mpinga y'umusozo, bavuzwe induru kugira ngo batere ubwoba abatutsi aho bari bihishye. Umutangabuhamya yanavuze ko igihe igitero giturutse ku Gikongoro cyazaga, abatutsi bahungiyeye mu kibaya cyari muni y'umusozo. Umutangabuhamya yavuze ko agereranyije, icyo gitero cyari kigizwe n'abasivili nka 300 n'abasilikare nka 600.³¹³
363. Umutangabuhamya wiswe DY ntiyabonye Uregwa mu bitero, ariko yemeye ko ubundi yari agombye kuba ahari. Yavuze ko mu nama za Gacaca zaberaga muri gereza yari afungiyemo, izina ry'Uregwa ritavuzwe. Umutangabuhamya yahakanye ko nta gusambanya abagore ku gahato kwigeze kubaho muri ibyo bitero uko ari bitatu yagiyemo mu Bisero. Yavuze ko mu nama za Gacaca zabereye muri Gereza nta muntu numwe wigeze avuga ko hari icyaha na kimwe cyo gusambanya ku gahato cyakozwe.³¹⁴
364. **Umutangabuhamya ushinjura wiswe DD** avuze ko ku itariki ya 13 n'ya 14 Mata 1994 yarokotse ibitero simusiga bibiri³¹⁵ n'ibindi byinshi bidakaze byagabwe ku musozi wa Muyira. Umutangabuhamya avuga ko abari bagize ibitero bari benshi. Hari abajandarume, Interahamwe n'abaturage basanzwe bazanwe n'imodoka nyinshi zirimo izisanzwe na za bisi. Mu bagabye ibitero, umutangabuhamya yashoboye kumenyamo Sikubwabo, akaba ari nawe «werekaga abari mu bitero uko bagombaga kwica...»³¹⁶. Umutangabuhamya kandi yamenyemo uwitwa Ndimbati, wari waturutse mu Gisovu. Yavuze ko atabonye Uregwa muri icyo gitero cyo ku musozi wa Muyira. Avuga ko iyo Uregwa aza kuba ahari «yari kuba ari iruhande rwa Burugumesitiri, nawe agira inama abari mu bitero».³¹⁷

³¹³ Inyandikomvugo y'iburanisha ryo ku wa 6 Nzeli 2004, imp. 30,34,36,39

³¹⁴ Inyandikomvugo y'iburanisha ryo ku wa 6 Nzeli 2004, imp. 28, 31, 34-35, 37-38

³¹⁵ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup. 15

³¹⁶ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup.15

³¹⁷ Inyandiko-mvugo y'iburanisha ryo ku wa 17 Kanama 2004, imp.15, 20, 22-23

365. Umutangabuhamyia wiswe DD yavuze ko yabonaga Sikubwabo igihe cyose, hagabwaga ibitero bikomeye, nka biriya byo ku itariki ya 13 n'ya 14 Mata 1994. Avuga ko Sikubwabo yaje mu modoka yo mu bwoko bwa Toyota, yari yarambuye umucuruzi witwa Rurinda bamaze kumwica. Imodoka ya Sikubwabo ni yo yari imbere ya bisi yari itwaye abagabye ibitero. Umujandarume wari witwaje imbunda yari yicaye iruhande rwa Sikubwabo mu modoka imbere ariko inyuma mu modoka harimo abandi bantu.³¹⁸
366. Umutangabuhamyia wiswe DD yavuze ko, mu gihe cyose yamaze mu misozi ya Biseseero, atigeze abona cyangwa yumva bavuga ko abagore basambanyijwe ku gahato. Ikindi kandi, uko abibona, ntabwo byari gushoboka gusambanya abagore ku gahato kubera ko « abagabye ibitero bazaga biroha ku batutsi, batanguranwa kubica. Sinzi rero niba muri rwaserera nk'iyi abari mu bitero barashoboraga gusambanya abagore ku gahato »³¹⁹.

Imyanzuro y'Urugereko

Ibitero byo ku musozi wa Muyira – Itariki ya 13 n'ya 14 Gicurasi 1994

367. Ari abatangabuhamyia bashinja, ari n'abashinjura, bese bemeje ko habaye ibitero bibiri bya simusiga, icyo ku itariki ya 13 n'icyo ku ya 14 Gicurasi 1994, byaje byibasiye abatutsi b'abasivili bari barahungiyeye ku musozi wa Muyira mu karere ka Biseseero. Abatangabuhamyia biswe AW, W, BH na BI, bese bavuze ko igitero cyo ku itariki ya 13 Gicurasi 1994 cyatangiyeye mu gitondo, hagati ya saa kumi n'ebiri na saa yine kandi ko cyamaze umunsi wose. Abatangabuhamyia biswe AW, BI, BH na DD bavuze ko igitero cyakomeje ku munsi ukurikiyeho.

³¹⁸ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup.24

³¹⁹ Inyandikomvugo y'iburanisha ryo ku wa 17 Kanama 2004, urup.16

368. Kugira ngo agaragaze ko Uregwa yagiye muri ibyo bitero, Porokireri yashingiyeye ku buhamya bwatanzwe n'abatangabuhamya biswe AW, W, BH, BI na BU.³²⁰ Ubwunganizi ntibwemera ibyo Porokireri avuga ko Uregwa yari ahari cyangwa yagize uruhare mu bitero. Ni yo mpamvu Ubwunganizi nabwo bwahamagaje abatangabuhamya biswe DD na DY ngo baze kuvuguruza ibimenyetso byatanzwe na Porokireri.³²¹
369. Urugereko ruributsa ko, mu myanzuro yarwo yambere, rwari rwasanze abatangabuhamya biswe AW, W na BI baratanze ubuhamya bwafatwaho ukuri.³²²
370. Ubuhamya bw'umutangabuhamya wiswe AW, bwashimangiwe n'ubw'abatangabuhamya biswe W na BH, ni bwo bwatumye Urugereko rwemeza ko Uregwa yageze ku musozi wa Muyira ku itariki ya 13 Gicurasi ari kumwe n'Interahamwe ziturutse i Gishyita. Urugereko rwabyemejwe n'ubuhamya butavuguruzanya bwatanzwe n'abatangabuhamya biswe BI, AW na W bavuze ko Uregwa yari yitwaje imbunda. Rushingiyeye ku buhamya bw'abatangabuhamya biswe BI, AW na BH, Urugereko rusanga ku itariki ya 13 Gicurasi 1994, Uregwa yari umwe mu bategetsi bakomeye bari ku musozi wa Muyira, harimo Perefe Kayishema, Minisitiri Niyitegeka, Burugumesitiri Sikubwabo, Burugumesitiri wa Gisovu, Konseye Visenti Rutaganira, Obedi Ruzindana, Aluferedi Musema na Ndimbati.
371. Urugereko rushingiyeye ku buhamya bwa AW na W rwemera ko mu gihe cy'igitero, abatutsi benshi b'abasivili bishwe n'abagabye igitero bari bitwaje impiri, ibisongo by'imigano, imipanga, imbunda na gerenade. Urugereko rusanze ubuhamya bwa W bwafatwaho ukuri, bityo rukaba rwemeje ko, mu gihe cy'igitero cyo ku itariki 13 Gicurasi 1994, Uregwa yarashe, yica umukobwa w'umututsikazi wari mushiki w'umutangabuhamya wiswe W mutoya, arapfa.

³²⁰ Imyanzuro ya Porokireri isoza urubanza, imp143-146, ibika 324, 326.

³²¹ Imyanzuro y'Ubwunganizi isoza urubanza, ibika 196-199.

³²² Reba hejuru, Ibyiciro E na L

372. Rushingiye ku buhamya bwatanzwe n'abatangabuhamya biswe BI, AW na BH, Urugereko rusanze Uregwa, ari kumwe n'abandi bari mu bitero benshi, barasubiyeyo ku munsu ukurikiyeho kwica abari basigaye, bituma abari barokotse bahungira mu kabande, aho « imirambo yari yabujije amazi gutemba, akagezi kari aho kagahinduka.... amaraso gusa ». ³²³
373. Abatangabahamya bashinjura biswe DY na DD, bavuze ko bari mu bitero byo ku Muyira byo ku itariki ya 13 n'ya 14 Gicurasi 1994, ariko ko batahabonye Uregwa. Umutangabuhamya wiswe DY yavuze ko, ku itariki ya 13 Gicurasi 1994, aho ku musozi hari abagabye igitero bagera ku 1000, bitwaje intwari. Urugereko rusanga, ukurikije uko ibintu byari bimeze, kuba abatangabuhamya batarabonye Uregwa, bidasobanura ko atari ahari.
374. Ku byerekeye uruhare rw'Uregwa mu bitero byo mu karere ka Bisesero muri Gicurasi 1994, Urugereko na mbere rwari rwarasuzumye kandi rufata icyemezo muri rusange ku buhamya bw'abatangabuhamya biswe DK, DL na DF, bavuze ko batigeze babona cyangwa bumva bivugwa ko Uregwa yagiye mu bitero mu karere ka Bisesero. Urugereko rwasuzumye kandi rufata umwanzuro ku buhamya bw'abatangabuhamya biswe NM6 na AH8 buvuga ko Uregwa atari aho ibitero byagabwe muri kiriya gihe kivugwa. ³²⁴
375. Kubera ibyo, ku birebana n'ibirego bikubiye mu gika cya 5 (d) (vi) cy'Inyandikoy'ibirego, Urugereko rusanze ahagana ku itariki ya 13 cyangwa iya 14 Gicurasi 1994, Uregwa ari kumwe n'abandi bantu, baragiye mu bitero byibasiye abasivili b'abatutsi bari bahungiyeyo ku musozi wa Muyira, mu karere ka Bisesero, mu Rwanda. Ibyo bitero byahitanye abatutsi b'abasivili benshi.

Q. GUSAMBANYWA KU GAHATO KW'UMUTANGABUHAMYA WISWE AX, GICURASI 1994

³²³Inyandikomvugo y'iburanisha ryo ku wa 30 Mata 2004, urup.19

³²⁴Reba hejuru, icyiciro O

Ibivugwa na Porokireri

376. Porokireri ashinja Uregwa kuba :

Ahagana mu mpera za Mata 1994, Mikaeli Muhimana yarasambanyije ku gahato umututsikazi w'umusivili wiswe AX-K inshuro ebyiri ku biro bya komini biri mu mujyi wa Gishyita, muri Segiteri ya Gishyita, Komini ya Gishyita.³²⁵

Ibimenyetso

Ibimenyesho bishinja

377. **Umutangabuhamya ushinja wiswe AX** yavuze ko muri Gicurasi 1994, nyuma y'urupfu rw'abana be, Uregwa yohereje Interahamwe zirimo uwitwa Alegisi kuzana umutangabuhamya ku biro by'Uregwa. AX yagize ati : «Uregwa yahise ankurura, amfata ku gakanu ankubita hasi, hanyuma anyambika ubusa amputaza, ahita ansambanya ku gahato ». ³²⁶ Umutangabuhamya yavuze ko yasambanyijwe ku gahato nk'isaha yose, aryamye hasi ku isima.³²⁷

378. Umutangabuhamya wiswe AX yavuze ko, muri Kamena 1994, Uregwa yongeye kwohereza Interahamwe zitwaje imbunda n'intwari za gakondo, kumuzana mu biro bye. AX yavuze ko, muri izo Nterahamwe, harimo abaturanyi be ari bo Burabyo na Gasigwa.³²⁸

³²⁵ Inyandiko y'ibirego, igika 6 (a) (iii)

³²⁶ Inyandikomvugo y'iburanisha ryo ku wa 31 Werurwe 2004, urup. 42

³²⁷ Inyandikomvugo y'iburanisha ryo ku wa 31 Werurwe 2004, imp. 41, 44- 45, n'iyi ku wa 1 Mata 2004, urup. 30

³²⁸ Inyandikomvugo y'iburanisha ryo ku wa 31 Werurwe 2004, urup. 47, n'iryi ku wa 1 Mata 2004, urup.30

379. Uregwa yabwiye umutangabuhamya wiswe AX ngo yiyambure, aramubwira ati: « Niwanga ndakurasa ». ³²⁹ AX yavuze ko Uregwa yatanyuye imyenda ye, amukubita hasi, yiyambura ipantalo n'ikariso ye maze amusambanyiriza ku gahato hasi ku isima. Yamusambanyije nk'iminota 20. ³³⁰
380. Umutangabuhamya wiswe AX asobanura ko Uregwa yamusambanyije ku gahato kubera ko :” yahengereye abo mu muryango wanjye bamaze gupfa, aboneraho kunyica urugaraguro ». ³³¹

Ibimenyetso bishinjura

381. **Umutangabuhamya ushinjura wiswe TQ1** yavuze ko atigeze abona abagore basambanywa ku gahato, ko nta n'umuntu n'umwe azi waba warasambanyijwe ku gahato muri Komini ya Gishyita. Umutangabuhamya yavuze ko yabonye Uregwa amaze gupfusha umwana ku itariki ya 8 Mata 1994 kandi ko yakomeje kumubona mu gihe cyose cy'icyunamo. Umutangabuhamya kandi yabonye Uregwa igihe ibyo muri Mata, Gicurasi na Kamena byabaga, kubera ko bari baturanye. Umutangabuhamya avuga ko Uregwa atigeze asambanya ku gahato umutangabuhamya wiswe AX cyangwa undi mugore uwo ari we wese. ³³²
382. **Umutangabuhamya ushinjura wiswe DS** yavuze ko bitari gushoboka ko Uregwa yari gusambanya ku gahato umutangabuhamya wiswe AX kuko Uregwa yari afite umugore. Umutangabuhamya kandi yavuze ko mu nama za Gacaca, atigeze yumva umuntu wireze akemera icyaha cyo gusambanya abagore ku gahato muri Segiteri ya Gishyita, kandi ko nta muntu wundi wigeze ashinjwa gusambanya abagore ku gahato muri Segiteri y'Uregwa. ³³³

³²⁹ Inyandikomvugo y'iburanisha ryo ku wa.31 Werurwe 2004, urup. 48

³³⁰ Inyandikomvugo y'iburanisha ryo ku wa 31 Werurwe 2004, imp. 47-48

³³¹ Inyandikomvugo y'iburanisha ryo ku 1 Mata 2004, urup. 33

³³² Inyandiko-mvugo y'iburanisha ryo ku wa 23 Kanama 2004, imp. 3-4, 8-9, 23

³³³ Inyandikomvugo y'iburanisha ryo ku wa 7 Nzeli 2004, imp. 6-7

383. **Abatangabuhamy bashinjura biswe TQ13,** ³³⁴DS, ³³⁵NT1, ³³⁶na DJ, ³³⁷bavuze ko nta biro bya segiteri byabaga muri Gishyita.
384. **Umutangabuhamy ushinjura wiswe DU,** yavuze ko ubu afungiyeye muri gereza yo mu Rwanda kubera ko yishe abatutsi batatu. Avuga ko igitero cyaje iwe, kikamutegeka kwica abana ba AX na nyina wa AX. Ako gatsiko k'abari mu bitero karimo Alegisi Mutagana, Amir Munyamani, Mugabushaka, Alufonsi na Gasigwa. Umutangabuhamy yavuze ko Uregwa « atabahaye amabwiriza cyangwa amategeko »³³⁸. Umutangabuhamy wiswe DU yavuze ko « atigeze abona Mika kandi nta mategeko yigeze amuha ».³³⁹ Umutangabuhamy yashimangiye ko ari « Burugumesitiri wabahaga amategeko cyangwa nabo bakifatira ibyemezo, babyibwirije kubera ko bigengaga. »³⁴⁰

Imyanzuro y'Urugereko

385. Porokireri ashingira ku buhamya bw'umutangabuhamy wiswe AX mu gushyigikira ikirego cye kivuga ko Uregwa yasambanyije umugatangabuhamy ku gahato, « ahagana mu mpera za Mata 1994 »³⁴¹
386. Byaragaragara ko umutangabuhamy wiswe AX yari ahahamutse igihe yatekererezaga Urugereko ibyababayeho, we n'umuryango we. Uretse gukomeretswa we ubwe, umutangabuhamy wiswe AX yanapfushije nyina, abana be bane n'umugabo we, muri kiriya gihe ibyo mu w'i 1994 byabaga. Nubwo yagize buriya byago byose ariko, ubuhamy bwe burumvikana, ntibuziguye, kandi ubwumva ahita abwemera. Urugereko rusanga ubuhamy bwe bwakwemerwa.

³³⁴ Inyandikomvugo y'iburanisha ryo ku wa 25 Kanama 2004, imp. 9-15

³³⁵ Inyandikomvugo y'iburanisha ryo ku wa 7 Nzeli 2004, urup. 8

³³⁶ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, imp. 9-10, 19

³³⁷ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeli 2004, urup. 73

³³⁸ Inyandikomvugo y'iburanisha ryo ku wa 8 Nzeli 2004, urup. 28

³³⁹ Inyandikomvugo y'iburanisha ryo ku wa 8 Nzeli 2004, urup. 24

³⁴⁰ Inyandikomvugo y'iburanisha ryo ku wa 8 Nzeli 2005, impp. 24, 27-27

³⁴¹ Inyandiko y'ibirego, igika cya 6 (a) (iii)

387. Urugereko ntirwemera ubuhamya bw'uwiswe DS, uvuga ko bidashoboka ko umugabo ufite umugore yakora icyaha cyo gusambanya ku gahato. Rushingiye ku buhamya bwinshi bwemeza ko icyaha cyo gusambanya ku gahato cyakozwe, Urugereko ntirwemera ubuhamya bw'umutangabuhamya wiswe DS, uvuga ko atigeze yumva bavuga ko muri Komini ya Gishyita, haba harakorewe ibyaha nk'ibyo. Kuba abatangabuhamya benshi bavuga ko Segiteri ya Gishyita itagiraga ibiro byayo, nta cyo bihinduraho. Umutangabuhamya wiswe AX yavuze ko bamujyanye mu nzu yakorehwaga nk'ibiro. Ibyo biro byaba, ari ibya komini cyangwa ibya segiteri, ntabwo ari cyo gikuru.
388. Urugereko rwemeye ubuhamya bw'umutangabuhamya wiswe AX, uvuga ko yasambanyijwe ku gahato inshuro ebyiri n'Uregwa igihe yamutumiraga mu biro bye. Inshuro imwe muri Gicurasi 1994, n'indi nshuro muri Kamena 1994.
389. Ikibazo kikaba ari uko mu Nyandiko y'ibirego, Porokireri avuga ko ibyaha byo gusambanya abagore ku gahato byakozwe mu kwezi kwa Mata 1994. Ubuhamya bw'umugabo rero ntibuhuza n'ibirego bikubiye mu Nyandiko y'ibirego. Ikindi kandi, Porokireri ntiyashoboye kumenyesha Ubwunganizi ku buryo bwumvikana kandi buhamye ibyabaye kugira ngo ashyigikire ibirego bye.
390. Kubera ibyo rero, Urugereko rusanze ibirego bikubiye mu gika cya 6 (a) (iii) cy'Inyandiko y'ibirego nta shingiro bifite.

R. ISAMBANYWA KU GAHATO N'IYICWA BYA PASIKAZIYA MUKAMERA NA FELESITA KANKUYU, MU KWEZI KWA GATANU HAGATI 1994.

Ibivugwa na Porokireri

391. Porokireri avuga ko:

Ahagana mu mpera z'ukwezi kwa Gicurasi 1994, ku musozi wa Nyakiyabo mu karere ka Bisesero, Mikaeli Muhimana afatanije

n'Interahamwe yitwa Gisambo yasambanyije ku gahato Pasikaziya Mukarema³⁴².

91/ter

Ahagana muri Kamena 1994, ku misozi ya Gitwa mu karere ka Bisesero, Mikaeli Muhimana afatanyije n'abasivili bitwaje intworo barimo Ngabonziza, yasambanyije ku gahato umututsikazi witwa Felesita Kankuyu.³⁴³

Ahagana mu mpera za Gicurasi 1994, ku musozi wa Nyakiyabo mu karere ka Bisesero, Interahamwe yitwa Gisambo, yishe Pasikaziya Mukarema, bitegetswe na Mikaeli Muhimana.³⁴⁴

Ahagana muri Kamena 1994, mu misozi ya Gitwa mu karere ka Bisesero, Mikaeli Muhimana afatanyije na Ngabonzima n'izindi Nterahamwe, bishe umututsikazi w'umusivili witwa Felesita Kankuyu.³⁴⁵

Ibimenyetso

Ibimenyetso bishinje

Isambanywa ku gahato n'iyicwa bya Pasikaziya Mukaremera

392. **Umutangabuhamya ushinje wiswe AW** yavuze ko ahagana hagati muri Gicurasi 1994, ku musozi wa Rugona uri nko mu bilometero 4 uvuye ku musozi wa Nyarutovu, Uregwa yazanye na Karoli Sikubwabo n'Interahamwe bari mu modoka ya komini, bayihagarika ku muhanda. Umutangabuhamya yari yihishe inyuma y'urutare rwari hirya gato muri metero hagati ya 20 na 50, uvuye aho abari

³⁴² Inyandiko y'ibirego, igika cya 6 (d) (ii)

³⁴³ Inyandiko y'ibirego, igika cya 6 (d) (iii)

³⁴⁴ Inyandiko y'ibirego, igika cya 7 (d) (i)

³⁴⁵ Inyandiko y'ikirego, igika cya 7 (d) (ii)

bagabye ibitero bari bahagaritse imodoka yabo kandi yabashije kubona Uregwa/ter aramumenya.

393. Umutangabuhamya wiswe AW yumvise Uregwa aha Interahamwe amategeko yo kujagajaga ishyamba bashakamo abatutsi.³⁴⁶ Muri uko gujagajaga ishyamba, Interahamwe zafashe Pasikaziya Mukaremera wari utwite. Zamuzaniye Uregwa, nibwo avuze ati : « ngiye gusatura uyu mugore, mufomoze maze ndebe uko umwana aba ameze iyo ari mu nda ya nyina ». ³⁴⁷ Umutangabuhamya avuga ko « Mika yafashe umupanga, agasatura uwo mugore, ahereye ku mabere ye kugeza ku gitsina cye, hanyuma akura uruhinja mu nda, arushyira iruhande rwa nyina. Uruhinja rwarize umwanya muto, hanyuma rurapfa. ³⁴⁸ Interahamwe zahise zitemagura ibiganza bya Pasikaziya Mukaremera, hanyuma zisongoza igisongo, zitungaho ibiganza bye ». ³⁴⁹
394. Umutangabuhamya wiswe AW yavuze ko yari azi Pasikaziya Mukaremera mbere y'uko yicirwa n'Uregwa ku musozi wa Rugona. Avuga ko uwo Pasikaziya Mukaremera yari umuturagekazi ufite nk'imyaka 40, akaba yari atuye mu Bisesero. Umutangabuhamya yavuze ko Pasikaziya yari yubatse ariko ko atibuka izina ry'umugabo we. ³⁵⁰

Isambanywa ku gahato n'iyicwa rya Felesita Kankuyu

395. Umutangabuhamya wiswe AW yavuze ko hashize nk'isaha Pasikaziya yishwe, abari mu bitero bavumbuye umugore witwa Felesita Kankuyu wari umwarimukazi ku ishuri ryo mu Bisesero muri Serire ya Nyarutovu. Avuga ko abari mu bitero

³⁴⁶ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.9

³⁴⁷ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.10

³⁴⁸ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.10

³⁴⁹ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, imp. 10, 49

³⁵⁰ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.11

biyamiriye bati : « Tubonye Mukakankuye Felesita ! » hanyuma bamushyikiriza Uregwa na Sikubwabo.³⁵¹

396. Umutangabuhamya wiswe AW yavuze ko Sikubwabo yakubise hasi uwo mugore, afungura lisani y'ipantaro ye, amujya hejuru, amusambanya ku gahato nk'iminota 10. Ubwo Sikubwabo ahamagara Uregwa wahise « aboneraho, ariyambura nawe amusambanya ku gahato ³⁵². Umutangabuhamya avuga ko nyuma y'uwo mubonano mpuzabitsina wamaze nk'iminota 10, Mika yahamagaye izindi Nterahamwe zari kumwe nawe, nazo zigasambanya uwo mugore ku gahato.³⁵³ Umutangabuhamya yavuze ko yumvise Uregwa ateguka Interahamwe kwica uwo mugore kuko ngo « nawe ari Inyenzi, nk'izindi zose ». ³⁵⁴ Interahamwe zose uko ari 5 zasambanyije ku gahato uwo mugore Mukakankuyu mu maso y'Uregwa. Barangije, bajombaguye ibisongo mu gitsina cye kugeza aho apfiriye.³⁵⁵

Ibimenyetso bishinjura

397. **Umutangabuhamya ushinjura wiswe DY** yavuze ko yagiye mu bitero simusiga 3 mu Bisesero ; ariko ko nta mugore wigeze asambanywa ku gahato muri ibyo bitero byose. Avuga kandi ko nta cyaha cyo gusambanya ku gahato cyigeze kivugwa mu gihe cy'inama za Gacaca zabereye muri gereza afungiyemo mu Rwanda.³⁵⁶
398. **Umutangabuhamya ushinjura wiswe DF** yavuze ko atigeze yumva bavuga ko hari umuntu waba warasambanjwe ku gahato mu gihe cy'ibitero byo mu w'i 1994 mu Bisesero cyangwa mu kandi karere ako ari ko kose.³⁵⁷

³⁵¹ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, imp. 11, 13, 53

³⁵² Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup. 12

³⁵³ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.13

³⁵⁴ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.13

³⁵⁵ Inyandikomvugo y'iburanisha ryo ku wa 14 Mata 2004, urup.13

³⁵⁶ Inyandikomvugo y'iburanisha ryo ku wa 6 Nzeli 2004, imp. 31, 37

³⁵⁷ Inyandikomvugo y'iburanisha ryo ku wa 30 Kanama 2004, urup.13

399. **Umutangabuhamya ushinjura wiswe DD** yavuze ko mu gihe yari mu misozi ya ^{88/ter} Bisesero, atigeze abona cyangwa yumva bavuga ko mu gihe cy'ibitero byagabwe mu w'i 1994, abagore basambanyijwe ku gahato. Ikindi kandi umutangabuhamya atekereza ko bitari gushoboka ko icyo cyaha gikorwa kuko abicanyi birohaga ku bicwaga, batanguranwa kubica. Ati : « Sinumva rero niba gusambanya abagore ku gahato byari gushoboka, urebye uko ibintu byari bimeze icyo gihe ». ³⁵⁸
400. **Umutangabuhamaya ushinjura wiswe DK** yavuze ko mu nama za Gacaca zabereye muri gereza ya Gisovu mu w'i 2001, atigeze yumva hari uvuga ko hari icyaha na kimwe cyo gusambanya ku gahato cyakozwe uretse icyo yireze, akemerera imbere y'Umushinjacyaha mu rukiko rwa mbere rw'iremezo rwo ku Kibuye ³⁵⁹.

Imyanzuro y'Urugereko

Imyanzuro ishingiyeye ku byabaye ku byerekeye iyicwa n'isambanywa ku gahato bya Pasikaziya Mukaremera

401. Urugereko na mbere rwari rwagaragaje icyemezo cyarwo ku byerekeye icyizere cyagirirwa ubuhamya bw'umugabo wiswe AW. ³⁶⁰ Urugereko rusanze ubwo buhamya bwatanzwe na AW bwakwemerwa kuko atigeze ajijinganya mu gihe yabazwaga ibibazo binyomoza kandi akaba yaragaragaje ko abantu yavugaga abazi neza.
402. Rushingiyeye ku buhamya bw'umugabo wiswe AW, Urugereko rwemerera ko umutangabuhamya yabonye Uregwa afomoza Pasikaziya Mukaremera ku musozi wa Rugona mu kwezi kwa Gicurasi 1994 hagati. Uregwa yari azi uwo mugore

³⁵⁸ Inyandikomvugo y'iburanisha ryo ku wa 8 Nzeli 2004, urup.16

³⁵⁹ Inyandikomvugo y'iburanisha ryo ku wa 8 Nzeli 2004, urup.40

³⁶⁰ Reba hejuru, icyiciro cya E n'icya O

mbere y'uko ibyo biba. Urugereko rusanga Interahamwe zarazanye Pasikaziya Mukaremera, zikamushyikiriza Uregwa, avuga ko ashaka « kureba uko uruhinja rumeze mu nda ya nyina ». Ubwo yahise asatura uwo mugore, ahereye ku mabere, ageza ku gitsina cye, akuramo umwana. Uwo mwana yarize igihe gito mbere yo gupfa. Nyuma yo gufomoza uwo mugore, abari mu bitero bamuciye ibiganza, babitunga ku bisongo. Urugereko rusanga uwo mugore yarapfuye azize ibyo bikomere byose.

403. Urugereko rwumvise ingingo zatanzwe n'Ubwunganizi, buvuga ko ubuhamya bw'uwo mugabo bwerekeye ibyabereye ku musozi wa Rugona, kandi Inyandiko y'ibirego ivuga ko icyo cyaha cyakorewe ku musozi wa Nyakiyabo. Urugereko kandi rurazirikana ko ibimenyetso bigaragaza ko umusozi wa Nyakiyabo n'uwa Rugona yombi iri mu karere ka Bisesero. Urugereko rusanze mu myanzuro mbanzirizarubanza, cyane cyane mu ncamake y'ubuhamya umugabo wiswe BI azatanga, Porokireri yarahaye Ubwunganizi ingingo zihagije kandi zagirirwa icyizere zirebana n'icyo cyaha.
404. Ubwunganizi buvuga kandi ko Uregwa atigeze amenyeshwa ku buryo buhagije ibyaha aregwa. Urugereko rusanga ingingo zatanzwe na Porokireri mu myanzuro mbanzirizarubanza, no kuba yarashyikirije Ubwunganizi ubuhamya bwanditse bw'umutungabuhamya wiswe AW, bigaragaza ko Uregwa yamenyeshejwe ku buryo buhagije umwirondoro w'uwakorewe icyaha, n'aho icyaha cyakorewe muri rusange kugira ngo abashe gutegura kwiregura kuri ibyo byaha. Urugereko rusanze iyo nenge iri mu Nyandiko y'ibirego yarakosowe n'ibyo Ubwunganizi bwamenyeshejwe na Porokireri mu gihe gikwiye, mu buryo bwumvikana kandi buhamye. Ikindi kandi, ubuhamya umugabo yatanze imbere y'Urukiko n'ubwanditse yari yatanze mbere, ntibuvuguruzanya ku byerekeye itariki biriya byabereyeho. Kuva na mbere, Urugereko rwari rwarafashe icyemezo kivuga ko kuba umutangabuhamya yatanga amatariki anyuranye ari ibintu byumvikana, urebye ibihe by'intambara nka biriya u Rwanda rwanyuzemo mu w'i 1994 ndetse n'igihe kirekire gishize biriya bibaye.

405. Ubwunganizi buvuga kandi ko umutangabuhamya wiswe AW atashoboraga kubona biriya bintu kuko uwo mutangabuhamya yari ku musozi wa Muyira kugeza igihe Abafaransa baziye. Urugereko rwasuzumye ingingo zatanzwe n'ababuranyi ndetse n'ubuhamya bw'abagabo, rwemeza ko umutangabuhamya yari mu karere ka Bisesero muri icyo gihe.
406. Urugereko rusanga Gisambo atari we wafomoje Pasikaziya Mukaremera abitegetswe n'Uregwa nk'uko bikubiye mu gika cya 7 (d) (i) cy'Inyandiko y'ibirego, ko ahubwo Uregwa ubwe ari we wamufomoje.
407. Mu myanzuro ishingiyeye ku mategeko iri mu mutwe wa 3, Urugereko rurasuzuma niba Uregwa, ku giti cye, ari we ugomba kuryozwa kuba yarishe Pasikaziya Mukaremera, nubwo Inyandiko y'ibirego imushinja kuba yarategetse Gisambo gukora icyo cyaha.
408. Porokireri avuga ko igikorwa Uregwa yakoze cyo gusatura Pasikaziya Mukaremera ahereye ku mabere akageza ku gitsina ari icyaha cyo gusambanya ku gahato nk'uko bikubiye mu gika cya 6 (d) (ii) cy'Inyandiko y'ibirego. Urugereko rurasuzuma iyo ngingo mu mutwe urebana n'imyanzuro ishingiyeye ku mategeko.

Imyanzuro ishingiyeye ku byabaye, yerekeye iyicwa n'isambanywa ku gahato bya Felesita Kankuyu³⁶¹

409. Urugereko rusanze ubuhamya bw'umugabo wiswe AW bwakwemerwa. Umutangabuhamya yasobanuye ibyo kwicwa no gusambanywa ku gahato Felesita Kankuyu ; umutangabuhamya akaba yari azi Kankuyu neza. Ibyo byaha bikaba byarakozwe hashize nk'isaha nyuma y'ifomozwa rya Pasikaziya Mukaremera. Umutangabuhamya yavuze ko, nyuma y'urupfu rwa Pasikaziya, abari mu gitero babonye Felesita bakabimenyeshya Uregwa na Sikubwabo. Sikubwabo yategetse ko bamubazanira. Abari mu gitero baramwumviye. Umutangabuhamya yavuze ko Sikubwabo yahamagaye Uregwa, ngo aze « agirane imibonano mpuzabitsina »

³⁶¹ Inyandiko y'ibirego, igika cya 6 (d) (iii) n'icya 7 (d) (ii)

n'uwo mugore. Uregwa yafashe uwo mugore, aramwambura, hanyuma amusambanya ku gahato. Nyuma y'aho, Uregwa yahamagaye Interahamwe 5 ngo nazo zimusambanye ku gahato kandi zimwice ngo « kuko nawe ari Inyenzi ». Interahamwe zakoze ibyo zitegetswe kandi zibikorera mu maso y'Uregwa, hanyuma zimujomba ibiti mu gitsina kugeza aho apfiriye.

410. Nubwo rwemeye ubuhamya bw'umugabo wiswe AW ku byerekeye uko ibintu byagiye bikurikirana, nk'uko bigaragara hejuru, Urugereko rusanga igika cya 6 (d) (iii) n'icya 7 (d) (ii) by'Inyandiko y'ibirego bishinje Uregwa nk'aho ari ibyaha 2 bitandukanye, kimwe cyarabaye hashize ukwezi ikindi kibaye kandi ahantu habiri hatandukanye. Urugereko rusanga kandi umutangabuhamya ntaho avuga Ngabonzima, nta naho avuga ko Felesita yasambanyirijwe ku gahato mu misozi ya Gitwa. Igihe n'ahantu ibyaha byakorewe bikubiye mu gika cya 6 (d) (iii) n'icya 7 (d) (ii) by'Inyandiko y'ibirego bikaba binyuranye ku buryo bugaragara n'ubuhamya bwatanzwe.
411. Bityo rero, Porokireri ntiyashoboye gutanga ibimenyetso bishyigikira ibirego bikubiye mu gika cya 6 (d) (iii) n'icya 7 (d) (ii) by'Inyandiko y'ibirego.

GUSHUKASHUKA IMPUNZI Z'ABATUTSI NO KUZIGABAHO IBITERO, MURI KAMENA 1994

Ibivugwa na Porokireri

412. Porokireri ashinje Uregwa mu magambo akurikira :

Akarere ka Bisesero gafata kuri Komini ya Gishyita n'ya Gisovu muri Perefegitura ya Kibuye. Nyuma y'uko hagabwa ibitero byibasiye abasivili b'abatutsi bari bahungiyeye mu bigo muri Perefegitura ya Kibuye hagati ya Mata na Kamena 1994, ibihumbi by'abatutsi barokotse bahungiyeye hanze ku misozi y'imanga kandi ifite utununga yo mu Bisesero, bahagira ubuhungiro bwabo bwa nyuma.

Ku itariki ya 28 Kamena 1994 cyangwa ahagana kuri iyo tariki, Mikaeli Muhimana ari kumwe na Obedi Ruzindana bashukashutse abasivili b'abatutsi bari bakomerekeye mu bitero byabereye hirya no hino muri Perefegitura ya Kibuye, bababwira ko bava mu bwihisho bakaza kuvurwa. Abatutsi bamaze kuva mu bwihisho, Mikaeli Muhimana na Obedi Ruzindana bazanye abicanyi bitwaje intwari. Igitero cyari kigizwe n'Interahamwe, abajandarume n'abasilikare cyagabwe ku batutsi, cyicamo abarenga ibihumbi bibiri, kinakomeretsa abandi bakabakaba igihumbi.³⁶²

Ibimenyetso

Ibimenyetso bishinje

413. **Umutangabuhamya ushinje wiswe W** yavuze ko mu kwezi kwa Kamena 1994, Uregwa n'abandi bari bagize ibitero barimo Obedi Ruzindana n'umuvandimwe wa Obedi Ruzindana witwa Yozefu, bahize impunzi z'abatutsi. Benshi mu mpunzi bari bihishye mu « myobo » yo mu birombe bacukuragamo gasegereti kuri Nyiramurego. Izo mpunzi zari zaratwikirije iyo myobo ibyatsi kugira ngo batazibona.³⁶³ Umutangabuhamya yavuze ko, aho yari yihishye mu bihuru byari hafi y'ibirombe bya gasegereti, yabonye umwana w'umuhungu wari wafashwe n'abari mu bitero, bamuvanye aho yari yihishye. Uwo mwana yarimo gutunga urutoki aho izindi mpunzi zari zihishye ». Uregwa wari afite « imbunda imeze nka masotera » yarashe ku bantu benshi. Umutangabuhamya avuga ko igitero cyo kuri Nyiramurego cyamaze « umwanya » : cyatangiye saa tatu za mu gitondo kirangira za cyenda za nimugoroba « kuko bagombaga kuvana abantu mu myobo ».³⁶⁴ Umutangabuhamya avuga ko yabonye Uregwa yambaye ishata yanditseho ibyamamaza ishyaka rya MRND³⁶⁵.

³⁶² Inyandiko y'ibiregno, igika cya 5 (d) (vii)

³⁶³ Inyandikomvugo y'iburanisha ryo ku wa 17 Mata 2004, urup.23

³⁶⁴ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp.23-24

³⁶⁵ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 23, 25, 40

414. Umutangabuhamya wiswe W yavuze ko yabonye « Mikaeli akora amarorerwa arenze andi yose yari yarakoze.³⁶⁶ Yafashe akana k'agakobwa k'umwaka umwe n'igice, agahonda ku ibuye, karapfa. Uregwa ari kumwe na murumuna wa Ruzindana witwa Yozefu bavumbuye abatutsi aho bari bihishe mu myobo, barabica. Abakobwa babiri, ari bo Beyatirisa na Makulata bigaga mu mashuri yisumbuye, biciwe iruhande rw'umuhanda. Ruzindana yaciye Beyatirisa amabere naho Makulata we bamujombye ibisongo mu gitsina cye. Ibyo byaha byakorewe mu maso y'Uregwa.³⁶⁷
415. Umutangabuhamya wiswe W yavuze ko, mu mpera z'ukwezi kwa Kamena 1994, yabonye Uregwa ku musozi wa Gitwa arasa ku mpunzi zirukaga, zihunga, nko mu ma saa yine za mu gitondo.³⁶⁸
416. **Umutangabuhamya ushinja wiswe BH** yavuze ko yongeye kubona Uregwa muri Kamena 1994. Uregwa yabwiye impunzi zari ziteraniye ku musozi wa Gitwa hafi y'i Kanyinya mu Bisesero, ko zizahabwa ibiribwa, imiti, n'amahema ya palasitike n'izindi mfashanyo, nizagaruka kuri uwo musozi ku wa mbere ukurikira. Umutangabuhamya yavuze ko kuri uwo muni « nta kintu kibi yakozze kuko yagirango abantu benshi bazaze »³⁶⁹. Umutangabuhamya yavuze ko we n'izindi mpunzi batemeye ibyo Uregwa ababwiye, niko kujya kwihisha. Koko rero, ku wa mbere ukurikira, Uregwa yasubiye ku musozi wa Gitwa ari kumwe na Ruzindana na Sikubwabo n'agatsiko k'abicanyi, bagaba yo igitero.³⁷⁰
417. **Umutangabuhamya ushinja wiswe BB** yavuze ko « hari igihe kimwe cyo mu kwezi kwa Kamena » we na Rutabana, Nzakamwita, Asiyeli Kabanda na Alegisi Nduwamungu, bavuye Igaramara mu gitondo, bajya kwihisha mu murima w'ingano muri selire Uwingabo. Abari mu bitero babavumbuyemo, izo mpunzi

³⁶⁶ Inyandikomvugo y'iburanisha ryo ku wa 7 Mata 2004, urup.23

³⁶⁷ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp.23, 25-26

³⁶⁸ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup.26

³⁶⁹ Inyandikomvugo y'iburanisha ryo ku wa 8 Mata 2004, urup.16

³⁷⁰ Inyandikomvugo y'iburanisha ryo ku wa 8 Mata 2004, urup.16

zihungira i Runyangingo naho ho muri selire Uwingabo, zihisha mu ishyamba rya pinusi. Abagabye ibitero nanone babavumbuyemo. Impunzi zirwanishagaho amabuye, ariko abicanyi bo bagakoresha amasasu. Uregwa ari kumwe n'abicanyi bari hagati y'100 na 200, bari bahagaze nko muri metero 20 uvuye aho impunzi zari ziri.³⁷¹

418. Umutangabuhamya yari iruhande rwa Kabanda na Alegisi igihe abo bagabo bombi baraswaga, bakikubita hasi.³⁷² Umutangabuhamya na Rutabana bari begeranye, bahise biruka bihisha mu mwobo mu kirombe nko muri metero 80 uvuye aho Uregwa n'abari mu bitero bari bari. Nko mu ma saa kumi n'imwe za nimugoroba, amasasu amaze guhosha, bavuye mu bwihisho, ni bwo babonaga umurambo wa Nduwamungu wambaye ubusa, babona na Nzamwita avirirana mu mpyiko, aho yari yarashwe. Umutangabuhamya kandi yagize ati : « Twanabonye n'umurambo wa Asiyeli Kabanda ; wari utumbuje. Bari bamuciye igihanga, bamushahuye, bamuciye imboro. »³⁷³ Impunzi zarokotse zagumye ku musozi wa Runyangingo kugeza mu mpera za Kamena. Muri icyo gihe naho, ibitero shuma byaragabwaga mbere y'uko intambara irangira. Umugore n'abana 2 b'umutangabuhamya biciwe ku musozi wa Runyangingo.³⁷⁴

Imyanzuro y'Urugereko

419. Mu myanzuro isoza urubanza y'Ubwunganizi, buvuga ko igika cya 5 (d) (vii) cy'Inyandiko y'ibirego, kitagaragaza aho icyo cyaha cyaba cyarakorewe. Kubera iyo mpamvu, Ubwunganizi busaba Urugereko kutakira icyo kirego kugira ngo uburenganzira bw'Uregwa bwo gucirwa urubanza rutabogamye, bwubahirizwe.³⁷⁵
420. Urugereko rwa mbere rw'iremezo rusanga igika cya 5 (d) n'icya 5 (d) (vii) by'Inyandiko y'ibirego, ubisomye byombi usanga bivuga ibyaha byakorewe mu

³⁷¹ Inyandikomvugo y'iburanisha ryo ku wa 17 Mata 2004, imp.10, 29

³⁷² Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, urup.9

³⁷³ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, urup.16

³⁷⁴ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 11-13

³⁷⁵ Imyanzuro y'Ubwunganizi isoza urubanza

« karere ka Bisesero, muri Komini ya Gishyita na Gisovu », bikorewe abasivili b'abatutsi bashutswe, bakava aho bari bihishe « hirya no hino muri Perefegitura ya Kibuye ».

421. Ikibazo nk'icyo cyasuzumwe mu rubanza rwa *Niyitegeka* aho Urugereko rw'ubujurire rwasanze ibirego rusange bijyanye n'ibitero byabereye muri « Kibuye » cyangwa mu « Bisesero » bitagaragaza ku buryo bwihariye ahantu igitero cyo ku musozi wa Muyira cyabereye. Inyandiko y'ibirego ntiyanagaragaje itariki igitero cyagabiweho. Kubera kutaragaza ahantu n'itariki by'igitero, byatumye Urugereko rutekereza ko Ubwunganizi budashobora kwiregura neza kuri icyo kirego. Porokireri ntiyashoboye kuvuguruza icyo gitekerezo cy'Urugereko.³⁷⁶
422. Nubwo muri uru rubanza, Inyandiko y'ibirego igaragaza neza ko itariki ivugwa ari iya 28 Kamena 1994, ahantu igitero cyagabwe ntihagaragara neza ; no mu rubanza rwa *Niyitegeka* ni ko byari bimeze, ari yo mpamvu Urugereko rw'ubujurire rwanze kwakira icyo kirego. Nk'uko bimeze kuri iki kibazo, Porokireri ntiyashoboye kwerekana ko yakosoye iyo nenge, amenyesha Ubwunganizi ku gihe kandi ku buryo bwumvikana, bunahamye ibishyigikira ikirego cye.
423. Bityo rero, Urugereko rusanze ikirego cyo mu gika cya 5 (d) (vii) cyo mu Nyandiko y'ibirego nta shingiro gifite.

T. IBITERO BYAGABWE KU BATUTSI KU UWINGABO, MU MPERA 80/ter
Z'UKWEZI KWA KAMENA 1994

Ibivugwa na Porokireri

424. Porokireri avuga ko:

Akarere ka Bisesero gafata kuri Komini ya Gishyita n'iya Gisovu muri Perefegitura ya Kibuye. Nyuma y'uko hagabwa ibitero byibasiye abasivili b'abatutsi bari bahungiyeye mu bigo muri Perefegitura ya Kibuye hagati ya Mata na Kamena 1994, ibihumbi by'abatutsi barokotse bahungiyeye hanze ku misozi y'imanga kandi ifite utununga yo mu Bisesero, bahagira ubuhungiro bwabo bwa nyuma.³⁷⁷

Mu kwezi kwa Mata 1994, Mika Muhimana, ari kumwe n'abasirikare n'Interahamwe, yarashe abatutsi 20, arabica muri Selire Uwingabo³⁷⁸.

Ibimenyetso

425. **Umutangabuhamya ushinja wiswe W** avuga ko, kubera ibitero byagabwe i Gitwa ho mu Bisesero, mu kwezi kwa Mata 1994, impunzi zahungiyeye ku Uwingabo. Abagabaga ibitero naho barazihakurikiye. Umutangabuhamya yabonye Uregwa muri icyo gitero arimo kurasa ku mpunzi³⁷⁹.

426. Umutangabuhamya ushinja wiswe W avuga ko, mu mpera z'ukwezi kwa Kamena 1994, yabonye Uregwa i Gitwa, mu ma saa ine za mu gitondo. Uregwa yarasaga n'imbunda ku mpunzi zahungaga. Umutangabuhamya yongeye kubona Uregwa ku Uwingabo hashize amasaha ane cyangwa atanu, ubwo hari hagati ya saa cyenda na saa kumi n'ebyiri z'igicamunsi. Umutangabuhamya, wari wihishe mu giti cya pinusi, yabonye Uregwa ari mu modoka yo mu bwoko bwa Toyota y'umweru ya Minisitiri Eliyezeri Niyitegeka, ari kumwe n'abasirikare bake. Umutangabuhamya yari asanzwe azi Minisitiri Niyitegeka kuko uwo muminisitiri

³⁷⁷ Inyandiko y'ibirego, igika cya 5 (d).

³⁷⁸ Inyandiko y'ibirego, igika cya 5 (d) (i).

³⁷⁹ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, urup. 14.

yakundaga gusura umuryango w'umutangabuhamya muri Segiteri ya Gitabura^{79/ter} Abasirikare bari muri iyo modoka barashe ku batutsi bari bahungiye ku misozi. Abasirikare ntibashoboraga kurasa amasasu menshi kubera ko hari abahutu hagati y'abagabaga ibitero n'abatutsi baraswagaho³⁸⁰.

Imyanzuro y'Urugereko

427. Urugereko rusanze ubuhamya bw'umugabo wiswe W bwumvikana neza kandi budahuzagurika; bityo akaba ari umutangabuhamya wa kwemerwa. Urugereko rero rwemeye ubuhamya bw'umugabo wiswe W ku bitero bibiri byagabwe ku Uwingabo, mu kwezi kwa Mata n'ukwa Kamena 1994. Urugereko rusanze, mu kwezi kwa Mata 1994, kubera igitero cyagabwe i Gitwa, abarokotse ubwicanyi barahungiye ku Uwingabo, aho abateye babakurikiye, bakongera kubagabaho igitero. Urugereko rusanze Uregwa yari muri icyo gitero kandi yararashye ku mpunzi. Nyamara ariko, Porokireri nta kimenyetso yatanze gihamya ko Uregwa yishe abasivili b'abatutsi makumyabiri.

428. Kubera iyo mpamvu, Urugereko rusanze ikirego cyo mu gika cya 5 (d) (i) cyo mu Nyandiko y'ibirego nta shingiro gifite.

U. UBUHOTOZI BWA ASIYELI KABANDA KURI SANTERI YA GISHYITA, MU MPERA Z'UKWEZI KWA KAMENA 1994

Ibivugwa na Porokireri

429. Porokireri avuga ko:

Ku itariki ya 22 Kamena cyangwa hafi yayo, ku misozi ya Bisesero, Mikaeli Muhimana yagiye mu gitero cyishe umusiviri w'umututsi witwa Asiyeli Kabanda, wari umucuruzi ukomeye kuri santeri ya Gishyita³⁸¹.

³⁸⁰ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 26-27, 47.

³⁸¹ Inyandiko y'ibirego, igika cya 7 (d) (iii).

Ibimenyetso bishinja

430. **Umutangabuhamy**a ushinja wiswe **AF**³⁸² n'uwiswe **BB**³⁸³ bombi bavuze ko Kabanda yari umucurizi uzwi na benshi kandi wari ukomeye. Umutangabuhamy wiswe **BB** yongeyeho ko Kabanda na Muhimana bacururizaga kuri santeri imwe.
431. **Umutangabuhamy**a ushinja wiswe **W** yavuze ko mu gitero cyagabwe ku musozi wa Ngendombi, yumvise Muhimana avuga ko azaha igihembo *Interahamwe* iyo ari yo yose yishe Kabanda³⁸⁴.
432. **Umutangabuhamy**a ushinja wiswe **BF** yavuze ko Kabanda yishwe ahagana mu mpera z'ukwezi kwa Kamena 1994³⁸⁵.
433. **Umutangabuhamy**a ushinja wiswe **BE** yavuze ko Kabanda yishwe mu kwezi kwa Kamena hagati³⁸⁶.
434. **Umutangabuhamy**a ushinja wiswe **BE** n'uwiswe **AT**³⁸⁷ bavuze ko bari bihishanye na Kabanda n'izindi mpunzi, umunsi Kabanda yiciweho. Umutangabuhamy wiswe **BE** yavuze ko bari bihishe mu murima w'amasaka hanyuma bakaza kuwuturumburwamo n'abagabaga ibitero, ubwo bakava ku musozi wa Gitwa ho muri Selire ya Gitwa, bakongera guhungira hafi aho ku musozi wa Runyangingo, ho muri Selire ya Uwingabo³⁸⁸.

³⁸² Inyandikomvugo y'iburanisha ryo ku wa 29 Mata 2004, urup. 21.

³⁸³ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, imp. 11, 28.

³⁸⁴ Inyandikomvugo y'iburanisha ryo ku wa 27 Mata 2004, imp. 8-10.

³⁸⁵ Inyandikomvugo y'iburanisha ryo ku wa 22 Mata 2004, urup. 6.

³⁸⁶ Inyandikomvugo y'iburanisha ryo ku wa 21 Mata 2004, imp. 4, 15.

³⁸⁷ Inyandikomvugo y'iburanisha ryo ku wa 20 Mata 2004, imp. 17-19.

³⁸⁸ Inyandikomvugo y'iburanisha ryo ku wa 21 Mata 2004, imp. 12-13, 18.

435. **Abatangabuhamy bashinja biswe AF³⁸⁹, AT³⁹⁰, BB³⁹¹, BE³⁹² na BH³⁹³_{77/ter}** bose bavuze ko Muhimana, Sikubwabo n’agatsiko k’Interahamwe bahize Kabanda, bakamuvumbura aho yari yihishe. Umutangabuhamy wiswe BE n’uwiswe BH, bavuze ko Muhimana na Sikubwabo bageze ku musozi wa Runyangingo bari mu modoka ya Komini Gishyita.³⁹⁴
436. **Umutangabuhamy ushinja wiswe AT** yavuze ko abagabye igitero babavumbuye we na Kabanda aho bari bihishe. Ubwo, Umutangabuhamy wiswe AT yarahunze, Uregwa, Sikubwabo n’abandi bari mu gitero barasa kuri Kabanda inshuro nyinshi, bamukomeretsa ku kaguru. Kabanda ubwo yituye hasi ariko ntiyahise apfa. Umutangabuhamy wiswe AF yavuze ko Interahamwe zavumbuye Kabanda zamurasheho kugira ngo atazicika³⁹⁵.
437. **Umutangabuhamy wiswe BE** yavuze ko ubwo impunzi zahungaga abagabye igitero, Kabanda, wari umuntu ukuze, yagendaga asigara inyuma. Umutangabuhamy yumvise amasasu avuga noneho akebutse abona Kabanda, wari inyuma ye ho nk’intambwe icumi, yitura hasi. Umutangabuhamy wiswe BE yabonye ko ari Mika Muhimana wishe Kabanda kubera ko mu bo bari kumwe nta wundi wari witwaje imbunda. Umutangabuhamy wiswe BE yavuze ko Interahamwe zari zitwaje impiri, imipanga n’amacumu. Yavuze ko we n’izindi mpunzi bihishe mu cyobo cy’ahantu hari harigeze gucukurwa gasegereti. Aho yari mu bwihisho, umutangabuhamy yumvise abagabye igitero basakuza bavuga ngo Kabanda bamubonye. Yumvise kandi Muhimana avuga ngo, “Ntimumwice. Mutegereze mbanze nze”³⁹⁶.
438. **Umutangabuhamy ushinja wiswe BB** yavuze ko yabonye Mikaeli Muhimana arasa Kabanda. Yemeje ko yari bugufi bw’aho ibyo byabereye ku

³⁸⁹ Inyandikomvugo y’iburanisha ryo ku wa 29 Mata 2004, urup. 21.

³⁹⁰ Inyandikomvugo y’iburanisha ryo ku wa 20 Mata 2004, imp. 17-19.

³⁹¹ Inyandikomvugo y’iburanisha ryo ku wa 16 Mata 2004, urup. 10.

³⁹² Inyandikomvugo y’iburanisha ryo ku wa 21 Mata 2004, imp. 3-4, 12-13, 15, 18.

³⁹³ Inyandikomvugo y’iburanisha ryo ku wa 8 Mata 2004, urup. 15.

³⁹⁴ Inyandikomvugo y’iburanisha ryo ku wa 8 Mata 2004, urup. 15.

³⁹⁵ Inyandikomvugo y’iburanisha ryo ku wa 29 Mata 2004, urup. 21.

³⁹⁶ Inyandikomvugo y’iburanisha ryo ku wa 21 Mata 2004, imp. 3-5, 18-23.

- buryo yashoboraga kubibona neza. Yavuze ko impunzi zari zarakoze “ikintu, 76/ter kimeze nk’urukuta” ari na cyo zikingagamo zitera amabuye ababagabagaho ibitero kugira ngo babakumire. Umutangabuhamya wiswe BB yavuze ko hagati y’abagabye igitero n’impunzi hari nka metero cumi n’eshanu³⁹⁷.
439. **Umutangabuhamya ushinja wiswe BH** yavuze ko igihe Kabanda yavumburwaga yagerageje kwiruka ariko Interahamwe zikamucakira, zikamutema n’imipanga, zikamuca umutwe. Umwutwe wa Kabanda bawushyiriye Uregwa aho yari yicaye ku muhanda, ari kumwe na Sikubwabo na Ruzindana³⁹⁸.
440. **Umutangabuhamya ushinja wiswe AT** yavuze ko Kabanda amaze kwitura hasi, Uregwa n’abandi bari mu bitero bamukikije. Uregwa yamuciye umutwe n’aho abandi bari mu bitero bamwambura imyenda yari yambaye. Uregwa yahereje umutwe wa Asiyeli Kabanda umusore amutegeka kuwujyana.
441. **Abatangabuhamya bashinje biswe AF³⁹⁹, BE⁴⁰⁰ na AT⁴⁰¹** bose bavuze ko babonye umurambo wa Kabanda wambaye ubusa, ko kandi bari bamuciye umutwe banamushahuye. Umutangabuhamya wiswe BE avuga kandi ko Kabanda yari yakomerekejwe ku kaguru k’iburyo⁴⁰².
442. **Umutangabuhamya wiswe AF** yavuze ko ahagana mu mpera z’ukwezi kwa Kamena 1994, mu ma saa cyenda, ubwo yari iwe mu rugo, yabonye Uregwa ari kumwe na Ruzindana bayoboye igitero kinini cy’Interahamwe, zitwaje imbunda, amasuka n’izindi ntwaro, bagana kwa Kabanda. Barasakuzaga kandi baririmba ngo Kabanda baramufite. Umutangabuhamya wiswe AF yavuze ko Interahamwe zari zishimiye gushyikiriza umutwe wa Kabanda umukuru wazo, ariwe Kayishema, zerekana ko zishe umuntu ukomeye⁴⁰³.

³⁹⁷ Inyandikomvugo y’iburanisha ryo ku wa 16 Mata 2004, imp. 11, 28.

³⁹⁸ Inyandikomvugo y’iburanisha ryo ku wa 8 Mata 2004, imp. 14-15, 48.

³⁹⁹ Inyandikomvugo y’iburanisha ryo ku wa 29 Mata 2004, urup. 21.

⁴⁰⁰ Inyandikomvugo y’iburanisha ryo ku wa 20 Mata 2004, urup. 20.

⁴⁰¹ Inyandikomvugo y’iburanisha ryo ku wa 21 Mata 2004, imp. 6, 24.

⁴⁰² Inyandikomvugo y’iburanisha ryo ku wa 21 Mata 2004, urup. 24.

⁴⁰³ Inyandikomvugo y’iburanisha ryo ku wa 29 Mata 2004, urup. 21.

443. **Umutangabuhamyia wiswe BF** yavuze ko Interahamwe atazi izina yari ifite 75/ter igunira noneho iza kurifungura, Uregwa akura umutwe muri iryo gunira awumanika ku idirishya ry'iduka rya Kabanda, hagati y'utwuma tubiri. Umutangabuhamyia wiswe BE yavuze ko umusaza witwa Ndoliyobijya, akaba ari mwene wabo w'Uregwa, yamubwiye ko umutwe wa Kabanda wari umanitse ku idirishya ry'inzu kwa Kabanda ko kandi imyanya ndangagitsina ye yari imanitse ku giti. Nyuma y'intambara, mu kwezi k'Ukwakira 1994, umutangabuhamyia yashoboye kwigenzurira iyi nkuru, asanga ari byo⁴⁰⁴.
444. **Umutangabuhamyia wiswe AT** yavuze ko yumvise bavuga ngo imyanya ndangagitsina ya Kabanda yari yaramanitswe ku giti i Gitarama. Nyuma y'intambara, mu kwezi k'Ukwakira 1994, umutangabuhamyia yashoboye kwigenzurira iyi nkuru, asanga ari byo⁴⁰⁵.
445. **Abatangabuhamyia biswe BF, BB na BE**⁴⁰⁶ bavuze ko ibisigazwa bya Kabanda byahambwe yaraye yishwe. Umutangabuhamyia wiswe BF⁴⁰⁷ yavuze ko umuturanyi we witwa Ndoriyobijya n'abandi bantu bashyinguye umutwe wa Kabanda hafi y'iduka rya nyakwigendera. Umutangabuhamyia yavuze kandi ko Uregwa yamuhaye umutwe wa Kabanda, ari Sikubwabo ubitangiye uruhusa. Umutangabuhamyia wiswe BB yavuze ko yumvise umuntu witwa Yohani avuga ngo we na mwishywa [cyangwa umuhungu wabo] wa Nzagamwita bahambye ibisigazwa bya Kabanda⁴⁰⁸.

Ibimenyetso bishinjura

446. **Umutangabuhamyia ushinjura wiswe DI, n'uwiswe DJ** bavuze ko Uregwa yari iwe, mu gihe Interahamwe zamanikaga umutwe wa Kabanda ku rugi rw'inzu ye, zigamije kuwumurikira rubanda. Umutangabuhamyia wiswe DJ

⁴⁰⁴ Inyandikomvugo y'iburanisha ryo ku wa 21 Mata 2004, imp. 7, 25.

⁴⁰⁵ Inyandikomvugo y'iburanisha ryo ku wa 20 Mata 2004, urup. 20.

⁴⁰⁶ Inyandikomvugo y'iburanisha ryo ku wa 21 Mata 2004, urup. 6.

⁴⁰⁷ Inyandikomvugo y'iburanisha ryo ku wa 22 Mata 2004, imp. 8, 27-30.

⁴⁰⁸ Inyandikomvugo y'iburanisha ryo ku wa 16 Mata 2004, urup. 12.

yavuze ko Uregwa yagiye hanze kureba ibyabaga, nk'abandi bose bo kuri icyo santeri y'ubucuruzi⁴⁰⁹.

447. **Umutangabuhamya ushinjura wiswe NT1** yavuze ko Kabanda yishwe n'Abakiga⁴¹⁰.

Imyanzuro y'Urugereko

448. Rushingiye ku buhamya bwatanzwe n'abagabo biswe AF, AT, BB, BE na BH, Urugereko rusanze Uregwa, Sikubwabo n'agatsiko k'Interahamwe barahize umututsi witwa Asiyeli Kabanda mu misozi ya Bisesero. Muri icyo gihe bamuhigaga, Uregwa hamwe n'abandi, bamurasheho, bamukomeretsa ku kaguru, hanyuma yitura hasi. Abagabye igitero baramwishe, ariko rero ubuhamya ntibugaragaza neza uwaba yaramuhwanyije. Urugereko rusanga imvugo z'abatangabuhamya biswe AT na BH zidahuza kubirebana n'uwaciye Kabanda umutwe. Nyamara ariko, Urugereko rusanze rwahitamo kwemera imvugo y'umutangabuhamya wiswe AT wemeza ko Uregwa ari we waciye Kabanda umutwe.

449. Urugereko rusanze abatangabuhamya bashinjura biswe NT1, DI na DJ batari aho Kabanda yiciwe, bityo rero ntibashobora kwemeza uwamwishe. Urugereko ntirushobora kwizera ubuhamya bw'umutangabuhamya wiswe NT1 wavuze ko yumvise bavuga ko Asiyeli Kabanda yishwe n'Abakiga, kubera ko nta kintu na gito cyatuma ubwo buhamya bwizerwa. Urugereko rusanga ubuhamya bw'abagabo biswe DI na DJ bavuze ko Uregwa yari ku rubaraza rw'inzu ye ubwo Interahamwe zazanaga umutwe wa Kabanda kuri santeri y'ubucuruzi, butashingirwaho mu kugaragaza uwishe Asiyeli Kabanda.

450. Bityo rero, Urugereko rusanze Porokireri yatanze ibimenyetso ku buryo budashidikinywaho na gato, byemeza ko Uregwa ari mu bishe umututsi witwa

⁴⁰⁹ Inyandikomvugo y'iburanisha ryo ku wa 1 Nzeri 2004, imp. 44-45, 72.

⁴¹⁰ Inyandikomvugo y'iburanisha ryo ku wa 26 Kanama 2004, imp. 26-27.

Asiyeli Kabanda wari umucuruzi, nk'uko abishinjwa mu gika cya 7 (d) (iii),^{73/ter}
cy'Inyandiko y'ibirego.

V. IBYABAYE BITAREGEWE MU NYANDIKO Y'IBIREGO

Ubukemuramanza

451. Urugereko rw'ubujurire, mu manza rwacyiye, rwafashe icyemezo kuri iki kibazo. Uregwa afite uburenganzira ahabwa n'amategeko bwo kumenyeshwa bidatinze kandi ku buryo burambuye imiterere y'ibyaha ashinjwa. Porokireri afite inshingano yo kwerekana ibikorwa runaka bishyigikira ibirego biri mu Nyandiko y'ibirego ariko ntasabwa kwerekana ibimenyetso azashingiraho mu guhamya ibyo bikorwa⁴¹¹. Mbere yo gushoza urubanza, Porokireri agomba kuba azi neza imiterere ya dosiye. Iyo Porokireri ataregeye ibikorwa runaka mu Nyandiko y'ibirego ariko akabishyira mu myanzuro mbanzizarubanza ye, cyangwa akabivuga mu iburanisha, bishobora kugora Ubwunganizi gukora iperereza kuri ibyo bikorwa bishya mbere y'uko iburanisha ry'urubanza ritangira. Urugereko rwa mbere rw'iremezo rero rugomba kugenzura niba uregwa yaramenyeshewe ku buryo burambuye ibyo ashinjwa kugira ngo ashobore kwitegura kubyireguraho.

452. Iyo ibimenyetso bitanzwe binyuranye n'ibikorwa byaregowe mu Nyandiko y'ibirego, Urugereko rwa mbere rw'iremezo rushobora gufata icyemezo kugira ngo imiburanishirize y'urubanza ibe mu buryo butarenganya⁴¹². Iyo Inyandiko y'ibirego idakubiyemo ibikorwa runaka, cyangwa se ikaba iburamo ibisobanuro birambuye kuri ibyo bikorwa, biba ari inenge ku kintu cy'ibanze, ibirego bya Porokireri bishingiyeho, bikaba ngombwa rero gukosora iyo nenge. Inyandiko z'ibirego nkeya zirimo inenge irebana n'ibyabaye ni zo zishobora gukosorwa Ubwunganizi bushyikirijwe amakuru mu nyandiko yihariye, atanzwe mu nyandiko y'ibirego, kubera ko ibyaha biri mu bubasha bw'inkiko zidahoraho

⁴¹¹ Urubanza rwa Kupreskic na bagenzi be mu bujurire, igika cya 88, Urubanza rwa Niyitegeka mu bujurire, igika cy'i 193.

⁴¹² Urubanza rwa Kupreskic na bagenzi be mu bujurire, igika cya 92, byavuzwe mu rubanza rwa Niyitegeka mu bujurire, igika cy'i 194.

birangwa no kuba ari insobe haba mu rwego rw'ibyabaye cyangwa se mu rwego rw'amategeko. Mu manza zimwe na zimwe zidakomeye cyane, Porokireri ashobora gukosora inenge igaragara mu byabaye, iyo atanze amakuru ku gihe, ku buryo busobanuye neza kandi bufashe, yerekeye ibikorwa bishyigikira ikirego⁴¹³. Igikorwa cya Porokireri cyo gushyira ahagaragara ubuhamya bwanditse bw'umugabo, ntigihagije kumenyesha Ubwunganizi ibikorwa runaka Porokireri ashaka gutangira ibimenyetso mu rubanza. Ubwunganizi bugomba guhabwa ibisobanuro bihagije; iyo ibyo bitarakorwa, Ubwunganizi buba bufite uburenganzira bwo gutekereza ko ibikorwa runaka byarondowe mu Nyandiko y'ibirego byuzuye kandi ko ari byo bugomba kwireguraho⁴¹⁴. Urukiko rwa ICTY rwemeje ko, rimwe na rimwe, ibyo Porokireri avuga mu myanzuro bishobora gufatwa nk'inyandiko ihagije imenyesha Ubwunganizi ko Porokireri ateganya gutanga ibimenyetso by'ibikorwa bimwe bishyigikira ikirego runaka mu Nyandiko y'ibirego⁴¹⁵. Nyamara ariko, hakurikijwe Ingingo ya 65 ter y'Amategeko y'imiburamishirize muri ICTY, Porokireri afite inshingano, ku bw'amategeko yo kwerekana, kuri buri kirego, incamake y'ibimenyetso ashaka gushingiraho asobanura neza imikorere y'icyaha aregera n'imiterere y'uburyozwacyaha bw'Uregwa⁴¹⁶. Kudatanga umwanzuro ukubiyemo ibyo bishobora guhanirwa.

453. Muri uru Rukiko, nta tegeko nk'iryo ririho. Ibiteganyijwe bisa n'ibyo bikubiye mu ngingo ya 73 bis (B) y'Amategeko, iteganya ko, mu nama mbanzizirubanza, Urugereko cyangwa Umucamanza warwo wagenwe, bashobora gusaba Porokireri gutanga, mu gihe cyateganyijwe n'Urugereko cyangwa n'uwo Mucamanza, kandi

⁴¹³ Urubanza rwa Kupreskic na bagenzi be mu bujirire, igika cya 114, byavuzwe mu rubanza rwa Niyitegeka mu bujirire, igika cy'i 195.

⁴¹⁴ Urubanza Porokireri aburana na Broanin na Talic, IT-99-36-PT, icyemezo ku kibazo cyo guhindura Inyandiko y'ibirego n'Ikibazo cya Porokireri gisaba guhindura Inyandiko y'ibirego, ku wa 26 Kamena 2001, igika cya 64.

⁴¹⁵ Porokireri aburana na Broanin na Talic, IT-99-36-PT, icyemezo ku kibazo cyo guhindura Inyandiko y'ibirego n'Ikibazo cya Porokireri gisaba guhindura Inyandiko y'ibirego, 26 Kamena 2001, igika cya 64.

⁴¹⁶ Mubyo Amategeko ateganya harimo ko: "... Umucamanza ushinze Inama mbanzizirubanza ategake Porokireri, kandi amaze icyo umunyamategeko mukuru mu by'amategeko abivugaho, kandi mu gihe cyateganyijwe n'uwo mucamanza kitari muni y'ibyumweru bitandatu mbere y'uko Inama itegura urubanza iba nk'uko biteganywa n'Ingingo ya 73 bis [y'Amategeko], gutanga ibi bikurikira: (i) Imyanzuro ya burundu mbanzizirubanza ya Porokireri, ikubiyemo kuri buri kirego, incamake y'ibimenyetso Porokireri yifuza gutanga byerekeranye n'imikorere y'icyaha hamwe n'imiterere y'uburyozwacyaha bw'uregwa;...".

mbere y'itangizwa ry'urubanza, “incamake y'imyanzuro ivuga ibyabaye n'iyerekeye amategeko”. Na none muri iyo ngingo mu kindi gika, hateganywa, ariko ku buryo butari nshinganwa, ko Urugereko rwa mbere rw'iremezo cyangwa Umucamanza warwo wagenwe, bashobora gusaba Porokireri gutanga urutonde rw'abatangabuhamya ateganya guhamagaza, kandi urwo rutonde rukaba rukubiyemo incamake y'ibyo bikorwa buri mugabo azatangaho ubuhamya n'ibikubiye mu Nyandiko y'ibirego azabutangaho⁴¹⁷. Rero, mu mategeko y'uru Rukiko, nta kintu na kimwe gitegeka ko mu myanzuro mbanzizarubanza hagomba kuba hakubiyemo ibintu nk'ibivugwa mu mategeko ya ICTY, bigenewe kumenyesha Ubwunganizi ibiregerwa. Kubera ko imyanzuro mbanzizarubanza muri ICTY ishobora kuba ikubiyemo amakuru asobanuye neza, amenyesha ubwunganizi ibiregerwa, igihe ayo makuru agomba gutangwamo ni ikintu gikomeye cyane.

454. Urugereko rwa mbere rw'iremezo rusanga, iyo inenge iherereye mu ibura ry'ibikorwa ibi n'ibi biregerwa kandi ari byo bigomba gushyigikira ibirego, iyo nenge itakosorwa neza n'amakuru atanzwe ariko atari mu nyandiko y'ibirego. Muri uru rubanza, ibikorwa runaka bitaregwe bifatanye isano n'ibintu byinshi Porokireri avuga ko Uregwa yakoze we ubwe kandi uretse igikorwa kimwe cyavuzwe nyuma y'Inyandiko y'ibirego idakuka, ibindi bikorwa byagombaga rwose gushyirwa mu Nyandiko y'ibirego; kuba Porokireri atarabikoze kugeza ubu bikaba bitumvikana. Mu myanzuro ye mbanzizarubanza, Porokireri yagerageje kwisobanura avuga ko gutanga ibisobanuro bihagije ku bitero bimwe na bimwe bitashobotse kubera igihe gishize ibivugwa bibaye, ihungabana ry'abatangabuhamya, hamwe n'intera ibyaha biregerwa byafashe⁴¹⁸. Nyamara

⁴¹⁷ Ibisa n'ibyo na none biteganywa mu ngingo ya 65 ter y'Amategeko ya ICTY, ariko ho ibyo bisabwa ni nshinganwa. Byongeye kandi, biragaragara ko igihe ntarengwa cyo gutanga imyanzuro mbanzizarubanza muri ICTY ni kirekire kurushaho [nibura ibyumweru bitandatu mbere y'uko urubanza rutangira], bityo rero bisa nk'aho byagirira akamaro kanini Ubwunganizi ku birebana no kumenyeshwa ibiregerwa.

⁴¹⁸ Umwanzuro mbanzizarubanza wa Porokireri, igika cya 60 uvuga ko: “... mu bihe ibitero bigabwa ubutitsa mu karere kamwe, bishobora kugorana gutanga ibimenyetso bisobanutse neza, imyaka icumi (10) nyuma y'ibyabaye, byerekeranye n'ibitero byihariye ku matariki aya n'aya byagabwe ku bahohotewe runaka ahantu aha n'aha. Abarokotse, bamaze amezi atatu bahangayitse cyane kandi bagabwaho ibitero byinshi, bashobora kugira ingorane zo kwibuka amatariki n'ahantu ibyaha byakorewe, kimwe n'imyirondoro y'abahohotewe. Mu bihe nk'ibyo, kubera intera ibyo byaha byafashe, ntibyoroshye gusobanura ibintu ku buryo bunonosoye.

ariko, muri ibyo byose uretse ahantu hamwe havuzwe haruguru, mu gihye yakoraga Inyandiko y'ibirego isubiwemo, Porokireri yari afite amakuru ya ngombwa kandi yari azi ko ibyo bikorwa runaka byabayeho.

455. Imyanzuro mbazirizarubanza ya Porokireri, iherekejwe n'urutonde rw'abatangabuhamya, yatanzwe ku itariki ya 27 Gashyantare 2004. Ibyakosowe ku mugereka byashyikirijwe Ibiro bya Gerefiye ku itariki ya 26 Werurwe 2004, iburanisha ritangira ku itariki ya 29 Weruwe 2004. Porokireri aremeza ko ibyashyizwe ahagaragara kimwe n'ibivugwa mu myanzuro mbanzirizarubanza, bishobora kuba bihagije kugira ngo Uregwa abe yabasha gutegura imyiregurire ye, kandi nyamara byaratanzwe hasigaye igihe gito imbere yuko iburanisha ritangira.

456. Inyandiko y'ibanze y'imyanzuro mbanzirizarubanza yavugaga muri rusange, uruhare rw'Uregwa "n'ibitso bye", rwaba ari urwe ku giti cye cyangwa ruri mu mugambi uhuriweho, rwo gutuma gusambanya ku gahato biba, cyangwa se ubwe akabikora⁴¹⁹. Igika cya 37 cy'iyi myanzuro kivuga ko Uregwa yasambanyije ku gahato abagore muri Segiteri ya Gishyita, mu kigo cya Mugonero no mu Bisesero "muri Mata, Gicurasi na Kamena 1994". Urugereko rusanga mu nyandiko y'ibanze y'imyanzuro mbanzirizarubanza, hari aho Porokireri akosora ibyo avuga mu nyandiko y'ibirego. Ibi bikaba bisobanura ibyo avuga ko imyanzuro mbanzirizarubanza n'ubuhamya bwanditse byamenyesheje Ubwunganizi ku buryo buhagije, ibiregerwa bitasobanuwe. Mu nyandiko y'ibanze y'imyanzuro mbanzirizarubanza, nta hantu avuga ko yashakaga kongera mu Nyandiko y'ibirego ibikorwa runaka, [nk'ibirego byihariye byo gusambanya ku gahato]. Ibyo Porokireri abona ko byamenyesheje Ubwunganizi ibiregerwa bitasobanuwe, biri mu mugereka kandi byerekana ibintu abagabo bazatangaho ubuhamya. Biragaragara ko, akenshi, ibivugwa mu mugereka byereka by'umwihariko

⁴¹⁹ Imyanzuro mbanzirizarubanza ya Porokireri, ibika bya 27, 28 na 33. Igika cya 34 cy'iyi myanzuro kivuga ko 14 mu batangabuhamya 22 bashinja ku byabaye bari gutanga ubuhamya ku byo biboneye cyangwa byabayeho birebana no gusambanya ku gahato.

Uregwa ibice by'Inyandiko y'ibirego bitagize aho bihuriye n'ibiregerwa bitasobanuwe. 69/ter

457. Mu mpera y'uru rubanza, mu myanzuro nsozarubanza, Porokireri yemeye ko hari ibintu byinshi bishingiye ku byabaye ataregeye mu Nyandiko y'ibigero. Yasabye Urugereko gufata ibiri mu buhamya bwanditse bwamenyeshejwe Ubwunganizi, n'ibivugwa mu myanzuro mbanzizarubanza, nk'aho bikosora inenge yo kuba hari ibyabaye bitaregewe. Mu myanzuro nsozarubanza no mu ngingo ze zanyuma, Porokireri ntiyashoboye gusobanura impamvu atashyize ibintu byabaye mu nyandiko y'ibirego cyangwa impamvu atasabye gukosora iyo nenge⁴²⁰.
458. Igihe Porokireri yatangaga ingingo ze zisoza urubanza, Urugereko rwamubajije ikibazo kirebana n'ibintu byabaye ataregeye, Porokireri yasabye Urugereko ko rwafata imyanzuro yo mu rwego rw'ibyabaye ku byaha byo gusambanya ku gahato [bitaregewe] ndetse avuga ko ibyabaye bitavuzwe bishobora gukoreshwa mu kugaragaza umugambi wo gukora itsembabwoko cyangwa kwerekana ko habayeho gukomeza kwitwara nabi by'Uregwa, biteganywa n'ingingo ya 93 y'Amategoko. Ku munsu wa kabiri wo gutanga mu magambo imyanzuro isoza urubanza, Porokireri yemeye ko kuba hari ibyabaye bitaregewe bitera inenge Inyandiko y'ibirego. Ku byerekeranye n'ibikorwa by'ubuhotozi bitaregewe, Porokireri yagize ati:

Ba Nyakubahwa Bacamanza, nk'uko nabivuze, kuba bitarashyizwe mu Nyandiko y'ibirego biyitera inenge mu byerekeranye n'ibiteganywa n'amategoko maze kwerekana. Turavuga ko bifite inenge kuko ahanini Ubwunganizi butabimenyeshejwe ku gihe kugira ngo bushobore kwitegura...ubwo rero inyandiko y'ibirego itavuga ku bintu bivugwa mu buhamya bw'umugabo iba ifite inenge idashobora kuvurwa. Bityo rero ntushobora kuza ngo uvuge ngo 'ibintu biri mu buhamya bw'umugabo; twibagiwe kubivuga mu Nyandiko y'ibirego ariko turasaba Urugereko kubizirikana'. Twe twumva, jye numva ko ibintu biri mu buhamya

⁴²⁰ Urugereko rwa mbere rw'iremezo rurasanga uburenganzira Uregwa afite bwo kunyomoza abatangabuhamya ku byabaye bitaregewe budakemura inenge z'inyandiko y'ibirego zirebana n'ibyaye.

bw'umugabo bwanditse kandi byari bihari igihe Inyandiko y'ibirego yategurwaga, ariko ntibibe byarashyizwe mu Nyandiko y'ibirego bituma iyi Nyandiko y'ibirego igira inenge idashobora kuvurwa.

68/ter

459. Urugereko rumuhase ibibazo, Porokireri yasubiyemo ibyo yari amaze kuvuga, kandi bisobanutse⁴²¹.
460. Porokireri rero yakomeje avuga ibintu byavutse amaze gukora Inyandiko y'ibirego. Yavuze ko iyo nenge iba ivuwe iyo yamenyesheje ku gihe, ibizavugwa. Porokireri yasabwe kongera gusobanura ingaruka yo kuba hari ibintu byabaye bitaregwe:

UMUCAMANZA MUTHOGA:

Reka mvuge mu magambo ahinnye ibyo wavuze, ndebe ko nabyumvise neza. Urimo kuvuga uti- ntudusaba guhamya Bwana Muhimana icyaha dushingiye ku byaha bitari mu nyandiko y'ibirego, n'ubwo – waba warabiboneye ibimenyetso mbere yo gukora inyandiko y'ibirego. Tugomba gutekereza ko, kubera ko wari uzi ibyo bimenyetso, utashatse ku murega ibyo byaha.

BWANA KAPAYA:

Yego

UMUCAMANZA MUTHOGA:

None uratubwira ko wisubiyeho, ko ushaka ko yahanirwa ibyo byaha. Ni byo?

BWANA KAPAYA:

Yego. Muri rusange ni byo dusaba. Byerekeranye n'abantu babiri cyangwa batatu bavuze ku gusambanya ku gahato. Byerekeye icyaha cyo gusambanya ku gahato tuvuga ko twatangiyeye amakuru, nyuma y'inyandiko y'Ibirego, tubimenyesha Ubwunganizi.

UMUCAMANZA MUTHOGA:

⁴²¹ 19 Mutarama 2005, urup. rwa 2.

Ariko igihe mwakoraga Inyandiko y'ibirego ntimwari muzi ibyo byaha byo gusambanya ku gahato. Ni byo? 67/ter

BWANA KAPAYA:

Yego, Nyakubahwa Mucamanza. Nibyo dushaka kuvuga⁴²².

461. Porokireri yanemeje ko nta birego by'ubuhotozi bitaregewe mu nyandiko y'ibirego nyuma ngo abe yaragerageje kuvura iyo nenge abimenyesha Ubwunganizi ku gihe. Porokireri yavugaga rero ko uretse ibirego byo gusambanya ku gahato batari bafitiye amakuru ubwo Inyandiko y'ibirego yasubiwemo yatangwaga tariki ya 4 Gashyantare 2004, nta bindi bikorwa bitashyizwe mu Nyandiko y'ibirego byaregerwaga. Ariko imvugo ya Porokireri ntiyari ihuye muri byose. Urugereko rwasanze Porokireri yarasaga naho arusaba gufata imyanzuro ku bintu bimwe bitaregewe. Ku bintu birindwi byabaye bitaregewe, Urugereko rurasuzuma buri kintu ngo rurebe niba inenge yo kutabishyira mu Nyandiko y'ibirego yarakosowe no kubimenyesha Ubwunganizi ku gihe kandi ku buryo bwumvikana, kugira ngo uburenganzira bw'Uregwa bwubahirizwe.

Ibintu byihariye byabaye bitaregewe mu Nyandiko y'ibirego

a. Gusambanya ku gahato Evelina na Tabita

Impaka.

462. Umutangabuhamya wiswe BG yavuze ko we n'umugore witwa Evelina w'i Rwamatamu, muri Segiteri ya Mugozi, bari bihishe hamwe mu misozi yo mu Bisesero. Porokireri yabajije uyu mutangabuhamya ibibazo, Ubwunganizi ntacyo bwabivuzeho. Umutangabuhamya yavuze ko Evelina yamubwiye ko yasambanyijwe ku gahato n'Interahamwe ziyobowe n'abantu barimo Uregwa. Mu ibazwa rinyomoza, umutangabuhamya yavuze ko yavuze Uregwa ku byerekeranye na Evelina, asubiza ikibazo kirebana n'abayoboze ibitero. Uwo

⁴²² 19 Mutarama 2005, urup. rwa 2.

mutangabuhamya yahakanye ko yavuze ko Uregwa ari we wasambanyije Evelina^{66/ter} ku gahato ko ahubwo yamuvuze “...kubera ko Uregwa yari azi ko ibyo bitero n’ibyo bikorwa byose birimo kuba”⁴²³.

463. Porokireri yavuze kandi ko hari ibimenyetso byerekana ko Interahamwe zatwaye ku ngufu uwitwa Tabita, zikamusambanya ku gahato nyuma zikamwica. Nta kimenyetso cyihariye cyatanzwe cyekerana uruhare rw’Uregwa. Umutangabuhamya yavuze ko Tabita yari “...yakorewe bimwe nk’ibyo nababwiye”⁴²⁴. Ntibyumvikana, ariko wenda Urugereko rwasabwaga gutekereza ko umutangabuhamya yavugaga ko Tabita yakorewe bimwe n’ibyakorewe Evelina. Ibi ariko nta wabihamya Umutangabuhamya wiswe BG yavuze ko atiboneye ubwe ibyabaye kuri Tabita kubera ko yari arimo kugerageza gukiza amagara ye.
464. Mu mugereka w’imyanzuro mbanzizarubanza ya Porokireri, incamake y’ubuhamya bw’umugabo wiswe BG igira iti: “Nabonye kandi n’amakuru y’isambanywa ku gahato rya Evelina na Tabita”⁴²⁵. Ahandi Porokireri abivuga mu myanzuro mbanzizarubanza nta bindi bisobanuro by’inyongera yatanze. Mu myanzuro nsozarubanza Porokireri yashatse kuvuga ko ibi hamwe n’ubuhamya bwanditse bwatangajwe, byari bigamije kumenyesha undi muburanyi mu buryo buhagije kandi bwumvikana ibyo birego⁴²⁶. Urugereko rusanga muri iyo myanzuro ibyo bitaravuzwe ku buryo buhagije kandi biterekana neza ko Ubwunganizi bwamenyeshajwe ko Uregwa yari gukurikiranwa ku cyaha cyo gusambanya ku gahato Evelina na Tabita. Byongeye kandi, umugereka uvuga by’umwihariko ko ubuhamya bw’umugabo bwerekeranye n’ibivugwa mu bika 5(c), 6(d), 6(d) (i) na 7 (d) by’inyandiko y’ibirego. Mu mugereka ubanza, ibika bivugwa byarimo igika 5 (d) (vii). Bityo rero, Porokireri yamenyeshaga ku buryo bugaragara ko ubuhamya bw’umugabo bwari bugamije kwerekana ibitero

⁴²³ 6 Mata 2004, urup. rwa 30.

⁴²⁴ 6 Mata 1994, urup. rwa 5.

⁴²⁵ Imyanzuro mbanzizarubanza ya Porokireri yagejejwe mu Bwanditsi bw’Urukiko tariki ya 27 Gashyantare 2004, igice cya IV, urup. rwa 3 n’inyandiko ikosora ubuhamya bw’umugabo yashyizwe mu Bwanditsi bw’Urukiko tariki ya 24 Werurwe 2004.

⁴²⁶ Imyanzuro nsozarubanza ya Porokireri yashyizwe mu Bwanditsi bw’Urukiko tariki ya 25 Ukwakira 2004, urup. rw’i 139.

bitasobanuwe byagabwe ku kigo cyo ku Mugonero⁴²⁷, gusambanya ku gahato^{65/ter} umutangabuhamya wiswe BG, no⁴²⁸ gukorera Virijiniya Gasherebuka⁴²⁹ urugomo rushingiye ku gitsina ndetse no kumwica. Kuri ibi bintu byabaye, ubuhamya bwanditse umugabo wiswe BG yatanze tariki ya 24 Ukwakira 1999 n'itariki ya 2 Gashyantare, buvuga ku gusambanya ku gahato no kwica Evelina na Tabita ariko ntihavugwe uruhare rwihariye Uregwa yabigizemo.

465. Byongeye kandi, Porokireri yavuze ko ubuhamya bwerekeye Evelina bukwiye kwakirwa kugira ngo herekanwe ukuntu Uregwa yakomeje kugira imyitwarire mibi. Mu myanzuro ye nsozarubanza yatanze mu magambo, Porokireri yemeje ko n'ubwo icyo cyaha kitaregwe mu Nyandiko y'ibirego “[ibikivugwaho] bishobora gushimangira ibyo abandi batangabuhamya bavuze”⁴³⁰.

Imyanzuro y'Urugereko.

466. Urugereko ruributsa ko iyo Porokireri ashatse gukoresha ibimenyetso nk'ibyo kugira ngo agaragaze imyitwarire mibi y'Uregwa yabaye kenshi, hagomba gukurikizwa ingingo zisanzwe zigenderwaho mu kumenyeshya Ubwunganizi ibiregerwa by'ingenzi. Ubwunganizi bugomba kumenyeshwa ibirego, mu buryo bwumvikana kandi ku gihe, ndetse n'impamvu bitanzwe. Kuri iki kibazo, Porokireri ibyo yamenyesheje Ubwunganizi, aho kwerekana ko yashaka guhamagaza abagabo batanga ubuhamya kuri ibi byaha bibiri byo gusambanya ku gahato, ahubwo byagaragaje ko yari agamiye kubahamagaza kuza kuvuga ku bindi bintu. Bityo rero, Urugereko nta mwanzuro ku byabaye rufata kuri iki cyaha.

b. Gusambanya ku gahato no kwica Tereza Mukabitega

Impaka.

⁴²⁷ Inyandiko y'ibirego, igika cya 5 (c).

⁴²⁸ Inyandiko y'ibirego, igika cya 6 (d).

⁴²⁹ Inyandiko y'ibirego, igika cya 6 (d) (i), n'igika cya 7 (d).

⁴³⁰ Itariki ya 18 Mutarama 2005, urup. rwa 49.

467. Porokireri avuga ko abantu batavuzwe bari bagabye ibitero mu Bisesero bagose, Tereza Mukabitega, bakamusambanya ku gahato ndetse bakamwica. Porokireri ntahakana ko ibyo bintu bitavuzwe mu Nyandiko y'ibirego.⁴³¹ Umutangabuhamya ushinje wiswe BB yavuze ko umunsi umwe mu kwezi kwa Gicurasi, yabonye Uregwa ayoboye igitero Igarama mu masaa tatu za mugitondo⁴³² kandi ko yabonye abari bagabye igitero, barimo Uregwa, bafata Tereza Mukabitega bakamukikiza ataka. Nyuma amaze kubona umurambo we, bamutemye umuhogo, ijipo ye bayiciye, no mu gitsina cye⁴³³ hashinzemo igiti, Umutangabuhamya yahise yumva ko uwo mugore bamusambanyije ku gahato. Umutangabuhamya ntiyashoboye kumenya icyo buri muntu yakoreye Tereza Mukabitega kubera ko abari bagabye ibitero bari bamukikije hose, bigatuma atabona ibyo barimo kumukorera⁴³⁴.
468. Kubera ko Porokireri avuga ko isambanya ku gahato ryose ritavuzwe mu Nyandiko y'ibirego, ryamenyeshejwe Ubwunganizi ku buryo buhagije mu buhamya bwanditse no mu myanzuro mbanzirizarubanza, Urugereko rusanga n'ubwo ubuhamya bwanditse umugabo wiswe BB yatanze tariki ya 13 Ukuboza 1999 buvuga iyicwa ry'uriya mugore, umugereka w'imyanzuro mbanzirizarubanza uvuga ku buhamya bw'umugabo wiswe BB ugira uti: "Bavumbuye abagore babiri barabakurura babajyana mu kabande hepfo. Nyuma Umutangabuhamya yaje kubona imirambo yabo". Ubuhamya bw'uwo mugabo bugamije gusobanura ibiri mu gika cya 7 (d) (iii) cy'Inyandiko y'ibirego cyerekeranye n' iyicwa rya Asiyeli Kabanda.

Imyanzuro y'urugereko

469. Urugereko rusanga ibi bintu atari ukumenyesha undi muburanyi, mu buryo buhagije, bwumvikana kandi ku gihe, ko Porokireri akurikirana Uregwa kuri iki cyaha cyo gusambanya ku gahato. Bityo rero Urugereko nta mwanzuro ku byabaye rufata kuri iki cyaha.

⁴³¹ Imyanzuro nsozarubanza ya Porokireri, urup. rw'i 141, igika cya 282.

⁴³² Itariki ya 16 Mata 2004, urup. rwa 7.

⁴³³ Itariki ya 16 Mata 2004, imp. 9, 25,26.

⁴³⁴ Itariki ya 16 Mata 2004, imp. 25-26.

Impaka.

470. Porokireri avuga ko nyuma ya saa sita ahagana mu matariki ya 13 Mata 1994, ku gasozi ka Muyira mu Bisesero, Uregwa yasambanyije ku gahato impunzi yitwa Yozefina Uwamariya maze arangije Interahamwe zihita zimwica. Interahamwe zamuciye amaguru n'amaboko zimusiga aho ngo apfe yumva⁴³⁵. Porokireri ntahakana ko iki cyaha kitaregwe mu Nyandiko y'ibirego⁴³⁶. Umutangabuhamya wiswe BU yavuze ko yabonye Uregwa ku gasozi ka Muyira, mu Bisesero asambanya ku gahato Yozefina Uwamariya, nyuma Interahamwe zica uwo Yozefina. Umutangabuhamya yavuze ko yari azi Yozefina. Iki kirego cyari mu mugereka w'imyanzuro mbanzizarubanza ya Porokireri; cyari no mu buhamya bw'umugabo bwanditse bwamenyeshejwe Ubwunganizi. Mu mugereka wa mbere w'imyanzuro mbanzizarubanza, havugwa ko ubuhamya bw'umugabo bwerekana ibivugwa mu gika cya 6 (d) (iii) cy'Inyandiko y'ibirego, byerekeranye no gusambanya Felesita Kankuyu ku gahato. Mu mugereka wakosowe, watanzwe mbere gato yuko iburana ritangira, havuzwe ko ubwo buhamya bwerekana ibivugwa mu gika cya 6 cy'Inyandiko y'ibirego. Iki gika kivuga icyaha, ariko nta bisobanuro gitanga kuri icyo cyaha. Nyamara, kirasa nk'aho kimenyesha nibura umugambi wo kwerekana ikintu cyaba kirimo ikirego yihariye cyo gusambanya ku gahato Yozefina. Ikibazo ni uko kiterekeranye n'ikintu na kimwe mu biregerwa mu gika cya 6. Byongeye kandi mu myanzuro mbanzizarubanza yatanzwe ibyumweru bine mbere y'itangira ry'iburanisha, ntihavugwa ku buryo bugaragara ko ubuhamya bw'umugabo bwari bugamije kwerekana ikirego cyihariye Uregwa ashinjwa. Ikindi ni uko Ubwunganizi butahawe igihe gihagije cyo kwiga icyo kirego.

Imyanzuro y'urugereko

⁴³⁵ Itariki ya 16 Mata 2004, imp. 40, 47.

⁴³⁶ Imyanzuro nsozarubanza ya Porokireri yashyikirijwe Ubwanditsi bw'Urukiko tariki ya 25 Ukwakira 2004, ibika bya 279-281.

471. Urugereko rusanga ibi biterekana ko Ubwunganizi bwamenyeshejwe ku gihe, ku 82/ter buryo buhagije kandi bwumvikana, ko uregwa yari gukurikiranwa kuri iki cyaha cyo gusambanya ku gahato. Kubera iyo mpamvu, Urugereko nta mwanzuro ku byabaye rufata kuri iki cyaha.

d. Gusambanya Mukasine ku gahato

Impaka

472. Umutangabuhamywa wiswe BI yavuze ko mu ntangiriro z'ukwezi kwa Gicurasi 1994, Uregwa yasambanyije ku gahato kandi yica Mukasine, ahantu hazwi. Ubwo rero Uregwa ashinjwa kuba yarishe uwo muntu. Porokireri ntahakana ko iki cyaha atakiregeye mu Nyandiko y'ibirego⁴³⁷ ariko avuga ko kijyanye n'ibyo avuga, mu myanzuro mbanzizarubanza, ko Uregwa yasambanyije Mukasine ku gahato kandi akanamwica. Iki kirego cyari mu mugereka w'imyanzuro mbanzizarubanza ya Porokireri, no mu buhamya bwanditse bw'umugabo wiswe BI bwamenyeshejwe Ubwunganizi. Ariko uwo mugereka, uvuga ko ubuhamywa bw'uyu mugabo bugamije kwerekana ibivugwa mu gika 5 (c) n'icya 6 (c) byo mu Nyandiko y'ibirego birebana n'ibitero rusange byagabwe ku kigo cya Mugonero no gusambanya ku gahato Yoziyana, Mariyana Gafurafura na Marita Gafurafura. Mu myanzuro mbanzizarubanza hasigaye ibyumweru bine ngo iburanisha ritangire, nta havugwa ku buryo bwumvikana ko ubwo buhamya bwari bugamije kwerekana icyaha runaka kiregwa ushinjwa. Byongeye kandi, Ubwunganizi ntibwahawe igihe gihagije cyo gusuzuma iki kirego.

473. Urugereko rusanze Ubwunganizi butaramenyeshwe, ku buryo buhagije, bwumvikana kandi ku gihe ko Porokireri yateganyaga gukurikirana Uregwa kuri iki cyaha cyo gusambanya ku gahato. Kubera iyo mpamvu, Urugereko nta mwanzuro ku byabaye rufata kuri iki cyaha.

e. Ihotorwa rya Yohani Kalawudiyani Nkundiye na Manweli Murindahabi.

⁴³⁷ Imyanzuro nsozarubanza ya Porokireri yashyikirijwe Ubwanditsi bw'Urukiko tariki ya 25 Ukwakira 2004, ibika bya 276-278.

Impaka

474. Umutangabuhamya ushinja wiswe AP yavuze ko yabonye Uregwa n’abandi bantu bakubita ibikoni abagabo babiri b’abatutsi, Nkundiye na Murindahabi kugeza bapfuye⁴³⁸. Porokireri ntahakana ko iki cyaha atakiregeye mu Nyandiko y’ibirego.
475. Umutangabuhamya wiswe AW yavuze ko tariki ya 17 Mata 1994, Uregwa yashyirishijeho bariyeri kandi ko we n’undi muntu bafatishije Nkundiye na Murindahabi⁴³⁹, baje kwicwa⁴⁴⁰. Umutangabuhamya wiswe AP yavuze ko tariki ya 7 Mata 1994 yafashwe, ku itegeko ry’Uregwa, nyuma aza kurekurwa. Amaze kurekurwa yaje kubona Uregwa n’abandi bantu bakubita Nkundiye na Murindahabi ibikoni kugeza ubwo babishe⁴⁴¹. Umutangabuhamya wiswe AP yavuze ko yabonye Uregwa azamura igikoni agakubita umwe muri abo bagabo mu mutwe avuga ngo “Dore uko bica umututsi”. Amaze kubona ibyo, yahise yiruka ajya mu rugo. Nyuma Umutangabuhamya wiswe AP yumvise abantu bahambye abo bagabo bavuga ko byagaragaraga ko ba nyakwigendera bari bafite ibikomere by’imipanga⁴⁴². Abatangabuhamya bashinjura biswe DI na DJ bavuze ko Uregwa atagize uruhare mu ifatwa ry’abo bantu babiri kandi ko atari ku biro bya Komini ubwo umwe muri abo bantu yazanwaga aho bamufashe. Umutangabuhamya wiswe DJ yavuze ko icyo gihe Uregwa yari mu rugo⁴⁴³. Uyu mutangabuhamya DJ ntiyabonye Nkundiye afatwa, ariko yumvise ko yafashwe tariki ya 8 Mata 1994 agashyikirizwa Burugumesitiri wategetse ko afungirwa muri kasho ya Komini⁴⁴⁴. Ibaza rinyomoza nta kintu kinini ryahinduye ku buhamya bwabo. Urugereko rwanze ubuhamya bwanditse bwatanzwe mbere kubera ko bwahuzagurikaga. Umutangabuhamya wiswe NT1 nawe yatanze ubuhamya avuga ko Uregwa atari we wishe cyangwa wicishije abo bantu.

⁴³⁸ Itariki ya 30 Werurwe 2004, imp 23, 47-48.

⁴³⁹ Itariki ya 14 Mata 2004, urup. rwa 5.

⁴⁴⁰ Itariki ya 14 Mata 2004, imp5, 32.

⁴⁴¹ Itariki ya 30 Werurwe 2004, urup. rwa 23.

⁴⁴² Itariki ya 30 Werurwe 2004, imp.23,47,48

⁴⁴³ Itariki ya 2 Nzeri 2004, imp.18-19.

⁴⁴⁴ Itariki ya 2 Nzeri 2004, urup. rwa 19.

476. Mu mugereka w'imyanzuro mbanzizarubanza, havugwa, ariko ku buryo 60/ter butarambuye, ko umugabo wiswe AP yari azatanga ubuhamya ku bivuzwe haruguru; "Muhimana yategetse Interahamwe kwica Nkundiye." Inyandiko y'umugereka ya mbere yometse ku mwanzuro mbanzizarubanza wa Porokireri ivuga ko ubuhamya bw'uyu mugabo bwerekeranye n'ibika bya 5 (a), 6 (a) (i) na 7 (a) by'Inyandiko y'ibirego. Mu nyandiko ikosora uwo mugereka, bakuyemo iki gika cya 5. Ibika bivugwa byerekeranye no gusambanya ku gahato Goreti Mukashyaka na Langwida Kamukina. Ku byerekeye umutangabuhamya wiswe AW mu mu gereka, ntaho bavuga aba bagabo babiri bishwe. Ubuhamya abagabo biswe AP na AW batanze mbere buvuga iyicwa ry'abo bagabo bombi, Nkundiye na Murindahabi.
477. Porokireri avuga ko Ubwunganizi bwamenyeshejwe ibyo bintu ku gihe. Mu gushyigikira iyi ngingo, Porokireri avuga ko Ubwunganizi bwahamagaje abatangabuhamya bo kunyomoza bimwe muri ibyo bintu. Urugereko rusanga gusuzuma niba Uregwa yaravukijwe uburenganzira bwe bidashingira ku kureba niba Uregwa yarashoboye guhamagaza abatangabuhamya bo kunyomoza ibyo aregwa. Iyo Uregwa atamenyeshejwe ibirego ibi n'ibi, ku buryo bwumvikana, kandi ku gihe, ntashobora gusuzuma cyangwa kumva ibyo agomba kwireguraho byose. Kuri iki kibazo, umugereka w'imyanzuro mbanzizarubanza umenyesha Uregwa ibindi byaha abatangabuhamya bahamagajwe kwekerana. Aho kumenyesha Uregwa ku buryo busobanutse ko akurikiranwa kuri ibi bintu, iyi nyandiko ahubwo yatumye icyo Porokireri yari agamije kirushaho kutagaragara.

Imyanzuro y'urugereko

478. Urugereko rusanga Uregwa atamenyeshejwe bihagije, mu buryo bwumvikana kandi ku gihe, ko Porokireri yari afite mugambi wo kumurega iki cyaha. Kubera iyo mpamvu, Urugereko nta mwanzuro ku byabaye rufata kuri iki cyaha.

f. Ithorwa ry'abana b'umutangabuhamya ushinja wiswe AX

479. Umutangabuhamya ushinja wiswe AX yavuze ko abana be bane biciwe mu nzu y'ababyeyi be igihe na nyina yicwaga.⁴⁴⁵ Ababishe bari bayobowe na Mika Muhimana.⁴⁴⁶ Mika Muhimana ubwe ntiyishe,⁴⁴⁷ ariko yari ahari kandi ashishikariza abandi kwica abo bantu.⁴⁴⁸ Porokireri ntahakana ko ubu bwicanyi butari mu Nyandiko y'ibirego. Inyandiko y'ibirego ntivuga ku ihotorwa ry'abantu bo mu muryango wa AX, ariko ivuga ku isambanywa ku gahato inshuro ebyiri rya AX. Umugereka w'Imyanzuro mbanzizarubanza ya Porokireri, uvuga iby'ubwo bwicanyi mu buhamya bwa AX: "...yibuka ukuntu Muhimana yategetse Interahamwe kwica abana be batatu zitangiriye ku muto. Umutangabuhamya yumvise ko ari ako gatsiko k'abantu Muhimana yategetse kwica abana be kishe nyina." Hari n'ahandi bakomoza ku iyicwa ry'umukobwa w'uburiza wishwe n'Uregwa. Ariko ku buryo bwihariye, inyandiko ya Porokireri ivuga ko umutangabuhamya AX azaza gutanga ibimenyetso ku gika cya 6 (a) (iii) cy'Inyandiko y'ibirego. Mu nyandiko yakosoraga umugereka, hongewemo n'igika cya 7 (d) (iii) cyo mu Nyandiko y'ibirego. Ibi bika byombi bivuga ku isambanywa ku gahato ry'umutangabuhamya AX n'iyicwa rya Felesita Kankuyu. Ubuhamya bwanditse bwa mbere bwa AX bwo ku itariki ya 16 Ukuboza 1999, buvuga ku iyicwa ry'abana [na nyina w'umutangabuhamya]. Bityo rero, inyandiko Porokireri avuga ko yari igamije kumenyesha Ubwunganizi ikiregerwa, kimwe n'ubuhamya bwanditse, mu by'ukuri byayobeje Uregwa, bituma atita ku bikorwa bitaregwe bivugwa aha.

Imyanzuro y'Urugereko

480. Urugereko rusanze ibi Porokireri aregera bitaratanzwe mu buryo buhagije, busobanutse kandi ku gihe, kugira ngo Porokireri agaragaze neza icyifuzo cyo

⁴⁴⁵ Inyandikomvugo y'iburanisha ry'urubanza, yo ku wa 31 Werurwe 2004, imp. 30-31, 48; Inyandikomvugo y'urubanza, 1 Mata 2004, urup. 19.

⁴⁴⁶ Inyandikomvugo y'iburanisha ry'urubanza, yo ku wa 31 Werurwe 2004, urup 30.

⁴⁴⁷ Inyandikomvugo y'iburanisha ry'urubanza, yo ku wa 31 Werurwe 2004, urup 3.

⁴⁴⁸ Inyandikomvugo y'iburanisha ry'urubanza, yo ku wa 31 Werurwe 2004, urup 31.

kubikurikiranaho Uregwa. Bityo, Urugereko nta mwanzuro ku byabaye rufata 58/ter
kuri iki cyaha.

g. Gusambanywa ku gahato umutangabuhamya wiswe AQ

Impaka

481. Umutangabuhamya ushinja wiswe AQ yavuze ko, muri Mata 1994, Uregwa yamusambanyije ku gahato inshuro eshatu mu cyumba yaryamagamo (umutangabuhamya).⁴⁴⁹ Mu buhamya bwanditse bw'uyu mugabo bwo ku itariki ya 30 Kanama 1999, avuga ko Uregwa yasambanyije Siperansiya ku gahato, ariko asobanura ko atigeze abona Uregwa akora ikindi cyaha cyo gusambanya ku gahato cyangwa cy'ubwicanyi. Umugereka w'imyanzuro mbanzizarubanza ya Porokireri, uvuga kuri icyo kirego cy'uko Uregwa yasambanyije umutangabuhamya AQ ku gahato: "Umutangabuhamya yongeyeho ko Muhimana yamusambanyije ku gahato inshuro ebyiri, nyuma y'aho Siperansiya aburiye."
482. Mu myanzuro ya nyuma yatanze mu magambo, Porokireri yabanje kuvuga ko umutangabuhamya "yemeye gutanga ibisobanuro hasigaye ibyumweru bike gusa ngo iburanisha ry'urubanza ritangire". Nyuma, Porokireri yavuze ko yamenye ibindi uwo mutangabuhamya ashinja Uregwa muri Gashyantare cyangwa Werurwe 2004, igihe bamusabaga kwemeza ubuhamya bwe. Porokireri yavuze ko yahereyeko aha Ubwunganizi ubuhamya bw'uwo mugabo bwanditse bw'inyongera, anamwereka aho ubuhamya bwuzuzwa buri mu mugereka w'Imyanzuro mbanzizarubanza. Urugereko rubajije Porokireri uko abona Ubwunganizi buzashobora gukora iperereza kuri ibi biregerwa by'inyongera, Porokireri yashubije ko Ubwunganizi bufite hafi iminsi 60 yo gukora iryo perereza kandi bukaba bwarashoboraga gusaba Urugereko igihe cyo gukomeza iperereza. Porokireri avuga ko kuba Ubwunganizi butarakoze ibyo, byatumye atekereza ko bwamenyeshejwe ibiregerwa ku buryo buhagije.

⁴⁴⁹ Inyandikomvugo y'iburanisha ry'urubanza, ryo ku wa 15 Mata 2004, imp. 25, 28.

483. Aho ingorane ituruka mu kwemera ibyo Porokireri avuga ko yamenyesheje^{87/ter} Ubwunganizi ku buryo buhagije icyifuzo cyo gukurikirana Uregwa kuri kiriya gikorwa, ni uko mu mugereka havugwamo ko ubuhamya bwa AQ burebana n'ibika bya 6 (c) (ii) na 7 (a) (i) byo mu Nyandiko y'ibirego. Ubu buhamya buvuga ku isambanywa ku gahato rya Mukasine, Murekatete na BJ-K n'ihotorwa rya Siperansiya Mukagasana. Ibyo Porokireri rero avuga ko yatanze "icyifuzo kigaragara" bikaba atari byo.

Imyanzuro y'Urugereko

484. Kubera ko Porokireri atasabye gukosora iyo nenge, kandi akaba ataramenyeshije Uregwa ku buryo bwumvikana iki gikorwa ashaka kumukurikiranaho, Urugereko rusanze Uregwa yaba arenganye rwose Porokireri aramutse yemerewe kwifashisha iki gikorwa ngo ashyigikire ikirego cyo. Bityo, Urugereko, rukaba, mu myanzuro yarwo ku byabaye no kubirebana n'amategeko, rutari bwite kuri icyo gikorwa gishinjwa Uregwa.

UMUTWE WA III – IMYANZURO YO MU RWEGO RW’AMATEGEKO^{56/ter}

485. Urugereko, rushingiye ku myanzuro yarwo ku byabaye uko bimaze gusobanurwa hejuru, ruratanga imyanzuro yo mu rwego rw’amategeko ku byaha Uregwa ashinjwa nk’uko bikurikirana mu Nyandiko y’ibirego.
486. Inyandiko y’ibirego ikubiyemo ibirego bine: ikirego cya 1: jenocide; cyangwa bitaba ibyo, ikirego cya 2: kuba icyitso cy’abakoze jenocide; ikirego cya 3: gusambanya ku gahato nk’icyaha cyibasiye inyokomuntu; ikirego cya 4: ubuhotozi nk’icyaha cyibasiye inyokomuntu. Uretse ikirego cya 1 n’icya 2 (jenocide no kuba icyitso cy’abakoze jenocide), ibirego bikurikiranwe nk’ibyaha by’impurirane.

A.JENOSIDE (IKIREGO CYA 1)

487. Mu kirego cya 1 cyo mu Nyandiko y’ibirego, Uregwa ashinjwa icyaha cya Jenocide; akaba yaragikoze ku giti cye cyangwa afatanyije n’abandi, bikaba byaratumye abatutsi benshi bapfa. Mu gushyigikira iki kirego, Porokireri, mu Gika cya 5 cy’Inyandiko y’ibirego, avuga ko Uregwa yakoze ibikorwa bikurikira:⁴⁵⁰
- a) Gukoranya abakoze ibyaha no kubaha intwari;
 - b) Gusura kiliziya yo ku Mubuga agamije gutegura igitero cyagabwe ku mpunzi z’abatutsi;
 - c) Gusahura ibiribwa byari byagenewe abasivili bari bahungiyeye muri kiliziya yo ku Mubuga;
 - d) Gutanga amagerenade n’imbunda ku kiliziya yo ku Mubuga;
 - e) Kugaba ibitero ku batutsi b’abasivili mu kiliziya yo ku Mubuga;
 - f) Kugaba igitero ku batutsi b’abasivili mu kigo cyo ku Mugonero;
 - g) Kurasa abatutsi b’abasivili makumyabiri ku Uwingabo;
 - h) Guhiga abatutsi no kubagabaho ibitero ku misozi ya Rushishi, Ngendombi, Gitwa na Muyira.

⁴⁵⁰ Inyandiko y’ibirego, igika cya 5.

488. Ubwunganizi buvuga ko “kubera ko Porokireri atavuze ibikorwa bigize icyaha⁴⁵¹ cya jenocide mu Nyandiko y’ibirego ihinduwe, byatumye Uregwa adashobora kumenya icyaha ashinjwa ushingiyeye ku gisobanuro gitangwa mu Masezerano mpuzamahanga yerekeranye na jenocide no muri Sitati, bityo bikaba byatumye Ubwunganizi busanga atari ngombwa kwisobanura ku bikorwa runaka bigize icyaha cya jenocide” (*actus reus*).⁴⁵¹
489. Urugereko, rumaze gusuzumana ubwitonzi ingingo z’Ubwunganizi, rusanze Inyandiko y’ibirego yaramenyeshyeje Uregwa ku buryo buhagije ibikorwa bigize icyaha cya jenocide ashinjwa.
490. Inyandiko y’ibirego iryoza Uregwa icyaha hashingiye ku ngingo ya 6 (1) ya Sitati, ariko ntisobanura uruhare yaba yaragize mu gukora icyaha cya jenocide urwo ari rwo. Ingingo ya 6 (1), isobanura uburyo butanu bw’iryozwacyaha, igira iti:
- Umuntu uwo ari we wese wacuze umugambi, wawushishikariye abandi, wategutse, wakoze cyangwa ku bundi buryo ubwo ari bwo bwose, agafasha kandi agashyigikira gucira umugambi, gutegura, cyangwa gukora icyaha cy’ubugome kivugwa mu ngingo ya 2 kugeza ku ya 4 z’iyi Sitati, akiryoza ku giti cye.
491. Urugereko rusanze kuba Porokireri atarasobanuye uruhare runaka Uregwa yagize, nta cyo byatwara kubera ko ibikorwa by’Uregwa bivugwa mu Nyandiko y’ibirego bisobanura bihagije uruhare yagize mu ikorwa ry’ibyaha.⁴⁵² Bityo, Urugereko rujya gufata imyanzuro yo mu rwego rw’amategeko ku buryozwacyaha bw’Uregwa, rwashingiyeye ku moko yose y’uruhare avugwa mu ngingo ya 6 (1) afitanye isano n’imyanzuro y’Urugereko ku byabaye.

⁴⁵¹ Imyanzuro nsozarubanza y’Ubwunganizi, igika cya 119; Imyanzuro nsozarubanza mu magambo y’Ubwunganizi: 20 Mutarama 2005, imp.5 - 6 (mu Gifaransa)

⁴⁵² Urubanza rwa Ntegerura na bagenzi be, (Urugereko rwa Mbere rw’Iremezo) igika cya 38; Urubanza rwa Semanza (Urugereko rwa Mbere rw’Iremezo) igika cya 59.

I. Amategeko akurikizwa

492. Ku itariki ya 12 Gashyantare 1975, u Rwanda rwasinye Amasezerano yo mu mwaka w'i 1948 arwanya kandi Ahana icyaha cya Jenoside⁴⁵³.

493. Jenoside ni:

...kimwe mu bikorwa bikurikira cyakozwe kigamije kurimbura abantu bose bahuriye ku bwenegihugu, ku isanomuzi, ku bwoko cyangwa ku idini, cyangwa igice cyabo, bazira icyo bari cyo:

- a) Kwica abo bantu;
- b) Kubateza ububabare bukomeye bw'umubiri, cyangwa bwo mu mutwe;
- c) Gushyira ku bushake abo bantu mu nzitane z'ubuzima ugamije gutuma bose cyangwa igice cyabo barimbuka;
- d) Gushyiraho ingamba zigamije kubangamira iyoreroka ryabo;
- e) Kubanyaga urubyaro rwabo uruha abandi.⁴⁵⁴

494. Muri uru rubanza, Porokireri ashinja Uregwa ibikorwa bibiri bya jenoside bivugwa muri Sitati ari byo: Kwica abantu bagize itsinda runaka; no kubateza ububabare bw'umubiri, cyangwa bwo mu mutwe. Bityo rero, Urugereko rugiye gusuzuma itegeko rikurikizwa ku myanzuro yarwo ku byabaye irebana gusa n'ibi bikorwa bibiri bifatwa nk'icyaha cya jenoside.

495. Uretse ibi bikorwa bigize icyaha, igitekerezo cyihariye cyo gukora icyaha cya jenoside gisaba ko ugikora yibasira abahohotewe "agamije kurimbura abantu bose bahuriye ku bwenegihugu, ku isanomuzi, ku bwoko cyangwa ku idini, cyangwa igice cyabo".

⁴⁵³ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 248; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw'Iremezo), igika cya 496; Urubanza rwa *Kajelijeli* (Urugereko rwa Mbere rw'Iremezo), igika cya 744; Urubanza rwa *Kamuhanda* (Urugereko rwa Mbere rw'Iremezo), igika cya 576.

⁴⁵⁴ Sitati y'Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe u Rwanda, Ingingo ya 2 (2).

496. Umugambi wihariye wo gukora jenocide ushobora kugaragarira mu magambo, cyangwa mu bikorwa. Ushobora no kugaragara umuntu arebye uko ibintu byari byifashe muri rusange hakurikijwe nk'ibi bikurikira: kuba ubwicanyi bwakozwe bwari bufite aho buhuriye; uburyo umugambi witondewe mu kuwucura; imiterere rusange y'amarorerwa, intera ayo marorerwa yafashe n'ahantu yakorewe, intwano zakoreshejwe mu gitero, n'imiterere y'ibikomere byo ku mubiri; ukwibasira umutungo w'abo bantu; ururimi rwakoreshejwe mu kubasebya; n'ibindi bikorwa rusange by'ubugome bagiriwe; byaba byarakozwe n'Uregwa cyangwa n'abandi.⁴⁵⁵
497. “Kurimbura abantu bagize itsinda runaka” bivuga “kubica hakoreshejwe uburyo busenya umubiri cyangwa ubuzima, ntabwo ari ugusenya ibiranga ubwenegihugu, ururimi, idini, umuco cyangwa ibindi biranga itsinda ry'abantu runaka”.⁴⁵⁶
498. Mu kwerekana ko habayeho igitekerezo cyo kurimbura “abantu bose cyangwa igice cyabo”, ntabwo ari ngombwa ko Porokireri yerekana ko uwakoze icyaha yari agamije kurimbura itsinda ry'abantu bose. Si ngombwa ko hapfa umubare w'abantu runaka kugira ngo byitwe jenocide⁴⁵⁷, ariko umubare w'abantu bo mu itsinda bishwe cyangwa bari bagamijwe kwicwa, hakoreshejwe uburyo bwanditse mu Ngingo ya 2 ya Sitati werekana neza ko icyari kigamijwe cyari ukurimbura ako gatsiko, cyangwa igice cyako.⁴⁵⁸
499. Kugira ngo Uregwa ahamwe n'icyaha cya jenocide kubera ko yishe igice cy'abagize itsinda ry'abantu, Porokireri agomba kwerekana ko Uregwa yashakaga kurimbura itsinda ry'abantu cyangwa igice cyaryo:

⁴⁵⁵ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 252-253; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw'Iremezo), igika cya 523; Urubanza rwa *Kayishema na Ruzindana* (Urugereko rwa Mbere rw'Iremezo), igika cya 93; Urubanza rwa *Ntagerura na bagenzi be* (Urugereko rwa Mbere rw'Iremezo), igika cya 663.

⁴⁵⁶ Reba Raporo ILC (1996), igika cya 50; reba n'Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 253; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw'Iremezo), igika cya 315; Urubanza rwa *Kayishema na Ruzindana* (Urugereko rwa Mbere rw'Iremezo), igika cya 95.

⁴⁵⁷ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 253; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw'Iremezo), igika cya 316.

⁴⁵⁸ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 253; Urubanza rwa *Kayishema na Ruzindana* (Urugereko rwa Mbere rw'Iremezo), igika cya 93.

- yishe, yacuze umugambi wo kwica, yategetse cyangwa yashishikarije abandi kwica; cyangwa
- yabaye icyitso, afasha kandi ashyigikira iyicwa ry'umuntu umwe cyangwa benshi bagize iryo tsinda.⁴⁵⁹

500. Porokireri agomba kwerekana ko uwagiriwe nabi yari mu itsinda ritotezwa bishingiye ku isanomuzi, ubwoko, ubwenegihugu cyangwa idini, cyangwa ko uwakoze icyaha yatekerezaga ko uwagiriwe nabi yari uwo muri iryo tsinda.⁴⁶⁰
501. Hakurikijwe ingingo ya 2 (2) (b) ya Sitati, Uregwa ahamwa n'icyaha iyo ateye abantu bo mu itsinda ritotezwa ububabare bukomeye bw'umubiri, cyangwa bwo mu mutwe.⁴⁶¹
502. Ububabare bukomeye bw'umubiri, ni ukugirira nabi umubiri w'uwahohotewe, nko kumwica urubozo cyangwa kumukorera urugomo rushingiye ku gitsina. Ntabwo ari ngombwa ko ubwo bubabare buba budashobora kuvurwa.⁴⁶² Ububabare bwo mu mutwe bushobora kugabanya imikorere y'ubwenge bwe cyangwa kuyihungabanya bikomeye.⁴⁶³
503. Gucura umugambi biba iyo umuntu umwe cyangwa benshi batekereje kandi bagafata ingamba zo gukora icyaha.⁴⁶⁴

⁴⁵⁹ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 255; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw'Iremezo), igika cya 473; Urubanza rwa *Kajelijeli* (Urugereko rwa Mbere rw'Iremezo), igika cya 757; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw'Iremezo), igika cya 377.

⁴⁶⁰ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 255-256; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw'Iremezo), igika cya 319; Urubanza rwa *Rutaganda* (Urugereko rwa Mbere rw'Iremezo), igika cya 60; Urubanza rwa *Kayishema na Ruzindana* (Urugereko rwa Mbere rw'Iremezo), igika cya 99; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw'Iremezo), igika 499.

⁴⁶¹ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 256; Reba Raporo ILC (1996), igika cya 8.

⁴⁶² Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 291; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw'Iremezo), igika cya 502; Urubanza rwa *Kayishema na Ruzindana* (Urugereko rwa Mbere rw'Iremezo), igika cya 110; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw'Iremezo), ibika 320 na 321.

⁴⁶³ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 291;

⁴⁶⁴ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw'Iremezo), igika cya 271.

504. Guhamagarira umuntu [gukora icyaha] ni ugutuma agikora.⁴⁶⁵ Guhamagarira si/ter ngombwa ko bikorwa mu buryo butaziguye cyangwa se ko bibera mu ruhame, nk'uko bikenewe mu gushishikariza abantu ku mugaragaro kandi mu buryo butaziguye gukora jenoside bihanwa hakurikijwe ingingo ya 2 (3) (c) ya Sitati. Hagomba gutangwa ibimenyetso byerekana ko guhamagarira [abantu gukora icyaha] ari impamvu yatumye icyaha gikorwa.⁴⁶⁶
505. “Gutegeka” [gukora icyaha] ni ugukoresha umwanya w’ubutegetsi, ugatega uwo cyangwa abo ukuriye gukora icyaha.⁴⁶⁷
506. Gukora [icyaha] bivuga kugitsotsoba bikozwe na gatozi.⁴⁶⁸
507. Gufasha no gushishikariza [gukora icyaha] n’amagambo abiri atandukanye mu rwego rw’amategeko. “Gufasha” bivuga gutera inkunga undi muntu mu gukora icyaha. “Gushishikariza” bivuga kworohereza, kugira inama cyangwa guhamagarira undi cyangwa abandi gukora icyaha.⁴⁶⁹

2.Imyanzuro yo mu rwego rw’amategeko

508. Ruhereye ku myanzuro yarwo ku byabaye yerekeye ibyaha bya jenoside biri mu bika bya 5 (a), (b), (c) na (d) byo mu Nyandiko y’ibirego, Urugereko rwasuzumye

⁴⁶⁵ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw’Iremezo), igika cya 291; Urubanza rwa *Kajelijeli* (Urugereko rwa Mbere rw’Iremezo), igika cya 762; Urubanza rwa *Bagilishema* (Urugereko rwa Mbere rw’Iremezo), igika cya 30; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw’Iremezo), igika cya 482.

⁴⁶⁶ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw’Iremezo), igika cya 279; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw’Iremezo), igika cya 381; Urubanza rwa *Akayesu* (Urugereko rw’Ubujurire), kuva ku gika cya 478 kugera ku cya 482.

⁴⁶⁷ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw’Iremezo), igika cya 281; Icibwa ry’urubanza rwa *Akayesu* (Urugereko rwa Mbere rw’Iremezo), igika cya 483; Urubanza rwa *Kajelijeli* (Urugereko rwa Mbere rw’Iremezo), igika cya 763.

⁴⁶⁸ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw’Iremezo), igika cya 285; Urubanza rwa *Kayishema na Ruzindana* (Urugereko rw’Ubujurire), igika cya 187; Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe icyahoze cyitwa Yugosilaviya, Urubanza rwa *Tadic* (Urugereko rw’Ubujurire), igika cya 188; Urukiko Nshinjabyaha Mpuzamahanga rwagenewe icyahoze ari Yugosilaviya, Urubanza rwa *Kumarac n’abandi* (Urugereko rwa Mbere rw’Iremezo), igika cya 390; Urubanza rwa *Semanza* (Urugereko rwa Mbere rw’Iremezo), igika cya 383.

⁴⁶⁹ Urubanza rwa *Gacumbitsi* (Urugereko rwa Mbere rw’Iremezo), igika cya 286; Urubanza rwa *Ntakirutimana* (Urugereko rwa Mbere rw’Iremezo), igika cya 787; Urubanza rwa *Akayesu* (Urugereko rwa Mbere rw’Iremezo), igika cya 484; Urubanza rwa *Kajelijeli* (Urugereko rwa Mbere rw’Iremezo), igika cya 765.

uburyozwacyaha bw'Uregwa mu kirego cya 1, ari cyo jenoside, nk'uko biteganywa mu Ngingo ya 2 ya Sitati y'Urukiko. 50/ter

Itsinda ry'abatutsi

509. Urugereko rwasanze, mu gihe kivugwa mu Nyandiko y'ibirego, buri muturage wo mu Rwanda yari muri bumwe muri ubu bwoko butatu: abatutsi, abahutu, n'abatwa.⁴⁷⁰
510. Ubwunganizi ntibuhakana ko abatutsi bafatwaga nk'itsinda ry'abantu ryihariye mu Rwanda muri 1994, bukaba buvuga ko kubaza ikibazo cyo kumenya niba bari bagize itsinda rishingiye ku bwenegihugu, isanomuzi, ubwoko, cyangwa idini hakurikijwe ibisobanuro byo mu Masezerano mpuzamahanga yo mu w'1948 arwanya jenoside, byaba ari ugukina n'amagambo.⁴⁷¹ Dushingiye ku bisobanuro byo mu rubanza rw'Akayesu, Amasezerano yo mu w'1948 ntabwo arengera amatsinda ayavugwamo gusa, arengera n'andi matsinda yose yashinze imizi kandi ahoraho.⁴⁷²
511. Rumaze kubona ko ababuranyi nta mpaka bajya kuri iki kibazo, Urugereko rufashe umwanzuro ko, mu Rwanda, muw'1994, abatutsi bari bagize itsinda ririndwa n'Amasezerano yo mu w'i 1948 arwanya kandi agahana icyaha cya jenoside.

Ibikorwa by'Uregwa

⁴⁷⁰ Reba haruguru: Umutwe wa II, icyiciro B.

⁴⁷¹ Imyanzuro nsozarubanza y'ubwunganizi, igika cya 100 na 104.

⁴⁷² Imyanzuro nsozarubanza y'ubwunganizi, igika cya 111: Ubwunganizi bwongeraho buti: "Mu rubanza rwa Akayesu, Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe u Rwanda rwafashe abatutsi bose nk'itsinda ry'abantu bahuriye ku bwoko, runemeza mu buryo bwumvikana kandi burimo ubushishozi ko Amasezerano arwanya jenoside arengera amatsinda y'abantu yose yashinze imizi kandi ahoraho. Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe u Rwanda rwashimirwa kuba rwaratanze ibi bisobanuro bitagira aho bikemwa."

512. Urugereko rusanze mu kwezi kwa Mata n'ukwa Gicurasi 1994, Uregwa yarishoye mu bikorwa byishe abantu bo mu bwoko bw'abatutsi kandi bikaba byarabangamiye umubiri cyangwa umutwe byabo.

513. Urugereko rusanze Uregwa ubwe yarishe kandi ateza ububabare bwinshi bw'umubiri cyangwa bwo mu mutwe abantu bo mu bwoko bw'abatutsi:

- a) Ubwo yajyaga mu bitero byagabwe ku misozi ya Nyarutovu na Ngendombi, aho yarashe akanakomeretsa umugabo w'umututsi witwaga Emanweli;⁴⁷³
- b) Ubwo yajyaga mu gitero kuri kiliziya yo ku Mubuga, aho yarashe ku batutsi akanatera gerenade mu kiliziya aho impunzi zari ziteraniye. Gerenade yaraturitse yica umugabo w'umututsi witwaga Kaihura inakomeretsa bikomeye abandi bantu benshi. Muri icyo gitero, impunzi nyinshi z'abatutsi zarapfuye izindi zirakomereka;⁴⁷⁴
- c) Ubwo yajyaga mu bitero byagabwe ku kigo cyo ku Mugonero, aho yasambanyirije abatutsikazi ku gahato akanarasa ku mpunzi z'abatutsi. Muri icyo gitero, impunzi nyinshi z'abatutsi zarapfuye izindi zirakomereka;⁴⁷⁵
- d) Ubwo yajyaga mu bitero byagabwe ku musozi wa Kanyinya, aho yakurikiranye impunzi z'abatutsi, akazigabaho ibitero, akanarasa umugabo w'umututsi witwaga Nyagahigi;⁴⁷⁶
- e) Ubwo yajyaga mu bitero byagabwe ku musozi wa Muyira, aho yarashe akica mushiki w'umutangabuhamya wiswe W, wo mu bwoko bw'abatutsi.⁴⁷⁷

Icyo Uregwa yari agamije

514. Urugereko rusanga interuro “kurimbura ubwoko cyangwa igice cyabwo” idashaka kuvuga ko hari umubare runaka ushingirwaho. Birahagije kwerekana ko mu

⁴⁷³ Reba haruguru: Umutwe wa II, icyiciro E.

⁴⁷⁴ Reba haruguru: Umutwe wa II, icyiciro H.

⁴⁷⁵ Reba haruguru: Umutwe wa II, icyiciro L.

⁴⁷⁶ Reba haruguru: Umutwe wa II, icyiciro O.

⁴⁷⁷ Reba haruguru: Umutwe wa II, icyiciro P.

bikorwa bye, Uregwa yari agamije kurimbura igice kinini cy'itsinda ry'abantu, yari yibasiye.⁴⁷⁸

515. Urugereko rusanga ibitero bivugwa mu Gika cya 513 byaribasiye ubwoko bw'abatutsi muri rusange. Mbere y'uko ibitero byagabwe kuri kiliziya yo ku Mubuga bitangira, impunzi z'abahutu, zari zivanze n'iz'abatutsi, zasabwe gusohoka mu kiliziya. Byongeye kandi, abatangabuhamya bashinja n'abashinjura bavuze ko impunzi zari zateraniye ku misozi ya Kanyinya na Muyira zari ziganjemo abatutsi.
516. Intera ubwicanyi bwafashe, hacicwa abasivili b'abatutsi benshi cyane, abandi bagakomeretswa bikomeye, n'umubare munini w'abagabye ibitero ku basivili b'abatutsi, bituma Urugereko rudashidikanya na gato ko ubwo bwicanyi, Uregwa yagiyemo, bwari bugamije kurimbura abatutsi bose cyangwa igice cyabo.
517. Uregwa yibasiye abasivili b'abatutsi muri ibyo bitero, arabarasa, anasambanya ku gahato abatutsikazi. Yanasambanyije ku gahato Umutangabuhamya wiswe BJ, umukobwa w'umuhutukazi, yibwira ko ari umututsikazi, ariko nyuma aza kumusaba imbabazi amaze kumenya ko ari uwo mu bwoko bw'abahutu. Mu bitero bimwe cyangwa mu bikorwa bimwe byo gusambanya ku gahato, Uregwa yavuze ko abagirirwaga nabi bari abo mu bwoko bw'abatutsi.
518. Kubera izo mpamvu, Urugereko rusanze kuba Uregwa yaragiye mu bitero, kimwe n'amagambo n'ibikorwa bye, byerekana ko yari agamije kurimbura ubwoko bw'abatutsi cyangwa igice cyabo.

Umwanzuro w'Urugereko

519. Urugereko rwemeje ko Uregwa, Mika Muhimana, ahamwa n'icyaha cya jenocide, ashinjwa mu kirego cya mbere cyo mu Nyandiko y'ibirego.

⁴⁷⁸ Reba Raporo ya Komisiyo y'Amategeko Mpuzamahanga (ILC) (1996), igika cya 8.

B. KUBA ICYITSO CY'ABAKOZE JENOSIDE (IKIREGO CYA 2)

520. Kubera ko Urugereko rusanze Uregwa ahamwa n'icyaha cya jenocide (mu kirego cya 1), Urugereko nta cyemezo rufashe ku kirego cyo kuba icyitso cy'abakoze jenocide. Bityo, rukaba rusanze iki kirego cya 2 nta shingiro gifite.

C.IBYAHA BYIBASIYE INYOKOMUNTU: GUSAMBANYA KU GAHATO (IKIREGO CYA 3)

521. Ikirego cya 3 cyo mu Nyandiko y'ibirego gishinja Uregwa ko yakozwe icyaha cyo gusambanya ku gahato, nk'icyaha cyibasiye inyokomuntu, hakurikijwe ingingo ya 3 (g) ya Sitati. Ibikorwa Porokireri avuga bishyigikira iki kirego biri mu gika cya 6 cy'Inyandiko y'ibirego.

522. Muri rusange, Inyandiko y'ibirego ivuga ku buryo bunyuranye bw'uburyozwacyaha buri mu ngingo ya 6 (1) ya Sitati, ikavuga, ku buryo bwihariye, ko hagati y'itariki ya 6 Mata 1994 n'ya 30 Kamena 1994, Uregwa "yakozwe icyaha cyo gusambanya ku gahato, mu rwego rw'igitero rusange kandi gifite aho gihuriye n'ibindi, cyibasiye abatutsikazi b'abasivili n'abandi bagore bakekwaga kuba abatutsikazi, muri Segiteri ya Gishyita, ku rusengeru, ku bitaro no ku ishuri ry'abaforomokazi byo ku Mugonero, no mu karere ka Bisesero".

Ingingo rusange zigize ibyaha byibasiye inyokomuntu

Amategeko akurikizwa

523. Ingingo ya 3 ya Sitati iteganya ko:

Urukiko Mpuzamahanga Rwagenewe u Rwanda rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakozwe ibyaha by'ubugome bikurikira, mu gihe byakozwe mu rwego rw'ibitero rusange kandi bifite aho bihuriye n'ibindi byibasiye abaturage b'abasivili abo ari bo bose

kubera ubwenegihugu bwabo, umutwe wa politiki barimo, isanomuzi yabo, ubwoko bwabo cyangwa idini yabo:

46/ter

- a. Ubuhotozi;
- b. Itsembatsemba;
- c. Gushyira mu bucakara;
- d. Kumenesha;
- e. Gufunga;
- f. Kwica urubozo;
- g. Gusambanya ku gahato;
- h. Gutoteza bishingiye ku mpamvu za politiki, z'ubwoko n'iz'idini;
- i. Ibindi bikorwa birenze kamere muntu.

524. Ingingo ya 3 ya Sitati, ivuga ku byaha byibasiye inyokomuntu, ivuga n'ibintu ibyo byaha bihuriyeho.

525. Kuba Uregwa yarakoze kimwe muri ibi bikorwa, biba icyaha cyibasiye inyokomuntu iyo Urugereko rusanze cyarakozwe mu rwego rw'ibitero rusange cyangwa bifite aho bihuriye, byibasiye abaturage b'abasivili abo ari bo bose kubera ubwenegihugu bwabo, umutwe wa politiki barimo, isanomuzi yabo, ubwoko bwabo cyangwa idini yabo.⁴⁷⁹

526. Ijambo "igitero" nk'uko rivugwa mu ngingo ya 3 ya Sitati, risobanura igikorwa, ikintu cyabaye, cyangwa uruhererekane rw'ibikorwa cyangwa rw'ibintu byabaye binyuranyije n'amategeko, bias n'ibivugwa mu ngingo ya 3 kuva kuri (a) kugeza kuri (i) muri Sitati.⁴⁸⁰

⁴⁷⁹ Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw'iremezo), igika cya 299; N'ubwo Inyandiko y'igifaransa n'iy'icyongereza zombi zemewe, zitandukaniye kuri iyi ngingo. Amagambo "rusange" na "bifite aho bihuriye" agize imiterere y'ibitero arakomatanye mu gifaransa ("sytématique et généralisé") naho mu cyongereza rimwe muri ayo magambo yombi rirahagije ("widespread or systematic"). Ubusanzwe, Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe icyahoze ari Yugosilaviya n' Urukiko Nshinjabyaha Mpuzamahanga Rwagenewe u Rwanda, zihitamo inyandiko yo mu cyongereza kuko ihuje n'amategeko mpuzamahanga amenyerewe. Reba Raporo ILC (1996), igika cya 3 n'icya 4, ingingo ya 18 (ibyaha byibasiye inyokomuntu) Umushinga w'amategeko ahana.

⁴⁸⁰ Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw'iremezo), igika cya 298; Urubanza rwa *Semanza*

527. [Igitero] “rusange” bivuga ko igitero kigomba kuba kinini kandi cyibasiye abantu benshi.⁴⁸¹ Bavuga ko igitero “gifite aho gihuriye n’ibindi” iyo imyitwarire y’ukigize cyangwa abakigize isa. Ariko si ngombwa ko hatangwa ikimenyetso cya gahunda y’icyo cyaha.⁴⁸² Kuba hari politiki cyangwa gahunda, bishobora kugira akamaro kubera ko byerekana ko igitero cyagabwe ku basivili, kandi kikaba cyari rusange cyangwa gisa n’ibindi. Ariko, kubaho kw’iyo politiki cyangwa iyo gahunda, ntabwo ari ingingo yihariye y’icyo cyaha isabwa n’amategeko.⁴⁸³
528. Igitero kigomba kuba cyaragabwe ku basivili. Kuba muri abo basivili harimo abantu bamwe batakwitwa abasivili, ntibibuza abo baturage gufatwa nk’abasivili.⁴⁸⁴
529. Igitero cyagabwe ku basivili kigomba kuba cyari gishingiye ku ivangura, ni ukuvuga, gishingiye ku bwenegihugu, politiki, isanomuzi, ubwoko cyangwa idini. Ariko si ngombwa ko uwagiriwe nabi aba ari umwe mu bagize itsinda rishingiye ku bwenegihugu, politiki, isanomuzi, ubwoko cyangwa idini. icya ngombwa ni uko ukora icyaha aba agamije gushyigikira cyangwa gufasha igitero kugabwa ku baturage b’abasivili, icyo gitero kikaba gishingiye ku ivangura tumaze kuvuga hejuru.⁴⁸⁵

(Urugereko rwa mbere rw’iremezo), igika cya 327; Urubanza rwa *Musema* (Urugereko rwa mbere rw’iremezo), igika cya 205; Urubanza rwa *Rutaganda* (Urugereko rwa mbere rw’iremezo), igika cya 70; Urubanza rwa *Akayesu* (Urugereko rwa mbere rw’iremezo), igika cya 581.

⁴⁸¹ Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw’iremezo), igika cya 299; Urubanza rwa *Semanza* (Urugereko rwa mbere rw’iremezo), igika cya 327; Urubanza rwa *Niyitegeka* (Urugereko rwa mbere rw’iremezo), igika cya 439; Urubanza rwa *Akayesu* (Urugereko rwa mbere rw’iremezo), igika cya 580; Urubanza rwa *Musema* (Urugereko rwa mbere rw’iremezo), igika cya 205; Urubanza rwa *Rutaganda* (Urugereko rwa mbere rw’iremezo), igika cya 70.

⁴⁸² Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw’iremezo), igika cya 299; Urubanza rwa *Semanza* (Urugereko rwa mbere rw’iremezo), igika cya 329.

⁴⁸³ Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw’iremezo), igika cya 299; Urubanza rwa *Semanza* (Urugereko rwa mbere rw’iremezo), igika cya 332; Urubanza rwa *Ntagerura na bagenzi be* (Urugereko rwa mbere rw’iremezo), igika cya 698.

⁴⁸⁴ Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw’iremezo), igika cya 300; Urubanza rwa *Akayesu* (Urugereko rwa mbere rw’iremezo), igika cya 582.

⁴⁸⁵ Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw’iremezo), igika cya 301; Urubanza rwa *Kajelijeli* (Urugereko rwa mbere rw’iremezo), igika cya 877 n’icya 878; Urubanza rwa *Semanza n’abagenzi be* (Urugereko rwa mbere rw’iremezo), igika cya 331.

530. icya nyuma, uwakoze icyaha agomba kuba yaragikoze azi neza ko ibyo akora biri mu rwego rw'ibitero rusange cyangwa ibitero bifitanye isano byibasiye abaturage b'abasivili.⁴⁸⁶

Imyanzuro yo mu rwego rw'amategeko

531. Muri uru rubanza, Urugereko rwasanze ibitero byinshi byaragabwe ku mpunzi z'abatutsi hagati ya Mata na Gicurasi 1994 muri Komini ya Gishyita : ku itariki ya 9 n'ya 11 Mata 1994, abatutsi bari batuye i Nyarutovu, baratewe ; ku itariki ya 15 Mata 1994, impunzi nyinshi z'abatutsi zari ku kiliziya yo ku Mubuga zaratewe ; bukeye bwaho, ku itariki ya 16 Mata 1994, impunzi ziganjemo abatutsi zari mu kigo cya Mugonero zaratewe ; muri Gicurasi 1994, abatutsi bari ku musozi wa Kanyinya baratewe ; ku itariki ya 13 n'ya 14 Gicurasi 1994, abatutsi bari ku musozi wa Muyira na bo baratewe. Kuri kiliziya yo ku Mubuga no mu kigo cya Mugonero, abagabye ibitero bategetse impunzi z'abahutu kwitandukanya n'izindi. Muri ibyo bitero, abatutsi benshi barishwe cyangwa barakomeretse bikomeye.⁴⁸⁷
532. Rushingiye ku buryo ibitero byagabwe n'uko byari biteye, kandi n'ubuhamya bwatanzwe bwerekana ko hari aho abagabye ibitero babwiraga impunzi z'abahutu kwitandukanya n'iz'abatutsi, Urugereko rusanze abasivili b'abatutsi baribasiwe bazira ubwoko bwabo nk'uko bivugwa mu ngingo ya 3 ya Sitati, benshi bakaba barapfuye cyangwa barakomeretse bikomeye.
533. Bityo, Urugereko rusanze ibitero rusange kandi bifite aho bihuriye byaragabwe ku basivili b'abatutsi muri Komini Gishyita no mu karere ka Bisesero, hagati y'ukwezi kwa Mata n'ukwa Kamena 1994.

2. Gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu

⁴⁸⁶. Urubanza rwa *Gacumbitsi* (Urugereko rwa mbere rw'iremezo), igika cya 302; Urubanza rwa *Semanza* (Urugereko rwa mbere rw'iremezo), igika cya 332; Urubanza rwa *Ntagerura na bagenzi be* (Urugereko rwa mbere rw'iremezo), igika cya 698.

⁴⁸⁷ Reba haruguru: Umutwe wa II, icyiciro I, L na O.

534. Rushingiye ku myanzuro ku byabaye rwafashe ku cyaha cyo gusambanya ku gahato kivugwa mu gika cya 6 cy'Inyandiko y'ibirego, Urugereko rwasuzumye uburyozwacyaha bw'Uregwa buvugwa mu kirego cya 3, kimushinja kuba yarasambanyije abagore ku gahato, nk'icyaha cyibasiye inyokomuntu, gihanwa hakurikijwe ingingo ya 3 (g) ya Sitati y'Urukiko.

Amategeko akurikizwa

535. Urugereko rusanga Ubwunganizi na Porokireri muri uru rubanza bemera igisobanuro cyo gusambanya ku gahato nk'uko cyatanzwe mu rubanza rwa Akayesu.⁴⁸⁸
536. Porokireri aarasaba Urugereko gufata nko gusambanya ku gahato, isaturwa rya Pasikaziya Mukaremera, rivugwa mu gika cya 6 (d) (ii) cy'Inyandiko y'ibirego, ubuhanya bukaba bwarekanye ko ryakoreshejwe umupanga, kuva ku mabere kugeza ku mwanya ndangagitsina. Kubera ko ibi ari ibintu bidasanzwe, Urugereko rusanga ari ngombwa gusesengura uko igisobanuro cyo gusambanya ku gahato cyagiye gihinduka mu mategeko mpuzamahanga mpanabyaha.
537. Urubanza rwa mbere aho urukiko mpuzamahanga nshinjabyaha rwasobanuye ko gusambanya ku gahato ari icyaha cyibasiye inyokomuntu kikaba n'igikorwa kigize jenocide, ni urwa Akayesu rwaciwe n'Urugereko rwa mbere rw'iremezo, icyumba cya I, rw'Urukiko nshinjabyaha mpuzamahanga rwagenewe u Rwanda, ku itariki ya 2 Nzeri 1998. Urubanza rwa Akayesu rwashimangiye ko « imvugoshusho y'ibintu n'iy'ibice by'umubiri bikoreshwa muri icyo cyaha idatuma umuntu yumva ingingo zikigize », ⁴⁸⁹ nyuma rusobanura ko gusambanya ku gahato n'urugomo rushingiye ku gitsina ari:

ugusagarira gushingiye ku gitsina gukorewe undi muntu abihatiwe.

Ugusagarira gushingiye ku gitsina, gusambanya ku gahato bikaba ari

⁴⁸⁸ Imyanzuro nsozarubanza y'Ubwunganizi, igika cy'i 133; T. 20 Mutarama 2005, urup. 5; Imyanzuro nsozarubanza ya Porokireri Umutwe wa 5, igika cya 1.

⁴⁸⁹ Urubanza rwa Akayesu (Urugereko rwa mbere rw'iremezo) igika cya 687.

kimwe mu bikugaragaza, gufatwa nk'igikorwa icyo ari cyo cyose 42/ter
gishingiye ku gitsina, gikorewe umuntu ku gahato.⁴⁹⁰

538. Mu rubanza rwa Akayesu, Urugereko rwasanze mu mategeko mpanabyaha y'ibihugu, gusambanya ku gahato byaragiye bisobanurwa nk' « imibonano mpuzabitsina itumvikanyweho » ; urwo rugereko rwasanze iki gisobanuro kituzuye kubera ko gusambanya ku gahato « bishobora no kuba ibikorwa byo kwinjiza ibintu no/cyangwa gukoresha imyenge y'umubiri itagenewe ubusanzwe imibonano mpuzabitsina muri kamere yayo ».⁴⁹¹ Urugereko rwa mbere rw'iremezo, mu rubanza rwa Akayesu, mu myanzuro yarwo ku byabaye, rwatanze urugero rw'aho rwasanze « igiti cyinjijwe mu mwanya ndangagitsina y'umugore usamba » rwemeza ko ibyo ari igikorwa cyo kwinjira mu mubiri w'uhohoterwa, rukaba rwarasanze ari icyaha cyo gusambanya ku gahato.⁴⁹²

539. Urugereko rwemeye igisobanuro cyo gusambanya ku gahato nk'uko gitangwa mu rubanza rwa Akayesu, rukaba rwemera umwanzuro w'Urugereko rwa mbere rw'iremezo mu rubanza rwa Furundžija uvuga ko :

Ihame rusange ryo kwubahiriza ubusugire bw'umuntu ni ryo rigenga kandi ni ryo rituma amategeko mpuzamahanga akurikizwa mu ntambara n'ayubahiriza uburenganzira bw'ikiremhamuntu abaho ; muri ibi bihe tugezemo, iri hame ryagize agaciro kanini ku buryo urisanga hose mu mategeko mpuzamahanga. Iri hame ryagenewe kurinda ikiremhamuntu ibintu byose bigitesha agaciro, cyaba igihungabanya umubiri mu buryo bunyuranyije n'amategeko, cyangwa igikoza umuntu isoni, kikamwaka icyubahiro, kikamutesha agaciro cyangwa kigahungabanya ubuzima bwe bwo mu mutwe. Kugira ngo iri hame ryubahirizwe, igikorwa cy'urukozasoni gishingiye ku gitsina nko kwinjiza imboro mu kanwa ku ngufu, gikwiye gushyirwa mu byaha byo gusambanya ku gahato.⁴⁹³

⁴⁹⁰ Urubanza rwa *Akayesu* (Urugereko rwa mbere rw'iremezo) igika cya 598 n'icya 688.

⁴⁹¹ Urubanza rwa *Akayesu* (Urugereko rwa mbere rw'iremezo) igika cya 686.

⁴⁹² Urubanza rwa *Akayesu* (Urugereko rwa mbere rw'iremezo) igika cya 686.

⁴⁹³ Urubanza rwa *Furundžija* (Urugereko rwa mbere rw'iremezo) igika cy'i 183.

540. Urugereko rusanze ibisobanuro by'icyaha cyo gusambanya ku gahato byatanzwe mu rubanza rw'*Akayesu* byarashyigikiwe n'Urugereko rwa mbere rw'iremezo I rw'uru Rukiko mu rubanza rwa *Musema*⁴⁹⁴ no mu rwa *Niyitegeka*⁴⁹⁵, n'Urugereko rwa mbere rw'iremezo II rwa ICTY mu rubanza rwa *Delalic*⁴⁹⁶. Nta rubanza na rumwe muri izo rwajuririwe ku birebana n'icyo kibazo.
541. Mu rubanza rwa *Kunarac*, Urugereko rwa mbere rw'iremezo rwakomeje ku gisobanuro cyo gusambanya ku gahato cyatanzwe mu rubanza rw'*Akayesu*. Nta cyo rwavuze kinyuranye n'icyo gisobanuro kandi rwacyemeye ku buryo buteruye, ariko rwibanze ku byangombwa bigize icyaha cyo gusambanya ku gahato. Urubanza rwa *Kunarac* rwo mu Rugereko rwa mbere rw'iremezo rugira ruti⁴⁹⁷:

Ibyangombwa byihariye bigize icyaha cyo gusambanya ku gahato, bitigeze bivugwa haba muri Sitati, mu mategeko akurikizwa mu ntambara cyangwa se mu mategeko arengera uburenganzira bw'ikiremwanuntu, byasuzumwe n'Urugereko rwa mbere rw'iremezo mu rubanza rwa Furundzija. Muri urwo rubanza, Urugereko rwa mbere rw'iremezo rwasanze Urukiko Nshinjabyaha Mpuzamahanga Rwashyiriweho u Rwanda rwaratanze igisobanuro cy'icyaha cyo gusambanya ku gahato mu rubanza rw'*Akayesu* rugira ruti: ugusambanya ku gahato ni "iyinjizagitsina rikozwe ku gahato". Rwongeye gusuzuma icyo kibazo mu mategeko mpuzamahanga anyuranye, rusanga bidashoboka gushyira ahagaragara ibyangombwa bigize icyaha cyo gusambanya ku gahato ushingiyeye ku masezerano mpuzamahanga cyangwa ku mucu, cyangwa se ku "mahame rusange y'amategeko ahana mpuzamahanga cyangwa... ku mahame rusange y'amategeko mpuzamahanga"...

Uru Rugereko ruremera ko ibyo byangombwa, biramutse bitangiwe ibimenyetso, byaba igikorwa runaka kigize mu mategeko mpuzamahanga icyaha cyo gusambanya ku gahato. Nyamara ariko, ukurikije uko ibintu bimeze muri uru rubanza, Urugereko rwa mbere rw'iremezo rusanga ari

⁴⁹⁴ Urubanza rwa *Musema* (mu Rugereko rwa mbere rw'iremezo), ibika bya 229, 907, 933, 936.

⁴⁹⁵ Urubanza rwa *Niyitegeka* (mu Rugereko rwa mbere rw'iremezo), igika cya 456.

⁴⁹⁶ Urubanza rwa *Delalic* (mu Rugereko rwa mbere rw'iremezo), ibika bya 478-479.

⁴⁹⁷ Urubanza rwa *Kunarac* (mu Rugereko rwa mbere rw'iremezo), ibika bya 437-438.

ngombwa gusobanura neza uko rwumva icyangombwa kivugwa mu gika (ii) cy'igisobanuro cyatanze mu rubanza rwa Furundzija. N'ubwo gikwiranye n'imiterere y'urwo rubanza, Urugereko rusanga icyo gisobanuro hari ahantu hamwe kitaguye nk'uko amategeko mpuzamahanga abisaba. Mu kwemeza ko igikorwa cya ngombwa cy'iyinjiragitsina kiba icyaha cyo gusambanya ku gahato iyo gusa cyakozwe ku gahato cyangwa cyakoranywe ingufu, cyangwa ibikangisho byo gukoresha ingufu bishyizwe ku wahohotewe cyangwa ku wundi muntu uwo ari we wese, igisobanuro cyo mu rubanza rwa Furundzija nta bindi kivuga byatuma iyinjiragitsina riba ku buryo butumvikanyweho cyangwa butarimo ubushake ku wahohotewe; nyamara, nk'uko bisa n'ibyagaragaye mu iburanisha, bikaba binajyibwaho impaka mu bika bikurikira, mu gitekerezo cy'Urugereko rwa mbere rw'iremezo, icyo gikorwa cy'iyinjizagitsina ni cyo kintu cya ngombwa mu gisobanuro gitangwa n'amategeko mpuzamahanga.

542. Biragaragara neza mu bimaze kuvugwa, bikubiye mu rubanza rwa *Kunarac*, ko Urugereko rwa mbere rw'iremezo rwasuzumaga ibyangombwa bigize icyaha cyo gusambanya ku gahato. Urugereko rwa mbere rw'iremezo rwarondoye ibyangombwa bigize icyaha cyo gusambanya ku gahato, ku buryo bukurikira⁴⁹⁸:

Igikorwa runaka kigize icyaha cyo gusambanya ku gahato mu mategeko mpuzamahanga ni iyinjizagitsina, kabone n'iyi byaba atari cyane:

- a) mu gituba cyangwa mu nnyo y'uwahohotewe, hacengejwemo imboro cyangwa se ikindi kintu gikoreshejwe n'usambanya ku gahato;
- b) mu kanwa k'uwahohotewe, usambanya ku gahato akoresheje imboro ye kandi uwahohotewe atabyemeye. Kubyemera bigomba kubaho nta gahato kandi bigakomoka ku bushake bwuzuye bw'uwahohotewe. Uko kubyemera bisuzumwa hakurikijwe uko ibintu byifashe.

⁴⁹⁸ Urubanza rwa *Kunarac* (mu Rugereko rwa mbere rw'iremezo), ibika bya 460, 437, rwemejwe rwo mu burujurire rwa *Kunarac*, igika cya 128; reba kandi: Urubanza rwa *Semanz* (mu Rugereko rwa mbere rw'iremezo), ibika bya 345-346..

Igitekerezo cyo gukora icyaha (*mens rea*) ni ubushake bwo gukora 39/ter
iyinjizagitsina kandi ugikora azi neza ko uwo ahohotera atabyemeye.

543. Biragaragara ko igihe Urugereko rw'Ubujurire remera igisobanuro cy'icyaha cyo gusambanya ku gahato cyatanzwe mu rubanza rwa *Kunarac* mu rw'iremezo, urwo Rurugereko rw'ubujurire rwemeye ibyangombwa [bigize icyaha] byashyizwe ahagaragara n'Urugereko rwa mbere rw'iremezo kandi ni cyo kibazo cyari cyashyikirijwe Urugereko rw'ubujurire. Ntirwari rwasabwe gusuzuma igisobanuro cyatanzwe mu rubanza rw'*Akayesu*.
544. Mu gusuzuma isano iri hagati yo "kwemera" no gukoresha agahato, Urugereko rw'ubujurire rwemera ko gukoresha agahato ubwabyo ari ikimenyetso cyerekana neza ko [uwahohotewe] atabyemeye. Mu rubanza rwa *Kunarac*, Urugereko rw'ubujurire rugira ruti⁴⁹⁹:

... Kubyerekeranye no "gukoresha ingufu" mu gisobanuro cy'icyaha cyo gusambanya ku gahato, Urugereko rw'ubujurire rusanga Urugereko rwa mbere rw'iremezo rusa nk'aho runyuranya n'ibisobanuro byatanzwe mbere n'Urukiko ku cyaha cyo gusambanya ku gahato. Nyamara ariko, mu gusobanura impamvu rwibanda ku kwerekana ko kuba [uwahohotewe] atabyemeye ari ingingo kamara yo kugira ngo icyaha cyo gusambanya ku gahato kibeho, Urugereko rwa mbere rw'iremezo ntaho rwavugurujye imikirize y'imanza ya mbere, ahubwo rwashakaga gusobanura isano riri hagati yo gukoresha agahato no kubyemera. Ingufu cyangwa ibikangisho byo gukoresha ingufu ubwabyo ni ikimenyetso cyerekana neza ko [uwahohotewe] atabyemeye, ariko ingufu ubwazo zonyine si icyangombwa kigize icyaha cyo gusambanya ku gahato. By'umwihariko, Urugereko rwa mbere rw'iremezo rwashakaga gusobanura ko hari "ibindi [bitari ingufu] bishobora gutuma igikorwa cy'iyinjizagitsina kibaho, uwahohotewe atabyemeye cyangwa atabishatse". Kwibanda cyane ku ngufu cyangwa ku bikangisho byo gukoresha ingufu, bishobora gutuma abakoze ibyaha bigurutsa uburyozwe bw'ibyaha bishingiye ku gitsina bikorwa uwahohotewe

⁴⁹⁹ Urubanza rwa *Kunarac* (mu bujurire), ibika bya 129-130.

atemeye, yitwaje ko agahato yashyize ku wahohotewe atari ak'ingufu z'umubiri.

38/ter

Urugereko rw'ubujurire rusanga nk'urugero, mu nkiko zimwe na zimwe zo mu bihugu, ugukoresha intwari cyangwa ingufu za kiboko ku uwahohotewe atari cyo kimenyetso cya ngombwa cyerekana ko hakoreshejwe ingufu. Ugukangisha ko uzihimura ku "uwahohotewe cyangwa undi muntu wese" ni ikimenyetso gihagije mu kwerekana ko hakoreshejwe ingufu, mu gihe bigaragara ko "ushyize mu gaciro, bishoboka ko uregwa ashobora kuzashyira mu bikorwa ibyo akangisha". N'ubwo kwibanda ku cyangombwa kimwe mu bigize icyaha bituma icyaha cyumvikana ukundi, ni ngombwa kwumva ko ibikorwa muri uru rubanza, kimwe n'ibyo mu zindi manza nyinshi byerekeye ibyaha by'intambara n'ibyerekeye ibyaha by'ibasiye inyokomuntu, hafi byose birangwa n'agahato. Ni ukuvuga ko, iyo bimeze gutyo, nta wavuga ko bishoboka ko uwahohotewe yaba yaremeye imibonano mpuzabitsina.

545. Na none, Urugereko ruributsa ko mu rubanza rwa *Furundzija* rwo mu Rugereko rwa mbere rw'iremezo bemeye ko "nta kwemera kuba kuriho iyo, ku buryo ubwo ari bwo bwose, uwahohotewe yari mu maboko y'umuntu cyangwa abantu bamubuza kujya aho ashaka"⁵⁰⁰.
546. Kubera ibyo, Urugereko rwemera imitekerereze y'Urugegeko rw'ubujurire ko agahato ari kimwe mu bintu bituma ukwemera k'uwahohotewe guta agaciro mu bigaragaza icyaha cyo gusambanya ku gahato. Na none, urwo Rugereko rwemera imitekerereze ko hakurikijwe uko ibintu biba byifashe mu manza nyinshi ziburanishwa hakurikijwe amategeko ahana mpuzamahanga, nk'iz'icyaha cya jenocide, ibyaha byibasiye inyokomuntu cyangwa ibyaha by'intambara hafi ya hose haba harimo agahato.
547. Urugereko rusanga igisobanuro cy'icyaha cyo gusambanya ku gahato nk'uko cyatanzwe mu rubanza rw'*Akayesu*, kitemewe uko cyakabaye mu mikirize y'imanza zakurikiyeho mu Nkiko Nshinjabyaha Mpuzamahanga zidahoraho.

⁵⁰⁰ Urubanza rwa *Furundzija* (mu Rugereko rwa mbere rw'iremezo), igika cya 271.

Urugero, mu rubanza rwa *Semanza*, mu rwa *Kajelijeli* no mu rwa *Kamuhanda*⁵⁰¹ ter zisobanura gusa ibintu bikoreshwa mu cyaha cyo gusambanya ku gahato, nk'uko byavuzwe mu rubanza rwa *Kunarac*, bityo rukaba rusa n'aho rudashingira isesengura ku gisobanuro cyatanzwe mu rubanza rw'*Akayesu*⁵⁰¹.

548. Mu rubanza rwa *Semanza*, Urugereko rwagize ruti:⁵⁰²

Urubanza rw'*Akayesu* rwatanze igisobanuro cyagutse cy'icyaha cyo gusambanya ku gahato, gikubiyemo iyinjiragitsina iryo ariryo ryose hakoreshejwe agahato, bitagarukiye gusa kuguhuza imyanya ndangabitsina hakoreshejwe kiboko. Urugereko rw'ubujurire rwa ICTY, rwanyuranyije n'ibimaze kuvugwa, kuko mu gusesengura igikorwa runaka kigize icyaha cyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu, rwafashe igisobanuro kitaguye, ruvuga ko ari igikorwa cy'iyinjiragitsina kitumvikanweho, kabone n'ubwo byaba atari cyane, mu gituba cyangwa mu nnyo y'ukorerwa icyaha, hacengejwemo imboro cyangwa se ikindi kintu gikoreshejwe na gatozi; cyangwa se mu kanwa k'uwakorewe icyaha, gatozi akoresheje imboro. "Kwemera" bigomba kubaho nta gahato kandi bigakomoka ku bushake bwuzuye bw'uwahohotewe. Uko "kwemera" bisuzumwa hakurikijwe uko ibintu byifashe.

N'ubwo icyo gisobanuro cy'icyaha cyo gusambanya ku gahato gishingiye ku bikoreshwa mu gukora icyo cyaha cyabanje kutemerwa n'uru Rukiko, Urugereko rusanga isesengura ryakozwe mu rubanza rwa *Kunarac*, rigereranya inyandiko nyinshi kuri icyo kibazo, rwaryemera, bityo rukaba ruhise igisobanuro cy'icyaha cyo gusambanya ku gahato cyemejwe n'Urugereko rw'ubujurire rwa ICTY. Ruhitamo ibyo, Urugereko ruremera ko ibindi bikorwa by'urugomo byerekeye igitsina bitashyirwa muri icyo gisobanuro kitaguye, bishobora gukurikiranwa nk'ibindi byaha byibasiye inyokomuntu biri mu bubasha bw'uru Rukiko, muri byo hakaba hari nko kwica urubozo, gutoteza, gushyira mu bucakara, n'ibindi bikorwa birenze kameremuntu.

⁵⁰¹ Urubanza rwa *Delalic* (mu Rugereko rwa mbere rw'iremezo), ibika bya 478-479.

⁵⁰² Urubanza rwa *Semanza* (mu rwa mbere rw'iremezo), ibika bya 344-345.

549. Uru Rugereko rusanze urubanza rwa *Furundzija* n'urwa *Kunarac*, rimwe na rimwe zagiye zifatwa nk'aho zitakurikije igisobanuro cy'icyaha cyo gusambanya ku gahato cyatanzwe mu rubanza rw'*Akayesu*, kugeza ubu zigendera ku buryo bugaragara kuri icyo gisobanuro ariko zikongeramo ibisobanuro birambuye ku birebana n'ibikorwa byangombwa bigize icyaha cyo gusambanya ku gahato. Urubanza rwa Semanza rwo ntirugendera kuri icyo gisobanuro.
550. Urugereko rusanga, uko bikorehwa, ibisobanuro byatanzwe ku cyaha cyo gusambanya ku gahato mu rubanza rw'*Akayesu* no mu rwa *Kunarac* bitavuguruzanya kandi bidatandukanye cyane. Mu rubanza rw'*Akayesu* havugwa muri rusange ko ari "igikorwa icyo ari cyo cyose cy'iyinjira gitsina naho mu rwa *Kunarac*, basobanura ibigize iryo yinjiragitsina kugira ngo ribe ryafatwa nk'icyaha cyo gusambanya ku gahato.
551. Kubera impamvu zimaze kuvugwa, Urugereko rwemeye igisobanuro cyatanzwe ku cyaha cyo gusambanya ku gahato mu rubanza rwa *Akayesu* gikubiyemo ibyangombwa bigize icyo cyaha nk'uko byashyizwe ahagaragara mu rubanza rwa *Kunarac*.

Imyanzuro yo mu rwego rw'amategeko

552. Rushingiye ku misesengurire imaze kuvugwa, Urugereko rusanze Uregwa yarasambanyije abagore n'abakobwa ku gahato muri Mata na Gicurasi 1994:
- a. Ku itariki ya 7 Mata 1994, mu muji wa Gishyita, Uregwa yajyanye abagore babiri, Goreti Mukashyaka na Langwida Kamukina, mu rugo iwe maze abasambanya ku gahato. Arangije arabashushubikanya, abirukana mu nzu ye bambaye ubusa nuko ahamagara abantu, Interahamwe n'abandi baturage b'abasivili, kubashungera ngo barebe uko umukobwa w'umututsikazi wambaye ubusa asa,⁵⁰³

⁵⁰³ Reba haruguru, Umutwe wa II, icyiciro cya D.

- b. Mu cyumweru cya mbere cyakurikiye imvururu, Uregwa yasunikiye Siperansiya Mukagasana ku buriri bwe, amwambura imyenda, amusambanya ku gahato. Yamusambanyije ku gahato mu rugo rwe inshuro nyinshi;⁵⁰⁴
- c. Ku itariki ya 15 Mata 1994, Uregwa, afatanyije n'agatsiko k'Interahamwe, batwaye ku ngufu abakobwa b'abatutsikazi babajyana ku irimbi riri hafi ya kiliziya ya paruwasi yo ku Mubuga. Nuko Uregwa asambanya ku gahato Anyesi Mukagatare, umwe muri abo bakobwa;⁵⁰⁵
- d. Ku itariki ya 16 Mata 1994, Uregwa yasambanyije Mukasine Kajongi ku gahato mu nzu yo hasi y'ibitaro byo ku Mugonero, mu kigo cyo ku Mugonero;⁵⁰⁶
- e. Ku itariki ya 16 Mata 1994, Uregwa yasambanyije ku gahato umutangabuhamya wiswe AU inshuro ebyiri mu nzu yo hasi y'ibitaro byo ku Mugonero, mu kigo cyo ku Mugonero;⁵⁰⁷
- f. Ku itariki ya 16 Mata 1994, mu nzu yo hasi y'ibitaro byo ku Mugonero, mu kigo cyo ku Mugonero, Uregwa yasambanyije ku gahato umutangabuhamya wiswe BJ, umwangavu w'umuhutukazi yari yibeshyeho ko ari umututsikazi. Nyuma, aho Interahamwe imubwiriye ko BJ atari umututsikazi, yamusabye imbabazi kubera ko yari yamusambanyije ku gahato.⁵⁰⁸

553. Urugereko rusanze kandi Uregwa yarashishikariye abandi bantu gukora ibyaha byo gusambanya ku gahato:

- a. Ku itariki ya 16 Mata 1994, mu gihe kimwe, Uregwa yasambanyirije Mukasine Kajongi ku gahato mu nzu yo hasi y'ibitaro byo ku Mugonero, abasirikare babiri basambanyije ku gahato abakobwa ba Amosi Kajongi

⁵⁰⁴ Reba haruguru, Umutwe wa II, icyiciro cya D.

⁵⁰⁵ Reba haruguru, Umutwe wa II, icyiciro cya J.

⁵⁰⁶ Reba haruguru, Umutwe wa II, icyiciro bya L na M.

⁵⁰⁷ Reba haruguru, Umutwe wa II, icyiciro bya L na M.

⁵⁰⁸ Reba haruguru, Umutwe wa II, icyiciro bya L na M.

kandi babikorera mu maso y'Uregwa. Kuba Uregwa yarareberaga aho abakobwa ba Amosi Karera basambanywaga ku gahato, hakubitiyeho no kuba Uregwa ubwe yarasambanyije Mukasine ku gahato, byashishikarije abo basirikare babiri gusambanya ku gahato abakobwa ba Amosi Karera. Uko kubashishikaza byagize uruhare runini mu gutuma abo bakobwa basambanywa ku gahato;⁵⁰⁹

- b. Ku itariki ya 16 Mata 1994, ubwo Uregwa yasambanyaga umutangabuhamya wiswe BJ ku gahato mu nzu yo hasi y'ibitaro byo ku Mugonero, abagabo babiri, bari bamuherekeje, na bo basambanyaga ku gahato abandi bakobwa babiri bitwa Murekatete na Mukasine. Ibyo Uregwa yakoze, byashishikarije abo bagabo babiri gusambanya ku gahato Murekatete na Mukasine. Uko kubashishikaza byagize uruhare runini mu gutuma abo bakobwa basambanywa ku gahato;⁵¹⁰
- c. Ku itariki ya 22 Mata 1994, Uregwa yahaye Interahamwe yitwa Mugonero uruhushya rwo kujyana umutangabuhamya wiswe BG kugira ngo "yihumurize umubiri w'umututsikazi". Umutangabuhamya yasambanyijwe ku gahato inshuro nyinshi mu rugo rwa Mugonero mu gihe cy'iminsi ibiri. Urugereko rusanga kuba Uregwa yaremeye Mugonero gutwara umutangabuhamya wiswe BG iwe, byaramushishikarije kumusambanya ku gahato. Uko kumushishikaza byagize uruhare runini mu gutuma uwo mukobwa asambanywa ku gahato.⁵¹¹

554. Nta bimenyetso bihagije Urugereko rwabonye rwashingiraho ngo rwemeze ko Uregwa yaryozwa ibi bikurikira:

- a. icyaha cyo gusambanyiriza hamwe ku gahato Makulata Mukabarore na Yozefina Mukankwano, Porokireri avuga ko basambanyijwe ku gahato n'Interahamwe mu gihe Uregwa yasambanyaga ku gahato AU;⁵¹²

⁵⁰⁹ Reba haruguru, Umutwe wa II, Ibyiciro bya L na M.

⁵¹⁰ Reba haruguru, Umutwe wa II, Ibyiciro bya L na M.

⁵¹¹ Reba haruguru, Umutwe wa II, Icyiciro cya N.

⁵¹² Reba haruguru, Umutwe wa II, Ibyiciro bya L na M.

- b. icyaha by'ubwicanyi, ibyo gusambanya ku gahato, n'andi marorerwa, Porokireri avuga ko bifitanye isano n'inama yabereye mu rugo rw'Uregwa ku itariki ya 7 Mata 1994;⁵¹³
- c. gushishikariza gukora icyaha cyo gusambanya ku gahato Siperansiya Mukagasana, igihe Uregwa ari mu rugo rwe, yamuhaga Interahamwe yitwa Gisambo;⁵¹⁴
- d. icyaha cyo gusambanya ku gahato Yoziyana, Mariyana Gafurafura na Marita Gafurafura i Gishyita, bamaze gutwarwa ku ngufu ku itariki ya 13 Mata 1994;⁵¹⁵
- e. icyaha cyo gusambanya ku gahato Yohanita, Tereza Mukabutera na Ewujeniya, ku bitaro byo ku Mugonero ku itariki ya 16 Mata 1994.⁵¹⁶

555. Urugereko kandi rusanze Uregwa ataryozwa icyaha cyo gusambanya ku gahato Felesita Kankuyu kubera ko Porokireri nta bimenyetso atanga byo guhamya Uregwa ibikorwa bivugwa mu Nyandiko y'ibirego.⁵¹⁷
556. Urugereko rusanze Uregwa ataryozwa icyaha cyo gusambanya ku gahato umutangabuhamya wiswe AX kubera ko Porokireri yibeshye ku matariki ibyo byaha byakoreweho, bityo bigatuma Inyandiko y'ibirego igira inenge. Urugereko rwasuzumye imyanzuro mbanzirizarubanza ya Porokireri n'inyandiko z'ubuhamya bw'abagabo, maze rusanga nta nyandiko yakosoye iyi nenge mu buryo bwumvikana kandi budahuzagurika.
557. Urugereko rusanze Uregwa ataryozwa icyaha cyo gusambanya ku gahato Pasikaziya Mukaremera. Mu myanzuro ku byabaye, Urugereko rwasanze Uregwa yarafomoje Pasikaziya akoresheje umupanga, akamusatura ahereye ku mabere akageza ku gituba. Urugereko rwasuzumanye ubushishozi ingingo ya Porokireri

⁵¹³ Reba haruguru, Umutwe wa II, Icyiciro cya F.

⁵¹⁴ Reba haruguru: Umutwe wa II, Icyiciro cya G.

⁵¹⁵ Reba haruguru: Umutwe wa II, Icyiciro cya K.

⁵¹⁶ Reba haruguru: Umutwe wa II, Ibyiciro bya L na M.

⁵¹⁷ Reba haruguru: Umutwe wa II, Igice cya R.

ivuga ko iki cyaha cyafatwa nko kumusambanya ku gahato maze rwemeza ko iki gikorwa kitafatwa gityo. N'ubwo iki cyaha cyahungabanyije imyanya ndangabitsina, Urugereko rusanga nta yinjiragitsina ryabayeho. Ariko, Urugereko ruri bugaruke kuri iki cyaha mu myanzuro yo mu rwego rw'amategeko ku birebana n'ubuhotozi.⁵¹⁸

558. Urugereko ruributsa umwanzuro warwo uvuga ko habaye ibitero mu rwego rusange, bifite aho bihuriye kandi byibasiye gusa abasivili b'abatutsi muri Komini ya Gishyita hagati y'ukwezi kwa Mata n'ukwa Kamena 1994.⁵¹⁹
559. Urugereko ruributsa ko rwasanze Uregwa yaragiye mu bitero byibasiye abatutsi muri Mata, Gicurasi na Kamena 1994, kandi mu kubikora, yaragamije kurimbura abantu bo mu bwoko bw'abatutsi.⁵²⁰
560. Kubera izo mpamvu, Urugereko rusanze Uregwa yarazi ko ugusambanya abagore n'abakobwa ku gahato byakorwaga mu rwego rw'ibitero rusange, bifite aho bihuriye, kandi byibasiraga gusa abasivili b'abatutsi.
561. Urugereko rusanze Uregwa yarahitagamo gusambanya ku gahato abantu yibwiraga ko ari abatutsikazi. Kuba abo yasambanyije ku gahato bari abatutsi cyangwa batari bo si byo byashingirwaho mu kwemeza niba Uregwa yaryozwa icyo cyaha. Rushingiye ku kuntu Uregwa yitwaye, Urugereko rusanze yarahitagamo abo asambanya ku gahato azi neza ko uko gusambanya ku gahato biri mu rwego rw'ibitero rusange kandi bifite aho bihuriye byibasiye gusa abasivili b'abatutsi.
562. Bityo rero, Urugereko rusanze Mika Muhimana ahamwa no kuba yarasambanyije abagore n'abakobwa ku gahato, akanafasha abandi gukora icyo cyaha, nk'uko abishinjwa, kandi akaba yarabikoze mu rwego rw'ibitero rusange kandi bifite aho bihuriye byibasiye abaturage b'abasivili.

⁵¹⁸ Reba haruguru: Umutwe wa II, icyiciro cya N.

⁵¹⁹ Reba haruguru: Umutwe wa II, icyiciro cya C.

⁵²⁰ Reba haruguru: Umutwe wa II, icyiciro cya A.

563. Kubera izo mpamvu, Urugereko rwemeje ko Mika Muhimana AHAMWA n'ICYAHA CYO GUSAMBANYA KU GAHATO NK'ICYAHA CYIBASIYE INYOKOMUNTU, nk'uko abishinjwa mu kirego cya 3 cy'Inyandiko y'ibirego.

D. ICYAHA CYIBASIYE INYOKOMUNTU-UBUHOTOZI (IKIREGO CYA 4)

564. Ikirego cya 4 cy'Inyandiko y'ibirego gishinja Uregwa ubuhotozi nk'icyaha cyibasiye inyokomuntu, hakurikijwe Ingingo ya 3 (a) ya Sitati. Ibyo Porokireri ashingiraho mu guhamya ibyo ashinja Uregwa bikubiye mu gika cya 7 cy'Inyandiko y'ibirego.
565. Muri rusange, Inyandiko y'ibirego ivuga ku buryozwacyaha butandukanye buvugwa mu ngingo ya 6 (1) ya Sitati, kandi by'umwihariko, ikavuga ko hagati y'itariki ya 6 Mata 1994, n'iya 30 Kamena 1994, Uregwa "yahotoye abatwaga b'abasivili muri Segiteri Gishyita, mu rusengeru, mu bitaro no mu ishuri ry'abaforomokazi byo ku Mugonero, no mu karere ka Bisesero, mu rwego rw'igitero rusange kandi gifite aho gihuriye n'ibindi cyibasiye abatwaga b'abasivili".
566. Mu bice by'igika cya 7, Inyandiko y'ibirego ishinja Uregwa gutwara abantu ku ngufu no gutanga amategeko yo kwica; ubwicanyi bwahitanye benshi; gutanga amabwiriza yo gufomoza umututsikazi; kwica abagore runaka hakurikijwe ilisiti yakozwe; kwicira hamwe abatutsikazi; gutanga amabwiriza yo kwica abagore runaka hakurikijwe ilisiti yakozwe; no kuba umwe mu bishe umugabo wo mu bwoko bw'abatutsi.
567. Rushingiye ku myanzuro rwafashe ku byabaye byerekeranye n'ibikorwa by'ubuhotozi Uregwa ashinjwa mu gika cya 7 cy'Inyandiko y'ibirego, Urugereko rwasuzumye uburyozwacyaha bw'Uregwa ku birebana n'ubuhotozi nk'icyaha cyibasiye inyokomuntu ashinjwa mu kirego cya 4 cy'Inyandiko y'ibirego, gihanwa hakurikijwe ingingo ya 2 ya Sitati y'Urukiko.

Amategeko akurikizwa

568. Ubuhotozi ni ukwica umuntu ubishaka, cyangwa se kumukorera igikorwa cy'urugomo cyo kwangiza umubiri we ubishaka kandi uzi ko icyo gikorwa cyangiza umubiri we kizatuma apfa, kandi nta mpamvu cyangwa urwitwazo byemewe n'amategeko bitumye ukora icyo gikorwa.⁵²¹ icyaha cy'ubuhotozi, kimwe n'icyaha cyo gusambanya ku gahato, gihanwa nk'icyaha cyibasiye inyokomuntu, "iyoyakozwe mu rwego rw'ibitero rusange kandi bifite aho bihuriye byibasiye abaturage b'abasivili abo ari bo bose, bazira ubwenegihugu bwabo, umutwe wa politiki barimo, isanomuzi yabo, ubwoko bwabo cyangwa idini yabo".⁵²²
569. Uru Rugereko rwemera imyanzuro Urugereko rwa mbere rw'iremezo rwafashe mu rubanza rwa Semanza aho rugira ruti:⁵²³

...ukwica umuntu byagambiriwe (ubuhotozi) ni byo biranga icyaha cyibasiye inyokomuntu nk'uko biteganywa n'Ingingo ya 3 (a) ya Sitati. Ukugambirira bisaba, nibura, ko Uregwa yateguye umugambi wo kwica mbere yo gukora igikorwa cyahitanye umuntu; ntabwo uwo mugambi wo kwica ugomba kubera igihe kimwe n'igikorwa nyirabayazana y'urupfu. Si ngombwa ko uwo mugambi uba watekerejweho umwanya munini, kubitekerezaho akanya gato gusa birahagije. Urugereko rusanga kuba Uregwa yari azi ko ibikorwa bye byari mu rwego rw'igitero rusange cyibasira abaturage b'abasivili, bigaragaza ko ubwicanyi bwari bwagambiriwe. Urugereko rurashimangira ko atari ngombwa ko Uregwa agomba kuba yarabanje gutekereza ihotorwa ry'umuntu uyu n'uyu. Kuba Uregwa yaragambiriye guhotorwa abaturage b'abasivili mu rwego rwa cya gitero rusange cyangwa kiri kuri gahunda gishingiye ku ivangura, birahagije kugira ngo ibikorwa bye bifatwe nk'ibyaha byibasiye inyokomuntu.

⁵²¹ Urubanza rw'Akayesu (mu rwa mbere rw'iremezo), igika cya 589; Urubanza rwa Rutaganda (mu rwa mbere rw'iremezo), igika cya 81; Urubanza rwa Musema (mu rwa mbere rw'iremezo), igika cya 215.

⁵²² Ingingo ya 3 ya Sitati; Reba haruguru Umutwe wa III, icyiciro cya C.

⁵²³ Urubanza rwa Semanza (mu rwa mbere rw'iremezo), icyiciro cya 339.

Imyanzuro y'Urugereko mu rwego rw'Amategeko

Ibyo Uregwa yakozze

570. Rumaze gusuzuma ibimenyetso bishinje n'ibishinjura, Urugereko rusanze Uregwa yarakoze ibyaha by'ubuhotozi muri Mata, Gicurasi na Kamena 1994:

- a. Mu gitondo cyo ku itariki ya 15 Mata 1994, Uregwa yakuye gerenade imwe mu ikarito, ayitera muri kiliziya yo ku Mubuga yari ikoraniwemo n'impunzi z'abatutsi. Iki gikorwa cyahitanye umututsi witwa Kaihura. Kubera ibikorwa bye, Uregwa yahotoye Kaihura.⁵²⁴
- b. Ku itariki ya 16 Mata 1994 abagizi ba nabi bishe Mukasine Kajongi n'abakobwa b'Amosi Karera. Uregwa yari ahari ibi biba, kandi yahaye amabwiriza ababikoze anabashishikariza kubikora. Amagambo n'ibikorwa by'Uregwa byabaye intandaro y'ihotorwa rya Mukasine Kajongi n'abakobwa b'Amosi Karera. Uko guhamagarira abandi gukora icyaha ni ko kwatumye ahanini ubwo buhotozi bukorwa;⁵²⁵
- c. Muri Kamena 1994, Uregwa ni umwe mu bantu bishe babigambiriye umucuruzi w'umututsi witwa Asiyeli Kabanda wari wihishe mu misozi ya Bisesero. Urugereko rusanze Uregwa ari umwe mu bantu bakoze icyo cyaha cy'ubuhotozi;⁵²⁶
- d. Hagati muri Gicurasi 1994, Uregwa yabwiye Interahamwe zari zakoranye ko agiye gufomoza umugore wari utwite witwaga Pasikaziya Mukaremera kugira ngo arebe uko uruhinja rukiri mu nda ya nyina ruba rumeze. Nuko asatura uwo mugore ahereye ku mabere kugeza ku myanya ndangabitsina maze amukuramo uruhinja rwamaze akanya rurira mbere y'uko rupfa. Amaze gufomoza uwo mugore, abari mu gitero bamuciye amaboko nuko bayajombamo ibisongo.

⁵²⁴ Reba haruguru: Umutwe wa II, icyiciro cya I.

⁵²⁵ Reba haruguru: Umutwe wa II, icyiciro cya L.

⁵²⁶ Reba haruguru: Umutwe wa II, icyiciro cya U.

Kubera ko Urugereko rwemeje mbere ko Pasikaziya yapfuye azize ibikomere, yatewe, Urugereko rusanze Uregwa ahamwa n'icyaha cyo kumuhotora.⁵²⁷ 28/ter

571. Ku birebana n'iki gika (d) cyo haruguru, Urugereko rusanze, n'ubwo Porokireri ashinja Uregwa ko yahaye Gisambo amabwiriza yo guhotora Pasikaziya Mukaremera, ibimenyetso bigaragaza ko Uregwa ari we wamuhotoye.
572. Bityo rero, Urugereko rugomba gusuzuma niba rushobora kuryoza Uregwa icyaha cyo guhotora Pasikaziya Mukaremera rukurikije ibimenyetso byatanzwe, kandi mu Nyandiko y'ibirego ashinjwa icyaha cyo kuba yatanze amabwiriza yo kumuhotora.
573. Mbere na mbere, Urugereko ruributsa ko ubwo buryo bwombi bwo kugira uruhare mu mikorere y'icyaha - “gukora icyaha” no “gutegeka ikorwa ry'icyaha” – buhanwa n'ingingo ya 6 (1) ya Sitati. Naho ku birebana no guhindura inyito y'icyaha Uregwa ashinjwa, uru Rugereko rwemera umwanzuro wafashwe n'Urugereko rwa mbere rw'iremezo mu rubanza rwitiriwe Cyangugu aho rugira ruti:

...ubundi, kudaha icyaha uregwa ashinjwa inyito ikwiye, bishobora kudatesha agaciro Inyandiko y'ibirego, kuko Urugereko rushobora kubikosora rugendeye ku mategeko ahana icyo cyaha cyakozwe, kandi rushingiye ku myanzuro yarwo ku byabaye, kabone n'iyi Porokireri yaba yaribeshye ku nyito y'icyo cyaha; gusa, imikorere y'icyo cyaha, igomba kuba igaragaza ku buryo busobanutse neza uruhare uregwa yagize mu ikorwa ryacyo.⁵²⁸

574. Muri urubanza, Urugereko rusanga n'ubwo Inyandiko y'ibirego ifite inenge mu nyito y'icyaha Uregwa ashinjwa cyo kuba yarahotoye Pasikaziya Mukaremera, imyanzuro mbanzizirubanza n'inyandiko Porikeri yagiye ashyikiriza Ubwunganizi byaramenyeshye Uregwa, ku gihe, mu buryo bwumvikana neza,

⁵²⁷ Reba haruguru: Umutwe wa II, icyiciro cya R.

⁵²⁸ Urubanza rwitiriwe Cyangugu (mu rwa mbere rw'iremezo), igika cya 38.

kandi budahuzagurika, ibikorwa ashinjwa. Bityo rero Urugereko rusanga inenge⁵²⁹ ter iri mu nyito y'icyaha, nta cyo yabangamiyeho inyungu z'Uregwa.

575. icya kabiri, Urugereko rurasanga Ubwunganizi butarigeze bunenga inyito y'icyaha ikosheje, yerekeye uruhare Uregwa yagize mu byaha bivugwa mu gika cya 6 () (ii) n'icya 7 (d) (i) by'Inyandiko y'ibirego. Ahubwo, Ubwunganizi bwahakanye uruhare rw'Uregwa mu isambanywa ku gahato n'ihotorwa bya Pasikaziya Mukaremera bukemanga ukwizerwa k'umugabo wiswe AW, bunatanga ibimenyetso bishinjura bigamije kwerekana ko nta sambanya ku gahato ryabereye mu karere ka Bisesero muri kiriya gihe kivugwa.

576. Kubera izo mpamvu zose zivuzwe haruguru, rushingiye kandi no ku mwanzuro rwafashe uvuga ko Pasikaziya yapfuye kubera gukomeretswa n'Uregwa n'abandi bari mu bitero, Urugereko rusanze Porokireri yatanze ibimenyetso bidashidikanywaho na gato byerekana ko Uregwa ahamwa n'icyaha cyo guhotora Pasikaziya Mukaremera, yakoze we ubwe nk'uko kiri mu gika cya 7 (d) (i) cy'Inyandiko y'ibirego.

577. Mu myanzuro rwafashe ku byabaye, Urugereko rwasanze nta bimenyetso bihagije rwashingiraho mu guhamya Uregwa ibi byaha ashinjwa ko:

a) Ku itariki ya 7 Mata 1994, cyangwa se ahagana kuri iyo tariki, Langwida Kamukina na Goreti Mukashyaka bishwe, ku mabwiriza yatanzwe n'Uregwa kandi ahibereye;⁵²⁹

b) Ku itariki ya 14 Mata 1994, cyangwa se ahagana kuri iyo tariki, Siperansiya Mukagasana yishwe ku mabwiriza yatanzwe n'Uregwa kandi ahibereye;⁵³⁰

⁵²⁹ Reba haruguru: Umutwe wa II, icyiciro cya D

⁵³⁰ Reba haruguru: Umutwe wa II, icyiciro cya G.

- c) Ku itariki ya 15 Mata 1994, cyangwa se ahagana kuri iyo tariki, kuri Paruwasi yo ku Mubuga, abakobwa b'abatutsikazi babiri bitwa Alufonsine na Koleta basatuwe inda, bakanicwa ku mategeko yatanzwe n'Uregwa, kandi ahibereye;⁵³¹ 26/ter
- d) Ku itariki ya 16 Mata 1994, ku bitaro byo ku Mugonero, Interahamwe n'Uregwa bafatanyije kwica Makulata Mukabarore, Berenadeta Mukagorero na Yozefina Mukankwaro.⁵³²

578. Byongeye kandi, Urugereko rusanga Uregwa ataryozwa icyicwa rya Felesita Kankuyu kubera ko atamenyeshejwe mbere ku buryo buhagije ko azashinjwa icyo cyaha.⁵³³

579. Urugereko ruributsa ko, mu myanzuro yarwo, rwasanze muri Komini Gishyita no mu karere ka Bisesero, hagati y'ukwezi kwa Mata n'ukwa Kamena 1994, haragabwe ibitero rusange, bifite aho bihuriye kandi byibasira gusa abasivili b'abatutsi.⁵³⁴

580. Urugereko ruributsa ko, mu myanzuro yarwo, rwasanze Uregwa yaragiye mu bitero byibasiye abatutsi muri Mata, Gicurasi na Kamena 1994, kandi ko yabikoraga agamije kurimbura abantu bo mu bwoko bw'abatutsi.⁵³⁵ Bityo rero, Urugereko rusanze Uregwa yari azi ko ubwicanyi, bwavuzwe haruguru mu magambo arambuye, bwakozwe cyangwa se bwatangijwe mu rwego rw'ibitero rusange, bifite aho bihuriye kandi byibasira gusa abasivili b'abatutsi.

581. Byongeye kandi, Urugereko rusanga Uregwa yari agamije guhotora abasivili b'abatutsi mu rwego rw'ibitero rusange kandi bifite aho bihuriye.

⁵³¹ Reba haruguru: Umutwe wa II, icyiciro cya J.

⁵³² Reba haruguru: Umutwe wa II, Igice cya M.

⁵³³ Reba haruguru: Umutwe wa II, Igice cya R.

⁵³⁴ Reba haruguru: Umutwe wa III, Igice cya C.

⁵³⁵ Reba haruguru: Umutwe wa III, Igice cya A.

582. Rushingiye ku ngingo ya 6 (1) ya Sitati, Urugereko rusanze Uregwa, Mika^{25/ter} Muhimana, ahamwa n'icyaha cy'ubuhotozi n'icyo guhamagarira abandi gukora ubwo buhotozi, bwibasiye abasivili b'abatutsi mu rwego rw'ibitero rusange kandi bifite aho bihuriye n'ibindi.
583. Kubera izo mpamvu, Urugereko rusanze Mika Muhimana AHAMWA N'ICYAHA CY'UBUHOTOZI NK'ICYAHA CYIBASIYE INYOKOMUNTU, nk'uko bikubiye mu kirego cya 4.

UMUTWE WA IV – IBYEMEZO BY'URUGEREKO

584. KUBERA IZO IMPAMVU, rumaze gusuzuma ibimenyetso byose n'ingingo by'ababuranyi,
585. URUGEREKO rwemeje ko Mika Muhimana ahamwa n'ibyaha biri mu birego bikurikira:

Ikirego cya 1: Jenocide

Ikirego cya 3: Gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu

Ikirego cya 4: Ubuhotozi nk'icyaha cyibasiye inyokomuntu

586. URUGEREKO rwemeje ko :

Ikirego cya 2: Kuba icyitso cy'abakoze jenocide, kitakiriwe.

587. Urugereko rusanze Mika Muhimana ahamwa n’icyaha cya Jenocide (ikirego cya 1), n’icyaha cyo gusambanya ku gahato nk’icyaha cyibasiye inyokomuntu (ikirego cya 3) n’Ubuhotozi nk’icyaha kibasiye inyokomuntu (ikirego cya 4). Bityo rero, Urugereko rugiyeye kumugenera igihano, rukurikije ingingo ya 22 ya Sitati.

A. AMAHAME AGENDERWAHO MU KUGENA IBIHANO N’UKO AKURIKIZWA

588. Iriburiro ry’icyemezo 955 cy’Inama ishinze amahoro ku isi y’Umuryango w’Abibumbye cyashyizeho Urukiko rishimangira intego zo guca intege abakora ibyaha biri mu bubasha bw’Urukiko, guteza imbere ubutabera, ubwiyunge, kugarura no kubungabunga amahoro. Urugereko rwumva ko guca imanza mu kuri no gutanga igihano gikwiye, niba Uregwa ahamwe n’icyaha, ari inzira iganisha kuri izo ntego.

589. Urugereko rugendera ku ngingo ya 23 ya Sitati mu kugena igihano.⁵³⁶ Iyo ngingo iteganya ko igihano Uregereko rushobora guha uwahamwe n’icyaha ari icyo gufungwa gusa. Mu kugenera uwahamwe n’icyaha igihano, Urugereko rugomba kuzirikana urutonde rusange rw’ibihano by’igifungo bikurikizwa n’inkiko zo mu Rwanda, ububi bw’icyaha, n’imibereho bwite y’Uregwa.

590. Urugereko ruributsa ihame rusange ko mu gihe cyo kugena ibihano hashingirwa gusa ku byaha byahamye Uregwa ku buryo budashidikanywaho na gato.

⁵³⁶ Ingingo ya 23 iteganya ko:

- (1) Urugereko rwa mbere rw’iremezo rutanga ibihano by’igifungo gusa. Mu gutanga ibihano byo gufungwa, Urugereko rwa mbere rw’iremezo rwifashisha urutonde rusange rw’ibihano by’igifungo bikoreshwa n’inkiko zo mu Rwanda.
- (2) Mu gutanga igihano icyo ari cyo cyose, Urugereko rwa mbere rw’iremezo ruzirikana ingingo nyinshi, nk’ububi bw’icyaha, n’imibereho bwite y’uwakatiwe.
- (3) Uretse igihano cyo gufungwa uwakatiwe, Urugereko rwa mbere rw’iremezo rushobora gutegeka ko ibintu byose n’umutungo byigaruriwe mu nzira zinyuranyije n’amategeko bisubizwa nyirabyo, ndetse hakaba hakoreshwa n’ingufu za Leta.

591. Nk'uko biteganywa n'Ingingo ya 23 (2) ya Sitati n'Ingingo ya 101 (A) ^{22/ter} y'Amategeko agenga imiburanishirize n'itangwa ry'ibimenyetso,⁵³⁷ Urugereko ruzirikana ihame ry'isumbana ry'ibihano. Bityo rero uko ibyaha bisumbanya ububi ni nako ibihano byabyo bisumbanya uburemere. Mu kugena ububi bw'ibyaha byahamye Mika Muhimana, Urugereko rwitaye ku miterere yihariye y'uru rubanza, uburyo Mika Muhimana yakozemo icyo cyaha, uruhare uru n'uru yagize mu ikorwa ryacyo, no ku ngingo zongera cyangwa zigabanya ububi bwacyo.⁵³⁸ Urugereko ruzirikana kandi uburyo ibihano bigenwa n'inkiko zo mu Rwanda muri rusange.
592. Ku byaha bikomeye nk'ubuhotozi, amategeko ahana yo mu Rwanda ateganya igihano cyo hejuru ntarengwa cyo kwicwa cyangwa cyo gufungwa burundu.⁵³⁹ Igihano giteganywa ku gusambanya ku gahato kiri hagati y'igifungo cy'imyaka itanu na mirongo ine, bitewe n'ukuntu icyaha cyakozwe.⁵⁴⁰ Itegeko-Ngenga ry'u Rwanda riteganya ko ku byaha bya jenocide n'ibyaha by'ibasiye inyokomuntu hazatangwa ibihano biteganywa n'amategeko ahana asanzwe akurikizwa ariko ko abazashyirwa mu rwego rwa mbere bazahanishwa igihano gisumba ibindi ari cyo kwicwa, naho abazashyirwa mu rwego rwa kabiri bagahanishwa igihano kiremereye cyo gufungwa burundu.⁵⁴¹

⁵³⁷ Ingingo ya 101 y'Amategeko agenga iburinisha n'itangwa ry'ibimenyetso iteganya ko: Umuntu uhamijwe icyaha n'Urukiko ashobora guhanishwa igihano cy'igifungo, gishobora no kuba icya burundu.

Iyo Urugereko rwa mbere rw'iremezo rutanga ibihano ruzirikana ibiteganywa n'ingingo ya 23 ya Sitati mu gika cya 2 ndetse n'ibi bikurikira:

- (i) impamvu yongera ububi bw'icyaha
- (ii) impamvu igabanya ububi bw'icyaha harimo no kuba Ushinjwa yarafashije cyane ubushinjacyaha mbere cyangwa nyuma y'uko icyaha kimuhama;
- (iii) urutonde rusange rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda;
- (iv) igihe uwahamwe n'icyaha yamaze muri gereza afungiwe icyo cyaha ku cyemezo cy'urukiko rw'igihugu iki n'iki, hakurikijwe ingingo ya 9 ya Sitati mu gika cya 3.

Iyo ibihano bigenwe ari byinshi, Urugereko rwerekana niba bigomba gukomatanywa cyangwa se niba buri gihano kigomba kurangizwa ukwacyo.

Igihe uwakatiwe yamaze afunzwe by'agateganyo, haba mbere yo gushyikirizwa Urukiko, haba no mu gihe cyose amara ategereje gucirwa urubanza n'Urugereko rwa mbere rw'iremezo, cyangwa urw'Ubujurire, kivanwa mu gihe cy'igifungo akatiwe.

⁵³⁸ Urubanza rwa Semanza (mu rwa mbere rw'iremezo), igika cya 555.

⁵³⁹ Amategeko ahana y'u Rwanda, Ingingo za 311-317.

⁵⁴⁰ Amategeko ahana y'u Rwanda, Ingingo 360-361. Urugereko ruri busuzume izi ingingo zongera ububi bw'icyaha nk'uko biteganywa n'amategeko y'u Rwanda.

⁵⁴¹ Amategeko ahana ibyaha mu Rwanda, Ingingo ya 35, iya 64, iya 89, n'iya 311-317; ingingo ya 14 y'Itegeko Ngenga (Rwanda) No 08/96 ryo ku wa 30 Kanama 1996 rigena imitunganyirize y'ikurikirana

593. Urugereko rwasuzumye na none uburyo Urukiko rwashyiriweho icyahoze cyitwa Yugosolaviya n'urwagene u Rwanda zigena ibihano, rusanga abahamwe n'icyaha cya jenocide bakatirwa igihano cy'igifungo kiri hagati y'imyaka cumi n'itanu n'icyo gufungwa burundu.⁵⁴² Muri rusange abahamwe no kugira uruhare ruto muri jenocide bakatirwa igihano gito ugereranyije n'abayigizemo uruhare runini. Mu rubanza rwa Ntakirutimana ruherutse kwemezwa mu rw'ubujurire, Urugereko rwa mbere rw'iremezo rwasanze ahamwe n'icyaha cyo kuba yarafashije akanashishikariza abandi gukora jenocide. Rukatira uwo mu pasitori gufungwa imyaka icumi, Urugereko rwazirikanye ibikorwa byiza yakoze mbere, izabukuru, n'ubuzima bufite umuze.⁵⁴³
594. Urugereko ruzi neza ko rufite inshingano yo kureba ko igihano gitanzwe kijyanye n'ibyerekeye imibereho bwite y'uwakatiwe.⁵⁴⁴

B. IBYEREKEYE UREGWA

Imyanzuro ya Porokireri

595. Kuri buri kirego, Porokireri arasabira Mika Muhimana igihano cyo hejuru giteganywa na Sitati y'Urukiko. Arerekana impamvu z'ingenzi eshatu zongera ububi bw'ibyaha: umwanya Mika Muhimana yari afite mu bantu bo mu karere yabagamo; umurava Mika yakoranye ibyaha; n'ingaruka ibikorwa bya Mika Muhimana byagize ku mibereho n'ubuzima by'abakorewe ibyaha.

- (a) *Umwanya Mika Muhimana yari afite mu karere yabagamo*

ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu, byakoze kuva ku itariki ya 1 Ukwakira 1990, igazeti ya Leta No 17 yo ku wa 1 Nzeri 1996; Urubanza rwiswe urwa *Cyangugu*, igika cya 811.

⁵⁴² Urubanza rwa Musema (mu rwa mbere rw'iremezo), igika cya 1008; Urubanza rwa Rutaganda (mu rwa mbere rw'iremezo), igika cya 473; ibihano byahawe Kayishema na Ruzindana (mu rwa mbere rw'iremezo), igika cya 27; igihano cyahawe Akayesu (mu rwa mbere rw'iremezo), urup. 13.

⁵⁴³ Urubanza rwa Ntakirutimana (mu rwa mbere rw'iremezo), ibika 919-921; Urubanza rwa Ntakirutimana (mu rw'Ubujurire), ibika bya 565-570.

⁵⁴⁴ Urubanza rwa Delalic (mu rw'Ubujurire), ibika bya 717-719

596. Porokireri avuga ko Mika Muhimana, wari konseye akaba n’umucuruzi, yari umuhuza w’abaturage na guverinoma. Porokireri avuga kandi ko kuba Uregwa yarabanaga n’abakozi ba Leta bo hejuru n’abacuruzi bakomeye, kimwe n’ukuntu yari yaramamaye muri Komini ya Gishyita, aho yavukiye, akahabyirukira, akaba yari ahazwi neza, byarushijeho guha agaciro umwanya yari afite.

597. Porokireri avuga kandi ko Mika Muhimana yari afite umwanya watumaga agomba kumenya no kwita ku gaciro gakwiye ubuzima bw’abantu, kimwe n’akamaro k’ubusabane mu mahoro hagati y’amatsinda anyuranye y’abantu. Mika Muhimana “yasuzuguye”⁵⁴⁵ iyo mico mbonezabupfura arica, asambanya ku gahato abatutsi b’abasivili ndetse anashishikariza abandi bantu gukora ibyo byaha.

(b) *Umurava Mika Muhimana yakoranye ibyaha*

598. Porokireri yamenyesheje Urugereko ko amategeko yo mu Rwanda ateganya ko umurava Uregwa yagaragaje mu gukora ibyaha ashinjwa ugomba kwitabwaho mu kumugenera igihano gikwiye.

599. Muri uru rubanza, Porokireri avuga ko «umurava ukabije»⁵⁴⁶ Mika yagize ugaragazwa n’umubare munini w’ibyaha byo gusambanya ku gahato yakoze, n’uburyo ibyaha aregwa yabikoze bunyamaswa.

(c) *Ingaruka z’ibikorwa bya Mika Muhimana ku mibereho n’ubuzima by’abakorewe ibyaha*

600. Porokireri aributsa Urugereko ko bamwe mu bakorewe ibyaha na Mika Muhimana batanze ubuhamyamba mu Rukiko, bagaragaje ko bagifite ubumuga bukomoka ku bikorwa bya Mika Muhimana, bwaba ubwo ku mubiri cyangwa mu mutwe, ko ndetse byanabagizeho ingaruka mbi mu rwego rw’imibereho myiza cyangwa rw’ubukungu⁵⁴⁷.

⁵⁴⁵ Inyandikomvugo y’iburanisha ryo ku wa 19 Mutarama 2005, urup. 46.

⁵⁴⁶ Inyandikomvugo y’iburanisha ryo ku wa 19 Mutarama 2005, urup. 48.

⁵⁴⁷ Inyandikomvugo y’iburanisha ryo ku wa 19 Mutarama 2005, urup. 49.

601. Porokireri avuga ko nta mpamvu n'imwe igabanya ububi bw'icyaha muri uru rubanza. Mika Muhimana ntabwo ari we wishyize mu maboko y'Urukiko kugira ngo yisobanure ku byaha aregwa kandi, “ ko yari yaracitse ubucamanza kuva yahungu u Rwanda mu kwezi kwa Nyakanga 1994 hagati kugeza ku itariki ya 8 Ugushyamba 1999”⁵⁴⁸ ubwo yafatirwaga i Dar es Salaam. Byongeye kandi ntiyigeze agaragaza ukwicuza ibyaha yakoze.

Imyanzuro y'ubwunganizi

602. Ubwunganizi ntabwo bwatinze ku kibazo cy'impamvu zigabanya ububi bw'icyaha, nk'uko biteganywa n'Ingingo ya 86 (C) y'Amategeko. Nyamara ariko, mu myanzuro yabwo isoza buragira buti:

Ku bindeba, nasabye Urugereko guhanaguraho umukiriya wanjye icyaha. Bitaba ibyo, n'ubwo twakoze ibishoboka byose ngo twerekane ko ibyo Porokireri avuga nta shingiro bifite, haramutse hari icyaha gihamye Mika Muhimana ku buryo yagihanirwa, twizeye ubushishozi muzagira mukurikije uko muzi imiterere ya dosiye. Dufite icyizere ko umutima wanyu urangwa n'ubutabera uzatuma, mu gihe haramuka hatanzwe ibihano, hatangwa ibiciriritse, hatitaweho ibyaha Porokireri aregera, ahubwo ibyo bihano bikaba byashingira ku bikorwa byemejwe, no ku ruhare nyarwo Mika yaba yaragize⁵⁴⁹.

C. IMYANZURO Y'URUGEREKO

Ububi bw'ibyaha byakozwe

603. Icyaha cya jenocide, icy'ubuhotozi n'icyo gusambanya ku gahato, nk'ibyaha byibasiye inyokomuntu, bibarirwa mu byaha birusha ibindi byose ububi. Urugereko ntirushidikanya ko ba gatozi b'ibyo byaha bakwiye gukatirwa igihano kinini.

⁵⁴⁸ Inyandikomvugo y'iburanisha ryo ku wa 19 Mutarama 2005, urup. 49.

⁵⁴⁹ Inyandikomvugo y'iburanisha ryo ku wa 20 Mutarama 2005 (Porofeseri Songa, Umwunganizi mukuru).

Ibyerekeye Uregwa

604. Mika Muhimana yari konseye kandi ari umuntu uzwi cyane muri Komini ya Gishyita, ari naho ibyaha byinshi byakorewe, kandi yari afite umwanya utuma agira ijambo muri rubanda. Aho kugira ngo akoreshe cyangwa agerageze gukoresha uwo mwanya yari afite, mu kwimakaza amahoro n'ubwiyunge, yakoze amarorerwa kandi ashishikaye. Ibyo bikaba ari impamvu zongera ububi bw'ibyaha.
605. Mika Muhimana yari mu bitero byagabwe ku basivili b'abatutsi bari bahungiyeye mu nsengeru cyangwa mu bitaro, aho hantu ubusanze hakaba harafatwaga nk'ahantu hatagatifu cyangwa se ahantu hadahungabanyirizwa umutekano. Ibyo bikaba ari impamvu zongera ububi bw'ibyaha.
606. Mika Muhimana yakoze ibyaha byo gusambanya ku gahato no kwica abatutsikazi, atitaye ku buzima bw'abantu n'agaciro kabo. Mu gusuzuma ibyerekeye impamvu zongera ububi bw'ibyaha, Urugereko rurita ku *Gitabo cy'Amategeko Ahana y'u Rwanda* yakurikizwaga mu mwaka w'i 1994. Mu gihe Mika Muhimana yakoraga ibyo byaha, inkiko zo mu Rwanda zafataga ibi bikurikira nk'impamvu zongera ububi bw'icyaha cyo gusambanya ku gahato:
- (a) Iyo uwakorewe icyaha ari umwana utarageza ku myaka cumi n'itandatu y'amavuko⁵⁵⁰;
 - (b) iyo icyaha cyo gusambanya ku gahato cyakozwe n'umukozi w'igihugu cyangwa se uhagarariye ubutegetsi, yitwaje umwanya we⁵⁵¹;
 - (c) iyo uwakoze icyaha yabifashijwemo n'umuntu umwe cyangwa benshi⁵⁵²;

⁵⁵⁰ Igitabo cy'amategeko ahana mu Rwanda, Ingingo ya 360.

⁵⁵¹ Igitabo cy'amategeko ahana mu Rwanda, Ingingo ya 361.

⁵⁵² Igitabo cy'amategeko ahana mu Rwanda, Ingingo ya 361.

(d) iyo icyaha cyateye uwahohotewe kumererwa nabi bikomeye mu buzima bwe⁵⁵³. 17/ter

607. Urugereko ruributsa ko umwe mu bahohotewe na Mika Muhimana, ariwe mutangabuhamya wiswe BJ, yari afite imyaka cumi n'itanu gusa y'amavuko igihe Mika Muhimana yamusambanyaga ku gahato. Kuba uwahohotewe yari akiri mutoya ni impamvu yongera ububi bw'icyaha.

608. Urugereko rusanze ibyaha bikurikira byo gusambanya ku gahato Uregwa yarabikoze hari abandi bantu, nk'Interahamwe, bamufashije mu gukora icyaha cyangwa se na bo ubwabo bagikoze:

- (a) Goreti Mukashyaka na Langwida Kamukina, mu nzu ya Mika Muhimana;
- (b) Anyesi Mukagatare, mu irimbi rya kiliziya yo ku Mubuga;
- (c) Mukasine Kajongi n'abakobwa ba Amosi Karera, mu nzu yo hasi y'ibitaro byo ku Mugonero;
- (d) Umutangabuhamya wiswe AU, mu nzu yo hasi y'ibitaro byo ku Mugonero;
- (e) Umutangabuhamya wiswe BJ Murekatete na Mukasine, mu nzu yo hasi y'ibitaro byo ku Mugonero;

609. Ku ruhande rw'abahohotewe, gusambanywa ku gahato mu maso y'abandi bantu, ni ukubandagaza mu ruhame bikaba rero ari impamvu yongera ububi bw'icyaha. Urugereko rusanze iyo mpamvu yongera ububi bw'icyaha iri muri buri cyaha cyo gusambanya ku gahato mu bimaze kuvugwa.

⁵⁵³ Igitabo cy'amategeko ahana mu Rwanda, Ingingo ya 361.

610. Urugereko rusanga kandi imyitwarire y'Uregwa yararanzwe n'urugomo rwinshi, ndetse n'ubugome ndengakamere. Nko mu gihe yasambanyaga ku gahato umutangabuhamya wiswe AU, Uregwa yahondaguraga umutwe w'uwo mutangabuhamya hasi.
611. Amaze gusambanya ku gahato abatutsikazi babiri b'inkumi iwe mu rugo, Mika Muhimana yarabasohoye bambaye ubusa, abamurikira abari barekereje, ababwira ngo nibarebe uko basa bambaye ubusa. Uko kwandagaza abantu mu ruhame ni impamvu yongera ububi bw'icyaha.
612. Urugereko ruributsa ko hari aho Uregwa yakoresheje umupanga mu gusatura umugore utwite, witwa Pasikaziya Mukaremera, ahereye muni y'amabere kugeza ku mwanya ndangagitsina, hanyuma akamukuramo uruhinja, rwarize akanya gatoya mbere y'uko rupfa. Amaze gufomoza uwo mugore, abagabye ibitero bari hamwe na Mika Muhimana baciye uwo mugore amaboko bayajombamo ibisongo. Ukwibasira umugore utwite ku buryo nk'ubwo bwa kinyamaswa ni ibyo kwamaganwa ku buryo bwimazeyo kandi ni impamvu ikomeye mu kongera ububi bw'icyaha.
613. Ibyaha by'ubugome bukabije Mika Muhimana yakoreye abatutsikazi yabikoze agamije kubatesha icyubahiro n'agaciro. Iyi ni impamvu yongera ububi bw'icyaha igomba kwitabwaho mu kumugenera ibihano.
614. Urugereko rusanga kuba Mika Muhimana yaragize uruhare rukomeye mu guca Asiyeli Kabanda umutwe, no mu kuwutandika mu maso ya rubanda, ari impamvu zongera ububi bw'icyaha.
615. Ibikorwa bya Mika Muhimana byahitanye abantu benshi, abandi bibatera ubumuga bwaba ubwo ku mubiri cyangwa se ubwo mu mutwe.
616. Urugereko rusanze nta mpamvu n'imwe iriho igabanya ububi bw'ibyaha.

617. Rumaze kubona imyanzuro yarwo ku bubu bw'ibyaha byakozwe no ku byerekeye Mika Muhimana, Urugereko rusanze Mika Muhimana akwiye gukatirwa igihano gisumba ibindi Urukiko rushobora gutanga.
618. Kubera izo mpamvu zimaze kuvugwa, Urugereko rukatiye Mika Muhimana ibihano bikurikira:

Ku cyaha cya jenocide (Ikirego cya mbere):

Igifungo cya burundu

Ku cyaha cyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu (Ikirego cya gatatu):

Igifungo cya burundu

Ku cyaha cy'ubuhotozi nk'icyaha cyibasiye inyokomuntu (Ikirego cya 4):

Igifungo cya burundu

619. Ibyo bihano byose bizatangira kurangirizwa rimwe.
620. Urubanza rwa Mika Muhimana rugomba kurangirizwa rukimara gusomwa. Hakurikijwe ingingo ya 102 (A) n'iya 103 z'Amategeko, Mika Muhimana agomba kuguma muri gereza y'Urukiko mu gihe agitegereje kwoherezwa mu gihugu azarangirizamo igihano cye.
621. Mu gihe habayeho ubujurire, kurangiza urubanza bizaba bihagaze kugeza igihe haciriwe urubanza rwo mu bujurire, hagati aho Mika Muhimana akaba agomba gukomeza gufungwa.

622. Uru rubanza ruciwe mu rurimi rw'icyongereza, ari na rwo rugenderwaho^{14/ter} Urugereko rusabye Ibiro bya Gerefiye guhindura uru rubanza mu rurimi rw'igifaransa n'urw'ikinyarwanda bidatinze.
623. Rusomewe mu ruhane, ku itariki ya 28 Mata 2005, kandi rushyizweho umukono ku itariki ya 25 Gicurasi 2005, Arusha muri Tanzania.

Khalida Rachid Khan
Juji Perezida

Lee Gacuiga Muthoga
Juji

Emile Francis Short
Juji

URUGEREKO RWA MBERE RW'IREMEZO ICYUMBA CYA III_{13/ter}

POROKIRERI

uburana na

MIKAELI MUHIMANA

URUBANZA N'ITANGWA RY'IBIHANO

UMUGEREKA WA II- KWIBUTSA UKO IMIBURANISHIRIZE YAGENZE

A. INYANDIKO Y'IBIREGO

1. Inyandiko y'ibirego ya mbere yakozwe tariki ya 22 Ugushyingo 1995 mu rubanza n° ICTR-95-1-I yemezwa n'umucamanza Navanathem Pillay tariki ya 28 Ugushyingo 1995. Muri iyo nyandiko y'ibirego, Ushinjwa yaregerwaga hamwe n'abandi bantu barindwi aribyo : Kelementi Kayishema, Inyasi Bagilishema, Karoli Sikubwabo, Aloyizi Ndimbati, Visenti Rutaganira na Obedi Ruzindana.
2. Inyandiko y'ibirego ihuriweho yahinduwe yo ku itariki ya 29 Mata 1996, yemejwe tariki ya 6 Gicurasi 1996. Muri iyo nyandiko y'ibirego, ushinjwa yaregwaga ibyaha 7 aribyo : Ubwumvikane bugamije itsembabwoko, itsembabwoko, ubuhotozi bugize icyaha cyibasiye inyokomuntu, itsembatsemba rigize icyaha cyibasiye inyokomuntu, ibindi bikorwa bya kinyamaswa bigize icyaha cyibasiye inyokomuntu no kunyurana bikomeye n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'umugeraka wayo wa II.
3. Tariki ya 6 Nyakanga 2000, Urugereko rwanze ikifuzo cya Porokireri gisaba gutandukanya inyandiko y'ibirego ariko rumwemerera kuzongera gutanga icyifuzo cye nyuma, ibimenyetso byangombwa bigisobanura bimaze kuboneka.

4. Tariki ya 5 Ugushyingo 2002, Porokireri yongeye gusaba gutandukanya inyandiko y'ibirego yakorewe Muhimana, ngo ayitandukanye n'iyari yakozwe mbere. Urugereko rwemeye icyo cyifuzo tariki ya 14 Mata 2003. Tariki ya 3 Gashyantare 2003, Porokireri yatanze inyandiko y'ibirego yahinduwe. Muri iyo nyandiko y'ibirego, ushinjwa yaregwaga ibirego bine bikurikira bishingiye ku byabaye : Itsembabwoko, kuba icyitso cy'abakora itsembabwoko, gusambanya ku gahato bigize icyaha kibasiye inyokomuntu n'ubuhotozi bugize icyaha cyibasiye inyokomuntu, nk'uko biteganywa n'ingingo ya 2 n'iya 3 ya Sitati.
5. Tariki ya 17 Mata, Porokireri yatanze icyifuzo gisaba kwemerwa guhindura inyandiko y'ibirego hashingiwe ku ngingo ya 73 n'iya 50 y'Amategeko agenga imiburanishirize n'itangwa ry'ibimenyetso. Tariki ya 21 Mutarama 2004, Urugereko rwa mbere rw'iremezo rwemeye icyo cyifuzo.
6. Nk'uko bivugwa mu gika cya 2 cy'inyandiko y'ibirego, ibikorwa bivugwa hasi byabereye muri Repubulika y'u Rwanda hagati y'itariki ya 1 Mutarama 1994 n'iya 31 Nyakanga 1994.

B. KWIBUTSA UKO IMIBURANISHIRIZE YAGENZE.

7. Tariki ya 8 Ugushyingo 1999, uregwa yafatiwe i Dar-es-Salaam muri Tanzaniya nyuma y'inyandiko yo kumufata yatanzwe tariki ya 26 Ukwakira 1996 n'umucamanza Navanathem Pilly. Uwo munsu yimuriwe muri gereza y'Urukiko, Arusha muri Tanzaniya⁵⁵⁴.
8. Uregwa yitabye Urukiko bwa mbere muri uru Rugereko tariki ya 24 Ugushyingo 1999. Nk'uko biteganywa n'ingingo ya 62 y'Amategeko agenga imiburanishirize n'itangwa ry'ibimenyetso, Urugereko rwanditse muri dosiye ko ahakana ibyo aregwa⁵⁵⁵.

⁵⁵⁴ Inyandiko yo gufata n'itegeko ryo gufata no gufunga, tariki ya 26 Ukwakira 1999.

⁵⁵⁵ Ingingo ya 62 A) iteganya ibikurikira: "akimara kugezwa ku cyicaro cy'Urukiko, uregwa yitaba bidatinze Urugereko rwa mbere rw'iremezo cyangwa umwe mu bacamanza barwo watoranyijwe mu bandi

9. Tariki ya 9 Werurwe 2000, Urugereko rwemeye icyifuzo cya Porokireri gisaba ko hafatwa ingamba zo kurinda umutekano w'abagiriwe nabi n'abatangabuhamya. Tariki ya 4 Ugushyingo 2001 (sic), Urugereko rwemeye, kuri bimwe, icyifuzo cy'Ubwunganizi gisaba ko inyandiko z'ubushinjacyaha n'inyandiko z'iburanisha zahindurwa mu kinyarwanda, arirwo rurimi uregwa yumva, ndetse bigahindurwa no mu gifaransa arirwo rurimi umwunganira yumva.
10. Tariki ya 1 Ukwakira 2002, Urugereko rwanze icyifuzo cy'Ubwunganizi gisaba ko uregwa yafungurwa by'agateganyo, hakurikijwe ingingo ya 65 y'Amategeko agenga imiburanishirize n'itangwa ry'ibimenyetso.
11. Tariki ya 18 Gashyantare, 2004, Urugereko rwamenyeshije ababuranyi ko urubanza rw'uregwa ruzatangira tariki ya 29 Werurwe 2004. Tariki ya 27 Gashyantare 2004, Ubwunganizi kwasabye Urukiko gusubika itangira ry'urubanza. Ubwunganizi bwavugaga ko urubanza rutangiye tariki ya 29 Werurwe 2004 nk'uko bitenganyijwe, byaba ari ukubangamira uburenganzira bw'uregwa buteganywa n'ingingo ya 19 1), iya 20 2) n'ingingo ya 20 4) b) na e) za Sitati. Urugereko rwanze icyo cyifuzo ruvuga ko mu nama itegura urubanza yabaye tariki ya 23 Mutarama 2004, Ubwunganizi bwari bwavuze ko bwiteguye gutangira kuburana muri Werurwe 2004.
12. Tariki ya 27 Gashyantare 2004, Porokireri yatanze inyandiko y'impinamyanzuro ibanziriza urubanza n'icyifuzo gisaba ko hakwemezwa ibyabaye hashingiwe ku ngingo ya 73 bis y'Amategeko.
13. Tariki ya 29 Werurwe 2004, urubanza rwatangiye Porokireri atanga impinamyanzuro ibanziriza urubanza. Tariki ya 20 Werurwe 2004, Urugereko rwanze icyifuzo cya Porokireri uko cyakabaye, kirusaba kwemera ubuhamya

barugize maze agashinjwa ku mugaragaro. Urugereko rwa mbere rw'iremezo cyangwa uwo mucamanza watoranyijwe: iii) basaba uregwa kwemera cyangwa guhakana icyaha kuri buri kirego aregwa, yakwifata bakandika mu izina rye ko abihakanye”.

bw'abagabo, hashingiwe ku ngingo ya 89 c) no ku ngingo ya 92 bis⁵⁵⁶10/ter y'Amategeko.

14. Tariki ya 20 Mata 2004, Urugereko rwemeye icyifuzo cy'Ubwunganizi gisaba guhindura amatariki y'iburanisha maze rwongerera Ubwunganizi amezi abiri ngo rutegure ibimenyetso byabwo.
15. Gutanga ibimenyetso bishinja byarangiye tariki ya 30 Gicurasi 2004 hamaze guhamagazwa abatangabuhamya 19. Tariki ya 6 Nyakanga 2004, Urugereko rwemeye icyifuzo cy'Ubwunganizi gisaba ko hafatwa ingamba zo kurengera abatangabuhamya babwo.
16. Gutanga ibimenyetso bishinjura byatangiye tariki ya 16 Kanama 2004 birangira tariki ya 8 Nzeri 2004 hamaze guhamagazwa abatangabuhamya 33. Tariki ya 13 Nzeri 2004, Urugereko rwatanze itegeko rihamagarira ababuranyi gushyira, mu myanzuro yabo yanyuma yanditse n'iyo mu magambo, ingingo zabo zerekeye icyifuzo cy'Ubwunganizi gisaba ko kutemera ubuhamya abagabo batangiye mu Rukiko.
17. Tariki ya 8 Nzeri 2004, Urugereko rwategetse ababuranyi gutanga imyanzuro yabo yanditse kuri iyo tariki.
18. Ibyo bimaze kuvugwa, Ubwunganizi bwongerewe igihe maze butanga imyanzuro yabwo yanditse tariki ya 1 Ugushyingo 2004 naho Porokireri ayitanga tariki ya 25 Ukwakira 2004.
19. Ababuranyi batanze imyanzuro yabo mu magambo tariki ya 18, 19 na 20 Mutarama 2005.

⁵⁵⁶ icyemezo ku cyifuzo cya Porokireri gisaba kwemera ubuhamya bw'abagabo (ingingo ya 89 C) n'ingingo ya 92 bis y'Amategeko).

URUGEREKO RWA MBERE RW'IREMEZO

POROKIRERI

Aburana na

MIKAELI MUHIMANA

ISOMA RY'URUBANZA N'ITANGWA RY'IBIHANO

UMUGEREKA WA III

LISITI Y' AHO IBYAVUZWE BYATURUTSE N'IMPINAMAGAMBO

**UMUGEREKA WA III-LISITI Y’AHO IBYAVUZWE BYATURUTSE
N’IMPINAMAGAMBO.**

8/ter

**A. URUKIKO NSHINJABYAHA MPUZAMAHANGA
RWASHYIRIWEHO U RWANGA, IGITABO GIKUBIYEMO
AMATEGEKO YATANZWE N’URUKIKO, IBYEMEZO, IMANZA
Z’UBUJURIRE BYA TPIR.**

<u>Mu magambo arambuye</u>	<u>Mu magambo magufi</u>
<i>Receuil des ordonnances, décisions et arrêts du TPIR, 1998 (Bruxelles, Bruylant, 2003), Vol.I et II</i>	Igitabo cy’ibyemezo bya TPIR, 1998
<i>Receuil des ordonnances, décisions et arrêts du TPIR, 1999, (Bruxelles, Bruylant, 2004), Vol I et II</i>	Igitabo cy’ibyemezo bya TPIR, 1999

**B. LISITI Y’IMANZA Z’UBUJURIRE, IMANZA MU RW’IREMEZO
N’IBIHANO BIVUGWA.**

<u>Mu magambo arambuye</u>	<u>Mu magambo magufi</u>
URUKIKO NSHINJABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA	
Porokireri aburana na Yohani Pawulo Akayesu Porokireri aburana na Yohani Pahulo Akayesu, Urubanza n° ICTR-1996-4-T, rwo kuwa 2 Nzeri 1998 (Igitabo cy’ibyemezo bya TPIR, 1998, kuva ku rup. rwa 44 kugeza kurwa 404	Urubanza rwa Akayesu
Porokireri aburana na Yohani Pawulo Akayesu, Urubanza rw’ubujurire n° ICTR-1996-4-A, rwo kuwa 1 Kamena 2001.	Urubanza rw’ Urubanza rw’ubujurire bwa Akayesu

Porokireri aburana na Inyasi Bagilishema

Urubanza rwa Bagilishema

Porokireri aburana na Inyasi Bagilishema,
Urubanza n° ICTR-1995-1A-T, rwo ku itariki
ya 7 Kamena 2001.

Porokireri aburana na Silivesitiri Gacumbitsi

Urubanza rwa Gacumbitsi

Porokireri aburana na Silivesitiri Gacumbitsi
Urubanza n° ICTR-1998-64A-T, Urubanza
rwo ku itariki ya 17 Kamena 2004.

Porokireri aburana na Yuvenali Kajelijeli

Urubanza rwa Kajelijeli

Porokireri aburana na Kajelijeli, Urubanza
n° ICTR-1998-44-A-T, urubanza n'ibihano
Tariki ya 1 Ukuboza 2003.

Porokireri aburana na Yohani wa Mungu Kamuhanda Urubanza rwa Kamuhanda

Porokireri aburana na Yohani wa Mungu Kamuhanda
Urubanza n° ICTR-1999-54A-T, urubanza n'ibihano,
tariki ya 22 Mutarama 2004.

**Porokireri aburanga na Kelementi Kayishema na
Obedi Ruzindana**Urubanza rwa Kayishema
na Ruzindana

Porokireri aburana na Kelementi Kayishema
na Obedi Ruzindana, Urubanza n° ICTR-1995-1-T,

rwo kuwa 21 Gicurasi 1999.

6/ter

Porokireri aburana na Aruferedi Musema

Urubanza rwa Musema

Porokireri aburana na Aruferedi Musema,
Urubanza n° ICTR-1996-13-T, rwo
kuwa 27 Mutarama 2000.

Porokireri aburana na Andereya Ntagerura na bagenzi be

Urubanza rwa
Cyangugu cg
Urubanza rwa
Ntagerura na
bagenzi be

Porokireri aburana na Andereya Ntagerura,
Manweli Bagambiki na Samweli Imanishimwe
Urubanza n° ICTR-1999-46-T, urubanza n'ibihano,
tariki ya 25 Gashyantare 2004.

**Porokireri aburana na Elizafani Ntakirutimana na
Jeraridi Ntakirutimana**

Urubanza rwa
Ntakirutimana

Porokireri aburana na Elizafani Ntakirutimana
na Jeraridi Ntakirutimana, Urubanza n° ICTR-1996-10 na
ICTR-1996-17-T, rwo kuwa 21 Gashyantare 2004.

Porokireri aburana na Elizafani Ntakirutimana na
Jeraridi Ntakirutimana, Urubanza rw'ubujurire
n° ICTR-1996-10A na ICTR-1996-17-A
rwo tariki ya 13 Ukuboza 2004

Ubujurire bwa
Ntakirutimana

Porokireri aburana na Eliyezeri Niyitegeka

Urubanza rwa Niyitegeka

Porokireri aburana na Eliyezeri Niyitegeka,
Urubanza n° ICTR-1996-14-T, rwo kuwa 16 Gicurasi 2003

Porokireri aburana na Eliyezeri Niyitegeka, Urubanza
rw'ubujurire n° ICTR-1996-14-A,
tariki ya 9 Nyakanga 2004.

Ubujurire bwa
Niyitegeka

**Porokireri aburanga na Joriji Anderisoni
Nderubumwe Rutaganda**

Urubanza rwa
Rutaganda

Porokireri aburana na Joriji Anderisoni
Nderubumwe Rutaganda, Urubanza n° ICTR-1996-3-
T. rwo kuwa 6 Ukuboza 1999.

Porokireri aburana na Lawurenti Semanza

Urubanza rwa
Semanza

Porokireri aburana na Lawurenti Semanza,
Urubanza n° ICTR-1997-20-T, rwo kuwa
15 Gicurasi 2003.

UKUKIKO NSHINJABYAHA RWASHYIRIWEHO ICYAHENZE CYITWA YUGOSOLAVIYA

Porokireri aburana na Tihomir Blaskic

Urubanza rwa Blaskic

Porokireri aburana na Tihomir Blaskic, Urubanza
n° IT-95-14-T rwo kuwa 3 Werurwe 2000

Porokireri aburana na Zejnil Delalic na bagenzi be Urubanza rwa Celebici

Porokireri aburana na Zejnil Delalic, Zdravko Mucic (bahimba “Pavo”), Hazim Delic, Esad Landzo (bahimba “Zenga”), Urubanza n° IT-96-21-A rwo kuwa 16 Ugushyingo 1998.

Porokireri aburana na Anto Furundzija Urubanza rwa Furundzija

Porokireri aburana na Anto Furundzija, Urubanza n° IT-95-17/1-T rwo kuwa 10 Ukuboza 1998.

Porokireri aburana na Dragoljub Kunarac na bagenzi be Urubanza rwa Kunarac na bagenzi be

Porokireri aburana na Dragoljub Kunarac na bagenzi be Urubanza no IT-96-23-T na 96-23/1 rwo kuwa 22 Gashyantare 2001

Porokireri aburana na Dragoljub Kunarac na bagenzi be, Urubanza rw’ubujurire n° IT-96-23-T na 96-23/1, rwo kuwa 12 Kamena 2002. Urubanza rw’ubujurire Kunarac na bagenzi be

Porokireri aburana na Kupreskic na bagenzi be Urubanza rw’urubujurire rwa Kupreskic na bagenzi be

Porokireri aburana na Kupreskic, Urubanza rw’ubujurire n° IT-95-16-A, rwo kuwa 23 Ukwakira 2001

Porokireri aburana na Dusko Tadic

Urubanza
rw'ubujurire rwa
Tadic

Porokireri aburana na Dusko Tadic, Urubanza rw'ubujurire
n° IT-94-1-A rwo kuwa 15 Nyakanga 1999

URUTONDE RW'AHANDI HAKUWE IBYAVUZWE**Mu magambo arambuye**

Umwanzuro wa 955 w'inama ishinzwe amahoro ku isi
y'Umuryango w'Abibumbye, wo ku wa 8 Ugushyingo
1994, Inyandiko y'Umuryango w'Abibumbye S/RES/955
(1994)

Umwanzuro w'i 1165 w'Inama ishinzwe amahoro ku isi
y'Umuryango w'Abibumbye, wo ku wa 30 Mata 1998,
Inyandiko y'Umuryango w'Abibumbye S/RES/1165 (1998)

Umwanzuro w'i 1329 w'Inama ishinzwe amahoro ku isi
y'Umuryango w'Abibumbye wo kuwa 30 Ugushyingo
2000, Inyandiko y'Umuryango w'Abibumbye S/RES/1329
(2000)

Umwanzuro w'1411 w'Inama ishinzwe amahoro ku isi
y'Umuryango w'Abibumbye, wo kuwa 17 Gicurasi 2002,
Inyandiko y'Umuryango w'Abibumbye S/RES/1411 (2002)

Mu magambo magufi

Umwanzuro wa 955
w'Inama ishinzwe amahoro
ku isi

Umwanzuro w'i 1165
'w'Inama ishinzwe
amahoro ku isi

Umwanzuro w'i 1329
w'Inama ishinzwe amahoro
ku isi

Umwanzuro w'i 1411
w'Inama ishinzwe amahoro
ku isi

Umwanzuro w'i 1431 w'Inama ishinzwe amahoro ku isi y'Umuryango w'Abibumbye, wo kuwa 14 Kanama 2002, Inyandiko y'Umuryango w'Abibumbye S/RES/1431 (2002)

Umwanzuro w'i 1431 w'Inama ishinzwe amahoro ku isi

Umwanzuro w'i 1503 w'Inama ishinzwe amahoro ku isi y'Umuryango w'Abibumbye wo kuwa 28 Kanama 2003, Inyandiko y'Umuryango w'Abibumbye S/RES/1503 (2003)

Umwanzuro w'i 1503 w'Inama ishinzwe amahoro ku isi

Umwanzuro w'i 1512 w'Inama ishinzwe amahoro ku isi y'Umuryango w'Abibumbye wo kuwa 27 Ukwakira 2003, Inyandiko y'Umuryango w'Abibumbye S/RES/1512 (2003)

Umwanzuro w'i 1512 w'Inama ishinzwe amahoro ku isi

D. Urutonde rw'amategeko y'u Rwanda

- Itegeko ryo ku wa 23 Ugushyingo 1963 ryahinduwe n'Itegeko n° 31/91 ryo kuwa 5 Kanama 1991.

Igitabo cy'amategeko ahana mu Rwanda

Urutonde rw'impinamagambo n'Amasezerano

Mu magambo arambuye

Umuryango w'Abibumbye

Inama y'Umuryango w'Abibumbye ishinzwe amahoro ku isi

Urukiko nshinjabyaha mpuzamahanga rwagenewe icyahoze cyitwa Yugosilavia

Mu magambo magufi

ONU

Inama ishinzwe amahoro ku isi

TPIY

Urukiko nshinjabyaha mpuzamahanga rwagenewe u Rwanda	Urukiko	1/ter
Sitati y'Urukiko nshinjabyaha mpuzamahanga rwagenewe u Rwanda	Sitati	
Amategeko agenga imiburanishirize n'itangwa ry'ibimenyetso y'Urukiko nshinjabyaha mpuzamahanga rwagenewe u Rwanda	Amategeko	
Urugereko rwa mbere rw'Iremezo	Urugereko	
Urugereko rw'ubujurire	Urugereko.	
Urugereko rwa mbere rw'iremezo, icyumba cya III	Urugereko	
Komisiyo y'Amategeko mpuzamahanga (CDI), 1996 Raporo y'ibikorwa (A/51/10)	Raporo ya CDI, 1996	
Inyandiko-mvugo y'iburanisha ryo ku wa 28 Mata 2004, urup. rw'i 180 (iri mu Gifaransa)	Inyandiko-mvugo y'iburanisha ryo kurwa 28 Mata 2004, urup. rw'i 180	
Inyandiko-mvugo y'iburanisha ryo ku wa 28 Mata 2004, urup. rw'i 180 (iri mu cyongereza)	Inyandiko-mvugo y'iburanisha ryo kurwa 28 Mata 2004, urup. rw'i 180	
Ikimenyetso gishinje n° 1	P1	
Ikimenyetso Gishinjura n° 1	D1	
Muvoma revolisiyoneri nasiyonali iharanira amajyambere [mbere ya Nyakanga 1991]	MRND	
Muvoma nasiyonali iharanira Repubulika demokarasi n'amajyambere [nyuma ya Nyakanga 1991]	MRND	
FPR	RPF	
Ingabo z'u Rwanda	FAR	
Inyandiko yo mu gifaransa y'iburanisha mbanzirizarubanza ryo ku wa 17 Mutarama 2005	T. 17 Mutarama 2005	