



Umuryango w'Abibumbye

**Urukiko Mpanabyaha Mpuzamahanga  
Rwashyiriweho u Rwanda**

**URUGEREKO RWA MBERE RW'IREMEZO, I**

**UMWIMERERE: IGIFARANSA**

**Abacamanza:** Laiti Kama, Perezida w'urugereko  
Lennart Aspegren  
Navanethem Pillay

**Gerefiye:** Agwu Okali

**Itariki:** 5 Gashyantare 1999

**POROKIRERI  
aburana na  
OMAR SERUSHAGO**

**Urubanza N°: ICTR-98-39-S**

**INYANDIKO Y'URUBANZA**

**Ibiro bya Porokireri :**

Bernard Muna, Porokireri Wungirije  
Mohamed Othman, Umujyanama mukuru mu by'amategeko  
Josée D'Aoust, Umujyanama mu by'amategeko

**Ubwunganizi:**

Mohamed Ismail

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## I. IMIBURANISHIRIZE

### A. Kwibutsa ibyabaye

1. Ku itariki ya 9 Kamena 1998, Omar Serushago yishyize, ku bwende bwe, mu maboko y'abategetsi b'igihugu cya Côte d'Ivoire. Nyuma y'Icyifuzo cyatanzwe na Porokireri ku itariki ya 16 Kamena 1998, Laïty Kama, Perezida w'Urukiko yategetse, ku itariki ya 30 Kamena 1998, ko Omar Serushago, wakekwagaho icyaha, yimurirwa kandi agafungirwa by'agateganyo muri gereza y'Urukiko mu gihe cy'iminsi 30 hakurikijwe Ingingo ya 40bis y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ("Amategeko"). Nyuma yaho, igifungo cy'agateganyo cya Omar Serushago cyongerewe inshuro ebyiri : ku nshuro ya mbere, cyongereweho iminsi 30 n'Umucamanza Kama, ashingiye ku Ngingo ya 40 bis F) naho ku nshuro ya kabiri, ari nayo ya nyuma, cyongerwaho indi minsi 20 n'Umucamanza Lennart Aspegren ashingiye ku Ngingo ya 40 bis G).
2. Ku itariki ya 24 Nzeri 1998, Inyandiko y'ibirego Porokireri yakoreye Omar Serushago, wakekwagaho icyaha, yashyikirijwe Umucamanza Yakov Ostrovsky. Ku itariki ya 28 Nzeri 1998, uwo Mucamanza yemeje iyo Nyandiko amaze kwumva ibisobanuro bya Porokireri nk'uko biteganywa n'Ingingo ya 47 D) y'Amategeko. Uwo muni, Umucamanza Ostrovsky yemeje ibirego bya 2, 3, 4, 5,6 by'iyi Nyandiko y'ibirego ariko ntiyemeza ikirego cya mbere. Nyuma yaho, yatanze manda yo gufata Omar Serushago kandi ateguka ko akomeza gufungwa.
3. Ashingiye ku Cyemezo kivugwa haruguru cyerekeranye n'isuzuma ry'Inyandiko y'ibirego, Porokireri yatanze, ku itariki ya 14 Ukwakira 1998, Inyandiko y'ibirego yahinduwe ashinjamo Omar Serushago.
4. Ku itariki ya 14 Ukuboza 1998, ubwo yitabaga Urukiko bwa mbere muri uru Rugeko rwa Mbere rw'Iremezo, Ushinjwa yemeye icyaha ku birego bine muri bitanu bikubiye mu Nyandiko y'ibirego yahinduwe. Ibyo byaha yemeye ni: jenocide nk'uko giteganywa n'Ingingo ya 2 (3) a) ya Sitati y'Urukiko ("Sitati"), icyaha cyibasiye inyokomuntu (Ubuhotozi) nk'uko giteganywa n'Ingingo ya 3 a) ya Sitati, icyaha cyibasiye inyokomuntu (itsembatsemba) nk'uko giteganywa

n'Ingingo ya 3 b) ya Sitati n'icyaha cyibasiye inyokomuntu (ibikorwa by'urugaraguro) nk'uko giteganywa n'Ingingo ya 3 f) ya Sitati. Kubera ko Uregwa atemeye icyaha kivugwa ku kirego cya 5, ari cyo cyaha cyibasiye inyokomuntu (gusambanya ku gahato) nk'uko giteganywa n'Ingingo ya 3 g) ya Sitati), Urugereko rwahaye Porokireri uruhushya rwo gukuramo icyo kirego, hashingiwe ku Ngingo ya 51 n'ya 73 z'Amategeko.

5. Rumaze gusuzuma ireme ry'ubwemeracyaha bwe, rushingiye, nk'urugero, ku masezerano yabaye hagati ya Porokireri n'Uregwa n'Umwunganira, agashyirwaho umukono n'impande zose<sup>1</sup>, Urugereko rwahamije Ushinjwa ibyaha bivugwa kuva ku kirego cya mbere kugeza ku cya kane mu Nyandiko y'ibirego. Byongeye kandi, nk'uko biteganywa n'Ingingo ya 100 A) y'Amategeko, hemejwe ko baramutse babishatse, Porokireri n'Umwunganira Uregwa bashobora gushyikiriza Urugereko amakuru yose ya ngombwa yarufasha kwemeza igihano gikwiye Uregwa kandi bakabikora bitarenze ku wa Gatanu tariki 22 Mutarama 1999. Rushingiye ku Ngingo ya 62 v) y'Amategeko, Urugereko rwasabye Gerefiye gushyira iburanisha ribanziriza itangwa ry'igihano ku wa Gatanu tariki ya 29 Mutarama 1999, kandi iryo buranisha ryabaye koko kuri iyo tariki<sup>2</sup>.

## **B. Ubwemeracyaha**

6. Nk'uko bivugwa haruguru, Omar Serushago yemeye ibyaha bine kuri bitanu ashinjwa mu Nyandiko y'ibirego. Yemeza ko yagiranye na Porokireri amasezerano abitse mu ibanga kandi ariho umukono we n'uw'Umwunganira. Muri ayo masezerano, avuga ko yakoze ibyaha byose ashinjwa ndetse akaba yarabyemeye.
7. Nk'uko biteganywa n'Ingingo ya 62 v) y'Amategeko, byabaye ngombwa ko Urugereko rugenzura ireme ry'ubwo bwemeracyaha maze rubaza Uregwa:

<sup>1</sup> Reba hasi, igice cyahariwe ubwemeracyaha

<sup>2</sup> Reba icyemezo ku bwemeracyaha cyatanzwe ku itariki ya 14 Ukuboza 1998

- i) Niba yaremeye icyaha ku bwende bwe, ni ukuvuga niba yarabikoze nta gahato kandi azi icyo akora, nta gitutu yokejwe, nta terabwoba ashyizweho kandi nta n'ibintu bamwijeje;
  - ii) Niba yarumvise neza imiterere y'ibyo ashinjwa n'ingaruka z'ubwemeracyaha bwe; ndetse runamubaza
  - iii) Niba asobanukiwe neza n'ubwemeracyaha bwe, ni ukuvuga niba yumva neza ko ubwo bwemeracyaha budashobora kubangikanywa n'indi myiregurire iyo ari yose ishobora kuvuguruza ibyo yemera.
8. Uregwa yasubije ibyo bibazo byose adahakana. Byongeye kandi, kubera ko ahanini ababuranyi bumvikana ku ngingo zatanzwe mu gushyigikira ibivugwa kuva ku kirego cya mbere kugera ku cya kane mu Nyandiko y'ibirego, Urugereko rwasanze ubwemeracyaha bwe bushingiye ku byabaye bihagije byerekeranye n'ibyaha Uregwa ashinjwa n'uruhare yagize mu ikorwa ryabyo.
9. Rushingiye ku bivugwa haruguru, Urugereko rwahamije Omar Serushago icyaha cya jenocide giteganywa n'Ingingo ya 2 3) a) ya Sitati, icyaha cyibasiye inyokomuntu (ubuhotozi) giteganywa n'Ingingo ya 3 a) ya Sitati, icyaha cyibasiye inyokomuntu (itsembatsemba) giteganywa n'Ingingo ya 3 b) ya Sitati n'icyaha cyibasiye inyokomuntu (ibikorwa by'urugaraguro) giteganywa n'Ingingo ya 3 f) ya Sitati.

## II. AMATEGEKO N'AMAHAME BIKURIKIZWA

10. Urugereko rugiyeye kwibutsa amategeko yerekeranye n'ibihano n'irangizwa ryabyo. Nirurangiza, ruributsa urutonde rw'ibihano bitangwa ndetse n'amahame rusange yerekeranye n'igenagihano.

**A. Amategeko akurikizwa**

11. Nk'uko rwabigenje mu rubanza Porokireri aburana na Jean Kambanda n'urwo Porokireri aburana na Jean-Paul Akayesu, Urugereko rurakurikiza Ingingo za Sitati n'iz'Amategeko zikurikira : Ingingo ya 22 ya Sitati yerekeranye n'imikirize y'urubanza, Ingingo ya 23 n'ya 26 zerekeranye n'ibihano n'irangizwa ryabyo, Ingingo za 100, 101, 102, 103 na 104 z'Amategeko zerekeranye n'imihango ibanziriza imikirize y'urubanza, itangwa ry'igihano, uko ukatiwe afatwa, aho afungirwa no kugenzura uburyo afunzwemo.

**B. Urutonde rw'ibihano bishobora guhabwa uregwa uhamwe na kimwe mu byaha biteganywa n'Ingingo ya 2, 3 cyangwa iya 4 ya Sitati y'Urukiko**

12. Nk'uko bigaragara mu ngingo z'amategeko zivugwa haruguru zahariwe ibihano, muri uru Rukiko uregwa wemeye icyaha cyangwa uhamwe nacyo ashobora gukatirwa gusa ibihano by'igifungo bishobora kugera no ku gifungo cya burundu. Sitati ntiteganya ubundi bwoko bw'ibihano nk'igihano cyo kwicwa, imirimo y'agahato cyangwa ihazabu.
13. N'ubwo muri menshi mu mategeko y'ibihugu, urutonde rw'ibihano rushyirwaho hashingiwe ku buremere bw'ibyaha, Urugereko rusanga, nk'uko bivugwa haruguru, Sitati idasumbanya ibyaha bitandukanye Urukiko rufitiye ububasha bwo kuburanisha. Kubera iyo mpamvu, kuri buri cyaha muri bitatu bivugwa haruguru, urebye hatangwa igihano kimwe cy'igifungo gishobora kugera, iyo gikabije, ku gifungo cya burundu.
14. Cyakora, ni ngombwa kuvuga ko mu gutanga igihano Urugereko rugomba kuzirikana ibintu birimo uburemere bw'icyaha, nk'uko biteganywa n'Ingingo ya 23 2) ya Sitati. Kuri iyo ngingo, nk'uko Urugereko rwabivuze ubwo rwacaga urubanza rwa Jean-Paul Akayesu ku itariki ya 2 Ukwakira 1998 n'urwa Jean Kambanda ku itariki ya 4 Nzeri 1998, biragoye gusumbanya uburemere bw'icyaha cya jenocide n'ubw'icyaha cyibasiye inyokomuntu. Urugereko rusanga icyaha cyibasiye inyokomuntu cyahanwe n'urukiko rwa Nuremberg n'urwa

Tokyo n'icyaha cya jenocide cyaje gusobanurwa mu bihe byakurikiyeho, byombi ari ibyaha by'agahomamunwa. Mu by'ukuri, ibyo byaha byombi ni ibikorwa bibi birenze kameremuntu bikorerwa abasiviri kubera impamvu z'ivangura.

15. Ku byerekeranye, by'umwihariko, n'icyaha cya jenocide, mu iriburiro ry'Amasezerano yerekeranye jenocide havugwa ko mu mateka, icyaha cya jenocide cyateje abatuye isi ububabare bwinshi maze hakibutswa ko amahanga agomba gufatanya kugira ngo inyokomuntu itongera gukorerwa icyo cyaha. Aho icyaha cya jenocide gitandukanira n'ibindi ni uko ugikora aba yaritswemo n'igitekerezo cyihariye bivuga ko aba agambiriye «kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwenegihugu, ku bwoko cyangwa ku idini, abaziza icyo baricyo », nk'uko biteganywa n'Ingingo ya 2 ya Sitati. Urugereko rusanga rero icyo cyaha ari indengakamere kandi ibyo bigomba kuzirikanwa mu itangwa ry'igihano.
16. Ntawuhakana ko, kubera uburemere bukabije bwabyo, ibyaha byibasiye inyokomuntu na jenocide bigomba guhanishwa igihano gikwiye. Ingingo ya 27 y'Itegeko Shingiro ry'Urukiko rwa Nuremberg yateganyaga ko urwo Rukiko rwari rufite ububasha bwo guhanisha uhamwe n'icyaha cyibasiye inyokomuntu igihano cyo kwicwa cyangwa ikindi gihano rwabonaga gikwiye, hakurikijwe Ingingo ya 6 c) y'iryo Tegeko Shingiro.
17. Kimwe n'ibihugu byose byashyize mu mategeko yabyo icyaha cyibasiye inyokomuntu cyangwa icya jenocide, u Rwanda rwateganyirije ibyo byaha ibihano bikarishye kurusha ibindi. Niyo mpamvu, Itegeko ngenga ry'u Rwanda rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cy'itsembabwoko n'itsembatsemba cyangwa ibyaha byibasiye inyokomuntu byakozwe kuva ku itariki ya 1 Ukwakira 1990, ryashyizweho mu mwaka wa 1996<sup>3</sup>, rishyira abaregwa mu nzego enye, hashingiwe ku ruhare rwabo muri ibyo byaha. Urwego rwa mbere rugizwe n'abantu bari ku isonga y'icyaha (abacuze umugambi, abawuteguye), abantu bari mu nzego z'ubutegetsi, abagaragaje ubugome bukabije

<sup>3</sup> Itegeko ngenga No. 8/96 ryo ku wa 30 Kanama 1996, ryatangajwe mu Igazeti ya Leta ya Repubulika y'u Rwanda, Umwaka wa 35, N° 17, 1 Nzeri 1996.

mu kugikora n'abakoze urugomo rushingiye ku gitsina. Abo bantu bose bahanishwa igihano cyo kwicwa. Urwego rwa kabiri rugizwe n'abatsotsobye ibyaha, ababafashije cyangwa ibyitso byabo kandi bahanishwa igihano cyo gufungwa burundu. Urwego rwa gatatu rugizwe n'abantu bakoze icyaha cy'ingenzi ariko bakanakora ibindi byaha bitera ububabare bukabije abantu ariko bo bahanishwa igihano gito uregeranyije n'abo mu nzego ebyiri za mbere. Urwego rwa kane, ari na rwo rwa nyuma, rugizwe n'abantu bakoze ibyaha byerekeranye n'imitungo.

18. Cyakora, Urugereko ruributsa ko, nk'uko rwabikoze mu rubanza «Porokireri yaburanga na Jean Kambanda » no mu rubanza «Porokireri yaburanaga na Jean-Paul Akayesu », kwifashisha urutonde rw'ibihano bitangwa mu Rwanda n'Itegeko Ngenga bitavuga ko rugomba, byanze bikunze, kubigenderaho mu igenagihano. Bityo rero, n'ubwo rukomeza kwifashisha urwo rutonde n'iryo Tegeko, Urugereko rushyira imbere ububasha busesuye rufite mu gusuzuma ibintu, igihe cyose rugomba gukatira igihano abantu bahamwe n'ibyaha Urukiko rufite ububasha bwo kuburanisha, kandi rukabikora ruzirikana imiterere yihariye y'urubanza n'ibintu byihariye byerekeranye n'uregwa.

### **C. Amahame rusange agenga igenagihano**

19. Mu kugena igihano, Urugereko ruzirikana ko Urukiko rwashyizweho n'Inama Ishinzwe Amahoro ku Isi hashingiwe ku Mutwe wa VII w'Itegeko Shingiro ry'Umuryango w'Abibumbye ku birebana n'ingamba Inama Ishinzwe Amahoro ku Isi yashoboraga gufata ishingiyeye ku Ngingo ya 39 y'iryo Tegeko, kugira ngo ibikorwa byo kunyuranya n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara mu mwaka wa 1994 bihagarikwe kandi n'ingaruka zabyo zisanwe. Urukiko rwashyizweho kugira ngo rukurikirane kandi ruhane abantu bakoze amahano mu Rwanda bityo umuco wo kudahana ucike maze himakazwe ubwiyunge mu gihugu ndetse n'amahoro agaruke.
20. Birumvikana rero ko ibihano Urukiko rukatira abaregwa rwahamije icyaha bigomba kuba bigamije kubaryoza ibyo bakoze kuko bagomba kubihanirwa no

guca intege abandi bantu batekereza gukora ibyaha nk'ibyoy. Mu by'ukuri, ibyo bihano bigamije guca intege burundu abantu bashobora kugira, mu bihe bitaha, igitekerezo cyo gukora amarorerwa nk'ayo kuko bibagaragariza ko amahanga adashobora kongera kwihanganira ibikorwa binyuranyije bikomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara.

21. Cyakora, Urugereko ruributsa ko, mu kugena igihano, rugomba, nk'uko biteganywa n'Ingingo ya 23 (2) ya Sitati n'iya 101 (B) y'Amategeko, kuzirikana ibintu binyuranye byerekeranye n'uburemere bw'icyaha, ibintu byihariye byerekeranye n'uregwa, n'impamvu nyongeragihano cyangwa ngabanyagihano no kuba uregwa yarafashije koko Porokireri mbere cyangwa nyuma y'uko icyaha kimuhama. Uregwa rero akatirwa igihano ku giti cye.
22. Cyakora, Urugereko rusanga, ku byerekeranye no gukatira uregwa igihano ku giti cye, Abacamanza batahagarira gusa ku bintu bivugwa muri Sitati no mu Mategeko. Aha naho ububasha busesuye bafite bwo gusuzuma ibyabaye n'urwego byakozwemo bugomba gutuma bazirikana buri kintu basanga kijyanye n'urubanza.
23. Byongeye kandi, ibintu bivugwa muri Sitati no mu Mategeko ntibishobora gufatwa nkaho bigomba, byanze bikunze, gukomatanywa mu kugena igihano.

### **III. URUBANZA MU MIZI YARWO**

24. Nyuma yo kureba amahame avugwa haruguru, Urugereko rugiye gusuzuma amakuru yose ababuranyi bombi batanze kugira ngo rwemeze igihano Uregwa akwiye gukatirwa nk'uko biteganywa n'Ingingo ya 101 y'Amategeko.

#### **A. Ibyabaye bigize urubanza**

25. Uretse kuba Omar Serushago yaremeye icyaha, Porokireri yashyikirije Urugereko inyandiko yiswe «Amasezerano hagati ya Omar Serushago n'Ibiro bya



Porokireri». Iyo nyandiko yatanzwe ku itariki ya 10 Ukuboza 1998 iriho umukono w'uhagarariye Porokireri, uwa Omar Serushago n'uwa Mohamed Ismail, ari we Avoka umwunganira. Muri ayo masezerano Uregwa yemera ibyabaye byose ashinjwa kuva ku kirego cya mbere kugera ku cya kane mu Nyandiko y'ibirego. Muri iyo Nyandiko y'ibirego, Porokireri yakuyemo ibintu byose bishyigikira ikirego cya gatanu amaze kubihirwa uruhushya n'Urugereko. By'umwihariko :

- i) Omar Serushago yemera ko, hagati y'itariki ya 7 Mata n'ya 17 Nyakanga 1994, mu Rwanda habaye ibitero rusange kandi biri kuri gahunda byibasiye abasiviri b'Abatutsi n'Abahutu batari intagondwa bazira amashyamba ya politiki barimo cyangwa ubwoko bwabo. Ibyo bitere byahitanye abantu babarirwa mu bihumbi amagana mu gihugu cyose. Omar Serushago yemera ko ubwo bwicanyi, bwakozwe mu Rwanda by'umwihariko ku Gisenyi hagati ya Mata na Nyakanga 1994, bwari bugamije gutsembatsemba Abatutsi. Yemera kandi ko ibyo bigaragazwa no kuba Abatutsi barahizwe, batoranyijwe mu bandi baturage, maze bakibasirwa, abagore, abana n'abantu basheshe akanguye bakicwa nta kurobanura ; no kuba abantu bakorewe ibyaha barahizwe maze bakicwa kugira ngo batsembatsembwe aho bari bahungiyeye ku maperefegitura, ku biro by'amakomine, ku mashuri no ku masitade;
- ii) Omar Serushago yemera ko Perefegitura ya Gisenyi yari indiri ya Muvoma iharanira Repubulika, Demukarasi n'Amajyambere ya Rubanda (MRND) n'Impuzamugambi ziharanira Repubulika (CDR). Asobanura ko iyo perefegitura yari mu majyaruguru y'uburengerazuba bw'u Rwanda kandi ko ari yo Nyakwigendera Perezida Juvénal Habyarimana yavukagamo. Anavuga ko iyo perefegitura yakomokamo abategetsi benshi ba gisiviri n'aba gisirikare bari bahuje ibitekerezo by'Abahutu b'intagondwa. Yongeraho ko nyuma y'umwaka wa 1990, iyo perefegitura yaranzwe n'umwuka mubi n'urugomo hagati y'amoko maze bigahitana Abatutsi benshi (urugero ni nk'Abagogwe bishwe mu mwaka wa 1991). Omar Serushago anavuga ko Guverinoma y'Agateganyo yakoreraga ku Gisenyi muri Kamena 1994;

- iii) Omar Serushago avuga ko mu ijoro ryo ku itariki ya 6 Mata rishyira ya 7 Mata 1994, Anatole Nsengiyumva, wari umuyobozi w'igisirikare muri Perefegitura ya Gisenyi, yategetse bamwe mu bayobozi b'amashyaka ya politiki, abategetsi bo muri ako karere n'abantu bitwara gisirikare guteranira mu kigo cya gisirikare cy'i Gisenyi. Uregwa avuga ko mu bantu bitabiriye iyo nama harimo Bernard Munyagishari, wari Perezida w'Interahamwe muri Gisenyi, Barnabé Samvura, wari Perezida wa CDR muri Komine ya Rubavu na Thomas Mugiraneza, wari Visi Perezida w'Interahamwe muri Gisenyi;
- iv) Omar Serushago avuga ko, muri iyo nama, Anatole Nsengiyumva yategetse abayitabiriye kwica «ibyitso» byose bya FPR ndetse n'Abatutsi bose. Omar Serushago yongeraho ko iyo nama irangiye, Anatole Nsengiyumva yategetse uwari umwungirije, ari we Liyetona Bizumuremyi, guha intwano n'amagerenade abantu bitwaraga gisirikare bari aho;
- v) Omar Serushago yemera ko ku itariki ya 7 Mata 1994 bamwe mu bantu bitwaraga gisirikare, ari bo Thomas Mugiraneza na Jumapili Nyaribogi, bamumenyesheje amategeko yari yatanzwe na Liyetona Koloneli Anatole Nsengiyumva mu ijoro na telegaramu uyu mukomanda yari yabonye iturutse i Kigali ivuga ko ubwicanyi bugomba gutangira;
- vi) Omar Serushago yemera ko kuva ku itariki ya 7 Mata 1994 ubwicanyi bwibasiye Abatutsi n'ubuhotozi bwibasiye abanyapolitiki b'Abahutu benshi batavugaga rumwe n'ubutegetsi byatangiye gukorwa ku Gisenyi, mu tundi duce ndetse no mu gihugu hose. Omar Serushago yemera ko, muri Perefegitura ya Gisenyi, mu bantu bari bayoboze amatsinda y'abantu bitwaraga gisirikare yagize uruhare kurusha ayandi mu bwicanyi, harimo Bernard Munyagishari, Mabuye Twagirayesu, Hassan "Gitoki", Thomas Mugiraneza ndetse na we ubwe;

- vii) Omar Serushago yemera ko Barnabé Samvura, Damas Karikumutima, Michel, Christophe Nizehimana, Thomas Mugiraneza, Hakizimana Faziri, Bernard Munyagishari, Hassan “Gitoki” ndetse nawe ubwe, bagiye mu nama yabereye ku Gisenyi ku itariki ya 13 Mata cyangwa ahagana kuri iyo tariki. Asobanura ko muri iyo nama ariho yashinzwe kugenzura imwe muri za bariyeri yari aho basohokera mu mugi, hafi y’umupaka w’igihugu cya Repubulika Iharanira Demokarasi ya Kongo (cyahoze cyitwa Zayire), aho bita «La Corniche». Omar Serushago yemera ko ubwo yari aho hantu, amaze gushakisha Abatutsi, kubabona no kubatoranya, yategetse abantu bitwaraga gisirikare, abantu bo mu itsinda rye n’abantu yari akuriye, barimo Thomas Mugiraneza, kujyana abo Batutsi kuri «Commune rouge» maze bakabica. Omar Serushago anemera ko amategeko ye yubahirijwe kandi ko abo bantu bishwe koko;
- viii) Omar Serushago yemera kandi ko kubera ko yari umwe mu bayobozi b’Interahamwe zo ku Gisenyi, akaba n’umukuru w’agatsiko k’abantu batanu bitwaraga gisirikare ndetse akaba yarafataga ibyemezo kandi agaha amategeko Interahamwe yari akuriye kuri bariyeri ya “La Corniche”, biragaragara ko yategekaga kandi akagenzura iryo tsinda ry’abantu bitwaraga gisirikare n’abandi bantu bitwaraga gisirikare barimo Abuba, Thomas Mugiraneza, Bahati, Gahutu Gamisi-Pokou (bitaga “Etranger”), Lionceau na Feruzi Ayabagabo. Abo bantu bitwaraga gisirikare bishe Abatutsi n’Abahutu batari intagondwa muri Perefegitura ya Gisenyi kandi babikoze abizi ndetse ari we ubibahamagariye;
- ix) Omar Serushago yemera ko, bitegetswe na Anatole Nsengiyumva, ku itariki ya 20 Mata 1994 Thomas Mugiraneza, Hassan “Gitoki”, Damas Karikumutima, Michel, Abuba ndetse nawe ubwe, bashimuse Abatutsi bagera kuri 20 bari barahungiyeye kwa Musenyeri Aloys Bigirumwami ku Gisenyi. Babikoze babyumvikanyeho n’abasirikare bagombaga kurinda abo bantu kandi bari aho hantu icyo gihe. Omar Serushago anemera ko bajyanye abo bantu ahantu bitaga «Commune Rouge» (Komine

ya Rubavu) maze bakabica. Yemera kandi ko, muri abo bantu 20 ubwe yiyicyemo bane (umugabo umwe n'abagore batatu) akoresheje imbunda ya R4 yari yarahawe na Jenerali Augustin Bizimungu mu kigo cya gisirikare cya Mukamira mu Ruhengeri, mu mwaka wa 1993 kugira ngo arwanye umwanzi, ari we «Inyenzi-Tutsi»;

- x) Omar Serushago yemera ko mu mpera za Mata 1994, Thomas Mugiraneza, Bernard Munyagishari, Hassan «Gitoki», Damas Karikumutima, Michel, Abuba na we ubwe, babitegetswe na Appolinaire Bigamiro wari komanda wa jandarumori yo ku Gisenyi, bagiye mu kigo cya gisirikare cyo ku Gisenyi nyuma bakajya gushaka Abatutsi benshi n'Abahutu batari intagondwa bari bafungiyeye muri kasho ya burigade ya jandarumori. Yemera kandi ko, babyumvikanyeho n'abarindaga abo bantu, babashimuse bakabajyana kuri «Commune Rouge» maze bakahabacira bafatanyije n'Interahamwe zari zihari. Anemera ko yahaye imbunda ye murumuna we wamurindaga witwa Feruzi Ayabagabo maze uyu akica umuntu umwe muri abo Batutsi wari ugerageje guhunga;
- xi) Omar Serushago yemera ko babitegetswe n'Appolinaire Bigamiro, ahagana ku itariki ya 30 Mata 1994 abantu barimo Bernard Munyagishari, Thomas Mugiraneza, Damas Karikumutima, Michel, Abuba, Hassan «Gitoki» na we ubwe, bagiye mu kigo cya Rwandex ku Gisenyi kugira ngo bashimute kandi bice Abatutsi bari bahahungiyeye. Bahageze, bakubise umugabo w'Umututsi wageragezaga kubabuza maze arapfa. Barangije, bashimuse Abatutsi bane baberetswe n'abajandarume bari aho maze babajyana kuri «Commune Rouge», aho biciwe na bamwe mu bari bagize iryo tsinda;
- xii) Omar Serushago yemera ko muri Kamena 1994, ku Gisenyi, we na Thomas Mugiraneza bashimuse umugore w'Umututsikazi maze bakamujyana kuri «Commune Rouge» ngo bahamwicire babitegetswe na Anatole Nsengiyumva. Kandi koko, uwo

mugore yishwe na Liyetona Rwabuhiri, wahoze ari umusirikare muri batayo ya 42 yo mu ngabo z'u Rwanda (FAR) z'icyo gihe;

- xiii) Omar Serushago yemera ko babitegetswe na Félicien Nsengimana wari dirigiteri mu biro bya Perezida, mu mpera za Kamena 1994 we n'umuvandimwe we witwa Abbas Habyalimana, wari serija mu gipolisi kigenzura abasirikare, bashimuse umuntu bakamufungira ahantu kugira ngo bamukuremo amakuru kandi banamwambure amafaranga. Bamushyizeho iterabwoba, bamuhata ibibazo, bamwambika ubusa, baramukubita, bamukorera ibikorwa by'urugaraguro kugira ngo abahe ayo makuru. Nyuma yo gutongana kuko batumvikanaga ku mwirondoro w'uwo muntu, bageze aho bemera ko ari Umuhutu maze baramurekura;
- xiv) Omar Serushago yemera ko hagati ya Mata na Nyakanga 1994, abantu bitwaraga gisirikare bashyize amabariyeri muri perefegitura ya Gisenyi, kugira ngo batoranye Abatutsi «n'ibitso» byabo maze babajyane kubicira kuri «Commune Rouge». Omar Serushago anemera ko we ubwe n'Anatole Nsengiyumva bahaye amasasu abantu bitwaraga gisirikare bari barinze ayo mabariyeri kandi ko we ubwe yanahaye andi masasu itsinda yari akuriye ry'abantu bitwaraga gisirikare ryari ririnze bariyeri yari kuri «La Corniche»;
- xv) Omar Serushago yemera ko hagati ya Gicurasi na Nyakanga 1994, yari azi ko i Gisenyi haberaga inama nyinshi zihuje abategetsi ba gisiviri n'abagisirikare. Muri izo nama, abo bantu basuzumaga aho ubwicanyi bugeze n'uko bwagendaga kandi bakabushishikariza abantu. Zimwe muri izo nama zari zigamije gukangurira Interahamwe kujya gukora ubwicanyi mu yandi maperefegitura yo mu gihugu. Kuri iyi ngingo, Serushago yemera ko yamenye ndetse akitabira imwe muri izo nama yabereye ku Gisenyi muri Gicurasi 1994 kandi na Anatole Nsengiyumva akaba yari ayirimo. Iyo nama yari igamije kwiga uko bari kugenza Abatutsi bari bararokotse. Kubera ibyavugiwe

muri icyo nama, Anatole Nsengiyumva yategetse Thomas Mugiraneza, Mabuye Twagirayesu na Omar Serushago kwica Musenyeri Wenceslas Kalibushi. Cyakora, mbere y'uko iryo tegeko rishyirwa mu bikorwa, Bernard Munyagishari yamenyesheje abagize iryo tsinda ko i Kigali hari haturutse amabwiriza avuga ko batagomba kwica uwo musenyeri;

xvi) Omar Serushago anemera ko yagiye mu nama yabereye mu kigo cya gisirikare cya Gisenyi muri Mata 1994, yitabiriwe na Anatole Nsengiyumva, Bernard Munyagishari, Wellars Benzi, Appolinaire Biganiro na Hassan «Gitoki». Iyo nama yari igamije kohereza i Nyange, muri perefegitura ya Kibuye, abantu bitwaraga gisirikare kugira ngo bafashe abandi kwica Abatutsi bari bishyize hamwe bakarwanya ibitero by'Interahamwe. Muri icyo nama, Anatole Nsengiyumva yahaye abantu bitwaraga gisirikare amasasu n'imbunda zirasa amagerenade (*lance-roquettes*). Nyuma y'icyo nama, abantu bageze kuri 30 bitwaraga gisirikare boherejwe i Nyange mu makamyoneti abiri kandi imwe muri izo modoka yari itwawe na Safari Besesa. icyo gitero, cyari kiyobowe na Bernard Munyagishari wari mu ishyamba rya MNRD na Mabuye Twagirayesu wari muri CDR, cyamaze iminsi ibiri kandi cyahitanye abantu benshi;

xvii) Omar Serushago yemera kandi ko hagati ya Gicurasi na Kamena 1994, Anatole Nsengiyumva, Félicien Kabuga, Joseph Nzirorera wari Umunyamabanga mukuru wa MNRD na Juvénal Uwilingiyimana wari Umuyobozi wa Ofisi y'u Rwanda ishinze Ubukerarugendo na za Parike z'igihugu, bakoreye inama ku Gisenyi. Muri icyo nama, Joseph Nzirorera na Juvénal Uwilingiyimana banditse amazina y'Abatutsi n'ay'Abahutu batari intagondwa baturutse mu yandi maperefegitura. Bakoze lisiti y'abantu bagombaga kwicwa maze barayimuha we n'abandi bayobozi b'abantu bitwaraga gisirikare bo ku Gisenyi. Omar Serushago yemera ko yubahirije amabwiriza n'amategeko yahawe n'abo bategetsi ba gisiviri n'aba gisirikare;

- xviii) Omar Serushago yemera ko muri Kamena 1994, yafatiye, kuri bariyeri ya «La Corniche», umwe mu bantu bari kuri iyo lisiti. Radiyo RTL M yari yatangaje umwirondoro w'uwo muntu, ivuga ko akorana na FPR kandi ko ari ku Gisenyi. Omar Serushago anemera ko uwo muntu yamweretwe na Protais Zigiranyirazo, muramu wa Nyakwigendera Perezida Habyarimana. Yemera kandi ko amaze gufata uwo muntu, yamuhaye umusiviri witwaraga gisirikare, witwa Thomas Mugiraneza, kugira ngo amujyane kuri «Commune Rouge» kumwiciraye. Hashize umwanya muto, umuntu yari akuriye yamubwiye ko uwo muntu yishwe n'Interahamwe yitwa Kivenge yabaga kuri «Commune Rouge»;
- xix) Omar Serushago yemera ko kuva ku itariki ya 13 Mata kugera muri Nyakanga 1994, we n'abantu yari akuriye bazengurutse umugi wa Gisenyi bahiga Abatutsi n'Abahutu batari intagondwa. Iyo bamaraga kubafata, we n'abantu yari akuriye bitwaraga gisirikare bahitaga babatsinda aho cyangwa bakabajyana kuri «Commune Rouge» maze bakahicirwa;
- xx) Omar Serushago avuga ko kuva Abagogwe bakwicwa mu mwaka wa 1991, kuri Paruwasi ya Nyundo hakomeje guhungira Abatutsi kubera ko bakorerwaga ibikorwa by'urugomo bazira ubwoko bwabo. Avuga kandi ko kuva ku itariki ya 7 Mata 1994, aho hantu hahungiyeye abagabo, abagore n'abana, biganjemo Abatutsi;
- xxi) Omar Serushago avuga ko kuva ku itariki ya 8 Mata kugeza muri Kamena 1994, abasirikare n'abasiviri bitwaraga gisirikare bagabye ibitero byinshi ku mpunzi zari kuri Paruwasi ya Nyundo. Muri abo basiviri bitwaraga gisirikare harimo n'abo mu itsinda rye, nka Damas Karikumutima. Omar Serushago anemera ko ibyo bitero byahitanye abantu benshi. Yongeraho ko itsinda rya Bernard Munyagishari ryashimuse abantu bageze kuri 300 ku Nyundo maze rikabazengurutse mu mugi wa Gisenyi, mbere

y'uko abo bantu bicirwa kuri «Commune Rouge» n'abasiviri bitwaraga gisirikare;

xxii) Omar Serushago avuga ko kuva ku itariki ya 7 Mata kugera muri Nyakanga 1994, mu Rwanda hose hishwe abantu babarirwa mu bihumbi amajana n'amajana. Abenshi muri abo banyakwigendera bishwe bazira gusa ko bari Abatutsi cyangwa ko basaga nabo. Yongeraho ko abandi bantu, cyane cyane Abahutu batari intagondwa, bishwe kubera ko bitwaga ibyitso by'Abatutsi, kuko bari barashatse mu Batutsi cyangwa kuko batari bashyigikiye ibitekerezo by'Abahutu b'abahezanguni;

xxiii) Omar Serushago anavuga ko kuva ku itariki ya 7 Mata kugera muri Nyakanga 1994, mu Rwanda hose hakoze ubwicanyi bwinshi kubera ko abayobozi b'amashyamba ya politiki, abategetsi ba gisiviri n'abagisirikare, abasirikare, abajandarume n'Abahutu bitwaraga gisirikare bashishikarije abantu kubukora, bakabwitabira ndetse bakanabushyigikiye;

xxiv) Omar Serushago avuga ko abasirikare b'abofisiye, abagize Guverinoma y'agateganyo, abakuru b'abantu bitwaraga gisirikare n'abayobozi bo mu turere, bacuze umugambi w'ubwicanyi bwibasiye Abatutsi n'«ibitso» byabo, bakabutegura, bakabushyigikiye kandi bagahamagarira abantu bakuriye kubukora. Yongeraho ko haba hatarabaye ubwicanyi bukomeye iyo abategetsi bo mu turere n'abo mu rwego rw'igihugu, aba gisiviri n'aba gisirikare bataza kubigiramo uruhare ndetse ngo babitangemo inkunga.

## **B. Imikirize y'urubanza**

26. Rushingiyeye ku bwirege bwa Omar Serushago bwuzuye ubwemeracyaha bwe, ku itariki ya 14 Ukuboza 1998 Urugereko rwa Mbere rw'Iremezo rwemeye ubwo bwemeracyaha bwe maze rumuhanyira ibyaha bikurikira :
  1. Kubera ibyo yakoze cyangwa atakoze kandi yaragombaga kubikora nk'uko bivugwa kuva ku gika cya 4.1 kugera ku cya 5.27, cyane cyane mu



bika bya 3.2, 3.3, 4.1, 4.12, 4.15, 5.3, 5.7 kugeza ku gika cya 5.16, 5.18, 5.19, 5.27, nk'uko biteganywa n'Ingingo ya 6 1) no kuva ku gika cya 5.8 kugeza ku gika cya 5.16, ibika 5.18, 5.19, 5.21, nk'uko biteganywa n'ingingo ya 6 3), Omar Serushago ahamwa n'ubwicanyi n'ibikorwa bizahaza umubiri cyangwa mu mutwe byakorewe Abatutsi hagamijwe kurimbura abantu bose cyangwa igice cyabo bahuriye kuri ubwo bwoko. Yakoze rero icyaha cya **JENOSIDE** giteganywa n'Ingingo ya 2 (3) ya Sitati y'Urukiko kandi akiryoza nka gatozi, hakurikijwe Ingingo ya 6 ya Sitati ndetse akagihanirwa hashingiwe ku Ngingo ya 22 n'ya 23 za Sitati.

2. Kubera ibyo yakoze cyangwa atakoze kandi yaragombaga kubikora nk'uko bivugwa kuva ku gika cya 4.1 kugeza ku cya 5.27 cyane cyane mu bika bya 3.2, 3.3, 4.1, 4.12, 4.15, 5.3, kuva mu gika cya 5.7 kugeza ku cya 5.16, mu bika bya 5.18, 5.19, 5.27, nk'uko biteganywa n'Ingingo ya 6 1) no mu gika cya 5.8 kugeza ku gika cya 5.16, mu bika bya 5.18, 5.19, 5.2, nk'uko biteganywa n'Ingingo ya 6 3) 1, Omar Serushago ahamwa n'ubuhotozi bwakozwe mu rwego rw'igitero rusange kandi kiri kuri gahunda byagabwe ku baturage b'abasiviri kubera umutwe wa politiki barimo cyangwa ubwoko bwabo. Yakoze rero **ICYAHA CYIBASIYE INYOKOMUNTU** giteganywa n'Ingingo ya 3 a) ya Sitati y'Urukiko kandi akiryoza nka gatozi, hakurikijwe Ingingo ya 6 ya Sitati ndetse akagihanirwa hashingiwe ku Ngingo ya 22 n'ya 23 za Sitati.
3. Kubera ibyo yakoze cyangwa atakoze kandi yaragombaga kubikora nk'uko bivugwa kuva ku gika cya 4.1 kugeza ku cya 5.27, cyane cyane mu bika bya 3.2, 3.3, 4.1, 4.12, 4.15, 5.3, kuva ku gika cya 5.7 kugeza ku cya 5.16, mu bika bya 5.18, 5.19, 5.27, nk'uko biteganywa n'Ingingo ya 6 1), no kuva ku gika cya 5.8. kugeza ku cya 5.16, mu bika bya 5.18, 5.19, 5.21, nk'uko biteganywa n'Ingingo ya 6 3), Omar Serushago ahamwa n'itsembatsemba ryakozwe mu rwego rw'igitero rusange, kandi kiri kuri gahunda, cyagabwe ku baturage b'abasiviri kubera umutwe wa politiki barimo cyangwa ubwoko bwabo. Yakoze rero **ICYAHA CYIBASIYE INYOKOMUNTU** giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko

kandi akiryoza nka gatozi hakurikijwe Ingingo ya 6 ya Sitati ndetse akagihanirwa hashingiwe ku Ngingo ya 22 n'ya 23 za Sitati.

4. Kubera ibyo yakoze cyangwa atakoze kandi yaragombaga kubikora nk'uko bivugwa kuva ku gika cya 4.1 kugeza ku cya 5.27, cyane cyane mu bika 3.2, 3.3, 4.1, 4.12, 4.15, 5.3, 5.13, nk'uko biteganywa n'Ingingo ya 61) no mu gika cya 5.13, nk'uko biteganywa n'ingingo ya 6 3), Omar Serushago ahamwa n'ibikorwa by'urugaraguro byakozwe mu rwego rw'igitero rusange kandi kiri kuri gahunda cyagabwe ku baturage b'abasiviri kubera umutwe wa politiki barimo cyangwa ubwoko bwabo. Yakoze rero **ICYAHA CYIBASIYE INYOKOMUNTU** giteganywa n'Ingingo ya 3 f) ya Sitati y'Urukiko kandi akiryoza nka gatozi ndetse akagihanirwa hashingiwe ku Ngingo ya 22 n'ya 23 za Sitati.

### C. Ibyerekeranye n'igenagihano

#### Impamvu nyongeragihano

##### i) *Uburemere bw'ibyaha:*

27. Nta gushidikanya ko ibyaha Omar Serushago aregwa bifite uburemere bwihariye, nk'uko Urugereko rwabishimangiye ubwo rwavugaga ko jenocide ari icyaha cy'indengakamere. Omar Serushago ubwe yahotoye Abatutsi bane naho abandi 33 bicwa n'abantu yari akuriye bitwaraga gisirikare.

##### ii) *Uburyozwacyaha bushingiye ku Ngingo ya 6 (3) ya Sitati:*

28. Porokireri avuga ko ubwo Omar Serushago yakoraga ibyaha bimuhama, yagize uruhare rw'ubuyobozi kandi ko yaryozwa icyaha nka gatozi hashingiwe ku Ngingo ya 6 (3) ya Sitati. Ibyo bintu n'Ubwunganizi burabyemera. Nta gushidikanya ko mu gihe ibyaha aregwa byakorwaga, Omar Serushago yari umuntu ukomeye mu karere k'iwabo. Yagiye mu nama nyinshi zafatirwagamo ibyemezo ku Batutsi.

29. Ku buryo budashingiye ku mategeko, Uregwa yari umukuru w'Interahamwe zo ku Gisenyi. Mu rwego rw'ibikorwa by'abo bantu bitwaraga gisirikare, yatanze amategeko kandi arakurikizwa. Omar Serushago yemera ko hishwe abantu benshi biturutse ku mabwiriza yatanze ubwo yagenzuraga bariyeri yari hafi y'umupaka w'u Rwanda na Repubulika Iharanira Demokarasi ya Kongo. Nk'uko bivugwa haruguru, abantu 33 bishwe n'abantu Omar Serushago yari akuriye. Uregwa yemera ko ibyo byaha byose byakozwe kubera ko abo bantu bari Abatutsi cyangwa kubera ko bafatwaga nk' «ibytso» kuko bari Abahutu batari intagondwa.

iii) *Kukora ibyaha ku bushake:*

30. Omar Serushago yakoze ibyaha azi icyo akora kandi abigambiriye.

Impamvu ngabanyagihano

i) *Kuba yarafashije Porokireri:*

31. Omar Serushago yafashije cyane Porokireri ndetse abikora ku buryo bugaragara kuko yabyiyemeje kandi ntatezuke.

32. Na mbere y'uko afatwa, kuba Omar Serushago yarafashije Porokireri byatumye Porokireri ategura igikorwa cyiswe "NAKI" (Nairobi-Kigali) ndetse, by'umwihariko, bituma icyo gikorwa kigera ku ntego yacyo. Muri icyo gikorwa hafashwe abantu benshi bo mu rwego rwo hejuru, bakekwaho kuba barakoze ibyabaye mu mwaka wa 1994 kandi ubu bafungiyeye muri gereza ya Arusha aho bategereje gucirwa urubanza.

33. Byongeye kandi, Omar Serushago yiyemeje no gutanga ubuhamya bushinja mu zindi manza ziburanishwa n'uru Rukiko.

ii) *Kwishyira, ku bwende bwe, mu maboko y'ubutegetsisi:*

34. Nyuma y'ibyo, Omar Serushago yishyize, ku bwende bwe, mu maboko y'abategetsi ba Côte d'Ivoire, Abidjan kandi abikora mbere y'uko Urukiko rumurega ndetse n'izina rye ritari ryajya ku rutonde rw'abantu y'abakekwaho kuba barakoze ibyaha bashakishwa n'abategetsi b'u Rwanda. Ubwunganizi buvuga ko yishyira mu maboko y'ubutabera, Oma Serushago yari azi neza ko byari kumuviramo kuregwa mu rukiko.

iii) *Ubwemeracyaha:*

35. Ni ngombwa kwibuka ko Uregwa yemeye ibyaha bine ashinjwa ari byo jenocide n'ibyaha bitatu byiswe ibyaha byibasiye inyokomuntu (ubuhotozi, itsembatsemba n'ibikorwa by'urugaraguro). Nk'uko Urugereko rwamaze kubibona, Uregwa yemeye icyaha ku bushake bwe kandi abisobanukiwe. Omar Serushago yumvise neza imiterere y'ibyaha ashinjwa ndetse n'ingaruka zabyo.

iv) *Ingaruka zikomoka ku muryango we no ku mibanire ye n'abandi:*

36. Ubwunganizi na Porokireri bavuga bombi ko Omar Serushago yakuriye mu bantu bakunda politiki cyane kugeza igihe ibyo aregwa byakorwaga. Nk'uko Avoka we abivuga, kuba umuryango wari warigeze gukora politiki byagize uruhare runini mu gutuma yinjira mu mutwe w'Interahamwe zitwaraga gisirikare. Umuryango we ndetse n'abantu yabanaga nabo biri mu byatumye Omar Serushago ajya muri politiki. Mu by'ukuri, ubucuti bukomeye kandi bwari bumaze igihe ise yari afitanye na Perezida Juvénal Habyarimana bwatumye agira uruhare rw'ingenzi mu mutwe w'Interahamwe zitwaraga gisirikare aho yari afite umwanya w'ubuyobozi ariko udakomoka ku mategeko.

37. Ni ngombwa kuvuga ko, n'ubwo hari ibikorwa yakoranye n'Interahamwe, Omar Serushago atigeze ahabwa imyitozo ya gisirikare. Avoka we ashimangira ko, mu by'ukuri, Uregwa atigeze yitabira ibyo bintu ku buryo bugaragara kandi Porokireri ntamuvuguruza. Uregwa yakoresheje imbunda yo mu bwoko bwa R4 yari yarahawe ku mugaragaro na Jenerali Augustin Bizimungu mu mwaka wa 1993.

v) *Kuba mu gihe cya jenocide Omar Serushago yarafashije bamwe mu bantu bashoboraga gukorerwa ibyaha:*

38. Ubwunganizi buvuga ko, mu gihe cy'ibyabaye aregwa, Omar Serushago yaba yaratabaye Abatutsi benshi barimo ababikira bane yaba yarafashije kwambuka umupaka uhuza u Rwanda na Repubulika Iharanira demokarasi ya Kongo n'Umuhutu utari intagondwa yahishe. Yaba kandi yararetse abantu benshi batinyaga kwicwa bakambuka uwo mupaka. Kubera ko Porokireri atanyomoza ayo makuru, Urugereko rusanga rukwiye kuyafata nk'ukuri.

vi) *Ibintu byihariye byerekeranye na Omar Serushago:*

39. Porokireri na Avoka w'Uregwa basabye Urugereko kuzirikana inshingano Ushinjwa afite ku muryango we, akaba afite abana batandatu kandi babiri muri bo baracyari bato cyane. Kuba Omar Serushago afite imyaka 37 gusa ndetse akaba yarafashije Porokireri, akaniyemerera ibyaha bye ku mugaragaro, bitanga icyizere ko azisubiraho.

vii) *Kuba Uregwa yaragaragaje ko ababajwe n'ibyo yakoze ndetse akanabyicuza:*

40. Mu iburanisha ryabanjirije itangwa ry'ibihano, Omar Serushago yagaragaje cyane kandi ku mugaragaro ko ababajwe n'ibyo yakoze. Yasabye imbabazi abantu yakoreye ibyaha ndetse n'Abanyarwanda bose. Uretse icyo gikorwa cyo kwicuza, Uregwa yahamagariye Abanyarwanda kwiyunga.

41. Uru Rugereko rwemeranya n'Urugereko rwa Mbere rw'Iremezo I rw'Urukiko Mpanabyaha Mpuzamahanga rwashyirweho icyahoze ari Yugosolaviya mu rubanza "Porokireri aburana na Drazen Erdemovic" rwo ku itariki ya 29 Ugushyingo 1996. Muri urwo rubanza, urwo Rugereko rwemeza ko "rushobora kuzirikana ko Uregwa yishyize, ku bwende bwe, mu maboko y'Urukiko, ko yireze ibyaha akanabyemera, ko yagaragaje ko ababajwe n'ibyo yakoze cyangwa akabyicuza bimuvuye ku mutima cyangwa ko yiteguye gutanga ibimenyetso simusiga bishinja abandi bantu ku byaha Urukiko rufitiye ububasha bwo kuburanisha mu gihe ibyo byatumaga habaho

*ubutabera, bigashishikariza abandi bantu gutanga ubuhamya kandi bikaba byubahirije ibisabwa ko urubanza rugomba gucibwa mu buryo buboneye”.*

42. Rumaze gusuzuma ibintu byose bivugwa muri uru rubanza ndetse n’impamvu ngabanyagihano zihariye zijyanye n’ibyaha Omar Serushago yakoze, Urugereko rusanga bidakwiye kumukatira igihano kiruta ibindi.

#### IV. ICYEMEZO CY'URUKIKO

KUBERA IZO MPAMVU,  
URUGEREKO RWA MBERE RW'IREMEZO I,

RUBURANISHIRIZA MU RUHAME,

**RUSHINGIYE** ku Ngingo za 23, 26 na 27 za Sitati no ku Ngingo za 100, 101, 102, 103 na 104 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ;

**RUMAZE KUBONA** urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda;

**RUMAZE KUBONA** Inyandiko y'ibirego yemejwe ku itariki ya 28 Nzeri 1998;

**RUMAZE KUBONA** ubwemeracyaha bwa Omar Serushago bwo ku itariki ya 14 Ukuboza 1998 ku birego bikurikira:

**IKIREGO CYA MBERE:** Jenoside, icyaha giteganywa n'ingingo ya 2 (3) a) ya Sitati;

**IKIREGO CYA KABIRI:** Icyaha cyibasiye inyokomuntu (Ubuhotozi) giteganywa n'Ingingo ya 3 a) ya Sitati;

**IKIREGO CYA GATATU:** Icyaha cyibasiye inyokomuntu (itsembatsemba) giteganywa n'ingingo ya 3 b) ya Sitati;

**IKIREGO CYA KANE:** Icyaha cyibasiye inyokomuntu (Ibikorwa by'urugaraguro), giteganywa n'Ingingo ya 3 f) ya Sitati;

Kubera ko rwahamije Omar Serushago ibyo byaha bine ku itariki ya 14 Ukuboza 1998;

**RUMAZE KUBONA** inyandiko zikubiyemo imyanzuro y’ababuranyi;  
Rumaze kumva imyanzuro yatanzwe na Porokireri n’Ubwuganizi mu magambo;

### **KUBERA IBYO BYAHA**

**RUHANISHIJE** Omar Serushago, wavukiye muri Komine ya Rubavu, Perefegitura ya Gisenyi (Rwanda) ku itariki ya 24 Mata 1961,

Igihano kimwe rukumbi cy’igifungo cy’imyaka cumi n’itanu (15) ku byaha byose bimuhama;

**RUTEGETSE** ko icyo gihano kirangirizwa mu gihugu kizagenwa na Perezida w’Urukiko, amaze kugisha inama Urugereko rwa Mbere rw’Iremezo. Gerefiye azabimenyesha Guverinoma y’u Rwanda n’icyo gihugu kizagenwa ngo afungirwemo;

**RWEMEJE** ko uru rubanza ruhita rurangizwa kandi ko igihe agitegereje kwimurirwa aho azafungirwa, Omar Serushago akomeza gufungwa mu buryo bumwe n’ubwo yari asanzwe afunzwemo;

**RWEMEJE** ko mu gihano cy’igifungo Omar Serushago akatiwe hagomba gukurwamo igihe yari amaze afunzwe kuva ku itariki ya 9 Kamena 1998, nk’uko biteganywa n’Ingingo ya 101 (D) y’Amategeko Agenga Imiburanishirize n’Itangwa ry’Ibimenyetso. Iyo ngingo iteganya ko igihe uwahamwe n’icyaha yamaze afunzwe ategereje gushyikirizwa Urukiko n’igihe yari amaze muri gereza y’Urukiko bikurwa mu gihe cy’igifungo cyose akatiwe;

Bikorewe Arusha, ku itariki 5 Gashyantare 1999.

Laïty Kama	Lennart Aspegren	Navanethem Pillay
Perezida w’Urugereko	Umucamanza	Umucamanza

[Kashe y’Urukiko]