



Incamake y'ibyabaye

INAMA YA 7 Y'ABASHINJACYAHA MPUZAMAHANGA

**GUKURIKIRANIRA MU NKIKO Z'IBIHUGU IBYAHA MPUZAMAHANGA:
INZITIZI N'INGAMBA ZAFATWA**

4-5 UGUSHYINGO 2014, MOUNT MERU HOTEL, ARUSHA, TANZANIYA

RM15-0023 (K)

Byahinduwe mu Kinyarwanda kandi byemezwa na
SSL/TPIR

1. Inama ya 7 y'abashinjacyaha mpuzamahanga yabereye Arusha, muri Tanzaniya kuva ku itariki ya 4 kugeza ku ya 5 Ugushyingo 2014. Umunyamategeko Hassan B. Jallow, Porokireri wa TPIR na MICT ni we watangije iyo nama ku itariki ya 4 Ugushyingo 2014 aha ikaze abayitabiriye.
2. Porokireri Jallow yagaragaje ukuntu iri koraniro ryihariye ari ingenzi, avuga ko ryahuriye hamwe abashinjacyaha b'inkiko mpuzamahanga zose n'ab'inkiko mberabyombi na bagenzi babo bo mu bihugu bigera kuri 20 bya Afurika, u Burayi na Amerika, kimwe n'abahagarariye inkiko z'uturere, za kaminuza, n'imiryango itagengwa na leta, bagamije kwigira hamwe ibibazo bikomeye birebana n'inzitizi abashinjacyaha bahura na zo mu ikurikirana ry'ibyaha mpuzamahanga, n'ingamba zafatwa.
3. Porokireri yashishikariye abari bitabiriye iryo koraniro n'umuryango mpuzamahanga gushyigikira byimazeyo inkiko mpuzamahanga, kuzitera inkunga itajegajega no kuzitangira, mu bikorwa byo kurwanya umuco wo kudahana. Yemeje ko ibyinshi TPIR yagezeho mu myaka 20 ishize yabikesheje imikoraniye myiza hagati y'inzego z'ubutabera mpuzamahanga n'ubw'ibihugu, kandi ko ibizagerwaho ejo hazaza bizaba bishingiye mu gukomeza no gushimangira ubwo bufatanye.
4. Ijambo ry'ikaze rya Porokireri Jallow ryakurikiwe n'andi magambo yo gutangiza inama yavuzwe n'aba bakurikira: Bongani Majola, Gerefiye wa TPIR; Madamu Fatou Bensouda, Porokireri wa ICC; na Richard Muhumuza, Porokireri Mukuru w'u Rwanda. Bwana Mohamed Othman Chande, Umucamanza Mukuru wa Tanzaniya ni we wavuze ijambo rikuru. Abafashe ijambo bose bashimangiye ukuntu amakoraniro nk'aya ari ingenzi kuko atuma abahanga mu by'amategeko b'ingeri zose bahura kandi bagahererekanya ubunararibonye n'amasomo bafite mu rwego rwo gukurikirana ibyaha mpuzamahanga.
5. Bashimangiye ko ari ngombwa ko ba Porokireri mu rwego rw'ibihugu no mu rwego mpuzamahanga baganira ku bunararibonye bafite mu ikurikirana ry'ibyaha mpuzamahanga kugira ngo basobanukirwe neza urwego rw'ibisabwa kugira ngo gukurikirana ibyaha mpuzamahanga mu rwego rw'igihugu bibyare umusaruro.

6. Abafashe ijambo bashimangiye ko inkiko mpuzamahanga zidashobora gukorera mu cyuka. Gukurikirana ibyaha ku rwego mpuzamahanga ntibishobora guhabana no gukurikirana ibyaha ku rwego rw'ibihugu kubera ko buri rwose muri izo nzego zombi rwagombye kandi rugomba guhesha urundi agaciro mu kurwanya ibyaha mpuzamahanga. Basesenguye imbongamizi inkiko z'ibihugu zihura na zo mu gukurikirana ibyaha mpuzamahanga, zirimo izirebana n'ibi bikurikira:
- Ubushake buke bwa politiki bw'ibihugu bwo kwemera ko abantu *bose* bashinjwa cyangwa bakekwaho kuba barakoze ibyaha mpuzamahanga bakurikiranwa.
 - Kutavogerwa no kudahangarwa kw'abategetsi bo mu rwego rwo hejuru n'abayobozi b'ibihugu bimwe na bimwe.
 - Kubura inzego z'ubutabera zigenga, zitabogamye, z'inziramakemwa kandi zishoboye umurimo, zizira inzitizi zitari ngombwa.
7. Iryo koraniro ryari rigizwe n'amatsinda atanu yahise atangira imirimo yayo nyuma y'ijambo ry'ikaze n'amagambo yo gutangiza inama. Ayo matsinda yaganiriye ku nsanganyamatsiko zikurikira: Raporo z'abashinjacyaha b'inkiko mpuzamahanga ku masomo bize ku birebana no guha inkiko z'ibihugu ubushobozi bwo gukurikirana ibyaha mpuzamahanga; Raporo z'abashinjacyaha bo mu bihugu ku ishyirwa mu bikorwa ry'inshingano zabo zo gukurikirana ibyaha mpuzamahanga; Ibibazo by'imari n'izindi nzitizi zo mu rwego rw'ubutegetsi bibangamira gahunda yo gukurikirana ibyaha mpuzamahanga mu nkiko z'ibihugu; Ibiteganywa kugira ngo imiryango yo mu turere igire uruhare mu iperereza no mu ikurikirana ry'ibyaha mpuzamahanga n'ibitekerezo by'ubwunganizi n'Imiryango itagengwa na leta ku ikurikirana ry'ibyaha mpuzamahanga mu nkiko z'ibihugu.
8. Abagize ayo matsinda baganiriye ku bibazo byinshi bitandukanye, bibanda cyane ku byagezweho, ku nzitizi n'ibiteganywa kuzakorwa ku byerekeye ikurikirana ry'ibyaha mpuzamahanga mu rwego rw'ibihugu. Abashinjacyaha bo mu nkiko mpuzamahanga, abo mu bihugu, abunganizi n'imiryango itagengwa na leta batanze ibitekerezo byabo ku

birebana n'ibyagezweho n'imbogamizi ku ikurikirana ry'ibyaha mpuzamahanga mu nkiko z'ibihugu.

9. Abari mu matsinda bavuze ko kenshi hari ibibura mu mategeko akoreshwa imbere mu bihugu kandi ko ari ngombwa ko amategeko avugururwa kugira ngo ibyaha mpuzamahanga bigaragare neza mu biteganywa mu mategeko y'ibihugu.
10. Ariko basanze ko, n'ubwo habaho ivugurura ry'amategeko kugira ngo ibyaha mpuzamahanga bikurikiranwe n'inkiko z'ibihugu, hari ibintu bine by'ingenzi bigomba kuzuzwa:
 - Ubushake bwa politike mu gihugu bwo gukurikirana ibyo byaha.
 - Ubushinjacyaha bukora neza, bwigenga kandi bufite ibya ngombwa byose.
 - Inzego z'ubutabera zigenga kandi zitabogamye.
 - Ubwunganizi bufite ibya ngombwa byose kugira ngo bushobore kunyomoza ibyo uregwa ashinjwa.
11. Ku birebana no guha inkiko zo mu bihugu ubushobozi mu nshingano zazo zo kurwanya umuco wo kudahana, hagaragajwe ko ibikurikira bikwiye guhabwa agaciro kanini muri urwo rwego:
 - Hakenewe uburyo bwo guhererekanya ibitekerezo ku bigomba gukorwa birebana n'ibibazo bivuka mu gukurikirana ibyaha mpuzamahanga n'ukuntu byakemuwe. Kuri iyi ngingo, bavuze ko byafasha abayobozi b'ubushinjacyaha mu bihugu bitandukanye bagiye bategura ku rwego rw'igihugu amakoraniro ameze nk'iri, bagahana amakuru ku bibazo bahura na byo n'uburyo babikemura.
 - Hakenewe ko leta zigaragaza ubushake bwazo. Guverinoma zagombye gushyigikira izo nzego rugikubita kugira ngo zigere ku nshingano zazo.
 - Hagomba kuboneka imari ihagagije kugira ngo imirimo ikenewe ikorwe n'inshingano zigerweho.

- Hagomba kubaho ukudahuzagurika mu mategeko n'amahame bikurikizwa. Ni ngombwa gushyiraho umwete kugira ngo ibigenderwaho mpuzamahanga ku rwego rw'amategeko no mu miburanishirize, bihabwe agaciro gasumbye ibikoreshwa mu bihugu imbere.
- Hagomba gushyirwaho umwete kugira ngo mu gukurikirana abakoze ibya mpuzamahanga, hajye hibandwa ku bagize uruhare runini mu byaha byakozwe. Kudatanyanga ingufu bizatuma ubushobozi buke bukoreshwa neza.
- Gushakisha uburyo abaturage bagira uruhare muri ibyo bikorwa. Gushishikariza sosiyete sivile gutanga ibitekerezo n'impungenge byayo.
- Ni ngombwa ko umuntu wese wakoze icyaha akiryozwwa. Buri muntu wese, hatitaweho icyo yarwaniraga cyangwa uwo ari we, agomba kuryozwa ibyaha yakoze.
- Ni ngombwa gushinga amashami yihariye mu bushinjacyaha no mu gipolisi.
- Hagomba kuba ubufatanye bwa hafi hagati y'abategetsi batandukanye bo mu bihugu, urwego rushinzwe abinjira n'abasohoka mu gihugu, ububanyi n'amahanga na minisiteri y'ubutabera.
- Hakenewe abantu nyabo bashobora kwemera guhusha intego bihaye ariko bakigira ku makosa bakoze.
- Imikoranye hagati y'abashinjacyaha bo mu bihugu n'abashinjacyaha mpuzamahanga igomba kongerwa imbaraga.
- Hagomba gukoreshwa imbaraga kurushaho kugira ngo mu nzego z'ibihugu umubare w'inkiko mpanabyaha zihariye wiyongere, kabone n'iyi haba nta bufatanye mpuzamahanga buriho.

12. Abafashe ijamba basanze kugira ngo ibi byose bishoboke, abafite uruhare mu kurwanya umuco wo kudahana ibyaha mpuzamahanga, bagomba gukorera hamwe. Bashimangiye ko hari ibintu byinshi bigomba gukorwa kandi ko kubera ibyo, ubufatanye bukomeye

bugamije gukorera hamwe bugomba kuba hagati y'inzego z'ibihugu n'inzego mpuzamahanga. Abafashe ijambo bashyigikiye igitekerezo cyaherukaga gutangwa cyo gushyiraho amasezerano mpuzamahanga y'ubufatanye bwa za Leta mu gukurikirana ibyaha by'amarorerwa. Ayo masezerano naramuka yemejwe azafungura imiryango izatuma habaho ubufatanye mu rwego rw'ubushinjacyaha, bikazatuma kandi bishoboka kongera ubushobozi mu nzego zose z'ubutabera.

13. Abashinjacyaha bo mu bihugu bavuze ibyagezweho mu gukurikirana ibyaha mpuzamahanga mu nkiko zo mu gihugu. Basobanuye ingamba zafashwe mu bihugu byabo kugira ngo bashobore gukurikirana neza iwabo abakoze ibyaha mpuzamahanga. Muri izo ngamba harimo gushyiraho amategeko no gukora ivugurura mu bucamanza mu buryo bugaragara kugira ngo mu rwego rw'amategeko y'ibihugu bitayafite hongerwemo amategeko mpuzamahanga, hagashyirwaho udushami twihariye dushinzwe gukora iperereza no gukurikirana ibyaha, n'udushami twihariye dushinzwe gukorana no gufasha abandi bategetsi n'imiryango mu bikorwa byabo byo gukurikirana ibyaha mpuzamahanga mu nkiko zabo.
14. Bemeye ko n'ubwo hari ibyagezweho, inkiko nyinshi z'ibihugu zigihura n'ibibazo mu gukurikirana abakoze ibyaha mpuzamahanga. Inzitizi imwe ikomeye mu gukurikirana ibyaha mpuzamahanga mu nkiko z'ibihugu ni uko ibihugu bidakorana hagati yabyo, cyane cyane ibihugu abantu bakekwaho kuba barakoze ibyaha bashobora kuba bihishemo. Inzego z'ubushinjacyaha zagiye zihura n'ubushake buke bwa za leta bwo gushakisha no gutanga abantu bakekwaho ibyaha. Hakenewe kandi ubufatanye burushijeho gukomera hagati y'ibihugu kugira ngo abatangabuhamya bashobore kugerwaho. Ingendo z'abatangabuhamya zibuzwa akenshi n'ibyangombwa byo kwinjira mu gihugu cyangwa mu bihugu bisabwa kugira ngo umutangabuhamya ashobore kuza gutanga ubuhamya. Muri uru rwego, abari mu nama basabye ko ibihugu byoroshya amategeko arebana no guha impushya zo kwinjira abatangabuhamya bakenewe mu manza nk'izo.
15. Kubura amikoro yo gukora iperereza no gukurikirana ibyaha mpuzamahanga mu rwego rw'ibihugu na byo bigira ingaruka ku bushobozi bw'ibihugu bwo gukurikirana ibyaha

nk'ibyo. Gukurikirana ibyaha mpuzamahanaga mu rwego rw'igihugu bizana ibibazo byihariye by'amikoro kubera umwihariko w'imanza nk'izo. Imanza z'ibyaha mpuzamahanaga zihuriza abantu benshi ku buryo ari ngombwa kugira ibyumba by'iburanisha binini kugira ngo abaza gukurikirana imanza n'abanyamakuru babone umwanya uhagije. Ubusanzwe imanza nk'izo kandi zibamo ibibazo bihungabanya imitima ku buryo ari ngombwa guha abatangabuhamya umutekano ku buryo batamenywa na rubanda no kubarinda abaregwa n'ababashyigikiye. Ibi byose bisaba amikoro menshi. Ikindi, mu gihe cy'iperereza haba ibibazo byo kubona abapererezi n'amafaranga yo gukora iperereza. Ubusanzwe ibyaha mpuzamahanga bikorwaho iperereza mu bihugu bitari ibyo ibyo byaha bikurikiranwamo. Ni ukuvuga rero ko kugira ngo abapererzi n'abacamanza bakora iperereza boherezwe gushakisha no kubaza abatangabuhamya bisaba amikoro; hari n'amafaranga yo guhamba abasemuzi n'abahindura ibyanditse mu zindi ndimi.

16. Abari bagize itsinda ryigaga ku bigomba gukorwa birebana n'ubwunganizi bagaragaje ko ari ngombwa ko ubushinjacyaha n'ubwunganizi bidasumbanywa mu manza z'ibyaha mpuzamahanga, zaba ziburanihirizwa mu nkiko z'ibihugu cyangwa mu nkiko mpuzamahanga. Bashimangiye ko bidashoboka kugira urubanza ruboneye mu gihe ubwunganizi budafite ibya ngombwa bihagije. Abafashe ijamba bavuze kuri zimwe mu nzitizi z'ingenzi ubwunganizi buhura na zo mu nkiko zo mu bihugu, harimo izikurikira:

- Kurinda umutekano w'abatangabuhamya bishobora kuba ikibazo ku bushinjacyaha no ku bwunganizi. By'umwihariko, kwimurira abatangabuhamya ahandi bishobora kuba ikibazo kubera ko muri Afurika bafata "umuryango" mu buryo bwaguye.
- Kuba abategetsi ba leta bagaragaza ubufatanye buke bishobora gutuma ubwunganizi butagera ku nyandiko no ku batangabuhamya mu buryo bworoheje.
- Iyo abatangabuhamya bashinjura basabye ubuhungiro, bashobora kugenzurwa cyane kurushaho n'abategetsi bo mu bihugu.

- Inkiko nyinshi z'ibihugu ntizifite gahunda yunganira abaregwa yashobora gutuma abavoka babo bahembwa. Kubera ibyo, imishahara y'abavoka bunganira abaregwa iri hasi cyane ugereranyije n'umurimo bakora.
 - Akenshi, Ubwunganizi bufatwa nk'aho butarebwa n'ibibazo by'ubutabera mu rwego mpanabyaha mpuzamahanga. Kubera iyo mpamvu, ni ngombwa gukora amahugurwa ku bibazo by'iperereza, gukusanya ibimenyetso, n'ibindi.
17. Uruhare n'agaciro k'imiryango itagengwa na leta mu ikurikirana ry'ibyaha mpuzamahanga byagaragajwe mu magambo yavuzwe n'abitabiye inama no mu mpaka zabaye. Mu byavuzwe, harimo ko imiryango itagengwa na leta ishobora gushyigikira umurimo wo gukurikirana ibyaha mu bihugu mu buryo bunyuranye. Iyo miryango ifite ububasha bwo kugaragaza impungenge zayo cyangwa amakenga ku bibazo abantu batinya kuvugaho. Imiryango itagengwa na leta ishobora kandi gutanga ubuhamya cyangwa kuvugira abahohotewe, kandi kuba iyo miryango iri aho ibintu bibera bituma yashobora gutanga inama ikanamenyekanisha amasomo yavuye mu byabaye.
18. Imiryango itagengwa na leta yashimangiye ukuntu ari ngombwa kubungabunga uburenganzira bw'abahohotewe mu gihe cy'ikurikirana ry'ibyaha mu rwego rw'igihugu no mu rwego mpuzamahanga. Abari muri iryo tsinda bashimangiye ko abahohotewe ari bo bazasigara bacira urubanza umurage w'ikurikiranabyaha mu rwego rw'igihugu no mu rwego mpuzamahanga kandi ko ari umurimo n'inshingano z'ibihugu zo kubahiriza uburenganzira bw'abahohotewe. Ubu burenganzira bugomba kwinjizwa mu nzego z'ubushinjacyaha bw'igihugu kandi bugomba kuba bukubiyemo ibikurikira:
- Uburenganzira bwo kugirirwa impuhwe no kubahwa. Abashinjacyaha bagomba gushyiraho amabwiriza ngenderwaho arebana n'uko abahohotewe bagomba gufatwa kandi bagaha amahugurwa abakozi babo.
 - Uburenganzira bwo guhabwa amakuru atari ibanga binyujijwe kuri radiyo, ku mbuga nkoranyambaga n'ahandi, cyangwa abahohotewe bagahabwa umuntu bashobora

kujya baganaho mu gihe bafite ibibazo. Abashinjacyaha bashobora kandi gusakaza udutabo dusobanura uko imiburanishirize y’imanza igenda.

- Uburenganzira bwo kugira umutekano no kumererwa neza. Abashinjacyaha bagombye kwiga ingorane buri muntu wahohotewe ashobora kugira.
- Uburenganzira bwo kuvuga ku mpungenge bafite. Abashinjacyaha bagomba kuvugana n’abahohotewe ku ngamba zikurikizwa mu ikurikiranacyaha.

19. Hizwe kandi ukuntu imiryango itandukanye yo mu karere yagira uruhare mu iperereza no mu ikurikirana ry’ibyaha mpuzamahanga. Abahagarariye imiryango yo mu karere nk’Urukiko rwa Afurika ku Burenganzira bwa Muntu n’ubw’Abantu (*The African Court of Human and People’s Rights - ACHPR*), Urukiko rw’Umuryango w’Ubukungu w’Ibihugu bya Afurika y’Iburengerazuba (*ECOWAS Community Court of Justice*), Ihuriro Nyafurika ry’Abanyamategeko (*Pan African Lawyers Union -PALU*), Ikigo Nyafurika cy’Amategeko Mpuzamahanga (*African Institute of International Law*) n’Ikigo Gishinzwe Uburenganzira bwa Muntu n’Iterambere muri Afurika (*The Institute for Human Rights and Development in Africa – IHRDA*), bashimangiye ko n’ubwo ubu nta muryango n’umwe wo mu karere ufite uruhare mu iperereza no mu ikurikirana ry’ibyaha mpuzamahanga, ubu ni ngombwa ko batangira kugira urwo ruhare. Inzitizi zikurikira zashyizwe ahagaragara:

- Ubushake buke bwa politiki bwo gushyira umukono ku masezerano ateganya ikurikirana ry’ibyaha mpuzamahanga, kuyemera mu gihugu no kuyashyira mu bikorwa.
- Ubushobozi bushingiye ku mikoro n’ubumenyi ngiro bw’ibigo n’imiryango byo mu karere. Kugira ngo ibigo n’imiryango byo mu karere bikore iperereza kandi bikurikirane neza ibyaha mpuzamahanga, ni ngombwa ko bibona inkunga nyinshi mu burezi, mu bikorwa remezo, mu kongererwa ubushobozi, no mu rwego rw’imari.

20. Abafashe ijambo bashimangiye ko, nk’uko ibihugu bifite inshingano y’ibanze yo gukurikirana abakoreye ibyaha ku butaka bwabyo, kuzuzanya ari yo nzira yonyine ibigo

n'imiryango byo mu karere bishobora gukoresha kugira ngo bigire uruhare rugaragara mu iperereza no mu ikirikirana ry'ibyaha mpuzamahanga.

21. Abafashe ijambo basanze imiryango yo mu karere nk'Umuryango w'Ubumwe bwa Afurika (UA) n'amashami yayo bigomba kugira uruhare runini mu gukora iperereza no gukurikirana ibyaha mpuzamahanga. Kubera amakuru menshi akusanywa binyujijwe mu nzego zitandukanye zitanga amakuru n'ibyemezo by'inzego z'Umuryango w'Ubumwe bwa Afurika, iyo miryango ishobora kugira uruhare rukomeye mu kugeza ku Rukiko Mpanabyaha Mpuzamahanga (ICC) ibimenyetso bikenewe mu iperereza no mu ikirikirana ry'ibyaha mpuzamahanga. Ibigo n'imiryango nyafurika n'imiryango mpuzamahanga nka ICC bishobora kuzuzanya mu gukora iperereza no gukurikirana ibyaha mpuzamahanga.
22. Inama yarangiye ku itariki ya 5 Ugushyingo 2014 hamaze kwemezwa Imyanzuro y'Ikoraniro rya 7 ry'Abashinjacyaha Mpuzamahanga. Yashojwe n'amagambo yavuzwe na Bwana Stephen Rapp, Ambasaderi wa Leta Zunze Ubumwe za Amerika ushinzwe ibibazo birebana n'ibyaha by'intambara, Madamu Brenda Hollis, Porokireri w'Urwego rushinzwe kurangiza imirimo y'insigarira y'Urukiko Rwihariye (*Residual Special Court*) na Bwana Miguel de Serpa Soares, Umunyamabanga Mukuru Wungirije ushinzwe ibibazo by'amategeko akaba kandi n'Umujyanama mu by'amategeko w'Umuryango w'Abibumbye. Nyuma y'ayo magambo, Porokireri yashoje Ikoraniro ku mugaragaro, hanyuma afatanyije n'abari bahagarariye Inkiko mpuzamahanga n'inkiko mberabyombi, agirana ikiganiro n'abanyamakuru kugira ngo bavuge ku byagezweho.
