UMURYANGO W'ABIBUMBYE

URWEGO RUSHINZWE KURANGIZA IMIRIMO Y'INKIKO MPANABYAHA MPUZAMAHANGA

Urubanza N°: MICT-12-17-ES
Itariki: 24 Mata 2014
Umwimerere: Icyongereza

PEREZIDA WA MICT

Umucamanza: **Theodor Meron, Perezida**

Gerefiye: **John Hocking**

Itariki: **24 Mata 2014**

POROKIRERI

Aburana na:

GERARD NTAKIRUTIMANA

INYANDIKO YASIBWEMO IBIGOMBA KUGIRIRWA IBANGA

ICYEMEZO CYA PEREZIDA CYO KU ITARIKI YA 26 WERURWE 2014 CYO GUFUNGURA GERARD NTAKIRUTIMANA MBERE Y'IGIHE, CYASIBWEMO IBIGOMBA KUGIRIRWA IBANGA

Ibiro bya Porokireri :

Hassan Bubacar Jallow

Avoka wa Gérard Ntakirutimana :

Philippe Larochelle

Repubulika ya Benin

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1. Jyewe, Theodor Meron, Perezida w'Urwego Mpuzamahanga Rushinzwe Kurangiza Imirimo y'Inkiko Mpanabyaha Mpuzamahanga (MICT), nashyikirijwe na Gérard Ntakirutimana icyifuzo cy'ibanga gisaba gufungurwa mbere y'igihe, cyanditswe ku itariki ya 29 Ukwakira 2013, kandi cyakiriwe ku ya 12 Ugushyingo 2013 (« Icyifuzo »)[1]. Ndasuzuma iki cyifuzo nshingiye ku Ngingo ya 26 ya Sitati ya MICT (« Sitati »), ku ya 150 no ku ya 151 z'Amategeko Agenga Imiburanishirize n'itangwa ry'Ibimenyetso ya MICT (« Amategeko »), no ku gika cya 3 cy'Amabwiriza Ngengamikorere akurikizwa mu gufata ibyemezo ku byifuzo bisaba guhabwa imbabazi, kugabanyirizwa igihano, no kurekurwa mbere y'igihe ku bantu bakatiwe na TPIR, TPIY na MICT (« Amabwiriza Ngengamikorere »[2].

I. AMAVU N'AMAVUKO

2. Ntakirutimana yafatiwe muri Côte d'Ivoire ku itariki ya 29 Ukwakira 1996, yoherezwa muri Gereza y'Umuryango w'Abibumye Arusha muri Tanzaniya ku itariki ya

[1] Ibaruwa yo mu rwego rw'akazi ya Bwana John Hocking, Gerefiye, yandikiye Umucamanza Theodor Merom, yo ku itariki ya 12 Ugushyingo 2013, yohereza Icyifuzo. N'ubwo mbere icyo cyifuzo nagishyikirijwe mu gifaransa, ibyo tuvugaho byose muri Iki cyemezo biri mu nyandiko ya MICT yahinduwe mu cyongereza yemejwe ko ihuye n'iy'umwimerere. Ibivugwa byose mu nyandiko Repuburika ya Benin (« Benin ») yandikiranye na MICT ndetse n'inyandiko y'inyongera yatanzwe na Ntakirutimana, na byo bishingiye ku nyandiko za MICT zahinduwe mu cyongereza kandi zemejwe ko zihuye n'iz'imyimerere.

[2] MICT/3. 5 Nyakanga 2012. Nsanga na none ku itariki ya 15 Mutarama 2014, Benin yaramenyesheje Gerefiye wa MICT ko, bitewe n'uko Ntakirutimana amaze kurangiza icya kabiri cy'igifungo yakatiwe, ashobora gufungurwa mbere y'igihe hakurikijwe ibiteganywa n'amategeko ya Benin, aramutse yujuje ibisabwa bimwe na bimwe. Reba inyandiko yo mu rwego rw'akazi Gerefiye John Hocking yandikiye Umucamanza Theodor Meron, Perezida, ku itariki ya 4 Werurwe 2014, mu byo iyo baruwa ishyikiriza harimo na Raporo yakozwe na Ajida Shefu Akoutan Pierre Obagou ukora kuri Gereza ya Akpro-Missérété («umuyobozi wa Gereza ya Akpro Missérété »), yo ku itariki ya 30 Ukuboza 2013 (« Raporo ya Obagou »). Reba na none Raporo ya Obagou, imp.1-2. Iyo nyandiko imenyesha ko Ntakirutimana ashobora gufungurwa mbere y'igihe hashingiwe ku mategeko y'igihugu afungiyemo, yakiriwe hashingiwe ku Ngingo ya 149 y'Amategeko no ku gika cya 2 cy'Amabwiriza Ngengamikorere.

30 Ugushyingo 1996[3]. Ntakirutimana yaregwaga jenoside, kuba icyitso cy'abakoze jenoside, ubwumvikane bugamije gukora jenoside, ibyaha byibasiye inyokomuntu, n'ibikorwa binyuranyije bikomeye n'Ingingo ya 3 Ihuriweho n'Amasezerano y'i Jeneve, n'Inyongera yayo ya II[4].

3. Urugereko rwa Mbere rw'Iremezo I (« Urugereko rwa Mbere rw'Iremezo ») rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« TPIR») rwemeje ko Ntakirutimana ahamwa na jenoside, n'ubuhotozi nk'icyaha cyibasiye inyokomuntu[5]. Urugereko rwa Mbere rw'Iremezo rwahanishije Ntakirutimana igihano cy'igifungo cy'imyaka 25 cyagombaga kuvanwamo igihe yamaze muri gereza afunze mbere yo gukatirwa[6]. Ku itariki ya 13 Ukuboza 2004, Urugereko rw'Ubujurire rwa TPIR rwarekeyeho ibyemezo bimwe bimuhamya icyaha byafashwe n'Urugereko rwa Mbere rw'Iremezo, rumuvanaho icyaha kimwe yari yahamijwe mu rw'iremezo, kandi rurekeraho igihano yakatiwe n'Urugereko rwa Mbere rw'Iremezo[7].

4. Ku itariki ya 18 Gicurasi 2009, hafashwe icyemezo kigena ko azarangiriza igihano cy'igifungo yakatiwe mu gihugu cya Benin[8]. Ku itariki ya 27 Kamena 2009, Ntakirutimana yoherejwe muri Benin kuharangiriza igice cy'igihano cyari gisigaye ku cyo yakatiwe[9].

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[3]Inyandiko y'urubanza rwa Elizaphan Ntakirutimana na Gérard Ntakirutimana mu rw'iremezo, 21 Gashyantare 2003, igika cya 16.

[4] Inyandiko y'urubanza mu rw'iremezo, ibika 13-15.

[5] Inyandiko y'urubanza mu rw'iremezo, igika 878.

[6] Inyandiko y'urubanza mu rw'iremezo, ibika 924, 927.

[7]Inyandiko y'urubanza rwa Elizaphan Ntakirutimana na Gérard Ntakirutimana mu bujurire, 13 Ukuboza 2004, ibika 554-564.

[8] Urubanza Porokireri aburana na Gérard Ntakirutimana, N°s ICTR-96-10-A na ICTR-96-17-A, Icyemezo kirebana n'irangizwa ry'igihano, 18 Gicurasi 2009, urup. 3

[9]« Hari abantu 9 bakatiwe ibihano na TPIR boherejwe muri Benin kubirangirizayo». ICTR/INFO-9-2-601.EN, 30 Kamena 2009 ; icyo cyemezo kiboneka no ku rubuga rwa interineti kuri http://unictr.org/tabid/155/Default.aspx?id=1008.

II. ICYIFUZO

5. Icyifuzo cyakiriwe mu biro bya MICT ku itariki ya 12 Ugushyingo 2013. Ku itariki ya 4 Werurwe 2014, Gerefiye wa MICT (« Gerefiye »), ashingiye ku gika cya 3, icya 4 n'icya 5 by'Amabwiriza Ngengamikorere, yanshyikirije ibi bikurikira : (i) inyandiko yavuye muri Benin ku birebana n'uko Ntakirutimana yujuje ibisabwa kugira ngo afungurwe mbere y'igihe, hashingiwe ku mategeko akurikizwa muri icyo gihugu; (ii) raporo yavuye muri Benin imenyesha MICT ko Ntakirutimana ashobora gufungurwa mbere y'igihe, hashingiwe ku mategeko akurikizwa muri icyo gihugu, ikubiyemo n'inyandiko ivuga ku myitwarire ya Ntakirutimana muri gereza n'uburyo yari afunzemo, hamwe n'amakuru yerekeye ubuzima bwe bwo mu mutwe; na (iii) ibaruwa yo mu kazi yanditswe n'ibiro bya Porokireri wa MICT (« Porokireri »), kimwe mu byo ivuga akaba ari ibirebana n'ubufatanye hagati ya Ntakirutimana n'Ibiro bya Porokirer[10]. Ntakirutimana yatanze igisubizo kuri izo nyandiko zose hamwe, ngishyikirizwa ku itariki ya 13 Werurwe 2014[11].

[1010]Ibaruwa yo mu rwego rw'akazi yo ku itariki ya 4 Werurwe 2014 Gerefiye John Hocking yandikiye Umucamanza Theodor Meron, Perezida, amushyikiriza (i) *Note verbale* (inyandiko yo mu rwego rwa diplomasiya idasinyweho) yavuye muri Minisiteri y'Ubutabera ya Benin yo ku itariki ya 16 Ukuboza 2013 (« *Note Verbale* »); (ii) raporo ya Obagou; na (iii) inyandiko yo mu rwego rw'akazi yo ku itariki ya 3 Gashyantare 2014 Hassan B.Jallow, Porokireri, yandikiye John Hocking, Gerefiye (« Ibaruwa ya Porokireri »).

[11] Reba ibaruwa yo mu rwego rw'akazi yo ku itariki ya 11 Werurwe 2014 Gerefiye John Hocking yandikiye Umucamanza Theodor Meron, Perezida, amushyikiriza: Icyifuzo gisaba kurekurwa mbere y'igihe : Ibitekerezo ku ibaruwa yo mu rwego rw'akazi yanditswe na Porokireri wa MICT no kuri raporo yakozwe n'abayobozi ba Benin, ku itariki ya 10 Werurwe 2014 (« Igisubizo »).

III. ISESENGURA

A. Amategeko akurikizwa

6. Ingingo ya 26 ya Sitati iteganya ko, niba, hashingiwe ku mategeko akurikizwa mu gihugu umuntu wakatiwe afungiyemo, ashobora kubabarirwa cyangwa kugabanyirizwa igihano, icyo gihugu kibimenyesha MICT. Ingingo ya 26 ya Sitati iteganya kandi ko imbabazi cyangwa igabanyagihano bitangwa gusa iyo Perezida wa MICT abyemeye akurikije inyungu z'ubutabera kandi ashingiye ku mahame rusange y'amategeko.

7. Ingingo ya 149 y'Amategeko isubiramo ibiteganywa n'Ingingo ya 26 ya Sitati kandi iteganya ko igihugu uwakatiwe arangirizamo igihano kimenyesha MICT ko ashobora kugirirwa imbabazi, kugabanyirizwa igihano cyangwa gufungurwa mbere y'igihe hashingiwe ku mategeko yubahirzwa mu gihugu arangirizamo igihano. Ingingo ya 150 y'amategeko iteganya ko iyo Perezida amaze kumenyeshwa icyo kibazo, kandi amaze kubijyamo inama n'abacamanza b'Urugereko rwakatiye umugororwa baburanisha muri MICT, yemeza niba bikwiye ko izo mbabazi zitangwa, ko icyo gihano kigabanywa cyangwa ko uwakatiwe afungurwa mbere y'igihe[12]. Hashingiwe ku biteganywa n'Ingingo ya 151 y'Amategeko, kugira ngo Perezida yemeze niba bikwiye ko uwakatiwe ahabwa imbabazi, agabanyirizwa igihano cyangwa afungurwa mbere y'igihe, azirikana ibintu binyuranye, nk'uburemere bw'icyaha cyangwa bw'ibyaha uwo mugororwa yahamijwe, uko abagororwa bari mu rwego rumwe n'uwo wakatiwe bafatwa, ubushake uwakatiwe agaragaza bwo gusubira mu buzima busanzwe, n'ukuntu yafashije Porokireri.

[12] Uretse jyewe, nta wundi Mucamanza uri muri MICT wari mu Rugereko rwaburanishije uyu mugororwa. Kubera iyo mpamvu, nta mishyikirano n'abandi bacamanza bo muri MICT ikenewe mu rwego rwo gufata icyemezo kuri iki cyifuzo, hakurikijwe ibiteganywa n'Ingingo ya 150 y'Amategeko,

8. Igika cya 2 cy'Amabwiriza Ngengamikorere giteganya ko iyo uwakatiwe yujuje ibisabwa kugira ngo abe yagirirwa imbabazi, yagabanyirizwa igihano cyangwa yarekurwa mbere y'igihe hashingiwe ku mategeko y'igihugu arangirizamo igihano, icyo gihugu kibimenyesha MICT, gishingiye ku biteganywa n'Ingingo ya 26 ya Sitati kandi kibyemeranyijweho n'Umuryango w'Abibumye ku birebana no kurangiza ibihano kandi, aho bishoboka, hasigaye nibura iminsi 45 ngo uwo wakatiwe yuzuze ibisabwa.

9. Mu masezerano yo ku itariki ya 27 Kanama 1999, Guverinoma ya Benin yagiranye n'Umuryango w'Abibumbye ku birebana no kurangiza ibihano byatanzwe n'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Amasezerano yerekeye irangizwa ry'ibihano »), Ingingo yayo ya 3 (2) iteganya ko uburyo abantu bafungwamo ari ubuteganywa n'amategeko ya Benin, ariko bikagenzurwa na TPIR (ubu ikaba ari MICT isigaye ibikora)[13]. Ingingo ya 8 y'Amasezerano yerekeye irangizwa ry'ibihano ikurikizwa na MICT hahinduwe ibigomba guhinduka. Mu byo iteganya harimo n'uko Perezida wa MICT, iyo amaze kumenyeshwa ko hari uwakatiwe ugeze igihe cyo kuba yafungurwa mbere y'igihe hashingiwe ku mategeko ya Benin, kandi amaze kubivuganaho n'Abacamanza ba MICT, asuzuma niba bikwiye gufungura mbere y'igihe uwakatiwe, hanyuma Gerefiye akamenyesha abayobozi bo muri Benin icyemezo cyafashwe na Perezida.

[13] Icyemezo 1966 (2010) cy'Inama Ishinzwe amahoro ku isi giteganya ko amasezerano yose atararangira ku itariki MICT yatangiriye imirimo, azajya akurikizwa na MIC, ariko hahinduwe ibigomba guhinduka. Kubera iyo mpamvu, Amasezerano yerekeye irangizwa ry'ibihano anubahirizwa na MICT. Reba Icyemezo 1996 cy'Inama Ishinzwe amahoro ku isi, U.N.Doc.S/RES/1996 (2010), 22 Ukuboza 2010, igika 4 (« MICT izasimbura TPIY na TPIR ku byerekeranye n'ububasha, imirimo y'ingenzi, uburenganzira n'inshingano izo Nkiko zari zifite, haseguriwe ibiteganywa n'iki cyemezo n'ibiteganywa na Sitati ya MICT. Kontaro zose n'amasezerano mpuzamahanga yose Umuryango w'Abibumbye wasinye yerekeranye na TPIY na TPIR, bizaba bitararangira ku itariki buri shami rizatangiriraho imirimo yaryo bizakomeza kubahirizwa, hahindutse ibigomba guhinduka, ku byerekeranye na MICT »). Ingingo ya 25 (2) ya Sitati iteganya ko « MICT ifite ububasha bwo kugenzura uburyo ibihano byatanzwe na TPIY, TPIR na MICT birangizwa, ndetse ikanagenzura iyubahirizwa ry'amasezerano Umuryango w'Abibumbye wagiranye n'ibihugu ku byerekeranye n'irangizwa ry'ibihano ».

B. Kuzuza ibisabwa mu mategeko ya Benin

10. Benin yamenyesheje Gerefiye ko, hashingiwe ku biteganywa n'amategeko ya Benin, Ntakirutimana yujuje ibisabwa kugira ngo afungurwe mbere y'igihe, kuko yamaze kurangiza icyakabiri cy'igihano yakatiwe[14]. Hashingiwe ku mategeko ya Benin, abagororwa bashobora kurekurwa mbere y'igihe iyo bujuje ibisabwa bimwe na bimwe, birimo ikimenyetso ko bagize imyitwarire myiza n'icyizere gihamye ko bazasubira mu buzima busanzwe[15].

11. Cyakora, n'ubwo Ntakirutimana yaba yujuje ibyangombwa bisabwa kugira ngo afungurwe mbere y'igihe hakurikijwe amategeko ya Benin, ni ngombwa kwibutsa ko ku bagororwa bahamijwe icyaha na TPIR, Perezida wa MICT wenyine ari we ufite ububasha busesuye bwo kubafungura mbere y'igihe, hashingiwe ku Ngingo ya 150 y'Amategeko no ku ya 8(2) y'Amasezerano arebana n'irangizwa ry'ibihano.

C. Uburemere bw'ibyaha

12. Porokireri yibutsa ko Ntakirutimana yahamijwe jenoside n'ubuhotozi nk'icyaha cyibasiye inyokomuntu, byombi akaba ari ibyaha bikomeye cyane[16]. Ntakirutimana ntabwo ahakana ibivugwa na Porokireri ariko avuga ko uburemere bw'icyaha yahamijwe butabuza ko yarekurwa mbere y'igihe[17].

13. Ntakirutimana yahamijwe ibyaba biremereye cyane, birimo nk'ibikorwa byo kugaba ibitero ku mpunzi z'Abatutsi no kuba ubwe yarishe abantu abarashe[18]. Mu kumugenera

[14] Raporo ya Obagou, imp.1-2, reba na none *Note verbale,* imp *1-2.*

[15] Reba *Note Verbale,* urup.1; Raporo ya Obagou, urup.1

[16] Ibaruwa yo mu rwego rw'akazi ya Porokireri, ibika 5-7.

[17] Igisubizo ku bivugwa na Porokireri, ibika 1(c), (e).

[18] Inyandiko y'urubanza mu rw'iremezo, igika 832.

igihano gikwiye, Urugereko rwa Mbere rw'Iremezo rwaragize ruti « Birarenze by'umwihariko kumva ko umuganga [Ntakirutimana] yakwambura abantu ubuzima aho kubakiza »[19]. Ikindi kandi, Urugereko rwa Mbere rw'Iremezo rwasanze, mu bihe binyuranye, Ntakirutimana yarayoboye ibitero byagabwaga ku mpunzi z'Abatutsi kandi « yararashe ubwe ku mpunzi z'Abatutsi, bityo akaba yaragize uruhare rutaziguye mu iyicwa ry'abaturage benshi b'Abatutsi batari bafite intwaro zo kwirwanaho »[20]. Kubera iyo mpamvu, nsanga uburemere bw'ibyaha byakozwe na Ntakirutimana budashyigikira ko afungurwa mbere y'igihe.

D. Kuzuza ibisabwa no gufata kimwe abagororwa bari mu rwego rumwe

14. Ndibutsa ko abantu bahamijwe ibyaha na TPIR, nka Ntakirutimana, bafatwa « nk'abari mu rwego rumwe » n'abandi bagororwa bose bagenzurwa na MICT, kandi ko abantu bahamijwe ibyaha bose bagenzurwa na MICT baba bujuje ibisabwa kugira ngo babe barekurwa mbere y'igihe iyo barangije bibiri bya gatatu by'ibihano bakatiwe, hatitaweho Urukiko rwabakatiye[21]. N'ubwo gushingira kuri bibiri bya gatatu by'igihano umuntu yakatiwe byakomotse mu mikorere ya TPIY, icyo kigero ni na cyo kigenderwaho ku bagororwa bose bagenzurwa na MICT, kuko ari ngombwa ko abantu bose bagenzurwa na MICT bafatwa kimwe kandi ko ibisabwa kugira ngo umuntu abe yafungurwa bikurikizwa kimwe mu mashami yombi ya MICT[22]. Nyamara ariko, uwahamijwe icyaha umaze

[19] Inyandiko y'urubanza mu rw'iremezo, igika 910.

[20] Inyandiko y'urubanza mu rw'iremezo, ibika 911-912.

[21] Reba Urubanza Porokireri aburana na Obed Ruzindana, N° MICT-12-10-ES, Icyemezo cya Perezida gifungura Obed Ruzindana mbere y'igihe (Inyandiko yashyizwe ahagaragara isibyemo ibigomba kugirirwa ibanga) (« Icyemezo cyerekeye Ruzindana »), 13 Werurwe 2014, igika 14. Reba na none Urubanza Porokireri aburana na Omar Serushago, N°MICT-12-28, Icyemezo cya Perezida cyashyizwe ahagaragara giosibyemo ibigomba kugirirwa ibanga, ku birebana no gufungura Omar Serushago mbere y'igihe (« Icyemezo cyerekeye Serushago »), 13 Ukuboza 2012, ibika 16-17.

[22] Reba Icyemezo cyerekeye Ruzindana, igika 14; Icyemezo cyerekeye Omar Serushago, igika 17

kurangiza bibiri bya gatatu by'igihano yakatiwe aba ashobora gusa gusaba gufungurwa mbere y'igihe ariko ntibivuga ko byanze bikunze aba agomba kubyemererwa. Gufungurwa mbere y'igihe byemezwa gusa na Perezida wa MICT iyo abonye ko bikwiye, kandi amaze gusuzuma imiterere ya buri rubanza[23].

15. Nkurikije imibare nikoreye, ku itariki ya 29 Kamena 2013, Ntakirutimana yari aamaze kurangiza igihe kirenga bibiri bya gatatu by'igifungo cy'imyaka 25 yakatiwe[24].

E. Kugaragaza ko umugororwa ashobora gusubizwa mu buzima busanzwe

16. Ndasanga abayobozi bo muri Benin bataratanze inyandiko y'isuzumabuzima ryakorewe Ntakirutimana n'umuhanga mu by'indwara zo mu mutwe cyangwa mu birebana n'imitekerereze y'abantu[25]. Cyakora, umuyobozi wa gereza ya Akpro-Missérété avuga ko Ntakirutimana ari « umugororwa wubahiriza amabwiriza akurikizwa muri gereza ya Akpro Missérété, akaba muri gereza abana neza n'abagororwa bagenzi be ndetse n'abayobozi ba gereza »[26]. Umucungagereza wa gereza ya Akpro Missérété anavuga ko Ntakirutimana afite imyitwarire y'« intangarugero »[27] kandi ko [BYASIBWEMO KUKO ARI IBANGA][28].

17. Muri rusange, nsanga amakuru adahagije yatanzwe n'abayobozi bo muri Benin adatuma nshobora gusuzuma byuzuye uburyo Ntakirutimana ashobora gusubira mu buzima busanzwe, by'umwihariko mu rwego rwo kumenya niba atabangamira abandi aramutse afunguwe.

[23] Reba Icyemezo cyerekeye Ruzindana, igika 14; Icyemezo cyerekeye Serushago, ibika 18, 34.

[24] Reba Raporo ya Obagou, urup.2.

[25] Reba Raporo ya Obagou, urup.7.

[26] Raporo ya Obagou, urup.7.

[27] Raporo ya Obagou, urup.3. By'umwihariko, umuyobozi wa gereza ya Akpro-Missérété avuga ko Ntakirutimana « yizerwa n'ubuyobozi bwa gereza » kandi ko yagize manda nyinshi zo guhagararira abagororwa bagenzurwa na MICT. Reba raporo ya Obagou,imp. 3-4.

[28] Raporo ya Obagou, urup.7

Cyakora, nsanga ibyerekeye kuba nta nyandiko y'isuzumabuzima yakozwe n'umuhanga w'indwara zo mu mutwe cyangwa wo mu birebana n'imitekerereze y'abantu, nta cyo Ntakirutimana yabikoraho, bityo bikaba bitagomba kubangamira icyifuzo cye gisaba kurekurwa mbere y'igihe[29].

18. Uburyo umuyobozi wa gereza ya Akpro-Missérété asobanura imyitwarire ya Ntakirutimana muri gereza byerekana ko Ntakirutimana ashobora gusubira mu buzima busanzwe aramutse arekuwe. Muri urwo rwego, nsanga hari ibimenyetso bikomoka ku myitwarire « ntangarugero » ya Ntakirutimana muri gereza bigaragaza ko ashobora kubana n'abandi mu mahoro kandi akagirira akamaro umuryango mugari w'abantu. Kubera izo mpamvu, nsanga kuba Ntakirutimana agaragaza ko azasubira mu buzima busanzwe bishyigikira ko yarekurwa mbere y'igihe.

F. Gufasha Porokireri ku buryo bugaragara

19. Porokireri avuga ko « nta na rimwe Ntakirutimana yigeze afasha Ibiro bya Porokireri wa TPIR cyangwa wa MICT mu buryo ubwo ari bwo bwose »[30]. Porokireri avuga kandi ko Ntakirutimana atemeye icyaha, aho ngaho akaba atandukanye n'abandi bagororwa barekuwe kugeza ubu na MICT mbere y'igihe[31]. Mu gisubizo cye, Ntakirutimana avuga ko Amategeko cyangwa Amabwiriza ngengamikorere bidateganya ko abahamijwe icyaha bafashije Porokireri ari bo bonyine bashobora kurekurwa mbere y'igihe[32].

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[29] Reba nk'urugero, Icyemezo cyerekeye Ruzindana, igika cya 18 ; Icyemezo cyerekeye Omar Serushago, igika cya 21.

[30] Ibaruwa yo mu rwego rw'akazi ya Porokireri, igika 10 (ntabwo bitsindagiwe nko mu nyandiko biteruwemo)

[31] Ibaruwa yo mu rwego rw'akazi ya Porokireri, ibika 12-14. Reba na none Ibaruwa yo mu rwego rw'akazi ya Porokireri, ibika 15-19.

[32] Igisubizo cya Ntakirutimana, igika 1(d)

20. Ndibutsa rugikubita ko kwemera icyaha bituma imanza zicibwa vuba, ku buryo budahenze kandi bikaba n'ikimenyetso kigaragaza gufasha Porokireri[33]. Cyakora, umuntu uregwa nta nshingano afite yo kwemera icyaha cyangwa yo gufasha Porokireri iyo nta masezerano y'ubwemeracyaha yabayeho[34]. Nsanga na none Porokireri aterekana niba we cyangwa Ibiro bya Porokireri bya TPIR barasabye Ntakirutimana kubufasha icyo ari cyo cyose mu gihe yaburanaga cyangwa nyuma y'uko ahamwe n'icyaha. Bityo rero, nsanga kuba Ntakirutimana atarafashije Porokireri cyangwa Ibiro bya Porokireri wa TPIR atari ingingo nakwitaho mu gusuzuma niba ngomba kumwemerera kurekurwa mbere y'igihe.

G. Izindi mpamvu: Impuhwe za kimuntu

21. Igika cya 9 cy'Amabwiriza Ngengamikorere giteganya ko Perezida ashobora « gusuzuma » andi makuru ayo ari yo yose asanga « afite akamaro » mu rwego rwo kunganira ibisabwa bivugwa mu Ngingo ya 151 y'Amategeko. Mu byemezo byafashwe mbere birebana no gufungura umugororwa mbere y'igihe, byagaragaye ko uko ubuzima bw'uwahamwe n'ibyaha buhagaze bishobora kuzirikanwa mu isuzuma ry'icyifuzo gisaba gufungurwa mbere y'igihe, by'umwihariko iyo kuba amerewe nabi cyane bituma aba atagikwiye kugumishwa muri gereza[35].

22. [BYASIBWEMO KUKO ARI IBANGA][36]. Ndasanga nta dosiye zo kwa muganga cyangwa raporo zakozwe na muganga zatanzwe, kandi amakuru ku birebana n'ubuzima bwa Ntakirutimana muri iki gihe ntavuga rumwe. Kubera uko ibintu biteye, ndasanga ibirebana n'ubuzima bwa Ntakirutimana nta cyo byerekana ku buryo byakwitabwaho mu kwemeza niba akwiye kurekurwa mbere y'igihe.

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[33] Reba Icyemezo cyerekeye Ruzindana, igika 21.

[34] Reba Icyemezo cyerekeye Ruzindana, igika 21, n'inyandiko zifashishijwe zikivugwamo.

[35] Reba, nk'urugero, icyemezo cyerekeye Ruzindana, igika 22; Icyemezo cyerekeye Omar Serushago, ibika 31, 33.

[36] Icyifuzo, urup.1. Reba na none Igisubizo, igika II.

H. Umwanzuro

23. Nyuma yo gusuzumana ubwitonzi ibyitabwaho bivugwa mu Ngingo ya 151 y'Amategeko, n'imiterere yihariye y'urubanza rwa Ntakirutimana, mfashe umwanzuro ko Ntakirutimana akwiye kurekurwa mbere y'igihe. By'umwihariko, Ntakirutimana amaze kurangiza igihe cy'igifungo kirenze bibiri bya gatatu by'igihano yakatiwe kandi yagaragaje ko ashobora gusubira mu buzima busanzwe. Muri urwo rwego, nsanga ibyitabwaho byihariye n'imiterere y'urubanza rwa Ntakirutimana bishyigikira ku buryo buhagije ko arekurwa mbere y'igihe.

IV. ICYEMEZO

24. Kubera impamvu zimaze kuvugwa kandi hashingiwe ku Ngingo ya 26 ya Sitati, iya 150 n'iya 151 z'Amategeko, igika cya 9 cy'Amabwiriza Ngengamikorere n'Ingingo ya 8 y'Amasezerano yerekeye irangizwa ry'ibihano, **NEMEYE** Icyifuzo cya Ntakirutimana.

25. Gerefiye **ATEGETSWE** kumenyesha bidatinze abayobozi bo muri Benin iki cyemezo, nk'uko biteganywa mu gika cya 13 cy'Amabwiriza Ngengamikorere.

Bikozwe mu cyongereza no mu gifaransa, ariko inyandiko y'icyongereza ni yo yagenderwaho haramutse havutse impaka zerekeranye n'imyumvire y'iki cyemezo.

Bikozwe none ku itariki ya 24 Mata 2014

I La Haye

Mu Buholandi

(Umukono)

Umucamanza Theodor Meron

Perezida

[Kashe ya MICT]

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