

Urukiko Mpanabyaha Mpuzamahanga
Rwashyiriweho U Rwanda



Umwimerere : icyongereza

URUGEREKO RWA MBERE RW'IREMEZO II

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POROKIRERI aburana na JUVENAL RUGAMBARARA

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INYANDIKO Y'URUBANZA N'IGENABIHANO

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I. INTANGIRIRO

1. Juvénal Rugambarara yavukiye muri Segiteri ya Bumba, Komini ya Tare, Perefegitura ya Kigali-Ngari, mu wa 1959¹. Aho amariye kuba mukuru, igihe kinini yakibaye muri Komini ya Bicumbi, aho yakoraga akazi k'ubuforomo². Ku itariki ya 4 Kanama 1993 ni bwo yagizwe Burugumesitiri wa Komini ya Bicumbi, muri Kigali-Ngari, akaba yari asimbuye Laurent Semanza³. Nyamara ariko, Juvénal Rugambarara yatangiye imirimo ye nka Burugumesitiri wa Komini ya Bicumbi ku itariki ya 16 Nzeri 1993 ayikora kugeza ku ya 20 Mata 1994⁴.
2. Inyandiko y'ibirego ikubiyemo ibirego icyenda Rugambarara ashinjwa yemejwe n'umucamanza Pavel Dolenc ku itariki ya 13 Nyakanga 2000⁵. Ibyo yaregwaga ni jenocide, kuba icyitso cy'abakoze jenocide, ubwumvikane bugamije gukora icyaha cya jenocide, guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenocide, itsembatsemba, kwica urubozo no gusambanya ku gahato nk'ibyaha byibasiye inyokomuntu, n'ibikorwa bikomeye binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve yo ku ya 12 Kanama 1949. Ibyo byaha biteganywa n'Ingingo ya 2, iya 3, iya 4, iya 6(1) n'iya 6(3) za Sitati y'Urukiko (Sitati)⁶. Ku itariki ya 14 Nyakanga 2000, Umucamanza Pavel Dolenc yatanze manda ya mbere yo gufata Rugambarara ikubiyemo n'itegeko ryo kumwohereza no kumufungira muri gereza⁷. Ku itariki ya 11 Kanama 2003, ni bwo Rugambarara yafatiwe muri Uganda⁸, hanyuma ku ya 13 Kanama 2003

¹ Inyandiko y'ibirego yahinduwe, 2 Nyakanga 2007 (« Inyandiko y'ibirego »), igika cya 2.

² Inyandiko y'ibirego, igika cya 2.

³ Inyandiko y'ibirego, igika cya 3.

⁴ Inyandiko y'ibirego, igika cya 3.

⁵ Iyemezwa ry'Inyandiko y'ibirego, hamwe n'Icyemezo cyo kudashyira ahagaragara Inyandiko y'ibirego no ku kubungabunga umutekano w'abatangabuhamya n'uw'abahohotewe (Urugereko rwa Mbere rw'Iremezo).

⁶ Ni kimwe no haruguru.

⁷ Inyandiko itegeka gufata Uregwa n'Icyemezo kigena iyimura n'ifungwa ry'Uregwa, byo ku itariki ya 14 Nyakanga 2000; haje kongerwaho izindi Nyandiko ebyiri zo gufata Rugambarara: Inyandiko yo kumufata, kumuzana, kumufunga, gusaka no gufatira ibye (Urugereko rwa Mbere rw'Iremezo), 1 Kamena 2001; Inyandiko yo kumufata, kumuzana, kumufunga, gusaka no gufatira ibye (Urugereko rwa Mbere rw'Iremezo), 15 Gashyantare 2002.

⁸ Inyandiko yo gufata, kuzana no gufunga Uregwa, ari we Juvénal Rugambarara, Gerefiye w'Urukiko yayishyikirije Minisitiri w'Ubutabera wa Uganda ku itariki ya 11 Kanama 2003.

yoherezwa Urukiko. Ku itariki ya 15 Kanama 2003, ni bwo yitabye Urukiko bwa mbere na mbere maze ahakana ibyaha byose bikubiye mu Nyandiko y'ibirego⁹.

3. Ku itariki ya 12 Kamena 2007, Porokireri yatanze icyifuzo gisaba Urugereko kumwererera guhindura Inyandiko y'ibirego¹⁰. Ubwunganizi bwashyigikiye icyo Cyifuzo¹¹. Ku itariki ya 28 Kamena 2007, Urugereko rwemereye Porokireri guhindura Inyandiko y'ibirego ya mbere, bityo ayisimbuzza indi ikubiyemo ikirego kimwe gusa.¹² Iyo Nyandiko y'ibirego yahinduwe yo ku ya 2 Nyakanga 2007 (Inyandiko y'ibirego) yashinjaga Juvénal Rugambarara icyaha cy'itsembatsemba mu rwego rw'ibyaha byibasiye inyokomuntu biteganywa n'Ingingo ya 3(b) ya Sitati, kubera ko yananiwe kuzuzwa inshingano ze zo gufata ibyemezo bya ngombwa kandi bikwiye kugira ngo hakorwe iperereza ku byaha byakozwe n'abakozi yari ayoboye hagati y'itariki ya 7 n'ya 20 Mata 1994, hagamijwe gufata abagizi ba nabi no kubashyikiriza inzego zibishinzwe ngo bahanwe nk'uko biteganywa n'Ingingo ya 6(3) y'Amategeko¹³. By'umwihariko, Inyandiko y'ibirego ivuga ko hagati y'itariki ya 7 n'ya 20 Mata 1994, abakozi bategekwe na Juvénal Rugambarara (ba konseye, abapolisi ba Komini, abayobozi b'inzego zo hasi n'insoresore z'umutwe witwaraga gisirikare) bateye Abatutsi bari bateraniye i Mwurire, no mu masegiteri ya Mabare na Nawe, muri Komini ya Bicumbi, Perefegitura ya Kigali-Ngari, ibyo bitero bikaba byarahitanye ibihumbi by'Abatutsi b'abasiviri¹⁴. Ibyo byabaye hagati y'itariki ya 13 n'ya 18 Mata 1994 mu nkambi y'i Mwurire, ku itariki ya 13 Mata cyangwa hafi yayo ku biro bya Segiteri Mwurire, hagati y'itariki 12 na 18 Mata 1994 ku musigiti wa Mabare, no ku itariki ya 8 Mata 1994 muri Segiteri Nawe¹⁵.

⁹ Inyandikomvugo y'iburanisha, 15 Nyakanga 2003, imp. 6, 8, 11, 13, 16, 17, 20, 24 na 26.

¹⁰ icyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego, hakurikijwe Ingingo ya 73, ya 50 n'ya 51 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso.

¹¹ Igisubizo cy'Ubwunganizi ku Cyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego, hakurikijwe Ingingo ya 73, ya 50 n'ya 51 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, cyatanze ku itariki ya 13 Kamena 2007.

¹² icyemezo ku Cyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego (Urugereko rwa Mbere rw'Iremezo).

¹³ Inyandiko y'ibirego, ibika 14 na 15.

¹⁴ Inyandiko y'ibirego, igika 16.

¹⁵ Inyandiko y'ibirego, ibika 17 - 33.

II. KWIBUTSA UKO IMIBURANISHIRIZE YAGENZE

A. Ubwemeracyaha

4. Ku itariki ya 13 Kamena 2007, ababuranyi bombi batanze icyifuzo gihuriweho gisaba Urugereko gusuzuma Amasezerano y'ubwemeracyaha Rugambarara yagiranye n'Ibiro bya Porokireri¹⁶. icyo cyifuzo cyerekanye impamvu iryo yemeracyaha rishingiyeho mu byabaye no mu mategeko kugira ngo Urugereko rubisuzume, hashingiwe ku Ngingo ya 62(B) n'ya 62 bis z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso¹⁷.
5. Ubwo yongeraga kwitaba Urugereko ku itariki ya 13 Nyakanga 2007, Juvénal Rugambarara yemeye icyaha cyo kuba yarateshutse ku nshingano ze zo gufata ibyemezo

¹⁶ icyifuzo gihuriweho cya Juvénal Rugambarara na Porokireri cyo gusuzuma amasezerano y'ubwemeracyaha (« icyifuzo gihuriweho »)

¹⁷Ingingo ya 62 y'Amategeko : Kwitaba Urukiko bwa mbere na mbere no kwemera cyangwa guhakana icyaha. B) Iyo uregwa yemeye icyaha nk'uko biteganywa mu gika A) (v) cyangwa agasaba kwisubira ngo yemere icyaha yari yarahakanye, Urugereko rugomba kugenzura niba ubwemeracyaha bwe:

- i) bwabaye nta gahato kandi ku bwende;
- ii) yabutanze azi neza icyo yiyemeje ;
- iii) butarimo uguhuzagurika ; kandi
- iv) bushingiye ku bimenyetso bihagije mu kugaragaza icyaha n'uruhare uregwa yagize mu ikorwa ryacyo, hitaweho ibimenyetso bitabogamye cyangwa mu gihe rubona ko hagati y'uregwa na Porokireri nta kunyuranya gukomeye kuriho ku birebana n'uko ibintu byagenze ;

Rwasanga ariko bimeze, rukaba rwakwemeza ko uregwa ahamwa n'icyaha, rugategeka Gerefiye gushyiraho itariki y'isomwa ry'urubanza rumugenera igihaNo

Ingingo ya 62 bis y'Amategeko: Ibikorwa iyo habayeho amazezerano y'ubwemeracyaha

A) Porokireri n'Ubwunganizi bashobora kumvikana ko, nyuma y'uko uregwa yemera ibyaha byose ashinjwa, cyangwa kimwe cyangwa byinshi muri byo, Porokireri azakora ibi bikurikira cyangwa bimwe muri byo imbere y'Urugereko rwa Mbere rw'Iremezo:

- i) gusaba uruhushya rwo guhindura inyandiko y'ibirego kugira ngo ihuzwe n'ubwo bwemeracyaha;
- ii) gusabira uregwa igihano iki n'iki cyangwa kwerekana ibihano ntarengwa abona bikwiriye;
- iii) kutarwanya icyifuzo cy'uregwa cyo gahanishwa igihano iki n'iki cyangwa kutarengerezwa ibihano ibi n'ibi.

B) Urugereko rwa Mbere rw'Iremezo ntirutegetswe gukurikiza ibiri mu masezerano avugwa mu gika A).

C) Iyo ababuranyi bagiranye amasezerano y'ubwemeracyaha, Urugereko rwa Mbere rw'Iremezo rusaba ko ayo masezerano yashyirwa ahagaragara, haba mu iburanisha ryo mu ruhamwe cyangwa mu muhezo niba hatanzwe impamvu zumvikana, ari nabwo uregwa yemera ibyaha hakurikijwe ibiteganywa n'Ingingo ya 62 A) v), cyangwa agasaba kwisubira yemera ibyaha yari yahakanye mbere.

bya ngombwa kandi bikwiye byo guhana abakozi yari akuriye kubera ibyaha bakoze hagati y'itariki ya 7 n'ya 20 Mata 1994¹⁸.

6. Urugereko rwagenzuye niba ubwemeracyaha bwa Rugambarara bwujuje ibisabwa. Rumaze kumubaza ibibazo, rwasanze azirikana neza ko:
- iyo Uregwa ahakanye ibyaha ashinjwa afatwa nk'umwere kugeza igihe herekanywe mu buryo budashidikanywaho ko ahamwa n'ibyashinjwa;
 - iyo yemeye icyaha aba yivukije uburenganzira bwe bwo kuburanishwa hakurikijwe imihango yose iteganyijwe mu rubanza ruboneye, harimo no kwivutsa uburenganzira bwo kubaza abatangabuhamya bashinja ibibazo binyomoza¹⁹;
 - iyo ubwemeracyaha bwe bwakiriwe, Urugereko rumuhamya icyaha rukanamukatira igihano cy'igifungo.

Ikindi kandi, Rugambarara yemeye ko yagiranye na Porokireri Amasezerano y'ubwemeracyaha. Yanemeje ko Avoka umwunganira yamusobanuriye neza rwose ibikubiye muri ayo Masezerano y'ubwemeracyaha, kandi ko yumva imiterere y'ibyaha ashinjwa²⁰.

7. Uregwa yavuze ko yemeye icyaha ku bushake bwe, nta kindi bamwemereye cyangwa bamusezeranyije kirenze ibiri mu Masezerano y'ubwemeracyaha. Yemeje ko yanyuzwe n'ibisobanuro bikubiye mu Nyandiko y'ibirego, kandi ko ibyabaye biyivugwamo atazabikemanga nyuma yo kwemera icyaha²¹. Rugambarara kandi yemeje ko yemeye icyaha nta muntu umwokeje igitutu cyangwa umushyizeho agahato²².

B. Imyanzuro y'Urugereko ku buryozwacyaha bwa Rugambarara

8. Urugereko rwasanze Uregwa yaremeye icyaha nta gahato, ku bwende bwe, ku buryo budahuzagurika kandi azi neza icyo akora. Mu cyemezo cyarwo cyatanzwe mu magambo

¹⁸ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, urup. 8.

¹⁹ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, imp. 8,10.

²⁰ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, urup. 9.

²¹ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, imp. 9-10.

²² Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, imp. 8-10.

ku itariki ya 13 Nyakanga 2007, Urugereko rwasanze Uregwa na Porokireri bumvikana ku bikorwa byashingiweho bagirana amasezerano y'ubwemeracyaha kandi rusanga ibyo bikorwa bihagije kugira ngo bihamye Uregwa ibyaha yemeye. Urugereko rwasanze ibyo bikorwa nk'uko bikubiye mu Nyandiko y'ibirego byujuje ibya ngombwa bisabwa kugira ngo bibarwe mu byaha byibasiye inyokomuntu : ibitero byagabwe byari ibitero rusange kandi byibasiye abasiviri b'Abatutsi bazira ubwoko bwabo²³. Na none kandi, umubare w'abantu bishwe ugaragaza ko ari itsembatsemba²⁴.

9. Rushingiye ku bivugwa haruguru, Urugereko rwasanze Uregwa ahamwa n'itsembatsemba nk'icyaha cyibasiye inyokomuntu, hakurikijwe ingingo ya 3 (b) n'iya 6 (3) za Sitati²⁵.

III. IBURANISHA KU BIREBANA N'IGIHANO

10. Ku itariki ya 13 Nyakanga 2007, Uugereko rwategetse ko iburanisha ku birebana n'igihano rizaba ku itariki ya 17 Nzeri 2007²⁶. Ababuranyi batanze imyanzuro yabo ku birebana n'igihano ku itariki ya 12 Nzeri 2007, maze iburanisha riba ku itariki ya 17 Nzeri 2007. Ubwunganizi bwahamagaje abatangabuhamya batanu bavuze ku mico

²³ Ingingo ya 3: Ibyaha byibasiye inyokomuntu

Urukiko Mpuzamahanga Rwashyiriweho u Rwanda rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoze ibyaha by'ubugome bikurikira, mu gihe byakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri abo ari bo bose bazira ubwengehugu bwabo, umutwe wa politiki barimo, ubwoko bwabo cyangwa idini ryabo:

- (a) Ubuhotozi;
- (b) Itsembatsemba;
- (c) Gushyira mu bucakara;
- (d) Gucira ishyanga
- (e) Gufunga;
- (f) Kwica urubozo;
- (g) Gusambanya ku gahato;
- (h) Gutoteza bishingiye ku mpamvu za politiki, iz'ubwoko n'iz'idini;
- (i) Ibindi bikorwa bibi birenze kameremuntu.

²⁴ *Urubanza Porokireri aburana na Ndindabahizi*, N° ICTR-2001-71-A, Urubanza mu rw'Ubujurire, 16 Mutarama 2007, igika 135, ahasubirwamo ibivugwa mu rubanza rwa *Porokireri aburana na Ntakirutimana*, N° ICTR-96-10/ICTR-96-17, Urubanza mu rw'Ubujurire, 13 Ukuboza 2004, igika 516.

²⁵ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, urup.14.

²⁶ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, urup.16.

y'Uregwa, kandi bwemerewe gutanga ubuhamya bwanditse bwatanzwe n'umutanga-buhamya umwe, hakurikijwe ingingo ya 92 bis y'Amategeko²⁷.

A. Amategeko akurikizwa

11. Urukiko rwashyiriweho kugira ngo rukurikirane kandi ruhane abakoze amarorerwa mu Rwanda mu wa 1994, bityo umuco wo kudahana ukarimbuka burundu. Rwanashyiriweho kandi kugira ngo rugire uruhare mu bwiyunge bw'Abanyarwanda, mu kugarura no kubungabunga amahoro, no kugira ngo mu Rwanda ibyo kwica amategeko mpuzamahanga arengera abantu mu gihe cy'intambara bihagarare kandi bibonerwe umuti ukwiye²⁸. Urugereko rusanga urubanza ruciwe mu buryo buboneye, n'igihano gikwiye mu gihe Uregwa ahamwe n'icyaha, bituma izo ntego zigerwaho. Na none kandi, kuba igihano gituma abantu batinya gukora icyaha, abagikoze bakabona impongano yacyo kandi bakagororwa na yo ni amahame Urugereko rwagendeyeho mu kugena igihano²⁹.
12. Igihano kigenwa n'Urugereko ni icy'igifungo gusa, nk'uko biteganywa n'ingingo ya 23 ya Sitati n'iya 101 y'Amategeko. Icyo gihano ntikigomba kurenga igifungo cya burundu³⁰. Muri Sitati no mu Mategoko nta na hamwe hateganywa ibihano ibi n'ibi ku byaha Urukiko rufite ububasha bwo kuburanisha.
13. Bityo rero, Urugereko rufite ububasha busesuye mu kugena igihano. Muri ubwo bwisanzure bwarwo, Urugereko ruzirikana ingingo zitandukanye, nk'uburemere bw'icyaha, impamvu zongera ububi bw'icyaha cyangwa zoroshya ububi bwacyo,

²⁷ Ku itariki ya 14 Nzeri 2007, Abavoka bunganira Rugambarara batanze icyifuzo gisaba ko hakwagirwa inyandiko z'ubuhamya bw'abagabo bane hakurikijwe Ingingo ya 92 bis y'Amategeko n'Icyifuzo gisaba ko hakirwa ibimenyetso by'inyandiko, videwo n'amashusho hakurikijwe Ingingo ya 100 A) y'Amategeko. Mu iburanisha ryerekeye igenabihano, Urugereko rwasanze inyandiko imwe gusa y'ubuhamya ari yo yujuje ibisabwa n'Ingingo ya 92 bis y'Amategeko. Urugereko kandi rwanze icyifuzo cy'Ubwunganizi cyasabaga ko hakirwa ibimenyetso by'inyandiko, videwo n'amashusho kubera ko Ubwunganizi bwagombaga kuba bwaratanze ibyo bimenyetso bitarenze ku itariki ya 12 Nzeri 2007 hakurikijwe Ingingo ya 100 (A), kandi hakaba nta mpamvu zifatika zatanze zo gusobanura ubwo bukererwe (Inyandikomvugo y'iburanisha, 17 Nzeri 2007, imp. 25-26).

²⁸ Icyemezo N° 955 cy'Inama Ishinzwe Amahoro ku Isi, 8 Ugushyingo 1994.

²⁹ *Urubanza Porokireri aburana na Joseph Serugendo*, N° ICTR-2005-84-I, Urubanza n'igenabihano mu rw'Iremezo, 12 Kamena 2006, igika 33; *Urubanza Porokireri aburana na Zlatko Aleksovski*, N° IT-95-14/1-A, Urubanza mu rw'Ubujurire, 24 Werurwe 2000, 185; *Urubanza Porokireri aburana na Mucić na bagenzi be*, N° IT-96-21-A, Urubanza mu rw'Ubujurire, Gashyantare 2001, 806.

³⁰ Ingingo ya 101 A) y'Amategeko.

ibirebana n'ubuzima bwite bw'uwahamwe n'icyaha, n'urutonde rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda³¹.

14. Kugira ngo impamvu zongera ububi bw'icyaha zemerwe, zigomba gutangirwa ibimenyetso ku buryo budashidikanywaho, naho impamvu zoroshya ububi bw'icyaha zo zishobora gutangirwa ibimenyetso bishobora kuba byafatwa nk'ukuri³².
15. Urugereko rusanga rufite inshingano yo kugena igihano kijyanye n'imitererere bwite y'urubanza n'imibereho bwite y'uwoze icyaha³³.
16. Urugereko ntrugomba gukurikiza byanze bikunze intera y'ibihano yavuzwe n'abaturanyi bombi mu cyifuzo cyabo gihuriweho gisaba Urugereko kwita ku masezerano yo kwemera icyaha³⁴.

B. Uburemere bw'icyaha

1. Ibivugwa n'abaturanyi

17. Porokireri avuga ko uburemere bw'icyaha ari yo ngingo ya mbere igomba kwitabwaho mu kugena igihano gikwiye. Avuga ko icyaha Rugambarara yarezwe kandi yemeye ari

³¹ Ingingo ya 23 ya Sitati : Ibihano

2. Mu kugena igihano icyo ari cyo cyose, Urugereko rwa Mbere rw'Iremezo ruzirikana ibintu binyuranye, nk'uburemere bw'icyaha n'imibereho bwite y'uwohamwe n'icyaha.

Ingingo ya 101 : Ibihano

B) Mu kugena ibihano, Urugereko rwa Mbere rw'Iremezo ruzirikana ibiteganywa n'ingingo ya 23 ya Sitati mu gika cya 2, ndetse n'ibi bikurikira:

- i) Impamvu zongera ububi bw'icyaha ;
- ii) Impamvu nyoroshyacyaha harimo n'uburyo uregwa yafashije Porokireri mbere cyangwa nyuma y'uko icyaha kimuhama;
- iii) Urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda;
- iv) Igihe uwahamwe n'icyaha yamaze muri gereza afungirwe icyo cyaha ku cyemezo cy'urukiko rw'igihugu iki n'iki, hakurikijwe ingingo ya 9 ya Sitati, igika cya 3).

³² Urubanza Porokireri aburana na Juvénal Kajelijeli, N° ICTR-98-44-A, Urubanza mu rw'Uburujire, 23 Gicurasi 2005, igika 294.

³³ Urubanza rwa Mucić n'abandi mu rw'Uburujire, igika cya 717; Porokireri aburana na Mikaeli Muhimana, N° ICTR-95-1B-T, Urubanza n'igenabihano mu rw'Iremezo, 28 Mata 2005, igika 594; Porokireri aburana na Fatmir Limaj na bagenzi be, N° IT-03-66A, Urubanza mu rw'Uburujire, 27 Nzeri 2007, ibika 127, 133 na 135.

³⁴ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, urup. 10.

ibyaha ubusanzwe bikomeye cyane, isi yose yabonye ko ari agahomamunwa. Porokireri yemeza kandi ko, nk'uko bivugwa mu Nyandiko y'ibirego, abo bantu benshi bishwe mu rwego rwa gahunda nini yo gutsemba Abatutsi mu Rwanda hose, hagati ya Mata na Kamena 1994. Bityo rero, ibyo Rugambarara aregwa ntibyagombye gusuzumwa byonyine, ahubwo byagombye gushyirwa mu rwego rusange rw'ibyabaye mu Rwanda mu wa 1994, cyane cyane ibyabereye muri Perefegitura ya Kigali-Ngari muri icyo gihe³⁵.

18. Ubwunganizi buvuga ko Rugambarara yemera rwose kuryozwa icyaha. Ariko na none bukongeraho ko Rugambarara atagize uruhare ku giti cye mu bwicanyi bwakorewe muri Komini ya Bicumbi kandi ko atategetse abandi bantu cyangwa se ngo abashishikarize kubukora³⁶.

2. Imyanzuro y'Urugereko

19. Uburemere bw'icyaha, uruhare Uregwa yagize mu gukora icyaha n'uburyo yagikozemo³⁷, bigomba kwitabwaho mu kugena igihano. Ibyaha byibasiye inyokomuntu ni ibyaha bikomeye cyane kubera ko ubwabyo ari amahano kandi isi yose ibona ko ari agahomamunwa³⁸.
20. Urugereko rusanze kuba Rugambarara atarakoze ibyo yagombaga gukora ari icyaha gikomeye cyane kandi yanyuranyije cyane n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara. Urugereko ruraniyitsa ko « Mu gihe ingereko za mbere z'iremezo zisuzuma uburemere bw'icyaha, atari ngombwa ko zita ku byo Uregwa atakozwe »³⁹. Byongeye kandi, kuba Uregwa ataracuze umugambi wo gukora icyaha, atategetse cyangwa ngo ashishikarize abantu kugikora ntabwo ari impamvu Urugereko rugomba

³⁵ Imyanzuro ya Porokireri yerekeranye n'ibihano, igika 33.

³⁶ Imyanzuro y'Ubwunganizi yerekeranye n'ibihano, igika 49.

³⁷ *Urubanza rwa Mucić na bagenzi be*, Urubanza mu rw'Iremezo, igika 731; *Porokireri aburana na Zoran Kupreskić*, N° IT-95-16-A, Urubanza mu rw'Ubujurire, 23 Ukwakira 2001, igika 442, *Urubanza Porokireri aburana na Zlatko Aleksovski*, N° IT-95-14/1-T, Urubanza mu rw'Iremezo, 25 Kamena 1999, igika 243.

³⁸ *Urubanza Porokireri aburana na Georges Ruggiu*, N° ICTR-97-32-I, Urubanza n'igenabihano mu rw'Iremezo, 1 Kamena 2000, igika 48.

³⁹ *Urubanza Porokireri aburana na Momir Nikolic*, N° IT-02-60/1-A, Urubanza mu rw'Ubujurire rwerekeye igenabihano, 8 Werurwe 2006, igika 56.

guha agaciro⁴⁰. icyakora, Urugereko ruributsa ko Uregwa ashinjwa gusa kuba yarateshutse ku nshingano ze amaze kumenya ko ibyo byaha byakozwe. Ni ukuvuga rero ko bitari bigishobotse kurengera abo bantu bishwe, ibyo bikaba bituma uburemere bw'icyaha ashinjwa bugabanuka.

C. Impamvu zongera ububi bw'icyaha

1. Imiterere y'icyaha

a. I bivugwa n'ababuranyi

21. Porokireri avuga ko kubera uburemere n'ububi bw'icyaha cy'itsembatsemba nk'icyaha cyibasiye inyokomuntu, no kubera ko ari icyaha gihanwa n'amategeko mpuzamahanga bituma imiterere yacyo ubwabyo ari impamvu yongera ububi bw'icyaha. Porokireri anavuga kandi ko icyo cyaha kiremereye cyane kubera ko hishwe ibihumbi by'abasiviri mu Rwanda mu gihe cy'iminsi 100, ibyo na byo bikaba ari impamvu yongera ububi bw'icyaha⁴¹.

b. Imyanzuro y'Urugereko

22. Urugereko rurazirikana ko « mu gihe impamvu yongera ububi bw'icyaha ari imwe mu bya ngombwa bigize icyaha, idashobora kuba na none ingingo yakwitabwaho mu kugena igihano »⁴².
23. N'ubwo igikorwa gifatika (*actus reus*) gisabwa mu rwego rw'amategeko kugira ngo habeho icyaha cy'itsembatsemba ari « iyicwa ry'abantu benshi », ntibivuga ko hagomba kuba « hishwe nibura umubare runaka ». Ariko iyo hari abantu benshi cyane bishwe

⁴⁰ Ni kimwe no haruguru, igika 56.

⁴¹ Imyanzuro ya Porokireri yerekeranye n'igihano, urup.7, igika 36; Inyandikomvugo y'iburanisha, 17 Nzeri, urup. 27.

⁴² Urubanza Porokireri aburana na Tihomir Blaskić, N° It-95-14A, Urubanza mu rw'Ubujurire, 29 Nyakanga 2004, igika 693, rwavuzweho mu rubanza rwa Ndinabahizi mu rw'Ubujurire, igika 137; *Limaj na bagenzi be*, Urubanza mu rw'Ubujurire, igika 143.

bishobora kuba impamvu yongera ububi bw'icyaha, yakwitabwaho mu kugena igihano niba uwo mubare w'abantu bishwe urenze usabwa kugira ngo icyaha cyitwe itsembatsemba⁴³.

24. Ibyaha Rugambarara yemeye byerekeranye n'iyicwa ry'ibihumbi by'abasiviri b'Abatutsi muri Segiteri ya Mwulire, iya Mabare n'iya Nawe, muri Komini ya Bicumbi⁴⁴. Urugereko rusanga abo abantu bishwe ari benshi cyane bidanzwe bityo iyo ikaba ari impamvu yongera ububi bw'icyaha igomba kwitabwaho mu kugena igihano.

2. Umwanya Juvénal Rugambarara yari afite

a. Ingingo z'ababuranyi

25. Porokireri avuga ko, nka Burugumesitiri wa Komini ya Bicumbi muri Perefegitura ya Kigali-Ngari hagati y'itariki ya 4 Kanama 1993 n'iya 20 Mata 1994, Juvénal Rugambarara ari we wari umutegetsi mukuru mu rwego rwa komini, akaba yari afite ububasha muri komini yose kandi akaba yari ahagarariye ubutegetsi nyubahirizategeko muri komini. Yari umuntu ukomeye cyane mu baturage b'iyi komini. Porokireri kandi avuga ko kuba Rugambarara ari we wari ufite inshingano y'umwihariko y'iyubahiriza ry'amategeko ari impamvu ikomeye yongera ububi bw'icyaha kubera ko atubahirije inshingano ze maze ngo afate ingamba za ngombwa kugira ngo abo yari akuriye bahanwe kandi yari abifitiye ubushobozi. Porokireri avuga ko kuba Rugambarara yarateshutse kuri iyo nshingano byatumye abantu yategekaga batubahiriza amategeko bityo akaba yarataziye icyizere yari yaragiriwe ubwo yahabwaga ubutegetsi. Porokireri avuga kandi ko kuba Rugambarara yari umutegetsi kandi yegereye abatwaga, byamuhaga inshingano yo kubahiriza amahame akubiye mu Itegeko-nshinga n'iyi kuba inyangamugayo kurusha abandi, izo nshingano akaba ariko yaraziteshutseho. Porokireri yongeraho ko Rugambarara ari umuntu wize kandi usobanukiwe neza agaciro n'icyubahiro

⁴³ *Urubanza rwa Ndingabizi* mu rw'Uburundi, igika 135, hasubirwamo ibyavuzwe mu rubanza rwa *Ntakirutimana* mu rw'Uburundi, igika 516.

⁴⁴ Amasezerano y'ubwemeracyaha Juvénal Rugambarara yagiranye n'Ibiko bya Porokireri (Amasezerano y'ubwemeracyaha), 13 Kamena 2007, ibika 38, 40, 41, 42, 44, 46-48, 49-50 na 52, ari ku mugereka w'Icyifuzo gihuriweho.

by'ikiremwanuntu. Porokireri arangiza avuga ko byoroheye abaturage kwica abasiviri b'Abatutsi muri Komini ya Bicumbi kubera ko bemeraga kandi bafitiye icyizere abategetsi babo, n'ubwo babibeshyagaho, bakibwira ko babashyigikiye bityo bagatekereza ko batazakurikiranwa nibica Abatutsi bakanasahura ibyabo⁴⁵. Porokireri arasaba Urugereko gufata izi ngingo zose zirebana n'umwanya w'ubutegetsi Rugambarara yari afite nk'impamvu yongera ububi bw'icyaha.

b. Imyanzuro y'Urugereko

26. Urugereko ruributsa ko icyangombwa kigize icyaha kidashobora kuba impamvu yongera ububi bwacyo. Bityo rero, umwanya w'ubutegetsi Rugambarara yari afite si impamvu yongera ububi bw'icyaha kubera ko ari icyangombwa kigize icyaha hakurikijwe ingingo ya 6 3) ya Sitati. Nyamara, Urugereko ruributsa ko n'ubwo hari igihe kugira ngo umuntu aryozwe icyaha iki n'iki biba ngombwa ko hagaragazwa ko yari umutegetsi, kuba umuntu yari umutegetsi wo hejuru atari kimwe mu bisabwa kugira ngo umuntu aryozwe icyaha, bityo bikaba byashobora gufatwa nk'impamvu yongera ububi bwacyo⁴⁶.
27. Na none kandi, byaragaragaye neza mu bukemuramanza bw'Urukiko Mpanabyaha Mpuzamahanga Rwagenewe u Rwanda, hamwe n'ubw'urwagenewe icyahoze cyitwa Yugosilaviya, ko uburyo Uregwa yakoresheje ubutegetsi bwe cyangwa kuba yarakoresheje nabi umwanya yari afite mu baturage bishobora gufatwa nk'impamvu yongera ububi bw'icyaha⁴⁷.

⁴⁵ Imyanzuro ya Porokireri yerekeranye n'igihano, igika cya 47; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 28-29.

⁴⁶ *Urubanza Porokireri aburana na Galic*, N° IT-98-29-A, Urubanza mu rw'Ubujurire, 30 Ugushyingo 2006, igika 412.

⁴⁷ *Urubanza rwa Aleksovski* mu rw'Ubujurire, igika 183; *Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana*, N° ICTR-95-1-A, Urubanza mu rw'Ubujurire (impamvu), 1 Kamena 2001, ibika 357 na 358; *Urubanza rwa Ntakirutimana* mu rw'Ubujurire, igika 563; *Urubanza Porokireri aburana na Jean de Dieu Kamuhanda*, N° ICTR-99-54A-A, Urubanza mu rw'Ubujurire, 19 Nzeri 2005, ibika 347 na 348; *Urubanza Porokireri aburana na Paul Bisengimana*, N° ICTR-00-60-T, Urubanza n'igenabihano mu rw'Iremezo, 13 Mata 2006, igika 120; *Urubanza rwa Serugendo* mu rw'Iremezo, igika cya 48; *Urubanza rwa Ndindabahizi* mu rw'Ubujurire, igika 136.

28. Urugereko rusanga Juvénal Rugambarara atari umutegetsu wo mu rwego rwo hejuru. Kuba yari Burugumesitiri wa Komini ya Bicumbi bivuga ko nta ntera yindi yari hagati ye n’abo yari akuriye, bityo bikaba bitaba impamvu yongera ububi bw’icyaha.
29. Urugereko rusanga kandi Porokireri akuririza ibyo yareze Rugambarara akarenga ibikubiye mu Nyandiko y’ibirego amwitirira kuba yaragize uruhare mu buryo abaturage bitwaye, ndetse akanakabiriza uburyo avuga ko Uregwa yakoresheje nabi umwanya w’ubutegetsu yari afite. Urugereko ntirwemeye ibivugwa na Porokireri kuri iki kibazo.

D. Impamvu nyoroshyacyaha

1. Amategeko akurikizwa

30. Si ngombwa ko impamvu nyoroshyacyaha ziba zifite aho zihuriye n’icyaha ku buryo butaziguye⁴⁸. Ubwemeracyaha bushobora kuba impamvu nyoroshyacyaha iyo uwireze yagaragaje ko ababajwe n’ibyabaye⁴⁹ kandi ko yicujije⁵⁰, iyo bigira uruhare mu bwiyunge⁵¹, bituma ukuri kumenyekana⁵², bishishikariza abandi bakoze ibyaha na bo kubyemera⁵³, bituma iperereza n’urubanza bidafata igihe kirekire, bityo imbaraga n’ibindi bikoresho ntibipfe ubusa⁵⁴, kandi bituma abatangabuhamya batagomba kuza gutanga ubuhamya mu rukiko⁵⁵. Igihe Uregwa yemereye icyaha na cyo ni impamvu igomba kwitabwaho mu kugena igihano⁵⁶.

⁴⁸ *Urubanza Porokireri aburana na Dragan Nikolić*, N° IT-94-2-S, Urubanza n’igenabihano mu rw’Iremezo, 18 Ukuboza 2003, igika 145; *Urubanza Porokireri aburana na Miroslav Deronjić*, N° IT-02-61-S, Urubanza n’igenabihano mu rw’Iremezo, 30 Werurwe 2004, igika 155.

⁴⁹ *Urubanza Porokireri aburana na Biljana Plavsić*, N° IT-00-39&40/S, Urubanza n’igenabihano mu rw’Iremezo, 27 Gashyantare 2003, igika 73.

⁵⁰ *Urubanza rwa Ruggiu* mu rw’Iremezo, igika 55.

⁵¹ *Urubanza rwa Plavsić* mu rw’Iremezo, ibika 80- 81.

⁵² *Urubanza Porokireri aburana na Drazen Erdemović*, N° IT-96-22, Urubanza n’igenabihano mu rw’Iremezo, 5 Werurwe 1998, igika 21; *Urubanza rwa Nikolić* mu rw’Iremezo, igika 248; Urubanza rwa *Serugendo* mu rw’Iremezo, igika 55.

⁵³ *Urubanza rwa Ruggiu* mu rw’Iremezo, igika 55.

⁵⁴ Ni kimwe no haruguru, igika 53.

⁵⁵ *Urubanza rwa Serugendo* mu rw’Iremezo, ibika 52 na 57.

⁵⁶ *Urubanza Porokireri aburana na Jean Kambanda*, N° ICTR-97-23-S, Urubanza n’igenabihano mu rw’Iremezo, 4 Nzeri 1998, igika 52; *Urubanza Porokireri aburana na Dusko Sikirica na bagenzi be*, N° IT-95-8, Urubanza n’igihano mu rw’Iremezo, 13 Ugushyamba 2001, igika 150; *Urubanza rwa Serugendo* mu rw’Iremezo, igika 54.

2. Impamvu nyoroshyacyaha zishingiye ku mibereho bwite y'Uregwa

a. Kwemera icyaha no kwicuza mu ruhamwe

i) Ingingo z'ababuranyi

31. Ababuranyi bombi bavuga ko ubusanzwe ubwemeracyaha ari impamvu nyoroshyacyaha. By'umwihariko, bavuga ko kubera ko Rugambarara yemeye icyaha mbere y'uko urubanza rwe rutangira, byatumye igihe n'imari by'Urukiko bidapfa ubusa ; abagiriwe nabi mu gihe cy'ibitero byagabwe muri Komini ya Bicumbi mu wa 1994 bakuriweho umutwaro utoroshye wo kuza gutanga ubuhamya imbere y'Urugereko ; kandi ubwo bwemeracyaha buzagirira akamaro ubucamanza ndetse bugire n'uruhare mu bwiyunge bw'Abanyarwanda⁵⁷. Porokireri kandi avuga ko ubwemeracyaha bufite akamaro mu kugaragaza ukuri kw'ibyabaye, kandi ko kuba Rugambarara yaremeye icyaha ari nk'urugero yatanze rwatuma abandi nka we bemera uruhare bagize mu byabaye mu Rwanda mu wa 1994⁵⁸.
32. Ku itariki ya 13 Nyakanga 2007, ubwo Juvénal Rugambarara yongeraga kwitaba Urugereko, yarumenyesheje ko, nyuma y'igihe kinini yamaze atekereza agasobanukirwa neza ingaruka z'ibyaha yakoreye mu Rwanda mu wa 1994 n'uburemere bwabyo, yiyemeje guhindura ibyo yari yavuze mbere ubwo yahakanaga icyaha⁵⁹. Yasabye imbabazi imiryango y'abakorewe ibyaha muri Komini ya Bicumbi by'umwihariko n'Abanyarwanda bose muri rusange kubera ko atahannye abo yari akuriye, kandi yongeraho ko ababajwe cyane n'ibyabaye⁶⁰.

ii) Imyanzuro y'Urugereko

⁵⁷ Imyanzuro ya Porokireri yerekeranye n'igihano, ibika 50 na 54; Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 60-62; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 29.

⁵⁸ Imyanzuro ya Porokireri yerekeranye n'igihano, igika 55; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 29.

⁵⁹ Amasezerano y'ubwemeracyaha, igika 8.

⁶⁰ Inyandikomvugo y'iburanisha, 13 Nyakanga 2007, imp. 11-13.

33. Urugereko rwemeranya na Porokireri aho avuga ko ubwemeracyaha bugabanya igihe cyagombye gukoreshwa kuri urwo rubanza kandi bukanashishikariza abandi gutinyuka na bo bakemera icyaha, bityo bikaba inkunga mu nzira y'ubwiyunge bw'Abanyarwanda.⁶¹ Ukwicuza icyaha bifatwa nk'impamvu nyoroshyacyaha iyo Urugereko rusanze uwicujije yarabikoze abikuye ku mutima.⁶²
34. Nyuma yo gusuzuma ukwicuza kwa Rugambarara yakoreye mu ruhame, Urugereko rusanga yaricujije abivanye ku mutima.
35. Kuba Rugambarara yarahinduye imiburanire ye yo guhakana icyaha, akiyemeza kucyemera bituma koko Urukiko ruhungukira igihe n'ibikoresho byari kuzagenda kuri urwo rubanza. Ubwo bwemeracyaha bushobora kandi kuba inkunga mu nzira y'ubwiyunge bw'Abanyarwanda. Urugereko rusanga ibyo ari impamvu nyoroshyacyaha.

b. Kuba Uregwa yaragobotse abantu bamwe na bamwe

i) Ibivugwa n'Ubwunganizi

36. Ubwunganizi buvuga ko Rugambarara yafashije Abatutsi bari bahungiyeye ku biro bya Komini ya Bicumbi mu gihe cy'ibyabaye mu wa 1994⁶³. Ubwunganizi bwahamagaje abatangabuhamya biswe JRR10, JRR11, JRR23 na JRR24 kuza gushyigikira iyo ngingo.⁶⁴

⁶¹ *Urubanza rwa Bisengimana* mu rw'Iremezo, igika 139; *Urubanza Porokireri aburana na Yozefu Nzabirinda*, N° ICTR-2001-77-T, *Urubanza n'igenabihano mu rw'Iremezo*, 23 Gashyantare 2007, igika 68.

⁶² *Urubanza Porokireri aburana na Predrag Banovic*, N° IT-02-65/1-S, *Urubanza mu rw'Iremezo*, 28 Ukwakira 2003, igika 72.

⁶³ Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 75 na 76.

⁶⁴ Inyandikomvugo y'iburanisha, 17 Nzeri 2007, ibika 6, 9, 12,13, 15 na 16.

ii) Imyanzuro y'Urugereko

37. Rumaze gusuzuma ubuhamya bw'abo bagabo, Urugereko rusanga Rugambarara we ubwe yarafashije impunzi z'Abatutsi zari ku biro bya Komini ya Bicumbi mu byabaye mu wa 1994, aziha ibikoresho anazikomeza umutima. Ibikorwa bye byafashije mu kurukora ubuzima bwa bamwe. Urugereko rusanga ibyo bikorwa ari impamvu zoroshyya ububi bw'icyaha.

c. *Imiterere bwite y'Uregwa n'iy'umuryango we*

i) Ibivugwa n'Ubwunganizi

38. Ubwunganizi buvuga ko mu bukemuramanza bw'uru Rukiko n'ubwa TPIY, imiterere bwite y'umuntu, nk'iyerekeranye n'umuryango we, yagiye ifatwa nk'impamvu nyoroshyacyaha. Buvuga ko kuba Rugambarara yubitse afite n'abana batandatu ari ikimenyetso cy'uko ashobora kongera kugaruka mu buzima busanzwe.⁶⁵ Ubwunganizi bwahamagaje umutangubuhamya wiswe JRK01, akaba ari umugore wa Rugambarara, atanga ubuhamya avugira Uregwa ku miterere ye bwite n'iy'umuryango we.⁶⁶

ii) Imyanzuro y'Urugereko

39. Urugereko rusanga hari ubwo kuba Uregwa yubitse anafite abana bishobora gufatwa nk'impamvu nyoroshyacyaha⁶⁷. Muri uru rubanza, kuba Uregwa yubitse kandi afite abana bituma Urugereko rwizera ko ashobora kwikosora no gusubira mu buzima busanzwe amaze kurekurwa. Kubera iyo mpamvu, Urugereko rusanga imiterere bwite y'Uregwa ari impamvu nyoroshyacyaha.

⁶⁵Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 65- 68; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 39.

⁶⁶Inyandikomvugo y'iburanisha, 17 Nzeri 2007, imp. 18 - 23.

⁶⁷*Urubanza Porokireri aburana na Dragoljub Kunarać na bagenzi be*, N° IT-96-23&23/1, Urubanza mu rw'Ubujurire, 12 Kamena 2002, igika 362; *Urubanza Pokireri aburana na Mitar Vasiljević*, N° IT-98-32-T, Urubanza mu rw'Iremezo, 29 Ugushyingo 2002, igika 300; *Urubanza Porokireri aburana na Vincent Rutaganira*, N° ICTR-95-1-T, Urubanza n'igenagihano mu rw'Iremezo, 14 Werurwe 2005, ibika 120 na 121.

d. *Imico y'Uregwa, kuba atigeze akatirwa n'inkiko bizwi, no kwitwara neza muri gereza*

i) Ibivugwa n'ababuranyi

40. Ababuranyi bombi bemera ko Rugambarara yari umuntu w'imico myiza, utari uzwiho ubutagondwa mbere y'ibyabaye mu wa 1994⁶⁸.
41. Ubwunganizi bwatanze ibimenyetso byerekana ko mu gihe yakoraga imirimo y'ubuforomo, Rugambarara yitaga ku barwayi bose nta kuvangura kandi yari afite umubano utagira amakemwa n'Abatutsi, bamwe muri bo ari inshuti z'amagara z'umuryango we.⁶⁹ Ubwunganizi bwongeraho ko mu gihe yari Burugumesitiri, Rugambarara yahagaritse ibyo gusubiza ubwoko "tutsi" mu ndangamuntu z'Abatutsi bari barigize Abahutu muri za 1960, kandi yari ku isonga ry'abari bashyigikiye mu rwego rw'igihugu igitekerezo cyo gukura burundu ubwoko mu ndangamuntu.⁷⁰
42. Ubwunganizi buvuga ko Uregwa atigeze akatirwa n'inkiko bizwi cyangwa ngo ahamwe n'icyaha, ibyo Porokireri akaba atabihakana⁷¹. Urugereko rwakiriye kandi, hashingiwe ku ngingo ya 92 *bis*, inyandiko yatanzwe n'Umuyobozi wa Gereza y'Umuryango w'Abibumye yemeza ko Uregwa yanzwe no kwitwara neza mu myaka ine ishize ahafungiye⁷².

ii) Imyanzuro y'Urugereko

⁶⁸ Imyanzuro ya Porokireri yerekeranye n'igihano, igika 53; Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 71 - 74; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 29.

⁶⁹ Imyanzuro y'Ubwunganizi yerekeranye n'igihano, igika 53; Ubuhamya bw'uwiswe JJKO1, 17 Nzeri 2007, imp. 20 - 22.

⁷⁰ Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 77 na 78.

⁷¹ Imyanzuro y'Ubwunganizi yerekeranye n'igihano, igika 69.

⁷² Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 26.

43. Urugereko rusanga mbere y'ibyabaye mu wa 1994, Rugambarara yari umuntu w'imico myiza utararangwagaho ivangura rishingiye ku bwoko. Urugereko rusanga kandi mbere Rugambarara atarigeze akurikiranwa n'inkiko, kandi ibyo nta we ubihakana. Urugereko rusanga inyandiko y'umuyobozi wa gereza y'Urukiko yerekana ko Rugambarara yaranzwe n'imyitwarire myiza mu gihe amaze afunze. Urugereko rusanga ibyo byombi ari impamvu nyoroshyacyaha.

3. Uko ibintu byari bimeze muri Komini ya Bicumbi muri Mata 1994

a. Kuba abari bakuriye Uregwa muri Mata 1994 batarabonekaga

i) Ibivugwa n'Ubwunganizi

44. Ubwunganizi buvuga ko ku itariki ya 18 Mata 1994 cyangwa hafi yayo ari bwo Rugambarara yamenye ko abo yari akuriye bakoze ibyaha bikomeye. Bunavuga ko Rugambarara yahunze ubwo FPR yigaruriraga Komini ya Bicumbi ku itariki ya 20 Mata 1994. Bityo, ngo hakaba hari hashize amasaha 48 gusa, akaba atari yabonye igihe gihagije cyo kumenyesha abamukuriye ko abo yategekaga bari bakoze ibyaha bikomeye. Ubwunganizi buvuga kandi ko Porokireri wa Kigali muri icyo gihe, wari ukuriye Rugambarara mu rwego rw'ubucamanza ari na we yagombaga kumenyesha ikorwa ry'ibyaha, yari yaramaze guhunga⁷³.

ii) Imyanzuro y'Urugereko

45. Urugereko rusanga ibivugwa n'Ubwunganizi ku byerekeranye n'ibyatumye Rugambarara ateshuka ku nshingano ze nk'uko bivugwa mu Nyandiko y'ibirego bidashobora kwemerwa ahangaha. Koko rero, mu bwemeracyaha bwe, Uregwa yemeye ko yagenzuraga abo yari akuriye nyabyo kandi ko yari afite ubushobozi bwo guhana abakoze ibyaha cyangwa se gukoresha iperereza kuri ibyo byaha byakozwe. Nta kimenyetso na kimwe gishyigikira imvugo ishaka kumvikanisha ko atashoboraga kumenyesha

⁷³Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 32 na 55.

abamukuriye ibyabaye, iyo mvugo ikaba ahubwo yatuma umuntu abona ko ubwemeracyaha bwe burimo guhuzagurika. Urugereko rusanga ibyo bivugwa atari impamvu nyoroshyacyaha.

b. Uko intambara yari yifashe muri Komini ya Bicumbi muri Mata 1994

i) Ibivugwa n'Ubwunganizi

46. Ubwunganizi busaba Urugereko kwita ku kuntu ibintu byari byifashe muri Komini ya Bicumbi muri Mata 1994 : i) kuba hari intambara ; ii) kuba muri iyo komini umwuka wo kutihanganirana bishingiye kuri politiki ndetse n'ubushyamirane hagati y'amoko byarubuye; iii) kuba muri komini haraje umubare munini w'impunzi, hakaba kandi hari abakuwe mu byabo n'intambara, abacengezi n'ibikorwa bya FPR byo gushaka abayoboke muri ako karere; no kuba iv) umubare w'abapolisi ba Komini utari uhagije⁷⁴.

ii) Imyanzuro y'Urugereko

47. N'ubwo nta bimenyetso Ubwunganizi bwatanze bishyigikira izo ngingo, Urugereko rusanga bizwi na bese ko hariho intambara mu Rwanda mu wa 1994, kubera iyo mpamvu muri Komini ya Bicumbi hakaba hari hubuye umwuka wo kutihanganirana bishingiye kuri politiki, haje kandi ubushyamirane hagati y'amoko n'umubare munini w'impunzi. Urugereko rusanga uko ibintu byari biteye muri icyo gihe byarashoboraga kubangamira Rugambarara mu gukoresha ububasha bwe ku buryo busesuye. Urugereko rusanga ibyo ari impamvu nyoroshyacyaha. Ibindi bivugwa n'Ubwunganizi si ibintu byafatwaho ukuri na buri wese, ku buryo byakwemerwa bidatangiwe ibimenyetso. Kubera iyo mpamvu, Urugereko ntirwemera ibyo Ubwunganizi buvuga ko hari abacengezi muri Komini ya Bicumbi mu wa 1994, ko kandi FPR yashatse abayoboke muri ako karere. Byongeye kandi, Urugereko rusanga ibyo Ubwunganizi buvuga ko

⁷⁴ Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 18 - 22, 29 - 33, 52 , 54, 56 na 57.

apapolisi ba Komini batari bahagije ntaho bihuriye n'ibyo kuba Rugambarara yarateshutse ku nshingano ze, ari na byo uburyozwacyaha bwe bushingiyeho.

E. Ibyifuzo by'ababuranyi ku birebana n'igihano gikwiye gutangwa

48. Mu cyifuzo gihuriweho gisaba Urukiko gusuzuma amasezerano y'ubwemeracyaha Rugambarara yagiranye n'Iburo bya Porokireri, Porokireri amusabira igihano cy'igifungo hagati y'imyaka 10 na 12, ariko muri iyo myaka y'igifungo yagenerwa hakavanwamo igihe amaze afunze by'agateganyo⁷⁵. Nyamara, mu myanzuro ye ku igenagihano, asa n'utitaye kuri iyo ntera y'igifungo yari yumvikanyeho n'Uregwa, maze akamusabira igifungo cy'imyaka itari hasi ya 12⁷⁶. Porokireri akomeza asaba Urugereko kwita ku ntego z'ingenzi zo guhana, ari zo : ubutabera, impongano y'icyaha, gutuma abandi birinda gukora icyaha no gufasha uwakatiwe kwikosora agasubira mu buzima busanzwe⁷⁷. Ubwunganizi busaba Urugereko kuzirikana, mu gihe rugena igihano, impamvu zose nyoroshyacyaha, harimo n'imiterere bwite ya Rugambarara n'ubushake afite bwo gusubira mu buzima busanzwe.⁷⁸ Ubwunganizi buvuga ko igihano kigomba kuba gikwiranye n'icyaha cyakozwe, ko kigomba kurangwa no guha uwakatiwe amahirwe yo gusubira mu buzima busanzwe, kandi ko kigomba kubamo ugufasha mu nzira y'ubwiyunge bw'Abanyarwanda⁷⁹. Cyakora ababuranyi bombi bemera ko Urugereko rudategetswe kugendera ku byifuzo batanze ku igenabihano⁸⁰.
49. Ubwunganizi busaba Urugereko gutegeka ko Rugambarara azarangiriza igihano cye i Burayi, ndetse bishobotse mu Bufaransa, ngo kuko icyo gihugu gituranye n'u Bubiligi aho umuryango we uba.⁸¹ Porokireri ashyingikiye icyo cyifuzo⁸².

⁷⁵Amasezerano y'ubwemeracyaha, igika 56.

⁷⁶Imyanzuro ya Porokireri yerekeranye n'igihano, igika 57; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup. 30.

⁷⁷Imyanzuro ya Porokireri yerekeranye n'igihano, igika 17.

⁷⁸Imyanzuro y'Ubwunganizi yerekeranye n'igihano, igika 79; Inyandikomvugo y'iburanisha, 17 Nzeri 2007, urup.40.

⁷⁹Imyanzuro y'Ubwunganizi yerekeranye n'igihano, ibika 35 -37.

⁸⁰Amasezerano y'ubwemeracyaha, igika 59.

⁸¹Imyanzuro y'Ubwunganizi yerekeranye n'igihano, igika 80.

⁸²Amasezerano y'ubwemeracyaha, igika 58.

F. Imyanzuro y'Urugereko

1. Ibihano bigenwa n'Inkiko zo mu Rwanda muri rusange

50. Ingingo ya 23 ya Sitati n'ya 101 y'Amategeko zitegeka Urukiko kwifashisha urutonde rusange rw'ibihano by'igifungo rukoresha n'inkiko zo mu Rwanda, mu kugena ibihano by'igifungo.
51. Ku byaha bikomeye nk'icyaha cya jenocide cyangwa se ibyaha byibasiye inyokomuntu, Amategeko y' u Rwanda ateganya igihano ntarengwa cy'igifungo cya burundu cyangwa se igifungo cya burundu cyihariye, bitewe n'uko uruhare rw'uregwa mu ikorwa ry'icyaha rungana⁸³. Iyo kandi uburana yireze, akemera icyaha, akicuza akanasaba imbabazi ashobora gukatirwa igihano cy'igifungo kiri hagati y'imyaka 25 na 30⁸⁴.
52. N'ubwo Urugereko rudafite inshingano yo kugendera ku mategeko y'u Rwanda, rusanga ariko ibimaze kuvugwa ari imwe mu mpamvu abahamwa n'ibyaha bakwiye gukatirwa ibihano biremereye.

2. Imyanzuro y'Urugereko

53. Urugereko ruzirikana ko abantu bahamwa n'ibyaha bisa bagomba guhabwa ibihano bisa. Nyamara ariko, « nta nshingano Urugereko rufite mu buryo bweruye irusaba kugereranya urubanza rw'uregwa n'urw'abandi »⁸⁵, byongeye kandi, « buri rubanza ruba rufite ibintu byinshi rwihariye, nk'umubare w'ibyaha byakozwe n'imiterere yabyo, n'imimerere bwite y'Uregwa »⁸⁶.

⁸³ Ingingo ya 51 n'ya 72 z' Itegeko Ngenga N° 16/2004 ryo ku ya 19 Kamena 2004 rigena imiterere, ububasha n'imikorere by'Inkiko Gacaca, zishinzwe gukurikirana no gucira imanza abakoze ibyaha bya jenocide n'ibindi byaha byibasiye inyokomuntu, byakozwe hagati y'itariki ya 1 Ukwakira 1990 n'ya 31 Ukuboza 1994. Reba n'Ingingo za 2, 3, 5,6(1) na 18(3) z'Itegeko N° 33bis/2003 ryo ku itariki ya 6 Nzeri 2003 rihana icyaha cya jenocide, ibyaha byibasiye inyokomuntu n'ibyaha by'intambara, nk'uko ryahinduwe n'Ingingo ya 3 n'ya 4 z' Itegeko Ngenga N° 31/2007 ryo ku itariki ya 25 Nyakanga 2007.

⁸⁴ Ingingo ya 72(2) y' Itegeko Ngenga N° 16/2004.

⁸⁵ *Urubanza rwa Kupreskić* mu rw'Uburundi, igika 443.

⁸⁶ *Urubanza Prorokireri aburana na Miroslav Kvočka na bagenzi be*, N° IT-98-30/1-A, Urubanza mu rw'Uburundi, 28 Gashyantare 2005, igika 681.

54. Urugereko ruributsa ko rwasanze Rugambarara, nk'uwari ukuriye ba gatozi b'icyaha, yaryozwa itsembatsemba nk'icyaha cyibasiye inyokomuntu, icyo cyaha kikaba gikomeye cyane kandi kinyuranyije cyane n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara. Urugereko kandi ruributsa ko uburemere bw'icyaha cye bugabanywa n'uko, nk'uko bikubiye mu Masezerano y'ubwemeracyaha, Uregwa yamenye inkuru y'ibyaha byakozwe n'abo yari akuriye ibyo byaha byarangije kuba.
55. Urugereko rwasanze umubare munini w'abahohotewe ari impamvu yongera ububi bw'icyaha.
56. Urugereko rwasanze ibi bikurikira ari impamvu nyoroshyacyaha: Uregwa yemeye ibyaha yakoze anabyicuza ku mugaragaro kandi Urugereko rusanga yaricujije abikuye ku mutima ; imibereho ye bwite n'iy'umuryango we ; imico myiza yamurangaga mbere y'ibyabaye mu wa 1994 ; kuba atarigeze akatirwa ibihano n'inkiko ; imyitwarire ye myiza muri gereza ; no kuba hari abantu bamwe na bamwe yagobotse.
57. Nyamara, n'ubwo ibirebana n'imibereho bwite ya Rugambarara byashingirwaho mu kumugabanyiriza igihano, Urugereko rusanga mu byaha byo mu rwego mpuzamahanga bitaba impamvu nyoroshyacyaha zakwitabwaho ku buryo bugaragaraga, bityo agaciro bigomba guhabwa kakaba ari gato cyane⁸⁷.
58. Urugereko rwasuzumye uburyo uru Rukiko rusanze rugena ibihano, rusanga nta ngero nyinshi ziriho zo gufatiraho icyitegererezo ku birebana n'ibihamo bigenerwa uryozwa icyaha cyo kuba yari akuriye ba gatozi batsotsobye itsembatsemba⁸⁸. Byongeye kandi,

⁸⁷*Urubanza rwa Banović*, Urubanza n'igenagihano mu rw'Iremezo, igika 76; *Urubanza rwa Nzabirinda*, Urubanza n'igenagihano mu rw'Iremezo, igika 108.

⁸⁸Mu rubanza rukiri mu bujirire (ibi bikaba bigabanya ingufu zarwo nk'icyitegererezo), mu byaha byahamye Jean Bosco Barayagwiza harimo icyaha cya jenocide nk'uko giteganywa n'Ingingo ya 2 n'ya 6(3) za Sitati kubera uruhare rugaragara yagize mu buyobi bwa RTLM mbere y'itariki ya 6 Mata 1994 no kuba atarafashe ingamba za ngombwa kandi zikwiye kugira ngo aburizemo iyicwa ry'Abatutsi RTLM yashishikarizaga abantu gukora (*Urubanza Porokireri aburana na Jean Bosco Barayagwiza*, N° ICTR 99-52, Urubanza mu rw'Iremezo), 3 Ukuboza 2003, igika 973. Yahamwe kandi n'itsembatsemba nk'icyaha cyibasiye inyokomuntu nk'uko giteganywa n'Ingingo ya 3(b) n'ya 6(3) za Sitati y'Urukiko kubera ibiganiro RTLM yahitishije mu wa 1994 byatumye Abatutsi b'abasiviri bicwa (*Urubanza rwa Barayagwiza* mu rw'Iremezo, igika 1064). Urugereko rwa Mbere rw'Iremezo

Urugereko rusanga, ku byerekeye ibihano bigenerwa abemeye icyaha cy'itsembatsemba, ubukemuramanza budafite umujyo umwe⁸⁹. Mu gusoza, Urugereko ruzirikana ko igihano kigomba kugenwa hashingiwe ku myitwarire mibisha y'uregwa yose hamwe⁹⁰.

3. Kwita ku gihe Uregwa amaze afunze by'agateganyo

59. Nk'uko biteganywa n'Ingingo ya 101(D) y'Amategeko, « igihe uwahamwe n'icyaha yamaze afunze, niba gihari, ategereje gushyikirizwa Urukiko, gucirwa urubanza n'Urugereko rwa Mbere rw' Iremezo cyangwa n'Urugereko rw' Ubujurire, gikurwa mu gihe cy'igifungo cyose ».
60. Urugereko rusanga Rugambarara yaratangiye igifungo cye ku itariki ya 11 Kanama 2003⁹¹, iyi akaba ariyo tariki yafatiweho agafungwa. Urugereko rwemera ko icyo gihe amaze afunze kigomba kuvanwa mu gihe cy'igifungo akatiwe, ndetse n'igihe kindi yamara ategereje urubanza mu bujurire na cyo cyavanwamo.

rwasanze Barayagwiza yagombye kugenerwa igihano cy'igifungo cya burundu ku byaha byose byari byamuhamye (*Urubanza rwa Barayagwiza* mu rw'Iremezo, igika 1106). Nyamara ariko, bitewe n'uko rwasanze hari uburenganzira bwa Barayagwiza butubahirijwe, Urugereko rwa Mbere rw' Iremezo rwamugabanyirije igihano rumugenera igifungo cy'imyaka 35 ku birego byose byari byamuhamye (*Urubanza rwa Barayagwiza* mu rw'Iremezo, igika 1107). Alfred Musema yakatiwe igihano kimwe rukumbi cy'igifungo cya burundu ku birego bya jenocide, n'itsembatsemba nk'icyaha cyibasiye inyokomuntu, hashingiwe ku Ngingo ya 6(1) n'ya 6(3) za Sitati (*Urubanza rwa Musema* mu rw' Iremezo, igika 951).

⁸⁹Jean Kambanda yemeye ibyaha yaregwaga maze akatirwa igihano cy'igifungo cya burundu ku byaha birimo itsembatsemba nk'icyaha cyibasiye inyokomuntu, hashingiwe ku Ngingo ya 6(1) n'ya 6(3) za Sitati (*Urubanza rwa Kambanda* mu rw'Iremezo, igika 40). Paul Bisengimana yemeye ibyaha yaregwaga byo gufasha no gushyigikira abakoze ibyaha byibasiye inyokomuntu maze ahanishwa igifungo cy'imyaka 15 (*Urubanza rwa Bisengimana* mu rw' Iremezo, igika 203). Omar Serushago yemeye ibyaha yaregwaga byo gukora jenocide, ubuhotozi, itsembatsemba no kwica urubozo nk'ibyaha byibasiye inyokomuntu (ibi bibiri bya nyuma). *Urubanza rwa Omar Serushago*, N° ICTR-98-39-S, Urubanza n'igenabihano mu rw'Iremezo, 5 Gashyantare 1999, reba Ibyemezo. Mu kugenera Omar Serushago igihano, Urugereko rwa Mbere rw' Iremezo rwitaye ku mpamvu nyinshi nyoroshyacyaha zirimo imiterere y'umuryango we no kuba hari Abatutsi yafashije gutoroka ababahiga (Urubanza n'igenabihano mu rw'Iremezo, ibika 31-35). Vincent Rutaganira yemeye icyaha yaregwaga cyo kuba icyitso mu itsembatsemba, nk'icyaha cyibasiye inyokomuntu, kubera ko yateshutse ku nshingano ze, maze akatirwa igihano cy'igifungo cy'imyaka 6 (*Urubanza rwa Vincent Rutaganira* mu rw'Iremezo, reba Ibyemezo).

⁹⁰ *Urubanza rwa Mucić na bagenzi* be mu rw'Ubujurire, igika 772; *Urubanza rwa Gacumbitsi* mu rw' Iremezo, igika 354; *Urubanza rwa Semanza* mu rw' Iremezo, igika 563.

⁹¹ Kohereza manda yo gufunga, hamwe n'itegeko ryo kwimurira ahandi no gufunga Uregwa ari we Juvénal Rugambarara, byakozwe ku ya 11 Kanama 2003.

IV. ICYEMEZO CY'URUGEREKO

61. Urugereko rukatiye Juvénal Rugambarara igihano cy'igifungo cy'**imyaka 11**.
62. Iki gihano kiratangira kurangizwa uyu muni urubanza rukirijweho.
63. Igihe Juvénal Rugambarara amaze afunze kuva ku itariki ya 11 Kanama 2003 kugeza kuri iyi tariki asomeweho urubanza kigomba kuvanwa mu gihe cy'igifungo akatiwe.
64. Juvénal Rugambarara azaguma muri gereza y'Urukiko mu gihe hatarafata icyemezo ku birebana n'igihugu azarangirizamo igifungo cye.
65. Urugereko ntirwakiriye icyifuzo gisaba ko Rugambarara yarangiriza igifungo cye mu gihugu cy'u Bufaransa kubera ko cyatanzwe igihe kitaragera. Perezida w'Urukiko, abigiyemo inama n'Urugereko, azagena igihugu Rugambarara azarangirizamo igifungo cye igihe nikigera cyo gufata icyo cyemezo. Icyo gihe Gerefiye azabimenyesha Leta y' u Rwanda n'igihugu kizaba cyagenwe.

Bikorewe Arusha, ku itariki ya 16 Ugushyingo 2007

Asoka de Silva
Perezida w' Inteko

Taghrid Hikmet
Umucamanza

Seon Ki Park
Umucamanza

[Kashi y' Urukiko]

V. IMIGEREKA

A. Ubukemuramanza n'amagambo yakoreshejwe

1. ICTR/TPIR [Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda]

Urubanza Porokireri aburana n'Akayesu, N° ICTR-96-4-T, Inyandiko y'urubanza mu rw'Iremezo, 2 Nzeri 1998.

Urubanza Porokireri aburana na Barayagwiza, N° ICTR 99-52, Inyandiko y'urubanza mu rw'Iremezo, 3 Ukuboza 2003.

Urubanza Porokireri aburana na Bisengimana N° ICTR-00-60-T, Inyandiko y'urubanza n'igenabihano mu rw'Iremezo, 13 Mata 2006.

Urubanza Porokireri aburana na Gacumbitsi, N° ICTR-01-64, Inyandiko y'urubanza mu rw'Iremezo, 17 Kamena 2004.

Urubanza Porokireri aburana na Gacumbitsi, N° ICTR-01-64, Inyandiko y'urubanza mu bujurire, 7 Nyakanga 2006.

Urubanza Porokireri aburana na Kajelijeli N° ICTR-98-44-T, Inyandiko y'urubanza mu rw'Iremezo, 1 Ukuboza 2003.

Urubanza Porokireri aburana na Kajelijeli, N° ICTR-98-44-A, Inyandiko y'urubanza mu bujurire, 23 Gicurasi 2005.

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

Urubanza Porokireri aburana na Kamuhanda, N° ICTR-99-54-T, Inyandiko y'urubanza mu rw'Iremezo, 22 Mutarama 2004.

Urubanza Porokireri aburana na Kamuhanda, N° ICTR-99-54-A, Inyandiko y'urubanza mu bujurire, 19 Nzeri 2005.

Urubanza Porokireri aburana na Kayishema na Ruzindana, N° ICTR-95-1-A, Inyandiko y'urubanza mu bujurire, 1 Kamena 2001.

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

Urubanza Porokireri aburana na Musema, N° ICTR-96-13-T, Inyandiko y'urubanza mu rw'Iremezo, 27 Mutarama 2000.

Urubanza Porokireri aburana na Musema, N° ICTR-96-13-T, Inyandiko y'urubanza mu bujurire, 16 Ugushyingo 2001.

Urubanza Porokireri aburana na Nahimana, N° ICTR-99-52, Inyandiko y'urubanza mu rw'Iremezo, 3 Ukuboza 2003.

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

Urubanza Porokireri aburana na Ndindabahizi, N° ICTR-2001-71-I, Inyandiko y'urubanza mu bujurire, 16 Mutarama 2007.

Urubanza Porokireri aburana na Niyitegeka, N° ICTR-96-14, Inyandiko y'urubanza mu rw'Iremezo, 16 Gicurasi 2003.

Urubanza Porokireri aburana na Ngeze, N° ICTR-99-52, Inyandiko y'urubanza mu rw'Iremezo, 3 Ukuboza 2003.

Imanza za Porokireri na Ntakirutimana n'abandi, N° ICTR-96-10-T na ICTR-96-17-T, Inyandiko y'urubanza mu rw'Iremezo, 21 Gashyantare 2003.

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2. ICTY/TPIY [Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho icyahoze cyitwa Yugosilaviya]

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

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

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Urubanza Porokireri aburana na Mucić na bagenzi be, (“Čelebići”) N° IT-96-21-A, Inyandiko y'urubanza mu bujurire, 20 Gashyantare 2001.

Urubanza Porokireri aburana na Dragan Nikolić, N° IT-94-2, Inyandiko y'urubanza mu rw'Iremezo, 18 Ukuboza 2003.

Urubanza Porokireri aburana na Momir Nikolić, N° IT-02-60/1-A, Inyandiko y'urubanza mu bujurire, 8 Werurwe 2006.

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

Urubanza Porokireri aburana na Sikirica na bagenzi be, N° IT-95-8-T, Inyandiko y'urubanza mu rw'Iremezo, 13 Ugushyingo 2001.

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Urubanza Porokireri aburana na Dragan Vasilijević, N° IT-98-32, Inyandiko y'urubanza mu rw'Iremezo, 29 Ugushyingo 2002.

3. Ibisobanuro by'amagambo yakoreshejwe

Amasezerano y'ubwemeracyaha

Urubanza Porokireri aburana na Rugambara, N° ICTR-2000-59-I, Amasezerano y'ubwemeracyaha hagati ya Juvénal Rugambarara n'Iburo bya Porokireri, yatanzwe ku ya 13 Kamena 2007.

Inyandiko y'ibirego

Urubanza Porokireri aburana na Rugambara N° ICTR-2000-59-I, Inyandiko y'ibirego yahinduwe, yatanzwe ku itariki ya 2 Nyakanga 2007.

Inyandiko y'urubanza

Urubanza Porokireri aburana na Rugambarara, N° ICTR-2000-59-I, Inyandiko y'urubanza n'igenabihano, 16 Ugushyingo 2007.

ICTR/TPIR

Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda.

ICTY/TPIY

Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho icyahoze cyitwa Yugosilaviya

Urugereko

Urugereko rwa Mbere rw'Iremezo II

B. Inyandiko y'ibirego

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

(Urubanza N° ICTR-2000-59-1)

POROKIRERI

ABURANA NA

JUVENAL RUGAMBARARA

INYANDIKO Y'IBIREGO YAHINDUWE

Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, ashingiye ku bubasha ahabwa n'Ingingo ya 17 ya Sitati y'uru Rukiko (« Sitati y'Urukiko ») ashinja :

JUVENAL RUGAMBARARA

Itsembatsemba nk'icyaha cyibasiye inyokomuntu, giteganywa n'Ingingo ya 3(b) ya Sitati y'Urukiko.

1. Ibivugwa muri iyi Nyandiko y'ibirego byabereye muri Segiteri ya Mwulire, iya Mabare n'ya Nawe, muri Komini ya Bicumbi, Perefegitura ya Kigali-Ngari, Repuburika y'u Rwanda, hagati y'itariki ya 7 n'ya 20 Mata 1994, keretse aho bivugwa ukundi.

UREGWA :

2. Juvénal Rugambarara yavukiye muri Segiteri ya Bumba, Komini ya Tare, Perefegitura ya Kigali-Ngari, muri Repuburika y'u Rwanda, mu wa 1959. Aho amariye kuba mukuru, igihe kinini yakibaye muri Komini ya Bicumbi aho yakoraga akazi k'ubuforomo.
3. Juvénal Rugambarara yagizwe Burugumesitiri wa Komini ya Bicumbi, muri Kigali-Ngari, ku itariki ya 4 Kanama 1993, asimbuye Laurent Semanza. Nyamara ariko, Juvénal Rugambarara yatangiye imirimo ye ya Burugumesitiri ku itariki ya 16 Nzeri 1993, ayikora kugeza ku ya 20 Mata 1994.
4. Perezida wa Repuburika ni we washyize Juvénal Rugambarara ku mwanya wa burugumesitiri, abisabwe na Minisitiri w'Ubutegetsi bw'Igihugu ari na we wari ukuriye Rugambarara mu kazi.
5. Nka Burugumesitiri wa Komini ya Bicumbi, Rugambarara yari akuriye kandi ubuyobozi bwa Segiteri ya Mwulire, iya Mabare n'iya Nawe, zo muri iyo komini, aho ibyaha akurikiranweho byakorewe n'abo yari akuriye kandi yagenzuraga nyabyo.
6. Nka Burugumesitiri wa Komini ya Bicumbi, muri Perefegitura ya Kigali-Ngari, hagati y'itariki ya 7 n'iya 20 Mata 1994, Juvénal Rugambarara ni we wari umutegetsi w'umusiviri ukomeye kurusha abandi muri iyo Komini, bityo akaba ari we wari umuyobozi mukuru kandi anakuriye abashinzwe iyubahiriza ry'amategeko muri Komini ya Bicumbi.
7. Nka Burugumesitiri wa Komini ya Bicumbi, Juvénal Rugambarara yari ashinzwe ubuyobozi muri iyo komini yose, bityo akaba yari ashinzwe iyubahiriza ry'amategeko n'amabwiriza.

8. Juvénal Rugambarara yari ashinzwe kubungabunga amahoro, umudendezo wa rubanda, umutekano w'abantu n'uw'ibintu no gushyira mu bikorwa gahunda za Guverinoma. Juvénal Rugambarara yari ashinzwe kandi kumenyesha Ubutegetsi bukuru bw'igihugu ikintu icyo ari cyo cyose bukeneye kumenya kibereye muri Komini ya Bicumbi.
9. Nka Burugumesitiri wa Komini ya Bicumbi, Juvénal Rugambarara yari ahagarariye Ubutegetsi bukuru bw'igihugu ku rwego rwa komini, bityo akaba ari we wari ushinzwe kuyobora Komini. Ku bw'ibyo, Juvénal Rugambarara yari akuriye abakonseye ba Segiteri bose, abapolisi bose ba komini n'abakozi bose ba Leta bakoreraga muri iyo komini.
10. Muri urwo rwego, Juvénal Rugambarara yari akuriye abari hasi ye bose, ari bo abajyanama ba Segiteri, abapolisi ba Komini, abakozi bakoreraga muri Komini n'insoresore zitwaraga gisirikare zo muri Segiteri ya Mwulire, iya Mabare n'iya Nawe, zo muri Komini ya Bicumbi, hagati y'itarik ya 7 n'iya 20 Mata 1994.
11. Byongeye kandi, nka Burugumesitiri wa Komini ya Bicumbi, Juvénal Rugambarara yagenzuraga nyabyo ayo matsinda y'abantu bamaze kuvugwa, ari na bo bagabye ibitero ku Batutsi b'abasiviri mu duce tunyuranye twa Segiteri ya Mwulire, iya Mabare n'iya Nawe, zo muri Komini ya Bicumbi, hagati y'itariki ya 7 n'iya 20 Mata 1994, nk'uko bisobanuye muri iyi Nyandiko y'ibirego.
12. Nk'umutegetsi w'umusiviri ukomeye kurusha abandi muri Komini ya Bicumbi, Juvénal Rugambarara yamenye ko amatsinda y'abantu yari akuriye kandi abagenzura nyabyo ari yo yagabye ibitero byahitanye ibihumbi by'Abatutsi b'abasiviri mu duce tunyuranye twa za Segiteri Mwulire, Mabare na Nawe zo muri Komini Bicumbi, hagati y'itariki ya 7 n'iya 20 Mata 1994.
13. Muri urwo rwego, Juvénal Rugambarara, nk'umutegetsi w'umusiviri wari ukomeye kurusha abandi muri Komini ya Bicumbi, hejuru y'imirimo y'iyubahiriza ry'amategeko, amabwiriza n'ibindi, yari afite inshingano yo gufata ingamba za ngombwa kandi zishyize

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mu gaciro kugira ngo hakorwe iperereza ku byaha byakozwe n’abo yari akuriye kandi yagenzuraga nyabyo, ryari gutuma ababikoze bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagera ibihano bikwiye. Iyo nshingano ye ariko yayiteshutseho.

IBIREGO

Ikirego cya 1 : Itsembatsemba, nk’icyaha cyibasiye inyokomuntu, nk’uko giteganywa n’Ingingo ya 3(b) ya Sitati y’Urukiko

14. Kubera ibyaha byakozwe n’abo yari akuriye hagati y’itariki ya 7 n’iya 20 Mata 1994, Juvénal Rugambarara aryozwa, hashingiwe ku ngingo ya 6 (3) ya Sitati, ibikorwa by’ubwicanyi byahitanye imbaga y’abantu cyangwa ibyo kuba yarabicishije, byabereye muri Segiteri ya Mwulire, iya Mabare n’iya Nawe, zo muri Komini ya Bicumbi, Perefegitura ya Kigali-Ngari, muri Repuburika y’u Rwanda. Ibyo bikorwa bikaba byarabayeho mu rwego rw’ibitero rusange kandi biri kuri gahunda byibasiye abaturage b’abasiviri bazira ubwoko bwabo cyangwa se ibitekerezo bya politiki.
15. Hashingiwe ku Ngingo ya 6(3) ya Sitati, Uregwa, ari we Juvénal Rugambarara, ashinjwa itsembatsemba nk’icyaha cyibasiye inyokomuntu kubera ko amaze kumenya ko abo yari akuriye kandi yagenzuraga nyabyo bakoze icyaha kimwe cyangwa byinshi bivugwa mu Ngingo ya 3 (b) ya Sitati y’Urukiko, yateshutse ku nshingano ye yo gufata ingamba za ngombwa kandi zishyize mu gaciro kugira ngo hakorwe iperereza kuri ibyo byaha, ryari gutuma ababikoze bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagera ibihano bikwiye.
16. Bityo, ibikorwa bya Juvénal Rugambarara cyangwa ibyo yirengagije gukora, ni byo byatumye hicwa ibihumbi by’Abatutsi b’abasiviri, baba abagabo, abagore n’abana, muri Segiteri ya Mwulire, iya Mabare n’iya Nawe, zo muri Komini ya Bicumbi, hagati y’itariki ya 7 n’iya 20 Mata 1994.

Imikorere y'icyaha**Ibyabereye muri Segiteri ya Mwulire, Komini ya Bicumbi**

17. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko hari ibitero byagabwe ku Batutsi bari bakoraniye mu nkambi yari i Mwulire, muri Segiteri ya Mwulire, Komini ya Bicumbi, hagati y'itariki ya 13 n'ya 18 Mata 1994, bikaba byarahitanye Abatutsi babarirwa mu magana bari barahungiyeye.
18. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko hari abakozi ba Leta, abakonseye ba za Segiteri n'abapolisi ba Komini bakoreraga muri Komini ya Bicumbi, bafatanyije n'insoresore zo muri iyo koimni zitwaraga gisirikare kandi zari zitwaje intwari, bagiye mu bitero byagabwe ku Batutsi bari bakoraniye mu nkambi yari i Mwulire, muri Segiteri ya Mwulire, Komini ya Bicumbi.
19. By'umwihariko, ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko ibitero byagabwe ku Batutsi bari bakoraniye mu nkambi yari i Mwulire byari byateguwe na Théodore Nsengiyumva wari wungirije Burugumesitiri muri Komini ya Bicumbi, François Fungameza wari Konseye wa Segiteri ya Muyumbu, Déo Nkuriyungoma wari Konseye wa Segiteri ya Bicumbi, Mathias Karuhije wari Konseye wa Segiteri ya Murama, Ngabonziza wari Konseye wa Segiteri ya Rubona, Sekimonyo wari Konseye wa Segiteri ya Mabare, n'abapolisi bamwe ba Komini ya Bicumbi barimo Mathias Gasana, Rwabugabo, Shabayiro na Munyakayanza.
20. Aho amariye kumenya ko hari ibitero byagabwe ku Batutsi bari bahungiyeye mu nkambi ya Mwulire nk'uko bimaze kuvugwa, Juvénal Rugambarara, nka Burugumesitiri wa Komini ya Bicumbi, yateshutse ku nshingano ye yo gufata ingamba za ngombwa kandi zishyize mu gaciro kugira ngo hakorwe iperereza kuri ibyo byaha, ryari gutuma abo yari akuriye bakoze ibyo byaha byahitanye impunzi z'Abatutsi zibarirwa mu magana bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagera ibihano bikwiye.

21. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko ku itariki ya 13 cyangwa hafi yayo, Nkuriyingoma wari Konseye wa Segiteri ya Bicumbi, umupolisi wa Komini ya Bicumbi witwaga Munyakayanza, n'insoresore zitwara gisirikare zari zitwaje intwara za gakondo bagiye ku biro bya Segiteri ya Mwulire aho bagabye igitero ku Batutsi bari bahahungiyeye, kigahitanamo ababarirwa mu magana.
22. Bityo, aho amariye kumenya ko ibyo byaha byakozwe, Juvénal Rugambarara, nka Burugumesitiri wa Komini ya Bicumbi, yateshutse ku nshingano ye yo gufata ingamba za ngombwa kandi zishyize mu gaciro kugira ngo hakorwe iperereza kuri ibyo byaha, ryari gutuma abo yari akuriye bakoreye ibyo bikorwa by'urugomo ku biro bya Segiteri ya Mwulire bigahitana Abatutsi b'abasiviri babariwa mu magana, bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagera ibihano bikwiye.

Ibyabereye muri Segiteri ya Mabare

23. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko hagati y'itariki ya 12 n'ya 18 Mata 1994, hari ibitero byagabwe ku Batutsi b'abasiviri muri Segiteri ya Mabare, Komini ya Bicumbi, bigahitanamo abarirwa mu magana.
24. Muri icyo gihe kimwe, Juvénal Rugambarara yaje kumenya ko ibyo bitero byagabwe ku Batutsi b'abasiviri muri Segiteri ya Mabare, Komini ya Bicumbi, hagati y'itariki ya 12 n'ya 18 Mata 1994 byari biyobowe n'abapolisi ba Komini n'insoresore zitwara gisirikare, bese yagenzuraga nyabyo.
25. Aho amariye kumenya ko abo yari akuriye bakoze ibyaha muri Segiteri ya Mabare, Juvénal Rugambarara, nka Burugumesitiri wa Komini ya Bicumbi, yateshutse ku nshingano ye yo gufata ingamba za ngombwa kandi zishyize mu gaciro kugira ngo hakorwe iperereza kuri ibyo byaha, ryari gutuma abo yari akuriye bakoze ibyo bikorwa by'urugomo byahitanye Abatutsi b'abasiviri babarirwa mu magana bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagera ibihano bikwiye.

Ibyabereye ku musigiti w'i Mabare, muri Segiteri ya Mabare

26. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko hagati y'itariki ya 16 n'ya 18 Mata 1994, hari ibitero byagabwe ku mpunzi z'Abatutsi zari zikoraniye ku musigiti w'i Mabare, muri Segiteri ya Mabare, Komini ya Bicumbi, bigahitanamo ababariwa mu magana.
27. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko impunzi z'Abatutsi zari zikoraniye ku musigiti w'i Mabare, zari zarashoboye gukumira ibitero zagabwagaho n'insoresore zitwara gisirikare, ariko nyuma zikarushwa imbaraga zikicwa kubera ko abapolisi ba Komini ya Bicumbi bateye ingabo mu bitugu insoresore zitwaraga gisirikare kandi zari zitwaje intworo.
28. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko impuzi z'Abatutsi zari zikoraniye ku musigiti w'i Mabare zagabweho ibitero n'abantu yari akuriye nka Burugumesitiri wa Komini ya Bicumbi, kandi abo bantu akaba yarabagenzuraga nyabyo.
29. Aho amariye kumenya ko abo yari akuriye bakoreye ibyaha ku musigiti w'i Mabare hagati y'itariki ya 16 n'ya 18 Mata 1994, Juvénal Rugambarara, nka Burugumesitiri wa Komini ya Bicumbi, yateshutse ku nshingano ye yo gufata ingamba za ngombwa kandi zishyize mu gaciro kugira ngo hakorwe iperereza kuri ibyo byaha, ryari gutuma abo yari akuriye bakoze ibyo bikorwa by'urugomo byahitanye impunzi z'Abatutsi amagana n'amagana bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagenera ibihano bikwiye.

Ibyabereye muri Segiteri ya Nawe

30. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko Jean Baptiste Gatete wari umukozi ushinzwe ibarura ku biro bya Komini ya Bicumbi, ku itariki ya 8 Mata 1994 cyangwa hafi yayo, yahamagariye kandi ashishikariza mu ruhame

abahutu b'abasiviri bo muri Segiteri ya Nawe, gutsembatsemba abaturanyi babo b'Abatutsi mu rwego rwo guhorera Perezida w'u Rwanda. Nyuma y'ibyo, uwo Jean Baptiste Gatete ubwe yagabye ibitero ku Batutsi muri Segiteri ya Nawe, akenshi afatanyije n'abapolisi ba Komini n'insoresore zitwaraga gisirikare.

31. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara yaje kumenya ko Jean Baptiste Gatete yarangaje imbere abapolisi batatu ba Komini ya Bicumbi ari bo Shabayiro, Rwabugabo na Ntabara, hamwe n'insoresore zitwaraga gisirikare, mu bitero byagabwe ku Batutsi b'abasiviri muri Segiteri ya Nawe ku itariki ya 8 Mata 1994 cyangwa hafi yayo. Ibyo gitero byahitanye Abatutsi b'abasiviri babarirwa mu magana muri Segiteri ya Nawe, Komini ya Bicumbi.
32. Nka Burugumestiri wa Komini ya Bicumbi, Juvénal Rugambarara yagenzuraga nyabyo abantu bagabye ibyo bitero muri Segiteri ya Nawe, ari bo Jean Baptiste Gatete, abapolisi ba Komini n'insoresore zitwaraga gisirikare.
33. Aho amariye kumenya ko abo yari akuriye bakoze ibyaha byo kwica imbaga y'Abatutsi b'abasiviri muri Segiteri ya Nawe, Komini ya Bicumbi, ku itariki ya 8 Mata 1994 cyangwa hafi yayo, Juvénal Rugambarara, nka Burugumestiri wa Komini ya Bicumbi, yateshutse ku nshingano ye yo gufata ingamba za ngombwa kandi zishyize mu gaciro kugira ngo hakorwe iperereza kuri ibyo byaha, ryari gutuma abo yari akuriye babikoze bafatwa bagashyikirizwa inzego zifite ububasha bwo kubagera ibihano bikwiye.
34. Ibyo Juvénal Rugambarara yakoze cyangwa yirengagije gukora bihanwa hashingiwe ku Ngingo ya 22 n'ya 23 za Sitati y'Urukiko.

Bishyizweho umukono Arusha, ku itariki ya 2 Nyakanga 2007.

Hassan Bubacar Jallow

Porokireri

[Umukono na Kashe y'Urukiko)