



**Urukiko Mpanabyaha Mpuzamahanga
Rwashyiriweho u Rwanda**

UMURYANGO
W'ABIBUMBYE

Umwimerere: icyongereza

URUGEREKO RWA MBERE RW'IREMEZO II

Abacamanza: Arlette Ramaroson, Perezida w'Inteko
William H. Sekule
Solomy Balungi Bossa

Gerefiye: Adama Dieng

Itariki: 13 Mata 2006

JUDICIAL RECORDS/ARCHIVES
UNICTR
RECEIVED

2014 FEB 25 A 9:52

POROKIRERI

Aburana na
PAUL BISENGIMANA
Urubanza N° ICTR-00-60-T

INYANDIKO Y'URUBANZA

Ibiro bya Porokireri:

Charles Adeogun-Phillips
Memory Maposa
Peter Tafah
Florida Kabasinga

Abavoka bunganira Uregwa:

Catherine Mabile
Nathalie Passeron

AMASHAKIRO

I. INTANGIRIRO	1
A. IBIREBANA N'URUBANZA MURI RUSANGE	1
B. INYANDIKO Y'IBIREGO	2
C. INCAMAKE Y'IMIBURANISHIRIZE	2
D. URUKIKO N'UBUBASHA BWARWO	4
II. UBWEMERACYAHA	4
A. AMATEGEKO AKURIKIZWA	4
B. UBWEMERACYAHA BWO KU ITARIKI YA 7 UKUBOZA 2005	5
III. URUBANZA MU MIZI YARWO	7
A. UREGWA	7
B. IMYANZURO KU BYABAYE N'IYO MU RWEGO RW'AMATEGEKO	8
1. Uburyozwacyaha nka gatozi kubera gufasha no gushishikaza, hashingiwe ku ngingo ya 6 (1) ya Sitati	8
a. Ibikubiye mu Nyandiko y'ibirego	8
b. Amategeko akurikizwa	9
c. Amasezerano y'ubwemeracyaha	11
2. Ibyaha byibasiye inyokomuntu (ingingo ya 3 ya Sitati)	12
a. Ibigize icyo cyaha muri rusange	12
b. Imyanzuro y'Urugereko	16
3. Ibyaha byibasiye inyokomuntu - Itsembatsemba	17
a. Ibikubiye mu Nyandiko y'ibirego	17
b. Amasezerano y'ubwemeracyaha	18
c. Amategeko akurikizwa	20
d. Imyanzuro y'Urugereko	21
4. Ibyaha byibasiye inyokomuntu - Ubuhotozi	23
a. Ibikubiye mu Nyandiko y'ibirego	23
b. Amasezerano y'ubwemeracyaha	24
c. Amategeko akurikizwa	24
d. Imyanzuro y'Urugereko	25
	ii

e. Guhamya uregwa ibyaha binyuranye hashingiwe ku gikorwa kimwe26

IV. IBIREBANA N'IBIHANO 29

A.	AMATEGEKO N'AMAHAME BIKURIKIZWA.....	29
B.	IMPAMVU ZONGERA UBUBI BW'ICYAHA	30
1.	Ibivugwa na Porokireri ku birebana n'uburemere bw'icyaha n'umwanya w'ubutegetsu Uregwa yari afite.....	30
2.	Imyanzuro y'Urugereko.....	31
C.	IMPAMVU NYOROSHYAGIHANO	33
1.	Ibivugwa n'ababuranyi muri rusange	33
2.	Amategeko akurikizwa	33
3.	Ubwemeracyaha no kwicuza ku mugaragaro	34
a.	Ibivugwa na Porokireri	34
b.	Ibivugwa n'Ubwunganizi.....	35
c.	Imyanzuro y'Urugereko.....	37
4.	Ibintu byihariye birebana n'Uregwa, hamwe n'umuryango we	38
a.	Ibivugwa n'Ubwunganizi.....	38
b.	Imyanzuro y'Urugereko.....	39
5.	Imico y'Uregwa	39
a.	Ibivugwa na Porokireri	39
b.	Ibivugwa n'Ubwunganizi.....	39
c.	Imyanzuro y'Urugereko.....	40
6.	Kugoboka bamwe mu bari mu kaga	41
a.	Ibivugwa n'Ubwunganizi.....	41
b.	Imyanzuro y'Urugereko.....	41
7.	Kuba Uregwa nta kindi cyaha yigeze ahanirwa no kuba yaritwaye neza muri gereza	43
a.	Ibivugwa n'Ubwunganizi.....	43
b.	Imyanzuro y'Urugereko.....	43
8.	Imyaka y'ubukure n'uburwayi.....	44
a.	Ibivugwa n'Ubwunganizi.....	44
b.	Imyanzuro y'Urugereko.....	45

9.	Kuba Uregwa atari we watsotsobye ibyaha bivugwa	46
a.	Ibivugwa n'Ubwunganizi.....	46
b.	Imyanzuro y'Urugereko.....	47
D.	IMYANZURO Y'URUGEREKO KU MPAMVU ZONGERA UBUBI BW'ICYAHA NO KU MPAMVU NYOROSHYAGIHANO	47
E.	IBYIFUZO BY'ABABURANYI KU BIREBANA N'IBIHANO	49
1.	Ibyifuzo bya Porokireri	49
2.	Ibyifuzo by'Ubwunganizi	49
F.	IMYANZURO Y'URUGEREKO	50
1.	Urutonde rusange rw'ibihano bitangwa n'inkiko zo mu Rwanda	50
2.	Gukuramo igihe uregwa yamaze afunzwe by'agateganyo	51
3.	Umwanzuro w'Urugereko	52
V. IBYEMEZO BY'URUGEREKO.....		53
VI. IMIGEREKA.....		55
A.	IMIBURANISHIRIZE.....	55
B.	UBUKEMURAMANZA N'IBISOBANURO BY'AMAGAMBO AMWE YAKORESHEJWE.....	62
1.	TPIR.....	62
2.	TPIY.....	64
3.	Ibisobanuro by'amagambo amwe yakoreshejwe	66
C.	INYANDIKO Y'IBIREGO	66
D.	INYANDIKO Y'URUBANZA RUKOSORA URUNDI.....	77

I. INTANGIRIRO

A. Ibirebana n'urubanza muri rusange

1. Paul Bisengimana (« Uregwa »), wahoze ari Burugumesitiri wa Komine ya Gikoro, muri Perefegitura ya Kigali-Ngari, yemeye icyaha cyo gufasha no gushishikaza abantu mu bikorwa by'ubuhotozi n'itsembatsemba byibasiye abasiviri b'Abatutsi, biciwe ku kiriziya y'i Musha, ku rusengero no ku kigo cy'amashuri by'abaporo i Ruhanga (« ikigo cya Ruhanga ») muri Komine ya Gikoro, hagati y'itariki ya 13 n'ya 15 Mata 1994.
2. Kuva ku itariki ya 7 Mata 1994, mu Rwanda hose habaye ubwicanyi bwibasiye Abatutsi n'abanyapolitiki batavugaga rumwe n'ubutegets, bwakozwe n'abantu bitwaraga gisirikare, abasirikare n'abajandarume. Mu turere twose tw'igihugu, Abatutsi bahungaga ubwicanyi bahungiye ahantu bakekaga ko babonera umutekano. Ahenshi muri aho hantu bahungiye bagabweho ibitero baricwa, akenshi abategets ari ibyitso muri ubwo bwicanyi.
3. Muri Komine ya Gikoro, ubwicanyi bwatangiye ku itariki ya 7 Mata 1994. Hagati y'itariki ya 8 n'ya 13 Mata 1994, abasiviri b'Abatutsi babarirwa mu bihumbi bahungiye muri kiriziya y'i Musha, muri Komine ya Gikoro, kubera ibitero byaberaga muri Perefegitura ya Kigali-Ngari. Ku itariki ya 12 Mata 1994 cyangwa hafi yayo, abasirikare bo mu ngabo z'u Rwanda bahaye intwari Interahamwe n'abandi basiviri, bakaba barazibahereye ku kiriziya y'i Musha kandi Uregwa abizi.
4. Ku itariki ya 13 Mata 1994 cyangwa hafi yayo, abasirikare bo mu ngabo z'u Rwanda, Interahamwe, abasiviri n'abaporisi ba komine bitwaje intwari zirimo imbunda, amagerenade n'imipanga, bagabye igitero ku basiviri b'Abatutsi bari bahungiye ku kiriziya y'i Musha. Uregwa yari aho hantu igitero cyabereye. Muri icyo gitero, hari umusiviri witwaraga gisirikare watwitse kiriziya. Abatutsi barenze igihumbi bahitanywe n'icyo gitero. Uregwa yari ahari ubwo umusiviri w'Umututsi witwaga Rusanganwa yicirwaga aho hantu.

5. Na none kandi, hagati y'itariki ya 8 n'ya 10 Mata 1994, abasiviri b'Abatutsi benshi bahungiyeye mu rusengero n'ikigo cy'amashuri by'abaporo i Ruhanga, muri Komine ya Gikoro. Hagati y'itariki ya 10 n'ya 15 Mata 1994, burigadiye, abajepa, abasiviri bitwaraga gisirikare n'abaporisi ba komine bagabye igitero ku kigo cya Ruhanga. Abagabye igitero bari bitwaje imbunda, amagerenade n'imipanga. Abasiviri benshi b'Abatutsi barishwe. Paul Bisengimana yari azi ko hari igitero cyari cyaragabwe mbere ku kiriziya y'i Musha, ariko n'ubwo yari Burugumesitiri wa Komine ya Gikoro, nta cyo yakozwe kugira ngo arinde impunzi z'Abatutsi.
6. Ku itariki ya 7 Ukuboza 2005, Urugereko rwa Mbere rw'Iremezo II (« Urugereko ») rwemeye ubwemeracyaha bw'Uregwa maze rumuhamya icyaha cyo kuba yarafashije kandi agashishikariza abandi ibikorwa by'ubuhotozi n'itsembatsemba, nk'ibyaha byibasiye inyokomuntu.

B. Inyandiko y'ibirego

7. Ashingiyeye ku Nyandiko y'ibirego yahinduwe yo ku itariki ya 1 Ukuboza 2005 (« Inyandiko y'ibirego »), Porokireri arega Paul Bisengimana, nka gatozi, ibyaha bitanu bikurikira: jenocide (ingingo ya 6 (1) na (3) ya Sitati¹); kuba icyitso cy'abakoze jenocide (ingingo ya 6 (1)); ubuhotozi (ingingo ya 6 (1)), itsembatsemba (ingingo ya 6 (1)) no gusambanya ku gahato (ingingo ya 6 (1) na 6 (3)) nk'ibyaha byibasiye inyokomuntu. Ubwo Uregwa yitabaga Urugereko bwa kabiri ku itariki ya 7 Ukuboza 2005, Porokireri yavanye mu Nyandiko y'ibirego icyaha cya jenocide, icyo kuba icyitso cy'abakoze jenocide, n'icyo gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu. Inyandiko y'ibirego yometse kuri iyi Nyandiko y'urubanza (Umugereka C).

C. Incamake y'imiburanishirize

8. Paul Bisengimana yafatiwe muri Mali ku itariki ya 4 Ukuboza 2001. Ku itariki ya 11 Werurwe 2002 yimuriwe Arusha muri gereza y'Urukiko (« gereza y'Urukiko »). Ku

¹ Sitati y'Urukiko (« Sitati »)

itariki ya 18 Werurwe 2002, yitabye urukiko bwa mbere maze ahakana ibyaha byose yaregwaga.

9. Ku itariki ya 19 Ukwakira 2005, Paul Bisengimana na Porokireri bashyikirije Urugereko icyifuzo bahuriyeho, barusaba gusuzuma amasezerano y'ubwemeracyaha bagiranye².
10. Ku itariki ya 17 Ugushyingo 2005, ubwo Uregwa yongeraga kwitaba urukiko, yemeye ubwicanyi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu, ariyozwa hashigiwe ku ngingo ya 6 (1) ya Sitati³. Urugereko ntirwemeye icyifuzo gihuriweho n'ababuranyi kubera ko ubwemeracyaha bwari ibintu bidasobanutse. Urugereko rwafashe icyemezo mu kigwi cye ko ahakana icyaha cy'ubuhotozi n'icy'itsembatsemba, kandi rwasanze n'ibindi byaha aregwa bigomba gufatwa ko abihakana⁴.
11. Inyandiko y'ibirego yatanze ku itariki ya 1 Ukuboza 2005.
12. Ku itariki ya 7 Ukuboza 2005, ubwo yongeraga kwitaba urukiko, Uregwa yemeye ubuhotozi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu ariyozwa hashingiwe ku ngingo ya 6 (1) ya Sitati⁵. Urugereko rwamuhamije ibyaha byo kuba yarafashije kandi agashishikariza abantu ibikorwa by'ubuhotozi (ikirego cya 3) n'itsembatsemba (ikirego cya 4) nk'ibyaha byibasiye inyokomuntu, ariyozwa hashingiwe ku ngingo ya 6 (1) ya Sitati⁶. Urugereko rwemeye icyifuzo cya Porokireri gisaba kuvana mu Nyandiko y'ibirego ibindi byaha bisigaye, ariko ntirwemeye icyifuzo yatanze cyo guhanaguraho Uregwa ibyo byaha kubera ko nta bisobanuro biboneye yatanze kuri icyo kibazo⁷.
13. Iburanisha mbanzirizagihano ryabaye ku itariki ya 19 Mutarama 2006.

² Icyifuzo Paul Bisengimana na Porokireri batangiyeho hamwe basaba Urugereko gusuzuma amasezerano y'ubwemeracyaha hagati yabo, cyatanze ku itariki ya 19 Ukwakira 2005.

³ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 14.

⁴ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 26.

⁵ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, imp. 12-13.

⁶ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 17.

⁷ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 18.

14. Umugereka A, wometse kuri iyi Nyandiko y'urubanza, werekana ku buryo burambuye uko imiburanishirize yagenze.

D. Urukiko n'ububasha bwarwo

15. Urubanza Porokireri aburana na Paul Bisengimana ruciwe n'Urugereko rwa Mbere rw'Iremezo II rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda («Urukiko»), rugizwe n'Abacamanza Arlette Ramaroson ari na we Perezida w'Inteko, William H. Sekule na Solomy B. Bossa.
16. Urukiko rugengwa na Sitati iri ku Mugereka w'Icyemezo 955 cy'Inama Ishinzwe Amahoro ku Isi, hamwe n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso («Amategeko»)⁸.
17. Urukiko rwashyiriweho gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibikorwa binyuranyije ku buryo bukomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda. Urukiko rufite ububasha bwo kuburanisha ibyaha bya jenocide, ibyaha byibasiye inyokomuntu, n'ibikorwa binyuranyije ku buryo bukomeye n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve hamwe n'Inyongera yayo ya 2, byakozwe hagati y'itariki ya 1 Mutarama n'ya 31 Ukuboza 1994.

II. UBWEMERACYAHA

A. Amategeko akurikizwa

18. Urugereko rusanga muri Sitati nta ngingo yihariye irimo yerekeye ubwemeracyaha n'amasezerano ajyana na bwo. Ingingo ziri mu Mategeko zirebana n'ubwemeracyaha ni iya 62 (B) n'ya 62 bis⁹.

⁸ Amategeko yemejwe bwa mbere n'abacamanza b'Urukiko ku itariki ya 5 Nyakanga 1995. Yahinduwe bwa nyuma ku itariki 7 Kamena 2005, mu nama rusange y'abacamanza ya 15.

⁹ **Ingingo ya 62: Kwitaba urukiko bwa mbere no kwemera cyangwa guhakana icyaha**

B. Ubwemeracyaha bwo ku itariki ya 7 Ukuboza 2005

19. Ku itariki ya 7 Ukuboza 2005, Paul Bisengimana amaze kwemera icyaha cy'ubuhotozi (ikirego cya 3) n'itsembatsemba (ikirego cya 4) nk'ibyaha byibasiye inyokomuntu ariyozwa hashingiwe ku ngingo ya 6 (1) ya Sitati, Urugereko rwasuzumye niba ubwirege bwe bwujuje ibisabwa n'amategeko.
20. Urukiko rwasobanuye mu magambo make ingaruka z'ubwirege. Rwavuze ko iyo uregwa ahakanye icyaha, afatwa nk'umwere kugeza igihe ahamijwe icyaha ku buryo budashidikanywaho. Kubera izo mpamvu, uregwa uhakanye icyaha afite uburenganzira bwo gucirwa urubanza mu buryo buboneye, kunyomoza abatangabuhamya bamushinja, guhamagaza abatangabuhamya bamushinjura no gutanga ubwe ubuhamya mu rubanza rwe. Urugereko rwabajije Uregwa niba yumva

B) Iyo uregwa yemeye icyaha nk'uko biteganywa mu ngingo ya 62 (A)(v) cyangwa agasaba kwisubiraho 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 ku kuba hagati ya Porokireri n'uregwa nta kunyuranya gukomeye kuriho ku birebana n'uko ibintu byagenze.

Iyo Urugereko rwa Mbere rw'Iremezo rusanze ariko bimeze, rushobora kwemeza ko uregwa ahamwa n'icyaha, rugatega Gerefiye gushyiraho itariki y'iburanisha mbanziriza gihano.

Ingingo ya 62 bis: Ibikorwa iyo habayeho amasezerano 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 cyo kutarengerezwa ibihano ibi n'ibi.

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

C) Iyo abaturanyi bagiranye amasezerano y'ubwemeracyaha, Urugereko rwa Mbere rw'Iremezo rusaba ko ayo masezerano ashyirwa ku mugaragaro, haba mu iburanisha ryo mu ruhame cyangwa mu muhezo niba hatanzwe impamvu zumvikana, ari na bwo uregwa yemera ibyaha hakurikijwe ibiteganywa n'ingingo ya 62 (A) (v), cyangwa agasaba kwisubira yemera ibyaha yari yarahakanye mbere.

neza ko iyo yemeye icyaha aba yivukije ubwo burenganzira, maze asubiza ko abyumva neza kandi ko yemeye kwivutsa ubwo burenganzira azi neza icyo akora¹⁰.

21. Rushingiye ku ngingo ya 62 (B) (i), (ii) na (iii) y'Amategeko, Urugereko rwabanje kubaza niba ubwemeracyaha bwabaye nta gahato kandi ku bwende. Mu yandi magambo, rwabajije Uregwa niba azi neza ibyo akora kandi niba ataremeye icyaha ashyizweho iterabwoba cyangwa yutswe igitutu. Uregwa yasubije ko yari azi neza ibyo akora, ko nta muntu wigeze amutera ubwoba kandi ko yemeye icyaha ku bwende bwe¹¹.
22. Ikibazo cya kabiri Urugereko rwabajije Uregwa ni icyo kumenya niba yumva neza imiterere y'ibyaha ashinjwa n'ingaruka ubwirege bwe buzagira kuri buri cyaha¹². Uregwa yasubije ko yireze ibyaha «azi neza icyo akora»¹³.
23. Ikibazo cya gatatu Urugereko rwabajije Uregwa ni icyo kumenya niba ubwirege bwe butarimo uguhuzagurika: ni ukuvuga niba azi ko ubwo bwirege budashobora kubangikanywa n'indi myiregurire iyo ari yo yose yanyuranya na bwo. Uregwa yasubije ko nta yindi myiregurire yabangikanywa na bwo¹⁴.
24. Urugereko rusanga kandi mu masezerano y'ubwemeracyaha hakubiyemo ibi bikurikira: Uregwa yahisemo kwemera icyaha¹⁵ ku bwende kandi «azi neza icyo akora»; yafashe icyemezo cyo kwemera icyaha amaze igihe kirekire abitekerezaho kandi yarumvise uburemere bw'ibyaha yakoze n'ingaruka zabyo¹⁶; yiyemeje guhindura imyiregurire ye nyuma y'aho asobanuriwe neza ingaruka zo mu rwego rw'amategeko zerekeranye n'uko kwisubiraho kandi amaze kuzemera¹⁷; yemeye icyaha ku bwende, azi neza icyo yiyemeje kandi nta guhuzagurika¹⁸.

¹⁰ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 14.

¹¹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 14.

¹² Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 14.

¹³ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 15.

¹⁴ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 15.

¹⁵ Amasezerano y'ubwemeracyaha, igika 5.

¹⁶ Amasezerano y'ubwemeracyaha, igika 6

¹⁷ Amasezerano y'ubwemeracyaha, igika 8.

¹⁸ Amasezerano y'ubwemeracyaha, igika 9.

25. Mu cyemezo rwafashe mu magambo ku itariki ya 7 Ukuboza 2005, Urugereko rwasanze nta kunyuranya kuri hagati ya Porokireri n'Uregwa ku birebana n'ibikorwa bivugwa mu rubanza, bityo ubwirege bukaba bushingiye ku bintu bihagije mu kugaragaza ibyaha byakozwe n'uruhare Uregwa yabigizemo. Urugereko rwasanze ibisabwa n'ingingo ya 62(B) byose byuzuye, bityo rukaba rwarahamije Uregwa icyaha cyo kuba yarafashije akanashishikariza abantu gukora ubuhotozi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu, hashingiwe ku ngingo ya 6 (1) ya Sitati¹⁹. Urugereko rwemeye icyifuzo cya Porokireri cyo kuvana mu Nyandiko y'ibirego ibyaha Uregwa yahakanye²⁰. Nyamara ariko, Urugereko ntirwemeye icyifuzo cya Porokireri cyasabaga ko Uregwa agirwa umwere kuri ibyo byaha kubera ko nta bisobanuro biboneye yatanze kuri icyo kibazo²¹.

III. URUBANZA MU MIZI YARWO

A. Uregwa

26. Paul Bisengimana yavutse mu mwaka wa 1948²², akaba yaravukiye muri Segiteri ya Duha, Komine ya Gikoro, Perefegitura ya Kigali-Ngari²³. Ni mwene Verdiana Nyirabatera na Gervais Ngirumpatse²⁴, bombi bakaba baritabye Imana²⁵. Amaze kuba mukuru, igice kinini cy'ubuzima bwe yakimaze aba muri Komine ya Gikoro²⁶.

27. Paul Bisengimana afite umugore, n'abana icumi. Barindwi yababyaranye n'umugore we wa mbere witwaga Dorca Kantarama, witabye Imana mu wa 1991. Nyuma yashakanye na Marie Héronline Mukandagijimana, babyarana abana babiri. Hari

¹⁹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 17.

²⁰ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, imp. 17-18.

²¹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 18.

²² Amasezerano y'ubwemeracyaha, igika 24; Inyandikomvugo y'iburanisha, 17 Ugushyirye 2005, urup. 11; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 11.

²³ Amasezerano y'ubwemeracyaha, igika 24; Inyandiko y'ibirego, igika 2.

²⁴ Inyandikomvugo y'iburanisha, 17 Ugushyirye 2005, urup. 11; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 11.

²⁵ Inyandikomvugo y'iburanisha, 17 Ugushyirye 2005, urup. 11.

²⁶ Amasezerano y'ubwemeracyaha, igika 24.

kandi umwana atabyaye w'umugore we wa kabiri yabereye umubyeyi mu buryo buteganywa n'amategeko²⁷.

28. Paul Bisengimana yize amashuri abanza muri Komine ya Gikoro. icyiciro cya mbere cy'amashuri yisumbuye cy'imyaka itatu yacyize i Rwamagana. Yakomereje amashuri ye mu ishuri nderabarezi ry'i Byumba, aho yasohokanye impamyabumenyi y'ubwarimu (D5)²⁸ mu wa 1970.
29. Kuva mu wa 1970 kugeza mu wa 1974, Paul Bisengimana yabaye umwarimu muri komine avukamo. Kuva mu wa 1974 kugeza mu wa 1978, yari umuyobozi w'ishuri ryisumbuye i Nyanza. Kuva mu wa 1978 kugeza mu wa 1981 yari Juji Perezida w'Urukiko rwa Kanto rwa Nyamata, muri Perefegitura ya Kigali²⁹. Muri Gicurasi 1981, yagizwe Burugumesitiri wa Komine ya Gikoro. Uwo mwanya yari akiwurimo kugeza mu wa 1994, ubwo yahungiraga mu mahanga³⁰.

B. Imyanzuro ku byabaye n'iyo mu rwego rw'amategeko

1. Uburyozwacyaha nka gatozi kubera gufasha no gushishikaza, hashingiwe ku ngingo ya 6 (1) ya Sitati

a. Ibikubiye mu Nyandiko y'ibirego

30. Mu gushyigikira ibirego by'ubuhotozi n'itsembatsemba, Inyandiko y'ibirego ivuga ko mu kwezi kwa Mata 1994, mu karere ka Bugesera ho muri Perefegitura ya Kigali-Ngari, Paul Bisengimana, ari gatozi cyangwa afatanyije n'abandi, yishe cyangwa yicishije abantu mu gihe cy'ubwicanyi bwakorewe muri Komine ya Gikoro no mu nkengero zayo, mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturatione b'abasiviri kubera impamvu za politiki cyangwa ubwoko³¹. Ashingiye ku

²⁷Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 11; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 12.

²⁸Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 11; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 12.

²⁹Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 11; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 13.

³⁰Amasezerano y'ubwemeracyaha, ibika 24-25; Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 11; Inyandiko y'ibirego, igika 3; Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 12.

³¹Inyandiko y'ibirego, ibika 35 na 40.

bikorwa byose bishyigikira icyo kirego, Porokireri avuga ko Uregwa yacuze umugambi wo gukora ibyo byaha cyangwa ku bundi buryo ubwo ari bwo bwose agafasha kandi agashishikariza abandi gucura umugambi w'ibyo byaha, kubitegura cyangwa kubitsotsoba³², hashingiwe ku ngingo ya 6 (1) ya Sitati.

b. Amategeko akurikizwa

31. Ingingo ya 6 (1) ikubiyemo ihame ryerekana ko abantu batsotsobye icyaha giteganywa na Sitati atari bo bonyine bakiryoza, ko ahubwo kiryoza n'abandi bagize uruhare bakanatera inkunga mu bundi buryo mu ikorwa ryacyo, nko gufasha cyangwa gushishikariza abandi kugikora³³.
32. « Gufasha » bivuga gutera inkunga umuntu mu ikorwa ry'icyaha³⁴. « Gushishikaza » ni ugukora igikorwa cyose cyorohereza undi muntu gukora icyaha, kumugira inama, cyangwa kumuhagarira kugikora³⁵. Mu rwego rw'imikoreshereze y'amategeko, hakubiyemo na Sitati n'ubukemuramanza bw'uru Rukiko hamwe n'ubwa TPIY, aya magambo akunze gukoreshwa hamwe ku buryo afatwa nk'aho ari inshoza imwe yaguye mu rwego rw'amategeko³⁶.
33. Gufasha no gushishikaza ni uburyo bwo gukora icyaha ariko nyiri kugikora akaba atari we wagitsotsobye. Uregwa si we uba yakoze igikorwa kigize icyaha ubwacyo (*actus reus*), ahubwo kiba cyakozwe n'undi muntu witwa ko ari gatozi³⁷. Uruhare rw'Uregwa rushobora kugaragara mu gihe cyo gucura umugambi wo gukora icyaha,

³² Inyandiko y'ibirego, ibika 36 na 41.

³³ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 757; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 377; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujirire, igika 185; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 114; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, igika 33; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, ibika 196-197; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 473.

³⁴ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 765; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 384; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, igika 787; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 484.

³⁵ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 765; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 384; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, igika 787; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 484.

³⁶ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 765; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 384, hifashishijwe ibyanditswe na Mewtt na Manning mu gitabo cyitwa « *Criminal Law* » [Amategeko ahana ibyaha] (icapwa rya 3, 1994), urup. 272 (bagaragaza ko amagambo gufasha no gushishikaza « bisa n'aho ku isi hose akoreshwa hamwe »).

³⁷ Inyandiko y'urubanza rwa Kunarac na bagenzi be mu rw'iremezo, igika 391.

gutegura, cyangwa gutsotsoba ikorwa ryacyo kandi rushobora kuba ari igikorwa gifatika cyangwa ibyirengagijwe gukorwa, byaba mbere cyangwa nyuma y'icyo gukorwa cyatsotsobwe na gatozi³⁸. Porokireri agomba kugaragaza ko Uregwa yakoze igikorwa runaka agamije gutera inkunga ifatika gatozi, kumushishikaza no kumutera akanyabugabo, ku buryo byatumye uwo gatozi atsotsoba icyo cyaha³⁹. N'ubwo atari ngombwa ko iyo nkunga iba kamara kugira ngo icyaha gishobore gukorwa⁴⁰, igomba ariko kuba yaratumye ku buryo bugaragara icyaha gitsotsobwa⁴¹.

34. Kuba Uregwa yari aho icyaha cyakorewe bishobora ubwabyo byonyine kuba bumwe mu buryo bwo gufasha no gushishikariza gukora icyaha, iyo bigaragaye ko kuhaba kwe kwashishikaje ku buryo bugaragara gatozi wacyo, cyane cyane iyo uwarebereye igihe icyaha cyakorwaga yari akuriye gatozi wacyo cyangwa se yari afite umwanya runaka w'ubutegetsi⁴². Iyo bimeze bityo, guteshuka ku nshingano ze bishobora gufatwa nk'igikorwa gifatika kigaragaza ko habayeho gufasha no gushishikariza ikorwa ry'icyaha, iyo uko guteshukwa kwagize ingaruka ikomeye ku ikorwa ryacyo⁴³.
35. Nyamara ariko, si ngombwa ko ufasha cyangwa ushishikariza gatozi gukora icyaha aba ari aho icyaha cyakorewe igihe cyakorwaga⁴⁴.
36. Kugira ngo hagarazwe ko uwafashije akanashishikariza ikorwa ry'icyaha yari afite igitekerezo cyo gukora icyaha (*mens rea*), ni ngombwa gutanga ibimenyetso

³⁸ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 766; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 386; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 64.

³⁹ Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujirire, igika 186; Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, ibika 763 na 766; Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, igika 597; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, 473-475; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, igika 43.

⁴⁰ Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujirire, igika 186; Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, ibika 763 na 766; Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, igika 597; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, 473-475; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, igika 43.

⁴¹ Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo igika 33; Inyandiko y'urubanza rwa Kamuhanda mu bujirire, igika 70.

⁴² Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 693; Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 769; Urubanza rwa Furundžija, ibika 34 na 35.

⁴³ Inyandiko y'urubanza rwa Blaškic mu rw'iremezo, igika 284; Inyandiko y'urubanza rwa Tadić mu rw'iremezo, igika 686; Inyandiko y'urubanza rwa Mucić na bagenzi be mu rw'iremezo, igika 842; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 705.

⁴⁴ Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 125.

bigaragaza ko yari azi ko imyitwarire ye itera inkunga gatozi mu gutsotsoba icyaha⁴⁵. Ufasha akanashishikaza agomba kuba yari azi igitekerezo cya gatozi, kandi n'ubwo bitari ngombwa ko yaba azi neza icyaha gatozi azakora, agomba kumenya ibintu by'ingenzi bigize icyo cyaha⁴⁶. Ku birebana n'ukuriye gatozi wafashije kandi agashishikaza mu ikorwa ry'icyaha, igitekerezo cyo gukora icyaha gishobora kugaragazwa n'uko yari azi neza ko kuba yari aho icyaha cyakorewe, gatozi yashoboraga kubifata nk'ikimenyetso cy'uko amushyigikiye cyangwa amushishikaza⁴⁷.

c. Amasezerano y'ubwemeracyaha

37. Perezida wa Repubulika, abigiriwemo inama na Minisitiri w'Ubutegetsi bw'Igihugu, yashyize Paul Bisengimana ku mwanya wa Burugumesitiri wa Komine ya Gikoro⁴⁸. Paul Bisengimana yemera ko nka burugumesitiri, yari ahagariye ubutegetsi nyubahirizategeko ku rwego rwa komine⁴⁹. Na none kandi, ni we wari umuyobozi wa komine yose kandi yari ashinzwe kubungabunga amahoro, ituze, n'umutekano w'abantu n'ibintu, ndetse no gushyira mu bikorwa amategeko n'amabwiriza agenewe ubutegetsi bwo mu turere, hamwe na gahunda ya Leta⁵⁰. Uregwa yemera ko yari afite inshingano yo kurinda abaturage, iyo kuburizamo ibikorwa binyuranyije n'amategeko byakorwaga n'abagabaga ibitero byibasiye abantu n'imitungo yabo, cyangwa guhana ababikoze⁵¹. Yari afite kandi inshingano yo kumenyesha ubutegetsi bukuru ikintu cyose kibaye muri Komine ya Gikoro abona ko ari ngombwa ko bumenya⁵².

⁴⁵ Inyandiko y'urubanza rwa Blaškic mu bujirire, igika 49; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujirire, igika 186.

⁴⁶ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 768; Inyandiko y'urubanza rwa *Kayishema na Ruzindana* mu bujirire, ibika 186 na 187; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 387; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 32; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, igika 201; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu bujirire, igika 186.

⁴⁷ Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, ibika 200 na 201; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, ibika 34-36; Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, igika 600; Inyandiko y'urubanza rwa Kamuhanda mu bujirire, ibika 70-71.

⁴⁸ Amasezerano y'ubwemeracyaha, igika 25; Inyandiko y'ibirego, igika 3.

⁴⁹ Amasezerano y'ubwemeracyaha, igika 25; Inyandiko y'ibirego, igika 4.

⁵⁰ Amasezerano y'ubwemeracyaha, ibika 26 na 29; Inyandiko y'ibirego, igika 7.

⁵¹ Amasezerano y'ubwemeracyaha, igika 29; Inyandiko y'ibirego, igika 7.

⁵² Amasezerano y'ubwemeracyaha, igika 26.

38. Uregwa yemera ko nka burugumesitiri yari afite ububasha yakomoraga ku mategeko n'ubwo atayakomoragaho ku bakozi ba Leta bose n'abandi bakozi bo ku rwego rwa Komine ya Gikoro⁵³, harimo n'abakonseye ba za segiteri⁵⁴. Abakonseye ba za segiteri ni bo bari bahagarariye ubutegetsu nyubahirizategeko ku rwego rwa segiteri kandi bari bashinzwe kubungabunga ituze rusange mu masegiteri yabo⁵⁵.
39. Paul Bisengimana yemera ko yari afite inshingano yo kurinda abaturage, iyo kuburizamo ibikorwa binyuranyije n'amategeko byakozwe n'abagabye ibitero ku kiriziya y'i Musha no ku kigo cya Ruhanga, cyangwa guhana ababikoze, ko ariko iyo nshingano atayirangije⁵⁶. Yemera ko yari afite uburyo bwo kuburizamo ibikorwa by'ubwicanyi bwibasiye abasiviri b'Abatutsi muri Komine ya Gikoro, ariko ko yitaramiye⁵⁷. Ku birebana n'ubwicanyi bwakorewe ku kiriziya y'i Musha, Paul Bisengimana yemera ko kuba yari ahari ubwo igitero cyahagabwaga byashoboraga gushishikaza abakigabye no gutuma batekereza ko yemeye ko ubwo bwicanyi bukorwa⁵⁸.
40. Mu byiciro bikurikira, Urugereko rurasuzuma uburyozwacyaha bw'Uregwa nka gatozi, hashingiwe ku ngingo ya 6 (1) ya Sitati, ku birebana n'ibyaha yemeye.

1. Ibyaha byibasiye inyokomuntu (ingingo ya 3 ya Sitati)

a. Ibigize icyo cyaha muri rusange

41. Kugira ngo igikorwa kivugwa mu ngingo ya 3 ya Sitati cyitwe icyaha cyibasiye inyokomuntu, ni ngombwa kugaragaza ko icyo cyaha cyakozwe mu rwego rw'ibitero rusange cyangwa biri kuri gahunda byibasiye abaturage b'abasiviri abo ari bo bose, kubera impamvu z'ubwengehugu, politiki, ubwoko cyangwa idini.

i. Igitero

⁵³ Ni kimwe no haruguru, igika 27; Inyandiko y'ibirego, igika 5.

⁵⁴ Amasezerano y'ubwemeracyaha, igika 27.

⁵⁵ Amasezerano y'ubwemeracyaha, igika 28.

⁵⁶ Amasezerano y'ubwemeracyaha, igika 29; Inyandiko y'ibirego, igika 7.

⁵⁷ Amasezerano y'ubwemeracyaha, igika 32; Inyandiko y'ibirego, igika 8.

⁵⁸ Amasezerano y'ubwemeracyaha, igika 36.

42. Urugereko ruributsa ko ijambo «igitero» ryatangiye igisobanuro ko ari «igikorwa cyose, icyabaye cyose cyangwa ibyabaye byose binyuranyije n'amategeko cyangwa bifitanye isano n'ibikorwa bivugwa mu ngingo ya 3 ya Sitati guhera ku gaka *a* kugera kuri *i*⁵⁹».
43. Urugereko rusanga iyo usuzumye ubukemuramanza bwa TPIR n'ubwa TPIY, ubona ko igipimo ngenderwaho ari ibitero byabaye «rusange cyangwa byateguwe», nta bwo ari ibyabaye «rusange kandi byateguwe»⁶⁰.
44. Ku birebana n'ibitero rusange, ijambo «rusange», ryagiye risobanurwa mu manza z'Urukiko mu buryo butandukanye gato⁶¹. Urugereko rusanga ariko rijyana buri gihe n'ingano y'igitero ndetse rimwe na rimwe n'umubare w'abakiguyemo. Urugereko ruragenda ku buryo iryo jambo ryasobanuwe mu rubanza rwa Kajelijeli, ahavugwa «igitero kinini, cyahitanye abantu benshi»⁶².
45. Urugereko rwemera kandi ibikubiye mu rubanza rwa Kajelijeli ku birebana n'igitero «kiri kuri gahunda», ahavugwa ko ayo magambo «kiri kuri gahunda» yerekana ko igitero kigomba kuba cyarateguwe⁶³.
46. Mu masezerano y'ubwemeracyaha, Uregwa yemera ko guhera ku itariki ya 7 Mata 1994, Abatutsi hamwe n'abantu benshi batavugaga rumwe n'ubutegetsi bishwe mu Rwanda hose, hakubiyemo no muri Komine ya Gikoro. Ibyo byaha byakozwe n'abantu bitwaraga gisirikare, abasirikare n'abajandarume⁶⁴.
47. Rushingiye ku byabaye bivugwa mu masezerano y'ubwemeracyaha, Urugereko rusanga mu kwezi kwa Mata 1994, muri Komine ya Gikoro haragabwe ibitero rusange, kubera ko ibyo bitero byahitanye abantu benshi cyane.

⁵⁹ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 867; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 327.

⁶⁰ Inyandiko ya Sitati mu rurimi rw'igifaransa ivuga ko igitero kigomba kuba ari rusange kandi kiri kuri gahunda, naho inyandiko yo mu rurimi rw'icyongereza ivuga ko igitero kigomba kuba ari rusange cyangwa kiri kuri gahunda. Mu bukemuramanza bwa TPIR na TPIY, inyandiko yo mu rurimi rw'icyongereza yemejwe ko ari yo ihuje n'amategeko mpuzamahanga agendera ku mucu karande. Reba Inyandiko y'urubanza rwa Kunarac na bagenzi be mu bujuri, igika 93.

⁶¹ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 871.

⁶² Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 871.

⁶³ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 872.

⁶⁴ Amasezerano y'ubwemeracyaha, igika 30.

ii. Igitero kigomba kuba cyibasiye abaturatione b'abasiviri

48. Igisobanuro cy'amagambo « abaturatione b'abasiviri » cyatanzwe mu rubanza rwa Akayesu ni cyo cyimakajwe mu bukemuramanza bw'uru Rukiko⁶⁵.

[...] abantu batari mu mirwano ku buryo butaziguye, harimo n'abasirikare bashyize intwari hasi n'abandi batagishoboye kurwana kubera uburwayi, ibikomere, gufungwa cyangwa indi mpamvu iyo ari yo yose. Kuba mu baturage b'abasiviri harimo abandi bantu batujuje ibiri mu gisobanuro gitangwa ku baturage b'abasiviri, ntibibabuzwa gufatwa nk'abasiviri⁶⁶.

49. Nk'uko byavuzwe mu rubanza rwa Blaškic, « mu kwemeza niba uwahohotewe ari umusiviri, uko yari ameze igihe ibyaha byakorwaga ni byo byitabwaho kurusha imimerere ye bwite isanzwe⁶⁷ ».

50. Byongeye kandi, kuvuga « abaturatione » ntibisobanura ko igitero kigomba kuba cyibasiye abaturatione bose bo muri ako karere cyangwa agace cyagabwemo⁶⁸. Mu rubanza rwa Semanza, Urugereko rwatanze kandi ibisobanuro bikurikira:

Si ngombwa ko uwahohotewe cyangwa abahohotewe mu gikorwa kivugwa baba bafite aho bahuriye n'abaturatione b'abasiviri baba bibasiwe mbere na mbere n'igitero, nko kuba batuye mu ifasi imwe cyangwa bahuriye ku bindi bibaranga, ariko ibyo bishobora gushingirwaho mu kugaragaza ko igikorwa runaka kivugwa kiri mu rwego rw'icyo gitero⁶⁹.

51. Urugereko rwemera ibivugwa muri ubu bukemuramanza.

⁶⁵ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 873; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, igika 72; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 207; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 330.

⁶⁶ Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 582; ibi byasubiwemo no mu Nyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 873.

⁶⁷ Inyandiko y'urubanza rwa Blaškic mu rw'iremezo, igika 214 ; ibi byasubiwemo no mu Nyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 79, no mu Nyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 874.

⁶⁸ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 875; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 80; Inyandiko y'urubanza rwa Tadić mu rw'iremezo, igika 644.

⁶⁹ Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 330; ibi byasubiwemo no mu Nyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 875.

52. Mu masezerano y'ubwemeracyaha, Uregwa yemera ko Abatutsi hamwe n'abantu benshi batavugaga rumwe n'ubutegetsi bishwe⁷⁰. Yemera kandi ko ibitero byibasiye abasiviri b'Abatutsi bari bateraniye ku kiriziya y'i Musha no ku rusengeru rw'abaporo n'ikigo cy'amashuri by'i Ruhanga, muri Komine ya Gikoro, byari mu rwego rw'ibitero byagabwaga ku Batutsi ahenshi mu Rwanda muri Mata 1994⁷¹.
53. Rushingiye ku byabaye bigaragara mu masezerano y'ubwemeracyaha, Urugereko rusanga ibitero rusange byagabwe muri Komine ya Gikoro byaribasiye abatwaga b'abasiviri.

iii. Igitero kigomba kuba gishingiye ku mpamvu z'ivangura

54. Urugereko ruributsa ko mu rubanza rwa Akayesu mu bujirire, Urugereko rw'Ubujujirire rwasanze « mpamvu z'ivangura » zijyanye by'umwihariko n'ububasha bw'Urukiko, kuko rusuzuma gusa ibyaha byakozwe hashingiwe ku mpamvu « z'ubwenehugu, politiki, ubwoko cyangwa idini »⁷². Nyamara ariko, mu rubanza rwa Kajelijeli, Urugereko rwavuze ko:

Ibikorwa byibasira abantu batari mu matsinda yo mu rwego rw'arengerwa n'amategeko mpuzamahanga, ntibigomba byanze bikunze gufatwa nk'iby Urukiko rudafiteho ububasha niba uwabikoze yari agamije gufasha mu gushyira mu bikorwa igitero cyibasiye itsinda rikorerwa ivangura rizira imwe mu mpamvu zavuzwe⁷³.

55. Mu masezerano y'ubwemeracyaha, Paul Bisengimana yemeye ko Abatutsi bishwe hamwe n'abantu benshi batavugaga rumwe n'ubutegetsi⁷⁴. Yemeye ko guhera ku itariki ya 7 Mata 1994, Abatutsi bose bahungaga ubwicanyi bwarimo kuba bagiye bahungira ahantu bakekaga ko hari umutekano. Ahenshi muri aho hantu impunzi

⁷⁰ Amasezerano y'ubwemeracyaha, igika 30.

⁷¹ Amasezerano y'ubwemeracyaha, ibika 39 na 42.

⁷² Inyandiko y'urubanza rwa Akayesu mu bujirire, ibika 464 na 465; ibi byasubiwemo no mu nyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 877.

⁷³ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 878; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, igika 74; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 209; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 331.

⁷⁴ Amasezerano y'ubwemeracyaha, igika 30.

zagabweho ibitero, zirashimutwa ziranicwa kandi akenshi abayobozi ari ibyitso by'abatsotsobye icyaha⁷⁵.

56. Rushingiye ku byabaye bigaragara mu masezerano y'ubwemeracyaha, Urugereko rusanga ibitero rusange byagabwe ku baturage b'abasiviri byaragabwe ku mpamvu z'ivangura kubera ko abenshi mu bahohotewe bari Abatutsi.

iv. Igiterekerezo cyo gukora ibyaha byibasiye inyokomuntu

57. Urugereko rwemera imyumvire yagendewehe mu rubanza rwa Kajelijeli ahavugwa ko « uregwa agomba kuba yari azi urwego rusange icyo gitero cyagabwemo kandi azi ko ibikorwa bye ari bimwe mu bigize icyo gitero cyibasiye abaturage b'abasiviri»⁷⁶.

58. Mu masezerano y'ubwemeracyaha, Uregwa yemera ko guhera ku itariki ya 7 Mata 1994, Abatutsi hamwe n'abantu benshi batavugaga rumwe n'ubutegetsu biciwe muri Komine ya Gikoro⁷⁷. Yemera ko ibitero byibasiye abasiviri b'Abatutsi bari bateraniye ku kiriziya y'i Musha, hamwe no ku rusengeru no ku kigo cy'amashuri by'abaporo i Ruhanga byari mu rwego rw'ibitero byarimo bigabwa ku Batutsi ahenshi mu Rwanda⁷⁸.

59. Rushingiye ku masezerano y'ubwemeracyaha, Urugereko rwemera ko Uregwa yari azi urwego rusange ibitero byagabwagamo mu Rwanda mu kwezi kwa Mata 1994, ko kandi yari azi ko ibikorwa bye byari bimwe mu bigize ibyo bitero rusange byibasiye abasiviri b'Abatutsi.

b. Imyanzuro y'Urugereko

60. Urugereko rusanze muri Mata 1994, ku kiriziya y'i Musha hamwe no ku rusengeru no ku kigo cy'amashuri by'abaporo i Ruhanga, muri Komini ya Gikoro, haragabwe

⁷⁵ Amasezerano y'ubwemeracyaha, igika 31.

⁷⁶ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 880; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 332; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 206; Inyandiko y'urubanza rwa Ntakirutimana na Ntakirutimana mu rw'iremezo, igika 803; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 94; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, igika 134; Inyandiko y'urubanza rwa Kunarac na bagenzi be mu bujirire, igika 102.

⁷⁷ Amasezerano y'ubwemeracyaha, igika 30.

⁷⁸ Amasezerano y'ubwemeracyaha, ibika 39 na 42.

ibitero ku basiviri b'Abatutsi kubera impamvu z'ivangura, kandi ibyo bitero byari rusange kubera ko byahitanye abantu benshi.

1. Ibyaha byibasiye inyokomuntu - Itsembatsemba

a. Ibikubiye mu Nyandiko y'ibirego

61. Ikirego cya kane gishinja Uregwa itsembatsemba nk'icyaha cyibasiye inyokomuntu, hashingiwe ku ngingo ya 3 (b) ya Sitati. Icyo kirego kigira kiti:

Muri Mata 1994, mu karere ka Bugesera, Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, **Paul Bisengimana** ari gatozi kandi afatanyije n'abandi bantu, yishe cyangwa yicishije abantu mu bwicanyi bwahitanye imbaga y'abantu muri Komine ya Gikoro no mu nkengeru zayo. Ibyo byabaye mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko⁷⁹.

Hagati y'itariki ya 6 n'ya 21 Mata 1994, mu Rwanda hagabwe ibitero rusange cyangwa biri kuri gahunda, byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko⁸⁰.

Kubera ibikorwa bye nka gatozi cyangwa kubera abantu yafashije abizi kandi abishaka, **Paul Bisengimana** yafashije kandi ashishikariza abandi bantu gucura umugambi, gutegura cyangwa gukora ubwicanyi bwibasiye abasiviri b'Abatutsi⁸¹.

Abasiviri babarirwa mu bihumbi barimo abagabo, abagore n'abana barishwe biturutse, mu buryo butaziguye, ku myitwarire ya **Paul Bisengimana**, irimo gutera akanyabugabo abagabaga ibitero⁸².

Ibikorwa **Paul Bisengimana** yakoze muri Mata 1994, ari byo gufasha no gushishikariza abantu kwica abasiviri b'Abatutsi ku kiriziya y'i Musha, muri Komine ya Gikoro no ku rusengeru rw'abaporo i Ruhanga, muri Serire ya Ruhanga, Segiteri ya Gicaca, Komine ya Gikoro, bisobanurwa kuva ku gika

⁷⁹ Inyandiko y'ibirego, igika 40.

⁸⁰ Inyandiko y'ibirego, igika 42.

⁸¹ Inyandiko y'ibirego, igika 43.

⁸² Inyandiko y'ibirego, igika 44.

cya 17 kugeza ku cya 20 no kuva ku gika cya 24 kugeza ku cya 28 by'iyi Nyandiko y'ibirego. Ibivugwa muri ibyo bika na byo birashingirwaho muri iki kirego kandi bigomba gufatwa nk'aho bicyanditsemo, bikaba rero atari ngombwa kongera kubyandukura⁸³.

b. Amasezerano y'ubwemeracyaha

62. Paul Bisengimana yemera ko yagize uruhare mu gufasha no gushishikaza mu ikorwa ry'itsembatsemba nk'icyaha cyibasiye inyokomuntu⁸⁴.

i. Ibyabereye ku kiriziya y'i Musha

63. Uregwa yemera ko hagati y'itariki ya 8 n'ya 13 Mata 1994, abasiviri b'Abatutsi barenga igihumbi bahungiyeye ku kiriziya y'i Musha, iri muri Segiteri ya Rutoma, Komine ya Gikoro, bakaba barahungaga ibitero byabibasiraga hirya no hino muri Perefegitura ya Kigali⁸⁵.
64. Urugereko rusanga n'ubwo Inyandiko y'ibirego ivuga ko Juvénal Rugambarara yari mu bantu bari ku kiriziya y'i Musha ubwo igitero cyahagabwaga⁸⁶, izina rye ritagaragara mu masezerano y'ubwemeracyaha⁸⁷. Urugereko rwabonye uko kunyuranya ariko rusanga bidatesha agaciro ubwirege bw'Uregwa cyangwa uruhare rwe mu ikorwa ry'icyo cyaha.
65. Uregwa yemera ko:
- a) Ku itariki ya 12 Mata 1994 cyangwa hafi yayo, abasirikare b'ingabo z'u Rwanda bakwirakwije intwari zirimo imbunda n'amagerenade mu Nterahamwe no mu bandi basiviri bari bitwaje intwari ku kiriziya y'i Musha⁸⁸;
 - b) Ibyo yari abizi kandi yazirikanaga ko izo ntwaro zizakoreshwa mu kugaba ibitero ku basiviri b'Abatutsi bari bahungiyeye ku kiriziya y'i Musha⁸⁹;

⁸³ Inyandiko y'ibirego, igika 45.

⁸⁴ Amasezerano y'ubwemeracyaha, igika 5.

⁸⁵ Amasezerano y'ubwemeracyaha, igika 33; Inyandiko y'ibirego, igika 17.

⁸⁶ Inyandiko y'ibirego, igika 19.

⁸⁷ Amasezerano y'ubwemeracyaha, igika 35.

⁸⁸ Amasezerano y'ubwemeracyaha, igika 34.

- c) Ku itariki ya 13 Mata 1994 cyangwa hafi yayo, hari igitero cyagabwe ku basiviri b'Abatutsi bari bahungiyeye ku kiriziya y'i Musha. Abagabye igitero bakoresheje imbunda, amagerenade, imipanga n'izindi ntwaro za gakondo⁹⁰;
 - d) icyo gitero cyahitanye abasiviri b'Abatutsi barenga igihumbi⁹¹;
 - e) Muri icyo gitero, Interahamwe yitwa Manda yatwitse kiriziya maze iyo nkongi ihitana impunzi nyinshi⁹²;
 - f) Uregwa yari aho hantu hagabwe igitero, ari kumwe na Laurent Semanza, abasirikare bo mu ngabo z'u Rwanda, Interahamwe, abasiviri bitwaje intwaro n'abaporisi ba komine⁹³;
 - g) Kuba yari ku kiriziya y'i Musha igihe igitero cyahagabwaga byateye inkunga abari bagabye igitero kandi byatumye batekereza ko yari ashigikiye ubwicanyi bw'abasiviri b'Abatutsi bari bahateraniye⁹⁴.
66. Paul Bisengimana yemeye ko yari afite uburyo bwo kurwanya ubwicanyi bwibasiraga abasiviri b'Abatutsi muri Komine ya Gikoro, ko ariko ku birebana n'icyo gitero yituramiye⁹⁵.

ii. Ibyabereye ku rusengeru no ku kigo cy'amashuri by'abaporo i Ruhanga

67. Uregwa yemera ko hagati y'itariki ya 8 n'ya 10 Mata 1994, abasiviri benshi b'Abatutsi bahungiyeye ku rusengeru no ku kigo cy'amashuri by'abaporo i Ruhanga, muri Selire ya Ruhanga, Segiteri ya Gicaca, Komine ya Gikoro, Perefegitura ya Kigali-Ngari, bahunga ibitero byabagabwagaho muri perefegitura yose⁹⁶.
68. Uregwa yemera ko:

⁸⁹ Amasezerano y'ubwemeracyaha, igika 34.

⁹⁰ Amasezerano y'ubwemeracyaha, igika 35.

⁹¹ Amasezerano y'ubwemeracyaha, igika 35.

⁹² Amasezerano y'ubwemeracyaha, igika 35.

⁹³ Amasezerano y'ubwemeracyaha, igika 35.

⁹⁴ Amasezerano y'ubwemeracyaha, igika 36.

⁹⁵ Amasezerano y'ubwemeracyaha, igika 32.

⁹⁶ Amasezerano y'ubwemeracyaha, igika 40; Inyandiko y'ibirego, igika 24.

- a) Hagati y'itariki ya 10 n'ya 15 Mata 1994, Burigadiye Rwabukumba ari kumwe n'abajepi, abasiviri bitwaraga gisirikare n'abaporisi ba komine, bagabye igitero ku basiviri b'Abatutsi bari bahungiyeye ku kigo cy'i Ruhanga⁹⁷.
- b) icyo gitero cyagabwe n'abantu bari bitwaje imbunda, amagerenade, imihoro, imipanga n'izindi ntwaro za gakondo kandi cyahitanye Abatutsi b'impunzi benshi⁹⁸.
- c) N'ubwo yari burugumesitiri kandi akaba yaramenye ko impunzi zari ku kiriziya y'i Musha zagabweho igitero ku itariki ya 13 Mata 1994, nta ngamba n'imwe yafashe yo kurinda Abatutsi bari bahungiyeye ku kigo cy'i Ruhanga hagati y'itariki ya 10 n'ya 15 Mata 1994⁹⁹.
69. Paul Bisengimana yemeye ko yari afite uburyo bwo kurwanya ubwicanyi bwibasiye abasiviri b'Abatutsi muri Komine ya Gikoro, ko ariko ku birebana n'icyo gitero yitaramiye¹⁰⁰.

c. Amategeko akurikizwa

70. Urugereko ruributsa ko itsembatsemba rigizwe n'igikorwa cyangwa ibikorwa bikomatanyije bigamije kwica abantu benshi¹⁰¹. Si ngombwa ko uruhare rw'uregwa muri icyo cyaha ruba ari urwa hafi cyangwa rutaziguye. Umubare w'abahohotewe ni wo utandukanya icyaha cy'itsembatsemba n'icy'ubuhotozi¹⁰².
71. Mu kugaragaza ko habayeho igitekerezo cyo gukora icyaha (*mens rea*) cy'itsembatsemba, Porokireri agomba gutanga ibimenyetso bihamya ko Uregwa yari agamije gukora ubwicanyi, ko yatereye agati mu ryinyo cyangwa ko yagize uburangare bukabije ku birebana no kumenya niba imyitwarire ye yatuma habaho ubwicanyi, kandi akaba yarazirikanaga ko ibikorwa bye cyangwa ibyo yateshutse

⁹⁷ Amasezerano y'ubwemeracyaha, igika 41.

⁹⁸ Amasezerano y'ubwemeracyaha, igika 41; Inyandiko y'ibirego, igika 25.

⁹⁹ Amasezerano y'ubwemeracyaha, igika 42.

¹⁰⁰ Amasezerano y'ubwemeracyaha, igika 32.

¹⁰¹ Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, ibika 144-147; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, ibika 82-83; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 217; Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, ibika 691-692; Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, igika 479.

¹⁰² Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 893.

gukora byari mu rwego rw'ubwicanyi bworetse imbaga¹⁰³. Na none, ni ngombwa kugaragaza ko Uregwa yari azi gahunda ihuriweho y'ubwicanyi bwibasiraga imbaga y'abasiviri, bazira impamvu z'ivangura kandi ko yitabiriye iyo gahunda ku bushake¹⁰⁴. Mu kureba niba uregwa yarafashije cyangwa yarashishikaje mu itsembatsemba nk'icyaha cyibasiye inyokomuntu, Urugereko rugomba gusuzuma ikibazo cyo kumenya niba yari azi umugambi mubisha wa gatozi w'icyaha, kandi niba yari azi ko ibikorwa bye hari icyo bizafashaho gatozi mu gutsotsoba icyaha.

72. Ni yo mpamvu, kugira ngo uregwa ahamwe n'itsembatsemba nk'icyaha cyibasiye inyokomuntu, agomba i) kuba yarishoye mu bikorwa by'ubwicanyi bworeka imbaga cyangwa bigamije gushyira abantu mu nzitane z'ubuzima zituma bapfa ari benshi; ii) kuba yari agamije kwica, yaraterewe agati mu ryinyo cyangwa yaragize uburangare bukabije ku birebana no kumenya niba iyo myitwarire ye idashobora gutuma habaho ubwicanyi; no iii) kuba yarazirikanaga ko ibyo bikorwa bye cyangwa ibyo yateshutse gukora byari mu rwego rw'ubwicanyi bwibasiye abantu benshi¹⁰⁵.

d. Imyanzuro y'Urugereko

i. Ubwicanyi bwabereye ku kiriziya y'i Musha

73. Rushingiye ku byabaye Uregwa yemeye no ku mwanzuro warwo wemeje ko igitero cyagabwe ku basiviri b'Abatutsi ku kiriziya y'i Musha (Komine ya Gikoro) cyari gishingiye ku mpamvu z'ivangura, cyari rusange kandi cyoretse imbaga, Urugereko rusanze icyo gitero ari igikorwa cy'itsembatsemba.

¹⁰³ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, ibika 894-895; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, ibika 144-146; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 89; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 341.

¹⁰⁴ Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, ibika 144-145; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, ibika 83-84; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 218; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 94; Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 341; Inyandiko y'urubanza rwa Kamuhanda mu rw'iremezo, igika 696; Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 894.

¹⁰⁵ Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, igika 144; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, igika 89.

74. Urugereko rusanze Uregwa yaritabiriye igitero cyagabwe ku kiriziya y'i Musha kubera ko yari ahari ubwo cyagabwaga kandi azi ko kuhaba kwe byashishikazaga abagabye icyo gitero mu bikorwa bibisha byabo.
75. Urugereko rwemera ko Uregwa yari azi umugambi mubisha wa ba gatozi b'icyaha kubera ko yemeye ko yazirikanaga ko intwaro zakwirakwijwe mu Nterahamwe n'abandi basiviri bari bitwaje intwaro ku kiriziya y'i Musha, anazirikana ko izo intwaro zari gukoreshwa mu kugaba igitero ku Batutsi bari bahahungiyeye.
76. Bityo rero, Urugereko rusanze kuba Paul Bisengimana yari ku kiriziya y'i Musha ku itariki ya 13 Mata 1994 cyangwa hafi yayo, byarafashije binashishikariza abantu gukora itsembatsemba ryibasiye abasiviri b'Abatutsi bari bahari.

ii. Ubwicanyi bwo ku rusengero no ku kigo cy'amashuri by'abaporo i Ruhanga

77. Rushingiyeye ku bikorwa Uregwa yemeye no ku mwanzuro warwo wemeje ko igitero cyagabwe ku rusengero no ku kigo cy'amashuri by'abaporo i Ruhanga, muri Komine ya Gikoro, nyuma y'icyagabwe ku kiriziya y'i Musha, cyari gishingiyeye ku mpamvu z'ivangura, cyari rusange kandi cyoretse imbaga, Urugereko rusanze icyo gitero ari igikorwa cy'itsembatsemba.
78. Urugereko rusanze n'ubwo bwose Uregwa ashobora kuba atari aho icyo gitero cyagabwe, yaragombaga kuba azi ko icyo gitero kizagabwa ku basiviri b'Abatutsi bari bahakoraniye kubera ko hari ikindi gitero cyari cyagabwe mbere yaho ku kiriziya y'i Musha. Byongeye kandi, nka Burugumesitiri wa Komine ya Gikoro, nta ngamba zifatika yafashe zigamije kurinda abo basiviri b'Abatutsi. Uregwa yemeye ko yari afite inshingano yo kurinda abo basiviri, ariko Urugereko rusanga atarayujuye.
79. Kubera ububasha Uregwa yari afite nk'umutegetsu, Urugereko rusanga kuba ataraburijemo icyo gitero ari uburangare bukabije. Urugereko rusanga Uregwa yaragombaga kumenya ko kuba nta cyo yakozwe byari gutuma habaho ubwicanyi.
80. Kubera izo mpamvu, Urugereko rusanze Uregwa yari azi umugambi mubisha w'abagabye igitero ku kigo cy'i Ruhanga.

81. Bityo rero, Urugereko rusanze kuba Uregwa yarateshutse ku nshingano ze byarafashije kandi bigashishikariza abantu gukora itsembatsemba ryibasiye abasiviri b'Abatutsi bari barahungiyeye ku rusengero no ku kigo cy'amashuri by'abaporo i Ruhanga.

iii. Imyanzuro rusange

82. Urugereko rusanze Uregwa ahamwa n'icyaha nka gatozi hashingiwe ku ngingo ya 6 (1) ya Sitati kubera ko yafashije akanashishikaza abantu mu itsembatsemba ry'Abatutsi bari ku kiriziya y'i Musha, ku rusengero no ku kigo cy'amashuri by'i Ruhanga muri Komine ya Gikoro, muri Mata 1994. Urugereko rusanze Uregwa ahamwa n'itsembatsemba nk'icyaha cyibasiye inyokomuntu, giteganywa n'ingingo ya 3 (b) ya Sitati.

4. Ibyaha byibasiye inyokomuntu - Ubuhotozi

a. Ibikubiye mu Nyandiko y'ibirego

83. Ikirego cya gatatu cy'Inyandiko y'ibirego gishinja Uregwa ubuhotozi nk'icyaha cyibasiye inyokomuntu, hashingiwe ku ngingo ya 3 (a) ya Sitati. Icyo kirego giteye gitya:

Muri Mata 1994, mu karere ka Bugesera muri Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, nka gatozi, Paul Bisengimana yishe cyangwa yicisha abantu muri Komine ya Gikoro no mu nkengeru zayo, mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko¹⁰⁶.

Kubera ibikorwa bye nka gatozi cyangwa kubera abantu yafashije abizi kandi abishaka, Paul Bisengimana yafashije ndetse ashishikariza abantu gucira umugambi, gutegura, cyangwa kwica abasiviri b'Abatutsi¹⁰⁷.

Mu basiviri b'Abatutsi bishwe biturutse ku myitwarire ya Paul Bisengimana, harimo umugabo w'Umututsi witwaga Rusanganwa. Koko rero, Paul

¹⁰⁶ Inyandiko y'ibirego, igika 35.

¹⁰⁷ Inyandiko y'ibirego, igika 38.

Bisengimana yari ku kiriziya y'i Musha, muri Segiteri ya Rutoma, Komine ya Gikoro, ku itariki ya 13 Mata 1994, ubwo hagabwaga igitero cyahitanye Rusanganwa wari wahungiyeye muri icyo kiliziya¹⁰⁸.

b. Amasezerano y'ubwemeracyaha

84. Uregwa yemera ko yafashije akanashishikariza abandi bantu mu buhotozi nk'icyaha cyibasiye inyokomuntu¹⁰⁹.
85. Uregwa yemera ko yari ku kiriziya y'i Musha ku itariki ya 13 Mata 1994, ubwo hagabwaga igitero kigahitana Umututsi witwaga Rusanganwa wari warahungiyeye¹¹⁰.
86. Uregwa yemera ko yari afite uburyo bwo kurwanya ubwicanyi bwibasiye abasiviri b'Abatutsi muri Komine ya Gikoro, ariko ko ku birebana n'icyo gitero yituramiye¹¹¹.

c. Amategeko akurikizwa

87. Urugereko ruributsa ko ubuhotozi ari igikorwa cyo kuvutsa umuntu ubuzima ku bwende, cyangwa kumutera, ku bushake, ubuzahare bukomeye bw'umubiri uzi neza ko ubwo buzahare bwamuviramo urupfu, cyangwa se ntugire ubushishozi butuma ubona ko uwo muntu ashobora gupfa, nta mpamvu zemewe n'amategeko ziriho cyangwa se izindi zatuma uregwa atabarwaho icyaha¹¹². Ubuhotozi buhanwa nk'icyaha cyibasiye inyokomuntu iyo bwakozwe mu rwego rw'igitero rusange cyangwa kiri kuri gahunda cyibasiye abaturage b'abasiviri kubera impamvu z'ivangura. Urugereko ruributsa ko intera ubwicanyi bwafashe ari yo itandukanya itsembatsemba n'ubuhotozi nk'icyaha cyibasiye inyokomuntu¹¹³.
88. Ku birebana n'igitekerezo cyo gukora icyaha (*mens rea*) Uregwa yari afite ubwo yafashaga akanashishikaza mu buhotozi nk'icyaha cyibasiye inyokomuntu, Urugereko

¹⁰⁸ Inyandiko y'ibirego, igika 39.

¹⁰⁹ Amasezerano y'ubwemeracyaha, igika 5.

¹¹⁰ Amasezerano y'ubwemeracyaha, igika 37.

¹¹¹ Amasezerano y'ubwemeracyaha, igika 32.

¹¹² Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 586; Inyandiko y'urubanza rwa Ndindabahizi mu rw'iremezo, igika 487.

¹¹³ Inyandiko y'urubanza rwa Kajelijeli mu rw'iremezo, igika 893.

rugomba kureba niba Uregwa yari azi umugambi mubisha wa gatozi w'icyaha kandi niba yari azi ko ibikorwa bye ari inkunga mu ikorwa ry'icyaha.

d. Imyanzuro y'Urugereko

89. Mu ikubitiro, Urugereko ruributsa ko Sitati, mu rurimi rw'igifaransa, mu ngingo yayo ya 3 (a) ivuga ko icyo cyaha cyitwa « *assassinat* », bisobanura ko ari ubwicanyi bwagambiriwe, naho mu rurimi rw'icyongereza muri iyo ngingo handitse ko ari « *murder* »¹¹⁴. Ruributsa na none ko mu masezerano y'ubwemeracyaha, mu nyandiko yayo y'umwimerere y'igifaransa, Rusanganwa yahotowe¹¹⁵, bisobanura ko yishwe byagambiriwe. Iki gikorwa nta we ugihakana. Nyamara ariko, Urugereko ruributsa ko nta havugwa ko Uregwa ari we wakoze ubwo buhotozi cyangwa ko yari afatanyije umugambi na gatozi w'icyo cyaha, ahubwo aregwa ko yafashije akanashishikaza mu ikorwa ry'icyo cyaha. Bityo rero, Urugereko rugomba kureba niba, ubwo Rusanganwa yahotorwaga, igitekerezo cyo gukora icyaha Uregwa yari afite cyari icy'umuntu wafashije akanashishikaza mu ikorwa ry'icyaha. Mu yandi magambo, rugomba kureba niba yari azi umugambi mubisha wa gatozi w'icyaha, kandi niba yari azi ko kuba aho icyaha cyakorewe byashishikarizaga ikorwa ryacyo.
90. Urugereko rusanga kandi Inyandiko y'ibirego¹¹⁶ irimo ibindi byaha by'ubuhotozi Uregwa ashinjwa. Nyamara ariko, amasezerano y'ubwemeracyaha avuga gusa ubuhotozi bwakorewe Rusanganwa mu gitero cyagabwe ku kiriziya y'i Musha¹¹⁷. Ni yo mpamvu Urugereko rwasuzumye gusa ibikorwa bishimangira ubwo buhotozi bwihariye buvugwa mu Nyandiko y'ibirego kandi bwemewe n'Uregwa, aho uwahohotewe yamenyekanye ku buryo busobanutse neza.
91. Urugereko rwarangije gufata umwanzuro wemeza ko igitero cyagabwe ku kiriziya y'i Musha cyari igitero rusange cyibasiye abasiviri kubera impamvu z'ivangura.

¹¹⁴ Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 589; Inyandiko y'urubanza rwa Musema mu rw'iremezo, igika 84; Inyandiko y'urubanza rwa Rutaganda mu rw'iremezo, igika 80; Inyandiko y'urubanza rwa Akayesu mu rw'iremezo, igika 585; Inyandiko y'urubanza rwa Bagilishema mu rw'iremezo, ibika 84-85; Inyandiko y'urubanza rwa Kayishema na Ruzindana mu rw'iremezo, igika 140; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, ibika 803, 804 na 808.

¹¹⁵ Mu gika cya 37 cy'Amasezerano y'ubwemeracyaha, mu nyandiko y'igifaransa ari na yo y'umwimerere, handitsemo ko Rusanganwa yahotowe [« *assassiné* »] muri icyo gitero.

¹¹⁶ Inyandiko y'ibirego, igika 39.

¹¹⁷ Amasezerano y'ubwemeracyaha, igika 37.

92. Nta we uhakana ko Umututsi witwaga Rusanganwa yishwe byagambiriwe. Hashingiwe ku bikorwa Uregwa yemeye, Urugereko rusanze Uregwa yari ku kiriziya y'i Musha ubwo hagabwaga igitero cyahitanye Rusanganwa.
93. Urugereko rwemera ko Paul Bisengimana yari azi ko ubuhotozi bwakorewe Rusanganwa bwari mu rwego rw'ibitero rusange byari byibasiye abasiviri b'Abatutsi bazira ubwoko. Rushingiye kandi ku bintu uko byifashe muri uru rubanza, Urugereko rwemera ko Paul Bisengimana yari azi umugambi mubisha wa gatozi w'icyaha cyo guhотора Rusanganwa. Urugereko ruributsa imitekerereze yarwo ishyigikira uyu mwanzuro, nk'uko ikubiye mu gika cya 75 cy'iyi Nyandiko y'urubanza.
94. Urugereko rusanze Uregwa yaragize uruhare mu buhotozi bwa Rusanganwa kubera ko yari aho icyaha cyakorewe igihe cyakorwaga. Uregwa yazirikanaga ko kuhaba kwe byashishikazaga gatozi w'icyaha mu myitwarire mibisha ye kandi bigatuma uwo gatozi yibwira ko Uregwa ashigikiye ubwo buhotozi. Byongeye kandi, Urugereko ruributsa ko Uregwa yemeye ko n'ubwo yari afite uburyo bwo kurwanya ubwicanyi bwibasiye abasiviri b'Abatutsi, yahisemo kwitaramira ku birebana n'ibyo bitero.
95. Urugereko rusanze Uregwa agomba kuryozwa icyaha nka gatozi hashingiwe ku ngingo ya 6 (1) ya Sitati kubera ko yafashije akanashishikaza abantu mu buhotozi bwakorewe umusiviri w'Umututsi witwaga Rusanganwa ku kiriziya y'i Musha, muri Komine ya Gikoro, mu kwezi kwa Mata 1994. Bityo rero, rwemeje ko Uregwa ahamwa n'ubuhotozi nk'icyaha cyibasiye inyokomuntu, hashingiwe ku ngingo ya 3 (a) ya Sitati.

e. Guhamya uregwa ibyaha binyuranye hashingiwe ku gikorwa kimwe

i. Amategeko akurikizwa

96. Urugereko ruributsa ko ibigenderwaho muri rusange mu kubahiriza ihame rivuga ko uregwa ashobora guhamwa n'ibyaha binyuranye hashingiwe ku gikorwa kimwe, byashimangiwe mu rubanza rwa Krstić:

Ubukemuramanza bw'Urukiko bwimakajwe buvuga ko guhamya icya rimwe uregwa ibyaha biteganywa n'ingingo zinyuranye za Sitati ariko hashingiwe

ku gikorwa kimwe, bishoboka gusa iyo buri ngingo ikubiyemo ibintu by'umwihariko biyigize bitaboneka mu zindi ngingo. icya ngombwa kigize icyaha runaka kiba gitandukanye cyane n'ikigize ikindi cyaha, iyo hasabwa ibimenyetso by'igikorwa runaka bidasabwa mu kindi cyaha. Iyo ibyo bigenderwaho bitujujwe, uregwa ahamwa n'icyaha hashingiwe ku ngingo ifite icyo yihariye izindi zidafite. icyaha gifite umwihariko ibindi bidafite kiba gikubiyemo n'ibyo byaha bindi, kubera ko iyo gikozwe n'ibyo bindi biba bikoze¹¹⁸.

97. Mu rubanza rwa Čelebići havugwamo ko iyo hariho ibikorwa biteganywa n'ingingo ebyiri z'amategeko zinyuranye, uregwa ahamywa icyaha hashingiwe ku ngingo imwe muri izo zombi irimo ikintu cy'inyongera indi idafite¹¹⁹.
98. Urugereko rusanga ibigenderwaho mu kubahiriza ihame rivuga ko uregwa ashobora guhamwa n'ibyaha binyuranye hashingiwe ku gikorwa kimwe bitagomba gukurikizwa gutyo gusa cyangwa buhumyi¹²⁰. Urugereko rw'ubujurire rwa TPIY rwasabye ko mu gukurikiza iryo hame hagomba ubushishozi kugira ngo uregwa atava aho aharenganira.

ii. Imyanzuro y'Urugereko

99. Urugereko rwasesenguye ibirebana n'uko amasezerano y'ubwemeracyaha y'ikubitiro, yari ashingiyeye ku Nyandiko y'ibirego yo ku itariki ya 31 Ukwakira 2005, yashinjaga Uregwa kuba yaragize uruhare rutaziguye mu ihotorwa rya Rusanganwa¹²¹. Koko rero, muri iyo nyandiko y'ibirego havugwagamo ko Uregwa yaciye Rusanganwa akaboko k'iburyo amutemesheje umuhoro, maze akava amaraso kugeza apfuye. Nyamara ariko, Inyandiko y'ibirego yo ku itariki ya 1 Ukuboza 2005 amasezerano y'ubwemeracyaha y'ubu ashingiyeho, ivuga gusa ko Uregwa yari ku kiriziya y'i Musha igihe hagabwaga igitero cyahitanye Umututsi witwaga Rusanganwa¹²².

¹¹⁸ Inyandiko y'urubanza rwa Krstić mu bujurire, igika 218; bisubirwamo no mu nyandiko y'urubanza rwa Semanza mu bujurire, igika 315; reba na none Inyandiko y'urubanza rwa Ntakirutimana mu bujurire, igika 542.

¹¹⁹ Inyandiko y'urubanza rwa Mucić na bagenzi be mu bujurire, igika 413.

¹²⁰ Inyandiko y'urubanza rwa Kunarać mu bujurire, ibika 168-198.

¹²¹ Inyandiko y'ibirego, 31 Ukwakira 2005, igika 22.

¹²² Inyandiko y'ibirego, igika 39.

100. Kuri iki kibazo, ibi byaha byombi, ni ukuvuga ihotorwa rya Rusanganwa n'itsembatsemba ry'impunzi byakorewe ku kiriziya y'i Musha, byacuriwe umugambi kandi bitegurwa na ba gatozi. Urugereko rusanze icyaha cy'ubuhotozi bwakorewe Rusanganwa gikubiye mu cyaha cy'itsembatsemba ryabereye ku kiriziya y'i Musha, kubera ko Rusanganwa ari umwe mu basiviri bahitanywe n'icyo gitero rusange bazira impamvu z'ivangura.
101. Ku birebana n'iki kibazo, Urugereko rwamaze gufata umwanzuro wemeza ko Uregwa yari afite igitekerezo cyo gukora icyaha nk'umuntu wafashije akanashishikariza abandi bantu gutsotsoba icyaha: yari azi umugambi mubisha wa ba gatozi batsotsobye icyaha cy'itsembatsemba n'icy'ubuhotozi; yari azi ko ibyo byaha byacuriwe umugambi kandi ko kuba yari ahari byari inkunga mu ikorwa ryabyo. Rumaze kubisuzumana ubushishozi, Urugereko rusanze ibyo bikorwa ari ikimenyetso gihamya ko habayeho igitekerezo cyo gukora icyaha cyo gufasha no gushishikaza abantu mu buhotozi no mu itsembatsemba nk'ibyaha byibasiye inyokomuntu byakorewe ku kiriziya y'i Musha.
102. Urugereko rusanze ibirego birebana n'itsembatsemba n'ubuhotozi byabereye ku kiriziya y'i Musha bishingiye ku bikorwa bimwe, kandi rusanze imiterere y'uruhare rw'Uregwa muri ibyo byaha byombi ari imwe. Bityo rero, muri urwo rwego, ibyaha byo gufasha no gushishikaza mu buhotozi no mu itsembatsemba nk'ibyaha byibasiye inyokomuntu ntibitandukanye ku buryo bugaragara.
103. Urugereko rusanze ihotorwa rya Rusanganwa ari icyaha gikubiye mu cyaha cy'itsembatsemba ryabereye ku kiriziya y'i Musha. Bityo rero, guhamya Uregwa ibyaha bibiri hashingiwe ku mpamvu y'uko byakozwe mu buryo bw'impurirane mbonezamugambi nta ho byaba bishingiye kuri iki kibazo kubera ko bitatanga ishusho nziza kurushaho y'imyitwarire yose y'Uregwa cyangwa ngo biyisobanure ku buryo bwuzuye kurushaho. Urugereko rusanze Uregwa agomba guhamwa gusa n'itsembatsemba nk'icyaha cyibasiye inyokomuntu ku birebana n'ibyaha byakorewe ku kiriziya y'i Musha, bitewe n'uko mu bigize icyo cyaha harimo ibintu by'umwihariko bitagaragara mu cyaha cy'ubuhotozi, urebye intera y'urwego

cyakozwemo, ikaba ari ikintu cy'umwihariko kitaboneka muri kiriya cyaha cy'ubuhotozi.

104. Urugereko ruributsa ko ubwo rwari rumaze kwemera ubwirege bw'Uregwa ku itariki ya 7 Ukuboza 2005, rwamuhamije ubuhotozi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu.
105. Ukurikije aho imiburanishirize igeze, Urugereko rwemeje ko kubera inyungu z'ubutabera n'icibwa ry'urubanza ku buryo buboneye, bikwiye guhamya gusa Uregwa itsembatsemba nk'icyaha cyibasiye inyokomuntu, aho kumuhamya icyaha cy'ubuhotozi. Bityo rero, Urugereko ruragera Uregwa igihano ku birebana gusa n'icyaha cy'itsembatsemba cyamuhamye.

IV. IBIREBANA N'IBIHANO

A. Amategeko n'amahame bikurikizwa

106. Urugereko ruributsa ko Urukiko rwashyiriweho gutanga umusanzu mu nzira y'ubwiyunge bw'Abanyarwanda, kugarura no kubungabunga amahoro, no kugira ngo rukore ku buryo ibikorwa binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara byakorewe mu Rwanda bihagarare koko kandi ingaruka zabyo zibonerwe umuti mu buryo bukwiye¹²³. Urugereko rusanga icibwa ry'urubanza mu buryo buboneye n'igihano gikwiye, mu gihe Uregwa yaramuka ahamwe n'icyaha, byafasha kugera kuri izo ntego.
107. Urugereko ruragera Paul Bisengimana igihano rusingiye ku ngingo ya 22 n'ya 23 za Sitati, no ku ngingo ya 100 n'ya 101 z'Amategeko. Urugereko ruributsa ko igihano rushobora kugena ari icy'igifungo gusa. Hakurikijwe ingingo ya 101 (A) y'Amategeko, igihano ntarengwa cyo hejuru ni igifungo cya burundu.
108. Sitati n'Amategeko ntibiteganyaga ibihano byihariye kuri buri cyaha Urukiko rufitiye ububasha bwo kuburanisha.

¹²³ icyemezo 955 cy'Inama Ishinzwe Amahoro ku Isi, 8 Ugushyamba 1994.

109. Bityo rero, Urugereko rufite ububasha busesuye bwo kugena igihano. Mu gukoresha ubwo bubasha, Urugereko, rusingiye ku ngingo ya 23(2) ya Sitati no ku ngingo ya 101(B) y'Amategeko, ruzirikana ibintu binyuranye birimo: uburemere bw'icyaha, impamvu zongera ububi bw'icyaha n'impamvu nyoroshyagihano, ibintu byihariye birebana n'uregwa, n'urutonde rusange rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda.
110. Urugereko rurazirikana inshingano rufite yo gutanga igihano hakurikijwe ibintu byihariye birebana n'uregwa¹²⁴.
111. Urugereko ruributsa ko impamvu zongera ububi bw'icyaha zigomba gutangirwa ibimenyetso bidashidikanywaho, naho impamvu nyoroshyagihano zikaba zigomba gutangirwa ibimenyetso bigaragaza ibintu bishoboka kurusha ibindi¹²⁵.

B. Impamvu zongera ububi bw'icyaha

1. Ibivugwa na Porokireri ku birebana n'uburemere bw'icyaha n'umwanya w'ubutegetsi Uregwa yari afite

112. Kuba ubuhotozi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu ari ibyaha biremereye kandi by'agahomamunwa no kuba bibujijwe ku buryo budasubirwaho, ubwabyo ni impamvu zongera ububi bw'icyaha. Byongeye kandi, intera ibyaha byakozwemo mu Rwanda mu wa 1994 hakicwa abasiviri babarirwa mu bihumbi mu gihe cy'iminsi 100 yahungabanyije umutima wa muntu¹²⁶, ikaba ari impamvu yongera ububi bw'icyaha¹²⁷. Ibyo Paul Bisengimana yakoze n'ibyo yateshutse gukora byatumye hicwa abasiviri b'Abatutsi benshi¹²⁸.

¹²⁴ Inyandiko y'urubanza rwa Mucić na bagenzi be mu bujirire, ibika 717-719 ; Inyandiko y'urubanza rwa Muhimana mu rw'iremezo, igika 594.

¹²⁵ Inyandiko y'urubanza rwa Kajelijeli mu bujirire, igika 294; reba na none inyandiko zifashishijwe mu myanzuro mbanzirizagihano y'Ubwunganizi, igika 19; Imyanzuro mbanzirizagihano ya Porokireri, igika 34; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 6, 35.

¹²⁶ Imyanzuro mbanzirizagihano ya Porokireri, igika 35; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 5.

¹²⁷ Imyanzuro mbanzirizagihano ya Porokireri, igika 35; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 6.

¹²⁸ Imyanzuro mbanzirizagihano ya Porokireri, igika 50; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 7.

113. Nka Burugumesitiri wa Komine ya Gikoro, Paul Bisengimana yari afite inshingano zihariye: yari afite inshingano n'ububasha byo kurinda umutekano w'abaturage, gukumira ibikorwa binyuranyije n'amategeko cyangwa guhana ababikoze¹²⁹. Paul Bisengimana yari afite inshingano zo kugaragaza imico y'ubudakemwa kurusha mu bihe bisanzwe¹³⁰. Kuba Paul Bisengimana ari umuntu wize byatumaga ashobora kumenya no guha agaciro gakwiye ubuzima bwa muntu¹³¹. Yari ajijutse bihagije ku buryo yagombaga kuzirikana agaciro n'akamaro k'imibanire irangwa n'amahoro hagati y'amatsinda anyuranye y'abaturage¹³².
114. Kugira ngo abaturage b'abahanzi bishore mu bwicanyi bwahitanye imbaga, byorohejwe n'uko bagiriye abayobozi babo icyizere babibeshyaho kandi bakiyumvisha ko ubwo ibyo bakoraga babishishikarizwaga n'abategetsi, bashoboraga kwica abasiviri b'Abatutsi no gusahura imitungo yabo nta kubihanirwa¹³³.
115. N'ubwo Paul Bisengimana yari afite izo nshingano zose, nta ngamba n'imwe ifatika yafashe kugira ngo arinde impunzi z'Abatutsi, ahubwo yagiye ku ruhande ararebera¹³⁴.
116. Urugereko rusanga Ubwunganizi nta cyo bwavuze ku bijyanye n'impamvu zongera ububi bw'icyaha.

2. Imyanzuro y'Urugereko

117. Urugereko ruributsa ko uburemere bw'ibyaha n'ingano y'uruhare rw'uregwa mu ikorwa ryabyo ari ibintu bigomba kwitabwaho mu gusuzuma impamvu zongera ububi bw'icyaha. Kuba ari ibyaha byibasiye inyokomuntu ubwabyo ni impamvu yongera

¹²⁹ Imyanzuro mbanzirizagihano ya Porokireri, ibika 36 na 40; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 6.

¹³⁰ Imyanzuro mbanzirizagihano ya Porokireri, igika 41; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 6.

¹³¹ Imyanzuro mbanzirizagihano ya Porokireri, igika 42; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 6-7.

¹³² Imyanzuro mbanzirizagihano ya Porokireri, igika 43; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 7.

¹³³ Imyanzuro mbanzirizagihano ya Porokireri, igika 44; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 7.

¹³⁴ Imyanzuro mbanzirizagihano ya Porokireri, ibika 48-49; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 7.

- ububi bw'icyaha kubera ko mu miterere yabyo ari agahomamunwa kandi bikaba bihungabanya umutima wa muntu¹³⁵.
118. Urugereko ruributsa ko Uregwa yemeye ko icyaha yakoze kigizwe n'ibikorwa bitaziguye cyangwa biziguye byatumye abantu bicwa cyangwa bagakorerwa ibikorwa by'urugaraguro bizahaza umubiri cyangwa mu mutwe, mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira ubwoko bwabo¹³⁶.
119. Urugereko rusanze uruhare rw'Uregwa mu gufasha no gushishikariza itsembatsemba n'ubuhotozi nk'ibyaha byibasiye inyokomuntu ari igikorwa kinyuranyije ku buryo bukomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, rukaba kandi ari n'impamvu yongera ububi bw'icyaha.
120. Urugereko rusanze kuba Uregwa yari Burugumesitiri wa Komine ya Gikomero mu gihe ibivugwa byabaga no kuba yari umuntu wize, ari impamvu zongera ububi bw'icyaha. Nk'umuntu wari uhagarariye ubutegetsi nyubahirizategeko ku rwego rwa komine, yari afite inshingano yo kurinda umutekano w'abaturage b'iyo komine, ariko nta ngamba n'imwe yafashe yo kuburizamo ubwicanyi bworetse imbaga aho hantu. Ahubwo, yashishikaje nkana abicanyi bari ku kiriziya y'i Musha kubera ko yari ahari ubwo igitero cyahagabwaga kigahitana Abatutsi barenga igihumbi bari bahahungiyeye. Byongeye kandi, nta cyo yakoze kugira ngo aburizemo ubwicanyi bwakozwe nyuma ku rusengeru no ku kigo cy'amashuri by'abaporo i Ruhanga, bwahitanye Abatutsi benshi. Urugereko rusanga Paul Bisengimana yari umuntu wize washoboraga kumenya no guha agaciro gakwiye ubuzima bwa muntu, akaba kandi yaragombaga kuzirikana agaciro n'akamaro k'imibanire irangwa n'amahoro hagati y'amatsinda anyuranye y'abaturage.
121. Ariko rero, nta kimenyetso gishyigikira ibivugwa na Porokireri ko kugira ngo abaturage b'abahinzi bishore mu bwicanyi bwahitanye imbaga, byorohejwe n'uko bagiriye abayobozi babo icyizere babibeshyaho kandi bakiyumvisha ko ubwo ibyo

¹³⁵ Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 48.

¹³⁶ Amasezerano y'ubwemeracyaha, igika 14.

bakoraga babishishikarizwaga n'abategetsi, bashoboraga kwica abasiviri b'Abatutsi no gusahura imitungo yabo nta kubihanirwa.

C. Impamvu nyoroshiyagihano

1. Ibivugwa n'ababuranyi muri rusange

122. Porokireri avuga ko hariho «impamvu nyoroshiyagihano zidashobora kwirengagizwa»¹³⁷. Porokireri ashimangira ko umwanzuro wemeza ko hariho impamvu nyoroshiyagihano uba werekeranye n'igenagihano gusa, ko nta cyo uhindura ku buremere bw'icyaha. Umwanzuro nk'uwo utuma igihano kigabanywa, nta bwo ugabanya uburemere bw'icyaha¹³⁸.

123. Ubwunganizi buvuga ko Urugereko rufite ububasha busesuye bwo gusuzuma ibirebana n'impamvu nyoroshiyagihano¹³⁹, bukanibutsa ko TPIR na TPIY mu bukemuramanza bwazo zagiye zemeza impamvu nyoroshiyagihano nyinshi¹⁴⁰.

124. Ubwunganizi bwagaragaje impamvu nyoroshiyagihano umunani, buvuga ko zishobora gufasha Urugereko mu kugena igihano gikwiye. Ubugenzacyaha buzirikana byimazeyo ko kugabanya igihano nta cyo bigabanyaho na gato uburemere bw'icyaha cyangwa icyemezo mpamyacyaha cy'urukiko¹⁴¹.

2. Amategeko akurikizwa

125. Urugereko ruributsa ko impamvu nyoroshiyagihano zishobora kuba ntaho zihuriye ku buryo butaziguye n'icyaha¹⁴².

¹³⁷ Imyanzuro mbanzirizagihano ya Porokireri, igika 52; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

¹³⁸ Imyanzuro mbanzirizagihano ya Porokireri, igika 52, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Kambanda mu rw'iremezo, ibika 56-57; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

¹³⁹ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 18, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Naletilić na bagenzi be mu rw'iremezo, igika 742; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 34.

¹⁴⁰ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 18.

¹⁴¹ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 20, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 80; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 35.

¹⁴² Inyandiko y'urubanza rwa Nikolić mu rw'iremezo, igika 145; Inyandiko y'urubanza rwa Deronjić mu rw'iremezo, igika 155.

126. Urugereko rusanga ubukemuramanza bwa TPIR n'ubwa TPIY bwashyize ahagaragara impamvu zinyuranye zituma ubwemeracyaha buba impamvu nyoroshyagihano: byerekana ko ibyo uwemera icyaha yakoze bimushengura umutima¹⁴³, ukwicuza¹⁴⁴, gutanga umusanzu mu bwiyunge¹⁴⁵, kugaragaza ukuri¹⁴⁶, gushishikariza abandi bantu kwemera ibyaha bakoze¹⁴⁷, kugabanya igihe gikoreshwa mu iperereza no mu iburanisha bityo bigatuma hadatakazwa igihe, imbaraga n'umutungo¹⁴⁸, no kuba abatangabuhama batirirwa baza mu rukiko¹⁴⁹. Hazirikanwa na none igihe ubwemeracyaha bwatangirwe¹⁵⁰.
127. Ku byerekeranye n'uburyo Uregwa yafashije Porokireri nk'uko biteganywa n'ingingo ya 101(B) (ii), Urugereko ruributsa ko Ubwunganizi bwavuze ko Uregwa atafashije Porokireri¹⁵¹. Mu gutangira gusuzuma ibirebana n'impamvu nyoroshyagihano, Urugereko rusanga kuba Uregwa atarafashije Ibiro bya Porokireri¹⁵² bidashobora gufatwa nk'impamvu nyongeragihano¹⁵³.

3. Ubwemeracyaha no kwicuza ku mugaragaro

a. *Ibivugwa na Porokireri*

128. Porokireri avuga ko ahenshi mu nkiko, harimo n'izo mu Rwanda, ubwemeracyaha bufatwa nk'impamvu nyoroshyagihano¹⁵⁴. Kuba Paul Bisengimana yaremeye icyaha bifite icyo bifashaho mu migendekere myiza y'ubutabera no muri gahunda

¹⁴³ Inyandiko y'urubanza rwa Plavšić mu rw'iremezo, igika 73.

¹⁴⁴ Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 55.

¹⁴⁵ Inyandiko y'urubanza rwa Plavšić mu rw'iremezo, igika 70.

¹⁴⁶ Inyandiko y'urubanza rwa Nikolić mu rw'iremezo, igika 248.

¹⁴⁷ Inyandiko y'urubanza rwa Erdemović mu rw'iremezo (1998), igika 16; Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 55.

¹⁴⁸ Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 53.

¹⁴⁹ Inyandiko y'urubanza rwa Erdemović mu rw'iremezo (1998), igika 450.

¹⁵⁰ Inyandiko y'urubanza rwa Sikirica na bagenzi be mu rw'iremezo, igika 150.

¹⁵¹ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 34.

¹⁵² Imyanzuro mbanzirizagihano y'Ubwunganizi, ibika 16-17.

¹⁵³ Inyandiko y'urubanza rwa Plavšić mu rw'iremezo, ibika 63-64.

¹⁵⁴ Imyanzuro mbanzirizagihano ya Porokireri, igika 53, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Kambanda mu rw'iremezo; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

y'ubwiyunge mu Rwanda. Bizatuma kandi abahohotewe n'ibitero bavanwaho umuzigo wo kuza gutanga ubuhamya mu Rukiko¹⁵⁵.

129. Porokireri avuga kandi ko kuba Uregwa yaremeye icyaha bigomba gufatwa nk'urugero rwiza rushobora gushishikariza abandi bakoze ibyaha kwemera uruhare rwabo mu bwicanyi bwabereye mu Rwanda mu wa 1994¹⁵⁶.
130. Porokireri ashingira ku masezerano y'ubwemeracyaha aho Paul Bisengimana yerekanye ko ashengurwa umutima n'ibyaha ashinjwa, yemeye kuryozwa byimazeyo ibyo yakoze n'ibyo yateshutse gukora, n'aho yemeye ko kugaragaza ukuri bishobora kugarura ubumwe bw'abenegihugu no gufasha mu bwiyunge mu Rwanda¹⁵⁷. Uregwa kandi yagaragaje byimazeyo ko yifuza kuvugisha ukuri kose, ndetse asaba imbabazi bimuvuye ku mutima kandi nta buryarya abantu bose bahohotewe mu buryo buziguye cyangwa butaziguye kubera ibyaha ariyozwa¹⁵⁸.
131. Porokireri yongeraho ko ubwemeracyaha bwakorewe igihe kandi ko bwarengeye amafaranga menshi Urukiko rwari gukoresha¹⁵⁹. Porokireri avuga kandi ko kubera ingamba zo gusoza burundu imirimo y'Urukiko, Uregwa akwiye kugira inyungu akura mu bwirege bwe¹⁶⁰.

b. I bivugwa n'Ubwunganizi

132. Ubwunganizi buvuga ko ubukemuramanza bwemera ko ubwemeracyaha ari impamvu nyoroshyagihano iyo uregwa agaragaza mu ruhame ko yicuza abikuye ku mutima ibyo yakoze kandi ko bimushengura umutima¹⁶¹. Ubwunganizi buvuga ko mu

¹⁵⁵ Imyanzuro mbanzirizagihano ya Porokireri, igika 53, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Todorović mu rw'iremezo, igika 80; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

¹⁵⁶ Imyanzuro mbanzirizagihano ya Porokireri, igika 58, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Kambanda mu rw'iremezo, igika 53, no mu Nyandiko y'urubanza rwa Erdemović mu rw'iremezo (1998), urup. 16; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 9.

¹⁵⁷ Imyanzuro mbanzirizagihano ya Porokireri, igika 54; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

¹⁵⁸ Imyanzuro mbanzirizagihano ya Porokireri, igika 55; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

¹⁵⁹ Imyanzuro mbanzirizagihano ya Porokireri, igika 57, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Kambanda mu rw'iremezo, igika 54; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 8-9.

¹⁶⁰ Imyanzuro mbanzirizagihano ya Porokireri, igika 57; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 9.

¹⁶¹ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 21; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 35.

masezerano y'ubwemeracyaha, Paul Bisengimana yasabye imbabazi abahohotewe muri jenocide yo mu Rwanda, kandi ibyo akaba yarabikoze abikuye ku mutima nta buryarya. Na none kandi, Uregwa yicuza abikuye ku mutima kuba ataragize ubutwari bwo kurwanya ubwicanyi, no kuba yarabushyigikiye kubera ko yari aho bwakorewe. Yizera ko ukwicuza kwe kuzakirwa neza n'Abanyarwanda n'amahanga, kandi ko kuzaba inkunga mu nzira y'amahoro n'ubwiyunge mu Rwanda¹⁶². Ubwunganizi bwashimangiye by'umwihariko ibirebana n'uko Uregwa yemeye ko kuba yari ku kiriziya y'i Musha ubwo hagabwaga igitero byatumye abakigabye bibwira ko yemeraga ubwicanyi bwahakorewe, kandi ko yabashishikarizaga ubuhotozi bwakorewe Rusanganwa. Na none kandi, Uregwa yemeye ko nta ngamba n'imwe yafashe yo kurwana ku bantu bari barahungiyeye ku kigo cy'amashuri no ku rusengero by'abaporo i Ruhanga, kandi yari burugumesitiri akaba yari anazi ko hari ikindi gitero cyari gisherutse kugabwa muri icyo gihe¹⁶³.

133. Ubwunganizi buvuga na none ko uburyo Uregwa yiyumvisha ibyo yakoze bugomba kwitabwaho, hakurikijwe ibyo yavuze n'imyitwarire ye¹⁶⁴.
134. Ubwunganizi buvuga ko ubwemeracyaha bugomba gutuma igihano Uregwa yari kugenerwa iyo ataza kwemera icyaha kigabanywa¹⁶⁵.
135. Ubwunganizi buvuga ko n'ubwo ubwemeracyaha ari ingirakamaro iteka mu kugaragaza ukuri, bufasha gusa iyo bwabaye mbere y'uko iburanisha ry'urubanza ritangira, kuko bituma Urukiko rugabanya umutungo n'igihe byari gukoreshwa¹⁶⁶. Muri uru rubanza, Paul Bisengimana yahisemo kwemera icyaha mbere y'uko iburanisha ritangira, ndetse na mbere y'uko Ibiro bya Gerefiye bigena itariki

¹⁶² Imyanzuro mbanzirizagihano y'Ubwunganizi, ibika 27-28; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 44-45.

¹⁶³ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 10; Paul Bisengimana, Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 45-46.

¹⁶⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, ibika 25-26, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Serushago mu rw'iremezo, igika 41.

¹⁶⁵ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 22, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Todorović, igika 80.

¹⁶⁶ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 23, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Todorović, igika 81; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 151.

iburanisha rizatangiriraho. Bityo rero, Uregwa yatumye Urukiko ndetse n'amahanga bagabanya cyane ibyari gukoreshwa ku birebana n'igihe, abakozi, n'imari¹⁶⁷.

c. Imyanzuro y'Urugereko

136. Urugereko ruributsa ko mu masezerano y'ubwemeracyaha, Paul Bisengimana yavuze ko mu kwemera icyaha, yagaragaje icyifuzo kivuye ku mutima kandi kitarimo uburyarya cyo kuvugisha ukuri no gutanga umuganda wo gushakisha ukuri ashyira ahagaragara ibyo azi ku giti cye n'amakuru yandi afite¹⁶⁸. Ruributsa na none ko Uregwa afite icyizere cy'uko urugero yatanze ruzahwiturira abandi bakoze ibyaha gutanga umusanzu wabo mu gushakisha ukuri¹⁶⁹.
137. Urugereko rusanze mu iburanisha mbanzirizagihano, Uregwa yaremeye ko yateshutse ku nshingano ye yo kurinda ubuzima bw'abantu, kandi ko atagaragaje ubutwari abaturage yayoboraga bari bamutezeho nka burugumesitiri wabo. Yasabye imbabazi imiryango y'abahitanywe n'ubwicanyi bwabereye muri komine ye, anerekana ku mugaragaro ko ashengurwa n'uko atabashije gutabara izo nzirakarengane, kandi ari byo byari inshingano ye y'ibanze¹⁷⁰.
138. Urugereko rusanga, haba mu masezerano y'ubwemeracyaha, haba no mu iburanisha mbanzirizagihano, Uregwa yaragaragaje ku mugaragaro ko ibyaha yakoze bimushengura umutima kandi ko abyicuza.
139. Urugereko rusanga ubwemeracyaha bushobora kuba ikimenyetso cy'uko uwakoze icyaha avugisha ukuri. Rushyigikiye ibitekerezo biri mu rubanza rwa Erdemović n'urwa Ruggiu bivuga ko ari byiza kuzirikana ubwemeracyaha kugira ngo bishishikarize abandi bakoze ibyaha kubyemera¹⁷¹. Rusanga na none ubwemeracyaha bushobora gutera inkunga mu nzira y'ubwiyunge bw'abenegihugu mu Rwanda.

¹⁶⁷ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 24 ; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, igika 37.

¹⁶⁸ Amasezerano y'ubwemeracyaha, igika 7.

¹⁶⁹ Amasezerano y'ubwemeracyaha, igika 11.

¹⁷⁰ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 45-46.

¹⁷¹ Inyandiko y'urubanza rwa Erdemović mu rw'iremezo (1998), igika 11 ; Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 55.

140. Urugereko rusanze kuba Paul Bisengimana yarahinduye umurongo w'imyiregurire ye akemera icyaha, ari impamvu nyoroshyagihano. Ubwo bwemeracyaha bwe bujyanye no kwerekana ku mugaragaro ko ibyaha yakoze bimushengura umutima kandi ko yemera kubiryoza¹⁷². Na none kandi, iyo bwemeracyaha bukozwe mu gihe gikwiye, byoroshya imikirize y'urubanza kandi bituma hakoreshwa umutungo w'Urukiko muke¹⁷³.

4. Ibintu byihariye birebana n'Uregwa, hamwe n'umuryango we

a. *Ibivugwa n'Ubwunganizi*

141. Ubwunganizi buvuga ko kuba uregwa afite umugore n'abana, ubusanze bifatwa nk'impamvu nyoroshyagihano¹⁷⁴, kandi ko hazirikanwa imibereho y'uregwa, haba mu birebana n'imbonezamubano, akazi n'umuryango we¹⁷⁵. Ubwunganizi buributsa ko Paul Bisengimana afite umugore n'abana 10, muri bo hakaba hari babiri batoya, umwe ufite imyaka ine, n'undi ufite itandatu¹⁷⁶, bakaba kandi babana na nyina mu Bufaransa¹⁷⁷, ari we mugore w'Uregwa, ndetse vuba aha bakaba baremerewe ubuhungiro¹⁷⁸, ibyo bikazatuma nyina w'abo bana yongera gukora umurimo we w'ubuforomokazi. Ibyo bintu byihariye ku Uregwa no ku muryango we bitanga icyizere gifatika cy'uko Uregwa azashobora gusubira mu buzima busanzwe nava muri gereza¹⁷⁹.

142. Porokireri nta kintu yavuze kuri icyo kibazo.

¹⁷² Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 54.

¹⁷³ Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 53.

¹⁷⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 29, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Kunarać na bagenzi be mu bujurire, igika 362; Inyandiko y'urubanza rwa Vasiljević mu rw'iremezo, igika 300; Inyandiko y'urubanza rwa Serushago mu rw'iremezo, igika 39; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, ibika 120-121.

¹⁷⁵ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 30, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Blaškić mu rw'iremezo, igika 779.

¹⁷⁶ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 31. Urugereko rusanga Claudine Uwera Bisengimana, umukobwa w'Uregwa, yaravuze ko abana bato babiri b'Uregwa umwe afite imyaka 9 undi akagira 4, reba inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 24.

¹⁷⁷ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 32; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 38.

¹⁷⁸ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 32; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 24.

¹⁷⁹ Imyanzuro mbanzirizagihano y'Ubwunganizi, ibika 32-33.

b. Imyanzuro y'Urugereko

143. Urugereko rusanga kuba Uregwa afite umugore n'abana bishobora gufatwa nk'impamvu nyoroshyagihano¹⁸⁰. Rwemera kandi ko hagomba kuzirikanwa imibereho y'Uregwa mu birebana n'imbonezamubano, akazi n'umuryango we¹⁸¹.
144. Ibyavuzwe n'Ubwunganizi hamwe n'ubuhamywa bwatanzwe n'Uregwa ubwo yitabaga urukiko, ibintu byihariye birebana n'Uregwa hamwe n'umuryango we, nk'umugabo ufite umugore n'abana, bituma Urugereko rwizera ko ashobora gusubira mu buzima busanzwe, bityo rukaba rusanga ibyo bintu ari impamvu nyoroshyagihano.

5. Imico y'Uregwa

a. Ibivugwa na Porokireri

145. Porokireri avuga ko, akurikije ibyo azi, Paul Bisengimana yari umuntu urangwa n'imico myiza, akaba atari azwiho kuba intagondwa mbere y'umwaka wa 1994¹⁸².

b. Ibivugwa n'Ubwunganizi

146. Ubwunganizi buvuga ko bikwiye kureba imico y'uregwa mu rwego rwo gusuzuma niba ashobora gusubira mu buzima busanzwe¹⁸³, kandi ko iyo mico igomba kuzirikanwa mu igenagihano¹⁸⁴.
147. Ubwunganizi buvuga ko Paul Bisengimana yari umuntu w'inyangamugayo mbere y'umwaka wa 1994. Yari umuburugumesitiri washimwaga. Yazanye ubukungu n'amajyambere muri Komine ya Gikoro igihe cyose yayiyoboye kandi ntiyigeze

¹⁸⁰ Inyandiko y'urubanza rwa Kunarać na bagenzi be mu bujirire, igika 362; Inyandiko y'urubanza rwa Vasiljević mu rw'iremezo, igika 300; Inyandiko y'urubanza rwa Serushago mu rw'iremezo, igika 39; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, ibika 120-121.

¹⁸¹ Inyandiko y'urubanza rwa Blaškić mu rw'iremezo, igika 779.

¹⁸² Imyanzuro mbanzirizagihano ya Porokireri, igika 56, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Banović mu rw'iremezo, ibika 75-76; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 8.

¹⁸³ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 34, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Blaškić mu rw'iremezo, igika 780; Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 68.

¹⁸⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 34, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Mucić na bagenzi be mu bujirire (2000), igika 788; Inyandiko y'urubanza rwa Serushago mu rw'iremezo, igika 18; Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 68; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 127.

acogora mu gushishikarira imibereho myiza y'abaturage¹⁸⁵. Uregwa ntiyigeze arangwa n'imyifatire yo kuvangura ubwoko bw'Abatutsi, mu mibereho ye bwite no mu kazi, haba mu gihe cy'ibyabaye mu wa 1994 cyangwa mbere yaho¹⁸⁶. Uregwa yashishikariraga atizigamye kurangiza inshingano ze¹⁸⁷.

148. Ubwunganizi buvuga ko imico myiza yaranze Paul Bisengimana mu buzima bwe igaragaza ko ashobora gusubira mu buzima busanzwe¹⁸⁸.

c. Imyanzuro y'Urugereko

149. Urugereko rusanga Uregwa yari umuntu wize, warangwaga n'umurava mu kurangiza inshingano ze muri Komine ya Gikoro mu gihe ibivugwa byabaga. Ruributsa ko abatangabuhamya Gervais Condo na RKV bavuze ko Paul Bisengimana yari umuburugumesitiri washimwaga, ko yazanye ubukungu n'amajyambere muri Komine ya Gikoro igihe cyose yayiyoboye kandi ko yashishikariye imibereho myiza y'abaturage¹⁸⁹. Abo batangabuhamya bavuze kandi ku birebana n'imishinga y'amajyambere yakozwe n'Uregwa muri Komine ya Gikoro¹⁹⁰. Byongeye kandi, nk'uko byavuzwe n'abatangabuhamya Gervais Condo na Claudine Uwera Bisengimana, Paul Bisengimana yarangwaga n'ubwitange mu kurangiza inshingano ze, ukurikije ko yari umupfakazi, umubyeyi na burugumesitiri¹⁹¹.
150. Urugereko runyuzwe n'ubuhamya bwatanze n'abatangabuhamya bemeza ko Uregwa yarangwaga n'imico myiza mbere y'uko agira uruhare mu byaha byakozwe muri Komine ya Gikoro muri Mata 1994, bityo ibyo bikaba ari impamvu nyoroshiyagihano.

¹⁸⁵ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Gervais Condo, urup. 14; inyandikomvugo y'iburanisha, 19 Mutarama 2006, umutangabuhamya wiswe RKV, urup. 21; Paul Bisengimana, Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 38, 45.

¹⁸⁶ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 36.

¹⁸⁷ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 37.

¹⁸⁸ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 38.

¹⁸⁹ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Gervais Condo, imp. 13-14; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, umutangabuhamya wiswe RKV, urup. 21.

¹⁹⁰ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Gervais Condo, urup. 14; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, umutangabuhamya wiswe RKV, urup. 21.

¹⁹¹ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Gervais Condo, urup. 18; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 25.

6. Kugoboka bamwe mu bari mu kaga

a. *Ibivugwa n'Ubwunganizi*

151. Ubwunganizi buvuga ko kuba uregwa yaragobotse abari mu kaga byagiye bifatwa nk'impamvu nyoroshiyagihano¹⁹², kubera ko iyo nkunga ituma abantu babona ko ashobora guhanagurwaho ubwo busembwa¹⁹³.
152. Ubwunganizi buvuga ko Perezida Habyarimana akimara gupfa, Abatutsi bagera kuri cumi na babiri bahungiyeye kwa Paul Bisengimana. Buvuga ko icyo gihe yabahaye ubuhungiro, bityo bakabasha kurokoka¹⁹⁴.
153. Porokireri nta kintu yavuze kuri icyo kibazo.

b. *Imyanzuro y'Urugereko*

154. Urugereko ruributsa ko Claudine Uwera Bisengimana, uwa kabiri mu bakobwa b'Uregwa¹⁹⁵, ari we mutangabuhamya wenyine wavuze ko mu mwaka wa 1994, Abatutsi bagera kuri cumi na babiri bahungiyeye mu rugo rw'Uregwa¹⁹⁶. Muri bo, yibuka Laurent n'abana be bane, umugore we, mubyara we na mushiki we, hamwe n'umugore witwa Mukarubayiza wari utuye i Duha n'abana be batatu¹⁹⁷. Yavuze ko izo mpunzi zahagumye kugeza ubwo FPR yigaruriraga ako karere, kandi ko zahunganye n'umuryango w'Uregwa¹⁹⁸. Ubwo ibivugwa byabaga, uyu mutangabuhamya yari afite imyaka 14¹⁹⁹.
155. Claudine Uwera Bisengimana yavuze ko « abicanyi » bageraga amajanja umuryango wabo bawushinja kuba icyitso kubera guhisha Abatutsi, ko kandi se, Paul Bisengimana, ari we wabwirwaga ayo magambo y'iterabwoba. Nyamara ariko,

¹⁹² Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 39, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Sikirica na bagenzi be mu rw'iremezo, ibika 195-229; Inyandiko y'urubanza rwa Serushago mu rw'iremezo, igika 38; Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, ibika 73-74; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 155; Inyandiko y'urubanza rwa Blaškic mu rw'iremezo, igika 781.

¹⁹³ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 39.

¹⁹⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 40.

¹⁹⁵ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 24.

¹⁹⁶ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, imp. 26-27.

¹⁹⁷ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 25.

¹⁹⁸ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 26.

¹⁹⁹ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 25.

Claudine Uwera Bisengimana nta kintu na kimwe cyihariye yibuka cyaba cyarabaye ku birebana n'iryo terabwoba²⁰⁰.

156. Asubiza ibibazo by'Urugereko, Claudine Uwera Bisengimana yavuze ko umugore n'abana ba Laurent bariho, ko ariko Laurent, mushiki we na mubyara wabo bishwe. Yavuze ko atazi neza niba Marie Mukarubayiza n'abana be bakiriho, ko kandi zimwe muri izo mpunzi zarokotse, naho izindi zikicirwa mu nzira ubwo zerekezaga i Kabuga²⁰¹, ariko ko atazi uko byagenze²⁰².
157. Claudine Uwera Bisengimana yasobanuye ko umuryango wabo, izo mpunzi na we ubwe baviriye mu rugo iwabo icya rimwe. Yavuze ko nyuma yaho we n'umuryango wabo bajanywe ku kigo cy'amashuri kiri muri Bicumbi, ko kandi se ari we wahabagejeje. Amaze kuhabageza yasubiyeyo kujya kuzana abari basigaye, ariko FPR yari ibageretse biba ngombwa ko ajyana umuryango we i Kabuga, maze impunzi zisigara inyuma. Ubwo se yashakaga gusubirayo kuzizana, imvura yaraguye ntibyamushobokera. Uyu mutangabuhamya yavuze ko abo mu muryango we bagumye i Kabuga, kandi ko nyuma baje kumenya ko abo bantu bishwe, ariko ko atazi uwabishe²⁰³.
158. Urugereko rusanga nta mutangabuhamya wundi wavuze ko Uregwa yagobotse impunzi z'Abatutsi ndetse n'Uregwa ntiyigeze abivuga. Porokireri ntiyigeze akemanga ubwo buhamya.
159. Rumaze gusuzumana ubushishozi ubuhamya Claudine Uwera Bisengimana yatangiye mu rukiko, rumaze gusuzuma niba ibivugwa bishobora kuba byarabayeho cyangwa bitarabayeho, Urugereko rusanga byaragaragajwe ko bamwe mu basiviri b'Abatutsi baba barahungiyeye kwa Paul Bisengimana mu wa 1994 bakahamara igihe runaka. Nyamara ariko, rushingiye kuri ubwo buhamya, rusanga Paul Bisengimana yarahunganye n'umuryango we agata izo mpunzi, zimwe muri zo zikaba zarishwe. Rumaze gusuzuma ubwo buhamya uko bwakabaye, Urugereko rusanga, hakurikijwe

²⁰⁰ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 26.

²⁰¹ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, imp. 27-28

²⁰² Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, imp. 27-28.

²⁰³ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 28.

uko ibintu byagenze, nta kimenyetso cyatanzwe gihamya ko Uregwa yarwanye ku Batutsi b'impunzi cyangwa ko yabarokoye nk'uko Ubwunganizi bubivuga. Kubera iyo mpamvu, Urugereko ntirwemeye iyo mpamvu nyoroshyagihano.

7. Kuba Uregwa nta kindi cyaha yigeze ahanirwa no kuba yaritwaye neza muri gereza

a. Ibivugwa n'Ubwunganizi

160. Ubwunganizi buvuga ko kuba Uregwa nta kindi cyaha yigeze ahanirwa²⁰⁴ no kuba yaritwaye neza muri gereza²⁰⁵ bishobora kuba impamvu nyoroshyagihano.
161. Ubwunganizi buvuga ko Uregwa nta cyaha yigeze ahanirwa, ariko bugasobanura ko kubona icyemezo cy'uko atigeze akatirwa n'inkiko mu Rwanda bitashobotse²⁰⁶.
162. Ubwunganizi buvuga ko imyifatire ya Paul Bisengimana mu buroko yabaye intangarugero²⁰⁷.
163. Porokireri nta kintu yavuze ku birebana n'icyo kibazo.

b. Imyanzuro y'Urugereko

164. Urugereko ruributsa ko, ku itariki ya 3 Gashyantare 2006, rwemeye icyemezo cy'imyitwarire myiza cyasinywe na Komanda wa gereza y'Umuryango w'Abibumbye²⁰⁸. Icyo cyemezo gihamya ko, kuva ku itariki yagereyeho muri gereza, ari yo ya 11 Werurwe 2002 n'itariki icyemezo cyatangiweho, ari yo ya 22 Ukuboza

²⁰⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 41, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Simić mu rw'iremezo, igika 108; Inyandiko y'urubanza rwa Nikolić mu rw'iremezo, igika 265; Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, ibika 59-60; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, ibika 129-130.

²⁰⁵ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 41, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Simić mu rw'iremezo, igika 112; Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 131; Inyandiko y'urubanza rwa Krnojelac mu rw'iremezo, igika 520; Inyandiko y'urubanza rwa Krstić mu rw'iremezo, igika 715.

²⁰⁶ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 42; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 39.

²⁰⁷ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 43; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 38.

²⁰⁸ Icyemezo ku cyifuzo gisaba Urugereko kwakira ubuhamya bwanditse mu mwanya w'ubutangiwe mu iburanisha, hashingiwe ku ngingo ya 92 bis (A) na (B) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 3 Gashyantare 2006.

2005, Uregwa atigeze ahabwa igihano cyo mu rwego rwa disipulini kandi ko yitwaye neza igihe cyose.

165. Urugereko rwazirikanye ibivugwa n'Ubwunganizi, runazirikana ko Uregwa yabaye Burugumesitiri wa Komine ya Gikoro kuva muri Gicurasi 1981 kugeza ku itariki ya 19 Mata 1994, maze rusanga bishoboka ko Uregwa nta cyaha yigeze ahanirwa. Bityo rero, rusanze ibyo bimaze kuvugwa ari impamvu nyoroshyagihano²⁰⁹.

8. Imyaka y'ubukure n'uburwayi

a. *Ibivugwa n'Ubwunganizi*

166. Ubwunganizi buvuga ko uru Rukiko hamwe na TPIY²¹⁰ byagiye biha agaciro kagaragara imyaka y'ubukure y'abaregwa, bugashingira by'umwihariko ku rubanza rwa Rutaganira²¹¹.
167. Ubwunganizi buvuga ko abacamanza bagomba kwita ku myaka y'abaregwa kubera impamvu ebyiri. Iya mbere, uregwa uri mu zabukuru aremererwa n'igihano cyane kubera imbaraga nke ziterwa n'imyaka, kurusha uko utari mu zabukuru yacyihanganira. Iya kabiri, nk'uko Urukiko rw'ubujurire rwa *New South Wales* rwabyemeje mu rubanza rwa Holyoak, uregwa uri mu zabukuru iyo arekuwe, nta bwo aba ashigaje igihe kinini cyo kubaho²¹².
168. Ubwunganizi buvuga ko Paul Bisengimana afite imyaka 57²¹³.
169. Ubwunganizi buributsa ko uru Rukiko²¹⁴ kimwe na TPIY²¹⁵ zagiye zemera ko uburwayi ari impamvu yitabwaho mu kugena igihano.

²⁰⁹ Inyandiko y'urubanza rwa Ruggiu mu rw'iremezo, ibika 59-60.

²¹⁰ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 44, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Banović mu rw'iremezo, ibika 75-76, no mu Nyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 136.

²¹¹ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 44, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 136.

²¹² Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 45, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Plavšić mu rw'iremezo, igika 105.

²¹³ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 46; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 38.

170. Ubwunganizi buvuga ko hashize imyaka Paul Bisengimana arwaye diyabete n'umwijiya (*hepatitis B*)²¹⁶. Izo ndwara zombi zimutera ibibazo bikomeye ku birebana n'amagara, kandi zikaba zimuzahaza kurushaho kubera imyaka ye y'ubukure n'igifungo.
171. Ubwunganizi na none buributsa ko mu wa 1994, Paul Bisengimana yari arwaye umwijiya ku buryo bukomeye kubera nyine iyo ndwara ya *hepatitis B*²¹⁷. Ubwunganizi buvuga ko mu kugenera Uregwa igihano gikwiye, Urugereko rugomba kuzirikana ko atari afite amagara mazima mu gihe ibivugwa byabaga²¹⁸.
172. Porokireri nta kintu yavuze ku birebana n'icyo kibazo.

b. Imyanzuro y'Urugereko

173. Urugereko rwasanze rugomba gusuzumira hamwe ibirebana n'imyaka y'Uregwa n'uburwayi bwe²¹⁹. Rwabonye raporo itanzwe mu ibanga ya Dogiteri Epée ku byerekeye ubuzima bw'Uregwa, nk'uko yashyizwe muri dosiye nk'ikimenyetso mu iburanisha mbanzirizagihano ku itariki ya 19 Mutarama 2006, iyo raporo ikaba yerekana ko Uregwa arimo kuvurwa indwara zinyuranye²²⁰.
174. Ubwunganizi buvuga ko kuba Uregwa atari afite amagara mazima mu gihe ibivugwa byabaga ari ikintu kigomba kwitabwaho mu kugena igihano gikwiye, ariko Urugereko rusanga ibyo nta shingiro bifite. Rwumvise abatangabuhamya batatu bahamagajwe n'Ubwunganizi, bavuze ku birebana n'imico y'Uregwa ariko rusanga abo batangabuhamya atari impuguke mu by'ubuvuzi. Byongeye kandi, n'iyo byagaragara

²¹⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 48, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 136.

²¹⁵ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 47, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Simić mu rw'iremezo, igika 98.

²¹⁶ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 49; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, umutangabuhamya wiswe RKV, urup. 26; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 26; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 38.

²¹⁷ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 50; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Gervais Condo, urup. 17; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Claudine Uwera Bisengimana, urup. 26; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Paul Bisengimana, urup. 45.

²¹⁸ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 50.

²¹⁹ Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 136.

²²⁰ Raporo y'isuzumabuzima ryakorewe Paul Bisengimana yakiriwe hashingiwe ku ngingo ya 92 bis y'Amategeko nyuma y'aho Dogiteri Epée yemeje ko ari we wayikoze, reba inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 43-44.

ko Uregwa yari arwaye umwijima mu gihe ibivugwa byabaga, nta gihama ko ubwo burwayi bwaba bwaragize ingaruka ku birebana n'uruhare rwe muri ubwo bwicanyi.

175. Nyamara ariko, Urugereko rusanga imyaka y'Uregwa hamwe n'ikibazo cy'amagara ye muri iki gihe, nk'uko byerekanwa na raporo ya muganga, ari impamvu nyoroshyagihano.

9. Kuba Uregwa atari we watsotsobye ibyaha bivugwa

a. *Ibivugwa n'Ubwunganizi*

176. Ubwunganizi buvuga ko kuba uregwa yaragize uruhare ruziguye mu mikorere y'icyaha bishobora kuba impamvu nyoroshyagihano. Gutera inkunga mu ikorwa ry'icyaha bifatwa kenshi nk'aho ari ikintu kidakomeye ugereranyije no gutsotsoba icyaha kandi bishobora guhanishwa igihano cyoroheje kurushaho²²¹. N'ubwo Urugereko rwemeye iyo myumvire mu rubanza rwa Ruggiu²²², ntabwo yemewe mu rubanza rwa Rutaganira kubera ko kuba Rutaganira we ubwe ataratsotsobye ibyaha bivugwa, byagaragajwe mu miterere y'uburyozwacyaha bwe, ni ukuvuga uguteshuka ku nshingano yo gukora ibyo yari ategetswe²²³. Ubwunganizi buvuga ko ari yo mpamvu Paul Bisengimana yitabaza iyo mpamvu nyoroshyagihano ku birebana gusa n'ibyabereye ku kiriziya y'i Musha. Ubwunganizi buvuga ko Paul Bisengimana nta kintu na kimwe yakoze aho hantu uretse gusa kuba yari ahari ubwo Abatutsi bari bahahungiyeye bagabwagaho igitero n'ubwo Rusanganwa yicwaga. Byongeye kandi, kuba nta cyo yakoze mu gihe ibyo byaha byakorwaga byabaye uburyo bwo gushishikaza ba gatozi babyo²²⁴.
177. Porokireri nta kintu yavuze ku birebana n'icyo kibazo.

²²¹ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 51, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Krstić mu rw'iremezo, igika 714.

²²² Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 52, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Ruggiu mu rw'iremezo, igika 78; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 37

²²³ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 52, hasubirwamo ibivugwa mu Nyandiko y'urubanza rwa Rutaganira mu rw'iremezo, ibika 137-138; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 37.

²²⁴ Imyanzuro mbanzirizagihano y'Ubwunganizi, ibika 53-54; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, Paul Bisengimana, imp. 37, 45-46.

b. Imyanzuro y'Urugereko

178. Urugereko ruzirikana ko ari ngombwa kwita ku bintu byihariye muri buri rubanza, harimo n'imiterere n'ingano by'uruhare rw'uregwa mu gukora icyaha²²⁵. Ruributsa ko Paul Bisengimana nta gikorwa na kimwe cy'urugomo yakoze mu gihe cy'ubwicanyi.

179. Nyamara ariko, Urugereko ntirwemera ibivugwa n'Ubwunganizi ko « Paul Bisengimana nta kintu na kimwe yakoze ku kiriziya y'i Musha uretse gusa kuba yari ahari ubwo Abatutsi bari bahahungiyeye bagabwagaho igitero ». Ruributsa ko Uregwa yari azi ko hari igitero kiri bugabwe ku kiriziya y'i Musha n'abantu bari bitwaje intwari bari bahawe, kandi ko yari afite ububasha bwo kurwanya ubwo bwicanyi ariko agahitamo kwituramira. Byongeye kandi, Urugereko ruributsa ko Uregwa yari ku kiriziya y'i Musha ubwo igitero cyahagabwaga kandi ko abantu babarirwa mu bihumbi barimo Rusanganwa bahiciwe, ko kandi yari azi ko kuba yari ahari byashishikazaga abicanyi mu bikorwa by'ubugome byabo. Urugereko ruributsa kandi ko Uregwa yari umutegetsu wari ufite inshingano zo kurinda impunzi, bityo rero rusanga imiterere y'uruhare rwe mu bwicanyi bwakorewe muri kiriziya y'i Musha atari impamvu nyoroshyagihano.

D. Imyanzuro y'Urugereko ku mpamvu zongera ububi bw'icyaha no ku mpamvu nyoroshyagihano

180. Urugereko rusanze uburemere bw'ibyaha n'umwanya w'ubutegetsu Uregwa yari afite ari impamvu zongera ububi bw'icyaha. Rusanze ariko ibi bikurikira ari impamvu nyoroshyagihano kuba Uregwa yaremeye ibyaha kandi akerekana ku mugaragaro ko bimushengura umutima, ibirebana n'umuryango we, imico myiza ye mbere y'ibyabaye, kuba nta kindi cyaha yigeze ahanirwa, kuba yaritwaye neza muri gereza, ibirebana n'imyaka ye y'amavuko no kuba adafite amagara mazima.

²²⁵ Inyandiko y'urubanza rwa Mucić na bagenzi be mu rw'iremezo, igika 731, hasubirwamo ibivugwa mu nyandiko y'urubanza rwa Kupreskić mu rw'iremezo, igika 852, na byo byavuzwe mu Nyandiko y'urubanza rwa Aleksovski mu rw'iremezo, igika 182.

181. Nyamara ariko, rumaze gusuzuma uburemere bw'icyaha n'umwanya w'ubutegetsi Uregwa yari afite, Urugereko rusanze impamvu nyoroshyagihano zidashobora guhabwa agaciro kanini.
182. Urugereko rusanze muri uru rubanza, kuba Paul Bisengimana yari burugumesitiri ari impamvu yongera ububi bw'icyaha ku buryo bukomeye cyane. Rusanze kandi Uregwa yari umuntu wize, wategetse Komine ya Gikoro igihe kirekire ku buryo yari ahugukiwe bihagije n'umurimo we n'inshingano ze. Ruributsa ko, n'ubwo Paul Bisengimana yari azi ko abasiviri b'Abatutsi bari bahungiyeye ku kiriziya y'i Musha no ku kigo cya Ruhanga, akaba kandi yari azi ko n'intwari zari zatanze kugira ngo zikoreshwe muri ibyo bitero byagabwe kuri izo mpunzi, nta cyo yakozwe kugira ngo ahagarike ubwo bwicanyi kandi yari afite uburyo bwo kuburwanya.
183. Urugereko ruzirikana imitekerereze ikubiye mu rubanza wa Semanza ahavugwa ko igihano kiremereye gishobora guhabwa umuntu «wategetse abandi gukora itsembatsemba kurusha icyagenerwa uwafabashije akanabashishikariza kurikora»²²⁶. Nyamara ariko, muri uru rubanza, Urugereko ruributsa ko rutemeye ko imiterere y'uruhare rw'Uregwa mu ikorwa ry'icyaha yamubera impamvu nyoroshyagihano²²⁷. Ku birebana n'ubwicanyi bwabereye ku kiriziya y'i Musha, Urugereko rusanga Uregwa atarirengagije gusa kugira icyo akora. Yagombaga gutabara abaturage kandi yari azi ko kuba ahari bishishikaza abagabye igitero bibwira ko ashigikiye ibikorwa by'urugomo byabo. Urugereko rusanga Uregwa afite uruhare ruremereye mu ikorwa ry'icyaha kubera ko yari aho cyakorewe igihe cyakorwaga, kabone n'ubwo ntawe uvuga ko yafatanyije na ba gatozi gutsotsoba icyaha cyangwa ko hari igikorwa runaka cy'urugomo yakozwe mu gihe cy'ubwo bwicanyi. Urugereko ruributsa ko ubwicanyi bwabereye ku kiriziya y'i Musha no ku kigo cya Ruhanga bwahitanye abasiviri b'Abatutsi barenze igihumbi.

²²⁶ Inyandiko y'urubanza rwa Semanza mu bujirire, igika 388.

²²⁷ Inyandiko y'urubanza, ibika 178-179.

E. Ibyifuzo by'ababuranyi ku birebana n'ibihano

184. Amasezerano y'ubwemeracyaha yasinywe n'impande zombi asaba Urugereko kugenera Uregwa igihano cy'igifungo kiri hagati y'imyaka 12 na 14, ariko hagakurwamo igihe amaze afunze by'agateganyo²²⁸. Impande zombi zivuga ariko ko Urugereko rudasabwa kubahiriza byanze bikunze ibyifuzo byazo ku birebana n'igihano²²⁹.

1. Ibyifuzo bya Porokireri

185. Porokireri yibutsa ko Urukiko rwashyizweho n'Inama Ishinzwe Amahoro ku Isi kugira ngo rukurikirane kandi ruhane abantu bakoze amarorerwa mu Rwanda, hagamijwe kurandura umuco wo kudahana, gusana igihugu, kugarura amahoro, no kwimakaza ubwiyunge²³⁰.

186. Mu myanzuro mbanzirizagihano ya Porokireri no mu iburanisha mbanzirizagihano, Porokireri yasabye Urugereko gukatira Uregwa igihano cy'igifungo kitari muni y'imyaka 14, muri icyo gihano hagakurwamo ariko iyo amaze afunze by'agateganyo²³¹.

187. Porokireri avuga ko hakurikijwe amasezerano y'ubwemeracyaha, yiteguye gushyigikira icyifuzo cyose Uregwa yatanga asaba ko yarangiriza igihano cye muri gereza y'i Burayi²³².

2. Ibyifuzo by'Ubwunganizi

188. Ubwunganizi busaba Urugereko kugenera Paul Bisengimana igihano cy'igifungo kitarenze imyaka 12, ariko kigakurwamo imyaka amaze afunze by'agateganyo²³³.

²²⁸ Amasezerano y'ubwemeracyaha, igika 48.

²²⁹ Amasezerano y'ubwemeracyaha, igika 50

²³⁰ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 3.

²³¹ Imyanzuro mbanzirizagihano ya Porokireri, igika 60; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 9.

²³² Imyanzuro mbanzirizagihano ya Porokireri, igika 60; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 9.

²³³ Imyanzuro mbanzirizagihano y'Ubwunganizi, ibika 56-58; inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 40-41.

189. Ubwunganizi busaba bukomeje ko mu gihe cyo kugenera igihano Paul Bisengimana, hagomba kwibazwa ibi bikurikira: « Ese twari gukora iki iyo tuba turi mu mwanya we? Ese twari gushobora guhaguruka igihe kitararenga maze tugahagarika ubwicanyi, kabone n'iyi twari kuba tubona ko turi buhasige agatwe? »²³⁴
190. Ubwunganizi buvuga ko Paul Bisengimana asaba Urugereko kumwohereza gufungirwa mu Bufaransa, aho umugore we n'abana be babiri bato batuye²³⁵. Ibyo bitashoboka, agasaba ko yakoherezwa gufungirwa mu kindi gihugu cy'i Burayi cyemeye kwakira imfungwa z'Urukiko²³⁶. Ubwunganizi buvuga ko ibyo byatuma avurwa « nk'uko abikeneye cyane »²³⁷.
191. Icyuma nyuma, Ubwunganizi bwibutsa Urugereko ko, hakurikijwe ingingo ya 26 ya Sitati, ibihano bitangwa n'Urukiko birangizwa hakurikijwe amategeko y'igihugu bireba, ariko bikagenzurwa n'Urukiko²³⁸.

F. Imyanzuro y'Urugereko

1. Urutonde rusange rw'ibihano bitangwa n'inkiko zo mu Rwanda

192. Urugereko ruributsa ko ingingo ya 23 ya Sitati n'iya 101 y'Amategeko zivuga ko Urukiko rugomba kuzirikana urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda.
193. Urugereko rusanga, ku birebana n'ibyaha bikomeye nk'ubuhotozi, igihano gisumba ibindi giteganywa n'amategeko yo mu Rwanda ari igifungo cya burundu cyangwa igihano cyo kwicwa²³⁹. Ingingo ya 89 yo mu gitabo cy'amategeko ahana ibyaha mu Rwanda iteganya ko uwabaye icyitso mu ikorwa ry'icyaha ahanishwa ibihano bimwe n'uwagitsotsobye.

²³⁴ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 41.

²³⁵ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 59; Inyandikomvugo y'iburanisha, 19 Mutarama 2006, urup. 40.

²³⁶ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 59.

²³⁷ Inyandiko mvugo y'iburanisha, 19 Mutarama 2006, urup. 40.

²³⁸ Imyanzuro mbanzirizagihano y'Ubwunganizi, igika 60.

²³⁹ Igitabo cy'Amategeko Ahana mu Rwanda, Itegeko-teka N° 21/77 ryo ku wa 18 Kanama 1977, ryahinduwe n'Itegeko-teka N° 23/81 ryo ku wa 13 Ukwakira 1981, ingingo 311-317.

194. Urugereko rusanga Itegeko Ngenga ryo mu Rwanda rishyiraho « Inkiko Gacaca »²⁴⁰ hamwe n'Itegeko Ngenga ririhindura kandi riryuzuzwa²⁴¹ ari ingirakamaro muri uru rubanza kubera ko ayo mategeko ateganya ibirebana n'imiburanishirize y'abantu birega ibyaha byibasiye inyokomuntu. Umuntu wari umuyobozi ku rwego rwa komine²⁴², washishikarije abandi bantu gukora ibyaha byibasiye inyokomuntu, iyo yemeye icyaha, ariko hubahirijwe ibintu bimwe na bimwe bisabwa²⁴³, ashobora gukatirwa igihano cy'igifungo kuva ku myaka 25 kugeza ku gifungo cya burundu²⁴⁴.
195. Urugereko ruzirikana kandi ko ingingo ya 83 y'igitabo cy'amategeko ahana ibyaha mu Rwanda iteganya ko, iyo hariho impamvu nyoroshyagihano, ibihano bihindurwa cyangwa bigabanywa mu buryo bukurikira: igihano cyo kwicwa gisimbuzwa igihano cy'igifungo kitari muni y'imyaka itanu; igihano cyo gufungwa burundu gisimbuzwa igihano cy'igifungo kitari muni y'imyaka ibiri; naho igihano cy'igifungo kuva ku myaka itanu kugeza kuri 20 cyangwa cy'igifungo kirengeje imyaka 20 gishobora gusimbuzwa igihano cy'igifungo cy'umwaka umwe²⁴⁵.

2. Gukuramo igihe uregwa yamaze afunzwe by'agateganyo

196. Ingingo ya 101 (D) y'Amategeko ivuga ko « igihe uwahamwe n'icyaha yamaze afunzwe ategereje gushyikirizwa Urukiko, gucirwa urubanza n'Urugereko rwa Mbere rw'Iremezo cyangwa n'Urugereko rw'Ubujurire, niba kiriho, gikurwa mu gihe cy'igifungo cyose ».

²⁴⁰ Itegeko Ngenga N° 40/2000 ryo ku itariki ya 26 Mutarama 2001 rishyiraho kandi rigena imiterere y'« Inkiko Gacaca » zishinzwe gukurikirana abakoze ibyaha bya jenocide cyangwa ibyaha byibasiye inyokomuntu byakozwe hagati y'itariki ya 1 Ukwakira 1990 n'ya 31 Ukuboza 1994, Gazeti ya Repubulika y'u Rwanda, umwaka wa 40, N° 6, 15 Werurwe 2001 (« Itegeko Ngenga ryo ku wa 26 Mutarama 2001 »).

²⁴¹ Itegeko Ngenga rihindura kandi ryuzuzwa Itegeko Ngenga N° 40/2000 ryo ku itariki ya 26 Mutarama 2001 rishyiraho kandi rigena imiterere y'« Inkiko Gacaca » zishinzwe gukurikirana abakoze ibyaha bya jenocide cyangwa ibyaha byibasiye inyokomuntu byakozwe hagati y'itariki ya 1 Ukwakira 1990 n'ya 31 Ukuboza 1994, Gazeti ya Repubulika y'u Rwanda, umwaka wa 40, N° 14, 15 Nyakanga 2001 (« Itegeko Ngenga rihindura kandi ryuzuzwa Itegeko Ngenga ryo ku wa 26 Mutarama 2001 »).

²⁴² Ingingo ya 51 y'Itegeko Ngenga ryo ku wa 26 Mutarama 2001 n'ingingo ya 1 y'Itegeko Ngenga rihindura kandi ryuzuzwa Itegeko Ngenga ryo ku wa 26 Mutarama 2001.

²⁴³ Ingingo ya 56 y'Itegeko Ngenga ryo ku wa 26 Mutarama 2001.

²⁴⁴ Ingingo ya 68 y'Itegeko Ngenga ryo ku wa 26 Mutarama 2001.

²⁴⁵ Igitabo cy'Amategeko Ahana mu Rwanda, Itegeko-teka N° 21/77 ryo ku wa 18 Kamena 1977.

197. Urugereko rusanga Uregwa yaratangiye gufungwa by'agateganyo ku itariki ya 4 Ukuboza 2001²⁴⁶. Urugereko rwemera ko Uregwa afite uburenganzira bwo gukurirwa mu gihano cy'igifungo, igihe amaze afunzwe by'agateganyo kuva kuri iyo tariki, harimo n'igihe azamara afunzwe ategereje ko urubanza rwe rucibwa mu bujirire.
198. Urugereko ntirwirengagiza ko ari ngombwa gutanga ibihano bisa mu manza zisa, ariko kandi ruzirikana n'ibikubiye mu rubanza rwa Kupreškic, ahavugwa ko Urugereko « nta nshingano rufite yo kugereranya ku buryo bweruye urubanza rw'uregwa n'urw'undi »²⁴⁷. Urugereko ruzirikana kandi inshingano zarwo zo kugena igihano gikwiye hashingiwe ku bintu byihariye bireba uregwa²⁴⁸.

3. Umwanzuro w'Urugereko

199. Rumaze gusuzuma ubukemuramanza bw'uru Rukiko n'ubwa TPIY ku birebana n'igenagihano, Urugereko rusanga ba gatozi bakoze ibyaha byibasiye inyokomuntu, nk'ubuhotozi n'itsembatsemba, baragiye bagenerwa ibihano by'igifungo kuva ku myaka icumi kugeza ku gifungo cya burundu²⁴⁹. Abantu bagize uruhare rutari urw'ibanze mu ikorwa ry'icyaha bo bagiye muri rusange bagenerwa ibihano bito kurushaho²⁵⁰. Igihano kigomba kujyana n'imyitwarire mibisha y'uregwa yose ifatiwe hamwe²⁵¹.

²⁴⁶ Ibarwa ya Porokireri Mukuru mu Rukiko rw'ubujirire rwa Bamako yo ku itariki ya 14 Mutarama 2002, yashyizwe muri dosiye y'urubanza ku itariki ya 15 Mutarama 2002, yerekana ko Paul Bisengimana yafunguwe i Bamako (Mali) kuva ku itariki ya 4 Ukuboza 2001.

²⁴⁷ Inyandiko y'urubanza rwa Kupreškic mu bujirire, igika 443.

²⁴⁸ Inyandiko y'urubanza rwa Mucić mu bujirire, ibika 717-719; Inyandiko y'urubanza rwa Muhimana mu rw'iremezo, igika 594.

²⁴⁹ Inyandiko y'urubanza rwa Muhimana mu rw'iremezo, igika 618; Inyandiko y'urubanza rwa Ntagerura na bagenzi be mu rw'iremezo, ibika 822 na 825; Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, ibika 922 na 924.

²⁵⁰ Laurent Semanza yakatiwe igifungo cy'imyaka umunani kubera guhamagarira abandi gukora ubuhotozi nk'icyaha cyibasiye inyokomuntu bwahitanye abantu batandatu (Inyandiko y'urubanza rwa Semanza mu rw'iremezo, igika 588), na Vincent Rutaganira yakatiwe igifungo cy'imyaka itandatu kubera ko yateshutse ku nshingano ze bityo akaba icyitso mu itsembatsemba nk'icyaha cyibasiye inyokomuntu (Inyandiko y'urubanza rwa Rutaganira mu rw'iremezo, igika 40); Elizaphan Ntakirutimana yakatiwe igifungo cy'imyaka icumi kubera gufasha no gushishikariza abantu gukora jenocide (Inyandiko y'urubanza rwa Ntakirutimana mu rw'iremezo, ibika 790 na 921), icyo gihano kikaba cyaremejwe n'Urugereko rw'Ubujujirire (Inyandiko y'urubanza rwa Ntakirutimana mu bujirire, igika 570).

²⁵¹ Inyandiko y'urubanza rwa Mucić na bagenzi be mu bujirire, igika 771.

200. Kubera impamvu zasobanuwe haruguru²⁵², Urugereko nta gihano rutanga ku kirego cya 3 cyerekeye ubuhotozi nk'icyaha cyibasiye inyokomuntu, giteganywa n'ingingo ya 3 (a) ya Sitati.
201. Urugereko rurongera kwibutsa ko kwemera icyaha bishobora kuba ikimenyetso kigaragaza ko uregwa avugisha ukuri, kandi ko abireze ibyaha bagomba kubibonamo inyungu kugira ngo bibe byashishikariza abandi bakoze ibyaha na bo kubyemera. Byongeye kandi, Urugereko rusanga ukwemera icyaha k'Uregwa bishobora kugira icyo bifashaho mu bwiyunge bw'Abanyarwanda²⁵³.
202. Nyamara ariko, n'ubwo Urugereko nta gihano rukatira Paul Bisengimana ku buhotozi nk'icyaha cyibasiye inyokomuntu, rusanga kubera umwanya w'ubutegetsu yari afite n'umubare w'abantu biciwe mu maso ye - barenze igihumbi - ku kiriziya y'i Musha n'abandi benshi biciwe ku kigo cya Ruhanga kandi abizi, akwiye kugenerwa igihano kiremereye kurusha ibyo impande zombi zumvikanyeho ku birebana n'icyaha cy'itsembatsemba cyonyine.

V. IBYEMEZO BY'URUGEREKO

203. Rumaze kubona ibikubiye muri Sitati n'Amategako, urutonde rw'ibihano rukurikizwa n'inkiko zo mu Rwanda, imyanzuro y'abaturanyi n'ibimenyetso byatanzwe mu gihe cy'iburanisha mbanzirizagihano, hamwe n'impamvu zongera ububi bw'icyaha n'impamvu nyoroshyagihano, Urugereko rwemeje ko Paul Bisengimana ahamwa n'itsembatsemba nk'icyaha cyibasiye inyokomuntu nk'uko kivugwa mu kirego cya 4, hashingiwe ku ngingo ya 3 (b) ya Sitati, kandi rumukatiye

igihano cy'igifungo cy'imyaka 15.

204. Urugereko rwemeje ko mu gihano Paul Bisengimana agenewe hagomba gukurwamo igihe amaze afunze by'agateganyo, ni ukuvuga kuva ku itariki ya 4 Ukuboza 2002 kugeza ku itariki urubanza rusomeweho. [NDT: Mu mugereka D wometse kuri iyi Nyandiko y'Urubanza, Urugereko rwakosoye uyu mwaka ruwugira 2001]

²⁵² Inyandiko y'urubanza, ibika 99-105.

²⁵³ Inyandiko y'urubanza, igika 139.

205. Nk'uko biteganywa n'ingingo ya 102 (A) y'Amategeko, iki gihano gitangira kurangizwa kuva ku itariki uru rubanza rusomeweho.
206. Nk'uko biteganywa n'ingingo ya 103 y'Amategeko, Paul Bisengimana azaba agumye muri gereza y'Urukiko mu gihe agitegereje icyemezo kigena aho agomba kurangiriza igihano cye hashingiwe ku ngingo ya 26 ya Sitati no ku ya 103 (A) y'Amategeko. Urugereko rwumvise ibyavuzwe n'impande zombi ku birebana n'igihugu igihano cyarangirizwamo, ariko ruributsa ko Perezida w'Urukiko ari we uzahitamo igihugu kigomba kurangirizwamo igihano, amaze kubijyaho inama n'Urugereko. Gerefiye azamenyesha icyo cyemezo Guverinoma y'u Rwanda n'igihugu kizaba cyatoranyijwe.
207. Hashingiwe ku ngingo ya 102 (A) y'Amategeko, iyo habaye ubujurire, irangizarubanza rirasubikwa kugeza igihe icyemezo cy'Urukiko kuri ubwo bujurire gitangarijwe, ariko hagati aho uwakatiwe akomeza gufungwa.

Bikorewe Arusha mu rurimi rw'icyongereza, ku itariki ya 13 Mata 2006.

Arlette Ramarason
Perezida w'Inteko

William H. Sekule
Umucamanza

Solomy B. Bossa
Umucamanza

[Ikirangantego cy'Urukiko]

VI. IMIGEREKA

A. Imiburanishirize

208. Ku itariki ya 10 Nyakanga 2000, Porokireri yatanze Inyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000 ishinja Uregwa, ikaba yaremejwe n'Umucamanza Pavel Dolenc ku itariki ya 17 Nyakanga 2000²⁵⁴.
209. Porokireri yashinjaga Uregwa ibyaha 12 bikurikira: jenocide; kuba icyitso cy'abakoze jenocide; ubwumvikane bugamije gukora jenocide; guhamagarira abantu mu buryo butaziguye kandi mu ruhame gukora jenocide; ubuhotozi nk'icyaha cyibasiye inyokomuntu; itsembatsemba nk'icyaha cyibasiye inyokomuntu; kwica urubozo nk'icyaha cyibasiye inyokomuntu; gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu; ibindi bikorwa bibi birenze kameremuntu nk'ibyaha byibasiye inyokomuntu; n'ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve hamwe n'Umugereka wayo wa 2, nk'uko bivugwa mu ngingo ya 4 (a), (e) na (f) ya Sitati.
210. Ku itariki ya 8 Kanama 2001, abisabwe na Porokireri, Umucamanza Pavel Dolenc yatanze urupapuro rwo gufata Uregwa, hashingiwe ku ngingo ya 54, iya 57 n'ya 64 z'Amategeko. Urwo rupapuro, rwahawe ibihugu byose, rwari rwometseho n'itegeko ryo kwimurira no gufungira Uregwa muri gereza y'Urukiko, ndetse n'itegeko ritanga ububasha bwo gusaka no gufatira ibintu²⁵⁵.
211. Ku itariki ya 4 Ukuboza 2001, Uregwa yafatiwe muri Mali, maze yimurirwa muri gereza y'Urukiko ku itariki ya 11 Werurwe 2002.

²⁵⁴ Iyemezwa ry'Inyandiko y'ibirego n'Itegeko ry'Urugereko ryo kudatangaza Inyandiko y'ibirego kimwe n'ingamba zo kurinda umutekano w'abahohotewe n'uw'abatangabuhamya, 17 Nyakanga 2000.

²⁵⁵ Urupapuro rwo gufata, Itegeko risaba ko Uregwa yimurirwa muri gereza y'Urukiko kandi agafungwa, rikanemeza ko hakorwa isaka n'ifatira ry'ibintu, 9 Kanama 2001.

212. Ku itariki ya 18 Werurwe 2002, Uregwa yitabye Urukiko bwa mbere imbere y'umucamanza Lloyd G. Williams, maze ahakana ibyaha 12 yashinjwaga mu Nyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000²⁵⁶.
213. Ku itariki ya 17 Kamena 2005, Porokireri yatanze icyifuzo asaba uruhusa rwo guhindura Inyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000²⁵⁷. Ku itariki ya 23 Kamena 2005, Porokireri yatanze inyandiko ikosora Inyandiko y'ibirego ya mbere²⁵⁸.
214. Ku itariki ya 19 Kanama 2005, Porokireri yatanze icyifuzo asaba kureka icyifuzo cye cyo guhindura Inyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000 hamwe n'inyandiko ikosora iyo Nyandiko y'ibirego²⁵⁹.
215. Ku itariki ya 24 Kanama 2005, Umucamanza Arlette Ramarason ntiyemeye icyifuzo cya Porokireri cyo kureka icyifuzo cye cyo guhindura Inyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000 hamwe n'inyandiko ikosora iyo Nyandiko y'ibirego, kubera ko yasanze icyo cyifuzo nta shingiro gifite²⁶⁰.
216. Ku itariki ya 21 Nzeri 2005, Porokireri yatanze icyifuzo gishya cyo guhindura Inyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000²⁶¹.
217. Ku itariki ya 19 Ukwakira 2005, Porokireri n'Ubwunganizi batanze icyifuzo bahuriyeho gisaba Urugereko gusuzuma amasezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'Iburo bya Porokireri²⁶².

²⁵⁶ Inyandikomvugo y'iburanisha, 18 Werurwe 2002, ibika 24-31.

²⁵⁷ icyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego, hashingiwe ku ngingo ya 73, iya 50 n'ya 51 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, cyatanzwe ku itariki ya 17 Kamena 2005.

²⁵⁸ Inyandiko ikosora icyifuzo cya Porokireri gisaba guhindura Inyandiko y'ibirego, hashingiwe ku ngingo ya 73, iya 50 n'ya 51 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, yatanzwe ku itariki ya 23 Kamena 2005.

²⁵⁹ icyifuzo cyatanzwe na Porokireri ku itariki ya 19 Kamana 2005, asaba uruhusa rwo kureka Inyandiko y'ibirego hamwe n'indi nyandiko yayikosoye.

²⁶⁰ icyemezo cyo ku itariki ya 24 Kanama 2005 ku cyifuzo cyatanzwe na Porokireri ku itariki ya 19 Kamana 2005, asaba uruhusa rwo kureka Inyandiko y'ibirego hamwe n'indi nyandiko yayikosoye.

²⁶¹ icyifuzo cyatanzwe na Porokireri ku itariki ya 21 Nzeri 2005, asaba uruhusa rwo guhindura Inyandiko y'ibirego hashingiwe ku ngingo ya 73, iya 50 n'ya 51 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso.

²⁶² icyifuzo gihuriyeho n'impane zombi gisaba Urugereko gusuzuma amasezerano y'ubwemeracyaha Paul Bisengimana yagiranye n'Iburo bya Porokireri, cyatanzwe ku itariki ya 19 Ukwakira 2005.

218. Ku itariki ya 27 Ukwakira 2005, Urugereko rwemereye Porokireri guhindura Inyandiko y'ibirego yo ku itariki ya 1 Nyakanga 2000²⁶³.
219. Ku itariki ya 31 Ukwakira 2005, Porokireri yatanze Inyandiko y'ibirego yahinduwe ishinja Uregwa ibyaha bitanu bikurikira: jenocide; kuba icyitso cy'abakoze jenocide; ubuhotozi, itsembatsemba no gusambanya ku gahato nk'ibyaha byibasiye inyokomuntu.
220. Ku itariki ya 17 Ugushyingo 2005, ubwo Uregwa yongeraga kwitaba urukiko, yemeye ubuhotozi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu²⁶⁴, byombi hashingiwe ku ngingo ya 6 (1) ya Sitati²⁶⁵. Uregwa yahakanye jenocide²⁶⁶, kuba icyitso cy'abakoze jenocide²⁶⁷, ubuhotozi nk'icyaha cyibasiye inyokomuntu hashingiwe ku ngingo ya 6 (3) ya Sitati²⁶⁸, itsembatsemba nk'icyaha cyibasiye inyokomuntu hashingiwe ku ngingo ya 6 (3) ya Sitati²⁶⁹, no gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu²⁷⁰.
221. Hashingiwe ku masezerano y'ubwemeracyaha hagati y'impande zombi yashyikirijwe Urugereko ku itariki ya 19 Ukwakira 2005²⁷¹, Porokireri yasabye mu magambo Urugereko kuvanaho ibirego Uregwa yahakanye no kwemeza ko ibyaha bikubiye muri ibyo birego bitamuhama, hashingiwe ku ngingo ya 73, iya 54 n'ya 51 z'Amategeko²⁷². Urugereko rwasanze rutagira icyo rwemeza kuri icyo cyifuzo ukurikije aho imiburanishirize yari igeze.
222. Urugereko rwakuye ubujeni ku masezerano y'ubwemeracyaha yavuzwe haruguru mu gihe cy'iburanisha mu ruhame, hashingiwe ku ngingo ya 62 *bis*. Urugereko rwagaragaje kandi ibintu bidahuza hagati y'ibikorwa bishingirwaho mu gushinja

²⁶³ icyemezo ku cyifuzo cya Porokireri gisaba kwemererwa guhindura Inyandiko y'ibirego, 27 Ukwakira 2005.

²⁶⁴ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, imp. 13, 14.

²⁶⁵ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, imp. 13, 14.

²⁶⁶ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 12.

²⁶⁷ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 12.

²⁶⁸ Inyandikomvugo y'iburanisha, 17 Ugushyingo, 2005 urup. 14.

²⁶⁹ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 15.

²⁷⁰ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 14.

²⁷¹ icyifuzo gihuriweho n'impande zombi gisaba Urugereko gusuzuma amasezerano y'ubwemeracyaha Paul Bisengimana yagiranye n'ibiro bya Porokireri, cyatanzwe ku itariki ya 19 Ukwakira 2005 hamwe n'amasezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'ibiro bya Porokireri.

²⁷² Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, imp. 15-16.

Uregwa ibyaha yemeye n'ibikorwa bikubiye mu masezerano y'ubwemeracyaha²⁷³. Porokireri yavuze ko bitewe n'uko Uregwa yemeye ibyaha bikubiye mu kirego cya 3 n'icya 4 ashinjwa hashingiwe ku ngingo ya 6 (1) ya Sitati, ari ngombwa guhindura ibika 8, 19, 20, 21, 22, 28, 38, 39 na 42 by'Inyandiko y'ibirego yahinduwe kugira ngo akosore ibintu bidahuza byavuzwe haruguru, maze yongeraho ko yazatanga nyuma indi nyandiko y'ibirego yahinduwe. Ubwunganizi bwavuze ko kuri bwo, ibifite agaciro ari ibikubiye mu masezerano y'ubwemeracyaha kandi ko bushyigikiye igitekerezo cya Porokireri cyo gutanga indi nyandiko y'ibirego yahinduwe²⁷⁴.

223. Urugereko rwafashe icyemezo mu magambo cyo kutakira amasezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'Iburo bya Porokireri kubera ko rwasanze arimo urujijo. Hashingiwe ku ngingo ya 62(A)(iii), Urugereko rwandikiye Uregwa ko ahakanye ibyaha bikubiye mu kirego cya 3 n'icya 4 by'Inyandiko y'ibirego yahinduwe, kandi rwabonye ko ahakana ibyaha bikubiye mu bindi birego byose²⁷⁵. Urugereko rwemeye igitekerezo cya Porokireri cyo gusubiramo Inyandiko y'ibirego yahinduwe kugira ngo ayihuze n'ibyo impande zombi zumvikanyeho²⁷⁶.
224. Ku itariki ya 28 Ugushyingo 2005, Porokireri yatanze Inyandiko y'ibirego yahinduwe bwa kabiri ku itariki ya 23 Ugushyingo 2005, iyo nyandiko ikaba iri mu cyongereza.
225. Ku itariki ya 1 Ukuboza 2005, Porokireri n'Ubwunganizi batanze ikindi cyifuzo bahuriyeho cyo ku itariki ya 30 Ugushyingo 2005 gisaba Urugereko gusuzuma andi masezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'iburo bya Porokireri. icyo cyifuzo cyari cyometseho ayo masezerano y'ubwemeracyaha yasinywe n'Uregwa hamwe n'Avoka umwunganira ku itariki ya 4 Ukwakira 2005, ndetse na Porokireri ku itariki ya 17 Ukwakira 2005. Uwo muni, Porokireri yatanze kandi inyandiko y'ibirego nshya yahinduwe ku itariki ya 23 Ugushyingo 2005, iri mu cyongereza no mu gifaransa.

²⁷³ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, imp. 18-21.

²⁷⁴ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 24.

²⁷⁵ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 26.

²⁷⁶ Inyandikomvugo y'iburanisha, 17 Ugushyingo 2005, urup. 26.

226. Bitewe n'ikibazo Urugereko rwibajije ku birebana n'igice cy'inyandikomvugo y'iburanisha rya Bisengimana ryo ku itariki ya 17 Ugushyingo 2005 mu rurimi rw'igifaransa cyaburaga, ku itariki ya 16 Ukuboza 2005 hatanzwe indi nyandikomvugo y'iburanisha rya Bisengimana yanonosowe yo kuri iyo tariki ya 17 Ugushyingo 2005²⁷⁷.
227. Ku itariki ya 7 Ukuboza 2005, mu gihe cy'inama ntegururubanza, Ubwunganizi bwatanze ibyifuzo bibiri mu magambo: mu cya mbere, kwasabaga ko ubuyobozi bwa gereza bwabuha icyemezo ku birebana n'ifungwa ry'Uregwa; mu cya kabiri, kwasabaga ko Dogiteri Epée yabuha icyemezo ku birebana n'ubuzima bw'Uregwa²⁷⁸.
228. Ku itariki ya 7 Ukuboza 2005, ubwo Uregwa yitabaga urukiko inshuro ya kabiri, yemeye ibyaha bikurikira: ubuhotozi nk'icyaha cyibasiye inyokomuntu, hashingiwe ku ngingo ya 6 (1) ya Sitati²⁷⁹; itsembatsemba nk'icyaha cyibasiye inyokomuntu, hashingiwe ku ngingo ya 6 (1) ya Sitati²⁸⁰. Uregwa yahakanye ibyaha bikurikira: jenocide, yaryozwaga hashingiwe ku ngingo ya 6 (1) na (3) ya Sitati²⁸¹; kuba icyitso cy'abakoze jenocide, yaryozwaga hashingiwe ku ngingo ya 6 (1) ya Sitati²⁸²; gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu, yaryozwaga hashingiwe ku ngingo ya 6 (1) na (3) ya Sitati²⁸³.
229. Hashingiwe ku masezerano y'ubwemeracyaha hagati y'impande zombi²⁸⁴, Porokireri yasabye mu magambo Urugereko gukuraho ibirego bikubiyemo ibyaha Uregwa

²⁷⁷ Ku itariki ya 7 Ukuboza 2005, bisabwe n'Ubwunganizi, habayeho mu muhezo inama ntegururubanza, Uregwa ahari. Avoka wunganira Uregwa yavuze ko inyandikomvugo y'iburanisha ryo ku itariki ya 17 Ugushyingo 2005 iri mu rurimi rw'igifaransa yerekana ko Uregwa atasabwe kwemera cyangwa guhakana icyaha gikubiye mu kirego cya gatanu cy'Inyandiko y'ibirego yahinduwe. Mu iburanisha mu ruhame, Urugereko rwavuze ko habayeho amakosa mu nyandikomvugo yo mu gifaransa kubera ko inyandiko yo mu rurimi rw'icyongereza yerekana ko Uregwa yavuze niba yemera cyangwa ahakana icyo kirego.

²⁷⁸ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 3 (Inama ntegururubanza) (mu muhezo).

²⁷⁹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 12.

²⁸⁰ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 13.

²⁸¹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 12.

²⁸² Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 12.

²⁸³ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 13.

²⁸⁴ icyifuzo gihuriweho n'impande zombi gisaba Urugereko gusuzuma amasezerano y'ubwemeracyaha Paul Bisengimana yagiranye n'Iburo bya Porokireri, cyatanze ku itariki ya 1 Ukuboza 2005, hamwe n'ayo masezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'iburo bya Porokireri yo ku itariki ya 30 Ugushyingo 2005.

atemeye no kumuhanaguraho ibyo byaha, hashingiwe ku ngingo ya 51, iya 54 n'ya 73 z'Amategeko²⁸⁵.

230. Hashingiwe ku ngingo ya 62 *bis*, Urugereko rwasabye ko amasezerano y'ubwemeracyaha akurwaho ubujeni maze agatagarizwa rubanda²⁸⁶. Ubwunganizi bwo kwasabye Urugereko ko rubanda rwamenyeshwa gusa ibikubiye mu mutwe wa 3, uwa 4 n'uwa 5 y'ayo masezerano, buvuga ko atari ngombwa gutagariza rubanda ibikubiye mu yindi mitwe²⁸⁷. Urugereko rwafashe icyemezo mu magambo cyo kutemera icyo cyifuzo, kubera ko rwasanze Ubwunganizi budatanga ibisobanuro bihagije ku mpamvu zatuma ibice bimwe by'ayo masezerano bidatangazwa²⁸⁸.
231. Urugereko rwemeye icyifuzo cyatanzwe n'impande zombi zirusaba gusuzuma amasezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'Ibiro bya Porokireri²⁸⁹. Rwemeje ko ibisabwa mu ngingo ya 62 (B) byujujwe, kandi ko kubera iyo mpamvu Uregwa ahamwa n'icyaha cyo gufasha no gushishikariza abantu gukora icyaha cy'ubuhotozi (ikirego cya 3) n'itsembatsemba (ikirego cya 4) nk'ibyaha byibasiye inyokomuntu, hashingiwe ku ngingo ya 6 (1) ya Sitati²⁹⁰. Urugereko rwemeye icyifuzo cya Porokireri cyarusabaga gukura mu birego ibyaha Uregwa yahakanye (jenocide, kuba icyitso cy'abakoze jenocide, gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu) no kutakira ibyo birego²⁹¹. Nyamara ariko, Urugereko ntirwemeye icyifuzo cya Porokireri cyarusabaga guhanaguraho Uregwa ibyo byaha yahakanye kubera ko nta mpamvu zihwitse yatanze zishyigikira icyo cyifuzo²⁹². Ku birebana n'icyifuzo cy'Ubwunganizi cyo guhabwa icyemezo ku birebana n'ifungwa ry'Uregwa no ku birebana n'ubuzima bwe, Urugereko rwasabye Ubwunganizi kugeza

²⁸⁵ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, imp. 13-14. Ibyo birego ni ibi bikurikira: Ikirego cya 1: jenocide, hashingiwe ku ngingo ya 6 (1) na (3) ya Sitati; Ikirego cya 2: kuba icyitso cy'abakoze jenocide, hashingiwe ku ngingo ya 6 (1) ya Sitati; n'Ikirego cya 5: gusambanya ku gahato nk'icyaha cyibasiye inyokomuntu, hashingiwe ku ngingo ya 6 (1) na (3) ya Sitati.

²⁸⁶ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 15.

²⁸⁷ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 15.

²⁸⁸ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 18.

²⁸⁹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 17.

²⁹⁰ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 17.

²⁹¹ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 18.

²⁹² Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 18.

- icyo kibazo kuri Gerefiye²⁹³. Mu kurangiza, rwasabye ko Uregwa afungwa mu buryo umutekano we utahungabana²⁹⁴.
232. Na none, muri iryo buranisha, Ubwunganizi bwavuze ko bwifuzaga guhamagaza abatangabuhamya bo gutanga ubuhamya ku birebana n'imico y'Uregwa²⁹⁵. Ku itariki ya 20 Ukuboza 2005, Urugereko rwemeye icyo cyifuzo kuri bimwe.
233. Ku itariki ya 20 Ukuboza 2005, Ubwunganizi bwatanze mu rurimi rw'igifaransa imyanzuro mbanzirizagihano yabwo, naho Porokireri ayitanga mu cyongereza ku itariki ya 16 Mutarama 2006. Ku itariki ya 19 Mutarama 2006, habaye iburanisha mbanzirizagihano. Urugereko rwumvise Porokireri, Ubwunganizi, abatangabuhamya batatu bavuze ku birebana n'imico y'Uregwa, hamwe n'Uregwa ubwe. Raporo ya muganga irebana n'Uregwa yarakiriwe hashingiwe ku ngingo ya 92 *bis* nyuma y'uko Dogiteri Epée arahiye ko ari we wayikoze koko²⁹⁶.
234. icyemezo cy'Umuyobozi wa gereza y'Urukiko ku birebana n'imyifatire myiza y'Uregwa cyakiriwe ku itariki ya 3 Gashyantare 2006, hashingiwe ku ngingo ya 92 *bis*²⁹⁷.

²⁹³ Inyandikomvugo y'iburanisha, 7 Ukuboza 2005, urup. 18.

²⁹⁴ Inyandikomvugo y'iburanisha, 7 Ukuboza 2006, urup. 19. (urup. 22 mu gifaransa)

²⁹⁵ icyo cyifuzo cyitwa « icyifuzo cy'Ubwunganizi cyihutirwa cyane gisaba Urugereko gufata icyemezo gishyiraho ingamba zo kurinda abatangabuhamya bazavuye ku birebana n'imico y'Uregwa » kandi cyatanzwe ku itariki ya 16 Ukuboza 2005.

²⁹⁶ Inyandikomvugo y'iburanisha, 19 Mutarama 2006, imp. 43-44.

²⁹⁷ icyemezo ku Cyifuzo cy'Ubwunganizi gisaba Urugereko kwakira ubuhamya bwanditse bw'umutangabuhamya mu mwanya w'ubwo yatangiye mu rukiko, hashingiwe ku ngingo ya 92 bis (A) na (B) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 3 Gashyantare 2006.

B. Ubukemuramanza n'ibisobanuro by'amagambo amwe yakoreshejwe

1. TPIR

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

Urubanza Porokireri aburana na Akayesu, N° ICTR-96-4-A, Inyandiko y'urubanza mu bujurire, 1 Kamena 2001.

Urubanza Porokireri aburana na Bagilishema, N° ICTR-95-1A-T, Inyandiko y'urubanza mu rw'iremezo, 7 Kamena 2001.

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-95-54-T, Inyandiko y'urubanza mu rw'iremezo, 22 Mutarama 2004.

Urubanza Porokireri aburana na Kamuhanda, N° ICTR-95-54-A, Inyandiko y'urubanza mu bujurire, 19 Nzeri 2005.

Urubanza Porokireri aburana na Kajelijeli, N° ICTR-99-44-T, Inyandiko y'urubanza mu rw'iremezo, 1 Ukuboza 2003.

Urubanza Porokireri aburana na Kajelijeli, N° ICTR-99-44-A, Inyandiko y'urubanza mu bujurire, 23 Gicurasi 2005.

Urubanza Porokireri aburana na Kayishema na Ruzindana, N° ICTR-95-1-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gicurasi 1999.

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

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

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 Ndindabahizi, N° ICTR-2001-71-I, Inyandiko y'urubanza mu rw'iremezo, 15 Nyakanga 2004.

Urubanza Porokireri aburana na Ntagerura na bagenzi be, N° ICTR-99-46-T, Inyandiko y'urubanza mu rw'iremezo, 25 Gashyantare 2004.

Urubanza Porokireri aburana na Ntakirutimana, N° ICTR-96-10-T na ICTR-96-17-T, Inyandiko y'urubanza mu rw'iremezo, 21 Gashyantare 2003.

Urubanza Porokireri aburana na Ntakirutimana, N° ICTR-96-10-A na ICTR-96-17-A, Inyandiko y'urubanza mu bujirire, 13 Ukuboza 2004.

Urubanza Porokireri aburana na Ruggiu, N° ICTR-97-32-T, Inyandiko y'urubanza mu rw'iremezo, 1 Kamena 2000.

Urubanza Porokireri aburana na Rutaganira, N° ICTR-95-1C-T, Inyandiko y'urubanza mu rw'iremezo, 14 mars 2005.

Urubanza Porokireri aburana na Rutaganda, N° ICTR-96-3-T, Inyandiko y'urubanza mu rw'iremezo, 6 Ukuboza 1999.

Urubanza Porokireri aburana na Semanza, N° ICTR-97-20-T, Inyandiko y'urubanza mu rw'iremezo, 15 Gicurasi 2003.

Urubanza Porokireri aburana na Semanza, N° ICTR-97-20-A, Inyandiko y'urubanza mu bujirire, 20 Gicurasi 2005.

Urubanza Porokireri aburana na Serushago, N° ICTR-98-39-T, Inyandiko y'urubanza mu rw'iremezo, 5 Gashyantare 1999.

Urubanza Porokireri aburana na Simba, N° ICTR-01-76-T, Inyandiko y'urubanza mu rw'iremezo, 13 Ukuboza 2005.

2. TPIY

Urubanza Porokireri aburana na Aleksovski, N° IT-95-14/1-T, Inyandiko y'urubanza mu rw'iremezo, 25 Kamena 1999.

Urubanza Porokireri aburana na Banović, N° IT-02-65/1S, Inyandiko y'urubanza mu rw'iremezo, 28 Ukwakira 2003.

Urubanza Porokireri aburana na Blaškić, N° IT-94-14-S, Inyandiko y'urubanza mu rw'iremezo, 3 Werurwe 2000.

Urubanza Porokireri aburana na Blaškić, N° IT-94-14-A, Inyandiko y'urubanza mu bujurire, 29 Nyakanga 2004.

Urubanza Porokireri aburana na Deronjić, N° IT-02-61-S, Inyandiko y'urubanza mu rw'iremezo, 30 Werurwe 2004.

Urubanza Porokireri aburana na Erdemović, N° IT-96-22-Tbis, Inyandiko y'urubanza mu rw'iremezo, 5 Werurwe 1998.

Urubanza Porokireri aburana na Furundžija, N° IT-95-17/1-T, Inyandiko y'urubanza mu rw'iremezo, 10 Ukuboza 1998.

Urubanza Porokireri aburana na Krstić, N° IT-98-33-T, Inyandiko y'urubanza mu rw'iremezo, 2 Kanama 2001.

Urubanza Porokireri aburana na Krstić, N° IT-98-33-A, Inyandiko y'urubanza mu bujurire, 19 Mata 2004.

Urubanza Porokireri aburana na Kunarać na bagenzi be, N° IT-96-23-T & 96-23/1-T, Inyandiko y'urubanza mu rw'iremezo, 22 Gashyantare 2001.

Urubanza Porokireri aburana na Kunarać na bagenzi be, N° IT-96-23-A & 96-23/1-A, Inyandiko y'urubanza mu bujurire, 12 Kamena 2002.

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

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 Naletilić na bagenzi be, N° IT- 98-34-T, Inyandiko y'urubanza mu rw'iremezo, 31 Werurwe 2003.

Urubanza Porokireri aburana na Nikolić, N° IT-02-60/1-S, Inyandiko y'urubanza mu rw'iremezo, 18 Ukuboza 2003.

Urubanza Porokireri aburana na Plavšić, N° IT-00-39 na 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.

Urubanza Porokireri aburana na Simić, N° IT-95-9/2-S, Inyandiko y'urubanza mu rw'iremezo, 17 Ukwakira 2002.

Urubanza Porokireri aburana na Strugar, N° IT-01-42-T, Inyandiko y'urubanza mu rw'iremezo, 31 Mutarama 2005.

Urubanza Porokireri aburana na Tadić, N° IT-94-1, Inyandiko y'urubanza mu rw'iremezo, 15 Nyakanga 1999.

Urubanza Porokireri aburana na Todorović, N° IT-95-9/1-S, Inyandiko y'urubanza mu rw'iremezo, 31 Nyakanga 2001.

Urubanza Porokireri aburana na Vasiljević, N° IT-98-32-S, Inyandiko y'urubanza mu rw'iremezo, 29 Ugushyingo 2002.

3. Ibisobanuro by'amagambo amwe yakoreshejwe

Urugereko

Urugereko rwa Mbere rw'Iremezo II

Inyandiko y'ibirego

Urubanza Porokireri aburana na Bisengimana, N° ICTR-2000-60-I, Inyandiko y'ibirego yahinduwe, yasinywe ku itariki ya 23 Ugushyingo 2005 itangwa ku ya 1 Ukuboza 2005 mu cyongereza no mu gifaransa.

Amasezerano y'ubwemeracyaha

Urubanza Porokireri aburana na Bisengimana, N° ICTR-2000-60-I, Amasezerano y'ubwemeracyaha hagati ya Paul Bisengimana n'Ibiro bya Porokireri, yatanzwe ku itariki ya 1 Ukuboza 2005.

Imyanzuro nsozarubanza y'Ubwunganizi

Urubanza Porokireri aburana na Bisengimana, N° ICTR-2000-60-I, Imyanzuro mbanzirizagihano y'Ubwunganizi, yatanzwe ku itariki ya 20 Ukuboza 2005.

Inyandiko y'urubanza

Urubanza Porokireri aburana na Bisengimana, N° ICTR-2000-60-T, Inyandiko y'urubanza, 13 Mata 2006.

Imyanzuro nsozarubanza ya Porokireri

Urubanza Porokireri aburana na Bisengimana, N° ICTR-2000-60-I, Imyanzuro mbanzirizagihano ya Porokireri, yatanzwe ku itariki ya 16 Mutarama 2006.

Inyandikomvugo y'iburanisha

Inyandikomvugo y'iburanisha yo mu cyongereza, keretse biramutse byerekanwe ukundi.

C. Inyandiko y'ibirego



**Urukiko Mpanabyaha Mpuzamahanga
Rwashyiriweho U Rwanda**

UMURYANGO
W'ABIBUMBYE

POROKIRERI

Aburana na

PAUL BISENGIMANA

INYANDIKO Y'IBIREGO YAHINDUWE

Urubanza N° ICTR-2000-60-1

Ashingiye ku bubasha ahabwa n'ingingo ya 17 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Sitati y'Urukiko »), Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, arega :

PAUL BISENGIMANA

Icyaha cya **JENOSIDE** hashingiwe ku ngingo ya 2(3)(a) ya Sitati y'Urukiko; icyo cyaha kitamuhama akaryozwa **KUBA ICYITSO CY'ABAKOZE JENOSIDE**, hashingiwe ku ngingo ya 2 (3) (e) ya Sitati y'Urukiko. Amurega kandi **UBUHOTOZI NK'ICYAHA CYIBASIYE INYOKOMUNTU** hashingiwe ku ngingo ya 3(a) ya Sitati y'Urukiko; **ITSEMBATSEMBA NK'ICYAHA CYIBASIYE INYOKOMUNTU** hashingiwe ku ngingo ya 3(b) ya Sitati y'Urukiko no **GUSAMBANYA KU GAHATO NK'ICYAHA CYIBASIYE INYOKOMUNTU** hashingiwe ku ngingo ya 3 (g) ya Sitati y'Urukiko.

1. Ibikorwa bigiye kuvugwa byabereye muri Repubulika y'u Rwanda hagati y'itariki ya 1 Mutarama 1994 n'ya 31 Nyakanga 1994.

67

CII06-0025K

Byahinduwe mu kinyarwanda kandi byemezwa na SSL/ TPIR

UREGWA

2. **Paul Bisengimana** yavukiye i Rugarama, muri Segiteri ya Duha, Komine ya Gikoro, Perefegitura ya Kigali-Ngari. Mu gihe cyose kivugwa muri iyi Nyandiko y'ibirego yari Burugumesitiri wa Komine ya Gikoro, Perefegitura ya Kigali-Ngari.
3. Ku itariki ya 27 Gicurasi 1981 ni bwo Perezida w'u Rwanda yashyize **Paul Bisengimana** ku mwanya wa Burugumesitiri wa Komine ya Gikoro, Perefegitura ya Kigali-Ngari. Yagumye kuri uwo mwanya kugeza igihe FPR ifatiye Komine ya Gikoro hagati y'itariki ya 19 n'iyi 21 Mata 1994.
4. Nka Burugumesitiri wa Komine ya Gikoro, **Paul Bisengimana** ni we wari uhagarariye Guverinoma muri komine, bityo akaba ari we wari umuyobozi wa komine.
5. Nka Burugumesitiri wa Komine ya Gikoro, **Paul Bisengimana** yari akuriye abakozi ba Leta bose n'abandi bose bakora akazi ka Leta muri Komine ya Gikoro.
6. By'umwihariko, nka Burugumesitiri wa Komine ya Gikoro, **Paul Bisengimana** yari afite ububasha bushingiye ku mategeko ku birebana n'ibikorwa by'abakonseye bose, abaporisi ba komine, abandi bakozi ba Leta bakoreraga muri komine, n'ibikorwa by'abantu bose bakoraga akazi ka Leta muri Komine ya Gikoro.
7. Mu nshingano za **Paul Bisengimana** nka Burugumesitiri wa Komine ya Gikoro, harimo kubahirisha amategeko n'amabwiriza. Muri urwo rwego, nka Burugumesitiri wa Komine ya Gikoro, **Paul Bisengimana** yari ashinzwe kubungabunga amahoro n'ituze by'abaturage n'umutekano w'abantu n'ibintu. **Paul Bisengimana** yari afite rero inshingano zo kurinda abaturage, kuburizamo cyangwa guhana ibyaha byakozwe n'abantu yari akuriye, nk'uko bisobanurwa mu Nyandiko y'ibirego, nyamara nta cyo yakoze muri ibyo.
8. Nka Burugumesitiri wa Komine ya Gikoro, **Paul Bisengimana** yari afite ubushobozi bwo kurwanya ko abasiviri b'Abatutsi bicwa muri iyo komine cyangwa mu nkengero zayo. Nyamara ariko, nta ngamba zigaragara yafashe kugira ngo arwane ku mpunzi z'Abatutsi zari muri Komine ya Gikoro.

IBIREGO**Ikirego cya 1: JENOSIDE, hashingiwe ku ngingo ya 2(3)(a) ya Sitati y'Urukiko**

9. Muri Mata 1994, mu karere ka Bugesera, Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, **Paul Bisengimana** ari gatozi kandi afatanyije n'abandi bantu, yagize uruhare mu bikorwa byo kwica abasiviri b'Abatutsi cyangwa kubatera ububabare buzahaza umubiri cyangwa mu mutwe, hagamijwe kurimbura abantu bose cyangwa igice cy'abagize ubwo bwoko.
10. Ku bikorwa byose bivugwa mu gushyigikira iki kirego, Porokireri avuga ko **Paul Bisengimana**, yacuze umugambi wo kubikora, agategeka abantu kubikora na we ubwe akabikora cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha kandi agashishikariza abandi bantu gucura umugambi, gutegura cyangwa gutsotsoba icyo cyaha, nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati.
11. Byongeye kandi, Porokireri avuga ko **Paul Bisengimana** yari azi, cyangwa yagombaga kumenya ko abantu yari akuriye barimo gutegura gukora kimwe cyangwa byinshi mu bikorwa biteganywa n'ingingo ya 2(3) (a) ya Sitati y'Urukiko cyangwa ko bari babikoze, nyamara ariko ntiyafashe ingamba za ngombwa kandi zishyize mu gaciro ngo aburizemo ibyo bikorwa cyangwa ahane ababikoze, hashingiwe ku ngingo ya 6 (3) ya Sitati.

Iki cyaha cyaramuka kitamuhanye,

Ikirego cya 2: KUBA ICYITSO CY'ABAKOZE JENOSIDE, hashingiwe ku ngingo ya 2(3) (e) ya Sitati y'Urukiko

12. Muri Mata 1994, mu karere ka Bugesera, Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, **Paul Bisengimana** yabaye icyitso mu bikorwa byo kwica cyangwa guteza abasiviri b'Abatutsi ububabare buzahaza umubiri cyangwa mu mutwe.
13. Mu bikorwa byose bivugwa mu gushyigikira iki kirego, Porokireri avuga ko **Paul Bisengimana**, yacuze umugambi wo kubikora, agategeka kandi agahamagarira abantu kubikora, akabikora ubwe cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha

kandi agashishikariza abandi bantu gucura umugambi, gutegura cyangwa gutsotsoba icyo cyaha, nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati.

Ibisobanuro birebana n'icyo cyaha

14. Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda hari ubwoko nyamuke bwitwa Abatutsi kandi Leta yabufataga gutyo ku buryo buzwi. Byongeye kandi, abaturage nyamwinshi bari abo mu bwoko bwitwa Abahutu kandi na bo Leta yabafataga gutyo ku buryo buzwi.
15. Abakorewe ibyaha bavugwa muri iyi Nyandiko y'ibirego bari abasiviri b'Abatutsi, n'Abahutu batari intagondwa mu bya politiki bo mu karere ka Bugesera, muri Perefegitura ya Kigali-Ngari, n'abandi basiviri bari barahahungiyeye.
16. **Paul Bisengimana** yari ku ruhembe rw'abakoraga poropagande yo gusenya amazu y'Abatutsi no kwica abasiviri b'Abatutsi muri Komine avukamo ya Gikoro, muri Perefegitura ya Kigali-Ngari no mu nkengero zayo. Iyo poropagande yari igizwe no gushishikaza no gutegeka abasirikare, Abahutu bitwaraga gisirikare, abaporisi ba komine n'abajandarume, kugaba ibitero ku Batutsi ahantu bari bahungiyeye nko muri za kiriziya n'insengero, amashuri n'ibiro bya Leta, maze bituma hicwa abantu babarirwa mu bihumbi. **Paul Bisengimana** ubwe yagabye ibitero ku Batutsi arabica, kandi ateguka abantu yari akuriye gukora bene ibyo bikorwa, kandi yari azi cyangwa yagombaga kumenya ko abasiviri b'Abatutsi bishwe cyangwa barimo kwicwa n'abantu yari akuriye.

Ibyabereye muri Serire ya Musha, Segiteri ya Rutoma, Komine ya Gikoro

17. Hagati y'itariki ya 8 n'ya 13 Mata 1994, abasiviri b'Abatutsi babarirwa mu bihumbi bahungiyeye ku kiriziya y'i Musha, muri Segiteri ya Rutoma, Komine ya Gikoro muri Perefegitura ya Kigali-Ngari, bahungira ibitero byagabwaga ku basiviri b'Abatutsi hirya non hino muri Perefegitura ya Kigali-Ngari.
18. Ku itariki ya 12 Mata 1994 cyangwa hafi yayo, **Paul Bisengimana** yari azi ko ku kiriziya ya Musha abasirikare b'u Rwanda batangaga intwari, zirimo imbunda

n'amagerenade, baziha Interahamwe n'abandi basiviri bari bafite intworo. Uregwa yari azi ko izo ntwaro zari gukoreshwa mu kugaba ibitero ku basiviri b'Abatutsi bari bahungiyeye kuri icyo kiriziya.

19. Ku itariki ya 13 Mata 1994 cyangwa hafi yayo, ubwo igitero cyagabwaga ku basiviri b'Abatutsi bari barahungiyeye mu kiriziya y'i Musha, **Paul Bisengimana** yari ahari ari kumwe na Laurent Semanza, Juvenal Rugambarara, abasirikare bo mu ngabo z'u Rwanda, Interahamwe, abasiviri bari bafite intworo, n'abaporisi ba komine. Abagabye igitero bakoresheje imbunda, amagerenade, imihoro, n'izindi ntwaro za gakondo. Icyo gitero cyahitanye abasiviri b'Abatutsi babarirwa mu bihumbi bari barahungiyeye ku kiriziya y'i Musha. Muri icyo gitero, umusiviri witwaraga gisirikare witwa Manda, yatwitse kiriziya maze icyo gikorwa gihitana impunzi nyinshi.
20. Kuba **Paul Bisengimana** yari ku kiriziya y'i Musha igihe icyo gitero cyahagabwaga, byashishikajye abakigabye maze bumva ko Uregwa yari ashigikiye iyicwa ry'abasiviri b'Abatutsi bari bateraniye kuri icyo kiriziya.

Ibyabereye muri Serire ya Ruhita, Segiteri ya Rwamashyongoshyo, Komine ya Gikoro

21. Mu ntangiriro za Mata 1994, **Paul Bisengimana** yagiye mu nama maze ahamagarira mu ruhamwe abayirimo kwica Abatutsi, avuga ko nta Mututsi muzima ashaka muri ako gace.
22. Hagati muri Mata 1994, **Paul Bisengimana** yahamagariye mu ruhamwe Interahamwe kwica abasiviri b'Abatutsi muri Segiteri ya Rwamashyongoshyo. Izo Interahamwe zamubwiye ko zari zararangije kwica abasiviri b'Abatutsi bose uretse umutangabuhamya wiswe VV, w'Umututsikazi. Icyo gihe Uregwa yabategetse kwica VV avuga ngo nyuma abantu nka we bashobora kuzavuga amarorerwa yakozwe n'abantu banyuranye muri Segiteri ya Rwamashyongoshyo.
23. Mu ntangiriro za Mata 1994, **Paul Bisengimana** yagize uruhare mu gitero cyagabwaga ku basiviri b'Abatutsi, bari bahungiyeye ku biro bya Komine ya Gikoro. Mu by'ukuri,

yababwiye nabi arakaye kandi asakuza maze ateguka abaporisi ba Komine kwambura izo mpunzi intwari.

Ibyabereye ku rusengeri rw'abaporo rw'i Ruhanga, Serire ya Ruhanga, Segiteri ya Gicaca, Komine ya Gikoro

24. Hagati y'itariki ya 8 n'ya 10 Mata 1994, abasiviri b'Abatutsi benshi bahungaga ibitero byabagabwagaho hirya no hino muri Perefegitura ya Kigali-Ngari, bagiye ku rusengeri n'ikigo cy'amashuri by'abaporo i Ruhanga, muri Segiteri ya Gicaca Komine ya Gikoro.
25. Hagati y'itariki ya 10 n'ya 15 Mata 1994, Burigadiye Rwabukumba afatanyije n'abajepi, abasiviri bitwaraga gisirikare n'abaporisi ba komine, bagabye igitero ku basiviri b'Abatutsi bari bahungiyeye ku kigo cy'amashuri no ku rusengeri by'abaporo i Ruhanga. icyo gihe, abagabye igitero bakoresheje imbunda, amagerenade, imipanga n'izindi ntware za gakondo, maze bica abasiviri b'Abatutsi batagira ingano bari bahungiyeye ku rusengeri no ku kigo cy'amashuri by'i Ruhanga.
26. N'ubwo yari Burugumesitiri wa Komine ya Gikoro, ndetse akaba yaranamenye ko impunzi zari ku kiriziya y'i Musha zari zagabweho igitero ku itariki ya 13 Mata 1994, **Paul Bisengimana** ntiyigeze afata ingamba zifatika zo kurinda impunzi z'Abatutsi zari zahungiyeye ku rusengeri n'ikigo cy'amashuri by'abaporo i Ruhanga muri Serire ya Ruhanga, Segiteri ya Gicaca, Komine ya Gikoro, hagati y'itariki ya 10 n'ya 15 Mata 1994.
27. Igitero cyagabwe ku basiviri b'Abatutsi bari bateraniye ku rusengeri no ku kigo cy'amashuri by'abaporo i Ruhanga cyari mu rwego rw'ibitero byari byibasiye abasiviri b'Abatutsi, mu duce hafi ya twose tw'u Rwanda muri Mata 1994.
28. Abasiviri babarirwa mu bihumbi barimo abagabo, abagore n'abana barishwe biturutse, mu buryo butaziguye, ku myitwarire ya **Paul Bisengimana**, yarimo gutera akanyabugabo abagabaga ibitero.

Ibyabereye muri Serire ya Ruhanga, Segiteri ya Gicaca, Komine ya Gikoro

29. Hagati ya Mutarama na Werurwe 1994, **Paul Bisengimana**, Laurent Semanza na Juvénal Rugambarara bagiye mu nama yabereye ku kigo cy'amashuri abanza cy'i Rutoma, muri Komine ya Gikoro maze bahamagarira abaturage kwica Abatutsi bose no kujugunya imirambo yabo mu kiyaga cya Muhazi.
30. Ku itariki ya 7 Mata 1994, **Paul Bisengimana** yatanze amakarito y'amagerenade muri Segiteri ya Gicaca, Komine ya Gikoro. Ayo makarito yayahaye Interahamwe yitwa Rutayisire kugira ngo izo ntwaro zizakoreshwe mu kugaba ibitero ku basiviri b'Abatutsi.
31. Muri Mata 1994, hafi ya santeri y'ubucuruzi ya Isumo iri hagati ya Segiteri ya Rwamashyongoshyo na Segiteri ya Gicaca muri Komine ya Gikoro, **Paul Bisengimana**, afatanyije n'abasiviri benshi bitwaraga gisirikare, yagiye mu bitero byinshi byagabwe ku basiviri b'Abatutsi. Ibyo bitero byahitanye Domitilla wari umugore wa Nicolas, umwuzukuru we na Shyirakera wari umukozi wabo wo mu rugo. Abagabye igitero bahambiriye kuri matola ba nyakwigendera uko ari batatu maze babatwika ari bazima.
32. Ku itariki ya 10 Mata 1994 cyangwa hafi yayo, **Paul Bisengimana** yafashe ijambo imbere y'abasiviri muri Segiteri ya Gicaca. Muri iryo jambo, yahamagariye abasiviri b'Abahutu kwica bagenzi babo b'Abatutsi.
33. Muri Mata 1994, ku gasozi ka Gicaca kari hafi y'urusengeru rw'i Ruhanga, **Paul Bisengimana**, afatanyije n'abagabo babiri b'Abahutu ari bo Kamana na Habimana, n'abandi basiviri bitwaraga gisirikare, yagiye mu gitero cyagabwe ku basiviri b'Abatutsi. Muri icyo gitero, abantu babonye **Paul Bisengimana** arasa kuri izo mpunzi z'Abatutsi.
34. Hagati ya Mutarama na Mata 1994, **Paul Bisengimana** yagenzuye imyitozo y'Interahamwe n'igikorwa cyo gutanga intwari muri Komine ya Gikoro, hagamijwe kugaba ibitero ku basiviri b'Abatutsi.

**Ikirego cya 3: UBUHOTOZI NK' ICYAHA CYIBASIYE INYOKOMUNTU,
hashingiwe ku ngingo ya 3(a) ya Sitati y'Urukiko**

35. Muri Mata 1994, mu karere ka Bugesera muri Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, nka gatozi, **Paul Bisengimana** yishe cyangwa yicisha abantu muri Komine ya Gikoro no mu nkengero zayo, mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko.
36. Mu bikorwa byose bivugwa mu gushyigikira iki kirego, Porokireri avuga ko **Paul Bisengimana** yacuze umugambi wo gukora ibyo bikorwa cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha ndetse agashishikariza abandi bantu gucura umugambi, gutegura cyangwa gutsotsoba icyo cyaha, nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati.

Ibisobanuro birebana n'icyo cyaha

37. Hagati y'itariki ya 6 n'ya 21 Mata 1994, muri Perefegitura ya Kigali-Ngari, mu Rwanda, hagabwe ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko.
38. Kubera ibikorwa bye nka gatozi cyangwa kubera abantu yafashije abizi kandi abishaka, **Paul Bisengimana** yafashije ndetse ashishikariza abantu gucura umugambi, gutegura, cyangwa kwica abasiviri b'Abatutsi.
39. Mu basiviri b'Abatutsi bishwe biturutse ku myitwarire ya **Paul Bisengimana** harimo umugabo w'Umututsi witwaga Rusanganwa. Koko rero, **Paul Bisengimana** yari ku kiriziya y'i Musha, muri Segiteri ya Rutoma, Komine ya Gikoro, ku itariki ya 13 Mata 1994, ubwo hagabwaga igitero cyahitanye Rusanganwa wari wahungiyeye muri iyo kiliziya.

Ikirego cya 4: ITSEMBATSEMBA NK'ICYAHA CYIBASIYE INYOKOMUNTU, hashingiwe ku ngingo ya 3(b) ya Sitati y'Urukiko

40. Muri Mata 1994, mu karere ka Bugesera, Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, **Paul Bisengimana** ari gatozi kandi afatanyije n'abandi bantu, yishe

cyangwa yicisha abantu mu bwicanyi bwahitanye imbaga y'abantu muri Komine ya Gikoro no mu nkengero zayo. Ibyo byabaye mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko.

41. Mu bikorwa byose bivugwa mu gushyigikira iki kirego, Porokireri avuga ko **Paul Bisengimana** yacuze umugambi cyangwa, mu bundi buryo ubwo ari bwo bwose, agafasha ndetse akanashishikariza abantu gucura umugambi, gutegura cyangwa gutsotsoba icyo cyaha, nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati.

Ibisobanuro birebana n'icyo cyaha

42. Hagati y'itariki ya 6 n'ya 21 Mata 1994, mu Rwanda hagabwe ibitero rusange cyangwa biri kuri gahunda, byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko.
43. Kubera ibikorwa bye nka gatozi cyangwa kubera abantu yafashije abizi kandi abishaka, **Paul Bisengimana** yafashije ndetse ashishikariza abandi bantu gucura umugambi, gutegura cyangwa gukora ubwicanyi bwibasiye abasiviri b'Abatutsi.
44. Abasiviri babarirwa mu bihumbi barimo abagabo, abagore n'abana barishwe biturutse, mu buryo butaziguye, ku myitwarire ya **Paul Bisengimana**, irimo gutera akanyabugabo abagabaga ibitero.
45. Ibikorwa **Paul Bisengimana** yakoze muri Mata 1994, ari byo gufasha no gushishikariza abantu kwica abasiviri b'Abatutsi ku kiriziya y'i Musha, muri Komine ya Gikoro no ku rusengeru rw'abaporo rw'i Ruhanga, muri Serire ya Ruhanga, Segiteri ya Gicaca, Komine ya Gikoro bisobanurwa kuva ku gika cya 17 kugeza ku cya 20 no kuva ku gika cya 24 kugeza ku cya 28 by'iyi Nyandiko y'ibirego. Ibivugwa muri ibyo bika na byo birashingirwaho muri iki kirego kandi bigomba gufatwa nk'aho bicyanditsemo, bikaba rero atari ngombwa kongera kubyandukura.

**Ikirego cya 5: GUSAMBANYA KU GAHATO NK'ICYAHA CYIBASIYE
INYOKOMUNTU, hashingiwe ku ngingo ya 3(g) ya Sitati
y'Urukiko**

46. Muri Mata 1994, mu karere ka Bugesera, Perefegitura ya Kigali-Ngari, Repubulika y'u Rwanda, **Paul Bisengimana** ari gatozi kandi afatanije n'abandi bantu, yatumye abagore basambanywa ku gahato muri Komine ya Gikoro no mu nkengero zayo. Ibyo byabaye mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abasiviri bazira impamvu za politiki cyangwa ubwoko.
47. Ku bikorwa byose bivugwa mu gushyigikira iki kirego, Porokireri avuga ko **Paul Bisengimana**, yahamagariye cyangwa, mu bundi buryo ubwo ari bwo bwose, yafashije kandi ashishikariza abandi bantu gucura umugambi, gutegura cyangwa gutsotsoba icyo cyaha, nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati.
48. Byongeye kandi, Porokireri avuga ko **Paul Bisengimana** yari azi, cyangwa yagombaga kumenya ko abantu yari akuriye biteguraga gukora kimwe cyangwa byinshi mu bikorwa biteganywa n'ingingo ya 3 (g) ya Sitati y'Urukiko cyangwa ko babikoze, nyamara ariko ntiyafata ingamba za ngombwa kandi zishyize mu gaciro ngo aburizemo ibyo bikorwa cyangwa ngo ahane ababikoze, nk'uko biteganywa n'ingingo ya 6 (3) ya Sitati.

Ibisobanuro birebana n'icyo cyaha

49. Muri Mata 1994, **Paul Bisengimana**, ari i Musha kandi afatanyije na Laurent Semanza n'abajepi, yahamagariye agaco k'abasiviri b'Abahutu bari bakoranye muri Serire ya Musha, Segiteri ya Musha, Komine ya Gikoro, gusambanya ku gahato Abatutsikazi.
50. Amaze kubibahamagarira, abasirikare n'abasiviri b'Abahutu basambanyije ku gahato abagore n'abakobwa b'Abatutsikazi, barimo umutangabuhamya wiswe VV-K n'umugore witwa Kayitesi, banabakorera ibikorwa by'urugomo rushingiye ku gitsina. Kubera ibikorwa bye, Uregwa yagize uruhare rutaziguye kandi runini mu bikorwa byo gusambanya ku gahato no mu by'urugomo rushingiye ku gitsina byakorewe abasiviri b'Abatutsi muri Serire ya Musha, Segiteri ya Musha, Komine ya Gikoro.

Ibyo Paul Bisengimana yakoze n'ibyo yateshutswe gukora bivugwa muri iyi Nyandiko y'ibirego bihanwa hashingiwe ku ngingo ya 22 n'iya 23 bya Sitati.

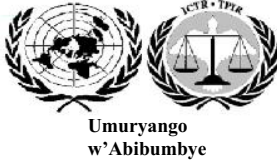
Bikorewe Arusha, none ku itariki ya 23 Ugushyingo 2005

[Umukono]

[Kashe]

Hassan Bubacar Jallow

D. Inyandiko y'urubanza rukosora urundi



**Urukiko Mpanabyaha Mpuzamahanga
Rwashyiriweho u Rwanda**

Umuryango
w'Abibumbye

URUGEREKO RWA MBERE RW'IREMEZO II

Urubanza N° ICTR-00-60-T

Umwimerere: Icyongereza

Abacamanza: Arlette Ramarosan, Perezida w'Inteko
William H. Sekule
Solomy Balungi Bossa

Gerefiye: Adama Dieng

Itariki: 20 Mata 2006

POROKIRERI

Aburana na

Paul BISENGIMANA

INYANDIKO Y'URUBANZA RUKOSORA URUNDI

Ibiro bya Porokireri:
Charles Adeogun-Phillips
Memory Maposa
Peter Tafah
Florida Kabasinga

Abavoka bunganira Uregwa:
M^c Catherine Mabilie
M^c Nathalie Passeron

URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA

(« Urukiko »);

HABURANISHA Urugereko rwa Mbere rw'Iremezo II, rugizwe n'Abacamanza Arlette Ramaroson (Perezida w'Inteko), William H. Sekule na Solomy B. Bossa (« Urugereko »);

RUMANZE KUBONA ikosa riri mu gika cya 204 cy'Inyandiko y'urubanza Porokireri aburana na Paul Bisengimana yo ku itariki ya 13 Mata 2006;

URUGEREKO,

RUKOSOYE iryo kosa kandi rwemeje ko igika cya 204 kimaze kuvugwa kigomba gusomwa gutya:

Urugereko rwemeje ko mu gihano Paul Bisengimana agenewe hagomba gukurwamo igihe amaze afunze by'agateganyo, ni ukuvuga kuva ku itariki ya 4 Ukuboza 2001 kugeza ku itariki urubanza rusomeweho.

Bikorewe Arusha, tariki ya 20 Mata 2006.

[Umukono]

[Umukono]

[Umukono]

Arlette Ramaroson
Perezida w'Inteko

William H. Sekule
Umucamanza

Solomy B. Bossa
Umucamanza

[Kashe y'Urukiko]
