



umuryango w'abibumbye

**Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda**

IKINYARWANDA  
Umwimerere: IGIFARANSA

**URUGEREKO RWA MBERE RW'IREMEZO III**

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**Itariki:** 14 Werurwe 2005

**POROKIRERI**

Aburana na:  
**VINCENT RUTAGANIRA**  
*Urubanza No. TPIR-95-IC-T*

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**INYANDIKO Y'URUBANZA**

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## UMUTWE WA 1: INTANGIRIRO

### A. Urukiko n'ububasha bwarwo

1. Uru rubanza *Porokireri aburana na Vincent Rutaganira* rukijijwe n'Urugereko rwa Mbere rw'Iremezo III, («Urugereko ») rw'Urukiko Mpanabyaha Mpuzamahanga rwagenewe u Rwanda («Urukiko »)..
2. Urukiko rwashyizweho n'Inama Ishinzwe Amahoro ku Isi mu cyemezo cyayo 955 cyo ku itariki ya 8 Ugushyingo 1994, rukaba rushinzwe « gucira imanza abantu bakekwaho kuba barakoreye mu Rwanda ibyaha bya jenocide cyangwa ibindi bikorwa binyuranyije ku buryo bukomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara, n'Abanyarwanda bakekwaho kuba barabikoreye mu bihugu bituranye n'u Rwanda hagati y'itariki ya 1 Mutarama n'iyi 31 Ukuboza 1994 »<sup>1</sup>.
3. Urukiko rufite ububasha bushingiye ku kiburanwa (*ratione materiae*) bwo kuburanisha icyaha cya jenocide, ibyaha byibasiye inyokomuntu, ibikorwa binyuranyije ku buryo bukomeye n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve yo ku wa 12 Kanama 1949, hamwe n'ibikorwa binyuranyije ku buryo bukomeye n'Umugereka wa II w'ayo Masezerano. Naho ububasha bw'Urukiko bushingiye ku muburanyi (*ratione personae*), bureba abantu ku giti cyabo.

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<sup>1</sup> S/RES/955, 8 Ugushyingo 1994. Urukiko rugengwa na Sitati, nk'uko yahinduwe n'Ibyemezo 1165, 1329, 1411, 1431, 1503 na 1512 by'Inama Ishinzwe Amahoro ku Isi.

**B. Uregwa**

4. Uregwa, ari we Vincent Rutaganira, yavukiye ku Mubuga, muri Komini ya Gishyita, Perefegitura ya Kibuye, mu Rwanda, mu wa 1944. Arubatse, afite abana 10. Yize amashuri y'imyuga imyaka ibiri mu byerekeye ubukanishi bw'imodoka, yiga n'ubuvuzi bwa gihanga yaherewe impamyabumenyi y'ubuvuzi bukoresha ibimera<sup>2</sup>.
5. Vincent Rutaganira yatorewe kuba Konseye wa Segiteri ya Mubuga mu wa 1985. Yakoze ako kazi kugera mu mpera z'ukwezi kwa Nyakanga 1994<sup>3</sup>. Uregwa yari akiri rero kuri uwo mwanya mu gihe cy'ibyabaye ari na byo nyirabayazana y'ibikorwa ashinjwa.

**C. Imiburanishirize**

6. Ku itariki ya 22 Ugushyingo 1995, Porokireri yatanze INyandiko y'ibirego ya mbere, yemezwa n'umucamanza Navanethem Pillay ku itariki ya 28 Ugushyingo 1995.
7. Ku itariki ya 12 Ukuboza 1995, urupapuro rwo gufata Uregwa hamwe n'ibaruwa isaba ko yakoherezwa [Arusha] byohererejwe Minisitiri w'Ubutabera wa Zayire aho Vincent Rutaganira yakekwaga kuba ari.
8. Ku itariki ya 6 Gicurasi 1996, Urugereko rwa Mbere rw'Iremezo rwemeye icyifuzo cya Porokireri gisaba guhindura i Nyandiko y'ibirego<sup>4</sup>.

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<sup>2</sup> Inyandikomvugo y'iburanisha, 8 Ukuboza 2004, urup. 8.

<sup>3</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 19.

<sup>4</sup> *Porokireri aburana na Clément Kayishema, Ignace Bagilishema, Charles Sikubwabo, Aloys Ndimbati, Vincent Rutaganira, Mika Muhimana, Ryandikayo na Obed Ruzindana*, icyemezo gitanga uruhushya rwo guhindura Inyandiko y'ibirego, 6 Gicurasi 1996.

9. Porokireri ashinja Vincent Rutaganira ibyaha bikubiye mu birego birindwi: ubwumvikane bugamije gukora jenocide (Ikirego cya 1); jenocide (Ikirego cya 14); ubuhotozi nk'icyaha cyibasiye inyokomuntu (Ikirego cya 15); itsembatsemba nk'icyaha cyibasiye inyokomuntu (Ikirego cya 16); ibindi bikorwa birenze kameremuntu (Ikirego cya 17); ibikorwa binyuranyije ku buryo bukomeye n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve (Ikirego cya 18); n'ibikorwa binyuranyije ku buryo bukomeye n'Umugereka wa II w'ayo Masezerano (Ikirego cya 19).
10. Ku itariki ya 18 Gashyantare 2002, urupapuro rwo gufata Vincent Rutaganira rwohererejwe ibihugu byose bigize Umuryango w'Abibumbye. Uregwa yishyize mu maboko y'Urukiko ku bushake bwe ku itariki ya 4 Werurwe 2002, ahita yimurirwa uwo muni muri gereza y'Urukiko.
11. Umuhango wo kwitaba urukiko bwa mbere wari uteganyijwe ku itariki ya 7 Werurwe 2002 warasubitswe, bisabwe na Porokireri n'Ubwunganizi<sup>5</sup>.
12. Ubwo yitabaga Urukiko bwa mbere ku itariki ya 26 Werurwe 2002, Uregwa yahakanye ibyaha byose aregwa<sup>6</sup>.
13. Mu nama ntegurarubanza yo ku itariki ya 17 Nzeri 2004, Porokireri yavuze ko yohereje Ubwunganizi ibaruwa mu rwego rw'imishyikirano yarimo kuba yerekeranye n'imiburanishirize y'urubanza rwa Vincent Rutaganira. Porokireri yahamyaga ko « ikizava muri iyo mishyikirano gishobora kuzafasha uru Rugereko kwihutisha iburanisha ry'urubanza »<sup>7</sup>.

<sup>5</sup> Inyandikomvugo y'iburanisha, 7 Werurwe 2002, imp. 8-11; urup. 13.

<sup>6</sup> Inyandikomvugo y'iburanisha, 26 Werurwe 2002, urup. 15.

<sup>7</sup> Inyandikomvugo y'iburanisha, 17 Nzeri 2004, urup. 3.

14. Mu nama ntegarubanza yo ku itariki ya 8 Ukuboza 2004, abagize Ibiro bya Porokireri hamwe na Vincent Rutaganira bamenyesheje Urugereko ko bagiranye Amasezerano y'ubwemeracyaha ku itariki ya 7 Ukuboza 2004<sup>8</sup>.
15. Ubwo yongeraga kwitaba Urukiko ku itariki ya 8 Ukuboza 2004, Vincent Rutaganira yemeye koko icyaha cyo kuba icyitso cy'abakoze itsembatsemba kubera ko yateshutse ku nshingano yo gukora ibyo yari ategetswe (icyaha cyibasiye inyokomuntu), nk'uko giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko, kandi kikaba gikubiye mu kirego cya 16 cy'Inyandiko y'ibirego. Ibyaha ashinjwa mu bindi birego ntiyabyemeye<sup>9</sup>.
16. Porokireri yasabye Urugereko kwakira ubwemeracyaha bw'Uregwa maze rukamuhamya icyaha ashinjwa mu kirego cya 16. Yarusabye kandi kutakira ikirego cya 1, icya 14, icya 15, icya 17, icya 18 n'icya 19 adafitiye ibimenyetso, maze rukamugira umwere ku byaha bikubiye muri ibyo birego<sup>10</sup>.
17. Urugereko rwemeje ko Vincent Rutaganira yemeye icyaha abikuye ku mutima kandi ku buryo bwemewe, maze rwakira icyifuzo cya Porokireri<sup>11</sup>.
18. Rubisabwe n'Ubwunganizi, Urugereko rwaje kwemera ko abatangabuhamya batatu bakwitaba urukiko, bagatanga ubuhamya ku myifatire y'Uregwa.

<sup>8</sup> Inyandikomvugo y'iburanisha, 8 Ukuboza 2004, urup. 2. Uwo muni, impande zombi zashyikirije Gerefiye inyandiko eshatu: *Amasezerano y'ubwemeracyaha Vincent Rutaganira yagiranye na Porokireri; icyifuzo cy'impande zombi cy'uko Amasezerano hagati ya Vincent Rutaganira na Porokireri yasuzumwa kugira ngo uregwa aburanishwe hakurikijwe ubwemeracyaha; Imyanzuro yumvikanyweho na Vincent Rutaganira na Porokireri ibanziriza igenabihano* (Umwanzuro uhuriweho n'impande zombi).

<sup>9</sup> Inyandikomvugo y'iburanisha, 8 Ukuboza 2004, imp. 7-9.

<sup>10</sup> Ni kimwe no haruguru, urup. 3.

<sup>11</sup> Ni kimwe no haruguru, imp. 12-13.

19. Mu iburanisha ryo ku wa 17 Mutarama 2005, Porokireri yasabye ko urubanza rwa Vincent Rutaganira rwatandukanywa n'imanza z'abandi bashinjwa hamwe mu Nyandiko y'ibirego yo ku itariki ya 6 Gicurasi 1996, kandi anibutsa icyifuzo cye gisaba kutakira ibirego byose, rukamugira umwere ku byaha bibivugwamo uretse gusa ibikubiye mu kirego cya 16<sup>12</sup>.
20. Ubwunganizi kwasabye ko mu masezerano y'ubwemeracyaha hakosorwa ibintu bimwe, hagakurwamo ijamba « ibikorwa », hagasigaramo « ibitakoze byaragombaga gukorwa ». Bwasabye na none Urugereko ko ayo masezerano yakomeza kuba ibanga, uretse Umutwe wayo wa 5 n'uwa 6.
21. Urugereko rwategetse ko urubanza rwa Vincent Rutaganira rutandukanywa n'iz'abandi bashinjwa hamwe mu Nyandiko y'ibirego yo ku itariki ya 6 Gicurasi 1996, maze rusaba Gerefiye ko aruha indi numero mu gitabo cy'ibirego. Rumaze na none kubahiriza icyifuzo cy'Ubwunganizi cyo gukosora ibintu bimwe, Urugereko rwategetse ko amasezerano y'ubwemeracyaha akomeza kuba ibanga, uretse Umutwe wayo wa 5 n'uwa 6, kubera impamvu z'umutekano kandi hakurikijwe ibiteganywa n'Ingingo ya 62bis y'Amategeko. Nyuma yaho, Ubwunganizi kwasomeye mu rukiko ibikubiye mu mutwe wa 5 n'uwa 6 y'ayo masezerano<sup>13</sup>.
22. Rubisabwe n'Ubwunganizi, Urugereko rwasabye umuganga ushinzwe ishami ry'ubuvuzi muri gereza y'Urukiko gutanga, mu ibanga, icyemezo ku birebana n'ubuzima bw'Uregwa<sup>14</sup>.

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<sup>12</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 2.

<sup>13</sup> Ni kimwe no haruguru, urup. 24.

<sup>14</sup> Raporo ya muganga ku birebana n'ubuzima bwa Vincent Rutaganira yateguwe kandi ishyikirizwa Urugereko ku itariki ya 20 Mutarama 2005.



23. Urugereko rwemeye kandi ko inyandiko z'ibyavuzwe n'abandi batangabuhamya (TRV-6, TRV-9 na TRV-10) batitabye urukiko zashyirwa muri dosiye<sup>15</sup>.
24. Mu myanzuro ye, Porokireri yagaragaje impamvu zongera ububi bw'icyaha n'impamvu nyoroshiyagihano Urugereko rugomba kuzirikana mu kugenera Uregwa igihano<sup>16</sup>.
25. Ku ruhande rwabwo, Ubwunganizi bwagaragaje impamvu nyoroshiyagihano ku birebana n'icyaha Uregwa ashinjwa<sup>17</sup>. Muri urwo rwego, bwatumije abatangabuhamya batatu ngo batange ubuhamya ku myifatire y'Uregwa<sup>18</sup>.

## UMUTWE WA 2: UBWEMERACYAHA

### A. Amategeko akurikizwa

26. Sitati ntiteganya ku buryo butaziguye ubwemeracyaha. Ibigenderwaho ku birebana n'ubwemeracyaha hamwe n'amasezerano yabwo bikubiye mu Ngingo ya 62 B) n'iya 62 *bis* ziteye zitya :

#### **Ingingo ya 62: Kwitaba Urukiko bwa mbere k'uregwa no kwiregura**

- A) Akimara kugezwa ku cyicaro cy'Urukiko, uregwa yitaba bidatinze Urugereko rwa Mbere rw'Iremezo cyangwa umwe mu bacamanza barugize wagenwe, maze agashinjwa ku mugaragaro. Urugereko rwa Mbere rw'Iremezo cyangwa umucamanza wagenwe:

<sup>15</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup.22.

<sup>16</sup> Ni kimwe no haruguru, imp. 6-10.

<sup>17</sup> Ni kimwe no haruguru, imp. 35-42.

<sup>18</sup> Ni kimwe no haruguru, imp. 18-31.

- i) bagenzura niba uburenganzira bw'uregwa bwo kugira umwunganira bwarubahirijwe;
  - ii) basomera cyangwa bagasomeshereza uregwa iNyandiko y'ibirego mu rurimi yumva, bakanagenzura niba yumvise neza ibyo aregwa;
  - iii) basaba uregwa kwemera cyangwa guhakana icyaha ashinjwa kuri buri kirego, yanuma bakandika mu izina rye ko abihakanye;
  - iv) basaba Gerefiye kugena umunsi w'iburanisha iyo uregwa ahakanye ibyo ashinjwa;
  - v) iyo uregwa yemeye icyaha,
    - a. imbere y'umucamanza, uyu mucamanza ashyikiriza Urugereko rwa Mbere rw'Iremezo ubwo bwemeracyaha;
    - b. imbere y'Urugereko rwa Mbere rw'Iremezo, rukurikiza ibiteganywa n'igika B);
- B) Iyo uregwa yemeye icyaha nk'uko biteganywa mu gika A) v) cyangwa agasaba kwisubira kugira ngo yemere icyaha yari yarahakanye, Urugereko rugomba kugenzura niba ubwemeracyaha bwe:
- i) bubaye 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 bidafite aho bibogamiye cyangwa hitaweho ku kureba ko hagati ya Porokireri n'Uregwa nta kunyuranya gukomeye kuriho ku birebana n'uko ibintu byagenze.

Urugereko rushobora kwandika muri dosiye ko uregwa yemeye icyaha, maze rugategeka Gerefiye gushyiraho itariki y'isomwa ry'urubanza rumugenera ibihano.

**Ingingo ya 62 bis : Imiburanishirize 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 gisaba ko yahanishwa igihano iki n'iki cyangwa ko atarengerezwa ibihano ibi n'ibi.
- B) Urugereko rwa Mbere rw'Iremezo ntirutegetswe gukurikiza byanze bikunze ibiri mu masezerano avugwa mu gika A).

- C) Iyo ababuranyi bagiranye amasezerano y'ubwemeracyaha, Urugereko rwa Mbere rw'Iremezo rusaba ko ayo masezerano yashyirwa ahagaragara, haba mu iburanisha mu ruhame, cyangwa mu muhezo niba hatanzwe impamvu zumvikana, mu gihe uregwa arimo kwemera ibyaha hakurikijwe ibiteganywa n'ingingo ya 62 A) v), cyangwa arimo gusaba kwisubiraho agira ngo yemere ibyaha yari yahakanye mbere.

**B. Isesengura ry'Urugereko ku byerekeranye no kureba niba ubwemeracyaha bw'Uregwa bwahabwa agaciro**

27. Gerefiye amaze kumusomera ibyaha binyuranye aregwa ubwo yongeraga kwitaba urukiko mu iburanisha ryo ku itariki ya 8 Ukuboza 2005, Vincent Rutaganira yemeye icyaha cy'itsembatsemba nk'icyibasiye inyokomuntu gikubiye mu kirego cya 16 cy'Inyandiko y'ibirego, ariko ubwemeracyaha bwe bugarukira gusa ku kuba icyitso ubwo yateshukaga gukora ibyo yari ategetswe<sup>19</sup>.
28. Nk'uko bisabwa mu Ngingo ya 62 y'Amategeko igika B) i) kugera kuri iii), Urugereko rwasesenguye niba ubwo bwemeracyaha bw'uregwa bwahabwa agaciro. Muri urwo rwego, rwabajije Uregwa ibibazo bigamije kumenya ibi bikurikira: niba yaremeye icyaha ku bushake, azi icyo akora kandi nta gahato, nta bikangisho cyangwa ibihembo bamwijeje; niba yarumvise neza imiterere y'ibyaha aregwa kimwe n'ingaruka z'imiburanire ye; niba yari azi neza ko ubwemeracyaha bwe budashobora kubangikanywa n'indi myiregurire iyo ari yo yose; niba yarashyize umukono ku masezerano y'ubwemeracyaha bwe. Uregwa amaze gusubiza ibyo bibazo byose ati « yego », Urugereko rwemeje ko ubwemeracyaha bwe kwakozwe mu bwisanzure, ku bushake, azi icyo akora, butarimo urujijo, kandi abikuye ku mutima.

<sup>19</sup> Inyandikomvugo y'iburanisha, 8 Ukuboza 2004, imp. 7-9.

29. Rumaze kubona ibikubiye mu Mutwe wa 6 w'amasezerano y'ubwemeracyaha, ruzirikana ko nta ngingo n'imwe Porokireri n'Uregwa batumvikanyeho ku biburanwa, kandi rushingiye ku Ngingo ya 62 bis, igika B) iv), Urugereko rusanze na none ubwemeracyaha bwa Vincent Rutaganira bwarashingiye ku bikorwa bihagije mu kugaragaza itsembatsemba nk'icyaha cyibasiye inyokomuntu nk'uko gikubiye mu kirego cya 16 cy'Inyandiko y'ibirego, no mu kugaragaza uruhare Uregwa yabigizemo ashishikariza ikorwa ry'icyo cyaha kubera guteshuka ku inshingano yo gukora ibyo yari ategetswe.
30. Rushingiye kuri izo ngingo zimaze kuvugwa, Urugereko rusanze ubwemeracyaha bwa Vincent Rutaganira bufite agaciro<sup>20</sup>.

### UMUTWE WA 3: IBYABAYE

31. Kuva mu wa 1985 kugera mu wa 1994, Uregwa yari Konseye wa Segiteri ya Mubuga, muri Komini ya Gishyita, Perefegitura ya Kibuye<sup>21</sup>. Kubera uwo mwanya yari afite, yari ashinzwe iterambere mu rwego rw'ubukungu, imibereho myiza y'abaturage n'umuco muri segiteri ye<sup>22</sup>. Nk'umuntu ukomeye muri iyo segiteri kandi kubera imirimo yari ashinzwe, Vincent Rutaganira yari umuhuza hagati y'abaturage n'inzego z'ubuyobozi bw'ibanze<sup>23</sup>.
32. Uregwa yari azi ko mu gihe cy'imvururu zabaye mbere muri Perefegitura ya Kibuye, abasivili b'Abatutsi bagiye bahungira mu makiriziya<sup>24</sup>, kandi yari azi ko hagati y'itariki ya 8 n'iyi 15 Mata 1994, abasivili b'Abatutsi babarirwa mu bihumbi bahungiye ku

<sup>20</sup> Inyandikomvugo y'iburanisha, 8 Ukuboza 2004, imp. 12-13.

<sup>21</sup> Amasezerano y'ubwemeracyaha, igika 19.

<sup>22</sup> Ni kimwe no haruguru, igika 20.

<sup>23</sup> Ni kimwe no haruguru, igika 21.

<sup>24</sup> Ni kimwe no haruguru, igika 23.

kiriziya yo ku Mubuga<sup>25</sup>. Yiyemerera ko Abatutsi bari bakoraniye muri icyo kiriziya bagabweho ibitero ahagana hagati y'itariki ya 14 n'ya 17 Mata 1994<sup>26</sup>, kandi ko icyo gitero cyahitanye abantu babarirwa mu bihumbi kikanakomeretsa n'abandi benshi barimo abagabo, abagore n'abana<sup>27</sup>. Mbere y'igitero, Uregwa yabonye abagabye igitero baterana, barimo burugumesitiri, abasivili b'Abahutu bitwaje intwara, abapolisi ba komini n'abajandarume<sup>28</sup>.

33. N'ubwo yari afite umwanya w'ubuyobozi kandi yari azi ibimaze kuvugwa, Uregwa nta kintu na kimwe yakoze kugira ngo arinde Abatutsi, haba mbere y'ubwicanyi cyangwa mu gihe bwakorwaga<sup>29</sup>

*Umutangabuhamya wiswe TRV-4*

34. Mu iburanisha ryo ku itariki ya 17 Mutarama 2005, umutangabuhamya wiswe TRV-4, umugore w'Umututsikazi wari uzi Uregwa kuva mu wa 1985, yavuze ko yamukijije<sup>30</sup> mu gihe cy'ibyabaye mu wa 1994, byahitanye abantu 35 bo mu muryango we<sup>31</sup>. Yasobanuye ko mu nshuti za Vincent Rutaganira habarirwagamo Abatutsi; ubwo bucuti bukagaragarira mu ihana ry'inka no mu gutumirana mu bukwe. TRV-4 yavuze ko mu gihe cy'ibyabaye mu wa 1994, yihishe ariko akaza kuvumburwa n'abagabaga ibitero. Yaberetse irangamuntu y'impimbano yagaragazaga ko yari Umuhutukazi, mbere y'uko bamujyana ahantu abandi bari mu bitero biteguraga kujya kwica abantu mu Bisesero. Vincent Rutaganira yari aho hantu. Igihe abari mu bitero bari hafi kwica uwo mutangabuhamya, Vincent Rutaganira yabyitambitse avuga ko irangamuntu ye

<sup>25</sup> Ni kimwe no haruguru, igika 22.

<sup>26</sup> Ni kimwe no haruguru, igika 24.

<sup>27</sup> Ni kimwe no haruguru, igika 27.

<sup>28</sup> Amasezerano y'ubwemeracyaha, igika 26.

<sup>29</sup> Ni kimwe no haruguru, igika 29.

<sup>30</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 20.

<sup>31</sup> Ni kimwe no haruguru, urup. 19.

igaragaza ko ari Umuhutukazi. Abari mu bitero bavuze ko nibatiza uwo mugore, Vincent Rutaganira agomba kubaha umwe mu bana be [b'uyu mutangabuhamya], akaba ari we bica mu mwanya wa nyina. Ubwo rero abari mu bitero bahise batatana<sup>32</sup>.

*Immaculée Nyiramasimbi*

35. Immaculée Nyiramasimbi ni umutangabuhamya ushinjura, akaba ubundi yari yiswe KNN1 ariko nyuma akaza gusaba ko yatanga ubuhamya bwe batiriwe bahishira umwirondoro we<sup>33</sup>. Immaculée Nyiramasimbi yashakanye n'Uregwa mu wa 1973, bakaba bafitanye abana 9. Ubu akaba yungirije Meya nk'ushinzwe iterambere ry'abategarugori muri komini ye<sup>34</sup>.
36. Immaculée Nyiramasimbi yasobanuye ko Vincent Rutaganira yabaye Konseye wa Segiteri ya Mubuga kubera ko abaturage bari bamufitiye icyizere, kandi na we akaba yarakoranaga na bo cyane. Mu gihe cya manda ye, yagaruye umutekano muri Segiteri ya Mubuga, ahosha ibikorwa by'amabandi yibaga akanasagarira abaturage. Muri icyo gihe, Uregwa yari afitanye umubano mwiza n'Abatutsi, wagaragariraga mu ihana ry'inka no gutumirana mu makwe. Umuryango wa Rutaganira wabyaye abana b'Abatutsi muri batisimu kandi Abatutsi n'Abatutsikazi nabo babyaye abana bawo muri batisimu<sup>35</sup>. Uwo muryango ubana neza n'abacitse ku icumu<sup>36</sup>.
37. Umutangabuhamya yasobanuye kandi ko Vincent Rutaganira atumvikanaga na burugumesitiri, haba mbere y'ibyabaye mu wa 1994 cyangwa mu gihe byabaga kubera

<sup>32</sup> Ni kimwe no haruguru, urup. 20. « Mu buhamya bwanditse yatanze mbere y'itangira ry'urubanza, umutangabuhamya wiswe TRV-4 yavuze ko yagabweho igitero ahagana ku itariki ya 20 Mata kuri santere ya Ryaruhanga ».

<sup>33</sup> Ni kimwe no haruguru, urup. 22.

<sup>34</sup> Ni kimwe no haruguru, urup. 23.

<sup>35</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 24.

<sup>36</sup> Ni kimwe no haruguru, urup. 26.

cyane cyane ko Uregwa atashakaga kwitabira ubwicanyi. Yongeyeho ko we n'umugabo we muri icyo gihe bari mu mazi abira<sup>37</sup>.

38. Umutangabuhamyanya yavuze kandi ko, abyumvikanyeho n'Uregwa, bahishe Abatutsi mu rugo rwabo mu gihe cy'ibyabaye mu wa 1994 kandi ko, by'umwihariko, hari abakobwa b'Abatutsikazi babaye mu nzu yabo ibyumweru bibiri, n'umugore w'Umututsikazi wahamaze amezi atatu. Yemeje ko, kuri bariyeri yari hafi y'urugo rwabo nta muntu wahapfiriye cyangwa ngo ahakomerekere, kandi ko nta bikorwa by'ubusahuzi byabaye<sup>38</sup>.

*Umutangabuhamyanya wiswe KPP 1*

39. Mu buhamya bwe, umutangabuhamyanya wiswe KPP1 yemeje ko yafunzwe imyaka 8<sup>39</sup>, ko yapfakaye ariko ko nyuma yashakanye n'umugore wacitse ku icumu<sup>40</sup>.
40. KPP1 yavuze ko yari azi Uregwa mbere y'ibyabaye mu wa 1994. Ubwo Uregwa yari Konye wa Segiteri, yagaruye umutekano muri segiteri wari warahungabanyijwe n'amabandi n'ingegera zibaga, zikanatera abaturage. KPP 1 yongeyeho ko azirikana ineza Uregwa yamugiriye ubwo yamukizaga ibitero by'amabandi<sup>41</sup>. Nk'uko uwo mutangabuhamyanya abivuga, Uregwa, nka Konye wa Segiteri, yafashe ibyemezo byinshi birengera inyungu za rubanda, hatitawe ku nyungu bwite z'inshuti ze<sup>42</sup>. Yasobanuye ko Vincent Rutaganira yabanaga neza n'Abatutsi, ko babyaranaga abana muri batisimu. KPP1 yanavuze ko Vincent Rutaganira atumvikanaga na burugumesitiri<sup>43</sup>.

<sup>37</sup> Ni kimwe no haruguru.

<sup>38</sup> Ni kimwe no haruguru.

<sup>39</sup> Ni kimwe no haruguru, urup. 29.

<sup>40</sup> Ni kimwe no haruguru, urup. 31.

<sup>41</sup> Ni kimwe no haruguru, urup. 29.

<sup>42</sup> Ni kimwe no haruguru, urup. 30.

<sup>43</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 30.



41. KPP 1 yemeje ko, iyo Vincent Rutaganira aza kugira ubushobozi busesuye mu gihe cy'ibyabaye mu wa 1994, aba yarafatiye ibyemezo amabandi, ingegera n'utundi dutsiko tw'abantu bitwaje intwaro bari barayogoje akarere kabo, barigize indakoreka<sup>44</sup>.

*Umutangabuhamya wiswe TRV-6*

42. Ubwunganizi bwashyikirije Urugereko inyandiko yo ku itariki ya 21 Mutarama 2003<sup>45</sup> ikubiyemo ubuhamya bw'umutangabuhamya wiswe TRV-6. Uyu mutangabuhamya, wapfushije umuryango we hafi ya wose igihe cya jenocide, avuga ko nyuma y'iminsi ibiri Perezida Habyarimana apfuye yahungiyeye mu rugo rw'Uregwa, nyuma akaza guhungira mu yindi nzu ye aho yabaye igihe cy'amezi atatu yose. Igihe cyose yabaye muri urwo rugo, Uregwa yamuhaga ibimutunganya byose.
43. TRV-6 avuga ko yumvise burugumesitiri inshuro ebyiri asaba Uregwa kumufasha kugaba ibitero ariko Uregwa akabyanga ari na ko ahakana ko nta Batutsi bihishe iwe.

*Umutangabuhamya wiswe TRV-9*

44. Ubwunganizi bwashyikirije Urugereko inyandiko yo ku itariki ya 21 Mutarama 2003<sup>46</sup> ikubiyemo ubuhamya bw'umutangabuhamya wiswe TRV-9, umuryango we ukaba wari inshuti y'uwa Vincent Rutaganira. TRV-9 yavuze ko mu muryango we wose harokotse abantu batatu gusa. Yasobanuye ko igihe cy'ibyabaye ku itariki ya 7 Mata 1994, Uregwa yafashe abana be abarindira mu rugo rwe. TRV-9 yavuze ko Uregwa yashoboye gukiza Abatutsi benshi kubera ko bari bamufitiye icyizere. Yongeyeho ko mbere y'intambara abaturage bari bazi ko Vincent Rutaganira atumvikanaga na burugumesitiri.

<sup>44</sup> Ni kimwe no haruguru, urup. 31

<sup>45</sup> Ikimenyetso gihamya, D1. 2D.

<sup>46</sup> Ikimenyetso gihamya, D1. 3D.

*Umutangabuhamyanya wiswe TRV-10*

45. Ubwunganizi bwashyikirije Urugereko inyandiko yo ku itariki ya 23 Mutarama 2003 ikubiyemo ubuhamyanya bw'umutangabuhamyanya wiswe TRV-10<sup>47</sup>. TRV-10 yavuze ko mu gihe cy'ibyabaye mu wa 1994 yajyanwe mu rugo rw'Uregwa nyuma yo gusambanywa ku gahato. Uregwa yaramuhumuriye, amusaba kutagira ubwoba. Uregwa yabwiye burugumesitiri ubwo yazaga mu rugo rwe ko uyu mutangabuhamyanya ari Umuhutukazi. Burugumesitiri yasabye Uregwa kumufasha. Nyuma, Uregwa yamujiyanye ku ivuriro, anatega ko hatagomba kugira umukoraho.

**UMUTWE WA 4: IBYEREKEYE UBURYOZWACYAHA BW'UREGWA MU  
CYAHA CY'ITSEMBATSEMBA NK'ICYIBASIYE  
INYOKOMUNTU (IKIREGO CYA 16 CY' INYANDIKO  
Y'IBIREGO)**

46. Mu Mutwe wa 6 w'amasezerano y'ubwemeracyaha, hakubiyemo ibi bikurikira:  
« Hifashishijwe ibyabaye n'ingingo z'amategako zivugwa muri aya masezerano kandi byemerwa n'Uregwa, nta gushidikanya ko Vincent Rutaganira yabaye icyitso cya ba gatozi batsotsobye itsembatsemba nk'icyaha cyibasiye inyokomuntu, kubera ko guteshuka ku nshingano ye yo gukora ibyo yari ategetswe byashishikariye abo bantu gukora icyaha, nk'uko biteganywa n'ingingo ya 6 1) ya Sitati ».
47. Icyaha Uregwa yemeye giteganyijwe n'Ingingo ya 3 b), naho imiterere y'ubufatanyacyaha iteganywa n'Ingingo ya 6 1) ya Sitati. Hakurikijwe Ingingo ya 62 B) iv), mu kugena uruhare Uregwa yagize mu cyaha yemeye, Urugereko rugomba gusesengura, rukamenya niba ibisabwa kugira ngo icyaha cy'itsembatsemba kibeho

<sup>47</sup> Ikimenyetso gihamya, D1. 4D.

byuzuye, ariko na none rukamenya imiterere y'ubufatanyacyaha bwa Vincent Rutaganira mu ikorwa ry'icyo cyaha.

**A. Itsembatsemba nk'icyaha cyibasiye inyokomuntu (Ingingo ya 3 b) ya Sitati y'Urukiko)**

48. Ku byerekeye ibyaha byibasiye inyokomuntu, Ingingo ya 3 b) ya Sitati iteganya ko Urukiko rufite ububasha bwo gucira imanza abantu bakekwaho kuba barakoze icyaha cy'itsembatsemba:

- mu gihe byakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri abo ari bo bose, kandi
- bazira ubwenegihugu bwabo, umutwe wa politiki barimo, ubwoko cyangwa idini.

**I. Ubwicanyi bwabereye ku kiriziya yo ku Mubuga, hagati y'itariki ya 14 n'ya 17 Mata 1994**

49. Mu rubanza rwa *Nahimana na bagenzi be*, hemezwa ko « kugira ngo uregwa ahamwe n'icyaha cy'itsembatsemba, agomba kuba yaritabiriye ubwicanyi bwibasiye abantu benshi b'abasivili »<sup>48</sup>. Mu rubanza rwa Akayesu, hemezwa ko « icyaha cy'itsembatsemba, mu miterere yacyo, cyibasira itsinda ry'abantu, kikaba gitandukanye n'icyaha cy'ubwicanyi busanzwe kuko gihitana abantu benshi »<sup>49</sup>. Mu rubanza rwa *Bagilishema*, Urugereko rwa Mbere rw'Iremezo rw'uru Rukiko rusobanura ko

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<sup>48</sup> Inyandiko y'urubanza rwa *Nahimana na bagenzi be* (mu rw'iremezo), igika 1061.

<sup>49</sup> Inyandiko y'urubanza rwa Akayesu (mu rw'iremezo), igika 591. Ubwo busobanuro bwemejwe no mu rubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza (mu rw'iremezo), igika 145, no mu rubanza rwa *Rutaganda*, Inyandiko y'urubanza (mu rw'iremezo), igika 82. Reba na none Inyandiko y'urubanza rwa *Musema* (mu rw'iremezo), igika 217 ; Inyandiko y'urubanza rwa Ntakirutimana (mu rw'iremezo), igika 813 ; n'Inyandiko y'urubanza rwa Semanza (mu rw'iremezo), igika 259.

« itsembatsemba ari ubwicanyi bwibasiye abantu benshi mu buryo bunyuranyije n'amategeko », rukongeraho ko amagambo « abantu benshi » adashaka kuvuga ko hagomba kubaho umubare ntaregwa wo hasi uyu n'uyu, kureba ko icyaha ari itsembatsemba bikaba bigomba gusuzumwa hakurikije imiterere ya buri rubanza, umuntu ashize mu gaciro<sup>50</sup>.

50. Urugereko rusanga bigaragara mu bukemuramanza bw'uru Rukiko ko icyaha cy'itsembatsemba, mu miterere yacyo, cyibasira itsinda ry'abantu, kikaba rero gitandukanye n'icy'ubwicanyi busanzwe kubera ko cyibasira « abantu benshi ».
51. Mu bwemeracyaha bwe, Vincent Rutaganira yemera ko abari mu gitero bagose kiriziya yo ku Mubuga bakayigabaho igitero, hagati y'itariki ya 14 n'ya 17 Mata 1994, barimo abahagarariye ubutegetsi bw'ibanze, abasivili b'Abahutu bitwaje intwari, abapolisi ba komini n'abajandarume. Uregwa yemera na none ko ubwicanyi bwabereye ku kiriziya yo ku Mubuga icyo gihe bwahitanye impunzi zibarirwa mu bihumbi, izindi nyinshi zikahakomerekerera.
52. Byaragaragaye kandi ko ibitero byagabwe muri Perefegitura ya Kibuye, harimo n'ibyagabwe hagati y'itariki ya 14 n'ya 17 Mata 1994 ku kiriziya yo ku Mubuga, byibasiye abaturage b'Abatutsi, byahitanye abantu benshi kandi bakoraniye hamwe<sup>51</sup>.
53. Urugereko rusanga rero ubwicanyi bwabereye ku kiriziya yo ku Mubuga hagati y'itariki ya 14 n'ya 17 Mata, bwaribasiye abantu benshi maze bugahitana inzirikarengane zibarirwa mu bihumbi.

<sup>50</sup> Inyandiko y'urubanza rwa *Bagilishema* (mu rw'iremezo), igika 87.

<sup>51</sup> Inyandiko y'urubanza rwa *Kayishema na Ruzindana* (mu rw'iremezo), ibika 317 na 404.

## 2. *Igitero rusange kandi kiri kuri gahunda*

54. Ubwicanyi bwakorewe ku kiriziya yo ku Mubuga hagati y'itariki ya 15 n'ya 17 Mata 1994, mu rwego rw'ibitero rusange kandi biri kuri gahunda, nta gushidikanya ko Uregwa Vincent Rutaganira yemera ko bwabayeho nk'uko bikubiye mu Mutwe wa 5 n'uwa 6 w'amasezerano y'ubwemeracyaha.
55. Ku birebana n'ibyabaye muri Perefegitura ya Kibuye, byaragaragaye na none ko ubwicanyi bwahitanye abantu benshi ku kiriziya yo ku Mubuga mu gihe kimwe n'icyemerwa n'Uregwa mu masezerano y'ubwemeracyaha, ndetse ko ubwo bwicanyi bwakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byagabwe muri iyo perefegitura<sup>52</sup>.
56. Urugereko rusanga rero muri uru rubanza, ibyabaye bihagije, nta gushidikanya na gato, kugaragaza ko ubwicanyi bwakorewe ku kiriziya yo ku Mubuga hagati y'itariki ya 14 n'ya 17 Mata 1994, bwakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda.

## 3. *Abaturage b'abasivili bibasiwe bazira ubwoko bwabo*

57. Mu bwemeracyaha bwe, Uregwa Vincent Rutaganira yemera ko hagati y'itariki ya 8 n'ya 15 Mata 1994, abasivili b'Abatutsi babarirwa mu bihumbi barimo abagabo, abagore n'abana, bahungiye ku kiriziya yo ku Mubuga, muri Segiteri ya Mubuga (Komini ya Gishyita), bahunga ibitero byari bibibasiye. Uregwa yemera na none ko abo bantu bahiciwe, nk'uko byavuzwe haruguru, bazira ubwoko bwabo.

<sup>52</sup> Inyandiko y'urubanza rwa *Kayishema na Ruzindana* (mu rw'iremezo), igika 576.

58. Byaragaragaye na none ko abo bantu bahohotewe n'igitero cyagabwe ku kiriziya yo ku Mubuga hagati y'itariki ya 14 n'ya 17 Mata 1994, abenshi muri bo bari abo mu bwoko bw'Abatutsi<sup>53</sup>.
59. Urugereko rusanga muri uru rubanza, ubwicanyi bwo ku kiriziya yo ku Mubuga mu gihe kivugwa haruguru bwarakozwe mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasivili bazira ubwoko bwabo.
60. Urugereko rusanga rero ubwo bwicanyi ari ibikorwa bigize icyaha cy'itsembatsemba nk'uko giteganywa n'Ingingo ya 3 b) ya Sitati.

**B. Uruhare rw'Uregwa Vincent Rutaganira nk'icyitso mu cyaha cy'itsembatsemba (icyaha cyibasiye inyokomuntu) kubera ko yateshutswe gukora ibyo yari ategetswe**

61. Uregwa yemeye icyaha cyo kuba icyitso cy'abakoze itsembatsemba (icyaha cyibasiye inyokomuntu) (Ikirego cya 16 cyo mu Nyandiko y'ibirego) kubera ko yashishikariye abandi gukora icyo cyaha ubwo yateshukaga ku nshingano ye yo gukora ibyo yari ategetswe.
62. Umuntu ashobora kwemera ko kuba icyitso bidateganyijwe ku buryo bweruye nk'imiterere y'uburyozwacyaha ikubiye mu Ngingo ya 6 1) ivuga ko:
- « Umuntu uwo ari we wese wacuze umugambi, wawuhamagariye abandi, wategetse, wakoze cyangwa ku bundi buryo ubwo ari bwo bwose agafasha kandi agashishikariza gucura umugambi, gutegura cyangwa gukora icyaha kivugwa kuva ku ngingo ya 2 kugeza ku ya 4 y'iyi Sitati, akiryozwa nka gatozi ».

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<sup>53</sup> Ni kimwe no haruguru.

63. Ubukemuramanza bw'inkiko zombi zidahoraho bwemera ko gushishikariza abantu gukora icyaha biteganywa muri iriya ngingo ari kimwe mu bigaragaza uruhare rw'uwitwaye nk'icyitso. Mu rubanza rwa *Furundzija*, Urugereko rwa Mbere rw'Iremezo rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho icyahoze cyitwa Yugosilaviya (TPIY) rwavuze ko kuba icyitso ari « ugufasha, gushishikariza cyangwa gutera akanyabugabo mu buryo bufatika, ibyo bikorwa bikagira uruhare rukomeye mu itsotsoba ry'icyaha<sup>54</sup>.
64. Urugereko rugomba na none gusuzuma niba gushishikariza abantu gukora icyaha biteganywa mu Ngingo ya 6 1) bishobora kugerwaho kubera ibyo umuntu yakoze gusa, cyangwa si niba bishobora no kugerwaho kubera ko umuntu yateshutse ku nshingano ye yo gukora ibyo ategetswe. Mu rubanza rwa *Blaskic*, Urugereko rwa Mbere rw'Iremezo rwa TPIY ruvuga ko « guteshuka ku nshingano yo gukora igitegetswe bishobora gufatwa nk'igikorwa gifatika gituma umuntu yitwa icyitso mu gufasha no gushishikariza abandi gukora icyaha, ariko uko guteshuka ku nshingano yo gukora igitegetswe bigomba no kuba byarabaye kamara mw'ikorwa ry'icyo cyaha kandi uwateshutse ku nshingano ze akaba yari afite igitekerezo giteganywa n'amategeko cyo gukora icyaha »<sup>55</sup>. Mu rubanza rwa *Rutaganda*, Urugereko rwa Mbere rw'Iremezo rw'Urukiko rwavuze ko « Uregwa ashobora kugira uruhare mu gukora icyaha mu gihe yagitsotsobye nyabyo, cyangwa se mu gihe yituramiye kandi yari afite inshingano yagombaga kurangiza<sup>56</sup> ».
65. Urugereko rusanga rero kugira uruhare mu cyaha cy'itsembatsemba (icyaha cyibasiye inyokomuntu) kubera guteshuka ku nshingano yo gukora ibitegetswe, nk'uko Uregwa Vincent Rutaganira yabiyemereye, biteganywa n'Ingingo ya 6 1) ya Sitati.

<sup>54</sup> Inyandiko y'urubanza rwa *Furundzija* (mu rw'iremezo), ibika 235 na 249.

<sup>55</sup> Inyandiko y'urubanza rwa *Blaskic* (mu rw'iremezo), igika 284.

<sup>56</sup> Inyandiko y'urubanza rwa *Rutaganda* (mu rw'iremezo), igika 41.

66. Urugereko rugiyeye noneho gusesengura ibisabwa kugira ngo habeho icyaha cyo gushishikariza abantu gukora icyaha kubera guteshuka ku nshingano zo gukora igitegetswe, ari byo igikorwa gifatika (*actus reus*) n'igitekerezo cyo gukora icyaha (*mens rea*).

**1. Igikorwa gifatika (*actus reus*)**

67. Urugereko rusanga kugena niba umuntu yarateshutswe ku nshingano yo gukora igitegetswe nk'uko biteganywa n'Ingingo ya 6 1) ya Sitati bigoye kurusha kubigena hashingiwe ku biteganywa n'Ingingo ya 6 3). Muri iyi ngingo ya nyuma, guteshuka ku nshingano biryozwa umuntu ufite umwanya uzwi nk'ukuriye abasirikare cyangwa abasivili, yaba awukomora ku mategeko (*de jure*) cyangwa se atawuyakomoraho (*de facto*). Ariko, si ko biteye mu Ngingo ya 6 1) ikurikizwa muri uru rubanza.

68. Mu kugaragaza uruhare rw'Uregwa mu cyaha cy'itsembatsemba (icyaha cyibasiye inyokomuntu) kubera guteshuka ku nshingano zo gukora ibyo yari ategetswe, nk'uko yacyiyemereye, Urugereko rwibajije ibibazo bikurikira:

- i) Ese Uregwa yari afite ububasha hanyuma ahitamo kutabukoresha?
- ii) Ese Uregwa yari afite ijamba ku bakoraga ibyaha kugira ngo abe yarabashije kubabuza kubikora, hanyuma ahitamo kwinumira ?
- iii) Ese Uregwa yari afite inshingano akomora ku mategeko hanyuma ntiyazirangiza ?

i) *Ububasha bwa Konseye wa Segiteri, Vincent Rutaganira, nk'uko buteganywa n'amategeko*



69. Ku birebana n'ububasha bw'Uregwa bwo kugira icyo akora, Urugereko ruributsa ko Vincent Rutaganira avuga ko yari Konseye wa Segiteri ya Mubuga (Komini ya Gishyita, Perefegitura ya Kibuye), mu gihe cy'ibyabereye ku kiriziya yo ku Mubuga, nk'uko bigaragara mu masezerano y'ubwemeracyaha. By'umwihariko, Vincent Rutaganira yari ashinzwe ibibazo by'ubukungu, by'imibereho myiza y'abaturage n'iby'umuco muri segiteri ye<sup>57</sup>. Yiyemerera kandi ko yari « umuhuza hagati y'abaturage bose ba Segiteri ya Mubuga n'inzezo za politiki z'ibanze, hatarengerewe ariko inshingano ahabwa n'itegeko ryo mu Ugushyingo 1963 »<sup>58</sup>. Yiyemerera kandi ko n'ubwo yari Konseye wa Segiteri ya Mubuga, ntacyo yakoze ngo arengere Abatutsi bari bahungiyeye ku kiriziya yo ku Mubuga hagati y'itariki ya 8 n'ya 15 Mata 1994<sup>59</sup>.
70. Koko rero, hakurikijwe Ingingo ya 37 y'itegeko ryo mu Rwanda rigenga imitunganyirize ya komini<sup>60</sup>, Urugereko rusanga nka konseye wa segiteri Uregwa yari afite ububasha bwo kuyobora inama y'abaturage bo muri Segiteri ya Mubuga, kumenya no kubumbira hamwe ibitekerezo byabo. Muri ubwo bubasha, harimo ubwo gutumiza inama nk'izo no gushyira ku murongo ibizigirwamo.
71. Urugereko ruributsa ko umutangabuhamya wiswe KPP 1 yemeje ko, mbere y'ibyabaye mu wa 1994, Uregwa Vincent Rutaganira, akoresheje umwanya yari afite, yashoboye kugarura umutekano muri Segiteri ya Mubuga yari yarayogojwe n'amabandi n'ingegera zibaga, zikanatera abaturage. Ivyavuzwe na KPP 1 byashimangiwe n'umutangabuhamya Immaculée Nyiramasimbi. Byongeye kandi, ubuhamya bwatanzwe n'abandi bantu

<sup>57</sup> Amasezerano y'ubwemeracyaha, igika 29.

<sup>58</sup> Ni kimwe no haruguru, igika 21; Ingingo ya 37 y'itegeko ryo ku wa 23 Ugushyingo 1963 rigena imitegekere ya komini

<sup>59</sup> Ni kimwe no haruguru, igika 29.

<sup>60</sup> Itegeko ryo ku wa 23 Ugushyingo rigena imitegekere ya komini (Igazeti ya Leta, 1963, urup. 507, nk'uko ryahinduwe n'itegeko-teka ryo ku wa 26 Nzeri 1974 ( Igazeti ya Leta, 1974, urup. 577), n'itegeko-teka n° 4/75 ryo ku wa 30 Mutarama 1975 ( Igazeti ya Leta, 1975, urup. 191).

benshi<sup>61</sup> bugaragaza ko, akurikije ubutabera, Vincent Rutaganira atazuyazaga kurwanya ibyemezo bya Burugumesitiri wa Komini ya Gishyita, Karoli Sikubwabo, iyo yasangaga bitari mu kuri cyangwa bidakwiye, azirikanye inyungu z'abaturage ba segiteri ye. Kubera iyo mpamvu, imibanire ye na burugumesitiri ntiyari myiza.

72. Urugereko rusanga rero Uregwa yari afite ububasha bwo gutumiza inama y'abaturage muri segiteri kugira ngo abasabe kungurana ibitekerezo ku marorerwa yaberaga muri segiteri ye, agamije kubuza nibura abasivili kwitabira ubwicanyi bwaberaga ku kiriziya. Kuri icyo kibazo, Urugereko rusanga, nk'uko bigaragara mu masezerano y'ubwemeracyaha, abasivili b'Abahutu bitwaje intwaro, abapolisi ba komini, abajandarume, n'abandi baturage b'abasivili baje kwiyongeraho, bese baragiye mu bitero.
73. Urugereko rusanga kuba Uregwa yemera ko nta cyo yakoze kugira ngo aburizemo ibitero byibasiye Abatutsi kandi yari Konseye wa Segiteri ya Mubuga, byafatwa nk'aho yemera ko yari afite ubushobozi bwo kubikora.
74. Urugereko rusanga rero Vincent Rutaganira, nka Konseye wa Segiteri wari ufite ububasha bugaragara n'ubwo butari buhambaye bwose, yarahisemo kutabukoresha mu gihe cy'ibyabaye ku Mubuga hagati y'itariki ya 14 n'ya 17 Mata 1994. By'umwihariko, yarituramiye ntiyagira icyo akora ku baturage b'abasivili bifatanyije n'abagabaga ibitero bitwaje intwaro mu kwica impunzi z'Abatutsi zari ku kiriziya yo ku Mubuga.
- ii) *Ijambo Uregwa yari afite muri Segiteri ya Mubuga mu gihe cy'ibyabaye*
75. Ku byerekeye ijamba Uregwa yari afite muri segiteri ye, Urugereko ruributsa ko mu masezerano y'ubwemeracyaha, Uregwa yiyemereye ko yari umuntu ukomeye mu

<sup>61</sup> Ibimenyetso gihamya, D1. 1D. na D1. 3D.

baturage ba Segiteri ya Mubuga (Komini ya Gishyita) kandi ko yari umutegetsu wegereye abaturage kurusha abandi ku rwego rwa segiteri<sup>62</sup>.

76. Urugereko rusanga kandi bigaragara neza mu buhamya bwatanzwe, ko mu gihe cy'ibyabaye mu Rwanda muri Mata 1994, Vincent Rutaganira yizerwaga cyane n'abaturage bo muri Mubuga, kubera imirimo yari ashinzwe nka Konseye wa Segiteri ye, no kubera isura nziza yari afite y'umuntu w'umunyakuri kandi w'intwari. Umutangabuhamya wiswe KPP 1 yemeje ko abaturage bashimiraga cyane Uregwa kubera ko yari yaragaruye umutekano muri Segiteri yari yarayogojwe mbere n'amabandi. Umutangabuhamya wiswe TRV-4 yemeje ko yarakotse kubera Vincent Rutaganira utarazuyaje kumuhagararaho ubwo abagabye igitero bashakaga kumwica bamaze kumugwa gitumo aho yari yihishe. Mu magambo arambuye, yasobanuye ukuntu Uregwa yasohotse muri butiki ye agamije kumutabara ubwo abagabye igitero barimo bamugera amajanja. Ijambo Uregwa yari afite ku baturage ba segiteri rigaragara na none mu buhamya bwa Immaculée Nyiramasimbi wemeje ko nta bantu bapfiriye kuri bariyeri yari hafi y'inzu y'Uregwa cyangwa ngo bahakomerekere, nk'uko byagendaga ku yandi mabariyeri yari yarashyizweho muri icyo gihe.
77. Urugereko rusanga rero Uregwa Vincent Rutaganira, wabaye igihe cy'imyaka icumi Konseye wa Segiteri ya Mubuga, yari afite ijamba ku baturage ba segiteri ye mu gihe cy'ibyabereye ku kiriziya yo ku Mubuga, hagati y'itariki ya 14 n'ya 17 Mata 1994. Bityo, yashoboraga gukoresha iryo jambo yari afite maze akabuza bamwe mu baturage kwitabira ibitero byagabwe ku kiriziya, nk'uko yabigenje ubwo yarwanaga ku Batutsi bamwe hafi ya butiki ye abakiza abari mu bitero.

<sup>62</sup> Amasezerano y'ubwemeracyaha, igika 21.

iii) *Inshingano Uregwa Vincent Rutaganira ahabwa n'amategeko*

78. N'ubwo ibyavuzwe bihagije, Urugereko rusanga ari ngombwa kongeraho ko amategeko mpuzamahanga aha umuntu uwo ari we wese ufite umwanya w'ubutegetsi muri Leta inshingano yo kurengera ikiremwa muntu. Koko rero, Leta ishinze gushyira mu bikorwa inshingano zayo mpuzamahanga ibigeraho binyuze ku bakazi bayo bose, baba abo mu nzego zo hejuru cyangwa abo mu nzego zo hasi. Leta ubwayo ishobora kugera kuri izo nshingano mpuzamahanga kandi ntibiryozwe na gato igihe abakazi bayo bubahirije uburenganzira bw'ikiremwa muntu, ariko na none no mu mirimo yabo, baharanira ko nta muntu urenga ku mategeko mu buryo ubwo ari bwo bwose<sup>63</sup>. Ni cyo gituma amategeko mpuzamahanga acengezwa mu mategeko y'igihugu, nk'uko biteganywa n'amasezerano mpuzamahanga yose yo muri urwo rwego; ni byo rero Leta y'u Rwanda yakozwe, by'umwihariko ku byerekeye amategeko mpuzamahanga arengera uburenganzira bwa muntu, amategeko arengera abantu mu gihe cy'intambara n'ayerekeranye n'uburyozwacyaha bw'umuntu nka gatozi ku byaha byibasiye inyokomuntu no ku byaha by'intambara<sup>64</sup>.
79. Ni ukuvuga rero ko umutegetsi wese wo mu nzego za Leta adafite gusa inshingano zo kubahiriza, kimwe n'undi muntu wese, uburenganzira bw'ibanze bwa muntu, ko ahubwo

<sup>63</sup> Reba ibiteganywa n'Ingingo ya 4 c) y'Amasezeramo mpuzamahanga agamije guca ivanguramoko iryo ari ryose yinjijwe mu mategeko y'u Rwanda (Itegeko-teka n° 08/75 ryo ku wa 12 Gashyantare 1975, Igazeti ya Leta, 1975, urup. 230). « Ntiyemerera abategetsi cyangwa inzego z'ubutegetsi za Leta, bwaba ubwo mu rwego rw'igihugu cyangwa mu rwego rw'ibanze, guhamagarira ivanguramoko cyangwa kurishishikariza ». « Ku bahagarariye ubutegetsi bwa Leta [...] bareka ibyaha bigakorwa ». Hifashishwa kandi n'Ingingo ya 2 y'Amasezerano yerekeye ukudasaza kw'ibyaha by'intambara n'ibyaha byibasiye inyokomuntu.

<sup>64</sup> Ayo Masezerano mpuzamahanga yose ntiyacengejwe gusa mu mategeko y'u Rwanda ubwo yatanzwaga mu Igazeti ya Leta, ahubwo n'uburenganzira bw'ibanze bwa muntu bwateganyijwe no mu Ngingo ya 12 kugera ku ya 33 z'Itegeko Nshinga ryakurukizwaga mu wa 1994. Izo nshingano zashyizwe kandi no mu Masezerano y'Amahoro ya Arusha, nayo yinjijwe mu Itegeko Nshinga ry'u Rwanda.

agomba no gushishikariza abandi kubwubahiriza<sup>65</sup>; bivuze ko afite n'inshingano yo kugira icyo akora kugira ngo hatagira ubuhungabanya.

80. Mu rwego rwo gusuzuma imyitwarire mibisha y'Uregwa hakurikijwe Ingingo ya 6 1) ya Sitati, Urugereko rusanga mu iburanisha ryo ku itariki ya 17 Mutarama 2005, Ubwunganizi bwaravuze ko Uregwa yirengagije inshingano y'ubumuntu iri mu mategeko. By'umwihariko, bwashingiye k'uburyozwacyaha bw'Umunyarwanda wese waba utatabaye umuntu uri mu kaga<sup>66</sup>.
81. Urugereko rusanga inshoza ivugwa mu ngingo ya 256 y'Igitabo cy'amategeko ahana ibyaha mu Rwanda, isobanura ko umuntu ataryozwa icyaha iyo yituramiye atinya ko agize icyo akora byagira «ingaruka mbi kuri we cyangwa ku bandi» idashobora kwemerwa ngo Uregwa abe yagirwa umwere, kubera kamere yihariye y'ibyaha by'ubugome byakozwe mu gihe cy'ibyabaye mu Rwanda mu wa 1994. Koko rero, ibikorwa byabangamiye ubusugire bw'umubiri byibasiye abantu babarirwa mu bihumbi igihe cy'ayo marorerwa, bikaba byaranahungabanyije inyungu z'ibanze z'abatuye iyi si bose. Izo nyungu rero ntizishobora kugereranywa na gato n'ingaruka mbi zagwirira umuntu ufite umwanya w'ubutegetsi wirengagije kugira icyo akora ngo atabare abantu bari mu kaga<sup>67</sup>.

<sup>65</sup> Urugero, iyo nshingano ivugwa yanditse mu buryo bweruye mu Ngingo ya 1 ihuriweho n'Amasezerano y'i Jeneve.

<sup>66</sup> Ingingo ya 256, igika cya 1 n'icya 2, y'Igitabo cy'amategeko ahana ibyaha mu Rwanda, Itegeko-teka n° 21/77 ryo ku wa 18 Kanama 1977 (ryakurikizwaga mu wa 1994).

<sup>67</sup> Inyandiko y'urubanza rwa *Erdemovic I* (mu rw'iremezo), igika 19: «Ku byerekeye ibyaha byibasiye inyokomuntu, Urugereko ruzirikana ko ubuzima bw'ushinjwa budashobora kureshyeshywa ijana ku ijana n'ubw'uwahohotewe. Hatitawe ku mategeko asanzwe ateye ukundi, muri ibi byaha ntihaba habangamiwe ubusugire bw'uhohoterwa wenyine, ahubwo haba habangamiwe inyokomuntu yose uko yakabaye ».

82. Muri uru rubanza, Uregwa Vincent Rutaganira yari afite inshingano zihariye, kubera ububasha yakomoraga ku mirimo ye, zo gutababara abantu bari mu kaga nk'uko biteganywa n'Ingingo ya 256 y'Igitabo cy'amategeko ahana ibyaha mu Rwanda.
83. Kubera imirimo yihariye Uregwa yari afite, Urugereko rusanze yari afite inshingano zo kumenyesha abategetsi babishinzwe ibyaha byibasiye abaturage b'Abatutsi bo muri Segiteri ye.
84. Urugereko rusanze rero Uregwa Vincent Rutaganira yari afite inshingano zo kubuza abaturage bamwe bo muri segiteri ye kwitabira ibitero byibasiye abandi baturage b'abasivili bari barahungiyeye ku kiriziya yo ku Mubuga. Akaba kandi yari afite n'inshingano zo gutabara abo baturage bari mu kaga no kuregera ubutegetsi bubishinzwe abagabaga ibitero, ariko yahisemo kwinumira.
- iv) *Isano iri hagati yo gutsotsoba icyaha n'uruhare Uregwa yagize kubera kugishishikariza abantu kugitsotsoba.*
- a) Isano ku birebana n'igihe n'ahantu icyaha cyakorewe
85. Mu manza zagiye zicibwa n'inkiko zidahoraho, hasabwa ko habaho isano hagati y'uruhare rw'uregwa nk'uko biteganywa mu Ngingo ya 6 1) n'itsotsoba ry'icyaha, ku birebana n'igihe n'ahantu cyakorewe<sup>68</sup>. Hateganywa ko uruhare rw'uregwa rushobora kubaho mbere yo gutsotsoba icyaha, mu gihe gitsotsobwa cyangwa nyuma yaho, cyangwa ndetse rukabera ahandi hantu hatandukanye n'aho icyaha cyakorewe<sup>69</sup>.

<sup>68</sup> Inyandiko y'urubanza rwa *Furundzija* (mu rw'iremezo), igika 234; Inyandiko y'urubanza rw'*Aleksoviski* (mu rw'iremezo), igika 129; Inyandiko y'urubanza rwa *Blaskic* (mu bujurire), igika 47.

<sup>69</sup> Inyandiko y'urubanza rwa *Blaskic* (mu rw'iremezo), igika 285.

86. Muri uru rubanza, Vincent Rutaganira yari muri metero nkeya y’aho abagabaga ibitero bateraniraga mbere yo kubigaba cyangwa mu gihe babigabaga. Yashoboye rero kubona abagabaga ibitero ubwo bateraniraga hafi y’inzu ye, no kumenya nyuma ko hari ibitero byagabwaga ku kiriziya yo ku Mubuga hagati y’itariki ya 14 n’iya 17 Mata 1994.
87. Urugereko rusanze rero uruhare rwa Vincent Rutaganira mu cyaha cy’itsembatsemba (icyaha cyibasiye inyokomuntu) kubera guteshuka ku nshingano zo gukora ibyo yari ategetswe, rwarabayeho mbere y’uko ubwicanyi bwibasiye impunzi zari zahungiyeye ku kiriziya yo ku Mubuga butangira n’igihe bwakorwaga.
- b. Ingaruka igikorwa cyo gushishikaza cyagize mu itsotsoba ry’icyaha
88. Mu bukemuramanza bw’inkiko zidahoraho hashimangirwa ko kugira ngo habe uburyozwacyaha nk’uko biteganywa mu Ngingo ya 6 1), igikorwa cyo gushishikariza abandi gukora icyaha kigomba kuba cyarabaye kamara<sup>70</sup>cyangwa cyarabaye inkunga ikomeye<sup>71</sup> mu itsotsobwa ry’icyaha.
89. Hifashishijwe ubwo bukemuramanza, Urugereko rusanga kugira ngo Uregwa ahamwe n’icyaha hakurikijwe Ingingo ya 6 1) ya Sitati, ari ngombwa ko hagaragazwa ko yagize uruhare rwabaye kamara mu ikorwa ry’icyaha giteganywa na Sitati cyangwa ko imyitwarire ye yagize ingaruka zikomeye mw’ikorwa ryacyo. Ku birebana no gushishikariza abandi gukora icyaha kubera guteshuka ku nshingano yo gukora igitegetswe, uruhare rw’Uregwa rugenwa hasuzumwe akamaro byari kugira iyo ahagurukira kuburizamo ikorwa ry’icyaha.

<sup>70</sup> Ni kimwe no haruguru, (mu bujurire), igika 284.

<sup>71</sup> Inyandiko y’urubanza rwa *Rutaganda* (mu bujurire), igika 43; Inyandiko y’urubanza rwa Musema (mu rw’iremezo), igika 126; Inyandiko y’urubanza rwa *Bagilishema* (mu rw’iremezo), igika 33 ; Inyandiko y’urubanza rwa *Ntakirutimana* (mu rw’iremezo), igika 787.

90. Urugereko rusanga, muri uru rubanza, ibikorwa bya Vincent Rutaganira byarashoboye kurokora abantu bamwe bari bibasiwe n'abagabaga ibitero. Ibi rero umuntu yabiheraho akavuga ko iyo Uregwa yitambika imbere y'abaturage bamwe b'abasivili bari bifatanyije n'abagabye ibitero ku kiriziya yo ku Mubuga, byari kugira akamaro gakomeye bigakiza abantu bari bibasiwe.
91. Hazirikanywe ibimenyetso bifatika, hakanazirikanwa ko hagati ya Porokireri n'Uregwa nta kintu na kimwe batavugaho rumwe, Urugereko rusanze ibyo Uregwa yemeye bihagije rwose mu kugaragaza igikorwa kigize icyaha - *actus reus* - cyo gushishikariza abantu gukora icyaha kubera guteshuka ku nshingano zo gukora ibyo yari ategetswe. Uko gushishikaza bikaba ari byo byatumye abagabye ibitero ku kiriziya yo ku Mubuga, hagati y'itariki ya 14 n'ya 17 Mata 1994, bakora itsembatsemba nk'icyaha cyibasiye inyokomuntu.

## 2. *Igitekerezo cyo gukora icyaha (Mens rea)*

92. Rushingiye ku manza zaciwe n'uru rukiko<sup>72</sup>n'urwa TPIY<sup>73</sup>, Urugereko rusanga igitekerezo cyo gukora icyaha cy'muntu wabaye icyitso kirangwa n'uko yari azi ku ruhande rumwe ko gatozi afite gitekerezo cyo gukora icyaha, akaba kandi yari anazi ko imyifatire ye igira uruhare mu ikorwa ry'icyo cyaha.
93. Urugereko rugomba gusuzuma niba koko Uregwa Vincent Rutaganira yari azi ko:

<sup>72</sup> Inyandiko y'urubanza rwa Akayesu (mu rw'iremezo), igika 539 ; Inyandiko y'urubanza rwa *Musema* (mu rw'iremezo), igika 181.

<sup>73</sup> Inyandiko y'urubanza rwa *Vasijevic* (mu bujurire), igika 102 ; Inyandiko y'urubanza rwa *Blaskic* (mu bujurire), igika 45.



- i) gatozi yarimo gutsotsoba icyaha cy'itsembatsemba mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasivili bazira ubwoko bwabo; kandi
- ii) imyifatire ye yatumaga icyo cyaha gikorwa.

94. Mu kureba niba Uregwa yari afite « igitekerezo cyo gukora icyaha », Urugereko rurashingira ku byo Vincent Rutaganira yiyemereye no ku bimenyetso bimwe bifatika mu bigaragaza igitekerezo cyo gukora icyo cyaha Uregwa yiyemereye.

- i) *Kuba yari azi ko itsembatsemba ririmo gukorwa mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasivili bazira ubwoko bwabo*

95. Nk'uko bigaragara mu masezerano y'ubwemeracyaha, Urugereko rusanga Uregwa yari azi ko hagati y'itariki ya 8 n'ya 15 Mata 1994, abasivili b'Abatutsi babarirwa mu bihumbi bahungiyeye ku kiriziya yo ku Mubuga, muri Segiteri ya Mubuga (Komini ya Gishyita), bahunga ibitero byari byibasiye ubwoko bwabo<sup>74</sup>. Vincent Rutaganira yiyemerera ubwe ko igitero cyagabwe ku basivili b'Abatutsi bari bateraniye ku kiriziya yo ku Mubuga cyari mu rwego rw'ibitero rusange kandi biri kuri gahunda<sup>75</sup>. Urugereko rusanga na none, kubera imirimo yari ashinzwe nka Konseye wa Segiteri ya Mubuga, Uregwa atarashoboraga kuyoberwa ko amarorerwa akomeye yaberaga muri segiteri ye, kimwe n'ibyaha byibasiye imbaga byahakorerwaga

96. Urugereko rusanga rero Uregwa yari azi uko ibintu byari byifashe muri rusange muri icyo gihe ubwo ibyo bitero byagabwaga ku kiriziya yo ku Mubuga, akaba kandi yarazirikanaga ko guteshuka ku nshingano ye yo gukora ibyo yari ategetswe byari mu

<sup>74</sup> Amasezerano y'ubwemeracyaha, igika 22.

<sup>75</sup> Ni kimwe no haruguru, igika 30.

rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasivili bazira ubwoko bwabo.

ii) *Kuba yari azi ko imyitwarire ye yatumaga gatozi atsotsoba icyaha*

97. Urugereko rusanga Vincent Rutaganira yarazirikanaga inshingano ze zikomoka ku mirimo yari ashinzwe nka Konseye wa Segiteri ya Mubuga, hamwe n'ijambo yari afite ku baturage b'abasivili bo muri segiteri ye. Koko rero, Vincent Rutaganira yiyemerera ko n'ubwo yari Konseye wa Segiteri ya Mubuga, atigeze ashishikarira kurwana ku Batutsi bari bahungiyeye ku kiriziya yo ku Mubuga, muri Segiteri ya Mubuga (Komini ya Gishyita) hagati y'itariki ya 8 n'ya 15 Mata 1994<sup>76</sup>.
98. Urugereko rusanga rero yarazirikanaga ko kwitaramira kwe kwashoboraga gutuma icyaha gikorwa.
99. Bityo, Urugereko rusanga Uregwa yari azi ko kutarangiza inshingano ye yo gukora ibyo yari ategetswe byashoboraga gutuma icyaha gikorwa.

### C. Imyanzuro y'Urugereko

100. Rushingiye ku bimaze kuvugwa, Urugereko rusanze hariho ibimenyetso bihagije kwemeza ko Uregwa Vincent Rutaganira ahamwa n'icyaha cy'itsembatsemba (icyaha cyibasiye inyokomuntu), nk'uko kivugwa mu kirego cya 16 cy'Inyandiko y'ibirego, kubera ko yashishikarije abandi kugikora, bitewe n'uko yateshutse ku nshingano yo gukora ibyo yari ategetswe.

## UMUTWE WA 5: IBYEREKEYE UBURYOZWACYAHA BW'UREGWA MU BIKORWA BIVUGWA MU BIREGO BYA 1, 14, 15, 17, 18 NA 19

<sup>76</sup> Ni kimwe no haruguru, igika 29.

**A. Ingingo z'ababuranyi**

101. Hashingiwe ku Nyandiko y'ibirego yo ku itariki ya 6 Gicurasi 1996, uretse ikirego cya 16, Porokireri yareze Vincent Rutaganira n'ibyaha bikurikira:
- i) Ikirego cya 1: Ubwumvikane bugamije gukora Jenocide, icyaha giteganywa n'ingingo ya 2 3) ya Sitati y'Urukiko.
  - ii) Ikirego cya 14: Jenocide, icyaha giteganywa n'ingingo ya 2 3) ya Sitati y'Urukiko.
  - iii) Ikirego cya 17: Ibyaha byibasiye inyokomuntu (ubuhotozi), icyaha giteganywa n'ingingo ya 3 a) ya Sitati y'Urukiko.
  - iv) Ikirego cya 17: Ibyaha byibasiye inyokomuntu (ibindi bikorwa birenze kameremuntu), icyaha giteganywa n'ingingo ya 3 i) ya Sitati y'Urukiko.
  - v) Ikirego cya 18: Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve, icyaha giteganywa n'ingingo ya 4 a) ya Sitati y'Urukiko.
  - vi) Ikirego cya 19: Ibikorwa binyuranyije n'Inyongera ya II y'Amasezerano y'i Jeneve, icyaha giteganywa n'ingingo ya 4 a) ya Sitati y'Urukiko.
102. Ubwo yitabaga Urukiko ku itariki ya 8 Ukuboza 2004, Uregwa Vincent Rutaganira yahakanye ibyaha bivugwa mu birego bya 1, 14, 15, 17, 18 na 19.
103. Mu iburanisha ryo ku itariki ya 17 Mutarama 2005, Porokireri yasobanuye ko nta bimenyetso afite bishyigikira ibirego bye, yongera no gusaba, nk'uko yari yabikoze mu

iburanisha ryo kuwa 8 Ukuboza 2004, ko ibirego bya 1, 14, 15, 17, 18 na 19 bitakwagirwaho maze Uregwa akabigirwaho umwere.

## **B. Imyanzuro y’Urugereko**

104. Rumaze kubona neza ibyo impande zombi zifuzwa, Urugereko rusanze igihe hari amasezerano hagati y’abaturanyi, rimwe na rimwe ayo masezerano ateganywa ko Uregwa yivukije uburenganzira bwe bwo gufatwa nk’umwere; ibyo bikavaniraho Porokireri inshingano ze zo kugaragaza mu rwego rw’urubanza ruburanishirizwa mu ruhamwe, ko Uregwa ahamwa n’icyaha ku buryo budashidikanywaho na gato. Bityo rero iyo, nk’uko bimeze muri uru rubanza, Porokireri yiyemerera ko nta bimenyetso afite bishyigikira ibirego bye, kandi nta bindi bintu biriho Urukiko rwemeje ko bitagibwaho impaka n’abaturanyi cyangwa bigaragaza ko Uregwa ahamwa n’ibyaha, Urugereko, mu nshingano zarwo zo kubahiriza imiburanishirize iboneye n’uburenganzira bw’Uregwa, rushobora kwanzura, rushingiye ku bimenyetso rufite, ko nta kimenyetso na kimwe cyagaragajwe cyatuma Vincent Rutaganira ahamwa n’ibyaha aregwa mu birego bya 1, 14, 15, 17, 18 na 19.

## **UMUTWE WA 6: ICYEMEZO CY’URUGEREKO**

105. Urugereko rwemeje ko Vincent Rutaganira:
- ADAHAMWA N’ICYAHA cy’ubwumvikane bugamije gukora jenocide aregwa mu kirego cya 1, icyaha giteganywa n’Ingingo ya 2 3) b) ya Sitati y’Urukiko;
  - ADAHAMWA N’ICYAHA cya jenocide aregwa mu kirego cya 14, icyaha giteganywa n’Ingingo ya 2 3) a) ya Sitati y’Urukiko;

- ADAHAMWA N'ICYAHA cy'ubuhotozi nk'icyaha cyibasiye inyokomuntu aregwa mu kirego cya 15, icyaha giteganywa n'Ingingo ya 3 a) ya Sitati y'Urukiko;
- AHAMWA N'ICYAHA cy'itsembatsemba nk'icyaha cyibasiye inyokomuntu aregwa mu kirego cya 16, icyaha giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko;
- ADAHAMWA N'IBINDI BIKORWA birenze kameremuntu nk'icyaha cyibasiye inyokomuntu aregwa mu kirego cya 17, icyaha giteganywa n'Ingingo ya 3 i) ya Sitati y'Urukiko;
- ADAHAMWA N'IBIKORWA binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve aregwa mu kirego cya 18, icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;
- ADAHAMWA N'IBIKORWA binyuranyije n'Inyongera ya II y'Amasezerano y'i Jeneve aregwa mu kirego cya 19, icyaha biteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko.

## UMUTWE WA 7: IGENABIHANO

### A. Amahame agenga igenabihano

106. Sitati n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ntibiteganywa ku buryo bugaragara ibihano bigomba gutangwa ku byaha binyuranye Urukiko rufite ububasha bwo kuburanisha. Urugereko rero rufite ububasha busesuye bwo kugena igihano gikwiye rwubahirije ingingo ziteganywa na Sitati n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ku byerekeye ibigomba kuzirikanwa. Izo ngingo zerekeye igenwa ry'igihano ni izi zikurikira:

### **Ingingo ya 23 ya Sitati**

#### **Ibihano**

1. Urugereko rwa Mbere rw'Iremezo rugena ibihano by'igifungo gusa. Mu kugena ibirebana n'igifungo, Urugereko rwa Mbere rw'Iremezo rwifashisha urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda.
2. Mu kugena igihano icyo ari cyo cyose, Urugereko rwa Mbere rw'Iremezo ruzirikana ibintu binyuranye, nk'uburemere bw'icyaha n'imibereho bwite y'uwakatiwe.
3. Uretse igihano cyo gufunga uwakatiwe, Urugereko rwa Mbere rw'Iremezo rushobora gutegeka ko ibintu byose n'umutungo byigaruriwe mu nzira zinyuranyije n'amategeko bisubizwa ba nyirabyo, ndetse hakaba hakoreshwa n'ingufu.

### **Ingingo ya 100 y' Amategeko**

#### **Igenabihano iyo Uregwa yemeye icyaha**

- A) Iyo Urugereko rwemeye ubwemeracyaha bw'uregwa, Porokireri n'ubwunganizi bashobora kurushyikiriza amakuru yose arebana n'icyo kibazo yarufasha kugena igihano gikwiye.

[...]

### **Ingingo ya 101**

**Ibihano**

- A) Umuntu uhamijwe icyaha n'Urukiko, ashobora guhanishwa igihano cy'igifungo kimara igihe runaka cyangwa cy'igifungo cya burundu.
- B) Mu kugena igihano, Urugereko rwa Mbere rw'Iremezo ruzirikana ibiteganywa n'ingingo ya 23, igika cya 2, ya Sitati, ndetse n'ibi bikurikira:
- i) Impamvu zongera ububi bw'icyaha;
  - ii) Impamvu nyoroshiyacyaha harimo n'uburyo Uregwa yafashije Porokireri mbere cyangwa nyuma y'uko icyaha kimuhama;
  - iii) Urutonde rusange rw'ibihano by'igifungo rukurikizwa n'inkiko zo mu Rwanda;
- [...]
- C) Iyo ibihano ari byinshi, Urugereko rwa Mbere rw'Iremezo rwemeza niba ibyo bihano bigomba kurangizwa kimwe nyuma y'ikindi, cyangwa se niba bigomba kurangizwa icyarimwe.
- D) Iyo bibaye ngombwa, igihe uwahamwe n'icyaha yamaze afunze ategereje gushyikirizwa urukiko, no gucirwa urubanza n'Urugereko rwa Mbere rw'Iremezo cyangwa n' Urugereko rw'Ubujurire gikurwa mu gihe cy'igifungo cyose.

107. Urugereko ruragera Vincent Rutaganira igihano rukurikije ibiteganywa n'Ingingo ya 23 ya Sitati, Ingingo ya 100 n'iyaha 101 z'Amategeko hamwe n'ubukemuramanza bw'uru Rukiko. Muri ubwo bukemuramanza, biragaragara ko mu gukatira uwakoze icyaha, haba hagamijwe cyane cyane kumugenera impongano y'icyaha, kumuca intege ngo atazongera kugwa mu cyaha no gutuma yihana.

108. Impongano y'icyaha ni ikimenyetso cy'umuryango mugari w'abantu cyerekana ko udashyigikiye igikorwa cy'ubugome n'uwigikoze kandi ko agomba kuryozwa ibyo yakoze. Ibihano bigenwa n'Urukiko Mpanabyaha Mpuzamahanga byerekana ko inyokomuntu yababajwe n'ibikorwa bikomeye binyuranyije n'amategeko arengera uburenganzira bwa muntu hamwe n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara<sup>77</sup>. Gutanga impongano y'icyaha bihuje n'intego y'ubutabera kandi bishobora kugabanya uburakari bwatewe n'icyaha ku bahohotewe no ku muryango mugari w'abantu muri rusange.
109. Mu gufata impongano y'icyaha nk'ikintu gikomeye igihano kigamije, Urugereko ruba rushaka kwibanda ku bubu bw'icyaha Uregwa yiyemereye, rwitaye ariko no ku miterere yihariye y'urubanza.
110. Mu kugena igihano, haba hagamijwe kandi guca intege umuntu wese watekereza gukora ibyaha nk'ibyo<sup>78</sup>. Ikgamijwe cyane cyane ni uguca intege uwahamwe n'icyaha ngo atazongera ku kigwamo (guca intege by'umwihariko), bitabujije ko igihano kigomba no guca intege abandi bantu baba bafite imigambi mibisha yo gukora ibyaha (guca intege muri rusange)<sup>79</sup>.
111. Ku byerekeye « guca intege by'umwihariko », Urugereko rurasuzuma ibirebana n'icyo kibazo ubwo ruza kuba rusuzuma impamvu nyoroshyacyaha.
112. Naho ku byerekeye guca intege muri rusange, guhana uwakoze icyaha ni ugushyigikira amategeko ateganya ko igikorwa iki n'iki ari icyaha, kandi bituma umuryango mugari w'abantu wizera ko amategeko yawo ahana agera ku cyo yashyiriweho.

<sup>77</sup> Inyandiko y'urubanza rwa *Aleksoviski* (mu bujurire), igika 185.

<sup>78</sup> Inyandiko y'urubanza rwa *Todorovic* (mu rw'iremezo), igika 30.

<sup>79</sup> Inyandiko y'urubanza rwa *Tadic* (mu rw'iremezo), ibika 7-9.



113. Ku byerekeranye no « kwikosora », Urugereko rusanga ari ngombwa kuzirikana ubushobozi bwo kwikosora umuntu wahamwe n'icyaha afite, uko kwikosora bikajyana akenshi n'uburyo yashobora gusubira mu buzima busanzwe<sup>80</sup>.
114. Urugereko rusanga iyo uregwa yemeye icyaha, aba ateye intambwe nini mu gushaka kwikosora no gusubira mu buzima busanzwe<sup>81</sup>. Uku kwemera icyaha gushobora gutuma ukuri kumenyekana; kugaragaza imbere y'abo yakoreye icyaha n'imbere y'umuryango mugari w'abantu muri rusange ubushake bw'uregwa bwo kwemera uruhare yagize, bikaba byashobora no kugeza abenegihugu k'ubwiyunge, imwe mu nshingano z'Urukiko.

## **B. Ibigomba kuzirikanwa**

115. Mu kugena igihano, Urugereko rugomba kuzirikana ibi bikurikira: uburemere bw'icyaha, imibereho bwite y'Uregwa, impamvu zongera ububi bw'icyaha, impamvu nyoroshyacyaha, n'urutonde rw'ibihano rukurikizwa n'inkiko zo mu Rwanda.

### **1. Uburemere bw'icyaha**

#### *i) Ingingo ya Porokireri*

116. Porokireri yasabye Urugereko kuzirikana uburemere bw'icyaha mu kugenera uregwa igihano. By'umwihariko yavuze ko icyaha Uregwa yiyemereye ari « icyaha gikomeye cyane cyahungabanyije kameremuntu y'abatuye iyi si »<sup>82</sup>.

<sup>80</sup> Inyandiko y'urubanza rwa *Celebic* ( mu bujirire), igika 806; Inyandiko y'urubanza rwa *Banovic* (mu rw'iremezo), igika 35.

<sup>81</sup> Inyandiko y'urubanza rwa *Nikolic* (mu rw'iremezo), igika 93.

<sup>82</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 5.

ii) *Isesengura*

117. Urugereko rusanga imyifatire mibisha y’uregwa ari ikintu cy’ingenzi kigomba kuzirikanwa mu kugena igihano. Mu rubanza rwa *Celibici*, Urugereko rw’ubujurire «rwemera ihame rivuga ko uburemere bw’icyaha ari ikintu cy’ingenzi kigomba kuzirikanwa mu kugena igihano»<sup>83</sup>. Rwemera kandi ko «mu gusuzuma ubwo buremere ari ngombwa kuzirikana imiterere yihariye ya buri rubanza, imiterere y’uruhare rw’abaregwa icyo cyaha n’uko urwo ruhare rungana»<sup>84</sup>.
118. Vincent Rutaganira yiyemerera ko yateshutse ku nshingano yo gukora ibyo yari ategetswe, bityo ko yabaye icyitso kubera ko iyo myitwarire yashishikarije abandi gukora itsembatsemba ryahitanye abasivili babarirwa mu bihumbi bari bahungiye ku kiriziya yo ku Mubuga muri Mata 1994. Ibyo bikorwa by’itsembatsemba bikaba bigize kimwe mu byaha byibasiye inyokomuntu biteganywa n’Ingingo ya 3 ya Sitati, ibyo byaha bikaba bihungabanya bikomeye agaciro ka muntu.
119. Urugereko rusanga uburemere bw’icyaha uregwa ashinjwa bugenwa hazirikanywe ingano y’uruhare rwe mu bufatanyacyaha. Ni ngombwa rero gushimangira ko Vincent Rutaganira atitabiriye ubwicanyi bwabereye ku kiriziya yo ku Mubuga, ariko kubera ko nta cyo yakoze kugira ngo abuburizemo, yahamwe n’icyaha cyo kuba yarashishikarije abandi kwishora mu bwicanyi.

<sup>83</sup> Inyandiko y’urubanza rwa *Celibici*( mu bujurire), igika 731; Inyandiko y’urubanza rwa *Todorovic* (mu rw’iremezo), igika 31.

<sup>84</sup> Inyandiko y’urubanza rwa *Celibici* (mu bujurire), igika 731.

## 2. Ibintu byihariye birebana n’uregwa

### 2.1. Imiterere y’umuryango we

#### i) *Ingingo z’ababuranyi*

120. Nk’uko bigaragara mu byo Uregwa hamwe n’umugore we bavugiye mu rukiko, bafitanye abana icyenda. Umugore w’Uregwa yavuze kandi ko ari umukozi mu butegetsi bwa Leta nshya, akaba yungirije meya kandi ashinzwe ibirebana n’iterambere ry’abari n’abategarugori muri komini ye<sup>85</sup>. Porokireri ntiyahakanye ayo makuru yose.

#### ii) *Isesengura*

121. Urugereko rusanga ayo makuru agaragaza ko Uregwa ashobora kongera gusubizwa mu buzima busanzwe aho yari atuye kandi ko yakwitabira inzira y’ubwiyunge bw’abenegihugu<sup>86</sup>.

### 2.2. Kamere y’Uregwa n’imyifatire ye muri rusange

#### i) *Ingingo z’ababuranyi n’uhuhamya bwatanzwe*

122. Ababuranyi bemeranywa ko mbere y’uko ibivugwa muri uru rubanza biba, Vincent Rutaganira yari umuntu ushyira mu kuri, w’imico myiza, washyiraga inyungu rusange mbere y’inyungu z’abantu ku giti cyabo<sup>87</sup>. Bemeranywa kandi ko nk’umuntu wazirikanaga inshingano z’akazi ke akaba kandi mu gihe cy’ibikorwa bivugwa yari mu gace k’aho byabereye, byaratumye ashobora kurokora abantu benshi<sup>88</sup>.

<sup>85</sup> Inyandikomvugo y’iburanisha, 18 Mutarama 2004, urup. 26.

<sup>86</sup> Umwanzuro uhuriweho n’ababuranyi, ibika 25 na 26.

<sup>87</sup> Ni kimwe no haruguru, igika 33.

<sup>88</sup> Ni kimwe no haruguru, igika 34.

123. Umutangabuhamya wiswe TRV-4 yemeje ko Uregwa yabanaga neza n'Abatutsi, mu magambo akurikira: «Yari inshuti y'Abatutsi. Ndabyemeza kuko yahanaga inka n'Abatutsi kandi bakaba baratimiranaga iyo babaga bagize ubukwe»<sup>89</sup>. Iyi mvugo yashimangiwe n'umutangabuhamya Immaculée Nyiramasimbi<sup>90</sup>, umugore w'Uregwa, wongeyeho ko Vincent Rutaganira yabyaye muri batisimu abana b'Abatutsi kandi abo bana bakaba bakiriho. Uyu mutangabuhamya Nyiramasimbi na none yavuze ko Uregwa yahanye inka n'imiryango irenga icumi, anasobanura ko mu mucu nyarwanda, guhana inka ari «ikimenyetso cy'urukundo, cy'ubudahemukirana bukomeye n'ubufatanye»<sup>91</sup>.
124. Immaculée Nyiramasimbi yemeje kandi ko igihe Vincent Rugatanira yari Konseye wa Segiteri ya Mubuga, yagaruye umutekano muri iyo segiteri kandi ko «abaturage bari bamufitiye icyizere cyinshi»<sup>92</sup>. Immaculée Nyiramasimbi abivuga yashimangiye ko kuba Vincent Rutaganira yaragaruye umutekano, agasubiza ibintu mu buryo muri segiteri ye, byamukururiye abanzi<sup>93</sup>. Uyu mutangabuhamya yavuze kandi ku bikorwa by'amajyambere uregwa yakoze nka konseye : Yakwirakwije imiyoboro y'amazi muri segiteri, ayageza ku kigo nderabuzima, ku kigo cy'amashuri abanza, kuri santere y'ubucuruzi no mu maserire<sup>94</sup>.
125. Ikindi kandi, umutangabuhamya wiswe KKP 1 yavuze ku byamubayeho we ubwe, ubwo Vincent Rutaganira, wari inshuti ye, yafataga icyemezo cyo kumwimura mu isambu ye kugira ngo inyuzwemo imiyoboro y'amazi muri Segiteri ya Mubuga, bityo ashyira imbere inyungu z'abaturage aho kureba iz'inshuti ye. Uwo mutangabuhamya yanzuye agira ati : «byamfashe igihe kinini ngo nsobanukirwe ko ibyo yankoreye byari biberanye

<sup>89</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 21.

<sup>90</sup> Mbere, uyu mutangabuhamya yari yariswe KNN1. Mu iburanisha, mbere gato y'uko atanga ubuhamya bwe, yasabye Urugereko kubutangira mu ruhame hatiriwe hafatwa ingamba zo guhishira umwirondoro we. Reba inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 22.

<sup>91</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 25. Reba n'ubuhamya bwa KPP1. urup.30.

<sup>92</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 24.

<sup>93</sup> Ni kimwe no haruguru urup.29

<sup>94</sup> Ni kimwe no haruguru, urup. 25.

n'ubutabera, biciye mu kuri. Ni yo mpamvu mvuga ko ibyo ari byo byose, ari umuntu ucisha mu kuri »<sup>95</sup>.

ii) *Isesengura*

126. Nta mutangabuhamya n'umwe wahamagajwe n'Ubwunganizi Porokireri yigeze anenga.
127. Mu kugena igihano, Urugereko rurazirikana kamere y'Uregwa n'imyifatire ye muri rusange.

**2.3. Kuba nta kindi cyaha yigeze ahanirwa mbere no kuba yaritwaye neza muri gereza**

(i) *Ingingo z'ababuranyi*

128. Ababuranyi bombi bavuga ko Vincent Rutaganira nta kindi cyaha yigeze ahanirwa mbere kandi ko yitwaye neza kuva aho agereye muri Gereza y'Umuryango w'Abibumbye, Arusha. Mu kubishyigikira, Ubwunganizi bwerekanye icyemezo cy'ubudakemwa mu mico no mu myifatire cyatanzwe n'abayobozi b'iyo gereza<sup>96</sup>.

(ii) *Isesengura*

129. Urugereko rusanga Urukiko Mpanabyaha Mpuzamahanga rw'Icyahoze Cytwa Yugoslaviya (TPIY) rwaremeje ko kuba uregwa nta bindi byaha bizwi yigeze ahanirwa

<sup>95</sup> Ni kimwe no haruguru, urup. 30.

<sup>96</sup> Imyanzuro ihuriweho, igika 35; Inyandikomvugo y'uburanisha, 17 Mutarama 2005, urup. 39. Ikimenyetso gihamya, D4 (cyashyizweho ubujeni).

bifatwa nk'impamvu nyoroshyacyaha<sup>97</sup>. Ni na ko bimeze iyo Uregwa yaranzwe n'ubudakemwa mu mico no mu myifatire muri Gereza<sup>98</sup>.

130. N'ubwo nta cyemezo kigaragaza ko atigeze akatirwa n'inkiko kigeze gishyirwa muri dosiye, nta muburanyi n'umwe wigeze yemeza ko Uregwa yaba yarigeze akatirwa n'inkiko. Kubera ibyo, Urugereko rusanga rero Uregwa nta kindi cyaha yigeze ahanirwa, bityo rukaba rugomba kubizirikana.

131. icyemezo cyatanzwe na Gereza y'Urukiko Mpanabyaha Mpuzamahanga Rwashyireweho u Rwanda kigaragaza ko Uregwa yaranzwe n'imyitwarire myiza kuva yafungwa. Urugereko rugomba kubizirikana mu kugena igihano.

#### **2.4. Izabukuru n'uburwayi**

##### *(i) Ingingo z'ababuranyi*

132. Ababuranyi bavuga ko Vincent Rutaganira ageze mu zabukuru, imyaka 60, bityo bakaba basanga Urugereko rwabizirikana mu kumugenera igihano<sup>99</sup>.

133. Ababuranyi bombi bavuga kandi ko Vincent Rutaganira arwaye diyabete, iyo ndwara ikaba imukururira n'izindi ngaruka zikomeye ku buzima bwe. Banavuga ko afite ubumuga buhoraho bugera kuri 15% kubera impanuka y'imodoka yigeze kugira<sup>100</sup>.

<sup>97</sup> Inyandiko y'urubanza rwa *Simic* (mu rw'iremezo), igika 108; Inyandiko y'urubanza rwa *Nikolic* (mu rw'iremezo), igika 265.

<sup>98</sup> Inyandiko y'urubanza rwa *Simic* (mu rw'iremezo), igika 112. Reba kandi Inyandiko y'urubanza rwa *Krnojelac* (mu rw'iremezo), igika 520, hamwe n'Inyandiko y'urubanza rwa *Krstic* (mu rw'iremezo), igika 715.

<sup>99</sup> Imyanzuro ihuriweho n'ababuranyi, ibika 30-31.

<sup>100</sup> Ni kimwe no haruguru, igika 36.

*(ii) Isesengura*

134. Urugereko rusanga mu manza zimwe na zimwe, imyaka y'uregwa yaragiye yitabwaho mu kugena igihano<sup>101</sup>.
135. Urugereko rusanga Vincent Rutaganira arwaye koko diyabete yo mu rwego rwa 2 kandi ari umuntu urwaragurika nk'uko byagaragajwe na raporo yatanzwe na muganga ushinzwe agashami k'ubuvuzi k'Urukiko.
136. Urugereko rusanga, muri uru rubanza, izabukuru ndetse n'uburwayi by'uregwa bishobora kuzirikanwa mu kumugenera igihano<sup>102</sup>.

**2.5. Nta gikorwa na kimwe cy'ubwicanyi yakoze***(i) Ingingo z'ababuranyi*

137. Ababuranyi bavuga ko Vincent Rutaganira nta gikorwa na kimwe cy'ubwicanyi yigeze akora muri Segiteri ya Mubuga. icyo bamugaya gusa ni uko yagumye ku mwanya w'ubukonseye mu gihe cy'ubwicanyi bwo mu wa 1994 kandi akaba nta cyo yigeze akora cyashoboraga kuburizamo cyangwa gucubya ubwicanyi n'amarorerwa byabereye ku Mubuga.

*(ii) Isesengura*

138. Urugereko rusanze ariko ibyo bidakwiye kumubera impamvu nyoroshyacyaha, ahubwo bigaragaza gusa uko yitwaje mu gihe ibyaha byakorwaga.

<sup>101</sup> Inyandiko y'urubanza rwa *Erdemovic II* (mu rw'iremezo) igika 16 i); Inyandiko y'urubanza rwa *Furundzija* (mu rw'iremezo), igika 284; Inyandiko y'urubanza rwa *Blaskic* (mu rw'iremezo), igika 778; Inyandiko y'urubanza rwa *Krnjelac* (mu rw'iremezo) igika 533.

<sup>102</sup> Inyandiko y'urubanza rwa *Plavsci* (mu rw'iremezo), igika 106; Inyandiko y'urubanza rwa *Strugar* (mu rw'iremezo), igika 469.

### 3. Impamvu zongera ububi bw'icyaha

#### i) *Ibivugwa na Porokireri*

139. Porokireri avuga ko nka Konseye wa Segiteri ya Mubuga, Vincent Rutaganira yari umuntu ukomeye muri rubanda<sup>103</sup>.
140. Vincent Rutaganira yari umutegetsi wari wegereye abaturage kurusha abandi mu rwego rwa segiteri. Yari kandi umuhuza w'abaturage n'inzego za politiki z'ibanze « hatirengagijwe na none aho inshingano ze zagarukiraga nk'uko bivugwa mu itegeko ryamugengaga nka konseye kandi ryasobanuraga izo nshingano ze ». Kuba yari hafi y'abaturage b'abasivili b'agace yayoboraga, bituma « mu rwego rw'amategeko yari ashinzwe kubahiriza Itegeko Nshinga rya Repubulika y'u Rwanda kandi akaba yaragombaga kugira imico n'imyifatire by'intangarugero mu bandi »<sup>104</sup>.
141. Porokireri asanga ukurikije amashuri yize, Vincent Rutaganira yaragombaga kumenya no kubaha agaciro k'ubuzima bw'umuntu<sup>105</sup>. Vincent Rutaganira rero yari azi neza ko kubana mu mahoro kw'amatsinda anyuranye y'abaturage bari batuye muri segiteri ye, ari ikintu cya ngombwa, akaba yari afite inshingano zo gukora ku buryo umuco wo kubana mu bwihanganirane usugira<sup>106</sup>.
142. Porokireri avuga kandi ko Vincent Rutaganira « yarebereye nk'indorerenzi ubwicanyi bwakorewe abagabo, abana n'abagore, bose b'Abatutsi, ku kiriziya yo ku Mubuga muri Mata 1994<sup>107</sup>.

<sup>103</sup> Inyandikomvugo y'uburanish, 17 Mutarama 2005, urup.7.

<sup>104</sup> Inyandikomvugo y'uburanisha, 17 Mutarama 2005, urup.6.

<sup>105</sup> Ni kimwe no haruguru.

<sup>106</sup> Ni kimwe no haruguru, imp. 6-7.

<sup>107</sup> Ni kimwe no haruguru, urup. 7.



*(iii) Isesengura*

142. [Sic !] Urugereko rusanga ibimaze kuvugwa aho kuba impamvu zongera uburemere bw'icyaha, ahubwo bijyanye n'imyifatire y'Uregwa mu gihe ibyaha byakorwaga.
143. Urugereko rusanga kuba ubwicanyi bwakorewe ku kiriziya yo ku Mubuga bwarahitanye abagore n'abana benshi, bigomba gufatwa nk'impamvu zongera ububi bw'icyaha.

**4. Impamvu nyoroshyacyaha****4.1. Kwishyikiriza urukiko ku bushake bwe***(i) Ingingo z'ababuranyi*

144. Ababuranyi bavuga ko, kuba Vincent Rutaganira yarishyize mu maboko y'urukiko ku bushake bwe ku itariki ya 18 Gashyantare 2002<sup>108</sup>, nyuma y'uko urupapuro rwo kumufata rutangazwa, byafatwa nk'impamvu nyoroshyacyaha<sup>109</sup>.

*(ii) Isesengura*

145. Hakurikijwe ubukemuramanza bwimakajwe<sup>110</sup>, kuba Vincent Rutaganira yarishyize mu maboko y'Urukiko ku bushake nyuma y'uko urupapuro rwo kumufata rutangazwa ni ikimenyetso kigaragaza ko yubashye ubutabera mpuzamahanga. Urugereko rubifata rero nk'impamvu nyoroshyacyaha.

<sup>108</sup> Imyanzuro ihuriweho n'ababuranyi, 7 Ukuboza 2004, igika 19.

<sup>109</sup> Amasezerano y'ubwemeracyaha, igika 32; Imyanzuro ihuriweho n'ababuranyi, igika 20; icyifuzo gihuriweho na Vincent Rutaganira n'abagize ibiro bya Porokireri, batanze basaba Urugereko rwa Mbere rw'Iremezo III rwa TPIR gusuzuma amasezerano y'ubwemeracyaha hagati yabo, 7 Ukuboza 2004, igika 4.

<sup>110</sup> Inyandiko y'urubanza rwa *Strugar* (mu rw'iremezo), igika 472; Inyandiko y'urubanza rwa *Babic* (mu rw'iremezo), igika 86; Inyandiko y'urubanza rwa *Deronic* (mu rw'iremezo), igika 266; Inyandiko y'urubanza rwa *Plavsic* (mu rw'iremezo), igika 84; Inyandiko y'urubanza rwa *Smic* (mu rw'iremezo), igika 107; Inyandiko y'urubanza rwa *Serushago* (mu rw'iremezo), igika 34.

## 4.2. Kwemera icyaha

### (i) Ingingo z'ababuranyi

146. Ababuranyi bavuga ko kuba Vincent Rutaganira yaremeye icyaha kivugwa mu kirego cya 16 cy'Inyandiko y'ibirego byatumye Urukiko n'umuryango mpuzamahanga bidatakaza amafaranga menshi n'igihe kinini ku rubanza. Ababuranyi basanga rero Uregwa yaragaragaje ubushake bwo gufasha ubutabera mu gikorwa cy'ubwiyunge no kugarura amahoro mu Rwanda.

### (ii) Isesengura

147. Urugereko rusanga mu bantu bose bashinjwe muri uru Rukiko, Vincent Rutaganira abaye uwa kane wemeye icyaha. Mu manza nyinshi zaciwe, Urukiko rukaba rwaremeye ko kwemera icyaha bigomba gufatwa nk'impamvu nyoroshyacyaha.

148. Mu rubanza rwa *Serushago*, uregwa yemeye icyaha cya jenocide n'ibyaha byibasiye icyokomuntu. Kubera ko yemeye icyaha, yakatiwe igihano kimwe rukumbi cy'igifungo cy'imyaka 15 ku byaha byose byamuhamye<sup>111</sup>. Mu rubanza rwa *Ruggiu*, uregwa yemeye ibyaha byo gushishikariza abantu, ku buryo butaziguye kandi mu ruhamwe, gukora jenocide n'ibyaha byibasiye inyokomuntu (gutoteza). Kubera uko kwemera icyaha, Urugereko rwamukatiye igihano cy'igifungo cy'imyaka 12<sup>112</sup>.

<sup>111</sup> Inyandiko y'urubanza rwa *Serushago* (mu rw'iremezo). icyo gihano cyemejwe no mu bujurire. Reba *Urubanza Omar Serushago (Uwajuriye) aburana na Porokireri (Usubiza mu bujurire)*, n° ICTR-98-39-A, Inyandiko y'urubanza ku birebana n'igihano (mu bujurire), 14 Gashyantare 2000; n'Urubanza Omar Serushago (Uwajuriye) aburana na Porokireri (Usubiza mu bujurire), n° ICTR-98-39-A, Inyandiko y'urubanza ku birebana n'impamvu Urugereko rwashingiyeho (mu bujurire), 6 Mata 2000.

<sup>112</sup> Inyandiko y'urubanza rwa *Ruggiu* (mu rw'iremezo), 1 Kamena 2000.

149. Mu rubanza rwa *Erdemovic*, Urugereko rwa Mbere rw'Iremezo rw'Icyahoze Cytwa Yugoslaviya rwavuze ko kwemera icyaha ari impamvu nyoroshyacyaha<sup>113</sup>.
150. Rwifashishije imanza zaciwe n'izo nkiko zombi zidahoraho, Urugereko rusanga kwemera icyaha, bitewe n'uko iteka ari ikintu gikomeye mu kugaragaza ukuri ku mikorere y'icyaha<sup>114</sup>, byagombye gutuma igihano cyashoboraga gutangwa kigabanywa<sup>115</sup>.
151. Nyamara ariko, Urugereko rurashimangira ko ubwemeracyaha burushaho kugira inyungu rusange iyo bikozwe urubanza rutatangira cyangwa se ariyo rugitangira, kuko bituma Urukiko rudapfusha igihe n'umutungo ubusa<sup>116</sup>.
152. Urugereko ruributsa ko Vincent Rutaganira yemeye icyaha urubanza rutatangira, rukaba ruhamya ko ubwemeracyaha bwe ari umusanzu ukomeye mu kugaragaza ukuri. Bityo, Urugereko rukaba rugomba kubyitaho mu kugena igihano.

### 4.3. Kuba yaragobotse bamwe mu bantu bahigwaga

#### (i) Ingingo z'ababuranyi

153. Ababuranyi bemeranywa ko Vincent Rutaganira yagobotse bamwe mu bantu bahigwaga, akaba ari we watumye barokoka.
154. Ubwo yitabaga Urukiko, Umutangabuhamya wiswe TRV-4 yemeje ko aba yarishwe iyo Vincent Rutaganira atamugoboka<sup>117</sup>. Umutangabuhamya witwa Immaculée Nyiramasimbi, akaba ari umugore w'Uregwa, yavuze ko we n'umugabo we bahishe

<sup>113</sup> Inyandiko y'urubanza rwa *Erdemovic II* (mu rw'iremezo), 5 Werurwe 1998, igika 16 ii). Reba n'Inyandiko y'urubanza rwa *Erdemovic* (mu bujurire), Igiterekerezo cyihariye kandi kinyuranye n'icy'abandi bacamanza cyatanzwe n'umucamanza Antonio Cassese, igika 8.

<sup>114</sup> Inyandiko y'urubanza rwa *Banovic* (mu rw'iremezo), igika 68.

<sup>115</sup> Inyandiko y'urubanza rwa *Banovic* (mu rw'iremezo), igika 68; Inyandiko y'urubanza rwa *Todorovic* (mu rw'iremezo), igika 80.

<sup>116</sup> Inyandiko y'urubanza rwa *Banovic* (mu rw'iremezo), igika 68; Inyandiko y'urubanza rwa *Todorovic* (mu rw'iremezo), igika 81.

<sup>117</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, imp. 20-21.

Abatutsi mu rugo rwabo mu gihe kigera nko ku byumweru bingaha, by'umwihariko hakaba hari umugore wagumye muri urwo rugo rwabo igihe cy'amezi atatu<sup>118</sup>.

(ii) *Isesengura*

155. Rukurikije ayo makuru rwagejeweho kandi na Porokireri akaba atayahakana, bityo Urugereko rukaba rwemeza ko ibiyakubiyemo nta mpaka bigibwaho n'ababuranyi, rurasanga kuba Vincent Rutaganira yaragobotse abantu bahigwaga n'abicanyi muri segiteri yabo, ari impamvu nyoroshyacyaha.

**4.4. Kwicuza**

(i) *Ingingo z'ababuranyi*

156. Ababuranyi bemeranwa ko Vincent Rutaganira yicujije abikuye ku mutima kuba ataragobotse abantu biciwe ku kiriziya yo ku Mubuga, kandi akaba akomeza kwigaya kuba ataratabaye abazize amarorerwa yakorewe muri segiteri ye<sup>119</sup>.

(ii) *Isesengura*

157. Urugereko rusanga, ubwo yongeraga kwitaba urukiko ku itariki ya 8 Ukuboza 2004, Vincent Rutaganira yaragaragaje ukwicuza kwe kandi agasaba imbabazi muri aya magambo:

« nka konseye wa segiteri, ndicuza kuba ntarashoboye gutabara abantu bari ku kiriziya, kandi sinzibagirwa na rimwe amarorerwa yabakorewe nk'uko nabibonye bukeye ibitero byaraye bibagabweho, bikaba byarasize ibisare bikomeye ku mutima wanjye. Nongeye gusaba imbabazi imiryango

<sup>118</sup> Ni kimwe no haruguru, urup. 26.

<sup>119</sup> Imyanzuro ihuriweho n'ababuranyi, igika 28; Amasezerano y'ubwemeracyaha, igika 13.

y'abahohotewe, ari na yo mpamvu nishyize mu maboko y'Urukiko kugira ngo mvugishe ukuri »<sup>120</sup>.

158. Urugereko rusanga Uregwa yaricujije kandi arigaya bimuvuye ku mutima. Ibyo rero bikaba ari impamvu nyoroshyacyaha igomba kwitabwaho<sup>121</sup>.

#### 4.5. Gutinya kwishyira mu kaga

##### (i) Ingingo z'ababuranyi

159. Mu mpamvu nyoroshyacyaha ababuranyi bavuga, harimo ko Vincent Rutaganira, cyangwa se undi wese wo mu muryango we wa hafi, yashoboraga kwicwa aramutse arwanyije ubwicanyi bwakorerwaga muri segiteri ye<sup>122</sup>.
160. Mu iburanisha, Ubwunganizi kwasabye Urugereko kwita ku mategeko yo hirya no hino yerekeranye no kudatabara abantu bari mu kaga no ku ngingo ya 31 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga ruhoraho<sup>123</sup> [Cour pénale internationale]. Ubwunganizi buvuga ko « ayo mategeko yose ateganya ko uregwa ahamwa n'icyaha iyo yirengagije gutabara kandi kubikora nta ngaruka byashoboraga kumugiraho. Ni ukuvuga rero ko akaga gakomeye gashobora kugwirira umuntu ari impamvu ikomeye imukuraho uburyozwacyaha<sup>124</sup>. Ubwunganizi bushimangira kandi ko Urugereko rugomba guzusuma

<sup>120</sup> Inyandikomvugo y'iburanisha, 8 Ukuboza 2004, urup.11.

<sup>121</sup> Inyandiko y'urubanza rwa *Strugar* (mu rw'iremezo), igika 471; Inyandiko y'urubanza rwa *Simic* (mu rw'iremezo), igika 94; Inyandiko y'urubanza rwa *Ruggiu* (mu rw'iremezo), ibika 69-72; Inyandiko y'urubanza rwa *Jokic* (mu rw'iremezo), igika 92; Inyandiko y'urubanza rwa *Nikolic* (mu rw'iremezo), igika 161; Inyandiko y'urubanza rwa *Todorovic* (mu rw'iremezo), igika 92; Inyandiko y'urubanza rwa *Deronjic* (mu rw'iremezo), igika 264; Inyandiko y'urubanza rwa *Erdemovic II* (mu rw'iremezo), igika 16, iii).

<sup>122</sup> Imyanzuro ihuriweho n'ababuranyi, igika 38; Inyandiko y'iburanisha, 17 Mutarama 2005, urup.39; Reba ubuhamya bwa KPP1, Inyandiko y'iburanisha, 17 Mutarama 2005, urup. 31.

<sup>123</sup> Ingingo ya 422 *bis* yo mu Gitabo cy'amategeko ahana ibyaha mu Bubiligi; Ingingo ya 49 yo mu Gitabo cy'amategeko ahana ibyaha muri Senegali; Ingingo ya 593 yo mu Gitabo cy'amategeko ahana ibyaha mu Butaliyani; Ingingo ya 223-6 yo mu Gitabo cy'amategeko ahana ibyaha mu Bufaransa; Ingingo ya 256, igika 2, yo mu Gitabo cy'amategeko ahana ibyaha mu Rwanda.

<sup>124</sup> Inyandiko y'iburanisha ryo ku wa 17 Mutarama 2005, urup. 39.

neza akaga nyako kashoboraga kugwirira Uregwa hamwe n’umuryango we, maze rukabifata nk’impamvu nyoroshyacyaha mu « gushyira ku munzani akaga nyako Uregwa yari kuba yikururiye n’inshingano y’ikiremwanuntu iri mu mategeko, iyo nshingano akaba ari yo yateshutseho ari na cyo cyaha yemera »<sup>125</sup>.

(ii) *Isesengura*

161. Urugereko rushyigikiye byimazeyo urubanza rwaciwe n’Urugereko rw’Ubujurire rw’Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho icyahoze cyitwa Yugosilavia (TPIY), aho rugira ruti: « gutinya kwishyira mu kaga ntabwo ari ingingo yo kwireguza ihagije kugira umwere umusirikare uregwa icyaha cyibasiye inyokomuntu n’icyaha cy’intambara cyangwa kimwe muri ibyo byaha byombi, kirimo ubwicanyi bukorewe inzirakarengane »<sup>126</sup>. Urugereko rusanga ariko gutinya kwishyira mu kaga bishobora gufatwa nk’impamvu nyoroshyacyaha<sup>127</sup>.
162. Urugereko ruremera ko muri uru rubanza habayeho ugutinya kwishyira mu kaga. Kubera izo mpamvu, rwemeje ko gutinya kwishyira mu kaga ari impamvu nyoroshyacyaha.

**5. Urutonde rusange rw’ibihano by’igifungo rukurikizwa mu Rwanda**

163. Mu kugenera Uregwa igihano, Urugereko rwita kandi ku bihano bitangwa mu Rwanda. Nk’uko Sitati n’Amategeko bibiteganya, kwifashisha urutonde rw’ibyo bihano ni kimwe mu byo Urugereko rugomba kuzirikana mu kugena igihano<sup>128</sup>.

<sup>125</sup> Ni kimwe no haruguru.

<sup>126</sup> Inyandiko y’urubanza rwa *Erdemovic* (mu bujurire ) igika 19.

<sup>127</sup> Inyandiko y’urubanza rwa *Erdemovic II* (mu rw’iremezo), igika 17.

<sup>128</sup> Inyandiko y’urubanza rwa *Ruggiu* (mu rw’iremezo), igika 34; Inyandiko y’urubanza rwa *Serushago* (mu rw’iremezo), igika 18; Inyandiko y’urubanza rwa *Musema* (mu rw’iremezo), igika 984.

164. Kubera ko Sitati n'Amategeko by'uru Rukiko biteganya gusa ibihano by'igifungo, ibyo bihano ni byo byonyine bigomba kwitabwaho mu rutonde rw'ibihano rukurikizwa mu Rwanda.
165. Urugereko rusanga ari ngombwa kwita ku ngingo nyinshi z'Itegeko Ngenga n° 40/2000 ryo ku wa 26 Mutarama 2001 rishyiraho « Inkiko Gacaca » kandi rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu, byakozwe hagati y'itariki ya 1 Ukwakira 1990 n'ya 31 Ukuboza 1994. Izo ngingo zifite aho zihuriye n'ikibazo gisesengurwa hakurikijwe ihame rya « *lex mitior* » [rivuga ko hakurikizwa itegeko riteganya ibihano byoroshye kurusha ayandi]. Koko rero, iryo tegeko riteganya ibihano byoroheje ugereranyije n'ibyateganywaga n'amategeko yariho igihe icyaha cyakorwaga, cyane cyane ku birebana n'uregwa wemera icyaha, kandi rinateganya ko icya kabiri cy'igihano cy'igifungo bakimara hanze bafungishijwe ijisho, bakora imirimo ifitiye igihugu akamaro.
166. Ku birebana by'umwihariko no kwemera icyaha, Urugereko rusanga biteganywa n'ingingo ya 54 y'iryo tegeko ku « muntu wese wakoze ibyaha bivugwa mu ngingo ya mbere ». Nyamara ariko, ingingo ya 55 ivuga ko « abantu bo mu rwego rwa kabiri, urwa gatatu n'urwa kane » bemeye ibyaha ari bo bonyine « bashobora kugabanyirizwa ibihano ». Urugereko rusanga Vincent Rutaganira adashobora gushyirwa mu rwego rwa mbere ruteganywa n'iryo tegeko. N'ubwo Urugereko rudashobora gutegeka ko hari igice cy'igihano cy'igifungo Uregwa azamara hanze, ntibyabuza ariko ko mu kugena igihano rwagendera ku ngingo zirebana n'icyo kibazo zo mu Itegeko Ngenga ryo mu Rwanda,

### C. Igenabihamo

167. Mu iburanisha, impande zombi zavuze ko zumvikanye ku birebana n'igihano zasaba Urugereko kugena, zikaba zumva cyaba kiri hagati y'imyaka itandatu n'umunani y'igifungo, kandi hakavanwamo igihe Vincent Rutaganira amaze afunzwe

by'agateganyo. Bukurikije ibyo, Ubwunganizi kwasabye Urugereko kudakatira Uregwa igihano cy'igifungo kirenze imyaka itandatu<sup>129</sup>. Urugereko ruributsa ko rufite ububasha busesuye kandi butavuguruzwa bwo kugena igihano gikwiye, rukurikije ibiteganywa na Sitati n'Amategeko, kandi rutitaye ku byo ababuranyi bumvikanyeho, ibyo kandi aba baburanyi bakaba babyemera<sup>130</sup>.

### 1. Imyanzuro y'Urugereko

168. Mu kugena igihano gikwiye, Urugereko, rukurikije ibiteganywa na Sitati n'Amategeko, rwasuzumye ibigomba kwitabwaho mu kureba uburemere bw'icyaha gihama Vincent Rutaganira. Runareba kandi imibereho bwite ye, impamvu zongera ububi bw'icyaha n'impamvu nyoroshyacyaha. Hanyuma rwita no ku rutonde rusange rw'ibihano rukurikizwa n'inkiko zo mu Rwanda.
169. Vincent Rutaganira ahamwa n'icyaha cy'itsembatsemba nk'icyaha cyibasiye inyokomuntu, kubera ko yateshutse ku nshingano yo gukora ibyo yari ategetswe, bityo akaba yarashishikariye abicanyi guhitana abasivili b'Abatutsi ibihumbi n'ibihumbi bari bahungiyeye ku kiriziya yo ku Mubuga. Icyaha cy'itsembatsemba ni icyaha gikomeye, by'umwihariko iyo umuntu arebye ibyahungabanyijwe kandi byaragombaga kurengerwa: amagara n'ubusugire bw'umubiri n'ubwo mu mutwe by'abahohotewe babarirwa mu bihumbi. Kuba mu bahohotewe harimo abagore n'abana benshi ni impamvu yongera ububi bw'icyaha.
170. Ukwemera icyaha kwa Vincent Rutaganira, imibereho ye bwite n'iy'umuryango we, imyifatire ye n'uburyo yitwaye imbere y'Abatutsi haba mu gihe cy'ibyabaye, haba na mbere yabyo, kuba nta kindi cyaha yigeze ahanirwa, kuba yitwara neza muri gereza, kuba yarashoboye gutabara bamwe mu bakorewe ibyaha, kuba ageze mu zabukuru kandi ari

<sup>129</sup> Inyandikomvugo y'iburanisha, 17 Mutarama 2005, urup. 43.

<sup>130</sup> Amasezerano y'ubwemeracyaha, igika 38.



n'umurwayi, kuba yarishyikirije ubucamanza ku bushake bwe, kuba yaricujije cyane kandi abikuye ku mutima no kuba yaratinye akaga gakomeye kashoboraga kumugwira, Urugereko rusanga ibyo byose ari impamvu nyoroshyacyaha zigomba kwitabwaho mu kugena igihano.

**2. Igihe amaze mu gifungo cy'agateganyo kigomba kuvanwa mu gihe cy'igihano akatiwe**

171. Vincent Rutaganira yafashwe ku itariki ya 4 Werurwe 2002 ari na wo munsu yagejweho muri Gereza y'Urukiko Arusha. Afite uburenganzira bw'uko igihe amaze mu gifungo cy'agateganyo, kimwe n'ikindi gihe cyose yamara afunze ategereje urubanza rwo mu bujuriye, kivanwa mu gihe cy'igihano akatiwe.

**UMUTWE WA 8: IMIKIRIZE Y'URUBANZA**

**Kubera izo mpamvu,**

**Urugereko rwa Mbere rw'Iremezo,** ruburanishiriza mu ruhame, mu rwego rwa mbere kandi ababuranyi bese bahari, hakurikijwe Sitati n'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso;

**Rumaze kubona ko rwafashe icyemezo** cyo gutandukanya urubanza rw'Uregwa Vincent Rutaganira n'urw'abandi baregwaga hamwe mu Nyandiko y'ibirego yo ku itariki ya 6 Gicurasi 1996;

**Rumaze kumva** Vincent Rutaganira mu miburanire ye yemera icyaha;

**Rumaze gusuzuma** ibimenyetso byose hamwe n'ingingo by'ababuranyi;

**Ruhanaguyeho** Vincent Rutaganira ibyaha aregwa mu birego bya 1, 14, 15, 17, 18 na 19 nk’uko bikubiye mu Nyandiko y’ibirego yo ku itariki ya 6 Gicurasi 1996.

**Rwemeje ko** Vincent Rutaganira **ahamwa** n’icyaha cy’itsembatsemba (icyaha cyibasiye inyokomuntu) kubera ko, ahagana hagati y’itariki ya 14 n’iya 17 Mata 1994, ubwo yateshukaga ku nshingano yo gukora ibyo yari ategetswe, iyo myifatire ye yashishikariye abantu kwishora mu bwicanyi bwakorewe kuri kiriziya yo ku Mubuga (Komini ya Gishyita) bityo akaba yarabayeye icyitso muri ubwo bwicanyi bwahitanye Abatutsi bari bahahungiyeye babarirwa mu bihumbi, abandi benshi bakahakomerekerera.

**Ruhanishije** Uregwa Vincent Rutaganira igihano cy’igifungo cy’imyaka itandatu.

**Rwemeje** ko iki gihano gihita kirangizwa.

**Ruvuze** ko, hakurikijwe Ingingo ya 101 D) y’Amategeko, ari uburenganzira bwa Vincent Rutaganira ko igihe cyose amaze afunzwe by’agateganyo, kibarwa kuva ku itariki ya 4 Werurwe 2002, kimwe n’ikindi gihe cyose yamara afunzwe ategereje urubanza rwo mu bujirire, kivanwa mu gihe cy’igifungo akatiwe.

**Ruvuze** ko, hakurikijwe Ingingo ya 103 B) y’Amategeko, Vincent Rutaganira aguma mu maboko y’Urukiko kugeza igihe hazafatirwa ibyemezo bya ngombwa byo kumwimurira mu gihugu azarangirizamo igihamo cye.

Bikorewe Arusha, ku itariki ya 14 Werurwe 2005, mu rurimi rw’igifaransa no mu rw’icyongereza, ariko inyandiko yo mu rurimi rw’igifaransa ikaba ari yo igenderwaho.

Andrésia Vaz  
Perezida

Flavia Lattanzi  
Juji

Florence Rita Arrey  
Juji

[Kashe y’Urukiko]

**UMUGEREKA WA 1 : Urutonde rw'inyandiko zifashishijwe n'urw'impinamagambo**

- Urutonde rw'Imanza;
- Urutonde rw'ibyemezo by'Urukiko;
- Urutonde rw'Ibyemezo by'Inama Ishinzwe Amahoro ku Isi ;
- Urutonde rw'amategeko y'u Rwanda;
- Urutonde rw'impinamagambo.

**A. Urutonde rw'imanza**

Mu magambo arambuye

Mu magambo magufi

➤ **Mu Rukiko Mpanabyaha Mpuzamahanga Rwashyirweho u Rwanda**

<i>Urubanza Porokireri aburana na Jean-Paul Akayesu</i> , n° ICTR-96-4-T - Inyandiko y'urubanza (mu rw'iremezo), 2 Nzeri 1998	Urubanza rwa <i>Akayesu</i> mu rw'iremezo
<i>Urubanza Porokireri aburana na Ignace Bagilishema</i> , n° ICTR-95-1A-T - Inyandiko y'urubanza (mu rw'iremezo), 7 Kamena 2001	Urubanza rwa <i>Bagilishema</i> mu rw'iremezo
<i>Urubanza Porokireri aburana na Sylvestre Gacumbitsi</i> , n° ICTR-2001-64-T - Inyandiko y'urubanza ( mu rw'iremezo), 17 Kamena 2004	Urubanza rwa <i>Gacumbitsi</i> mu rw'iremezo
<i>Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana</i> , n° ICTR-95-1-T - Inyandiko y'urubanza ( mu rw'iremezo), 21 Gicurasi 1999	Urubanza rwa <i>Kayishema / Ruzindana</i> mu rw'iremezo
<i>Urubanza Porokireri aburana na Alfred Musema</i> , n° ICTR-96-13-T	Urubanza rwa <i>Musema</i> mu

- Inyandiko y'urubanza ( mu rw'Iremezo), 27 Mutarama 2000 rw'iremezo
- Urubanza Porokireri aburana na Ferdinand Nahimana na bagenzi be,** n° ICTR-99-52-T Urubanza rwa *Nahimana na bagenzi be* mu rw'iremezo
- Inyandiko y'urubanza ( mu rw'Iremezo), 3 Ukuboza 2003 rw'iremezo
- Urubanza Porokireri aburana na Elizaphan Ntakirutimana na Gérard Ntakirutimana,** n° ICTR-96-10-T na n° ICTR-96-17-T Urubanza rwa *Ntakirutimana* mu rw'iremezo
- Inyandiko y'urubanza ( mu rw'Iremezo), 21 Gshyantare 2003 rw'iremezo
- Inyandiko y'urubanza (mu bujirire), n° ICTR-96-10-T na n° ICTR-96-17-T, 13 Ukuboza 2004 Urubanza rwa *Ntakirutimana* mu bujirire
- Urubanza Porokireri aburana na Georges Ruggiu,** n° ICTR-97-32 I Urubanza rwa *Ruggiu* mu rw'iremezo
- Inyandiko y'urubanza (mu rw'iremezo), 1 Kamena 2000 rw'iremezo
- Urubanza Porokireri aburana na Georges Andersen Nderubumwe Rutaganda,** n° ICTR-96-3-T Urubanza rwa *Rutaganda* mu rw'iremezo
- Inyandiko y'urubanza (mu rw'Iremezo), 6 Ukuboza 1999
- Urubanza Porokireri aburana na Omar Serushago,** n° ICTR-98-39-S Urubanza rwa *Serushago* mu rw'iremezo
- Inyandiko y'urubanza (mu rw'iremezo), 5 Gashyantare 1999
- Inyandiko y'urubanza (mu bujirire) ku birebana n'ibihano, Omar Serushago (Uwajuriye) aburana na Porokireri (Usubiza (mu bujirire), n° ICTR-98-39-A, 14 Gashyantare 2000. Urubanza rwa *Serushago* mu bujirire
- Inyandiko y'urubanza (mu bujirire) ku birebana n'impamvu Urukiko rushingiraho, Omar Serushago (Uwajuriye) aburana na Porokireri (Usubiza mu bujirire), n° ICTR-98-39-A, 6 Mata 2000 Urubanza rwa *Serushago* mu bujirire.

➤ **Mu Rukiko Mpanabyaha Mpuzamahanga**

### Rwashyiriweho icyahoze cyitwa Yugosilaviya

<p><b><i>Urubanza Porokireri aburana na Zlatko Aleksovski</i></b>, n° IT-95-14/1-T</p> <p>- Inyandiko y'urubanza (mu rw'iremezo), 25 Kamena 1999</p> <p>- Inyandiko y'urubanza (mu bujurire), n° IT-95-14/1-A, 24 Werurwe 2000</p>	<p>Urubanza rwa <i>Aleksovski</i> mu rw'iremezo</p> <p>Urubanza rwa <i>Aleksovski</i> mu bujurire</p>
<p><b><i>Urubanza Porokireri aburana na Milan Babic</i></b>, n° IT-03-72-S,</p> <p>- Inyandiko y'urubanza (mu rw'iremezo), 29 Kamena 2004</p>	<p>Urubanza rwa <i>Babic</i> mu rw'iremezo</p>
<p><b><i>Urubanza Porokireri aburana na Predrag Banovic</i></b>, n° IT-02-65/1-S</p> <p>- Inyandiko y'urubanza (mu rw'iremezo), 28 Ukwakira 2003</p>	<p>Urubanza rwa <i>Banovic</i> mu rw'iremezo</p>
<p><b><i>Urubanza Porokireri aburana na Tihomir Blaskic</i></b>, n° IT-95-14-T</p> <p>- Inyandiko y'urubanza (mu rw'iremezo), 3 Werurwe 2000</p> <p>- Inyandiko y'urubanza (mu bujurire), n° IT-94-14-A, 29 Nyakanga 2004</p>	<p>Urubanza rwa <i>Blaskic</i> mu rw'iremezo</p> <p>Urubanza rwa <i>Blaskic</i> mu bujurire</p>
<p><b><i>Urubanza Porokireri aburana na Zejnil Delalic na bagenzi be (urubanza rwa Celebici)</i></b>, n° IT-96-21-A</p> <p>- Inyandiko y'urubanza (mu bujurire) 20 Gashyantare 2001</p>	<p>Urubanza rwa <i>Celebic</i> mu bujurire</p>
<p><b><i>Urubanza Porokireri aburana na Miroslav Deronjic</i></b>, n° IT-02-61-S</p> <p>- Inyandiko y'urubanza (mu rw'iremezo), 30 Werurwe 2004</p>	<p>Urubanza rwa <i>Deronjic</i> mu rw'iremezo</p>
<p><b><i>Urubanza Porokireri aburana na Drazen Erdemovic</i></b>, n° IT-96-22-A</p> <p>- Inyandiko y'urubanza (mu bujurire), 7 Ukwakira 1997</p>	<p>Urubanza rwa <i>Erdemovic</i> mu bujurire</p>
<p>- Inyandiko y'urubanza (mu rw'iremezo), n° IT-96-22-T, 29 Ugushyingo 1996</p>	<p>Urubanza rwa <i>Erdemovic I</i> mu rw'iremezo</p>

- Inyandiko y'urubanza (mu rw'iremezo), n° IT-96-22-T bis, 5 Werurwe 1998 Urubanza rwa *Erdemovic II* mu rw'iremezo
- Urubanza Porokireri aburana na Anto Furundzija**, n° IT-95-17/1-T  
- Inyandiko y'urubanza (mu rw'iremezo), 10 Ukuboza 1998 Urubanza rwa *Furundzija* mu rw'iremezo
- Urubanza Porokireri aburana na Goran Jelusic**, n° IT-95-10-T  
- Inyandiko y'urubanza (mu rw'iremezo), 14 Ukuboza 1999 Urubanza rwa *Jelusic* mu rw'iremezo
- Urubanza Porokireri aburana na Miodrag Jokic**, n° IT-01-42/1-S  
- Inyandiko y'urubanza (mu rw'iremezo), 18 Werurwe 2004 Urubanza rwa *Jokic* mu rw'iremezo
- Urubanza Porokireri aburana na Dragoljub Kunarac na bagenzi be**, n° IT-96-23-T na 96-23/1-T,  
- Inyandiko y'urubanza (mu rw'iremezo), 22 Gashyantare 2001 Urubanza rwa *Kunarac* mu rw'iremezo
- Urubanza Porokireri aburana na Milorad Krnojelac**, n° IT-97-25-T  
- Inyandiko y'urubanza (mu rw'iremezo), 15 Werurwe 2001 Urubanza rwa *Krnojelac* mu rw'iremezo
- Urubanza Porokireri aburana na Momir Nikolic**, n° IT-02-60/1-S  
- Inyandiko y'urubanza (mu rw'iremezo), 2 Ukuboza 2003 Urubanza rwa *Nikolic* mu rw'iremezo
- Urubanza Porokireri aburana na Biljana Plavsic**, n° IT-00-39 & 40/1-S  
- Inyandiko y'urubanza (mu rw'iremezo), 27 Gashyantare 2003 Urubanza rwa *Plavsic* mu rw'iremezo
- Urubanza Porokireri aburana na Milan Smic**, n° IT-95-9/2-S  
- Inyandiko y'urubanza (mu rw'iremezo), 17 Ukwakira 2002 Urubanza rwa *Simic* mu rw'iremezo
- Urubanza Porokireri aburana na Pavle Strugar**, n° IT-01-42-T, Urubanza rwa *Strugar* mu

- Inyandiko y'urubanza (mu rw'iremezo), 31 Mutarama 2005	rw'iremezo
<b>Urubanza Porokireri aburana na Dusko Tadic</b> , n° IT-94-1	Urubanza rwa <i>Tadic</i> mu
- Inyandiko y'urubanza (mu rw'iremezo), 15 Nyakanga 1999	rw'iremezo
<b>Urubanza Porokireri aburana na Stevan Todorovic</b> , n° IT-95-9/1-S,	Urubanza rwa <i>Todorovic</i>
- Inyandiko y'urubanza (mu rw'iremezo), 312 [sic] Nyakanga 2001	mu rw'iremezo
<b>Urubanza Porokireri aburana na Mitar Vasiljevic</b> , n° IT-98-32-A	
- Inyandiko y'urubanza (mu bujurire), 25 Gashyantare 2004	Urubanza rwa <i>Vasiljevic</i> mu bujurire

## B. Urutonde rw'ibyemezo by'urukiko

### Mu magambo arambuye

### Mu magambo magufi

**Urubanza Porokireri aburana na Clément Kayishema na mugenzi we**,  
n° ICTR-95-1-1,

- icyemezo cy'urukiko cyo ku wa 6 Gicurasi 1996 (icyifuzo cya Prokireri gisaba guhindura Inyandiko y'ibirego yemejwe ku wa 28 Ugushyingo 1995, kandi gisaba ko hakurwaho ingamba zo kudatangaza ibimenyetso zafashwe mu cyemezo cy'urukiko cyo ku wa 28 Ugushyingo 1995.

Icyemezo kireba *Kayishema*

**Urubanza Porokireri aburana na Vincent Rutaganira**, N° ICTR-95-1-1

Urupapuro rwo gufata, hamwe n'icyemezo cyo kwimurira umunyururu ahandi no kumufunga, n'icyo gushakisha ibintu no kubifatira, 18 Gashyantare 2002

Urupapuro rufata *Rutaganira*

**C. Urutonde rw'Ibyemezo by'Inama Ishinzwe Amahoro ku Isi**

Mu magambo arambuye

Mu magambo magufi

Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 955 wo ku wa 8 Ugushyingo 1994, Inyandiko y'Umuryango w'Abibumbye S/RES/955 (1994)

Icyemezo 955 cy'Inama Ishinzwe Amahoro ku Isi

Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 1165 cyo ku wa 30 Mata 1998, Inyandiko y'Umuryango w'Abibumbye S/RES/1165 (1998)

Icyemezo 1165 cy'Inama Ishinzwe Amahoro ku Isi

Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 1329 cyo ku wa 30 Ugushyingo 2000, Inyandiko y'Umuryango w'Abibumbye S/RES/1329 (2000)

Icyemezo 1329 cy'Inama Ishinzwe Amahoro ku Isi

Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 1411 cyo ku wa 17 Gicurasi 2002, Inyandiko y'Umuryango w'Abibumbye S/RES/1411 (2002)

Icyemezo 1411 cy'Inama Ishinzwe Amahoro ku Isi

Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 1431 cyo ku wa 14 Kanama 2002, Inyandiko y'Umuryango w'Abibumbye S/RES/1431 (2002)

Icyemezo 1431 cy'Inama Ishinzwe Amahoro ku Isi

Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 1503 cyo ku wa 28 Kanama 2003, Inyandiko y'Umuryango w'Abibumbye S/RES/1503 (2003)

Icyemezo 1503 cy'Inama Ishinzwe Amahoro ku Isi



Umuryango w'Abibumbye, Inama Ishinzwe Amahoro ku Isi, icyemezo 1512 cyo ku wa 27 Ukwakira 2003, Inyandiko y'Umuryango w'Abibumbye S/RES/1512 (2003) Icyemezo 1512 cy'Inama Ishinzwe Amahoro ku Isi

#### **D. Urutonde rw'amategeko y'u Rwanda**

- Itegeko ryo ku wa 23 Ugushyingo 1963 rigenga imitunganyirize ya komini, nk'uko ryahinduwe n'itegeko n° 31/91 ryo ku wa 5 Kanama 1991.

- Itegeko Ngenga n° 40/2000 ryo ku wa 26 Mutarama 2001 rishyiraho « inkiko Gacaca » kandi rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu, byakozwe hagati y'itariki ya 1 Ukwakira 1990 n'ya 31 Ukuboza 1994.

#### **E. Urutonde rw'impinamagambo**

##### Mu magambo arambuye

Umuryango w'Abibumbye

Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye

Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho icyahoze cyitwa Yugosilaviya

Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u

##### Mu magambo magufi

ONU

Inama Ishinzwe Amahoro ku Isi

TPIY

Urukiko

Sitati

Rwanda

Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso Amategeko  
y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda

Urugereko rwa mbere rw'Iremezo III

Urugereko

Inyandikomvugo z'iburanisha ryo ku wa 7 Werurwe 2002, mu gifaransa

Inyandikomvugo z'iburanisha, 7  
Werurwe 2002

Inyandikomvugo z'iburanisha ryo ku wa 26 Werurwe 2002, mu  
gifaransa

Inyandikomvugo z'iburanisha, 26  
Werurwe 2002

Inyandikomvugo z'inama ntegurarubanza yo ku wa 17 Nzeri 2004, mu  
gifaransa

Inyandikomvugo z'inama  
ntegurarubanza, 17 Nzeri 2004

Inyandikomvugo z'inama ntegurarubanza yo ku wa 8 Ukuboza 2004,  
mu gifaransa

Inyandikomvugo z'inama  
ntegurarubanza, 8 Ukuboza 2004

Inyandikomvugo zerekeranye no kwitaba urukiko bundi bushya ku wa 8  
Ukuboza 2004, mu gifaransa

Inyandikomvugo zerekeranye no  
kwitaba urukiko bundi bushya, 8  
Ukuboza 2004

Inyandikomvugo z'inama ntegurarubanza yo ku wa 17 Mutarama 2005,  
mu gifaransa

Inyandikomvugo z'inama  
ntegurarubanza, 17 Mutarama  
2005

Inyandikomvugo z'iburanisha ryo ku wa 17 Mutarama 2005, mu  
gifaransa

Inyandikomvugo z'iburanisha, 17  
Mutarama 2005

## UMUGEREKA WA 2: icyemezo cy'Urugereko cyo ku wa 6 Gicurasi 1996

Icyemezo cy'Urukiko cyo ku wa 6 Gicurasi 1996 (Icyifuzo cya Porokireri gisaba guhindura  
Inyandiko y'ibirego yemejwe ku wa 28 Ugushyingo 1995, kandi gisaba ko hakurwaho ingamba

zo kudatangaza ibimenyetso zafashwe mu cyemezo cy'Urukiko cyo ku wa 28 Ugushyingo 1995). [*Urubanza Porokireri aburana na Kayishema na mugenzi we, n° ICTR-95-1-1*].

**UMUGEREKA WA 3: Inyandiko y'ibirego yo ku itariki ya 6 Gicurasi 1996**

**URUKIKO MPANABYAHA MPUZAMAHANGA RWASHYIRIWEHO U RWANDA**



Umuryango w'Abibumbye

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IKINYARWANDA  
Umwimerere : ICYONGEREZA

N° ya dosiye : TPIR-95-1-I

**Porokireri w'Urukiko**

**Aburana na:**

**Clément Kayishema**

**Ignace Bagilishema**

**Charles Sikubwabo**

**Aloys Ndimbati**

**Vincent Rutaganira**

**Mika Muhimana**

**Ryandikayo**

**Obed Ruzindana**

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**INYANDIKO Y'IBIREGO YAHINDUWE BWA MBERE**

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Richard J. Goldstone, Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, ashingiye ku bubasha ahabwa n'Ingingo ya 17 ya *Sitati y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda* (« Sitati y'Urukiko »), atanze ibirego bikurikira:

1. Iyi Nyandiko y'ibirego ireba abantu bakekwaho kuba baragize uruhare mu bwicanyi bukurikira bwabereye muri Perefegitura ya Kibuye, Repubulika y'u Rwanda:

Ubwicanyi bwabereye ku kiriziya y'abagatolika n'inzu y'amacumbi yitwa « *Home Saint-Jean* » biri ahantu hamwe, mu muji wa Kibuye, bwahitanye abantu babarirwa mu bihumbi barimo abagabo, abagore n'abana, abandi benshi barahakomerekerera. Ubwo bwicanyi bwabaye ahagana ku itariki ya 17 Mata 1994.

Ubwicanyi bwabereye kuri sitade yo ku Kibuye, bwahitanye abantu babarirwa mu bihumbi barimo abagabo, abagore n'abana, abandi benshi barahakomerekerera. Ubwo bwicanyi bwabaye ahagana ku itariki ya 18 n'ya 19 Mata 1994.

Ubwicanyi bwabereye ku kiriziya yo ku Mubuga hiciwe abantu babarirwa mu bihumbi barimo abagabo, abagore n'abana, abandi benshi barahakomerekerera. Ubwo bwicanyi bwabaye ahagana hagati y'itariki ya 14 Mata n'ya 17 Mata 1994.

Ubwicanyi bwabereye mu Bisesero hiciwe abantu babarirwa mu bihumbi barimo abagabo, abagore n'abana, abandi benshi barahakomerekerera. Ubwo bwicanyi bwabaye ahagana hagati y'itariki ya 10 Mata n'ya 30 Kamena 1994.

### **AHANTU HABEREYE UBWICANYI**

2. Repubulika y'u Rwanda igizwe na perefegitura 11 na zo zigabanyijemo amakomini. Perefegitura ya Kibuye igizwe n'amakomini 9. Ibirego biri muri iyi nyandiko bishingiye ku bwicanyi bwakorewe muri Perefegitura ya Kibuye, mu makomini ya Gitesi, Gishyita na Gisovu.

3. Ahantu ha mbere habereye ubwicanyi buvugwa muri iyi Nyandiko y'ibirego ni ku kiriziya gatolika no kuri « *Home Saint-Jean* » biri ahantu hamwe, mu muji wa Kibuye, Komini ya Gitesi, ku gasozi kenda kuba akarwa gakikijwe ku mpande eshatu n'ikiyaga cya Kivu. Hari umuhanda unyura imbere y'iyi kiriziya y'abagatolika na « *Home Saint-Jean* ». Uri ku muhanda aba abona icyo kiriziya. « *Home Saint-Jean* » yo iri inyuma ya kiriziya, kandi icyo uri ku muhanda ntuyibona.
4. Ahantu ha kabiri habereye ubwicanyi buvugwa muri iyi Nyandiko y'ibirego ni kuri sitade iri hafi ya rompuwe [*rond-point*] nini yo mu muji wa Kibuye, Komini ya Gitesi. Sitade yubatswe ku muhanda munini wo mu muji kandi inyuma yayo hari agasozi karekare.
5. Ahantu ha gatatu habereye ubwicanyi buvugwa muri iyi Nyandiko y'ibirego ni ku kiriziya yo ku Mubuga, muri Komini ya Gishyita. Komini ya Gishyita iri mu majyepfo ya Perefegitura ya Kibuye. Kiriziya yo ku Mubuga iri nko mu bilometero 20 uvuye mu muji wa Kibuye.
6. Ahantu ha kane habereye ubwicanyi buvugwa muri iyi Nyandiko y'ibirego ni mu Bisesero, agace gahuriweho n'amakomini abiri ya Perefegitura ya Kibuye: Gishyita na Gisovu. Bisesero ni agace kagizwe n'udusozi tureturu turimo ibikombe, iri mu gice cy'amajyepfo ya Perefegitura ya Kibuye. Utwo dusozi ni tunini cyane kandi dutandukanyijwe akenshi n'imibande miremire.

### **UKO IBINTU BYARI BYIFASHE**

7. Imiterere y'ubutegetsi nyubahirizategeko n'ububasha ababurimo bafite bikubiye mu mategeko y'u Rwanda. Muri perefegitura, perefefe ni we mutegetsi mukuru uhagaririye guverinoma mu gace ashinzwe kandi ni intumwa ya Leta muri perefegitura. Perefefe ahenze inzego za Leta ziri muri perefegitura ashinzwe.

8. Buri komini iri muri perefegitura ifite inama ya komini iyoborwa na burugumesitiri w'iyo komini. Burugumesitiri wa komini ashirwaho na Perezida wa Repubulika, abisabwe na Minisitiri ufite ubutegetsi bw'igihugu mu nshingano ze. Nk'uhagarariye ubutegetsi nyubahirizategeko, burugumesitiri akuriwe na perefefe mu kazi ke, nyamara ariko akaba ashinzwe ubuyobozi bwa komini ye.
9. Muri perefegitura, perefefe ashinzwe kubungabunga amahoro, umutekano wa rubanda n'uw'ibintu byabo. Mu mirimo ye yo kubungabunga amahoro, perefefe ashobora kwitabaza ingabo z'igihugu na jandorumori y'igihugu. Burugumesitiri na we ateguka abajandarume bakorera muri komini ye.
10. Jandarumori y'igihugu ni umutwe w'ingabo washyiriweho kubungabunga umutekano wa rubanda no kubahiriza amategeko. Igengwa na Minisitiri w'Ingabo, ariko ishobora no gukora imirimo yayo yo kubungabunga umutekano wa rubanda ibisabwe n'umutegetsi wa Leta ubifitiye ububasha, ni ukuvuga perefefe. Jandarumori y'igihugu ifite inshingano zo koherereza perefefe amakuru yose arebana n'umutekano wa rubanda, kandi igomba gufasha buri muntu wese uri mu makuba kandi uyitabaje. Guhera muri Mutarama kugeza muri Nyakanga 1994, hari abajandarume nka magana abiri muri Perefegitura ya Kibuye.
11. Abagize ubutegetsi nyubahirizategeko bafite na none ububasha ku bapolisi ba komini. Buri komini ifite abapolisi bayo bahabwa akazi na burugumesitiri. Ubusanzwe, burugumesitiri ni we wenyine ubafiteho ububasha. Nyamara ariko, iyo habaye ibiza byibasiye rubanda, perefefe ashobora kwiyambaza abapolisi ba komini kandi akabaha amategeko ubwe.
12. Interahamwe, umutwe witwara gisirikare utarashyizweho mu nzira zemewe kandi ugizwe hafi ya bose n'Abahutu b'intagondwa, wagize uruhare rukomeye mu byabaye bivugwa muri iyi Nyandiko y'ibirego. Muvoma Revolisiyoneri Iharanira Amajyambere y'u Rwanda (MRND) yashyizeho Interahamwe nk'umutwe ushinze guha imyitozo ya

gisirikare urubiruko rwa MRND. Uwo mutwe ukaba wari ufite ubuyobozi mu rwego rw'igihugu, rwa perefegitura n'urwa komini, bushingiye ku miterere y'inzego za M.R.N.D. Nta sano n'imwe yo mu rwego rw'amategeko yahuzaga Interahamwe n'ingabo z'u Rwanda, ariko abajepa n'abandi basirikare, bakayobora kandi bagatera inkunga Interahamwe. Rimwe na rimwe, abajepa n'abandi basirikare bitabiraga ibikorwa by'Interahamwe.

13. Ku itariki ya 6 Mata 1994, indege yari itwaye Yuvenali Habyarimana wari Perezida wa Repubulika y'u Rwanda yarasandaye ubwo yari hafi kugwa ku kibuga cy'indege cy'i Kigali mu Rwanda. Mu kanya gato kakurikiyeho, iyicwa ry'abaturage b'abasivili ryatangiyeye mu Rwanda hose. Muri icyo gihe, abantu bashakishaga Abatutsi bibandaga ku hantu hamwe runaka kubera ko Abatutsi bumvaga ko bari mu makuba akenshi bagiye bahungira ahantu bumvaga bizeye umutekano nko muri za kiriziya n'inyubako z'amakomini, kandi ari benshi. Impamvu abenshi bahisemo ubwo buryo ni uko, mu bihe byashize, Abatutsi bahungiraga bene aho hantu batari barigeze bagabwaho ibitero. Bityo, muri icyo gihe kivugwa muri iyi Nyandiko y'ibirego, amatsinda y'abantu yagiye ahungira ahantu hamwe yabaga ahanini yiganjemo Abatutsi.
14. Na none, mu bihe bivugwa muri iyi Nyandiko y'ibirego, Guverinoma y'u Rwanda yategekaga Abanyarwanda bose kwitwaza buri gihe indangamuntu yagaragazaga ubwoko bwabo, ni ukuvuga Hutu, Tutsi, Twa, cyangwa « uwahawe ubwenegihugu ». Bityo, Abatutsi bashakishwaga bashoboraga kumenyekana iyo berekanaga indangamuntu zabo.

### **IBIREGO MURI RUSANGE**

15. Ibikorwa abaregwa bakoze cyangwa ibyo bateshutswe gukora bivugwa muri iyi Nyandiko y'ibirego byabereye mu Rwanda hagati y'itariki ya 1 Mutarama n'ya 31 Ukuboza 1994.



16. Muri buri gika kirebana n'icyaha cya jenocide, nk'uko giteganywa n'Ingingo ya 2 ya Sitati y'Urukiko, ibyo abaregwa bakoze cyangwa bateshutswe gukora bivugwa byari bigamije kurimbura abantu bose b'ubwoko bumwe cyangwa igice cyabo.
17. Muri buri gika kirebana n'ibyaha byibasiye inyoko muntu, nk'uko biteganywa n'Ingingo ya 3 ya Sitati y'Urukiko, ibyo abaregwa bakoze cyangwa bateshutswe gukora bivugwa byari mu rwego rw'ibitero rusange kandi biri kuri gahunda, byagabwe ku baturage b'abasivili bazira umutwe wa politiki barimo cyangwa ubwoko bwabo.
18. Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, abakorewe icyaha bayivugwamo ni abarengerwa n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya II.
19. Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, u Rwanda rwaberegamo imirwano itari iyo mu rwego mpuzamahanga.
20. Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, **Clément Kayishema** yari Perefere wari ushinze kuyobora Perefegitura ya Kibuye yose, hakubiyemo abakozi yari akuriye bo mu nzego z'ubutegetsi n'abajandarume.
21. Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, **Aloys Ndimbati** yari Burugumesitiri wa Komini ya Gisovu, **Charles Sikubwabo** ari Burugumesitiri wa Komini ya Gishyita naho **Ignace Bagilishema** ari Burugumesitiri wa Komini ya Mabanza. Buri wese muri abo yayoboraga komini ye, hakubiyemo abakozi yari akuriye bo mu nzego z'ubutegetsi, abapolisi ba komini n'abajandarume.
22. Buri wese mu baregwa ariyozwa nka gatozi ibyaha ashinjwa muri iyi Nyandiko y'ibirego hashingiwe ku Ngingo ya 6 1) ya Sitati y'Urukiko. Uburyozwacyaha nka gatozi bushingiye mu gucura umugambi, kuwuhamagarira abandi, gutegeka gukora icyaha, kugikora cyangwa ku bundi buryo ubwo ari bwo bwose gufasha kandi ugashyigikira

gucura umugambi, gutegura, cyangwa gutsotsoba ibyaha bivugwa kuva ku ngingo ya 2 kugeza ku ya 4 za Sitati y'Urukiko.

23. Byongeye kandi, **Clément Kayishema**, **Aloys Ndimbati**, na **Charles Sikubwabo**, baryozwa ibikorwa by'ubwicanyi byakozwe n'abo bari bakuriye mu rwego rw'ubutegetsu, abajandarume n'abapoli ba komini kuri buri cyaha mu byo bashinjwa hakurikijwe ingingo ya 6 3) ya Sitati y'Urukiko. Uburyozwacyaha nka gatozi bw'ukuriye undi mu kazi ni ukuryozwa iby'uwo ukuriye yakoze iyo wari uzi cyangwa wagombye kuba wari uzi ko ari hafi gukora ibyo byaha cyangwa ko yabikoze ariko ntufate ingamba za ngombwa kandi zishyize mu gaciro kugira ngo uburizemo ikorwa ryabyo cyangwa ngo uhane uwabikoze. Iki cyaha yakiryoza ariko mu gihe ikimaze kuvugwa haruguru cyaramuka kitamuhanye.

#### ABAREGWA

24. **Clément Kayishema** ni mwene Jean Nayigiziki na Catherine Nyiramaronko, yavukiye muri Segiteri ya Bwishyura, Komini ya Gitesi, Perefegitura ya Kibuye, mu Rwanda, mu wa 1954. Yagizwe Perefere wa Kibuye ku itariki ya 3 Nyakanga 1992, atangira imirimo ye nyuma yaho gato. **Clément Kayishema** yabaye perefere kugeza igihe agiriye muri Zayire muri Nyakanga 1994. Abantu bakeka ko yaba ari i Bukavu muri Zayire.
25. **Ignace Bagilishema** ni mwene Louis Ntaganda na Kampundu, yavukiye muri Segiteri ya Rubengera, Komini ya Mabanza, Perefegitura ya Kibuye, mu Rwanda, mu wa 1955. Yagizwe Burugumesitiri wa Komini ya Mabanza ku itariki ya 8 Gashyantare 1980, aguma kuri uwo murimo kugeza mu mpera za Nyakanga 1994. Abantu bakeka ko yaba ari muri Zambiya.
26. **Charles Sikubwabo** ni mwene Ferdinand Seburikoko, yavukiye muri Segiteri ya Gishyita, Komini ya Gishyita, Perefegitura ya Kibuye, mu Rwanda, mu ntangiriro

- cyangwa hagati muri za 40. Yagizwe Burugumesitiri wa Komini ya Gishyita mu wa 1993, aguma kuri uwo murimo kugeza mu mpera za Nyakanga 1994. Mbere yaho, yari Ajida shefu mu ngabo z'u Rwanda. Abantu bakeka ko yaba ari i Bukavu muri Zayire.
27. **Aloys Ndimbati** yavukiye muri Segiteri ya Gitabura, Komini ya Gisovu, Perefegitura ya Kibuye, mu Rwanda, mu ntangiriro cyangwa hagati muri za 50. Yagizwe Burugumesitiri wa Komini ya Gisovu mu wa 1990, aguma muri uwo mwanya kugeza mu mpera za Nyakanga 1994. Abantu bakeka ko yaba ari muri Zayire.
28. **Vincent Rutaganira** ni mwene Telesphore Bulimwinyundo na Saverine Nyiramakuta, yavukiye muri Segiteri ya Mubuga, Komini ya Gishyita, Perefegitura ya Kibuye, mu Rwanda, mu ntangiriro ya za 40. Yatorewe kuba Konseye wa Segiteri ya Mubuga, Komini ya Gishyita mu wa 1980, aguma kuri uwo murimo kugeza mu mpera za Nyakanga 1994. Abantu bakeka ko yaba ari i Bukavu cyangwa ku Ijwi, muri Zayire.
29. **Mika Muhimana** ni mwene Manasse Ntamakemwa na Thamar Mukamugena, yavukiye muri Segiteri ya Gishyita, Komini ya Gishyita, Perefegitura ya Kibuye, mu Rwanda, ahagana mu wa 1950. Yatorewe kuba Konseye wa Segiteri ya Gishyita, Komini ya Gishyita, mu wa 1988, aguma kuri uwo murimo kugeza mu mpera za Nyakanga 1994. Mbere yo gutorerwa uwo murimo, yari umucuruzi. Abantu bakeka ko yaba ari muri Zayire.
30. **Ryandikayo** nta rindi zina afite. Ni mwene Rwuma (nta rindi zina), na nyina Nyirabukeye (nta rindi zina). Yavukiye muri Segiteri ya Musenyi, Komini ya Gishyita, Perefegitura ya Kibuye, mu Rwanda, ahagana mu wa 1961. Mu gihe ibyaha bivugwa muri iyi Nyandiko y'ibirego byakorwaga, **Ryandikayo** yacungaga resitora muri Segiteri ya Mubuga, Komini ya Gishyita. Abantu bakeka ko yaba ari muri Zayire.
31. **Obed Ruzindana** ni mwene Elie Murakaza, yavukiye muri Segiteri ya Gisovu, Komini ya Gisovu, Perefegitura ya Kibuye, mu Rwanda, mu wa 1959. Mu gihe ibyaha bivugwa

muri iyi Nyandiko y'ibirego byakorwaga, **Obed Ruzindana** yari umucuruzi i Kigali no muri Komini ya Rwamatamu, Perefegitura ya Kibuye. Abantu bakeka ko yaba ari muri Zayire.

## IBIREGO

### Ubwumvikane bugamije kwica Abatutsi bose

#### IKIREGO CYA 1

32. Mbere y'ubwicanyi buvugwa kuva ku kirego cya 2 kugeza ku cya 25 by'iyi Nyandiko y'ibirego, ari na bwo iyi Nyandiko ishingiyeho, **Clément Kayishema, Ignace Bagilishema, Charles Sikubwabo, Aloys Ndimbati, Vincent Rutaganira, Mika Muhimana, Ryandikayo na Obed Ruzindana**, bagize ubwumvikane bugamije kwica Abatutsi bose muri Perefegitura ya Kibuye.
33. Mu rwego rwo gushyira mu bikorwa ubwo bwumvikane, ahagana hagati y'itariki ya 9 Mata 1994 n'ya 30 Kamena 1994, abo bantu bamaze kuvugwa bishe Abatutsi hirya no hino muri Perefegitura ya Kibuye cyangwa batera inkunga abandi bantu bakoze ubwo bwicanyi. Ubwo bwumvikane ni bwo nyirabayazana y'ubwicanyi ibirego kuva ku cya 2 kugeza ku cya 25 byo muri iyi Nyandiko y'ibirego bishingiyeho.
34. Kubera ibyo bikorwa, **Clément Kayishema, Ignace Bagilishema, Charles Sikubwabo, Aloys Ndimbati, Vincent Rutaganira, Mika Muhimana, Ryandikayo na Obed Ruzindana** baryozwa ibyaha bikurikira:

**Ikirego cya 1: UBWUMVIKANE BUGAMIJE GUKORA JENOSIDE, icyaha giteganywa n’Ingingo ya 2 3) b) ya Sitati y’Urukiko**

**Ubwicanyi bwakorewe ku kiriziya gatolika no kuri « Home Saint-Jean » biri ahantu hamwe**

IBIREGO KUVA KU CYA 2 KUGEZA KU CYA 7

35. Ahagana ku itariki ya 17 Mata 1994, abagabo, abagore n’abana babarirwa mu bihumbi baturukaga mu duce dutandukanye bari bamaze guhungira ku kiriziya gatolika no kuri « Home Saint-Jean » biri ahantu hamwe mu mujyi wa Kibuye. Abo bagabo, abagore n’abana nta ntwaro bari bafite kandi abenshi muri bo bari Abatutsi. Bari baraje aho hantu bahunga ibitero byibasiraga Abatutsi byagabwaga hirya no hino muri Perefegitura ya Kibuye.
36. Impunzi zimwe zari zahungiyeye aho hantu kuko **Ignace Bagilishema** yari yazitegetse kuhajya, naho izindi zahaje zibitegetswe na **Clément Kayishema**. Bategeka izo mpunzi kujya aho hantu, **Clément Kayishema** na **Ignace Bagilishema** bombi bari bazi cyangwa bagombye kuba bari bazi ko hari igitero cyari kuza kuhagabwa.
37. Izo mpunzi zimaze guteranira aho hantu, hagoswe n’abantu **Clément Kayishema** yari afiteho ububasha, barimo n’abajandarume. Abo bantu babujije izo mpunzi zarimo abagabo, abagore n’abana kuva aho hantu, kandi **Clément Kayishema** yari azi cyangwa yagombye kuba yari azi ko hari igitero kiza kuhagabwa.
38. Ahagana ku itariki ya 17 Mata 1994, **Clément Kayishema** yategetse abajandarume, abapolisi ba Komini ya Gitesi, Interahamwe n’abasivili bitwaje intwaro, kugaba igitero aho hantu, kandi na we ubwe yari muri icyo gitero. Abagabye igitero bishe impunzi zari

aho hantu bakoresheje imbunda, za gerenade, imipanga, amacumu, impiri n'izindi ntwaro.

39. icyo gitero cyahitanye abantu babarirwa mu bihumbi bari aho hantu, abandi barahakomerekera ku buryo bukomeye (Umugereka A uriho urutonde rw'amazina y'abantu bamwe baguye muri icyo gitero). Mu byumweru bibiri byakurikiye icyo gitero, abajandarume, Interahamwe n'abasivili bitwaje intwaro bashakishije izo nkomere zari zarokotse icyo gitero maze barazica.
40. Mbere y'igitero cyagabwe aho hantu, **Clément Kayishema** nta ngamba n'imwe yafashe kugira ngo akiburizemo, kandi na nyuma yacyo ntiyahanye abakigabye.
41. Kubera ibyo bikorwa n'ibyo bateshutswe gukora, **Clément Kayishema** na **Ignace Bagilishema** bararyozwa ibi bikurikira:

Ikirego cya 2: JENOSIDE, icyaha giteganywa n'Ingingo ya 2 3) a) ya Sitati y'Urukiko;

Ikirego cya 3: UBUHOTOZI nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 a) ya Sitati y'Urukiko;

Ikirego cya 4: ITSEMBATSEMBA nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko;

Ikirego cya 5: IBINDI BIKORWA BIRENZE KAMEREMUNTU nk'ibyaha byibasiye inyokomuntu, icyaha giteganywa n'ingingo ya 3 i) ya Sitati y'Urukiko;

Ikirego cya 6: IBIKORWA BINYURANYIJE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE, icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;

Ikirego cya 7: IBIKORWA BINYURANYIJE N'INYONGERA YA II Y'AMASEZERANO [y'i Jeneve], icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;

**Ubwicanyi bwakorewe kuri Sitade ya Kibuye**

IBIREGO KUVA KU CYA 8 KUGEZA KU CYA 13

42. Ahagana ku itariki ya 18 Mata 1994, abagabo, abagore n'abana babarirwa mu bihumbi bari baturutse mu duce dutandukanye bari bamaze guhungira kuri sitade iri mu muji wa Kibuye. Abo bagabo, abagore n'abana nta ntwaro bari bafite kandi abenshi muri bo bari Abatutsi. Bari baje kuri sitade bahunga ibitero byibasiraga Abatutsi hirya no hino muri Perefegitura ya Kibuye.
43. Bamwe muri izo mpunzi bahungiyeye kuri sitade kuko **Clément Kayishema** yari yabibategetse, naho abandi babikora bubahiriza amategeko ya **Ignace Bagilishema**. Ubwo **Clément Kayishema** na **Ignace Bagilishema** bategekaga abantu kujya kuri sitade, bombi bari bazi cyangwa bagombye kuba bari bazi ko hari igitero kiza kuhagabwa.
44. Impunzi zimaze guteranira aho hantu, sitade yagoswe n'abantu **Clément Kayishema** yari afiteho ububasha, barimo n'abajandarume. Izo mpunzi zari muri iyo sitade, zarimo abagabo, abagore n'abana, zabujijwe n'abo bantu gusohoka, kandi **Clément Kayishema** icyo gihe yari azi cyangwa yagombye kuba yari azi ko hari igitero kiza kuhagabwa.
45. Ku itariki ya 18 Mata 1994 cyangwa hafi yayo, **Clément Kayishema** yagiye kuri sitade hanyuma ateguka abajandarume, abapolisi ba Komini ya Gitesi, Interahamwe n'abasivili bitwaje intwaro kugaba igitero kuri iyo sitade. **Clément Kayishema** yatangiye igitero arasa isasu mu kirere. Byongeye kandi, **Clément Kayishema** na we ubwe yari mu bagabye icyo gitero. Abagabye igitero bishe impunzi zari muri sitade bakoresheje imbunda, za gerenade, imipanga, imihoro, amacumu, impiri n'izindi ntwaro. Hari bamwe

barokotse icyo gitero cyo ku itariki ya 18 Mata 1994. Mu ijoro ryo ku itariki ya 18 Mata 1994 no mu gitondo cyo ku ya 19 Mata 1994, abajandarume bari bagose sitade babujije abarokotse ubwo bwicanyi gusohoka aho hantu. Igitero cyo kuri sitade cyakomeje ku itariki ya 19 Mata 1994. Muri ibyo bitero byose, abagabo, abagore n'abana bagerageje gucika barishwe.

46. Ibitero byagabwe muri iyo minsi ibiri byahitanye abantu babarirwa mu bihumbi bari muri sitade, barimo abagabo, abagore n'abana, abandi barahakomerekera bikomeye (Umugereka B uriho urutonde rw'amazina y'abantu bamwe baguye muri ibyo bitero).
47. Mbere y'ibitero byo kuri sitade, **Clément Kayishema** nta ngamba n'imwe yafashe kugira ngo abiburizemo, kandi na nyuma yabyo ntiyahanye ababigabye.
48. Kubera ibyo bikorwa n'ibyo bateshutswe gukora, **Clément Kayishema** na **Ignace Bagilishema** bararyozwa ibi bikurikira:

Ikirego cya 8: JENOSIDE, icyaha gitenganywa n'Ingingo ya 2 3) a) ya Sitati y'Urukiko;

Ikirego cya 9: UBUHOTOZI nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 a) ya Sitati y'Urukiko;

Ikirego cya 10: ITSEMBATSEMBA nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko;

Ikirego cya 11: IBINDI BIKORWA BIRENZE KAMERE MUNTU nk'ibyaha byibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 i) ya Sitati y'Urukiko;



Ikirego cya 12: IBIKORWA BINYURANYIJE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y' I JENEVE, icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;

Ikirego cya 13: IBIKORWA BINYURANYIJE N'INYONGERA YA II Y'AMASEZERANO [y'i Jeneve], icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;

### **Ubwicanyi bwakorewe ku Kiliziya yo ku Mubuga**

#### IBIREGO KUVA KU CYA 14 KUGEZA KU CYA 19

49. Ahagana ku itariki ya 14 Mata 1994, abagabo, abagore n'abana babarirwa mu bihumbi kandi bari biganjemo Abatutsi bateraniye mu Kiliziya yo ku Mubuga, muri Komini ya Gishyita. Bari baje muri iyo kiriziya bahunga ibitero byibasiraga Abatutsi hirya no hino muri Perefegitura ya Kibuye.
50. Izo mpunzi zarimo abagabo, abagore n'abana zimaze guteranira mu kiriziya, **Clément Kayishema** yagiye aho hantu inshuro nyinshi. Ku itariki ya 10 Mata cyangwa hafi yayo, **Clément Kayishema** yajyanye abajandarume ku kiriziya kandi ni we wabagenzuraga. Abo bajandarume babujije izo mpunzi zari mu kiriziya kuhava.
51. Ku itariki ya 14 Mata 1994 cyangwa hafi yayo, **Charles Sikubwabo, Vincent Rutaganira** na **Ryandikayo**, bategetse abajandarume, abapolisi ba Komini ya Gishyita, Interahamwe n'abasivili bari bafite intwaro kugaba igitero ku kiriziya, kandi nabo ubwabo bakigiyemo. Abagabye igitero bishe impunzi zari mu kiriziya bakoresheje imbunda, za gerenade, imihoro, amacumu, imipanga, impiri n'izindi ntwaro. Ntabwo byashobotse ko impunzi zose zicwa ako kanya, bityo ibitero byakomeje mu minsi myinshi yakurikiyeho. Mbere y'ibyo bitero no mu gihe byagabwaga, abantu

bagenzurwaga na **Clément Kayishema** na **Charles Sikubwabo**, barimo abajandarume n'abapolisi ba komine, babujije izo mpunzi zari mu kiriziya zirimo abagabo, abagore n'abana kuva aho hantu.

52. Ibyo bitero byahitanye abagabo, abagore n'abana bari mu kiriziya, abandi barahakomerekerera bikomeye (Umugereka C uriho urutonde rw'amazina y'abantu bamwe biciwe muri ibyo bitero).
53. Mbere y'uko ibitero bigabwa ku kiriziya yo ku Mubuga, **Clément Kayishema** na **Charles Sikubwabo** ntibafashe ingamba zo kubiburizamo, kandi na nyuma yabyo ntibahannyeye ababigabye.
54. Kubera ibyo bikorwa n'ibyo bateshutse gukora, **Clément Kayishema**, **Charles Sikubwabo**, **Vincent Rutaganira** na **Ryandikayo** baryozwa ibi bikurikira:

Ikirego cya 14: JENOSIDE, icyaha giteganywa n'Ingingo ya 2 3) a) ya Sitati y'Urukiko;

Ikirego cya 15: UBUHOTOZI nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 a) ya Sitati y'Urukiko;

Ikirego cya 16: ITSEMBATSEMBA nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko;

Ikirego cya 17: IBINDI BIKORWA BIRENZE KAMERE MUNTU nk'ibyaha byibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 i) ya Sitati y'Urukiko;

Ikirego cya 18: IBIKORWA BINYURANYIJE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE, icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;

Ikirego cya 19: **IBIKORWA BINYURANYIJE N’INYONGERA YA II**  
Y’AMASEZERANO [y’i Jeneve], icyaha giteganywa n’Ingingo ya 4 a) ya  
Sitati y’Urukiko.

**Ubwicanyi bwakorewe mu Bisesero**

**IBIREGO KUVA KU CYA 20 KUGEZA KU CYA 25**

55. Bisesero ni akarere gafata ku makomine abiri yo muri Perefegitura ya Kibuye. Kuva ahagana ku itariki ya 9 Mata kugeza ahagana ku ya 30 Kamena 1994, abagabo, abagore n’abana babarirwa mu bihumbi bahungiyeye mu karere ka Bisesero. Abenshi muri bo bari Abatutsi kandi bahungaga ibitero byibasiraga Abatutsi hirya no hino muri Perefegitura ya Kibuye.
56. Akarere ka Bisesero kagabwemo ibitero bya buri gihe, hafi buri muni, kuva ahagana ku itariki ya 9 Mata 1994 kugeza ahagana ku ya 30 Kamena 1994. Abagabaga ibitero bishe Abatutsi bo mu karere ka Bisesero bakoresheje imbunda, za gerenade, imihoro, amacumu, imipanga, impiri n’izindi ntwaro. Abagabo, abagore n’abana bari bahungiyeye mu Bisesero bagerageje inshuro nyinshi kwirwanaho muri ibyo bitero bakoresheje amabuye, inkoni n’izindi ntwaro za gakondo.
57. Muri Mata, Gicurasi na Kamena 1994, ahantu hanyuranye no mu bihe binyuranye, **Clément Kayishema, Aloys Ndimbati, Obed Ruzindana, Charles Sikubwabo** na **Mika Muhimana**, bajyanye abajandarume, abapolisi ba Komini ya Gishyita n’iya Gisovu, Interahamwe n’abasivili bafite intwaro, mu karere ka Bisesero kandi akenshi babyumvikanyeho, maze babategeka kugaba ibitero ku bantu bari bahahungiyeye. Byongeye kandi, **Clément Kayishema, Aloys Ndimbati, Obed Ruzindana, Charles Sikubwabo** na **Mika Muhimana**, bagabye ubwabo ibitero kandi bica abantu bari

- bahungiyeye mu Bisesero, ahantu hanyuranye no mu bihe binyuranye, kandi akenshi babyumvikanyeho.
58. Ibitero bivugwa haruguru byahitanye abagabo, abagore n'abana babarirwa mu bihumbi bari mu Bisesero, abandi barahakomerekerako bikomeye (Umugereka D uriho urutonde rw'amazina y'abantu bamwe baguye muri ibyo bitero).
59. Muri icyo gihe cyose, **Clément Kayishema, Aloys Ndimabti na Charles Sikubwabo** nta ngamba n'imwe bafashe kugira ngo baburizemo ibyo bitero, kandi na nyuma yabyo ntibahannye abari babigabye.
60. Kubera ibyo bikorwa n'ibyo bateshutswe gukora, **Clément Kayishema, Aloys Ndimabti, Obed Ruzindana, Charles Sikubwabo na Mika Muhimana** baryozwa ibi bikurikira:
- Ikirego cya 20: JENOSIDE icyaha giteganywa n'Ingingo ya 2 3) a) ya Sitati y'Urukiko;
- Ikirego cya 21: UBUHOTOZI nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 a) ya Sitati y'Urukiko;
- Ikirego cya 22: ITSEMBATSEMBA nk'icyaha cyibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 b) ya Sitati y'Urukiko;
- Ikirego cya 23: IBINDI BIKORWA BIRENZE KAMERE MUNTU nk'ibyaha byibasiye inyokomuntu, icyaha giteganywa n'Ingingo ya 3 i) ya Sitati y'Urukiko;
- Ikirego cya 24: IBIKORWA BINYURANYIJE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE, icyaha giteganywa n'Ingingo ya 4 a) ya Sitati y'Urukiko;

Ikirego cya 25: IBIKORWA BINYURANYIJE N'INYONGERA YA II  
Y'AMASEZERANO [y'i Jeneve], icyaha giteganywa n'Ingingo ya  
4 a) ya Sitati y'Urukiko;

Bikorewe Arusha, Tanzaniya

Tariki ya 29 Mata 1996

Richard J. Goldstone

Porokireri [Sinyatire na Kashe]

#### **UMUGEREKA WA 4: icyemezo (mu magambo) cyo ku wa 17 Mutarama 2005**

Icyemezo (mu magambo) cyo ku wa 17 Mutarama 2005 gitegeka ko urubanza rwa Vincent Rutaganira rutandukanywa n'urw'abandi baregwa mu Nyandiko y'ibirego yo ku wa 6 Gicurasi 1996 (Inyandikomvugo y'iburanisha ryo ku wa 17 Mutarama 2005, mu gifaransa).