



**Urukiko Mpanabyaha Mpuzamahanga
Rwashyiriweho u Rwanda**

Umwimerere: Igifaransa

URUGEREKO RWA MBERE RW'IREMEZO I

Abacamanza Laity Kama, Perezida
Lennart Aspegren
Navanethem Pillay

Gerefiye: M. Agwu Okali

Itariki: 6 Ukuboza 1999

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POROKIRERI

aburana na

GEORGES ANDERSON NDERUBUMWE RUTAGANDA

Urubanza N° ICTR-96-3-T

INYANDIKO Y'URUBANZA

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Carla Del Ponte

James Stewart

Udo Herbert Gehring

Holo Makwaia

Ubwunganizi:

Tiphaine Dickson

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1. INTANGIRIRO

1.1. Urukiko Mpuzamahanga

1. Uru rubanza Porokireri aburana na Georges Anderson Nderubumwe Rutaganda, ruciwe n'Urugereko rwa Mbere rw'Iremezo I rw'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda (« Urukiko ») rugizwe n'abacamanza Laïty Kama, Perezida w'Urugereko, Lennart Aspegren na Navanethem Pillay.
2. Urukiko rwashyizweho n'Inama Ishinzwe Amahoro ku Isi y'Umuryango w'Abibumbye (ONU), mu Cyemezo cyayo 955 cyo ku itariki ya 8 Ugushyingo 1994, imaze gusuzuma raporo¹ zinyuranye kandi zemewe z'Umuryango w'Abibumbye (ONU), zagaragazaga ko mu Rwanda hakorewe ibikorwa bya jenocide n'ibindi byaha bikomeye byakozwe mu rwego rusange kandi biri kuri gahunda, binyuranyije n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara. Imaze kubona ko ibyo bintu bibangamiye amahoro n'umutekano mpuzamahanga, kandi imaze kwiyumvisha ko gukurikirana abantu bakekwaho kuba barakoze ibyaha binyuranyije mu buryo bukomeye n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara byatera inkunga inzira y'ubwiyunge bw'abenegihugu, bikagarura kandi bikabungabunga amahoro mu Rwanda, Inama Ishinzwe Amahoro ku Isi yashyizeho urwo Rukiko hakurikijwe Umutwe wa VII w'Amategeko-shingiro y'Umuryango w'Abibumbye.
3. Urukiko rugengwa na Sitati yarwo (« Sitati »), yometse ku Cyemezo 955 cy'Inama Ishinzwe Amahoro ku Isi, n'Amategeko yarwo Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso (« Amategeko »), yemejwe n'Abacamanza ku itariki ya 5 Nyakanga 1995, akaza guhindurwa nyuma².

¹ Raporo ibanziriza izindi y'Akanama k'impuguke kashyizweho nk'uko biteganywa n'Icyemezo 935 (1994) cy'Inama Ishinzwe Amahoro ku Isi (inyandiko y'Umuryango w'Abibumbye (O.N.U), S/1994/1125); Raporo ya nyuma y'Akanama k'impuguke kashyizweho nk'uko biteganywa n'Icyemezo 935(1994) cy'Inama Ishinzwe Amahoro ku Isi (inyandiko y'Umuryango w'Abibumbye,S/1994/1405), na Raporo y'Intumwa yihariye y'Akanama gashinzwe uburenganzira bw'ikiremwa muntu k'Umuryango w'Abibumbye kashyiriweho u Rwanda (inyandiko y'Umuryango w'Abibumbye, S/1994/1157, imigereka I na II).

² Amategeko yahinduwe ku matariki akurikira: 12 Mutarama, 15 Gicurasi, 4 Nyakanga 1996, 5 Kamena 1997, 8 Kamena 1998 n'ya 4 Kamena 1999.

1.2. Inyandiko y'Ibirego

4. Inyandiko y'ibirego yakorewe Georges Anderson Nderubumwe Rutaganda (« Uregwa ») yatanzwe na Porokireri ku itariki ya 13 Gashyantare 1996, maze yemezwa n'umucamanza ku itariki ya 16 Gashyantare 1996 (« Inyandiko y'ibirego »). Dore uko iteye yose uko yakabaye:

« Porokireri w'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda, ashingiye ku bubasha ahabwa n'Ingingo ya 17 ya Sitati y'Urukiko, arega:

GEORGES ANDERSON NDERUBUMWE RUTAGANDA

JENOSIDE, IBYAHA BYIBASIYE INYOKOMUNTU, N'IBIKORWA BINYURANYIJE N'INGINGO YA 3 IHURIWEHO N'AMASEZERANO Y'I JENEVE, nk'uko bisobanurwa hano hasi:

Amavu n'amavuko

1. Ku itariki ya 6 Mata 1994, indege yari itwaye Perezida Juvénal Habyarimana w'u Rwanda na Perezida Cyprien Ntaryamira w'u Burundi yahanukiye ku kibuga cy'indege cya Kigali, ihitana abari bayirimo bose. Nyuma y'urupfu rw'abo ba perezida bombi, ubwicanyi rusange bushingiye ku mpamvu za politiki n'ubwoko bwaratangiye i Kigali, hanyuma busakara no mu tundi turere tw'u Rwanda.

Uregwa

2. **Georges Rutaganda** yavukiye muri Komini ya Masango, Perefegitura ya Gitarama, mu wa 1958. Afite impamyabumenyi ihanitse mu by'ubuhinzi akaba yari n'umucuruzi. Yari Umuyobozi mukuru wa sosiyete ye yitwaga Rutaganda SARL. **Georges Rutaganda** yari umwe mu bagize Komite y'Ishyamba Muvoma Iharanira Repubulika, Demokarasi n'Amajyambere ya Rubanda M.R.N.D. (muri iyi nyandiko ryitwa « MRND ») mu rwego rw'igihugu n'urwa perefegitura, kandi yari afite imigabane muri « *Radio Télévision Libre des Mille Collines* » [RTLM]. Ku itariki ya 6 Mata 1994, ni we wari Visi-Perezida wa kabiri

wa Komite y'Interahamwe mu rwego rw'Igihugu, ishami ry'urubyiruko rwitwara gisirikare rwa MRND.

Ibivugwa muri rusange

3. Uretse mu gihe byasobanurwa ukundi, ibikorwa byose bivugwa muri iyi Nyandiko y'ibirego byabereye muri Perefegitura ya Kigali n'iya Gitarama, mu Rwanda, hagati y'itariki ya 1 Mutarama 1994 n'iya 31 Ukuboza 1994.
4. Muri buri gika kivugwamo jenocide, icyaha giteganywa n'ingingo ya 2 ya Sitati y'Urukiko, ibikorwa bivugwa byari bigamije kurimbura abantu bose cyangwa igice cyabo bazizwa ubwenegihugu cyangwa ubwoko.
5. Abahohotewe bavugwa muri buri gika kivugwamo jenocide, bazizwaga ubwenegihugu, ubwoko cyangwa idini.
6. Muri buri gika kivugwamo ibyaha byibasiye inyokomuntu, ibyaha bihanishwa ingingo ya 3 ya Sitati y'Urukiko, ibikorwa bivugwa byabaye mu rwego rw'ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri kubera impamvu za politiki cyangwa z'ubwoko.
7. Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda hari intambara itari iyo mu rwego mpuzamahanga.
8. Abahohotewe bavugwa muri iyi Nyandiko y'ibirego, mu bihe byose bivugwa, bari abantu batagize uruhare rugaragara mu mirwano.
9. Uregwa aryoza nka gatozi ibyaha bivugwa muri iyi Nyandiko y'ibirego. Hashingiwe ku ngingo ya 6(I) ya Sitati y'Urukiko, uryoza icyaha nka gatozi ni umuntu uwo ari we wese wacuze umugambi, uwawuhamagariye abandi, uwategetse gukora icyaha, uwagikoze cyangwa ku bundi buryo ubwo ari bwo bwose, agafasha kandi agashishikariza gucura umugambi, gutegura cyangwa gutsotsoba kimwe mu byaha bivugwa mu ngingo ya 2 kugeza ku ya 4 za Sitati y'Urukiko.

Ibirego

10. Ku itariki ya 6 Mata 1994 cyangwa hafi yayo, **Georges Rutaganda** yahaye imbunda n'izindi ntwaro Interahamwe muri Komini ya Nyarugenge, Kigali.
11. Ku itariki ya 10 Mata 1994 cyangwa hafi yayo, **Georges Rutaganda** yashyize Interahamwe kuri bariyeri hafi y'ibiro bye byari kuri Garaji « AMGAR » i Kigali. Nyuma y'igihe gito ahavuye, Interahamwe zatangiye kugenzura indangamuntu z'abantu banyuraga kuri iyo bariyeri. Zategekaga abantu babaga bafite indangamuntu z'Abatutsi kujya ku ruhande rumwe rw'umuhanda. Muri icyo gihe ni bwo Abatutsi 8 bahiciwe. Abahaguye barimo abagabo, abagore n'umwana muto umwe mu bagore yari ahetse mu mugongo.
12. Muri Mata 1994, ku itariki itazwi, Abatutsi bari bafatiwe kuri bariyeri yari imbere y'igaraji ya AMGAR bashyiriwe **Georges Rutaganda** abahata ibibazo, hanyuma ateguka ko abo Batutsi bafungirwa hamwe n'abandi mu nzu yari hafi aho. Nyuma yaho, **Georges Rutaganda** yabwiye abo yategekaga kujyana Abatutsi 10 ku cyobo kirekire cyari hafi ya Garaji AMGAR. Ku mategeko ye, abo bantu biraye muri ba Batutsi 10 babicisha imihoro, imirambo yabo bayijugunya muri icyo cyobo.
13. Guhera ku itariki ya 7 kugeza ku ya 11 Mata 1994, abantu babarirwa mu bihumbi bo mu bwoko bw'Abatutsi barimo abagabo, abagore n'abana, ndetse harimo na bake bo mu bwoko bw'Abahutu, bose batari bafite intwara bahungiyeye ku ishuri ryitwa *Ecole Technique Officielle* (ETO) riri muri Segiteri ya Kicukiro, Komini ya Kicukiro. Kuri iryo shuri hafatwaga nk'ahantu hari umutekano uhagije kubera ko hari ibirindiro by'abasirikari b'Ababiligi bari muri Mutwe w'Ingabo z'Umuryango w'Abibumbye Zishinzwe Kurinda Amahoro mu Rwanda (MINUAR).
14. Ku itariki ya 11 Mata 1994 cyangwa hafi yayo, Ababiligi bakimara kuva ku ishuri rya ETO, abasirikari bo mu ngabo z'u Rwanda, abajandarume n'abandi bantu bitwaraga gisirikari barimo Interahamwe, bagabye igitero kuri iryo shuri maze bica abantu bari bahahungiyeye bakoresheje imihoro, amagerenade n'imbunda. Muri icyo gitero, Interahamwe zavanguye Abahutu n'Abatutsi, maze zica Abatutsi. **Georges Rutaganda** yitabiriye icyo gitero cyo ku

ishuri rya ETO cyahitanye Abatutsi benshi cyane.

15. Abagabo, abagore n'abana barokotse icyo gitero cyo ku ishuri rya ETO bajyanywe ku ngufu na **Georges Rutaganda**, Interahamwe n'abasirikari ahantu hacukurwaga garaviye hafi y'ikigo cy'amashuri abanza cy'i Nyanza, aho abajepa bari babategereje. Izindi Interahamwe nyinshi zahuriye i Nyanza ziturutse imihanda yose, maze zigota abo bari barokotse.
16. Ku itariki ya 12 Mata 1994 cyangwa hafi yayo, abarokotse bashoboraga kugaragaza ko ari Abahutu barabarekaga bakagenda. Abatutsi berekanaga indangamuntu z'impimbano bahitaga bicwa. Abenshi mu bahasigaye bagabweho igitero bicishwa amagerenade n'imbunda. Abageragezaga guhunga, abari mu bitero babahutsemo n'imihoro. **Georges Rutaganda** n'umwe mu bayoboye ibyo bitero kandi yari abirimo.
17. Muri Mata 1994, ku matariki atazwi, muri Komini ya Masango, **Georges Rutaganda** n'abandi bantu Porokireri afitiye imyirondoro, basatse inzu ku yindi bashakisha Abatutsi n'abagize imiryango yabo. Muri iryo saka, Abatutsi bavanguwe n'Abahutu, maze bajyanwa ku ruzi. **Georges Rutaganda** yategetse Interahamwe gushakisha Abatutsi bose, no kubaroha mu ruzi.
18. Ku itariki ya 28 Mata 1994 cyangwa hafi yayo, **Georges Rutaganda**, hamwe n'Interahamwe bakusanyije abaturage muri Kigali maze babafungira hafi ya garaji AMGAR. **Georges Rutaganda** n'Interahamwe batse indangamuntu abo bari bafashwe. Abantu bamwe barimo Emmanuel Kayitare, bavanywe mu bandi ku ngufu. Nyuma yaho, uwo munsu, Emmanuel Kayitare yagerageje gutoroka ngo aho bari bamufungiyeyeho, ariko **Georges Rutaganda** yamwirutseho, maze aramufata, amukubita umuhoro mu mutwe, aramwica.
19. Muri Kamena 1994, ku itariki itazwi, **Georges Rutaganda** yategetse abantu guhamba imirambo y'abishwe kugira ngo ahishire ibyaha yakoze, umuryango mpuzamahanga utazava aho ubibona.

Ikirego cya 1 n'icya 2

(Jenoside)

(Ibyaha byibasiye inyokomuntu)

Kubera ibikorwa bye ku birebana n'ibyabaye bisobanuye mu bika kuva ku cya 10 kugeza ku cya 19, **Georges Rutaganda** yakoze ibyaha bikurikira:

- Ikirego cya 1: **Jenoside**, icyaha gihanwa hashingiwe ku ngingo ya 2(3)(a) ya Sitati y'Urukiko;
- Ikirego cya 2: **Ibyaha byibasiye inyokomuntu** (itsembatsemba), bihanwa hashingiwe ku ngingo ya 3(b) ya Sitati y'Urukiko.

Ikirego cya 3 n'icya 4 :

(Ibyaha byibasiye inyokomuntu)

(Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve)

Kubera ibikorwa bye ku birebana n'ubwicanyi bwabereye ku ishuri rya ETO, nk'uko bisobanuye mu gika cya 14, **Georges Rutaganda** yakoze ibyaha bikurikira :

- Ikirego cya 3: **Ibyaha byibasiye inyokomuntu** (ubuhotozi), bihanwa hashingiwe ku ngingo ya 3(a) ya Sitati y'Urukiko;
- Ikirego cya 4: **Ibikorwa binyuranyije n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve**, nk'uko bivugwa mu Ngingo ya 4(a) (ubuhotozi) ya Sitati y'Urukiko.

Ikirego cya 5 n'icya 6

(Ibyaha byibasiye inyokomuntu)

(Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve)

Kubera ibikorwa bye ku birebana n'ubwicanyi bwabereye ahacukurwaga garaviye i Nyanza, nk'uko bisobanuye mu gika cya 15 n'icya 16, **Georges Rutaganda** yakoze ibyaha bikurikira:

- Ikirego cya 5: **Ibyaha byibasiye inyokomuntu** (ubuhotozi), bihanwa hashingiwe ku ngingo ya 3(a) ya Sitati y'Urukiko;
- Ikirego cya 6: **Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve**, nk'uko bivugwa mu ngingo ya 4(a) (ubuhotozi) ya Sitati y'Urukiko.

Ikirego cya 7 n'icya 8

(Icyaha cyibasiye inyokomuntu)

(Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve)

Kubera igikorwa cyo kwica Emmanuel Kayitare, nk'uko bisobanuye mu gika cya 18, **Georges Rutaganda** yakoze ibyaha bikurikira :

Ikirego cya 7: **Icyaha cyibasiye inyokomuntu** (ubuhotozi), gihanwa hashingiwe ku ngingo ya 3(a) ya Sitati y'Urukiko;

Icyaha cya 8: **Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve**, nk'uko bivugwa mu Ngingo ya 4(a) (ubuhotozi) ya Sitati y'Urukiko.

Richard J. Goldstone (umukono)

Porokireri

Kigali, 12 Gashyantare 1996 »

1.3. Imiburanishirize

5. Ku itariki ya 13 Gashyantare 1996, Porokireri yatanze Inyandiko y'ibirego ishinja Georges Rutaganda, kugira ngo yemezwe nk'uko biteganywa n'ingingo ya 17 ya Sitati.
6. Ku itariki ya 16 Gashyantare 1996, amaze gusuzuma ibirego n'ibimenyetso bibishyigikira, umucamanza William H. Sekule yemeje Inyandiko y'ibirego ishinja Uregwa, hubahirizwa ingingo ya 18 ya Sitati n'iya 47 y'Amategeko. Kuri icyo tariki na none, umucamanza Sekule yatanze manda yo gufata, asaba abategetsu ba Repubilika ya Zambia kwimura Uregwa,

bakamushyikiriza Urukiko. Uregwa yimuriwe muri gereza y'Urukiko, Arusha (Tanzaniya) ku itariki ya 26 Gicurasi 1996.

7. Uregwa yitabye Urukiko bwa mbere ku itariki ya 30 Gicurasi 1996, nk'uko biteganywa n'ingingo ya 62 y'Amategeko, maze aregwa ku mugaragaro. Yunganiwe na avoka we, yahakanye buri cyaha gikubiye mu Nyandiko y'ibirego.
8. Ku itariki ya 8 Nzeri 1996, Ubwunganizi bwatanze icyifuzo kihutirwa cyane gisaba isubikwa ry'urubanza n'irekurwa ry'agateganyo ry'Uregwa kubera impamvu z'uburwayi. Urugereko ntirwakiriye icyo cyifuzo kuko Ubwunganizi butari bwubahirije ibiteganywa n'ingingo ya 65 y'Amategeko ariko kubera ko Uregwa yari arembye, Urugereko rwemeje gusubika iburanisha kugeza ku itariki ya 6 Werurwe 1997³.
9. Urugereko rwanze kwakira na none ikindi cyifuzo cyasabaga irekurwa ry'agateganyo, cyari cyatanzwe ku itariki ya 6 Ukuboza 1996, kubera impamvu z'uburwayi bw'Uregwa no kugira ngo ashobore kwivuzza. Urugereko rwasanze Urukiko rushobora kuvuza Uregwa uko bikwiye, rwemeza ko atari arembye cyane kandi ko nta yindi mpamvu idasanze yashoboraga gutuma arekurwa by'agateganyo yagaragajwe.
10. Uregwa amaze gusaba guhabwa umwunganira, ibiro bya Gerefiye, bimaze kubona ko ari umukene, byamugeneye Avoka Luc De Temmerman na Avoka Tiphaine Dickson ngo bamwunganire. Ku itariki ya 25 Kanama 1997, Uregwa yasabye ko Avoka Luc Temmerman yakwamburwa urubanza kubera ko atari akimufitiye icyizere kuko uwo avoka atamwitagaho ngo amugire inama mu by'amategeko, anafate n'ingamba za ngombwa, ku birebana n'imyiregurire ye. Avoka De Temmerman amaze kwegura, Avoka Tiphaine Dickson yunganiye Uregwa kugeza urubanza rurangiye. Porokireri yahagarariwe mu rubanza na James Stewart, Udo Herbert Gehring na Holo Makwaia.
11. Ku itariki ya 6 Werurwe 1997, Urugereko rwemeye icyifuzo cya Porokireri cyasabaga gusubika urubanza mu gihe cy'ibyumweru bibiri, maze rutangira kuburanishwa ku itariki ya 18 Werurwe 1997. Abatangabuhamya bashinje 27 barimo ab'impuguke 5 batanze ubuhamya kugeza ku itariki ya 29 Gicurasi 1998. Ubwunganizi bwatanze ibimenyetso

³ icyemezo ku Cyifuzo cy'Ubwunganizi, *Urubanza Porokireri aburana na Rutaganda*, N° ICTR-96-3-T, 25 Nzeri 1996.

byabwo kuva ku itariki ya 8 Gashyantare 1999 kugeza ku ya 23 Mata 1999, buhamagaza abatangabuhamya 14, barimo 3 b'impuguke. Porokireri yatanze imyanzuro ye mu magambo ku itariki ya 16 Kamena 1996, Ubwunganizi butanga iyabwo bukeye bwaho ku itariki ya 17 Kamena 1999.

12. Mbere y'uko urubanza rutangira no mu iburanisha ryarwo, ababuranyi batanze ibyifuzo byinshi byerekeranye n'ibibazo binyuranye by'imiburanishirize n'ibyo mu mizi y'urubanza, birimo ibyo guhererekanya ubuhamya bwanditse bw'abagabo, iby'ifatwa ry'ubuhamya bw'abagabo 16 hakoreshejwe uburyo bw'amashusho n'amajwi bwa *video-conference*, nk'uko biteganywa n'ingingo ya 71 y'Amategeko, n'icyifuzo kimwe cyerekeranye n'ubuhamya bw'ikinyoma bw'umugabo umwe.
13. Buri muburanyi yatanze icyifuzo cyo gusaba ko hafatwa ingamba zo kurinda abatangabuhamya hashingiwe ku ngingo ya 19 n'iya 21 za Sitati, iya 69 n'iya 75 z'Amategeko. Urugereko rwemeye ibyo byifuzo, rutegeka ko amazina y'abatanga-buhamya, aho babarizwa n'ibindi byatuma bamenyekana bidatangarizwa itangamakuru cyangwa rubanda, ko hajya hakoreshwa buri gihe mu iburanisha no mu mpaka z'ababuranyi amazina y'amahimbano ku batangabuhamya bazajya bitaba Urukiko. Ni yo mpamvu abenshi mu batangabuhamya muri uru rubanza biswe amazina y'amahimbano.
14. Mu myanzuro ye mu magambo, Porokireri yasabye kwemererwa guhindura amatariki y'ibihe bivugwa mu bika bya 10, 16 na 19 by'Inyandiko y'ibirego. Urugereko rusanze icyo cyifuzo kidakwiye kwakirwa.

1.4. Ibimenyetso

15. Urugereko rusanga ari ngombwa kuvuga kuri bimwe mu bibazo bijyanye n'isuzumwa ry'ibimenyetso byatanzwe mu rubanza.
16. Nk'uko biteganywa n'ingingo ya 89 A) y'Amategeko, Urugereko rusanga rutagomba kugendera ku mategeko y'igihugu iki n'iki agenga itangwa ry'ibimenyetso, rukaba rwemeye umwanzuro ukurikira wafashwe mu rubanza Porokireri aburana na Jean-Paul Akayesu (Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo):

...Urugereko ruributsa ko Sitati y'Urukiko itarutegeka gukurikiza umuryango remezo w'amategeko uyu n'uyu kandi ko [...] rutagomba kugendera ku mategeko y'igihugu iki n'iki agenga itangwa ry'ibimenyetso⁴.

17. Mu mihango yose ibanziriza urubanza, mu rubanza nyirizina, no mu gihe cy'itangwa n'isuzumwa ry'ibimenyetso, harimo n'ibimenyetso gihamya byatanzwe mu rubanza, Urugereko rwakurikije amategeko agenga itangwa ry'ibimenyetso rwasangaga yarufasha guca urubanza ruboneye, kandi yubahiriza Sitati n'amahame rusange y'amategeko.
18. Rukurikije ibivugwa mu ngingo ya 96 i), Urugereko rubona atari ngombwa ko ubuhamya bw'uwahohotewe bugira ubundi bubushyigikira ku birebana n'icyaha cyo gusambanya ku gahato n'icy'ubugizi bwa nabi bushingiye ku gitsina. Urugereko ruremeranya n'ibivugwa mu rubanza rwa Akayesu⁵ no mu rwa Dusko Tadic (« Inyandiko y'urubanza rwa Tadic mu rw'iremezo »)⁶ ko, kuba Amategeko ateganya ko atari ngombwa ko ubuhamya bw'uwakorewe icyaha gishingiye ku gitsina bushyigikirwa n'ubundi, bidasobanura ko ubuhamya burebana n'ibindi byaha bugomba byanze bikunze gushyigikirwa n'ubundi. Ariko, Urugereko rurasuzumana amakenga ubuhamya ubwo ari bwo bwose budashyigikiwe n'ubundi. Rushobora kubushingiraho, ruramutse rusanze bufite aho buhuriye n'urubanza, bwakwakirwa, kandi bwakwemerwa. Nk'uko biteganywa n'ingingo ya 89 y'Amategeko, Urugereko rushobora kwakira ikimenyetso cyose rusanga gifite agaciro. Amategeko ntavuga ko ikimenyetso gishingiye ku mabwire kitakwakirwa kandi Urugereko rufite uburenganzira bwo gusuzuma ibimenyetso by'ubwo bwoko. Ariko iyo rwiyemeje kubisuzuma, rugomba kubyitondera cyane.
19. Urugereko rusanga, mu rubanza, mu gihe cy'ibaza ry'ibanze n'irinyomoza, Porokireri n'Ubwunganizi barashingiye ku buhamya bwanditse bwatanzwe n'abagabo mbere y'iburanisha ry'urubanza. Inshuro nyinshi, Ubwunganizi bwagaragaje ibintu bitajyanye kandi bivuguruzanya hagati y'ubuhamya bwanditse bwatanzwe n'abagabo mbere y'urubanza n'ubwatanzwe mu rubanza. Urugereko rushyigikiye igitekerezo cyatanzwe mu rubanza rwa Akayesu kigira kiti:

⁴ *Urubanza Porokireri aburana na Akayesu*, N° ICTR-95-I-T, Inyandiko y'urubanza rwaciwe n'Urugereko rwa Mbere rw'Iremezo I rwa TPIR ku itariki ya 2 Nzeri 1998, igika 131.

⁵ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 134.

⁶ *Urubanza Porokireri aburana na Dusko Tadic*, N° IT-94-1-T, Inyandiko y'urubanza rwaciwe na TPIY ku itariki ya 7 Gicurasi 1997.

[...] Ubwo buhamya bwari bwatanze n'abagabo mu biganiro bagiranye n'abashinzwe iperereza bo mu Biro bya Porokireri. Ibyo biganiro ahanini byabaye mu kinyarwanda kandi Urugereko ntirwashoboye kubona inyandikomvugo z'umwimerere zabwo, rubona gusa inyandiko zahinduwe mu zindi ndimi. Bityo rero, ntirwashoboye gusuzuma kamere n'imiterere y'ibibazo byabajijwe abatangabuhamya, ntirwanashoboye gusuzuma niba koko inyandiko y'umwimerere ihuye n'iyahinduwe mu rundi rurimi icyo gihe. Kubera iyo mpamvu, Urugereko rwasuzumye rubyitondeye ibintu bitajyanye kandi bivuguruzanya hagati y'izo mvugo za mbere n'ubuhamya bwatangiye mu rukiko, ruzirikana intera iri hagati y'igihe ubuhamya bwashyikirijwe abashinzwe iperereza n'igihe bwatangiye mu rukiko; ruzirikana ingorane zo kwibuka uko ibintu byagenze, utuntu ku tundi, nyuma y'imyaka myinshi; ruzirikana ibibazo byerekeranye n'isemura n'uko benshi mu batangabuhamya batari bazi gusoma kandi bakavuga ko batashoboye kwisomera inyandiko z'ibyo bavuze. Hagakubitiraho n'uko izo mvugo zitakozwe hejuru y'indahiro imbere y'umukozi ubishinzwe kandi ubifitiye ububasha. Kubera iyo mpamvu, Urugereko rusanga agaciro k'izo mvugo ari gato cyane ukagereranyije n'ak'ubuhamya butangiye mu rukiko hejuru y'indahiro, binakubitiyeho kuba bwaranyomoye kugira ngo ukuri kugaragare⁷.

20. Mu rubanza, Ubwunganizi bwatanze ibyifuzo ko haba iperereza rigamije kugaragaza ko abagabo babiri bashinje batanze ubuhamya bw'ikinyoma. Ibyo byifuzo ntibyakiriwe kandi icyo cyemezo cy'Urugereko cyaje no kwemezwa mu bujirire. Urugereko ruributsa ko ubuhamya bw'ikinyoma ari icyaha gikozwe bigambiriwe kigaragaza ubushake bwa nyir'ukugikora bwo kubeshya umucamanza, bityo akaba ashaka kugira nabi⁸. Umuburanyi ubisabye ni we ugomba kugaragaza ko umutangabuhamya yabeshye, ko yari agamije kugira nabi cyangwa se nibura ko yari azi neza ko ubuhamya bwe ari ikinyoma. Gukemanga gusa ukwizerwa kw'imvugo y'umutangabuhamya ntibihagije kugira ngo bigaragaze ko hari impamvu zatuma umuntu avuga ko umutangabuhamya yabeshye abizi neza kandi yabigambiriye. Urugereko rusanga ubuhamya bw'ikinyoma budashingiye gusa ku mvugo zidahuje n'ukuri, ahubwo bushingiye ku bushake bwo kuvuga ibinyoma nkana. Urugereko rw'Ubujirire rwavuze ko hari itandukanyirizo hagati y'ukwemerwa k'ubuhamya

⁷ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 134.

⁸ Reba icyemezo ku cyifuzo cy'Ubwunganizi gisaba Porokireri gukora iperereza ku buhamya bw'ikinyoma bwatanze n'umugabo wiswe E, *Urubanza Porokireri aburana na Rutaganda*, N° ICTR-96-3-T.

bw'umugabo n'ubuhamya bw'ikinyoma⁹. Ubuhamya bushobora kutemerwa, bitavuze ariko ko buhindutse ubuhamya bw'ikinyoma nk'uko bivugwa mu ngingo ya 91.

21. Urugereko rusanga Ubwunganizi bwarakemanze ukwizerwa kwa bamwe mu batangahamya bashinja, buvuga ko ubuhamya bwa bamwe muri bo bushingiye ku byo bumvanye abandi, ko bityo urwo ruhererekane rw'amabwire rwagira ingaruka mbi kuri dosiye, kandi ko bimwe mu bimenyetso byakusanyijwe mu buryo bunyuranyije n'amategeko, bityo bikaba bitagomba kwakirwa¹⁰. Urugereko rusanga hatarabayeho amabwire cyangwa «uburyo bunyuranyije n'amategeko bwo gukusanya amakuru», ahubwo harabayeho inkuru mbarirano.
22. Benshi mu batanze ubuhamya mu rukiko muri uru rubanza babonye amarorerwa yakorewe bamwe muri bene wabo, inshuti zabo z'amagara cyangwa na bo ubwabo bagwiririwe n'ayo marorerwa. Babajijwe kuri bimwe mu byabaye, bamwe muri bo bafatwaga n'ikiniga, bagakubita amarira hasi mu rukiko. Abatangabuhamya bamwe bongeraga kugira ubwoba no kubabara nk'uko byababayeho mbere, iyo bahatwaga ibibazo ku marorerwa yababayeho. Mu gusuzuma ubuhamya bw'abo bagabo, Urugereko rwazirikanye ibyo byose.
23. Urugereko rwanazirikanye ingaruka imibanire y'abantu n'umuco bigira ku buhamya bwa bamwe mu bagabo, nuko rubusuzuma muri urwo rwego. Bamwe muri abo batangabuhamya bari abantu batize cyangwa se bafite amashuri make, ntibashobore gusubiza neza ibibazo babazwaga kuri bimwe mu bimenyetso gihamya, nk'amafoto y'uturere tunyuranye yafashwe n'abantu bari hejuru mu ndege, nko kwerekana ahantu nyir'izina ku ikarita n'ibindi n'ibindi. Abo batangabuhamya bagize n'ingorane zo gusubiza neza ibibazo byerekeranye n'amatariki, amasaha, intera, amabara n'ubwoko bw'imodoka. Na none kandi, Urugereko rusanga benshi muri bo baratanze ubuhamya bwabo mu kinyarwanda maze bwahindurwa mu gifaransa no mu cyongereza, bugata rimwe na rimwe umwimerere wabwo. Ababuranyi babazaga abatangabuhamya mu gifaransa cyangwa mu cyongereza, maze ibyo bibazo bigahindurirwa abatangabuhamya mu kinyarwanda. Rimwe na rimwe, nyuma y'ihindurwa, umutangabuhamya ntiyasobanukirwaga neza ibibazo byabajijwe.

⁹ icyemezo ku bujirire burebana n'ibyemezo by'Urugereko rwa Mbere rw'Iremezo I byanze kwakira ibyifuzo by'Ubwunganizi bisaba ko Porokireri yategekwa gukora iperereza ku buhamya bw'ikinyoma (abatangabuhamya biswe « E »na « CC »), *Urubanza Porokireri aburana na Rutaganda*, N° ICTR-96-3-T, 8 Kamena 1998, igika 98.

¹⁰ Reba imyanzuro y'Ubwunganizi mu magambo, inyandikomvugo y'iburanisha, 17 Kamena 1996.

1.5. Uregwa

24. Uregwa yabwiye Urugereko ku itariki ya 8 Mata 1998, ko yavukiye kuri Ngoma muri Komini ya Gishyita, Perefegitura ya Kibuye (Rwanda) ku itariki ya 28 Ugushyingo 1958, akaba yarakuriye muri Perefegitura ya Gitarama n'ya Kibuye, mbere yo kujya kwiga no gukorera muri Perefegitura ya Butare n'ya Kigali.
25. Uregwa yavuze ko se, Esdras Mpamo, yakozwe imirimo myinshi ya gisiviri, iyo mu butegetsi bwa Leta n'ya politiki, nko kuba yarabaye Perefefe wa Kibuye, wa Cyangugu n'uwa Butare, ambasaderi w'u Rwanda muri Uganda no mu Budage, na Burugumesitiri wa Komini ya Masango muri Perefegitura ya Gitarama. N'ubwo yagenze henshi mu gihugu, Uregwa asanga ari kavukire wa Komini ya Masango muri Perefegitura ya Gitarama, kuko se yayibereye burugumesitiri, kandi akaba [Uregwa] yarayibayemo kenshi mu buto bwe. Yanavuze ko se yari umuyobohe ukomeye w'idini ry'Abadivantisiti b'Umunsi wa Karindwi, kandi ko ukwemera kwa se mu by'idini n'imyitwarire ye muri politiki byagize uruhare rukomeye ku burere bwe, bikaba byaranamugizeho ingaruka zikomeye mu ihitamo mu byerekeranye na politiki.
26. Uregwa yavuze ko yashatse akaba afite n'abana batatu. Amaze kubona impamyabushobozi ihanitse mu by'ubuhinzi muri Kaminuza y'u Rwanda mu wa 1985, yakozwe mu kigo cy'ubushakashatsi mu by'ubuhinzi kandi yari afite imirima yari yaraguze abihereye uburenganzira n'iteka rya Perezida; iyo mirima yayikorera ibikorwa by'ubuhinzi yashakaga ko bibera urugero abaturage ba Komini ya Huye.
27. Uregwa yavuze ko mu wa 1991, kubera amahane bamwe mu baturage ba Komini Huye batahwemye kumugaragariza kuva aho aguriye iyo mirima, yasabye Minisiteri y'Ubuhanzi kumwimura akava i Butare. Ni uko yimuriwe muri Minisiteri y'Ubuhanzi i Kigali, naho umuryango we usigara i Butare.
28. Uregwa yavuze ko muri Kamena 1991, yatangiye ibikorwa by'ubucuruzi i Kigali, ayobora sosiyeti itumiza ibintu mu mahanga yitwaga « Rutaganda SARL ». Yavuze ko yari isosiyete yarimo gutera imbere cyane, ko yari yarasinze amasezerano yo gutumiza yonyine mu mahanga no gukwirakwiza ibiribwa n'ibinyobwa yaranguraga mu banyaburayi, ko yari

yaragiranye amasezerano yo kuba ari yo yonyine gusa igemura ibicuruzwa mu tubari duto duto, ikabikwirakwiza no mu miryango ikorera mu Rwanda.

29. Uregwa yavuze ko yabaye umuyoboke w'ishyaka MRND muri Nzeri cyangwa mu Ukwakira 1991, kandi ko amashyaka anyuranye yari yaramushatse ariko agahitamo MRND kugira ngo ashobore kurengerwa n'iryo shyaka yabonaga ryashobora kubikora kurusha ayandi, ari ku byerekeranye n'umutungo we cyangwa ibya gisirikare; ibyo bikaba ari byo byari bimushishikaje nk'umucuruzi mu Rwanda.
30. Uregwa yavuze ko, amaze kuba umuyoboke wa MRND mu wa 1991, yabaye Visi-Perezida wa kabiri w'urubyiruko rw'iryo shyaka, ruzwi ku izina ry'Interahamwe za MRND. Yivugiye ubwe ko yari umwe mu bashinze uwo mutwe, akaba yaranahuye kenshi n'abandi bayobozi bawo.

2. AMATEGEKO AKURIKIZWA

2.1. Uburyozwacyaha nka gatozi

31. Nk'uko bigaragara mu Nyandiko y'ibirego, Rutaganda aryoze nka gatozi ibyaha aregwa hashingiwe ku gika cya 1 cy'ingingo ya 6 ya Sitati, iteganya ibikurikira:

Umuntu uwo ari we wese wacuze umugambi, uwawuhamagariye abandi, uwategetse gukora icyaha, uwagikoze, cyangwa ku bundi buryo ubwo ari bwo bwose, agafasha kandi agashyigikira gucura umugambi, gutegura, cyangwa gutsotsoba icyaha icyo ari cyo cyose kivugwa mu ingingo ya 2 kugeza ku ya 4 y'iyi Sitati, akiryoze nka gatozi.

32. Ihame ry'uburyozwacyaha nka gatozi ritaganywa n'ingingo ya 6(1) ya Sitati ryatanzeho imyanzuro n'Urugereko mu Rubanza rwa Akayesu. Urugereko rusanga iyo myanzuro isa ku by'ingenzi n'ibyavuzwe mu Rubanza rwa Tadic n'ibyavuzwe mu rubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana. (« Urubanza rwa Kayishema na Ruzindana mu rw'iremezo »)¹¹, no mu rubanza « Porokireri aburana na Zejnil Delalic, Zdravko Mucic, Hazim Delic, Esad Landzo » (Urubanza rwa Celebici mu rw'iremezo)¹². Urugereko rusanga igitekerezo kiri mu bukemuramanza buvugwa haruguru ku byerekeranye n'ihame ry'uburyozwacyaha nka gatozi nk'uko bigaragara mu zindi manza cyane cyane mu rwa Akayesu kimenyerewe kandi cyakurikizwa muri uru rubanza.
33. Urugereko rusanga ingingo ya 6(1) iteganya ko Uregwa ashobora kuryozwa icyaha nka gatozi ku buryo butanu bushingiye ku ruhare yagize mu gukora kimwe mu byaha bitatu bivugwa muri Sitati. Ingingo ya 6(1) iteganya intera zinyuranye zo gukora icyaha, kuva ku mugambi wo kugikora kugeza ku itsotsoba ryacyo.
34. Urugereko rusanga ihame ry'uburyozwacyaha nka gatozi ritaganywa n'ingingo ya 6(1) risaba ko gucura umugambi wo gukora icyaha cyangwa kugitegura bigomba kurundurira ku itsotsobwa ryacyo koko. Ariko, Urugereko rusanga ingingo ya 2(3) ya Sitati yerekeranye

¹¹ *Urubanza Porokireri aburana na Clément Kayishema na Obed Ruzindana*, N° ICTR-95-I-T, Inyandiko y'urubanza rwaciwe n'Urugereko rwa Mbere rw'Iremezo II ku itariki 21 Gicurasi 1999.

¹² *Urubanza Porokireri aburana na Zejnil Delalic, Zdravko Mucic, Hazim Delic, na Esad Landzo* rwiswe « Urubanza rwa Celebici », N° IT-96-21-T, rwaciwe na TPIY ku itariki ya 16 Ugushyamba 1998.

n'icyaha cya jenocide iteganya ko Urukiko rushobora no gukurikirana abantu kubera ubwinjiracyaha bwa jenocide. Nyamara ubwinjiracyaha ubwabwo ni icyaha hatitaweho ibyo igikorwa kikigize cyagezeho. Bityo rero, Urugereko rusanga Uregwa ashobora kuryozwa ibyaha nka gatozi n'iyo umugambi wo kubikora uba utararunduriye ku itsotsobwa ryabyo hashingiwe ku ngingo ya 2 (3) ya Sitati, bivuga rero ko aryoziwa ubundi buryo ubwo ari bwo bwose bwo kugira uruhare mu bindi byaha Urukiko rufitiye ububasha bwo kuburanisha, nk'uko biteganywa n'ingingo ya 3 ni ya 4 za Sitati, iyo ibyo byaha byatsotsobwe.

35. Urugereko rusanga, uretse kuryozwa icyaha nka gatozi, Uregwa ashobora no kukiryoziwa iyo cyakozwe n'abandi; Urugero: nk'iyo yacuze umugambi wo kugikora, yahamagariye abandi kugikora, yabibategetse cyangwa se yabibafashijemo cyangwa yabibashishikarije.
36. Urugereko rurasobanura mu bikurikira, uburyo butanu bwo gukora icyaha buteganywa n'ingingo ya 6 (1).
37. Icyamba mbere, « gucura umugambi » wo gukora icyaha, nk'uko Urugereko rubibona, bisaba ko umuntu umwe cyangwa benshi bategura gahunda yo gukora icyaha, byaba mu itegura cyangwa mu itsotsoba ryacyo.
38. Guhamagarira abandi gukora icyaha, ari bwo buryo bwa kabiri bwo gukora icyaha buteganywa mu ngingo ya 6(1), nk'uko Urugereko rubibona, ni ukubasembura ku buryo butaziguye kandi ku mugaragaro, kugira ngo bakore icyaha. Guhamagarira abantu gukora icyaha bihanirwa gusa iyo icyo cyaha cyatsotsobwe koko nk'uko byagambiriwe na nyir'ukukibahamagarira, uretse ku birebana n'icyaha cya jenocide, aho uregwa ashobora kuryozwa icyaha nka gatozi kubera guhamagarira abandi gukora jenocide, hashingiwe ku ngingo ya 2(3) c) ya Sitati, kabone n'iyo uko kukibahamagarira bitakurikiwe n'igikorwa cyari kigamijwe¹³.
39. Urugereko rusanga uburyo bwa gatatu bwo gukora icyaha, ari bwo gutegeka gukora icyaha, busaba ko hagati ya nyir'ukugikora na nyir'ugutanga itegeko ryo kugikora, habamo isano ihuza uyobora n'uyoborwa noneho uri mu mwanya w'ubuyobozi akawukoresha kugira ngo uwo ayobora akore icyaha.

¹³ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 562.

40. Uburyo bwa kane bwo gukora icyaha buteganywa n'ingingo ya 6(1) busaba ko kugira ngo uregwa aryozwe icyaha nka gatozi aba « yarakoze » koko kimwe mu byaha Urukiko rufitiye ububasha bwo gukurikirana, bushingiye ku kiburanwa (*ratione materiae*).
41. Urugereko rusanga uregwa ashobora kugira uruhare mu ikorwa ry'icyaha iyo yakozwe igikorwa kibi cyangwa iyo atakozwe icyo yagombaga gukora kandi yari afite inshingano zo kugira icyo akora.
42. Uburyo bwa gatanu ari na bwo bwa nyuma bwo gukora icyaha butuma uregwa akiryozwa nka gatozi nk'uko biteganywa n'ingingo ya 6(1) busaba ko « ...ku bundi buryo ubwo ari bwo bwose, aba yarafashije kandi yarashishikarije abandi gucura umugambi cyangwa yarakoze icyaha kivugwa kuva ku ngingo ya 2 kugeza ku ya 4 ».
43. Urugereko rusanga gufasha byonyine cyangwa gushishikariza gusa bihagije kugira ngo Uregwa aryozwe icyaha nka gatozi. Si ngombwa ko ufasha cyangwa ushishikaza aba ahari mu ikorwa ry'icyo cyaha. Igikorwa cyo gufasha n'ikorwa ry'icyaha nyir'izina bishobora gutandukana ku birebena n'igihe byabereye n'ahantu byakorewe. Urugereko rusanga imfashanyo n'ishishikariza bireba ibikorwa byose bitera inkunga, byaba bifatika cyangwa bitera akanyabugabo gusa ariko rugashimangira ibyo ari byo byose ko uburyo bwose bwo gukora icyaha bugomba gutuma mu buryo butaziguye icyaha gikorwa. Ufasha kandi agashishikariza undi gukora icyaha amushyigikira mu itsotsoba ryacyo cyangwa akamworohereza kugitsotsoba.

2.2. Jenocide (Ingingo ya 2 ya Sitati)

44. Mu kirego cya mbere cyo mu Nyandiko y'ibirego, Porokireri ashinja Uregwa icyaha cya jenocide giteganywa mu ngingo ya 2(3) ya Sitati iha Urukiko ububasha bwo gukurikirana abakoze jenocide.

45. Igisobanuro cya jenocide gitangwa mu ngingo ya 2 ya Sitati y'Urukiko cyakomotse uko cyakabaye mu ngingo ya 2 n'ya 3 z'Amasezerano yerekeranye no gukumira no guhana icyaha cya jenocide (« Amasezerano kuri jenocide »)¹⁴. Icyo gisobanuro giteye gitya:

Icyaha cya jenocide ni kimwe mu bikorwa bikurikira cyakozwe kigamije kurimbura abantu bose cyangwa igice cyabo bahuriye ku bwenegihugu, ku bwoko, cyangwa ku idini, bazira icyo bari cyo:

- a) kwica abo bantu;
- b) kubateza ububabare buzahaza umubiri cyangwa mu mutwe;
- c) gushyira ku bushake abo bantu mu nzitane z'ubuzima zigomba gutuma bose cyangwa igice cyabo barimbuka;
- d) gushyiraho ingamba zigamije kubabuza kubyara;
- e) kubanyaga urubyaro ukarushyira mu rindi tsinda.

46. Amasezerano kuri jenocide afatwa nta gushidikanya nk'igice cy'Amategeko mpuzamahanga ashingiye ku mucu karande, nk'uko bigaragazwa n'igitekerezo nyunguranama cyatanzwe mu wa 1951 n'Urukiko Mpuzamahanga [*Cour internationale de Justice*] ku byerekeye ukwifata kw'ibihugu bimwe ku Masezerano kuri jenocide, bikaba na none byaribukijwe n'Umunyamabanga Mukuru w'Umuryango w'Abibumbye muri raporo ye mu gihe cy'ishyirwaho rya TPIY¹⁵.

47. Urugereko rusanga u Rwanda rwaremeye Amasezerano kuri jenocide rubinyujije mu itegeko-teka ryo ku itariki ya 12 Gashyantare 1975¹⁶. Bityo rero, icyaha cya jenocide cyashoboraga guhanwa mu Rwanda mu wa 1994.

48. Urugereko ruremera ibisobanuro by'icyaha cya jenocide nk'uko bitangwa mu rubanza rwa Akayesu.

¹⁴ Amasezerano agamije kuburizamo no guhana icyaha cya jenocide yemejwe n'Inteko Rusange y'Umuryango w'Abibumbye ku itariki ya 9 Ukuboza 1948.

¹⁵ Raporo y'Umunyamabanga Mukuru yakozwe nk'uko biteganywa n'igika cya 2 cy'icyemezo 808 (1993) cy'Inama Ishinzwe Amahoro ku Isi, 3 Gicurasi 1993, S/25704.

¹⁶ Itegeko-teka no 8/75 ryo ku itariki ya 12 Gashyantare 1975, ryasohotse mu igazeti ya Repubulika y'u Rwanda, 1975, urup. 230. U Rwanda rwemeye Amasezerano kuri jenocide ariko ruvuga ko rutarebwa n'ingingo ya 9 y'ayo Masezerano.

49. Urugereko rusanga kugira ngo icyaha cya jenocide kigaragazwe, hagomba, icya mbere, ko kimwe mu bikorwa bivugwa mu ngingo ya 2(2) ya Sitati kiba cyarakozwe; icya kabiri, kikaba cyaribasiye abantu kubera ubwenegihugu bwabo, ubwoko bwabo cyangwa idini ryabo, by'umwihariko kubera icyo bari cyo; icya gatatu, kikaba cyari kigamije kubarimbura bose cyangwa igice cyabo.

Ibikorwa bivugwa mu duka kuva ku ka (a) kugeza ku ka (e) tw'igika cya (2) cy'ingingo ya 2 ya Sitati.

50. Agaka a) k'igika cya 2) cy'ingingo ya 2 ya Sitati, kimwe n'ingingo bijyanye zo mu Masezerano kuri jenocide, kavuga « *meurtre* » mu nyandiko z'igifaransa, na « *killling* » mu z'icyongereza. Urugereko rusanga, « *killling* » ari ukwica umuntu ubigambiriye cyangwa utabigambiriye, naho « *meurtre* » ari ubwicanyi bwakozwe bugambiriye kuvutsa ubuzima. Kubera ko Uregwa afatwa nk'umwere igihe cyose atarahamwa n'icyaha kandi hakurikijwe amahane rusange y'amategeko ahana ibyaha, Urugereko rusanga hagomba gufatwa uburyo bunogeye Uregwa, rukaba rufashe icyemezo cy'uko agaka a) k'ingingo ya 2(2) ya Sitati kagomba kumvikana nk'uko ibisobanuro by'ubwicanyi bitangwa, nk'urugero, n'Amategeko ahana ibyaha y'u Rwanda, mu ngingo yayo ya 311, ivuga ko ubwicanyi ari ukwica umuntu ugamije kumwambura ubuzima.
51. Mu gusobanura ingingo ya 2(2) b) ya Sitati, Urugereko rwumva ko ibikorwa bizahaza umubiri cyangwa mu mutwe, ndetse n'ibindi, bikubiyemo ibikorwa by'urubozo ku mubiri cyangwa mu mutwe, ibikorwa birenze kameremuntu cyangwa bitesha agaciro, gusambanya ku gahato, ubugizi bwa nabi bushingiye ku gitsina, no gutoteza. Urugereko rusanga atari ngombwa kugaragaza ko ubwo buzahare bukomeye bugomba kuba buhoraho cyangwa budashobora gukira.
52. Amagambo « Gushyira ku bushake abo bantu mu nzitane z'ubuzima zigomba gutuma bose cyangwa igice cyabo barimbuka », nk'uko biteganywa n'ingingo ya 2(2) c) ya Sitati, Urugereko rusanga hagomba kumvwa uburyo bwo kurimbura, nyir'ubwite akoresha adashaka byanze bikunze kwica abo bantu ako kanya, ahubwo agambiriye amaherezo kuzabarimbura. Urugereko rusanga ubwo buryo bwo gushyira ku bushake abo bantu mu nzitane z'ubuzima zigomba gutuma bose cyangwa igice cyabo barimbuka, mu bugizwe

harimo kubashyira ku ndyo y'intica ntikize, kubavana mu macumbi biri kuri gahunda, kubagabanyiriza uburyo bwo kuvurwa bukajya muni y'ubwangombwa bukenewe.

53. Mu gusobanura ingingo ya 2 2) d) ya Sitati, Urugereko ruvuga ko, mu ngamba zigamije kubuza abantu kubyara, harimo nko guca imyanya ndangabitsina, kugumbashya ku ngufu, gukoresha uburyo bwo kuringaniza urubyaro ku ngufu, gutandukanya ku ngufu abagabo n'abagore, kubuza abantu kurongora no kurongorwa. Urugereko rusanga ingamba zigamije kubuza abantu kubyara zishobora kuba ari izo ku mubiri nyir'izina cyangwa se izo mu mutwe.
54. Urugereko rusanga ingingo zerekeranye no kunyaga urubyaro rw'abantu uruha abandi biteganywa n'agaka e) k'ingingo ya 2(2), zitagamije guhana gusa igikorwa kitaziguye cyo kunyaga ku ngufu, ko harimo no guhana iterabwoba cyangwa ihahamurira byakozwe bigatuma urubyaro rw'itsinda runaka rwimurirwa ku gahato mu rindi tsinda.

Abashobora kwibasirwa n'icyaha cya jenocide

55. Urugereko rusanga ari ngombwa kumenya abantu bashobora kwibasirwa na jenocide hifashishijwe ingingo za Sitati n'Amasezerano kuri jenocide, ziteganywa ko jenocide iba igamije kurimbura abantu bose cyangwa igice cyabo, kubera ubwengehugu bwabo, ubwoko bwabo cyangwa idini ryabo, bazira icyo bari cyo.
56. Urugereko rusanga inshoza « ubwengehugu, ubwoko n'idini » zarakorewe ubushakashatsi bwinshi ariko kugeza ubu, hakaba hataraboneka ibisobanuro bihwitse kandi byemewe muri rusange no mu rwego mpuzamahanga. Buri nshoza muri zo igomba gusuzumwa hazirikanwe politiki, imibereho y'abaturage cyangwa umuco biriho muri icyo gihe. Byongeye kandi, Urugereko rusanga, mu kubahiriza Amasezerano kuri jenocide, kuba umuntu ari umwe mu bagize itsinda runaka bishingiye ubwabyo ku myumvire y'abantu mu mitwe yabo kurusha ko byaba bishingiye ku ngingo zifatika. Uhohoterwa ashobora kuba afatwa na bagotizi b'igikorwa cya jenocide nk'umwe mu bagize itsinda rigomba kurimburwa. Rimwe na rimwe, uhohoterwa ni we ubwe wibona muri iryo tsinda.
57. Urugereko rusanga ibyo ari byo byose igisobanuro gishingiye ku myumvire gusa kidahagije kugira ngo hagenwe amatsinda ashobora guhohoterwa, nk'uko Amasezerano kuri jenocide

abiteganya. Iyo usomye inyandiko zayateguye¹⁷, usanga amatsinda amwe na mwe, nk'ashingiye kuri politiki n'ubukungu, yarahigitswe avanwa mu matsinda arengerwa, kuko afatwa nk'amatsinda « ahindagurika », arangwa n'uko buri muntu mu bayagize ayinjiramo ku bushake bwe. Kubera rero iyo mpamvu, umuntu yatekereza ko ayo Masezerano yaba agamije kurengera amatsinda arangwa n'uko adahindagurika kandi agahoraho.

58. Bityo rero, Urugereko rurajya rusuzuma, uko ruhuye n'ikibazo runaka, niba itsinda iri n'iri rishobora kwibasirwa na jenocide hazirikaniwe icya rimwe ibimenyetso rwashyikirijwe hanitaweho politiki, imibereho y'abaturage n'umuco by'icyo gihe nk'uko byavuzwe haruguru.

Igitekerezo cyihariye kiranga icyaha cya jenocide

59. Jenocide itandukanye n'ibindi byaha kubera igitekerezo kihariye kiyiranga (« *dolus specialis* »). Igitekerezo cyihariye kiranga icyaha ni umugambi nyirizina, usabwa mu rwego rw'amategeko kugira ngo habeho icyaha, ukora icyaha bikaba bigaragara ko yari agamije kugera ku mugambi runaka. Igitekerezo cyihariye kiranga icyaha cya jenocide, cyigizwe « n'ubushake bwo kurimbura abantu bose cyangwa igice cyabo kubera ubwenegihugu bwabo, ubwoko bwabo cyangwa idini ryabo, bazira icyo bari cyo ». Umuntu ahamwa gusa n'icyaha cya jenocide iyo bigaragaye ko yakozwe kimwe mu bikorwa bihanirwa bivugwa mu gika cya 2 cy'ingingo ya 2 ya Sitati, agamije by'umwihariko kurimbura abantu bose cyangwa igice cyabo bagize itsinda runaka.
60. Mu buryo bufatika, kugira ngo byitwe jenocide, kimwe muri ibyo bikorwa bihanirwa kigomba kuba cyarakorewe umuntu umwe cyangwa benshi kubera ko bagize itsinda ryihariye kandi bakaba bazira kuba ari abo muri iryo tsinda. Bityo rero, uwahohotewe n'icyo gikorwa ntaba yarazize imimerere ye bwite, ahubwo agomba kuba yarazize ubwenegihugu bwe, ubwoko bwe cyangwa idini rye. Uwahohotewe n'icyo gikorwa ni umwe rero mu bagize itsinda runaka, ryahiswemo kubera ko ari ryo; bikaba bisobanura ko jenocide iba yarakorewe itsinda ubwaryo, ntibe yarakorewe gusa uwahohotewe wenyine.

¹⁷ Inyandikomvugo zirambuye z'inama za Komisiyo ya 6 y'Inteko rusange zo ku itariki ya 21 Nzeri kugeza ku ya 10 Ukuboza 1948, Inyandiko zemewe z'Inteko rusange.

Ikorwa ry'icyo cyaha rirenze kure uburyo bufatika cyakozwemo; Urugero: ubwicanyi bwagiriwe umuntu runaka, kugira ngo huzuzwe umugambi ugamijwe wo kurimbura abantu bose cyangwa igice cyabo, uwahohotewe akaba ari umwe muri bo.

61. Igiterekerezo cyihariye kigize icyaha cyagambiriwe kirangwa n'isano y'imitekerereze iri hagati y'igikorwa gifatika cyagezweho n'imyumvire ya nyir'ukugikora. Ku byerekeranye no kumenya ukuntu hagaragazwa umugambi wihariye wa nyir'ugukora icyaha, Urugereko rusanga, nk'uko byavuzwe mu rubanza rwa Akayesu mu rw'iremezo:

Bikomeye ndetse bitanashoboka kuwumenya kubera ko ari ibintu bijyana n'imiterere bwite ya nyir'ugukora icyaha. Ni yo mpamvu, iyo uregwa atemeye icyaha, umugambi wihariye ushobora kugaragarira mu bikorwa bye bimwe na bimwe. Urugero: Urugereko rusanga bishoboka ko ibikorwa n'imvugo by'uregwa bishobora kugaragaza umugambi wa jenocide warangaga uregwa igihe icyaha cyakorwaga; na none, uwo mugambi ushobora kugaragazwa n'umwuka wariho mu ikorwa ry'ibindi bikorwa bibi byibasiye kuri gahunda iryo tsinda, byaba byarakozwe na nyir'ubwite cyangwa se n'abandi bantu. Hari n'izindi ngingo zishobora gutuma Urugereko rumenya umugambi wo gukora jenocide: twavuga nk'ingano y'amarorerwa yakozwe, uko yasakaye mu karere cyangwa mu gihugu, cyangwa se guhitamo byagambiriwe kandi biri kuri gahunda abahohotewe kubera ko bari mu itsinda ryihariye, havanywemo abantu bagize andi matsinda.¹⁸

62. Na none mu rubanza rwa Kayishema na Ruzindana, Urugereko rwa Mbere rw'Iremezo II rwavuze ibikurikira:

[...] Nk'uko Urugereko rubibona, umugambi ushobora kugaragarira mu mvugo cyangwa mu bikorwa bya nyirubwite, ukagaragazwa n'imyitwarire yari isanzwe imuranga. Ku buryo bufatika, Urugereko rusanga ikimenyetso cy'umugambi nk'uwo [...] kuba umugambi warateguwe ku buryo bunonosoye n'icyaha cyakozwe cyari kuri gahunda. [...]¹⁹

¹⁸ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 523.

¹⁹ *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 93.

63. Urugereko rusanga umugambi ushobora kugaragarira, hakurikijwe uko buri kibazo giteye, mu bimenyetso bifatika rwashyikirijwe, harimo n'ibigaragaza ko uregwa yari asanzwe afite bene iyo myitwarire.

2.3. Ibyaha byibasiye inyokomuntu

64. Urugereko rusanga Urubanza rwa Akayesu rukomora inkomoko y'ibyaha byibasiye inyokomuntu muri Sitati y'Urukiko Mpuzamahanga rwa Gisirikare rwa Nuremberg, rukanakurikirana imiterere yabyo mu manza za Eichmann, Barbie, Touvier na Papon²⁰. Urugereko rwemera amateka y'ibyaha byibasiye inyokomuntu nk'uko yasobanuwe mu rubanza rwa Akayesu.
65. Urugereko rusanga, hakurikijwe ingingo ya 7 ya Sitati y'Urukiko Mpanabyaha Mpuzamahanga, icyaha cyibasiye inyokomuntu ari kimwe mu bikorwa bikurikira cyakozwe mu rwego rw'igitero rusange cyangwa kiri kuri gahunda cyibasiye abaturage b'abasiviri kandi kizwi neza: Ubwicanyi, itsembatsemba, gushyira mu bucakara, kumenesha cyangwa kwimura ku gahato, gufunga cyangwa ubundi buryo ubwo ari bwose bwo kuvutsa bikomeye umuntu ubwigenge bwo kwinyagambura mu buryo bunyuranyije n'ingingo zibanze z'amategeko mpuzamahanga, urugaraguro, gusambanya ku gahato, guhindura ku gahato umuntu igikoresho cyo kwishimisha mu mibonano mpuzabitsina, guhatira umuntu kuba indaya, gutuma umuntu atwita ku gahato, kugumbashya ku gahato n'ubundi bugizi bwa nabi bwose bushingiye ku gitsina busa n'ibyo, gutoteza itsinda runaka cyangwa umuryango uyu n'uyu kubera impamvu za politiki, z'amoko, z'ubwenegihugu, zishingiye ku muco, ku idini cyangwa ku gitsina, cyangwa zishingiye ku zindi mpamvu zizwi ku isi yose ko zinyuranyije n'amategeko mpuzamahanga, zijyanye n'igikorwa cyose cyavuzwe muri iyi ngingo cyangwa n'icyaha icyo ari cyo cyose Urukiko rufitiye ububasha bwo guhana; kurigisa umuntu ku gahato, politiki y'ivanguramoko yakorwaga muri Afurika y'Epfo [*apartheid*], n'ibindi bikorwa birenze kameremuntu bisa n'ibimaze kuvugwa biteza

²⁰ Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo, ibika 563-577.

ku bushake imibabaro ikabije cyangwa ibikorwa bizahaza ku buryo bukomeye umubiri w'umuntu, amagara ye cyangwa bikamuzahaza mu mutwe²¹.

Ibyaha byibasiye inyokomuntu ku birebana n'ingingo ya 3 ya Sitati y'Urukiko

66. Ingingo ya 3 ya Sitati iha Urukiko ububasha bwo gucira imanza abantu bakoze ibikorwa birenze kameremuntu bigize ibyaha byibasiye inyokomuntu. Urugereko ruremera imitekerereze yakurikijwe mu rubanza rwa Akayesu ko ubwo bwoko bw'icyaha muri rusange bushingiye ku binte bine bikurikira:

- a) Igikorwa, kirenze kameremuntu ubwacyo no mu miterere yacyo, kigomba gutuma umuntu ababara ku buryo bukabije cyangwa kikamuzahaza ku buryo bukomeye ku mubiri cyangwa mu mutwe cyangwa kikazahaza amagara ye;
- b) Igikorwa kigomba gukorwa mu rwego rw'igitero rusange cyangwa kiri kuri gahunda;
- c) Igikorwa kigomba kwibasira abaturage b'abasiviri;
- d) Igikorwa kigomba gushingira ku mpamvu imwe cyangwa nyinshi z'ivangura, nk'izishingiye ku bwenegihugu, kuri politiki, ku bwoko cyangwa ku idini²².

Igikorwa kigomba kuba mu rwego rw'igitero rusange cyangwa kiri kuri gahunda

67. Urugereko rusanga igikorwa gifatika kidashobora kuba igikorwa cy'ubugizi bwa nabi kiri cyonyine, kigomba kuba kiri mu rwego rw'igitero. Ku byerekeye imiterere y'icyo gitero, Urugereko rusanga ingingo ya 3 y'inyandiko ya Sitati mu cyongereza ivuga ngo « ...mu rwego rw'ibitero rusange cyangwa biri kuri gahunda... », ko rero ibyo byangombwa bisabwa bitagomba gukomatanywa naho inyandiko yo mu gifaransa y'iyi ngingo yo ikavuga ko ibyo byangombwa bigomba gukomatanywa: ... « mu rwego rw'ibitero rusange kandi biri kuri gahunda... »

²¹ Sitati y'Urukiko Mpanabyaha Mpuzamahanga yemejwe n'Inama y'Abahagarariye ibihugu byabo ku buryo busesuye mu Muryango w'Abibumbye ku birebana n'ishyirwaho ry'Urukiko Mpanabyaha Mpuzamahanga, i Roma, ku itariki ya 17 Nyakanga 1998.

²² *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 578.

68. Urugereko rusanga amategeko mpuzamahanga ashingiye ku mucu karande asaba ko ibitero birangwa no kuba ari rusange cyangwa no kuba biri kuri gahunda, ko rero atari ngombwa ko bikomatanywa byombi. Kubera ko inyandiko ya Sitati mu cyongereza ihuye n'ibivugwa mu mategeko mpuzamahanga ashingiye ku mucu karande, Urugereko ruhise mu inyandiko yo mu cyongereza y'ingingo ya 3 ya Sitati, ku bw'ibyo, rukaba rurakurikiza imyumvire y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho icyahoze kitwa Yugoslavariya [TPIY], ni ukuvuga ko ibitero bivugwa mu ingingo ya 3 ya Sitati bigomba kuba ari rusange cyangwa se bikaba biri kuri gahunda, si ngombwa rero ko birangwa n'ibyo byombi.²³
69. Urugereko rusanga kuba ibitero ari « rusange », nk'ingingo zigize ibyaha byibasiye inyokomuntu, byarasobanuwe mu rubanza rwa Akayesu nko kuba bikomoka ku miterere yabyo yo gukorwa n'abantu benshi bishyize hamwe kandi kenshi, bituma bikoranwa ubugome bukabije kandi bikibasira abantu benshi. Naho kuba ibitero biri kuri « gahunda » bisaba kuba byateguwe neza kandi mu buryo bumwe kandi bikarangizwa hubahirizwa politiki yumvikanyweho hagakoreshwa uburyo bwinshi bwa Leta cyangwa se ubw'abantu ku giti cyabo²⁴. Urugereko rushyigikiye ibyo bisobanuro, kandi rusanga atari ngombwa ko iyo politiki iba yemewe ku mugaragaro nka politiki ya Leta. Hagomba ariko kubaho gahunda cyangwa politiki byateguwe mbere.²⁵
70. Urugereko rusanga ibitero bigize ibyaha byibasiye inyokomuntu byarasobanuwe mu rubanza rwa Akayesu nk'ibikorwa ibyo ari byo byose binyuranyije n'amategeko nk'ibivugwa mu gaka ka (a) kugeza ku ka (i) tw'ingingo ya 3 ya Sitati (ubuhotozi, itsembatsemba, gushyira mu bucakara, n'ibindi). Ibikorwa bitarangwa n'urugomo ubwabyo, harimo n'uguhatira politiki ishingiyeye ku ivanguramoko yo muri Afurika y'Epfo [apartheid] bifatwa nk'ibyaha byibasiye inyokomuntu n'ingingo ya 1 y'Amasezerano mpuzamahanga agamije guca no guhana icyaha cya *apartheid* yo mu wa 1973, cyangwa se guhatira ku mugaragaro abaturage kwitabira ibikorwa ibi n'ibi, bishobora na byo gufatwa

²³ Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo, igisobanuro 144; Urubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza mu rw'iremezo, igisobanuro 63.

²⁴ Ni kimwe no haruguru, igika 580.

²⁵ Raporo y'Akanama k'amategeko mpuzamahanga, Inteko rusange, Inyandiko zemewe, Inyongera n° 10, A/51/10 (1996).

bityo, iyo bikorewe abantu benshi cyangwa biri kuri gahunda²⁶. Urugereko rushyigikiye icyo gisobanuro.

71. Urugereko rusanga nyir'ubwite agomba kuba afite « ibyo azi bifatika cyangwa yatekerejeho ku birebana n'umwuka rusange igitero cyagabwemo; mu yandi magambo, uregwa agomba kumenya ko igikorwa cye ari kimwe mu bigize ibitero rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri kandi ko cyakozwe kugira ngo hubahirizwe politiki cyangwa umugambi uyu n'uyu ».²⁷

Igikorwa kigomba kwibasira abaturage b'abasiviri

72. Urugereko rusanga ko, kugira ngo kibe icyaha cyibasiye inyokomuntu, igikorwa icyo ari cyo cyose kigomba kwibasira abaturage b'abasiviri. Mu rubanza rwa Akayesu, hasobanuwe ko « abaturage b'abasiviri » ari abantu batari mu mirwano ku buryo butaziguye²⁸. Kuba mu baturage b'abasiviri harimo abandi bantu bihariye batujuje ibiri mu gisobanuro gitangwa ku baturage b'abasiviri, ntibibabuza gufatwa nk'abasiviri²⁹. Urukiko rushyigikiye icyo gisobanuro.

Igikorwa kigomba kuba cyarakozwe bitewe n'impamvu z'ivangura

73. Biragaragara muri Sitati ko ibikorwa birenze kameremuntu byibasiye abaturage b'abasiviri bigomba kuba byarakozwe « kubera ubwengehugu bwabo, impamvu za politiki, ubwoko bwabo cyangwa idini ryabo ». Ivangura rikorewe umuntu kubera amatwara ye ya politiki ryujuje ibisabwa birebana no kuba mu mutwe wa « politiki » nk'uko biteganywa n'ingingo ya 3 ya Sitati.
74. Ibikorwa birenze kameremuntu bikorewe abantu batari mu cyiciro cy'abashobora guhohoterwa, bishobora gufatwa nk'ibyaha byibasiye inyokomuntu iyo ba nyir'ukubikora bari bafite umugambi wo kugaba ibitero ku bagize itsinda ryibasiwe n'ivangura kubera

²⁶ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 581.

²⁷ *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, igika 134.

²⁸ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 582. Ni ngombwa kuvuga ko icyo gisobanuro gishyira « abasiviri » mu itsinda rirebwa n'ingingo ya 3 ihuriweho n'Amasazerano y'i Jeneve.

²⁹ Ni kimwe no haruguru, igika 582. Reba Amasezerano y'Inyongera ku Masezerano y'i Jeneve yo ku itariki ya 12 Kanama 1949 yerekeranye no kurengera abahohotewe n'imirwano itari iyo mu rwego mpuzamahanga, ingingo ya 50.

imwe mu mpamvu iyo ari yo yose mu zivugwa mu ngingo ya 3 ya Sitati. Ni ngombwa kugaragaza ko uwakoze icyaha cyibasiye inyokomuntu yari yaritswemo n'igitekerezo cya ngombwa kigize icyo cyaha.³⁰

75. Urugereko ruributsa ko, mu rubanza rwa Tadic, Urugereko rw'Ubujurire rwasanze Urugereko rwa Mbere rw'Iremezo rwaribeshye ubwo rwavugaga ko ibyaha byose byibasiye inyokomuntu bishingiye ku mugambi w'ivangura. Urugereko rw'Ubujurire rwasanze umugambi w'ivangura uzirikanwa iyo ari kimwe mu bigize byanze bikunze icyaha kandi bivuzwe mu buryo bweruye, nko mu cyaha cy'itoteza nk'uko biteganywa n'ingingo ya 5(h) ya Sitati y'Urukiko rw'Icyahoze cyitwa Yugosilaviya (TPIY)³¹.
76. Rumaze gusuzuma ibikubiye mu ngingo ya 5 ya Sitati ya TPIY ruyigereranyije n'ibikubiye mu ngingo ya 3 ya Sitati y'Urukiko, Urugereko rusanga, n'ubwo ibikubiye muri izo ngingo zombi bifitanye isano n'ibyaha byibasiye inyokomuntu uretse icyaha cy'itoteza, zitandukanye ku buryo bugaragara ku birebana n'ibigize ibyaha byibasiye inyokomuntu. Iryo tadukanyirizo rikaba rishingiye ku bikurikira: Ingingo ya 5 y Sitati ya TPIY ntisaba ko ibyaha bikurikira biba bishingiye ku mpamvu z'ivangura: ubuhotozi, itsembatsemba, imenasha, ifunga, iyica rubozo, gusambanya ku gahato n'ibindi bikorwa birenze kameremuntu naho ingingo ya 3 ya Sitati ya TPIR isaba ku buryo bweruye ko impamvu z'ivangura ziba zishingiye ku « bwenegihugu, kuri politiki, cyangwa ku idini ».

Ibikorwa bivugwa

77. Ingingo ya 3 ya Sitati ironдора bimwe mu bikorwa binyuranye bigize ibyaha byibasiye inyokomuntu ari byo: ubuhotozi, itsembatsemba, gushyira mu bucakara, gucira ishyanga, gufunga, ibikorwa by'urubozo, gusambanya ku gahato, gutoteza bishingiye ku mpamvu za politiki, iz'ubwoko cyangwa iz'idini, n'ibindi bikorwa bibi birenze kameremuntu. Buri gikorwa cyose kibi kirenze kameremuntu gishobora, ubwacyo, gufatwa nk'icyaha cyibasiye inyokomuntu igihe izindi ngingo zisabwa zujujwe, nk'uko bigaragarira mu gaka (i) k'ingingo ya 3 iteganya ibindi bikorwa birenze kameremuntu bitarondowe mu duka twayo kuva ku ka (a) kugeza ku ka (h).

³⁰ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 584.

³¹ *Urubanza rwa Dusko Tadic*, Inyandiko y'urubanza mu bujurire rwaciwe ku itariki ya 15 Nyakanga 1999, igika 305.

78. Urugereko rusanga Uregwa aryozwa ibyaha by'ubuhotozi n'itsembatsemba nk'ibyaha byibasiye inyokomuntu kandi rusanga ari byo ruribusuzume byonyine gusa ubwo ruraba rusesengura ingingo ya 3 ya Sitati.

Ubuhotozi

79. Ubuhotozi ni icyaha cyibasiye inyokomuntu giteganywa n'ingingo ya 3(a) ya Sitati. Urugereko rusanga ingingo ya 3(a) y'inyandiko ya Sitati yanditse mu rurimi rw'icyongereza ivuga « ubwicanyi » (*murder*) mu gihe inyandiko ya Sitati yanditse mu rurimi rw'igifaransa yo ivuga « ubuhotozi » (*assassinat*). Amategeko mpuzamahanga ashingiyeye ku mucokarande avuga ko ari « ubwicanyi » aho kuba « ubuhotozi » bugize icyaha cyibasiye inyokomuntu.

80. Ubwicanyi bwanasobanuwe mu rubanza rwa Akayesu nko kuvutsa umuntu ubuzima ubishaka kandi ku buryo bunyuranyije n'amategeko. Ibyangombwa bisabwa kugira ngo habeho ubwicanyi ni ibi bikurikira:

- a) Uwahohotewe yarapfuye;
- b) Urupfu rwakomotse ku gikorwa kinyuranyije n'amategeko cyangwa igikorwa kitakozwe cyaragombaga gukorwa n'uregwa cyangwa n'uwo yari akuriye;
- c) Mu gihe icyaha cyakorwaga, uregwa cyangwa uwo yari akuriye bari bagamije kwica uwahohotewe cyangwa kumuzahaza bikomeye, bazi ko ubwo bugizi bwa nabi buri bumuviremo gupfa; kandi batitaye kumenya niba ibyo bikorwa bishobora gutera urupfu rw'uwahohotewe;
- d) Uwahohotewe yishwe kubera imwe mu mpamvu z'ivangura zavuzwe haruguru;
- e) Uwahohotewe yari umwe mu baturage b'abasiviri;

- f) Igikorwa cyangwa icyagombaga gukorwa kitakozwe bikaba byari mu rwego rw'igitero rusange cyangwa kiri kuri gahunda, cyagabwe ku baturage b'abasiviri.³²
81. Urugereko rwemera icyo gisobanuro kandi rusanga igikorwa cyangwa icyagombaga gukorwa kitakozwe bigize ubwicanyi, bigomba kuba bishingiye ku mpamvu z'ivangura kandi bikorewe umwe mu baturage b'abasiviri.

Itsembatsemba

82. Itsembatsemba ni icyaha cyibasiye inyokomuntu giteganywa n'ingingo ya 3 (c) ya Sitati. Mu miterere yaryo, ryibasira itsinda ry'abantu, rigatandukana n'ubwicanyi kuko ryo rihitana abantu benshi; ibyo bikaba bidasabwa ku bwicanyi.
83. Ibigize itsembatsemba byasobanuwe ku buryo bukurikira mu rubanza rwa Akayesu:
- a) Uregwa cyangwa uwo yari akuriye bagize uruhare mu iyicwa ry'abantu bamwe na bamwe bazwi ku bw'amazina cyangwa ku bw'ibibaranga bisobanutse neza;
 - b) Igikorwa cyangwa icyagombaga gukorwa kitakozwe byari binyuranyije n'amategeko kandi byakozwe byagambiriwe;
 - c) Igikorwa cyangwa icyagombaga gukorwa kitakozwe byari binyuranyije n'amategeko byari mu rwego rw'igitero rusange cyangwa kiri kuri gahunda;
 - d) Igitero kigomba kwibasira abaturage b'abasiviri;
 - e) Igitero kigomba guterwa n'impamvu zivangura zishingiye ku bwenegihugu, ku bwoko cyangwa ku idini by'abahohotewe.
84. Urugereko rushyigikiye icyo gisobanuro cy'itsembatsemba kandi rurasanga igikorwa cyangwa icyagombaga gukorwa kitakozwe bigize icyo cyaha bigomba kuba bishingiye ku ivangura kandi byibasiye abaturage b'abasiviri. Byongeye kandi, ibikorwa cyangwa ibyagombaga gukorwa bigize itsembatsemba ntibirangwa gusa no kwica. Bishobora kuba

³² *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, ibika 589 na 590.

ibikorwa cyangwa ibyagombaga gukorwa bitakozwe ibyo ari byo byose byarunduriye ku rupfu rw'itsinda ry'abantu ryibasiwe.

2.4. Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve hamwe n'Inyongera yayo ya 2

Ingingo ya 4 ya Sitati

85. Ingingo ya 4 ya Sitati iteganya ko Urukiko rufite ububasha bwo gucira imanza abantu bakoze cyangwa bategetse abandi gukora ibikorwa binyuranyije ku buryo bukomeye n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve yo ku wa 12 Kanama 1949 agamije kurengera abakorewe ibyaha mu gihe cy'intambara, n'Inyongera yayo ya 2 yo ku wa 8 Kamena 1977. Ibyo bikorwa, bitarondowe byose, birimo ibi bikurikira:

- a) Ibikorwa byangiza ubuzima, amagara, n'ibihungabanya umuntu ku mubiri cyangwa mu mutwe, cyane cyane ubwicanyi n'ibikorwa by'ubugome nk'urubozo, guca ingingo z'umubiri, cyangwa ibindi bihano bibabaza umubiri;
- b) Ibihano rusange;
- c) Gufata abantu ho ingwate;
- d) Ibikorwa by'iterabwoba;
- e) Guhungabanya agaciro k'umuntu, by'umwihariko kumukorera ibikorwa bimukoza isoni kandi bimutesha agaciro, gusambanya ku gahato, guhatira umuntu gukora uburaya, n'ibindi bikorwa by'iterasoni;
- f) Ubusahuzi;
- g) Gukatira umuntu no kurangiza urubanza bidakomotse ku cyemezo cyafashwe n'urukiko rwemewe n'amategeko, ku buryo bwubahirije uburenganzira bw'Uregwa ibihugu byateye imbere mu isanzuramuco bifata nk'ubw'ibanze;
- h) Gukangisha umuntu kumukorera ibivugwa muri iyi Ngingo.

Ikurikizwa ry'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya 2

86. Rushingiye ku ngingo ya 4 ya Sitati, Urukiko rugomba kumenya niba ihame riteganywa ko « nta cyaha kibaho icyo kidateganyijwe n'itegeko » (*nullum crimen sine lege*) ryarubahirijwe. Kandi koko, mu ishikirwaho ry'Urukiko nyuma y'uko ibyaha bivugwa bikorewe mu Rwanda mu wa 1994, icyo kibazo cyari gisanzwe kizwi neza n'Urukiko rwa Nuremberg na TPIY, kikaba cyaravutse kubera ko inkiko zakurikizaga amategeko ku byaha byakozwe mbere y'uko ayo mategeko ashikirwaho, bityo ntizubahirize iryo hame. Mu ishikirwaho rya TPIY, Umunyamabanga Mukuru w'Umuryango w'Abibumbye yacyemuye icyo kibazo yemeza ko gukurikiza ihame riteganywa ko nta cyaha kibaho icyo kidateganyijwe n'amategeko (*nullum crimen sine lege*) bisaba TPIY kubahiriza ibiteganywa n'amategeko mpuzamahanga arengera abantu mu bihe by'intambara, ayo mategeko akaba yari mu bigize nta shiti amategeko ashingiye ku muco karande. Ariko, ku birebana n'uru Rukiko, Ingereko ubwazo ni zo zigomba kwemeza niba iryo hame ryarubahirijwe³³ kandi niba ibikorwa binyuranyije n'ayo mategeko mpuzamahanga bituma ababikoze babiryoza nka ba gatozi.
87. Mu rubanza rwa Akayesu, Urugereko rwasanze « Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve yarageze mu rwego rw'amategeko ashingiye ku muco karande bitewe n'uko ibihugu byinshi, mu mategeko yabyo mpanabyaha, bihana ibikorwa byaba binyuranyije n'icyo Ngingo, biramutse bikozwe mu bihe by'imirwano itari icyo mu rwego mpuzamahanga». Kugira ngo rugere kuri uwo mwanzuro, rwagendeye ku bucyemuramanza bwa TPIY³⁴ bwagaragaje kamere karande iranga icyo Ngingo ya 3 ihuriweho n'Amasezerano y'i Jeneve. Byongeye kandi, mu rubanza rwa Akayesu, Urugereko rwasanze ko, biramutse bidashobotse ko Amasezerano y'Inyongera ya 2 yafatwa yose uko yakabaye nk'amategeko ashingiye ku muco karande, uburenganzira buvugwa mu ngingo ya 4(2) (ibisabwa by'ibanze) buza bushimangira kandi bwuzuzwa Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve, bukubiye nyamara na bwo mu mategeko mpuzamahanga. Uburenganzira bwose buvugwa mu ngingo ya 4 ya Sitati bunavugwa no mu ngingo ya 4 (2) y'Amasezerano y'Inyongera ya 2.

³³ Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo, ibika 603-605.

³⁴ Inyandiko y'urubanza rwa Tadic n'Icyemezo ku bujirire bw'Ubwunganizi ku byerekeye ingoboka mbanzirizarubanza y'iburabubasha, 2 Ukwakira 1995.

88. Ariko na none, mu rubanza rwa Akayesu, Urugereko rwanzuye ko hakurikijwe amategeko mpuzamahanga ashingiye ku muco karande, uwishe ayo mategeko ashobora kubiryoza nka gatozi. Hibukijwe na none ko u Rwanda rwashyize umukono ku Masezerano y'i Jeneve yo mu wa 1949 ku itariki ya 5 Gicurasi 1964 no ku Masezerano y'Inyongera yayo yo mu wa 1977 ku itariki ya 19 Ugushyingo 1984. Ayo Masezerano rero akaba yarakurikizwaga mu Rwanda mu wa 1994 kandi yari yarinjijwe mu mategeko y'u Rwanda. Bityo rero, Abanyarwanda batubahirije ayo mategeko mpuzamahanga yinjijwe mu mategeko y'u Rwanda, bakora nk'ibyaha bivugwa mu ngingo ya 4 ya Sitati, bashoboraga gukurikiranwa n'inkiko zo mu Rwanda³⁵.
89. Mu rubanza rwa Kayishema na Ruzindana, Urugereko rwa Mbere rw'Iremezo II rwasanze atari ngombwa gutinda ku kibazo cyo kumenya niba ibivugwa mu ngingo ya 4 ya Sitati bigomba gufatwa nk'aho biri mu mategeko mpuzamahanga ashingiye ku muco karande. Ahubwo, rwasanze ayo Masezerano yarakurikizwaga nta shiti mu Rwanda mu wa 1994 kandi ko abantu banyarunyaga na yo bashoboraga gukurikiranwa n'inkiko zo mu Rwanda, kubera ko icyo gihugu cyari cyarayinjije mu mategeko yacyo. Urugereko rusanga ibyaha bivugwa mu ngingo ya 4 ya Sitati na byo byari ibyaha hakurikijwe amategeko y'u Rwanda³⁶.
90. Ni yo mpamvu rero, igihe ibyaha bivugwa mu Nyandiko y'ibirego byakorwaga, ababikoze barebwaga n'ibiteganywa n'Amasezerano y'i Jeneve yo mu wa 1949 kimwe n'Inyongera zayo zo mu wa 1977, nk'uko bisubirwamo mu ngingo ya 4 ya Sitati. Hakurikijwe umuco n'amasezerano, uwishe ayo Masezerano y'i Jeneve n'Inyongera yayo abiryoza nka gatozi, bityo akaba yakurikiranwa.

Imiterere y'intambara

91. Amasezerano y'i Jeneve yo mu wa 1949 kimwe n'Amasezerano y'Inyongera ya 1 akoresha muri rusange ku ntambara iri mu rwego mpuzamahanga naho Ingingo ya 3 ihuriweho n'ayo Masezerano iteganya ibintu bigomba gukorwa by'ibanze kugira ngo abantu bibasirwa n'intambara itari iyo mu rwego mpuzamahanga bashobore kurengerwa;

³⁵ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, ibika 616 na 617.

³⁶ *Urubanza rwa Kayishema na Ruzindana*, Inyandiko y'urubanza mu rw'iremezo, ibika 156 na 157.

izo ngingo zirengera bene abo bantu zikaba zaraguwe kurushaho kandi zikuzuzwa n'Amasezerano y'Inyongera ya 2 yo mu wa 1977. Ibyaha birebwa n'ingingo ya 4 ya Sitati bigomba, ubwabyo, kuba byarakozwe mu rwego rw'intambara itari mpuzamahanga yujuje ibisabwa n'Ingingo ya 3 ihuriweho ikoresheya ku « ntambara itari yo mu rwego mpuzamahanga », n'ibisabwa n'Amasezerano y'Inyongera ya 2 akoresheya ku « ntambara ibera ku butaka bwa kimwe mu bihugu byashyize umukono kuri ayo Masezerano. Iyo ntambara ikaba ishyamiranya ingabo z'icyo gihugu n'izacyigometseho cyangwa n'imitwe y'ingabo ifite inzego z'ubuyobozi zizwi, kandi ziyoborwa n'ubutegetsi buyishinzwe; izo ngabo zigometse cyangwa iyo mitwe bikaba binagenzura igice kimwe cy'icyo gihugu ku buryo bishobora gukora ibikorwa bya gisirikare bidatuzza kandi biri kuri gahunda, kandi izo ngabo cyangwa iyo mitwe bikaba bishobora no kubahiriza aya Masezerano ».

92. Urugereko rusanga ari ngombwa mbere na mbere gusobanura icyo inshoza « intambara » ivugwa mu Ngingo ya 3 ihuriweho isobanura. Icyo kibazo cyakuruye impaka ndende mu nama y'abaserukiraga ibihugu byabo (*Conférence diplomatique*) mu wa 1949 yarunduriye ku iyemezwa ry'Amasezerano y'i Jeneve. Ibihugu bitari bike byahangayikishijwe muri iyo Nama n'uko igisobanuro cy'inshoza « intambara » giteye urujijo kandi kidahwitse. N'ubwo iyo Nama itashoboye kumvikana ku gisobanuro gihwitse cy'icyo umuntu yakwita byanze bikunze « intambara », ibikorwa bisanzwe by'ububandi, amakimbirane n'imvururu zibera imbere mu gihugu, imyivumbagatanyo itateguwe kandi idafite icyo ishobora kugeraho ntibifatwa nk'intambara. Komite Mpuzamahanga y'Umuryango Utabara Imbabare (CICR) isobanura ko « intambara ivugwa mu Ngingo ya 3 ari ishyamiranya ingabo zitwaje intwaro, urebye isa kuri byinshi n'intambara mpuzamahanga ariko ikabera imbere mu gihugu kimwe »³⁷. Ubukemuramanza bw'Urugereko rw'Ubujurire rwa TPIY bwemeje ko haba hariho intambara iyo [...] imaze igihe kirekire ishyamiranyije abategetsi ba Leta n'imitwe yitwaje intwaro ifite inzego z'ubuyobozi zizwi cyangwa ishyamiranyije bene iyo mitwe imbere mu gihugu. Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara akoresheya kuva intambara nk'iyi ivutse kugeza igihe irangiriye ndetse na nyuma yaho [...]

³⁷ Reba ibisobanuro bya CICR [Umuryango Mpuzamahanga Utabara Imbabare] ku Masezerano ya IV y'i Jeneve, igika I – Amategeko akurikizwa.

igihe cy'intambara itari iyo mu rwego mpuzamahanga, kugeza igihe bashyiriye umukono ku masezerano y'amahoro³⁸.

93. Inshoza « intambara » ubwayo ntisobanutse mu magambo kandi, hashingiwe ku bisabwa mu Ngingo ya 3 ihuriweho, imiterere yayo igomba gusuzumwa uko ikibazo kibyukijwe. Urugero: Urubanza rwa Akayesu rwatanze « ingingo ngenderwaho » yakurikizwa mu gusuzuma ubukana bw'intambara kimwe n'imitunganyirize y'inzego z'impande zishyamiranye mbere yo kwemeza niba hariho imirwano. Urugereko rushyigikiye iyo mitekerereze muri uru rubanza.
94. Uretse intambara itari mpuzamahanga yujuje ibisabwa n'Ingingo ya 3 ihuriweho, Urukiko, rushingiye ku ngingo ya 4 ya Sitati, rufite ububasha bwo gukurikirana abantu bakoze ibyaha bikomeye binyuranyije n'Amasezerano y'Inyongera ya 2 yo mu wa 1977, ayo mategeko akaba agamije mbere na mbere kurengera abantu bibasiwe n'intambara itari iyo mu rwego mpuzamahanga. Nk'uko byavuzwe haruguru, ayo mategeko yagura kurushaho kandi akuzuzwa ibivugwa mu Ngingo ya 3 ihuriweho ariko adahinduye ibisabwa kugira ngo iyo Ngingo ikurikizwe. Amasezerano y'Inyongera ya 2 ashimangira ibiteganywa, Ingingo ya 3 ihuriweho ikurikizwe. Ariko n'ubwo ayo Masezerano y'Inyongera ya 2 yasobanuraga mu buryo bwumvwa kimwe na bese imiterere y'intambara itari yo mu rwego mpuzamahanga, yari afite inenge yo kuba adasobanutse neza kandi agaha ibihugu icyuho cyo kuyumva uko bishatse mu gihe cyo kuyakurikiza. Kubera iyo mpamvu, Inama y'impuguke z'ibihugu (*Conférence d'experts gouvernementaux*) n'Inama y'abaserukirabihugu³⁹ (*Conférence diplomatique*) zari zigamije kwagura no kunonosora uburyo bwo kurengera abibasirwa n'intambara itari iyo mu rwego mpuzamahanga no gushyiraho ibigomba kugenderwaho bifatika bidashingiye ku myumvire bwite y'abashyamiranye ubwabo. Hanyuma, ku ruhande rumwe, intambara irebwa n'Amasezerano y'Inyongera ya 2 iba ifite ubukana burenze n'ubusabwa n'Ingingo ya 3

³⁸ Reba icyemezo cy'Urugereko rw'Ubururire cya TPIY mu rubanza rwa Tadic ku bujurire bw'Uubwunganizi ku byerekeye ingoboka mbanzizirubanza y'iburabubasha, 2 Ukwakira 1995, igika 70.

³⁹ Inama y'impuguke z'ibihugu ku kibazo cyo gushimangira no guteza imbere amategeko mpuzamahanga arengera abantu mu gihe cy'intambara akoreshwa mu bihe by'intambara, yabaye kuva ku itariki ya 24 Gicurasi kugera ku ya 12 Kamena 1971 no kuva ku itariki ya 3 Gicurasi kugera ku ya 3 Kamena 1972; Inama y'Abaserukirabihugu ku kibazo cyo gushimangira no guteza imbere amategeko mpuzamahanga arengera abantu mu gihe cy'intambara akoreshwa mu bihe by'intambara yabaye kuva ku itariki ya 20 Gashyantare kugera ku ya 29 Werurwe 1974; kuva ku itariki ya 3 Gashyantare kugera ku ya 18 Mata 1975, kuva ku itariki ya 21 Mata kugera ku ya 11 Kamena 1976 no kuva ku itariki ya 17 Werurwe kugera ku ya 10 Kamena 1977.

ihuriweho; ku rundi ruhande, Amasezerano y'Inyongera ya 2 ahita akurikizwa iyo ibisabwa bifatika byavuzwe haruguru byujujwe. Iyo intambara itari iyo mu rwego mpuzamahanga yujuje ibya ngombwa bifatika kugira ngo hakurikizwe Amasezerano y'Inyongera ya 2, birumvikana ko iba yujuje byanze bikunze iby'ibanze bisabwa kugira ngo hakurikizwe Ingingo ya 3 ikubiyemo byinshi kurushaho.

95. Hakurikijwe ingingo ya 1 agaka i) y'Amasezerano y'Inyongera ya 2, ibya ngombwa bifatika bigomba kuzuzwa kugira ngo ayo Masezerano akurikizwe ni ibi bikurikira:
- i) Intambara igomba kuba ibera ku butaka bw'igihugu cyashyize umukono ku Masezerano, ishyamiranyije ingabo z'icyo gihugu n'izakigometseho cyangwa n'iz'imitwe yitwaje intwara kandi ifite inzengo z'ubuyobozi zizwi;
 - ii) Ingabo zigometse ku butegetsi cyangwa iz'iyomitwe zigomba kuba ziyobowe n'ubutegetsi bubazwa ibikorwa byazo;
 - iii) Ingabo zigometse ku butegetsi cyangwa iz'iyomitwe imaze kuvugwa zigomba kuba zigenzura igice kimwe cy'igihugu ku buryo zishobora gukora ibikorwa bitari iby'igihe gito kandi biri kuri gahunda;
 - iv) Ingabo zigometse ku butegetsi n'iz'iyomitwe imaze kuvugwa zigomba kuba zishobora kubahiriza Amasezerano y'Inyongera ya 2.

Abarebwa n'aya Masezerano

Icyiciro cy'abakoze ibyaha

96. Hakurikijwe Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve, uwakoze icyaha agomba kuba ari umwe mu bashyamiranye, ariko nk'uko biteganywa n'Amasezerano y'Inyongera ya 2⁴⁰, uwakoze icyaha agomba kuba abarirwa mu basirikare baba aba Leta cyangwa abayigometseho. Igisobanuro gihwitse cy'amagambo « ingabo » na « rumwe mu mpande zombi » cyakuruye impaka ndende Urugereko rusanga zituma inshingano ya mbere y'aya mategeko, ari yo kurengera, itagaraga neza. Igisobanuro kitaguye cy'ayo magambo cyagabanya ingamba zo kurengera abahohotewe cyangwa abashobora guhohoterwa

⁴⁰ Reba ingingo ya 1, agaka 1) y'Amasezerano y'Inyongera ya 2.

n'intambara. Bityo rero, ingeri z'abantu bavugwa muri ayo magambo ntizigarukira gusa ku bayoboye ingabo, abarwana n'abandi bagize izo ngabo zishyamiranye. Zigomba kumvikana mu buryo bwaguye kurushaho.

97. Na none, biragaragara neza mu bukemuramanza bw'inkiko mpuzamahanga ko abasiviri bashobora kuryozwa ibyaha mu rwego rumwe n'urw'abasirikare cyangwa n'urw'abari mu mpande zishyamiranye. Kuri iki kibazo, Urugereko rurashingira ku rubanza rwa Akayesu ahavugwa ibikurikira:

Bizwi ko, guhera nibura igihe cy'imanza za Tokyo, abasiviri bashobora kuryozwa ibikorwa binyuranyije n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara. Hiroti, wari Minisitiri w'Ububanyi n'Amahanga w' u Buyapani, yahaniwe i Tokyo kubera « ibyaha by'ubusambanyi ku gahato bwakorewe i Nanking ». Izindi manza zaciwe Intambara ya kabiri y'isi yose ikirangira, zemeje nta gushidikanya ko abasiviri bari bafite icyo bahuriyeho na rumwe mu mpande zishyamiranye bashoboraga kuryozwa nka gatozi ibyaha by'intambara. Ihame ryo kuryozwa abasiviri ibyaha kubera kunyuranya n'amategeko y'intambara rishingiye na none ku kigamijwe n'Amasezerano y'i Jeneve n'Inyongera zayo: kurinda amarorerwa abibasirwa n'intambara.⁴¹

98. Ni yo mpamvu rero inshingano zivugwa mu Masezerano y'i Jeneve no mu Nyongera zayo zireba ubusanzwe abantu b'ingeri zose, baba abagize ingabo zitegekwa n'ubuyobozi bwa gisirikare bw'impande zombi zishyamiranye cyangwa abantu babihereye inshingano ku buryo bwemewe kandi bagombye kuba bashyigikiye cyangwa kuba batanga inkunga mu ntambara bitewe n'urwego rwabo rw'ubuyobozi cyangwa rw'umurimo wa Leta cyangwa abategetsi cyangwa abahagarariye mu by'ukuri guverinoma ariko ku buryo budateganyijwe n'amategeko. Biraba ngombwa rero kugaragaza niba Uregwa ari mu rwego rw'abantu baryozwa nka gatozi ibyaha bikomeye binyuranyije n'ayo mategeko mpuzamahanga, ni ukuvuga ingingo ya 4 ya Sitati.

⁴¹ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 633.

Icyiciro cy'abahohotewe

99. Nk'uko bigaragara mu gika cya 8 cy'Inyandiko y'ibirego, abahohotewe bavugwa mu Nyandiko y'ibirego bari abantu batitabiriye imirwano ku buryo butaziguye. Igisobanuro nk'icyo gikubiye mu gaka ka 1 k'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve kigamije kurengera « abantu batitabiriye imirwano ku buryo butaziguye, harimo n'abasirikare bafashije intwara hasi kimwe n'abandi batagishoboye kurwana ni kimwe n'igikubiye mu ngingo ya 4 y'Amasezerano y'Inyongera arengera abantu bose batitabiriye imirwano ku buryo butaziguye cyangwa se batakiyirimo ».
100. Inyandiko y'ibirego ivuga ko abahohotewe bose bari abasiviri. Amasezerano nta gisobanuro na kimwe gihwitse atanga cy'« umusiviri ». Kubera iyo mpamvu, iyo umuntu agenda akuramo abatarebwa n'icyo gisobanuro, agera ku mwanzuro ko abaturage b'abasiviri⁴² ari abantu batarwana cyangwa batagishoboye kurwana; mu yandi magambo, ni abantu batari abasirikare⁴³. Nk'uko biteganywa n'ingingo ya 13 2) y'Amasezerano y'Inyongera ya 2, baba abaturage b'abasiviri muri rusange cyangwa abasiviri umwe umwe ku giti cye, nta n'umwe ugomba kwibasirwa n'ibitero. Ariko iyo abasiviri bitabiriye imirwano mu buryo butaziguye, batakaza uburenganzira bwabo bwo kurengerwa nk'abasiviri nyir'izina, bityo bakaba babarirwa mu cyiciro cy'abarwana. « Kwitabira imirwano » ku buryo butaziguye, bisobanura kwitabira ibikorwa by'intambara, bifite kamere cyangwa intego yo kwibasira koko ingabo z'umwanzi n'ibikoresho bye.⁴⁴
101. Ntibyaba bikwiye muri uru rubanza ko Urugereko rugerageza gukora ilisiti yuzuye y'ingeri zose z'abantu badafatwa nk'abasiviri hakurikijwe Amasezerano y'i Jeneve n'Inyongera zayo. Ahubwo, Urugereko rurafata nk'« umusiviri » umuntu wese utari mu cyiciro cy' « abakoze ibyaha » nk'uko cyasobanuwe haruguru, ni ukuvuga abantu b'ingeri zose bagize imitwe y'ingabo itegekwa n'ubuyobozi bwa gisirikare bw'impande zombi zirwana, cyangwa abantu ku giti cyabo babihereye inshingano ku buryo bwemewe kandi bagombye kuba bashyigikiye cyangwa batanze inkunga mu ntambara, bitewe n'urwego rw'ubuyobozi

⁴² Abaturage b'abasiviri bakubiyemo abantu bose b'abasiviri (reba ingingo ya 50 2) y'Amasezerano y'Inyongera ya 1.

⁴³ Reba ibisobanuro bya CICR ku Masezerano y'Inyongera yo ku itariki ya 8 Kamena 1977 y'Amasezerano y'i Jeneve yo ku itariki ya 12 Kanama 1949, igisobanuro ku Masezerano y'Inyongera ya 1, ingingo ya 50.

⁴⁴ Ni kimwe no haruguru, igisobanuro 10, igisobanuro ku Masezerano y'Inyongera ya 2, ingingo ya 13.

cyangwa se abakozi ba Leta cyangwa abahagarariye ubutegetsi cyangwa guverinoma ariko ku buryo budateganyijwe n'amategeko. N'ubwo icyiciro cy'abasiviri cyimaze gusobanurwa mu magambo acishirije, biraba ngombwa gusuzuma niba, kuri buri muntu wahohotewe, hari ikimenyetso cyatanzwe cyerekana ko yashyirwa mu cyiciro cy'abasiviri cyangwa cy'abasirikare.

Ifasi irebwa n'aya Masezerano

102. Kurengera abantu hashingiwe ku Masezerano y'i Jeneve n'Inyongera yayo bireba igihugu cyose kiberamo imirwano iyo ibindi bisabwa bifatika ngo ayo Masezerano yubahirizwe byujjwe.
103. Iyi mitekerereze ni yo yagendeweho mu rubanza rwa Akayesu⁴⁵ kandi yanakurikijwe na TPIY⁴⁶ (ku byerekeye by'umwihariko Ingingo ya 3 ihuriweho n'Amasezerano) ubwo abacamanza bafataga umwanzuro w'uko ibiteganywa n'Ingingo ya 3 ihuriweho n'Amasezerano n'Inyongera yayo ya 2 bikoreshwa muri rusange ku ifasi yose y'igihugu kiri mu ntambara kandi ko bitagarukira gusa « mu gace intambara irimbanyirijemo » cyangwa ku « karere gato imirwano iberamo ».

Isano iri hagati y'icyaha n'imirwano

104. Uretse kuba icyaha kigomba gukorwa mu rwego rw'intambara itari impuzamahanga kandi yujuje ibyangombwa bifatika bisabwa kugira ngo hakurikizwe Ingingo ya 3 ihuriweho n'Amasezerano n'Inyongera yayo ya 2, hagomba no kubaho isano hagati y'icyo cyaha n'iyo ntambara kugira ngo ingingo ya 4 ya Sitati ikoreshe. Mu yandi magambo, icyaha kigomba kuba gifitanye isano ya hafi n'imirwano cyangwa cyarakozwe mu rwego rw'intambara⁴⁷.

⁴⁵ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, ibika 635-636.

⁴⁶ Reba icyemezo cya TPIY mu bujurire mu *Rubanza rwa Tadic*, ku byerekeye ubujurire bw'Ubwunganizi burebana n'ingoboka mbanzirizarubanza y'iburabubasha, 2 Ukwakira 1995, igika 69.

⁴⁷ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 643, ni kimwe no haruguru, igisobanuro 13, igika 70.

105. Urugereko rushyigikiye ibyavuzwe mu rubanza rwa Kayishema na Ruzindana ko inshoza « isano » itagomba gusobanurwa mu kirere (*in abstracto*)⁴⁸. Ahubwo, rugomba gusuzuma, rushingiye ku bimenyetso byatanzwe bishyigikira ibyaha Uregwa ashinjwa niba iyo sano iriho. Ni yo mpamvu Porokireri agomba kugaragaza ku buryo budashidikanywaho ashingiye ku byabaye, isano iri hagati y'icyaha n'intambara.

Ibyaha nyirizina

106. icyaha kigomba kuba kinyuranyije ku buryo bukomeye n'ibikubiye mu Ngingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya 2 nk'uko bivugwa mu ngingo ya 4 ya Sitati. «Kunyuranya ku buryo bukomeye» bivuga kunyuranya n'itegeko ryashyiriweho kurinda indangagaciro zikomeye, ku buryo bigira ingaruka zikomeye ku wahohotewe. Ibikorwa bibujijwe bivugwa mu ngingo ya 4 ya Sitati byateganyijwe hazirikanwe uburenganzira bw'ibanze bwa muntu ku buryo kubikora, ubwabyo, bifatwa nk'icyaha gikomeye.

107. Nk'uko bivugwa mu Nyandiko y'ibirego, mu kirego cya 4, icya 6 n'icya 8, Uregwa agomba kuryozwa ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve, nk'uko bikubiye mu ngingo ya 4 a) (ubuhotozi) ya Sitati y'Urukiko. Niba ibyangombwa byose bisabwa kugira ngo hakurikizwe ingingo ya 4 nk'uko bivugwa haruguru byujujwe, Porokireri ni we ugomba kugaragaza ko ibikorwa ushinjwa aregwa bigize icyaha cy'ubuhotozi. Ingingo zigize ubuhotozi zasobanuwe mu cyiciro cya 2.3 cy'uru rubanza cyerekeye amategeko akurikizwa ku birebana n'ibyaha byibasiye inyokomuntu.

2.5. Impurirane y'ibyaha mu rwego rw'imbenezamugambi

108. Nk'uko bivugwa mu Nyandiko y'ibirego, Uregwa, bitewe n'ibikorwa ashinjwa mu rwego rw'ibyabaye bivugwa mu bika 10-19, akurikiranyweho icya rimwe icyaha cya jenocide, (ikirego cya mbere), n'itsembatsemba nk'icyaha cyibasiye inyokomuntu (ikirego cya 2) Na none, kubera ibikorwa aregwa mu rwego rw'ubwicanyi bwabereye kuri ETO bivugwa mu gika cya 14, ibyabereye ahantu hacukurwaga amabuye i Nyanza, bivugwa mu bika 15-16,

⁴⁸ Urubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza mu rw'iremezo, igika 188.

n'urupfu rwa Emmanuel Kayitare ariyozwa mu gika cya 18, Rutaganda akurikiranyweho mu buryo bukomatanyije ubuhotozi nk'icyaha cyibasiye inyokomuntu (ibirego bya 3, 5 na 7), n'ubuhotozi nk'igikorwa kinyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya 2 (ibirego bya 4, 6 na 8).

109. Ikibazo Urugereko rugomba gukemura ni icyo kumenya niba, ruramutse rusanze, ku buryo budashidikanywaho, kimwe mu bikorwa bivugwa mu Nyandiko y'ibirego gishyirwa n'amategeko mu moko anyuranye y'ibyaha kandi kiri mu birego binyuranye, rugomba guhamya Uregwa kimwe gusa muri ayo moko y'ibyaha cyangwa niba rushobora kwemeza ko Uregwa ahamwa n'ibyaha byose bishingiye kuri icyo gikorwa.
110. Urugereko rusanga mbere na mbere ihame ry'impurirane y'ibyaha ryarakurikijwe n'Urukiko rw'i Nuremberg, ku byerekeye nk'ibyaha by'intambara n'ibyaha byibasiye inyokomuntu⁴⁹.
111. Ku byerekeye ku buryo bw'umwihariko impurirane y'ibyaha binyuranye biteganywa na Sitati, mu rubanza rwa Akayesu, Urugereko rwasuzumye icyo kibazo maze rufata umwanzuro ukurikira:

[...] ko byemewe ko Uregwa ashobora guhamwa n'ibyaha bibiri ku bikorwa bimwe mu bihe bikurikira: 1) iyo ibyaha bigizwe n'ibintu bitandukanye; cyangwa 2) iyo amategeko ateganya ibyo byaha arengera inyungu zitandukanye, cyangwa 3) iyo ari ngombwa ko Uregwa ahabwa ibihano kuri ibyo byaha byombi kugira ngo imyitwarire ye yose ihanirwe. Ariko kandi, Urugereko rusanga nta mpamvu yo

⁴⁹ Mu nyandiko y'ibirego ya ba ruharwa bakoze ibyaha by'intambara b'Abadage bashyikirijwe Urukiko Mpuzamahanga rwa Gisirikari, havugwamo ko Porokireri azavugaga ibikorwa bashinjwamo mu kirego cya 3 (ibikorwa binyuranyije n'amategeko n'umuco by'intambara) nk'ibigize na none ibyaha byibasiye inyokomuntu (ikirego cya 4). Abaregwa benshi bahamwe n'ibyaha by'intambara hamwe n'ibyaha byibasiye inyokomuntu. Mu rubanza rwaciye i Nuremberg ku itariki ya 30 Nzeri n'ya 1 Ukwakira 1946, Urukiko Mpuzamahanga rwa Gisirikari rwemeje ko, kuva intambara yatangiye mu wa 1939, ibyaha by'intambara bigize na none ibyaha byibasiye inyokomuntu, byibasiye abantu benshi. Igisobanuro ku rubanza rwa *Justice* na cyo cyunze muri icyo ngingo: Biragaragara ko ibyaha by'intambara bishobora kuba n'ibyaha byibasiye inyokomuntu; ibikorwa bimwe bishobora kuvamo ubwoko bubiri bw'ibyaha. Imanza zaciye hashingiye ku itegeko n° 10 ry'Inama y'Ubugenzuzi (*Conseil de contrôle*) na zo zashimangiye icyo gitekerezo. Pohl, Heinz Karl Franslau, Hans Loerner na Erwin Tschentscher bese bahamwe n'ibyaha by'intambara hamwe n'ibyaha byibasiye inyokomuntu. Imanza zo mu rwego rw'igihugu nk'urubanza rwa Quinn na Robinson, urubanza rwa Eichmann n'urwa Barbie zishimangiye uwo mwanzuro. Mu rubanza rwa Tadic, Urugereko rwa Mbere rw'Iremezo II rwa TPIY, rushingiye kuri icyo mitekerezwe, rwanzuye ko ibikorwa byarondowe ahandi muri Sitati bishobora na byo kuvamo ubundi buryozwacyaha iyo byujuje ibisabwa ku cyaha cyo gutoteza. Bityo, ibikorwa bimwe, biranga ibyaha bindi, nk'ibikorwa bikomeye binyuranyije n'Amasezerano y'i Jeneve, kutubahiriza amategeko cyangwa umuco by'intambara na jenocide, bishobora na byo gufatwa nk'ibigize icyaha cyibasiye inyokomuntu cy'itotezwa.

guhama Uregwa ibyaha bibiri ushingiyeye ku bikorwa bimwe iyo a) kimwe muri ibyo byaha ari icyaha gito kigize ikindi [...] cyangwa b) iyo icyaha kimwe gituma akurikiranwa nk'icyitso, ikindi nka gatozi⁵⁰.

112. Mu rubanza rwa Kayishema na Ruzindana, Urugereko rwa Mbere rw'Iremezo II, rwemera ibi bivuzwe haruguru ku mpurirane y'ibyaha, rwasanze ibyaha bishobora gukomatanywa gusa iyo:

1) Ibintu bigize ibyo byaha bitandukanye cyangwa 2) igihe inyungu umuryangomuntu ushaka kurengera ukoresheje ayo mategeko, zitandukanye⁵¹.

113. Mu rubanza rwa Kayishema na Ruzindana, Urwo Rugereko rwafashe umwanzuro w'uko ikomatanya ry'ibirego muri urwo rubanza nta shingiro rifite, kandi ko ritari kwemerwa mu rwego rw'mategeko. Rwasanze ibintu byose bisabwa muri urwo rubanza, birimo n'igitekerezo cyo gukora icyaha (*mens rea*), kugira ngo habeho jenocide, itsembatsemba n'ubuhotozi kimwe n'ibimenyetso byatanze mu kugaragaza ibyo byaha, ari bimwe. Byongeye kandi, urwo Rugereko rwasanze inyungu umuryangomuntu ushaka kurengera na zo ari zimwe. Ni yo mpamvu urwo Rugereko rwasanze Porokireri yaragombaga gusaba ko abaregwa baryozwa ibyaha bimwe ari uko ibindi bitabahamye.⁵²

114. Umwe mu bacamanza b'urwo Rugereko mu ikiza ry'urwo rubanza, Tafazzal H. Khan, yatanze igitekerezo gitandukanye n'icy'abandi ku mikoreshereze muri urwo rubanza ry'ihame ry'impurirane y'ibyaha. Agendeye ku bukemuramanza budahinduka, yagaragaje ko Urugereko rutagombye kwibanda ku bintu bisa bigize ibyaha by'impurirane:

Ikigomba guhanirwa ni imyitwarire mibisha; iryo hame rikoresheya iyo imyitwarire mibisha imwe yatumye habaho ibyaha bibiri cyangwa birenzeho, ibikorwa byaba cyangwa bitaba nyirabayazana y'ingingo zinyuranye zigize ibyo byaha bibiri, nk'uko byagaragajwe⁵³.

⁵⁰ Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo, igika 468.

⁵¹ Urubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza mu rw'iremezo, igika 627.

⁵² Urubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza mu rw'iremezo, ibika 645, 646 na 650.

⁵³ Urubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza mu rw'iremezo, Igitekerezo cyihariye kandi kinyuranye n'icy'abandi bacamanza, cy'Umucamanza Tafazzal Hossain Khan ku byerekeye imikirize y'urubanza ku birego by'ibyaha byibasiye inyokomuntu (ubuhotozi) n'ibyaha byibasiye inyokomuntu (itsembatsemba), igika 13.

115. Mu gitekerezo cye gitandukanye n'icya bagenzi be, Umucamanza Khan yashimangiye ko gusuzuma ku buryo burambuye ibirego no gutanga ibihano bikwiye bigira uruhare mu kugaragaza neza imyitwarire mibisha y'Uregwa :

...igihe imyitwarire mibisha y'Uregwa yabaye mu rwego rw'igitero rusange kandi kiri kuri gahunda cyibasiye by'umwihariko abasiviri, igihano gishingiye gusa ku cyaha cya jenocide ntigituma iyo myitwarire igaragara neza. Na none, iyo benshi mu bacamanza baba bahisemo gukatira Uregwa bashingiye gusa ku cyaha cy'itsembatsemba, batitaye kuri jenocide, icyo cyemezo na cyo nticyatuma uburemere nyakuri bw'imyitwarire y'Uregwa bugaragara⁵⁴.

116. Uru Rugereko ruremera byimazeyo igitekerezo gitandukanye n'icy'abandi uko kivuzwe. Rusanze icyo gitekerezo, cyemera ihame ry'impurirane y'ibyaha, gishyigikiwe kandi n'ibyemezo binyuranye byafashwe na TPIY. Bityo, mu rubanza Porokireri aburana na Zoran Kupreskic na bagenzi be, Urugereko rwa Mbere rw'Iremezo rwa TPIY, mu cyemezo cyarwo ku ngoboka zabyukijwe n'Ubwunganizi ku nenge mu miterere y'Inyandiko y'ibirego, rwafashe uyu mwanzuro:

Porokireri ashobora kuba afite ukuri mu kurega ushinjwa impurirane y'ibyaha bitewe n'uko ingingo zirebana na byo za Sitati ashingiraho zigamije kurengera inyungu zitandukanye kandi ibisabwa kuri buri ngingo mu rwego rw'amategeko bidasabwa n'izindi ngingo⁵⁵.

117. Byongeye kandi, Urugereko rusanga ibyaha bivugwa muri Sitati, ari byo jenocide, ibyaha byibasiye inyokomuntu n'ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya 2, bigizwe n'ibintu bitandukanye, kandi cyane cyane ko ihanwa ryabyo rigamije kurengera inyungu zitandukanye. Ubwo rero biraboneye ko habaho inyito nyinshi mu rwego rw'amategeko ku bikorwa bimwe, kugira ngo hagaragazwe neza imiterere nyakuri y'ibyaha uregwa yakoze.

118. Urugereko rusanga kandi mu miryango y'amategeko akomoka ku Baromani, harimo n'ay'u Rwanda, ihame ry'impurirane y'imbenezamugambi rituma, mu bihe bimwe na bimwe,

⁵⁴ Ni kimwe no haruguru, igika 33.

⁵⁵ *Urubanza Porokireri aburana na Zoran Kupreskic na bagenzi be, icyemezo cyerekeye inenga ry'Inyandiko y'ibirego kubera amakosa Ubwunganizi bwayibonyemo, (Urubanza N° IT-95-16-PT), 15 Gicurasi 1998.*

igikorwa kimwe kigira inyito nyinshi mu rwego rw'amategeko. Amategeko y'u Rwanda yemera ko hashobora gutangwa ibihano binyuranye mu bihe bikurikira:

« Igitabo cy'amategeko ahana y'u Rwanda: umutwe wa VI- Impurirane y'ibyaha: Ingingo ya 92. Haba impurirane y'ibyaha iyo umuntu umwe yakoze ibyaha byinshi nta na kimwe muri byo cyakirijweho urubanza rudasubirwaho.

Ingingo ya 93. Haba impurirane y'imbonezamugambi:

1. Iyo igikorwa kimwe ubwacyo gishobora kubyara ibyaha byinshi;
2. Iyo igikorwa kigize ibikorwa byavamo ubwacyo ibyaha bitandukanye, bifatanyijwe n'uko bigamije umugambi w'icyaha kimwe cyangwa n'uko bimwe muri byo ari impamvu zongera ububi bw'ibindi.
3. Ku byerekeye ibivuzwe ku cya mbere, ibihano bizacibwa ni ibyateganyirijwe icyaha kirushije ibindi gukomera; ku byerekeye ibivuzwe ku cya 2, ibihano bizacibwa ni ibyateganyirijwe guhana icyaha gikomeye kurusha ibindi, ariko igihano ntarengwa cyabyo kikaba cyashobora kongerwaho icya kabiri cyacyo. »

119. Bityo rero, rushingiye ku bimaze kuvugwa byose, Urugereko rukomeza kubona ko bifite ishingiro ko uregwa ahamwa n'ibyaha bibiri cyangwa birenze ku bikorwa bimwe bitewe n'uko ibintu bimeze, kandi rushimangiye imyanzuro yavuzwe haruguru rwafashe mu rubanza rwa Akayesu.

3. IMYIREGURIRE

120. Uregwa yahakanye ibyaha byose bikubiye mu Nyandiko y'ibirego ubwo yitabaga Urukiko bwa mbere ku itariki ya 30 Gicurasi 1996. Ubwunganizi bwitabaje cyane cyane ingingo ebyiri, imwe ikaba ingingo rusange, iya kabiri ikaba ishingiye ku myiregurire ya « sinari mpari »

3.1. Ingingo zerekeye imyiregurire rusange

121. Ingingo rusange yakoreshejwe n'Ubwunganizi mu gushimangira imvugo yabwo ikubiyemo ibyiciro byinshi. Bwasobanuye ko Uregwa atigeze ajya mu bikorwa bya politiki. Uregwa na avoka we bavuze ko uruhare rw'Uregwa mu bikorwa by'Interahamwe za MRND rwagarukiraga mu kwitabira inama z'uwo mutwe ugitangira, bakaba bari « itsinda ry'abantu bishyize hamwe kugira ngo bungurane ibitekerezo »⁵⁶. Ubwunganizi bwagaragaje kandi ko igisobanuro cy'ijambo Interahamwe cyagiye gihinduka ku buryo bugaragara hagati ya 1991 na 1994. Buvuga ko Uregwa yari umwe mu bari bagize itsinda rya mbere ry'Interahamwe za MRND; nyuma ijambo Interahamwe ryaje gukoreshwa no ku bantu batari mu Interahamwe za MRND.

122. Ubwunganizi Uregwa yanenze icyizere abatangabuhamya benshi bashinje bagiriwe agaragaza uburyarya bwabaranze, asobanura ko dosiye y'uru rubanza yanduye⁵⁷ kubera ubuhamya burebana n'inyubako « Hindi Mandal » yari mu kigo cy'igaraje AMGAR. Ubwunganizi bwavuze na none ko bimwe mu bimenyetso byakusanijwe n'umutangabuhamya ushinje witwaga Liyetena Luc Lemaire byabonetse mu buryo bunyuranyije n'amategeko, ko rero kubera iyo mpamvu, Porokireri atashoboraga kubishyira muri dosiye. Ubwunganizi busanga abasirikari ba MINUAR Liyetena Lemaire yababwirwagamo batari bemerewe gutara amakuru⁵⁸.

⁵⁶ Reba ubuhamya bwa Georges Rutaganda, inyandikomvugo z'iburanisha zo ku itariki ya 8, iya 9 n'iya 22 Mata 1999.

⁵⁷ Reba imyanzuro y'Ubwunganizi mu magambo, Inyandikomvugo y'iburanisha, 17 Kamena 1999.

⁵⁸ Ni kimwe no haruguru.

123. Ubwunganizi bwahamagaje abatangabuhamya 14, harimo n'Uregwa ubwe, batanze ubuhamya burambuye ku ruhare Uregwa yagize nka Visi-Perezida w'Interahamwe. Urugereko rusanga hari abatangabuhamya bashinjura bameje ko Uregwa yafashije abandi bantu, harimo n'impunzi z'Abatutsi. Ubwunganizi bwavuze kandi ko ibivugwa ko Uregwa yaba yarafungiranye abasiviri b'Abatutsi mu nzu « Hindi Mandal » ya garaje AMGAR, atari byo, ko abo bantu bari mu by'ukuri bahahungiyeye, babyemerewe n'Uregwa wabagemuriye ibiribwa n'imiti byari gutuma nibura babaho.
124. Uregwa yabwiye Urugereko ko, mbere y'iyaduka ry'amashyaka menshi mu Rwanda mu wa 1991, yari umucuruzi kandi ko atari ashishikajwe n'ibya politiki. Amaze gusaba kwegura muri Kamena 1991 ku mirimo yari yarahawe n'iteka rya Perezida wa Repubulika, yaba yarikoreye ku giti cye, ashiraho isosiyete y'ubucuruzi yanditswe mu gitabo cy'ubucuruzi ku izina rya « Rutaganda SARL », itumiza ibintu mu mahanga ikabikwirakwiza mu bandi bacuruzi. Uregwa yaba yariyeguriye ubucuruzi bwe, agashyira ku ruhande ibindi bikorwa byose byaba iby'imboneragihugu, ibya politiki cyangwa iby'ubutegetsi.
125. Uregwa yavuze ko yayobotse ishyaka rya MRND muri Nzeri cyangwa Ukwakira 1991, kugira ngo arindwe n'iryo shyaka no kugira ngo inyungu z'ubucuruzi bwe zidahungabana kubera umwuka mubi w'ubushyamirane warushagaho gukara hagati y'ishyaka ryari ku butegetsi rya Perezida Habyarimana n'amashyaka mashya ataravugaga rumwe n'iryari ku butegetsi, yashakaga abayoboke. Ni muri urwo rwego yahisemo kuba umuyoboke wa MRND, abitewe n'umutekano wihariye iryo shyaka ryari kumugezaho. Uregwa yemeje ko, n'ubwo se yari umuyoboke w'ishyaka rya MDR kandi rikaba ryari rifite abayoboke benshi mu karere k'iwabo, ibyo bitashoboraga kumuha ibyo yifuzaga kubera umwuka wa politiki wari i Kigali mu wa 1991. Yabaye umuyoboke wa MRND mu wa 1991 abisabwe na se. Yavuze ko yari umuyoboke usanzwe wa MRND, ko nta gihe yari afite cyangwa ubushake bwo kugira ijamba muri politiki cyangwa ku baturage.
126. Ariko, mu Ugushyingo 1991, yaba yaratumiwe mu nama ya mbere y'abanyabwenge yagombaga gusuzuma uburyo bwo gushakisha abayoboke bashya no guteza imbere amatwara ya MRND. Yaba nyuma yaratorewe, muri Mata 1993, guhagararira Perefegitura

ya Gitarama muri Komite ya MRND mu rwego rw'igihugu⁵⁹. Muri uru rwego, yari umwe mu bantu 55 bari bahagarariye ishyaka, buri perefegitura ihagarariwe n'abantu 5, bateranaga mu nama ku rwego rw'igihugu kandi bagafata, binyuze mu matora, ibyemezo ku bikorwa by'ishyaka.

127. Uregwa yavuze ko itsinda ry'abantu b'abanyabwenge bake ryateranaga rigashyiraho ingamba zigamije kureshya abarwanashyaka bashya muri MRND no guteza imbere amatwara y'iryo shyaka mu ruhando rw'amashyaka menshi. Uregwa yavuze ko iryo tsinda, ryari rizwi ku izina ry'Interahamwe za MRND, ryabaye umusingi w'«abantu ba MRND bishyize hamwe ngo bungurane ibitekerezo » Uregwa yavuze ko atigeze amenya igihe iryo tsinda ryaba ryaragiriyeho, ariko yemeje ko yari umwe mu batanze ibitekerezo byo kurishyiraho. Yaba yaritabiriye inama zaryo kugira ngo atange umusanzu we mu ishyaka, nk'umunyabwenge. Yavuze ko n'ubwo abantu bagendaga barushaho kuba benshi mu kuyoboka iryo tsinda, batumirwaga bose ku giti cyabo bwite, ntibaryinjijwemo ku mugaragaro. Uregwa yavuze ko yitabiriye bwa mbere imwe muri izo nama mu Ugushyingo 1991, atumiwe na Pheneas Ruhumuriza waje nyuma kuba Visi-Perezida wa mbere w'Interahamwe za MRND⁶⁰.
128. Uregwa yavuze ko ijambo « Interahamwe » ryakoreshwaga kenshi mu kinyarwanda n'abayobokeye b'amashyaka ya politiki cyangwa ab'ay'andi mashyirahamwe, rigashaka kuvuga ubufatanye bukomeye bw'abantu bakoreramye hamwe. Yasobanuye ko iryo jambo ryaba ryaravuye mu ndirimbo yari yarasakaye hose kandi isingiza igihugu yo mu myaka ya za 1960 bitiriraga MDR. Umutangabuhamya wiswe DNN na we yatanze ibisobanuro nk'ibyo ku byerekeye inkomoko y'ijambo Interahamwe⁶¹.
129. Uregwa yavuze ko bidatinze uwo musingi w'Interahamwe za MRND wakuruye abarwanashyaka bakuze kimwe n'abakiri bato. Abarwanashyaka batanu bagize Komite y'igihugu y'Interahamwe za MRND batowe n'urugaga rw'abantu benshi. Uregwa yatorewe kuba Visi-Perezida wa kabiri n'ubwo atari yigeze abiyamamariza. Ariko, yavuze ko imyanya itanu yari igize iyo Komite y'igihugu, kimwe n'iy'abakuru ba za komite cyangwa

⁵⁹ Reba ubuhamya bwa Georges Rutaganda, inyandikomvugo y'iburanisha, 22 Mata 1999.

⁶⁰ Reba ubuhamya bwa Georges Rutaganda, inyandikomvugo y'iburanisha, 8 Mata 1999.

⁶¹ Reba ubuhamya bwa DNN, inyandikomvugo y'iburanisha, 16 Gashyantare 1999.

abayobozi, yari imyanya mu by'ukuri y'icyubahiro gusa kuko nta nshingano cyangwa ububasha bari bafite.

130. Uregwa yavuze ko, n'ubwo komite yari ifite imiterere isobanutse neza kandi abayigize bafite imyanya ituma umuntu yatekereza ko hariho inzego z'ubutegetsi zifite inshingano n'ububasha runaka, umwanya we nka Visi-Perezida wa kabiri wari mu magambo gusa kuko nta jambo, nta n'inshingano yari afite bihujye n'uwo mwanya nk'uko umuntu yabikeka. Uregwa yavuze ko urebye nta nzego z'ubuyobozi buhwitse zariho, nta ngengo y'imari, nta n'ubwigenge mu bikorwa byariho. Imyanya y'ubutegetsi, amatangazo n'amanama byari nk'indorerwamo yagarazaga ibikorwa Interahamwe za MRND zifuzaga gukora mu gihe kizaza. Nka Visi-Perezida wa kabiri n'umwe mu bari bagize Komite y'Igihugu, Uregwa yakoraga akazi ko guhuza abagize Komite y'Igihugu ya MRND n'urubyiruko rushya rwinjiraga muri iryo shyamba, kubera ahari imitunganyirize y'Interahamwe za MRND n'ibitekerezo byazo.
131. Uregwa yavuze ko umubare w'Interahamwe za MRND n'imyumvire yazo byahindutse ku buryo bugaragara hagati y'ivuka ry'uwo mutwe n'ibyabaye nyuma y'urupfu rwa Perezida Habyarimana muri Mata 1994. Uregwa yasobanuye ko ijamba Interahamwe mu mvugo ya rubanda ryahinduye igisobanuro n'uburyo ryakoreshwaga. Ni na bwo umubare w'abarwanashyamba ba MRND, cyane cyane w'Interahamwe za MRND warushijeho kwiyongera. N'ubwo Rutaganda yavuze ko, mu ntangiriro, Interahamwe za MRND zari zigizwe n'umubare muto w'abarwanashyamba bari bafite hagati y'imyaka 30 na 40, yaje kuvuga nyuma ko Interahamwe zari zigizwe n'«urubyiruko», yanavuze ko umubare munini w'urubyiruko rw'Abanyarwanda bakuruwe muri iryo shyamba, maze bashyirwa mu nzego zinyuranye. Uregwa yavuze ko ku itariki ya 6 Mata 1994 cyangwa hafi yayo, Interahamwe zari zimaze kuba umuryango unyuranye neza n'uwo yagiyemo mu ikubitiro. Mu buhamya bwe mu rukiko, Uregwa yavuze ko imiterere yawo yari yarahindutse ahagana hagati mu wa 1992 kandi ko byakomeje kugera mu wa 1994.
132. Uregwa yavuze ko, akinjira muri icyo komite ikivuka, atigeze atekereza ko izo Interahamwe zizahinduka umutwe w'urubyiruko rw'ishyamba ufite inzego ziwugenga. Asubiza ibibazo byerekeye icyo Perezida Habyarimana yatekerezagako ku Nterahamwe, Uregwa yavuze ko,

muri Gicurasi 1992, Perezida Habyarimana yemeye uwo mutwe kandi ko yashakaga gushishikariza « urubyiruko » kuwuyoboka.

133. Uregwa yasobanuye ko, mu myumvire ya rubanda, ijamba Interahamwe ryarenguriraga ku mubare munini w'abantu uruta uw'Interahamwe za MRND. Amagambo « Interahamwe » n'«Interahamwe za MRND» yafashe isura mbi cyangwa ishebeje mu mvugo ya rubanda ; ayo magambo akaba yaravugaga itsinda ry'abantu benshi kandi rifite imiterere idasobanutse ryarwanyaga FPR⁶², cyangwa abantu bakoze ibikorwa by'ububandi cyangwa by'ubugizi bwa nabi⁶³. Yasobanuye uko ijamba Interahamwe ryagiye rihindura igisobanuro mu mvugo ya rubanda, Uregwa yongeyeho ko ikoreshwa ry'iryo jambo nyuma y'itariki ya 6 Mata 1994 nta sano urebye ryari rigifitanye na MRND, ko atazi abakoze ibyo bikorwa kandi ko ntaho yari ahuriye n'abo haba mu rwego rwa politiki, urw'imibereho y'abaturage cyangwa urw'irangamatwara.
134. Ku byerekeye za bariyeri zaba zaracungwaga n'Interahamwe aho abantu baba baramubonye, Uregwa yavuze ko, bigitangira, bariyeri zashyizweho kandi zicungwa n'abasiviri. Muri rusange zashyizweho mu rwego rwo kwitabara kw'abasiviri bari bagizwe n'amatsinda y'abaturage b'ubwoko bwose kugira ngo barwanye ingabo za FPR. Yasobanuye ko nyuma hajemo urujijo kubera abantu bamwe bambaraga imyenda yafatwaga, mu buryo butari bwo, nka « iniforume z'Interahamwe ». Yongeyeho ko Interahamwe zitashyizweho cyangwa ngo zicunge bariyeri, kandi ko zitigeze zibigiramo uruhare byaba mu buryo bwemewe cyangwa butemewe n'ubutegetsi, cyangwa ngo zigire uruhare mu bikorwa by'ubugome bivugwa byahakorewe cyangwa se byakozwe kubera izo bariyeri.
135. Ku byerekeye imyambaro idasanzwe y'Interahamwe n'abavugwaga ko bagize uwo mutwe, Uregwa yemeje ko MRND yashishikariye abantu kwambara imyenda n'ibindi bijyana na yo byemewe cyangwa bitemewe ku mugaragaro n'ubuyoboyobozi bwa MRND. Yavuze kandi ko nta iniforume zemewe zariho icyo gihe kandi ko abatekamutwe bambaraga imyambaro yibutsa MRND cyangwa Interahamwe iyo bishoraga mu bikorwa by'urugomo. Icyo kibazo

⁶² Reba ubuhamya bwa Georges Rutaganda, inyandikomvugo y'iburanisha, 23 Mata 1999.

⁶³ Reba ubuhamya bwa Georges Rutaganda, inyandikomvugo y'iburanisha, 22 Mata 1999.

cyavuzwe mu itangazo rya Komite y'Igihugu y'Interahamwe za MRND ryari rigenewe umuryango mpuzamahanga ryashyizweho umukono n'Uregwa, agira inama abarwanashyaka kutambara « iniforume » zabo. Uregwa yavuze ko iryo tangazo ryari rigamije gutandukanya Interahamwe n'urubyiruko rw'Abanyarwanda bandi batari bazishyigikiye cyangwa batakoranaga na zo, ariko bafatwaga nka zo na rubanda, bakanishora mu bikorwa by'ubugizi bwa nabi n'iby'ubugome.

136. Umutangabuhamya ushinjura wiswe DNN, yavuze ibinyuranye n'ibi, ko abari bagize Interahamwe za MRND bari bafite iniforume zidoze mu bitenge by'amabara y'umuhondo, ubururu n'umukara. Ariko, bamwe muri zo baba barambaraga imyenda ifite amabara y'ibendera ry'ishyaka, ni ukuvuga umukara, umuhondo n'icyatsi. Iniforume yatandukanyaga abari bagize umutwe w'Interahamwe n'urundi rubyiruko rw'andi mashyaka ya politiki⁶⁴.
137. Mu gusoza kuri iyi ngingo, Uregwa yavuze ko n'ubwo atigeze asezera ku mugaragaro nyuma y'itariki ya 6 Mata 1994, umwanya we mu Nterahamwe za MRND wari mu magambo gusa kubera icyo yise « akajagari » karangwaga muri uwo mutwe kimwe no mu gihugu cyose.

3.2. Imyiregurire ya « sinari mpari »

138. « Sinari mpari » [*alibi*] ni imwe mu myiregurire yakoreshejwe n'Ubwunganizi. Mu buhamya bwe, Uregwa yavuze ko atari aho ibyaha bivugwa mu Nyandiko y'ibirego byakorewe, cyangwa ko, igihe yari ahari, yabaga afite ibyo yakoraga bidahuje n'ibivugwa mu Nyandiko y'ibirego.
139. Mu myanzuru ye mu magambo, uwunganira Uregwa yavuze ko yamenyesheje Urukiko, mu nyandiko, ko bazireguza « sinari mpari ». Urugereko rusanga nta nyandiko nk'iyi yigeze itangwa. Haba muri dosiye, haba no mu bubiko bw'inyandiko z'iburanisha, nta na hamwe iyo nyandiko igaragara. Nyamara ariko, Urugereko rusanga bikwiye kandi ari ngombwa ko rusuzuma iyo myiregurire ya « sinari mpari » hakurikijwe ingingo ya 67 B) y'Amategeko iteganya ko:

⁶⁴ Reba ubuhamya bw'umugabo wiswe DNN, inyandikomvugo y'iburanisha, 16 Gashyantare 1999.

Kuba Ubwunganizi butaramenyeshije mu nyandiko ubwo buryo bwo kwiregura ntibuvutsa Uregwa uburenganzira bwo kubukoresha.⁶⁵

140. Abatangabuhamya bashinjura biswe DF, DD na DDD, kimwe n'Uregwa ubwe, batanze ubuhamya ku myifatire y'Uregwa hagati y'itariki ya 6 n'ya 9 Mata 1994.
141. Ubwunganizi bwavuze ko, mu minsi ya mbere yakurikiye impanuka y'indege yari itwaye Perezida Habyarimana, Uregwa yari ashishikajwe no gushaka uburyo bwo kurinda umuryango we, agerageza kubona amakuru kandi ashakisha ibiribwa n'ibindi bintu. Uregwa yavuze ko, mu ijoro ryo ku itariki ya 6 Mata 1994, inshuti ze na we ubwe bakuwe mu modoka yabo mu masangano y'imihanda ku Kimihurura, babanza kubategeka kwicara hasi, hanyuma bababwira kuryama mu muhanda. Yongeyeho ko baje kurekurwa ku itariki ya 7 Mata 1994 saa cyenda z'ijoro. Baje guhagarikwa ku yindi bariyeri ku Kicukiro, yacungwaga n'abajandarume. Babategetse kuva mu modoka, kwerekana ibyangombwa no kwicara iruhande rw'umuhanda, ariko baje kubareka, bikomereza inzira yabo. Uregwa yavuze ko yanyuze kuri Sonatubes, ku kibuga cy'indege, mu Bugesera no mu mugambi mbere yo kugera iwe. Yavuze ko ku itariki ya 7 Mata 1994 atigeze ava mu rugo⁶⁶.
142. Umutangabuhamya wiswe DF yavuze ko yasangiye inzoga n'Uregwa ku itariki ya 6 Mata 1994 mu mugoroba, baza gutandukana saa tatu z'ijoro⁶⁷.
143. Umutangabuhamya wiswe DD yavuze ko yasangiye inzoga n'Uregwa ku itariki ya 6 Mata 1994, mu mugoroba, kandi ko batandukanye nyuma yaho uwo munsu nijoro. DD yavuze ko yatelefonnye mu rugo rw'Uregwa ku itariki ya 7 Mata 1994 mu gitondo, ngo umugore we akaba yaramubwiye ko atarataha. Yashoboye kuvugana n'Uregwa gusa mu masaa saba. Mu kiganiro bagiranye, Uregwa yaba yaramubwiye ko yahuye n'ibibazo ku Kimihurura mu ijoro ryo ku itariki 6 Mata 1994. Yaba yaramubwiye ko abasirikare bo mu mutwe ushinzwe kurinda Perezida wa Repubulika bamuhagaritse, akaba ari ho yaraye aryamye hasi ku butaka⁶⁸.

⁶⁵ Reba Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, ingingo ya 67.

⁶⁶ Reba ubuhamya bwa Georges Rutaganda, inyandikomvugo z'iburanisha zo ku itariki ya 21 n'ya 22 Mata 1999.

⁶⁷ Reba ubuhamya bwa DF, inyandikomvugo y'iburanisha, 17 Werurwe 1999.

⁶⁸ Reba ubuhamya bwa DD, inyandikomvugo y'iburanisha, 16 Werurwe 1999.

144. Umutangabuhamyanya wiswe DDD yavuze ko yabonye Uregwa ku itariki ya 7 Mata 1994 saa cyenda z'ijoro. Uregwa yaba yaramubwiye ko hari hashyizweho bariyeri nyinshi. Yaba yaramubwiye kandi ko bamuhagaritse kuri imwe muri izo bariyeri, mu ihuriro ry'imihanda ku Kimihurura saa tatu za nijoro ku itariki ya 6 Mata 1994, akaba yaravuye kuri iyo bariyeri nyuma ya saa sita iryo joro. DDD yavuze ko yagumanye n'Uregwa iwe [mu rugo rw'Uregwa] ku itariki ya 7 Mata 1994⁶⁹.
145. Uregwa yavuze ko ku itariki ya 8 Mata 1994 yagenze n'amaguru, ari kumwe n'inshuti ye, ava ku Kicukiro yerekeza iyo mu mugzi hagati, kugira ngo arebe niba umuryango we waragombaga kuguma mu rugo cyangwa kuhava. Yavuze ko FPR yabarasheho ubwo bari bageze hafi y'itsinda ry'abajandarume. Nyuma y'ibyo, ni bwo yafashe icyemezo cyo guhungisha umuryango we. Yavuze ko yafashe umuhanda wa Rebero asiga umuryango we kuri Hoteli Rebero. Yatashye nimugoroba, ajya kuri paruwasi mu modoka ye, ahasanga umubare w'abantu baringaniye bahashakaga ubuhungiro, nk'uko yabibonaga, bahunga FPR. Nyuma yaba yaragiye kwa konseye kugira ngo amenye aho abo bantu barara. Yavuze ko yasabye kujyana iwe bamwe muri abo bantu, maze arabacumbikira.
146. Uregwa yavuze ko yagiye kuri Hoteli Rebero ku itariki ya 9 Mata 1994 mu gitondo anyuze kuri bariyeri yari ku muhanda imbere ya ETO hafi ya « *station terrienne* ». Yavuze ko yatahanye umuryango we, anyuze na none muri wa muhanda. Ageze iwe, yahamagaye se kuri telefoni, umusaza amubwira ko inshuti ye Jean Sebagenzi n'umuryango we bishwe. Yavuze ko yahise ajya kwa konseye gusaba urwandiko rw'inzira rwo gutembera muri segiteri, kugira ngo yubahirize icyifuzo cya se cyo kujya gushyingura umuryango wa Sebagenzi. Konseye ngo yaba yararumwimye.
147. Umutangabuhamyanya w'igitsinagore wiswe DDD yavuze ko, ku itariki ya 8 Mata 1994, we n'Uregwa bagiye kuri Hoteli Rebero iri ku musozi wa Rebero inyuma ya Segiteri ya Kicukiro. DDD yavuze ko yongeye kubona Uregwa ku itariki ya 9 Mata 1994, itariki baviriyeho kuri Hoteli Rebero bagataha iwabo. DDD yavuze ko icyo gihe hari umukwabo, ko rero byabaye ngombwa ko Uregwa ajya ku biro bya segiteri gusaba uruhusa rwo gutembera nta nkomyi muri segiteri. Uwo mutangabuhamyanya yavuze ko urwo ruhushya barumwimye.

⁶⁹ Reba ubuhamyanya bwa DDD, inyandikomvugo y'iburanisha, 15 Gashyantare 1999.

148. Abatangabuhamya biswe DD, DF na DDD, ndetse n'Uregwa ubwe, batanze ubuhamya burebana n'aho Uregwa yari ari ku itariki ya 10 Mata 1994.
149. Uregwa yavuze ko yasubiye kureba konseye ku cyumweru tariki ya 10 Mata 1994 ari bwo noneho yahabwaga uruhusa rwo gutembera nta nkomyi muri segiteri no kudakurikiza amasaha y'umukwabo. Yavuze ko yagiye ku Muyima ku nshuti ye, asanga amasanduku yarimo imirambo y'umuryango wa Sebagenzi arimo ashyirwa mu ikamyoneti. Yavuze ko yakurikiye abari mu modoka zishoreranye, bagiye gushyingura imirambo i Nyamirambo. Mu nzira banyuze ku mabariyeri menshi ari nako babafunguzaga amasanduku kugira ngo barebe niba ari imirambo yari irimo gusa.
150. Umutangabuhamya wiswe DDD yavuze ko ku itariki ya 10 Mata 1994 ari ho Uregwa yahawe uruhusa rwo gutembera nta nkomyi. Ngo yabimenye ubwo Uregwa yari ageze iwe aje gufata ivatiri ye kugira ngo ajye mu mihango yo gushyingura. DDD yavuze ko Uregwa yatahutse saa moya z'ijoro ku itariki ya 10 Mata 1994. Ageze mu rugo, yabwiye DDD ko urugendo rwamutwaye igihe kinini kubera ko bagombaga guhagarara kuri za bariyeri nyinshi zari mu muhanda, ko banasatswe, ko n'amasanduku yafunguwe kuri bariyeri yo mu Gakinjiro kandi ko hagombaga gushyingurwa abantu batandatu.
151. Umutangabuhamya wiswe DF yavuze ko yabonye Uregwa mu ishyingura ry'imirambo avuga ko ryabaye ku itariki ya 10 Mata 1994. DF yavuze na none ko abantu bari kuri bariyeri mu Gakinjiro bashakaga gufungura amasanduku; banahagaritswe kandi hafi y'urusengeru rw'Abayisilamu mu Biryogo no kuri bariyeri yari hafi y'ishuri ryitiriwe Mutagatifu Andereya ry'i Nyamirambo (*Ecole St-André de Nyamirambo*).
152. Umutangabuhamya wiswe DD yavuze mu magambo arambuye ibyabaye umunsi bashyinguyeho imirambo y'abantu barindwi yari mu masanduku atanu. Yavuze ko bahagaritswe kuri bariyeri yo mu Gakinjiro, mu metero cumi uvuye kuri AMGAR, kandi ko amasanduku yari atwawe mu modoka n'Uregwa na we ubwe yasatswe. DD ntiyashoboye kwibuka neza niba hari ku itariki ya 10 Mata, ariko yashoboye kwibuka ko byabaye ari ku cyumweru nyuma ya saa sita.
153. Abatangabuhamya biswe DDD, DF na DS, n'Uregwa ubwe, batanze ubuhamya bwerekeye aho Uregwa yari ari hagati y'itariki ya 11 n'ya 14 Mata 1994.

154. Uregwa yavuze ko ku itariki ya 11 Mata saa moya n'igice za mu gitondo, yavuye ku Kicukiro ari kumwe n'abantu 13 mu ivatiri ye 505 (*berline/saloon*). Bahagaze ku rugo rw'umwe mu nshuti ze aho yashakaga gucumbikisha umuryango we ariko ngo ntibyashobotse, biba ngombwa ko basubira mu rugo. Yavuze ko berekeje iya Komini Masango, bakagera i Karambi, muri Masango mu masaa kumi n'imwe n'igice za nimugoroba. Yemeza ko yagumye iwe i Karambi mu ijoro ryo ku itariki ya 11 Mata 1994 kandi ko atigeze agera mu kigo cya ETO, cyangwa se ngo ahegere ku itariki ya 11 Mata 1994. Yongeyeho ko, mu gitondo kare cyo ku itariki ya 12 Mata 1994, yatangiye kwibaza uko yabigenza kugira ngo arangize imirimo y'ubwubatsi bw'inzu ye i Karambi. Yemeje ko yashyize umukono ku masezerano yagiranye n'umucuruzi n'umufundi bo kurangiza imirimo y'ubwubatsi ndetse akanatangiza iyo mirimo ku itariki ya 13 Mata 1994 mbere yo gusubira i Kigali ku itariki ya 14 Mata 1994 aho yageze nimugoroba. Yanasobanuye ko atashoboye kugera ku Kicukiro kuko byari nko kwiyahura. Yavuze ko yagumye mu kigo cy'AMGAR aho yaba yarasanze abantu bihishe. Yabwiye urukiko ko yabagiriye impuhwe, akabashakira ibyo bafungura, akanabitaho. Ni na bwo yatangiye kwiga uburyo bwo kubahungisha.
155. Umutangabuhamywa w'igitsinagore wiswe DDD yavuze ko yageze mu Kiyovu ku itariki ya 11 Mata 1994 saa tatu za mu gitondo ari kumwe n'Uregwa akahagumana n'inshuti yari ihatuye kugera mu ma saa sita. Uwo mutangabuhamywa yemeza ko Uregwa atigeze yoroherezwa na busa kunyura ku mabariyeri. Buri muntu ukuze yagombaga kwerekana indangamuntu ye. Yongeyeho ko abari bashinzwe izo bariyeri nta n'umwe mu bari muri iyo modoka yarimo bigeze bitaho ku buryo bwihariye. Bambutse Nyabarongo bagera i Masango mu saa kumi n'ebiyiri za nimugoroba. DDD yavuze ko Uregwa yahamaze iminsi itatu mbere yo gusubira i Kigali ku itariki ya 14 Mata. Yongeyeho ko Uregwa atigeze yitabira inama n'imwe muri iyo minsi itatu.
156. Umutangabuhamywa wiswe DF yavuze ko Uregwa yahavuye nyuma y'ishyirurwa ryabaye ku itariki ya 10 Mata 1994, akagaruka nyuma y'iminsi ibiri. Uwo mutangabuhamywa yavuze ko yabonye Uregwa kuri Garaji AMGAR. Yasobanuye ko abari aho hantu bari bahizanye, ko nta muntu n'umwe wahabagejeje ku ngufu.

157. Abatangabuhamya DDD, DEE na DS, ndetse n'Uregwa ubwe, bose batanze ubuhamya burebana n'aho Uregwa yari ari hagati y'itariki ya 15 n'ya 18 Mata 1994.
158. Uregwa yavuze ko yageze kuri Garaji AMGAR ku itariki ya 14 Mata 1994, akahaguma kugera ku itariki ya 15 Mata 1994. Yagerageje kandi kubona amafaranga mbere yo gusubira muri Komini ya Masango, aho avuga ko yaraye mu ijoro ryo ku itariki ya 16 Mata 1994. Yemeza ko yasubiye i Kigali mu gitondo kare ku itariki ya 17 Mata 1994. Uwunganira Uregwa yavuze ko Uregwa yahungishije abantu batari bishoboye, abavana mu kigo cya Garaji AMGAR. Urugereko rusanga Uregwa ataragaragaje neza itariki abo bantu bahungishirijweho. Uregwa yavuze ko yahuye n'umukecuru we na mushiki we ku kigo cy'Umuryango Utabara Imbabare mu Kiyovu. Yemeza ko yabagejeje kuri garaji nyuma bagashakirwa uburyo bwo kubahungishiriza mu mamadoka ngo ariko bigoranye cyane. Uregwa yavuze ko ubwa mbere babigerageje, basubijwe inyuma. Yemeza kandi ko yagumye i Kigali kuva ku itariki ya 17 kugera ku ya 29 Mata 1994.
159. Umutangabuhamya w'igitsinagore wiswe DEE yavuze ko, ku itariki ya 12 Mata 1994, yagiye ku Bitaro bikuru bya Kigali (CHK). Yemeza ko yahamaze iminsi ibiri, umunsi wa gatatu akajya kuri Garaji AMGAR. Naho yahamaze iminsi ibiri kandi ngo muri iyo minsi yabonaga Uregwa. Uwo mutangabuhamya yavuze ko Uregwa yari yambaye imyenda ya gisiviri. Yemeje na none ko atigeze amubona yinjira mu nzu afite intwaro mu ntoki. Yemeje ko yamaze iminsi ibiri kuri Garaji AMGAR kandi ko, ku munsi wa gatatu, Uregwa yatunganije ikibazo cyo guhungisha abantu bajyanwa mu maperefegitura yabo.
160. DEE yongeyeho ko yajyanye n'Uregwa hamwe n'abandi bantu bane mu modoka Uregwa yari yitwariye. Bagiye bahagarara ku mabariyeri. Ku itariki ya 9 Gashyantare 1999, DEE yabwiye urukiko ko, kuri bariyeri ya mbere, abantu bose bari muri iyo modoka, harimo n'Uregwa, basabwe kwerekana amarangamuntu yabo. Ariko ku itariki ya 10 Gashyantare 1999, ku munsi wa kabiri w'ubuhamya bwe, yavuze ko batigeze babasaba kwerekana amarangamuntu yabo⁷⁰. Uwo mutangabuhamya yemeje kandi ko nta sano yihariye yari hagati y'Uregwa n'uwakaga ibyangombwa kuri iyo bariyeri kuko yamusabye kwerekana indangamuntu ye.

⁷⁰ Reba ubuhamya bwa DEE, inyandikomvugo z'iburanisha zo ku itariki ya 9 n'ya 10 Gashyantare 1999.

161. DEE yavuze ko, kuri bariyeri ya kabiri yari hafi ya sitasiyo ya esansi ya Nyabugogo, Uregwa yasabwe naho kwerekana indangamuntu ye. Abantu bagenzuraga iyo bariyeri na we [DEE] bamusabye kwerekana iye. Amaze kuyibereka, yumvise abo bantu bavuga ko bagiye kumwica. Uregwa yarabatakambiye, anabaha amafaranga. Umutangabuhamya yemeza ko abo bantu bagenzuraga iyo bariyeri batari bazi Uregwa. Ngo ibyo bintu byaramutangaje kuko yatekerezaga ko Uregwa, wari umwe mu bategetsi ba MRND⁷¹, yari azwi mu gihugu cyose.
162. DEE yavuze kandi ko, kuri bariyeri ya gatatu itari kure y'iya kabiri, iruhande rw'umuhanda werekeza i Gitarama, abantu benshi bari babujijwe gutambuka. Yavuze ko baraye bari buhunge, RTLTM yari yatangaje ko imodoka barimo yashakishwaga kubera ko yari yarakoreshejwe mu gushaka Abatutsi no kubashakira aho bihisha. Yanasobanuye ariko ko nyir'imodoka nk'uko yavuzwe kuri RTLTM atari Uregwa, ahubwo ko yari umuntu wari muri Garaji AMGAR. Iyo modoka barayimenye kuri bariyeri, ariko ntibasaba abari bayirimo kwerekana amarangamuntu yabo. Barakase basubira kuri garaji. DEE yemeza kandi ko, bukeye bwaho, Uregwa yateguye urundi rugendo. Yatiye imodoka idasa n'iya mbere, ibageza i Masango nijoro ku itariki ya 17 Mata 1994, barara kwa se w'Uregwa.
163. DDD yavuze ko Uregwa yagarutse i Masango ku itariki ya 16 Mata 1994, ahava asubira i Kigali nimugoroba ku itariki ya 17 Mata 1994. Yongeyeho ko Uregwa nta cyo yakoze kidasanzwe uretse kubazanira ibiribwa, ubwo yari i Masango.
164. Uregwa yavuze ko atigeze ava muri Kigali hagati y'itariki ya 17 n'iya 29 Mata 1994. Yavuze ko yari yaratwawe n'akazi ko kugurisha inzoga yari yarabitse muri icyo gihe. Yavuze ko mu cyumweru cyo ku itariki ya 17-24 Mata 1994, Umuryango Utabara Imbabare [*Croix-Rouge*] waba waramusabye gutegura itangazo risaba abayobokeye ba MRND, cyane cyane Interahamwe za MRND, guhagarika ubwicanyi ziramutse zarabwishoyemo, kandi bakorohereza mu gutwara inkomere. Uregwa yavuze ko yavuye i Kigali ku itariki ya 29 Mata 1994 akajya i Gitarama kubitsa amafaranga ye muri banki. Nyuma yagiye gusura umuryango we i Masango, akaba ari ho yanaraye. Yavuze ko yagiye kuri AMGAR bukeye bwaho akahamara hafi icyumweru. Ku itariki ya 8 Gicurasi 1994, yasubiye i Masango. Yavuze ko yagerageje kongera kubitsa amafaranga i Gitarama mbere

⁷¹ Reba ubuhamya bwa DEE, inyandikomvugo z'iburanisha zo ku itariki ya 9 n'iya 10 Gashyantare 1999.

yo gutaha. Bimunaniye, yasabye umugore we kuyamubikiriza. Yavuze ko yahise asubira i Kigali kugerageza gufunga iduka rye ariko ntiyavuze itariki nyirizina. Yavuze ko adashobora kwemeza ko yagumye kuri AMGAR nta gutarabuka muri Gicurasi 1994 kubera ko yagendagenda cyane cyane kandi akagerageza kubonera umuti ibibazo byinshi.

165. Umutangabuhamyamba DDD yavuze ko Uregwa yavuye i Masango yerekeza i Kigali ku itariki ya 17 Mata 1994 mu mugoroba kandi ko atahagarutse mu gihe cy'ibyumweru bibiri cyangwa bitatu.
166. Umutangabuhamyamba DEE yavuze ko rimwe yabonye Uregwa i Butare ariko ntiyavugaga niba baba barabonye. Yasobanuye ko hari mu mpera za Mata cyangwa mu ntangiriro za Gicurasi 1994 kandi ko Rutaganda atari i Butare mu gihe cy'ukwezi nyuma y'icyo gihe yahamubonye. Uyu mutangabuhamyamba yavuze ko Uregwa yari i Masango mu nzu ye cyangwa kwa se na nyina, ariko yavuze ko atigeze amubona i Masango.
167. Abatangabuhamyamba DDD, DD, DS, DF na DEE, ndetse n'Uregwa ubwe bese bagaragaje mu buhamyamba bwabo aho Uregwa yari ari hagati y'impera za Gicurasi n'intangiriro za Nyakanga 1994.
168. Uwunganira Uregwa yavuze ko Uregwa yavuye i Kigali ku itariki ya 25 Gicurasi 1994, ntiyongera kuhagaruka. Uregwa we yavuze ko yavuye ku kigo cya AMGAR i Kigali ku itariki ya 27 Gicurasi 1994. Ubwunganizi bwavuze kandi ko Uregwa yageze i Cyangugu ku itariki ya 31 Gicurasi 1994. Uregwa yavuze ko, nyuma y'ibyumweru, ahagana ku itariki ya 10 Kamena 1994, yavuye mu Rwanda agasubiraye inshuro ebyiri gusa ajya gusura umuryango we, buri gihe akahamara umunsi umwe cyangwa ibiri. Yemeje ko atigeze asubira mu Rwanda nyuma y'impera za Kamena 1994.
169. DDD yavuze ko Uregwa yageze i Masango mu mugoroba wo ku itariki ya 27 Gicurasi 1994. Biragaragara mu buhamyamba bwe ko, ari kumwe n'Uregwa, yavuye i Gitarama ku itariki ya 28 Gicurasi 1994. Yasobanuye ko bombi bagiye i Nyange, muri Komini ya Kivumu mbere yo gusubira i Masango, bakahava bukeye ku itariki ya 29 Gicurasi 1994, berekeza iya Cyangugu. Banyuze ku mabariyeri menshi mu nzira, biba ngombwa ko buri gihe berekana amarangamuntu yabo kugira ngo bemerewe gukomeza urugendo rwabo. DDD yavuze ko abagenzuraga za bariyeri batamenyaga Uregwa. Yemeje ko bageze i

Cyangugu mu ijoro ryo ku itariki ya 31 Gicurasi 1994. Bahamaze igihe cy'ukwezi, bahava ku itariki ya 1 Nyakanga 1994. Yasobanuye ko Uregwa atasubiye i Kigali.

170. DS yavuze ko yavuye i Kigali ku itariki ya 27 Gicurasi 1994 ari kumwe n'Uregwa, bajya i Gitarama.
171. DD yavuze ko yavuye ku kigo cy'AMGAR ku itariki ya 27 Gicurasi 1994 ari kumwe n'Uregwa. Yavuze ko byabaruhije cyane kunyura ku mabariyeri, biba ngombwa ko baha amafaranga abazigenzuraga kugira ngo babareke batambuke ku buryo urugendo rwabo rwamaze iminsi itatu. DD yavuze ko yabonye Uregwa inshuro nyinshi aje i Cyangugu gusura umuryango we.
172. DF yavuze ko yavuye ku kigo cy'AMGAR ku itariki ya 27 Gicurasi 1994 ari kumwe n'Uregwa. Yongeyeho ko, ubwa mbere, Uregwa atemerewe guhita kuri bariyeri yo ku Gikongoro kandi koko iyo bamwemerera guhita ntibari kumara iyo minsi yose mu nzira. Yasobanuye ko bageze i Cyangugu ku itariki ya 31 Gicurasi 1994 kandi ko na we yavuye mu Rwanda ku itariki ya 17 Nyakanga 1994. Yavuze ko Uregwa yaba yaravuye mu Rwanda ibyumweru bibiri mbere yaho. Uwo mutangabuhamya yasobanuye ko bamaze kugera i Cyangugu, Uregwa atigeze yerekeza iya Kigali cyangwa iya Gikongoro.
173. DEE yasobanuye ko, ahagana ku itariki ya 17 cyangwa iya 19 Kamena 1994, yavuye ku Gikongoro ajya i Cyangugu ari kumwe n'Uregwa n'abandi bantu. Yongeyeho ko imodoka y'Uregwa yasatswe kuri imwe muri zabariyeri banyuzeho Yavuze ko buri gihe uko banyuraga kuri bariyeri, wasangaga Uregwa yitwara nk'umuntu utari ufite umwanya w'ubuyobozi. Uwo mutangabuhamya yavuze ko abandi bantu ari bo bagenzuraga izo bariyeri kandi ko bukeye bwaho Uregwa yabasabye kubajyana i Bukavu muri Zayire, aho bageze ku itariki ya 26 Kamena 1994 cyangwa mbere yayo⁷².
174. Mbere yo gusuzuma, mu bika bikurikira, iyo myiregurire ishingiyeye kuri « sinari mpari », Urugereko rurabanza, mu myanzuro yarwo ishingiyeye ku byabaye, gusuzuma ibimenyetso

⁷² Reba ubuhamya bwa DEE, inyandikomvugo y'iburanisha, yo ku itariki ya 9 n'ya 10 Gashyantare 1999.

byatanzwe na Porokireri birebana n'ibikorwa avuga mu Nyandiko y'ibirego ku byerekeye kiriya kirego ⁷³.

⁷³ Reba Umutwe wa 4 w'iyi nyandiko y'urubanza.

4. IMYANZURO ISHINGIYE KU BYABAYE

4.1. Igika cya 10 cy'Inyandiko y'ibirego

175. Igika cya 10 cy'Inyandiko y'ibirego kigira kiti:

Ku itariki ya 6 Mata 1994 cyangwa hafi yayo, muri Komini ya Nyarugenge muri Kigali, Georges Rutaganda yahaye Interahamwe imbunda n'izindi ntwaro.

Ibyabaye bivugwa

176. Umutangabuhamya ushinja wiswe J, w'Umututsi, wari utuye muri Segiteri ya Cyahafi Komini ya Nyarugenge, yavuze ko azi Uregwa kuva mu buto bwe kubera ko bari batuye mu makomini yegeranye. Yari amuzi nk'umuntu wari Perezida w'ikipe ya siporo n'umucuruzi watumizaga mu mahanga inzoga yitwa Tuborg. Yamubonaga kandi ku isonga ry'imyigaragambyo myinshi y'Interahamwe za MRND. J yavuze ko ku itariki ya 15 Mata 1994, umuporisi witwa Munyawara wari uvuye ku Kimisagara yageze mu Cyahafi avuga ko Inyenzi zateye Konseye wa Segiteri ya Cyahafi, zikamurasaho. Uwo muporisi yakusanyije abaturage, abategeka kumukurikira bakajya kurwanya Inyenzi zagabaga ibitero. Uwo mutangabuhamya yavuze ko na we yari muri abo baturage.

177. Umutangabuhamya J yavuze ko abari muri iryo tsinda ry'abaturage bafashe ibirindiro muni y'akabari kitwa *Mont Kigali* imbere y'akazu k'amazi kari hafi yo kwa Shyirakera. Saa cyenda z'amanya, babonye imodoka ya kamyoneti iza, ihagarara hafi ya ka kazu k'amazi. Abari muri iryo tsinda begereye iyo modoka babona abantu babiri bicaye imbere, n'abandi babiri bicaye inyuma hadatwikiriye. Uregwa yasohotse muri iyo modoka ku mwanya utari uwa shoferi maze yerekeza inyuma y'imodoka afungura cya gice kidatwikiriye. Nyuma yaho bamubonye aha intwari abasore kandi uwo mutangabuhamya akaba yarashoboye kumenya ko bamwe muri abo basore bari Interahamwe. Yavuzemo Bizimungu, Ziad, Muzehe, Cyuma na Polisi kubera ku bari abaturanyi kandi ngo izo Interahamwe zari

zaraherewe imyitoto muri Komini ya Bicumbi. Umutangabuhamya yongeyeho ko intera yari hagati ye n'imodoka itarengaga uburebure bw'icyumba kiburanishirizwamo. Yanasobanuye ko Uregwa atari we ubwe watanze intwaro, ko ahubwo yari ahagaze iruhande rw'imodoka ubwo zatangwaga. Yavuze ko intwaro zikimara gutangwa, amasasu yatangiye kuvuga. Yavuze ko Muzehe yahise arasa uwitwa Rusagara bari bahagararanye, amutsinda aho. Agereranyije, hagati y'igihe imodoka yahagereye n'igihe iryo sasu rya mbere ryarasiwe haciyemo iminota itagera ku icumi. Akimara kwumva iryo sasu, ngo yahise ahunga. Amasasu yakomeje kuvuga, Muzehe na Bizimungu barasa abasore umutangabuhamya yari azi, avuga ko bitwaga Viateur Kalinda na Emmanuel Musoni. Yababonye bagwa ahongaho maze mu ihunga rye, asimbuka imirambo yabo. Yongeyeho ko abo yabonye barasiwe aho bose bari Abatutsi.

178. Mu ibaza rinyomoza, Ubwunganizi bwifashishije inyandiko ebyiri z'ubuhamya bwanditse uwo mugabo yatanze mu gihe cy'iperereza. Mu buhamya bwa mbere bwo ku itariki ya 5 Ukuboza 1995, uwo mutangabuhamya yavuze ko ibivugwamo byabaye ku itariki ya 6 Mata 1994, naho mu buhamya bwa kabiri bwo ku itariki ya 3 Gicurasi 1996, akavuga itariki ya 7 Mata 1994. Umutangabuhamya J yakomeje kwemeza ko ku itariki ya 15 cyangwa iya 16 Mata ari ho Munyawera yaje gukusanya abantu, anashimangira ko mu buhamya bwe bwanditse, yavuze itariki ya 16 Mata. Yavuze ko ibyabaye bigomba kuba byarabaye ku itariki ya 16 kubera ko, ku ya 6, indege yari itarahanurwa. Yanatsindagiye ko bidashobora kuba byarabaye ku itariki ya 7 kubera ko kuri uwo muni hari hakiri ituze. Yongeyeho ko atibuka ko yaba yarabwiye abakozi bo mu biro bya Porokireri bakoraga iperereza ko byabaye ku itariki ya 7 Mata.

179. Umutangabuhamya wiswe J banamusabye gusobanura niba Konseye wa [Segiteri ya] Cyahafi yararashwe mbere cyangwa nyuma y'itangwa ry'intwaro. Mu buhamya yatangiye mu rukiko, yavuze ko amasasu yavuze mbere y'uko intwaro zitangwa, nyamara kandi ukurikije ubuhamya bwe bwanditse, amasasu yaba yaravuze intwaro zimaze gutangwa. Uyu mutangabuhamya yavuze ko Konseye wa Cyahafi yarasiwe mu nama yabaye mbere y'uko imbunda zitangwa. Yavuze ko amagambo ye

ashobora kuba atarasemuwe neza, avuga ko yari afite ubwira bwo gusubira ku kazi igihe umusemuzi yamusemuriraga ubuhamya bwe mu kinyarwanda. Umutangabuhamya yavuze kandi ko icyo gihe, umusemuzi yamubwiye ko azagaruka kumureba afite inyandiko y'ubuhamya inononsoye ariko akaba atarigeze agaruka. Bamubajije niba yarongeye kubonana n'abapererezi ku itariki ya 3 Gicurasi 1996, umutangabuhamya yasubije ko atabyibuka neza.

180. Mu ibaza rinyomoza, umutangabuhamya J yongeye kwemeza ko Uregwa atari we ubwe watanze intwaro, ahubwo ko yasohokeye ku ruhande umutangabuhamya yari ahagazemo mu gihe abari inyuma mu modoka batangaga intwaro. Bamusabye gusobanura niba yarahunze nyuma y'iraswa rya Rusagara nk'uko yari yabivuze mu gihe cy'ibaza ry'ibanze cyangwa niba abantu bari batangiyeye kuva mu modoka nk'uko yabivuze mu buhamya bwe bwanditse, umutangabuhamya yavuze ko ubwo abasore bazaga babasanga nyuma yo guhabwa intwaro, baketse ko baje kubarinda. Batangiye kurasa rero, ni bwo yahunze.
181. Umutangabuhamya wiswe M, w'Umututsi, yavuze ko, ubwo yumvaga Radiyo RTLM itangaza ko indege ya Perezida yahanutse, yari ari muri Segiteri ya Kimisagara muri Komini ya Nyarugenge. Bukeye bwaho, ku itariki ya 7 Mata 1994, uyu mutangabuhamya amaze kubona imirambo y'abantu bishwe n'Interahamwe irambaraye ku muhanda harimo n'iy'abaturanyi yari azi, yahungiyeye ku Bitaro bikuru bya Kigali [CHK] byari ku birometero umunani uvuye iwe. Mu nzira yerekeza ku bitaro, yabonye Interahamwe zitwaje intwaro, abona n'imirambo y'abantu bari bakimara kwicwa. Yanabonye bariyeri ebyiri zirinzwe n'abasirikare n'Interahamwe, ndetse n'imirambo yari hafi aho. Yaberekeye izo bariyeri kugira ngo aticwa. Ageze ku bitaro, yabonye impunzi nyinshi hamwe n'imirambo myinshi abasha kumenyamo uwa Minisitiri Zamubarumbao [NDT: Bagomba kuba bashaka kuvuga Nzamurambaho], uw'umukobwa we, n'uw'umujyanama witwaga Felistian Ngango. Ku itariki ya 12 Mata, uwo umutangabuhamya yavuye ku bitaro ajya muri Segiteri ya Cyahafi, ashaka ubuhungiro mu rugo rw'Umututsi witwa Nyamugambo wamubwiye ko segiteri yari irinzwe n'abasirikare.

182. M yavuze ko muri segiteri hari ituze kugeza ku itariki ya 15 Mata 1994, itariki Uregwa «yatangirijeho ubwicanyi». Yavuze ko yabonye Uregwa muri kamiyoneti saa tatu n'igice za mu gitondo ari kumwe n'abantu batandatu. Bari bafite imbunda mu ntoki banambaye imyenda n'udukoti bya MINUAR. Umutangabuhamya yari ahagararanye n'abandi bantu iruhande rw'akazu k'amazi, aho bari bamaze nibura isaha yose ubwo Uregwa wari wambaye iniforume ya gisirikare yahagarikaga imodoka imbere y'inzu ya Shirakara Nishon. Uregwa amaze kuhagera, umutangabuhamya yamubonye atanga imbunda yari yazaniye Interahamwe, amubona by'umwihariko aha imbunda umugabo witwa Muzehe. Uyu mutangabuhamya yavuze ko Uregwa yohereje umushoferi we François kujya kuzana Interahamwe zagombaga guhabwa imbunda; anavuga ko izo ntwaro zari imbunda zifite umunwa mugufi n'ibara ry'umukara, kandi ko yaziboneye n'amaso ye. Uyu mutangabuhamya yavuze ko yari azi ko abo bantu ari Interahamwe kubera ko uwari ubayoboye yari Visi-Perezida w'Interahamwe, bakaba kandi bari bambaye iniforume y'ishyamba rya MRND. Uyu mutangabuhamya yavuze ko Uregwa yategetse Interahamwe kwica Abatutsi, zitabikora akazana burende ikabatsemba bose. Umutangabuhamya yavuze ko yari ari kuri metero ziri hagati y'umunani n'icumi uvuye ku modoka, kandi ko Uregwa, yerekanye mu cyumba cy'iburanisha, yavugaga mu ijwi riranguruye.
183. Umutangabuhamya M yavuze ko ubwicanyi bwatangiye uwo muni nyuma ya saa sita. Amaze kwumva Uregwa avuga ko Abatutsi bagomba kwicwa, uyu mutangabuhamya yasubiye aho yari atuye. Kuri icyo gicamunsi, mbere yo kwigabiza inzu ye no gusahura ibirimo, Muzehe akoresheje ya mbunda yari yahawe n'Uregwa, yarashe Nyamugambo, wari umucumbikiye. Uyu mutangabuhamya yumvise Muzehe abwira Interahamwe bari kumwe ko agiye kubwira Uregwa ko yatangiye akazi, nyuma yaho Muzehe yahise ajya kureba Uregwa. Uyu mutangabuhamya ntiyashoboye kwumva ibiganiro byakurikiyeho kubera ko yahereyeko ahunga. Muzehe ntiyamwishe kubera ko yari inshuti ye, akaba kandi yari n'umukiriya we kuko uwo Muzehe yari umushoferi wa tagisi. Uyu mutangabuhamya avuga ko abantu 31 bose bari bahungiyeye kwa Nyamugambo mbere y'itariki ya 15 Mata 1994 bishwe n'Interahamwe uretse we wenyine. Yavuze

ko azi ko abo bantu bishwe kubera ko atongeye kubabona. Nyuma yaho yahungiyeye kwa Alexandre Murego wari utuye hafi aho, aguma muri urwo rugo kugeza ubwo intambara yahitanye ababyeyi be, irangiriye.

184. Mu ibaza rinyomoza, Avoka wunganira Uregwa yabajije umutangabuhamya M uko yagiye ku bitaro bya CHK. M yavuze ko yahunze wenyine, kandi ko buri wese mu bo bari kumwe mu nzu yahunze ukwe. Uwunganira Uregwa yakemanze itariki nyayo umutangabuhamya avuga ko yaboneyeho Uregwa, ari yo ya 15 Mata 1994. Mu buhamya bwe bwanditse bwo ku itariki ya 4 Ukuboza 1995, iyo tariki bavuga ko ari iya 16 Mata. Uyu mutangabuhamya yongeye kwemeza ko kuri 15 Mata ari ho yabonye Uregwa. Ubwunganizi bwabwiye uyu mutangabuhamya ko mu ibaza ry'ibanze yavuze ko, ku kazu k'amazi, yari ari kumwe n'abantu bari hagati ya batanu n'icumi naho mu buhamya bwe bwanditse akaba yaravugaga abantu 80. Na none kandi M yavugiyeye mu rukiko ko yavuye iwe ku itariki ya 7 Mata agahungira ahandi hantu, kandi mu buhamya bwe bwanditse avuga ko ibyo byabaye ku itariki ya 9 Mata. M yemeje ko ku kazu k'amazi hari itsinda ry'abantu 80 nk'uko yabivuze mu buhamya bwe bwanditse. Yanakomeje kwemeza ko yavuye iwe ku itariki ya 7 Mata 1994 asa n'uvuga ko bishoboka wenda ko itariki yavuze itanditswe neza.
185. Ubwunganizi bwanasabye M gusobanura niba yari yagiye ku kazu k'amazi ajanyanywe no kuvoma nk'uko yabivuze mu rukiko, cyangwa niba, nk'uko yabivuze mu buhamya bwe bwanditse, yari yagiye gushaka imbunda mu rwego rw'itangwa ry'intwari zo kurinda Abatutsi yari yumvise rivugwa. Uyu mutangabuhamya yemeje ko yari yagiye ku kazu k'amazi gushaka imbunda nk'uko yabivuze mu buhamya bwe bwanditse, anongeraho ko yumvaga yari yanabivuze asubiza ibibazo by'ibanze. Uwunganira Uregwa yerekanye ko, mu buhamya bwe bwanditse uyu mutangabuhamya yemeje ko, agera ku kazu k'amazi, yasanze Uregwa ahari nyamara mu rukiko, akavuga ko Uregwa yahamusanze ahamaze nibura isaha. Uwunganira Uregwa yamusabye gusobanura uburyo yabashije kumenya ko abantu bari kumwe n'Uregwa bari Interahamwe, M asubiza ko bamwe muri bo yari abazi, kandi ko ari bo bagendanaga imbunda, bakanica. M yanabajijwe ibibazo ku buhamya yatanze mu rukiko buvuga ko abo bantu bari bambaye iniforume za

MINUAR, ko hari n'amakuru y'uko izo iniforume bari bazambuye abasirikare b'ababiligi bari bishwe.

186. Mu ibaza rinyomoza, M yongeye kwemeza ko yumvise Uregwa abwira Interahamwe ko zigomba kujya kwica Abatutsi, zitabikora agahamagaza za burende zikabatsemba. Bamubajije impamvu ayo magambo atayavuze mu buhamya bwe bwanditse, M yasobanuye ko muri ubwo buhamya bwanditse yibanze gusa kuri bimwe mu byabaye, naho mu rukiko akaba nta nkomyi bamushyizeho ko ahubwo bamusabye kuvuga n'ibindi bintu. Yemeje ko amagambo Uregwa yavuze yabaye nk'imbarutso y'ubwicanyi bwabaye. Ku kibazo cyo kumenya impamvu yamuteye kwibagirwa kuvuga ikintu gikomeye nk'icyo, yasubije ko umutwe we wamutengushye.
187. Uwunganira Uregwa yabajije umutangabuhamya M ibibazo ku tuntu tumwe na tumwe turebana n'ibyabaye. Ku kibazo cyo kumenya niba hari intwaro Muzehe yari afite mbere y'uko Uregwa amuha imbunda, M yavuze ko atibuka neza, kandi ko amatariki n'imibare yagiye atanga ari ibigereranyo kandi ko hari hashize igihe kirekire atanze bwa buhamya bwe bwanditse. Yongeye kugaruka ku ngingo zimwe na zimwe zijyana n'ibyabaye, asobanura ko ba bantu 80 bari bahari bari bahekeranye ariko bidakabije, yongera no kwemeza ibyo yavugiye mu rukiko ku iyicwa rya Nyamugambo ashimangira ko yabihagazeho.
188. Umutangabuhamya wiswe U yavuze ko, nyuma y'urupfu rwa Perezida, Interahamwe zatangiye kwica abantu i Nyarugenge. Nyuma y'iminsi ibiri, umutangabuhamya U yavuye mu rugo rwe kubera ubwicanyi ariko Interahamwe zaramufashe hamwe n'abandi bantu zibajyana aho ziciraga abantu. Yavuze ko abasirikare bo muri *Camp Kigali* bahageze saa munani n'igice baje kugarura umutekano. Abo basirikare bategetse Interahamwe guhagarika ubwicanyi, zibyubahiriza igihe gito maze abasirikare basubira mu kigo. Yakomeje avuga ko Uregwa yaje atwaye ikamyoneti yuzuye imbunda n'imipanga, kandi ko ibyo yabyiboneye ubwe. Yemeje ko yari azi Uregwa kubera ko yari afite iduka rigurisha inzoga ahantu hari amaduka mu mujyi wa Kigali hitwa « *Quartier commercial* » Uyu mutangabuhamya yavuze ko Uregwa yahaye Interahamwe intwaro anazitegeka

gukora kubera ko hari «umwanda mwinshi» wagombaga gukurwaho. Uregwa yagumye aho yambaye imbunda ku rutugu.

189. Umutangabuhamya U yavuze ko amaze kubona uko ibintu byifashe, yavuye aho hantu kubera ko bari batangiye kwica abahari. Yihishe mu gihuru kiri muni y'igaraje iri hafi y'ahantu Urugereko rukeka ko yaba ari Garaje AMGAR. icyo gihe hari saa cyenda z'amanywa kandi nta muntu wari mu igaraje. Ubwo ni bwo yabonye Uregwa aza ari kumwe n'Interahamwe nyinshi zasaga n'aho zimurinze. Agereraniye, zari nka mirongo itatu. Yavuze ko yari ari hafi y'igaraje, bityo akaba yarabashaga kubona neza anyujije amaso mu bihuru. Yemeje ko yashoboye kumva Uregwa kubera ko yavugaga mu ijwi riranguruye bitewe n'umubare munini w'abantu bari bahari. Yavuze ko byabereye muni neza y'igaraje ariko akaba atazi nyir'iyi garaje. Yavuze ko yavuye muri icyo gihuru akamanuka hepfo, yongeyeho ko yahindukiye kugira ngo arebe ibyabaga, akabona bari kwicisha abantu imipanga, bakajugunya imirambo yabo mu rwobo.
190. Mu ibaza rinyomoza, umutangabuhamya U yasabwe gusobanura uko yamenye Uregwa, kuvuga incuro yamubonye n'aho yamubonye. Uyu mutangabuhamya yavuze ko yakundaga kumubona i Kigali mu iduka, cyangwa iyo yahitaga agiye mu nama. Umutangabuhamya yanavuze ko yari azi ko Uregwa yari perezida w'Interahamwe kubera kubyumva kuri radiyo no kubera izo nama. Bamubajije uko yamenye ko Uregwa yari perezida w'Interahamwe, no kuvuga aho MRND yari ihuriye n'Interahamwe, U yavuze ko yumvise Uregwa kuri radiyo ashishikariza abantu kwicana, ibyo ariko akavugaga ko byabaye mbere y'intambara.
191. Bamubajije ibyerekeranye n'izo ntwaro avugaga ko yabonye zitangwa, umutangabuhamya U yemeje ko zatanzwe hashize iminsi ibiri indege ya Perezida ihanuwe. Avoka wunganira Uregwa amusabye gusobanura impamvu mu buhamya yatangiye mu rukiko hagaragaramo ibintu bidahuye n'ibyo yavuze mu buhamya bwanditse yatanze mbere y'uko urubanza rutangira aho yemezaga ko izo ntwaro zatanzwe ari ku wa gatanu mu mpera za Mata 1994, umutangabuhamya yasubije ko atibuka ko yabwiye abaperezi ko izo ntwaro zatanzwe mu mpera za Mata 1994.

Yavuze ko umunsi mu Gakinjoro hagabwe igitero ari na wo intwari zatangiweho, uwo munsi hakaba haranabaye ubwicanyi.

192. Umutangabuhamya U yemeje ko yabwiye abapererezi ko yihishe hafi y'igaraje ry'Uregwa. Uwunganira Uregwa amwibukije ko mu ibaza ry'ibanze yavuze ko atari azi nyir'iryo garaje yihishe inyuma, asubiza ko yemeje ko atari azi nyir'iryo. Ubwunganizi bwamusabye gutanga amakuru y'inyongera yerekeye ibintu byabaye mbere y'uko Uregwa agera aho hantu ari muri kamyoneti yuzuye intwari, maze umutangabuhamya yemeza ko abasirikare babanje kubwira Interahamwe guhagarika ubwicanyi, iza Nterahamwe zikaba zari zaturutse ku Kimisagara no mu Cyahafi. Yavuze ko abasirikare basubiyeyo batambuye iza Nterahamwe intwari, ngo zikaba zarazigumanye.
193. Umutangabuhamya wiswe T yavuze ko yari aturanye n'Uregwa muri Segiteri ya Cyahafi, akaba yari amuzi. Yavuze ko ubwicanyi bwakurikiye urupfu rwa Perezida rwabaye ku itariki ya 6 Mata 1994 bwageze mu Cyahafi mu mpera za Mata. Ibyo ngo bikaba byaratewe n'uko hari itsinda ry'Abakombozi ari rwo rubwiruko rw'Isyamba Rihanganira Imibereho myiza y'Abaturage na Demokarasi (PSD) ryari ryarakumiriye Interahamwe zageragezaga gutera icyo Segiteri ya Cyahafi ziturutse mu masegiteri aturanye na yo. Yavuze ko mu matariki ya za 24 Mata 1994, Interahamwe zagabye igitero ku Bakombozi, ubwicanyi bugatangira mu ma saa kumi n'imwe. Yavuze ko muri icyo gitero Interahamwe zakoresheje imbunda. Yemeje ko icyo gitero kiba Uregwa yari ahari, atwaye imodoka ya kamyoneti y'umutuku yari yazanyemo intwari. Yavuze ko ubwo Abatutsi batandukanywaga n'Abahutu, Uregwa yari ahagaze mu modoka inyuma ariko ko ubwicanyi bwatangiyeye yicaye mu modoka. Ngo yari afite imbunda yo mu bwoko bwa Uzzi imeze nk'izakoreshejwe muri ubwo bwicanyi. Muri icyo kamyoneti harimo imbunda, Uregwa akaba yaratanze zimwe muri zo, izisigaye azirekeramo. Mu gutanga iza intwari, Uregwa yafashijwe n'umukuru w'Interahamwe zo muri ako gace ndetse na François wari Perezida w'Interahamwe zo mu Cyahafi. Umutangabuhamya yavuze ko Uregwa yaherezaga perezida w'Interahamwe intwari, undi na we akazitanga. Interahamwe zahaye intwari abaturage bo muri ako gace batari bazifite. Mu ibaza

rinyomoza, bamubajije ubwoko bw'intwara yabonye Uregwa atanga, by'umwihariko niba zari za masotera cyangwa imbunda zisanzwe, yasubije ko imbunda Uregwa yazanye zari izo mu bwoko bwa Uzzi gusa, n'ubwo Interahamwe zishobora kuba zarivaniye za masotera ahandi hantu.

194. Umutangabuhamya wiswe Q na we yavuze ko Uregwa yatanze imbunda. Abacamanza bamubajije isano yari hagati y'Uregwa n'Interahamwe, yashubije ko yari umuyobozi wazo, atanga n'urugero avuga ko Uregwa ari we watanze imbunda akanatega ko zitangwa. Yanemeje ko abantu bose bavugaga ko Uregwa yatangaga intwara ku rwego rwa komini. Mu ibaza rinyomoza, uyu mutangabuhamya nta bibazo yigeze abazwa n'Ubwunganizi kuri icyo ngingo.

Imyanzuro ku byabaye

195. Mu buhamya bwabo mu rukiko, abatangabuhamya biswe J na M bombi bavuze ku imbunda zatanzwe hagati muri Mata, muri Segiteri ya Cyahafi, Komini ya Nyarugenge. Urugereko rusanga ubuhamya bw'umugabo J bukwiye kwemerwa. Mu ibaza rinyomoza, ntiyigeze ahindura ibyo yari yavuze mbere, kandi akaba yatanze ibisubizo byagira akamaro ku bibazo yagiye abazwa byerekeye ukuntu mu buhamya yatangiye mu rukiko no mu bwanditse yatanze mbere y'uko urubanza rutangira, hagenda hagaragamo ibintu bivuguruzanya. Umutangabuhamya M we, mu ibaza rinyomoza, yavuze ko ibyamubayeho byamugizeho ingaruka ku bijyanye no kuba yashobora kwibuka ibintu neza. Urugereko rusanga ubuhamya bw'uwo mugabo budakwiye kwemerwa ukurikije ukuntu yagiye avuga ibintu, cyane cyane ku bijyanye n'amatariki, amasaha n'imibare yagiye atanga, ndetse n'ukuntu yavuze uko ibintu byagiye bikurikirana. Mu ibaza rinyomoza byaragaragaye ko mu buhamya bwe hari aho yagendaga yivuguruza ku buryo bukabije, ndetse ibyo bikaba byaragaragaye hagati y'ubuhamya yatangiye mu rukiko n'ubwanditse yatanze mbere y'uko urubanza rutangira. N'ubwo hamwe na hamwe usanga ubuhamya bwe bushyigikirwa n'ubw'umutangabuhamya J, mu ngingo zimwe na zimwe zabwo usanga ntaho buhuriye na mba n'ubw'uwo mugabo. N'ubwo Urugereko rusanga ubuhamya bwa M bwakwemerwa kubera ko yagerageje uko ashoboye kose kuvuga

ibyo yabonye n'ibyo yumvise nta kunyura ku ruhande kandi akaba yaremeye ku bushake bwe ko hari ibintu agenda yibagirwa, Urugereko rusanga rudashobora gufata imyanzuro yarwo rushingiye ku buhamya bwe. Rukaba ahubwo rusanga ubuhamya bw'abagabo U, T na Q bukwiye kwemerwa.

196. Urugereko rusanga ubuhamya bw'Uregwa n'ubw'umutangabuhamya wiswe DDD bwari bugamije kugaragaza ko Uregwa yavuye iwe ku itariki ya 8 Mata 1994, naho ku itariki ya 15 n'ya 24 Mata akaba yari ari i Kigali ku biro bya Garaje AMGAR. Bityo, Uregwa ahakana yivuye inyuma ibivugwa mu gika cya 10 cy'Inyandiko y'ibirego. Urugereko rusanga mu ibaza rinyomoza, Ubwunganizi butarigeze buvuguruzabatangabuhamya bashinja ngo bubereke ko Uregwa atigeze ajya mu gikorwa cyo gutanga intwari, ndetse ko atari ari muri Komini ya Nyarugenge ku itariki ya 8, iya 15 n'ya 24 Mata 1994. Byongeye kandi, Ubwunganizi nta mutangabuhamya ushinjura bwigeze buhamagaza wo kwemeza iyo myiregurire ishingiye kuri sinari mpari, ngo agaragaraze ko Uregwa yari ahandi ubwo biriya bikorwa bivugwa n'abatangabuhamya bamushinja byabaga nk'uko bwabikoze ku bindi birego bivugwa mu Nyandiko y'ibirego. Benshi mu batangabuhamya bashinjura bavuze ko ubwo Uregwa yagarukaga avuye i Kigali ku itariki ya 14 Mata 1994 ngo yirirwaga yicururiza inzoga. Urugereko ariko rukaba rusanga gucuruza inzoga bitari kumubuza gutanga imbunda nk'uko Porokireri abivugaga. Kubera izo mpamvu, Urugereko rusanga Ubwunganizi nta bimenyetso bihagije bwatanze ngo buvuguruzabatangabuhamya ibyatanzwe na Porokireri ashyigikira ibirego biri mu gika cya 10 cy'Inyandiko y'ibirego.

197. Urugereko rusanze ku itariki ya 15 Mata 1994 nyuma ya saa sita, Uregwa yaraje hafi y'akazu k'amazi kari muri Segiteri ya Cyahafi, Komini ya Nyarugenge; icyo gihe akaba yari ari muri kamyoneti, ari kumwe n'umushoferi. Muri icyo modoka inyuma hari harimo abandi bantu babiri ndetse n'imbunda. Uregwa yavuye mu modoka afungura inyuma maze abagabo bari bayirimo baha izo mbunda Interahamwe zirimo Bizimungu, Ziad, Muzehe, Cyuma na Polisi. Izo mbunda zitangwa, Uregwa yari ahari. Mbere y'uko Uregwa ahagera, umuporisi witwa Munyawara yasabye itsinda ry'abantu barimo n'umutangabuhamya wiswe J kujya

kuri kariya kazu k'amazi. Imbunda zikimara gutangwa, ako kanya Muzehe yahise arasa Rusagara amutsinda aho, urufaya rw'amasasu rurakomeza. Muzehe na Bizimungu barashe Viateur Kalinda na Emmanuel Musoni bahita bagwa aho. Abo bantu bose barashwe bari Abatutsi. Imbunda zikimara gutangwa abantu ntibahise bakwira imishwari kuko bari babijeje ko izo Nterahamwe zari zimaze guhabwa izo ntwaro, zari kubarinda.

198. Urugereko rusanze ku itariki ya 8 Mata 1994 nyuma ya saa sita, Uregwa yaraje muri Komini ya Nyarugenge ahantu Interahamwe zajyanaga abaturage bo muri icyo Komini zikahabwira, icyo gihe akaba yaraje muri kamyoneti. Iyo kamyoneti yari yuzuye imbunda n'imipanga. Izo ntwaro Uregwa yazihaye Interahamwe, arangije azitegeka gutangira gukora, azibwira ko hari umwanda mwinshi ugomba kuvanwaho. Icyo gihe Uregwa yari yambaye imbunda ku rutugu kandi afite umupanga uziritse ku mukandara we.
199. Urugereko rusanze ubwo Interahamwe zo mu Cyahafi zagabaga igitero ku Bakombozi ku itariki ya 24 Mata cyangwa hafi yayo, Uregwa arahaye Perezida w'izo Nterahamwe imbunda zo mu bwoko bwa Uzzi, ibyo bikaba byarabereye muri Segiteri ya Cyahafi.
200. Mu myanzuro yarwo ku byerekeye ibyo bikorwa bitatu bivugwa haruguru, Urugereko rusanze hari ibintu bigiye bifitanye isano. Kuri buri gikorwa, Uregwa yagiye agera aho cyakorewe ari muri kamyoneti ipakiye imbunda, we ubwe yihera izo mbunda Interahamwe za Komini ya Nyarugenge cyangwa ateguka abandi kuziziha. Nibura habiri muri aho hantu havuzwe haruguru, iryo tangwa ry'intwaro ryahise rikurikirwa n'ubwicanyi bwibasiye abantu bari bahakusanyirijwe mbere y'uko Uregwa ahagera.
201. Urugereko rusanze amatariki ibyo bikorwa bitatu bivugwa byabereyeho ari yo iya 8, iya 15 n'ya 24 Mata 1994 atandukanye n'itariki ivugwa mu gika cya 10 cy'nyandiko y'birego, aho bavugaga ngo, «Ku itariki ya 6 Mata cyangwa hafi yayo».⁷⁴ Amagambo « ku itariki ya cyangwa hafi yayo » ni amagambo yerekana igihe mu

⁷⁴ Reba umutwe wa 1, igice 3 cy'uru rubanza.

buryo bwo gucishiriza, abatangabuhamyana na bo bakaba baravuze ko ibyo bikorwa byabaye muri Mata. Urugereko rusanga iryo tandukaniro nta ngaruka ritera cyangwa ngo ribe ryabangamira Uregwa mu myiregurire ye kuko yahawe kenshi umwanya uhagije wo kubaza abatangabuhamyana ibibazo binyomoza. Ikindi ni uko yashyikirijwe mu gihe giteganywa n'amategeko ibimenyetso Porokireri yateganyaga gukoresha mu rubanza kugira ngo ashobore gutegura imyiregurire ye; icyo kikaba ari na cyo cy'ingenzi. Urugereko rumaze gusuzuma ikirego kivugwa mu gika cya 10 cy'Inyandiko y'ibirego, rusanze ikibazo cy'itariki atari ikibazo gikomeye. Icy'ingenzi muri icyo kirego ni uko Uregwa yatanze intwari muri kiriya gihe umuntu agifashe mu buryo bwo gucishiriza.

4.2. Igika cya 11 cy'Inyandiko y'ibirego

202. Igika cya 11 cy'Inyandiko y'ibirego kigira kiti:

Ku itariki ya 10 Mata 1994 cyangwa hafi yayo, Georges Rutaganda yashyize Interahamwe kuri bariyeri hafi y'ibiro bye byari kuri Garaji AMGAR i Kigali. Nyuma y'igihe gito ahavuye, Interahamwe zatangiye kugenzura indangamuntu z'abantu banyuraga kuri icyo bariyeri. Zategekaga abantu bafite indangamuntu zanditsemo ko ari Abatutsi kujya ku ruhanda rumwe rw'umuhanda. Muri icyo gihe ni bwo Abatutsi 8 bahiciwe. Abahaguye barimo abagabo, abagore n'umwana muto umwe mu bagore yari ahetse mu mugongo.

203. Urugereko rusanga kugira ngo imyanzuro yarwo ku bikorwa bivugwa mu gika cya 11 cy'Inyandiko y'ibirego isobanuke neza, ari ngombwa gusuzuma ingingo ku yindi ibivugwa bijyanye no:

- Icyamba mbere, kuba Georges Rutaganda yarashyize Interahamwe kuri bariyeri hafi ya Garaji AMGAR;
- Icyamba kabiri, kuba Interahamwe zaragenzuye indangamuntu z'abantu banyuraga kuri icyo bariyeri, zigategekaga abantu bafite indangamuntu zanditsemo ko ari Abatutsi kujya ku ruhanda rumwe rw'umuhanda;

- icya gatatu, kuba Abatutsi 8 barishwe, barimo abagabo, abagore n'umwana muto umwe mu bagore yari ahete mu mugongo.

Ku bijyanye n'igikorwa cyo kuba Georges Rutaganda yarashyize Interahamwe kuri bariyeri hafi ya Garaji AMGAR :

204. Urugereko rusanga, ku birebana n'icyo kirego, Porokireri atagomba gusa gutanga ibimenyetso bigaragaza ko hari bariyeri yari yarashyizwe hafi ya Garaji AMGAR kandi ikanagenzurwa n'Interahamwe, ahubwo agomba no kugaragaza ko Uregwa we ubwe yayishyizeho Interahamwe.
205. Abatangabuhamyashinje biswe AA na HH berekanye, ku ifoto yerekanywe ku buryo bwa videwo (*diapositive*) yatanzwe na Porokireri nk'ikimenyetso gihamya 144, ahantu iyo bariyeri yabuzaga abantu gutambuka yari iri, aho amatara yo ku muhanda ayobora imodoka ari, ndetse n'urukuta rw'igaraji ya AMGAR ku ruhande rw'iburyo rw'iyo foto. Porokireri avugaga ko Garaji AMGAR yari iri ku mbibi za Segiteri ya Cyahafi, muri Komini ya Nyarugenge, Perefegitura y'Umujyi wa Kigali. Umuryango munini w'iyo garaji wari kuri *Avenue de la Justice*, aho iyo bariyeri ivugwa yaba yari ihereye. Aho kandi ni na ho AA na HH berekanye ko iyo bariyeri yari iri.
206. Mu rukiko, umutangabuhamya HH w'Umututsi, mu gihe cy'ibaza ry'ibanze, yavuze ko bariyeri yari hafi ya Garaji AMGAR yari irinzwe n'Interahamwe, akaba yarashoboye kuzimenya bitewe na iniforume y'Interahamwe zari zambaye, igizwe n'ibitenge by'amabara atukura, umuhondo n'icyatsi, asa n'amabara y'ibendera ry'ishyamba MRND. Mu gihe cy'ibaza rinyomoza, Ubwunganizi kwasabye HH gusobanura ivuguruzanya rigaragara hagati y'ubuhamya bwe mu rukiko n'ubuhamya bwanditse yahaye abapererezi, nk'uko biboneka mu nyandikomvugo z'ibazwa rye, aho yavuze ko iyo bariyeri yari irinzwe n'abasirikari. HH yashubije ko zimwe mu Nterahamwe zambazaga nk'abasirikari.
207. Uwo mutangabuhamya HH kandi yabwiye Urukiko ko abasore barindaga iyo bariyeri bavuganye, bamubwiye ko bariyeri yari imbere ya AMGAR yari « iya

Georges ». HH yavuze ko yari yihishe hafi ya Garaji AMGAR, bityo rero akaba yarabonye ibyabereye kuri iyo bariyeri. Yavuze ko yabonye Uregwa aza kuri iyo bariyeri inshuro nyinshi, akenshi ari mu ikamyoneti ya Peugeot. HH yavuze ko iyo bariyeri yari iya Rutaganda, kimwe n'izindi bariyeri zose yagenzuraga muri Kigali no mu Rwanda.

208. HH kandi yabwiye Urukiko ko ku itariki ya 20 Gicurasi 1994, Interahamwe zari zarafunze umuhanda iyo bariyeri yari iriho. HH yavuze ko mu masaa tatu za mu gitondo, yabonye Uregwa agera kuri iyo bariyeri. HH yavuze ko Uregwa yategetse Interahamwe gufungura umuhanda, maze zirabikora.
209. Umutangabuhamya ushinja wiswe AA yavuze ko kugeza ku itariki ya 18 Mata 1994, umuhanda unyura imbere ya Garaji AMGAR, kimwe no hafi yayo, wagenzurwaga n'abaturage bo mu Gakinjoro (Cyahafi). Abaturage bari barashyize bariyeri kuri uwo muhanda, iza gukurwaho n'Interahamwe ku itariki ya 18 Mata 1994. AA yavuze ko Interahamwe zimaze gutera ako gace zikakigarurira, Uregwa yashyizeho bariyeri nshya imbere y'umuryango w'igaraji ye. Iyo bariyeri yari ikomeye igizwe n'amakaziye y'inzoga n'ibisigazwa by'imodoka byambukiranyaga umuhanda wose.
210. AA yavuze ko mu Nterahamwe zakundaga kuza kuri iyo bariyeri, harimo izambaraga iniforume ya gisirikari n'izambaraga iy'Interahamwe.
211. AA yavuze ko Uregwa yari umuntu uzwi cyane, kandi icyo gihe byavugwaga ko ku igaraji AMGAR ye ari ho Interahamwe zahuriraga. AA yavuze ko ahubwo icyo gihe abantu bavugaga ko [izo Nterahamwe] zari «abasirikari ba Rutaganda».
212. Umutangabuhamya ushinja wiswe T yavuze ko abasirikari bo mu ngabo z'u Rwanda bari barashyize bariyeri ku muhanda wa kaburimbo, hafi y'akazu bacururizamo (*kiosque*), iruhande rw'isoko ry'Agakinjoro. Ubwo mu Cyahafi abantu bari bamaze kuneshwa, ahagana mu mpera za Mata, iyo bariyeri yaje kugenzurwa n'Interahamwe, zasimbuye abasirikari bari bagiye ku rugamba.

213. Umutangabuhamya ushinja wiswe BB yavuze ko yafatiwe kuri bariyeri yari hafi y'urugo rw'Uregwa. Aho hantu hari abantu barenga icumi, barimo abambaye iniforume ya gisirikari, abandi bambaye iy'Interahamwe. BB yasobanuye ariko ko nta n'umwe muri abo bantu wari umusirikari nyawe. Bamwe bari bambaye ingofero ziriho umuhoro n'agafuni, bigaragaza ko bari mu mutwe w'Interahamwe. Bari bafite imbunda, impiri, imipanga, inyundo n'ibyuma. BB yavuze ko Interahamwe zamubwiye ko abayobozi bazo bari Robert Kajuga na Georges Rutaganda. Abari barinze bariyeri bavuze ko nta muntu bica batabanje kubibwirwa na Robert Kajuga cyangwa Georges Rutaganda.
214. Abatangabuhamya batatu bashinjura bemeje ko hari bariyeri imbere ya Garaji AMGAR. Abatangabuhamya biswe DSS na DF bavuze ko bariyeri yashyizwe imbere ya garaji AMGAR kuva ku itariki ya 9 Mata 1994. Umutangabuhamya wiswe DD yavuze ko iyo bariyeri yashyizweho guhera ku itariki ya 7 Mata 1994, kandi ikaba yari nko kuri metero 10 uvuye ku igaraji, ahagereye amatara yo ku muhanda ayobora imodoka yo kuri *Avenue de la Justice*.
215. Umutangabuhamya wiswe DSS yavuze ko abantu bacungaga iyo bariyeri bari «amabandi». Yasobanuye ko bamwe muri bo bari bafite intwari, ko ariko nta iniforume cyangwa ibindi bimenyetso yababonye byagaragazaga ko bari mu mutwe w'Interahamwe. DD na we nta kimenyetso yabonye cyihariye cyagaragazaga ko abarindaga iyo bariyeri bari mu mutwe wa politiki runaka.

Ibivugwa ko Interahamwe zagenzuraga indangamuntu z'abantu banyura kuri bariyeri kandi zigashyira ku ruhande rw'umuhanda abantu bafite indangamuntu zanditsemo ko ari Abatutsi:

216. Umutangabuhamya ushinja wiswe HH yavuze ko yanyuze kuri bariyeri ahagana ku itariki ya 8 Mata 1994. Yasobanuye ko abagenzi banyuraga kuri bariyeri bagombaga kwerekana indangamuntu zabo, no gushyira amaboko hejuru kugira ngo abarinze bariyeri basake mu mifuka yabo bareba niba nta gerenade zirimo. HH yavuze ko abantu bagenzuraga amayira barasaga abagenzi bafite indangamuntu zanditsemo ko ari Abatutsi. HH yabwiye Urugereko ko, n'ubwo yari Umututsi, yashoboye

gutambuka kubera ko yari mu kivunge cy'abantu, afite indangamuntu ye mu ntoki kandi yamanitse amaboko kugira ngo bashobore gusaka mu mifuka ye.

217. Mu ibaza rinyomoza, Ubwunganizi bwabajije HH gutanga ibisobanuro ku bisa no kwivuguruzaga hagati y'ubuhamya mu rukiko n'ubuhamya bwanditse yahaye mbere abapererezi bo mu Biro bya Porokireri. HH yabwiye abo bapererezi ko yahanyuze aterekanye indangamuntu ye kubera ko yageze kuri iyo bariyeri ari mu kivunge cy'abantu.
218. Uwo mutangabuhamya yongeyeho ko ari ahantu yari yihishe hafi ya bariyeri, yumvise Uregwa abwira Interahamwe zari zirinze iyo bariyeri kugenzura neza amarangamuntu. HH yasobanuye ko iyo Interahamwe zabonaga indangamuntu yanditseho « Tutsi », zajyanaga nyirayo mu nzu yari hafi aho. HH yongeyeho ko ari muri ubwo buryo abantu bagiye bafatwa uwo muni.
219. Umutangabuhamya ushinje wiswe AA yavuze ko mu gihe k'ibyabaye bivugwa, mu gukora akazi kazo, Interahamwe zifashishaga za bariyeri, zirimo iyari hafi ya Garaje AMGAR. AA yavuze ko akazi kari gufata Abatutsi cyangwa undi muntu wese maze bakabacuzaga utwabo. AA yavuze ko kugira ngo umuntu anyure kuri bariyeri, yagombaga kwerekana indangamuntu cyangwa ikindi cya ngombwa kiriho umwirondoro we.
220. Umutangabuhamya ushinje wiswe BB yavuze ko bamuhagaritse kuri bariyeri yari hafi yo ku biro by'Uregwa maze bakamutegeka kwerekana indangamuntu. BB yavuze ko Interahamwe zari zirinze iyo bariyeri zimaze kubona ko ari Umututsi, zamubwiye ko uwo muni zari zategetswe kwereka Perezida cyangwa Visi-Perezida wazo umuntu wese ufatirwa kuri bariyeri. Interahamwe ebyiri zirimo imwe yari ifite imbunda, n'indi yari ifite amagerenade, zamwambuye inkweto maze zimushyira Uregwa muri Garaje AMGAR. BB yongeyeho ko yakubiswe n'imwe mu Interahamwe. BB yavuze ko Uregwa yaje kugenda maze agarutse abaza impamvu [BB] atishwe kandi ari Umututsi. BB yafashe ipantaro y'Uregwa arayikomeza cyane maze amubaza impamvu atari yagaha Interahamwe uruhushya rwo kumwica.

BB yavuze ko icyo gihe Uregwa yamukubise umugeri akamwohereza kujya gukora akazi ko kurunda ibyondo hafi aho.

221. Mu ibaza rinyomoza, BB yemeye ko ageze muri AMGAR aho yari ashiriywe Uregwa, bamuhaye icyayi kubera ko yari afite intege nke. BB yemeye kandi ko umukozi wo mu rugo yamuhaye ibiryo. BB yasobanuye ko amaze guhabwa icyayi n'ibiryo ari bwo Uregwa yamukubise umugeri.

222. Umugabo ushinjura wiswe DSS yavuze ko atashoboraga kwemeza ko abantu bari barinze bariyeri yari imbere ya Garaje AMGAR bagenzuraga indangamuntu. Yavuze ko nta muntu yabonye akurwa mu bandi ngo ashirwe ku ruhande kuri uwo muhanda. Abatangabuhamyi bashinjura biswe DD, DDD na DNN bavuze ko abari barinze za bariyeri bagenzuraga indangamuntu bareba « abacengezi » ba FPR.

Ibivugwa ko hishwe Abatutsi umunani barimo abagabo, abagore n'uruhinja umwe mu bagore yari ahitse

223. Umutangabuhamyi ushinjira wiswe HH yavuze ko akimara kunyura kuri bariyeri, yumvise isasu rivuga ubwo yarimo kwiruka. Arebye inyuma abona imirambo hasi. HH yavuze ko iyo mirambo yari iy'abantu umunani, barimo abana, abagabo n'abagore. Umwe muri abo bagore waguye hasi yari ahitse umwana. HH yongeyeho ko nyuma yaje kugira amahirwe yo kurindwa n'urubyiruko rwagenzuraga iyo bariyeri kandi ni rwo rwamubwiye ko rwishe abagabo, abagore n'abana.

224. Mu ibaza rinyomoza, HH yabanje kuvuga ko anyura kuri bariyeri atitaye ku kumenya niba baragenzuraga indangamuntu z'abantu bari mu kivunge. Abacamanza bamubajije kwisobanura ku kwivuguruza gukabije kuri hagati y'ibyo yavuze mu ibaza ry'ibanze n'ibyo avuga mu ibaza rinyomoza, HH yashubije gusa ko Abatutsi bageraga kuri bariyeri bahafatirwaga.

225. Amaze kuvuga ko Interahamwe zafataga Abatutsi cyangwa undi muntu wese unyuzwe kuri bariyeri kugira ngo zibacuze ibyo bafite, AA yasobanuye ko iyo abantu

bahafatirwaga, bajyanwaga maze hashira akanya urusaku rw'amasasu rukumvikanira hafi ya Garaje AMGAR.

Imyanzuro ku byabaye

226. Rushingiye ku buhamya bushyigikirana, Urugereko rusanga guhera ku itariki itazwi neza yo hagati muri Mata, Interahamwe zarashyize bariyeri kuri *Avenue de la Justice*, hafi y'amatara ayobora ibinyabiziga, hafi y'umuryango winjira muri Garaje AMGAR, aho Segiteri ya Cyahafi igarukira, muri Komine ya Nyarugenge, Perefegitura y'Umujyi wa Kigali. Urugereko rwemera ko kuri iyo bariyeri Interahamwe zagenzuye indangamuntu z'abantu bahanyuraga, maze zigafata abantu bafite indangamuntu zanditsemo ko ari Abatutsi cyangwa abo zafataga nk'Abatutsi kubera ko babaga bavuze ko nta ndangamuntu bafite. Cyakora, Urugereko rusanga Porokireri nta kimenyetso na kimwe yatanze kigaragaza ko iyo bariyeri yari irinzwe n'Interahamwe zashyizweho n'Uregwa. Kubera izo mpamvu, Urugereko rusanga Porokireri ataragaragaje ku buryo budashidikanywaho ko Uregwa yategetse Interahamwe kurinda iyo bariyeri.
227. Ku byerekeranye n'ibivugwa ko haba harishwe Abatutsi umunani barimo abagabo, abagore n'uruhinja rwari ruhetswe n'umwe muri abo bagore, Urukiko rusanga ibyo bintu bivugwa gusa na HH. Cyakora, Urugereko rusanga HH atarashoboye gutanga ibisobanuro byumvikana ku kwivuguruza gukabije kwavuzwe n'Ubwunganizi, kuboneka hagati y'ubuhamya yatangiye mu rukiko n'ubwo yahaye abapererezi bo mu Biro bya Porokireri. Kubera iyo mpamvu, Urugereko rufashe icyemezo cyo kutemera ubwo buhamya. Kubera ko Porokireri atahamagaje abandi bagabo ngo batange ubuhamya kuri ibyo bintu HH avuga, Urugereko rusanga ibivugwa ko Abatutsi umunani baba barishwe bitaragaragajwe ku buryo budashidikanywaho.

4.3. Igika cya 12 cy'Inyandiko y'ibirego

228. Igika cya 12 cy'Inyandiko y'ibirego kigira kiti:

Muri Mata 1994, ku itariki itazwi, Abatutsi bari bafatiwe kuri bariyeri yari

imbere y'igaraje ya AMGAR bashyiriwe Georges Rutaganda abahata ibibazo, hanyuma ateguka ko abo Batutsi bafungirwa hamwe n'abandi mu nzu yari hafi aho. Nyuma yaho, Georges Rutaganda yabwiye abo yategekaga kujyana Abatutsi 10 ku cyobo kirekire cyari hafi ya Garaje AMGAR. Ku mategeko ye, abo bantu biraye muri ba Batutsi 10 babicisha imihoro, imirambo yabo bayijugunya muri icyo cyobo.

Ibivugwa ko muri Mata 1994, ku itariki itazwi, Abatutsi bari bafatiwe kuri bariyeri imbere ya Garaje AMGAR bashyiriwe Georges Rutaganda wabahase ibibazo, yarangiza agategeka ko bafungirwa hamwe n'abandi bantu mu nzu yari hafi aho:

229. Urugereko rusanga icyo kirego kijyanye n'ibivugwa mu gika cya 11 cy'Inyandiko y'ibirego. Mu myanzuro rwafashe haruguru kuri ibyo bintu, Urugereko rwasanze Interahamwe zarashyizeho koko bariyeri ku muhanda witwa *Avenue de la Justice*, hafi y'amatara ayobora ibinyabiziga, bugufi y'umuryango wa Garaje AMGAR, aho Segiteri ya Cyahafi igarukira, muri Komine ya Nyarugenge.
230. Mu buhamya bwe mu rukiko, umugabo ushinja wiswe BB yavuze ko yafatiwe kuri bariyeri iri hafi y'ibiro by'Uregwa, kubera ko yari Umututsi. Yavuze ko aho hantu hari abantu benshi, bamwe bambaye imyenda ya gisirikare abandi bambaye iniforume y'Interahamwe. BB yavuze ko abantu bari barinze iyo bariyeri bavuze ko nta muntu n'umwe bari kwica batabanje guhabwa amabwiriza na Robert Kajuga cyangwa Georges Rutaganda. Zimaze kubona ko BB ari Umututsi, Interahamwe zamubwiye ko uwo munsu zari zahawe itegeko ryo kwereka « Perezida cyangwa Visi-Perezida » abantu zafatiye kuri bariyeri. Ubwo Interahamwe ebyiri, imwe ifite imbunda n'indi ifite gerenade, zamucuje inkweto ze.
231. Zajyanye BB ahantu uyu mutangabuhamya yavuze ko ari ahagaragara ku ifoto ya diyapozitifuru yatanze na Porokireri nk'ikimenyetso gihamya n° 145, kigaragaza Garaje AMGAR. BB yashyiriwe Uregwa mu biro bye, maze akubitwa n'imwe mu Interahamwe. Uregwa yasohotse mu biro, maze agarutse BB afata ipantalo ye [Uregwa] arayikomeza amubaza impamvu atari yagatanga uruhushya rwo kumwica. BB yavuze ko icyo gihe yatakambiye Uregwa kandi ko uyu yamukubise umugeri

akamwohereza gukora akazi ko kurunda ibyondo ahantu barimo kubaka inzu y'ikuzimu. BB yavuze ko Uregwa yamushyizeho agahato ko gukora mu iyubakwa ry'iyi nzu y'ikuzimu, kandi atabimuhembera. Asanga rero ko, muri icyo gihe, Uregwa yari yaramugize umucakara. BB yavuze ko yagumye muri AMGAR kugeza FPR ifashe Kigali maze agasobanura ko atashoboraga kugira aho ajya bitewe n'uko nta ndangamuntu yari afite, kuko yari yarahisemo kuyita mu musarani.

232. Mu ibaza rinyomoza, BB yasobanuye ko iyo nzu yo mu kuzimu itarimo kubakwa ko ahubwo mu by'ukuri barimo gusenya igice kimwe cy'urukuta kugira ngo bashyiremo umuryango wari gutuma umuntu uvuye muri Garaje AMGAR ahita yinjira muri iyo nzu y'ikuzimu. BB yemera na none ko hashyizweho umufundi wo gukora iyo mirimo kandi ko, abantu nka we [BB], bari muri icyo gikorwa batari imfungwa ko ahubwo bari abakozi basanzwe. BB yasobanuye ko icyo gihe nta mfungwa zariho, ko ahubwo, mu by'ukuri, bari abakozi basanzwe bashoboraga gutaha iwabo ku mugoroba.
233. Byongeye kandi, mu ibaza rinyomoza, Ubwunganizi bwamusabye gusobanura ukuntu ku ruhande rumwe avuga ko yahisemo kuguma mu kigo cy'Uregwa kuko yumvaga ariho afite umutekano, ku rundi ruhande akavuga ko Uregwa yari umukuru w'abicanyi. BB yavuze ko adashoboye gusobanura ibyo bintu.
234. Umutangabuhamya ushinja wiswe T, wavuze ko yari atuye iruhande rwa Garaje AMGAR mu gihe cy'ibyabaye bivugwa, avuga ko umwe mu baturanyi be, wari umugabo w'Umututsi, yamubwiye ko hari igihe yamaze aba muri AMGAR kuko nta kundi yari kubingenza. Yavuze ko uwo mugabo yishwe mu mpera za Mata 1994. Yongeraho ko uwo munsu uwo mugabo apfa, we [T], umuvandimwe we n'umukozi wabo bafashwe maze aba babiri na bo bakicwa.
235. Umutangabuhamya ushinja wiswe Q yavuze ko ahagana ku itariki ya 21 Mata 1994, yageze kuri bariyeri yari mu Gakinjiro maze bakamufata kubera ko nta ndangamuntu yari afite, ndetse akanamenywa n'umwe mu bantu bari aho witwa Védaste Segatarama. Ahagana saa mbiri, yajyanywe mu igaraje hamwe n'abandi

bantu batatu na bo bari bafatiwe kuri bariyeri kubera ko byari byamenyekanye ko ari Abatutsi bitewe n'indangamuntu zabo.

236. Umutangabuhamya Q yavuze ko mbere y'icyo gihe atari yarigeze agera muri iyo garaje. Yerekanye iyo garaje ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 145.
237. Uyu mutangabuhamya yavuze ko we yajyanywe mu biro bya shefu ari kumwe n'abandi Batutsi batatu na bo bari bafashwe. Q yabwiye Urukiko ko ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 149, yamenye ibiro by'Uregwa, aho bamujyanye. Yavuze ko we n'abandi bantu bamaze kwerekwa Uregwa, uyu yategetse ko bafungwa kuko ari « Inyenzi ». Q yavuze ko muri ibyo biro bahandikiraga umubare w'abantu bafashwe.
238. Q yavuze ko bafungirwe mu rusengero rw'Abahindi rwanditseho « Hindi Mandal ». Yashoboye kwerekana urwo rusengero ku ifoto ya diyapozitififu (ikimenyetso gihamya n° 165). Q yavuze ko urwo rusengero rwari rwuzuye, rurimo abantu bagera kuri 200. Akumba gato kari inyuma y'inzu nini, kabikwagamo ibintu, ni ko konyine katari kuzuye. Q yavuze ko yamazemo amasaha agera kuri atatu. Yongeyeho ko nyuma, Uregwa yagarutse agategeka ko basohoramo abantu 10.
239. Mu buhamya bwabo mu rukiko, abatangabuhamya bashinjura biswe DD, DF, DDD bavuze ko muri Mata, Uregwa yacururizaga inzoga muri Garaje AMGAR. DD yavuze ko yari azi abantu bari bahungiyeye muri AMGAR. DF avuga ko mu bantu bo mu moko atandukanye bari bahungiyeye muri AMGAR, nta n'umwe muri bo wari uhari atari ku bushake bwe.
240. Umugabo ushinjura wiswe DS yavuze ko yari kumwe n'Uregwa kuva ku itariki ya 14 Mata kugera ku ya 27 Gicurasi 1994. Yavuze ko muri icyo gihe cyose nta mfungwa yigeze ahabona cyangwa ngo abone hari umuntu ugirirwa nabi aho hantu.
241. Umutangabuhamya ushinjura wiswe DEE yabaye muri AMGAR kuva ku itariki ya 14 kugera ku ya 17 Mata 1994. Yavuze ko atari we muntu w'Umututsikazi wenyine wari uhari. Yari azi bamwe mu Batutsi bari bahari. Ku byerekeranye n'Abatutsi

atari azi, avuga ko yamenye ko bari bihishye muri AMGAR. DEE yavuze ko mu gihe cyose yamazwe muri AMGAR atigeze ahabona imfungwa cyangwa ngo abone hari umuntu uhakubitirwa, uhagaragurirwa cyangwa uhicirwa.

Ibivugwa ko nyuma yaho, Georges Rutaganda yategetse abantu yari akuriye kujyana imfungwa icumi z'Abatutsi ku cyobo kirekire cyacukuwe hafi ya Garaje AMGAR, kandi ko, abitegetse, abo bantu yari akuriye bicishije imihoro abo Batutsi icumi, barangiza bakajugunya imirambo muri icyo cyobo:

242. Umutangabuhamya ushinja wiswe BB yerekanye ku ifoto ya diyapozitififu yatanzweho ikimenyetso gihamya n° 169, ikibanza kiri hagati ya ETM n'igaraje y'Uregwa aho avuga ko barasiraga Abatutsi. BB yavuze ko mu gihe ibivugwa mu Nyandiko y'ibirego byabaga, iruhande rw'uruzitiro rw'ubururu rwari epfo iburyo, hari urukuta rw'amabati. BB yavuze ko aho hantu ari ho Abatutsi barasirwaga.
243. Umutangabuhamya ushinja wiswe Q yavuze ko amaze amasaha nk'atatu mu rusengeru rw'Abahinde, baramusohoye bitegetswe n'Uregwa kandi uyu yaba yarategetse ko hasohorwa abantu icumi. Q yavuze ko mu masaa yine cyangwa saa tanu, we, abantu batatu bari bafatiwe kuri bariyeri hamwe n'izindi mfungwa icumi, bajanywe ku cyobo n'abantu bitegetswe n'Uregwa. Icyobo cyari inyuma y'igaraje, ahari inzu ishakaje amabati ifite n'uruzitiro. Q yerekanye urwo ruzitiro rw'amabati ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 156. Ku ifoto yatanzweho ikimenyetso gihamya n° 172, Q yerekanye n'ahantu icyo cyobo cyari kiri, asobanura ko icyuma kiri ku ifoto ya diyapozitififu kitari gihari mu gihe cy'ibyabaye bivugwa.
244. Kuri icyo cyobo, bahicajwe abo bantu 14 mu mwobo kandi Q yerekanye uwo mwobo ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 168. Bategetswe kureba hasi. Abantu bari babajanywe kuri icyo cyobo babajije Uregwa wari aho, niba bagomba kubica bakoresheje imbunda cyangwa imihoro. Q yavuze ko Uregwa yabababwiye ati « kwicisha imbunda ni ugupfusha ubusa amasasu ». Amaze kuvuga ayo magambo, abari babajanywe kuri icyo cyobo batangiywe kwicisha

imihoro. Q yavuze ko yubitse umutwe kandi ko yataye ubwenge amaze kubona abantu babiri bicwa.

245. Mu ibaza rinyomoza, Ubwunganizi bwabajije Q gusobanura impamvu mu buhamya bwanditse yahaye abapererezi yavuze ko yataye ubwenge amaze kubona umugabo wa mbere yica abantu batatu, n'uwakabiri akica abandi batatu. Mu gusubiza, Q yemeza ko yataye ubwenge abantu babiri bamaze kwicwa. Yemeza kandi ko ari na byo yabwiye abapererezi.
246. Q yavuze ko abandi bantu bamaze kwicwa, abicanyi bahagurukije abantu bane bari bakiri bazima, na we arimo, kugira ngo bahambe imirambo. Q yavuze ko icyo gihe atari agifite imbaraga kandi ko Uregwa atamwishe ndetse ntiyice n'undi mugabo umwe. Uregwa yateye umugeri Q aramubwira ngo nagende azicwa umunsi bashyinguye Habyarimana.
247. Mu ibaza rinyomoza, Ubwunganizi kwasabye Q gutanga ibisobanuro ku kwivugurura kuri hagati y'ubuhamya bwe mu rukiko n'ubwanditse yahaye abapererezi avuga ko Uregwa yari yategetse abo bantu bane bakiri bazima kujugunya imirambo y'abishwe mu cyobo, kandi ko barangije kubikora, Uregwa yamuteye umugeri, maze we [Q] n'aba bantu bane bakagenda.
248. Q yashubije ko atahambye abantu, kandi ko ubwo abapererezi bamusomeraga ubuhamya bwe mbere y'uko abusinya, ubwo buhamya butarimo amagambo avuga ko yahambye imirambo.
249. Umugabo ushinjura wiswe D yavuze ko azi icyobo kiri inyuma ya AMGAR. Yongeraho ko ahagana ku itariki ya 26 Mata 1994, Uregwa yubakishije uruzitiro rw'amabati rudafite irembo imbere y'icyo cyobo. Umugabo ushinjura wiswe DF na we avuga ko Uregwa yubakishije uruzitiro rw'ibyuma kugira ngo arinde sitoki ze z'inzoga kandi urwo ruzirito ntirwari rufite urugi. DF yasobanuye ko umuntu uri mu igaraje atashoboraga kumva ibyaberaga inyuma y'uruzitiro. Mu buhamya bwe, DF avuga ko atamenye ko hari ubwicanyi bwabereye aho hantu, ariko agasobanura ko nyuma y'iyubakwa ry'urwo ruzitiro atashoboraga kumenya ibyahabereye. Yavuze

ko nta rusaku rw'amasasu yumvise ruvugira aho hantu, ko ahubwo yumvise urwaturukaga mu kabande kari inyuma y'urusengero « Hindi Mandal ».

250. Umugabo ushinjura wiswe DEE yavuze ko umunsi agera muri AMGAR, ku itariki ya 14 Mata 1994, yahabonye abantu bageze ku icumi bagizwe n'abagabo, abagore n'abana. Yavuganye na bamwe muri bo maze bamubwira ko bari bahahungiyeye. DEE ntazi neza aho abandi bari baturutse, ariko atekereza ko bari abo mu muryango w'Uregwa.
251. Mu gihe yari muri AMGAR, kuva ku itariki ya 14 kugera ku ya 17 Mata 1994, DEE yumvise urusaku rw'amasasu n'urw'amagerenade, ariko ntiyari azi neza aho rwaturukaga. Yasobanuye ko kenshi yabaga aryamye, kubera ko yari atwite kandi arwaye.

Imyanzuro ishingiyeye ku byabaye

252. Urugereko rusanga rwakwizera abagabo bashinja bose batanze ubuhamya ku bivugwa haruguru, barimo na BB na Q. Rwiyemeje rero gushingira ku buhamya bwabo. Mu by'ukuri, Urugereko rusanga n'ubwo Ubwunganizi bwagaragaje ko hari ukwivuguruzanya mu buhamya bwa BB na Q, uko kwivuguruzanya kudakomeye cyane bityo kukaba kutabuzanya ubwo buhamya kwizerwa mu mizi yabwo ku byerekeranye n'ibyababaye bisuzumwaga ahangaha.
253. Ku byerekeranye na Q by'umwihariko, Urugereko rusanga uko kwivuguruzanya gushobora kuba kwaturutse ku ihahamuka yaba yaratewe n'ibyabaye bibabaje yabonye kandi yakorewe. Byongeye kandi, mu gusuzuma ukwizerwa k'uyu mutangabuhamya mu buryo asobanura ibintu, Urugereko rusanga, mu gusesengura ibirebana n'uko uwo mutangabuhamya yibuka ibyabaye, rugomba no kuzirikana igihe gishize hagati y'ibyo bintu byabaye n'igihe Q yitabiye Urukiko.
254. Urugereko rwibutsa kandi ko ukwivuguruzanya hagati y'ubuhamya abagabo batanze mu rukiko n'ubuhamya bwanditse batanze mbere kugomba gusuzumwaga hazirikanwaga ibibazo byerekeranye n'ingorane ziboneka, nk'urugero, mu isemura ry'ibibazo bibajijwe abatangabuhamya. Byongeye kandi, ni ngombwa kuvugira ko ubuhamya

bwanditse budatangwa hejuru y'indahiro ikozwe mu rwego rw'amategeko imbere y'umukozi ubishinzwe na we wabirahiriye.

255. Urugereko rusanga mu buhamya batanze mu rukiko, abagabo bashinjura biswe DD, DF, DEE na DDD badahakana ko Uregwa yari mu biro bye muri Garaje AMGAR kuva ku itariki ya 15 kugera ku ya 24 Mata. Ubuhamya bwabo bugamije kugaragaza ko muri icyo gihe Uregwa yari muri AMGAR akora imirimo ye y'ubucuruzi. Ubwunganizi buvuga ko muri AMGAR, Uregwa yakiriye abantu b'amoko anyuranye barimo Abatutsi, bari bahahungiyeye. Bwongeraho ko nta muntu wahatiwe kuguma muri AMGAR, cyangwa ngo ahagirirwe nabi, agaragurwe cyangwa yicwe. Urugereko rusanga, ibyo ari byo byose, ibyo bitavuga ko Uregwa atigeze ajya mu bikorwa bivugwa mu gika cya 12 cy'Inyandiko y'ibirego, bikubitiyeho n'uko abagabo bashinjura bagumye muri AMGAR igihe gito ndetse bamwe bakaba banavugaga ko batakoze igenzura ry'icyo gipangu cyose.
256. Byongeye kandi, Urugereko rusanga, ku ifoto ya diyapozitifuru yatanze na Porokireri nk'ikimenyetso gihamya n° 168, Q yarerekanye umwobo abo bantu icumi biciweho n'aho imirambo yabo yajugunywe. Urugereko rusanga ahantu hagaragara kuri icyo foto ya diyapozitifuru ari ahantu hiswe « RUG-1 » na Porofeseri William Haglund, umuhanga mu by'ubumenyi bw'imiterere y'abantu, witabye urukiko nk'umutangabuhamya w'impuguke wahamagajwe na Porokireri. Porofeseri Haglund, wataburuye imirambo yatabwe ahantu henshi hafi ya Garaje AMGAR, yemeza ko mu mwobo uzwi ku hantu hiswe izina « RUG-1 » hataburuye imirambo itatu. Dogiteri Nizam Peerwani, umuhanga mu bumenyi bw'indwara, wakoranye na Porofeseri Haglund ndetse na we akitaba urukiko nk'umutangabuhamya w'impuguke wahamagajwe na Porokireri, yatanze imyanzuro ikurikira ku mirambo itatu yataburuye: umurambo wa mbere ni uw'umugabo wapfuye afite imyaka iri hagati ya 35 na 45 kandi ashobora kuba yarishwe; uwa kabiri ni uw'umugore wapfuye afite imyaka iri hagati ya 30 na 39 ndetse na we ashobora kuba yarishwe; uwa gatatu ni uw'umugabo wapfuye afite imyaka iri hagati ya 35 na 45 kandi urupfu rushobora kuba rwaraturutse ku bikomere bikomeye yatejwe.

257. icya mbere, rushingiye ku buhamya bwa Dogiteri Kathleen Reich, umuhanga mu bumenyi bw'imiterere y'abantu no mu isuzuma risabwa n'ubucamanza (*anthropologue légiste*), wahamagajwe nk'umugabo w'impuguke n'Ubwunganizi, Urugereko rusanga uburyo bwakoreshejwe na Porofeseri Haglund budahagije kugira ngo rugendere ku myanzuro ye.
258. icya kabiri kandi kinakomeye kurusha icya mbere, Urugereko rusanga Porokireri atarashatse kugaragaza neza aho imyanzuro ya Porofeseri Haglund na Dogiteri Peerwani ihuriye n'ibivugwa mu Nyandiko y'ibirego kuri iki kibazo.
259. Kubera izo mpamvu, Urugereko rusanga, mu gusuzuma ibyabaye bivugwa muri uru rubanza bidakwiye gushingira ku myanzuro y'abo batangabuhamya b'impuguke. Byongeye kandi, Urugereko rurashidikanya ko ahantu havugwa na Q n'aho Porofeseri Haglund yataburuye imirambo ari ahantu hamwe.
260. Bityo rero, rushingiye ku buhamya bushyigikirana bwa Q na BB, Urugereko rwemera ku buryo budashidikanywaho ko muri Mata 1994, Abatutsi bari bakuwe mu bandi bantu kuri bariyeri imbere ya Garaje AMGAR bajyanywe ku biro by'Uregwa byari muri iryo Garaje. Rushingiye ku buhamya bushyigikirana bwa Q na T, Urugereko rwemera ku buryo budashidikanywaho ko Uregwa yategetse ko Abatutsi yeretswe, muri ubwo buryo, bafungirwa muri AMGAR.
261. Byongeye kandi, rushingiye ku buhamya bwa Q, Urugereko rwemera ku buryo budashidikanywaho ko Uregwa yategetse abantu yagenzuraga kujyana imfungwa 14 zirimo nibura Abatutsi bane ku mwobo muremure wari hafi ya Garaje AMGAR. Bitegetswe n'Uregwa wari unahibereye, abantu be bicishije imihoro abantu 10 muri izo mfungwa maze imirambo yabo ijugunywa muri uwo mwobo.

4.4. Ibika kuva ku cya 13 kugera ku cya 16 by'Inyandiko y'ibirego

262. Ibirego bikubiye mu bika bya 13, 14, 15 na 16 by'Inyandiko y'ibirego bisubirwamo hano hasi.

263. Igika cya 13 kigira kiti:

Guhera ku itariki ya 7 kugeza ku ya 11 Mata 1994, abantu babarirwa mu bihumbi bo mu bwoko bw'Abatutsi barimo abagabo, abagore n'abana, ndetse harimo na bake bo mu bwoko bw'Abahutu, bese batari bafite intworo bahungiyeye ku ishuri rya ETO [*Ecole Technique Officielle*] riri muri Segiteri ya Kicukiro, Komine ya Kicukiro. Kuri iryo shuri hafatwaga nk'ahantu hari umutekano uhagije kubera ko hari ibirindiro by'abasirikari b'Ababiligi bari muri Mutwe w'Ingabo z'Umuryango w'Abibumbye Zishinzwe Kurinda Amahoro mu Rwanda (MINUAR).

264. Igika cya 14 kigira kiti:

Ku itariki ya 11 Mata 1994 cyangwa hafi yayo, Ababiligi bakimara kuva ku ishuri rya ETO, abasirikari bo mu ngabo z'u Rwanda, abajandarume n'abandi bantu bitwaraga gisirikari barimo Interahamwe, bagabye igitero kuri iryo shuri maze bica abantu bari bahahungiyeye bakoresheje imihoro, amagerenade n'imbunda. Muri icyo gitero, Interahamwe zavanguye Abahutu n'Abatutsi, maze zica Abatutsi. Georges Rutaganda yitabiriye icyo gitero cyo ku ishuri rya ETO cyahitanye Abatutsi benshi cyane.

265. Igika cya 15 kigira kiti:

Abagabo, abagore n'abana barokotse icyo gitero cyo ku ishuri rya ETO bajyanywe ku ngufu na Georges Rutaganda, Interahamwe n'abasirikari ahantu hacukurwaga garaviye hafi y'ikigo cy'amashuri abanza cy'i Nyanza, aho abajepa bari babategereje. Izindi Nterahamwe nyinshi zahuriye i Nyanza ziturutse imihanda yose, maze zigota abo bari barokotse.

266. Igika cya 16 kigira kiti:

Ku itariki ya 12 Mata 1994 cyangwa hafi yayo, abarokotse bashoboraga kugaragaza ko ari Abahutu barabarekaga bakagenda. Abatutsi berekanaga indangamuntu z'impimbano bahitaga bicwa. Abenshi mu bahasigaye bagabweho igitero bicishwa amagerenade n'imbunda. Abageragezaga guhunga, abari mu bitero babahutsemo n'imihoro. Georges Rutaganda n'umwe mu bayoboye ibyo bitero kandi yari abirimo.

Ibyabaye bivugwa

267. Umutangabuhamya wiswe A w'Umututsi wakoreye Uregwa nk'umufundi, avuga ko ku itariki ya 7 Mata 1994, we, umugore we n'abana be batanu, bahungiyeye ku ishuri rya ETO. Yasobanuye ko bagiye kuri iryo ishuri ryari muri kilometero imwe uvuye iwe kugira ngo baharindirwe n'abasirikare ba MINUAR bari bahari. Yavuze ko ahageze, yasanze nta biryo nta n'ibiringiti yari yazanye, nuko asubira mu rugo kubizana, asiga umuryango we kuri ETO. Uyu mutangabuhamya yavuze ko kuri ETO hari impunzi zigera ku 6.000 zari imbere mu mazu no hanze yayo. Yagarutse ku mugoroba anyuze kure y'ibirindiro by'Interahamwe yari yahuye na zo mbere muri ako gace. Cyakora, ntiyashoboye kwinjira imbere muri ETO kubera imbaga y'abantu yari ihari. Yaraye hafi y'ikibuga cy'imikino cy'iryo shuri.
268. Umutangabuhamya A yavuze ko bukeye bwaho Koloneli Léonidas Rusatira yaje akabwira Abahutu kwitandukanya n'abandi bantu bari aho. Nyuma y'ibyo, Abahutu babarirwa hagati ya 600 na 1.000 bavuye aho hantu. Uyu mutangabuhamya yavuze ko ku itariki ya 10 Mata 1994, abasirikare ba MINUAR bagiye impunzi zarabatakambiye ngo bagume aho kubera ko Interahamwe zari zagose ikigo cya ETO. Kugenda kw'abasirikare ba MINUAR kwaciye igikuba mu mpunzi, maze bituma nyinshi muri zo zari ku marembo ya ETO zigenda, bityo A ashobora gusanga umuryango we imbere muri icyo kigo. Icyo gihe ni na bwo Interahamwe zinjijye zivanga n'imbaga y'impunzi imbere mu mazu. Umutangabuhamya A yavuze ko impunzi zafashe icyemezo cyo kujya kuri Sitade Amahoro, n'uko ziva kuri ETO zerekeza kuri sitade. Cyakora, zaje guhagarikwa n'abasirikare bari bagiye kuri bariyeri. Abo basirikare bazirundanyirije hamwe maze bazitegeka kuryama hasi, zishyize ibiganza ku mutwe. Nyuma haje umusirikare wakoreshaga indangururamajwi maze azibwira ko atari byiza kujya kuri Sitade Amahoro, ko ahubwo byaba byiza zigiyeye i Nyanza kuko ari ho zari kugirira umutekano.
269. Umutangabuhamya wiswe A n'umuryango we bagiye i Nyanza bari mu mbaga y'abantu bagera ku 4500 kandi bari bagoswe n'Interahamwe inzira yose. Uyu mutangabuhamya yavuze ko muri urwo rugendo, Interahamwe, zari zitwaje

imihoro, ibikoni, amashoka, amacumu n'ibyuma bikwiyemo imisumari, zari zatangiye kwica abantu no gutera abandi ubwoba ndetse no gusambanya abakobwa ku gahato. Zabaciragaho ari na ko zibakorera amarorerwa. Muri urwo rugendo, umutangabuhamya A yabonye Uregwa mu modoka ye aza aturuka imbere yabo avuye i Nyanza. Uregwa yagiye iruhande ahagana hepfo, asohoka mu modoka maze ayegamaho. Umutangabuhamya A yabonye umufundi wari warakoreye Uregwa asanga uyu ngo amusabe kumurwanaho, ariko Uregwa yakoresheje ikiganza amubwira ngo yigireyo.

270. Bageze i Nyanza, umutangabuhamya A yongeye kubona Uregwa yereka Interahamwe aho zihagaragara ngo zigote impunzi zari zakoranyirijwe ahantu hamwe. Abasirikare bafite intworo bari bafashe ibirindiro ku misozi ikikije aho hantu. Uwo mutangabuhamya yabonye umugabo azana umufuka wuzuye amagerenade, maze babaza Abahutu kwerekana indangamuntu zabo, barangije barababwira ngo bagende. Bamwe mu Batutsi bashatse kwiyoberanya ngo bagende mu Bahutu ariko bahita bicwa n'Interahamwe zari zibazi, abandi bahita basubizwa inyuma mu kivunge cy'abantu. icyo gihe rero ni bwo gerenade ya mbere yatewe muri iyo mbaga y'abantu maze abasirikare na bo batangira kurasa. Uwageragezaga guhunga wese yasubizwaga inyuma n'Interahamwe zari zagose aho hantu. Umutangabuhamya A yabonye umwana umugore we yari ahete mu mugongo afatwa na gerenade. Na we ubwe yafashwe n'isasu maze yitura hasi agifite mu maboko umwe mu bana be, maze abandi bantu bamugwa hejuru.

271. Barekeyaho kurasa, umutangabuhamya A yumvise abasirikare babwira Interahamwe gukora akazi kazo. Ubwo rero, Interahamwe zahise zitangira kwica abantu zikoresheje amahiri n'izindi ntwaro. Banatoranyije kandi bashyira ku ruhande abakobwa. Uyu mutangabuhamya yavuze ko bakoresheje abo bakobwa « icyo bashaka » barangije barabica. Benshi mu bagore bishwe bacujwe imyenda bari bambaye « kugira ngo babone ubwambure bw'Abatutsikazi ». Interahamwe zakomeje « kwimara agahinda », zimaze kurambirwa mu ma saa tanu z'ijoro ziragenda. Umugore n'abana bane b'umutangabuhamya A baguye muri ubwo bwicanyi. Umwana we w'imyaka itanu yakomeje gufata mu maboko ye ntiyapfuye

ariko yakomerekejwe na grenade. A yavuze ko ubwo Interahamwe zagarakaga bukeye mu gitondo, yaripfushije. Zamukandagiye ku kuboko kwari kwakomeretse, zimukubita ikintu gityaye mu mutwe kugira ngo zirebe niba koko yapfuye, ariko arashinyiriza ntiyakoma. Yavuze ko uwo muni wo kuwa kabiri, tariki ya 12, yawumaze aho hantu ubwo Interahamwe zarimo gucuza imirambo. Mu gitondo cyo ku itariki ya 13 Mata 1994, abasirikare ba FPR baraje maze baramutwara hamwe n'abandi bantu bari barokotse ubwo bwicanyi. Uyu mutangabuhamya yavuze ko agereranyije aho hantu harokoye abantu bageze kuri 200.

272. Mu ibaza rinyomoza, Avoka wunganira Uregwa yavuze ko ubuhamya bwa A butakwizerwa kuko buvuguruzwa ubwanditse yahaye abapererezi bo mu Biro bya Porokireri ku itariki ya 7 Ukuboza 1995. Yavuze ko muri ubwo buhamya bwanditse, uyu mugabo yari yavuze ko yari afite abana batatu kandi ko bose baguye muri icyo gitero. Abajijwe ku buhamya bwanditse yatanze mbere, ku byerekeranye n'umubare w'abana be, A yakomeje kuvuga ko abana be bane baguye mu gitero, maze hakarokoka umwe gusa. Yavuze ko iyo abana be bose baba barishwe, nta nyungu n'imwe yari kuba afite yo kuvuga ko hari uwarokotse.
273. Ubwunganizi kwasabye uyu mutangabuhamya kuvuga radiyo yumvise mu gitondo cyo ku itariki ya 7 Mata 1994. Mu ibaza ry'ibanze yari yavuze ko yumvaga RTLTM. Uyu mutangabuhamya yasobanuye ko ubusanzwe yumvaga RTLTM, ko ariko mu gitondo cy'uwo muni, yumvise Radiyo Rwanda. Yavuze kandi ko RTLTM yahitishaga ibiganiro byayo nyuma ya saa sita gusa, kandi ko yamenye ko Perezida yapfuye abyumviye kuri RTLTM ku itariki ya 7 Mata 1994. Uwunganira Uregwa yamusabye kandi kuvuga ukuntu yashoboye kumva radiyo kandi yari yavuze ko nta radiyo yari atunze. A yashubije ko yari yabyumviye kuri radiyo y'umuturanyi.
274. Ubwunganizi kandi bwabajije umutangabuhamya A niba yari azi neza Uregwa. A yashubije ko n'ubwo batigeze baganira, yari amaze imyaka itandatu amuzi kubera ko yamubonye inshuro nyinshi ndetse akaba yaranamukoreye. Mu ibaza rinyomoza, Ubwunganizi bwongeye gusaba ibindi bisobanuro ku buhamya bwanditse umugabo yari yaratanze mbere, kugira ngo bumenye niba Uregwa yari kumwe n'abandi bantu

mu modoka ye no kugira ngo bumenye uburyo Uregwa yeretse Interahamwe aho zihagarara i Nyanza.

275. Umutangabuhamya wiswe H, w'Umututsi ukomoka ku Kicukiro, yavuze ko muri Gashyantare 1994 inzu ye yatewe kandi ikanasakwa n'Interahamwe zitwaje ibikoni kandi zaje zikurikiwe n'imodoka. Uyu mutangabuhamya yavuze ko yaje kumenya ko Jenerali [NDT: Bashobora kuba bashaka kuvuga Gérard] Karangwa n'Uregwa bari muri iyo modoka y'Uregwa. Ubuhamya bwa H mu rukiko bugaragaza ko Uregwa yari umuturanyi we ndetse ko hagati y'amazu yabo harimo intera ya metero 600. Byongeye kandi, H yari azi ko Uregwa ari umucuruzi ukomeye, urangura inzoga mu mahanga, ndetse akaba na Visi-Perezida w'Interahamwe. Nyuma y'ihanurwa ry'indege ya Perezida ku itariki ya 6 Mata 1994, ubwicanyi bwaratangiye maze H ajyana umuryango we kuri ETO ahari abasirikare ba MINUAR. Abo basirikare bababwiye kwinjira mu kigo kuko bari kuharindirwa. Yavuze ko kuri ETO hari hahungiyeye abantu bari hagati ya 3.500 na 4.000. Bamwe muri bo bari mu mazu ariko abenshi, na we arimo, bari ku kibuga cy'imikino. Interahamwe zaje zitwaje imbunda, amagerenade n'izindi ntware maze zigota ETO, ariko ntizagabye igitero kubera gutinya abasirikare ba MINUAR.
276. Ku itariki ya 11 Mata 1994, H yabonye abasirikare ba MINUAR bahambira utwabo kugira ngo bagende. Itsinda ry'impunzi yarimo ryitambitse imbere y'imodoka ya MINUAR kugira ngo bingire abo basirikare be kugenda, ariko biba iby'ubusa. H yavuze ko abasirikare ba MINUAR bakimara kugenda, Interahamwe zahise zinjira mu kigo cya ETO maze zitangira kugaba igitero, zirasa amasasu ari nako zitera amagerenade. icyo gihe ni bwo H yabonye Uregwa avugana na Gérard Karangwa, wari perezida w'Interahamwe mu rwego rwa komine. Uyu mutangabuhamya yasobanuye ko Uregwa, nk'umukuru w'Interahamwe mu rwego rw'igihugu, yari akuriye Karangwa. Uregwa na Karangwa bari mu itsinda ry'abantu bari imbere ye, kandi abagize iryo tsinda batangiyeye gutera za gerenade no kurasa. Umutangabuhamya yabonye Uregwa mbere y'uko batangira kurasa.
277. Umutangabuhamya H yavuze ko yavuye kuri ETO ari kumwe n'abandi bantu berekeza kuri Sitade Amahoro. Batekerezaga ko bashobora kuhagirira umutekano

kubera ko hagenzurwaga na RPF. Mu nzira, Interahamwe zarabahagaritse zibategeka kunyura indi nzira maze muri icyo nzira zihuriramo n'abasirikare babategetse kwicara hasi. Nyuma yaho, haje umukuru w'abasirikare ababwira ko agiye kubajyana i Nyanza aho yashoboraga kubarindira umutekano. Izo mpunzi zajyanywe i Nyanza ziyobowe na Koloneli Rusatira kandi zigoswe ku mpande zose n'abasirikare n'Interahamwe. Mu nzira, izo mpunzi zarakubiswe kandi ziterwa ubwoba n'Interahamwe zari zitwaje imihoro, amagerenade, amacumu n'izindi intwari. Abantu benshi mu mpunzi 4.000 zari zijyanywe i Nyanza bakomerekerejwe mu nzira. H yabonye Uregwa kuri santeri ya Kicukiro ubwo impunzi zari zigiyeye i Nyanza. Uregwa yari kumwe n'itsinda ry'abantu ndetse yavuganaga n'abantu barimo M. Kagina, wigishaga muri ETO kandi H azi ko uyu mugabo yari Interahamwe. Bageze i Nyanza, Interahamwe n'abasirikare bategetse impunzi guhagarara, bazicaza hasi. Abahutu basabwe kwimenyekanisha no guhaguruka. Bamaze kwerekana indangamuntu zabo, abo Bahutu bemerewe kwigendera. Ibyo birangiye, abagabye igitero bateye amagerenade banarasa amasasu ku mbaga y'abantu. H yashoboye gucika maze yihisha mu gashyamba kari nko muri metero esheshatu uvuye aho ibyo bintu byarimo kubera. Ari aho hantu, yumvise amasasu araswa yumva n'abantu bacuraga imiborogo. Bamaze gushirirwa na za gerenade n'amasasu, abasirikare babwiye Interahamwe kwica abantu zikoresheje ibyuma. Ubwo bwicanyi bwamaze igihe kirenga isaha. H yumvise abasirikare babwira Interahamwe gushakisha abarokotse no kubasonga. Uyu mutangabuhamya yavuze ko atabonye Uregwa i Nyanza kandi ko yategereje ko ijoro rigwa kugira ngo ahungire ku Kicukiro.

278. Mu ibaza rinyomoza, H yemeje ko yari kuri ETO kuva ku itariki ya 7 kugera ku ya 11 Mata. Ubwunganizi bumusabye kuvuga niba yarahuye n'Interahamwe mu nzira, yashubije ko yahuye n'amatsinda menshi y'Interahamwe zitwaje intwari, ko ariko zitamubujije kujya kuri ETO. Ubwunganizi bwanasabye kandi H gusubiza ibibazo bisobanutse byerekeranye n'ahantu yari ari ku kibuga cy'imikino cya ETO, ku mubare w'abasirikare ba MINUAR bari aho, n'ahantu bari bari. H yashubije ko abasirikare ba MINUAR bari hafi y'ikibuga cy'imikino. Ku bibazo byerekeranye n'ibikorwa by'Interahamwe mbere y'uko abasirikare ba MINUAR bagenda,

n'impamvu zatumye ava kuri ETO, H yasubije ko igihe cyose yari aho hantu, hari ubwo Interahamwe zagabaga udutero shuma ariko ingabo za MINUAR zikadukumira.

279. Ubwunganizi bwanasabye H kuvuga uko impunzi zifashe ubwo zabuzwaga gukomeza inzira ijya kuri Sitade Amahoro maze zikoherewe i Nyanza, akanavuga niba impunzi zarizeye ibyo bazibwiye ko bari kuzirindira umutekano aho hantu, n'ukuntu zafashe ibyo bintu, aho yari ari muri izo mpunzi zoherejwe i Nyanza, ahantu agahuru yihishemo kari kari mu gitero cyagabwe ku mpunzi no kuvuga ahantu Interahamwe n'abasirikare bari bari muri icyo gitero. Kuri ibyo bibazo byose no ku bindi bijyanye na byo, H yashubije atanga ibisobanuro by'inyongera ku bintu bitari byasobanutse mu ibaza ry'ibanze.
280. Umutangabuhamya wiswe DD ni Umututsi wigaga mu ishuri ryisumbuye mu wa 1994. Yavuze ko yari aturanye n'Uregwa kandi ko yari azi ko Uregwa ari Visi-Perezida w'Interahamwe. Amaze kumenya ko Perezida yapfuye, yahungiyeye kuri ETO ari kimwe n'umuryango we wose kuko bari bizeye ko baharindirirwa neza umutekano kubera abasirikare ba MINUAR bari bahari. Ubwo bari kuri ETO, DD yabonye Interahamwe, zimwe zigenda n'amaguru, izindi ziri mu mamodoka. Izo Interahamwe zari zitwaje intwara, ariko DD yavuze ko impunzi zumvaga zifite umutekano kubera abasirikare ba MINUAR bari bahari. Kuri ETO, DD yagumye ku kibuga cy'imikino, akaba yarinjiye mu nzu y'iryo shuri inshuro imwe gusa. Yavuze ko agereranije, impunzi zari kuri ETO zageraga ku 5.000. Ku itariki ya 11 Mata, yabonye Interahamwe zigaba igitero ubwo abasirikare ba MINUAR barimo kuva kuri iryo shuri. Yavuze ko abayobozi b'Interahamwe bari bahari maze muri bo akavuga Uregwa na Konseye wa Segiteri ya Kicukiro bari baturanye. Yabonye Uregwa ari nko muri metero 50 z'amarembo ya ETO ari kumwe n'uwo mukonye n'abandi bantu benshi atashoboye kumenya. Yavuze ko bese bari bitwaje intwara kandi ko Uregwa yari afite imbunda. Interahamwe zitangiye kugaba igitero, DD yarahunze ava kuri ETO, bityo ahita atandukana n'umuryango we.
281. DD yagiye ku ruganda rwa SONATUBE aho we n'abandi bantu bafatiwe n'abasirikare, bagategekwa kwicara. Abasirikare babumvishije ko bagiyeye kubajyana

i Nyanza kubafashirizayo. Yavuze ko abagore bari kumwe n'abana babo bakuwe ku ngufu mu bandi bantu maze bagasambanywa ku gahato n'Interahamwe. Yavuze ko abo bagore bagarutse ari bwo bamutekerereje ko Interahamwe zabasambanyije ku gahato ndetse zikabatera amada. Bageze i Nyanza, impunzi zashyizwe ahantu hamwe maze zigotwa n'abasirikare n'Interahamwe. Abahutu basabwe kwerekana indangamuntu zabo no kuva mu bandi, birangiye bemererwa kugenda. Yabonye kandi umuntu wahise yicishwa isasu kuko yari ashatse kwiyoberanya ngo ni Umuhutu, yerekana indangamuntu ye. Abahutu bamaze kuva mu bandi, abasirikare batangiyeye kwica abantu banabateraho amagerenade. Bamaze kurangiza gutera amagerenade, abasirikare bategetse Interahamwe kureba niba abantu bapfuye koko no guhorahoza abatari bagapfa. DD yavuze ko nyuma y'igitero cyo kuri ETO atongeye kubona Uregwa.

282. Mu ibaza rinyomoza, Ubwunganizi bwabajije DD uburyo yabonyemo Uregwa kuri ETO, nk'urugero akavuga ahantu yari ari ndetse agasobanura niba nta bintu byari bihari byamubuzaga kureba neza. Uyu mutangabuhamya yasubije ko nta kintu cyari gihari kimubuzaga kureba neza. Yongeyeho ko yari ku kibuga cy'imikino ubwo yabonaga Uregwa. Ubwunganizi bwavuze ko mu buhamya yatanze mbere mu iperereza, DD yavuze ko yabonye Uregwa igihe we n'abantu bo mu murungu we bavaga mu cyumba cy'ishuri kandi ko icyo gihe Uregwa yari ku mbuga y'ishuri. Uyu mutangabuhamya yatsimbaraye ku mvugo ye maze avuga ko yari yaravuze ko icyo gihe yari asohotse mu cyumba cy'ishuri agiye kureba abantu bo mu murungu we. Yasobanuye ko urujijo rushobora kuba rwaratewe n'uko hafi y'umurungu wa ETO hari ikibuga cya basiketi. Ubwunganizi bwavuze ko hagati y'ikibuga cy'imikino n'umurungu wa ETO hari amazu menshi maze bukibaza niba, umuntu ari aho DD yari ari, nta kintu cyari gihari kimubuzaga kureba neza. DD yasubije ko yari ku kibuga cy'imikino, kandi ko nta nzu n'imwe yari aho hantu.

283. Umutangabuhamya wiswe W w'Umututsi akaba n'umuturanyi w'Uregwa, yavuze ko yari azi ko Uregwa yari Visi-Perezida w'Interahamwe akaba injeniyeri n'umucuruzi. W yavuze ko yavuye iwe ku itariki ya 7 Mata yizeye guhungira mu

Rubirizi. Mu nzira agenda, yahuye n'Uregwa arimo ashiraho bariyeri kandi ari hamwe n'Interahamwe.

284. Kubera ko aho hantu hari abantu benshi, uyu mutangabuhamya yasubiye iwe yihisha mu bihuru byari hafi aho kugera ijoro riguye nuko ahungira kuri ETO ari kumwe na bane mu bana be na mushiki we. Yahungiyeye kuri ETO kubera ko abasirikare ba MINUAR bari bahari. Yavuze ko abasirikare ba MINUAR bakimara kuhava, Interahamwe n'abajepi bari bitwaje amagerenade, imihoro n'ibikoni bateye ETO. Yemeza ko yamenye zimwe mu Nterahamwe yari yabonye hamwe n'Uregwa kuri bariyeri yari ku muhanda ujya kuri ETO, cyakora avuga ko icyo gihe atabonye Uregwa. Interahamwe zatangiye gutera amagerenade ku kibuga cy'imikino no hagati y'amazu hari abantu benshi. Abana ba mukuru we n'abandi bantu yari azi baguye muri icyo gitero. Umutangabuhamya W yabonye kandi nyina apfa amaze gukubitwa igikoni. Na we ubwe kandi yarakomeretse gato ariko ashobora guhunga anyuze inyuma y'ikigo cya ETO, maze ahungira ku muzungu yari azi. Cyakora, uwo muzungu ntiyashoboye kumuhisha iwe; yamugiriye inama yo kujya kuri SONATUBE.
285. Ubwo W yagiye kuri SONATUBE ari kumwe n'abandi bantu bari bahunze bava kuri ETO. Nyuma baje gufatwa n'abasirikare bababwiye ko Rusatira yategetse ko babohereza i Nyanza kugira ngo baharindirirwe umutekano. Yavuze ko kuri SONATUBE hari impunzi zigera ku 4.500. Bamaze iminota nka 30 bicaye hasi mbere y'uko Interahamwe n'abajepi babajyana ku ngufu i Nyanza. Bari mu nzira bagenda, Interahamwe zari zibakikije zabakoreye ibikorwa binyuranye byo kubagirira nabi. Bamwe bacujwe imyambaro n'amafaranga naho abandi bicwa n'Interahamwe n'abajepi. W yavuze ko yamenye zimwe mu Nterahamwe zari ku muhanda ujya i Nyanza ndetse anabona imodoka y'Uregwa itwaye Interahamwe zije gufasha izindi. Yemeza ko Uregwa ashobora kuba yari muri icyo modoka yabonyeye kure, ariko asobanura ko atamubonye. Bagiye kugera i Nyanza, umutangabuhamya W yabonye ko bagiye kwicwa aho kurindirwa umutekano. Ubwo rero we na bagenzi be bagera ku 150 bitandukanije n'izindi mpunzi maze barahunga. Bamwe muri bo bishwe n'Interahamwe zibarashe mu mugongo.

Umutangabuhamya yihishe mu ishyamba ryari hafi aho kugeza ijoro riguye. Muri icyo gihe cyose, ntiyahwemye kumva urusaku rw'amasasu ruvugira ku gasozi ka Nyanza. Nyuma yaho we na bagenzi be bari basigaye berekeje mu gace kari gasigaye kagenzurwa na FPR. Bagezeyo basigaye ari 60 kandi mbere bari 150.

286. Mu ibaza rinyomoza, Ubwunganizi bwashyize umutangabuhamya W kuvuga abantu bo mu muryango we bagaranye kuri ETO. W yavuze ko ari abana ba mukuru we n'abandi bantu babaga iwe. Ubwunganizi bumubwiye ko ibyo avuze bivuguruzwa ibyo yavuze mu ibaza ry'ibanze, W yasobanuye ko yari yibeshye akavugaga ko abo bana ari aba mushiki we, aho kuvugaga ko ari aba mukuru we. Ahanini, mu ibaza rinyomoza rya W, havuzwe ku bindi bintu, bitari ibyo yabonye kuri ETO n'i Nyanza.
287. Mu buhamya bwe, Capiteni Luka Lemaire, umusirikare mu ngabo z'u Bubirigi wakoze muri MINUAR, yavuze ko yari kuri ETO kugeza abasirikare ba MINUAR bavuye aho hantu ku itariki ya 11 Mata. Yavuze ko MINUAR igenda, kuri ETO hari impunzi zigeze ku 2.000. Kapiteni Lemaire yavuze ko icyo gihe Interahamwe zagendaga zirushaho gukorera ibikorwa by'ubugizi bwa nabi hafi ya ETO kandi ko abantu bagabaga ibitero bateraniraga hafi y'ishuri kandi kenshi babaga bafite intwari. Mu ibaza rinyomoza, Kapiteni Lemaire yabajijwe ku byerekeye Interahamwe, maze avugaga ko nta Interahamwe zambaye iniforume yabonye hafi ya ETO. Yongeyeho ko yari azi ko abantu yabonye ari Interahamwe kubera ko batemberaga nta nkomyi ndetse bikanavugwa n'abantu babazi bari muri ETO.
288. Umutangabuhamya wiswe DZZ, Umuhutukazi wo ku Kicukiro wahagamagajwe n'Ubwunganizi, yavuze ko ku itariki ya 7 Mata yahungiyeye mu nzu y'abihaye Imana b'abagatorika amaze kumva urusaku rw'amasasu. Yavuze ko uwo muni, we n'izindi mpunzi 25 bajyanywe n'umupadiri w'Umubirigi ku ishuri rya ETO, nko muri kilometero imwe n'igice uvuye kuri icyo nzu. Yavuze ko bahageze yahasanze impunzi zigeze ku 2.000. DZZ yavuze ko nyuma yaho haje abandi bantu kandi ko yakomeje kumva urusaku rw'amasasu. Yongeyeho ko igihe yari kuri ETO, Abasirikare ba FPR bambaye iniforume baje bagatwara Abatutsi. Ku itariki ya 9 Mata, abasirikare ba MINUAR babwiye DZZ ko bagiyeye kugenda, maze bituma na

we ava aho hantu bukeye bwaho ku itariki ya 10 Mata. DZZ yavuze ko ava kuri ETO yahasize abantu bageze kuri 500, kandi ko benshi mu bantu bari bahavuye bagiye kuri Sitade Amahoro. DZZ yasubiye iwe nko kuri kilometero 3 uvuye kuri ETO. Yemeza ko nta mirambo cyangwa bariyeri yabonye mu nzira. Mu ibaza rinyomoza, DZZ yavuze ko atamenye ibyabereye kuri ETO amaze kuhava ku itariki ya 10 Mata, ndetse ko atanamenye ibyabereye i Nyanza nyuma yaho.

289. Umutangabuhamya ushinjura wiswe DPP yavuze ko muri Mata 1994 yari atuye ku Kicukiro, nko hagati ya metero 400 na 500 uvuye kuri ETO. Ku itariki ya 11 Mata, ubwo yari agiye gushaka imiti y'umwana we wari urwaye, yabonye abasirikare ba MINUAR bava kuri ETO. MINUAR imaze kugenda, yabonye abantu bagera kuri mirongo itanu, barimo abo azi, binjira muri ETO. Yavuze ko abo bantu batari bambaye iniforume, ariko ko bamwe muri bo bari bitwaje intwaro. Yumvise urusaku rw'amasasu ruvugira kure cyane. Nyuma yabonye abantu basohoka muri ETO batwaye ibintu by'iryo shuri. Yaje no kubona abagabo, abagore n'abana bava mu kigo cya ETO. Yavuze ko abo bantu batirukaga kandi batari bakomeretse. Yongeraho ko atabonye Uregwa. Yasobanuye ko yahungiyeye muri ETO muri Gicurasi 1994. Yavuze ko icyo gihe kuri ETO haraswaga amasasu menshi cyane kandi yahuye n'abantu bari barahungiyeye nyuma y'itariki ya 6 Mata bakaba bari barahagumye kuva icyo gihe. Abenshi muri bo bari Abatutsi, uretse ko harimo n'Abahutu. Uyu mutangabuhamya avuga ko nyuma y'itariki ya 11 Gicurasi, abasirikare ba Leta bashinze ibirindiro kuri ETO, kandi wasangaga nta bibazo byari hagati yabo n'Abatutsi bari aho. Yemeza ko ku itariki ya 23 Gicurasi, abantu bose bavuye aho hantu kubera ko FPR yarimo kurasa kuri ETO. Mu ibaza rinyomoza, DPP yemeje ko ku itariki ya 11 Mata yamaze hafi ya ETO amasaha abiri. Yavuze ko nta muntu yabonye aterwa kandi ko yabonye abantu binjira, ariko ko aho yari ari atashoboraga kubona aho impunzi zari ziri. Hari umuntu wamubwiye ko impunzi zari zagiye zerekeza iya sitade, ariko ko bari bazihagarikiye mu nzira, bakazitegeka gusubira kuri ETO. Uwo muntu kandi yamubwiye ko bageze iyo bajya, abantu bamwe bicishijwe ibyuma abandi bakicishwa amasasu.

290. Mu buhamya bwe, Uregwa yavuze ko mu gitondo ku itariki ya 11 Mata, umuturanyi we yaje kumukangura amubwira ko abasirikare ba FPR bari hafi aho kandi ko bari bishe umwana. Uregwa yafashe icyemezo cyo kuva mu nzu ye yo ku Kicukiro we n'umuryango we. Yahavuye saa moya n'igice za mu gitondo atwaye abantu icumi mu modoka ye, maze ajya ku muntu baziranye anyuze kuri bariyeri nyinshi. Yasanze uwo muntu yitegura kujya ku Kibuye n'umuryango we. Batangiye urugendo mu masaa sita, maze nyuma y'ingorane nyinshi bagiriye kuri za bariyeri, bagera mu rugo rw'Uregwa ruri i Karambi muri Komine ya Masango mu ma saa kumi n'imwe n'igice. Uregwa yavuze ko mu nzira, yabonye imbaga y'abantu bahunga, benshi muri bo bakaba baravaga mu mugu n'amaguru, abandi bari mu mamodoka. Yemeza ko atigeze agera kuri ETO, haba ku muryango cyangwa mu kigo imbere ku itariki ya 11 Mata cyangwa ku yindi tariki iyo ari yo yose. Yavuze ko yabonye amazu ya ETO bwa mbere ku mafoto ya diyapozitifuro yerekanywe mu iburanisha, kandi ko nta mpamvu n'imwe yari afite yatuma ajya kuri ETO. Uregwa yemeza ko yagumye muri Komine ya Masango kugeza ku itariki ya 14 ari naho yasubiye i Kigali. Mu ibaza rinyomoza, yemeje ko atari azi ko kuri ETO hari impunzi.
291. Umutangabuhamya ushinjura wiswe DDD yavuze ko yavuye iwe ari kumwe n'Uregwa n'umuryango we mu gitondo cyo ku itariki ya 11 Mata, bagiye ku nshuti y'umuryango we mu Kiyovu, bakahagera saa tatu za mu gitondo. Bagezeyo, basanze iyo nshuti yabo na yo yitegura kuva mu Kiyovu kubera impamvu z'umutekano. DDD yavuze ko bamaze kubona lisansi, bavuye mu Kiyovu mu masaa sita z'anywa bajya i Masango aho bageze mu masaa kumi n'ebiri z'umugoroba. Yavuze ko Uregwa yahamye i Masango kugeza ku itariki ya 14 Mata.

Imyanzuro ishingiyeye ku byabaye

292. Rumaze kumva no gusuzuma ubuhamya abagabo bashinja batanze mu rukiko ku bivugwa mu bika bya 13, 14, 15 na 16 by'Inyandiko y'ibirego, Urugereko rusanga A, H, DD, W na Kapiteni Luka Lemaire bese bakwizerwa. Abo batangabuhamya bavuze, mu buryo busa, ibyabaye byerekeranye n'uko impunzi zari zimerewe muri

ETO, igitero Interahamwe zagabye abasirikare ba MINUAR bamaze kugenda, uko impunzi zari zihungiyeye kuri sitade zajyanywe i Nyanza kimwe n'ubwicanyi bwakorewe izo mpunzi i Nyanza, bukozwe n'abasirikare n'Interahamwe. Mu ibazwa riyomoza rirambuye bakorewe, bagaragaje muri rusange uko ibintu byagenze ndetse banatanga amakuru y'inyongera kandi batavuguruzanya. Urugereko rusanga harabayeho ukuvuguruzanya kudakanganye gushobora kuba muri rusange kwaratewe n'ibintu bidashingiye ku buhamya ubwabwo birebana n'iperereza kimwe n'ibibazo by'ururimi n'iby'isemura. Nk'urugero, Ubwunganizi bwavuze ko mu buhamya A yatanze mu rukiko yavuze ko bane mu bana be bapfuye umwe akarokoka, buvuguruza ubwanditse yatanze mu iperereza akanabusinyira mu mwaka wa 1995. Muri ubwo buhamya bwanditse yavuze ko yari afite abana batatu kandi ko bose baguye mu gitero kivugwa. Urugereko rusanga yari azi abana yari afite n'abapfuye muri bo, ko iryo kosa rishobora kuba ryaratewe n'ibibazo by'imyandikire n'isemura, nk'uko byasobanuwe mu mutwe wiswe « ibimenyetso ».

293. Rumaze kumva no gusuzuma ubuhamya bwatanzwe mu rukiko n'abagabo bashinjura barimo n'Uregwa, ku bivugwa mu bika 13, 14, 15 na 16 by'Inyandiko y'ibirego, Urugereko rusanze ibintu biteye mu buryo bukurikira.

294. Urugereko rusanga DZZ atariboneye ibyabereye kuri ETO n'i Nyanza ku itariki ya 11 Mata, ndetse atavugaga ko yabyiboneye. N'ubwo ubuhamya bwe bwemeza ko impunzi zari kuri ETO, ubwo buhamya ntibushobora gutuma umuntu akemanga ubwatanzwe n'abagabo bashinja biboneye ibyabaye, bitewe n'uko uwo DZZ yavuye kuri ETO mbere y'ibyabaye bivugwa mu Nyandiko y'ibirego. Ibyo yemeza ko abantu benshi mu mpunzi bari bavuye kuri ETO, hakaba hari hasigaye gusa abantu bageze kuri 500 ubwo yahavaga ku itariki ya 10 Mata, binyuranye n'ibivugwa n'abatangabuhamya bose bari bakiri aho hantu ku itariki ya 11 Mata, ari yo tariki MINUAR yahaviriye. Muri ubwo buhamya, havugwa ubwa Kapiteni Luc Lemaire, wari umusirikare muri MINUAR. Kimwe n'abandi batangabuhamya, uyu mugabo yavuze ko agereranyije, ku itariki ya 11 Mata, kuri ETO hari ibihumbi by'impunzi.

295. Ku itariki ya 11 Mata, DPP yari ku muhanda unyura imbere ya ETO maze abona abasirikare ba MINUAR bava aho hantu. Yabonye abandi bantu, bamwe muri bo

bafite intwaro, binjira mu kigo cy'ishuri, ariko ntiyashoboraga kubona ibyaberaga imbere muri icyo kigo. Yumvise urusaku rw'amasasu, n'ubwo avuga ko urwo rusaku rwaturukaga kure cyane. Nyuma yaho, yabonye abantu bagendaga bava muri ETO ariko ntibari bakomeretse kandi ntibirukankaga. Urugereko rusanga ahanini ubuhamya bw'uyu mugabo buhura n'ubw'abagabo bashinja ku byerekeranye n'ukugenda kw'abasirikare ba MINUAR, n'agatero shuma abantu bitwaje intwaro bagabye kuri ETO nyuma yaho. DPP yavuze ko yibwiye ko abo bantu bari baje gusahura ibintu byari mu mazu ariko akanemera ko atashoboraga kubona ibyaberaga imbere muri icyo kigo.

296. Urugereko rusanga ubuhamya bwatanzwe mu rukiko n'abagabo bashinjura biswe DZZ na DPP bwakwizerwa. Cyakora, rusanga ubwo buhamya butatuma rukemanga ibimenyetso byatanzwe na Porokireri mu gushyigikira ibyo avuga mu bika bya 13, 14, 15 na 16 by'Inyandiko y'ibirego.
297. Urugereko rwasuzumiye hamwe ubuhamya bw'Uregwa n'ubwa DDD kubera ko ubuhamya bwabo buvuga bimwe kandi bwatanzwe mu rwego rwo gushyigikira imyiregurire ya « sinari mpari » [alibi], hagamijwe kwerekana ko ku itariki ya 11 Mata, Uregwa yari mu nzira yerekeza i Masango, bityo akaba atari kuri ETO, i Nyanza cyangwa ahandi hantu ku muhanda uva i Nyanza ugana kuri ETO, aho A, H, DD na W bavuze ko bamubonye uwo muni. Urugereko rusanga imyiregurire ya « sinari mpari » yaravuzwe mu mpera y'urubanza, Porokireri yaramaze gutanga ibimenyetso bishinja. Yaba Uregwa cyangwa DDD nta n'umwe wigeze akomoza kuri icyo myiregurire ubwo Uregwa yafatwaga cyangwa mu gihe icyo ari cyo cyose hatangwaga ibimenyetso bishinja.
298. Nk'urugero, Urugereko rusanga Uwunganira Uregwa atarigeze avuga ko Uregwa ateganya kwiregura ashingiye kuri « sinari mpari ». Ibyo ntiyabikoze haba mu mpinanyanzuro mbanzirizarubanza cyangwa mu ibaza rinyomoza ry'abagabo bashinja batanze ubuhamya mu gihe cy'amezi 18. Kubera icyo mpamvu, abatangabuhamya biswe A, H, DD na W ntibigeze babazwa ku byerekeranye n'ibyo Uregwa yemeza ko atari kuri ETO cyangwa i Nyanza ku itariki ya 11 Mata, kandi icyo myiregurire ishaka kuvuga ko ubuhamya bwabo ari ubuhimbano. Byongeye

kandi, abo batangabuhamya ntibigeze bahabwa uburyo bwo kugira icyo bavuga kuri ibyo bintu. Urugereko rusanga abo batangabuhamya bashinja bakwizerwa, bityo rukaba rudashira amakenga imyiregurire ya « sinari mpari » yatanzwe mu buryo bw'impitagihe. Umwanzuro ugomba gufatwa ni uko Uregwa yahimbye iyo myiregurire ya « sinari mpari » kandi Uregwa na DDD bahisemo amatariki bavuga nyuma y'uko Porokireri arangije gutanga ibimenyetso bishinje. Mu by'ukuri, DDD ni we mutangabuhamya rukumbi ushyigikira iyo myiregurire y'Uregwa, kandi Urugereko rusanga uyu mugabo afite inyungu zo kurengera Uregwa. Kubera izo mpamvu, Urugereko rwanze ubuhamya bw'Uregwa n'ubwa DDD buvuga ko ku itariki ya 11 Mata, bari mu nzira bajya i Masango.

299. Rushingiye ku buhamya buvugwa haruguru, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko kuva ku itariki ya 7 Mata kugera ku ya 11 Mata 1994, abantu babarirwa mu bihumbi biganjemo Abatutsi, bahungiyeye kuri ETO. Abatangabuhamya bose bavuze ko abo bantu bagiye kuri ETO kubera ko hari abasirikare ba MINUAR, bityo bakaba barabonaga ko bahagirira umutekano bashakaga. Interahamwe zitwaje imbunda, amagerenade, imihoro n'ibikoni zateraniye inyuma y'ikigo cya ETO maze zirakigota. Mbere y'igitero, Koloneli Léonidas Rusatira yatandukanije Abahutu n'Abatutsi bari muri ETO, nyuma yaho Abahutu babarirwa mu magana bava muri ETO. Ubwo abasirikare ba MINUAR bavaga muri ETO ku itariki ya 11 Mata 1994, Interahamwe n'abajepe bigabije icyo kigo maze birara mu mpunzi baziteraho amagerenade, baranazirasa kandi bazica banakoresheje imihoro n'ibikoni. Abatutsi benshi barimo abo mu miryango y'abatangabuhamya n'abandi bantu abo batangabuhamya bari bazi baguye muri icyo gitero.
300. Umutangabuhamya H yabonye Uregwa mu gitero cyagabwe kuri ETO, mbere gato y'uko haraswa amasasu ya mbere. Icyo gihe, Uregwa yari kumwe na Gérard Karangwa wari Perezida w'Interahamwe mu rwego rwa komine, kandi bari hagati mu mbaga y'abagabye igitero bahise batera amagerenade bakanarasa amasasu. DD na we yabonye Uregwa muri icyo gitero, afite imbunda kandi ahagaze nko kuri metero 50 uvuye ku muryango winjira muri ETO. Rushingiye kuri ubwo buhamya,

Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa yari kuri ETO kandi ko yitabiriye igitero cyagabwe ku mpunzi z'Abatutsi.

301. Impunzi nyinshi zashoboye gucika, zikarokoka igitero cyagabwe kuri ETO, zagiye mu matsinda zigana kuri Sitade Amahoro aho zabonaga ko zagirira umutekano kuko hagenzurwaga na FPR. Mu nzira, abo bantu bahagaritswe n'abasirikare babakoranyiriza iruhande rwa SONATUBE maze babohereza i Nyanza bamaze kubabwira ko byategetswe na Koloneli Rusatira kugira ngo barindirwe umutekano. Abagore bamwe bakuwe muri abo bantu maze basambanywa ku gahato. Byabaye ngombwa ko izo mpunzi zigera ku 4.000 zerekeza i Nyanza kandi zari zigoswe n'Interahamwe ku mpande zose z'umuhanda. Mu nzira zaratutswe, zishyirwaho iterabwoba ndetse zicwa n'abasirikare n'Interahamwe. icyo gihe, Interahamwe zari zitwaje imihoro, ibikoni, amashoka n'izindi ntwaro.
302. Impunzi zigeze i Nyanza, izo Nterahamwe zari hamwe nazo zazitegetse guhagarara, zizikoranyiriza hamwe, maze zizicaza muni y'agasozi kariho abasirikare bafite intwaro. Impunzi zari zigoswe n'Interahamwe n'abasirikare. Abahutu basabwe guhaguruka bakiyerekana, maze bemererwa kuva ahongaho. Abatutsi bamwe bagageje kugenda biyoberanyije mu Bahutu bahise bicirwa aho n'Interahamwe zari zibazi. Nyuma yaho, Interahamwe zateye za gerenade mu kivunge cy'abantu, maze abasirikare bari ku gasozi na bo batangira kurasa. Abagejeje guhunga bagaruwe n'Interahamwe zabagendaga inyuma. icyo gitero cyo ku itariki ya 11 Mata cyatangiye mu masaha ya nyuma ya saa sita kigeza ku mugoroba kandi cyahitanye abantu benshi barimo umugore w'umutangabuhamyi A na bane mu bana babo batanu. Bamaze kurasa amasasu no gutera za gerenade ku mpunzi, abasirikare bategetse Interahamwe gutangira kwica abo bantu. Interahamwe zatangiye kwica zikoresheje ibikoni n'izindi ntwaro. Bamwe mu bakobwa baratoranyijwe bashyirwa ku ruhande maze basambanywa ku gahato mbere yo kwicwa. Abagore benshi bishwe bamaze gucuzwa imyenda bambaye. Ubwicanyi bwarakomeje mu gihe kirenga isaha. Nyuma yaho, abasirikare bategetse Interahamwe gushakisha abantu batari bagapfa ngo babahorahoze. Interahamwe zagiye mu masaa tanu z'ijoro

zigaruka mu gitondo cyo ku itariki ya 12 Mata gusahura no kwica impunzi zitari zagapfa. Abantu bagera kuri 200 ni bo barokotse ubwo bwicanyi.

303. Ubwo yerekezaga i Nyanza, umutangabuhamya A yabonye Uregwa aza mu modoka iturutse i Nyanza. Yabonye imodoka ihagarara maze Uregwa arasohoka. Nyuma yaho, yabonye Uregwa yirukana, akoresheje ikiganza, umuntu wari warigeze kumukorera. icyo gihe, uwo muntu yari avuye mu mbaga y'abantu kugira ngo Uregwa amurwaneho. Umutangabuhamya H na we yabonye Uregwa ku muhanda ugana i Nyanza ahagaze hagati mu bantu kandi avugana n'Interahamwe n'abandi bantu. H yongeyeho ko yamenye iyo Nterahamwe.
304. Umutangabuhamya W yabonye imodoka y'Uregwa itwaye Interahamwe zije gufasha izindi. I Nyanza, umutangabuhamya A yongeye kubona Uregwa. icyo gihe, Uregwa yarimo gutegeka Interahamwe zifite amagerenade, imihoro, n'ibikoni kuzenguruka impunzi kugira ngo zizigote mbere yo kuzica. Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa yari aho hantu kandi ko yagize uruhare mu kujyana impunzi ku ngufu i Nyanza, kandi ko uwe ubwe yari mu gitero cyagabwe i Nyanza akaba kandi yari akiyoboye.

4.5. Igika cya 17 cy'Inyandiko y'ibirego

305. Igika cya 17 cy'Inyandiko y'ibirego kigira kiti:

Muri Mata 1994, ku matariki atazwi, muri Komini ya Masango, Georges Rutaganda n'abandi bantu Porokireri afitiye imyironoro, basatse inzu ku yindi bashakisha Abatutsi n'abagize imiryango yabo. Muri iryo saka, Abatutsi batandukanijwe n'Abahutu, maze bajyanwa ku ruzi. Georges Rutaganda yategetse Interahamwe gushakisha Abatutsi bese, no kubaroha mu ruzi.

Ibivugwa ko muri Mata 1994, ku matariki atazwi, muri Komine ya Masango, Georges Rutaganda n'abandi bantu basatse inzu ku yindi bashakisha Abatutsi n'imiryango yabo, kandi ko muri iryo saka, Abatutsi batandukanijwe n'Abahutu bakajyanwa ku mugezi:

306. Umutangabuhamya wiswe EE yavuze ko yabonye, inshuro eshatu, ise w'Uregwa n'izindi Nterahamwe mu mamodoka bajya gushaka Abatutsi, bababwira ko babajyana ahantu hari umutekano. EE yavuze ko yabonye izo modoka zijya ku mugezi. Yasobanuye kandi ko hari abandi bantu bajyanwaga ku mugezi bagenda n'amaguru. EE yavuze ko abaturanyi be bamubwiye ko abantu bari bajyanywe ku mugezi bajugunywemo. Byongeye kandi, uyu mutangabuhamya yavuze ko, ari ku idirishya ry'inzu ye, yumvise abantu bavuga ko bavuye ku mugezi aho bamaze kujugunya Abatutsi.
307. Mu ibaza rinyomoza, asubiza ikibazo cy'Ubwunganizi, EE yavuze ko atashoboraga kubona uwo mugezi ari mu nzu ye.
308. Mu buhamya bwe mu rukiko, umugabo ushinja wiswe C na we yavuze ko muri Masango, abantu bahigaga Abatutsi bazaga gufata impunzi zari ku biro bya koline bakazikubita kandi bakazica. C yasobanuye ko muri Masango hishwe Abatutsi benshi. Abantu bahungiraga hafi y'umugezi bawujugunywemo, naho abandi bajugunywa mu byobo rusange. Asubiza ibibazo by'Urugereko, C yavuze mu magambo yumvikana ko atabonye Uregwa agira uruhare muri ubwo bwicanyi.

Ibivugwa ko: « Georges Rutaganda yategekaga Interahamwe guhiga Abatutsi bose no kubajugunya mu mugezi »:

309. Mu buhamya bwe mu rukiko, umugabo ushinja wiswe O yavuze ko yabonye Uregwa i Masango ku itariki ya 22 Mata 1994 mu masaa kumi n'imwe. O yasobanuye ko icyo gihe Uregwa yari yambaye imyenda ya gisiviri, afite imbunda ngufi kandi atwaye ikamyoneti y'umweru yo mu bwoko bwa Toyota maze akayihagarika nko kuri metero 15 uvuye ku iduka rya O. Uyu mutangabuhamya yavuze rero ko yabonye imbunda ziri inyuma muri iyo modoka zitwikiriye ihema igipande kimwe. Byongeye kandi, O yavuze ko Uregwa yari kumwe na Robert Kajuga, wari Perezida w'Interahamwe mu rwego rw'igihugu, n'abandi bantu icumi barimo nka bane bari bambaye imyenda ya gisirikare n'abandi bari bambaye iniforume y'Interahamwe igizwe n'amabara y'icyatsi kibisi, umutuku n'umuhondo. O yavuze ko bamwe mu bantu bari kumwe n'Uregwa bari bitwaje za gerenade

n'imbunda kandi ko Kajuga yari yambaye za grenade ku mukandara. Uyu mutangabuhamya yongeyeho ko yabonye Uregwa hafi y'igiti kimanitseho ibendera kandi ko icyo gihe Uregwa yarimo kuvugana n'umuntu witwa Karengera, wari ushinze urubiruko rw'Interahamwe za MRND z'i Masango.

310. Umutangabuhamya ushinje wiswe V yabwiye Urukiko ko, ku itariki atibuka neza, Uregwa yakoresheje inama ahantu hitwa Gwanda, hagati ya Masango na Karambi. Mu ibaza ry'ibanze, V yavuze ko iyo nama yabaye mu ntangiriro za Gicurasi 1994, naho mu ibaza rinyomoza yavuze ko iyo nama yabaye mu ntangiriro za Mata 1994. V yavuze ko Uregwa, nka Visi-Perezida w'Interahamwe, yayoboye iyo nama. V yavuze ko muri iyo nama Uregwa yaba yaravuze ko abantu bagombaga kwica Abatutsi mbere yo kurya inka zabo. Uyu mutangabuhamya w'Umututsi wari muri iyo nama, yavuze ko yayivuyemo akajya kwihisha. Yongeyeho ko muri Masango, ubwicanyi bwatangiye Uregwa amaze gukoresha iyo nama. Yasobanuye ko mbere y'iyi nama habaga ibikorwa by'ubusahuzi ariko ko nta bwicanyi bwari buhari.
311. Umutangabuhamya ushinje wiswe C yabonye Uregwa mu nama ya MRND yabereye i Masango. C yavuze ko icyo gihe, Uregwa yari yambaye imyenda y'Interahamwe. Esdras Mpamo, se w'Uregwa, na we yari ayirimo kimwe n'uwitwa Jean-Marie Vianney Jyojyi. Abantu babiri bafashe ijamba, ari bo Anteri Mwanafunzi n'umupasitori w'umuporoso witwa Sebuho, bashishikarije abitabiriye iyo nama kudashyigikira amasezerano ya Arusha ahubwo bakarwanya umwanzi. C yavuze ko « umwanzi » byavugaga FPR n'Umututsi. Yongeyeho ko muri iyo nama bakoresheje imigani bashaka kumvisha abantu ko bagombaga gushakisha Abatutsi, imiryango yabo n'abana babo. C yabonye ko Uregwa yakurikiye iyo nama yose kandi ntiyarwanyije ibyayivugiye. Uregwa yari yicaranye na Anteri Mwanafunzi na Sebuho ku meza yari imbere y'abandi bantu bitabiriye iyo nama. Ise, Esdras Mpamo, wari warigeze kuba Burugumesitiri wa Komine ya Masango, akaba yari na depite wa MRND muri icyo gihe cy'ibyabaye bivugwa, na we yari yicaye kuri ayo meza, iruhande rw'abavugaga amajamba. C yavuze ko ibitero byatangiye nyuma y'iyi nama.

312. Mu buhamya bwe mu rukiko, umugabo ushinja wiswe EE we yavuze ko nyuma yo ku itariki ya 6 Mata 1994, yagiye mu nama yayobowe na Mpamo, se w'Uregwa kandi ko icyo gihe Mpamo yavuze ko Abatutsi bagombaga kwicwa kugira ngo badafata ubutegetsi. Iyo nama yabereye hafi y'ibiro bya Komine ya Masango. EE yavuze ko Uregwa yari muri iyo nama yicaranye na se, ku meza yari imbere y'abandi bantu bitabiriye iyo nama. EE yasobanuye ko Uregwa na se atari bo bantu bonyine bari kuri ayo meza, kandi ko Uregwa nta jambo yafashe.
313. Mu ibaza rinyomoza, EE yavuze ko yagiye muri iyo nama kubera ko yari yabonye ubutumire bwanditse bwa Esdras Mpamo. EE yemeje ko ubwe yatangajwe n'amagambo yavugiye muri iyo nama, kandi ko nta cyo yabivuzeho kimwe na Burugumesitiri Louis na we wari muri iyo nama. EE yavuze ko na we yari yicaye kuri ayo meza iruhande rw'abafataga amajambo, arebana n'abandi bantu bayitabiriye.

Imyanzuro ku byabaye

314. Urugereko rusanga Porokireri ataratanze ibimenyetso bishyigikira ibyo avuga ko muri Mata 1994, Uregwa yasatse inzu ku yindi muri Komine ya Masango ashaka Abatutsi n'imiryango yabo, kandi ko muri iryo saka, Abatutsi bari batandukanijwe n'Abahutu maze bakajyanwa ku mugezi.
315. Kubyerekeranye n'ibivugwa ko Georges Rutaganda yaba yarategetse Interahamwe gushakisha Abatutsi bose no kubajugunya mu mugezi, Urugereko rusanga, rushingiye ku buhamya bwa C, V, na EE, Uregwa yaritabiriye nibura inama imwe yavugiwemo amagambo ahamagarira abantu, mu buryo butaziguye, kwica Abatutsi. Urugereko rusanga Uregwa atarigeze arwanya ayo magambo. Rusanga kandi yarashyigikiye bucece ayo magambo bitewe n'ukuntu yubahwaga n'abaturage ndetse n'ahantu yari ari muri iyo nama, yicaye ku meza y'abantu bafataga amajambo, iruhande rwa se wigeze kuba burugumesitiri wa komine. Cyakora, Urugereko rusanga umutangabuhamya ushinja wiswe V ari we wenyine uvuga ko Uregwa yayoboye iyo nama ndetse akayifatamo ijambo. Urugereko rusanga ubuhamya bwa V kuri iyo ngingo budashyigikirwa n'ubuhamya bwa C na EE,

bombi bavuze ko Uregwa yari mu nama, yicaye ku meza y'abantu bafataga amajambo, ko ariko atafashe ijambo. Rushingiye ku buhamya rwashyikirijwe, Urugereko rusanga Porokireri ataragaragaraje ku buryo budashidikanywaho ko Uregwa yategetse abantu gushakisha Abatutsi bose no kubajugunya mu mugezi.

4.6. Igika cya 18 cy'Inyandiko y'ibirego

316. Igika cya 18 cy'Inyandiko y'ibirego kigira kiti:

Ku itariki ya 28 Mata 1994 cyangwa hafi yayo, Georges Rutaganda, hamwe n'Interahamwe bakusanyije abaturage muri Kigali maze babafungira hafi ya Garaji AMGAR. Georges Rutaganda n'Interahamwe batse indangamuntu abo bari bafashwe. Abantu bamwe barimo Emmanuel Kayitare, bavanywe muri abo bandi ku ngufu. Nyuma yaho, uwo muni, Emmanuel Kayitare yagerageje gutoroka ngo ave aho bari bamufungiyeye, ariko Georges Rutaganda yamwirutseho, maze aramufata, amukubita umuhoro mu mutwe, aramwica.

Ibivugwa ko ku itariki ya 28 Mata 1994 cyangwa hafi yayo, Georges Rutaganda ari kumwe n'Interahamwe yakoranyirije hamwe abantu batuye i Kigali maze abafungira hafi ya Garaje AMGAR abaka n'indangamuntu zabo:

317. Mu buhamya bwe mu rukiko, umugabo ushinja wiswe U yavuze ko, ku muni atashoboye kumenya neza, ariko avuga ko ari nyuma yo ku itariki ya 6 Mata 1994 mu masaa cyenda, yihishe mu gihuru hafi y'igaraje cyakora atazi uko ryitwaga ntanamenye nyiraryo. U yaje kumenya iyo garaje ku ifoto ya diyapozitifuru yatanze na Porokireri nk'ikimenyetso gihamya n° 143. Urugereko rusanga igaraje U avuga ari AMGAR.

318. Uyu mutangabuhamya yavuze ko ari aho yari yihishe, yashoboye kubona neza ibintu bikurikira byaberaga iruhande rwa garaje: Uregwa n'Interahamwe zigeze nibura kuri 30, zirimo izambaye imyenda ya gisirikare n'izambaye iya gisiviri,

kandi zitwaje ibikoresho birimo imihoro, zahazanye abantu barenga 30 kugira ngo zibice. U yavuze ko Interahamwe zitwaraga nk'aho zirinda Uregwa.

319. Umutangabuhamya ushinja wiswe AA yavuze ko ku itariki ya 28 Mata 1994, mu masaa ine za mu gitondo, Interahamwe zasatse amazu yo muri karitsiye ya Gakinjiro. Bavaga mu nzu bajya mu yindi, bagasaka ndetse bagategeka abantu kwerekana indangamuntu. Abantu bafataga babajyanaga ku rusengeru rwitwa « Hindi Mandal » rwari hafi ya Garaje AMGAR n'icyobo rusange, aho hantu ubu hakaba hitwa Jango. AA yavuze ko abari basohowe mu mazu yabo bazamutse ku mirongo bagana aho hantu kandi na we yari abarimo. Yavuze ko Uregwa yari aho hantu hari hateranirijwe abantu bafashwe. AA yasobanuye ko Uregwa yari umukuru w'izo Nterahamwe kandi ko yari yambaye imyenda ya gisirikare igizwe n'ikoti n'ipantalo, ndetse yitwaje imbunda.

320. Mu ibaza rinyomoza, AA yasubiyemo ibyo yavuze ko Uregwa ubwe atasatse amazu, cyangwa se ko niba yarabikoze atamwiboneye. Uregwa yari ahantu hateranirijwe abantu bafashwe, hafi ya Garaje AMGAR kandi AA ahagera yarahamusanze. Byongeye kandi, mu ibaza rinyomoza, AA yavuze ko Uregwa atari afite imbunda ndende ko ahubwo yari afite masotera yambaye n'amagerenade ku mukandara.

321. AA yavuze ko Abahutu ari bo bonyine bashoboye kuva aho hantu bari bateranirijwe. Abahasigaye bari Abatutsi cyangwa se abantu bo mu yandi moko bazwiho kuba abayoboke b'amashyaka ataravugaga rumwe n'ubutegetsi bwariho icyo gihe. AA yavuze ko abo bantu baje kwicwa nyuma maze bahambwa aho bari biciwe.

Ibivugwa ko abantu benshi barimo Emmanuel Kayitare bavanywe ku ngufu mu bandi, Emmanuel Kayitare agerageje guhunga Uregwa amwirukaho, aramufata amukubita umuhoro mu mutwe amutsindaho:

322. Umutangabuhamya ushinja wiswe AA yavuze ko Uregwa yari ahantu hari hashyizwe abantu bafashwe. AA yasobanuye ko na we yari muri abo bantu kandi ko

abantu bose bari bafashwe bari bahanze amaso Uregwa bizeye ko abagirira impuhwe. AA yavuze ko abantu bari bafite ubwoba, kandi ko iyo Uregwa yabarebaga, bubikaga amaso. AA yari yicaye asutanye nko kuri metero 10 cyangwa 20 z'Uregwa.

323. Mu buhamya bwe, AA yavuze ko mu bantu bari bafashwe harimo na Emmanuel Kayitare bahimbaga Rujindiri. AA yari azi neza cyane murumuna wa Emmanuel Kayitare witwa Michel Kayitare. Umugabo witwa Cekeri yahamagaye Emmanuel amubwira ko amuzi kandi ko azi ko yajyaga ajya kuri CND. Mu ibaza ry'ingenzi, AA yavuze ko icyo gihe Emmanuel yahise agira ubwoba atangira kwiruka maze AA abona Uregwa afata Emmanuel mu ikola ry'ishati ye kugira ngo amubuze guhunga. Uregwa yambuye Cekeri umuhoro maze awukubita Emmanuel mu irugu.
324. Mu bibazo yabajijwe n'Urugereko, umutangabuhamya yongeye kwemeza ko Uregwa yishe Emmanuel akoresheje umuhoro aho kuba isasu. AA yasobanuye ko icyo gihe Uregwa atari yitwaje imbunda ndende, ko ahubwo yari afite masotera. Ubwunganizi bwibukije AA ko yari yarabwiye Urugereko n'abapererezi bo mu Biro bya Porokireri ko Uregwa yari afite imbunda ndende, umutangabuhamya yashubije ko yari masotera.
325. Mu ibaza rinyomoza, AA yavuze ko Uregwa yafashe Emmanuel mu ikola ry'ishati ye ubwo uyu yahagurukaga ngo yiruke, bityo rero akaba ataramwirutseho. AA yasobanuye ko Uregwa nta n'intambwe n'imwe yateye, ko ahubwo yahindukiye agafata Emmanuel. Asubiza Ubwunganizi, AA yongeyeho ko Uregwa yafatishije Emmanuel ikiganza kimwe, mu gihe mu kindi kiganza yari afite intwari. AA yemeza ko Uregwa atirukankanye Emmanuel maze agasobanura ko ubwo Cekeri yamuhamagaraga, Emmanuel yahagurutse asa n'aho amusanga maze yanyura imbere y'Uregwa, uyu akamufata mu ijosi.
326. AA yakomeje kwemeza ko Uregwa yafashe Emmanuel mu ikola ry'ishati, aho kuba mu ijosi, nk'uko yari yarabivuze mbere mu buhamya yahaye abapererezi bo mu Biro bya Porokireri.

327. Mu ibaza rinyomoza, AA yasubiyemo ibyo yari yaravuze ko Uregwa yakubise Emmanuel umuhoro mu ijosi. Ubwunganizi buvuze ko avuguruza ibyo yari yarabwiye abapererezi bo mu Biro bya Porokireri ko Uregwa yaba yarajanjaguye agahanga ka Emmanuel, AA yasubije ko yabonye Uregwa akubita Emmanuel umuhoro amaraso aradudubiza, maze akipfuka mu maso.
328. Mu gusubiza ikibazo cy'Urugereko rwashakaga kumenya niba nyakwigendera yaravaga amaraso mu gahanga cyangwa mu gice cy'inyuma cy'umutwe, AA yavuze ko Emmanuel yagushije umutwe kandi ko yavaga amaraso menshi ku buryo umuntu atashoboraga kubona mu maso he cyangwa imisatsi ye.
329. Mu buhamya bwe mu rukiko, umugabo ushinja wiswe U yavuze ko mu bantu bari bafashwe bakajyanwa hafi y'igaraje, hafi y'aho yari yihishe, hari Emmanuel n'undi muntu witwa Venant. U yasobanuye ko yari azi neza Emmanuel. Yongeyeho ko Emmanuel na Venant bari bazirikiranye ku mashati yabo kugira ngo badacika, maze Uregwa akabatandukanya.
330. Umutangabuhamya U yavuze ko yumvise Uregwa avuga mu ijwi riranguruye cyane, kugira ngo yumvikane, abwira abantu bari kumwe ko agiye kubereka uko bagomba gukora. Uyu mutangabuhamya yavuze ko Uregwa yari afite umuhoro ku mukandara maze awutemesha Emmanuel mu mutwe awusaturamo kabiri. Emmanuel yahise yitura hasi, agwaho. U yavuze ko Emmanuel yakubiswe umuhoro inshuro imwe agahita apfa.
331. Umutangabuhamya U yongeyeho ko Emmanuel amaze kwitura hasi, Uregwa yafashe imbunda yo mu bwoko bwa Kalachnikov yari atwaye ku rutugu maze arasa Venant na we agwa iruhande rwa Emmanuel.
332. Uyu mutangabuhamya yongeyeho ko Uregwa yafatanyije n'abantu bari kumwe maze bajugunya mu cyobo imirambo y'abo bantu bishwe. Ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 169, U yerekanye ahantu Emmanuel na Venant biciwe n'icyobo imirambo yabo yajugunywemo. Uyu mutangabuhamya yavuze ko Emmanuel yari Umututsi naho Venant akaba Umuhutu utari ushyigikiye ubwicanyi.

333. U yavuze kandi ko ubwo yashakaga guhunga, yabonye Uregwa yicisha umuhoro afatanyije n'Interahamwe. Iyo barangizaga kwica bajugunyaga imirambo mu cyobo. U yavuze ko hari ibyobo bibiri, igito cyajugunywemo imirambo y'abantu babiri, n'ikinini cyajugunywemo imirambo myinshi.

Imyanzuro ku byabaye

334. Urugereko rusanga AA yakwizerwa, bityo rukaba rwemeye ubuhamya bwe. Mu by'ukuri, n'ubwo ibaza rinyomoza ryagaragaje ko AA yivuguruza ku tuntu duto duto, uko kwivuguruza ntigukomeye. Byongeye kandi, uko kwivuguruza nta cyo gutwaye ukudahuzagurika k'ubwo buhamya, ku buryo bwakemangwa ku by'ingenzi birebana n'urupfu rwa Emmanuel Kayitare. Urugereko rusanga uko kwivuguruza gushobora guturuka ku ihahamuka AA yaba yaratewe no kuvuga ibintu bibabaje yiboneye ndetse n'igihe gishize hagati y'ibyabaye n'igihe AA yitabiye mu rukiko. Byongeye kandi, Urugereko rwibutsa ko ukwivuguruza hagati y'ubuhamya bwa AA mu rukiko n'ubuhamya bwanditse yatanze mbere kugomba gusuzumwa hazirikanwa izindi ngorane zirimo isemura ry'ibibazo AA yabajijwe n'uko atanga ubuhamya bwanditse atabanje kubirahirira mu rwego rw'amategeko imbere y'umuntu wagenwe kandi na we warahiriye gukora ako kazi.

335. Muri uru rubanza, Urugereko rusanga, nk'urugero, ingorane umutangabuhamya AA yagize mu gusobanura ubwoko bw'imbunda Uregwa yari afite, zerekeranye no kuvuga niba iyo ntwaro yari imbunda ndende cyangwa masotera, zishobora kumvikana kubera ko umutangabuhamya adafite ubumenyi mu by'intworo, bityo akaba adashobora gutandukanya ubwo bwoko bwombi bw'intworo. Byongeye kandi, Urugereko rusanga ikibazo cyo kumenya niba Uregwa yaratemye nyakwigendera mu mutwe cyangwa mu ijosi bitatesha agaciro ubuhamya bwa AA kubera ko bitorohera umuntu utari inzobere kumenya aho ijosi cyangwa umutwe bigarukira.

336. Rushingiye ku buhamya bwa AA, bushyigikirwa ku by'ingenzi n'ubwa U, Urugereko rwemera ku buryo budashidikanywaho ko ku itariki ya 28 Mata 1994, Interahamwe zasatse amazu yo muri karitsiye Agakinjoro kandi ko zinjiye muri buri

rugo zigatega abantu kwerekana indangamuntu. Abatutsi n'abandi bantu bari mu mashyamba ya politiki amwe n'amwe bajanywe ku rusengeru rwitwa «Hindi Mandal », hafi ya Garaje AMGAR. Uregwa yari ahantu hari hakoranyirijwe abantu bafashwe kandi yari yambaye imyenda ya gisirikare, igizwe n'ikoti n'ipantaro, ndetse afite n'imbunda.

337. Ikindi kandi, rumaze gusuzuma ubuhamya bwatanzwe na AA na U, Urugereko rwemera ko ubwo buhamya bushyigikirana ku byerekeranye n'uburyo Uregwa yishe Umututsi witwaga Kayitare.
338. Urugereko rusanga kandi ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 169, U yarerekanye ahantu hari icyobo Emmanuel na Venant biciweho maze imirambo yabo ikakijugunywamo.
339. Urugereko rusanga kandi iyo foto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 169 igaragaza ahantu hamwe n'ahari ku ifoto ya diyapozitififu yatanzwe na Porokireri nk'ikimenyetso n° 269. Aho hantu, herekanywe ko hataburawe imirambo kandi hiswe «RUG-1 » na Porofeseri William Haglund, umuhanga mu bumenyi bw'imiterere y'abantu, witabye Urukiko nk'umutangabuhamya w'impuguke wa Porokireri.
340. Nk'uko bivugwa haruguru, Porofeseri Haglund yavuze ko mu mwobo uri ku ifoto ya diyapozitififu yatanzwe nk'ikimenyetso gihamya n° 269⁷⁵, hataburawe imirambo itatu⁷⁵. Dogiteri Nizam Peerwani, umuhanga mu bumenyi bw'indwara wakoranye na Dogiteri Haglund kandi na we akitaba Urukiko nk'umutangabuhamya w'impuguke wa Porokireri, yatanze imyanzuro ikurikira ku mirambo itatu yataburawe: Uwa mbere ni uw'umugabo wapfuye afite imyaka iri hagati ya 35 na 45 kandi akaba ashobora kuba yarishwe; uwa kabiri ni uw'umugore wapfuye afite imyaka iri hagati ya 30 na 39 na we akaba ashobora kuba yarishwe; uwa gatatu ni uw'umugabo wapfuye afite imyaka iri hagati ya 35 na 45 kandi akaba ashobora kuba yarazize ibikomere bikomeye yatejwe.

⁷⁵Reba Umutwe wa 4, igice cya 3, imyanzuro ku byabaye yafashwe n'Urugereko ku byavuzwe na Porokireri mu gika cya 12 cy'Inyandiko y'Ibirego.

341. icya mbere, rukurikije ubuhamya bwa Dogiteri Kathleen Reich, umuhanga mu bumenyi bw'imiterere y'abantu wahamagajwe n'Ubwunganizi nk'umugabo w'impuguke, Urugereko rusanga uburyo bwa gihanga bwakoreshejwe na Porofeseri Haglund budahagije kugira ngo rube rwakwemeza imyanzuro y'iyi mpuguke.
342. icya kabiri kandi cy'ingenzi kurusha icya mbere, Urugereko rusanga Porokireri atarashatse kugaragaza aho imyanzuro ya Porofeseri Haglund n'iya Dogiteri Peerwani ihuriye n'ibivugwa kuri iki kirego mu Nyandiko y'ibirego. Byongeye kandi, Urugereko rusanga Porokireri atarugaragarije ko ifoto ya diyapozitifu yatanzwe na Porokireri nk'ikimenyetso gihamya n° 169, umutangabuhamya yavuze ko ari umwobo Emmanuel na Venant biciweho maze imirambo yabo ikajugunywamo, igaragaza ibintu bimwe n'ibiri kuri ifoto ya diyapozitifu yatanzwe nk'ikimenyetso gihamya n° 269 iriho ahantu hataburawe imirambo hiswe « RUG-1 ».
343. Kubera izo mpamvu, Urugereko rusanga, mu gusuzuma ibyabaye bivugwa kuri iki kibazo, bidakwiye kugendera ku myanzuro y'abatangabuhamya b'impuguke. Urugereko rushidikanya kandi ko ahantu havugwa na U na AA ari hamwe n'aho Porofeseri Haglund yataburuye imirambo.
344. Mu gusoza kuri iyi ngingo, rushingiye ku buhamya bwa AA na U, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa yakubise Emmanuel Kayitare umuhoro mu mutwe maze agahita apfa.

4.7. Igika cya 19 cy'Inyandiko y'ibirego

345. Igika cya 19 cy'Inyandiko y'ibirego kigira kiti:

Muri Kamena 1994, ku itariki itazwi, Georges Rutaganda yategetse abantu guhamba imirambo y'abishwe kugira ngo ahishe ibyaha yakoze, umuryango mpuzamahanga utazabibona.

Ibyabaye bivugwa

346. Ku byerekeranye n'ibimaze kuvugwa haruguru, mu ibaza ry'ibanze umutangabuhamya wiswe Q yavuze ko yari yihishe kwa Thomas maze Interahamwe yitwa Cyuma ikahamuvana ari kumwe n'umwana w'umukobwa, ikamujyana ku cyobo cyari inyuma y'ishuri ry'imyuga rya Muhazi [ETM: *École Technique Muhazi*]. Uyu mutangabuhamya yavuze ko bageze imbere y'icyo cyobo, yabonye umurambo wa mwishywa we muri icyo cyobo. Yavuze ko wa mukobwa bari kumwe yishwe n'Interahamwe yitwa Karangwa ibitegetswe na Cyuma, naho we agakizwa na Martha wari umuyobozi wa selire, wabujije Cyuma n'abandi bantu kumwica.
347. Na none mu ibaza ry'ibanze, Q yavuze ko igihe yari imbere y'icyobo cyari inyuma y'ishuri rya ETM, yabonye ikindi cyobo yita icya gatatu, ndetse abona n'Uregwa ahagararanye n'abandi bantu hafi y'icyo cyobo. Uyu mutangabuhamya yavuze ko ahantu yari ari yashoboraga kubona icyo cyobo ariko akongeraho ko atashoboraga kujyayo. Yongeyeho ko icyo gihe, Uregwa yahamagaye Martha wahise amusanga, maze muri ako kanya Uregwa ateguka ko ubwicanyi bwakorwaga kumanywa buhagarara bagahita bahamba imirambo kuko abazungu n'abanyamahanga batari bishimiye ubwicanyi. Q yavuze ko Uregwa yategetse ko ubwicanyi bwajya bukorwa nijoro gusa.
348. Q kandi yavuze ko igihe Uregwa yategekaga guhagarika ubwicanyi bwose no guhamba imirambo, yabwiraga abantu bose bari hafi y'icyo cyobo cya gatatu. Uyu mutangabuhamya yasobanuye ko atiyumviye ubwe Uregwa atanga ayo mategeko, ko ahubwo yumvise ko yabitegetse ubwo Martha yagarukaga ku cyobo kiri inyuma ya ETM kugira ngo ashidikirize ayo amategeko Cyuma, Karangwa n'abandi bantu bakoraga ubwicanyi. Asabwe na Porokireri gusubira mu magambo ya Martha ubwo yashidikirizaga abo bantu amategeko y'Uregwa, Q yavuze ko Martha yavuze ko bagomba guhagarika ubwicanyi. Abandi bantu bari kuzicwa nyuma y'ihambwa rya Perizida Juvénal Habyarimana.

349. Mu ibaza rinyomoza, Q yavuze ko ashidikiriza abantu amategeko y'Uregwa, Martha yasobanuye ko bagombaga guharika ubwicanyi bagahita bahamba imirambo, kubera ko abanyamahanga batari bishimiye ubwicanyi. Mu mpera z'ibaza rinyomoza, umutangabuhamya yavuze ko yabonye ndetse akumva Uregwa aha amategeko Martha n'abandi bantu bari bahagaze hafi y'icyobo cya gatatu. Uyu mutangabuhamya yasobanuye ko ibyo bintu byabaye mu mpera za Mata 1994.
350. Mu ibaza ry'ibanze, umutangabuhamya wiswe AA yavuze ko ku itariki ya 28 Mata 1994, yabonye Uregwa yicira Emmanuel inyuma ya Garaje AMGAR. Uyu mutangabuhamya yavuze ko aho hantu hari icyobo rusange kandi ko nyuma yaho icyo cyobo cyatabururwemo imirambo myinshi irimo n'uwa Emmanuel.
351. Umutangabuhamya wiswe HH yavuze ko ubwo yari yihishe mu gihuru hafi ya bariyeri, yabonye Perefere Renzaho ateguka abantu bari kuri iyo bariyeri kurekeraho kwica ku manywa kubera ko icyogajuru cyabonaga ibyo bakora.
352. Mu buhamya bwe, Uregwa yavuze ko umuntu wo muri MINUAR yamujyanye kuri bariyeri maze bagasanga imodoka zishoreranye za MINUAR zihahagaze. Yongeyeho ko izo modoka zari zitwaye abantu bakuze 72. yavuze ko iyo bariyeri yari irinzwe n'abantu bafite intwari bariye karungu hamwe n'abasirikare. Yongeyeho ko bageze kuri iyo bariyeri, abantu bari aho hafi barimo abafite ibikoni n'imihoro, bakoraniye aho hantu. Uregwa yavuze ko abantu bari barinze iyo bariyeri bari biyemeje kwica abantu bari muri ayo mamodoka, maze bakamukwena ubwo babonaga ashotse mu modoka ya MINUAR. Yavuze ko yabwiye bamwe mu bantu bari kuri iyo bariyeri ko ibyogajuru byagenzuraga ibyo barimo gukora, kugira ngo abumvishe ko bagomba kureka imodoka zigatambuka.
353. Mu ibaza rinyomoza, Uregwa yemeje ko yabwiye abantu ko bagenzurwaga n'ibyogajuru, ko rero batagombaga kugira uwo bica. Yasobanuye ko yavuze ayo magambo kugira ngo yibutse abantu ko bagombaga kwitwara neza. Yavuze kandi ko kugira ngo abibutse inshingano zabo, yakoresheje ubundi buryo bwo kubabwira ko amahanga atari kubafasha namara kumenya ko hakozwe ubwicanyi. Cyakora, Uregwa yavuze ko atigeze avugana na rimwe n'umuryango mpuzamahanga.

Imyanzuro ishingiyeye ku byabaye

354. Urugereko rusanga Q yarerekanye Uregwa mu cyumba cy'iburanisha, agasobanura ko mbere y'ibyabaye mu mwaka wa 1994 yari amuzi ndetse akamenya na se. Rusanga kandi avuga ko Uregwa yari umucuruzi w'umukire wari utuye muri Komine ya Masango ihana imbibi n'iyeye. Q yavuze kandi ko amaze gufatirwa kuri bariyeri yo mu Gakinjiro, umuntu witwa Védaste Segatarama yamujiyanye ku Uregwa aho yari ari mu biro bito. Urugereko rwemera ku buryo budashidikanywaho ko Q yashoboye kumenya neza Uregwa kandi ko Uregwa yari hafi y'icyobo cyahambwagamo abantu benshi nk'uko umutangabuhamya abyemeza.
355. Urugereko rusanga mu buhamya Q yatanze mu rukiko hari ukwivuguruzwa kwerekanyeye, nk'urugero, n'uburyo avuga amagambo nyayo Uregwa yavuze atanga amategeko. Cyakora, umutangabuhamya yashoboye kubwira Urugereko ibikubiye mu mategeko Uregwa yatanze avuga ko bagombaga guhagarika ubwicanyi bagahamba abantu bapfuye kugira ngo abanyamahanga batabona imirambo.
356. Ubuhamya bwa Q bugaragaza ko Uregwa yari ku cyobo rusange kandi ko yategetse ko imirambo ihambwa. Cyakora, nta kigaragaza ko Uregwa yatanze ayo mategeko kugira ngo ahishe amahanga ibyaha yakoze. N'ubwo Urugereko rwemera ku buryo budashidikanywaho ko Uregwa yatanze itegeko ryo guhamba imirambo, rusanga hataragarajwe ko Uregwa yabikoze kugira ngo amahanga atabona ibyaha yakoze.

4.8. Ibivugwa muri rusange

357. Urugereko rugiyeye gusuzuma ibivugwa mu bika bya 5, 6, 7, na 8 by'Inyandiko y'ibirego:

Igika cya 6 kigira kiti:

« Muri buri gika kivugwamo ibyaha byibasiye inyokomuntu, ibyaha bihanishwa ingingo ya 3 ya Sitati y'Urukiko, ibikorwa bivugwa byabaye mu rwego rw'ibitero

rusange kandi biri kuri gahunda byibasiye abaturage b'abasiviri kubera impamvu za politiki cyangwa z'ubwoko »;

Igika cya 7 kigira kiti:

« Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda hari intambara itari iyo mu rwego mpuzamahanga »;

Igika cya 8 kigira kiti:

« Abahohotewe bavugwa muri iyi Nyandiko y'ibirego, mu bihe byose bivugwa, bari abantu batagize uruhare rufatika mu mirwano ».

358. Ku byerekeye ibivugwa mu gika cya 6 cy'Inyandiko y'ibirego, umutangabuhamya wiswe C yemeje ko mu nama ya MRND yabaye muri Mata 1994, havuzwe ko Abatutsi bari ibyitso bya FPR kandi ko buri Mututsi wese yari umwanzi⁷⁶. Umutangabuhamya wiswe EE yavuze ko nyuma y'urupfu rwa Perezida Habyarimana, ku biro bya komine habereye inama maze se w'Uregwa akavuga ko bagomba kwica Abatutsi kugira ngo bababuze gufata ubutegetsi⁷⁷. Umutangabuhamya witwa Hugues yavuze ko nyuma y'uko kuri radiyo bahamagariye abaturage gufata Abatutsi, abantu bahise bahagurukira gushakisha Abatutsi kuri za bariyeri no mu mihanda. Abatutsi ntibari bagitinyuka kugenda mu mayira. Hugues yavuze ko Abatutsi bari bihishe, kandi ko ibintu byari bimeze gutyo no mu turere ubwicanyi bwari butaratangiramo⁷⁸. Umutangabuhamya wiswe W yavuze ko nyuma y'urupfu rwa Perezida, abantu bazengurukaga mu mihanda mu mamodoka maze bagakwirakwiza, bakoresheje indangururamajwi, ubutumwa buvuga nabi Inkotanyi. Kubera iyo poropagande, Abatutsi benshi barishwe, amazu yabo arasahurwa, aratwikwa ndetse n'amatungo yabo aricwa.

359. Urugereko rusanga mu buhamya bwabo mu rukiko abagabo biswe A, B, H, O, Z, BB na HH bose baravuze ku byabereye kuri za bariyeri zahise zishyirwa ku mihanda nyuma y'urupfu rwa Perezida Habyarimana. Bavuze ko abantu bahungaga

⁷⁶ Reba ubuhamya bwa C, inyandikomvugo y'iburanisha, 4 Werurwe 1998.

⁷⁷ Reba ubuhamya bwa EE, inyandikomvugo y'iburanisha, 4 Werurwe 1998.

⁷⁸ Reba ubuhamya bwa Hugues, inyandikomvugo z'iburanisha, 25, 26, 27 Werurwe 1998.

bashakisha ahantu hari umutekano ariko bagahagarikirwa kuri izo bariyeri. icyo gihe, abantu bamwe bajonjorwaga mu bandi bakicwa, abandi bakemererwa gutambuka. Ibyo bikorwa byo gutoranya no kujonjora abantu byatangiyeye za bariyeri zimaze gushyirwaho⁷⁹.

360. Umutangabuhamya wiswe W yavuze ko Uregwa yategetse abakonseye na ba resiponsabure b'amaserire gushyiraho za bariyeri. Bariyeri zahise zishyirwaho maze abantu bose berekanye indangamuntu zanditsemo ko ari Abatutsi bagafatwa, ndetse rimwe na rimwe bagahita bicirwa aho⁸⁰.

361. Umutangabuhamya wiswe A yavuze ko yabonye Abatutsi batandukanywa n'Abahutu ku isangano ry'imihanda i Nyanza⁸¹. Na none ku byerekeye i Nyanza, DD yavuze ko abasirikare n'Interahamwe bari bagose itsinda ry'abantu na we yari arimo, babwiye Abahutu kuva muri iryo tsinda maze babasaba kwerekana indangamuntu zabo. DD yavuze ko hari umugabo washatse kubeshya ku bwoko bwe ariko aratahurwa amaze kwerekana indangamuntu ye maze ahita yicirwa aho. Ibyo birangiye, Abasirikare n'Interahamwe bagabye igitero ku Batutsi. Uyu mutangabuhamya yibukije ko muri icyo gitero hakoreshejwe amagerenade⁸². Umutangabuhamya wiswe H na we yavuze ko abasirikare bari ahantu hose. Abo basirikare babwiye abantu kwicara hasi maze basaba Abahutu kwigaragaza no kuva aho hantu. Birangiye, abo basirikare biraye mu bantu basigaye bakoresheje amagerenade, n'amasasu. Interahamwe na zo zitabiriye ubwo bwicanyi zikoresheje izindi ntware⁸³. Hughes yavuze ko basanze impunzi zarokotse ubwo bwicanyi bw'i Nyanza zifite ibikomere by'imihoro ku irugu no ku bindi bice by'umubiri⁸⁴.

362. Umutangabuhamya wiswe Z w'Umuhutu utuye ku Kicukiro, yavuze ko asohoka iwe yabonye imirambo y'abagabo n'abagore hafi ya bariyeri. Yavuze ko we

⁷⁹ Reba icyiciro cya 4.2 hejuru, gikubiyemo imyanzuro ku byabaye, igika cya 11 cy'Inyandiko y'ibirego.

⁸⁰ Reba ubuhamya bwa W, inyandikomvugo y'iburanisha, 28 Gicurasi 1997.

⁸¹ Reba ubuhamya bwa A, inyandikomvugo y'iburanisha, 24 Werurwe 1997.

⁸² Reba ubuhamya bwa DD, inyandikomvugo y'iburanisha, 27 Gicurasi 1997.

⁸³ Reba ubuhamya bwa H, inyandikomvugo y'iburanisha, 26 Werurwe 1997.

⁸⁴ Reba ubuhamya bwa Hughes, inyandikomvugo y'iburanisha, 25 Gicurasi 1998.

n'abandi bantu bashyizwe mu matsinda ane, we akaba yari mu itsinda rishinzwe gucukura imyobo, gutoragura no guhamba imirambo⁸⁵.

363. Nsanzuwera, umutangabuhamya w'impuguke wahamagajwe na Porokireri, yavuze ko Uregwa, uretse kuba yari afite umwanya wo hejuru mu buyobozi bw'Interahamwe, yanategukaga abagize uwo mutwe w'insoresore zitwaraga gisirikare. Yavuze kandi ko kenshi Uregwa yabaga ari kuri za bariyeri atanga amategeko⁸⁶. Uregwa yavuze ko amaze kujya muri MRND mu mwaka wa 1991, yashinzwe gushyiraho ishami ry'urubyiruko rw'iryo shyaka, ari rwo Interahamwe MRND maze akaza no kurubera Visi-Perezida wa kabiri.
364. Umutangabuhamya ushinjura wiswe DNN yavuze ko yumvise bavuga ko Interahamwe zahabwaga imyitoto ya gisirikare, kandi ko iyo myitoto yatangiranye n'intambara⁸⁷. DNN yemeje ko Interahamwe zahawe imyitoto ya gisirikare⁸⁸.
365. Umutangabuhamya ushinjura wiswe DZZ yavuze ko yumvise bavuga ko Interahamwe zahabwaga imyitoto ya gisirikare ariko agasobanura ko yabyumvise intambara imaze gutangira⁸⁹. DNN yemeje ko Interahamwe zahawe koko iyo myitoto⁹⁰.
366. Abatangabuhamya bashinjura biswe DDD⁹¹, DD⁹², DNN⁹³ na DZZ⁹⁴ bavuze ko abacengezi ba FPR bavumburwaga kuri za bariyeri hashingiwe ku ndangamuntu bari bafite z'impimbano. Umugabo ushinjura wiswe DEE yavuze ko kuri bariyeri zose yanyuzeho muri Kigali bagenzuraga indangamuntu, uretse kuri bariyeri yari

⁸⁵ Reba ubuhamya bwa Z, inyandikomvugo y'iburanisha, 20 Werurwe 1998.

⁸⁶ Reba ubuhamya bw'umugabo w'impuguke, Nsanzuwera, inyandikomvugo y'iburanisha, 24 Werurwe 1998.

⁸⁷ Reba ubuhamya bwa DZZ, inyandikomvugo y'iburanisha, 11 Gashyantare 1999.

⁸⁸ Reba ubuhamya bwa DNN, inyandikomvugo y'iburanisha, 16 Gashyantare 1999.

⁸⁹ Reba ubuhamya bwa DZZ, inyandikomvugo y'iburanisha, 11 Gashyantare 1999.

⁹⁰ Reba ubuhamya bwa DNN, inyandikomvugo y'iburanisha, 16 Gashyantare 1999.

⁹¹ Reba ubuhamya bwa DDD, inyandikomvugo y'iburanisha, 16 Gashyantare 1999.

⁹² Reba ubuhamya bwa DD, inyandikomvugo y'iburanisha, 17 Werurwe 1999.

⁹³ Reba ubuhamya bwa DNN, inyandikomvugo y'iburanisha, 16 Gashyantare 1999.

⁹⁴ Reba ubuhamya bwa DZZ, inyandikomvugo y'iburanisha, 11 Gashyantare 1999.

hafi y'ibitaro. Yavuze ko umuntu wese wabaga afite indangamuntu yanditsemo ko ari Umututsi yicwaga⁹⁵.

367. Abatangabuhamya biswe H na DD bemeje ko bihishe mu nzu y'Umurundi bityo bakarokoka isaka ryakorwaga inzu ku yindi. Umutangabuhamya ushinjura wiswe DF yavuze ko i Kigali amazu yasakwaga imwe ku yindi. Abatangabuhamya biswe U, T, J na Q bavuze ko Uregwa yari ahari kandi ko yitabiriye igikorwa cyo guha Interahamwe intwaro. Byagaragajwe ko Interahamwe zahawe intwaro. Uregwa yari ahari kandi yitabiriye igikorwa cy'itangwa ry'izo ntwaro nibura inshuro eshatu.

368. Uregwa ubwe yagize ati:

N'ubwo bibabaje, byageze aho mu bantu bitwaga ko ari aba FPR ugasanga abarenga 90% ari Abatutsi. Ibyo byatumye Abatutsi bose bafatwa batyo muri rusange ariko birababaje. Byatumye habaho gutandukira no gukabya maze abantu barimo abasaza, abana n'abandi baribasirwa.⁹⁶

Ni ko byagenze mu gihugu cyacu. Byarabaye ariko jye nabyita amahano. Ni ubwicanyi bwibasiye abantu ba FPR n'Inkotanyi. Ejo navuze ibyerekeranye no kwibasira Abatutsi muri rusange kugera n'aho bitandukira bikagera no ku bana⁹⁷.

369. Umutangabuhamya w'impuguke witwa Nsanzuwera yavuze ko Abatutsi bose bari bibasiwe kubera ko bafatwaga nk'abarwanya ubutegetsu bwariho. Abantu bo mu mitwe yitwara gisirikare, barimo Interahamwe, bicaga Abatutsi n'Abahutu bafatwaga nk'abatavuga rumwe n'ubutegetsu bw'Abahutu, abakorewe ibyaha muri ubwo bwicanyi bari abasiviri. Nsanzuwera yemeje kandi ko Interahamwe zitakoze ubwicanyi bizigwiririyeye ko ahubwo byari byarateguwe neza⁹⁸.

370. Reyntjens, umutangabuhamya w'impuguke wahamagajwe na Porokireri, yavuze ko mbere y'ibyabaye mu Rwanda hari umugambi wari umaze imyaka myinshi ucurwa.

⁹⁵ Reba ubuhamya bwa DEE, inyandikomvugo y'iburanisha, 19 Gashyantare 1999.

⁹⁶ Reba ubuhamya bw'Uregwa, inyandikomvugo y'iburanisha, 21 Mata 1999.

⁹⁷ Reba ubuhamya bw'Uregwa, inyandikomvugo y'iburanisha, 22 Mata 1999.

⁹⁸ Reba ubuhamya bw'umugabo w'impuguke, Nsanzuwera, inyandikomvugo y'iburanisha, 23 Mata 1999.

Yongeyeho ko ibyo bituma umuntu asanga ibitero byari kuri gahunda⁹⁹. Hugues we yavuze ko ibyo bitero bisa n'ibyari byarateguwe mbere kubera ukuntu byari kuri gahunda¹⁰⁰.

371. Urugereko rusanga hari ibimenyetso bihagije bigaragaza ko hakozwe inama zigamiye gutegura no gushishikariza abantu kwibasira no kwica abasiviri b'Abatutsi kubera icyo bari cyo, aho kubaziza ko baba barakoreraga FPR, nk'uko bivugwa n'abatangabuhamya bashinjura biswe DDD, DD, DNN na DZZ. Byongeye kandi, Urugereko rusanga ibyo bikorwa byaragezweho kubera ibiganiro byahitaga ku maradiyo bihamagarira abantu gufata Abatutsi. Rusanga ndetse byaragezweho hakoreshejwe udutsinda tw'abantu twashyizweho ngo dukangurire abaturage kwamagana Inkotanyi. Byanagezeweho kubera intwari zahawe imitwe y'Interahamwe yitwaraga gisirikare, kubera ishyirwaho rya za bariyeyi zirinzwe n'abasirikare n'Interahamwe kugira ngo kumenya no gutandukanya Abatutsi b'abasiviri n'abandi abaturage byorohe maze Abatutsi babone uko bicwa. Hifashishijwe kandi ibikorwa byo gusaka amazu kugira ngo Abatutsi bafatwe. Ibi bintu birerekana neza ko mu mwaka wa 1994, mu Rwanda hose hagabwe ibitero biri kuri gahunda byibasiye abasiviri b'Abatutsi.
372. Urugereko rwakiriye ubuhamya bw'abagabo b'impuguke, ari bo Nsanzuwera na Reyntjens, bugaragaza ko ibitero byibasiye abaturage b'Abatutsi byari kuri gahunda. Urugereko rwemera kandi ibivugwa na Nsanzuwera ko abibasiye mu bwicanyi bari abasiviri. Urugereko rusanga ibitero byagabwe ku Batutsi byarabaye mu turere tunyuranye tw'u Rwanda nk'i Nyanza, Komine ya Nyarugenge, Segiteri ya Kimisagara, Perefegitura ya Kigali, Nyamirambo, Cyahafi, Kicukiro na Masango. Urugereko rusanga Porokireri yaragaragaje ku buryo budashidikanywaho ko ibitero byagabwe ku Batutsi byari rusange kandi biri kuri gahunda.

⁹⁹ Reba ubuhamya bw'umugabo w'impuguke, Reyntjens, inyandikomvugo y'iburanisha, 13 Ukwakira 1997.

¹⁰⁰ Reba ubuhamya bwa Hugues, inyandikomvugo y'iburanisha, 25 Gicurasi 1998.

Igika cya 5 kigira kiti:

« Abahohotewe bavugwa muri buri gika kivugwamo jenocide, bazizwaga ubwenegihugu, ubwoko cyangwa idini ».

373. Mu mutwe uri hejuru wahariwe amategeko akurikizwa, Urugereko rwasanze ku kibazo cyo kumenya niba itsinda runaka rishobora gufatwa nk'irishobora kwibasirwa n'icyaha cya jenocide, bigomba gusuzumwa hakurikijwe imiterere ya buri tsinda. Rugomba kandi kuzirikana ibimenyetso rwashyikirijwe kuri icyo kibazo ndetse n'uko ibintu byari byifashe mu rwego rwa politiki, imibereho y'abaturage n'umuco¹⁰¹.
374. Urugereko rwemera umwanzuro wafashwe mu rubanza rwa Akayesu¹⁰² uvuga ko Abatutsi badafite ururimi rwabo rwihariye cyangwa umuco wabo bwite utandukanye n'uw'abandi baturage b'u Rwanda. Cyakora, rusanga hari ibintu bimwe byakwizerwa bigaragaza ko Abatutsi bagize itsinda rifite umwihariko uriranga. Mbere ya 1994, Abanyarwanda bose bagombaga kugira indangamuntu yanditsemo ubwoko bwabo, ni ukuvuga Abahutu, Abatutsi cyangwa Abatwa. Itegeko Nshinga ry'u Rwanda n'andi mategeko yakurikizwaga mu mwaka wa 1994, na byo bivugaga amoko Abanyarwanda barimo. Byongeye kandi, mu Rwanda hari amategeko ashingiye ku mucu agaragaza ubwoko bw'umuntu hashingiwe kuri se umubyara. Kumenya abantu hashingiwe ku bwoko barimo bw'Abahutu, Abatutsi cyangwa Abatwa ni ikintu cyashinze imizi cyane mu mucu nyarwanda. Rushingiye ku myanzuro y'imirimo itegura amasezerano yerekeranye na jenocide, Urugereko rusanga umuryango nyarwanda n'amahanga bifata ayo moko nk'aho adakuka kandi ahoraho. Mu wa 1994, mu Rwanda Abatutsi bari bagize « itsinda ry'abantu » ryitwaraga « ubwoko ».
375. Nk'uko byari bimeze mbere ya 1994, mu Rwanda abantu baracyakomeza kuvugwa hakurikijwe amoko yabo. Abanyarwanda benshi baracyabikoresha cyane mu gihugu cyangwa hanze, n'ubwo ayo magambo atagifite isura yari afite mbere. Mu by'ukuri, nk'uko Urugereko rwabibonye, abagabo bose batanze ubuhamya mu rukiko bavuze

¹⁰¹ Reba icyiciro cya 2.2 haruguru.

¹⁰² Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo, igika 170.

umwirondoro wabo basobanura ubwoko barimo kandi bavuga ko Abatutsi bari bagize ubwoko bwihariye.

376. Urugereko rusanga Ubwunganizi butararwanyije ko Abatutsi bagize itsinda rishobora kwibasirwa nk'uko biteganywa n'Amasezerano yerekeranye na jenocide. Urugereko rusanga kandi mu rubanza rwa Kayishema na Ruzindana¹⁰³ n'urwa Akayesu¹⁰⁴ haragaragajwe ko Abatutsi ari itsinda rishobora kwibasirwa nk'uko biteganywa n'ayo Masezerano.
377. Kubera izo mpamvu, rumaze gusuzuma ibimenyetso byose byatanzwe, Urugereko rusanga Abatutsi ari itsinda ridakuka kandi rihoraho, kandi ko muri rusange rifatwa nk'itsinda ryihariye mu Rwanda. Rusanga rero Abatutsi ari rishobora kwibasirwa nk'uko biteganywa n'Amasezerano yerekeranye no gukumira no guhana icyaha cya jenocide, bityo rero rikaba rishobora kwibasirwa nk'uko biteganywa n'ingingo ya 2 ya Sitati.

Igika cya 7 kigira kiti:

« Mu bihe byose bivugwa muri iyi Nyandiko y'ibirego, mu Rwanda hari intambara itari iyo mu rwego mpuzamahanga ».

378. Igika cya 7 cy'Inyandiko y'ibirego kivuga ko mu gihe kivugwa mu Nyandiko y'ibirego, mu Rwanda hari intambara itari iyo mu rwego mpuzamahanga. Reyntjens yavuze ko mu ntangiriro ya za 90, mu Rwanda hari imidurumbanyo ya politiki yakuririzwaga no kuba igihugu cyarimo kwinjira mu ruhando rw'amashyaka menshi. Muri icyo gihe, havutse amashyaka menshi ya politiki ataravugaga rumwe n'ishyaka rya MRND ryari ku butegetsi. Muri yo havugwa Ishyaka Riharanira Demukarasi na Repubulika (MDR), Ishyaka Riharanira Imibereho Myiza y'Abaturage muri Demokarasi (PSD), Ishyaka Riharanira Ukwishyira Ukizana kw'Abaturage (PL), Ishyaka rya Gikirisitu Riharanira Demokarasi (PDC) n'Impuzamugambi Ziharanira Repubulika (CDR). Uregwa yavuze ko amashyaka yahiganwaga mu gushaka abayoboke bashya. Ishyirwaho ry'imitwe y'urubyiruko ni

¹⁰³ Urubanza rwa Kayishema na Ruzindana, Inyandiko y'urubanza mu rw'iremezo, igika 291.

¹⁰⁴ Urubanza rwa Akayesu, Inyandiko y'urubanza mu rw'iremezo, ibika 170-172.

kimwe mu gikorwa cyagombaga gukurura abayoboke bashya, kandi Interahamwe zari ishami ry'urubyiruko rwa MRND.

379. Uregwa yavuze ko ijamba « Interahamwe » ryari ryarafashe isura mbi, maze nyuma y'itariki ya 6 Mata 1994 rikoreshwa ku buryo bwa rusange risobanura umutwe w'insoresore nyinshi cyangwa udafite ubuyobozi bugaragara, byitwaga ko warwanyije FPR¹⁰⁵.
380. Nsanzuwera yavuze ko Interahamwe zabanje kuba urubyiruko rw'ishyaka rya politiki nyuma zihinduka umutwe witwara gisirikare¹⁰⁶. Yavuze kandi ko n'ubwo Perezida w'u Rwanda yarahiye ku itariki ya 5 Mutarama 1994, ntiyarahije abagize Guverinoma n'Inteko ishingira amategeko nk'uko byateganywaga n'Amasezerano y'amahoro ya Arusha. Habayeho ubushyamirane mu mashyamba yagombaga kujya muri Guverinoma y'agateganyo maze bitera umutekano muke mu murwa mukuru wose. Ku itariki ya 6 Mata, indege ya Perezida yarahanutse. Guverinoma y'agateganyo yahamagariye abaturage gahunda y'ukwiringira kw'abaturage no gufatanya n'ingabo z'igihugu (FAR) mu kurwanya FPR no kwikiza abaturage batari abahanziguni babarimo¹⁰⁷.
381. Ubwo rero, imirwano yarubuye hagati ya Guverinoma na FPR. Mu buhamya bwabo, Reyntjens na Nsanzuwera bavuze ko Batayo ya FPR yashoje imirwano n'ingabo z'u Rwanda (FAR). Hahise hashyirwaho za bariyeri mu mugwi wa Kigali, mu nkengero zawo no mu tundi duce tw'igihugu kugira ngo babuze FPR gucengera. Cyakora, ubuhamya bwatanzwe mu rukiko n'abagabo biboneye ibyabaye kimwe n'ubw'umugabo w'impuguke wahamagajwe na Porokireri witwaga Reyntjens¹⁰⁸, buvuye ko bibasiraga umuntu wese wakekwagaho gusa kuba ashigikiye FPR. Ibyo byatumye ibikorwa by'ubugome bikwira hose. Abatutsi bibasiwe n'ibitero byari kuri gahunda kubera gusa ko abenshi muri bo bafatwaga nk'ibyitso bya FPR. Uregwa yavuze kandi ko bigitangira, bariyeri zashyizweho n'abasiviri kugira ngo

¹⁰⁵ Reba ubuhamya bw'Uregwa, inyandikomvugo z'iburanisha, 22 na 23 Mata 1999.

¹⁰⁶ Reba ubuhamya bw'umugabo w'impuguke, Nsanzuwera, inyandikomvugo y'iburanisha, 24 Werurwe 1998.

¹⁰⁷ Ni kimwe no haruguru.

¹⁰⁸ Reba ubuhamya bw'umugabo w'impuguke, Reyntjens, inyandikomvugo y'iburanisha, 14 Ukwakira 1997.

barwanye FPR muri gahunda y'ukwirengera kw'abaturage¹⁰⁹. Nsanzuwera yavuze ko gahunda y'ukwirengera kw'abaturage yitabiriwe ahanini n'Interahamwe n'indi mitwe y'urubyiruko rw'abahezanguni rw'amwe mu mashyamba ya politiki, nka CDR. Urwo rubyiruko rwashakaga gutsembatsemba Abatutsi kuko bafatwaga nk'abantu bashyigikiye FPR¹¹⁰. Mbonimpa, umutangabuhamya w'impuguke wahamagajwe n'Ubwunganizi, yavuze ko FPR yari umutwe w'insoresore zitwara gisirikare kandi ko umutwe witwara gisirikare wari ufite inzego z'ubuyobozi, imyenda iwuranga, intwari ndetse ushobora kurwana intambara. Impande zombi zarwanaga zakoresheje amaradiyo mu guhamagarira abaturage kurwana intambara. Muri ayo maradiyo harimo RTLM yakoreshejwe na Guverinoma. Mbonimpa yavuze ko FPR yatangajwe ko abantu bose bazagira uruhare mu mirwano bazafatwa nk'umwanzi¹¹¹.

382. Urugereko rusanga haragaragajwe ko mu gihe kivugwa mu Nyandiko y'ibirego, mu Rwanda hari intambara. Urugereko rwemera rero imyanzuro yafashwe kuri iki kibazo mu rubanza rwa Akayesu.

¹⁰⁹ Reba ubuhamya bw'Uregwa, inyandikomvugo y'iburanisha, 22 Mata 1999.

¹¹⁰ Reba ubuhamya bw'umugabo w'impuguke, Nsanzuwera, inyandikomvugo z'iburanisha, 23, 24 na 27 Werurwe 1998.

¹¹¹ Reba ubuhamya bw'umugabo w'impuguke, Mbonimpa, inyandikomvugo y'iburanisha, 6 Mata 1999.

5. IMYANZURO YO MU RWEGO RW'AMATEGEKO

5.1. Ikirego cya mbere: Jenoside

383. Ikirego cya mbere kirebana n'ibyabaye byose bivugwa mu Nyandiko y'ibirego. Porokireri avuga ko, kubera ibyabaye bivugwa kuva ku gika cya 10 kugera ku cya 19 by'Inyandiko y'ibirego, Uregwa yakoze icyaha cya jenoside, gihanwa hashingiwe ku ngingo ya 2 (3) a) ya Sitati.

384. Mu myanzuro rwafashe haruguru yerekeranye n'amategeko akurikizwa¹¹², Urugereko rwasanze ko kugira ngo icyaha cya jenoside kigaragazwe, ari ngombwa mbere na mbere kugaragaza ko kimwe mu bikorwa bivugwa mu ngingo ya 2 (2) ya Sitati cyakozwe. Ni ngombwa kandi kugaragaza ko icyo gikorwa kibasiye abantu bagize itsinda rihuriye ku bwenegihugu, ubwoko cyangwa idini bazira icyo bari cyo. Hagomba kandi kugaragazwa ko icyo gikorwa cyakozwe hagamijwe kurimbura abantu bose, cyangwa igice cyabo, bagize iryo tsinda ryibasiwe.

Ku byerekeye ibyabaye bivugwa mu gika cya 10 kugeza ku cya 19 by'Inyandiko y'ibirego, rushingiye ku myanzuro rwafashe ku byabaye, Urugereko rwemera, nta gushidikanya ibintu bikurikira:

385. Ku birebana n'ibyabaye bivugwa mu gika cya 10, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko ku itariki ya 8 Mata 1994 nyuma ya saa sita, Uregwa yageze i Nyarugenge ari mu ikamyoneti yuzuye imbunda n'imihoro. Uregwa yahaye izo ntwaro Interahamwe maze azitegeka gukora akazi, avuga ko hari « umwanda mwinshi wo gukuraho ». Uregwa yari yambaye imbunda ku rutugu afite n'umuhoro ku mukandara. Byongeye kandi, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko ku itariki ya 15 Mata 1994 nyuma ya saa sita, Uregwa yageze muri Segiteri ya Cyahafi, Komine ya Nyarugenge ari mu ikamyoneti. Iyo kamyoneti yahagaze iruhande rw'akazu k'amazi, maze Uregwa arasohoka akingura inyuma ahari imbunda ndende. Abantu bari bazanye na we

¹¹² Reba umutwe wa 2, icyiciro cya 2 muri iyi nyandiko y'urubanza.

batanze izo mbunda baziha Interahamwe. Imbunda zikimara gutangwa, abantu bazihawe batangiyeye kurasa maze bica Abatutsi batatu. Urugereko rusanga na none haragaragajwe ku buryo budashidikanywaho ko ku itariki ya 24 Mata 1994 cyangwa hafi yayo, muri Segiteri ya Cyahafi, Uregwa yahaye perezida w'Interahamwe zo mu Cyahafi imbunda zo mu bwoko bwa UZZI mu gitero izo Nterahamwe zagabye ku Bakombozi.

386. Urugereko rusanga Uregwa agomba kuryozwa nka gatozi ibyo bikorwa bivugwa kubera ko yateye abandi bantu inkunga kandi akabashishikariza gutegura no gukora ubwicanyi bwibasiye Abatutsi ndetse no gukora ibindi bikorwa bitera Abatutsi ububabare buzahaza umubiri cyangwa mu mutwe.
387. Ku byerekeye ibyabaye bivugwa mu gika cya 11 cy'Inyandiko y'ibirego, Urugereko rusanga Porokireri ataragaragaje ku buryo budashidikanywaho ko Uregwa agomba kubiryoza.
388. Ku byerekeye ibivugwa mu gika cya 12 cy'Inyandiko y'ibirego, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko muri Mata 1994, Abatutsi bari batandukanijwe n'abandi bantu kuri bariyeri yari imbere ya Garaje AMGAR bajanywe mu biro by'Uregwa byari muri iryo garaje maze Uregwa agategeka ko bafungirwa muri iryo garaje. Nyuma yaho, Uregwa yaje gutegeka abantu azenzura kujyana imfungwa 14, zirimo nibura enye z'Abatutsi, ku cyobo kirekire cyari hafi y'iyi garaje. Bitegetswe n'Uregwa kandi ahibereye, abantu yari akuriye bishe abantu 10 muri izo mfungwa bakoresheje imihoro. Imirambo y'abo bishwe yashyizwe mu mwobo.
389. Urugereko rusanga Uregwa agomba kuryozwa nka gatozi ibyo bikorwa ashinjwa kubera ko yategetse, agakora, agatera inkunga abandi bantu ndetse akabashishikariza gutegura no gukora ubwicanyi bwibasiye Abatutsi, no gutera Abatutsi ububabare buzahaza umubiri cyangwa mu mutwe.
390. Ku byerekeye ibyabaye bivugwa mu bika bya 13, 14, 15 na 16 by'Inyandiko y'ibirego, Urugereko rusanga ibyo bintu byaragaragajwe nta gushidikanya. Kuva ku itariki ya 7 Mata kugera ku ya 11 Mata 1994, abantu babarirwa mu bihumbi,

biganjemo Abatutsi, bahungiye kuri ETO. Interahamwe zitwaje imbunda, amagerenade, imihoro n'ibikoni zateraniye inyuma ya ETO. Mbere y'igitero, Abahutu batandukanijwe n'Abatutsi bari kuri ETO, maze Abahutu babarirwa mu magana bava aho kuri ETO. Ubwo abasirikare ba MINUAR bavaga kuri ETO ku itariki ya 11 Mata 1994, Interahamwe n'abajepe bagose iryo shuri maze bagaba igitero ku mpunzi. Bateye amagerenade, barasa amasasu kandi bica abantu bakoresheje imihoro n'ibikoni. icyo gitero cyahitanye Abatutsi benshi. Uregwa yari akirimo, yitwaje imbunda kandi ari mu itsinda ry'abagabye igitero bageze aho bagatera amagerenade, bakanarasa. Abantu babonye Uregwa muri metero nka 50 aturuka mu marembo ya ETO. Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa yari kuri ETO kandi ko yagize uruhare mu gitero cyagabwe ku Batutsi bari bahahungiyeye.

391. Impunzi nyinshi zashoboye gutoroka cyangwa kurokoka icyo gitero cyo kuri ETO zagiye zerekeza kuri Sitade Amahoro ziri mu matsinda. Mu nzira zigenda, izo mpunzi zahagaritswe n'abasirikare maze bazikoranyiriza hafi y'uruganda rwa SONATUBE nuko bazohereza i Nyanza. Izo mpunzi zaratutswe, zishyirwaho iterabwoba kandi zicwa n'abasirikare n'Interahamwe bari baziherekeje zigana i Nyanza. Abo basirikare n'Interahamwe bari bitwaje imihoro, ibikoni, amashoka n'izindi ntwaro. I Nyanza, Interahamwe zategetse impunzi guhagarara, zibakoranyiriza hamwe, maze zibicaza muni y'agasozi kariho abasirikare bitwaje intwaro. Ku mpande zose, impunzi zari zigoswe n'Interahamwe n'abasirikare. Abahutu basabwe guhaguruka no kwigaragaza, birangiye bahabwa uburenganzira bwo kuva aho hantu. Bamwe mu Batutsi bagerageje kwiyoberanya mu Bahutu bahise bicwa n'Interahamwe zari zibazi. Nyuma yaho, Interahamwe zateye amagerenade mu mbaga y'abantu maze abasirikare na bo batangira kurasira aho bari ku gasozi. Abantu bagerageje guhunga bagaruwe n'Interahamwe zari zibari inyuma. Abantu benshi barishwe. Bamaze kurasa no gutera amagerenade ku mpunzi, abasirikare bategetse Interahamwe gutangira kwica. Interahamwe zatangiye rero kwica zikoresheje ibikoni n'izindi ntwaro. Abakobwa bamwe batoranyijwe mu bandi, bashyirwa ku ruhande maze basambanywa ku gahato mbere yo kwicwa. Abagore benshi bishwe bamaze gucuzwa imyenda bambaye. Nyuma yaho,

abasirikare bategetse Interahamwe gushakisha abantu batarashiramo umwuka kugira ngo babahorahoze. Mbere y'uko ubwicanyi butangira, Uregwa yategetse Interahamwe zari zitwaje amagerenade, imihoro n'ibikoni guhagarara impande zose kugira ngo bagote impunzi. Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa yari i Nyanza kandi ko yitabiriye ubwicanyi bwahakorewe. Byongeye kandi, Urugereko rusanga kuba Uregwa yari aho hantu byarashishikarije abantu gukora ibyaha.

392. Urugereko rusanga Uregwa agomba kuryozwa nka gatozi ibyabaye bivugwa kuva ku gika cya 13 kugera ku cya 16 by'Inyandiko y'ibirego, kubera ko yabikoze ubwe, agatera inkunga abandi bantu kandi akabashishikariza kwica Abatutsi no kubatera ububabare buzahaza umubiri cyangwa mu mutwe.
393. Ku byerekeye ibivugwa mu gika cya 17 cy'Inyandiko y'ibirego, Urugereko rusanga Porokireri ataratanze ikimenyetso na kimwe gishyigikira ibyo avuga ko muri Mata 1994, Uregwa yasatse muri Komine ya Masango. Byongeye kandi, Urugereko rusanga Porokireri ataragaragaje ku buryo budashidikanywaho ko Uregwa yategetse abandi bantu guhiga Abatutsi bose no kubajugunya mu mugezi.
394. Naho ku byabaye bivugwa mu gika cya 18, Urugereko rusanga haragarajwe ku buryo budashidikanywaho ko ku itariki ya 28 Mata 1994, Interahamwe zasatse amazu yo muri karitsiye y'Agakinjoro. Zasakaga inzu ku yindi zaka abantu indangamuntu zabo. Abatutsi na bamwe mu bayoboke b'amashyaka ya politiki amwe bajyanwaga ku rusengeru rwa « Hindi Mandal », hafi ya Garaje AMGAR. Uregwa yari ahantu hari hakoranyirijwe abantu bafashwe. icyo gihe, yari yambaye imyenda ya gisirikare, igizwe n'ikoti n'ipantalo, kandi yari afite imbunda. Mu bantu bari bafashwe, harimo Umututsi witwaga Emmanuel Kayitare bahimbaga Rujindiri. Umugabo witwaga Cekeru yahamagaye Emmanuel amubwira ko amuzi kandi ko yari azi ko yajyaga kuri CND. Emmanuel yahise agira ubwoba nuko atangira kwiruka. Uregwa yafashe Emmanuel mu ikora ry'ishati kugira ngo amubuze guhunga. Yamukubise umuhoro mu mutwe maze Emmanuel Kayitare ahita apfa.

395. Urugereko rusanga Uregwa agomba kuryozwa ibyo bikorwa nka gatozi kubera ko we ubwe yiyiciye Umututsi, agatera inkunga abandi bantu kandi akabashishikariza gutegura no gukora ibikorwa bitera Abatutsi ububabare buzahaza umubiri cyangwa mu mutwe.
396. Ku byabaye bivugwa mu gika cya 19 cy'Inyandiko y'ibirego, Urugereko rusanga, n'ubwo hagaragajwe ko Uregwa yategetse ko imirambo y'abishwe ihambwa, Porokireri ataragaragaje ku buryo budashidikanywaho ko Uregwa yatanze ayo mategeko kugira ngo ahishe umuryango mpuzamahanga ibyaha yakoze.
397. Ibimaze kuvugwa byose bigaragaza ko Urugereko rwemera ku buryo budashidikanywaho ko Uregwa agomba kuryozwa icyaha nka gatozi nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati, kubera ko yategetse, agakora cyangwa, mu bundi buryo ubwo ari bwo bwose, agatera inkunga abandi bantu ndetse akabashishikariza gukora ubwicanyi n'ibindi bikorwa bitera Abatutsi ububabare bukomeye buzahaza umubiri cyangwa mu mutwe.

Ku byerekeranye no kumenya niba ibikorwa bivugwa haruguru byakorewe Abatutsi kubera icyo bari cyo, no kumenya umugambi Uregwa yari afite ubwo hakorwaga ibyo bikorwa agomba kuryozwa:

398. Mu myanzuro rwafashe ku birebana n'amategeko akurikizwa ku cyaha cya jenocide¹¹³, Urugereko rwemera ko, ubusanzwe, igitekerezo umuntu yari afite gisuzumwa hakurikijwe imiterere ya buri cyaha, hashingiwe ku bimenyetso bifatika byatanzwe, birimo ibigaragaza ko igikorwa runaka uregwa akurikiranyweho kijyanye n'imyitwarire asanganywe. Rusubiramo bimwe mu bivugwa mu byemezo byafashwe mu rubanza rwa Akayesu mu rw'iremezo, Urugereko rwagize ruti:

Ntibyoroshye, yewe ntibinashoboka kumenya igitekerezo umuntu yari afite kuko bibera mu mutwe w'uwo muntu. Ni yo mpamvu iyo Uregwa atemeye icyaha, igitekerezo kibisha gishobora kugaragarira mu bikorwa bye bimwe na bimwe. Urugero ni uko Urugereko rusanga bishoboka ko ibikorwa

¹¹³ Reba umutwe wa 2, icyiciro cya 2 muri iyi nyandiko y'urubanza.

n'imvugo zose z'Uregwa bishobora kugaragaza ko hariho igitekerezo cyo gukora jenocide igihe icyaha runaka cyakorwaga, kimwe na none n'uko icyo gitekerezo gishobora kugaragarira mu bindi byaha byakorewe abo bantu kuri gahunda, byaba byarakozwe n'Uregwa cyangwa n'abandi bantu. Ibindi bintu nk'uburemere bw'amarorerwa yakozwe, kuba yarakozwe muri rusange, mu karere cyangwa igihugu runaka, cyangwa guhitamo ku bushake kandi biri kuri gahunda abantu bakorerwa ibyaha hashingiwe k'ukuba bagize itsinda runaka, ariko abandi bantu bo mu rindi tsinda ntibibasirwe, nabyo bishobora gutuma Urugereko ruvuga ko Uregwa yari yaritswemo n'igitekerezo cyo gukora jenocide¹¹⁴.

399. Urugereko rusanga ubuhamya bwinshi bushyigikirana bwatanzwe mu iburanisha bugaragaza uruhare rufatika Uregwa yagize mu bitero no mu bwicanyi rusange bwakorewe Abatutsi. Urugereko rwemera ko Uregwa, wari ufite ijamba kubera umwanya yari afite mu baturage, bitewe n'uko se yari azwi, ariko cyane cyane n'umwanya yari afite mu buyobizi bw'Interahamwe, yarategetse abandi bantu kandi akabashishikariza gukora ibyaha byibasiye Abatutsi. Na we ubwe kandi yitabiriye mu buryo butaziguye ikorwa ry'ibyaha byibasiye Abatutsi. Abakorewe ibyo byaha batoranywaga mu buryo buri kuri gahunda kubera ubwoko bwabo kandi bazira icyo bari cyo. Kubera izo mpamvu, Urugereko rwemera ku buryo budashidikanywaho ko mu gihe hakorwaga ibikorwa byose bivugwa haruguru kandi rusanga byaragaragajwe, Uregwa yari yaritswemo n'igitekerezo cyo kurimbura Abatutsi abaziza icyo bari cyo.

400. Byongeye kandi, rusingiye ku bimenyetso rwashyikirijwe mu iburanisha kandi bivugwa muri iyi nyandiko y'urubanza mu cyiciro cyahariwe ibivugwa muri rusange¹¹⁵, Urugereko rusanga, mu gihe cy'ibyabaye bivugwa mu Nyandiko y'ibirego, mu Rwanda harakozwe amarorerwa menshi yibasiye Abatutsi. Kubera ko ayo marorerwa yari rusange, agakorerwa mu Rwanda hose, no kuba abayakorewe baratoranywaga mu buryo buri kuri gahunda kandi byagambiriwe kubera ko ari Abatutsi, havanywemo abantu batari muri ubwo bwoko, Urugereko rusanga

¹¹⁴ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 523.

¹¹⁵ Reba umutwe wa 4, icyiciro cya 8 muri iyi nyandiko y'urubanza.

ibikorwa bigamije kurimbura Abatutsi byari rusange. Urugereko rusanga rero ibyo bikorwa Uregwa ashinjwa byarakozwe mu rwego rusange rw'ibindi byaha byari kuri gahunda, byibasiye Abatutsi bazira ubwoko bwabo.

401. Urugereko ruributsa ko mu myanzuro rwafashe ku bivugwa muri rusange, rwerekanye ko Abatutsi bagize itsinda ry'abantu bashobora kwibasirwa nk'uko biteganywa n'Amasezerano yerekeranye na jenocide.

402. Mu kwanzura rushingiye ku bintu byose bimaze kuvugwa kuri iyi ngingo, mbere na mbere Urugereko rusanga, ku buryo budashidikanywaho, Uregwa agomba kuryozwa icyaha nka gatozi ku bikorwa bivugwa haruguru mu bika bya 10, 12, 13, 14, 15, 16 na 18 by'Inyandiko y'ibirego, bigize icyaha cya jenocide. Icyamba kabiri, Urugereko rusanga Uregwa yarakoze ibyo bikorwa agambiriye by'umwihariko kurimbura Abatutsi abaziza icyo bari cyo. Icyamba gatatu, Urugereko rusanga Abatutsi ari rimwe mu matsinda ashobora kwibasirwa n'icyaha cya jenocide. Kubera izo mpamvu, Urugereko rusanga Uregwa agomba kuryozwa nka gatozi icyaha cya jenocide.

5.2. Ikirego cya 2: Icyaha cyibasiye inyokomuntu (itsembatsemba)

403. Mu kirego cya 2 cy'Inyandiko y'ibirego havugwa ko Uregwa agomba kuryozwa icyaha cyibasiye inyokomuntu (itsembatsemba), hashingiye ku ngingo ya 3 b) n'iya 6 (1) za Sitati, kubera ibyabaye bivugwa mu Nyandiko y'ibirego, kuva ku gika cya 10 kugera ku cya 19.

404. Ku byerekeye ibivugwa mu gika cya 10 cy'Inyandiko y'ibirego, Urugereko rusanga ku itariki ya 8 Mata 1994, Uregwa yarageze muri Komine ya Nyarugenge ari mu ikamyoneti ipakiye imbunda n'imihoro. Uregwa yahaye izo ntwaro Interahamwe maze azitegeka gukora akazi kubera ko ngo hari umwanda mwinshi ugomba kuvanwaho.

405. Urugereko rusanga ku itariki ya 15 Mata 1994 nyuma ya saa sita, Uregwa yaragiye muri Segiteri ya Cyahafi, Komine ya Nyarugenge ari mu ikamyoneti. Yakinguye

igice y'inyuma cy'iyo kamyoneti maze abantu bari kumwe baha Interahamwe intwari. Urugereko rusanga kandi ku itariki ya 24 Mata 1994 cyangwa hafi yayo, muri Segiteri ya Cyahafi, Uregwa yarahaye imbunda Perezida w'Interahamwe za Cyahafi mu gitero Interahamwe zagabye ku Bakombozi.

406. Ku byerekeye ibivugwa mu gika cya 12 cy'Inyandiko y'ibirego, Urugereko rusanga muri Mata 1994, Abatutsi barafatiwe kuri bariyeri yari imbere ya Garaje AMGAR maze bagashyikirizwa Uregwa wategetse ko bafungwa. Nyuma yaho, Uregwa yaje gutegeka ko imfungwa 14 zijyanwa ku cyobo cyari hafi ya Garaje AMGAR. Babitegetswe n'Uregwa kandi ahibereye, abantu 10 muri izo mfungwa barishwe maze imirambo yabo ijugunywa muri icyo cyobo.
407. Ku bivugwa mu gika cya 13 n'icya 14 by'Inyandiko y'ibirego, Urugereko rusanga guhera ku itariki ya 7 Mata kugera ku ya 11 Mata 1994, abantu babarirwa mu bihumbi biganjemo Abatutsi, barahungiyeye kuri ETO. MINUAR imaze kuva kuri ETO ku itariki ya 11 Mata 1994, Koloneli Léonidas Rusatira yinjijye mu kigo cya ETO atandukanyaga Abahutu n'Abatutsi, maze Abahutu babarirwa mu magana bava aho kuri ETO. Nyuma yaho, Interahamwe n'abajepa bagabye ibitero ku bantu bari mu kigo. Uregwa yari ahari kandi yitabiriye icyo gitero. Icyo gitero cyahitanye Abatutsi benshi barimo abantu benshi bo mu miryango y'abatangabuhamyaga ndetse n'abantu abo batangabuhamyaga bari bazi.
408. Ku bivugwa mu gika cya 15 n'icya 16 by'Inyandiko y'ibirego, Urugereko rusanga Uregwa yari ahari ndetse akagira uruhare mu kohereza ku ngufu impunzi i Nyanza. Rusanga kandi yarayoboye akanitabira igitero cyagabwe i Nyanza ku itariki ya 11 Mata 1994.
409. Urugereko rusanga igika cya 16 cy'Inyandiko y'ibirego kivuga ko ibikorwa bimwe nko gutandukanyaga impunzi z'Abahutu n'iz'Abatutsi ndetse n'igitero cyagabwe ku Batutsi byarabayeho ku itariki ya 12 Mata 1994 cyangwa hafi yayo. Porokireri we yavuze ko ibyo bintu byabayeho ku itariki ya 11 Mata 1994. Cyakora, Urugereko rusanga ayo matariki adatandukanyaga cyane, cyane cyane iyo umuntu arebye amagambo akoreshwaga ngo « ku itariki cyangwa hafi yayo ». Uko ibintu

byakurikiranye bikageza ku bwicanyi bishobora kuba byaratangiye ku itariki ya 11 Mata 1994, nk'uko bivugwa mu bika 14, 15 na 16 by'Inyandiko y'ibirego. Byongeye kandi, ubwicanyi bwakorewe i Nyanza bwakomeje mu gitondo cyo ku itariki ya 12 Mata 1994. Kubera izo mpamvu, Urugereko rusanga itariki ya 11 Mata 1994 iri mu gihe kiswe « ku itariki ya 12 Mata 1994 cyangwa hafi yayo ».

410. Urugereko rusanga kandi igika cya 15 n'icya 16 by'Inyandiko y'ibirego bivuga ko impunzi zimuriwe ahantu hitwaga « *carrière* » [ahacukurwaga ibitaka], hafi y'amashuri abanza y'i Nyanza aho zagotewe maze zikagabwaho igitero. Nk'uko Ubwunganizi bwabivuze mu myanzuro nsozarubanza mu magambo, nta mutangabuhamya n'umwe uvuga ko hari ubwicanyi bwakorewe ahantu hitwa « *carrière* ». Birazwi ko impunzi zakoranyirijwe kandi zikagoterwa ahantu hamwe i Nyanza, muni y'agasozi kari hafi aho. Urugereko rusanga kwita aho hantu « *carrière* » nta kintu kigaragara byahindura ku birego bikubiye mu Nyandiko y'ibirego. Rusanga kandi Porokireri yaragaragaje ku buryo budashidikanywaho ibivugwa mu gika cya 15 n'icya 16 by'Inyandiko y'ibirego.
411. Ku byerekeye ibivugwa mu gika cya 18 cy'Inyandiko y'ibirego, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko ku itariki ya 28 Mata 1994, Emmanuel Kayitare n'abandi bantu bajanywe ku rusengeru rwitwa « Hindi Mandal », hafi ya Garaje AMGAR bakahafungirwa. Byongeye kandi, Uregwa yari aho hantu igihe Emmanuel yageragezaga guhunga. Uregwa yamufashe mu ikora, amukubita umuhoro mu mutwe aramwica.
412. Rushingiye kuri uwo mwanzuro rwafashe ku byabaye, Urugereko rusanga Uregwa agomba kuryozwa icyaha cyibasiye inyokomuntu (ubwicanyi), ashinjwa mu kirego cya 7 cy'Inyandiko y'ibirego. Rusanga kandi kuba yarishe Emmanuel Kayitare, akanakora ibindi bikorwa byagaragajwe, nko guha Interahamwe imbunda n'imihoro ndetse n'ubwicanyi bwakorewe muri ETO n'i Nyanza byose bigize ishingiro ryo kumuryoza icyaha cyibasiye inyokomuntu (itsembatsemba). Kubera izo mpamvu, Urugereko ruzirikana imyanzuro rwafashe ku byabaye bivugwa mu gika cya 18 [cy'Inyandiko y'ibirego] n'ibyabaye byagaragajwe ku byerekeranye no gusesengura uburyozwacyaha bw'Uregwa ku kirego cya 2.

413. Ku byerekeye ibivugwa mu gika cya 19 cy'Inyandiko y'ibirego, Urugereko rusanga Uregwa yarategetse ko imirambo ihambwa kugira ngo « abanyamahanga » batayibona. Cyakora, Urugereko rusanga nta kintu kigaragaza ko Uregwa yategetse ko imirambo ihambwa kugira ngo ahishe amahanga ibyaha yakoze. Byongeye kandi, Porokireri yagaragaje bimwe gusa mu bivugwa mu gika cya 19 cy'Inyandiko y'ibirego.
414. Ku byerekeye ibivugwa mu gika cya 11 n'icya 17 by'Inyandiko y'ibirego, Urugereko rusanga ibyo bintu bitaragaragajwe ku buryo budashidikanywaho.
415. Urugereko rusanga ingingo ya 6 (1) ya Sitati iteganya ibikurikira : « Umuntu uwo ari we wese wacuze umugambi, uwawuhamagariye abandi, uwategetse gukora icyaha, uwagikoze cyangwa ku bundi buryo ubwo ari bwo bwose, agafasha kandi agashyigikira gucira umugambi, gutegura, cyangwa gutsotsoba icyaha icyo ari cyo cyose kivugwa mu ngingo ya 2 kugeza ku ya 4 z'iyi Sitati, akiryozwaga nka gatozi ».
416. Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa yateye abantu inkunga kandi akabashishikariza gukora ubwicanyi aha Interahamwe intwari ku matariki ya 8, 15 na 24 Mata 1994. Rusanga muri Mata 1994 Uregwa yarategetse ko abantu 10 bicwa kandi nyuma yaho, abo bantu barishwe ahibereye. Rusanga kandi yaritabiriye igitero cyagabwe ku bantu bari bahungiyeye kuri ETO, anayobora igitero cyagabwe i Nyanza ndetse aracyitabira. Rusanga yarishe Emmanuel Kayitare kandi kubera imyitwarire ye, rusanga yari yaritswemo n'igitekerezo cyo kwicisha Abatutsi benshi abaziza ubwoko bwabo.
417. Urugereko rusanga Porokireri yagaragaje ku buryo budashidikanywaho ko mu gihe cy'ibyabaye bivugwa mu Nyandiko y'ibirego, Abatutsi bibasiwe n'igitero rusanga kandi kiri kuri gahunda bazira ubwoko bwabo. Uregwa yari azi iby'icyo gitero kandi yari agambiriye ko imyitwarire yinjira mu rwego rw'icyo gitero.
418. Kubera iyo mpamvu, Urugereko rusanga haragaragajwe ku buryo budashidikanywaho ko Uregwa agomba kuryozwa nka gatozi ibyaha byibasiye inyokomuntu (itsembatsemba) hashingiwe ku ngingo ya 2 (3) b) n'iya 6 (1) za Sitati.

5.3. Ikirego cya 3: icyaha cyibasiye inyokomuntu (ubuhotozi)

419. Mu kirego cya 3 cy'Inyandiko y'ibirego havugwa ko Uregwa agomba kuryozwa icyaha cyibasiye inyokomuntu (ubuhotozi), hashingiwe ku ngingo ya 3 a) n'ya 6 (1) za Sitati, kubera ibyabaye bivugwa mu gika cya 14 cy'Inyandiko y'ibirego.
420. Urugereko rusanga ku kirego cya 2 cy'Inyandiko y'ibirego, Uregwa agomba kuryozwa ibyaha byibasiye inyokomuntu (itsembatsemba), hashingiwe ku ngingo ya 3 b) n'ya 6 (1) za Sitati y'Urukiko, kubera ibyabaye bivugwa kuva ku gika cya 10 kugera ku cya 19 by'Inyandiko y'ibirego, birimo igitero cyagabwe ku kigo cya ETO nk'uko bivugwa mu gika cya 14 [cy'Inyandiko y'ibirego]. Ibikorwa bivugwa mu gika cya 14 cy'Inyandiko y'ibirego ni na byo bishingirwaho ku kirego cya 3 cyerekeranye n'icyaha cyibasiye inyokomuntu (ubuhotozi).
421. Urugereko rwemera igitekerezo gikurikira cyatanzwe mu rubanza rwa Akayesu¹¹⁶:

Biremewe ko Uregwa ashobora guhamwa n'ibyaha bibiri hashingiwe ku bikorwa bimwe igihe (1) ibyo byaha byombi bigizwe n'ibintu bitandukanye; cyangwa (2) amategeko ateganya ibyo byaha arengera inyungu zitandukanye, cyangwa (3) ari ngombwa ko Uregwa ahabwa ibihano kuri ibyo byaha byombi kugira ngo ahanirwe imyitwarire ye yose. Cyakora, Urugereko rusanga nta mpamvu yo guhamya Uregwa ibyaha bibiri ku bikorwa bimwe igihe (a) kimwe muri ibyo byaha ari icyaha gito kandi kigize icyo kindi, nk'urugero: ubwicanyi no gutera umuntu ububabare buzahaza umubiri no mu mutwe, kwibisha intwari no kwiba udakoresheje intwari, cyangwa gusambanya ku gahato n'ibyaha by'urukozasoni; cyangwa (b) icyaha kimwe ari ukuba icyitso naho ikindi ari ukuba gatozi, urugero ni nka jenocide no kuba icyitso cy'abakoze jenocide.

422. Nk'icyaha cyibasiye inyokomuntu, ubuhotozi n'itsembatsemba bihuriye ku bintu bimwe bigize icyaha kubera ko bikorwa mu rwego rw'igitero rusange kandi kiri kuri gahunda cyibasiye abaturage b'abasiviri kubera ubwenegihugu bwabo, impamvu za politiki, ubwoko bwabo cyangwa idini ryabo. Bwaba ubuhotozi cyangwa

¹¹⁶ *Urubanza rwa Akayesu*, Inyandiko y'urubanza mu rw'iremezo, igika 468.

itsembatsemba byombi bigizwe no kwica byagambiriwe kandi binyuraniye n'amategeko. Ubuhotozi ni ukwica umuntu umwe cyangwa benshi, naho itsembatsemba ni icyaha gikorwa itsinda ry'abantu.

423. Mu rubanza rwa Akayezu, Urugereko rusanga ibikorwa byiswe, buri kimwe ukwacyo, ubuhotozi mu bika binyuranye by'Inyandiko y'ibirego, byaremerejwe hamwe ko bigize icyaha cy'itsembatsemba. Muri urwo rubanza, ibikorwa byashingiweho ku byaha by'ubuhotozi no mu gushinja Uregwa itsembatsemba byari bishingiye ku bintu byabaye byahitanye abantu bavuzwe amazina. Muri uru rubanza, n'ubwo igitero rukumbi kivugwa cyagabwe kuri ETO cyiswe ubuhotozi, icyo gitero ubwacyo kigize kandi itsembatsemba, ni ukuvuga ubwicanyi bukorewe itsinda ry'abantu.

424. Kubera ko rwasanze Uregwa ariyozwa ibikorwa bivugwa mu gika cya 14 cy'Inyandiko y'ibirego ku byaha byibasiye inyokomuntu (itsembatsemba), nk'uko abishinjwa mu kirego cya 2 cy'Inyandiko y'ibirego, Urugereko rusanga Uregwa adashobora kuryozwa ibyaha byibasiye inyokomuntu (ubuhotozi) bivugwa mu kirego cya 3, hashingiwe ku gikorwa kimwe cyabaye.

5.4. Ikirego cya 5: Icyaha cyibasiye inyokomuntu (ubuhotozi)

425. Mu kirego cya 5 cy'Inyandiko y'ibirego havugwa ko Uregwa agomba kuryozwa ibyaha byibasiye inyokomuntu (ubuhotozi) hashingiwe ku ngingo ya 3 a) n'ya 6 (1) za Sitati, kubera ibyabaye bivugwa mu gika cya 15 n'icya 16 by'Inyandiko y'ibirego.

426. Urugereko rusanga ku kirego cya 2 cy'Inyandiko y'ibirego, Uregwa agomba kuryozwa ibyaha byibasiye inyokomuntu (itsembatsemba) hashingiwe ku ngingo ya 3 b) n'ya 6 (1) za Sitati kubera ibikorwa bivugwa kuva ku gika cya 10 kugera ku cya 19 by'Inyandiko y'ibirego. Ibyo byaha birimo ubwicanyi bwakorewe impunzi z'Abatutsi i Nyanza nk'uko bivugwa mu gika cya 15 n'icya 16 [by'Inyandiko y'ibirego]. Ibyo bintu bivugwa ni na byo bigize ishingiro ry'ikirego cya 5 cy'ibyaha byibasiye inyokomuntu (ubuhotozi).

427. Kubera impamvu zavuzwe haruguru mu myanzuro yo mu rwego rw'amategeko yerekeranye n'ikirego cya 3, Urugereko rusanga Uregwa adashobora kuryozwa ibyaha byibasiye inyokomuntu (ubuhotozi) bivugwa mu kirego cya 5 cy'Inyandiko y'ibirego.

5.5. Ikirego cya 7: icyaha cyibasiye inyokomuntu (ubuhotozi)

428. Nk'uko bivugwa mu kirego cya 7 cy'Inyandiko y'ibirego, Uregwa agomba kuryozwa ibyaha byibasiye inyokomuntu (ubuhotozi) hashingiwe ku ngingo ya 3 a) na 6 (1) za Sitati, kubera ibyabaye bivugwa mu gika cya 18 cy'Inyandiko y'ibirego.

429. Urugereko rwemera ku buryo budashidikanywaho ko ku itariki ya 28 Mata 1994, Emmanuel Kayitare n'abandi bantu bajyanywe hafi ya Garaje AMGAR maze bakahafungirwa. Uregwa yari aho hantu kandi ubwo Emmanuel Kayitare yageragezaga guhunga, yamufashe mu ikora maze amukubita umuhoro mu mutwe aramwica.

430. Urugereko rusanga, nk'uko biteganywa n'ingingo ya 6 (1) ya Sitati, « Umuntu uwo ari we wese wacuze umugambi, uwawuhamagariye abandi, uwategetse gukora icyaha, uwagikoze cyangwa ku bundi buryo ubwo ari bwo bwose, agafasha kandi agashyigikira gucura umugambi, gutegura, cyangwa gutsotsoba icyaha icyo ari cyo cyose kivugwa mu Ngingo ya 2 kugeza ku ya 4 z'iyi Sitati, akiryozwa nka gatozi ». Rwemera ku buryo budashidikanywaho ko Uregwa yafunze cyangwa agatera inkunga abandi bantu ndetse akabashishikariza gufunga Abatutsi n'abayobokeye b'amashyamba amwe ya politiki, kandi akica Emmanuel Kayitare ubwo nyakwigendera yageragezaga guhunga.

431. Urugereko rwemera ku buryo budashidikanywaho ko Emmanuel Kayitare yari umusiviri w'Umututsi.

432. Urugereko rwemera ku buryo budashidikanywaho ko muri Mata 1994, Abatutsi bagabwaho igitero rusange kandi kiri kuri gahunda bazira ubwoko bwabo. Uregwa

yari azi iby'ibyo bitero, ndetse yashakaga ko Kayitare yicwa mu buryo bumwe n'ubw'abandi bantu kandi muri urwo rwego.

433. Urugereko rusanga ku buryo budashidikanywaho Uregwa agomba kuryozwa nka gatozi ibyaha byibasiye inyokomuntu (ubuhotozi) akurikiranyweho mu kirego cya 7 cy'Inyandiko y'ibirego.

5.6. Ibirego bya 4, 6 na 8: Ibikorwa binyuranyije n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve (ubuhotozi)

434. Mu birego bya 4, 6, na 8 byo mu Nyandiko y'ibirego, Uregwa ashinjwa ibikorwa binyuranyije n'ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve yo mu mwaka wa 1949 nk'uko bisubirwamo mu ngingo ya 4 ya Sitati. Kuri iki kirego, Porokireri yahisemo gushyiramo gusa ibikorwa binyuranyije n'ingingo ya 3 ihuriweho, n'ubwo Ingingo ya 4 ya Sitati ikubiyemo ibintu byose biteganywa n'ingingo ya 2 ihuriweho ndetse n'ibiteganywa n'Inyongera ya 2 yo mu mwaka wa 1977 y'Amasezerano y'i Jeneve yo mu wa 1949. Nk'uko Urugereko rwabivuze haruguru¹¹⁷, Inyongera ya 2 yashyiriweho gusa gusobanura no kuzuzanya Ingingo ya 3 ihuriweho ariko ntihindura uburyo ibiteganywa n'iyi Ingingo bishyirwa mu bikorwa. Itandukanyirizo rukumbi kandi nyakuri riri hagati y'ingingo ya 3 n'Inyongera ya 2 ni uko kugira ngo intambara y'imbere mu gihugu yuzuzanye ibiteganywa n'Inyongera ya 2, iyo ntambara igomba kuba yujuje ibigenderwaho birushijeho gukara.

435. Mu myanzuro nsozarubanza mu magambo, Porokireri yasobanuye ibintu bigize ibyaha n'inshingano yari afite yo gutanga ibimenyetso. Muri ibyo bisobanuro, Porokireri yabwiye Urugereko ibintu bifatika bigomba kuba byujujwe kugira ngo icyaha kinjire mu bikorwa byo kunyuranya bikomeye n'Ingingo ya 3 ihuriweho. Porokireri yavuze kandi ibindi bintu bigomba kuba byujujwe ngo Inyongera ya 2 ikoreshe. Ibivugwa na Porokireri bigaragaza ko yashatse kwerekana ko ibintu bifatika biteganywa n'Ingingo ya 3 ihuriweho n'Inyongera ya 2 byagombye kuba

¹¹⁷ Reba umutwe wa 2, icyiciro cya 4 muri iyi nyandiko y'urubanza.

byujujwe mbere y'uko hafatwa umwanzuro ku buryozwacyaha bw'Uregwa bwerekeranye n'ibirego bya 4, 6 na 8. Byongeye kandi, niba hari ugushidikanya ko ku byerekeranye n'uko Porokireri agomba kugaragaza ko Ingingo ya 3 ihuriweho yakoresha cyangwa ko iyo ngingo n'Inyongera ya 2 byakoresherezwa hamwe, Urugereko ruributsa ko mu manza nshinjabyaha, iyo habayeho ugushidikanya bigirira akamaro Uregwa. Urugereko rusanga kandi ibintu bifatika bigomba kuba byujujwe ngo ingingo ya 4 ya Sitati ikoreshwe ntibishobora gutandukanywa. Mu yandi magambo, ibisabwa n'Ingingo ya 3 ihuriweho n'Inyongera ya 2 bigomba kuba biriho kugira ngo icyaha gifatwe nk'igiteganywa n'ingingo ya 4 ya Sitati. Urugereko kandi rudasanga kugira ngo rufate icyemezo ku buryozwacyaha bw'Uregwa ku byerekeranye n'ibirego bya 4, 6 na 8, rugomba kuba rudashidikanya ko hariho ibintu bifatika bisabwa kugira ngo hakoreshe ingingo ya 3 ihuriweho n'Inyongera ya 2. Kubera izo mpamvu, Porokireri agomba kugaragaza ko mu gihe cy'ibyabaye bivugwa mu Nyandiko y'ibirego, mu Rwanda hari intambara itari mpuzamahanga yujuje nibura ibintu bifatika bisabwa kugira Inyongera ya 2 ikoreshwe, kandi ibyo bintu bikubiyemo ibisabwa kugira ngo ingingo ya 3 ihuriweho ikoreshwe.

436. Rushingiye ku buhamya bwatanze muri uru rubanza na Reyntjens, Nsanzuwera, Mbonimpa na Kapiteni Lemaire, Urugereko rusanga mu gihe cy'ibyabaye bivugwa mu Nyandiko y'ibirego, ni ukuvuga muri Mata, Gicurasi na Kamena 1994, intambara itari mpuzamahanga yari ishyamiranyije ingabo z'igihugu n'ingabo zirwanya ubutegetsi za FPR. FPR yari iyobowe na Jenerali Kagame kandi yagenzuraga igice kimwe cy'u Rwanda ari na byo byatumaga ishobora gukora ibikorwa bya gisirikare bihoraho kandi byumvikanyweho. FPR kandi yari yarabwiye Komite Mpuzamahanga y'Umuryango Utabara Imbabare ko yumvaga ifite inshingano yo kubahiriza amategeko mpuzamahanga arengera abantu mu gihe cy'intambara¹¹⁸. Byongeye kandi, muri Mata 1994, imirwano yari yageze mu

¹¹⁸Reba raporo y'Intumwa y'Umuryango w'Abibumbye ushinze uburenganzira bw'ikiremwa muntu, kuva tariki ya 11 kugera ku ya 12 Gicurasi 1994, igika 20.

murwa mukuru, ari wo Kigali, kandi buri ruhande rwarwanaga rwashakaga kuwugenzura.

437. Ibimenyetso byatanzwe mu gushyigikira ibyabaye bivugwa mu birego rusange mu gika cya 7 n'icya 8, n'ibivugwa mu bika bya 14, 15, 16 na 18 by'Inyandiko y'ibirego, bigaragaza ko abakorewe ibyaha bari abasiviri batitwaje intwaro bagizwe n'abagabo, abagore n'abana kandi bibasiwe kubera ubwoko bwabo. Abantu bari bitwaje intwaro bazambuwe n'abasirikare ba MINUAR ku marembo ya ETO. Urugereko rusanga kuba abo bantu barambuwe intwaro bitarabambuye uburenganzira bwabo, nk'abantu bakorewe ibyaha, bwo kurengeza hashingiwe ku Ngingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya 2. Mu by'ukuri, Urugereko ntirwemera ko abo basiviri « bari bitwaje intwaro » bari bafite uruhare rutaziguye mu mirwano. Rusanga ahubwo kwitwaza izo ntwaro byari ikimenyetso kigaragaza ko bagerageje kureba uko barokoka ibitero bagabweho n'abantu babarirwa mu bihumbi, n'ubwo nta cyo byabamariye.
438. Urugereko rwemera ko abakorewe ibyaha bari abantu badafite uruhare rutaziguye mu mirwano bityo bakaba bari abantu bagize itsinda rirengerwa hashingiwe ku Ngingo ya 3 ihuriweho n'Amasezerano y'i Jeneve n'Inyongera yayo ya 2.
439. Uregwa yari afite ubutegetsi ku Nterahamwe. Muri uru rubanza, hatanzwe ibimenyetso bigaragaza ko yagenzuraga Interahamwe, akaziha intwaro mu gihe cy'ibyabaye bivugwa mu Nyandiko y'ibirego, akazitera inkunga kandi azishishikariza gukora ibyaha bikomeye, ndetse na we ubwe akitabira mu buryo butaziguye ubwicanyi, abukorana n'Interahamwe. Nsanzuwera, umutangabuhamya w'impuguke, yavuze ko Interahamwe zagize uruhare mu buryo bubiri muri Mata, Gicurasi na Kamena 1994, kubera ko ku ruhande rumwe zafatanyije n'ingabo z'u Rwanda mu kurwanya FPR, ku rundi ruhande zikica Abatutsi n'Abahutu batavugaga rumwe n'ubutegetsi.
440. Byongeye kandi, nk'uko Nsanzuwera abivuga, Porokireri afite ukuri mu kuvuga ko, hashingiwe ku butegetsi Uregwa yari afite ku Nterahamwe no ku ruhare zagize zifatanya n'ingabo z'igihugu mu kurwanya FPR, ibyaha byakozwe bifitanye isano

n'intambara. Mu gushyigikira ibyo avuga, Porokireri asobanura ko zafashije ingabo z'igihugu gutuma ubwicanyi bufata intera nini.

441. Kubera izo mpamvu, Urugereko rwemera na none ntagushidikanya ko, nka Visi-Perezida wa kabiri w'urubyiruko rwa MRND rwitwaga Interahamwe za MRND, ari na rwo rwari rugize ishami ry'urubyiruko rw'ishyaka ryarushaga ayandi guhagararirwa muri Guverinoma yari ku butegetsi muri Mata 1994, Uregwa yari mu cyiciro cy'abantu bashoboraga kuryozwa nka gatozi ibikorwa byo kunyuranya bikomeye n'ingingo ya 4 ya Sitati.
442. Porokireri avuga ko Interahamwe zateguye ubwicanyi mu rwego rwo gushyigikira ingabo z'igihugu mu ntambara zarwanaga na FPR. Kubera ko Uregwa yagenzuraga Interahamwe, birumvikana ko ibikorwa yakoze byari mu rwego rw'iyi nkunga. Urugereko rusanga, kubera ko udafite ibimenyetso bya ngombwa biwushyigikira, umwanzuro nk'uwo udahagije mu kugaragaza ku buryo budashidikanywaho ko Uregwa yaryozwa nka gatozi, icyaha cyo kunyuranya bikomeye n'ingingo ya 3 ihuriweho, n'Inyongera ya 2. Kubera iyo mpamvu, Urugereko rusanga Porokireri ataragaragaje ku buryo budashidikanywaho ko ibikorwa binyuranye Uregwa ashinjwa mu bwicanyi bwakozwe bifitanye isano n'intambara.
443. Byongeye kandi, niba jenocide yakorewe Abatutsi ifitanye isano koko n'imirwano yari ishyamiranyije ingabo z'u Rwanda na FPR, Urugereko rusanga Porokireri adashobora guhera ku mwanzuro wemeza ko habayeho jenocide kugira ngo avuge ko ubwo yagaraje ko Uregwa yakoze icyaha cyo kunyuranya bikomeye n'ingingo ya 3 ihuriweho ndetse n'Inyongera ya 2. Porokireri agomba ahubwo gutanga ibimenyetso asabwa, akagaragaza ko buri kintu kigize icyaha giteganywa n'ingingo ya 4 ya Sitati gihari.
444. Kubera izo mpamvu, Urugereko rusanga hataragaragajwe ku buryo budashidikanywaho ko ibyaha Uregwa ashinjwa bifitanye isano n'intambara.
445. Bityo rero, Urugereko rusanze Uregwa adahamwa n'icyaha ku birego bya 4, 6, n'icya 8 byo mu Nyandiko y'ibirego, ni ukuvuga ibikorwa byo kunyuranya

bikomeye n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve, (ubuhotozi), nk'uko bisubirwamo mu ngingo ya 4 a) ya Sitati.

6. IMIKIRIZE Y'URUBANZA

KUBERA IZO MPAMVU,

RUSHINGIYE ku bimenyetso byose no ku ngingo z'ababuranyi,

URUGEREKO rufashe umwanzuro ukurikira ku bwumvikane bw'abacamanza bose bagize inteko:

Ikirego cya 1: Ahamwa n'icyaha cya jenocide

Ikirego cya 2: Ahamwa n'icyaha cyibasiye inyokomuntu (Itsembatsemba)

Ikirego cya 3: Ntahamwa n'icyaha cyibasiye inyokomuntu (Uuhotozi)

Ikirego cya 4: Ntahamwa n'icyaha cyo kunyuranya n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve (Uuhotozi)

Ikirego cya 5: Ntahamwa n'icyaha cyibasiye inyokomuntu (Uuhotozi)

Ikirego cya 6: Ntahamwa n'icyaha ko kunyuranya n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve (Uuhotozi)

Ikirego cya 7: Ahamwa n'icyaha cyibasiye inyokomuntu (Itsembatsemba)

Ikirego cya 8: Ntahamwa n'icyaha cyo kunyuranya n'Ingingo ya 3 ihuriweho n'Amasezerano y'i Jeneve (Uuhotozi)

7. IGENAGIHANO

446. Urugereko rugiyeye kwibutsa amategeko arebana n'ibihano n'irangizwa ryabyo. Nirurangiza rurasobanura, ku ruhande rumwe urutonde rw'ibihano bitangwa, ku rundi ruhande rusobanure amahame rusange akurikizwa mu igenagihano.

A. Amategeko akurikizwa

447. Urugereko rurakurikiza ingingo zikurikira za Sitati n'Amategeko: ingingo ya 22 ya Sitati ivuga ibyerekeye igenagihano, ingingo ya 23 n'ya 26 za Sitati zirebana n'ibihano n'uko birangizwa, ingingo za 101, 102, 103 na 104 z'Amategeko Agenga Imiburashirize n'Itangwa ry'Ibimenyetso zivuga, uko zikurikirana, ibikurikizwa mu igenabihano iyo Uregwa amaze guhamwa n'icyaha, uko uwakatiwe afatwa, n'aho uwakatiwe afungirwa n'uburyo afungwamo.

B. Urutonde rw'ibihano bihabwa umuntu uhamwe n'ibyaha biteganywa n'ingingo ya 2, iya 3 cyangwa iya 4 za Sitati y'Urukiko

448. Urukiko rushobora guhanisha uregwa wemeye icyaha cyangwa rwagihamije, ibihano by'igifungo gishobora kugera ku gifungo cya burundu. Sitati ntiyemera ibindi bihano ibyo ari byo byose nk'igihano cyo kwicwa, uburetwa cyangwa ihazabu.

449. N'ubwo mu nkiko mpanabyaha z'ibihugu urutonde rw'ibihano rushyirwaho hashingiwe ku buremere bw'ibyaha, Urugereko rusanga Sitati idateganya ubusumbane bw'ibyaha binyuranye biri mu bubasha bw'Urukiko, n'ibihano bijyanye na byo. Byongeye kandi, igihano kigomba gutangwa urebye gishobora kuba kimwe ku byiciro by'ibyaha byose uko ari bitatu, igihano gisumba ibindi gishobora gutangwa kikaba ari igifungo cya burundu.

450. Cyakora, ni ngombwa kuvuga ko mu kugena igihano, Urugereko rwa mbere rw'iremezo rugomba kuzirikana, nk'uko biteganywa n'ingingo ya 23 2) ya Sitati, ibintu binyuranye birimo uburemere bw'icyaha. Urugereko rusanga bitoroshye kugena ubusumbane hagati y'icyaha cya jenocide n'icyaha cyibasiye inyokomuntu ku byerekeranye n'uburemere bw'ibyaha. Rusanga icyaha cyibasiye inyokomuntu cyahanwe n'Urukiko rwa Nuremberg n'urwa Tokyo, kimwe n'icyaha cya jenocide cyaje gusobanurwa nyuma, ari ibyaha by'agahomamunwa.

451. Ku byerekeye, by'umwihariko, icyaha cya jenocide, mu iriburiro ry'Amasezerano yerekeranye na jenocide havugwa ko mu mateka, icyaha cya jenocide cyateye akababaro gakabije inyokomuntu, maze hakibutswa ko amahanga agomba gufatanya kugira ngo inyokomuntu idakorerwa icyaha nk'icyo. Icyaha cya jenocide gitandukanye n'ibindi kubera ko haba harabayeho igitekerezo cyihariye cyo kugikora ari byo bivuga ko kiba cyarakozwe hagamijwe « kurimbura abantu bose, cyangwa igice cyabo, bahuriye ku bwenegihugu, ku bwoko cyangwa ku idini, bazira icyo bari cyo », nk'uko biteganywa n'ingingo ya 2 ya Sitati. Ni yo mpamvu, Urugereko rusanga icyo cyaha gisumbya ibindi uburemere, bityo rukaba rugomba kubizirikana mu igenagihano.
452. Ukurikije uburemere bwabyo bukabije, nta wahakana ko icyaha cya jenocide n'icyaha kibasiye inyokomuntu bikwiye guhanishwa igihano kibikwiye. Ingingo ya 27 ya Sitati y'Urukiko rwa Nuremberg yahaga urwo rukiko ububasha bwo gutanga igihano cyo kwicwa cyangwa ikindi gihano rusanga gikwiriye ku muntu wahamwe n'icyaha cyibasiye inyokomuntu, hakurikijwe ingingo ya 6 c) y'iyo Sitati.
453. Kimwe n'ibindi bihugu byose byashyize mu mategeko yabyo icyaha cya jenocide cyangwa icyaha cyibasiye inyokomuntu, u Rwanda mu mategeko yarwo mpanabyaha rwateganyirije ibyo byaha ibihano birushije ibindi uburemere. Bityo, Itegeko-ngenga rigena imitunganyirize y'ikurikirana ry'ibyaha bigize icyaha cya jenocide cyangwa ibyaha byibasiye inyokomuntu byakozwe kuva ku itariki ya mbere Ukwakira 1990, rishyira abantu bashinjwa mu nzego enye hakurikijwe ibyaha bakoze¹¹⁹. Urwego rwa mbere rugizwe n'abari ku isonga ry'ibyo byaha (abacuze umugambi, abawuteguye), abantu babikoze bari mu nzego z'ubuyobozi, abantu berekanye ubugome bukabije mu bwicanyi n'abakoze ibikorwa by'urugomo rushingiye ku myanya ndangagitsina; abo bantu bahanishwa igihano cyo kwicwa. Abari mu rwego rwa kabiri, bashobora guhanishwa igihano cyo gufungwa burundu, ni abakoze ibyaha byo kwica babishaka, abafatanyije na bo cyangwa ibyitso byabo.

¹¹⁹ Itegeko-Ngenga N° 8/96 ryo ku itariki ya 30 Kanama 1996, ryatangajwe mu igazeti ya Leta y'u Rwanda, umwaka wa 35 N° 17, itariki ya 1 Nzeri 1996.

Urwego rwa gatatu rugizwe n'abantu bakoze ibyaha by'ibanze ariko bakanakora ibindi bikorwa bitera abantu ububabare buzahaza ababikorewe. Itegeko-ngenga riteganyiriza abo bantu ibihano bito by'igifungo. Abari mu rwego rwa kane, ari na rwo rwa nyuma, ni abantu bakoze ibyaha byerekeranye n'imitungo.

454. Urutonde rusange w'ibihano kimwe n'Itegeko-ngenga bikoreshwa n'inkiko zo mu Rwanda bishobora gukoreshwa muri uru Rukiko nk'ikigereranyo. Cyakora, n'ubwo rubyifashisha igihe cyose bishoboka, Urugereko ruhitemo gukoresha ububasha bw'arwo busesuye rushingiye ku miterere y'urubanza n'imibereho bwite y'abaregwa, mu kugenera ibihano abantu bahamwe n'ibyaha biri mu bubasha bw'Urukiko.

C. Amahame rusange agenga igenagihano

455. Mu kugena igihano, Urugereko rugomba kuzirikana ko Urukiko rwashyizweho n'Inama Ishinzwe Amahoro ku Isi, hakurikijwe Umutwe wa VII w'Amategeko shingiro agenga Umuryango w'Abibumbye mu rwego rw'ingamba iyo Nama ifitiye ububasha bwo gufata hashingiwe ku ngingo ya 39 y'ayo Mahame, kugira ngo ihagarike ibikorwa byo kunyuranya n'Amategeko mpuzamahanga arengera abantu mu gihe cy'intambara byakorwaga mu Rwanda mu mwaka wa 1994 ndetse no guhangana n'ingaruka zabyo. Urukiko rushyirwaho, hari hagamijwe gukurikirana no guhana abakoze amarorerwa yabaye mu Rwanda kugira ngo umuco wo kudahana uranduke, bityo ubwiyunge bw'Abanyarwanda n'amahoro bishobore kugerwaho.
456. Bigaragara rero ko ibihano bihabwa abaregwa bahamijwe ibyaha n'Urukiko bigomba kugira intego, ku ruhande rumwe, yo guhana abo bantu bakabona ko byaryojwe ibyo bakoze. Ku rundi ruhande, ibyo bibano bifite intego yo kubuza, ni ukuvuga guca intege abantu bashobora gushaka gukora amarorerwa nk'ayo kuko ibyo bihano bibereka ko amahanga adashobora kongera kwihanganira ibikorwa byo kunyuranya bikomeye n'amategeko mpuzamahanga arengera abantu mu gihe cy'intambara n'amategeko arengera ikiremwanuntu.

457. Urugereko ruributsa na none ko mu kugena ibihano, ingingo ya 23 (2) ya Sitati n'iya 101 (B) y'Amategeko zirusaba kuzirikana ibintu bitandukanye, birimo uburemere bw'ibyaha, imibereho n'imyifatire bwite by'Uregwa, n'impamvu zongera cyangwa zigabanya uburyozwacyaha. Muri izo mpamvu zigabanya uburyozwacyaha harimo kuba yarafatanyije cyane na Porokireri mbere cyangwa nyuma yo gukatirwa. Ni ukuvuga ko umuntu ahabwa igihano hashingiwe ku bimureba ku giti cye.
458. Cyakora nk'uko bigaragarira Urugereko, ku birebana n'uko igihano gitangwa hashingiwe ku bireba umuntu ku giti cye, abacamanza ntibagomba gusa gushingira ku bintu biteganywa muri Sitati n'Amategeko. Abacamanza bafite n'ububasha bwo kuba bashingira ku byabaye n'ibindi bintu byatuma bazirikana ikindi kintu cyose basanga kijyanye n'urubanza.
459. Byongeye kandi, ibyo bintu biteganywa muri Sitati no mu Mategeko ntibyakumvikana nk'aho bigomba, byanze bikunze, gukomatanywa mu kugena igihano.

D. Ingingo z'ababuranyi

Ingingo za Porokireri

460. Mu myanzuro nsozarubanza ye no mu yo yatanze mu magambo mu iburanisha mu ruhame ryo ku itariki ya 16 Kamena 1999, Porokireri yavuze ko ibyaha Rutaganda yakoze, by'umwihariko jenocide n'ibyaha byibasiye inyokomuntu, ari ibyaha birenze kamere ku buryo bikwiye guhanwa uko bikwiye. Yavuze ko Urugereko rugomba kuzirikana icyubahiro Rutaganda yari afite mu muryango nyarwanda, uruhare yagize mu ikorwa ry'ibyaha, icyabimuteye, imitekerereze ye n'ubushake yari afite bwo gukora ibyaha, ndetse n'uburyo ibyaha aregwa byakozwemo n'ukuntu yitwaye bimaze gukorwa.
461. Porokireri avuga ko ku bwe, impamvu zongera uburyozwacyaha ari izi zikurikira:

- (i) Rutaganda yari azwi mu muryango nyarwanda nka Visi-Perezida wa kabiri w'Interahamwe mu rwego rw'igihugu. Byongeye kandi, yari n'umucuruzi ukomeye.
 - (ii) Yagize uruhare mu nzego zose z'uburyozwacyaha. Yakoze nk'umuntu usumbye abandi ububasha mu bwicanyi bwakorewe kuri Garaje AMGAR, kuri ETO n'i Nyanza. Yahamagariye abantu kwica kandi na we ubwe arabikora. Yatanze inkunga y'ibikoresho akwirakwiza intwaro.
 - (iii) Yitabiriye gahunda ya jenocide yashyizweho na Guverinoma y'agateganyo, kandi abigiramo inyungu ze bwite.
 - (iv) Yari ku isonga [y'abicanyi] muri jenocide. Yakoze ubwicanyi nta cyo yishisha ndetse ateguka ko abantu bohohoterwaga bicwa.
 - (v) Yategetse Interahamwe kwica abantu bakorerwaga ibyaha hakoreshejwe intwaro zidakeba n'izikeba hatitawe na gato ku bubabare abahohotewe batejwe kuko bamaze iminsi ijana batotezwa mu buryo buri kuri gahunda.
 - (vi) Nk'uware ushinzwe kugenzura Interahamwe kuri Garaje AMGAR, Uregwa nta cyo yakoze kugira ngo ahane abakoze ibyaha, ahubwo yari umwe muri ba gatozi babyo.
462. Porokireri kandi avuga ko nta mpamvu zigabanya uburyozwacyaha bwa Rutaganda ziriho. Nta bufatanye Uregwa yagaragarije Porokireri ndetse ntiyigeze yicuza ibyaha yakoze.
463. Ku byerekeranye n'uko Rutaganda yakatirwa ibihano byinshi nk'uko biteganywa n'ingingo ya 101 C) y'Amategeko, Porokireri yasabye igihano cyihariye kuri buri cyaha gihama Rutaganda. Cyakora, asobanura ko Uregwa yagombye kurangiza igihano kirusha ibindi kuba kirekire mu bihano by'igifungo yakatirwa. Porokireri asanga ari ngombwa ko Urugereko rumukatira igihano cyihariye kuri buri cyaha yakoze, kugira ngo rushobore kwerekana neza uburemere bwa buri cyaha, n'uruhare rwihariye Rutaganda yagize mu ikorwa ry'ibyo byaha.

464. Mu kwanzura, Porokireri asaba ko Uregwa yahanishwa igihano cy'igifungo cya burundu kuri buri cyaha cyamuhama.

Ingingo z'Ubwunganizi

465. Mu myanzuro nsozarubanza mu magambo, Ubwunganizi bwavuze ko Rutaganda ari umwere, maze busaba ko yahanagurwaho icyaha ku birego umunani byose ashinjwa. Uregwa ubwe yagaragarije Abanyarwanda, cyane cyane abo mu karere avukamo, ko yababajwe n'ibyabaye. Yasabye Urugereko ko rwazirikana by'umwihariko uburwayi bwe. Yavuze kandi ko n'ubwo yumva ari umwere, Urugereko ruramutse rumuhamije icyaha, rwagombye kumureka akabana n'abana be igihe gito.

E. Imibereho bwite ya Georges Rutaganda

466. Rutaganda yavutse ku itariki ya 28 Ugushyingo 1958. Se yari umuyobozi mu rwego rwo hejuru mu Rwanda kandi yigeze kuba Burugumesitiri wa Komine ya Masango. Rutaganda arubatse kandi afite abana batatu. Yari umucuruzi ukomeye ndetse akaba na milita wa MRND yari ahagarariye mu rwego rw'igihugu no mu rwa perefegitura. Yari Visi-Perezida wa kabiri w'Interahamwe mu rwego rw'igihugu.

467. Rumaze gusuzumana ubushishozi ibimenyetso byose rwashyikirijwe n'impande zombi byerekeranye n'ibyabaye, Urugereko rusanze ibyo bimenyetso bigaragaza ibintu bikurikira:

F. Impamvu zongera uburyozwacyaha

(i) Uburemere bw'ibyaha

468. Ibyaha Georges Rutaganda yahamijwe ni ibyaha bikomeye cyane ku buryo budashidikanywaho, nk'uko Urugereko rwabivuze rwerekana ko icyaha cya jenocide ari « icyaha gisumbya ibindi byaha uburemere ».

- (ii) Umwanya w'ubutegetsi Georges Rutaganda yari afite mu mutwe w'Interahamwe
469. Rutaganda yari Visi-Perezida wa kabiri w'umutwe w'Interahamwe mu rwego rw'igihugu. Urugereko rusanga kuba umuntu yakoze ibyaha kandi yari afite uwo mwanya, bigomba gufatwa nk'impamvu yongera uburyozwacyaha.
- (iii) Uruhare rwa Rutaganda mu ikorwa ry'ibyaha
470. Urugereko rusanga Rutaganda yarabaye ku isonga mu ikorwa ry'ibyaha. Mu by'ukuri, yahaye Interahamwe intwari, ashira Interahamwe i Nyanza kandi ashishikariza abantu kwica abandi, ndetse inshuro nyinshi ateguka ko Abatutsi bicwa. Yiyiciye ubwe Emmanuel Kayitare bahimbaga Rujindiri amutemesheje umuhoro mu mutwe.

G. Impamvu zigabanya uburyozwacyaha

- (i) Kuba Georges Rutaganda yarafashije abantu bamwe na bamwe
471. Ubwunganizi buvuga ko mu gihe cyose ibyaha ashinjwa byakorwaga, Georges Rutaganda yafashije abantu guhungira ahantu hanyuranye, mu bihe binyuranye kandi akoresheje uburyo butandukanye. Urugereko rwemera ko kuba Rutaganda yarahungishije imiryango ya DEE na DS ndetse agakoresha uburyo budasanzwe kugira ngo akize DEE, umugore w'umwe mu nshuti ze, kimwe no kuba yaragaburiye kandi agahisha impunzi, ari impamvu zigabanya uburyozwacyaha.
- (ii) Ubuzima bwa Rutaganda
472. Rutaganda yasabye Urugereko kuzirikana uburwayi afite muri iki gihe. Urugereko rusanga Rutaganda afite amagara make, ari yo mpamvu agomba buri gihe kwitabwaho n'abaganga.
473. Cyakora, rumaze gusuzuma imiterere y'uru rubanza, Urugereko rusanga impamvu zongera uburyozwacyaha zirusha kure uburemere impamvu zigabanya uburyozwacyaha, kubera ko igihe ibyaha aregwa byakorwaga, Rutaganda yari afite

umwanya w'ubuyobozi mu mutwe w'Interahamwe. Abizi kandi abishaka, Rutaganda yagize uruhare mu ikorwa ry'ibyaho byaha kandi ntiyigeze na rimwe agaragaza ko ababajwe n'ibyaha yakoreye abahohotewe.

KUBERA IZO MPAMVU,

URUGEREKO RWA MBERE RW'IREMEZO I

RUFASHE ICYEMEZO mu ruhame, ababuranyi bombi bahari kandi mu rwego rwa mbere,

RUSHINGIYE ku ngingo ya 23, 26 na 27 za Sitati y'Urukiko n'ingingo ya 101, 102, 103 na 104 z'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso,

RUSHINGIYE ku rutonde rusange rw'ibihano by'igifungo bitangwa n'inkiko zo mu Rwanda,

RUSHINGIYE ku byaha Georges Rutaganda yahamijwe ari byo:

Icyaha cya jenocide	- Ikirego cya 1
Icyaha cyibasiye inyokomuntu (itsembatsemba)	- Ikirego cya 2
Icyaha cyibasiye inyokomuntu (ubuhotozi)	- Ikirego cya 7

RUSHINGIYE ku myanzuro nsozarubanza ya Porokireri,

RUSHINGIYE ku myanzuro Porokirereri n'Ubwunganizi batanze mu magambo,

KUBERA IBYAHA BIMAZE KUVUGWA

RUHANISHIJE Georges Rutaganda:

IGIHANO RUKUMBI CYO GUFUNGWA BURUNDU KU BYAHA BYOSE BYAMUHAMYE

RWEMEJE ko igihano cyo gufungwa kizarangirizwa mu gihugu kizagenwa na Perezida w'Urukiko, agishije inama Urugereko rwa Mbere rw'Iremezo. Gerefiye azamenyesha icyo cyemezo Guverinoma y'u Rwanda n'Igihugu cyagenwe;

RUTEGETSE ko uru rubanza ruhita rurangizwa, ariko ko:

- (i) Mu gihe hagitegerejwe ko yimurirwa mu gihugu azafungirwamo, Georges Rutaganda azakomeza gufungwa mu buryo bumwe n'ubwo yari afunzemo kugeza ubu;
- (ii) Niharamuka habayeho ubujurire, kurangiza urubanza bizaba bisubitswe kugeza igihe Urugereko rw'Uburire ruzafatira icyemezo. Cyakora, Rutaganda arakomeza kuba afunzwe.

Bikorewe Arusha, ku itariki ya 6 Ukuboza 1999,

Laïty Kama

Lennart Aspegren

Navanethem Pillay

Perezida w'Urugereko

Umucamanza

Umucamanza

(Kashe y'Urukiko)