

RWANDA / JUDGMENT

UBUSHINJACYAHA v. INGABIRE N'ABANDI**RPA 0255/12/CS**

COURT

Supreme Court

DECIDED

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UBUSHINJACYAHA v. INGABIRE N'ABANDI

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Text**Page 1**

UBUSHINJACYAHA v. INGABIRE N'ABANDI [Rwanda URUKIKO RW'IKIRENGA – RPA 0255/12/CS (Nyirinkwaya, P.J., Havugiyaremye na Mukamurisa J.) 13 Ukuboza 2013] Amategeko agenga uburenganzira bwa muntu – Urubanza ruboneye – Gufatwa kimwe kw'ababuranyi – Gusakwa kw'ababuranyi mbere yo kwinjira mu cyumba cy'iburanisha – Gusakwa kw'ababuranyi ntikuba kunyuranyije n'amategeko iyo kwategetse n'urukiko. Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Umutekano mu cyumba cy'iburanisha – Kuyobora iburanisha – Kugarura mu nzira iboneye umuburanyi wese utandukiriye si ukunyuranya n'ihame ryurubanza ruboneye; ahubwo ni inshingano z'umucamanza – Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 73. Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Kumva abatangabuhamya – Kumva abatangabuhamya bashinjura – Kuba yaramenyeshewe ko hagize uwifuza ko hagize uwifuza ko abatangabuhamya bamushinjura babazwa yabimenyesha urukiko nyamara ntabikore ntibyafatwa nko kwanga kubumva Amategeko yerekeye imiburanishirize y'imanza nshinjabyaha – Gusakwa kw'abatangabuhamya – Isakwa ry'abatangabuhamya rikozwe nyuma y'ibazwa ntacyo ryangiza kumvugo cyangwa ibyo aba

yiteguye kuvuga Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – ifatira – Inyandiko zafatiriwe n'inyandiko mvugo kuri ryo nta cyo zihindura ku mikirize y'urubanza igihe zitarukoreshejwemo. Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha – Guhindura inyito y'icyaha – Guca urubanza ku cyitategewe – Guhindura inyito y'icyaha si uguca urubanza ku kitategewe kuko kubikora ari uburenganzira ndetse n'inshingano by'umucamanza iyo ibyabaye bidahura n'inyito y'icyaha ubushinjacyaha buba bwatanze Itegeko no13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 64 na 119. Umategeko agenga imiburanishirize z'imanza z'inshinjabyaha – Kwiregura – Guhabwa umwanya wo kwiregura – Ntiyakwireguza ko atahawe umwanya wo kwiregura iyo abamwunganira bagize icyo babivugaho Amasezerano mpuzamahanga – Amasezerano hagati y'ibihugu bibiri – Amasezerano yo kudakurikirana abahoze ari ingabo za FAR n'interahamwe bakoze ibyaha bya jenocide iby'intambara n'iby'ibasiye ibnokomuntu – Kubakurikirana ntibyishe ayo masezerano igihe ntacyo avuga ku bindi byaha bihanwa n'amategeko ibihugu byombi bigenderaho. Amategeko yerekeye ububasha bw'inkiko – Kurangiriza mu Rwanda icyemezo cyafashwe n'inkiko zo hanze – Si icyemezo cy'Urukiko gisabirwa kurangirizwa mu Rwanda kuko nta gihano cyangwa indishyi byatanzwemo – Itegeko Ngenga N° 51/2008 ryo kuwa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko, ingingo ya 91 n'Itegeko No13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 17.

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Ubwumvikane bw'ibihugu ku gukoresha ibimenyetso – Iyo ibihugu byumvikanye ku gukoresha ibimenyetso byakusanyirijwe muri kimwe muri ibyo bihugu ku cyaha iki n'iki, bikoreshwa gusa ku icyo byumvikanyeho. Amategeko agenga ibimenyetso – Ubushobozi bwo gutanga ubuhamya – Uwahamwe n'icyaha akanakatirwa nta bubasha aba afite bwo gutanga ubuhamya; ariko iyo bwunganiwe n'ibindi bimenyetso, hasuzumwa niba buvuga ukuri – Itegeko n° 15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 63. Amategeko yerekeye ibimenyetso – Aderesi – Kubeshya aderesi si impamvu yatuma ubuhamya yatanze butasuzumwa kuko nta ngaruka byagize ku byagibwagaho impaka. Amategeko yerekeye ibimenyetso – Gushaka abatangabuhamya – Gusha abatangabuhamya bamushinjura si ikibazo ubwacyo; ni uburenganzira bwa buri muburanyi Amategeko yerekeye ibimenyetso – Ubuhamya – Ubuhamya ni amagambo avugirwa mu rukiko ku byo umuntu yabonye cyangwa yumvise ubwe ku byerekeye ikiburanwa. Ibivuye mu isesengura umutangabuhamya yikoreye rifitanye isano n'ikiburanwa si ubuhamya kuko atari ibyo yumvise cyangwa yibonye – Itegeko N° 15/2004 ryo kuwa 19/07/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, Ingingo ya 62 Amategeko agenga ibimenyetso – Ibimenyetso bikomeye, bihuje kandi bisobanuye – Uguhuriza ku byabaye kw'abatangabuhamya ndetse n'ibimenyetso by'iyoherezanya ry'amafaranga bigaragaza ko ibyo bahamya ari ukuri – Itegeko N°15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo za 104 108 na 119. Amategeko yerekeye ibimenyetso – Ibimenyetso bishinje – Imvugo z'ushinjwa birebwe hamwe n'ubutumwa bandikiranaga bigaragaza ko bagiranye umushyikirano mu gukora icyaha Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha – Inyito y'icyaha – Guhindura inyito y'icyaha – Guhindura inyito y'icyaha kugeza

hatanze inyito ya nyuma ariko ibikorwa bigize icyaha ntibihinduke ntabwo binyuranyije n'amategeko Amategeko agenga uburenganzira bwa muntu – Uburenganzira ku bwisanzure bwo kuvuga icyo umuntu atekereza – Gupfobya jenocide – Gushyiraho itegeko rihana ingengabitekerezo ya jenocide ntabwo binyuranyije n'ingingo ya 19 y'Amasezerano mpuzamahanga yerekeye uburenganzira mbonezamubano na politiki cyangwa andi mategeko – Itegeko Nshinga rya Repuburika y'u Rwanda ryo ku wa 26 Gicurasi 2003, ingingo ya 13, Amasezerano Mpuzamahanga yerekeye uburenganzira mbonezamubano na politiki, ingingo ya 19(3) 33 (1) na 34(1) n' Amasezerano Nyafurika ku burenganzira bwa muntu n'abaturage, ingingo ya 9(2) Amategeko agenga ibimenyetso – Isesengura rishingiye ku nyandiko zabonetse ku rubuga rwa weekpedia – Isesengura rishingiye ku byanditse ku rubuga rwa weekpedia ntibyateshwa agaciro no kuba byarakuwe kuri urwo rubuga igihe byanditswe n'umwanditsi uzwi kandi ubigaya ntagaragaze ko bitavugaga ukuri. Amategeko mpanabyaha – Ingengabitekerezo ya jenocide – Kwemeza ko mu Rwanda habaye jenocide ebyiri – Gutangaza mu ruhamye ibikubiye mu ngingo ya 5 y'Amahamwe shingiro ya FDU/Inkingi ndetse no kuvuga ko mu Rwanda habaye jenocide ebyiri ni ugupfobya – Jenocide Yakorewe Abatutsi – Itegeko N° 33 bis/2003 of 06/09/2003 rihana icyaha cya Jenocide, ibyaha byibasiye inyokomuntu n'ibyaha by'intambara, ingingo ya 4.

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Amategeko mpanabayah – Guhungabanya umudendeko wa Leta n'ibindi bihugu no kuvutsa igihugu umudendeko – Ibi byaha biratandukanye n'ubwo byose bikorerwa Leta – Itegeko teka N°21/77 ryo kuwa 18/8/1977 rishyiraho igitabo cy'amategeko ahana, ingingo ya 163. Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha – Ubujurire – Kuburanisha icyaregwe – Ntabwo urukiko rwaburanisha mu bujurire ikitararegwe ku rwego rwa mbere. – Itegeko N° 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 119 n'Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 124,1° Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha – Kuregera urukiko – Kuregera urukiko bikorwa ubushinjacyaha bugeza imbere y'urukiko uregwa uzi ibyo akurikiranyweho n'inyito y'icyaha aregwa – Itegeko N° 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 119 n'Itegeko N°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 12, 1° Amategeko mpanabyaha – Kwamamaza nkana ibihuha agomesha cyangwa agerageza kugomesha rubanda arwangishwa ubutegetsi buriho – Uburenganzira bwo kugaragaza ibitekerezo mu bwisanzure – N'ubwo ubu burenganzira burengerwa n'amategeko, hari n'ibyo ateganya butagomba kubangamira kandi bireba uwo ariwe wese – Itegeko Nshinga rya Repuburika y'u Rwanda ryo ku wa 26 Gicurasi 2003, ingingo za 33 na 34 n'Amasezerano Mpuzamahanga Yerekeye Uburenganzira mbonezamubano na Politiki, Ingingo ya 19 n'Itegeko teka N°21/77 ryo kuwa 18/8/1977 rishyiraho igitabo cy'amategeko ahana, ingingo ya 166. Amategeko mpanabyaha – Impurirane z'ibyaha – Impurirane mbonezabyaha – Habayeho impurirane mbonezabyaha kuko yakozwe ibyaha bitandukanye mu bihe bitandukanye – Itegeko ngenga N° 01/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ingingo ya 83. Amategeko mpanabyaha – Kugena ibihano – Gusubira inyuma kw'itegeko riteganywa ibihano byoroshye – Icyaha cyakozwe mbere y'uho Itegeko ngenga

N° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ritangazwa mu Igazeti ya Leta gihanwa hakurikijwe itegeko ryakigengaga keretse mu gihe iri tegeko ngenga riteganywa ibihano byoroheje, ingingo ya 765. Amategeko mpanabyaha – Guhana ibyaha bitegenywa n'Itegeko N° 33bis/2003 ryo kuwa 06/09/2003 Ryaihanaga icyaha cya jenocide, ibyaha byibasiye inyoko muntu n'ibyaha by'intambara – Mu kugena ibihano hagomba gukurikizwa ingingo ya 12 y'itegeko N° 84/2013 ryo kuwa 11/09/2013 ryerekeye icyaha cy'ingengabitekerezo ya jenocide n'ibindi byaha bifatanyiswe isano nayo ivuga ko ibihano bigenwa hashingiwe ku biteganywa mu itegeko ngenga N° 01/2012 ryo kuwa 02/05/2012 rishyiraho igitabo gishya cy'amategeko ahana ibyaha. Amategeko mpanabyaha – Kugena ibihano – N'uwbo bafatanyije icyaha, ntibagomba guhabwa ibihano bimwe kuko imiburanire yabo itandukanye kandi n'impamvu zabo mu ikorwa ry'icyaha zikaba zitandukanye. Amategeko mpanabayaha – Kugena igihano – Impamvu nkomezacyaha – Kuba icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi gifite ingaruka zikomeye, bigomba kwitabwaho n'impamvu nkomezacyaha – Itegeko Ngenga N° 02/05/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ingingo ya 71. Amategeko mpanabyaha – Kugena igihano – Impamvu nyoroshyacyaha – Kuba afungiyemo kure y'umuryango we kandi akaba ari n'ubwa mbere akurikiranyweho icyaha ni impamvu

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nyoroshyacyaha – Itegeko ngenga N° 02/05/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ingingo ya 76 Amategeko mpanabyaha – Kugena igihano – Impamvu nkomezacyaha – Impamvu nyoroshyacyaha – Impurirane z'ibyaha – Agomba guhanishwa imyaka 15 y'igifungo ku byaha byose bimuhama gitegenyirijwe icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga kuko ibyaha bimuhama bigize impurirane mbonezabyaha – Itegeko Ngenga N° 02/05/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ingingo za 71, 76, 82, 83 na 84. Amategeko mpanabyaha – Kugena ibihano – Abakoze ibyaha bitandukanyije ubwabyo bikanatandukanya ibihano ntibahanwa kimwe. Amategeko mpanabyaha – Kugabanyirizwa ibihano – Isubikagihano – Ntiyagabanyirizwa igihano igihe yakigabanyirijwe kandi akaba nta mpamvu isigaye yaryo. Nticyanasubikwa kandi igihe byatanze n'Urukiko rubanza. Incamake y'ikibazo: Uru rubanza rwaciye n'Urukiko rw'Ikirenga mu bujuru ku rwego rwa nyuma. Rwatangiriyemo mu Rukiko Rukuru. Rwaregwayemo Ingabire Umuhoza Victoire ashinjwa ingengabitekerezo ya jenocide, ubufatanyacyaha mu bikorwa by'iterabwoba, gukurura amacakubiri, kwamamaza nkana ibihuha bigamije kwangisha rubanda ubutegetsi buriho, kurema umutwe w'ingabo bagamije igitero cy'intambara n'ubwinjiracyaha mu cyaha cyo kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga akoresheje iterabwoba n'intambara. Muri uru rubanza kandi, hakurikiranwagamo Nditurnde Tharcisse, Habiyaemye Noël, Uwumuremyi Vital na Karuta Jean Marie Vianney bese bashinjwa kuba no gukorera mu ishyirahamwe ry'iterabwoba, kujya mu bitero bigamije kugirira nabi ubutegetsi buriho mu Rwanda n'ingingo z'imena z'Itegeko Nshinga bakoresheje iterabwoba n'intambara no kurema umutwe w'ingabo bagamije igitero cy'intambara. Mbere y'iburanisha ry'urubanza mu mizi mbere y'Urukiko Rukuru, abaregwa bashyikirije urukiko ibibazo bifuzaga ko bisuzumwa birimo kumenya niba abahozeho ari abarwanyije ba FDLR batahutse mu Rwanda

batakurikiranwaho ibyaha bakoze bakiri muri RDC hashingiwe ku itangazo ryashyizweho umukono hagati ya Repubulika y'u Rwanda na RDC kuwa 09/11/2007, kumenya niba icyemezo cy'urukiko rw'u Buholandi cyohereza mu Rwanda ibimenyetso byiswe A, D na E cyaragombaga gusabirwa kurangizwa mu Rwanda (exequatur) mbere yo gukoreshwa mu rubanza no kumenya niba Urukiko rufite ububasha bwo guhindura inyito y'icyaha rwaregewe. Mu mizi y'urubanza Urukiko Rukuru rwahamije Uwumuremyi, Nditurende, Habiyaemye na Karuta kugirira nabi ubutegetsi buriho n'ingingo z'imenza z'Itegeko Nshinga hakoreshejwe igitero naho Uwumuremyi na Ingabire bahamwa n'ubugambanyi bwo kugirira nabi ubutegetsi buriho n'ingingo z'imenza z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara hahinduwe inyito y'icyaha cyo kurema umutwe w'ingabo baregwe, hanashingiwe ko Ingabire ari we wagejeje kuri Uwumuremyi umugambi we wo gushyiraho ingabo zishamikiye kuri FDU-Inkingi. Habiyaemye we yagizwe umwere ku cyaha cyo gushinga umutwe w'ingabo. Rumaze kubahamya ibyo byaha, Urukiko Rukuru rwahanishije Ingabire Umuhoza Victoire igifungo cy'imyaka 8, Uwumuremyi imyaka 4 n'amezi 6, Nditurende na Habiyaemye bahanishwa imyaka 3 n'amezi 6 naho Karuta ahanishwa gufungwa imyaka 2 n'amezi 7.

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Mu kugena ibi bihano Urukiko rwashingiye ku kuba Karuta, Nditurende, Habiyaemye na Uwumuremyi baremeye icyaha ku buryo budashidikanyaho ndetse no gusaba imbabazi runashingira kandi ku kuba ari ubwa mbere bakurikiranyweho icyaha. Urukiko kandi rwanashingiye ku kuba Karuta yarahunze akiri muto akaba yarakoze ibikorwa biregerwa afite ipeti rito mu gihe ibyaha Uwumuremyi yashinje by'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imenza z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara nta ngaruka zikomeye byateye. Ingabire we yagabanyirijwe igihano kuko yamaze igihe kirekire hanze bigatuma atagira amakuru ku gihugu. Rwanashingiye kandi ku ibaruwa yandikiye Perezida wa Repuburika asaba imbabazi. Ubushinjacyaha, Ingabire na Uwumuremyi ntibishimiye imikirize y'urubanza maze bajuririra Urukiko rw'Ikirenga. Ubushinjacyaha bwajuriye buvuga ko ibihano Ingabire yahawe bikabije kuba bito kandi mu kubimugabanyiriza urukiko rukaba rwaremeye ko yemeye icyaha nyamara yaragihakanye. Ingabire we yanengaga ko hari ibibazo by'ibanze bitasuzumwe n'uruiko birimo kuba abahoze ari abarwanyirirye ba FDLR badashobora gukurikiranwa ku byaha bakoze mu gihe bari bakiri mu mashyamba ya RDC hashingiwe ku masezerano yo kuwa 09/11/2007 Repubulika y'u Rwanda yagiranye na RDC, kuba icyemezo cy'urukiko rwo mu Buholandi cyo kohereza mu Rwanda ibimenyetso byahawe inyuguti A, D na E kitaragombaga gushyirwa mu bikorwa kitabanye gusabirwa kurangirizwa mu Rwanda (Exequatur), kuba ibyo bimenyetso byaragombaga gukoreshwa gusa ku cyaha cy'ubufatanyacyaha mu bikorwa by'iterabwoba, kuba Urukiko Rukuru nta bubasha rwari rufite bwo guhamya Ingabire icyaha cyo gupfobya jenocide rushingiye ku itegeko ridahuje n'iryo Ubushinjacyaha bwakoresheje mu ibazwa rye igihe bwatangaga ikirego mu Rukiko. kuba Urukiko Rukuru rutari rufite ububasha bwo kumuhamya icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imenza z'Itegeko Nshinga n'icyo gupfobya jenocide, kuko rutabiregewe n'Ubushinjacyaha, kuba icyaha cyo gupfobya jenocide kitujuje ibyangombwa byose bisabwa n'amategeko mpuzamahanga

u Rwanda rwemera. Urukiko rwasanze ibyo bibazo bifitanye isano n'ingingo z'ubujurire mu mizi rufata icyemezo cyo kuzabisuzumira hamwe. Ku bijyanye n'urubanza mu mizi Ingabire yinubiye ko ngo imigendekere y'urubanza itakurikije amahame remezo ashingirwaho ngo habeho urubanza ruboneye. Yinubiye kandi guhamywa ibyaha atakoze. Uwumuremyi we yavuze ko asaba kugabanyirizwa kandi agasubikirwa ibihano kuko ngo yemera ibyaha akandi akabisabira imbabazi. Mbere yo kwinjira mu mizi y'urubanza Nditurande na Habiya remye batanze inzitizi ijyanye no kuba bafunzwe binyuranyije n'amategeko. Incamake y'icyemezo: 1. Gusakwa kw'ababuranyi mbere yo kwinjira mu cyumba cy'iburanisha ntibyafatwa nko kunyuranya n'ihame ryo gufatwa kimwe kw'ababuranyi igihe byategetswe n'urukiko kandi ntibigaragazwe ko icyo kemezo kitubahirijwe ku ruhande rumwe.

2. N'ubwo nta kigaragaza ko byabayeho, gucecekesha bamwe mu baburanyi hagamiywe kuyobora iburanisha hagarurwa mu nzira iboneye umuburanyi wese utandukiriye si ukumwibasira, kubogama cyangwa kwica ihame remezo rishingirwaho kugira ngo habeho urubanza ruboneye; ahubwo ni inshingano z'umucamanza.

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3. Ntiyaburanisha ko urukiko rwanze kumva umutangabuhamya we mu gihe urukiko rwamenyesheje ababuranyi ko uwifuza guhamagaza abatangabuhamya babavuga bakanagaragaza icyo bageza ku rukiko nyamara ntibabikore uwo munsu cyangwa mu iburanisha ryakurikiyeho.
4. Isakwa yakorewe ntacyo ryahinduye ku byo yavuze cyangwa yari yiteguye kuvuga kuko ryakozwe nyuma yamaze gutanga amakuru yifuzwagaho.
5. Kuba hari inyandiko zafatiriwe n'inyandiko mvugo kuri izo mpapuro ntacyo byahindura ku mikirize y'urubanza kuko bitashingiweho mu gusuzuma agaciro k'ubuhamya bwe. Kubera ibyavuzwe haruguru, nta burenganzira ku rubanza ruboneye bwahutajwe n'Urukiko Rukuru.
6. Ntiyavugaga ko Urukiko rwaciye urubanza ku kitari cyaregweye kuko inkiko ziregerwe ibikorwa bigize icyaha; bityo guhindura inyito y'icyaha ni uburenganzira ndetse n'inshingano by'umucamanza iyo ibyabaye bidahura n'inyito y'icyaha ubushinjacyaha buba bwatanze.
7. Ntiyakwireguza ko atahawe umwanya wo kwiregura kuko bigaragazwa n'urubanza ko abamwunganira babivuzeho.
8. Ntabwo hirengagije amasezerano u Rwanda na Congo byagiranye yo kudakurikirana abahoze mu ngabo z'u Rwanda za kera ndetse n'interahamwe ku byaha bya jenocide, iby'intambara n'iby'ibasiye inyoko muntu kuko ayo masezerano nta cyo avugaga ku bindi byaha.

10. icyemezo cy'Urukiko rwo mu Holandi cyemeza kohereza ibimenyetso mu Rwanda si igisabirwa kurangirizwa mu Rwanda kuko nta gihano cyafashwemo cyangwa indishyi zagitanzwemo.
11. Kuba u Rwanda rwarumvikanya n'Ubuholandi ko ibimenyetso byiswe A, D, na E B byagombaga gukoreshwa gusa ku cyaha cyo gutera inkunga iterabwoba nyamara bigakoreshwa mu gusuzuma icyaha cy'ubufatanyacyaha mu cyaha cy'iterabwoba byumvikanisha ko bitagombaga gukoreshwa kuri icyo cyaha kuko ari ibyaha bibiri buitandukanye n'ibwo byose bikorerwa Leta.
12. Kuba adafite ubushobozi bwo gutanga ubuhamya kuko yahamwe n'icyaha akanakatirwa, bituma amakuru yatanze agomba kunganirwa n'ibindi bimenyetso. Ariko rero, kuko amakuru yatanze yunganiwe n'ubundi buhamya, agomba gusuzumwa hakarebwa niba ivugisha ukuri.
13. Kubeshya aderesi y'aho atuye si impamvu ubwayo ituma ubuhamya yatanze butasuzumwa ngo buhabwe agaciro kuko nta ngaruka byagize ku byagibwagaho impaka.
14. Gushaka AA ngo atange ubuhamya si ikibazo ubwacyo kuko ari uburernganzira bwa buri muburanyi gushaka ibimenyetso bushimangira ukuri kw'ibyo avuga. Naho ku kuba yaba yarashatswe ngo abeshye, byasuzumwa habanjwe kureba niba ibyo avuga ari ukuri cyangwa niba abeshya.
15. Ubuhamya ni amagambo avugirwa mu rukiko ku byo umuntu yabonye cyangwa yumvise ubwe ku byerekeye ikiburanwa. Ibyo rero AA avuga si ibyo yumvise cyangwa yiboneye; ahubwo ni ibyavuye mu isesengura we ubwe yikoreye kuko yavuze ko ubwo Uwumuremyi yerekwaga ifoto ya Ingabire iri ku kinyamakuru yasaga n'utamuzi, ndetse yagombye gusoma izina rye kugira ngo amenye ko ari Ingabire, amaze kurisoma baramubwira ngo uwo muntu naramuka aje azavuge ko yafashaga FDLR.

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16. Ntiyahamijwe icyaha hashingiwe ku bimenyetso bivuguruzanya kandi bidahuje; ahubwo kuba Ingabire yarashishikariye abamushinja kwitandukanya na FDLR/FOCA bakarema umutwe w'ingabo ushamikiye kuri FDU-Inkingi ni ukuri kuko abashinjwa hamwe na we bakanamushinja baturiza ku byabaye birimo ibikubiye muri za imeri zitandukanye, ingendo z'indege zitandukanye zakozwe n'abashinjwa bagamije guhura bigashimangirwa kandi n'imvugo z'Ingabire zemera ko kuri ayo matariki yari aho abamushinja berekezaga ndetse n'amafaranga yagiye aboherereza nk'uko bigaragazwa n'ibimenyetso byaturutse mu gihugu ayo mafaranga yoherejwemo ndetse no mucyo yoherejwemo. Bityo rero ibimenyetso byashingiweho birakomeye, birahuje kandi birasobanuye.

17. Ibikubiye mu butumwa Ingabire n'Uwumuremyi bandikiranaga ugakubitira ku mvugo yerekana ko Uwumuremyi yari umuntu wahafi cyane kandi bakaba barakomeje kugirana imishyikirano aho Uwumuremyi ataaie mu gikorwa cya umoya wetu bigaragaza ko yamwifashishije mu gushinga umutwe w'ingabo ushingiyeye kuri FDI/ Inkingi.
18. Guhindagurika kw'inyito y'icyaha n'itegeko rishingirwaho uko dosiye igenda inyura mu nzego zitandukanye z'ubutabera ariko ibikorwa byabakozwe byatumye icyaha kiba ntibihinduke kugeza Urukiko rutanze inyito ya nyuma, ntibinyuranyije n'amategeko.
19. Kuba uburenganzira ku bwisanzure bwo kuvuga icyo utekereza bufite aho bugarukira, kuba Itegeko Nshinga rya Repubulika y' u Rwanda rigaragaza ko gupfobya jenocide bigomba guhanwa, kuba kandi uko guhanwa atari umwihariko w'u Rwanda gusa, kuba kandi abapfobya jenocide bakoresha inzira zitandukanye kandi kuyipfobya akaba ari uburyo bwo kuyihakana bikanagaragaza ikimenyetso cyo gutegura indi ndetse ikiba kigamijwe akaba ari ukudahanwa kw'abayikoze, kuba kandi u Rwanda rwarabayemo jenocide yemewe kw'isi yose bigaragaza byari ngombwa gushyiraho itegeko riyihana; kuba kandi imbibi zashyizwehoho n'iryo tegeko ushinjwa n'abamwunganira bataragaragaje ko zitari ngombwa; bigaragaza ko Urukiko rutanyuranyije n'ingingo ya 19 y'Amasezerano mpuzamahanga yerekeye uburenganzira mbonezamubano na politiki cyangwa andi mategeko.
20. Kuba Urukiko rwarifashishije urubuga rwa Week pedia mu gusesengura ikibazo cya "theory of double genocide " si inenge ituma ibyaruturutseho biteshwa agaciro kuko n'umwanditsi ufite ubumenyi mu mateka kuko yakoze ubushakashatsi ku byaha bya jenocide, ibyibasiye inyokomuntu kandi akaba atariwe wenyine utari umunyamategeko wasesenguye icyo cyaha. Kuba kandi ataramenyeshajwe inyandiko z'abahanga zahereweho mu guca urubanza si ingingo y'ubujurire kuko uregwa yahawe umwanya wo kwisobanura ku ngingo zinyuranye zigize icyaha aregwa bihuzwa n'amategeko n'ibitekerezo by'abahanga nyuma rufata icyemezo. Kuba rero atanenga uwo mwanditsi ntanagaragaze ko ibikubiye mu nyandiko ze bidahuye n'ukuri ni impamvu zituma ibyo avuga biteshwa agaciro kandi bikaba bihuye n'uburyo bukurikizwa n'inkiko ku bibazo bijyanye n'ubumenyi bwihariye abahanga baba bafite.
21. Gutangaza mu ruhame amagambo akubiye mu ngingo ya 5 y'Amategeko Shingiro ya FDU-Inkingi, no kwemeza ko mu Rwanda habaye jenocide 2 kandi bizwi neza ko habaye imwe yakorewe Abatusti naho iyakorewe abahutu ikaba atarabayeho bigize icyaha cyo gupfobya jenocide n'ingingo ya 4 y'Itegeko Itegeko n° 33 bis/2003 ahamwa kandi n'icyo cyaha. Kuba rero abanditse amahame shingiro ya FDU/ Inkingi n' ushinjwa arimo bafata ku rwego rumwe jenocide n'ibindi byaha bihitana abantu benshi bigaragaza ko nta kindi ayo mahame agamije uretse kugabanya uburemere bwa Jenocide Yakorewe Abatusti berekana ko abayikoze nabo bayikorewe. Bityo bahamwa n'icyo cyaha.

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22. Ibikorwa byo kurwanya inzego za Leta iriho mu rwego rwo gufata ubutegetsi ku ngufu cyangwa guhatira ubuyobozi buriho kujya mu mishyikirano si ibyaha bigendereye guhungabanya umudendezo wa Leta n'ibindi bihugu; niibyaha bigendereye kuvutsa igihugu umudendezo kuko ku cyaha cya mbere ikiba ikigamijwe ari uguhungabanya ubwigenge n'ubusugire bw'igihugu n'imibanire yabwo n'ibindi bihugu n'inyungu zayo; mu gihe ku cyakabiri haba hagamijwe guhungabanya amahoro mu gihugu imbere no kurwanya inzego za Leta iriho.
23. Ntabwo ibikorwa abashinjwa hashingiwe ku ngingo ya 163 byasuzumwa n'Urukiko rw'Ubujurire hashingiwe ku ngingo za 164, 165 na 169 z'Itegeko teka n°21/77 ryo kuwa 18/8/1977 rishyiraho igitabo cy'amategeko ahana ngo hemezwe niba Urukiko rwabanje rwarasesenguye nabi ibimenyetso Ubushinjacyaha bwatanze kuko kuba bwemera ko ibikorwa burega abashinjwa bigize koko icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi buriho hakoreshejwe iterabwoba kandi bukanemera ko butigeze bukiregera mu rwego rwa mbere kandi ntirwaburanisha ikitararajiririwe mu gihe bwari bubifitiye uburenganzira.
24. Kuregera Urukiko bikorwa mu buryo bukurikije amategeko aho ushinjwa agezwa mu Rukiko azi neza ibikorwa akurikiranyweho n'inyito yabyo. Kuba ikiganiro Ingabire yagiranye na Voice of Africa, icyo yagiranye n'umunyamakuru mu rugo rwe, n'icyo yagiranye n'umunyamakuru kuri Hotel Serena ari ibirego bishya kuko ushinjwa atigeze abibazwaho haba mu Bugenzacyaha cyangwa mu Ubushinjacyaha bikaba nta n'ibigaragara mu nyandiko itanga ikirego, bituma atabikurikiranwaho kuko Urukiko rutabiregewe.
25. N'ubwo uburenganzira bwo bwo kugaragaza ibitekerezo mu bwisanzure burengerwa n'amategeko, ibyo Ingabire avuga akanandika si ibitekerezo bye nk'umunyapolitiki utavugaga rumwe n'ubutegetsi buriho ahubwo ni ukwamamaza nkana ibihuha bigamije kwangisha rubanda ubutegetsi buriho kuko kuvuga ko: hari Abanyarwanda badafite agaciro kamwe n'agahabwa abandi, mu Rwanda hari agatsiko kishyize hejuru y'amategeko, kigaruriye ubutegetsi, gahindura Itegeko Nshinga n'andi mategeko mu nyungu zako, kamunze ubutabera ku buryo byatumye umuco wo kudahana uba karande, abacamanza batagica imanza bashingiye ku mategeko, ahubwo ko bakurikiza amabwiriza bahabwa n'ubuyobozi bukuru bw'igisirikare cya APR, ubutegetsi bw'ubwiru bukikije Perezida Kagame n'ibikoresheho bye, by'umwihariko umutwe uzwi nabi wa DMI, umutwe witwara gisirikare wasimbuye Leta n'ubucamanza, abantu baburirwa irengero, bakarigiswa kandi bakicwa mu buryo burenze ukwemera,... nta kindi bigamije bitari gutuma abaturage bigomeka ku butegetsi kubera ibyo baba bumvise, bikaba byanatera intugunda n'imvururu mu baturage bagasubiranamo.
26. Habayeho impurirane mbonezabyaha kuko yakozwe ibyaha bitandukanye mu bihe bitandukanye.

27. Mu guhana ubugambanyi bugamije kugirira nabi ubutegetsu buriho hagomba kwitabwa ku ngaruka zikomeye gifite ku gihugu n'abaturage.
28. Kuba abashinjwa barafatanyije icyaha ariko mu miburanire yabo bakiregura mu buryo butandukanye, ndetse no mugukora icyaha umwe muri bo akaba ariwe watekereje kugikora akageza umugambi we ku bandi bituma batagomba guhabwa ibihano bimwe.
29. Kuba afunguye kure y'umuryango we kandi akaba ari n'ubwa mbere akurikiranyweho icyaha ni impamvu nyoroshyacyaha.

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30. Agomba guhanishwa imyaka 15 y'igifungo giteganyirijwe icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsu buriho kuko ibyaha yakoze bigize impurirane mbonezacyaha kandi hakaba hari imprurirane z'impamvu nkomezacyaha n'iz'inyoroshyacyaha.
31. Uwumuremyi yagabanyirijwe igihano ku buryo buhagije kubera impamvu nyoroshyacyaha anasubikirwa igihano. Bityo ibyo asaba nta shingiro bifite. Ubujurire bw'Ubushinjacyaha bufite ishingiro kuri bimwe; Ubujurire bwa Ingabire bufite ishigiro gusa ku bimenyetso byavuye mu Buhorandi byahawe inyuguti za A, D na E bitagomba gukoreshwa mu rubanza; Ubujurire bw'Uwumuremyi nta shingiro bufite; Ingabire ahamwe n'icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsu buriho n'ingingo z'imena z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara cyangwa izindi mbaraga zose, icyaha cyo gupfobya jenocide; icyaha cyo kwamamaza nkana ibihuha bigamije kugomesha rubanda urwangisha ubutegetsu buriho; Ahanishijwe igifungo cy'imyaka 15; Urubanza rwaciye n'Urukiko Rukuru rudahindutse ku bireba ibyaha Nditurande Tharcisse, Habiyaremye Noel, Uwumuremyi Vital na Karuta Jean Marie Vianney bahamijwe n'ibihano bahawe. Amategeko yashingiweho Itegeko Nshinga rya Repubulika y'u Rwanda, ingingo za 4, 2°, 13 igika cya 2, 33, 2°, 34. Amasezerano Mpuzamahanga ku burenganzira mbonezamubano na politiki, ingingo ya 19 Amategeko mpuzamahanga yerekeye gukumira no guhana icyaha cya jenocide, ingingo ya 2 Amasezerano Nyafurika ku burenganzira bwa muntu n'abaturage, ingingo ya 1, 9(2), 34 Itegeko Ngenga N° 01/2012/OL of 02/05/2012 Rishyiraho igitabo cy'amategeko ahana, ingingo za 71, 77, 82, 83, 84, 116, 116, 462 igika cya 1 na 765 Itegeko ngenga n° 51/2008 ryo kuwa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko, ingingo ya 17, 91. Itegeko n° 84/2013 ryo kuwa 11/09/2013 ryerekeye ingengabitekerezo ya jenocide n'ibindi byaha bifitanye isano nayo, ingingo ya 5, 6, 12 Itegeko n° 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 119 Itegeko N° 30/2013 ryo kuwa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 124, 1° Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu, ingingo ya 73. Itegeko n° 45/2008 ryo kuwa 09/09/2008 ryerekeye kurwanya iterabwoba. Itegeko n° 18/2008 ryo kuwa 23/07/2008 rihana icyaha cy'ingengabitekerezo ya Jenocide, Ingingo ya 4. Itegeko n° 15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo za 62, 65, 63, 104, 119 Itegeko n° 18/2008 ryo kuwa 23/07/2008 rihana icyaha cy'ingengabitekerezo ya jenocide,

ingingo za 2-4

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Itegeko N° 33 bis/2003 ryo kuwa 06/09/2003 rihana ibyaha bya Jenocide, ibyaha byibasiye inyokomuntu n'ibyaha by'intambara, ingingo ya 4 Itegeko-Teka n° 21/77 ryo kuwa 18/08/1977 rishyiraho Igitabo cy'amategeko ahana, ingingo ya 163, 164-177, 165, 169, 462, 463 Imanza zifashishijwe Prosecution vs Jean Kambanda (Appeal Judgment), ICTR-97-23-S, International Criminal Tribunal for Rwanda (ICTR) 9 September 1998. Umuhozza Victoire, RS/INCONST/PEN 0002/12/C10, Rwaciwe n'Urukiko rw'Ikirenga ku wa 18 Ukwakira 2012 Ubushinjacyaha v .Cpl Ngabonziza Faustin et al , RPAA 0117/07/CS, Urukiko rw'Ikirenga, (17/09/2010),https://www.google.rw/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjD8tnIqavKAhXEWiwKHcIoCO0QFggBMAA&url=http%3A%2F%2Fwww.judiciary.gov.rw%2Fuploads%2Ftx_publications%2FMP%2520c%2520Sgt%2520BIZIYAREMYE%2520%2520et%2520Cpl%2520NGABONZIZA%252017%252009%252010%2520.pdf&usg=AFQjCNHRyKuBGLoKJNHhQr5_sfcAJL LLuw&sig2=H5j83uUviPXqNBmov8YcQQ Ubushinjacyaha v Nyawera Célestin, RPA 0033/11/CS, (14/09/2012) icyegeranyo cy'Ibyemezo by'Inkiko, Igitabo cya 3, no 7, 2013. Inyandiko z'abahanga zifashishijwe Henri-D.Bosly et Vandermeersch D., Droit pénal général zaïrois, Kinshasa, Editions Droit et Société "DES", 1989. Franchimont M., Ann Jacobs et Masset A., Manuel de procédure pénale, 2è éd., Bruxelles, Larcier, 2006. Merle R. et Vitu A., Problèmes généraux de la science criminelle, Droit pénal général Traité de Droit Criminel, Tome I, 3è éd., Paris, Editions Cujas, 1978. Urubanza I. IMITERERE Y'URUBANZA MURI MAKE [1] Nditurende na Habiaremye bivugwa ko bari bafite ipeti rya Lt Colonel, Uwumuremyi bivugwa ko yari Major na Karuta bivugwa ko yari Capitaine, bari abasirikare mu mutwe wa FDLR ukorera muri Repubulika Iharanira Demokarasi ya Congo (RDC). Ubushinjacyaha bwatanze ikirego buvuga ko uwo mutwe wari ugamije gufata ubutegetsi mu Rwanda hakoreshejwe intambara, akaba ari muri urwo rwego abaregwa bagize uruhare mu bitero byagabwe mu Rwanda mu bihe bitandukanye. [2] Mu kirego cyabwo kandi, Ubushinjacyaha bwavuze ko Uwumuremyi afatanyije na Nditurende wari umukuriye na Karuta, bitandukanyije na FDLR, maze babishishikarijwe na Ingabire, bashinga umutwe w'ingabo wiswe Coalition des Forces Démocratiques (CFD) ushamikiye ku mutwe wa politiki wa FDU-Inkingi uyoborwa na Ingabire, uwo mutwe ukaba wari ugamije guteza umutekano muke mu Rwanda hakoreshejwe iterabwoba. Bwanavuze ko

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Ingabire yateye inkunga y'amafaranga uwo mutwe w'ingabo, kandi ko kuba uwo mugambi wo gutera umutekano muke mu Rwanda utaragezweho, byatewe n'uko Nditurende yafatiye i Burundi ubwo yari mu bikorwa bitegura uwo mugambi, n'abandi baza gufatwa nyuma. [3] Habiaremye nawe wafatiye i Burundi hamwe na Nditurende, Ubushinjacyaha bwamureze ko yitandukanyije na FDLR, agirana imishyikirano n'umunyapolitiki witwa Rusesabagina Paul ukorera hanze y'u Rwanda bagamije gushinga undi mutwe w'ingabo wundi utemewe n'igihugu

(PDR-Ihumure) nawo ugamije gutera u Rwanda. [4] Ubushinjacyaha bwanakurikiranye kandi Ingabire kuba mu bihe bitandukanye yaragiye ashyira ahagaragara ibitekerezo bikubiyemo ingengabitekerezo ya jenocide no kuyobya uburari agamije gupfobya jenocide, ibyo gukurura amacakubiri no kwamamaza nkana ibihuha agamije kwangisha rubanda ubutegetsi buriho akoresheje inzira zitandukanye z'itangazamakuru zirimo internet, ibinyamakuru byandikwa, ibiganiro ku ma radiyo na televiziyo. [5] Ubushinjacyaha bushingiye kuri ibyo bikorwa bwakurikiranyeho abo bose ibyaha byavuzwe haruguru. [6] Mbere y'iburanisha ry'urubanza mu mizi, mu byo Urukiko Rukuru rwabanje gusuzuma, harimo ibibazo by'ibanze (questions préalables) bikurikira rwari rwashyikirijwe n'abaregwa: kumenya niba abahoze ari abarwanyi ba FDLR batahutse mu Rwanda batakurikiranwaho ibyaha bakoze bakiri muri RDC hashingiwe ku itangazo ryashyizweho umukono na Repubulika y'u Rwanda na RDC kuwa 09/11/2007; kumenya niba icyemezo cy'urukiko rw'u Buholandi cyohereza mu Rwanda ibimenyetso byiswe A, D na E cyaragombaga gusabirwa kurangizwa mu Rwanda (exequatur) mbere yo gukoreshwa mu rubanza; kumenya niba Urukiko rufite ububasha bwo guhindura inyito y'icyaha rwaregewe. [7] Ku kibazo kijyanye n'abahoze ari abarwanyi ba FDLR, muri make Urukiko Rukuru rwemeje ko amasezerano yashyirwe hagati y'u Rwanda na RDC yari ajyanye no gushyira ingufu hamwe mu gukurikirana abakoze ibyaha bya jenocide, ibyibasiye inyoko muntu n'iby'intambara, ariko ko bitavuze ko abakoze ibindi byaha biteganywa kandi bigahanwa n'amategeko y'u Rwanda batabikurikiranwaho kuko nta n'aho bivugwa muri iryo tangazo. [8] Ku bijyanye n'ibimenyetso byiswe A, D na E, urukiko rushingiye ku ngingo ya 91, agace ka 1 y'itegeko n° 51/2008 ryo kuwa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko nk'uko ryahinduwe kandi ryujijwe kugeza ubu, rwemeje ko icyemezo cy'Urukiko rw'u Buholandi cyo kwohereza mu Rwanda ibyo bimenyetso atari ikigomba kurangirizwa mu Rwanda kuko cyarangijwe n'inzego zibifitiye ububasha zo mu Buholandi, kandi ko muri uru rubanza icyo urukiko rusabwa ari ugusuzuma ibyo bimenyetso byoherejwe hakurikijwe amategeko y'u Rwanda. [9] Ku kibazo cy'ububasha bw'urukiko bwo guhindura inyito y'icyaha, rwemeje ko igihe cyose urukiko rusanze ari ngombwa, ari rwo rufite ububasha bwo guhuza inyito y'icyaha n'ibikorwa rwaregewe hakurikijwe amategeko.

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[10] Ku bijyanye n'urubanza mu mizi, urukiko rwemeje ko Uwumuremyi, Nditurande, Habiwaremye na Karuta bahamwa n'icyaha cyo kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga hakoreshejwe igitero cy'intambara kubera uruhare rwabo mu bitero binyuranye bagabye mu Rwanda mu bihe bitandukanye ubwo bari muri FDLR. Nanone Uwumuremyi na Ingabire bahamijwe icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara hahinduwe inyito y'icyaha cyo kurema umutwe w'ingabo baregwa, hanashingiwe ko Ingabire ari we wagejeje kuri Uwumuremyi umugambi we wo gushyiraho ingabo zishamikiye kuri FDU-Inkingi, bawemeranywaho, banawukangurira Nditurande ariko rusanga atarawemeye n'ubwo nawe yinjiye mu mishyikirano kuri icyo cyifuzo. Ingabire ku ruhande rwe yanahamwe n'icyaha cyo gupfobya Jenocide. [11] Kuri

Habiyaremye, urukiko rwasanze n'ubwo yemera ko yagiranye na Rusesabagina imishyikirano, nta kigaragaza ko bari bageze ku rwego rwo kwemeranya ku buryo budashidikanywaho ku mugambi ndakuka wo gushinga umutwe w'ingabo n'icyo wagombaga gukora, bityo rumugira umwere kuri icyo cyaha. [12] Ku byerekeranye n'icyaha cyo kuba no gukorera mu ishyirahamwe ry'iterabwoba, urukiko rwasanze Uwumuremyi, Nditurende, Habiyaremye na Karuta bakiregwaga batagikurikiranwaho hashingiwe ku itegeko n° 45/2008 ryo kuwa 09/09/2008 ryerekeye kurwanya iterabwoba, kuko ibikorwa baregwaga byakozwe mbere y'uko iryo tegeko ritangazwa. [13] Ku bijyanye n'ibihano, Urukiko Rukuru rwahanishije Karuta igifungo cy'imyaka ibiri n'amezi arindwi, Nditurende na Habiyaremye bahanishwa buri wese igifungo cy'imyaka itatu n'amezi atandatu, Uwumuremyi ahanishwa igifungo cy'imyaka 4 n'amezi atandatu, agafungwa igihe cy'imyaka 3 n'amezi atandatu, igihano cy'umwaka umwe gisigaye kigasubikwa mu gihe cy'imyaka ibiri. Ingabire yahanishijwe igifungo cy'imyaka umunani. [14] Mu kugabanyiriza ibihano Karuta, Nditurende, Habiyaremye na Uwumuremyi, urukiko rwashingiye ku mpamvu z'uko bemeye icyaha ku buryo budashidikanywaho nk'uko biteganywa n'ingingo ya 35 y'itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha, banasaba imbabazi, bityo bikaba byarafashije ubutabera ; rwanashingiye ku kuba ari ubwa mbere bakurikiranweho icyaha ku buryo buzwi. Urukiko rwasanze kandi Karuta by'umwihariko yarahunze ari muto kandi mu bikorwa baregwa kuba barakoze, akaba yari anafite ipeti rito. Ku birebana na Uwumuremyi Urukiko rwashingiye ku kuba icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara nta ngaruka zikomeye cyateye. [15] Kuri Ingabire, urukiko rwamugabanyirije ibihano rushingiye ku gihe kirekire yamaze hanze, rusanga byaratumye atagira amakuru yizewe bihagije ku gihugu, ko n'imwe mu mpamvu yatumye afata icyemezo cyo kuza gukorera mu Rwanda kwari ukugira ngo ashobore kugenzura ayo makuru avuga ko yahabwaga n'abari mu gihugu cyangwa ayo yasomaga muri za raporo. [16] Urukiko rwashingiye kandi ku ibaruwa Ubushinjacyaha bwarushyikirije Ingabire yandikiye Perezida wa Repubulika y'u Rwanda kuwa 06/11/2011, aho yasabaga imbabazi z'abo yaba yarakomerekeje mu mvugo ze cyangwa inyandiko.

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- [17] Ubushinjacyaha, Ingabire na Uwumuremyi ntibishimiye imikirize y'urubanza, bajuririra Urukiko rw'Ikirenga. [18] Ku bijyanye n'ubujurire bw'Ubushinjacyaha, buvuga ko butishimiye kuba Habiyaremye, Nditurende, Uwumuremyi, Karuta na Ingabire bataranahamijwe icyaha cyo kurema umutwe w'ingabo bagamije igitero cy'intambara hashingiwe ku ngingo ya 163 y'itegeko teka n° 21/77 ryo kuwa 18/08/1977 rishyiraho gitabo cy'amategeko ahana ibyaha mu Rwanda ryakurikizwaga, bitewe n'uko Urukiko rwasobanuye amategeko mu buryo butari bwo. [19] Ubushinjacyaha bwanajuririye kuba Ingabire yarahanaguweho icyaha cyo kwamamaza nkana ibihuha bigamije kwangisha rubanda ubutegetsi buriho hirengagijwe amategeko yariho n'ibimenyetso bwatanze. [20] Ubushinjacyaha buvuga kandi ko ibihano Ingabire yahawe ku byaha yahamijwe

byagabanyijwe mu buryo bukabije hirengangijwe uburemere bwabyo, ndetse ko mu kubimugabanyiriza, Urukiko rwemeje ko yemeye icyaha nyamara yaraburanye ahakana ibyaha byose aregwa. [21] Mu bujuriye bwe, Ingabire n'abamwunganira bavuga ko Urukiko Rukuru rwirengagije ibibazo by'ibanze bikurikira : kuba abahoze ari abarwanyi ba FDLR badashobora gukurikiranwa ku byaha bakoze mu gihe bari bakiri mu mashyamba ya RDC hashingiwe ku masezerano yo kuwa 09/11/2007 Repubulika y'u Rwanda yagiranye na RDC ; kuba icyemezo cy'urukiko rwo mu Buholandi cyo kohereza mu Rwanda ibimenyetso byahawe inyuguti A, D na E kitaragombaga gushyirwa mu bikorwa kitabanje gusabirwa kurangirizwa mu Rwanda (Exequatur) ; kuba ibyo bimenyetso byaragombaga gukoreshwa gusa ku cyaha cy'ubufatanyacyaha mu bikorwa by'iterabwoba ; kuba Urukiko Rukuru nta bubasha rwari rufite bwo guhamya Ingabire icyaha cyo gupfobya jenocide rushingiye ku itegeko ridahujwe n'iryo Ubushinjacyaha bwakoresheje mu ibazwa rye n'igihe bwatangaga ikirego mu Rukiko ; kuba Urukiko Rukuru rutari rufite ububasha bwo kumuhamya icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga n'icyo gupfobya jenocide, kuko rutabiregwe n'Ubushinjacyaha ; kuba icyaha cyo gupfobya jenocide kitujuje ibyangombwa byose bisabwa n'amategeko mpuzamahanga u Rwanda rwemera. [22] Mu gusuzuma ibyo bibazo, Urukiko rwasanze bifitanye isano n'ingingo Ingabire aburanisha mu bujuriye bwe ku rubanza mu mizi, bityo rukaba ruri bubisuzumire hamwe n'izo ngingo zindi yatanze. [23] Ku bijyanye n'urubanza mu mizi, Ingabire n'abamwunganira bavuga ko imigendekere y'urubanza rwe itubahirije amahame remezo ashingirwaho kugira ngo habeho urubanza ruboneye (procès équitable) ndetse ko yahamijwe ibyaha atakoze.

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- [24] Uwumuremyi ku ruhande rwe yajuriye asaba kugabanyirizwa ibihano hamwe n'isubika gihano hashingiwe ko yemera ibyaha aregwa akanabisabira imbabazi. [25] Urubanza rwaburanishijwe kuwa 25/03/2013 no ku matariki anyuranye yakuriyeho kugeza kuwa 31/07/2013 ariho iburanisha ryashojwe, Ubushinjacyaha buhagarariwe na Hitiyaremye Alphonse wari Umushinjacyaha Mukuru wungirije, abashinjacyaha ku rwego rw'Igihugu Ruberwa Bonaventure na Mukurarinda Alain, Ingabire yunganiwe na Me Gatera Gashabana hamwe na Me Iain Edwards, Uwumuremyi yunganiwe na Me Murenzi Eugène, Habiaremye yunganiwe na Me Ntambara Emmanuel, Karuta yunganiwe na Me Ngabonziza Joseph, naho Nditurende yunganiwe na Me Mucyesha David. [26] Mbere yo kwinjira mu mizi y'urubanza, Nditurende na Habiaremye batanze inzitizi ijyanye no kuba bafunze mu buryo bunyuranije n'amategeko kandi bo basanga bararangije igihano harebwe itariki ya 22/09/2009 bavuga ko ariyo bafungirwaho. Mu rubanza rubanziriza urundi rwaciye kuwa 28/03/2013, Urukiko rwemeje ko iyo nzitizi nta shingiro ifite. [27] Mu iburanisha ry'urubanza, Urukiko rwumvise abatangabuhamya batatu ari bo : Rwamamara Angelus, Musonera Franck, n'undi mutangabuhamya wumviswe mu ruhamwe ariko izina rye ridatangajwe n'isura ye itagaragara, akaba yarahawe izina rya " AA ". II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

1. Kumenya niba Urukiko Rukuru rutarubahirije ihame ry'uburenganzira bwo gucirwa urubanza ruboneye (droit à un procès équitable) A. KU BIJYANYE N'UBUJURIRE BWA INGABIRE [28] Me Gatera Gashabana avuga ko impamvu nyamukuru yatumye uwo yunganira ajurira ari uko Urukiko Rukuru rutubahirije ihame rijyanye n'uburenganzira bwo gucirwa urubanza ruboneye (droit à un procès équitable) rikubiyemo by'umwihariko uburenganzira bwo gufatwa nk'umwere igihe cyose uregwa icyaha kitaramuhama (droit à la présomption d'innocence), uburenganzira bwo gufatwa kimwe hagati y'ababuranyi (droit à l'égalité des armes), uburenganzira bwo kuburanishwa n'urukiko rwigenga kandi rutabogamye (droit à un tribunal indépendant et impartial). [29]
- [29] Akomeza avuga ko kuba ubwo burenganzira butarubahirijwe bigaragarira mu ngero zitandukanye zikurikira: kuba abunganira Ingabire barasakwaga n'inzego zishinzwe umutekano mbere yo kwinjira mu cyumba cy'iburanisha, nyamara ntibikorere Ubushinjacyaha kandi bombi ari ababuranyi bagombye gufatwa kimwe; kudasuzuma inzitizi zatanze zirebana na "principe de la légalité des délits et des peines" n'iyubudasubira inyuma bw'itegeko; kuba mu gihe cy'iburanisha ry'urubanza umucamanza yaribanze ku gucecekesha abunganira Ingabire iyo bashakaga kugira icyo bavuga mu nyungu ze, akaba yaranabibasiraga ku buryo bugaragara;

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kwanga kumva umutangabuhamya wandikiye urukiko kuwa 10/04/2012 asaba gutanga ubuhamya ku byerekeye uburyo abantu bo mu nzego z'iperereza basabye Uwumuremyi kuzashinja Ingabire ko akorana na FDLR kuba ntacyo rwavuze ku isakwa ryakorewe umutangabuhamya wari watanze n'abunganira Ingabire (Lt Colonel Habimana Michel) hagamijwe kumutera ubwoba, kandi ntawe umwunganira afite. [30] Ubushinjacyaha buvuga ko ibivugwa n'abunganira Ingabire ko basakwaga mbere yo kwinjira mu cyumba cy'iburanisha, bwo ntibubikorere, nta shingiro bifite, kuko mu iburanisha abunganira Ingabire basabye urukiko gufata icyemezo ku isakwa bavugaga ko bakorerwa bonyine, rwemeza ko abantu bose bazajya binjira mu cyumba cy'iburanisha bagomba gusakwa, yaba ababuranyi, abaje gukurikirana urubanza, abunganira abandi mu nkiko n'abashinjacyaha. [31] Ku byerekeranye no kudasuzuma inzitizi zatanze zirebana na "principe de la légalité des délits et des peines" n'iyubudasubira inyuma bw'itegeko, buvuga nanone ko ibyo Me Gashabana avuga nta kuri kurimo, kuko Urukiko Rukuru rwabisuzumye runabifataho icyemezo nk'uko bigaragara ku rupapuro rwa 5 mu gace ka 7 by'urubanza. [32] Ku bivugwa n'abunganira Ingabire ko Umucamanza yabibasiraga akanabacecekesha iyo bashakaga kugira icyo bavuga mu nyungu ze, Ubushinjacyaha busubiza ko Me Gashabana yaranze no kuzana mu rukiko imvugo ziyenza kandi zinasembura abandi baburanyi ndetse atibagiwe n'abacamanza, ko rero kubera iyo myitwarire ye urukiko rutari kumwihorera. [33] Ubushinjacyaha buvuga ko ibivugwa na Ingabire n'abamwunganira ko Urukiko Rukuru rwanze kumva umuntu wanditse asaba gutanga ubuhamya bujyanye n'uburyo Uwumuremyi yazanywe mu rubanza gushinja Ingabire abisabwe n'inzego z'iperereza atari ukuri kuko ntawasabye ko ahamagazwa, nta n'uwagize icyo avuga kuri iyo baruwa ngo urukiko rwange kubisuzuma. [34] Kuri iki kibazo Me Murenzi nawe asobanura ko mu iburanisha ryo kuwa

04/04/2012 mu Rukiko Rukuru, umucamanza yasabye ababuranyi bose ko abifuza guhamagaza abatangabuhamya babavuga bakanagaragaza icyo bashakira ko bageze ku rukiko, abunganira Ingabire bavugaga gusa Habimana Michel, Ubushinjacyaha buvugaga uwitwaga Nsabimana Phocas, urukiko rwemeza ko ari bo bagomba guhamagazwa, ko rero abataravuzwe ntacyo rwagombaga kubavugaho. [35] Avugaga kandi ko bitumvikana ukuntu uwanditse ibaruwa ivugwaga yasabye gutanga ubuhamya kuwa 10/04/2012 kandi urukiko rwari rwemeje ko abatangabuhamya batavuzwe ntacyo ruzabavugaho, ndetse ko bitumvikana ukuntu abunganira Ingabire banenga urukiko kuba ntacyo rwavuze kuri icyo baruwa kandi batarigeze basaba ko uwayanditse ahamagazwa. Yongeraho ko niba barabonaga ubuhamya bwe bwagira uruhare rukomeye ku rubanza bagombaga kubigaragaza. [36] Ku birebana n'uko umucamanza ntacyo yavuze ku isakwa ryakorewe umutangabuhamya w'ubwunganizi hagamijwe kumutera ubwoba kandi hirengagijwe uburenganzira bwe, Ubushinjacyaha buvugaga ko nta tegeko na rimwe ryishwe mu gusaka umugororwa muri gereza, kubera ko abagororwa basakwaga igihe cyose ndetse n'amasaha yose icyo bibaye ngombwa.

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[37] Ubushinjacyaha buvugaga ko nta ngaruka n'imwe iryo sakwaga ryaba ryaramugizeho cyangwa ku migendekere y'urubanza, kuko ryabaye yarangije gutanga amakuru ye imbere y'urukiko, ku buryo nta kintu na kimwe ryari kuyahinduraho, ko nta n'impamvu rero yo kumutera ubwoba yari ihari kubera ko yasatswe yarangije gutanga amakuru. [38] Ku birebana n'uko uwo mutangabuhamya yaba yarabajijwe ntawe umwunganira afite, Ubushinjacyaha busubiza ko atabajijwe nk'uregwa, ko ahubwo yabajijwe mu rwego rwo kugira ngo atange amakuru ku mpapuro yari yafatanywe mu isaka, abazwaga muri "cadre administratif", ko rero bitari ngombwa ko agira umwunganira ngo hubahirizwe ibiteganywa n'itegeko rigenga imiburanishirize y'imanza z'inshinjabyaha. Uko urukiko rubibona: [39] Urukiko rusanga isaka ryakorewe abunganira Ingabire mbere yo kwinjira mu cyumba cy'iburanisha, ntacyo ryanyuranyijeho n'uburenganzira bw'ababuranyi bwo gufatwa kimwe mu gihe Urukiko Rukuru rwemeje ko abantu bose bazajya binjira mu cyumba cy'iburanisha bagomba gusakwaga, ari ababuranyi, abaje gukurikirana urubanza, abunganira abandi mu nkiko n'abashinjacyaha, akaba ari nta kigaragaza ko icyo cyemezo kitakurikijwe ku birebana Ubushinjacyaha. [40] Ku birebana n'imvugo y'abunganira Ingabire ko umucamanza yibanze kubacecekesha no kubibasira icyo bashakaga kugira icyo bavugaga mu nyungu z'uwo bunganira, Urukiko rusanga yaba mu nyandiko mvugo y'iburanisha no muri matolewa y'urubanza, nta kigaragaza ko umucamanza yarenze ku nshingano ze zijyanye no kuyobora iburanisha akaba yagarura mu nzira iboneye umuburanyi wese utandukiriye hakurikijwe ibiteganywa mu ngingo ya 73 y'itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganywa ibigomba gukorwa n'umucamanza uyoboye iburanisha. Ko rero mu gihe ibyo bikozwe, bitafatwaga nko kubogama, kwibasira umuburanyi cyangwa kwica ihame remezo rishingirwaho kugira ngo habeho urubanza ruboneye. [41] Ku byerekeranye n'ingingo y'abunganira Ingabire y'uko Urukiko Rukuru rwanze kumva uwanditse asaba gutanga

ubuhamya bujyanye n'uburyo Uwumuremyi yazanywe mu rubanza, Urukiko rusanga nta shingiro ifite kuko, nk'uko bigaragara mu nyandiko mvugo y'iburanisha ryo kuwa 04/04/2012, Urukiko rwari rwamenyesheje ababuranyi bose ko abifuza guhamagaza abatangabuhamya bazabavugaga bakanagaragaza icyo bashakira ko bageza ku rukiko, Ingabire n'abamwunganira ntibasaba ko ahamagazwa, yaba uwo munsu, cyangwa mu iburanisha ryakurikiyeho. [42] Urukiko rusanga rero Urukiko Rukuru rwarahaye ababuranyi uburenganzira bwabo bahabwa n'amategeko mu gihe cyari kigenwe ku birebana n'abatangabuhamya bifuzaga kuzana mu rubanza, kuba Ingabire n'abamwunganira barubahirije ibyasabwaga kuwa 04/04/2012 ku birebana n'umutangabuhamya Habimana Michel wenyine, ntibabikore ku mutangabuhamya banenga urukiko kuba rutatatumijwe, bikaba bitafatwa nk'inenge ku rubanza rwaciye ku rwego rwa mbere. [43] Ku birebana n'isaka ryakorewe Habimana Michel muri gereza ku munsu yari yamaze gutangaho ubuhamya mu rukiko, Urukiko rusanga ntacyo ryahinduye ku byo yavuze cyangwa yari yiteguye kuvugira kuko ryabaye yarangije gutanga mu rukiko amakuru yari yifujweho.

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- [44] Urukiko rusanga kandi inyandiko zafatiwe mu cyumba cya Habimana n'inyandiko mvugo y'ibazwa rye ku bujyanye n'izo nyandiko ntacyo byahinduye ku mikirize y'urubanza kuko bitigeze bishingirwaho mu gusuzuma agaciro ubuhamya bwe bugomba guhabwa, bityo impungenge z'abunganira Ingabire zikaba nta shingiro zifite. [45] Mu gusoma, Urukiko rukurikije uko imiburanishirize y'urubanza ku rwego rubanza yagenze, rusanga ubujurire bwa Ingabire burebana n'uburenganzira ku rubanza ruboneye bwaba butarubahirijwe nta shingiro bufite.
2. Kumenya niba icyaha cy'ubugambanyi bugamijwe kugirira nabi ubutegetsi buriho kidahama Ingabire. [46] Urukiko Rukuru rwahamije Ingabire icyaha cy'ubugambanyi bugamijwe kugirira nabi ubutegetsi buriho rushingiye ahanini ku mvugo z'abo baregwa hamwe bahoze muri FDLR/ FOCA bataillon Bahama, bemeza ko yabashishikariye kwitandukanya n'uwo mutwe bakarema umutwe w'ingabo ushamikiye kuri FDU-Inkingi, bakanemeza ko babonaniye i Kinshasa n'i Brazzaville ku butumire bwe mu rwego rwo kunoza imishyikirano bari baratangiye, kandi ko mu bihe bitandukanye guhera mu kwezi kwa 02/2008 kugeza mu kwezi kwa 01/2009 yagiye aboherereza amafaranga abinyujije ku bandi bantu, ayo mafaranga amwe bakaba barayakoresheje mu kugura ibikoreshe bitandukanye bya gisirikare birimo imbunda, imiti, ibiryo, andi bakayohereza imiryango yabo. [47] Rwashingiye no ku bimenyetso birimo e-mail abo baregwa hamwe bavugaga ko bandikiranaga nawe kuri adrese vumuhoza@cs.com na gpascal05@yahoo.fr no ku nyandiko zavuye mu Buholandi no muri RDC rwasanze zerekana ko Ingabire yajyaga aboherereza amafaranga, ndetse ko babonaniye i Kinshasa na Brazzaville nk'uko babyemeza. [48] Ibibazo bigomba gusuzumwa mu bujurire hakurikijwe inenge Ingabire yagaragaje mu miburanire ye ni ibi bikurikira: kumenya niba Urukiko Rukuru rwaramuhamije icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi buriho rutari rwaregwe; kumenya niba yarahamijwe icyaha hashingiwe ku mvugo z'abaregwa hamwe nawe bakurikiranwa kandi bakirega ibyaha

batagomba gukurikiranwaho no guhanirwa; kumenya niba ibimenyetso byavuye mu Buholandi bitaragombaga gukoreshwa mu rubanza kuko icyemezo cy'urukiko rwa Rotterdam kitabanje gusabirwa kurangirizwa mu Rwanda (exequatur); kumenya niba hakurikijwe amasezerano yabaye hagati y'u Rwanda n'u Buholandi, ibimenyetso byahawe inyuguti za A, D na E bitaragombaga gukoreshwa ku cyaha yahamijwe cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho; kumenya niba amakuru yatanze na Habimana Michel na AA yerekana ko abaregwa hamwe na Ingabire bamushinje ibinyoma babisabwe n'inzego z'iperereza; kumenya niba Urukiko Rukuru rwaramuhamije icyaha rushingiye ku mvugo no ku bimenyetso bivuguruzanya kandi bidahura;

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kumenya niba Urukiko Rukuru rwaramuhamije icyaha rutagaragaje umugambi we wihariye.

- i. Kumenya niba Urukiko Rukuru rwaramuhamije Ingabire icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi rutari rwaregwe. [49] Ingabire avuga ko icyemezo cy'Urukiko Rukuru gikwiye guteshwa agaciro kuko Ubushinjacyaha bwamuregaga icyaha cy'ubufatanyacyaha mu bikorwa by'iterabwoba, icyo kurema umutwe w'ingabo hagamijwe igitero cy'intambara n'icy'ubwinjiracyaha mu cyaha cyo kugirira nabi ubutegetsi buriho n'ingingo z'imenya z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara, ariko urukiko rwamuhamije icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi buriho atari yarezwe, ibyo bikaba binyuranye n'ibiteganywa n'ingingo ya 119 y'itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha isobanura ko Ubushinjacyaha bushingiye ku bimenyetso bufite bukora dosiye yuzuye bukayishyikiriza urukiko, narwo rugasuzuma ibyo rwaregwe, rugahamya umuntu ibyaha rwaregwe cyangwa rukamugira umwere. [50] Akomeza avuga ko atahawe umwanya wo kwiregura ku cyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi buriho, bikaba binyuranye n'ingingo ya 64 y'itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha ivuga ko ukurikiranyweho icyaha agomba kumenyeshwa ibyo akurikiranyweho n'icyo amategeko ateganya. [51] Ubushinjacyaha buvuga ko ibyo Ingabire avuga nta shingiro bifite kuko nta tegeko ribuza Urukiko gukosora inyito y'icyaha n'amategeko buba bwashingiyeho burega iyo rusanze atariyo, ndetse ko iyo nyito ishobora guhinduka hakurikijwe imikorere y'icyaha n'imyiregurire ya buri ruhande igihe cyose urubanza rutaracibwa burundu. Bukanavuga ko ibikorwa bimwe bishobora gukurikiranwa mu buryo butandukanye kandi bitiriwe byongera kumenyeshwa bundi bushya uregwa, bikaza guhanwa nk'ubwinjiracyaha, icyaha nyir'izina cyangwa se ikindi cyaha. Uko Urukiko rubibona: [52] Urukiko rusanga ku bijyanye n'inyito y'icyaha muri rusange, Urukiko Rukuru rwarasobanuye mu buryo bwumvikana ko umucamanza aregerwa ibikorwa bigize icyaha runaka, akabihuza n'ibyo itegeko riteganya kuri icyo cyaha, akagiha inyito asanga ikwiye ishobora kuba itandukanye n'iyi Ubushinjacyaha bwagihaye. [53] Urukiko rusanga kuba umucamanza afite inshingano yo guhuza inyito z'icyaha n'igikorwa ubwacyo gikurikiranywe iyo asanze idahura n'ibyabaye, byemezwa n'abahanga mu mategeko nka Henri-D. Bosly na Damien Vandermeersch bavuzwe n'Urukiko Rukuru, n'abandi barimo Nyabirungu mwene Songa¹, Michel Franchimont, Ann Jacobs na Adrien Masset², Roger Merle na André Vitu³.

1Droit pénal général zaïrois, Kinshasa, Editions Droit et Société “DES”, 1989, p. 111. 2 2 Manuel de procédure pénale, 2è édition, Bruxelles, Larcier, 2006, p.528 3 Traité de Droit Criminel, Tome I, Problèmes généraux de la science criminelle, Droit pénal général, 3è ed., Paris, Editions Cujas, 1978, p. 448 et s.

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[54] Urukiko rw’Ikirenga narwo mu manza zitandukanye⁴ rwemeje ko inkiko ziregerwa ibikorwa bigize icyaha, ko guhindura inyito y’icyaha ku mucamanza ari uburenganzira ndetse n’inshingano afite mu gihe igikorwa cyakozwe kidahuye n’inyito y’icyaha Ubushinjacyaha buba bwatanze. [55] Ku birebana n’imvugo ya Ingabire ko atahawe umwanya wo kwiregura ku cyaha cy’ubugambanyi bwo kugirira nabi ubutegetsu buriho n’ingingo z’imena z’itegeko Nshinga, Urukiko rusanga atari ukuri kuko, nk’uko biboneka mu gika cya 78 cy’urubanza rwaciye n’Urukiko Rukuru, Me Gatera Gashabana ubwe yivugiye ko akurikije uko Ubushinjacyaha busobanura ibikorwa burega Ingabire byo kurema umutwe w’ingabo, asanga ibyo bikorwa bitagamije kuvutsa umudendezo wa Leta n’ibindi bihugu (atteinte à la sûreté extérieure de l’Etat), ahubwo bigamije kuvutsa igihugu umudendezo (atteinte à la sûreté intérieure de l’Etat) biteganywa n’ingingo za 164-177 z’igitabo cy’amategeko ahana cyariho igihe ibikorwa aregwa bivugwa ko byakorwaga. ii. Kumenya niba Ingabire yarahamijwe icyaha hashingiwe ku mvugo z’abaregwa hamwe nawe bakurikiranwa kandi bakirega ibyaha batagomba gukurikiranwaho. [56] Ingabire n’abamwunganira bavuga ko itangazo ryashyizweho umukono kuwa 09/11/2007 hagati y’u Rwanda na RDC ryari rigamije guhumuriza abarwanyi ba FDLR bashaka gutaha mu mahoro ariko bakaba batinye kubera ibyaha bakoze, ariyo mpamvu hateganyijwe ko ibyaha byagombaga gukurikiranwa ari ibyerekeranye na jenocide, ibyaha by’intambara n’ibyaha byibasiye inyoko muntu, abagombaga gukurikiranwa bakaba ari abashakishwaga n’ubutabera bw’u Rwanda cyangwa Urukiko Mpuzamahanga Mpanabyaha rwashyiriweho u Rwanda ruri Arusha. [57] Bakomeza bavuga ko kuba Urukiko Rukuru rwaremeye agaciro k’ayo masezerano, rukanemera abagombaga gukurikiranwa abo aribo, ariko nyuma rukemeza ko abakoze ibindi byaha biteganywa kandi bigahanwa n’amategeko nabo bashobora gukurikiranwa, ari ukwambura agaciro ayo masezerano, bikaba byatera impungenge abahoze ari abarwanyi ba FDLR batashye ku bushake bwabo bakanyuzwa mu nkambi ya Mutobo, nyuma bagasubizwa mu buzima busanzwe. [58] Ku birebana n’iki kibazo, Ubushinjacyaha buvuga ko ingingo y’ubujurire ya Ingabire nta shingiro ifite kubera impamvu zikurikira: ntabwo yigeze aba muri RDC ngo abe yavugaga ko iryo tangazo rimureba; nta burenganzira itegeko rimuha bwo kuburanira abo muri FDLR kuko icyaha ari gatozi akaba agomba kujurira ku bimureba gusa; yaburanye kuva mu rwego rwa mbere yemeza ko atigeze aba cyangwa akorana n’umutwe wa FDLR, hakaba nta mpamvu yo gusaba Urukiko rw’Ikirenga guhindura icyemezo cy’Urukiko Rukuru ngo rukunde ruhumurize abahoze ari abarwanyi bo muri uwo mutwe; 4 RPAA 0117/07/CS rwo kuwa 17/09/2010 RPA 0033/11/CS rwo kuwa 14/09/2012

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ntaho itangazo rivuga ko abakoze ibindi byaha biteganywa kandi bihanwa n'amategako y'u Rwanda batabikurikiranwaho; itangazo rireba gusa abahoze ari ari abarwanyu ba FDLR batashye ku bushake nyamara abo baregwa hamwe ntabwo batashye ku bwende bwabo. Uko urukiko rubibona [59] Mu itangazo ryashyizweho umukono kuwa 09/11/2007 hagati y'u Rwanda na RDC5, guverinoma y'u Rwanda n'iya RDC ziyemeje gufatanya gushakira hamwe umuti ku bibazo by'amahoro n'umutekano mu bihugu byombi no mu karere k'ibiyaga bigari. [60] Muri urwo rwego guverinoma ya RDC mu byo ziyemeje harimo kwimurira kure y'umupaka w'u Rwanda abarwanyu ba ex-FAR n'interahamwe batagifite intwari, igihe baba badashakira gutaha mu Rwanda kandi badashakishwa n'ubutabera bw'u Rwanda cyangwa n'Urukiko Mpuzamahanga Mpanabyaha rwashyirirwaho u Rwanda, kugeza igihe ikibazo cyabo kizabonerwa umuti, ndetse no gufata abakurikiranyweho ibyaha bya jenocide, ibyaha byibasira inyoko muntu cyangwa ibyaha by'intambara bakoherezwa mu Rwanda cyangwa mu Rukiko Mpuzamahanga Mpanabyaha rwashyirirwaho u Rwanda. [61] Guverinoma y'u Rwanda nayo mu byo ziyemeje harimo gushishikariza hakoreshejwe gahunda zikwiye abahoze mu ngabo za kera z'u Rwanda n'interahamwe n'imiryango yabo gutaha mu gihugu cyabo no kubafasha gusubira neza mu buzima busanzwe. Ibihugu byombi byiyemeje kandi gufatanya kugira ngo abakekwaho kuba barakozwe jenocide, ibyaha by'intambara n'ibyaha byibasira inyoko muntu bashyikirizwe ubutabera. [62] Ikigaragara ni uko mu byo guverinoma zombi zari ziyemeje harimo by'umwihariko gushyiramo ingufu kugira ngo abaregwa ibyaha byihariye byerekeranye na jenocide, ibyaha byibasiye inyoko muntu n'ibyaha by'intambara bashyikirizwe ubutabera, ariko ntacyo zavuze ku bijyanye n'ibindi byaha. [63] Urukiko rusanga nk'uko byemejwe n'Urukiko Rukuru, kuba ibihugu byombi ntacyo byavuze ku bijyanye n'ibindi byaha bitari jenocide, ibyaha by'intambara n'ibyaha byibasira inyoko muntu bidasobanura ko ibyo byaha bitashoboraga gukurikiranwa no guhanwa hakurikijwe amategako ibihugu byombi bigenderaho. iii. Kumenya niba ibimenyetso byavuye mu Buholandi bitaragombaga gukoreshwa mu rubanza kuko icyemezo cy'Urukiko rwa Rotterdam kitabanje gusabirwa kurangirizwa mu Rwanda (exequatur). [64] Ingabire avugaga ko ibimenyetso A, D na E byafatiwe mu rugo rwe mu Buholandi bitaragombaga gukoreshwa mu Rwanda kuko icyemezo cy'urukiko rwa Rotterdam mu Buholandi cyemeza ko byoherezwa mu Rwanda kitabanje gusabirwa kurangirizwa nk'uko biteganywa 5Communiqué conjoint du Gouvernement de la République Démocratique du Congo et du Gouvernement du Rwanda sur une approche commune pour mettre fin à la menace pour la paix et la stabilité des deux pays et de la Région des Grands Lacs.

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n'ingingo ya 91 y'itegeko ngenga n° 51/2008 ryo kuwa 9/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko. [65] Ubushinjacyaha buvugaga ko icyo ngingo y'ubujurire nta shingiro ifite kuko mu manza z'inshinjabyaha, icyemezo binyura mu nzira ya " exequatur " kugira ngo byubahirizwe mu Rwanda ari ibiba birebana n'urubanza rw'ibihano rwaciriwe mu mahanga, rushobora kwemerwa mu Rwanda bisabwe n'Ubushinjacyaha cyangwa uwangirijwe n'icyo cyaha icyo rwemeza indishyi zigomba kwishyurizwa mu ifasi ya Repubulika y'u Rwanda nk'uko

byateganywaga n'ingingo ya 17 y'igitabo cy'amategeko ahana ibyaha cyariho. Bukomeza busobanura ko ku birebana n'iki kibazo atari icyemezo Ubushinjacyaha bwashabaga ko gishyirwa mu bikorwa mu Rwanda, kikaba atari n'icyemezo cyemeza indishyi zishyurizwa mu Rwanda. Uko Urukiko rubibona [66] Ingingo ya 91 y'itegeko ngenga n° 51/2008 ryo kuwa 09/09/2008 rigena imiterere, imikorere n'ububasha by'inkiko iteganya ko mu bubasha Urukiko Rukuru rufite, harimo n'ubwo kuburanisha ibirego bisaba kurangiza mu Rwanda imanza cyangwa ibyemezo byafashwe n'inkiko zo mu mahanga, naho ingingo ya 17 y'igitabo cy'amategeko ahana cyakurikizwaga igihe cy'iburanisha ry'urubanza mu Rukiko Rukuru igateganya ko :“urubanza rw'ibihano rwakirijwe mu mahanga rushobora kwemerwa mu Rwanda, bisabwe n'Ubushinjacyaha cyangwa n'uwatanyijwe n'icyo cyaha, iyo rwemeza indishyi zigomba kwishyurizwa mu ifasi ya Repubulika y'u Rwanda. “ [67] Iyo rusesenguye izo ingingo zombi n'icyemezo cyafashwe n'urukiko rwo mu Buholandi cyo kwohereza Ubushinjacyaha bw'u Rwanda ibimenyetso A, D na E kugira ngo bibe byakoreshwa mu gukurikirana no gusuzuma by'umwihariko icyaha cy'ubufatanyacyaha mu cyaha cy'iterabwoba Ingabire aregwa, Urukiko rusanga, nk'uko Urukiko Rukuru rwabyemeje, icyo cyemezo atari ikigomba gusabirwa kurangizwa mu Rwanda kuko nta gihano cyafashwemo kigomba kurangizwa, nta n'indishyi zategetswemo zigomba kwishyurizwa mu ifasi y'u Rwanda. iv. Kumenya niba hakurikijwe amasezerano yabaye hagati y'u Rwanda n'u Buholandi, ibimenyetso byahawe inyuguti za A, D na E bitaragombaga gukoreshwa ku cyaha Ingabire yahamijwe cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho. [68] Ingabire avuga ko urukiko rwa Rotterdam mu Buholandi rwemeje ko ibimenyetso byahawe inyuguti za A, D na E byafatiwe mu rugo rwe ubwo hasakwaga n'inze zibishinzwe z'icyo gihugu byoherezwa mu Rwanda bigakoreshwa gusa mu cyaha cy'ubufatanyacyaha mu bikorwa by'iterabwoba. [69] Avuga ko icyo anenga Urukiko Rukuru ari uko nyuma yo kwemeza ko atigeze atanga amafaranga yo gushyigikira ibikorwa by'iterabwoba bya FDLR nk'uko bigaragara mu gika cya 254 cy'urubanza ku rupapuro rwa 68, rwirengagije ibyari byumvikanyweho n'ibihugu byombi, kimwe n'ibikubiye mu cyemezo ubwacyo, rukoresha ibyo bimenyetso mu cyaha gishya cyiswe ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara.

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[70] Asoza asaba uru rukiko kubahiriza ibyari byumvikanyweho ubwo icyo cyemezo cy'urukiko rwa Rotterdam cyatangwaga, hakubahirizwa n'amasezerano ibihugu byombi byagiranye ku byerekeranye n'imikoreshereze yacyo. [71] Ubushinjacyaha buvuga ko bwaregeye ibikorwa bigize icyaha cy'iterabwoba kandi ko n'Urukiko Rukuru aribyo rwasuzumye, rusanga ibikorwa aregwa byarabayeho, rubiha inyito ikwiye, kuba rwarasanze ibyo bikorwa bigize icyaha cy'ubugambanyi mu cyaha cyo kugurira nabi ubutegetsi buriho nta tegeko ryishwe kuko urukiko nirwo rwemeza inyito nyayo y'icyaha, ntirutegetswe kugendera ku nyito yatanze n'abaturanyi, ndetse amasezerano y'u Rwanda n'u Buholandi yarubahirijwe kuko urukiko rwagaragaje ku buryo busobanutse ko nta kundi icyo cyaha cy'ubugambanyi mu cyaha cyo kugirira nabi ubutegetsi buriho cyagombaga gukorwa hadakoreshejwe iterabwoba n'intambara. Uko urukiko rubibona [72] Nk'uko bigaragara mu nyandiko yahinduwe mu

rurimi rw'igifaransa, urukiko rwa Rotterdam mu Buholandi rwasuzumye niba inyandiko zafatiwe mu rugo rwa Ingabire n'inzego z'umutekano z'icyo gihugu zishobora kwohererezwa u Rwanda mu rwego rw'ubufatanye bwari kwasabwemo n'Ubushinjacyaha bw'u Rwanda. [73] Urwo rukiko mu cyemezo cyarwo rwavuze ko rusuzuma gusa inyandiko zafashwe mu rugo rwa Ingabire ku bijyanye n'ibyo akekwa by'ubufatanyacyaha mu cyaha cy'iterabwoba. Rwasanze inyandiko zahawe inyuguti za A, D na E zakwohererezwa mu Rwanda kuko arizo zishobora kuba zifitanye isano n'icyaha cy'ubufatanyacyaha mu cyaha cy'iterabwoba gihanwa n'amategeko y'ibihugu byombi harebwe amategeko akubiye mu gitabo cy'amategeko ahana ibyaha cy'u Buholandi n'itegeko ry'u Rwanda n°45/2008 ryo kuwa 09/09/2008 ryerekeye kurwanya iterabwoba. [74] Inzego z'ubuyobozi zibishinzwe mu Buholandi n'u Rwanda zumvikanye ko ibimenyetso byahawe inyuguti za A, D na E bizakoreshejwe gusa mu cyaha cy'ubufatanyacyaha mu cyaha cy'iterabwoba, hasuzumwa ibikorwa byo gutera inkunga iterabwoba (suspicion of financing terrorism). [75] Nk'uko bigaragara ariko mu nyandiko y'urubanza rwaciye n'Urukiko Rukuru, ibimenyetso byahawe inyuguti za A, D na E byasuzumwe mu bijyanye n'icyaha cyo kugirira nabi ubutegetsi buriho giteganywa n'ingingo ya 164 y'igitabo cy'amategeko ahana ibyaha cyariho, gitandukanye n'icyaha cy'iterabwoba cyateganywaga n'itegeko n° 45/2008 ryo kuwa 09/09/2008 ryerekeye kurwanya iterabwoba. [76] Urukiko rusanga no mu gitabo gishya cy'amategeko ahana ibyaha, bigaragara ko nubwo ibyo byaha bifite aho bihuriye, bikaba byombi ari ibyaha bikorerwa Leta (infractions contre la sûreté de l'Etat), bitandukanye muri kamere yabyo kuko biteganywa kandi bigahanwa n'amategeko atandukanye. [77] Urukiko rusanga rero ibyo bimenyetso byahawe inyuguti za A, D na E byarakoreshejwe mu cyaha bitari bigenewe gukoreshwamo, bikaba bitagomba kwitabwaho mu gusuzuma niba

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icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi gihama cyangwa kidahama Ingabire, imiburanire ye ku bijyanye n'ibi bimenyetso ikaba ifite ishingiro.

- v. Kumenya niba amakuru yatanze na Habimana Michel na AA yerekana ko abaregwa hamwe na Ingabire bamushinje ibinyoma babisabwemo n'inzego z'iperereza. Imvugo ya Habimana Michel [78] Ingabire n'abamwunganira bavuye ko Urukiko Rukuru rwihutiye gutesha agaciro rutayasuzumye amakuru yatanze na Habimana Michel wari Lt Colonel muri FDLR/FOCA n'umuvugizi wayo, akaba yaratahiye rimwe na Uwumuremyi igihe cya operation Umoja Wetu, hanyuma bagafungirwa hamwe i Kami aho babanaga mu cyumba, kuko ayo makuru yahungabanyaga ibimenyetso ikirego cy'Ubushinjacyaha gishingiyeho. [79] Basobanura ko Habimana Michel yagaragaje ko bakiri i Kami abantu bo mu nzego z'iperereza bababwiye ko nibashinje Ingabire ko yakoranye nabo muri FDLR byabafasha bagafungurwa, Uwumuremyi arabyemera, we arabyanga, bikaba byumvikanisha ko ibyo Uwumuremyi Vital yavuze byose byerekeranye n'imikoranire ye na Ingabire mu gushinga umutwe w'ingabo atari ukuri, ahubwo ari ibyahimbwe n'inzego z'iperereza hagamijwe gusa ko afungwa. [80] Bavuye kandi ko ayo makuru yumvikanisha impamvu mu kwezi kwa 02/2010 Ingabire yabajijwe mu Bugenzacyaha amakuru kuri za e-mail ngo yandikira na

Uwumuremyi na Nditurende mu gihe bari batarazibazwaho kuko Nditurende yabajijwe bwa mbere mu kwezi kwa 04/2010, Uwumuremyi abazwa bwa mbere mu kwezi kwa 10/2010, ndetse bikanumvikanisha impamvu batashoboraga kumwerekana ibimenyetso bashingiragaho bamubaza ibijyanye no kurema umutwe w'ingabo kuko ibyo bimenyetso byari bigicurwa, bihuzwa n'imvugo ye, ndetse n'ingendo yakoreye muri Congo. [81] Ubushinjacyaha buvuga ko amakuru yatanze na Habimana atirengagijwe, ahubwo Urukiko Rukuru rwasobanuye ko ibimenyetso Ingabire n'abamwunganira batanze (birimo n'imvugo ya Habimana Michel) bashakira kugaragaza ko ibikorwa aregwa bitabayeho, nta shingiro bifite. [82] Buvuga kandi ko byagaragaye mu gihe cy'ibazwa rya Habimana mu Rukiko Rukuru ko yaje mu rubanza yabwiye ibyo azabazwaho n'ibyo azasubiza, ari nayo mpamvu yageze aho agasubiza ikibazo atari yabajijwe cyari ku rutonde rw'ibibazo abunganira Ingabire bari bateguye kubaza ariko urukiko rukaba rwari rwanze ko kibazwa, nyamara icyo gihe hafatwa icyo cyemezo Habimana akaba yari yahejwe ategereje guhamagarwa ngo atange ubuhamya bwe. [83] Buvuga ko kuba yari yateguwe byavuguruye ibyo Ingabire n'abamwunganira bavugaga ko bamutanzeho umutangabuhamya batamuzi, batarigeze babonana cyangwa banavugana nawe kuko bari baramubonye ari kumwe na Uwumuremyi ku ifoto yasohotse mu kinyamakuru Imvaho ubwo bari batahutse bafatiwe muri operation Umoja Wetu, bakumva ko hari amakuru afite kuri Uwumuremyi yagirira akamaro urukiko.

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- [84] Buvuga kandi ko bimaze gutahurwa ko Habimana yateguwe ku byo azabwira urukiko, Ubushinjacyaha bwakoze inyandiko zo kumusaka muri gereza, hafatwa impapuro yari yaranditseho amakuru yose yabwiye urukiko arebana na Uwumuremyi, Urukiko Rukuru rusanga zanditse mu buryo buhuye neza n'uko Maitre Gatera Gashabana yari yateguye ibibazo byo kumubaza. imvugo ya AA [85] AA mu ibaruwa yandikiye Urukiko Rukuru yavugaga ko muri 2009, ubwo yari i Mutobo ahakorerwa ingando z'abasirikare bitandukanyije n'abacengezi, mu nzu yarimo haje abagabo 3 baturutse i Kigali bahamagawe n'uwitwa Angelus wahakoraga, bahamagara PPU (ariwe Uwumuremyi) doyen w'ikosi ya 25, bamubwira ko bamubonye akazi, bamutegeka kuzajya avuga ko Ingabire afasha FDLR kugira ngo izatere u Rwanda, arabemerera, bamuhemba sheki ya 300.000 Frw, bahita bamukura ku ipeti rya Capitaine yari afite aho muri Congo, bamugira Majoro, banamubwira ko azashakira abandi bazakorana akazi bamuhaye. Yavugaga kandi ko niba hari icyo yibagiye Uwumuremyi na Angelus bamwunganira. [86] Mu buhamya yatangiye muri uru rukiko, yavuze ko atuye mu Karere ka Musanze, Umurenge wa Gataraga, Akagari ka Rubindi, Umudugudu wa Gataraga kuva muri 2007, ariko ko yajyaga i Mutobo rimwe na rimwe agiye gusura umuntu wahabaga. Yasubiyemo ibyo yanditse mu ibaruwa yavuzwe usibye ko yongeyeho ko mbere yo kumuha akazi, abahamagaye Uwumuremyi bamweretse ifoto yari ku kinyamakuru, barangije bamubaza niba azi umuntu uri kuri icyo foto, ntiyahita amumenya, yumva asomye izina rya Ingabire, amaze kurisoma bamubwira ko uwo muntu agiye kuzaza mu Rwanda, bamubaza niba bamuha akazi akazavugaga ko yafashaga FDLR. [87] Mu bisubizo yatanze ku bibazo yabajijwe n'ababuranyi ndetse n'Urukiko, yavuze ko inzu ibyo

avuga byabereyemo yari ifite icyumba na salon n'akandi kumba gafite umuryango usohokera hanze, ikaba yari ifite n'ibindi byumba nabyo byasohokeraga hanze byarimo abandi bantu icyo gihe bageraga ku munani nabo bumvise ubutumwa bwahawe Uwumuremyi cyangwa babibwiwe n'ababyumvise kuko aba bagendaga babibwira abandi, ariko ko atibuka amazina yabo. [88] Ku bijyanye no kumenya niba abahaye Uwumuremyi ubutumwa bwo kuzashinja Ingabire bari bazi ko abumva, yavuze ko bari babizi kuko bamubonaga ava mu cyumba ajya mu ruganiriro, akongera akajya mu cyumba, ndetse ko bari bazi ko n'abari mu byumba byo haruguru bashoboraga kubumva. [89] Ku kibazo cyo kumenya itariki n'ukwezi ibyo avuga byabereyeho, yasubije ko atabyibuka ariko ko hari ku munsu wa kane, uwo munsu akaba awibuka kubera ko buri wa gatanu bagemuraga inyama, bakaba bari bamaze gukora commande yazo kuri uwo munsu wa kane. [90] Ku kibazo cyo kumenya niba umunsu abagabo batatu bahamagawe na Angelus ari nawo baziye, ntacyo yasubije, ahubwo yavuze ko Avoka wamubajije icyo kibazo yazacyibariza Rwamamara Angelus.

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- [91] Ku bijyanye n'umubare w'abantu baje kureba Uwumuremyi bakamuha akazi, yavuze ko abaje bava i Kigali bari babiri na Rwamamara Angelus wa gatatu. Ku bijyanye n'ukuntu yamenye aho bavuye, yavuze ko yumvise Angelus ababaza ngo "mwavuye i Kigali ryari?" [92] Ku kibazo cyo kumenya niba yari asanzwe azi Uwumuremyi, yavuze ko nta kuntu yari kuba atamuzi kandi barabanaga muri icyo kigo. ("ubu se umuntu twabanaga aho mu gipangu nari kuba ntamuzi gute?" "). [93] Ku bijyanye n'impamvu yatumye yandikira Urukiko Rukuru asaba gutanga ubuhamya, yavuze ko yashatsweho amakuru na Me Gatera Gashabana nko mu kwezi kwa 03/2010 amuhamagaye kuri telefone yari yarasigaranye y'undi muntu, amwitabye amubwira ko akora mu rukiko, amubaza amakuru y'uwo muntu yari afitiye telefone, amubaza n'uwari doyen wa kosi ya 25, amubwira ko yari Uwumuremyi, amubaza uburyo yaba amuzi, noneho amusaba ko babonana, baturira mu Byangabo. Yongeyeho ko yabonaga Me Gatera Gashabana amubaza ibintu asanzwe azi ko byabereye mu nzu yari arimo, kandi koamaze kumuha amakuru kubyo yabonye, yamusabye ko yabyandika, arabikora, inyandiko ayimusangisha ku cyicaro cy'Urukiko Rukuru. [94] Yavuze nanone ko amaze gushakwaho amakuru na Me Gatera Gashabana yahamagaye kuri telefone umuyobozi w'ikigo cya Mutobo amugisha inama, uyu amusubiza amubwira ngo ntihagire umutera ubwoba, ngo kandi niba abona ari ngombwa asubize ibyo amubaza. [95] Ku bijyanye no kumenya niba usibye Me Gatera Gashabana haba hari abandi bantu bamuhamagaye bamubaza kuri dosiye ya Ingabire, yavuze ko ntabwo. [96] Ku kibazo cyo kumenya uburyo yashoboye kumenyeshwa ko ashakwaho ubuhamya muri uru rukiko bitanyuze kuri adrese na telefoni yatanze mu nyandiko ze, yavuze ko abunganira Ingabire bamutumyeho inshuti ye yitwa Mama Zuzu atazi izina nyakuri. Ku bijyanye n'ukuntu bamenye ko uwo Mama Zuzu ari inshuti ye, yavuze ko bagendanye igihe kirekire kandi ko umuntu wese wamubonaga yamubazaga amakuru ye. [97] Ku bijyanye na sheki avuga ko Uwumuremyi yahawe, yavuze ko bayimuhaye areba, yongera no kuyibona bari hepfo y'inzu

Uwumuremyi ayereka mugenzi we, anamubwira amafaranga bamuhaye, ariko ko atitaye kumenya uwo konti yari yanditseho kuko yabonaga bitamureba, naho ku bijyanye n'uwo Uwumuremyi yeretse sheki bamuhaye, yavuze ko atamwibuka. [98] Ku kibazo cyo kumenya uburyo Uwumuremyi yahawe ipeti rya Majoro, yasubije ko iryo peti ataryinjiranye mu bitabo bya Mutobo, ko aho mu nzu yarimo ariho abamuhaye ubutumwa bwo kuzashinja Ingabire bamubwiye ko guhera ubwo azajye avuga ko ari Majoro. [99] Ku bijyanye n'akazi Rwamamara Angelus yakoraga mu Kigo cya Mutobo, yavuze ko yashakaga amakuru, ndetse ko yakoreraga "DMI". Imvugo ya Rwamamara Angelus n'iya Musonera Franck

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- [100] Rwamamara Angelus mu buhamya bwe yavuze ko ari umusirikare ufite ipeti rya Sergeant, ushinze umutekano mu kigo cya Mutobo kuva muri 2008. icyemezo cy'akazi cyatanze na MINADEF kivuga ko ari umusirikare wo mu Ngabo zirwanira ku butaka (Land Forces), ubarizwa muri Diviziyo ya kabiri (2 div.), Brigade ya 305, akaba ashinze umutekano ku kigo cya Mutobo gishinzwe gusubiza mu buzima busanzwe abitandukanyije n'abacengezi.
- [101] Yavuze ko azi Uwumuremyi nk'umuntu wari doyen w'ikosi rya 33 (yari yabanje kuvuga ikosi rya 34 nyuma arabikosora) ariko ko atigeze avugana nawe mu buryo bwihariye, ndetse ko azi umutangabuhamya AA kuko yamubonaga mu kigo rimwe na rimwe aje gusura umuntu wahabaga, ariko ko ntacyo bahuriragaho usibye ko nyuma umuntu wo mu muryango we yaje gufungwa akajya avuga ko ariwe wamufungishije. Yavuze kandi ko nta mpamvu yari kujyana abashyitsi mu nzu adaturyemo kandi yari afite aho atuye mu kigo cya Mutobo.
- [102] Ku kibazo cyo kumenya niba mu kazi yari ashinze harimo icyo gushakisha amakuru, yavuze ko nk'umuntu ushinze umutekano wa Mutobo agomba kumenya amakuru y'aho hantu. Abajijwe niba muri ako kazi ashinze hari ibyo yashoboraga kumenya by'ibanga adashobora kuvugaho abibajijwe, yavuze ko nta mabanga yigeze yumva mu kazi k'umutekano yari ashinze.
- [103] Musonera Franck nawe mu buhamya bwe yavuze ko ayobora ikigo cya Mutobo guhera muri 2001, ko Uwumuremyi yinjiranye mu kigo ipeti rya Majoro, ko Rwamamara Angelus ari umwe mu basirikare bacunga umutekano muri icyo kigo, ko servisi ishinze umutekano itabarirwa muri Komisiyo ya Demobilisation, ko AA amuzi kuko yamubonaga mu kigo aje gusura umuntu wahabaga, ndetse ko na nyuma yaje no kumureba nk' inshuro ebyiri akurikiranye ikibazo cy'umuntu wo mu muryango we wari warafunze.
- [104] Yabajijwe niba AA yarigeze amuhamagara kuri telefone ku mpamvu iyo ariyo yose, avuga ko yamuhamagaye amusaba kumufasha kuko hari umuntu we wafungishijwe n'umwe mu bakora mu kigo cya Mutobo ariwe Rwamamara Angelus, nyuma aza no kumureba azanywe n'iyi dosiye, amubwira ko akurikije ibyo azi ku wafungishije uwo muntu bidahuye n'ibyo yamubwiye.

- [105] Yabajijwe niba AA yarigeze amugisha inama ku birebana n'amakuru yaba yarasabwe kuri Uwumuremyi Vital, avuga ko ntacyo yigeze amubwira gifitanye isano n'ibyo ngibyo. Ibyavuye mu iperereza ryakozwe ku mutangabuhamya AA
- [106] Nyuma y'aho umutangabuhamya AA amariye gutanga ubuhamya imbere y'urukiko, ndetse akagira n'ibisobanuro atanga, Ubushinjacyaha bwashyize urukiko uburenganzira bwo gukora iperereza ku byo yavuze kuko busanga hari byinshi biteye urujijo mu mvugo ze, Urukiko rwemeza ko rikorwa ariko mu buryo butabangamiye icyemezo cyarwo kijyanye n'umutekano w'umutangabuhamya.
- [107] Mu iburanisha ryo kuwa 17/06/2013, Ubushinjacyaha bwatanze raporo y'ibyavuye muri iryo perereza. Bwavuze ko iperereza ryagaragaje ko AA adatuye mu Ntara y'Amajyaruguru nk'uko abivuga, ndetse ko atazwi aho yavuze ko atuye, akaba ahubwo atuye i Kigali kuva kera kuko aho atuye ari aho yahawe n'ababyeyi be, akaba ari naho yafatiye indangamuntu. Bwavuze

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- kandi ko iperereza ryagaragaje ko uwo AA yita inshuti ye y'amagara "Mama Zuzu" ari Alice Muhirwa, umubitsi w'ishyamba FDU-Inkingi kandi ko bavuganye kuri telefone inshuro nibura 4 kuwa 18/04/2012 kuri numero imwe mu zagenzuwe n'inshuro nibura 70 kuwa kuwa 07/04 kugera kuwa 18/04/2012 ku yindi numero mu zagenzuwe. Ibyo ababuranyi bavugaga ku buhamya bwa AA
- [108] Ubwunganizi bwa Ingabire buvugaga ko AA yagaragaje ko nta nyungu afite muri uru rubanza kuko ntaho ahuriye na Ingabire n'ishyamba rye kandi ntacyo apfa na Uwumuremyi, ndetse ko yatanze ubuhamya bwe aza uburemere bwabwo n'ingaruka bushobora kugira ku mibanire ye mu muryango no ku mutekano we muri rusange, ko rero yari agamije gusa inyungu z'ubutabera.
- [109] Buvugaga kandi ko ubuhamya bwa AA bukwiye guhabwa agaciro kuko ari Rwamamara Angelus, ari Musonera Franck, bombi bemeza ko bamuzi kandi bamubonaga i Mutobo, ndetse ko uburyo yasobanuye inzu yabagamo, imiterere yayo n'abayibagamo bihuye n'ukuri, ibyo bikaba bigaragaza ko avugaga ibyo aza yahagazeho nubwo yibeshye kuri promotion Uwumuremyi yabagamo, akavugaga iya 24 kandi ari iya 33, ariko ko iryo kosa ntacyo ryangiza ku buhamya bwe muri rusange, cyane ko na Angelus nawe yabanye kwibeshya avugaga ikosa ya 34 usibye ko nyuma yaje kwikosora. Bwavuze kandi ko kwibeshya ku ipeti Uwumuremyi yari afite ari agakosa gato kadafite uburemere.
- [110] Buvugaga ko uburyo AA yasubizaga asaba Uwumuremyi na Rwamamara kumwunganira kuko bari bahari ibikorwa atangiraho ubuhamya biba, bigaragaza ko ari umuntu "innocent", udahimba inkuru, kuko icyo aza kuba ahimba atari kubitabaza ngo bamufashe gusubiza ibibazo abazwa.
- [111] Ku birebana n'uko yaba yarabeshye kuri adrese ye, buvugaga ko ibyo bitatesha agaciro ubuhamya bwe kuko yabitewe n'ubwoba yari afite ko abo mu muryango we bamenya ko yatanze ubuhamya muri uru rubanza.

- [112] Buvuga ko AA mu buhamya bwe asobanura uburyo Uwumuremyi Vital yahawe misiyo yo gushinja Ingabire ubwo uyu yari amaze gutangaza ko agiye gutaha mu Rwanda kwiyamamariza umwanya wa Perezida wa Repubulika, kandi ko ashimangira ibyavuzwe na Habimana Michel ko Uwumuremyi na Ingabire batari barigeze bahura cyangwa bavugana, akaba agaragaza impamvu Ingabire yabazwaga mu kwezi kwa 02/2010 amakuru Ubushinjacyaha budashobora kugaragaza aho bwayavanye kuko abo baregwa hamwe batari bakayabajijweho .
- [113] Buvuga kandi ko nta gitangaza ko abantu bo mu nzego z'iperereza "DMI" bavuga ibintu bikomeye nk'ibyo babwiraga Uwumuremyi bazi ko AA abumva, kuko bamufataga nk'umuntu utagize icyo avuze, cyane ko aho hantu bari bicaye baganira ariho AA yabaga igihe yabaga ari i Mutobo.
- [114] Ku bijyanye n'ubuhamya bwa Rwamamara Angelus, buvuga ko bidatangaje ko yanze kwemeza ibyavuzwe na AA kuko byafatwa nk'aho yaba ashaka kugambanira Leta kandi ari ibintu by'ibanga (secret d'Etat) adashobora kuvuga, kuko nk'umusirikare aba afite ibyo agomba kubahiriza, yaba atabyubahirije akaba yahabwa ibihano bikomeye.

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- [115] Ingabire avuga ko ubuhamya bwa AA bushimangira ibyo yagaragarije urukiko ku bijyanye n'uburyo abo baregwa hamwe bagiyeye binjizwa mu rubanza, ndetse ko n'Ubushinjacyaha igihe bwireguraga ku bujirire bwe, bwiye mereye ko amakuru ku byaha aregwa bwayahawe n'inzego z'iperereza. [116] Avuga kandi ko kuba Angelus ahakana ibivugwa na AA byumvikana kuko birebana no guhimbira ibintu umuntu utavugaga rumwe na Leta iriho, waje kwiyamamariza umwanya wa Perezida wa Repubulika, akaba atazi umukozi wa Leta wahagarara imbere y'abantu ngo avuge ko ibyo aregwa ari ibintu byahimbwe.
- [117] Ku bijyanye n'ibyavuzwe n'Ubushinjacyaha ko AA yabeshye ko nta contact afitanye n'abantu ba FDU-Inkingi, avuga ko AA atigeze abazwa icyo kibazo, ahubwo yabajijwe ngo "usibye Me Gatera Gashabana waguhamagaye bakubaza dosiye ya Ingabire, haba hari abandi baguhamagaye bayikubaza", asubiza ko ntabwo.
- [118] Ku bijyanye n'uko AA yaba yaravuganye inshuro nibura 70 n'umubitsi w'ishyamba FDU-Inkingi Alice Muhirwa hagati yo kuwa 07/04 no kuwa 18/04/2012, avuga ko nawe yibajije icyo bavuganaga izo nshuro zose, ariko ko icyo urebye raporo ya MTN, usanga "appel" imwe igarukamo kenshi, ahandi ugasanga hatagaragazwa umunara bavuganiyeho.
- [119] Uwumuremyi avuga ko umutangabuhamya AA amuzi kubera ko yazaga mu kigo cya Mutobo aje gusura umuntu wahakoraga ariko ko batigeze baganira cyangwa ngo amusange aho yari acumbitse mu kigo.

- [120] Avuga ko ubuhamya bwa AA bugaragaza ku ruhande rwa Ingabire n'abamwunganira ugushakisha ibitarigeze bibaho, bakaba bashaka ukuntu babihuza n'ibyabayeho iyo bavuga ko uburyo umutangabuhamya AA yasobanuye inzu yabagamo bihura n'uko Angelus yayivuze, kandi ikibazo atari icyo kumenya niba AA atarahabaye cyangwa atarageze mu kigo cya Mutobo, ahubwo ikibazo ari icyo kumenya niba ibyo avuga byarabayeho cyangwa bitarabayeho.
- [121] Avuga ko hari byinshi bikemangwa mu buhamya bwa AA, nko kuba avuga ko yumvise bamusaba kuzashinja Ingabire, akavuga umwaka n'umunsi byabereyeho, ariko ntashobore kuvuga ukwezi byaba byarabereyeho; kuba avuga ko bahaye Uwumuremyi sheki ya 300.000 frw yo muri banki ya CSS areba, ariko ntashobore kugaragaza umuntu yari yanditseho, ndetse no kuba yemeza ko ipeti rya Majoro yariboneye muri salon ye areba.
- [122] Ku bijyanye by'umwihariko n'ipeti yari afite akiri i Mutobo, avuga ko ibyo AA avuga ari ibintu bidashoboka kubera ko amapeti ya gisirikare afite uburyo atangwamo naho atangirwa. Akomeza avuga ko mu kinyamakuru Imvaho cyo kuwa 16 kugera kuwa 18/02/2009, hasohotse inkuru y'itahuka ry'abasirikare ba FDLR bari bafatiwe kuri Goma muri operation Umoja wetu, iriho n'ifoto y'abatahutse, munsi yayo hakaba handitse ngo "abitandukanyije na FDLR uturutse i bumoso ni Majoro Uwumuremyi Vital uzwi ku izina rya Muhindu Muhima Dieudonné cyangwa Katumba Pepe PPU, Lt col Habimana Michel na Capt Nkeramihigo Cosma ", iyo nkuru ikaba yaranditswe mu kwezi kwa kabiri ataramenya aho ikigo cya Mutobo giherereye, bivuze rero ko ipeti rya Majoro atariherewe i Mutobo nk'uko AA yabyemeje. [123] Avuga kandi ko na Lt Colonel Habimana Michel ubwe ubwo yabazwaga mu Rukiko Rukuru ikibazo kijyanye n'ipeti yari afite, yavuze ko igihe bari ku Gisenyi tariki ya 12/04/2009

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bamaze gufatirwa muri operation Umoja Wetu n'igihe bari i Kami aho bari bafungiwe, yumvaga avuga ko ari Majoro, nyamara icyo gihe yari atarajya mu ngando ya Mutobo ngo abe ariho aherwa iryo peti.

- [124] Avuga ko Ingabire n'abamwunganira badasobanura impamvu niba yari yemeye kuzashinja Ingabire akazashaka n'abamufasha, nk'umuntu wari umaze kubona igihembo afite n'amafaranga ari na doyen wa kosi, ayoboye abantu 304, yabuzemo nibura icumi bamufasha ako kazi yari amaze guhabwa.
- [125] Avuga nanone ko badasobanura impamvu niba bemera ibyo Lt Colonel Habimana Michel yavuze ko ubwo bari i Kami abashinzwe iperereza bamusabye kuzashinja Ingabire, akabyemera, bari kongera bakamusanga i Mutobo kumusaba gukora akazi bari bamusabye mbere.

- [126] Umwunganizi wa Uwumuremyi nawe avuga ko AA yabeshye ku bintu byinshi birimo aho abarizwa, impamvu yatumye asaba gutanga ubuhamya, kuba yarahuriye na Me Gatera Gashabana mu Byangabo, kuba yaragishije inama Musonera Franck, no kuba avuga ko Uwumuremyi yahawe ipeti rya Majoro areba.
- [127] Avuga nanone ko AA yibeshye avuga ko Uwumuremyi yari mu ikosi ya 25 kandi yari mu ya 33, uko kwibeshya kukaba kugaragaza ko avuga ibyo atazi, akaba ahubwo asubira mu byo yasabwe kuvuga.
- [128] Umwunganizi wa Nditurende nawe avuga ko iyo arebye amatariki AA yabonaniyeho na Me Gatera Gashabana, akayahuza n'ibyavuye mu iperereza ryakozwe n'Ubushinjacyaha, cyane cyane inshuro zigera kuri 70 yahamagawe kuri telefone na Mama Zuzu, ariwe Muhirwa Alice, umubitsi w'ishyamba FDU-Inkingi wakurikiranye uru rubanza kuva ku itariki ya mbere uru rubanza rutangira kugeza igihe raporo y'Ubushinjacyaha ku iperereza bwakoze yasohotse, akabihuza n'itariki AA yandikiye Urukiko Rukuru, akabihuza n'uburyo ahuzagurika mu buhamya bwe, asanga nta gushidikanya ko yabaye kuri "pression" y'ubwunganizi bwa Ingabire kugira ngo atange ubuhamya.
- [129] Avuga nanone ko iyo arebye ukuntu AA ahuzagurika mu buhamya bwe, akabihuza n'ibyo amaze kuvuga, asanga abamushatse aribo bamubwiye ibyo azavugaga cyangwa se ko hari umuntu wahimbye inkuru, maze bashaka undi uzayivugaga.
- [130] Anavugaga ko usibye gushyamba guhuza ibintu, nta mpamvu abantu bahitamo kuganira amabanga akomeye hagati y'abantu benshi bitarebwa, kuri we akaba asanga AA yarahisemo kuvugaga ko byabereye mu nzu yarimo kuko ariyo yonyine yashoboraga kwinjiramo muri icyo kigo. [131] Avuga nanone ko AA abeshya ku bintu byinshi, ingero yatanga akaba ari aho avugaga ko Uwumuremyi yaherewe ipeti rya Majoro muri salon ye kandi bidashoboka ko ipeti ryatangwa muri ubwo buryo; aho avugaga ko yabonye sheki bamuhaye, akabona umubare w'amafaranga n'izina rya banki, ariko ntashobore kumenya uwari uyanditseho, ndetse n'aho avugaga ko yahamagaye Musonera Franck kuri telefone amugisha inama, nyamara uyu mu buhamya bwe akaba abihakana.

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- [132] Ku kibazo Urukiko rwamubajije cyo kumenya icyo byaba bitwaye bigaragaye ko AA yashatswe n'abunganira Ingabire, avugaga ko ikibazo gihari ari uko bavuze ko atari bo bamushatse, ko AA nk'umuturage mwiza ariwe wibwirije gutanga amakuru amaze kumva kuri radiyo inkuru y'urubanza rwa Ingabire, akaba asanga ibyo ari ukubeshya urukiko kuko bari bakwiye kuvugaga ko aribo bamushatse.
- [133] Ubushinjacyaha nabwo buvugaga ko ubuhamya bwa AA budakwiye guhabwa agaciro kubera impamvu zikurikira: yabeshye ko atuye mu Majyaruguru, iperereza riza kugaragaza ko atuye i Kigali kuva kera, akaba ari naho yafatiye indangamuntu; yanze gutanga amazina y'uwo yita Mama Zuzu avugaga ko bagendanye igihe kinini, iperereza riza kugaragaza ko ari Muhirwa Alice, akaba yari umubitsi wa FDU-Inkingi; yahishe urukiko haba mu mabarurwa

ye, haba mu buhamya bwe, ko afite icyo apfa na Rwamamara Angelus; yanze kugaragaza ko yasabwe gutanga ubuhamya kandi raporo ya MTN igaragaza ko yavuganye kuri telefone na Muhirwa Alice inshuro zigera kuri 70 hagati yo kuwa 07/04/2012 no kuwa 18/04/2012, ayo matariki akaba ari ayabanjirije akanakurikira gato itariki yandikiye akanashyikiriza Urukiko Rukuru ibaruwa isaba kuba umutangabuhamya ushinjura mu rubanza rwa Ingabire; yarivugurujye kuko yabanje kuvuga ko ari we wibwirije gutanga ubuhamya amaze kumva amakuru y'urubanza kuri radiyo BBC, ariko bukeye bwaho agarutse imbere y'urukiko noneho avuga ko ari Me Gatera Gashabana wamushatse, baturira mu Byangabo, amubaza amakuru yari asanzwe azi yashakiraga gihamya; yarivugurujye nanone ku bijyanye n'abagabo baturutse i Kigali ngo bahamagawe na Angelus kureba Uwumuremyi, kuko mu ibaruwa yo kuwa 10/04/2010 yandikiye Urukiko Rukuru yavugaga ko bari batatu, ariko imbere y'Urukiko rw' Ikirenga yavuze ko bari babiri na Angelus wa gatatu; yaribeshye kabiri kose kuri promotion ya Uwumuremyi kuko mu ibaruwa yandikiye Urukiko Rukuru no mu mvugo ye imbere y'Urukiko rw'Ikirenga avuga ko yabaga mu ikosi ya 25 kandi yarabaga mu ya 33. [134] Buvuga kandi ko ubuhamya bwa AA butagomba guhabwa agaciro kuko atabashije kuvuga nibura umuntu umwe mu bantu umunani bari mu nzu avuga ko yabereyemo ikiganiro kirebana no kuzashinja Ingabire, kugira ngo urukiko rushatse kugenzura ukuri kw'ibyo avuga byabaye rube rwabona aho ruhera rubikora; ntiyabashije no gusobanura umubano cyangwa imikoranire yari afitanye na Angelus ku buryo uyu yari guhamagara abantu b'i Kigali ngo baze bafatanye na Uwumuremyi kugambanira Ingabire, akabikora azi ko AA yumva; ntiyabashije kugaragariza urukiko uburyo yamenye ko Uwumuremyi yinjiye mu kigo cya Mutobo afite irindi peti ritari irya Majoro ngo anarigaragaze; ntiyabashije no gusobanurira urukiko uwo sheki avuga yahawe Uwumuremyi yari yanditseho uretse kuvuga ko yumvaga bitamureba.

- [135] Buvuga nanone ko kuba abatangahamya bombi ba Ingabire aribo AA na Habimana Michel bemeza ko Uwumuremyi atigeze aba Majoro nta kimenyetso na kimwe babitangira, bigaragaza ko ari ibintu bahimbye cyangwa babanje kwigishwa.

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- [136] Buvuga ko no kuba AA avuga ko Uwumuremyi atari azi Ingabire igihe yahabwaga akazi ko kumushinja bigaragaza ko ibyo avuga ari ibintu bamwigishije kuko nk'uko abiyemerera ari ibyo yakuye mu isesengura yikoreye ubwe.
- [137] Ku bijyanye n'urwego rw'akazi Rwamamara Angelus akoramo, buvuga ko icyemezo cyatanze na MINADEF kivugururira ikinyoma cyahimbwe ko yakoreraga inzego z'iperereza, ibi nabyo bikaba bigaragaza ko ubuhamya bwa AA nta kuri kurimo, ahubwo yabwiwe ibyo agomba kuvuga.

- [138] Ku birebana n'ibyo ubwunganizi bwa Ingabire buvuga ko Angelus aramutse yemeje ibivugwa na AA yaba amennye ibanga, akaba yabihanirwa nk'umuntu ugambaniye Leta, Ubushinjacyaha buvuga ko butumva icyo bwita ibanga kuko inshingano za Angelus ari ukurinda umutekano, ko niyo atavuga uburyo awucunga bitamubuza kuvuga ibyo yabonye cyangwa yumvise. Uko urukiko rubibona
- [139] Ikibazo gisuzumwa ni icyo kumenya agaciro kagomba guhabwa amakuru yatanze na Habimana Michel na AA harebwe ibiteganywa n'amategeko n'ubumenyi bafite ku bijyanye n'ibikorwa batangaho amakuru.
- [140] Urukiko rusanga ubuhamya bwa Habimana n'ubwa AA, bwombi bugamiye kugaragaza ko inzego z'iperereza za gisirikare zahimbiye Ingabire ibyaha kuko Habimana avuga ko bakiri i Kami Uwumuremyi yamubwiye ko yasabwe n' inzego z'iperereza gushinja Ingabire ko yakoranaga na FDLR, arabyemera, AA nawe akavuga ko bari i Mutobo yumvise Uwumuremyi asabwa kuzashinja Ingabire ko yakoranaga na FDLR, arabyemera.
- [141] Ku bijyanye na Habimana wakatiwe igihano cy'igifungo cya burundu, nk'uko byemejwe n'Urukiko Rukuru, amakuru yatanze muri urwo rukiko yagombaga kunganirwa n'ibindi bimenyetso kugira ngo abe yafatwaho ukuri kuko ingingo ya 63 y'Itegeko n° 15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga mu gace kayo ka gatatu ko amakuru atanzwe n'abantu badafite ubushobozi bwo kuba abatangabuhamya mu nkiko, agomba kunganirwa n'ibindi bimenyetso. [142] Urukiko rusanga rero nta kosa Urukiko Rukuru rwakoze ryo kudaha agaciro imvugo ya Habimana kuko igihe urubanza rwaburanwaga muri urwo rukiko, nta bindi bimenyetso byari byasuzumwe byunganiragaga imvugo ye nk'uko itegeko ribisaba, ariko imvugo ye ikwiye kongera gusuzumwa harebwa niba noneho yafatwaho ukuri kuko yunganiwe n'iya AA wumviswe bwa mbere mu bujirire.
- [143] Ku bijyanye n'ibigomba gushingirwaho mu gusuzuma agaciro kagomba guhabwa ubuhamya bwa AA, ingingo ya 62 y'itegeko n° 15/2004 ryo kuwa 19/07/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga ko ubuhamya ari amagambo avugirwa mu rukiko kubyo umuntu yabonye cyangwa yumvise ubwe ku byerekeye ikiburanwa, naho ingingo ya 65 y'iryo tegeko ikavuga ko urukiko arirwo rupima ko imikirize y'abatangabuhamya ihuye n'ikiburanwa, ifite ingingo zikiranuye kandi ikaba ikwiye kwemerwa cyangwa guhakanwa.

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Ntirwitsitsa ku mubare w'abatangabuhamya, rwita cyane cyane ku bumenyi bwabo bw'ibyabaye, no ku buryo bavuga uko byagenze ntacyo bahimba.

- [144] Izo ngingo zumvikanisha ko mu gusuzuma agaciro kagomba guhabwa ubuhamya, Urukiko rugomba gusuzuma niba umutangabuhamya avuga ibyo yabonye cyangwa yumvise ubwe, uko yamenye amakuru atangaho ubuhamya, uko abisobanura, ubushobozi bwe bwo kwibuka n'ubwigenge bwe.

- [145] Ku bijyanye rero n'ubuhamya bwa AA, abunganira Ingabire bavuga ko imvugo ye ishimangira iya Habimana Michel kuko bombi bemeza ko Uwumuremyi yaguzwe n'inzego z'iperereza za gisirikare kugira ngo ashinje Ingabire ibinyoma, bukaba bugomba gufatwaho ukuri kuko nta nyungu afite muri uru rubanza, akaba avuga ibyo yabonye cyangwa yiyumviye ubwe ntacyo ahimba, naho Ubushinjacyaha ndetse n'abo baregwa hamwe, bo bakavuga ko yabeshye kuri adresi ye, yabeshye ko yasabye gutanga ubuhamya abyibwirije nyuma yo kumva amakuru y'urubanza rwa Ingabire muri radio, biza kugaragara mu iburanisha ry'uru rubanza ko yashatswe kugira ngo atange ubuhamya, ndetse ko ibyo avuga byose ari ibyo ahimba, yigishijwe kugira ngo bigaragaze ko Ingabire yahimbiwe ibyaha.
- [146] Ku bijyanye n'uko AA yabeshye aho atuye, Urukiko rusanga koko iperereza ryakozwe n'Ubushinjacyaha ryaragaragaje ko aho yavuze atuye atariho, ibi Ingabire n'abamwunganira bakaba batabihakana usibye ko bavuga ko yabitewe n'ubwoba yari afite ko abo mu muryango we bamenya ko yatanze ubuhamya muri uru rubanza. [147] Kuri iki kibazo cyo kubeshya aho atuye, Urukiko rusanga ibisobanuro bya Ingabire n'abamwunganira bitafatwaho ukuri kuko AA yari yahawe uburyo bwose bwo gusubiza mu ibanga ku bibazo yabonaga ko ibisubizo byabyo bishobora gutuma umwirondoro we n'aho atuye bimenyekana, ubwo buryo akaba yarabukoresheje inshuro nyinshi yandika ibisubizo ku mpapuro zarebwaga gusa n'abacamanza, ababuranyi n'ababunganira. Urukiko rusanga ariko kuba yarabeshye kuri adresi ye bitabuza gusuzuma ubuhamya bwe kuko nta ngaruka byagize ku ngingo yagibwagaho impaka imbere y'urukiko ariyo yo kumenya niba koko yarabonye Uwumuremyi ahabwa ubutumwa bwo gushinja Ingabire ibinyoma
- [148] Urukiko rusanga kandi nubwo AA yibeshye ku ikosi Uwumuremyi yabagamo kuko mu nyandiko ye no mu buhamya bwe imbere y'urukiko avuga ko yabaga mu ikosi ya 25 kandi yarabaga mu ya 33, nta gushidikanya kuriho ko yabaye mu kigo cya Mutobo Uwumuremyi ariyo kuko uyu ubwe yemera ko yamubonyeyo, ndetse n'abandi batangabuhamya bakaba bemeza ko yajyaga ahaza.
- [149] Ku bijyanye n'uko AA yaba yarashatswe ngo atange ubuhamya, Urukiko rusanga ubwabyo atari ikibazo, kuko ari uburenganzira bwa buri muburanyi bwo gushaka ibimenyetso bishimangira ukuri kw'ibyo avuga.
- [150] Ku bijyanye n'uko yaba yarasabwe kubeshya n'inyungu yaba afite muri uru rubanza, Urukiko rusanga ibyo byasuzumwa habanje kurebwa niba ibyo avuga ari ukuri cyangwa niba abeshya.
- [151] Iyo rero rusesenguye imvugo ya AA, Urukiko rusanga ingingo z'ingenzi zikubiyemo ari izi zikurikira: kugeza muri 2009 abonana n'abantu bavuye i Kigali bahamagawe na Rwamamara,

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Uwumuremyi ntabwo yari azi Ingabire; Rwamamara akorera inzego z'iperereza za gisirikare; Uwumuremyi yahawe akazi ko kuzashinja Ingabire no kuzashaka abandi bamufasha ako kazi, arakemera; Uwumuremyi yahembwe sheki ya 300.000 Frw no guhabwa ipeti rya Majoro avanywe ku rya Capitaine.

- [152] Izo ngingo iyo zishyizwe hamwe zumvikanisha ko Uwumuremyi atari azi Ingabire ariko ko yakoreshejwe n'inzego z'iperereza za gisirikare mu guhimba ibimenyetso bimushinja, Urukiko bukaba bugomba gusuzuma niba ibyo AA yavuze ari ukuri rwashingiraho imikirize y'urubanza.
- [153] Ku bijyanye n'uko Uwumuremyi yaba atari asanzwe azi Ingabire, Urukiko rusanga ibyo AA avuga atari ibyo yumvise cyangwa yabonye, ahubwo ari ibyo yakuye mu isesengura yakoze ubwe kuko yavuze ko ubwo Uwumuremyi yerekwaga ifoto ya Ingabire iri ku kinyamakuru yasaga n'utamuzi, ndetse ko yagombye gusoma izina rye kugira ngo amenye ko ari Ingabire, amaze kurisoma baramubwira ngo uwo muntu naramuka aje azavuge ko yafashaga FDLR6, ibi bikaba bidahujye n'ibiteganywa n'ingingo ya 62 y'itegeko ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga, nk'uko byasobanuwe haruguru, ko ubuhamya ari amagambo avugirwa mu rukiko ku byo umuntu yabonye cyangwa yumvise ubwe ku byerekeye ikiburanwa, bityo imvugo ye kuri iyo ngingo ikaba idakwiye guhabwa agaciro.
- [154] Ku bijyanye n'uko Rwamamara yaba yarakoreraga inzego z'iperereza za gisirikare, Urukiko rusanga nanone AA atagaragaza uko yabimenye, aho avana ubwo bumenyi, niba ari ibyo yumvaga bavuga n'abo yaba yarabyumvanye, niba aribyo we ubwe azi cyangwa niba ari isesengura yakoze akurikije ibyo yabonaga, aha naho imvugo ye ikaba itujuje ibisabwa mu ngingo ya 62 y'itegeko ryerekeye ibimenyetso mu manza n'itangwa ryabyo.
- [155] Urukiko rusanga usibye n'uko AA atagaragaza aho avana ko Rwamamara yakoreraga inzego z'iperereza za gisirikare, imvugo ye ivuguruzwa na nyir'ubwite wabihakanye ubwo yatangaga ubuhamya mu rukiko; ivuguruzwa nanone na Musonera Franck, diregiteri w'Ikigo cya Mutobo nawe mu buhamya yatanze wavuze ko Rwamamara ari umwe mu bashinzwe umutekano mu kigo, ibyo bavuze bikaba byemezwa na MINADEF mu cyemezo kiri muri dosiye.
- [156] Ku bijyanye n'abagabo Rwamamara yaba yarahamagaye ngo bavugane na Uwumuremyi, Urukiko rusanga - usibye n'uko AA atagaragaza uko yamenye ko abo bagabo baje bahamagawe na Angelus, cyane ko uyuatabanaga mu nzu imwe, bakaba batarakoranaga bityo ngo abe yamenya abo yahamagaraga - yivuguruza kuko mu ibaruwa yandikiye Urukiko Rukuru asaba gutanga ubuhamya yavugaga ko bari 3 ("... mu nzu nari ndimo haje abagabo 3 baturutse i Kigali bahamagawe na Angelus..."), nyamara mu buhamya bwe imbere y'Urukiko rw'Ikirenga yavuze ko bari babiri na Rwamamara Angelus wa gatatu. 6 Q: ko watubwiye ko ngo baje bamwereka umuntu uri mu kinyamakuru, yahise amumenya ? R : izina ryari ryanditse kuri iyo foto noneho amenya izina ariko umuntu atamuzi neza Q : wabwiye n'iki ko atari amuzi ? R : ni uko bamumweretse mu kinyamakuru, kandi

bamumwereka bavugaga ngo uwo muntu naramuka aje azavuge ko yafashaga FDLR, mubigaragara ntabwo yari amuzi Q: Ese wabwiwe n'iki ko atari amuzi? R:Rwose ntabwo yari amuzi

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- [157] Rusanga kandi ku bijyanye n'itariki Uwumuremyi yaba yarahereweho akazi n'inzego z'iperereza za gisirikare, AA usibye kuvuga ko hari muri 2009, atagaragaza ukwezi n'umunsi byabereyeho, bikaba bitumvikana niba ibyo avuga byarabayeho koko ko yananirwa kuvuga nibura ko byari mu gihe iki n'iki cy'umwaka (mu ntangiriro, hagati cyangwa mu mpera), kugira ngo Rwamamara na Uwumuremyi avuga ko bagize uruhare muri icyo gikorwa babe bashobora kumenya niba bari i Mutobo uwo munsi cyangwa muri ibyo bihe, cyangwa ngo habe hakorwa iperereza ku bashyitsi baje mu Kigo cya Mutobo bavuye i Kigali muri ibyo bihe.
- [158] Ku bijyanye n'amafaranga 300.000 Uwumuremyi yaba yarahawe y'igihembo, Urukiko rusanga AA nubwo avuga ko Uwumuremyi yahawe areba sheki ya Zigama Crédit and Savings Bank (CSS), ndetse ko iyo sheki yongeye kuyibona ayereka mugenzi we ubwo bari hepfo y'inzu, adashobora kuvuga uwo yari yanditseho, n'izina ry'uwo yayeretse, nanone ibi bituma nta genzura rishobora kubaho hakorwa iperereza muri iyo banki cyangwa habazwa uwo Uwumuremyi yaba yareretse iyo sheki. [159] Ku bijyanye n'abantu baba barumvise Uwumuremyi ahabwa misiyo yo kuzashinja Ingabire, Urukiko rusanga usibye kuvuga ko hari abandi bantu bagera ku munani bari mu cyumba cyo haruguru, bamwe babyumvise, abandi babibwiwe n'ababyumvise, AA adashobora kugaragaza n'izina ry'umuntu n'umwe muri abo babyumvise ngo abe yabazwa kubyo yumvise.
- [160] Urukiko rusanga bitumvikana ukuntu AA avuga ko misiyo yahawe Uwumuremyi yumviswe n'abantu bari mu cyumba cyo haruguru, ndetse ko na sheki yahawe ifite nibura undi muntu umwe wayibonye, ariko yabazwa amazina yabo akavuga ko atabibuka, nyamara igihe Urukiko rwamubazaga niba yari asanzwe azi Uwumuremyi akaba yarasubije ngo "ubu se umuntu twabanaga aho mu gipangu nari kuba ntamuzi gute? ", umuntu akaba yakwibaza impamvu muri abo bandi babanaga mu gipangu nta n'umwe yibukamo ngo abe yabazwa.
- [161] Urukiko rusanga nanone bitumvikana ukuntu abantu bategura icyaha cyo gushinja umuntu ibinyoma mu nzego z'ubutabera bahitamo kubiganirira hagati y'abantu benshi bitareba bazi ko barimo kubumva.
- [162] Ku bijyanye n'ipeti rya Uwumuremyi, Urukiko rusanga nubwo AA avuga ko mu bitabo yinjiriyeho i Mutobo nta peti rya Majoro yari afite, atagaragaza uko yabimenye, cyane ko nta kazi yari ashinzwe muri icyo kigo, akaba atanagaragaza ko azi uburyo amapeti yatangwaga mu gisirikare cya FDLR kugira ngo asobanure ko Uwumuremyi atari Majoro akurikije ubumenyi abifiteho, akaba atanagaragaza impamvu baba baramuhaye ipeti rya Majoro nk'igihembo mu gihe yarimo gutegurirwa gusubizwa mu buzima busanzwe butari ubwa gisirikare.

[163] Urukiko rusanga kandi amakuru yatanzwe na AA ko abahaye misiyo Uwumuremyi bamuhereye ipeti rya Majoro aho bari bicaye mu nzu yarimo avuguruzwa na Franck Musonera Diregiteri w'Ikigo cya Mutobo na Rwamamara, bombi bemeje ko bari bazi Uwumuremyi nka Majoro kuva yinjira mu kigo, ndetse anavuguruzwa na Nditurende wari umukuriye mu gisirikare cya FDLR wemeje ko yari yarabaye “commissionné” Majoro bakiri muri RDC, ibi bikaba bihura n'inkuru yasohotse mu mvaho ubwo Uwumuremyi yatahukaga mu Rwanda muri operation Umoja Wetu igaragaza ko mu batahutse harimo Majoro Uwumuremyi Vital.

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[164] Urukiko rusanga ibyo AA avuga ko Uwumuremyi yahawe ipeti rya Majoro areba atari agakosa gato nk'uko umwunganizi wa Ingabire abivuga, ndetse atari ukwibeshya kuko bigaragara ko ibyo avuga yabonye cyangwa yumvise bitabayeho, ahubwo ari ukubeshya urukiko.

[165] Iyo rurebeye ubuhamya bwa AA muri rusange, Urukiko rusanga hari ibibazo atabashije gusubiza kandi iyo biba areba nk'uko abivuga yari gusubiza bitamuvunye, urugero ni aho yabajijwe niba umunsi abagabo baturutse i Kigali bahamagariweho na Angelus ari nawo baziye, akavuga ko ari we wabibazwa; aho yasabwe kuvuga ukwezi cyangwa igihe cy'umwaka Uwumuremyi yaherewe misiyo, akavuga ko atabyibuka; aho yabajijwe izina ryari ryanditswe kuri sheki rya CSS, naho akavuga ko atitaye kubireba. Hari nanone ibyo avuga ko byabonywe cyangwa byumviswe n'abandi bantu ariko ntabashe kugaragaza amazina yabo ngo babe babazwa, nk' izina ry'umuntu Uwumuremyi yeretse sheki cyangwa amazina y'abari mu cyumba cyo haruguru bumvise misiyo yahawe. [166] Iyo rubihuje n'uko hari ibyo avuga adashobora kwerekana uko yabimenye, urugero ni nk'aho avuga ko Uwumuremyi atari asanzwe ari Ingabire cyangwa ko Rwamamara Angelus yakoreraga inzego z'iperereza za gisirikare; hakaba aho yivuguruzwa kandi ku bintu by'ingenzi, nk'aho avuga ko abantu baje kureba Uwumuremyi bavuye i Kigali bari 3, ubundi akavuga 2; hakaba nanone aho avuga ibintu bidashoboka, nk'aho avuga ko Uwumuremyi yaherewe ipeti rya Majoro mu nzu yarimo, Urukiko rusanga ibyo AA avuga ku nama yaba yarabereye mu nzu yabagamo no ku kazi n'ibihembo Uwumuremyi yahawe atari ibintu yabonye cyangwa yiyumviye ubwe.

[167] Urukiko rusanga rero AA yarabeshye Urukiko abigambiriye, agamije kumvisha ko ibyo Ingabire aregwa ari ibyahimbwe n'inzego z'iperereza, ibi bikaba bituma ubuhamya bwe nta gaciro bugomba guhabwa. [168] Ku bijyanye n'uko haba hari abamusabye kubeshya, Urukiko rusanga nubwo raporo ya MTN igaragaza ko AA yavuganye inshuro nyinshi na Alice Muhirwa wari Umubitsi w'ishyamba FDU-Inkingi mu bihe byabanjirije n'ibyakurikiye gato itariki yashyikirije Urukiko Rukuru ibaruwa itangamo amakuru ashinjura Ingabire, bikaba bigaragaza umuntu baziranye neza ku buryo atayoberwa izina rye, rutabiheraho rwemeza ko ari we wamusabye kubeshya Urukiko kugira ngo ashinjure Ingabire mu gihe nta bindi bimenyetso Ubushinjacyaha bubitangira.

[169] Urukiko rusanga nanone nubwo AA ahuzagurika mu mvugo ze ku bijyanye n'impamvu yashatse gutanga ubuhamya, rimwe avuga ko yumvise kuri BBC bavuga amakuru y'urubanza rwa Ingabire akumva hari ibyo yaza gusobanurira Urukiko, ubundi akavuga ko yashatsweho amakuru na Me Gatera Gashabana, rutabihiraho rwemeza ko yamusabye kubeshya Urukiko. vi. Kumenya niba Urukiko Rukuru rwarahamije Ingabire icyaha rushingiye ku bimenyetso bivuguruzanya kandi bidahura. Ku bireba imvugo z'abo baregwa hamwe. 7 Ikibazo cyabajijwe na Me Murenzi: "...umunsi abagabo batatu bahamagawe (na Angelus) ni nawo baziye?" Igisubizo cya AA : "ibyo ngibyo ashaka kumenya harimo numero ze za telephone we yamwibariza"

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- [170] Ingabire avuga ko Urukiko Rukuru rwirengagije ko imvugo z'abo baregwa hamwe zagiye zibamo ukwivuguruza kwa hato na hato, kandi ko izo mvugo na za e-mail bavuga ko bandikiranye nawe zidahura n'ibimenyetso byavuye muri RDC no mu Buholandi. [171] Avuga ko Uwumuremyi yemeje ko kuri e-mail iri kuri C 377 yamuhaga gahunda y'uko Karuta azamugeraho i Kinshasa kuwa 17/02/2008 saa 15h15, ariko inyandiko ya Compagnie Africaine d'Aviation (CAA) iri kuri C 777 ikerekana ko umuntu witwa Bantu Biruba yavuye i Kinshasa ajya i Goma kuwa 24/02/2008, ibi bikaba binyuranye n'imvugo z'abo baregwa hamwe, bikanyuranya n'ikimenyetso cya e-mail bagenderaho. Yongeraho ko Karuta yavuze ko yamaze iminsi 2 gusa i Kinshasa, bivuze ko yari kuba yafashe indege ava Kinshaza ajya Goma kuwa 19/02/2008, ariko ko ibyo avuga bidahura n'itariki ya 24/02/2008 yanditse ku nyandiko ya CAA.
- [172] Avuga kandi ko Nditurende igihe yabajijwe niba nk'ukuriye bagenzi be yaba yarigeze guhabwa raporo y'amafaranga yaba yaraboherereje, yasubije ko Uwumuremyi ntayo yamuhaye kuko babaga ahantu hatandukanye nta communication bafitanye, nyuma akaba yaraje gusobanurira urukiko ko yari kumwe na Uwumuremyi kuwa mu kwezi kwa 10/2008 kugeza afatwa mu kwezi kwa 09/2009 ariko akaba atarashoboye kugaragaza umubare w'amafaranga yabohererezaga.
- [173] Akomeza avuga ko Uwumuremyi na Nditurende bemeza ko bajyaga bavugana kuri telefone akiri i Burayi, ariko ibimenyetso byavuye mu Buholandi bikerekana ko atari byo. Yongeraho ko bemeza ko i Kinshasa baraye muri hoteli Cristal ariko inyandiko zavuye muri RDC zikagaragaza ko bataharaye haba ku mazina yabo, haba ku mazina bavuga bakoreshaga ya Muhindo Muhima kuri Uwumuremyi na Henri Hatali Mulinde kuri Nditurende nubwo nta n'ikigaragaza ko ayo mazina yari ayabo koko nk'uko babivuga.
- [174] Avuga nanone ko Uwumuremyi yemeza ko bashyizeho umutwe w'ingabo witwa CFD, ndetse ko wari ufite web site yawo, ariko ko uwo mutwe ntaho uzwi muri aka karere, ndetse na web site yawo ikaba ntaho yigeze igaragazwa.

- [175] Ku bijyanye n'urugendo Karuta yaba yarakoreye i Kinshasa, Ubushinjacyaha buvuga ko nta kwivuguruza kuri mu mvugo z'abaregwa hamwe na Ingabire, kuko kuba Uwumuremyi yarahaga Ingabire gahunda y'itariki runaka Karuta azamugeraho ntibisobanuye ko iyo gahunda yari ntakuka, ko itashoboraga guhinduka bitewe n'igihe baboneye umwanya mu ndege, cyane ko Karuta na Uwumuremyi basobanuye mu iburanisha ko batari bamenyereye iby'ingendo z'indege, bakaba barahaye Ingabire gahunda y'amasaha y'indege bataragura i tike, aho bayiguriye basanga gahunda yahindutse bituma bakererwa.
- [176] Ku bijyanye n'ibyo Nditurende yasubije ku kibazo yabajijwe kuri raporo y'amafaranga Ingabire yoherezaga, buvuga ko nta kwivuguruza kuri mu mvugo ye kuko kuba yaravuze ko yabaga ahantu hatandukanye na Uwumuremyi, ndetse ko nta contact bari bafitanye, bidasobanuye ko nta na rimwe babonanaga, kuko no mw'iburanisha byasobanutse ku buryo budashidikanywaho ko Nditurende yabaga mu mashyamba ya Congo, naho Uwumuremyi aba mu nkambi yari mu nkengero z'umujyi wa Goma.
- [177] Ubushinjacyaha buvuga ko kuba hoteli Uwumuremyi na Nditurende barayemo yarabajijwe ikavuga ko bataharaye, nta gitangaza kirimo kuko Uwumuremyi na Nditurende

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bagaragaje mu nyandiko mvugo z'ibazwa zabo ko bakiriwe na Colonel Zélote, uyu akaba ari nawe wabajyanye aho barara, ibi bikaba bivuze ko Zélote ashobora kuba yarakoze réservation ya hoteli mw'izina rye cyangwa mu yandi mazina kuko abantu yayikorera bari inyeshyamba, bakaba batari abakerarugendo batemberaga ntacyo bishisha. [178] Buvuga kandi ko iperereza ryakorewe muri RDC ryashimangiye ko Uwumuremyi na Nditurende bagiye koko i Kinshasa kuko ryerekanye amatariki n'amatike y'indege bagendeyeho. Bwongeraho ko na Ingabire ubwe yemeye imbere y'urukiko ko muri icyo gihe nawe yari i Kinshasa, ndetse ko nawe yakiriwe na Colonel Zelote, bikaba bigaragaza ko ibyo abaregwa bavuze ko babonaniyeyo nawe ari ukuri.

- [179] Ku bijyanye no kuba ibimenyetso byavuye mu Buholandi biterekana ko Ingabire yajyaga avugana kuri telefone n'abo baregwa hamwe, buvuga ko numero zagenzuwe ari izari zanditse (enregistrés) mu rugo aho yari atuye z'abana be n'umugabo we zonyine, kandi ko nawe abizi ko nta telefone ye yari ihanditse muri urwo rugo ku buryo yagenzurwa.
- [180] Buvuga kandi ko ari we, ari abaregwa hamwe nawe nta n'umwe wigeze atanga numero ye ngo ibe yaragenzuwe, ibi bikaba bidashobora guteshwa agaciro imvugo z'abaregwa hamwe nawe bemeza ko bavuganaga bakoresheje telefone kuko bizwi neza ko hari uburyo bwinshi bukoreshwa abantu bavugana kuri telefone, nko kuvuganira kuri mudasobwa binyuze ku murongo wa interneti, gukoresha sim card zitandukanye na za telefoni zikoreshwa n'abaturage bose (cabine publique), ubu buryo bwose bwo guhamagara akaba atayobewe ko polisi iyo inabishaka kubugenzura ntacyo yari kugeraho, kuko mbere y'uko asakwa ntawari warigeze asaba ko yumvirizwa kuri telefoni.

- [181] Ku bijyanye n'uko nta web site igaragaraho umutwe w'ingabo witwa CFD, Ubushinjacyaha buvuga ko Ingabire ahindura imvugo za Uwumuremyi nkana mu rwego rwo kuyobya uburari, kuko ibyo yavuze mu Bugenzacyaha yabivuze mu magambo akurikira: "twasabye ko habaho web site yacu, umwe mu basirikare twabanaga yari afite umusore w'inshuti ye wabaga mu Bushinwa, barabiganira aba ari we wemera kuyifunguza". Iyi mvugo ikaba idasobanuye ko yavuze ko web site yabayeho nk'uko Ingabire ashaka kubyumvikanisha, icyabaye ahubwo akaba ari ibiganiro byerekeranye n'uko iyo web site yajyaho, ndetse haboneka n'uwemera kuzayikora ariko nta na hamwe handitse ko yagiye.
- [182] Ku bijyanye na raporo y'amafaranga Ingabire yabohererezaga, Nditurende avuga ko amafaranga yanyuraga kuri Uwumuremyi wari i Goma noneho akabagurira ibintu bakeneye kuko bo babaga mw'ishyamba, ko ibyo Ingabire avuga ko nta kuntu yaba atarahawe raporo kuko nawe yabaye kuri Goma iminsi myinshi atari ukuri kubera ko yahabaye igihe gitoya kubera akazi yari agiyemo, nta bureaucratie bagiraga kandi babonanaga mu ibanga, cyane ko icyo gihe hahise haza operation Umoja Wetu igizwe n'ingabo nyinshi zashoboraga kubafata. Ku bireba za e-mail abaregwa hamwe na Ingabire bavuga ko bandikiranye nawe. [183] Ingabire avuga ko Urukiko Rukuru rwanze gusuzuma inenge yatanze agaragaza ko e-mail abaregwa hamwe bavuga ko bandikiranye ari impimbano. Agasobanura ko yagaragarije Urukiko Rukuru ko agitangira kubazwa mu Bugenzacyaha batahise bamwereka inyandiko z'umwimerere za e-mail, ahubwo bakamwereka kopi zazo ziri ku rupapuro A4, ndetse ko kugeza

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n'ubu hari izo batamweretse ziri kuri C 371 bis, 375 bis, 376 bis, 377 bis na 377ter. Yongeraho ko yabajijwe mu kwezi kwa 2/2010 e-mail bavuga yandikiye Nditurende kuri adresi bungucel@yahoo.fr ariko akabona inyandiko yayo y'umwimerere mu kwezi kwa 05/2011 atangiye kuburana. [184] Akomeza avuga ko bitumvikana ukuntu e-mail iza ku rupapuro rwa A4, ndetse ko iyo usesenguye kopi n'inyandiko y'umwimerere usanga uburyo amatariki n'amasaha byanditse bidahura, ukibaza uburyo byavuye ahanu hamwe, izo e-mail akaba ari iz'iri kuri C 441-449, C442-C450, C445-C451-C452, C446-C448- C448-C451.

- [185] Avuga kandi ko yagaragaje ko e-mail iri kuri C441 hejuru yanditseho ko yavuye muri yahoo.com ariko umwimerere wayo ikagaragaza ko yavuye muri yahoo.fr, ibi bikaba bigaragaza ko zitavuye muri "boîte" imwe.
- [186] Avuga ko yagaragaje ko yabajijwe mu kwezi kwa 02/2010 mu Bugenzacyaha ibijyanye na za e-mail bavuga ko yandikiranye na Nditurende na Uwumuremyi mu gihe bari batarazibazwaho kuko dosiye ya Nditurende igaragaza ko yagejejwe imbere y'Ubugenzacyaha bwa mbere kuwa 24/04/2010, naho iya Uwumuremyi ikagaragaza ko yafashwe kuwa 14/10/2010, Ubushinjacyaha bukaba buterekana aho bwakuye izo e-mail n'igihe bwaziboneye.

- [187] Avuga kandi ko yagaragaje ko Umushinjacyaha Mukuru yandikiye ubuyobozi bwa RDC kuwa 05/03/2010 abusaba ko bwamwoherereza impapuro za Western Union umuntu w'umunyarwanda wari wariyise umuCongomani yafatiyeho amafaranga, nyuma baza gusanga uwo yavugaga ari Uwumuremyi, nyamara uyu yarafashwe nyuma y'amezi atandatu kuwa 14/10/2010, ibi bikaba byumvikanisha ko Ubushinjacyaha bwari bufite amakuru yose yerekeye Uwumuremyi mbere y'uko afatwa ngo abazwe.
- [188] Ubushinjacyaha buvuga ko urukiko rutirengagije na gato gusuzuma inenge Ingabire yatanze avuga ko ibyanditse muri e-mail byose ari ibihimbano, ahubwo urubanza rwarinze rurangira we n'abamwunganira batabitangiye ikimenyetso na kimwe ngo banerekane n'uko byakozwe, ibi bikaba bigaragaza ko ibyo buvuga nta shingiro bifite.
- [189] Ku bijyanye no kuba igihe yafatwaga batarahise bamwerekaga inyandiko z'umwimerere za e-mail zimwe na zimwe ahubwo zikaboneka nyuma, Ubushinjacyaha buvuga ko nk'uko byasobanuwe n'Urukiko Rukuru, ibyo bitafatwa nk'ikibazo kuko iperereza ryari rigikomeza, nawe ubwe akaba yivugira ko izo nyandiko z'umwimerere bageze aho bakazimwerekaga, bisobanura ko yahawe umwanya wo kuzireguraho.
- [190] Ku bijyanye n'uko hari za e-mail bamweretse kopi gusa, buvuga ko Ingabire yigiza nkana kuko, nk'uko byasobanuwe na Uwumuremyi, azi neza ko izo e-mail bazisibye bari kumwe bamaze kubyumvikanaho. Buvuga kandi ko Ingabire yiyemereye imbere y'urukiko ko hari e-mail zimwe z'umwimerere yeretswe, ndetse ko nta mpamvu bwari bufite yo kumwerekaga e-mail z'umwimerere zimwe, ngo bumwime izindi. [191] Ku birebana n'uko hari e-mail ziri ku rupapuro rwa A4, Ubushinjacyaha buvuga ko nta gitangaza ko e-mail yasohoka iri ku rupapuro rwa A4 bitewe n'ibyo uwakoze "impression" yakoreye "sélection", akaba ari muri ubwo buryo e-mail ziri kuri C375 bis, 377 bis, 377 ter, 441,

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442, 445, 446, 447 na 448, zasohotse ziri ku rupapuro rwa A4 kuko ari ko bari bazikoreye "sélection" mbere yo kuzikorera "impression". [192] Ku birebana n'amatariki, amasaha, n'imyandikire Ingabire avuga ko bidahura, ngo bikerekana ko izo e-mail zitavuye muri "boite" imwe, buvuga ko nta shingiro bifite kuko izo e-mail zitabaye "imprimé" umunsi umwe, cyangwa isaha imwe, zimwe zikaba zarabaye "imprimé" ziri "sélectionné", izindi zikaba "imprimé" uko zakabaye, ndetse zikaba zitarabaye na "imprimé" ku ma mashini amwe.

- [193] Ku bijyanye n'uko hari e-mail yaba yanditseho ko yavuye muri yahoo.com ariko umwimerere wayo ikagaragaza ko yavuye muri yahoo.fr, Ubushinjacyaha buvuga ko atari byo kuko e-mail ivugwa yavuye muri "boite" vumehoza@cs.com ijya muri e-mail ya bungucel@yahoo.fr, naho ibyanditse hejuru ngo "in box of bungucel@yahoo.com" akaba ari ibyongeweho n'uwazikoreye "impression" amaze kuzikorera "sélection".

- [194] Ku bijyanye n'uko Ingabire yabajijwe kuri e-mail buvuga ko yandikiranye na Nditurende uyu ataragezwa imbere y'Ubugenzacyaha, buvuga ko nk'uko bwabisobanuye mu Rukiko Rukuru, amakuru bayahawe na Nditurende wari warashyikirijwe inzego z'umutekano z'u Rwanda tariki ya 22/09/2009, kandi kuva icyo gihe yatanze amakuru atandukanye nk'uko nawe yabyivugiye mu Rukiko Rukuru asubiza ibibazo byari byateguwe n'abunganira Ingabire.
- [195] Buvuga kandi ko bwababonye ko amakuru Nditurende yatanze ariyo yifashishijwe n'Ubushinjacyaha mu gukora "commission rogatoire" yo kuwa 05/03/2010, akaba ataratanze bwa mbere na Uwumuremyi nk'uko Ingabire ashaka kubyemeza n'ubwo mw'ibazwa rye Uwumuremyi nawe yayasubiyemo. [196] Buvuga ko nta tegeko ribuzwa inzego zitandukanye z'umutekano n'iz'iperereza zaba iza gisiviri, zaba iza gisirikare guhana amakuru zabonye mu mirimo yazo kuko bese icyo bashinzwe ari ukubungabunga umutekano w'Igihugu kandi ko amategeko abuha inshingano yo kuyobora iperereza, gukusanya ibimenyetso bishinje n'ibishinjura, no gushakisha abakoze ibyaha, abafatanyije nabo n'ibyatso byabo kugira ngo bakurikiranwe. Bwongeraho ko iperereza n'ishakwa ry'ibimenyetso bikorwa mu ibanga usibye igihe itegeko ribiteganywa ukundi, ibi bikaba byumvikanisha ko bubona amakuru yose bukeneye igihe cyose, ndetse na dosiye itaratangira gukorwa kuko abanza gukusanywa. Kubireba imishyikirano Ingabire yaba yaragiranye n'abo baregwa hamwe i Kinshasa n'i Brazzaville
- [197] Ingabire avuga ko Urukiko Rukuru rwemeje ko yahuriye na Karuta i Kinshasa rushingiye ku bimenyetso bidahura kuko e-mail C 377 yatanze n'Ubushinjacyaha nk'ikimenyetso ivuga gusa ko ngo "wa muntu azahaguruka dimanche 13h15 agere i Kin 15h15", ariko nta zina ry'umuntu uvugwamo. [198] Akomeza avuga ko nubwo Karuta yemeza ko yateze indege ava i Goma ajya i Kinshasa, akava i Kinshasa agaruka i Goma, urupapuro rwavuye muri RDC muri Compagnie Africaine d'Aviation ruri kuri C 777 ruvuga gusa ko umuntu witwaga Bantu Biruba yavuye i Kinshasa ajya

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Goma, ntirugaragaza ko yavuye i Goma ajya i Kinshasa, ndetse ko nta kintu na kimwe kigaragaza ko ayo mazina ari aya Karuta.

- [199] Avuga kandi ko Urukiko rwemeje ko yahuye na Nditurende na Uwumuremyi i Kinshasa n'i Brazzaville bagakorana inama y'uburyo bashyiraho umutwe w'ingabo ushamikiye kuri FDU- Inkingi rushingiye nanone ku bimenyetso bidahura kuko nta kigaragaza na kimwe ko bahuye n'aho baba barahuriye, ndetse nubwo bemeza ko bakoreye hamwe urugendo rwa Goma- Kinshasa, inyandiko za compagnie y'indege Hwa Bora ziboneka kuri cote ya 778 zerekana gusa ko hari uwitwaga Mulinde Hatari wafashe indege yabo kuwa 07/10/2008 aya i Goma ajya i Kinshasa.

- [200] Avuga nanone ko Nditurende yemeza ko yamuhamagaye akamusaba ko baturira i Kinshasa, akamwohereza amafaranga kuri Western Union, ariko ko impapuro zavuye mu Buholandi no muri Western Union zitagaragaza ko hari amafaranga yohereje muri RDC.
- [201] Akomeza avuga ko Urukiko Rukuru rwemeje ko kuba Nditurende na Uwumuremyi bazi amakuru y'ingendo yakoreye muri RDC na Congo Brazzaville, kuba kandi bazi Colonel Zélote, bakaba bari i Kinshasa igihe nawe yariyo bifatwa nk'uruhurirane rw'ibintu, ariko rwirengagiza ko kuba yari mu ngendo mu bihugu binyuranye, amenyekanisha ko ishyaka ayoboye rigiye kugaruka mu gihugu no kugira uruhare mu matora, ari ibintu bitari ibanga kuko kuri za internet byariho kuva mu kwezi kwa 9/2008 ubwo yatangazaga ko agiye kugaruka mu gihugu, ndetse ko Nditurende na Uwumuremyi igihe cy'iburana imbere y'urukiko bemeje ko bazi ko ibyo yavuganye n'abakuru b'ibihugu bya Congo zombi ari ibirebana n'amatora.
- [202] Ku birebana na Colonel Zélote, avuga ko Urukiko Rukuru rwirengagije ko igihe cy'iburana Nditurende yemeje ko yari umwe mu basanzwe bafasha FDLR, akaba asanga nta gitangaza ko yaba yarabahaye amakuru ajyanye n'urugendo rwe.
- [203] Ubushinjacyaha buvuga ko ibyo Ingabire avuga nta shingiro bifite kuko yirengagiza ko hatanzwe ibimenyetso bishingiye ku mvugo z'abo baregwa hamwe, e-mail bandikiranye, impapuro yabohererejeho amafaranga, inyandiko zavuye muri RDC zigaragaza ko bagiye i Kinshasa mu gihe Ingabire nawe yariyo, imvugo ya Ingabire ko yakiriwe na Colonel Zelote, uyu akaba amuhurizaho n'abo baregwa hamwe kuko ari nawe wabakiriye i Kinshasa.
- [204] Buvuga kandi ko Ingabire yivuguruzaga bikabije kuko muri uru rukiko avuga ko nta banga ryari mu ngendo ze mu bihugu binyuranye, ibi ariko bikaba bitandukanye n'ibyo yemeje imbere y'Urukiko Rukuru ko umubonano yagiranye na ba Perezida Kabila wa RDC na Sassou Ngueso wa Congo Brazzaville ubwo yari mu ngendo muri ibyo bihugu wari ibanga rikomeye ku buryo nta muntu wigeze abimenya. [205] Bukomeza buvuga ko mu nyandiko zabo zose no mu mvugo zabo imbere y'Urukiko Rukuru, Nditurende na Uwumuremyi bemeje ko bahuriye i Kinshasa na Ingabire, bakaganira akababwira ko yabonye na bariya ba perezida, ibi bikaba bigaragaza ko hari amakuru atari yarigeze atangazwa na hamwe Ingabire yari aziranyeho n'abo baregwa hamwe. Buvuga ndetse ko mu Rukiko Rukuru Ingabire yabibajijweho ananirwa gusobanura ukuntu abo baregwa hamwe bari bazi ko yagiranye ibiganiro na bariya ba perezida niba batarahuriye i Kinshasa ngo babiganireho.

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Kubireba inkunga y'amafaranga Ingabire yaba yarahaye umutwe w'ingabo

- [206] Ingabire avuga ko Urukiko Rukuru rwirengagije ko mu mpapuro za Western Union zavuye muri RDC no mu Buholandi nta na hamwe bigaragara ko hari amafaranga yohereje muri RDC, ndetse ko adakwiye kubazwa ibikorwa bya Turikumana, Dushimirimana na Mujawayezu bagaragara ku mpapuro za Western Union ngo n'uko gusa abazi, kuko icyaha ari gatozi.
- [207] Avuga kandi ko mu Rukiko Rukuru yari yagaragaje ko abantu baba hanze ariko bafite bene wabo bakiri mu mashyamba muri RDC baboherereza amafaranga yo kubafasha mu mibereho yabo ya buri munsu, kandi ko akenshi bayacisha ku bayobozi ba FDLR kuko aribo bafite uburyo bworoshye bwo kugenda.
- [208] Avuga nanone ko Uwumuremyi ubwe yasobanuye uburyo amwe muri ayo mafaranga yabonye hari uwari wayamucishijeho ngo azayamuhere umuntu mwene wabo, ndetse ko na Habumuremyi yasobanuye ko Rusesabagina yigeze kumwoherereza amafaranga yo gufasha bene wabo bari mu ishyamba, akaba atumva impamvu amafaranga yoherejwe na Turikumana, Dushimirimana na Mujawayezu atafatwa muri ubwo buryo.
- [209] Ku birebana n'imvugo ya Mujawayezu mu nzego za polisi zo mu Buholandi ko yamusabye kwoherereza amafaranga i Goma, Ingabire avuga ko nta kuri kurimo, ko agomba kuba yarabivuze yirwanaho kugira ngo atamburwa uburenganzira bwo kuba mu Buholandi cyangwa bikamuviramo kuregwa ibyo nawe aregwa.
- [210] Yongeraho ko Mujawayezu yivugiye mu mwirondoro we ko umugabo we yahoze ari ofisiye mu ngabo z'u Rwanda zatsinzwe (FAR), ko babaye muri RDC hamwe n'abandi basirikare bahoze mu gisirikare cy'u Rwanda bakaza guhungira muri Congo, akaba asanga ibyo we na Uwumuremyi bavuga ko batari baziranye atari ibintu urukiko rwari gupfa kwemeza ntaho rushingiye.
- [211] Akomeza avuga ko nta muntu wo muri FDU-Inkingi yigeze akoresha mu kwoherereza amafaranga muri RDC no mu Rwanda, ko igihe ishyaka rye ryatangarije abanyarwanda ko rigiye kuza gukorera politiki mu gihugu ababyifuza bese batanze umusanzu wo gushyigikira abari baje mu Rwanda mu gikorwa cyo kwandikisha ishyaka, ko uwohereje wese amafaranga ayoherejeje umurwanashyaka wabo mu Rwanda yahaga amakuru umunyamabanga we Christine Numuhoza kugira ngo abashe kubikurikirana kandi babone uko bahuza ibikorwa ariko ko ibyo bitavuze ko byakorwaga kubera ko ari we wabitegetse.
- [212] Ubushinjacyaha buvuga ko ibyo Ingabire avuga nta shingiro bifite kuko Uwumuremyi yasobanuye ku buryo bwumvikana uko yabonaga amafaranga ayoherejwe n'abantu atazi ariko ibanga ryo kujya kuyabikuza akarihabwa na Ingabire kuko yabaga ariwe watanze ayo mafaranga, ibi bigashimangirwa n'imvugo ya Madamu Mujawayezu Speciose wabajijwe mu gihugu cy'u Buholandi kuri C 346-363 za dossier subséquent akemeza ko Ingabire yamusabye kwoherereza amafaranga umuntu atazi uri muri Congo, nyuma amwishyura ayo mafaranga yari yohereje.

- [213] Buvuga ko iyo usomye e-mail iri kuri C344-345 cyangwa C268-269, ukazihuza n'inyandiko mvugo za Uwumuremyi hamwe n'inyandiko mvugo za Mujawayezeu Spéciose, bigaragaza nta gushidikanya ko ari Ingabire wohereje ariya mafaranga.

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- [214] Buvuga kandi ko bwagaragaje ikimenyetso cy'amafaranga yoherejwe na Turikumana Jean de Dieu uri muri "comité exécutif" ya FDU mu Bubiligi (C1816 na 1818) ayohereza inshuro ebyiri Uwumuremyi, kandi uyu Turikumana Jean de Dieu n'ubundi Ingabire yanamukoresheje mu kwoherereza amafaranga uwitwa Nsabimana Phocas nk'uko bigaraga kuri C1844, ibi bikaba bishimangirwa na e-mail iri kuri C405 igaragaza ko Turikumana yahise yandikira Nsabimana Phocas amuha transfer number na question test bituma abasha kubikuza amafaranga (500 \$) kandi na none kuri C404 hakagaragara e-mail Ingabire nawe yandikiye Nsabimana Phocas amubwira ko amaze kubohereza 500 \$ anamubwira transfer number na question test bihuye n'ibyo Turikumana Jean de Dieu nawe yari yohereje Nsabimana Phocas, kandi Ingabire yakomeje abwira Nsabimana Phocas ko uwohereje amafaranga yitwa Turikumana uri i Bruxelles.
- [215] Buvuga ko ibimaze kuvugwa bishimangirwa nanone n'ibyo Nsabimana Phocas yavuze ubwo yabazwaga mu Rukiko Rukuru, akemeza ko Ingabire yamwohererezaga amafaranga yo gukoresha mu gushaka abayoboke b'ishyaka ryabo FDU-Inkingi nayo gukoresha mu myiteguro yo kumwakira igihe azaba atashye mu Rwanda no kumushakira icumbi abinyujije ku bantu batandukanye barimo Jean de Dieu Turikumana, Lyn Muyizere n'umukobwa we Raissa Ujeneza, ibyo bikaba bigaragaza nta gushidikanya ko Ingabire yoherezaga amafaranga akoresheje abandi bantu. Uko urukiko rubibona:
- [216] Ingingo ya 119 y'itegeko n°15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga ko "mu manza z'inshinjabyaha, ibimenyetso bishingira ku mpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye", ndetse ko "Urukiko ruhamya mu buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa". [217] Ingingo ya 104 y'iryo tegeko yo ivuga ko "ibimenyetso bicukumbuye ni ingingo amategeko cyangwa urukiko bisesengura bishingiye ku kintu kizwi kugira ngo hagaragazwe ikitazwi", naho ingingo ya 108 y'iryo tegeko ikavuga ko ibimenyetso bicukumburwa n'Urukiko bigomba kuba bikomeye, bisobanuye kandi bihuje.
- [218] Iyo rusesenguye imiburanire ya Ingabire guhera mu rwego rwa mbere no mu bujurire, Urukiko rusanga nta yindi ngingo aburanisha usibye kuvuga ko ibimenyetso bigizwe n'imvugo z'abo baregwa hamwe na za e-mail bavuga bandikiranye zahimbwe n'inzego z'iperereza, noneho mu bisobanuro bigamije gushimangira iyo ngingo agatanga ingero z'aho asanga ibyo bimenyetso bivuguruzanya hagati yabyo cyangwa bidahura n'ibimenyetso byavuye mu Buholandi no muri RDC.

- [219] Urukiko rusanga mu gusuzuma niba ibyo avuga ari ukuri, hagomba kureberwa hamwe imvugo z'abo baregwa hamwe, e-mails bavuga bandikiranye n'ibimenyetso byavuye muri RDC no mu Buholandi.
- [220] Ku bijyanye n'imvugo z'abaregwa hamwe na Ingabire, Nditurnde mu mvugo ze mu Bugenzacyaha, mu Bushinjacyaha no mu rukiko yemeje ko muri 2007 yabwiye na Uwumuremyi ko yatangiye kujya avugana na Ingabire ahawe contact ze n'umugore mwene wabo uba i Burayi, bakaba bandikirana no kuri e-mail, ndetse ko yamusabye kubafasha kurema

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umutwe w'ingabo ushamikiye kuri FDU-Inkingi, ibyo nawe akaba yarabimusabye ubwo batangiraga kuvugana mu kwezi kwa 06/2008 bahujwe na Uwumuremyi, akajya ababwira ko nta mbaraga zo guhangana n'ingabo z'u Rwanda bafite, ariko ko bashobora gutera umutekano muke mu Rwanda mu bikorwa bya gicengezi, ndetse ko bajya bashaka abantu bo hagati mu gihugu kuko bari mu mashyamba yegereye u Rwanda bakajya babigisha (sensibiliser), abigishijwe nabo bakigisha abandi.

[221] Yemeje kandi ko yabwiye Ingabire ko bakibitekerezaho, naho Uwumuremyi amubwira gukomeza kubikirirana akaba yabagerageza abasaba amafaranga yo kugura ibikoresho bya gisirikare no gufasha imiryango yabo, ndetse ko mu kwezi kwa 02/2008 yohereje Karuta i Kinshasa kubonana na Ingabire kuko uyu yari yasabye Uwumuremyi ko bahahurira, ariko bumvikana ko bakohereza Karuta, uyu agera i Kinshasa byatinze kubera ikibazo cyo kubona umwanya mu ndege, babonanira ku kibuga cy'indege, ariko Ingabire ahita agenda kuko indege ye yari ihagurutse, asigarana na Mberabahizi, umunyamabanga mukuru w'ishyaka FDU-Inkingi, wagombaga gutegereza indi ndege, uyu amubwira ko bagomba gukora lisiti y'ibyo bakeneye, barayikora hanyuma Uwumuremyi ayohereza kuri e-mail.

[222] Yemeje nanone ko mu kwezi kwa 10/2008 we na Uwumuremyi bagiye i Kinshasa Ingabire ariwe ubibasabye kuko yagombaga kubonana na Perezida wa RDC n'uwa Congo Brazzaville, babanza kubonanira i Kinshasa, nyuma bamusanga i Brazzaville, abasobanurira ibirebana n'amatora yifuza kuzamo mu Rwanda, anababwira ko umushinga wo gushinga umutwe wa gisirikare wizweho na Bureau politique yabo, basanga komite nshingwabikorwa y'ishyaka ariyo yazajya igena ugomba kuba umuyobozi mukuru w'ingabo, kandi ko kugeza ubu amafaranga arimo gukoresha ari aye ku giti cye kuko ay'ishyaka asohoka ari uko komite yose isinye. [223] Kuri icyo cyifuzo cyo gushinga umutwe w'ingabo wari kwitwaga FDU/CFD (Coalition des Forces Démocratiques), yemeje ko babwiye Ingabire ko bifuzaga ko ibintu biba bigumye uko bimeze kubera ko bari bakiri mu mirwano na FOCA yabarushaga imbaraga, bagasanga kwitirirwa FDU byari gutuma badashobora kumvisha abo muri FOCA ko bareka kubatera kuko ari bamwe, bakaba bari bazi ko Ingabire nka Perezida wa FDU atumvikana n'umunyamabanga nshingwabikorwa w'ishyaka ayobora, ndetse ko muri FDU harimo abantu bavugana n'abo muri FOCA ku buryo bari guhita bamenya gahunda bagiyemo bagategura kubarwanya.

- [224] Yemeje kandi ko icyo gihe yakoreshega amazina ya Hatari Mulinde Henri, naho Uwumuremyi akoresha aya Muhindo Dieudonné, ko Ingabire abinyujije ku bandi bantu yoherereje Uwumuremyi amafaranga mu bihe bitandukanye guhera mu kwezi kwa 02/2008 kugeza mu kwezi kwa 01/2009, bakayaguramo ibikoresho bitandukanye bya gisirikare, andi bakayafashisha imiryango yabo. Yongeyeho ko Ingabire yizeraga Uwumuremyi cyane.
- [225] Ku bijyanye no guteza umutekano muke, yavuze ko nta wundi mu ofisiye yigeze abibwira usibye Karuta na Uwumuremyi, ariko ko nyuma haje kuza groupe y'abantu 4 bazanywe na Jack Shan Baraka basaba ubufasha kugira ngo bakore sensibilisation, amafaranga yaguze velomoteri bagombaga kwifashisha muri sensibilisation akaba yaratanzwe na Uwumuremyi ayakuye muyo baboherezaga.

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- [226] Ku bijyanye n'impamvu we na bagenzi be bavuye muri FOCA, yemeje ko bavuyemo kuwa 19/05/2008 kubera ikibazo bagiranye na Komanda wa section Ntawunguka Pacifique alias OMEGA kijyanye n'uko habaye gusimbura n'indi bataillon, babambura igice bagenzuraga cyavagamo amafaranga, babajije impamvu barababwira ngo baceceke, bashaka no kubica, biba ngombwa ko bahunga, barema uwabo mutwe.
- [227] Uwumuremyi nawe mu mvugo ze avuga ko yari ashinzwe propagande muri Bataillon Bahama, ndetse ko yaguraga imbunda n'amasasu mu mafaranga yahawe n'abashinzwe kugurisha ibintu byasahuwe, akabyohereza mu ishyamba, akemeza ko yatangiye kwandikirana n'abantu babaga i Burayi muri 2007, umudamu mwene wabo aza kumuha e-mail ya Ingabire, batangira kwandikirana mu kwezi kwa 8/2007, bahana na za numero za telefone, bakajya bandikirana kandi bahamagarana, bigeze mu kwezi kwa 01/2008 Ingabire amubaza niba yashaka muri FDLR/FOCA abasirikare bari "souples" kugira ngo bashinge umutwe w'ingabo ushamikiye kuri FDU-Inkingi, ndetse amubwira ko niba batabishaka azi neza ko mu kwezi kwa 06/2008 azaba afite ingabo, icyo gitekerezo cya Ingabire akigeza kuri Nditurande amwereka na za e-mail bandikiranye, nawe baza kwivuganira ariko nawe ubwe bakomeza kujya bavugana, akajya abwira Nditurande ibyo bavuganye.
- [228] Yemeza kandi ko Ingabire yababwiye ko nta ngufu FDLR/FOCA ifite zo gutera u Rwanda ngo barufate, ko igikenewe ari uguteza umutekano muke hagamijwe imishyikirano, muri buri perefegitura hagashakwa abantu 200, nyuma bakazabashakira ibikoresho. [229] Ku bijyanye n'ibyo guteza umutekano muke, Uwumuremyi yemeza ko hari umuntu wari ubishinzwe ariwe Sebukeye Jackson alias Jacky Chan alias Baraka, bakaba barateganyaga ko bajya bafata abantu 10 muri buri perefegitura, bakabigisha bagasubira mu Rwanda, nabo bakigisha abandi. Avuga kandi ko hashoboye kuza bantu 4 gusa, babasaba ibikoresho by'itumanaho na moyen de déplacement, babagurira telefone babaha n'amadolari 800 yo kugura velomoteri yagombaga gukoreshwa taxi, amafaranga avuyemo bakajya bayagabana, ariko umwe muribo yariye amafaranga ntibyakorwa neza nk'uko byari byifujwe.

- [230] Yemeza nanone ko mu mpera z'ukwezi kwa 02/2008 Ingabire yamusabye ko bahurira i Kinshasa, anamwoherereza amafaranga y'itike y'indege ayanyujije muri Western Union, ariko aza kumvikana na Nditurende ko bohererezayo Karuta, uyu ageze asanga Ingabire na Mberabahizi Jean Baptiste wari umunyamabanga mukuru akaba n'umuvugizi wa FDU-Inkingi bagiye gutaha kuko hari habaye gukererwa.
- [231] Ku bijyanye n'ibiganiro yagiranye nabo, yemeza ko bamusabye gukora lisiti y'ibyo bakeneye kugira ngo bamenye amafaranga bashobora kubabonera, Karuta afatanyije n'aba Congomani babiri barimo Colonel Zélote bategura iyo lisiti, azana kopi aho bari bari i Rutshuru, arayibereka ngo bayikosore we na Nditurende, barangije bayohereza Ingabire kuri e-mail gpascal05yahoo.com.
- [232] Yemeza nanone ko mu kwezi kwa 05/2008, bataillon yabo bashatse kuyimura, bamwe muri bo batabishaka, kuwa 18/05/2008 Lt Colonel Nditurende akoresha inama y'aba cadres bose ba bataillon, nk'uwari ushinze inyigisho za polisi amuha ijamba, asobanurira aba ofisiye bari mu nama impamvu bagomba kwanga kugenda bakitandukanya na FDLR kuko nta ntambwe itera, ariko biza kumenyekana, Komanda wa divisiyo ateguka ko bamufata, ararika, Lt Colonel

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Nditurende n'abandi basirikare bagera kuri 60 nabo nyuma y'iminsi mike bava muri FOCA bigira mu ishyamba, we aguma i Goma ariho akorera, akajya agura amasasu akayabohereza.

- [233] Ikindi yemeza n'uko bamaze gutandukana na FOCA babibwiye Ingabire bamusaba inkunga kuko barimo guhangana n'abandi babiri FOCA na CNDP bari basanzwe bahanganye, ababwira ko agiye gukora ibishoboka byose bakabona ibikoreshe ariko ko batagomba kumana na FOCA kuko atariyo ntego yabo, ko ahubwo intego iri mu gihugu, anababwira ko bagomba gushaka izina bakwita umutwe wabo, ko nabo bagiye gushaka izina ryabo, hanyuma bakazareba iryakwemerwa, haza kwemerwa izina rya Coalition des Forces Démocratiques (CFD), ndetse batanga icyifuzo cy'uko hajyaho web site yabo, umusirikare umwe babanaga abiganira n'umusore w'inshuti ye wabaga mu Bushinwa witwaga Olivier, yemera kuyifungura, batangira kuja bavugana, we na Ingabire baza no guhurira mu Bubiligi, batangira gukorana mu rwego rw'ishyamba, uwo musore akaba ndetse yaranazanye na Ingabire ubwo uyu yazaga mu Rwanda. [234] Yemeje nanone ko mu kwezi kwa 10/2008 we na Nditurende bagiye i Kinshasa guhura na Ingabire wagombaga kubonana na Kabila, bakirwa na Colonel Zélote n'undi mugabo, babajyana kuri hoteli Cristal aho baraye, bukeye bwaho ntibabonana na Ingabire, babonana mu gitondo cyakurikiyeho, abasaba ibitekerezo, bamubwira ko agomba kumvisha Kabila ko bagomba kwimurira intambara mu Rwanda, ntibakomeze kwicara muri Congo, abasiga kuri hoteli bari bahuriyemo ajya kubonana na Kabila, avuye kubonana nawe yabatumyeho bamusanga Brazzaville, bukeye bwaho basubira i Kinshasa, hanyuma basubira Goma.

- [235] Ku bijyanye n'amafaranga avuga ko Ingabire yaboherezaga, yemeje ko yayabohereje mu bihe bitandukanye akoresheje abandi bantu barimo Turikumana Jean de Dieu, Dushimirimana Athanase na Mujawayezu Spéciose.
- [236] Ku bijyanye na e-mail bakoreshaga mu kwandikirana, yemeje ko atangira kwandikira Ingabire yakoreshega e-mail muhima2007@yahoo.fr na uwumvit2008@yahoo.fr, aho agarukiye mu Rwanda arangije ingando mu Rwanda yatangiye gukoresha gaspardkalimba@yahoo.fr, aho Ingabire agereye mu Rwanda yakoresheje emmanuel.hirwa@yahoo.fr. Yemeje kandi ko Ingabire yakunze gukoresha e-mail vumuhoza@cs.com na gpascal05@yahoo.com ariko ko hari n'iyindi ya ndindajean@gmail.com bandikiranyeho mu mezi ya nyuma.
- [237] Yemeje nanone ko hari message zimwe yasibye ari kumwe na Ingabire kuko yari yaratangiye guhamagazwa n'inze z'Ubugenzacyaha, noneho bamwereka za e-mail zo kuri gpascal05@yahoo.fr, ngo abonamo izoherejwe kuri adresi muhima2007@yahoo.fr, bakeka ko Nditurende wari warafashwe ashobora kuba yarazitanze, ahita amusaba ko yazisiba kuko yateganyaga ko hari igihe nawe yafatwa bakabona ibyo bandikiranaga.
- [238] Uwumuremyi yemeje ko yakomeje gukorana na Ingabire yaratahutse mu Rwanda muri operation Umoja Wetu mu kwezi kwa 02/2009. Ingero yatanze ni uko Ingabire yamutumye kujya kureba niba Sibomana Sylvain wo muri FDU ari umuntu wakwizerwa kuko bavuganaga bataziranye, amubwira ko nta kibazo amubonamo; yateguye afatanyije n'abandi uburyo azakirwa; yamushakije umunyamabanga; yanasinye amasezerano y'inzu Ingabire yabagamo i Kigali; yajyanye i Kibungo impapuro zasabagaga gusubirishamo urubanza rwa Joseph Ntawangundi muri Gacaca, ajyenda mu modoka ya Ingabire atwawe n'umushoferi we Abdou.

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- [239] Karuta Jean Marie Vianney nawe ku ruhande rwe yemeje ko Nditurende yamwohereje i Kinshasa mu kwezi kwa 02/2008 kugira ngo abonane na Ingabire, agera i Kinshasa byatinze mu ma saa mbiri za ninjoro, yakirwa ku kibuga cy'indege na Colonel Zélote, amwereka aho yicara, hashize akanya haza Mberabahizi wari umunyamabanga nshingwabikorwa w'ishyamba FDU- Inkongi, hashize akanya nanone Colonel Zélote agarukana na Ingabire, uyu ariko amubwira ko badashobora kuvugana kuko yagombaga guhita agenda, asigarana na Mberabahizi, uyu amubaza ibyo bifuza ko babafashamo, amubwira ibyo Nditurende yari yamubwiye bijyanye n'ibikoresho by'itumanaho n'imiti, bahita batandukana kuko nawe yagombaga kugenda, ajyana na Colonel Zélote, uyu amushakira aho acumbika, bukeye agaruka i Goma, ajya kureba Nditurende amuha raporo y'ibyavuye mu butumwa yamwoherejemo.

- [240] Yemeje kandi ko bamaze kuva muri FOCA Nditurende yababwiye ko muri contact arimo gukora bamusabye izina bakwita umutwe wabo, hanyuma aboherereza kuri message ya telefone izina rya Coalition des Forces Démocratiques (CFD), ariko mu nama bagombaga kubyigaho ababwira ko iby'izina batagomba kubitindaho kuko atari ngombwa.
- [241] Iyo Urukiko rusuzumiye hamwe imvugo za Nditurende, Uwumuremyi na Karuta mu Bugenzacyaha, mu Bushinjacyaha no mu iburanisha ry'urubanza, rusanga baturiza ku ngingo nyamukuru zikurikira: kuba Uwumuremyi na Nditurende barajyaga bavugana na Ingabire kuri telefone, bakanandikirana kuri e-mail; kuba Ingabire yarabasabye kwitandukanya na FDLR/FOCA bagashinga uwabo mutwe w'ingabo ushamikiye kuri FDU-Inkingi; kuba Karuta yaragiye i Kinshasa mu kwezi kwa 02/2008 kubonana na Ingabire mu rwego rwo kunoza imishyikirano, agasanga Ingabire agiye kugenda, akavugana na Mberabahizi, bakamusaba gukora lisiti y'ibintu bakeneye; kuba muri izo ngendo bose barakirirwe na Colonel Zélote; kuba Ingabire yarajyaga aboherereza amafaranga anyujije ku bandi bantu; kuba Nditurende na Uwumuremyi nabo baragiye i Kinshasa n'i Brazzaville mu kwezi kwa 10/2008 kubonana na Ingabire mu rwego rwo kunoza imishyikirano, bakaganira ku bijyanye no kurema umutwe w'ingabo ushamikiye kuri FDU-Inkingi; kuba Ingabire yari agamije guteza umutekano muke mu Rwanda hagamijwe guhatira Leta y'u Rwanda kujya mu mishyikirano.
- [242] Urukiko rusanga ibikubiye mu mvugo z'abaregwa hamwe na Ingabire bigomba gusuzumirwa hamwe n'ibindi bimenyetso kugira ngo rurebe niba ibyo bavuga byarabayeho.
- [243] Ku bijyanye na za e-mail abo baregwa hamwe bavuga bandikiranye na Ingabire, izatanzweho ibimenyetso muri uru rubanza ni e-mail zanditswe cyangwa zandikiwe adresi vumuhoza@cs.com, gpascal05@yahoo.fr, muhima2077@yahoo.fr, uwumvit@yahoo.fr na bungucel@yahoo.fr, zimwe muri zo zagaragarijwe inyandiko z'umwimerere, izindi nta mwimerere wazo wagaragajwe.

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- [244] Ku bijyanye na e-mail zagaragarijwe inyandiko z'umwimerere, ku rupapuro rwa 367, hagaragaramo e-mail muhima2077@yahoo.fr yandikiye vumuhoza@cs.com kuwa 03/10/2007 amumenyesha ko yabonye gahunda ye kandi ko yayeretse abantu batandukanye akabona babyumva neza. Yanamubwiraga ko yahaye Lt Colonel adresi ye kuko yifuza ko bavugana, ndetse yanamuhaye numero ze kugirango bazavugane. [245] Muri e-mail y'uwo munsu nayo iri ku rupapuro rwa 367, vumuhoza@cs.com yandikiye muhima2077@yahoo.fr, yamubwiye ko umuyobozi we bavuganye, ko hari ibyo yamubajije amubwira ko azabishyira kuri e-mail ye ariko aza gusanga atayanditse muri agenda ye, akaba amusaba kuyimwoherereza. [246] Muri e-mail yo kuwa 05/10/2007 iri ku rupapuro rwa 369 muhima2077@yahoo.fr yandikiye vumuhoza@cs.com amumenyesha ko Colonel yamubwiye ko bavuganye, kandi ko asigaye akoresha izina rya Henri Menge, anamumenyesha numero ze zindi za telefone.

- [247] Muri e-mail yo kuwa 08/10/2007 iri ku rupapuro rwa 368/370, vumuhoza@cs.com yandikiye muhima2077@yahoo.fr amubwira ko yizera ko bari gukomeza gukora propaganda bumvisha abantu ko bagomba gukora bakava mu ishyamba bagataha, abashaka kuriheramo bakahaguma. Yamubwiraga kandi ko yavuganye na Lt Colonel amubwira ko ingufu za politiki n'iza diplomatie bazifite, ko izo babura ari izabo, ko yifuza ko yamubwira uko ingufu zabo zaboneka kugira ngo azihuze n'ize, ko bareba abafite ubushake n'ubushobozi aho kugira ngo bahere ku busa bikabatinza mu mayira.
- [248] Muri e-mail yo kuwa 30/12/2007 iri ku rupapuro rwa 375, vumuhoza@cs.com yandikiye muhima2077@yahoo.fr amubwira amakuru y'inama yabaye kuwa 25/11. Yamubwiraga nanone ko ingufu za politiki n'iza diplomatie bazifite, ko izo babura ari izo bo bafite ku giti cye abona bapfusha ubusa, ndetse ko abifuza ko bakomezanya bazakomezanya urugendo, ko gahunda yabo ari uko mu mezi 6 izo mbaraga yaba yarangije kuzigeraho.
- [249] Muri e-mail yo kuwa 02/01/2008 iri ku rupapuro rwa 376, vumuhoza@cs.com yandikiye muhima2077@yahoo.fr amubwira ko aho hantu abantu bazajya bafite ibikoresho hahari, ko yariyo kuri Noheli kandi ko azagaruka muri iyo minsi gutegura amayira abifuza kubasanga bazanyuramo, amusaba kandi gukomeza mobilisation na sensibilisation.
- [250] Muri e-mail yo kuwa 12/02/2008 iri ku rupapuro rwa 377, muhima2077@yahoo.fr yandikiye vumuhoza@cs.com amubwira ngo "wa muntu azahaguruka ku cyumweru saa saba n'iminota cumi n'itanu, ubwo azagera i KIN saa cyenda n'iminota cumi n'itanu".
- [251] Muri e-mail yo kuwa 03/03/2008 iri ku rupapuro rwa 449 vumuhoza@cs.com yandikiye bungucel@yahoo.fr amushimira ubutwari bagize bwo kwemera ko barema ingabo ngo batabare ababatezeho byinshi. Yavugaga ko ibirebana na politiki na diplomatie bigenda neza, ko ahasigaye ari ahabo, ndetse ko "hari umuntu uri i Kin umuvandimwe wanyu yari yahuye nawe bari bagejeje abantu bajya bagemura ibikenewe kugira ngo babone couverture kandi ko yifuza ko asubiraye". [252] Muri e-mail yo kuwa 06/03/2008 iri ku rupapuro rwa 451 bungucel@yahoo.fr yandikiye vumuhoza@cs.com avuga ko ashima Imana kuba yarabafashije agahura nuwo bohereje kandi akongera akabageraho nta kibazo, amubwira ko ubutumwa yamwoherereje yabubonye, ko bo

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bafashe icyemezo ahasigaye ari ubwitange bwabo, ko ibyihutirwa ari buriya buryo Muhima Dieudonné ategerereje i Goma n'amafaranga babasabye. Yanamubwiraga ko ibyerekeye ko intumwa yabo yasubira i Kinshasa yasanze atari ngombwa kuko baje kumenya ko umu Colonel wamwakiriye ku ndege ajya avugana kuri telefoni n'abandi bantu badahuje umugambi w'uko ibintu byahinduka, bakaba batsimbaraye ku mahame ya kera ya FAR. [253] Urukiko rusanga, nk'uko byemejwe n'Urukiko Rukuru, adresi vumuhoza@cs.com ari iya Ingabire kuko igaragara ku ikarita ye (carte de visite) yashyikirijwe urukiko, no mu rukiko akaba yaremeye ko yayikoresheje mu bihe bitandukanye, akaba atagaragaza ko yaba yarakoreshejwe n'abandi bantu atabizi, bityo hakaba hagomba kwemezwa ko ubutumwa bwose bwavuzwe haruguru bwanditswe n'ubwakiriwe

kuri adresi vumuhoza@cs.com ari ubwa Ingabire.

- [254] Ku bijyanye na adresi muhima2077@yahoo.fr na bungucel@yahoo.fr, Urukiko rusanga, nk'uko byemejwe n'Urukiko Rukuru, iya mbere ari iya Uwumuremyi, iya kabiri ikaba iya Nditurende, kuko bemera ko bazikoresheje bandikirana na Ingabire, izo adresi zikaba zigaragara mu zohereje ubutumwa kuri adresi vumuhoza@cs.com Ingabire yemera ko ari iye, bityo hakaba hagomba kwemezwa ko ubutumwa bwose bwanditswe n'ubwakiriwe kuri izo adresi, nk'uko bwagaragajwe haruguru, buhuje n'ibyabaye kuko Ingabire atagaragaza uko inzego z'iperereza zaba zarinjiyemo ngo zishyiremo ubutumwa zihimbiye.
- [255] Urukiko rusanga kuba mu Bugenzacyaha no mu Bushinjacyaha Ingabire batarahise bamwereka inyandiko z'umwimerere w'izo e-mail, zimwe bakazimwereka nyuma, atari impamvu yashingirwaho hemezwa ko izo e-mail abo baregwa hamwe bavuga bandikiranye nawe zacuzwe n'inzego z'iperereza kuko, nk'uko byasobanuwe n'Urukiko Rukuru, nawe ubwe yivugira ko bageze aho bakazimwereka, akaba yarahawe umwanya wo kuzireguraho.
- [256] Urukiko rusanga no kuba hari e-mail zimwe batamweretse umwimerere wazo kugeza ubu, biterekana ko e-mail zavuzwe zahimbwe nk'uko Ingabire abivuga, kuko ntacyari gutuma zimwe zihimbirwa inyandiko z'umwimerere, izindi ntizibikorere.
- [257] Urukiko rusanga nanone kuba bakimufata baramubajije mu Bugenzacyaha no mu Bushinjacyaha kuri za e-mail ngo yandikiranye n'abo baregwa hamwe mu gihe aba batari bakagejwe imbere y'izo nzego, bitavuga ko e-mail zahimbwe, ahubwo byumvikanisha ko iperereza ryari rigikomeza, bikaba bitari ngombwa ko asobanurirwa aho rigeze.
- [258] Ku bijyanye n'ingendo abaregwa hamwe na Ingabire bavuga bakoreye i Kinshasa na Brazzaville kubonana na we, muri dosiye harimo inyandiko ya Compagnie Africaine d'Aviation (CAA) igaragaza ko uwitwa Bantu Biruba yakoze urugendo mu ndege yabo kuwa 24/02/2008 ava Kinshasa ajya Goma, inyandiko ya Compagnie d'aviation Hewa Bora Airways igaragaza ko uwitwa Henri Hatali Mulinde yakoze urugendo mu ndege yabo kuwa 07/10/2008 ava i Goma ajya i Kinshasa, ndetse n'inyandiko za Compagnie Africaine d'Aviation (CAA) zigaragaza ko Henri Hatali Mulinde na Muhindo Muhima bakoze urugendo mu ndege yabo kuwa 12/10/2008 bava i Kinshasa bajya i Goma. [259] Iyo rusesenguye ibikubiye mu nyandiko mvugo za Karuta, Nditurende na Uwumuremyi, muri e-mail zavuzwe haruguru no mu nyandiko zanditswe na compaignies z'indege, rukabihuza n'amatariki Ingabire yari i Kinshasa, Urukiko rusanga, nk'uko byemejwe n'Urukiko Rukuru,

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abavugwa ku mazina ya Bantu Biruba, Henri Hatali Mulinde na Muhindo Muhima muri izo nyandiko ari Karuta, Nditurende na Uwumuremyi.

- [260] Ku birebana no kuba Karuta yaragiye i Kinshasa kubonana na Ingabire mu kwezi kwa 02/2008, Urukiko rusanga Karuta ubwe abyemeza, bikanemezwa na Nditurende wamuyoboraga hamwe na Uwumuremyi, ndetse bigahura n'ibyanditswe muri e-mail

Uwumuremyi yandikiye Ingabire kuwa 12/02/2008, bikanahura n'inyandiko ya Compagnie Africaine d'Aviation igaragaza ko uwitwa Bantu Biruba yakoze urugendo mu ndege yabo kuwa 24/02/2008 ava i Kinshasa ajya i Goma, byose iyo birebewe hamwe bikaba ari ibimenyetso bikomeye, bisobanuye kandi bihuje mu kugaragaza ko Karuta yagiye i Kinshasa kubonana na Ingabire nk'uko byemejwe n'Urukiko Rukuru.

- [261] Ku bijyanye no kuba Nditurende na Uwumuremyi baragiye i Kinshasa na Brazzaville kubonana na Ingabire mu kwezi kwa 10/2008, Urukiko rusanga ibyo bavuga ko bagiye yohereza bihura n'inyandiko ya Compagnie d'aviation Hewa Bora Airways igaragaza ko uwitwa Henri Hatali Mulinde yakoze urugendo mu ndege yabo kuwa 07/10/2008 ava i Goma ajya i Kinshasa, ndetse n'inyandiko za Compagnie Africaine d'Aviation (CAA) zigaragaza ko Henri Hatali Mulinde na Muhindo Muhima bakoze urugendo mu ndege yabo kuwa 12/10/2008 bava i Kinshasa bajya i Goma.
- [262] Iyo ruhujwe nanone ibimaze kuvugwa no kuba Ingabire nawe yemera ko yari i Kinshasa n'i Brazzaville mu kwezi kwa 10/2008, no kuba Nditurende na Uwumuremyi barakiriwe ku kibuga cy'indege na Colonel Zélote, akaba ari nawe wakiriye Karuta mu kwezi kwa 02/2008, ndetse ari nawe wari ushinze umutekano wa Ingabire nk'uko uyu yabyivugiyeyeho, kuba kandi Nditurende na Uwumuremyi bemeza ko babonyanye na Ingabire amaze kubonana na Perezida wa RDC n'uwa Congo Brazzaville, Ingabire nawe akaba yemeza ko yabonyanye n'abo bakuru b'ibihugu bombi, Urukiko rusanga, nk'uko byemejwe n'Urukiko Rukuru, ibimaze kuvugwa ari ibimenyetso bikomeye, bisobanuye kandi bihuje bigaragaza ko Nditurende na Uwumuremyi bagiye i Kinshasa na Brazzaville kubonana na Ingabire mu kwezi kwa 10/2008.
- [263] Urukiko rusanga kuba Ubushinjacyaha butarashoboye kugaragaza ko Nditurende na Uwumuremyi baraye muri hoteli Cristal cyangwa kugaragaza aho bahuriye na Ingabire i Kinshasa n'i Brazzaville, bidakuraho uruhurirane rw'ibyabaye byavuzwe haruguru bigaragaza ko bagiye koko i Kinshasa n'i Brazzaville bagira ngo babonane nawe mu rwego rw'imishyikirano bari baragiranye mbere.
- [264] Ku bijyanye n'imiburanire ya Ingabire y'uko abo baregwa hamwe bashobora kuba bari basanzwe bazi Colonel Zélote, uyu akaba ashobora kuba ari we wabahaye amakuru ajyanye n'ingendo ze, Urukiko rusanga hakurikijwe ibisobanuro byatanzwe haruguru, nta shingiro ifite, cyane ko atabitangira ibimenyetso. [265] Ku bijyanye n'amafaranga abaregwa hamwe na Ingabire bavuga ko yaboherereje, mu bimenyetso byavuye mu Buholandi harimo inyandiko mvugo y'iperereza yakozwe n'inzego z'umutekano zo mu Buholandi igaragaza ko kuwa 20/05/2008 Mujawayezu Spéciose yohereje 1,514.74 dollars Muhindo Dieudonné ayanyujije kuri Western Union. Harimo n'inyandiko mvugo igaragaza ko Mujawayezu Spéciose yabajijwe n'inzego z'umutekano zo mu Buholandi kuwa 13/12/2010 niba yarigeze yohereza amafaranga kuri Goma, abanza kuvuga ko ntayo yigeze

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yohereza, hanyuma uwamubazaga amubwiye ko iperereza ryagaragaje ko muri 2008 yohereje amafaranga uwitwa Muhindo Dieudonné, yemera ko yohereje 1000 euro kuri Goma abisabwe na Ingabire ariko ko atibuka izina ry'uwo yayohereje, kandi ko atazi uwo muntu witwa Muhindo Dieudonné.

[266] Mu bimenyetso byavuye muri RDC naho, hari inyandiko za Western Union zigaragaza ko hagati yo kuwa 06/02/2008 no kuwa 23/08/2008 Muhima Muhindo yoherejwe amafaranga n'abantu batandukanye barimo Mujawayeze Spéciose, Turikumana Jean de Dieu na Dushimirimana Athanase.

[267] Urukiko rusanga ku birebana na Mujawayeze, kuba we na Uwumuremyi bombi bemeza ko bataziranye, umwe akavuga ko ari Ingabire wamutumye kwohereza amafaranga, undi akavuga ko amafaranga yayoherejwe na Ingabire, bakabyemeza bari ahantu hatandukanye no mu bihe bitandukanye, bigaragaza, nk'uko byasobanuwe n'Urukiko Rukuru, ko ari Ingabire wohereje amafaranga ayanyujije kuri Mujawayeze.

[268] Ku birebana n'amafaranga Uwumuremyi avuga ko yoherejwe na Turikumana, Urukiko rusanga ntacyo runenga ku isesengura ryakozwe n'Urukiko Rukuru aho ruvuga ko ubutumwa bwa e-mail bwoherejwe Nsabimana Phocas n'uwitwa Christine Numuhoza akoresheje adresi cnumuhoza@yahoo.fr amubwira ko amaze kumwoherereza 500USD kandi amumenyesha ko uwohereje ayo mafaranga ari Turikumana Jean de Dieu, n'ubuhamya bwa Nsabimana imbere y'urukiko wemeje ko uwo bandikiranaga kuri iyo adresi ari Ingabire kandi ko ariwe wamwoherereje ayo mafaranga, bigaragaza ko iyo adresi cnumuhoza@yahoo.fr ari iya Ingabire, akaba kandi yari asanzwe yifashisha Turikumana Jean de Dieu mu kohereza amafaranga.

[269] Urukiko rusanga nk'uko byemejwe n'Urukiko Rukuru kuba Ingabire yemera ko azi Turikumana nk'umuyobohe wa FDU-Inkingi kandi bikaba bigaragara ko yari asanzwe amwifashisha mu kwohereza amafaranga, kuba ku rundi ruhande Uwumuremyi avuga ko atamuzi ariko ko amafaranga yamwohererezaga yabaga ayoherejwe na Ingabire ari uruhurirane rw'ibyabaye bigaragaza ko Ingabire ariwe wohereje Uwumuremyi ayo mafaranga ayanyujije kuri Turikumana.

[270] Ku birebana n'amafaranga Uwumuremyi yoherejwe na Dushimirimana Athanase, Urukiko rusanga nanone ntacyo runenga ku isesengura ryakozwe n'Urukiko Rukuru aho rwemeza ko kuba Ingabire yemera ko amuzi nk'umuyobohe wa FDU-Inkingi kandi bikaba bigaragara ko yari asanzwe yifashisha abandi bantu mu kwohereza amafaranga, Uwumuremyi akemeza ko atamuzi, nanone ari uruhurirane rw'ibyabaye bigaragaza ko Ingabire ariwe wohereje Uwumuremyi ayo mafaranga ayanyujije kuri Dushimirimana.

[271] Iyo rusesenguye ibikubiye mu mvugo za Nditurande, Uwumuremyi na Karuta no muri e-mail zagaragajwe haruguru, rukabihuza n'ingendo bagiyemo i Kinshasa na Brazaville, ndetse n'ibimenyetso by'amafaranga yoherejwe Uwumuremyi, Urukiko rusanga ibyo

Nditurende na Uwumuremyi bavuga ko Ingabire yabashishikarije kwitandukanya na FDLR/FOCA bakarema umutwe w'ingabo ushamikiye kuri FDU-Inkingi ari ukuri. vii. Ku birebana n'uko Urukiko Rukuru rutagaragaje ko yari afite umugambi wihariye wo kurema umutwe w'ingabo ushamikiye kuri FDU-Inkingi

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- [272] Ingabire avuga ko Urukiko Rukuru rwavuze ko yari afite icyifuzo cyo gushyiraho ingabo zishamikiye kuri FDU- Inkingi, ariko ko usibye ko ntaho rwahereye rubyemeza rutyo, asanga umuntu atahanirwa kugira icyifuzo.
- [273] Avuga kandi ko mu rubanza rwa Mushayidi Urukiko Rukuru rwasobanuye ko icyaha cy'ubugambanyi kigaragarira mu mugambi wo gushaka gukuraho ubutegetsi, ndetse rwemeje ko umugambi wagaragajwe mu ntego y'ishyaka PDP Imanzi kuko abayishinze bagaragaza ko bemera inzira z'ibiganiro ariko ko zinaniranye bashyiraho umutwe w'ingabo.
- [274] Akomeza avuga ko kubireba ishyaka FDU-Inkingi yari abereye umuyobozi nta kimenyetso na kimwe cyatanzwe kigaragaza ko rifite umugambi wo gushyiraho ingabo hagamijwe gukuraho ubutegetsi, ndetse ko programu yaryo igaragaza ko ryemera inzira y'amatora nk'inzira imwe yonyine yo guhindura ubutegetsi mu gihugu.
- [275] Avuga nanone ko mu buhamya bwe Nsabimana Phocas wahoze ari umuyoboze wa FDU-Inkingi, akaba yari yazanywe n'Ubushinjacyaha gutanga ubuhamya, avuga ko gahunda y'ishyaka FDU-Inkingi yari yarasobanuriwe yari iyo kwandikisha ishyaka, hagatangwa umukandida mu matora y'umukuru w'igihugu, ko atigeze agezwaho amakuru ko ishaka kugera ku butegetsi hakoreshejwe intambara cyangwa ibikorwa byahungabanya umutekano mu gihugu, bityo akaba asanga ubwo buhamya bw'umuntu watangiye gukorana na FDU- Inkingi kuva muri 2008 ayishakira abayoboze mu gihugu bugaragaza ko gahunda y'ishyaka yari ayoboye ntaho ihuriye no kugirira nabi ubutegetsi buriho hakoreshejwe iterabwoba rikomeye n' intambara.
- [276] Avuga ko nk'umuyobozi w'ishyaka FDU-Inkingi nta bushobozi yari afite bwo gufata icyemezo nka kiriya cyo gushinga umutwe w'ingabo bitemejwe n'inama rusange y'ishyaka, ndetse ko na Uwumuremyi bavuga ko bahuje umugambi nta bushobozi yari afite bwo gufata icyemezo cyo gushyiraho umutwe w'ingabo ushamikiye kuri FDU-Inkingi kuko atari umurwanashyaka w'iryo shyaka. [277] Akomeza avuga ko nta kimenyetso cyatanzwe kigaragaza ko yari afite umugambi wihariye wo gushinga umutwe w'ingabo agamije gukuraho ubutegetsi buriho, ndetse ko Urukiko Rukuru rwirengagije za disikuru nyinshi yagiye avugira ahantu hatandukanye zigaragaza ko yemera inzira y'amahoro no guhatanira ubutegetsi binyuze mu matora. Yongeraho ko kuba yaratahutse kuwa 16/01/2010 agatangira gahunda zo kwandikisha ishyaka binyuranye cyane no kwemeza ko yashakaga guhatira Leta imishyikirano binyuze mu bikorwa by'iterabwoba n'intambara. [278] Ubushinjacyaha buvuga ko ibyo Ingabire avuga ko yahaniwe icyifuzo nta shingiro bifite, kuko Urukiko Rukuru rwasobanuye ko icyifuzo yagize cyavuyemo ubugambanyi ari nabwo yahaniwe. Ku

birebana n'ibyo avuga ko nta kimenyetso cyatanze kigaragaza umugambi wa FDU-Inkingi wo gushyiraho umutwe w'ingabo wo guteza umutekano muke mu Rwanda, buvuga ko ashaka kuyobya urukiko kuko atayobewe ko icyaha ari we wagikurikiranyweho ku giti cye kuko icyaha ari gatozi, ndetse ko ari we ku ku giti cye cyahamye.

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- [279] Ku birebana n'ibyo Ingabire avuga ko hari inyandiko na za disikuru nyinshi yagiye avugira ahantu hatandukanye zigaragaza ko yemera inzira y'amahoro no guhatanira ubutegetsi binyuze mu matora, buvuga ko ibyo bitamubujije ku rundi ruhande kugira indi imvugo avugira ahihishe agambiriye kurema umutwe wa gisirikare ugamije gufata ubutegetsi akoresheje intambara n'iterabwoba, bikaba bigaragaza ahubwo ko agira indimi ebyiri, iyo avugira mu nyandiko iyo ziri bujye ku mugaragaro, n'yo avugira ahiherereye ijyanye n'ibikorwa byo guhungabanya umudendezo w'igihugu.
- [280] Ku bijyanye n'ubuhamya bwa Nsabimana Phocas, Ubushinjacyaha buvuga ko Ingabire yibanda kuri bimwe umutangabuhamya yavuze we abona ko byamugirira akamaro, akirengagiza ibindi yatanzeho ubuhamya byashimangiraga ibindi bimenyetso byari byatanze n'Ubushinjacyaha, nko kuba yaremeje ko Ingabire yamwohererezaga amafaranga yo gutezura ibikorwa byose by'ishyamba ryabo ayacishije ku bandi bantu, ibi bikagaragaza ko ibyo Uwumuremyi na Mujawayeze bavuze ari ukuri ku bijyanye n'amafaranga Ingabire yoherezaga muri Congo ayanyujije ku bandi bantu, nko kuba kandi Ingabire yarahinduraga za e-mail yakoresheje mu buryo bwo kwiyoberanya, ibi nabyo bigashimangira ibyo abaregwa hamwe nawe bavuze ko bandikiranaga kuri za e-mail bakoresheje adresi zitandukanye. Uko urukiko rubibona:
- [281] Urukiko rusanga Ingabire atarahaniwe icyifuzo cyo gushyiraho ingabo zishamikiye kuri FDU-Inkingi nk'uko abivugaga, ahubwo yarahaniwe umugambi yemeranyijweho na Uwumuremyi wo kurema umutwe w'ingabo ushamikiye kuri FDU-Inkingi.
- [282] Ku bijyanye n'uwo mugambi, Urukiko Rukuru rwagaragaje uburyo Ingabire yashishikariye Nditurande na Uwumuremyi kuva muri FDLR/FOCA, bakarema uwabo mutwe w'ingabo ushamikiye kuri FDU-Inkingi, ubutumwa yaboherezaga kuri e-mail, inama bagiranye i Kinshasa n'i Brazzaville, amafaranga yabohereje, amwe bakaba bemeza ko bayaguzemo ibikoresho bya gisirikare, andi bakayafashisha imiryango yabo. [283] Ku bijyanye n'uko Urukiko Rukuru rutagaragaje ko ishyamba FDU-Inkingi ryari rifite umugambi wo kurema umutwe w'ingabo hagamijwe guteza umutekano muke mu Rwanda, akaba atari icyemezo yari gufata wenyine, Urukiko rusanga ikigamijwe muri uru rubanza ari ugusuzuma uruhare rwa Ingabire mu byaha aregwa, atari ugusuzuma niba ibyo yakoze yari yabitungumwemo n'ishyamba yari abereye umuyobozi, cyangwa niba byari umurongo yashakaga kuriganishamo nk'umuyobozi wariyongwe, ububasha yari abifitiye cyangwa atabifitiye.

[284] Ku bijyanye n'uko Uwumuremyi nta bushobozi yari afite bwo gushyiraho umutwe w'ingabo ushamikiye kuri FDU-Inkingi kuko atari umurwanashyaka w'iryo shyamba, Urukiko rusanga nk'uko byagaragajwe haruguru, Ingabire yaramusabye gushaka muri FDLR/FOCA abasirikare bari "souples" kugira ngo bashinge umutwe wabo w'ingabo, uruhare rwe akaba ari uko uwo mugambi yawemeranyijweho na Ingabire, ndetse afatanye nawe kuwukungurira Nditurande, uyu nk'umuyobozi wa Bataillon Bahama akaba yari afite ubushobozi buhambaye ubwe, akaba yaraje no kuva muri FDLR/FOCA we nabo bari bafatanyije bagashyamba uwundi mutwe wabo w'ingabo.

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[285] Urukiko rusanga kandi ukurikije ibikubiye mu butumwa Uwumuremyi na Ingabire bandikiranaga, n'ibyo Nditurande yavuze mu ibazwa rye mu Bugenzacyaha ko Uwumuremyi yari umuntu w'umwizerwa cyane wa Ingabire, ukabihuza n'uko amaze gutaha muri operation Umoja Wetu yakomeje gukorana nawe mu buryo bwa hafi cyane, Urukiko rusanga nta gitangaza ko Ingabire yamwifashishije mu bikorwa yashakaga kugeraho byo gushyamba umutwe w'ingabo ushamikiye kuri FDU-Inkingi yari abereye umuyobozi.

[286] Ku bijyanye n'invugo ya Nsabimana Phocas ko atigeze agezwaho amakuru ko FDU-Inkingi ishaka kugera ku butegetsi hakoreshejwe intambara cyangwa ibikorwa byahungabanya umutekano mu gihugu ndetse no za disikuru yaba yaravugiyeho ahantu hatandukanye agaragaza ko yemera inzira y'amahoro mu guhatanira ubutegetsi binyuze mu matora, Urukiko rusanga ibyo bitavanyaho ibimenyetso bibivugururira byagaragajwe.

[287] Mu gusoza ku bijyanye n'icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'itegeko Nshinga hakoreshejwe iterabwoba rikomeye, intambara cyangwa izindi mbaraga zose, Urukiko rusanga imiburanire ya Ingabire guhera mu rwego rwa mbere ko yahimbiwe ibyaha n'inzego z'iperereza nta shingiro ifite kubera impamvu zose zagiye zisobanurwa, icyaha kikaba kimuhama nk'uko byemejwe n'Urukiko Rukuru.

3. Ku bijyanye n'icyaha cyo gufobya jenocide

i. Kumenya niba hari ikosa Urukiko rwakoze ruhindura inyito y'icyaha rwaregwe cy'ingengabitekerezo ya jenocide rugahamya Ingabire icyaha cyo gufobya jenocide. [288] Ingabire avuye ku Ubushinjacyaha bwamureze icyaha cy'ingengabitekerezo ya jenocide, bushingiye ku ngingo za 2-4 z'itegeko n° 18/2008 ryo kuwa 23/07/2008 rihana icyaha cy'ingengabitekerezo ya jenocide. Asobanura ko mu gihe cy'iburanisha we n'abamwunganira batanze inzitizi y'uko hakurikijwe ihame ry'ubudasubira inyuma bw'itegeko rihana (non rétroactivité de la loi pénale), iryo tegeko ritashoboraga gushyirwaho bitewe n'uko ibimenyetso Ubushinjacyaha bwahereyeho bumurega icyo cyaha byabayeho mbere y'uko iryo tegeko ribaho.

- [289] Yongeraho ko nyuma y'uko bigaragaye ko inzitizi yatanzwe yari ifite ishingiro, Ubushinjacyaha bwashyize urukiko ko kubera ko icyaha cyo gupfobya jenocide n'ubundi cyahanwaga kuwa muri 2003, rwakoresha itegeko n° 33bis/2003 ryo kuwa 06/09/2003, ingingo yaryo ya 4.
- [290] Anavuga ko aho kwita kuri icyo myiregurire ye, urukiko rwamuhamije ahubwo icyaha cyo gupfobya jenocide hagendewe ku itegeko ridahuye n'iryo Ubushinjacyaha bwakoresheje igihe bwatangaga ikirego mu rukiko, abacamanza basobanura impamvu batarishyigiyeho mu cyemezo cyabo bifashishije abahanga Henri Bossly na Damien Vandermeersch.
- [291] Ubushinjacyaha buvuga ko ibyo Ingabire avuga nta shingiro bifite kuko nk'uko bwabisobanuye, iki cyaha cyahanwaga kuwa muri 2003, ndetse ko nta n'ikibuzza umucamanza guhindura inyito y'icyaha n'itegeko rikoresheye kuko we aregerwaga ibikorwa bigize icyaha maze mu gufata icyemezo akabihuza n'inyito abona ikwiye.

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Uko urukiko rubibona:

- [292] Urukiko rushyigiyeho ku byasobanuwe haruguru ku bijyanye n'ububasha bw'Urukiko bwo guhindura inyito y'icyaha rwagewe, ibikorwa Ingabire yaregaga ni ibyo kuyobya uburari hagamijwe kutemera jenocide yabaye cyangwa kuyipfobya kandi ntibyahindutse kuko icyo urukiko rwakoze gusa ari ukubihira inyito ikwiye runabihuza n'itegeko n° 33bis/2003 ryo kuwa 06/09/2003 ryabihanaga, mu ngingo yaryo ya 4, mbere y'uko itegeko n° 18/2008 ryo kuwa 23/07/2008 riza kubishimangira.
- [293] Kuba rero inyito y'icyaha n'itegeko rishyigirwaho byaragiye bihinduka uko dosiye yagiye inyura mu nzego zitandukanye z'ubutabera, ariko ibikorwa bikurikiranywe bishyigirwaho mu kwemeza icyaha bikaba bitarahindutse, kugeza igihe urukiko rwatanze inyito ya nyuma rusanga ikwiye (dernière qualification), ntaho binyuranyije n'amategeko, bityo uru Rukiko rukaba rusanga nta kosa Urukiko Rukuru rwakoze guhindura inyito y'icyaha. ii. Kumenya niba Ingabire yarhamijwe icyaha cyo gupfobya jenocide kandi itegeko rigihana ridasobanutse, rikaba rinanyuranyije n'amahame mpuzamahanga u Rwanda rwemeye ku bijyanye no kuba itegeko rihana icyaha cya jenocide ridasobanutse.
- [294] Ingabire avuga ko mu gihe cy'iburana ku rwego rwa mbere yagaragariye abacamanza imbogamizi zijyanye n'itegeko rihana icyaha cy'ingengabitekerezo ya jenocide cyangwa gupfobya jenocide, abacamanza bamubwira ko ntacyo babikoraho, ko yaregeye Urukiko rw'Ikirenga ikirego kijyanye n'uko ingingo ya 4 y'itegeko n° 33 bis/2003 inyuranyije n'itegeko Nshinga, rwemeza ko nta mpamvu yo kwakira ikirego cye kuko iryo tegeko ryavuyeho.
- [295] Avuga ko n'ubwo iryo tegeko ryavuyeho ariko, bitabujije Urukiko Rukuru kumuhamya icyaha cyo gupfobya jenocide rushyigiyeho kuri iryo tegeko, kubera ko ari ryo ryariho igihe yatangazaga ibitekerezo bye ku kaga igihugu cyagize.

- [296] Anavuga ko mu kugena ibihano by'icyaha cyo gupfobya jenocide, urukiko rwagendeye noneho ku ngingo ya 116 y'igitabo gishya cy'amategeko ahana ibyaha, ikubiyemo ibyanengwaga mu ngingo ya 4 y'itegeko n° 33 bis/2003, birimo ko itegeko ridasobanuye, ritagaragaza neza icyaha icyo ari cyo, n'icyo umuntu ashingiraho yemeza ko ikigamijwe ari ugupfobya jenocide ; akaba asaba urukiko kwemeza ko yaba ingingo ya 4 y'itegeko n°33bis/2003, yaba ingingo ya 116 y'itegeko ngenga n°1/2012 yarisimbuye zitashingirwaho ku cyaha urukiko rwamuhamije cyo gupfobya jenocide.
- [297] Ubushinjacyaha buvuga ko iyi ngingo y'ubujurire ya Ingabire nta shingiro ifite, kuko Urukiko rw'Ikirenga rwarangije gufata umwanzuro kuri icyo kibazo, akaba ashaka ko rwongera kugisuzuma no kugifataho umwanzuro kandi byaba binyuranije n'ingingo ya mbere y'itegeko ngenga n° 03/2012/OL ryo kuwa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga. 8 Kureba haruguru ibisobanuro byatanzwe ku cyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga.

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Uko urukiko rubibona

- [298] Ku birebana n'iki cyaha cyo gupfobya jenocide, nyuma y'uko urubanza rupfundikiwe ariko mbere y'uko rucibwa, Inteko Ishinga Amategeko yatoye itegeko n° 84/2013 ryo kuwa 11/09/2013 ryerekeye ingengabitekerezo ya jenocide n'ibindi byaha bifatanye isano nayo, ryatangiye gukurikizwa kuwa 28/10/2013. [299] Iryo tegeko mu ngingo yaryo ya 5, riteganyako guhakana jenocide ari igikorwa icyo aricyo cyose gikozwe ku bushake kandi mu ruhame kigamije: 1° kuvuga cyangwa kugaragaza ko jenocide atari jenocide (indiquer ou expliquer qu'un génocide n'en est pas un); 2° kugoreka ukuri kuri jenocide kugira ngo uyobye rubanda; 3° kwemeza ko mu Rwanda habaye jenocide ebyiri; 4° kuvuga cyangwa kugaragaza ko jenocide yakorewe abatutsi itateguwe. Iyo ngingo ikomeza ivuga ko umuntu wese ukora igikorwa kivugwa muri ibyo, aba akoze icyaha cyo guhakana jenocide.
- [300] Ingingo ya 6 y'iryo tegeko yerekeranye no gupfobya jenocide iteganyako "gupfobya jenocide" ari imyitwarire iyo ariyo yose igambiriwe kandi igaragajwe mu ruhame mu buryo ubwo aribwo bwose, igamije: 1° kugabanya uburemere cyangwa ingaruka ya jenocide ; 2° koroshya uburyo jenocide yakozwemo. Iyo ngingo ikavuga ko umuntu wese, ukora igikorwa kivugwa muri ibyo, aba akoze icyaha cyo gupfobya jenocide.
- [301] Nk'uko bigaragara, itegeko rishya rigamije gusobanura mu buryo bwumvikana kurushaho ibyaha n'ubundi byari bisanzwe biteganyijwe, by'umwihariko icyaha cy'ingengabitekerezo ya jenocide n'ibindi byiswe noneho ko bifatanye isano nayo birimo icyaha cyo guhakana jenocide n'icyo kuyipfobya, kugira ngo ibintu birushaho kumvikana no gusobanuka, ibihano kuri ibyo byaha byombi uko ari bibiri ariko bikaba nabyo byarakomeje kuba bimwe.

- [302] Inyandiko y'urubanza rwajuririwe igaragaza ko ibyashingiweho n'Ubushinjacyaha mu gukurikirana Ingabire ku cyaha cyo gupfobya jenocide ari ibitekerezo bikubiyemo ingengabitekerezo ya jenocide no kuyobya uburari hagamijwe gupfobya jenocide yabaye akoresheje inzira zitandukanye z'itangazamakuru, ibitekerezo by'ingenzi bikaba ari ibigamije kwerekana ko mu Rwanda habaye jenocide ebyiri, iyakorewe Abatutsi n'iyakorewe Abahutu.
- [303] Kuba igikorwa cyo kwemeza ko mu Rwanda habaye jenocide ebyiri cyarakurikiranwaga nk'icyaha cyo gupfobya jenocide hashingiwe ku itegeko n° 33 bis/2003 ryo kuwa 06/09/2003 mu ngingo yaryo ya 4, mu itegeko rishya icyo gikorwa kikaba noneho kigize icyaha cyo guhakana jenocide, urukiko rusanga bitatuma itegeko n'ingingo Urukiko Rukuru rwashingiyeho bihinduka, kubera ko aribyo byakurikizwaga igihe icyaha gikurikiranywe cyakorwaga, uretse ko nk'uko

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byamaze kuvugwa, ibikorwa bikurikiranywe bikomeje kuba bimwe mu itegeko rishya n° 84/2013 ryo kuwa 11/09/2013. [304] Urukiko rusanga n'ubwo inyito y'icyaha yahindutse, kamere yacyo yarakomeje kuba imwe, ndetse n'icyahanwaga ari kimwe, icyakurikiranwaga n'ubundi kikaba ari ugupfobya jenocide byafatwaga nko kuyihakana. Ku bijyanye no kumenya niba Urukiko Rukuru rwahamije Ingabire icyaha cyo gupfobya jenocide rutubahirije ingingo ya 19 ya ICCPR n'andi mahame mpuzamahanga. [305] Ingabire na Me Iain Edwards umwunganira bavuga ko Urukiko Rukuru rwahamije Ingabire icyaha cyo gupfobya jenocide, rutubahirije ubwisanzure bwo kuvuga icyo utekereza buteganywa mu ngingo ya 19 y'Amasezerano Mpuzamahanga ku burenganzira mbonezamubano na politiki (International Covenant on Civil and Political Rights / Pacte International des droits Civils et Politiques), no mu ngingo ya 9 (2) y'Amasezerano Nyafurika ku burenganzira bwa muntu n'abaturage (African Convention on Human and People Rights/ Convention Africaine des droits de l'Homme et des Peuples), hamwe n'ingingo ya 34 y'Itegeko Nshinga rya Repubulika y'u Rwanda.

- [306] Bakomeza bavuga ko mu gihe u Rwanda rwasinye amasezerano mpuzamahanga ajyanye n'uburenganzira mbonezamubano na politiki, rugomba kubahiriza amahame mpuzamahanga, kandi ko n'ubwo bemera ko uburenganzira bwo kuvuga icyo utekereza atari ndakuka "absolu" hashingiwe ku bivugwa mu gace ka 3 k'ingingo ya 19 yamaze kuvugwa no ku ngingo ya 20 y'Amasezerano Mpuzamahanga ku burenganzira mbonezamubano na politiki, bugomba gusa kuzitirwa iyo biri ngombwa.
- [307] Banavugaga nyamara ko ibyo Urukiko rutabisuzumye, kuko icyaha Ingabire yahamijwe giteganyijwe kandi kigahanwa n'ingingo ya 4 y'Itegeko n° 33 bis ryo kuwa 06/09/2003 rihana icyaha cya jenocide, ibyaha byibasiye inyokomuntu n'ibyaha by'intambara, kandi bo basanga iyo ngingo ihana icyaha cyo gupfobya jenocide mu buryo bwaguye cyane, binyuraniye n'ingingo ya 19 (3) yavuzwe haruguru, iteganya ko urubibi kuri ubwo burenganzira rutagomba kuba rwaguye cyane, ndetse ko ubwo burenganzira bukumirwa gusa iyo ari ngombwa.

- [308] Uhagarariye Ubushinjacyaha asubiza ko kuvuga ko Urukiko Rukuru rutubahirije ingingo ya 19 y'Amasezerano Mpuzamahanga yerekeye uburenganzira mbonezamubano na politiki nta shingiro bifite, bitewe n'uko Ingabire ubwe yiyemerera ko iyo ngingo mu gika cya 3, yemerera za Leta gushyiraho amategeko abuza uwari we wese kurengera mu gihe akoresha uburenganzira ahabwa n'itegeko bwo gutangaza igitekerezo cye nta nkomyi, ko rero we n'umwunganira bemera ko ayo masezerano yashyizeho imbago zitagomba kurengwa, ndetse ko ibyo ingingo ya 19,3 iteganya bihura n'ibiteganywa mu gika cya 2 cy'ingingo ya 34 y'Itegeko Nshinga ry'u Rwanda.
- [309] Anasanga kuba uwunganira Ingabire avuga ko kuzitira ubwisanzure bwo kuvuga icyo utekereza bigomba gukorwa igihe ari ngombwa nyamara atagaragaje ibisobanuro by'ibyo 9International Covenant on Civil and Political Rights/Pacte International des Droits Civils et Politiques, yemejwe n'Inama Rusange ya UN kuwa 16 Ukuboza 1966, atangira gukurikizwa mu Rwanda kuwa 23 Werurwe 1976.

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yemeza uretse kubivuga gusa, bituma ibyo yemeza bidakwiye guhabwa agaciro, ndetse ko atanagaragaje uburyo Urukiko Rukuru rwarengereye rugasesengura itegeko rihana icyaha cyo gupfobya jenocide mu buryo bwaguye ; ko rero iyo ngingo y'ubujurire nta shingiro ifite. Uko urukiko rubibona :

- [310] Ingingo ya 19 y'Amasezerano mpuzamahanga ku bijyanye n'uburenganzira mbonezamubano na politiki iha abantu uburenganzira bwo kuvuga icyo batekereza nta nkomyi, ariko mu gace kayo ka 3, igasobanura ko ubwo burenganzira bujyana n'inshingano zihariye, ko rero bushobora gukumirwa n'imbibi zisobanurwa n'itegeko iyo bigaragaye ko izo mbibi ari ngombwa.
- [311] Urukiko rusanga nta gushidikanya ko ingingo ya 19 imaze kuvugwa, iya 9 (2) y'Amasezerano Nyafurika ku burenganzira bwa muntu n'abaturage ndetse n'ingingo za 33, 1 na 34, 1 z'Itegeko Nshinga ry'u Rwanda, zishimangira ubwisanzure bwo kuvuga icyo umuntu atekereza. Nyamara kandi, nk'uko Ingabire n'umwunganira nabo babyemeza, mu gace ka 3 k'ingingo ya 19 yavuzwe haruguru, ndetse no mu ngingo ya 33, 2° na 4, 2° z'Itegeko Nshinga rya Repubulika y'u Rwanda, havugwamo ko ubwo burenganzira bugira aho bugarukira.
- [312] Urukiko rusanga rero hashingiwe ku ngingo zimaze kuvugwa, n'ubwo ubwisanzure bw'umuntu bwo kuvuga icyo atekereza ari ihame ryemewe n'amategeko mpuzamahanga hamwe n'amategeko nyafurika u Rwanda rwasinye, amategeko yateganyije imbibi kuri ubwo burenganzira kuko n'ubwo umuntu afite uburenganzira bwo kuvuga icyo atekereza mu bwisanzure, atemerewe kuvuga ibyo ashatse byose no mu buryo abonye, cyane cyane iyo ubwo burenganzira bukoreshejwe nabi maze bikagira ingaruka mbi zinyuranye, nko kubangamira agaciro umuntu agomba guhabwa, kubangamira imibanire myiza hagati y'abantu ubashyamiranye, kubangamira ituze rusange n'ibindi.

- [313] Byongeye kandi, hashingiwe ku ngingo ya 13, igika cya 2 y'Itegeko Nshinga rya Repubulika y'u Rwanda, ivuga ko "Guhakana no gupfobya jenocide bihanwa n'itegeko", biragaragara ko Itegeko Nshinga ryateganyije ko icyaha cyo gupfobya jenocide kigomba guhanwa n'itegeko.
- [314] Nk'uko nanone byasobanuwe mu rubanza RS/INCONST/PEN 0002/12/C10, guhana icyaha cyo gupfobya jenocide si umwihariko w'u Rwanda kubera ko ibihugu bitandukanye byo ku isi byashyizeho amategeko yihariye ahana abapfobya jenocide yakorewe Abayahudi cyangwa jenocide muri rusange, ndetse bibacira imanza; bityo rero bikaba bigaragara ko u Rwanda nk'igihugu cyabayemo jenocide yakorewe Abatutsi ndetse rugihanganye n'ingaruka zayo, ntahorwarengereye rushyiraho itegeko ryihariye rihana icyaha cyo gupfobya jenocide rikubiyemo imbibi ku bashaka gukoresha nabi uburenganzira bahabwa n'amategeko maze bagapfobya iyo jenocide. 10Rwaciwe n'Urukiko rw'Ikirenga kuwa 18/10/2012 ku kirego cyatanze na Ingabire Umuhoza Victoire asaba gukuraho ingingo ya 2 kugeza kuya 9 z'Itegeko n° 18/2008 ryo kuwa 23/07/2008 rihana icyaha cy'ingengabitekerezo ya jenocide n'ingingo ya 4 y'itegeko n° 33 bis/2003 ryo kuwa 06/09/2003 rihana icyaha cya Jenocide, ibyaha byibasiye inyoko muntu n'ibyaha by'intambara kuko rinyuranyije n'ingingo ya 20, 33, na 34 z'Itegeko Nshinga rya Repubulika y'u Rwanda ryo kuwa 04/06/2003 nk'uko ryavugururwe kugeza ubu.

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- [315] Urukiko rusanga kandi icy'ingenzi ari uko igihe hashyizweho itegeko riteganywa imbibi ku bwisanzure bwo kuvuga icyo umuntu atekereza nk'uko biteganywa mu gace ka 3 k'ingingo ya 9 yavuzwe haruguru, izo mbibi zigomba kuba zisobanutse mu itegeko, kandi zikaba ari ngombwa harebwe icyo iryo tegeko riba rigamije, kijyanye nk'uko byasobanuwe, no guca intege abarengera maze bagakoresha nabi uburenganzira itegeko ribaha bwo kuvuga no gutangaza ibitekerezo mu bwisanzure.
- [316] Ikindi kigomba kumvikana ku bijyanye n'icyaha cya jenocide, ni uko abahanga mu kugisesengura basobanura ko igikorwa cyo kuyipfobya ari bumwe mu buryo bukoreshwa n'abahakana jenocide kandi ko bakoresha inzira (stratégies) zinyuranye. Banavuga ko guhakana cyangwa gupfobya jenocide buri gihe bikurikira Jenocide yabaye ndetse bikaza mu rwego rumwe n'iyi jenocide, bikaba n'ikimenyetso cyo gutegura indi Jenocide. Banasobanura ko ibyo bikorwa bitangira gutegurwa mbere y'uko jenocide iba, bikanakomeza mu gihe cya jenocide na nyuma yayo, kandi ko mu biba bigamijwe harimo cyane cyane kugira ngo hakorwe ibishoboka byose ngo abakoze jenocide ntibazakurikiranwe cyangwa ngo bagerweho n'ingaruka izo ari zo zose z'icyaha baba barakoze.
- [317] Babisobanura muri ubu buryo : "On distingue plusieurs formes de négation: la rationalisation, la relativisation et la banalisation (...).La relativisation est un corollaire du procédé de rationalisation. La relativisation négationniste ouvre la voie à la banalisation comparative..."¹¹ "Denial is the eighth stage that always follows a genocide. It is among the surest indicators of further genocidal massacres (...) they deny that they committed any

crimes, and often blame what happened on the victims. They block investigations of the crimes, and continue to govern until driven from power by force, when they flee into exile. There they remain with impunity...".¹² "The denial of genocide occurs during and following the perpetration of the act (...) when scholars and others refer to the denial of genocide, they generally mean that perpetrators, their descendants, successor governments, and/or individuals who sense an affiliation with the perpetrators, all deny that a genocide was ever perpetrated in the first place".¹³ [318] Mu rwego rumwe n'ibimaze gusobanurwa, abasesengura jenocide by'umwihariko iyakorewe Abayahudi nabo bavuga ibi bikurikira: "Le négationnisme n'est pas une version perverse de l'histoire du nazisme, c'est le nazisme lui-même, toujours actif (...). Le négationnisme est un chapitre de l'histoire de la Shoah. A traiter comme tel. A comprendre ainsi. Il ne s'agit pas de 'répondre' pièce à pièce à ce délire idéologique bien maîtrisé, mais d'entendre ses soubassements politiques".¹¹ Ku bisobanuro birambuye, kureba Barabara Lefebvre, « Réflexion sur le négationnisme du Génocide des Tutsis au Rwanda » in : Dossier Controverses, n°6, Novembre 2007, p.30. ¹²Gregory H.Stanton, "The Eight Stages of Genocide" in Samuel Totten & Paul R. Bartrop (ed.), "The Genocide Studies Reader", New York: Routledge, 2009, pp. 127-129. Kureba kandi www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html, last checked on 16/09/2013. ¹³Samuel Totten & Paul R. Bartrop (ed.), op.cit., p.517.

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et ses desseins meurtriers. Ce n'est pas de d'histoire qu'il s'agit ici, mais de perpétuation du génocide par la relégitimation, tant espérée, de l'antisémitisme".¹⁴ [319] Abahanga banasobanura ko kenshi abapfobya jenocide babikora mu buryo burimo amayeri menshi, kuko bitwaza ko icyo bashaka ari ukugaragaza ukuri kwabo ku byabaye, kunyuranye n'ibisanzwe byemerwa, cyangwa ko bagamije gufasha abatuye isi gutekereza neza ku mateka nyakuri ajyanye na jenocide, nyamara bazi neza ko ibyo bavuga atari ukuri ahubwo ari ukugoreka amateka ku bwende bahakana cyangwa bapfobya jenocide yabaye.

[320] Hashingiwe ku bisobanuro byatanze haruguru bigaragaza uburyo abahakana n'abapfobya jenocide bakoresha n'icyo baba bagamije, Urukiko rusanga by'umwihariko ku bijyanye n'icyaha cyo gupfobya jenocide mu gihugu nk'u Rwanda cyabayemo jenocide yakorewe Abatutsi yemewe ku isi yose, hakurikijwe kandi ibikubiye mu ngingo ya 13, igika cya 2 y'Itegeko Nshinga rya Repubulika y'u Rwanda, byari ngombwa ko hashyirwaho Itegeko rihana abayipfobya.

[321] Kuba rero Urukiko Rukuru rwarashingiye kuri iryo tegeko, maze nyuma yo gusuzuma ibimenyetso bigize icyaha rwashyikirijwe na nyuma y'uko uregwa abyireguraho, rugasanga bigize icyaha cyo gupfobya jenocide, ntaho rwanyuranyije n'ingingo ya 19 y'Amasezerano mpuzamahanga yerekeye uburenganzira mbonezamubano na politiki cyangwa andi mategeko nk'uko byamaze kuvugwa.

- [322] Byongeye kandi, nk'uko byasobanuwe haruguru, Ingabire na Me Iain Edwards umwunganira ntibashoboye kugaragaza uburyo itegeko rihana icyaha cyo gupfobya jenocide ryaba riteganywa imbibi zitari ngombwa ku bwisanzure bwo kuvuga icyo umuntu atekereza, cyangwa se ko Urukiko rwasesenguye imbibi ziri muri iryo tegeko mu buryo bwaguye. iii. Ku bijyanye no kumenya niba ibimenyetso Urukiko Rukuru rwashingiyeho ruhamya Ingabire icyaha cyo gupfobya jenocide bidakwiye guhabwa agaciro. [323] Ingabire na Me Iain Edwards bavugaga ko Urukiko Rukuru rwemeje ko yakoze icyaha cyo gupfobya jenocide, rutasesenguye neza icyo cyaha, bitewe n'uko rwemeje ko kuvuga ko habaye jenocide ebyiri bigize icyaha cyo gupfobya jenocide. Banenga kandi ibimenyetso bibiri urwo Rukiko rwashingiyeho rumuhamya icyo cyaha, ari byo: amagambo akubiye mu ngingo ya 5 y'amategeko shingiro ya FDU-Inkingi, n'amagambo akubiye muri disikuru yo kuwa 16/01/2010 Ingabire yavugiyeye ku rwibutso rwa jenocide yakorewe Abatutsi rwo ku Gisozi hamwe n'ibikubiye mu ibaruwa yandikiye ikinyamakuru "the New Times".
- [324] Ku bijyanye n'isesengura Urukiko Rukuru rwakoze kuri "théorie du double génocide", uwunganira Ingabire avugaga ko icyo anenga urwo Rukiko ari ukuba mu gusuzuma icyaha cyo gupfobya jenocide, rwarifashishije urubuga rwa "wikipedia", nyamara kuri we atari urubuga rwemewe rwo gukoreraho ubushakashatsi n'ubwo hari abajya barwiyambaza mu bushakashatsi bwabo, bitewe n'uko kenshi inyandiko rutangaza ari iz'abakorera bushake badahoraho ndetse batazwi neza, bakaba badakwiye kwizerwa, kandi n'ubusanzwe urwo rubuga rukaba rukunze 14Revue de l'histoire de la Shoah, le monde juif, "Négationnisme : Le génocide continué", n° 166, Mai-Aout 1999,

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kumenyesha abarwifashisha kwitondera ibyo rutangaza kuko zimwe mu nyandiko zarwo ziba zidahuye n'ukuri ndetse ko zishobora kuba zituzuye cyangwa zibogamye.

- [325] Anavugaga ko Urukiko Rukuru rwanakoze irindi kosa ryo kutamenyesha mbere Ingabire inyandiko rwateganyaga kwifashisha kugira ngo abashe kugira icyo abivugaho. Yongeraho ko n'umuhanga urwo rukiko rwifashishije witwa Yves Ternon wanditse inyandiko rwashingiyeho ijyanye no gupfobya jenocide yiswe "La problématique du négationnisme" adakwiye kwizerwa kuko atari umunyamategeko cyangwa impuguke ku bundi buryo bityo ngo abe yatanga igitekerezo ku kibazo kijyanye n'amategeko.
- [326] Me Iain Edwards wunganira Ingabire avugaga kandi ko n'inyandiko ya Yves Ternon itagaragaza icyo yize n'aho yakuye ibyo yanditse kugira ngo bisuzumwe, ariko ko hari urundi rubuga rwitwa www.imprescriptible.fr/parutions/guerres_genocide rwagaragaje ko yakoze ubushakashatsi ku byaha byibasiye inyoko muntu n'ibyaha bya jenocide yakorewe Abayahudi, Abanyarumeniya n'Abanyarwanda. Anavugaga ko nta n'ikigaragaza ko ibyo Yves Ternon yanditse byabanje gusuzumwa n'abahanga mu mategeko mbere y'uko bitangazwa, ko rero n'ubwo ari umuhanga mu mateka, ibyo yanditse bikwiye gufatwa nk'ibitekerezo bye bwite.

[327] Ingabire n'umwunganira bongeraho ko ku bijyanye n'ibimenyetso bigize icyaha cyo gupfobya jenocide, banenga Urukiko Rukuru kuba rwaramuhamije icyo cyaha rushingiye ku bikubiye mu ngingo ya 5 y'amategeko shingiro ya FDU-Inkingi, kuko rwasesenguye nabi iyo ngingo bitewe n'uko asanga igaragaza ko iryo shyaka ryemera ko jenocide yakorewe Abatutsi yabayeho ndetse rikaba riyamagana. Banavuga ko kuba muri iyo ngingo havugwamo "Génocide rwandais commis par les deux belligérants depuis 1990", bishobora kwumvikana ku buryo bunyuranye bitewe n'uko inyandiko nk'iyi iba yanditse mu buryo buhinnye kubera ko iba ikubiyemo amahame remezo y'imyemerere n'imyitwarire y'abayoboze n'abayobozi n'uburyo inzego zijyaho n'inshingano zazo. [328] Basobanura rero ko abakenera ibindi bisobanuro ku bikubiye muri ayo mategeko babihabwa cyane cyane igihe cy'inama. Bongeraho ko nk'uko Ingabire yabisobanuriye Urukiko Rukuru, ingingo ya 5 yavuzwe haruguru ishaka kuvuga jenocide yakorewe Abatutsi mu Rwanda hamwe n'iyakorewe Abahutu muri Congo. [329] Me Iain Edwards anasanga kuba mu ngingo ya 5 y'amategeko shingiro ya FDU-Inkingi havugwamo "Génocide rwandais" bidakwiye gufatwa nko gupfobya jenocide, kubera ko ari uko iyo jenocide yitwaga mbere nk'uko bigaragara mu Itegeko Nshinga rya Repubulika y'u Rwanda ry'icyo gihe, ko rero ashingiye ku bisobanuro we n'uwo yunganira batanze, basanga Ingabire adakwiye guhamwa n'icyaha cyo gupfobya jenocide.

[330] Yongeraho ko (à titre subsidiaire), ibikubiye mu ngingo ya 5 ya charte ya FDU-Inkingi yanditswe mu kwezi kwa Mata 2006, byashingiye ku makuru atandukanye yariho icyo gihe, nk'ayatangajwe muri za raporo z'akanama ka UN gashinzwe umutekano ku isi. Akomeza avuga ko atemeranywa n'ibyemejwe n'Urukiko Rukuru ko raporo "Gersony" itashingirwaho nk'ikimenyetso kuko itigeze itangazwa ku mugaragaro, kuko ibiyikubiyemo byari bizwi kuva muri Werurwe 1999 bitewe n'uko yavuzwe mu gitabo cyanditswe na Alison Desforges cyitwa "Leave None to Tell the Story".

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[331] Anavuga ko atemeranywa n'ibyemejwe n'Urukiko ko raporo Ingabire yagiye yifashisha zavuze gusa ko hari Abatutsi bishe Abahutu cyangwa babakoreye ibyaha byibasiye inyoko muntu, ariko ko nta na hamwe zemeje ko mu Rwanda habaye jenocide yakorewe Abahutu ikozwe n'Abatutsi cyangwa ko yabayeho muri Congo, kubera ko abazanditse hari aho bavuze ko bishoboka ko n'Abahutu bakorewe jenocide. Ingabire yongeraho ko hari inyandiko yatanze mu Rukiko Rukuru ya "Centre International des droits de la personne et du développement démocratique – Droits et Démocratie" yavugaga ko ubwicanyi bwakorewe impunzi z'Abahutu muri Congo ari jenocide, nyamara ko Urukiko rutagize icyo ruyivugaho.

- [332] Me Iain Edwards akomeza avuga ko yaba mu mvugo za Ingabire cyangwa mu mategeko shingiro ya FDU-Inkingi, nta na hamwe hemejwe ko Abatutsi biciwe ababo muri jenocide ari bo bakoreye Abahutu jenocide, ahubwo ko icyakomeje kwemezwa ari uko Rwandan Patriotic Front (RPF) nk'ishyaka rya politiki yakoreye impunzi z'Abahutu zari muri RDC ibyaha byibasiye inyoko muntu n'ibyaha by'intambara.
- [333] Me Iain Edwards anasaba uru Rukiko ko niyo rwasanga mu mategeko shingiro ya FDU-Inkingi hagaragaramo ku buryo buziguye ko mu Rwanda habaye jenocide ebyiri, rukwiye kwemeza ko ibyo bitagaragaza umugambi wo gupfobya jenocide, bitewe n'uko amahame nyakuri akubiye muri ayo mategeko shingiro ari ajyanye n'amahoro, umutekano, demokarasi na Leta igendera ku mategeko, nta vangura mu banyarwanda.
- [334] Nanone kandi Ingabire n'umwunganira banenga Urukiko Rukuru kuba rutarasesenguye disikuru Ingabire yavugiye ku rwibutso rwa jenocide yakorewe Abatutsi rwo ku Gisozi, ikaba iri mu rurimi rw'ikinyarwanda kandi yumvikana kuri " video " urwo Rukiko rwumvise, ko ahubwo rwamuhamije icyaha cyo gupfobya jenocide nyuma yo gufata amagambo amwe n'amwe y'iyi disikuru, aho kuyifata yose no kureba uburyo yavuzwemo, kuko amagambo yavuze atari yayateguye ndetse atanabanye kuyandika.
- [335] Banongeraho ko Ingabire atishimiye kuba urwo rukiko rwarashingiye ku nyandiko yo kuwa 18/01/2010 y'icyongereza Ingabire yandikiye ikinyamakuru "the New Times" avuguruzam inkuru cyari cyatangajwe ijyanye na disikuru yavugiye ku Gisozi, kandi mu magambo ye ntaho yigeze avuga ko hari n'indi jenocide yakorewe Abahutu cyangwa ko Abahutu batibukirwa ku rwibutso rwa jenocide yakorewe Abatutsi rwo ku Gisozi. Banavugaho ahubwo ko icyo Ingabire yashimangiye ari uko Abahutu nabo bakorewe ibyaha byibasiye inyokomuntu ariko bo bakaba batibukwa.
- [336] Me Iain Edwards akomeza avuga ko n'iyi Ingabire yaba yaribeshye muri iyi baruwa ye, akandikaho amagambo atavugiye ku Gisozi, bikwiye kwumvikana kuko atazi neza icyongereza; bityo ko bashingiye ku bisobanuro byose batanze, basaba ko Ingabire ahanagurwaho icyaha yahamijwe cyo gupfobya jenocide.
- [337] Ubushinjacyaha busubiza ko kuba umucamanza wa mbere yarifashishije inyandiko z'abahanga igihe yasuzumaga icyaha cyo gupfobya jenocide, nta kosa yakoze, bitewe n'uko nta tegeko ribimubaza cyangwa ngo rimubuze kwifashisha imanza zaciriwe ahandi, kabone niyo itegeko ryaba ryumvikana.

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- [338] Yongeraho ko Me Iain Edwards unenga Urukiko Rukuru kuba rwarifashishije inyandiko ya Yves Ternon yitwa “ La problématique du négationnisme ” yasohotse ku rubuga rwa Wikipedia, ashaka kuyobya Urukiko, bitewe n’uko yirengagiza nkana kurumenyesha ko n’ubwo ibyanditswe n’uwo muhanga biri kuri urwo rubuga, byabanje gusohoka mu zindi nyandiko mu mwaka wa 2003, nko muri Revue de l’Arche na www.imprescriptible.fr nk’uko urubuga rwa Wikipedia rubisobanura.
- [339] Anavuga kandi ko inyandiko Urukiko Rukuru rwashingiyeho yanditswe koko na Yves Ternon muri 2003 nyuma y’ubushakashatsi yakoze kuri jenocide eshatu zakorewe Abanyarumenia, Abayahudi ndetse n’Abatutsi, kandi ko n’ubwo mu myanzuro ye Me Iain Edwards uburanira Ingabire avuga ko atazi Yves Ternon, ageraho agasobanura ibyo yize n’akazi yakoze, kuko anahamya ko afite impamyabumenyi ihanitse mu mateka akaba yaranakoze ubushakashatsi kuri jenocide y’Abanyarumenia, ko rero bigaragaraza ko yivuguruza.
- [340] Ku bijyanye n’ibivugwa n’uwunganira Ingabire unenga Urukiko Rukuru kuba rutaramenyeshije uwo yunganira inyandiko ruzifashisha muri uru rubanza, uhagarariye Ubushinjacyaha asubiza ko urwo Rukiko nta tegeko na rimwe rwishe ndetse ko nta n’aho biteganyijwe mu itegeko ko iyo Urukiko rugiye kwiherera rugakoresha itegeko cyangwa inyandiko z’abahanga ngo zize zishyigikira ibyavugiwe mu iburanisha cyangwa amategeko areba urubanza ruburanwa, rugomba kubanza kubibwira ababuranyi. [341] Asobanura ko izo nyandiko z’abahanga atari ibimenyetso bishya bituma iburanisha ry’urubanza ryongera gufungurwa, ko muri urwo rwego, n’iburanisha ry’uru rubanza nirirangira, Urukiko rw’Ikirenga rukajya kwiherera, ntaho biteganyijwe ko ruzabanza kumenyesha ababuranyi ibyemezo by’inkiko z’ahandi cyangwa inyandiko z’abahanga ruzifashisha, kuko rushobora kuba rutarazimenya igihe cy’iburanisha. [342] Yongeraho ko ku bijyanye n’amategeko shingiro ya FDU-Inkingi, icyo Ubushinjacyaha bwagaragaje ari uko ikibazo atari ukwita jenocide yakorewe Abatutsi “ Génocide rwandais ” cyangwa guhakana iyo jenocide no kuyamagana, kuko ayo mategeko shingiro avuga ko ayemera, ndetse ko n’ubusanzwe ntawe ushobora gupfobya jenocide itarabayeho.
- [343] Anasobanura ko ahubwo ikibazo gihari ari nacyo kigize icyaha, ari amagambo apfobya jenocide yakorewe Abatutsi akubiye muri ayo mategeko shingiro kandi Ingabire akaba avuga ko ayemera akaba yaranayagize aye; ayo magambo akaba yerekana ko n’ubwo we n’abo mu ishyamba rye bavugaga ko bemera jenocide yakorewe Abatutsi, bahindukira bakanemeza ko mu Rwanda habaye jenocide yakozwe n’impande zombi zari zishyamiyanye kuva muri 1990, kandi bizwi ko kuva muri 1990, harwanaga ingabo z’u Rwanda (FAR) n’ingabo z’inkotanyi za FPR.

- [344] Anongeraho ko kuba wemera ko jenocide yabayeho bitakubuza kuyipfobya, cyane cyane ko Ingabire n'umwunganira badasobanura ku buryo bwumvikana uko FAR yakozwe jenocide n'abo yayikoreye, ndetse n'uburyo FPR yakozwe jenocide n'abo yayikoreye, bityo ngo izo jenocide zakozwe n'abari bashyamiranye zisobanuke.
- [345] Akomeza avuga ko mu rubanza rwaciye, Urukiko Rukuru rwasobanuye impamvu rusanga amagambo Ingabire yemera akanayagira aye y'uko mu Rwanda habaye jenocide ebyiri,

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agaragaza nta gushidikanya icyaha yahamijwe cyo gupfobya jenocide, Ubushinjacyaha bukaba busanga ibyo bisobanuro byumvikana.

- [346] Ku bisobanuro Me Iain Edwards uburanira Ingabire yatanze bijyanye n'aho ibyanditswe mu mategeko shingiro ya FDU-Inkingi byaturutse, Ubushinjacyaha busanga nta shingiro nabyo bifite, kuko ubwe agaragaza inenge zagombaga gutuma uwo yunganira atemeza ko hari jenocide yakorewe Abahutu, bitewe n'uko nawe avuga ko abatanze ayo makuru bavugaga gusa ko hashobora kuba harabaye jenocide yakorewe Abahutu, bigaragaza ko ibyo bashingiyeho birimo ugushidikanya cyangwa se ko nta rwego rubifitiye ububasha rwabyemeje.
- [347] Bunavuga ko kuba uburanira Ingabire yemera ko nyuma y'uko amategeko shingiro ya FDU yanditswe muri 2006, ibirebana n'iyi jenocide yakorewe Abahutu bitari bifututse, ndetse ko n'inyandiko yashyikirije Urukiko atari raporo nyakuri ya Gersony, ahubwo ko ari incamake yayo, akanemera ko n'ubwo iyo raporo yagiye hanze itigeze itangazwa ku mugaragaro, byerekana ko ibyanditswe muri ayo mategeko shingiro bidakwiye guhabwa agaciro kubera izo nenge yagaragaje. [348] Akomeza avuga ko iyo uburanira Ingabire yemeza ko igihe Ingabire yavugaga ko habaye jenocide y'Abahutu, yashakaga kuvuga ko iyo jenocide yakozwe na FPR nk'ishyamba, nabwo aba ashakaga kuyobya nkana Urukiko kuko azi neza ko mu magambo anyuranye Ingabire yagiye avuga no mu nyandiko ze, yemeje ko ingabo za FPR zakozwe jenocide ko n'ubu zikiyikora, ndetse ko zakozwe ibyaha byibasiye inyoko muntu cyangwa ibyo mu ntambara, kandi ko izo ngabo zigizwe n'Abatutsi nk'uko bigaragara mu magambo ye ari kuri cotes 1669, 1671, 1677 na 1680 mu Rukiko Rukuru; bityo ko ibyo Ingabire n'umwunganira bavugaga ko nta na hamwe yigeze avuga ko habaye jenocide y'Abahutu ikozwe n'Abatutsi nta shingiro bifite.
- [349] Uhagarariye Ubushinjacyaha asanga kandi amagambo Ingabire yavugiye ku rwibutso rwa jenocide yakorewe Abatutsi rwa Gisozi n'ayo yandikiye ikinyamakuru "the New Times", asobanura mu buryo bwimbitse ibyo yari yavugiye ku rwibutso ngo : "urwibutso rugarukira kw'itsembabwoko ry'Abatutsi, hari n'itsembatsemba ry'Abahutu "cyangwa ngo : "Abahutu bo ntibibukirwa ku Gisozi "; bigaragaza ko amagambo Ingabire yavugiye ku Gisozi ntaho ataniye n'ayo yandikiye ikinyamakuru "the New Times "kandi ko yose agize icyaha cyo gupfobya jenocide, bitewe n'uko iyo ugereranyije icyaha cya jenocide n'ibyaha byibasiye inyokomuntu ndetse n'iby'intambara, ukanabishyira ku rwego rumwe nyamara ari ibyaha

bitandukanye kandi bidahuje uburemere, nta kindi uba ukoze uretse gupfobya jenoside.

- [350] Anavuga ko nk'uko Ubushinjacyaha bwabisobanuye ku rwego rubanza, kuba Ingabire asaba ko ababa barazize ubundi bwicanyi butari jenoside bibukirwa ahagenewe kwibukirwa abazize jenoside, kuri we aba yemeza ko nabo bazize jenoside, bikagaragaza ko yemera ko habaye jenoside ebyiri, iyakorewe Abatutsi abona bo bibukwa, n'iyakorewe Abahutu abona bo batibukirwa ku Gisozi, n'ubwo ayobya uburari agamije gupfobya jenoside akeka ko bitazafindurwa, maze akavuga ko Abahutu batahibukirwa bo bazize ibyaha byibasiye inyoko muntu n'ibyaha by'intambara, nyamara atayobewe ko ibyo byaha bindi bidatoranya ubwoko runaka.
- [351] Uhagarariye Ubushinjacyaha yongeraho ko kuvuga ko Urukiko rwitaye ku magambo make yaba yaravuzwe na Ingabire rutarebye disikuru yose uko iteye n'icyo yari igamije, nta

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shingiro bifite, bitewe n'uko ubwinshi bw'amagambo meza wavuze budahanagura na busa ububi bw'amagambo mabi make uba wasesetse mu nteruro zawe, kandi ko n'iyi waba washyize mu nteruro ijamba rimwe gusa rigize icyaha, ugomba kugikurikiranwaho, ukacyisobanuraho, cyaguhama ukabihanirwa.

- [352] Asanga kandi nta kosa Urukiko Rukuru rwakoze igihe rwasuzumaga amwe mu magambo Ingabire yavuze ndetse agahabwa umwanya wo kuyisobanuraho, kuko rwayasuzumye rugasanga agize icyaha. Anavuga ko icyari kuba ikibazo ari uko umucamanza yari kuba yarahimbye amagambo mashya akayatwerera Ingabire, nyamara ko atari ko byagenze, kandi ko na Ingabire yiyemereye ko amagambo yasuzumwe n'urukiko rukanayafataho umwanzuro ari aye. [353] Akomeza asobanura ko kuba Ingabire yaravuze ijamba atariteguye nk'uko umuburanira abyemeza, atari byo bimasonera gukurikiranwa ku magambo yavuze agize icyaha, cyane cyane ko we n'umwunganira bemera ko yayavuze koko, ahubwo ko ibibazo uburanira Ingabire atumva cyangwa yirengagiza nkana, ari ibi bikurikira kandi bigaragaza kuyobya uburari ugamije gupfobya jenoside : kuki Ingabire aza kuvugira ku rwibutso rwa jenoside yakorewe Abatutsi ibirebana n'ibyaha byibasiye inyoko muntu avuga ko byakorewe Abahutu? kuki ashya ku rwego rumwe icyaha cya jenoside n'icyaha cyo kwibasira inyoko muntu avuga ko cyakorewe Abahutu kandi azi neza ko ibyo byaha bidahuje uburemere? Uko urukiko rubibona: Ku bireba isesengura Urukiko Rukuru rwakoze kuri "théorie du double Génocide"
- [354] Urukiko rusanga kuba Urukiko Rukuru rwarifashishije urubuga rwa Wikipedia ku bijyanye n'inyandiko ya Yves Ternon ubwabyo atari inenge ituma ibyarutangajweho biteshwa agaciro, kubera ko nk'uko biboneka mu rubanza rwaciwe n'Urukiko Rukuru ku rupapuro rwa 106, urwo rubuga rwagaragaje aho rwakuye inkuru rwatangaje; bityo n'inenge zihariye uburanira Ingabire avuga kuri urwo rubuga yemeza ko rudakwiye kwizerwa, zikaba nta shingiro zifite ku bijyanye n'iyi nyandiko kuko ifite ahandi yatangarijwe hazwi.

- [355] Mu gusesengura kandi “théorie du double génocide”, Urukiko Rukuru rwashingiye ku nyandiko ya Yves Ternon, igaragaza ko uguhakana jenocide kuba kubakiye ku kinyoma no kwirwanaho, kandi ko bikorwa mu buryo bwuzuyemo uburiganya n’ubushake bwo kugira nabi. Abivuga muri aya magambo : “le négationnisme est un mensonge et un mécanisme de défense(...) le négationnisme est un mensonge ; il ne se fonde ni sur un doute légitime, ni sur une interprétation des textes permettant de réviser une vérité établie, mais sur une manipulation perverse malveillante”.
- [356] Urukiko rusanga nta kosa Urukiko Rukuru rwakoze ryatuma icyemezo cyarwo giteshwa agaciro, cyane cyane ko inyandiko ya Yves Ternon yabayeho koko ndetse n’uburanira Ingabire mu myanzuro ye, akaba yemeza ko n’ubwo umwirondoro wa Yves Ternon n’ubushakashatsi yakoze bitagaragara mu nyandiko iri kuri Wikipedia, uwo mwanditsi afite ubumenyi mu mateka, ndetse akaba yemera ko yakoze ubushakashatsi ku byaha byibasiye inyoko muntu, n’ibyaha bya

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jenocide byakorewe Abayahudi, Abanyarumenia n’Abanyarwanda nk’uko biboneka ku rubuga rwitwa www.imprescriptible.fr/parutions/guerres_genocide Wikipedia yakuyeho iyo nyandiko.

- [357] Hashingiwe ku bimaze kuvugwa, icyo uburanira Ingabire yagombaga kugaragaza, ni inenge nyakuri zijyanye n’uko Yves Ternon atari umuntu ufite ubumenyi bukwiye ku buryo yakora isesengura rifite ireme ku kibazo cyo gupfobya jenocide, cyane cyane akagaragaza ko ibyo yanditse bidahuye n’ukuri, bityo Urukiko rukabiheraho rubisuzuma; kuba rero atarabashije kugaragaza izo nenge, ni impamvu ihagije ituma urukiko rudaha agaciro ibisobanuro yatanze. [358] Byongeye kandi, ikigomba kumvikana ni uko isesengura rya jenocide cyangwa se ibijyanye no kuyipfobya atari umwihariko w’abanyamategeko bonyine. Muri urwo rwego nanone, Yves Ternon si yo mpuguke yonyine itari umunyamategeko yasesenguye icyo kibazo, kubera ko hari n’abandi bafite ubumenyi bunyuranye bemeranywa n’ibyo yavuze, barabishimangira kandi banabitangira ibisobanuro byizewe.¹⁵
- [359] Uru Rukiko rusanga kandi kuba Ingabire n’umwunganira bataramenyeshajwe n’Urukiko rwacye urubanza ku rwego rwa mbere inyandiko z’abahanga rwifashishije ruca urubanza, bitagomba kuba ingingo y’ubujurire, kuko icy’ingenzi ari uko Ingabire nk’uregwa yahawe umwanya wo kwisobanura ku bimenyetso binyuranye bigize icyaha gikurikiranywe, nyuma yaho Urukiko rusuzuma ibyo aregwa n’uburyo yabyireguyeho, runabihuza n’ibiteganywa n’amategeko hamwe n’isesengura ryakozwe n’abahanga, rubona gufata icyemezo.
- [360] Urukiko rusanga uburyo Urukiko Rukuru rwacyemo urubanza ntaho bibangamiye inyungu z’uregwa, kuko ahubwo ubwo buryo buhura n’ubusanzwe bukurikizwa mu icibwa ry’imanza, aho abacamanza bifashisha inyandiko cyangwa ubuhamya bw’abahanga banyuranye ku kibazo kijyanye n’ubumenyi bwihariye baba bagifiteho. Ku bijyanye n’ibimenyetso bigize icyaha cyo gupfobya jenocide Amagambo akubiye mu ngingo ya 5 y’amategeko shingiro (charte) ya FDU- Inkingi

- [361] Mu ngingo ya 5 y'amategako shingiro ya FDU-Inkingi havugwamo ko uwifuza kujya muri iryo shyaka agomba kubanza kwemera amahame yaryo, rimwe muri ayo mahame rikaba rivuga ritya: "Reconnaissance et condamnation sans équivoque du génocide rwandais commis par les deux belligérants depuis 1990". 15Kureba zimwe mu ngero zikurikira:
- Josias Semujanga na Jean-Luc Galabert, "Faire face au négationnisme du génocide des Tutsi", Saint-Jean, éd. Izuba, 2013, p. 415.
 - Pierre Vidal-Naquet, "Les assassins de la mémoire. Un Eichmann de papier et autres essais sur le révisionnisme", - Marie Fierens, "Le négationnisme du génocide des Tutsi au Rwanda", Villeurbanne cedex, Editions Golias, 2009, p.195. Editions La Découverte, 1987, p.226.
 - Institut de Recherche et de Dialogue pour la Paix (IRDP), "Le négationnisme du Génocide des Tutsi: Evolution, Expressions, Mécanismes de lutte", Kigali, Décembre 2008, 105p.
 - Samuel Totten & Paul R. Bartrop (ed.), "The Genocide Studies Reader", New York, Routledge, 1st ed., 2009, p.552

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- [362] Urukiko Rukuru rwasesenguye ibikubiye muri iyo ngingo, rusanga byumvikanisha ko hari jenocide yakozwe n'uruhande rw'ingabo za Leta yariho, n'indi yakozwe n'uruhande rugizwe n'ingabo za FPR; kandi ko icyo bishaka kugaragaza ari uko mu Rwanda habaye jenocide ebyiri, nyamara bizwi neza ko jenocide yahabaye ari imwe gusa yakorewe Abatutsi.
- [363] Rwanasanze ibivugwa na Ingabire ko raporo ashingiraho zemeje ko hari jenocide yakorewe Abahutu nta shingiro bifite, kuko izo raporo zivuga gusa ko Abahutu bakorewe ibyaha byibasiye inyokomuntu, bitandukanye na jenocide, n'aho zivuga kuri jenocide yaba yarakorewe Abahutu zikaba zigaragaza ko kwari ugiyekekeranya.
- [364] Uru Rukiko rusanga isesengura Urukiko Rukuru rwakoze nta nenge rifite, kuko bigaragara ko mu ngingo ya 5 y'amategako nshingiro ya FDU-Inkingi yanditswe n'abagize iryo shyaka na Ingabire arimo, ndetse akaba yivugira ko ayemera uretse ko ayiha ibindi bisobanuro, havugwamo koko mu buryo bwumvikana ko abarigize bagaragaza ko rimwe mu mahame yaryo ari ukwemera ko mu Rwanda habaye jenocide yakozwe n'impande zombi zarwanaga kuva muri 1990, kandi bikaba bizwi ko ku ruhande rumwe hari ingabo za Leta yariho (ex FAR) n'imitwe y'abarwanyi bari bafatanyije, ku rundi ruhande hakaba ingabo za FPR, bivuze rero nk'uko Urukiko Rukuru rwabisobanuye, ko mu Rwanda habaye jenocide ebyiri nyamara bizwi ko jenocide yabaye ari imwe yonyine yakorewe Abatutsi kandi ikaba yarakozwe n'ingabo zariho (ex FAR) n'abafatanyije nazo. [365] Urukiko rusanga nanone imyiregurire ya Ingabire y'uko amagambo akubiye mu ngingo ya 5 y'amategako shingiro yavuzwe haruguru ashaka kuvuga jenocide yakorewe Abatutsi n'iyindi yakorewe Abahutu muri RDC nta shingiro ifite, kuko uretse n'uko ibyo avuga bidahura n'ibikubiye muri iyo ngingo nk'uko Urukiko Rukuru rwabisobanuye, ahubwo yumvikanisha neza ko jenocide yakozwe n'impande zombi zarwanaga kuva muri 1990, bivuze rero ko iyo jenocide ya kabiri

nayo yabereye mu Rwanda.

- [366] Ikindi ni uko Ingabire atabashije kugaragaza ko hari jenocide yakorewe Abahutu yigeze ibaho koko, bityo n'imyiregurire ye y'uko amategeko shingiro ya FDU-Inkingi yanditse ku buryo buhinnye, akaba akubiyemo gusa amahame ngenderwaho (principles), ikaba nta shingiro ifite, kubera ko ibikubiye muri ayo mahame byumvikana nk'uko byamaze gusobanurwa. [367] Urukiko rusanga na raporo Ingabire avuga ko yashingiyeho yemeza ko Abahutu nabo bakorewe jenocide, uretse ko umwunganira yasobanuye ko azivuga gusa "à titre subsidiaire", bisobanura ko atari zo arambirijeho mu kwerekana ko mu Rwanda habaye jenocide ebyiri; iza raporo ubwazo si zo zikwiye gushingirwaho mu kwemeza ko koko iyo jenocide y'Abahutu yabayeho mu gihe nta kigaragaza ko zihura n'ibisobanuro bya "jenocide" nk'uko bikubiye mu ngingo ya 2 y'Amategeko mpuzamahanga yerekeye gukumira no guhana icyaha cya jenocide.¹⁷ 16 Kureba urubanza n° ICTR-97-23-S rwo kuwa 4/09/1998: Prosecutor v. Kambanda Jean : Mu kwemera icyaha kwe, Kambanda yasobanuye ko jenocide yakozwe n'ingabo za ex FAR, zifatanyije n'Interahamwe hamwe n'Impuzamugambi za CDR. 17 Convention pour la Prévention et la Répression du Crime de Génocide, Résolution 260 A (III) du 9 décembre 1948 de l'Assemblée Générale des Nations Unies. Art 2: "le Génocide s'entend de l'un des quelconques actes ci-après commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, ...".

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- [368] Ikindi ni uko, nk'uko abahanga banyuranye mu gusesengura icyaha cya jenocide babivuga, kenshi abantu bagerageza gufata ibyaha byose bihitana abantu benshi nk'aho ari jenocide, nyamara bitandukanye, bakaba kenshi banabikora mu rwego rwo kugira ngo jenocide nyakuri yabaye itakaze umwihariko n'uburemere byayo.¹⁸
- [369] Kuba rero Ingabire n'abo bari kumwe mu ishyamba rya FDU-Inkingi bemeza mu mahame shingiro y'iryo shyamba ko mu Rwanda habaye jenocide ebyiri kuva muri 1990, nta kindi bigaragaza uretse kugoreka ukuri kuri jenocide izwi yakorewe Abatutsi, bitewe n'uko n'ubwo badahakana jenocide yakorewe Abatutsi, icyo usesengura ingingo ya 5 yavuzwe haruguru abonamo, ni uko abayanditse bari bagendereye kugabanya uburemere bwa jenocide yakorewe Abatutsi kubera ko berekana ko abayikoze nabo bakorewe indi jenocide; kandi nk'uko bisobanurwa n'abasesenguye jenocide n'ibikorwa byo kuyipfobya,¹⁹ umuntu wemeza ko abakoze jenocide nabo hari indi bakorewe, aba agamije guhuma amaso ubyumva wese, maze agaciro n'uburemere yagombaga guha jenocide yabaye n'ingaruka zayo bigatakara, cyangwa se ntanayiteho na busa bitewe n'uko aba yumva ko hari n'ikindi gice cy'abaturage nacyo cyakorewe indi jenocide.

- [370] Hakurikijwe ibyavuzwe haruguru, gutangaza amagambo akubiye mu ngingo ya 5 y'amategeko shingiro ya FDU-Inkingi bigize icyaha cyo gupfobya jenocide gihanwa n'ingingo ya 4 y'itegeko n° 33 bis/2003 ryavuzwe haruguru nk'uko Urukiko Rukuru ryabyemeje. Disikuru Ingabire yavugiye ku Gisozi n'amagambo yanditse mu ibaruwa igenewe ikinyamakuru "the New Times"
- [371] Ku bijyanye na disikuru Ingabire yavugiye ku rwibutso rwa jenocide yakorewe Abatutsi ruri ku Gisozi, nyuma yo kumva "video" yayo, Urukiko rusanga ikubiyemo amagambo akurikira: "...Biragaragara ko inzira y'ubwiyunge ikiri ndende, iracyari ndende kandi koko urebye abantu bishwe muri iki gihugu, ntabwo ari ikintu cyahita kirangira ako kanya (...).Kuko nk'ubu hano turareba kuri uru rwibutso ruragarukira mu by'ukuri ku bantu bahitanywe n'itsembabwoko ry'Abatutsi. Haracyari uruhare rundi rw'itsembatsemba ryakorewe Abahutu kuko nabo barababaye bafite abantu babo bishwe nabo baravuga bati 'mbese ibyacu byo bizagerwaho ryari? Kugira ngo rero tuzagere ku nzira y'ubwiyunge, ni uko ako kababaro ka buri wese tukumva. Ni ngombwa ko Abatutsi biciwe, Abahutu babishe babyumva kandi bemera ko bagomba kubihanirwa, ni ngombwa ko abantu baba barishe Abahutu nabo bumva ko nabo bagomba kubihanirwa... ". [372] Nyuma y'iyi disikuru, mu ibaruwa Ingabire yandikiye ikinyamakuru "the New Times" agisaba gukosora inkuru cyari cyatangajwe ijyanye na disikuru yavugiye ku rwibutso rwa jenocide yakorewe Abatutsi rwo ku Gisozi, avuga ko amagambo nyakuri yavuze ari akurikira : "...kuko nk'ubu turi hano kuri uru rwibutso twunamira Abatutsi bazize Jenocide, hari n'Abahutu bazize ibyaha byibasiye inyokomuntu n'ibyaha by'intambara batibukirwa hano. Abahutu nabo barababaye, baribaza igihe nabo bazibukira ababo"20 18Kureba ibisobanuro birambuye biri inyuma muri uru rubanza. 19 19 Ibid. 20 20 Mu mwimerere w'ibaruwa yanditse mu rurimi rw'icyongereza, ifite umutwe uvuga utya: Subject: Right of rectification and reply to libels published in Sunday Times on 17th January 2010 and The New Times of 18th January 2010, Ingabire yandika ko amagambo yavuze ari aya akurikira: "...For example, we are here honouring at this Memorial the Tutsi victims of Genocide; there are also Hutu who were victims of crimes against humanity and

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- [373] Urukiko rusanga n'ubwo amagambo akubiye kuri "video" Ingabire yasabye ko rwumva adahura neza n'ayo yanditse mu ibaruwa igenewe ikinyamakuru "the New Times", icyo yemeza muri rusange, ni uko inzira y'ubwiyunge ikiri ndende mu Rwanda, kandi ko kimwe mu bishimangira ibyo avuga, ari uko ku rwibutso rwa Gisozi hibukirwa Abatutsi bazize jenocide bonyine, akabishingiraho yerekana akababaro Abahutu nabo bafite kubera ababo bazize ibyaha byibasiye inyoko muntu n'ibyaha by'intambara nyamara bo bakaba batibukirwa kuri urwo rwibutso.

- [374] Ku bijyanye n'icyaha cyo gupfobya jenocide, hagomba gusuzumwa icyo amategako ateganya kuri icyo cyaha, amagambo akubiye muri disikuru iri kuri "video" Ingabire yemera ko yavuze, hagasuzumwa kandi amagambo akubiye mu ibaruwa nyuma yaho yandikiye ikinyamakuru "the New Times".
- [375] Hashingiwe ku ngingo ya 2 y'Amasezerano Mpuzamahanga yerekeye gukumira no guhana icyaha cya jenocide yavuzwe haruguru, umwihariko w'icyo cyaha ni umugambi wo kurimbura itsinda (group) ry'abantu, ryose cyangwa igice cyaryo nk'uko byashimangiwe mu byemezo by'inkiko zaburanishije icyaha cya jenocide hamwe n'abahanga banyuranye, aho bisobanurwa ko umwihariko wa jenocide ari nawo uyitandukanya n'ibindi byaha bihitana abantu benshi, cyane cyane ibyaha byibasiye inyoko muntu n'ibyaha by'intambara, ari uko jenocide yo iba igamiye (specific intent/dolus specialis) kurimbura abantu babarizwa mu itsinda runaka (groupe de population/population group) kubera abo bari bo (national, ethnical, racial groups), cyangwa bazira imyemerere yabo. [376] Bisobanurwa mu buryo bukurikira: "The form of intent that is a necessary element of the crime (of genocide) that of intending to destroy a group, marks it out from all other international crimes. This explains why genocide is regarded as having a particular seriousness, and has been referred to as the 'crime of crimes' " (ICTR Kambanda case, Ch.4.9.1998 para.16).²¹ [377] Ibimaze kuvugwa bihura kandi n'ibyasobanurwa n'abandi bahanga nabo basobanura ko umwihariko wa Jenocide ari uko abayikora baba bagamiye kurimbura itsinda ry'abantu rikazima, ari byo bituma Jenocide yitwa icyaha ndengakamere "crime of crimes " nk'uko byavuzwe, bitandukanye n'ibyaha byibasiye inyokomuntu kuko byo, n'ubwo abantu bicwa bazira igice babarizwamo, abakora ibyo byaha bindi ntibaba bagamiye kurimbura abari muri icyo gice bose. Babivuga muri ubu buryo : "Whereas for genocide the scope of the intent of the perpetrator includes the destruction of the group, for prosecution as a crime against humanity, the perpetrator selects his victim because they belong to a specific community, but does not seek to destroy the community as such. Thus, the victim is chosen not because of his individual identity, but rather on account of his membership of a national, ethnical, racial or religious group. The war crimes, not remembered or honoured here. Hutu are also suffering. They are wondering when their time will come to remember their people". ²¹Robert Cryer et al., "An Introduction to International Criminal Law and Procedure", Cambridge University Press, 2nd ed., 2010, p.203.

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victim of the act is therefore a member of a group, chosen as such, which means that the victim of the crime of genocide is the group itself and not only individual" ²² The drafters of the crime of genocide wanted to emphasize the particular gravity of targeting members of specific group, with a view to their intentional physical or biological extermination. Emphasis is therefore on the destruction of the group, whereas the victimisation of the group members in their individual capacities takes second place (...).The ICTR in the Akayesu case authoritatively determined that genocide against Tutsi did, in fact take place in Rwanda in 1994. The Judicial assessment of the

dolus specialis by ad hoc tribunals begins by first examining the existence of a genocidal intent of the accused, which is distinct but yet interrelated to that of the underlying plan(...).The Jelisić judgement opined that genocidal intent may manifest itself through a desire to exterminate a very large number of the group members, or by killing a more limited of persons selected for the impact their disappearance or extermination will have upon the survival of the group as such” (par. 82).²³ Kureba kandi Hassan B.Jallow, “The contribution of the UNICTR to the development of international Criminal Law” in Phil Clark and Zachary D.Kaufman (eds), “After Genocide-Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond”, Hurst & Company, London, 2008, p,271 :” ...As a result of the judgement of 2 september 1998 (Akayesu Case), the ICTY looked afresh at what had occurred within its jurisdiction, and in 2001 convicted Radislav Krstić (The prosecutor v. Radislav Krstić, IT-98-33, par.598) of genocide, concluding that the intent to kill all Bosnian Muslim men of military age in Srebrenica constituted an intent to destroy in part the Bosnian Muslim group and therefore qualified as act of genocide. [378] Nanone abasesengura icyaha cya jenocide bagaragaza ko abayihakana n’abayipfobya bakoresha uburyo (stratégies) bunyuranye, burimo gushyira ku rwego rumwe jenocide n’ibindi byaha bihitana abantu benshi, cyane cyane ibikozwe mu bihe by’intambara, bakavuga ko babikora mu buryo butoroheye buri wese kumva ko icyo bagamije ari uguhakana no gupfobya jenocide, bakaba kandi bagoreka nkana ukuri bagamije gutuma abantu bagira 22Anne-Marie L.M. de Brouwer, “Supranational Criminal Prosecution of sexual Violence-The ICC and the Practice of ICTY and the ICTR”, Intersentia, School of Human Rights Research Series, Volume 20, p.72: ICTY, Case n° IT - 95-10: Prosecutor v. Jelsić, Ch.19.12.1999 par. 79. Anavugaga kandi imanza zikurikira: Prosecutor v. Akayesu (Case n° ICTR-96-4-T : 2 September 1998), par.720-732; Prosecutor v. Kayishema & Ruzindana (Case ° ICTR -95-1: par. 531-533);

- Kureba kandi Hassan B.Jallow, “The contribution of the UNICTR to the development of international Criminal Law” in Phil Clark and Zachary D.Kaufman (eds), “After Genocide-Transitional Justice, Post-Conflict Reconstruction and Reconciliation in Rwanda and Beyond”, Hurst & Company, London, 2008, p,271 :” ...As a result of the judgement of 2 september 1998 (Akayesu Case), the ICTY looked afresh at what had occurred within its jurisdiction, and in 2001 convicted Radislav Krstić (The prosecutor v. Radislav Krstić, IT-98-33, par.598) of genocide, concluding that the intent to kill all Bosnian Muslim men of military age in Srebrenica constituted an intent to destroy in part the Bosnian Muslim group and therefore qualified as act of genocide. ²³Ilias Bantekas & Susan Nash, “International Criminal Law”, 3rd ed., Routledge Cavendish, London and New York, 2007, p.143-144: Nota: The trial Chamber initially acquitted the accused of genocide on the ground that the prosecutor has failed to prove his genocidal intent beyond reasonable doubt but the appeal Chamber disagreed with this evaluation of the evidence, finding instead that genocidal intent clearly existed, but did not see it in the interest of justice to order a retrial and thus declined to reverse the acquittal. ICTY has been reluctant to convict lower- ranking personnel of genocide, despite the large number of victims in particular cases.

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urujijo kuri jenocide yabaye, maze bakumva ko uburemere bwa jenocide yabaye nta bugihari kubera ko hari n'abandi bakorewe indi jenocide nabo bababajwe.

[379] Ku bijyanye n'ibimaze kuvugwa, mu isesengura Israel Charny yakoze, abivuga muri aya magambo : "...Over time the intellectual argumentation employed by deniers has become more and more sophisticated. The deniers attempt to employ various devices of rationalization and deconstruction of meaning that seek to avoid placing the deniers themselves in obviously bad lights as intellectual hooligans or bigots (...). What is common to all laborated redefinitions is that (...) a generic classification of genocide is presented which treats all cases of mass murder as genocide (...) so that differences between cases are not at all lost, but at the same time all cases of mass murder are honored as belonging to an overarching world of genocidal events..."²⁴

[380] Ibyo bisobanuro binahura n'ibivugwa n'abasesenguye jenocide yakorewe Abatutsi mu Rwanda, aho bagaragaza ko ku bijyanye n'igikorwa cyo kuyipfobya, abemeza ko habaye jenocide ebyiri bayitwaza nk'intwari yo kugira ngo ubwiyunge bugerweho, nyamara ko ubwo buryo bakoresha burangwa n'ikinyoma, imyitwarire yabo ikaba ahubwo igaragaza ubushake bwo kugira ngo uburemere bwa jenocide yakorewe Abatutsi butakare kuko bagerageza kwerekana ko buri ruhande mu zari zihanganye rwagize uruhare muri jenocide, mu rwego rwo guhanaguraho icyaha abayikoze, no gutesha agaciro icyo jenocide bayifata nk'ubundi bwicanyi.

[381] Muri urwo rwego J-P Chrétien abivuga atya : "...La reconnaissance d'un double génocide, présentée parfois comme un gage de 'réconciliation', est donc un cliché trompeur, lié à une volonté de diluer le génocide des Tutsi dans les massacres indifférenciés".²⁵ [382] Barbara Lefebvre nawe asobanura uburyo abahakana jenocide bakoresha, harimo no kuyipfobya, akerekana ko bibanda muri rusange ku bihe by'intambara byabayemo na Jenocide, bigatuma abapfuye mu ntambara bose bafatwa nk'abazize jenocide kandi atari byo. Akomeza asobanura ko ubwo buryo bwo kudatandukanya abapfuye mu ntambara butuma umwihariko wa jenocide usibangana, nyamara ikiyiranga kikanayitandukanya n'ibindi byaha ari uko yo iba yateguwe ndetse ko icyo abayikoze baba bagamije ari ukurimbura itsinda ry'abantu. Abivuga muri aya magambo: "...La politique génocidaire est considérée prioritairement dans le contexte de guerre, les morts de la guerre sont alors comparés aux victimes du génocide. La singularité du crime de génocide est effacée au profit d'un point de vue global sur les horreurs commises en temps de guerre incluant tous les civils frappés et non un groupe en particulier(...). Ce 24 Israel Charny (1994) in Samuel Totten & Paul R. Bartrop (ed.), op.cit., p.531.

- Kureba kandi Valérie Igounet, “Une tradition extrémiste: le négationnisme”, in Revue d'Histoire de la Shoah, op.cit, p. 9: “D'emblée, l'inversion discursive caractérise le négationnisme: inversion des responsabilités (...) et inversion victimaire”. 25 Inyandiko ya Jean-Pierre Chrétien: Le Génocide du Rwanda-un négationnisme structurel : iboneka ku rubuga <http://www.ldh.toulon.net/spip.php/article 398>.

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procédé est fondateur de la négation puisqu'il entend nier la singularité du crime de génocide, à savoir l'intention et la planification de l'extermination d'un groupe “.26 [383] Mu rwego rumwe n'ibyavuzwe haruguru kandi, Josias Semujanga na Jean-Luc Galabert basobanura ko guhakana jenocide biba bishingiye cyane ku kinyoma no kugoreka amateka. Berekana kandi ko abahakana jenocide barangwa no gufata ibyaha byose cyane ibikozwe mu bihe by'intambara nk'aho ari jenocide, bagamije kugira ngo umwihariko wa jenocide usibangane, kandi ko banarangwa no kwanga kwemera ukuri gushingiye ku byabaye, kunenga ibyasesenguye n'abahanga mu mateka, kugabanya umubare w'abazize jenocide, gushyira icyaha ku bandi, gutanga ibisobanuro ku byabaye binyuranye n'ukuri, n'ubundi buryo butandukanye bifashisha. [384] Babisobanura muri aya magambo : “ ...Recourir au mot génocide, ce mot décisif, c'est vouloir gagner la bataille du vocabulaire de la guerre ; décrire une guerre en termes de génocide, c'est enlever à ce mot sa signification et priver les victimes de leur droit de parole ; et si tous les crimes deviennent génocides, leur égalisation en enlève la spécificité(...). Celui qui étudie le négationnisme pénètre dans le ‘ pays du mensonge déconcertant’, un pays peuplé de faussaires, de manipulateurs (...) ce mensonge est négation d'une vérité. Comme il se dissimule sous le voile d'une légitime révision de cette vérité (...) l'objet de ce mensonge est un génocide. La structuration de ce mensonge s'appelle négationnisme (...). Ces moyens sont limités : refus d'accepter les preuves et critiques des travaux des historiens, réductions du nombre de victimes, retournement de l'accusation ; construction d'une version falsifiée des événements... ”27

[385] Ibyo bisobanuro byatanzwe n'abantu batandukanye basesenguye jenocide bihura kandi n'umurongo utangwa n'Itegeko n° 84/2013 ryo kuwa 11/09/2013 ryerekeye ingengabitekerezo ya jenocide n'ibindi byaha bifitanye isano na yo, ryatangiyeye gukurikizwa kuwa 28/10/2013, aho muri iryo tegeko bigaragara ko ibikorwa byo guhakana jenocide n'ibikorwa byo kuyipfobya hamwe n'ibindi bivugwa muri iryo tegeko, byose itegeko ryabishyize mu rwego rw'ibyaha bifitanye isano n'ingengabitekerezo ya jenocide.

[386] Ku bijyanye n'u Rwanda, hakurikijwe ibisobanuro byatanzwe haruguru, nk'uko abasesengura jenocide babigaragaje, abakoresha “théorie/thèse du double Génocide ”baba bashakira kwerekana ko muri jenocide nta bwoko bwababajwe kurenza ubundi, ndetse ko kwemeza ibyo bigaragaza ahubwo ubushake bwo guhakana no gupfobya jenocide izwi yakorewe Abatutsi kubera ko bishwe bazira gusa ko ari Abatutsi, kandi ko icyo ababishe bari bagambiriye ari ukubarimbura bagashira, bitandukanye n'Abahutu bahitanywe n'ibindi byaha.

- [387] Ku birebana na disikuru Ingabire yavugiyeye ku rwibutso rwa jenocide yakorewe Abatutsi rwo ku Gisozi, nk'uko bizwi, urwo rwibutso kimwe n'izindi nzibutso za jenocide zo ku isi, bimwe mu byo zigamijye ni ukugira ngo amateka kuri jenocide yabaye ajeje ahora yibukwa, mu rwego rwo guha agaciro no kunamira abakorewe iyo jenocide, kandi abazigana bakabona umwanya wo kuzirikana ububi n'ingaruka za jenocide nk'icyaha ndenga kamere²⁸ gikorera 26 Barbara Lefebvre, "Reflexions sur le négationnisme du génocide des Tutsi au Rwanda", in dossier Controverses, n°6, Novembre 2007. 27 Josias Semujanga et Jean-Luc Galabert, op.cit, pp.20, 107-114. 28 Kureba urubanza n° ICTR-97-23-S rwo kuwa 4/09/1998: Prosecutor v. Kambanda Jean: ICTR yemeje ko Jenocide ari "crime of crimes".

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ikiremhamuntu, bikabafasha gufata ingamba zo kugikumira no kukirwanya. By'umwihariko kandi, ku rwibutso rwo ku Gisozi hashyirahamwe imibiri y'Abatutsi bishwe muri jenocide yabakorewe bazira gusa ko ari Abatutsi.

- [388] Urukiko rusanga kuba umuntu nka Ingabire, w'umunyapolitiki unakuriye ishyamba rya FDU-Inkingi, risanzwe ryemera ko mu Rwanda habaye jenocide ebyiri nk'uko byamaze kuvugwa, aya ku rwibutso rwa jenocide yakorewe Abatutsi rwo ku Gisozi, aya neza ko runashyirahamwe imibiri y'Abatutsi bazize iyo jenocide, akahavugira amagambo yasobanuye haruguru, ndetse akayashimangira mu ibaruwa yandikiye ikinyamakuru "the New Time" avuye ko Abahutu bakorewe itsembatsemba bo batibukirwa cyangwa ngo bunamirwe kuri urwo rwibutso, bigaragaza ko ashira ku rwego rumwe jenocide yakorewe Abatutsi n'ibindi byaha avuye ko byakorewe Abahutu nyamara aya neza ko ibyo byaha bindi bitandukanye na jenocide kuko bidahuye kamere n'uburemere.

- [389] Urukiko rusanga nanone, kuba mu ijamba rye yavugiyeye kuri urwo rwibutso, Ingabire yemeza ko jenocide yakorewe Abatutsi yakozwe n'Abahutu, nyamara akinubira ko Abahutu bo batibukirwa ku rwibutso rwa jenocide yakorewe Abatutsi kuko avuye ko rugarukira gusa ku Abatutsi bazize jenocide, bigaragaza ko icyari kimujyanye mu by'ukuri atari ukuzirikana gusa Abatutsi bazize jenocide urwo rwibutso rwagenewe, ahubwo yagira ngo abonereho umwanya wo gutambutsa ubutumwa bw'uko nta bwiyunge bushoboka mu gihe hari n'Abahutu bakorewe ibyaha byibasiye inyoko muntu batibukirwa hamwe n'Abatutsi bazize jenocide.

- [390] Urukiko rusanga amagambo Ingabire yatangariye mu ruhamwe ko Abahutu bazize ibyaha byibasiye inyoko muntu n'ibyaha by'intambara bo batibukirwa ku rwibutso rwa jenocide yakorewe Abatutsi, nyamara muri disikuru ye yemeza ko abo Abatutsi bishwe n'Abahutu, nayo ari mu murongo wa "théorie du double génocide" nk'uko Urukiko Rukuru rwabisobanuye. [391] Urukiko rusanga rero imyiregurire ya Ingabire y'uko muri disikuru ye atigeze ahakana ko Abatutsi bakorewe jenocide, ahubwo ko icyo yavuze ari uko Abahutu bazize ibyaha byibasiye inyokomuntu bo batibukirwa, uretse n'uko bidahura n'ibyo nyuma yanditse mu ibaruwa yageneye "the New Times", idakuraho icyaha nk'uko cyasobanuye haruguru. Ibyo avuye binavuguruzanya kandi ibikubiye mu miburanire ye no mu myanzuro

ye, aho asobanura ko we n'abo bari kumwe muri FDU-Inkingi bemera ko hari jenocide ebyiri : iyakorewe Abatutsi hamwe n'indi yakorewe impunzi z'Abahutu muri Congo ; iyo mvugo ye ikaba nanone ihura na “théorie du double génocide” nk'uko byasobanuwe haruguru.

[392] Urukiko rusanga n'imyiregurire ya Ingabire y'uko disikuru yavuze atari yabanje kuyitegura ntacyo ihindura ku bubi bw'icyaha, cyane cyane ko nk'uko “ video ” Urukiko rwarebye rukanumva ibigaragaza, ijamba rye yaribwiraga abanyamakuru kandi azi neza ko bagombaga kurisakaza bityo rikagera ku bantu benshi banyuranye; nabyo bikaba byerekana ahubwo ko yari azi neza ubutumwa ashaka gutambutsa.

[393] Byongeye kandi, kuba na nyuma ya disikuru yavugiye ku rwibutso rwo ku Gisozi, mu ibaruwa yandikiye ikinyamakuru “ the New Times ” nayo yari agamije ko itangazwa, Ingabire yinubira ko Abahutu bo batibukirwa kuri urwo rwibutso, nyamara yemeza ko bo bazize ibyaha byibasiye inyokomuntu bitandukanye na jenocide nk'uko byamaze kuvugwa; ibyo avuga nabyo ni ikimenyetso cy'uko ashyira ku rwego rumwe ibyo byaha kandi bitandukanye, ubwabyo bikaba

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bigize icyaha cyo gupfobya jenocide nk'uko Urukiko Rukuru rwabyemeje rushingiye ku itegeko n° 33 bis ryo kuwa 06/09/2003 ryakurikizwaga igihe Ingabire yavugaga amagambo aregwa.

[394] Hakurikijwe ibisobanuro byatanze, uru Rukiko rusanga Ingabire ahamwe n'icyaha cyo gupfobya jenocide, bityo akaba agomba kugihanirwa. B. KU BIJYANYE N'UBUJURIRE BW'UBUSHINJACYAHA

1. Kumenya niba icyaha cyo kurema umutwe w'ingabo gihama abaregwa bose

[395] Ku bijyanye na Lt Col. Habiyaemye, Ubushinjacyaha buvuga ko yagiranye imishyikirano na Paul Rusesabagina wayoboraga ishyamba rya PDR-Ihumure rikorera hanze y'u Rwanda rivuga ko rirwanya Leta, bugasobanura ko Paul Rusesabagina yamusabye gushaka abasirikare bo muri FDLR kugira ngo abakangurire kwitandukanya nayo bagashinga ingabo z'umutwe wa PDR-Ihumure hagamijwe gutera u Rwanda. Buvuga ko Habiyaemye yemeye icyo cyifuzo, atangira no kubikangurira bamwe muri bagenzi be b'abasirikare bakuru, ariko ko atashoboye kugera kuri uwo mugambi kuko yaje gufatwa umutwe w'ingabo uvugwa utarashingwa kandi afatirwa mu bikorwa byateguraga kuwurema no kuwushakira uburyo bwo gukora. [396] Ku bijyanye na Ingabire, Lt Col. Nditurinde, Majoro Uwumuremyi na Capitaine Karuta, Ubushinjacyaha buvuga ko bashinze umutwe wiswe Coalition des Forces Démocratiques (CFD) ushamikiye kuri FDU-Inkingi, bagamije guteza umutekano muke mu gihugu mu rwego rwo guhatira Leta y'u Rwanda kujya mu mishyikirano.

- [397] Ubushinjacyaha bushingiye kuri ibyo bikorwa bwabareze icyaha cyo kurema umutwe w'ingabo bagamije igitero cy'intambara cyateganywaga kandi kigahanishwa ingingo ya 163 y'itegeko teka n°21/77 ryo kuwa 18/8/1977 rishyiraho igitabo cy'amategeko ahana, ariko Urukiko Rukuru rwemeje ko ibikorwa baregwa bidahura n'ibiteganywa n'ingingo ya 163 imaze kuvugwa kuko iri mu cyiciro cy'ibyaha bigendereye guhungabanya umudendeko wa Leta n'ibindi bihugu (atteinte à la sûreté extérieure de l'Etat), bivuze ko ari ibyaha bikozwe mu rwego rwo gutuma igihugu kigwa mu maboko y'abanyamahanga kandi ibikorwa bikurikiranywe akaba ataricyo byari bigamije.
- [398] Rwasobanuye kandi ko n'isobanurampamvu y'igitabo cy'amategeko ahana ibigaragaza kuko ivuga ko umutwe w'ingabo uvugwa muri iriya ngingo ya 163 ari uzwi ku izina rya "mercenaires" nyamara ibikorwa baregwa binyuranye no gushyiraho aba "mercenaires".
- [399] Urukiko Rukuru rwasanze ibikorwa abaregwa bakurikiranyweho byo kurema umutwe w'ingabo byasuzumwa hashingwe ku ngingo za 164, 165 na 169 z'itegeko rimaze kuvugwa ziri mu cyiciro cy'ibyaha bivutsa igihugu umudendeko (atteinte à la sûreté intérieure de l'Etat), zigahana icyaha kigamije kugirira nabi ubutegetsu buriho n'ingingo z'imena z'Itegeko-Nshinga hakoreshejwe iterabwoba rikomeye, intambara cyangwa izindi mbaraga zose.
- [400] Ubushinjacyaha mu bujurire bwabwo buvuga ko bwemera ko ibikorwa burega Ingabire, Nditurande, Karuta, Uwumuremyi na Habiyaemye bigize koko icyaha cy'ubugambanyi bwo

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kugirira nabi ubutegetsu buriho hakoreshejwe iterabwoba n'intambara, ariko ko butemera ko bitanagize icyaha cyo kurema umutwe w'ingabo giteganywa cyangwa kigahanishwa ingingo ya 163 y'itegeko ryavuzwe haruguru, bukaba busanga Urukiko Rukuru rwarasesenguye nabi iyo ngingo.

- [401] Buvuga ko umucamanza yavugishije iyo ngingo ya 163 ibyo itavugaga aho yavuze ko kuba iyo ngingo iri mu cyiciro cy'ibyaha bigendereye guhungabanya umudendeko wa Leta n'ibindi bihugu bivuze ko : "ari ibyaha bikozwe mu rwego rwo gutuma igihugu cy'u Rwanda kigwa mu maboko y'abanyamahanga" nyamara atari icyo cyaha igamije guhana kuko ibyo umucamanza yasobanuye ahubwo biteganyijwe mu ngingo ya 151 y'itegeko ryavuzwe akaba atariyo Ubushinjacyaha bwashyirahye burega, bukaba busanga nta mpamvu y'uko ibyo iyo ngingo ya 151 ihana byitirirwa izindi ngingo zose kandi buri ngingo isobanura ku buryo bwumvikana ibikorwa iteganywa, icyaha bigize ndetse n'ibihano byacyo. [402] Buvuga kandi ko nta na hamwe yaba mu nteruro ya mbere, mu mutwe wa mbere ndetse no mu cyiciro cya mbere cy'igitabo cya 2 cy'igitabo cy'amategeko ahana ibyaha cyariho havugwamo ko ibyaha biteganyijwe mu ngingo ya 163 bigomba guhanwa ari uko byatumye igihugu cy'u Rwanda kigwa mu maboko y'abanyamahanga. [403] Buvuga nanone ko ntaho ijamba umucanshuro (mercenaire) rivugwa mu isobanurampamvu rivuguruzwa ibiteganyijwe mu

ngingo ya 163 kuko n'ubusanzwe abacanshuro baba bagize umutwe w'ingabo zitemewe z'igihugu.

- [404] Busoza buvuga ko umucamanza yiyambaza doctrine, jurisprudence cyangwa isobanurampamvu iyo ingingo y'itegeko idasobanutse, ariko ko ibiteganijwe mu ngingo ya 163 bisobanuye mu buryo bwumvikana.
- [405] Ingabire n'abamwunganira bavuga ko mu rubanza rwa Mushayidi, Urukiko Rukuru rwasobanuye ko ibikorwa byo kurema umutwe w'ingabo yari yarezwe bitasuzumwa hashingiwe ku ngingo ya 163 yamaze kuvugwa irebana no guhungabanya umudendeko wa Leta n'ibindi bihugu, Ubushinjacyaha ntibwabijuririra, bivuze ko ntacyo bwanengaga ku mwanzuro w'urukiko kuri iyo ngingo, ukaba warabaye ndakuka kuko mu bujurire Urukiko rw'Ikirenga ntacyo rwahinduye ku mikirize y'urubanza rwaciye n'Urukiko Rukuru.
- [406] Abunganira Nditurende, Uwumuremyi, Habiyaemye na Karuta bavuga ko umucamanza wa mbere yasobanuye mu buryo bwumvikana impamvu yashingiyeho yemeza ko ibikorwa bikurikiranywe bidahura n'ibiteganywa n'iyi ngingo ya 163. [407] Urukiko rusanga ikibazo kirebana n'uburyo Urukiko Rukuru rwasesenguye mu rubanza rwa Mushayidi ingingo ya 163 yavuzwe haruguru kitarigeze gisuzumwa n'Urukiko rw'Ikirenga mu bujurire kuko icyo kibazo nta muburanyi wari wakibukije, hakaba nta kibaza uru rukiko kugisuzuma no kugifataho umwanzuro.
- [408] Ingingo ya 163 imaze kuvugwa iri mu cyiciro cya mbere cy'ibyaha bikorerwa igihugu. Muri icyo cyiciro havugwamo ibyaha bigendereye guhungabanya umudendeko wa Leta n'ibindi bihugu (atteinte à la sûreté extérieure de l'Etat), naho mu cyiciro cya kabiri hakavugwamo ibyaha bigendereye kuvutsa igihugu umudendeko (atteinte à la sûreté intérieure de l'Etat).

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- [409] Ibyaha bikubiye muri ibyo byiciro byombi biratandukanye. Ibyaha bigendereye guhungabanya umudendeko wa leta n'ibindi bihugu biba bigamije guhungabanya ubwigenge (indépendance) n'ubusugire bw'igihugu (souveraineté nationale), imibanire yabwo n'ibindi bihugu n'inyungu zayo (intérêts vitaux), naho ibyaha bigendereye kuvutsa igihugu umudendeko ni ibigendereye guhungabanya amahoro mu gihugu imbere (la paix intérieure), kurwanya inzego za Leta iriho (porter atteinte aux institutions établies et à l'ordre public). [410] Urukiko rusanga rero nk'uko Urukiko Rukuru rwabyemeje, ibikorwa bigize ibyaha Ubushinjacyaha bukurikiranyeho abaregwa byo kurema umutwe w'ingabo bagamije guteza umutekano muke mu gihugu, atari ibyaha bigendereye guhungabanya umudendeko wa Leta n'ibindi bihugu, ahubwo bigendereye kurwanya inzego za Leta iriho mu rwego rwo gufata ubutegetsi ku ngufu cyangwa kuhatira ubuyobozi buriho kujya mu mishyikirano, ubujurire bw'Ubushinjacyaha bugamije kugaragaza ko Urukiko Rukuru rwasesenguye nabi ingingo ya 163 yamaze kuvugwa bukababura nta shingiro bufite.

- [411] Ku bijyanye no kumenya niba ibikorwa Ubushinjacyaha burega Habiyaemye, Ingabire n'abo baregwa hamwe hashingiwe kuri iyo ngingo ya 163, byasuzumwa mu bujurire hashingiwe ku ngingo za 164, 165 na 169 z'iryo tegeko, Urukiko rusanga ku ruhande rumwe Ubushinjacyaha buvuga ko bwemera ko ibikorwa bubarega bigize koko icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi buriho hakoreshejwe iterabwoba n'intambara (nubwo butemera ko bitanagize icyaha cyo kurema umutwe w'ingabo giteganywa cyangwa kigahanishwa ingingo ya 163), ariko ku rundi ruhande bukavuga ko butari kujurira busaba ko icyaha cy'ubugambanyi kibahama kuko butigeze bukirera mu rwego rwa mbere. Ubushinjacyaha bunavuga ko Urukiko rw'Ikirenga rushobora kwemeza inyito nyakuri y'icyaha nk'uko Urukiko Rukuru rwabigenje, rukemeza ko ari ubugambanyi bwo kugirira nabi ubutegetsi, ubwinjiracyaha cyangwa icyaha nyiri zina.
- [412] Urukiko rusanga niba Urukiko Rukuru rwaremeje ko Habiyaemye, Nditurinde na Karuta badahamwa n'icyaha cy'ubugambanyi bwo kugirira nabi ubutegetsi kuko batigeze bemera mu buryo budashyidikanwaho umugambi bari bagejejweho wo kurema umutwe w'ingabo, Ubushinjacyaha ntibujuririre icyo cyemezo kandi bwari bubifitiye uburenganzira, ntaho rwahera rusuzuma ikibazo cyo kumenya niba Urukiko Rukuru rwarasesenguye nabi ibimenyetso bwatanze ku bibareba bijyanye no kurema umutwe w'ingabo hashingiwe ku ngingo za 164, 165 na 169 zavuzwe haruguru.
2. Kumenya niba Ingabire yarahanaguweho icyaha cyo kwamamaza nkana ibihuha bigamije kugomesha rubanda arwangisha ubutegetsi buriho, hirengagijwe amategeko n'ibimenyetso byatanzwe n'Ubushinjacyaha.
- [413] Ubushinjacyaha buvuga ko Ingabire mu bihe bitandukanye yagiye yandika anavuga amagambo anyuranye yagejeje ku bantu akoresheje inzira zitandukanye z'itumanaho. Buvuga ko izo nyandiko n'ayo magambo bigaragaramo ibihuha bigamije kwangisha rubanda ubutegetsi buriho, bugasanga byari bigamije gutuma abanyarwanda basubiranamo no gutera rubanda intugunda ashaka kubyutsa imidugararo mu Rwanda.
- [414] Ubushinjacyaha bumurega icyo cyaha bushingiye ku bimenyetso bikurikira :

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Inyandiko yiswe “Résolutions du 3ème congrès ordinaire du Rassemblement pour le retour des réfugiés et la démocratie au Rwanda” yanditswe kuwa 19/08/2000 ; Inyandiko yiswe “Umurage w'amateka” yanditswe mu kwezi kwa 07/2000 ; Inyandiko yiswe “la Justice internationale face à la crise rwandaise : une justice équitable est la seule base d'une réconciliation effective” yatangajwe mu mwaka wa 2002 Ijambo yavugiye i Buruseli kuwa 26/09/2009 ku isabukuru y'imyaka 48 ya Kamarampaka ; Ijambo yavugiye ku kibuga cy'indege i Kanombe kuwa 16/01/2010 ; Ikiganiro yagiranye n'umunyamakuru wa Voice of Africa kuwa 21/01/2010; Ikiganiro yagiranye n'umunyamakuru mu rugo rwe ; Ikiganiro yagiranye n'umunyamakuru kuri Serena ; Ijambo yagejeje ku bayoboke ba FDU-Inkingi abifuriza umwaka mushya muhire wa 2008.

- [415] Urukiko Rukuru rushingiye ku ngingo ya 83 y’itegeko ngenga n° 01/2012/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy’amategeko ahana ibyaha yerekeranye n’impurirane y’imbenezabyaha, rwemeje ko amagambo na buri nyandiko Ubushinjacyaha bushingiraho burega Ingabire icyaha cyo kwamamaza nkana ibihuha, igize ibikorwa bitandukanye, byakozwe mu bihe bitandukanye, bityo bikaba bigize n’ibyaha bitandukanye bigomba gusuzumwa mu buryo butandukanye.
- [416] Urukiko Rukuru rukurikije ibimaze kuvugwa, rwemeje ko ikiganiro Ingabire yagiranye na Voice of Africa, ikiganiro yagiranye n’umunyamakuru mu rugo rwe, n’ikiganiro yagiranye n’umunyamakuru kuri Hotel Serena ari ibirego bishya kuko Ubushinjacyaha bwabigejeje mu rukiko bwa mbere igihe cy’iburanisha ryo kuwa 19/09/2011, bityo bikaba bitagomba gusuzumwa hashingiwe ku ngingo ya 119 y’itegeko ryerekeye imiburanishirize y’imanza z’inshinjabyaha igaragaza ko Urukiko ruregerwa iyo rwohererejwe dosiye n’Ubushinjacyaha.
- [417] Ku birebana n’ibindi biganiro cyangwa izindi nyandiko, Urukiko Rukuru rwagiye rusesengura buri gikorwa ukwacyo, kuri bimwe rwemeza ko habayeho ubusaze bw’ikirego cy’ikurikiranacyaha, ku bindi rwemeza ko bikubiyemo ibihuha, ndetse ko biha ubutegetsi isura mbi, ariko ko Ubushinjacyaha butagaragaza ko icyo Ingabire yari agamije ari ugushishikariza abaturage kwanga ubutegetsi no kubwivumburaho cyangwa guteza imvururu mu baturage ku buryo basubiranamo, bityo rumuhanaguraho icyaha.
- [418] Ubushinjacyaha mu bujurire bwabwo buvuga ko Urukiko Rukuru rwasobanuye amategeko mu buryo butari bwo rwemeza ko ibiganiro n’inyandiko bushingiraho burega Ingabire bigize ibikorwa bitandukanye bigomba gusuzumwa mu buryo butandukanye. Buvuga kandi ko Urukiko Rukuru rwasesenguye nabi inyandiko n’ibiganiro rwashyikirijwe, akaba rero ari byo bibazo bigomba gusuzumwa.
- i. Kumenya niba urukiko rwarasobanuye amategeko mu buryo butari bwo.

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- [419] Ubushinjacyaha buvuga ko butemeranwa n’Urukiko Rukuru ku buryo rwakoresheje rufata buri jambo na buri nyandiko nk’ibikorwa bigize ibyaha bitandukanye, rukabisesengura mu buryo butandukanye. [420] Bukomeza busobanura ko bwareze Ingabire icyaha cyo kwamamaza ibihuha bigamije kwangisha rubanda ubutegetsi buriho, inyandiko na za disikuru bwagaragarije urukiko bikaba ari ibimenyetso (éléments de preuve) bigaragaza uruhare rwe mu cyaha kimwe aregwa, bikaba bihujwe nuko bigamije umugambi w’icyaha kimwe, bukiribaza ibyo Urukiko Rukuru rwashingiyeho kugira ngo rwemeze ko inyandiko na disikuru Ingabire yagiye ashya ahagaragara mu bihe bitandukanye byashoboraga kubyara ibyaha bidafitanye isano, ruvuga ko byagombaga kubazwaho n’Ubushinjacyaha mu iperereza ry’ibanze mu buryo butandukanye nta kubifatira hamwe.

- [421] Buvuga ko uburyo Urukiko Rukuru rwasobanuye ingingo ya 83 y'igitabo cy'amategako ahana gishya rukayihuza n'ibikorwa Ingabire aregwa bigize icyaha cyo kwamamaza nkana ibihuha bigamije kwangisha rubanda ubutegetsi buriho atari bwo, ko rwitiranyije "concours réel d'infractions" na "délit collectif".
- [422] Busoza busaba Urukiko rw'Ikirenga kongera gusuzumira hamwe ibimenyetso byose bikubiye muri dosiye ku cyaha cyo kwamamaza ibihuha bigamije kwangisha rubanda ubutegetsi buriho, bityo hagakorwa ikosa ryatumye urukiko rwa mbere rudasuzuma ibimenyetso birebana n'ikiganiro Ingabire yagiranye na Voice of Africa, ikiganiro yagiranye n'umunyamakuru mu rugo rwe, n'ikiganiro yagiranye n'umunyamakuru kuri Hotel Serena.
- [423] Me Gatera Gashabana ku ruhande rwe avuga ko kuba Urukiko Rukuru rwaremeje ko ibiregwa Ingabire bigizwe n'ibikorwa bitandukanye, nta makosa rwakoze. Uko urukiko rubibona:
- [424] Urukiko rusanga icyaha Ingabire aregwa cyo kwamamaza nkana ibihuha bigamije kwangisha abaturage ubutegetsi buriho kigizwe n'ibikorwa binyuranye bishingiye ku magambo n'inyandiko yatangaje mu buryo no mu bihe bitandukanye.
- [425] Urukiko rusanga nubwo ibyo bikorwa byaba bihujwe n'umugambi umwe, bitabuza ko buri gikorwa kigomba kuba cyaregwe urukiko mu buryo bukurikije amategako hakurikijwe ibivugwa mu ngingo ya 119 y'itegeko n° 13/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryariho igihe urubanza rwaburanishwaga mu Rukiko Rukuru ivuga ko urukiko ruregerwa iyo Ubushinjacyaha burwoherereje dosiye yuzuye.
- [426] Iyo ngingo ya 119 imaze kuvugwa yasimbuwe ubu n'ingingo ya 124, 1° y'itegeko n°30/2013 ryo kuwa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, igamije gutuma uregwa agezwa mu rukiko azi neza ibikorwa akurikiranyweho n'inyito y'icyaha aregwa (nubwo ishobora guhinduka kugirango ihuzwe n'ibyabaye). [427] Kubera ko ubwo burenganzira ari ndakuka, Urukiko rusanga ibisabwa n'Ubushinjacyaha ko uru rukiko rwasuzuma ikiganiro Ingabire yagiranye na Voice of Africa, ikiganiro yagiranye n'umunyamakuru mu rugo rwe, n'ikiganiro yagiranye n'umunyamakuru kuri Hotel Serena, nta

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shingiro bifite, kuko nk'uko byasobanuwe n'Urukiko Rukuru, Ingabire atigeze abibazwaho haba mu Bugenzacyaha cyangwa mu Bushinjacyaha, bikaba bitanagaragara mu nyandiko itanga ikirego, akaba yarabigejewe bwa mbere mu rukiko, bityo akaba atakurikiranwa kuri ibyo bikorwa urukiko rutaregwe. ii. Kumenya niba Urukiko rwarasesenguye nabi inyandiko n'ikiganiro rwashyikirijwe

[428] Ku bijyanye n'inyandiko yiswe : “Une justice équitable est la seule base d'une réconciliation effective” Ubushinjacyaha buvuga ko igaragaramo amagambo y'ibihuha asebya inzego z'ubutegetsi Ingabire yavuze agamije kugomesha abaturage abangisha ubutegetsi buriho no gutera imvururu mu baturage ashaka ko basubiranamo, ayo magambo akaba ari akurikira : ko hari abanyarwanda bagizwe nk'abacakara (“Certains rwandais sont devenus des citoyens de deuxième ordre”) ; ko mu Rwanda hari agatsiko kigaruriye ubutegetsi, gahindura Itegeko Nshinga n'andi mategeko mu nyungu zako ; ko abacamanza badaca imanza bashingiye ku mategeko, ko ahubwo bakurikiza amabwiriza bahawe n'ubuyobozi bwa gisirikare, ko mu Rwanda hari ubutegetsi bw'ubwiru bufitwe na Général Kagame n'ibikoresho bye, cyane cyane DMI n'umutwe witwara gisirikare “local defence”, ko ubwo butegetsi bwihinduye Guverinoma n'ubucamanza, ko mu Rwanda ibyo gushimuta abantu, kuburirwa irengero no kubica byarenze ukwemera (“l'institutionnalisation des intouchables par une clique qui usurpe le pouvoir, manipule la constitution et les lois à sa guise, a fini par gangréner toute référence juridique jusqu'à ce que l'impunité devienne chronique. Les juges ne jugent plus selon le droit, mais selon des instructions précises imposées par le Haut commandement de l'APR.[...] Le pouvoir occulte, autour du Président Kagame et ses outils, notamment la tristement célèbre DMI et les milices “local defense”, s'est substitué au gouvernement et au pouvoir judiciaire. Des enlèvements, des disparitions et des exécutions extrajudiciaires dépassent tout entendement.”) ; ko Inkiko gacaca zashyiriweho gucira imanza abakoze jenocide mu Rwanda zica imanza zigenzurwa n'abakada ba FPR n'imitwe y'iterabwoba ya FPR ; ko ntawe bizatangaza ko inyangamugayo yita “juges populaires” zizaca imanza zinyuranye n'amabwiriza ya FPR zizahabwa ibihano by'intangarugero, nko kwirukanwa, gufungwa cyangwa kurigiswa “(... des juges traditionnels à la solde du FPR, sinon qui devront se prononcer sous l'oeil vigilant des “cadres –Abakada- du FPR” et/ou des fameuses milices terroristes du FPR, les “local defense”. Ce ne devrait pas étonner que, comme dans le passé de jugements contraires aux directives du FPR soient suivis de sanctions appropriées comme le renvoi, l'emprisonnement ou des disparitions de certains “juges populaires”).

[429] Ku bijyanye n'inyandiko Ingabire yavugiye i Buruseli kuwa 26/09/2009 ku isabukuru y' imyaka 48 ya Kamarampaka, Ubushinjacyaha buvuga ko igaragaramo amagambo agize icyaha akurikira : “(...) none se abaturage badasiba kwicwa, bicishwa inzara, bicishwa ubujiji, bicishwa TIG, babamarira cyangwa bakabaheza mu minyururu no mu mashyamba atagira kivurira, barazira iki ?”.

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[430] Ku bijyanye n'ijambo yavugiye ku kibuga cy'indege i Kanombe kuwa 16/01/2010, Ubushinjacyaha buvuga ko Ingabire yatangajemo amagambo akurikira agize icyaha gikurikiranywe: “ingoyi nje kurwanya ni iyi : cyane cyane ubwoba, ubukene, inzara, igitugu, ubuhake, ruswa yahindutse inkuyo, Gacaca ibogamye, akarengane, gereza ya TIG no guciribwa ishyanga umwana ntamenye umubyeyi n'umuryango ugasenyuka, ubusumbane, ivangura, kwirukanwa mu byabo, gusembera, kubundabunda, kugenda

bubitse umutwe ndetse n'akandoyi" agakomeza avuga ko "abo yasize mu gihugu ari bo bazi ubukana bw'ingoyi , ko akababaro kabo akazi ”.

- [431] Bukomeza buvuga ko urukiko rwa mbere rwiboneye ko ibivugwa muri izo nyandiko n'ibyavuzwe muri ayo magambo ari ibihuha kandi ko biha isura mbi ubutegets, ariko rwemeza ko icyaha kitamuhama, rushingiye ko ibigize icyaha cyo kwamamaza ibihuha bigamije kwangisha abaturage ubutegets buriho bituzuye, ahandi ko ntahagaragara umugambi wo gushishikariza abo yabwiraga kwanga ubutegets buriho.
- [432] Ku byerekeranye n'ibyemejwe n'Urukiko Rukuru ko ibigize icyaha bituzuye, Ubushinjacyaha buvuga ko nta shingiro bifite kuko Ingabire: yavuze amagambo agize icyaha cyo kuvuga no gukwirakwiza ibihuha nk'uko umucamanza ubwe yabiyemereye (élément matériel) ; ayo magambo yayavuze ku bushake nta gahato ashizweho, kandi ayavuga yabigambiriye azi neza ko ari ibihuha, kuko yari azi neza ko ibyo avuga ntacyo bishingiyeho, atari ukuri.
- [433] Ubushinjacyaha buvuga ko ibyo bwababwiraga n'Urukiko Rukuru ko bwagaragaza ko icyo Ingabire yari agamije ari ugutuma abanyarwanda banga ubutegets buriho, basubiranamo cyangwa gutera rubanda intugunda ashaka kubutsa imidugararo mu Rwanda nta shingiro bifite, kuko ingingo ya 166 y'igitabo cy'amategako ahana cyakurikizwaga icyo gihe, kimwe n'ingingo ya 463 y'igitabo cy'amategako ahana gikurikizwa ubu zitabiteganywa.
- [434] Busobanura ko kuri icyo cyaha, kuba utarageze kucyo wari ugamije bidasobanura ko icyaha cyo kuvuga no gukwirakwiza ibihuha kiba kitabaye, kuko icyo ngingo inahana uwagerageje gusa. Bwongeraho ko n'amagambo y'ibihuha Ingabire yavuze adasaba isesengura rihambaye kugira ngo ubone ko ari amagambo agamije kwangisha abaturage ubutegets buriho. [435] Ingabire avuga ko nta mpamvu Ubushinjacyaha bugomba kugarura amagambo bumurega ko yavuze ko : "hari abanyarwanda bagizwe nk'abacakara" yaba ari mu nyandiko "Une justice équitable est la seule base d'une réconciliation effective" kuko ntayariho, n'amagambo ko hari " agatsiko k'abatutsi baturutse mu Bugande bigaruriye ubutegets," kuko nayo ntaho yanditse muri icyo nyandiko.
- [436] Avuga kandi ko Ubushinjacyaha butagaragaje " élément moral " kugira ngo ibigize icyaha cyo kwamamaza nkana ibihuha bigamije kwangisha rubanda ubutegets buriho bibe byuzuye, nk'uko abacamanza mu bushishozi bwabo babibonye, ko butashoboye kugaragaza ko yamamaje nkana ibihuha agambiriye kwangisha rubanda ubutegets buriho.

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- [437] Anavuga ko inyandiko Ubushinjacyaha bwatanze mu rukiko ari inyandiko z'umuyobozi utavugaga rumwe n'ubutegets, kandi ko zabaga zishingiye ku bibazo bivugwa n'abaturage cyangwa bigaragazwa na za raporo zinyuranye Ubushinjacyaha butigeze buvugururira ngo bunagaragaze ko icyari kigamijwe ari ukwangisha abaturage ubutegets buriho.

- [438] Abamwunganira nabo bavuga ko ibikorwa binyuranye byashingiweho n'Ubushinjacyaha bitagaragaza “*élément matériel et moral*” nkuko biteganywa n'ingingo ya 166 y'igitabo cy'amategeko ahana cyakurikizwaga, ko ari nayo mpamvu Urukiko Rukuru rutamuhamije icyo cyaha, ko izo nyandiko zigizwe na za disikuru n'amagambo zigaragaza ibitekerezo bye nk'umunyapolitiki ku bibazo binyuranye, kandi ko basanga mu gihe umunyapolitiki agaragaje uburyo abona ibintu ashingiye ku ngingo ya 33 n'ya 34 z'Itegeko Nshinga bitakwitwa ibihuha.
- [439] Me Iain Edwards by'umwihariko asobanura ko Ingabire yagarutse mu Rwanda afite umugambi wo kwitabira amatora ya Perezida wa Repubulika yo mu mwaka wa 2010 no kwiyamamaza kuri uwo mwanya nk'umukuru w'ishyamba rya FDU-Inkingi, ko yari afite umugambi wo gukemura ibibazo binyuranye yumvaga biri mu gihugu, birimo kuba nta demokarasi n'uburenganzira bwa muntu, akaba yari afite umugambi wo gukemura mu mahoro ibyo bibazo yumvaga biriho, nta maraso amenetse, ko kuri we nk'umuntu utavugaga rumwe n'ubutegetsi buriho yifuzaga ko abaturage bagira icyo babunenga bashingiye ku ibitekerezo bye, ibyo kuri we akaba asanga atari icyaha. Uko urukiko rubibona
- [440] Ingingo ya 166 y'igitabo cy'amategeko ahana ibyaha cyakoreshwaga igihe inyandiko n'amagambo Ingabire akurikiranyweho byatangarijwe, ivuga itya : “ umuntu wese uzaba yitwaje ari za disikuru avugiyemo mu nama cyangwa ahantu h'uruterane, ari inyandiko z'ubwoko bwose z'imashini, amashusho cyangwa ibimenyetso by'amoko yose, bimanitswe, bitanzwe, biguzwe cyangwa bigurishijwe cyangwa bishyizwe mu maboko ya rubanda, ari kwamamaza nkana ibihuha akagomesha cyangwa akagerageza kugomesha rubanda arwangisha ubutegetsi buriho, agatera rubanda intungunda ashaka ko bazasubiranamo, agatera cyangwa akagerageza gutera imvururu mu baturage ashaka ko bazasubiranamo, agatera rubanda intungunda ashaka kubutsa imidugararo muri Repubulika y'u Rwanda azahanishwa igifungo kuva ku myaka ibiri kugeza ku icumi n'ihazabu y'amafaranga kuva ku bihumbi bibiri kugeza ku bihumbi ijana cyangwa kimwe muri ibyo bihano, ariko bidatambamiye ibihano birushijeho gukomera byateganyijwe n'andi mategeko y'igitabo cy'ibihano ”.
- [441] Ku birebana n'uburenganzira bwo kugaragaza ibitekerezo mu bwisanzure, Urukiko rusanga nk'uko byamaze gusobanurwa haruguru, buteganywa kandi bukarerengerwa mu ngingo ya 19 y'Amasezerano yerekeye uburenganzira bw'imbonezamubano na politiki hamwe n'Itegeko Nshinga mu ngingo zaryo za 33 na 34, izo ngingo zikanateganywa ariko ibyo ubwo bwisanzure butagomba kubangamira, kandi ibyo bikaba bireba abantu bose muri rusange n'abanyapolitiki barimo, ko ari nabyo byasobanuwe n'Urukiko rw'Ikirenga mu rubanza RPA 0298/10/CS rwa Mushayidi Deogratias.

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- [442] Hashingiwe kuri ibyo bisobanuro, urukiko rugomba gusuzuma niba ibyo Ingabire ashinjwa ari ibitekerezo bye nk'umunyapolitiki utavuga rumwe n'ubutegetsi buriho cyangwa niba ibyo avuga cyangwa yandika ari icyaha yahanirwa cyo kwamamaza nkana ibihuha bigamije kwangisha rubanda ubutegetsi buriho.
- [443] Nyuma yo gusuzuma inyandiko n'amagambo Ingabire yagiye yandika akanatangaza mu bihe bitandukanye, bigaragara ko yemeza ko hari abanyarwanda badafite agaciro kamwe n'agahabwa abandi (certains rwandais sont devenus des citoyens de deuxième ordre), ko mu Rwanda hari agatsiko kishyize hejuru y'amategeko, kigaruriye ubutegetsi, gahindura Itegeko Nshinga n'andi mategeko mu nyungu zako, kamunze ubutabera ku buryo byatumye umuco wo kudahana uba karande, ko Abacamanza batagica imanza bashingiye ku mategeko, ahubwo ko bakurikiza amabwiriza bahabwa n'ubuyobozi bukuru bw'igisirikare cya APR, ko ubutegetsi bw'ubwiru bukikije Perezida Kagame n'ibikoresho bye, by'umwihariko umutwe uzwi nabi wa DMI, umutwe witwara gisirikare bwashimbuye Leta n'ubucamanza, ko abantu baburirwa irengero, bakarigiswa kandi bakicwa mu buryo burenze ukwemera.
- [444] Yemeza nanone ko inkiko Gacaca zashyiriweho gucira imanza abakoze jenoside mu Rwanda zica imanza zigenzurwa n'abakada ba FPR n'imitwe y'iterabwoba ya FPR ; ko ntawe bizatangaza, nk'uko byagiye bigenda mu gihe cyashize, ko inyangamugayo, yita "juges populaires" zizaza imanza zinyuranye n'amabwiriza ya FPR zizahabwa ibihano by'intangarugero nko kwirukanwa, gufungwa cyangwa kurigiswa (kureba inyandiko yise "La justice internationale face à la crise rwandaise : une justice équitable est la seule base d'une réconciliation effective").
- [445] Yemeza kandi ko abaturage badasiba kwicwa, kwicishwa inzara, ubujiji, TIG, guhezwa mu mashyamba no mu minyururu (ijambo yavuze hibukwa imyaka 48 ya kamarampaka), kimwe nanone n'uko atagaragaza ibimenyetso yashingiyeho yemeza ko hari ingoyi abanyarwanda bashyizwemo n'ubutegetsi, ubwoba, ubukene, inzara, igitugu, ubuhake, ruswa, Gacaca ibogamyeye, akarengane, gereza ya TIG no gucirwa ishyamba, gusembera, kubundabunda n'ayandi (ijambo yavugiyeho ku kibuga cy'indege i Kanombe kuwa 16/01/2010). [446] Urukiko rusanga amagambo amaze kuvugwa adakubiyemo ibitekerezo bisanzwe by'umunyapolitiki bigamije kubanisha abanyarwanda no kunenga politiki ya Leta iriho nk'uko Ingabire n'abamwunganira babiburanisha, ahubwo arangwa no gushyushya imitwe abayumva cyangwa abayasoma no gusebanya. [447] Urukiko rusanga, mu gihe ibyo Ingabire yagombye gushingiraho byose atabigaragaza ngo ibyo avuga cyangwa yandika biba byagibwaho impaka binavuguruzwe, akaba ahubwo arangwa no gushyushya imitwe ababyumva cyangwa ababisoma no gusebanya, nta kundi byakwitwaga atari ibihuha nk'uko byemejwe n'Urukiko Rukuru.

[448] Ku birebana n'icyo Ingabire yari agamije, Urukiko rusanga kubwira abaturage amagambo yagaragajwe haruguru, nta kindi biba bigamije usibye gutuma bigomeka ku butegetsi kubera ibyo baba bumvise, bikaba ndetse byatera intugunda n'imvururu mu baturage bagasubiranamo, bityo icyaha cyo kwamamaza nkana ibihuha agomesha cyangwa agerageza kugomesha rubanda arwangisha ubutegetsi buriho kikaba kimuhama.

3. Kumenya niba Ingabire yaragabanyirijwe ibihano nta mpamvu

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[449] Nyuma yo guhamwa n'icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imenya z'Itegeko Nshinga n'icyaha cyo gupfobya jenocide, Urukiko Rukuru rwahanishije Ingabire igihano cy'igifungo cy'imyaka umunani, rumugabanyirije, hashingiwe ku gihe kirekire yamaze hanze bigatuma atagira amakuru yizewe bihagije ku gihugu.

[450] Urukiko rwashingiye kandi ku ibaruwa Ubushinjacyaha bwarushyikirije Ingabire yandikiye Perezida wa Repubulika kuwa 06/11/2011 atanga ibisobanuro kubyo yagiye yandika n'ibyo yagiye avuga, asaba imbabazi z'abo yakomerekeje mu mvugo ze cyangwa inyandiko ze, anasaba kurekurwa.

[451] Ubushinjacyaha buvuga ko nta mpamvu Ingabire yagombaga kugabanyirizwa igihano kubera ko ntaho yaburanye asaba imbabazi ngo urukiko rube rwabishingiraho ; ko uretse n'ibyo ukwemera icyaha gusuzumwa n'urukiko kwahabwa agaciro ari ukuba kwakorewe imbere y'urukiko , ko rero nta mpamvu urukiko rwagombaga gushingira kuri iyo baruwa.

[452] Buvuga ko kuba atarasabye imbabazi mu rubanza rwe rwose atari uko nta cyaha yakoze, ahubwo ari uko atavugishije ukuri, ko ari nayo mpamvu bwazanye mu Rukiko Rukuru ibaruwa ivuzwe haruguru yagaragaragamo ibyaha yishinja akabisabira imbabazi agasaba no gufungurwa. [453] Bwongeraho ko uretse n'ibyo, uburemere by'ibyaha yahamijwe mu rukiko rubanza, bitatuma agabanyirizwa ibihano, by'umwihariko icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho gifite ingaruka zikomeye, cyane cyane ko n'abagikorikanyweho mbere ye kandi bagikoze mu buryo bumwe nka Mushayidi Deogratias bagihaniwe bikomeye, hakaba nta mpamvu Ingabire yahabwa igihano gitandukanye. [454] Ku bijyanye n'ibihano, Ubushinjacyaha kwasabiye Ingabire igihano cy'igifungo cy'imyaka 10 n'ihazabu y'amafaranga 100.000 ku cyaha cyo kwamamaza nkana ibihuha bigamije kugomesha rubanda urwangisha ubutegetsi buriho, igihano cy'igifungo cy'imyaka 25 ku cyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho hakoreshejwe intambara cyangwa izindi mbaraga zose, n'igifungo cy'imyaka 9 ku cyaha cyo gupfobya jenocide;

- [455] Ubushinjacyaha bwashyize urukiko ko hashingiwe ku ngingo za 83 na 84 z'itegeko ngenga n°01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, rwakwemeza ko ibyaha Ingabire akurikiranyweho bigize impurirane y'imbonezabyaha ku byaha byose aregwa, agahanishwa igifungo cy'imyaka 25;
- [456] Ku byerekeranye n'ibaruwa Ingabire yandikiye Perezida wa Repubulika, Me Iain Edwards avuga ko Ingabire atabonye umwana wo kuyisobanuraho mu Rukiko Rukuru kubera ko Ubushinjacyaha bwayizanye mu rukiko yarafashe icyemezo cyo kuva mu rubanza.
- [457] Akomeza avuga ko uwo yunganira atayanditse agamije kugirirwa impuhwe, ahubwo ko yasobanuraga ibyo yagiye avuga n'ibyo yagiye yandika mu gihe cyashize byamuviriyemo gukurikiranwa, kuko yasangaga byarafashwe mu buryo budahuje n'ukuri kwe kutari kugamije kugirira nabi ubutegets, guteranya abanyarwanda ngo basubiranemo cyangwa kubangisha ubuyobozi, akaba yarababwira umwana uwo ari we wese waba yarakomerekejwe nabyo, kandi ko icyo yashakaga afata icyemezo cyo kugaruka mu gihugu ari ukwandikisha ishya rye no gufatanya n'abandi banyarwanda mu nzira y'amajyambere no kubaka demokarasi.

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- [458] Anavugaga ko nta mpamvu Ubushinjacyaha bwagombye gutinda cyane kuri icyo ibaruwa kuko atari ikimenyetso cyo kwemera icyaha nk'uko bushakaga kubumvikana, ikaba itari igenewe urukiko, ariko ko ntacyarubuzwa kuyishyiraho mu gihe rwasanga ibikubiyemo byarufasha gufata umwanzuro.
- [459] Ku byerekeranye n'ibisabwa n'Ubushinjacyaha ko Ingabire yababwira igihano kimwe n'icyagenewe Mushayidi Deogratias, Me Iain Edwards avugaga ko izo manza zombi zitandukanye, kuko zirebaga abantu batandukanye, ku byaha byihariye, n'abari bazikurikiranywemo bakaba bari bagamije ibintu bitandukanye, kubera ko Mushayidi yari agamije guteza intambara mu gihugu atitaye ku ngaruka zayo, mu gihe Ingabire we icyo yashakaga kugeraho ari ukotsa igitutu ubutegets buriho kugira ngo bwemerere abatavugaga rumwe nabwo kugira uruhare muri politiki no mu miyoborere y'igihugu, ariko ibyo bigakorwa mu gihe izindi nzira zananiranye.
- [460] Me Ian Edwards anavugaga ko atangazwa no kuba Ubushinjacyaha bwajuririyemo igihano Ingabire yahawe nyamara ntibujuririre ibihano byahawe abo baregwa hamwe, by'umwihariko Uwumuremyi, nyamara hari icyaha kimwe basangiye bahamijwe bombi, ko niba Ubushinjacyaha busaba ko Ingabire yahanwa kimwe na Mushayidi, bwagombye no gusabira icyo gihano Uwumuremyi. Yongeraho ko niyo urukiko rwaramuka rutanze ibihano binyuranye, bitatandukana ku buryo bukabije. [461] Akomeza kwemeza ko asanga Ingabire ari umwera ku byaha byose aregwa, ariko ko mu gihe urukiko rwasanga hari icyaha kimuhama, rutakongera igihano nk'uko Ubushinjacyaha bubisaba, kubera ko nta mpamvu abona yo kucyongera, ko ahubwo rwakwifashisha urubanza rwa Uwimana Nkusi na Mukakibibi Saïdati, mu kumugabanyiriza igihano, rukanashyirira ku mpamvu

nyoroshyacyaha zikurikira :

- kuba afungiyeye kure y'umuryango we kandi mu buryo bwihariye;
- kuba yaramaze imyaka myinshi hanze bigatuma adateganya ko hari amagambo yashoboraga kuvuga akagira abo akomeretsa;
- kuba ijamba yavugiyeye ku rwibutso rwa jenocide ku Gisozi ritari ryateguwe ngo rishyirwe mu nyandiko inonosoye, muri make ko ryari ijamba “spontané” ;
- kuba nta bushake yigeze agira bwo gushinyagurira abacitse ku icumu rya jenocide no kuvutsa uburenganzira undi wese. Uko urukiko rubibona:

[462] Ingingo ya 765, igika cya kabiri, y'itegeko ngenga n° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana rikurikizwa ubu, ivuga ko icyaha cyakozwe mbere y'uko iri tegeko ngenga ritangazwa mu Igazeti ya Leta gihanwa hakurikijwe itegeko ryakigengaga keretse mu gihe iri tegeko ngenga riteganywa ibihano byoroheje.

[463] Nk'uko byasobanuwe mu bika byabanje, Ingabire ahamwe n'icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga, icyaha cyo kwamamaza ibihuha bigamije kugomesha rubanda urwangisha ubutegetsi buriho, n'icyaha cyo gupfobya jenocide.

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[464] Icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho cyateganywaga n'ingingo ya 165, igika cya 1, y'itegeko teka n° 21/77 ryo kuwa 18/08/1977 rishyiraho igitabo cy'amategeko ahana ibyaha mu Rwanda ryakoreshwaga igihe icyo cyaha cyakorwaga, kigahanishwa igihano cy'igifungo cya burundu. Ku birebana n'igihano kigomba gutangwa, hagomba gushingirwa ariko ku ingingo ya 462, igika cya 1, y'itegeko ngenga n° 01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana rikurikizwa ubu kuko iteganywa ibihano byoroheje kurusha by'igifungo kuva ku myaka 20 kugeza kuri 25.

[465] Icyaha cyo kwamamaza ibihuha bigamije kugomesha rubanda urwangisha ubutegetsi buriho cyateganywaga n'ingingo ya 166 y'itegeko teka n° 21/77 ryo kuwa 18/08/1977 rishyiraho igitabo cy'amategeko ahana ibyaha cyakurikizwaga igihe cy'ibikorwa bikurikiranywe. Ni nayo igomba gushingirwaho mu kugena ibihano kuko ariyo iteganywa ibihano byoroheje by'igifungo kuva ku myaka 2 kugeza ku myaka 10 n'ihazabu y'amafaranga 100.000 cyangwa kimwe muri ibyo ugereranyije n'ingingo ya 463 y'itegeko ngenga n° 01/2012/OL ryo kuwa 02/05/2012 ryarisimbuye iteganywa igihano cy'igifungo kuva ku myaka 10 kugeza kuri 15. [466] Icyaha cyo gupfobya jenocide cyateganywaga n'ingingo ya 4 y'itegeko n° 33bis/2003 ryo kuwa 06/09/2003 rihana icyaha cya jenocide, ibyaha byibasiye inyoko muntu n'ibyaha by'intambara ryakurikizwaga igihe icyaha cyakorwaga, ariko mu kugena ibihano hagomba gukurikizwa ingingo ya 12 y'itegeko n° 84/2013 ryo kuwa 11/09/2013 ryerekeye icyaha cy'ingengabitekerezo ya jenocide n'ibindi byaha bifatanye isano nayo ivuga ko ibihano bigenwa hashingiwe ku biteganywa mu itegeko ngenga n° 01/2012

ryo kuwa 02/05/2012 rishyiraho igitabo gishya cy'amategeko ahana ibyaha.

- [467] Ku birebana rero n'uru rubanza, hagomba gushingirwa ku ngingo ya 116 y'icyo gitabo gishya cy'amategeko ahana ibyaha kuko iteganya ibihano byoroheje by' igifungo kuva ku myaka 5 kugeza ku myaka 9 ugereranyije n'ingingo ya 4 y'itegeko n° 33bis/2003 ryo kuwa 06/09/2003 yateganyaga igihano cy'igifungo kuva ku myaka 10 kugeza ku myaka 20.
- [468] Urukiko rushingiye ku ngingo ya 83 y'itegeko ngenga n° 01/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana iteganya ko haba impurirane y'imbonezabyaha iyo ibikorwa bitandukanye ubwabyo byakozwe bikurikirana kandi bikabyara ibyaha bidafitanye isano, rusanga ibyaha bihama Ingabire bigize impurirane y'imbonezabyaha, kuko ari ibyaha bitandukanye, byakozwe mu bihe bitandukanye.
- [469] Ingingo ya 84 y'iryo tegeko ngenga, mu gika cyayo cya mbere, ivuga ko "iyo ku gikorwa kimwe gusa cyangwa byinshi, uwakoze icyaha yari guhanishwa ibihano byinshi byo gufungwa cyangwa by'ihazabu, umucamanza amuhanisha igihano kiruta ibindi yongera igihe cyangwa umubare bitewe n'uburyo ibyaha byakozwe ariko ntarenze urugero ntarengwa wongeweho icya kabiri cy'icyo gihano kirushije ibindi gukomera ($\frac{1}{2}$)", naho mu gika cyayo cya kabiri ikavuga ko "igihano cyose cy'ingereka gitangwa n'ubwo cyaba giteganyijwe ku cyaha kimwe".
- [470] Ku bijyanye n'ibyo umucamanza ashingiraho mu gutanga igihano, ingingo ya 71 y'itegeko ngenga n° 02/05/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ivuga ko "umucamanza atanga igihano akurikije uko uhanwa yakoze icyaha, ashingiye ku mpamvu zabimuteye, uko uwakoze icyaha yari asanzwe yitwara, uburyo icyaha cyakozwemo n'imibereho ye bwite".

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- [471] Urukiko rusanga nk'uko rwabivuze mu rubanza RPA 0298/10/CS rwo kuwa 24/02/2012 rwa Mushayidi Deogratias, icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsigifite ingaruka zikomeye haba ku gihugu, haba ku bagituye, bityo mu kugihana bikaba bigomba kwitabwaho, bitabujije ariko ko hasuzumwa n'impamvu nyoroshyacyaha mu gihe zaba zihari. [472] Ku birebana n'uko ku cyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsigifite buriho, Ingabire atahanwa mu buryo butandukanye cyane na Uwumuremyi kuko icyaha bagifatanyije, Urukiko rusanga nubwo icyaha kibahama bombi, uruhare rwabo atari rumwe kuko nk'uko byamaze kuvugwa, Ingabire ariwe wagejeje umugambi kuri Uwumuremyi. Byongeye kandi, nk'uko Urukiko Rukuru rwabisobanuye, Uwumuremyi yemeye ibyaha aregwa kuva agifatwa, abisabira imbabazi, anafasha ubutabera, mu gihe Ingabire atigeze yemera ibyaha ngo anabisabire imbabazi nyamara bimuhama.

- [473] Ku bijyanye n'ibaruwa yavuzwe haruguru Ingabire yandikiye Perezida wa Repubulika, Urukiko Rukuru rwashingiyeho mu kumugabanyiriza ibihano, Urukiko rusanga iyo baruwa Ingabire yakagombye kugirira akamaro nta gaciro ayiha muri uru rubanza, kuko ahubwo avuga ko atumva uburyo yazanywe muri dosiye kandi urukiko atari rwo yari igenewe, ndetse ko itagomba gufatwa nk'ikimenyetso cy'uko yemeraga ibyaha aregwa; bityo ikaba itagomba gushingirwaho.
- [474] Ku birebana n'impamvu nyoroshyacyaha ishingiyeye ku gihe Ingabire yamaze ari hanze bigatuma atagira amakuru yizewe ku gihugu, no kuba ijamba yavugiyeye ku rwibutso rwa jenocide rwo ku Gisozi atari yariteguye, akaba nta n'ubushake yari afite bwo gushinyagurira abacitse ku icumu cyangwa kuvutsa uburenganzira uwari we wese, Urukiko rusanga Ingabire ubwe muri disikuru ye yivugira ko ariho hantu ha mbere yari yateguye gusura, bigaragaza ko yari afite amakuru ahagije n'impamvu byahamujyanye. Ikindi kandi ijamba rye yarivuze nk'umuyobozi w'ishyamba FDU-Inkingi, rikaba ryari rinagenewe abantu b'ingeri zitandukanye barimo n'abanyamakuru bagombaga kurisakaza, nabyo bikerekana ko atari ijamba yavuze rimutunguye, ahubwo yari yariteguye, anazi neza ubutumwa ashaka gutambutsa nk'uko byasobanuwe haruguru.
- [475] Ku birebana n'uko Ingabire yagabanyirizwa igihano kubera ko afungirwe kure y'umuryango we, Urukiko rushingiyeye ku biteganywa mu ngingo ya 77 y'itegeko n° 02/05/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ivuga ko "umucamanza aha agaciro impamvu nyoroshyacyaha, ari izakibanjirije, ari izagiherekeje cyangwa izagikurikiye...", rusanga iyo mpamvu yakwitabwaho kuko gufungirwa kure y'umuryango biremerera kurushaho umuntu uri mu gihano.
- [476] Urukiko rusanga kandi nubwo ibyaha Ingabire yakoze biremereye, mu byo igihano kiba kigamije harimo kugira ngo uwagihawe agororwe, hamwe no kurenganura abakorewe ibyaha, bitabujije ariko ko uwakoze icyaha yanahabwa amahirwe yo gusubira mu buzima busanzwe nk'uko Urukiko Rukuru rwabisobanuye.
- [477] Urukiko rusanga no kuba ari ubwa mbere Ingabire akurikiranyweho icyaha mu buryo buzwi byahabwa agaciro nk'uko byemejwe n'Urukiko Rukuru, bityo bikaba byamubera impamvu nyoroshyacyaha.

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- [478] Ku bijyanye rero n'ibihano, hashingiwe ku ngingo za 71, 77, 82, 83 na 84 zavuzwe haruguru z'itegeko n° 02/05/2012 ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, Ingabire agomba guhanishwa igifungo cy'imyaka 15 ku cyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsu buriho n'ingingo z'imena z'Itegeko Nshinga, igifungo cy'imyaka 9 ku cyaha cyo gufobya jenocide; igifungo cy'imyaka 3 ku cyaha cyo kwamamaza nkana ibihuha bigamije kugomesha rubanda urwangisha ubutegetsu buriho; ariko kubera ko ibyaha bimuhama bigize impurirane y'imbonezabyaha, kandi hakaba hari impurirane z'impamvu nyongeracyaha n'iz'inyoroshyacyaha nk'uko zasobanuwe haruguru, ahanishijwe

igifungo cy'imyaka 15 ku byaha byose bimuhama. C. KU BIJYANYE N'UBUJURIRE BWA UWUMUREMYI VITAL

- [479] Uwumuremyi avuga ko yajuriye asaba kugabanyirizwa ibihano, kuko mu nzego zose yanyuzemo yemeye icyaha anagisabira imbabazi ku buryo budashidikanywaho, urukiko rurabyemera. Avuga ariko ko atanyuzwe n'ibihano yahawe asanga biremereye kurusha ibya bagenzi be, ko rero atakamba kugira ngo ibyo bihano bigabanywe, ndetse binasubikwe, bityo abashe gusubira mu buzima busanzwe.
- [480] Ubushinjacyaha busanga ibyo Uwumuremyi asaba yararangije kubihabwa n'Urukiko Rukuru kubera impamvu nyoroshyacyaha rwasobanuye, n'isubikagihano asaba naryo akaba yararihawe, kuko yahanishijwe igifungo cy'imyaka ine n'amezi atandatu, urukiko rukaba rwaremeje ko agomba gufungwa igihe cy'imyaka 3 n'amezi atandatu, igihano cy'umwaka umwe gisigaye kigasubikwa mu gihe cy'imyaka ibiri.
- [481] Urukiko rusanga ku birebana n'ibisabwa na Uwumuremyi ko yahanwa kimwe na Nditurende, Habiyaemye na Karuta nta shingiro bifite, kuko uretse icyaha bose bahamijwe, Uwumuremyi yanahamijwe icyo abandira batahamijwe cy'ubugambanyi hashingiwe ku bikorwa bijyanye no kurema umutwe w'ingabo ushamikiye kuri FDU-Inkingi.
- [482] Urukiko rusanga Uwumuremyi yaragabanyirijwe ibihano n'Urukiko Rukuru rushingiye ku mpamvu y'uko hari impamvu nyoroshyacyaha, rumuhanisha igifungo cy'imyaka 4 n'amezi 6; bityo akaba yaragabanyirijwe ibihano ku buryo buhagije, hakaba ari nta mpamvu yo kongera kubigabanya.
- [483] Urukiko rusanga n'isubikagihano asaba yaramaze kurihabwa n'Urukiko Rukuru, ibyo asaba rero bikaba nta shingiro bifite. III. ICYEMEZO CY'URUKIKO:
- [484] Rwemeje ko ubujurire bw'Ubushinjacyaha bufite ishingiro kuri bimwe;
- [485] Rwemeje ko ubujurire bwa Ingabire Umuhiza Victoire bufite ishingiro gusa ku bijyanye n'ibimenyetso byavuye mu Buholandi byahawe inyuguti za A, D na E bitagomba gukoreshwa muri uru rubanza;

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- [486] Rwemeje ko ubujurire bwa Uwumuremyi Vital nta shingiro bufite;
- [487] Rwemeje ko Ingabire ahamwe n'icyaha cy'ubugambanyi bugamije kugirira nabi ubutegetsi buriho n'ingingo z'imena z'Itegeko Nshinga hakoreshejwe iterabwoba n'intambara cyangwa izindi mbaraga zose, icyaha cyo gupfobya jenoside; icyaha cyo kwamamaza nkana ibihuha bigamije kugomesha rubanda urwangisha ubutegetsi buriho. [488] Ruhaniye Ingabire igifungo cy'imyaka 15;

[489] Ruvuze ko urubanza rwaciwe n'Urukiko Rukuru rudahindutse ku bireba ibyaha Nditurende Tharcisse, Habiyaemye Noel, Uwumuremyi Vital na Karuta Jean Marie Vianney bahamijwe n'ibihano bahawe.

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