**UMURYANGO W'ABIBUMBYE**

Urwego Mpuzamahanga Rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha

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| Urubanza N°: | MICT-13-38-PT |
| Itariki: | 13 Kamena 2022 |
| Umwimerere: | Icyongereza |

**URUGEREKO RWA MBERE RW'IREMEZO**

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|---|---|
| **Abacamanza:** | **Iain Bonomy, Perezida**<br>**Graciela Susana Gatti Santana**<br>**Elizabeth Ibanda-Nahamya** |
| **Gerefiye:** | **Abubacarr Tambadou** |
| **Itariki:** | **13 Kamena 2022** |

**URUBANZA POROKIRERI**

**aburana na**

**FÉLICIEN KABUGA**

***INYANDIKO ITARI IBANGA***

**ICYEMEZO CYEREKERANYE NO KUMENYA NIBA FÉLICIEN KABUGA ASHOBORA KUBURANISHWA, KWIMURIRWA ARUSHA NO KUHAFUNGIRWA**

**Ibiro bya Porokireri**

Serge Brammertz
Rashid S. Rashid
Rupert Elderkin

**Avoka wunganira Félicien Kabuga**

Emmanuel Altit

Byasemuwe kandi byemezwa na LSS/IRMCT

1. Urugereko rwa Mbere rw'Iremezo rw'Urwego Mpuzamahanga rwashyiriweho Gukora Imirimo y'Insigarira y'Inkiko Mpanabyaha ("Urugereko rwa Mbere rw'Iremezo" na "IRMCT", uko bikurikirana)[1] rutanze icyemezo ku byerekeranye no kumenya niba ubu Félicien Kabuga ashobora kuburanishwa, kandi niba kwimurirwa Arusha, muri Tanzaniya no kuba ari ho afungirwa bikwiye. Urugereko rwa Mbere rw'Iremezo rutanze iki cyemezo, mu nyandiko itari ibanga, hashingiwe ku mikorere y'Ubwunganizi, bwagiye bwemera ko ibibazo bikomeye byerekeranye n'ubuzima bwa Kabuga, bifite aho bihuriye no kumenya niba ashobora kuburanishwa, bimenyekanishwa ariko hatagaragajwe "amakuru y'ibanga"[2].

## I. UKO IBINTU BYAKURIKIRANYE

2. Kabuga, wakorewe bwa mbere Inyandiko y'ibirego n'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda mu mwaka wa 1997[3], afite imyaka 87, akaba aregwa muri IRMCT hashingiwe ku Nyandiko y'ibirego yahinduwe yatanzwe ku itariki ya 1 Werurwe 2021[4]. Nyuma y'aho afatiwe mu Bufaransa muri Gicurasi 2020, yimuriwe, by'agateganyo, ku ishami rya IRMCT ry'i Lahe ku itariki ya 26 Ukwakira 2020, kugira ngo akorerwe isuzumabuzima rirambuye maze hagaragazwe niba ashobora kwimurirwa ku ishami rya IRMCT ry'Arusha

[1] Reba Itegeko rishyiraho Urugereko rwa Mbere rw'Iremezo, 1 Ukwakira 2020, paje ya 1.

[2] Reba, muri rusange, inyandikomvugo y'iburanisha, 7 Kamena 2022. Reba n'inyandikomvugo y'iburanisha, 7 Kamena 2022, paje ya 2 ("Urugereko rwa Mbere rw'Iremezo rwanasabye Ubwunganizi kuvugana n'Uregwa maze bakemeza uburyo iri buranisha rishobora kubera mu ruhame. Maître Altit, watubwira ibyo usanga, muri iri buranisha, bishobora kubera mu ruhame? [Altit]: [Umusemuzi] Ba Nyakubahwa Bacamanza, nyuma yo kubitekerezaho no kubiganiraho na Félicien Kabuga, umwanzuro twafashe ni uko ibyashobora kuba byiza ari uko igice cy'iryo buranisha, igice gito cyaryo cyabera mu ruhame, noneho ibisigaye, by'umwihariko igihe turimo kuvuga ku makuru bwite y'ibanga, iburanisha rikabera mu muhezo, kandi ejo nimugoroba, twatanze Icyifuzo, cyerekeranye n'ibi mvuze.").

[3] Reba *Urubanza Porokireri aburana na Félicien Kabuga*, N° ICTR-97-22-I, Icyemezo cyemeza Inyandiko y'ibirego, 26 Ugushyingo 1997.

[4] Reba *Urubanza Porokireri aburana na Félicien Kabuga*, Nº ICTR-98-44B-PT, Icyemezo ku Cyifuzo cya Porokireri gisaba uruhushya rwo gutanga Inyandiko y'ibirego yahinduwe, 13 Mata 2011 (Inyandiko y'ibanga); *Urubanza Porokireri aburana na Félicien Kabuga*, Nº ICTR-98-44B-I, Inyandiko y'ibirego yahinduwe, 14 Mata 2011; Icyemezo ku Cyifuzo cya Porokireri gisaba uruhushya rwo guhindura Inyandiko y'ibirego, 24 Gashyantare 2021; Inyandiko y'ibirego yahinduwe bwa kabiri, 1 Werurwe 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga n'utari uw'ibanga). Amakuru arambuye ku buryo ibintu byerekeranye n'Inyandiko z'ibirego zakorewe Kabuga, zabanjirije iyi bikurikirana ushobora kuyasanga mu Cyemezo cyafashwe mbere muri uru Rubanza. Reba Icyemezo ku Cyifuzo cya Porokireri gisaba ko Urwandiko rwo gufata n'Itegeko ryo kwimura bihindurwa, 27 Gicurasi 2020, ibika 2, 3.



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bidashyize ubuzima bwe mu kaga, n'uburyo byakorwamo, kugira ngo abe ari ho aburanishirizwa[5].

3. Guhera ku itariki ya 9 Ukuboza 2020, hamaze gutangwa amategeko yo gukora isuzumabuzima, Urugereko rwa Mbere rw'Iremezo rwagiye rushyikirizwa, kabiri mu kwezi, amaraporo ya Muganga ukuriye Serivise y'ubuvuzi ya Gereza y'Umuryango w'Abibumbye ku ishami ry'i Lahe ("UNDU"), ku buzima bwa Kabuga[6]. Amaraporo yatanzwe mbere mu Ukuboza 2020 no muri Mutarama 2021, yerekanaga ko, muri rusange, Kabuga ari umusaza ufite intege nke ku rugero ruringaniye, ufite indwara zikomeye zidakira zo ku mubiri n'izizahaza ubuzima bwo mu mutwe kandi utabasha kwikorera uturimo two kwiyitaho mu buzima bwa buri munsi[7]. Muri raporo yatanzwe ku itariki ya 3 Gashyantare 2021, Muganga ukuriye Serivise y'ubuvuzi ya UNDU yavuze ko asanga uko ubuzima bwa Kabuga buhagaze bitatuma atimurirwa ku Ishami rya IRMCT ry'Arusha kugira ngo ahaburanishirizwe maze avuga ko raporo y'inyongera y'impuguke mu mibereho y'abageze mu za bukuru imusuzuma ishyigikira ibyo avuga, mu gihe hashyirwaho uburyo bukwiye bujyanye n'imyaka ye[8].

4. Cyakora, ku itariki ya 5 Gashyantare 2021, Gerefiye yamenyesheje Umucamanza utegura urubanza ko Kabuga yaguye akavunika igufa ry'ikibero maze bigasaba ko abagwa[9].

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[5] Nk'urugero, reba Icyemezo ku Cyifuzo cya Félicien Kabuga gisaba ko Urwandiko rwo kumufata n'Itegeko ryo kumwimura bihindurwa, 21 Ukwakira 2020, ("Icyemezo cyo ku itariki ya 21 Ukwakira 2020"), igika cya 2; Itegeko ryo mu ikubitiro ryerekeranye n'isuzumabuzima rya Félicien Kabuga, 29 Ukwakira 2020 ("Itegeko ryo ku itariki ya 29 Ukwakira 2020"), paje ya 1; Itegeko rishyiraho itariki y'umuhango wo kwitaba Urukiko bwa mbere, 8 Ugushyingo 2020, paje 1, 2.

[6] Reba Itegeko ryo ku itariki ya 29 Ukwakira 2020, paje 1, 2; inyandikomvugo y'iburanisha, 11 Ugushyingo 2020, paje ya 4; Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere, 25 Ugushyingo 2020, paje ya 3. Ku matariki ya 9 na 23 Ukuboza 2020, 6 na 20 Mutarama 2021, 3 na 22 Gashyantare 2021, 2, 5, 17 na 31 Werurwe 2021, 14 na 28 Mata 2021, 12 na 26 Gicurasi 2021, 9 na 23 Kamena 2021, 7 na 21 Nyakanga 2021, 4, 18 na 25 Kanama 2021, 1, 15 na 29 Nzeri 2021, 13 na 27 Ukwakira 2021, 11 na 24 Ugushyingo 2021, 8 na 22 Ukuboza 2021, 5 na 19 Mutarama 2022, 2 na 16 Gashyantare 2022, 2 na16 Werurwe 2022, 6 na 20 Mata 2022, 4 na 18 Gicurasi 2022, no ku ya 1 Kamena 2022, uko akurikirana, Gerefiye yatanze amaraporo ya muganga yashyikirijwe na Muganga ukuriye Serivise y'ubuvuzi ya UNDU.

[7] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 9 Ukuboza 2020 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje 400-398: amanomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 23 Ukuboza 2020 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 444: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 20 Mutarama 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 828.

[8] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 3 Gashyantare 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 880: nomero yashyizweho n'Ibiro bya Gerefiye.

[9] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ryo gutanga imyanzuro yerekeranye n'ubuzima" ryo ku itariki ya 29 Mutarama 2021, 10 Gashyantare 2021 (Inyandiko y'ibanga rikomeye cyane kandi itareba ababuranyi;



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Mu maraporo ya muganga yatanzwe nyuma, muri Gashyantare no muri Werurwe 2021, Muganga ukuriye Serivise y'ubuvuzi ya UNDU yagaragazaga ko ubuzima bw'Uregwa bwahindutse mu buryo bugaragara nyuma y'uko kuvunika igufa[10]. Kuvura Kabuga iyo mvune byatumye hanagaragara ikibazo gikomeye cy'uburwayi butuma umutima n'ibihaha bye bidakora neza, nyuma yaho na bwo bamusangana uburwayi bugenda bumunga amagufa ye[11]. Kuganira na Kabuga muri icyo gihe byatumye agaragaraho ikibazo cyo kwibagirwa ibintu nyuma y'umwanya muto no kutabihuza, byatumaga haba n'igihe yitiranya ibintu[12]

## A. Impuguke mu mibereho y'abageze mu za bukuru yigenga: Porofeseri Francesco Mattace-Raso

5. Kubera uko kuntu ibintu byahindutse, ku itariki ya 15 Mata 2021, hashingiwe ku Ngingo ya 84(A) y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso ("Amategeko"), Urugereko rwa Mbere rw'Iremezo rwemeye, kuri bimwe, icyifuzo cy'Ubwunganizi maze rutegeka Gerefiye gushyiraho impuguke mu mibereho y'abageze mu zabukuru, yigenga, kugira ngo isuzume Kabuga inafashe mu kumenya niba yashobora gukora urugendo ajya Arusha no kuhaburanishirizwa[13]. Mu byo Urugereko rwa Mbere rw'Iremezo rwategetse uwo muganga w'impuguke gushyira muri raporo yayo harimo gusuzuma: (i) niba Kabuga ashobora kwimurirwa muri Gereza y'Umuryango

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yahawe Ubwunganizi nyuma y'Icyemezo cy'Umucamanza utegura urubanza cyo ku itariki ya 24 Gashyantare 2021), igika cya 3.

[10] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 22 Gashyantare 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka ("Raporo ya muganga yo ku itariki ya 22 Gashyantare 2021"), paje ya 959: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 2 Werurwe 2021 (Inyandiko itari ibanga ifite umugereka w'ibanga), Umugereka, ("Raporo ya muganga yo ku itariki ya 2 Werurwe 2021"), paje 1038, 1037: amanomero yashyizweho n'Ibiro bya Gerefiye.

[11] Reba Raporo ya muganga yo ku itariki ya 22 Gashyantare 2021, paje ya 960: nomero yashyizweho n'Ibiro bya Gerefiye; Raporo ya muganga yo ku itariki ya 2 Werurwe 2021, paje ya 1038: nomero yashyizweho n'Ibiro bya Gerefiye.

[12] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 5 Werurwe 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje 1055, 1054: amanomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 17 Werurwe 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 1142: nomero yashyizweho n'Ibiro bya Gerefiye.

[13] Reba Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'abaganga b'impuguke hashingiwe ku Ngingo ya 84 y'Amategeko, 15 Mata 2021 (Inyandiko y'ibanga), ("Icyemezo cyo ku itariki ya 15 Mata 2021"), ibika 16, 19. Reba n'Icyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'abaganga b'impuguke hashingiwe ku Ngingo ya 84 y'Amategeko Agenga Imiburanishirize n'Itangwa ry'Ibimenyetso, 2 Gashyantare 2021 (Inyandiko y'umwimerere iri mu gifaransa, yatanzwe ku itariki ya 22 Mutarama 2021; inyandiko y'ibanga, hamwe n'inyandiko itari ibanga, yakuwemo ibigomba kugirwa ibanga, zatanzwe uwo munsi).



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w'Abibumbye ku Ishami ry'Arusha ("UNDF") bidashyize ubuzima bwe mu kaga; (ii) Gusuzuma niba, harebwe uburwayi bwe, Kabuga ashobora gufungirwa muri UNDU na/cyangwa UNDF; (iii) niba Kabuga ashobora kwitabira iburanisha mu rw'iremezo no gukoresha neza uburenganzira bwe bwo kuburanishwa mu buryo buboneye, ku buryo ashobora gusobanukirwa iby'ingenzi ku iburanisha no guha amabwiriza Avoka umwunganira; kandi (iv) niba ari ngombwa kandi byaba byiza kuri Kabuga, gusuzumwa n'abaganga b'impuguke mu zindi nzego z'ubuvuzi kugira ngo hasuzumwe niba ashobora gukora urugendo ajya [ku Ishami rya IRMCT] Arusha, kuhafungirwa no kuhaburanishirizwa[14].

6. Ku itariki ya 6 Gicurasi 2021, impuguke ya mbere yashyizweho na Gerefiye ku itariki ya 29 Mata 2021 yamenyesheje Muganga ukuriye Serivise y'ubuvuzi ya UNDU ko idashobora kurangiza imirimo yayo[15]. Nyuma yaho, ku itariki ya 19 Gicurasi 2021, Gerefiye yashyizeho Porofeseri Francesco Mattace-Raso nk'impuguke mu mibereho y'abageze mu za bukuru, yigenga, maze na we yemera imirimo yashinzwe ku itariki ya 21 Gicurasi 2021[16].

7. Ku itariki ya 18 Kamena 2021, Porofeseri Mattace-Raso yatanze raporo ye. Mu myanzuro ye, avuga ibintu bitandukanye birimo ko Kabuga "aramutse asemuriwe akanasobanurirwa neza, […], ashobora gusobanukirwa iby'ingenzi mu iburanisha" kandi ko " atarwanya ko yimurirwa muri Tanzaniya, akanafungirwa muri gereza yaho, ipfa gusa kuba iri ku rwego rumwe n'iyo afungiyemo ubu"[17]. Porofeseri Mattace-Raso ntiyavuze ko ari ngombwa ko [Kabuga] asuzumwa n'abandi baganga b'impuguke mu zindi nzego z'ubuvuzi.

8. Nyuma yaho, Urugereko rwa Mbere rw'Iremezo rwamenyeshejwe ko Kabuga yagombaga kubagwa, bikaba byari biteganyijwe muri Kanama 2021, runamenyeshwa ko yashyizwe

[14] Reba Icyemezo cyo ku itariki 15 Mata 2021, igika cya 19. Urugereko rwa Mbere rw'Iremezo rwategetse kandi umuganga w'impuguke gushyira muri raporo ye ibintu bikurikira: (i) Isuzumabuzima rirambuye rya Kabuga ryerekana uko ubuzima bwe bw'umubiri n'ubwo mu mutwe bwifashe muri iki gihe, rinagaragaza niba asanga hari amahirwe y'uko yakoroherwa n'uburwayi bwose afite kandi niba uburyo arimo kuvurwamo bumugirira akamaro kandi bumufasha kugenda yongera kumererwa neza; (ii) n'inama, ziramutse zihari, zerekeranye n'uburyo bukwiye yavurwamo, inagaragaza niba ubwo buryo bwaboneka kuri UNDU na UNDF na/cyangwa ahandi mu Buholandi no muri Tanzaniya. Reba Icyemezo cyo ku itariki 15 Mata 2021, igika cya 19.

[15] Reba Inyandiko ya Gerefiye imenyekanisha ishyirwaho ry'umuganga w'impuguke, 29 Mata 2021 (Inyandiko y'ibanga ifite umugereka, na wo w'ibanga), igika cya 2; Imyanzuro ya Gerefiye yerekeranye n'ishyirwaho ry'umuganga w'impuguke wigenga, 7 Gicurasi 2021 (Inyandiko y'ibanga), ibika 2-4.

[16] Reba Inyandiko ya Gerefiye imenyekanisha ishyirwaho ry'umuganga w'impuguke, 21 Gicurasi 2021 (Inyandiko y'ibanga ifite umugereka, na wo w'ibanga), igika cya 2.

[17] Imyanzuro ya Gerefiye yerekeranye n'"Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko hatangwa itegeko ryo gukora isuzumabuzima rikozwe n'umuganga w'impuguke hashingiwe ku Ngingo ya 84 y'Amategeko" cyo ku itariki ya 15 Mata 2021, 18 Kamena 2021 (Inyandiko y'ibanga ifite Umugereka, na wo w'ibanga), igika cya 3, Umugereka, paje 1497-1494: amanomero yashyizweho n'Ibiro bya Gerefiye.



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mu bitaro bya gisivire incuro ebyiri, bitewe n'uburwayi bw'impyiko butunguranye ndetse n'"uburwayi bwo kuziba no kwipfundika kw'imitsi yo mu bwonko, by'igihe gito"[18]. Kubera ko izo mpamvu nshya zashoboraga kugira ingaruka ku myanzuro yo muri raporo ya mbere y'iyo mpuguke, ku itariki ya 13 Kanama 2021, Urugereko rwa Mbere rw'Iremezo rwategetse Porofeseri Mattace-Raso kongera gusuzuma Kabuga amaze koroherwa nyuma yo kubagwa maze agatanga raporo y'inyongera irimo amakuru akenewe, asubiza ku bibazo by'ingenzi mu kwemeza niba Kabuga ashobora gukora urugendo no kuburanishwa[19]. Kubera ko ibagwa rya Kabuga ryari riteganyijwe muri Kanama 2021, iyo raporo y'inyongera ya Porofeseri Mattace-Raso yagombaga gutangwa ku itariki ya 28 Nzeri 2021[20]. Cyakora, nyuma yaho, Kabuga bamusanzemo indwara y'umusonga, hiyongeraho ibibazo urwego rw'ubuzima mu Buholandi rwari rufite bitewe n'icyorezo cya Koronavirusi, maze bituma atinda kubagwa kugera ku itariki ya 7 Ukwakira 2021[21].

9. Porofeseri Mattace-Raso yabashije kubonana na Kabuga ku itariki ya 11 Ugushyingo 2021[22] maze atanga raporo y'impuguke y'inyongera ye ku itariki ya 26 Ugushyingo

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[18] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 21 Nyakanga 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 1566: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 4 Kanama 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje 1577, 1576: amanomero yashyizweho n'Ibiro bya Gerefiye. Reba n'Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 23 Kamena 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, paje ya 1503: nomero yashyizweho n'Ibiro bya Gerefiye.

[19] Reba Itegeko ritegeka ko Impuguke yigenga ikora irindi suzumabuzima n'Ibiro bya Gerefiye bigatanga amakuru y'inyongera, 13 Kanama 2021 (Inyandiko y'ibanga) ("Itegeko ryo ku itariki ya 13 Kanama 2021"), paje 2-4; inyandikomvugo y'iburanisha, 6 Ukwakira 2021, paje 7, 8.

[20] Itegeko ryo ku itariki ya 13 Kanama 2021, paje 3, 4.

[21] Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 1 Nzeri 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka ("Raporo ya muganga yo ku itariki ya 1 Nzeri 2021"), paje 2304, 2303: amanomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka ko Impuguke yigenga ikora irindi suzumabuzima n'Ibiro bya Gerefiye bigatanga amakuru y'inyongera" ryo ku itariki ya 13 Kanama 2021, 10 Nzeri 2021 (Inyandiko y'ibanga), ibika 3, 4; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka ko Impuguke yigenga ikora irindi suzumabuzima n'Ibiro bya Gerefiye bigatanga amakuru y'inyongera" ryo ku itariki ya 13 Kanama 2021, 26 Ugushyingo 2021 (Inyandiko y'ibanga ifite umugereka na wo w'ibanga) ("Imyanzuro ya Gerefiye yo ku itariki ya 26 Ugushyingo 2021"), ibika 3, 4; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 13 Ukwakira 2021 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, ("Raporo ya muganga yo ku itariki ya 13 Ukwakira 2021"), paje ya 2472: nomero yashyizweho n'Ibiro bya Gerefiye.

[22] Imyanzuro ya Gerefiye yo ku itariki ya 26 Ugushyingo 2021, igika cya 4, Umugereka ("Raporo ya kabiri Mattace-Raso"), paje ya 2719: nomero yashyizweho n'Ibiro bya Gerefiye. Reba n'Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 27 Ukwakira 2021 (Inyandiko itari ibanga ifite umugereka w'ibanga), Umugereka, paje 2494, 2493: amanomero yashyizweho n'Ibiro bya Gerefiye.



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2021[23]. Mu myanzuro yayo, iyo mpuguke yavuze ko Kabuga "nta kibazo afite kirenze icy'abandi bantu bo mu kigero cye" ku byerekeranye no gukora urugendo kandi ko ubu adakeneye ubufasha bw'umuganga w'inzobere[24]. Cyakora, iyo mpuguke yavuze ko aramutse yongeye kugira ikibazo cy'umutima n'icy'udutsi tujyana cyangwa tuvana amaraso mu bwonko cyangwa se akarwara indwara zikomeye mu gihe afungiye Arusha "byatera ikibazo cy'inyongera ugereranyije n'uko byamera ari muri UNDU, i Lahe, kubera ko Arusha haboneka ubufasha mu by'ubuvuzi budahagije"[25].

10. Ashingiye ku bizamini byo kwa muganga byakozwe n'impuguke mu by'indwara zibasira imitsi yo mu mutwe no mu by'indwara zo mu mutwe ndetse no ku kizamini cyakozwe n'impuguke mu bumenyamyifatire y'abantu Porofeseri Mattace-Raso yavuze ko Kabuga afite "ikibazo cyoroheje cy'imikorere y'ubwonko n'imitekerereze" n'icy'"imikorere y'ubwonko bwe igenda icogora", ariko ibyo bikaba bitaragaragaza ko afite uburwayi bwo mu mutwe. Yavuze ko Kabuga agishobora kumenya igihe n'ahantu ari n'umuntu bari kumwe n'ubwo atagifite ubwo bushobozi busesuye, kandi ko atekereza "neza, mu rugero rusanzwe"[26]. Cyakora, kubera ikibazo cyo guturika cyangwa kwifunga k'udutsi tujyana cyangwa tuvana amaraso mu bwonko Kabuga aheruka kugira, Porofeseri Mattace-Raso yatanze inama y'uko umuhanga mu by'ubuzima bwo mu mutwe yakongera kumusuzuma kugira ngo arebe niba ashobora kwitabira iburanisha no gukoresha, bya nyabyo, uburenganzira afite bwo kuburanishwa mu buryo buboneye[27].

[23] Reba Imyanzuro ya Gerefiye yo ku itariki ya 26 Ugushyingo 2021, igika cya 5; Raporo ya kabiri ya Mattace-Raso, paje 2719-2713: amanomero yashyizweho n'Ibiro bya Gerefiye.
[24] Reba Raporo ya kabiri ya Mattace-Raso, paje 2714: nomero yashyizweho n'Ibiro bya Gerefiye.
[25] Reba Raporo ya kabiri ya Mattace-Raso, paje 2715, 2714: amanomero yashyizweho n'Ibiro bya Gerefiye. Porofeseri Mattace-Raso yazirikanye ibyo kuba aho hantu nta bufasha bw'inzobere mu by'ubuvuzi buhaboneka no kuba abaganga b'inzobere mu by'indwara z'uruhu, izo mu nda, mu kubaga, mu kubaga amaso, mu by'indwara z'imyakura, mu by'ubuzima bwo mu mutwe, mu byo gucisha abarwayi mu cyuma no mu by'indwara zifata mu rwungano rw'inkari baboneka hafi ari abari i Moshi, muri Tanzaniya, no kuba Serivise y'indwara z'umutima iri hafi iri i Nairobi, muri Kenya. Reba Raporo ya kabiri ya Mattace-Raso, paje ya 2714: nomero yashyizweho n'Ibiro bya Gerefiye.
[26] Reba Raporo ya kabiri ya Mattace-Raso, paje 2717-2714: amanomero yashyizweho n'Ibiro bya Gerefiye.
[27] Reba Raporo ya kabiri ya Mattace-Raso, paje 2718, 2716, 2714, 2713: amanomero yashyizweho n'Ibiro bya Gerefiye. Muri icyo gihe mu mpera z'Ugushyingo 2021, Gerefiye yatanze kandi raporo y'isuzumabuzima ryakozwe n'impuguke mu mibereho y'abageze mu zabukuru ivura Kabuga, yakoze isuzuma ry'imikorere y'ubwonko n'imyakura n'imitekerereze maze ikemeza ko afite "uburwayi bworoheje, butuma imikorere y'ubwonko n'imitekerereze bye bigabanuka, bukomoka ku kibazo cy'imitsi yo mu bwonko", noneho, "ishingiye ku buryo agaragara nk'ufite ubuzima bwiza nyuma yo gushyirwa mu bitaro incuro nyinshi, ubushobozi bwe bwo gusobanukirwa ibintu bishya no kuba agira uruhare rworoheje mu turimo tw'ingenzi two kwiyitaho mu buzima bwa buri munsi )", yemeza ko "adafite uburwayi bwo mu mutwe". Reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 24 Ugushyingo 2021 (Inyandiko itari ibanga ifite umugereka w'ibanga), Umugereka, paje ya 2700: nomero yashyizweho n'Ibiro bya Gerefiye.



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## B. Imyanzuro ya Gerefiye yerekeranye n'uburyo bwo gufungirwa Arusha

11. Ku itariki ya 26 Ugushyingo 2021, Gerefiye yatanze amakuru y'inyongera hubahirizwa Itegeko ry'Urugereko rwa Mbere rw'Iremezo ku byerekeranye no kumenya niba UNDF ishobora gukemura ibibazo byihariye Kabuga afite birebana no kutabasha kwikorera uturimo two kwiyitaho mu buzima bwa buri munsi no kumenya niba ubuvuzi buboneka Arusha no mu nkengero zayo bushobora gutanga serivise z'ubuvuzi zo ku rwego rumwe n'urw'i Lahe[28]. Gerefiye yijeje Urugereko rwa Mbere rw'Iremezo ko, Kabuga aramutse yimuriwe Arusha, UNDF yashobora gukemura ibibazo byihariye afite birebana no kutabasha kwikorera uturimo two kwiyitaho mu buzima bwa buri munsi kandi ko ibyari bikeneye guhindurwa mu cyumba cyagenwe yafungirwamo no hirya no hino muri iyo gereza byamaze guhindurwa, by'umwihariko mu rwego rwo kugabanya ibyago byo kugwa[29]. Gerefiye yavuze kandi ko, biramutse bibaye ngombwa, Kabuga yajya akurikiranwa n'abakozi ba gereza n'abaforomo amanywa n'ijoro, kandi ko bazajya bamufasha kubonana n'abandi bantu mu rwego rwo kugabanya ingaruka mbi zaterwa no gufungwa wenyine[30].

12. Gerefiye yasobanuye kandi ko, ashingiye ku buryo Kabuga yitabwaho, ubuvuzi buboneka Arusha na Moshi, muri Tanzaniya, hamwe n'isuzumabuzima ryajya rikorwa mu bihe bitandukanye n'impuguke mu mibereho y'abageze mu za bukuru idahoraho, bishobora gufasha Kabuga ku rwego rumwe n'ubw'ubuvuzi abona i Lahe[31]. Cyakora, Gerefiye yavuze ko, mu gihe habayeho ikibazo cyihutirwa gishobora gushyira ubuzima bwa Kabuga mu kaga cyangwa akeneye ubuvuzi budashobora kuboneka aho hafi, Muganga ukuriye Serivise y'ubuvuzi ya UNDF yashaka uko ajyanwa kuvurizwa i Nairobi, muri Kenya,

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[28] Itegeko ryo ku itariki ya 13 Kanama 2021, paje ya 5; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka ko Impuguke yigenga ikora irindi suzumabuzima n'Ibiro bya Gerefiye bigatanga amakuru y'inyongera" ryo ku itariki ya 13 Kanama 2021, 26 Ugushyingo 2021 (Inyandiko y'ibanga ifite umugereka na wo w'ibanga) ("Imyanzuro ya Gerefiye yo ku itariki ya 26 Ugushyingo 2021").

[29] Amakuru y'inyongera Gerefiye yatanze ku itariki ya 26 Ugushyingo 2021, ibika 10-13, 16, 24.

[30] Amakuru y'inyongera Gerefiye yatanze ku itariki ya 26 Ugushyingo 2021, ibika 14, 15.

[31] Amakuru y'inyongera Gerefiye yatanze ku itariki ya 26 Ugushyingo 2021, ibika 17-24. Gerefiye yagaragaje urutonde rwa serivise z'ubuvuzi bwihariye zitangwa n'ibitaro byitwa Arusha Lutheran Medical Centre biri Arusha, burimo ubukurikira: (i) inzobere mu by'ubuvuzi bw'indwara z'imbere mu mubiri; (ii) abaganga mu bijyanye no kubaga muri rusange no kubaga hakoreshejwe uburyo bwa raparosikopi; (iii) n'abaganga bavura indembe. Naho Serivise z'ubuvuzi bwihariye zitangwa n'ibitaro bya Kilimanjaro Christian Medical Centre, biri Moshi, zirimo izikurikira: (i) inzobere mu ndwara zo mu matwi no mu muhogo; (ii) inzobere mu kuvura amaso; (iii) i Inzobere mu ndwara zibasira imitsi yo mu mutwe; (iv) inzobere mu by'indwara zo mu mutwe; (v) inzobere mu by'indwara z'uruhu; (vi) n'inzobere mu by'indwara zifata mu muyoboro w'inkari. Reba Amakuru y'inyongera Gerefiye yatanze ku itariki ya 26 Ugushyingo 2021, igika cya 19.



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akaba ari ho hafi, muri ako karere, hari ibitaro IRMCT yemerewe koherezamo abantu ivuza[32].

## C. Impuguke mu by'ubuzima bwo mu mutwe yigenga ya mbere: Porofeseri Gillian Mezey

13. Ku itariki ya 1 Ukuboza 2021, rushingiye ku nama yatanzwe na Porofeseri Mattace-Raso ku itariki ya 26 Ugushyingo 2021, Urugereko rwa Mbere rw'Iremezo rwategetse ko hakorwa irindi suzumabuzima rikozwe n'impuguke mu by'ubuzima bwo mu mutwe yigenga[33]. Ku itariki ya 14 Ukuboza 2021, Gerefiye yashyizeho Porofeseri Gillian Mezey[34]. Umucamanza utegura urubanza, ashingiye ku Myanzuro ya Gerefiye yakurikiye iryo Tegeko igaragaza ko igihe ntarengwa cya mbere raporo y'impuguke yagombaga gutangirwa kitashoboraga kubahirizwa, by'umwihariko kubera ingamba zibuza ingendo zerekeranye n'icyorezo cya Koronavirusi no kuba hari inyandiko z'ingenzi zo muri dosiye yo kwa muganga ya Kabuga zari zitarasemurwa[35], yongereye igihe yari yatanze maze ategeka Porofeseri Mezey gutanga raporo ye bitarenze ku itariki ya 31 Mutarama 2022[36].

14. Porofeseri Mezey yashoboye kubonana na Kabuga ku itariki ya 17 Mutarama 2022 maze, ku itariki ya 20 Mutarama 2022, nyuma y'isuzumabuzima yakoze ashingiye ku bimenyetso Kabuga yagaragazaga, hafatwa ifoto y'ubwonko bwe hakoreshejwe imashini isuzuma hifashishijwe rukuruzi ("MRI") bisabwe na Mezey[37]. Raporo y'iyo mpuguke yo ku itariki ya 28 Mutarama 2022 yashyikirijwe Urugereko rwa Mbere rw'Iremezo ku itariki ya 31 Mutarama 2022[38].

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32 Amakuru y'inyongera Gerefiye yatanze ku ku itariki ya 26 Ugushyingo 2021, igika cya 20.
33 Reba Itegeko ritegeka ko umuganga w'impuguke wigenga akora irindi suzumabuzima, 1 Ukuboza 2021 (Inyandiko y'ibanga), paje ya 3.
34 Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka ko Impuguke yigenga ikora irindi suzumabuzima" ryo ku itariki ya 1 Ukuboza 2021, 15 Ukuboza 2021 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga), igika cya 2.
35 Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka ko Impuguke yigenga ikora irindi suzumabuzima" ryo ku itariki ya 1 Ukuboza 2021, 12 Mutarama 2022 (Inyandiko y'ibanga), ibika 4-7.
36 Itegeko ry'inyongera ku Itegeko ritegeka ko umuganga w'impuguke wigenga akora irindi suzumabuzima, 14 Mutarama 2022, paje 1, 2.
37 Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 19 Mutarama 2022 (Inyandiko itari ibanga ifite Umugereka w'ibanga), ("Raporo ya muganga yo ku itariki ya 19 Mutarama 2022"), Umugereka, paje ya 2957: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ry'inyongera ryerekeranye n'Itegeko ritegeka ko umuganga w'impuguke wigenga akora irindi suzumabuzima" ryo ku itariki ya 14 Mutarama 2022, 31 Ukuboza 2022 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga) ("Imyanzuro ya Gerefiye yo ku itariki ya 31 Mutarama 2022"), Umugereka ("Raporo ya Mezey"), paje ya 3, igika cya 53; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 2 Gashyantare 2022 (Inyandiko itari ibanga ifite Umugereka w'ibanga), Umugereka, ("Raporo ya muganga yo ku itariki ya 2 Gashyantare 2022"), paje ya 3048: nomero yashyizweho n'Ibiro bya Gerefiye. Reba na Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 37, 38, 49, 50.
38 Reba Imyanzuro ya Gerefiye yo ku itariki ya 31 Mutarama 2022, igika cya 3; Raporo ya Mezey, paje ya 1.



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15. Muri raporo ye, Porofeseri Mezey yavuze ko ikizami cyakoreshejwe cya MRI cyagaragaje "ibimenyetso byerekana ko muri rusange hari ibyahindutse n'ibyangiritse mu miterere y'uduce tw'ubwonko, bikunze kugaragara ku bantu barwaye indwara yitiriwe Alzheimer, bikaba bituma umuntu yatekereza ko Kabuga ayirwaye"[39]. Avuga ko Kabuga "afite ikibazo cyo kugabanuka kw'imikorere y'ubwonko ku rugero rworoheje cyangwa urukomeye"[40], kandi ko "ishusho rusange y'ubuzima" bwe ari iy'umuntu "ufite uburwayi bwo mu mutwe bw'uruhurirane" cyangwa se, mu magambo asobanutse, umuntu ufite "uburwayi bwo mu mutwe hamwe n'indwara yitiriwe Alzheimer"[41]. Porofeseri Mezey yavuze ko uburwayi bwo mu mutwe bwa Kabuga "buri ku rugero ruri hagati y'urworoheje n'urukomeye kandi ko bigaragara ko bugenda bwiyongera"[42], ko "mu mwaka ushize ubwo burwayi bwo mu mutwe bwiyongereye mu buryo bugaragara"[43], ndetse ko "kwibagirwa byiyongera cyane mu bihe aba arwaye indi ndwara y'umubiri"[44]. Mu gusoza, yavuze ko isuzumabuzima yakoze ashingiye ku bimenyetso Kabuga agaragaza, amadosiye yo kwa muganga, amakuru yatanzwe n'umukobwa wa Kabuga n'ibyagaragaye nyuma yo guca mu cyuma bigaragaza ko arwaye by'ukuri indwara yangiza ubwonko aho kuba indwara y'igabanuka ry'imikorere y'ubwonko n'imitekerereze yihangishaho[45]. Porofeseri Mezey yatanze igitekerezo cy'uko Porofeseri Mattace-Raso, wari waravuze ko Kabuga adafite uburwayi bwo mu mutwe yasubiramo isuzumabuzima rye yifashishije aya makuru mashya[46].

16. Ashingiye kuri iyi myanzuro, Porofeseri Mezey yavuze ko Kabuga ashobora gusobanukirwa imiterere y'ibyaha aregwa baramutse babimusobanuriye neza kandi bitonze ndetse agashobora no kuvuga niba yemera cyangwa ahakana ibyaha aregwa[47]. Cyakora, kubera ko ubushobozi bwe bwo kwibuka ibintu ari buke cyane, akaba adashobora gusoma cyangwa kwandika kubera uburwayi bwo mu mutwe, akaba atakimenya igihe n'aho ari kandi arakara vuba, Porofeseri Mezey asanga Kabuga adashobora guha amabwiriza umwavoka umwunganira, gutanga ubuhamya mu Rukiko no kumva muri rusange cyangwa kwitabira iburanisha mu buryo bwuzuye[48]. Porofeseri Mezey yasoje avuga ko, "muri

[39] Raporo ya Mezey, igika cya 56.
[40] Raporo ya Mezey, igika cya 90.
[41] Raporo ya Mezey, igika cya 57.
[42] Raporo ya Mezey, igika cya 58.
[43] Raporo ya Mezey, igika cya 59.
[44] Raporo ya Mezey, igika cya 60.
[45] Raporo ya Mezey, igika cya 63.
[46] Raporo ya Mezey, igika cya 65.
[47] Reba Raporo ya Mezey, ibika 68-74.
[48] Reba Raporo ya Mezey, ibika 75-85.

rusange" ubu Kabuga adashobora kuburanishwa[49] kandi ko, kubera ko ubukana bw'indwara yangiza ubwonko bwe bugenda bwiyongera, umuntu yakwitega ko imikorere y'ubwonko n'imitekerereze bye bizagenda bigabanuka uko igihe gitambuka, bikaba byafata intera ndende mu gihe afite uburwayi bwo ku mubiri [50], kandi ibyo bikaba bishobora kubaho "kenshi" mu iburanisha rishobora "kuzamara igihe kirekire"[51].

### D. <u>Raporo y'inyongera ya Porofeseri Mattace-Raso n'ishyirwaho ry'izindi mpuguke</u>

17. Ku itariki ya 16 Gashyantare 2022, Porofeseri Mattace-Raso yatanze raporo y'inyongera ku maraporo yatanze mbere ashingiye ku myanzuro mishya ivuga ko Kabuga afite uburwayi bwo mu mutwe[52]. Porofeseri Mattace-Raso yafashe umwanzuro uvuga ko Raporo ya Mezey yuzuye kandi yuzuza iye, avuga ko ibyagaragaye nyuma yo guca mu cyuma bikubiyemo amakuru "yerekeranye n'imiterere" y'uburwayi bwo mu mutwe kandi ko "ibibazo by'imikorere y'ubwonko n'imitekerereze bigenda byiyongera" bikaba "bishobora kuzagenda bikomera"[53].

18. Ku itariki ya 15 Werurwe 2022, Urugereko rwa Mbere rw'Iremezo rwemeye Icyifuzo cya Porokireri gisaba ko hashyirwaho umuganga w'impuguke, uvuga ikinyarwanda, yihitiyemo kugira ngo akorere Kabuga isuzumabuzima ryerekeranye n'indwara zo mu mutwe [54]. Byongeye kandi, Urugereko rwa Mbere rw'Iremezo, rwibutsa ko umwanzuro wa Porofeseri Mezey uvuga ko Kabuga adashobora kuburanishwa ushobora gushingirwaho mu guhagarika burundu kumuburanisha, rwasanze ari ngombwa kubona ibitekerezo by'impuguke yigenga ya kabiri maze, rubyibwirije, rutegeka Gerefiye gushyiraho

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[49] Urugereko rwa Mbere rw'Iremezo rusanga Porofeseri Mezey yarakoresheje amagambo "ntashobora kuburana". Reba Raporo ya Mezey, igika cya 87. Uyu mwanzuro, usomewe mu rwego rwa Raporo yose uko yakabaye, hanashingiwe ku buhamya iyi mpuguke yatanze mu Rukiko, ugaragaza ko muri rusange,Kabuga ashobora gukoresha uburenganzira afite bwo kuburanishwa mu buryo buboneye kurusha uko wibanda ku kuba ashobora kuvuga niba yemera cyangwa ahakana ibyaha aregwa, ibyo iyo mpuguke ikaba yarasanze abishoboye. Reba Raporo ya Mezey, ibika 68-91; Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje ya 53.

[50] Reba Raporo ya Mezey, ibika 88, 89. Porofeseri Mezey yavuze ko ku bageze mu za bukuru, ubuzima bwo ku mubiri n'ubwo mu mutwe bugendana, ko Kabuga afite "ibibazo by'ubuzima" bigenda bigaruka, bisaba ko avurirwa mu bitaro bya gisivire, kandi ko kenshi yavuwe igitaraganya yarembye. Reba Raporo ya Mezey, igika cya 90.

[51] Raporo ya Mezey, igika cya 91.

[52] Itegeko ritegeka Impuguke yigenga ya mbere gutanga indi myanzuro, 8 Gashyantare 2022 (Inyandiko y'ibanga), paje ya 2; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritegeka Impuguke yigenga ya mbere gutanga indi myanzuro" ryo ku itariki ya 8 Gashyantare 2022, 16 Gashyantare 2022 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga), igika cya 3, Umugereka ("Raporo ya gatatu Mattace-Raso"), paje ya 3131: nomero yashyizweho n'Ibiro bya Gerefiye.

[53] Raporo ya gatatu ya Mattace-Raso, paje ya 3131: nomero yashyizweho n'Ibiro bya Gerefiye.

[54] Icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n'Itegeko ry'uko habaho irindi suzumabuzima rikozwe n'impuguke yigenga, 15 Werurwe 2022 (Inyandiko y'ibanga) ("Icyemezo cyo ku itariki ya 15 Werurwe 2022"), ibika 21-23, 28. Reba n'Icyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa kikanasaba guhabwa inyandiko, 9 Gashyantare 2022 (Inyandiko y'ibanga).



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impuguke mu by'ubuzima bwo mu mutwe yigenga kugira ngo irufashe mu gufata icyemezo kigaragaza impamvu gishingiyeho kandi gishingiye ku makuru ahagije, ku byerekeranye no kumenya niba Kabuga ashobora kuburanishwa[55]. Urugereko rwa Mbere rw'Iremezo rwategetse izo mpuguke zombi kuba zatanze amaraporo yazo mu gihe kitarenze iminsi 30 uhereye ku itariki buri mpuguke yashyiriweho[56]. Urugereko rwaje kwanga Icyifuzo cy'Ubwunganizi gisaba uruhushya rwo kujuririra iki Cyemezo cyo ku itariki ya 15 Werurwe 2022 kubera ko cyatanzwe igihe kitaragera[57].

## E. Impuguke mu by'ubuzima bwo mu mutwe yigenga ya kabiri: Porofeseri Henry Kennedy

19. Ku itariki ya 22 Werurwe 2022, nyuma y'itegeko ry'Urugereko rwa Mbere rw'Iremezo, Gerefiye yashyizeho Porofeseri Henry Gerard Kennedy nk'Impuguke mu by'ubuzima bwo mu mutwe yigenga ya kabiri[58]. Porofeseri Kennedy yasuye UNDU maze, ku itariki ya 6 n'iya 7 Mata 2022 agirana ibiganiro na Kabuga n'abaganga ndetse n'abakozi ba gereza batandukanye maze ku itariki ya 21 Mata 2022, atanga Raporo[59]. Ashingiye kuri ibyo biganiro ndetse no ku madosiye yo kwa muganga no ku nyandiko zerekeranye n'inama ntegurarubanza[60], Porofeseri Kennedy yavuze ko asanga Kabuga "yujuje bimwe mu bishingirwaho mu kwemeza ko umuntu ashobora kuba afite ikibazo cyoroheje cy'imikorere y'ubwonko n'imitekerereze bitewe n'uko ashaje kandi afite intege nke". Yavuze kandi ko hari ibimenyetso bigaragaza ko "afite ikibazo cyo kugabanuka kw'imikorerere y'ubwonko bwe ku rugero rworoheje ugereranyije n'uko bwakoraga mbere"[61], akaba yarasanze bidaterwa n'indwara yitiriwe Alzheimer, ko ahubwo biterwa no

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[55] Icyemezo cyo ku itariki ya 15 Werurwe 2022, ibika 24, 25, 28.
[56] Icyemezo cyo ku itariki ya 15 Werurwe 2022, igika cya 28.
[57] Icyemezo ku Cyifuzo cya Félicien Kabuga gisaba uruhushya rwo kujuririra Icyemezo cyo ku itariki ya 15 Werurwe 2022 cyerekeranye n'irindi suzumabuzima rigamije kumenya niba ashobora kuburanishwa, 8 Mata 2022 (Inyandiko y'ibanga), paje ya 3.
[58] Imyanzuro ya Gerefiye yerekeranye n'"Icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n'Itegeko ry'uko habaho irindi suzumabuzima rikozwe n'impuguke yigenga" ryo ku itariki ya 15 Werurwe 2022, 22 Werurwe 2022 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga"), igika cya 2.
[59] Imyanzuro ya Gerefiye yerekeranye n'"Icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n'Itegeko ry'uko habaho irindi suzumabuzima rikozwe n'impuguke yigenga" cyo ku itariki ya 15 Werurwe 2022, 21 Werurwe 2022 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga"), igika cya 3, Umugereka ("Raporo ya Kennedy"), ibika 1.8, 1.9, 40.1-55.45.
[60] Raporo ya Kennedy, ibika 1.10, 4.1-55.45.
[61] Raporo ya Kennedy, Igitekerezo, ibika 5, 5(b). By'umwihariko, Porofeseri Kennedy yavuze ko, n'ubwo imikorere y'ubwonko n'imitekerereze bya Kabuga bigaragaza "ibimenyetso by'uburwayi byoroheje", "nta bimenyetso yabonye by'ibibazo bitari ibisanzwe bijyana n'izabukuru, imbaraga n'umuhate" cyangwa "iby'uko ubushobozi bwo gusobanukirwa ibintu bishya, kwibuka ibintu ako kanya cyangwa hashize igihe gito bwagabanutse cyane". Reba Raporo ya Kennedy, igika cya 46. Yasanze kandi "nta bimenyetso byerekana ko ubushobozi bwo kuvuga



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gusaza[62]. Porofeseri Kennedy ashimangira ko “kugabanuka kw’ingano y’ubwonko ubusanzwe biterwa n’ubusaza kandi ko bitaba bifitanye isano no kugabanuka cyane k’ubushobozi bwo gusobanukirwa ibintu, byanze bikunze, n’ubwo bishobora kuba bifitanye isano no kugabanuka kw’imikorere y’ubwonko n’imitekerereze”[63]. Iyi mpuguke yanemeye ko indwara y’umubiri, ishobora kugira aho ihurira, mu buryo butaziguye, n’ubushobozi bwo mu mutwe kandi ko Kabuga ashobora kuzanyura mu bihe byo guteshaguzwa ni ukuvuga ikibazo cyo guta ubwenge by’igihe gito bijyana no kwitiranya ibintu, kumva cyangwa kubona ibintu bitariho, imyitwarire idasanzwe, kubura umutuzo no kurakara vuba[64].

20. Ku byerekeranye no kuba Uregwa ashobora kuburanishwa, Porofeseri Kennedy yemeje ko Kabuga ashobora gusobanukirwa icyo kwemera cyangwa ahakana ibyaha aregwa bivuga kandi ko yagaragaje ko ashobora gusobanukirwa imiterere y’ibyaha aregwa[65]. Porofeseri Kennedy yanavuze ko ubushobozi bwa Kabuga bwo gusobanukirwa imigendekere y’iburanisha n’ibimenyetso mu buryo burambuye “bwaba buhagije aramutse ahawe ubufasha bukwiye”, maze ashimangira ko ibi byafashwa cyane no “kugabanya, ibimenyetso bizatangwa mu Rukiko, gutanga incamake zabyo ndetse, igihe bishoboka, hakaba kubyemeranyaho”[66]. Iyo mpuguke isanga kandi Kabuga ashobora gusobanukirwa ingaruka z’urubanza kandi ko yaragaragaje ubushobozi bwo gutanga ingingo zifite aho zihuriye n’ukwiregura kwe, bityo akaba ashobora guha amabwiriza umwavoka umwunganira, ikavuga ko hari uburyo bunyuranye ashobora gufashwa kuvugana n’abamwunganira[67]. Mu gusoza, Porofeseri Kennedy yavuze ko gusuzuma ubushobozi bwo gutanga ubuhamya mu Rukiko ari byo bikomeye cyane mu rwego rw’ubuzima bwo mu mutwe, cyakora ko asanga, mu ibaza ry’ibanze, Kabuga, aramutse ahawe umwanya n’ubufasha bihagije, ashobora gutanga ubuhamya mu Rukiko, kandi ko hashobora kubaho

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bwagabanutse mu buryo burenze bimwe mu bibazo bishobora kuba biterwa n’ubumenyi budahagije”. Reba Raporo ya Kennedy, igika cya 46. Ku byerekeranye n’ubushobozi bwo kwakira amakuru yerekeye abandi bantu no kuyakoresha mu mibanire ye n’abo bari kumwe, Porofeseri Kennedy yasanze nta bimenyetso bigaragara byerekana ibibazo “birenze gusaza no gutakaza ubushobozi bwo kumva bisanzwe” maze avuga ko uburyo Uregwa yitwaye mu Rukiko byerekana ko “ubushobozi bwo gutekereza nta kibazo na kimwe bufite”. Reba Raporo ya Kennedy, igika cya 47.

[62] Raporo ya Kennedy, Igitekerezo, igika cya 5(c). Porofeseri Kennedy yagarutse ku maraporo y’abaganga yasomye maze yerekana ko abandi bakoze isuzumabuzima basanze nta burwayi bwo mu mutwe Kabuga afite. Nk’urugero, reba Raporo ya Kennedy, ibika 13.1, 28.10, 29.11, 30.1, 40.5.

[63] Raporo ya Kennedy, Igitekerezo, igika cya 4(b).

[64] Raporo ya Kennedy, Igitekerezo, ibika 4(d), 4(e).

[65] Raporo ya Kennedy, Igitekerezo, ibika 6(i), 6(ii). Reba na Raporo ya Kennedy, ibika 55.24-55.29.

[66] Raporo ya Kennedy, Igitekerezo, ibika 6(iii), 6(iv).

[67] Raporo ya Kennedy, Igitekerezo, ibika 6(v), 6(vi).



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impamvu zishyize mu gaciro zo kwemerera Kabuga gusubiza mu nyandiko ibibazo byo mu ibaza rinyomoza[68].

## F. Umuganga w'impuguke watanzwe na Porokireri: Dogiteri Rutakayile Bizoza

21. Ku itariki ya 22 Werurwe 2022, Porokireri yatanze inyandiko imenyekanisha ishyirwaho rya Dogiteri Rutakayile Bizoza, nk'impuguke ye[69] maze Gerefiye asuzuma niba yujuje ibisabwa ku itariki ya 25 Werurwe 2022[70]. Ku itariki ya 19 Mata 2022, rushingiye ku bintu birimo imyanzuro ivuga ko kuzarira bigaragara mu mikorere mu rwego rw'ubuyobozi byatumye iyo mpuguke idashobora kujya mu Buholandi mbere y'itariki ya 15 Mata 2022 no kugera kuri UNDU mbere y'igihe ntarengwa cyari cyatanzwe mbere, Urugereko rwa Mbere rw'Iremezo rwemereye umuganga w'impuguke watanzwe na Porokireri kuzaba yatanze raporo ye bitarenze ku itariki ya 6 Gicurasi 2022[71].

22. Dogiteri Bizoza yabonanye na Kabuga ku itariki ya 21 Mata 2022 maze atanga raporo ye ku itariki ya 6 Gicurasi 2022[72]. Muri raporo ye, yavuze ko Kabuga afite "ubushobozi buhagije bwo kwibuka ibintu" kandi ko agaragaza "imitekerereze itarimo guhuzagurika"[73]. Mu gusoza, Dogiteri Bizoza yavuze ko Uregwa, aramutse yifashishije ibikoresho byifashishwa mu kumva, ashobora kuburana, gusobanukirwa imiterere y'ibyaha aregwa, guha amabwiriza umwavoka umwunganira, gutanga ubuhamya mu Rukiko, bityo akaba ashobora kuburanishwa[74] no kwimurirwa Arusha ndetse no gukomeza kuhivuriza[75].

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[68] Raporo ya Kennedy, Igitekerezo, igika cya 6(vii).
[69] Inyandiko imenyekanisha ishyirwaho ry'umuganga w'impuguke watanzwe na Porokireri, 22 Werurwe 2022 (Inyandiko y'ibanga), ibika 1-3.
[70] Indi Myanzuro ya Gerefiye yerekeranye n'"Icyemezo ku Cyifuzo cya Porokireri gisaba ko hakorwa irindi suzumabuzima rigamije kumenya niba Uregwa ashobora kuburanishwa n'Itegeko ry'uko habaho irindi suzumabuzima rikozwe n'impuguke yigenga" ryo 15 Werurwe 2022, 25 Werurwe 2022 (Inyandiko y'ibanga), ibika 4-6. Reba n'Inyandiko y'inyongera ku Nyandiko imenyekanisha ishyirwaho ry'umuganga w'impuguke watanzwe na Porokireri, 29 Werurwe 2022 (Inyandiko y'ibanga), igika cya 2.
[71] Icyemezo ku Cyifuzo cyihutirwa cya Porokireri gisaba kongererwa igihe cyo gutanga raporo y'umuganga w'impuguke, 19 Mata 2022, paje 1, 2.
[72] Inyandiko imenyekanisha itangwa rya Raporo y'umuganga w'impuguke watanzwe na Porokireri, 6 Gicurasi 2022 (Inyandiko y'ibanga ifite Umugereka A na wo w'ibanga), igika cya 1, Umugereka A ("Raporo ya Bizoza"), p. 3.
[73] Raporo ya Bizoza, paje ya 5.
[74] Raporo ya Bizoza, paje 6, 7.
[75] Raporo ya Bizoza, paje ya 7.



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## G. Gushyiraho amatariki y'iburanisha n'umuganga w'impuguke watanzwe n'Ubwunganizi

23. Ku itariki ya 27 Mata 2022, Urugereko rwa Mbere rw'Iremezo rwamenyesheje ababuranyi ko ruteganya kumva impuguke mu cyumweru cyo kuva ku itariki ya 30 Gicurasi 2022[76]. Mu nama ntegurarubanza yabaye ku itariki ya 11 Gicurasi 2022, Urugereko rwa Mbere rw'Iremezo rwagumishijeho by'abagateganyo ayo matariki[77].

24. Ku itariki ya 9 Gicurasi 2022, Ubwunganizi bwatanze Icyifuzo gisaba ko hashyirwaho, Dogiteri An Chuc, umuganga w'impuguke bwahisemo[78]. Icyo Cyifuzo cyemewe ku itariki ya 13 Gicurasi 2022[79]. Ku itariki ya 17 Gicurasi 2022, Gerefiye yasuzumye niba Dogiteri Chuc yujuje ibisabwa[80]. Kubera ko yari yarigeze gusuzuma Kabuga, yari azi amateka y'ubuzima bwe maze ibyo bituma ategekwa gutanga raporo ye mbere yo ku itariki ya 30 Gicurasi 2022[81]. Nyuma yo kongererwa igihe, bisabwe n'Ubwunganizi[82], Dogiteri Chuc yatanze raporo ye ku itariki ya 3 Kamena 2022[83].

## H. Raporo ihuriweho ya Porofeseri Mezey na Porofeseri Kennedy

25. Ku itariki ya 16 Gicurasi 2022, Umucamanza utegura urubanza yanategetse Porofeseri Mezey na Porofeseri Kennedy gusuzumira hamwe, mu ibanga, ibibazo basabwe gusuzuma nk'impuguke maze bagakora raporo ihuriweho ku byo bemeranyaho n'ibyo batemeranyaho, basobanura impamvu bashingiraho mu magambo arambuye[84]. Ku itariki ya 25 Gicurasi 2022, izo mpuguke mu by'ubuzima bwo mu mutwe zigenga zatanze raporo

[76] Inyandikomvugo y'iburanisha, 11 Gicurasi 2022, paje ya 6.
[77] Inyandikomvugo y'iburanisha, 11 Gicurasi 2022, paje ya 10.
[78] Icyifuzo gisaba ko hatangwa raporo y'impuguke ku buzima bwa Félicien Kabuga ikozwe n'impuguke yatanzwe n'Ubwunganizi, 27 Gicurasi 2022 (Inyandiko y'ibanga; inyandiko y'umwimerere, iri mu gifaransa, yatanzwe ku itariki ya 9 Gicurasi 2022).
[79] Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko hashyirwaho umuganga w'impuguke watanzwe n'Ubwunganizi, 13 Gicurasi 2022 (Inyandiko y'ibanga) ("Icyemezo cyo ku itariki ya 13 Gicurasi 2022"), paje 2, 3.
[80] Imyanzuro ya Gerefiye yerekeranye n'"Icyemezo ku Cyifuzo cy'Ubwunganizi gisaba ko hashyirwaho umuganga w'impuguke watanzwe n'Ubwunganizi cyo ku itariki ya 13 Gicurasi 2022", 17 Gicurasi 2022 (Inyandiko y'ibanga), igika cya 3.
[81] Icyemezo cyo ku itariki ya 13 Gicurasi 2022, paje 2, 3.
[82] Reba inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje ya 3.
[83] Urugereko rwa Mbere rw'Iremezo rusanga raporo ya Dogiteri Chuc yarakiriwe ku itariki ya 3 Kamena 2022, saa sita n'iminota 18 z'ijoro, isaha y'Arusha, ni ukuvuga saa tanu n'iminota 18 z'ijoro, i Lahe. Inyandiko y'Ubwunganizi bwa Félicien Kabuga imenyekanisha itangwa rya raporo y'umuganga w'impuguke watanzwe n'Ubwunganizi , 3 Kamena 2022 (Inyandiko y'ibanga ifite Umugereka na wo w'ibanga), Umugereka ("Raporo ya Chuc"), paje y'imenyekanisha. Urugereko rwa Mbere rw'Iremezo rusanze Raporo ya Chuc yaratanzwe mu buryo bwemewe.
[84] Itegeko ritegeka abaganga b'impuguke bigenga gukora raporo ihuriweho, 16 Gicurasi 2022 (Inyandiko y'ibanga), paje ya 2.



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ihuriweho[85]. Muri iyo raporo, izo mpuguke zemeranya ko amagambo “gushobora kuburanishwa” ari imvugo ishobora guhinduka[86]. Bemeranya kandi ko Kabuga afite indwara z’umubiri zikomeye, ko arwaragurika ku buryo atashobora guhangana n’indwara zihuriranye, kandi ko ubuzima bwo mu mutwe bwe, harimo n’imikorere y’ubwonko bwe, bugenda buhindagurika buri munsi kandi ko ashobora kuzagira ibibazo byo guta ubwenge mu gihe arwaye indwara zikomeye, ariko bigashira[87]. Banemeranya ko hari ibimenyetso by’indwara y’imyakura yo mu bwonko yangiza ubwonko n’iby’ibibazo yagize byo guturika cyangwa kuziba k’udutsi tujyana cyangwa tuvana amaraso mu bwonko, bigaragazwa na MRI. Bemeranya kandi ko hari n’“ibyahindutse mu duce tw’ubwonko bwa Kabuga n’ibindi byahindutse mu bwonko bwe bitewe n’uko ageze mu za bukuru”[88].

26. Porofeseri Mezey yongeye kwemeza ko asanga ikibazo cyo kugabanuka kw’imikorere y’ubwonko Kabuga afite kiri ku rugero rukomeye, kandi ko bigaragarira mu myitwarire ye ihindagurika no mu bindi bintu birimo kugabanuka k’ubushobozi bwo: (i) kwibuka, by’akanya gato (kumenya ibintu no kutabyibagirwa); (ii) gufata ibyemezo by’urusobe; (iii) gukurikira no kutarangara; (iv) n’ubushobozi bwo gutekereza no kugira ibyo ashyira mu bikorwa[89]. Porofeseri Mezey avuga ko ibyo bibazo byo kugabanuka kw’imikorere y’ubwonko n’imitekerereze biterwa n’ibibazo by’imikorere y’ubwonko n’imyakura ndetse n’imitekerereze n’uburwayi bwo mu mutwe[90]. Avuga ko hari ibimenyetso by’uko “imikorere y’ubwonko igenda irushaho kugabanuka n’ubundi bushobozi bugakomeza bugabanuka”, ibyo bikaba bigaragara buri gihe iyo arwaye indwara y’umubiri[91].

27. Porofeseri Kennedy yavuze ko ikibazo cyo kugabanuka kw’imikorere y’ubwonko Kabuga afite kiri ku rugero rworoheje kandi gifitanye isano n’imyaka ye n’ukuntu ubuzima bwe buhagaze muri rusange. Byongeye kandi, ntiyemera ko Kabuga agaragaza ibimenyetso byerekana ko afite uburwayi bwo mu mutwe cyangwa se indwara yitiriwe Alzheimer[92]. Porofeseri Kennedy yasanze Kabuga akira neza iyo arwaye indwara y’umubiri ikomeye[93].

[85] Imyanzuro ya Gerefiye yerekeranye n’“Itegeko ritegeka abaganga b’impuguke bigenga gutegura raporo ihuriweho” ryo ku itariki ya 16 Gicurasi 2022, 25 Gicurasi 2022 (Inyandiko y’ibanga ifite Umugereka na wo w’ibanga), igika cya 3, Umugereka (“Raporo ihuriweho”).
[86] Raporo ihuriweho, paje ya 2.
[87] Raporo ihuriweho, paje 2, 3.
[88] Raporo ihuriweho, paje ya 3.
[89] Raporo ihuriweho, paje ya 3.
[90] Raporo ihuriweho, paje ya 3.
[91] Raporo ihuriweho, paje ya 3.
[92] Raporo ihuriweho, paje ya 3.
[93] Raporo ihuriweho, paje ya 3.



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28. Ku birebana n'irisite ya bumwe mu bushobozi bugomba kugenzurwa mu gusuzuma niba Kabuga ashobora kuburanishwa, izo mpuguke mu by'ubuzima bwo mu mutwe zigenga zemeye ko Kabuga ashobora kuburanishwa, ndetse no gusobanukirwa imiterere y'ibyaha aregwa n'ingaruka z'urubanza[94]. Cyakora, ntizemeranya ku birebana no kumenya niba Kabuga ashobora gusobanukirwa imigendekere y'iburanisha, gusobanukirwa ibimenyetso mu buryo burambuye, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko[95].

29. Ku byerekeranye no gusobanukirwa imigendekere y'iburanisha, Porofeseri Kennedy asanga Kabuga ashobora kuyisobanukirwa  kandi asoza avuga ko ubushobozi bwe bwo kwibuka ibintu nyuma y'umwanya muto nta kibazo bufite kubera ko afite ubushobozi bwo kumenya ibintu bishya n'ubushobozi bugaragara bwo kubana n'abandi bantu, gushishikarira kubamenya no gushishoza[96]. Cyakora, Porofeseri Kennedy asanga kugabanya igihe cyo gutanga ubuhamya mu  Rukiko n'ibikubiyemo, gufata akaruhuko buri saha Kabuga agahabwa ibinyobwa n'ibiryo byoroheje, ibyiciro by'iburanisha bibiri ku munsi kandi buri cyiciro kikamara amasaha abiri, "kugabanya ubuhamya mo ibice" no "gukomatanya" ubuhamya, ndetse no gutanga ibimenyetso mu buryo bwafasha Kabuga, nko kumusobanurira mu magambo mu Kinyarwanda, byamufasha[97]. Porofeseri Mezey we avuga ko Kabuga adashobora gusobanukirwa imigendekere y'iburanisha kubera ikibazo cyo kwibagirwa ibintu nyuma y'umwanya muto[98]. Asanga n'ubwo Kabuga yahabwa ubwo bufasha Porofeseri Kennedy avuga, atazabasha gukurikira iburanisha cyangwa gusobanukirwa imigendekere yaryo cyangwa  kugira uruhare mu rubanza rwe, mu buryo bufatika, bitewe n'ibibazo bikomeye byo kugabanuka kw'imikorere y'ubwonko bwe, harimo no kuba atabasha gusobanukirwa cyangwa gufata mu mutwe amakuru anyuranye, kuba adashobora gutekereza neza atuje n'ikibazo cyo kwibagirwa ibintu nyuma y'umwanya muto[99].

30. Ku byerekeye gusobanukirwa ku bimenyetso mu buryo burambuye, Porofeseri Kennedy asanga Kabuga afite ubwo bushobozi ariko  bigasaba ko ayo makuru "ategurwa neza kandi hagatoranywa" ibiyakubiyemo, kugabanya igihe iburanisha rimara buri munsi, gutanga

[94] Raporo ihuriweho, paje 4, 7. Cyakora, Porofeseri Mezey asanga Kabuga atazajya impaka cyangwa ngo yumve ko hari ikindi cyava mu iburanisha kitari umwanzuro uvuga ko adahamwa n'icyaha. Reba Raporo ihuriweho, paje ya 7.
[95] Raporo ihuriweho, paje 4-8.
[96] Raporo ihuriweho, paje ya 4.
[97] Raporo ihuriweho, paje 4, 5.
[98] Raporo ihuriweho, paje ya 4.
[99] Raporo ihuriweho, paje 4, 5.



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akaruhuko akanahabwa ibinyobwa n'ibiryo byoroheje, gufashwa n'Ubwunganizi cyangwa umuntu wo mu muryango we yizeye, uvuga ikinyarwanda, mbere y'uko iburanisha ritangira no mu "cyumba cy'iburanisha" no kumuha ibikoresho byifashishwa mu kumva birimo ekuteri na ekara y'amashusho nini[100]. Porofeseri Mezey we yasoje avuga ko ibibazo Kabuga afite byo kugabanuka kw'imikorere y'ubwonko bibangamira cyane ubushobozi bwe bwo gusobanukirwa ibimenyetso mu buryo burambuye, ndetse ko asobanukirwa ku rugero rworoheje cyane[101]. Ashimangira ko, kubera ko atazi gusoma, byaba ngombwa gusuzuma ibimenyetso hamwe na we, mu magambo, no kujya bamusubiriramo incuro nyishi,ibyo bimenyetso, mu buryo burambuye (n'ibimenyetso bishya bigenda bitangwa) kugira ngo bamufashe kubisobanukirwa[102]. Porofeseri Mezey avuga kandi ko "kugira ibyo bakuramo" bishobora gufasha Kabuga cyakora ko atazi neza uburyo bishobora gukorwamo[103]. Yemera ko ingamba Porofeseri Kennedy avuga zafasha Kabuga gusobanukirwa ibimenyetso mu buryo burambuye, mu gihe urubanza rwatangira kuburanishwa [104].

31. Ku birebana no kuba Kabuga ashobora guha amabwiriza umwavoka umwunganira, izo mpuguke mu by'ubuzima bwo mu mutwe zigenga zombi zivuga ko Kabuga adafitiye icyizere Avoka umwunganira[105]. Cyakora Porofeseri Kennedy avuga ko Kabuga afite ubwo bushobozi mu buryo buhagije kandi ko byafasha abonye umuntu wo mu ikipe y'Ubwunganizi uvuga ikinyarwanda, wajya umusura nibura incuro ebyiri mu cyumweru mbere y'uko iburanisha ritangira, kugira ngo bimufashe kumugirira icyizere no kumenya neza niba azi neza ibimenyetso bimushinja byatanzwe, kandi, mu iburanisha, uwo muntu akazaba ari kumwe na we mu cyumba cy'iburanisha, hamwe n'umuntu bamenyeranye umufasha mu bijyanye n'indimi n'umuntu wo mu muryango we kugira ngo amuhumurize[106]. Porofeseri Mezey we avuga ko, n'ubwo hashyirwaho ingamba zo gukemura ibyo bibazo zigamije kumufasha, Kabuga atashobora guha amabwiriza umwavoka umwunganira kubera uburwayi "bw'uruhurirane" afite mu bwonko, bubangamira ubushobozi bwe bwo kwibuka no gufata mu mutwe, kumva abandi no

[100] Raporo ihuriweho, paje ya 5.
[101] Raporo ihuriweho, paje ya 5.
[102] Raporo ihuriweho, paje 5, 6.
[103] Raporo ihuriweho, paje ya 6.
[104] Raporo ihuriweho, paje ya 6.
[105] Raporo ihuriweho, paje ya 6.
[106] Raporo ihuriweho, paje ya 6.



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kuvuga ibitekerezo bye, kwemeza igikwiye, gutega amatwi, gufata ibyemezo no gusesengura ndetse no gukemura ibibazo[107].

32. Ku byerekeranye n'ubushobozi bwa Kabuga bwo gutanga ubuhamya mu Rukiko, Porofeseri Kennedy asanga afite ubwo bushobozi rwose kubera ko yagaragaje ko ashobora gufata ijambo mu Rukiko, akavuga amagambo make kandi yerekeranye n'urubanza[108]. Nk'urugero asanga mu ibazwa ry'ibanze Kabuga ashobora gufashwa bamusomera mbere ubuhamya bwanditse bwateguwe, naho mu ibaza rinyomoza ibibazo byateguwe akabimenyeshwa mbere, bityo agafashwa gutegura ibisubizo mbere, mu gihe bibaye ngombwa[109]. Porofeseri Mezey we avuga ko Kabuga adafite ubwo bushobozi kubera ko afite "ibibazo byerekeranye no kumva abandi no kuvuga ibitekerezo bye"[110]. Asanga Kabuga adashobora gufata ijambo mu Rukiko ngo avuge ku kibazo cy'urusobe cyangwa mu buryo burambuye. Nk'urugero, asanga kuba yarafashe ijambo rigufi mu Rukiko atari ikimenyetso kigaragaza neza uko yakwitwara mu gihe ahaswe ibibazo binyomoza bikomeye[111]. Porofeseri Mezey asanga ibyo Porofeseri Kennedy avuga bitasimbura mu buryo bukwiye cyangwa bwakwemerwa umwanya wo gutanga ubuhamya mu ibazwa ry'ibanze "mu buryo butaziguye uwo munsi", akanasanga ibyo avuga ku bijyanye n'ibaza rinyomoza ari ibintu bidashoboka[112].

### I. <u>Dogiteri An Chuc: Impuguke mu buvuzi yatanzwe n'Ubwunganizi</u>

33. Nk'uko byavuzwe haruguru, Dogiteri Chuc, Impuguke yatanzwe n'Ubwunganizi, yatanze raporo ye ku itariki ya 3 Kamena 2022, amaze kubona dosiye yo kwa muganga ya Kabuga yuzuye, irimo n'andi maraporo y'impuguke yatanzwe muri uru rubanza[113]. Ku itariki ya 27 Gicurasi 2022, Dogiteri Chuc, wari warasuzumye Kabuga ku itariki ya 23 Nzeri 2020, yamubajije ibibazo[114]. Muri raporo ye, yavuze ko Kabuga akeneye ubufasha yahabwa mu buryo busa n'ubuhoraho ku bijyanye n'uturimo two kwiyitaho mu buzima bwa buri munsi[115]. Akoresheje ibipimo bisanzwe bikoreshwa mu gusuzuma niba umuntu afite ibyago byo kuba yagwa no kuba atakenera umurandata, asanga [Kabuga] afite ibyago

[107] Raporo ihuriweho, paje 6, 7.
[108] Raporo ihuriweho, paje ya 7.
[109] Raporo ihuriweho, paje ya 7.
[110] Raporo ihuriweho, paje ya 7.
[111] Raporo ihuriweho, paje ya 7.
[112] Raporo ihuriweho, paje 7, 8.
[113] Raporo ya Chuc, paje 20, 27.
[114] Raporo ya Chuc, paje 2, 19-25.
[115] Raporo ya Chuc, paje ya 24.



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byinshi byo kuba yagwa, akaba kandi ari hafi gutakaza ubushobozi bwo kwikorera buri kintu nta muntu umufashije[116].

34. Dogiteri Chuc, wakoreye Kabuga isuzuma ry'imitekerereze ye n'imikorere y'ubwonko bwe akoresheje uburyo bwiswe Mini Mental State Assessment na Montreal Cognitive Assessment, yafashe umwanzuro uvuga ko, n'iyo umuntu azirikanye ko Kabuga atari umuntu wize, usanga ibisubizo byagaragajwe n'ayo masuzuma biri ku bipimo byo hasi cyane[117] kandi bigaragaza ko afite ibibazo byerekeranye no kurangara, kwiga, gufata mu mutwe, kubona ikintu ugafata mu mutwe uko giteye no kumenya igihe n'ahantu ari[118]. Nta bimenyetso yamubonyeho bigaragaza ko afite uburwayi bwo mu mutwe bugenda burushaho gukomera, kandi nta n'uburwayi bwo kwangirika bikomeye kw'imikorere y'ubwonko igira uruhare mu kugira ubushake bwo gukora ikintu no kugitegura[119].

35. Dogiteri Chuc avuga ko, agereranyije ibyagaragajwe n'ikizami yakorewe cya sikaneri yo mu mutwe ku itariki ya 6 Nzeri 2020 n'ikizami cyakozwe hakoreshejwe MRI muri Mutarama 2022 asanga icyakozwe hakoreshejwe MRI cyaragaragaje igabanuka, ritari ryaragaragaye mbere, ry'ingano y'agace gatwikiriye igice cy'ubwonko cy'imbere n'iry'agace kabwo gafite uruhare rukomeye mu kwibuka mu gihe gito [120]. We asanga uko kwangirika gushobora kugaragara ku bantu bari mu za bukuru n'iyo baba badafite uburwayi runaka buzwi cyangwa bufitiwe amakuru mu nyandiko[121]. Yavuze ko hari indwara igaragarira mu gutakaza imbaraga k'udutsi two mu bwonko (yitwa na Syndrome de Pierre Marie) n'indwara yo kugabanuka kw'ingano y'agace k'ubwonko gafite uruhare runini (indwara yitiriwe Alzheimer) zigenda zikura ziganisha ku burwayi bwo mu mutwe[122]. Avuga kandi ko ntawavuga ko Kabuga adashobora kurwara indwara nk'iyo[123]. Dogiteri Chuc asanga kuba izo ndwara zigenda zirushaho gukomera ku buryo budashobora kwirindwa kandi zimwe zigira ingaruka ku zindi, bizatuma Kabuga arushaho kugira intege nke no kurwaragurika bityo bigabanye ubushobozi bwe bwo gukurikira imigendekere y'iburanisha[124].

[116] Raporo ya Chuc, paje 23, 28.
[117] Raporo ya Chuc, paje 22, 23.
[118] Raporo ya Chuc, paje ya 28.
[119] Raporo ya Chuc, paje ya 28.
[120] Raporo ya Chuc, paje 28, 29.
[121] Raporo ya Chuc, paje ya 29.
[122] Raporo ya Chuc, paje ya 29.
[123] Raporo ya Chuc, paje ya 29.
[124] Raporo ya Chuc, paje ya 29.



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36. Dogiteri Chuc avuga ko Kabuga adafite imbaraga zatuma ashobora gukurikirana iburanisha n'iyo ryaba ritamara umwanya muremure bitewe n'umunaniro kuko adashobora kuwugenzura[125]. Kubera imihindagurikire y'ubuzima bwe kandi hatitawe ku buryo bugomba gukurikizwa mu iburanisha buzashyirwaho n'Urugereko rwa Mbere rw'Iremezo, Dogiteri Chuc avuga ko, mu rwego rw'ubuvuzi bidashoboka kwemeza ko Kabuga: (i) afite ubushobozi bwo kwemera cyangwa guhakana ibyaha aregwa no gusobanura impamvu y'icyemezo cye; (ii) afite ubushobozi bwo gusobanukirwa imiterere y'ibyaha aregwa cyangwa itandukaniro riri hagati y'uruhare ruziguye cyangwa rutaziguye yaba yaragize mu byabaye; (iii) afite ubushobozi bwo gusobanukirwa imigendekere y'iburanisha, harimo n'ibyaba birimo kuba mu gihe cy'iburanisha, ingaruka z'imyanzuro mu magambo, ibibazo byerekeranye n'amategeko cyangwa n'ibyabaye byavugwa n'ababuranyi ndetse n'ibyifuzo bifite ibyo birwanya mu gihe cy'ibaza n'uruhare rw'abantu baba bari mu rubanza; (iv) afite ubushobozi bwo gusobanukirwa ibimenyetso mu buryo burambuye, gukurikira imiterere y'inkuru ivugwa, gusobanukirwa inenge cyangwa ibintu bivuguruzanya mu bisobanuro no mu ikoreshwa ry'ibyabaye; (v) gusobanukirwa ibyo ababuranyi bavuga mu iburanisha, ingaruka n'imiterere yabyo; (vi) guha amabwiriza avoka umwunganira cyangwa kuvugana na we ku ngamba zafatwa; (vii) Kumenya igihe n'ahantu ari, no (viii) gutanga ubuhamya hejuru y'indahiro no gusobanukirwa ingaruka z'ubuhamya bwe n'izo bwagirira ku migendekere y'urubanza rwe[126].

### J. Amaburanisha: ku matariki ya 31 Gicurasi, iya 1 n'iya 7 Kamena 2022

37. Ababuranyi bamaze kwemeranya ko kubaza ibibazo Porofeseri Mattace-Raso bitari ngombwa[127], Urugereko rwa Mbere rw'Iremezo rwaburanishije kuva ku itariki ya 31 Gicurasi kugera ku ya 1 Kamena 2022 kugira ngo ababuranyi n'Urugereko rwa Mbere rw'Iremezo bashobore kubaza ibibazo Porofeseri Kennedy, Dogiteri Bizoza na Porofeseri Mezey. Porofeseri Kennedy na Dogiteri Bizoza batanze ubuhamya ku itariki ya 31 Gicurasi 2022 naho Porofeseri Mezey abutanga ku itariki ya 1 Kamena 2022.Ahanini, izo mpuguke ntizahinduye ubuhamya n'ibitekerezo zari zashyize mu ma raporo yazo[128], uretse ibintu bimwe na bimwe n'ibisobanuro zongeyemo, bisobanurwa uko bigenda biba ngombwa mu cyiciro cy'isesengura riri mu bika bikurikira.

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125 Raporo ya Chuc, paje ya 30.
126 Raporo ya Chuc, paje 29, 30.
127 Reba inyandikomvugo y'iburanisha, 7 Kamena 2022, paje ya 2.
128 Reba, muri rusange, inyandikomvugo y'iburanisha, 31 Gicurasi 2022; inyandikomvugo y'iburanisha, 1 Kamena 2022.



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38. Ku itariki ya 7 Kamena 2022, ababuranyi batanze imyanzuro mu magambo. Ubwunganizi bwahaye uburemere bwihariye amasuzuma yakozwe na Porofeseri Mezey na Dogiteri Chuc[129]. By'umwihariko, bwagaragaje ko Porofeseri Mezey yifashishije gusa impinduka zabaye mu miterere y'ubwonko bwa Kabuga zabonetse mu bimenyetso byagaragajwe n'ibyavuye mu isuzuma, bukavuga ko bishyigikira ibyo Porofereri Mezey yavuze ko Kabuga afite uburwayi bwo mu mutwe, ubwo burwayi bukaba ari indwara yitiriwe Alzheimer[130], bigashimangira kandi ibisobanuro Dogiteri Chuc yatanze byerekeranye n'ubumuga bukomeye Kabuga afite, butatuma ashobora kugira uruhare bya nyabyo mu iburanisha[131]. Ubwunganizi buvuga ko Porofeseri Mezey yarwanyije mu buryo busobanutse ibyavuzwe ko Kabuga yirwaza kugira ngo atazaburanishwa, ni ukuvuga ko yitwara nk'aho arwaye[132]. Ubwunganizi bugaragaza kandi ibyuho biri mu buhamya bwa Porofeseri Kennedy no mu isuzumabuzima yakoreye Kabuga[133], bukavuga ko ibyo avuga ko bakwiye kumukorera bidashoboka, ko bitamukemurira ibibazo afite kubera ko bigaragara neza ko adashobora kuburanishwa[134]. Ubwunganizi buvuga kandi ko ubuhamya bwa Dogiteri Bizoza budakwiye kwizerwa, bukavuga by'umwihariko, ko afite aho ahuriye n'Umuryango wa FPR kandi ko hari ibidasobanutse ku bumenyi afite mu byerekeranye n'isuzuma ry'ubuzima bwo mu mutwe[135]. Bushimangira ko impuguke zose zemera ko Kabuga atagomba koherezwa Arusha, bukavuga kandi ko kuhamwohereza byaba ari ukumukatira igihano cyo kwicwa[136].

39. Porokireri ashimangira ko ubushobozi Kabuga afite bugomba kureberwa mu kuba afite abamwunganira kandi ko ku byerekeranye no kumenya niba ashobora kuburanishwa hatagomba gukorwa ikosa ryo kubisuzuma harebwa niba afite ubushobozi bwo gukora imirimo y'urusobe igomba ubundi gukorwa n'Avoka umwunganira[137]. Avuga kandi ko icyemezo cyerekeranye no kumenya niba Kabuga ashobora kuburanishwa kigomba gufatwa hashingiwe ku kuntu amerewe muri iki gihe kandi ko kitagomba gushingira ku kuba bishoboka ko ubuzima bwe bwasubira inyuma mu bihe biri imbere, ku buryo byagira ingaruka ku bushobozi ashobora kuba afite bwo gukoresha uburenganzira bwe bwa

[129] Inyandikomvugo y'iburanisha, paje 6-10, 12-17, 19-23, 25, 29, 31.
[130] Inyandikomvugo y'iburanisha, paje 5-10, 12-14, 22.
[131] Inyandikomvugo y'iburanisha, paje 15-17.
[132] Inyandikomvugo y'iburanisha, paje ya 19.
[133] Inyandikomvugo y'iburanisha, paje 21-25.
[134] Inyandikomvugo y'iburanisha, paje 27-29.
[135] Inyandikomvugo y'iburanisha, paje 29, 30, 32, 33.
[136] Inyandikomvugo y'iburanisha, paje ya 31.
[137] Inyandikomvugo y'iburanisha, paje 38-40.



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ngombwa[138]. Kuri iyo ngingo, Porokireri yavuze ko yiteguye kureka ibaza rinyomoza kugira ngo Kabuga abashe gutanga ubuhamya mu Rukiko[139]. Porokireri yavuze kandi ko inama zatanzwe na Porofeseri Mezey atari izo kwizerwa, akavuga ko ari we muganga wenyine wasanganye Kabuga uburwayi bwo mu mutwe, kandi akavuga ko uburyo bwe bwo gukora isuzuma burimo inenge[140]. Porokireri avuga ko Kabuga adashyikirana n'abagore mu buryo bworoshye kandi ko Porofeseri Mezey yamubajije ibibazo mu bihe hariho ingamba zerekeranye na Koronavirusi zikomeye kurusha ibindi bihe kuko ari cyo gihe yari ikaze cyane[141]. Akomeza avuga ko uko ibintu byari byifashe bishobora kuba ari byo byatumye adakora isuzuma neza[142]. Ashimangira kandi ko Dogiteri Bizoza atari akeneye umusemurira kugira ngo avugane na Kabuga kandi ko ubuhamya bwa Dogiteri Chuc butagomba guhabwa agaciro kuko ari umuganga uvura indwara rusange aho kuba inzobere[143]. Icya nyuma, ni uko Porokireri nta cyo avuga ku byerekeranye no kumenya niba kwimurira Kabuga Arusha, muri Tanzania, bikwiye[144].

## II. AMATEGEKO AKURIKIZWA

40. Urugereko rwa Mbere rw'Iremezo ruributsa kandi ko igipimo ngenderwaho mu gusuzuma niba Uregwa ashobora kuburanishwa ari ukureba niba "yagira uruhare rufatika mu iburanisha" rutuma akoresha uburenganzira afite bwo kuburanishwa mu buryo buboneye ku buryo abasha kugira uruhare rufatika mu bintu by'ingenzi byo mu rubanza rwe kandi akabisobanukirwa. Hagomba kandi kurebwa niba ubushobozi bw'Uregwa, "burebwe muri rusange kandi mu buryo bushyize mu gaciro, buri ku rugero rutuma ashobora kugira

[138] Inyandikomvugo y'iburanisha, paje 36, 41-44, 67.
[139] Inyandikomvugo y'iburanisha, paje 44, 45.
[140] Inyandikomvugo y'iburanisha, paje 37, 46-49, 51-57, 59, 60. By'umwihariko, Porokireri avuga ko Porofeseri Mezey yakoresheje igipimo ngenderwaho kiri hejuru cyane mu gusuzuma niba uregwa yagira uruhare rufatika, mu iburanisha ry'urubanza rwe kandi ko iryo suzuma rye rifite inenge kubera ko yifashishije mu buryo budakwiye (i) uburyo bwo gusuzuma bwiswe Mini Mental State Assessment, bukaba ari uburyo bwo gusuzuma bugamije kureba niba usuzumwa hari indwara ashobora kuba afite zitagaragaza ibimenyetso, aho kuba igikoresho gikoreshwa mu kumenya indwara; (ii) amakuru yahawe n'umukobwa wa Kabuga, ufite inyungu igaragara mu kuba hafatwa umwanzuro uvuga ko ise arwaye; na (iii) raporo yakozwe nyuma yo gusuzuma uburwayi hakoreshejwe kumucisha mu cyuma, yasemuwe nyuma mu cyongereza, mu buryo bwemewe, ikuwe mu giholandi, ikaba inyuranye n'iyo yifashishije yasemuwe mu rundi rurimi. Reba inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 37, 48, 49, 51-55, 57.
[141] Inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 55, 56.
[142] Inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 55, 56.
[143] Inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 62, 63, 66, 67.
[144] Inyandikomvugo y'iburanisha, 7 Kamena 2022, paje ya 68.



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uruhare mu rubanza rwe (rimwe na rimwe ahawe ubufasha) kandi agakoresha mu buryo buhagije ubwo burenganzira bwavuzwe”[145].

41. Mu by’ukuri, ku irisite ya bumwe mu bushobozi bugomba gusuzumwa kugira ngo hemezwe niba uregwa ashobora kuburanishwa hariho ubushobozi bwo: (i) kuburana; (ii) gusobanukirwa imiterere y’ibyaha aregwa; (iii) gusobanukirwa imigendekere y’iburanisha; (iv) gusobanukirwa ibimenyetso mu buryo burambuye; (v) guha amabwiriza avoka umwunganira; vi) gusobanukirwa ingaruka z’urubanza; no (vii) gutanga ubuhamya mu rukiko[146].

42. Mu rwego rwo gusobanukirwa igipimo umuntu uregwa agomba kuba ariho mu gukoresha ubwo bushobozi n’ubundi bukenewe mu gusuzuma niba ashobora kuburanishwa, Urugereko rw’Ubujurire rwashimangiye ko “kuba Uregwa ashobora kuburanishwa bigomba gutandukanywa no kuba ashobora kwiburanira” kandi ko “umuntu uregwa wunganirwa n’umwavoka adashobora gufatwa nk’usobanukirwa ibintu byerekeranye n’urubanza rwe ku rwego rumwe n’urw’umwavoka ufite ubushobozi n’uburambe mu kazi”[147]. Igisabwa kugira ngo uregwa afatwe nk’ushobora kuburanishwa ni ukuba yujuje igipimo ngenderwaho cy’ubushobozi muri rusange, bwatuma agira uruhare rufatika mu iburanisha, mu gihe afite umwavoka umwunganira uko bikwiye[148].

43. Icya nyuma, uregwa uvuga ko adashobora kuburanishwa ni we ufite inshingano zo kubigaragaza atanga ibimenyetso bihagije[149].

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145 Reba Icyemezo cyo ku itariki ya 15 Mata 2021, igika cya 14; havugwa ku biri mu *Rubanza Porokireri aburana na Ratko Mladić*, N° MICT-13-56-A, inyandiko, itari ibanga, yakuwemo ibigomba kugirwa ibanga y’“Icyemezo ku Cyifuzo gisaba ko imikirize y’urubanza mu rw’iremezo iteshwa agaciro n’uko urubanza ruhagarikwa burundu”, cyatanzwe ku itariki ya 30 Mata 2018, 8 Kamena 2018, paje 2, 3, igisobanuro N° 15 cyo hasi kuri paje n’ibivugwamo byakuwe ahandi; *Urubanza Porokireri aburana na Pavle Strugar*, N° IT-01-42-A, Inyandiko y’urubanza, 17 Nyakanga 2008 (“Inyandiko y’urubanza rwa Strugar mu bujurire”), igika cya 55.

146 Reba Inyandiko y’urubanza rwa Strugar mu bujurire, ibika 41, 55.

147 Inyandiko y’urubanza rwa Strugar mu bujurire, igika cya 60. Reba n’*Urubanza Porokireri aburana na Vujadin Popović na bagenzi be*, N° IT-05-88-A, inyandiko, itari ibanga, yakuwemo ibigomba kugirwa ibanga, 30 Ugushyingo 2012, Icyemezo ku Cyifuzo gisaba ihagarikwa burundu ry’urubanza mu bujurire bwerekeranye na Milan Gvero, 16 Mutarama 2013, igika cya 22 (“Gusesengura akamaro k’amakuru y’urusobe akomoka ku iburanisha ry’imanza nshinjabyaha ku rwego mpuzamahanga ni inshingano y’abavoka, kugira ngo bagire inama abo bunganira”).

148 Inyandiko y’urubanza rwa Strugar, mu bujurire, igika cya 60.

149 Inyandiko y’urubanza rwa Strugar mu bujurire, igika cya 56 (“Kuri iyo ngingo, Urugereko rw’Ubujurire ruvuga ko ubwo buryo buhuye n’ubukoreshwa mu nkiko zigendera ku Mategeko ashingiye ku muco w’Abongereza aho inshingano zo gutanga ibimenyetso zifitwe, muri rusange, n’umuburanyi uvuga ko uregwa adafite ubushobozi bwo kuburanishwa kandi afatwa nk’utagikurikiranwa iyo uwo muburanyi ashoboye kugaragaza icyifuzo cye ashingiye ku ihame ry’ibishoboka kurusha ibindi”).



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## III. ISESENGURA

### A. Ubushobozi bwo kuburanishwa

44. Urugereko rwa Mbere rw'Iremezo rwahaye agaciro kihariye ibimenyetso byatanzwe n'impuguke mu by'ubuzima bwo mu mutwe, zigenga, zashyizweho n'Urugereko rwa Mbere rw'Iremezo. Ako gaciro ibimenyetso n'inama byabo byahawe gashingiye ku burambe bafite mu murimo bakora, ku kuba uwo murimo ufite aho uhuriye, mu buryo butaziguye, n'igikorwa cyo gusuzuma niba Kabuga ashobora kuburanishwa muri iki gihe n'ingano y'amasuzuma bakoze, ibyo byose bikaba bigaragarira mu maraporo yabo no mu buhamya batanze mu Rukiko. Dogiteri Bizoza ni umuganga w'indwara zo mu mutwe ufite uburambe mu gukora amasuzuma yerekeranye n'indwara zo mu mutwe. Dogiteri Chuc na we ni umuganga, ukuriye serivise ishinzwe gusuzuma ibimenyetso mu bitaro byo mu Bufaransa. Yanasuzumiye Kabuga i Paris mbere y'uko yimurirwa i Lahe. Cyakora, izo mpuguke zashyizweho n'ababuranyi ntizifite uburambe bwihariye bukomeye mu gukora isuzuma ry'ibimenyetso by'indwara zo mu mutwe nk'ubwo Porofeseri Mezey na Porofeseri Kennedy bakuye mu kazi gatandukanye bagiye bakora. Ibyo ari byo byose, Urugereko rwa Mbere rw'Iremezo rusanga baratanze amakuru afitanye isano n'urubanza kandi afite akamaro, yunganira amasuzuma n'imyanzuro by'izo mpuguke mu by'ubuzima bwo mu mutwe, zigenga. Kubera iyo mpamvu, rwashingiye na none, aho bikwiye, ku ngingo zimwe nza zimwe zo mu masuzuma zakoze, hazirikanwa ibibazo byagaragajwe byerekeranye n'ukwizerwa kwazo ku birebana n'ubuhamya n'inama zatanze. Urugereko rwa Mbere rw'Iremezo rwashingiye kandi ku isuzumabuzima Porofeseri Mattace-Raso yakoreye Kabuga, ariko ruzirikana ko, ku byerekeranye n'imyanzuro irebana no kumenya niba Kabuga ashobora kuranishwa, yatanze inama, mu buryo bweruye, ko iryo suzuma ryakorwa n'umuganga usuzuma indwara zo mu mutwe [150]. Kubera iyo mpamvu, Uregereko rwa Mbere rw'Iremezo nta gaciro rwahaye imyanzuro ye ku byerekeranye no kumenya niba Kabuga ashobora kuburanishwa, yatanze muri raporo ye yo muri Kamena.

45. Mu kwemeza niba Kabuga ashobora kuburanishwa hagomba kurebwa intera y'ikibazo cy'igabanuka ry'imikorere y'ubwonko bwe n'ingaruka gifite ku bushobozi akeneye kugira ngo ashobore kugira uruhare rufatika, mu rubanza rwe. Nta wuhakana ko Kabuga arwaragurika kandi ko arwaye indwara zo ku mubiri nyinshi zikomeye ndetse n'imitsi yo

[150] Reba Raporo ya kabiri ya Mattace-Raso, paje 2714, 2713: amanomero yashyizweho n'Ibiro bya Gerefiye.



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mu bwonko bwe ikaba yarangiritse[151]. Kubera iyo mpamvu, imbaraga z'umubiri n'izo mu bwonko bwa Kabuga zaragabanyutse ku buryo atahangana n'indwara asanganywe zuririye kuri ibyo bibazo n'izindi ndwara nshya zikomeye zagiye, rimwe na rimwe, zituma ubwonko bwe budakora neza[152].

46. Byongeye kandi, ku byerekeranye n'ubushobozi bugomba kuzirikanwa mu gusuzuma niba Kabuga ashobora kugira uruhare rufatika, mu rubanza rwe, izo mpuguke mu by'ubuzima bwo mu mutwe, zigenga, zemera ko Kabuga afite ubushobozi bwo kuba yavuga niba yemera cyangwa ahakana ibyaha aregwa, ubwo gusobanukirwa imiterere y'ibyaha aregwa n' ingaruka z'urubanza[153] kandi Urugereko rwa Mbere rw'Iremezo rwemeye ibyo izo mpuguke zumvikanyeho byerekeranye n'ubushobozi Kabuga afite kuri izo ngingo. Mu gufata uwo mwanzuro, Urugereko rwa Mbere rw'Iremezo rwazirikanye ko Dogiteri Chuc yavuze ko Kabuga nta bushobozi na bumwe muri ubwo afite[154]. Cyakora, Dogiteri Chuc si impuguke mu by'indwara zo mu mutwe kandi raporo ye iburamo ibisobanuro byimbitse kuri ubwo bushobozi bwihariye bwagaragajwe mu maraporo no mu buhamya bw'izo mpuguke mu by'ubuzima bwo mu mutwe, zigenga, zashyizweho n'Urukiko. Bityo rero, Urugereko rwa Mbere rw'Iremezo rwahaye agaciro gato inama Dogiteri Chuc yatanze ku byerekeranye n'ubwo bushobozi.

47. Ingingo ya mbere itumvikanyweho yerekeranye n'isuzuma Kabuga yakorewe rigaragaza ko afite uburwayi bworoheje bw'igabanuka ry'imikorere n'imitekerereze y'ubwonko bwe (ituruka muri rusange ku myaka ye n'uko ubuzima bwe buhagaze) cyangwa uburwayi bw'igabanuka ry'imikorere n'imitekerereze y'ubwonko rigenda ryiyongera riva ku rugero ruto rigana ku rukomeye, bugaragaza ibimenyetso by'uburwayi bwo mu mutwe, bishoboka ko ari indwara yitiriwe Alzheimer. Izindi ngingo zitumvikanwaho ni izerekeranye n'ubushobozi bwa Kabuga bwo gusobanukirwa imigendekere y'iburanisha, gusobanukirwa ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu

[151] Reba Raporo ihuriweho, paje 2, 3 ("Twemeranyije ko hari ibimenyetso by'uburwayi bw'imyakura bugira ingaruka ku bwonko kandi ko mbere habayeho ikibazo cyo guturika k'udutsi two mu bwonko cyagaragajwe n'isuzuma ryakozwe hifashishijwe MRI yagaragaje kwipfundika k'utwo dutsi n'izindi mpinduka zabaye mu bwonko bwa Kabuga zishingiye ku myaka afite"). Reba n'ubuhamya bwa Bizoza, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 99, 100.
[152] Reba Raporo ihuriweho, paje 2, 3. Reba n'ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 18-20, 38.
[153] Reba Raporo ihuriweho, paje 4, 7. Reba n'ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 17, 55.
[154] Reba Raporo ya Chuc, paje 29, 30.



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Rukiko. Ni ngombwa kuvuga ko nta muburanyi uvuga ko hari ubundi bushobozi bugomba kuzirikanzwa mu gusuzuma niba Kabuga ashobora kuburanishwa.

48. Abaganga n'impuguke barimo Porofeseri Kennedy, Dogiteri Bizoza na Porofeseri Mattace-Raso bavuga ko uburwayi Kabuga afite bw'igabanuka ry'imikorere n'imitekerereze y'ubwonko bwe bworoheje, bukaba budafite ibimenyetso by'uburwayi bwo mu mutwe muri rusange cyangwa, by'umwihariko, iby'indwara yitiriwe Alzheimer[155]. Nk'urugero, Dogiteri Chuc, Impuguke yatanzwe n'Ubwunganizi, na we yavuze ko ashingiye ku isuzuma yakoze ry'imikorere n'imitekerereze y'ubwonko yasanze nta bimenyetso by'uburwayi bwo mu mutwe bigaragara ariko avuga ko amafoto y'ibisubizo bya sikaneri agaragaza igabanuka ry'ibice by'ubwonko no kwangirika kw'imitsi yo mu bwonko biganisha ku burwayi bwo mu mutwe kandi ko ntawakwemeza ko Kabuga adashobora gufatwa n'ubwo burwayi[156]. Mu buhamya bwe, Porofeseri Kennedy avuga ko, n'ubwo ubuzima bwo mu mutwe bwa Kabuga buhindagurika umunsi ku wundi, yongera gukira neza, ubwonko bwe bukongera gukora neza nyuma yo kurwara bikomeye[157]. Porofeseri Kennedy asanga kuremba guherekejwe n'ikibazo cy'imikorere y'ubwonko "bishobora kubaho" mu gihe iburanisha ry'urubanza ryamara igihe kirekirire akaba kandi yarazirikanye iyo ngingo mu gutanga inama ze nk'impuguke[158].

49. Porofeseri Mezey we avuga ko ukugabanuka kw'imikorere y'ubwonko bwa Kabuga kugenda kwiyongera kuva ku rugero rugereranyije kandi ko ibyo ari ikimenyetso cy'indwara yitiriwe Alzheimer,ubu bukaba ari bwo bwoko bw'uburwayi bwo mu mutwe bukunze kugaragara ku barwayi[159]. Kuri iyo ngingo, Porofeseri Mezey asanga imikorere y'ubwonko bwa Kabuga yaramaze kugabanuka[160] kandi ko buri gihe uko arwaye cyane ari ko ikibazo cy'imikorere y'ubwonko bwe cyongera ubukana ntikibe cyakira burundu[161]. Porofeseri Mezey asanga mu gihe iburanisha ryamara igihe kirerire hashobora kuzabaho ukurwaragurika kuvanze n'ibihe byo kugabanuka kw'imikorere y'ubwonko bwa Kabuga

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[155] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 6, 27, 28, 32, 33, 37, 38, 45, 61; Ubuhamya bwa Bizoza, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 86-88, 100, 101, 108, 109. Reba na raporo ya Kennedy, ibika 13.1, 28.10, 29.11, 30.1, 40.5, ibyo atekereza, igika cya 5(c); Raporo ya kabiri ya Mattace-Raso, paje ya 2714: nomero yashyizweho n'Ibiro bya Gerefiye; Raporo ya Bizoza, paje ya 5.
[156] Raporo ya Chuc, paje 28, 29.
[157] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 18-20; Raporo ihuriweho, paje ya 3.
[158] Reba Raporo ihuriweho, paje 2, 3.
[159] Nk'urugero, reba Raporo ya Mezey, ibika 56-58; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 79, 80.
[160] Nk'urugero, reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 15, 16.
[161] Reba Raporo ihuriweho, paje ya 3; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 9, 10.



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(harimo no guta ubwenge), bikazaba ngombwa ko hagenda habaho ibihe byo gufata ikiruhuko mu iburanisha[162]. Dogiteri Chuc na we asanga uko indwara zinyuranye Kabuga arwaye zigenda zigiranaho ingaruka bizatuma, nta kabuza, arushaho kuzahara kandi ko adafite ubushobozi na bucye bwa ngombwa kugira ngo agire uruhare rufatika mu iburanisha, ndetse ko atashobora kuburanishwa[163].

50. Urugereko rwa Mbere rw'Iremezo rwasuzumanye ubushishozi uburyo buri mpuguke mu by'ubuzima bwo mu mutwe, yigenga, yashyizweho n'Urukiko yakoresheje kugira ngo zibe zarabonye ibisubizo bitandukanye, maze rusanga uburyo izo mpuguke zakoresheje bwari bwimbitse, bushingiye ku bumenyi bwagutse zifite mu buvuzi kandi zidafite aho zibogamiye. Zasuzumye dosiye yo kwa muganga, zibaza ibibazo abantu bavura Kabuga kandi /cyangwa bavugana na we igihe cyose, zamubajije ibibazo kandi, by'umwihariko, zasuzumye raporo y'ikizami cya MRI Kabuga yakorewe muri Mutarama 2022[164]. Urugereko rwa Mbere rw'Iremezo kandi rwasuzumanye ubushishozi ingingo Porofeseri Kennedy na Porofeseri Mezey batemeranyaho ku byerekeranye n'ibimenyetso byagaragajwe n'ikizamini nyuma yo guca mu cyuma, ingaruka zabyo n'uburemere ibyo bimenyetso bigomba guhabwa[165] ndetse n'akamaro k'ibyo bizamini mu kwemeza ubushobozi Kabuga afite[166]. Bombi basuzumanye ubushishozi bazirikana cyane ko bishoboka ko usuzumwa yaba yirwaza kugira ngo atazaburanishwa[167]. Nyuma y'iryo suzuma, Urugereko rwa Mbere rw'Iremezo rwafashe umwanzuro uvuga ko kuba izo mpuguke mu by'ubuzima bwo mu mutwe, zigenga, zombi zarashingiye ku makuru anyuranye y'ingenzi mu kwemeza uburwayi bwagaragajwe n'isuzumabuzima zakoze kandi ko ibiri muri dosiye bitagaragaza neza ko uburyo bwo gusuzuma bwakoreshejwe na buri mpuguke muri izo zombi cyangwa ko uburwayi umwe muri zo yemeje ari byo bikwiye kwemerwa kurusha iby'indi mpuguke[168]. Ari ibimenyetso byatanzwe na Dogiteri

[162] Nk'urugero, reba Raporo ihuriweho, paje 2, 3.
[163] Reba Raporo ya Chuc, paje 29, 30.
[164] Reba, muri rusange, Raporo ya Kennedy; Raporo ya Mezey. Nk'urugero, reba n'ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 59, 60; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 50, 52.
[165] Gereranya ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 12, 13, 38, 59, 60 n'ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022. paje 5, 6, 16, 17, 27, 50-52, 75, 76, 89, 90.
[166] Gereranya Raporo ya Kennedy, igika cya 35.22 n'ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 8-10, 46, 47 n'ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 87, 88.
[167] Nk'urugero, reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 14, 15; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 23-26.
[168] Urugereko rwa Mbere rw'Iremezo rusanga Porokireri arwanya ubuhamya bwa Porofeseri Mezey kubera ko bushingiye ku amakuru yahawe n'umukobwa wa Kabuga n'umukwe we, bombi bakaba bari bazi ko Urugereko rwa Mbere rw'Iremezo rwamutegetse gukora isuzuma ryerekeranye n'uko ubuzima bwe [Kabuga] bwo mu mutwe



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Bizoza ari n'ibyatanzwe na Dogiteri Chuc cyangwa ibindi bimenyetso bifite aho bihuriye n'iryo suzuma biri muri dosiye nta cyo bihindura ku buryo Urugereko rwa Mbere rw'Iremezo rubona ibintu kuri iyo ngingo.

51. Kumenya neza indwara Kabuga arwaye cyangwa impamvu nyayo yatumye agira ikibazo cy'igabanuka ry'imikorere y'ubwonko si ingenzi mu isuzuma ry'Urugereko rwa Mbere rw'Iremezo[169]. Icy'ingenzi ni ukumenya niba ibimenyetso, cyane cyane ibyatanzwe n'impuguke mu by'ubuzima bwo mu mutwe, zigenga, zashyizweho n'Urukiko, bigaragaza ko bishoboka cyane ko Kabuga atashobora kugira uruhare rufatika mu iburanisha ry'urubanza rwe.[170]Nk'uko bivugwa haruguru, ubushobozi bugibwaho impaka bufite akamaro kuri uyu mwanzuro ni ubwerekeranye no kumenya niba Kabuga ashobora gusobanukirwa n'imigendekere y'iburanisha, gusobanukirwa ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko. Raporo ya Porofeseri Kennedy ivuga ko Kabuga afite ubushobozi bukenewe bwatuma ashobora kugira uruhare, rufatika, mu iburanisha ry'uru rubanza[171]. Mu buhamya bwe, yavuze mu buryo busobanutse ko Kabuga ashobora kugira uruhare, rufatika, mu rubanza rwe, ashingiye ku isuzuma yamukoreye ry'ubushobozi bwo kuba yamara umwanya atarangara, kugira ibyo akora, kwiga no gufata mu mutwe, kuvuga icyo atekereza mu mvugo isobanutse, ubushobozi bwo gukoresha umubiri we uko bikwiye no kumenya kubana

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buhagaze. Nk'urugero, reba Raporo ihuriweho, paje ya 3; Raporo ya Mezey, ibika 34-50, 54, 64; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 19, 20, 32-37, 78. N'ubwo hashobora kuba hari inyungu umuryango wa Kabuga ufite mu kugoreka amakuru no kwerekana ko Kabuga adashobora kuburanishwa, Porofeseri Mezey yarabizirikanye kandi ibyo avuga bifite ishingiro ku byerekeranye n'impamvu yatumye uko kugoreka amakuru kutaramubujije kuzirikana amakuru yahawe n'abo bantu no kugera ku bisubizo. Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 32-37. Reba n'ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 19, 20, 78, 84, 85. Urugereko rwa Mbere rw'Iremezo rusanze kandi nta mpamvu yumvikana yatuma rwirengagiza ubuhamya bwa Porofeseri Mezey rubitewe n'uko Porokireri avuga ko we [Porofeseri Mezey], nk'umugore, ashobora kuba yaragize ingorane ziruta iza Porofeseri Kennedy mu kubaza Kabuga ibibazo cyangwa bitewe n'uko ibintu byari byifashe Porofeseri Mezey amubaza ibibazo atari ko byari bimeze igihe Porofeseri Kennedy yamubazaga. Reba inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 55, 56. Hanyuma, Urugereko rwa Mbere rw'Iremezo ntirwemera ko ibyo Porofeseri Mezey yagezeho mu isuzuma yakoze bigomba kwirengagizwa bitewe n'uburyo raporo y'isuzuma Kabuga yakorewe, hifashishijwe MRI, ryo muri Mutarama 2022, yasemuwe kandi ikaba ari na yo yashingiyeho mu mwanya w'indi raporo yasemuwe n'"ababifitiye ububasha" hakoreshejwe amagambo atandukanye. Reba inyandikomvugo y'iburanisha, paje ya 54. Porokireri nta kibazo yabajijje Porofeseri Mezey cyerekeranye n'iryo tandukaniro kandi nta ngingo ashingiraho avuga ko ibyahinduwe byerekeranye n'"amagambo y'ingenzi" ari "ngombwa". Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 32-74; inyandikomvugo y'iburanisha, paje ya 54. Byongeye kandi, Porofeseri Mezey yari azi neza ko indwara yasanganye Kabuga ari zo ashingiye ku bimenyetso byose uyu murwayi agaragaza muri rusange. Nk'urugero, reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 79, 80.

[169] Inyandiko y'urubanza rwa Strugar mu bujurire, igika cya 61. Impuguke mu by'ubuzima bwo mu mutwe, zigenga, zahuriye kuri iki gitekerezo. Nk'urugero, reba Raporo ihuriweho, paje ya 2 ("N'ubwo ikibazo cyo gusuzuma uburwayi ari ingenzi ku baganga, Icyo Urukiko ni ukugira igitekerezo ku miterere n'intera y'ibyangiritse mu bushobozi ubwonko bukeneye kugira ngo Uregwa ashobore kugira uruhare mu rubanza rwe no gukoresha ubwo burenganzira buvugwa"). Reba na Raporo ya Mezey, igika cya 66.

[170] Inyandiko y'urubanza rwa Strugar mu bujurire, ibika 55, 61.

[171] Reba Raporo ya Kennedy, Igitekerezo, igika cya 6.



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n'abandi bantu [172]. Cyakora, yatanze inama ku byakorwa byafasha Kabuga gusobanukirwa imigendekere y'iburanisha[173] n'ibimenyetso[174], guha amabwiriza umwavoka we[175] no gutanga ubuhamya mu Rukiko[176]. Urugereko rwa Mbere rw'Iremezo ntirwemeye ibyo Ubwunganizi buvuga ko, mbere na mbere, ibyo Porofeseri Kennedy avuga ko bikwiye gukorwa bidashoboka[177].

52. Porofeseri Kennedy avuga ko igabanuka ry'imikorere y'ubwonko bwa Kabuga ridafite ingaruka ku bushobozi bwe bwo "gukora imirimo inyuranye ikenewe mu buzima bwa buri munsi"[178]. Ashimangira ko Kabuga afite ubushobozi bwo gukurikira neza atarangaye mu biganiro yagiranye n'impuguke mu buzima bwo mu mutwe, byamaze umwanya uri hagati y'isaha imwe n'amasaha abiri no kugira uruhare rufatika, mu iburanisha ryaba ahibereye cyangwa hakoreshejwe ikoranabuhanga ry'amajwi n'amashusho[179]. Avuga ko Kabuga afite ubushobozi bwo kwiga no gufata mu mutwe ibintu bishya no kubikoresha mu buryo bukwiye. Nk'urugero, Avuga ko Kabuga yibukaga izina rya Porofeseri buri munsi kandi ko aba azi amakuru agezweho y'ibintu arebera kuri terevisiyo[180]. Porofeseri Kennedy avuga ko hari ubuhamya buvuga ko Kabuga afite ubushobozi bwo gutera urwenya ku buryo bugaragaza ko akoresha ubwonko ku rugero rwo hejuru[181]. Byongeye kandi, n'ubwo Porofeseri yavuze ibintu binyuranye byakorerwa Kabuga kugira ngo abe yabasha gutanga

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[172] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 6, 11, 27, 28.
[173] Reba Raporo ya Kennedy, Igitekerezo, igika cya 6 (iii).
[174] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 48, 49, 73, 74; Raporo ya Kennedy, Igitekerezo, igika cya 6(iv).
[175] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 50, 68-70; Raporo ya Kennedy, Igitekerezo, igika cya 6(v).
[176] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 50-53, 74-76; Raporo ya Kennedy, Igitekerezo, igika cya 6(vii).
[177] Reba inyandikomvugo y'iburanisha, 7 Kamena 2022, paje 27-29.
[178] Reba Raporo ya Kennedy, ibyo atekereza, igika cya 5(b).
[179] Reba Raporo ya Kennedy, ibyo atekereza, igika cya 6(iii).
[180] Reba Raporo ya Kennedy, igika cya 54.2, paje ya 46, ibyo atekereza, igika cya 6(iv); ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje ya 26 ("Ikibazo: Wanavuze ku kiganiro Kabuga yavugiyemo uburyo akunze gukurikirana ibiganiro binyura kuri tereviziyo n'ibisobanuro bye ku ntambara ibera muri Ukraine, akagereranya ibibera muri Ukraine n'ibikorwa bya Perezida Kagame mu Rwanda? Igisubizo: Yego. Ikibazo: Ibyo se na byo hari icyo bigaragaza ku byerekeranye n'iyo mitekerereze n'imikorere y'ubwonko iri ku rwego rwo hejuru? Igisubizo: Ubushobozi bwo kumenya ibintu bishya, kutabyibagirwa no kubivuga mu buryo busobanutse. Ikibazo: Ese ibyo byagereranywa n'ibintu yakenera kugira ngo agire uruhare bya nyabyo mu iburanisha ry'urubanza rwe? Igisubizo: Ni ko mbitekereza").
[181] Reba Raporo ya Kennedy, ibika 55.1, 55.2; ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 25, 26, 40.



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ubuhamya mu Rukiko, yanavuze ko Kabuga ashobora gutanga ubuhamya mu magambo mu Rukiko nk'uko byakorwa n'undi mutangabuhamya uwo ari we wese[182].

53. Porofeseri Mezey we yavuze ko Kabuga adashobora kugira uruhare, rufatika, mu iburanishwa ry'urubanza rwe[183]. Isuzuma yakoreye Kabuga ryagaragaje ibibazo byo kwibagirwa vuba, gufata mu mutwe amakuru no kuyasesengura hamwe n'ibibazo mu mikorere, birimo no kutabasha gukurikiza amabwiriza yo ku rwego rworoheje[184]. Ku kumenya niba Kabuga ashobora kuburanishwa, ntiyageze ku myanzuro imwe n'iya Profeseri Kennedy yerekeranye no kuba Kabuga ashobora kumenya ibigezweho[185]n'ubushobozi afite bwo gutera urwenya[186]. Ntiyemera ko Kabuga ashobora, byanze bikunze, kwakira amakuru mashya akayasesengura kandi yatanze ubuhamya avuga ko kuba ubwonko bwa Kabuga bwaratakaje ubushobozi bwo gukora, bigaragarira, ku ruhande rumwe, ku kuba yaratakaje ubushobozi bwo kwandika akaba atagishobora no kuvuga igifaransa[187], n'ubwo ubuhamya bwa Porofeseri Kennedy buvuga ko Kabuga agishobora kuganira mu gifaransa gike akaba kandi yarize kuvuga amagambo amwe n'interuro mu giholandi[188].

54. Rumaze gusuzuma dosiye yose uko yakabaye, Urugereko rwa Mbere rw'Iremezo, rusanze nta bimenyetso birunyuze bihari byatuma rutesha agaciro imyanzuro y'impuguke mu by'ubuzima bwo mu mutwe, yigenga, ku byerekeranye n'ubushobozi bwa Kabuga bwo gusobanukirwa imigendekere y'iburanisha n'ibimenyetso, guha amabwiriza umwavoka umwunganira no gutanga ubuhamya mu Rukiko. Urugereko rwa Mbere rw'Iremezo ruzirikana ko Kabuga afite Avoka umwunganira kandi ko ubushobozi bwe bwo gusobanukirwa butagomba kuba buri ku rugero ruhanitse cyane cyangwa ngo bube ku rugero rwo hejuru yigeze kugira mu buzima[189]. Urugereko rwa Mbere rw'Iremezo ntirwemera ibivugwa n'Ubwunganizi ko Porofeseri Kennedy yasuzumiye ku gipimo kiri hasi cyane ubushobozi

[182] Reba Raporo ya Kennedy, ibyo atekereza, igika cya 6(vii); ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 50-53. Reba n'ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 74-76.
[183] Nk'urugero, reba Raporo ya Mezey, igika cya 87; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, ibika 17, 29, 76, 77.
[184] Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 18, 19.
[185] Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 63-65.
[186] Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 65, 66.
[187] Reba Raporo ya Mezey, ibika 6, 44; ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 26, 65.
[188] Reba Raporo ya Kennedy, ibika 40.5, 41.2; ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje ya 64.
[189] Reba *Urubanza Porokireri aburana na Goran Hadžić*, Nº IT-04-75-T, Icyemezo gikomatanyije cyerekeranye no gukomeza iburanisha ry'urubanza, 26 Ukwakira 2015, igika cya 40.



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bwa Kabuga bwo kugira uruhare rufatika mu iburanisha cyangwa ko ubuhamya yatanze asaba ko Kabuga yagira byinshi yoroherezwa bituma hakwiye gufatwa umwanzuro uvuga ko atashobora kuburanishwa[190]. Ku rundi ruhande, Urugereko rwa Mbere rw'Iremezo ntirwemeye n'ibivugwa na Porokireri ko isuzuma Porofeseri Mezey yakoze ry'ubushobozi bwa Kabuga bwo gukoresha ubushobozi bumwe ryandendeye ku gipimo kirenze igishobora kuba gikenewe kugira ngo uregwa ashobore kugira uruhare rufatika mu iburanisha[191]. Abajijwe iby'uko igipimo yakoresheje cyari hejuru cyane, Porofeseri Mezey yavuze ko na we yemeza ko asanga Kabuga adashobora kugira uruhare "rufatika" mu kwiregura kwe kandi ko byamushimisha guhindura amagambo yakoresheje muri raporo ye kuri iyo ngingo[192]. Ku rundi ruhande, yagaragaje uburyo bwo kugira uruhare mu iburanisha bujyanye n'ibyo umuntu ashobora gutekereza ko uregwa ufite umwavoka umwunganira yakora[193]. Muri urwo rwego kandi, igihe yatangiye raporo ye nta cyo kigabanya ku myanzuro yagezeho iyo hazirikanywe uburyo isobanuye neza n'ubuhamya yatanze mu Rukiko nyuma yayo. Bityo rero, Urugereko rwa Mbere rw'Iremezo rusanze ibyo atari impamvu yo gutesha agaciro imyanzuro ye.

55. Urugereko rwa Mbere rw'Iremezo rusanze uru rubanza ruri mu cyiciro kibanziriza iburanisha ry'urubanza ari na cyo cyonyine Abacamanza babonyemo uburyo bwo kubona Kabuga, igihe yitabaga Urukiko mu manama ntegurarubanza. Cyakora, ama videwo yafashwe y'amanama ntegurarubanza aheruka asa n'agaragaza ko Kabuga ashobora kugira uruhare rufatika mu iburanisha. Imyitwarire yagize mu nama ntegurarubanza yabaye muri Gashyantare 2022 igaragaza ko ashobora gukurikira ibibera mu Rukiko, kwakira no gusesengura amakuru atanzwe no kuvuga ibitekerezo bye binyuranye ku ngingo z'ingenzi mu kwiregura kwe. Byongeye kandi, Amaraporo aheruka ya Muganga ukuriye Serivise

[190] Reba inyandikomvugo y'iburanisha, paje 21, 26-28.

[191] Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 66, 67; inyandikomvugo y'iburanisha, paje 37, 38, 54.

[192] Reba ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 68, 69.

[193] Gereranya ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 76, 77 ("[Umutangabuhamya]: Igisubizo kigufi ni yego, rwose, ugomba kugira uruhare bya nyabyo muri icyo gikorwa, kandi ibyo bivuze gukurikira ibyabaye, kumva, kuzirikana ibirimo kuba, kubisobanukirwa, kubisesengura no gufata mu mutwe ayo makuru. Ibyo bikorwa byose bisaba kubigiramo uruhare rugaragara no kugira ubushobozi bwo mu rwego rw'imitekereze bwo kubyitaho mu buryo bwuzuye, ku byerekeranye n'ibibera mu Rukiko. Hagomba kandi kubaho ukwemera impinduka iyo zibayeho kuko bigaragara ko ibintu bishobora guhinduka umunsi ku wundi. Bityo rero, hazaboneka amakuru mashya, hatangwe ibimenyetso bishya, abatangabuhamya bagire ibyo bavugira mu Rukiko, azakenera kumva no gusobanukirwa uburemere bwabyo kugira ngo ashobore guha amabwiriza avoka umwunganira".) Reba Inyandiko y'Urubanza rwa Strugar, mu bujurire, ibika 47, 60.



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y'ubuvuzi ya UNDU agaragaza ko ubuzima bwa Kabuga bumaze igihe busa n'ubudahindagurika[194].

56. Muri make, dosiye igaragaza ko hari ugushidikanya ku byerekeranye n'ingano nyayo y'ubushobozi bivugwa ko Kabuga adafite. Cyakora, umwanzuro uvuga ko Kabuga adashobora kuburanishwa ugomba gufatwa ari uko hari ibimenyetso byinshi biwushyigikira[195] kandi Urugereko rwa Mbere rw'Iremezo rusanze kugeza ubu Ubwunganizi butaruzuza icyo gipimo cy'ibimenyetso. N'ubwo ibitekerezo Porofeseri Mezey yatanze biteye impungenge, Urugereko rwa Mbere rw'Iremezo ntirwemeye ko Kabuga adashobora kugira uruhare rufatika mu iburanisha, cyane ko hari ibyo ashobora gufashwa mu kumworohereza, kandi Porokireri akaba yaremeye ko bikwiye muri uru rubanza, hashingiwe no ku buhamya bunyuze Urugereko Porofeseri Kennedy yatanze.

57. Urugereko rwa Mbere rw'Iremezo rwasanze bitari byoroshye gufata umwanzuro ku kibazo cyerekeranye no kumenya niba Kabuga ashobora kuburanishwa, kandi ruzi neza ko ibintu bishobora guhinduka uko igihe gihita. Ruzirikana igitekerezo cy'impuguke kivuga ko ubushobozi bw'umuntu ari ikintu gihora guhinduka kandi hashingiwe ku kuntu ibintu byifashe muri uru rubanza, Urugereko rwa Mbere rw'Iremezo rusanze bikwiye ko ubushobozi bwa Kabuga bwo kugira uruhare bya nyabyo mu iburanisha ry'urubanza rwe bugenzurwa mu buryo buhoraho, kubera iyo mpamvu hagomba gushyirwaho uburyo iryo genzura ryakorwa n'impuguke zigenga. Urugereko rwa Mbere rw'Iremezo rusanga, byaba byiza rikozwe n'ikipe y'impuguke zigenga igizwe na Porofeseri Mezey, Porofeseri Kennedy n'umuganga uvura indwara z'imitsi n'imyakura utarigeze ugira uruhare muri uru rubanza . Amaraporo y'iyo kipe y'impuguke cyangwa aya Muganga ukuriye Serivise y'ubuvuzi ya Gereza y'Umuryango w'Abibumbye naramuka agaragaje ko hari impungenge, Urugereko rwa Mbere rw'Iremezo ruzongera rusuzume uko ibintu byifashe mbere yo gukomeza.

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194 Nk'urugero, reba Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 4 Gicurasi 2022 (Inyandiko itari ibanga, ifite Umugereka w'ibanga), Umugereka, paje ya 3633: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 18 Gicurasi 2022 (Inyandiko itari ibanga, ifite Umugereka w'ibanga), Umugereka, paje ya 3681: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 1 Kamena 2022 (Inyandiko itari ibanga, ifite Umugereka w'ibanga), Umugereka, paje ya 3752: nomero yashyizweho n'Ibiro bya Gerefiye).

195 Inyandiko y'urubanza rwa Strugar mu bujurire, igika cya 56.



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## B. Ubushobozi bwo gukora urugendo rujya Arusha no gufungirwa muri UNDF

58. Urugereko rwa Mbere rw'Iremezo ruributsa ko, nyuma y'igihe gito Kabuga afashwe muri Gicurasi 2020, Ubwunganizi, Porokireri na Gerefiye bose batanze Imyanzuro ivuga ko, kubera ko ubuzima bwe butari bumeze neza no kubera icyorezo cya Koronavirusi cyariho icyo gihe, agomba koherezwa ku ishami rya IRMCT ry'i Lahe aho kujyanwa ku Ishami ry'Arusha[196]. Dosiye igaragaza, mu buryo busobanutse, ko Kabuga afite intege nke kandi arwaragurika, akaba akeneye kwitabwaho cyane no gukurikiranwa n'abaganga . Kuva aho agereye i Lahe, mu Ukwakira 2020, Kabuga yimuriwe mu bitaro bya gisivire incuro nyinshi mu buryo bwihutirwa kugira ngo avurwe vuba cyangwa ahabwe ubuvuzi n'inzobere[197]. Amaze kubagwa incuro ebyiri[198]. Ubu ntaba muri UNDU ahubwo ari mu bitaro bya Gereza kuko akeneye kwitabwaho n'abaforomo ijoro n'amanywa[199].

59. N'ubwo impuguke mu by'ubuzima bwo mu mutwe, zigenga, zitavuga rumwe ku byerekeranye no kumenya niba Kabuga ashobora kuburanishwa, zahurije ku kuba akunze kugira ibibazo by'ubuzima bikomeye byatumaga hari igihe yabaga atameze neza[200]. Ibivugwa na Porofeseri Kennedy ko Kabuga afite ubushobozi bukenewe mu gusuzuma niba ashobora kuburanishwa, bishingiye ahanini ku kuba ari ngombwa gukora ku buryo aba ahantu amenyereye kandi hamugwa neza[201]. Porofeseri Kennedy yavuze, mu buryo busobanutse, ko kwimurira Kabuga ahandi hantu byabangamira bikomeye itangira ry'iburanisha[202]. Porofeseri Mezey yavuze ko kwimurira Kabuga i Arusha bishobora kugira "ingaruka zikomeye cyane" ku bushobozi bwo gutangira iburanisha no kuburanisha urubanza[203] kandi avuga ko kumwimurira Arusha bishobora kumuviramo ibyago

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[196] Reba Icyemezo, 21 Ukwakira 2020, ibika 5, 6, 8, 9.
[197] Nk'urugero, reba Raporo ya muganga, 22 Gashyantare 2021, paje 961, 960: amanomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere", ryo ku itariki ya 25 Ugushyingo 2020, 4 Kanama 2021 (Inyandiko itari ibanga, ifite Umugereka w'ibanga), Umugereka, paje ya 1577: nomero yashyizweho n'Ibiro bya Gerefiye; Raporo ya muganga, 1 Nzeri 2021, paje ya 2304: nomero yashyizweho n'Ibiro bya Gerefiye; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 22 Ukuboza 2021 (Inyandiko itari ibanga, ifite Umugereka w'ibanga), Umugereka, paje ya 2872: nomero yashyizweho n'Ibiro bya Gerefiye; Raporo ya muganga, 2 Gashyantare 2022, paje ya 3048: nomero yashyizweho n'Ibiro bya Gerefiye.
[198] Reba Raporo ya muganga, 22 Gashyantare 2021, paje 961, 960: amanomero yashyizweho n'Ibiro bya Gerefiye; Raporo ya muganga, 13 Ukwakira 2021, paje ya 2472: nomero yashyizweho n'Ibiro bya Gerefiye.
[199] Amakuru y'inyongera yatanzwe na Gerefiye, 26 Ugushyingo 2021, igika cya 3. Reba na Raporo ya Chuc, paje ya 22; Imyanzuro ya Gerefiye yerekeranye n'"Itegeko ritanzwe nyuma y'umuhango wo kwitaba Urukiko bwa mbere" ryo ku itariki ya 25 Ugushyingo 2020, 16 Werurwe 2022 (Inyandiko itari ibanga, ifite Umugereka w'ibanga), paje ya 3375: nomero yashyizweho n'Ibiro bya Gerefiye; Raporo ya muganga, 19 Mutarama 2022, paje ya 2957: nomero yashyizweho n'Ibiro bya Gerefiye.
[200] Nk'urugero, reba Raporo ihuriweho, paje 2, 3.
[201] Nk'urugero, reba Raporo ya Kennedy, Igitekerezo, igika cya 6. Reba na Raporo ihuriweho, paje 5, 6.
[202] Reba ubuhamya bwa Kennedy, inyandikomvugo y'iburanisha, 31 Gicuransi 2022, paje ya 81.
[203] Ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje 93, 94.



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"bikomeye cyane" byo gusubira inyuma k'ubuzima bwo mu mubiri n'imikorere y'ubwonko[204]. Dogiteri Bizoza, Impuguke yatanzwe na Porokireri, yavuze ko, ashingiye ku mapererereza yakozwe nyuma yo gutanga Raporo ye, yahinduye igitekerezo ku kibazo cyo kumenya niba bikwiye ko Kabuga aburanishirizwa Arusha[205].

60. Urugereko rwa Mbere rw'Iremezo rurazirikana kandi rugashima ibintu byinshi byakozwe muri UNDF kugira ngo Kabuga ashobore kuhafungirwa mu buryo butekanye, birimo no guhabwa ubufasha bw'abaforomo bamwitaho ijoro n'amanywa. Ruributsa ko abakuriye Serivisi y'ubuzima ku mashami yombi bemeje ko Kabuga ashobora kuba muri UNDF atekanye[206]. Cyakora, n'ubwo atari ngombwa ko Kabuga yitabwaho na muganga w'inzobere ubu, dosiye ye yerekana ko ubufasha bw'inzobere ashobora gukenera butaboneka Arusha, by'umwihariko, cyangwa hafi yaho[207]. Porokireri ntagihagaze ku gitekerezo yatanze mu 2021 avuga ko Kabuga agomba kwimurirwa ku Ishami ry'Arusha[208] akaba nta cyo yavuze kuri iyo ngingo ubu [209].

61. N'ubwo rwemeje ko urubanza rugomba kuburanishwa, Urugereko rwa Mbere rw'Iremezo rusanga ingorane zaterwa no kuvana Félicien Kabuga ahantu amenyereye zishobora kubangamira bikomeye ibyashobokaga ko iburanisha ritangira rikanasozwa vuba, kandi ibyo bifite akamaro kanini kubera imyaka Kabuga afite n'ubuzima bwe bwazahaye. Kubera ibyo, uburenganzira bw'ibanze Kabuga afite bwo kuburanishwa mu buryo buboneye kandi bwihuse nta kuzarira butuma iburanishwa rye rigomba gutangirira ku Ishami rya IRMCT, i Lahe. Mu rwego rw'amategeko, uru rubanza rwagombye kuburanishirizwa ku Ishami ry'Arusha, kandi Urugereko rwa Mbere rw'Iremezo ntirushobora kuvanaho ko ubuzima bwa Kabuga buramutse burushijeho kumera neza, rwakwimurirwa ku ishami ry'Arusha kandi akaba ari ho afungirwa. Ibyo bizaterwa cyane cyane n'uko ubuzima bwe buzaba bumeze n'ikizaba gikwiye ugereranyije inyungu zo kuhamuburanishiriza no kwirinda icyatuma iburanisha ridakomeza bitari ngombwa bigatuma uru rubanza ruhagarara imburagihe. Urugereko rwa Mbere rw'Iremezo ruzongera gusuzuma iki kibazo nirusanga ari ngombwa. Cyakora, ubu Urugereko rwa Mbere

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204 Ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje ya 94. Reba n'ubuhamya bwa Mezey, inyandikomvugo y'iburanisha, 1 Kamena 2022, paje ya 31.
205 Ubuhamya bwa Bizoza, inyandikomvugo y'iburanisha, 31 Gicurasi 2022, paje 113.
206 Amakuru y'inyongera yatanzwe na Gerefiye, 26 Ugushyingo 2021, ibika 23, 24.
207 Amakuru y'inyongera yatanzwe na Gerefiye, 26 Ugushyingo 2021, ibika 19, 20.
208 Igisubizo cya Porokireri ku Itegeko ryo gutanga imyanzuro ryo ku itariki ya 24 Kamena 2021, 2 Nyakanga 2021 (Inyandiko y'ibanga), igika cya 1.
209 Reba inyandikomvugo y'iburanisha, paje ya 68.

rw'Iremezo rusanga gutangira iburanisha ry'uru rubanza vuba bishoboka biri mu nyungu z'ubutabera, bisobanuye kuruburanishiriza ku ishami ry'i Lahe.

## IV. ICYEMEZO

62. Kubera impamvu zimaze kuvugwa, Urugereko rwa Mbere rw'Iremezo:

**RWEMEJE KO** Ubwunganizi butagaragaje ko Kabuga adashobora kuburanishwa ubu;

**RUTEGETSE** Ubwunganizi kuzirikana inama ihuriweho yatanzwe n'impuguke, ko bwashyira mu bagize ikipe yabwo umunyamategeko cyangwa umufasha mu by'amategeko uvuga ikinyarwanda, n'Ibiro bya Gerefiye kubworohereza mu buryo bushoboka;

**RWEMEJE KO** Kabuga akomeza gufungirwa ku ishami rya IRMCT ry'i Lahe kandi ko ari ho urubanza rwe ruzatangira kuburanishirizwa uretse igihe byemejwe ukundi;

**RWEMEJE KO** Kabuga azajya azuzumwa n'itsinda ry'impuguke mu buvuzi, zigenga, zizajya zitanga raporo ihuriweho yerekeranye no kumenya niba Kabuga ashobora kuburanishwa, rikazajya riyishyikiriza Urugereko rwa Mbere rw'Iremezo nyuma ya buri minsi 180 uhereye ku itariki iki Cyemezo gitangiweho, uretse igihe bitegetswe ukundi;

**RUTEGETSE** Gerefiye gushyiraho itsinda ry'impuguke zigenga rigizwe na Porofeseri Gillian Mezey, Porofeseri Henry Kennedy n'umuganga uvura indwara indwara z'ubwonko n'imyakura, utarigeze agira uruhare muri uru rubanza; kandi

**RUTEGETSE** Gerefiye gutanga imyanzuro haramutse hagize ikibuza ishyirwaho ry'izo mpuguke.

Bikozwe mu cyongereza no mu gifaransa ariko inyandiko yo mu cyongereza ni yo igenderwaho.

Bikozwe uyu munsi, tariki ya 13 Kamena 2022, [**Umukono**]

Arusha, muri Tanzaniya

Iain Bonomy
Perezida

[**Kashe ya IRMCT**]



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