UMURYANGO W'ABIBUMBYE

		Urubanza No.:	MICT-12-20
	Urwego Rwashyiriweho Inkiko Mpanabyaha Mpuzamahanga	Itariki:	18 Ugushyingo 2014
		Umwimerere:	Icyongereza

Umucamanza: Theodore Meron, Perezida

Gerefiye: John Hocking

PORORKIRERI

aburana na

BERNARD MUNYAGISHARI

INYANDIKO ITARI IBANGA

RAPORO Y'UBUGENZUZI (UKWAKIRA 2014)

Abagenzuzi:

Madamu. Jelena Gudurić
Porofeseri. Zbigniew Lasocik
Madamu. Xheni Shehu

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III. UMWANZURO -- 8

I. INTANGIRIRO

1. Iyi raporo yerekeye ibyakozwe mu rubanza rwa Uwinkindi ruburanishwa n'inkiko zo mu Rwanda hamwe n'ibiganiro abagenzuzi bashyizweho n'Urwego Rwashyiriweho Inkiko Mpanabyaha Mpuzamahanga (« MICT ») bagiranye n'abandi bafatanyabikorwa banyuranye, mu Ukwakira 2014 (« Igihe kirebwa n'iyi raporo »).

2. Mu gihe kirebwa n'iyi raporo, abagenzuzi bashyizweho – Madamu Jelena Gudurić, Porofeseri Zbigniew Lasocik na Madamu Xheni Shehu (« Umugenzuzi» cyangwa « Abagenzuzi ») basuye, buri wese, u Rwanda inshuro imwe[1].

3. Nta buranisha ryabaye muri icyo gihe. Iburanisha ryakurikiye ryabaye ku itariki ya 5 Ugushyingo 2014.

4. Mu gihe kirebwa n'iyi raporo, Abagenzuzi (babifashijwemo n'umusemuzi) babonanye na Munyagishari n'Avoka we Mukuru.

5. Raporo irambuye irebana n'ibyakozwe mu gihe kirebwa n'iyi raporo iri mu bika bikurikira.

II. RAPORO MU MAGAMBO ARAMBUYE

A. Ubutumwa bw'ubugenzuzi: 14-16 Ukwakira 2014

Kubonana na Munyagishari ku itariki ya 15 Ukwakira 2014

6. Umugenzuzi yabonaniye na Munyagishari mu Gice Cyihariye cya Gereza Nkuru ya Kigali («Ikice Cyihariye» na « Gereza»), aho Munyagishari afungiwe. Munyagishari yahaye Umugenzuzi inyandiko yari ikubiyemo ibibazo byose yifuzaga ko baganiraho muri iyo nama[2].

[1] Madamu Shehu yari mu butumwa mu Rwanda kuva ku itariki ya 1 kugeza ku ya 3 Ukwakira 2014; Madamu Gudurić yariyo kuva ku itariki ya 14 kugeza ku ya 16 Ukwakira 2014; Porofeseri Lasocik yariyo mu butumwa kuva ku itariki ya 21 kugeza ku ya 23 Ukwakira, 2014. Buri mugenzuzi yateguye igice cy'iyi raporo kirebana n'ubutumwa bwe.

[2] Inyandiko y'umwimerere, yo ku itariki ya 15 Ukwakira 2014, ibitse mu ifaride ikubiyemo amabaruwa arebana n'uru rubanza. Kuva ku gika cya 6 kugeza ku cya 18 biri hepfo, hakubiyemo amakuru yatangiwe mu nama ndetse n'ari mu ibaruwa.

7. Munyagishari yabyukije ibibazo byinshi birebana n'uburyo afunzwemo[3]. Yavuze ko byinshi muri ibyo bibazo byatewe n'ibintu byari biherutse guhinduka mu buyobozi bwa Gereza.

8. Munyagishari yasobanuye ko mu gihe cya Diregiteri wa Gereza wagiye, Alex Murenzi, hari ibintu byari byarabaye byiza mu mibereho yo muri Gereza. Abagororwa bamushimiye ibyo yagerageje gukora muri urwo rwego. Munyagishari yifashishije Raporo yo muri Mutarama-Gashyantare[4], asobanura ko uwahoze ari Diregiteri wa Gereza yafashe icyemezo cyo kujya Arusha kureba ukuntu ibintu bigenda muri Gereza y'Urukiko Mpanabyaha Mpuzamahanga Rwashyiriweho u Rwanda («TPIR»). Ariko, Munyagishari avuga ko mu Gice Cyihariye cya Gereza ibintu byarushijeho kumera nabi Murenzi amaze kugenda. Yatanze ingero zihariye kugira ngo agaragaze ibintu byahindutse.

9. Munyagishari yavuze ko kuva mu mwaka wa 2011 hari indi mfungwa bashyizeho kugira ngo ijye ifasha gukora isuku mu cyumba gifatirwamo amafunguro, mu twumba imfungwa zibamo n'ahandi hose mu Gice Cyihariye, ndetse no mu kumesa imyenda no koza ibikoresho byo mu gikoni. Ariko, hashize ibyumweru bibiri ibyo byarahagaritswe. Kubera iyo mpamvu, imfungwa ziba mu Gice Cyihariye zigomba ubu kwikorera isuku aho ziba no kwikorera indi mirimo, harimo no kwitegurira ifunguro rya mu gitondo.

10. Ikindi kandi, Munyagishari asanga igihe Murenzi yari diregiteri, gusurwa kw'abari muri gereza byaratunganywaga neza. Nyamara ubu ngo imfungwa zihura n'ibibazo. Kubonana n'abavoka bazo ntibikibera mu biro biri ahantu hiherereye. Ahubwo, zibonanira na bo mu nyubako imaze kuzura, ahantu badashobora kugirira ibiganiro mu ibanga.

11. Umugenzuzi asanga iyo nyubako nshya isakaye, ariko ifunguye ahantu hose; isa n'utuzu bakunze kubaka mu busitani dufunguye ahantu hose, tudafite imiryango cyangwa amadirishya. Iyo nyubako iri hanze y'Igice Cyihariye, ahantu abantu bose

[3] Ku itariki ya 15 Ukwakira 2014, mbere y'inama, Umugenzuzi yabonye ibaruwa yanditswe kuri iyo tariki na Munyagishari isaba Umugenzuzi gusura Igice Cyihariye cya Gereza byihutirwa kugira ngo arebe uburyo afunzwemo.

[4] Reba *Urubanza rwa Bernard Munyagishari*, No. MICT-12-25, Raporo y'Ubugenzuzi mu rubanza rwa Munyagishari (Mutarama na Gashyantare 2014), itari ibanga, 7 Werurwe 2014, igika 46.

bahurira mu gipangu cya Gereza. Ibihavugirwa bishobora kumvwa na bose kandi umuntu uhari abonwa n'abahahita bose, ni ukuvuga abandi bagororwa, abarinzi ba gereza n'abaje gusura abantu bafunze.

12. Munyagishari yavuze kandi ko iyo abantu bo mu muryango we bageze kuri Gereza bahatwa ibibazo n'abakozi bo mu buyobozi bwa Gereza. Igihe kimwe, barabajijwe hanyuma bagenda batabonanye na Munyagishari. Yasobanuye ko ubundi abaje gusura abantu kuri gereza basabwa gusa kuzuza igipapuro bakihagera, ariko ko ku baje kumusura hiyongeraho guhatwa ibibazo.

13. Munyagishari yagaragaje ko atewe impungenge n'uko atakirya imbuto kandi umuganga yaramugiriye inama ko zigomba kuba mu byo arya buri munsi. Kubera iyo nama ya muganga, umuhungu we yari yaremerewe kujya amugemurira imbuto muri Gereza, ariko hashize igihe gito barabimubujije. Munyagishari yabwiye Diregiteri mushya wa Gereza iki kibazo, hanyuma Diregiteri amugira inama yo kujya agura imbuto mu iduka rya Gereza. Munyagishari yamenyesheje Diregiteri wa Gereza ko iryo duka akenshi riba ritazifite, noneho kubera iyo mpamvu asabira umuhungu we uruhushya rwihariye rwo kujya azimugemurira. Munyagishari yumva imfungwa zagombye kwemererwa kugemurirwa imbuto mu gihe iduka ryo muri gereza ritazifite. Diregiteri yateye utwatsi icyo cyifuzo ariko yiyemeza kuvugana n'abashinzwe iryo duka kugira ngo imbuto zijye ziboneka. Mu gihe bakigerageza kubikora, nta mbuto Munyagishari abona, kandi avuga ko bigira ingaruka mbi ku buzima bwe.

14. Munyagishari yagaragaje kandi impungenge zirebana no kwivuza kwe. Yifashishije ibivugwa muri Raporo yo muri Mutarama - Gashyantare[5], Munyagishari yavuze ko muganga yagombaga gusura imfungwa kabiri mu cyumweru. Ariko ngo muganga ntiyazisuye kuva muri Kamena 2014. Imfungwa zamenyesheje abaforomo bo babonana na zo kenshi, ko zababajwe no kudasurwa na muganga, ariko icyo kibazo ntikirabonerwa umuti.

15. Ku byerekeye na none Raporo yo muri Mutarama – Gashyantare[6], Munyagishari yavuze ko hari ibintu byahindutse ku bijyanye n'amakoraniro yo mu rwego rw'idini.

[5] Ni kimwe no haruguru, igika 39.
[6] Ni kimwe no haruguru, igika 43.

Mu gihe imfungwa mbere zari zemerewe kuganira na bagenzi bazo, ubu ngo si ko ibintu bikimeze. Ubungubu iyo Munyagishari yifuza kuganira n'indi mfungwa, umurinzi wa gereza agomba kuba ahari.

16. Ku birebana na none n'uburyo Munyagishari afunzwemo, yavuze ko kuva muri Nyakanga 2014 nta tara afite mu cyumba yiyuhagiriramo.

17. Muri Nzeri 2014, Umuvugizi w'Ibiro by'Umushinjacyaha yasuye imfungwa zari mu Gice Cyihariye. Munyagishari avuga ko uwo muvugizi yavuze ko ibyo Guverinoma y'u Rwanda yari yaremereye imbere ya MICT bitagifite agaciro. Munyagishari asanga ayo magambo ateye inkeke.

18. Mu nama yabo yo ku itariki ya 6 Ukwakira 2014, Munyagishari yamenyesheje Diregiteri mushya wa Gereza ko ari uburenganzira bwe kumenyesha Umugenzuzi ibintu byose (Munyagishari) yumva ko bigira ingaruka ku buryo afunzwemo.

Ibaruwa yanditswe na Munyagishari yo ku itariki ya 16 Ukwakira 2014

19. Ku itariki ya 16 Ukwakira 2014, Umugenzuzi yashyikirijwe ibaruwa yanditswe na Munyagishari kuri iyo tariki nyine.

20. Muri iyo baruwa, Munyagishari yashimangiye ko Diregiteri mushya wa Gereza agomba kubahiriza ibyo Guverinoma y'u Rwanda yiyemeje ku itariki ya 13 Mutarama 2012 mu « Rubanza no. ICTR-2005-89-I » ivuga ko « amategeko akurikizwa ubu ku bagororwa bakatiwe n'Urukiko Rwihariye rw'Umuryango w'Abibumbye Rwashyiriweho Siyera Lewone azakurikizwa ku baregwa no ku bagororwa bose baburanishwa mu manza TPIR yimuriye mu Rwanda » (ntibitsindagiwe nk'uko bimeze mu nyandiko bikuwemo)[7].

21. Munyagishari yasabye ko icyo kintu cyongerwa muri raporo igomba kugirirwa ibanga. Umugenzuzi yaje kubonana na Munyagishari kugira ngo asobanuze neza imiterere y'amakuru yari yamuhaye[8]. Yemeje ko ibintu yavugiye mu nama yo ku itariki ya 15 Ukwakira 2014 n'ibyo yavuze mu ibaruwa ye yo ku itariki ya 16 Ukwakira 2014 bishobora gushyirwa mu nyandiko itari ibanga.

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[7] Reba *Urubanza rwa Bernard Munyagishari,* No. ICTR-05-89-I, Imyanzuro yatanzwe na Repuburika y'u Rwanda nk'Inshuti y'Urukiko, inyandiko itari ibanga, 13 Mutarama 2013, igika 23.

[8] Ku itariki ya 12 Ugushyingo 2014.

B. Ubutumwa bw'ubugenzuzi: 21-23 Ukwakira 2014

Kubonana na Avoka Mukuru wa Munyagishari ku itariki ya 22 Ukwakira 2014

22. Mu nama y'igihe gito Umugenzuzi yagiranye na Niyibizi, Avoka Mukuru wa Munyagishari, Niyibizi yahaye Umugenzuzi inyandiko irimo ibitekerezo bye ku mushinga w'amasezerano yateguwe na Guverinoma arebana n'umushahara w'Abavoka. Niyibizi yavuze ko yagejeje iyo nyandiko ku Muyobozi w'Urugaga rw'Abavoka, hanyuma asaba ko kopi y'iyo nyandiko igezwa kuri Perezida wa MICT.

23. Umugenzuzi yagejeje iyo kopi kuri Perezida wa MICT abinyujije ku biro bya MICT biri i Kigali.

Kubonana na Munyagishari ku itariki ya 22 Ukwakira 2014

24. Munyagishari asanga Abavoka be batazashobora gutegura inyandiko yabo isubiza ibivugwa mu Nyandiko y'ibirego. Ibyo bigaterwa n'uko Abavoka be batahembewe umurimo bakoze, kandi ko nta mafaranga bahawe kugira ngo babashe gutangira iperereza.

25. Munyagishari yavuze kandi ko, kubera ko nta bumenyi afite mu by'amategeko, ntabwo anganya amaboko na Guverinoma ihagarariwe n'Abaporokireri b'ababanyamwuga. Ikindi kandi, Munyagishari yavuze ko Porokireri yabonye igihe gihagije cyo gutegura urubanza rwe mu gihe we yahawe amezi ane gusa.

26. [BYAKUWEMO].

27. Munyagishari yanzuye avuga ko imibereho ye muri Gereza yarushijeho kuba mibi ubwo Umuvugizi w'Ibiro bya Porokireri, wari wasuye Gereza muri Nzeri 2014, yavugaga ko u Rwanda rutacyubahirije ibyo rwari rwariyemeje gukora.

28. Munyagishari yavuze kandi ko ubuyobozi bwa Gereza buha akato imfungwa zo mu Gice Cyihariye. Nk'urugero, yasobanuye ko zitemerewe gusuhuza abandi bagororwa iyo bahuriye mu makoraniro yo mu rwego rw'idini, kimwe n'uko zitemerewe gukorana siporo na bo.

29. [BYAKUWEMO].

Kubonana na Munyagishari ku itariki ya 23 Ukwakira 2014

30. Munyagishari yasobanuye ko yandikiye Avoka we Niyibizi ibaruwa avuga uko imikoranire ye n'abavoka igomba kugenda hamwe n'uko uruhare rw'Ubwunganizi mu rubanza rugomba kuba ruteye[9].

31. Munyagishari yemeje ko Abavoka be batasinye amasezerano ajyanye n'umurimo wabo mu by'amategeko. Yizeraga ko bagombaga kuba barasinye amasezerano ameze nk'ayasinywe mu rubanza rwa Uwinkindi. Yongeyeho ko, mu rubanza rwa Uwinkindi, abavoka be basinye amasezerano arebana n'umurimo wabo anonosoye kurushaho ku buryo bituma TPIR na MICT byumva ko Guverinoma y'u Rwanda izakurikiza ibintu bigenderwaho byo mu rwego rwo hejuru cyane bisabwa kugira ngo uregwa acirwe urubanza ruboneye.

III. UMWANZURO

32. Abagenzuzi biteguye gutanga amakuru y'inyongera ayo ari yo yose, bitegetswe na Perezida.

Murakoze.

[Umukono]
Madamu Jelena Gudurić
Umugenzuzi mu rubanza rwa Munyangishari
I La Haye mu Buholandi

[Umukono]
Porofeseri Zbigniew Lasocik
Umugenzuzi mu rubanza rwa Munyagishari
Warsaw, Polonye

Bikozwe ku itariki ya 18 Ugushyingo 2014

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[9] Yahaye Umugenzuzi kopi y'iyo baruwa; ibitse mu ifaride yagenewe amabaruwa arebana n'urubanza.