

ICTR LEGACY SYMPOSIUM

'SPECIFICITY OF NOTICE OF CHARGES'

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Introduction

1. The right of an accused to be informed in detail, and in a timely manner, of the nature and cause of the charges against him is one of the most fundamental procedural rights afforded to any defendant facing criminal prosecution. The ICTR Statute (Statute) and Rules of Procedure and Evidence (Rules), mirroring the major human rights instruments, guarantee an accused this right.² Specifically, Article 20(2) and Articles 20(4) (a) and (b) of the Statute provide that in the determination of any charge against him, an accused is entitled to a fair and public hearing, to be informed promptly and in detail of the nature and cause of the charges against him and to have adequate time and facilities for the preparation of his defence.³ Article 17(4) of the Statute and Rule 47(C) require the Prosecution to set out in the indictment a concise statement of the facts of the case and the crime(s) with which the accused is charged.⁴ This paper will analyse the extent to which accused before the ICTR were guaranteed this right in practice, and the unique challenges faced by the Prosecution in drafting indictments with the required specificity in the context of a genocide.

Early Indictments

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² See, International Covenant on Civil and Political Rights (ICCPR), Article 14; African Charter on Human and Peoples Rights (ACHPR), Article 7; European Convention on Human Rights (ECHR), Article 6.

³ Article 20(2) states: "In the determination of charges against him or her, the accused shall be entitled to a fair and public hearing, subject to Article 21 of the Statute"; Article 20(4) states: "In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her; (b) To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing."

⁴ Article 17(4) provides: "Upon a determination that a *prima facie* case exists, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged under the Statute." Rule 47(C) provides: "The indictment shall set forth the name and particulars of the suspect, and a concise statement of the facts of the case and of the crime with which the suspect is charged."

2. A review of the jurisprudence shows the extent to which an accused's right to be informed of the nature and cause of the charges against him was upheld by the Tribunal. It is clear that over time, the judiciary significantly heightened the level of specificity required by the Prosecution in their indictments. In the early years, ICTR indictments were often less detailed than in later years, but does this mean that the trials were necessarily unfair? For example, in *Akayesu*, the Tribunal's first case, the Indictment charged the Accused with sexual violence over a time period of almost three months "[B]etween April 7 and the end of June, 1994" and did not identify any individual victims, or specific incidents:

12A. Between April 7 and the end of June, 1994, hundreds of civilians (hereinafter "displaced civilians") sought refuge at the bureau communal. The majority of these displaced civilians were Tutsi. While seeking refuge at the bureau communal, female displaced civilians were regularly taken by armed local militia and/or communal police and subjected to sexual violence, and/or beaten on or near the bureau communal premises. Displaced civilians were also murdered frequently on or near the bureau communal premises. Many women were forced to endure multiple acts of sexual violence, which were at times committed by more than one assailant. These acts of sexual violence were generally accompanied by explicit threats of death or bodily harm. The female displaced civilians lived in constant fear and their physical and psychological health deteriorated as a result of the sexual violence and beatings and killings.

12B. Jean Paul AKAYESU knew that the acts of sexual violence, beatings and murders were being committed and was at times present during their commission. Jean Paul AKAYESU facilitated the commission of the sexual violence, beatings and murders by allowing the sexual violence and beatings and murders to occur on or near the bureau communal premises. By virtue of his presence during the commission of the sexual violence, beatings and murders and by failing to prevent the sexual violence, beatings and murders, Jean Paul AKAYESU encouraged these activities.

3. In its judgement, the Trial Chamber did not appear to find this lack of detail in the Indictment problematic. The Chamber observed that further detail about the identity of the victims came out in the evidence as it transpired that they were the witnesses themselves and their family members. In addition, the Trial Chamber's summary of the evidence and factual findings, like the Indictment, lacked any real detail as to dates. The only indication as to the timing of the sexual violence was by reference to the weather, for example a rainy as opposed to a sunny day, or a period within a day, such as the morning or afternoon. Instead the Trial Chamber focused on the location, method and involvement of Akayesu in the sexual violence. This suggests that the Trial Chamber did not consider that the dates were material to the crimes or necessary for Akayesu to mount an effective defence. Similarly, the late notification of victims through the evidence was not considered

prejudicial to the Accused.⁵ At no stage did *Akayesu* raise any objection to the broad date range *per se* (see paragraph 17 below) or the lack of specificity regarding the identity of the victims in the Indictment, nor did he claim that he was prejudiced by this lack of detail. Indeed, the conduct of the Defence reflected a clear understanding of the case against him. Consequently, even if the Indictment could be considered defective, *Akayesu* never claimed, and thus cannot establish any prejudice to his ability to defend himself. Therefore the lack of specificity arguably did not render his trial unfair.

4. Similarly, in another early judgement, *Kayishema and Ruzindana*, rendered on 21 May 1999, the Trial Chamber, having *proprio moto* considered the specificity of the Indictment, found that charging the Accused with the commission of crimes in Bisesero, (which spanned two communes), between 9 April and 30 June 1994 was sufficiently certain to ensure the Accused a right to a fair trial. The Prosecution had alleged that this large area of Bisesero, was regularly attacked on almost a daily basis throughout this period:

The Massacres in the Area of Bisesero⁶

COUNTS 19-24

45. The area of Bisesero spans over two communes of the Kibuye Prefecture. From about 9 April 1994 through 30 June 1994, thousands of men, women and children sought refuge in the area of Bisesero. These men, women and children were predominantly Tutsis and were seeking refuge from attacks on Tutsis which had occurred throughout the Prefecture of Kibuye.

46. The area of Bisesero was regularly attacked, on almost a daily basis, throughout the period of about 9 April 1994 through about 30 June 1994. The attackers used guns, grenades, machetes, spears, pangas, cudgels and other weapons to kill the Tutsis in Bisesero. At various times the men, women and children seeking refuge in Bisesero attempted to defend themselves from these attacks with stones, sticks and other crude weapons.

47. At various locations and times throughout April, May and June 1994, and often in concert, Clement Kayishema and Obed Ruzindana brought to the area of Bisesero members of the Gendarmerie Nationale, communal police of Gishyita and Gisovu communes, Interahamwe and armed civilians, directed them to attack the people seeking refuge there. In addition, at various locations and times, and often in concert, Clement Kayishema and Obed Ruzindana personally attacked and killed persons seeking refuge in Bisesero.

48. The attacks described above resulted in thousands of deaths and numerous injuries to the men, women and children within the area of Bisesero (Attachment D contains a list

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⁵ *Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber, Judgement, 2 September 1998, paras. 416-461.

⁶ *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-T, Indictment, 11 April 1997, paras. 45-48.

of some of the individuals killed in the attacks).

5. In reaching its decision that the indictment was sufficiently detailed, the Trial Chamber professed to balance “the necessary practical considerations to enable the Prosecution to present its case, with the need to ensure sufficient specificity of location and matter of offence in order to allow a comprehensive defence to be raised.”⁷ Interestingly, the Trial Chamber expressly recognised the realities of the conflict holding that, “it is not always possible to be precise as to exact events; this is especially true in light of the events that occurred in Rwanda in 1994 and in light of the evidence we have heard from witnesses.” The Trial Chamber went on to hold that the lack of specificity did not prejudice the rights of the Accused to a fair trial.⁸

6. In terms of dates, the Trial Chamber held that the Prosecution must only allege and prove the exact date of an offence where it is a material element of the crime. Reaching this finding the Trial Chamber noted that the *ratione temporis* of the Tribunal extended from 1 January to 31 December 1994 and the indictment only referred to the events in Bisesero area between 9 April and 30 June 1994, implying, therefore, that this was specific enough. Moreover, during its case in chief, the Prosecution further pinpointed specific periods within which the alleged events occurred. In terms of location, the Trial Chamber commented that during its case in chief the Prosecution focused upon various sites throughout the Bisesero region, but “because of the wide-ranging nature of the attacks no further specificity was possible in the Indictment.”⁹

The Sheer Scale Exception to Specificity

7. It is clear from these judgements that in the early days of the ICTR, trial chambers were grappling with the tension at the heart of the issue, the degree of specificity that it is practicable for a prosecutor to provide in light of the scale and nature of international crimes that differentiates them from domestic crimes. Often in times of war, victims are repeatedly attacked making it extremely difficult for them to recall a specific date or time. Or perhaps they come from cultures where little importance is attached to dates and times which are marked, for example, by reference to seasons. In these circumstances how does a court

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⁷ *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-T, Trial Chamber, Judgement, 21 May 1999, para. 85.

⁸ *Kayishema and Ruzindana*, TC, Judgement, 21 May 1999, para. 86.

⁹ *Kayishema and Ruzindana* TC, Judgement 21 May 1999, para. 84.

balance an accused's fundamental right to be informed in detail of the case against him with the realities of conflict?

8. This question was tackled directly by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in October 2001 in *Kupreskić*, the leading case on notice. In that case, the Appeals Chamber, expressly, and for the first time, stated that the required level of specificity of an indictment must be interpreted with the rights of an accused to a fair trial under Articles 21(2) and (4) of the ICTY Statute. Thus “the question of whether an indictment is pleaded with sufficient particularity is dependent on whether it sets out the material facts of the Prosecution case with enough detail to inform a defendant clearly of the charges against him so that he may prepare his defence.”¹⁰ The Appeals Chamber held that this translated into an obligation on the part of the Prosecution to state “the material facts underpinning the charges, but not the evidence by which such material facts are to be proven.”¹¹ Whether a fact is material depends on the nature of the Prosecution case and the alleged criminal conduct of the accused. In a case where the Prosecution alleges that an accused personally committed the criminal acts, the identity of the victim, the time and place of the events and the means by which the acts were committed are material and have to be pleaded in detail.¹²

9. Critically, the Appeals Chamber held that there “may” be instances where the sheer scale of the crimes “makes it impracticable to require a high degree of specificity in such matters as the identity of the victims and the dates for the commission of the crimes.”¹³ This exception may apply, for example, where the Prosecution alleged that an accused participated in the killing of hundreds of men, or as a member of a military force in an extensive number of attacks on civilians that took place over a prolonged period of time and resulted in large numbers of killings. In those cases, the Prosecution need not specify every single victim that has been killed or expelled to meet its obligation of specifying the material facts of the case in the indictment. Notwithstanding, as the identity of the victim is valuable to the preparation of the Defence case, if the Prosecution is in a position to name the victims, it should do so.¹⁴

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¹⁰ *Prosecutor v. Kupreskić*, IT-95-16-A, Appeal Chamber, Judgement, 23 Oct. 2001, para. 88.

¹¹ *Kupreskić*, AC, Judgement, 23 Oct. 2001, para. 88.

¹² *Kupreskić* AC, Judgement, 23 Oct. 2001, para. 89.

¹³ *Kupreskić* AC, Judgement, 23 Oct. 2001, para. 89.

¹⁴ *Kupreskić*, AC, Judgement, 23 Oct. 2001, para. 90.

10. *Kupreskić* was followed by ICTR Trial and Appeals Chambers thereby becoming part of its legacy. For example, in *Rukundo*, the Appeals Chamber stressed that a broad date range did not, in and of itself, invalidate a paragraph of an indictment. In that case, the Appeals Chamber held that the allegation that the accused participated in the abductions and killings of refugees from the Saint Leon Minor Seminary “in April and May 1994” was sufficiently precise in light of the Trial Chamber’s findings that abductions were recurring and that *Rukundo* was involved on “at least four occasions”.¹⁵

11. However, *Kupreskić* did unfortunately lead to some jurisprudence that contradicted the pre-*Kupreskić* cases. In *Ntakuritimana*, the Appeals Chamber held that the allegation that the Accused participated in attacks in “the area of Bisesero which continued almost on a daily basis for several months” did not adequately inform the accused that they were charged for participation in specific attacks at Murambu or at Gitwe, locations in Bisesero. The Appeals Chamber held that the *Kupreskić* sheer scale exception did not permit the Prosecution to limit its allegations to an area as vast as Bisesero, which spanned two communes without further detail.¹⁶ This put it in direct contradiction with the Trial Chamber in *Kayishema and Ruzindana* where it had been held that in the context of a genocide and the nature of the attacks, a similar level of detail regarding location (the area of Bisesero without further definition) had been sufficient. *Ruzindana* raised the issue of specificity on appeal but the Appeals Chamber dismissed his appeal on the basis that he had waived his right to raise this matter as he had not done so at trial and had failed to explain the reason why.¹⁷ This implies that the Appeals Chamber did not consider that *Ruzindana* had been prejudiced from any lack of specificity of the indictment.

12. In other cases the ICTR followed *Kupreskić* and balanced the rights of the accused with the realities of prosecuting crimes committed in a genocide. For example in *Nahimana*, the Appeals Chamber dismissed *Barayagwiza’s* appeal that the allegation that “[A]fter 6 April 1994” he supervised roadblocks in Kigali where he instructed CDR militiamen to eliminate all Tutsi and Hutu opponents relating to the supervision of roadblocks in Kigali was too vague. The Appeals Chamber held that

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¹⁵ *Prosecutor v. Rukundo*, ICTR-2001-70-A, Appeal Chamber, Judgement, 20 Oct. 2010, para. 163.

¹⁶ *Prosecutor v. Elizaphan and Gerard Ntakuritimana*, ICTR-96-10-A & ICTR-96-17-A, Appeal Chamber, Judgement, 13 Dec. 2004, para. 66.

¹⁷ *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-A, Appeal Chamber, Judgement, 1 June 2001, paras. 92-96.

[A]lthough that period of time was approximate and relatively long, it was not too imprecise in the Appeals Chamber's view considering the nature of the charge: it was not a question of one or two isolated incidents but repeated acts over a period of time. A review of the Indictment shows that Appellant *Barayagwiza* knew that he was accused of having supervised the "roadblocks located between Kiyovu hotel and the *Cercle Sportif de Kigali*" during that period. The summaries of the anticipated testimonies of the two witnesses disclosed by the Prosecutor in support of the allegation also made mention of several incidents.¹⁸

Rule 50 Amendments in the Interests of Justice?

13. The ICTY Appeals Chamber in *Kupreskić* emphasised that while the Prosecution is expected to know its case before it goes to trial there are situations where the evidence turns out differently than expected, and in those circumstances an indictment may be amended, an adjournment granted, or certain evidence excluded as not being within the scope of the indictment.¹⁹ This was the case in *Akayesu*.

14. Following the evidence of two witnesses about sexual violence, one of whom testified to being raped in Akayesu's presence, the Chamber granted the Prosecution's Rule 50 application to amend the Indictment a month after the close of the Prosecution case to include charges of sexual violence.²⁰ In its Judgement, the Trial Chamber opined that it had permitted the amendment at such a late stage as "the investigation and presentation of evidence related to sexual violence is in the interests of justice"²¹

15. Was this consistent with Akayesu's right to a fair trial? Arguably due in part due to the nature of this evidence, and specifically the well-documented difficulties faced by the Prosecution in investigating these kinds of crimes, particularly at the beginning of the Tribunal, this was the right decision by the Trial Chamber. In a conflict where rape was as prevalent as the machete as a means of terrorising the civilian population and in itself constituted genocide, but yet occurred in a society and culture where the victims were incredibly reluctant to testify due to shame and fear of rejection by their families, it was in the interests of justice that as soon as this evidence came to light, these amendments were allowed. Moreover, Akayesu's right to a fair trial was arguably protected as he was granted

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¹⁸ *Prosecutor v. Nahimana et al.*, ICTR-99-52-A, Appeal Chamber, Judgement, 28 Nov. 2007, para. 387.

¹⁹ *Kupreskić*, AC, Judgement, 23 Oct. 2001, para. 92.

²⁰ *Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber, Trial Transcript, 17 June 1997. See also, *Akayesu*, TC, Judgement, 2 Sept. 1998, paras. 416-417.

²¹ *Akayesu*, TC Judgement, 2 Sept. 1998, para. 417.

a four month adjournment to investigate the new charges and had the option to recall the relevant witnesses for cross-examination.²²

16. On another view, to amend the Indictment at the close of the Prosecution case was unduly prejudicial and should not have been permitted, particularly as the reason why the Prosecution did not have the relevant evidence was largely due to failings in their own investigations unit. By their own admission, the Prosecution had been insensitive in their investigations as they had failed to appreciate the “shame” that raped women felt. This meant that these women did not tell the investigators about their experiences with the result that the evidence initially available to the Prosecution was insufficient to link Akayesu to acts of sexual violence.²³

17. *Akayesu* was convicted of sexual violence as the crime against humanity of rape and other inhumane acts and rape as genocide. On appeal, *Akayesu* argued that he had been prejudiced by the late amendment of the Indictment. The Appeals Chamber rejected his appeal, reasoning that the three new counts related to sites (*Taba Commune* and *Bureau communal*) and a material time (April to end of June 1994) were referred to in the initial Indictment and therefore was not a completely new Indictment but rather more accurately reflected *Akayesu's* criminal responsibility. Moreover, *Akayesu* had been entitled, but did not request the Trial Chamber to recall the witnesses for cross-examination following the amendment. Additionally, the Defence was granted a four month adjournment following the amendment to defend against the new charges and did not object to their inclusion when being re arraigned on the new counts. In these circumstances the Appeals Chamber held, arguably correctly, that he could not demonstrate any prejudice.²⁴

18. Whatever one's view of amendment of the Indictment in *Akayesu*, over the life of the Tribunal, Trial Chambers became increasingly reluctant to allow the Prosecution to amend its indictments pursuant to Rule 50 a few months before trial. Was this in the interests of justice?

19. There are multiple factors that a Trial Chamber must take into account in deciding whether to allow an indictment to be amended after confirmation, including the scope of the

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²² *Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber, Trial Transcript, 17 June 1997.

²³ See *Akayesu*, TC Judgement, 2 Sept. 1998, para. 417. In addition, comments to this were made by members of the Prosecution at the ICTR Legacy conference, Arusha, Tanzania, 6-8 November 2014.

²⁴ *Prosecutor v. Akayesu*, AC, Judgement, 1 June 2001 paras. 119-123.

proposed amendment, the Prosecution's diligence in bringing the motion, any violation of the accused's right to a trial without undue delay and the prolonging of his pre-trial detention. While a Trial Chamber must consider the risk of prejudice to an accused, it must also consider the extent to which such prejudice may be mitigated by methods other than denying the amendment, such as granting adjournments or permitting the accused to recall witnesses for cross-examination. However, a review of the case law shows that the primary concern of trial chambers often seems to have been delaying the start of the trial without consideration of how any prejudice could be mitigated. It is unclear why this is, but the pressures of the Completion Strategy are likely to have played a role.

20. For example, in the case of *Bizimungu et al.*, the Prosecution made an application to amend the Indictment two months before the start of the trial.²⁵ Six weeks later, the Trial Chamber denied the Prosecution leave to file the proposed amended Indictment after expressing its opinion that “the expansions, clarifications and specificity ... amount to substantial changes which would cause prejudice to the Accused”. The Chamber considered that the proposal to provide further details concerning the “names, places, dates and times” of the Accused's alleged involvement would necessitate giving additional time to the Defence. The Chamber also noted the impending trial date, and opined that allowing the proposed amended Indictment “will not only cause prejudice to the Accused but would also result in a delay for the commencement of the trial”.²⁶

21. On 12 February 2004, the Appeals Chamber dismissed the Prosecution appeal against the Trial Chamber Decision. In doing so, however, the Appeals Chamber noted that the proposed amendments consisted of both expansions and clarifications of the charges against the accused. Because such clarifications “can actually enhance overall fairness”, the Appeals Chamber concluded that “[h]ad the Prosecution solely attempted to add particulars to its general allegations, [this] might well have been allowable because of their positive impact on the fairness of the trial”. The Appeals Chamber also observed that while it was

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²⁵ *Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, Prosecutor's Request for Leave to File an Amended Indictment, 26 August 2003. The original indictment had been confirmed on 12 May 1999. The Prosecution application to amend the indictment was opposed by 3 of the 4 accused (exception was Mugenzi) who argued that the amendment would delay the start of the trial and that the alleged new facts that could not be investigated in time: *Réponse de la Défense de Casimir Bizimungu au « Prosecutor's Request for Leave to File an Amended Indictment »*, 24 September 2003, paras. 24-47, 100-104; Prosper Mugiraneza's and Jerome Bicamupaka's Brief in Opposition to the Prosecutor Request for Leave to File an Amended Indictment, filed 3 September 2003, paras. 2-4.

²⁶ *Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, Decision on the Prosecutor's Request for Leave to File an Amended Indictment (TC), 6 October 2003, paras. 34-35.

affirming the Trial Chamber's decision, the Prosecution was not precluded from submitting another proposed indictment "that would provide greater notice of the particulars of the Prosecution's case without causing prejudice in the conduct of trial".²⁷ The Prosecution, in the midst of presenting its case, did not seek leave to file a new amended indictment.

22. Arguably as the new Indictment consisted of both expansions and clarifications, the Prosecutor should have been permitted to amend the Indictment before the commencement of the trial not least to provide more specificity to the accused. Indeed, although the Trial Chamber's primary concern appears to have been delay, it took six weeks itself to render a decision on the Indictment and the Appeals Chamber took three months to render its decision on the appeal and did so mid way through the Prosecution case.²⁸ It would have been much more sensible, and indeed in the interests of justice, to allow the Prosecution to properly describe the Accused's criminal conduct in the Indictment before the start of the trial, rather than go to trial on a vague Indictment when the information was in the possession of the Prosecution.

23. While it is the Prosecution's duty to know the case against the accused and be diligent in ensuring that their indictments are accurate, it is questionable whether it was in the interests of justice for a trial chamber to deny applications by the Prosecution to amend their indictments a few months prior to trial primarily on the basis of delay and prejudice to the accused. This is because it is questionable whether an accused would actually have been prejudiced by any adjournment of a few months in cases before the ICTR given that these trials usually lasted several years. A delay of this time will not *per se* result in the breach of an accused's right to a fair trial. Notwithstanding, can an accused's fair trial rights always be guaranteed by granting the Defence more time to investigate any extra charges? Or, is there a tactical aspect of the right to a fair trial that the Defence can strategize their defence on the understanding that when they commence investigations, it is likely that no additional charges will be brought?

24. Balanced against this are public interest considerations that an accused should be prosecuted for all their alleged criminality. Notwithstanding, Rule 50 should not be used a

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²⁷ *Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, Decision on Prosecutor's Interlocutory Appeal Against Trial Chamber II Decision of 6 October 2003 Denying Leave to File Amended Indictment (AC), 12 February 2004, paras. 19-20, 25.

²⁸ The Trial Chamber certified its decision for appeal on 29 October 2003, the Prosecution filed its appeal on 3 November 2003. The Appeals Chamber rendered its decision on 12 February 2004.

tool to allow the Prosecution to compensate for their failures to properly investigate the case against an accused or make any applications to amend the indictments in a timely manner. The question for international tribunals is where the balance should lie?

Conclusion

25. It is clear that the degree of specificity required in an indictment became more stringent during the lifetime of the ICTR. However, a review of earlier cases has illustrated that the lack of specificity in the early years did not, in and of itself, result in the trial of those accused being necessarily unfair. The primary challenge facing the ICTR and other international criminal tribunals is how to balance the fundamental right of any accused to be informed of the nature and charges against him in detail and in a timely manner with the realities of prosecuting mass crimes committed during war. To a large extent, the ICTR can be viewed as a success in this regard. However, with hindsight, the unrealistic estimates by trial chambers about the expected length of trials denied the Prosecutor an opportunity to amend the indictments in advance of trial when new information came into their possession. In some circumstances this resulted in the accused not being charged with the full extent of their alleged criminality, which was not in the interests of justice. In its lifetime, the ICTR developed a large body of case law which it is hoped will guide the ICC and any future *ad hoc* tribunals to ensure that the fundamental right of all accused to be informed in detail, and in a timely manner, of the nature and cause of the charges against him is guaranteed while ensuring that the defendants are prosecuted for the full extent of their alleged criminality.