

Judge Fergal Gaynor (Associate)



Call: 2008 (1999 - Solicitor, England and Wales)

Email: f.gaynor@doughtystreet.co.uk

Profile

Fergal is a full-time international judge at the Kosovo Specialist Chambers in The Hague, where he is a member of the Trial Panel in the **Gucati & Haradinaj** and **Thaçi et al.** cases.

Background

Fergal qualified as a corporate lawyer in 1999 at Freshfields, specialising in commercial litigation and then served for over 20 years at four international courts. He has been counsel in some of the most complex trials ever held concerning mass human rights violations. These include acting for the prosecution in the trials of former Bosnian Serb leader **Radovan Karadzic** at the International Criminal Tribunal for the former Yugoslavia; of government minister **Pauline Nyiramasuhuko and five others** at the International Criminal Tribunal for Rwanda; and of Khmer Rouge leaders **Nuon Chea and Khieu Samphan** at the Extraordinary Chambers of the Courts of Cambodia, where he holds the position of **Reserve International Co-Prosecutor**.

Fergal was lead counsel for victims in proceedings the International Criminal Court on a range of novel issues, such as judicial **review of prosecutorial discretion** following withdrawal of charges against president **Kenyatta** of Kenya, and the **referral of Kenya for non-cooperation**

to the Assembly of States Parties. He acted pro bono for groups of victims who successfully sought authorisation of investigations in **Afghanistan** and **Palestine**.

47 States Parties voted for Fergal in the 2021 election of the ICC Prosecutor.

Education

University of Cambridge Master of Philosophy in International Relations (1995-1996)

Trinity College, Dublin Bachelor of Laws (1990-1994)

Languages

Spanish

French

Related practice areas

Criminal Law

International Criminal Law

International Law

Publications

Fergal has published on a range of issues relating to accountability for major human rights violations, due process, and improving the efficiency of judicial proceedings before international courts. These include:

- **General Assembly Referral to the International Criminal Court**, in *The Past, Present and Future of the International Criminal Court*, Torkel Opsahl, Brussels, 2021
- **Rome Statute at 20: Suggestions to States to Strengthen the ICC**, EJIL Talk! · August 2018 (co-author)
- **Current Developments at the International Criminal Court**, *Journal of International Criminal Justice*, Oxford University Press, July 2016
- **Obstruction of Justice by Silencing Witnesses: Possible Remedies**, ABA, *International Criminal Justice Today* · April 2014
- Evidence, a chapter in **International Criminal Procedure - Principles and Rules**, Oxford University Press · May 2013 (co-author)

- **Uneasy partners: Evidence, Truth and History in International Trials**, Journal of International Criminal Justice, Oxford University Press · October 2012
- **International Tribunals and the Right to a Speedy Trial: Problems and Possible Remedies**, Law in Context · 2009 (co-author)
- Provisional Release in the Law of the International Criminal Tribunal for the former Yugoslavia, an article in **The Legal Regime of the International Criminal Court**, Brill · Jun 1, 2009
- **Ordinary Sentences for Extraordinary Crimes**, Journal of International Criminal Justice, Oxford University Press · July 2007 (co-author).
- **Prosecuting Massive Crimes with Primitive Tools: Three Difficulties Encountered by Prosecutors in International Criminal Proceedings**, Journal of International Criminal Justice, Oxford University Press · June 2004

Lecturing and training

- Addressed numerous panels at side events at the annual meetings of the Assembly of States Parties of the International Criminal Court in 2013-2016.
- Participated in meetings in The Hague, Nairobi and online at the invitation of the ICC Registrar, the ICC Group of Experts and civil society as part of ongoing efforts to reform internal processes at the International Criminal Court, to make the court more efficient and effective.
- Delivered guest lectures on aspects of human rights protection at the Irish Centre for Human Rights, the New England Law School, the Transitional Justice Institute at Ulster University, the University of Denver, University of Miami School of Law, Florida State University, the Royal University of Law and Economics in Phnom Penh.
- Guest speaker, Doughty Street International Justice Day 2021, on strengthening the rule of law in international criminal justice as a means of reinforcing national, regional and international security.
- Delivered the annual Owen M. Kupferschmid Memorial Lecture in 2021, Boston College, on evidence and atrocity trials.

- Invited speaker at the annual Harvard Human Rights Symposium, Harvard Law School, 2015.
- Invited speaker at panel on ethics in international courts at the annual meeting of the American Society of International Law, 2015.
- Trained lawyers and human rights defenders from Syria, Myanmar and Burundi.

Other positions

- Member of the Editorial Board, Journal of International Criminal Justice, Oxford University Press (JICJ), 2005-present
- Visiting Fellow, Harvard Law School Human Rights Program, 2015
- Adjunct lecturer in international criminal procedure, Irish Centre for Human Rights, University of Galway, 2009
- Recipient of the Praeses Elit award, Law Society of Trinity College Dublin, 2023.