

## **SILVIA ALEJANDRA FERNANDEZ DE GURMENDI (ARGENTINA)**

Dr. Silvia Fernández de Gurmendi is a career diplomat and former International Criminal Court judge and president with over thirty-year experience in international criminal law, humanitarian and human rights law.

She was involved in the creation, set up and functioning of the ICC in various capacities for most of her career.

She is currently Special Representative of Argentina to the International Holocaust Remembrance Alliance (IHRA), Chair of the Global Action Against Mass Atrocities Crimes (GAAMAC) and President of the Latin American Society of International Law (LASIL-SLADI).

She was born in Córdoba, Argentina on 24 October 1954.

### **PROFESSIONAL EXPERIENCE**

#### **I. ICC MATTERS**

##### **A. Judge and President of the International Criminal Court (2010-2018)**

From 2010 to March 2018, Judge at the International Criminal Court. She became its President in 2015.

As **Judge** of the Court, she was assigned to the Pre-Trial Division and later to the Appeals Division.

In her capacity of **President**, she focused in promoting reforms to improve the efficiency and effectiveness of the institution, stressing the need to enhance the quality and accelerate criminal proceedings. She encouraged judicial cohesion and led the collective revision of the legal procedural framework by the judges. She also implemented measures to improve methods of work, identify best practices and harmonize procedural responses by chambers.

In accordance with the “One Court Principle”, she took measures to improve interaction between the different organs of the Court, avoid duplications and promote alignment of vision and objectives.

With a view to facilitating the evaluation of the activities of the Court and increase efficiency, she developed quantitative and qualitative indicators to measure activities in key sectors (judicial proceedings, administration, security and access of victims to justice).

Central to the judicial reforms, were initiatives to facilitate the access of victims to justice and their participation in the proceedings as well as to promote appropriate reparations. In light of the key role of the Trust Fund for Victims in this regard, she took initiatives to increase international awareness, understanding and support for the Fund.

A description of her main reforms and initiatives as well as some short term recommendations are contained in her “End of Mandate Report” of 9 March 2018 ( <https://www.icc-cpi.int/Pages/item.aspx?name=180309-pres-report>)

## **B. Office of the Prosecutor of the International Criminal Court (2003-2006)**

Before becoming a judge at the Court, she had previously served at Office of the Prosecutor as Chef de Cabinet and later as the first Director of the Jurisdiction, Complementarity and Cooperation Division (2003-2006).

## **C. The creation and set up of the Court (1995-2002)**

She entered the diplomatic career in 1989 and, from the outset, dealt with legal matters in various positions in the Legal Department of the Ministry of Foreign Affairs and the position of legal adviser at the Permanent Mission of Argentina to the United Nations in New York (1994-2000). She played a leading role in multilateral efforts to create the International Criminal Court (ICC), as follows:

**1995-2000.** She presided over the entire negotiating process of the ICC criminal procedure provisions in the Rome Statute and the Rules of Procedure and Evidence.

**1995 to 1998.** Vice President of the *Ad Hoc Committee and the Preparatory Committee on the Establishment of the ICC*, which led to the Rome Conference.

**1998. Rome Conference.** Vice President of the Committee of the Whole (the negotiating forum) and President of the Working Group on criminal procedures.

### **2001-2002. Preparatory Commission of the International Criminal Court**

- President of the working group on the crime of Aggression.
- President of the “*interlocutor mechanism*”, a group of experts established to prepare the practical set up of the Court in coordination with the Netherlands, the host country. The group *inter alia* identified basic systems for the functioning of the Court and drew action plans in the areas of human resources, finances, information technology, security, building management, public information and legal questions. It also recruited and advance team of staff to deal with the initial management of the Court.

## **II. STRENGTHENING OF THE RULE OF LAW**

In addition to ICC matters, she led efforts to strengthen the rule of law through the adoption of additional norms and increased cooperation in the field of international humanitarian law, international criminal law and transitional justice, as follows:

- Vice President and coordinator of negotiations of the Special Committee for the 1994 Convention for the safety and security of UN and associated personnel, which defined as a war crime the attacks against UN peace keeping missions and other operations. This definition was later incorporated as a war crime within the jurisdiction of the International Criminal Court pursuant to the Rome Statute.
- Chair of the international drafting process of the 1994 Declaration on Measures to Eliminate International Terrorism and the 1996 Supplementary Declaration thereto. She also led aspects of the negotiations of the 1997 International Convention for the Suppression of Terrorist Bombings and the 1999 International Convention for the Suppression of the Financing of Terrorism.
- Rapporteur of UNGA Sixth Committee (1994)

- Member of the National Commission of International Humanitarian Law and a member of the Argentine Inter-ministerial Commission created to draft the national implementing law of the Rome Statute of the International Criminal Court

### **III. HUMAN RIGHTS**

She was director general for Human Rights (2008-2009) and deputy director general (2002-2003) of the Ministry of Foreign Affairs of Argentina. Among her duties and responsibilities, she exercised the following:

- Represented Argentina before universal and regional human rights bodies;
- Represented Argentina in cases before the Inter American Commission of Human Rights and Inter American Court of Justice;
- Launched initiatives and provided advise, *inter alia*, on transitional justice, prevention of genocide and the right to the truth, which was ultimately recognized as an autonomous right by the UN General Assembly in 2013;
- Promoted initiatives and represented Argentina before the International Alliance for the Remembrance of the Holocaust (IRHA).
- President of the International Group of Experts on Mercenaries convened by the Office of the High Commissioner for Human Rights in accordance with General Assembly resolution 56/232 to recommend measures to combat the recruitment of mercenaries and increase accountability of private security companies.
- Co-author of the Nuremberg Declaration on Peace and Justice which was presented to the United Nations General Assembly and the Review Conference of the Rome Statute in Kampala, Uganda, in 2010.

### **IV. ACADEMIC ACTIVITIES**

She has lectured around the world and taught international law and international criminal law in various universities of Argentina, including in particular, International Law at the University of Buenos Aires and International Criminal Law at the University of Buenos Aires and Palermo University.

### **V. STUDIES**

Law degree, Faculty of Law and Social Sciences, University of Cordoba, Argentina.

Diploma of Specialized Studies in Public Law, Faculty of Law and Economic Sciences, University of Limoges, France.

Doctor in Law (PhD), University of Buenos Aires, Argentina.

Doctor *honoris causa* of University of Cordoba, Argentina

Graduate of the Diplomatic Academy of Argentina (1987-1988).

## VI. LANGUAGES

Excellent knowledge of and fluent in Spanish (mother tongue), English and French

## VII. SELECTED PUBLICATIONS

The Legal Status of UN Peacekeepers in the Field: Security and Safety/Criminal and Disciplinary Law" *Contemporary International Law Issues: Conflicts and Convergence*, American Society of International Law/Nederlandse Vereniging voor International Recht, TMC Asser Instituut, La Haya, Países Bajos, 1995.

"Elementos para el establecimiento de una corte penal internacional eficaz e independiente", *Revista del Instituto Interamericano de Derechos Humanos*, Costa Rica, Nr. 23, January-June 1996.

"The Role of the Prosecutor", Roy S. Lee (ed.), *The International Criminal Court, The Making of the Rome Statute, Issues, Negotiations, Results*, Kluwer Law International, The Hague/London/Boston, 1999.

"The Criminal Procedures - The Negotiating Process", Roy S. Lee (ed) *The International Criminal Court, The Making of the Rome Statute, Issues, Negotiations, Results*, Kluwer Law International, The Hague/London/Boston, 1999.

"Iniciativas de las Naciones Unidas para combatir el terrorismo internacional", *Revista del Instituto de Relaciones Internacionales*, Universidad de la Plata, Nr. 17, June-November 1999.

"La creación de la Corte Penal Internacional", *Revista del Instituto de Relaciones Internacionales*, La Plata, Nr 19, June-November 2000.

"La Corte Penal Internacional", ICRC, *Adaptación de la Legislación Interna para la sanción de las infracciones contra el derecho internacional humanitario*, Informe de la Reunión de Expertos de Países Iberoamericanos, Madrid, 10 to 12 March 1999, Madrid/Bogotá 2000.

*The Elements of Crimes and the Rules of Procedure and Evidence of the International Criminal Court*, R.Lee (ed.), associated ed. with H. Friman, H. von Hebbel, D. Robinson, Transnational Publishers Inc., N.York, 2001.

"The Elaboration of the Rules of Procedure and Evidence", *The Elements of Crimes and the Rules of Procedure and Evidence of the International Criminal Court*, Transnational Publishers Inc., N.York, 2001.

"Definition of Victims and General Principle", *The Elements of Crimes and the Rules of Procedure and Evidence of the International Criminal Court*, Transnational Publishers Inc., N. York, 2001.

"The Rules of Procedure and Evidence", *European Conference on the Rome Statute of the International Criminal Court, NPWJ*, Rome, 2001.

"The Role of the Prosecutor", en M. Politi y G. Nessi (eds.), *The Rome Statute of the International Criminal Court, a Challenge to impunity*, Ashgate-Dartmouth, Alderhshot/Burlington, USA/Singapur/Sidney, 2001.

"The Rules of Procedure and Evidence of the International Criminal Court" (with H. Friman), en *Yearbook of International Humanitarian Law*, Instituut Asser, The Hague, 2001.

“El acceso de las víctimas a la Corte Penal Internacional”, *La Corte Penal Internacional*, La Casa de las Américas, Madrid, 2002.

"The Working Group on Aggression of the Preparatory Commission for the International Criminal Court" in *Fordham International Law Journal*, (Twenty-Fifth Memorial Issue. The Eve of the International Criminal Court: Preparations and Commentary), March 2002.

“El Estatuto de Roma de la Corte Penal Internacional: Extensión de los crímenes de guerra a los conflictos armados de carácter o internacional y otros desarrollos relativos al derecho internacional humanitario”, *Revista Lecciones y Ensayos*, Argentina, 2004.

“The International Criminal Court and the Crime of Aggression: From the Preparatory Commission to the Assembly of States Parties and Beyond: An insider’s view”, en M. Politi y G. Nessi (eds), *The International Criminal Court and the Crime of Aggression*, Ashgate, 2004.

“National Report (Argentina), The Rome Statute and Domestic Legal Orders”, en Claus Kress, Bruce Broomhall, Flavia Lattanzi, Valeria Santori (eds). *Constitutional Issues, Cooperation and Enforcement*, Volumen II, Nomos Verlagsgesellschaft, Baden- Baden, 2004.

“Rules of Procedure and Evidence and Regulations of the International Criminal Court” (con Hakan Friman) en José Doria, Hans-Peter Gasser, Cherif Bassiouni (eds), *The Legal Regime of the International Criminal Court, Essays in Honour of Professor Igor Blischchenko*, Martinus Nijhoff Publishers, 2009.

“O Princípio da Complementariedade”, *O Tribunal Penal Internacional, Comentários ao Estatuto de Roma*, Sylvia Steiner y Leonardo Nemer Caldeira Brant (ed), Del Rey, Belo Horizonte, 2016.

“Non-State Actors in the Law and Practice of the International Criminal Court”, *Israel Yearbook on Human Rights*, Volumen 47 (2017).

“Enhancing the Court’s Efficiency. From the Drafting of the Procedural Provisions by States to their Revision by Judges”, *Journal of International Criminal Justice*, Volume 16, Issue 2, May 2018.

“Judges: Selection, Competence, Collegiality”, in *Rome Statute at Twenty*, AJIL Unbound, Volume 112, Published online by Cambridge University Press, 30 July 2018.