The Role of Counsel before the International Court of Justice: Representation, Advocacy and the Development of International Law

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1 Abstract:

This article examines the role of counsel before the International Court of Justice (ICJ), analysing how the normative framework governing representation and advocacy defines their functions across contentious and advisory proceedings. It argues that counsel before the Court are not merely courtroom speakers or technical assistants. Rather, they serve as institutional actors who safeguard state interests, facilitate the administration of international justice, and drive the development of international law by framing claims, constructing jurisdictional arguments, curating evidentiary records, and outlining legal consequences. Grounded in the inherently state-centric architecture of the Court's contentious jurisdiction, this study simultaneously accounts for the more expansive, participatory dynamics that characterize advisory proceedings. By interrogating the ICJ Statute, the Rules of Court, Practice Directions, the United Nations Charter alongside seminal jurisprudence—including Corfu Channel, Nicaragua v United States, the Wall, Kosovo and Chagos advisory opinions, The Gambia v Myanmar and Ukraine v Russia —this analysis demonstrates that procedural rules transcend mere regulation; they delineate the practical parameters within which counsel shapes international adjudication. Ultimately, this article posits that the function of counsel before the ICJ is simultaneously representative and systemic. While counsel fundamentally safeguard the interests of a specific state or participant, they concurrently clarify legal ambiguities, streamline judicial reasoning, and systematically influence the Court's broader contribution to the international legal order.

Keywords: *International Court of Justice; counsel; advocate; advocacy; representation; advisory opinions; contentious cases; procedural rules; international litigation; international law.*

2 Introduction

The International Court of Justice occupies a distinctive position in the international legal order. Designated by the United Nations Charter as the organisation's principal judicial organ, the Court operates under a Statute that forms an integral part of the Charter itself.[1] This structural positioning endows the ICJ with a public function that extends well beyond the bilateral resolution of discrete disputes. While fundamentally a court of law, it simultaneously functions as a core component of the Charter system dedicated to peaceful settlement, the maintenance of international peace and security, and the progressive clarification of international legal obligations.[2]

However, the Court's jurisprudence does not develop in a vacuum of abstract legal texts. Its judicial output depends fundamentally upon the submissions of agents, counsel, and advocates, who translate geopolitical friction, historical facts, treaty provisions, customary norms, and institutional interests into justiciable legal arguments. Consequently, counsel before the ICJ transcend the role of mere oral advocates; they actively participate in the conceptual construction of the dispute itself. They identify jurisdictional bases, delineate the subject matter of the claim, formulate formal submissions, curate documentary evidence, address judicial inquiries, and articulate the specific legal consequences the Court is invited to declare.

This function assumes heightened significance given that the Court's docket frequently features disputes of acute geopolitical sensitivity—ranging from armed conflict, occupation, and allegations of genocide to territorial sovereignty, decolonization, the use of force, and the interpretation of major multilateral treaties. The advocate's task is not to artificially expunge politics from the dispute, but rather to translate its political dimensions into a framework compatible with the Court's judicial function. In this sense, ICJ advocacy represents a disciplined translation of geopolitical controversy into justiciable legal argument.

Accordingly, this article addresses a central question: **How do the normative and procedural rules governing representation and advocacy before the ICJ shape the counsel's tripartite role in safeguarding state interests, facilitating the administration of justice, and driving the development of international law?**

This study posits that counsel before the ICJ fulfil three intrinsically interconnected functions. First, they protect the interests of the represented

[1] United Nations Charter art 92; Statute of the International Court of Justice art 1.

[2] United Nations Charter arts 1(1), 2(3), 33 and 36(3).

state or participant by strategically framing questions of jurisdiction, admissibility, fact, evidence, and remedies. Secondly, they assist the Court by presenting international law and complex facts with the clarity, discipline, and procedural rigor necessary to facilitate effective adjudication. Thirdly, counsel contribute to the systemic evolution of international law, as their arguments frequently shape the Court's underlying reasoning even when their client's claims do not ultimately prevail. Although the Court's judgments are formally bound by the principle of relativity under Article 59 of the Statute,[3] the judicial reasoning embedded in those decisions and advisory opinions is routinely invoked as highly persuasive authority in subsequent litigation and academic discourse.

To develop this argument, the analysis proceeds in seven parts. Section I evaluates the formal legal status of counsel before the ICJ, while Section II interrogates the procedural framework governing international advocacy. Sections III and IV examine counsel in their respective capacities as protectors of state interests and as officers assisting the Court. Section V extends this inquiry to the unique dynamics of advisory proceedings, followed by Section VI's assessment of counsel's contribution to the development of international law. Finally, Section VII addresses the systemic limitations and ethical challenges inherent to advocacy before the Court.

3 I. The Legal Position of Counsel before the ICJ

3.1 1. The state-centred nature of contentious proceedings

Any inquiry into representation before the ICJ must necessarily begin with Article 34(1) of the Statute, which restricts standing in contentious cases exclusively to states.[4] This foundational rule dictates the unique structural architecture of the Court's contentious proceedings. Rather than advocating for private individuals, corporate entities, victims, or non-governmental organisations, counsel operate strictly through the procedural personality and sovereign rubric of the state. Consequently, their legal mandate is entirely derivative, flowing from the sovereign decision to litigate, defend, intervene, or otherwise participate in judicial proceedings.

This state-centric paradigm conditions the role of counsel in three fundamental respects. First, counsel must articulate claims through the prism of public international legal personality rather than the commercial or private interests of domestic litigants. Secondly, legal arguments must be fastidiously calibrated to

[3] ICJ Statute art 59.
[4] ICJ Statute art 34(1).

reflect the state's sovereign rights, treaty obligations, and specific manifestations of jurisdictional consent. Thirdly, counsel frequently operate at the precarious intersection of international law and high diplomacy, given that the underlying subject matter may simultaneously occupy parallel tracks of bilateral negotiation or Security Council scrutiny.

As Hugh Thirlway observes, the broader institutional background of the Court complicates this dynamic. While the ICJ functions as a permanent, standing tribunal, its contentious jurisdiction remains strictly contingent upon state consent—whether granted ad hoc for a specific dispute or established a priori through compulsory jurisdiction clauses.[5] This consensual foundation dictates that counsel must rigorously litigate jurisdictional thresholds before the merits can even be reached; jurisdiction is thus never a mere preliminary hurdle, but the definitive gatekeeper of the entire dispute.

The composition of legal delegations appearing before the Court visibly mirrors this public, sovereign character. In *Nicaragua v United States*, for instance, Nicaragua's delegation was led by a diplomatic ambassador serving as Agent and Counsel, flanked by prominent international jurists—including Ian Brownlie, Abram Chayes, Alain Pellet, and Paul Reichler—as counsel and advocates. Conversely, the United States was represented by the Legal Adviser of the Department of State as Agent and Counsel, supported by a phalanx of government lawyers and academic experts—a configuration demonstrating that ICJ advocacy inherently fuses formal diplomacy, state legal service, and specialized academic expertise.

This collaborative, hybrid structure remains equally pronounced in contemporary litigation. In *The Gambia v Myanmar*, , the applicant state appeared through its Attorney General acting as Agent, supported by state officials and a team of international counsel including Paul Reichler and Philippe Sands.[6] Similarly, in *Ukraine v. Russian Federation*, both litigants deployed extensive delegations of diplomats, academics, barristers, and legal advisers, alongside an unprecedented intervention by thirty-two third states, each represented by their respective agents and counsel.[7] Consequently, ICJ litigation

[5] Hugh Thirlway, 'The International Court of Justice' in Malcolm D Evans (ed), *International Law* (Oxford University Press 2006) 559-560.

[6] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar) (Preliminary Objections)* [2022] ICJ Rep 477, appearances.

[7] *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v Russian Federation: 32 States intervening) (Preliminary Objections)*, Judgment of 2 February 2024, appearances.

is overwhelmingly a collective endeavour; the term "counsel" before the Court denotes a highly integrated legal team rather than an isolated advocate..

3.2 2. Agents, counsel and advocates

Article 42 of the Statute mandates that state parties be represented by agents, who may be supported by the assistance of counsel or advocates, while concurrently ensuring that these representatives enjoy the privileges and immunities indispensable to the independent exercise of their functions.[8] This dual structure is highly significant, as it explicitly bifurcates the formal, sovereign representation embodied by the agent from the specialized, professional assistance rendered by counsel and advocates.

Operating as the state's primary procedural plenipotentiary, the agent serves as the official conduit between the sovereign litigant and the tribunal—managing communications with the Registry, filing written pleadings, and presenting formal submissions. Conversely, counsel and advocates are typically tasked with the intellectual elaboration of the legal case: crafting arguments, drafting pleadings, delivering oral submissions, and addressing judicial inquiries—though in practice, these functional boundaries frequently blur. In practice, these functions overlap. Agents may also be counsel, and counsel may advise on strategy that transcend the courtroom; nevertheless, the formal distinction remains conceptually vital, mirroring the institutional character of ICJ proceedings: the State appears through an authorised representative, while the legal case is elaborated by a broader team.

Furthermore, the Statute explicitly reinforces the imperative of professional independence, casting the immunities conferred upon agents, counsel and advocates not as personal perquisites, but as strictly functional guarantees. Their underlying raison d'être is to insulate the advocate's responsibilities from external pressure, thereby securing the integrity of the judicial process.[9] This structural insulation becomes paramount when the Court is seized of highly charged disputes involving armed conflict, allegations of state-sponsored atrocities, or sensitive questions of territorial sovereignty. In such volatile contexts, counsel must possess the uninhibited latitude to articulate robust legal arguments without the risk that their professional advocacy will be misconstrued as geopolitical hostility or personal malfeasance.

3.3 3. Counsel as translators of political conflict into legal dispute

A defining function of counsel before the ICJ lies in the intellectual translation of geopolitical conflict into a justiciable legal dispute, a process necessitated by

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[8] ICJ Statute art 42.

[9] ibid art 42(3).

the rigid demands of the Court's jurisdictional and procedural frameworks. The Court's jurisdiction and procedure require legal characterisation. Advocates must distil a multifaceted crisis into a structured matrix of claims, objections, evidence, and formal submissions—a conversion that does not expunge the political context, but rather isolates those discrete elements that fall squarely within the Court's judicial competence and jurisdictional bounds.

The litigation in *Ukraine v. Russian Federation* vividly exemplifies this dynamic, where the overarching reality of an ongoing armed conflict—juxtaposed against Russia's justification that its military intervention was a response to an alleged genocide in the Donbas—had to be compressed into the parameters of international law. Consequently, the legal controversy was explicitly filtered through the jurisdictional prism of Article IX of the Genocide Convention. At the preliminary objections phase, the Court bifurcated the dispute, distinguishing Ukraine's request for a negative declaratory judgment—that no genocide attributable to it had occurred in the Donbas—from its broader claims concerning the compatibility of Russia's unilateral military actions with the Genocide Convention.[10] While affirming its jurisdiction over the former issue, the Court declined competence over the latter, ruling that Ukraine's claims impermissibly sought to introduce rules extrinsic to the Genocide Convention, most notably the jus ad bellum regime governing the use of force.[11]

This jurisdictional bifurcation underscores both the strategic latitude and the structural limitations of international advocacy; counsel may meticulously anchor a dispute within a specific conventional framework, yet the Court retains the ultimate authority to determine whether the impugned conduct is objectively capable of falling within the scope of that instrument. Ultimately, a compelling geopolitical narrative will flounder at the jurisdictional threshold if it cannot be fastidiously tethered to the specific legal instrument invoking the Court's competence.

A parallel conceptual translation occurred in *The Gambia v. Myanmar*, where widespread atrocities against the Rohingya population were translated into a highly technical procedural battle. The legal contest before the Court was systematically focused on questions of jurisdiction and admissibility—specifically, the determination of the "real applicant," the objective existence of a dispute, the legal effect of Myanmar's reservation to Article VIII of the Genocide Convention, and The Gambia's standing to invoke obligations erga omnes partes.[12] In resolving these points, the Court affirmed that political or financial

[10] *Ukraine v Russian Federation* (Preliminary Objections) paras 58-148.
[11] ibid paras 131-148.
[12] *The Gambia v Myanmar* (Preliminary Objections) paras 34-114.

support from the Organisation of Islamic Cooperation did not compromise The Gambia's independent status as an applicant, and reestablished that any state party to the Genocide Convention possesses the requisite standing to invoke the responsibility of another state party for alleged breaches of obligations erga omnes partes.[13]

Taken together, these jurisprudential developments demonstrate that the function of counsel before the ICJ is fundamentally constitutive, rather than merely representative. Far from simply reacting to a fully formed dispute, advocates actively construct the precise legal architecture through which the Court is invited to perceive, interpret, and ultimately resolve the international controversy.

4 II. The Procedural Framework Governing Advocacy

4.1 1. The Charter framework: peaceful settlement and judicial function

The normative framework anchoring ICJ advocacy is fundamentally rooted in the constitutional architecture of the United Nations Charter. Article 2(3) of the Charter imposes a binding obligation upon member states to settle their international disputes exclusively through peaceful means, ensuring that international peace, security, and justice are not compromised.[14] This obligation is operationalised by Article 33, which explicitly identifies judicial settlement as a primary mechanism for resolving controversies whose continuation is likely to endanger the maintenance of international peace.[15] This systemic preference is reinforced by Article 36(3), which directs that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice in strict accordance with its Statute.[16]

These constitutional anchors are significant because they embed advocacy before the ICJ directly within the institutional logic of the Charter system, rather than treating it as an isolated exercise in adversarial litigation. Consequently, counsel before the Court do not merely serve as combatants in a private dispute; instead, they operate within a multilateral mechanism designed to divert international friction away from unilateral recourse and towards structured judicial determination. This systemic function explains why procedural discipline, clarity, and an exacting deference to the Court's institutional role constitute the prerequisites of effective international advocacy.

[13] ibid paras 111-114.
[14] United Nations Charter art 2(3).
[15] ibid art 33.
[16] ibid art 36(3).

4.2 2. Jurisdiction and the framing of the claim

Article 36(1) of the Statute dictates that the Court's jurisdiction encompasses all cases referred to it by the parties alongside all matters specially provided for in the UN Charter or in treaties and conventions in force.[17] Furthermore, Article 36(2) permits states to make declarations recognizing as compulsory the jurisdiction of the Court in all legal disputes concerning treaty interpretation, any question of international law, the existence of any fact constituting an international breach, and the nature or extent of requisite reparations.[18]

Operationally, Article 36 elevates jurisdictional contestation to a primary arena of international advocacy. Counsel are burdened with identifying a valid title of jurisdiction, defining its scope, establishing the objective existence of a legal dispute, and demonstrating that the claims fall squarely within the *rationae materiae* of the invoked instrument. In the jurisdictional phase of *Nicaragua v. United States*, for instance, counsel had to navigate complex arguments regarding optional clause declarations, multilateral treaty reservations, the statutory operation of Article 36(5), the invocation of a bilateral treaty of friendship, and the conceptual relationship between parallel judicial proceedings and Security Council actions.[19] This landmark litigation underscores that jurisdictional advocacy before the ICJ serves as the critical arbiter of whether a permanent international tribunal can adjudicate a dispute unfolding against a backdrop of active geopolitical conflict.

Article 40(1) of the Statute provides that proceedings are initiated before the Court either by the notification of a special agreement or by a written application addressed to the Registrar, specifying the parties and the precise subject of the dispute.[20] Rather than acting as a pro forma administrative filing, this requirement elevates the initial application to a position of decisive strategic importance, fundamentally defining the parameters of the dispute that counsel will subsequently elaborate across written memorials, counter-memorials, and oral pleadings.

The necessity of meticulous initial framing was brought into sharp relief in *Ukraine v. Russian Federation*, where the respondent state contended that the applicant had impermissibly introduced entirely novel claims within its written Memorial. In resolving the issue, the Court reaffirmed that while additional or amended claims are inadmissible if they transform the subject matter of the dispute as originally set out in the application, Ukraine's specific amended

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[17] ICJ Statute art 36(1).
[18] ibid art 36(2).
[19] *Nicaragua v United States* (Jurisdiction and Admissibility) [1984] ICJ Rep 392.
[20] ICJ Statute art 40(1).

submissions merely clarified its initial assertions without altering the essential nature of the controversy.[21] This jurisprudence establishes a strict procedural limit: while counsel possess the latitude to clarify and refine a claim, they cannot utilise subsequent pleadings to fundamentally substitute or expand the case originally brought before the Court.

4.3 3. Written proceedings: architecture of the case

Article 43 of the Statute divides the Court's procedure into a bifurcated written and oral phase, mandating that the written proceedings comprise the communication to the Court and to the parties of memorials, counter-memorials, and, if necessary, replies, alongside all supporting papers and documents channelled through the Registrar within the timeframes fixed by the Court.[22] Consequently, the written pleadings constitute the structural bedrock of the case, systematically delineating the facts, relevant international legal norms, evidentiary records, and thresholds of jurisdiction and admissibility that culminate in the parties' formal submissions.

The ICJ Practice Directions impose a rigorous contemporary discipline on this written phase; Practice Direction II dictates that pleadings must transcend mere reactivity to the adversary's assertions, requiring instead a lucid, autonomous presentation of the filing party's own arguments and submissions, capped by a concise summary of the underlying legal reasoning.[23] This is reinforced by Practice Direction III, which implores litigants to maintain maximum conciseness and to exercise strict selectivity regarding annexes, thereby curbing the problem of excessive documentary proliferation.[24]

This normative framework underscores the Court's expectation that counsel must function as stringent editors no less than as zealous advocates. Persuasive advocacy before the Court is never a function of sheer documentary volume; rather, its efficacy hinges upon the highly disciplined distillation of relevant legal authority and factual evidence Particularly in sprawling, complex litigation involving armed conflict, allegations of state-sponsored atrocities, or intricate historical records, the essential task of counsel is to synthesize a cohesive, legally actionable narrative that avoids overwhelming the judicial machinery of the Court.

4.4 4. Oral proceedings: focused judicial assistance

The oral phase provides the critical forum wherein agents, counsel, and advocates engage directly with the bench, a modality structured by Article 43(5)

[21] *Ukraine v Russian Federation* (Preliminary Objections) paras 60-72 and 121-130.
[22] ICJ Statute art 43.
[23] ICJ Practice Direction II.
[24] ICJ Practice Direction III.

of the Statute, which dictates that oral proceedings consist of the hearing of witnesses, experts, agents, counsel, and advocates.[25] This phase is subject to strict judicial management: Article 45 vests control of the hearings in the President, while Article 48 empowers the Court to issue necessary orders for the conduct of the case, prescribe the form and timeframes within which each party must conclude its arguments, and make all arrangements for the taking of evidence.[26]

In this context, Practice Direction VI serves as a vital tool for procedural economy, mandating brevity in oral arguments and directing parties to concentrate exclusively on novel issues not fully ventilated in the written pleadings, or on pivotal points requiring concluding emphasis. This narrowing of scope is strictly enforced; where the Court is seized of preliminary objections regarding jurisdiction or admissibility, the oral proceedings are confined exclusively to those threshold questions.[27] A parallel restriction is found in Practice Direction XI, which confines oral pleadings during provisional measures hearings to the specific legal criteria governing such urgent relief, explicitly discouraging premature engagement with the merits of the underlying dispute.[28] Consequently, the task of the oral advocate before the ICJ is defined by conciseness, rigorous selectivity, and fluid responsiveness to judicial concerns. The objective is never to engage in a rote recitation of the written memorials, but rather to illuminate unresolved issues and assist the Court in untangling remaining legal knots. This focus distinguishes ICJ advocacy from conventional, open-ended rhetorical display; its ultimate persuasiveness derives from clinical precision, analytical restraint, and immediate utility to the Court's judicial reasoning.

4.5 5. Evidence and procedural discipline

The evidentiary regime before the ICJ is structured by a tight nexus of statutory provisions, rules, and practice directions, led by Article 49 of the Statute, which empowers the Court—even prior to the commencement of oral hearings—to call upon agents to produce any document or supply any explanation, with any formal refusal duly recorded by the tribunal.[29] This judicial authority is augmented by Article 50, which permits the Court to entrust any individual, body, commission, or organisation with the task of carrying out an inquiry or giving an expert opinion, while Article 52 shields the integrity of the proceedings

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[25] ICJ Statute art 43(5).
[26] ibid arts 45 and 48.
[27] ICJ Practice Direction VI.
[28] ICJ Practice Direction XI.
[29] ICJ Statute art 49.

by allowing the Court to exclude any additional oral or written evidence after the expiration of specified time limits, absent the consent of the opposing party.[30]

The Practice Directions reinforce this systemic discipline; Practice Direction IX imposes a strict presumption against late filings, directing that parties must refrain from submitting new documents after the closure of the written proceedings. Should a litigant nevertheless seek to introduce late evidence, it bears the burden of establishing the document's indispensable necessity and demonstrating why it could not have been produced at an earlier stage; consequently, absent the adversary's consent, the Court will authorize such production only under truly exceptional circumstances.[31] This operational rigor is further refined by Practice Directions IXbis, IXter, and IXquater, which meticulously regulate references to readily available public domain publications, the compilation of judges' folders, and the presentation of audiovisual or photographic material.[32]

Collectively, these procedural strictures profoundly shape the advocate's evidentiary strategy, requiring counsel to front-load the construction of the documentary record, anticipate potential admissibility objections, and scrupulously avoid trial-by-surprise tactics. The seminal *Corfu Channel* case vividly illustrates the high stakes of evidentiary advocacy before the Court, specifically through the tribunal's recognition that when a respondent state exercises exclusive territorial control, the victim state may be structurally precluded from procuring direct proof, thereby justifying a more liberal recourse to inferences of fact and circumstantial evidence.[33] This jurisprudence remains doctrinally vital because it illustrates how sophisticated legal advocacy regarding the burden and standard of proof can directly reshape the evidentiary methodologies deployed by an international bench.

5 III. Counsel as Protectors of State Interests

5.1 1. Protection through jurisdictional strategy

Foremost among the modalities through which counsel safeguard state interests before the ICJ is the formulation of a rigorous jurisdictional strategy. Given that the Court's contentious jurisdiction remains fundamentally contingent upon state consent, the primary task of counsel is to either establish the existence of that consensual link or systematically demonstrate its absence. This consensual

[30] ibid art 52.
[31] ICJ Practice Direction IX.
[32] ICJ Practice Directions IXbis, IXter and IXquater.
[33] *Corfu Channel (United Kingdom v Albania) (Merits)* [1949] ICJ Rep 4, 18.

foundation elevates jurisdictional litigation into a substantive defence of sovereign interests rather than a subordinate, formalistic technicality.

For an applicant state, this strategy demands the identification of the most robust available titre de compétence to seize the Court—whether through a compromissory clause embedded in a multilateral treaty, a special agreement, optional clause declarations under Article 36(2), or other recognised bases of jurisdiction. Conversely, a respondent state's counter-strategy typically focuses on dismantling this jurisdictional bridge by challenging the objective existence of a dispute, contesting the scope of the compromissory clause, raising preliminary objections to admissibility, or invoking doctrines such as indispensable third parties, valid reservations, and abuse of process.

The seminal litigation in *Nicaragua v. United States* remains a classic paradigm of this dynamic, where counsel rigorously debated the validity and revocation of optional clause declarations, the legal effect of multilateral treaty reservations, the procedural relevance of concurrent Security Council proceedings, and the admissibility of an active conflict involving the use of force.[34] This litigation underscores that defending sovereign interests before the ICJ requires advocates to be as proficient in contesting the institutional competence of the tribunal as they are in arguing the substantive merits of the law.

More recently, *Ukraine v. Russian Federation* has illustrated a contemporary iteration of this tactical duel, wherein Ukraine's counsel sought negative declaratory relief specifically under the jurisdictional hook of Article IX of the Genocide Convention. In response, counsel for the Russian Federation maintained that these claims were fundamentally inadmissible, constituted an abuse of process, and fell entirely outside the *ratione materiae* of the Convention. Ultimately, the Court assumed jurisdiction over Ukraine's request for a declaration that it had not committed genocide in the Donbas, while declining competence over Ukraine's claims concerning Russia's unilateral use of force and diplomatic recognition of separatist entities in eastern Ukraine, ruling that the latter issues fell outside the interpretive scope of the Genocide Convention.[35] The dialectical friction between both legal teams thus directly delineated the parameters of the Court's final jurisdictional determination.

5.2 2. Protection through admissibility and standing

Beyond threshold jurisdictional titles, counsel safeguard sovereign interests by litigating the distinct doctrines of admissibility and standing—procedural hurdles that dictate whether a claim is fit for adjudication even if a valid

[34] *Nicaragua v United States* (Jurisdiction and Admissibility) [1984] ICJ Rep 392.
[35] *Ukraine v Russian Federation* (Preliminary Objections) paras 58-148.

jurisdictional link is established. These doctrines assume heightened significance in contemporary litigation concerning public interest enforcement or the breach of obligations owed to the international community as a whole.

In *The Gambia v. Myanmar*, for example, the respondent's counsel raised a novel admissibility objection, contending that the applicant was not the bona fide litigant but was instead acting as an unrepresented proxy for the Organisation of Islamic Cooperation. The Court dismissed this objection, ruling that The Gambia had instituted proceedings in its own sovereign capacity and that external political or financial support from an international organisation did not compromise its independent status as an applicant.[36] Myanmar concurrently challenged the applicant's standing locus standi, prompting the Court to affirm that any state party to the Genocide Convention possesses a collective legal interest sufficient to invoke the responsibility of another state party for alleged breaches of obligations erga omnes partes.[37]

This litigation vividly illustrates the dual, conflicting modalities through which counsel protect state interests at this procedural interface. On one hand, an applicant's counsel can expand access to international justice by framing a claim around the vindication of a shared community interest. On the other hand, a respondent's counsel will seek to rigorously enforce the boundaries of standing, preventing political coalitions or international organisations from utilizing a single state as a convenient procedural vehicle. The resulting judicial decision thus serves as an authoritative clarification of the delicate equilibrium between sovereign standing, collective legal interests, and the enforcement of multilateral treaty regimes.

5.3 3. Protection through factual and evidentiary construction

The preservation of sovereign interests by counsel is equally dependent upon the strategic and intellectual construction of the factual record. This responsibility assumes heightened importance given that the ICJ does not possess independent inquisitorial powers analogous to a domestic investigating magistrate; rather, it remains fundamentally dependent upon the adversarial presentation of evidence by the parties, notwithstanding its ancillary statutory powers to request documents, explanations, or expert inquiries.[38]

In the *Corfu Channel* case, the evidentiary arguments advanced by counsel forced the Court to confront the systemic challenge of proving state responsibility when direct evidence is structurally unobtainable. In response, the Court acknowledged that recourse to indirect evidence and circumstantial inferences

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[36] *The Gambia v Myanmar* (Preliminary Objections) paras 34-50.

[37] ibid paras 111-114.

[38] ICJ Statute arts 49-50.

is uniquely appropriate when a respondent state's exclusive territorial control effectively precludes an applicant state from securing direct proof of a wrongful act.[39] This holding demonstrates that sophisticated evidentiary advocacy can directly reshape the judicial methodologies through which state responsibility is legally evaluated.

In contemporary litigation, this task of factual construction has grown exponentially more complex. Sprawling disputes involving armed conflict, allegations of genocide, or mass displacement require counsel to synthesize disparate evidentiary streams—including diplomatic correspondence, military logs, satellite imagery, United Nations fact-finding reports, and witness testimony—and map them onto strict statutory elements. Consequently, counsel serve an essential epistemic filtering function: they determine which raw facts transcend the geopolitical narrative to become legally operative, and which specific rules of international law endow those facts with legal consequence.

5.4 4. Protection through remedies and legal consequences

Finally, counsel protect sovereign interests by carefully calibrating the specific remedies or legal consequences they invite the Court to pronounce. In contentious litigation, this task entails the precise framing of requests for declaratory relief, the cessation of wrongful acts, guarantees of non-repetition, and monetary or symbolic reparations. In advisory proceedings, by contrast, it requires counsel to structurally guide the Court in delineating the broader legal responsibilities incumbent upon states, international organisations, and the United Nations itself.

The advisory proceedings in the Chagos Archipelago case vividly demonstrate this strategic dynamic. During those proceedings, participating states presented deeply divergent arguments regarding the legal fallout of the prior detachment of the Chagos Archipelago from Mauritius and its continued administration by the United Kingdom. Ultimately, the Court concluded that the United Kingdom bore an immediate obligation to terminate its administration of the territory as rapidly as possible, while concurrently affirming that all states possess a legal interest erga omnes in safeguarding the right to self-determination.[40] The legal strategies deployed by counsel and participating states thus directly conditioned the specific parameters of the legal consequences articulated by the Court.

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[39] *Corfu Channel* (Merits) [1949] ICJ Rep 4, 18.

[40] *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (Advisory Opinion) [2019] ICJ Rep 95, paras 177-180.

6 IV. Counsel as Assistants to the Court

6.1 1. Advocacy as assistance, not mere partisanship

Although counsel fundamentally advocate for state interests, their functional role before the ICJ cannot be reduced to blind partisanship. As an international court whose core statutory mandate under Article 38(1) is to decide disputes in accordance with international law, the tribunal relies on counsel to assist in identifying applicable norms, clarifying complex facts, and organizing legal arguments.[41] Counsel must therefore assist the Court in identifying the relevant law, clarifying facts and organizing argument. This systemic duty does not require abdication of the client's position; rather, it demands that the client's position be articulated in a structured manner that maximizes its immediate utility to the bench.

The structural architecture of the Court’s Practice Directions directly reinforces this cooperative imperative. Under this regime, written pleadings are mandated to present arguments with concise clarity rather than through the uncritical accumulation of material; oral pleadings are directed to be brief and targeted; and the introduction of new documentation post-written phase is strictly proscribed save under exceptional, judicially managed conditions.[42] Collectively, these procedural limitations institutionalize a conception of international advocacy rooted in active cooperation with the judicial process. By deliberately narrowing the field of controversy, clarifying the precise points of legal disagreement, and avoiding procedural disorder, counsel directly facilitate the efficient administration of international justice.

6.2 2. The duty of clarity

The imperative of clarity constitutes a foundational pillar of the advocate's role before the ICJ. Disputes submitted to the tribunal frequently feature extensive historical records, overlapping treaty frameworks, highly contested facts, and parallel, volatile geopolitical processes. In the absence of an analytically precise presentation, the Court is left to navigate dense evidentiary records without adequate guideposts; counsel therefore facilitates the judicial task by distilling these complexities into a coherent, overarching theory of the case.

This conceptual clarity assumes broader systemic importance because the Court’s judgments and advisory opinions necessarily resonate far beyond the immediate litigants. As authoritative statements of law, these pronouncements are scrutinized by third states, international organisations, municipal courts, academic commentators, and future litigants. By formulating arguments with

[41] ICJ Statute art 38(1).
[42] ICJ Practice Direction IX.

rigorous clarity, counsel provide the bench with structured legal pathways that the Court can seamlessly adopt, adapt, or explicitly reject within its judicial reasoning. Consequently, the calibre of advocacy directly influences not merely the immediate disposition of the case, but the long-term coherence and intelligibility of the Court's broader jurisprudence.

6.3 3. Procedural fairness and equality of parties

Beyond managing the clarity of the record, counsel facilitate the administration of justice by strictly adhering to the dictates of procedural fairness—a duty reflected in Article 43(4) of the Statute, which mandates that certified copies of all documents produced by one party be systematically communicated to the other.[43] This protective framework is reinforced by Article 52, which provides for the exclusion of belated evidence absent the adversary's consent, and by Practice Direction IX, which safeguards the integrity of the written record through a strict presumption against the introduction of new documentation following the closure of written pleadings.[44]

Rather than serving as mere technical formalities, these procedural strictures institutionalize the fundamental principle of equality of arms while preserving the Court's capacity to adjudicate on an orderly, predictable record. Consequently, attempts by counsel to introduce untimely evidence or surreptitiously expand the dispute beyond the scope of the original application risk destabilizing the delicate procedural equilibrium upon which the Court's judicial legitimacy ultimately depends.

6.4 4. Non-appearance and the counsel's heightened responsibility

Article 53 of the Statute dictates that if one party fails to appear or defend its case, the opposing party may request the Court to rule in favour of its claims, subject to the non-negotiable caveat that the tribunal must first independently satisfy itself that it possesses jurisdiction and that the claims are well founded in fact and law.[45] Consequently, default by a respondent state does not trigger an automatic judicial victory; the appearing party's counsel remains fully burdened with constructing a comprehensive, logically airtight legal and factual case.

This asymmetric dynamic imposes a heightened ethical and intellectual responsibility upon counsel, as the absence of an adversarial interlocutor forces the Court to rely more heavily on the appearing party's presentation while simultaneously preserving its independent inquisitorial duties. In this context, advocacy must be oriented towards facilitating judicial verification rather than

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[43] ICJ Statute art 43(4).
[44] ICJ Practice Direction IX.
[45] ICJ Statute art 53.

exploiting the procedural vacuum left by the absent sovereign. This operational burden was vividly illustrated during the provisional measures phase of *Ukraine v. Russian Federation*, where the respondent's non-participation in the oral hearings did not absolve the Court from its rigorous duty to independently verify its prima facie jurisdictional basis and determine whether the strict criteria for interim relief had been met.[46]

7 V. Counsel in Advisory Opinion Proceedings

7.1 1. Advisory proceedings as a distinct form of advocacy

Unlike contentious cases, advisory proceedings do not constitute bilateral disputes between sovereign states in the strict sense; rather, the resulting judicial pronouncement is delivered directly to the requesting organ rather than to a prevailing or defeated party. This distinct modality is anchored in Article 65 of the Statute, which empowers the Court to render an advisory opinion on any legal question at the behest of an authorised body, requiring that such a request feature an exact statement of the question alongside all documentation necessary to elucidate the issue.[47] Procedural participation is governed by Article 66, which mandates notification to states and international organisations deemed likely to furnish information, inviting them to submit written or oral statements, while Article 68 ensures structural continuity by directing the Court to be guided by the procedural rules applicable in contentious cases to the extent it deems them appropriate.[48]

This statutory framework is complemented by Article 96 of the UN Charter, which vests the General Assembly and the Security Council with the authority to request advisory opinions on any legal question, while extending a qualified capacity to other authorised organs and specialized agencies for legal questions arising within the scope of their respective mandates.[49]

Consequently, the function of counsel within the advisory matrix shifts away from a conventional adversarial posture towards a more systemic, institutional role. While advocates routinely defend specific, highly contested legal positions, the underlying procedural architecture reframes their contributions as the presentation of information and expert legal analysis, explicitly designed to assist the Court in resolving the question submitted.

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[46] *Ukraine v Russian Federation* (Provisional Measures), Order of 16 March 2022; see also *Ukraine v Russian Federation* (Preliminary Objections), procedural history.
[47] ICJ Statute art 65.
[48] ibid art 68.
[49] United Nations Charter art 96.

7.2 2. Pre-Court advocacy: conceiving the request

Crucially, advocacy within the advisory matrix often materializes long before a question is formally transmitted to the Court. As Margaretha Wewerinke-Singh, Jorge E. Viñuales, and Julian Aguon observe, contemporary public interest advocates increasingly drive the very conception of advisory requests, seamlessly blending doctrinal legal advice and formal representation with strategic diplomacy and targeted public campaigns.[50] Utilizing the landmark campaign for an ICJ advisory opinion on climate change as a case study, their analysis demonstrates that these actors are pivotal in formulating the text of the question, assembling regional and global coalitions, navigating complex General Assembly agenda procedures, and preserving the normative integrity of the legal query during intense inter-state negotiations.[51]

This proactive intervention fundamentally recalibrates the traditional understanding of the international advocate's role. Whereas counsel in contentious litigation are typically engaged only after a dispute has crystallized and is ripe for adjudication, advocates in the advisory arena frequently forge the precise legal path through which an abstract question reaches the peace palace. Consequently, the drafting of the request emerges as an autonomous phase of advanced legal advocacy, directly conditioning the *ratione materiae* of the Court's ultimate inquiry and predetermining the scope of the legal consequences it can pronounce.

The mobilization surrounding the climate change reference further illustrates that modern advisory advocacy demands a convergence of technical legal expertise, multilateral diplomacy, and grassroots mobilization. Within this matrix, the modern advocate must concurrently articulate why the ICJ represents the appropriate normative forum, establish the inherently legal character of the question, substantiate the requesting organ's institutional competence, and meticulously engineer the textual phrasing to secure the necessary political supermajorities without diluting its progressive judicial utility.[52]

7.3 3. Court-stage advocacy in advisory opinions

Upon the formal transmission of a request to the Court, counsel give shape to the proceedings through the structured submission of written and oral statements under the Article 66 framework. The procedural history of the Legal Consequences of the Construction of a *Wall advisory opinion* exemplifies this

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[50] Margaretha Wewerinke-Singh, Jorge E Viñuales and Julian Aguon, 'The Role of Advocates in the Conception of Advisory Opinion Requests' (2023) 117 *AJIL Unbound* 277, 277-278.

[51] ibid 278-281.

[52] ibid.

inclusive dynamic, wherein the Court, after issuing notifications to all states entitled to appear, determined that the United Nations and its member states were uniquely positioned to furnish relevant information, invited Palestine to submit a written statement and join the oral hearings, and subsequently extended participatory standing to the League of Arab States and the Organisation of the Islamic Conference.[53] This expansive invitation culminated in a dense documentary record comprised of written statements from dozens of sovereigns and international bodies, followed by an intensive oral phase featuring pleadings from Palestine alongside a diverse coalition of participating states.[54]

A similarly vast procedural architecture characterised the *Kosovo advisory* proceedings, which drew unprecedented international participation. In that instance, the Court systematically processed written comments from a broad spectrum of states, cross-communicated these source materials among all active participants, made the written pleadings fully accessible to the public, and heard concurrent oral statements from Serbia, the authors of the unilateral declaration of independence, and an array of interested third states.[55] Crucially, this intense adversarial friction prompted the Court to reaffirm that the inherent political sensitivities of a question do not divest it of its essentially legal character, and that only the most compelling judicial propriety reasons should induce the tribunal to decline to answer a properly formulated request.[56]

The *Chagos Archipelago advisory* proceedings further underscore the multilateral scale of modern advisory advocacy, drawing oral submissions from an extensive roster of states including Mauritius, the United Kingdom, South Africa, Germany, Argentina, Australia, Belize, and Botswana, alongside regional organisations.[57] This dense convergence of diverse legal perspectives provided the Court with an extraordinarily rich dialectical matrix, allowing it to weigh competing, highly sophisticated arguments regarding judicial jurisdiction, proprietary discretion, the contemporary law of decolonization, the scope of self-determination, and the erga omnes nature of the resulting legal consequences.

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[53] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136, paras 1-12.
[54] ibid paras 9-12.
[55] *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion) [2010] ICJ Rep 403, paras 1-16.
[56] ibid paras 17-48.
[57] *Chagos* (Advisory Opinion) [2019] ICJ Rep 95, paras 20-23.

7.4 4. Advisory opinions and the development of legal consequences

The unique value of the advisory function resides precisely in its capacity to clarify international obligations detached from the restrictive prism of a bilateral dispute. In the *Wall* advisory proceedings, for instance, the tribunal transcended a mere assessment of the structure's legality, systematically articulating the secondary obligations of cessation and reparation, alongside the sweeping third-state duties of non-recognition and non-assistance towards the illegal situation.[58] Similarly, in the *Chagos Archipelago* case, the Court characterised the United Kingdom's prolonged administration of the territory as a continuing internationally wrongful act, thereby triggering an immediate obligation to terminate its colonial presence as rapidly as possible.[59]

Through this mechanism, counsel within the advisory framework directly shape the progressive development and codification of the law governing state responsibility. Their pleadings guide the Court in diagnosing not merely the existence of a breach, but the multi-layered legal fallout that flows from that wrongfulness for the requesting organ, individual states, and international organisations alike. This operational reach endows advisory advocacy with a profound systemic significance, one that routinely reverberates far beyond the immediate parameters of the requesting organ's initial inquiry.

8 VI. Counsel and the Development of International Law

8.1 1. From party argument to jurisprudential development

Although the formal reach of the Court's judgments is strictly circumscribed by Article 59 of the Statute, which dictates that decisions possess binding force solely between the contesting parties and in respect of that particular case, the underlying judicial reasoning serves a much broader systemic function.[60] Indeed, these pronouncements operate as authoritative catalysts for the development and clarification of international law—a process directly conditioned by counsel, whose written and oral pleadings form the immediate dialectical framework with which the bench must grapple.

This symbiotic relationship reflects the core preoccupations of modern scholarship; The Oxford Handbook of International Adjudication, for example, identifies judicial lawmaking, the weight of precedent, evidentiary management, and the threshold doctrines of jurisdiction and admissibility as the defining

[58] *Wall* (Advisory Opinion) [2004] ICJ Rep 136, dispositif.
[59] *Chagos* (Advisory Opinion) [2019] ICJ Rep 95, paras 177-180.
[60] ICJ Statute art 59.

structural themes of contemporary international justice.[61] Within the specific context of the ICJ, these themes manifest as live strategic choices, forcing advocates to litigate not merely for an immediate favourable disposition, but to carefully engineer interpretations of treaty text, customary norms, general principles, and secondary legal consequences that will inevitably be cross-referenced and integrated into future international jurisprudence.

8.2 2. Development through jurisdictional doctrine

Jurisdictional advocacy acts as a primary vehicle for systemic legal development, insofar as the resulting judgments progressively clarify the operational contours of state consent, the objective existence of a dispute, admissibility thresholds, standing, and the interpretative boundaries of compromissory clauses. The jurisdictional phase of *Nicaragua*, for instance, permanently reshaped the tribunal's jurisprudence regarding the invocation and revocation of optional clause declarations, the legal effect of multilateral treaty reservations, and the structural co-existence of parallel proceedings before the Court and the Security Council.[62] Similarly, *The Gambia v. Myanmar* provided a seminal clarification of standing locus standi, affirming that any state party to the Genocide Convention is entitled to invoke state responsibility for alleged breaches of obligations erga omnes partes irrespective of any individual, distinct injury.[63] Most recently, *Ukraine v. Russian Federation* delineated the strict borders of *ratione materiae* under Article IX, sharpening the distinction between claims genuinely rooted in the interpretation or application of the Genocide Convention and those improperly imported from extrinsic regimes of international law.[64]

Crucially, these doctrinal shifts are the direct product of forensic advocacy; the competing textual and contextual interpretations of jurisdictional instruments advanced by counsel force judicial determinations that ultimately crystallize into the bedrock of international procedural law.

8.3 3. Development through evidence and fact-finding

Evidentiary advocacy constitutes another critical conduit through which counsel actively drive the evolution of international legal doctrine. The enduring systemic legacy of the *Corfu Channel* case rests on the Court's pathbreaking recognition that a victim state, structurally barred from securing direct proof due to an adversary's exclusive territorial control, may legitimately rely upon indirect

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[61] Cesare PR Romano, Karen J Alter and Yuval Shany (eds), *The Oxford Handbook of International Adjudication* (Oxford University Press 2014), chapters 23, 36, 38 and 39.

[62] *Nicaragua v United States* (Jurisdiction and Admissibility) [1984] ICJ Rep 392.

[63] *The Gambia v Myanmar* (Preliminary Objections) paras 111-114.

[64] *Ukraine v Russian Federation* (Preliminary Objections) paras 131-148.

evidence and circumstantial inferences to substantiate its claims.[65] This judicial acknowledgement fundamentally revolutionized the epistemic frameworks governing the law of evidence across contemporary international adjudication.

In contemporary litigation, complex disputes involving allegations of genocide, systemic armed conflict, transboundary environmental degradation, or prolonged belligerent occupation compel counsel to manage extraordinarily dense and fragmented evidentiary records. The strategic selectiveness with which legal teams filter fact-finding reports, expert testimonies, official state declarations, satellite imagery, cartographic data, and diplomatic correspondence directly constructs the epistemic foundation upon which the Court must base its ruling. Given the intrinsic, indissoluble link between fact-finding and norm-application in international litigation, the methods deployed in evidentiary advocacy necessarily condition, refine, and reshape the underlying substantive legal standards themselves.

8.4 4. Development through advisory opinions

The advisory jurisdiction serves as a uniquely potent engine for legal development, precisely because its normative output is unencumbered by the restrictive task of resolving a concrete, bilateral inter-State dispute. The watershed opinions in *Wall, Kosovo,* and *Chagos* underscore this expansive capacity, compelling the Court to confront fundamental questions of belligerent occupation, the scope of self-determination, the legality of unilateral declarations of independence, the contemporary law of decolonization, and the institutional boundaries of United Nations organs. In each instance, the sophisticated pleadings advanced by counsel and participating states directly provided the interpretive architectures through which the Court ultimately resolved these complex inquiries.

This systemic impact is further accentuated by the increasingly proactive role of advocates in orchestrating advisory references at their inception. Far from merely seeking a retroactive remedy for an individual client, strategic advisory advocacy is explicitly designed to expand the frontiers of settled international law and reshape the global normative architecture.[66] Consequently, the precise textual engineering of the question, the strategic selection of the institutional forum, and the systematic organisation of the supporting legal arguments constitute the very core of the modern advocate's contribution to the international rule of law.

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[65] *Corfu Channel* (Merits) [1949] ICJ Rep 4, 18.

[66] Wewerinke-Singh, Viñuales and Aguon (n 56) 277-281.

9 VII. Challenges and Limits of Advocacy before the ICJ

9.1 1. State control and limited access

The primary constraint governing the advocate's role is structural, dictated by the strict statutory rule that only states may be parties in contentious cases.[67] Consequently, individuals, indigenous peoples, transnational corporations, and civil society organisations are denied direct locus standi before the Court. While their distinct grievances or legal interests may find indirect expression through the mechanism of state espousal, these non-state actors retain no formal control over the direction of the litigation—a dynamic that fundamentally circumscribes the advocate's autonomy, rendering counsel strictly subordinate to sovereign authorisation.

Although the procedural architecture of advisory proceedings offers an inherently broader participatory framework, it remains tightly constrained. Access to these proceedings is strictly governed by the Article 66 framework, which conditions participation entirely upon the Court’s discretionary assessment of which states or international organisations are deemed likely to furnish relevant information.[68] Thus, while non-governmental organisations may exert significant upstream political influence over the formulation of advisory requests or submit written materials to the public record, they are categorically barred from appearing before the bar of the Court as formal litigating parties.

9.2 2. Political sensitivity and diplomatic constraint

Disputes submitted to the Court are frequently inseparable from high-stakes, structurally complex geopolitical sensitivities. Consequently, international advocates must continuously interface with an intricate network of foreign ministries, state officials, diplomatic missions, and senior political leadership. This operational reality frequently generates acute friction between the demands of technical legal precision and the imperatives of broader diplomatic messaging. While counsel may recognise that a tightly circumscribed, legally narrow argument offers the highest probability of forensic success before the bench, domestic political actors often favour expansive, rhetorically charged assertions tailored for public consumption or diplomatic leverage. Persuasive advocacy before the tribunal therefore hinges on an advocate's capacity to skilfully navigate this internal tension, satisfying the state's external sovereign objectives without diluting the professional credibility of their legal submissions to the Court.

[67] ICJ Statute art 34(1).
[68] ibid art 66.

9.3 3. Inequality of resources

States do not have equal litigation capacity. Some can retain large teams of international counsel, experts, assistants and translators; others may rely on smaller teams or limited resources. The Court's procedures assume formal equality, but practical inequality may affect the ability to present evidence, conduct research and manage complex records.

This challenge is visible in the composition of modern ICJ teams, where powerful or well-resourced States often appear with large teams of government counsel, professors, barristers and private law firms. The growth of an international bar and communities of international litigators may improve professional specialisation, but it may also deepen disparities in access to elite expertise.[69]

9.4 4. Absence of a comprehensive counsel code

Unlike some international criminal tribunals, the ICJ does not operate with a detailed professional code for counsel equivalent to a domestic bar code. The Statute protects privileges and immunities and the Practice Directions address certain conflict concerns, including recent service as judge ad hoc, Member of the Court or senior Registry official.[70] However, the regulation of counsel conduct remains relatively light.

This has advantages and disadvantages. Flexibility allows States to choose government officials, academics, diplomats and practitioners. But limited formal regulation may leave difficult questions concerning conflicts of interest, revolving roles, confidentiality, witness preparation and professional discipline. Practice Directions VII and VIII partly address these concerns by discouraging the appointment of persons who are simultaneously or recently involved in incompatible roles.[71]

9.5 5. Procedural discipline as both limit and protection

Ultimately, the very procedural constraints that bind counsel serve a dual, protective function by safeguarding the integrity of the advocacy itself. While stringent limitations on belated documentation, oral duplication, over-voluminous annexes, and tangential legal arguments superficially restrict an advocate's forensic latitude, they simultaneously preserve the equality of arms, ensure the manageability of the record, and uphold systemic judicial efficiency. Far from viewing procedural strictures as an artificial impediment to persuasion, the international practitioner must conceptualize procedure as the

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[69] Eran Sthoeger and Michael Wood, 'The International Bar' in Romano, Alter and Shany (eds), *The Oxford Handbook of International Adjudication* (Oxford University Press 2014) 639; Antoine Vauchez, 'Communities of International Litigators' in the same volume, 655.

[70] ICJ Practice Directions VII and VIII.

[71] ibid.

indispensable, enabling condition that renders advocacy meaningful and effective within the unique architecture of a sovereign international court.

10 Conclusion

The normative framework governing representation and advocacy before the ICJ fundamentally reconstitutes the very nature of the international advocate's mandate. Far from being peripheral, these strictures dictate the parameters of professional standing, the initiation of claims, the forensic framing of written and oral pleadings, the admissibility of evidence, and the distinct orchestration of advisory proceedings. Rather than serving as a passive backdrop, these rules actively construct the dialectical arena within which sovereign advocacy must unfold.

As demonstrated throughout this study, counsel before the principal judicial organ of the United Nations discharge three inexorably linked functions: first, they vindicate vital sovereign interests by rigorously litigating threshold questions of jurisdiction, admissibility, evidentiary sufficiency, and secondary legal consequences. Second, they facilitate the administration of international justice by filtering complex matrices of law and fact through the prisms of structural clarity, professional discipline, and procedural fairness; and third, they actively drive the evolution of the international legal order by engineering arguments that directly condition the Court's reasoning across both its contentious and advisory streams.

This multi-dimensional mandate is vividly reflected across the arc of the Court's jurisprudence. The foundational *Corfu Channel* litigation underscores the critical weight of evidentiary advocacy and the strategic deployment of circumstantial inference in the face of sovereign opacity. *Corfu Channel* shows the importance of evidentiary advocacy and the use of indirect proof. The jurisdictional battlegrounds of *Nicaragua* illustrate how forensic ingenuity can successfully navigate the intersection of armed conflict, state consent, and parallel Security Council political processes. In the contemporary era, *The Gambia v. Myanmar* reveals the capacity of counsel to expand the frontiers of international standing by operationalizing the doctrine of obligations erga omnes partes. Meanwhile, the ongoing litigation in *Ukraine v. Russian Federation* exposes both the strategic potential and the strict jurisdictional boundaries of creative, treaty-based framing. Finally, the landmark advisory opinions in *Wall, Kosovo*, and *Chagos* confirm that structured participation by counsel assists the Court in resolving legal inquiries of vast, systemic importance to the international community as a whole.

Ultimately, the structural interface between institutional rules and forensic practice yields a definitive conclusion: the legal architecture of the ICJ elevates advocates far beyond the status of mere instruments of state policy. It integrates them as essential participants within a highly institutionalized judicial process, the jurisprudential ripples of which expand long after the immediate dispute is resolved. Counsel before the World Court concurrently shield their sovereign clients, stabilize the judicial function, and catalyse the development of international law. Counsel before the ICJ protect clients, assist the Court and help develop international law. Ultimately, the potency of international advocacy depends not merely on abstract doctrinal erudition or rhetorical virtuosity, but on rigorous procedural discipline, acute evidentiary judgment, deep institutional sensitivity, and a foundational capacity to translate raw geopolitical conflict into a coherent legal architecture.

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