TAMSAAL
ISSN Print: 3007-5939
ISSN Online: 3007-5947
Volume 4, Number 10, 2026, Pages 154 – 180
Journal Home Page
https://tamsaal.pk/index.php/tamsaal/index

Transit Passage in the Strait of Hormuz: A Legal Analysis under UNCLOS during the 2026 US–Iran–Israel Conflict

Erfa Shahid[1], Muhammad Mustafa Bhatti[2], Ahmed Shaheer[3], Safiullah Khan[4]

[1]*Student of International Relations from Iqra University Islamabad, Email: erfashahid512@gmail.com*
[2]*Student of International Relations from International Islamic University of Islamabad, Email: muhammadmustafabhatti82@gmail.com*
[3]*Student of Public Administration from The Islamia University of Bahawalpur, Email: chairman.shaheer@gmail.com*
[4]*Student of School of Politics and International Relations (SPIR) from Quaid-i-Azam University, Islamabad, Pakistan, Email: safiullahkhannunari@gmail.com*

ARTICLE INFO

Article History:

Received:	*August*	*01, 2026*
Revised:	*September*	*12, 2026*
Accepted:	*October*	*06, 2026*
Available Online:	*October*	*12, 2026*

Keywords:

Strait of Hormuz; transit passage; UNCLOS; international straits; maritime navigation; coastal-State sovereignty; customary international law; submarine cables

Corresponding Author:
Erfa Shahid
Email:
erfashahid512@gmail.com

DOI: *https://doi.org/10.59075/tamsaal.v4i10.227*

ABSTRACT

The Strait of Hormuz, being a vital international strait for global commercial shipping, has important legal implications in the context of the 2026 US–Iran–Israel conflict for the future of the passage of vessels, Iran's territorial sea, and scope and legality of restrictions on international navigation. This paper studies the legal character of the passage of vessels in the Strait of Hormuz and the rules under the convention on the law of the sea (UNCLOS), especially in the context of sovereignty of Iran which is not a signatory of UNCLOS and the restrictions on commercial navigation in the 2026 conflict, drawing on doctrinal legal research to analyze the law of UNCLOS, customary international law, and essential sources of maritime law and scholarship on the Law of the Sea, as well as materials on international law. It concludes that the Strait applies the legal attributes of a strait used for international navigation in Article 37(1) and the transit passage regime provides a legal basis for the freedom of transit passage of vessels in the context of the 2026 conflict. The study further concludes that Iran's sovereignty does not give an unlimited power to prevent or significantly interfere with international navigation. Any restriction on transit passage must have a lawful basis and purpose and comply with applicable international law. It finally emphasizes that the 2026 conflict highlights the continuing tension between the sovereignty of the coastal State and the rights of other States to navigate through the Strait of Hormuz.

© 2026 The Authors, Published by ULLR. This is an Open Access Article under the Creative Common Attribution (CC-BY 4.0)

Introduction

The Strait of Hormuz ranks among the world's most strategic maritime corridors. Situated between Iran and Oman, it connects the Persian Gulf with the Gulf of Oman and, ultimately, the Indian Ocean. For decades, the Strait has served as an important route for global maritime trade, notably for transportation of crude oil, petroleum products and liquefied natural gas. As one of the world's major energy routes, the waterway is vital not only to the region's states but to global trade and energy markets. It's narrow passage, limited alternative routes and the vulnerability to disruption increase it's economic and strategic significance. Such disruption may have effects beyond the region, particularly on commercial shipping, energy markets, and maritime stability. Beyond its economic and strategic significance, the Strait also raises important issues within the law of the sea and international maritime law. As the Strait is used for international navigation while passing through waters subject to the sovereignty and jurisdiction of coastal States, the legal relationship between coastal-State sovereignty and other States' navigation rights is manifest.

As a consequence, the Strait of Hormuz remains an important issue in the law of the sea, particularly in relation to international straits, freedom of navigation, coastal-State sovereignty, and transit passage. These issues become more significant when Iran threatens to restrict or close the passage of vessels through the Strait, or when international tensions create risks for shipping. The legal issues surrounding the Strait and the interests of the States concerned are closely connected to the applicable legal regime of transit passage established under the United Nations Convention on the Law of the Sea (UNCLOS). Part III of UNCLOS establishes a specific legal regime governing straits used for international navigation.

Article 37 of UNCLOS provides that the transit passage regime applies to straits used for international navigation between one part of the high seas or an exclusive economic zone (EEZ) and another part of the high seas or an EEZ. Article 38 recognizes the right of transit passage and provides for the continuous and expeditious passage of ships and aircraft through such straits. At the same time, UNCLOS recognizes the sovereignty and jurisdiction of States bordering straits, subject to the provisions of the Convention and other applicable rules of international law.

This balance is reflected in Articles 39 and 42, which address the duties of ships and aircraft exercising transit passage and the powers of coastal States to adopt certain laws and regulations concerning navigation safety, maritime traffic, and pollution. However, such measures must not have the practical effect of denying, hampering, or impairing the right of transit passage. Of particular importance is Article 44, which provides that there shall be no suspension of transit passage and that transit passage shall not be affected by the fact that a State bordering the strait is engaged in armed conflict. The legal framework therefore seeks to balance the sovereignty and legitimate regulatory powers of coastal States with the right of ships and aircraft to exercise transit passage.

The application of this framework to the Strait of Hormuz is complicated by the fact that Iran is not a party to UNCLOS. On the one hand, UNCLOS provides the principal treaty framework for analysing the legal regime applicable to international straits. On the other hand, Iran, as a non-party, is not bound by UNCLOS solely on the basis of treaty ratification. This raises the question of whether the UNCLOS rules concerning transit passage have developed into customary international law and, if so, how those rules apply to Iran. This issue remains subject to debate in

the legal literature and is particularly relevant to assessing restrictions on navigation through the Strait of Hormuz. The present study therefore examines how the 2026 conflict affected the use of and access through the Strait and considers the resulting legal questions concerning restrictions on navigation during armed conflict.

Several interrelated but distinct legal questions arise: how can restrictions on navigation through the Strait be legally justified; when, if at all, can Iran lawfully restrict passage through the Strait; under what circumstances can such restrictions apply to foreign vessels, including commercial vessels; how does the legal position differ when the coastal State is not a party to UNCLOS but retains sovereignty over its territorial sea; and how do the rules of transit passage interact with the law of armed conflict? Although the possibility of an Iranian closure has received scholarly attention, further legal analysis is needed to examine such restrictions in the context of the 2026 conflict. Much of the existing discussion has focused on general legal regimes or hypothetical closures.

Other studies have examined issues such as the passage of warships, tariffs, sovereignty, and diplomatic policy in relation to restrictions on navigation. However, the current conflict highlights the need for legal analysis that considers these issues together and in light of the practical realities of armed conflict. Accordingly, this study focuses on passage through the Strait of Hormuz under the transit passage regime when navigation is affected by hostilities, with particular emphasis on the application of transit passage rules to a non-party State, the scope of coastal-State sovereignty, and the interaction between transit passage and the law of armed conflict.

The primary aim of this study is to analyze the legal regime governing transit passage through the Strait of Hormuz in the context of the 2026 conflict from an international legal perspective. The research questions, discussed in the subsequent section, examine the legal framework applicable to transit passage, the relationship between Iran's sovereignty and the right of transit passage, the role of customary international law as a legal basis for navigation, and the legal consequences of restrictions, attacks, and other forms of interference with commercial navigation during the 2026 conflict. The potential closure of the Strait of Hormuz illustrates the tension between the sovereignty of a coastal State and the international interest in maintaining navigation through an international strait. Understanding the applicable legal framework is therefore important for identifying the limits of coastal-State regulation and the rights of States with respect to international navigation.

The study contributes to the contemporary discussion of International maritime law by examining transit passage in an actual conflict setting rather than treating closure solely as a theoretical possibility. By considering treaty law, customary international law, and the effects of the 2026 conflict, the study provides a legal assessment of navigation through the Strait of Hormuz during the conflict. Its scope is limited to legal issues directly related to navigation through the Strait, including transit passage, navigation through Iran's territorial sea, restrictions and attacks affecting navigation, Iran's non-party status under UNCLOS, customary international law, and the consequences of the 2026 conflict for commercial and international navigation.

The study does not seek to provide a comprehensive legal analysis of the US–Iran–Israel conflict, assess the legality of each military action taken by the parties, or examine every aspect of the 2026 conflict. Instead, it considers only those developments and events that are relevant to

navigation through the Strait of Hormuz. Similarly, the study examines the legal effects of maritime developments only to the extent that they are relevant to restrictions, attacks, or other forms of interference with navigation. The socio-economic effects of disruption to the Strait are considered only insofar as they demonstrate the practical consequences of interference with maritime navigation. The main research questions are:

1. What is the legal status of the transit passage regime under UNCLOS?
2. How does Iran's sovereignty over its territorial sea affect the legal framework governing transit passage through the Strait of Hormuz?
3. How does Iran's non-party status under UNCLOS affect the applicability of the transit passage regime?
4. What are the legal implications of restrictions and attacks affecting navigation in the context of the 2026 US–Iran–Israel conflict?

Literature Review

Legal Status of the Strait of Hormuz

The legal classification of the Strait of Hormuz is crucial to assessing the rights and duties of the relevant coastal States and user States. Several scholars classify the Strait as a strait used for international navigation, a classification that influences the legal regime governing passage through the waterway (Syahputra et al., 2026). Syahputra et al. (2026) classify the Strait as a strait used for international navigation and argue that the legal regime governing navigation through the Strait is primarily reflected in the transit passage regime under Part III of UNCLOS. Their study examines the legality of Iran's threats and actions to close the waterway within the framework of these provisions. Similarly, Al-Khabouri (2026) describes the legal regime of the Strait in terms of the interaction between international-law-based freedom of navigation and coastal-State sovereignty. This relationship is particularly important because the Strait provides access to a strategically significant maritime area.

The classification of the Strait as an international strait does not, however, eliminate questions concerning coastal-State sovereignty. Al-Khabouri (2026) describes the relationship between sovereignty and navigation in the Strait as one in which coastal-State sovereignty is subject to the applicable rules governing navigation. Under UNCLOS, the transit passage regime applies to ships and aircraft passing through straits used for international navigation. This regime recognizes certain rights of passage while also permitting coastal States to adopt laws and regulations concerning matters such as navigational safety and environmental protection, provided that such measures do not have the effect of denying, hampering, or impairing transit passage.

Existing research also supports the application of the transit passage regime to international straits. Park and Lee (2013) explain that UNCLOS established a broader regime of navigation rights for international straits through transit passage than the traditional regime of innocent passage. Their analysis frames the legal issue as a balance between the interests of States using the waterway and the authority exercised by coastal States. This distinction is particularly relevant where a coastal State seeks to blockade or substantially restrict navigation through an

international strait, raising questions about the compatibility of such measures with the applicable legal regime.

Kirchner and Salinaitė (2013) likewise treat the Strait of Hormuz as an international strait subject to the special legal regime applicable to straits used for international navigation. Their analysis considers the application of the transit passage regime to the Strait, particularly in circumstances involving threats to close the waterway. They also distinguish between coastal-State sovereignty and the authority to regulate navigation, highlighting the legal limits placed on the exercise of such authority in an international strait.

Taken together, these studies provide a common basis for classifying the Strait of Hormuz as a strait used for international navigation and establish a framework for examining the legal regime governing passage through it (Al-Khabouri, 2026; Kirchner & Salinaitė, 2013; Park & Lee, 2013; Syahputra et al., 2026). Although this classification provides an important starting point for understanding the legal status of the Strait, the literature also demonstrates the potential tension between coastal-State jurisdiction and the rights of other States to navigate through the waterway. These issues provide a basis for further examination of the legal authority for restricting navigation, particularly during periods of security threats and armed conflict.

Transit Passage under UNCLOS

Transit passage is a key legal issue in determining the rights and duties of vessels and aircraft navigating through international straits. The literature indicates that the 1982 United Nations Convention on the Law of the Sea (UNCLOS) established a specific legal regime of transit passage for straits used for international navigation. Unlike the traditional regime of innocent passage, transit passage provides broader rights of navigation and overflight through such straits. Park and Lee (2013) explain that the development of the UNCLOS transit passage regime sought to balance the interests of coastal States with the need to maintain international navigation through Strategically important straits.

Their work identifies the Strait of Hormuz as an important example in which these competing interests arise. Syahputra et al. (2026) focus specifically on the possibility of closing the Strait of Hormuz under the 1982 UNCLOS regime, identifying Articles 37 and 38 as key provisions establishing the applicability of transit passage to straits used for international navigation. Article 37 addresses the application of the transit passage regime, while Article 38 establishes the right of transit passage through such straits. The authors describe the regime as providing for continuous and expeditious passage while imposing duties on vessels exercising transit passage. Transit passage, however, does not constitute an unrestricted right to conduct any activity within an international strait. Rather, it is a legally defined form of passage subject to specific rights and duties. At the same time, the UNCLOS regime recognizes certain regulatory powers of coastal States. Syahputra et al. (2026) and Al-Khabouri (2026) discuss Article 42, which permits coastal States bordering straits to adopt certain laws and regulations concerning navigational safety, pollution prevention, and other specified matters.

As Al-Khabouri (2026) suggests, these regulatory powers cannot be exercised in a manner that denies, hampers, or impairs the right of transit passage. Article 42 therefore provides a limited regulatory authority rather than a general power to prohibit transit passage. Of particular significance to the present study is the prohibition on suspension of transit passage. Article 44

provides that States bordering straits used for international navigation must not suspend transit passage. Syahputra et al. (2026) identify this provision as particularly relevant to questions concerning the blocking or substantial obstruction of passage through the Strait.

Some authors conclude that unilateral closure of the Strait of Hormuz would be incompatible with the UNCLOS transit passage regime. Kirchner and Salinaitė (2013), for example, examine the legality of threats by Iran to close the Strait under the UNCLOS transit passage regime and emphasize the significance of the non-suspendable nature of transit passage. However, the legal applicability of UNCLOS to Iran introduces a separate issue. Al-Khabouri (2026) and Ismail (2026) note that Iran is not a party to UNCLOS. This raises the question of whether the rules governing transit passage under UNCLOS have also developed into customary international law and therefore apply to Iran independently of treaty membership. Ismail (2026) examines the relationship between treaty law and customary international law in this context and considers whether the UNCLOS transit passage regime has acquired customary status. This issue represents an important area of legal uncertainty concerning navigation through the Strait of Hormuz and must be distinguished from the substantive content of the transit passage regime itself.

Thus, the literature generally presents the transit passage regime as central to understanding navigation through the Strait of Hormuz, particularly in relation to the rights and duties of vessels and aircraft, the regulatory powers of coastal States, and the prohibition on suspension of transit passage (Al-Khabouri, 2026; Kirchner & Salinaitė, 2013; Park & Lee, 2013; Syahputra et al., 2026). However, Iran's non-party status under UNCLOS makes the customary-law status of the transit passage regime particularly important and requires separate consideration from the substantive rules of the regime itself (Al-Khabouri, 2026; Ismail, 2026).

Iran's Sovereignty and Restrictions on Navigation

The issue of State sovereignty over the Strait is closely connected with the application of the law of the sea. As a coastal State bordering the Strait, Iran exercises sovereignty over its territorial sea, subject to the applicable rules of international law. The literature considers this sovereignty in relation to the rights of other States to navigate through an international strait. Hossain (2026) examines this relationship as a tension between coastal-State sovereignty and the broader regime of transit passage.

Hossain (2026) argues that the legal position of the Strait of Hormuz cannot be considered solely from the perspective of Iranian sovereignty, given the Strait's strategic significance for international navigation. Similarly, Al-Khabouri (2026) describes the legal regime of the Strait as involving a balance between coastal-State sovereignty and international navigation rights. The study explains that a coastal State bordering an international strait has specific powers to regulate matters such as navigational safety and the protection of the marine environment. However, these powers do not constitute a general authority to regulate international navigation without limitation. They must be exercised within the applicable international legal framework and must not be used to discriminate against or unlawfully hinder transit passage.

The Issue becomes more complex when restrictions are justified on security grounds. Park and Lee (2013) discuss instances in which coastal States have sought to control or restrict passage through international straits for security and environmental reasons. Their discussion of the Strait

of Hormuz illustrates the continuing tension between the interests of coastal States and the navigation rights of States using international waterways. It also indicates that, although security concerns may be relevant to the regulation of navigation, their existence does not by itself determine the legality of a particular restriction.

The literature also addresses Iran's claims concerning the control of navigation through the Strait of Hormuz. Kraska (2013) examines differences between Iran and the United States concerning navigation rights in the Strait. He discusses Iran's position regarding its authority to control maritime traffic and its concerns about the transit of certain warships, while also examining the limitations imposed by international maritime law on both coastal States and user States. This demonstrates that the issue concerns not only sovereignty but also the scope of navigation rights recognized under international law.

The debate becomes more complex in light of Ismail's (2026) analysis of the relationship between Iran's assertion of sovereignty and the legal nature of the transit passage regime. Given that Iran is not a party to UNCLOS, Ismail examines whether the transit passage regime applies to Iran through customary international law, as well as the relevance of the persistent-objector doctrine and the possible application of the innocent passage regime. These issues raise two related but distinct questions: the scope of sovereignty exercised by a coastal State and the extent to which that sovereignty is subject to international legal constraints.

So, the selected literature does not treat Iranian sovereignty as conferring unlimited authority to regulate navigation through the Strait. Instead, it considers sovereignty within the broader framework of international maritime law, under which the interests of the coastal State coexist with the navigation rights recognized by international law (Al-Khabouri, 2026; Hossain, 2026; Ismail, 2026; Kraska, 2013). This provides a basis for examining whether restrictions imposed, or sought to be imposed, by Iran can be distinguished from lawful regulation of navigation. The issue is particularly relevant in the context of the 2026 conflict, which raises renewed questions about the extent to which security concerns and armed conflict may affect navigation through the Strait.

Iran's Non-Party Status and Customary International Law

Another major legal issue concerning the transit passage regime in the Strait of Hormuz is that Iran is not a party to the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Although the transit passage regime is expressly established by UNCLOS for straits used for international navigation, the application of treaty rules to a non-party State raises a separate legal question. Accordingly, the relevant rules must be considered not only as treaty provisions but also in terms of whether they reflect rules of customary international law. Al-Khabouri (2026) identifies this issue as an important aspect of the legal regime applicable to the Strait of Hormuz, particularly in relation to Iran's non-party status.

Ismail (2026) addresses this issue more explicitly by distinguishing between treaty law and customary international law. The study examines whether the rules governing transit passage under UNCLOS have acquired customary international-law status and could therefore apply independently of treaty membership. This analysis also considers Iran's sovereignty claims and its position regarding the relevant rules, both of which may be relevant to determining whether a

customary rule exists and applies to Iran. The issue therefore creates legal uncertainty concerning the precise legal basis for asserting transit passage rights against Iran.

Kraska (2013) also emphasizes the significance of Iran's non-party status. His analysis considers the historical development of the law of straits and the continuing importance of customary rules governing navigation through international straits. The study notes that Iran and the United States are not parties to UNCLOS and examines whether the navigation rights established by the Convention can, independently of the treaty, be regarded as customary international law. Kraska (2013) discusses this issue in the broader context of the relationship between the UNCLOS framework and customary international law.

The literature therefore distinguishes between the treaty framework established by UNCLOS and customary rules that may apply independently of the Convention. Al-Khabouri (2026) explains that UNCLOS provides the principal treaty framework for States that are parties to the Convention, whereas the position of non-party States requires separate consideration of applicable customary international-law rules. In the context of transit passage, this distinction is particularly important because the legal basis for navigation through the Strait cannot be determined solely by reference to treaty obligations binding on Iran.

The literature therefore identifies an area of continuing legal debate rather than providing a clear and uniform answer. Syahputra et al. (2026) base their analysis of the legality of closure largely on the UNCLOS framework, whereas Ismail (2026) and Kraska (2013) give greater attention to the implications of Iran's non-party status and the possible customary-law basis of navigation rights (Ismail, 2026; Kraska, 2013; Syahputra et al., 2026). This distinction is significant to the present study because restrictions on navigation through the Strait of Hormuz must be examined in light of both the UNCLOS framework and any relevant rules of customary international law.

In summary, the literature indicates that Iran's non-party status raises an important legal question concerning the legal basis of transit passage through the Strait of Hormuz. It does not remove the relevance of UNCLOS to the analysis; rather, it requires consideration of which provisions may reflect customary international law and therefore apply independently of treaty membership (Al-Khabouri, 2026; Ismail, 2026; Kraska, 2013). This issue provides the basis for the subsequent analysis of restrictions on navigation and the legal consequences of Iran's conduct and other measures under both treaty and customary international law.

Closure or Restriction of the Strait of Hormuz

The literature on the legal regime of the Strait recognizes that not all measures regulating navigation necessarily amount to closure. Syahputra et al. (2026) consider this issue directly and conclude that the Strait falls within the transit passage regime established under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Their study argues that the powers of coastal States do not extend to measures that effectively deny or suspend transit passage.

Park and Lee (2013) examine closure in the context of the development of the transit passage regime under UNCLOS. They explain that disputes concerning international straits have historically arisen when coastal States have sought to close or restrict passage for reasons of security or environmental protection. The Strait of Hormuz, particularly in light of Iranian threats

to block the Strait, illustrates the importance of such threats and their implications for the applicable international legal regime.

Kirchner and Salinaitė (2013) specifically examine the threat of an Iranian closure and its potential implications under international law. Their analysis focuses on the application of the transit passage regime to the Strait and considers threats to close or prevent passage. The study also examines the limits of Iran's position and the circumstances in which restrictions could be inconsistent with applicable international law. This suggests that the relevant legal question is not limited to whether an actual closure occurs, but also includes whether threats or other measures that prevent or substantially interfere with passage are legally permissible.

Rafiq et al. (2025) consider the legal and practical implications of a potential closure in the context of renewed tensions between Iran and the United States concerning the Strait. They argue that physical closure would raise serious legal concerns under UNCLOS. At the same time, their discussion of restrictions imposed by the United States on Iran in the context of the Strait demonstrates that restrictions on maritime activity do not necessarily amount to a physical closure of the waterway.

The literature also supports a distinction between lawful regulation of navigation and measures that effectively amount to closure. Al-Khabouri (2026) notes that the 1982 Convention limits the regulatory powers of coastal States, including measures concerning environmental protection and navigational safety. At the same time, the author distinguishes such regulation from measures that prevent lawful transit passage or constitute a unilateral attempt to control passage through the Strait.

Ismail (2026) further argues, in the context of Iran's non-party status, that the distinction between restrictions and closure cannot be assessed solely by reference to the treaty provisions of UNCLOS. It also requires consideration of customary international law. Accordingly, not every restriction on navigation constitutes a closure, and determining the legality of a particular measure requires consideration of its nature, purpose, and effect under the applicable legal framework.

Warships and Navigation Restrictions

The question of warship passage through the Strait of Hormuz is one of several issues raised in relation to navigation rights and the authority of the coastal State. The literature demonstrates that the issue becomes particularly complex when a coastal State seeks to impose additional requirements on the passage of foreign warships. Kirchner and Salinaitė (2013) consider Iran's position on warship passage and discuss its requirement for prior authorization. Their analysis examines whether such a requirement is consistent with the rules governing passage through an international strait.

Kraska (2013) also presents the passage of warships as a key aspect of the dispute between Iran and the United States. The author discusses Iran's position concerning the control of maritime traffic and the passage of certain warships, while also examining the broader US position on navigation rights. Kraska (2013) places these competing positions within the historical and legal development of the law of straits and considers whether claims concerning broad freedom of navigation can be regarded as part of customary international law.

The distinction between innocent passage and transit passage is crucial when considering the issue of warship passage. Park and Lee (2013) explain that UNCLOS provides a more extensive regime of navigation rights through transit passage in international straits than the traditional regime of innocent passage. Their discussion of the Strait of Hormuz demonstrates the importance of identifying the legal status of the Strait and the applicable passage regime when considering restrictions on particular types of vessels.

Al-Khabouri (2026) further examines the legal authority of a coastal State over passage through the Strait of Hormuz. The author recognizes that coastal States have some regulatory powers concerning matters such as navigation and safety, but these powers are subject to the applicable rules governing passage. Restrictions concerning warships must therefore be assessed within the wider legal framework governing the Strait rather than solely on the basis of the sovereignty of the coastal State.

The literature demonstrates that the status of warship passage is closely connected with the wider debate concerning transit passage, innocent passage, coastal-State sovereignty, and customary international law. Kirchner and Salinaitė (2013) raise issues concerning requirements such as prior authorization, while Kraska (2013) examines the differing positions of the United States and Iran regarding the scope of navigation rights. These considerations indicate that warship passage cannot be considered independently of the legal status of the Strait or the applicable passage regime.

Tariffs, Fees and Other Restrictions

Another issue in the debate concerning the use of the Strait of Hormuz is the imposition of tariffs or fees and its relationship with the authority of the coastal State and the navigation rights of other States. Since the Strait of Hormuz is a natural strait used for international navigation, a legal question arises as to whether Iran can impose charges or tariffs on vessels exercising their right of passage. Poorhashemi (2026) specifically considers this issue and examines whether Iran could impose tariffs or fees on vessels passing through the Strait, drawing a comparison with tolls imposed in certain artificial canals.

Poorhashemi (2026) distinguishes between natural straits governed by the international law of the sea and artificial waterways such as canals. This distinction is important because the legal regimes governing access to natural straits and artificial waterways are different in principle. In the case of a natural international strait, the right of passage is connected with the international legal regime governing navigation, whereas access to artificial canals may be regulated under different legal arrangements (Poorhashemi, 2026).

Al-Khabouri (2026) explains that, even where a coastal State has certain regulatory powers concerning an international strait, such powers are subject to the applicable legal framework governing navigation. The author considers whether toll schemes could constitute financial restrictions and argues that measures adopted by a coastal State must not undermine the applicable rights of navigation (Al-Khabouri, 2026). The literature therefore distinguishes between legitimate regulation of navigation and the imposition of financial conditions on vessels exercising rights of passage.

The literature also considers whether the Imposition of a toll can be regarded as a legitimate exercise of coastal-State regulatory authority. Poorhashemi (2026) examines the issue of tolls within the broader context of sovereignty, transit passage, and the international law of the sea, while Al-Khabouri (2026) discusses the limitations on the regulatory powers of coastal States. Together, these studies indicate that financial measures may raise separate legal questions from physical restrictions on navigation.

This discussion is particularly relevant to the present study because restrictions on transit are not limited to physical obstruction. Financial measures, tariffs, or other conditions imposed on vessels may also require assessment under the applicable legal regime. Poorhashemi (2026) considers the issue of tolls in detail, while Al-Khabouri (2026) addresses the broader limitations on coastal-State regulatory powers. These discussions provide a basis for examining whether any tolls, tariffs, or other financial restrictions were imposed during the 2026 conflict and, if so, whether they can be distinguished from a lawful exercise of coastal-State authority.

Armed Conflict and Navigation

The legal implications of the Strait of Hormuz become more complex in situations of armed conflict. Although much of the literature on the Strait has traditionally focused on transit passage, sovereignty, and closure, recent research has also considered the practical implications of armed conflict for commercial and neutral shipping and the related legal issues. Nevitt (2026) examines the Strait in the context of armed conflict, referring to reported missile attacks against neutral commercial vessels, the potential use of maritime mines, and their implications for safe navigation. The study therefore goes beyond the question of whether a coastal State could close or restrict passage and considers how conduct during armed conflict may affect the exercise of navigation rights.

The relationship between maritime security and the law of armed conflict is also discussed by Nevitt (2026), particularly in relation to reported attacks against commercial vessels and the potential presence of mines in or near the Strait. Such circumstances may create legal and operational concerns because mines and armed hostilities could make navigation through the Strait unsafe even in the absence of a formal declaration of closure. The author also discusses the difficulties associated with minesweeping operations during hostilities, illustrating the distinction between the legal right to pass and the practical ability to navigate safely.

Rafiq et al. (2025) also examine the Strait in the context of heightened military and political tensions. Their study considers the legal and practical implications of a potential closure and discusses the relationship between sovereignty, international law, and security concerns. The authors argue that disruption to navigation through the Strait could have consequences beyond the States directly involved in a conflict because the Strait is an important international maritime route (Rafiq et al., 2025).

The literature also discusses the relationship between the law of the sea and the law of armed conflict in this context. Nevitt (2026) addresses this relationship in connection with attacks on shipping and the potential presence of mines, while Kirchner and Salinaitė (2013) examine restrictions on navigation within the broader framework of international law. These studies indicate that the legal assessment of conduct at sea during armed conflict cannot necessarily be limited to the ordinary rules governing passage. The applicable legal framework may also require

consideration of the rules governing the conduct of hostilities and their effects on maritime navigation.

Another relevant issue identified in the literature is the distinction between formal restrictions on navigation and indirect interference with navigation. A State may not formally declare the Strait closed, while security threats such as mines, attacks, or other measures may nevertheless make navigation unsafe or practically impossible. Nevitt (2026) highlights this operational dimension by discussing vessel avoidance of the Strait and the effects of maritime insecurity on shipping and insurance. Rafiq et al. (2025) similarly examine the wider economic and diplomatic consequences of disruption to navigation through the Strait.

The relevant literature therefore indicates that the implications of armed conflict in the Strait of Hormuz extend beyond the question of whether a State may formally close the Strait or impose restrictions. They also concern conduct that may harm, impede, or otherwise interfere with navigation during armed conflict. Nevitt (2026) provides particular attention to these operational considerations, while Rafiq et al. (2025) relates the issue to broader legal and strategic implications.

Both the conflict setting and the distinction between legal rights and the practical ability to navigate are important to the present research. The 2026 conflict requires the scope of transit passage to be examined alongside interference with navigation resulting from hostilities. It is therefore important to distinguish between the legal right to navigate and the practical ability to navigate safely, as these two issues may not always be synonymous in practice.

Diplomatic and Geopolitical Considerations

Discussions in the literature on the legal aspects of the Strait of Hormuz are closely connected with wider diplomatic considerations. Although the present study focuses on the legal regime governing navigation, the literature suggests that the strategic importance of the Strait influences States' approaches to sovereignty, security, and navigation. Hossain (2026) not only analyses the relationship between transit passage and coastal-State sovereignty but also considers the significance of the Strait in India–Iran relations. The study indicates that States may need to balance their interpretation of international maritime law with broader strategic considerations.

Rafiq et al. (2025) examine the Strait from the perspectives of sovereignty, diplomacy, and international maritime law. Their research considers the broader consequences that disruption or closure of the Strait of Hormuz may have and discusses diplomatic and economic responses alongside the legal question of the permissibility of closure. Their analysis highlights the importance of diplomatic engagement and maritime cooperation in responding to tensions involving strategically important maritime chokepoints.

Al-Khabouri (2026) places the legal regime of the Strait of Hormuz within the wider context of international cooperation. In addition to examining the authority of coastal States, the study discusses cooperation between States bordering international straits and States using them and considers the relevance of Article 43 of UNCLOS to such cooperation. This perspective suggests that the legal regime governing an international strait involves not only questions of navigation and coastal-State sovereignty but also the potential for cooperation between coastal States and user States.

The literature therefore demonstrates that the Strait of Hormuz cannot be viewed solely as a matter of treaty interpretation. Its strategic importance creates a continuing connection between international maritime law, State sovereignty, diplomacy, and security interests. Hossain (2026) focuses on the relationship between legal rules and bilateral strategic interests, while Rafiq et al. (2025) examine the wider diplomatic and economic consequences of disruption. Al-Khabouri (2026), in turn, emphasizes the importance of cooperation within the international legal framework.

Taken together, these studies suggest that strategic considerations do not, by themselves, alter the applicable legal rules. However, strategic and diplomatic interests may influence State behaviour and the circumstances in which legal rules are interpreted and applied. For the present study, this distinction is important because the 2026 conflict involves broader strategic interests, while the primary focus of the research remains the legal consequences of restrictions, interference, and other measures affecting transit passage and navigation through the Strait of Hormuz.

Synthesis and Research Gap

The reviewed literature provides a substantial legal basis for evaluating the legal position of the Strait of Hormuz and the rules governing navigation through it. The studies generally identify the Strait of Hormuz as a strait used for international navigation and commonly examine the transit passage regime as the primary legal framework governing navigation rights. Syahputra et al. (2026), Al-Khabouri (2026), Park and Lee (2013), and Kirchner and Salinaitė (2013) emphasize the importance of transit passage and the limitations placed on the regulatory authority of coastal States in international straits.

The literature also shows that the relationship between Iranian sovereignty and the rights of other States to navigate through the Strait of Hormuz is a key area of legal debate. Hossain (2026) examines the tension between coastal-State sovereignty and transit passage, while Al-Khabouri (2026) discusses the limitations on a coastal State's regulatory powers. These studies indicate that sovereignty over the territorial sea alone does not determine the legal position concerning navigation through an international strait. The literature further shows that Iran's non-party status under UNCLOS is an important issue when assessing the legal basis of transit passage. Ismail (2026) and Kraska (2013) examine the question of whether the rules governing transit passage also apply to Iran through customary international law.

Similarly, Al-Khabouri (2026) distinguishes between the treaty rules applicable to States that are parties to UNCLOS and customary international law that may apply independently of treaty membership. The literature therefore indicates that a proper legal assessment of navigation through the Strait requires consideration of both treaty law and relevant customary international law. The effects of possible closure or restriction of the Strait have also received considerable attention in the selected literature.

Syahputra et al. (2026), Kirchner and Salinaitė (2013), Park and Lee (2013), and Rafiq et al. (2025) examine the legal implications of restrictions or closure of the Strait. Their discussions focus on the non-suspension of transit passage and the limits on unilateral measures that may impede international navigation. The selected literature also addresses specific forms of restriction. Kirchner and Salinaitė (2013) and Kraska (2013) examine the passage of warships, while Poorhashemi (2026) discusses the possibility of tariffs and fees. Al-Khabouri (2026)

considers the broader regulatory powers of coastal States concerning navigation and environmental protection. These studies demonstrate that restrictions on navigation may take different legal forms and therefore require assessment under the relevant legal rules.

A further issue emerging from more recent literature is armed conflict and maritime security. Nevitt (2026) discusses the implications of armed conflict, including reported attacks on neutral commercial vessels, the potential presence of maritime mines, and the operational challenges of maintaining safe navigation. Rafiq et al. (2025) also examine the legal, economic, and diplomatic consequences of disruption to navigation through the Strait. These studies extend the discussion beyond the theoretical possibility of closure to the practical effects of interference with navigation during armed conflict.

Despite this range of contributions, the existing literature also leaves certain areas requiring further analysis. First, some studies focus primarily on the general legal regime of the Strait of Hormuz or on the hypothetical possibility of closure. Second, although the relationship between Iran's non-party status and the application of UNCLOS is discussed, the interaction between the rules of transit passage and customary international law remains subject to continuing legal debate. Third, the relationship between the ordinary rules governing navigation and conduct affecting commercial and neutral shipping during armed conflict would benefit from a more integrated legal analysis. The selected studies largely examine specific issues separately, including sovereignty, closure, warship passage, tariffs, customary international law, and armed conflict.

It is therefore important to examine these issues together within a single legal framework governing transit passage. This study addresses this need by examining the legal framework applicable to transit passage through the Strait of Hormuz and applying it to the circumstances of the 2026 US–Iran–Israel conflict, with particular attention to restrictions on navigation, coastal-State sovereignty, customary international law, and interference with navigation during armed conflict. The selected studies therefore provide the foundation for the present research while also demonstrating areas that require further examination through a contemporary legal analysis of the rules governing transit passage in the Strait of Hormuz.

Legal Framework

The legal framework for this study is primarily based on the international law of the sea, particularly the rules governing straits used for international navigation. The legal status of the Strait of Hormuz is central to determining the rights and obligations of States bordering the Strait and those using it for international navigation. Part III of the United Nations Convention on the Law of the Sea (UNCLOS) establishes a specific legal regime for qualifying international straits. Article 37 identifies the straits to which the transit passage regime applies, including those connecting one part of the high seas or an exclusive economic zone with another part of the high seas or an exclusive economic zone. The Strait of Hormuz is therefore examined in light of its geographical position, its use for international navigation, and its connection between the Persian Gulf and the Gulf of Oman. Its legal classification is important because the navigation rights of user States must be considered alongside the sovereignty and jurisdiction of the coastal States.

Articles 37 and 38 of UNCLOS provide the starting point for examining transit passage through the Strait of Hormuz. Article 37 defines the scope of application of the transit passage regime,

while Article 38 recognizes the right of transit passage through qualifying international straits. Transit passage involves the exercise of freedom of navigation and overflight solely for the purpose of continuous and expeditious transit through the strait. It differs from innocent passage because it provides a specific legal regime for ships and aircraft passing through qualifying international straits. Article 38 also provides that transit passage shall not be impeded, subject to the conditions established by the Convention. The distinction between transit passage and innocent passage is therefore important to determining the rights of vessels and aircraft using the Strait.

The transit passage regime also establishes duties for vessels and aircraft exercising this right. Article 39 requires ships and aircraft to proceed without delay through or over the strait, refrain from threats or the use of force against the sovereignty, territorial integrity, or political independence of States bordering the strait, and comply with other applicable obligations under the Convention. Ships must also comply with generally accepted international regulations, procedures, and practices concerning safety at sea and the prevention, reduction, and control of pollution from ships. These duties complement the right of transit passage by defining the conduct expected of those exercising it. The regime therefore recognizes navigation rights while requiring compliance with the relevant international legal obligations.

An important issue arises from the position of the States bordering the Strait, particularly Iran, in relation to UNCLOS. Iran signed the Convention in 1982 but is not a party to it. Accordingly, the Convention's treaty provisions must be distinguished from rules of customary international law that may apply independently of treaty membership. The present study therefore considers two related questions: the substantive content of the transit passage regime established by UNCLOS and the extent to which its relevant rules may bind Iran under customary international law. The latter question requires consideration of State practice, opinion juris, and the legal significance of Iran's position concerning the relevant rules. These matters are examined further in the legal analysis.

UNCLOS also establishes limits on the regulatory powers of States bordering international straits. Article 42 permits such States to adopt laws and regulations concerning specified matters, including navigational safety, maritime traffic, pollution prevention, fishing, and certain customs, fiscal, immigration, and sanitary matters. However, these powers are subject to the limitations set out in the Convention. In particular, such laws and regulations must not discriminate in form or in fact against foreign ships or have the practical effect of denying, hampering, or impairing the right of transit passage. Article 44 further requires States bordering straits not to hamper transit passage and prohibits its suspension. These provisions are particularly relevant when assessing whether restrictions introduced during periods of heightened tension or armed conflict are compatible with the applicable legal regime.

The relationship between coastal-State sovereignty and transit passage must therefore be examined within the wider framework of the law of the sea. Under UNCLOS, the sovereignty of States bordering an international strait is exercised subject to the applicable rules governing passage. The Convention does not provide coastal States with an unrestricted power to prevent international navigation through a strait where the transit passage regime applies. At the same time, the legal assessment of a particular measure requires consideration of its nature, purpose, and practical effects, as well as the legal rules applicable to the State concerned.

The legal position becomes more complex when navigation is affected by tension or armed conflict. Although Articles 38, 42, and 44 are particularly relevant to the regulation and protection of transit passage, the legal analysis must also distinguish between measures adopted by a coastal State and interference arising from hostilities or the conduct of other States. Article 44 provides that transit passage shall not be suspended. However, determining the legality of particular conduct during armed conflict may also require consideration of other applicable rules of international law, including the law governing the conduct of hostilities and the protection of civilian and commercial shipping.

A further issue concerns the geographical and legal scope of the transit passage regime. The application of Part III depends on whether the relevant waterway meets the conditions established by UNCLOS. Where a passage does not fall within the scope of that regime, a different legal framework may apply. Consequently, the present study considers the legal classification of the Strait of Hormuz before determining the precise legal consequences of restrictions on navigation.

Overall, the legal framework combines the relevant provisions of UNCLOS with an examination of customary international law and other applicable rules of international law. This approach is necessary because Iran's non-party status means that the applicability of the Convention's transit passage regime cannot be established solely by referring to its treaty provisions. The subsequent analysis therefore examines the legal status of transit passage through the Strait of Hormuz, the relationship between coastal-State sovereignty and navigation rights, and the legal implications of restrictions and interference with navigation during the 2026 US–Iran–Israel conflict.

Research Method and Sources

This study adopts a doctrinal legal research method because its primary purpose is to identify, interpret, and apply the legal rules governing transit passage through the Strait of Hormuz. It does not use empirical methods such as questionnaires, interviews, or statistical analysis. Instead, it examines relevant legal rules and documents, analyses their meaning and scope, and applies them to the research questions. The doctrinal method is appropriate because the study focuses on the interpretation of legal provisions, the relationship between different rules of international law, and their application to a specific legal and factual context. The analysis follows a structured process of legal reasoning, examining the relevant rules and interpreting their relationship before applying them to the circumstances of the Strait of Hormuz and the 2026 conflict.

The primary legal source for this study is the United Nations Convention on the Law of the Sea (UNCLOS), particularly the provisions concerning transit passage, the rights and duties of States bordering international straits, and the regulation of navigation. The study also considers other relevant international legal materials, official documents, and statements issued by the States concerned and relevant international organizations. These materials help establish the legal positions adopted by the relevant actors and identify developments affecting navigation through the Strait of Hormuz. Particular attention is given to distinguishing treaty obligations from rules of customary international law, especially in view of Iran's non-party status under UNCLOS.

Secondary sources include scholarly articles and other academic publications addressing the legal regime of international straits, transit passage, coastal-State sovereignty, customary

international law, and restrictions on navigation during armed conflict. These sources are used to identify existing legal arguments, compare different interpretations, and assess areas of agreement and continuing debate. The study does not treat scholarly opinions as binding legal rules; rather, it evaluates their reasoning in light of the applicable legal provisions and other relevant materials.

The study also uses the 2026 US–Iran–Israel conflict as a case study to examine how the relevant legal rules apply to developments affecting navigation through the Strait of Hormuz. The case study provides a factual context for assessing restrictions on passage, interference with commercial navigation, and the relationship between coastal-State sovereignty and international navigation rights during armed conflict. By combining doctrinal legal analysis with documentary analysis of relevant developments, the study evaluates the legal implications of the conflict without seeking to provide a comprehensive assessment of every military or political issue arising from it.

The 2026 Conflict and the Strait of Hormuz

The circumstances affecting the Strait of Hormuz in 2026 are closely connected with the wider US–Iran–Israel conflict, which began on 28 February 2026. The conflict quickly raised serious security concerns regarding maritime navigation in and around the Strait. On 1 March 2026, the International Maritime Organization (IMO) reported attacks against merchant ships and expressed concern about the safety of seafarers and the disruption of navigation. The IMO called on all parties to protect civilian shipping and ensure the safety of navigation, while advising ships to exercise maximum caution and avoid the affected area where possible.

Subsequent IMO reports documented the growing impact of the conflict on commercial shipping. In June and July 2026, the organization reported that 136 vessels carrying approximately 2,900 seafarers had been evacuated through two alternative routes because security risks, particularly the presence of sea mines, prevented the normal Traffic Separation Scheme from being used. The evacuation operation was subsequently paused because the safety of vessels and their crews could no longer be assured. These developments demonstrated that the conflict was affecting not only the legal and security conditions governing navigation but also the practical ability of ships to pass safely through the region (International Maritime Organization [IMO], 2026a, 2026b).

The disruption continued in the following months. On 28 August 2026, the IMO reported that up to 400 ships carrying approximately 6,000 seafarers had been unable to depart safely from the Persian Gulf since the conflict began. The organization also reiterated the importance of protecting transit passage through straits used for international navigation and called for coordinated efforts to restore safe and unhindered navigation (IMO, 2026c). On 16 September 2026, the IMO reported that it had verified 80 attacks on merchant vessels in and around the Strait of Hormuz since the beginning of the conflict, resulting in at least 22 seafarer deaths. It urged States to refrain from actions that endanger merchant ships and seafarers (IMO, 2026d).

These developments have significantly affected the conditions under which commercial vessels navigate through the Strait. The presence of mines, reported attacks, and continuing security concerns have created risks for vessels and crews, while interruptions to established shipping routes have complicated maritime operations. The US Maritime Administration has also warned

of continuing threats to commercial vessels in the Persian Gulf, the Strait of Hormuz, and the Gulf of Oman. Its maritime advisory identifies risks including missile attacks, armed unmanned aerial vehicles, and armed unmanned surface vessels (US Maritime Administration, 2026). These warnings illustrate the security concerns affecting maritime operations in the region, although the legal consequences of particular measures must be assessed separately under the applicable rules of international law.

The positions adopted by international organizations and States also demonstrate the relationship between maritime security and the legal framework governing navigation. The IMO has emphasized the protection of seafarers, civilian shipping, and transit passage through international straits. The United States, meanwhile, has identified maritime threats and the protection of navigation and commercial activity as important security concerns. Iran's position concerning control over navigation must likewise be assessed within the applicable international legal framework. These positions raise questions about the relationship between coastal-State sovereignty, maritime security, and the rights of States to navigate through an international strait.

The factual circumstances of the 2026 conflict therefore provide an important context for the legal analysis that follows. The central issue is not simply whether the Strait of Hormuz has been formally closed, but also how attacks, mine-related risks, security measures, and other forms of interference affect navigation in practice. The analysis must distinguish between the existence of a legal right of transit passage and the practical ability of vessels to exercise that right safely. It must also determine the extent to which the conduct of the States concerned and the restrictions affecting navigation comply with the applicable rules of treaty law, customary international law, and, where relevant, the law of armed conflict.

Legal Analysis and Discussion

The legal position of the Strait of Hormuz during the 2026 conflict must be examined by considering the relationship between the international legal framework governing navigation through straits used for international navigation and the sovereignty of the coastal States. This section addresses the applicability of transit passage, the limits of Iran's regulatory authority, and the legal implications of Iran's status as a non-party to the United Nations Convention on the Law of the Sea (UNCLOS). It also considers how security concerns and disruptions to maritime traffic affect the legal assessment of navigation through the Strait.

Passage through the Strait of Hormuz

The first research question concerns the applicability of the transit passage regime to the Strait of Hormuz. Its geographical position and importance for international shipping between the Persian Gulf and the Gulf of Oman make its legal classification particularly significant. Articles 37 and 38 of UNCLOS establish the treaty framework for transit passage through straits that meet the relevant geographical and navigational criteria. The applicability of this regime must therefore be assessed in light of the Strait's characteristics and the legal requirements established under international law.

Much of the literature examined in this study identifies transit passage as the relevant legal regime for the Strait of Hormuz. However, scholars also recognize that Iran's status as a non-party to UNCLOS raises questions about the extent to which the Convention's provisions can be

invoked against it (Al-Khabouri, 2026; Ismail, 2026; Kirchner & Salinaitė, 2013; Syahputra et al., 2026). These questions require a distinction between the applicability of the transit passage regime under UNCLOS and the possible applicability of relevant rules under customary international law.

Under Article 38, transit passage allows ships and aircraft to exercise freedom of navigation and overflight solely for continuous and expeditious transit through a qualifying strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. This right is subject to the conditions established by UNCLOS, including the duties set out in Article 39. Transit passage therefore does not amount to an unlimited freedom from legal obligations. At the same time, the sovereignty of a coastal State does not, by itself, establish an unrestricted right to control or prevent navigation through a strait governed by the transit passage regime.

Accordingly, the legal assessment must address two connected questions: whether the Strait of Hormuz falls within the geographical scope of the transit passage provisions and whether the relevant rules bind Iran under treaty law, customary international law, or both. These questions are related but should not be treated as interchangeable. Establishing the Strait's geographical classification does not, by itself, settle the separate question of the legal obligations applicable to Iran.

Iran's Sovereignty and the Right of Transit Passage

The second research question examines the relationship between Iran's sovereignty over its territorial sea and the legal framework governing passage through the Strait of Hormuz. Under international law, a coastal State exercises sovereignty over its territorial sea, subject to applicable international legal obligations. Where a strait falls within the scope of the transit passage regime, the exercise of coastal-State sovereignty must be considered in conjunction with the applicable rules governing international navigation.

Article 42 of UNCLOS permits States bordering straits to adopt laws and regulations concerning specified matters, including navigational safety, maritime traffic, pollution prevention, and certain other activities. However, this regulatory authority is subject to limitations. In particular, regulations must not discriminate in form or in fact among foreign ships, or have the practical effect of denying, hampering or impairing the right of transit passage. Article 44 further requires States bordering straits not to hamper transit passage and prohibits its suspension.

These provisions highlight the importance of distinguishing between legitimate navigational regulation and measures that interfere with the exercise of transit passage. For example, a proportionate safety measure responding to a specific navigational hazard must be assessed differently from a blanket prohibition on passage. Nevertheless, the existence of a security concern does not automatically establish that every restriction imposed in response to it is lawful. The purpose, legal basis, scope and practical effects of a measure must be examined in light of the applicable legal rules.

This distinction is particularly relevant to the developments reported during the 2026 conflict. Attacks on vessels, mine-related risks, reported detentions of merchant ships and widespread disruption to commercial shipping created serious concerns about the safety and continuity of

maritime navigation. These circumstances help explain the practical difficulties faced by vessels seeking to transit the Strait. However, the existence of such risks does not, on its own, determine the legality of restrictions imposed by a coastal State. Nor does the fact that navigation has become dangerous establish that a coastal State has acquired a general legal right to suspend passage.

The legal assessment must therefore distinguish between an actual inability to navigate safely because of hostilities or other hazards and a State-imposed measure that unlawfully denies or interferes with a right of passage. A restriction described as a security measure must still be assessed according to its legal basis, purpose and effects. Equally, a measure should not be regarded as unlawful merely because it affects navigation; its compatibility with the applicable rules must be established through a case-specific assessment.

The literature considered in this study supports the need to distinguish between permissible regulation and excessive interference. Al-Khabouri (2026) discusses the limits of Iran's regulatory authority and the distinction between legitimate regulatory measures and the denial of passage. Syahputra et al. (2026) similarly emphasize the restrictions imposed on coastal-State regulatory powers by Article 42 of UNCLOS. These arguments support the view that regulatory authority cannot automatically be equated with a right to close the Strait or discriminate against foreign vessels.

Hossain (2026) considers the broader tension between Iran's sovereignty and the international legal framework governing navigation. This tension raises a central question for the present study: should security concerns be treated solely as factual circumstances relevant to the assessment of a restriction, or can they provide a legal justification for limiting navigation? The answer depends on the applicable legal rules and the specific circumstances of the measure concerned. Security concerns may be relevant to the factual and legal assessment, but their existence alone does not establish a lawful justification for denying or suspending transit passage.

Status under UNCLOS and Customary International Law

The third research question concerns the legal implications of Iran's status as a non-party to UNCLOS. Iran signed the Convention in 1982 but has not ratified it and is therefore not a party. Consequently, the Convention's provisions do not automatically bind Iran as treaty obligations. However, this does not necessarily mean that Iran is outside every rule of international law governing navigation through international straits. The separate question is whether particular rules reflected in UNCLOS also form part of customary international law and are therefore binding independently of the Convention.

Customary international law generally requires evidence of sufficiently general State practice accompanied by acceptance of that practice as law (opinio juris). Accordingly, the customary status of a particular UNCLOS provision must be assessed individually rather than inferred simply from its inclusion in the Convention. This distinction is especially important when considering whether the transit passage regime, including its specific protections and restrictions, applies to Iran independently of treaty law.

The literature examined in this study reflects differing approaches to this issue. Kraska (2013) questions whether the entire UNCLOS regime can be regarded as customary international law. Ismail (2026) considers the customary status of transit passage in particular and the implications of Iran's non-party status. Al-Khabouri (2026) also highlights the relevance of customary international law to the legal framework governing the Strait of Hormuz. These discussions demonstrate why the legal analysis must focus on the customary status of specific rules rather than treating UNCLOS as a single body of rules that either applies in its entirety or has no relevance to Iran.

The distinction has direct implications for the present study. If a particular rule of transit passage is established as customary international law, Iran may be bound by that rule independently of its status under UNCLOS. If, however, a provision reflects a treaty obligation that has not independently acquired customary status, it cannot be treated as binding on Iran merely because it appears in the Convention. The legal status of each relevant rule must therefore be established before drawing conclusions about Iran's obligations.

The prohibition on suspending transit passage under Article 44 is particularly important in this regard. Although the Convention expressly prohibits States bordering straits from suspending transit passage, the extent to which this specific obligation binds Iran as customary international law requires a separate legal assessment. Syahputra et al. (2026) discuss the relevance of this prohibition to the legal position of the Strait. However, the claim that the prohibition is customary law should be supported by appropriate evidence of State practice and opinio juris, rather than assumed solely from the wording of Article 44.

Iran's non-party status therefore creates an important question of legal applicability, but it does not, by itself, resolve the legal position of the Strait of Hormuz. The central task is to identify which rules apply through treaty law, which may apply through customary international law, and what evidence supports each conclusion. This approach provides a more precise basis for evaluating the legality of restrictions on navigation during the 2026 conflict without either assuming that all UNCLOS provisions bind Iran or concluding that Iran is free from all obligations concerning international navigation.

Effects of the 2026 Conflict on Navigation

The fourth research question examines the legal implications of the 2026 conflict for navigation through the Strait of Hormuz. Reports of attacks on vessels, mine-related dangers, detentions and disruptions to commercial shipping demonstrate that the legal issues surrounding transit passage have practical significance. Merchant vessels and other ships engaged in international navigation have faced serious security risks, while threats to navigational safety have affected the ability of vessels to transit the Strait. These developments are relevant to the legal analysis because interference with navigation may occur in practice even when a State has not formally declared a closure or suspension of passage.

A distinction must therefore be drawn between a formal restriction on navigation and circumstances that make passage difficult, dangerous or temporarily impracticable. Although these situations may have similar practical consequences for shipping, they do not necessarily have the same legal character. A formally imposed prohibition, an attack on a vessel, the presence of mines and a decision by ship operators to avoid a dangerous route are different

situations that require separate legal assessments. Nevertheless, each may affect the practical exercise of navigation rights and should be considered when evaluating the overall impact of the conflict on maritime traffic.

The effects on merchant and neutral shipping are particularly important. Commercial vessels may be affected by hostilities even when they are not directly involved in military operations. Their status, the circumstances of an incident and the applicable rules of international law must therefore be considered when determining whether an attack, detention or other interference was lawful. Where merchant or neutral vessels have been attacked or prevented from continuing their voyages, the legal analysis may involve both the law of the sea and the international law governing armed conflict. The relationship between these legal frameworks is significant because the existence of an armed conflict does not, by itself, remove the need to consider the rules governing maritime navigation.

Nevitt (2026) discusses attacks affecting neutral shipping and the threat posed by mines in the context of the law of the sea and the law of armed conflict. This discussion highlights the importance of examining maritime incidents through the relevant legal frameworks rather than treating every disruption as an ordinary navigational restriction. The applicable rules will depend on the circumstances of each incident, including the status of the vessel, the nature of the conduct and the legal obligations governing the parties involved.

The passage of foreign warships raises a related but distinct issue. Scholars have debated the relationship between the passage of warships and the legal regime governing navigation through international straits, including whether prior authorization may be required in particular circumstances (Kirchner & Salinaitė, 2013; Kraska, 2013). These questions must be assessed by distinguishing the transit passage regime from other rules governing navigation through territorial seas. Where transit passage applies, Article 38 of UNCLOS provides for passage by ships and aircraft, while Article 39 establishes duties for those exercising that right. However, the application of these treaty provisions to Iran must be considered alongside the separate question of which relevant rules bind Iran under customary international law.

The legal status of a vessel is therefore important, but it does not alone determine the applicable legal framework or resolve the legality of a particular incident. The nature and purpose of the passage, the conduct of the vessel, the circumstances of the incident and the relevant rules of international law must also be considered. A foreign warship's passage cannot automatically be treated as unlawful merely because the vessel is military in character. Equally, the existence of a right of passage does not remove the duties imposed on the vessel under the applicable legal regime.

Mine-related dangers further illustrate the difference between a formal closure and a practical obstruction to navigation. The presence of mines or credible reports of suspected mines may make passage unsafe, cause vessels to divert or prevent them from using established shipping routes. Such circumstances can substantially affect the practical exercise of navigation rights even without an official prohibition. Reports by the International Maritime Organization during 2026 identify navigational safety and mine-related risks as important concerns during the crisis (International Maritime Organization [IMO], 2026a, 2026b). These reports provide factual context for assessing the disruption to shipping, but they do not, by themselves, establish responsibility for the mines, determine the legality of any particular operation or resolve the legal

consequences of the resulting disruption. Those questions require separate consideration under the applicable law of the sea and, where relevant, the law of armed conflict.

Financial measures, including tariffs and passage fees, raise another question concerning possible interference with navigation. Poorhashemi (2026) considers the distinction between natural straits and artificial waterways and examines the legal basis for charging vessels to pass through them. This distinction is relevant because a charge imposed as a condition of passage through a natural strait used for international navigation may raise different legal issues from a charge for a specific service. Under Article 42 of UNCLOS, the regulatory authority of States bordering straits is limited to the matters specified in that provision and must be exercised consistently with the protections afforded to transit passage. Article 26 also addresses charges that may be levied on foreign ships passing through the territorial sea. Accordingly, a general demand for payment as a condition of transit must be distinguished from a charge for a specific service actually provided to a vessel. The legality of a particular fee depends on the applicable legal rules and the nature and purpose of the charge; it should not be assumed that every payment requirement is either lawful or unlawful without further analysis.

Taken together, the four research questions demonstrate that the legal position of the Strait of Hormuz cannot be understood by considering transit passage, coastal-State sovereignty, Iran's non-party status under UNCLOS and the effects of the 2026 conflict in isolation. First, the transit passage regime is central to assessing navigation through the Strait, provided that the relevant geographical and legal requirements are satisfied. Second, Iran's sovereignty over its territorial sea remains relevant, but the exercise of that sovereignty must be assessed in light of any applicable international legal obligations. Third, Iran's non-party status means that the binding effect of particular UNCLOS provisions must be distinguished from the possible application of corresponding rules of customary international law. Fourth, the events of 2026 demonstrate why the legal analysis must consider not only formal restrictions but also attacks, mine-related dangers, detentions and other developments affecting the practical ability of vessels to navigate.

The central legal challenge Is therefore to determine the limits of coastal-State authority while taking account of the legal interests protected by the rules governing international navigation. Neither coastal-State sovereignty nor the right of passage should be treated as an unlimited entitlement. Instead, the legality of a particular restriction or action must be assessed according to its legal basis, purpose, circumstances and effects, together with the specific international legal rules applicable to the State concerned. This assessment is especially important where a measure is presented as necessary for navigational safety but also has the effect of substantially disrupting international shipping.

Overall, the legal consequences of the 2026 conflict cannot be determined by treating every restriction or disruption as equivalent. Each measure or incident must be examined individually, taking account of its legal basis, purpose, duration and impact on navigation. A genuine safety measure responding to a specific navigational hazard may raise different legal questions from a measure intended to prevent foreign vessels from passing through the Strait. Similarly, an attack on a merchant or neutral vessel must be distinguished from the regulation of passage, since the two situations may engage different rules of international law. This case-specific approach provides a sounder basis for determining whether particular conduct constitutes legitimate regulation, a disruption caused by the risks of armed conflict or an unlawful interference with navigation.

Conclusion

This study has examined the legal framework governing transit passage through the Strait of Hormuz, with particular reference to the 2026 US–Iran–Israel conflict. The analysis identifies the Strait's status as a strait used for international navigation as a central consideration in determining the applicable legal regime. Articles 37 and 38 of the United Nations Convention on the Law of the Sea (UNCLOS) provide the relevant treaty framework for transit passage through qualifying straits, while Articles 39, 42 and 44 establish duties for ships exercising passage, limits on coastal-State regulatory authority and protections against the hampering or suspension of transit passage. The legal position must also take account of the sovereignty that coastal States exercise over their territorial seas, subject to applicable international law. The central challenge is therefore to reconcile coastal-State authority with the legal protections governing international navigation.

The analysis indicates that measures amounting to a suspension of transit passage would be difficult to reconcile with Article 44 of UNCLOS where that provision applies. However, the legality of particular restrictions must be assessed in light of their legal basis, purpose, circumstances and practical effects. A measure intended to address a specific navigational hazard cannot automatically be equated with a prohibition designed to prevent foreign vessels from passing through the Strait. Similarly, the practical disruption of navigation caused by hostilities, attacks or mine-related dangers must be distinguished from a formal suspension imposed by a State. These distinctions are essential to determining the legal consequences of the events examined in this study.

A further finding concerns Iran's status as a non-party to UNCLOS. Although Iran signed the Convention in 1982, it has not ratified it. Consequently, the Convention's provisions cannot automatically be treated as treaty obligations binding on Iran. Nevertheless, Iran's non-party status does not, by itself, establish that it is exempt from all international legal obligations governing navigation through international straits. The applicability of relevant rules must also be assessed in light of customary international law and other applicable rules of international law. In particular, the customary status of specific provisions should be established through appropriate legal analysis rather than assumed merely because those provisions appear in UNCLOS. This distinction remains central to evaluating Iran's obligations and the legal implications of restrictions affecting navigation through the Strait of Hormuz.

The 2026 conflict demonstrates the practical importance of these legal questions. Reported attacks on vessels, mine-related dangers, detentions and disruptions to commercial shipping have raised serious concerns about the safety and continuity of maritime navigation. These developments show that interference with navigation cannot be assessed solely by examining whether a formal closure has been declared. The analysis must also consider how particular actions and security conditions affect vessels' ability to navigate. At the same time, practical disruption alone does not establish the legal responsibility of a particular State or determine whether a specific act violates international law. Such conclusions require an assessment of the relevant evidence and the legal rules applicable to each incident.

The principal contribution of this study is its integrated examination of transit passage, coastal-State sovereignty, Iran's non-party status under UNCLOS and the practical effects of the 2026 conflict. By considering these issues together, the study distinguishes between the regulation of navigation for legitimate purposes and conduct that may unlawfully interfere with passage. It also highlights the importance of separating treaty obligations from customary international law when assessing Iran's legal position. This approach provides a framework for evaluating restrictions and incidents on their individual merits without assuming that every safety measure is lawful or that every disruption constitutes an unlawful suspension of transit passage.

To improve navigational safety and reduce uncertainty during periods of heightened maritime tension, several practical measures are recommended. First, Iran, major maritime user States and relevant international maritime organizations should strengthen communication and information-sharing arrangements concerning navigational hazards and maritime security incidents. Second, clear procedures should be developed for issuing and updating maritime safety advisories, with their frequency adjusted to the level of risk and with urgent updates issued when significant changes occur. Third, incidents involving merchant and other civilian vessels should be documented systematically and investigated as soon as practicable, subject to security conditions and the availability of reliable evidence. Fourth, regional emergency-coordination arrangements should support the timely exchange of information about safe routing, suspected mines, attacks and temporary navigational hazards. Finally, where circumstances permit, States planning measures likely to cause substantial disruption to commercial navigation should consult relevant stakeholders and communicate the purpose, scope and expected duration of those measures. These recommendations are intended to improve practical coordination and safety; they do not replace the legal obligations applicable to the States concerned.

This study has limitations. The 2026 conflict is recent and evolving, meaning that information about maritime incidents, restrictions, military activities and shipping movements may remain incomplete or subject to revision. Some official documents, State positions and operational details may not be publicly available. Furthermore, the study relies primarily on doctrinal legal analysis, documentary materials and secondary scholarship, supplemented by available information on maritime developments. It does not provide a comprehensive empirical investigation of vessel movements or independently verify every reported incident. The findings should therefore be understood in light of the evidence available at the time of analysis.

Future research should reassess the legal position as further official documentation, State practice and reliable information about maritime incidents become available. Particular attention should be given to the evidence concerning the customary status of the transit passage regime and its specific protections, the legal basis for restrictions imposed during armed conflict, and the relationship between the law of the sea and the law of armed conflict. Further research could also examine how regional communication and emergency-coordination arrangements might improve navigational safety while remaining consistent with applicable international law.

In conclusion, the legal position of the Strait of Hormuz requires a careful distinction between coastal-State sovereignty, the applicable rules governing international navigation and the practical consequences of armed conflict. Iran's non-party status under UNCLOS introduces an important question of legal applicability, but it does not resolve that question in itself. The legality of restrictions and other interference must instead be determined by identifying the relevant legal rules, establishing their applicability and examining the circumstances and effects

of the conduct concerned. This approach offers a more precise basis for evaluating maritime restrictions during the 2026 conflict and for promoting safer, more predictable navigation through the Strait of Hormuz.

References

1. Al-Khabouri, K. (2026). The legal regime of the Strait of Hormuz. *Journal of Palestine Ahliya University for Research and Studies, 5*(2), 201–212. https://doi.org/10.59994/pau.2026.2.201
2. Hossain, I. (2026). Transit passage vs. sovereignty: Reinterpreting international law in the Strait of Hormuz and its implications for India–Iran relations. *The Social Science Review, 4*(2), 332–336. https://doi.org/10.70096/tssr.260402054
3. International Maritime Organization. (2026a, August 28). *Statement: Six months of uncertainty for seafarers in Strait of Hormuz.* https://www.imo.org/en/mediacentre/secretarygeneral/pages/statement-on-the-ongoing-crisis-in-the-strait-of-hormuz.aspx
4. International Maritime Organization. (2026b, September 16). *Stop attacking merchant ships and seafarers: IMO Secretary-General to Member States.* https://www.imo.org/en/mediacentre/pressbriefings/pages/stop-attacking-ships-and-seafarers-imo-secretary-general.aspx
5. International Maritime Organization. (2026c, July 8). *Update to the Council (C 137): Protection of vital shipping lanes.* https://www.imo.org/en/mediacentre/secretarygeneral/pages/update-to-council-137.aspx
6. International Maritime Organization. (2026d, April 24). *No safe transit through Strait of Hormuz: IMO Secretary-General.* https://www.imo.org/en/mediacentre/pressbriefings/pages/no-safe-transit-through-hormuz-imo-secretary-general.aspx
7. International Maritime Organization. (2026e, March 1). *Statement on the Strait of Hormuz.* https://www.imo.org/en/mediacentre/pressbriefings/pages/statement-on-the-strait-of-hormuz.aspx
8. Ismail, A. A. (2026). *Can Iran restrict navigation in the Strait of Hormuz? Between treaty law and customary uncertainty.* SSRN. https://doi.org/10.2139/ssrn.6645778
9. Kirchner, S., & Salinaite, B. M. (2013). The Iranian threat to close the Strait of Hormuz: A violation of international law? *Jurisprudencija, 20*(2), 549–567. https://doi.org/10.13165/JUR-13-20-2-10
10. Kraska, J. (2014). The legal vortex in the Strait of Hormuz. *Virginia Journal of International Law, 54*(2), 323–366. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2246016
11. Nevitt, M. (2026, March 15). *Legal and operational issues in the Strait of Hormuz: Transit passage under fire.* Just Security. https://www.justsecurity.org/133996/legal-operational-strait-hormuz-transit-passage/
12. Park, S.-H., & Lee, Y.-C. (2013). Gukje haehyeob-ui tong-gwa-tonghang jedo-wa Hormuz haehyeob-ui beopjeok jaengjeom-e gwanhan yeongu [A study on the transit passage regime of international straits and legal issues concerning the Strait of Hormuz]. *Maritime Law Review, 25*(1), 255–280. https://www.kci.go.kr/kciportal/landing/article.kci?arti_id=ART001753650

13. Poorhashemi, A. (2026). *Legal perspectives on the possibility of imposing tariffs and fees in the Strait of Hormuz: Analysis of the legal regime of transit, sovereign rights and challenges of international law.* SSRN. https://doi.org/10.2139/ssrn.6505281
14. Pillai, R. (2026, September 7). *Iran plans new Hormuz shipping corridor with Oman.* Gulf Business. https://gulfbusiness.com/en/2026/news/iran-plans-new-hormuz-shipping-corridor-with-oman/
15. Rafiq, M. A., Riaz, K., & Chandia, M. A. B. (2025). The Strait of Hormuz and the law of the sea: The Strait of Hormuz between sovereignty, diplomacy, and international maritime law. *International Journal of Research and Innovation in Social Science, 9*(7), 3176–3184. https://doi.org/10.47772/ijriss.2025.907000258
16. Reuters. (2026, September 17). *Number of ships transiting Strait of Hormuz falls to three on Wednesday, data shows.* https://www.reuters.com/world/middle-east/number-ships-transiting-strait-hormuz-falls-three-wednesday-data-shows-2026-09-17/
17. Syahputra, M. B. A., Rahmadhan, M., Perdana, M. F. H., & Septaria, E. (2026). Legality closure of the Strait of Hormuz in perspective of the 1982 United Nations Convention on the Law of the Sea. *Priviet Social Sciences Journal, 6*(8). https://doi.org/10.55942/pssj.v6i8.1895
18. United Nations. (1982). *United Nations Convention on the Law of the Sea.* https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf
19. United Nations Treaty Collection. (n.d.). *United Nations Convention on the Law of the Sea: Status.* https://treaties.un.org/Pages/ViewDetailsIII.aspx?chapter=21&mtdsg_no=XXI-6&src=IND
20. U.S. Maritime Administration. (2026, September 9). *2026-011—Persian Gulf, Strait of Hormuz and Gulf of Oman: Iranian attacks on commercial vessels.* https://www.maritime.dot.gov/msci/2026-011-persian-gulf-strait-hormuz-and-gulf-oman-iranian-attacks-commercial-vessels