



The Legal Regime of the Strait of Hormuz

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Abstract:

This study aims to analyze the legal regime governing passage through the Strait of Hormuz and evaluate the persistent tension between coastal-state sovereignty and the rights of international navigation. To achieve this, the study employs a doctrinal-analytical methodology supplemented by descriptive and comparative elements, examining the United Nations Convention on the Law of the Sea (UNCLOS), customary international law, judicial precedents (such as the Corfu Channel case), and official state practice. The results indicate that for States Parties to UNCLOS, the strait is strictly governed by the regime of transit passage; meanwhile, for non-parties like Iran, the fallback customary rule of non-suspendable innocent passage remains a decisive safeguard, firmly rejecting any legal basis for unilateral closure, discriminatory restrictions, or unilateral toll schemes, while preserving the coastal states' limited regulatory authority over navigational safety and environmental protection. Based on these findings, the study recommends framing the legal discourse around the concept of "constrained sovereignty," operationalizing Article 43 cooperative frameworks for safety and pollution response, calibrating Freedom of Navigation operations (FONOPs) to prevent accidental escalation, and anchoring all legal claims in official texts rather than political shorthand. The originality of this study lies in its comprehensive analytical framework, which synthesizes previously fragmented legal analyses—spanning treaty law, judicial precedent, state practice, and energy-security data—into a unified model that bridges the gap between abstract legal doctrine and the practical, strategic realities of one of the world's most critical maritime chokepoints.

Keywords: *Strait of Hormuz; Transit Passage; International Straits; UNCLOS; Coastal Sovereignty; Freedom of Navigation; Energy Security.*

النظام القانوني لمضيق هرمز

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ملخص:

هدفت هذه الدراسة إلى تحليل النظام القانوني الحاكم لعبور مضيق هرمز وتقييم التوتر القائم بين سيادة الدول الساحلية (إيران وعُمان) وحقوق الملاحة الدولية والأمن الجماعي، ولتحقيق ذلك اعتمدت الدراسة على المنهج التحليلي الفقهي المدعوم بالعناصر الوصفية والمقارنة، من خلال فحص اتفاقية الأمم المتحدة لقانون البحار، والقانون الدولي العرفي، والسوابق القضائية (مثل قضية ممر كورفو)، وممارسة الدول والبيانات الرسمية المتعلقة بأمن الطاقة. وأسفرت النتائج عن أن المضيق يخضع لنظام ممر عبور بالنسبة للدول الأطراف في الاتفاقية، وفيما يخص الدول غير الأطراف كإيران، فإن العرف الدولي المستقر في قضية ممر كورفو بشأن "العبور البريء" غير القابل للتعليق" يظل ضامناً حاسماً يمنع إغلاق المضيق، مما يؤكد الرفض القانوني لأي محاولات للإغلاق الأحادي، أو التمييز بين السفن، أو فرض رسوم عبور، مع الإبقاء في الوقت ذاته على السلطة التنظيمية المحدودة للدول الساحلية فيما يخص السلامة والبيئة. وبناءً عليه، أوصت الدراسة بضرورة تأطير النقاش القانوني حول مفهوم "السيادة المقيدة" بدلاً من السيطرة المطلقة، وتفعيل آليات التعاون (المادة 43) لإدارة السلامة والملاحة، وضبط عمليات "حرية الملاحة" لتجنب التصعيد، والالتزام بالدقة في المصطلحات القانونية استناداً إلى النصوص الرسمية، ورفض أي ممارسات تتعارض مع حق العبور الدولي. وتكمن أصالة هذه الدراسة وإضافتها في كونها تقدم إطاراً تحليلياً شاملاً يدمج بين التحليل القانوني المجزأ (قانون المعاهدات، السوابق القضائية، وممارسات الدول) والواقع الجيوسياسي وأمن الطاقة، لسد الفجوة في الأدبيات السابقة التي كانت تقتصر إلى تجميع هذه الخيوط المتناثرة في نموذج تحليلي موحد يربط بين الفقه القانوني والتطبيقات العملية والاستراتيجية في أحد أهم الممرات المائية الحيوية في العالم.

الكلمات المفتاحية: مضيق هرمز؛ ممر عبور؛ المضائق الدولية؛ اتفاقية الأمم المتحدة لقانون البحار؛ السيادة الساحلية؛ حرية الملاحة؛ أمن الطاقة.

1. Introduction

The Strait of Hormuz links the Persian Gulf to the Gulf of Oman and the Arabian Sea and remains one of the most consequential maritime chokepoints in the world. Official energy assessments indicate that approximately 20 million barrels per day of petroleum transited the Strait in 2024 and that about one-fifth of global LNG trade passed through it in the same period. The International Energy Agency similarly recorded average oil and oil-product flows of almost 20 million barrels per day in 2025, emphasizing the absence of realistic substitutes for a large proportion of Gulf exports. The legal regime governing Hormuz is therefore not a narrow technical subject; it sits at the intersection of global trade, naval mobility, coercive diplomacy, and regional stability (Dunn & Barden, 2025; U.S. Energy Information Administration, 2025; International Energy Agency, 2026).

The research problem addressed in this article is straightforward but difficult: what legal regime governs passage through the Strait of Hormuz, and how should that regime be applied where treaty law, customary law, and contested state practice are not perfectly congruent? That problem is sharpened by the fact that the strait is bordered by Iran and Oman, but the principal user states include many states far beyond the region; by the fact that Iran is not a party to UNCLOS even though Oman is; and by repeated incidents involving mining allegations, tanker seizures, closure threats, and Freedom of Navigation operations. These developments have exposed a recurring tension between coastal sovereignty claims and the expectation of uninterrupted navigation through indispensable international straits (United Nations, 1982; Department of Defense, 2024; International Maritime Organization, 2026a; International Maritime Organization, 2026b).

The significance of the topic is both doctrinal and practical. Doctrinally, Hormuz tests the relationship between specialized treaty regimes and general international law. Practically, it tests whether a coastal state may leverage geography into legal or political control over a maritime corridor essential to neutral commerce. The article seeks to answer four related questions: whether Hormuz falls within the definition of an international strait under UNCLOS; whether transit passage is the applicable treaty rule; whether that rule binds non-parties as customary law; and what limitations international law places on closure threats, discriminatory restrictions, and FONOP-based contestation (Lott & Kawagishi, 2022; Nandan & Anderson, 1989; Reisman, 1980).

This article has four objectives. First, it clarifies the doctrinal architecture governing straits used for international navigation. Second, it evaluates the legal status of the Strait of Hormuz within that architecture. Third, it analyzes contemporary challenges arising from Iranian legal claims, Omani regulation, and maritime-user responses, especially the U.S. Freedom of Navigation program. Fourth, it proposes a legally realistic framework for reducing escalation while preserving navigational rights (United Nations, 1982; Department of Defense, 2018; Department of Defense, 2024).

2. Literature Review

The literature relevant to Hormuz falls into three main clusters. The first is the general law-of-the-sea literature, which explains the historical tradeoff embedded in UNCLOS: wider territorial seas for coastal states in exchange for stronger navigational guarantees for the international community. Recent standard works by Tanaka, Churchill, Lowe, and Sander, and Rothwell and Stephens remain valuable because they situate Part III on straits within the broader balance between coastal jurisdiction and mobility rights. Those works do not focus on Hormuz alone, but they provide the doctrinal grammar necessary to understand why transit passage differs fundamentally from ordinary innocent passage (Churchill et al., 2022; Rothwell & Stephens, 2023; Tanaka, 2023).

The second cluster addresses international straits as a special category. Foundational studies by Reisman and by Nandan and Anderson explain the negotiating logic of the strait's regime and the

security anxieties that shaped it. More recent work, including Rothwell's treatment of international straits and Lotta's study of the Kerch Strait, shows that straits law remains a live field of contestation whenever sovereignty disputes, special agreements, or coastal-state restrictions complicate the ordinary Part III analysis. This literature is particularly useful because it confirms that the law of straits is not reducible either to abstract freedom of navigation or to unqualified coastal sovereignty. It is a structured compromise in which sovereignty survives, but in a limited and functionally constrained form (Lotta, 2021; Nandan & Anderson, 1989; Reisman, 1980; Rothwell, 2016).

The third cluster is the most specialized and directly relevant: the Hormuz-specific literature. The older but still important article on warship passage through Hormuz identifies the legal asymmetry between Oman's ratified but restrictive position and Iran's non-ratified but strategically consequential one. Kraska's work framed Hormuz as a revealing legal vortex created by the disagreement between Iran and the United States over whether transit passage is contractual or customary. More recently, Lott and Kawagishi's article on attacks against oil tankers and the legal regime of Hormuz integrates law-of-the-sea doctrine with the law on the use of force, showing that practical incidents in 2019 and afterward cannot be understood without first resolving the passage regime applicable to the strait. Significantly, that article also notes the comparative scarcity of contemporary detailed legal scholarship on Hormuz relative to its geopolitical importance (Kraska, 2013; Lott & Kawagishi, 2022; Mahmoudi, 1991). A further literature, especially in policy and energy-security sources, documents because legal uncertainty in Hormuz has outsized effects. The IEA, EIA, and IMO materials do not replace legal scholarship, but they change the interpretive context: they show that Hormuz is not a peripheral strait but a central artery of global energy distribution; those navigational channels are highly structured through a traffic separation scheme proposed by Iran and Oman and adopted in 1968; and that recent insecurity has produced official multilateral concern over seafarer safety and the restoration of navigational rights. The main gap in the literature is therefore not the absence of material, but the fragmentation of legal analysis across treaty law, judicial precedent, state declarations, energy-security data, and operational practice. This article addresses that gap by synthesizing these strands in one analytical framework (International Energy Agency, 2026; International Maritime Organization, 2026a, 2026b; Dunn & Barden, 2025).

3. Methodology

This study uses a doctrinal-analytical methodology supplemented by descriptive and comparative elements. The doctrinal component examines binding and persuasive legal materials: UNCLOS, the UN Charter, the *Corfu Channel* judgment, official treaty declarations, national legislation, and formal state practice as reflected in U.S. FON reporting and relevant United Nations materials. The descriptive component reconstructs the legal and strategic setting of the Strait of Hormuz, including shipping-route arrangements and energy dependence. The comparative component tests Hormuz against broader straits doctrine and selected specialized scholarship on international straits, especially where recent comparative work reveals how passage regimes become contested in politically sensitive waterways (International Court of Justice, 1949; United Nations, 1945; United Nations, 1982; Department of Defense, 2024; Lotta, 2021). The method is appropriate because the core questions are not empirical in the social-science sense; they concern the identification, interpretation, and evaluation of applicable legal norms. Still, some practical context is indispensable. For that reason, official energy and maritime-safety data are used not as substitutes for law, but as evidence of the strait's objective international function and of the material consequences of legal disruption (International Energy Agency, 2026; International Energy Agency, 2025a; International Maritime

Organization, 2026a). The limits of the study should be stated candidly. First, the article focuses on the law of the sea and closely connected general international law; it does not attempt a full treatment of the law of naval warfare or sanctions law, except where necessary to evaluate closure threats and attacks on neutral shipping. Second, some domestic texts, especially Iranian legislation and treaty declarations, are accessed through official summaries and treaty-series reproductions rather than through a single consolidated national gazette. Third, the journal's online template file was not directly accessible through the sources collected here, so formatting choices are derived from the journal's current author-guidelines page and publicly visible published articles rather than from the downloadable form itself.

4. Legal Framework for International Straits

International law distinguishes sharply between ordinary territorial seas and straits used for international navigation. Under UNCLOS, coastal states enjoy sovereignty over territorial seas up to 12 nautical miles from their baselines, but that sovereignty is exercised subject to the Convention and other rules of international law. Part III of UNCLOS then establishes a specialized regime for straits used for international navigation, preserving the legal status of the waters and coastal-state sovereignty while simultaneously imposing navigational obligations that are stronger than those associated with ordinary innocent passage. The two key structural ideas are therefore preservation and limitation: preservation of sovereignty, limitation of how that sovereignty may be exercised in the strait's context (United Nations, 1982).

Article 34 of UNCLOS is decisive on this point. It makes clear that the straits regime "shall not in other respects affect" the legal status of the waters or the sovereignty or jurisdiction of the bordering states over their waters, airspace, bed, and subsoil. Yet the same article immediately subordinates that sovereignty to Part III and to other rules of international law. Article 37 then identifies the class of straits to which transit passage applies: straits used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. Articles 38 to 44 specify the content of transit passage, duties of ships and aircraft, limited coastal regulatory authority, and non-hampering obligations (United Nations, 1982). The historical importance of this arrangement lies in its role as a compromise. As territorial seas expanded from narrower historical claims toward the now-familiar 12-nautical-mile limit, many previously open routes became enclosed within coastal-state territorial seas. The regime of transit passage emerged as the negotiated answer to that transformation. The scholarly literature consistently describes Part III as one of the central "package deal" elements of UNCLOS: maritime user states accepted broader coastal entitlements elsewhere in return for secure navigational rights in straits and archipelagic waters (Nandan & Anderson, 1989; Reisman, 1980; Tanaka, 2023). Judicial authority predating UNCLOS remains relevant. In *Corfu Channel*, the International Court of Justice held that, in peacetime, states enjoy a rite of passage through straits used for international navigation between two parts of the high seas, subject to the requirement that passage be innocent. The decision did not articulate the full UNCLOS concept of transit passage, which did not yet exist, but it powerfully confirms a customary core idea: coastal states do not enjoy an unrestricted power to close strategically necessary international straits to foreign shipping in peacetime. That customary baseline remains especially important where treaty participation is incomplete (International Court of Justice, 1949).

5. The UNCLOS Transit-Passage Regime

For straits falling under Article 37, all ships and aircraft enjoy the right of transit passage, and that passage "shall not be impeded." UNCLOS defines transit passage as the exercise of freedom of navigation and overflight solely for the purpose of continuous and expeditious transit between one

part of the high seas or an EEZ and another. The regime is therefore broader than innocent passage in at least three respects: it applies to aircraft as well as ships; it is functionally closer to high-seas freedom than to a mere tolerated passage through foreign territorial seas; and, unlike innocent passage in most territorial seas, it is not suspendable by the coastal state (United Nations, 1982; Rothwell & Stephens, 2023; Tanaka, 2023).

Transit passage is nevertheless not a license for anything whatsoever. Articles 39 to 42 impose duties on ships and aircraft in transit: passage must be continuous and expeditious; vessels and aircraft must proceed without threat or use of force against the bordering states; ships must comply with generally accepted international regulations, procedures, and practices for safety at sea and pollution control; and research or survey activities require prior authorization. States bordering the strait may adopt laws and regulations concerning navigational safety, pollution control, fishing, and customs or immigration matters, but they may not discriminate in form or in fact among foreign ships or have the practical effect of denying, hampering, or impairing transit passage (United Nations, 1982).

Article 44 supplies the most important negative rule: bordering states shall not hamper transit passage and shall give appropriate publicity to known dangers to navigation or overflight. This article matters directly for Hormuz because the most common coastal-state arguments in politically sensitive straits are framed not as formal suspension, but as security regulation, selective routing, conditional clearance, or de facto deterrence. Article 44 is expressly designed to prevent such functional equivalents of closure. It does not eliminate coastal authority, but it channels that authority into non-discriminatory safety-based regulation (United Nations, 1982; Nandan & Anderson, 1989).

The distinction between transit passage and innocent passage is captured in the following comparison.

Table (1): The distinction between transit passage and innocent passage

Feature	Innocent passage	Transit passage	Non-suspendable innocent passage in straits
Primary legal basis	UNCLOS Part II	UNCLOS Part III	UNCLOS Article 45 and customary law reflected in <i>Corfu Channel</i>
Beneficiaries	Ships	Ships and aircraft	Ships
Nature of right	Passage through territorial sea if non-prejudicial	Freedom of navigation and overflight for continuous and expeditious transit	Innocent passage through certain straits where Part III does not apply
Suspendibility	Generally suspendable in specified areas for security	Not suspendable	Not suspendable
Coastal regulation	Broader than in Part III, subject to UNCLOS	Narrowly limited; cannot hamper or impair passage	Narrower than ordinary innocent passage because suspension is excluded

Note. This comparison synthesizes UNCLOS Parts II and III and the customary peacetime passage principle recognized in *Corfu Channel*.

6. The Legal Status of the Strait of Hormuz

The Strait of Hormuz satisfies the legal logic of Article 37. It connects the maritime areas of the Persian Gulf to the Gulf of Oman and the Arabian Sea and serves as a route between EEZs and international waters used intensively by the global shipping community. Official routeing and energy documents reinforce that functional reality. The IEA describes the Strait as a narrow sea passage separating Iran from the Arabian Peninsula and notes both its narrowest width and its structured navigable channels. The IMO explains that the existing traffic separation scheme in Hormuz was proposed by Iran and Oman and adopted in 1968, confirming both the strait's operational internationality and the longstanding joint recognition by the bordering states that shipping there requires a specialized navigational order (International Energy Agency, 2026; International Maritime Organization, 2026a).

It follows that Hormuz is not legally best characterized as “international waters” in the ordinary lay sense; much of the route lies within the territorial seas of Iran and Oman. But neither is it legally reducible to ordinary territorial seas whose use depends on unilateral coastal permission. Its proper legal classification is that of an international strait, where sovereignty and navigational rights

coexist in a specially calibrated regime. This is precisely why the legal debate is so persistent: both sides can invoke a true proposition and then overstate it. Iran and Oman do possess sovereignty; user states do possess strong passage rights. The legal question is about the relationship between the two, not the binary triumph of one over the other (United Nations, 1982; Lott & Kawagishi, 2022).

Iran's legal position is unusually explicit. In its 1982 declaration upon signature of UNCLOS, Iran stated that certain Convention provisions were products of *quid pro quo* and did not necessarily codify existing custom. Iran then specified that the right of transit passage through straits used for international navigation was among the provisions that, in its view, created contractual rights only for States Parties. The same declaration also asserted that, in light of customary international law, coastal states may require prior authorization for warships exercising innocent passage. The declaration does not by itself settle the law, but it is vital evidence of consistent Iranian legal objection to the automatic customary-opposability of the full Part III regime (Islamic Republic of Iran, 1994).

Iran's domestic legislation reinforces the point. The United Nations law-of-the-sea state-practice database identifies Iran's 1993 Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea as a central legislative instrument, and the U.S. FY2024 Freedom of Navigation report lists Iran as maintaining excessive claims in and around Hormuz, including restricting transit passage in the Strait to parties of the Law of the Sea Convention and prohibiting foreign military activities in the EEZ and on the continental shelf. That combination of declaration and domestic legislation demonstrates that Iran's position is not rhetorical improvisation; it is a sustained legal posture (Department of Defense, 2024; Islamic Republic of Iran, 1993).

Oman's posture is more complex. Oman ratified UNCLOS in 1989 and is therefore bound by Part III as treaty law. Yet official and scholarly materials show that Oman's earlier domestic framework and ratification-related declarations historically reflected an insistence on innocent passage in the Strait and prior permission for some foreign warships, positions that the United States has also challenged in FON reports. Oman's 1981 decree moreover linked full sovereignty over its territorial sea to the principle of "innocent passage of ships and planes of other States through international straits," a formulation that now sits uneasily with the more specific transit-passage regime of Part III. As a result, Oman illustrates an important point: even a treaty party may retain domestic language shaped by pre-UNCLOS or transitional assumptions, yet treaty law remains controlling as against incompatible internal formulations (Department of Defense, 2024; Sultanate of Oman, 1981; Mahmoudi, 1991).

7. Coastal Sovereignty and Regional Security

The deepest legal tension in Hormuz is not whether sovereignty exists, but how far it extends once security concerns are invoked. Article 34 of UNCLOS preserves the sovereignty and jurisdiction of Iran and Oman over the waters forming the strait and over the airspace, bed, and subsoil. That matters for policing, environmental protection, routing, and public order. It also matters politically, because coastal states understandably resist any legal framing that appears to convert their territorial seas into high seas in all but name. Hormuz cannot be legally analyzed as though coastal sovereignty were fictional (United Nations, 1982; Rothwell & Stephens, 2023).

At the same time, the international community's security interest in Hormuz is not merely commercial. The U.S. Freedom of Navigation program summary states that the United States has long treated excessive maritime claims as threats to the rights, freedoms, and uses of the sea and airspace guaranteed to all states under international law, and that since 1979 the FON program has used both diplomatic representations and operational assertions to demonstrate non-acquiescence. This two-track architecture is legally significant: it is designed not merely to move particular ships

through particular waters, but to prevent excessive restrictions from hardening into accepted precedent (Department of Defense, 2018; Department of Defense, 2024).

The law therefore establishes a narrow corridor between two exaggerations. On one side lies the coastal-state exaggeration that security fears justify closure, selective exclusion, or the unilateral conversion of transit passage into permission-based passage. On the other lies the user-state exaggeration that any coastal regulation counts as unlawful interference. The structure of Part III rejects both. Bordering states may regulate safety, pollution, and routing in accordance with international standards; ships and aircraft in transit owe duties of peaceful, continuous, and compliant movement; and neither side may weaponize legal ambiguity into permanent strategic advantage (United Nations, 1982; International Maritime Organization, 2026a).

In recent practice, the security dimension has been dramatized by official UN and IMO concern during the 2026 crisis in and around Hormuz. The UN Secretary-General's spokesperson emphasized the need for "international navigational rights and freedoms" in the Strait to be respected by all parties, while the IMO repeatedly warned that there was no reliable safe transit under conditions of vessel seizures, mine risk, and attacks, even as it continued to treat freedom of navigation as a fundamental principle. These statements are not adjudications, but they are institutionally important: they show that the contemporary multilateral vocabulary remains centered on restoration of navigational rights, not on recognition of a broader coastal power to condition transit (International Maritime Organization, 2026b; International Maritime Organization; 2026c; United Nations, 2026).

8. Contemporary Legal Challenges

The first contemporary challenge is the Iranian claim that transit passage is not opposable as custom to non-parties. Iran's 1982 declaration is the clearest formal articulation of this view. In doctrinal terms, the claim resembles a package-deal and persistent-objector argument: some of UNCLOS's navigation rules, Iran says, are treaty bargains rather than crystallized custom. This argument cannot be dismissed out of hand, because transit passage is indeed more ambitious than the pre-UNCLOS customary rule recognized in *Corfu Channel*. Yet the argument faces serious countervailing considerations: the near-universal acceptance of UNCLOS as the operating constitution of the seas, the extensive managerial and navigational practice built around Part III, and the consistent non-acquiescence of major maritime user states. The most defensible conclusion is therefore differentiated: the treaty rule is certain for parties; its full customary status is very strong in practice but still capable of doctrinal contestation in relations involving Iran and other non-parties (International Court of Justice, 1949; Islamic Republic of Iran, 1994; Kraska, 2013; Lott & Kawagishi, 2022). The second challenge concerns Freedom of Navigation operations. From the U.S. perspective, FONOPs are lawful operational assertions designed to contest excessive claims and preserve the legal balance of interests reflected in the Law of the Sea Convention. Official U.S. materials emphasize that these operations are complemented by diplomatic protest, are not limited to adversaries, and are intended to demonstrate non-acquiescence. Legally, that rationale is substantial: if excessive claims are never contested, they may gradually normalize. Yet a serious academic analysis must also acknowledge the strategic downside. Even legally grounded operational assertions can intensify signaling, increase miscalculation risk, and become entangled with broader regional coercion. The legal basis for FONOPs is stronger than the strategic assumption that every assertion is prudent in every crisis (Department of Defense, 2018; Department of Defense, 2024).

The third challenge is the legality of closure threats and de facto disruption. Under UNCLOS Part III, closure of Hormuz to ordinary international transit would be inconsistent with the instruction

that transit passage shall not be impeded and that bordering states shall not hamper passage. Even if one shifts to the customary baseline of non-suspendable innocent passage reflected in *Corfu Channel*, the legal room for total peacetime closure remains extremely narrow. Once closure threats are backed by mining, attacks on neutral shipping, or coercive interdiction, the issue also implicates the UN Charter prohibition on the threat or use of force. In other words, the law does not move from certainty to silence merely because treaty participation is incomplete; the normative floor remains high (International Court of Justice, 1949; United Nations, 1945; United Nations, 1982; Nevitt, 2026).

The fourth challenge concerns tolls, fees, and monetized transit. International law does not support a general coastal right to levy charges by reason only of passing through a natural international strait. In the territorial-sea context, UNCLOS Article 26 allows charges only for specific services rendered. In the strait's context, Part III contains no textual foundation for unilateral passage tolls and, read together with Articles 42 and 44, strongly suggests that discriminatory or coercive payment conditions would unlawfully hamper transit passage. Even under the fallback logic of innocent passage, a fee imposed not for services but for the coastal state's forbearance would be difficult to reconcile with ordinary passage rights. The better view is therefore that safety-service cost sharing must be pursued, if at all, through cooperative and non-discriminatory arrangements rather than through unilateral rent extraction (United Nations, 1982; International Maritime Organization, 2026a; Dunn & Barden, 2025). The fifth challenge is customary international law itself. Some commentators insist that transit passage has plainly become customary law; others remain more cautious, especially where an express objector like Iran is concerned. The most disciplined position is not maximalist on either side. It is safer to say that many navigation-related rules of UNCLOS are treated by states, institutions, and naval practice as authoritative reflections of custom, but that the exact customary status of the full transit-passage package remains one of the few areas where treaty law and general law are not perfectly identical. The practical consequence is important: even if one resists equating all of Part III with custom, the legal case for coastal closure or selective exclusion through Hormuz still fails (Department of Defense, 2024; Islamic Republic of Iran, 1994; Lott & Kawagishi, 2022; Mahmoudi, 1991). The following table clarifies the principal legal positions.

Table (2): Principal Legal Positions

Actor	Core legal position	Supporting materials	Main legal vulnerability
Iran	Transit passage is not automatically opposable to non-parties; coastal state may require prior authorization for warships under innocent-passage logic	1982 declaration; 1993 marine areas act	Difficult to reconcile with widespread navigational practice and the non-hampering logic of international straits
Oman	Treaty party to UNCLOS, but historically retained domestic/declaratory language linked to innocent passage and prior permission for some warships	1981 decree; 1989 ratification-related declarations; U.S. FON reporting	Domestic formulations cannot override treaty obligations under Part III
United States	Transit passage and broad navigation freedoms reflect international law as embodied in or reflected by UNCLOS; excessive claims must be challenged through diplomacy and operations	FON program summary; annual FON reports	Operational legality may be strong, but crisis-management prudence varies by context

Note. The table synthesizes treaty declarations, legislation, and official FON reporting.

9. Critical Evaluation and Recommendations

The strongest legal interpretation is that the Strait of Hormuz is governed, in ordinary peacetime relations, by a regime that robustly protects passage rights and sharply limits unilateral coastal interference. For UNCLOS parties, that proposition is a direct application of Part III. For relations involving Iran and other non-parties, legal certainty is less complete at the doctrinal margins but not at the operational core. The residual customary regime recognized in *Corfu Channel*, combined with the structure of near-universal state reliance on UNCLOS, leaves no persuasive legal space for permanent closure, discrimination by nationality, or payment schemes imposed by reason only of passage (International Court of Justice, 1949; United Nations, 1982; Kraska, 2013).

The article's first recommendation is doctrinal: scholars and policymakers should stop collapsing the debate into a false choice between "freedom of navigation" and "territorial sovereignty." The law already contains a more precise answer. Article 34 preserves sovereignty; Articles 38 to 44 prioritize passage. Legal argument should therefore be framed in terms of constrained sovereignty, not absolute coastal control or legal fiction. That formulation is analytically cleaner and more persuasive in both academic and diplomatic settings (United Nations, 1982; Rothwell, 2016). The second recommendation is institutional: Iran, Oman, and principal user states should operationalize Article 43-type cooperation on safety of navigation, hydrographic updates, pollution response, and traffic management. The IMO's long-standing involvement in the traffic separation scheme and its 2026 engagement on safe-passage arrangements demonstrate that a technical legal platform already exists. The key is to use cooperative mechanisms to fund and administer safety measures without converting them into disguised tolls or selective permissions (United Nations, 1982; International Maritime Organization, 2026a). The third recommendation is prudential but law-based: maritime user states should continue non-acquiescence to excessive claims, but calibrate operational assertions to reduce accidental escalation. The legal function of FONOPs is stronger when they are transparent, legally justified, and paired with diplomatic explanation. Where the legal issue is narrow—such as a claim to prior permission, prior notification, or authorization-based transit—precision matters. Overbroad military signaling can obscure rather than reinforce the exact legal norm being defended (Department of Defense, 2018; Department of Defense, 2024).

The fourth recommendation is evidentiary: future legal claims regarding Hormuz should be anchored in official texts—treaty declarations, domestic legislation, IMO routeing documents, and FON reporting—rather than in journalistic shorthand about "international waters." The debate is damaged whenever legally inaccurate but politically convenient language displaces the more exact vocabulary of international straits, transit passage, and non-suspendable passage. For peer-reviewed scholarship, terminological discipline is not cosmetic; it determines the quality of the legal analysis. (United Nations, 1982; DOALOS, n.d.-a, n.d.-b; International Maritime Organization, 2026a).

The fifth recommendation is normative: any future arrangement for Hormuz should expressly reject three positions as legally unsustainable—general closure, nationality-based discrimination, and fees by reason only of transit. Cooperative safety regulation, routeing, escorting by consent, environmental reporting, and emergency restrictions tied to immediate and concrete navigational hazards are distinguishable from these unlawful measures and may be lawful if applied in a non-discriminatory and proportionate way. That distinction should be made explicit in regional and multilateral practice. (United Nations, 1982; United Nations, 2026; International Maritime Organization, 2026b).

10. Comparative Analysis of The Strait of Hormuz and Other Strategic International Straits

A) The Strait of Hormuz and the Strait of Malacca: The Strait of Hormuz and the Strait of Malacca are among the most strategically important maritime chokepoints in the world. Both are governed by the transit passage regime under UNCLOS and serve as essential routes for international trade and energy transportation. However, the Strait of Malacca demonstrates a higher degree of institutionalized regional cooperation among Singapore, Malaysia, and Indonesia, particularly regarding navigational safety, anti-piracy measures, and environmental protection. In contrast, the Strait of Hormuz is characterized by heightened geopolitical tensions and recurring disputes concerning maritime security and freedom of navigation.

B) The Strait of Hormuz and the Strait of Gibraltar: The Strait of Gibraltar provides an important comparison because it is also a strategic international strait connecting two major maritime areas.

Despite long-standing sovereignty disputes involving Gibraltar, international navigation through the Strait has remained largely uninterrupted. The Gibraltar experience demonstrates that political disagreements do not necessarily undermine the effectiveness of the legal regime governing international navigation.

C) The Strait of Hormuz and the Turkish Straits: The Turkish Straits differ significantly from the Strait of Hormuz because they are governed primarily by the Montreux Convention of 1936 rather than solely by UNCLOS. The Montreux regime grants Turkey broader regulatory authority, particularly concerning the passage of warships during periods of conflict or security threats. Consequently, the Turkish model represents a special treaty-based exception rather than the general legal framework applicable to international straits.

E) Comparative Findings: The comparative analysis demonstrates that the legal nature of the Strait of Hormuz is broadly consistent with that of other international straits subject to transit passage. The unique characteristics of Hormuz stem primarily from its geopolitical environment rather than from deficiencies in the governing legal framework.

11. Conclusion

This article has argued that the Strait of Hormuz is legally governed by the law of international straits, not by the ordinary law of territorial seas alone. The article's first finding is that Hormuz falls squarely within the functional category of straits used for international navigation. Its second finding is that, for UNCLOS parties, the applicable regime is transit passage under Part III. Its third finding is that Iran's objection to automatic customary extension of transit passage introduces real doctrinal complexity, but does not generate a lawful entitlement to close the strait, discriminate among neutral users, or condition passage on unilateral political approval. Its fourth finding is that the minimum customary rule recognized in *Corfu Channel* remains a powerful independent safeguard against peacetime closure of indispensable international straits. Its fifth finding is that contemporary operational disputes—especially FONOPs, vessel seizures, mining allegations, and fee proposals—should be understood not as isolated incidents but as recurring tests of the durability of the legal compromise embodied in the modern law of the sea.

The final judgment is therefore clear. The better legal view does not deny the sovereignty of Iran and Oman, but it does deny that sovereignty includes a unilateral right to impede or monetize ordinary international transit through the Strait of Hormuz. The path forward is not doctrinal improvisation or strategic maximalism, but disciplined adherence to the specialized law of international straits, reinforced by transparent state practice, technical maritime cooperation, and carefully calibrated legal contestation where excessive claims are maintained.

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