Strait of Hormuz Crisis and International Law

Mains: *GS II – International Relations*

Why in News?

The Strait of Hormuz, a narrow maritime chokepoint connecting the Persian Gulf to the Arabian Sea, has once again become the centre of geopolitical tensions.

How UNCLOS framework is governing international waters?

- **UNCLOS** – The global maritime order is primarily governed by the United Nations Convention on the Law of the Sea (UNCLOS), which came into force in 1994 after decades of negotiation.
- UNCLOS establishes that the seas are part of a shared global commons and lays down rules for navigation, resource use, and dispute resolution.
- **Central principle** – A central principle under UNCLOS is the freedom of navigation, particularly on the high seas, which lie beyond the jurisdiction of any single state.
- **Permissions** – Merchant vessels enjoy near-unrestricted passage in these waters.
- **Exceptions** – However, exceptions exist, including:
    - Hot pursuit of vessels violating laws in territorial waters
    - Interceptions authorised by the UN Security Council
    - Stateless vessels
    - Interception with consent from the vessel's flag state
- **Innocent passage** – Outside the high seas, within territorial waters (up to 12 nautical miles from a coast), ships are entitled to **"**innocent passage**"**, provided they do not threaten the coastal state's security.

Special Legal Status of The Strait Of Hormuz
• The Strait of Hormuz occupies a unique position under international law. • At its narrowest point, the territorial waters of Iran and Oman overlap, leaving no high seas corridor. • In such cases, UNCLOS introduces the concept of **"transit passage."** • Transit passage ensures that all ships and aircraft have the right to continuous and expeditious movement through international straits. Unlike innocent passage, transit passage cannot be suspended by coastal states. • Thus, while Iran and Oman retain sovereignty over their territorial waters, they cannot impede or deny transit to foreign vessels, provided certain conditions are met: - Ships must pass through without unnecessary delay - They must adhere to designated sea lanes - Activities unrelated to transit (e.g., loading/unloading cargo) are prohibited - Passage must not threaten the security of the coastal state

What are the recent developments?

- **Iran's recent measures** — restricting transit, imposing tolls reportedly exceeding $1 million per vessel, and selectively allowing passage based on geopolitical considerations—raise serious legal concerns.
- Under UNCLOS, charging tolls or requiring permits for transit passage is not permitted.
- Transit through international straits must remain free and unimpeded.
- Iran's actions, including firing on vessels and detaining ships like *Francesca* and *Epaminondas*, appear inconsistent with its obligations.
- Iran has justified its actions on grounds of maritime security violations, alleging that certain vessels operated without permits or tampered with navigation systems.
- However, such claims must meet strict international standards, and enforcement measures must remain proportionate.
- In essence, Iran's attempt to regulate and monetise transit through the Strait of Hormuz lacks clear legal backing under international law.
- **The U.S. Blockade &Legality in Question** – The United States' response—declaring a blockade of Iranian vessels and intercepting ships on the high seas—also presents complex legal challenges.
- Unlike sanctions authorised by the United Nations Security Council, U.S. sanctions are unilateral and based on domestic law.
- While they may be enforceable within U.S. jurisdiction, their application on the high seas is controversial.
- The interception of vessels such as *Touska* and *Tifani* raises key legal issues:
    - On the high seas, ships enjoy freedom from interference unless specific exceptions apply
    - The U.S. may argue flag state consent or security concerns
- However, absent UN authorisation, such actions risk being viewed as violations of international law
- The U.S. "blockade," described as a mix of warnings and interdictions rather than a full naval encirclement, further complicates matters.
- Traditionally, blockades are recognised under the law of armed conflict at sea, but they must meet strict criteria, including notification, effectiveness, and neutrality.
- Thus, the legality of U.S. actions remains debatable and contested.
- **Escalation and Retaliation Dynamics** – The situation has rapidly escalated into a cycle of action and retaliation.
- Following U.S. interceptions, Iran targeted multiple vessels, including Indian-flagged ships such as *Sanmar Herald* and *Jag Arnav*, forcing them to retreat.
- Subsequently, Iran detained additional ships and warned that the Strait would remain closed unless the U.S. blockade is lifted.
- This tit-for-tat escalation underscores the vulnerability of global shipping lanes to geopolitical conflicts.
- Notably, India, heavily dependent on energy imports through the Strait, has asserted that it has not paid any tolls and is exercising its legitimate right to free navigation.

What is the role of international institutions?

- **IMO** – In such crises, the primary international body responsible for maritime governance is the International Maritime Organization (IMO).
- The IMO works to ensure safe, secure, and efficient shipping and to uphold international maritime law.

- **Role of IMO**
  - Condemned attacks on commercial vessels
  - Opposed tolls and permit systems in international straits
  - Proposed measures to facilitate safe passage and evacuation of ships
- **Limitations** – However, the IMO lacks enforcement powers and relies on cooperation among member states.
- **Requisite** – Broader conflict resolution may require intervention from the United Nations, particularly the Security Council, though geopolitical divisions often limit decisive action.

What measures can be taken?

- **Diplomatic Resolution** – Renewed negotiations could restore normal transit and reduce tensions
- **International Mediation** – Greater involvement by the UN or IMO could help establish interim arrangements
- **Continued Escalation** – Further interceptions and retaliatory actions could disrupt global supply chains
- **Militarisation of the Strait** – Increased naval presence may deter conflict but also heighten risks of confrontation
- The current crisis highlights the limitations of international law when confronted with power politics.
- While UNCLOS provides a robust framework, its effectiveness ultimately depends on state compliance and mutual restraint.

What lies ahead?

- The Strait of Hormuz crisis exemplifies the tension between legal norms and strategic interests.
- Both Iran's restrictions on transit and the U.S.'s interdictions raise significant legal questions under international law.
- As maritime chokepoints become arenas of geopolitical rivalry, the need for adherence to established legal principles becomes ever more urgent.
- Ensuring freedom of navigation, maintaining the rule-based maritime order, and preventing escalation will require not just legal clarity, but also sustained diplomatic engagement and international cooperation.

Reference

[The Hindu| Rules Governing International Waters]



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