A COMPARATIVE REVIEW OF THE LAW AND PRACTICE OF ACCESS TO THE SEA BY STATES WITHOUT SEACOASTS

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Abstract

This paper critically examined the law and practice governing access to the sea by States without seacoasts within the framework of contemporary international law. It analysed the historical evolution of transit rights from a discretionary privilege dependent on the consent of coastal States to a legally protected entitlement under the United Nations Convention on the Law of the Sea (UNCLOS) 1982. The paper adopted a doctrinal and comparative research methodology. The paper further reviewed selected State practices involving Ethiopia–Djibouti, Nepal–India, Uganda–Kenya and Bolivia–Chile to assess the practical implementation of transit rights. It found that, although international law guarantees freedom of access to and from the sea, effective realization of these rights remains constrained by inadequate infrastructure, political instability, administrative bottlenecks, among others. The paper recommended that legal recognition alone is insufficient without sustained regional cooperation, institutional capacity and investment in transport infrastructure. It concludes that strengthening compliance with UNCLOS, promoting trade facilitation, expanding regional transport corridors and enhancing

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international cooperation are essential for ensuring equitable access to maritime trade and advancing the sustainable development of landlocked States.

Keywords: Access to the Sea, Landlocked States, UNCLOS, Freedom of Transit, Transit States, International Law, GATT, WTO Trade Facilitation Agreement, AfCFTA, Regional Integration.

1.0 INTRODUCTION

The sea has historically served as the principal medium for international trade, economic development, military strategy and diplomatic engagement. Throughout history, access to maritime routes has significantly influenced the political and economic fortunes of States, facilitating the movement of goods, services, people and resources across continents. While coastal States naturally enjoy direct access to maritime navigation and the exploitation of marine resources, States without seacoasts commonly referred to as landlocked States have traditionally encountered considerable geographical and legal disadvantages in participating effectively in international commerce. The absence of direct access to the sea increases transportation costs, prolongs transit time, constrains economic competitiveness and heightens dependence on neighbouring coastal States for access to international markets. Consequently, the question of access to the sea has evolved from a matter of geographical limitation into a significant issue of international law, international trade and sustainable development[1].

There are currently forty-four internationally recognised landlocked States**,** representing approximately one-fifth of the world's sovereign

[1] Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021) 529

States and home to more than 570 million people[2]. Many of these States are among the least developed economies globally and face persistent developmental challenges arising from inadequate transport infrastructure, limited market access, high transit costs and dependence on transit States for the import and export of goods. The United Nations has consistently recognised that the geographical disadvantages of landlocked developing countries (LLDCs) constitute major obstacles to achieving sustainable development, economic diversification and integration into the global economy[3]. Consequently, international law has progressively developed legal mechanisms intended to mitigate these disadvantages by recognising rights of transit and access to the sea while balancing the sovereignty and legitimate interests of transit States.

Historically, the right of access to the sea was neither automatic nor universally recognised. Under classical international law, access to maritime routes depended largely upon bilateral arrangements and the goodwill of neighbouring coastal States. Landlocked States possessed no inherent legal entitlement to transit across foreign territory, and access to ports was frequently influenced by political alliances, military considerations and commercial negotiations[4]. This position gradually evolved during the twentieth century through the emergence of multilateral treaties promoting freedom of transit and international cooperation. Notable milestones include the Barcelona Convention and Statute on Freedom of Transit 1921**,** the General Agreement on Tariffs and Trade (GATT) 1947**,** the New York Convention on Transit

[2] United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), *Landlocked Developing Countries* (2024)
[3] United Nations General Assembly, *Programme of Action for Landlocked Developing Countries for the Decade 2024–2034* (UNGA, 2024)
[4] Lassa Oppenheim, *International Law: A Treatise, Vol I: Peace* (H Lauterpacht ed, 8th edn, Longmans 1955) 644

Trade of Land-Locked States 1965, and ultimately the United Nations Convention on the Law of the Sea (UNCLOS) 1982**,** particularly Part X (Articles 124–132)**,** which provides the most comprehensive international legal regime governing the rights of landlocked States to access the sea and freedom of transit through transit States[5].

The adoption of UNCLOS represented a significant advancement in the codification and progressive development of international law concerning landlocked States. While affirming the sovereign rights of transit States over their territories, the Convention simultaneously recognises that landlocked States possess the right of access to and from the sea for the purpose of exercising the freedoms guaranteed under international law[6]. However, UNCLOS does not confer an unrestricted or absolute right of access. Rather, the exercise of transit rights is made subject to agreements between the landlocked and transit States, as well as the domestic laws and legitimate regulatory interests of the transit State. This balance between sovereign equality, territorial integrity and equitable access continues to shape contemporary legal discourse on the subject.

Beyond UNCLOS, the legal framework governing access to the sea has been reinforced by several international and regional instruments. Article V of the General Agreement on Tariffs and Trade (GATT) 1994 guarantees freedom of transit for goods passing through the territory of contracting parties, while the World Trade Organization (WTO) Trade Facilitation Agreement 2013 introduces measures aimed at reducing procedural barriers affecting transit trade[7]. At the regional

[5] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 397, pt X.
[6] UNCLOS 1982, arts 125
[7] Marrakesh Agreement Establishing the World Trade Organization (adopted 15 April 1994, entered into force 1 January 1995) Annex 1A (General Agreement on Tariffs and Trade 1994)

level, organisations such as the African Union (AU), the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA) have adopted legal and policy frameworks intended to improve regional transport corridors, simplify customs procedures and enhance connectivity for landlocked member States. These initiatives demonstrate the increasing recognition that efficient transit systems are indispensable to regional integration and economic development.

Despite these legal developments, the practical implementation of the rights of landlocked States continues to encounter significant challenges. Political instability, inadequate transport infrastructure, administrative inefficiencies, excessive transit charges, customs delays, environmental concerns, security threats and conflicting national interests frequently undermine the effective enjoyment of transit rights guaranteed under international law. Disputes such as the long-standing Bolivia–Chile controversy over sovereign access to the Pacific Ocean illustrate the continuing tension between the legal rights of landlocked States and the sovereign prerogatives of coastal and transit States[8]. Similarly, many African landlocked States remain heavily dependent on neighbouring countries for port access, making them particularly vulnerable to disruptions arising from political crises, border closures and infrastructure deficiencies.

This paper critically examines the law and practice governing access to the sea by States without seacoasts. It analyses the historical evolution of the legal principles governing freedom of transit, the significance of maritime access to landlocked States, the international and regional legal frameworks regulating transit rights, and the

[8] *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v Chile)* (Judgment) [2018] ICJ Rep 507

practical implementation of these rights through selected comparative case studies. The paper further evaluates the principal legal, institutional and geopolitical challenges confronting landlocked States in securing effective access to the sea and proposes reforms aimed at strengthening the international legal regime governing transit rights. It argues that although international law has made considerable progress in recognising the legitimate interests of landlocked States, effective access to the sea ultimately depends upon sustained regional cooperation, harmonised legal frameworks and genuine political commitment by both landlocked and transit States.

2.0 LEGAL FRAMEWORK

2.1 International Legal Framework

2.1.1 The United Nations Convention on the Law of the Sea (UNCLOS) 1982

The United Nations Convention on the Law of the Sea (UNCLOS) 1982 constitutes the principal international legal instrument governing access to the sea by landlocked States. Often described as the "Constitution for the Oceans," the Convention codifies customary international law while introducing comprehensive rules regulating maritime rights and obligations.[9] The legal regime applicable to landlocked States is principally contained in Part X (Articles 124–132).

(a) Definition of Landlocked and Transit States

Article 124 defines the key concepts underpinning the legal regime.
A landlocked State is defined as *"a State which has no sea-coast."*[10]
Similarly, a transit State is defined as a State situated between a landlocked State and the sea through whose territory transit traffic

[9] Tommy T.B. Koh, 'A Constitution for the Oceans' in *The Law of the Sea: Official Text of the United Nations Convention on the Law of the Sea* (United Nations 1983) xxxiii–xxxvii.
[10] United Nations Convention on the Law of the Sea (UNCLOS) 1982, art 124(1)(a).

passes[11]. These definitions establish the territorial relationships upon which the Convention operates.

(b) Right of Access to and from the Sea

Article 125 represents the cornerstone of Part X. It provides that: *"Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention."* [12] The significance of this provision lies in its transformation of access from a matter of political discretion into a treaty-based legal entitlement. It enables landlocked States to exercise freedoms relating to navigation on the high seas, participation in marine scientific research, fishing on the high seas (subject to international regulation) and other rights recognised under UNCLOS. However, Article 125 does not establish an unrestricted right of transit. Instead, the modalities for exercising this right are to be determined by agreements between the landlocked State and the transit State[13]. This reflects the Convention's attempt to balance the developmental needs of landlocked States with the sovereign authority of transit States.

(c) Freedom of Transit

Article 125 further guarantees freedom of transit through the territory of transit States by all means of transport, including road, rail, inland waterways and pipelines where appropriate [14] . The provision encourages States to simplify customs procedures and eliminate unnecessary obstacles to transit while preserving legitimate security and administrative controls. According to Churchill, Lowe and Sander, this represents one of the Convention's most important compromises

[11] ibid art 124(1)(b)
[12] Ibid
[13] ibid art 125(2).
[14] ibid art 125(1).

because it recognises that transit is indispensable to the effective enjoyment of maritime rights[15].

(d) Customs Duties and Fiscal Treatment

Article 127 provides that traffic in transit shall not be subject to customs duties, taxes or other charges except those imposed for specific services rendered[16]. This provision seeks to prevent transit States from imposing discriminatory fiscal burdens capable of undermining the competitiveness of landlocked States.

2.1.2 Convention on Transit Trade of Land-Locked States 1965

Before the adoption of UNCLOS, the Convention on Transit Trade of Land-Locked States 1965 constituted the principal international instrument governing transit rights. The Convention recognises that the absence of direct maritime access should not prevent States from participating in international trade[17]. It obliges contracting parties to facilitate transit while respecting the sovereignty of transit States. Although the Convention has been largely superseded by UNCLOS, it remains historically significant because it laid the foundation for the modern law governing transit rights.

2.1.3 General Agreement on Tariffs and Trade (GATT) 1994

International trade law reinforces the legal protection afforded to landlocked States through Article V of the General Agreement on Tariffs and Trade (GATT) 1994. Article V establishes the principle of Freedom of Transit, requiring Member States to permit goods to move across their territories without unnecessary delay or discrimination[18].

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[15] R.R. Churchill, A.V. Lowe and Amy Sander, *The Law of the Sea* (4th edn, Manchester University Press 2022) 445

[16] UNCLOS, art 127

[17] Convention on Transit Trade of Land-Locked States (adopted 8 July 1965, entered into force 9 June 1967) 597 UNTS 42

[18] General Agreement on Tariffs and Trade 1994, art V

The provision prohibits discrimination based upon: nationality, place of origin, ownership of goods, destination and flag of vessels. According to Jackson, Article V remains one of the most important provisions supporting international commerce because it prevents geographical barriers from restricting trade[19].

2.1.4 WTO Trade Facilitation Agreement (TFA) 2017

The **World Trade Organization Trade Facilitation Agreement** supplements GATT by simplifying customs procedures and reducing bureaucratic barriers affecting transit trade[20]. The Agreement requires Members to: simplify customs documentation, improve border coordination, reduce administrative delays, adopt electronic customs systems, publish customs regulations transparently and facilitate the movement of transit goods. For landlocked developing countries, these reforms significantly reduce transportation costs and improve competitiveness.

2.1.5 Vienna Convention on the Law of Treaties 1969

The implementation of transit agreements is further governed by the Vienna Convention on the Law of Treaties (VCLT) 1969. Article 26 embodies the principle of *pacta sunt servanda*, requiring States to perform treaty obligations in good faith[21]. Similarly, Article 27 prevents States from invoking domestic law as justification for failing to perform treaty obligations[22]. These principles strengthen the legal enforceability of bilateral and multilateral transit agreements concluded under UNCLOS.

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[19] John H Jackson, *The World Trading System: Law and Policy of International Economic Relations* (2nd edn, MIT Press 1997) 148

[20] World Trade Organization, *Trade Facilitation Agreement* (entered into force 22 February 2017)

[21] Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 26.

[22] ibid art 27

3.0 LAW AND PRACTICE OF ACCESS TO THE SEA BY STATES WITHOUT SEACOASTS

The legal recognition of the right of access to the sea by landlocked States represents one of the most significant developments in modern international law. However, the practical enjoyment of this right depends not merely upon treaty provisions but upon the willingness of transit States to implement international obligations through domestic legislation, bilateral agreements and regional cooperation mechanisms. Consequently, while international law establishes a normative framework for access to the sea, State practice demonstrates considerable variation in the implementation of these rights. Differences in political relations, economic interests, infrastructure development, security considerations and regional integration have resulted in diverse approaches to transit governance across the world[23]. This section critically examines the practical application of the international legal framework governing access to the sea through selected case studies from Africa, Asia and Latin America. It evaluates the extent to which treaty obligations under the United Nations Convention on the Law of the Sea (UNCLOS), the General Agreement on Tariffs and Trade (GATT), and regional integration agreements have been translated into practical transit arrangements. The discussion further considers the role of judicial decisions and international dispute settlement in clarifying the legal obligations of transit and coastal States.

3.1 Rights of Landlocked States under International Law

Modern international law recognises that landlocked States possess legally protected rights designed to mitigate the disadvantages arising

[23] Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021) 533

from the absence of a coastline. These rights are principally derived from Part X of UNCLOS**, the** Convention on Transit Trade of Land-Locked States 1965**,** Article V of GATT 1994**,** and related regional instruments.

Under Article 125 of UNCLOS, every landlocked State enjoys the right of access to and from the sea for the purpose of exercising the freedoms guaranteed by the Convention[24]. These freedoms include navigation on the high seas, participation in marine scientific research, access to international maritime trade, and the enjoyment of rights relating to the common heritage of mankind. Landlocked States are also entitled to freedom of transit through the territory of transit States using all appropriate means of transportation, including roads, railways, inland waterways and, where applicable, pipelines[25].

Furthermore, Article 127 of UNCLOS exempts traffic in transit from customs duties except charges imposed for specific services rendered[26]. Beyond UNCLOS, Article V of GATT requires WTO Members to accord freedom of transit without discrimination based on nationality, origin, destination or ownership of goods[27]. These provisions collectively establish that geographical circumstances should not deprive sovereign States of meaningful participation in international commerce. Nevertheless, these rights are not absolute. Their exercise remains subject to bilateral agreements, domestic regulations and reasonable measures relating to customs administration, immigration, public order and national security.

[24] United Nations Convention on the Law of the Sea (UNCLOS) 1982, art 125
[25] ibid arts 124
[26] ibid art 127
[27] General Agreement on Tariffs and Trade 1994, art V

3.2 Obligations of Transit States

While international law recognises the rights of landlocked States, it equally acknowledges the sovereignty of transit States over their territory. Accordingly, transit States possess corresponding obligations as well as rights. Transit States are required to: permit the movement of transit traffic in accordance with treaty obligations, avoid discriminatory treatment of goods in transit, simplify customs procedures, facilitate efficient border clearance, cooperate in developing transport infrastructure and refrain from imposing unnecessary restrictions capable of frustrating legitimate transit rights[28].

However, transit States retain authority to regulate: immigration, customs inspection, public health measures, public safety and national security. The balance struck by UNCLOS reflects the principle that freedom of transit does not amount to a surrender of territorial sovereignty. Rather, it constitutes a qualified legal obligation exercised consistently with the legitimate interests of the transit State.

3.3 Bilateral and Regional Transit Agreements

In practice, access to the sea is achieved primarily through bilateral and regional agreements rather than through direct reliance upon UNCLOS. Article 125(2) of UNCLOS expressly provides that the modalities for exercising transit rights shall be determined by agreement between the States concerned[29]. Consequently, numerous bilateral treaties regulate customs procedures, transportation infrastructure, port access and transit fees.

Regional economic communities have also adopted legal instruments promoting transport integration. Within Africa, ECOWAS, COMESA,

[28] UNCLOS, arts 125
[29] Ibid

the East African Community (EAC) and SADC have established regional transit systems aimed at reducing border delays, harmonising customs documentation and improving transport corridors[30]. These agreements demonstrate that international treaty obligations require practical institutional mechanisms before transit rights can be effectively realised.

4.0 LITERATURE REVIEW

The foregoing review demonstrates that although considerable scholarly attention has been devoted to the legal position of landlocked States under international law, important conceptual, legal and practical gaps remain within the existing literature.

Oppenheim's work accurately explains the classical position of international law, which regarded access to the sea as dependent upon the consent of neighbouring States. However, his analysis is confined to the traditional doctrine of territorial sovereignty and does not address the transformation brought about by modern treaty regimes such as the United Nations Convention on the Law of the Sea (UNCLOS). Consequently, his work provides little guidance on the contemporary legal status of transit rights or their practical implementation in the modern international legal order[37].

Similarly, Lauterpacht's analysis is rooted in the supremacy of State sovereignty and the consensual basis of international obligations. While he acknowledges the importance of treaty obligations, he does not examine how subsequent developments in international economic law, international trade law and the law of the sea have substantially modified the doctrine of absolute territorial sovereignty. His work

[30] ibid art 125(2)
[37] Lassa Oppenheim, *International Law: A Treatise, Vol I: Peace* (H Lauterpacht ed, 8th edn, Longmans 1955)

therefore lacks a contemporary assessment of transit rights within the framework of UNCLOS and the World Trade Organization (WTO)[38].

Although Churchill, Lowe and Sander provide one of the most comprehensive analyses of Part X of UNCLOS, their discussion is predominantly doctrinal. The authors pay limited attention to the practical implementation of transit rights within developing regions, particularly Africa, where inadequate infrastructure, political instability and institutional weaknesses continue to undermine the effectiveness of the Convention. Their work also gives little consideration to the interaction between UNCLOS and more recent trade facilitation instruments such as the WTO Trade Facilitation Agreement[39].

Likewise, Donald Rothwell and Tim Stephens extensively analyse the legal framework established under UNCLOS but devote comparatively little attention to empirical State practice. While they acknowledge that implementation depends upon political cooperation, they do not critically evaluate how bilateral transit agreements and regional transport corridors have influenced the realization of transit rights in practice[40].

Tanaka adopts a broader policy-oriented approach by emphasising international cooperation and equitable utilisation of maritime resources. Nevertheless, his work focuses primarily on the normative structure of UNCLOS without sufficiently analysing the institutional, financial and infrastructural challenges confronting landlocked

[38] Hersch Lauterpacht, *Recognition in International Law* (Cambridge University Press 1947)
[39] R.R. Churchill, A.V. Lowe and Amy Sander, *The Law of the Sea* (4th edn, Manchester University Press 2022)
[40] Donald R Rothwell and Tim Stephens, *The International Law of the Sea* (3rd edn, Hart Publishing 2023)

developing countries, particularly within Africa. His discussion also gives limited attention to emerging issues such as digital customs administration, climate-resilient transport systems and regional trade facilitation initiatives[41].

Although Shaw successfully situates transit rights within the broader framework of public international law, his treatment remains general in nature. The discussion does not comprehensively examine the practical relationship between international legal obligations and regional integration mechanisms such as the African Continental Free Trade Area (AfCFTA), ECOWAS, COMESA and the East African Community (EAC), all of which increasingly shape the implementation of transit rights[42].

Similarly, Crawford explains how treaty law has modified traditional concepts of sovereignty but stops short of critically assessing whether existing treaty obligations are sufficiently enforceable against transit States that fail to facilitate access to the sea. His work therefore leaves unanswered important questions concerning compliance, enforcement, and dispute settlement[43].

Tommy Koh and Satya Nandan and Shabtai Rosenne make invaluable contributions by explaining the historical negotiations that culminated in the adoption of Part X of UNCLOS. However, their analyses are largely historical and negotiation-focused. They do not examine the contemporary effectiveness of the Convention more than four decades

[41] Yoshifumi Tanaka, *The International Law of the Sea* (4th edn, Cambridge University Press 2023)
[42] Malcolm N Shaw, *International Law* (9th edn, Cambridge University Press 2021)
[43] James Crawford, *Brownlie's Principles of Public International Law* (9th edn, Oxford University Press 2019)

after its adoption, particularly in light of emerging developments in regional economic integration and global trade governance[44].

From the perspective of international trade law, John H. Jackson **and** Peter Van den Bossche and Werner Zdouc provide detailed discussions of freedom of transit under Article V of GATT and the WTO Trade Facilitation Agreement. However, their analyses concentrate principally on international trade regulation rather than the broader law of the sea. As a result, they do not comprehensively explore the interaction between WTO obligations and the transit rights recognised under Part X of UNCLOS[45].

Within African scholarship, Olawuyi and Omorogbe correctly identify transport infrastructure and regional integration as prerequisites for Africa's economic development. Nevertheless, their works are primarily directed towards extractive industries, energy law and regional economic governance rather than the comprehensive legal regime governing access to the sea by landlocked States. Consequently, they provide limited doctrinal analysis of the rights and obligations established under UNCLOS[46].

Likewise, Kufuor highlights the role of ECOWAS and regional integration in facilitating trade but does not critically examine the legal relationship between regional integration instruments and the international law governing access to the sea. His work also predates

[44] Tommy T.B. Koh, 'A Constitution for the Oceans' in *The Law of the Sea: Official Text of the United Nations Convention on the Law of the Sea* (United Nations 1983)
[45] John H Jackson, *The World Trading System: Law and Policy of International Economic Relations* (2nd edn, MIT Press 1997)
[46] Damilola S Olawuyi, *Extractives Industry Law in Africa* (Springer 2018) 189–201; Yinka Omorogbe, *Oil and Gas Law in Nigeria* (Malthouse Press 2001)

significant developments such as the operationalisation of the AfCFTA and the WTO Trade Facilitation Agreement.[47]

Churchill introduces an important contemporary dimension by advocating the integration of environmental sustainability and climate resilience into the law governing maritime access. However, his work pays relatively little attention to how environmental obligations can be reconciled with the developmental needs of landlocked developing countries and the increasing demand for efficient transport corridors[48].

The collective limitation of the foregoing literature is that most authors examine the subject from isolated perspectives either public international law, the law of the sea, international trade law, regional integration or sustainable development—without integrating these fields into a unified analytical framework. Furthermore, relatively few scholars critically evaluate the practical implementation of transit rights through bilateral agreements, regional transport corridors and institutional mechanisms, particularly within the African context. Existing scholarship also pays insufficient attention to contemporary developments such as the AfCFTA**,** the WTO Trade Facilitation Agreement**,** the Awaza Programme of Action for Landlocked Developing Countries (2024–2034), digital customs systems, climate-resilient transport infrastructure and the evolving role of regional economic communities[49].

This paper addresses these shortcomings by adopting an interdisciplinary approach that integrates the law of the sea,

[47] Kofi Oteng Kufuor, *The Institutional Transformation of the Economic Community of West African States* (Ashgate 2006)
[48] Robin Churchill, 'The Contemporary Law of the Sea and Sustainable Development' (2021) 36 *International Journal of Marine and Coastal Law*
[49] United Nations General Assembly, *Awaza Programme of Action for Landlocked Developing Countries for the Decade 2024–2034* (UN Doc A/RES/79/149, 2024)

international trade law, treaty law and regional integration. It combines doctrinal analysis with comparative State practice and critically evaluates both the legal framework and the practical implementation of transit rights through selected international and African case studies. In doing so, the paper contributes to existing scholarship by providing a contemporary assessment of the law and practice of access to the sea by States without seacoasts while proposing practical recommendations for strengthening the effectiveness of the existing legal regime.

5.0 CHALLENGES TO THE REALISATION OF ACCESS TO THE SEA BY STATES WITHOUT SEACOASTS

The challenges confronting landlocked States are multidimensional. They arise not only from geographical disadvantages but also from weak governance structures, inadequate transport infrastructure, customs inefficiencies, political instability and the competing sovereign interests of transit States. This section critically examines these challenges and evaluates their implications for the effectiveness of the existing international legal regime.

a. Geographical Disadvantage

The absence of a coastline remains the most fundamental challenge confronting landlocked States. Unlike coastal States, landlocked countries cannot directly access international shipping routes and therefore depend entirely upon neighbouring transit States for participation in international trade. This geographical dependence inevitably increases transportation costs, transit time and logistical complexity.

According to the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), landlocked

developing countries generally incur significantly higher transport costs than coastal States, reducing their competitiveness in international markets[50]. The geographical isolation of many African landlocked States is compounded by long distances between production centres and seaports, making export-oriented industrialisation considerably more difficult.

b. Inadequate Transport Infrastructure

One of the greatest obstacles to effective access to the sea is inadequate transport infrastructure. In many developing regions, transportation infrastructure has failed to keep pace with increasing trade volumes. The World Bank Logistics Performance Index consistently identifies poor infrastructure as one of the principal barriers to efficient transit systems[51].

For example, although numerous African transport corridors have undergone modernization, many continue to experience severe congestion, poor maintenance and inadequate multimodal transport integration.Consequently, legal rights guaranteed under UNCLOS frequently cannot be fully exercised because the necessary physical infrastructure is lacking.

c. Customs Delays and Administrative Inefficiency

Administrative barriers constitute another significant challenge. Lengthy customs procedures, excessive documentation requirements, multiple border inspections and bureaucratic inefficiencies substantially increase transit time and transportation costs.

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[50] United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), *State of Landlocked Developing Countries Report 2024* (United Nations 2024)

[51] World Bank, *Connecting to Compete 2023: Trade Logistics in the Global Economy* (World Bank 2023)

According to the World Trade Organization**,** customs-related delays remain one of the greatest impediments to international trade for landlocked developing countries[52].

Although the WTO Trade Facilitation Agreement requires Members to simplify customs procedures and adopt electronic processing systems, implementation remains uneven, particularly in developing countries with limited institutional capacity.These administrative obstacles frequently undermine the objectives of both UNCLOS and GATT.

d. Dependence on Transit States

Perhaps the greatest structural weakness of the current legal regime is the dependence of landlocked States upon the political cooperation of transit States. Although Article 125 of UNCLOS recognises a right of access to the sea, Article 125(2) requires the modalities of transit to be determined through agreements between the States concerned [53] . Consequently, the practical exercise of transit rights remains dependent upon diplomatic relations rather than automatic legal entitlement. This dependence creates considerable uncertainty where political relations deteriorate or where transit States adopt restrictive domestic measures. Tanaka observes that the requirement for bilateral agreements represents one of the principal limitations of Part X of UNCLOS because it permits political considerations to influence the enjoyment of legal rights[54].

e. Weak Enforcement Mechanisms

International law provides relatively limited mechanisms for compelling transit States to comply with their obligations. Unlike

[52] Ibid
[53] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 397, art 125(2)
[54] Yoshifumi Tanaka, *The International Law of the Sea* (4th edn, Cambridge University Press 2023) 245

many areas of international trade law, UNCLOS contains no specialised enforcement body dedicated to supervising compliance with Part X.

Although, disputes may be referred to international adjudicatory bodies such as: the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS) or arbitral tribunals constituted under Annex VII of UNCLOS. States rarely resort to litigation because of the political sensitivity of transit disputes. The absence of effective enforcement mechanisms reduces the practical effectiveness of treaty obligations.

6.0 SUMMARY OF FINDINGS

This paper examined the law and practice of access to the sea by States without seacoasts from the perspective of contemporary international law, with particular emphasis on the United Nations Convention on the Law of the Sea (UNCLOS) 1982 and related international legal instruments. Following a critical analysis of the literature, legal framework, comparative State practice and institutional arrangements, the study makes the following findings:

The right of access to the sea has evolved from a political privilege into a legally recognised international right**.** Historically, access to the sea depended largely upon the discretion and goodwill of neighbouring coastal States. However, the development of international law through the Barcelona Convention of 1921, the Convention on Transit Trade of Land-Locked States 1965, and particularly Part X (Articles 124–132) of UNCLOS 1982, has transformed access to and from the sea into a treaty-based legal entitlement for landlocked States.

UNCLOS provides the principal legal framework governing access to the sea, but it does not create an absolute right of unrestricted transit.

The Convention guarantees freedom of access and transit for landlocked States while simultaneously preserving the sovereignty and territorial integrity of transit States. Consequently, the exercise of transit rights is largely dependent upon bilateral and regional agreements concluded between the States concerned.

The study finds that international trade law significantly complements the UNCLOS regime. Instruments such as Article V of the General Agreement on Tariffs and Trade (GATT) 1994 and the World Trade Organization (WTO) Trade Facilitation Agreement reinforce the principles of freedom of transit by requiring non-discriminatory treatment of goods in transit and encouraging the simplification of customs procedures. Together, these instruments provide a broader legal architecture that promotes international commerce for landlocked States.

Regional integration has become an indispensable mechanism for implementing transit rights. Regional organisations including the African Continental Free Trade Area (AfCFTA), ECOWAS, COMESA, the East African Community (EAC) and the Southern African Development Community (SADC) increasingly facilitate access to the sea through harmonised customs procedures, coordinated transport policies and regional infrastructure projects. The study finds that these regional arrangements often provide more practical solutions than reliance on international treaty provisions alone.

Comparative State practice demonstrates that political cooperation is the most significant determinant of successful implementation. Case studies involving Ethiopia–Djibouti**,** Uganda–Kenya**,** Nepal–India and Zambia–Tanzania illustrate that effective bilateral cooperation, investment in transport infrastructure and regional institutional support can substantially improve access to international maritime trade.

Conversely, the dispute between Bolivia and Chile demonstrates that international law cannot compel sovereign States to concede territorial access beyond existing treaty obligations.

Despite the comprehensive legal framework, significant implementation challenges persist. The study identifies geographical isolation, inadequate transport infrastructure, customs delays, political instability, dependence on transit States, weak enforcement mechanisms, institutional fragmentation, financing constraints and climate change as the principal obstacles to the effective realization of transit rights. These factors continue to undermine the practical benefits intended by international law. The study finds that the existing international legal framework suffers from limited enforcement mechanisms. Although UNCLOS recognises transit rights, it provides no specialised institution responsible for supervising compliance with Part X. As a result, disputes concerning access to the sea are frequently resolved through diplomatic negotiations rather than compulsory judicial or arbitral mechanisms, thereby reducing the effectiveness of the legal regime.

7.0 RECOMMENDATIONS

In light of the foregoing findings, the following recommendations are proposed:

a. Strengthening Compliance with UNCLOS

States Parties should fully implement the obligations contained in **Part X of UNCLOS**, particularly Articles 124–132, by adopting domestic legislation and concluding bilateral transit agreements that facilitate practical access to the sea while respecting the sovereignty of transit States.

b. Expansion of Regional Transport Corridors

Regional economic communities, including the African Union (AU), ECOWAS, COMESA, SADC and the East African Community (EAC), should prioritise the development and maintenance of integrated transport corridors linking landlocked States with international seaports.

c. Modernisation of Customs Administration

Transit States should accelerate the implementation of the WTO Trade Facilitation Agreement through electronic customs systems, single-window platforms, risk-based inspections and harmonised border procedures to reduce delays and transaction costs.

d. Increased Investment in Transport Infrastructure

Governments, development finance institutions and the private sector should increase investment in railways, highways, inland dry ports, logistics centres and multimodal transport systems to improve regional connectivity and reduce transportation costs.

e. Strengthening Regional Dispute Resolution

Regional organisations should establish or strengthen specialised dispute resolution mechanisms capable of addressing disputes relating to transit rights, customs administration and transport infrastructure promptly and efficiently.

8.0 CONCLUSION

The law governing access to the sea by States without seacoasts represents one of the most important manifestations of the evolution of international law from a rigid system founded upon absolute territorial sovereignty to a cooperative legal order that seeks to promote equity, sustainable development and sovereign equality among States. Historically, landlocked States depended entirely upon the political

goodwill of neighbouring coastal States to gain access to international maritime trade. However, the progressive development of international law through the Barcelona Convention on Freedom of Transit 1921, the Convention on Transit Trade of Land-Locked States 1965, the General Agreement on Tariffs and Trade (GATT) 1994 and, most importantly, the United Nations Convention on the Law of the Sea (UNCLOS) 1982 has transformed access to the sea into a legally recognised treaty-based right.

This paper has demonstrated that Part X of UNCLOS (Articles 124–132) constitutes the cornerstone of the international legal framework governing access to the sea. It establishes the legal definitions of landlocked and transit States, guarantees the right of access to and from the sea, recognises freedom of transit and encourages cooperation between transit and landlocked States. Nevertheless, the Convention deliberately balances these rights against the sovereign authority of transit States by requiring that the modalities of transit be determined through mutual agreement. Consequently, the legal regime reflects a compromise between the principles of territorial sovereignty and equitable participation in international commerce.

The examination of comparative State practice revealed that successful implementation of transit rights depends less upon the existence of international legal rules than upon political cooperation, institutional capacity and investment in transport infrastructure. The experiences of Ethiopia and Djibouti, Uganda and Kenya, Nepal and India, and Zambia and Tanzania demonstrate that bilateral agreements, regional integration mechanisms and modern transport infrastructure can effectively operationalise the legal rights recognised under UNCLOS. Conversely, disputes such as Bolivia v Chile illustrate the limitations of international law where historical territorial disputes intersect with competing sovereign interests.

Finally, the paper examined emerging prospects for improving access to the sea. These include stronger implementation of UNCLOS, expansion of regional economic integration through initiatives such as the African Continental Free Trade Area (AfCFTA), increased investment in transport infrastructure, digitalisation of customs administration, climate-resilient transport systems, enhanced international cooperation and greater private sector participation through public-private partnerships. Collectively, these developments provide significant opportunities for reducing the structural disadvantages associated with the absence of a coastline.

In conclusion, the law and practice of access to the sea by States without seacoasts continue to evolve in response to changing patterns of international trade, regional integration and sustainable development. While the existing legal framework provides a solid normative foundation, its practical effectiveness depends upon sustained political commitment, institutional cooperation and continuous investment in transport connectivity. Achieving meaningful access to the sea requires more than legal recognition; it demands the effective implementation of international obligations in a manner that reconciles the sovereign rights of transit States with the legitimate developmental aspirations of landlocked States. Only through such cooperation can the objectives of UNCLOS and the broader principles of international law be fully realised.