

UAI JOURNAL OF EDUCATION, HUMANITIES AND LITERATURE (UAIJEHL)



Abbreviated Key Title: UAI J Eud Huma Lit.

ISSN: 3049-3196 (Online)

Journal Homepage: <https://uaipublisher.com/uaijehl-2/>

Volume- 2 Issue- 1 (January- February) 2026

Frequency: Bimonthly



Review of the International Law of the Sea and (Transit Status of Landlocked Countries)

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ABSTRACT

Landlocked countries face a unique set of challenges. Without a coastline, they have no direct way to trade by sea, so they rely on neighboring coastal countries to move goods in and out. This dependency isn't just inconvenient—it drives up costs, and things get even trickier when a transit country decides to limit or block that access, especially under Article 125 of the Law of the Sea Convention.

This article takes a close look at the maritime rights of landlocked countries. It uses a descriptive-analytical approach to tackle a key question: What does “transit status” really mean for landlocked countries trying to trade by sea? After digging into international documents, the article finds that the so-called “right of access” or “transit passage” is actually pretty limited. It's an incomplete solution.

The article argues that, if we truly treat the oceans as the common heritage of mankind, then landlocked countries deserve a clear legal right to access the sea. This right shouldn't be denied or restricted unless there's a genuine, proven security threat to the transit country.

KEY WORDS: Landlocked States, International Law of the Sea, Maritime Commerce, Transit Passage, Right of Access to the Sea

Introduction

Some countries just can't catch a break when it comes to geography. If you don't have a coastline, you're officially “landlocked.” Right now, there are 44 landlocked countries in the world. Out of those, 30 are still developing. No coastline means no direct access to the sea, so these countries miss out on the easiest route for international trade. Whenever they want to ship goods overseas, they have to go through a neighbor with a coast.

That's where the whole “transit situation” comes in. Basically, a

landlocked country depends on a “transit state” — that's any country with a coast that lets goods pass through on the way to the port. These routes can be long, sometimes winding through rough roads or outdated railways, which just pushes up transport costs.

Transit isn't just about distance or roads, either. Security matters a lot. If things get unstable in the transit country, moving goods gets risky or even impossible. All these problems pile up and make it harder for landlocked countries to grow their economies. So, it's no surprise that these countries have spoken up on the world stage,

fighting for the right to move goods freely to and from the sea. They've even pushed for an international treaty to back them up (Upreti, 2020: 203).

¹ Art. 9(4), Annex III, United Nations Convention on the Law of the Sea, 1982 (hereinafter 'UNCLOS')

² Art. 24(1)(b) UNCLOS.

Still, international law doesn't always make things simple. There are a lot of voices, a lot of opinions, and not everyone agrees on what the rules should mean. Over time, though, the world has hammered out some agreements. The most important one so far is the 1982 United Nations Convention on the Law of the Sea.

This article looks at what those international documents actually say. Do landlocked countries have a real, legal right to reach the sea for trade? Based on the evidence — especially the 1982 Convention — the answer is yes.

1. Research Background

Tsema Elias Schil's 2020 article, "The European Union's Maritime Regime and the Challenges of Landlocked Developing Countries: A Case Study of Ethiopia," digs into how the EU shapes international maritime governance and sets its own maritime policies. Schil looks at what these policies mean for landlocked countries trying to develop. After going through a mix of data and focusing on Ethiopia, he argues that the EU holds real power when it comes to regulating maritime trade for landlocked countries that rely on routes through EU waters. Schil suggests that, given the unique challenges and economic needs of landlocked states, it's time for a global and EU-level maritime agreement that grants these countries better access. Oddly, he doesn't really touch on their right to development.

In another 2020 piece, "The Sea and Landlocked Countries," Ernest Swanepoel tackles the law of the sea. He points out something pretty basic but important: landlocked countries can't trade by sea unless neighboring coastal countries let them. Any access depends on bilateral or multilateral deals, and, honestly, international maritime law doesn't guarantee anyone will enforce these rights.

Then there's Obiura Pascal's 2021 study, "A Study of Landlocked Countries' Access to the Sea." He talks through the roadblocks these countries face and highlights how states have tried to create and prove their right of access through international law. Pascal argues that, in reality, what matters most is how well a landlocked country can negotiate with its neighbors—the transit states. The political attitudes of those coastal countries make all the difference. At the end of the day, he says, both sides sitting down at the table is what actually gets things moving.

All these studies talk about the economic hurdles landlocked countries face when it comes to trade. But they don't really dig into the nuts and bolts of how transit itself works for these nations. That's where this article comes in. It takes a fresh angle and tries something new by shining a light on the actual process of transit for landlocked countries.

³ The Convention was adopted in Montego Bay, Jamaica in 1980 at the end of the Third United Nations Conference on the Law of the Sea (UNCLOS III)

2. Conceptual Framework and Theoretical Foundations

Countries don't just need trade for economic growth—they also depend on fair international trade to protect their savings and stay competitive in the global market (Upreti, 2006: 4). But landlocked countries have a tough time. Without a direct route to the sea, they run into all kinds of problems when it comes to international trade, especially when using marine resources. No coastline means no seaports, so they have to rely on neighboring coastal countries to get their goods to the sea. That's not just a headache for the landlocked countries; it can also be a hassle for the coastal countries that act as transit routes.

Take the transit routes themselves, for instance. Sometimes, the path to the nearest seaport stretches for hundreds or even thousands of kilometers, which drives up costs and complicates logistics. If that weren't enough, legal issues in the transit countries can pile on even more obstacles (Upreti, 2006: 14). So, making international trade work through transit countries isn't just important—it's a real challenge, especially for landlocked states (Upreti, 2003: 201).

UNCTAD points out that not having access to the sea creates a major roadblock for a country's economic and social development. That's partly why so many landlocked countries have some of the slowest growth rates on the planet, and their Human Development Index (HDI) scores often lag far behind their coastal neighbors (Upreti, 2022: 18).

These problems hit landlocked developing countries especially hard. Not only do they have weak transport infrastructure at home, but they also have to deal with shaky infrastructure in the transit countries. On top of that, coastal and landlocked states can find themselves competing against each other—especially when both export the same kinds of products—rather than working together. It doesn't end there. Long transport routes, expensive shipping, and poor infrastructure aren't the only problems. Landlocked countries pay extra for warehousing, port delays, and sometimes get stuck paying a bigger share of the transportation costs themselves (Makil, 1970: 202). High customs tariffs in the transit countries are another hurdle, and there's not much the landlocked countries can do about it.

Attracting foreign direct investment is tough, too. Investors usually pick places where the transport system actually works, which pushes landlocked countries further behind (Carcamo-Diaz, 2004: 10). Meanwhile, transit countries sometimes use their geographical position as leverage—politically or economically—against their landlocked neighbors. Legal and administrative barriers set up by coastal countries just add to the difficulties for landlocked states (Makil, 2020: 4).

All these disadvantages add up. They shrink trade volumes for landlocked countries and put a real dent in their economies. UNCTAD reports that most landlocked countries face all the same hurdles as other less developed countries, which shows just how closely landlockedness ties in with underdevelopment. In short, being landlocked brings a tangle of extra challenges—weak infrastructure, dependence on unpredictable transit partners, and sky-high transport costs—that make economic growth an uphill battle.

3. History

Every landlocked country gets the right to free transit because of its own sovereignty. The whole idea started with natural law—think Grotius and his argument that since the oceans belong to everyone, no matter if your country touches the sea or not, you should have the right to cross other countries to reach it. That way, everyone gets a

fair shot at using global trade routes.

There's another angle, too—the limited property rights theory. It says if you own land, you can use it as you want, as long as you don't mess with your neighbors' rights (see Mcbair and Buckland). Imagine your land (A) is stuck behind someone else's land (B). You'd naturally expect to have the right to cross B to get to your own place. That's pretty much how the right of easement works in domestic law. So, if this holds within countries, it makes sense that landlocked states should have a similar right to move goods through their neighbors' territory.

Klaus put it well: in international law, sometimes a part of one country's territory is used to help meet the economic needs of another. Oceans, after all, have always been the cheapest way to move goods around. And with countries relying more and more on trade, the right to passage becomes even more important—as long as it doesn't mess things up for the transit country.

Latrepacht boiled down the legal requirements for a landlocked country's right to free access to two main points. First, the country has to show it really needs the access—for reasons of necessity or simple convenience. Second, using that right shouldn't hurt the transit country (see Lauterpacht). But “necessity” here isn't just about emergencies. Writers like Grotius, Pufendorf, and Wattel saw it as a broader idea—more about real, legitimate interests than life-or-death urgency.

The principle of innocent passage through a coastal state's territorial sea also backs up the argument for landlocked countries' transit rights. Some scholars say that the right for landlocked states to move goods over land is a lot like the right of innocent passage through territorial waters—both involve one state letting another use its land, sea, or even airspace for the good of international relations (see Tabibi).

These arguments have only grown stronger over time, especially after the Third United Nations Conference on the Law of the Sea recognized more rights for landlocked states—like letting them share in the exclusive economic zone and high seas resources. Still, the biggest roadblock is the coastal states' claim to territorial sovereignty. Coastal countries argue they have the final say on who gets to cross their land, and they'd rather handle access rights through direct agreements than international rules. They say their sovereign power covers everything that happens on their soil, including deciding whether landlocked neighbors get through—often citing security concerns. Some even insist that transit rights should only be granted if the landlocked country returns the favor. All this means the international community has had to step in and figure out how best to handle the situation.

4. International Community Actions for Landlocked States to Enjoy the Rights of the Sea

People started talking about landlocked states by pointing out the tension between them and transit states. Landlocked countries see access to the sea as a right—something they should have. Transit states, on the other hand, often treat it as a privilege or just an economic arrangement, not a legal right (Uprety, 2006: 207). Now, there's a real need for an international legal system that clearly recognizes access and transit as rights, not just favors. But international law still struggles to take in all the different voices, interpretations, and perspectives out there. Still, since 1921, the international community has been working to tackle the issue of

getting to and from the sea for landlocked countries. Over time, states have put together five major international agreements focused on this problem—sometimes on their own, sometimes mixed in with other topics.

It started with the Barcelona Charter on Freedom of Transport in 1921. Then came the General Agreement on Tariffs and Trade in 1948, the Geneva Convention on the High Seas in 1958, the Convention on Transit Trade of Land-Locked States in 1965, and, finally, the 1982 Convention on the Law of the Sea.

Each of these agreements tried to guarantee that landlocked states have secure, reliable freedom and the legal right to reach the sea, covering the issue from different angles along the way.

4.1 The Barcelona Statute on Freedom of Transport (1921)

The League of Nations Charter, in Article 23, pushed countries to make sure communications and transit stayed open and unhindered. To make this work, they set up the Communications and Transit Organization (COT), which took on the job of figuring out how to keep things moving smoothly between states. Thanks to the COT's efforts, the Barcelona Convention on Freedom of Transit came to life.

The main reason behind the statute? It aimed to soften the economic fallout from the rules laid out by the Treaty of Versailles. Europe had just seen the Austrian Empire break apart, leaving several landlocked countries struggling to connect with the outside world. The new international transit regime was supposed to fix that—helping landlocked states get their goods and people to the sea.

Under this statute, every member state had to make sure that railways and navigable waterways under their control stayed open for international transit. The Convention made it clear: landlocked countries have the right to pass through their neighbors' territories. Transit countries could set reasonable tariffs, but those fees had to help trade, not get in the way. Where the goods started or ended didn't matter, nor did the nationality or ownership of the vehicles or ships moving them. Article 4 spelled it out: transit rules or restrictions shouldn't discriminate based on where goods come from or who owns the transport. The whole point was to make sure landlocked countries could get to the sea, no matter who or what was carrying their stuff.

Even so, the statute allowed for exceptions. If a transit country's security or vital interests were at stake, it could suspend these freedoms for a limited time. The same went for reasons tied to public health or public security. Transit could also be denied if broader international agreements or United Nations resolutions called for it. In those cases—especially when a country blocks access because of a UN resolution—it usually doesn't cause a major dispute. But here's where things get tricky. The statute never spells out exactly what counts as a “limited period.” That means a transit country, if it wants, can drag out restrictions for who knows how long. Plus, since each country decides what counts as a threat to public health or security, they can stretch the rules to fit almost any situation. And, on top of all that, the statute only covers maritime and rail transport—it doesn't deal with other types of transit at all.

4.2 General Agreement on Tariffs and Trade (GATT)

The General Agreement on Tariffs and Trade, or GATT, set out to break down barriers like quotas, tariffs, and subsidies, all to help global trade flow more freely. After World War II, countries needed to rebuild, and GATT pushed for open markets to speed up recovery.

GATT didn't really tackle the challenges faced by landlocked countries the way the Barcelona Statute did. In fact, it only talks

about transit in Article 5. There's no special mention of landlocked states, but Article 5 does guarantee freedom of transit across the territories of member countries. That means goods can cross from one member country to another along the most convenient routes—road, rail, air, whatever works best. It doesn't matter who owns the goods or the vehicles; nobody's supposed to make any special rules about entry or exit.

So, if you're a GATT member, you can move goods through any other member's territory. That's a step up from the Barcelona Convention, which only allowed transit by rail or water. GATT opens the door to land and air routes too, giving landlocked countries more ways to get their goods where they need to go. The only big exception comes up if someone breaks customs laws—otherwise, countries can't throw up unnecessary roadblocks. Plus, GATT says member states don't have to pay customs duties or extra charges tied to transport, except for basic transport costs or fees that actually cover services provided. Still, Article 5 only covers goods, not people, so it's not as complete as some might hope. That's probably because GATT's main mission is trade—getting goods across borders and cutting down tariffs. In the end, GATT did make moving goods easier, but only between its own members, and not all of them were landlocked. So, for countries without coastlines, GATT helped, but only up to a point.

⁴ The treaty was signed in Barcelona on 20 April 1921.

⁵ The GATT was signed on 30 October 1947 by 23 countries

⁶ The Convention was done at Geneva on 29 April 1958 and entered into force on 30 September 1962

⁷ Done at New York on 8 July 1965 and entered into force on 9 June 1967

⁸ Art. 23e Covenant of the League of Nations.

⁹ Art. 2 Statute of Barcelona

4.3 Geneva Convention on the High Seas

The first United Nations Conference on the Law of the Sea took place in 1958. At its eleventh session, the UN General Assembly told its delegates to look into the issue of landlocked countries. Acting on this, the Fifth Committee started digging into the idea of free access to the sea and drafted a potential new law. Most of their discussions centered around two competing drafts—one from a group of 19 countries (11 of them landlocked), and another from Italy, the Netherlands, and Britain, all coastal states.

It's not surprising that these two groups didn't see eye to eye. Landlocked countries pushed hard for the right to reach the sea through their neighbors, but the coastal states weren't keen on making that a guaranteed right. Instead of a binding agreement, the coastal countries only wanted a non-binding resolution.

In the end, the Fifth Committee couldn't bring the two sides together. They ended up adopting a draft from Switzerland, treating it as a starting point. This draft became Article 3 of the Convention on the High Seas. Out of the whole convention, it's the only article that deals with access to the sea for landlocked states. Here's what it says:

To enjoy freedom of the seas just like coastal states, countries

without a coastline should have free access to the sea. But for this to happen, both coastal and landlocked countries need to make mutual agreements, following existing international conventions.

If you look closely, Article 3 doesn't grant full, unconditional access to the sea. It leaves everything up to agreements with coastal states. So, even though the goal was to give landlocked countries equal access, the reality is that these countries still depend on the goodwill of their neighbors. The Convention on the High Seas didn't really deliver what landlocked countries wanted—a clear, enforceable right to reach the sea through transit countries.

4.4 Convention on Transit Trade of Land-Locked Countries, 1965 (New York Convention)

The New York Convention came about because landlocked countries just wouldn't back down. They kept pushing, and eventually, the United Nations stepped in. In 1965, the UN held a conference in New York to figure out and agree on a Convention for the Transit Trade of Land-Locked Countries. By the end of it, on July 8, 1967, nations signed what's now called the New York Convention. It officially took effect on June 9, 1967. It's still the only international agreement that zeroes in on the problems landlocked countries face when it comes to moving goods inland—there are 16 main articles, all about transit. Article 1 makes it clear: the Convention covers transit traffic between landlocked countries and seaports. "Transit passage" means moving goods through the territory of any country that's signed on, from a landlocked country straight to the sea. The Convention doesn't just mention this right—it actually recognizes and backs up each landlocked country's "right of free access" to the sea. That's a big deal for international trade and economic growth.

¹⁰ See article 2 of the Statute

¹¹ See art. 5, paragraph 7 GATT

Article 2, paragraph 1, says that as long as transit follows the Convention's rules, ships and transport vehicles can move freely. Countries that signed the Convention have to set up systems to keep transportation running smoothly through their land, making sure vessels can move along the agreed transit routes without unnecessary hassle.

There's also a ban on discrimination. No country is allowed to block or slow down transit based on where goods come from, where they're going, who owns them, what flag the ship flies, or where a vehicle is registered. As long as the transit is legal, a country can't just say no or put up extra barriers for landlocked neighbors. In fact, transit countries have to help prevent delays, keep the goods safe, and make sure the whole process runs without problems.

Still, there are exceptions. Transit countries can refuse passage for goods that are banned for reasons like public order, health and safety, or to stop the spread of animal or plant diseases and pests. Article 11(4) adds another layer: if a country feels its "essential security interests" are at risk, it can take steps to protect itself—even if that means blocking or limiting access.

One thing that sets the New York Convention apart from older treaties is that it doesn't just cover goods. It also includes people who need to travel for transit to work. The Convention recognizes that sometimes, the free movement of people is just as important as moving cargo. Of course, anyone crossing through needs to follow the laws and rules of the country they're passing through, and

permission is still required. But the idea is clear: without allowing people to move, transit just doesn't happen.

If someone breaks the laws about moving through a transit country, that country can step in and limit their movement. When it comes to deciding how people or goods get transported through a transit country, the Convention leaves it up to the countries involved—they have to come to a “mutual agreement.” This sets up a basic international framework for transit rights, but the details get settled between the countries themselves. If they can't agree, Article 16 says either country can ask for a Commission to step in and sort things out. But here's the thing: countries don't always see eye-to-eye.

If they can't come to an agreement, the transit country can block access to the sea until something changes, or until the Commission gets involved. And if that drags on, the landlocked country pays the price—economically, they take the hit (Mpazi Sinjela, 2020: 31). There's another layer of trouble. The Convention talks about “reciprocal access,” meaning landlocked countries have to offer transit rights to coastal countries too. But honestly, that doesn't make much sense.

¹² See preamble to the GATT

¹³ Art. 125 UNCLOS

¹⁴ Art. 3 Convention on the High Seas, 1958.

¹⁵ Art. 125(2) UNCLOS

Landlocked countries need access to the sea for their survival. Coastal countries aren't missing out on anything by not moving goods through landlocked states. So, demanding reciprocity just gives transit countries an excuse to say no, which blocks landlocked states from getting the access they really need.

The New York Convention tried to fix this. It officially recognized the right of landlocked countries to reach the sea through other states and told transit countries to make that happen. But in the end, it still put everything back in the hands of the countries involved—they have to agree. And in reality, the Convention hasn't changed much. Most countries didn't sign it, and the ones who did are mostly landlocked states looking for ways around their geographic problems. So, the impact has been pretty limited.

4.5 United Nations Convention on the Law of the Sea (UNCLOS) 1982.

At the Third United Nations Conference on the Law of the Sea, landlocked countries pushed hard to secure their right to reach the ocean. For them, getting to the sea through neighboring countries wasn't just a practical matter—it was a real right. But the countries they needed to cross didn't always see it that way. They treated it more as an economic issue, not something the law had to guarantee (Upreti, 2016: 207).

The 1982 Convention on the Law of the Sea settled the debate. Article 125 spells it out: landlocked States have the right to get to and leave the sea, and they can travel through transit States however they need—by road, rail, whatever works. The Convention makes it clear: landlocked countries can cross through other countries to reach the sea, no question.

This wasn't always so clear. The 1958 Convention said landlocked States should have free access to the sea, but left it up to individual

agreements. If a landlocked country wanted to use a neighbor's territory, both sides had to sign off first. The newer Convention drops that hurdle. Now, landlocked States don't need a separate agreement just to cross; they only need to work out details like how and when. Plus, the old rules required a transit State to let landlocked countries pass only if the treatment was mutual. The 1982 Convention lifted that requirement—landlocked countries don't have to offer the same in return to get access.

Article 125 isn't the end of the story. Landlocked States get more rights under this Convention. For example, Article 17 says their ships can pass innocently through a coastal State's territorial sea. They also have the right to freedom of the high seas, just like anyone else. That means once they reach international waters, they can navigate, fly over, lay cables and pipelines, build artificial islands, fish, and do scientific research. The high seas are open to everyone—coastal or landlocked, it doesn't matter.

¹⁶ Art. 87 UNCLOS

¹⁷ Art. 87 *ibid.*

¹⁸ Sipangule, Above

¹⁹ Art. 136 UNCLOS

²⁰ Art. 11 of the 1979 Agreement Governing the Activities of States on the Moon and other Celestial Bodies, 5 December, 1979 1363 U.N.T.S. 3

²¹ Art. 62(2) UNCLOS

4.6 Legal Analysis of the 1982 Convention

The 1982 Convention, through Article 125(1), says landlocked countries have a right to get to and from the sea. But here's the catch: this right depends on what's laid out in Article 125(2), and, more importantly, it all comes down to whatever the landlocked country and the transit country can agree on.

So, on paper, landlocked countries get “free transit.” In reality? Not so much. Everything hinges on both sides reaching a deal. If they can't agree, that “right” becomes almost meaningless—there's no real way to force a transit country to cooperate.

That's a huge problem. The Convention just assumes countries will sort things out, but what if the transit country drags its feet or flat-out refuses to negotiate fair terms? No agreement means no access. The landlocked state can point to Article 125(1) all it wants, insisting on its supposed right, but if the other side won't budge, that's the end of the story—and it can easily spark international tension.

It can get even messier. Maybe the transit country is willing to strike a deal, but only on tough terms—like making the route as expensive or inconvenient as possible. Article 125 and Article 3 both say transit countries control their territory and have to take “necessary measures” to help landlocked countries, but since “legitimate interests” aren't spelled out, transit countries can basically throw up all kinds of barriers.

History is full of examples. In 1989, India used “legitimate interests” to deny Nepal access to the sea, even though the real reasons were about trade disputes and border politics, not transit rights. Back in the 1960s, Southern Rhodesia (now Zimbabwe) shut Zambia out of South African ports to punish it for supporting the liberation movement.

All of this shows one thing: transit countries don't actually have to guarantee landlocked countries access to the sea. That "right" to free transit is what some call an "imperfect right." Article 125 doesn't really give landlocked states anything new. For a right to mean something, it has to be enforceable, not just dependent on the goodwill of the transit country. The sea should be a shared resource, and access through a transit state shouldn't be blocked at someone's whim.

When we talk about global commons—places like the deep sea, outer space, or Antarctica—the whole idea is that these areas belong to everyone, not just one state. International trade by sea should work the same way. The right to use the ocean, like other global commons, should be something all of humanity shares.

All countries, whether they border the ocean or not, have the right to share in the resources of the international seabed. That's part of what the Convention guarantees. Coastal states, once they're able to tap into the resources in their exclusive economic zones, get to make the most of what's there. But they don't act alone—other countries, coastal or landlocked, can also get involved if everyone agrees.

This idea—sharing resources as a "common heritage of humanity"—goes way back. It's rooted in natural law, and Noyes talked about it in 2012. International law keeps pushing for peace and fair solutions, especially when people clash over resources. The UNCTAD resolution really underlines how important it is to share wealth from those resources.

Here's the thing: no country can make it without trade, and that includes landlocked nations. So they need access to the sea, not just as a privilege, but as a right tied directly to their ability to trade. If they can't reach the ocean, being allowed to use and share in the sea's resources doesn't mean much.

That's why landlocked and transit countries need to work out exactly who's responsible for what when it comes to keeping those transit routes open. Of course, this cooperation only stands unless the landlocked country acts aggressively or does something that seriously threatens the security of the country they're passing through.

Conclusion:

Every country needs access to the sea and its resources—it's just a fact. But let's be real, not everyone gets a fair shot. Geography and uneven resources mean some countries have to rely on trade with others to get by.

Now, if you're landlocked, things get tricky. No coastline means trade is a headache, and that's a huge problem for these countries. The world has tried to fix it. There have been all sorts of promises about giving landlocked countries real access to the sea, but honestly, those promises haven't turned into anything solid.

Back when the Third Conference on the Law of the Sea happened, people hoped it would finally sort things out. Article 125 of the 1982 Convention did say, for the first time, that landlocked countries have the "right" to reach the sea through neighboring countries. Sounds good on paper. But here's the catch: other parts of the Convention let transit countries call the shots. So, that "right" isn't as strong as it looks.

Because of this, landlocked countries still struggle to get to the sea. Transit countries can block or limit their access whenever it suits their own interests. This problem hits landlocked developing countries especially hard—trade is already tough for them, and getting denied access just makes everything worse. The challenges

they face go way beyond just being stuck without a coastline; the real issue is how easily others can still keep them cut off.

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