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Opinion | From Gaza Peace Process To Ukraine War: The Principle Of Consent In International Law

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Whether through formal treaties or consistent patterns of behaviour that suggest agreement, the principle of consent remains the cornerstone for any legitimate & lasting resolution



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The principle of consent in international law is equally crucial in understanding the ongoing crisis involving Ukraine, Russia, and various international stakeholders. (AP)

In modern diplomacy, particularly in peace processes involving Egypt, the United States, Qatar, Israel, and Palestine, the principle of consent can be complicated. For example, if Egypt, US, and Qatar sign a peace framework while Israel and Palestine do not, the classical idea of treaty consent is challenged, since under Article 34 of the Vienna Convention on Law of the Treaties (VCLT), a treaty does not create obligations for non-signatory states. However, international practice acknowledges that states can show consent through actions, even if not formally signed. Publicly endorsing or implementing treaty provisions may indicate implied consent, aligning with VCLT Article 31(3)(b).

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The doctrine of pacta sunt servanda, embodied in Article 26 of the Vienna Convention on the Law of Treaties (VCLT), underscores that “every treaty in force is binding upon the parties to it and must be performed in good faith”. Therefore, even though Israel and Palestine do not enter a treaty in the strict sense of the word, once they agree mutually or align their actions consistently with the terms put forward, they acquire good faith obligations to uphold such commitments.

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In peace negotiations, guarantor nations such as Egypt, US and Qatar are important players. They usually mediate, ensure compliance, and supervise commitments. When nations such as Egypt, US and Qatar support a peace accord, and Israel and Palestine voluntarily agree to its conditions, it shows how international law is adaptable enough to accommodate political realities.

The principle of consent in international law is equally crucial in understanding the ongoing crisis involving Ukraine, Russia, and various international stakeholders. At the heart of this conflict lies a significant legal and political question: To what extent can a state be bound by international norms, agreements, or peace initiatives without its explicit, sovereign consent?

In this situation, the Vienna Convention on the Law of Treaties (VCLT) becomes especially relevant, particularly the principles enshrined in Articles 26 (pacta sunt servanda), 31(3) (b) (subsequent practice in the application of a treaty), and 34 (a treaty does not create obligations for third states without their consent) as discussed above.

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