

# Basic Principles of International Law Affecting CSOs

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# Sources of International Law

- The *Universal Declaration of Human Rights*
  - Adopted 10 December 1948 by vote of the General Assembly of the United Nations
  - A “declaration,” not a treaty
  - Not “Western” human rights but truly universal:
    - 56 Nations voted – of these, 20 were from Latin America, 4 were from Africa, and 14 were Asian
    - **Arab nations that voted to approve included Egypt, Iraq, Lebanon, North Yemen, Saudi Arabia, Syria**
    - One of the primary drafters was the famous Lebanese diplomat Charles Malik



# The *Universal Declaration* on Freedom of Association

- Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

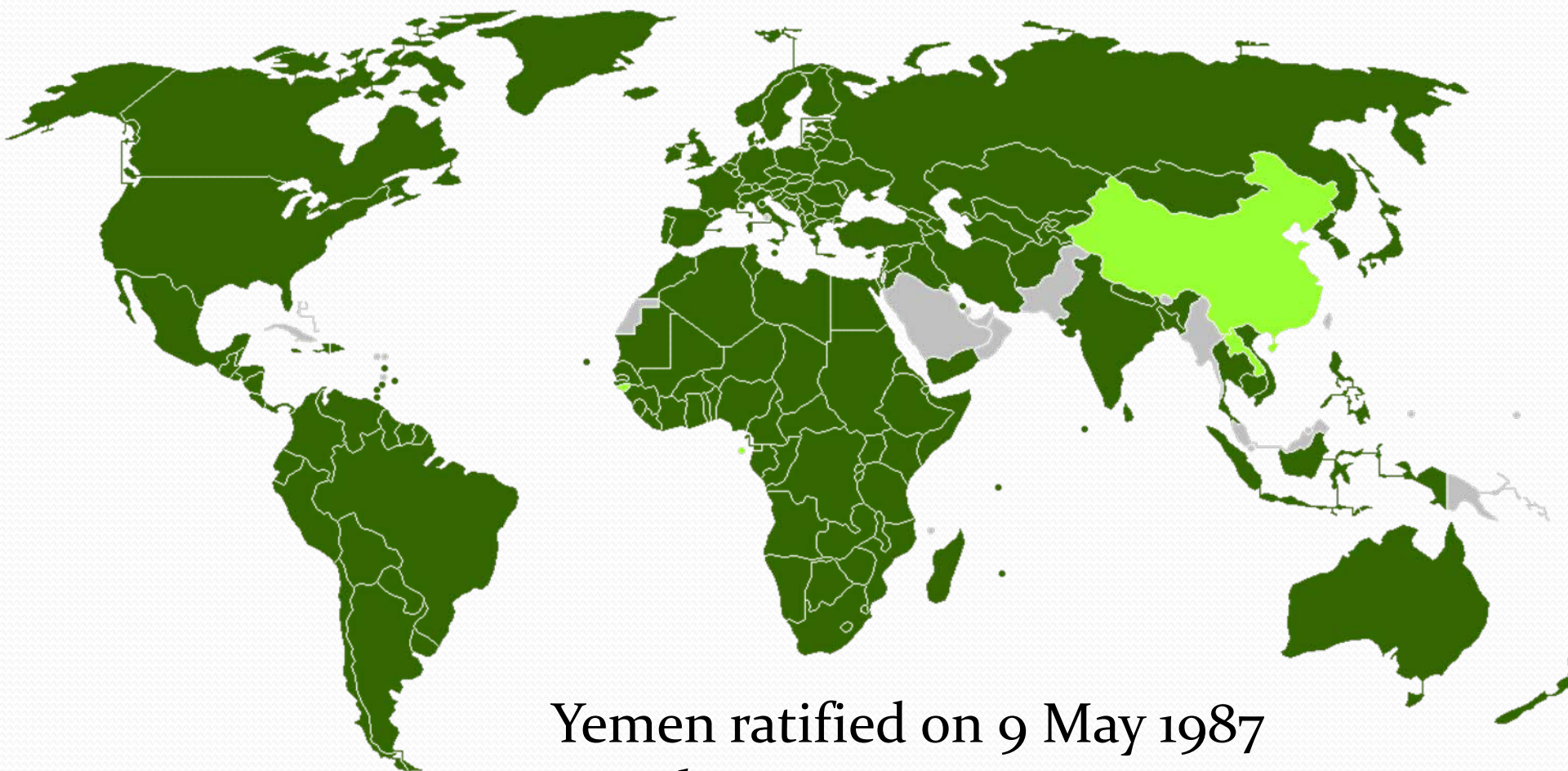
- Article 29

... 2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by the law solely for the purpose of securing the due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and the general welfare **in a democratic society.**

# Sources of International Law

- The *International Covenant on Civil and Political Rights*
  - Took effect 23 March 1976
  - Is a **binding treaty** creating obligations for the countries which have ratified it
  - Has been ratified by 161 of the 192 Member States of the United Nations, making it among the most widely-ratified treaties in existence.

# Ratification of the *International Covenant on Civil and Political Rights*: 2008



Yemen ratified on 9 May 1987  
*with no reservations*

# The *ICCPR* on Freedom of Association

- Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. **No restrictions** shall be placed on the exercise of this right **other than those which are prescribed by law** and which are **necessary in a democratic society** in the interests of **national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others**. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and the police in their exercise of this right.

# The *ICCPR* Standard is Internationally Accepted

- Article 22 of the *ICCPR* appears in almost identical form in every major human rights treaty, including:
  1. The *European Convention for the Protection of Human Rights and Fundamental Freedoms* (Article 11)
  2. The *Arab Charter on Human Rights* (Article 24)
  3. The *American Convention on Human Rights* (Article 16)
  4. The *African (Banjul) Charter on Human and Peoples' Rights* (Article 10)



# Applying the *ICCPR* standard

- Any limitation on the freedom of association is **impermissible** unless it meets all three of these conditions.
  1. It must be prescribed by law.
  2. It must be necessary in a democratic society.
  3. It must be in the interests of one or more of these justifications:
    - a. National security or public safety
    - b. Public order
    - c. The protection of health or morals
    - d. The protection of the rights and freedoms of others



# Applying the *ICCPR*: “Prescribed by law”

- Restriction must have a basis in written law
- It must be predictable and accessible
- It must be written in clear and unambiguous language

# Applying the *ICCPR*:

## “Necessary in a democratic society”

- The word “necessary” means that there must be a “pressing social need” for the limitation.
- The reasons given by the State to justify the limitation must be “relevant and sufficient;” the State should use the least restrictive means available and the limitation must be proportionate to the aim pursued.



# International Best Practices: Formation of Organizations

- Legal personality is not required
- But, if legal personality is desired by the organization, the process must be *clear, accessible, speedy, apolitical, and inexpensive*
- Notification or registration?
- **Lebanon:** No permit is initially needed to found an association. However, the government must be notified of the association after it is founded (Article 2).
- **Morocco:** Associations can be freely established without prior permission, however notification is required (Article 3).

# International Best Practices: Foreign Affiliations

- Prior restrictions on foreign affiliations are not generally permissible
  - Consider *ICCPR* analysis
- **Lebanon:** Permitted without prior permission
- **Morocco:** Permitted without prior permission
- **Yemen:** Any association or foundation may, **with the approval of the Ministry**, undertake any activity based on a request or assignment from an external entity. (*Law on Associations and Foundations*, Article 23(2))

# Dissolution

- Must meet the ICCPR Article 22 standard – in other words, can only involuntarily dissolve for reasons that would have justified refusal to register in the first instance.

# For more information

- Visit <http://www.icnl.org> or <http://mena.icnl.org/> for free access to ICNL publications and research materials in English and Arabic
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