

The essential role of a National Human Rights Institution in a country's human rights architecture*

Michael O'Flaherty

Before coming to the content of my intervention today, allow me to say a word about my current role as the Council of Europe Commissioner for Human Rights. I serve as the fifth Commissioner, with a mandate that was established 25 years ago. We serve for six years, a non-renewable term. This is essentially a diplomatic role. My toolbox is mostly made of words, as ultimately it is about persuading the member states of the Council of Europe, and all the other actors that make a difference, to do a better job in upholding human rights.

While I also have a formal role with regard to the European Court of Human Rights, I spend most of my time travelling through Europe, engaging with rights-holders and member states to promote respect for human rights. President Macron described the Commissioner for Human Rights as Europe's "pilgrim" of human rights. I have always considered it to be a beautiful term, as it captures precisely the nature of the job: to be out there, with people who are most in need, engaging, understanding, bringing their voice back to the centre.

Through my travels across Europe, I have observed at least six developments that are very worrying.

The first is a shockingly high level of human rights violations. This is exemplified at its extreme by the obscenity of the Russian aggression against Ukraine, and the comprehensive disregard for human dignity and human rights in the conduct of war there, but also by the transfer of arms to the Middle East, and the use those arms are put to. Beyond these specific situations, I notice a high level of violations across Europe. Human rights violations assume a different physiognomy in different countries, but no country is exempt.

The second observation, perhaps even more worrying, is about a disavowal of the standards, and claims that standards no longer apply. Certain governments suggest with increasing openness that, if a certain treaty hinders the implementation of their plans, they will disregard relevant obligations. This is particularly frightening, because it threatens to undermine a great system of protection. And what is more frightening is that, while a disavowal of the system was once only threatened by people on the political extremes, now it has moved to otherwise reasonable politicians from the mainstream.

* Abridged transcript of the speech delivered by the Council of Europe Commissioner for Human Rights Michael O'Flaherty at the conference "The Role of National Human Rights Institutions in Promoting Rights and Preventing Rights-Related Litigation and Conflicts", Bocconi University, 8–9 September 2025.

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The third dimension of what I see at the moment in Europe, is the significant degree of disinformation in circulation. Its sheer volume, and the sophistication of AI-enabled disinformation, are making it increasingly difficult to distinguish truth and falsehood. On top of lies, we observe so-called 'slops', which are pieces of disinformation generated not with malice, but through the stupidity of the technology. This combination is extremely worrying, and the manner in which it interplays with populist politics has to be taken properly into account.

Very closely related to all of this is the fourth of my concerns, which has to do with the weakening of institutions that are intended to stand up for dignity, human beings, human welfare, and human rights, at national and international levels. For example, we observe the increasing sidelining of the United Nations.

Then there are the attacks on civil society – I would not have anticipated the extent to which these would keep me preoccupied in this job. Civil society is the oil of our democracies. And civil society has to thrive, for our societies to be able to work. I observe an array of problems: the borrowing of models of a law first adopted in Russia to block funding; the blocking of access to decision-makers and the persecution of people on the streets and in their homes. It is a constant part of my job to engage with a government somewhere to address the pressure on civil society.

And then the final of the six concerns is the collapse of trust at so many different levels: certainly between the citizen and the state, but also between young people and old people, and between countries. This lack of confidence in each other is deeply corrosive of our societies. In 2024, the International Institute for Democracy Assistance (IDEA) conducted a survey in 19 countries that had elections during the year. People were asked whether they considered that the elections in their country were free and fair, and, only in less than half of the countries were elections perceived to have been free and fair by a majority of respondents.

From all this, we can draw many conclusions, but a particularly important one is the importance of investing in our human rights defence institutions. We can argue about where the world is going, how we stop this calamitous decline – that is a very important discussion – but regardless of where we go on that discussion, we have to strengthen the protection machinery.

And that is why I am so very happy to be here today, with the invitation to discuss the role and the importance of National Human Rights Institutions.

I would like to share a little of my own story of experiences with NHRIs. I joined the UN in 1993, and it was a very special year, because the Vienna World Conference on Human Rights had just ended. The energy of Vienna was pulsing through the Palais des Nations in Geneva, joined with the energy from Paris, where the Paris Principles on the Status of National Human Rights Institutions had been adopted just a few months earlier. And this combination meant that in the 1990s there was an optimism and a sense of the value of NHRIs for the realisation of human rights at national level, which was powerful. It was championed by a number

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of governments, Australia in particular, which supported the UN to promote the concept of an NHRI. I witnessed these institutions being set up right across the world in a context that was very optimistic. In many countries, this provided a focus for a discussion around implementing human rights that had never happened before.

At the end of the 1990s, I went to Sierra Leone to run the UN operations during the war there, and I was involved in setting up a Paris Principles compliant NHRI. I saw that it was very difficult to get that NHRI established. Nevertheless, the new, Paris Principles compliant NHRI, played a really important role in developing a culture of human rights in that very poor and conflict-affected country.

Early in the 2000s, I ran the Asia Pacific programmes of the United Nations Human Rights, and in that context, I dealt with so many very impressive NHRIs across that vast region. I do not have time to tell you many stories this morning, but I think, for instance, of the courage of the members of the Indonesian National Commission on Human Rights. Notwithstanding the politics of that country, notwithstanding the fraught nature of the issues, it was the Indonesian National Commission on Human Rights that was the greatest champion of defending the human rights of the Indonesian LGBTI communities. Another example I saw was the incredible value for national debate of an innovative NHRI in New Zealand. The New Zealand Human Rights Commission was forever inventing new ways to promote and protect human rights, and it was highly impactful. I also saw the bravery of the Australian Human Rights Commission in standing up for the Aboriginal and Torres Strait Islanders, and in very bravely rejecting the externalisation of migration policy, which began back in that time in Australia.

Then, I became the Chief Commissioner of the Northern Ireland Human Rights Commission. I was there for a little more than two years, but I saw from the inside – in a way that I could not have otherwise – the particular role of the commission in, for example, helping consolidate the peace process. The title of this conference mentions the role of NHRIs in preventing conflicts, maybe without meaning it in a war setting, but Northern Ireland demonstrates the role of an NHRI in a post-war setting and how it can help build the basis for a solid and reliable peace. The other thing that the Northern Ireland Human Rights Commission was able to do, in the context of a blocked government that often could not agree on things, was to advance social agendas that the government was not delivering on.

By being in Northern Ireland when I was, I was also able to watch the birth of ENNRHI, the European Network of National Human Rights Institutions, and to witness its story of increasing impact at the European level.

Today, I deal with NHRIs all around Europe. I will not mention them by name, but I am deeply impressed by the work that many of them carry out, tenaciously, in defence of human rights.

It is because of this experience of observing NHRIs – which are not all perfect but often operate effectively – that I so highly welcome the increasing recognition of their importance. I acknowledge, in particular, the identification of the establishment

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of an NHRI as an indicator for delivery of the UN Sustainable Development Goal number 16: that states, in the negotiation of the SDGs, found agreement that the establishment of an NHRI was an indicator for delivery of the rule of law is quite remarkable. Similarly, for the EU, the establishment, maintenance, and quality of an NHRI is central to the European Commission's yearly analysis of the Rule of Law across the member states. In 2023, the summit of Heads of States of the Council of Europe, in its outcome Reykjavik declaration, also underscored the pivotal role of NHRIs in safeguarding human rights, democracy, and the rule of law across Europe.

That is why I regret that we still do not have NHRIs in certain European countries. In the Council of Europe, more or less ten NHRIs accredited at the Global Alliance of NHRIs (GANHRI) are missing. In the EU, more or less three. But whether it is Council of Europe or EU, a big stand-out is Italy – which is the last major country on the continent not to have an NHRI.

I have been coming to Italy for years to talk about the establishment of an NHRI. I had a number of conversations about it, including with then Minister of Justice, Marta Cartabia, and then Under-Secretary Benedetto Della Vedova. I went to the Senate to talk about it. I acknowledge with respect that the government has agreed to establish an NHRI, and I am aware that there are five proposals in Parliament.

Stakeholders in Italy, will decide the model of a national human rights institution that fits, based on the specificities of the country and its human rights architecture. I know that during the conference today you will look at different models that exist, and there are many different ones in Europe. Whatever the preferred option, however, I would like to invite you to agree on just one: indeed, if all the voices are joined together in advocacy for the same goal, then we have so much better chances of its realisation.

I would like to suggest a few criteria that you may keep in mind as you reflect on what a single shared model would look like and for the process to get there.

The first is to be inclusive. By inclusive I mean that the process of working out a shared model for the NHRI has to take account of a diversity of voices. You need to bring into the room the breadth of all those voices in society that have so much say about human rights, so that they are heard, listened to, and actively reflected in the outcomes. It is vital that the NGOs are in the room, that different civil society groups are in the room, judges are in the room, parliamentarians, regional government, local government, city government, and that the conversation is appropriately gendered.

My second exhortation is to be ambitious. By ambitious, I am referring to the normative base and the substantive scope of the institution you seek to establish. I think it is not enough to be Paris Principles compliant. NHRIs today need to be Paris Principles “plus”, taking account of the reality of today's world in terms of the minimum standards to expect of a NHRI. The GANHRI General Observations elaborating on the Paris Principles and the 2021 Recommendation of the Committee

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of Ministers of the Council of Europe on the development and strengthening of effective, pluralist and independent NHRIs provide important guidance.

In this regard, it is particularly important to pay attention to all elements that will ensure a high quality of independence for the institution. Independence from the government should be set out in legislation or in the Constitution.

As to the material scope of the NHRI, it is important that you explicitly take account of the great issues of the day and interrogate whether the models you propose are adequate. For example, an institution will have to be capable of engaging with the challenges of artificial intelligence, of climate change, of rising inequality – it needs to be relevant to the issues that are shaping our society.

The third dimension that I think is important to keep in mind, is the need to hardwire the institution into the public policy processes. This should make it automatic, rather than facultative, that the institution be consulted by the state whenever the latter is engaging with relevant issues. I am thinking of the experience of COVID: NHRIs ultimately seem to have done a good job in reacting to the COVID pandemic and providing advice on the state's behaviour, but only in few countries did the state from the very beginning consult its NHRI, and only in these was the NHRI a member of the pandemic committee or similar body from the outset. There is a need to find a legal formula that requires the state to consult its NHRI before adopting decisions that may have a significant impact on human rights.

There is an additional dimension of the hardwiring of the NHRI into the state policymaking process – which is more obvious and less likely to be overlooked – and that is the prerogative to take cases to court on its own initiative. This is a well-recognised role of an effective NHRI.

I would submit two additional considerations. One regards the need to avoid, while designing an institution, any transfer of responsibility from the state to the institution. I have seen this in a few countries, as a member of the UN Human Rights Committee: the government would come in front of the committee and object to any recommendation by suggesting that the NHRI, rather than the government, was responsible for its implementation. I believe that no government should deflect its human rights responsibilities and take advantage of such an inappropriate transfer of responsibility.

Finally, I would suggest insisting on capacity and resources. Italy is a large country, and the complexity of the country would have to be acknowledged in the ambition and the resourcefulness of whatever body is created.

As the debate moves forward, there are two dates to keep in mind. One is coming up soon: the Committee of Ministers of the Council of Europe, through its Steering Committee on Human Rights, has launched a review of how member states have implemented its 2021 Recommendation on establishing and strengthening NHRIs. The Steering Committee asks all the member states of the Council of Europe to provide inputs, then an event will be organised in Strasbourg in November and a report will be issued on the implementation of the recommendation

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by June 2026. Would it not be notable if Italy was able to report to Strasbourg that it was well on the path towards establishing its own institution by then?

The second date is in five years. I mentioned Sustainable Development Goal 16, which, like the other SDGs, shall be implemented by 2030. I would encourage us all to have that ambition: that before the SDG deadline is reached in 2030, there will be a fully functioning and thriving National Human Rights Institution in this country.

Let me assure you that you can count on my full support, in the form that you think is most useful, as we go towards this target.

ABSTRACT: This abridged transcript presents Michael O’Flaherty’s reflections on the role of National Human Rights Institutions within contemporary European human rights protection. Against a backdrop marked by widespread violations, disinformation, institutional weakening, attacks on civil society, and declining public trust, the speech argues that NHRIs are essential components of national human rights architectures. Drawing on comparative experience, it emphasizes their functions in promoting rights, supporting democratic resilience, preventing conflict, and strengthening public policy. Particular attention is devoted to Italy, which is urged to establish an independent, inclusive, ambitious, and adequately resourced NHRI.

KEYWORDS: National Human Rights Institutions – human rights protection – democratic resilience – public policy – Italy.

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