

CommHR(2025)64

## 16th Warsaw Human Rights Seminar

### Human Rights and the Legal and Geopolitical Contexts of Migration and Asylum

Speech by Michael O'Flaherty  
Council of Europe Commissioner for Human Rights

Warsaw (Poland), 17 November 2025

Transcript of the keynote address by Council of Europe Commissioner for Human Rights, Michael O'Flaherty

Deputy Prime Minister, Minister, Your Excellencies, dear friends,

Back in September 1979, at the UN General Assembly in New York, Pope John Paul II delivered a remarkable speech about human rights. In essence, it was a paean of praise for the Universal Declaration.

He described the Declaration as paid for by millions of our brothers and sisters, at the cost of their suffering and sacrifice, that the cost must not have been paid in vain, and that it is the ignoring of the Universal Declaration that leads to destruction.

Through these words and the rest of that speech, the Pope, Papa Wojtyła, reaffirmed the central role of human rights as reflected in treaties and systems for the honouring of human dignity and the well-being of our societies.

He brought the very same message to Europe, when he visited the Council of Europe on 8 October 1988, describing the adoption of the European Convention on Human Rights as a strengthening of the union of member states around, and I quote "the most noble principles and values of the European tradition".

What the Pope was describing, and what we can see today, was and is indeed an astonishing achievement.

The Convention turns much of the Universal Declaration into binding law and does so smartly, in effect recognising rights and responsibilities and expressing rights in a manner that is rarely absolute, but regarding the limitation of which there is very careful framing.

The international oversight body, the European Court of Human Rights, has distinguished itself over the decades for its careful and compelling jurisprudence.

Overall, the Convention and the Court, through their design and practice, have delivered a model of human rights protection that secures the primary role of the state. This essential dimension is, for instance, honoured by principles such as:

- subsidiarity,
- exhaustion of national remedies,
- the margin of appreciation,
- and the role of Council of Europe member states for the supervision of the implementation of judgments.

Dear friends,

This European human rights architecture has served us very well indeed.

My own country, Ireland, has been transformed by judgments of the European Court of Human Rights. In fact, strong arguments can be made that the Court and the Convention have been the primary drivers for Ireland's social transformation into the confident and outward-looking society that it is today.

More broadly, across my engagement with Council of Europe member states, I see evidence of the transformative impact of human rights law.

In the first place, in so many places, I see it in the negative. I see it in all the violations that do not occur because of an attention to human rights and an embedding of those rights in law and constitutions.

I see it in the ever more widespread, albeit not yet comprehensive, compliance testing of law and practice against human rights obligations.

To take one further example, I see the extraordinary role and impact of the work of human rights civil society right across the Council of Europe, and often in very challenging contexts that require great courage but nevertheless making an enormous difference for human well-being.

Overall, regarding the impact of the Convention and human rights law more generally, we can conclude that it has become the essential core of our rule-of-law democracies.

All of this said, of course, as the Convention marks its 75th anniversary, we have to acknowledge that it does so in very problematic and volatile times.

To quote Popes again, both Popes Francis and Leo have described the world as being immersed in what they call a "change of era". The philosopher Paul Preciado describes the world in transition as experiencing what he terms a "dysphoria mundi". There are multiple drivers of the current dysphoria, the current volatility. Let me mention just five.

The first is the COVID pandemic, which has had an impact on our societies that we have still to fully assess. We only have the most rudimentary understanding of the extent of avoidable deaths, of damage done to older people and children, the incidence of depression and suicide, the human cost of slow vaccine production and distribution, the impact on GDP, the diminishment of fundamental freedoms, and so on.

The arrival of COVID and its aftermath coincides with my second driver, which is the explosion of engagement with artificial intelligence.

Digitalisation and AI bring enormous benefit, obviously, but at the same time, they have led to a multiplication of disinformation and the subjection of vast numbers of people into separate information systems in which it becomes increasingly difficult to discern the truth.

We also see a transfer of unimaginable power and wealth to Silicon Valley, in fact, to less than 10 companies. These companies, in their turn, commodify life and measure worth in terms of economic profit. Of course, we also see how technology is increasingly at risk of substituting for human agency.

The third of my five drivers of volatility is the climate crisis. We are arguably past the tipping point now of global warming in terms of human capacity to cope. Scientists say that a rise of just 2 degrees centigrade will lead to temperatures not experienced for over 2 million years.

As we confront the climate crisis, we do so in the context of yet another driver, and that is how very deeply unequal our societies are. Today, the world's 10 wealthiest men, and they are men, own more than the bottom 3.1 billion people. And according to the World Bank, inequality is on the rise, in part because of the impact of COVID.

And last of my five, our world is suffused with violence. Just think of Ukraine, of Gaza, of Sudan. Recall also that experts tell us that today we are closer than ever to the catastrophe of nuclear war.

Dear friends, these five and other related drivers are corroding so many societies. They are fuelling a decline in democracy and a rise of authoritarianism.

I see the impact of this across my work. I see it in the way Ukraine has become the object of great power politics and how some would discard everything we know about building sustainable peace in the interests of transactional outcomes.

This is the context of my own current efforts to get human rights integrated into pathways of peace for Ukraine.

Allow me here to pause to acknowledge with the deepest of respect and appreciation the exceptional support and solidarity shown to Ukraine by the Polish government and people.

Returning to the impact of today's volatility, I also see it in the decline of multilateralism and the sidelining of the United Nations and of its vital work for peace, development and human rights.

On this topic, I acknowledge with respect the important speech that Minister Sikorski delivered on the 5th of November.

Returning to the volatility, I see it again in the resurgence of sovereignism and a diminished respect for law, including international law. This is, for instance, how I see some of the actions to seal borders against those seeking asylum - an issue to which I will return in just a moment.

Very worryingly, I see it in the oppression in some countries of civil society, of the disempowering of groups that operate as the lifeblood of democratic and rights-respecting states.

Inevitably, just about everywhere I turn, I see a collapse of trust, of trust between citizens and state, of person to person, of young and old, or in the form of regional and international solidarity.

So, what are we to do? How can we navigate through these dark times towards the new era? How can we ensure that this upcoming new era puts human dignity and human well-being at its heart?

For me, as it was for Pope John Paul II, the answer is clear. We must revert to human rights law, to the only credible roadmap for the honouring of the human dignity of everyone.

In the words of the French polemicist Stéphane Hessel, we should wake up, we should get furious. As he put it, "Indignez-vous" in defence of the irreplaceable achievement that is human rights. Igniting this indignation and allowing human rights law fully to play its role is the great challenge of today. Very worryingly, it is far from certain that it can be achieved.

For years now, there has been a negative discourse about human rights, even from some who mean well for our societies. Claims that there are better ways to protect us and achieve progress.

In recent times, the narrative has been given voice in political discourse. Here in Europe, this has been most evident in, but not exclusively, in debate around the management of migration. More specifically, around a reduction in human rights protection for all, or at least for some, irregular migrants. Views are diverse. Many are still in development. Some have been publicly expressed. Others have only been shared, so far at least, behind closed doors.

In this context, I would wish this morning to share some general observations. And given the opacity and the fast-developing discourse, I insist that I am not addressing the specific positions of any state.

First, I urge everyone to be assiduously evidence-based. The facts cited to justify change must be impeccable. In that regard, I am concerned about numerous inaccuracies currently in circulation in Europe. For instance, any lazy correlation of irregular migrants and criminals is unacceptable. And the claim that it is currently next to impossible to expel those criminals with a migrant background is not supported by statistics.

I am no less concerned with the claim that the entry into our states of instrumentalised migrants undermines national security. Instrumentalisation is a deplorable fact. But our societies are well able to receive and consider the asylum claims of the victims of such practices.

What is more, national security is at its best when it embraces human security. A society that upholds human rights and rule of law for everyone.

Another fact-related consideration has to do with any assumption that adjusting the law or practice of the European Convention of Human Rights and the European Court of Human Rights will somehow axiomatically change practice on the ground. For instance, that it would impact irregular migratory flows. Assumptions such as this are unconvincing.

But second, I urge states and commentators to be deeply respectful of law. Above all, in the current context, I have in mind the right to seek asylum. This absolute entitlement can be found in law and practice globally. Beyond treaties and jurisprudence, it has at least the status of customary international law. Attempts to interfere with it are unacceptable.

No less essential is a need to respect the universality of human rights. That they are held co-equally by everyone by virtue of our humanity. Any discourse that creates a hierarchy of rights holders, on the basis of their being more or less deserving, is deeply problematic.

One further legal consideration is to ensure that all discourse and proposals do nothing to diminish the independence of the European Court of Human Rights, or indeed of any other court. The principle of independence is essential to our rule of law states.

My third and final plea to those who would weaken human rights protections is to consider wide implications. For instance, today it is mainly about migrants. They are the focus of our current attention. But once the precedent is established, who next? Which unpopular minority group might next be subject to efforts to reduce their human rights protections?

Also keep in mind that the world is watching. Any European weakening of human rights protection will be seized on by those who would do away with human rights entirely.

As the proverb says, beware or do not forget that we shall reap what we sow.

Dear friends,

This morning is not the first time I have expressed many of the views you have heard from me.

I have experienced many forms of pushback. One of the most common is the view that we must yield some human rights ground in order to stop populists in their track, to stop the migration to them of electoral votes.

While I appreciate the concerns, I question the logic.

I am convinced that our peoples are not against strong human rights protections, and surveys and research repeatedly affirm this. Their concerns have to do with very important but other considerations, such as senses of alienation and of disadvantage. These senses are amplified through clever political messaging as well as disinformation. Such phenomena must be addressed if we care about the well-being of our peoples, but the way is not to damage the human rights system.

By way of conclusion, my call today is for us to avoid the temptation and the risk of in any way weakening our global and regional human rights patrimony.

Instead, we should seize the occasion of the anniversary year to reaffirm our unwavering commitment. Our pledge should be to deliver human rights better in the service of everyone. And in standing up for everyone, we must never lose a focus on the most marginalised and vulnerable, on the weakest members of our societies.

From our leaders, we should expect principled, systematic, even brave defence of human rights and its institutions.

From all of us, we need a realisation of how the human rights roadmap can guide us safely to the upcoming new era.

Suffice for me to recall here those words of Hessel and encourage us all to get and to stay indignant. Indignant in standing up for universal human rights in general and for the European Convention in particular.

Thank you.