

## Embedding human rights in the *stato di diritto* – the challenge for Europe

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Rector,

Members of the University,

Friends,

Thank you very much for inviting me to deliver this lecture. I am delighted to be here. I would like to reflect on the role of human rights in upholding our rule of law states. I am deeply aware I do so on 8 September the anniversary date of so relevant an event as the announcement of the Armistice of Cassibile. This marked a turning point for Italian history, eventually leading to the adoption of a Constitution granting high attention to the rights and dignity of individuals.

Those were indeed the years when the immediate modern human rights story began, with the Charter of the United Nations, the adoption of the Universal Declaration of Human Rights, the negotiation of numerous human rights treaties and a suite of other initiatives in support of democracy and rule of law. Here in Europe the Council of Europe has, for 75 years, played its essential role in protecting, defending and promoting those three core and interlocking concepts. It, together with the OSCE and the European Union have elaborated their own standards and developed numerous institutions in support and in furtherance of human thriving.

The totality of the efforts of the UN and the regional organisations is to clarify an understanding and affirm the validity of the interplay of democracy, rule of law and human rights. We lack an English language noun to capture this interplay – to describe a state that integrates the three elements in an interdependent and indivisible form – and so I will generally use the term '*stato di diritto*' by way of shorthand.

States have invested in oversight mechanisms intended to promote respect for key elements of the *stato di diritto*. The investment is longstanding when it comes to human rights, including in the activities of the European Court of Human Rights, of other regional human rights courts, and of numerous other human rights promotion and protection mechanisms. The international developments are accompanied by national initiatives, including the establishment of national human rights institutions as well as such other bodies as equality commissions.

Attention to oversight of rule of law more generally is more recent. For instance, the Council of Europe Venice Commission has elaborated a check list to assess compliance with rule of law. The EU, in turn, has instigated a rule of law compliance assessment system for its own member states.

The intergovernmental and state commitment in these areas, importantly, is reflective of strongly held attitudes in our societies. The results of a 2023 global survey by the Open Society Foundations were revelatory. It surveyed 36,000 people across 30 countries, finding that 86% of people say that they wish to live in a democracy and that 72% believe that human rights are a force for good. Indeed, 71% say that “human rights reflect values that I believe in”. These findings echo the results of surveys conducted across the EU by its Fundamental Rights Agency. And these data provide a context to appreciate the scale and the importance of the communities in civil society who defend and champion human rights, rule of law and democracy.

From this brief review, we can conclude that the establishment and consolidation of the *stato di diritto* is an astonishing achievement; all the more so for having emerged from the chaos and the horrors of war. What is more, it has unique qualities. Above all, it is the only model for society that can be said to have the universal agreement of the world’s states – as evidenced, at least nominally, in the outcome declarations of repeated global and regional summits, such as that of the 2023 Council of Europe Summit of Heads of State and Government.

But of course you may point out that these impressive concepts and institutions remain largely theoretical, as they do not reflect the lived experience of millions of people - and you would be right.”

We still have a very long way to go to realise the dream of a world where everyone is equal in dignity and rights. The vision of the UN Charter is in part unrealised. States ebb and flow in their commitment to and respect for rule of law. Progress is rarely linear, achievements fall apart or are undermined. Right now, the Russian aggression against Ukraine testifies to what happens when the values are insufficiently embedded – how much damage can be done by an aggressor bent on conquest and destruction. And we are confronted daily by the horrors of what is happening in Palestine, and in Gaza in particular.

What is more, and focussing just on Europe, in recent years and in too many places we have seen an insidious withdrawal from central tenets of the rule of law. We see it in the agendas and actions of extreme political groups. They in turn, as they acquire places in parliaments and governments, seek to undermine much of what has been achieved. They attack institutions, fill them with their own people or starve them of resources. Their attention typically turns to those at the edges of our societies whom they problematise, render as “other”, identify as the cause for all the malaise of our societies.

Right now the primary target for this othering is migrants. Other groups under extreme pressure include the Roma community and LGBTI persons – especially trans men and women. Civil society defending such groups are exposed to particular challenges. Efforts are made to block a free media and to consolidate media ownership in the hands of one’s supporters, or indeed of one’s bankrollers.

The playbook of those who attack our institutions grows ever more diverse, today also embracing school curriculum reform and the replacement of the leaders of cultural institutions. Everything is accompanied by disinformation that is actively promoted on social media platforms that are failing adequately to police their own spaces. Evidence suggests that across these phenomena, and at least as regards Europe, one state, Russia, plays a particularly pernicious role.

An especially disturbing development, notably observable in the past year, has been the embrace by some otherwise reasonable politicians of ideas that are antithetical to the *stato di diritto* – presumably for electoral purposes. So far we have seen this most obviously in the context of migration management, where, increasingly, parts of the political centre joins with the extremes to denigrate asylum seekers, blame them for our societies’ ills and advocates such breaches of international law as summary returns across borders and violation of the principle of non-refoulement. Even the push

towards externalisation of asylum, returns and migration policy - which I have documented in a report published just last week - can sometimes be seen as an attempt to move actions to grey areas, where it is easier to get around the rule of law.

I describe this new willingness of the political middle ground to compromise on principle as 'especially disturbing' because it is to it that we look for firm commitment to and leadership for the rule of law. If the middle ground, even in part, withdraws its commitment then, as WB Yeats put it in his poem, "The Second Coming", 'Things fall apart; the centre cannot hold'.

And all of this now plays out against the background of the actions of the US Trump administration, which, for instance, through withdrawal of USAID funding is already negatively impacting the operation of so many European civil society organisations. US-sourced rhetoric also seems to embolden those who denigrate the trans and other minority communities.

Dear friends,

We need to wake up to the acute dangers for our societies. The peril has become crystallized. A light has been shone on the prospect of losing the formula for peace and well-being that, for all its limits and under-delivery, has served us so very well. That is not something we should even countenance tolerating. We have to, in the words of the late French writer, Stephan Hessel, wake up and, as he put it, 'indignez vous!' ["Indignatevi!"]

But what should we do in our outrage? In the first place, the saving of the *stato di diritto* requires that our efforts be evidence-based. This in turn requires us to seek out and challenge the disinformation and myths that infect the discourse. We need to call out the nonsense, dispel the myths.

I already addressed the myth that our people are not interested in human rights or rights-respectful society.

Another set of myths concerns the primary targets of populist hate –migrants.

A further cluster of myths concerns the role of regulation, including laws intended to make our societies safer. The myth is that such oversight impedes innovation, undermines global competitiveness and strikes at free speech, and it is being invoked with increasing stridency. But it does not stand scrutiny. Take, for example, the oversight of AI. It is increasingly clear that this is not the source of Europe's poor track record of innovation. That instead results primarily from such problems as inadequately developed capital markets, onerous bankruptcy regulations and, more generally, a distaste for risk.

Regarding regulation of social media, I am very concerned by calls for a retreat, for instance for a weakening of the EU Digital Services Act. Instruments such as the DSA do not undermine free speech – instead they defend it as it is understood in international law – a fundamental right that is subject to carefully constrained limits in the service of the public good. Also, I deplore the abandonment of content moderation on the part of some digital platforms, the effects of which are already visible in the proliferation of criminal-level hate speech and malicious targeted disinformation. And recall how an absolute free speech hits hardest for minority groups and women.

One last myth that I would like to mention suggests that our populations are crying out for a shift to less tolerant and more closed societies, for a retreat from a vision of society that respects diversity and inclusion - from a vision of a rights-respectful society. This myth is very impactful - I think it is what lures some politicians to extremist views and tempts otherwise reasonable people to embrace the demands of populists. The myth does not stand up to scrutiny. Recent research suggests that populism is a top-down phenomenon, driven by political actors and fed by waves of lies. What is more, as

surveys demonstrate, the levels of hate online are in no way a reliable guide to the views and values of our societies.

Next we must identify those actors that need to rally in defence of the rule of law.

The state is the key actor and I will return to it in a moment.

Let me first observe that the role of National Human Rights Institutions and of such other entities as Equality bodies and ombudsmen is no less obvious. I acknowledge their work with respect and appreciation. I continue to urge states that have yet to establish such bodies to do so without delay. I hope Italy soon will establish a National Human Rights institution –its government has committed to it in numerous occasions – particularly as it is one of very few countries in Europe not to have one. This is the topic of a conference ongoing here in Milan, that I will address tomorrow.

The part played by civil society is equally essential and, as I have said, it is delivered with great courage and often at the expense of personal safety. I acknowledge with dear appreciation the work of Italian civil society (which I first got to know many years ago when I encountered the Sant'Egidio community in Rome and later working with the homeless in Sierra Leone – and more recently observing from afar the work of rescue NGOs saving lives in the Mediterranean). These people so often are Human Rights Defenders.

The pressure under which civil society functions is unacceptable. It is deplorable that, in so many places, so many activists confront harassment, violence, detention, exile and repression through regulation and direct intimidation. Standing up for human rights defenders has to be a core task of national and international human rights institutions. I see it as one of my highest priorities.

Turning to the state, all of its institutions are engaged and on multiple fronts.

Concerning the executive arm let me concentrate on just one area. I look to the executive to do a much better job of honouring the indivisibility of human rights, according co-equal status to civil, political, social, cultural and economic rights. It is only if this is achieved that our populations will appreciate that the rule of law is about and for them.

Here I recall the legitimate disaffection within our communities. Progress has left many behind. There are worrying levels of inequality in Europe. Until that is addressed, we both fail our peoples and offer opportunities to those who would undermine our democracies. Obviously, and drawing on our shared experience, I realise that my ask is an enormous one. But we should see it as a long-term objective. What is more, there are concrete things that we can do right now towards its deliverance.

For instance, we can be more consistent in demonstrating our own understanding of the unrealised vision of indivisible rights.

One additional step that could radically impact attitudes to rights would be that we could make reference to human rights in the context of all the socio-economic improvements that we seek to achieve. Express the delivery of health care as an issue of human rights; jobs strategies as about the rights to employment; and similarly regarding education, social welfare and otherwise.

Before turning to other institutions allow me one further observation. An essential element of the rule of law is the full participation of our people in the reflection processes that impact their well-being. In other words, our states can get much better at listening to their people. Across Europe people complain that consultations on important policy areas are missing or inadequate or tokenistic. The issue of meaningful engagement with policy makers has been flagged for years by civil society. It is

especially acute regarding the possibilities of engagement by marginalised groups – think, for instance, of the degree of exclusion of members of the Roma communities.

Addressing the participation and consultation gaps is a basic issue of rule of law. It will also yield better outcomes and, in the context of my words today, will support the deepening of trust on the part of citizens.

The need to actively listen is particularly acute regarding young people. They correctly complain about the paucity of structured spaces for them to dialogue with decision makers. And in terms of investing in this area, I recall how surveys and other empirical research show that the most disaffected group across our societies is that of young men. This is one more reason for me to be here, in the place where so many young people study – and hopefully for me to have an opportunity not only to speak but also to listen to you.

Very closely related to the right of people to be consulted is the importance of respecting the right of peaceful protest. Sometimes the security pendulum swings too far towards the limiting of protest. Just look at the excessive limits we have seen in recent times in some countries in the context of pro-Palestine and climate crisis related protests. This area has been the topic of correspondence by me with your Senate just a few month ago.

Let me briefly mention two other institutions of the state: parliaments and courts.

This potential in standing up for the rule of law is underdeveloped. It is still the case that many European parliaments fail to undertake human rights scrutiny of draft legislation and some of them lack a related parliamentary committee. And I suggest that all parliaments on this continent could benefit from enhanced training on human rights and rule of law for parliamentarians and their staff.

Turning to the courts, I acknowledge the principled manner in which so many of them play their essential role. In this regard allow me express the deepest appreciation for the work of the Italian judiciary in standing up for human rights.

But courts too need investment and attention if they are to function everywhere as the strong independent institutions we require. Courts also, should not be exposed to unnecessary risk by policymakers who rather than tackle controversial issues instead trust that the courts will eventually resolve the matters. This is a phenomenon one can occasionally see behind the migration-related cases that arrive at the Court of Human Rights and the Court of Justice of the EU.

One last word on rule of law-related institutions in general. In troubled times as now they all need to be protected and rendered resilient. In the course of my work I see them eroded and undermined. I am greatly concerned right now for the wellbeing of essential international organisations. I think, especially, of the International Criminal Court which is coming under such attack and whose work is undermined when there is a failure of support from its Member States.

My friends,

Finally, and I have left it to last because I believe it needs high and particular attention: today where are we to find our champions of rule of law? We need champions who are persistent and consistent. They need courage and to be willing to challenge convention. They have to be able to accept and withstand unpopularity, even derision.

For sure we need visionary leaders. People like Mandela, Havel or that most under-appreciated of US Presidents, Carter.

But such leadership is exceptional and rare and we cannot simply rue its rarity or wait for it to emerge.

Instead, for my hope, I look across the breadth of the political ground that I spoke of earlier. It is full of decent, honourable, hard-working and well-motivated people. I meet them constantly, whether in national or local government – including here in Italy - or in such places as the European Parliament and the Parliamentary Assembly of the Council of Europe.

These people can be engaged and persuaded. We need them to be alert to the gravity of the moment and engage it in law, policy and discourse. We need their attention nationally and abroad.

Friends,

In this lecture I can no more than engage the tip of the iceberg in terms of the risks to and means to uphold the rule of law. There are so many other sectors and contexts to examine and engage. I have said next to nothing about the role of local and regional government. I have managed an entire speech in 2025 with only the slightest reference to the AI revolution and climate change. Indeed, I have largely overlooked the business sector.

But if I have at least shone some light and conveyed the urgency then my purpose is served. To apply the title of a book that I remember from my childhood of the Norwegian adventurer Thor Heyerdahl, “time is short and the water rises”.

As we all engage the challenge I know that my own organisation, the Council of Europe, will accompany us, provide what support it can. After all it is the organisation’s *raison d’être* – its only purpose - to uphold human rights, democracy and rule of law. I too will employ the breadth of my mandate to support member states and their societies.

I am confident that efforts will not be futile – that – ultimately – we will achieve much and that the rule of law will prevail, at least in Europe. A quote often attributed to Nelson Mandela says “It always seems impossible until it’s done”. I do not know whether this was actually said by Nelson Mandela, but I do know it’s true. On 8 September 1943, and the following months and years, people made the impossible possible, defeating the Nazi rule to create a stronger and fairer society. Now it is up to us to defend it.

Thank you.