

The Irish Human Rights Commission – Ten Years On
Achievements and Challenges

**Address by Dr Maurice Manning, President,
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Taoiseach, Members of the Diplomatic Corps, Members of the Judiciary, Members of the Oireachtas, Distinguished Guests, Ladies and Gentlemen.

It is a great honour to welcome you all here today, in the presence of An Taoiseach, to reflect on the achievements and challenges of the Irish Human Rights Commission some ten years since its establishment.

It has been my privilege to serve as President of the Commission since 2002 but I want to pay tribute at the outset to Judge Donal Barrington who was its founding President. In acknowledging his presence here today I want to thank Donal for his wise and effective stewardship in those early years. I also want to welcome and pay tribute to Dr. Alpha Connelly, the Commission's first Chief Executive for her contribution to its evolution.

When the Commission was being established the then Taoiseach Bertie Ahern said that it should not merely follow standards but help to set them. We have succeeded in this and, in many ways, now represent a global example of best practice in the human rights sphere.

Today's event was planned some time ago, but the recent decision to merge the IHRC with the Equality Authority provides an important focus for our reflection today.

The Commission's view is that a stand alone body offers the best means of protecting human rights in Ireland. However, we will work constructively to make the proposed new body a success, provided it meets with the key criteria necessary for a national human rights institution to be effective and credible.

The experience gained over this past decade will be instructive in this process. We know what works and we know what does not work. I will come back to what is required for an effective independent national human rights institution later.

However, before talking about the achievements and challenges of the Commission in relation to human rights I want to take a moment to consider what human rights means in the Ireland of 2011.

Human Rights are the basic, fundamental and crucial elements of all our lives that ensure we can live the best lives possible.

Human rights are dismissed too often by those who perhaps do not wish them to be upheld or through ignorance of their true nature as the politics of one side or the other or as something divisive, or as an unnecessary, expensive indulgence. Let us not fall into this trap in Ireland.

If we look at any of the rights protected in the Universal Declaration of Human Rights and the international conventions that flowed from it, we see not a list of rights to be somehow given to us, but the very basics that should exist in all societies – rights to life, health, and education among others. In an ideal world, we should not even need to talk about achieving human rights. They would already be inherent in society, allowing us to live our lives in freedom and dignity.

A problem for us and for others who work to promote and protect rights – and, indeed, one which the merged body will also have to tackle – is that the language of rights often can seem too academic and even contorted. Our colleague on the Commission Alice Leahy, whose daily work with the homeless brings her into direct contact with the most bruised and vulnerable in our society constantly admonishes us that much of what passes for human rights language goes way over the heads of many for whom it should be most relevant. In many ways she is right and we should constantly remind ourselves that human rights language must not be needlessly complicated or excluding. Of course legal concepts must be precise and may be nuanced but in expressing them we should strive at all times for the clarity of a George Orwell, never forgetting the humanity and fairness which is the essence of what human rights is and should be about.

And we must never accept that there is anything conditional about human rights – that if they only apply to those who keep within the confines of what we find personally acceptable, then we have, in that decision, denied the most fundamental principle of all “*All human beings are born free and equal in dignity and rights*”. Human rights must be universal.

Being in favour of human rights for all can often result in a criticism levelled at human rights - that they somehow give rights to people who are ‘undeserving’. After the recent riots in England, there was discussion in many newspapers about not letting ‘human rights’ get in the way of charging and convicting alleged rioters. But if we do not uphold the human rights of everyone, equally, and in accordance with the law, we put at risk all human rights. This does not mean those who step outside norms of behaviour must not face the consequences of their actions. Rather, it provides a framework of protection for all in how such consequences are pursued.

The task of ensuring human rights are extended to all is one which the Irish Human Rights Commission seeks to accomplish.

Seamus Heaney, delivering the Commission's annual lecture in 2009, summarised it perfectly when he said that "the Commission's endeavours to keep the country's conscience informed are constant, extensive and urgent".

Have we succeeded so far?

As is widely known, the IHRC in effect owes its existence to the people of Ireland, who endorsed its creation when they voted for the Belfast (Good Friday) Agreement in 1998; establishing one Commission in this jurisdiction and one in Northern Ireland, both tasked with working to promote and protect human rights on the island of Ireland.

We are, of course, recognised by the United Nations and other international bodies as Ireland's independent National Human Rights Institution (NHRI) and this international recognition is critically important to our work.

The Commission is widely respected by the UN and European bodies as independent of both the Government and NGOs and as a body whose critiques of the Government's performance are solid, considered and reliable, and are trusted by the treaty monitoring bodies. A strong, independent, robust Commission is both a proof of Ireland's continuing commitment to human rights and a powerful instrument to ensure that that commitment is fulfilled.

The Commission has really only been fully operational since 2003. Since then, the Commission has worked independently and strategically to promote and protect human rights in Ireland. It has offered observations on over 40 Bills, appeared 12 times as *amicus curiae* before the Superior Courts, dealt with a caseload of 3000 legal communications, often the last port of call for desperate people, conducted or commissioned research on a wide range of issues and engaged in awareness and educational work on an increasing scale.

However, these statistics do not tell the full story.

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The Commission has, in fact, made a contribution on almost all the major societal issues facing Ireland today including the current economic crisis, immigration, racism, policing, the criminal justice system, education, women, children and minority rights. It has done so with ever decreasing resources.

In Ireland today, in spite of the prosperity of recent years many people are still denied their rights to live freely as full members of society. Their freedom to live their lives is restricted by poverty, mistreatment or by discrimination. No one in Ireland needs to live on the streets, no one needs to live with daily discrimination, and no one needs to live with violence and abuse. We can change this. We can build on the positive foundations of our State and create a society in which we are all free to live our lives. For this is what human rights provide – the freedom to live our lives as we would, within the society we choose.

We must do everything we can to ensure that people are supported in every way possible so that their rights to housing, education, and a decent standard of living are upheld. People must not be imprisoned for failure to pay a debt, and special protections must be in place to protect people in the most vulnerable situations, including the homeless, children and older people. We need to ensure that economic policies are formulated with a clear understanding of the need to protect people in vulnerable situations.

Although we are a small organisation, we do have a clear and vital legal mandate; our mission is in essence to promote a better Ireland. That is why Ireland continues to need an independent national human rights institution.

In recent times especially we have put particular stress on human rights education and in creating a society with a strong awareness of human rights. For example we have developed strong working relationships with both the Garda Síochána and the Army and have found in both organisations a great willingness to work with us in promoting human rights awareness and standards. Likewise with the public service. Experience has shown

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us is that it is better to work with people than to preach at them and we have been heartened by the positive response from both the civil service and local government to our human rights education and training project which seeks to ensure that all organs of the State work in ways that are human rights compliant.

It could be argued that there is no need for oversight of the type provided by the Commission in today's Ireland or that there are other bodies that can do this work.

The United Nations thinks otherwise. Independent National Human Rights Commissions are included by the UN among the fundamental elements of a free and democratic state. Along with a rights-based Constitution and a strong and independent judiciary, the UN considers that independent national human rights institutions are key to ensuring a free and fair society. There are growing numbers of such institutions across the globe. Between 2006 and 2011, the Commission was able to witness first hand, and indeed help support, this growth when we were selected by our peers to chair the European Group of National Human Rights Institutions.

Domestically, who have we helped over the years?

Our case-load tells many interesting stories. There are many individuals and groups over the years for which the presence of the Irish Human Rights Commission was the crucial resource, sometimes at the end of a hard road. I think of the parents group who wanted us to look at a particular residential centre in Galway where their now adult children had grown up. We conducted an enquiry and drew important conclusions about how services for persons with intellectual disability are delivered. We continue to press the HSE and other stakeholders on these conclusions. No-one else had listened to this group in the same way.

Where we think a case may lend itself better to a policy response, we will undertake work on that basis. For example, following a number of complaints on the treatment of non-faith children in primary and secondary schools, we decided that, rather than pursue a legal route, we would launch a public consultation process and in May of this year we published a report entitled Religion and Education: A Human Rights Perspective. This is now feeding into the current Forum on Patronage and Pluralism.

Similarly, after a substantial assessment of the human rights issues arising, we decided not to conduct an enquiry into the Magdalene Laundries issue but rather to produce an assessment report. This report was significant both in relation to the later findings of the UN Committee Against Torture on the need for a State response and the recent inter-Departmental committee established to identify State involvement under the able chair of Senator Martin McAleese.

Our work is based not on abstract theoretical, constitutional or legal arguments, but rather on the lives and experiences of people who approach us each day with human rights problems. The demand for our work has in effect been driven by real people faced with real and critical dilemmas.

We may not be able to help everyone individually because of our size or the nature of the complaint or our mandate but we do identify and pursue particular human rights issues through our casework. Other recent examples where our case load and policy work have fed each other include whistleblowing, infectious disease control, the separation of migrant mothers from their children, defending claims of debt and people with disabilities.

The Magdalene case is particularly interesting in that it demonstrates how the Commission can be of assistance to the state in addressing national legacy issues and this is a role a merged Human Rights and Equality Commission could also usefully play.

I have recently written to An Taoiseach commending the Government on its decision to hold a Convention to examine amendments to Bunreacht na hÉireann. Throughout its existence, the IHRC has sought to promote and protect both rights under the Constitution and in international human rights treaties. However, it is clear that the Constitution, drafted some 11 years before the Universal Declaration of Human Rights, is very much a product of its time and its text has not kept pace with human rights developments.

For this reason, we believe that the Constitutional Convention provides a huge opportunity to re-shape the Constitution as a modern document reflecting the values and principles of modern Ireland and Ireland's international commitments. Given the IHRC's mandate to promote and protect constitutional and other human rights, we wish to constructively assist Government in its approach to the Constitutional Convention to ensure its success. In this context we stand ready to engage pro-actively with the Convention once established.

Human Rights and Equality Commission

I have referred previously to a set of principles which should underpin the merged human rights and equality body.

What standards will this body have to meet?

Firstly, is the issue of full independence of the Commission in the exercise of its functions. From the beginning, the Irish Human Rights Commission has been steadfast in this regard. It has been independent of both Government and of civil society while maintaining appropriate links with both.

The Commission's independence is vital to ensuring confidence in our monitoring of state's activities that impact on human rights, and to enable us to speak out where improvements need to be made. Independence is the core requirement of a National

Human Rights Institution, and without it, we will lose both our international recognition and our ability to function effectively.

I should stress however that independence does not mean hostility or indifference. We value our co-operation and friendship with civil society organisations, many of whose representatives are here today. And we are mature enough to value the honest co-operation that enables us to work fruitfully with state agencies, the Oireachtas and Government. Indeed may I say that the approach of the Government and in particular Minister Alan Shatter to the proposed new structures has been open, consultative and reassuring.

Secondly - fidelity to the architecture of the Good Friday Agreement. The IHRC has developed a very close and mutually supportive relationship with the Northern Ireland Commission. The Joint Committee and this relationship are important building blocks in the architecture of the political settlement in Northern Ireland and between Northern Ireland and this State. The Joint Committee has been one of the most successful cross-Border initiatives established as a result of the Good Friday Agreement.

It is crucially important that the Joint Committee continue and it has a major part to play in building a society based on human rights and equality throughout the island. But for this to work, both Commissions need not only adequate funding for their work within their own jurisdictions, but we need support for the Joint Committee as well.

I want to pause here to pay tribute to the outgoing Chief Commissioner of the NIHRC, Professor Monica McWilliams, with whom we have enjoyed such a warm and productive relationship and to welcome her successor Professor Micheal O'Flaherty.

Thirdly, the standards of the United Nations Paris Principles which are the criteria regarded as vital for national human rights institutions to receive international recognition. This means, in addition to independence, that a body must have a broad mandate, autonomy in recruitment and a number of other key features.

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Fourthly, the perception of independence can be further enhanced by effecting a change the Commission has long asked for itself: to make it accountable to the Oireachtas. From the outset I have always felt that the Commission as the overarching rights body in the State should report directly to the Oireachtas, giving greater visibility and transparency to the work of the Commission – and also adding an extra dimension to the work of parliament. We are glad that the Government has indicated that the proposed legislation will in fact do just that.

Fifthly, the process of appointment must be transparent and credible. This Commission has been fortunate in the quality and breadth of experience of those who have served as Commissioners – and, of course, in their independence. A transparent system of appointment will help ensure a positive footing and inspire widespread confidence. In short the body must have a strong and well qualified board.

Here I want to stop to express my thanks to all those who have served as Commissioners, especially the current Commissioners who step down early next month. You have been wonderful colleagues bringing your respective talents and experience to bear to provide excellent leadership and policy direction to this body. Your contribution has been immense. The Commission staff and Chief Executive have similarly been committed, visionary and hardworking. From such a relatively small group of people there has been extraordinary productivity and creativity.

Sixthly, the body must have adequate resources. A national human rights institution cannot be expected to function on a shoestring as we have for several years now. The IHRC has lost nearly half its staff and 40% of its budget since 2008. Through sourcing philanthropic support, pro bono assistance from the law library and establishing a professional placement/internship programme, we have not only kept the ship afloat but achieved significant successes. However, while these necessary steps have been tenable in the short term they are unsustainable.

However we do greatly welcome the acceptance of this fact by the Minister for Justice, Equality and Defence when he noted that “the IHRC was struggling to function due to shortage of funds” and quoted the Controller and Auditor General’s observation that the lack of adequate funding was a risk to the IHRC “as a going concern”. We are reassured that this problem will be addressed.

UPR

In October this year Ireland’s human rights record will be reviewed under the United Nations new Universal Periodic Review (UPR) process. Ireland’s human rights structures will feature strongly in this review. I know that the Government will be keen to illustrate in this regard that Ireland’s structures are not just defensible, but are cutting edge best practice. I look forward to working closely with the Government and in particular the Minister for Justice and Equality in that regard.

After ten years – for four of which, as I mentioned, we chaired the European Group of National Human Rights Institutions - I do not think it an exaggeration to say that we have a fair idea what works, what is credible and what commands respect at home and abroad.

Ireland will need a strong human rights body into the future. A society based on human rights is a natural progression for Ireland. But we will need to do more to protect people in vulnerable situations in our society, particularly in these times. Even in better economic times there will be complex challenges ahead.

We have not yet, for example, made the degree of progress we should have in supporting the full recognition of all members of our society who have a disability. We have not ensured that all people with disabilities are given the respect and protection that they deserve. The ways we can do this have been identified. We must now implement them.

We must also work harder to promote and protect the rights of older people. There is an ongoing discussion at the international level of the need for a new international Convention specifically for older persons, and we would support this. Such conventions focus the mind, and more importantly, focus law and policy on the specific needs of groups of people. Older people, particularly those in care homes, or living in poverty, need our support and we must find ways to ensure that as our population ages, the needs of older people are specifically recognised and reflected.

The coming years will also see the increasing influence of technology on our society. We need to have a national discourse on the role of new technologies, on its impact on our privacy and what limits we wish to place on the use of our personal information.

The impact of environmental change and its role in relation to our rights will also be a growing area for discussion. Already, the impact of climate change on vulnerable areas around the world is being discussed by human rights and environmental experts internationally. This is a discussion we should have in our country as well.

Ireland has changed profoundly and for the good in the lifetime of the IHRC. This is now a multi-ethnic society, including people from many ethnic backgrounds who have decided to make their life here and who make a valuable contribution to our society and our economy. So far we have been largely spared the ugly manifestations of racism that have disfigured some other European countries, but in times of severe economic hardship there is always the danger that someone will try to make ethnic minorities a scapegoat for the hardships that many are suffering.

The IHRC has from its inception strongly opposed racism and has spoken up for the ethnic minorities in our midst, including the Traveller community. Now, following the closing down of two important publicly funded initiatives against racism, the National Action Plan Against Racism and the NCCRI, it is all the more vital that there should be a strong statutory body that will stand up for the rights of minority communities, vigorously

oppose racism wherever it appears, and work tirelessly for the creation of a tolerant and inclusive society.

The Constitutional review that is scheduled to take place in the coming period offers us a huge opportunity to shape our country. A Constitution based firmly in modern human rights standards will ensure that we can tackle the challenges ahead in a way that ensures respect for the dignity of everyone in Ireland.

A strong, independent and vibrant human rights infrastructure will also be key in overseeing the challenges ahead.

In designing the new human rights and equality architecture there is a golden opportunity for Ireland to lead the world in human rights and equality protection. I urge the Government to grasp this opportunity fully and positively and to build strongly on what exists. Let the work begin to create a powerful agent for change in the form of a vibrant, independent and catalytic Human Rights and Equality Commission. The people of Ireland, especially those who are vulnerable and marginalised, are owed no less.

Thank you.