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Civil disobedience and the right to an effective remedy in drug policy

The Alliance for rightsoriented drug policies (AROD) refers to previous correspondence. As mentioned before, on 11 September 2021 at 13:00 hours, we will have a civil disobedience campaign outside the main police station in Oslo to promote a long-overlooked catalogue of rights, and we ask for cooperation with the police and the Prosecution Authority.

We ask for cooperation because no one should be served by laws that do more harm than good, because the persecuted groups are protected by the rule of law, and because politicians have ignored their obligations in this area.

We ask for cooperation on behalf of around 300,000 persecuted Norwegians and for assistance from the Director of Public Prosecutions in particular, because the Prosecution Authority has proved to be the most reliable institution for the protection of constitutional principles. The AROD is standing by the very same principles in our civil disobedience campaign as those promoted by the Director of Public Prosecutions in commitment to the drug reform. These principles are key to the integrity of law, and the recent [controversy](#) over means of force is part of a bigger picture that must be looked at.

Following the Royal Commission's demonstration of public panic as crucial to the evolution of a policy, there are rights to be vindicated clearly: Punishment for use of drugs has not only been proved unjustifiable in principle, but the myth of the drug shark has been revealed to be mere political fiction, and the moral distinction that was established by the Commission between the use and sale of drugs is highly arbitrary. In the context of rights, it is also deeply problematic as a key to this plot is to distort the law of supply and demand into one of victim and oppressor. From there, it is all about accepting a larger blind spot.

This blind spot results in a tremendous amount of death and devastation and so, the AROD will therefore have a [cannabis sale](#) at the police station to exercise the right of review of the law.



This occasion is a unique opportunity to support the rule of law, and we ask that it not be wasted. As of today, it may be controversial to stand up for a comprehensive human rights analysis but within 5-10 years, the situation will be different. By then, the regulation of cannabis will have reached a wider scope, and there will be far more controversy if Norway still, on autopilot, maintains the law's most severe punishment for actions that are legally regulated in countries we can compare ourselves with.

Legally and morally, it is simply not sustainable. The AROD will use our civil disobedience campaign to get an international focus on the issue. We already have the support of a former Justice at the Norwegian Supreme Court, professors of law, and the representatives of the police. We therefore ask the Director of Public Prosecutions to endorse a human rights analysis in our time so that Norway can become a pioneering country rather than a mockery in the area of drug policy.

A comprehensive human rights analysis

The AROD offers such an analysis in the form of our procedural claim, [*Human Rising: The Prohibitionist Psychosis and its Constitutional Implications*](#).

This [acclaimed](#) report takes the Royal Commission's findings of moral panic seriously and shows the connection between this phenomenon and human rights violations. To do so, it uses the same principled logic as the one expounded by the Royal Commission, constitutional courts, and human rights scholars, and this is our defence for the persecuted.

It is the analyses in this book that the state must invalidate. Doing so is a key to continuing the rule of law, and in short, there are [five](#) questions that must be answered. It remains to be seen if the state will defend the prohibition, but this is the basis for a human rights analysis.

We remind that the drug laws have their origins as state of emergency laws, that they are based on the idea of an enemy at the gates, and that the enemy image of drugs will be the subject of court proceedings. In this regard, is there a sensible distinction between legal and illegal substances? Is there a meaningful relationship between the means and the end? Are there less intrusive methods, better suited to protect society? Questions like these will be crucial for the clarification of the rights.

Whether or not the state intends to defend the prohibition, we expect the police and the Prosecution Authority to support the rule of law and the demand for a human rights analysis. In Norway, it is as much the job of the district court judge as the Supreme Court to establish an independent, impartial, and competent tribunal that will assess the issue, and it is unnecessarily time-consuming and costly to wait for the Supreme Court to take action. In fact, if the prosecution does not oppose such analysis, hundreds of lives and thousands of years of imprisonment could be saved, and so we want the case to be processed as quickly as possible in the judiciary.

With the Director of Public Prosecutions on board as a defender of human rights principles, the judge will understand the constitutional weight that is attached to this case as well as the importance of abiding by the rule of law, and the question then becomes: How can the subject matter be illuminated?



When it comes to this, time and budget have a lot to say. Even so, we are dealing with the most important issue of the post-war period, one that cannot be ignored, and we propose to build on the Royal Commission. The Commission consists of professionals who have done a good job in the area, and the AROD accepts their expertise. Had the Norwegian government not been predetermined that a regulated market was unacceptable, the Commission could have put together a report that went much further, and we see this as the best starting point. The AROD, therefore, recommends that the Royal Commission be given the task of looking at the connection between moral panic, the scapegoat mechanism, arbitrary imprisonment and human rights violations based on our procedural claim, [Human Rising](#).

Give the Commissioners time to look at this book, and either (1) pick it apart with their expertise, or (2) accept the proven connection and give the persecuted an effective remedy. This is a way forward if the rule of law is to be secured, provided that the principle of equality of arms is honoured, and that the concerns are properly dealt with. As recently in Mexico, the courts will then take control of the political process and provide guidance on behalf of human rights.

We look forward to hearing from the Director of Public Prosecutions about this. We are encouraged because the Prosecuting Authority seems to be aware that there is only one right side of history, and that is on the side of the principles that build our rule of law. The fact that the Director of Public Prosecutions recognizes the weight of these principles must have been decisive for the Prosecuting Authority's position in the drug reform so far, and it will be a great shame for the nation if the Director does not follow up. In times of moral panic, first principles are the only guidance that can make a country whole again, and the AROD is therefore looking forward to cooperation.

Yours sincerely,

A handwritten signature in black ink that reads 'Roar Mikalsen'. The signature is fluid and cursive, with the first name 'Roar' written in a slightly larger and more prominent script than the last name 'Mikalsen'.

Roar Mikalsen
President of the AROD,
The Alliance for Rights-Oriented Drug Policies