



arodpolicies.org

arod@arodpolicies.org

Oslo District Court
PB 2106
Vika 0125 OSLO

9 April 2022

Request for maintenance of the list of evidence

Mikalsen and the Alliance for rights-oriented drug policies (AROD) ask that the police's request for rejecting the evidence of the defence is denied.

The court should note that so far, the police have done everything to hide ongoing human rights violations.

Through [letters](#) and our books [Human Rising](#) and [To Right a Wrong](#), the police have received the documentation necessary to discern the connection between sections 231 and 232 of the Norwegian penal code and previous instances of arbitrary persecution. As shown, the political process has failed to ensure constitutional obligations. It is not possible to pathologise drug users or demonise drug dealers without assessing the relationship with human rights, and the defence has elaborated on the relationship between the Norwegian Royal Drug Reform Commission's detection of public panic and human rights violations.

It is for the police to decide if the agency shall retain the blinders that enable the continuation of arbitrary punishment or whether employees will accept rule of law responsibilities. The latter, loyalty to human rights and the constitution, means stepping out of a toxic culture by supporting constitutional guarantees and the need for human rights analysis. The police are well [acquainted](#) with this, yet AROD's civil disobedience case is being handled by a prosecutor who seeks to deny the presentation of elementary evidence.



It is possible that the Norwegian Narcotic Officers Association (NNPF) [has](#) a part to play. This lobbyist organisation appears to have been [crucial](#) in destabilising the political process, but the prosecution's request for dismissal of evidence is, under all circumstances, unacceptable. AROD and Mikalsen have made allegations of human rights violations that cannot be ignored, and presenting the list of witnesses and the documentary film is the easiest way to show the relationship between public panic and human rights violations. If anyone can vouch for punishment and the merits of the Norwegian drug policy, it must be the witnesses, and the documentary film presents a superior perspective on the current paradigm and the problems with human rights. It is the court's task to present an effective remedy, so this document elaborates on the importance of the evidence.

Witnesses

Mikalsen and AROD's efforts to clarify the human rights concerns related to drug policy are supported by professionals worldwide, and the defence has delivered a document that not only frames the negotiations but links the struggle for rights to a forgotten chapter in Norwegian history.

This [document](#) shows why AROD committed civil disobedience, why the courts must consider the relationship between public panic and human rights, and why witnesses must testify. As shown, around 460,000 drug cases have been produced on dubious constitutional grounds after the Norwegian Supreme Court rejected a hearing in 2010 without justification. This itself is a human rights violation, and the defence insists that the witnesses are summoned to testify, as they are (or have been) key components of the drug war effort that is responsible for mass persecution.

Ministry of Justice and Public Security

Represented by the Current and Former Justice Minister

The Ministry of Justice and Public Security was informed about the problem of a drug policy that is contrary to human rights in August 2009. Justice Minister Knut Storberget did nothing to fix this Gordian



knot, and when Grete Faremo took over in 2011, Mikalsen attempted yet again to convince the Ministry to consider the problem seriously. In November 2011, the Ministry received documentation which revealed that leading authorities on the drug policy supported Mikalsen's claims. Professor of Criminology Nils Christie believed that Mikalsen had presented "an excellent and clarifying work" and Ragnar Hauge, who led the Department of Drug Research from 1975 to 1988, was "by and large in agreement" with Mikalsen. Hauge believed that the problem, as presented by Mikalsen, had been "put forward in a clear and convincing manner," but the Ministry abstained from further investigations.

On March 30, 2012, therefore, the Ministry received a new letter which illuminated the police's lack of interest in investigating drug offences. In correspondence with the police, Mikalsen had volunteered to solve several drug crimes provided that the police supported human rights analysis, but the police [would](#) not hear about this. Mikalsen believed that the police had an obligation to investigate large-scale drug offences and, therefore, wrote to the Ministry of Justice. He pointed out to the Ministry the importance of embracing the rule of law and explained, "[I]f the ministry is interested in looking more in depth at the relevance of human rights to the drug policy, I will do what I can to get a decent court process around this topic started by assuming the responsibility of about two tonnes of drugs". Mikalsen saw this as a contribution to the rule of law, but the Ministry of Justice did not respond.

Since then, Justice Minister after Justice Minister has received a letter from Mikalsen and ARÖA. Justice Minister Anders Anundsen learned that international authorities such as Douglas Husak, Professor at Rutgers University, were completely in agreement with Mikalsen, and more than 250 inmates at Halden and Ullersmo prisons demanded that the quality of the drug law be assured. The ministry [received](#) five questions that needed to be answered for this to be done, but the inmates were met with the same rehearsed ignorance that Minister of Justice Anundsen later revealed on national television in NRK's [*Folkeopplysningen*](#).



This is how the drug war effort was continued. Minister of Justice Per Willy Amundsen also ignored human rights, but in the report of the Royal Commission in 2019, the public panic was highlighted, a phenomenon that Mikalsen had drawn attention to 10 years earlier.

With the publication of the drug report, the rights-oriented debate gained new momentum. This report clearly showed that the political process had failed, and a handful of organisations [contacted](#) the Ministry of Health and Care Services to seek clarification regarding human rights in relation to the drug policy. The Ministry of Health responded by referring to the Ministry of Justice and Public Security as the appropriate body, and Minister of Justice Monica Mæland was [asked](#) to deliver on human rights obligations. The Ministry of Justice [responded](#) by sending the matter back to the Ministry of Health and Care Services as the appropriate ministry and had no additional comment on AROD's [further](#) attempt to clarify responsibility for the drug law.

Thus, the rights of the persecuted were met with official disdain and AROD began civil disobedience to persuade the courts to take action. On this basis, it is important to highlight the Ministry of Justice's responsibility to the persecuted groups. The defence has questions that must be answered, and the same applies to the Ministry of Health.

Ministry of Health and Care Services

Represented by the Current and Former Minister of Health

The Ministry of Health was informed about the disparity between drug policy and human rights on 13 March 2013. Minister of Health Jonas Gahr Støre was the first to be held accountable, and incoming Minister of Health Bent Høie was informed about the disparity in December 2013. Since then, Høie has received a dozen letters from AROD which speak to the importance of clarifying a catalogue of rights. In 2015, the Minister of Health [received](#) the same five questions as the Ministry of Justice as well as a walkthrough of human rights responsibilities. The [response](#) from the Minister of Health was that he "obviously respects



and will continue to respect human rights" but that "the ban on drugs must be upheld".

The Minister did not comment on any objections. In 2017, therefore, in [another](#) letter, the Minister of Health was held accountable and the problem of public panic was highlighted. AROD not only elaborated on the difference between the morality of prohibition and that of the constitution but the similarities of a war on drugs to preceding totalitarian campaigns were also anchored in their common implications for international law. Principled thinking showed that such moral crusades were not merely confused expressions of human growth ambitions but had a common theme: They were (and are) the result of a need to find a scapegoat, a fiend against which society can unite, as well as the tendency of the state to feed on this phenomenon by latching onto fear-based prejudices. It is this combination that has driven the history of unjust persecution, and since it is painful for officials who have viewed themselves as managers of a decent project to accept such information, AROD elaborated on the psychological challenges faced by employees.

Even so, the Minister of Health did not budge. The political process was still defined by public panic, but with the drug reform, a new opportunity for rights thinking arose. Together with a handful of organisations, AROD, therefore, [contacted](#) the Minister of Health and demanded that human rights concerns were put first. The Ministry of Health and Care Services responded by referring to the Ministry of Justice and Public Security as "the right body", but the Department of Justice placed the responsibility back on the Minister of Health because "the Ministry of Health and Care Services has the main responsibility for following up on the drug policy". AROD, therefore, [contacted](#) the Minister of Health, but the Minister [referred](#) "to the Parliament's treatment of the drug reform in question".

This makes no sense when public panic has been detected and the Norwegian Parliament continues to support a regime of punishment based on rejected premises. The response of the Minister of Health,



therefore, led to [another](#) letter in which AROD warned of civil disobedience. This letter stated the following:

For a number of years, we have tried to get the Norwegian state to recognise international obligations in this area of law, and we do not find the Minister of Health's answer reassuring. On the contrary, the Minister is familiar with the Royal Commission's detection of public panic as formative to drug policy and has received documentation of the connection between this phenomenon, unconsciousness, scapegoating, arbitrary persecution, and human rights crimes. The Minister is aware that there is the same mismatch between the human rights principles and drug policy as there was between these principles and the prohibition of homosexuality earlier, and we are very disappointed with the Minister's lack of commitment.

After all, the Minister has all the essentials to understand the injustice of drug policy. As an openly gay man, the Minister is part of a group that was previously hunted by the police due to an orientation that others, with no right, could interfere with. Principles such as equality, autonomy, proportionality, and the presumption of liberty invalidate state intervention, and the most relevant difference between homosexual people and drug users is that the latter has had to suffer far more for their beliefs, that the state's responsibility has not yet been recognized, and that we are dealing with a far greater legal scandal.

While the prohibition on homosexuality was mostly dormant and only a few received punishment, the police resolve around 30,000 drug cases a year. The effort put into this operation is far more organized, far more totalitarian, and it is astonishing that the Minister of Health has no qualms about leading the way in oppression. It happens on the Minister's watch after the Minister has been sufficiently informed and knows better. Therefore, AROD will set up an outlet for cannabis consumption outside the police station on September 11, 2021, so that we can use the right of review of the law.



Based on this history, both the former and the current Minister of Health are key witnesses when it comes to looking at a catalogue of rights. The former, who was a supporter of punishment until 2016, has since turned and now rejects the reasons that the current Minister of Health uses to continue with the punishment. He has [said](#) the following:

Today's penal system has failed. The weight of documentation indicates that this has no positive effect but, on the contrary, many negative consequences. Punishment has major harmful impacts and a socially skewed effect. In other words, it is those who claim and believe that Norway should continue to punish the use of drugs in the way we do today who should find the scientific documentation to proceed with something that has been proven to not work. So far, they have not been able to come up with qualified evidence for their claims.

This is the status of the current events. The burden of proof is on the state, and the good reasons for punishment have not been forthcoming. Nevertheless, Minister of Health Ingvild Kjerkol insists on continuing with the retribution scheme, and the defence, therefore, requests that representatives of the Departments of Health and Justice attend the court hearings to deal with matters of constitutional importance. The same applies to the representatives of the higher prosecuting authority.

The Higher Prosecuting Authority
Represented by Director of Public Prosecutions Jørn Sigurd
Maurud

Director of Public Prosecutions Jørn Sigurd Maurud has been a staunch supporter of principles that must weigh heavily if a liberal rule of law is to survive. That is why the Director of Public Prosecutions endorsed the decriminalisation of drug use as part of the Norwegian drug reform, and it was in the spirit of the same principles that ARÖD and Mikalsen set up a booth with psilocybin and cannabis products outside the main police station in Oslo. This was done in response to the fact that Mikalsen has worked to clarify rights since 2009 but that all agencies



involved with the drug prohibition have relinquished their professional responsibility.

In regard to the Directorate of Public Prosecutions, the head of the prosecuting authority was informed about the lack of a basis for punishment in 2009, but Director of Public Prosecutions Tor-Aksel Busch did not support a human rights analysis. He was, therefore, [reported](#) to the corruption unit of the Norwegian police in 2009 for opposing the rule of law guarantees, a complaint that was dropped. On 1 March 2019, therefore, after the Royal Commission had shown moral panic to be a problem with drug policy, AROD [contacted](#) the Director of Public Prosecutions again and referred to previous correspondence where Director Busch was invited to support the right to an effective remedy, as well as his answer that this was an issue that courts and politicians had to deal with.

This was obviously not good enough. In times of moral panic, one cannot trust these institutions to uphold the rule of law, and in hindsight the Higher Prosecuting Authority should have heeded Mikalsen's previous communication. As established in a letter dated 9 September 2009, the Narcotics Act had a problem measured against the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR). This had been ignored by politicians and courts for a long time, as politicians and the police, in general, had failed to question laws that unreasonably pointed out vulnerable groups for persecution. Nevertheless, it was clear that several public officials had committed a serious crime by covering up the violation of human rights, that individual integrity was the key to overcoming this problem, and that the Director of Public Prosecutions had an obligation to assist subordinates and violators of sections 231 and 232 of the penal code in providing clarification regarding rights.

In failing to deal responsibly with this letter, the human rights situation got worse, and with the detection of public panic by the Royal Commission on Drug Policy Reform the Higher Prosecuting Authority had a special responsibility to ensure constitutional protection.



AROD wrote this after Chief Public Prosecutor Runar Torgersen, as chair of the Royal Commission, had ignored inquiries from civil society about the need for a general human rights analysis. By 2019, it was clear that the drug reform was about to fail, and AROD informed the Director that several hundred thousand citizens had rights that remained overlooked. AROD also mentioned that as a result of this, the respect for law and order had been severely damaged, and a proposal was made to help the rule of law. Since Director of Public Prosecutions Busch had, 10 years earlier, denied the right to review the drug law to serious drug offenders, AROD proposed to supply the prosecution authority with the amount of cannabis that the Director of Public Prosecutions deemed appropriate to trigger rule of law guarantees but there was no response. AROD, therefore, looked forward to Director of Public Prosecutions Busch's departure and wrote a [new](#) letter in 2020 when Jørn Sigurd Maurud took over. AROD thanked Maurud for his involvement in the Norwegian drug reform and referred to the report of the Royal Commission, which substantiated allegations of human rights violations. In this letter, AROD called for more responsibility from the Director of Public Prosecutions, as law and order had lost much of its weight. AROD wrote:

While politicians, police officers, judges, public prosecutors, and other officials have ignored international law obligations in the area of drug policy, drug offenders have come forward with offers to provide information that could lead to the investigation of several tons of cannabis imports. Not only have the police, as an agency, refused since it conditioned the authorities to stand behind the rule of law guarantees but hundreds of police officers and a justice minister have also declined the same offer because they did not want to consider the human rights of drug offenders.

This was the status of law and order in 2020. Medical users of cannabis had contacted the Director of Public Prosecutions and stated that they cultivated cannabis under the emergency law principle, and AROD was aware that several would report themselves to the police. AROD, therefore, requested a circular with guidelines for the prosecution in the



cases where recreational users, sellers, and manufacturers had contacted the police to promote a human rights argument. Had the Director of Public Prosecutions provided such guidance, prosecutor Vilde Humlegård would probably have thought twice before opposing the realisation of human rights, but Director of Public Prosecutions Maurud's regrettable reply was that AROD's inquiry "does not occasion measures or comments from the Director of Public Prosecutions". AROD, therefore, [responded](#) on 15 July 2020 with a cease-and-desist letter.

In this letter, AROD held Director of Public Prosecutions Maurud responsible for continuing the sentencing scheme on scientifically rejected grounds and offered a way out. Mikalsen wrote:

In order to speed up the political process and limit the damage that post-constitutional conditions inflict on the people, we want to activate the judiciary's obligations to the persecuted groups. As the head of an organisation dedicated to this purpose, I, therefore, keep a small amount of cannabis products and will hand them over to government officials at the appropriate opportunity.

It is up to the Director of Public Prosecutions and his office how the arrest/handover may take place. You can either arrange this in a decent way, one that does not further ruin the life of my immediate family, or you can kick in doors. In any case, you know how to get hold of me, and that I will exercise my right to a human rights defence.

The Director of Public Prosecutions also knows that I have an arguable claim of human rights violations, one that coincides with the conclusions of the Royal Commission. In addition, the Director of Public Prosecutions has been informed about the points where Norway does not satisfy international guidelines in the area of drug policy, that I take this step because the persecuted have been denied an effective remedy for 10 years, and that the damage that follows in the wake of a drug policy based on totalitarian premises is too large to ignore. I, therefore, will do my civic duty. I do not ask to be



considered in the mildest possible manner, but for a legal process worthy of the rule of law and on behalf of the persecuted groups, AROD hopes for constructive cooperation to ensure that we do not fall outside the rule of law again.

AROD looked forward to hearing from the Director of Public Prosecutions, but nothing happened. Nor did [another](#) letter which dealt with the shortcomings in the Director of Public Prosecutions' investigation into means of force in less serious drug cases have any consequences, so AROD began civil disobedience and [invited](#) the Director to support this mission. He has yet to respond.

The Higher Prosecuting Authority

Represented by Chief Public Prosecutor Runar Torgersen

Chief Public Prosecutor Runar Torgersen has intimate knowledge of AROD's human rights argument. It was Torgersen who authored the letters that Director of Public Prosecutions Busch signed in 2009, and he was the prosecutor when the Supreme Court denied human rights protection to the persecuted in 2010. Later, as head of the Royal Commission on Drug Reform, Torgersen received [seven](#) letters from AROD explaining why it is incompatible with the commission's mandate to exclude a regulated market from a human rights analysis. However, Torgersen chose to interpret the mandate narrowly, ensuring a continuation of the blind spot that AROD seeks to expose.

After talking to Torgersen about this in March 2019, the members of the Royal Commission [received](#) a letter where AROD encouraged mutiny, and it is largely because the Chief Public Prosecutor accepted the government's demand to exclude the regulation of drugs from a rights analysis that we gather in court. Had the committee followed its mandate, which was to assess the human rights situation of the proposed legislation, this would possibly have been avoided. The proposed legislation entailed penalties for all other than small amounts of drug use, which meant that punishment above this threshold had to be looked at, and it is because all involved with the formulation of policy have disregarded the rights of those involved with the drugs market that the



defence asks the courts to do the job that politicians and the Royal Commission did not do and which the prosecutor will not see done.

The prosecution's responsibility to ensure human rights

The prosecuting authority insists that the list of evidence must be rejected in its entirety. Neither witnesses, documentation, nor films that support the allegation of human rights violations are wanted, but this is only because the police thrive in darkness when it comes to drug policy. Since 2005, the agency has opposed all attempts at a human rights analysis and even covered up serious drug crimes, and the prosecutor appears more interested in protecting a toxic culture than contributing to the development of human rights.

This is sad, but the Director of Public Prosecutions has [declared](#) that "the prosecuting authority – and the courts where they are involved – have a special responsibility in this area to ensure that the use of coercive measures is in accordance with Norwegian law". It is also clear that the detection of public panic by the Royal Commission indicates that the political process has failed to secure human rights. The Royal Commission uses words like "unbalanced views", "misleading perceptions", "misapplication of punishment", and "reality-resistant iniquity" to summarise the development of drug policy, and the defence has prepared questions that must be answered if punishment is to be continued. The witnesses are crucial in this context. They have the leading responsibility of providing insight into the punishment regime, and rather than shielding the drug law from questions, the prosecutor should appreciate this opportunity to provide clarification regarding rights.

In any case, there are no good reasons to write off the witnesses. From the police scandal that has been unfolding in the Norwegian media, we see that thousands of human rights abuses are carried out against users every year, and the courts should not accept the prosecutor's reasoning. The prosecution seeks to convince the courts that politicians can do the job that they are supposed to do and that it is premature to override the political process. This is how the higher prosecuting authority has



ignored human rights for 13 years, but the Director of Public Prosecutions is [adamant](#) that there must be a greater sense of responsibility.

The prosecutor, therefore, cannot claim that "the courtroom, during the main hearing, is not considered a suitable place to otherwise shed light on criminal policy or the desire for a change in the law on the part of the accused". It is clearly the task of the courts to subject the political process to constitutional review, and the police scandal that is unfolding is part of a far bigger picture, one that deals with the rights of several hundred thousand citizens.

Duty to testify on behalf of human rights

As shown, there are good reasons why AROD and Mikalsen want the testimonies of the Ministry of Justice, the Ministry of Health, and the higher prosecution authority, and we insist that all summoned witnesses attend. This is not only in the interest of the nation but of all actors. The penal code is subordinate to human rights, which everyone is obliged to promote, and the duty to testify is supported by the Director of Public Prosecution's own letter on guidelines for the prosecuting authority.

In [this](#) letter, "it is emphasised that in the criminal proceedings of the police and the prosecuting authority, ethical reflections and professional objections shall be encouraged". Furthermore, according to the ethical guidelines, any employee of the prosecuting authority "must act in a way that promotes a legally secure and trustworthy criminal justice system in accordance with law and order. The reference to law and order is intended to cover all rules and guidelines given in or pursuant to law and the constitution. The rules of international law that the Norwegian authorities are obliged to follow are also covered. The legal order also includes fundamental values and principles on which the administration of justice is based, including the rule of law, equality before the law and the individual's fundamental freedom and autonomy."

It sounds nice on paper but is not the actual status. Neither rule of law, equality before the law, the individual's fundamental freedom and autonomy, nor ethical reflections on this have led to any consequences



for the penal regime. The prosecuting authority continues to inflict punishment on discredited terms, and the court has a unique opportunity to rectify the sins of the past.

AROD, therefore, maintains that an effective remedy must be provided. Not only do these witnesses possess important first-hand knowledge, but there is, as the Director of Public Prosecutions states, "no fundamental conflict between good crime fighting and human rights". The two follow as one from an understanding that has been built over time, and society is ripe for a resolution to the incarceration scheme in drug policy.

Movie screening

The defence also insists that the court allows the presentation of documentaries, as they are effective for seeing a bigger picture. It will be difficult even for the prosecutor to maintain the blinders after AROD's viewing, and we remind the court of the principle of equality of arms. A few hours' time for this project is more valuable to the rule of law than the thousands of hours that are spent each year on settling questions of guilt in drug cases, and an expanded perspective is important if the court is to make a decision on the issue on an informed basis.

The defence will, therefore, show [*Kampen om Hampen*](#) (1996), a Danish film which documented exactly what the report of the Royal Commission tells us, only 25 years earlier. It was clear at this point that the drug policy could not be defended when measured against the principles of human rights and that a human rights analysis would have favored the arguments of the persecuted groups. The next documentary to be shown is [*The House I Live In*](#) (2012). It shows how the negative ripple effects of the prohibition have spread, precisely because politicians do not want to take responsibility. The third film is Norwegian television's [*Folkeopplysningen*](#) (2016), which brings us back home. Everything needed to win a human rights analysis is shown in the other films, but the interview with Minister of Justice Anders Anundsen is important. Not only does the Minister of Justice repeat



allegations that were countered 25 years earlier but Anundsen's hypocrisy shows why drug laws and racial laws are much the same, and the lack of factual basis is documented. After much searching, all the justice department could find in support of the cannabis prohibition is an unpublished paper from a Swedish medical student, and the list of witnesses will clarify whether prohibition can be better justified today. Finally, we will show [Neurons to Nirvana](#) (2013), a film that documents research on psilocybin and drugs in the same class. It shows that we are not dealing with what the prohibitionists claim, that the ban on psilocybin and similar drugs is another example of excessive government intervention, and that psychoactive drugs have the potential to help humanity evolve.

For the sake of time, we plan to end there but if the court wants to see how bad it can go, Foreign Correspondent's [Inside Mexico's Post Powerful Drug Cartel](#) shows the corruption in Mexico. This is one of the most damaged areas of the drug war, and it is no coincidence that the Mexican Supreme Court was one of the first to invalidate the ban on cannabis. In Mexico, military groups control most of the drug market, the political process is bought and paid for, and it was the people who eventually pushed for change through civil disobedience.

AROD trusts that the Norwegian courts will do the same. With the report of the Royal Commission, rights-thinking has a place that the state cannot overlook without failing to fulfil its obligations to the rule of law, and the list of evidence is necessary for the court to form an opinion on an informed basis. We, therefore, ask the court to reject the request of the police and look forward to the negotiations.

Yours Sincerely

A handwritten signature in black ink that reads 'Roar Mikalsen'. The signature is fluid and cursive, with a long, sweeping underline.

Roar Mikalsen

President of AROD

Alliance for rights-oriented drug policies