



Roderick Liddell  
Registrar  
European Court of Human Rights

9 May 2019

***Drug Policy and Human Rights:  
On Case no. 67078/10 and the Right to an Effective Remedy.***

Dear Sir.

We are an organization dedicated to the rule of law and the end of unjust persecution.<sup>1</sup> Our focus is the relationship between human rights and the drug laws, and we wish to bring to your attention the ramifications of a flawed ECtHR decision.

To begin with there is increasing evidence that the prohibitionist paradigm is incompatible with basic principles of law. This has been obvious for some time and a case reached the ECtHR in 2010-12 where the Court was asked to look into this relationship.

The applicant (case no. 67078/10) had prepared a document detailing how the prohibition paradigm was incompatible with human rights principles. It was accompanied by letters of support from politicians and experts on drug policy, and a charge was made that basic principles of law invalidated prohibitionist drug policies en masse.

The argument was not only carefully reasoned, but it concerned the rights of more than 40 million European citizens and the Court was required to prepare an independent, impartial, and competent tribunal to decide whether or not the persecution of drug law violators was a just and decent endeavor—i.e., necessary in a democratic society.

As this must have been the single most important issue accepted before the Court, it was expected that a conscientious analysis would be completed. Not only did the rule of law demand a justification from the state, one that dealt with rights-based criticisms, but that the judge weighed both arguments from a principled perspective, putting on paper sound reasons for the continuation or discontinuation of the status quo.

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<sup>1</sup> In the aftermath of the European Court's 2012 decision to deny drug law violators an effective remedy (*Mikalsen v. Norway*), the Alliance for Rights-Oriented Drug Policies (AROD) was created to enlighten politicians, drug users, and concerned citizens on the problematic relationship between the drug law and first principles. As an organization dedicated to the rule of law, we provide law-makers, drug users, and others with information on how the prohibitionist paradigm is incompatible with basic human rights obligations and our website provides a complete guide to the rights-oriented debate and its implications.



Even so, no such thing happened. After looking at the evidence, the judge V.A. de Gaetano simply decided that “in the light of all the materials in its possession, and in so far as the matters complained of were within its competence, the admissibility criteria set out in Articles 34 and 35 of the Convention” had not been met, and that was it.

Now, the judicial reasoning presented was most thorough, the applicant was qualified, and there was nothing of relevance in these articles that vindicated the decision of the Court.

Speaking of the argument, it was vetted by professors of law, and the judge had no good reasons for dismissing the case. This is demonstrated by the fact that more recent constitutional courts have looked at this issue (as it refers to the possession and use of cannabis specifically), and the meticulous judicial reasoning presented by these courts are fully in line with the applicant’s, only eclipsed by his perspective.

You see, while these constitutional courts validated the right of drug users to be free from unjust persecution, the contestant held that this should also apply to drug dealers and producers.

### **The Argument**

The reasoning for this is simple. Our constitutional heritage puts principles of autonomy, equality, proportionality, dignity, and the liberty presumption at the core of our conventions; they are the very basis for the rule of law and any proper human rights analysis begins with these principles. When it comes to drug policy, therefore, we must weigh the right of the state to criminalize a population group against the right of the individual to be free from persecution, and the liberty presumption puts the burden on the state to show good reasons for denying autonomy.

This rule applies even when it comes to drug consumption. The reason for this is that drug users are not merely the sorry lot they have been portrayed to be; like alcohol users, 90 percent are functioning citizens who can show good reasons for taking drugs, and whether it comes to the stopping of pain or the expansion of consciousness illicit drugs have proven invaluable tools.

That is why more and more drug users are complaining to constitutional courts. They claim that their persecution is not within the perimeters of constitutional law and that their criminalization is hurting society. While this is difficult for prohibitionists to accept, this is now recognized by the constitutional courts of Alaska, Georgia, Mexico, and South Africa, and as there are recognized autonomy interests involved when it comes to a choice in drugs, we have no business persecuting drug users.

*This is the dawning understanding that explains the international trend towards decriminalization of drug use. It is a good thing, but if we recognize that there are legitimate autonomy interests involved when it comes to drug consumption, we must also recognize that the idea of persecuting drug dealers and producers makes no sense.*

It makes no sense because, as Lysander Spooner noted, these people are merely accomplices of the user, and it is a rule of law, as well as reason, that if the principal in any act is not punishable, the accomplice cannot be.

Having discarded the old idea of drug users as a depraved flock of beings, people that need to be protected from themselves, there is simply no legal basis for the continued persecution of drug dealers and producers. Instead, we must as a society awaken to the realization that, when all is said and done, the drugs themselves are neither good nor bad, but substances that can be used for better or for worse, and that there are the same supply and demand factors (and the same patterns of overall unproblematic use) involved when it comes to licit and illicit drugs.



From a constitutional perspective therefore, the average drug dealer has less to fear from the rule of law than the average policeman and legislator, for while the former in this balancing of scales has been weighted and found an agent of autonomy the latter is shown to be agents of tyranny.

Hence, reparations must be made. And the moral code of society, having proved to be supported by totalitarian predispositions, must be calibrated towards more wholesome ideals, values, and principles through a recognition that drug prohibition has been a crime against humanity—a mass movement gone terribly wrong.

### The Controversy

It is perhaps, then, not so strange that the judge failed to accept this argument. Having suffered the role of the villain for a century, society has become habituated towards persecuting those involved with the drugs economy and the idea that they have rights is now somehow objectionable. That would imply some moral standing, and as this would leave prohibitionists feeling less secure about their own moral ground it takes courage to look at drug policy from the perspective of first principles.

Nevertheless, the integrity of law demands a sacrifice. As the applicant documented before the European Court, the engine behind drug prohibition is not only powerpolitics but the scapegoating mechanism,<sup>2</sup> and this makes these people the victims of profoundly unjust laws. Incompatible with the rule of law, because these laws are built on totalitarian principles and reversed logic, all stemming from belief in an overblown enemy image and other superstitions.<sup>3</sup>

Indeed, as drug prohibition has been documented to be a result of the scapegoating phenomenon, our tendency to blame vulnerable groups for problems that are a collective responsibility, it represents the same basic phenomenon as the inquisition and the persecution of witches and Jews. It is a testimony to our collective failure to do away with the sins of our fathers,<sup>4</sup> and reasoning from first principles our moral drift becomes plain.

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<sup>2</sup> The Applicant had prepared a book called *HUMAN RISING: THE PROHIBITIONIST PSYCHOSIS AND ITS CONSTITUTIONAL IMPLICATIONS* (2010) which was delivered to the Court. A translated and updated version is presented with this letter and as you can see, the case against prohibition is staggering. While the de Gaetano Court failed to address its concerns, officials at the Private Office of the Secretary General, the Parliamentary Assembly, and the Pompidou Group recently received it as a report documenting largescale and ongoing human rights violations—and unlike de Gaetano, they are taking it seriously. There is a recognition that whereas human rights obligations are becoming more pronounced little is known on the extent to which human rights law invalidate the prohibition paradigm. In their reports on this (see note 20), the COE lament the lack of involvement from the ECtHR, and until the Court takes a hard look at this issue, this work provides a baseline study on the problem of human rights and drug laws—which is what has been missing so far. Hence, at the Pompidou Group, the executive secretary has thanked us and asked the Presidency to inform all member states on our position, and at the Private Office of the Secretary General the report and our concerns have been forwarded to the Committee on Legal Affairs and Human Rights, which is in the process of preparing its own baseline report. We have established good contacts with its Rapporteur, and as the reasoning of *HUMAN RISING* remains uncontested, we expect that it will be of great value to the COE. At the very least, in the run-up to the 2019 CND session, the Ambassador to Iran (for Finland) referred to it as a “priceless volume”, and to those concerned about the rule of law, it really is. See appendix (1)

<sup>3</sup> Legislative records show that the reasons presented for the persecution of drug law violators stemmed from a belief that drugs were all bad and that society needed protection from them. While a certain percentage of drug users, like alcohol users, end up with a poor functioning due to excessive use, the large majority however will do fine and there is little indication that drug laws are helping consumers. Nor is there any meaningful indication that they are helping society, and this puts them at odds with constitutional thinking. See MIKALSEN, *HUMAN RISING* (2019)

<sup>4</sup> Due to our collective eagerness to be deceived, to live our days in a great escape from commitment to those values, ideals, and principles that we officially preach, the scapegoating phenomenon has followed us through history. Psychologically, it provides relief for those who thrive on unconsciousness, those who demonize and oppress others for reasons of ignorance



We find then that in reversing the liberty presumption in matters of drug consumption, we have not only paved the way for a meteoric rise of organized crime, but we have criminalized large portions of the population based on exactly the same psychological phenomenon that ensured the persecution of Jesus, Christians, heathens, or homosexuals.

Thus, principled review is psychologically demanding. As a society, we find ourselves in the very same situation as America under slavery, or South Africa under apartheid, and it takes courage to stand with higher law when immorality has become policy. Indeed, a study of constitutional challenges to the U.S. drug laws (attached with this application)<sup>5</sup> revealed that no more than ten percent of judges had the acumen to see their day and age in a historical context, correctly deducing the implications of first principles. Yet, this is what the constitution demands, and so officers of law must be aware of this problem.

The integrity of law, after all, is intimately bound with your ability to anchor analysis in principled reasoning. In times of moral panic, loyalty to the status quo is treason to our constitutional heritage and it is important that we stay firm with those ideals, values, and principles that follow from the Wholeness perspective. Morally, this is the only ground, and it is coincidentally also the rule of law.

The rule of law is always found in the principles of natural justice. And as the objective of the Court is to channel and anchor Higher law for the purpose of “achieving a greater unity between its members and realizing the ideals and principles which are their common heritage and facilitating their social and economic progress”,<sup>6</sup> it is a great shame that judge de Gaetano so easily denied more than 40 million Europeans their day in court.

As he himself noted in a speech marking the 70th anniversary of the universal declaration of human rights: “We know that the law to which we are asked to submit, ostensibly in order to be free, may actually be a law which allows arbitrariness, or which makes improper distinctions; indeed, it may be a law which violates fundamental human rights as we understand them today.”<sup>7</sup> Thus, as he continued, “for the Rule of Law to be effective there must be a genuine predisposition, an attitude, of those in any position of power to give practical effect to functional aspects of the Rule of Law, in other words to go beyond merely paying lip service.”<sup>8</sup>

De Gaetano, then, are fully aware that “the principle of non-discrimination requires the prohibition of any unjustified unequal treatment under the law and/or by the law, and that all persons shall have guaranteed equal and effective protection against discrimination.”<sup>9</sup> He also knows that Article 6 in the Convention guarantees a right of “access to justice before independent and impartial courts, including judicial review of administrative acts”.<sup>10</sup> And yet, when faced with reality, de Gaetano did not accept his duty to let 40 million persecuted citizens have a fair hearing.

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and self-neglect, and so the drug laws belong to the same class of laws that summarize our worst follies—the race laws, etc. For more on this, see MIKALSEN, *HUMAN RISING* (2019) chapter 3.2.

<sup>5</sup> MIKALSEN, *TO RIGHT A WRONG: A TRANSPERSONAL FRAMEWORK FOR CONSTITUTIONAL CONSTRUCTION* (2016) part 3 (see Appendix 2)

<sup>6</sup> The Statute of the Council of Europe, Article 1(a).

<sup>7</sup> <https://manueldelia.com/2018/12/vincent-de-gaetano-on-rule-of-law-read-the-speech-here/>

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.



Based on no judicial reasoning, he ignored constitutional demands and the argument in defense of drug law violators. He simply took it for granted that the state had a right to continue its persecution and denied tens of millions an effective remedy.

Now, as the drug law can be proven to be a result of the scapegoating mechanism,<sup>11</sup> the rule of law suffered significantly on this occasion. The decision was not even subject to an appeal, and to those concerned about the connection between justice and morality it is of great worry that the European Court so easily dismissed the rights of drug law violators to be free from persecution.

As can be shown, these violators are now hunted for no good reason and only a moral panic sustains the prohibition paradigm. Even worse, due to the psychological difficulty of accepting reality, those responsible for the rule of law have shied away from constitutional responsibilities, making arbitrary persecution and imprisonment a great problem.

It is a terrible position, one that puts a heavy burden on the COE, for we can say with certainty that the integrity of the de Gaetano Court must have been compromised either for reasons of powerpolitics or unconsciousness. As demonstrated by the report you now receive (which is a new version of the initial argument prepared before the ECtHR), only these forces can make us accept the persecution of drug violators, and one or the other must have ensured that the judge failed his duties to the rule of law.

### **The Mission of the Registrar**

We therefore turn to you, the Registrar of the European Court of Human Rights. The integrity of law, as well as your institution, is at stake. And as your main objective is to “assist the Court in establishing and maintaining case-law which is coherent, consistent and of high quality and which ensures the application of common minimum standards of human rights protection throughout the community of Convention states”, it is our hope that you aspire to the cause of Justice.

As the Charter states, human rights law is there to protect any individual from arbitrary persecution. And while it may at first be difficult to understand that there are rights involved, principles of law that invalidate the premises of prohibition, no one can deny that the rights-argument deserves better.

We are talking matters of life and death, of persecution and imprisonment that concerns the rights of hundreds of millions.<sup>12</sup> In matters such as these, no court should be allowed to deny to its clients a voice against oppression, and the equality of arms principle puts a responsibility on the judge not only to let complex issues be heard, but to ensure that principled reasoning is applied.

*This is what is missing from the de Gaetano Court.* And the people of Europe deserve better than an easy dismissal. At the very least, the five questions that the rights-oriented discussion raises<sup>13</sup> deserve

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<sup>11</sup> This has been documented by psychologists, criminologists, judges, medical doctors, and professors of law, see MIKALSEN, *HUMAN RISING* (2019)

<sup>12</sup> As documented by *HUMAN RISING*, on a world-wide basis, every year drug prohibition continues another 400,000 die needlessly; another 5 million are wrongfully deprived of liberty; another \$400 billion in profits are given to organized crime syndicates; another staggering but unimaginable amount of pain and misery is inflicted on individual human beings; and another ridiculous amount—we are talking hundreds of billions—is spent on law-enforcement and bureaucratic maneuvering that has had little impact on drug use or supply, but whose only effective function is restricting a people’s free will.

<sup>13</sup> Considering that the rights-oriented debate puts the burden of proof on government, we have presented 5 questions that must be answered to the satisfaction of an independent, impartial and competent tribunal. However, despite contacting the agencies responsible for policy, the state has continued to ignore these questions and their implications. This is true both at the national and international level. Our website’s archive section has much more to say on this, but it is in Norway that the greatest atrocities of law persist. While the Minister of Health officially supports policies based on human rights, he and his department refuse to respond to constitutional duties and we are in a situation where the Norwegian system, for ten years,



solid treatment, and strong legal reasoning should be presented to show why the principles of law dictate this or that. This is *the least* we can expect from a Court left with responsibility to defend the lives of more than 830 million against unjust coercion. And as an organization dedicated to the rule of law and the integrity of justice, we hold you to your oath.

On your website, the COE claims to be the continent's leading human rights organization. And that "to raise your profile and maintain your reputation", you "have the capability to respond rapidly to political developments and crises at all times, focusing on key issues including freedom of expression, the rule of law and judicial reforms in member states, as well as combatting discrimination, hate speech, corruption, and terrorism."

The documentation attached makes it clear exactly how this necessitates an immediate response on your part.<sup>14</sup> It is also evident that extraordinary circumstances call for extraordinary solutions, and we ask that you right this wrong, so that justice can be done to the victims of drug laws.<sup>15</sup>

### **The Status Quo and Beyond**

The process of reparations has already begun in individual countries. And while it is shocking to awaken to the realization that society has been caught in moral panic,<sup>16</sup> those responsible for law and order have a duty to ensure the recalibration of law according to the demands of first principles. This is the only way to protect the integrity of the social fabric. This is the only way to save the rule of law, and this is the only way to maintain the credibility of the Council of Europe.

It is, after all, plain to see that the implications for de Gaetano's decision have been terrible, not only for the Norwegian people, but for Europe—and the COE—as well.

When it comes to the people of Norway, thousands have died needlessly and large population groups have been persecuted for seven more years by civil servants who neither recognize the rights-oriented debate nor the right to an effective remedy. When it comes to the people of Europe, drug law violators have been deprived of a much-needed opportunity to have their rights determined. And when it comes to the COE, the European Court's decision has cost a loss of standing. As you well know, institutions like yours are supposed to be our best defense against tyranny, and yet—as more and more constitutional courts invalidate the drug law—the COE appears progressively as apologists for state policies out of control.<sup>17</sup>

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have denied to the persecuted an effective remedy. Drug law violators have even come forward, offering to take responsibility for several ton's worth of cannabis if only the state delivers on constitutional obligations, but the state continues to ignore the rights-oriented argument, making a mockery of law. See our website, or *HUMAN RISING* (2019) chapter 13.2.3

<sup>14</sup> After de Gaetano's decision, the Court provides the intellectual alibi for a state of affairs which guarantees the continued persecution of 300 million, the continued incarceration of millions, and the continued misery of billions. It is a status quo that is being challenged by more and more drug users and human rights organizations, and you clearly have a responsibility to look at this from a more educated perspective.

<sup>15</sup> As the verdict of the de Gaetano Court was clearly flawed, we believe the proper way to do this is to for the Court to nullify the decision, in light of new evidence (pursuant to Rule 80). In the annals of jurisprudence, it is difficult to imagine a decision with worse implications for the rule of law, and we ask that the Court will not stand by its decision to deny the people of Europe a defense against drug prohibition.

<sup>16</sup> While catastrophic in its implications for the rule of law, this is hardly controversial among policy analysts. After all, a majority has pointed out that not only is there no meaningful separation between legal and illegal drugs, but they also agree that the cure has proven worse than the disease. Speaking in principled terms, which is what constitutional interpreters do, this means that our drug policies have an increasing explanatory problem as compared to principles of equality and proportionality—and that this is merely ignored for reasons of convenience. See our website, or *HUMAN RISING* (2019)

<sup>17</sup> As more and more states abandon the idea of a drug-free society, there is increasing evidence that regulating drug markets are a prerequisite for drug policies based on human rights. Some states are more inclined to accept this fact than others, and



While unfortunate for those with a perceived interest in the status quo, this dynamic is not all bad. The persecution can only last as long as unconsciousness reigns and the emergent trend of decriminalizing drug use and regulating markets is a sign that people are growing wiser.

Fifty years ago, we did not know enough to think in terms of human rights and drug law. However, we know now that that the impulse to criminalize drug law violators stems from an unacknowledged psychological predisposition to embrace totalitarian principles; that these tyrannical inclinations are justified by a wretched psychology and reversing the law of supply- and demand into one of victim and aggressor; that this reversal makes prohibitionists think that they are doing God's work—that they are protecting society and helping drug users; but that the folly becomes plain if we merely consider (1) that we already have regulated production and sale of the most dangerous drugs; (2) that the ideal of a drug-free society has brought more pain and misery than illegal drug consumption; (3) that there are less intrusive ways more fit to deal with the problem of drug abuse; and (4) that drug users would rather deal with pushers than the police.

These facts are all out in the open. Hence, it is becoming increasingly difficult to maintain the cognitive dissonance which allows for a system of prohibition to continue along with mounting human rights concerns. Inevitably, the humanization of drug users is bringing light to dark corners of the psyche, and as the regulation of markets proceed, the myth of the drug dealer as society's enemy will also perish.

This trend is inherent in the fabric of time and cannot be reversed. The premises that once validated a system of drug prohibition no longer have much power to convince, and as moral panic becomes more difficult to sustain people are waking up to the reality of unjust oppression. We can see this process unfolding, for not only have human rights organizations like Amnesty International begun to focus their efforts towards this issue, but as the problems associated with prohibition become more pronounced, people are beginning to think in principled terms and politicians are heeding the call.<sup>18</sup>

As seen in this light, the European Court should not so easily accept the persecution of drug law violators. The tension between human rights obligations and the status quo is well-established,<sup>19</sup> so is

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there is increasing polarity between those countries who want to move forward and those who resist, believing that the "War on Drugs" (and drug users) still can be won.

<sup>18</sup> In Spain, for example, in 2017 the Catalan Parliament voted 118 against 8 to approve the creation of a legal framework for regulating the cultivation, distribution, and consumption of cannabis for reasons of autonomy. In Britain, in 2015, the All-Party Parliamentary Group on Drug Reform, recognizing the failures of the drug law and the difficulty of effecting political change, encouraged cannabis users to counter the law by advocating a human rights-based defense before the courts, pursuant to ECHR Article 8. In Holland and elsewhere professors of law are documenting the fallacies of prohibitionist reasoning, concluding with human rights violations and that the state has a positive obligation to regulate the cannabis economy. More and more states follow suit, and within a few years this "drug" will become just another commodity.

<sup>19</sup> As noted by a COE working Group: "Drug control policy and human rights are very often linked. The obligations of States under the Council of Europe and United Nations Conventions are to protect fundamental rights and freedoms, in particular the right to life and human dignity, the right to protection of health, the right to equitable access to quality health care services for all, the prohibition of any type of discrimination, as well as the right of children to be protected from narcotic drugs and psychoactive substances. Still, *state enforcement of criminal drug laws has in some cases resulted, directly or indirectly, in serious and sometimes widespread and systematic human rights violations. When poorly developed and implemented, drug policies have led to police harassment and violence, arbitrary detention, disproportionate sentencing and incarceration, discrimination, violations of the right to health, and other ill-treatment.* These unintended consequences of control policy are likely to vary greatly, depending on the drug and the operational context. . . . Examples of human rights violations have fueled the call for liberalization and humanization of drug control policies." Council of Europe, *Costs and Unintended Consequences of Drug Control Policies: Report by the expert group on possible adverse effects and associated costs of drug control policies* (2017) (our italics)



the duty of public officials to provide an effective remedy, and the decision of the Court is increasingly at odds with the rest of the COE.<sup>20</sup>

Indeed, it is the emergent recognition that drug law violators have rights that spur other COE bodies into action, that make them question the status quo and encourage “member states to conduct a comprehensive human rights-based review in their country”.<sup>21</sup> Focusing on the importance of policies compatible with human rights obligations, these bodies are doing important work, but most states are ignoring human rights commitments.

Due to the inherent problem of recognizing the scapegoating mechanism as an engine of drug policy, there is a fear of what conscientious analysis may find, and the rights-oriented debate continues to suffer from a lack of principled reasoning. As the UN Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras noted on the situation:

*“For two decades, the UN General Assembly has consistently called for drug control to be carried out ‘in full conformity’ with the UN Charter and international law and standards, specifically, human rights. While such language is welcome, it becomes meaningless unless underpinned by clear and explicit human rights standards and principles. Right now, this pledge only represents a consensus-based commitment repeated in different fora that remains far from being realized.”<sup>22</sup>*

It is here the Court should come to the aid of society. Identifying deficits of democracy in COE member states is the responsibility of the Court, and you not only have documentation that modern drug laws are the moral equivalent of the Jim Crow laws. You also have evidence that the political process has failed to provide violators an effective remedy, and recognizing that they represent the largest, most vilified and most extensively persecuted group in the world, your obligation to the rule of law is plain.

If you merely look at the evidence, you will find that the case against drug prohibition is overwhelming. Historically, there are few examples of legislation which has been more at odds with human rights concerns, and as the progression of society depends upon the extent to which institutions like yours adapt to emerging knowledge, we pray that ECtHR finds the integrity to stand with first principles.

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<sup>20</sup> While the European Court continues to see this as a political issue, it is also a legal, moral, psychological, economic, social, and power-political problem. And those who look into these dimensions will find that they unite in the overwhelming conviction of reason that not only do current drug policies violate basic human rights, but that those in charge of policy have a responsibility to fix things. Hence, as human rights concerns become more pronounced, the Pompidou Group and the Parliamentary Assembly are doing what they can to resolve the tension between policy and conventional obligations. The latter is preparing a baseline report on the situation, while the former has accepted as one of three main thematic priorities to “promote protection of and respect for human rights and the dignity of all individuals in the context of drug programmes, strategies and policies.” The Pompidou Group recognizes that “It is not possible at present to give an authoritative and comprehensive view on the human rights dimension of drug policy in the absence of concrete guidance from the bodies entitled to interpret and construe international human rights law, including the European Court of Human Rights.” For this reason it encourages “member states to conduct a comprehensive human rights-based review in their country”, reminding that “Within their respective roles, duties and responsibilities, all stakeholders—government, non-governmental organizations, scientific, professional and academic communities, international or regional organizations or agencies, as well as organizations representing service users—should contribute to the drug policy governance process. They should raise their voices to signal and prompt rectification of policies that are ostensibly contrary to human rights exigencies.” Pompidou Group, *Statement on bringing human rights into drug policy development, implementation, monitoring and evaluation* (2017) p. 5

<sup>21</sup> Ibid.

<sup>22</sup> Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016, 7 December 2015





When it comes to this, *Human Rising* covers much disputed ground, and we urge that you take it into consideration. This work alone should be all the evidence you need, but to deflect naysayers we also include *To Right a Wrong: A Transpersonal Framework for Constitutional Construction* (2016).

This book completes the discipline of constitutional law, adding psychology to the already accepted framework of political theory. It presents a model that systemizes the forces that act upon us, both individually and en masse; it explains why some will embrace a system of principled law while others will prefer a system of arbitrary law; and it exposes the qualitative difference between the worldview of these two groups of people, the reasoning that goes with either position, and its implications for society.

This work has the power to recalibrate the legal systems of COE member states into better structures, more aligned with the demands of first principles. It is a map-forming study, and the Court should consider its repercussions in your quest to implement the principles of constitutionalism in the internal organization of the states. This is what you have been commissioned, and you now have the tools to do away with a legal tradition that long have undermined progress of the rule of law.

This being so, we hope that our documentation will prompt ECtHR into action and that you will not shy away from the task of helping government officials overcome the cognitive dissonance that comes with the territory. The information provided is more than sufficient to show that the drug laws are *Contra bonos mores*, and as there is no stronger link among men than an oath, we trust that that you will let the voice of the voiceless be heard and initiate the process of untangling the drug laws from our legal systems.

Yours sincerely,

A handwritten signature in black ink that reads 'Roar Mikalsen'. The signature is fluid and cursive, with the first name 'Roar' being more prominent.

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

## Appendix:

- (1) MIKALSEN, *HUMAN RISING: THE PROHIBITIONIST PSYCHOSIS AND ITS CONSTITUTIONAL IMPLICATIONS* (2019)
- (2) MIKALSEN, *TO RIGHT A WRONG: A TRANSPERSONAL FRAMEWORK FOR CONSTITUTIONAL CONSTRUCTION* (2016)
- (3) Decision of the ECtHR, case no 67078/10, 10 April 2012