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UN Working Group
on Arbitrary Detention

13 May 2019

Drug Policy and Human Rights: on the Problem of Arbitrary Detention and the importance of an Effective Remedy

Dear Sir/Madam.

We are an organization dedicated to the rule of law and the end of unjust persecution. Our focus is the relationship between human rights and the drug laws, and we wish to direct your attention toward this topic.

As you well know, there can be no doubt that drug users and other drug law violators represent the largest, most vilified and most extensively persecuted group in UN member States. Across the world, some 300 million are singled out for intimidation and the drug laws legitimize the continued oppression of this group.

Even so, as the destructive force of the prohibition paradigm is becoming more obvious, more and more are questioning the premises behind such legislation. At the Council of Europe, for example, officials are waking up to the reality of unjust persecution as the Legal Committee is preparing a baseline study on the problem of drug policy and human rights. Recognizing that there is a gap between human rights commitments and reality, the Pompidou Group is encouraging member states to follow up with their own human rights analysis,¹ and also the UN has begun the process of coming to terms with the problematic relationship between human rights and drug control conventions.

As a Working Group on Arbitrary Detention, you have an important part to play in helping the system react to obvious deficits. And as any proper human rights analysis must recognize the implications of first principles, our organization has completed a report demonstrating how principles of autonomy, equality, proportionality, dignity, and the liberty presumption invalidate the prohibition paradigm.

As it is the closest thing to a baseline review so far, we believe that it will be of interest to the Working Group. At the very least, the special rapporteur on the right to health (see appendix 3) has noted that there is a gap between talk and action at the UN and that anchoring human rights discourse in principled reasoning is of utmost importance. Hence, we hope that it will be of service also to you and that it will help inspire greater confidence among those fighting to end human rights violations.

¹ We add our complaint to the European Court of Human Rights (appendix 3) which speaks to this situation.



Indeed, 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 the UN adapt to emerging knowledge, we pray that world leaders sooner rather than later will find the integrity to stand with first principles.

When it comes to this, *Human Rising* covers much disputed ground, and we urge that you take it into consideration. Documenting how powerpolitics and unconsciousness have informed the evolution of drug policy, this work alone should be all the evidence needed to correct the situation. As the scapegoating phenomenon—our eagerness to blame vulnerable groups for problems that are a collective responsibility—ensures the continuation of the status quo, it should be obvious why we need to seize and desist persecution of drug law violators, 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, then, has the power to recalibrate the legal systems of UN member states into better structures, more aligned with the demands of first principles. It is a map-forming study, and the UN should consider its repercussions in its quest to complete the 2030 Agenda for Sustainable Development.

This is what has 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 the Working Group 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 that arbitrary detention remains a big problem, and as there is no stronger bond among men than an oath, we trust that that you will let the voice of the voiceless be heard and assist the UN in 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

Appendices:

- (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) Complaint to the European Court of Human Rights (2019)