

**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Twenty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fifth periodic reports of States Parties due in 1979

Addendum

NORWAY^{1/}

[19 December 1979]

Introduction

Reference is made to Norway's previous reports, especially the fourth periodic report (CERD/C/22, 29 November 1977), and document CERD/C/SR.372 with summary record of the Committee's meeting.

In accordance with the request made during the Committee proceedings dealing with Norway's third periodic report (CERD/C/R.78/Add.7 and Add.9), both the fourth and fifth periodic reports have been prepared in conformity with the guidelines of the Committee. On a number of points, however, there is nothing new to report, and the Norwegian Government has not found it necessary to repeat its policy on all these items as they are known to the Committee and have been examined by it. The present report is mainly concentrated on questions relating to Articles 2.1 (c, d and e), 2.2, 3, 4 (a) and 7 of the Convention on the Elimination of All Forms of Racial Discrimination and questions raised by members of the Committee when considering Norway's fourth periodic report (CERD/C/SR.372).

1/ The fifth periodic report of Norway was due on 6 September 1979. For previous reports submitted by the Government of Norway and the summary records of meetings of the Committee at which such reports were considered, see:

- (1) Initial report - CERD/C/R.25/Add.4 (CERD/C/SR.96-97);
- (2) Second periodic report - CERD/C/R.53/Add.5 (CERD/C/SR.185);
- (3) Third periodic report - CERD/C/R.78/Add.7 and Add.9 (CERD/C/SR.300 and 328-329);
- (4) Fourth periodic report - CERD/C/22 (CERD/C/SR.372).

As was the case with Norway's fourth periodic report, this report will take up matters relating both to Norwegian nationals and immigrant workers.

As per 1 April 1979, 78,200 foreign nationals were registered in Norway. Of these approximately 34 per cent were from other Nordic countries, 32 per cent from the rest of Europe, 13 per cent from Asian countries, 14 per cent from the United States 2 per cent from South American countries and 3 per cent from African countries. Immigration is still largely dominated by family reunification since the immigration ban in respect of workers, with certain exceptions, was introduced on 1 February 1975. The right to family reunification is one of the basic principles embodied in Norway's immigration policy.

1(a) Condemnation of apartheid

The Norwegian Government has consistently supported the struggle of the oppressed black population against the white minority regimes' policies of racial discrimination and economic exploitation in southern Africa.

We have maintained official contacts with the liberation movements and have provided humanitarian aid since 1969. The aid to the liberation movements in Namibia, Zimbabwe and South Africa totals Nkr 30 million in 1979, and is primarily used to assist refugees from southern Africa.

Substantial contributions have also been made to the various United Nations funds for southern Africa, totalling approximately \$US 1.3 million for 1979.

Special attention has over the years been given to the question of political prisoners. To this end the International Defence and Aid Fund was granted approximately \$US 0.5 million for 1979.

The core of the problem in southern Africa is South Africa's apartheid policy. Norway has called for the adoption of an international policy of systematic disengagement in economic and other relations with South Africa. In accordance with this policy Norway has adopted together with the other Nordic countries a joint programme of action against South Africa which calls for:

- prohibition or discouragement of new investments in South Africa,
- negotiations with Nordic enterprises with a view to restricting their production in South Africa,
- recommendation that contacts with the apartheid regime in South Africa in the field of sport and culture be discontinued,
- increased Nordic support to refugees, liberation movements, victims of apartheid, etc.,
- visa requirements for South African citizens.

In the United Nations the Nordic countries will primarily:

- work for the adoption of resolutions in the Security Council against new investments in South Africa,
- work for proposals in the Security Council which could result in binding resolutions against trade with South Africa,
- work to ensure the strict observance of the Security Council's resolution on the arms embargo against South Africa.

In pursuit of this programme of action the Nordic countries in the United Nations have called for effective steps to achieve the cessation of foreign investments, including financial loans to South Africa.

Norway has strictly observed the mandatory arms embargo against South Africa in accordance with Security Council resolution 418 (1977).

On a unilateral basis Norway has:

- withdrawn state-supported guarantees for Norwegian exports to South Africa,
- stopped issuing currency licences for Norwegian investments in South Africa,
- stopped the promotion of Norwegian exports to South Africa,
- stated that it is the policy of the Norwegian Government not to sell oil to South Africa.

1(b) Prohibition against racial discrimination

There is nothing new to report under this item.

1(c) Protection under the law

On 1 July 1979 a new Act relating to Reindeer Husbandry entered into force. The new statute accords the Sami people who are engaged in reindeer husbandry wider autonomous rights than hitherto. For example, new steering bodies such as the Co-ordinating Committee for Reindeer Husbandry, the District Committee for Reindeer Husbandry, the Local Committee of Representatives for Reindeer Husbandry etc. are to be set up. These committees will be responsible for a number of tasks, including functions formerly in the hands of the superintendents of reindeer husbandry and the Ministry of Agriculture.

2(a-c) Implementation of articles 2.1 (a), 2.1 (b) and 4 (c)

As stated in Norway's fourth periodic report, the prohibition in the Convention against public institutions practising racial discrimination or supporting such discrimination is covered by Norwegian law and requires no new legislation.

As regards foreign nationals, the guidelines adopted in 1974, the main principles of which were outlined in Norway's fourth periodic report, are still in force. The Government intends, however, to present a new White Paper to the Storting (Parliament) in the first half of 1980 elaborating further on these principles. No major change in the Government's immigration policy is expected.

3(a) Supervision of policies pursued

In 1976 the Government established an advisory agency on immigration questions, the main functions of which were outlined in Norway's fourth periodic report. As requested by members of the Committee during the consideration of that report, the following additional information regarding the agency can be given:

The Council for Immigration Questions was appointed by the Royal Decree of 9 April 1976 and lies administratively under the Ministry of Local Government and Labour. Its mandate is to act as an advisory agency for the government departments concerned in regard to the guidelines for the drawing up and implementation of all aspects of Norwegian immigration policy. The Council is intended to carry out its mandate partly by expressing its opinion on matters submitted to it by the various government departments and partly by itself taking up questions where the principles involved are of interest.

The Council for Immigration Questions consists of 16 members appointed on the proposal of the relevant government and municipal authorities, the main organizations of labour and management, the immigrant organizations through the Foreign Workers Association, the Norwegian Refugee Council and the Joint Committee for Study Activity.

Among the most important questions the Council has worked on are a recommendation on immigration policy, particularly on the future regulatory measures in connexion with immigration. The Council has also issued a statement to the Ministry of Local Government and Labour on family reunification and the immigration of young people seeking education.

In December 1977 the Ministry of Local Government and Labour assigned to the Council the task of following the development of relations between immigrants and Norwegians in the community as a whole. This is a long-term task largely based on "grass-roots" contacts in the most important milieus where immigrants and Norwegians exist side by side. The Council has given priority to the residential background (urban district, urban locality, housing co-operative), the place of work, the school and two or three typical immigrant municipalities. The knowledge thus acquired shall form the basis for the Council's future evaluation of possible projects, for example as regards work on preventive measures.

The Council's term of office runs until April 1980. Before that date the authorities will evaluate the Council's activities with a view to utilizing the experience gained to make any necessary changes in the Council's composition, terms of reference etc. The intention is to strengthen the representation of immigrants in the Council (where there are now two immigrant representatives).

It is clear from the above that the Council is not intended to deal with individual cases and that it is not an administrative complaints instance. Such functions are the responsibility of the ordinary administrative apparatus. To assist the administration in such questions there is a separate body, the Government Council for Aliens which acts in an advisory capacity to the Government Aliens Office in individual cases. (In recent years the Government Council for Aliens has not been in operation). More general problems and complaints in connexion with the enforcement of the immigration provisions and the implementation of the policies in respect of immigration and minorities are most often channelled through the Secretariat for Immigrant Affairs (described in the fourth report), which takes up current questions with the authorities concerned. The Secretariat also assesses whether the principles involved are of such importance that the matter ought to be discussed with the Council for Immigration Questions.

3(b) Prohibition against racial discrimination

In Norway's last report the Editorial Ethics Code of the Norwegian Press Council was briefly outlined. As requested by several members of the Committee, the functions and composition are below outlined in more detail.

The Norwegian Press Council was established in 1928. Since then the composition and the proceedings of the Council have undergone various changes and the matters dealt with are of a different type. In the early years of the Council the questions usually referred to newspapers that accused each other of breaking the ethical rules of the press. Today the majority of the matters refer to complaints by the public against newspapers.

The Press Council was reorganized in June 1972 after thorough preparations and protracted discussion in the press organizations. The number of members was increased from 3 to 7, of whom five represent the press and two the public. All members are appointed by the Executive Committee of the Norwegian Press Association. Furthermore, it was decided that all statements by the Council would have to be announced through the Norwegian News Agency (NTB) as well as being published in the newspaper/magazine concerned. Statements may thus be printed in all newspapers wishing to publish them.

The by-laws of the Council are attached to this report as Annex 1. It should particularly be noted that the Council has no authority to take up matters relating to radio and television programmes.

The Council has lately dealt with approximately 60 cases each year. As a result of the 1972 reorganization, annual reports on the work have been issued.

The Code of Ethics of the Council is attached as Annex 2.

3(c) Racial segregation and apartheid

There is nothing new to report under this item.

3(d) Punishability in respect of racial discrimination

The following case should, in addition to the court decisions submitted earlier, illustrate the practice of the Norwegian courts in this field:

On 25 September 1978 the Supreme Court acquitted, by a 4-1 decision, a Norwegian newspaper and a contributor to the paper for violation of section 135 a of the Penal Code in connexion with derogatory remarks regarding migrant workers in a letter to the editor of the newspaper. The court decision is attached as Annex 3.

3(e) Prohibition of racist organizations

This question has been thoroughly dealt with in Norway's third and fourth periodic reports.

4(a) Support to organizations

The Sami people's organizations

The substantial contributions to Sami organizations continue. In addition to the information already given, it may be mentioned that the Sami Home Crafts Organization A/L Sii'da will have received financial support amounting to Nkr 980,000 in 1979. Furthermore, the Government has advocated that the organization be expanded to become a national organization for Sami arts and crafts.

In recent years Norway has been one of the major contributors to the World Council of Indigenous Peoples to which the Norwegian Sami people belong through the Norwegian Section of the Nordic Sami Council. The Government aims to continue to give considerable support to the WCIP and other organizations for the promotion of the cause of indigenous peoples.

The Nordic foreign ministers decided at their meeting in Reykjavik, 30-31 August 1979, to consider the question of closer Nordic co-operation in order to further the interests of the indigenous peoples. This work is already under way.

Immigrant organizations

There is nothing new to report under this item.

4(b) Measures to promote adequate development and to ensure the protection of human rights

The Sami people

In addition to the information submitted in earlier Norwegian reports, the following developments should be noted:

In connexion with the resolution regarding a plan of action for the central Sami settlement areas, a development fund was established on 1 January 1976. The purpose of the fund was to provide loans and grants to foster the economic sector and Sami culture in these areas. At the outset the intention was to put Nkr 10 million to the fund over a 5-year period. It was later decided to increase the fund to Nkr 12 million and the period of operation to 8 years.

The introduction of a new statute strengthening the position of the reindeer-breeding Sami people is described under item 1(c) above.

Immigrants

Vietnamese has become an important immigrant language as a result of the number of Vietnamese refugees we have undertaken to receive in Norway.

Endeavours are being made to establish an official interpreter service throughout the country. This is partly due to the greater dispersal of the new minority groups.

Parallel with this greater dispersal of the immigrant population, work is in progress on more decentralized permanent library facilities.

Radio transmissions in Urdu have been increased. Consideration is being given to the possibility of programmes in other immigrant languages, initially Turkish.

Local voting rights and eligibility for Nordic nationals were introduced at and became applicable from the local elections in 1979. The requirement of 3 years continuous residence prior to the election (on the date of the election) must be satisfied. Corresponding voting rights for other immigrants are considered in the new White Paper on immigration policy.

4(c) Educational measures, etc.

The Sami People

In addition to what was stated in Norway's fourth periodic report the following information can be given regarding the work of the Sami People Education Council:

According to its mandate the Sami People Education Council shall work towards providing increased information and education about Sami people, Sami economic life and culture.

The Council, which is of comparatively recent date, has chosen initially to give priority to developing Sami education material since there is a lack of teaching aids in Sami. The work concerns books in Sami as the mother tongue, as well as books in Sami about Sami people for general knowledge subjects in the primary schools. These books will be translated into Norwegian and will then be able to be used in ordinary Norwegian schools and for providing information about the Sami people to the rest of the Norwegian population.

Gypsies

Pursuant to the deliberations in the Committee when examining Norway's fourth periodic report, the following additional information on this question is submitted.

Since there have been school facilities for Norwegian gypsies, the Norwegian authorities have given their attention to the possibilities of providing education for gypsies in their mother tongue.

Romany is a language without any written tradition, so it has been difficult to begin with a written form of the language. Moreover, the Norwegian gypsies have opposed this because they see no point in the language being made available to all and sundry. However, the schools have begun to form ties with teachers from among the gypsies in oral teaching of the mother tongue.

In 1978 a 3-day foreign languages seminar, attended by Swedish experts in this field, was arranged by the head of the Oslo schools administration. In recent years Sweden has sought to work out a Romany ABC in close co-operation with the gypsies themselves. A Swedish gypsy and mother-tongue teachers also participated in the seminar. Several Norwegian gypsies were present and it was agreed to develop informal Norwegian-Swedish co-operation in this field.

As regards the possibility of establishing Finno-Norwegian co-operation on education for gypsies in their own language, the versions of Romany which are used in Finland diverge greatly from the Lovari-Romany spoken by the Norwegian gypsies in the Oslo area. Accordingly it is hardly practical to consider producing any common ABC book for Finnish and Norwegian gypsies. There is interest, however, for the exchange of experiences and educational material between the Nordic countries.

Immigrants

In 1978, in consultation with the authorities, an agreement was entered into between the Norwegian Federation of Trade Unions and the Norwegian Employers' Confederation to ensure foreign (non-Nordic) employees the right to two free hours off-work every week, without any deduction in pay, for participation in Norwegian language courses.

In addition work continues on the projects and facilities mentioned in the previous report under this item.

Special educational measures

At the Police Training College teaching concerning respect for human rights forms part of the vocational training programme. The teaching is integrated into the initial programme, and questions relating to racial discrimination are discussed in several subjects. An important aim is to develop and reinforce correct attitudes in the trainees.

The relations between the police and the migrant workers are dealt with in "General Police Conduct". As part of the "law studies" importance is attached to the provisions prohibiting racial discrimination (Penal Code§ § 135 a and 349 a, mentioned in previous reports from Norway). Problems caused by migration are discussed in "Sociology".

Teaching concerning human rights is also included in the vocational, initial programme at the Prison School. The prohibition of racial discrimination is emphasized, in particular in connexion with the Standard Minimum Rules for the Treatment of Prisoners Part I Rule 6.

Information work

A new Sami-language newspaper, "Sami Aigi", has recently been founded. In 1979 the newspaper received a basic grant of Nkr 500,000 and a production grant of Nkr 75,000 from public funds.

Implementation of Article 7 of the Convention

The following additional information may be given regarding implementation of Article 7 of the Convention, as when the Committee examined Norway's fourth periodic report:

Purpose-oriented and systematic work on the part of the authorities within, inter alia, the field of education and information with a view to combating racial discrimination and to promoting understanding etc. has only got under way in the last few years.

It is stated above that certain functions in this field have been delegated to the Council for Immigration Questions.

A certain amount of written material has been issued on the "remoter" immigrants cultural and religious background, on some of the preconditions essential to their settling down here, on their function in the life of the community and in the economic sector etc. This material is primarily intended for use in schools and in the work of the voluntary organizations.

A dialogue has been initiated between the authorities and the press with a view to an exchange of opinions, course activities etc. in connexion with immigration questions. This dialogue also involves the Norwegian Broadcasting Corporation (NRK).

A committee has been set up to assess what can be done to provide information for pupils in the elementary school, as well as their parents.

Financial support is given to projects initiated by immigrant organizations and Norwegian organizations for establishing contact between Norwegians and immigrants and for improving relations between the various groups. Here emphasis is placed on the immigrant groups being able to present their own culture.

Annex I

NORWEGIAN PRESS ASSOCIATION

PRESS COUNCIL

§ 1

The Press Council is established by the Norwegian Press Association, (the organization of the press for journalists, publishers and editors) and its purpose is to protect and to promote the ethical and professional standards of the Norwegian press.

As a part of this work the Press Council decides on complaints of the methods of the Norwegian Press, and makes public statements in such matters. The Council may also judge complaints of institutions, organizations and persons on their behaviour towards the press and the people of the press, while they are exercising their duty of information.

In principle the area of competence for the Press Council includes all kinds of publications - the daily press as well as the weekly and the periodical press - where the basic organizations of the Norwegian Press Association have their members.

§ 2 DIRECTIVES

In addition to our general legislation the directives for the Press Council are based on:

"The Code of Honour for the Press" - passed by the Norwegian Press Association in 1936 and later revised, the last time in May, 1966.

"The Editor's Code" - prepared in 1953 by the Norwegian National Federation of Newspapers and the Norwegian Editors' Society.

"Directives for Reportage of Legal Proceedings" - prepared in 1952 and revised and approved by the Norwegian Press Association in 1965 in agreement with the General Attorney, The Norwegian Society of Judges and the Norwegian Society of Solicitors.

§ 3 COMPOSITION

The Press Council consists of seven representatives, two of these not related to the press, each with a personal substitute.

The Chairman of the Council as well as the other members are appointed by the Executive Committee of the Norwegian Press Association. The appointments are valid for two years at a time from 1 July in the year when the appointment took place. Within the Council a Working Committee, consisting of three members, may be established. Two of the members come from the press organizations. A member is disqualified when special circumstances are at hand, which might weaken the trust in his impartiality.

§ 4 FORWARDING OF COMPLAINTS

The Press Council may attend to complaints from individuals, organizations, institutions or authorities. Also the Council may raise a question itself. On the other hand the Council do not ordinarily discuss matters which are brought before the court.

Complaints are addressed to The Norwegian Press Association, Press Council, Rosenkrantz gate 3, Oslo 1.

§ 5 DEALING WITH COMPLAINTS

The daily work of the Press Council is carried out by the secretariat of the Norwegian Press Association. The secretariat prepares all cases for the Council, makes the necessary investigations and sees to it that the Council keeps the time limits and handles the complaints as soon as possible.

A complaint which is reviewed by the secretariat is firstly submitted to the party complained of. If the matter is attended to in a friendly way, the parties concerned give notice to the Council within a limit of usually two weeks.

If the parties do not settle the matter amicably, the party complained of has a limit of two weeks to formulate an answer for the Council. This answer is submitted to the co complainant, who must put forward any comments within two weeks. Finally the party complained of has a limit of two weeks to work out his final answer.

When the complainant is not identical with the party or parties concerned the complaint is presented to the party in question as early as in the first phase of dealings.

When the documents of the case have been presented to the parties concerned, the Press Council must discuss the matter thoroughly and form a statement of the account and give a conclusion as concise as possible.

The same proceeding applies to questions which are raised by the Press Council itself.

§ 6 ANNOUNCEMENT OF THE STATEMENT

Statements given by the Press Council are public. The statement in the actual case is first sent to the parties involved. Only after the parties have been informed, the statement is free to be published. When a statement from the Council applies to publications not coming out every day, the announcement must take place according to the dates of publication. Good ethics of the press is to announce such statements in the publications involved.

In special cases, for instance when publishing may violate somebody's privacy, the Council may decide not to publish the statement or to publish the statement with the names of the parties withheld.

§ 7 ANNUAL SURVEYS

Every year the Press Council publishes a survey of the matters dealt with and the more important questions relating to the press, which the Council has decided on.

§ 8 FINANCING

The expenses of the Press Council are covered by the Norwegian Press Association according to special agreement between the press organizations.

§ 9 ALTERATIONS TO THE RULES

The initiative of changing the rules for the Press Council may come from the Norwegian Press Association, the Association of Norwegian Journalists, The Norwegian Editors' Society, The Norwegian National Federation of Newspapers or from the Council itself. Final resolution about changing the rules are passed by the Executive Committee of the Norwegian Press Association in accordance with the rules of the Association.

§ 10

These rules come into effect on 15 March 1972.

Annex II

THE NORWEGIAN PRESS ASSOCIATION

CODE OF ETHICS

1. The free press has important tasks in our society by securing the free flow of news and information, public debate and criticism.

It is the right of the press to inform about current events in society and expose to criticism such conditions as deserve it. The press can accept no pressure from anybody attempting to obstruct or prevent the free flow of information, free admittance to the sources, and open debate. The press also has a responsibility to secure that different opinions are allowed to express themselves in a reasonable degree.

It is a task for the press to protect the individual against injustice or neglect on the part of the public authorities and institutions, organizations, private enterprises, and others.

Every newspaper and every individual journalist must be in a position to work independently and safeguard their integrity. No journalist can be ordered to write or do something contrary to his/her own conviction.

2. The freedom of the press is placing particular responsibility on the journalist and on the newspaper:

- Be critical in the choice of sources and check as far as possible the validity of the information supplied.
- Make a clear distinction between facts and comments when presenting the material to the reader.
- Never abuse the confidence shown to you. Make sure that the information and statements given to you can be published.
- Particular care and consideration should be shown towards persons who cannot be expected to estimate correctly the effect of their statements. Never abuse the sentiments, ignorance or insufficient power of judgement in others.
- Show respect for the private life, race, nationality, belief or philosophy of individuals. Never emphasize individual differences unconcerned with the matter in question.
- Make sure that the headlines do not go beyond the facts in the article.
- Make a clear distinction between advertising and editorial texts, and never hold out prospects of editorial support in return for advertisements.
- Be observant of attempts to obtain advantages in relation to your newspaper, and never utilize your position as a journalist to obtain private favourable circumstance.

3. Protect the sources of the newspaper! Never give the name of your source of information or author using pseudonym, unless specifically accepted by him/her. Only when sources of information or name of author is demanded by a court of law should the newspaper and the journalist in question consider whether or not the name of the source or author be made known.
4. Admit and regret incorrect information which has been published. Allow space as soon as possible for replies and denials, provided they are of reasonable length, sticking to the matter and in decent form. Contributions should not be followed by simultaneous editorial, polemic comment.
5. The same standards of discretion required for written articles also apply to the use of pictures. Arrangements changing the character of a picture, or giving a false impression, should be avoided. Show consideration when using pictures in other contexts than the original situation.
6. Unbiased writing is an essential requirement in court reporting, civil as well as criminal cases. The question of guilt in a person suspected, reported, charged or prosecuted is decided only when the final judgement has been given. Particular care should always be paid to making quite clear that information given in reports, charging documents, prosecution, summons etc. cannot be accepted as facts until having been examined by the court.

Avoid publishing names and pictures in court reporting unless justified by strong public interests. Previous trespasses and served sentences should not be highlighted.

Never forget that the victim of a crime may suffer defenceless exposition of his/her private life to the public. Avoid such injustices against the victim, the family of those implicated, neighbours etc.

7. Suicide and attempted suicide should, as a main rule, not be published.

Remember: The written word gives both power and responsibility.

Never abuse it!

Adopted by
THE NORWEGIAN PRESS ASSOCIATION
(Originally in 1936, later
revised in 1956 and 1966. Most
recent revision on 12 November 1975)

The above is certified to be a
correct and complete translation
of the original document in Norwegian,
including the most recent revision.

Oslo, 29 April 1978

Allan Aarflot (sign)
State Authorized Translator

Annex IIITHE SUPREME COURT OF NORWAY

Judgement No. 137 B/1978: State Advocate Ragnar Roaldset, prosecutor, v. A (counsel for the defence, Supreme Court Advocate Johan Hjort) and B (counsel for the defence, Supreme Court Advocate Hans Stenberg-Bilsen).

Mr. Justice Sinding-Larsen: On 22 May 1978 judgement was pronounced by the Bergen City Court with the following conclusion:

"A, born 25.9.1931, is convicted of violating § 135 a, first paragraph of the General Civil Penal Code and is hereby sentenced to pay to the Treasury a fine of Nkr 1000 - one thousand Norwegian kroner - or, alternatively, to a term of imprisonment of 10 - ten - days, if the fine is not paid.

B, born 28.11.1944, is convicted of violating § 135 a, first paragraph, c.f. second paragraph, of the General Civil Penal Code and is hereby sentenced to pay to the Treasury a fine of Nkr 2000 - two thousand Norwegian kroner - or, alternatively, to a term of imprisonment of 10 - ten - days, if the fine is not paid.

The basis for the sentence was that A had written and sent in to the newspaper Morgenavisen in Bergen and B, as editor, had included in the newspaper a reader's letter with the heading "Refugees, extremists and parties" which to a large extent also dealt with foreign workers and contained derogatory statements about them.

In regard to the factual circumstances of the case and the personal circumstances of the accused, I would refer to the judgement rendered by the City Court.

The convicted persons have both appealed against the sentence on the grounds of misapplication of the law. Editor B has also appealed against the conduct of the proceedings, alleging that the grounds on which the sentence is based are deficient in respect of the conditions regarding subjective punishability. Both assert that it must be possible for the Supreme Court to test whether A's letter fulfils the conditions regarding objective punishability under § 135 a and, if not, to acquit the accused.

The convicted persons do not intend to assert that § 135 a in the General Civil Penal Code conflicts with § 100 in the Constitution, but they think that the provision must be interpreted and applied with due regard for this provision in the Constitution. Due regard must be paid, it is claimed, to the background to § 135 namely the United Nations Convention on the Elimination of all Forms of Racial Discrimination which is directed towards much more serious offences than those involved in the present case. Freedom of expression moreover is a human right protected by international treaty. It is clear otherwise from the preparatory work on § 135 a that it was not intended that the provision should restrict the right to freedom of expression. The convicted persons have both emphasized that the right to freedom of expression would be illusory for a large proportion of the population if the requirements in regard to form and objectivity were such that only those with an academic training could fulfil them. Political debate would also be the poorer if there were no room for a certain degree of extravagance of language and incisive comment.

It is further maintained that § 135 a is not applicable to the content of the reader's letter, since the foreign workers are not being attacked on account of their race or national or ethnic origins, but solely on account of their behaviour, and that it must be possible to criticize behaviour notwithstanding § 135 a. Neither race nor racial characteristics etc. are mentioned at all in the reader's letter. If the

letter does not contain any element of racial discrimination, the form it takes is virtually irrelevant since § 135 a is only applicable to statements involving racial discrimination.

Counsel for the defence for Editor B also maintains that the editor came to the conclusion that the view expressed in the reader's letter would condemn itself by virtue of its very unreasonableness and that this, his subjective premise for allowing publication, has not been taken into account by the court. Nor has the editor aided and abetted in such a manner as described under § 135 a.

Both the convicted persons allege that at all events this is a case of an excusable mistake of law having taken place. In this connexion attention is drawn, inter alia, to the fact that the case is related to a comparatively recent rule of law hitherto seldom applied in practice.

The Prosecutor has in all main respects based himself on the judgement rendered by the City Court.

I have come to the conclusion that the appeals should be upheld.

The judgement of conviction concerns five paragraphs in a ten-paragraph reader's letter which was included in Morgenavisen's readers' letter column, "Møtested". In my opinion the paragraphs to which the indictment and the judgement of conviction relate must be considered in the overall context of what is said otherwise in the reader's letter and I feel that it best answers the purpose to reproduce this in its entirety:

"Refugees can be of all types - as long experience has shown. Whenever a revolt, insurrection or revolution is quashed in any country, the streams of refugees begin to flood over the frontiers. Many criminals take the opportunity to join the throng, thus acquiring refugee status. The refugees are allocated to various countries and Norway too gets her share. For some peculiar reason, the authorities always have modern flats available. These are furnished, the refugees are equipped with clothes and found employment. Some have to attend re-training courses and receive substantial social benefit allowances in this period. Is it so strange that Norwegians who have lived for years in condemned dwellings and old people who have to live on the minimum basic social insurance, can do nothing but observe the whole affair with absolute incredulity?

Of the Scandinavian countries, Sweden is probably the one which has suffered most for its folly. The cities of Stockholm and Malmö have more or less become colonies for refugees and migrant workers, where the crime rate has risen to alarming heights. Up to now Norway has come off comparatively lightly in this respect, but even so we have not escaped robbery, assault, stabbings, gang warfare and murder! Legal actions alone have cost the State millions of kroner.

Foreign workers are another story. I am not thinking here of workers on special assignments or of immigrants from Northern Europe. By foreign workers I mean Pakistanis, Turks and Arabs. People who neither climatically nor geographically belong in Norway. Their aim is to earn as much as possible, live as cheaply as possible and send most of the money out of Norway and to their home country. They can do this without hindrance at a time when Norway is experiencing the worst unemployment since the last world war.

The least popular are almost certainly the Pakistanis. They invaded Norway in thousands, started their own trade union on arrival, criticized the allotted living quarters and demanded better jobs. In Oslo they also demanded that the authorities should build a mosque where they could hold their religious ceremonies. God only knows what would have happened if several thousand Norwegians had taken up domicile in Pakistan and put forward the same claims. A number of hotels and restaurants avoid them like the plague. Stewards often refuse to have them on board working in the galley. The Pakistanis have evolved a new technique. They have learnt the Norwegian rules on sickness benefit and have no hesitation in cutting their fingers to qualify for a few weeks sick leave. I have heard this from several different reliable sources.

When the temporary halt to immigration was introduced in January, Prime Minister Bratteli was very concerned. He recalled that Norwegians themselves had emigrated to America 150 years earlier - and that Norway therefore ought to welcome people from other nations in the same friendly spirit.

How can this form a relevant basis for comparison? America wanted these emigrants and they were directed to outlying districts where they built up local communities. They did not come to America illiterate and begin to stab and rape people! Nor did they come to find everything organized for them in advance. The Norwegian emigrants had only themselves to rely on, and could not expect any help at all from the American State.

It is beyond doubt that Arab extremists have come to Norway under cover of being migrant workers or students - while in reality belonging to Palestinian and Arab terrorist organizations. The lines of communication with Norwegian red extremists have often been of the liveliest nature. Is it in Norway's interest to have such people? Let's put an end to all their tales of woe and send them back to their respective countries.

And while we are on the subject of extremists: why not rename the so-called Right and Left extremists? Even if the names are relevant in the rest of the world, they have no place in Norway. An incredible number of people believe that these extremists belong to the Conservative or Liberal parties, while in reality they are trash belonging to the Sosialistisk Valgforbund SV - (Socialist Electoral League).

The Bratteli Government is afraid to clean up the extremist groups. Perhaps the Government is afraid to step on SV's toes? Unfortunately SV often holds the balance of votes in certain cases, while it in reality enjoys no more public support than does the Communist Party in Portugal.

If Bratteli continues his policy of appeasement, we may live to see the day when Arabs and Pakistanis become members of the Storting. This, future voters will have to decide for themselves."

The two first and the three last paragraphs are not comprised by the indictment and the judgement of conviction.

The reader's letter is an attack on the immigration policy of the authorities as far as refugees, migrant workers and extremists are concerned. It appears as a somewhat disjointed mixture of exaggerated, partly meaningless, statements and accusations directed against refugees, migrant workers, in particular Pakistanis, and what A calls extremists - Arab extremists, Red extremists, right and left extremists, our own domestic Socialist Electorate League (SV) and the Portuguese Communist Party.

The real meaning of the letter is not to be misunderstood when it comes to Pakistani, Turkish and Arab migrant workers. These should be sent back to their respective home countries. Regardless of how one may view such an opinion, it seems to me beyond any doubt that this in itself cannot result in the letter being considered as a violation of § 135 a of the Penal Code.

Nor would an objective factual criticism of the behaviour of members of these groups in our country in my opinion violate the penal provision, even if this criticism is based on alleged circumstances of a very negative nature. However, A's letter does not give an objective and factual presentation of his complaints against the above-mentioned migrant workers. It contains groundless assertions, lacking in definite substance.

The City Court has in particular attached importance to the statement of the sixth paragraph of the reader's letter concerning rape and stabbing. However, I do not find it clear how this statement should be properly understood. Directly the statement must be seen as an argument against any comparison between Norwegian immigrants to America and migrant workers in Norway today to which A objects. It is not clear against whom the actual accusation is directed. In the second paragraph of the letter A has already commented on the criminality among migrant workers and there, in a more balanced manner, as something Norway has not "avoided". Immediately after the extremely vehement attack in the sixth paragraph, he starts to discuss extremists of many kinds, including extremists coming from abroad. In my opinion it is therefore not clear whether the indirect accusation we are here concerned with is directed against specific groups of migrant workers and concerns attributes which are asserted to be characteristic for the group.

Altogether I find that A's statement concerning rape and stabbing appears as a drastic and emotional objection to the comparison with Norwegian immigrants, but without any particularly meaningful content per se. Understood in this manner the statement cannot be considered to have any decisive significance in the necessary overall consideration of the letter.

The overall impression is that the letter, through its assertions, exaggerations and unreasonable generalizations may have an emotional appeal, in particular to readers who already hold a similar view. The letter may thus be conducive to influencing in a negative manner some readers' views on migrant worker groups mentioned in the letter.

According to § 135 a of the Penal Code anyone who by means of a public utterance disseminated among the general public threatens, insults or exposes any person or group of persons to hatred, persecution or contempt on account i.e. of their race, national or ethnic origin shall be punished.

I find that the alternatives "threatens or insults" cannot be applied to the present case. It will therefore be a question whether the letter "exposes to hatred, persecution or contempt". The provision can in my opinion not be understood to mean that it shall protect against any statement which can influence in a negative direction views on the groups mentioned in the provision. The expressions "hatred" and "persecution" clearly show that the statement must expose such groups to effects of a certain marked degree, but "contempt" is also a strong expression and cannot include just any expression of a derogatory nature.

At this juncture I should also like to point out that the background to § 135 a is a United Nations Convention whereby Norway undertakes to:

"declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incite to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof."

This United Nations Convention is clearly based on conditions which cannot easily be compared with the present case. I am aware that such minority groups as are here attacked have a need for protection also in Norway against statements of a discriminatory nature. But I assume that in drawing up the borderline between the opposing interests this protection must in the first place be sought outside the scope of the Penal Code.

I would also point out that § 135 a must be interpreted with article 100 of the Constitution as background and guiding principle, and that it is also clearly stated in the pre-legislative work that there was no intention in respect of § 135 a to restrict the right to voice expressions of opinion, cf. Ot. prp. No. 48 (1969-70), pp. 9-10 and p. 16. If requirements as to the objective form or to the nature or tenability of the factual presentation to which an expression of opinion is usually linked are too strict, this will restrict the possibilities for the free expression of opinions, in particular for all those people who lack the ability to give their expressions of opinion a form which is impeccable. In the conflict which here takes place between the regard for the free expression of opinion and the considerations which § 135 a shall protect, the regard for the free expression of opinion must in my view be given preponderant weight.

I will also add to the above another danger in criminalizing expressions of this type. If prejudices, biased opinions and incorrect factual beliefs are to be excluded from public debate, such opinions will more easily flourish behind the scenes without anyone being able to counteract them, which in the long run may well lead to more harmful effects as when they come out into the open and can be answered.

All in all, in my opinion, there is every reason to maintain that the harmful effects which a statement of opinion which exposes groups or persons as mentioned in § 135 a must be of a substantial nature for the provision to be applicable.

I would also emphasize that in the public debate there will always be assertions that certain groups in the community are given advantages at the cost of others, that excessive demands are made, that grants and social benefit arrangements are being misused in part by legal, in part by illegal means etc. Given the right to freedom of expression all groups must be prepared to accept such attacks even if these take place on grounds of bias and with the use of misleading information. In my opinion this also applies to those groups mentioned in § 135 a and that they must to a large extent be prepared to accept attacks of this nature.

On the basis of an overall assessment of the case I find that A's letter may well be liable to lead to or strengthen prejudices or negative attitudes among certain readers specially against Pakistani migrant workers, but that these effects cannot be considered to be so extreme or to influence so many people that the threshold for punishability has been overstepped. Since the contents of the readers' letter cannot be considered as a violation of § 135 a, both the persons indicted must be acquitted.

I therefore vote for the following judgement:

A and B shall be acquitted.

Mr. Justice Christiansen: I am substantially in agreement with Mr. Justice Sinding-Larsen and with the conclusion he has reached.

Justices Bølviken and Schweigaard Selmer: Likewise.

Mr. Justice Blom: I have arrived at a different conclusion from the above associate justices and I vote for the dismissal of the appeals.

Like Mr. Justice Sinding-Larsen, I find that the Supreme Court may try the reader's letter as it is presented and independently of the premises of the City Court and I agree that the decisive point must be what the letter can be interpreted to mean and what factual information the dissemination of the letter through the newspaper may spread to the reading public.

It is apparent from the third and fourth paragraphs of the letter that it is primarily Pakistani migrant workers in Norway to which the letter refers. The meaning with the letter is clearly indicated: namely that they should be returned to their homeland. I agree with Mr. Justice Sinding-Larsen that regardless of what one may think about such a suggestion this in itself cannot bring the letter in conflict with § 135 a of the Penal Code. But this opinion is based on a series of factual assertions of a very derogatory character. The letter claims that they are very demanding and portrays them as the least desirable of our migrant workers. It is stated that a number of hotels and restaurants "avoid them like the plague" and that "stewards refuse to have them in the galley". I am unable to interpret this in any other way than that such a boycott is claimed to be well deserved. Furthermore, the letter indicates that they often are guilty of misuse of social welfare benefits. The description of the Norwegian immigrants' behaviour in the United States implies that the Norwegians were not illiterate, did not "Engage in stabbing or rape" and that they did not find everything "organized for them in advance." It seems to me from this that we must draw the conclusion that the Pakistanis have a behavioural pattern precisely the opposite of the Norwegians.

Naturally this letter must not be understood to mean that these characteristics are to be found in all Pakistani migrant workers. On the other hand my reading of the letter is that we are here concerned with characteristics which are so widespread that they must be regarded as more characteristic for this group than for the population otherwise.

If we are to make an overall assessment of the letter, this cannot be done on the basis of a philological or logical analysis of the individual expressions. The letter was disseminated through the daily press. Most people will read through it quickly and have neither the time nor desire to subject the letter to a critical analysis. Read in this manner, the meaning in the letter is reinforced - namely, that the Pakistanis should be sent away - and this is emphasized by drastic exaggerations and unreasonable generalizations which taken together give expression to a highly emotional appeal which is liable to expose the Pakistanis to hatred and contempt.

Nor am I in any doubt that the letter must be understood to mean that it is the national or ethnic origin of the Pakistanis which makes them such a highly undesirable foreign element in Norway.

Given this view of the letter it comes in under the description of the punishable offence given in § 135 a of the Penal Code.

However, I am also in agreement that § 135 a, seen against the background of article 100 of the Constitution and the prelegislative work concerning the penal provision must be given a restrictive interpretation. To this extent I am largely in agreement with Mr. Justice Sinding-Larsen and his views. But when this opinion, lawful in itself, that the Pakistanis should be sent home, is based on a grotesquely inaccurate description of their behaviour and character, as in this case, the situation becomes very different, and we cannot avoid weighing the considerations upon which the provision on freedom of expression builds against the considerations which lie behind the human rights of the minority.

On the one hand it is not very satisfactory to apply the Act in such a way that it prevents an expression of opinion being given in a form natural to the person concerned. This must be so, even if this means accepting exaggerations, unfair generalizations or unnecessarily sharp language.

On the other hand we have to pay due regard to a limited minority group - the Pakistani migrant workers and their families - who have taken up residence in Norway and who because of their foreign appearance and foreign habits stand out clearly from the rest of the population and who therefore easily become the victims of criticism and alienation.

This weighing up process must, under the law, be undertaken by the courts and must in my opinion be based on a concrete assessment of the statements at hand. In this particular case the misrepresentation of the Pakistanis is so grotesque and unbalanced and the appeal to human prejudices against foreigners so strong that the minority must in my opinion be granted the full protection of the law. Nor am I able to see that regard for freedom of expression will in this case suffer if this readers' letter is made subject to penal sanctions.

In contrast to Mr. Justice Sinding-Larsen I therefore find that the contents of the letter is unlawful and punishable in accordance with § 135 a of the Penal Code.

I would add that I consider the City Court's legal premises sufficient to demonstrate that both the convicted persons have acted wilfully. Nor may the convicted persons in such a case as this be acquitted on grounds of excusable mistake of law. Since I am alone in my opinion I do not propose to enter into these questions in further detail.

The Supreme Court pronounced judgement in accordance with the vote and the conclusion of Mr. Justice Sinding-Larsen.