

**Sikh Human Rights Group**  
**5<sup>th</sup> Working Group on Minorities**

WP 3 & 4

Citizenship and Minority Rights of Non-Citizens  
Commentary to Declaration on Rights of persons belonging to National  
or Ethnic, Religious and Linguistic Minorities

Intervention by Dr Jasdev S. Rai, Director, Sikh Human Rights Group

We welcome the working papers by the Chairperson, Asbjorn Eide and Vladamir Kartashkin, among others. There is no doubt that over the five years, the debate on Minorities is increasingly taking on board the real concerns of Minorities, as is evident in the ambitions of these Working Papers. Much that is being proposed finds resonance in the tenets of the Sikh philosophy and makes our group not only comfortable, but enthusiastic supporters of the Working Group. Mr Chairperson, this year also happens to be the 300<sup>th</sup> anniversary of the year when the Sikhs were formally institutionalised into a democratic and sovereign community.

Human rights and pluralism form the core values of the Sikh philosophy. The word “Sikh” means to seek the truth and since truth remains elusive and unknown, it reinforces the importance of other philosophies, religions and ideals, as important parallels. Indeed, much of Sikh history has been a struggle for a pluralistic world. Defending the rights of minorities, fighting for other religions and ideals to exist against attempts at oppression and uniformity. For instance, the ninth spiritual teacher, Guru Teg Bahadur, was martyred for championing the right of Kashmiri Hindus to follow their religious practices. It is a feature of the Sikh philosophy that pluralism begins not just by tolerating other religions and ideals, but by accepting them with equal parity. Pluralism, and consequently the rights of Minorities, can only have meaning, if political systems have the will to defend them in times of difficulty.

I wish to take this opportunity to make some suggestions to the working documents. On the rights of non-citizens, as suggested by one of the experts, it is important that civil rights be included along with social and cultural rights. In some countries, notably the United Kingdom and Canada, there has been an increasing tendency to deprive non-citizens of basic civil rights by resorting to National Security Measures without any evidence of national security issues being legitimately at stake. Rather these measures have been used to stifle freedom of expression because of the pressures of maintaining friendly relations with trading nations, or to deal indiscriminately with nationals of countries, against which a conflict may be going on.

In the United Kingdom, Mr Chahal, a non-citizen resident for 17 years was detained and was to be deported to India on national security grounds. The British courts had failed to protect him, as the government refused to allow a trial to substantiate the charges, on grounds of national security. It took the European Court of Human Rights with a unanimous and damning judgement of India’s human rights record, to invoke Article 3 and prevent his deportation. Needless to say that, as in many other cases, instead of formal charges, he was immediately released, proving the fact that the

National Security Act was used for political rather than security concerns, depriving a non-citizen of fundamental civil right for a fair trial and suffocating his freedom of expression.

Mr Chairman, we request that this safeguard needs to be explored for non-citizen residents in their country of adoption, apart from such abuses of national security act provisions. At the same time, we wish to commend the United Kingdom on its tremendous progress in providing opportunities for learning mother tongue languages and encourage minorities to study their history and traditions. It would be safe to say that the United Kingdom leads the way in Europe in this field, and we would reiterate our appreciation of this development. However, in some countries, the cultures of minorities continue to face intolerance regimes. Minorities such as the Sikhs and Muslims still face discrimination in France, where a narrow and static vision of secular liberalism is enforced upon minorities involving cultural compromises, which have no positive role in creating a peaceful coexistence. Sikhs are often forced to take off their turbans for photographs on official documents. This is clearly an infringement of the rights of a minority to enjoy its cultural inheritance.

Mr Chairperson, although I had not intended to touch this topic, we would like to reiterate or full support for Tom Hadden's suggestion that the Working Group look at the issue of integration. However, we feel that constructive integration can best be arrived with the premise of rights as a starting point, as this has been the focus on the Working Group, rather than assimilation, which is often the preoccupation of governments. I think I would be correct to say that Sikhs, with our distinctive turbans, have been one of the most potent symbols of integration with diversity, rather than assimilation. In the event, we will continue to champion the principle of minority rights, with the benchmark of diversity and pluralism.

Lastly, Mr Chairman, we wish to state that Article 1.1, the protection of national, ethnic, cultural and religious minorities, cannot be left, simply at the legislative level. States need to take positive actions to enforce protection. In some regions, while the state meets international obligations to minorities, through creative theoretical frameworks, in reality, minorities are persecuted and threatened through mob violence. In India, there is a long history of persecution and massacres of minority communities by some sections of the majority community, often with some executive complicity.

Mr Chairperson, there is no doubt that despite commendable legislative measures and institutional intentions in the Indian state, year after year, for the past fifty years, minorities have faced and still face death, injuries and fear from "orchestrated riots," depriving them from pursuing these basic rights. In 1984, 4000 Sikhs were burnt or massacred in Delhi, with plenty of evidence of executive complicity. In the short history of India, over 100,000 Muslims have been killed in "orchestrated riots". The latest victims have been Christians, with the unfortunate instance of an Australian missionary and his family being burnt to death.

We request that the Working Group look into implications of "orchestrated riots" upon minority rights and make suggestions such as the need to deploy specially trained security officers at times of expected problems for their protection. We hope that this suggestion will be reflected in future working documents.