

UNITED NATIONS WORLD CONFERENCE AGAINST RACISM. RACIAL DISCRIMINATION XENOPHOBIA AND RELATED INTOLERANCE. AUGUST/SEPTEMBER 2001, DURBAN PARA 67 OF THE DECLARATION

“We recognise that members of certain groups with a distinct cultural identity face barriers arising from a complex interplay of ethnic, religious and other factors as well as their traditions and customs and call upon States to ensure that measures, policies and programmes aimed at eradicating racism, racial discrimination, xenophobia and related intolerances address the barriers that this interplay of factors creates”

WHAT IS PARA 67: At the United Nations World Conference Against Racism held in Durban, South Africa, this was a paragraph introduced by Canada and passed by the world community as a declaration to prevent discrimination against communities like the Sikhs. The Para needs to be introduced into national policies.

WHY WAS IT INTRODUCED: It was appreciated by several countries that a few communities like the Sikhs face unintended discrimination because they are categorised as only a religious community in many places. Countries have a right to mitigate the rights of religion and many countries make it illegal or reduce rights of certain manifestation of religion on ground of protecting public safety, order, health, or morals or the fundamental rights and freedoms of others. The wearing of the turban is considered as manifestation of the Sikh religion in some countries. In these countries, Sikhs often have to go to courts where the courts have to decide whether the turban does pose any challenges to the mitigable categories. In France Sikhs havenot been able to prove that they do not compromise neutrality of State or violate the human right of others not to be exposed to religious propaganda.

WHAT ABOUT IN UK: Whereas Sikhs are considered as an ethnic community under the law but in wearing of turban, the right is not applied uniformly. Sikhs do not always enjoy the equal protection in some occupations such as building trade.

HOW WILL PARA 67 HELP: It introduces a new concept in international law. It does not talk of multiple identities but a complex set of factors that make up a community. It thus brings together rights of ‘religion’, ‘ethnicity’, ‘culture’, enjoyment of ‘traditions’ and ‘customs’ and other factors in one category.

SO WHAT ARE THE RIGHTS: It is upto the Sikhs and international community to negotiate a new set of rights under this. A new category will have to be created. We suggest to call it ‘Qaum’ and let it have same rights as ‘race’. This will remove restrictions imposed by countries like France and enable Sikhs in UK to enjoy greater and uniform rights rather than piecemeal.

BUT IT DOES NOT MENTION THE WORD SIKH: United Nations declarations do not usually mention specific communities unless it is the only community affected. But all the statements that led to introduction of this para were made in recognition of the difficulties faced by Sikhs. That is enough for the law to accept that the Sikhs are the community being specifically being referred to.