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Promoting pluralism and human rights around the world
irrespective of race, ethnicity, religion or political opinion.

The House of Lords (UK) decision in the Mandla v Dowell Lee case which made it easier for Sikhs to participate in public life without compromising their identity.

Presented during the PrepCom II, 21 May-1 June, Geneva2001.

The Decision

The term Ethnic in s 3 of the 1976 Act was to be construed relatively widely in a broad cultural and historic sense. For a group to constitute an 'ethnic group' for the purpose of the 1976 Act it had to regard itself, and be regarded by others, as a distinct community by virtue of certain characteristics, two of which were essential.

- (a) (i) First it had to have a long shared history, of which the group was conscious as distinguishing it from other groups, and the memory of which it kept alive
- (ii) it had to have a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance.
- (b) either a common geographical origin or descent from a small number of common ancestors
- (c) a common language, which did not necessarily have to be peculiar to the group
- (d) a common literature peculiar to the group
- (e) a common religion different from that of neighbouring groups or from the general community surrounding it
- (f) the characteristic of being a minority or being an oppressed or a dominant group within a larger community.

Applying those characteristics, the Sikhs were a group defined by reference to 'ethnic origins' for the purpose of the 1976 Act even though they were not racially distinguishable from other people living in the Punjab. The no turban rule was not a requirement with which the applicant boy could, consistently with the custom of being a Sikh, comply. The no turban rule was not justifiable

Lord Fraser

I recognise that 'ethnic' conveys a flavour of race but it cannot, in my opinion, have been used in the 1976 Act in a strict racial or biological sense. For one thing it would be absurd to suppose that Parliament can have intended that membership of a particular racial group should depend on scientific proof that a person possessed the relevant distinctive biological characteristic. For another thing, the briefest glance at evidence in this case is enough to show that, within the human race, there are very few, if any distinctions which are scientifically recognised as racial.

The evidence in my judgment shows that Sikhs are a distinct and self-conscious community. They have a history going back to the fifteenth century. They have a written language which a small proportion of Sikhs can read but which can be read by a much higher proportion of Sikhs than Hindus. They were at one time

politically supreme in the Punjab. The Sikhs are a group defined by reference to ethnic origins for the purpose of the 1976 Act.

Lord Templeman

In my opinion, for the purpose of the 1976 Act a group of persons defined by reference to ethnic origins must possess some of the characteristics of a race, namely group descent, a group of geographical origin and a group history.

The evidence shows that the Sikhs satisfy these tests. They are more than a religious sect, they are almost a race and almost a nation.