

SIKH COALITION STATEMENT FOR RECORD

UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

Subcommittee on the Constitution, Civil Rights and Human Rights

Subcommittee Hearing: “Protecting the Civil Rights of American Muslims”

March 29, 2011

The Sikh Coalition writes to commend Senator Richard Durbin (D-IL) for holding today’s Subcommittee Hearing on “Protecting the Civil Rights of American Muslims.” Clearly this topic is both necessary and timely. As demonstrated by data maintained by federal and state agencies, civil rights violations disproportionately affect Muslims and those perceived to be Muslim, like Sikh Americans. Given the disproportionate impact of discrimination on the American Muslim community, this hearing is an important means of ensuring of our government works to uphold the freedoms that all Americans cherish. We thank Senator Durbin for his leadership in using this Subcommittee to addressing these concerns.

We will use this statement to shine a spotlight on two critical issues affecting Muslim, Sikh, and South Asians in the United States. The first issue we will focus on is the issue of school bullying and violence of Sikh children. The second issue concerns

an odious interpretation of workplace discrimination law that effectively allows Sikhs and Muslims to be segregated out of public view.

I. **School Bullying**

Bias-based school bullying is a “crisis” in the Sikh American community. We place this label --- “crisis” ---- on the situation of the Sikh children soberly, yet truthfully. As our published reports on the issue demonstrate, the *majority* of Sikh children currently suffer bigoted bullying at the hands of their classmates.

In 2008, we issued a report called “Making Our Voices Heard” on the civil rights concerns of Sikh Americans in New York City. Our report, which surveyed over 400 Sikh children in New York City, sadly found that the *majority* of Sikh students suffered bigoted name-calling by their fellow students. Over *one-quarter* reported physical violence from their fellow students, while being called epithets like “terrorist” and “Bin Laden.”¹

Similarly, in December 2010 our organization issued a report on the civil rights concerns of Sikh Americans in the San Francisco Bay Area. The report, sadly and similarly, found that *almost seventy percent* of turbaned Sikh boys in the Bay Area biased-based harassment in school.² In addition, our Bay Area civil rights report found that *thirty percent* of the Sikh boys suffered violence from fellow students because of their faith.

¹ See, “Making Our Voices Head: A Civil Rights Agenda for New York City Sikhs,” available at: <http://www.sikhcoalition.org/RaisingOurVoicesReport.pdf>.

² See, “Sikh Coalition Bay Area Civil Rights Report 2010,” available at: http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf

These troubling findings make clear that Sikh Americans have a bullying crisis in school. They do not, however, tell the stories of our children who have suffered. For example, in 2008 Jagmohan Singh Premi, a Sikh boy in New York City, was assaulted by students in his classroom who called him a terrorist. On multiple occasions they would pull off his turban in the presence of teachers. His case was finally brought to light after he was punched in the face by a student holding a pair of keys.³ In Hightstown, New Jersey, Jaskirat Singh, a Sikh boy with a turban, had his turban lit on fire by a fellow student in 2008.⁴ In Queens, New York, Harpal Singh Vacher's religiously-mandated hair was cut off and flushed down a toilet in 2007 by a fellow student in a hate crime.⁵

Unfortunately Title VI of the federal Civil Rights Act of 1964, which gives the United States Department of Education authority to address school bullying, does not include "religion" as a protected class. This huge gap in the law means that when local school officials are not taking effective action to address bullying against Sikhs or children of other faiths, the federal government often has its hands tied .

To its credit, the United States Department of Education has attempted to address bullying affecting Sikh students and other minority religion students by linking it to national origin or race discrimination. Similarly, the United States Justice Department

³ See: <http://www.sikhcoalition.org/advisories/JagmohanHateAssault.htm>

⁴ See: <http://www.sikhcoalition.org/advisories/NJTurbanFire.htm>

⁵ See: <http://www.sikhcoalition.org/advisories/KhalsaKids.htm>

has expressed a strong willingness to take on religious bullying matters through their jurisdiction under Title IV of the Civil Rights Act of 1964.

While these efforts are appreciated, they would be greatly strengthened by including religion as a protected class within Title VI of the federal Civil Rights Act of 1964. In addition, it would help tremendously if Congress should pass the Safe Schools Improvement Act, which would comprehensively and specifically address bias-based school bullying by amending Title IV of the Civil Rights Act of 1964.

Without such Congressional action, the federal government will continue to have its hands tied when Sikhs and other children of faith suffer bullying and violence in schools. The crisis in our community and others, demands Congressional action on this issue.

II. Workplace Segregation of Muslims and Those Perceived to be Muslim, Including Sikhs

Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), makes it unlawful for an employer to segregate employees or job applicants “in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.”⁶ With a view toward protecting religious freedom, Title VII also requires employers to reasonably accommodate the religious practices of

⁶ 42 U.S.C. § 2000e-2(a)(2).

their employees unless doing so would impose an undue hardship on the conduct of the employer's business.⁷

Notwithstanding these provisions, at least two federal courts in recent years have misinterpreted Title VII in ways that allow employers to segregate visibly religious employees and job applicants from customers and the general public without violating the law. In one case involving a Muslim woman wearing a headscarf, a court improperly assumed that segregating her from customers did not constitute an "adverse employment action" relating to "compensation, terms, conditions, or privileges of employment" or deprive her of "employment opportunities or otherwise adversely affect [her] status as an employee."⁸ In another case, a court held that an employer satisfied its Title VII obligation to make a "reasonable" accommodation of a turbaned Sikh employee by offering him positions out of public view.⁹

We are troubled by these misinterpretations and the discriminatory impact they have on individuals whose religious observance encompasses adherence to dress and grooming requirements. We believe that segregating such individuals in the workplace inherently constitutes an "adverse employment action" relating to the "terms, conditions, or privileges of employment" and that segregating individuals from customers in the name of so-called "corporate image" policies is inherently unreasonable. Such policies reinforce bigoted stereotypes about what American workers should look like; prevent

⁷ See 42 U.S.C. § 2000e(j).

⁸ See *Ali v. Alamo Rent-a-Car, et al.*, No. 00-1041 (4th Cir. 2001).

⁹ See *Birdi v. United Airlines, Corp.*, No. 99 C 5576, 2002 WL 471999, 2002 U.S. Dist. LEXIS 9864 (N.D. Ill. 2002)

employees of faith from gaining customer service experience, thwarting their professional growth; and clearly undermine the integrative purpose of Title VII.

Workplace segregation is discrimination, and Congress must address this issue in order to fulfill the promise of equal opportunity for all Americans.