

May 19, 2011

Via Electronic Mail
U.S. Commission on Civil Rights
624 Ninth Street, NW
Washington, DC 20425

Re: Amending Title VI of the Federal Civil Rights Act

Dear Commissioners:

On behalf of the Sikh Coalition, thank you for giving us an opportunity to testify before the U.S. Commission on Civil Rights during its May 13, 2011 briefing on federal enforcement of civil rights laws in the context of bullying, violence, and harassment in our nation's public schools. The purpose of this letter is to clarify the scope of an important recommendation that we made in our written testimony relating to Title VI of the Civil Rights Act of 1964 ("Title VI").

As you know, Title VI guarantees that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." In our written testimony (enclosed herewith) about the need for improvement in civil rights protection for our nation's children, we recommended that Title VI be amended so that religion is included as a protected category under the statute.

Although similar amendments have been proposed only with respect to educational programs or activities receiving federal financial assistance (subject to exceptions for entities with a religious affiliation, mission or purpose), our recommendation is intentionally broader. **We seek protected category status for religion under Title VI for all programs or activities receiving federal financial assistance, including but not limited to educational programs or activities, subject to appropriate exceptions for entities with a religious affiliation, mission, or purpose.**

Our request for more comprehensive protection for religion under Title VI stems from concern about religious discrimination against Sikhs by state and local government entities, including transit and law enforcement agencies. For example, we are currently litigating against the New York Metropolitan Transportation Authority (MTA)¹ and the California Department of Corrections and Rehabilitation (CDCR)² on behalf of Sikhs who suffered employment discrimination because of their religion. Because religion is not considered a protected category under Title VI, we are forced in these cases to rely on Title VII of the Civil Rights Act, which

¹ *Coalition Demands End to MTA Turban Branding*, NY1 News (Jun. 16, 2009), available at http://www.ny1.com/content/news_beats/politics/100820/coalition-demands-end-to-mta-turban-branding.

² *Bearded man can't be prison guard, Calif. says*, Associated Press, (Jan. 25, 2011), available at http://www.msnbc.msn.com/id/41263508/ns/us_news-crime_and_courts/t/bearded-man-cant-be-prison-guard-calif-says.

courts have interpreted narrowly over the years in ways that dilute its protections for workers who require reasonable religious accommodations.

We offer gratitude to the U.S. Commission on Civil Rights for its work and look forward to collaborating with you on efforts to ensure that our nation's civil rights laws, including Title VI, offer meaningful and comprehensive protection for religious freedom.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'Rajdeep Singh', with a stylized, cursive style.

Rajdeep Singh
Director of Law and Policy
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Enclosure

BIAS-BASED BULLYING AGAINST SIKH CHILDREN IN THE POST-9/11 ENVIRONMENT

Testimony of Rajdeep Singh
Director of Law and Policy, The Sikh Coalition

before the

U.S. Commission on Civil Rights

Briefing on Federal Enforcement of Civil Rights Laws Protecting Students Against Bullying, Violence and Harassment

May 13, 2011

On behalf of the Sikh Coalition, I offer gratitude to the U.S. Commission on Civil Rights for convening this briefing and inviting us to provide testimony on federal enforcement of civil rights laws in the context of bullying, violence, and harassment in our nation's public schools.

By way of background, the Sikh Coalition is the largest Sikh American civil rights organization in the United States. We were constituted on the night of September 11, 2001 in response to a torrent of hate crimes against Sikh Americans throughout the United States. The Sikh religion was founded over five centuries ago in South Asia and is presently the fifth largest world religion, with more than 25 million adherents throughout the world. Sikhs are distinguished by visible religious articles, including uncut hair, which Sikh males are required to keep covered with a turban. Although the Sikh turban is a symbol of nobility and signifies a commitment to upholding freedom, justice, and dignity for all people, the physical appearance of a Sikh is often ignorantly conflated with images of foreign terrorists, some of whom also wear turbans and many of whom have received copious publicity in our mainstream media in the post-9/11 environment. As a consequence, Sikhs in the United States are ridiculed and stereotyped because of their appearance and subjected to bias crimes, racial profiling, employment discrimination, and school bullying.

The balance of our testimony focuses on the school bullying crisis facing Sikh children in American public schools. In the course of offering this testimony, we are guided by a belief that all children—regardless of religion, race, sex, national origin, and sexual orientation—have the right to enjoy a safe and healthy learning environment at school. Our focus on the experiences of Sikh children is designed to highlight challenges and opportunities that implicate the fundamental rights of all our nation's children.

A. The Nature and Extent of Bias-Based Bullying Against Sikh Children

School bullying is widely acknowledged to be a pervasive and severe problem in the United States. A U.S. Department of Education study concluded that roughly one in three students aged 12 to 18 report having been bullied at school,¹ and another finds that 65% of teens report having been verbally or

¹National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, *Indicators of School Crime and Safety: 2008* 106 (2009), available at <http://nces.ed.gov/pubs2009/2009022REV.pdf>.

physically harassed or assaulted within a year of being surveyed.² A third study similarly found that 68% of LGBT students felt unsafe because of at least one personal characteristic.³ Fifty-three percent of secondary school teachers affirm that bullying is a serious problem at their schools.⁴ Our own studies in the Sikh community are consistent with these findings. **A Sikh Coalition community survey published in 2007 revealed that 62% of turban-wearing Sikh students in the Queens borough of New York City experienced bullying, and that 42% of them had been hit or involuntarily touched because of their turbans.**⁵ **A similar survey published last year found that 74% of turbaned Sikh boys in the San Francisco Bay Area suffer bias-based bullying and harassment.**⁶

But what do these statistics mean in human terms?

- Consider the experience of Gurwinder Singh, from New York City, in his own words:

“I grew up in Richmond Hill in Queens, and ever since I can remember, I’ve been treated differently. It wasn’t exactly bullying—that started in elementary school—but the other kids didn’t like me very much. I stood out from the rest of them because my [uncut hair, tied in a topknot] made me look different. When I got to elementary school, they used to call me ‘egg head.’ Loneliness just became a part of my life. After 9/11, things became much worse. Kids called me names, and would ask me things like ‘Are you related to Osama bin Laden?’ They called me a ‘terrorist.’ Once on the bus ride home, **someone pulled my [turban] off my hair.** I had to walk home [without my turban] and my [hair] open, which was very embarrassing. I was crying, and wondering what I could do.”⁷

If all this wasn’t enough, one of Gurwinder’s friends turned on him, initially ignoring him and denying their friendship, but then leading a group of bullies one day as they chased Gurwinder through the city, eventually catching hold of Gurwinder and slamming his head against a metal pole. None of the bystanders helped him; they just watched as Gurwinder began bleeding profusely and nearly passed out.⁸

- Consider the perspective of Upinder Kaur, a Sikh mother from the San Francisco Bay Area. Speaking about the experiences of her son, in her own words, she says:

“[W]e were expecting trouble when we came to the United States; we had been pre-informed that our Sikh identity would be a challenge for us ... From first grade, my son was called ‘diaper head[.]’ Middle and high school were the worst times. He was called names, pushed, shoved, beaten up, had his books stolen, **[turban] ripped off**, lockers broken, and a day before his class final, his folder was stolen. My son became socially isolated and had no friends ... As a mother, I

²Harris Interactive and GLSEN, *From Teasing to Torment: School Climate in America, A Survey of Students and Teachers* 7 (2005), available at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/499-1.pdf.

³ GLSEN, *The 2009 National School Climate Survey* 22 (2010), available at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1675-1.pdf.

⁴ Harris Interactive and GLSEN, *supra* note 2, at 7, available at http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/499-1.pdf.

⁵ Sikh Coalition, *Hatred in the Hallways: A Preliminary Report on Bias Against Sikh Students in New York City’s Public Schools* 5 (2007), available at http://www.sikhcoalition.org/documents/hatred_in_the_hallways.pdf.

⁶ Sikh Coalition, *Bay Area Civil Rights Report* 3 (2010), available at http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf.

⁷ Sikh Coalition, *Fighting the Bullying Epidemic – Gurwinder’s Trip to Washington* (2011), available at <http://sikhcoalition.wordpress.com/2011/04/13/fighting-the-bullying-epidemic-gurwinders-trip-to-washington>.

⁸ Anju Kaur, *Sikhs at White House Conference on Bullying*, Sikh News Network (Mar. 20, 2011), available at <http://www.sikhnn.com/headlines/1320/sikhs-white-house-conference-bullying>.

will repent for the rest of my life that I cannot bring back my son's childhood ...I think every child has the right to grow up in a much healthier environment and achieve their full potential."⁹

B. The Need for Federal Intervention

The Sikh Coalition regards a safe and healthy learning environment as a fundamental human right for every child who attends school in the United States. In light of our own experiences in recent years with school officials in New York City, we believe that vigorous federal intervention is needed to hold schools and school districts accountable for their actions and, just as importantly, their inaction.

Between 2007 and 2008, the Sikh community in New York City experienced a spate of brutal bias attacks against its children. In May 2007, a Sikh boy had his hair forcibly cut by a bully.¹⁰ In June 2008, a Sikh girl also had her hair forcibly cut by a bully.¹¹ That same month, a Sikh student named Jagmohan Singh Premi was punched and injured in the face with a set of keys by a student who was attempting to remove his turban; **significantly, prior to the assault, Jagmohan had informed school officials about persistent bullying by his assailant, but school officials did nothing to stop it.**¹²

In response to these troubling attacks, the Sikh Coalition and its allies spearheaded a grassroots campaign that culminated in the adoption of Chancellor's Regulation A-832, which established an annual diversity training program entitled *Respect for All* and a procedure for preventing and addressing student-to-student bias-based harassment in New York City public schools.¹³ Although these regulations are strong on paper, our follow-up studies on their implementation suggest that school administrators are decidedly unserious about their obligation to protect our children.¹⁴

According to our research, only 14 percent of teachers and staff surveyed said that the Chancellor's Regulation and the Respect for All program are "effective" or "very effective" in addressing bullying and bigotry in their schools; although the two-day *Respect for All* training is available to all teachers, only about 30 percent said their school even offered training; and only about 31 percent of the respondents said students in their schools received diversity or "Respect for All" training. According to Pat Compton, a former teacher at Lafayette High School in Brooklyn, New York: **"Any staff training on harassment that my school did last year was conducted in a lackadaisical, perfunctory manner."**

⁹ Sikh Coalition, *Bay Area Civil Rights Report 13* (2010), available at http://www.sikhcoalition.org/documents/Bay_Area_Civil_Rights_Agenda.pdf.

¹⁰ Sikh Coalition, *Sikh Boy's Hair Forcibly Cut in Hate Attack* (May 25, 2007), available at <http://www.sikhcoalition.org/advisories/SikhBoyHairHateAttack.htm>.

¹¹ Sikh Coalition, *Sikh Girl's Hair Cut by Fellow Student in New York City School* (June 21, 2008), available at <http://www.sikhcoalition.org/advisories/GurpritHateAssault.htm>.

¹² Sikh Coalition, *Another Sikh Boy Suffers Hate Assault in New York City School* (June 5 2008), available at <http://www.sikhcoalition.org/advisories/JagmohanHateAssault.htm>.

¹³ Sikh Coalition, *Sikh Coalition and NYC Department of Education Announce New Chancellor's Regulation to Prevent Bias-Based Harassment and Bullying in Schools* (Sept. 3, 2008), available at <http://www.sikhcoalition.org/advisories/chancellorregulation.htm>.

¹⁴ Sikh Coalition, *NYC Teachers Doubt Effectiveness of City Anti-Bullying Efforts* (Feb. 25, 2011), available at http://salsa.wiredforchange.com/o/1607/t/0/blastContent.jsp?email_blast_KEY=94106.

In circumstances such as these, where children's civil rights are being repeatedly violated, and where school officials take a casual approach toward their obligation to protect children from harm, federal intervention becomes a moral imperative. Just as the federal government cracked down on state and local officials who dragged their feet on implementation of civil rights protections during the civil rights movement, the federal government today must prioritize the safety and well-being of our children.

C. Recommendations

With a view toward ensuring the highest levels of accountability from school officials in New York City and nationwide, we respectfully offer the following recommendations for the sake of our children:

- **Title VI of the Civil Rights Act of 1964 must be amended to ensure that no person in the United States is excluded from participation in or otherwise discriminated against on the ground of religion under any program or activity receiving federal financial assistance.**

This recommendation is especially important because it seeks to resolve a lingering deficiency in federal anti-discrimination law. It is our experience that Sikh students are often targeted for bullying, violence, and harassment because of their Sikh identity. It is also our belief that the best way to incentivize positive behavior on the part of any individual or organization is to put money on the line. Given that religion is recognized as a protected category in the context of employment and accommodations under the 1964 Civil Rights Act; given that religion is recognized as a protected category under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA); and given the historic significance of religion as our nation's first freedom, there is no reason why religion should be excluded as a protected category under Title VI. In the context of bias-based bullying that occurs because of a child's actual or perceived religion, we should spare no effort to optimize our federal civil rights laws to ensure the best available tools to ensure the safety and well-being of our children.

- **The U.S. Congress should prioritize passage of the Safe Schools Improvement Act (SSIA).**

In addition to including clear prohibitions regarding bullying and harassment, the SSIA would support schools and districts in their efforts to focus on prevention strategies and professional development to help school personnel meaningfully address issues associated with bullying and harassment. The SSIA would also include elements of data reporting regarding incidents of bullying and harassment, so that the development of effective federal, state, and local policies that address these issues could be better informed.

- **The federal government should track and monitor bias-based bullying against Sikh children through comprehensive data collection.**

Although the Sikh Coalition is proud of its ongoing efforts to document the extent of bias-based bullying against children in our community, the primary responsibility for tracking bullying incidents should not unfairly rest on a small, nonprofit organization such as ours. Just as the federal government collects and analyzes comprehensive statistics in the context of public health to quickly address emerging threats, the federal government should assume a greater share of responsibility for documenting the extent of bias-based bullying, which appears to have reached epidemic proportions in the Sikh community.

- **The U.S. Department of Justice and Federal Bureau of Investigation (FBI) should collaborate with civil rights and community-based groups, as well as law enforcement organizations, to ensure comprehensive and effective implementation of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA), with particular attention to the new requirement that the FBI collect hate crime statistics committed by and against juveniles.**

In this context, the FBI should also amend its Hate Crime Incident Report Form to ensure accurate documentation of hate crimes committed against individuals because of their Sikh identity.

- **The U.S. Department of Education should promote curricula that include the neutral study of world religions and cultures.**

We believe that education is the most powerful deterrent against bias. For this reason, we believe that our nation's public schools should adopt curricula that promote the neutral study of world religions and cultures. One such program was piloted in recent years by the public schools of Modesto, California; according to a study of the program, "taking the world religions course increases student support for the rights of others. Moreover, students leave the course with a greater understanding of the major world religions and a fuller appreciation of the moral values shared across differences."¹⁵

- **The U.S. Justice Department's Community Relations Service should aggressively and proactively undertake systematic efforts to address the problem of bullying in our nation's public schools.**

We make this recommendation in light of the mandate given to the Justice Department's Community Relations Service under the HCPA to prevent community tension stemming from bias relating to gender, gender identity, sexual orientation, disability, and religion.

In closing, we again offer gratitude to the U.S. Commission on Civil Rights for convening this briefing, and we look forward to working with you in the fullness of time to enhance federal enforcement of civil rights laws so that we can finally end bullying, violence, and harassment in our nation's public schools.

¹⁵ First Amendment Center, [Learning About World Religions in Public Schools: The Impact on Student Attitudes and Community Acceptance in Modesto, California](#) (2006).