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 women's rights  
 religion  
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 dignity  
 equality  
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 identity  
 dignity  
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 Human Rights  
 civil rights  
 dignity

# GLOBAL SIKH CIVIL AND HUMAN RIGHTS REPORT

## 2010

### THE STATE OF THE GLOBAL SIKH NATION

**GLOBAL SIKH CIVIL  
AND HUMAN RIGHTS REPORT**

**2010**

**THE STATE OF THE GLOBAL SIKH NATION**

UNITED SIKHS  
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**Sources:** The Global Sikh Civil & Human Rights Report uses primary data gathered through legal advocacy/ litigation cases that UNITED SIKHS has taken on throughout the year, observations in the field by UNITED SIKHS staff. Additionally, primary statistics are derived from a compilation of surveys and individual interviews. The main secondary sources relied upon for this report are the authoritative annual human rights reports developed by the United States (U.S.) Department of State, U.S. Commission on International Religious Freedom (USCIRF), Human Rights Watch (HRW), and Amnesty International.

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# FOREWORD

*“Injustice anywhere is a threat to justice everywhere.”*

- Dr. Martin Luther King, Jr.

All men and women desire and deserve to live in dignity and liberty. The increasing demand for democratic governance reflects recognition that the best guarantor of human rights is a thriving democracy with representative, accountable institutions of government, equal rights under the rule of law, a robust civil society, political pluralism, and independent media. Every country and individual has a duty to defend human rights and help spread democracy’s blessings. The United Nations helps countries develop democratic institutions that will ensure that human rights are respected over the long term. UNITED SIKHS calls upon all countries to honor their international obligations to protect human rights.

UNITED SIKHS stands in solidarity with the courageous men and women across the globe who live in fear yet dream of having the freedom to enjoy their fundamental human and civil rights as established in the Universal Declaration of Human Rights. In the aftermath of 9/11, Sikhs have been targets of mistaken identity. Out of fear and for the purported goal of protecting sovereignty, we have seen an increase in the number of laws that are being passed interfering with Sikh religious identity and resulting in increased restrictions on the right to freely practice the Sikh faith. In many cases these incidents have stemmed from a lack of both knowledge of the existence of the Sikh community and the necessary requirements for Sikhs to practice their faith.

By defending and advancing human rights, civil rights and democratic principles, UNITED SIKHS keeps faith with the world’s most cherished values and helps to lay the foundation for lasting peace. While working to uphold the principles of the Universal Declaration of Human Rights and working to build vibrant communities worldwide, we understand that it may take generations to achieve peace, but it is work of the utmost urgency that cannot be delayed.

This report is prepared primarily by legal professionals working with UNITED SIKHS who in compiling this report engaged in extensive research and data collection in addition to interviewing Sikh individuals who themselves have faced civil & human rights abuses. The information gathered in this report is in part based upon the advocacy work of the UNITED SIKHS legal staff on behalf of Sikh’s facing religious discrimination worldwide. The focus of this report is on the human & civil rights violations most affecting Sikhs in the past two years. A report of this scope had not existed prior to the publication of our 1<sup>st</sup> Annual Global Sikh Civil Rights Report in 2008. It is sorely needed to gauge the problems faced by a community that is without borders. The purpose of this report is to educate civil & human rights non-governmental organizations, governmental agencies, law-makers, and activists about the challenges faced by the global Sikh community, and of the negative impact post 9/11 restrictions have had on Sikhs. We hope that you will find this report as informative in reading as it has been in researching and analyzing for us.

***Author/ Editor: Mejindarpal Kaur, Barrister-at-Law, LL.M., LL.B Hons., BSc Hons.  
UNITED SIKHS Director***

# GLOSSARY OF SIKH TERMINOLOGY

## A Brief Introduction to Sikhism:

Sikhism is approximately 500 years old. The founder of the Sikh religion was Guru Nanak, who was born in 1469 in Panjab. He taught of a universal God, common to all mankind. Guru Nanak was followed by nine successor-Gurus over two centuries who continued to share and develop his teachings. Sikhism views life not as a fall from grace but rather as a unique opportunity to discover and develop our inner divinity. Since human dignity and justice form a cornerstone of Sikh teaching, Sikh history speaks of tremendous sacrifice in the cause of freedom and justice.

In traditional Indian society, an individual's name indicates his caste and thus his or her place in society. In 1699, the tenth and last of the Sikh Gurus, Guru Gobind Singh, freed Sikhs from the caste system by ordaining that all Sikh males adopt the name "Singh" (meaning lion) and women adopt the name "Kaur" (meaning princess), thus shedding their caste identity and making all followers of Sikhi equals.

In 1699, Guru Gobind Singh bestowed a new discipline called the order of the Khalsa, into which adherent Sikhs would subsequently be initiated. In doing so, Guru Gobind Singh gave Sikhs their modern religious identity which includes five articles of faith, called the five *Kakaars*. Because of their external religious identity, which distinguishes them from many of the communities in which they reside throughout the world, Sikhs are often subject to civil & human rights violations in the form of religious discrimination, persecution, and other bias based crimes. The *Kakaars* are:

- 1) ***Kesh*** (un-cut hair): Sikhs are prohibited from cutting their hair out of respect for the human form as a gift of God, Guru, and a mark of Sikh identity.
- 2) ***Kanga*** (small wooden comb): Worn as both a symbolic and practical reminder to lead a life of cleanliness, hygiene, and order.
- 3) ***Kara*** (a steel band worn at the wrist): The circular nature of the *kara* signifies that Waheguru (Wondrous Lord) has no beginning and no end. The steel represents the strength of Waheguru. The *kara* cannot be made of any other metal; steel is also affordable for the masses. The *kara* literally binds a Sikh to the creator and is worn on the dominant hand to always remind the wearer of one's commitment to the highest ideals.
- 4) ***Kirpan*** (short strapped sheathed religious sword): The *kirpan* is worn to remind Sikhs of their historical struggle to maintain their Sikh identity and as a constant reminder of our commitment to justice, peace, and the defense of others.
- 5) ***Kachera*** (religious undershorts): Similar to a soldier's undershorts, the *kachera* is to be worn at all times in keeping with the disciplined life-style of a Sikh.

## Other Articles of Faith that Form the Identity of a Sikh:

***Dastaar***: A turban worn by all adherent Sikhs. The turban is considered a spiritual crown, a constant reminder that the wearer is sitting on the throne of consciousness and they have committed to living according to Sikh principles. The *dastaar* is also commonly referred to as *keski*, *pugh*, *pughri*.

***Joora***: The top knot of gathered un-cut hair, over which the turban is tied.

**Patka:** A head covering worn by many Sikh children over their *kesh* (un-cut hair); resembles a bandana with four strings.

**Chunni:** A long scarf used by some women to cover their head, but never their face. Covering of the face is antithetical to Sikh values.

**Other Sikh Terminology:**

**Amrit:** The holy water used in the baptism ceremony for Sikhs initiated into the Khalsa.

**Gurdwara:** Gurdwaras are Sikh houses of worship. Historically, Gurdwaras have served as a refuge for the homeless, the helpless, and the destitute. Visitors, irrespective of their religion are offered shelter, comfort, and food. Everyone in the Gurdwara must remove their shoes and cover their head while in the presence of the Guru Granth Sahib (Sikh Holy Scripture). In a Gurdwara, no special place or seat may be reserved or set aside for any dignitary, as all who enter are equals. The worship consists of singing of the liturgy as well as exposition of Sikh history, tradition and religion. Non-Sikhs are always welcome. Any layperson - man or woman – who is well versed in Sikh rites may perform; none are restricted to the ordained clergy.

**Gurmukhi:** The script in which the Guru Granth Sahib is written. It is the most common script used in writing Panjabi.

**Guru Granth Sahib:** The Guru Granth Sahib is the Sikh scripture. Guru Gobind Singh decreed an end to the line of personal Gurus in human form. The writings of the earlier Gurus were then collated along with those of Hindu and Muslim saints whose teachings were consistent with Sikh philosophy. The Guru Granth Sahib is thus a uniquely inter-faith and eclectic collection of spiritual writing. For Sikhs, the Guru Granth Sahib is the repository of all spiritual knowledge and authority.

**Gutka/ Banis:** Small handheld religious booklets that contain the *banis* (teachings of the Gurus) used for daily prayers.

**Langar Hall:** Most Gurdwaras around the world run free community kitchens, which provide meals to all the congregants and also the needy. These kitchens are manned and funded by volunteers.

**Langar:** Since in the traditional Indian society people of high and low caste would not mix, nor would they break bread together, the meals offered by the community kitchen (*langar*) of the Sikhs serves to teach the concept of equality by shattering all barriers of caste and class.

**Sangat:** A community of congregants coming together to pray are collectively known as the *sangat*.

**Sat Sri Akal:** Means “Truth is Eternal.” A salutation often used by non-Sikhs to address Sikhs.

**Wahe Guru Ji Ka Khalsa Wahe Guru Ji Ki Fateh:** Salutation between Sikhs meaning that the Khalsa belongs to Waheguru (Wondrous Lord) and that victory is gifted by Waheguru.<sup>1</sup>

<sup>1</sup> Glossary compiled by Legal Fellow Ilana Ofgang. Information for this Glossary was taken from the article by Dr. I.J. Singh entitled “Sikhs and Sikhism” which may be found in the Appendix of this report and provides a more detailed history of Sikhism.

# THE GLOBAL SURVEY & RESPONDENT PROFILE

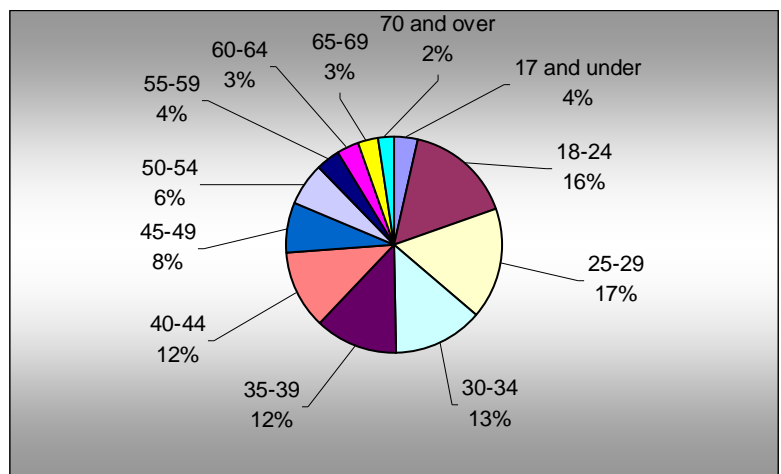
For inclusion in the Global Sikh Civil & Human Rights Report 2010 and as part of ongoing research on the state of the global Sikh nation, UNITED SIKHS has compiled information from Sikhs across the world to give voice to a community across borders. The Global Sikh Civil & Human Rights Survey 2010 was administered around the world to gather information on issues that most affect Sikhs as a community. The community articulated its viewpoint on current practices, future policies, and the overall state of human and civil rights of Sikhs in their respective countries. In addition, they responded about issues such as: maintaining Sikh identity, hate crimes, airport security, xenophobia, attitudes toward minority communities, and the particular challenges faced by their local Sikh community over the last 2 years (See Appendix for survey questionnaire).

The UNITED SIKHS legal and research teams drafted the survey instrument based upon insights from information received from the community through previous surveys, and ongoing legal advocacy projects around the world. The survey was distributed to the UNITED SIKHS global electronic mailing list for participants to complete and submit online. Additionally, UNITED SIKHS volunteers conducted the survey in person in Gurdwaras across the world to recruit more participants. The survey data was analyzed by UNITED SIKHS Staff members and reviewed by an independent expert for accuracy and validity.

The information received through the survey is by no means exhaustive or representative of the entire global Sikh population; but rather, is indicative of evolving socio-political trends and global policies impacting Sikhs throughout the world.

## Respondent Profile:

UNITED SIKHS received **333** surveys from 24 countries: Antigua and Barbuda, Australia, Belgium, Canada, France, Germany, Greece, Hong Kong, India, Indonesia, Ireland, Italy, Kenya, Malaysia, Netherlands, New Zealand, Nigeria, Oman, Pakistan, Puerto Rico, Singapore, United Arab Emirates, United Kingdom and United States. Over 35% of the respondents were between the ages of 18 and 34. Insights from the survey are interspersed throughout the report where relevant.



Age of Survey Respondents

*Author: Rucha Kavathe, PhD, Media & Communications Coordinator*



# PROTECTING THE IDENTITY OF MINORITIES: A SIKH'S DUTY IN PRESERVING THE MOST FUNDAMENTAL OF FREEDOMS

Identity is an inextricable part of *being* or existing -we name in order to identify. More specifically, identity is an inextricable part of *being human* –identity creates a consciousness of self versus others. Furthermore, identity is at the core of *being a free human* –a vital part of the subjective experience of living and a means of self-expression. As identity is such a fundamental part of self, it also becomes, in the social context, that which is the driving force for generating community and relationships with those people that share characteristics of identity. This can be organic, so to speak, from shared language, food, biological characteristics, or where people seek out others who specifically share common characteristics. It can also be self-imposed or sadly, imposed externally, by force.

We can simply look to broad examples in human history to realize the import given to the maintenance of identity, by people and governments the world-over:

- During the time of the slave trade, one of the first things that slave owners would do was to remove names, cultural expression, language, etc. for purposes of gaining power and control over the enslaved.
- Often, those who are conquered are subjected to re-education programs to rid themselves of their own identity. This is true of Native Americans in the United States, in certain countries where the British Empire established itself, and in certain countries where Communism was established, such as in China or the USSR.
- Where there is the use of scape-goating or blaming; whether it be in Nazi-Germany, Rwanda, or India, the identity of the “Other” is what was capitalized upon by political leaders to feed nationalism at the expense of the blood of minorities or those maintaining a distinct identity.

That is because identity, at its core, is the root of freedom. The ability to explore that which is different and express one's own manifestation of self is at the crux of creativity. It is the ability to have an identity that provides the diversity in the world that makes it such a vibrant and interesting place. Some may argue that it is the differences in groups or peoples that create the difficulty and conflict we see in the world. This is simply not the case. With the exception of resource based wars, the majority of conflict has arisen where difference is attacked for the purpose of creating homogeneity, or worse, to wipe out the difference all together. Furthermore, diversity of identity is simply part of the past and present human condition; a homogenous human species is not the way our reality has evolved.

A Sikh, at one's core, is an individual who is constantly learning, with that learning structured by one's environment (parents, community, etc.) and through one's own study of the path the Sikh Gurus outlined. The Sikh Gurus understood well the importance of identity, both internal and external. Self-introspection, ethical actions, and maintaining truthful character are only but a small

portion of the instructions around internal identity which the Gurus outlined for Sikhs.

From an external identity perspective, the Gurus blessed Sikhs with the *dastaar* (Sikh turban), and five *kakaars* (*kesh, kara, kanga, kacherra, and kirpan*). What is the importance of that external identity for a Sikh? Other than being a gift of a communal identity from the Gurus that bestows its own strength of communality, the Gurus fashioned out of a human being an individual whose external appearance reflects a commitment to stand defiant against injustice. Through the gift of communal identity, the Gurus fashioned out of a human being an individual who has taken the responsibility of both defending the rights of others, and being the litmus test of freedom for those that choose a different identity.

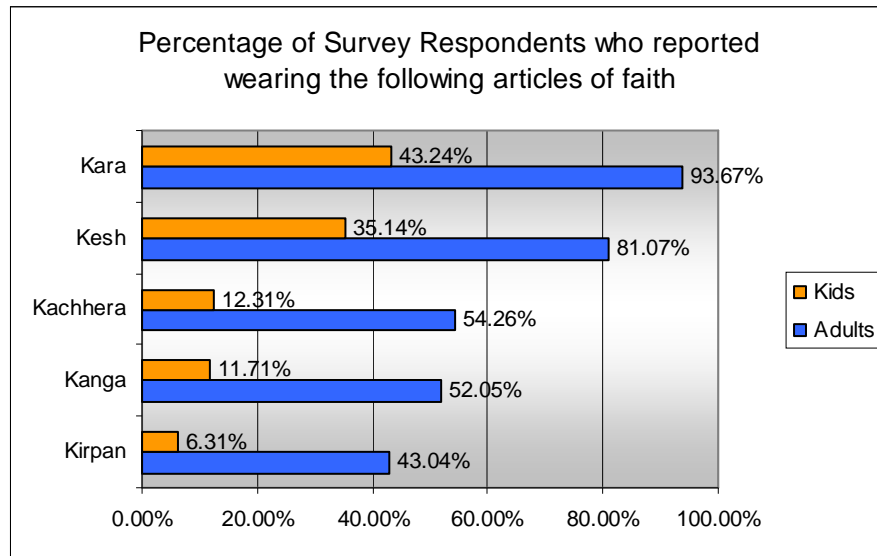
The *dastaar* was bestowed upon the Sikh as a crown, at a time where only royalty and religious men were allowed to wear a turban, and there are many examples in Sikh history where a price has been put on that crown. Many Sikhs have been tortured and have sacrificed their lives to maintain their distinctive identity, and while the general situation of Sikhs has improved drastically in the past ten years, their external religious identity continues to face new challenges. Some of these challenges include the *dastaar* being banned from schools in France, secondary screening and racial/religious profiling in airports in the United States and in Europe, bullying in schools, banning of *kakaars*, non-recognition of Sikhism as a distinctive religion or Sikhs as an ethnicity, and in the worst of cases, the same persecution as faced in the past: bias motivated attacks, torture, forcible removal of articles of faith, and death.

There is a continuing increase of globalization and economic interconnection and most progressive individuals consider this a great benefit to the human condition. However, often under the guise of security, there is an increase of the imposition of homogeneity on a global scale: governments are using interconnected watch-lists that target incorrect individuals; others are taking cues from countries like France to impose their own restrictive laws to promote homogeneity under the guise of secularity; and others, like India, still refuse to recognize the State-sanctioned atrocities they have committed, while nations who represent themselves as champions of human rights refuse to hold them to any human rights standard. The freedom of the internet, increase of communication, information sharing, and ability to monitor important events have emboldened and empowered human rights defenders around the world. It is time for people of conscience, young and old, to use these tools at our disposal. Sikhs as a people are faced now with both global challenges to their identity, and a correlating global duty to protect themselves and the rights of others.

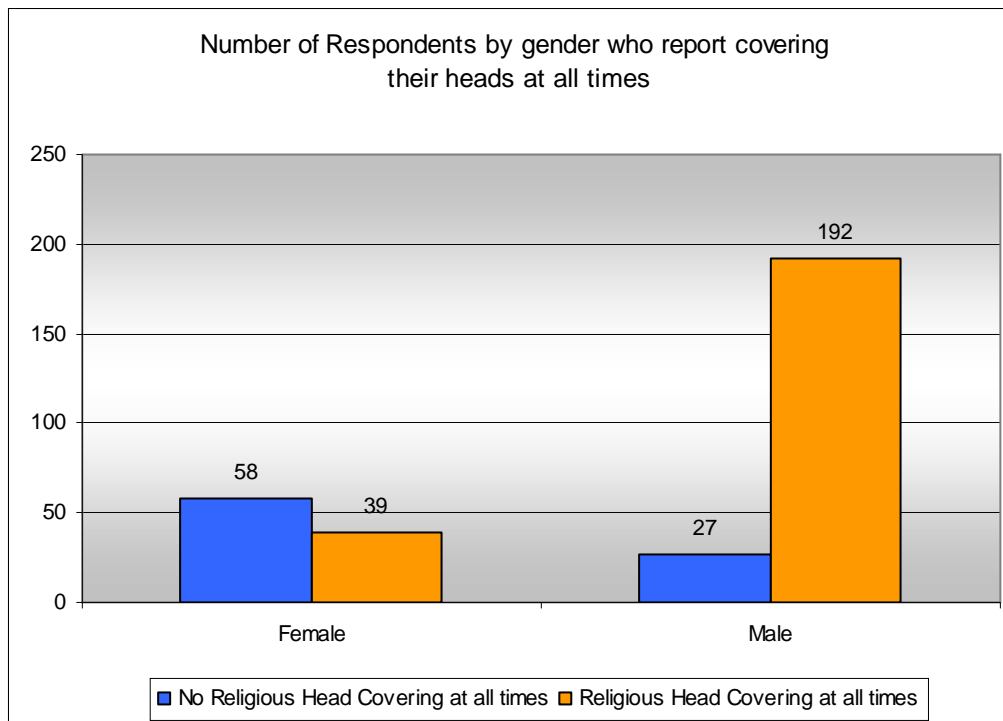
It is our hope and *ardaas* (prayer) that all people vested in human rights will rise to the challenge.

**Author/Editor: Jaspreet Singh, J.D.**  
**UNITED SIKHS Legal Director**

*There is a disturbing trend showing that the younger generation of Sikhs tends to discard their external identity at a higher rate than the older generations, in part due to growing universal pressures towards homogeneity*



*Protect Our Identity campaign began as a movement to curtail the abuses against the external manifestation of the Sikh faith. This graph poignantly depicts the necessity of such a movement, particularly for the future generations.*



*The trend, as signified by this graph, suggests that women are yet to embrace their equal right and responsibility of upholding the external manifestation of the Sikh identity.*

# RIGHT TO TURBAN AT AIRPORTS

In 2010, the United States Transportation Security Administration (TSA) within the Department of Homeland Security (DHS) announced that it would begin implementing a new airport security plan that involved the use of Advanced Imaging Technology (AIT) in addition to secondary screening procedures. This new security protocol has disturbing implications for religious groups that wear articles of faith in accordance with their religious practice.

Those members of the Sikh community that live in or travel to and from the United States are now faced with a security policy that results in the religious and racial profiling of those individuals wearing turbans or other religious head coverings that have folds or layers. Those individuals wearing religious headwear will be subjected to additional screenings.

Previously, the primary form of security screening at United States airports was metal detection. However, the threat of non-metallic objects created the need for new security measures.<sup>1</sup> After the lack of success in using metal detectors and “Puffer Machines,” TSA is now engaged in the ongoing process of a nationwide roll-out of Advanced Imaging Technology (AIT) that will continue till 2014.

**Pre-AIT Policies on Religious Head Coverings:** After three Sikh civil rights organizations, UNITED SIKHS, Sikh Coalition, and SALDEF, reported unclear, inconsistent, and unfair application of TSA operating procedures and asserted that these procedures resulted in the profiling of specific minority communities who wear religious headwear, a new set of procedures was issued by TSA in October 2007. This new set of procedures specified that a Sikh, after passing through primary screening without setting off the metal detector, could be selected for secondary screening at the discretion of a Transportation Security Officer (TSO) based on TSA’s “bulky clothing” policy. If a Sikh was secondarily screened, the individual was to be provided three options for screening the turban. These three options were as follows:

1. A self-patdown of the turban followed by swabbing of the fingers of the individual and checking for chemical residue, also called Explosive Trace Detection (ETD); or
2. A TSO would pat down the turban; or
3. A private area for the screening of the turban would be offered to conduct either of the first two methods listed.

Unfortunately, these policies were never uniformly implemented and had limited success. First, each of these three options were not always communicated to Sikh travelers. Second, the discretionary nature of screening procedures coupled with a lack of training resulted in the profiling of Sikhs at many airports. Third, Sikh children (as young as 2 years of age) who wear “patkas” had been subject to secondary screenings at an increasing and alarming frequency.<sup>2</sup> Moreover, what was explicitly communicated to the Sikh organizations as a *discretionary* policy, with respect to secondary screenings of turbans, has been widely implemented as a mandatory policy.<sup>3</sup>

This TSA policy failed to address a simple question: why are turbans (classified as “bulky clothing” according to TSA procedure manuals) being specifically screened with higher scrutiny than other clothing items that would also be considered “bulky” according to the TSA? These problems were

and continue to be exacerbated by the TSA's complete lack of any self auditing mechanisms to determine if their policies are being implemented consistently, correctly, and in a way that is non-discriminatory. The lack of auditing, coupled with problems of monitoring the correct implementation of TSA policies, has resulted in the religious and racial profiling of the Sikh community at U.S. airports.

**Implementation of AIT and its Effect on those Wearing Religious Head Coverings:** As the AIT roll-out continues throughout the country, metal detectors will be phased out as the primary form of screening. Instead, AIT will supplant metal detectors as the primary screening mechanism. AIT is currently, and for the foreseeable future, a voluntary option for primary screening. If one opts out of AIT screening, they will now be subject to a rigorous "prison" style pat-down, which includes the physical touching by a security officer (with the palm of the hand up to a point of resistance) of every part of one's person.

The AIT machines are supposed to be monitored by both a screening officer and an imaging operator. The imaging operator is supposed to be in an isolated room viewing the AIT image and making a determination if an anomaly exists that would require additional screening. If there is an anomaly that appears on the image resulting from the body scan, the screening officer would be told the quadrant on the body in which the anomaly exists and the screening officer would then pat-down only that area of the passenger's body. If no anomaly was detected, the screening officer still retains the discretion to conduct additional screening based on their own independent assessment.

TSA had originally conveyed to Sikh organizations that AIT would solve the problems of secondary screenings that Sikhs were facing under the metal detector screening process. **However, almost ten years after 9/11, the screening policies for Sikhs have only become more extreme.** Instead of the secondary screenings that Sikhs were forced to undergo at airports with metal detectors, AIT would now impose an additional **tertiary screening**. Based on a meeting with Margo Schlanger, Officer for Civil Rights and Civil Liberties division of the Department of Homeland Security, and Kimberly Walton, Special Counselor to the Administrator and to the Deputy Administrator of the TSA, the following security procedures reflect UNITED SIKHS' current understanding of how the AIT screening process will function with respect to Sikhs.

**AIT Screening Policy for Sikhs:** Sikhs who wear turbans and enter the AIT machine will be mandatorily subject to additional screening.<sup>4</sup> Sikhs, like all passengers, would be subject to AIT as the primary form of screening, unless they opt-out. If they proceed with AIT screening then any turban that has "folds" or layers of cloth will most likely be considered an anomaly by the imaging operator. Even if a turban is not considered an anomaly by the imaging operator and the Sikh individual clears AIT, the screening operator has been instructed that all "non form-fitting headwear" is still subject to additional screening.<sup>5</sup> Thus, all Sikhs who wear turbans, whether because their turbans are considered anomalies by the imaging operator or they are considered "non form-fitting headwear" by screening officers, will be mandatorily subject to additional screenings 100% of the time.

Sikhs would then be subject to a screening for explosives through the Electronic Trace Detection (ETD) process. Sikhs would then be presented with the three options of: (1) self pat-down of the turban; (2) TSO pat-down of the turban; or (3) private screening of the turban where either of the first two options can be conducted. Although AIT detects both metallic and non-metallic threats,<sup>6</sup>

Sikhs will be subject to a third or tertiary screening in the form of a TSO hand-wanding the turban to detect any metallic threats in the turban.

For Sikhs or others who opt-out of the AIT procedure, TSA assumes that individuals who do not undergo AIT are potentially seeking to bypass what would be perceived as a more thorough screening procedure. Therefore, a rigorous pat-down of the body is deemed necessary for individuals who opt out of AIT. Thus, the procedure for Sikhs who opt-out of the AIT machine as a form of primary screening will involve a “prison” style pat-down which involves a TSO using the palms or backs of their hand to thoroughly and methodically pat-down every part of the individual’s person. Sikhs would then be subject to a secondary screening for explosives through the Electronic Trace Detection (ETD) process. This includes the following options: (1) self pat-down of the turban; (2) TSA pat-down of the turban; or (3) private screening where either of the first two options can be conducted. And finally, a metal hand-wand would be used to detect metallic threats.

What is clear from the screening policy is that the wearing of turbans, no matter the difference in size and style, will result in the mandatory tertiary screening of Sikhs if they proceed through AIT. If Sikhs opt-out of AIT, there will be a full, rigorous, and highly invasive pat-down, ETD testing, and a metal hand-wand. However, it is still unclear whether Sikh children’s “patkas” will also be considered anomalies or “non form-fitting headwear.”<sup>7</sup>

**Inconsistencies (pre- and post-AIT):** The most glaring inconsistency is that all three Sikh organizations (UNITED SIKHS, Sikh Coalition, SALDEF) were misled to believe that TSA policies pre-AIT were discretionary and that the profiling of Sikhs would not occur under this discretionary policy as applied to secondary screening. Second, TSA’s own website states that the AIT machines are capable of seeing under “layers of clothing” and capable of viewing metallic and non-metallic threat items. Nevertheless, at the meeting in September, the Sikh organizations were told that the AIT machines could not pierce through the folds of a turban and Sikhs would therefore be subject to additional hand-wand screening of their turbans even after going through the AIT machines. The inconsistency between what TSA has told Sikh organizations in the past and what the TSA has most recently communicated has tremendously limited the ability of Sikh civil rights organizations in the United States to safeguard the civil rights of the Sikh community.

**Conclusion:** It is our understanding on the basis of the most recent information provided to us by TSA officials that Sikhs will be subject to three levels of mandatory screening with the implementation of the AIT screening procedures. This is an impermissible result of the implementation of new technology especially since, to our knowledge, no Sikh has ever been asked to participate in the testing of AIT machines before its roll-out. After subjecting Sikhs to almost four years of additional screening, it is unacceptable that AIT so substantially increases the burden on Sikhs practicing their faith and that the new policy will lead to even more religious and racial profiling.

Sikh Americans are committed to the safety and security of this country. Nonetheless, it is no longer palatable for us to continue bearing the brunt of U.S. airport security policies that disparately impact our community by unnecessarily infringing on our religious freedoms and basic dignity. It is important that the Sikh community have accurate information about what to expect at the airport. UNITED SIKHS believes that the policy as stated to us by Margo Schlanger (DHS) and Kimberly Walton (TSA) will seriously impinge on the constitutional liberties of Sikh travelers throughout the

United States. We urge the international Sikh community to make their voices heard.

**UNITED SIKHS Global Survey 2010 Results:** Results of the Global survey indicate that there is a significant relationship between respondents who wear a turban, patka, chunni or other religious head covering at all times and being pulled aside for secondary screening by Airport security without setting off the metal detector,  $\chi^2 = 6.30$ ,  $df = 1$ ,  $p = 0.01$ . **Data show that 82.6% of people globally who reported being pulled aside for secondary screening also wear a turban, patka, chunni or other religious head covering at all times.**

*Author/ Editor: Hansdeep Singh, UNITED SIKHS, Senior Staff Attorney*  
*Contributing Editors: Ilana Ofgang, UNITED SIKHS, Legal Fellow; Jasjit Singh, SALDEF, Associate Executive Director; Amardeep Singh, Sikh Coalition, Director of Programs*

<sup>1</sup> See UNITED SIKHS, Joint Letter to TSA Administrator John S. Pistole (Oct. 29, 2010), <http://unitedsikhs.org/rtt/pdf/Letter%20to%20TSA%20Administrator%20Mr.%20Pistole%20-%20Joint%20TSA%20Letter%20from%20Sikh%20Civil%20Rights%20Organizations.pdf>.

<sup>2</sup> The patka, also described as a bandana with four strings, covers a young Sikh child's head completely including their top-knot. It is tight fitting against the head, has no folds, and would not appear to fall within TSA's "non-form fitting" policy.

<sup>3</sup> Letters submitted directly to Margo Schlanger, Officer for Civil Rights and Civil Liberties divisions of the Department of Homeland Security and Kimberly Walton, Special Counselor to the Administrator and to the Deputy Administrator of the TSA, TRIP complaints filed on TSA website, and Sikh Coalition Quarterly Aviation Reports reflect this reality.

<sup>4</sup> At the meeting on 9/21/10 there were three Sikhs who wore turbans of differing styles. It was stated that all three styles of turbans would trigger an anomaly.

<sup>5</sup> It was clearly indicated to UNITED SIKHS attorneys present at the aforementioned meeting that all of the turbans worn in the room would be considered "non form-fitting headwear," despite the significant variation in size, thickness, and form of each turban.

<sup>6</sup> TSA's own website it clearly details that both metallic and non-metallic threats are covered by AIT, <http://www.tsa.gov/approach/tech/ait/faqs.shtm>.

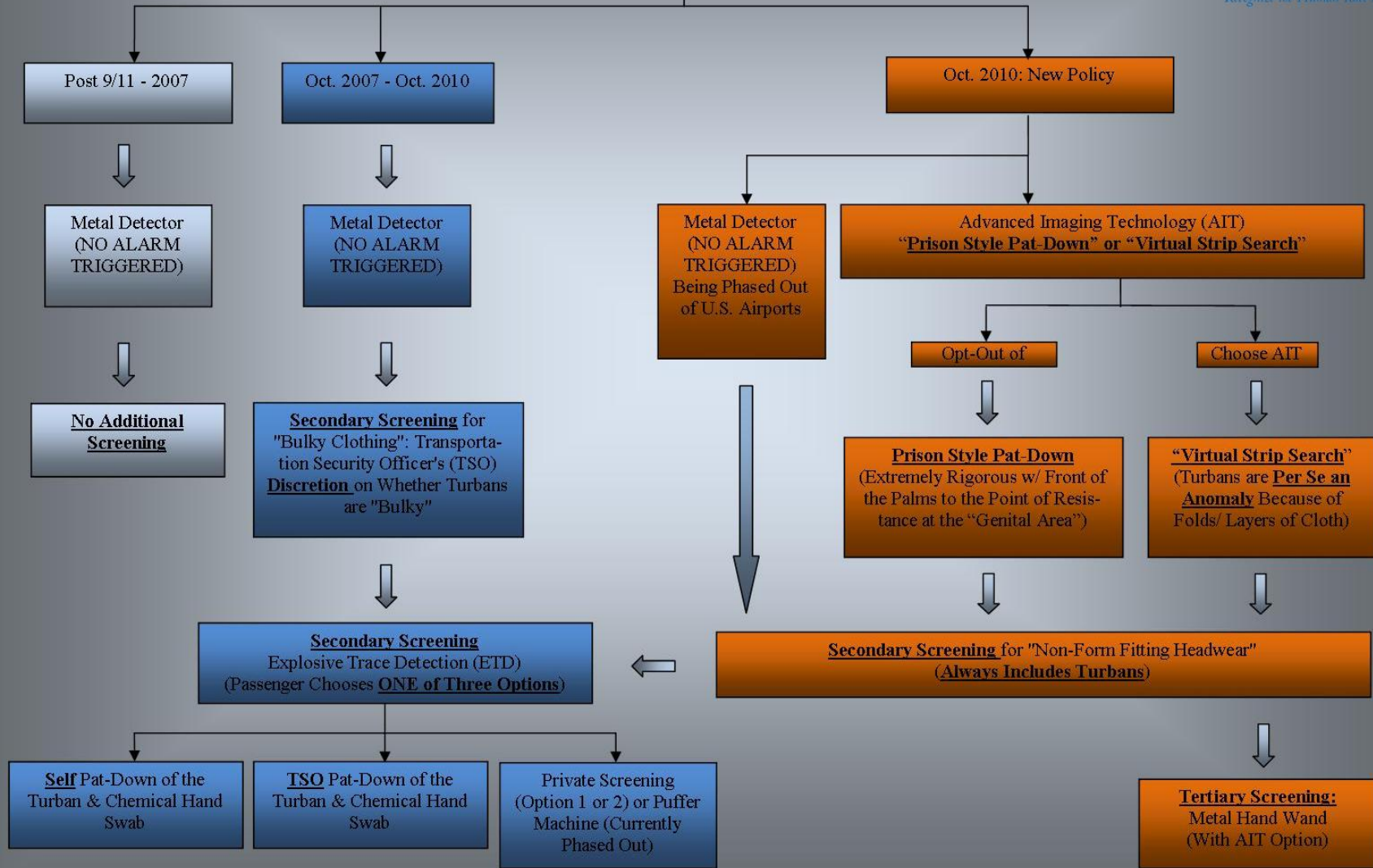
<sup>7</sup> UNITED SIKHS, SALDEF, and Sikh Coalition are currently awaiting clarification on this issue from the TSA.



UNITED SIKHS

Recognize the Human Race as One

**The Evolution of TSA Airport Security Policies Regarding Sikh Turbans**





# MINORITY RIGHTS UNDER INTERNATIONAL LAW: CENSUS

## Minority Rights Group (MRG) International: Memorandum Regarding the Tabulation of Sikh Ethnicity in the United States Census

### Purpose

*“To persuade the US Census Bureau to override the laws barring them from counting people on the basis of religion, and have them count Sikhs because of their belief that they are more than simply a religion.”*

### Introduction

The United States Census Bureau (Census Bureau) officially recognizes and quantifies the existence of minority groups within its territory. The American Sikh population is estimated to be at 1 million, but is denied their right to identity. Question 9 of the 2010 US Census form allows for self-identification of “race.” Many American Sikhs self-identify as an “ethnic minority” and have attempted to enter “Sikh” in the space marked “some other race”. However these entries were tabulated as “Asian Indian” and the Census Bureau refused to provide disaggregated data.

Such a regime for refusing to document the existence of minority populations is in contravention of the United State’s (US) treaty obligations and general standards of international human rights law pertaining to the rights of minorities. Protection and promotion of minority rights aims to guarantee the rights to non-discrimination and equality for minorities, their participation in public life, and inclusion of their concerns in the disparities in social indicators such as employment, health and housing. However redressing these inequalities is dependent on the granting of the most fundamental of minority rights: the right to an identity.

### American Sikhs are a Minority under International Law

1. The US is a State party to the International Covenant on Civil and Political Rights (ICCPR) and is thus bound by Article 27 which vests rights in minorities:

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.<sup>1</sup>*

2. The central tenant of minority rights is to respect, preserve and develop ethnic, religious or linguistic identity “thus enriching the fabric of society as a whole”.<sup>2</sup> This is

reiterated in the Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN Decl. Min.)<sup>3</sup> and Framework Convention on National Minorities (FCNM),<sup>4</sup> which both seek to “preserve and develop the group identity” of persons belonging to “ethnic, religious and linguistic” minorities.<sup>5</sup>

3. The most commonly relied on definition for which groups *can* constitute minorities under international law states:

*A group numerically inferior to the rest of the population, in a non-dominant position, consisting of nationals of the State, possessing distinct ethnic, religious or linguistic characteristics and showing a sense of solidarity aimed at preserving those characteristics.*<sup>6</sup>

4. Persons belonging to the American Sikh minority have a distinct language: Gurumukhi script and Panjabi (spoken). They have a distinct religion: followers of Guru Nanak and his successors. In addition they have separate customs including marriage, festivals and appearance not to mention different music, dance and other cultural aspects. They share a common ancestry originating from particular parts of the Panjab in India and are largely endogamous.

5. In addition to their distinct cultural identity, their numerical inferiority or nondominant position is not disputed. The vast majority are not only citizens but the result of immigration as early as the nineteenth century.<sup>7</sup> They have since contributed extensively towards political life<sup>8</sup> and the armed forces.<sup>9</sup>

6. The final and most crucial aspect of minority rights, replicated in other instruments,<sup>10</sup> is the principle of self-identification.<sup>11</sup> The right to an identity can only emanate from the self and cannot be imposed externally.<sup>12</sup> Thus right to identity can exist without persons belonging to minorities self-identifying as such.

7. The words “[i]n those States in which [...] minorities exist” implies such a principle. The “existence” of “minorities” indicates its inherence unaffected by State recognition and is expressed in Capotorti’s definition as “solidarity aimed at preserving those characteristics.”

8. Furthermore, given that minority rights are “distinct from, and additional to, all the other rights” and require the granting of specific rights<sup>13</sup> means that persons belonging to culturally distinct groups can opt out of such recognition and must self-identify as belonging to such a minority in order to access the relevant specific rights. The most basic of these are measures of non-discrimination attempting to achieve equality for vulnerable groups and even calling for the application of temporary “special measures.”<sup>14</sup>

9. If a culturally distinct group fulfils all of the above objective criteria but lacks the motivation to preserve that distinct group identity; they cannot be classified as minorities under international law.<sup>15</sup>

10. Conversely it also implies that the “existence” of minorities, while dependent on self-identification, is not affected by States’ (non-)recognition of such existence and is a matter of fact. However the US is obliged under CCPR Article 27 to recognise minorities that self-identify as such as long as they fulfill the objective criteria set out above.<sup>16</sup> Without the full adherence to the

principle of self-identification, minorities cannot benefit from rights of non-discrimination nor access cultural rights in relation to that identity.

11. Most American Sikhs identify as an “ethnic minority,” but the US construes the Sikh identity to be purely of a religious nature and thus denies them recognition as a “race.” The inference is that the US recognises American Sikhs as religiously distinct and excludes the Sikh ethnicity from the scope of “race.”

**“Race” must include “ethnicity”**

12. The US Census Bureau has stated that the data on “race” from Question 9 will be used for “assessing fairness of employment practices, to monitor racial disparities in health, education and to plan and obtain funds for public services.”<sup>17</sup>

13. “Race” has historically alluded to a genetic or biological notion that could be objectively assessed on the basis of visual observation.

14. However, such a formulation of “race” would be counterproductive to ensuring equality for minority groups on the basis of non-discrimination. The raising of grievances implies that the individual has self-identified as a particular “race” and seeks protection from discrimination. As such, minorities must be able to self-identify as to which “race” they belong to, in order for effective measures of nondiscrimination to be implemented.

15. A note by the United States Equal Employment Opportunity Commission<sup>18</sup> strongly endorsed self-identification advising against visual identification<sup>19</sup> and is in line with a general trend away from “race” as visually observed to “race” as self-identified in the context of non-discrimination.

16. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which binds the US, defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin.”<sup>20</sup>

17. Sikh ethnicity is recognised in the United Kingdom (UK). Under English law, “racial groups” for the purposes of non-discrimination are understood to be any groups defined by “colour, race, nationality or national or ethnic origins.” The English Courts have interpreted “ethnic origin” to include the Sikh identity.<sup>21</sup>

18. Thus “race” for the purposes of determining the existence of “racial disparity”<sup>22</sup> must involve the self-identification of persons belonging to “ethnic minorities”.

19. The United States Census Bureau itself stated in 2000 that:

*“The concept of race as used by the Census Bureau reflects self-identification by people according to the race or races with which they most closely identify. These categories are sociopolitical constructs and should not be interpreted as being scientific or anthropological in nature.”<sup>23</sup>*

20. Therefore the Census Bureau has adhered to such developing standards, domestically and

internationally, by allowing for self-identification to *any* “race”. It has desisted from providing individuals with a finite list of permissible “race” categories by allowing for the entry of “some other race”. Without this option, implementation of the principle of self-identification would be incomplete.<sup>24</sup>

21. Allowing for a “some other race” category allows those whose “ethnicity” is not included in the list provided under Question 9 or those who belong to a subgroup which they have a closer affiliation to freely self-identify as they please.

22. Many members of the Sikh community self-identify as a distinct “ethnicity” due to their characteristics, which set them apart from other groups. The identity of a Sikh person is actually a combination of culture, ethnicity, race and religion. It does not fit neatly into religion.

23. Thus many American Sikhs self-identified in line with their “Sikh ethnicity” under “race” in the Census. The US Census Bureau however chose to disregard these expressions of identity, instead identifying them as ethnically “Asian Indian” even though they laid claim to no such identity.

24. As we have already established, “race” must be self-identified. However it seems that the US Census does not consider the Sikh ethnic identity to be within the scope of “race” or “ethnicity”. Such practice is in direct contravention of the principle of self-identification, and American Sikhs cannot be labelled as “Asian Indian” when they have ascribed to no such identity. If the US Census Bureau does not accept “Sikh” as an acceptable “race”, then it cannot impose an ethnic identity on individuals by reference to their presumed national origin.

25. Nonetheless, the refusal to recognise the Sikh identity in the Census is not compatible with the principle of self-identification and the definition of “ethnic” under international law.

### **Defining Ethnicity**

26. Denying American Sikhs the right to identify as “Sikh” in the US Census suggests that their identity is objectively considered not to be one which is an accepted “ethnicity” or “race”. However we can observe that under international law, “ethnic” identity is determined by two factors: self-identification and the presence of a “culture”:

*Persons who belong to groups defined as ethnic would have more extensive rights relating to the preservation and development of other aspects of their culture also, since ethnicity is generally defined by a broad conception of culture, including a way of life.*<sup>25</sup>

27. It is on this basis that minority rights are granted. ICCPR Article 27 states that “ethnic minorities” shall not be denied the right to enjoy their culture. Given that linguistic and religious identities also have “cultures”; they constitute specific and explicit examples of “culture” while the term “ethnic minority” covers all *other* forms of culture.

28. Therefore for a group to be defined under international law as an “ethnic minority” they need only show the existence of a group culture that is separate from or in addition to their religious and linguistic identity.

29. Ethnicity has been defined as “the heritage, nationality group, lineage, or country of birth of the person or the person's parents or ancestors before their arrival in the United States”.<sup>26</sup>

30. In the case of the American Sikh minority, they have many dimensions to their identity of which religion is clearly an important aspect. As has already been established, the Sikh identity has many dimensions, which collectively are perceived of by members as an “ethnicity”.

31. A reason advanced for refusal of the Sikh identity has hinged on the presumption that they constitute a religious minority and cannot be documented due to a policy barring documentation of religious affiliation.

32. There is nothing to suggest under international minority rights law that religious and ethnic identities are mutually exclusive and that one group cannot have access to both elements of identity. To deny recognition to the Sikh minority of their “ethnicity” or to define them by solely by their religion at the expense of their “ethnicity” constitutes discrimination.

33. Therefore, even if a group is recognised as a minority in line with its express desire to that effect, the recognition of minority status will be rendered illusory and an unacceptable observance of the principle of self-identification, if the group is not recognised as the particular type of minority that it claims to constitute. Just as a State may not deny a culturally distinct group within its territory recognition as a minority; it may also not deny the group to choose which type of minority it self-identifies as.

34. In the case of American Sikhs, they are automatically classified with their assumed national origin but not their primary, identity that of being Sikh.

35. Nonetheless, the principle of self-identification while fundamental is not absolute. There are objective criteria which set the boundaries of the space available for the principle of self-identification to be observed.<sup>27</sup> The objective criteria determine the scope of minority rights. Thus, if the identity resulting from the exercise of self-identification is within this scope, complete deference must be given to that choice.

36. Just as there is a finite scope in which “minorities” may lay claim to such a status, there is similarly a finite scope for each of the separate categories of minorities listed in Article 27: ethnic, linguistic, and religious.

37. In addition, it has been argued that the use of subjective criteria, such as a will on the part of the members of the groups in question to preserve their own characteristics and to be accepted as part of that group by the other members, combined with certain specific objective requirements, such as those listed in the Capotorti definition, should be taken into account. It is now commonly accepted that recognition of minority status is not solely for the State to decide, but should be based on both objective and subjective criteria.

38. If ethnicity denotes the wider concept of culture and the term religious minority refers to religious identity, it does not then mean that the two are mutually exclusive. It would also mean that any group which is recognised to have a culture which does not neatly fit the categories of religion

or language can rely on the “ethnic” heading to access minority rights in relation to their culture and identity.

### **Non-discrimination**

39. The most immediate and essential adverse effect of non-recognition is that the American Sikh minority is unable to refer to any official population figures of their ethnic minority. They are denied the right to be counted. This affects their sense of identity. They cannot politically participate in the decisions which affect them. They will not be able to access group rights specific to their unique culture which extend beyond religious beliefs, such as educational institutions and other cultural considerations unconnected with their religious beliefs.

40. The Committee on the Elimination of Racial Discrimination (CERD) has stated that:

*States parties fail to collect data on the ethnic or national origin of their citizens or of other persons living on their territory, but decide at their own discretion which groups constitute ethnic groups...that are to be recognized and treated as such...the Committee draws to the attention of States parties that the application of different criteria in order to determine ethnic groups or indigenous peoples, leading to the recognition of some and refusal to recognize others, may give rise to differing treatment for various groups within a country's population.<sup>28</sup>*

41. The Census Bureau disaggregates groups with significantly small populations. The American Sikh population is thought to be over 1 million. As a large group that has grown since settlement over 200 years ago, it has constantly voiced its desire to self-identify for many years.

42. Completely missing the autonomous existence of 1 million people in the USA means that their protection will critically be overlooked. This is a huge flaw in both the census and compliance of US with CERD. Trends of one of the most discriminated against Asian group cannot be obtained from this data without being flawed.

### **Hate Crimes**

43. Sikhs have been the victims of hate crimes, racial profiling and discrimination, especially since the horrific terrorist attacks on 9/11. Hate crimes cannot be properly reported and categorized unless Sikhs are recognized as a separate ethnic group and counted by the Census. Counting Sikhs separately will help government to document, prosecute, and prevent hate crimes. Below are only a few illustrative examples:

1. Balbir S Sodhi was the first hate crime victim post 9/11. He was shot and killed in Arizona outside his gas station.
2. Baljeet Chadha was punched and his nose and eye socket broken outside a gurdwara (Sikh place of worship) after being called a f\*\*\*\* arab in late 2008.
3. In the state of New York, a Sikh boy was assaulted and his hair was cut in school forcibly, a guilty verdict was given in the case for a hate crime.
4. Nirvair Singh was visiting Orlando, Florida from India and didn't speak English very well. He became very ill while staying in a hotel, and after

being deserted by the Uncle he was visiting, decided to leave and go back to India. While trying to get a taxi, he walked into a bank to get help getting a taxi and passed out from a high fever while waiting. The bank employees assumed he was a threat, possibly with a bomb, because he had luggage with him and had a beard and turban, and called the police. The police came in with a SWAT team and attacked him with police dogs, cut off his clothes, and blew up his suitcases without giving him a chance to explain anything.

5. In New Jersey, a Sikh Boy's *patka* (head covering) and *kesh* (hair) were set on fire during a fire drill in school by a fellow student.
6. Sikhs are regularly subjected to special screening by the Transportation Security Administration (TSA), by virtue of wearing the turban.

These examples demonstrate the dire need for measures needed to protect American Sikhs from persecution and violence on the basis of their distinct ethnicity. International law explicitly anticipates and prompts such treatment of minorities.<sup>29</sup> An accurate count of the population will better ensure protection and better inform authorities of the needs of a community that is being targeted.

## Conclusion

It has been shown in respecting, persevering and developing the identity of minority groups, it is essential to give prominence and defer to the principle of self-identification. However such a subjective principle must be bound by objective limits.

The principle thus implemented will compel the recognition of groups as minorities if they satisfy these objective criteria. However it will also allow for those groups that fulfill such objective criteria but lack the desire to preserve their culture to choose not to be identified and treated as minorities.

Consequently, the same principle must be applied to preserving and developing a particular type of minority identity through its recognition. Therefore we have established that under international law, the availability of an “ethnic” identity for a group need only be conditioned on evidence of a “culture” which is not solely<sup>30</sup> religious or linguistic and covers all cultural identities including race.

This analysis has shown that American Sikhs have a right under international law to self identify as “ethnic minorities” based on their cultural traits which cannot be isolated to those of a religious nature and reinforced by a strong sense of solidarity aimed at preserving their culture. The United States Census Bureau has a duty to correctly tabulate minorities, including Sikhs, and should provide disaggregated data for Sikhs who write in “Sikh” under the “Some Other Race” category.

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<sup>1</sup> International Covenant on Civil and Political Rights, adopted on 16 December 1966, entered into force on 23 March 1976, 999 UNTS 171, Art. 27.

<sup>2</sup> General Comment 23, Human Rights Committee, Article 27 (Fiftieth session, 1994), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. RI/GEN/1/Rev.1 at 38 (1994), para. 9.

<sup>3</sup> Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the UN GA on 18 December 1992, GA Res. 47/135.

<sup>4</sup> Framework Convention for the Protection of National Minorities, adopted on 1 February 1995, entered into force on 1 February 1998, ETS No. 157, Preamble.

<sup>5</sup> Asbjørn Eide, Commentary Of The Working Group On Minorities To The United Nations Declaration On The Rights Of Persons Belonging To National Or Ethnic, Religious And Linguistic Minorities, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-seventh session Working Group on Minorities Eleventh session 30 May-3 June 2005, para. 4.

<sup>6</sup> Francesco Capotorti, Special Rapporteur of the Sub-commission on Prevention of Discriminating and Protection of Minorities, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* (Centre of Human Rights, Geneva, United Nations, New York, 1991). Also see Recommendations 1144 & 1201 of the Parliamentary Assembly, Council of Europe for attempted definitions of “national minority”.

<sup>7</sup> San Francisco Chronicle Documented Sikhs Landing San Francisco Chronicle April 6, 1899, p.10.

<sup>8</sup> *U.S vs Bhagat Singh Thind* (1923) (1920 Bhagat Singh Thind Veteran U.S Army fought for citizenship). Dalip Singh Saund - El Centro Imperial Valley was the first Sikh and three term Congressman, 1957-1963. In 1956, Dalip Singh Saund became the first East Indian born person to be elected to the US House of Representatives (until Governor Bobby Jindal).

<sup>9</sup> Uday Singh, a Sikh, was the First Indian in the US Army killed in Iraq; Lt. General James Campbell attended funeral in Chandigarh, 2003.

<sup>10</sup> E.g. Framework Convention for the Protection of National Minorities, adopted on 1 February 1995, entered into force on 1 February 1998, ETS No. 157, Art. 3.

<sup>11</sup> The principle was first established by the Permanent Court of Justice in 1930 in Panayote Elias Dimitras, MRG Briefing: *Recognition of Minorities in Europe: Protecting Rights and Dignity.*

<sup>12</sup> FCNM Explanatory Report, para. 34: “Paragraph 1 firstly guarantees to every person belonging to a national minority the freedom to choose to be treated or not to be treated as such. This provision leaves it to every such person to decide whether or not he or she wishes to come under the protection flowing from the principles of the framework Convention.”

<sup>13</sup> UN Human Rights Committee, General Comment 23, para. 9.

<sup>14</sup> General Recommendation No. 32, *The meaning and scope of special measures in the International Convention on the Elimination of Racial Discrimination*, Committee on the Elimination of Racial Discrimination, Seventy-fifth session, August 2009

<sup>15</sup> Framework Convention for the Protection of National Minorities (FCNM), Art. 3 and Explanatory Report, para. 34.

<sup>16</sup> See FCNM and Explanatory Report, para. 35: “This paragraph does not imply a right for an individual to choose arbitrarily to belong to any national minority. The individual’s subjective choice is inseparably linked to objective criteria relevant to the person’s identity.”

<sup>17</sup> <http://2010.census.gov/2010census/index.php>.

<sup>18</sup> Equal Employment Opportunity Commission Notice of Submission for OMB Review; Final Comment Request, Federal Register (EEOC Note), Vol. 70, No. 227, Monday, November 28, 2005.

<sup>19</sup> *Id.* p. 2.

<sup>20</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), concluded on 7 March 1966, entered into force on 4 January 1969, 660 UNTS 195, Art. 1.

<sup>21</sup> *Mandla v Dowell-Lee* [1983] 2 AC 548 (House of Lords). Lord Fraser of Tullybelton’s leading opinion interpreted the Sikh minority as a “racial group”: “For a group to constitute an ethnic group in the sense of the Act of 1976, it must in my opinion, regard itself, and be regarded by others, as a distinct community by virtue of certain characteristics. Some of these characteristics are essential others are not essential but one or more of them will commonly be found and will help to distinguish the group from the surrounding community. The conditions which appear to me to be essential are these:

1. a long shared history, of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive.
2. a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance.

In addition to those two essential characteristics the following characteristics are in my opinion, relevant;

3. either a common geographical origin, or descent from a small number of common ancestors
4. a common language, not necessarily peculiar to the group
5. a common literature peculiar to the group
6. a common religion different from that of neighbouring groups or from the general community



surrounding it

7. being a minority or being oppressed or a dominant group within a larger community, for example a conquered people.”

<sup>22</sup> <http://2010.census.gov/2010census/how/interactive-form.php>.

<sup>23</sup> [http://quickfacts.census.gov/qfd/meta/long\\_68178.htm](http://quickfacts.census.gov/qfd/meta/long_68178.htm).

<sup>24</sup> UN Human Rights Committee, General Comment 32, para. 6.2.

<sup>25</sup> UN Commission on Human Rights, Commentary on UN Declaration on Minorities, E/CN.4/Sub.2/AC.5/2005/2, 4 April 2005, paragraph 6.

<sup>26</sup> American Anthropological Association’s Response to OMB Directive 15: Race and Ethnic Standards for Federal Statistics and Administrative Reporting (Sept 1997).

<sup>27</sup> Explanatory Report to the Framework Convention for the Protection of National Minorities, adopted on 1 February 1995, entered into force on 1 February 1998, ETS No. 157, para. 34.

<sup>28</sup> General Recommendation No. 24: Reporting of persons belonging to different races, national/ethnic groups, or indigenous peoples (Art. 1): 27/08/99. Gen. Rec. No. 24. (General Comments).

<sup>29</sup> UN Declaration on Minorities, Commentary, para. 32, FCNM Exp. Note, Art 6 para. 2, para.

<sup>30</sup> Commentary on UN Declaration on Minorities, para. 6.

# NO-FLY AND OTHER WATCHLISTS

*This article was originally presented as a speech given at the 3<sup>rd</sup> Annual Global Sikh Civil & Human Rights Conference as part of a panel discussion on Minority Rights under Domestic and International Law. The implications of this bill go far beyond Canadian shores or the Canadian Sikh population.*

Bill C-42 is currently being debated in the Canadian Parliament. This bill would give Canadian airlines the legal ability to comply with the demands of any foreign country to provide passenger information for flights that enter the foreign country's airspace. This should not be confused with air passenger data that is sent to countries that are the destination of flights.

Bill C-42 greatly expands current information sharing by providing not only a means of pre-boarding denial for travelers intending to enter another country, but a means of preventing the traveler from even transiting airspace— that is, giving a travel veto to countries that are merely been flown over. The Bill, as it currently stands, is worded to encompass any country's information demands for passenger over-flight information. However, the only country that we are aware of that currently makes this demand, is the United States (US). Bill C-42, responds to demands for passenger over-fly information under the new U.S. Secure Flight Program.

The privacy rights of Canadians and visitors to Canada are obviously at issue in this Bill. Personal information would be forwarded to a foreign government system that is utterly devoid of meaningful privacy protections. The main issue, however, is the consequences to individual Canadians and to Canadian sovereignty of being complicit in allowing a foreign jurisdiction to veto travelers coming to or from Canada.

The transit routes most impacted are those from Canada to Europe, the Caribbean and South America. For the moment, the US is saying that it will not require passenger information in cases where US airspace is transited in the passage between two Canadian cities. This means, that the US will not be able to dictate who can fly between two points within Canada. This "exception" allows Canadians to fly within their own country without asking the permission of a foreign government. This is little enough to be "grateful" for, but even this pitiful concession is apt to be short-lived if the historical pattern of such "exceptions" is any gauge.

Canada, for example, was not supposed to be in this position at all because our extensive security "harmonization" efforts and the development of our own no-fly list in 2007 was supposed to exempt us from the imposition of the US no-fly list, which is what Secure Flight is. If the pattern we have been witnessing continues, the "exemption" for Canadian domestic over-flights will be rescinded in the near future which would essentially give the United States a de facto veto on most air travel, to, from and within Canada.

Our Association presented to the Canadian Parliamentary Committee on Bill C-42 and voiced our disappointment that the Committee hearings to that point had heard such endless iterations on the theme of the rights of the US to the sovereignty of its airspace, and so very little about the sovereignty of Canada and the rights of Canadian citizens.

Our position is that if the government of Canada enacts Bill C-42, Canada will be complicit in the use of the US no-fly list which we say does not comport with the rule of law. We say that the US Secure Flight Program violates international law and that subjecting Canadians to the Secure Flight regime through the mechanism of Bill C-42 would violate the Canadian Charter of Rights and Freedoms.

What is proposed under Bill C-42 is that Canada supply passenger information to the US in order that passengers may be granted or denied permissions to transit US airspace on the basis of unknowable and un-challenge-able criteria.

Every country in the world is sovereign over its airspace, and yet this innovation by the US is, to our understanding, without precedent and essentially stands to completely subvert the current practice of global traffic and trade which enshrines by international conventions the freedom to fly over a sovereign country.

It is presumably possible for a sovereign state to make rules regarding the transit over their airspace, and US Secure Flight's "rule" is to deny travel permissions to persons on their watchlists. However, the analysis does not stop there.

Travel watchlists are an increasingly important discussion in the international community. The BCCLA recently published a paper on the United Nation Security Council's 1267 Regime, which is a watchlist for individuals and entities subject to international travel bans and asset freezes. We say that this UN watchlist violates international law and the Canadian constitution for failure to provide due process rights, also known as natural justice.

There is some variation in the requirement of due process rights in different contexts, but it typically includes the right to an independent and impartial adjudicator, the right to know the case against you, and the right to be heard.

These are all familiar elements of what is called due process and are understood by virtually everyone as elements of basic fairness. Such rules are at the heart of the Canadian Charter of Rights and Freedoms as well as in instruments of international law such as the Universal Declaration of Human Rights

The UN Declaration of Human Rights provides, for example, that:

“Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted to him by the constitution or by law.”

The United Nation's 1267 watchlist is created on the basis of secret evidence. An individual listed has no opportunity to make their case before the 1267 Committee prior to being placed on the blacklist, there is no mechanism to review the accuracy of the evidence there is only a very limited ability to participate in a delisting request and no opportunity to present one's defence or assert one's rights.

This regime has come under strident attack ranging from a resolution by the Parliamentary Assembly

for the Council of Europe harshly criticizing the regime, to the Supreme Court of the United Kingdom striking down the domestic legislation implementing the 1267 regime in that country, for failure to comport with the principles of natural justice.

Like the UK, Canada has implemented the 1267 Regime through its domestic legislation. And like the UK, that implementation is being challenged in the court.

The British Columbia Civil Liberties Association is a party to the Canadian court challenge to the UN 1267 regime which was filed in the summer of 2010.

In our opinion, Canadian implementation of the 1267 Regime is a violation of both the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights. This is relevant to the issue of Bill C-42 and whether Canada legislation implements the use of the US Secure Flight program, because Secure Flight is even more devoid of due process protections and the rules of fundamental justice than the 1267 Regime.

There has been a huge amount of confusion as to what actually exists in terms of due process for US no-fly lists. Certainly many Canadian legislators have been extremely confused, insisting, for example, that there are mechanisms for review. There is currently a highly unsatisfactory process in the US that attempts to provide recourse for the scandalous number of “false positives” on the US no-fly list; that is, same or similar name listings. This is an exceedingly limited process, which we understand may not even be available to Canadians.

The point is, that this mechanism is for “false positives.” For people who are correctly listed – there is no mechanism whatsoever.

People intentionally listed, on the basis of secret evidence or the formulations of secret “risk algorithms have absolutely no form of process or redress.

Some of these “correctly” listed people are famous in Canada, such as Mahar Arar, the Canadian kidnapped to torture from the John F. Kennedy International Airport in 2002. Despite being fully exonerated of any links to terrorism by a Canadian Commission of Inquiry the United States still refuses to take Mr. Arar and his family off the US watchlists. It is worth noting that not only is there no redress mechanism for people on the US no-fly watchlist, generally, but that extraordinary diplomatic efforts, up to and including those of the Canadian Prime Minister, also fail to find any remedy for injustices flowing from the US watchlist.

And it is in this light that we must view the Government of Canada’s latest efforts to facilitate and expand this program’s affect on Canadian citizens.

During the Parliamentary Committee Hearings, we noted that the government has not put forward any credible plan to assist Canadians who are denied boarding by Secure Flight or any plan to repatriate and protect Canadian citizens who will be denied permission to return to Canada and endangered by the smear of terrorist involvement while stranded and vulnerable in a foreign country.

Thus, there is a kind of Orwellian irony, which is now a defining feature of the security state: Bill C-42 is touted by proponents as a safety measure, and yet not only does it enables a program that can

nowhere provide evidence supporting the claim that it demonstrably improves aviation safety, but it is a program that will be actively endangering the security of Canadians abroad.

As the Supreme Court of Canada said in the Charkaoui decision, a process that “may bring with it the accusation that one is a terrorist”... “could cause irreparable harm to the individual”.

We say that Secure Flight defies the rule of law and that Canada must not be complicit in the program by enacting Bill C-42. The argument that purported security trumps all other constitutional considerations has no merit.

There will always be a necessary and difficult weighing and balancing, but as the Supreme Court of Canada stated in Charkaoui decision, “security concerns cannot be used to excuse procedures that do not conform to fundamental justice at the s.7 state of the analysis.”

Fundamental justice is not an enemy of security. In fact, there is no security without fundamental justice.

Thus, we have urged Canada to work with international partners and in international forums to come to agreements on aviation security that respect the rule of law. Countries the world over are grappling with these issues. Secure Flight represents what we believe is an unprecedented alteration of global travel with vast implications for travel, trade and tourism. Such developments have a serious impact on all citizens’ rights, but entirely unsurprisingly, a disproportionately negative impact on the rights of minorities.

Post-9/11 security programs have been long criticized for use of racial and religious profiling techniques and it is important that those concerns with minority rights see the threat in Bill C-42 and “no-fly” lists more generally.

***Authored and Presented by: Micheal Vonn  
Policy Director, British Columbia Civil Liberties Association***

# AFGHANISTAN



*Head of State and Government:* Hamid Karzai

*Population:* 28,396,000<sup>1</sup>

*Sikh Population:* 3,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* No<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* Yes (USCIRF Watch list)<sup>4</sup>

**Government Structure:** Afghanistan is currently functioning under a new Constitution ratified in 2004.<sup>5</sup> The president (chief of state) comprises the executive branch of the government while the legislative branch (a bicameral national assembly) consists of *Wolesi Jirga* (lower house) and *Meshrano Jirga* (upper house).<sup>6</sup> The judicial system is comprised of a Supreme Court, High Courts and Appeals Courts.<sup>7</sup> The legal system is based on a combination of civil and *shari'a* law.<sup>8</sup> Governance is divided over 34 political subdivisions known as provinces.<sup>9</sup>

**Religious Demography:** Afghanistan is comprised of 80% Sunni Muslims, 19% Shi'a Muslims, 1% other religious groups; however, an official census has not been conducted in decades.<sup>10</sup> The Hindu and Sikh populations were once thriving, but many have fled because of increasing conflict.<sup>11</sup> However, a small population of native-Afghan Hindus and Sikhs remain. In total, non-Muslims, including Hindus, Sikhs, Baha'is and Jews, were estimated to number in the hundreds at the end of Taliban rule.<sup>12</sup> Since the end of the Taliban regime, a number of religious minorities have returned and now, according to the self-estimates of minority religious communities, there are approximately 3,000 Sikhs, more than 400 Baha'is, 100 Hindus, one known Jewish Afghan, and a small Christian community with numbers ranging anywhere from 500 to 8,000.<sup>13</sup>

**General Civil & Human Rights:** According to the United States Department of State 2010 Human Rights Report, Afghanistan's human rights record continued to remain poor with extrajudicial killings, torture, poor prison conditions, prolonged pretrial detention, restrictions on freedom of the press, restrictions on freedom of religion, violence and societal discrimination against women, restrictions on religious conversions, abuses against minorities, sexual abuse of children, trafficking in persons, abuse of worker rights, the use of child soldiers in armed conflict, and child labor all continuing to be serious human rights problems.<sup>14</sup>

Amnesty International reported that Afghans continued to face widespread and serious human rights violations including: inadequate access to health care and deterioration of both education and humanitarian aid due to continuing armed conflict.<sup>15</sup> Conflict related human rights violations were also increasing in areas previously considered safe.<sup>16</sup> Afghanistan is ranked as the second poorest

country in the United Nation's index of human development which lists 182 countries.<sup>17</sup> Violence against women remains a serious problem.<sup>18</sup>

Human Rights Watch also reported that armed conflict continued to spread across Afghanistan causing an increase in civilian casualties.<sup>19</sup> Additionally, "the absence of due process of law remains a fundamental failing of the Afghan legal system."<sup>20</sup>

Since its first national democratic presidential election, Afghanistan has been plagued with violence on and around election days, and many elections are marred by serious allegations of fraud.<sup>21</sup> Notably, the Sub National Governance Policy was approved on March 22, 2010 which, if fully implemented, will be a step forward in sub national governance.<sup>22</sup> Afghanistan has had the largest refugee repatriation in the world in the last 30 years.<sup>23</sup> Afghanistan also has one of the highest mortality rates in the world.<sup>24</sup>

Islam is the official religion of Afghanistan and the Constitution states that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam."<sup>25</sup> The Constitution also states that, "followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law."<sup>26</sup>

**Sikh Civil & Human Rights:** Respect for religious freedom deteriorated in 2010.<sup>27</sup> Christian, Hindu, Sikh, and other religious minority groups were targets of discrimination and persecution.<sup>28</sup> There is a continuing pattern of disparate treatment for minority faiths in Afghanistan. This is highlighted by the U.S. Commission on International Religious Freedom (USCIRF), which states that:

"[t]he Afghan Constitution fails to explicitly protect the right to freedom of religion or belief . . . [a]s a result, individuals lack protection to dissent to debate the role and content of religion in law and society, to advocate for the rights of women and members of religious minorities, or to question interpretations of Islamic precepts."<sup>29</sup>

### ***MINORITY RIGHTS***

One aspect of the disparate treatment of minority faith groups arises with the continual prohibition on Sikhs and Hindus to cremate their dead.<sup>30</sup> Although Sikhism allows for any humane means of parting with the dead (i.e. submersion in water), traditionally Sikhs have chosen cremation as the primary method.

Unfortunately, this is not the only form of disparate treatment for minority faiths. Free electricity, which is readily provided to Mosques, has been denied to religious minorities. Instead, Sikhs and other minorities actually pay a higher rate and thus Gurdwaras are billed for electricity like business entities.<sup>31</sup>

Additionally, the government has provided limited funding for schools in predominantly minority communities and given minimal assistance in helping Sikhs combat general societal discrimination. For some Sikhs who live too far from schools, education is not even an option.<sup>32</sup> For others, parents are faced with the difficult choice of either sending their children to public schools, where Sikh students frequently face harassment from other students, or keeping their child at home.<sup>33</sup> Parents

prefer to send their children to Sikh private schools, but due to economic deterioration in the Sikh community, families are often unable to afford the tuition.<sup>34</sup>

The social exclusion of Sikhs also affects employment within the government sector. The Sikh community has been lobbying unsuccessfully to have one Parliament seat designated for a Sikh representative, as is the case for the Kuchi communities who have 10 seats reserved.<sup>35</sup>

At one time, the Sikh and Hindu populations numbered upwards of 200,000.<sup>36</sup> Due to discrimination and intimidation, these numbers have been reduced to about 3,000. However, the situation for Sikhs has improved since the fall of the Taliban because there is no official policy of discrimination.<sup>37</sup> Though official discrimination may be limited, Sikhs “are effectively barred from most government jobs, and face societal hostility and harassment.”<sup>38</sup> Nonetheless, there are Sikhs like Anarkali Kaur Honaryar who have stood firmly against entrenched discrimination.<sup>39</sup>

### **WOMEN’S RIGHTS**

Anarkali Kaur Honaryar has become Afghanistan’s Sikh heroine for women’s rights. In 2001, Ms. Honaryar was “part of the loya jirga (grand council) that selected the interim government to replace the Taliban.”<sup>40</sup> In 2006, she joined the Afghan Independent Human Rights Commission and helped to educate and secure the rights of women who had no knowledge of Afghan laws.<sup>41</sup> In 2009, at 25 years of age, Ms. Honaryar was named by Radio Free Europe’s Afghan chapter as their “Person of the Year.”<sup>42</sup>

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS, BACKGROUND NOTE: AFGHANISTAN (Dec. 6, 2010) (stating that “More than 3 million Afghans live outside the country, mainly in Pakistan and Iran, although over 5 million have returned since the removal of the Taliban”), <http://www.state.gov/r/pa/ei/bgn/5380.htm> [hereinafter “U.S. DEPT. OF STATE BACKGROUND”].

<sup>2</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: AFGHANISTAN (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148786.htm>, [hereinafter “IRF 2010”].

<sup>3</sup> UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (USCIRF), 2010 ANNUAL REPORT 204 (May 2010), <http://www.uscifr.gov/images/annual%20report%202010.pdf> (indicating that the constitution fails to explicitly protect the right of freedom of religion).

<sup>4</sup> *Id.*

<sup>5</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1.

<sup>6</sup> *Id.*

<sup>7</sup> Abdullah Qazi, *Afghanistan: Branches of Government*, AFGHANISTAN ONLINE, Jan. 17, 2007, <http://www.afghan-web.com/politics/government.html>.

<sup>8</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: AFGHANISTAN (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/af.html>, [hereinafter “CIA”].

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), AFGHANISTAN (2010), [http://www.thearda.com/internationalData/countries/Country\\_1\\_2.asp](http://www.thearda.com/internationalData/countries/Country_1_2.asp).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*; see also IRF 2010, *supra* note 2.

<sup>14</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: AFGHANISTAN (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136084.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”].

<sup>15</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD’S HUMAN RIGHTS 55 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).



<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 56.

<sup>19</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 259 (2010), <http://www.hrw.org/world-report-2010>.

<sup>20</sup> *Id.*

<sup>21</sup> See U.S. DEPT. OF STATE HR 2010, *supra* note 14.

<sup>22</sup> *Id.*

<sup>23</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1 (stating that, “[o]ver 5 million Afghan refugees have returned to the country since 2002, with 4.4 million receiving repatriation assistance from the United Nations High Commissioner for Refugees (UNHCR). In February 2009, UNHCR reported 235,833 internally displaced people (IDPs) in the country.”).

<sup>24</sup> *Id.* (“One in five children dies before the age of five and one out of every eight Afghan women die from causes related to pregnancy and childbirth each year. Life expectancy is only 44 years for both men and women.”).

<sup>25</sup> See U.S. . DEPT. OF STATE, *supra* note 14.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* (“There were cases of harassment, occasional violence, and inflammatory public statements made by members of parliament and television programming against religious minorities, particularly Christians, and Muslims who were perceived as not respecting Islamic strictures.”).

<sup>28</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 14 (“Local Hindu and Sikh populations, although allowed to practice their religion publicly, continued to encounter problems obtaining land for cremation and historically have faced discrimination when seeking government jobs, as well as harassment during major celebrations. Most local Baha'is and Christians did not publicly state their beliefs or gather openly to worship.”), <http://www.state.gov/g/drl/rls/irf/2010/148786.htm>.

<sup>29</sup> See USCIRF, *supra* note 3.

<sup>30</sup> See IRF 2010, *supra* note 2.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* (“one school for Sikh children in Ghazni; one in Helmand; and, since March 2010 one in Kabul that only teaches Dari and Pashto. The Sikh community requested a school in Nangarhar; the government provided one during the reporting period”).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Sayed Salahuddin, *Afghan Hindus and Sikhs Grapple with Uncertain Future*, REUTERS, July 2, 2010, <http://in.reuters.com/article/idINIndia-49826020100702>.

<sup>37</sup> See USCIRF, *supra* note 3 at 208.

<sup>38</sup> *Id.*

<sup>39</sup> Sambuddha Mitra Mustafi, *Afghanistan's Sikh Heroine Fights for Rights*, BBC, Feb. 11, 2010, <http://news.bbc.co.uk/2/hi/8494291.stm>.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

# AUSTRALIA



*Head of State:* Queen Elizabeth II, represented by Quentin Bryce

*Head of Government:* Prime Minister Julia Gillard

*Population:* 22,300,000<sup>1</sup>

*Sikh Population:* 44,600<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Australia is a constitutional monarchy with a democratic federal-state system and the following branches of government: Executive, comprised of the head of state (Queen Elizabeth II) represented by a governor general and the prime minister; Legislative, consisting of a bicameral Parliament; Judicial, consisting of an independent judiciary.<sup>3</sup>

**Religious Demography:** Catholic 26%, Anglican 19%, other Christian 19%, other non-Christian 1%, Buddhist 2.1%, Islam 1.7%, Hindus 0.7%, Jews 0.4%, Sikhs 0.2%,<sup>4</sup> other religions 0.5%, no religion 19%, and not stated 12%.<sup>5</sup>



*Western Australia Sikh Marching Band*

**General Civil & Human Rights:** In its 2010 Report, Amnesty International found that the indigenous peoples of Australia continued to face discriminatory treatment.<sup>6</sup> The UN Special Rapporteur on Health commented about the inadequate access to health services for indigenous peoples because of direct discrimination or culturally inappropriate services being provided. However, the Special Rapporteur also noted that the government had increased investment in indigenous health services.<sup>7</sup>

As a result of the largest public human rights consultation being completed in September 2009, several recommendations were made to the Australian government, including the establishment of a national Human Rights Act.<sup>8</sup> Although Australian law prohibits torture and other degrading punishment practices, there were some reports of custodial mistreatment of suspects in police custody.<sup>9</sup>

A disturbing trend of anti-Semitism increased year over year; however, the increase was not in violent acts of anti-Semitism.<sup>10</sup> The United States Department of State in its 2010 International Religious Freedom Report concluded that Australia generally respected religious beliefs in practice

and provided for legal protection of religious freedom.<sup>11</sup>

**Sikh Civil & Human Rights:** Sikhs in Australia have a history of being treated fairly, especially because of the large numbers of students with Sikh backgrounds coming to Australia to pursue a higher education. Nonetheless, the events of 2010 presented many challenges for the Sikh community and their ability to practice their faith freely.

### ***ARTICLES OF FAITH***

In November 2010, a group of Australian Sikhs had their *kirpans* seized at the airport by Customs officials, even after agreeing to stow them in with their check-in luggage. Sikhs (both male and female) as part of their faith are required to wear a strapped short-sheathed religious blade (*kirpan*) at all times. President Ajmer Singh Gill, of the Sikh Council of Australia, reported that during a Custom's inspection in Queensland, his *kirpan* was seized by the agent who asserted that there was no license to import the dagger. A decision on this matter is still pending and will rest on the determination of Attorney General Robert McClelland. Similarly in Perth, a former minister had to step in to resolve the same issue with Customs.<sup>12</sup>

These incidents are particularly surprising because UNITED SIKHS' Australia team has collaborated with the Cultural Diversity and Indigenous team of the Western Australia Police Department to frame a groundbreaking "Kirpan Policy" which has been included in Police Operational Manuals throughout Western Australia.<sup>13</sup> This has now been included in the Police Operational Manual, and consequently, the information is available to every police officer in the state. Sikh groups are advocating for Attorney General Robert McClelland to correctly rule that the *kirpan* is a religious article of faith not requiring a permit.



***Western Australia Police with  
UNITED SIKHS at Bayswater Gurdwara***

### ***HATE CRIMES***

A Sikh temple was torched by arsonists in January of 2010. The partially built Nanaksar Thath Isher Darbar temple in Melbourne was apparently set on fire with at least one Molotov cocktail. Detectives did not rule out racial or religious hatred as the main motivation of the crime, especially since evidence of several accelerants was found on the scene. This incident happened only a month after the stabbing of 21 year old Panjab-born accountant in Melbourne, increasing the strain and fear felt by Sikhs in the community.<sup>14</sup>

To ease these tensions, the government initiated The Australian Sikh Games in Brisbane which drew 30,000 people. Leaders of the Australian government and the Sikh community hoped this event would ameliorate tensions after several vicious attacks on Sikh students had caused an uproar in 2009. Following these attacks, Prime Minister Rudd told Prime Minister Singh that "the more than 90,000 Indian students in Australia are welcome guests in our country . . . and the more than 200,000 Australians of Indian descent are welcome members of the Australian family. I speak on behalf of all

Australians when I say that we deplore and condemn these attacks. These are senseless acts of violence.”<sup>15</sup>

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, BACKGROUND NOTE: AUSTRALIA (November 24, 2010), <http://www.state.gov/r/pa/ei/bgn/2698.htm> [hereinafter “U.S. DEPT. OF STATE BACKGROUND”].

<sup>2</sup> *Id.*

<sup>3</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1.

<sup>4</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), AUSTRALIA (2010) (.2% Sikh population), [http://www.thearda.com/internationalData/regions/profiles/Region\\_2\\_2.asp](http://www.thearda.com/internationalData/regions/profiles/Region_2_2.asp).

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: AUSTRALIA (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148857.htm>, [hereinafter “IRF 2010”].

<sup>6</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD’S HUMAN RIGHTS 67 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>7</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: AUSTRALIA (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135985.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”] (“The indigenous health minister noted that the government had increased the indigenous health budget by 57 percent in two years.”).

<sup>8</sup> AMNESTY INTERNATIONAL, *supra* note 6, at 68.

<sup>9</sup> *Id.* (“Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted.”).

<sup>10</sup> U.S. DEPARTMENT OF STATE BACKGROUND, *supra* note 1 (“In the 12-month period ending September 30, an annual report on anti-Semitism by the Australia/Israel and Jewish Affairs Council, a nongovernmental organization (NGO), recorded 962 anti-Semitic incidents, compared with 652 during the previous 12 months. According to the report’s author, the overall increase resulted primarily from “new peaks” in reported incidents of harassment of Jewish citizens on the street, such as abusive remarks directed at Jewish persons walking to or from synagogue services, and in anti-Semitic e-mails and Internet postings. On the other hand, the report also noted a “marked decrease” in physical assaults against Jewish persons and property, with 27 such incidents reported compared with 58 and 46 respectively during the previous two years. Telephone threats, hate mail, and anti-Semitic graffiti also were reported at rates below the 20-year average for such incidents.”).

<sup>11</sup> *Id.*

<sup>12</sup> Mark Dunn, *Sikhs Wounded by Dagger ‘ban’: Australian Sikhs are Fighting for the Right to Bring Ceremonial Daggers through Airports*, HERALD SUN, Nov. 13, 2010, <http://www.heraldsun.com.au/news/victoria/sikhs-wounded-by-dagger-ban/story-e6frf7kx-1225952846942>.

<sup>13</sup> UNITED SIKHS, WP- 1.1 ‘Carrying of the Kirpan’: An Explanation of the WA Police Policy Regarding the Sikh Kirpan (2009), [http://unitedsikhs.org/m i rights/WP-1.1%20 Carrying%20of%20the%20Kirpan\\_Australia.pdf](http://unitedsikhs.org/m i rights/WP-1.1%20 Carrying%20of%20the%20Kirpan_Australia.pdf).

<sup>14</sup> Lauren Wilson, *Melbourne Sikh Temple Arson ‘An Attack on Religion’*, THE AUSTRALIAN, January 14, 2010, <http://www.theaustralian.com.au/news/nation/melbourne-sikh-temple-arson-an-attack-on-religion/story-e6frg6nf-1225819009767>.

<sup>15</sup> Rich Bowden, *Organizers Look to Sikh Games to Diffuse Tensions*, THEANGLE.ORG, Dec. 10, 2010, <http://theangle.org/2010/04/03/organisers-look-to-sikh-games-to-defuse-tensions/>.

# BELGIUM



*Head of State:* King Albert II

*Head of Government:* Yves Leterme

*Population:* 10,600,000<sup>1</sup>

*Sikh Population:* 3,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **No**<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Belgium is a Parliamentary democracy under a hereditary constitutional monarchy with an executive branch comprised of the King as head of state, the Prime Minister as head of government, and the Council of Ministers as the cabinet. Belgium's legislative branch consists of a bicameral parliament.<sup>4</sup>

**Religious Demography:** The majority of Belgium's religious community is Roman Catholic with minority Protestant, Jewish, Muslim, Anglican, Greek, Russian Orthodox, and secularist populations. The Belgian government does not collect or publish statistics on religious affiliation. Unofficial reports indicate that the country's religious demography is as follows: 60% Roman Catholics; 4% Muslims; 2% Protestants; 1% Jewish; 2% other religious groups; 31% nonbelievers.<sup>5</sup>

**General Civil & Human Rights:** One of the major issues facing Belgium is the overcrowding of prisons. The Human Rights Commissioner of the Council of Europe (CE) reported that 75 percent of Belgium's prisons were overcrowded.<sup>6</sup> An independent oversight committee monitored police activities about complaints regarding discriminatory police conduct and allegations of excessive use of force by law enforcement officials.<sup>7</sup> Amnesty International reported that irregular migrants were able to regularize their status only after public protest although conditions remained poor inside migrant and asylum seeker detention centers.<sup>8</sup>

The Center for Equal Opportunity and the Combat against Racism (CEOOCR) issued a report in 2008 that warned against the growing trend of violence, harassment, and discrimination of Muslims.<sup>9</sup> According to the U.S. Department of State Human Rights Report of 2010, anti-Semitic acts of violence continued to be a problem in 2008 and 2009 resulting in many Jews being fearful to wear their religious symbols in public, even though Belgian law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust.<sup>10</sup>

The U.S. Department of State's International Religious Freedom Report (U.S. IRF Report 2010) indicated that the Belgian government generally respected religious freedom in practice.<sup>11</sup> Though Belgian law provides for the protection of religious freedom, the free exercise rights of groups not

officially recognized by the State continued to be monitored by the State and also face religious discrimination.<sup>12</sup> One example is the wearing of religious articles of faith in public institutions, which remains a contentious issue.<sup>13</sup> Also, most public schools in Belgium continued to restrict the wearing of religious head scarves.<sup>14</sup> This has caused tension between the Muslim community and school authorities.<sup>15</sup>

This past year, the situation worsened for religious communities who wear articles of faith as many cities and municipalities imposed bans on the wearing of any religious symbols.<sup>16</sup> There were reports of religious discrimination of the Jewish and Muslim communities in addition to reports from some religious communities who are not officially recognized by the government.<sup>17</sup> The headscarf ban could have possible negative implications for Sikhs, as authorities could ban the *dastaar* (turban) since it is a type of religious headdress.

**Sikh Civil & Human Rights:** As per the 2007 Anti-Discrimination Act, discrimination on the grounds of religion or personal beliefs is outlawed.<sup>18</sup> Nevertheless, this legislative protection is not reflected in the situation of Sikhs in Belgium, as well as the circumstances members of other non-recognized faiths or beliefs.

### ***RECOGNITION AS A DISTINCTIVE FAITH***

In Belgium, the “law accorded “recognized” status to six religions . . . each of which received financial benefits from the federal and regional governments.” Sikhism currently does not have “recognized” status.<sup>19</sup> Those faiths with “recognized” status are Catholicism, Protestantism (including evangelicals and Pentecostals), Judaism, Anglicanism (separately from other Protestant groups), Islam, and Orthodox (Greek and Russian) Christianity.<sup>20</sup>

The benefits that flow from such recognition include: subsidies and the payment of wages and pensions for ministers of those groups by the government and parliament. The U.S. IRF Report of 2010 observed this disparity by stating that, “religious and political leaders acknowledged the need to reform the way faiths are recognized and financed and to further the dialogue between recognized and nonrecognized faiths.”<sup>21</sup>

Recognition as a religious group must meet five criteria:

“the religion must have a structure or hierarchy; the group must have a sufficient number of members; the religion must have existed in the country for a long period of time; it must offer a social value to the public; and it must abide by the laws of the state and respect public order.”

If a group meets these criteria, it must seek official recognition by applying to the Ministry of Justice, who then makes a recommendation to the parliament. Parliament generally follows the recommendation laid forth by the Ministry.<sup>22</sup>

## **ARTICLES OF FAITH**

The Center for Equal Opportunity and the Combat against Racism (CEOCR) was established in 1993.<sup>23</sup> In November 2009, the CEOCR issued a report on religious symbols. Looking at existing legislation, the CEOCR report found that:

[o]ther than the neutrality imposed on public schools and on civil servants . . . [there were] few situations . . . for disallowing the wearing of religious symbols, and opined that, if necessary, the fundamental right to wear religious symbols should only be restricted by law, not by mere administrative directives.<sup>24</sup>

While The Hasselt Civil Court affirmed (in the case of *KTA Domein Speelhof School vs. five Sikh boys*, 2008) the school has appealed before the High Court and as of publication of this report, a decision is yet to be announced.<sup>25</sup> Acting preemptively, on September 2009, the Council of GO! Education of the Flemish Community decided to put a complete ban on head coverings starting September 2010 in Dutch speaking areas. Through a public letter writing campaign to members of parliament as well as the Flemish education ministry, The Supreme Administrative Court of Belgium intervened and declared the ban unconstitutional and ordered GO! to suspend their decision, while the Belgian Constitutional Court examined whether GO!'s decision was in conflict with the Belgian Constitution. A decision is expected to be reached at the end of January 2011.<sup>26</sup>

A UNITED SIKHS volunteer in Belgium reported that a discussion is currently taking place within the Commission for Education and Equal Opportunities (*Commissie voor Onderwijs en Gelijke Kansen*) to examine the feasibility of banning religious symbols in schools. This panel is comprised of politicians and experts on the topic of religious symbols, including Etienne Vermeersch, a prominent Belgian moral philosopher. The first hearing was on Sept. 23, 2010. As the hearing was open to the public, several members of the Belgian Sikh community were present, but were not allowed to speak in accordance with the rules of the proceedings. In the third hearing, a Sikh woman wearing a *dastaar* (turban) was invited to speak about the perspective of the Sikh community. Hearings were described by Sikhs who attended as positive.<sup>27</sup>

A *zwartboek* or black book was compiled by Sikh volunteers in February 2010. With the goal of informing any politician, member of the press or public in a systematic manner of the impact of the schools' ruling on allowing children wearing religious symbols, the document details cases of Sikh children in Belgium who have been refused admission in schools or been expelled due to a schools' ruling. The current version of this book was released on August 25, 2010.<sup>28</sup>

<sup>1</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 77 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>2</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: BELGIUM (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148917.htm> [hereinafter "IRF 2010"].

<sup>3</sup> See *Id.* (stating that the law only currently recognizes six religions, not including Sikhism).

<sup>4</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, BACKGROUND NOTE: BELGIUM (April 29, 2010), <http://www.state.gov/r/pa/ei/bgn/2874.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"] ("The King plays a largely ceremonial and symbolic role in the nation. His primary political function is to designate a political leader to attempt to form a new cabinet following either an election, the resignation of a government, or a parliamentary vote of no confidence. The King is seen as playing a symbolic unifying role, representing a common national Belgian identity.").

<sup>5</sup> IRF 2010, *supra* note 2.

<sup>6</sup> See Press Release, *Council of Europe anti-Torture Committee Publishes a report on Belgium*, COUNCIL OF EUROPE (July 23, 2010), <http://www.cpt.coe.int/documents/bel/2010-07-23-eng.htm>.

<sup>7</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: BELGIUM (March 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136022.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”] (“In January 2009, Committee P submitted a report to Parliament stating that it received 6,244 complaints about federal and local police conduct, including discriminatory behavior, brutality, racism, failure to intervene, violations of privacy, and arbitrary detention. The committee noted that police officers often failed to observe rules and regulations when dealing with undocumented aliens, prostitutes, and squatters. According to 2009 figures, pretrial detainees made up almost 34 percent of the prison population. The average length of pretrial detention was approximately 90 days.”); AMNESTY INTERNATIONAL, *supra* note 1, at 78.

<sup>8</sup> AMNESTY INTERNATIONAL, *supra* note 1.

<sup>9</sup> See IRF 2010, *supra* note 2.

<sup>10</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 7 (“Anti-Semitism expressed itself through youth violence (almost exclusively from Muslim extremists.”).

<sup>11</sup> IRF 2010, *supra* note 2.

<sup>12</sup> IRF 2010, *supra* note 2 (“Religious and political leaders continue to acknowledge the need to reform the way religious groups are recognized and financed and to further the dialogue between recognized and nonrecognized religious groups.”).

<sup>13</sup> *Id.* (“In November 2009 the CEOCR issued a comprehensive report on wearing symbols of religious and philosophical convictions. The report gave a detailed account of the prevailing legislation and rules for the civil service, armed forces, public and private schools, and the workplace. Other than the neutrality imposed on public schools and on civil servants, the report found few situations and places where there were grounds for disallowing the wearing of religious symbols, and opined that, if necessary, the fundamental right to wear religious symbols should only be restricted by law, not by mere administrative directives. In March the Council of State temporarily annulled a decision of the Flemish public schools authority, which sought to impose a general headscarf ban for the entire public school network. The Council of State ruled that it was the discretion of the Constitutional Court to determine who is qualified, either the school authority or Flemish parliament, to impose such a restriction. Also in March the Mons Appellate Court ruled that the Charleroi municipal school authority had overstepped its authority by terminating a female mathematics teacher wearing her headscarf in class. Because of these rulings, the Flemish and Francophone ministers in charge of education reversed their previous decisions and have not sought to take any further legislative action against the wearing of headscarves in schools. On April 27, the Antwerp labor court ruled that a female employee suffered no damage when disallowed by the prevailing employment rules from wearing a headscarf at the workplace. The CEOCR had argued on her behalf that a commercial company had no authority to ban wearing religious symbols by means of workplace rules.”).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* (“At the start of the school year in September, this restriction led to a standoff between school authorities and Muslim girls at public schools in Antwerp and nearby Hoboken. Supported by a local imam, the girls staged a walkout, but the ban remained in place and most girls opted to return to school.”).

<sup>16</sup> *Id.* (“Antwerp, Ghent, Lokeren, Ninove, and Lier all impose such bans. Antwerp, for example, forbade the wearing of any religious or political symbol by municipal employees, but allows women to cover their head with a bandana if they so choose.”).

<sup>17</sup> *Id.*

<sup>18</sup> IRF 2010, *supra* note 2.

<sup>19</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 7.

<sup>20</sup> IRF 2010, *supra* note 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Press Release, *Belgian Court Overturns Ban on Sikh Headcovering in School*, UNITED SIKHS (July 1, 2008).

<sup>26</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Turbans in Belgian Schools* (Dec. 21, 2010), [http://www.sikhiwiki.org/index.php/Turbans\\_in\\_Belgian\\_Schools](http://www.sikhiwiki.org/index.php/Turbans_in_Belgian_Schools). Sikhi Wiki is a database created by the Sikh community as an educational tool.

<sup>27</sup> Observations by UNITED SIKHS volunteers in Belgium.

<sup>28</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Turbans in Belgian Schools*, last accessed on Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Turbans\\_in\\_Belgian\\_Schools](http://www.sikhiwiki.org/index.php/Turbans_in_Belgian_Schools).



# BURMA



*Head of State:* Than Shwe<sup>1</sup>

*Head of Government:* Thein Sein<sup>2</sup>

*Population:* 53,414,374<sup>3</sup>

*Sikh Population:* ~ 70,000<sup>4</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **Yes (Department of State and USCIRF CPC)**<sup>5</sup>

**Government Structure:** The Union of Burma is a small nation in Southeast Asia between Bangladesh and Thailand that is under the control of a military dictatorship. Burma is divided up into seven administrative divisions (Ayeyarwady, Bago, Magway, Mandalay, Sagaing, Tanintharyi, Yangon) and states (Chin, Kachin, Kayah, Kayin, Mon, Rakhine (Arakan), Shan).<sup>6</sup> Its government consists of three branches (Executive, Legislative, and Judicial) that are controlled by the chief of state (Senior General Than Shwe), the head of government (General Thein Sein), and members of the cabinet (Controlled by a military regime).<sup>7</sup>

**Religious Demography:** According to the July 2010 estimated census the population of Burma is 53,414,734.<sup>8</sup> Of that population, 89% are Buddhist, 4% Christian, 4% Muslim, 1% Animist, and 2% other.<sup>9</sup>

**General Civil & Human Rights:** Burma has one of the worst human rights records in the world.<sup>10</sup> Citizens in Burma live under harsh control by a military dictatorship which puts extreme limitations on freedom of religion, individual rights, organizations, and political parties.<sup>11</sup> Aung San Suu Kyi, a Nobel Peace Prize winner, is a political and human rights activist that has spoken publicly against the ruling regime.<sup>12</sup> She is also the founder and leader of the National League for Democracy.<sup>13</sup> During her speeches, military riots often broke out and thousands were killed.<sup>14</sup> Aung San Suu Kyi was later arrested for her speeches and placed under house arrest on and off for almost two decades.<sup>15</sup> On November 13, 2010 she was released from house arrest, after the military regime declared itself the winner of the election, although it was widely considered a sham.<sup>16</sup>

Burma continues to oppress religious minority groups by imposing limitations on freedom of movement, association, and freedom to exercise religion while generally allowing members of government registered religious groups to practice freely.<sup>17</sup> While the Burmese government officially recognizes Theravada Buddhism as the national religion, it has often retaliated against Buddhist monks protesting the regime and instilled a code of conduct -punishing monks for violating

the code by engaging in political “non-Buddhist” behavior.<sup>18</sup> In addition, Burma often prevents religious groups from building churches and other houses of worship and groups must seek permission from the government before holding large religious gatherings for any reason.<sup>19</sup> South Asian religious minority groups, particularly the ethnic religious minority group, known as Muslims Rohingyas, have reported societal discrimination and harassment.<sup>20</sup>

**Sikh Civil & Human Rights:** The State Peace and Development Council (SPDC) is a military junta that controls Burma. Not only is Burma categorized as a Country of Particular Concern (CPC) by USCIRF but also by the U.S. Dept of State.<sup>21</sup> The Burmese government restricts religious activities and limits freedom of religion, specifically for ethnic minorities.<sup>22</sup> The government monitors meetings and activities of all religious organizations and requires religious groups to seek permission before holding large public events.<sup>23</sup>

Currently, Sikhs maintain a “favorable” position in the society. Most Sikhs have higher education, and therefore command respect. However, it is very clear to the Sikh society at large that there must be no involvement on their part in any kind of political group.<sup>24</sup>

### ***MINORITY RIGHTS***

Employment discrimination does not seem to be a problem, and hate crimes against Sikhs are not prevalent. However, there are restrictions on the free exercise of religion other than Buddhism. All minority religions are restricted from constructing any new places of worship. The houses of worship being used right now by minority groups are the ones that were constructed in the last century. Though the military junta allows restoration activities to keep these old buildings in good shape, new construction of any kind is prohibited.<sup>25</sup>

Further, any kind of books or items that have anything to do with preaching a minority religion are not allowed through customs. Therefore, Sikhs along with other minority communities, do not have access to any kind of literature, pictures, books, musical instruments or other materials that are essential to the practice of their religion. Sikhs complain of having no harmoniums (a manual keyboard) and a shortage of *gutkas*, the small handheld religious booklets that contain the *banis* (teachings of the Gurus) used for daily prayers.<sup>26</sup>

Socially, Sikhs are a well respected community in Burma. However, Sikhs do find it hard to practice and preach the religion for the lack of the essential religious items that they do not have access to. The *gurmukhi* script is hard to promote as they do not have textbooks for teaching the language and cannot import them either. Sikhs have had to involve the Indian Embassy to get some harmoniums to be able to do *kirtan*. Besides these restrictions, Sikhs feel safe in the country and are not under any kind of threat as long as they stay out of politics.<sup>27</sup>

### ***ARTICLES OF FAITH***

The position regarding *kakaars* for Burmese Sikhs could be viewed as both positive and negative. The *dastaar* (turban) is well respected and Sikhs have been granted accommodations to wear their *dastaars* in the military and they are also granted exemptions from hard hat and helmet requirements.

The *kirpan* however, is not allowed in any form. Being a military government, possession of any item even perceived to be a “weapon” big or small, is strictly prohibited. Therefore, the majority of Sikhs in Burma do not wear *kirpans*.<sup>28</sup> As the people are generally discouraged to protest against any rules, Sikhs have not tried to get this policy reversed.<sup>29</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: BURMA (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html> [hereinafter “CIA”].

<sup>2</sup> *Thein Seien*, ALTERNATIVE ASEAN NETWORK ON BURMA (ALTSEAN-BURMA), last accessed on Jan. 6, 2011 <http://www.altsean.org/Research/SPDC%20Whos%20Who/SPDC/TheinSein.htm>.

<sup>3</sup> CIA, *supra* note 1.

<sup>4</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Sikhism By Country*, last accessed on Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_by\\_country](http://www.sikhiwiki.org/index.php/Sikhism_by_country).

<sup>5</sup> UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (USCIRF), 2010 ANNUAL REPORT 31 (May 2010), <http://www.uscifr.gov/images/annual%20report%202010.pdf> [hereinafter “USCIRF”].

<sup>6</sup> CIA, *supra* note 1.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> USCIRF, *supra* note 5.

<sup>11</sup> *See generally* U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: BURMA (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148859.htm> [hereinafter “IRF 2010”].

<sup>12</sup> Profile, *Aung San Suu Kyi*, BBC (Nov. 15, 2010), <http://www.bbc.co.uk/news/world-asia-pacific-11685977>.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*; Burma Campaign UK, A Biography of Aung San Suu Kyi, last accessed on Jan. 14, 2011, <http://www.burmacampaign.org.uk/index.php/burma/about-burma/about-burma/a-biography-of-aung-san-suu-kyi>.

<sup>16</sup> *Burma releases pro-democracy leader Aung San Suu Kyi*, BBC, Nov. 13, 2010, <http://www.bbc.co.uk/news/world-asia-pacific-11749661>.

<sup>17</sup> IRF 2010, *supra* note 11.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> USCIRF, *supra* note 5.

<sup>22</sup> *Id.*

<sup>23</sup> IRF 2010, *supra* note 11.

<sup>24</sup> UNITED SIKHS, 2009 GLOBAL SIKH CIVIL RIGHTS REPORT 26-27 (2010).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

# CANADA



*Head of State:* Queen Elizabeth II, represented by Governor General Michaëlle Jean

*Head of Government:* Stephen Harper

*Population:* 33,487,208<sup>1</sup>

*Sikh Population:* 600,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The Canadian government is a Commonwealth realm coupled with a federal parliamentary democracy, and the legal system is based on English common law in all provinces except in Quebec, where the legal system is based on French law.<sup>3</sup> The government of Canada is bilingual with both French and English as official languages.<sup>4</sup> The law provides for protection of human rights and freedom of religion, and reports indicate that the government generally respects the rights of the citizens.<sup>5</sup>

**Religious Demography:** According to the 2001 Census the religious demography of Canada is as follows: Roman Catholic 42.6%, Protestant 23.3% (including United Church 9.5%, Anglican 6.8%, Baptist 2.4%, and Lutheran 2%), other Christian 4.4%, Muslim 1.9%, other and unspecified 11.8%, none 16%.<sup>6</sup>

**General Civil & Human Rights:** Canada had an important role in drafting the Universal Declaration of Human Rights and is party to all six human rights conventions.<sup>7</sup> At the federal level, the most important legislation is the Canadian Human Rights Act which came into force in 1978.<sup>8</sup> Every province in Canada has legal provisions to ensure human rights of Canadians are protected.<sup>9</sup>

In 1982, the Canadian government modified the Constitution and enacted a statute called the Canadian Charter of Rights and Freedoms.<sup>10</sup> The Charter was enacted to include the standards set by the Universal Declaration of Human Rights and ensures the rights of Canadian citizens and the Government's responsibility in upholding those rights.<sup>11</sup> Additionally, Canada also established human rights commissions at federal and provincial levels to monitor the promotion and protection of human and civil rights.<sup>12</sup>

Some human rights concerns in Canada include the rights of indigenous people, especially as they

relate to disputes over land and resources, and also the rights of detainees in prison.<sup>13</sup>

**Sikh Civil & Human Rights:** Although in many ways Canada is a measure for the rest of the world in how to protect human rights, this year marked a decisive shift in how Sikhs have been portrayed in Canada. Unsubstantiated rhetoric from MPs like Ujjal Dosanjh and also from the Prime Minister of India, Manmohan Singh, have helped inflame the discussion about the rise of Sikh extremism, with negative consequences for the Canadian Sikh community.<sup>14</sup>

### ***GENOCIDE DENIAL***

In June 2010, Canadian MP Michael Ignatieff challenged the assertion that the killings of 1984 constituted genocide of the Sikh population. In response to a petition, drafted by Sikhs for Justice, to recognize the atrocities in India during 1984 and presented to the Canadian Parliament on June 6, 2010, Mr. Ignatieff questioned the legitimate motives of this petition by responding that, “describing these events as genocide is not accurate or appropriate [...] It is used here to provoke a charged, visceral response which will not bring Canadians closer to mutual understanding and closure in regard to these tragic events [...] let me affirm that we will never support any initiative which seeks to tear the threads of mutual respect and common citizenship we share as Canadians.”<sup>15</sup> Organizations like UNITED SIKHS, Voices for Freedom (VFF), Sikhs for Justice, and World Sikh Organization (WSO) of Canada have spoken out against Mr. Ignatieff’s denial of genocide.

On June 6, 2010, VFF rebuked Mr. Ignatieff’s inflammatory comments and countered his denial in a letter that drew comparisons between the Sikh Genocide of 1984 and the Rwandan Genocide that took place in 1994.<sup>16</sup> The key to such comparisons were not about the scope of the killings but in the pattern and high level organization that preceded both of the systematic killings.<sup>17</sup> “By denying the pain and indignity suffered by the Sikh community in 1984, Mr. Ignatieff has committed the gravest act of spiritual violence, the denial of truth and the suppression of victim’s voices.”<sup>18</sup>



*The 3rd Annual Global Sikh Civil & Human Rights Conference was held in Surrey, BC from December 17-19, 2010. Human Rights advocates, lawyers, community leaders and politicians gathered to hold meaningful dialogue on issues that most affect Sikhs as a community.*

### ***DEFAMATION***

On July 16, 2010, WSO legal counsel disputed the rise of Sikh extremism in Canada and asserted that there was a complete lack of evidence to justify comments by high level officials both in Canada and India.<sup>19</sup>

Recently, on November 29, 2010, Sikhs for Justice member, Jatinder Singh Grewal accused Ujjal Dosanjh of making defamatory statements at a press conference in India.<sup>20</sup> A case has been filed in Chandigarh, India and commenced on December 10, 2010. Mr. Grewal commented that Mr. Dosanjh's comments put Sikhs under a "cloud of suspicion" and harm the reputation of all Sikh youth living in Canada.<sup>21</sup>

### **EMPLOYMENT DISCRIMINATION**

For Sikhs, the issue of balancing safety and religious freedom often clashes when it comes to the wearing of hard hats. In March 2008, an employment discrimination case was filed by two Sikh men against an employer who, "failed to consider their religious obligation to wear a turban when it required them to wear hard hats." Currently, the case is pending.<sup>22</sup>

Similarly, a case was brought before the Ontario Human Rights Tribunal where a Sikh security guard, Mr. Deepinder Loomba, faced harassment and discrimination by senior employees of Home Depot who threatened to fire him if he did not remove his turban and replace it with a hard hat. The Tribunal Vice-Chair, Ena Chadha, found "that the complainant was treated differently because of his turban and that this was negative differential treatment." The Tribunal ruled in Mr. Loomba's favor.<sup>23</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: CANADA (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/ca.html> [hereinafter "CIA"].

<sup>2</sup> Wikipedia, *Sikhism in Canada*, last accessed on Jan. 14, 2011, [http://en.wikipedia.org/wiki/Sikhism\\_in\\_Canada](http://en.wikipedia.org/wiki/Sikhism_in_Canada).

<sup>3</sup> CIA, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: CANADA (Dec. 17, 2009), <http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119151.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>6</sup> CIA, *supra* note 1.

<sup>7</sup> Foreign Affairs and International Trade Canada, *Canada's International Human Rights Policy* (Oct. 12, 2009), <http://www.dfait-maeci.gc.ca/rights-droits/policy-politique.aspx?lang=eng>.

<sup>8</sup> Lester B. Pearson, *Canada and Human Rights*, <http://www.unac.org/rights/actguide/canada.html>.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 96-97 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>14</sup> Balpreet Singh Boparai, *Disputing Sikh Extremism*, July 16, 2010, <http://worldsikh.ca/2010/07/16/disputing-sikh-extremism/>.

<sup>15</sup> Bonnie Crombie, *Statement by Liberal Leader Michael Ignatieff on the Petition Before Parliament Concerning Events in India of November 1984*, STREETSVILLELIBERALS, June 2010, <http://www.streetsvilleliberals.ca/newsstory.aspx?id=18269>.

<sup>16</sup> VOICES FOR FREEDOM (VFF), *Liberal Leader Michael Ignatieff Seeks to Silence the Voice of Sikh Victims of 1984* (June 6, 2010), [http://www.voicesforfreedom.org/index.php?option=com\\_content&view=article&id=13:liberal-leader-michael-ignatieff&catid=6:slide-show-articles](http://www.voicesforfreedom.org/index.php?option=com_content&view=article&id=13:liberal-leader-michael-ignatieff&catid=6:slide-show-articles).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Boparai, *supra* note 14.

<sup>20</sup> Meagan Fitzpatrick, *Dosanjh Accused of Defamation*, THE GAZETTE, Nov. 29, 2010, <http://www.montrealgazette.com/entertainment/movie-guide/Dosanjh+accused+defamation/3901292/story.html>.

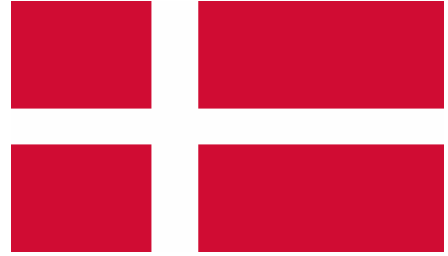
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<sup>21</sup> *Id.*

<sup>22</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 5.

<sup>23</sup> Brendan Kennedy, *Home Depot Discriminated Against Sikh Man*, THE STAR, July 1, 2010, <http://www.thestar.com/news/gta/article/830868--home-depot-discriminated-against-sikh-man>.

# DENMARK



*Head of State:* Queen Margrethe II

*Head of Government:* Lars Løkke Rasmussen

*Population:* 5,468,120<sup>1</sup>

*Sikh Population:* 700<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Denmark is a constitutional monarchy with a representative democracy based on the parliamentary system.<sup>4</sup> Currently, the government consists of a minority centre-right coalition formed of the Liberal party and the Conservative People's party.

**Religious Demography:** Evangelical Lutheran: 95%<sup>5</sup>, Muslim: 3.6 % (approximately 200,000).<sup>6</sup> Groups that constitute less than 1% of the population: Catholics (38,000), Jehovah's Witnesses (14,600), Serbian Orthodox Christians (7,000), Jews (6,000), Baptists (5,200), Buddhists (4,400), The Church of Jesus Christ of Latter-day Saints (Mormons) (4,200), and the Pentecostal Church (3,700).<sup>7</sup> Other communities with fewer than 3,000 members, include Seventh-day Adventists, the Catholic Apostolic Church, the Salvation Army, Methodists, Anglicans, and the Russian Orthodox Church.<sup>8</sup>

**General Civil & Human Rights:** The most serious reports of human rights violations have been in the area of domestic violence and trafficking in women and children.<sup>9</sup> An estimated 28,000 women and 22,000 children experience domestic violence in Denmark every year.<sup>10</sup> Religious and ethnic discrimination against minorities continues to be a problem as well.<sup>11</sup>

Danish human rights law is primarily derived from three sources: the Danish Constitution, the European Convention of Human rights, and the UN Conventions.<sup>12</sup> The Danish Institution of Human Rights was established in 2002 and aims to base its work on human rights as recognized by the international community at any given time, as well as on the freedoms included in the Constitution.<sup>13</sup>

In addition, the Danish constitution allows citizens the right to change their government peacefully.<sup>14</sup> Some have exercised this right within the Greenland and Faroe Island territories by electing home rule governments.<sup>15</sup> Greenlanders and Faroes still retain the same rights as other citizens.<sup>16</sup> Greenland's new Self-Governance Agreement went into force on June 21, 2010, expanding the Greenland government's competency.<sup>17</sup> Though Greenland has more control of its government, it is not free of social problems. There is a high incidence of assault and sexual offenses against women



in Greenland.<sup>18</sup>

The Danish Constitution provides for freedom of religion.<sup>19</sup> The Evangelical Lutheran Church is the official state religion under the Danish Constitution and as a result it enjoys some privileges not available to other faiths.<sup>20</sup> For example, it receives state subsidies. Other faiths have asserted that the system is unfair, and that the government does not provide religious equality, despite providing religious freedom.<sup>21</sup> Further, religious history classes in public schools focus on the Evangelical Lutheran faith, though students are allowed to withdraw from these classes with parental consent.<sup>22</sup>

The most notable story concerning attitudes to religion in Denmark was the Jyllands-Posten Muhammad cartoons furor in 2005.<sup>23</sup> Unfortunately, this controversy has provided much of the context for right-wing attacks on religious practice, including Sikh articles of faith.

**Sikh Civil & Human Rights:** Though the constitution generally provides for the free practice of religion, the “Evangelical Lutheran Church (ELC) is the state church and enjoys some privileges not available to other religious groups.”<sup>24</sup>

### ***RECOGNITION AS A DISTINCTIVE FAITH***

Since the government grants official status to religious groups under the Marriage Act, the Ministry of Ecclesiastical Affairs has recognized Sikhs as a religious group.<sup>25</sup> Being an officially approved faith group confers privileges such as: authority to perform marriage rites, residency permits for foreign preachers, and tax exemptions.<sup>26</sup>

Yet, even with this recognition, there are impediments for Sikhs in the free exercise of their faith. For example, a Sikh who seeks a judicial position would be barred from wearing his or her turban because of an amendment to the Administration of Justice Act that “banned religious symbols, such as headscarves, turbans, Jewish skull caps, and crucifixes, as well as political ones, from judicial attire.”<sup>27</sup>

<sup>1</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), DENMARK (2010), [http://www.thearda.com/internationalData/countries/Country\\_66\\_1.asp](http://www.thearda.com/internationalData/countries/Country_66_1.asp).

<sup>2</sup> Sikh Wiki: Encyclopedia of the Sikhs, *Sikhism by Country*, last accessed on Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_by\\_country](http://www.sikhiwiki.org/index.php/Sikhism_by_country).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: DENMARK (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148929.htm> [hereinafter “IRF 2010”].

<sup>4</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: DENMARK (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136028.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”].

<sup>5</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: DENMARK, <https://www.cia.gov/library/publications/the-world-factbook/geos/da.html> [hereinafter “CIA”].

<sup>6</sup> IRF 2010, *supra* note 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Office of the High Commissioner for Human Rights, *International Convention on the Elimination on all Forms of Racial Discrimination: Denmark*, <http://www.unhcr.ch/tbs/doc.nsf/887ff7374eb89574c1256a2a0027ba1f/80256404004ff315c125638b005df592?OpenDo>

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[cument](#) (Denmark has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Racial Discrimination (CERD), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC)).

<sup>13</sup> THE DANISH INSTITUTION OF HUMAN RIGHTS, last accessed Jan. 14, 2011, [www.humanrights.dk](http://www.humanrights.dk).

<sup>14</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 126 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>19</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>20</sup> *Id.*

<sup>21</sup> AMNESTY INTERNATIONAL, *supra* note 18 at 125-127.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

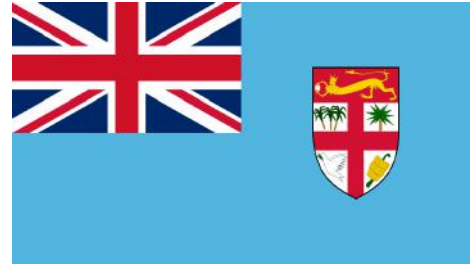
<sup>24</sup> IRF 2010, *supra* note 3.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

# F I J I



*Head of State:* Ratu Epeli Nailatikau (replaced Ratu Joséfa Iloilo Uluivuda in August)

*Head of Government:* Josaia Voreqe Bainimarama

*Population:* 875,983<sup>1</sup>

*Sikh Population:* ~ 4,379<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. State Department or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Fiji's government is based on a parliamentary system that also includes separation of powers between the three branches.<sup>3</sup> Since 1987, Fiji has experienced some political turmoil, with military and civilian coups occurring frequently.<sup>4</sup> In December 2006, Commodore Bainimarama took over the government via military coup and has been ruling ever since.<sup>5</sup> Currently Bainimarama is the head of the government while President Ratu Iliolo serves as head of state.<sup>6</sup> His regime has been accused of committing human rights violations, such as curtailing freedom of religion and imprisoning journalists who speak out against the regime.<sup>7</sup>

**Religious Demography:** According to the 2007 census, the religious demography of Fiji is as follows: Christian 64.5% (Methodist 34.6%, Roman Catholic 9.1%, Assembly of God 5.7%, Seventh Day Adventist 3.9%, Anglican 0.8%, other 10.4%), Hindu 27.9%, Muslim 6.3%, Sikh 0.3%, other or unspecified 0.3%, none 0.7%.<sup>8</sup>

**General Civil & Human Rights:** The actions of the military regime constitute grave human rights violations. President Iloilo suspended the Constitution, dismissed the judiciary, and curtailed human rights protections and the rule of law after the Supreme Court held that military coup of 2006 was illegal.<sup>9</sup> President Iloilo imposed a state of emergency through the Public Emergency Regulations (PER) in order to abrogate human rights. Since April, the government has jailed journalists and human rights activists, and imposed limits on the media, thus restricting the freedom of speech. The government also issued a government decree to the Fiji Human Rights Commission, thus rendering it ineffective.

Additionally, violence against women was prevalent; with perpetrators enjoying impunity as a matter of policy.

The government has also clashed with religious groups. In July 2010, the government prohibited the Methodist Church from holding their annual conference because of the perceived connections between the church and political activists opposing the regime.<sup>10</sup> When the church went ahead with the conference anyway, 27 members of the Church Standing Committee were criminally prosecuted under the PER.<sup>11</sup> Meanwhile, other churches and religious organizations were allowed to proceed with their conferences.<sup>12</sup>

Under the Christian crusade, police officers were required to impart Christian principles to the public through town hall meetings, regardless of their religious affiliation, in an effort to combat crime. Any police officer who refused to comply was dismissed.<sup>13</sup>

**Sikh Civil & Human Rights:** Prior to the Constitution's abrogation in April 2009, religious freedoms were generally protected under the Constitution.<sup>14</sup> There is no state religion but all religious groups must register under the Religious Bodies Registration Act.<sup>15</sup>

### ARTICLES OF FAITH

In July 2010, a member of the Sikh faith was asked to take off his turban for a passport photo because under Fijian regulations, head coverings are not allowed in official identification photos.<sup>16</sup> By September 2010, an agreement was reached whereby head coverings could be worn in passport photos if they were worn for medical or religious reasons and did not cover the face. In order to qualify for a religious exemption, Sikhs must provide a Letter of Certification of membership from one of three gurdwaras. The president of the Sikh Gurdwara Parabandhak Committee was instructed to inform members of the Sikh Association of Fiji regarding the exception and the requirement of a Letter of Certification.<sup>17</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: FIJI (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/fj.html> [hereinafter "CIA"].

<sup>2</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), FIJI (2010), [http://www.thearda.com/internationalData/countries/Country\\_81\\_5.asp](http://www.thearda.com/internationalData/countries/Country_81_5.asp).

<sup>3</sup> CIA, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 142 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>7</sup> *Id.*

<sup>8</sup> CIA, *supra* note 1.

<sup>9</sup> AMNESTY INTERNATIONAL, *supra* note 6.

<sup>10</sup> UNITED STATES DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: FIJI (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148867.htm> [hereinafter "IRF 2010"].

<sup>11</sup> *Id.*

<sup>12</sup> AMNESTY INTERNATIONAL, *supra* note 6, at 143.

<sup>13</sup> *Id.*

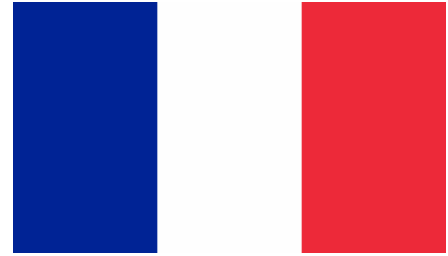
<sup>14</sup> IRF 2010, *supra* note 10.

<sup>15</sup> *Id.*

<sup>16</sup> Letter from Lakshman Singh, President, The Sikh Association of Fiji, to Nemani Vuniwaqa, Dir., Fiji Immigration Dep't (July 12, 2010) (on file with author).

<sup>17</sup> Letter from Nemani Vuniwaqa, Dir., Fiji Immigration Dep't, to Meja Singh Mola, President, Sikh Gurdwara Prabandhak Comm. (Sept. 16, 2010) (on file with author).

# FRANCE



*Head of State:* President Nicolas Sarkozy

*Head of Government:* Prime Minister Francois Fillon

*Population:* 64.7 million<sup>1</sup>

*Sikh Population:* ~ 11,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** France is a Republic with an executive branch consisting of the president and the prime minister, a Legislative branch comprised of a bicameral Parliament and a Judicial branch consisting of the Court of Cassation (civil and criminal law), Council of State (administrative court), Constitutional Council (constitutional law).<sup>3</sup> The Constitutional Council and the Council of State both protect basic rights; however, the Constitutional Council addresses potential rights violations of new laws, and the Council of State protects potential rights violations by the state.<sup>4</sup>

**Religious Demography:** The religious demography of France is comprised of the following: Roman Catholic 85% (approximately), Muslim 10% (approximately), Protestant 2%, Jewish 1%.<sup>5</sup> Due to France's strict adherence to its own definition of separation between state and religion (*laicite*), the government does not keep official figures on religious adherents. Unofficial statistics indicate that Protestants, Buddhists, Jews, Evangelicals, Jehovah's Witnesses, Orthodox Christians, Scientologists, Mormons, and Sikhs constitute less than 5 percent of the population.<sup>6</sup>

**General Civil & Human Rights:** In its 2010 Human Rights Report, Amnesty International reported that France remained plagued by allegations of excessive use of force and ill-treatment by police without satisfactory government action taken to correct these issues.<sup>7</sup> Additionally, forcible eviction and deportation of migrants, asylum seekers, and unaccompanied minors continued to be a problem.<sup>8</sup> France received criticism from human rights non-governmental organizations due to its poor record on treatment of immigrant children. Human Rights Watch noted that France maintained extraterritorial zones where unaccompanied migrant children were kept and subject to a different legal framework granting them fewer rights.<sup>9</sup>

The United States Department of State reported that the following human rights concerns were ongoing: overcrowded and poor prison conditions; lengthy pre-trial detention, investigation and trials; restrictions on religious wear in public; anti-Semitism; discrimination against Muslims; hostility towards immigrants and Roma; violence against women; child abuse and marriage; and sex trafficking.<sup>10</sup>

In 2010, France faced harsh criticism from the international community after it implemented a plan to systematically expel Roma. In September 2010, Human Rights Watch (HRW) called for a halt to France's expulsion policy: "France should immediately halt all expulsions and open an independent review of its policy. The government also needs to ensure that evictions from unauthorized Roma camps are not discriminatory and do not leave people homeless."<sup>11</sup>

The European Commissioner for Fundamental rights also criticized France for its expulsion plan, indicating that infringement proceedings may be brought against France for discriminatory application of the European Union law on Freedom of movement.<sup>12</sup> Official figures indicate that 979 Roma were expelled between July 28 and August 27 although the French government argues that the majority of those who left did so voluntarily.<sup>13</sup> Nevertheless, there are indications that some of these expulsions were not voluntary and the Council of Europe commissioner for human rights has raised these concerns citing reports of intimidation by law enforcement.<sup>14</sup> Additionally, the purported voluntary nature of these departures may be illusory, as those who refuse to leave face expulsion.<sup>15</sup> France's treatment of Roma remains a pressing concern at the close of 2010, as Roma are Europe's largest minority and continually face widespread discriminatory treatment.<sup>16</sup>

In addition to these abuses, the French government continues in 2010 to suppress the manifestation of religion with enforcement of laws prohibiting the wearing of religious articles of faith. Although French law prohibits faith based discrimination, many faith groups including Christian, Jewish, Muslim, and Sikh leaders remain concerned about the prohibition against "conspicuous" religious symbols in public institutions.<sup>17</sup>

The United States Department of State indicated in its 2010 International Religious Freedom report that although France protected religious freedom in practice, there continued to be concerns about the legal restrictions on and abusive treatment of minority religious groups.<sup>18</sup> France houses Europe's largest Muslim and Jewish populations and both communities (in addition to other minority religious groups) faced violent physical attacks on adherents and houses of worship as well as other discriminatory treatment which resulted in the government providing increased security for Jewish and Muslim institutions.<sup>19</sup>

On May 19, 2010, a law prohibiting the covering of one's face in public was approved.<sup>20</sup> This comes in the wake of the prohibition on the wearing of religious articles of faith in public institutions. At the beginning of the 2009 school year, there had been no disciplinary cases brought under the ban on wearing religious symbols in schools.<sup>21</sup> The U.S. Department of State International Religious Freedom Report for 2010 indicates that the lack of disciplinary action under this ban led the French government to believe that the public desired to conform to the law despite concerns raised by several minority religious groups.<sup>22</sup>

**Sikh Civil & Human Rights:** The Constitution allows for freedom of religion, although France itself does not recognize any national religion. Generally speaking, religious adherents can freely exercise their religion however, some laws restrict religious expression in public and provide for additional monitoring of religious minorities.<sup>23</sup>

### ***UNIVERSAL PERIODIC REVIEW (UPR)***

During France's Universal Periodic Review (UPR) Process (2008) at least 6 countries<sup>24</sup> made specific recommendations to France asking them to recognize, protect, and realize the rights of minorities, specifically religious minorities.<sup>25</sup> Canada outright asked for the removal of the prohibition against religious headwear in schools.<sup>26</sup> UNITED SIKHS 2011 Report will include formal monitoring of France and other countries regarding their UPR compliance with recommendations made by Human Rights Council and other countries.

### ***ARTICLES OF FAITH***

In June 2009, the European Court of Human Rights (ECtHR) rejected as inadmissible, complaints filed by four Muslim girls and two Sikh boys who were expelled from public schools in 2004 for violating the ban on "conspicuous" religious symbols whose primary effect has been the barring of all religious headwear in schools.<sup>27</sup> Human Rights Watch in their 2010 World Report asserted that "once again [France] fail[ed] to give proper weight to the religious freedom of non-Christian minorities."<sup>28</sup>

UNITED SIKHS originally brought litigation against the government's ban on turbans in public schools and on ID cards. Though the ECtHR denied admissibility in these cases (meaning that they did not even reach the full merits of the case), UNITED SIKHS brought three cases before the United Nations Human Rights Committee (UNHRC) to address both the banning of turbans in public schools and the removal of the turban for identification documents.<sup>29</sup>



*French MP Mr Flajolet & Sikh community*

Even though a favorable judgment by the UNHRC is not binding on France, it would provide strong persuasive and moral authority for international actors to pressure France to protect the religious freedoms of all, including religious minorities with external religious identities. Decisions by the UNHRC are expected in early 2011.

In January 2010, UNITED SIKHS legal counsel Ranjit Singh, with a French Sikh Delegation (including Bhai Gurdial Singh), went to Pravasi Bharatiya Diwas in New Delhi to present a legal memorandum<sup>30</sup> detailing the jurisprudence surrounding the banning of turbans in public schools and on photo ID's. The Report included letters submitted by: Ombudsman Jeremiah Nechtschein on behalf of UNITED SIKHS, HALDE (High Authority for the Fight against Discrimination and for Equality), independent commissions in France, and a letter from the Secretary of the Prime Minister of France in 2004.

In his submission, Mr. Nechtschein challenged the rationale posited by the French government for requiring a Sikh to be "bareheaded" on travel documents. The initial rationale that public safety or public order would be compromised has been undercut because Sikhs have had no trouble previously being recognized with their turbans on ID cards and still are in many European countries. Mr. Mann Singh, a French citizen and Mr. Ranjit Singh, a political refugee, have both been denied important

identity papers because they refused to remove their turbans for ID photographs. Ultimately in the letter, Mr. Nechtschein concluded that there is “no reasonable relationship of proportionality between the means employed and the aim pursued, namely the identification of the owner of identity document.”<sup>31</sup>

With respect to children in public schools, before the implementation of the law banning “conspicuous” religious symbols in school (Law No. 2004228), Mr. Michael Boyon, Director for the Office of the Prime Minister, issued a letter stating that “young Sikhs are perfectly integrated into the public school [system] . . . [b]e assured that everything will be done to continue, under the new law, [to allow them to] enjoy the same conditions to support their traditions with dignity.”<sup>32</sup>

Six years after the assurances given by Mr. Boyon, Sikh children have endured an extreme indignity to their way of life. UNITED SIKHS produced a 2010 survey<sup>33</sup> (as a follow up to a 2005 survey) investigating the impact of the French law banning “conspicuous” religious symbols by interviewing 42 students in the Bobigny region of Paris. The findings of the survey revealed that over a third felt they lost a part of their identity and over half, who complied with the law (which involved the removal of their turban or paka), felt humiliated and singled out. In many cases, senior staff members of the school administration advised the children to cut their hair and one Sikh child was told that “he would get nowhere in life with his uncut hair.”<sup>34</sup> The most poignant statistic is that prior to 2004 law, all 42 of the Sikh children were able to wear their turbans or *patkas*, whereas, after the passage of the law, 39 out of the 42 (over ninety percent) were forced to remove their article of faith (turban or *patka*) to receive an education.<sup>35</sup>

## DISCRIMINATION

When articles of faith become demonized and restricted in specific spheres of society, it is likely that it will begin to permeate every sphere of society. This harmful progression was evident when a Sikh gentleman was refused entry into French Bank. On Oct. 8, 2009, Ranjit Singh, a business entrepreneur, was stopped by a security officer outside BNP Paribas Bank and told to remove his turban. Even after explaining the religious significance of the turban, he left humiliated by the discrimination he faced by multiple security guards who barred his entry.<sup>36</sup>



*Sikhs protest at Teen Murty Chowk in New Delhi (India) demanding that Sarkozy lift the ban on turban in France*

UNITED SIKHS Legal Director, Shingara Singh, contacted BNP Paribas Bank and pointed out that the HALDE previously held that a bank “refusing the benefit of a legally-granted right on the grounds of physical appearance . . . actual or assumed with a ethnic group, nation, “race” or specific religion, is discrimination.”<sup>37</sup> Furthermore, HALDE found the actions of the bank to be disproportionate since the Sikh turban does not “hinder identification”.<sup>38</sup> UNITED SIKHS was able to procure an apology from BNP Paribas Bank who stated: “the manifestly excessive and improper application of security instructions led to a



situation I strongly regret.”<sup>39</sup>

Recently, on Dec. 6/7, 2010, while President Sarkozy was visiting India, the Delhi Sikh Gurudwara Management Committee (DSGMC), UNITED SIKHS, All India Sikh Confederation, All Shiromani Akali Dals, and many other Sikh organizations protested the continuation of the 2004 French law. Legal Director of UNITED SIKHS, Jaspreet Singh, said, "The Sikhs would like France to demonstrate the principles of Liberty, Fraternity, and Equality in action. The French president cast himself as a modernizer when he came to power in May 2007. He pledged to promote new initiatives and fight intolerance, including racism. Sikhs across the world would like to ask Mr. Sarkozy if banning the right to practice one's faith is not racism?"<sup>40</sup>

### **ARTICLES OF FAITH & RACIAL/ RELIGIOUS PROFILING**

Reports and surveys conducted by two Sikh organizations: UNITED SIKHS and the Sikh Federation, reveal that airports in France are conducting hand searches of turbans in a humiliating fashion. UNITED SIKHS received a turban screening incident report from a Sikh woman who flew through Charles de Gaulle airport.<sup>41</sup> The report indicates that transportation security officers aggressively squeezed the turban and *joora* (top-knot) of a Sikh woman, which resulted in an intensely humiliating travel experience.<sup>42</sup> This occurred even though no primary screening alarms were set off.<sup>43</sup>

Sikh Federation's questionnaire (844 completed responses) to UK Sikhs in over 50 towns and cities has identified France as one of the EU Member States where Sikh turbans are being continually disrespected.<sup>44</sup>

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPE AND EURASIAN AFFAIRS, BACKGROUND NOTE: FRANCE (August 18, 2010), <http://www.state.gov/r/pa/ei/bgn/3842.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"] (This figure includes overseas territories and is an estimate as of January 1, 2010. The metropolitan population is estimated to be 62.8 million).

<sup>2</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: FRANCE (NOV. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148934> [hereinafter "IRF 2010"] ("According to United Sikhs in France, there are approximately 10,000 to 11,000 Sikhs.").

<sup>3</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> IRF 2010, *supra* note 2.

<sup>7</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 144 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf) ("Disciplinary procedures and criminal investigations into such incidents continued to fall short of international standards.").

<sup>8</sup> *Id.* ("Hundreds of migrants and asylum-seekers, including unaccompanied minors, were forcibly evicted from makeshift housing in Calais. Three Afghan nationals were forcibly returned to Afghanistan.").

<sup>9</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 61 (2010), <http://www.hrw.org/world-report-2010>.

<sup>10</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: FRANCE, (March 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136031.htm>, [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>11</sup> HUMAN RIGHTS WATCH (HRW), *EU : A Key Intervention in Roma Expulsions: France Should Review Policy to Ensure No Collective Expulsions* (Sept. 14, 2010) (quoting Benjamin Ward, Deputy Europe and Central Asia director at Human Rights Watch), <http://www.hrw.org/en/news/2010/09/14/eu-key-intervention-roma-expulsions> [hereinafter "HRW News"].

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* (“In July 2008, a coalition of French nongovernmental organizations filed a complaint with the European Commission about this practice. Two years later, as of mid-August, the Commission had not responded.”).

<sup>16</sup> *Id.*

<sup>17</sup> U.S. DEPT OF STATE HR 2010, *supra* note 10, (French law prohibits the wearing of Muslim head scarves and burkas, Jewish skullcaps, and large crosses).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* (“During the reporting period, Jehovah's Witnesses reported 85 acts of vandalism against places of worship in the country, including Molotov cocktails and firearms directed at Jehovah's Witnesses' property. On April 26, 2010, at least 20 shots were fired at the premises of a halal butcher on the Rue de Lyon in Marseille's 15th arrondissement, a largely Muslim quarter of the city. On April 25, 2010, the Arrahma Mosque in Istres was the target of a fusillade of more than 30 bullets. The mosque was empty at the time of the gunfire and no one was injured in the attack.”).

<sup>20</sup> *Id.* “The country's highest administrative body, the Council of State, has twice issued advisory opinions questioning the legality of the proposed law, warning that a total public ban risks violating the constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It is likely that the law will face a challenge in the country's highest constitutional court, the Constitutional Council, before its promulgation. In the event that the law is eventually struck down by the Constitutional Council, a popular referendum could override the decision.”

<sup>21</sup> IRF 2010, *supra* note 2 (“With respect to the law banning the wearing of religious symbols in schools, the government reported in its 2010 response to the report of the UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, that there were no disciplinary cases brought under the law against students at the commencement of the 2009 school year.”).

<sup>22</sup> *Id.* (“The law prohibits public school employees and students from wearing conspicuous religious symbols, including the Islamic headscarf, Jewish skullcap, Sikh turban, and large Christian crosses on the reasoning that public schools are secular.”).

<sup>23</sup> IRF 2010, *supra* note 2.

<sup>24</sup> United Kingdom, Canada, India, Russia, Austria, Egypt.

<sup>25</sup> UNIVERSAL PERIODIC REVIEW, DATABASE OF UPR RECOMMENDATIONS: FRANCE (2010), <http://www.upr-info.org/database>.

<sup>26</sup> *Id.*

<sup>27</sup> Press Release, *European Court Rules Against the Turban in French Schools*, UNITED SIKHS (July 16, 2009), <http://www.unitedsikhs.org/PressReleases/PRSRLS-16-07-2009-00.htm>.

<sup>28</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 400 (2010), <http://www.hrw.org/world-report-2010>.

<sup>29</sup> Press Release, *Sikhs Challenge France on Turban Ban Before UN*, UNITED SIKHS (Dec. 18, 2008), <http://www.unitedsikhs.org/PressReleases/PRSRLS-15-12-2008-00.htm>.

<sup>30</sup> RANJIT G. SINGH, LEGAL JURISPRUDENCE ON SIKH TURBAN (Jan. 2010) (document with author).

<sup>31</sup> *Id.* at 7.

<sup>32</sup> *Id.* at 11.

<sup>33</sup> EMER MORRISON AND RANJIT SINGH, REPORT ON THE FINDINGS OF 2010 SURVEY INVESTIGATING IMPACT OF LAW NO. 2004228 PROHIBITING RELIGIOUS SYMBOLS ON SCHOOL CHILDREN (2010).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> SINGH, *supra* note 5, at 13.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Press Release, *Liberté, Egalité, Fraternité: Act On it. Sikhs Urge Visiting French Prime Minister Sarkozy in India by Protesting at Teern Murty in New Delhi*, UNITED SIKHS (Dec. 6, 2010).

<sup>41</sup> Online Report, *Airport Turban Screening Incident*, UNITED SIKHS (2010)- (detailed report with author).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Letter, *Consultation with the Sikh Community on the Implementation of the New EU Regulation on Aviation Security*, SIKH FEDERATION (UK) 3 (July 19, 2010) (“36% of turban wearing Sikhs living in the UK who have flown back from an airport in mainland Europe stated that they had their turbans disrespected.” One of those European States being France), <http://www.sikhsangat.com/index.php?/topic/54359-consultation-on-respect-for-sikh-turban-at-airports-sends-strong-message-to-department-for-transport/>.- (pdf copy of the letter can be obtained on this blog site, but need to join as a member).



# GERMANY



*Head of State:* President Christian Wulff

*Head of government:* Chancellor Angela Merkel

*Population:* 82,400,996<sup>1</sup>

*Sikh Population:* 40,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Germany is a Federal republic founded in 1949 with the Basic Law (the German Constitution) going into effect that same year.<sup>3</sup> The Federal Republic of Germany and the German Democratic Republic unified in 1990.<sup>4</sup> The Government consists of an executive branch comprised of the president and the chancellor, the legislative branch consisting of a bicameral parliament, and a judicial branch.<sup>5</sup>

**Religious Demography:** According to the United States Department of State, the religious demography of Germany is as follows: Protestant 34%; Roman Catholic 34%; Muslim 3.7%; unaffiliated or other 28.3%.<sup>6</sup> Although there are no official statistics on the number of religious adherents of any given faith there are unofficial estimates as follows: there are approximately 245,000 Buddhists, 97,500 Hindus, over 200,000 Jews, and 28 million people either have no religious affiliation or are members of unrecorded religious organizations.<sup>7</sup>

**General Civil & Human Rights:** Germany's policy of deportation continued to undermine the government's absolute prohibition on torture because it put those deported at risk of serious human rights violations.<sup>8</sup> In addition, irregular migrants were often denied their economic, social and cultural rights.<sup>9</sup>

Freedom of religion is protected under the Basic Law, in addition to other laws and policies aimed at ensuring the free exercise of religious practice.<sup>10</sup> German government generally respected religious freedom in practice. In the past year, efforts were made to improve minority integration into society.<sup>11</sup> However, in 2010 there continued to be concern about federal and state treatment of religious minorities as evidenced by reports of societal abuses, discrimination, and unequal treatment based on religious affiliation, belief, and practice.<sup>12</sup> This is in part due to the government structure with respect to religion.

Although religious groups are not required to register with the state, they must do so in order to

obtain tax exempt status and a special relationship exists with those religious communities that are “corporation(s) under public law” (PLC).<sup>13</sup> Registering as a PLC allows a religious group to name chaplains and levy a tithe on its members –money which is collected on their behalf by the state.<sup>14</sup> In 2010, Muslim communities still lacked PLC status.<sup>15</sup>

Laws banning female Muslim teachers from wearing headscarves were enacted in eight states and courts upheld these laws in several cases.<sup>16</sup> Additionally there was a court ruling in May 2010 forbidding a Muslim student to practice midday ritual prayers at school the court arguing that religious neutrality is necessary for a proper learning environment.<sup>17</sup>

More importantly, new legislation implicating the free practice of religion contains language applicable to the wearing of any symbol that could be interpreted as rejecting constitutional values or supporting oppression.<sup>18</sup> In 2010, Germany continued its ban on homeschooling and some religious groups expressed opposition to this prohibition.<sup>19</sup> There continued to be reports of anti-Semitic acts including stoning of Jewish performers, desecration of Jewish cemeteries, attempted arson of synagogues and swastika painting on holocaust memorials.<sup>20</sup>

**Sikh Civil & Human Rights:** The Basic Law provides for religious freedom, although there were concerns about society and governmental discrimination against religious minorities and their beliefs and practices.<sup>21</sup> These concerns were reiterated by the UN Human Rights Council during the Universal Periodic Review and the UN Special Rapporteur on Racism, both of whom “drew attention to continuing problems of racism, xenophobia, and discrimination in Germany.”<sup>22</sup>

### ***MINORITY RIGHTS***

A poll by the Friedrich Ebert Foundation stated that 30% of the population thinks Germany is “overrun by foreigners.”<sup>23</sup> Chancellor Angela Merkel recently stated that Germany's attempt to create a multicultural society has “utterly failed.”<sup>24</sup> These sentiments by a head of state reveal the emerging challenges that religious minorities face. Throughout 2010, eight states have enacted laws banning female Muslim teachers from wearing headscarves at work.<sup>25</sup> Moreover, the legislation is drafted in such a manner that if “any symbol” is seen as “rejecting constitutional values or supporting oppression” it could be banned. Thus, the discretion given by The Federal Supreme Court to the state legislative body in 2003, paves the way for potential banning of headscarves and other religious dress.<sup>26</sup>

### ***ARTICLES OF FAITH***

According to Human Rights Watch (HRW), eight of the 16 federal states in Germany have already enacted legislation to prohibit teachers in public schools from wearing visible items of religious clothing and symbols.<sup>27</sup> In Hesse and Berlin, these bans extend to civil positions such as judges, prosecutors, officers, and court and prison officials.<sup>28</sup> Human Rights Watch has bluntly called on Germany to “revise and repeal legislation on prohibition of religious dress and symbols and ensure that their legislation and procedures comply with Germany's international human rights obligations.”<sup>29</sup>

Fortunately, there is a movement to work against such prejudices. The Council of Religions Frankfurt has made a mission to dispel ignorance in urban society in order to create an integrated

structure for multiculturalism to prosper.<sup>30</sup> With leaders from all religious, including Sikh representatives, taking part in the Council of Religions' efforts, this cluster of progressive thinkers hopes to show that Chancellor Merkel's statements are premature.

<sup>1</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), GERMANY (2010), [http://www.thearda.com/internationalData/countries/Country\\_90\\_2.asp](http://www.thearda.com/internationalData/countries/Country_90_2.asp).

<sup>2</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Sikhism By Country*, last accessed on Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_by\\_country](http://www.sikhiwiki.org/index.php/Sikhism_by_country); see ARDA, *supra* note 1 (less than 1% Sikhs in Germany).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPE AND EURASIAN AFFAIRS, BACKGROUND NOTE: GERMANY (Nov. 10, 2010), <http://www.state.gov/r/pa/ei/bgn/3997.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: GERMANY (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148938.htm> [hereinafter "IRF 2010"].

<sup>8</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 149 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> IRF 2010, *supra* note 7.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* ("An estimated 180 religious groups have been granted PLC status, including the Evangelical and Catholic Churches, the Jewish community, the Church of Jesus Christ of Latter-day Saints (Mormons), Seventh-day Adventists, Mennonites, Baptists, Methodists, Christian Scientists, and the Salvation Army.").

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* ("On May 27, 2010, Berlin's Higher Administrative Court reversed a previous court ruling issued on September 29, 2009 which had allowed a 16-year-old Muslim high school student to practice ritual midday prayers at school. The higher court ruled that one pupil's rights could not be put before the good of the group as a whole. It also argued that in a school with students of various religious beliefs, neutrality was required to ensure a proper learning environment. The ruling has been appealed to the Federal Administrative Court.").

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* ("During the year local authorities brought criminal charges against some parents who refused to enroll their children in government-licensed schools for religious reasons. Two Baptist women from a Paderborn community were arrested April 7, 2010 for keeping their children from participating in sex education lessons.").

<sup>20</sup> *Id.* ("On June 19, 2010, members of a Jewish dance troupe were forced off stage during a neighborhood street festival in Hanover, Lower Saxony, after a group of children and teenagers pelted the dancers with stones and used a bullhorn to scream anti-Semitic remarks. One of the dancers was injured and the dance group subsequently ended their performance. The assailants were reportedly of Lebanese, Palestinian, Iraqi, Iranian, and Turkish origin. On June 15, 2010, five gravestones and a wall at a Jewish cemetery in Babenhausen, Hesse, were spray-painted with swastikas. On June 2, 2010, a Jewish memorial in Beckum, North Rhine-Westphalia was smeared with swastikas and anti-Semitic slogans. This was the third time in a period of five weeks that the memorial was defaced. On May 26, 2010, all gravestones at a Jewish cemetery in Stassfurt, Saxony Anhalt, were found covered with swastikas and other right-wing symbols. On May 16, 2010, a synagogue in Worms was doused with flammable liquid and set on fire during the night, resulting in a blackened exterior but no major damage.").

<sup>21</sup> *Id.*

<sup>22</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 402 (2010), <http://www.hrw.org/world-report-2010>.

<sup>23</sup> Matthew Clark, *Germany's Angela Merkel: Multiculturalism has 'Utterly Failed'*, CHRISTIAN SCIENCE MONITOR (CSM) (Oct. 17, 2010).

<sup>24</sup> *Merkel Says German Multicultural Society Has Failed*, BBC, Oct. 17, 2010, <http://www.bbc.co.uk/news/world-europe-11559451>.

<sup>25</sup> IRF 2010, *supra* note 7.

<sup>26</sup> *Id.*

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<sup>27</sup> Human Rights Watch, *Discrimination in the Name of Neutrality*, c.4 (Feb. 26, 2009), <http://www.hrw.org/en/node/80829/section/5>

<sup>28</sup> *Id.*

<sup>29</sup> Human Rights Watch, *Germany: Headscarf Bans Violate Rights* (Feb. 26, 2009), <http://www.hrw.org/en/news/2009/02/26/germany-headscarf-bans-violate-rights>.

<sup>30</sup> Rat Der Religionen, The Council on Religions Frankfurt (Oct. 25, 2010), <http://www.rat-der-religionen.de/>.

# INDIA



*Head of State:* Pratibha D. Patil

*Head of Government:* Manmohan Singh

*Population:* 1,170,000,000<sup>1</sup>

*Sikh Population:* 22,230,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **No**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **Yes (USCIRF Watch List)**<sup>3</sup>

**Government Structure:** India is a Federal Republic that gained independence in 1947 and ratified its Constitution in 1950.<sup>4</sup> The branches of government are: the Executive -comprised of the president, the prime minister and the council of ministers; the Legislative -comprised of a bicameral parliament, and the Judicial -consisting of the Supreme Court.<sup>5</sup>

**Religious Demography:** According to a census conducted in 2001, the religious demography of India is as follows: Hindu 80.5%, Muslim 13.4%, Christian 2.3%, Sikh 1.9%, other groups including Buddhist, Jain, Parsi within 1.8%, unspecified 0.1%.<sup>6</sup>

**General Civil & Human Rights:** The Human Rights Watch World Report 2010 indicated that India has not addressed many of its most pressing human rights concerns some of which include reforming the police force, improving access to health and education, ensuring food security, ending caste discrimination and better protecting the rights of women, children and religious minorities.<sup>7</sup> The Indian government has failed to protect minorities and other vulnerable groups throughout the country, and thus, has contributed to the rise in militant activity.<sup>8</sup>

Additionally, there were reports of arbitrary detentions and torture as a result of tighter anti-terror legislation after the 2008 attacks in Mumbai.<sup>9</sup> Extrajudicial executions remain a pressing problem as well as threats against and detention of human rights advocates.<sup>10</sup> Amnesty International reported that, “Judicial processes continued to fail to ensure justice for many victims of past human rights violations, violence against religious minorities and corporate abuses.”<sup>11</sup>

India supports over 15% of the world’s population and religion, caste, and language continue to be determinants of social and political organization.<sup>12</sup> Discrimination based on caste is officially illegal, but unfortunately remains a pressing and persistent problem within Indian society.<sup>13</sup>



The governmental bodies charged with investigation of allegations of religious or other forms of discrimination are: The Ministry for Minority Affairs, the National Human Rights Commission (NHRC), and the National Commission for Minorities (NCM).<sup>14</sup> Although India has a rich religious history as the birthplace of Hinduism, Buddhism, Jainism and Sikhism, many laws and policies continue restrict religious freedom even though the Constitution and national government purportedly protect the free exercise of religion.<sup>15</sup> The United States Department of State's 2010 International Religious Freedom Report indicates that violence between religious groups is a concern as are communal attacks against religious minorities.<sup>16</sup>

Due to a lack of government action to protect religious minorities, USCIRF has placed India on its Watch List for 2010 reporting that, "India's progress in protecting and promoting religious freedom during the past year was mixed."<sup>17</sup> USCIRF's report further states that:

The failure to provide justice to religious minorities targeted in violent riots in India is not a new development, and in some cases has helped foster a climate of impunity. In 1984, anti-Sikh riots erupted in Delhi, killing thousands following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. Few of the perpetrators of the anti-Sikh violence have been held accountable.<sup>18</sup>

**Sikh Civil & Human Rights:** In 2010, USCIRF placed India on its Watch List,<sup>19</sup> specifically because it found that the "governmental response at the state and local levels continues to be largely inadequate and the national government has failed to take effective measures to ensure the rights of religious minorities."<sup>20</sup> One of the major priorities highlighted by USCIRF is the development of an infrastructure to investigate and prosecute "religiously-motivated" violence.<sup>21</sup> USCIRF also makes recommendations to the U.S. government to include within all its bilateral contracts with India to focus on "religious freedom and related human rights . . . and . . . to speak out against, and seek to visit sites of, communal violence."<sup>22</sup>

In response to decades of communal violence, the government in 2005 passed the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill; however, a "parliamentary standing committee rejected the bill and called for a new law that provided for speedy prosecution; strict punishment for perpetrators of sectarian violence; and quick justice, relief, rehabilitation, and compensation for victims and survivors."<sup>23</sup> Furthermore, with the establishment of the National Commission for Minority Education Institutions, a mechanism now exists to resolve minority rights disputes and to thoroughly investigate these complaints.<sup>24</sup>

India seemingly has all the fundamental ingredients to be a champion for civil and human rights: it has an independent justice system, independent media, burgeoning new NGOs/ civil societies, yet, these systems are rendered illusory because, "India's democratic institutions charged with upholding the rule of law, most notably state and central judiciaries and police, lack capacity to execute those functions and have emerged as unwilling or unable consistently to seek redress for victims of religiously-motivated violence."<sup>25</sup>

### ***RECOGNITION AS A DISTINCTIVE FAITH***

In discussing India's respect for religious freedoms, no violation is graver than the non-recognition of a faith's separate and distinct identity. The IRF 2010 Report observed that:

Under article 25 of the Constitution Sikhism, Jainism, and Buddhism are considered sects of Hinduism; however, these groups viewed themselves as unique and sought to introduce their own separate personal laws. Sikhs sought a separately codified body of law that recognizes their uniqueness and precludes ambiguity.<sup>26</sup>

Though Sikhism has gained status as the world's fifth largest organized religion, the continual denial by the Indian government to recognize Sikhs as sovereign, distinctive, unique, and revealed faith, is one of the primary causes for the continual underpinnings of hostility and religious tension since the partition of India in 1948. India cannot, in all sincerity, maintain that it is a pluralistic country when it seeks to subsume distinct minority faiths under the majority culture/ religion.

### ***MINORITY RIGHTS***

The National Commission of Minorities (NCM) Act of 1992 gave states the power to "grant minority status to religious groups . . . but not all states have officially done so."<sup>27</sup> Currently, the states of Andhra Pradesh and Karnataka have recognized Sikhs as minorities."<sup>28</sup> Additionally, in a Commission headed by Justice Somasekara in response to attacks on houses of worship for religious minorities, specifically Churches, the Commission placed the onus on the government to "ensure protection to all religions and their institutions, especially to minority religions."<sup>29</sup>

Though the Indian Constitution has banned caste based discrimination, such discrimination against those considered "low-caste", irrespective of their faith, still persists.<sup>30</sup> This type of discrimination is likely to manifest in violence when those who seek to elevate themselves from their "low-caste" conditions through conversion are met with violence and backlash from those considered "upper-caste."<sup>31</sup>

To improve the situation of those considered "low-caste", the government has created an affirmative action plan that reserves spots in government and higher education, but only does so for Hindus, Sikhs, and Buddhists, not Christians or Muslims.<sup>32</sup>

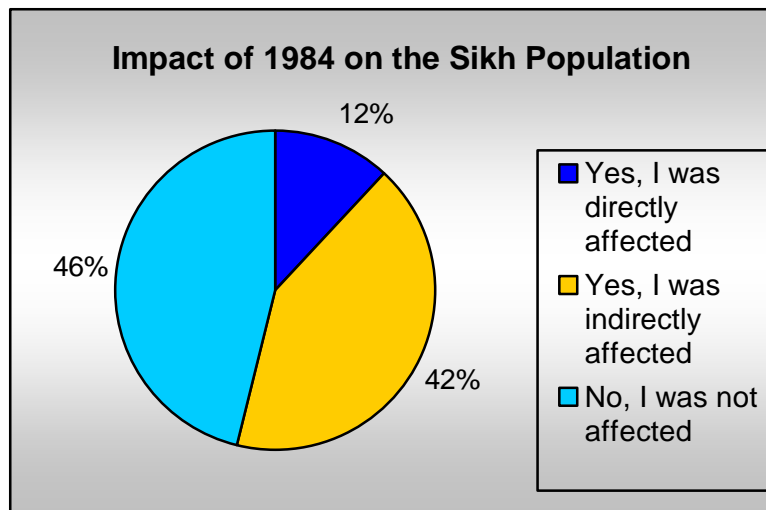
According to the Ministry of Minority Affairs in 2008-09, the National Commission for Minorities received 151 individual complaints from Sikhs.<sup>33</sup> These are the most recent numbers.

### ***GENOCIDE/ CRIMES AGAINST HUMANITY<sup>34</sup>***

The U.S. Dept. of State has made clear that during the pogroms of 1984 and the counterinsurgency period from 1984-1995, the "[Indian] government made little progress holding police and security officials accountable for disappearances."<sup>35</sup> Human Rights Watch has consistently maintained that this position and has found that during the:

10-year security operation against Sikh militants, who were responsible for numerous human rights abuses, resulted in the arbitrary detention, enforced disappearance, and

extra-judicial killing of thousands of young Sikh men for suspected affiliation with separatist groups. Many victims, witnesses, and alleged perpetrators have died in the long, fruitless wait for accountability.<sup>36</sup>



*Over 50% of all respondents of the Global Survey have been directly or indirectly impacted by the events of 1984*

Amnesty International in its 2010 Report recorded only 20 people who have been convicted for the “targeted massacre” of Sikhs after the assassination of Prime Minister Indira Gandhi on Oct. 31, 1984. Only after public pressure were two leading Congress Party members charged for inciting supporters to commit mass atrocities.<sup>37</sup> The CBI, which is charged with overseeing these investigations, has been heavily criticized for not vigorously investigating and prosecuting the accused.”<sup>38</sup>

Criminal cases addressing the Sikh genocide which are currently pending are cases against Sajjan Kumar and five others on the recommendation of the Central Bureau of Investigation (CBI).<sup>39</sup> Congress Party leader Jagdish Tytler’s case, although thrown out of the lower courts for lack of sufficient evidence, has been appealed to the Supreme Court.<sup>40</sup> Five hundred protestors were outside the New Delhi judicial court on April 9 to voice their displeasure at the lower court closing Mr. Tytler’s case.<sup>41</sup> A lawyer representing victims of genocide, claimed to have been threatened by one of Jagdish Tytler’s supporters.<sup>42</sup> These statements are substantiated by USCIRF’s report that “Mr. Kumar and Mr. Tytler have been accused of delaying the trial and intimidating the witnesses and their families.”<sup>43</sup>

Criminal cases addressing the Sikh genocide in which convictions resulted were brought against four individuals, Lal Bahadur, Ram Lal, Virender, and Surinder Pal Singh. On August 26, the Delhi High Court sentenced each person to life imprisonment “after finding them guilty of rioting, murder, and conspiracy.”<sup>44</sup>

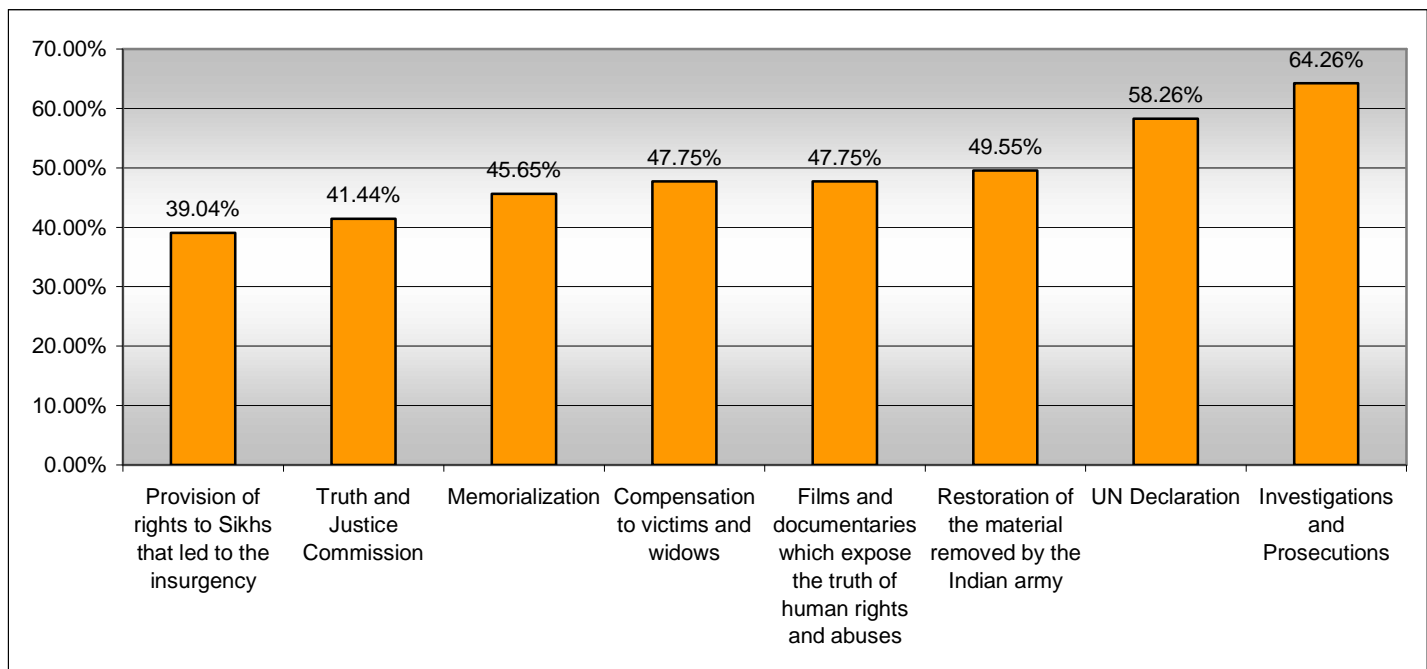
Criminal cases where alleged perpetrators of the Sikh genocide were acquitted included the case of Jagdish Singh, Sajjan Singh, and Ishwar Singh, who the Delhi High Court found not guilty of leading mobs and lynching one man.<sup>45</sup>

Numerous NGO’s,<sup>46</sup> including Voices for Freedom, ENSAAF, Sikhs for Justice, and UNITED

SIKHS, have reported that 1000's of cases still remain unresolved. On July 29, 2010, Legal Director of Voices for Freedom (VFF), Hansdeep Singh, was invited to the United Nations to speak on the topic of Prevention of Genocide and Torture with respect to Genocide of Sikhs in India in 1984. In his speech, Mr. Singh stated that one cannot even begin to discuss the prevention of genocide and torture without first recognizing that genocide and torture have actually occurred. Furthermore, Mr. Singh emphasized that "[t]hrough a framework of Transitional Justice, groups are transformed from marginalized and discriminated entities, into those who have a powerful voice in the societal discourse, and thereby, preventing the repetition of mass violations" of human rights.<sup>47</sup>

In a positive development, a December 2009 amendment to the Code of Criminal Procedure allowed for an easier mechanism for victims of religious persecution to appeal a judgment in court.<sup>48</sup> After this change in the Code, the High Court accepted an appeal from Gurbakshish Singh, a victim of the 1984 genocide.<sup>49</sup>

### Survey respondents indicate preferred means of obtaining justice for 1984



*What are the best means of obtaining justice for the events of 1984? Of those who responded to the survey, 93% believe that justice has not been obtained for the victims of 1984. For most Sikhs surveyed, investigations and prosecutions are viewed as the best means of addressing the problem of impunity, as represented by the above graph.*

## **DISCRIMINATION**

Sikhs living outside of India who advocate for a separate homeland and are deemed to engage in activities "prejudicial to the sovereignty and integrity of the nation," can lawfully be denied a passport by the Indian government.<sup>50</sup>

Sikhs living in Afghanistan have reported feeling as though they have no homeland because of discrimination by Afghanistan and a lack of support by India. However, the U.S. Dept. of State

Report highlights that both UNHCR and the Indian government are pursuing resettlement and other options for Hindu and Sikh refugees from Afghanistan by providing them a means for “local integration through naturalization.”<sup>51</sup>

### ***HUMANITARIAN AID***

Floods this year have devastated the Panjab region and have most severely impacted Sikh farmers in these regions. On August 17, 2010, UNITED SIKHS, along with local relief teams like Baba Nanak Charitable trust and the Rescue and Revival Mission, went to the most affected villages in Moonak, Sangrur, East Panjab.<sup>52</sup> Humanitarian aid was necessary to fill the void because of the government’s inability to send rural farmers the 5,000 rupees promised to them.<sup>53</sup> UNITED SIKHS Director, Mejjindarpal Kaur, recounted visits to “16 of the 27 villages in the Lehnan subdivision where farms were destroyed and sadly we were not able to help every needy family. Most of the families were not yet in receipt of the Rs 5,000 promised by the state government because of administrative delay.”<sup>54</sup> A total of 2.5 lakhs was distributed in one day to help temporarily alleviate the suffering of 50 rural families and to act as a stop gap measure for government inefficiency.<sup>55</sup>



***UNITED SIKHS Director, Mejjindarpal Kaur, distributing cash assistance to a family affected by floods in Panjab***

The devastation from these floods goes beyond the loss of crops, for these farmers their livelihood and way of life are jeopardized for years. “When a crop fails (from flood), it takes a farmer 5 years to get up on his feet again. Once the farmer recovers, it (the flood) comes again”.<sup>56</sup> In one village, there have already been 33 farmer suicides<sup>57</sup> and this is a growing epidemic throughout India.<sup>58</sup>

### ***INTERNATIONAL LAW***

Human Rights Watch has called India out on its inability to speak out on behalf of protecting international human rights. Instead, Human Rights Watch says that India, “has played a negative role at the UN Human Rights Council, siding with a bloc that opposes strong action to address violations.”<sup>59</sup> Thus, to live up to its billing as the world’s largest democracy, India must “modernize its foreign policy.”<sup>60</sup>

Even UN High Commissioner for Human Rights, Navanethem Pillay, has called upon India to remedy the gap between the implementation of laws and the promotion of human rights, especially for those most vulnerable.<sup>61</sup> Some examples of how India can begin to remedy the gap is to allow NGOs and Independent Commissions<sup>62</sup> unfettered access in order to document human rights abuses, welcome UN Special Rapporteurs, and to heed “international recommendations that it more effectively combat caste- and religion-based discrimination.”<sup>63</sup>

## ***TORTURE***

The Indian Supreme Court has recognized that torture of suspects in custody erodes the very foundation of the rule of law. Even as early as 1981 the Supreme Court asserted that:

Nothing is more cowardly and unconscionable than a person in police custody being beaten up and nothing inflicts a deeper wound on our constitutional culture than a State official running berserk regardless of human rights. Article 21, with its profound concern for life and limb, will become dysfunctional unless the agencies of the law in police and prison establishments have sympathy for the humanist creed of that article instead of a rough treatment by police for getting information or confession.<sup>64</sup>

Yet, India during its UPR process did not commit to the recommendations filed by numerous countries<sup>65</sup> who sought India's expeditious ratification of the Convention Against Torture. One recent case exemplifies the necessity for the international community to push India into ratifying the Convention so that it cannot escape accountability. On August 6, 2010, it was reported that a suspected terrorist, Kulwant Singh,<sup>66</sup> was hospitalized after being tortured.<sup>67</sup> The treating physicians recounted that Mr. Singh had "received electric shock injuries to his ears and private parts, and his abdomen also had injuries with indications of "severe beating with batons."<sup>68</sup> Counsel for Lawyers for Human Rights International (LHRI), Navkiran Singh, has brought a criminal action in the Panjab and Haryana Court seeking to hold the Panjab police accountable for torturing a suspect.<sup>69</sup>

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS, BACKGROUND NOTE: INDIA (July 14, 2010), <http://www.state.gov/r/pa/ei/bgn/3454.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>2</sup> *Id.*

<sup>3</sup> UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (USCIRF), 2010 ANNUAL REPORT 204 (May 2010), <http://www.uscirf.gov/images/annual%20report%202010.pdf>.

<sup>4</sup> U.S. DEPT OF STATE BACKGROUND, *supra* note 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 300-304 (2010), <http://www.hrw.org/world-report-2010>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 169 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>12</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1.

<sup>13</sup> *Id.* ("The Hindu caste system reflects Indian occupational and socially defined hierarchies. Ancient Sanskrit sources divide society into four major categories, priests (*Brahmin*), warriors (*Kshatriya*), traders/artisans (*Vaishya*) and farmers/laborers (*Shudra*). Although these categories are understood throughout India, they describe reality only in the most general terms. They omit, for example, the tribal people and those outside the caste system formerly known as "untouchables", or *dalits*. In reality, Indian society is divided into thousands of *jatis*--local, endogamous groups based on occupation--and organized hierarchically according to complex ideas of purity and pollution.").

<sup>14</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT: INDIA (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148792.htm> [hereinafter "IRF 2010"].

<sup>15</sup> *Id.* ("The secular constitution provides for freedom of religion as a fundamental right, and other laws and policies contributed to the generally free practice of religion. Some state and local governments, which hold responsibility under the constitution for law and order, limited this freedom by maintaining or enforcing existing "anticonversion" legislation and by not efficiently or effectively prosecuting those who attacked religious minorities. [...]There are active "anticonversion" laws in six of the 28 states: Gujarat, Orissa, Chhattisgarh, Arunachal Pradesh, Madhya Pradesh, and

Himachal Pradesh.[...] There were reports from some faith-based media of approximately 18 arrests under state level "anticonversion" laws and other restrictive laws in Chhattisgarh and Madhya Pradesh during the reporting period. ”).

<sup>16</sup> *Id.* (“The Ministry of Home Affairs published in its Annual Report 2009-10 that 826 communal incidents occurred in 2009, in which 125 persons died, compared to 943 incidents in 2008 in which 167 persons died. State governments also reported communal incidents.”).

<sup>17</sup> USCIRF, *supra* note 3 , at 14.

<sup>18</sup> *Id.* at 242.

<sup>19</sup> *Id.* at 6. India is one of twelve countries to be placed on the USCIRF Watch List. This list includes: Afghanistan, Belarus, Cuba, Egypt, Indonesia, Laos, Russia, Somalia, Tajikistan, Turkey, and Venezuela. *Id.*

<sup>20</sup> *Id.* at 241.

<sup>21</sup> *Id.* at 241.

<sup>22</sup> *Id.* at 14.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> IRF 2010, *supra* note 14.

<sup>27</sup> USCIRF, *supra* note 3 at 14.

<sup>28</sup> IRF 2010, *supra* note 14.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: INDIA (March 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136087.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”].

<sup>34</sup> The term “genocide” or “pogroms” more accurately represents the specific targeting of Sikhs with the intent to kill in whole or in part that happened during a decade of impunity. The term anti-Sikh riots is a euphemism conjured up by the Indian government to hide the systematic and orchestrated massacre of Sikhs after the assassination of Prime Minister Indira Gandhi.

<sup>35</sup> *Id.* “In February 2008 the NHRC criticized the Justice Bhalla Commission for its inability to identify the whereabouts of 657 missing victims.” *Id.*; USCIRF, *supra* note 3, at 241.

<sup>36</sup> HRW, *supra* note 7, at 299; USCIRF, *supra* note 1, at 242.

<sup>37</sup> AMNESTY INTERNATIONAL, *supra* note 11, at 168.

<sup>38</sup> USCIRF, *supra* note 3, at 247.

<sup>39</sup> IRF 2010, *supra* note 14.

<sup>40</sup> *Id.*

<sup>41</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 32.

<sup>42</sup> *Id.*

<sup>43</sup> USCIRF, *supra* note 3, at 247.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> Hansdeep Singh, Sikh Genocide (Presented at a Symposium at the United Nations on the Prevention of Genocide and Torture), VOICES FOR FREEDOM (VFF) (July 29, 2010) (document with author).

<sup>48</sup> USCIRF, *supra* note 3, at 247.

<sup>49</sup> *Id.*

<sup>50</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 32.

<sup>51</sup> *Id.*

<sup>52</sup> Press Release, UNITED SIKHS, UNITED SIKHS Gives Cash Aid to Panjab Flood Hit Farmers (Aug. 20, 2010).

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Press Release, UNITED SIKHS, Panjab Floods add to Woes in Farmer Suicide Hit Region (July 31, 2010).

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

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<sup>59</sup> HRW, *supra* note 7, at 305.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> USCIRF, *supra* note 3, at 21, (USCIRF was denied visas to survey the religious freedoms situation in India).

<sup>63</sup> *Id.*

<sup>64</sup> Kishore Singh v. State of Rajasthan, AIR 1981 SC 625.

<sup>65</sup> France, Italy, Mexico, Nigeria, Sweden, Switzerland, and the United Kingdom. UNIVERSAL PERIODIC REVIEW, DATABASE OF UPR RECOMMENDATIONS: INDIA (2010), <http://www.upr-info.org/database/>.

<sup>66</sup> Yudhvir Rana & Shivani Mehra, *Cops 'Torture' Suspected Terrorist*, THE TIMES OF INDIA (Aug. 6, 2010), <http://timesofindia.indiatimes.com/city/chandigarh/Cops-torture-suspected-terrorist/articleshow/6264106.cms>.

<sup>67</sup> *Medical Report Released on Tortured Sikh Youth Kulwant Singh*, PANTHIC.ORG (Aug. 21, 2010), <http://panthic.org/articles/5286>; *Medical Report of Kulwant Singh*, PANTHIC.ORG, [http://panthic.org/data/attachments/2010/5286\\_KulwantSinghAmritsarMedicalReport.pdf](http://panthic.org/data/attachments/2010/5286_KulwantSinghAmritsarMedicalReport.pdf)

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*



# INDONESIA



*Head of State and Government:* Susilo Bambang Yudhoyono<sup>1</sup>

*Population:* 229,965,000<sup>2</sup>

*Sikh Population:* ~ 10,000 – 15,000<sup>3</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **No**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **Yes (USCIRF Watch List)**<sup>4</sup>

**Government Structure:** The democratic structure of Indonesia is based on 5 principles known as the “Pancasila” Democracy.<sup>5</sup> The Constitution embodies the Pancasila which emphasizes monotheism, humanitarianism, national unity, representative democracy by consensus, and social justice. Even though Indonesia is predominantly a Muslim country, it is not an Islamic state. The Constitution of Indonesia was developed in 1945 based on the Pancasila: a "belief in the One and Only God; just and civilized humanity; the unity of Indonesia; deliberation for consensus; and social justice for all of Indonesia’s people.”<sup>6</sup>

**Religious Demography:** There are only six religions in Indonesia which are recognized by the government of Indonesia. They are: Islam, Catholicism, Protestantism, Buddhism, Hinduism and Confucianism.<sup>7</sup> About 86.1% of the people of Indonesia follow Islam and it has the largest Muslim population in the world.<sup>8</sup> Even though Muslims constitute about 86.1% of the Indonesia’s population, the island of Bali is predominantly Hindu with Hindu’s comprising 95% of the island’s population.<sup>9</sup>

**General Civil & Human Rights:** Indonesia's human rights remain poor, mainly because the security forces continue to murder, torture, rape, beat, and arbitrarily detain civilians and members of separatist movements.<sup>10</sup> Indonesia was transformed from an authoritarian regime to a democracy in 1998 after President Suharto resigned.<sup>11</sup> Indonesia has faced some criticism as to its harsh treatment of its religious minority communities such as the Ahmadiyya community: “Those who have beliefs which are different to the mainstream religions may be labeled as deviant, or face physical abuse, as in the case of followers of Islamic sect, Ahmaddiya.”<sup>12</sup> Amnesty International has raised concerns that the political activists that were detained by the Indonesian police are at great risk for torture and other cruel and brutal treatment.<sup>13</sup>

**Sikh Civil & Human Rights:** According to IRF 2010 Report there are between 10,000 to 15,000 Sikhs residing primarily in Medan and Jakarta and there are eight Sikh Gurdwaras (houses of worship) located in North Sumatra and two in Jakarta.<sup>14</sup>

## **RECOGNITION AS A DISTINCTIVE FAITH**

Though Indonesia's constitution provides for freedom of religion, the government imposes restrictions on the tenets of those faiths that are not officially recognized religions under Indonesian law (Sikhism is not one of the six religions that are officially recognized).<sup>15</sup> Ongoing restrictions, particularly regarding religions not sanctioned by the government, limit the free and full expression of certain faiths.<sup>16</sup> Additionally, "members of minority religious groups continued to experience some official discrimination in the form of administrative difficulties, often in the context of civil registration of marriages and births, and/or the issuance of identity cards."<sup>17</sup>

## **DISCRIMINATION**

The government also did not protect against private acts of discrimination against religious minorities and even failed to punish perpetrators.<sup>18</sup> For example, "Muslim clerics and Islamist militants continued to invoke a 2006 decree requiring anyone building a "house of worship" to obtain "community approval."<sup>19</sup>

Also, a book published on Jan. 9, 2010, by a Muslim author, Habib Achmad Zein Alkaf, who sits on the East Java MUI and East Java Nahdlatul Ulama aimed to spread unfounded fears about the Sikh religion. The title of the book is *Export of Sikh Revolution to Indonesia* and its primary aim was to maliciously warn people of the danger of the Sikh faith.<sup>20</sup>

## **MINORITY RIGHTS**

Unrecognized religious minority groups had great difficulty obtaining identity cards. Often, the individual had to leave the religion section blank to receive an identity card. Some applicants of unrecognized religions falsely marked that they belonged to one of the six "recognized" religions in order to obtain identity cards, marriage certificates, and birth certificates.<sup>21</sup> This has had a tremendous impact on the Sikh community as they must face the difficult choice of hiding or lying about their faith just to obtain basic governmental services.

<sup>1</sup> BBC, INDONESIA COUNTRY PROFILE (Sept. 5, 2010), [http://news.bbc.co.uk/2/hi/asia-pacific/country\\_profiles/1260544.stm](http://news.bbc.co.uk/2/hi/asia-pacific/country_profiles/1260544.stm).

<sup>2</sup> POPULATION DIVISION OF THE DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS OF THE UNITED NATIONS SECRETARIAT, WORLD POPULATION PROSPECTS: THE 2008 REVISION. HIGHLIGHTS. TABLE A.1. TOTAL POPULATION BY SEX IN 2009 AND SEX RATIO BY COUNTRY IN 2009 (2009), [http://www.un.org/esa/population/publications/wpp2008/wpp2008\\_text\\_tables.pdf](http://www.un.org/esa/population/publications/wpp2008/wpp2008_text_tables.pdf).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: INDONESIA (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148869.htm> [hereinafter "IRF 2010"].

<sup>4</sup> UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (USCIRF), 2010 ANNUAL REPORT 204 (May 2010), <http://www.uscifr.gov/images/annual%20report%202010.pdf>.

<sup>5</sup> Republic of Indonesia, Profile of Indonesia (Dec. 27, 2005), [http://www.indonesia.go.id/en/index.php?option=com\\_content&task=view&id=112&Itemid=1722](http://www.indonesia.go.id/en/index.php?option=com_content&task=view&id=112&Itemid=1722).

<sup>6</sup> THE PLURALISM PROJECT, INTERNATIONAL PORTRAIT: INDONESIA (2007), <http://pluralism.org/reports/view/32>.

<sup>7</sup> UNITED SIKHS, 2009 GLOBAL SIKH CIVIL RIGHTS REPORT (2009), [http://unitedsikhs.org/Annual\\_Reports/2009\\_Sikh\\_Civil\\_Rights\\_Report.pdf](http://unitedsikhs.org/Annual_Reports/2009_Sikh_Civil_Rights_Report.pdf).

<sup>8</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, BACKGROUND NOTE: INDONESIA (Nov. 3, 2010), <http://www.state.gov/r/pa/ei/bgn/2748.htm> [hereinafter “U.S. DEPT. OF STATE BACKGROUND”].

<sup>9</sup> IN TOUCH REALTY, RELIGION IN BALI, <http://www.intouchbali.com/bali-information/religion-in-bali.php>.

<sup>10</sup> IRF 2010, *supra* note 3. See also, U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2003 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: INDONESIA (Feb. 25, 2004), <http://www.state.gov/g/drl/rls/hrrpt/2003/27771.htm> [hereinafter “U.S. DEPT. OF STATE HR 2003”].

<sup>11</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 306 (2010), <http://www.hrw.org/world-report-2010>.

<sup>12</sup> *Freedom of Religion in Indonesia: Multiple Choices not Short Answer*, 9 CAVEAT 3 (Feb. 2010), <http://indonesia.ahrchk.net/docs/CaveatV09-II.pdf>.

<sup>13</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 171 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>14</sup> IRF 2010, *supra* note 3.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> AMNESTY INTERNATIONAL, *supra* note 13.

<sup>19</sup> HRW *supra* note 11, at 311.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

# ITALY



*Head of State:* President Giorgio Napolitano

*Head of Government:* Prime Minister Silvio Berlusconi

*Population:* 60.3 million<sup>1</sup>

*Sikh Population:* less than 1%<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **No**<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Italy has been a Republic since 1946 and its Constitution was ratified in 1948.<sup>4</sup> The Italian government is comprised of the following branches: the Executive -consisting of the president, the council of ministers, and the prime minister; the legislative –consisting of a bicameral parliament; the judiciary -consisting of an independent constitutional court and lower magistracy.<sup>5</sup> Although a secular state as of 1984, the Italian government still recognizes the Holy See (the Pope) as a sovereign authority, thereby maintaining state support for religion.<sup>6</sup>

**Religious Demography:** The religious population of Italy is as follows: 80.8% Christian with the majority of Christians being Roman Catholic, 2.5% Muslims, 0.1% Jewish, and less than 1% Sikh, Hindu, Baha'i, and Buddhist.<sup>7</sup>

**General Civil & Human Rights:** Italy conducted unlawful forced evictions of Roma, migration control by the government which negatively impacted the rights of migrants and asylum seekers, and deported people to places where they risked human rights abuses.<sup>8</sup> Additionally, there were allegations of torture by law enforcement.<sup>9</sup> Human Rights Watch reported that, “The failure of the European Commission to hold Italy [and Greece] fully to account for treatment of asylum seekers and migrants in breach of European standards undermined efforts toward the development of a genuine common asylum system.”<sup>10</sup>

Italian law provides for the protection of freedom of religion.<sup>11</sup> Although the state is secular as of 1984, the practice of state support for religion continues; however, it can be extended to non-Catholic confession on request for an agreement between the government and the religious group (called an *intesa*).<sup>12</sup> Still, the Roman Catholic Church continues to enjoy some privileges not available to minority religions.<sup>13</sup> The United States Department of State International Religious Freedom Report noted that there were some reports of religious discrimination including accounts of anti-Semitism.<sup>14</sup> Although the United States Department of State reported no change in the government’s respect for religious freedom, no Muslim group was able to build a mosque last

year.<sup>15</sup>

**Sikh Civil & Human Rights:** The Constitution provides for freedom of religion and the government generally respected the rights of members of all faiths to practice freely. There is no state religion, however, due to its sovereign status and historical political authority, the Roman Catholic Church does enjoy privileges not available to other religions. There were reports of discrimination and inequity of minority religions based on their beliefs and practices in 2010.<sup>16</sup>

### ***RECOGNITION AS A DISTINCTIVE FAITH***

Although Italy is a secular country, state support still exists for the Catholic Church. For other faiths to benefit from such support there must be a:

legislation implementing the provisions of an *intesa* (accord) between the government and the religious group. An *intesa* grants clergy automatic access to state hospitals, prisons, and military barracks; allows for civil registry of religious marriages; facilitates special religious practices regarding funerals; and exempts students from school attendance on religious holidays. If a religious community so requests, an *intesa* may provide for state routing of funds, through a voluntary check-off on taxpayer returns, to that community.<sup>17</sup>

It is unclear and at the time of publication no documentation was found available that indicates that Sikhs have ever signed an *intesa* with the government.

### ***ARTICLES OF FAITH***

A protest was scheduled on April 2, 2010 to protest the Indian embassy barring initiated Sikhs who carried *kirpans* from entry into the embassy. Community leaders made pleas to many functionaries in the Indian government including the union minister, but no action had been taken. After staging a protest to voice their discontent about the *kirpan* policy, they soon demanded the immediate transfer of S. Chakarwari, general consulate.<sup>18</sup>

India's Jr. Foreign Minister, Preet Kaur, extended her sympathies to the plight of Sikhs in Italy and assured the community that they should retrieve a letter from the Indian consulate, which would state that they have no objections to the *kirpan* being brought into the embassy. This letter would then be given to Italian officials so they could be apprised of the situation.<sup>19</sup> Ms. Kaur implied that Italian laws have created the impasse, not any policy of the Indian embassy.<sup>20</sup>

### ***ARTICLES OF FAITH & RACIAL/ RELIGIOUS PROFILING***

Reports and surveys conducted UNITED SIKHS and the Sikh Federation reveal that airports in Italy are conducting hand searches of turbans in a humiliating fashion. UNITED SIKHS has received disturbing turban screening incident reports from Sikhs who have flown through Italian airports.<sup>21</sup> The reports indicate that beyond aggressively squeezing the turban and *joora* (top-knot) which is intensely humiliating in itself, Sikhs were also asked to remove their turbans completely.<sup>22</sup> Though a private room was given, the demand for removing the turban occurred even though the individual never went through the primary screening (metal detector). The turban was treated as though it was a

hat (regular piece of clothing) that needed to be placed onto the x-ray machine before even going through the primary screening process.<sup>23</sup>

Sikh Federation's questionnaire (844 completed responses) to UK Sikhs in over 50 towns and cities has identified Italy as one of the EU Member States where Sikh turbans are being continually disrespected.<sup>24</sup>

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, BACKGROUND NOTE: ITALY (May 12, 2010), <http://www.state.gov/r/pa/ei/bgn/4033.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>2</sup> The Association of Religion Data Archives (ARDA), Italy (2010), [http://www.thearda.com/internationalData/countries/Country\\_115\\_2.asp](http://www.thearda.com/internationalData/countries/Country_115_2.asp) [hereinafter "ARDA"].

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: ITALY (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148946.htm> [hereinafter "IRF 2010"] (Doesn't list Sikhs as having an intesa with the government. An intesa is a recognition agreement with the government and it gives special privileges to the religion).

<sup>4</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1.

<sup>5</sup> *Id.*

<sup>6</sup> IRF 2010, *supra* note 3.

<sup>7</sup> ARDA, *supra* note 2.

<sup>8</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 185-86 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>9</sup> *Id.* at 187.

<sup>10</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 2010 397 (2010), <http://www.hrw.org/world-report-2010>.

<sup>11</sup> IRF 2010, *supra* note 3.

<sup>12</sup> *Id.* ("An intesa grants clergy automatic access to state hospitals, prisons, and military barracks; allows for civil registry of religious marriages; facilitates special religious practices regarding funerals; and exempts students from school attendance on religious holidays." See also, "Non-Catholic groups with an intesa include the Confederation of Methodist and Waldensian Churches, Adventists, Assemblies of God, Jews, Baptists, and Lutherans. In 2007 the government signed draft accords with the Buddhist Union, Jehovah's Witnesses, Mormons, Apostolic Church, Orthodox Church of the Constantinople Patriarchate, and Hindus, and at the same time amended previous intesa with the Confederation of Methodist and Waldensian Churches and the Adventists. On May 13, 2010, the council of ministers approved the 2007 new and amended intesa and submitted them to parliament for ratification. Parliament did not vote on these intesa during the reporting period. Negotiations remained suspended with the Soka Gakkai, a Japanese Buddhist group, pending their reorganization. Divisions among Muslim organizations, as well as the lack of a single leader to represent them at the national level, hindered that community's efforts to seek an intesa.").

<sup>13</sup> See IRF 2010, *supra* note 3 ("The state paid Catholic religion teachers, but this financial support did not apply to other religious communities. If a student requested the assistance of a religion teacher of a non-Catholic religious group, that group can select a representative but must cover the cost.").

<sup>14</sup> IRF 2010, *supra* note 3.

<sup>15</sup> *Id.* Progress has been made with respect to Muslim and government relations. ("On February 10, 2010, Interior Minister Maroni established a Committee for Italian Islam made up of 19 Muslim and non-Muslim experts organized into four working groups on imam training, mosques, burqa law, and mixed marriages. They will submit recommendations to the government on new rules that might facilitate religious practices and integration.").

<sup>16</sup> IRF 2010, *supra* note 3.

<sup>17</sup> IRF 2010, *supra* note 3.

<sup>18</sup> *Sikhs to Protest Against Indian Embassy at Milan in Italy on April 2*, PANJAB NEWSLINE, Apr. 1, 2010, <http://Panjabnewsline.com/content/sikhs-protest-against-indian-embassy-milan-italy-april-2>.

<sup>19</sup> Video: Preneet Kaur Sympathetic To Sikhs Facing Religious Bans In Italy, WORLD NEWS, [http://wn.com/Preneet\\_Kaur\\_sympathetic\\_to\\_Sikhs\\_facing\\_religious\\_bans\\_in\\_Italy](http://wn.com/Preneet_Kaur_sympathetic_to_Sikhs_facing_religious_bans_in_Italy).

<sup>20</sup> *Id.*

<sup>21</sup> Online Report, *Airport Turban Screening Incident*, UNITED SIKHS (2010)- (detailed report with author).

<sup>22</sup> *Id.*

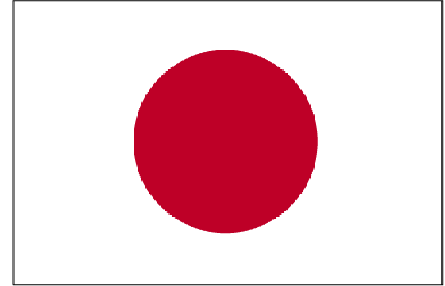
<sup>23</sup> *Id.*

<sup>24</sup> Letter, *Consultation with the Sikh Community on the Implementation of the New EU Regulation on Aviation Security*, SIKH FEDERATION (UK) 3 (July 19, 2010) ("36% of turban wearing Sikhs living in the UK who have flown back from an

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airport in mainland Europe stated that they had their turbans disrespected." One of those European States being Italy), <http://www.sikhsangat.com/index.php?topic/54359-consultation-on-respect-for-sikh-turban-at-airports-sends-strong-message-to-department-for-transport/>.- (pdf copy of the letter can be obtained on this blog site, but need to join as a member).

# JAPAN



*Head of State:* Akihito, Emperor<sup>1</sup>

*Head of Government:* Prime Minister Naoto Kan<sup>2</sup>

*Population:* 126,804,433<sup>3</sup>

*Sikh Population:* 2,000<sup>4</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. State Department or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The four main islands which make up Japan are Hokkaido, Honshu, Shikoku, and Kyushu.<sup>5</sup> Japan is a parliamentary democracy based upon the current Constitution which was formed in 1946 after WWII.<sup>6</sup> The Japanese parliament is called the Diet. The Diet is composed of the House of Representatives which has 480 members and the House of Councilors which has 242 members.<sup>7</sup> The executive branch of government is led by the cabinet which is headed by the Prime Minister.<sup>8</sup> Japan has an independent and impartial judiciary that hears civil matters. Persons can seek administrative as well as judicial remedies for human rights violation and all persons have access to the court.<sup>9</sup>

**Religious Demography:** The two major religions of Japan are Shintoism and Buddhism which have coexisted together for centuries.<sup>10</sup> Buddhists comprise 56.12% of the population while Agnostics make up 10.17%. Neo-religions make up 25.93% and atheists make up 2.87%. Christians constitute 2.29% and other religious groups make up 2.61%.<sup>11</sup>

**General Civil & Human Rights:** Japan is one of the two industrialized countries that institute the death penalty as a legal punishment.<sup>12</sup> Amnesty International has condemned many of Japan's recent executions, in part due to the nature of the methodology which is death by hanging.<sup>13</sup> Issues of hazing, bullying, and sexual harassment have been increasing and are not being reported by the Japanese Self Defense Forces.<sup>14</sup> The lack of reporting is due in part to cultural practices and norms which have contributed to abusive treatment and negative depictions of women as evidenced by video games and entertainment programs about rape.<sup>15</sup> There have been some reports of societal abuse or discrimination based on religious affiliation, belief, or practice. For instance, the Unification Church has reported that some adherents were pressured by family members and professional deprogrammers to leave the church.<sup>16</sup>

**Sikh Civil and Human Rights:** The Constitution and other laws and policies provide for freedom of religion, and the government generally respects religious freedom in practice.<sup>17</sup> The widespread



tolerance and respect for religious freedom is partly due to the fact that religion does not play a big role in the everyday life of most Japanese people.<sup>18</sup> Sikhs in Japan are a religious minority in Japan. There are two Gurdwaras in Japan.<sup>19</sup>

### *POLITICAL ASYLUM*

In 2010, Bharpoor Singh, a Sikh victim who escaped to Japan from religious persecution in India, was released from Japanese immigration detention after the intervention of UNITED SIKHS and Congressman Mike Honda. Mr. Singh was tortured by Indian law enforcement and fled India in 1992. Although his asylum hearing is still pending, his recent release from nine-months in detention reunited Mr. Singh with his wife and three children and ameliorated the families health and financial burdens which had resulted from his absence.<sup>20</sup>



*Congressman Mike Honda provided invaluable assistance in the release of Mr. Bharpoor Singh from Japanese immigration detention*

<sup>1</sup> BBC, JAPAN COUNTRY PROFILE (Nov. 2, 2010), [http://news.bbc.co.uk/2/hi/asia-pacific/country\\_profiles/1258586.stm](http://news.bbc.co.uk/2/hi/asia-pacific/country_profiles/1258586.stm).

<sup>2</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: JAPAN (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/ja.html> [hereinafter "CIA"].

<sup>3</sup> *Id.*

<sup>4</sup> JAPAN-GUIDE, RELIGION IN JAPAN, <http://www.japan-guide.com/e/e629.html>.

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, BACKGROUND NOTE: JAPAN (Oct. 6, 2010), <http://www.state.gov/r/pa/ei/bgn/4142.htm>.

<sup>6</sup> JAPAN-GUIDE, GOVERNMENT, <http://www.japan-guide.com/e/e2136.html>.

<sup>7</sup> CIA, *supra* note 2.

<sup>8</sup> JAPAN-GUIDE, *supra* note 6.

<sup>9</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: JAPAN (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135993.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>10</sup> JAPAN-GUIDE, *supra* note 4.

<sup>11</sup> *Id.*

<sup>12</sup> AMNESTY INTERNATIONAL, HANGING BY A THREAD: MENTAL HEALTH AND THE DEATH PENALTY IN JAPAN 1 (Sept. 9, 2009), <http://www.amnesty.org/en/library/asset/ASA22/006/2009/en/cc688c76-0a12-4fdc-ab09-cc641cd1e4b4/asa220062009en.pdf>.

<sup>13</sup> AMNESTY INTERNATIONAL, *Japan Executions of Two Men Condemned* (July 27, 2010), <http://www.amnesty.org/en/news-and-updates/japan-executions-two-men-condemned-2010-07-28>.

<sup>14</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: JAPAN (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135993.htm>.

<sup>15</sup> *Id.*

<sup>16</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR: INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: JAPAN (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148871.htm>.

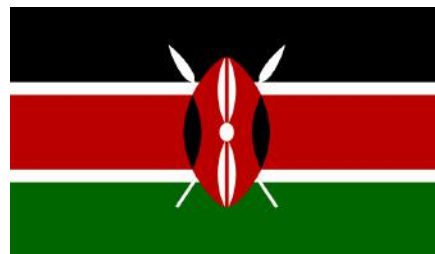
<sup>17</sup> *Id.*

<sup>18</sup> JAPAN-GUIDE, *supra* note 4.

<sup>19</sup> LIST OF GURDWARAS: JAPAN, MUSEUM OF LEARNING, [http://www.museumstuff.com/learn/topics/List\\_of\\_Gurdwaras::sub::Japan](http://www.museumstuff.com/learn/topics/List_of_Gurdwaras::sub::Japan).

<sup>20</sup> Press Release, UNITED SIKHS, UNITED SIKHS Achieves Long Sought Victory in Obtaining Release of a Sikh Victim from Japanese Detention: However, the Fight Continues (Nov. 29, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-29-11-2010-00.html>.

# KENYA



*Head of State and Government:* President Mwai Kibaki

*Population:* 39million<sup>1</sup>

*Sikh Population:* ~ 39,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Kenya is a Republic which declared its independence and ratified its Constitution in 1963. The government consists of: an executive branch comprised of the president, the prime minister and two deputy prime ministers; a legislative branch comprised of a unicameral national assembly; a judicial branch consisting of a Court of Appeal, a High Court and various lower and special courts including Sharia courts.<sup>3</sup>

**Religious Demography:** Kenya's religious population is broken down as follows: Christian 82.6%, Muslim 11.2%, traditional African religions 5%, Hindu/Sikh/Baha'i/Jewish 1%.<sup>4</sup>

**General Civil & Human Rights:** Kenya's human rights conditions remain poor.<sup>5</sup> Kenya continues to have widespread problems with excessive use of force by police and military, extrajudicial killings, and torture of civilians.<sup>6</sup> Refugees fleeing the conflict in Somalia arrived at drastically overcrowded refugee camps in northeastern Kenya.<sup>7</sup> The Dadaab refugee camp is currently holding three times its capacity of refugees.<sup>8</sup> Human rights defenders continued to face considerable risks, violence against women and girls remained widespread, and forcible evictions continued.<sup>9</sup>



*Turnout for the free UNITED SIKHS medical camp*

Kenyan law protects freedom of religion and the United States Department of State found that the government generally respected religious freedom during 2010, however noting that some Muslim communities have alleged government hostility towards their faith.<sup>10</sup>

**Sikh Civil & Human Rights:** The Constitution provides for freedom of religion and there is generally a free practice of religion in the country.<sup>11</sup> Sikhs have a long history in Kenya, the oldest Sikh Gurdwara in Nairobi having been built by Sikh employees of Kenya Railways in 1903. Today,

this site has been designated by the Kenyan heritage and cultural authorities as a monument (“Gazetted”).<sup>12</sup>

### ***RECOGNITION AS A DISTINCTIVE FAITH***

Sikhs enjoy governmental recognition of their faith in Kenya, with the government supporting many social service initiatives lead by the Sikh community. In February of 2010, Prime Minister Raila Odinga commenced the sacred peace train initiative of the Guru Nank Nishkam Seak Atha community. This initiative will see Sikhs travel to selected parts of the country to pray for peace and unity for all Kenyans. The Prime Minister covered his head with a *kesri* (orange) bandana and was present during the singing of *kirtan* (religious hymns).<sup>13</sup>

### ***ARTICLES OF FAITH***

Generally, Sikhs are free to wear their *kakaars* (articles of faith) and are rarely questioned about their beards and turbans. Sikhs are a vital part of the community and are active in civic engagement, as is evidenced by the Sikh community’s support for the new proposed Constitution.<sup>14</sup> Proponents of the new Constitution considered the Sikh endorsement a “major boost” to the referendum. Community representatives from 15 Sikh temples in the country made assurances that they would vote for the Constitution because it would guarantee the rights of minority groups.<sup>15</sup>

Sikhs are so well integrated in Kenya that they are contributing to the infrastructure of the country by creating medical clinics and schools.<sup>16</sup> When one can freely practice their faith and when religious pluralism is celebrated, the natural effects that flow are true immersion into the framework of the country and this is clearly exhibited by the Sikh community in Kenya.



***Pharmacy distributing free medicines***



***UNITED SIKHS Director Jessy Kaur talking about child care***

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF AFRICAN AFFAIRS, BACKGROUND NOTE: KENYA (Dec. 28, 2010), <http://www.state.gov/r/pa/ei/bgn/2962.htm> [hereinafter “U.S. DEPT. OF STATE BACKGROUND”].

<sup>2</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), KENYA (2010), [http://www.thearda.com/internationalData/countries/Country\\_121\\_2.asp](http://www.thearda.com/internationalData/countries/Country_121_2.asp).

<sup>3</sup> U.S. DEPT. OF STATE BACKGROUND, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 128 (2010), <http://www.hrw.org/world-report-2010>.

<sup>6</sup> *Id.* at 129.

<sup>7</sup> *Id.* at 132.

<sup>8</sup> UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (USCIRF), 2010 ANNUAL REPORT 296 (May 2010), <http://www.uscirtf.gov/images/annual%20report%202010.pdf> (The refugee camp was built in 1990 to hold 90,000 refugees, however the camp currently holds almost 270,000).

<sup>9</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 195-96 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>10</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: KENYA (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148696.htm> [hereinafter "IRF 2010"] ("According to Muslim leaders, authorities rigorously scrutinized the identification cards of persons with Muslim surnames, particularly ethnic Somalis, and sometimes required additional documentation of citizenship, such as birth certificates of parents and even grandparents. The government stated that the heightened scrutiny was an attempt to deter illegal immigration rather than to discriminate against ethnic Somalis or their religion; however, there were reports that the government arbitrarily arrested Muslim men as terrorist suspects.").

<sup>11</sup> *Id.*

<sup>12</sup> The Sikh community, and specifically Jashvinder Kaur Benawra, pursued the matter of getting the "Gazetted" designation from the Kenyan government.

<sup>13</sup> *Video: Raila Flags Off Peace Train* (YouTube Feb. 4, 2010), <http://www.youtube.com/watch?v=PF7OVZFRFoE>.

<sup>14</sup> *Kenya: Boost for "Yes" As Sikhs Join the Campaign*, ALLAFRICA (July 21, 2010), <http://allafrica.com/stories/201007220996.html>.

<sup>15</sup> *Id.*

<sup>16</sup> These include: Pamela Mboya School Building in Nyanza; Mbita Medical Camp in Nyanza; Malaba Medical Camp in Western Kenya; Othaya Medical Camp in Central Kenya; Thika Medical Camp in Central Kenya; Lurambi Medical Camp in Western Kenya; Sotik Medical Camp in Rift Valley; Kiricho Medical Camp in Rift Valley; Sotic Medical Camp in Rift Valley; Mbita Bore Hole in Mbita; Wamba Bore Hole in Eastern Kenya; Kilgoris Bore Hole in Rift Valley; Komarock Bore Hole in Nairobi.

# KUWAIT



*Head of State:* Amir Sabah al-Ahmad al-Jabir al-Sabah

*Head of Government:* Nasir al-Muhammad al-Ahmad al-Sabah

*Population:* 2,789,132<sup>1</sup>

*Sikh Population:* 5,578<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **No**<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Kuwait is ruled by the Al Sabah family under a constitutional, hereditary emirate.<sup>4</sup> The government does not recognize any political parties and has prohibited party formation.<sup>5</sup>

**Religious Demography:** Muslim 85% (Sunni 70%, Shia 30%), other (includes Christian, Hindu, Parsi) 15%.<sup>6</sup>

**General Civil & Human Rights:** Violence against women continues to be a serious and underreported problem in Kuwait. The law does not specifically prohibit domestic violence, police officials rarely arrest perpetrators, and most domestic abuse cases are not reported.<sup>7</sup> Honor crimes are prohibited; however penalties for such crimes, including crimes that result in death, have been reduced to misdemeanors.<sup>8</sup> Female citizens married to non-citizens are required to pay annual fees for their husband and are not allowed to pass citizenship to their children.<sup>9</sup>

Stateless persons are not afforded equal rights. The Bidoon are excluded from citizenship, despite their historic presence in the territory.<sup>10</sup> There is an estimated 120,000 Bidoon in the country that are unable to access their full range of rights.<sup>11</sup>

The law does not prohibit trafficking in persons and this continues to be a serious problem in Kuwait. Most trafficking victims, both men and women, end up in forced labor.<sup>12</sup> Employers often induce workers to come to Kuwait through promises of high salaries and better jobs. Once the person arrives in the country, they are paid a much lower salary or no salary because of debt incurred on the employer's behalf to hire them.<sup>13</sup> Employers confiscate passports to prohibit workers from leaving.<sup>14</sup> More than one million foreign nationals reside in the country and constitute an estimated 80 percent of the country's workforce.<sup>15</sup> The government is working to protect migrant and trafficked workers and has closed more than 700 false companies that were involved in visa trading and trafficking in

persons.<sup>16</sup>

The constitution does provide for freedom of religion, but this right is limited by the government in practice. Islam is the state religion and *Shari'a* is a main source of legislation in the country.<sup>17</sup> Members of religions not sanctioned in the Qur'an, such as Buddhists, Hindus and Sikhs, may not operate official places of worship.<sup>18</sup>

Muslims who wished to convert from Islam faced intense societal pressure and had to hide their non-Muslim religious affiliation.<sup>19</sup> Marriage between Muslim women and non-Muslim men is forbidden. The law also forbids a non-Muslim to be a naturalized citizen. These laws “effectively coerced individuals to convert to Islam.”<sup>20</sup> Islamic religious study is mandatory in all public schools and any private school that has at least one Muslim student.<sup>21</sup>

**Sikh Civil & Human Rights:** Under Kuwaiti law, Islam is the established state religion and legislation is often based on *Shari'a* law.<sup>22</sup>

### ***RECOGNITION AS A DISTINCTIVE FAITH***

Religious groups, including Sikhs, who are not sanctioned in the Qur'an, are prohibited from constructing houses of worship or any other kind of religious facility.<sup>23</sup> The government has consistently denied licenses to those religious groups who try and construct places of worship, which has precluded others from trying.<sup>24</sup> Sikhs and others not recognized by the Qur'an can only practice their faith in private in order to assure their safety.<sup>25</sup>

This imposes a substantial limitation on Sikh freedom of religion and impedes the ability to establish a cohesive congregation. With *sangat* being an integral part of Sikh worship and the Gurdwara being the fulcrum of any Sikh community, Kuwaiti laws prohibiting the construction of houses of worship greatly infringes upon the free exercise of the Sikh faith.

Currently, under Kuwaiti law, only Islamic groups can establish organized formal religious schools and non-Muslims are prohibited from providing religious education to members of their religious faith in public or private schools.<sup>26</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: KUWAIT (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/ku.html> [hereinafter “CIA”] The population number includes 1,291,354 non-nationals (July 2010 estimate).

<sup>2</sup> The Association of Religion Data Archives (ARDA), Kuwait (2010), [http://www.thearda.com/internationalData/countries/Country\\_125\\_2.asp](http://www.thearda.com/internationalData/countries/Country_125_2.asp).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: KUWAIT (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148828.htm> [hereinafter “IRF 2010”] (“Members of religious groups not sanctioned in the Qur'an such as the Baha'i, Buddhists, Hindus, and Sikhs could not build places of worship or other religious facilities. Unrecognized religious groups were allowed to worship privately in their homes without government interference.”).

<sup>4</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: KUWAIT (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136072.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”].

<sup>5</sup> *Id.*

<sup>6</sup> CIA, *supra* note 1.

<sup>7</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

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<sup>8</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>9</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>10</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 527 (2010), <http://www.hrw.org/world-report-2010>.

<sup>11</sup> *Id.* See also, AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 201 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>12</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> HRW 2010, *supra* note 10 at 527-28.

<sup>16</sup> U.S. DEPT OF STATE HR 2010, *supra* note 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> IRF 2010, *supra* note 3.

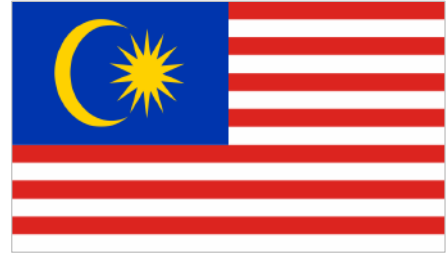
<sup>23</sup> *Id.*

<sup>24</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 4.

<sup>25</sup> IRF 2010, *supra* note 3.

<sup>26</sup> *Id.*

# MALAYSIA



*Head of State:* Customarily referred to as King Yang di-Pertuan Agong Tuanku Mizan Zainal Abidin

*Head of Government:* Prime Minister Seri Najib Tun Razak

*Population:* 28,274,729<sup>1</sup>

*Sikh Population:* 56,549 (.2% of the population)<sup>2</sup> - 100,000<sup>3</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Malaysia is a federal parliamentary democracy with a constitutional monarch that gained its independence and ratified its Constitution in 1957.<sup>4</sup>

**Religious Demography:** The religious demographics as reported by the 2000 Census are as follows: Muslim 60.4%, Buddhist 19.2%, Christian 9.1%, Hindu 6.3%, Confucianism, Taoism, other traditional Chinese religions 2.6%, other or unknown 1.5%, none 0.8%.

**General Civil & Human Rights:** In Malaysia, human rights are partially enshrined in the Federal Constitution.<sup>5</sup> Major constitutional guarantees include: the right to life; freedom of movement; freedom of speech; assembly and association; freedom of religion; and rights in respect of education. The lead agency for human rights education and advocacy, the Human Rights Commission of Malaysia (SUHAKAM) was established by Parliament under Act 597, the Human Rights Commission of Malaysia Act 1999.

Despite the presence of the Human Rights Commission however, major civil and human rights violations have been reported in Malaysia. Malaysia continues to use the Internal Security Act (ISA) to indefinitely detain, without charge or trial, individuals deemed by officials to threaten Malaysia's national security which includes not only individuals suspected of planning terrorist attacks, such as members of the militant Islamist groups Jemaah Islamiah and Darul Islam, but also individuals allegedly promoting ethnic or religious discord.<sup>6</sup> However, under the new leadership promising to restore civil liberties and fundamental rights, 13 individuals detained under ISA have been released.<sup>7</sup> Nonetheless, freedom of assembly (demonstrations) and expression (bloggers) in relation to political dissent are still severely curtailed.<sup>8</sup>

Additionally, Malaysia rejected two recommendations put forth by the UN Universal Periodic Review: 1) right to peaceful assembly; and 2) to ratify the UN Refugee Convention and the UN



Migrant Workers Convention.<sup>9</sup>

**Sikh Civil & Human Rights:** In general, non-Muslims, including Sikhs, were free to practice their faith with few restrictions.<sup>10</sup> The Constitution provides for freedom of religion but also gives state and federal governments the power to "control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam."<sup>11</sup> The Constitution also defines ethnic Malays as Muslim.<sup>12</sup> Muslims generally may not legally convert to another religion without facing serious dis-incentives, although members of other religions may convert to Islam.<sup>13</sup> Other laws and policies placed some restrictions on religious freedom and there were several reports of societal abuses based on religious affiliation, belief, and practice.<sup>14</sup>

### **DISCRIMINATION**

Non-Muslims faced restrictions on obtaining visas for "foreign clergy" because of the government's purported fear of "militant clergy."<sup>15</sup> This unequal practice may be correlated to laws which permit proselytizing of non-Muslims by Muslims but not vice versa.<sup>16</sup> According to the Malaysian Consultative Council of Buddhists, Christians, Hindus, Sikhs, and Taoists, the government restricted visas for both foreign Muslim and non-Muslim clergy under the age of 40 as a means of preventing "militant clergy" from entering the country.<sup>17</sup>

### **HATE CRIMES**

After the High Court's ruling on December 31, 2009 that stated the Catholic Herald could use the word "Allah" in its Malaysian-language newspaper, several religious institutions, including a Sikh temple, were attacked in January of 2010.<sup>18</sup> Vandals damaged a mirror by throwing stones into the courtyard of the temple in Kuala Lumpur.<sup>19</sup> Although the attackers were unidentified, they appear to have been angry Muslims protesting the use of the word Allah by other religions as it is the Malaysian word for God.<sup>20</sup> The chief of the temple stated that "Sikhs are not going to stop using Allah. We cannot change our scriptures. As far as we are concerned we are doing our prayers. There is no way any law is stopping us."<sup>21</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: MALAYSIA (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/my.html> [hereinafter "CIA"].

<sup>2</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), MALAYSIA (2010), [http://www.thearda.com/internationalData/countries/Country\\_139\\_2.asp](http://www.thearda.com/internationalData/countries/Country_139_2.asp).

<sup>3</sup> IANS, *Sikhs Celebrate Vaisakhi in Malaysia*, THAIINDIAN NEWS (Apr. 26, 2010), [http://www.thaindian.com/newsportal/world-news/sikhs-celebrate-vaisakhi-in-malaysia\\_100353970.html](http://www.thaindian.com/newsportal/world-news/sikhs-celebrate-vaisakhi-in-malaysia_100353970.html).

<sup>4</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, BACKGROUND NOTE: MALAYSIA (July 14, 2010), <http://www.state.gov/r/pa/ei/bgn/2777.htm>.

<sup>5</sup> CIA, *supra* note 1.

<sup>6</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: MALAYSIA (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135998.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>7</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 315 (2010), <http://www.hrw.org/world-report-2010>.

<sup>8</sup> *Id.*

<sup>9</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 217 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>10</sup> U.S. DEPT OF STATE HR 2010, *supra* note 6.

<sup>11</sup> MALAYSIAN CONSTITUTION, Art. 11 §4. Article 11 states: “Every person has the right to profess and practice his religion and, subject to Clause (4), to propagate it.” Clause (4) of Article 11 states: “(4) State law and in respect of the Federal Territories of Kuala Lumpur and Lubuan, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam.”

<sup>12</sup> *Id.* Art. 160 § 2. Additionally Article 153 affords ethnic Malays certain rights over other ethnic groups.

<sup>13</sup> *Id.*

<sup>14</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: MALAYSIA (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148881.htm> [hereinafter “IRF 2010”].

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> IRF 2010, *supra* note 14.

<sup>18</sup> Richard Lloyd Parry, *Stones Thrown at Malaysian Sikh Temple Following Religious Row*, TIMES ONLINE (Jan. 13, 2010), <http://www.timesonline.co.uk/tol/news/world/asia/article6985866.ece>. See also, Press Release, United Nations, UN Human Rights Chief Condemns Religious Attacks Around the World (Jan. 7, 2011), <http://www.un.org/apps/news/story.asp?NewsID=37221&Cr=pillay&Cr1=>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

# NEPAL



*Head of State:* King Ram Baran Yadav

*Head of Government:* Madhav Kumar Nepal (replaced Pushpa Kamal Dahal in May)

*Population:* 28,951,852<sup>1</sup>

*Sikh Population:* 5,890<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** On May 28, 2008, the Nepalese government transitioned from a constitutional monarchy to a federal democratic republic with a Constituent Assembly that provides for bicameral legislation.<sup>3</sup> However, Maoists have opposed the Constituent Assembly that was formed and have further blocked any meeting of the Assembly. This has led to political instability in the region.<sup>4</sup> The Constituent Assembly has been charged with drafting a new Constitution by the end of 2010.<sup>5</sup>

**Religious Demography:** Hindu 80.6%, Buddhist 10.7%, Muslim 4.2%, Kirant 3.6%, other 0.9%.<sup>6</sup>

**General Civil & Human Rights:** In Nepal, State forces have engaged in numerous extrajudicial killings and abductions.<sup>7</sup> Detainees have also been subject to torture.<sup>8</sup> Maoists have also been responsible for abuses and have failed to hold accountable their own members. It is important to note that Nepal has both signed and ratified numerous human rights treaties including the: International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of all forms of Racial Discrimination (CERD), and Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Taking a positive step, Nepal agreed to the draft of the United Nations principles and guidelines to eliminate caste discrimination. Human Rights Watch (HRW) believes this is a precedent setting step forward especially since countries like India, “have resisted UN intervention in addressing rampant caste-based discrimination.”<sup>9</sup> Despite this progress, the persistent discrimination against women and Dalits continues to be pervasive.<sup>10</sup>

**Sikh Civil & Human Rights:** The interim Constitution from 2007 provides for freedom of religion.<sup>11</sup> According to the U.S. Department of State’s 2010 International Religious Freedom Report, the government generally respected religious freedom, although on a few occasions the government interfered with the practice of religious groups.<sup>12</sup> The interim Constitution officially declared the country a secular state, yet the President attended major Hindu religious ceremonies

over which the king had previously presided.<sup>13</sup>

### **MINORITY RIGHTS**

Sikhs face challenges doing business in Nepal, particularly because they cannot own land and often find it difficult to obtain loans.<sup>14</sup> In addition, growing insecurity due to the 10 year Maoist insurgency and general strikes has resulted in a decline in the Sikh population.<sup>15</sup>

Bandas (forced donations) and agitating labor unions have displaced the Sikh community throughout Nepal. Bandas cripple everyday life for many people, but are particularly crippling for the livelihood of Sikhs in Kathmandu.<sup>16</sup> For Sikhs living in Birgunj, a community that centers around the transportation industry, the never ending strikes result in many Sikh families being forced to leave Nepal and return to India.<sup>17</sup>

According to Guru Nanak Satsang Gurdwara in Birgunj, more than 90% of the Sikh families have left for India.<sup>18</sup> Six years ago there were 452 Sikh families in Birgunj and now there are only 29.<sup>19</sup> Sikhs started migrating to Birgunj over 40 years ago because Kan Singh and his family found success in the transportation industry, spurring others to follow in their footsteps.<sup>20</sup> But in 2009-2010, many traveled back to India, with families in Birgunj and all over Nepal packing up their businesses.<sup>21</sup> Nepal's economy is likely to be affected, since the revenue generated from the transportation industry was substantial.<sup>22</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: NEPAL (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/np.html> [hereinafter "CIA"].

<sup>2</sup> U.N. STATISTICS DIVISION, POPULATION BY RELIGION, SEX, URBAN/RURAL RESIDENCE AND PERCENTAGE: EACH CENSUS, 1985-2004 (June 30, 2006), [http://unstats.un.org/unsd/demographic/products/dyb/dybcensus/V2\\_table6.pdf](http://unstats.un.org/unsd/demographic/products/dyb/dybcensus/V2_table6.pdf).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: NEPAL (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136091.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>4</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 320 (2010), <http://www.hrw.org/world-report-2010>.

<sup>5</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>6</sup> CIA, *supra* note 1.

<sup>7</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 239 (2010) [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> HRW, *supra* note 4 at 323.

<sup>10</sup> AMNESTY INTERNATIONAL, *supra* note 7, at 240.

<sup>11</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: NEPAL (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148798.htm>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> IANS, *India Shows Where There's a Wheel There's a Way in Nepal*, THAINDIAN NEWS, Aug. 15 2010 [http://www.thaindian.com/newsportal/business/indian-shows-where-theres-a-wheel-theres-a-way-in-nepal-with-image\\_100412614.html](http://www.thaindian.com/newsportal/business/indian-shows-where-theres-a-wheel-theres-a-way-in-nepal-with-image_100412614.html).

<sup>15</sup> *Id.*

<sup>16</sup> Barun Roy, *Strikes Force Sikhs to Leave Nepal*, THE HIMALAYAN BEACON (June 25 2009), <http://beacononline.wordpress.com/2009/06/25/nepal-strikes-force-sikhs-to-leave-nepal>.

<sup>17</sup> *Chronic Banda Displaces Sikh Community*, THE KATHMANDU POST, June 24, 2009) <http://www.highbeam.com/doc/1P3-1758872231.html>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

# NETHERLANDS



*Head of State:* Queen Beatrix



*Head of Government:* Jan Peter Balkenende

*Population:* 16,783,092 <sup>1</sup>

*Sikh Population:* 16,783 (0.1%) <sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The Kingdom of the Netherlands is a parliamentary democracy under a constitutional monarch.<sup>3</sup> The executive branch consists of the monarch (chief of state), the prime minister (head of government), and the cabinet, while the legislative branch consists of a bicameral parliament, and the judicial branch consists of a Supreme Court.<sup>4</sup>

**Religious Demography:** Christian 43.4 %, 5.7 % Muslim; and 2.3 % other.<sup>5</sup>

**General Civil & Human Rights:** The United States (U.S.) Department of State reported that the Netherlands continued to struggle with situations in which there was a conflict between the right to free speech and the protection of religious and ethnic minorities.<sup>6</sup> There were reports of religious discrimination and violence against minorities.<sup>7</sup> Violence against women, violence against children, and sex trafficking remained ongoing problems.<sup>8</sup>

The Netherlands is signatory to international human rights agreements such as the European Convention on Human Rights, the Rome Statute (for the International Criminal Court) and the Universal Declaration on Human Rights. Neither Human Rights Watch nor Amnesty International has raised issues of concern regarding human rights conditions in the Netherlands. However, recent trends across the EU suggest forced and immediate deportation of Somali and Iraqi civilians have been taking place in the Netherlands since March and Amnesty International has been monitoring the issue and has petitioned for an end to the deportation and greater disclosure.<sup>9</sup>

**Sikh Civil & Human Rights:** The Constitution provides for freedom of religion and the government generally respects religious practices.<sup>10</sup> Although there were reports of some societal abuses on religious practices, the government repeatedly condemned any form of religious abuse and worked with nongovernmental organizations (NGO's) to combat such abuses.<sup>11</sup>

Sikhs are a religious minority in the Netherlands. Most of the Gurdwaras are located in Amsterdam.<sup>12</sup> There are 7 Gurdwaras total in the Netherlands.<sup>13</sup> About 90% people wearing turbans

in the Netherlands are Sikhs.<sup>14</sup>

### **ARTICLES OF FAITH**

The issue of religious headwear was addressed by both the Equal Opportunities Committee and the courts with respect to the wearing of headscarves in schools and places of employment.<sup>15</sup> Currently, any restrictions on wearing headscarves should be narrowly tailored to address security concerns, and headscarves continue to be allowed almost everywhere, including schools.<sup>16</sup> Parliament previously urged the government to ban the wearing of *burqa*'s in public; however, in 2008 it was announced that a general ban would not be implemented rather a ban prohibiting the wearing of face-covering clothing would be applied to teachers, parents, public government employees and students in school.<sup>17</sup>

Although the Sikh community has encountered discrimination in certain instances with respect to wearing the *dastaar* (turban) in public school, these situations were reportedly resolved reasonably and swiftly by government officials. It appears that the face-covering ban has not had an adverse impact on the Sikh community.<sup>18</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: NETHERLANDS (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/nl.html> [hereinafter "CIA"].

<sup>2</sup> The Association of Religion Data Archives (ARDA), Netherlands (2010) [http://www.thearda.com/internationalData/countries/Country\\_160\\_2.asp](http://www.thearda.com/internationalData/countries/Country_160_2.asp).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, BACKGROUND NOTE: THE NETHERLANDS (DEC. 13, 2010), <http://www.state.gov/r/pa/ei/bgn/3204.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>4</sup> *Id.*

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: NETHERLANDS (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148969.htm> [hereinafter "IRF 2010"].

<sup>6</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: NETHERLANDS (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136049.htm>, [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> AMNESTY INTERNATIONAL, EUROPEAN STATES MUST STOP THE IMMINENT FORCIBLE RETURN OF IRAQIS June 7, 2010, <http://www.amnesty.org/en/news-and-updates/european-states-must-stop-imminent-forcible-return-iraqis-2010-06-07>.

<sup>10</sup> IRF 2010, *supra* note 5.

<sup>11</sup> *Id.*

<sup>12</sup> Sikh Society Netherlands, Gurdwaras in Netherlands Dec. 5, 2010, [http://www.sikhs.nl/gurudwara\\_in\\_nederland.htm](http://www.sikhs.nl/gurudwara_in_nederland.htm).

<sup>13</sup> *Id.*

<sup>14</sup> "Presentation over Sikhism," Sikh Society Netherlands, <http://www.sikhs.nl/downloads%20english.htm>.

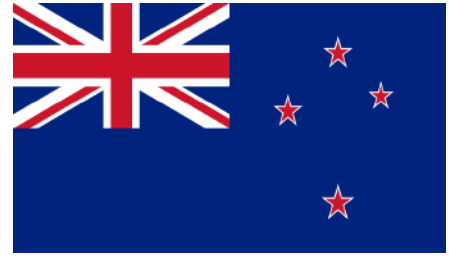
<sup>15</sup> *See supra* note 4.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> UNITED SIKHS, 2009 GLOBAL SIKH CIVIL RIGHTS REPORT 51 (2010), [http://unitedsikhs.org/Annual\\_Reports/2009\\_Sikh\\_Civil\\_Rights\\_Report.pdf](http://unitedsikhs.org/Annual_Reports/2009_Sikh_Civil_Rights_Report.pdf).

# NEW ZEALAND



*Head of State:* Queen Elizabeth II represented by Anand Satyanand

*Head of Government:* John Key

*Population:* 4,252,277<sup>1</sup>

*Sikh Population:* 8,504<sup>2</sup> - 9,507<sup>3</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**<sup>4</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** New Zealand is a parliamentary democracy and a Commonwealth.<sup>5</sup> New Zealand does not have a written Constitution and there is no law higher than laws passed in Parliament (unicameral House of Representatives).<sup>6</sup>

**Religious Demography:** Anglican 13.8%, Roman Catholic 12.6%, Presbyterian, Congregational, and Reformed 10%, Christian (no denomination specified) 4.6%, Methodist 3%, Pentecostal 2%, Baptist 1.4%, other Christian 3.8%, Maori Christian 1.6%, Hindu 1.6%, Buddhist 1.3%, other religions 2.2%, none 32.2%, other or unidentified 9.9%.<sup>7</sup> The figures are based on the 2006 Census.

**General Civil & Human Rights:** New Zealand for years has faced criticism for its handling of abuses committed against the indigenous populations, specifically the Maori who are disproportionately represented in the prison system. In a positive step, the government has shown a willingness to, “support the UN Declaration on the Rights of Indigenous Peoples as long as it did not interfere with the current domestic framework for resolving Indigenous Peoples’ rights claims.”<sup>8</sup> This was revealed during UN Universal Periodic Review (UPR) conducted in July.

Additionally, New Zealand made its intentions clear during the UPR that it would, “ratify the Optional Protocol to the UN Convention the Rights of the Child and become a party to the International Convention for the Protection of All Persons from Enforced Disappearance.”<sup>9</sup>

**Sikh Civil & Human Rights:** The law provides for freedom of religion and contributed to the free practice of religion; however, there were reports of societal abuses based on religious affiliation, some of which affected Sikhs.<sup>10</sup>



## **DISCRIMINATION**

In 2009, an exchange student celebrating graduation went with her host family to a club to dine but was turned away because of the club's "no headgear policy."<sup>11</sup> After mediation, the club apologized and agreed to review its policy.<sup>12</sup> However, in June 2010, South Auckland's Manurewa Cosmopolitan Club banned turban wearing Sikhs from their establishment, with other Cosmopolitan Clubs and nearby establishments refusing to criticize this behavior.<sup>13</sup>

The Human Rights Commission called it "a blast from the past" and "deeply" disappointing but despite this the club voted overwhelmingly to keep the ban that prevents Sikhs from entering their establishment.<sup>14</sup> In 2009, the club had refused a Sikh man entrance into a function held in his own honor because he would not remove his turban.<sup>15</sup> It was reported that a club member said that if the turban ban is lifted and the rule changed, "then the next thing you know is that we will also have to let people wear hoodies and balaclavas into the premises."<sup>16</sup> To compare secular hooded clothing with the religious turban worn by Sikhs is both discriminatory and fails to recognize the importance of the free exercise of religion. New Zealand Sikh Council president Bachan Singh Nihalgargh called this incident a "wake up call" for Sikhs in New Zealand.<sup>17</sup> Plans to go to the Human Rights Tribunal are being considered, which could force the club to overturn the ban.<sup>18</sup>

## **ARTICLES OF FAITH**

Earlier this year, the issue of whether *kirpans* should be allowed in New Zealand schools came to the attention of the Human Rights Commission.<sup>19</sup> Sikh Society spokesman Daljit Singh stated that over 50 children and some teachers wear *kirpans* under their clothing.<sup>20</sup> He has been involved in discussions on this issue at schools in Auckland, Hastings, Hamilton, Tauranga, Te Puke, Wellington and Christchurch.<sup>21</sup> New Zealand is trying to become more multi-cultural and in so doing is attempting to understand the issues surrounding *kirpans* in schools.<sup>22</sup>

David Ellery, head of Somerville Intermediate, in Auckland's Howick, was faced with a request by a family to allow their child to wear a *kirpan* to school.<sup>23</sup> The school sought advice from the Sikh community and Ministry of Education, but the family eventually decided to enroll their son elsewhere.<sup>24</sup> Auckland-based youth law Senior Solicitor John Hancock said that schools had to reflect their communities which are becoming more progressive and diverse.<sup>25</sup>

In New South Wales, the Deputy-Director General of Education sent out a memo to all public schools that children were banned from bringing small knives to school to cut fruit at lunch with.<sup>26</sup> However, the director made it very clear that this did not mean that *kirpans* were banned, citing that they are not illegal because they are of religious significance.<sup>27</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: NEW ZEALAND (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/nz.html> [hereinafter "CIA"].

<sup>2</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), NEW ZEALAND (2010), [http://www.thearda.com/internationalData/countries/Country\\_163\\_2.asp](http://www.thearda.com/internationalData/countries/Country_163_2.asp).

<sup>3</sup> Statistics New Zealand (2006) ("The number of people indicating an affiliation with the Sikh religion increased from 5,196 to 9,507 (up 83.0 percent) between 2001 and 2006"),

<http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/quickstats-about-a-subject/culture-and-identity/religious-affiliation.aspx>

<sup>4</sup> *Id.*

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS, BACKGROUND NOTE: NEW ZEALAND (AUG. 27, 2010), <http://www.state.gov/r/pa/ei/bgn/35852.htm> [hereinafter “U.S. DEPT. OF STATE BACKGROUND”].

<sup>6</sup> CIA, *supra* note 1.

<sup>7</sup> CIA, *supra* note 1.

<sup>8</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD’S HUMAN RIGHTS 242-243 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>9</sup> *Id.* at 243.

<sup>10</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: NEW ZEALAND (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148888.htm> [hereinafter “IRF 2010”].

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Michael Dickison, *Cossie Clubs Won’t Criticize Manuwera’s Turban Ban*, NEW ZEALAND HERALD (June 15, 2010), [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10652054](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10652054).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> A *Kirpan* is a strapped short sheathed religious blade/ sword that initiated Sikhs must carry at all times as one of their articles of faith.

<sup>20</sup> Rachel Grunwell, *Sikh Daggers Testing Schools*, NEW ZEALAND HERALD (Mar. 21, 2010), [http://www.nzherald.co.nz/sikhism/news/article.cfm?c\\_id=500819&objectid=10633303](http://www.nzherald.co.nz/sikhism/news/article.cfm?c_id=500819&objectid=10633303).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Gemma Jones, *Loopholes for Daggers in Schools*, THE DAILY TELEGRAPH, Mar. 31, 2010, <http://www.dailytelegraph.com.au/news/nsw-act/loophole-for-daggers-in-schools/story-e6freuzi-1225847682634>.

<sup>27</sup> *Id.*

# PAKISTAN



*Head of State:* Asif Ali Zardari

*Head of Government:* Yousuf Raza Gilani

*Population:* 184,404,791<sup>1</sup>

*Sikh Population:* 30,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **Yes (USCIRF CPC)**

**Government Structure:** Pakistan is a federal republic that follows Islam as the state religion. Located in Southern Asia, Pakistan's history is interspersed with periods of political instability and military rule since the partition between India and Pakistan in 1947. Pakistan adopted its Constitution in 1956; however, it has been suspended several times over the past few decades, most recently during November 2007 when a state of emergency was declared.<sup>3</sup> Asif Ali Zardari came into power, restoring democratic rule in the country in 2008. The legal system of Pakistan is based upon English common law, along with provisions for its status as an Islamic republic.

**Religious Demography:** Muslim 95% (Sunni 75%, Shia 20%), other (includes Christian and Hindu) 5%. Islam is the state religion and around 97% of the population identifies itself as being Muslim, 20% of whom are Shia Muslims with the majority being Sunni Muslims.<sup>4</sup> The remaining population consists of followers of Christianity, Hinduism, Sikhs, Buddhists, Zoroastrianism and Baha'i. Ahmadis constitute of a sizeable proportion of the population, however they tend to identify themselves as Muslims but are not treated as such under the law.<sup>5</sup>

**General Civil & Human Rights:** Since 2002, USCIRF has made recommendations to the State Department to categorize Pakistan as a Country of Particular Concern (CPC). Yet, despite the mounting evidence of persecution of religious minorities, the State Department is yet to act on USCIRF's recommendation –which was once again made in 2010.<sup>6</sup> Though USCIRF recognizes the government's improved stance towards tolerance of minority faiths, "the government has failed to reverse the continuing erosion in the social and legal status of members of religious minority communities and in the ability of members of the majority Muslim community to discuss sensitive religious and social issues freely."<sup>7</sup>

**Sikh Civil & Human Rights:** Pakistan has been designated by USCIRF as a Country of Particular Concern (CPC).<sup>8</sup> USCIRF has identified a direct link between the, "persecution of religious minorities and a rise in religious extremism."<sup>9</sup> Specifically, the rise in the prevalence of blasphemy laws intended to quell any dissension against the majority religion (Islam) continues to foster an

environment of fear and intolerance.<sup>10</sup>

The Constitution establishes Islam as the state religion and it requires that laws be consistent with Islam. The constitution states that, "subject to law, public order, and morality, every citizen shall have the right to profess, practice, and propagate his religion." In practice however, the government limited freedom of religion. Despite the government's steps to protect religious minorities, the number and severity of high-profile cases against minorities increased during the reporting period, with Sikhs reporting several cases of governmental and societal discrimination.<sup>11</sup>

***The following section was compiled through interviews and observations made by UNITED SIKHS volunteers in Pakistan. Where these stories are corroborated or contradicted by other Human Rights Reports, either an endnote or discussion will address the point. For safety, those who were interviewed and those who gave their observations will be kept anonymous.***

The government of Pakistan has failed to adequately protect religious minorities against widespread discrimination, killing, kidnapping, harassment, and targeted violence. Thus, private actors have been involved in several incidents against Sikhs who live in FATA (Federally Administered Tribal Areas) and NWFP (North-West Frontier Province).<sup>12</sup> In FATA, there have been frequent reports of both the kidnapping and killing of Sikhs by private actors during 2009-2010.

This recent activity is part of an ongoing and systematic process of suppressing the Sikh minority which began in 2003. For the last seven years, several innocent Sikhs have been kidnapped and killed by unknown Muslim militants.

On March 31, 2009, Kalyan Singh was kidnapped by the Taliban in the Feroz Khel tribal area of Orakzai Agency and held hostage for sixteen days. He did not eat anything during his initial three days of captivity. During these days he was tortured by the Taliban severely and beaten with a rifle. The Taliban called to their headquarters the Sikh leaders of Orakzai Agency and gave them three conditions for his release, which would apply to all the Sikhs of the Orakzai Agency:

1. Accept Islam; or
2. Fight with us; or
3. Pay Islamic tax (*jizya*)<sup>13</sup>

The Islamic tax demanded was 50 million Pak Rupees, the equivalent of approximately \$600,000, to be paid within 48 hours. If these demands were not met, the Taliban issued a warning that they would kill all the Sikh men of Orakzai Agency and the Sikh women would become their slaves.

The Sikhs refused all the conditions. On the fifth day of Kalyan Singh's captivity, the Taliban ordered that the entire Sikh community in Orakzai Agency be killed. Then, the Taliban proceeded to attack several houses in which Sikhs resided. They put rifles to their heads and said to the Sikh community members that they must accept one of the three options presented to them or else they would be shot and Kalyan Singh would be beheaded.

During the attack, one of the Gurudwaras was defiled. The Taliban threw the *Gutkas* (prayer books) into the surrounding fields and broke the *Manji Sahib* (where Sri Guru Granth Sahib Ji is placed). By

compulsion, the Sikh community accepted the last of the three options presented to them, which was the paying of the Islamic tax. The Sikhs paid approximately 60 lak Pak rupees to the Taliban who then released Kalyan Singh on the evening of April 15, 2009. However, after two days when the Sikh community failed to pay the remainder of the tax, many Sikhs fled because some Muslim neighbors gave them a warning about an imminent attack.

On April 17, 2009, at 6 o'clock in the morning, the Taliban attacked a house and shop owned by a Sikh and auctioned off all the items. Sikhs who were able to flee their homes took shelter with host communities in Peshawar and Panja Sahib.

On July 18, 2009, Daswant Singh, a resident of BARA in Khyber Agency, was kidnapped by local Taliban Lashkar-e-Islam (whose leader is Hajji Mangal Bagh Afridi) while going from his shop to his home in BARA. He was held hostage for a month and two days. He was severely tortured by the Taliban and they tried to force him to accept Islam. When the Taliban failed to convert him to Islam, they cut his hair (*kesh*) from his head and released him on August 10, 2009. During this time, the Taliban also threatened his family members saying to them that if they inform the government, both the family and Daswant Singh would be killed. After this incident, Daswant Singh and his family members migrated to Panja Sahib due to fear of reprisals by the Taliban.

On January 15, 2010, three Sikhs, Jaspal Singh, Gurvinder Singh, and Surjeet Singh, were en route to Khyber Agency when the Taliban kidnapped and took them to Orakzai Agency. The Taliban tried to force them to convert to Islam, but the three rejected conversion. Then, the Taliban demanded three crore Pak rupees (Rs. 30 million) for their release, but their families failed to pay, so their captors brutally beheaded Jaspal Singh on February 22, 2010 and threw his body on the rocks of Chora Tanga Hill. The remaining two survivors were able to escape and flee on March 1, 2010.<sup>14</sup>

On February 10, 2010, another Sikh, Robin Singh, was also kidnapped. His kidnappers tried to force him to accept Islam but he too rejected conversion and after two months was released.



*Jaspal Singh, just before he was cremated*



*Gurvinder Singh (in red Turban) is greeted by Sikhs at the Bhai Joga Singh Gurdwara, Peshawar*

In conclusion, Sikhs and other minority communities are being brutalized in Pakistan for not accepting Islam. The government has not taken adequate steps to ensure the safety of these minority groups, especially in the regions of FATA, North West Frontier Province (NWFP), and the Khyber Pakhtukhwa. Moreover, the government has also deprived these minority groups of their right to take advantage of the quota seats that have been reserved for minorities to apply for and be placed in government jobs. Practically speaking, the government has neither given any jobs to Sikhs in Pakistan, nor have they given any relief to the Sikh community members

who lost their shops and homes during the conflict between the government and the Taliban.

Currently, the climate for Sikhs in Peshawar and FATA is intense. The Taliban Lashkar-e-Islam group, whose leader is Haji Mangal Bagh, is collecting Rs.1100 per person via Islamic tax or *jizya* every year. If Sikhs do not pay the Islamic tax they face the risk of being kidnapped and having a ransom demanded for their freedom.



*Emergency kits being distributed as part of Pakistan Flood Relief Efforts*



Only during the floods in August of 2010 did the Pakistani government assist Sikhs, mainly because UNITED SIKHS humanitarian aid relief, operating out of Panja Sahib Gurdwara, was providing food and shelter to the IDPs (Sikhs, Hindus, Muslims, and Christians) who had lost everything.<sup>15</sup> Intense international pressure from the Sikh community helped in pushing the government to assist. Yet, any assistance to the Sikh community dissipated when individuals went back to their homes in the Swat Valley or the other affected regions. Displaced Sikhs have not been able to return to regions in which there is already an on-going war.

In FATA, many houses in which Sikh families resided were destroyed by the Taliban or damaged as a result of the fighting between the government and the Taliban. Their properties however, including both houses and fields, were leased to them, and now the owners of the properties are refusing to refund the security deposits to these displaced families.

Prior to the current conflict, Sikhs were living in three agencies of FATA: Orakzai Agency, Khurram Agency and Khyber Agency. All the Sikhs fled from Orakzai Agency and Khurram Agency and some also fled from Khyber Agency. Only 40 Sikh families remain in Khyber Agency.

The most recent updates from Orakzai Agency and Khurram Agency indicate that security forces have almost entirely wiped out the Taliban presence from those regions (almost 90% of the area is free from the Taliban presence). The respective Political Agents of Orakzai and Khurram Agencies have called to the Sikh community to return and that they wish to register those who fled. However, the Sikhs who fled these regions are still fearful to return because they are concerned that the Taliban may also return. As of October 11, 2010 about sixty Sikh families from

Khyber Agency, Orakzai Agency and Khurram Agency have been registered.

The military operations are ongoing in the upper Thirah valley of Khyber Agency. Additionally, a military presence is still felt in adjacent areas. In BARA (*Tehsil* of Khyber Agency) security forces have successfully pushed out the Taliban for now.

Although the Ministry for Minorities promised to assist these families affected and displaced by the Taliban and the conflict, nothing was achieved. The government is failing to protect the rights of Sikhs in Pakistan. International pressure is needed. Understandably, the government of Pakistan has an arduous task ahead but it is important that the government acts to protect the rights of minority groups.

*End of interview and observations by UNITED SIKHS volunteers,  
retrieved and compiled in October 2010.*

### **MINORITY RIGHTS**

Contrary to the reports UNITED SIKHS' volunteers on the ground in Pakistan, the IRF 2010 Report indicated that the government has provided relief to Sikhs who have been internally displaced and many have returned to their homes.<sup>16</sup> The Report goes on to state that despite recent attacks against Sikhs in FATA, "societal violence against the Sikh community remained comparatively rare."<sup>17</sup>

The UNITED SIKHS volunteer reports do substantiate the claims that violence against the Sikh community has occurred in the FATA region, however, our reports indicate a growing and continuous pattern of violence against Sikhs since 2003. This contradicts IRF's observations and necessitates further inquiry by the government of Pakistan, the U.S. Dept. of State, and NGO's. Nonetheless, the IRF Report corroborates UNITED SIKHS findings that during the reporting period, "[v]iolence against minorities increased, with the government failing to prevent attacks or punish perpetrators," and that the "Taliban imposed *jizya*, which is a tax payable by non-Muslims living under Muslim rule, on Sikhs, Hindus, and Christians, and in some cases expelled them outright."<sup>18</sup>

The Sikh community in Panjab and Sindh reported the illegal sale of Gurdwara land by the Evacuee Trust Property Board (ETPB). It was disclosed in April 2010 that the ETPB transferred approximately 72 acres of Gurdwara land, in the region of Lahore, to the Defense Housing Authority. The ETPB continued its plan to sell Gurdwara land, irrespective of the protest from the Sikh community and in direct contravention of 1925 Sikh Act.<sup>19</sup>

Generally, entry into higher education is thwarted by "discrimination against Hindus, Sikhs, and Ahmadis."<sup>20</sup> Sikh leaders reported that even before admissions applications could be processed, they had to get a certificate of permission from the Evacuee Trust Property Board, a very lengthy process which discouraged Sikhs from seeking higher education.<sup>21</sup>

A Sikh *Palki* procession at Gurdwara Janamsthan in Nankana Sahib to mark Guru Nanak Sahib Ji's birth was barred by Pakistani authorities. Authorities said their decision to block the procession which goes from Gurdwara Janamsthan to seven other gurdwaras was based on security concerns because of the deteriorating conditions in the country. However, this celebration was also cancelled last year. Elders in the Sikh community believe the government's actions to be hypocritical, since Muslim religious ceremonies are carried out without any delay or obstruction. The government countered by pointing out that foreigners would be involved in the Sikh celebration and their protection merited the heightened safety concern.<sup>22</sup>

## ***POLITICAL ASYLUM***

Due to the recurrent threats faced by the Sikh minority community, many internally displaced Sikhs have moved to other parts of Pakistan or sought refugee status in foreign countries. In 2008, Harender Kaur's husband Balwant Singh was kidnapped and murdered by the Taliban.<sup>23</sup> She and her daughter sought refuge in Panja Sahib Gurdwara for almost two years. When UNITED SIKHS team was in Pakistan to provide humanitarian relief, they heard of Ms. Kaur and her daughter, Imdid Kaur's, plight and sought to obtain asylum for the family.<sup>24</sup>



***Harender Kaur and her daughter are greeted by UNITED SIKHS members upon their arrival in Canada***

Fortunately, UNITED SIKHS legal counsel in the UK, Kulvinder Kaur, was able to assist in obtaining asylum for the family in Canada. At the end of September 2010, their ordeal finally ended and the family has begun a new life in Winnipeg, Canada.<sup>25</sup> Although the tremendous loss and suffering incurred by this family is great, they are however, luckier than many of those displaced by the conditions in Pakistan. According to Amnesty International “[t]he government failed to ensure the rights of the displaced – over half of them children – to security, health, food, shelter and education.”<sup>26</sup> Currently, there are tens of millions displaced because of the war and the floods.

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: PAKISTAN (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html> [hereinafter "CIA"].

<sup>2</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010 (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148800.htm> [hereinafter “IRF 2010”].

<sup>3</sup> CIA, *supra* note 1.

<sup>4</sup> IRF 2010, *supra* note 2.

<sup>5</sup> *Id.*

<sup>6</sup> UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM (USCIRF), 2010 ANNUAL REPORT 91 (MAY 2010), <http://www.uscifr.gov/images/annual%20report%202010.pdf>.

<sup>7</sup> *Id.* at 91.

<sup>8</sup> *Id.* at 6.

<sup>9</sup> *Id.* at 24.

<sup>10</sup> *Id.*

<sup>11</sup> IRF 2010, *supra* note 2.

<sup>12</sup> There are seven agencies in Pakistan's tribal areas which are collectively called Federal Administrator Tribal Areas (FATA). These seven agencies are called: i) Khyber Agency; ii) Orakzai Agency; iii) Khurram Agency; iv) Momand Agency; v) Bajorh Agency; vi) North Wazirsatan Agency; vii) South Wazirstan Agency. FATA is part of Khyber Pakhtukhwa (province), also known as NWFP. There are a total of four provinces in Pakistan. BARA is the Tehsil (the capital of a province) of Khyber Agency and Thirah is a famous valley in Khyber Agency.

<sup>13</sup> USCIRF, *supra* note 6, at 93-94.

<sup>14</sup> IRF 2010, *supra* note 6, at 94-95 (“In January 2010 militants in the Tirah valley of the Orakzai Agency kidnapped three Sikhs and demanded a ransom of 30 million rupees (approximately \$351,600). The militants killed one of the three, Jaspal Singh, on February 21 when the ransom was not paid by the deadline. Security forces secured the release of the other two men.”); USCIRF, *supra* note 6, 94-95.

<sup>15</sup> Press Release, *Emergency Kit Distribution Underway in Pakistan to Assist Flood Affected*, UNITED SIKHS (Oct. 5, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-05-10-2010-00.html>.

<sup>16</sup> IRF 2010, *supra* note 2.

<sup>17</sup> *Id.*

<sup>18</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 250 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf); USCIRF, *supra* note 6, at 93-94.



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<sup>19</sup> *Id.*

<sup>20</sup> IRF 2010, *supra* note 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Sikhs Protest Govt Decision to Bar Palki Procession in Pak*, THE TIMES OF INDIA, Nov. 22, 2010, <http://timesofindia.indiatimes.com/world/pakistan/Sikhs-protest-govt-decision-to-bar-Palki-procession-in-Pak/articleshow/6969915.cms>.

<sup>23</sup> Press Release, UNITED SIKHS Helps 'Taliban' Victims (Sikh Mother and Daughter) Find Asylum in Canada, UNITED SIKHS (Oct. 6, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-06-10-2010-00.html>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> AMNESTY INTERNATIONAL, *supra* note 18, at 252.

# POLAND



*Head of State:* Lech Kaczyński

*Head of Government:* Donald Tusk

*Population:* 38,463,689<sup>1</sup>

*Sikh Population:* 700<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Poland is a Republic with a bicameral legislature. Democratic norms are codified by the Constitution which establish checks and balances between the executive, prime minister, and legislature.<sup>3</sup>

**Religious Demography:** Roman Catholic 89.8% (about 75% practicing), Eastern Orthodox 1.3%, Protestant 0.3%, other 0.3%, unspecified 8.3%.<sup>4</sup>

**General Civil & Human Rights:** Poland has been under intense scrutiny for its involvement in the United States rendition programs (“unlawful transfers of terrorist suspects between countries”).<sup>5</sup> However, the extent of the involvement of foreign countries remains classified by the United States.<sup>6</sup>

Recently, with the passage of new laws prohibiting gender discrimination by the European Union (EU), Poland is currently deficient in incorporating EU legislation into its national law.

According to the United States Department of State, although Poland’s Constitution provides for the free exercise of religion, there were reports of discrimination based on religion in 2009 and 2010; however, government officials took affirmative steps to address this.<sup>7</sup> These isolated incidents primarily consisted of violence and harassment aimed at the Jewish community.<sup>8</sup>

**Sikh Civil & Human Rights:** A major source of concern for the Sikh community has been the transportation department’s handling of Sikh complaints about the treatment of their turbans at Polish airports. Poland’s record of screening Sikh turbans was abysmal even before the passage of Commission Regulation (EU) No 185/2010. In one example, a Sikh gentleman (Narinder Singh Kalsi) while departing from Poland: was told to remove his turban in public, was intimidated by four gun wielding airport officers who called him a terrorist, and when he attempted to write down their badge numbers, they grabbed the paper from him and ripped it to pieces.<sup>9</sup>

## **ARTICLES OF FAITH & RACIAL/ RELIGIOUS PROFILING**

This year, there were several reports of Sikhs being told they had to remove their turbans as a part of airport security screenings. According to the Times of India, Sikhs had been asked to remove their turbans at Polish airports during the months of June, July, and August.<sup>10</sup> Recently, and after the passage of the new EU Regulation, a Sikh UK businessman with lifelong ties to Poland was consistently asked to remove his turban in public (even though he did not set off any alarm) each time he traveled out of Poland. Eventually, through the help of the Helsinki Foundation for Human Rights (HFHR), who filed a case against the Polish authorities, a separate room was created for private screening.<sup>11</sup> Although this agreement is insufficient to stop the humiliating treatment of Sikhs (removal of turbans without triggering an alarm), it is one step towards more positive communication between the Polish authorities and the Sikh community.

Reports and surveys conducted by Sikh organizations, including UNITED SIKHS and the Sikh Federation, substantiate the concerns reported earlier this year.<sup>12</sup> Sikh Federations' questionnaire (844 completed responses) to UK Sikhs in over 50 towns and cities has identified Poland as one of the EU Member States where Sikh turbans are being continually disrespected.<sup>13</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: POLAND (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/pl.html> [hereinafter "CIA"].

<sup>2</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Sikhism By Country*, last accessed on Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_by\\_country](http://www.sikhiwiki.org/index.php/Sikhism_by_country).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, BACKGROUND NOTE: POLAND (June 30, 2010), <http://www.state.gov/r/pa/ei/bgn/2875.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>4</sup> CIA, *supra* note 1.

<sup>5</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 263 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>6</sup> *Id.*

<sup>7</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: POLAND (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148971.htm> [hereinafter "IRF 2010"].

<sup>8</sup> *Id.*

<sup>9</sup> Online Report, *Airport Turban Screening Incident*, UNITED SIKHS (2010)- (detailed report with author); UNITED SIKHS, *Letter from UNITED SIKHS to Prime Minister of India, Manmohan Singh: Polish Airports Turban Incidents* (Sept. 6, 2010), <http://www.unitedsikhs.org/PressReleases/Final%20letter%20to%20Indian%20PM%20from%20UNITED%20SIKHS%20and%20Central%20Gurdwara%20London.pdf> [hereinafter "Online Report"].

<sup>10</sup> *Poland bows to Sikh Demands*, THE TIMES OF INDIA, Sept. 10, 2010, <http://timesofindia.indiatimes.com/world/europe/Poland-bows-to-Sikh-demands/articleshow/6527404.cms>.

<sup>11</sup> *Id.*

<sup>12</sup> Online Report, *supra* note 9.

<sup>13</sup> Letter, *Consultation with the Sikh Community on the Implementation of the New EU Regulation on Aviation Security*, SIKH FEDERATION (UK) 3 (July 19, 2010) ("36% of turban wearing Sikhs living in the UK who have flown back from an airport in mainland Europe stated that they had their turbans disrespected." One of those European States being Poland), <http://www.sikhsangat.com/index.php?topic/54359-consultation-on-respect-for-sikh-turban-at-airports-sends-strong-message-to-department-for-transport/>.- (pdf copy of the letter can be obtained of this blog site, but need to join as a member).

# SINGAPORE



*Head of State:* S.R. Nathan

*Head of Government:* Lee Hsien Loong

*Population:* 4,590,000

*Sikh Population:* ~ 15,000<sup>1</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**<sup>2</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Singapore is a parliamentary republic and the People's Action Party (PAP) has been in power since 1959.<sup>3</sup> The PAP dominates politics and makes it very difficult, if not impossible, for any political opponent to take power.<sup>4</sup> Furthermore, "the government has broad powers to limit citizens' rights and handicap political opposition, which it used."<sup>5</sup>

**General Civil & Human Rights:** The Constitution does provide for freedom of speech and freedom of expression, but it also permits official restrictions on such rights.<sup>6</sup> In practice, the government has significantly restricted freedom of speech and of the press. Recently, laws have further limited freedom of expression and assembly.<sup>7</sup> One such law is the Public Order Act 2009 (POA). It imposes more extensive controls on freedom of expression, the right to peaceful assembly, and the right to form associations. The POA strengthens provisions of existing legislation, such as PEMA and the Miscellaneous Offences Act, which previously were used to restrict peaceful demonstrations.<sup>8</sup> These laws intimidate and punish those critical of the government.<sup>9</sup> Authorities have also initiated numerous lawsuits, which has created a "climate of fear for people with dissenting views."<sup>10</sup> Voting is mandatory for those citizens eligible to vote and 95 percent did so in the most recent election.<sup>11</sup>

One of the most prevalent human rights violations in the criminal justice system is the practice of caning. The law authorizes caning as punishment for many offenses, though it is restricted to men between ages 16 and 50.<sup>12</sup> Between January and November last year, 4,228 men were sentenced to caning and 99.8 percent of these sentences were carried out.<sup>13</sup> Human rights monitors are not granted access to prisons and the government does not permit reporting on prison conditions.<sup>14</sup>

Execution is mandatory for drug related offenses and it is believed that most of the executions in were for such offenses.<sup>15</sup> "Singapore is believed to have one of the world's highest per capita execution rates, although statistics are not made public."<sup>16</sup> The government is an ardent supporter of the death penalty and defended the death penalty, specifically for drug offenses, at the United Nations Human Rights Council.<sup>17</sup> The UN has declared that use of the death penalty for drug

offenses violates international law.<sup>18</sup>

Ethnic Malays make up fifteen percent of the population and are granted special protections under the Constitution. The government is required to support and promote “their political, educational, religious, economic, social, cultural, and language interests.”<sup>19</sup> There are also ethnic Indian minorities and a Eurasian community. Malays have not achieved the same levels of education or socioeconomic levels as these other minority groups or the ethnic Chinese majority.<sup>20</sup> Many minority groups complain of employment discrimination.

A quarter of Singapore’s population is comprised of migrants.<sup>21</sup> However, many of those migrants are not well protected by the government. Singapore’s authorities “misrepresent the number of trafficking victims by eliminating those who were deceived into migrating by false promises.”<sup>22</sup> The United States Trafficking in Persons Report categorized Singapore as a Tier 2 country, one that is not doing enough to address trafficking.<sup>23</sup> Furthermore, Singapore’s laws do not allow the grant of asylum or refugee status.<sup>24</sup> Caning is also used as punishment for immigration offences.<sup>25</sup>

Though the Constitution provides for freedom of religion, the government does restrict this right.<sup>26</sup> All religious groups must register with the government and are subject to government scrutiny.<sup>27</sup> For example, the Maintenance of Religious Harmony Act (MRHA) authorizes the government to issue a restraining order against any leader of a religious group who is creating hostility between different religious groups, promoting political causes, or expressing dissatisfaction with the government.<sup>28</sup> Though the government does hold this power, no restraining order has been issued since the MRHA was enacted in 1990.<sup>29</sup> The government and the Muslim community have a close relationship. The Islamic Religious Council (MUIS) advises the government on all issues that may touch the Muslim community.<sup>30</sup> In an effort to ensure freedom of religion and equality to minorities, the Presidential Council for Minority Rights examines all legislation to ensure that it will not disadvantage any racial or religious communities.<sup>31</sup> Furthermore, schools and the workplace must accommodate members of all religions.<sup>32</sup> Nonetheless, the Jehovah’s Witnesses and Unification Church are banned and while the government did not prohibit evangelical activities, in practice they were greatly discouraged.

**Sikh Civil & Human Rights:** The government permits the practice of religion freely with no interference.<sup>33</sup> However, laws such as the Public Order Act that impose restrictions on freedom of assembly by requiring permits for any cause related activity defined as a show of support for or against a position, person, group, or government, could potentially affect Sikhs who may want to gather for religious purposes.<sup>34</sup> In the past, this law has been used mainly to limit political protests and assemblies, not religious gatherings.<sup>35</sup>

### ARTICLES OF FAITH

In general, Sikhs have enjoyed religious freedom, have not been subject to societal discrimination, and the government permits and respects the Sikh articles of faith, particularly the *dastaar* (turban). In 2002, a ban on *hijab*, Muslim headscarf worn by women, was introduced in order to foster “religious harmony” in public schools.<sup>36</sup> This ban however, did not extend to Sikh turbans or other religious head coverings and was aimed at restricting the religious freedom of Muslims. The *dastaar* is respected within Singapore because of its colonial legacy and is evidenced by Sikh boys being permitted to wear turbans in national schools.<sup>37</sup> This year, a nongovernmental Inter-Religious organization (IRO) brought together leaders from 10 religious communities, including the Sikh

community, with the goal of fostering friendship and mutual respect.<sup>38</sup>

<sup>1</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Sikhism in Singapore*, last accessed on Jan. 12, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_in\\_Singapore](http://www.sikhiwiki.org/index.php/Sikhism_in_Singapore).

<sup>2</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: SINGAPORE (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148893.htm> [hereinafter “IRF 2010”] (religious groups must be registered under Societies Act).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: SINGAPORE (March 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136008.htm> [hereinafter “U.S. DEPT. OF STATE HR 2010”].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD’S HUMAN RIGHTS 233 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 343 (2010), <http://www.hrw.org/en/node/87401>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>20</sup> *Id.*

<sup>21</sup> AMNESTY INTERNATIONAL, *supra* note 7, at 233.

<sup>22</sup> HRW, *supra* note 16, at 343.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> AMNESTY INTERNATIONAL, *supra* note 7, at 233.

<sup>26</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> IRF 2010, *supra* note 2.

<sup>34</sup> HRW, *supra* note 16, at 343.

<sup>35</sup> *Id.*

<sup>36</sup> Aliah Abdo, *The Legal Status of Hijab in the United States: A Look at the Sociopolitical Influences on the Legal Right to Wear the Muslim Headscarf*, 5 HASTINGS RACE & POVERTY L. J. 441, 463 (2008).

<sup>37</sup> Chiew Choong Yee, Adrian, Lau Wai Ming, Louise Anne Sapstead, Tan Eu Gene, *South East Asia and International Law*, 6 SING. J. INT’L & COMP. L. 604, 627 (2002).

<sup>38</sup> IRF 2010, *supra* note 33, at 343.

# SOUTH AFRICA



*Head of State:* Jacob Zuma

*Head of Government:* Jacob Zuma

*Population:* 49.3 million.

*Sikh Population:* ~ 4000<sup>1</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**<sup>2</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** South Africa is a Parliamentary democracy. There are three branches of government, the Executive branch consists of the president who is the head of state and elected to a 5-year term by the National Assembly. The Legislative branch is made up of a National Council and a National Assembly. The National Council consists of 90 delegates, with each of the ten provinces having equal representation. The National Assembly has about 490 members, where representation is based upon the population of each province. The Judicial branch is made up of the Constitutional court, and they decide constitutional issues. The Supreme Court of Appeals decides all other matters.<sup>3</sup>

**Religious Demography:** Zion Christian 11.1%, Pentecostal/Charismatic 8.2%, Catholic 7.1%, Methodist 6.8%, Dutch Reformed 6.7%, Anglican 3.8%, Muslim 1.5%, other Christian 36%, other 2.3%, unspecified 1.4%, none 15.1%.<sup>4</sup>

**General Civil & Human Rights:** The United States Department of State notes that though there were no governmental or extra-judicial killings, 300 people were killed in police custody and over 612 deaths resulted from police action.<sup>5</sup> Vigilante and mob killings of foreign migrants remains a serious problem.<sup>6</sup>

Further, although torture and rape are banned in the South African Constitution, the Independent Complaints Directorate (ICD) reported a rise in rape and torture within the police and prison systems.<sup>7</sup> Many attribute the strict enforcement and cruelty as a means of addressing the social climate surrounding the World Cup Matches which took place in June and July 2010.<sup>8</sup>

Both the Bill of Rights and the Constitutional Court protect the free practice of religion and allow for redress if the government unfairly, either directly or indirectly, discriminates against religious practice.<sup>9</sup>

**Sikh Civil & Human Rights:** The South African Constitution provides extensive protections for

civil liberties and religious freedom.<sup>10</sup> Sikhs in South Africa are able to practice Sikhism freely and have not experienced societal discrimination based on their identity, culture or articles of faith.

### ***HISTORY OF TOLERANCE***

Sikhs in South Africa comprise a small percentage of the South Asian population in South Africa. Sikhs came to South Africa during the late 1800s as soldiers of the British army to fight in the Anglo-Boer war between Great Britain and the Afrikaners.<sup>11</sup> While many returned to India after the British victory, some decided to settle in South Africa.<sup>12</sup> There has also been an influx of Sikh expatriates from India, Kenya, Botswana, and other countries during the last 10 to 15 years, prompting the construction of new Gurdwaras.<sup>13</sup> The Sikh Council of South Africa in Durban hosts events, provides directories of Sikh businesses in South Africa, and also sent representatives to the World Parliament for Religion in Cape Town.<sup>14</sup> Earlier this year, Sikhs in Cape Town opened a new Gurdwara Sahib with additional plans to complete the construction of another Gurdwara in Mossel Bay.<sup>15</sup>

<sup>1</sup> Wikipedia, *Sikhism By Country*, last accessed Jan. 14, 2011, [http://en.wikipedia.org/wiki/Sikhism\\_by\\_country](http://en.wikipedia.org/wiki/Sikhism_by_country).

<sup>2</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: SOUTH AFRICA (Nov. 17, 2010) (government does not require religious groups to be licensed or registered), <http://www.state.gov/g/drl/rls/irf/2010/148721.htm> [hereinafter "IRF 2010"].

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS, BACKGROUND NOTE: SOUTH AFRICA (Nov. 17, 2010), <http://www.state.gov/r/pa/ei/bgn/2898.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>4</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: SOUTH AFRICA (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html> [hereinafter "CIA"].

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: SOUTH AFRICA (March 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135977.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> IRF 2010, *supra* note 2.

<sup>10</sup> IRF 2010, *supra* note 2.

<sup>11</sup> Sunny Singh, *Sikh Council of South Africa*, SIKHNET (Dec. 19, 2004), <http://fateh.sikhnet.com/sikhnet/directory.nsf/f0aeb79fedcd833f8725643b0004b210/1ee0d47d7d840e0c87256f700023e890?OpenDocument>.

<sup>12</sup> *Id.*

<sup>13</sup> Avashnee Moodley, *SA Sikhs open new temple in Cape Town*, TIMES LIVE (Mar. 28, 2010), <http://www.timeslive.co.za/sundaytimes/article376717.ece/SA-Sikhs-open-new-temple-in-Cape-Town> (Sikh Gurdwara in Cape Town).

<sup>14</sup> *See* Singh *supra* note 11.

<sup>15</sup> *Id.* *See also* Ajeet Singh Gill, *First Sikh Temple in MOSSEL BAY, South Africa*, SIKHNET (Mar. 6, 2010), <http://www.sikhnet.com/news/first-sikh-temple-mossel-bay-south-africa>.



# SPAIN



*Head of State:* Juan Carlos I

*Head of Government:* José Luis Rodríguez Zapatero

*Population:* 46,505,963<sup>1</sup>

*Sikh Population:* ~ 10,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The Kingdom of Spain is an independent democratic state. Politically, Spain is a parliamentary monarchy in which its government is divided into three separate branches known as the Executive, Legislative, and Judicial that share power with the monarch (Juan Carlos I). The monarch is elected through a direct democratic system with all the citizens included. Spanish Kings share their power with the parliament thus limiting the power of the monarch (constitutional monarchy).

**Religious Demography:** According to the 2010 estimated census, 94% of the country's population is Roman Catholic and 6% is other. The remaining 6% classified as "other" consists of Jews, Muslims, and Sikhs. Roughly 5,000 to 15,000 Sikhs live in Spain.<sup>4</sup>

**General Civil & Human Rights:** Human rights have been well protected under the government although there have been instances of abuse of power by the authorities. Security forces have been responsible for abusing suspects and mistreating migrant children in detention centers.<sup>5</sup> Fortunately, the government has taken immediate action on these issues by making the Prosecutors' Office initiate an investigation into allegations of mistreatment brought by 85 persons detained in Madrid's internment center for foreigners.<sup>6</sup> Although prostitution is not unlawful in Spain, there have been instances of women being forced into prostitution.<sup>7</sup>

Religious freedoms are generally protected; however, there were acts of discrimination perpetrated against religious minorities. Jewish groups reported isolated acts of vandalism and anti-Semitism and Muslim groups reported general societal discrimination.<sup>8</sup>

**Sikh Civil & Human Rights:** The Spanish government provides for general legal protection against religious discrimination through its laws and policies.<sup>9</sup>

## ***RACIAL / RELIGIOUS PROFILING***

Sikhs have expressed concerns regarding the European Union's new policies allowing hand searches (also known as hand pat downs) as a primary form of screening for turbans.<sup>10</sup> At a Barcelona (Spain) airport, Vinder Singh, a 41 year old man from the United Kingdom was prohibited from boarding his flight after he refused to remove his turban during the screening conducted by transportation security officials.<sup>11</sup>

## ***DISCRIMINATION***

Minority religions in Spain have experienced discrimination, which could have potential ramifications for Sikhs. In April 2010, a 16 year old girl was expelled from school for wearing a *hijab*.<sup>12</sup> Another school changed its internal policies to ban head coverings in schools to prevent the girl from enrolling there as an alternative.<sup>13</sup> This may have negative implications for Sikh boys and girls who wear the *dastaar* (turban). Currently, the Madrid Department of Education is attempting to draft a resolution that would prohibit schools from changing their internal policy during the school year to prevent exclusion based on religious headdress.<sup>14</sup>

Another incident occurred in which a Muslim lawyer was banned from arguing in Court because she was wearing a *hijab*.<sup>15</sup> Spain is considering prohibiting Muslim women from wearing *hijab* in public, while still continuing to allow head-covering veils such as the mantilla to be worn in public since head covering veils are part of traditional Spanish dress and are usually worn during church services.<sup>16</sup> This is indicative of a lack of respect for minority religions and a discriminatory preference for symbols of Christianity, which is the majority religion within Spain.

## ***ARTICLES OF FAITH & RACIAL/ RELIGIOUS PROFILING***

Reports and surveys conducted by UNITED SIKHS and the Sikh Federation, reveal that many of Spain's major airports are conducting hand searches of turbans in a humiliating fashion. UNITED SIKHS has received turban screening incident reports from Sikhs who have flown through Madrid Barajas International, Malaga, Cordoba, and Barcelona airports.<sup>17</sup> The reports indicate that beyond squeezing the turban and *joora*, Sikhs were often asked to remove their turbans completely.<sup>18</sup> Beyond the indignity of removing one's turban, a private room was not even given when the removal of the turban was demanded.<sup>19</sup> One individual described how the transportation officer was unsympathetic and told him that "this is our country if you don't take it [turban] off you won't go through."<sup>20</sup>

Sikh Federation's questionnaire (844 completed responses) to UK Sikhs in over 50 towns and cities has identified Spain as one of the EU Member States where Sikh turbans are being continually disrespected.<sup>21</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: SPAIN (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/sp.html> [hereinafter "CIA"].

<sup>2</sup> Sikhi Wiki: Encyclopeddia of the Sikhs, *Sikhism By Country*, last accessed Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_by\\_country](http://www.sikhiwiki.org/index.php/Sikhism_by_country).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: SPAIN (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148986.htm> [hereinafter "IRF 2010"].

<sup>4</sup> CIA, *supra* note 1.

<sup>5</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: SPAIN (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136059.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> IRF 2010, *supra* note 3.

<sup>10</sup> Press Release, *Sikhs Ask Indian PM to Raise Turban Screening at Polish Airports*, UNITED SIKHS (Sept. 7, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-07-09-2010-00.html>.

<sup>11</sup> Dil Neiyar, *Sikh concerns delay hand search plans at UK airports*, BBC, June 30, 2010 [http://news.bbc.co.uk/2/hi/uk\\_news/8776146.stm](http://news.bbc.co.uk/2/hi/uk_news/8776146.stm).

<sup>12</sup> IRF 2010, *supra* note 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Harold Heckle, *Spain Burqa Ban: Spanish Parliament to Consider Banning Islamic Veils in Public*, HUFFINGTON POST (July 18, 2010), [http://www.huffingtonpost.com/2010/07/18/spain-burqa-ban-parliament\\_n\\_650394.html](http://www.huffingtonpost.com/2010/07/18/spain-burqa-ban-parliament_n_650394.html).

<sup>17</sup> Online Report, *Airport Turban Screening Incident*, UNITED SIKHS (2010)- (detailed report with author).

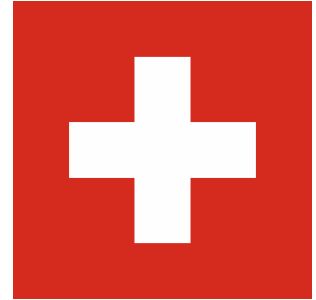
<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Letter, *Consultation with the Sikh Community on the Implementation of the New EU Regulation on Aviation Security*, SIKH FEDERATION (UK) 3 (July 19, 2010) ("36% of turban wearing Sikhs living in the UK who have flown back from an airport in mainland Europe stated that they had their turbans disrespected." One of those European States being Spain), <http://www.sikhsangat.com/index.php?topic/54359-consultation-on-respect-for-sikh-turban-at-airports-sends-strong-message-to-department-for-transport/>.- pdf copy of the letter can be obtained of this blog site, but need to join as a member.

# SWITZERLAND



*Head of State:* Micheline Calmy-Rey

*Head of Government:* Micheline Calmy-Rey

*Population:* 7,623,438<sup>1</sup>

*Sikh Population:* 500<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**<sup>3</sup>

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The Swiss Confederation is a federal republic consisting of 26 cantons (member states of the Swiss Confederation). There are three main governing bodies that make up the federal government; these include the bicameral parliament (legislative), the Federal Council (executive) and the Federal Court (judicial). There is no official head of state in Switzerland, but there are seven members which make up the Federal Council and, the position of President is rotated between the seven members on an annual basis and generally includes executive and administrative duties.<sup>4</sup>

**Religious Demography:** Christianity is the predominant religion of Switzerland, divided between the Catholic Church (41.8% of the population) and various Protestant denominations (35.3%). Minorities include Islam which makes up 4.3% of the population and Eastern Orthodoxy which makes up for 1.8% of the population.<sup>5</sup>

**General Civil & Human Rights:** Many fundamental rights, including the freedom of speech and press are guaranteed in the Swiss Constitution. However, Amnesty International and Human Rights Watch have expressed concern over the growing sentiments limiting religious freedom. In November 2009, the Swiss voted in favor of a ban on Minarets.<sup>6</sup> Though it is likely that such a ban will be struck down by the Federal Supreme Court of Switzerland or the ECtHR, such a referendum on religious manifestation has far reaching implications on religious pluralism.

Further, the Swiss Confederation has had some issues with racism, especially towards the Roma, Sinti and Yenish communities who have recently immigrated there.<sup>7</sup> There is also some difficulty in the enforcement of laws against discrimination and human trafficking due to the relatively independent nature of the cantons.<sup>8</sup>

**Sikh Civil & Human Rights:** The Swiss government provides protection against religious intolerance through its Constitution and other laws and policies.<sup>9</sup> This past year, the United States Department of State found that there were no incidents of overt societal discrimination against

Sikhs.<sup>10</sup> While the government is tolerant of religions, a ban on Islamic minarets was enacted during this past year (see details above).<sup>11</sup> The rationale behind this ban was that minarets were a symbol of religious and political power that threatened the country's secular legal system.<sup>12</sup>

### ***RECOGNITION AS A DISTINCTIVE FAITH***

Although Switzerland has no official church, they have 26 cantons that regulate religious matters. However, most of the cantons support, financially, three traditional faiths: Roman Catholic, Old Catholic, and Protestant. Nonetheless, other religious groups can register with the State to gain tax exempt status.<sup>13</sup>

### ***ARTICLES OF FAITH & RACIAL/ RELIGIOUS PROFILING***

Reports and surveys conducted by the Sikh organizations, UNITED SIKHS and the Sikh Federation, reveal that Zurich airport is conducting hand searches of turbans in a humiliating fashion. UNITED SIKHS has received personal detailed complaints from Sikh businessmen who fly to Switzerland often. The reports indicate that these individuals must now always undergo hand pat downs of their turbans even though they have not triggered the metal detector or hand wand.<sup>14</sup> Fortunately, the option for a private screening was given, unlike many other European countries.<sup>15</sup> This has been substantiated by Sikh Federation's questionnaire (844 completed responses) to UK Sikhs that identified Switzerland as one of the EU Member States where Sikh turbans are being disrespected.<sup>16</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: SWITZERLAND (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/sz.html#People>.

<sup>2</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Sikhism By Country*, last accessed Jan. 14, 2011, [http://www.sikhiwiki.org/index.php/Sikhism\\_by\\_country](http://www.sikhiwiki.org/index.php/Sikhism_by_country).

<sup>3</sup> *Id.* (small population but have three Gurdwaras).

<sup>4</sup> U.S. DEPARTMENT OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, BACKGROUND NOTE: SWITZERLAND (Dec. 7, 2010), <http://www.state.gov/r/pa/ei/bgn/3431.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>5</sup> CIA, *supra* note 1.

<sup>6</sup> Press Release, *Switzerland Votes Against Religious Freedom*, AMNESTY INTERNATIONAL <http://www.amnesty.org/en/news-and-updates/news/switzerland-votes-against-religious-freedom-20091130>.

<sup>7</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2009: THE STATE OF THE WORLD'S HUMAN RIGHTS: SWITZERLAND, <http://www.amnesty.org/en/region/switzerland/report-200914> Nov 2009.

<sup>8</sup> *Id.*

<sup>9</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: SWITZERLAND (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148989.htm> [hereinafter "IRF 2010"].

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> IRF 2010, *supra* note 9.

<sup>14</sup> Report, *Constant Racial Profiling at Zurich Airport*, UNITED SIKHS (2010)- report with author.

<sup>15</sup> Online Report, *Airport Turban Screening Incident*, UNITED SIKHS (2010)- (detailed report with author).

<sup>16</sup> Letter, *Consultation with the Sikh Community on the Implementation of the New EU Regulation on Aviation Security*, SIKH FEDERATION (UK) 3 (July 19, 2010) ("36% of turban wearing Sikhs living in the UK who have flown back from an airport in mainland Europe stated that they had their turbans disrespected." One of those European States being Switzerland), <http://www.sikhsangat.com/index.php?topic/54359-consultation-on-respect-for-sikh-turban-at-airports-sends-strong-message-to-department-for-transport/>.- (pdf copy of the letter can be obtained on this blog site, but need to join as a member).

# T HAILAND



*Head of State:* King Bhumibol Adulyadej

*Head of Government:* Abhistit Vejjajiva

*Population:* 67,089,500<sup>1</sup>

*Sikh Population:* 30,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. State Department or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** Thailand is a constitutional monarchy. The king is revered and has a strong informal influence.<sup>3</sup> The 2007 election was won by the People's Power Party, led by Samak Sundaravej.<sup>4</sup> The government is currently led by Abhisit Vejjajiva.<sup>5</sup> Vejjajiva was inaugurated in December 2008 after Constitutional Court rulings forced two prime ministers to step down. Though the elections were considered free and fair, there were widespread allegations of vote buying.<sup>6</sup>

**General Civil & Human Rights:** Separatist insurgency in the southern part of the country resulted in numerous human rights abuses.<sup>7</sup> Separatist groups targeted civilians and carried out almost daily bombings resulting in many deaths and injuries. There were reports of roadside ambushes, beheadings and burning victims to death.<sup>8</sup> Some of the attacks were aimed at Buddhist Thais in retaliation for abuses committed by Thai security forces against ethnic Malay Muslims.<sup>9</sup> The death toll over the last six years of internal armed conflict is over 4,000.<sup>10</sup> Martial law has been in place since 2006. This gives both the military and the police significant powers to restrict basic rights of citizens and non-citizens.<sup>11</sup>

There continue to be serious restrictions on freedom of expression. Thai authorities closed down more than 18,000 websites last year after accusing them of promoting anti monarchy sentiments.<sup>12</sup> By law, the government may restrict freedom of speech and of the press to preserve national security, maintain public order, protect public morals and prevent insults to Buddhism. *Lese majeste* laws make it a criminal offense to criticize the king or queen. This offense is punishable by up to 15 years' imprisonment.<sup>13</sup> The government has set up a website where citizens can report incidences of *lese majeste*, making arrests common.

Human trafficking remains a serious and widespread problem in Thailand.<sup>14</sup> Refugees and stateless persons are at significant risk of becoming victims of trafficking.<sup>15</sup> The country has been a source, transit and destination for victims and perpetrators of human trafficking.<sup>16</sup> Many of the women and children who are trafficked into the country are forced into prostitution.<sup>17</sup> Though prostitution is illegal, there is little regulation and many police officers profit and are paid off by brothels. NGOs

have reported as many as 300,000 prostitutes, many of whom were forced into prostitution to pay off their debt of bondage.<sup>18</sup>

**Sikh Civil & Human Rights:** For newer faiths, they must be registered under the Religious Organizations Act. There are currently five officially recognized religious groups, including Sikhs.<sup>19</sup> "The Secretary-General of the Sikh Council of Thailand estimates there are up to 30,000 Sikhs. Although there are 16 Sikh temples, only 10 or 11 are active."<sup>20</sup>

### RECOGNITION AS A DISTINCTIVE FAITH

Sikhism is officially recognized as one of the five major religions in Thailand.<sup>21</sup> The Thai Constitution requires the government to protect Buddhism and other religions and the government provides subsidies for activities of the five major religions.<sup>22</sup> In 2010, the Religious Affairs Department of the government allocated \$92,300 (3 million baht) for Christian, Brahmin-Hindu, and Sikh organizations.<sup>23</sup>

Generally, the right to wear the *dastar* is respected within Thailand and Sikhs are allowed to wear *dastaars* while serving in the military.<sup>24</sup> They are also not required to wear helmets while riding motorcycles.<sup>25</sup>



*Sikhs in Thailand donated a rice shipment for Pakistan Flood Relief Assistance*



<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: THAILAND (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/th.html> [hereinafter "CIA"].

<sup>2</sup> THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), THAILAND (2010) (0.1% Sikh population), [http://www.thearda.com/internationalData/countries/Country\\_220\\_2.asp](http://www.thearda.com/internationalData/countries/Country_220_2.asp).

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: THAILAND (Mar. 11, 2010), <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/136010.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>8</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 355 (2010), <http://www.hrw.org/en/world-report2010/thailand>.

<sup>9</sup> *Id.*

<sup>10</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 320-22, [http://thereport.amnesty.org/sites/default/files/AIR2010\\_AZ\\_EN.pdf#page=267](http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=267).

<sup>11</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>12</sup> HRW, *supra* note 8, at 355.

<sup>13</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

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<sup>20</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: THAILAND (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148897.htm> [hereinafter “IRF 2010”].

<sup>21</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Thai Sikh Organization, *Understanding the Sikh Turban*, last accessed on Jan. 18, 2011 <http://www.thaisikh.org/sikhism/understandingthesikhturban.php>.

<sup>25</sup> *Id.*



# UNITED ARAB EMIRATES



*Head of State:* Khalifa bin Zayed Al-Nahyan

*Head of Government:* Muhammad bin Rashid Al-Maktum

*Population:* 6,00,000<sup>1</sup>

*Sikh Population:* 50,000<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The United Arab Emirates (UAE) is a federation of seven emirates. The seven emirate rulers constitute the Federal Supreme Council which is the highest legislative and executive body.<sup>3</sup> The council selects a president and a vice president from its members.<sup>4</sup> The president then appoints the prime minister and cabinet.<sup>5</sup> There are no democratically elected leaders or institutions. Citizens do not have the right to change their government.<sup>6</sup> The law prohibits criticism of its rulers.

**General Civil & Human Rights:** Torture continues to be a method used for punishment of purported crimes. The Shari'a courts impose flogging sentences as punishment for adultery, prostitution, consensual premarital sex, pregnancy outside of marriage, and drug or alcohol abuse.<sup>7</sup> In addition to torture as a means of punishment for the above mentioned offenses, there have also been reports of prisoners being tortured generally.<sup>8</sup> One such report came from a U.S. citizen on trial for terrorism charges.<sup>9</sup>

There continues to be a problem in the way in which the government treats stateless persons, refugees, and migrant workers. Though the resident population is nearly 5 million, only one million of those are citizens. Most Bidoon lacked citizenship because they did not have the preferred tribal affiliation used to determine citizenship when the country was established.<sup>10</sup> The Bidoon are discriminated against and have limited access to medical care and education.<sup>11</sup>

Many female domestic workers were subjected to unpaid wages, food deprivation, forced confinement, and physical or sexual abuse.<sup>12</sup> Trafficking in persons was a serious problem and trafficking victims received little assistance. Foreign embassies reported that police pressured victims not to pursue complaints against their employers and assisted employers in repatriating victims before a criminal complaint could be filed.<sup>13</sup> Domestic abuse against women was a pervasive problem in 2010. The penal code allows men to use physical means at their discretion against female and minor family members.<sup>14</sup>

There remain serious restrictions on the free exercise of religion. Muslims are denied the freedom to change religion.<sup>15</sup> The government funded 95 percent of Sunni Muslim mosques and viewed conversion to Islam favorably.<sup>16</sup> Islam is the official religion and Islamic studies were mandatory for all students in public schools.<sup>17</sup> Muslims are not only prohibited from converting to other religions but, under Shari'a law, the ultimate penalty for conversion is death. Non-Muslims were subject to criminal prosecution, imprisonment and deportation if they proselytized or distributed religious materials to Muslims.<sup>18</sup> The government monitored all religious groups. It also drafted all Friday sermons to Sunni and Shia imams and monitored the sermons for adherence.<sup>19</sup>

**Sikh Civil & Human Rights:** While Islam is the official religion of the United Arab Emirates, the government is tolerant of other religions and allows non-Muslims to practice their faiths with little to no interference.<sup>20</sup> Sikhs currently comprise less than 5 percent of the population, along with Baha'i, Jews, and Parsi populations.<sup>21</sup> Sikhs are able to practice their religion freely within their homes and have not faced any overt discrimination or harassment.

### ***RECOGNITION AS A DISTINCTIVE FAITH***

Although the government does not require non-Muslim to register or obtain licenses, it does monitor the growth and development of non-Muslim groups through record keeping of land grants. Religious groups can approach local rulers and request land grants from them to build houses of worship and the individual emirates exercise autonomy over whether to grant access to land to religious groups.<sup>22</sup> The title of these land grants remain with the ruler and the religious group does not have to pay rent.<sup>23</sup> Sikhs have not had much difficulty obtaining land grants and were able to construct gurdwaras in Dubai and Jezebel Ali Village.<sup>24</sup>

### ***MIGRANT WORKERS' RIGHTS***

Human rights organizations have also expressed concern regarding the treatment of migrant workers within United Arab Emirates, the majority of which are from the South Asian subcontinent, many of whom are Sikh.<sup>25</sup> Thousands of migrant workers participate in UAE's vibrant construction and industrial sectors. The UAE has enacted laws that punish workers for going on strike and has failed to enact laws allowing migrant workers to organize and engage in collective bargaining.<sup>26</sup> Employers also have almost complete control over migrant workers because of immigration sponsorship laws.<sup>27</sup> South Asian construction workers employed on Saadiyat Island have complained of unsafe working environments and a cycle of debt and abuse.<sup>28</sup> They are often forced to pay high recruiting fees to procure the construction job and then must attempt to pay it back through meager wages.<sup>29</sup> This past year, the UAE government agreed to implement 34 of the 72 recommendations from the United Nations Human Rights Council but refused to grant substantive rights to workers.<sup>30</sup>

### ***DEATH PENALTY & TORTURE***

On March 29, 2010, seventeen Sikh migrant workers were sentenced to death by a *Shari'a* court in Sharjah for the alleged murder of a Pakistani man.<sup>31</sup> The men were forced to reenact the murder which was then videotaped and later admitted into court as evidence, resulting in their conviction.<sup>32</sup> The Sikh men have complained that while in custody they were brutally tortured for five days, during which the policemen desecrated their articles of faith by forcing the Sikhs to take off their gold necklaces (*Khanda*) and *kara* and proceeding to stomp on them.<sup>33</sup> They also complained of

further religious intolerance, stating that the police played soccer with their Khanda's, and removed and cut their kara's with a hacksaw, and threw them in the garbage.<sup>34</sup> Amnesty International and other human rights groups have demanded that the UAE government investigate the Sikhs claims of torture and provide the Sikhs access to evidence and a fair trial.<sup>35</sup>

<sup>1</sup> U.S. DEPARTMENT OF STATE, BUREAU OF NEAR EASTERN AFFAIRS, BACKGROUND NOTE: UNITED ARAB EMIRATES (July 14, 2010), <http://www.state.gov/r/pa/ei/bgn/5444.htm> [hereinafter "U.S. DEPT. OF STATE BACKGROUND"].

<sup>2</sup> Manju Ramanan, *First 'Official' Gurdwara in Dubai*, THE TIMES OF INDIA (June 26, 2010), <http://timesofindia.indiatimes.com/city/chandigarh/First-official-gurdwara-in-Dubai/articleshow/6092737.cms>.

<sup>3</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: UNITED ARAB EMIRATES (March 11, 2010) <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136082.htm> [hereinafter "U.S. DEPT. OF STATE HR 2010"].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 571 (2010), <http://www.hrw.org/world-report-2010>.

<sup>10</sup> *Id.*

<sup>11</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 285 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_AZ\\_EN.pdf#page=285](http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=285).

<sup>12</sup> HRW, *supra* note 9 at 568.

<sup>13</sup> U.S. DEPT. OF STATE HR 2010, *supra* note 3.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: UNITED ARAB EMIRATES (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148850.htm> [hereinafter "IRF 2010"].

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> HRW, *supra* note 9 at 569, 570.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> AMNESTY INTERNATIONAL, *supra* note 11 at 338.

<sup>31</sup> Sikhi Wiki: Encyclopedia of the Sikhs, *Sikhs Sentenced to Death in UAE*, last accessed on Dec. 12, 2010, [http://www.sikhiwiki.org/index.php/Sikhs\\_sentenced\\_to\\_death\\_in\\_UAE](http://www.sikhiwiki.org/index.php/Sikhs_sentenced_to_death_in_UAE). See Press Release, *UNITED SIKHS Urges You to Attend Protest Tomorrow against Death Penalty in London*, UNITED SIKHS (May 15, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-14-05-2010-00.html>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

# UNITED KINGDOM



*Head of State:* Queen Elizabeth II

*Head of Government:* David Cameron

*Population:* 62,348,447<sup>1</sup>

*Sikh Population:* 374,091<sup>2</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The United Kingdom (UK), composed of the countries of England, Scotland, Wales and Northern Ireland, is a geographically small but economically important island nation situated off mainland Europe. The UK is a member of the European Union but does not use the Euro.

The government of the United Kingdom is a Constitutional Monarchy: executive power is nominally invested in the monarch, who entrusts government to a Prime Minister, cabinet and parliament as a whole. The UK has a bicameral parliament consisting of the House of Commons and House of Lords forming the supreme legislative organ, and subject to periodic elections. In addition, Scotland, Wales and Northern Ireland have their own devolved Legislatures (a parliament in Scotland's case, and National Assembly in the case of Wales and Northern Ireland). The highest judicial authority in the land is The Supreme Court of the United Kingdom.

**Religious Demography:** According to a 2001 census, 71.6% are Christian (consisting of Anglican, Roman Catholic, Presbyterian, and Methodist), 2.7% are Muslim, 1% are Hindu, 1.6% identified as another religion, and 23.1% were unspecified or had no religion.<sup>3</sup>

**General Civil & Human Rights:** Similar to the inquiry of Poland's involvement in the U.S. led rendition program, there is momentum building for the UK to address the violations of holding people of interest in foreign states known to practice torture. Recently, the European Court of Human Rights (ECtHR) found that, "by detaining a number of foreign nationals without charge or trial (internment), the UK had violated their human rights."<sup>4</sup>

Moreover, the deportation of those labeled as "national security" risks to countries who practice torture remains a pending issue at the ECtHR. The Court must assess whether "diplomatic assurances" vitiates the grave human rights violation of deporting individuals to known torturers.<sup>5</sup>

The United Kingdom has created a strong legal framework that provides guarantees of religious freedom and protects against religious discrimination in both private and public arenas. This includes

the Human Rights Act of 1998 and the Employment Equality (Religion or Belief) Regulations of 2003, which require employers to treat all religions equally in order to combat religious favoritism.<sup>6</sup>

**Sikh Civil & Human Rights:** While religious practitioners are allowed to display religious symbols as part of their religious freedom, Article 9 jurisprudence of the European Court of Human Rights has placed limitations on this right, and the Human Rights Act of 1998 encourages British courts to take this jurisprudence into account.<sup>7</sup> Under Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, limitations on religious freedom are only allowed if they have been enacted by law and are necessary for furthering the interest of public safety and to protect the public order, health or morals, or the rights and freedoms of others.<sup>8</sup> However, some suggest that laws in the United Kingdom grant greater religious freedom to Sikhs than international human rights instruments, since the United Kingdom has often chosen not to impose limitations on religious practices/beliefs based on safety concerns.<sup>9</sup>

### *EDUCATION*

While the government does not directly fund any church or religious organization it does provide financial support to “faith schools,” state schools that have a religious affiliation. The government covers up to 90 percent of the total capital costs of the buildings and 100 percent of administrative costs, including teachers' salaries, for Christian, Jewish, Hindu, and Sikh “faith schools.”<sup>10</sup> This government support is made available to all “faith schools,” allowing Sikhs to provide sectarian education to their children and instill the values of Sikhism. Sikh faith schools make up a small percentage of the nearly 7,000 faith schools available throughout the United Kingdom.



*UNITED SIKHS volunteers serving hot meals to passengers at Heathrow Airport stranded by the Icelandic ash cloud*

### *ARTICLES OF FAITH*

The United Kingdom has exempted *kirpans* from the general ban on knives in public places, thus allowing Sikhs to maintain their religious identity in the public arena under the Criminal Justice Act of 1988.<sup>11</sup> It has also exempted Sikhs from prosecution under the Offensive Weapons Act of 1996 for carrying their *kirpans*.<sup>12</sup> While Sikhs are allowed to carry the *kirpan* in public, often Sikh students cannot enjoy that right within public schools. The government has allowed schools to exercise discretion in allowing students to express their religious beliefs through religious garb or symbols on school grounds.<sup>13</sup> Thus, some schools have excluded Sikh children because of their articles of faith, namely the *kirpan* and *kara*.<sup>14</sup>

The Department of Education issued a guidance to schools directing them to provide reasonable religious accommodation under human rights legislation after a series of controversial court decisions prohibiting full-face veils (but not headscarves) and Christian chastity rings in schools.<sup>15</sup> While the guidance recommends that schools accommodate religious beliefs, it permits schools to maintain uniform policies that “restrict the freedom of pupils to manifest their religion” in order to

ensure health and safety and protect the rights and freedoms of others.<sup>16</sup> This has had direct implications for many Sikh children, as some schools have banned the *kirpan* on safety grounds, thus placing many Sikhs in the untenable position of choosing between their education and faith.<sup>17</sup>

This is indicative of a continuing trend evident in an event that took place in 2009, where a 14 year old boy withdrew from a Compton school after his request to wear his *kirpan* had been denied.<sup>18</sup> The school offered to allow him to carry a 2-inch version of the *kirpan*, which his family subsequently rejected because it was not a genuine *kirpan*. In 2008, Sarika Singh won a High Court case against her school for excluding her from wearing her *kara* in violation of the school's "no jewelry" policy.<sup>19</sup> The court recognized that the *kara* was simply not a piece of jewelry but instead as a "defining focal symbol of being Sikh."<sup>20</sup>

In February, Sir Mota Singh, a prominent Sikh judge and the first South Asian judge in the UK, expressed his support for allowing children to wear their *kirpan* to school, stating "I see no objection to a young Sikh girl or boy...being allowed to wear their kirpan if that's what they want to do."<sup>21</sup> He also expressed his disapproval for compromises involving replicas or other versions of the *kirpan* and recognized that while schools have legitimate safety concerns, there has never been a reported case of a Sikh using his or her *kirpan* to cause injury.<sup>22</sup>

In a positive development, this past September, Sikhs opened the first Sikh school in the United Kingdom to be established by a Gurdwara.<sup>23</sup> The school will follow the national curriculum but will also focus on Sikh religious values and culture. Subjects such as the Panjabi language and Sikh history will also be taught. The school has also set aside 20% of seats for non-Sikh students in an effort to create a more diverse student body.<sup>24</sup> Currently the school is oversubscribed with enrollment reaching a capacity of 470 pupils.<sup>25</sup>



**UNITED SIKHS Director, Ravjeet Singh, receiving the 'Sikhs and Charities' Award**

### **EMPLOYMENT DISCRIMINATION**

The Race Relations Act of 1976 prohibits workplace discrimination on the basis of nationality, race, color, or ethnic origin. Ethnic origin has been interpreted to include some religious as well as racial groups under this act. Sikhs are considered a separate racial group.<sup>26</sup> While the United Kingdom allows Sikhs and others to practice religion freely, there have been some instances of religious discrimination by the government against Sikhs because of their unique external appearance.

Government units, particularly those involving public safety, have denied job opportunities to Sikhs, stating that their *dastaar* and beards cause safety concerns. For example, Sikh police officers are prohibited from participating in certain firearms police units because police helmets cannot fit over their *dastaar*.<sup>27</sup> This remains an ongoing concern from last year and the British Sikh Police Association is currently attempting to design a helmet that will fit over a turban, as referenced in last year's report.<sup>28</sup>

Also the government prohibits Sikhs in the fire department from working in the field because of their *dastaars* and beards. Sikh organizations continue to advocate for a compromise and reasonable accommodations. On a positive note, last year the Metropolitan Police permitted Sikh crime victims to request the assistance of a Sikh officer in resolving their cases since Sikh police officers have a better understanding of Sikh culture. Moreover, a Sikh police officer won a discrimination case against the Greater Manchester police department after being told he had to remove his turban during riot training.<sup>29</sup>

Religious discrimination has also occurred in the private sector, particularly related to the right to carry the *kirpan*. An incident occurred where a Sikh employee was excluded from employment at an Asda supermarket.<sup>30</sup> He was told by management that he must either remove his *kirpan* because of safety concerns, wear a plastic one, or leave.<sup>31</sup> He was allowed to return to work following an intervention by the national Sikh Resource Centre, which educated Asda as to the significance of the *kirpan*.

The right to wear the *dastaar* has been explicitly protected under law for close to 40 years, strengthened by a 1983 landmark ruling by the House of Lords involving a student's right to wear his turban in school.<sup>32</sup> In addition, the United Kingdom has accommodated Sikh beliefs and has exempted Sikh construction workers from wearing safety helmets and motorcyclists from wearing helmets under the Motorcycle Crash helmets (Religious Exemption Act) of 1976.<sup>33</sup>



*Gurdwara Karmasar, East London*

Yet, Sikhs have expressed growing concerns regarding the right to *dastaar*, especially with regards to airport screenings in the United Kingdom and European Union. This past year Sikh groups voiced their apprehension about the Department of Transport's proposed policy to implement hand searches, which are currently being used in the European Union and have caused many Sikhs to complain about having their turbans touched by airport security personnel and occasionally removed.<sup>34</sup> In response to these concerns, the Department of Transport has delayed its plans to implement hand searches of passengers and has written to airports directing them to follow the previous methods of searching religious headwear, which do not require that all religious headgear be subject to search.<sup>35</sup>

Currently, only passengers that set off the alarm while passing through a metal detector are subject to a secondary search using a handheld metal detector. The new European Union policy recommends that security staff use their hands when conducting secondary checks, which is an affront to the dignity of Sikhs, who consider their *dastaar* as an inextricable part of their identity.<sup>36</sup>

## CENSUS

Although Sikhs are recognized as a racial/ ethnic group in UK case-law, the campaign for a separate Sikh monitoring for the Census 2011 has been ignored by the Office for National Statistics (ONS).<sup>37</sup> Jagdeesh Singh of Sikh Community Action Network writes that "there is a conscious government

avoidance of according the Sikhs the status of an 'ethnic' group, as that creates profound difficulties for its relations with the Indian government as were noted after the *Mandla v. Dowell Lee* ruling."<sup>38</sup> Simply, the government's stonewalling represents direct and indirect racial discrimination against the Sikh community.<sup>39</sup>

<sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: UNITED KINGDOM (2010), <https://www.cia.gov/library/publications/the-world-factbook/geos/uk.html> [hereinafter "CIA"].

<sup>2</sup> Number based on percentages gathered from THE ASSOCIATION OF RELIGION DATA ARCHIVES (ARDA), UNITED KINGDOM (2010) [http://www.thearda.com/internationalData/countries/Country\\_233\\_2.asp](http://www.thearda.com/internationalData/countries/Country_233_2.asp). According to the 2001 census, Sikhs make up 0.7% of the population in England, 0.1% in Wales, <0.01% in Scotland (most recent census results not yet available) <http://www.statistics.gov.uk/census2001/profiles/commentaries/ethnicity.asp>.

<sup>3</sup> CIA, *supra* note 1.

<sup>4</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD'S HUMAN RIGHTS 339 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_EN.pdf](http://thereport.amnesty.org/sites/default/files/AIR2010_EN.pdf).

<sup>5</sup> *Id.* at 339, 340.

<sup>6</sup> Lynn A. Grunloh, *Religious Accommodations for Police Officers: A Comparative Analysis of Religious Accommodation Law in the United States, Canada and United Kingdom*, 16 IND. INT'L & COMP. L. REV. 183, 209 (2005).

<sup>7</sup> Javier Garcia Oliva, *Religious Symbols in the Classroom: A Controversial issue for the United Kingdom*, 2008 B.Y.U. L. Rev. 877, 878 (2008).

<sup>8</sup> Grunloh, *supra* note 6.

<sup>9</sup> Peter Cumper, *Religious Human Rights in the United Kingdom*, 10 EMORY INTL L. REV. 115, 121 (2007).

<sup>10</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010: UNITED KINGDOM (Nov. 17, 2010), <http://www.state.gov/g/drl/rls/irf/2010/148995.htm> [hereinafter "IRF 2010"].

<sup>11</sup> Mathew Moore, *The Kirpan - Sikh dagger banned by some schools*, THE TELEGRAPH, Feb. 8, 2010 <http://www.telegraph.co.uk/news/newsttopics/religion/7189903/The-Kirpan-Sikh-dagger-banned-by-some-schools.html>. See also Nirvair S. Khalsa, *Discrimination Of Sikh Employee At Asda Comes To An End* (July 23, 2008), <http://www.sikhsangat.com/index.php?topic/38514-discrimination-of-sikh-employee-at-asda-comes-to-an-end/>.

<sup>12</sup> Poonam Taneja, *Sikh judge Sir Mota Singh criticises banning of Kirpan*, BBC ASIAN NETWORK (Feb. 8, 2010) <http://news.bbc.co.uk/2/hi/8500712.stm>.

<sup>13</sup> Mathew Moore, *Sikh 'ceremonial daggers' should be allowed in school says judge*, THE TELEGRAPH, Feb. 8, 2010, <http://www.telegraph.co.uk/news/newsttopics/religion/7189675/Sikh-ceremonial-daggers-should-be-allowed-in-schools-says-judge.html>.

<sup>14</sup> *Id.*

<sup>15</sup> IRF 2010, *supra* note 10.

<sup>16</sup> *Id.*

<sup>17</sup> Moore, *supra* note 11.

<sup>18</sup> Becket Fund, *UK: Sikh Boy Expelled From School Over Dagger*, INTERNATIONAL RELIGIOUS FREEDOM NEWS, Oct. 13, 2009, <http://becketinternational.wordpress.com/2009/10/13/uk-sikh-boy-expelled-from-school-over-dagger/>. See also Jagjit Singh, *UK School Bans Kirpan Forcing Sikh Out of School*, AKHAND KEERTANEE JATHA, Oct. 9, 2009 <http://www.akj.org/forum/viewtopic.php?f=11&t=6452>.

<sup>19</sup> Taneja, *supra* note 12.

<sup>20</sup> Oliva, *supra* note 7, at 894.

<sup>21</sup> Taneja, *supra* note 12.

<sup>22</sup> *Id.*

<sup>23</sup> Poonam Taneja, *UK's first Sikh temple school opens its doors*, BBC, Sept. 7, 2010 <http://www.bbc.co.uk/news/education-11197447>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Mark Hill, *The Permissible Scope of Legal Limitations on the Freedom of Religion or Belief in the United Kingdom*,

<sup>19</sup> EMORY INT'L L. REV. 1129, 1133 (2005).

<sup>27</sup> IRF 2010, *supra* note 10.



<sup>28</sup> UNITED SIKHS, 2009 GLOBAL SIKH CIVIL RIGHTS REPORT 59 (2009), [http://unitedsikhs.org/Annual\\_Reports/2009\\_Sikh\\_Civil\\_Rights\\_Report.pdf](http://unitedsikhs.org/Annual_Reports/2009_Sikh_Civil_Rights_Report.pdf).

<sup>29</sup> Taneja *supra* note 12.

<sup>30</sup> Nirvair S Khalsa, *supra* note 11.

<sup>31</sup> *Id.*

<sup>32</sup> Dil Neiyya, *Sikh concerns delay hand search plans at UK airports*, BBC NEWS, Jun. 30, 2010 [http://news.bbc.co.uk/2/hi/uk\\_news/8776146.stm](http://news.bbc.co.uk/2/hi/uk_news/8776146.stm).

<sup>33</sup> Mukul Saxena, *The French Headscarf Law and the Right to Manifest Religious Belief*, 84 U. DET. MERCY L. REV. 765, 769 (2007).

<sup>34</sup> Neiyya, *supra* note 32.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Jagdeesh Singh, *Sikhs and UK Census 2011*, WORLD SIKH NEWS, 2010 <http://worldsikhnews.com/22%20April%202009/Sikhs%20and%20UK%20Census%202011.htm>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

# UNITED STATES



*Head of State:* Barack Obama

*Head of Government:* Barack Obama

*Population:* 310,232,863<sup>1</sup>

*Sikh Population:* 310,233<sup>2</sup> – 1,000,000<sup>3</sup>

*Sikhism Recognized by the State as a Distinctive Religion:* **Yes**

*Currently a Country of Particular Concern (CPC) or on the Watch List as Designated by the U.S. Department of State or U.S. Commission on International Religious Freedom:* **No**

**Government Structure:** The United States is federal republic composed of fifty states and one district. The President, who is the head of government and the chief of state, is elected by a college of representatives who in turn are elected directly from the fifty states. The federal legislative branch consists of a bicameral Congress and the highest court in the judicial branch is the Supreme Court.<sup>4</sup>

**Religious Demography:** Although the 2010 census has been released, a more current breakdown of the religious demography is not yet available. Most recent data indicates that 51.3% are Protestant, 23.9% are Catholic, 1.7% are Mormon, 1.6% are other Christian, 1.7% are Jewish, 0.7% are Buddhist, 0.6% are Muslim, 2.5% are other or unspecified, and 16.1% are unaffiliated or did not identify a religion.<sup>5</sup>

**General Civil & Human Rights:** The United States has been subject to criticism regarding the conditions of its prisons, jails, and immigration detention centers. The United States currently has the largest population of incarcerated persons in the world but the conditions for long-term prisoners held in isolation in super-maximum security facilities fails to meet international standards.<sup>6</sup> Many states continue the practice of capital punishment and fifty-two prisoners were executed in 2009.<sup>7</sup>

The United States has been criticized for being the only country in the world to sentence individuals to life imprisonment without the possibility of parole for crimes they committed as children. It has also been criticized for the continued use of corporal punishment in schools, the insufficient protections provided for child laborers, and violations against the rights of non-citizens.<sup>8</sup> These violations include inadequate healthcare for non-citizens held in detention centers, isolation from attorneys and advocates, and deportation proceedings that do not take into account an individual's ties to the country.<sup>9</sup>

There remain disparities between races and socio-economic groups in healthcare allocation resulting in a higher number of deaths for women in racial, ethnic and national minorities during pregnancy or childbirth than for women from other population sectors.<sup>10</sup>

Human Rights Watch (HRW) has called for the U.S. government to end the return of Guantanamo detainees to countries where they will likely face mistreatment.<sup>11</sup> Earlier this year, the Supreme Court faced an even more extreme dilemma. In *Kiyemba v. Obama*, the Court was set to decide on whether federal courts have the authority to "order the release of prisoners held at Guantanamo Bay 'where the Executive detention is indefinite and without authorization in law, and release into the continental U.S. is the only possible effective remedy.'"<sup>12</sup> However, the case was remanded to the lower court because of new developments regarding the possibility of resettlement for Uighurs (Chinese Muslims) detainees. Nonetheless, the Supreme Court will likely have to re-visit this issue because attorneys for the Uighurs have challenged the resettlement options.<sup>13</sup>

Moreover, the American Civil Liberties Union (ACLU) has called on the government to heed the recommendations set forth by the U.N. Human Rights Council to bring domestic human rights in line with international norms. The recommendations are:

- ensure accountability for not just the interrogators who used torture but also the senior Bush administration officials who authorized it, provide reparations for victims of torture, close Guantánamo and end indefinite detention without charge or trial, and end the discredited military commissions;
- end racial and ethnic profiling by law enforcement, especially with respect to immigration – including termination of the Immigration and Customs Enforcement 287(g) program and halting expansion of Secure Communities;
- impose a federal moratorium on the death penalty as a first step towards nationwide abolition, and address serious flaws in the administration of the death penalty including racial bias, under-funded indigent defense programs, conditions on death row and a lack of full access to federal courts;
- take concrete steps to ratify human rights treaties, especially the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities;
- take concrete measures to address racial and ethnic disparities in the criminal justice system, including the disproportionate representation of minorities and inhumane prison conditions;
- enhance efforts to address disparities in access to social and economic rights and take concrete and effective measures to ensure that minorities enjoy equal access to quality education, health care and housing;
- establish a national civil and human rights commission by transforming the existing U.S. commission on civil rights into an independent human rights monitoring body; and
- issue an executive order on human rights to effectively and transparently coordinate U.S. follow-up on the UPR recommendations, as well as full implementation of ratified treaties including the Race Convention, the International Covenant on Civil and Political Rights and the Convention against Torture on the federal, state and local levels.<sup>14</sup>

**Sikh Civil & Human Rights:** Since 9/11, increased incidences of hate crimes and discrimination against Sikhs (who are often perceived to be of Middle Eastern origin) have become a growing trend as a result of their unique appearance and growing xenophobia against Muslims. While the United States provides strong civil and human rights protections through its Constitution, federal legislation

(i.e. Title VII of the 1964 Civil Rights Act), and state legislation, Sikhs continue to face abuse and civil rights violations in the form of hate crimes, racial profiling, and employment discrimination based on their external articles of faith.

In addition, Sikhs continue to experience infringements on the right to *kakaars* (articles of faith), particularly the right to carry their *kirpan* into courthouses, schools, and the workplace. This imposes a severe limitation on the free exercise of religion, and also implicates the establishment clause because even general laws of neutral applicability favor religions that do not manifest their religious identity externally.

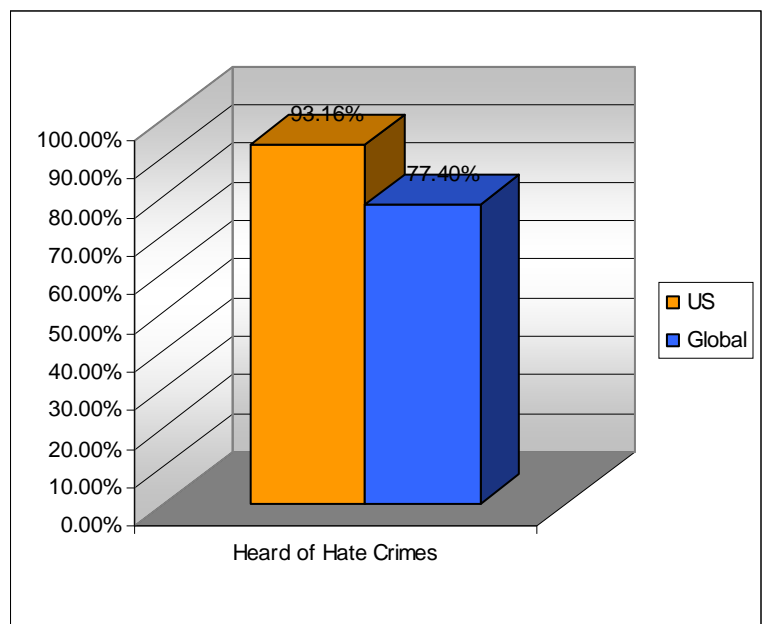
Under the Constitution, both the free exercise of religion and the right not to have the government favor or endorse one faith's practice over another is essential to maintaining freedom for all and not merely those who conform to majority norms. As the five *kakaars* are an integral part of Sikhism, a Sikhs right to maintain their identity and dignity is severely challenged, in the most basic sense, by laws that do not account for those who manifest their faith externally.

### ***HATE CRIMES***

Almost a decade after 9/11, Sikhs continue to confront physical and verbal abuse. Sikhs are often victimized as a result of their unique appearance, particularly with respect to the *dastaar* (turban) and beard. Hate crimes continue to be a major civil rights concern for the Sikh community and UNITED SIKHS continues to use advocacy and education efforts to inform the general public about Sikhism.

One recent incident involved a Sikh convenience store clerk who was viciously attacked in Seattle on August 24, 2010.<sup>15</sup> The perpetrator, Brock Stainbrook, punched the Sikh man in the head and said "You're not even American. You're Al-Qaida. Go back to your country!"<sup>16</sup> Upon his arrest, he informed police that he had "struck a person on his turban" because he didn't like him.<sup>17</sup> Stainbrook is being charged with fourth degree assault and malicious harassment under Washington's hate crime statute.

While the attacker in this case was successfully charged with a hate crime, often mixed motive hate or bias related crimes against Sikhs are not prosecuted as hate crimes but are instead classified as the other lesser crime thus allowing perpetrators to receive lighter penalties. Prosecutors are reluctant to charge a person with a hate crime unless hate or bias constitutes the primary motivation for committing the crime.



***Compared to the global Sikh community, respondents in United States report a higher incidence of hate crimes***

For example, as outlined in last year's 2009 Global Sikh Civil Rights report, prosecutors were reluctant to charge attackers with a hate crime when they had approached the victim for money and he had exchanged heated words with them.<sup>18</sup>

Another high profile incident occurred on November 28, 2010 in West Sacramento, California. Mr. Harbhajan Singh, a 54 year old Sikh cab driver, was assaulted by two passengers.<sup>19</sup> The two perpetrators shouted anti-Islamic slurs, calling him Osama Bin Laden as they beat him.<sup>20</sup> Both have been charged with committing a hate crime and assault with a deadly weapon.

Similarly, in early November 2010, a young Sikh man outside a club in Atlanta, Georgia was yelled at to "go back to your country" and "you people are killing us".<sup>21</sup> Mr. Singh<sup>22</sup> tried to explain that he was of the Sikh faith, but he was subsequently punched multiple times in the face and kicked while he was on the ground, temporarily losing consciousness. UNITED SIKHS has contacted F.B.I. officials who then initiated an investigation, informed the Department of Justice Civil Rights Division, and engaged the U.S. Attorney in Atlanta, Georgia in order to address this incident.

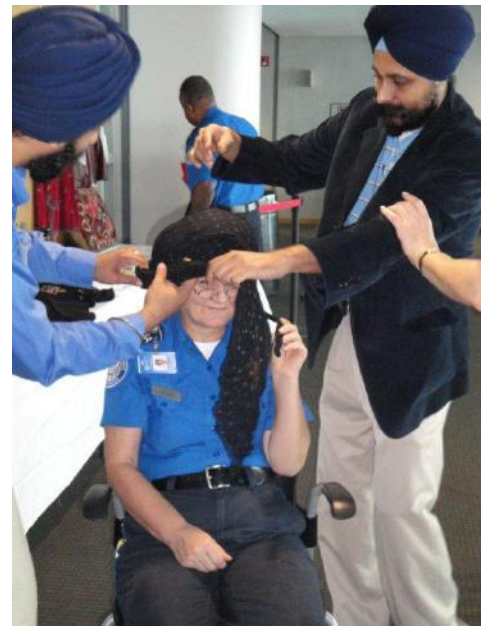
What makes this situation particularly troubling is that the motivation is seemingly clear; however, the State of Georgia lacks a hate crimes statute. Therefore, UNITED SIKHS has appealed to the relevant parties to seek Federal intervention under the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act.<sup>23</sup>

### ***RACIAL/ RELIGIOUS PROFILING<sup>24</sup>***

This past year, UNITED SIKHS has continued to work towards eliminating hate and bias related crimes against the Sikh community by conducting law enforcement trainings and presentations aimed at educating others on Sikh culture. On September 29, 2010, members of UNITED SIKHS in collaboration with the United States Attorney's office, conducted a Sikh Identity and Cultural Awareness Diversity Training for representatives from various law enforcement agencies, including the Federal Bureau of Investigation, Immigration and Customs Enforcement, the Drug Enforcement Administration and the Transportation and Security Administration in Charlotte, North Carolina.<sup>25</sup>

This forum was a result of several discussions with the Sikh community as part of the Sikh Awareness initiative in North Carolina. The forum consisted of a training video, followed by a presentation on Sikh identity, *kakaars*, and civil rights issues such as racial profiling, school bullying, hate crimes, and mistaken identity.<sup>26</sup> This forum provided a valuable opportunity to educate lawmakers on issues confronting the Sikh community and to collaborate and discuss community outreach, education, and empowerment efforts.

In response to a rapid increase in racial profiling incidents of Sikhs at Charlotte Douglas airport,



***Sikh Identity and Cultural Awareness Diversity Training in North Carolina; tying a dastaar on a TSA agent***

UNITED SIKH volunteers recently partnered with the Charlotte Transportation and Security Administration in an effort to educate TSA staff on Sikh identity, culture and the Sikh articles of faith, namely the *dastaar* and *kirpan*.<sup>27</sup> This meeting was coordinated by TSA's diversity committee and provided a platform for greater awareness of Sikh concerns over TSA screenings. It also provided an opportunity for TSA staff to ask questions and collaborate with the Sikh community.

### **EMPLOYMENT DISCRIMINATION**

Sikhs continue to face discrimination in the workplace and are often denied jobs, promotions, and are subject to workplace harassment because of their external identity, particularly the *dastaar*, uncut beard, and *kirpan*. Employers have often cited grooming policies requiring clean-shaven employees, as a rationale for denying employment opportunities to Sikhs. Discrimination and harassment involving Sikhs in the private sector as well as in the federal government have also emerged this year. Under Title VII of the Civil Rights Act of 1964, employers are required to make reasonable accommodation for religious beliefs unless such accommodation would impose undue hardship upon the employer. Some employers have refused to follow federal law and have refused to provide reasonable accommodation to Sikhs in the workplace.

For example, the United States military continues to prevent Sikhs from enlisting because of their strict grooming policy prohibiting beards and turbans, which have been in effect since 1984. The Army considers these to be overt religious symbols and cannot provide reasonable accommodation for the Sikh's religious beliefs because of "practical reasons."<sup>28</sup> However, individual accommodations have been realized. In one example, Spc. Simram Lambda became the first Sikh enlisted man in a generation to graduate from the United States Army, after the army granted a rare religious exemption for his turban and beard because the military needed his language skills of Hindi and Panjabi.<sup>29</sup>



***UNITED SIKHS brought together Sikh community leaders to meet their representatives in Washington, D.C. at the 2010 Sikh Summit***

Sikhs have also been denied employment in the private sector as a result of their unique appearance. One such case involves a Sikh man who was denied employment at a Tri-County Lexus dealership in New Jersey. After conducting an investigation for over a year, the Equal Employment Opportunity Commission filed a lawsuit against the dealership on behalf of Gurpreet Singh Kherha in the U.S. District Court in Newark on October 2, 2010.<sup>30</sup> The suit contends that Kherha was denied a position as a sales representative because of a corporate grooming policy, despite receiving praise from a Tri-County Lexus manager

about his qualifications. A recruiter informed Kherha that even though he was exactly what they were looking for and was well-educated, they could not hire him because corporate headquarters had refused the recruiter's request for religious accommodation for Kherha. A subsequent lawsuit on

Kherha's behalf was filed by the Sikh Coalition on February 26, 2010 in New Jersey Superior Court in Patterson.<sup>31</sup>

Another successfully litigated case involves a Sikh employee at AutoZone, Inc. in Massachusetts. Frank Mahoney- Burroughs worked as a Senior Sales Associate at AutoZone for three years before he converted to Sikhism in 2009. Prior to his termination, Mahoney- Burroughs had suffered continuous harassment from co-workers, including from one manager who asked if he “was a terrorist and had joined Al-Qaeda and intended to blow up the store.”<sup>32</sup> The complaint filed in the U.S. District Court of Massachusetts by the Equal Employment Opportunity Commission on his behalf asserts that AutoZone terminated Mahoney-Borough’s employment “because of his religion and in retaliation for complaining about ongoing discrimination.”<sup>33</sup> The complaint also charges that AutoZone failed to intervene when customers referred to Mahoney-Burroughs as Bin Laden and made terrorist jokes. The EEOC is currently seeking monetary relief, requesting the implementation of policies and procedures designed to prevent religious discrimination by AutoZone, and promoting diversity training for managers and employees.

Sikhs already working within the government sector are also not immune to religious discrimination. A senior Sikh Transportation Security Administration (TSA) officer in New York was told that he must remove or cover his *kara* for “general safety reasons”.<sup>34</sup> Yet, TSA policy allows persons to wear medical bracelets and wrist watches without the requirement that they be hidden. UNITED SIKHS has filed a formal complaint with the Equal Employment Office Commission (EEOC). This case is similar to a case referenced in last year’s report involving a Sikh IRS employee who was prevented from entering her workplace because of her *kirpan* and reflects the growing trend of discrimination against Sikhs employees in federal facilities because of articles of faith.<sup>35</sup>

Employment discrimination relating to right to *kirpan* continues to occur nationwide. Often, employers misperceive the *kirpan* as a weapon and will ban it from the workplace for safety concerns. A recent case involving a Sikh government employee in California illustrates this. Baljit Bhandal was terminated from her employment at ManorCare Health Services, a nursing home, when she refused to remove her *kirpan* from the workplace.<sup>36</sup> Although Bhandal gave ManorCare literature explaining the religious significance of the *kirpan* and assured them that it was an article of faith that reminds her of her duty to protect the weak and defenseless and can never be used as an offensive weapon, ManorCare refused to allow her to bring her *kirpan*, citing its security policy prohibiting weapons in the workplace. Heartland Employment Services, which operates ManorCare Health, agreed to a settlement of \$30,000 along with religious discrimination trainings that will highlight the Sikh religion and its requirements.<sup>37</sup>

### **ARTICLES OF FAITH**

As a result of misconceptions about Sikhism and the five articles of faith, incidents involving the right to carry the *kirpan* have become more prevalent over the past year. Employers and schools often refuse to allow practicing Sikhs to wear their *kirpan*, misperceiving them as weapons and citing security concerns as a justification for their prohibition. This severely constrains a Sikhs right to practice his/ her faith freely.

UNITED SIKHS has worked to educate government officials, the general public, the education system, and employers regarding the significance of the *kirpan* and has intervened on behalf of Sikhs

to protect their religious freedom throughout the nation. A brief summary of these cases highlights the diversity of venues where a Sikh's ability to practice their faith is being compromised. For example:

1. An elderly Sikh man was forcibly removed from a Social Security Administration (SSA) office for wearing a *kirpan* in California in August 2010. Currently, UNITED SIKHS is awaiting a response from the legal counsel of the SSA.
2. A freshman student at a large California university was told not to return to campus with his *kirpan*. UNITED SIKHS intervened to protect the student's right to wear his *kirpan* and to also ensure that this young man's education was not impeded and his identity not compromised.
3. A young gentleman in Texas was initially precluded from entering a testing center, which had metal detectors. He informed the security officer prior to entering the metal detector that he was carrying a *kirpan*. After the young man explained the religious significance of the *kirpan* and [was] supported by UNITED SIKHS' immediate intervention, he was allowed to take his examination. UNITED SIKHS is currently in consultation with management from the Testing Center to jointly create a broad based religious accommodation for Sikhs and their *kirpan*.
4. A Sikh gentleman seeking to address a traffic ticket was denied entry into the state courthouse by security agents because of his *kirpan*. As a result, he was denied access to the court and could only make a written submission to the court. The constitutional rights of due process and the free exercise of religion are jeopardized for Sikhs who seek access to justice.<sup>38</sup>

Sikhs have also faced discrimination concerning their right to *dastaar*. Bans on religious garb in secular areas, such as public schools, severely impede upon the right to dignity and infringe upon religious freedom. Bans on religious clothing worn by teachers in public schools are still in force in two states, Nebraska and Pennsylvania. The rationale behind the bans is that they are necessary to maintain a secular environment and prevent children from being indirectly proselytized.<sup>39</sup>

These bans have survived challenges under both the First Amendment and Title VII of the Civil Rights Act of 1964, involving the freedom of religion and religious discrimination within the employment sector.<sup>40</sup> Statutes enforcing these bans attempt to balance the need to prevent the establishment of religion within the school and the teacher's right to express his religious beliefs. Teachers wearing religious garb in violation of the Nebraska statute are automatically considered guilty of a misdemeanor punishable by a fine not exceeding \$100 plus court costs or imprisonment for thirty days or less, but not both.<sup>41</sup> However, through legislation, Sikh civil rights organizations were able to get a similar law overturned in Oregon public schools.





*Governor Ted Kulongoski speaks before Bill signing*

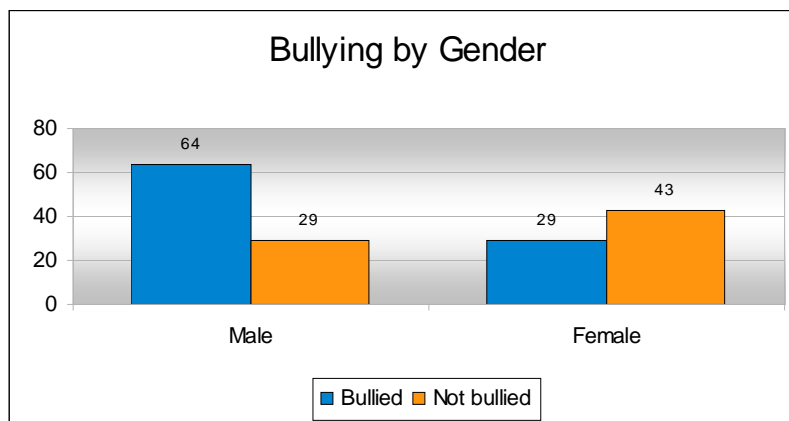
On April 2, 2010, Oregon Governor Ted Kulongoski signed legislation HB 3686 effectively lifting the ban on allowing teachers to wear religious garb within schools.<sup>42</sup> This legislation repealed 87 year old legislation supported originally by the Ku Klux Klan. This ban previously prevented Jews, Muslims and Sikh teachers who wore religious dress from working in schools.

## **BULLYING**

School Bullying has come to the forefront in 2010 with the tragic death of Tyler Clementi, who committed suicide as a result of harassment and bullying concerning his sexual orientation. Bullying is a pervasive problem in many communities. In the Sikh community, children continue to face harassment and bullying within schools because of their religious identity. This reflects a growing trend, as demonstrated by incidents of school bullying outlined in last year's reports, where one student's hair was set on fire and another's was forcibly cut. Sikh boys have been subjected to harassment and school bullying, often at the elementary school level.<sup>43</sup>

In 2010, UNITED SIKHS undertook four projects to identify the impact of bullying on Sikh children: 1) Bullying Prevention Survey; 2) Youth Needs Assessment Focus Group; 3) Global Sikh Civil & Human Rights Survey 2010; and 4) Anti-Bullying Truth Commission. The goal of these projects was to illuminate the pervasiveness of bullying in the Sikh community and the importance of addressing bullying as a civil rights issue.

**Bullying Prevention Survey:** Preliminary results (ongoing project) of the Bullying Prevention Survey in the Greater New York Area (n=165) reveal that Sikh children are disproportionately impacted by bullying. Nationally, around one third (33.33%) of students reported being bullied at schools,<sup>44</sup> however, UNITED SIKHS survey revealed that **56.4%** of Sikh children have experienced being bullied. We also found a significant relationship between genders; of those who reported being bullied, 68.8% were Sikh males.<sup>45</sup>



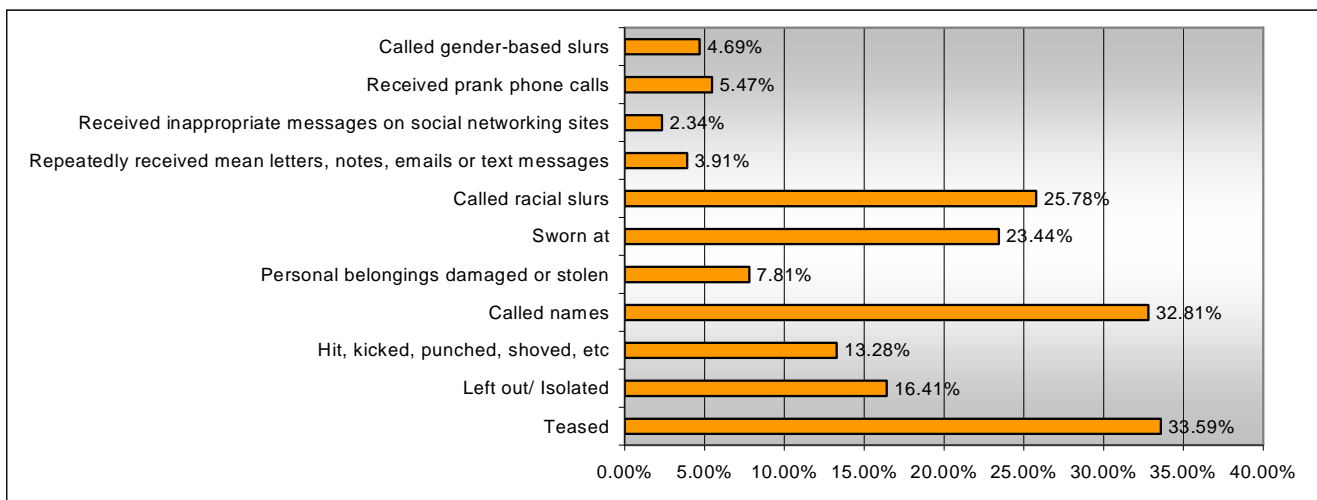
**Youth Needs Assessment Focus Group Findings:** UNITED SIKHS conducted a youth needs assessment of community members from Richmond Hill, NY. Bullying and bias-based harassment was a significant part of middle and high school Sikh student's experience. Specifically, two major findings came from focus group participants:

- Bullying is vastly under-reported, and mainly, the apathy of adults is the largest contributing factor. Even if students report incidents of bullying, teachers treat these situations as common playground clashes and ignore the important religious or cultural education that is needed to ameliorate bullying. Rather, teachers and administrators focus only finding a temporary solution (i.e. suspension, punishment etc.)
- Participants unanimously identified a dire need to increase religious and cultural awareness to deal with bullying and other related issues in the school context.

**Global Sikh Civil & Human Rights Survey 2010:** As part of UNITED SIKHS ongoing advocacy for Sikh civil and human rights, community members from all over the world participated in a global survey where they weighed in on issues most important to the community, including bullying. Participants from the United States (n=129) reported:

- Over **60% of the participants** have identified bullying as a form of hate crime/discrimination
- **50% of the participants** have personally experienced or have kids who have experienced bullying
- Bullying was addressed by most participants in one of three ways: (1) It was not brought up by parents/guardians (2) It was brought up by parents but not acted upon by schools (3) Parents took it upon themselves to go to schools and educate other students about the Sikh culture and practice.

### Types of Bullying Experienced by Survey Respondents in the United States



**Anti-Bullying Truth Commission:** UNITED SIKHS' data collection on bullying experiences in the community included truth commission like sessions where young Sikh students shared their experiences with their peers. Students reported being isolated, teased, called racial slurs, and taunted for their head coverings, long un-cut hair, and other religious practices. These are not isolated incidents; the Sikh

community has experienced a collective trauma from bullying, most notably, when Sikh youth begin to discard their distinctive religious identity. Included below are a few poignant examples from Sikh students:

*“In my old school in Pennsylvania my friend was Sikh and this boy always tried to bully her and try to cut her hair and one day she got caught and ended up getting her hair cut by that guy. Then I went to the principle with the girl and I told the principle that you shouldn’t cut someone’s hair because they are Sikh. Then that kid got suspended but I would never forget that day because it really hurt my heart.”*

*“One time I was in school next to my locker and then this kid just came up to me and said you look like Osama’s brother. I said no I am not. Then he started calling me a terrorist and then everyone started calling me a terrorist.”*

In a post 9/11 environment, Sikh children are not merely compared with cartoon characters as they had been in the past; they are now compared with terrorists. One cannot even fathom the devastating impact on a young child’s psyche. A Sikh’s external religious identity should be a source of great spiritual strength, but in the current environment, it has become a source of extreme alienation and bias-based harassment. Finally, bias-based harassment due to religious identity has led to our youth discarding their faith entirely.

### *CENSUS*<sup>46</sup>

The United States Census, which is conducted every ten years to determine population size and which is required by the United States Constitution, is both a source of numerical information used to allocate seats in the House of Representatives and determine the distribution of more than \$400 billion in federal funds and to provide information to government officials, leaders, businesses and researchers to determine issues of importance for the population.<sup>47</sup>

As the current Census regulations stand, anyone who indicates their ethnicity as “Other Asian” and fills in the blank with “Sikh” will be coded by the Census Bureau as “Asian Indian.” Therefore, it is not possible to determine the exact number of Sikh-Americans as a distinct ethnicity and estimates as to the number of Sikhs in the United States cannot reach a desirable level of accuracy. Without an accurate statement of how many Sikhs there are in the United States, Sikhs are unable to fully engage political representatives, agencies, and law enforcement on issues that affect the Sikh community. The method used on the Census to designate a separate tabulation to an ethnicity is not clearly defined. For instance, under the current rules, a person who selects “Other Asian” and marks him or herself down as “Pakistani” will be separately categorized even though Pakistani is a nationality and not a race or ethnicity.<sup>48</sup>

UNITED SIKHS engaged the Sikh community and petitioned the Census Bureau to separately tabulate Sikhs as an ethnicity and not to consider it only as a religion.<sup>49</sup> Under the International Covenant on Civil and Political Rights (ICCPR), of which the United States is a party, minorities are given the right to "enjoy their own culture, to profess and practice their own religion, or to use their own language" and party-states are obligated to recognize minorities as long as they self-identify themselves as such.<sup>50</sup> The most commonly accepted definition of what constitutes a minority group under international law states that it should be a group "numerically inferior to the rest of the population, in a non-dominant position, consisting of nationals of the State, possessing distinct ethnic, religious or linguistic characteristics and showing a sense of solidarity aimed at preserving

those characteristics."<sup>51</sup>

Under this definition, Sikhs should be considered an ethnic minority due to the group culture of Sikhs that is distinct from both their religious and linguistic identity. As stated by Minority Rights Group (MRG),

“Persons belonging to the American Sikh minority have a distinct language: Gurumukhi script and Punjabi (spoken). They have a distinct religion: followers of Guru Nanak and his successors. In addition they have separate customs including marriage, festivals and appearance not to mention different music, dance and other cultural aspects. They share a common ancestry originating from particular parts of the Punjab in India and are largely endogamous.”<sup>52</sup>

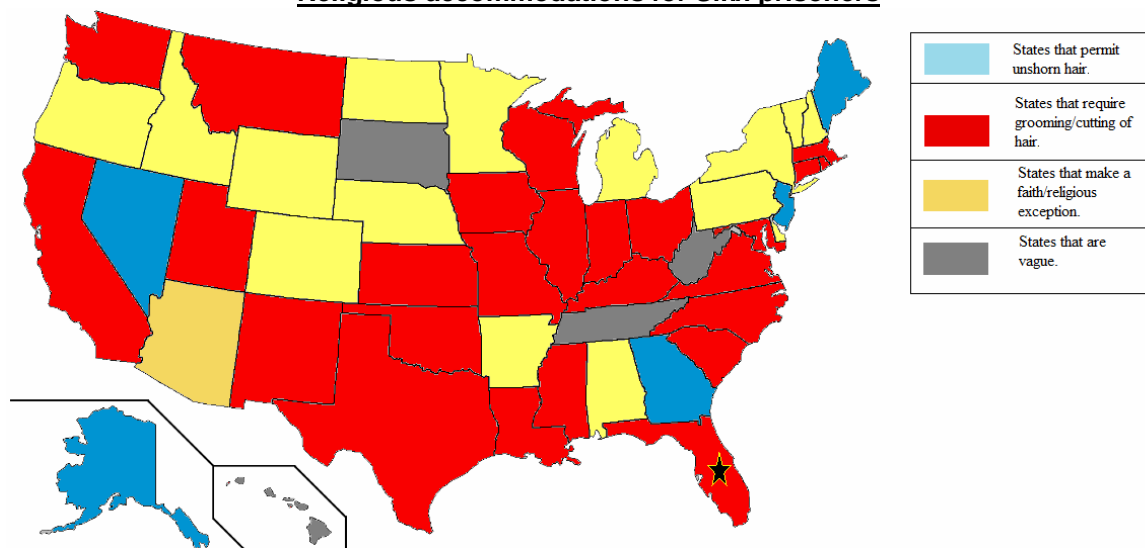
Therefore, the Census Bureau has a duty to separately tabulate Sikhs as a distinct minority group.

### ***PRISONER’S RIGHTS***

In September 2010, a month that marked the tenth anniversary of the Religious Land Use and Institutionalized Persons Act (RLUIPA), Federal Judge Steven McAuliffe ruled that inmates have no First Amendment right to grow facial hair, even over Constitutional arguments about free exercise of religion and expression<sup>53</sup>. The court stated that hygiene and security are more important than these rights, a ruling that may adversely affect Sikh inmates nation-wide.

As part of our ongoing advocacy for prisoner’s rights, UNITED SIKHS has compiled data showing the states that have provisions for religious accommodations, those that require grooming/cutting of hair, states that permit unshorn hair and states that do not have clear policies. UNITED SIKHS is continuing its advocacy efforts to ensure that religious freedoms and basic dignity of incarcerated community members are protected throughout the country.

#### **Religious accommodations for Sikh prisoners**



- <sup>1</sup> CENTRAL INTELLIGENCE AGENCY, WORLD FACTBOOK 2010: UNITED STATES (2010) <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html> [hereinafter “CIA”].
- <sup>2</sup> Number gathered from data drawn from THE ASSOCIATION OF RELIGION DATA ARCHIVES, UNITED STATES (2010), [http://www.thearda.com/internationalData/countries/Country\\_234\\_2.asp](http://www.thearda.com/internationalData/countries/Country_234_2.asp); CIA, *supra* note 1.
- <sup>3</sup> Minority Rights Group International, *Memorandum Regarding the Tabulation of Sikh Ethnicity in the United States Census* (2010), <http://www.unitedsikhs.org/petitions/Memo%20re%20Sikh%20Ethnicity.pdf>. Note that the disparity in population estimates is due to the fact that census does not allow Sikhs to self-identify, rather, Sikhs are categorized under South Asians.
- <sup>4</sup> CIA, *supra* note 1.
- <sup>5</sup> *Id.*
- <sup>6</sup> HUMAN RIGHTS WATCH (HRW), 2010 WORLD REPORT 259 (2010), <http://www.hrw.org/world-report-2010>.
- <sup>7</sup> AMNESTY INTERNATIONAL, AMNESTY INTERNATIONAL REPORT 2010: THE STATE OF THE WORLD’S HUMAN RIGHTS 290 (2010), [http://thereport.amnesty.org/sites/default/files/AIR2010\\_AZ\\_EN.pdf#page=290](http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf#page=290).
- <sup>8</sup> HRW, *supra* note 6.
- <sup>9</sup> *Id.*
- <sup>10</sup> *Id.*
- <sup>11</sup> News Release, *US: Stop Returns of Guantanamo Detainees Fearing Mistreatment*, HUMAN RIGHTS WATCH (Jan. 6, 2011), <http://www.hrw.org/en/news/2011/01/06/us-stop-returns-guantanamo-detainees-fearing-mistreatment>.
- <sup>12</sup> *Kiyemba v. Obama*, 559 U.S. 130 S. Ct. 1880 (2010).
- <sup>13</sup> Hansdeep Singh, *The Efficacy of Indefinite Detention: Assessment of Immigration Case Law in Kiyemba* (forthcoming 2011 UMass Roundtable Symp. L. J.).
- <sup>14</sup> News Release, *U.N. Human Rights Council Issues Recommendations to U.S.: U.S. Should Heed Recommendations And Bring Domestic Human Rights In Line With International Standards, Says ACLU*, ACLU (Jan. 10, 2011), <http://www.aclu.org/human-rights/un-human-rights-council-issues-recommendations-us>.
- <sup>15</sup> Levi Pulkkinen, *Sikh org on clerk attack: 'Americans must be free to practice their faith without fear,'* Seattle 911: A Police Blog (Aug. 31, 2010), <http://blog.seattlepi.com/seattle911/archives/219942.asp>.
- <sup>16</sup> *Id.*
- <sup>17</sup> *Id.*
- <sup>18</sup> UNITED SIKHS, *A Civil Rights Report on the state of the Sikh Nation*, 2009, available at [http://unitedsikhs.org/Annual\\_Reports/2009\\_Sikh\\_Civil\\_Rights\\_Report.pdf](http://unitedsikhs.org/Annual_Reports/2009_Sikh_Civil_Rights_Report.pdf).
- <sup>19</sup> Associated Press, *2 accused of hate crime attack on Sikh cab driver*, SIGN ON SAN DIEGO (Dec. 3, 2010), <http://www.signonsandiego.com/news/2010/dec/03/2-accused-of-hate-crime-attack-on-sikh-cab-driver>.
- <sup>20</sup> Associated Press, *Calif. Cabbie Beaten, Mistaken for Muslim*, SIGN ON SAN DIEGO (Nov. 29, 2010), <http://www.signonsandiego.com/news/2010/nov/29/calif-cabbie-beaten-mistaken-for-muslim/>.
- <sup>21</sup> UNITED SIKHS, *Request for Hate Crimes Investigation Regarding Assault/ Battery of a Sikh Gentleman in Georgia* (Dec. 6, 2010)- letter with author and currently confidential to protect the name of the victim.
- <sup>22</sup> This is an ongoing and pending case and the name of the victim is being kept confidential.
- <sup>23</sup> UNITED SIKHS, *supra* note 18.
- <sup>24</sup> Detailed discussion on the racial/ religious profiling of Sikhs by TSA at U.S. Airports is included in a full article *infra*.
- <sup>25</sup> Press Release, *Sikhs Partner with US Attorney’s Office to Host Diversity Training Forum for Law Enforcement Agencies*, UNITED SIKHS (Oct. 14, 2010) <http://www.unitedsikhs.org/PressReleases/PRSRSL-14-10-2010-00.html>.
- <sup>26</sup> *Id.*
- <sup>27</sup> Press Release, *Sikh Community Outreach in North Carolina Continues Advocacy through Presentations to TSA* (Nov. 10, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRSL-10-11-2010-00.html>.
- <sup>28</sup> Barbara Bradley Hagerty, *Sikhs Say Army Ban Is Religious Discrimination* (Apr. 15, 2009) NPR, <http://www.npr.org/templates/story/story.php?storyId=103119167>.
- <sup>29</sup> Associated Press, *Army Gets 1st Sikh Enlisted Soldier Since 1980s*, CNSNEWS.COM, Nov. 11, 2010, <http://www.cnsnews.com/news/article/army-gets-1st-sikh-enlisted-soldier-1980>.
- <sup>30</sup> Elizabeth Llorente, *Lexus dealership accused of discrimination against Sikh job applicant*, THE RECORD, (OCT. 2, 2010), [http://www.northjersey.com/news/immigration/104196834\\_EEOC\\_files\\_bias\\_suit\\_against\\_auto\\_dealership.html](http://www.northjersey.com/news/immigration/104196834_EEOC_files_bias_suit_against_auto_dealership.html).
- <sup>31</sup> Sikh Coalition, *Coalition Files Lawsuit Against Lexus Dealership for Refusing to Hire Sikh*, LEGAL RADAR (Feb. 6, 2010), <http://www.legalradar.com/2010/02/coalition-files-lawsuit-against-lexus-dealership-for-refusing-to-hire-sikh.html>; see also Llorent, *supra* note 25.

<sup>32</sup> Staff Reporter, *AutoZone faces racial discrimination suit after firing Sikh employee*, INTERNATIONAL BUSINESS TIMES (Sept. 29, 2010), <http://www.ibtimes.com/articles/66783/20100929/u-s-equal-employment-opportunity-commission-eeoc-autozone.htm>.

<sup>33</sup> *Id.*

<sup>34</sup> Press Release, *Protecting Our Right to Kakaars: UNITED SIKHS Works Across the Country to Address Civil Rights Violations*, UNITED SIKHS (Oct. 12, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-12-10-2010-00.html> [hereinafter "Press Release Kakaars"] - these are pending and ongoing cases, and therefore, only limited detail is being provided so as not to jeopardize ongoing negotiations and advocacy.

<sup>35</sup> Sikh Coalition Newsletter, *IRS Kirpan Case Heads to Federal Court*, SIKH NET (July 8, 2010), <http://www.sikhnet.com/news/irs-kirpan-case-heads-federal-court>.

<sup>36</sup> Legal Blog, *EEOC settles case protecting Sikh employee's right to wear kirpan at work*, SIKH COALITION (June 10, 2010), <http://sikhcoalition.wordpress.com/2010/06/10/eeoc-settles-case-protecting-sikh-employees-right-to-wear-kirpan-at-work/>.

<sup>37</sup> *Id.*

<sup>38</sup> Press Release *Kakaars*, *supra* note 29.

<sup>39</sup> Associated Press, *3 states still ban teachers' religious clothing*, MSNBC (Sept. 2, 2009) [http://www.msnbc.msn.com/id/32661080/ns/us\\_news-faith/](http://www.msnbc.msn.com/id/32661080/ns/us_news-faith/).

<sup>40</sup> *May a teacher wear religious garb to school provided the teacher does not proselytize to the students?*, FIRST AMENDMENT CENTER, [http://www.firstamendmentcenter.org/rel\\_liberty/publicschools/topic\\_faqs.aspx?topic=teachers\\_liberties](http://www.firstamendmentcenter.org/rel_liberty/publicschools/topic_faqs.aspx?topic=teachers_liberties).

<sup>41</sup> J. Samia Mair, *Nebraska public school teachers could receive 30-day jail sentence for wearing a hijab - SAY WHAT!!!* (Aug. 6, 2009), <http://www.examiner.com/muslim-in-baltimore/nebraska-public-school-teachers-could-receive-30-day-jail-sentence-for-wearing-a-hijab-say-what>.

<sup>42</sup> Press Release, *Oregon Governor Signs Legislation Ending 87-year-old Ban on Religious Dress for Public School Teachers*, UNITED SIKHS (Apr. 2, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-02-04-2010-00.html>.

<sup>43</sup> *Sikh boys in USA face racial and ethnic discrimination*, GLOBAL SIKH NEWS (Nov. 19, 2010), <http://www.sikhsangat.org/2010/11/sikh-boys-in-usa-face-racial-and-ethnic-discrimination-sikh-coalition/>.

<sup>44</sup> *Bullying Statistics, Bullying Statistics 2009*, last accessed Jan. 18, 2011, <http://www.bullyingstatistics.org/content/bullying-statistics-2009.html>.

<sup>45</sup> Crosstabs between Gender and Reports of being bullied revealed a significant relationship. ( $\chi^2 = 13.44$ ,  $df = 1$ ,  $p = .009$ )

<sup>46</sup> A full article on the U.S. Census issue has been drafted by Minority Rights Group has been reproduced *infra*.

<sup>47</sup> UNITED STATES CENSUS BUREAU, *About Us* (Jan. 12, 2010), <http://www.census.gov/aboutus/>.

<sup>48</sup> Petition, *Petition to Disaggregate Sikhs Correctly in the 2010 Census and Future Census Data Products*, UNITED SIKHS (2010), (<http://www.unitedsikhs.org/petitions/census.php>).

<sup>49</sup> *Id.*

<sup>50</sup> International Covenant on Civil and Political Rights, adopted on 16 December 1966, entered into force on 23 March 1976, 999 UNTS 171, Article 27.

<sup>51</sup> Francesco Capotorti, Special Rapporteur of the Sub-commission on Prevention of Discriminating and Protection of Minorities, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* (Center of Human Rights, Geneva, United Nations, New York, 1991).

<sup>52</sup> Minority Rights Group International, *supra* note 3.

<sup>53</sup> Press Release, *10th Anniversary of Religious Land Use and Institutionalized Persons Act (RLUIPA)*, UNITED SIKHS (Dec.3, 2010), <http://www.unitedsikhs.org/PressReleases/PRSRLS-03-12-2010-00.html>.

# APPENDIX

# SIKHS AND THEIR RELIGION

Dr. I.J. Singh

## History and Beliefs

Compared to other major religions, Sikhism is relatively young. Its founder Guru Nanak was born in 1469 in Punjab. It was a time of great ferment and creative activity in the world: the voyage of Columbus and his discovery of the New World in 1492, the discoveries of Copernicus who was born in 1473, the printing of the Gutenberg Bible in 1462 were among the many remarkable achievements and events of those decades. To understand his teachings and his disciples, it is necessary to look at Nanak the man and his times.

During Guru Nanak's time in the fifteenth century the two great religious systems of the world – the Vedantic and the traditions of the Old Testament met in Punjab. Fifteenth century India was ruled by Muslims. Indian society of that time was steeped in idol worship, dogma and superstition, and was stratified into castes with rigidly defined duties and rights for each. Neither those of the low castes nor women were allowed to read the Holy Scriptures. Nanak rejected both the forced conversions by the rulers as well as the caste system, idolatry, and the inferior place of women. He taught a message of love. He defined God as gender-free, not woman or man exclusively. He taught of a universal God, common to all mankind - not a Sikh God, a Hindu God, a Muslim God, a Jewish or a Buddhist God, or one limited to any sect, nation, race, creed, color or gender. Guru Nanak was followed by nine successor-Gurus over two centuries. They further elaborated on his message of universal love and brotherhood - and sisterhood. They made significant contributions to the development of Sikh institutions. Sikhs believe that all ten Gurus represented the spirit of Nanak and spoke with his authority.

The Sikh religion is strictly monotheistic, believing in one supreme God, free of gender, absolute, all pervading, eternal Creator. This universal God of love is obtained through grace, sought by service to mankind. These were the first teachings of Guru Nanak. Sikhism views life not as a fall from grace but a unique opportunity to discover and develop the divinity in each of us. From the time of Guru Nanak five hundred years ago until today, Sikh places of worship (Gurdwaras) all over the world usually run free community kitchens, which provide meals to the needy. These kitchens are manned and funded by volunteers. Since in the traditional Indian society people of high and low caste would not mix, nor would they break bread together, the community kitchen (*langar*) of the Sikhs serves to teach the concept of equality by shattering all barriers of caste and class. Since human dignity and justice form a cornerstone of Sikh teaching, Sikh history speaks of tremendous sacrifice in the cause of freedom and justice.

Two Sikh Gurus - the fifth Guru Arjan and the ninth Guru Tegh Bahadur were martyrs to the cause of freedom of religion. The tenth Nanak – Guru Gobind Singh - fought several battles and saw his sons die in battle. In more modern times, Sikhs were among some of the most highly decorated soldiers of the British armed services during the Second World War. They had a significant role in the memorable battles of El Alamein, in the Burma- China front, and also in the allied assault in Italy. In India's struggle for independence from the British, of all the Indians who were sentenced to



life imprisonment or death, over two-thirds were Sikh. This in spite of the fact that Sikhs form less than two percent of India's population.

### **1699 - Present: The Journey**

In 1699 the tenth and last of the Sikh Gurus - Gobind Singh - recognized the growing maturity of his followers in a most dramatic manner. On the day of Vaisakhi (which falls in early to mid- April) 1699, he summoned his followers to a small town (Anandpur) in Punjab. Over 80,000 came. History tells us that Guru Gobind Singh appeared before his people, flashed a naked sword, and demanded a head. He repeated his call until five Sikhs volunteered. These five came from different parts of India and from different castes, three were from the so-called lower castes. To these five, and to many others on that historic April 300 years ago, he bestowed a new discipline, a creed.

The Guru initiated these five in the new order of the Khalsa and then, in a dramatic and historic gesture, they, in turn, initiated him. On that day he gave the Sikhs their modern form which includes five articles of faith: 1) unshorn hair as a gift of God and Guru and a mark of Sikh identity, 2) a small comb for the hair, 3) a steel bracelet which signifies a reality with no beginning and no end, and is also symbolic of a Sikh's commitment to the ideals of his faith, much as wedding ring might indicate fealty and identity, 4) a sword indicative of resolve and commitment to justice, and 5) knee-length breeches in keeping with the disciplined life-style of a Sikh. In Indian society, an individual's name reveals his caste and thus his/her place in society. On Vaisakhi 1699, Guru Gobind Singh freed Sikhs from the caste system by ordaining that all Sikh males incorporate "Singh" meaning a lion and women use "Kaur" meaning a princess into their names, thus shedding their caste identity. Implied here would be the hope and prayer that a Sikh's life becomes a testament to courage and grace inherent in these names.

For the past 300 years, no matter what their street attire, male Sikhs have been easily recognized by their long unshorn hair covered with a turban. (It needs to be pointed out that in the traditional Indian society, only a man of high caste or the ruling class wore a turban.) Sikh women adhere to the same basic life style, symbols, rules and conduct, except that few wear turbans. You might see Sikh boys, who are much too young to handle a turban, walking about in their schools or play grounds with a top-knot of long unshorn hair covered simply with a scarf. Sikhs worldwide celebrated Vaisakhi 1999 as a milestone in Sikh history. It marked 300 years since Guru Gobind Singh decreed the formation of the Khalsa and fashioned the nation of Sikhs.

### **The Sikh Scripture**

Guru Gobind Singh also decreed an end to the line of personal Gurus in human form. The writings of the earlier Gurus were collated along with those of Hindu and Moslem saints whose teachings were consistent with Sikh philosophy. This collection - Guru Granth - is thus a uniquely ecumenical and eclectic collection of spiritual writing. For Sikhs Guru Granth is the repository of all spiritual knowledge and authority. In temporal matters all authority rests with the Sikh community worldwide acting democratically and in mindful prayer with an awareness of the spiritual heritage which is embodied in the Guru Granth. Sikhs revere the ten Gurus – Guru Nanak to Guru Gobind Singh because they brought to us the divine word but they worship only the one, timeless (Akal) God. For Sikhs the word (shabd) is the eternal Guru. The word "Guru" acquires, therefore, a very special meaning for Sikhs. It is reserved only for the ten Gurus who gave us the divine message and to the shabd contained in the Guru Granth.

### **The Gurdwara**

The Sikh place of worship (gurdwara) is more than that - a place of worship. It has historically served as a refuge for the homeless, the helpless and the destitute. Gurdwaras usually display and fly the “Nishan Sahib,” a yellow (saffron) triangular flag bearing the Sikh symbol of “Khanda”. Visitors, irrespective of their religion are offered shelter, comfort and food. The only conditions being that they remove the shoes and cover the head. In a gurdwara no special place or seat may be reserved or set aside for any dignitary. The worship consists of singing of the liturgy as well as exposition of Sikh history, tradition and religion. Non-Sikhs are always welcome. Any layperson - man or woman – may perform any Sikh rites; none are restricted to the ordained clergy. The word “Sikh” derivatively means a student. In essence, therefore, a Sikh is and remains a student of the meaning of life.

### **World View**

Sikhism is a practical religion to be lived here on earth and Sikhs are a pragmatic people. The emphasis is on a leading a worldly, successful life as a householder and a contributing member of society but with the mind attuned to an awareness of God, the eternal truth. Sikhism rejects all distinctions based on caste, creed, gender, color, race or national origin. God is not found on the mountaintop or by renouncing the world. He/She is found in the life of a householder and in a family. The philosophic structure of Sikhism rests on three equally important legs: an honest living and an honest day’s work, sharing with others what God and life have given us, and living life fully - not in half measures - with an awareness of the infinite within each of us. Sikhism enunciates a philosophical concept termed Miri-Piri which means living a worldly life with an active, strong sense of commitment to the world and humanity, governed and directed by a strong foundation and underpinning of spiritual awareness. In a centered existence the internal and external lives are to be integrated. Moral and spiritual values need to form the cornerstone of the successful worldly life. One without the other is incomplete and insufficient. In matters that affect the Sikh community, the Sikhs have throughout their history followed a simple but effective mechanism whereby individual voices are heard and decisions reflect the current state of knowledge, information and technology.

In all such matters, and in honor of the first five Sikhs who heeded the call of Guru Gobind Singh in 1699, the voice of the community is channeled through five Sikhs selected and authorized to resolve issues and speak as the voice of the community. Sikhs believe that God and Guru pervade the congregation when these five Sikhs act in mindful prayer. Decision making, thus, becomes a collective process. Sikhs do not have a priestly hierarchy with its associated ecclesiastical authority. As a religion in which the Word (shabd) is Guru, Sikhism values education. Yet it recognizes that the ultimate reality is such that our senses cannot perceive it and our intellect cannot fathom it but our souls can commune with it.

### **Place of Women**

Sikhism promises women an equal place. It could do no less when it defines God as gender neutral, and is perhaps one of the few major world religions to do so. Female infanticide, which was not uncommon in India and in much of the world 500 years ago, was strongly condemned by Guru Nanak and his successors. There is no activity in a gurdwara or within the community that is permitted to a man but not to a woman. There is no religious function from which women are barred at any time of their lives.

### **How Sikhs View Other Religions**

Sikhism recognizes the universal truths that underlie all human endeavors, religions and belief systems, though people differ in how they institutionalize those beliefs into a code of conduct and a way of life. Much as Sikhs love their religion, Sikhism is equally respectful and tolerant of another - a non-Sikh – who loves his or her own religion in his or her own way. Sikhism asks a non- Sikh to discover and live the essential message and meaning of his own religion so that a Christian can become a better Christian, Jew a better Jew, Hindu a better Hindu, while a Sikh becomes a better Sikh, and so on. Every major city in the United States and Canada has Sikh gurdwaras and they are open to all. You don't have to be Sikh to visit one. Drop in and see how your Sikh neighbors live and pray. Next time you see a Sikh at work or on the street greet him with "Sat Sri Akal." It means "Truth is Eternal." The sentiment in it, you will agree, is universal.



Address:

4) Approximately how many people attend your local Gurdwara, for your main weekly program/diwaan?

5) Is it common for a Sikh woman to seek employment in your country?

 Yes  No  Don't know/can't say

6) Does the present generation of Sikhs in your country, often pursue higher education (e.g. college or other graduate studies)?

 Yes  No  Don't know/can't say

7) Are there a significant number of people at your Gurdwara, who only speak Panjabi/ their mother tongue and who cannot speak the local language?

 Yes  No  Don't know/can't say

8) Are there a significant number of people at your Gurdwara who can speak the local language and cannot speak Panjabi/ their mother tongue?

 Yes  No  Don't know/can't say

#		Yes, and I have participated in related activities	Yes, but I have NOT participated in related activities	No	I don't know
9)	There are initiatives/laws in my country that aim to integrate minority populations, to promote diversity in higher education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10)	There are initiatives/laws in my country that aim to integrate minority populations, to promote diversity in employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11)	There are initiatives/laws in my country that aim to integrate minority populations, to promote diversity in other areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**C. ARTICLES OF FAITH**1) Which Kakaars do you maintain? *Please check all that apply.* Kesh  Kanga  Kachhera  Kirpan  Kara  I do not maintain any Kakaars.2) Do you wear a turban, patka, chunni or other religious head covering at all times?  Yes  No3) If you have children, do they maintain Kakaars? *Please check all that apply.* Kesh  Kanga  Kachhera  Kirpan  Kara  They do not maintain any Kakaars. I do not have children

4) Do they wear a turban, patka, chunni or other religious head covering at all times?

 Yes  No  NA

5) Do you feel you have been discriminated against when wearing your Kakaars/ religious head covering?

 Yes  No  NA

6) What kind of discrimination have you faced because of your Kakaars/ religious head covering?

 Pulled aside at airport for secondary screening Discrimination at workplace (passed over for promotion) Asked to remove kirpan at school, work or in public place

- Asked to remove turban at school, work or in public place  
 Use of racial slurs (such as raghead)  
 Harassed by law enforcement agencies (Police, state and national bureaus of investigation)  
 NA  
 Other (please Specify):

7) When going through security at Airports, have you ever been pulled aside for secondary screening by Airport Security Officers without setting off the metal detector?

- Yes  No

If yes, how often are you selected for secondary screening?

- Rarely (0% – 25% of the time)  
 Some of the time (25% - 50%)  
 Most of the time (50% - 75%)  
 Almost all of the time (75% - 100%)  
 Don't know/Can't Say

8) Do you wear a turban, patka, chuni, or head covering as a religious article of faith and were told to remove it for secondary screening?

- Yes  No  NA

9) Did Security Officers give you options for secondary screening for your turban, patka, chuni, or head covering? The options in the U.S. that you should have been given are: (1) Self-pat down and checking for residue; (2) an official patting it down and checking for residue; and/or (3) private screening area.

- Yes  No  NA

If policies in your country differ, please state what they are and if they are being followed:

10) Please provide any other details you may wish to tell us about your air travel experience.

#### **D. HATE CRIMES AND DISCRIMINATION**

1) Do you know of any hate crimes against Sikhs in your country?  Yes  No

2) If yes, what kinds of incidents were they?

- Physical assault  
 Verbal Assault/ Name calling  
 Dastaar touched or snatched off  
 Bullying in School  
 Other (please provide detail):  
 I have not heard of any hate crimes against Sikhs in my country

3) Have you or your children ever been bullied in school by their peers, due to their Sikh identity?

- Yes (please answer questions. i to iii below)  
 No  
 I don't know

If yes

(i) Which, of the following, occurred? (Check all that apply)

- Teased  
 Left out/ Isolated  
 Hit, kicked, punched, shoved, etc.

- Called names
- Personal belongings damaged or stolen
- Sworn at (bad words used against you)
- Called racial slurs
- Repeatedly received mean letters, notes, emails or text messages
- Received inappropriate messages on Facebook or Myspace or other social networking sites
- Received prank phone calls
- Called gender based slurs
- Don't know/Can't say

(ii) What measures were taken to address the incident? (by school administrators, teachers, and/or parents)

(iii) Does the school have anti-bullying activities/trainings?

- Yes, my children have participated in them.
- Yes, but my children have never participated in them.
- No, the school does not have anti-bullying activities.
- I don't know if the school has anti-bullying activities.

4) Is there any law, practice or policy that discriminates against Sikhs or other religious minorities in your country?

- Yes (Please Specify: \_\_\_\_\_)
- No
- I don't know

5) What would be a change in law, practice or policy that you would like to see for Sikhs in your country, to enable them to practice their faith and culture freely?

6) Where would you go if you face discrimination or abuse due to your Sikh identity?

- I would approach (name 2 top sources):  
1) \_\_\_\_\_ 2) \_\_\_\_\_
- I don't know where I would go

Please answer the following:

#		Strongly Agree	Agree	Don't know/ Can't say	Disagree	Strongly Disagree
7)	Sikhs who maintain Kakaars/ religious head covering are discriminated against because of them	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8)	Chances of getting a job are affected because, or if, you maintain your Kakaars/ religious head covering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9)	I feel it is my civil right to wear/maintain Kakaars/ religious head covering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10)	I am comfortable reporting instances of discrimination against me and/or my community members to law enforcement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11)	I believe people of all faiths who maintain ethnic identities through clothes or religious symbols tend to be discriminated against	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12)	I feel comfortable when approaching law enforcement while maintaining my Kakaars/ religious head covering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13)	I feel comfortable being approached by law enforcement while maintaining my Kakaars/ religious head covering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14)	I feel comfortable traveling while maintaining my Kakaars/ religious head covering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- 15) I am NOT singled out by security when traveling while maintaining my Kakaars/ religious head covering

**E. VIOLENCE AGAINST SIKHS IN 1984**

1) Were you, or are you directly or indirectly affected by the insurgency in Panjab during the 80's and 90's? In particular, the innocent lives lost during the June 1984 attack on the Darbar Sahib (Golden Temple,) and attacks against Sikhs in Delhi and other parts of India.

- Yes (Please Specify: \_\_\_\_\_ )  
 No

2) Do you know anyone who was a victim or a survivor of the violence against Sikhs in June and November 1984?

- Yes (Please Specify: \_\_\_\_\_ )  
 No

3) Do you think justice has been delivered to the innocent victims and survivors of the violence against Sikhs in the 80's and 90's?

- Yes (Please Specify: \_\_\_\_\_ )  
 No  
 I don't know

4) If no, which of the following, do you think would be the first step toward ensuring justice for Sikhs?

- Investigations and prosecutions in the national and international courts, leading to conviction of those who orchestrated or directly perpetrated crimes against the Sikh community  
 A truth and justice commission like the one in South Africa  
 Compensation to victims and widows of the innocents murdered and attacked  
 A UN declaration acknowledging the human rights abuses against Sikhs stating what happened to the victims, and recognition of the systematic killings as genocide against Sikhs.  
 Provision of rights to Sikhs that led to the insurgency e.g. a fairer distribution of river water in Panjab  
 Films and documentaries which expose the truth of human rights and abuses, to help in the reconciliation process for victims and survivors, and educate the general public about the atrocities committed.  
 Restoration of the material removed by the Indian army from the Sikh Reference Library at Darbar Sahib  
 Memorialization i.e. A monument, library or museum dedicated to the victims of 1984  
 Other (please specify): \_\_\_\_\_

*We would like to thank you very much for your time in filling out this survey. If you have any questions, please do not hesitate to contact us.*

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