

January 15, 2014

Hon. Eric Holder, Attorney General, U.S. Department of Justice  
Hon. Tom Perez, Assistant Attorney General, U.S. Department of Justice Civil Rights Division  
950 Pennsylvania Ave., NW  
Washington, DC 20530

Re: *Kawaljeet Tagore v. United States of America*

Dear Mr. Holder and Mr. Perez:

The International Center for Advocates Against Discrimination (ICAAD),<sup>1</sup> the undersigned Sikh organizations and Gurdwaras (Sikh places of worship) respectfully request your assistance with a matter of critical importance to the Sikh community in the United States and around the world. As you are assuredly aware, *amritdhari* (initiated) Sikhs maintain five articles of faith, one of which is the *kirpan*. The *kirpan* has consistently been misunderstood and equated to a dangerous weapon, instead of being recognized as an article of faith and an inextricable part of the Sikh identity, worn to exemplify a Sikh's commitment to justice.

Kawaljeet ("Kawal") Tagore is a highly accomplished and well-respected member of the Sikh community, residing in Houston, Texas. Ms. Tagore, who is a Certified Public Accountant, was employed as a Revenue Agent by the IRS in Houston in August of 2004. In April, 2005, Ms. Tagore became an initiated Sikh and began wearing the five Sikh articles of faith that *amritdhari* Sikhs are mandated to wear at all times. As is customary, Ms. Tagore wears her *kirpan*—whose edge is approximately three inches long—sheathed and under her clothing.

To allay any security concerns, Ms. Tagore notified her IRS supervisor, in advance, of her participation in the initiation ceremony and her need to wear her *kirpan* to work in the IRS office located in the Leland federal building in downtown Houston. Ms. Tagore's IRS supervisor instructed her to request, in writing, a security waiver from the IRS to wear her *kirpan* to work in the Leland building. Ms. Tagore promptly tendered a written request to the IRS for a security waiver.

Unfortunately, the IRS and the Federal Protective Service ("FPS") denied Ms. Tagore the security waiver and, then, barred her from entering any federal office buildings with her *kirpan*. The IRS and FPS claimed that this bar was mandated by 18 U.S.C. section 930, which precludes "dangerous weapons" from entering federal facilities, but *excepts* such weapons possessed "incident to hunting or other lawful purposes." *See* 18 U.S.C. section 930(d)(3).

Between late April 2005 and January 31, 2006, the IRS required Ms. Tagore to work from home while it purportedly explored ways to accommodate her religious practice of wearing the *kirpan*. Unfortunately, during this nine (9) month period, neither the IRS nor FPS offered Ms. Tagore any accommodation that would have allowed her to work in the IRS office buildings with her *kirpan*. When Ms. Tagore declined the IRS' demand that she return to work without her *kirpan*, the IRS terminated her employment as a Revenue Agent on July 14, 2006.

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<sup>1</sup> ICAAD's interest in this issue arises from its filing of an amicus brief in support of Ms. Tagore at the U.S. Court of Appeals for the Fifth Circuit. ICAAD works to combat issues of structural discrimination on behalf of vulnerable populations whose identity is being threatened by legislation, governmental policy, case law, or cultural norms.

Subsequently, Ms. Tagore—represented by the Sikh Coalition, the Becket Fund for Religious Liberty, and private counsel—filed suit against the Treasury Department, FPS, and individual IRS and FPS officials in the United States District Court for the Southern District of Texas for violating her rights under Title VII of the Civil Rights Act of 1964 and the Religious Freedom Restoration Act (“RFRA”).

During the litigation, IRS and FPS—represented by the United States Department of Justice’s Civil Division—defended their refusal to accommodate Ms. Tagore’s religious practice of wearing a *kirpan* by claiming, *inter alia*, that 18 U.S.C. section 930 permits no exception for such a “lawful purpose” as an individual’s First Amendment exercise of religion. Additionally, although the agencies acknowledged that they freely permit **longer and more** dangerous weapons—such as box cutters and kitchen knives—into federal office buildings, they argued that these secular items are “work-related” and Ms. Tagore’s *kirpan* is not.

**On December 10, 2012 FPS issued Policy Directive 15.9.3.1. In Policy Directive 15.9.3.1, FPS acknowledged, for the first time, that that Sikhs may be granted an “exception” (temporary admission) or “exemption” (permanent entry) from 18 U.S.C. section 930 to enter federal buildings with their *kirpans*.**

On November 13, 2013, the United States Court of Appeals for the Fifth Circuit reversed the District Court’s summary judgment for the FPS on Ms. Tagore’s RFRA claim, holding that FPS had substantially burdened Ms. Tagore’s religious practice of wearing a *kirpan* and had failed to demonstrate as a matter of law that it had no less restrictive means—than a categorical ban on Ms. Tagore’s *kirpan*—of furthering the government’s compelling interest in federal building security.

In so holding, the Fifth Circuit relied largely on FPS Policy Directive 15.9.3.1. Specifically, the Fifth Circuit held that the FPS Policy Directive **“contradicts the arguments previously advanced by the government for denying Tagore an exception or exemption for the wearing of her *kirpan* to the Leland building...”** See Opinion, at 12 (emphasis added).

The IRS and FPS’ continuing violation of Ms. Tagore’s right to religious accommodation is contrary not only to RFRA and FPS Directive 15.9.3.1 but to the guiding principles and tenets of the Obama Administration.

For example, in Executive Order 13583, the President directed all executive departments and agencies “to develop and implement a more comprehensive, integrated, and strategic focus on diversity and inclusion as a key component of their human resources strategies. This approach should include a continuing effort to identify and adopt best practices, implemented in an integrated manner, to promote diversity and remove barriers to equal employment opportunity, consistent with merit system principles and applicable law.”

There have been numerous exceptions and exemptions granted to Sikhs in entering Federal buildings secured by FPS, Senate office buildings, Department of Justice headquarters, and even the White House. Additionally, the U.S. Equal Employment Opportunity Commission (“EEOC”) has repeatedly sued *private* employers for engaging in precisely the same type of discrimination as IRS and FPS subjected Ms. Tagore, including in *EEOC v. Heartland Employment Services, LLC d/b/a ManorCare Health Services-Citrus Heights*, No. 2:08cv00460-FCD-DAD (E.D. CA 2008), where the EEOC alleged that employer violated Title VII by refusing to make reasonable accommodation of Sikh employee’s religious belief and practice of wearing a six inch *kirpan* in the workplace, a skilled nursing facility.

Finally, the United States Supreme Court has long found the *kirpan* to be an article of faith protected by the First Amendment, “but which could easily be trod upon under the guise of “police” or “health” regulations reflecting the majority’s views.”<sup>2</sup>

In light of the above, the undersigned respectfully request that you direct the Civil Division of the Department of Justice, IRS, and FPS to appropriately resolve this case with Ms. Tagore, by reinstating her employment with the IRS and providing her an exemption to wear her *kirpan* to work.

We greatly appreciate your cooperation in this matter and look forward to your prompt response. If you have any questions, or require further information, please contact Hansdeep Singh, Co-Founder and Director of Legal Programs at ICAAD, at 917-971-5713 or at [hansdeep@icaadglobal.org](mailto:hansdeep@icaadglobal.org).

Respectfully,

cc: Hon. Kathryn Ruemmler  
White House Counsel

Hon. Melissa Rogers  
Director, White House Office of Faith-Based And Neighborhood Partnerships

Eric Treene, Special Counsel on Religious Discrimination,  
Civil Rights Division, U.S. Dept. of Justice

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<sup>2</sup> *Sherbert v. Verner*, 374 U.S. 398, 83 S.Ct. 1790, at 411 (1963), *concurring*, Justice William O. Douglas.