

Sikh Nishkam Society of Australia

Submission  
to the  
Humans Rights Commission Qld:

Review of Queensland's  
Anti-Discrimination  
Act 1991

28<sup>th</sup> February 2022

## **Sikh Faith and Sikhs in Queensland**

The Sikh faith is a monotheistic religion founded in the Punjab region of Southern Asia in the 15th century. It put emphasis on belief and meditation on the Name of One Creator Lord through reading and singing verses of the Sri Guru Granth Sahib, the Sikh Holy scriptures, selfless service, and honest earnings through one's own efforts. Since the advent of the religion, the Sikh faith has always stood for equal rights, human dignity, ethical living, gender equality and liberty for all.

History lays witness to the countless sacrifices that the Sikh Gurus (Spiritual Masters) and their followers made to uphold religious freedom, human rights, and social justice. Throughout the centuries, Sikhs have fought for these rights worldwide - through World Wars to the present day.

Sikhs do not cut their hair. Sikhs maintain uncut hair (both male and female) which also includes facial hair. The uncut hair confirms commitment and loyalty to the One Lord. Sikhs maintain their hair as a mark of living in harmony with the will of God. It is mandatory for a practising Sikh to keep their hair uncut, and it is considered religious sacrilege if a Sikh was to cut their hair. The uncut hair covered by a turban or patka (smaller turban) is a noticeable, visual indicator of the Sikh identity.

Sikhs have resided in Queensland for over a century. Sikhs are a well-integrated and hardworking community. According to the 2016 census, more than 17,000+ Sikhs' call Queensland home. Since the 9/11 attacks, Sikhs have witnessed a rising tide of discrimination and hatred throughout the world. Australia is no different.

Sikhs across Queensland and Australia broadly have experienced discrimination in many forms, be it in workplaces, on the street and in educational institutions. Many incidents go unreported in Queensland due to:

- Lack of awareness of the Anti-Discrimination laws and mechanism of reporting discrimination
- Long process of making a complaint
- Having to face the respondent and relive the unpleasant incident
- Having to prove their side of events although they are the victim
- Limited faith in favorable outcomes following lodging a complaint
- Limited faith in reporting an incident and law enforcement.

## **The Sikh Nishkam Society of Australia**

The Sikh Nishkam Society of Australia is a not-for-profit organization. It was established:

- To advocate for the Sikhs, their identity and beliefs.
- To assist and promote the development of community services and programs of social value in the community.
- To foster a Sikh spirit of neighbourly co-operation, community spirit, wellbeing, participation, and support within the community by developing awareness of the needs of others.
- To facilitate and implement educational programs to raise awareness in the wider community of the Sikh religion and lifestyle through information, displays,

- workshops, literature, publications, forums, conferences, panel interviews, media articles and other methods deemed necessary or beneficial.
- To enhance interfaith cooperation and dialogue.

### **Need for the reform of the Qld Anti-Discrimination Act**

1. Since 1991, the demographics of Queensland have changed, and the 1991 legislation needs to be adapted to mirror and effectively apply the legislation to the wider Queensland community.
2. The reform needs to further address the rights of and nondiscrimination of minorities (i.e., ethnic communities, LGBTIQ + community, people with disabilities, etc.).
3. Although the Qld Anti-Discrimination Act exists in Qld, people and communities continue to experience discrimination in Queensland, even though it is unlawful.
4. Discrimination is harmful, and has wide-reaching impacts on individuals, their families, their friends, their communities, and Queensland society.
5. Discrimination leaves behind mental health illnesses that last many years and can break down relationships and destroys lives.
6. The current legislative approach relies on a complaint-based model. While this can be effective for some people in resolving individual complaints, many people do not want to make a complaint, or experience barriers to accessing the process. This makes enforcement of protections less accessible than it should be.
7. In situations where a complaint has been made and a resolution has been reached, there is no legitimate way of ensuring that the agreement reached has been followed through.
8. A stronger Anti-Discrimination Act should be inclusive of legitimate methods of following up agreements and ascertain whether actions are taken and adhered to ensuring further anti-discriminatory behaviors will be prevented.
9. Although the Anti-Discrimination Act helps to bring parties to the table to discuss, reconcile and come to an understanding and an agreement be it financial or non-financial, change policies, training for staff, etc., it does not effectively advance the actual prevention of discrimination.
10. This can be due to the limitations of the Act e.g., unable to follow through an agreement as a result of a complaint, i.e., that the terms of agreement were exercised, appropriate training was made available and taken up by staff, policies amended, etc.
11. The Anti-Discrimination Act should make training 'mandatory' for situations where it is confirmed that the respondents were conducting themselves in a discriminatory manner.
12. The Qld Anti-Discrimination Act should contain a positive duty on organisations to eliminate discrimination and other objectionable conduct prohibited by the Anti-Discrimination Act, as in other jurisdictions e.g., section 15 of the Equal Opportunity Act 2010 (Vic).

13. The above said organisations should also include private institutions so their actions/behaviors are not somehow excluded from being addressed by this and similar legal instruments.
14. The Anti-Discrimination Act should be stronger to deter discriminatory behaviors (especially for multiple complaints against an organization). At present a reconciliation meeting is not deterrent enough to stop the discriminatory and hurtful behavior.
15. The Anti-Discrimination Act requires a person to make a complaint in writing. This is a barrier for those with low levels of literacy.
16. The word 'complaint' sounds 'official' in some communities and the person making the complaint can be seen as the troublemaker and this in turn hinders people making a complaint.
17. The reform should include the burden of proof to be on the respondent to demonstrate that they were not discriminating. At present, the complainant has to prove that the behaviors or actions of the respondent were discriminatory.
18. This is noted as a further hinderance to making a complaint because it gives the impression that the complainant is the wrong doer.
19. A stronger Anti-Discrimination Act should have mechanisms in place to be able to have a positive impact on a meaningful systematic change within organizations identified as discriminating against employees, service providers, etc.
20. Discrimination and sexual harassment cannot be addressed only through legislation. Awareness, education, and support are critical measures to ensure the law is meaningful in practice.
21. While the Anti-Discrimination Act has played an important role in responding to discrimination over the last 30 years, there is room to build on eliminating, and responding to, all forms of discrimination.
22. It is recommended that the Human Rights Commission has its own investigations team/s to further develop the work of the commission.

### **Experiences of Discrimination**

The experiences below have been brought to the attention of the Sikh Nishkam Society of Australia over approximately a 13-year period.

23. Schools requesting support letters for Sikh students to be allowed to have articles of faith on them.
24. These articles of faith include:
  - The kara (iron/steel band on dominant wrist).
  - The uncut hair and the wearing of a turban or a patka (smaller turban).
  - Male students cannot remove facial hair.
25. Sikh students are bullied and called names in school playgrounds because of their identity (as they wear a patka or turban) and race.

26. Sikh children are asked to cut their hair to comply with the school uniform policies. If they don't cut their hair, their enrollments are not accepted.
27. Umpires at school sports refusing Sikh children to take part in matches unless they remove their Kara and/or patka.
28. Spectators asked to remove the Kirpan (small sword), an article of faith, if they want to watch a match. This has occurred primarily at cricket matches.
29. Qualified childcare and aged care workers, given lesser duties than what they are qualified for, because of their race.
30. Childcare and aged care workers discriminated against based on their identity and race i.e. name calling, leaving hurtful notes such as 'go home', 'you don't belong in this place', etc. in their workplace lockers or handbags.
31. Transport workers such as bus drivers and taxi drivers called names by passengers and the general public because of their identity and race.
32. Currently Sikh medical staff and students (who have facial hair) have been asked (by employers including Queensland Health) to shave in order to pass the N95 Mask Fit-test, to continue working for their employers.
33. Disciplinary action has been directed at Sikh medical staff for not passing the N95 Mask Fit-test (they failed the test due to facial hair).
34. International Sikh students who have paid in excess of \$100k fees have been told to defer or drop out of their courses if they don't shave to pass the N95 Mask Fit-test.
35. Sikhs with facial hair **can** pass the N95 Mask Fit-test without shaving by using the 'Singh Thattha Technique'<sup>1</sup>. They have been denied this technique although it has been widely accepted by NSW, UK, Canada, and other jurisdictions.
36. Instead, Sikh medical staff in Queensland are discriminated against and have been redeployed to tasks lower than their qualification and skills such as cleaning equipment.
37. Queensland Weapons Act denies Sikhs the right to wear a kirpan in schools. This direct discrimination has impacted many Sikh professionals and parents.
38. Construction sites do not allow turbaned individuals on site as they cannot wear a helmet/hard hat over their turbans. Turbaned Sikhs are exempt from wearing helmets/hard hats in other jurisdictions.
39. Turbaned individuals cannot ride motor bikes as they cannot wear a helmet over their turban. Turbaned Sikhs are exempt from wearing helmets in other jurisdictions.

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<sup>1</sup> [Under-mask beard cover \(Singh Thattha technique\) for donning respirator masks in COVID-19 patient care | Elsevier Enhanced Reader](#)