



Civil Rights in Wartime

The Post-9/11 Sikh Experience

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and Neha Singh Gohil

Foreword by Amy Chua

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CIVIL RIGHTS IN WARTIME

*To those Sikhs, including my parents, who came to the West in pursuit of a
better life for themselves and their children*

DSS

To those courageous Sikhs who put their ideals before themselves

NSG

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Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.

9/11 Commission

Sometimes law lags behind justice – and it is up to us to bridge that distance.

Barack Obama

Foreword

Amy Chua

After the fall of the Berlin Wall, a triumphal consensus emerged, not only in the U.S., but to a considerable extent all around the world. Communism and authoritarianism had failed, therefore markets and free elections were the answer. Conveniently spread by globalization, free market democracy would transform the world into a community of productive, peace-loving nations, and individuals into civic-minded citizens and consumers. In the process, ethnic hatred, religious zealotry, and other “backward” aspects of underdevelopment would be swept away.

Unfortunately, if you look at the last two decades, something very different has taken place. Since 1989, we have seen escalating discrimination, religious extremism, nationalism, xenophobia, confiscations, expulsions, and repeated episodes of ethnic persecution and violence.

For Muslims in the former Yugoslavia, persecution arrived in 1992, when thousands were raped, tortured, and killed in the name of Serbian nationalism. In Rwanda in 1994, 800,000 Tutsis were killed by the Hutus over a period of three months. For white Zimbabweans, persecution came when their homes were taken from them by President Robert Mugabe’s Zanu-PF government. And for my own family, it came with the murder of my aunt in the Philippines – just one instance among many hundreds of the kidnapping or killing of wealthy ethnic Chinese, almost invariably by ethnic Filipinos. What happened in each of these communities can happen anywhere. Time and time again, we have seen situations where the anger of a majority community combined with the rise of an identifiable minority community produces explosive results.

This type of hatred – directed by a majority against a minority – is fueled by any number of factors. Where a minority controls the markets and the nation is impoverished, resentment can be especially rife. Pair market domination with an ancient rivalry, as in the case of the Hutus and the Tutsis, or a colonial history, as in the case of the whites in Zimbabwe, and the outcome is almost predictable.

This book is about a variant of the same phenomenon, playing out within America’s borders. The experiences the authors describe arise out of hate triggered by a need for revenge after the tragic events of September 11, 2001. The images flashed across 24-hour news channels in the days and months following the attacks represented to many Americans the very face of the enemy. The anger being felt towards that enemy manifested itself within our own borders, against fellow Americans.

When Balbir Singh Sodhi was killed just days after the al Qaeda attacks in New York and Washington, DC, it marked the beginning of a new phase of ethnic violence in the United States. What followed was Sikhs and Muslims being removed from their jobs, attacked on our streets, and excluded by our own government. Sikh children mistreated in schools because of their religion are at the forefront of this battle. Some, such as those whose stories are told in this book, have decided to fight back.

This text breaks new ground. Dawinder S. Sidhu and Neha Singh Gohil have chronicled the beginnings of America's newest civil rights movement. This book is necessary, not only to tell the stories of how it began, but more important, to show how our existing laws have failed our newest citizens. The new forefront of the civil rights movement comes at a complex intersection of race, religion and nationality, a point the authors highlight in this work.

The United States is unique in that we are a nation bound together not by race or religion, but by our ideals. After 9/11, Muslim Americans and those perceived to be Muslim or Arab became targets. Following the horrific attack on the World Trade Center, many Americans saw those who practised Islam – a faith that few Americans knew much about prior to the attacks – as disloyal and hostile to their country. At the same time, the identity of Muslim Americans became tangled up in their appearance, often misleadingly. Based on television reports, those who wore turbans and had long, flowing beards – including Sikhs, who are *not* Muslim – became associated with either the Taliban or al Qaeda. This appearance became a proxy for the hatred that has followed.

The values of the Sikh faith – equality, public service, and hard work – are closely aligned with those of America. But the plight of visible minorities like turban-wearing Sikhs or hijab-wearing Muslim women is that they stand out, and can easily be identified as “alien.” What is unique about the Sikh turban, closely bound up with Sikh identity, is that it has always been intended to do precisely that. Wearing a Sikh turban has never been easy in any part of the world.

Sidhu and Gohil take on the assumption that conformity in appearance is a prerequisite for American values. They remind us that Americans have never looked exactly alike. The differences began with the Native Americans that inhabited the land far before the nation's founding fathers landed here from Europe. Since then, Germans, Polish, Italians, Jews, and more recently Asians, Africans, and Latinos, have flocked to this country. And each new wave of immigrants – whether identifiable by their appearance or their accents – has had to fight anew for their rights among the majority.

Another visible minority, identified by their race and their last names, was the scapegoat decades ago. In the middle of the last century, thousands of Japanese Americans were removed from their homes and taken to internment camps because of Japan's actions in World War II. At that time, the Supreme Court sanctioned this implicit blaming of the “other” with its landmark decision in *Korematsu v. United States*. Today, although the outcome of that case is largely considered misguided, it has never been explicitly overturned.

Even as we have elected our first black president, another community continues to be targeted for the way they look. Their children have the same ideals, see the same dreams, but are being asked to give up their traditions in exchange for acceptance as Americans. Like the Sikh faith, America is very young. The Sikh American experience can teach us a great deal, not only about how far we have come as a nation, but also how far we still have to go in order to live up to our democratic ideals.

Preface

On September 11, 2001, we, like many Americans, were in an unparalleled state of grief, confusion and fear. And, like others on that fateful Tuesday, we exchanged numerous calls and emails with loved ones and friends, asking if everyone was “OK” and recollecting how, and under what circumstances, we learned of the morning’s tragedies.

As Sikhs, we also received dozens of messages of a different sort. We were inundated with calls, emails, and text messages from members of our community, informing us that turbaned Sikhs were being targeted, verbally abused, and harassed around the country. We were on edge not only because of the specter of another terrorist attack, but also because of a more personal and immediate concern: that our people – and, by extension, our fathers, mothers, brothers, and sisters – had become targets for aggressive and potentially violent behavior. We were unnerved by the threat to our physical safety posed by terrorists from afar and by Americans all around us.

Then, on September 15, 2001, the Sikh community’s worst fears were realized: a Sikh in Mesa, Arizona was shot to death because, in the county prosecutor’s words, he was wearing a turban and had a long beard. The man who killed the Sikh claimed he was “a patriot.”

Quickly, the post-9/11 backlash became a confirmed and all too dangerous reality. In the subsequent weeks and months, the number of hate crimes against Sikhs climbed to the hundreds; an online database, hastily created the day after the 9/11 attacks, chronicled the growing acts of hate against Sikhs across the country. The incidents assumed many forms (from stabbings and assaults to verbal abuse and vandalism), took place in various settings (for example, the schoolyard, grocery stores, streets, and the workplace), and affected children, adults, and the elderly from coast to coast and Main Streets in between.

To help stem the tide, Sikhs mobilized to condemn violence against Muslims and groups perceived to be Muslim, and to spread awareness of Sikhs and Sikhism. Sikh advocacy organizations were formed to bring the voice of the Sikh community to the table. They undertook the responsibility of protecting the rights of Sikhs, educating America’s leaders and its people about Sikhs and the backlash, and developing relationships with law enforcement agencies, among other things. It was the beginning of the Sikh civil rights movement.

At the same time, another prong of the Sikh response was missing: there was a conspicuous absence of academic literature that would aid judges, lawyers, scholars, and commentators in understanding, first, the nature and effect of the backlash on Sikhs, and, second, the significance of this particular story in the

larger context of America's struggle to safeguard the rights of visible minority groups in times of war or national emergency.

In those early days after 9/11, the nation's focus was understandably fixed on other issues – within, on how and when terrorists of the same group were going to strike again, and without, on finding and eliminating the perpetrators of the 9/11 attacks. To the extent that the national gaze had turned to the backlash, it was even then directed at Muslims in the United States – since those responsible for killing over 3,000 Americans on 9/11 invoked Islam as the moral and religious reasoning for their terrorist behavior. Sikhs, therefore, were fighting an uphill battle. Not only did we have to divert the people's attention from the external threat, but also bring it to bear on a group that wasn't Muslim, and that hardly anyone seemed to know anything about. The point had to be made, nonetheless, that a group of Americans were being killed and otherwise targeted, that the safety of these people and American ideals (which were hanging precariously in the liberty and security balance) were at stake.

Even with improbable chances of success, in short order Sikh organizations arrived in the halls of Congress, courtrooms, corporate offices, classrooms, and other locations, informing people of the escalating mistreatment of Sikhs. Despite their tireless efforts and the appeals for tolerance from leading government officials, however, Sikhs continue to be subject to noxious behavior even today – years after the towers fell and the backlash began. It has become evident that the American public is still unfamiliar with the Sikh identity – despite the fact that Sikhism is the fifth largest religion in the world – and, in particular, is still conflating the Sikh turban with terrorists – despite the fact that 99 percent of turbaned individuals in the United States are Sikhs. It has been a sobering fact to absorb, namely that Sikhs still have to explain who they are and that they exist as a distinct faith, even before describing that they have been subject to bias and hate violence. In short, Sikhism and the severity, complexity, and ongoing nature of discrimination against Sikhs still have not been sufficiently conveyed to government entities, the legal community, and the general public.

In recognition of this, we drew upon our Sikh heritage and legal backgrounds to prepare a law review article that surveyed challenges to turbaned Sikhs in the wake of the 9/11 terrorist attacks. Our goals were: (1) to provide an overview of the Sikh faith and the importance of the Sikh turban, the item of clothing that superficially and visually links Sikhs to Osama bin Laden and al Qaeda, (2) highlight prominent incidents in which Sikhs have been subject to discriminatory conduct after 9/11 (for example, harassment, detention by law enforcement, racial violence, denial of entry into public places, employment discrimination, and airport profiling), and (3) examine the call in Western societies after 9/11 for visible minority groups like turbaned Sikhs to abandon their articles of faith in order to adopt a more homogeneous national and secular appearance. It was a single effort, to be sure, but it was something. We hoped that the article would serve to educate and explain a situation that we were intimately aware of, but which was largely obscured from the public's consciousness.

In 2008, the article was published in a leading university journal that focuses on the intersection of law and religion. To our knowledge, it is the first and only

legal article dedicated to the post-9/11 civil rights of turbaned Sikhs in America. The reaction to the article was overwhelming, and overwhelmingly positive. We were pleased in a sense – we had described the peaks of the issues affecting our community where the landscape in academic journals was otherwise barren.

We realized, however, that much more needed to be done on the academic front – the valleys and other peaks on the horizon also required description. The law review article was limited in focus to legal issues, and in its audience to legal practitioners. We supplied an article to one subset of the American populace, but to diminish ignorance regarding Sikhs and the backlash, information of a different sort needed to be disseminated and offered more widely. In contrast to an article that was circumscribed in its scope and rather dense and technical in its language, we wanted to create something that would be more accessible in tone and more contextual in substance. As we wrote, more incidents were coming to light, and debates about assimilation were evolving and touching other areas of the globe. This book represents our attempt to do just that – to offer a more comprehensive and comprehensible academic text on the post-9/11 experience of turbaned Sikhs in America.

The text that follows reflects our unique background as individuals who have helped lead the Sikh community's attempts to respond to the post-9/11 backlash for over eight years. For example, we have both worked for or closely with each of the leading Sikh advocacy organizations. There are a finite number of individuals who may be able to directly speak to the Sikh identity and ordeal after 9/11. We are two individuals from that limited set of people who may be able to write this book in a meaningful and expansive fashion – from the inside.

As extensive as our work in the post-9/11 Sikh civil rights world may be, there undoubtedly are other individuals who have been intimately involved in or implicated by the post-9/11 backlash. There are, for example, other Sikh civil rights leaders, Sikhs who responded to the discrimination in non-traditional ways, Sikh victims, and so on. We readily recognize that their perspectives, informed by their unique roles in the post-9/11 experience, would invaluablely enrich this book. Indeed, we view this book as an opportunity for these individuals to discuss, often for the first time, their reactions to and impressions of the post-9/11 backlash against turbaned Sikhs. Accordingly, we have asked these individuals who have been the forefront of the Sikh experience in one form or another to contribute to these pages. These first-hand narrative accounts will provide the reader with additional views “from the trenches.”

Their narratives also serve another purpose – they are a departure from the factual information and analysis, and instead express the Sikh experience in a deeper, personal way. In short, these contributions add a more human element to the book. They can be found interspersed in various parts of the book that correspond with the contributor's area of expertise, interest, or involvement.

* * *

Before embarking any further, it would be appropriate to thank a number of individuals whose assistance, guidance, and encouragement were instrumental to the preparation of this text. We are the beneficiaries of the generosity of these

individuals, and hope that this text properly reflects and honors the time and energy that they have invested in our vision. We pay tribute to these individuals not only to express our personal gratitude, but to remind the reader that – despite the appearance of two names on the cover – this book is the product of a collective and collaborative effort.

We acknowledge the contributors who have taken time out of their busy schedules to pen insightful, and often very personal and emotive, accounts of their experiences after 9/11. Their contributions have immeasurably enhanced both the quality and the depth of this book. We hope that this text does justice to those contributions.

We wish to thank Eric Levy and the staff at Ashgate Publishing for their work on the manuscript, and for believing in the book's ability to make a meaningful contribution to the existing understanding of how religion and law intersect. Eric has been an invaluable resource, and has put up with a constant and seemingly endless flow of questions from us regarding the preparation of this book. His assistance and professionalism throughout the publication process are greatly appreciated. We thank Morgan Hargrave, our intern, who worked independently and efficiently to help prepare and update sections of the book. The staff of the *Rutgers Journal of Law and Religion* also provided useful revisions on the underlying law review article.

Dawinder Sidhu extends his deepest gratitude to his intellectual mentors, whose example, instruction, and wisdom have shaped and continue to inform his professional life and his worldview, jurisprudential and otherwise: Bhai Gurdarshan Singh Ji, the Honorable David G. Campbell, Jacques Tolver, David F. Black, Jeffrey Rosen, Arthur Wilmarth, Jr., and Catherine Ross. He also wishes to acknowledge, with great respect and humility, those individuals who have profoundly influenced his thinking even in the absence of a personal relationship: the Gurus and the Founding Fathers. Finally, he wishes to thank above all his parents, Dr. Jaswinder S. Sidhu and Satwinder K. Sidhu, for their love, instilling in him the importance of living an honest life, and for allowing him to be part of the American dream. They are his heart and soul, and in his view, model Sikhs.

Neha Singh Gohil is forever indebted to the Gurus for showing us the way, and to her parents, Mokshinder Singh Vahali and Renu Vahali, for always encouraging her to stand behind her beliefs. She is awed by the sincere commitment and steady guidance of Amardeep Singh and each of her colleagues at the Sikh Coalition in their efforts to defend the Sikh way of life. She expresses her gratitude to her GTMO team – Scott Sullivan, Douglas Cox, and Sarah Havens – who accompanied her on her first foray into the world of civil rights. She would also like to thank Amy Chua for her mentorship in crafting the initial draft of the paper that formed the foundation for this book, and the Discrimination and National Security Initiative for developing it. Finally, none of this would have been possible without the unflinching support of her best friend and partner, Amit.

The aforementioned acknowledgements indicate that we have benefited greatly from the work, kindness, and influence of many individuals. In light of this, and in consideration of the contributors whose writings are included herein, this book should be viewed as a collaborative effort. Indeed, we intentionally seek

to convey the impression that this is a work not just of two isolated writers, but of a community and others. That said, we remain responsible for the ultimate product, and therefore express regret for any errors.

Moreover, we note that while this book contains information on the Sikh religion, we ourselves are no theologians. The historical events in a faith's development and the meaning of its beliefs may be subject to many different interpretations, and those interpretations may be very closely held. This book, however, reflects our understanding of the faith based on the established resources we consulted. To the extent that our presentation of Sikh history and doctrine conflicts with another's view on those subjects, we note that we attempted, in good faith, to present an account of Sikh history and beliefs that we believed to be accurate and supported by credible authority. There was no interest or intent to promote or denigrate any one school of thought with respect to Sikhism.

That said, we resisted the temptation to enter the thicket of selecting between differing interpretations and concepts of past events, and to avoid reinventing the wheel with respect to the major Sikh historical and doctrinal developments. The reader will notice that the discussion of Sikh history and beliefs contains materials written by some of the most revered Sikh scholars in the world. In including this material, we have deferred to the writings of these scholars in those areas that are most critical to the faith – its founding by Guru Nanak, the establishment of the Khalsa brotherhood by Guru Gobind Singh, the formulation of the Sikh holy scriptures, and three twentieth-century events that have helped define the modern-day Sikh. Prudence dictates that this is the proper course of action with respect to sensitive areas within a religion's formation and ongoing existence.

This aspect of the book does not, however, immunize us from our own responsibility to offer a faithful account of the Sikh religion. A Sikh, upon reciting or explaining a hymn, traditionally utters the saying, “Bhul chuk maaf,” which roughly translates into “Forgive me for my errors.” It is a humbling reminder to us that human intelligence is limited in its comprehension; it is also an apology for anything that fell short of complete apprehension. It is only proper that, in writing a text on the faith, we seek the same forgiveness at the outset of our discussion.

With these preliminary thoughts in mind, we proceed with the book. It represents our modest attempt to shed light on the problems faced by turbaned Sikhs after 9/11. At a minimum, we hope it will be informative and interesting to the reader as a matter of religion, law, pluralism, diversity, and national security. Our overarching hope, however, is that this book can help eliminate the ignorance about Sikhs that permits one man to commit an act of hate against his fellow, albeit distinguishable, man.

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