



**ICAAD's Input for the Secretary General's Forthcoming Report on General Assembly
Resolution 66/167:**

**"Combating intolerance, negative stereotyping, stigmatization, discrimination,
incitement to violence and violence against persons, based on religion or belief"**

Irrespective of differing religious beliefs, traditions or cultural backgrounds amongst nations, resolution 66/167 adopted by the General Assembly elucidates that there is a shared interest in implementing laws which accord religious beliefs equal protection under the law, and to prevent the promotion of religious hatred, intolerance, discrimination, or incitement to violence on the basis of religious belief. Despite this shared interest, current reports reveal an increasing trend of religious intolerance globally.

One form of such intolerance takes the shape of "seemingly" neutral laws of general applicability that invariably have a disparate impact on minority or vulnerable communities (structural discrimination). Other forms of intolerance include: ethnic and religious profiling, physical attacks upon cultural centers and places of worship, negative stereotyping, the passage of laws prohibiting free practice, and the use of print, audio/visual, electronic media and the internet to incite violence, xenophobia and discrimination against religious groups generally.

In places like Hungary, India, France, Pakistan and the United States of America, stereotypes and fears against minority faiths have been manipulated unfairly by politicians and media for political and financial gain to the detriment of many religious groups. If States actively pursue programs to implement changes in line with those espoused in resolution 66/167, immense

progress can be made towards combating religious intolerance. There are certain practices that have been or can be implemented by States that further resolution 66/167. Some of them are:

- Specific or special investigative and adjudicatory agencies that target discrimination or discriminatory practices;
- Willingness for the government in power to work with minority faiths/ communities. For example, in the United States there are specific civil rights divisions within governmental agencies that focus on discriminatory complaints by communities that are often overlooked, and the Department of Justice (DOJ) holds interagency meetings to allow clearer and more efficient engagement on particular concerns raised by these communities. Canada and the United Kingdom similarly have governmental agencies dedicated and empowered to combat discrimination.

One clear example within the United States of a special administrative adjudicatory agency is the Equal Employment Opportunity Commission (EEOC) which is tasked with investigating, adjudicating, and litigating complaints on behalf of individuals who have faced workplace discrimination. Recently, the EEOC investigated and through its administrative procedure adjudicated the settlement of a claim filed by a Sikh gentleman working as a lead Transportation Security Officer (TSO) in JFK Airport in New York, against his employer, the Department of Homeland Security.

In this case, the discrimination began when Mr. Singh was instructed by his supervisors to remove or conceal his kara (a religious article worn around the wrist by members of the Sikh faith) while he was on duty, or else he would be found to be in violation of the Transportation Security Administration's (TSA's) dress policy and face professional sanctions. In the settlement facilitated by the EEOC administrative judge, the parties agreed on allowing Mr. Singh to manifest his religious identity, a monetary settlement of the complainant's claims, training regarding religious accommodation, and the posting of a Notice of Discrimination at JFK Airport. This is an example of a robust governmental agency allowing for individuals to

pursue complaints of religious discrimination, however, the United States is not without its share of difficulties when it comes to profiling and discrimination by the government on the basis of religion and ethnicity.

The United States Department of Homeland Security's Transportation Security Agency (TSA) has adopted policies that subject Sikh passengers to additional security screening each and every time they travel through an airport, because of their article of faith (dastar or turban). The additional screening includes being tested by a Explosive Trace Detection (ETD) procedure, which requires the pat-down of the turban followed by a hand swab, where the swab is then analyzed for explosives. This additional screening occurs even when no alarm is triggered through the primary screening mechanism. And sometimes, tertiary screening is conducted with the use of a metal detecting hand wand.

Though TSA claims that the policy was instituted because Sikh turbans fall within the "bulky clothing" or "non-form fitting headwear" definitions, no other article of clothing or headwear is subject to the same level of scrutiny. Additionally, many Sikh organizations have called for an independent audit of TSA's screening of "bulking clothing" to determine whether TSA is scrutinizing other items of clothing (baggy jeans, cargo shorts, sweatshirts, dresses etc.) similar to how the turban is currently being screened in both manner and frequency.

No other single community is mandatorily subject to this type of degrading treatment each and every time they fly. Moreover, the perception of the flying public continues to be skewed when observing every Sikh in a turban pulled aside for secondary screening and the ETD procedure; observing this kind of disparate treatment perpetuates the stereotype that those with external religious or ethnic identities are "suspect." Degrading treatment and profiling of a

community has consequences far beyond the airport confines. Importantly, despite repeated requests of NGOs, members of civil society, and members of the Federal legislature, the TSA has also refused to audit its procedures and checkpoints at airports to find out if discrimination and profiling are actually occurring.

Another particular concern is a continuing deterioration of religious freedoms in Europe, with countries such as France and Hungary passing laws that specifically discriminate against religious minorities, and carve out exemptions or skew legislation to benefit the majority faith in that country. In Hungary, this discrimination manifested itself in a law passed on December 30, 2011 that de-registered all but 14 of the more than 350 religious organizations that were registered, and required all of these groups to re-register. To be approved for legal status as religious organizations, the religious organizations were required to meet seven different criteria and win a two-thirds majority vote of the Hungarian Parliament. This law, in a single stroke, made it virtually impossible for religious minorities to be recognized in Hungary.

France, traditionally so vocal and eloquent when it comes to violation of human rights elsewhere, has also contributed to the deterioration of religious rights in Europe. In 2004, France passed laws institutionalizing religious bigotry: banning the wearing of religious clothing or symbols in state schools, public institutions, and on identification that exhibit conspicuously a religious affiliation. This law had an immediate and disparate impact on Muslim hijabs (headscarfs), Sikh dastaars (turbans), and Jewish yarmulkes (skullcaps). Certain individuals were thus forced to choose between maintaining their religious identity or receiving a public school education.

In France, non-religiosity and intolerance for non-Christian faiths is the norm. All other religions—like in Saudi Arabia—must be practiced “discreetly” (a euphemism with the proponents of these draconian regulations). But the country of liberté, égalité, fraternité illustrated that its tripartite national motto has fallen hapless victim to bigotry: personal liberties and equality under the law are only for those who adhere to the State's flawed understanding of strict secularism.

The United Nations Human Rights Committee (UNHRC) in Communication No. 1876/2000 recently ruled in favor of Ranjit Singh, a French Sikh who filed a case to combat religious discrimination for being unable to obtain a drivers license without the removal of his turban. Initially, the European Court of Human Rights denied to even review the case on admissibility. The UNHRC in its ruling recognized that even a single requirement for a Sikh to remove their turban, for the purposes of an identity photograph, interfered with the Sikh's religious rights. Additionally, the UNHRC found that the French Government advanced no argument that the Committee considered sufficient to justify this interference.

Moreover, there is a disturbing trend of banning Islamic women from wearing the Burqa in Europe. Since 2011, countries like France, Netherlands, Belgium, Switzerland, and Italy have all passed, or will pass, legislation limiting the religious rights of Muslim women. Rather than empowering women to choose whether they wish to manifest their faith through the wearing of the Burqa or not, these countries have instituted paternalistic legislation that takes away one's basic right to shape their own identity. Criminalizing the manifestation of one's faith is neither justified nor proportionate and the ECtHR's use of the margin of appreciation doctrine to grant latitude/ deference to the State, in essence, forgoes its human rights responsibilities.