



WORLD SIKH ORGANIZATION OF CANADA

Head Office • 1183 Cecil Avenue • Ottawa, Ontario, Canada • K2H 7Z6 • Phone (613) 521-1984 • Fax (613) 521-SIKH (7454)
E-Mail: info@worldsikh.org Web: www.worldsikh.ca

March 29, 2015

Leif-Erik Aune
Clerk, Standing Committee on Public Safety and National Security
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

VIA EMAIL

Dear Mr. Aune:

Re: Bill C-51 – Submission of the World Sikh Organization of Canada

I am writing on behalf of the World Sikh Organization of Canada (WSO). The WSO was registered with the Government of Canada on November 16, 1984, as a non-profit organization, and works in cooperation with Sikh gurdwaras and organizations across Canada to advocate on behalf of Sikh interests in Canada as well as for the human rights of all individuals, irrespective of race, religion, gender, ethnicity, and social and economic status.

We are writing to express our deep concerns over Bill C-51. We believe that Bill C-51 must not become law without significant amendments and revision. In this regard, we endorse the submissions of the Canadian Bar Association, which can be found on their website at <http://www.cba.org/CBA/submissions/pdf/15-15-eng.pdf>

We offer these comments in the hopes that they will assist Parliament in making improvements to Bill C-51.

Canadian Sikhs have been an integral part of this country for over a century. We are concerned about terrorist acts, whether they are committed on Canadian soil, or abroad. We fully support the federal government's intention to increase public safety by reducing the risks of terrorist acts. However, we believe that any legislative measures that are enacted, must be proven to be effective, necessary, and proportionate. They must also contain effective mechanisms to prevent abuse.

The Canadian *Charter of Rights and Freedoms* provides a critical balance between ensuring both the safety **and** the fundamental freedoms of Canadians. In contrast, in our respectful view, Bill C-51 fails to strike such a balance, as it is overly broad, and fails to ensure proper accountability of policing forces.

Below are highlights of some of our concerns.

A. Advocating "terrorism offences in general"

Section 83.221 of Bill C-51, while criminalizing the advocacy or encouragement of "terrorism offences in general", creates a new offence of advocating or promoting terrorism. We are concerned that this offence is overly broad and vague and has the potential to inhibit freedom of speech.

The inclusion of the terms "terrorism offences in general" (rather than the well defined "terrorist activity") and "may be committed" creates uncertainty and results in the offence being overbroad. Furthermore, the terrorism offences that are advocated and prohibited are not limited to those in Canada or directed at Canada, but anywhere in the world.

The ambit of activity that could potentially fall under such an offence includes not just speech or writing, but also activities such as the waving of flags or holding placards, and also the internet posting of pictures and slogans. This activity would not be limited to just the public sphere, but would include private conversations and behind closed doors.

Included in the offence created by Bill C-51 would be support of armed revolt or insurgency in countries around the world. As other critics have pointed out, support of Nelson Mandela and the ANC in their struggle against South Africa's apartheid regime would have been in contravention of Bill C-51. There have been multiple examples of armed revolutions or insurgencies abroad including conflicts in Northern Ireland, Spain, Ukraine, Russia, Kurdistan and in many other places in Africa and Asia. It is unclear who will decide what is a 'terrorist campaign' and what is a 'freedom struggle' and which advocacy will run afoul of the provisions in Bill C-51.

From the perspective of the Sikh community, proposed section 83.221 of Bill C-51 raises considerable concern. The Government of India has repeatedly categorized legitimate activities of Sikh political activists in India and even in Canada in support of human rights or a separate Sikh state as extremism. While not everyone may agree with these views, they are certainly not any more extremist than those held by Western or Quebec separatists. Rightfully, Prime Minister Stephen Harper recognized in November 2012 that violence or terrorism cannot be confused with the right of Sikh Canadians to hold and promote political views, including those that governments may find disagreeable. We are concerned that the creation of this "speech" crime could potentially be used to stifle legitimate dissent and advocacy.

While the period of armed insurgency in Punjab ended by the mid-90s, considerable amounts of literature, film and art continue to be produced about this period, and many such pieces have faced sanctions and bans by the Government of India such as the Punjabi films "*Sadda Haq*" in 2013 and "*Kaum De Heere*" in 2014. Given the broad wording of Section 83.221 these activities could potentially trigger the provisions proposed in Bill C-51 as well. Stifling free discussion and reflection on this traumatic period will have a deeply negative impact on the Sikh community. The process of understanding and coming to terms with this terrible chapter in Indian history, which affected the lives of thousands of Sikh families (and which period has been described by India's Union Minister of Home Affairs Rajnath Singh as a "genocide" of the Sikhs), could be very negatively impacted.

Furthermore, we believe that criminalizing this type of expression serves only to send it underground and make it all the more difficult to monitor, both for law enforcement and also for those working in communities to counter radicalization. Attempts at outreach and de-radicalization would be stifled.

We believe that the proposed section 83.221 of Bill C-51 should be deleted, or if it is to proceed, should have tighter language so that "terrorism offence in general" is replaced with "terrorist activity" and the definition of "terrorist propaganda" is limited to material that "counsels" or "instructs" terrorist activity. Furthermore, defenses available to hate crimes in section 319(3) of the Criminal Code should be incorporated and include protection of religious and political thought.

B. Oversight, Review & Accountability

While Bill C-51 increases the scope of CSIS' powers, it does not propose any additional oversight, review or accountability measures.

As was noted by the Air India Commission, CSIS should not have unreviewable discretion to withhold relevant intelligence from all others in government. Judicial oversight is also lacking as warrants are only required where there "will" be a contravention of the Charter and the judge making the decision is likely not aware of all relevant information. As a result, CSIS will be able to operate in a total cloud of secrecy, without any effective oversight.

With respect to review, while SIRC currently has a mandate to review CSIS activity, it does not have the resources (neither staff nor finances) to do so. Furthermore, there are more than 20 other federal agencies and departments that perform a national security function but do not fall under the watch of SIRC.

In 2005, testifying at the Arar Commission, then SIRC chairman Gary Filmon called for the creation of a "super-SIRC" which would have the power to oversee and review the activities of security agencies across the spectrum.

In addition, Canada is the only country amongst its allies that does not have a parliamentary or congressional review mechanism. In 2004 a blueprint for such a committee was drafted that would include members from both the Senate and House of Commons that could be the starting point for creating such a committee today.

In addition to more robust review and accountability mechanisms, Bill C-51 should include a sunset clause of 5 years. A sunset clause is extremely important when legislative provisions are enacted which may seriously jeopardize the rights of Canadians to free expression. Legislation enacted out of particular threats or fears, needs to be re-assessed on a continual basis to determine its ongoing need and relevance.

We thank you for taking the time to review our concerns. We welcome the opportunity to provide Parliament with further information or assistance so that any legislative enactments can meet the objectives of being effective, necessary, and proportionate.

The Sikh community of Canada stands united with all Canadians in wanting to build a safer society, but one which understands and respects the need to balance safety and security, with individual liberties.

Yours truly,

A handwritten signature in black ink, appearing to read 'Amritpal Singh Shergill', written in a cursive style.

Dr. Amritpal Singh Shergill, R. Psych.
President
World Sikh Organization of Canada

c.c. Mr. Daryl Kramp, Chair SECU
Mr. Randal Garrison, Vice-Chair SECU
Mr. Wayne Easter, Vice-Chair SECU