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[Serving a Country That Will Not Accommodate Our Religion: The Sikh American Struggle to Choose Between Career or Faith](#)

[April 24, 2023](#) by [Tanveer Moundi](#) [comments \(0\)](#)

If somebody says, ‘I’m willing to die for you by defending my country, my unit,’ we should allow them to keep their articles of faith.

Jaskirat Singh

The United States Trend of Discrimination Against Sikhs

[Sikhism](#) is the fifth largest religion in the world, with approximately thirty million followers of the faith worldwide. It is a monotheistic faith that teaches honesty, compassion, humility, universal equity, and respect for all religions. Since the [1984 genocide of Sikhs in India](#), many followers of the faith have immigrated to Western countries in hopes of “the American dream” and the prospect of freely practicing their faith. But as a devastating response to the tragedy of 9/11, [members of the Sikh community living in the United States have become victims of hate crimes, workplace discrimination, school bullying, and racial and religious profiling](#). As a scholar of the traditions and a practicing Sikh myself, I have learned the harsh realities of what it means to be a Sikh in America today. Despite the hardships that they endure, Sikhs continue to demonstrate their strength and resilience through their practice of the tenets of the Sikh faith, including love, service, and justice.

A common struggle that many Sikh Americans face is the coerced decision of whether to relinquish their articles of faith in order to assimilate into Western culture and secure employment. [In the San Francisco Bay Area alone, twelve percent of Sikhs have reported subjection to employment discrimination](#). Through the COVID-19 pandemic, [employers have outwardly stated that turbans are unacceptable in the workplace](#), citing proper health standards as

their reasoning. [A video posted by Dr. Sanjeet Singh-Saluja, an emergency doctor and physician at McGill University Health Centre](#), went viral in 2020 as he described the “existential crisis” he faced when he was forced to shave off his beard, a symbol of the Sikh faith, in order to continue operating on patients. But in 2022, four Sikh Americans bravely [filed suit against the U.S. Marine Corps](#), asserting their right to wear their turbans and beards and to not have to choose between their career and faith. This post addresses the heroism of these four men in asserting their legal rights under the Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. § 2000bb et seq., and the First and Fifth Amendments of the U.S. Constitution in the case of *Toor v. Berger*.⁷

The Significance of the Turban in the Sikh Faith



Image by [Andrea](#) from [Pixabay](#).

Under traditions of the Sikh faith, [“a truly religious person is one who cultivates the spiritual self while also serving the communities around them—or a saint-soldier.”](#) According to the Sikh faith, a true “saint-soldier” maintains five articles of faith that are properly known as “the five Ks.” These are the kes (beards and long, uncut hair covered in a turban), kara (steel bracelet), kanga (wooden comb), kirpan (small sword), and kachera (soldier-shorts). Historically, wearing a turban was an indication of one’s social status in South Asian culture. The gurus of the Sikh faith adopted the turban to tear down symbols of varying social classes and to remind Sikhs that all humans are royal and equal. The founders of the faith adopted the uniform dress code,

consisting of “the five Ks,” to further promote equality and unity among humans. The sad reality is that while the articles of the Sikh faith were designed to unify people and remind us to treat others equally, the visibility of these articles often results in discrimination towards those that don them.

***Singh v. Carter* Was a Necessary Step Towards Providing Accommodations for Sikhs in the American Workforce**

Simratpal Singh immigrated to the United States with his family at the age of nine, and from a very young age, he aspired to join the military. He was inspired by his great-grandfather that had honorably served in the British Indian Army in colonial India in World War I. In 2006, he joined the United States Military Academy in West Point, New York—the country’s most prestigious military university. He was shocked to learn there that the Sikh traditions that he was raised with would be a cause for concern in achieving his career goals.

Historically, [Sikhs have successfully maintained careers in militaries](#) across the world without having to compromise their articles of faith. Sikhs have honorably served in the U.S. military since the First World War. It was not until 1981 that the U.S. Military modified its policy to ban turban-wearing Sikhs from service and mandated that they instead keep their hair and beards short in order to serve. In 2016, [Simratpal Singh dared to challenge this policy](#) in court, with a demand to have the ability to serve while retaining his articles of faith.

The district court judge agreed that the Army “unquestionably has a compelling interest in ensuring the health and safety of military personnel,” but found that the Army had failed to use the “least restrictive means” to further that interest. This decision was made in part due to the Army formerly granting permanent religious accommodations for some Sikh American soldiers that had served with merit on active-duty deployments. This became a landmark ruling that allows for all Army personnel today to openly observe their religion. [The U.S. Air Force would later update its dress code policy in 2020 to also be more inclusive of different faiths.](#)

In Over 256 Years of the United States Marine Corps, Sukhbir Singh Toor Is the First Sikh to Request Religious Accommodation

Similar to Simratpal Singh, Sukhbir Singh Toor was inspired by his grandfather’s military service and decided at a young age that he too would pursue a career in the United States military. He decided on enlisting in the Marine Corps, and to his dismay, he was denied religious accommodation for his turban. [In order to comply with U.S. Marine Corps policy, he was forced to sever his articles of faith.](#) He cut his hair, shaved his beard, and opted to not wear a turban when he joined the force in 2017. After Toor was selected for a promotion in 2021, he requested a religious accommodation that would permit him to wear a turban. The U.S. Marine Corps responded with caveats that rendered the accommodation meaningless. He was only permitted to

wear a turban and keep his beard when he was not deployed or subject to deployment on short notice.

In April 2022, Toor, along with three other Sikh Marines, Jaskirat Singh, Aekash Singh, and Milaap Singh Chahal, [filed a federal lawsuit challenging the Corps' decision](#) to deny turbans and beards in combat zones or recruit training. The plaintiffs asserted that the Corps' refusal to grant a religious waiver for their articles of faith is arbitrary and discriminatory and violates the constitutionally protected right to free exercise of religion. [The Marine Corp stated in their response](#) that “uniformity is more than the mere outward expression of unity with the team; it is a tool that constantly reminds each Marine of the team to which they are committed and a signal to other Marines of the depth of that commitment.” They also noted that beards may hinder a recruit's physical ability to do his duties by restricting his ability to safely wear a gas mask.

Toor and co-plaintiffs countered by asserting that it is discriminatory and needlessly restrictive to deny Sikhs the ability to don their articles of faith, since the Marine Corps routinely deploys men with beards to combat zones due to medical conditions or because they are part of the Special Operations Unit. Further, the rule on gas masks would require Sikhs to shave their face even when deployed in countries where the risk of a chemical attack is so low that Marines are not even given gas masks. [Amandeep Sidhu, a partner at one of the firms representing the Sikh men, notably commented](#) that “there's this perception that you can pack up your Sikh faith in a suitcase and then pull it out after basic training and quite frankly, that's just not how it works.... That's not the way the Sikh faith works. It's not the way that the laws that apply to the Marine Corps work.” Toor did not want to take this issue to court, but he was compelled to do so in order to avoid choosing between his faith or his career. [“I just want to move on, so I can do my job,” Toor said](#), and “there is no reason I should have to sacrifice my faith in order to serve my country.”



Image by [Mike](#) from [Pixabay](#).

The plaintiff's lawyers argued in the suit that the Marine Corps' policy banning turbans and beards is overly restrictive and that there are inconsistencies in their policy. They asserted that the Marine Corps routinely allows other recruits into boot camp that do not fit into their homogeneous appearance standards, referring to the loosened restrictions on tattoos and the

admittance of women with very long hair. Additionally, [the Marines have accommodated for men with skin conditions](#) like pseudofolliculitis, a condition that can cause irritation and painful bumps when skin is shaved regularly, to maintain beards while serving. There is past precedent that supports the plaintiffs' argument, including the 2016 decision that permitted Simratpal Singh to wear his turban in the Army. Following the decision in *Singh v. Carter*, the Army expanded its religious accommodations to also allow Jewish troops to wear a yarmulke and Muslim troops to wear a hijab.

The Religious Freedom Restoration Act (RFRA) and the United States Constitution [collectively ban the federal government from unnecessarily restricting religious freedom](#). The government cannot deny some religious accommodations on its asserted basis of a need for uniformity, yet grant other secular exceptions. This is the heart of the issue in this lawsuit. Toor and the other Sikh men are simply requesting that the government provide them with religious accommodations equal to those granted to other Marines for secular reasons.

In August 2022, the District Court ruled that Sikh recruits should not be granted religious accommodations while the case has yet to be decided. The plaintiffs appealed this decision, and asked the court to allow them to enter basic training while keeping their articles of faith. On December 23, 2022, [the U.S. Court of Appeals granted the plaintiffs a preliminary injunction](#) that requires the Marines Corps to immediately allow Milaap Singh Chahal and Jaskirat Singh to enlist and begin basic training without having to shave their heads and beards. The injunction also permits them to wear their turbans and other articles of faith in training.

Judge Millet wrote for the court in this decision and stated that [the Marine Corps has never explained why it cannot apply the same or similar religious accommodations](#) that the Army, Navy, Air Force, and Coast Guard provide. Judge Millet also said that although the Marine Corps argued it has a compelling interest in developing unit cohesion during recruit training, it failed to meet its burden of proof for denying Sikh Americans religious accommodations. The Marine Corps offers similar accommodations for secular reasons, such as allowing beards for people with pseudofolliculitis barbae, allowing women to have longer hair, and allowing bodily tattoos. The Marine Corps failed to explain, as required under the RFRA, how religious beards would interfere with training and why less restrictive alternatives would not work. When countless accommodations are provided for secular reasons, and especially because other branches of the military are readily accommodating to Sikh Americans, the Marine Corps' failure to provide religious accommodations for Sikh Americans is difficult to justify.

The injunction granted to the plaintiffs is a milestone for religious freedom and against employment discrimination in the United States; however, the second part of the lawsuit has yet to be addressed. The District of Columbia Court of Appeals divided the case into two phases—only the first of which has been ruled on so far. The plaintiffs also seek less restrictive religious accommodation after training has commenced. As of now, the Marine Corps has only committed to allowing the recruits to wear their beards, turbans, and steel bracelet—encompassing only two of the five articles of faith in the Sikh tradition—during basic training and not beyond that. Giselle Klapper, an attorney at the Sikh Coalition working on the Plaintiffs' case, questioned why this is a problem for the Marine Corps. She asserted that the naval services don't have to

wait on a court ruling for this case and that the entire lawsuit could end with a decision by any of its leaders to terminate the practice of banning articles of faith being worn in limited conditions.

While the country awaits the court's decision on the latter of this suit, it's important to reflect on the heroism of these Sikh men. The injunction is a great and necessary step towards religious freedom in the workforce in this country. The next necessary step is a comprehensive policy change in the US Marine Corps that will make full equality of opportunity become a reality for all Americans, regardless of their faith.

Written by [Tanveer Moundi](#)

