

*Multani v. Commission scolaire Marguerite-Bourgeoys*¹

In November 2001, Gurbaj Multani's kirpan accidentally fell out from under his clothing, raising questions among the school community about school safety and whether or not he should be permitted to continue to bring the kirpan to school. The incident sparked a great deal of dispute among members of the school board and community. On one hand, parents and school administrators argued that, the kirpan could be used as a dangerous weapon in the school, and therefore violated the school's code of conduct prohibiting the carrying of weapons. On the other hand, Gurbaj believes that his religion requires him to wear a kirpan at all times; a kirpan is a religious object that resembles a dagger and must be made of metal.

"The school board sent Gurbaj's parents a letter in which, as a reasonable accommodation, it authorized their son to wear his kirpan to school provided that he complied with certain conditions to ensure that it was sealed inside his clothing. Gurbaj and his parents agreed to this arrangement. The governing board of the school refused to ratify the agreement on the basis that wearing a kirpan at the school violated article 5 of the school's *Code de vie* (code of conduct), which prohibited the carrying of weapons. The school board's council of commissioners upheld that decision and notified Gurbaj and his parents that a symbolic kirpan in the form of a pendant or one in another form made of a material rendering it harmless would be acceptable in the place of a real kirpan."²

"Balvir Singh Multani, Gurbaj's father then filed in the Superior Court a motion for a declaratory judgment to the effect that the council of commissioners' decision was of no force or effect. The Superior Court granted the motion, declared the decision to be null, and authorized Gurbaj to wear his kirpan under certain conditions. The Court of Appeal set aside the Superior Court's judgment. After deciding that the applicable standard of review was reasonableness *simpliciter*, the Court of Appeal restored the council of commissioners' decision. The Court of Appeal concluded that the decision in question infringed Gurbaj's freedom of religion under s. 2(a) of the *Canadian Charter of Rights and Freedoms* ("*Canadian Charter*") and s. 3 of Quebec's *Charter of human rights and freedoms* ("*Quebec Charter*"), but that the infringement was justified for the purposes of s. 1 of the *Canadian Charter* and s. 9.1 of the *Quebec Charter*."³

In deciding on whether or not Gurbaj should be permitted to wear his kirpan, the Supreme Court weighed the consequences of limiting Gurbaj's religious freedoms against the school's obligation to maintain a safe school environment. The Court found the prohibition against the kirpan unreasonable.

¹ *Multani v. Commission scolaire Marguerite-Bourgeoys*, [2006] 1 S.C.R. 256, 2006 SCC 6. Hereinafter *Multani*.

² *Ibid.*, pp. 3 – 4.

³ *Ibid.*, p. 4.