

**SUBMISSIONS BY THE INTERVENER  
WORLD SIKH ORGANIZATION OF CANADA**

**BEFORE THE COMMISSION OF INQUIRY  
INTO THE INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182**

**INTRODUCTION**

The World Sikh Organization of Canada (“WSO”) has been granted Intervener Status before this Commission to fulfill two objectives: first, to protect the reputational interests of the Sikh community; and second, to make representations on all aspects of the Terms of Reference based on the demonstrated expertise of the WSO. These are very important objectives. As the only Sikh organization with status at this Inquiry, and the only Intervener who has regularly attended these hearings, the WSO has played a unique role. The WSO has taken its role seriously, and has endeavoured throughout these proceedings to ensure that the voice of the Sikh community is heard on all aspects of the Terms of Reference.

The WSO makes the following submissions, which are divided into 4 parts:

- Part 1 relates to the very serious and grave concerns of the WSO with respect to the procedural fairness of this Inquiry.
- Part 2 relates to the evidence of the Sikh community which was to have been heard by the Commission.
- Part 3 relates to the various aspects of the Terms of Reference, and the WSO’s submissions respecting the same.
- Part 4 summarizes our conclusions.

## **PART I: PROCEDURAL FAIRNESS**

The tragic events of June 23, 1985, are indelibly etched in the minds of Sikh Canadians. The loss of any life is heart-wrenching – the loss of 329 lives in such terrible circumstances is simply incomprehensible. Amongst the victims of Air India Flight 182, were accomplished humanitarians, scientists, artists, and community activists, who had contributed far more to this world in their shortened lives, than many of us can hope to achieve in a lifetime. The incomprehensible criminal act that resulted in the loss of the victims' lives, is an affront to all right thinking people.

In an effort to bring closure for the families of the victims, and all those affected by the Air India tragedy, the WSO has been asking for a public inquiry into the bombing of Air India Flight 182, since at least 1987. When this Commission of Inquiry was struck in 2006, the WSO, and much of the Sikh community, was relieved. It hoped that finally, many of the unanswered questions about the botched investigation and the manner in which it was conducted would be addressed. Not unexpectedly, it was assumed that a fair, open and impartial Inquiry process would also put to rest much of the misinformation about the Sikh community, and help lift the cloud of suspicion that it has lived under for over two decades.

Sadly, the events taking place over the course of the Inquiry proceedings have been anything but fair. The Sikh community, through the WSO, has been given very little voice at this Inquiry, despite the fact that after the victims' families, it has been the most affected by the tragic events following the downing of Flight 182. Three hundred twenty nine (329) innocent individuals, a vast majority of them Canadians, tragically lost their lives. Thirty-three of them were Sikhs. Yet the Sikh community has been repeatedly vilified for the past 22 years. Indeed, this fact is underscored by the very first Term of Reference of this Commission of Inquiry which refers to "Sikh-terrorism", and by Dossier 1: Background and Summary Facts, which commences with a background on the Sikhs rather than the tragedy itself.

The purpose of the establishment of a Commission of Inquiry into the bombing of Air India Flight 182 was to examine the investigation of the bombing and to identify ways of improving Canada's counter-terrorist precautions and response to incidents of terrorism. The Air India bombing was a tragedy that left many victims in its wake, not the least of which was the Sikh community. Much suspicion was cast on the Sikh community as being involved in the bombing, and the Sikh community was forced to contend with accusations and allegations compounded by the intense negative media attention directed towards it. As a result, the Sikh community experienced a horrible blow to its reputation in Canada and abroad. The Sikh community has been subjected to widespread investigation by the Canadian intelligence services, with many innocent Sikhs being routinely followed, wiretapped, and questioned, in an ethnic profiling process that often has seemed to make the term "Sikh" synonymous with "terrorist".

The Sikh community has many scars to show from the aftermath of the Air India disaster, and the ethnic profiling of Sikhs. It was the hope of many people within the community that by providing this evidence to the Commission, other ethnic communities could be spared similar treatment in the wake of future tragedies. It was hoped that the Inquiry process, would not only aid in dispelling any rumours and suspicions that had been cast on the Sikhs, but would also result in recommendations being made which would ensure that ethnic or religious minorities would not be victimized following the wake of a terrorist act. Representatives of the Sikh community were available to voice their own account of what occurred subsequent to the bombing, so that the full impact of the Air India aftermath could be heard.

The WSO has, on repeated and numerous occasions, brought to the attention of this Commission and Commission counsel, our concerns about the nature of the evidence being heard at this Inquiry, and its impact on the reputational interests of the Sikh community. This Commission has heard days and weeks of testimony by numerous witnesses who have reiterated their narrow views of the Sikh community and its inner workings, often-times revealing biased and prejudiced viewpoints on the political and social constructs of the Sikh community, and its various institutions. Much of this evidence has been irrelevant to the Terms of Reference of this Inquiry, but has been nevertheless permitted. The end result is that this evidence has simply cemented

the negative impressions of the Sikh community already being marketed to the Canadian public by the media.

In an effort to counteract some of that misinformation, the WSO sought to cross-examine witnesses, call witnesses, and to make oral submissions. The WSO was denied this application for broader standing. This greatly frustrated the WSO's role in the Inquiry. In a fact-based Inquiry process, such as this one, it is difficult, if not impossible, for an Intervener to effectively make submissions on issues related to the Terms of Reference, or the reputational interests of the Sikh community, without the proper factual foundation to support it. This factual foundation can only be established with the right to call evidence or to cross-examine witnesses.

The Sikh community, whose interests could not truly be fully represented by Commission counsel, was only granted limited rights of intervention, and, as a result, was not presented with an adequate opportunity to protect its interests or reputation within the scope of the intervention granted to the WSO. Despite the fact that the impact of this Inquiry and its Findings is uniquely different for the Sikh community than that of all other Interveners, the Sikh community was given the same right to only provide written submissions.

The underlying message sent to the Sikh community through these repeated denials, is that this Commission does not wish to be "distracted" by seemingly irrelevant or unnecessary evidence. One need only read the details set out in the WSO applications to understand that the evidence the WSO wished to lead through cross-examination was anything but irrelevant or unnecessary. The resulting impact of these repeated denials is the marginalization of the Sikh community at these proceedings.

Despite these denials, the WSO continued to try and have its voice heard. Various witnesses throughout the Inquiry provided testimony that served to intensify the suspicion cast on the Sikh community and the negative feelings towards it. It became crucial to the WSO to put forward witnesses who could respond properly to these accusations and claims and dispel any further ill feelings toward the Sikh community. In addition the WSO believed that recommendations flowing from this Inquiry could only be properly based, if they were founded on accurate and

complete facts. If critical pieces of evidence were not led, or the strength of certain evidence was not tested through cross-examination, then the Commission is left with making its Findings and Recommendations on an incomplete or inaccurate record.

In keeping with Inquiry Rules of Procedure, the WSO applied to have Mr. Gian Singh Sandhu, Zuhair Kashmeri, Gary Bass and David Kilgour called to the Inquiry to provide evidence. On each occasion, the application was denied and the testimony provided by other witnesses, emphasizing a narrow and negative view of the Sikh community, was left to stand, unchallenged and untested. Frustrated by this closed process, the WSO counsel approached various counsel for the Parties, and sought their cooperation in putting certain questions to witnesses, in order to clarify or establish certain facts which were critical for an open, fair and honest inquiry process. However, the mandate and the interests of the WSO are different than that of the Parties, and this approach was not successful. This is of grave concern to the WSO as this Commission of Inquiry will be making certain findings and recommendations based entirely on the evidence led at the Inquiry. If critical pieces of evidence were not led, or the strength of certain evidence was not tested through cross-examination, then the Commission is left with making its Findings and Recommendations on an incomplete or inaccurate record.

Most recently, the WSO provided the Commission with a “will-say” statement of Mr. Sandhu and sought to have him testify solely on the contents of this document.<sup>1</sup> After meeting with Commission counsel, it was agreed that Mr. Sandhu would be permitted to testify at the Inquiry and that his will-say would form the basis of his testimony. After the commitment made by Commission counsel that Mr. Sandhu would be permitted to speak to the contents of the “will-say”, Mr. Sandhu’s testimony at the Inquiry was cut short without prior notification or consent of the WSO. Not surprisingly, Mr. Sandhu was unable to address many significant issues that had been raised at the Inquiry. Most disturbingly, Commission counsel reneged on its commitment to permit Mr. Sandhu to file his “will-say” statement. It is unfortunate that in over 1 year’s worth of hearings, 1 day could not be spared by this Commission to hear the evidence of the Sikhs. While the WSO appreciates being given the opportunity to attend as Intervenors, this is

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<sup>1</sup> Public Will-Say, Gian Singh Sandhu, copy attached.

no more significant than being given front row seats to a hockey game in which one cannot participate as a player.

## **PART II: THE SIKH COMMUNITY'S EVIDENCE**

Much evidence has been heard during this Inquiry about the assumed religious and political affiliation of those thought responsible for this tragedy, as well as political events in Punjab. Indeed, some of this information has been provided as “uncontested facts” in Dossiers 1 and 2. Yet glaringly absent at this Inquiry, have been facts which have shed positive light on the Sikh community, or put into context the events both prior to and after the Flight 182 disaster, from the Sikh community’s perspective. Even Manjit Singh Sahota, a witness called by the Commission Counsel, testified incorrectly that there were no special prayer services held in Sikh gurdwaras following the Air India disaster.<sup>2</sup> This was in fact inaccurate. For example, the following article appeared in the Globe and Mail:

### **Terror in the Skies Hindus, Sikhs forget bitterness to unite in grief over loss**

Monday June 24, 1985

By Zuhair Kashmeri and Victor Malarek

Canadian Hindus and Sikhs, embroiled in a bitter conflict over recent events in their homeland, were united in grief yesterday as they braved the news of the air disaster that killed many men, women and children of their community...Yesterday they gathered together in prayer for all the victims at Sikh and Hindu temples in Toronto and Montreal...Similarly, Gobinder Singh Randhawa of the World Sikh Organization in Toronto said Sikh temples in the city began reciting psalms from their scriptures for Hindu and Sikh families. “In grief, all of us are human beings and not Sikhs and Hindus,” Mr. Randhawa said.

Mr. Sahota, who arrived in Canada in 1984, was not in a position to, nor was he asked any detailed questions about what was happening in the Sikh community prior to and after 1985, the role of various organizations within the community, and the role played by gurdwaras and Sikh leadership. Yet these events form a critical part of Dossiers 1 and 2.

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<sup>2</sup> Testimony of Manjit Singh Sahota, Public Hearing Transcript, September 25, 2007, pages 6516, and 6526 - 6527.

Throughout the Inquiry, evidence and testimony has been tendered that has served to cement the negative image of the Sikh community, and further damage its reputation. In broad-sweeping language carelessly employed by many Commission witnesses, the Sikh community has been repeatedly implicated throughout the proceedings as having been directly involved in either the bombing itself or in condoning the criminal actions which resulted in the tragic loss of lives. Nothing could be farther from the truth.

The Sikh religion advocates as its basic tenet, respect for all humanity, irrespective of faith, gender, race, ethnicity or caste. Founded in the late 1400s in the northern part of what is now known as India, Sikhism, from its inception, has prohibited caste distinctions, spoken in favour of religious freedom for persons of all religious beliefs, and has practiced full equality as between men and women. Such notions were virtually unprecedented at that time. These notions today form the basis of leading human rights documents such as the *Canadian Charter of Rights and Freedoms*. Sikhism as a faith has categorically rejected violence and aggression. Indeed, the ninth Sikh Guru was beheaded when he stood up to defend the right of Hindus to freely practice their faith, despite the fact that he did not share the same ideology or views as his Hindu brethren.

Sikhs today comprise the fifth largest religion in the world. There are approximately 22 million Sikhs worldwide. Approximately 12 million Sikhs reside in India, and the balance are spread throughout the rest of the world. In North America, there are approximately 700,000 Sikhs and, of that number, about 400,000 – or more than half – live in Canada. As noted in Dossier 1, over the past century, and especially since the mid-1960s, a period which has seen significant Sikh immigration from India, Canada's Sikhs have established themselves in this country as hard-working, law abiding citizens. Yet they are probably one of the least known or understood faith communities. Their distinctive outward appearance (unshorn hair and turban) has often resulted in members of the community being denigrated or harassed by those ignorant of the Sikh religion. Much of the blame for this goes to a media who was all too willing, post 1985, to blanketly label an entire immigrant community with ill-founded charges of condoning or promoting acts of terrorism.

Mr. Sandhu's testimony, as set out in his "will-say" statement, would have provided the Commission with an opportunity to hear evidence that opposed these accusations and related a different account of the events. Mr. Sandhu's testimony would have stressed to the Commission the intense shock and sadness that the Sikh community felt upon hearing the news of the Air India bombing. As previously mentioned, approximately 33 people amongst the victims of the bombings were of Sikh origin. Mr. Sandhu also would have testified to the fact that Gurdwaras across the country held prayers in remembrance of those that were killed in the bombing. The Sikh community as a whole lent their support and sympathy to the families of the victims. The general consensus of the Sikh community was that the bombing of Flight 182 was a criminal act committed by insane people and was totally contrary to Sikh principles.<sup>3</sup> This evidence, coming from a high profile leader within the Sikh community, who's organizational mandate was to address the negative stereotyping of Sikhs during those watershed years, would have been of invaluable assistance to this Commission. Mr. Sandhu would have also been able to provide valuable evidence regarding many of the "facts" set out in Dossier 2, which refer to problems experienced by the policing authorities in getting documents translated, problems of misidentification of persons etc.

Equally important to an Inquiry of this type, Mr. Sandhu's evidence would also have described the way in which the Sikh community became targeted by police, and came under overwhelmingly negative public opinion. Practicing Sikhs, who are identifiable by their turbans and beards, were yelled at and shunned even while attending prayer vigils for the victims' families.<sup>4</sup>

The Canadian Sikh community has overwhelmingly rejected all forms of extremism before and after the bombing of Air India Flight 182. Many members of the Sikh community worked with Canadian authorities in their investigation of this event. Mr. Sandhu would have testified to the fact that he felt very comfortable working with Canadian authorities at that time. The World Sikh Organization of Canada, who at the time had over 21,000 individual members across Canada,

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<sup>3</sup> Supra, footnote 1, Item 4, pages 4-5.

<sup>4</sup> Supra, footnote 1, Item 4, page 4.

was constantly in touch with the Canadian Government and encouraged the Sikh community at large to assist in the investigation of the bombing of Air India Flight 182. The WSO took great efforts to repeatedly warn Canadian authorities that information received from the Indian government and their intelligence agencies should be scrutinized before being accepted on its face value.<sup>5</sup>

Despite all their efforts to cooperate with the authorities, however, the Sikh community became victimized by the authorities. Mr. Sandhu would have described how the Canadian authorities became victims of the grossly inaccurate perception that every Sikh who believed in a separate Sikh homeland was an extremist and a potential terrorist. This “ethnic profiling” resulted in many honest, law-abiding members of the Sikh community being wrongfully targeted by the authorities.

To see the fallacy of this argument, that a separatist equals a terrorist, one need only look at Quebec, where *hundreds of thousands* of people are separatists (based on the 1995 Referendum held in Quebec, where 49% of the voters supported sovereignty). Yet no-one in their right mind would suggest that all, or even a small percentage, of these people are terrorists. In marked contrast, any member of the Sikh community who supported the formation of a separate Sikh homeland in India, was wrongfully labeled as a terrorist by Canadian policing authorities. Inevitably, this resulted in the Sikh community’s loss of confidence and trust in the Canadian authorities, including CSIS and the RCMP.<sup>6</sup>

Mr. Sandhu would have testified that he believes that, although there are a number of Sikh and Punjabi speaking officers in the provincial police and the RCMP, there is still work to be done in building trust, and simply adding more ethnically diverse members to policing forces is not enough.<sup>7</sup>

Much of the evidence that would have been provided by Mr. Sandhu was in direct contradiction to that provided by other witnesses, such as Mr. Ujjal Dosanjh and Dave Hayer. These two

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<sup>5</sup> Supra, footnote 1, Item 5-7, pages 5-7.

<sup>6</sup> Supra, footnote 1, Item 5, pages 5-6.

<sup>7</sup> Supra, footnote 1, Item 5, page 6.

politicians who were permitted to testify at this Inquiry offered evidence (much of it irrelevant to the Terms of Reference, but nevertheless permitted) contrary to that of Mr. Sandhu.<sup>8</sup>

This Inquiry was established for the purpose of trying to discover the truth of what happened during the investigations of the Air India bombing. In doing so, it was a stated objective of this Commission to use those established facts as the basis upon which to make recommendations so that a tragedy of this type could be prevented. The WSO submits that this goal cannot, and will not, be fulfilled if critical pieces of evidence are left unheard and unconsidered. It is submitted that the Commission cannot come to a proper conclusion on the facts or make proper recommendations for the future if it only chooses to listen to certain people and certain evidence while turning a deaf ear to others who provide a different perspective.

### **PART III: RECOMMENDATIONS ON THE TERMS OF REFERENCE**

Pursuant to the Terms of Reference (“TOR”) of the Inquiry, the Commissioner is to conduct the Inquiry specifically for the purpose of making findings and recommendations with respect to a number of issues. Each of these issues will be addressed in turn.

#### **A. Deficiencies in Threat Assessment**

The **first** issue the Commissioner is to address is whether there were deficiencies in the assessment by Canadian government officials of the potential threat posed by Sikh terrorism before or after 1985, or in their response to that threat, and whether any changes in practice or legislation are required to prevent the recurrence of similar deficiencies in the assessment of terrorist threats in the future.

The WSO, in its Opening Submissions, has already stated its objection to the use of inflammatory terminology such as, “Sikh terrorism”, which serves only to demonize Sikhism. The use of such language as terrorist, extremist, etc. in conjunction with Sikh, is inappropriate

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<sup>8</sup> See testimony of Dave Hayer, Public Hearing Transcript, November 15, 2007 at pages 9524 to 9606; See testimony of Ujjal Dosanjh, Public Hearing Transcript, November 21, 2007 at page 10166.

and ought to be avoided. For the public at large, such language can leave the impression that all members of the Sikh faith are terrorists or extremists, and it is the submission of the World Sikh Organization that such language ought to be avoided, not only because such a notion is clearly factually incorrect, but also because any such notion is offensive to the values of equality and multiculturalism on which our country and our society is built. The fact is that the vast majority of the Sikh community is made up of peaceful, law abiding members of society, as, for that matter, are the vast majority of those members of the Sikh community who believe in the importance of an independent homeland for Sikhs. Any language that would suggest anything to the contrary ought to be avoided not just out of a desire to not offend members of our society who are of the Sikh faith, but also in recognition of the fact that language has the power to influence people's views and perceptions, notwithstanding that any such effect may be unintended.

We will turn now to a discussion of the Terms of Reference. It is the respectful submission of the WSO that there *were* deficiencies in the assessment of the potential threat posed by alleged "Sikh terrorism".

### **1. Over Assessment of Threat**

Primarily, there was what could be considered an *over*-assessment. As a result of certain radical individuals being suspected as having been involved with the Air India bombing, the entire Sikh community was scrutinized and targeted as being possible terrorist suspects. There was no evidence to support this widespread suspicion of the Sikh community as a whole.

The over-assessment of the threat of "Sikh terrorism," was an issue ignored by this Inquiry and it was for this reason that the WSO found it imperative to have Mr. Gian Singh Sandhu furnished as a witness at the proceedings. Mr. Sandhu's testimony, as outlined in his will-say statement, would have spoken to specific incidents in which innocent members of the Sikh community were targeted as terror suspects for no reason other than their ethnicity or political beliefs.

While evidence existed that demonstrated that the Sikh community as a whole was unnecessarily targeted and attacked as being suspects of terrorism, this issue was not addressed at the Inquiry and the WSO was not permitted to present witnesses to speak to this issue. Mr. Zuhair Kashmeri,

an award-winning author and journalist, directly addressed this issue in his book (which he co-authored with Brian McAndrew), *Soft Target – India’s Intelligence Service and Its Role in the Air India Disaster*. The purpose of this book was to make people aware of the grave injustice suffered by Sikh-Canadians in the aftermath of the Air India tragedy.<sup>9</sup> The Commissioner’s refusal to hear this evidence means that the Commissioner cannot adequately address this issue in his findings or provide meaningful recommendations.

The overzealousness of Canadian police officials was further evidenced in a letter which was provided by Mr. Sandhu to Commission counsel on December 7, 2007, written by the Solicitor General of Canada, James Kelleher, dated February 10, 1988. This letter, addressed to Mr. Sandhu and the World Sikh Organization, apologized for some *false affidavits* that some CSIS agents had sworn in relation to the Air India investigation. The letter followed a complaint by the WSO which had been made to the Prime Minister in November, 1987.<sup>10</sup>

Dear Mr. Sandhu:

Your letter dated November 5, 1987 to The Right Honourable Brian Mulroney, has been referred to me for reply as the matter you raised falls under my jurisdiction.

I would first like to say that the disciplinary action taken by the Director of the Canadian Security Intelligence Services (CSIS) against certain members of the service is an internal matter of the CSIS. The action was taken against these individuals for their role in preparing an affidavit which contained inaccuracies. The errors were not intentional and resulted from a deviation from regular procedures and policies.

The abrupt cutting short of Mr. Sandhu’s evidence while on the stand on December 7, 2007, meant that any evidence relating to this issue, was never heard. Needless to say, the letter has never been produced at the Inquiry. Thus, once again, a critical piece of evidence which could have informed this Commission in its recommendations has been deliberately left out by Commission counsel.

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<sup>9</sup> Zuhair Kashmeri and Brian McAndrew, *Soft Target – India’s Intelligence Service and its Role in the Air India Disaster*, 2<sup>nd</sup> ed. James Lorimer & Company Ltd., Toronto, 2005, at Preface p. xxiv.

<sup>10</sup> Letter dated February 10, 1988, from the Honourable James Kelleher, Solicitor General of Canada, addressed to Gian Singh Sandhu, World Sikh Organization, copy attached.

## 2. Undue Reliance on Government of India Sources

The WSO submits that, in assessing the threat posed by “Sikh terrorism”, undue deference and reliance was placed on information provided by the Government of India (“GOI”). Numerous witnesses<sup>11</sup> testified that Canadian authorities routinely received information pertaining to the bombing from Indian officials; however, it appears that rarely did Canadian authorities look into the motives of the Indian Government for providing such information.<sup>12</sup>

Normal criminal investigation protocol suggests that the motivations of a source should always be questioned before any reliance can be placed on the source’s evidence. In contrast, it is clear from the evidence of witnesses called at the Commission, that information provided by the GOI was often accepted at face value with absolutely no further investigation taking place. Mr. Sandhu’s will-say statement addressed this very issue.<sup>13</sup> The WSO submits that it is impossible to sufficiently and thoroughly assess the threat of terrorism if credibility of the source providing the information in connection with this is not further verified.

There was ample evidence available, which if called would have confirmed the un-reliability of the GOI as a source of information. Kashmeri and McAndrew state in their book, “For several years, India has been engaged in a devious and ruthless operation to manipulate and destabilize Canada’s Sikh population. The operation has been orchestrated by India’s intelligence service and has left the Sikh community estranged from Canadian society. It has also lead to death and destruction.”<sup>14</sup>

In his testimony Don McLean, a member of the Vancouver Police Department, speaks about his concerns regarding the involvement of the Indian government and its agents in Canada. Mr. McLean notes his concern that the Indian Counsul General, Mr. Sharma was inflaming the Sikh community by making references to Sikhs as “semi literate farm workers”. In addition, he states that Indian secret service agents (RAW) were active in the Canadian Sikh community. They made payments of \$10,000 to Indian newspapers published in Canada, in order to influence their

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<sup>11</sup> See, for example, testimony of Bob Burgoyne, Public Hearing Transcript, May 22, 2007 at page 3461.

<sup>12</sup> See for example testimony of Jack Hooper, Public Hearing Transcript, September 21, 2007 at page 6257.

<sup>13</sup> Supra, footnote 1, Item 5, page 5.

<sup>14</sup> Supra, footnote 9.

editorial content. Mr. McLean stated that he noticed the shift in newspaper coverage following these “payments” by the Indian agents.<sup>15</sup>

In a book called, “Open Secrets – India’s Intelligence Unveiled”,<sup>16</sup> former Joint Director of the Intelligence Bureau of India, Maloy Krishna Dhar writes an entire chapter further elaborating on the activities of Indian intelligence agents in Canada in the 1980’s and 1990’s. At page 293, Mr. Dhar speaks about his mission while posted in Canada:

- Penetration of a few selected gurdwaras.
- Cultivation of a few identified targets amongst the most vocal section of the Sikh community.
- Penetration of the Punjabi print and electronic media and control of the print and electronic media operated by the non-Sikh segments of the people of Asiatic and Indian origin.
- Creation of a few clandestine human assets in the ‘lumpen’ segment of the Sikh workforce in Canada, who were more drawn to the separatist leaders and hate-preaching priests.
- To reach out to the Indian community with saturated supplies of audio and videotapes on current affairs in India and specially filmed tapes on the atrocities committed by the Bhindranwale goons.
- To convert the ‘*India News*’ to a quality publication with the help of a newly acquired fast printing/copying machine.
- To meet the Canadian Foreign Office mandarins and the RCMP point men at regular intervals to brief them about developments back in India and to share whatever ‘open’ information the Indian Mission could cull out from the community through ‘open’ means. [*see for example, Exhibit CAB 0185 which contains a memo from Mr. Dhar to the RCMP regarding the threat to Indian interests by “Sikh militants” in Canada*].
- To target the mainstream Canadian print and electronic media and to sell the Indian side of the story.
- To maintain ironclad cover and not to betray my involvement in intelligence generation.
- To befriend key diplomats in Bangladesh and Sri Lanka Missions with view to reaching some targeted members of the Pakistan Mission.
- To generate few ‘friends’ amongst the Canadian Members of Parliament

As further evidence of the activities of the Government of India operatives in Canada, Kashmeri authored a series of articles that appeared in the Globe and Mail in November 1985. The three

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<sup>15</sup> Testimony of Don McLean, Public Hearing Transcript, May 29, 2007, pages 4137-4138.

<sup>16</sup> Maloy Krishna Dhar, *Open Secrets – India’s Intelligence Unveiled*, Manas Publications, New Delhi, 2005, page 293.

part series focused on Indian spying in Canada. He reported that four Indian diplomats were quietly expelled from Canada. Although Commission counsel were made aware of the existence of these witnesses and this evidence, neither Dhar nor Kashmeri were ever called by this Commission to testify.

### **3. Lack of Proper Investigation into Connection of GOI in Air India Bombing**

It is the WSO's position that inadequate attention was paid to the question of whether the Indian Government was, itself, involved in the bombing of Air India Flight 182. Numerous credible individuals outside of this Inquiry, have suggested that Indian officials may have been involved in the bombing and that the threat of Sikh terrorism may have been a manufactured, and manipulated, threat fabricated by the Indian Government for its own political gains (ie. to discredit the Sikh separatist movement in Punjab).<sup>17</sup>

The WSO sought to have certain witnesses called to the Inquiry who could further expand on this very issue. Yet in his categorical rejection of these applications, this Commissioner simply stated:

None of the Terms of Reference calls for an inquiry into the issue of who was responsible for the bombing of Flight 182 nor of the role, if any, of the GOI, nor of the thoroughness of the investigation of any such role by the RCMP and/or CSIS. This contrasts with the mandate of the 1991-92 SIRC Review.<sup>18</sup>

Put into context of the WSO's concern that there is some evidence to suggest that the threat of "Sikh terrorism" was a manufactured, or at best, inflated, threat, this refusal of the Commission to even hear evidence of this nature, puts into serious question the ability of this Commission to make any recommendations about whether any changes in practice or legislation are required to cure any deficiencies in threat assessment.

On September 21, 2007, Jack Hooper of CSIS, gave evidence in his examination in chief regarding CSIS's investigation of the alleged involvement of the Government of India in the bombing of Air India. Mr. Hooper stated, "And I think it's important to know that we looked at

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<sup>17</sup> Supra, footnote 9.

<sup>18</sup> Commission of Inquiry into the Bombing of Air India Flight 182, Reasons of the Commission, in the Application of the WSO to have certain witnesses called at the Inquiry.

that possibility largely as a function of analytical rigour and due diligence. I think there were certain indicators our [sic] there that spoke to that possibility, however remote, and we had an obligation to examine that possibility and assess its viability, and that's what we did."<sup>19</sup>

Assistant Commissioner Gary Bass of the RCMP, who headed the Air India Task Force, paints a different picture. As part of his duties during the Air India investigation, Bass drafted an internal memo, stating:

Involvement of the Government of India agents in the bombings has been raised on several occasions. The SIRC Review had serious concerns over CSIS handling of this issue. CSIS's reply to this possibility that it had passed it to the RCMP to investigate. The SIRC reports that the RCMP looked into this aspect and determined the allegation to be without foundation. The truth of the matter is that the RCMP never thoroughly investigated the issue, which means that apparently no one did.

- i) Some serious concerns regarding possible Indian Government Involvement which at trial may permit the defence to explore very deeply into what the RCMP and CSIS know on this issue. As I understand it, this is an area CSIS and our government will not wish to get into as it may severely impact relations with India.
- ii) There is a very real possibility that one or more of the targets we propose to wiretap are GOI or RAW [Research and Analysis Wing - India's CIA], or informants for GOI, RAW, or CSIS. The implications here are obvious.<sup>20</sup>

This Commission was made aware of the existence of this memo by the WSO, in its application to have Mr. Bass called as a witness to testify. In making his ruling on this application, the Commissioner stated,

Commission Counsel have indicated that they intend to call Gary Bass as a witness. Accordingly, insofar as Gary Bass is concerned, this motion is superfluous.<sup>21</sup>

Yet when Mr. Bass was called as a witness to testify, the above memorandum was never put to him.<sup>22</sup> The fact that the RCMP and CSIS seemingly have a very different take on whether or not

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<sup>19</sup> Supra, footnote 12.

<sup>20</sup> Memorandum by Gary Bass, point 14, issue 3, emphasis added.

<sup>21</sup> Supra, footnote 3.

<sup>22</sup> Public Hearing Transcript, December 3, 2007 at page 11175.

a critical theory regarding the identity of the culprits behind Air India, was properly investigated, goes to the heart of this TOR (i). It also goes directly to the TOR (ii).

The WSO submits that it was critical for this Commission of Inquiry to determine what, if any, involvement there was in the Air India bombing, by the Government of India and whether this was properly investigated by either CSIS or the RCMP. Ascertaining this issue, would have assisted the Commission in determining what impact, if any, this possible involvement by the Government of India, and or its intelligence agencies, may have had on the investigation itself, the failure to lay charges in a timely manner, and the failure to obtain any convictions regarding the bombing. In addition, the plausibility of this theory, and whether or not it was properly investigated, goes directly to TOR (iv) (adequacy of Canadian legislation to address the issue of terrorist financing) and TOR (v) (adequacy of current legislation regarding witness protection).

Further evidence to suggest that the role of the Government of India in the bombing of Air India Flight 182, needed to be fully explored was provided by Lorne Schwartz of the RCMP. On September 24, 2007, Lorne Schwartz, of the RCMP, gave evidence about the information obtained from Mr. Lakhbir Singh Brar, during the course of several interviews conducted by the RCMP. At Exhibit P101, Tab 9, page 3/5, Mr. Brar is purported to have said, "It would be impossible to have the bomb-laden luggage cleared through check-in and security in the normal fashion, without the Government of India involvement".<sup>23</sup> Again, this was a point that should have been further explored by Commission counsel, but was not. Further exploration of this point would also have been of assistance to this Commission under TOR (iiv) (adequacy of passenger and baggage screening procedures).

Another witness who had critical evidence to give on this issue, was Mr. David Kilgour. A highly respected Canadian Parliamentarian, Mr. Kilgour is also the author of the book *Betrayal: The Spy Canada Abandoned*, in which he writes about his interviews with Ryszard Paszkowski, who he writes was recruited by the RCMP in 1984 to be a spy for Canada. Mr. Kilgour explains that in 1986, Paszkowski was flown to Rome to participate in a secret meeting, which occurred after the bombing of Air India Flight 182. Mr. Kilgour explains the way in which Paszkowski, at this meeting, was asked to be involved with a plan to blow up an Air India plane in Europe.

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<sup>23</sup> Evidence of Lorne Schwartz, September 24, 2007, Exhibit P101, Tab 9, page 3/5.

Further, Mr. Kilgour also explains that Paszkowski was suspicious that the plan was primarily directed at subduing the Canadian Sikh community, since according to Paszkowski, the Canadian Government had been having trouble with the Sikhs. Further, Kilgour suggests that the policing authorities had been searching for someone it could blame for the Air India bombing and that the plane bombing Paszkowski was asked to be a part of, was a way in which the government could cast suspicion on the Sikh community.<sup>24</sup>

Yet the application to have Mr. Kilgour testify at the Inquiry, too was rejected. It is the WSO's submission that this refusal to hear Mr. Kilgour's evidence, or to ask Mr. Bass about his memorandum, seriously impairs the ability of this Commission to make any meaningful recommendations under TOR (i).

If there is evidence to suggest an alternative motive to the bombing of Air India Flight 182, ie. to destabilize the Sikh separatist movement in India by destroying the reputation of the Sikh community, this ought to have been fully explored. The victims' families, Sikh community, and the Canadian public, deserve no less.

#### **4. Recommendations**

In giving its recommendations under this heading, the WSO would like to note that it is virtually impossible to make any recommendations when critical evidence which could have informed this Commission, is lacking. However, given the apparent deficiencies in the assessment of Sikh terrorism noted above, the WSO respectfully submits that a more thorough evaluation system is required to assess any information regarding terrorism. The possibility that a government, or its respective agencies, may be involved in a terrorist act committed on Canadian soil, needs to be acknowledged and addressed. Further, there must be a system whereby those government forces are held accountable for their actions. Political agendas need to be set aside and the focus and concern needs to be placed on protecting the lives of innocent Canadians. This cannot be properly done if government motives are ignored, and political agendas, like those specified by Mr. Bass, are placed as a priority.

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<sup>24</sup> Kilgour, David, *Betrayal: The Spy Canada Abandon* (Scarborough, Ontario: Prentice Hall Canada Inc., 1994), chapter 9.

The trend over the last number of years is toward a greater degree of information sharing between governments. The Mutual Legal Assistance Treaty<sup>25</sup> is an example of this trend. Information sharing may, however, be detrimental. If information from foreign governments is blindly accepted, the potential exists that this information is false, and is only being exchanged as a means of satisfying a political agenda of another governing body. A system needs to be put into place whereby information will only be shared, and accepted, by our policing authorities, after the motives of the informant (especially where the informant is a third party government) have been assessed, challenged, and questioned.

## **B. Failure in Cooperation Between CSIS and RCMP**

The **second** issue the Commissioner is to address is whether there were problems in the effective cooperation between government departments and agencies, including the Canadian Security Intelligence Service and the Royal Canadian Mounted Police, in the investigation of the bombing of Air India Flight 182, either before or after June 23, 1985, and whether any changes in practice or legislation are required to prevent the recurrence of similar problems of cooperation in the investigation of terrorism offences in the future.

The WSO submits that there were many problems in the cooperation between the government departments and agencies. These problems were primarily caused as a result of each team working separately and as a silo. Government agencies, particularly in dealing with terrorist acts, need to work in tandem and share information with each other. As was the case here, when agencies do not cooperate with each other, mistakes are made and irreversible errors occur. The erasure of the CSIS tapes is perhaps the most shocking example of this.

Many witnesses throughout the Inquiry discussed the issue of cooperation between the respective government agencies. As noted above, Jack Hooper's and Gary Bass' markedly different accounts of whether key theories of the culprits behind the bombing were investigated, is one such example.<sup>26</sup>

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<sup>25</sup> CTS 1995/18.

<sup>26</sup> Footnotes 9 and 20, *supra*.

At the Inquiry itself, Mr. Bass further testified that CSIS prevented the RCMP from pursuing a suspect just days before the Air India tragedy. Norman Inkster, formerly a member of the RCMP, also spoke of the regular interruptions the Air India investigation suffered as a result of the delays and disagreements between the RCMP and CSIS. He further noted that there was great difficulty in obtaining information from CSIS.<sup>27</sup>

If terrorist acts are to be properly assessed and investigated, it is necessary that all agencies and departments involved cooperate with one another and work toward the same goal. The legislation and practices in place may be adequate as they are, but the practices regarding cooperation need to be followed.

### **C. Balancing Evidentiary Needs in Criminal Trials and Security Intelligence**

The **third** issue the Commissioner is to address is the manner in which the Canadian government should address the challenge, as revealed by the investigation and prosecutions in the Air India matter, of establishing a reliable and workable relationship between security intelligence and evidence that can be used in a criminal trial.

Throughout the Inquiry there has been suggestion that a different approach should be used when prosecuting terrorism cases. The arguments in support of this have stated that terrorism cases require a different degree of sensitivity, and, as a result, they require a different procedure, including the proposed use of a panel of three judges and special advocates. The WSO submits that terrorist cases should not import a different procedure of prosecution. Terrorism cases by nature tend to be politically charged in a way that other crimes are not. As a result, the consequences of being alleged as a terrorist are farther-reaching than those of being convicted of other crimes.

Given this, it is even more imperative that the criminal procedures currently in place, continue to be used. Disclosure to the accused in cases such as this needs to be a priority so they may properly defend themselves against such allegations. Using special advocates and tampering with disclosure requirements, such as not permitting disclosure to be public but only accessible to those directly involved in the trial, are not preferable. Proceedings involving the prosecution of

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<sup>27</sup> Public Hearing Transcript, December 3, 2007 at pages 11175 to 11318.

terrorists, because of their far-reaching effects and political context, need to be transparent to those involved and to the public.

The WSO further submits that where there are competing interests, the evidentiary needs of a criminal trial should outweigh the needs for security intelligence. In saying this, the WSO does not wish to in any way minimize the potential harm that may flow from the commission of a terrorist act. This submission is premised on the view that the direct impact of a wrongful conviction has dramatic and far-reaching, tangible consequences, from which there is no relief. These consequences are not just for the accused who may be wrongfully convicted, but to our entire system of justice, whose very integrity and credibility depends upon ensuring that the accused has the opportunity to make “full answer and defence”. In direct contrast, failure in security intelligence, while having the *potential* to have dramatic and far-reaching consequences, can often be remedied by reliance on a number of different security intelligence sources. In other words, terrorist threats often involve a myriad of individuals or groups that may be involved in a terrorist plot. This thus allows numerous “entry points” at which security intelligence can successfully avert terrorist threats. While not an optimal situation, there may have to be situations where some sources or information may have to be compromised due to the need to provide full disclosure in criminal trials.

#### **D. Adequacy of Existing Legal Framework to address Terrorist Financing**

The **fourth** issue which the Commissioner is to address in his findings and recommendations is whether Canada's existing legal framework provides adequate constraints on terrorist financing in, from or through Canada, including constraints on the use or misuse of funds from charitable organizations.

The WSO submits that the existing legal framework does provide adequate constraints on terrorist financing; however, the legal framework must be adhered to and followed in order to properly work and fulfill its purpose. The testimony from certain witnesses at the Inquiry has suggested that government officials have used public media reports, rather than investigated evidence, to form the basis of their decision that certain charities have been funding terrorist activity. By doing this, the government officials are acting outside of their authority as provided

for in the legal framework. As a result, certain charities are being wrongly targeted as funding terrorist activity.

October 3, 2007, a panel of three witnesses from the Canada Revenue Agency (CRA) were presented to the Commission on the issue of registration. Despite the fact that the WSO had some information to suggest that the CRA was improperly relying on media reports in denying gurdwaras (Sikh places of worship) charitable status under the Income Tax Act, the WSO was not able to pose any questions that would have aided the Commission in providing recommendations to improve and correct the present regime. Furthermore, although Commission counsel agreed to ask some questions raised by the WSO regarding this inappropriate reliance on media reports to deny gurdwaras charitable status, he did not/was not permitted to, ask questions of the panel that would have confirmed the fact that this charitable status was being denied to one specific group. Had the WSO been able to cross-examine the CRA witnesses, it would have been able to put to the Panel, the following excerpt from a letter sent to a gurdwara, which was denied charitable status:

According to media reports, these disputes represent struggles for control over the treasuries of the temples that are rooted in the political question of providing support for an independent Khalistan state. In our view, the goal of an independent Khalistan is clearly a political purpose and is not an intrinsic part of the tenets and practices of the Sikh religion. As such, management of the affairs of a gurdwara in such a way as to promote this goal, or to provide political or material support for the pursuit of this goal, would not be allowable under the Income Tax Act requirements pertaining to registration as a charity.<sup>28</sup>

The fact that the Commission refused to allow any questions to be posed to the witnesses regarding this issue, means that there is an incomplete and inaccurate record upon which to base any recommendations in this section.

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<sup>28</sup> The WSO tried to have a letter admitted as evidence to the Inquiry that directly showed a Gurdwara being denied charity tax status by the CRA as a result of media reports suggesting that the charity was involved in terrorist financing. There was no evidence other than these media reports to prove, however, that this charity was involved in funding terrorist activity.

Witnesses throughout the Inquiry have testified to the fact that very few charities have been prosecuted for providing funds for terrorist acts.<sup>29</sup> This demonstrates that the existing legal framework for assessing such terrorist financing is functioning in the manner it should be; however, by allowing officials to base their decisions on media reports, charities may be wrongly accused of being involved in terrorist activity. The media often depict ethnic minorities and their respective organizations in a negative manner. If the legal framework is not adhered to, and if officials are allowed to persist in basing their determinations on media reports, it is more likely that ethnic charities will face the brunt of accusations of terrorist financing. Mr. Sandhu was never permitted to testify on these issues; however, his evidence would have challenged many of the misconceptions surrounding the use of funds by charities for terrorist financing. Indeed, this Inquiry heard that in fact, terrorist groups have moved away from using charities to finance activities.<sup>30</sup> Thus, unnecessarily restricting the work of charities, which offer significant contributions to society, based on the fear of misuse of funds which may be more imagined than real, is an unnecessary and inappropriate way to address this problem. Rather, government officials should be encouraged to ensure that the legislative framework currently in place is strictly adhered to.

#### **E. Inadequate Protection of Witnesses**

The **fifth** issue which the Commissioner is to address is whether existing practices or legislation provide adequate protection for witnesses against intimidation in the course of the investigation or prosecution of terrorism cases.

The WSO submits that the existing practices fail in two respects. First, there is inadequate protection for witnesses who challenge the status quo. Instead the current practices tend to succeed in protecting those witnesses who are favourable to the majority (ie. “politically correct”) opinion. Mr. Sandhu would have been able to offer evidence to this point. The labeling of separatists as “terrorists,” meant that many Sikhs who were peacefully advocating for a separate Sikh homeland, and who were also voices of moderation within the Sikh community, were left open to intimidation by those who did not share their separatist views. Witnesses

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<sup>29</sup> See for example the testimony of Mark Potter and Janet DiFrancesco, Public Hearing Transcript, October 2, 2007.

<sup>30</sup> See the testimony of Thomas Quiggin, Public Hearing Transcript, December 7, 2007 at page 12071.

should be protected no matter how unpopular their views and statements may be. The focus of this protection should be, and is intended to be, protection for human life, not simply protection of certain political views.

Second, it was the experience of Mr. Sandhu and other Sikhs, that witnesses who draw attention to the human rights violations committed by a foreign power, are often open to intimidation and threats by that foreign power. For example, Mr. Sarabjit Singh, witness called by Commission counsel, gave evidence that the Indian government was known to routinely intimidate Canadians by persecuting their families in India.<sup>31</sup> Rather than safeguarding Canadians by refusing to share information with the GOI which could put the lives of the Canadians and or their families at risk, Canadian officials were accused of providing intelligence to the Indian government which resulted in the extra-judicial killing of the brother of a Canadian, who was living in India.<sup>32</sup>

Much more work needs to be done to ensure that witnesses are not only protected from internal (ie. Canadian) threats, but that they are protected from foreign threats as well, both to themselves and their families who may be living in other jurisdictions. Given the international political flavor of most terrorist activities, the latter is a very real probability.

#### **F. Differing Treatment of Terrorism Cases**

The **sixth** issue the Commissioner is to address is whether the unique challenges presented by the prosecution of terrorism cases, as revealed by the prosecutions in the Air India matter, are adequately addressed by existing practices or legislation and, if not, the changes in practice or legislation that are required to address these challenges, including whether there is merit in having terrorism cases heard by a panel of three judges.

As previously stated under the third issue, the WSO submits that the existing practices and legislation do adequately address the prosecution of terrorism cases. However, should a recommendation be made by the Commissioner that prosecution of terrorism cases should result in different procedures than prosecution of criminal cases, the WSO submits that it would be preferable to have terrorism cases heard by a panel of three judges. A number of witnesses at the

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<sup>31</sup> See Public Hearing Transcript, September 24, 2007.

<sup>32</sup> *Ibid.*

Inquiry have argued that changes need to be made to the existing system.<sup>33</sup> If this is found by the Commission to be the case, having a panel of three judges would minimize the political influence possessed, or exerted, by any *one* judge and would ensure for a fairer, more transparent proceeding.

#### **G. Addressing Aviation Security Breaches**

The **final issue** the Commissioner is to address in his findings and recommendations is whether further changes in practice or legislation are required to address the specific aviation security breaches associated with the Air India Flight 182 bombing, particularly those relating to the screening of passengers and their baggage.

The WSO submits that no further changes are required; however, a much greater effort must be made to ensure that the legislation and practices in place are followed and used properly. When used correctly, the framework in place is successful in its purpose. Witnesses at the Inquiry testified to the fact that the system in place provides a large degree of comfort and security. However, the failures in the system which have occurred, have related in large part to the failure to follow existing procedures. For example, witnesses at the Inquiry gave evidence that had sniffer dogs been used prior to loading baggage, the Air India disaster may have been averted.<sup>34</sup> The system in place is more than sufficient to address aviation security; however, it must be used, and strictly adhered to, in order to fulfill its purpose.

#### **H. Conclusions**

In conclusion, the existing system addressing terrorism has demonstrated itself to be functional and satisfactory when adhered to and used properly. The current framework has succeeded on numerous occasions in addressing potential terrorist threats. An example of this were the arrests of the 17 people on Terrorism charges in the Toronto area. These individuals were purportedly planning on committing a series of terrorist attacks, consisting of bombings against Canadian

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<sup>33</sup> For example, see Mr. Kent Roach, Transcript of Week of November 19, 2007.

<sup>34</sup> See for example the testimony of Gary Carlson, Public Hearing Transcript, May 15, 2007 at page 2999.

targets in Southern Ontario. These attacks were averted as a result of the cooperation between the RCMP and the Integrated National Security Enforcement Team in Toronto.<sup>35</sup>

Another example was the arrest of Mohammad Momin Khawaja, who was the first man charged under the federal *Anti-terrorism Act*. He was accused of participating in the activities of a terrorist group and facilitating a terrorist activity. The RCMP raided Khawaja's house and his workplace. The raid was part of an investigation involving Canada and Britain in which nine men were arrested. This example highlights the success that can come from intergovernmental sharing of information and cooperation between government departments and agencies.<sup>36</sup>

The WSO respectfully submits that the existing legislative framework to deal with averting criminal activity, itself does not need revision. The focus should not be on simply changing the legislation and practice every time a terrorist attack succeeds. Instead, the concern must focus on whether the legislation and practices in place, were followed and adhered to. These practices are in place for the specific reason of ensuring the safety of innocent people. Constantly changing them is not the answer, especially when they have proven themselves to be effective when used correctly. The most telling fact of the success of the correct use of these systems is that in the 22 years following the Air India disaster, Canada has been free of similar terrorist acts.

#### **PART IV: SUMMARY**

The WSO is deeply saddened by the lack of due process which has been followed at this Inquiry. Given the tragic events and the far-reaching and devastating impact they have had on many Canadians, it was imperative that this Inquiry be open and fair. Sadly, this was not the experience of the WSO, the only Sikh organization participating at this Inquiry. The details of the WSO's concerns have been raised in writing with this Commission by letter dated December 10, 2007. However, nothing has been done to remedy these concerns.

The WSO submits that the following procedural safeguards were not followed:

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<sup>35</sup> CTV.ca News Staff, "RCMP arrests 17, foiling alleged Ont. bomb plot" (June 3, 2006), online at: [http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20060603/toronto\\_arrests\\_060603/20060603/](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20060603/toronto_arrests_060603/20060603/).

<sup>36</sup> CBC News Staff, "In Depth Canadian Security: Mohammad Momin Khawaja" (Oct. 24, 2006), online at: [http://www.cbc.ca/news/background/cdnsecurity/khawaja\\_mohammad.html](http://www.cbc.ca/news/background/cdnsecurity/khawaja_mohammad.html).

1. Failure to permit the WSO to cross examine witnesses;
2. Failure to permit Intervenors the right to make oral closing submissions;
3. Failure to call available and cogent evidence which was directly relevant to the Terms of Reference;
4. Failure to call the evidence of witnesses proposed by the WSO through its applications; and
5. Failure to permit the WSO to call its own evidence to protect the reputational interests of the Sikh community.

The WSO submits that this Commission of Inquiry, in order to have any legitimacy, should have followed a more open and fair process. Instead, witnesses that supported only certain perspectives were permitted to give unchallenged evidence on matters critical to the terms of reference. Further evidence was heard by this Commission on matters which were not directly relevant, but which nevertheless maligned the reputation of the Sikh community. Rather than permitting the Sikh community to provide contrary evidence to correct the public record, the Sikh community was sidelined; the end result has been that the experience of the Sikh community in the years following the aftermath of the Air India disaster, has simply been exacerbated through this Inquiry process.

This Commission of Inquiry is now in the unenviable position of attempting to make recommendations on an incomplete and inaccurate record. Unless these failures are corrected, the WSO respectfully submits that any recommendations flowing from this Inquiry are flawed and meaningless.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Ottawa, Ontario on January 31, 2008.

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