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Lawyers argue weapon definition as Supreme Court considers ceremonial **dagger**

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OTTAWA (CP) - Lawyers wrestled over whether a Sikh's ceremonial **dagger** is a weapon as the Supreme Court of Canada reserved judgment Tuesday in the landmark case of a teen prohibited from wearing one at his Montreal school.

Lawyers challenging a Quebec Court of Appeal decision banning the kirpan from schools said the **dagger**, which is bound, sheathed and strapped to Sikhs, cannot be considered a weapon and has never been used as one.

Those defending the Quebec decision said it can't be considered anything else and warned that overturning the ruling could open the floodgates to weapons in school.

There is no practical distinction between a kirpan and any other edged weapon, contended Francois Aquin, lawyer for Montreal's Marguerite-Bourgeoys school board, which banned Gurbaj Singh from wearing the kirpan in 2001.

Ceremonial or not, it can be removed from its sheath and used to harm others, said Aquin. Whether it has been used that way is beside the point.

"There has never been a school assault in Quebec using a kitchen knife," he said. "That doesn't mean we will allow students to carry kitchen knives in school."

Members of the nine-judge panel peppered lawyers with questions during presentations as Gurbaj Singh, now 16, watched intently along with members of his family and the Sikh community.

It's the first time the issue has come before the country's highest court. Most jurisdictions have permitted the kirpan in schools. Quebec has not.

While there has been no documented case in North America of school violence involving a kirpan, the Quebec court ruled 13 months ago that a ban was a reasonable limit to the Charter's guarantee of freedom of religion.

The decision of Canada's high court justices, who permitted Sikh members of the gallery to wear their kirpans in the expansive, wood-panelled chamber, is expected to lay the matter to rest once and for all.

Arguing on the youth's behalf, lawyer Julius Grey said there is "overwhelming empirical evidence that the kirpan is not a dangerous weapon."

Grey told the court other jurisdictions such as Alberta, Ontario and British Columbia have operated for years without a ban and without incident.

In those jurisdictions, limits have been placed on size, visibility and security to ensure access to the daggers is difficult, he noted.

Interveners in the case said the risks posed by the kirpan, which Sikhs are required to wear as a symbolic defence against evil, are no greater than geometry compasses or baseball bats.

Lawyer Palbinder Shergill of the World Sikh Organization said the kirpan is only considered a kirpan if it has three components - a metal blade, a sheath and a fabric holster worn close to the body.

"Take one out, and it is no longer a kirpan," she said. "A Sikh must have all three in place. This object is not an intrinsically dangerous weapon.

"It is always in its sheath and its holster."

But Aquin suggested that allowing the kirpan could open the floodgates to other weapons in schools, especially where some students feel threatened by the kirpan.

All swords are put in scabbards but that doesn't make them acceptable in school, he said. "It is quite clear the kirpan is an edged weapon."

With that logic, suggested one of the justices, all Sikhs could be construed as wearing concealed weapons and be deemed in violation of the law.

Aquin raised eyebrows among some lawyers in the court when he likened the situation to that of a child from the Middle East who thought it OK to carry a machine-gun to school because his brother did so back home.

If a student appeared with such a weapon in school, it would be banned, he said. Likewise, switchblades and pocket knives are banned in schools, even the penknives Aquin once used to sharpen pencils as a child.

Aquin said while virtually any object in school can be used as a weapon, compasses and baseball bats are not hidden and are used with supervision. Besides, the kirpan is designed as a weapon while the others are not.

Rene Bourassa, representing Quebec's attorney general, said the right to religious practice cannot trump the requirement for safety and security in Quebec schools.

Gurbaj Singh now attends private school where he is allowed to wear the kirpan, which he was given when he was 12. He said the experience has taught him a lot about his religion and about Canada.

"This is very exciting," said the aspiring pilot. "I am here for my rights and I hope that the judiciary will support my rights."

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