

NEWS REPORT

Date: 18 September 2013
Expert: McColgan, Aileen
Title: Defendant in criminal trial not permitted to give evidence in niqab
Country: United Kingdom
Context
Issue at stake: Rule of Law
Ground of discrimination: Religion/ gender
Source: The *Guardian* newspaper and BBC
Field: Other (criminal justice)

Content

On 16 September 2013 an important ruling was given by Judge Peter Murphy in a criminal trial of a defendant, whose identity is unknown, who is to be tried on a charge of witness intimidation. The woman wished to wear a niqab in court, which would have had the effect of leaving only her eyes visible. The Judge initially ruled that she could attend court in the niqab for a preliminary hearing, but then had to rule on whether she could wear the niqab while giving evidence. He ruled that, while the defendant's manifestation of her religious beliefs was entitled to respect, it was trumped in this case by the public interest in the courts conducting criminal proceedings "in accordance with the rule of law, open justice, and the adversarial trial process ... The ability of the jury to see the defendant for the purposes of evaluating her evidence is crucial ... The right to give evidence involves a corresponding duty to submit that evidence to the scrutiny of the jury".

The order regarding the requirement for the defendant to remove the niqab while actually testifying left unaltered the previous order permitting her to cover her face at all other times. Judge Murphy went on to order that, while giving evidence, she will be screened from all but the Judge, lawyers and jury and that no-one would be permitted to sketch her face (cameras are in any event forbidden in courts). The National Secular Society is reported to have announced its intention to launch an official complaint against the decision, insisting that defendants' faces should be visible at all times, while the Muslim Council of Britain stated that women should be allowed to wear the veil if they wish. The human rights organization Liberty, however, welcomed the ruling as an attempt to balance the freedom of conscience of the defendant with the effective administration of justice.

The *Guardian* story is at <http://www.theguardian.com/world/2013/sep/16/muslim-woman-niqab-judge-ruling>. Preliminary rulings of this kind are not formally reported.