



FEMALE DEFENDANTS.....
PERSPECTIVES ON OPEN JUSTICE

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-Recognised in the Legal 500 as a “Fearless and effective advocate” and “Tenacious in court” and “An expert in the field of sex offences” .
Co-author of The Sexual Offences Handbook.
Chaired the televised section of the G20 gender equality forum.
Chair of the Research and Research Training Committee in the
School of Law at Charles Darwin University.
Research focussing on women and the law - data and rights including FGM, Human Trafficking and the rule of law online.

PERSONAL VIEWS

- EXPERIENCE OF DISCRIMINATION
- EXPERIENCE OF GENDER INEQUALITY
- DON'T BELIEVE IN FITTING IN
- FIRM VIEW – NO FACE VEIL IN COURT
- FIRM VIEW – NO RELIGION IN SCHOOLS
- FIRM VIEW – NO VEIL BAN

LIVING TOGETHER

- **FRANCE – A DYSTOPIAN FUTURE – COVER UP, STAY INDOORS, NO CITIZENSHIP ETC**
- **VOICES OF OTHERS....**
 - **A commitment to participate in and contribute to the formation of unity among nations so that eventually an ideal of sisterhood is achieved**
 - **Indiscriminately foisting our own views / systems on society will not work and is self defeating**
- **MOST FRIGHTENING IS THE CASES DECIDED WITHOUT EVIDENCE**

5 ISSUES

FULL FACE VEIL

- **OPEN JUSTICE**
- **COMMUNICATION**
- **DEFENDANT'S RIGHTS**
- **GENDER EQUALITY**
- **COMMON SENSE**

1. OPEN JUSTICE

- **Justice done and seen to be done**
- **Public hearing**
- **Entitled to know**
- **Impartiality**
- **Free from influence**
- **Maintaining confidence in the administration of justice**

2. COMMUNICATION

- Actors in court
 - Judge / Magistrate
 - Court staff
 - Advocates
 - Jury
- Witnesses (including defendants)
- Facilitating that each defendant's case is seen, heard and understood.
- Enabling the court to reach its decision on the best available evidence.
- Special measures – will solve most issues if properly applied
- Extreme cases – evidence / sanction: Wrong to assess religious devotion and wrong to prevent giving evidence.

3. DEFENDANT'S RIGHTS

- Free from influence
- Without prejudice
- Communication with their advocate
- Presentation for the judge and jury
- Verbally and visually giving their best evidence

Beware demeanor research – in court rarely solely a question of lies but a much more complex exercise of proof and reliability

“Seeing what you have to say”

4. GENDER EQUALITY

- **Historic context**
 - **Women as property**
 - **Verse on men**
- **Modern interpretation of verses**
 - **Witness not woman**
 - **Not a question of chastity in court but public duty**
- **External influence**
- **First not second class opportunity**

4. COMMON SENSE

- **Limited circumstances**
 - **When giving evidence**
 - **With special measures**
- **Alternatives**
 - **Judicial direction impossible**
 - **No guidance**
 - **Draw attention**
 - **Dial in?**



- Principles cannot be applied without evidence
- Experience in field of FGM is that in such complex issues the law doesn't work alone— the face veil is another issue which relies on community teaching - here that removing the veil is not an issue in court.
- Do not want women excluded from jury service
- Encourage marginalised women to participate
- Facilitate witness evidence
- Take each case on its facts – recent crown Court decision was an issue of alleged perverting the course of justice



BALANCE

- NEVER REACHING A SITUATION WHERE THE WEARING OF A FULL FACE VEIL BECOMES ROUTINELY ACCEPTABLE
- IMPOSSIBILITY OF RECONCILING FREEDOM OF CHOICE WITH RELIGIOUS IMPOSITION
- JUSTICE
- ACCEPT NO NORMS