

## Module 3: Example 6

### ***Charter* right v. *Charter* right: Niqab case**

Read the following news clipping about a recent competing rights case. This is an example of *Charter* rights (creed and sex) versus another *Charter* right (right to a fair trial).

You can also watch a short Global news video about the case by clicking on this link: [www.globalnews.ca/supreme+court+rules+niqab+may+have+to+be+removed+in+court/6442775890/story.html](http://www.globalnews.ca/supreme+court+rules+niqab+may+have+to+be+removed+in+court/6442775890/story.html)

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In a split decision, the Supreme Court of Canada has ruled that a woman can wear a religious veil across her face while testifying in court – but only in certain circumstances.

The justices were not able to make a definitive ruling, which pits religious freedom against a defendant's right to a fair trial. Instead, the top court produced a rare 4-2-1 split decision.

The case involved a Toronto woman -- identified only as "N.S." -- who accused her cousin and uncle of repeatedly sexually assaulting her over a four-year period when she was a child. She wanted to testify against them in court, but also wanted the right to wear her religious veil while doing so.

N.S. wears a niqab -- a veil that covers her face so that only the eyes can be seen through a slit. She said her Muslim faith dictates that she wear the veil in public and that she wouldn't testify without it.

The two defendants, meanwhile, claimed the Charter of Rights allows them to confront their accuser and observe her facial expressions. They said they needed to see the accused's face so they could assess her demeanour, which they said was key to defending themselves.

Writing for the majority, Chief Justice Beverley McLachlin said the decision on whether to allow the face-covering must be made on a case-by-case basis and that judges would have to consider four questions before deciding whether to order a witness to remove her veil.