

# SHARIA AND DEMOCRACY

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**Parliament of the United Kingdom**

**London, December 1st, 2011**

**French view by François H. BRIARD**



Could you think of a piece of land lost in a large ocean, inhabited by 200.000, being a part of a great European nation, being ruled by the laws of that Republic but a land made of 95% of Sunni Muslims, believers in a Quran dated 1236, reciting Islamic prayers every morning at school and following the principles of the Islamic law in their personal life?

This is not pure fantasy from a French mind or crazy theoretical case; this is reality.

That land does exist; it belongs to the French; it is named “*Mayotte*”, Comoros Islands in the Indian Ocean, and Muslim land since the IXth Century.

In that land we had to face recently quite a strong pressure in favor of Islamic law and Islamic Courts (the Cadis, which existed for long).

How do you think we managed this? By enforcing the Sharia, asserting it as “*unavoidable*” and saying thank you to the Mahomeddians for renovating our old secular Republican views?

No, we strongly rejected the Islamic project and the French Parliament voted laws adapted to that region, to protect women, to prohibit polygamy, to affirm the absolute primacy of Republican laws on local customs, to terminate any Islamic Courts. Everything does work well and we even expelled 20 women wearing full veil, which as you know is prohibited in the French public space.

We did this because we believe that as the reflect of dogmas and divine rules laid down by a religion, **Sharia not compatible with democracy.**

Why not compatible?

You have heard of the reasons given by the ECHR in *Refah Partisi and others v. Turkey*, February 13, 2003, and these reasons are good: necessity of having **one united non fractioned legal system, non-discrimination** between individuals as regards their enjoyment of fundamental rights (whatever the religion is), necessity to preserve **pluralism in a free society**, incompatibility with fundamental

democratic principles related to criminal law or status of women...

All that is correct.

But the French view is more radical: our view on this is first related to the relationship between **State and religion**.

Let's start with religion: the Sharia is related to one religion, the Sharia does reflect the belief of one religion, which is a religion of conquest. It is a fact, not a judgment; everybody does agree on that. Sharia has a spiritual essence, it is the "*way which leads to the source*", it is religious.

Then, the reasoning becomes crystal clear.

Since the very beginning of democracies in human history, and especially since the French Enlightenment, we do know that no individual freedom, no rule of law, no separation of powers, no people sovereignty are possible without **disconnecting**

**the law, as the expression of a general will, of any religious reference, any faith, any spiritual belief:** *Render unto Caesar the things which are Caesar's, and unto God the things that are God's*

Republican laws have to be 100% secular, Republican laws have to be neutral.

The very nature of the laws in a Republic is **secular**: by essence, a democracy has to be secular. It may protect religious freedom, it may recognize religious facts, it

may have relationship with one or several religions, it may fund in some conditions some activities, but never rely on any religion, never relate to any religious belief, law or dogma.

In a Republic –when I say Republic it is in the traditional Greek-Roman vision, the Western vision – power is not given by God, laws do not refer to any religion, the Government has a very special duty to ensure that all citizens, whatever their religion or non-religion is, do access the same rights.

As Cicerone said, the Republic is the “*Res Publica*”, the power of the people, by the people, for the people, no place at all for God in power and laws. *John LOCKE* in the UK, *MACHIAVEL* in Italy, the Founding Fathers in the US, all understood the necessity to remove any religious dimension from the laws of a Republic.

In the same view, my great compatriot the Baron of MONTESQUIEU wrote in the *Spirit of the Laws* (Book 26, Chapter 2): “*One should not enact by divine laws that which should be enacted by human laws, or regulate by human laws that which should be regulated by divine laws. These two sorts of laws differ as to their origin, as to their object, as to their nature*”.

1748, not 2011, everything was said, just everything.

From that point of view, the “*wall of separation*” between churches and State promoted by Thomas Jefferson and enforced by most of the European nations is **an absolute necessity. It has to be a wall, a true wall made of the stones of modern rationality. This does protect us from the tyranny of any religion, from the obscurantism and religious ideologies.**

This is why, beyond pluralism, neutrality of Government and non discrimination, there must be **no place at all** for Sharia in our laws, including family matters, business of finance, no reference, no legal respect.

I thought I had a nightmare when I heard some Archbishop saying that Sharia law in UK is “*unavoidable*” or some Lord Chief Justice asserting that some mediations or legal arbitrations might be ruled by the Sharia...

I tell you this: any weakness, any indulgence, any cowardness toward any religion, especially those which hardly make a difference between temporal power and spiritual power, would be the beginning of **the end**, the end of something which is very precious and fragile, something that humans in Europe and in the US hardly built for centuries, paying often with their blood; this “*something*” has a name: **civilization and freedom.**

Islamic “*Republics*” may proclaim different views: we hear that but this is not our view and this is not the future we wish for our children.

Do not forget President REAGAN words: “*The future does not belong to the fainthearted, it belongs to the brave*” (January 26, 1986).