

A WORLD SAFE FOR DIVERSITY

Religious Liberty and the Rebuilding of the Public Philosophy

By Os Guinness

Of all the countless stories of the incomparable wit and wisdom of Winston Churchill, there is only one I know in which he was bested in the repartee. As the account goes, he was in a London club one day, went up to a rather portly aristocrat, poked him playfully in the midriff and asked, "Is it a boy or is it a girl?"

"My dear chap," came the reply. "If it turns out to be a boy, I'll name him George after the King. And if it turns out to be a girl, I'll name her Mary after the Queen. But if it's just wind, I shall call it Winston!"

I begin with that story because the proposal I put forward for reforging America's public philosophy would unquestionably be considered windy nonsense to some people. I and others, on the other hand, believe it to be urgent, timely, and practical. So I leave it to you and to history to be the judge.

At the dawn of the twenty-first century, we not only look back on the most murderous century in all human history, we look out at the prospect of continued carnage and destruction. Rwanda, Bosnia, Sudan, Sri Lanka, Kosovo, Chechnya, East Timor, Sierra Leone, the Spice Islands—each is a stark reminder of the much-heralded shift from "total war" to "tribal war" and the so-called "reprimitivization" of human conflict around the globe.

Explanations abound for this dark harvest of prejudice, hatred, and violence—ethnocentrism, fundamentalism, chauvinism, racism, terrorism, and so on. But beyond any doubt it represents a humanitarian nightmare, a witches' brew of ancient hatreds in which tragedies such as war crimes, ethnic cleansing, mini-holocaust, failed states, and genocide become recurring headlines on the world's front pages. The Cold War era of ideological conflict has subsided, but far from ushering in a new era of peace, humanity is returning to an equally dangerous era of ethnic, racial, and religious animosity. "Living with our deepest differences" is one of the most urgent challenges of the modern world.

And what of the United States in its supreme moment of world leadership? More diverse than its more homogeneous allies such as Britain and France, yet more united than its more multiethnic allies such as Canada, America has always been the world's supreme model of how to live with deep differences. *E pluribus unum* was not just a motto but a stunning achievement. Addressing unity as well as diversity, looking forward rather than backward, emphasizing beliefs as opposed to belonging, aiming to be transformative rather than preservative, America's "new man" was a remarkable blend of unity and diversity, with both emphases together serving the cause of liberty.

Today, however, the American contrast is neither so clear nor so

confident. From the culture-war controversies of the last thirty years to the more radical expressions of multiculturalism, signs are that—just as elsewhere in the world—diversity and division are more pronounced in contemporary America than unity and harmony. Needless to say, there is no moral or cultural equivalence between America's controversies and the world's worst flash points. But more is at stake than the loss of America's shining example. At a time when living with our deepest differences is one of the world's pressing challenges, any American faltering over this issue goes to the heart of America's deepest principles and proudest traditions.

Some of us, however, believe there is a way forward out of the impasse created by recent controversies—a way that does justice simultaneously to America's first principles; America's past achievements in blending liberty, diversity, and unity; and America's present realities of exploding pluralism that have stretched and broken traditional understandings of how to live with our deepest differences.

This vision of a reformed public philosophy was set out in 1988 in the Williamsburg Charter. The Williamsburg Charter was a bicentennial commemoration of the Religious Liberty clauses of the First Amendment to the Constitution that celebrated a robust view of religious liberty and offered a framework for religious liberty in public life that made it free and fair for people of all faiths and none. Importantly, it was not a legal document but a freely chosen statement of civic agreement, which—if followed—would stop the dangerous drive to make everything a matter of law and litigation. In the years since then, that vision has been developed and applied in a series of Common Ground initiatives led by Dr. Charles Haynes of the Freedom Forum. That vision of rebuilding the common vision for the common good together with these initiatives, making the vision practical in the midst of America's current moral, legal, political, and educational flash points, addresses the crux of the American Assembly's present topic—Uniting America's Religious.

My task here is to set out a series of propositions that provide the framework for both the Williamsburg Charter and the Common Ground initiatives that have flowed from it. Although I was one of the

primary drafters of the Charter, these propositions are my own and do not necessarily speak for the other drafters and signers, or those who participated in subsequent initiatives. But that said, these propositions are offered as a foreign visitor's heartfelt tribute to the extraordinary first principles of the American experiment, and with the fervent wish that the United States in the twenty-first century will recover the brilliant prudence of its founding generation and continue to be a beacon of hope for free peoples everywhere.

1. Three tasks of establishing a free society

Any reading of the speeches and writings of the founding generation would underscore their awareness of the three essential tasks of establishing a free society. Stated simply, these tasks sound almost absurdly obvious. But a moment's thought also reveals that the second task is less understood than the first and the third far less than the first two—with significant consequences for today.

● **Winning Freedom:** The first task is to win freedom, in other words to rise up and throw off the forces of the tyranny opposed. This task, in its minimal sense of overthrowing an *ancien regime*, is clearly the work of revolution, which the Americans accomplished in 1776, the French in 1789, and the Russians in 1917. Almost too self-evident to need stressing, the task of winning freedom—while costly—is also the easiest and quickest of the three tasks.

● **Ordering Freedom:** The second task is to order freedom, in other words to secure the ethical and institutional framework in which freedom may thrive. This task, which the framers spoke of as “tempered liberty” and “ordered freedom,” was supremely the work of the Constitution. And here, significantly, the French and Russians did not follow. In fact, because of their striking failure to ground their freedom philosophically as well as to order their freedom constitutionally, both the French and Russian revolutions spiraled down to demonic disorder, with reigns of terror that replaced one tyranny with another.

● **Sustaining Freedom:** The third task is to sustain freedom, in other words to perpetuate the liberties that have been won and ordered. In the passionate flush of revolution it is easy to overlook the longer-term dimensions of this third task. But to

the credit of the American revolutionaries, they never lost sight of this challenge. From the pre-revolution sermons of John Witherspoon to the Farewell Address of George Washington, sustaining freedom was never far from their minds. Asked what the Constitutional Convention had achieved, Benjamin Franklin replied typically: “A republic, Madame—if you can keep it.”

Later, in the same vein, the twenty-eight-year-old Abraham Lincoln chose as his subject for his address at the Springfield Lyceum: “the perpetuation of our political institutions.” Far harder and longer than either winning or ordering freedom, sustaining freedom is the work of centuries and quite clearly the task that confronts us today.

2. Three classical menaces to sustaining freedom

A defining feature of the framers, and a stunning contrast with most contemporary Americans, was their deep awareness of the past. They were both revolutionary *and* rooted. To create a free society that would remain free, they had to use history in order to defy history. At the heart of what James Madison called this “new and more noble course” was a blunt realism about the reasons why previous republics had risen, prospered, and fallen. In particular, the most brilliant of the framers were well aware of the three menaces to sustaining freedom set out by such classical writers as Polybius and Cicero.

● **External menace:** The first possible “source of decay” (so called by Polybius) was external. Suddenly and for reasons outside its control, a republic may be threatened by another power greater and stronger than its own. Such a threat can be monitored, but it cannot be predicted precisely. Besides, for obvious reasons, this menace will only rarely be America’s principal challenge. Continent-sized, with a two-ocean buffer and astonishing human and natural resources, America is less likely to face this threat than a small city-state such as Athens or a tiny-island-world-power such as Britain.

● **Corruption of customs:** Polybius’ second source of decay was through the corruption of customs. While the success or failure of a republic depends on “the form of its constitution,” the constitution of a society includes not only its laws but its customs, beliefs, and traditions. If these are not guarded during a “high pitch of prosperity and undisputed power,” the resulting “deterioration” will lead not only to a corruption of the customs but to a subversion of the constitution itself.

● **Passing of time:** The third classical menace to sustaining freedom is the passage of time, which Cicero laments as “the lapse of years,” Edward Gibbon as “the injuries of time,” and Lincoln as “the silent artillery of time.” By this process the

vibrant beliefs and ideals of one generation become “the antique manners” of another. In Rome’s case, says Cicero, “we have retained the name of republic when we have long since lost the reality.”

To be sure, the writers of antiquity were so weighed down by this “ordained decay and change” and its “inexorable course of nature” that they were pessimistic about sustaining freedom. The framers, by contrast, were optimistic. But Madison’s “revolution which has no parallels in the annals of human society” was more than the product of eighteenth century optimism. It was based in the conviction that the American experiment embodied a practical answer to the three menaces outlined in the classical warnings.

3. Three assumptions of a constitutional republic

Many contemporary Americans rest complacent about freedom beneath a double conviction: that a strong Constitution is the sole necessary protection of freedom, and that the separation of powers is the sole necessary antidote to the corruption of customs. In short, many citizens have unwittingly moved from the moral, or constitutional, republic of the framers to the

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procedural republic of today. Certainly part of the originality of the framers lay in their refusal to entrust the survival of freedom to the care of virtue alone. But for them, giving no weight to virtue would be as rash as putting too much weight on virtue. The framers' position, commonly overlooked today, is much more balanced, emphasizing both the constitutional separation of powers and the indispensable role of faith and virtue in sustaining freedom.

Their position may be expressed as follows: While the framers knew well that religion could be disastrous for freedom, and that republicanism had earlier and elsewhere commonly been linked with irreligion, they believed that the self-government of the republic rests on the self-government of the citizens, and therefore that, rightly related, faith is indispensable to freedom. Their position, repeated endlessly, leads to a triangle of first principles with three interlocking points.

● **Liberty requires virtue:** Benjamin Franklin's well-known statement, "Only a virtuous people are capable of freedom," speaks for a rich theme in the framers' writings. It also accords with contemporary philosophers, such as Isaiah Berlin, who argue that freedom includes more than negative freedom ("freedom from"), it also includes positive freedom ("freedom for" or "freedom to be"). To this the framers added an untiring warning. If there is no virtue, neither the law nor Constitution can sustain freedom. As John Adams declared, "We have no government armed with powers capable of contending with human passions unbridled by morality and religion. Avarice, ambition, revenge, or gallantry would break the strongest cords of our Constitution as a whale goes through a net." Or as James Madison, the father of the Constitution himself, said: "Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks—no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without virtue in the people, is a chimerical idea."

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● **Virtue requires religion:** Once again Franklin spoke for many of the framers when he wrote, "If men are so wicked as we now see them *with religion* what would they be *without it?*" Such canny, semi-skeptical realism also underscores another point. Unquestionably the framers were not all people of orthodox faith. They represented a wide range of positions on faith, just as they represented a wide range of positions on the relationship of religion and public life. But without exception they believed that religion was essential to virtue. In George Washington's words, "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports."

● **Religion requires freedom:** Those inclined to be suspicious of the first two points usually are so because they view them as a way to bootleg religion back into public life, perhaps even "imposed" in some establishment form. On the contrary, for here the framers were most daring and most original. As Madison argues passionately in his *Memorial and Remonstrance*, the Christian faith does not need establishing and ecclesiastical establishments are always disastrous for religion. Sometimes they erect "a spiritual tyranny on the ruins of Civil authority." Sometimes they have "been seen upholding the thrones of political tyranny." In contrast, he argues, "Religion or the duty which we owe to our Creator and the Manner of discharging it, can be directed only by reason and conviction, not by force or violence." Only a freely chosen, disestablished faith can ground the virtue that guarantees freedom.

4. Three patterns of church-state relations

As the framers were well aware, the United States was the first great republic to be established since the fall of Rome. And nothing in its Constitution as the *novus ordo seclorum* ("new order of the ages") was more distinctive and daring than the first sixteen words of the First Amendment—the Religious Liberty clauses. Yet these two clauses also grow directly out of the

formative experiences of American history. There are three main patterns of European church-state relations. Each came out of an event decisive for its nation and has cast a long shadow over subsequent generations—in America’s case with strikingly beneficial results.

● **1789:** The first pattern is the French one, shaped by its revolution in 1789. The situation then could be described as a corrupt church allied with a corrupt state with the result that the revolution was a volcanic reaction against each. The revolutionaries’ cry says it all: “We must strangle the last king with the guts of the last priest!” Religion, viewed as reactionary, went one way, whereas freedom, viewed as progressive went another. French republicanism was therefore irreligious from the beginning and much of France shows little change today.

● **1688:** The second pattern is the English one, shaped by the Glorious Revolution in 1688. Here again was an established church, the Church of England, but even its harshest Protestant critics acknowledged that it was semi-reformed and allowed considerable room for dissent. There was therefore no volcanic reactions, no militant anti-clericalism in reaction and the Church was allowed to fade away until it became the Gothic West Front of English national life, beautiful but innocuous and irrelevant.

● **1791:** The third pattern is the American one, shaped ever since the Puritan experience in seventeenth century New England but solidified by the First Amendment in 1791. Here there was no state church, so that in effect pluralism and dissent were established. But the result was that faith and freedom, or religious liberty and civil liberty, were closely tied. As Alexis de Tocqueville observed fifty years later, “In France I had always seen the spirit of religion and the spirit of freedom marching in opposite directions. But in America I found that they were intimately united and that they reigned in common over the same country.” Not surprisingly, this brilliant construct was seen as a key part of the American way of sustaining freedom.

5. Three legacies of the American ordering of religion and public life

The framers were hardly modest about their accomplishments in separating church and state.

After the “torrents of blood spilt in the old world,” as Madison put it, they had now found “the true remedy” for ordering religion and public life. As the Williamsburg Charter declares, “Thus, the government acts as a safeguard, but not the source, of freedom for faiths, whereas the churches and synagogues act as a source, but not the safeguard, of faiths for freedom.” In short, religious liberty is far more than liberty for the religious. It is an essential part of American ordered liberty, with important national legacies.

● **Vitality:** Foundational to America’s experience is the fact that the separation of church and state has never meant the separation of religion from public life but the fostering of a remarkable national vitality. Not so much *despite* disestablishment as *because* of it, the influence of diverse faiths on American society has become all the stronger for being indirect and unofficial. “Free exercise” in religion therefore precedes and parallels “free enterprise” in commerce. One is the child of disestablishment, the other of demonopolization. Free enterprise makes it possible to compete freely in the market place but to do so in a “fair game” and on a “level playing field.” Free exercise includes the right of a person or a group to compete freely in the world of ideas and to persuade others by the strength of arguments and the quality of lives.

● **Harmony:** The practical genius of the First Amendment lies in its ability to foster two things that elsewhere in the world have all too often contradicted each other—strong religious convictions and strong political civility. Parts of the world, for example Western Europe, are currently characterized by strong political civility over religious differences. But on closer inspection the civility is less impressive because the religious differences are weak to non-existent in societies that are increasingly secular. In other parts of the world, for example the Middle East, religious convictions are so strong that not only civility but liberty and life itself are often overwhelmed. In contrast with both, most of American history (with some egregious but rare exceptions) is characterized by a blend of strong religious convictions with strong political civility that has fostered a remarkable national harmony.

● **Legitimacy:** With seventy-five percent of

Americans in 1776 coming out of a Reformation background, there is no question that, historically speaking, rights were viewed as a gift of God, not the government. As Madison wrote, “a right toward men is a duty toward the Creator,” a duty that is “precedent both in order of time and degree of obligation, to the claims of Civil Society.” This grounding gave to rights both their legitimacy and their decisive authority. As Jefferson asked, “Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God?” John Adams, for one, worried about some future day when freedom would be undermined if national leaders came to believe that humans were “but fireflies” and the cosmos was “without a father”—a position close to much modern thought—but for most Americans in most generations the legitimacy of rights have been justified decisively by their freely chosen faiths.

6. Three changes altering the traditional understanding of the First Amendment

Change is at the heart of modern life and open-endedness is the essence of what Washington called “the great experiment.” It is therefore natural that the history of America is the story of the negotiating ongoing social changes within the framework of the framers’ ordering of American society. This is certainly the case with the last generation and the constant controversies over religion and public life. Three changes in particular have called into question the traditional ordering of religion and public life.

● **Exploding pluralism:** Pluralism and religious liberty have been linked inextricably since the colonial days. On the one hand, religious liberty has made pluralism more likely. On the other hand, pluralism has made religious liberty more necessary. Thus the American story has always been one of steadily expanding pluralism—the Middle colonies in the eighteenth century were among the world’s most religiously diverse regions. But for all the steady expansion since then, nothing rivals the explosion of pluralism in the last forty years that now includes members of almost all the world’s religions and a marked increase of secularists—significant because so strong among the educated

elites. With some school districts now serving nearly a hundred different religious communities, “Whose prayer?” is a vital dimension of the controversies over school prayer.

● **Expanding statism:** “Church and state” have always been confusing terms in America because there is no single church, no single state, nor any clear distinction between the two. But even the better terms “religion and government” mask the extraordinary changes in their relationship over two hundred years: What has happened has been described as a complete “exchange of roles.” In 1791 religion was powerful and central in most people’s lives whereas government was relatively distant and weak. Today the situation is reversed. Government is central and strong, religion relatively weak and marginal. Not surprisingly, the reverberations have touched religious liberty. The Williamsburg Charter states: “Less dramatic but also lethal to freedom and the chief menace to religious liberty today is the expanding power of government control over personal behavior and the institutions of society, when the government acts not so much in deliberate hostility to, but in reckless disregard of, communal belief and personal conscience.”

● **Emergent separationism:** Beyond all question, disestablishment and the separation of church and state are at the heart of both the purpose and achievement of the First Amendment. On the one hand, they remove what in other lands has been a central source of hostility to religion—its established and often oppressive status. On the other hand, they disallow any religion from depending on state power, and so throws each one back on its own resources—thus fostering a climate of entrepreneurial freedom and competitiveness. But this traditional view of separation is a far cry from the “strict, total, absolute separationism” that has become prominent since 1947. Slowly, strict separationism has grown from a theory to a doctrine to an orthodoxy to a ruling myth. In the process the relationship between the two Religious Liberty clauses has changed. “No establishment” has become an end, not a means, and a new vision of church-state separation has become dominant—in which public life is inviolately secular and religious life is inviolately private.

7. Three different visions of the public square

The recent culture warring over religion has been analyzed in various ways—progressives vs. conservatives, secularists vs. fundamentalists, strict separationists vs. accommodationists, religious “betrayers” (privatizing faith) vs. religious “bitter-enders” (dogmatizing faith), and so on. But behind the sound and fury of all the charges and counter-charges, there are three competing visions of the public square. In light of the framers’ vision for sustaining freedom, which one prevails will be of enormous importance.

● **A sacred public square:** Despite the disestablishment at the heart of the First Amendment, the United States long had a unofficial, semi-established religion in a preferential place in public life—Protestantism. As the nineteenth century experience makes clear, Protestants may have been oblivious to this situation, but Jews and Roman Catholics were not.

One response to recent controversies has therefore been the attempt to re-impose an earlier state of affairs on present day realities and maintain a privileged position for the Christian faith in American public life. But in light of the recent explosion of pluralism, this solution is neither just nor workable. There are simply too many “others” for any faith to be given any preferential position in public life.

● **A naked public square:** The second competing vision is what has been described as a “naked public square” or “religion-free zone” in which there is an antiseptic cleansing of all religion from public life. The sources of this vision are diverse and not all secularist. To be sure, some citizens support this position because of their secularist philosophies. But others are religious believers who are strict separationists in constitutional interpretation, and many are simply people who recoil from seeing the endless conflicts. “A plague on both your houses” is the attitude, so the naked public square is the outcome reached by a different route. But however

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the naked public square is reached, the result is even less just and workable than the sacred public square. Not only does this vision favor a minority worldview even less representative of America than Protestantism, it represents a decisive repudiation of the historic American relationship of faiths and freedom, and therefore a lethal blow to sustaining freedom.

● **A civil public square:** The vision of the “civil public square” is that citizens of all faiths and none are free to enter and engage public life within the framework of Constitutional first principles. As the Williamsburg Charter states, “The result is neither a naked public square where all religion is excluded, nor a sacred public square with any religion established or semi-established. The result, rather, is a civil public square in which citizens of all religious faiths, or none, engage one another in the continuing democratic discourse.” This vision provides a constructive way forward

because it goes back to the notion of covenantal, or federal, liberty that lies behind the Constitution itself. The present state of religious diversity does not permit agreement at the level of the theological *origins* of belief (where differences are often ultimate and irreducible). But an important, though limited, agreement is still possible at the level of the *outworking* of beliefs—if negotiated within a freely

chosen compact over the “Three Rs” of religious liberty: rights, responsibilities, and respect.

8. Three common misunderstandings of the public philosophy

There are many obstacles in the way of reforging a civil public square—not least that many of the culture-warrior activists have a vested interest in continuing the culture wars. But beneath an understandable caution, if not skepticism, are three common misunderstandings of what is in mind.

● **Civil religion:** First used by Jean-Jacques Rousseau as part of his theory of social contract, “civil religion” has come to be used of a nation’s

faith in itself through which it expresses its self-awareness, cements its solidarity, celebrates its unity, and actually worships itself. It is therefore quite incongruous with Judaism and the Christian faith, both of which severely condemn idolatry, nationalistic or otherwise. In spite of this fact, however, it is clear that “Protestant-Catholic-Jew” has been at the heart of the rise of an American civil religion in the twentieth century. The reformed public philosophy must therefore be distinguished from civil religion. Civil religion is essentially religious, and therefore discriminatory to those who are not religious as well as idolatrous to many who are. The reformed public philosophy is not in itself religious. It provides a framework for both religious and non-religious citizens to enter public life, but the framework itself is the expression of constitutional first principles, not religious beliefs.

● **Lowest-common-denominator**

ecumenism: A second misunderstanding is that the public philosophy is achieved through dialogue in search of the common core of diverse religious beliefs. While strongly espoused in some circles, this approach has insuperable problems. For one thing, however ecumenically inclusive, it still excludes the non-religious who have no interest in what unites religious believers. For another, it holds out the promise of a core unity that is a mirage. For all the talk of a “common core” to world religions, no one has ever been able to agree what the common core is. Equally importantly, globalization and the dramatic awareness of cultural diversity are underscoring an important lesson: Differences make a difference. Respect for human life and human rights, for instance, are quite simply not a matter of universal agreement. The “universal rights” of the United Nations’ Charter are anything but. Many of the world’s religions and ideologies have no basis for or interest in such rights. It is important to know what we prize as inalienable—and why.

● **Indifferentism:** The third common misunderstanding is that the public philosophy requires such a neutering of religious beliefs that the resulting civility is another word for inoffensiveness and indifference. To be sure, some forms of “tolerance” have led to indifference. Infinitely preferable to intolerance, tolerance can become

so vacuous that it topples over into intolerance—when it disallows the particularities of beliefs. “Respect” is a stronger notion, but it too needs rescuing from confusion. There is a difference, for example, between the notion of “the right to believe anything” and the notion that “anything anyone believes is right.” The former is freedom of conscience, the latter nonsense. Put differently, there are no constitutional limits to what a person may believe, but there are definite philosophical, moral, and sociological limits.

Certain things follow from this tough view of the civil public square. Religion in the civil public square is not a religion of civility. Nor is civility to be equated with niceness. In democratic debates there are always winners and losers. Disagreement itself is an achievement. Civility is neither for faint hearts nor weak faiths. It is a framework within which important differences can be debated and decided robustly and persuasively, but not coercively.

Can we rebuild such a public philosophy today? Is such a common vision of the common good the best way to “unite America’s religions” (and secular worldviews)? Or is the search for a just and commonly acceptable solution as futile as squaring the circle or searching for esperanto? Clearly the way forward requires not only a sound vision but courageous leadership and the patient, costly application of the vision to the festering sore spots of our current controversies. Yet neither leadership nor courage of that kind are in plentiful supply in America today.

But if these eight considerations point in the right direction, American leaders cannot continue to treat religion in America as a non-issue or a nuisance factor. The religious issue is much more than a question of the rights of religious believers in modern society. Culture-warring over religion means that an essential part of American heritage is being called into question and with it the vitality and viability of the American republic itself. Both religion and religious liberty are fundamental to the Great Experiment itself as the framers devised it, and therefore to the future of liberty itself. Alexis de Tocqueville, a far greater foreign visitor to America, said of the two great revolutions of his time: “In a rebellion, as in a novel, the most difficult part to invent is the end.”