

# Manners, Social Behavior and Freedom of Speech

## From Henry James to the European Convention on Human Rights<sup>1</sup>

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Freedom of speech is often viewed as one of the most important human rights. Yet, in the European context, it is not seen as an absolute right. Europeans tend to think that though it is a fundamental right, it is not an unlimited one (see Kock 2009). The belief that freedom of speech is relative and must be balanced against other rights – that there are things you should not be able to say publicly about other people – is reflected in Article 10 of the European Convention on Human Rights (ECHR) which first mentions “the right to freedom of expression,” but then immediately narrows this right:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclo-

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<sup>1</sup> in Andersen, et. al. (2011) .

sure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Circumstances matter, that is. Freedom of speech is not a right that automatically trumps all other rights. While protecting, on the one hand, the right of each individual to say what (s)he wants, the European Convention and the constitutions of some European countries also protect, on the other, “the right of each person to be spared certain utterances by others. This is a reflection of public care, and the protection is dependent on the utterance in question – that is, certain utterances can be illegal/punishable. In such cases, the focus is on the individual as a (potential) victim, on his/her feelings, that is” (Koch 2009, 324).<sup>2</sup>

What is at stake, argues Danish legal scholar Henning Koch, is a European wish (and will) to honor the public or social peace – cf. Art. 10, ECHR, which uses the words “the prevention of disorder or crime” (Koch 2009, 326). Freedom of speech for each individual person is important, but not if it threatens the public safety and/or is used at the cost of other people. This is especially important in our increasingly global societies. The less homogenous we become, the more reason there is to guard against hateful remarks which may cause public sentiment to run high against – and may in the end even result in the persecution of – a particular person or groups of people (Koch 2009, 327).

It was this necessity to guard against hateful remarks that also preoccupied the American writer Henry James (1843-1916). Freedom of speech may not be the first thing that comes to mind when one thinks of James, but what I hope to show in the following, by taking a closer look at his essays on gender and the American social scene, is that he believed in the power of language, civility and manners as an antidote to violence.<sup>3</sup> In much the same way as Carol Gilligan later would, James grappled with the possibility of sub-

2 This and the following quotations from Henning Koch are my own translations from the Danish.

3 It was in *The American Scene* (1907) that James most explicitly documented his experiences with a multi-ethnic America. Apart from a couple of references at the end of my article, I have decided not to talk much about *The American Scene* in this article, but instead to focus on the three essays on the manners and speech of American women as these have not been as extensively written about as James' 1907 travelogue.

stituting an ethic of care for the ethic of aggressiveness and competitiveness that reigned supreme in the U.S. of the early 1900s.<sup>4</sup>

Coming back for a visit after having spent many years in Europe, James was struck with the changes that had taken place. The U.S. he had left had been an uneventful, provincial place. The U.S. of the early 1900s that he would write about in *The American Scene* was teeming with life, and he was not quite sure what to make of this multicultural, competitive and capitalistic place. When he described his meeting with immigrants in New York or when he lectured about the speech and manners of American women, he was concerned about the future of the American democracy. A pluralistic U.S. could only become a decent place to live in for everybody – regardless of class, race and gender – if or when people learned how to relate to one another in a civilized manner. Room for difference had to be created – but not necessarily by means of a noisy and self-assertive ‘pursuit of happiness.’

James did not specifically address legislation or judiciary issues. Speech and manners were for him a civil and interpersonal matter more than a matter of regulating freedom of speech. Even so, he voiced a concern with social behavior - with how people relate to each other socially - that is similar to the European position on freedom of speech. Taking James as my main (aesthetic) example, I do hope to offer a different angle on and thereby add to our understanding of the important link between freedom of speech and social behavior.

## Henry James and the American Social Scene

Of the degree in which a society is civilized the vocal form, the vocal tone, the personal, social accent and sound of its intercourse, have always been held to give a direct reflection. That sound, that vocal form, the touchstone of manners, is the note, the representative note – representative of its having... achieved civilization.

This is Henry James addressing the graduating class at Bryn Mawr College in June 1905 – at much the same time, that is, that he was

<sup>4</sup> I am referring here primarily to Carol Gilligan’s by now classical study *In a Different Voice: Psychological Theory and Women’s Development* from 1982.

writing *The American Scene*. “Judged in this light,” he drily went on, “it must frankly be said, our civilization remains strikingly unachieved...” (James, “The Question of Our Speech,” in Walker 1999, 44-45).

We do not know what effect this talk had on its audience, but my guess would be that the young women listening to James may at times have found it somewhat hard to follow and understand him. This is probably the reason why he seems at times to have stopped short and elaborated in a (fairly) pedagogical way on his main point. “I am asking you to take it from me, as the very moral of these remarks,” he said mid-way through his talk, for example, “that the way we say a thing, or fail to say it, fail to learn to say it, has an importance in life that it is impossible to overstate – a far-reaching importance, as the very hinge of the relation of man to man.” And a little further on, James prepared his audience for another important point that he definitely did not want them to miss: “... it is *manners themselves*, or something like a sketchy approach to a dim gregarious conception of them, that we shall... begin to work round to the notion of” (James, “The Question of Our Speech,” in Walker 1999, 47, 52).

To this particular audience James did not spell out in so many words exactly how he saw the relationship between speech and manners. For a further exploration of the topic, these young women would have to wait for his two long essays, “The Speech of American Women” and “The Manners of American Women,” that were serialized in *Harper’s Bazar* from November 1906 until February 1907. “The interest of tone is the interest of manners,” he wrote in the former, “and the interest of manners is the interest of morals, and the interest of morals is the interest of civilization” (James, “The Speech of American Women,” in Walker, 1999, p. 78). James pretended to be deep in discussion with a young woman on the importance of speech here, and when she was puzzled about the dependence of speech on the number of syllables, James answered that “the vast majority of our occasions of intercourse... depend, for diminishing the friction of life, and for keeping up the sense of life instead of letting it drop, on the quality of our speech; which depends again on the quality of our sounds; which depends in its turn on the integrity of our syllables...” (James, “The Speech of American Women,” in Walker 1999, 76, 77).

“Diminishing the friction of life” – this is what it was all about for James: how the new multicultural U.S. could learn successfully to diminish the friction of life which was bound to be the result of the major wave of immigration around the turn of the century. People from all over the world were thrown together and if they were not encouraged to speak and deal with each other in a considerate manner – with awareness of the concerns of others – chaos and disorder would erupt. “Again and again,” James wrote in “The Manners of American Women,” “it had been written clear that the habits of address of one set of persons largely determines and shapes the habits of address of another; and on the American scene nothing could well be more striking than the intensification of this effect by the fact that there immeasurably more than elsewhere sets of persons are intermixed and confounded” (James, “The Manners of American Women,” in Walker 1999, 87).

In the America he had left many years before, it had been the women who had cultivated the forms of civil intercourse and had made sure that their children would be raised with a concern for others. It would typically be aunts and mothers, James remembered, who would “utter... for the benefit of their juniors their disapproval, for instance, of the unchallenged practice, by the visitor or the chance acquaintance, of a free and familiar egotism, of that sign of the want of breeding that consisted in an immediate and continuous descant of the speaker’s own affairs and concerns, without reference or deference to those of others...” (James, “The Manners of American Women,” in Walker 1999, 90). When it came to the rules of social intercourse, the men did not have much influence – lost as they were in their own world of public affairs or business. James observed this was till the case in the U.S. of the early 1900s. The men were interested mainly in their own affairs – and indeed, with business and its perceived importance looming ever larger, American businessmen had neither the time nor the inclination to be interested in social manners and speech.

Even more so than when James was young, men had abdicated all responsibility for the social sphere to the women. And this might not have been so bad if it had not been for the fact that the American women themselves no longer seemed willing to take it upon themselves to educate others about civilized manners. What

seemed to have happened during James' long absence from his native country was that emancipation had hit. Young women had by now become just as rude and as inconsiderate of the needs of others as the men.

The consequence? Well, wrote, James, "it is in the manners of the women that the social record writes itself, if not largest, then at least finest; since by an ineradicable instinct, it is of them we expect most," and since women could no longer be bothered with something as old-fashioned as manners, the nation at large no longer seemed to have any approach to manners. "What was plainer than that, as civility begets civility and appeal begets response, so rudeness communicates rudeness and indifference to every grace makes everything *but* indifference impossible?" (James, "The Manners of American Women," in Walker 1999, 88, 95)

Having travelled extensively in his native country, James had come to the conclusion that there was no longer any social air in which "the *explicit* of civility" could flourish, and "the great truth stood out that it was an order in which, among a hundred things that had never been formulated, the idea of manners as the law of social life was the one that most recorded this omission." The greatest loss of all was the loss of "the great feminine collectivity asserting itself as against all interference and so quite effectually balancing against any discipline of friction within the herd" (James, "The Manners of American Women," in Walker 1999, 92-93, 109).

We can choose to be insulted about the way in which James wrote about women – and various critics have over the years been insulted – but we can also choose to see the points he makes as leading to an analysis of complex American social and gender relations. What James was getting at was that a democratic public life requires responsible people who understand the importance of "balancing against any discipline of friction within the herd." Highly conscious of the fact that he was addressing an all-female audience, James was in fact delivering what amounted to a call to arms: it would be up to these young women to change matters for the better – nobody else could do so.

When addressing the lack of cultural exchange between men and women in the U.S., James never displayed any of the ambiguity with which he addressed certain other issues, political, social or cul-

tural. While observing immigrants in New York enjoying a kind of freedom they had never known before and recognizing freedom from oppression as an inevitable and desirable result of American democracy, he did not find all of democracy's consequences positive. But he knew exactly what to think about the failure of cultural exchange between men and women. This failure was a catastrophe, and James wondered throughout his essays what role it would play in the shaping of American society.

By never letting his readers forget this failure, James tried to teach us the importance of manners and speech as tools in the service of defusing violently tense political and social situations. As he saw it, communicative and social skills could lead the way toward a stable, multicultural democracy and provide the necessary cultural glue at a time when immigrants of various ethnic and social origins – and women – were entering the American body politic to assert new and different political claims. Gert Buelens once very perceptively put it in this way:

James' reflections on the American scene (and his work in general) may well suggest that democracy cannot dispense with manners. It is manners... that stand between us and the more "obvious," vulgarly literal and violent ways of possessing the scene. Manners, in the sense of the roles we play in different situations, moreover, resist any belief in a fully self-possessed ego and imply instead an alertness "to the agitation of otherness, of the alien" ... (Buelens 2002, 45).

### **Concluding Remarks**

This takes us back to the issue of freedom of speech and its importance for democracy. The European view of freedom of speech as a relative right – relative in relation to social peace – must be seen against the background of especially the Second World War and the Holocaust. Henry James died during the First World War and was thus spared the news of all the terrible events of the next World War. In his case, it was the encounter with all the new immigrants, who had arrived on the east coast of the U.S. around the turn of the century in search of a better life, which made him reflect upon the importance of manners, social behavior and speech. In the streets of

New York, he and his fellow Americans could meet people from all over the world, and this made James ponder what he called "the great 'ethnic' question": "What meaning, in the presence of such impressions, can continue to attach to such a term as the 'American' character? – what type, as the result of such a prodigious amalgam, such a hotch-potch of racial ingredients, is to be conceived as shaping itself?" (James 1968, 120-21)

As James saw and experienced it, all these immigrants were integrating reasonably well, were creating for themselves liveable presents. "The case was, unmistakably, universally, of the common, the very common man, the very common woman and the very common child; but all enjoying what I have called their promotion, their rise in the social scale" (James 1968, 179). If not always in cultural terms, that is, the U.S. seemed to be "working" in political and social terms. It was indeed possible, James thought, that polyglot, multicultural America was what was in store for the rest of the world. He was not always sure where all this would lead, but he knew that he was witnessing something new and different:

The accent of the very ultimate future, in the States, may be destined to become the most beautiful on the globe and the very music of humanity (here the "ethnic" synthesis shrouds itself thicker than ever); but whatever we shall know it for, certainly, we shall not know it for English – in any sense for which there is an existing literary measure (James 1968, 139).

James has often been accused of being an aloof aesthete. There are certainly passages in his essays on politics and the American social scene that are awkward, even downright embarrassing, to read today. However, using these passages to dismiss him altogether as an elitist snob misses the point. The importance that he attached to "speech" and "manners" did not only have to do with a (bourgeois) concern for teaching good behavior. As James saw it, a first show of respect for other people and their different backgrounds and outlooks on life is to speak to them in a polite way. It is important – especially in a multi-ethnic context – to pay close attention to how people relate with and speak to each other, and some variations or kinds of speech are detrimental to the development of modern



democracies. Speech conveys perceptions and feelings that may eventually become issues of manners, morals, and eventually of civilization. Respectful speech, in other words, is a first step toward honoring the social peace – that same social peace to which Article 10 of the ECHR would later relate.

James is not the only great author to have been interested in how we behave toward each other. World literature is full of discussions and philosophical analyses of human behavior – of manners and speech. This may be one of the best reasons for lawyers and legal scholars to take interest in law and literature.

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