

Non Violent Opposition to a Violence Ridden Status Quo and Responsiveness to the Child

© Ya'ir Ronen

Abstract presented at the 2009 Workshop on Humiliation and Violent Conflict, Columbia University, New York, December 10-11, 2009

The legal system is bound to cause inevitable suffering to the individual, as has been clarified by Cover in his classic work, 'Violence and the Word'.

It is comfortable and therefore tempting to attribute to Robert Cover more than he has written, to convert the descriptive into the prescriptive, the deterministic or the predetermined and to see the extent of widespread alienation between the objects of the law and its creators and enforcers as a reality which should not or cannot be changed.

A child who requires the protection of the state often falls victim due to his relative weakness to exploitation. It is therefore important that the protective power of a parent, even one who has failed as a parent or who has abused his power, will not be replaced in the child's life with the power of the state's agents who are not responsive to his suffering. Even if the latter as individuals are subjectively committed to his well-being, if the child does not experience attentiveness based on respect to his experience of suffering – despite procedures 'to defend him,' laws intended 'for him,' and a policy plans for 'child protection,' and sometimes specifically because of these – he could internalize the message that 'might makes right' in a society which considers itself caring, and he could 'privatize' what he experiences as state violence, and thus, despite well meaning efforts, he may grow up to be an individual saturated with rage and violence who rejects ethical responsibility towards the other and is alienated to his suffering.

But across-the-board reservations about the 'brute destructiveness' or 'violence' of the institutional systems is also too simple a solution. Levinas could comment that such reservations belong to a class of luxuries we cannot afford.

Such reservations could rob the child of the state's protection, even if this protection is usually the lesser of two evils and involves suffering for the child. As Goldstein, Solnit, and Freud explained more than a generation ago, at times it is impossible to do more than 'the least detrimental alternative,' a term coined by these authors: any alternative is detrimental to a degree. Every intervention by the state involves a price, but there are situations (itemized in their writings) in which the alternative, inaction, is clearly worse than action.

Levinas identifies two extreme personal positions in relation to the State, first, the 'justifying position' – which claims that the price of intervention is a necessary evil which cannot be changed – and second, the position which is based on an all-embracing suspicion of state actions aimed at child protection, which holds that state violence is always destructive, and is aimed at preserving the status quo.

Following Levinas , I propose a third stance, one which acknowledges the dangers inherent in state intervention, but also the important challenge of being ready to bridle the power of the state for the good of the child. Levinas might have termed this position a Jewish revolutionary stance since it is opposed to using violence to destroy the existing order but it also does not attribute holiness or any intrinsic value to the status quo, and it never ceases to challenge it in non-violent ways.