

Discrimination: The Dark Side of the Law

Dr. Avi Berman

In: Smadar Ashuach and Avi Berman (eds.) (2022): Sibling Relations and the Horizontal Axis in Theory and Practice. Contemporary Group Analysis, Psychoanalysis, and Organization Consultancy. 181-190

<https://orcid.org/0000-0003-3123-1744>

It seems to me that law of the mother, which deals with a mother's protection of her children, should deal with discrimination. This chapter is devoted to an exploration of the phenomenon of parental discrimination in terms of the law of the mother and the implications derived therefrom for psychotherapy.

When I began researching what was written on the subject of discrimination, I was surprised to find that the vast majority does not address parent-child relationships. Hundreds of articles deal with discrimination in the broad social sphere, while only few deal with parental discrimination. Discrimination is commonly investigated in areas such as education, racism, gender, transgender, homosexuality, fiscal and economic opportunities, immigration and so on.

The reality of social discrimination is clear. It is addressed by laws that are designed to prevent it. These laws seem to correspond with the law of the mother in the sense of preventing one privileged group from harming another. For example: Title VII of the Civil Rights Act, as amended, protects employees and job applicants from employment discrimination based on race, color, religion, sex and national origin.

There is no doubt that dealing with discrimination in the social sphere is of great importance. However, the dearth of studies exploring discrimination in the family and the child-parent relationship suggest that there is an unspoken or even denied theme. Is it possible that most of us address discrimination in society and overlook discrimination within our families, towards us as children, to our parents and towards our children in our blind spots as parents?

Another surprise awaits us when we examine the subject of discrimination in ethology. It turns out that in the animal world known to us (including man as an animal) discrimination is extremely common, genetically dictated, and sometimes leads to siblicide. Moreover, this discrimination seems to be in line with Darwin's principle of the survival of the fittest (Sullo way, 2007). Here are two examples:

“Among African black eagles, siblicidal competition is obligate, occurring in nearly every instance. Within a few days the older of the black eagle chicks picks the younger to death [...] Parents do not intervene in these lethal contests, as it is not in their biological interest to do so” (Mock & parker, 1977; Mock, 2004).

“Earlier born piglets fiercely and successfully defend access to their mother’s most milk-richest teats while later born piglets are half as likely to survive past the third week” (Sullo way, 2007, p.298)

Even in human societies, discrimination can be extremely offensive. It turns out that by 1800, children who had not yet demonstrated their ability to survive childhood illnesses received limited treatment, to the point of expulsion and abandonment, while their older siblings were favorized for more attentive treatment. In pre-modern times to the present-day, cases of infanticide are reported, mainly in traditional societies (Boone, 1986; Volland, 1990).

In her book, Mitchell mentions an anthropological testimony given by Cicely Williams regarding children and mothers on the African Gold Coast. In many families, particularly poor ones, the mother lets go of her child when a new baby is born. She is completely invested in the new baby and in caring for it with complete devotion and love. The baby enjoys an ideal life until the next sibling is born. The child that is let go sometimes undergoes a sudden and

dangerous weaning, both physically and psychologically. These children develop a typical disease due to the lack of protein (pp. 199-200). The children who are let go grow up to be enraged and bitter.

Equal treatment of children seems to depend on the personal capacity of the mother (and parents) and her economical and mental condition. As these decrease it is more likely that parents' favoritism goes for the stronger, more comfortable and more obedient child. In 39 non-Western societies, it was found that the first-born child is more protected, more nurtured and sometimes given privileges in inheritance, as well as powers over his younger siblings. They also bear the family name, probably because this has prevented over-allocation of family resources, to the point of losing them (Sulloway, 2007). In addition, the studies provide us with a reminder that discrimination is always linked to favoritism. Beside every discriminated child there is another who is favored, and vice versa: any favoring of one child implies that another is being discriminated against (sometimes more than one).

Investment in a family's children appears to vary according to birth order. The first and last children get more, represented by a U-shaped curve. Lindert (1977) analyzed the hours of child-care received by children, from birth to 18 years. He found that middleborn children were constantly at a disadvantage, receiving 10% less in cumulative childcare relative to firstborn or lastborn siblings.

It seems that ideas of sibling equality and equity of parental investment were gradually adopted over the last hundred years, due to improvements in living conditions. Equal inheritance distribution is also typical of Western societies, which are more capable of ensuring abundance and security.

Siblings are markedly different from each other even though they share common genes and grow up with the same parents and the same family. One conclusion from this is that children elicit different responses from their parents. As a result, different relationships are created between the parents and each child (Sulloway, 2007, pp. 300).

Another possible explanation for this is that the extra-familial environment, such as the peer group, is more influential than the family. The experience of the extra-familial environment can indeed differ vastly from child to child (Harris, 1998 mentions this in one sentence. This book deals with sibling relationships and the horizontal axis devotes much more to this).

And what is the siblings' point of view on the issue of discrimination?

Sibling relations are perceived as bearing qualities of rivalry and competition on one hand and resources and mutualism on the other. A questionnaire study of over 600 male and female high school students (intact families and with at least one sibling) explored the phenomenon of parental favoritism. About half the respondents perceived the existence of favoritism on the part of one or both of their parents. Girls more often than boys were perceptive of such favoritism. The youngest child in the family was more often the favorite of the mother and the middle child was least often a parental favorite. Parental favoritism was associated with perceived parental incompatibility. Teenagers who perceived a sibling as being favored evidenced increased angry and depressive feelings as well as identity confusion (Pollett & Hoben, 2011).

It is clear that children are harmed by discrimination. Aside from reactions of anger and depression, discriminated children seem to have lower self-esteem, feel distanced from their parents and find it difficult to see them as important figures in their lives (Sulloway, 2007).

It seems that the attitude towards discrimination, in human society as well, is a dual one. On the one hand there is a degree of concern towards the pain and harm that is caused by discrimination, and on the other hand, favoritism and discrimination are performed without hesitation, out of economic and social needs or out of personal emotional tendencies.

It seems to me that the law of the mother, which deals with the protection of children by their mother, should deal with discrimination. This chapter is devoted to an exploration of the phenomenon of parental discrimination in terms of the law of the mother and the implications derived therein for psychotherapy.

Discrimination and the law of the mother

“And in process of time it came to pass, that Cain brought of the fruit of the ground an offering unto the Lord. And Abel, he also brought of the firstlings of his flock and of the fat thereof. And the Lord had respect unto Abel and to his offering: But unto Cain and to his offering he had not respect. And Cain was very wroth, and his countenance fell” (Genesis 4: 3-5).

Cain's murder of his brother Abel is a biblical reference to the horrors of siblings' murderousness, and marks it as a sin. The biblical story does not, however, address God's discrimination against Cain, which preceded the murder. The story does not explain it. However, we can understand that discrimination can evoke murderous emotions.

At first glance it seems that the law of the mother is intended to regulate such murderous wishes. The law of the mother, according to Juliet Mitchell, includes two prohibitions: the prohibition of harming siblings and the prohibition of incest. The mother warns that violating this prohibition will lead to the removal of her maternal concern. Mitchell explains the law of mother as such:

"... The toddler cannot kill the mother, but it *can* and indeed sometimes does, seriously damage and even kill the baby. Murdering the baby is utterly forbidden by the Law the mother. Her demands shall operate *between* her children [...] Her law also prohibits sexuality between the children [...] The Law of the Mother threatens withdrawal of care while also insisting that the toddler is now a big girl or boy and must go off and play (or work) with its peers." ¹

So, the law of the mother is intended to prevent children from harming each other and ensure a transition to peer society and social affiliation on the horizontal axis. But what about discrimination? In the subjective experience of sibling relationships, the discriminating mother may cause the favored sibling to create (sometimes unknowingly) an abusive experience for the discriminated sibling and evoke feelings of envy, jealousy, anger and revenge. The law of

¹ A citation from Mitchell's lecture in a Psychotherapy conference at Tel Aviv University on February 16th 2018.

the mother and parental discrimination seem diametrically opposed. Discrimination is a clear and blatant violation of the law of the mother.

Yet, surprisingly, the wording of the law, as cited above, does not include a parallel and complementary obligation on the part of the mother to take care of all her children when they *are* fulfilling their part. In other words, the mother threatens her children that she will withdraw her love if they violate the law, but she does not guarantee her love for her children when they do obey it. The law of the mother does not protect children from parental discrimination.

Juliette Mitchell's answer to this asymmetry is that the mother law is based on the assumption of an "all-loving mother." That is, the law of the mother, in its spirit and essence, deals with the protection of all children. If so, I suggest that the meaning of the mother law is similar to that of Winnicott's concept of the "good enough mother" (1956, 1965). Both good-enough motherhood as well as the law of the mother cannot be taken for granted. Both deal with possibility and intention rather than a description of realistic motherhood. The law of the mother is dependent upon its beneficent application. Otherwise, it seems that differences between siblings as human beings, their order of birth, their sex, the decreased capabilities of their aging parents over time - all of these create differences that evoke (sometimes unconsciously) harmful parental favoring and discriminatory behaviors.

It is important to note that sibling trauma and discrimination are completely different events. Sibling trauma is presented by Mitchell as a universal and inevitable event. The child loses his experience of uniqueness in the face of the birth of a new brother. Instead, he experiences replaceability. The painful experience of being replaceable is one aspect of the sibling trauma. Yet, despite the child's fear of abandonment the toddler is going to realize that he/she is still taken care of. The law of the mother organizes the sibling trauma and enables it to turn into a *rite of passage* so that the toddler who is no longer the baby can become the social child, together with her classmates, playmates or work-peers, sexual partners, and brothers-in-arms.

Sending the toddler into the social world that has always surrounded her may be a life-affirming possibility, even if it is one that entails a threat to the subject's sense of uniqueness and omnipotence. Therefore, most of us eventually understand and accept the universality and inevitability of our replaceability and the personal achievement of being included in the social aspect of our lives.

Discrimination is not included in sibling trauma. On the contrary: it might be experienced as a betrayal. The toddler feels that she fulfilled her part in the deal (the law), then finds herself denied equal rights in return. In the absence of this parental protection, sibling relations may regress to the primary position of murderous desires and experiences of being obliterated. In such places, sibling trauma may manifest as depression and/or vengefulness, and eventually as the breakup of relationships. Maybe we should take into account that on a larger social scale, discrimination and favoritism among siblings may deteriorate into civil wars.

It seems to me that the intention of the good enough mother should refer to the possibility of discrimination. Addressing maternal discrimination can be based first and foremost on acknowledging it and its abusive effect. I suggest that, good enough parenthood listens to the protest of the child who feels discriminated against and shows tolerance for his protesting behavior, as long as it does not violate the mother's law. Beyond that, it seems to me that the comparison among siblings can be contained and tolerated if it is based on an alternating favoritism. Acknowledging discrimination by parents may create a familial environment in which negotiation and reparation is possible. Every sibling yearns for moments in which he is favored, moments in which the maternal preoccupation of infancy is revived. But these moments of favoritism are possible only if they are transient and alternating, similar to the social agreement on celebrating birthdays, where each receives his or her day in the spotlight.

Here we come to what I think might be the contribution of psychotherapy. Psychotherapy cannot cure sibling trauma, but it can help encourage personal development. It seems to me that

this processing includes two necessary principles. One is the forming of a space for mourning the losses involved in the sibling trauma and its verbal expression in discourse. The second principle deals with the creation of a space in which experiences of discrimination may be transformed into inclusion of mutual replaceability. In the next chapter I will expand on these ideas.

From discrimination to Mutual Replaceability: Notes on Psychotherapy.

Ron is a lawyer. He is over 50 years old and has been in individual psychotherapy for three years. Recently he lost his only sister after her long struggle as a cancer patient. Ron was his mother's favorite. When he was born, his only sister was four years old. As soon as he was born, she was forsaken by her mother, losing her love, save for sudden expressions of affection or care which came and went unexpectedly.

In talking about his work, I found out that he deals with inheritances, among other things, and I suggested a connection between his early experience of sibling relations and his work. The subject immediately connected him to difficult moments in his practice. He told me: "You have no idea what I see here. I saw a mother who told her third child, whom she excluded from the inheritance: 'I never wanted you.' I saw two sisters who lost their part in the inheritance because their mother favored her son, their brother. I've seen brothers who begged their elder brother, who was awarded the entire family property in the village, to sell one of the houses and give them the proceeds. He answered, coldly: 'This is what mom and dad intended and thus it shall be.' The relationship between them is dead and if they could ever exact their revenge upon him, they will. When I can, I influence things. Often, however, it's a lost cause." Then he added, "When my sister passed away, I said to her husband: You don't have to worry. You'll get everything you deserve. We are going to love each other here and respect her wishes." That was Ron's resolution of being favored as a child and his personal moral choice in light of the disastrous relationships he encountered in his work.

Ron had been a different person till he was thirty. However, at that point in his life, something happened that transformed his social relations though he did not understand its causes.

The event took place on a month-long boat cruise he had taken with a group of six people. He was a skipper and professionally skilled. There was a large gap, however, between his interpersonal skills and his professional abilities. The members of the group gradually came to see Ron as an arrogant, egocentric person, and soon became ambivalent towards getting closer to him. Ron knew that, in the past, people had drifted away from him without telling him why – or he could not remember why. In the confined circumstances of the cruise, however, he was forced to hear them out. It was a long and difficult conversation one quiet evening at a beautiful bay in Greece. They told him that he seemed to be reluctant to help, he was not encouraging and on the other hand considered himself to have the best ideas, he was cast as the “haughty Mr. know-it-all.” One woman reminded him that he did not bother to thank her for helping him use technology he was unfamiliar with to call his family members. Someone else told him that he was having a hard time listening to Ron’s criticism when everyone was doing their part. He couldn't sleep that night and felt lonely on the boat. Some years later, in therapy, we understood together that he had a kind of panic attack disguised as sea-sickness. Only one lone woman approached him and mediated between what he had been told and his capacity to take it in. This woman had been one of his fiercest critics in that conversation. Unlike the other people present, she chose to talk to him afterwards without going back on her critique. Listening to her, immediately led him to change his behavior and meticulously apply what he had been told. By the end of the cruise, he had become more sociable, more humble and eventually found out that he enjoyed reciprocity. He stayed in touch with that woman, Naomi. Today, she is his wife.

In the early stages of treatment, Ron did not connect important attitudes and decisions in his life to his sibling relationships as a child. His life was mostly good and stable. He was married and the father of two children. He was successful in his work as a lawyer and a partner in a thriving firm. He and his partners were business-oriented and learned to be aggressive in negotiations. One of their methods was to issue legal restraining orders on the business

activities of their rivals. They would stop their operational activities through court verdicts to get better terms from them. They didn't mind the suffering they caused. Gradually he began to feel antagonism towards his work accompanied by a sense of meaninglessness and emptiness. As the bond with his sister grew stronger, he learned from her that her childhood with their parents was completely different than his. She felt overlooked by their mother, while he was treated as the diamond in the family crown. His father was a cautious and avoidant figure and was overshadowed by his mother's dominance. Her self-esteem was badly damaged and had recovered slowly since she left home and got married. Now she is a schoolteacher, divorced and the mother of three children. She had attributed every achievement in her life to her decision to stay away from their parents and their mother in particular. Despite all this she was still taking care of her parents in their aging needs. Ron understood from her that she probably had a different mother than his own. When he turned to his mother with questions about it, she did not find anything wrong with her behavior. For her part, his sister was just a complaining daughter. For the first time in his life, Ron responded to this and accused his mother of discriminating against his sister. His mother denied it. As she saw it, she loved her children. His profound understanding of the injustice his sister had suffered affected his professional orientation. Once a confrontational and harsh attorney, he became a talkative, congenial person. He discovered his professional creativity and took pleasure in it.

When Ron noticed my attitude towards his sibling relationship, there was a change in his transference to me. Thus far, he had listened to me as a professional consultant and treated me with respectable and indifferent distance. My reference to his sister's experience of discrimination, aroused an emotional closeness to me. In his experience I became a protective father who cared for his children in the sense of the law of the mother. Signs of identification appeared for the first time. Mostly he adopted my attention regarding replaceability and reciprocity.

Psychotherapy can be a place where mutual replaceability is experienced and mourning is processed. Concerning the mourning process, it seems to me that individual therapy contributes

more to the patient than group therapy, while group therapy offers a special contribution regarding experiencing sibling trauma and a possible transformation towards mutual replaceability.

When Ron told me about the encounter he experienced on the cruise, I referred to it as a group therapy session, even though it was not a therapy group in the professional-formal sense of the term. Some of the crucial insights Ron needed to have had to wait for his personal therapy that began years later. Indeed, I would like to open my approach to the case from the point of view of group analysis. From a group analytic point of view, belonging is a component of mental health and the relationships formed between group participants are of therapeutic quality (Foulkes, 1948). Group therapy unfolds sibling relationships in the room and allows participants to participate in relevant reconstructions of them in their lives and derive insights from them.

According to Mitchell (2013), on the horizontal axis, which is created following the child's deportation to the social world, natural groups are formed. In a group analytic sense these groups provide their participants with a sense of belonging and sustain spontaneous healing processes within them. Ron found himself within such a group on the cruise. In the difficult encounter that developed following his behavior, he was offered to give up his aspirations for favored status and belong to a mutual relationship, or to preserve it and stay out of their company. He chose the first option. He stopped claiming the crown, learned to acknowledge the contributions of his teammates and to thank them. He offered his help and gradually began to talk about himself. I suggested to Ron a connection between being his mother's favorite and his difficulty in belonging to a group of people who did not obey his mother's preferences. I told him that within the group formed on the cruise he had undergone an experience of being replaceable. He was actually experiencing late sibling trauma.

In my view, implementing the mother's law is not solely the mother's job. Just as women can strictly adhere to the law of the father, when they enlist to keep the vertical axis around them, so can men, therapists and siblings themselves internalize and implement the law of the mother.

May I add that in group therapy, the replaceability of each member is experienced as a partial consolation. The experience of replaceability is presented consciously and unconsciously as a common denominator that unites those who belong: all members have undergone a unique and yet universal sibling trauma. In its most rehabilitating form, sibling trauma undergoes a transformation from being a fateful blow of deprivation to sharing a universal existential experience of sibling vulnerability that may stir empathy and compassion. Moreover, belonging encourages alternating contributions. The unique contributions of each individual are rewarded with recognition and empowerment. Something of the grandiose uniqueness of having been, once, the only loved child is experienced once again in a partial, fleeting, alternating manner. Unlike the natural group of Ron's cruises, in group analysis all these processes are differentiated and spoken with the help of a conductor. Moreover, in group analysis the group conductor, together with the group participants, can conform to the law of the mother. We may assume that this combination of belonging and challenge cultivates ego-strength and increases the capacity for containing tension and tolerating differences.

I suggest that the transformation between discriminatory-favoring experiences to the possibility of reciprocal replaceability also occurs in individual therapy, even though therapists may not notice this. As an individual therapist and psychoanalyst, I have noticed that many patients restore in therapy the initial bond of the mother-child dyad. The therapist and patient create a dyad of exclusivity dedicated to the needs of the patient. Until a certain moment no one else exists in the patient's experience. And then suddenly the patient refers to small changes in the room and realizes that someone was here before him. Then it occurs to her that someone else is going to come when he goes away. "I'm just a name on your list," an insulted patient in his second year of treatment tells me. Or another patient dreams that she arrives at her hour and finds that I am in a group supervision session. In her dream, I give her a small smile of acquaintance and invite her to join. She feels isolated and paralyzed. I suggest understanding these events as a recurrence of the sibling trauma that has not been brought to treatment so far.

The spontaneous moments in which the patient notices the existence of other people in the therapist's world signal, in my opinion, his emerging capability to wean himself from the exclusive therapeutic dyad that has been essential to her so far and her ability to deal with his sibling trauma.

According to Mitchell, even under these benevolent conditions, recovery from sibling trauma involves mourning the loss of dyadic mother-child bond. Mourning the loss of the possibility of receiving full support for the wished-for uniqueness of mother-child dyad, mourning the differences that cannot be changed and the psychic injuries of parental discriminations. Mourning processes may digest the pain of loss and injustice and transform it into acceptance of mutuality, replacing anger with sorrow. This allows for the release of energies that were hitherto held in anger and depression.

Ron opened up to mourning processes. His mourning for the loss of exclusivity in his relationship with his mother was not experienced in treatment simply as such. Ron mourned above all the discrimination his sister suffered. He became a partner in her sibling trauma. When he first heard about her illness, his grief deepened. He felt that the opportunity for sibling love was taken away from him as discrimination against his sister and the disavowed tension between them kept them apart. During the treatment, many childhood memories arose. His interpersonal relations were filled with tenderness. Ron and his sister enjoyed a time of sibling honeymoon.

In conclusion:

It seems that discrimination and favorizing may free-float almost unnoticed, under our radar while being perceived by its victims as injustice and evoking feelings of depression, disappointment, anger and revenge. Parental discrimination can export into the horizontal axis precisely these feelings and resonate them on a social scale. Indeed, it seems that most of the social conflicts we are familiar with include an element of anger over discrimination. If indeed

"everything starts at home" then our modest contribution as therapists may focus on the recognition of parental-discrimination and creating a therapeutic approach to it. It seems to me that the law of the mother should include an explicit reference to the possibility of discrimination and the need to curb it. Discrimination and favoritism may not be totally avoided. The solution appropriate to the law of the mother may focus on the constant alternation of favoritism and discrimination and reconciliation with mutual replaceability.

References

Harris, I. D. and Howard, K. I. (1985). "Correlates of Perceived Parental Favoritism." Journal of genetic psychology **146**: 45-56.

Volland, E. (1990). "Differential reproductive success within the Kummhorn population (Germany, 18th and 19th centuries)." Behavioral Ecology and Sociobiology **26**: 54-72.

Lindert, P. H. (1977). "Sibling position and achievement." The Journal of Human Resources **12**: 198-219.

Mitchell, J. (2006). Sibling trauma: a theoretical consideration. Sibling Relationships
P. Cole. London, Karnac: 155-174.

Sulloway, F.J. Birth order and sibling competition. The Oxford handbook of Evolutionary Psychology. D. R.I.M. and B. Louise. Oxford New York, Oxford University Press: 297-313.

Boone, J. L. (1986). "Parental investment and the elite family structure in preindustrial states: a case study of late medieval-early modern Portuguese genealogies." American Anthropologist **88**: 859-878.

Pollet, T. V. and A. D. Hoben (2011). An evolutionary perspective on siblings: Rivals and resources. The Oxford handbook of evolutionary family psychology C. Salmon and T. K. Shackleford. Oxford, Oxford University Press: 128-148.

Harris, J. R. (1998). The Nurture Assumption: Why Children Turn Out the Way They Do? New York, Free Press.

Ashuach, S. (2012). " Am I my brother's keeper?The analytic group as a space for re-enacting and treating sibling trauma. ." Group Analysis, **45(2)**: 155-167.

Pollet, T. and A. D. Hoben (2011). A evolutionary perspective on siblings: Rivals and resources. In: Salmon, C. and Shackleford, T. K. The Oxford handbook of evolutionary family psychology
. Oxford University Press.: 128-148.

Mock, D. W. (2004). More Than Kin and Less Than Kind: the Evolution of Family Conflict. Cambridge, MA, Harvard University Press.

Mock, D. W. and Parker, G. A. (1997). The evolution of Sibling Rivalry. Oxford and New York, Oxford University Press.

Winnicott, D. W. (1965). Ego Distortion in Terms of True and False Self. The Maturational Processes and the Facilitating Environment: Studies in the Theory of Emotional Development. London, Hogarth Press & The Institute of Psychoanalysis.

Winnicott, D. W. (1956(1992)). Primary Maternal Preoccupation. Through Pediatrics to Psychoanalysis. New York, Basic Books: 300-305.

