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Book Review of Re-Understanding the Child's Right to Identity: On Belonging, Responsiveness and Hope, by Ya'Ir Ronen

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REVIEW OF Ya 'ir RONEN, RE-UNDERSTANDING THE CHILD’S RIGHT TO IDENTITY: ON BELONGING, RESPONSIVENESS AND HOPE (2016)

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(All citations to this work will be to RONEN, p. xx)

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There exists robust therapeutic jurisprudence ("TJ") literature\(^1\) dealing with many areas of juvenile law on questions of: whether juveniles have a right to counsel in civil commitment hearings,\(^2\) the extent of rights to be granted to foster children in juvenile and family court proceedings,\(^3\) the civil commitment trial itself,\(^4\) the implications of TJ for juvenile cases involving *Miranda* issues,\(^5\) whether juveniles can be “waived up” to adult courts in criminal cases,\(^6\) and on punishment

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\(^6\) Bruce J. Winick, *Redefining the Role of the Criminal Defense Lawyer at Plea Bargaining and Sentencing: A Therapeutic Jurisprudence/Preventive*
schemes for juveniles. With a co-author, the author of this review, writing from a TJ perspective, is in the process of writing an article looking at the ways that court processes in juvenile cases – civil commitment cases and criminal cases – shame and humiliate those subject to those processes. But, with the exception of earlier articles by the author of this volume, there have been no TJ-cased inquiries into the child’s right to an identity. In a thoughtful, provocative, and important new work, Ya’ir Ronen has expanded his vistas, and has given us a brilliant book-length investigation into this question.

Ronen, a lawyer, social worker, and professor of social work at Ben Gurion University of the Negev in Israel, states his claim immediately: “[T]he state should have a positive duty to safeguard the child’s right to identity,” and that this right is “derivative of [his] human dignity,” although he concedes that “current legal protection of the child’s right to human dig-

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nity does not guarantee protection of an individualized identity.”11 In assessing this issue, Ronen explores culture as a “context of personal meaning,”12 and contends that international human rights law “implicitly reaffirm[s]” a commitment to a “dynamic child-constructed identity.”13

One of the central principles of therapeutic jurisprudence is a commitment to dignity,14 Ronen’s decision to begin his work by clarifying this important commitment is of inestimable significance to his project. He incorporates this into his consideration of issues of culture; “suppressing distinctness by a dominant or a majority culture [is] the cardinal sin against authenticity.”15 Thus, “protecting a child-constructed identity may be construed as . . . a commitment to dignity.”16 Other scholars have considered the relationship between TJ and culture,17 but, to the best of my knowledge, virtually none in this specific context.18

11 Id. at 3.
12 Id. at 1.
13 Id. at 2.
15 Ronen, supra note 10, at 5.
16 Id. (citing, inter alia, Charles Taylor, The Politics of Recognition, Multiculturalism: Examining the Politics of Recognition 25 (Amy Gutmann ed. 1994)).
17 See, e.g., Ian Freckleton, Therapeutic Jurisprudence Misunderstood and Misrepresented: The Price and Risks of Influence, 30 T. JEFFERSON L. REV.
Ronen looks long and seriously at international human rights law, specifically articulating where he sees existing United Nation Conventions as providing support for his position and where he feels that those instruments are not comprehensive enough to grant the rights to which he believes all children are entitled.\textsuperscript{19} I believe it is absolutely essential that TJ scholars turn to international human rights law as a potential source and future direction of TJ scholarship,\textsuperscript{20} and Ronen’s consideration of these laws in this context is of great importance beyond the specific substantive subject on which he has turned his focus. Recently, I expressed my surprise that “puzzlingly little [has been] written about the relationship be-

\textsuperscript{18}See, e.g., Susan Brooks, The Case for Adoption Alternatives, 39 Fam. & Conciliation Cts. Rev. 43 (2001) (significantly, Brooks and Ronen have been co-authors in the past); see also Susan L. Brooks & Ya’ir Ronen, The Notion of Interdependence and Its Implications for Child and Family Policy, The Pol. of the Pers. In Feminist Fam. Therapy 23 (Anne M. Pouty ed., 2005).

\textsuperscript{19}Ronen, supra note 10, at 14-18 (critiquing the United Nations Convention on the Rights of the Child for not providing explicit answers as to a child’s right to preserve his cultural identity or respect for his “individualized identity”).

between TJ and international human rights law.” Ronen’s focus here, is a welcome corrective to that generic lack of interest.

Ronen bores in on a disconnect that we all too often ignore: “There is no sufficiently deep-rooted recognition that for the youths on trial, [and] their liberty, as well as their dignity, is important,” noting further that we still often refuse to believe children when they complain about injustices caused by their families. I noted in a recent paper that “shame and humiliation … are often exacerbated in [juvenile] cases involving racial minorities and those who are economically impoverished.” A palliative here, according to Ronen, is the “politicization of empathy and committing ourselves to psychological mindedness.” I agree, and hope that those in the juvenile justice systems read this book carefully and take his words to heart.

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21 Id. at 535.
23 Ronen, supra note 10, at 48.
24 Id.
25 Perlin & Lynch, supra note 8, manuscript at 4.
26 Ronen, supra note 10, at 90.
The heart of Ronen’s work is the potential emancipatory impact of therapeutic jurisprudence on all he writes about. “Therapeutic jurisprudence,” he writes, “heals the law of its alienation to human experience.” He approaches the topics in question in this vein “to shine a beam of empathy on children” and to “empower children both legally and socially.” TJ demands that the “humane objectives of law and lawyering be returned, from being abstractions that drive public policy to become the daily rewards of lawyers and their clients.” His aim is thus to create a “child-centered therapeutic jurisprudence.” TJ humanizes law, he concludes, in contrast to the “violence, cynicism, and alienation” that pervade everyday life, and the life of the law. It further offers a more “psychologically healing approach,” one essential to the areas of law on which Ronen focuses here.

28 Ronen, supra note 10, at 32 (citing Wexler, supra note 17).
29 Ronen, supra note 10, at 33 (citing Wexler, supra note 17, and Perlin, supra note 27).
30 Ronen, supra note 10, at 33.
31 Id. at 65.
33 Ronen, supra note 10, at 75.
These are not easy questions, he is quick to acknowledge; “it is important to recognize the inherent ambiguity and complexity in the lives of children at risk and their families,”34 but it is precisely the recognition of this ambiguity and complexity that “opens the door to hope.”35 Ronen ties this up with his earlier focus on human rights: “The creation of a human rights regime with a strong declared commitment to the well-being of children followed the overdue recognition of the Other’s vulnerability in societies that have considered themselves civilized and enlightened.”36 We can best understand the child’s right to identity, he concludes, by creating “hope [that] can empower individuals and families who are in emotional and behavioral distress as well as the helping professionals involved with them professionally.”37

34 Id. at 103.
35 Id.
36 Id. at 106. On “The Other,” see Sander Gilman, Difference and Pathology: Stereotypes of Sexuality, Race, and Madness (1985).
37 Id. at 110.
This hope must be considered in the context of what Professor Amy Ronner has characterized as the “three Vs” of TJ:

What “the three Vs” commend is pretty basic: litigants must have a sense of voice or a chance to tell their story to a decision maker. If that litigant feels that the tribunal has genuinely listened to, heard, and taken seriously the litigant’s story, the litigant feels a sense of validation. When litigants emerge from a legal proceeding with a sense of voice and validation, they are more at peace with the outcome. Voice and validation create a sense of voluntary participation, one in which the litigant experiences the proceeding as less coercive. Specifically, the feeling on the part of litigants that they voluntarily partook in the very process that engendered the end result or the very judicial pronunciation that affects their own lives can initiate healing and bring about improved behavior in the future. In general, human beings prosper when they feel that they are making, or at least participating in, their own decisions.\(^{38}\)

This is what Ronen demands for juveniles so that they can claim (or reclaim) their right to identity. It is the core of therapeutic jurisprudence, and the core of his arguments. He brings dignity to disempowered children, demands the kids to be treated as authentic and with authenticity, and offers his

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\(^{38}\) Ronner, *supra* note 5, at 94-95 (footnotes omitted).
hope for emancipatory change. What he seeks is precisely what TJ demands of all of us.

I have only one criticism of the book, and that involves the two pages that Ronen did not write. The foreword, by Professor M.D.A. Freeman, alleges that "we hear much less today of therapeutic jurisprudence than was once the case."39 This is, to be blunt, dead wrong. TJ is flourishing and prospering worldwide.40 Significantly, given the fact that Professor Ronen is an Israeli academic, much of the new and invigorating literature is by Israeli academics.41 However, there is TJ literature by British scholars,42 which refutes the assertion in question.43

39 Ronen, supra note 10, at xii.
40 See, e.g., https://law2.arizona.edu/depts/upr-intj/bibliography/.
42 Apparently, the author of the forward teaches in the United Kingdom.
Nonetheless, this was not the doing of the author. Ronen’s book is brisk, bracing, and refreshing. This book deserves to be read by all who care about important topics covered.

