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## You That Build the Death Planes: Bob Dylan, War and International Affairs

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# “YOU THAT BUILD THE DEATH PLANES”: BOB DYLAN, WAR, AND INTERNATIONAL AFFAIRS

Michael L. Perlin, Esq.<sup>1</sup>

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## I. PERSONAL INTRODUCTION

I saw Bob Dylan for the first time in May 1963 at Gerde’s Folk City, in Greenwich Village, New York City,<sup>2</sup> as a seventeen-year-old college freshman.<sup>3</sup> I

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An earlier version of this paper was presented at the World of Dylan Conference, sponsored by the University of Tulsa Institute for Bob Dylan Studies and the Bob Dylan Archive, June 1, 2019.

My thanks to my friend and colleague George Dunn for sharing his thoughts about this topic.

2. This concert, like many from Dylan’s earlier years, is not in the official canon at <http://www.bobdylan.com>.

3. I should have been in my college dorm at Rutgers University studying for my Poli-Sci 102 exam. I got an A anyway, and there must be a moral to that somewhere. My visit to Gerde’s that night is memorialized in Nick Paumgarten, *Another Side of Bob Dylan*, NEW YORKER (Nov. 11, 2002), accessible at <https://www.newyorker.com/magazine/>

did not keep a set list, but I am fairly sure that Bob sang *Masters of War*<sup>4</sup>—what Greil Marcus has called Dylan’s most “unforgiving, damning anti-war song”<sup>5</sup>—that night.<sup>6</sup> If he did, it was the ninth or tenth time that he had ever sang that song live.<sup>7</sup>

I am sure that when *Freewheeling*<sup>8</sup> was released (within a week of my Gerde’s visit), I instantly bought it and that it became one of those albums in constant cycle in my dorm. I wore the grooves down,<sup>9</sup> and, of course, *Masters* was one of the tracks that I played again and again and again. When I saw him sing it at the March on Washington a few months later, that connection was solidified even further.<sup>10</sup>

In 1995, after over a decade of being a law professor, I started using Dylan lyrics in the titles of my articles (beginning with *Dignity Was the First to Leave*, in an article about a US Supreme Court case that countenanced persons with serious mental disabilities representing themselves *pro se* at their criminal trials),<sup>11</sup> and have done so in over seventy articles since (in articles about law and society, *not* about music).<sup>12</sup> I have never been more flattered than when Nick Paumgarten of

2002/11/18/another-side-of-bob-dylan. See also Michael L. Perlin, *My Front Pages: Tangled Up in Dylan*, JOESENTME.COM, (Apr. 27, 2020), <https://basics.joesentme.com/042620.html>.

4. BOB DYLAN, *Masters of War*, on THE FREEWHEELIN’ BOB DYLAN (Columbia Records 1963).

5. GREIL MARCUS: LIKE A ROLLING STONE: BOB DYLAN AT THE CROSSROADS 31 (1st ed. 2006). See also Taigen Dan Leighton, *Cruel Weapons on the Shelf: Continuing Expressions of Protest* (Mar. 14, 2020) (paper presented at the World of Dylan symposium, Tulsa, OK, June 1, 2019) (on file with author), manuscript at 1 (*Masters* “remains the strongest anti-war song ever written . . .”).

6. Until some tape turns up, I don’t expect we will ever know for sure. We shouldn’t hold our collective breaths.

7. According to bobydylan.com, Bob has sung *Masters* 884 times. I believe this number is lower than a true count would be.

8. BOB DYLAN, THE FREEWHEELIN’ BOB DYLAN (Columbia Records 1963).

9. This is an old story for people of my generation.

10. I have written about my experience of seeing Bob that day in Michael L. Perlin, *The Times They Are A-Changin*, in ENCOUNTERS WITH BOB DYLAN: IF YOU SEE HIM, SAY HELLO 29 (Tracey Johnson ed., 2000).

11. See Michael L. Perlin, *Dignity Was the First to Leave: Godinez v. Moran, Colin Ferguson, and the Trial of Mentally Disabled Criminal Defendants*, 14 BEHAV. SCI. & L. 61 (1996); see *Godinez v. Moran*, 509 U.S. 389 (1993) (holding that the standard for competency to plead guilty or to waive counsel is no greater than the standard for competency to stand trial); see also, e.g., Michael L. Perlin, *The Sanist Lives of Jurors in Death Penalty Cases: The Puzzling Role of “Mitigating” Mental Disability Evidence*, 8 NOTRE DAME J. L. ETHICS & PUB. POL’Y 239 (1994); Michael L. Perlin & Naomi Weinstein, “*Friend to the Martyr, a Friend to the Woman of Shame*”: *Thinking About The Law, Shame and Humiliation*, 24 SO. CAL. REV. L. & SOC’L JUST. 1 (2014).

12. I have drawn on a lyric from *Masters*—the song that gives this piece its title—as an article title once before. See Michael L. Perlin, “*And I See Through Your Brain*”: *Access to Experts, Competency to Consent, and the Impact of Antipsychotic Medications in Neuroimaging Cases in the Criminal Trial Process*, 2009 STANFORD TECHNOL. L. J. 1.

the *New Yorker* wrote a piece about my doing this in the *Talk of the Town* section of that magazine over 16 years ago.<sup>13</sup>

Then, some seven years ago, in a symposium about Dylan, I did write a full piece about his lyrics in the *Fordham Urban Law Journal*—*Tangled up in Law: The Jurisprudence of Bob Dylan*, in which I discussed and analyzed Dylan songs that dealt with, variously, civil rights, inequality in the criminal and civil justice systems, institutions, governmental/judicial corruption, equality and emancipation, and the role of lawyers in the legal process.<sup>14</sup> In that article, I argued that Bob was “a scholar with a well-developed jurisprudence on a range of topics including civil, criminal, public, and private law.”<sup>15</sup> But I noted that I was omitting—for space considerations—any discussion of Dylan songs dealing with war and international affairs,<sup>16</sup> noting that these songs were “worth an article of its own.”<sup>17</sup> This is that article.

My thesis is simple: beyond the anthemic anti-war core of songs such as *Masters*, Bob’s lyrics—and these range from songs that are heard regularly on classic rock stations to ones Bob has never sung in public—reflect a keen understanding of geopolitics: the evils of war, the pain and horror of war, how profiteering is inevitably part of any pro-war movement (and the related issue of how economic self-interest is inextricably wrapped up in our foreign affairs policies), how alliances forged in war time are fragile in the aftermath, how wars are, inevitably, “mistakes of a past history,”<sup>18</sup> perhaps of the “politics of ancient history,”<sup>19</sup> and how war is a metaphor for, well, lots more.<sup>20</sup> I consider all of these here and also look at these issues through the lens of therapeutic jurisprudence, a relatively new model of looking at the law and the legal system to determine that system’s impact on the individuals whose lives are regulated.<sup>21</sup>

13. Paumgarten, *supra* note 3.

14. Michael L. Perlin, *Tangled Up in Law: The Jurisprudence of Bob Dylan*, 38 *FORD. URB. L.J.* 1395 (2011).

15. *Id.* at 1396.

16. *Id.* at 1398, n. 15.

17. *Id.*; see also Samuel J. Levine, *Foreward*, 38 *FORDHAM URB. L.J.* 1267, 1270 n. 13 (2011) (discussing the above proviso: “A more complete treatment of Dylan as legal prophet might demonstrate the abiding relevance of his views on international law.”).

18. See BOB DYLAN, *Let Me Die in My Footsteps*, on *THE BOOTLEG SERIES, VOL. 1-3: RARE & UNRELEASED 1961-1991* (Columbia Records 1963) (sung once live in 1962).

19. See BOB DYLAN, *My Back Pages*, on *ANOTHER SIDE OF BOB DYLAN* (Columbia Records 1964).

20. On how Dylan’s reading Thucydides’ writing about Greek wars may have subsequently inspired his lyrics, see RICHARD F. THOMAS: *WHY BOB DYLAN MATTERS* 113-14 (2017).

21. It requires (1) studying the role of the law as a therapeutic agent; (2) recognizing that substantive rules, legal procedures, and lawyers’ roles may have either therapeutic or anti-therapeutic consequences; and (3) questioning whether such rules, procedures, and roles can or should be reshaped so as to enhance their therapeutic potential, while not subordinating due process principles. See Perlin, *Tangled Up in Law: The Jurisprudence of Bob Dylan*, *supra* note 14, at 1427 n. 211.

Bob begins *Gates of Eden* with these words: “Of war and peace the truth just twists.”<sup>22</sup> The notion of the twisted truth encapsulates all of what Bob has written about this topic.<sup>23</sup> All his lyrics here are a reflection of the *Political World* in which we live,<sup>24</sup> and capture what Paul Williams wrote about *With God on Our Side*: “[That] lies and propaganda continue to be so effective in provoking us to hate, fear and kill our neighbors.”<sup>25</sup>

One caveat: the songs I discuss here are not Dylan’s only songs about war. In Mike Marqusee’s book, *Chimes of Freedom: The Politics of Bob Dylan’s Art*,<sup>26</sup> the author includes *All Along the Watchtower*,<sup>27</sup> *Blowin’ in the Wind*,<sup>28</sup> *Bob Dylan’s 115<sup>th</sup> Dream*,<sup>29</sup> and *Tombstone Blues*<sup>30</sup> in this array, all of which, he argues, related to the War in Vietnam. I do not quarrel with these additions, and a very persuasive case could be made for, especially, *Tombstone Blues*, but—notwithstanding the fact that LBJ certainly fits as the “Commander in Chief,” and the “pied pipers in prison” are likely war protesters and the “fatten[ed] slaves [sent] out to the jungle” are just as likely the foot soldiers of the Vietnam war—I ultimately agree with Paul

22. BOB DYLAN, *Gates of Eden*, on BRINGING IT ALL BACK HOME (Columbia Records 1965).

23. Although one critic has suggested that the images in this verse are ones that “that few listeners claimed to understand,” my sense is that this underestimates the analytical abilities of Bob’s fans. At least his serious fans. See David Galenson, *Innovators: Songwriters* 1-36 (Nat’l Bureau of Econ. Rsch., Working Paper No. 15511, 2009) <https://www.nber.org/papers/w15511.pdf>, at 17.

24. I have relied on *this* title and the song’s lyrics more than once. See, e.g., Michael L. Perlin, “*Life Is in Mirrors, Death Disappears*”: *Giving Life to Atkins*, 33 N. MEX. L. REV. 315 (2003); Michael L. Perlin, *Myths, Realities, and the Political World: The Anthropology of Insanity Defense Attitudes*, 24 BULL. AM. ACAD. PSYCHIATRY & L. 5 (1996); Michael L. Perlin, “*Wisdom Is Thrown into Jail*”: *Using Therapeutic Jurisprudence to Remediate the Criminalization of Persons with Mental Illness*, 17 MICH. ST. U. J. MED. & L. 343 (2013); Michael L. Perlin, Talia Roitberg Harmon & Sara Wetzel, “*Man is Opposed to Fair Play*”: *An Empirical Analysis of How the Fifth Circuit Has Failed to Take Seriously Atkins v. Virginia*, WAKE FOREST J.L. & POL’Y (forthcoming 2021), accessible at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3660564](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3660564).

25. PAUL WILLIAMS, BOB DYLAN, PERFORMANCE ARTIST, 1960-1973: THE EARLY YEARS 88 (1994 ed.).

26. MIKE MARQUEE, CHIMES OF FREEDOM: THE POLITICS OF BOB DYLAN’S ART 248 (2003). Certainly, I agree that the “wind that howls” at the end of *Watchtower* “is the same storm of history that blows through *When the Ship Comes In*, *Chimes of Freedom*, and *Farewell Angelina*.” *Id.* at 248.

27. BOB DYLAN, *All Along the Watchtower*, on JOHN WESLEY HARDING (Columbia Records 1967).

28. BOB DYLAN, *Blowin’ in the Wind*, on THE FREEWHEELIN’ BOB DYLAN (Columbia Records 1962).

29. BOB DYLAN, *Bob Dylan’s 115th Dream*, on BRINGING IT ALL BACK HOME (Columbia Records 1965).

30. BOB DYLAN, *Tombstone Blues*, on HIGHWAY 61 REVISITED (Columbia Records 1965).

Williams that the song is not “*about* the war,”<sup>31</sup> but, per Oliver Trager, simply “a world gone wrong.”<sup>32</sup> Of course, Bob being Bob, *we* certainly could be wrong.

## II. THE EVILS OF WAR

If we walk our way through the “relentless, unforgiving”<sup>33</sup> *Masters* verse by verse, we see how Dylan lays out a damning takedown of the evils of war in all its manifestations. First, he focuses on the military industrial complex issues (astonishingly, this was only two years after President Eisenhower in his farewell speech from the White House added this phrase to our vocabularies);<sup>34</sup> the “curse it is cast”<sup>35</sup> at the outset of this song:

Come you masters of war  
 You that build all the guns  
 You that build the death planes  
 You that build the big bombs  
 You that hide behind walls  
 You that hide behind desks  
 I just want you to know  
 I can see through your masks<sup>36</sup>

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31. WILLIAMS, *supra* note 25, at 161 (emphasis added).

32. OLIVER TRAGER, KEYS TO THE RAIN: THE DEFINITIVE BOB DYLAN ENCYCLOPEDIA 630 (Bob Nirkind & Marian Appellof eds., 2004).

33. DANIEL MARK EPSTEIN, THE BALLAD OF BOB DYLAN: A PORTRAIT 35 (1st ed. 2011).

34. See *Ike's Warning of Military Expansion, 50 Years Later*, NPR (Jan. 17, 2011), <https://www.npr.org/2011/01/17/132942244/ikes-warning-of-military-expansion-50-years-later>. This continues to be the focus of interest to this day. See Portland Media Center, *Maine 2019 Spring Gathering & Colonel Lawrence Wilkerson Speech*, YOUTUBE (May 7, 2019), <https://www.youtube.com/watch?v=kZA2yIFkhKg> (showing 2019 presentation by Ret. Col. Lawrence Wilkerson on the military-industrial complex that has only escalated since Dwight Eisenhower warned against its evils). My thanks to Symposium attendee William Cunningham for sharing this with me. Dylan, interestingly, has said that the song has “got nothing to do with being anti-war [but] has more to do with the military industrial complex that Eisenhower was talking about.” CLINTON HEYLIN, REVOLUTION IN THE AIR: THE SONGS OF BOB DYLAN, 1957-1973, at 119 (2009). Also, of possible interest: Dylan name-checks Eisenhower in the “lost song” *Julius and Ethel* (about the Rosenberg spies): “Eisenhower was president, Senator Joe was king; / Long as you didn't say nothing you could say anything/ Julius and Ethel, Julius and Ethel.” *Julius and Ethel*, FOLKARCHIVE, lyrics available at <http://www.folkarchive.de/julius.html> (the only song discussed not on bobbydylan.com) (last visited Sept. 5, 2020).

35. BOB DYLAN, *Times They Are A-Changin*, on TIMES THEY ARE A-CHANGIN' (Columbia Studios 1963).

36. DYLAN, *Masters of War*, *supra* note 4 (lyrics available at <https://www.bobbydylan.com/songs/masters-war-mono/>).

Next, he excoriates the cowardice of “armchair generals,” who send young soldiers to do their dirty work,<sup>37</sup> while they hide:

You that never done nothin’  
 But build to destroy  
 You play with my world  
 Like it’s your little toy  
 You put a gun in my hand  
 And you hide from my eyes  
 And you turn and run farther  
 When the fast bullets fly<sup>38</sup>

After this, he mocks the notion that a war can be “won,” a theme to which he returns in later songs:<sup>39</sup>

Like Judas of old  
 You lie and deceive  
 A world war can be won  
 You want me to believe  
 But I see through your eyes  
 And I see through your brain  
 Like I see through the water  
 That runs down my drain<sup>40</sup>

Again, he returns to the notion of the “masters of war” allowing others to do the actual fighting, hiding once more from the harsh realities of war and death:

You fasten the triggers  
 For the others to fire  
 Then you set back and watch  
 When the death count gets higher  
 You hide in your mansion  
 As young people’s blood  
 Flows out of their bodies  
 And is buried in the mud<sup>41</sup>

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37. See *infra* section III.

38. DYLAN, *Masters of War*, *supra* note 4.

39. See *infra* section III.

40. DYLAN, *Masters of War*, *supra* note 4.

41. *Id.*

The following verses focus on the fear to have children and the futility of religious redemption,<sup>42</sup> but he returns to the theme of profiteering (which I discuss in other contexts subsequently):

Let me ask you one question  
 Is your money that good  
 Will it buy you forgiveness  
 Do you think that it could  
 I think you will find  
 When your death takes its toll  
 All the money you made  
 Will never buy back your soul<sup>43</sup>

Finally, he concludes with the chilling final verse:

And I hope that you die  
 And your death'll come soon  
 I will follow your casket  
 In the pale afternoon  
 And I'll watch while you're lowered  
 Down to your deathbed  
 And I'll stand o'er your grave  
 'Til I'm sure that you're dead<sup>44</sup>

Is this song a portrayal of the “betrayal of the promises of the modern Free America?”<sup>45</sup> I would not disagree. In a fascinating analysis, Michael Gray concludes that Dylan’s expressed anger in this song “could only be sustained so long as the belief in enlightened-Congressmen-about to heed the call could itself be sustained,”<sup>46</sup> and I think that is right as well. Certainly Richard Thomas’s observation that by 2016, “Vietnam had become a dim backdrop . . . even in the

42. “You’ve thrown the worst fear / That can ever be hurled / Fear to bring children / Into the world / For threatening my baby / Unborn and unnamed / You ain’t worth the blood / That runs in your veins / How much do I know / To talk out of turn / You might say that I’m young / You might say I’m unlearned / But there’s one thing I know / Though I’m younger than you / Even Jesus would never / Forgive what you do.” *Id.*

43. *Id.*

44. *Id.*

45. Sudev Pratim Basu & Visva-Bharati Santiniketan, *The Times They Are a-Changin: Bob Dylan and Urban Poetry*, 5 RUPKATHA J. INTERDISCIPL. STUD. 155, 163 (2013).

46. See *id.*; MICHAEL GRAY, SONG & DANCE MAN III: THE ART OF BOB DYLAN 134 (2000) (“Dylan became a more serious artist when profound political pessimism set in.”); Gray’s reference here is to the lyrics of *The Times they Are A-Changin’*: “Come senators, congressmen / Please heed the call / Don’t stand in the doorway / Don’t block up the hall.” See DYLAN, *Times They Are A-Changin*, *supra* note 35.



minds of baby-boomers, but the masters of war . . . really never go away,”<sup>47</sup> is at least partially right—for some of us, Vietnam will never be relegated to “backdrop” status.

My colleague George Dunn has argued persuasively that *Masters* reflects another side of Dylan: that side that endorses retributive justice—“punishment according to desert”<sup>48</sup>—in certain cases, and that such a concept of justice is a “moral necessity” in the cases of those “who are truly guilty.”<sup>49</sup> Notes Professor Dunn, in discussing *Masters*: “[T]here can be no forgiveness for those who sacrifice the lives of young men in order to line their pockets with profits from war.”<sup>50</sup> I had not thought of this other side of Dylan—the one yearning for retribution—before I heard Professor Dunn’s paper.<sup>51</sup> On this point, Dunn concludes: “Dylan seems to be acknowledging that the appeal of retribution isn’t exclusively to something dark in us, since it can also be motivated by a legitimate, even noble concern to set aright the damage or disorder caused by some transgression.”<sup>52</sup>

I believe there is some irony here. As I discuss below and as I discussed in the *Tangled up in Law* article, Dylan’s lyrics—taken as a whole—reflect the principles of therapeutic jurisprudence,<sup>53</sup> a school of thought much more closely aligned with *restorative* justice<sup>54</sup> than with *retributive* justice.<sup>55</sup> Yet, there is no

47. THOMAS, *supra* note 20, at 28.

48. See, e.g., Michael Cahill, *Retributive Justice in the Real World*, 85 WASH. U. L. REV. 815, 864 (2007).

49. See George Dunn, “Bury the Rag Deep in Your Face”: *Retributive Justice in the Songs of Bob Dylan* (paper presented at the World of Dylan symposium, Tulsa, OK, June 1, 2019) (on file with author), manuscript at 1.

50. *Id.* at 2.

51. See, e.g., *id.* (quoting from *When the Ship Comes In*: “Then they’ll raise their hands / Sayin’ we’ll meet all your demands / But we’ll shout from the bow your days are numbered / And like Pharaoh’s tribe / They’ll be drowned in the tide / And like Goliath, they’ll be conquered”). Dylan sang this song (with Joan Baez) at the March on Washington. See *When Bob Dylan’s Ship Comes In*, <http://www.chimesfreedom.com/2012/11/15/when-dylans-ship-comes-in/> (last visited Sept. 5, 2020).

52. Dunn, *supra* note 49, at 4.

53. See Perlin, *Tangled Up in Law: The Jurisprudence of Bob Dylan*, *supra* note 14, at 1427-28.

54. See, e.g., Peter Johnsen & Elia Robertson, Protecting, Restoring, Improving: Incorporating *Therapeutic Jurisprudence* and *Restorative Justice* Concepts into Civil Domestic Violence Cases, 164 U. PA. L. REV. 1557 (2016).

55. Truth and Reconciliation Commissions are usually seen as the best exemplar of restorative justice. Compare Charles Villa-Vicencio, *Why Perpetrators Should Not Always Be Prosecuted: Where the International Criminal Court and Truth Commissions Meet*, 49 EMORY L.J. 205, 214 (2000) (quoting TRUTH AND RECONCILIATION COMM. OF S. AFR., Report, Ch. 5, para. 80 f (1998): “In the words of the South African Truth and Reconciliation Commission, restorative justice ‘seeks to redefine crime: it shifts the primary focus of crime from the breaking of laws or offences against a faceless state to a perception of crime as violations against human beings. . . . [It] encourages victims, offenders and the community to be directly involved in resolving conflicts.’”), with Susan Tiefenbrun, *The Failure of the International Laws of War and the Role of Art and Story-Telling as a Self-Help Remedy for*

question that the retributive side of Bob’s philosophy on life is seen—showcased, might be the exact word—in *Masters*.

Juxtapose, then, *Masters* with *Neighborhood Bully*.<sup>56</sup> In his introduction to the symposium in *Fordham Urban Law Journal* on “Bob Dylan and the Law,” Professor Samuel Levine—one of the creators of the symposium, a serious Dylan fan and a religious law scholar—noted in discussing my article that a follow-up piece might also include a consideration of Dylan’s “views on international law, particularly with respect to Israel,” citing to *Neighborhood Bully*.<sup>57</sup> What to make of this curious song?

Periodically, I receive emails from Jewish friends<sup>58</sup> asking me if I am familiar with this song, and wondering why Bob has never sung it.<sup>59</sup> Oliver Trager, in considering this question, concludes that that “should be some sort of hint that even he came to think it was the insufferable harangue that nearly every critic (and fan) thought it was.”<sup>60</sup> Well, maybe.<sup>61</sup>

The song has a dozen verses, but the irony of the title is crystalline-clear by the end of verse one:

Well, the neighborhood bully, he’s just one man  
 His enemies say he’s on their land  
 They got him outnumbered about a million to one  
 He got no place to escape to, no place to run  
 He’s the neighborhood bully<sup>62</sup>

Subsequent verses echo the same themes:

He’s criticized and condemned for being alive  
 He’s not supposed to fight back, he’s supposed to have thick skin

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*Restorative Justice*, 12 *TEX. WESLEYAN L. REV.* 91, 125 (2005) (“There is no doubt that restorative justice has a place in society and a value in the legal system, but it cannot replace the traditional form of retributive justice which satisfies the victim’s need for revenge.”).

56. BOB DYLAN, *Neighborhood Bully*, on *INFIDELS* (Columbia Records 1983).

57. *Id.*; Levine, *supra* note 17, at 1270 n.13.

58. For the record, I am Jewish, was raised in a somewhat observant home, have taught twice in Israel, have a niece and nephew who live there in a very observant community, and also have many friends there definitely on the left side of Israeli politics and totally non-observant.

59. It has been covered by at least one ultra-conservative Israeli folk singer, Ariel Zilber. See Rachel Neiman, *Nostalgia Sunday—Israel Does Dylan*, *ISRAELITY* (June 19, 2011), N.B.: This is no longer available online, but I do have it in my Gmail account courtesy of my mother-in-law, Vivian Mason, who sent it on to me over seven years ago.

60. TRAGER, *supra* note 32, at 448. See also TIM RILEY, *HARD RAIN: A DYLAN COMMENTARY* 271 (1992) (calling it “cranky”).

61. The song has been discussed in the Israeli press. See, e.g., Gabe Friedman, *Bob Dylan’s Forgotten Pro-Israel Song, Revisited*, *THE TIMES OF ISRAEL* (May 24, 2016), <https://www.timesofisrael.com/bob-dylans-forgotten-pro-israel-song-revisited/>.

62. BOB DYLAN, *Neighborhood Bully*, *supra* note 56.

He's supposed to lay down and die when his door is kicked in  
 The neighborhood bully been driven out of every land  
 He's wandered the earth an exiled man  
 Seen his family scattered, his people hounded and torn  
 He's always on trial for just being born

He got no allies to really speak of  
 What he gets he must pay for, he don't get it out of love  
 He buys obsolete weapons and he won't be denied  
 But no one sends flesh and blood to fight by his side  
 He's the neighborhood bully

Every empire that's enslaved him is gone  
 Egypt and Rome, even the great Babylon  
 He's made a garden of paradise in the desert sand  
 In bed with nobody, under no one's command<sup>63</sup>

This to me, is the key verse:

Now his holiest books have been trampled upon  
 No contract he signed was worth what it was written on  
 He took the crumbs of the world and he turned it into wealth  
 Took sickness and disease and he turned it into health  
 He's the neighborhood bully<sup>64</sup>

The critic Daniel Epstein construes the song “not so much a defense of . . . Prime Minister Menachem Begin [but] as an expression of pride in a nation that survived against the worst oppression,” referencing the “Egypt and Rome” verse.<sup>65</sup> Well, again, maybe. But, no question in my mind, the song is about more than simply Israel's right to survive. Clinton Heylin quotes Dylan saying the song “specifically spell[s] out [the battle of Armageddon].”<sup>66</sup> And that would have been the war to end all wars.

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63. *Id.*

64. *Id.*

65. EPSTEIN, *supra* note 33, at 271.

66. Clinton Heylin, *Infidels*, in *STUDIO A: THE BOB DYLAN READER 158-60* (Benjamin Hedin ed. 2004); *See also*, Kurt Loder, *Bob Dylan: Recovering Christian*, *ROLLING STONE* (June 21, 1984), <https://www.rollingstone.com/music/music-news/bob-dylan-recovering-christian-87837/> (quoting Dylan: “The battle of Armageddon definitely will be fought in the Middle East”).

### III. THE PAIN AND HORROR OF WAR

Few of Bob’s songs are as straight-forward as *John Brown*.<sup>67</sup> It is a “biting screed demolishing Hollywood conceptions of war heroes”<sup>68</sup> that “links the antiwar mentality with the generation gap.”<sup>69</sup> It tells the listener “of the deception of war, and its true effects on the individual,”<sup>70</sup> and, not incidentally, of the role of the soldier’s mother in what is to happen.<sup>71</sup>

Consider the lyrics. Each stanza viscerally damns war in the most personal of ways—the mother and child reunion after the latter returns home:

But as all the people passed, she saw her son at last  
 When she did she could hardly believe her eyes  
 Oh his face was all shot up and his hand was all blown off  
 And he wore a metal brace around his waist  
 He whispered kind of slow, in a voice she did not know  
 While she couldn’t even recognize his face!  
 “Don’t you remember, Ma, when I went off to war  
 You thought it was the best thing I could do?  
 I was on the battleground, you were home . . . acting proud  
 You wasn’t there standing in my shoes”<sup>72</sup>

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67. An aside: I last heard *John Brown* live on the same day that I last heard *Masters of War*, during the heat of the McCain/Obama election contest in August 2008. My contemporary review of the concert concluded, on this point “[t]he high points of the night were ‘John Brown’ and ‘Masters of War,’ both musically and politically. Here was Bob, in Brooklyn with an audience as blue state as he’ll ever get, and he hammered home the reminder that we do, indeed, live in a political world.” Michael Perlin, *Reviews: Brooklyn, New York, Prospect Park Bandshell*, BOB LINKS, (Aug. 12, 2008), <http://www.boblinks.com/081208r.html#10>, as quoted in Michael L. Perlin, “*John Brown Went Off to War*”: *Considering Veterans’ Courts as Problem-Solving Courts*, 37 NOVA L. REV. 445, 451 n.26 (2013). See TRAGER, *supra* note 32, at 339 (noting that Dylan sang *John Brown* in his 2001 tour “as U.S. bombs were falling on Kabul.”).

68. TRAGER, *supra* note 32, at 338.

69. RILEY, *supra* note 60, at 51.

70. Amy Blanton, *Bob Dylan: An Impact on American Society in the 1960’s*, 8 (Apr. 10, 2001), <http://www.unc.edu/~ablanton/BobDylan.pdf> (unpublished student paper, University of North Carolina at Chapel Hill).

On the impact of war on the soldier’s family, see *Lonesome Day Blues*: “Well, my pa he died and left me, my brother got killed in the war / Well, my pa he died and left me, my brother got killed in the war / My sister, she ran off and got married / Never was heard of any more.” BOB DYLAN, *Lonesome Day Blues*, on LOVE AND THEFT (Columbia Records 2001).

On the danger of “war talk,” see *Ye Playboys and Playgirls*: “You insane tongues of war talk / Ain’t a-gonna guide my road.” BOB DYLAN & PETE SEEGER, *Ye Playboys and Playgirls*, live at the 1963 Newport Folk Festival (1964).

71. See WILLIAMS, *supra* note 25, at 66.

72. BOB DYLAN, *John Brown*, on THE BOOTLEG SERIES VOL. 9—THE WITMARK DEMOS: 1962—1964 (Columbia Records 1962-64).

And then the *denouement*:

“And I couldn’t help but think, through the thunder rolling and stink  
That I was just a puppet in a play  
And through the roar and smoke, this string is finally broke  
And a cannonball blew my eyes away”

As he turned away to walk, his Ma was still in shock  
At seein’ the metal brace that helped him stand  
But as he turned to go, he called his mother close  
And he dropped his medals down into her hand<sup>73</sup>

The key lines here, to me, are the “puppet in a play,” “You wasn’t there standing in my shoes,” and “dropped his medals down into her hand.” The foot soldier is, I do not hesitate to say, a pawn in the game,<sup>74</sup> and his mother cannot “stand inside [his] shoes.”<sup>75</sup> Beyond this, the banality is reflected in the last line. After the soldier is mutilated to the extent that he is unrecognizable by his mother, he gives the medals to her (the woman who “bragged about her son with his uniform and gun his medals”). Here, mom. Look at me now.

This is not the only time Bob has sung about how the pain of war affects the individual, truly unknown, soldier. From *Chimes of Freedom*:

Flashing for the warriors whose strength is not to fight  
Flashing for the refugees on the unarmed road of flight  
An’ for each an’ ev’ry underdog soldier in the night  
An’ we gazed upon the chimes of freedom flashing<sup>76</sup>

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73. *Id.*

74. *Compare Only a Pawn in Their Game*, BOB DYLAN, <https://www.bobdylan.com/songs/only-pawn-their-game/> (last visited Sept. 6, 2020) (discussing the death of civil rights leader Medgar Evers, and how cynical politicians relied on racist appeals to maintain support among poor white voters), with Renee Newman Knake, *Why the Law Needs Music: Revisiting NAACP v. Button Through the Songs of Bob Dylan*, 38 FORDHAM URB. L.J. 1303, 1315 (2012):

In *Only a Pawn in Their Game*, Dylan not only condemns a system where an activist like Evers is murdered, but also a system that perpetuates the ignorance of the ‘poor white man’ that is ‘used in the hands of all of them like a tool.’ To borrow Dylan’s words, ‘them’ is the elite class of ‘deputy sheriffs, the soldiers, the governors [that] get paid [a]nd the marshals and cops [that] get the same.’

75. Two years later, Dylan used the “stand inside my shoes” line in a very different context. See BOB DYLAN, *Positively Fourth Street*, on POSITIVELY FOURTH STREET (Columbia Records 1965) (“I wish that for just one time / You could stand inside my shoes / And just for that one moment / I could be you.”).

76. See BOB DYLAN, *Chimes of Freedom*, on ANOTHER SIDE OF BOB DYLAN (Columbia Records 1964).

Here, he paradoxically (perhaps, to some) focuses on those who do not fight, and how all soldiers are “underdogs.” Could there be anything more different than the military extravaganzas that precede every NFL game? I think Robert Shelton got this absolutely right when he characterized this as Dylan’s “most political song” and an expression of “affinity” for a “legion of the abused,”<sup>77</sup> including, again, the thousands of maimed and often-killed soldiers.<sup>78</sup> Similarly, Mike Marqusee has concluded that *Chimes* is “Dylan’s most sweeping view of solidarity with all those marginalized by a monolithic society,”<sup>79</sup> a category that includes this same cadre of soldiers.<sup>80</sup>

And there is more. When Dylan wrote *A Hard Rain’s A-Gonna Fall*,<sup>81</sup> we had not yet learned about the “child soldiers” who were to be an integral part of the civil wars that ravaged Africa for decades.<sup>82</sup> But think about these lines:

I saw a black branch with blood that kept drippin’  
I saw a room full of men with their hammers a-bleedin’

77. ROBERT SHELTON, *NO DIRECTION HOME: THE LIFE AND MUSIC OF BOB DYLAN* 220 (1997).

78. Though note, in *Gates of Eden*, Bob’s reference to the “savage soldier [who] sticks his head in sand/And then complains.” See Bob Dylan, *Gates of Eden*, *supra* note 22.

79. MARQUESEE, *supra* note 26, at 94.

80. Elsewhere, Dylan looks at the ravages of war ironically as in the final two lines of this stanza from *Long Ago, Far Away*, a song about the “persistence of historical denial from slavery through war,” RILEY, *supra* note 60, at 50, “human cruelty throughout history,” THOMAS, *supra* note 20, at 70, and an example of Dylan’s “questioning modern humanity’s moral compass,” HEYLIN, *REVOLUTION IN THE AIR: THE SONGS OF BOB DYLAN*, *supra* note 34, at 91, a stanza that Attwood sees as a “nod to what was to become Masters of War as well.” Tony Attwood, *Long Ago Far Away: When Bob Dylan Shouted out against Man’s Inhumanity*, UNTOLD DYLAN, (Dec. 4, 2017), <https://bob-dylan.org.uk/archives/6081> (“The war guns they went off wild / The whole world bled its blood / Men’s bodies floated on the edge / Of oceans made of mud / Long ago, far away / Those kind of things don’t happen / No more, nowadays.”); see BOB DYLAN, *Long Ago Far Away*, on *THE BOOTLEG SERIES, VOL. 9: THE WITMARK DEMOS: 1962-1964* (Witmark Studio 1962). Or, in this couplet from *Cat’s in the Well*: “The cat’s in the well and grief is showing its face / The world’s being slaughtered and it’s such a bloody disgrace.” BOB DYLAN, *Cat’s in the Well*, on *UNDER THE RED SKY* (Columbia Records 1990).

81. See EPSTEIN, *supra* note 33, at 109 (characterizing *Hard Rain* as a “visionary epic of apocalypse and redemption,” and “unlike any song that had ever been written.”).

82. See, e.g., PETER EICHSTAEDT, *FIRST KILL YOUR FAMILY: CHILD SOLDIERS OF UGANDA AND THE LORD’S RESISTANCE ARMY* (2009); ALCINDA HONWANA, *CHILD SOLDIERS IN AFRICA: THE ETHNOGRAPHY OF POLITICAL VIOLENCE* (2006). Another Dylan song has been linked to a parallel image. See generally Robert H. Snyder, “Disillusioned Words Like Bullets Bark”: *Incitement to Genocide, Music, and the Trial of Simon Bikindi*, 35 GA. J. INT’L & COMP. L. 645, 662 n.126 (2007) (quoting BOB DYLAN, *It’s Alright Ma (I’m Only Bleeding)*, on *BRINGING IT ALL BACK HOME* (Columbia Records 1965)) (discussing in the context of the Rwandan civil war, how the Interahamwe militia, refused to help Tutsi children whose parents had been murdered, an omission which led directly to their deaths.). On *It’s Alright Ma*, and war as a metaphor, see *infra* section VII.

I saw a white ladder all covered with water  
 I saw ten thousand talkers whose tongues were all broken  
 I saw guns and sharp swords in the hands of young children<sup>83</sup>

The connection between this last line and the first verse of *Masters* (“You that hide behind walls / You that hide behind desks”)<sup>84</sup> could not be made more clearly.<sup>85</sup>

#### IV. PROFITEERING

Consider the irony of *Highway 61 Revisited*:

Now the rovin’ gambler he was very bored  
 He was tryin’ to create a next world war  
 He found a promoter who nearly fell off the floor  
 He said I never engaged in this kind of thing before  
 But yes I think it can be very easily done  
 We’ll just put some bleachers out in the sun  
 And have it on Highway 61<sup>86</sup>

Trager refers to the entire album as a “scathing, crystalline depiction of a modern-age nightmare,”<sup>87</sup> and suggests this stanza is a “jab at a concert promoter.”<sup>88</sup> And, of course, it may be that. But like so many of Bob’s lyrics, second and third (and tenth) level meanings are never that far from the surface. Is war the end product of boredom on the part of political leaders? Given current politics, is this really a stretch? Consider Mike Marqusee’s conclusion on this song: “Highway 61

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83. Recall that Dylan first sang *Hard Rain* at Carnegie Hall, just one month before the Cuban missile crisis. BOB DYLAN, *A Hard Rain’s a-Gonna Fall*, on THE FREEWHEELIN’ BOB DYLAN (Columbia Records 1962). On the connection between the song and current politics, see THOMAS, *supra* note 20, at 300-01 (in the context of Patti Smith singing this song at the Nobel awards ceremony).

84. DYLAN, *Masters of War*, *supra* note 4.

85. This line is usually cited in the context of inner-city school systems, but I believe it is just as salient in this context. See, e.g., Gordon Ball, *Dylan and the Nobel*, 22 ORAL TRADITION 14, 19 (2007); See also Peter Gallagher, *The Kids Aren’t Alright: Why Courts Should Impose a Constitutional Duty on Schools to Protect Students*, 8 GEO. J. ON POVERTY L. & POL’Y 377, 377 (2001).

86. BOB DYLAN, *Highway 61 Revisited*, on HIGHWAY 61 REVISITED (Warner Bros. Inc. 1965).

87. TRAGER, *supra* note 32, at 252. Of course, war profiteering is nothing new. See People, on Complaint of Klein v. Schacher, 47 N.Y.S. 2d 371, 374 (Mag. Ct. 1944) (“It is common knowledge that it is extremely difficult to detect a majority of war profiteers whose ingenuity is exceeded only by their greed for [exorbitant] profits while millions of our fighting sons are in many foreign lands fighting for a happier world.”).

88. TRAGER, *supra* note 32, at 254.

is the place where war becomes a commodified spectacle.”<sup>89</sup> It is the “tycoons from the war industry”<sup>90</sup> on whom Dylan swoops.<sup>91</sup>

Related to this are Dylan’s thoughts about global politics, issues of economic self-interest, and the chaotic nature of foreign policy.<sup>92</sup> First, consider the opening stanza of *Slow Train*:

All that foreign oil controlling American soil  
 Look around you, it’s just bound to make you embarrassed  
 Sheiks walkin’ around like kings  
 Wearing fancy jewels and nose rings  
 Deciding America’s future from Amsterdam and to Paris  
 And there’s a slow, slow train comin’ up around the bend<sup>93</sup>

Later, he links this to the failings of our capitalist system, “[p]eople starving and thirsting, grain elevators are bursting / Oh, you know it costs more to store the food than it do to give it.”<sup>94</sup>

When this album was released, Jann Wenner called this track “nothing less than Dylan’s most mature and profound song about America.”<sup>95</sup> This is likely an over exaggeration, but, nonetheless, Dylan here sets out a political agenda about how our economic dependencies on autocratic governments has contaminated

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89. MARQUSEE, *supra* note 26, at 173.

90. Fritz Werner Haver, “*All the People That You Mention . . .*,” in THE DYLAN COMPANION: A COLLECTION OF ESSENTIAL WRITING ABOUT BOB DYLAN 118 (Elizabeth Thomson & David Gutman eds., 1990).

91. And the line from *Masters* is unbroken. See WILLIAMS, *supra* note 25, at 76 (discussing how *Masters* focuses on those who “consciously and manipulatively participate in war profiteering.”).

92. Concerns about the chaos of foreign policy, are, of course, timeless. See Harold Hongju Koh, *The Trump Administration and International Law*, 56 WASHBURN L.J. 413, 463 (2017).

93. BOB DYLAN, *Slow Train*, on SLOW TRAIN COMING (Columbia Records 1979).

94. *Id.* (Think here also of the last verse of *Pay in Blood*: “I’ll give you justice, I’ll fatten your purse / Show me your moral virtues first / Hear me holler hear me moan / I pay in blood but not my own”). BOB DYLAN, *Pay in Blood*, on TEMPEST (Columbia Records 2012).

95. Jann S. Wenner, *Slow Train Coming*, ROLLING STONE (Sept. 20, 1979), <https://www.rollingstone.com/music/music-album-reviews/slow-train-coming-251127/> (“‘Slow Train’ is a new kind of ‘Blowin’ in the Wind’ or ‘Desolation Row.’”). These critiques, of course, skip over the racial stereotypes embedded in lyrics like “fancy jewels and nose rings.”



American life (consider the line “But the enemy I see wears a cloak of decency”).<sup>96</sup> And this is certainly, in Wenner’s word, “profound.”<sup>97</sup>

Then, look at this stanza from the truly obscure song *Train A-Travelin’*:

I’m a-wonderin’ if the leaders of the nations understand  
This murder-minded world that they’re leavin’ in my hands  
Have you ever laid awake at night and wondered ’bout the same?  
Then you’ve heard my voice a-singin’ and you know my name<sup>98</sup>

This song was one of those released under Bob’s Blind Boy Grunt pseudonym on a *Broadside* compilation disc ten years after he initially sang it,<sup>99</sup> and it basically has disappeared from view. But, consider Tony Attwood’s take on the song: “Dylan is taking on the position of the embodiment of the young, the people who have been left with all the mess of a society and economic system that the generation who survived the second world war have handed down to their children.”<sup>100</sup>

I believe that, to Dylan, both of these themes—society’s “mess” and the commodification of war—are interrelated. Mike Marqusee has also written about how many of Dylan’s songs reflect a “sour distrust” of the “capitalist society wracked by the war of all against all,”<sup>101</sup> and I think the songs I discuss here reflect precisely that “sour distaste.”

## V. FRAGILITY OF ALLIANCES

If there were ever a slam-dunk it is this. From *With God on Our Side*, a “withering look at American exceptionalism”:<sup>102</sup>

When the Second World War  
Came to an end

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96. This line is used in an article about the legal aftermath of 9/11 in Peter M. Mansfield, *Terrorism and a Civil Cause of Action: Boim, Ungar, And Joint Torts*, 3 CHI-KENT J. INT’L & COMP. L. 1, 4 (2003), and as the opening epigram of Bryan Lester Dupler, *Another Look at Evolving Standards: Will Decency Prevail against Executing the Mentally Retarded?*, 52 OKLA. L. REV. 593, 593 (1999).

97. An aside: I have never heard Dylan sing this, but I did see Joe Bonamassa cover it, the most coruscating Dylan cover I have ever seen in person. I was in the first row of the third balcony at the Fox Theater in Atlanta and my seat mate told me he was afraid I was going to jump down to the stage. Almost . . .

98. BLIND BOY GRUNT FT. BOB DYLAN, *Train A-Travelin’*, on *BROADSIDE BALLADS*, VOL. 6: *BROADSIDE REUNION* (Folkways Records 1972).

99. TRAGER, *supra* note 32, at 638.

100. Tony Attwood, *Train A Travellin’. A Forgotten Masterpiece as the Young Bob Dylan Changes Direction*, UNTOLD DYLAN (Dec. 14, 2017), <https://bob-dylan.org.uk/archives/6156>.

101. MARQUSEE, *supra* note 26, at 167.

102. Anthony Deurtis, *Bob Dylan as Songwriter*, in *THE CAMBRIDGE COMPANION TO BOB DYLAN* 42, 48 (Kevin J.H. Dettman ed. 2009).

We forgave the Germans  
 And we were friends  
 Though they murdered six million  
 In the ovens they fried  
 The Germans now too  
 Have God on their side.<sup>103</sup>

At least one law review article has drawn on the last two lines of this couplet in connection with the conviction of Julius Streicher by the International Military Tribunal, following his calling for the extermination of the Jews:<sup>104</sup> “Streicher’s incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitutes persecution on political and racial grounds in connection with war crimes as defined by the Charter, and constitutes a crime against humanity.”<sup>105</sup> Others have cited this song to describe how politicians “invoke the name of God to justify unjust wars.”<sup>106</sup>

*With God*, negating the rationalization of war by patriotism<sup>107</sup> and the other “rationalizations of twentieth-century history,”<sup>108</sup> most importantly reflects the “just kidding” aspect of so many political alliances and loyalties and oppositions. No matter how we interpret Dylan’s position on Israel in *Neighborhood Bully*, there can be no question that the Holocaust had a searing impact on Dylan’s traditional Jewish home.<sup>109</sup> We cannot know, of course, exactly how his parents took the news that Germany had, now, become our “friend,” but we can assume it was not entirely positive (understatement intentional).

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103. BOB DYLAN, *With God on Our Side, on THE TIMES THEY ARE A-CHANGIN’* (Columbia Records 1963).

104. Snyder, *supra* note 82, at 654 (captioning this section of the article, “‘The Germans Now Too Have God on Their Side’: The Beginning of the Charge of Incitement to Genocide at the International Military Tribunals at Nuremberg.”).

105. *Id.* at 656.

106. Professor Shiffrin points out that God is often invoked “on both sides of a conflict.” Steven Shiffrin, *The Pluralistic Foundations of the Religion Clauses*, 90 CORNELL L. REV. 9, 44 (2004) (citing STEVE BRUCE, *POLITICS AND RELIGION* 4 (2003) (“Everyone claims divine approval. All states mobilize for war by first enlisting God as their recruiting sergeant.”); see also Christopher J. Eberle, *God and War: An Exploration*, 28 J.L. & RELIGION 1 (2012-13).

107. BOB SPITZ, *DYLAN: A BIOGRAPHY* 248-49 (1989).

108. RILEY, *supra* note 60, at 70.

109. See, e.g., SPITZ, *supra* note 107, at 9-17. A recent book argues persuasively in Dylan’s belief in “the biblical God of both the Old and New Testaments.” See Scott Derrickson, *Foreword* to SCOTT M. MARSHALL, *BOB DYLAN: A SPIRITUAL LIFE* XIII, XIV (2017). My thanks to my friend Garth Gersten for sending me Marshall’s book.

## VI. WAR AS A MISTAKE

Nowhere is this clearer than in *Let Me Die in My Footsteps*, “a song about bravery”:<sup>110</sup>

There’s been rumors of war and wars that have been  
 The meaning of life has been lost in the wind  
 And some people thinkin’ that the end is close by  
 ’Stead of learnin’ to live they are learnin’ to die  
 Let me die in my footsteps  
 Before I go down under the ground.  
 . . .  
 If I had rubies and riches and crowns  
 I’d buy the whole world and change things around  
 I’d throw all the guns and the tanks in the sea  
 For they are mistakes of a past history  
 Let me die in my footsteps  
 Before I go down under the ground<sup>111</sup>

According to Attwood, the song was written in response to “the construction and sale of fallout shelters during the Cold War in the 1950s,”<sup>112</sup> and, according to Marqusee, “the ultimate expression of a profoundly wrong-turn in human development.”<sup>113</sup> Think though, of the almost-war at the time of the Cuban missile crisis, the mire of the Vietnam War, the years of war in Iraq and Afghanistan.<sup>114</sup> The list goes on forever. Bob may have gotten tired of singing this mostly-two chord song over half a century ago, but the point he made in it still resonates today.<sup>115</sup>

A review of Bob’s entire canon reveals that he has name-checked *many* wars, far beyond the obvious ones: The War of 1812,<sup>116</sup> the Mexican War,<sup>117</sup> and

110. RILEY, *supra* note 60, at 67.

111. BOB DYLAN, *Let Me Die in My Footsteps*, on THE BOOTLEG SERIES, VOLS. 1-3: RARE & UNRELEASED 1961-1991 (Columbia Records 1963).

112. *Id.* See also TRAGER, *supra* note 32, at 171 (same). Bob has sung explicitly about fallout shelters elsewhere. See BOB DYLAN, *Talkin’ World War III Blues*, on THE FREEWHEELIN’ BOB DYLAN (Columbia Records 1963) (“Well, I rung the fallout shelter bell”); DYLAN, *Ye Playboys and Playgirls*, *supra* note 64 (“You fallout shelter sellers / Can’t get in my door.”).

113. MARQUESEE, *supra* note 26, at 52.

114. Dylan said: “[Those who constructed fallout shelters] don’t even really know what they’re scared of.” HEYLIN, *supra* note 28, at 76.

115. Paul Williams characterizes *Footsteps* as Dylan’s “first anthem.” WILLIAMS, *supra* note 25, at 48.

116. Bob Dylan, *Legionnaire’s Disease*, on STREET-LEGAL (Columbia Records 1978).

117. BOB DYLAN, *If You Ever Go to Houston*, on TOGETHER THROUGH LIFE (Columbia Records 2008).

the Spanish-American war.<sup>118</sup> In another forgotten song, *Band of the Hand*, Dylan takes an almost vigilante-esque perspective on behalf of returning veterans:

For all of my brothers from Vietnam  
 And my uncles from World War II  
 I've got to say that it's countdown time now  
 We're gonna do what the law should do[.]<sup>119</sup>

War is a mistake, Dylan declares, and mostly, I agree with him.

## VII. WAR AS A METAPHOR

Bob also writes and sings about war metaphorically<sup>120</sup> in a wide range of settings, ranging from gangland crime to persecuted entertainers to star-crossed lovers to household pets.<sup>121</sup> In *It's Alright, Ma (I'm Only Bleeding)*, he states it this way:

Temptation's page flies out the door  
 You follow, find yourself at war

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118. DYLAN, *With God on Our Side*, *supra* note 103.

119. BOB DYLAN, *Band of the Hand (It's Hell Time Man!)*, on BAND OF THE HAND (MCA Records 1986).

120. Many of these songs were written in his “born again” years. *See, e.g.*, BOB DYLAN, *When He Returns*, on SLOW TRAIN COMING (Columbia Records 1979) (“Will I ever learn that there'll be no peace, that the war won't cease/Until He returns?”); Bob Dylan, *Trouble in Mind* (Music Shoals Sound Studio 1979) (“When the deeds that you do don't add up to zero/It's what's inside that counts, ask any war hero / You think you can hide but you're never alone / Ask Lot what he thought when his wife turned to stone”); BOB DYLAN, *Solid Rock*, on SAVED (Columbia Records 1980) (“It's the ways of the flesh to war against the spirit”). *See also* BOB DYLAN, *Driftin' Too Far from Shore*, on KNOCKED OUT LOADED (Columbia Records 1986) (“You can't walk the streets in a war”).

121. *See, e.g.*, BOB DYLAN, *Lenny Bruce*, on SHOT OF LOVE (Columbia Records 1981) (“He fought a war on a battlefield where every victory hurts/Lenny Bruce was bad, he was the brother that you never had”); BOB DYLAN & JACQUES LEVY, *Joey*, on DESIRE (Columbia Records 1975) (“The war broke out at the break of dawn, it emptied out the streets / Joey and his brothers suffered terrible defeats”); BOB DYLAN, *Cat's in the Well*, *supra* note 80 (The cat's in the well and the servant is at the door / The drinks are ready and the dogs are going to war”). And, of course, he also writes about guns, sometimes in what opera fans would call *verismo* songs, *e.g.*, BOB DYLAN, *Knockin' on Heaven's Door*, on PAT GARRETT & BILLY THE KID (Columbia Records 1973) (“Mama, put my guns in the ground / I can't shoot them anymore”); BOB DYLAN, *Only a Pawn in Their Game*, on TIMES THEY ARE A-CHANGIN' (Columbia Records 1963) (“But when the shadowy sun sets on the one / That fired the gun”), sometimes in more metaphorical settings, *e.g.*, BOB DYLAN, *It's All Over Now, Baby Blue*, on BRINGING IT ALL BACK HOME (Columbia Records 1965) (“Yonder stands your orphan with his gun”); and sometimes simply to move the plot along, *e.g.*, Dylan, *Joey*, (“It was true that in his later years he would not carry a gun”).

Watch waterfalls of pity roar  
 You feel to moan but unlike before  
 You discover that you'd just be one more  
 Person crying[.]<sup>122</sup>

I have used the “temptation’s page” line as the start of a title of an article about disability systems and the criminal justice system,<sup>123</sup> and asked the reader to “consider the ‘war’ between those who support the ‘empowering idea that people with disabilities can and should work once discriminatory societal barriers are removed,’ and those who ‘treat people with disabilities through a medical model, seeking to objectively evaluate whether their medical situation entitles them to governmental benefits.’”<sup>124</sup> Certainly not the sort of war that Bob wrote about in *Masters* or *John Brown*, but in many ways, a war nonetheless.<sup>125</sup>

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122. DYLAN, *It's Alright Ma (I'm Only Bleeding)*, *supra* note 88.

123. Michael L. Perlin & Meghan Gallagher, “*Temptation’s Page Flies out the Door*”: *Navigating Complex Systems of Disability and the Law from a Therapeutic Jurisprudence Perspective*, 25 *BUFFALO HUM. RTS. L. REV.* 1, 1 (2018-19). These are the topics I generally write about when I am not writing about Dylan. *See, e.g.*, MICHAEL L. PERLIN & HEATHER ELLIS CUCOLO, *MENTAL DISABILITY LAW: CIVIL AND CRIMINAL* (3d ed. 2016) (2020 update); Michael L. Perlin, Talia Roitberg Harmon & Sarah Chatt, “*A World of Steel-Eyed Death*”: *An Empirical Evaluation of the Failure of the Strickland Standard to Ensure Adequate Counsel to Defendants with Mental Disabilities Facing the Death Penalty*, 53 *U. MICH. J.L. REF.* 261 (2020); Michael L. Perlin & Alison J. Lynch, “*She’s Nobody’s Child / The Law Can’t Touch Her at All*”: *Seeking to Bring Dignity to Legal Proceedings Involving Juveniles*, 56 *FAM. CT. REV.* 79 (2018).

124. Perlin & Gallagher, *supra* note 117, at 45 (quoting, in part, Michael Waterstone, *Returning Veterans and Disability Law*, 85 *NOTRE DAME L. REV.* 1081, 1081, 1083 (2010)).

125. And later in the same song is the line “Disillusioned words like bullets bark,” a line that has been used as an article title by another at least once before. *See* Snyder, *supra* note 82.

VIII. ON THERAPEUTIC JURISPRUDENCE<sup>126</sup>

Briefly, therapeutic jurisprudence recognizes that, as a therapeutic agent, the law can have therapeutic or anti-therapeutic consequences.<sup>127</sup> It asks whether legal rules, procedures, and lawyer roles can or should be reshaped to enhance their therapeutic potential while not subordinating due process principles.<sup>128</sup> Professor David Wexler clearly identifies how the inherent tension inherent in this inquiry must be resolved: “the law’s use of “mental health information to improve therapeutic functioning [cannot] impinge upon justice concerns.”<sup>129</sup> As the author has written elsewhere, “An inquiry into therapeutic outcomes does not mean that therapeutic concerns ‘trump’ civil rights and civil liberties.”<sup>130</sup> Therapeutic jurisprudence “look[s] at law as it actually impacts people’s lives,”<sup>131</sup> and TJ supports “an ethic of care.”<sup>132</sup> It attempts to bring about healing and wellness,<sup>133</sup> and to value psychological health.<sup>134</sup>

In my earlier Dylan-and-the-law article, I discussed *the Lonesome Death of Hattie Carroll* from this perspective, and said this:

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126. This section is largely adapted from Michael L. Perlin, “I’ve Got My Mind Made Up”: *How Judicial Teleology in Cases Involving Biologically Based Evidence Violates Therapeutic Jurisprudence*, 24 CARD. J. EQUAL RTS. & SOC’L JUST. 81, 93-95 (2018) [hereinafter Perlin, *Mind Made Up*], and Michael L. Perlin & Alison J. Lynch, “In the Wasteland of Your Mind”: *Criminology, Scientific Discoveries and the Criminal Process*, 4 VA. J. CRIM. L. 304, 357 (2016). Further, it distills the work of the author over the past 27 years, beginning with Michael L. Perlin, *What Is Therapeutic Jurisprudence?* 10 N.Y.L. SCH. J. HUM. RTS. 623 (1993). See generally, Michael L. Perlin, “Have You Seen Dignity?”: *The Story of the Development of Therapeutic Jurisprudence*, 27 U.N.Z. LAW REV. 1135 (2017); Michael L. Perlin, “Changing of the Guards”: *David Wexler, Therapeutic Jurisprudence, and the Transformation of Legal Scholarship*, 69 INT’L J. L. & PSYCHIATRY 3 (2019).

127. Michael L. Perlin, “His Brain Has Been Mismanaged with Great Skill”: *How Will Jurors Respond to Neuroimaging Testimony in Insanity Defense Cases?* 42 AKRON L. REV. 885, 912 (2009).

128. Michael L. Perlin, “And My Best Friend, My Doctor, Won’t Even Say What It Is I’ve Got”: *The Role and Significance of Counsel in Right to Refuse Treatment Cases*, 42 SAN DIEGO L. REV. 735, 751 (2005)

129. David B. Wexler, *Therapeutic Jurisprudence and Changing Concepts of Legal Scholarship*, 11 BEHAV. SCI. & L. 17, 21 (1993).

130. Michael L. Perlin, *A Law of Healing*, 68 U. CIN. L. REV. 407, 412 (2000).

131. Bruce J. Winick, *Foreword: Therapeutic Jurisprudence Perspectives on Dealing With Victims of Crime*, 33 NOVA L. REV. 535, 535 (2009).

132. Perlin, *Mind Made Up*, *supra* note 120, at 94 (citing Bruce J. Winick & David B. Wexler, *The Use of Therapeutic Jurisprudence in Law School Clinical Education: Transforming the Criminal Law Clinic*, 13 CLINICAL L. REV. 605, 605-07 (2006)).

133. Perlin, *Mind Made Up*, *supra* note 126, at 94 (citing Bruce Winick, *A Therapeutic Jurisprudence Model for Civil Commitment*, in INVOLUNTARY DETENTION AND THERAPEUTIC JURISPRUDENCE: INTERNATIONAL PERSPECTIVE ON CIVIL COMMITMENT 23, 26 (Kate Diesfeld & Ian Freckelton eds., 2003)).

134. *Id.*

I have written extensively about therapeutic jurisprudence, and, to a lesser extent, about procedural justice. In one of the latter cohort of articles, I focus on the findings of Professor Tom Tyler that perceptions of systemic fairness are driven, in large part, by “the degree to which people judge that they are treated with dignity and respect.” I believe that Dylan's lyrics about the ‘ladder of the law’ are informed by this perception and this spirit.<sup>135</sup>

There is some substantial literature about the application of therapeutic jurisprudence to veterans courts [VTC],<sup>136</sup> a problem-solving court that seeks to divert certain populations out of the traditional criminal justice system.<sup>137</sup> As Professor Kristine Huskey notes, “most scholars and practitioners assume the TJ approach as the given paradigm for VTCs.”<sup>138</sup> I believe that—if we take Dylan’s lyrics at face value<sup>139</sup>—Dylan would endorse the expanded use of these courts, and that Dylan’s lyrics about war and veterans fit comfortably into a TJ model.

Think about Dylan’s songs about war that I have discussed here, and his “jurisprudence” of the pain and horror of war, and of war profiteering. And think about one of his most salient, and often-repeated points, whether it is in *John Brown*

135. Perlin, Perlin, *Tangled Up in Law: The Jurisprudence of Bob Dylan*, *supra* note 14, at 1427-28 (quoting in part, Tom R. Tyler, *The Psychological Consequences of Judicial Procedures: Implications for Civil Commitment Hearings*, 46 *SMU L. Rev.* 433, 442 (1992) (footnotes omitted)).

136. See generally Julie Marie Baldwin, *Investigating the Programmatic Attack: A National Survey of Veterans Treatment Courts*, 105 *J. CRIM. L. & CRIMINOLOGY* 705 (2015); Perlin, *Tangled Up in Law: The Jurisprudence of Bob Dylan*, *supra* note 14.

137. See, e.g., Jeffrey Lewis Wieand, Jr., *Continuing Combat at Home: How Judges and Attorneys Can Improve Their Handling of Combat Veterans with PTSD in Criminal Courts*, 19 *WASH. & LEE J. CIVIL RTS. & SOC. JUST.* 227, 257-58 (2012) (footnotes and citations omitted):

Veterans courts further achieve therapeutic jurisprudence objectives through the voluntary nature of the program which requires defendants to willingly enter into the program, and agree to undertake it in a public setting. The veteran's voluntary admission flows from an agreement with the judge, essentially a ‘behavioral contract’ that the veteran defendant may be more willing to keep when goals, obligations, and punishments for noncompliance are stated. The presence of family members and the support of the local veteran community also provide further encouragement and willingness among veteran offenders to comply.... Creation of this behavioral contract serves as a starting point and provides the judge a foundation for diverting the veteran defendant into the program while encouraging him or her to follow through with obligations under an understanding that successful completion could ultimately result in the charges being dismissed.

138. Kristine A. Huskey, *Justice for Veterans: Does Theory Matter?* 59 *ARIZ. L. REV.* 697, 700 (2017).

139. I know this may be perilous, but . . .

or *Masters* or *Tombstone Blues*: that the persons who suffer in war are *not* treated with dignity and respect by those who send them to possible (perhaps likely) injury and death. It is essential, using a therapeutic jurisprudence framework, that those before the courts “receive dignity and respect, [and] are given a sense of voice and validation.”<sup>140</sup> This sense of voice and validation, Dylan would say, is utterly absent in the way we treat those who go to war.

These issues have always been with me.<sup>141</sup> When I was a practicing lawyer, I litigated on behalf of Vietnam veterans caught up in the morass of the VA system.<sup>142</sup> Fairly recently, I wrote an article about how the Federal Sentencing Guidelines ought to be interpreted in cases involving Iraqi and Afghan War veterans exhibiting symptoms of post-traumatic stress disorder.<sup>143</sup> More recently, I wrote this about the case in question, that I litigated nearly 40 years ago:

[W]hen I was the director of the New Jersey Division of Mental Health Advocacy, I litigated a case that changed my life. That case-- *Falter v. Veterans Administration*--was about the way veterans with mental illness (at that time, especially Vietnam veterans) were treated at the Veterans Administration (“VA”) Medical Center in Lyons, New Jersey. Following the litigation in the *Falter* case, the VA promulgated the first Patients' Bill of Rights on behalf of persons in its facilities, and attention was paid to substantive areas of patients' rights that all too often were previously ignored ....

But what has lasted with me most vividly from *Falter* was one line of Judge Harold Ackerman's initial decision: “[In this opinion], I am referring to how [plaintiffs] are treated as human beings.” I read that line in the slip opinion, and for a moment, my breath stopped. Prior to that time, I had been representing persons with mental disabilities for nearly a decade, and litigated other class actions that truly had a vast impact on the

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140. Susan Stefan & Bruce J. Winick, *A Dialogue on Mental Health Courts*, 11 PSYCH. PUB. POL'Y & L. 507, 516 (2005).

141. Perhaps ironic. At the conference at which I presented a draft of this paper, I met someone whom I had helped bail out of jail following anti-war protests at Columbia University in 1968. Like the person to whom Dylan is speaking in *It's All Over Now, Baby Blue*, I “take what [I] have gathered from coincidence.” See Dylan, *It's All Over Now, Baby Blue*, *supra* note 121.

142. Michael J. Perlin & John Douard, “Equality, I Spoke that Word As If a Wedding Vow”: *Mental Disability Law and How We Treat Marginalized Persons*, 53 N.Y.L. SCH. L. REV. 9, 10 (2008-2009) (discussing *Falter v. Veterans Admin.*, 502 F. Supp. 1178 (D.N.J. 1980)).

143. Michael L. Perlin, “I Expected It to Happen/I Knew He'd Lost Control”: *The Impact of PTSD on Criminal Sentencing after the Promulgation of DSM-5*, 2015 UTAH L. REV. 881, 885-86 (2015).



New Jersey mental health system. But never before had a judge written a line like this in an opinion in one of my cases.<sup>144</sup>

This line by Judge Ackerman—“how [plaintiffs] are treated as human beings”—is, to me, the essence of judicial therapeutic jurisprudence. I believe that many of the lyrics written by Dylan that I quote here are, similarly, the essence of musical therapeutic jurisprudence.

## IX. CONCLUSION

Near the end of his magisterial book, “Why Bob Dylan Matters,” Professor Richard Thomas talks about what is “at stake” in Bob’s music: “Something to do with memory, song, and shared human emotion and ... joy, sorrow, pain [about] a casualty, perhaps of Vietnam, heroin, AIDS, Iraq, Afghanistan.”<sup>145</sup> This stake is, to me, crystal clear in many of the songs about war that I discuss in this paper. I concluded my earlier Dylan law review article by noting that I saw “a near-total consonance between Bob’s jurisprudential and political values and the values I seek to assert in my [other] writings.”<sup>146</sup> Having expanded my range from domestic issues (the topic of my 2011 article) to international ones, I see no reason to backtrack from this statement at all. I was 17 when I first heard Bob sing *Masters and With God on My Side*. At age 73, I heard him sing *Highway 61 Revisited* (for at least the 25<sup>th</sup> time) near the end of his 2019 tour.<sup>147</sup> He keeps on keepin’ on. And so do I.




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144. Michael L. Perlin & Alison J. Lynch, “*Mr. Bad Example*”: *Why Lawyers Need to Embrace Therapeutic Jurisprudence to Root Out Sanism in the Representation of Persons with Mental Disabilities*, 16 WYO. L. REV. 299, 312-13 (2016) (footnotes omitted).

145. THOMAS, *supra* note 20, at 289.

146. Michael L. Perlin, *Dignity and the Nobel Prize: Why Bob Dylan Was the Perfect Choice* (2016), <https://www.humiliationstudies.org/documents/PerlinNY16meetingDylan.pdf>

147. Bob Dylan, *The Met Philadelphia* concert (Dec. 3, 2018), <https://www.bobdylan.com/date/2018-12-03-metropolitan-opera-house-philadelphia-pennsylvania/>; see also Michael L. Perlin, *Reviews; New York, New York; Bacon Theatre, Dec. 5, 2019*, BOBLINKS, <http://www.boblinks.com/120519r.html#1> (last visited Sept. 29, 2020) (author’s review of Dylan’s concert at Bacon Theater, New York City, New York).