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

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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,² as a seventeen-year-old college freshman.³ I

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   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—a what Greil Marcus has called Dylan’s most “unforgiving, damning anti-war song”—that night. If he did, it was the ninth or tenth time that he had ever sang that song live.

I am sure that when Freewheeling 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, 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.

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), and have done so in over seventy articles since (in articles about law and society, not about music). I have never been more flattered than when Nick Baugnert of


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


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 bobdylan.com, Bob has sung Masters 884 times. I believe this number is lower than a true count would be.


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


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.13

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.14 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.”15 But I noted that I was omitting—for space considerations—any discussion of Dylan songs dealing with war and international affairs,16 noting that these songs were “worth an article of its own.”17 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,”18 perhaps of the “politics of ancient history,”19 and how war is a metaphor for, well, lots more.20 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.21

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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.”).
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 \textit{Gates of Eden} with these words: “Of war and peace the truth just twists.”

The notion of the twisted truth encapsulates all of what Bob has written about this topic.\textsuperscript{23} All his lyrics here are a reflection of the \textit{Political World} in which we live,\textsuperscript{24} and capture what Paul Williams wrote about \textit{With God on Our Side}: “[That] lies and propaganda continue to be so effective in provoking us to hate, fear and kill our neighbors.”\textsuperscript{25}

One caveat: the songs I discuss here are not Dylan’s only songs about war. In Mike Marqusee’s book, \textit{Chimes of Freedom: The Politics of Bob Dylan’s Art},\textsuperscript{26} the author includes \textit{All Along the Watchtower},\textsuperscript{27} \textit{Blowin’ in the Wind},\textsuperscript{28} Bob Dylan’s 115\textsuperscript{th} Dream,\textsuperscript{29} and \textit{Tombstone Blues}\textsuperscript{30} 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, \textit{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

\begin{itemize}
  \item \textbf{BOB DYLAN}, \textit{Gates of Eden}, \textit{on BRINGING IT ALL BACK HOME} (Columbia Records 1965).
  \item 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. \textit{See} David Galenson, \textit{Innovators: Songwriters} 1-36 (Nat’l Bureau of Econ. Rsch., Working Paper No. 15511, 2009) https://www.nber.org/papers/w15511.pdf, at 17.
  \item \textbf{MIKE MARQUSEE}, \textit{Chimes of Freedom: The Politics of Bob Dylan’s Art} 248 (2003). Certainly, I agree that the “wind that howls” at the end of \textit{Watchtower} “is the same storm of history that blows through \textit{When the Ship Comes In, Chimes of Freedom, and Farewell Angelina}.” \textit{Id.} at 248.
  \item \textbf{BOB DYLAN}, \textit{All Along the Watchtower}, \textit{on JOHN WESLEY HARDING} (Columbia Records 1967).
  \item \textbf{BOB DYLAN}, \textit{Blowin’ in the Wind}, \textit{on THE FREEWHEELIN’ BOB DYLAN} (Columbia Records 1962).
  \item \textbf{BOB DYLAN, Bob Dylan’s 115th Dream, on BRINGING IT ALL BACK HOME} (Columbia Records 1965).
  \item \textbf{BOB DYLAN, Tombstone Blues, on HIGHWAY 61 REVISITED} (Columbia Records 1965).
\end{itemize}
Williams that the song is not “about the war,”\textsuperscript{31} but, per Oliver Trager, simply “a world gone wrong.”\textsuperscript{32} Of course, Bob being Bob, we certainly could be wrong.

II. THE EVILS OF WAR

If we walk our way through the “relentless, unforgiving”\textsuperscript{33} 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);\textsuperscript{34} the “curse it is cast”\textsuperscript{35} 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\textsuperscript{36}

\begin{itemize}
\item[31.] \textsc{Williams}, supra note 25, at 161 (emphasis added).
\item[32.] \textsc{Oliver Trager}, Keys To The Rain: The Definitive Bob Dylan Encyclopedia 630 (Bob Nirkind & Marian Appellof eds., 2004).
\item[33.] \textsc{Daniel Mark Epstein}, The Ballad of Bob Dylan: A Portrait 35 (1st ed. 2011).
\item[34.] \textit{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. \textit{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.” \textsc{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 bobdylan.com) (last visited Sept. 5, 2020).
\item[35.] \textsc{Bob Dylan}, Times They Are A-Changin, on \textit{Times They Are A-Changin’} (Columbia Studios 1963).
\item[36.] \textsc{Dylan}, Masters of War, supra note 4 (lyrics available at https://www.bobdylan.com/songs/masters-war-mono/).
\end{itemize}
Next, he excoriates the cowardice of “armchair generals,” who send young soldiers to do their dirty work,\textsuperscript{37} while they hide:

\begin{verbatim}
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\textsuperscript{38}
\end{verbatim}

After this, he mocks the notion that a war can be “won,” a theme to which he returns in later songs:\textsuperscript{39}

\begin{verbatim}
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\textsuperscript{40}
\end{verbatim}

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:

\begin{verbatim}
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\textsuperscript{41}
\end{verbatim}

\textsuperscript{37} See infra section III.
\textsuperscript{38} DYLAN, Masters of War, supra note 4.
\textsuperscript{39} See infra section III.
\textsuperscript{40} DYLAN, Masters of War, supra note 4.
\textsuperscript{41} Id.
The following verses focus on the fear to have children and the futility of religious redemption, 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

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

Is this song a portrayal of the “betrayal of the promises of the modern Free America?” 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,” 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

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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.
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,” 47 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” 48—in certain cases, and that such a concept of justice is a “moral necessity” in the cases of those “who are truly guilty.” 49 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.” 50 I had not thought of this other side of Dylan—the one yearning for retribution—before I heard Professor Dunn’s paper. 51 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.” 52

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, 53 a school of thought much more closely aligned with restorative justice 54 than with retributive justice. 55 Yet, there is no

47. THOMAS, supra note 20, at 28.
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.
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*. 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*. What to make of this curious song?

Periodically, I receive emails from Jewish friends asking me if I am familiar with this song, and wondering why Bob has never sung it. Oliver Trager, in considering this question, concludes 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.” Well, maybe.

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

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.”).

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.
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\(^63\)

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\(^64\)

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.\(^65\) 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].”\(^66\) 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.
III. THE PAIN AND HORROR OF WAR

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

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”

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.


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.”

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

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

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, and his mother cannot “stand inside [his] shoes.” 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

73. Id.

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.”).
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,”77 including, again, the thousands of maimed and often-killed soldiers.78 Similarly, Mike Marqusee has concluded that Chimes is “Dylan's most sweeping view of solidarity with all those marginalized by a monolithic society,”79 a category that includes this same cadre of soldiers.80

And there is more. When Dylan wrote A Hard Rain’s A-Gonna Fall,81 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.82 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’


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. MARQUEESE, 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\textsuperscript{83}

The connection between this last line and the first verse of Masters ("You that hide behind walls / You that hide behind desks")\textsuperscript{84} could not be made more clearly.\textsuperscript{85}

\section*{IV. PROFITEERING}

Consider the irony of \textit{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\textsuperscript{86}

Trager refers to the entire album as a “scathing, crystalline depiction of a modern-age nightmare,”\textsuperscript{87} and suggests this stanza is a “jab at a concert promoter.”\textsuperscript{88} 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

\textsuperscript{83} Recall that Dylan first sang \textit{Hard Rain} at Carnegie Hall, just one month before the Cuban missile crisis. BOB DYLAN, \textit{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).

\textsuperscript{84} DYLAN, \textit{Masters of War}, supra note 4.

\textsuperscript{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, \textit{Dylan and the Nobel}, 22 ORAL TRADITION 14, 19 (2007); See also Peter Gallagher, \textit{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).

\textsuperscript{86} BOB DYLAN, \textit{Highway 61 Revisited, on HIGHWAY 61 REVISITED} (Warner Bros. Inc. 1965).

\textsuperscript{87} TRAGER, \textit{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.”).

\textsuperscript{88} TRAGER, \textit{supra} note 32, at 254.
is the place where war becomes a commodified spectacle.”

Related to this are Dylan’s thoughts about global politics, issues of economic self-interest, and the chaotic nature of foreign policy. 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

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.”

When this album was released, Jann Wenner called this track “nothing less than Dylan’s most mature and profound song about America.” 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.
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”).\footnote{96} And this is certainly, in Wenner’s word, “profound.”\footnote{97}

Then, look at this stanza from the truly obscure song \textit{Train A-Travelin':}

\begin{quote}
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.\footnote{98}
\end{quote}

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,\footnote{99} 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.”\footnote{100}

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 wrecked by the war of all against all,”\footnote{101} and I think the songs I discuss here reflect precisely that “sour distaste.”

\section*{V. FRAGILITY OF ALLIANCES}

If there were ever a slam-dunk it is this. From \textit{With God on Our Side}, a “withering look at American exceptionalism”:\footnote{102}

\begin{quote}
When the Second World War Came to an end
\end{quote}

\begin{footnotes}
\footnotetext{96.} This line is used in an article about the legal aftermath of 9/11 in Peter M. Mansfield, \textit{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, \textit{Another Look at Evolving Standards: Will Decency Prevail against Executing the Mentally Retarded?}, 52 OKLA. L. REV. 593, 593 (1999).

\footnotetext{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 . . .

\footnotetext{98.} \textit{BLIND BOY GRUNT FT. BOB DYLAN, Train A-Travelin, on BROADSIDE BALLADS, VOL. 6: BROADSIDE REUNION} (Folkways Records 1972).

\footnotetext{99.} \textit{TRAGER, supra} note 32, at 638.


\footnotetext{101.} MARQUSEE, \textit{supra} note 26, at 167.

\footnotetext{102.} Anthony Deurtis, \textit{Bob Dylan as Songwriter}, in \textit{THE CAMBRIDGE COMPANION TO BOB DYLAN} 42, 48 (Kevin J.H. Dettman ed. 2009).
\end{footnotes}
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. 103

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. 104 “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.” 105 Others have cited this song to describe how politicians “invoke the name of God to justify unjust wars.” 106

With God, negating the rationalization of war by patriotism 107 and the other “rationalizations of twentieth-century history,” 108 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. 109 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).

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.


108. RILEY, supra note 60, at 70.

VI. WAR AS A MISTAKE

Nowhere is this clearer than in Let Me Die in My Footsteps, “a song about bravery.”

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

According to Attwood, the song was written in response to “the construction and sale of fallout shelters during the Cold War in the 1950s,” and, according to Marqusee, “the ultimate expression of a profoundly wrong-turn in human development.” 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. 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.

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

110. RILEY, supra note 60, at 67.
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. MARQUSEE, supra note 26, at 52.
117. BOB DYLAN, If You Ever Go to Houston, on TOGETHER THROUGH LIFE (Columbia Records 2008).
the Spanish-American war. 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.

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 in a wide range of settings, ranging from gangland crime to persecuted entertainers to star-crossed lovers to household pets. 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.
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[
]

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,\textsuperscript{123} 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.’”\textsuperscript{124} Certainly not the sort of war that Bob wrote about in \textit{Masters} or \textit{John Brown}, but in many ways, a war nonetheless.\textsuperscript{125}

\textsuperscript{122} DYLAN, \textit{It’s Alright Ma (I’m Only Bleeding)}, supra note 88.
\textsuperscript{124} Perlin & Gallagher, supra note 117, at 45 (quoting, in part, Michael Waterstone, \textit{Returning Veterans and Disability Law}, \textit{85 Notre Dame L. REV.} \textit{1081, 1081, 1083} (2010)).
\textsuperscript{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. \textit{See Snyder, supra note 82}. 
 Briefly, therapeutic jurisprudence recognizes that, as a therapeutic agent, the law can have therapeutic or anti-therapeutic consequences. 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. 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.” As the author has written elsewhere, “An inquiry into therapeutic outcomes does not mean that therapeutic concerns ‘trump’ civil rights and civil liberties.” Therapeutic jurisprudence “look[s] at law as it actually impacts people’s lives,” and TJ supports “an ethic of care.” It attempts to bring about healing and wellness, and to value psychological health.

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


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 Freckleton 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.135

There is some substantial literature about the application of therapeutic jurisprudence to veterans courts [VTC],136 a problem-solving court that seeks to divert certain populations out of the traditional criminal justice system.137 As Professor Kristine Huskey notes, “most scholars and practitioners assume the TJ approach as the given paradigm for VTCs."138 I believe that—if we take Dylan’s lyrics at face value139—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


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.

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.” 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. When I was a practicing lawyer, I litigated on behalf of Vietnam veterans caught up in the morass of the VA system. 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. More recently, I wrote this about the case in question, that I litigated nearly 40 years ago:

[When 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

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

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.”145 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.”146 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 25th time) near the end of his 2019 tour.147 He keeps on keepin’ on. And so do I.

145. THOMAS, supra note 20, at 289.