

Dignity and the Nobel Prize: Why Bob Dylan Was the Perfect Choice

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In awarding the Nobel Peace Prize to the International Labour Organization (ILO) in 1969, the Nobel Committee referred to the motto enshrined in the foundations of the ILO's original building in Geneva, "Si vis pacem, cole justitiam" - "If you desire peace, *cultivate justice*." When Elie Weisel was awarded the Nobel Peace Prize in 1986, he said, in his acceptance speech, "When human lives are endangered, *when human dignity is in jeopardy*, national borders and sensitivities become irrelevant." Just last year, when Svetlana Alexievich was awarded the Nobel Prize in Literature, the journal *Independence* wrote, "Nobel Prize is a symbol of *fighting for human dignity* and freedom! Free soul and literature always combating with dictatorship!"

I share this with you, because there is a theme in Nobel Prize choices, in both the peace and the literature categories: dignity and justice. I believe that the

selection of Bob Dylan as this year's Nobel Prize winner in literature perfectly reflects both of these themes. And in my time this evening, I want to share with you some thoughts of mine about Bob, his lyrics, and why this choice makes so much sense.

For those who don't know me, here is the 45 RPM (for those who remember those!) version of my history with Bob. In 1963, I came to the world of Bob as a seventeen-year-old college freshman, visiting Gerde's Folk City in NYC on a night when I should have been studying for my Political Science 102 exam. I saw him that summer at the March on Washington (on the same stage where Dr. King gave his "I have a Dream" speech), and several other times over the next few years. I abandoned Bob (as did so many other observant and secular Jews) during the Born Again period, and came back into the fold in the mid-nineties. And here is my "A-ha!" moment: In the midst of writing an article about the Colin Ferguson trial and the right of a mentally ill, yet competent, criminal defendant to represent himself, I realized "dignity was the first to leave" was the perfect before-the-colon title for my paper. This realization inspired me to look to other Dylan titles and lyrics for many of the law review articles and book chapters—about 75 by my most recent count-- that I have written over the past twenty years.

So, I have been thinking about Bob and his lyrics for over a half century, and I am happy to share some thoughts with you. I believe that Bob's lyrics reflect the work of a thinker who takes "the law" seriously in multiple iterations -- the role of lawyers, the role of judges, the disparities between the ways the law treats the rich

and the poor, the inequality of the criminal and civil justice systems, the corruption of government, the police, and the judiciary, and more. Of course, there is no question that many of Bob's lyrics are, to be charitable, “obscure.” (The frequent use of the word “mystical” in lyrical analyses seems to be a code word for obscurity.) And Bob being Bob, we will never know exactly what means what. But even in this context, many of Bob's songs about law are “crying [out to us] like a fire in the sun” (that is a line from *It's All Over Now, Baby Blue*; I used another lyric from that song – “Yonder stands your orphan with his gun” – as the start of an article I wrote about juvenile punishment facilities, an article closely related to the paper I presented this morning).

In the past, I have written about what I refer to as Bob Dylan's jurisprudence, and created a topography of Bob-as-jurisprudential scholar, by looking at selected Dylan songs in these discrete areas of law (and law-and-society):

- Civil rights
- Inequality of the criminal justice system
- Institutions
- Governmental/judicial corruption
- Equality and emancipation (political and economic), and
- Poverty, the environment, and inequality of the civil justice system.

In my time now, I will share some thoughts with you about each of these, and ask you to consider how he writes consistently from a dignitarian perspective, and

how these lyrics can be read as a primer on both the roles of dignity and justice in a free society.

I. Civil Rights

Dylan has always been seen as a symbol of the civil rights revolution. This is not news, certainly. It is also not news that his music has retained its relevancy to civil rights struggles throughout the nearly half-century since he wrote *Blowin' in the Wind*. But it is important to note how Dylan's music – reflecting a vision combining “gospel redemption with scathing critiques of American society” – also serves as a blueprint for the great Civil Rights Acts of 1964 and 1965. Consider the themes of some of Dylan's “civil rights songs”:

- *Blowin' in the Wind*: Is there any question that these lines – “how many years can some people exist/Before they're allowed to be free?/Yes, 'n' how many times can a man turn his head/Pretending he just doesn't see?” and “how many ears must one man have/Before he can hear people cry?/Yes, 'n' how many deaths will it take till he knows/That too many people have died?” –encapsulate the heart and the soul of the civil rights movement in the early 1960s as well as anything that has ever (or ever will be) written?

- *The Times They Are A-Changin'*: Dylan wrote this in 1963, as the Civil Rights Act of 1964 was being debated heatedly and passionately in Congress. The “Come senators, congressmen/Please heed the call” verse is *among the* most *verismo* lyrics of his career; the song forever linked the civil rights movement and the folk music movement. And Oliver Trager has characterized it as a “clarion call to left-wing political activism throughout the 1960s” and I think that is absolutely right. There is little ambiguity about the song’s lyrics.
- *He’s Only a Pawn in Their Game*: This was one of several songs that Dylan chose to sing at the “I Have a Dream” March musical program, and that selection most likely reflects the urgency that Dylan felt to share *this* song when, indeed, the “whole world was watching”. Interestingly, here Dylan almost appears to partially *absolve* Evers’s actual killers (as being “pawns” in the violent and deadly game of racial politics), but there is no ambiguity as to his sentiments.
- *Emmett Tell*: This song is a straightforward emotionally-charged narrative account of both the brutal slaying of the fourteen year old Emmett Till and of the scandalous failure of American justice to punish his killers. As with *Pawn*, there is again no ambiguity whatsoever about the lyrics.

Dylan's judicial philosophy on questions of civil rights is crystal-clear. If the lyrics of these songs are to be "translated" into legal arguments, he locates himself (explicitly, in the case of *Times*) as a supporter of legislation that provides equal rights for racial minorities in matters including access to education (*Oxford Town*), to protest peacefully (*Blowin'*), and simply, in the words of disability rights advocate Jacobus tenBroek, "to live in the world". *Blowin'* and *Times* were written at a time when Jim Crow laws were still common in the south and border states. I believe, that had Bob Dylan never existed, the civil rights movement would not have captured the "hearts and minds" (the quote is from the decision in *Brown v. Board of Education*, 1954, p. 494) of the American public as it did.

II. Inequality of the criminal justice system

Had Dylan never written any two songs but *Hurricane* and *The Lonesome Death of Hattie Carroll*, he would have had more of an impact on the way that the American public thinks about the criminal justice system than all the professors of criminal law and procedure (of which I was one for many years) put together. I say this to state a simple truth: these two songs (musically totally dissimilar), written only eleven years apart, but seemingly from different eras) brutally force us to confront the corruption of the American judicial system in cases of racially-charged crimes (as reflected in Maryland and New Jersey in the 1960s) in ways that law review articles or classroom lectures simply cannot equal.

Hattie Carroll was a 51 year old black hotel worker who was struck with a cane at a Baltimore, MD charity ball by William Zantzinger, a 24-year-old Maryland tobacco farmer, who had complained when she said "Just a minute, sir," when he – already intoxicated –demanded another drink. *Hurricane* was Rubin Carter, a professional boxer, who was accused of a triple murder in a Paterson, NJ bar.

When read together, *Hattie Carroll* and *Hurricane* are opposite sides of the same coin, both speaking eloquently about the role of race and racism in the criminal justice system. *Hattie Carroll* reflects the sort of sentencing decision that, in some ways, ultimately led -- for better or worse – to the creation of the Federal Sentencing Guidelines. *Hurricane* is a textbook example of how racism can affect every aspect of the criminal justice system: racial disparity in police traffic stops accuracy of identifications; one-man “show-up” identifications; suggestive questioning by the police appealing to racial prejudice; conditions of pre-trial confinement; judicial bias; racial bias in jury selection; tainted publicity, and conditions of prison confinement.

In *Dylan's Visions of Sin*, Christopher Ricks begins his “Justice” chapter with an essay on *Hattie Carroll*, characterizing it as a song “that brings home the falsity of the boast ... that `the courts are on the level.’” (Ricks, 2003, p. 221). Paul Williams calls *Hurricane* “an expression of love for life, love for freedom, love for justice, ... a cry of pain at the existence of injustice,.. via the singer’s evident

conviction ... that `testifying' to truth will ultimately dethrone falsehood.”

(Williams, 1994, p. 49).

But these are not the only songs of Dylan’s dealing with inequality in the criminal justice system. Some are fairly existential (e.g., *Political World*: “We’re living in times where men commit crimes/And crime don’t have a face”; “Wisdom is thrown into jail/It rots in a cell, is misguided as hell/Leaving no one to pick up a trail”); some are “enigmatic” (e.g., *Absolutely Sweet Marie*: “But to live outside the law, you must be honest”), some consider the connection between poverty and the roots of crime (e.g., *Ballad of Donald White*: “If I had some education/To give me a decent start/I might have been a doctor or/A master in the arts/But I used my hands for stealing/When I was very young/And they locked me down in jailhouse cells/That’s how my life begun”), some speak to sentencing terms (e.g., *Percy’s Song*: “He’s got a sentence to serve/Turn, turn, turn again/But ninety-nine years/He just don’t deserve”; *Drifter’s Escape* (“Inside, the judge was stepping down/While the jury cried for more”)), some on how unpunished crime can lead to economic windfall (e.g., *Idiot Wind* (“They say I shot a man named Gray and took his wife to Italy/She inherited a million bucks and when she died it came to me/I can’t help it if I’m lucky”)); some speak to criminal justice issues in songs that focus on other social questions (e.g., *Hard Rain* (“And the executioner’s face/is always well hidden”)); others may be read to speak to the question of *fairness* in a criminal trial proceeding (e.g., *Dignity* (“Dignity was the first to leave”), or the fundamental honesty of the trial process (e.g., *Brownsville Girl* (“Then when I saw you break

down in front of the judge and cry real tears/It was the best acting I saw anybody do”). When read together, however, they suggest that “when you got nothing, you got nothing to lose” may most succinctly summarize his views.

III. Institutions

Dylan has written frequently about the soul-draining brutality and repression of American penal institutions. *Halls of Red Wing* (a state facility in Minnesota) could be used as the text for a course in juvenile reformatory law. The song’s verses reflect all the core failings of our correctional system: its treatment of the youngest offenders, the lack of rehabilitation programs, the physical conditions of confinement, brutality of the guards, and the inevitability (for most) of re-incarceration – the total and utter lack of dignity. And *George Jackson* is a naturalistic tale of fury that recounts the prison death of Jackson, a Black Panther who was a major figure in radical racial politics in the late 1960s, and whose prison letters (collected in **Soledad Brother** and **Blood in My Eye**) bore witness to the systemic racist brutality of the American prison system. Again, Dylan is jurisprudentially located with those who seek to expand the reach of the Fifth and Eighth Amendments to humanize penal and correctional facilities.

IV. Governmental/judicial corruption

Corruption has always been a theme central to Dylan’s work. *License to Kill*, by way of example, is, in the words of Oliver Trager, “a brooding meditation with apocalyptic undertones that takes on *corruption* and technology run amok.” Over

fifteen years ago, in an article about the Americans with Disabilities Act, I quoted the music critic Andrew Muir's vision of *Maggie's Farm*, as "representing any restricting, corrupt society or system," and a critique of the "personal prisons we all create by denying the freedom of the individual." But here I want to focus specifically on governmental corruption, specifically *judicial* corruption, a corruption that contaminates our lives and robs us all of dignity in the most elemental ways.

Five songs effectively illustrate the point: *Seven Curses*; *It's Alright Ma (I'm Only Bleeding)*; *Lily, Rosemary, and the Jack of Hearts*, *High Water (For Charlie Patton)*, and *Most Likely You Go Your Way (And I'll Go Mine)*. *Seven Curses* is the story of a "reactionary, corrupt," "treacherous", and "cruel" judge who promises a girl that he will spare her father from the sentence of death if she will have sex with him (then, has sex but orders her father to be hanged nonetheless). *It's Alright Ma* talks of "Old lady judges ... [who] push fake morals." In *Lily*, the financially-corrupt judge has not only pre-judged the case, he is inebriated ("The hangin' judge came in unnoticed and was being wined and dined/ ...He went to get the hangin' judge, but the hangin' judge was drunk") *until* it is time to carry out the prisoner's execution ("And Rosemary on the gallows, she didn't even blink/The hangin' judge was sober, he hadn't had a drink"). In *High Water*, the judge openly and brazenly encourages lawlessness: "Judge says to the High Sheriff/I want him dead or alive/Either one, I don't care." And in *Most Likely*, the judge is both pre-biased and "above the law"("The judge, he holds a grudge," and "But he's badly built/ And he walks on

stilts”). Dylan’s indictment resonates to those with even a passing interest in some of the judicial scandals that have rocked American state courthouses in recent years.

To be fair, in at least one instance, Dylan has speculated that judges may show empathy and compassion for those that come before them: In *Drifter’s Escape*, the judge “cast[s] [his robe aside/ [and] a tear came to his eye.” I have, in fact, used this lyric in an article about the dignity-providing radically-different role of judges in so-called “problem solving courts.”¹ But, generally, judges are seen as a tool of the enforcement of economic and social disparities.

V. Equality and emancipation

No analysis of Dylan’s attitudes towards the law could be complete without some attention being paid to songs that speak to themes of emancipation and equality. I treat these separately from his songs that deal with civil rights, judicial corruption and the criminal justice system since I believe they are broader in scope and more universal in their messages. There are many songs in this cohort, but, for the purposes of this talk, I will focus on *Chimes of Freedom*, *My Back Pages*, *Maggie’s Farm*, and *Gates of Eden*

Chimes is Dylan’s “most political song” and an expression of “affinity” for a “legion of the abused.” Dylan’s magnificent, apocalyptic language in *Chimes* cries

¹“*The Judge, He Cast His Robe Aside*”: *Mental Health Courts, Dignity and Due Process*, 3 MENT. HEALTH L. & POL’Y J. 1 (2013).

out for equality and the emancipation of those isolated from the mainstream of society. *Chimes* is Dylan's most sweeping view of solidarity with all those marginalized by a monolithic society. Here, I believe, Dylan's legal and political vision about this population is at its most profound.

Consider next *My Back Pages*. I have turned to *Pages* for the line "half-wracked prejudice leaped forth" because its main themes (and the themes of the verse in which it is found)— "that prejudice leads to hatred; that the world is not 'black and white'; that our thoughts and our behaviors are largely driven by unconscious forces-- are the same themes that explain what I frequently refer to as sanist and pretextual behavior on the parts of courts, legislators, lawyers, expert witnesses, and all other players in the mental disability law arena." Subsequently, I used "'Equality,' I spoke the word/As if a wedding vow" as a title, , reflecting the reality that "the idea of a legal system that incorporates concepts of the 'autonomous individual' has been a myth (or, perhaps, more accurately, a cruel hoax) for centuries."

I have used *Pages* one more time subsequently , in an article on the relationship between the admissibility of neuroimaging evidence in criminal trials and a death row prisoner's competency to be executed because of the way it "capture[d] the ambivalence of absolute terms." In the course of that article, I discuss the way that such evidence may have different impacts – different life-and-death impacts – on cases involving indigent defendants and those able to pay for the expensive testing in question.. Again, the question of equality– and how we choose to deal with

questions of *inequality* (inequality that again robs the legal system of dignity) -- is never far from the surface.

In *Gates*, Dylan shares his vision of an earthly paradise, a “quest for salvation” or, an “epic-length extrapolation on the human condition.” Of course, *Eden* is most famous for its lines “There are no trials inside the Gates of Eden” and “There are no sins inside the Gates of Eden.” In an article I wrote about the potential impact of a US Supreme Court decision interpreting the Americans with Disabilities Act (*Olmstead v. L.C.*, 1999) on the potential deinstitutionalization of certain psychiatric patients, I focus on the emancipatory content of the “trials” line:

Like so many of Dylan's key lines, this is ultimately ambiguous: Do his words refer to legal trials, the trials of living, or something else? Whichever interpretation (or interpretations) we prefer, Dylan's vision is an egalitarian one (“There are no kings inside the Gates of Eden”), based on pure freedom (“Leaving men wholly, totally free/To do anything they wish to do but die”).

And then there is *Maggie's*. I find, in *Maggie's*, the heart of Dylan's jurisprudential turn. It is, in Paul Williams' phrase, his “declaration of independence.” (Williams, 1994, p. 154). I used *Maggie's* as the centerpiece of another of my articles about the Americans with Disabilities Act and the *Olmstead* case,, arguing that, just as *Maggie's* spoke to “emancipation,” so did the ADA and *Olmstead*, and concluding:

Olmstead potentially has the capacity to transform and revolutionize mental health law in the same profound ways that Bob Dylan transformed and

revolutionized popular culture. If *Olmstead* is taken seriously, it may change the debate on institutional mental health care, on community treatment, on deinstitutionalization, on the segregation of persons with mental disabilities, ... and perhaps most importantly, on how we feel about persons with disabilities.

As I noted above, the music critic Andrew Muir sees *Maggie's* as “representing any restricting, corrupt society or system,” and reflecting a critique of the “personal prisons we all create by denying the freedom of the individual.” The rejection of these prisons, this corrupt society/system, is the essence of an emancipatory philosophy, and is the one that Dylan presents here.

V. Poverty, environment, and inequality of the civil justice system

Dylan's focus tends to be more on criminal justice issues, but he has also written about inequality and bias in the *civil* system as well. In *Dear Landlord*, it appears as if the narrator's landlord has also assumed the role of fact-finder in a tenancy trial (“Dear landlord/Please don't dismiss my case/I'm not about to argue/I'm not about to move to no other place”). The song title(and a lyric) have also been appropriated as the title of a law review article --by someone else! -- arguing that property rights must serve human values. In *Hard Rain*, Dylan sets out a vision of an environmental apocalypse, or the “devastation” of the world.. In *I Pity the Poor Immigrant*, he simply sets out the plight of one cohort of individuals who come under the umbrella of, per *Chimes*, “the countless confused, accused, misused.” In *North Country Blues*, he writes of the complete demise of a mining community (“What with three babies born/The work was cut down/To a half a day's

shift/ with no reason/Then the shaft was soon shut/And more work was cut”), and, in *Ballad of Hollis Brown*, he writes of how economic deprivation can lead to senseless crime (Your empty pockets tell yuh/That you ain’t a-got no friend/Your babies are crying louder/It’s pounding on your brain/ ... Seven shots ring out/Like the ocean’s pounding roar/There’s seven people dead/On a South Dakota farm”). Here, Dylan clearly situates himself with the school of “jurisprudence of economic equality.”

Conclusion

As I indicated earlier, I have been listening to Bob since 1963. I took my kids to see him for the first time in 1995 (when they were eleven and fourteen). I have stood in general-admission audiences and sat in seats not too far from, variously, Patti Smith, Elvis Costello, Geraldo Rivera, and who knows who else. In 2010, I went to a concert with a faculty colleague who was born at about the same time that *Blood on the Tracks* was released. I have seen him in Rhode Island with my wife and in Paris with my daughter.

When I titled my competency-to-proceed-pro-se article, *Dignity Was the First to Leave ...*, something clicked. I had been a “real lawyer” for thirteen years before I became a professor. I represented mostly criminal defendants, residents of psychiatric institutions, and correctional facility inmates--individuals that most of the public would see as (per *Ballad of a Thin Man*)“lepers and crooks.” Since I

published *Dignity . . .*, I have returned to Bob again and again and again. Of course, it has been fun. But it has been much more than that. Rather, I see it as a reflection of a near-total consonance between Bob's jurisprudential and political values and the values I seek to assert in my writings.

I believe that, if we take a broad view of his fifty-plus years of composing and performing music, we find that his core commitments to dignity and equality are the far most predominant themes in Dylan's writings. Again, in my own writings, I have sought to give life to the ways that Dylan's compositions reflect the values of justice and dignity whose impact will be with us forever. The Nobel Prize committee could not have done better.