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Sanctuary, Redlight Districts, and Washington, D.C.: Some Observations on Neuman's Anomalous Zones

William Ian Miller*

SOME GENERAL OBSERVATIONS ON BOUNDARIES

The claim is often made that boundaries obviate disputes if they are clear. But boundaries are inseparable from disputes; they seem to invite them as much as obviate them. Note how natural the collocations "disputed boundary" and "boundary dispute" are. The conventional view that one hears a lot in law schools is that once a bright line is drawn then a boundary is "settled." But that supposes that a clear boundary need not be defended or continually justified or that internal changes in the entity it circumscribes and in some ways defines do not affect the integrity of the boundary. Boundaries are also dares, lines drawn in the sand; they are almost invitations for violation. Demarcations yes, claims to prohibit and to exclude, warnings, wardings off, but also affronts. This is mine and me and thou shalt not (tres)pass, or thou shalt not pass unless permitted by the entity claiming the boundary as its skin so to speak. It is the boundary that gives conceptual sense to entry and admittance, assault, affront, and invasion. It is the location at which the notions of offense and defense come to take on their core meanings.

Spatial boundaries are not purely arbitrary locations. They are more likely to be set up in some places than in others. A river or a mountain divide is more likely to suggest itself as a geographic bound than the middle of a plain or a jungle. Even "54° 40' or fight" seems to owe something to euphony and its rhythmic and alliterative charms that "53° 37' or fight," or "55° 23' or fight" would not have had. Boundaries are thus subject to aesthetic constraints the violation of which can exact an emotional and even political price. The violation of such constraints is no small part of what led to the unconstitutionality of districts misshaped like the one in *Shaw v. Reno*.¹ Something still doesn't look right about Hawaii and Alaska being part of the United States, and I remember as a young child being mildly disoriented, vaguely uncomfortable at the messiness of gaps, of the inherent instability of boundaries that the admission of those two states meant. Growing up in Wisconsin I never understood what possibly could justify the Upper Peninsula of Michigan's not being Wisconsin. And one of the prices of it not being so was the cost of the Mackinac Bridge.

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1. 509 U.S. 630 (1993).

A world without maps will tend to have its boundaries follow certain natural features of the terrain. Once a culture becomes map literate new possibilities for boundary locations arise that would have been inconceivable without maps. Maps, for instance, give sense to drawing lines in the sand along the thirty-sixty parallel; they even suggest that it might be worth fighting for something called 54° 40'. Those boundaries drawn on maps or that owe their existence to maps strike us in some ways as more fixed than those which follow the oft changing meanderings of a river or the shiftings of a shoreline, or a sightline from the old oak to Thorstein's cairn. Those portions of Iowa that every once in a while turn up in Nebraska are a case in point.² But even the fixity of map-originating boundaries is often an illusion. They have the habit of being more fixed on paper than they are when transferred to desert, steppes, or tundra. People will still wander back and forth just like cattle used to before enclosure took place. Modern states have thus tried to make up for the lack of a river or a mountain divide with the more menacing presence of barbed wire (cheaper than great walls) and checkpoints to concretize the mapped abstraction.

We tend, as a general matter, to consider it an imperfection in an entity that its boundaries are not firmly fixed. Clean and respectable things, we believe, are supposed to have nicely defined edges; slimy and polluting things have dangerously ambiguous boundaries; they ooze and insinuate. Some spatial boundaries, however, are expected to shift, that is, they are expected to behave contextually and they constitute no special danger for so behaving.³ The boundaries of certain entities, usually living entities, are meant to expand in some settings and to contract in others. Here shiftiness is the norm and utterly appropriate; fixity is the imperfection. Consider as examples a brief detour into the boundary that separates me from you. Where do I stop and you begin? How much unclaimed space between us do we demand or allow? Erving Goffman described these spaces as "territories of the self" and with his usual perspicacity delineated the kinds of claims we make on the space around us.⁴ We claim a preserve around our bodies, we might even think of it as a jurisdictional claim, a space the transgressions of which will justifiably allow me to be indignant, disgusted, or resentful by unpermitted intrusions. The extent of this space, as we all know, varies according to circumstance. I am not justifiably permitted to feel indignant for parts of you touching parts of me in a crowded

2. *Nebraska v. Iowa*, 406 U.S. 117 (1972).

The States determined in 1943 to agree by compact upon a permanent location of the boundary line when experience showed that "the fickle Missouri River . . . refused to be bound by the Supreme Court decree [of 1892]. In the past thirty-five years the river has changed its course so often that it has proved impossible to apply the court decision in all cases . . ." The Special Master found, on ample evidence, and we adopt his findings, that by 1943 the shifts of the river channel had been so numerous and intricate, both in its natural state and as a result of the work of the Corps of Engineers, that it would be practically impossible to locate the original boundary line.

Id. at 119 (first two alterations in original) (citation omitted).

3. Even boundaries of nation states are subject to contextual variation. Consider the anomaly of international airports. They are wholly within the sovereignty of the polity controlling ingress and egress, but may be a jurisdictional no-man's land to the outsider seeking entry.

4. ERVING GOFFMAN, *RELATIONS IN PUBLIC: MICROSTUDIES OF THE PUBLIC ORDER*, 28-61 (1971).

subway (this of course depends on which parts of you are touching which parts of me), but I surely can take offense or become alarmed when you choose to stand near me or sit in the seat next to me when there are only five people in the car. The shape of our jurisdictional space has a kind of bubble like quality to it, that shivers and squiggles, expands and contracts according to situation. My body, moreover, manifestly is not at the center of my jurisdiction, for I generally claim more space in front of me, than either behind me or to the side. The competence I develop for knowing just where my boundary is staked in the flux of changing circumstances depends upon the internalization of a myriad of rules and practices governing such things. These rules and practices are less known than felt. Their internalization means that I do not have to reason about whether you transgressed or not; I feel it. My disgust, indignation, or vaguer sensations of awkwardness, wariness, fear, and concern constitute my knowledge of your transgression of me.

Are there anomalous zones (in Neuman's sense of anomalous zones) in this jurisdiction of the self in space? There is flux and fluidity for sure. Are there blips and lesser included bubbles within that large bubble of our jurisdictional preserve in which disgust and indignation are waived, in which misrule is the rule, in which in Neuman's terms "fundamental policies of the larger . . . system . . . are locally suspended"?⁵ We can pose some instances but none will really be accurately described as an anomaly, for all will seem perfectly sensible, not raising issues of hypocrisy as Neuman's case studies of redlight districts, Guantánamo refugee processing camps, and D.C. disenfranchisement seem to. Surely permitted transgression is not anomalous. I can let you touch me. I can also let you violate me. Such permitted violations, paradoxical as it may seem, are one way of understanding what love is. What would love look like if we didn't have jealously guarded boundaries to breach? Recall too that these boundaries are largely sanctioned by disgust. Love and disgust go hand-in-hand and much of what love is depends on the mutual suspension of the disgust rules that police and indeed constitute the boundaries of my jurisdiction of self.⁶

We also rank our body parts so that some are more capable of giving offense and in turn being offended than others. My shoulders or my back might get closer to you without violating your boundaries than my hand, tongue, or genitals can. I can let my elbows touch you and yours touch me as ways of warding off without that being understood to raise the same kind of issues as if I used my hands or my tongue to do the same. But that some parts of the body are more ritually dangerous and polluting than others, is not anomalous either, just a simple effect of ranking dangerousness. But still we note that our boundedness is differently constituted depending on just what it is that is getting close.

5. Gerald L. Neuman, *Anomalous Zones*, 48 *STAN. L. REV.* 1197 (1996).

6. On love as the suspension of certain key disgust rules, see WILLIAM IAN MILLER, *AN ANATOMY OF DISGUST* (forthcoming 1997).

Some of what may superficially appear as anomalies or hypocrisies are simply the effects of other boundary systems imposed upon the spatial one. The degree of our individuation, we know, varies with age as indeed does the territorial preserve we can rightly lay claim to. Adults may claim a jurisdiction surrounding them that can be measured in yards or just in feet and inches depending on the setting. Nor need one's self always demand a continual bodily presence. We thus experience as a violation of the self violations of selected artifacts and fetishes that we claim some special connection to: clothing and homes for instance, but even something as evanescent as one's temporarily abandoned place in a line. These spaces are in effect our Alaska and Hawaii. Infants, on the other hand, are not allowed such expansive or spatially discontinuous selves. Their selves often do not even extend to their skin, violated as they are by parents wiping, poking, tickling, and caring for them. Slaves are like infants in this regard as indeed are prostitutes by some understandings of what prostitution is. The old have weaker claims for space than active adults; and teenagers make expansive and hegemonic moves to claim large domains which by adulthood have usually been beaten back to acceptable bounds. But none of these variations in the expansion of spatial boundaries are anomalies deviating from some standard adult norm, they are simply the effects of imposing temporal boundaries on spatial ones.

The obligatorily referenced triumvirate of class, race, and gender also influences the degree of a person's individuation and with that the claim she or he can make on space. Consider briefly that the upper in upper class means the ability to have peace and quiet, to have a jurisdiction of self so well policed that the offending and offensive bodies of others, their smells and noises, are kept out. Being high in the hierarchy means that others defer and one of the chief markers of deference in any culture is for the low to assume a style of non-obtrusiveness in the presence of the high: you are to be quiet, maintain distance, and take pains not to offend with your body. Deference, however, is not just a one way street. In its bourgeois form the high usually give in return exactly what they demand: decorum, silence, repressed behavior.⁷

I can't even begin to suggest how complex a topic boundaries is when we conceive of them as bounding territories of the self. Let the few points I have raised suffice to note that it seems that the precise types of variation that occur in the kinds of claims for personal space we make are predictable, that is they are not anomalous. It is not anomalous that a prisoner has less jurisdiction than a nonprisoner. That is what it means to be in prison. That is in fact the punishment. And is it anomalous that sanctuary means restrictions on freedom and curtailments of rights? Let me now engage some of the issues raised by Professor Neuman more directly.

7. I try to back up these claims more fully in *AN ANATOMY OF DISGUST*.

NEUMAN'S ANOMALOUS ZONES

In social and legal orders anomalies are defined by reference to the value or the principle that we are giving primacy to at the time. The anomaly disappears as soon as we shift perspectives. Even if we were to concede that by some measure the antidemocratic limits on the franchise in the District of Columbia, the refusal to extend the benefits of the Bill of Rights to Haitian refugees in Guantánamo, and the suspension of select criminal laws in redlight districts are anomalies by some (different) principle or fundamental policy it is not clear they are anomalies in the same way. I will later supply some proposals to unite them under one rubric but I am not sure that I will succeed very well. Washington, D.C. is the most promising instance of an anomalous zone in Neuman's particular sense: "a geographical area in which certain legal rules, otherwise regarded as embodying fundamental policies of the larger legal system, are locally suspended."⁸

The District of Columbia and Disenfranchisement

It does *now* seem rather unjustifiable that some citizens of a nation committed to democratic values are denied a voice in both national and local governance. As Neuman points out this was recognized as anomalous from the start. If there were justifications for the departure from the principles of civic participation that seemed reasonably justifiable two hundred years ago, that is surely no longer the case. But what happens to the notion of anomaly when the so-called anomaly is recognized as one, purposely installed as one, and then acquiesced in for two hundred years with no apparent damage to the integrity of the larger system? I would guess that long acquiescence means that the District of Columbia has become, well, D.C., something *sui generis* that the polity can live with, without troubling itself very much about it. There are anomalies that will eventually bring down an entire paradigm. This is not one of them.

With D.C. disenfranchisement compare slavery, a somewhat more grievous style of disenfranchisement. Like the District of Columbia, it was intentionally installed with the knowledge of its inconsistency with principles of democracy and human dignity, but it was not acquiesced in for very long. Nor could it have been, for it was one of those anomalies that is paradigm destroying. In fact the aftershocks of it still threaten to take this polity down the tubes and in the end probably will succeed in doing so. Slavery was so salient that it called into question just what could appropriately be considered anomalous. It made democratic principle look like a mere veneer covering a foul and loathsome soul, not a festering canker marring an otherwise fair skin. It was the talk about democratic principle that looked anomalous in such a regime. Not so the District of Columbia. Long acquiescence, its relative triviality, make the divergence from democratic principle that is the District of Columbia rather quaint, an anomaly true, but *merely* an anomaly, a relatively and rightly low ranking concern. Underwriting its triviality is that we have come to think of D.C. en-

8. Neuman, *supra* note 5, at 1201.

franchisement solely as a matter of principle with no real stakes. We cannot quite separate all this grand talk about democratic principle from its homely embodiment in yet another knavish congressman.

Neuman's anomalous zones are geographic. They are actual landed terrains in which certain fundamental principles are locally suspended. I find it an interesting historical matter that without much worry we can now raise the claim that wide spatial expanses should be subject to one law uniformly applied. That notion is a very recent one. Not all big empires officially adopted some version of home rule, but most had to accept local variation and some degree of *de facto* local autonomy whether they wanted to or not. Only recently could a central authority even entertain the prospect of uniformity. The one great exception in the West still is the Roman Catholic Church, which was zealous in attempting—although not totally successful, as schisms, heresies, and the Reformation attest—to institute uniformity of practice across a wide expanse of geographic space. No doubt some of its success across such a wide geographic expanse was due to the fact that it did not purport to govern all aspects of that expanse. That was left to a multitude of smaller secular princes who had considerable powers and varied greatly in how they applied them.

As soon as the spaces claimed by one sovereign get too big variegation in the legal regime appears. Peripheries are seldom governed like centers whether these peripheries are constituted as colony, territory, or marcher lordship. This country was largely structured at its founding on the view that few if any rules would even purport to uniform application beyond the territory of a state. It was recognized just how fond a hope it would be to strive for anything more. It was not even clear that uniformity was uniformly held to be a virtue even if it could be had. Neuman's assumption that his anomalous zones are indeed anomalous depends for much of its sense of rightness on the twentieth century's giving rise to commissions on uniform laws, the restatements of law, the relatively recent decision to hold the Bill of Rights applicable to the states, and a Commerce Clause that stripped states of much local power.

It is not even clear that uniformity across wide territorial expanse is a good thing. Although many of us would join Neuman in wishing to see the Bill of Rights extended to Haitian refugees detained at Guantánamo, there is a dark side to such extensions too. We might call it imperialism. Now I am not sure that imperialism would bother me in spite of what adherents to post-colonial studies might say. It would depend on the type of imperialism. If imperialists want to bully cultures into abandoning clitorectomies, slavery, and ethnic cleansing, I will cheer them on. Some cultural practices just don't merit respect no matter how "authentic" they might be. Let us however suppose there is a difference in imposing good things on willing people,⁹ imposing good things on unwilling people, and imposing bad things on willing or unwilling people. A problem still remains: Imposing tends to become a habit for the imposer

9. The notion of imposing seems incoherent when the imposee is willing to be imposed upon. In fact as a practical matter we can have the imposition of good things on willing people. Good things don't just happen; they require alterations in practices and institutions that make the notion of imposing a good thing not altogether incoherent.

independent of the content of what is being imposed and it is not quite certain that the imposer will only impose benefits on the imposee.

People clearly want uniformity and predictability, but they want it in suitably restricted geographic domains and only if they trust the source imposing it. Legal uniformity usually must be imposed because it is not likely to be a default setting over significant geographic ranges. When people suspect that legal uniformity comes at the price of loss of cultural identity they tend to resist it. It may be that the size of the continental United States is about all that uniformity can aspire to and then only if it cedes large portions of the legal domain to smaller units. Get much bigger than the United States and try to impose too much more than a right here and a duty there and centrifugal forces get much more seriously disruptive: Canada, the breakup of the Soviet Union, and even the 1994 elections are cases in point. The divergence from democratic principle that is the District of Columbia seems best characterized as a relatively harmless instance of preplanned nonuniformity, a quaint but nonthreatening anomaly.

Redlight Districts and Hypocrisy

Unless zoning raises the question of anomaly, then redlight districts shouldn't either, or at least not all that differently than a "No Smoking" sign would. It is just that sex and sexual desire tends to be somewhat confusing and we might misunderstand such confusion as anomalous, when it is in fact business as usual. Still, we might, with Neuman, concede that the redlight district qualifies as an anomalous zone given its suspension of otherwise valid criminal laws against prostitution and pandering. In that very restricted sense we might see redlight districts as anomalies, but some clarifications are in order: Most laws have conditions under which their application is suspended both as a formal matter and as matters of practice.

Formally, we admit pleas of extenuation, avoidance, excuse, and justification. Practically, the authorities simply aren't powerful enough to punish all violations of all laws and most of us would not want them to be so powerful that they could. Lax enforcement is hardly an anomaly and neither are exceptions to rules. What troubles us about redlight districts is not anomaly, but their power to force upon us our deep ambivalence regarding the vice of hypocrisy and its relation to sins of the flesh. Something at the interface between rules of prohibition and sexual practice invites seeming virtue, false appearance, and hypocrisy. It might be that Neuman's account is less aptly characterized as a concern with "anomalous" suspensions of law in certain spaces, than that such suspensions often involve us in the vice of hypocrisy, one of the most ordinary of the so-called ordinary vices. After all, Neuman's examples might strike us more as business as usual, than business as unusual.

But D.C. disenfranchisement, redlight districts, and Guantánamo do not raise the issue of the gap between profession and action, nor anomaly for that matter, in quite the same way. D.C. disenfranchisement is hardly an issue of hypocrisy in the sense of false seeming. The departure from democratic princi-

ple was noted from the start as problem and openly confronted. There is no pretense here, just a statement that democratic principle is not all that compromised by a minor departure, as long as that departure is severely restricted so as to be legitimately deemed *de minimis*. Principles, one could argue, are healthily sustainable as long as we profess them and *by and large* adhere to them. One could even claim that a principle that is seamlessly adhered to is no longer perceived as a principle but simply as nature itself and it could hardly be claimed that it provided a very demanding standard if there were no powerful temptations to violate it. Neuman's indignation at the hypocrisy that is the District of Columbia seems somewhat underdetermined.

Sexual prohibition is another story. There hypocrisy thrives and on both sides of the equation. One might think it hypocritical to consider prostitution bad enough to criminalize and then allow it to flourish in a zone excused from that law. The bawds and whores, however, are more likely to think the polity that grants them their space is less hypocritical than the reformers who would destroy sexual traffic but must know that it will continue to thrive nonetheless, or, in even more aggressive hypocritical fashion, would actually make use of the services of those they would jail:

Thou rascal beadle, hold thy bloody hand!
 Why dost thou lash that whore? Strip thy own back;
 Thou hotly lusts to use her in that kind
 For which thou whipp'st her.¹⁰

According to the Freudian account, sexual desire not only muddles us but turns us all into hypocrites by supposing a gap between conscious desires which are self-deceiving or the fruits of self-deception and repression and unconscious desires which are true. These latter lie buried below and are only extractable inadvertently in dreams and parapraxes, or with some luck and much expense, after seven years on the couch.

The refusal to extend the protections of the Bill of Rights to Haitians detained in Guantánamo raises a more serious question about the profession of principles and the nature of our commitment to them. It is hardly our anxieties about imperialism and imposing on others that would prevent their extension. We simply, one might reasonably suppose, are being mean-spirited and uncharitable.

Yet one suspects that it is more than just the relative unimportance of Haitian civil rights to most Americans that is at stake, or even the importance of Haitian blackness. or the callousness which seems the grim endpoint of too much human misery endlessly and graphically portrayed night after night on the news. The general American contempt from whatever source for the rights of Haitians in Guantánamo receives more than a gentle assist from the general American contempt or ambivalence for the Bill of Rights, especially those provisions providing right to counsel and protection against unreasonable searches and self-incrimination. More than a few of us have come to accord our opinions

10. WILLIAM SHAKESPEARE, KING LEAR act 4, sc. 6, ll. 162-64 (Kenneth Muir ed., 8th ed., London, Methuen & Co. 1951).

with Dirty Harry on these matters, viewing such rights mostly as a refuge for scoundrels and something we would be willing to relinquish in the interests of achieving some semblance of internal pacification.

But it might be that there is a more ominous hypocrisy underlying Neuman's examples that unites them in a grim way. That is the extent to which race is disavowed as a motive in any of these so-called anomalies. Neuman recognizes that race makes up a not insignificant part of the District of Columbia story, but avoids arguing that the refusal to extend certain constitutional protections to the Haitians detainees in Guantánamo is linked with race, nor does he discern a similar motive in the story about redlight districts: This is Storyville in New Orleans or old Fannin Street in Houston, which many of us first became aware of through songs like *House of the Rising Sun* and Leadbelly's *Fannin Street*. These were zones in which white men could experience most intimately the sexual mystery and energy they supposed resided in the depths where blackness and femaleness converged. The anomaly in Neuman's story about anomalous zones could be restructured as one in which colorblind principles disappear into black holes.

Carnival and Misrule

Carnival figures ambivalently in Neuman's account. On the one hand there is the very real Lenten Carnival of Haiti that he blames the U.S. authorities for using as a carrot to trick the unwanted detainees to return home lest they miss the fun and games. This is Carnival as serviceable to villains. On the other hand there is his interesting and self-confessedly whimsical attempt to integrate his account of anomalous zones with Bakhtin's celebration of feasts of misrule, the grotesque body, and popular subversion of the dour pomposity of instituted authority.¹¹ It is hard not to love the puncturing and ridiculing of dour pomposity. It has it coming. This is Carnival as serviceable to the revolutionary hero. But at what cost the puncturing?

Bakhtin's celebration of popular vulgarity, excess, and release remains strangely blind to the costs of "authentic" people getting their rocks off. To the women used up and spit out by Storyville, diseased and fifty-five by age thirty, to the Jews killed, the cats massacred and set on fire, and the women raped, the good old subversions and counter hegemonic practices of Carnival had a rather different feel about them. The cruelties of Carnival were rarely borne by pompous authority unless one of their women fell into the clutches of those delightfully natural boys of the people. Carnivalistic festivity was carved on the bodies of those even lower and more vulnerable in the relevant ordering. Bakhtin, suffering the limits of freedom under an indefensible Stalinist regime, can be excused. Moreover, one can actually imagine him drunk, burping and not excusing himself, and fighting on Saturday night and enjoying it. But the western academics who troop right in behind him rarely have that excuse. Carnival seems quite charming to them from a distance, usually no mean distance at that, involving their separation from the site of celebration by one ocean and some

11. See MIKHAIL BAKHTIN, *RABELAIS AND HIS WORLD* (Helene Iswolsky trans., 1984).

three centuries. I somehow doubt they would grant the carnivalesque in their midst—the mudwrestling, selected gang rapes, pro wrestling, bar-brawling—the same charm. And then we must also give pompous authority credit when it deserves it: Tito, for instance, appears now as something of a genius having been able to suppress the marvelous authenticity of carnivalistic riot for as long as he did. For Carnival is also one way of describing the celebratory excesses of Bosnia.

I don't mean to take out my own impatience with the western reception of Bakhtin's pious account of feasts of misrule and praise of the grotesque body on Gerald Neuman. He makes an interesting observation: Carnival is in his terms an anomalous *temporal* space, a mere few days each year; Storyville, on the other hand, allows for continuous Carnival but safely restricts it geographically. One would welcome further expansion on the consequences of temporal vs. spatial carnivals, on the difference, that is, between bounding social practices in space vs. bounding them on the calendar.

One final point on Carnival. Neuman suggests that the District of Columbia may be seen as a reverse Carnival in which it is the government rather than the people who are released from constraint. I would propose that Carnival seems to fit one view of the District of Columbia fairly well, but not quite in Neuman's way. Consider that the sense among many Americans is that the life of government and its camp followers is one of riot and misrule, a veritable Storyville in which everything is for sale. Washington, D.C. is pictured less as a place where people are born and raised than as a place they come to revel, leaving behind their morals, accountability, and the local attachments that would keep them honest, upstanding, and in line if they had stayed at home.

Guantánamo and Sanctuary

Neuman's Guantánamo looks like a very routine instance of sanctuary, not an anomalous one at all. And moreover, as a general matter, sanctuaries may well be the epitome of what Neuman means by an anomalous zone. Sanctuaries tend to be very restrictive and restricting geographic loci. Sanctuaries, it should be noted, share a lot of features with prisons. Both severely constrain freedom of movement. Both separate and immure. To be sure, sanctuaries can be somewhat more spacious and accommodating than prisons, as when their bounds include an entire palatinate or the intramural spaces of a city of refuge, but more often they are even more restrictive than Guantánamo, extending no more than several yards from the alter of a church or monastery, or from the tent or personal space of one's guarantor, or from the safety stake in kids' games. Sanctuaries are not generally liberating; they shelter the body of the seeker at the price of his liberty and freedom of movement.

Neuman suggests a general nefariousness of intent and meanspiritedness to the intentions of the American authorities dealing with the asylum-seeking Haitians, whether these authorities appear as naval officials or as judges on the Eleventh Circuit. He may be right about the quality of their motivation, for one should never underestimate the capacity for meanness of the human animal.

But it just might be (and I don't want to push this very far for I am not sure I believe it myself) that the authorities are constrained in some way by the history, sociology, and anthropology of sanctuary as it has been structured in most of its avatars. The weight of the tradition of sanctuary just might be weightier than the opposing notion that the Bill of Rights should be extended to foreign nationals seeking asylum in the United States but not on U.S. territory.

With a little ingenuity we could describe all of Neuman's examples of anomalous zones as mutant versions of sanctuary. The District of Columbia, the least obvious candidate for inclusion under the rubric of sanctuary, can be seen without too much difficulty as a city of refuge for scoundrels; it was even envisaged as that from the start. The people drawn there were those willing to sell their democratic birthright for the prospect of engrossing more than just a mess of pottage. Remember Madison's argument that its "inhabitants will find sufficient inducements of interest to become willing parties to the cession [of their voting rights]."¹² Better to be wealthy and unable to vote for a congressman than poor and able to vote for one was the argument. And I would venture to say that as long as the District of Columbia is perceived to be a city of refuge for those greedy for lucre and power, the disenfranchised native born permanent denizens of the place will have to bear the cost.

Redlight districts are anomalous as sanctuaries in one respect. They seem to impose no real curtailment of liberty, as is the wont of sanctuary, on the johns for whom they really do work as a kind of perpetual Carnival. But then such districts are not sanctuaries for the johns so much as for the pimps and prostitutes. These cannot come and go so freely and in fact Storyville required that known prostitutes sleep, that is reside, within its confines and not merely restrict their work to that zone.

Essays have boundaries and so do comments on them and I am fast approaching or have even exceeded the limits of proper commentary. Let me make one more foray across the boundary of permissible length and close these ad hoc observations with a few remarks on sanctuary. The boundaries of sanctuary were not always respected. The avenger of the blood might prefer to risk offending the gods and those human agents who maintained the sanctuary by going in and dragging out his victim despite the holiness of the place. A wilier avenger might be able to coax his quarry out by means less likely to jeopardize his standing with the gods. In the brief example that follows a certain Arnor has only to threaten to violate sanctuary to induce his pious quarry, Svein, to exit the church to which he has fled. Try to imagine the culture in which the following action taking place in thirteenth-century Iceland makes sense. I quote from the source preserving the account:

Arnor and his men went up to the church with their weapons drawn, urging those who were inside and against whom they had the most cause to come out. If they didn't, they said, they would attack them or starve them in the church.

Then Svein Jonsson spoke up. "I will come out on one condition."

12. THE FEDERALIST, No. 43, at 282 (James Madison) (Paul Leicester Ford ed., 1898).

They asked what it was.

“That you chop off my hands and feet before you chop off my head.”

They accepted his terms.

He and the others then went out, because they did not want the church defiled by them or their own blood. They came out unarmed. Svein was “limbed” as he sang Ave Maria. He then stretched out his neck under the blow. His courage was greatly praised.¹³

Svein’s behavior strikes us as rather strange unless we understand that he not only wanted to save the church from being defiled by his blood should Arnor ignore the sanctuary of the church as he threatened, but that he also wanted to die in the most garish saintly manner. Svein, we see, cared to die as a martyr and he bargained to have his death mimic those martyr-saints of the early church whose stories he had heard read to him. Imagine Arnor’s position though. Does he understand what Svein is up to? Does he know that Svein was asking him to make him a saint and send him to heaven in return for being able to satisfy his blood urge? One suspects that Arnor knew full well what was being bargained for, and that knowledge is contained in the laconic: “They accepted his terms.” This is not quite the typical agonistic clash of two men competing for fixed amount of honor. Svein is playing a different game than Arnor, even though both are strictly speaking playing a game of honor.

We are back to the issue of boundaries, not spatial ones, but the ones that separate different value systems. Svein’s honor game is played on a Christian field, Arnor’s is not. Not only does Svein die like a martyr but he saves himself any complicity he would have had in defiling the church had he not come out. But he also arranges matters so that he does not spare Arnor’s soul for preventing him from defiling the church, for Svein arranges to send Arnor to hell as a torturer of a martyr. Christians did not deny themselves vengeance; they just had to take it rather periphrastically.

Arnor, we suspect, is not too troubled by Svein’s way of doing the accounting. To hell with Hell. He has a brother to avenge. He will even risk damnation to do so, because satisfying the claims of revenge that the death of his brother demands trumps niggling worries about eternal life. If Svein wants to die cruelly then he is welcome to it. And if Svein wants to stage it as if he is going to heaven Arnor will trust in what he himself is certain about: Svein’s death and his brother’s blood redeemed.

Perversely, the outcome of this grim scene is win-win in the best touchy feely style. And it can be so because the boundaries of the games being played are arranged so that they are contiguous at only one point: Svein’s death. Over the rest of their length they are free to expand or contract without impinging on the other.

13. *Íslendinga Saga*, ch. 24, in 1 STURLUNGA SAGA 229, 252-53 (Jón Jóhannesson, Magnús Finnbogason & Kristján Eldjárn eds., 1946) (author’s translation).