LINING UP: THE MICROLEGAL SYSTEM OF QUEUES

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We stand in line until our hearts break.
—Sign carried in a Polish Demonstration, 1981**

Whether we are waiting for a bus, for tickets to a show, for our turn to vote, for a table in a crowded restaurant, for our sacramental communion with God, for a few moments in a public toilet, even, horrible dicitu, for our turn in the gas chamber or for a Swedish visa from that fate,1 people in our civilization line up. In many situations in which there is a scarce resource and an aggregate demand that cannot be met simultaneously or “divvied up,” we seem, virtually spontaneously, to queue.2

This essay focuses on the archetypical queue: persons standing in an approximation of an actual line, in the order of their priority, for the primary purpose of distribution of goods and services.3 Contemporary equivalents of the archetype perform the distribution function but lack the serial, spatial organization. In a “number queue,” for example, an authorized steward or a machine serving as his functional equivalent distributes numbers sequentially and the number

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1. Observers have noted that the enforced queues for undesirable results produce queuing rules that are mirror images or reciprocals of rules for voluntary “positive” queues. For example, in a positive queue, the rule of sequential priority allows individuals to move backward in a line (either going to the end of the line or allowing one or more people immediately behind to move ahead), while prohibiting moves forward in the line. Conversely, in negative queues, the rule of sequential priority allows forward moves but no deferral of one’s place in line. E. Goffman, Relations in Public 36 (1971).

2. But not in all situations. Automobiles manifest regular queue behavior and queue pathologies at toll gates, but it is striking that violations of incipient queues in traffic jams and lane changes occur often. As will be discussed below, the face-to-face features of a queue and the opportunities for “protest” are critical to the microlegal system of queues. Where they do not obtain, the inherent enforcement system of the queue does not operate. As a result, queues fail to work. The two factors leading to the breakdown of queuing norms on highways are stress and anonymity. Why People Are Rude—How It Harms Society, 95 U.S. News & World Rep. 54 (1983).

holders are then called in numerical order. There are also "sitting queues." For example, in many waiting rooms people do not stand in a line and confirm by their location their relative place, but sit at random and hence must recall their own queue positions relative to their competitors. There are "mail queues," in which one is informed of one's place by letter. In airports, planes line up for their turn to take off. In the air above them, planes circle and wait their turn to land. There are also "automated queues." In The Netherlands, for example, callers are told, by recording, their place in a queue whose members, perhaps scattered throughout the country, are waiting for assistance from the operator.

Other "queues" may be spatially organized sequentially but are not queues in the contemporary acceptance of the term, for they lack the distribution function as their raison d'être. The animal world provides many examples of apparently spontaneous spatial arrangements that look like queues, from lowly lines of ants to the elevated and celebrated tree trunk stratification of howler and rhesus monkeys. Salmon in the Pacific Northwest swimming upstream to spawn have been described as waiting in line. In the human world, there are many examples of people who are spatially staggered but constitute a queue only in a figurative sense: slaves shackled together, workers pulling a hawser and so on. In this essay, however, we are concerned with the more conventional physical, distributional queue: that special social organization with its own unique microlegal system in which people literally "stand in line.""8

Elsewhere, I have used the word "microsituation" to mean a very small group of people who, as a result of social if not physical proximity, have the opportunity to interact. Like most other social situa-

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4. Id. at 44. Mann notes that these "number" queues often are instituted when especially long lines develop regularly. See generally Mann, Queue Culture: The Waiting Line as a Social System, 75 Am. J. Sociology 340 (1969).


tions, mundane microsituations—even with only two actors and of the shortest duration—have the complex and significant normative components that are characteristic of law in its conventional usage. These components are essentially expectations, which are shared by the people in the situation. The expectations are first, the belief that there is a "right" way of acting; second, the idea that defections from that "right" way will lead to a shared subjectivity that the defection was "wrong"; and third, the consensus that authorizes the injured party to respond in a way that will hurt or sanction the offending actor and at the very least reaffirm the norm that has been violated. It is appropriate to refer to these microsystems as legal systems because, for all of their informality, there is a rule and an attendant set of expectations about proper subjective and objective responses to norm violation, intimating some sort of system for enforcing the norm. Enforcement is significant, for without an expectation of enforcement, alleged microlaw is no more than the mundane "you oughts" and "you shoulds" of daily conversation. But enforcement need not be formal control by "an authority." The sanction may be embedded in the situation and may be no more than symbolic approval or disapproval of something substantial, like money or time or life. In an earlier study it was noted:

If X fails to play by the rules in a two-person game and Y, out of a sense of indignation, disrupts the game by leaving, Y’s behavior has sanctioned. It has deprived X and, more importantly, affirmed the norm that has been violated. Conversely, Y’s failure to leave, while permitting the game to continue, might have resulted in termination, erosion or modification of the norm.¹⁰

Complex microlegal systems are found embedded in languages reflecting and enforcing policies about relations between classes, castes and genders. There are microlegal systems about the way people look at each other, about the way they touch each other accidentally, about the way they stand in line, they laugh, they act as audiences, and so on.¹¹ These microlegal systems are the atoms

¹⁰ Id.
¹¹ The study of microlegal systems finds much useful data in ethnographic studies. See, e.g., J. Spradley, The Cultural Experience (1972). However, while ethnographic studies describe generally cultural patterns of behavior or beliefs, the study of microlegal systems focuses on those shared expectations that contain norms or rules and are enforced by sanctions. Some sociological work describes microsituations in terms of rules and sanctions. See, e.g., E. Goffman, supra note 1; E. Goffman, Behavior in Public Places (1963); Simmel, Social Interaction: The Definition of the Group in Time and Space, in Introduction to the Science of Sociology 348 (R. Park & E. Burgess ed. 1921); Weyrauch, The "Basic Law" or "Constitution" of a Small Group, 27 J. Soc. Issues 49 (1971). However, a legal
and building blocks of which a society is composed. Lawyers and scholars who are concerned with the effective operation of a social system, its conformity to certain preferences and its production and distribution of values in equitable fashions, frequently overlook these mundane situations in favor of more general normative analyses.\textsuperscript{12} It is unfortunate, for most human beings' lives are involved largely with these situations. Hence there may be both scholarly as well as policy value in directing some of our attention to them.\textsuperscript{13} The prevalence of queues in our civilization makes them good candidates for such an inquiry.

Like many other evanescent microlegal systems, queues involve complex normative systems with informal but rather consistently recurring decisionmaking processes for determining lawful exceptions and imposing microsanctions. Without these processes, queues could not operate; indeed, they would not be social organizations. But this does not of itself warrant a policy-oriented study of the phenomenon. In light of the indispensability of queuing to distribution in mass societies, public order requires that queues have appropriate microlegal systems. Like other microlegal systems, queues thus must be appraised for their contribution to public order.

Accordingly, this essay examines the microlegal system of queues by exploring the queuing phenomenon—its character as a product of complex civilizations and enculturization processes, as well as its manifest function as a distributive mechanism and its latent social functions. Some ethical questions inherent in the system of queuing are explored. Finally, the systems of rules and sanctions in coar-chical and heterarchical queues are described and evaluated.

\textsuperscript{12} For an exploration of the reluctance of legal scholars to investigate microlegal situations, see Reisman, \textit{supra} note 8, at 178-81. For an exception, see B. Weston, R. Falk \& A. D'Amato, \textit{International Law and World Order} 14-15 (1980). Interestingly, some of the questions and objections regarding appropriate boundaries of legal study have their parallels in microsituation studies in sociology. See, \textit{e.g.,} Radelet, 8 Urban Life 267 (1979).

\textsuperscript{13} The combination of microlegal study and studies of more general, formalized legal systems may provide more than mere interesting parallels. In some instances, the microlegal system may supersede or inform 'macro' laws. Birenbaum and Sagarin contend that informal rules of a microsituation may have more force than formal rules because the informal rules are easier to enforce, provide social support for compliance, and are developed by the group itself. See A. Birenbaum \& E. Sagarin, \textit{Norms and Human Behavior} 6-7 (1976); \textit{cf.} Collins, \textit{On the Microfoundations of Macro-Sociology}, 86 Am. J. Sociology 984-1014 (1980).
I. Queuing Behavior: Cultural, Social and Economical Factors

Queues are frequently the butt of popular criticism as the epigraph to the essay indicates. Like many other problems of social and personal organization, there is a tendency to assume that other races, states and economic systems suffer from them more than we do. Western observers of socialist countries frequently report on the prevalence of queues there and suggest that they are a unique pathology of their social and economic systems. Consider the following report by Hedrick Smith:

The accepted form is that the Soviet woman daily spends two hours in line, seven days a week, daily going through double the gauntlet that the American housewife undergoes at her supermarket once, maybe twice a week. I noted in the Soviet press that Russians spend 30 billion man-hours in line annually just to make purchases. That does not count several billion more man-hours expended waiting in tailor shops, barbershops, post offices, savings banks, dry cleaners and various receiving points, for turning in empty bottles and so on. But 30 billion man-hours alone is enough to keep 15 million workers busy year-round on a 40-hour week.

Lines can run from a few yards long to half a block to nearly a mile, and usually they move at an excruciating creep. Some friends of ours, living in the southwest part of Moscow, watched and photographed a line that lasted two solid days and nights, four abreast and running all through an apartment development. They guessed there were 10,000-15,000 people, signing up to buy rugs, an opportunity that came only once a year in that entire section of Moscow.

14. See Katz & Owen, Disequilibrium Theory, Waiting Costs, and Saving Behavior in Cen-
   trally Planned Economics: A Queuing-Theoretic Approach, 8 J. COMPL. ECON. 301-02 (1984);
   Kornai & Weibull, A Piao Normal Allapot A +ngyazdasagham: Egy Sorbanallasi Modell, 11
   Azigma 1-32 (1978) (queuing model of normal state of market in shortage economy) (Hungar-
   ian, English and Russian summaries).

15. H. Smith, The Russians 83 (1976). In socialist countries, lines as a result of short-
   ages and pathologies in distribution are so common that comment on them takes on a quasi-
   political character. In a popular poem, Voznesensky wrote:

I am 41st for Plisetskaya,
33rd for the theatre at Taganka,
45th for the graveyard at Vagankovo.
I am 14th for the eye specialist,
21st for Glazunov, the artist,
45th for an abortion
(When my turn comes, I'll be in shape),
I am 103rd for auto parts
(They signed me up when I was born),

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But if you examine your own country with the eagerly open eyes of the tourist abroad, you are likely to discover a comparable prevalence with many functional equivalents: the one and one-half hour lines in front of the White House and in front of Lenin’s tomb, one-half hour lines in front of the major tourist museums, in front of movies and theaters, lines for buses, for tokens and so on. When publicly financed apartments become available or restrictive guild-type trade unions open for a limited number of new candidates, people in the United States are willing to and in fact queue for days. The New York Times has editorially lamented indigenous and lamentably mundane queue situations that would have seemed quintessentially Eastern European or Socialist:

. One of the great myths about New York is that it’s big enough to be spontaneous. There’s a subway at the corner. Broadway’s dazzle is just a short ride away. Restaurants and street life abound. The opera doesn’t come for a one-week stand; two of them live here. This is not Kansas City.

And yet . . . the shows are downtown all right, but you have to get your tickets weeks, months in advance. Want to go to the U.S. Open to watch tennis? Too late. Bad luck. There are, of course, unsold bargain tickets to Broadway shows available in Times Square, but you’ll have to wait a few hours in line to buy one. That’s what New York is really all about: not spontaneity but lines.

Consider the city’s banks. They invested heavily in money

16. Charles Hart and Roger Sherman acknowledge that queues formed to distribute a limited number of fixed-price commodities to consumers on a first-come, first-served basis are “pervasive in countries with price controls,” but “common in other countries as well.” Examples they offer are “rationing tickets to sporting events like the World Series or college basketball games, . . . theater tickets, theater seats for ticket holders, access to retail sales, work through labor exchanges, certain classes of airline tickets, seats in many travel modes or even in college classrooms.” Holt & Sherman, Waiting-Line Auctions, 90 J. Pol. Econ. 280-93 (1982); see also Dullea, supra note 8, at 1 (reporting that Dr. Thomas Saaty, U. Pitt., estimates that Americans spend five years of their lives waiting).
machines, open day and night, to allow customers to avoid the lines during bankers' hours. Look at some of the machines now. The wait at some is a half-hour long and 20 people deep. Not so long ago it was fairly easy to get to work in Manhattan in a half hour from anywhere in the boroughs. Some days now it takes that long to buy a ticket.

Those lines may save the Transit Authority money, but think of the waste of everyone else's time. Banks and movie theaters may profit handsomely from the intense use of their facilities, but at what cost to the rest of us? Must one stand, docile, in line after line and take it?

Plainly, the queue is not a pathology unique to socialism, but is a distribution phenomenon characteristic of complex urban civilizations which must plan and implement distribution systems. The spatial arrangement of queues also suggests that they are part of the complex "linearization" process that cultures becoming civilizations undergo. For it is clear that queuers must think in terms of linear time and space in order to participate in this type of organization.

II. Why Do We Queue?

Some things that we know are man-made we still assume to be, as Borges put it of Buenos Aires, "as eternal as air and water." Like arrangements in other parts of our lives that present themselves as indispensable and inevitable, queues seem to be what Timasheff called natural uniformities: social arrangements which are neither the results of imitation nor enforcement, but seem to take place naturally. But the fact that queues seem peaceful and that queuers seem to accept violations of queue norms with comparative equanimity should not mislead the observer. Queues are not natural.

Any behavior that requires the deferral of satisfaction when the means for gratification are so tantalizingly close at hand cannot, prima facie, be deemed natural. At some level of consciousness,

19. See N. TIMASHEFF, AN INTRODUCTION TO THE SOCIOLOGY OF LAW 6-7 (reprint 1974).
there is, in every queue, an at least temporarily benign nucleus of fury at the mere fact of having to wait. When others openly violate the norms of the queue, that fury can grow more intense and malignant. Readers will more vividly recall media reports of the shootings that took place at gas station queues during the 1974 petroleum shortage than the innumerable times that people grumbled, jostled and infrequently argued in the mundane queues of life. Such latent dissatisfaction should neither surprise nor disquiet. When, despite the pain and potential for public humiliation, people queue patiently for a public toilet, when children queue in fire or air-raid drills or the actual calamities, when people queue for anything, we are encountering a learned behavior that imports both a complex society and, on the psychopersonal level, very complex and powerful ego and super-ego structures.

We are trained to queue. Learning to stand in line is an important part of the pre-school and early grade curriculum. Consider one contemporary example:

Rather than promoting early reading, for instance, the program tries to give the children experiences that will make them more likely to succeed when they encounter normal first-grade work. Often this means socializing the youngsters, teaching them to be part of a group. The need for such training could be seen last fall when the children were asked to wait in line. Many did not know what was meant by "waiting in line."

The teacher knotted a rope every foot and a half and asked the children to hold onto the knots, keeping the rope straight between them. Soon they could form a line without the rope.

One of the consequences of this early training is the inculcation of both queue behavior and, as we shall see, queue ethics. Obviously, latent and ancillary objectives may also be realized in such queue instruction: self-discipline, reinforcement of the social need to be able to defer gratification and so on. These may be an educator's primary objectives, queue training being only a learning tool. Close-order drill in military training, for example, is ostensibly aimed at

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21. Cultural understandings, if they are to be effective in the organization of public behavior, must be very widely held. That means that people of otherwise varying class, ethnic and regional cultures must learn them routinely, and must learn them quite young, because even small children can disrupt public order very effectively.


23. See Moessinger, Developmental Study of the Idea of Lining Up, 95 J. Psych. 173-78 (1977) (eight-year-olds had developed priority rule, but "hold-my-place" rule was observed only in older children).
refining a method of moving large numbers of men through space as rapidly and in as organized a way as possible. But close-order drill in the Air Force would be more concerned with inculcating a pattern of immediate and full obedience to orders.

Through these socializations, queuing may become the style of a civilization, the normal way in which people arrange themselves and others in space. In the military, for example, even recent inductees quickly learn to organize themselves sequentially in virtually every situation. On a number of occasions in the Soviet Union, I have observed officials instructing people to line up when it seemed to me that neither the officials nor the people they were directing were certain as to why they were lining up. Thus in the same way that we may speak of national styles of personality and neurosis, of posture and architecture, we may speak of styles of social organization.24

After a while, queuing behavior may become self-regenerating, even in situations in which there is no pragmatic reason for queuing. Automatic queuing may occur because queuing behavior has been internalized, and people will feel uneasy about breaking a queue and become indignant when others do so, even if the "violation" harms no one in the queue. Much of the microlegal system of queues, we will see, rests on this feeling, which functions as a type of grund-norm. This queuing with little expectation of receiving the good25

24. See, e.g., I. Levine, Main Street, USSR 338-39 (1959); B. Schwartz, supra note 20, at 108, 200 n.11.

Hall relates a society's spatial behavior to its cultural values of equality, E. Hall, supra note 10, at 158, and of order, E. Hall, The Hidden Dimension 128, 162 (1966). The prevalence of queuing behavior in the USSR is generally explained by economic scarcity or administrative incompetence. See, e.g., Holt & Sherman, supra note 16; Schmenann, supra note 15. Many writers refer to the British as having a "queuing culture" but view it as a quality of the people rather than the economy. See, e.g., A. Gilbert, Death Knocks Three Times 49 (1949) ("the meek British quality of queuing for goods or attention"); Mann, supra note 3, at 56. There are substantial indications that some very ancient civilizations developed queues. The steles at Persepolis portray various kings and chiefs lining up to present tribute to the Emperor and one would speculate on similar spatial arrangements for grain or maize distribution respectively in ancient Egypt and in the Incan civilization. But the esthetic factor should never be excluded from the catalogue of potential reasons explaining why human beings organize themselves or are organized in a particular way. Some people may have enjoyed seeing themselves or others in lines. It is interesting that ancient Egypt which appears to have used lines for distribution also used linearization of objects in its graphic art and, of course, in hieroglyphics. But some of the ancient examples were also of exclusively distribution mechanisms and thus wholly consistent with the modern queue phenomenon.

25. People tend to underestimate the number of people in front of them if a commodity is scarce, even in very short lines. Mann & Taylor, Queue Counting: The Effect of Motives upon Estimates of Numbers in Waiting Lines, 12 J. Personality & Soc. Psych. 95-103 (1969).
in question is sometimes recognized by those who stand in line as having become repetitive neurotic behavior. Thus in Gdansk, Poland, in 1981, a woman lamented, "Waiting in line is a national sickness." Accordingly, people may require explicit direction to ignore the norm. For example, in a self-service cafeteria line in the airport in Minneapolis, a neat sign embossed on a plastic card has been posted to inform entering queuers, "It is not impolite to pass others if there is space ahead."

Other reasons that people may queue without clear distributional reasons is that the queues perform latent social functions or because queuing has acquired ritual functions, like South Sea cargo cults: if we stand in line, we will increase the likelihood of receiving what we want. "Cargo-queuing" may not be quite as irrational as the cult from which its name has been borrowed, for distributors may choose to locate themselves where the existence of a queue promises to make their operation more efficient.

But latent functions are more common. A slow-moving line is a reasonably respectable setting for initiating a conversation and, from the standpoint of location and constant authorized spatial proximity, an extremely convenient one. Socializing with strangers under other circumstances would probably be considered rude or dangerous and would violate norms of "civil inattention" which govern most daily contact with strangers. Thus, in some circumstances, men and women may be predisposed to stand in a line. Indeed, the prospect of the line may additionally enhance the good being distributed.

In some instances, the latent socializing function of queues may produce an intense queuing community. Although people standing in line may not share culture, class or gender, they share a common demand, a fact made manifest by their presence in the queue. If that common demand is focalized, it may become the basis for a significant identity. But degree of specificity of the items being

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27. Similarly, expectations of first-come, first-served queues may be so common that officials will explain alternative systems. Goodsell, supra note 5, at 473.
29. "Other, more mundane settings, because of their special ecology and social structure, encourage social mingling . . . [including] most lines if the wait is long enough." Wiseman, Close Encounters of the Quasi-Primary Kind: Sociability in Urban Second-Hand Clothing Stores, 8 Urban Life 23, 26 (1979); see also J. Irwin, Scenes 43-44 (1977) (describing social function of tow-lines at ski resorts as providing acceptable means of initiating relationships with members of opposite sex).
distributed is a key factor. Some distribution points—for example, an American supermarket—are polymorphous in the sense that a wide range of goods is being distributed. Because those standing in such a line are equally polymorphous in their value orientation, the likelihood of formation of a more intense queuing community is small.

However, when distribution points are focalized, distributing a distinctive good, they may be particularly likely to create evanescent but very intense communities. People who queue for a particular item amidst all the goods in the universe are obviously communicating to each other that they share at least one value important enough to them all to warrant standing in line. That value-convergence may be reinforced by dress codes, posture, language and dialect, and so on, cultivated externalia which function as metacommunications facilitating interaction. My daughter has observed and remarked to me that young people who line up at a downtown record store in New Haven, which sells tickets for local rock concerts, treat the line, not as a nuisance, but as a kind of spontaneous party. At Yale, I have observed that undergraduates will line up more than an hour ahead of time to wait for tickets to movies. The queuers come in groups, sometimes with beer and food. The "line party" that ensues seems as important a function as receiving the ticket. Mann's study of the long ticket queues for football games in Melbourne, Australia, described a social system in which small groups formed and established divisions of labor for mutual help; some held places while others went for food and so on.

Despite ritual or social purposes of queues, however, most queuing is considered primarily an economic device. From the perspective of the spatial serialization of supply, queuing presents itself, at first glance, as a rational arrangement for both distributors and consumers when (1) a scarce resource must and is being distributed from a central point or a number of central points less than the number of consumers seeking the value; (2) there is a presumption if not an expectation that there is enough to go around among the queuers; and (3) there are compelling policy reasons for the distribution system to refuse to distinguish between consumers. But the apparent balance of benefits between distributors and consumers does not survive a second look.

When these three conditions obtain, queuing certainly becomes

31. Mann, supra note 4, at 340-41.
32. B. Schwartz, supra note 20, at 15, 92-93.
rational for distributors. They may calculate that distribution will be, on net, more efficient and economical for them if they can economize on the number of distribution points with consumers conditioned to arrange themselves spatially and to present themselves serially or sequentially than it would be (1) if consumers mad-rushed the distribution points on a first-come, first-served basis or (2) if an operational distribution outlet had to be available for every consumer whenever he signalled that he desired the product in question, which we might call homologous distribution. Intricate mathematic models have been developed in the field of “queuing theory” to help distributors predict which combination of number and location of servers produces the most efficient system of distribution.\(^{33}\) Distributors will attempt to create a system that will

33. Simply, queuing theory rests on the assumption that, given a “service model”—such as a “single queue-single server” or “single queue-multiple servers”—and a “queue discipline”—various rules for queuing, such as appointments, first-come, first-served, and according to need—variations in queue size and waiting time are determined by (1) an organization’s arrival distribution and (2) its service time distribution. Queuing theory then allows derivations of waiting time estimates “by simulation methodology for any value or combination of values or specifications with regard to these parameters.” B. Schwartz, supra note 20, at 3-4.

reduce overhead costs without reducing demand. Thus, if consumers have been conditioned to queue, the distributor can externalize the
time component of the cost of distribution and impose it on the consumer as a concealed supplement to the manifest price.\textsuperscript{34}

But even when consumers have been conditioned to queue, there is, as we will see, a limit to their "patience," that is, their calculation that the value of the item being distributed warrants investing more dead time in waiting in line for it. The trick for the distributor is to gauge where this breaking point is and to provide a sufficient number of distributors so that individual queue time does not exceed the consumers' patience.\textsuperscript{35} The electronic simultaneity of a large technological civilization offers unique possibilities in this regard. Thus, twenty-four hour, "800-number" telephone distribution for a country divided into several time zones permits the distributor to establish maximally efficient queues.

In addition, distribution will be especially served by queuing when the item concerned is a fungible and the market is a continuous, undifferentiated aggregate for which the supplier has no incentives for giving better treatment to one class of consumer, e.g., to build up goodwill for future business. Even where there are supplier incentives to discriminate, queues still provide the indispensable regularized environment in which special favors may be dispensed at the discretion of the effective distributor.\textsuperscript{36}

\textsuperscript{34} The distributor will prefer that option unless the costs of maintaining the good or the costs of the lost opportunity of using the money the consumer will exchange for the good exceed the costs of homologous distribution.

Lines also serve distributors by functioning as a form of advertisement. L. MANN, supra note 3, at 45; Liberman, The Queue: Anamnesis, Diagnosis, Therapy, 9 SOVIET REV. 12, 13 (1968).

\textsuperscript{35} For an application of queuing theory to this problem, see Teugelis, Use of Discrete Transforms for the Study of a GI/M/S Queue with Impatient Customer Phenomena, 23 ZEITSCHRIFT FOR OPERATIONS RESEARCH 95-106 (1979). For a definition of "dead time," see Mortow, supra note 15.

\textsuperscript{36} And parallel to the interests of the distributor who wishes to violate the basic rules of the queue, the queueer, who is disposed to initiate cognate violations by bribing or special pleading, will find that his private program is substantially facilitated if the conditions for those not receiving preferred treatment are standardized. After all, who pays a head waiter for a table if the head waiter cannot or will not prevent nonpayers from benefitting from the same special treatment? This ironic aspect of queues applies even to the thug and bully. In the Dialogue Gorgias, Callicles, anticipating Nietzsche, remarks that the makers of laws are the majority who are weak; and they make laws and distribute praises and censures with a view to themselves and to their own interests; and they terrify the stronger sort of men, and those who are able to get better of them, in order that they may not get the better of them . . . But if there were a man who had sufficient force, he would shake off and break through and escape from all this.

While Callicles' strong man may "trample under foot all our formulas and spells and charms," he would be well advised to maintain the basic ethics of queues even as he violates them. Queues that lend themselves to this type of manipulation require, as we will see, a certain heterarchical structure.
From the perspective of the consumer, queuing may also appear to be a rational economic arrangement serving common interests: it provides orderly access to a distribution point. But, as we have seen, it provides it at a cost, part of which—and possibly a substantial part—is borne by the consumer. For the person standing in line, the queue's cost is the amount of time which he must expend in order to get the value being distributed.\(^37\) In some cases, the allocation of cost is manifestly fair to the consumer, as when a street vendor sells at substantial reductions, part of which probably derive from the extremely reduced overhead costs of the vendor. Then consumers decide that it is worth standing in line for a bargain. In other cases, the allocation of cost is less intuitively fair. Queuing may be imposed in order to ration goods that consumers feel should be more readily obtainable.\(^38\) This stress on the legal system of the queue is, as we will see, of especial interest to the student of law.

III. **Keeping People in Line: Ethical Dimensions of the Queue**

If queuing seems to recommend itself, aside from style, for manifestly pragmatic reasons, it has profound ethical implications in civilizations whose myth emphasizes democratic equality. Timely access to values is a value in itself. Where only the market operates, then the richer will wait less than the poorer, for one of the resources distributed in latent fashion in the queue is time itself. And like the rest of life's weal and woe, class is a factor which does influence time's distribution. In our civilization, where "time is money," more time, like more money, is given to the rich than the poor.\(^39\) The casual middle-class observer in the West must be careful to take account of the innumerable queues that criss-cross poorer peoples' lives like the bars on a basement window, from lines for work, for unemployment checks, for food stamps and so on. The lower the social stratum the more prevalent the queue.\(^40\) The popular notion—

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\(^{37}\) B. Schwartz, *supra* note 20, at 137.

\(^{38}\) See, e.g., Smolensky & Tideman, *Discriminating by Waiting Time in Merit Goods*, 61 Am. Econ. Rev. 312, 313 (1971); queues can be used to ration government-subsidized merit goods by imposing a "price"—the opportunity cost of the time spent waiting—that the poor can afford more than the less poor.


\(^{40}\) Lipsky notes that the client queues help welfare officials by "maximizing worker efficiency, clarifying client dependency, and creating the impression that waiting is necessary and just." M. Lipsky, *Street-Level Bureaucracy* 89-95 (1980). But consider the subjective dimension of the queuer; long waits in demoralizing settings are an example of what Edelman refers to as "mortification rituals." M. Edelman, *Political Language*
that richer people are busier, hence richer, and that the poor are lazy, hence have more time—may reverse causality. Much of the poor’s time is not leisure, but tiempo muerte, “dead time,” minutes and hours interred in lines. The higher one scrambles in the social heap, the more likely it is that one’s only queuing experience will be in the buffet line at the local country club.\textsuperscript{41} The market operates.

In a rigidly and overtly stratified society or in a caste system, the norm requiring that one yield for one’s “better” is no different in a queue than in any other setting.\textsuperscript{42} With some exceptions which we will consider below, this is hardly taken for granted in a democracy. If you are no better than anyone else, why should you go to the head of the line? Where the myth of democracy coexists with a queuing system with substantial exceptions to democratic equality, tensions and complex dynamics are at play which may reveal much about the society.\textsuperscript{43}

IV. The Microlegal System of Queues

A queue is a linear community, with some unique, even peculiar features. Whether the queue is spontaneous or signalled in some fashion, its common characteristic is that it has no manifest decision structure. In many organizations which lack manifest and articulated lawmaking and law-applying procedures, norms are established, modified and changed, characterizations of behavior in terms of the norms are made, and sanctions are meted out without formalities and in some cases without the participants even appreciating that they are making and applying law, indeed, that there is law.\textsuperscript{44} Nevertheless, queues would appear to stretch the conception of microlegal systems for a number of reasons. Queues do not seem to be groups in even the tolerant sense in which the term has

\textsuperscript{135} (1977). Morrow observes that “one of the more depressing things about being poor in America is the endless waiting it entails.” Morrow, supra note 15, at 65.

\textsuperscript{41}. Of course, lines can be connected with affluence and leisure, such as those connected with passports and airports. See Mann, supra note 3, at 45; Morrow, supra note 15, at 65. But the waiting areas tend to be more pleasant. J. Prottas, People-Processing 24-25 (1979); Goodsell, supra note 5. Additionally, the rich can often hire people to stand in line for them. Mann, supra note 3, at 55. These added considerations mitigate the theory that the rich are faced with a greater opportunity cost per unit time waiting than the poor, simply because of their greater earning power.

\textsuperscript{42}. The symbolic connections between queuing and social control and class stratification can be seen in this and other examples in our language. See, e.g., A. Birenbaum & E. Sagarin, supra note 13, at 18, 49 (“Standing in line is a literal embodiment of social control—‘keeping people in line.’”). See generally B. Schwartz, supra note 20, at 181.


\textsuperscript{44}. See E. Hall, supra note 18, at 131.
been used for microlegal analysis. Queue members do not face each other. They do not inter-identify through a leader or a communicator as do the members of a dispersed radio or television audience, creating a group identification through a highly refracted and intense common focus. A queue member sees the person in front of and behind him.\textsuperscript{45} Yet even in the absence of face-to-face contact, the queue member "knows" that he is part of a tapeworm-like organism.

To a rather high degree, the members of the queue community are aware of the rights and duties of group membership and understand the common interests they share with the other community members. But for the most part when queues work, those who participate in them—those who stand—have contacts only with two other sets of members—those in front of them and those behind them. These direct links between himself and those before and after police his own role behavior.\textsuperscript{46} These links confirm the existence of the queue and its operation and validate his role in it. With the exception of what we have called highly "focalized" queues,\textsuperscript{47} attempts to initiate contacts with other members of the queue are inherently suspect because they could lead to violations of key queue norms. Hence when such contacts are made, they are often accomplished in a public and even ostentatious way to confirm the innocent purpose animating them.

A. The Formation and Transformation of Queues

Signals to form a line may be express or implicit, from a sign indicating where the queue should be, to a person with authority indicating that a queue should form, to no more than a rope strung along a hall, or simply some distribution point such as a bus stop or a ticket window.\textsuperscript{48} Whatever the initial signal, queues thereafter generate, by example or instructions from other queuers, who per-

\textsuperscript{45} Some members of a queue may temporarily step out of the line far enough to see the size of the line, or may hire "line watchers" in especially long lines. See Mann, supra note 3, at 55. Queue members may also receive information regarding the entire line by monitoring reactions of observers or passersby. See, e.g., D. Karp & W. Yoels, Symbols, Selves and Society 99 (1979).

\textsuperscript{46} See Dulce, supra note 8, at 7, col. 1 (reporting Dr. Stanley Milgram's study showing that only those immediately next to linejumpers will react to violation).

\textsuperscript{47} See supra text accompanying notes 31-32.

\textsuperscript{48} These "situational supports" are not only important in signalling queue formation, they also act to deter violations. B. Schwartz, supra note 20, at 99. Where physical barriers are not present, members of the queue may set them up to protect their line. Mann, supra note 4, at 340, 347.
form informal "steward functions," a unique part of the queue decision process to which we will return. Queue stewards indicate amiably or with asperity, that a line should form and where. But queues do not require express signals: sometimes a queue steward will recommend that people line up, but sometimes, one clot of people will queue and others will imitate, and sometimes, the line will appear to form quite spontaneously. We are not concerned initially with heterarchical queues, i.e. queues that are established and maintained by some outside authority, such as a police officer, a uniformed attendant or a maitre d'. We will, however, return to them below in our consideration of the problem of special treatment. Our primary interest is in the coarchical queue, without a heterarchical decisionmaker.

The stability of a coarchical system of queuing depends on shared perceptions that the time spent waiting in line is worthwhile. The value of time spent in line is, of course, relative to the value attributed to the thing being distributed which is, in turn, influenced by culture, stratum and the individual phenomenology of the person standing in the line. When the time spent in the line is "too long" and the cost is thus no longer reasonable or commensurate, a special sense of anxiety and even outrage develops, not over lost money but over tiempo muerte, dead time, killed time. This feeling which all people who stand in line have felt, is captured in the desperate comment of the Polish woman in 1981 who said, "[S]tanding in line is killing us."

As students of law we are, of course, interested in the point at which impatience becomes collective and either transforms the queue or disrupts the distribution system. Is this a quantitative problem? Is there a certain amount of time required for queuers to proceed from a subjective feeling of impatience to a sense of outrage and injustice? It would seem that the degree of subjective impatience of queuers varies from person to person. My observation of queues suggests that taxing the queuer's patience is likely to induce the in-

49. See infra text accompanying notes 73-76.
50. Patience while waiting and the amount of time one is willing to wait are not necessarily related. See, e.g., B. Schwartz, supra note 20, at 122, 161, 163.
dividual to leave the line, but not to transform it. Transformation may occur in two ways.

Transformation from within the queue depends upon a leader who expresses the anger of the other queue members at the right moment, has sufficient skills or status to influence others and develops alternative options which seem reasonable to others in the queue.\(^{53}\) They may all leave the queue, insist that other windows be opened, mad-rush the distribution point or develop their own alternative queuing system.\(^{54}\) Timing is critical. Even when the self-appointed leader steps forward, he often discovers that he may have well-wishers and sympathizers but no followers. And even those who share his impatience may resent his verbalization of it and cling even more to the legal system of the queue. People grumble but observers of queues are struck by the patience with which people in general wait. Patience here apparently has little to do with the question of whether there will be enough of the good to "go around." People will continue to wait even when that expectation is low.

In situations in which high demand creates extreme pressures on the queuing system and queue violations are frequent, a second transformation may occur—intervention by a formal legal system. Intervention may take the form of creating a new queuing system—a number queue, list-keeping, or appointment schedule for example—or formal intervention may merely prevent transformation from within the queue.\(^{55}\) When transformation from within or intervention from without will occur depends on the patience of the members of the queue.

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53. See generally M. ARGYLE, BODILY COMMUNICATION 66-68 (1975).
54. Two examples of transformation. Ms. Helen Quinn, an avid Metropolitan Opera goer, set up a number queue for the Saturday morning queue for tickets after the wait began extending into Friday afternoons. Ms. Quinn produces and distributes the numbered tickets and ticket-holders vigorously enforce their priority in the later line. Dullea, supra note 8, at 7.

In Houston, Texas, attorney Beaumont Martin was instrumental in negotiating what immigration lawyers in Houston always refer to as the Agreement of May 17, 1982—an agreement that gave immigration lawyers their own line, on one side of the entrance. Before that, they had to stand in line with the general public, across from the fish wholesaler. . . Before May 17, 1982, a lot of lawyers got to know one another well standing in line in the pre-dawn hours outside Immigration. . . Under the agreement of May 17, 1982, a lawyer can use the special lawyers' line and file papers with a special clerk on one predetermined day of the week, according to the first letter of his last name. Trillin, Profiles: Making Adjustments, The New Yorker, May 28, 1984, at 50-51.

In queues, patience is a function of the degree of time value attributed to the item being distributed; as specialists in social control know, relative patience may be predicted with fair precision. The same people who, several days before performance may wait for hours in front of a box office for tickets for the Rolling Stones or Luciano Pavarotti, will push and shove and even riot if they are waiting on the day of performance and curtain time approaches. The point is obvious, The commodity being distributed has a time value which begins to run rapidly and irrevocably at a certain moment. Hence the decrease of the patience curve and the increasing anxiety and propensity to violate queue norms as show time for any performance approaches. In contrast, the patience curve should be steadier for goods which do not have a time value, thereby producing a more stable queuing system.

The queue system self-enforces to the extent that its members believe that they will be better off with the queue than without it. Thus, an important factor in the early stages of spontaneous queue formation will be a shared perception that, in terms of the distribution of the scarce resource, the queue will benefit everyone. Since that is most likely to be, quite correctly, perceived by those relatively close to the distribution point, who realize that without a queue they may be pushed from their preferred place, spontaneous queues generally grow from the distribution point outward. For the same reason, queues which do not appear to be advancing, i.e. cease to promise distribution to those on the outermost points, generally break down from the outward inward. People close to the distribution point may believe that they can still get in, hence their persistence is a thoroughly rational calculation. Of course, once the basic pattern—establishment of the queue or its disintegration—has been established, the queue may be expected to continue to replicate itself like Durkheim’s tapeworm until it is challenged by a new perception.

B. Sequential Priority and Its Corollaries: The Grundnorm of Queues

Once the queue has been formed, a number of norms come into play. The primary norm is sequential priority: one holds to one’s

56. B. SCHWARTZ, supra note 20, at 101-07 (queue panic, exit and entrance disorder).  
57. Norms of social control may be most readily self-enforcing in situations in which the members of the group are self-selected and the good is not a “necessity.” See, e.g., TRONSDEN, Social Control in the Art Museum, 5 Urban Life 105 (1976).  
58. Of course, simply by virtue of its distributive function, the line must always be tangent to the distribution point. In addition, a line does not grow from an outside point inward into the distribution point because this reverses the first-come, first-served sequential rule basic to our definition of a queue.
place and respects the sequential priorities of those in front and those behind.\footnote{59} As for those in front, one does not push ahead of them. Ambiguous situations in which two parties are abreast of each other are usually resolved by subtle maneuvering with peripheral observation but without eye contact, unless a queue norm has been violated, at which point the injured party will glare or grumble.

The norm of sequential priority imports respect for the priority sequence behind as well as forward. One does not abuse one's position, for example, by inserting friends before oneself. But every rule has its exceptions and there are a number of exceptions to this aspect of the priority principle. One is what we may call the unit rule.\footnote{60} One's priority may be extended to include a belated husband or wife, a companion and, in some cases, two or even three other couples if they came as a group, which is popularly conceived of as a unit. In quantitative terms, there seems to be no limit on the number of children who may join a parent but presumably a busload of couples or of children would excite protest from other queuers further back in the line. If there is some grumbling from those behind, the latecomer may turn and remark to those most immediately behind, "We came here together," "We're together," "I was parking the car," and so on.\footnote{61}

The corollary norm implicitly invoked in these remarks seems to be that preexisting groups are entitled to be taken as units in establishing priority. The point may be established by considering a violation. Imagine a couple, in the middle of a long line, waving excitedly and saying, "Oh, there's Jim and Sue. Hi, guys. We didn't know you were coming here. Come on and stand with us." This is likely to be met with substantial grumbling from those behind, which is sometimes sufficient to deter latecomers from breaking into the line. The grumbling, as we will see, performs sanctioning functions in the microlegal system of queues.

The unit rule is also applied when one member of the unit leaves the line temporarily. His place is held by the other member or members and he can resume his place simply by rejoining them. This aspect of the norm is closely related to another rule about holding places which we will consider presently.

\footnote{59} The norm of sequential priority has been related to the broader value of "distributive justice." G. Homans, Social Behavior: Its Elementary Forms (1961).
\footnote{60} See generally A. Birenbaum & E. Sagarin, supra note 13, at 51.
\footnote{61} This verbalizing of excuse or justification plays an important role in reducing sanction behavior. See Dulce, supra note 8, at 7 (reporting studies by D. Mary Harris of University of New Mexico, finding less anger at queue violators who said "excuse me," gave a "hard-luck story" or were admitted by queue members next to them).
Another exception to the rule of sequential priority is the "clarification rule." You may go to the head of the line momentarily if it is only to seek clarification, for example, to ask whether it is the right queue or if there are special documents required. But clarification can be abused and other queuers may begin to protest if the person seeking clarification seeks to transact his queue business at the same time. Clarifiers generally demonstrate good faith if they stand away from the server and call out their question, but even then a general uneasiness is sensed in the rest of the line, for the server can always wave the clarifier over and serve him out-of-turn. For a moment, the line becomes heterarchical, but people cannot grumble at the server.

Protests of violations of the clarification rule demonstrate the normative force of the rule of sequential priority. Even those standing behind the clarifier protest as vigorously as those in front of him despite the fact that they are not temporarily deprived if someone in the line ahead of them is served out of turn!

A further exception to the principle of respect for priority of place becomes evident whenever a new line is suddenly formed. If an additional cash register in a supermarket or an additional box office window is opened in a theater or train-station, the principle of sequential priority would appear to require that those who move to the new line keep the order and respective priorities they had established in the old line. Logic notwithstanding, as an empirical matter a new line’s priorities are established on a first-come, first-served basis. Hence there is a flurry of dashing when the new line is opened which often results in a distribution of the sequential advantages and disadvantages quite different from the original queue. The "new line" rule indicates that sequential priority is queue-specific rather than shop or sector-specific. This exception does not operate in queues that are non-spatial, e.g., the telephone queue described in the beginning of this essay.

A secondary corollary to the principle of sequential priority is the rule which may be referred to most conveniently by the words with which it is invoked: "hold my place." If you are standing in line and, for one reason or another, leave your place, you are deemed to have relinquished it. If and when you decide to return to the queue, you must go to the end of the line. But if, before you leave the queue, you turn to the person behind and say "Hold my place"

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in any number of variant formulations, you may then return to your place in the queue at any moment up until the person holding your place reaches the distribution point. You need not modulate the symbol for hold-my-place expressly to benefit from it but the clarity of words and an express commitment from the person behind you make things more certain. Where the queue is very slow-moving or you intend to leave the queue for a short time, you may simply leave your suitcase or your shopping cart where you are standing and that is sometimes honored as symbolically holding your place. But you may discover that cart or case has been pushed aside as the queue advanced and you cannot regain your place. This may not have happened if a verbal request followed by a commitment from the person behind had been exchanged.

The general validity of the hold-my-place rule can be confirmed by examining responses to protests. If someone further back objects when you reappear just as the holder reaches the distribution point, the response “I’m holding his place,” or “He was here,” is usually enough to silence protest.

The hold-my-place rule allows for more refined use of time when scarce items are being distributed in several simultaneous queues. Smith describes it as being highly routinized in the Soviet Union where it is used to permit one to advance toward distribution points in several queues simultaneously.

In a dairy store one Saturday morning, I found that the game is both simpler and more complex than that. I went in to buy some cheese, butter and bologna sausage which were, unfortunately, in three separate departments, each with its own line. Nine lines! I groaned inwardly. But rather quickly, I noticed that veteran shoppers were skipping the first stage. They knew what most items cost, so they went directly to the cashier for their receipts. After a bit of

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63. According to Sommer and Becker, the more personal an item left as a marker, the more effectively it will serve as a place holder. If intruders ask neighbors if a marker has “saved a place,” the neighbors will usually defend the space. If intruders merely take the place or question the neighbor non-verbally, there will be little defense of space, even if the neighbor and the original spacemaker have interacted before that person left. See Sommer & Becker, Territorial Defense and the Good Neighbor, 11 J. Personality & Soc. Psych. 85-92 (1969); see also Becker, Study of Spatial Markers, 26 J. Personality & Soc. Psych. 439-45 (1973) (pressures of high demand for space decrease effectiveness of markers).

64. Queuing theory has been applied to queuing systems with “interruptions.” see Fischer, An Approximation to Queuing Systems with Interruptions, 24 MGMT. Sci. 338-44 (1977), and to queues with “instantaneous feedback,” lines described by round-robin and foreground-background computer models, where customers are automatically sent back into the line to receive more service. See D’Avignon & Disney, Queues with Instantaneous Feedback, 24 MGMT. Sci. 168-80 (1977).
studying prices, that was what I did, too. Then, receipts in hand, I went to the cheese line, the longest—probably 20 people—to get the worst over with first. But I was in line less than a minute when the lady in front of me turned around and asked me to hold her place. She darted off to the butter-and-milk line. The cheese line was moving so slowly that she got her butter and milk and returned before we had moved forward three feet. I decided to take the risk, too, and got back with my butter while the cheese line was still inching along. Then it dawned on me that the entire store was churning with people getting into line, holding places, leaving, returning. Everyone was using the cheese line as home base. That was why it was barely moving: it kept expanding in the middle. So once again, I got the elderly gentleman behind me to hold my place and went off to buy my bologna. Once again, it worked. In the end it took me 22 minutes to buy butter, sausage and cheese and instead of being furious, I felt oddly as if I had somehow beaten the system with all those shortcuts.65

In the northeastern United States, where I have observed the operation of the rule, it is used for more limited purposes. Someone in a supermarket line realizes he has forgotten something, invokes the formula to the person behind him, often leaves his cart (a constructive physical presence which may be important), scampers off to get the item and then returns to resume his place. I would doubt that the Soviet application of the principle that Smith describes would be acceptable to queuers in the United States.66 Indeed, Smith notes that even in the Soviet Union the hold-my-place rule is suspended when really scarce items are being distributed.67 Sometimes, exceptions are institutionalized. In the U.S.S.R., writes Smith:

At railroad stations, signs at civilian ticket windows state that Deputies in the Supreme Soviet (which automatically include the most important Party and Government officials), war invalids, Heroes of Socialist Labor, and others honored by "socialist orders of the third degree or higher" can buy tickets ahead of the line. At military ticket windows, Heroes of the Soviet Union, generals, admirals, colonels and majors are accorded this privilege. This works at airports, theaters, hotels and untold other public institutions. Each of the 15 individual

65. H. Smith, supra note 15, at 85-86.
67. H. Smith, supra note 15, at 80. Mann notes that there are time limits imposed on "holding a place." He postulates the "rule" involved not as sequential priority, but as "serving time." Mann, supra note 4, at 345-46.
republics has its own hierarchy of VIP's granted such privileges within its territory.\textsuperscript{68}

In Washington, D.C.'s National Airport, signs award comparable privileges to Supreme Court Justices and Congressmen with regard to proximate parking places.\textsuperscript{69}

There are other general exceptions, but some are more ambiguous because they vary according to contextual factors. Celebrities are likely to be hurried to the front of the line, often by their own paid retainers. In a queue for a public toilet, pregnant women may be moved to the front of the line and there may be general approval; but the same woman and the same queuers are not likely to make an exception in a cinema queue.

The general tolerance for exceptions is often a function of factors such as the nature of the commodity being distributed and the urgency of the need of the person who will benefit from the exception.\textsuperscript{70} But if queues are to survive, exceptions must be polic\textemdash; for when someone in a queue decides to make an exception, he is not giving up his place in favor of someone else or merely inserting an additional person (or group) in front of himself and perhaps the person immediately behind him, but violating the principle of sequential priority with regard to everyone behind him. It is evidence of the very healthy demands for the public order of the queue that exceptions that are not deemed licit will arouse intense negative reactions on the part of those behind.

In Tashkent, Hendrick Smith reports, "I watched a line of tired people grumbling curses at a high-ranking military officer for going to the head of a long taxi line and seizing the first vacant cab for himself, but no one made any vocal protest or physical move to stop him."\textsuperscript{71} The point is dramatically illustrated in a popular Russian song by the dissident poet Vladimir Vysotsky:

\begin{quote}
The people grumbled and grumbled
the people wanted fair play
"We were first in line, but those
behind are eating already."
They were told, "We don't want to
argue, we ask you, dear friends,
go away. Those who are eating,
\end{quote}

\textsuperscript{68} H. Smith, supra note 15, at 80.
\textsuperscript{69} Elites of the macro-society are often spatial elites as well, even without institutional controls. See generally D. Karp & W. Yoels, supra note 45, at 170.
\textsuperscript{70} See generally B. Schwartz, supra note 20, at 96-98 (preemptive priorities).
\textsuperscript{71} H. Smith, supra note 15, at 66.
they're foreigners and
you, if you'll excuse me, who are
you?'"72

C. The Sanctioning System

An important test of a legal system is whether it can sanction violations. In some spontaneous queues, functional decisionmakers do emerge. We may refer to them as "queue stewards."73 Their authority derives from their ability (and sometimes their courage) to express the indignation of other queue members over the violation of a basic norm. Often the protest or expression of indignation may be quite cryptic. "This is a line," "I was here first," or, more persuasive because of the absence of self-interest, "He (she) was here first."74 In many cases, the mere expression of indignation and its confirmation of the normative demands of other queue members will suffice to deter the queue breaker, thereby reinforcing for everyone the basic rules of the queue. Even when it does not, the queue-breaker, while persisting in the violation, may seek to justify himself in ways that confirm the basic norm; for example, he might insist that he was there first.75 In such cases, where common in-

72. Id. at 348. Grumbling can become invocation at some point. For example, in Houston, immigration attorneys had negotiated a special line for themselves at the INS office. At their annual business meeting, discussion was dominated by a discussion of relations with Immigration—particularly concerning the special line for lawyers. Someone had been at the district office one morning that week when there was a scuffle between the gate guard and an out-of-town lawyer who thought he had a right to enter a public building. Someone else had been present when an Iranian who was handling his own case complained loudly that the two lawyers ahead of him in line at the clerk’s window had not been in the line outside. Someone had been present when there were complaints outside Immigration that lawyers were being allowed through the gate while old people and women with babies remained outside in the cold... One lawyer who had that very week heard an I.N.S. official say something that made him think the entire system was in danger of being scrapped, summed up his response to that prospect in one sentence: “I had the feeling the sky fell down.”

Trillin, supra note 54, at 71.

73. Queue stewards tend to be those persons immediately behind the violator. Dullea, supra note 8, at 7; Mann, supra note 3, at 54.

74. Sanctions range from physical violence, to verbal threats and protests, to non-verbal expressions of disapproval. Mann, supra note 4, at 347-49 (physical action is rare, used only when people believe that line-taking threatens their ability to receive service). Recent research indicates non-verbal sanctions such as staring can have the effect of a physical sanction. Mutual gazes cause greater physiological arousal than a nonmutual gaze. An actor can manipulate another’s physiology by manner of gazing. The response to mutual gazes is a good predictor of the degree of influence in social interactions. Mazur, Rosa, Faupel, Heller, Leen & Thurman, Physiological Aspects of Communication via Mutual Gaze, 86 AM. J. SOCIOLOGY 50-74 (1980).

75. See Dullea, supra note 8, at 7.
dignation has failed to shame the queue-breaker back to conformity, the effectiveness of the application of the queue steward to a particular deviation will turn ultimately on his physical size relative to the queue-breaker, his credibility or unpredictability as a threat and perhaps the support of other proximate queue members. 76

D. Functions of Protest

Lines are microsystems in which protest performs multiple functions: corrective sanction, punitive sanction, confirmation of authority and catharsis. A corrective sanction is an authorized reaction which corrects the behavior of the non-conforming target. It is the admonition of a judge, the warning ticket of a state police officer. In the coarchical system of the queue, one function of my protest is to force you or shame you back into your prescribed place. Protest may also serve a punitive function which may accompany the correction but which operates even when the protest fails to correct. A public denunciation, even in the evanescent microsystem of the queue, will embarrass most people and may cause great dysphoria to some. Even when the punitive protest fails to correct, its public manifestation may deter others in the queue, who, like Holmes’s “bad man” may have begun to calculate whether their own violation of the norm might yield real benefits without significant costs. In this respect, protest also confirms authority and its prescription by a public indication that a norm exists and has been violated. 77 Finally, protest provides a socially eufuncional catharsis: a release of the pent-up anger experienced by the law-abiding queuer at the violation of the norms which he accepts. 78

In hierarchial systems, protest is often a form of invocation. It makes a provisional characterization of norm violation and, of key importance, it activates a formal community decision process. Thus a crusading columnist’s denunciation of some travesty is likely to

76. Mann notes that the sanctioning/deterrent system may be most effective near the head of the line where group solidarity has had a chance to operate and where people literally “close up” the line. Mann, supra note 3, at 54. Prather notes that persons also close up lines to reduce the amount of body space between members, the longer the line gets. Prather, Sociological Observations of Privacy Behavior in a Bank Lobby, quoted in B. Schwartz, supra note 20, at 206 n.3. See generally D. Karp & W. Yoels, supra note 45, at 94-96 (more bystanders, less likely any will intervene).

77. Rule-breaking is as necessary to social life as rules themselves, for it is only through the sanctions accompanying violations that persons can confirm norms. A. Birenbaum & E. Sagarin, supra note 13, at 5. See generally K. Eriksen, Wayward Puritans: A Study in the Sociology of Deviance (1966).

78. The norms regarding social protest must be explored elsewhere.
stimulate a grand jury, a prosecution, a trial, a conviction, a legislative reform and so on. In coarchical and non-organized systems, like the queue, protest seeks to become a complete microsanction, invoking and applying.

The queue breaker may still ignore the queue steward or, in more ambiguous fashion, no one may step forward as queue steward to characterize behavior as a queue violation. As will be seen, this need not destroy the queue. If I may recount a personal experience, when I was a law student in Jerusalem, I was standing in line at a movie theater on a Saturday night. Cinemas were then the only public entertainment available and much demanded as the Jewish quarter roused itself from the sabbath, a twenty-four-hour period during which virtually everything was closed. Some thirty people were in an orderly line; I was about twentieth. Suddenly a burly fellow close to my age barged in and placed himself at the head of the line. The other people in the line grumbled and looked at each other. Without going into the motivations and compulsions of the whistle blower, I suddenly found myself walking to the front of the line and confronting the queue violator. “This is a line,” I said, a short expression common in Israel of that time where queue behavior was neither as spontaneous nor as self-policing as in the United States or in the United Kingdom. The queue violator looked at me, perhaps measuring me for potential conflict. He then said, “If you don’t like what I’m doing, you do it too.” In fact, I did nothing but look exasperated and disgusted to conceal my confusion and then resumed my place in the queue; needless to say, the queue breaker did not relinquish his.

Where the queue steward is ignored or no queue steward emerges and the widely perceived norm violation goes uncorrected, the queue as a particular microlegal system need not disintegrate. In fact, it may continue and actually be reinforced. The reason for this has to do with a rarely perceived aspect of public order systems. In any system, the function of the application of a norm is not, as the largest of the applications and the audience believe, to punish or “do justice” or, in an even more animistic strain, to give the gods their due by punishing or securing penance from the violator or blasphemer of the law or anyone else, if blood penance is deemed necessary. The objective of an application is to reaffirm the norm that has been violated, to demonstrate the efficacy of the decision process and its intention to continue to police the norm in order to increase the likelihood of aggregate conformity to the norm in the future. Characterization of certain behavior as criminal, its punishment and all the rituals attending both, are only instruments to that end. All
of the objectives of application can be achieved without involving
the alleged deviant. The fact that we may escape punishment for
violating the norm is not a central concern. The real social calam-
ity is not the violation of the norm, which is, of course, inevitable,
but the deterioration or disintegration of the decision process as an
effective system.

In spontaneous queues, the latent and probably most important
function of all application is not to punish deviant behavior, but
to reaffirm the basic norm and ethics of the queue so that others
do not violate it as well. When those in the queue perceive that
a violator is doing wrong and, because of that perception and
characterization, themselves remain true to the principle of sequential
priority, a particular instance of the violation of that norm does not
lead to the disintegration of a queue.

The tensility of queues under the stress of norm violations has
its limits. Because people believe that queues serve their interests,
queue behavior may hold even in the face of some violations. If
a substantial number of people, either out of timidity, physical
weakness or commitment to what they think is community order,
conclude that they cannot operate in a first-come, first-served system,
they may hold their places despite the queue violations. Their
behavior may generate sufficient mimesis among those who are
wavering to maintain the queue. But there will be an uneasy in-
terim during which many queuers will be watching carefully to deter-
mine whether the queue is disintegrating. The moment they sense
that it is, they will shift to a first-come first-served system and try
to get as much priority as they can. For the queuer, the problem
here is quintessential navigation between Scylla and Charybdis: not
to move too quickly and violate the queue norm and then feel that
his own precipitous defection from the norm made inevitable the
theretofore only potential disintegration of the queue, but at the
same time not to move so slowly that in either a transient first-come,
first-served system followed by a resumption of a queue system or
a continuing first-come, first-served system, he ends up at the back
of the line and, worst of all, feels like a sap. As in so many other
things, the middle of the group is a desirable location.

Violation of a queue norm in a particular setting may lead to
the disintegration of that queue, but as with many other constantly
replicated microlegal systems in our civilization, it does not appear
to erode the general expectation that in appropriate and easily
recognizable situations, one is expected to and one demands that
others queue. Virtually every reader will have encountered this
phenomenon on numerous occasions. A queue for tickets will
disintegrate into a mad rush. Those who fight their way to the box office and get inside then dutifully line up at the cloakroom or the bar during intermission. The alternative, a complete breakdown of queuing habits, is scarcely imaginable. Queuing has acquired, as we noted earlier, a status of self-evident validity in our civilization, reinforced on each occasion that people actually queue. It would take traumatic queue breakdowns to shake the expectation. The consequence would be to change drastically psycho-personal organization and public order.

E. Heterarchical Queues

Heterarchical queues have a much more conventional decision structure. They cannot be characterized as dictatorial or caesarist, for the queue leader, though able to introduce variations in the application of queue norms, must still defer or appear to defer to some of them. But the mere presence of a heterarch, like the cop on the beat, tends to deter some potential deviation. In one sense, this results in a much more effective and overt policing of the basic queue norm of sequential priority. But ironically the heterarchical queue generates, along with the more efficiently maintained normative code characteristic of all queues, a discreet operational code which is discrepant from the formal norm. While affirming the basic norm of sequential priority, it is possible, in a discreet fashion, to make deals with the heterarch to violate sequential priority.

Let us take as an example a queue in a restaurant in which demand for tables exceeds supply. In addition to the ubiquitous velvet covered chain, the heterarchical queue is policed by a maitre d’. Insofar as the clientele of the restaurant is conditioned to queue (usually the case), the maitre d’s function as far as supervising queuing is concerned is superfluous. His real function is, of course, to regulate the pace of entry and to direct diners to particular tables, thereby preventing traffic jams and overload on particular waiters. He may also steer what he believes to be less desirable patrons—“lower” class types, potential rowdies, families with children, people with physical disabilities he feels may disturb other diners—to more distant tables.

Another of his latent functions is to arrange for deviations from

queue norms. Deviations which fall within the exception categories we considered earlier are of no special interest. It is the deviations which are not exceptions, deviations for bribes, for personal friends and so on, which are of special fascination, for these deviations must be accomplished in ways that do not undermine belief in the formal norms of the queue.

Because payments of whatever kind must be concealed, entry decisions are usually made with a certain pretentious mystery and self-assurance. Even when there is suspicion of corruption or favoritism, other queuers may be deterred from protesting for a panoply of ego defenses: the timidity which restrains many of us from even acknowledging law violations, the uneasy suspicion that there is some licit reason for the apparent exception and that a protest will make them look foolish or the fear that the protest will lead the maître d’ to keep them in the queue longer or even bar their entry entirely. People may note with irritation that groups that were inscribed on the list after them have been seated first. They may express their displeasure by staring at the queue steward, but nothing else. When

80. A server may discriminate among customers in a line not as a result of bias or in order to gain personally, but also to heighten the line’s efficiency. A queuing theory study observed that, instead of serving customers according to their sequential order in line, “if customers with shorter service times were served first, it is well known that the mean queuing time could be reduced considerably.” 20 INT’L ASS. OPERATIONS RESEARCH 189 (1978). The study concluded that such discrimination among customers could be built into the system. “In a comparison with the ‘optimal’ shortest service-time rule, a simple queue discipline involving only two non-preemptive priority classes fares very well.” Id.; see Matthews, A Simple Method for Reducing Queuing Times in M/G/1, 27 OPERATIONS RESEARCH 318-23 (1979). Another study examines a system which separates into two lines two types of customers [that] differ in respect to their arrival rates, waiting costs and service time distributions. The server has control over which queue to serve at any time and may interrupt the service of a customer in order to serve a customer of the other queue. In the latter case, however, an interruption cost is incurred which reflects the disruption or loss of goodwill entailed.

81. Of course, in cultures in which there are no norms against bribery, favoritism by queue stewards is accepted and expected; the only question is the fairness of the tariff. Where the elite wishes to terminate such practices, special efforts will be required. Thus § 44 of the 1879 Ottoman Turkish Code of Civil Procedure specified, “Parties coming to court on the appointed day will be called in the order of the queue by the court beadle according to the rule that those who arrive first are served first.” People from cultures in which queues are routine and require no mention always find these quoints and curious.

82. “Institutionalized evasion” or “winking” serves two purposes: first, it allows “quiet” norm-breaking and, second, it latent benefits norm-upholders by maintaining their preferences as the “existing social order.” This minimizes conflict in those societies where group values and behaviors are widely divergent. Adler & Adler, Dry with a Wink: Normative Clash and Social Order, 12 URBAN LIFE 123, 134-36 (July 1989).
a protest is made, the maître d’ can reply, “They were here first,” “They had a reservation,” or the *ultima ratio* of proprietorship, “Orders from the boss.” Thus queueurs, like law-abiding citizens faced with more atrocious violations, cultivate a benign ignorance and, against all evidence, a childlike trust in the wisdom and goodness of the proximate authority figure.

The discretionary power of queue stewards can be quite arbitrary, yet the same people who are prone to protest violations of queue norms in coarchical queues will submit quite meekly to these infringements by the steward himself. The most extreme example of this phenomenon which I have observed on a number of occasions is in the customs hall at Kennedy Airport in New York. Large signs direct the arriving passengers to queue up in lines marked with red if they have something to declare or in lines marked with green if they have nothing to declare. Until this point, the queue behavior is common to heterarchical and non-heterarchical queues: people wait, with at least outward patience, for their lines to advance. Meanwhile, roving customs agents move among people standing in the green lines, addressing people, apparently at random, who may be anywhere from the beginning to the end of the line. The customs officers ask whether the traveller bought things, check the lucky traveller’s customs form and without further ado check that traveller through before all of the others who are waiting in the line with sequential priority.

These roving customs agents may have some guidelines, but it is plain to everyone in the queue that they exercise great discretion as to whom they choose.83 It is also clear that whomever they choose will go right through the screening process without further interference. For the lucky travellers, it is a type of grace, a truly antinomian occurrence in a social institution marked by very intense nomist demands.

The submission to the *deus ex machina* takes place precisely because the intervener is a *deus*. And this draws attention to a rather melancholy feature of micro-decision structures which are heterarchical. In heterarchical lines, a protest *does not* promise to reestablish the prescribed order. In other words, protest in heterarchical queues is not an incipient sanction. On the contrary, it is that unpleasant situation of anomie, in which one forces oneself to acknowledge that things are “thowed out of wack” to paraphrase Flannery O’Connor. Doing the right thing becomes the wrong thing. To protest

what is a violation only brings upon the protester the wrath of the authority figure and is likely to lead to his banishment from the distribution system entirely.\(^\text{84}\)

Even where there is widespread suspicion of corruption and a growing expression of dissatisfaction, the heterarchical queue, as opposed to the spontaneous queue, does not dissolve into a first-come first-served system, for the role of the heterarch—in our example, the maitre d’—is much more defined than that of the more informal queue stewards. A queuer, who becomes sufficiently indignant, may, of course, forego the value being distributed and withdraw.\(^\text{85}\) In our civilization, the costs and even the possibilities of stepping out of line make this often only a theoretical option.

In the future, cybernetic advances may make physical queues as obsolete as the horse and buggy. Computer terminals in each home, indeed for each person, may make ordering some good or service an instantaneous operation with supply being effected electronically. There may be waiting, but no waiting in line, the microlegal system of interest here. For the shorter run, however, we may expect more lines as popular expectations continue to rise faster than the capacity of the community to supply the values to satisfy them. Thus even if you exercise your ultimate right as a citizen and consumer and stalk away in protest from a microlegally improper line, you have no choice but to go to the end of another. As with so many other arrangements which in practice fall far from the legal promise, if one chooses to remain in the queue, one must simply pretend that general queue norms are being followed.

\(^{84}\) Norm-upholders “fear that thorough enforcement would so outrage the objects of reform that they will threaten the norm.” Adler & Adler, supra note 82, at 137.

\(^{85}\) Indeed, distributors often count on this “rationing” effect. See M. Lipsky, supra note 40, at 95-97.