

## **Time, Place and Manner Restrictions**

### ***Group Exercise***

1. Review the fact pattern of the assigned case and apply the three-pronged test for time, place and manner restrictions to determine the constitutionality of the regulation under scrutiny

A. *Police Department of Chicago v. Mosley* (1972): Chicago adopted an ordinance prohibiting picketing within 150 feet of a school during school hours; the law made an exception for peaceful labor picketing. Mosley had been picketing near a public high school; he was protesting "black discrimination." Mosley sought a declaration that the ordinance was unconstitutional.

B. *Ward v. Rock Against Racism* (1989): New York City, responding to complaints of high-decibel concerts adjoining residential neighborhoods, mandated the use of city-provided sound systems and technicians for concerts in Central Park. Members of rock group claimed that the inability to use their own sound equipment and technicians in a concert in a public forum interfered with their First Amendment rights of expression.

C. *Madsen v. Women's Health Center, Inc.* (1994): A Florida state court ordered that antiabortion protestors could not demonstrate within 36 feet of an abortion clinic, make loud noises within earshot of the clinic, display images observable from the clinic, approach patients within 300 feet of the clinic, and demonstrate within 300 feet of the residence of any clinic employee. The Florida Supreme Court upheld the injunction in its entirety.

D. *Million Man March, Inc. v. Safir* (1998): New York City denied a permit request by the Nation of Islam to hold a large rally in Harlem. The city offered Randall's Island as an alternative. Located in the middle of the East River between Manhattan and Queens, Randall's Island is inaccessible by bus or subway and mostly uninhabited.

2. If the said regulation fails any part of the test, how can it be modified to satisfy all three prongs?

3. Construct a model policy that meets the time, place and manner test for one of four assigned government restrictions on expressive activities:

A. Limits on the noise level of speech

B. Cap on the number of protesters who may occupy a given forum

C. Ban on early morning and late evening demonstrations

D. Restrictions on the size and placement of signs on government property

4. Report your findings to the class