The negotiation of political protest – between protest organizers and state authorities – raises an obvious tension. While such dialogue can potentially be de-escalatory and reduce the need for intervention by the authorities, it might also occur on an unequal footing (where the state has greater ‘bargaining power’) and assembly organizers may feel coerced into ceding the protection of core rights. Negotiating freedom of assembly can thus potentially result in the routinization of political protest whereby demonstrations occur only in ways deemed acceptable by the State.

This roundtable discussion seeks to address several pressing issues. In particular, it will explore how protest is negotiated in practice – including when “hate speech” or incitement to violence is involved – and whether this practice adequately protects rights to assembly and speech.

9.30 Introductions and Opening Remarks
John Shattuck, President and Rector, CEU
Michael Hamilton, Legal Studies Department
Peter Molnar, Center for Media and Communication Studies
Yevgenia Avetisova, OSCE Office of Democratic Institutions and Human Rights

9.45-11.15 Pragmatics and Principles of Negotiating Protest (introduced by Mattias Wahlström and Michael Hamilton)
• What do we actually mean by ‘negotiation’? Are there different ‘varieties’ of police/protester negotiations and, if so, what are the most relevant variables/dimensions for today’s discussion?
• Are there positive examples of negotiation, or others that plainly had negative consequences?
• Should negotiation between protest organizers and the police be encouraged?
• What is regarded (by both the authorities and by the organizers) as negotiable?
• What factors guide negotiations about place/location, and what are the consequences for the symbolic, representational and spatial ordering of a city?
• Who is typically represented in such negotiations? Should other stakeholders also be represented?
• What expectations do different parties have? (and what constitutes ‘success’?)
• What is important for event organizers and the police to consider before entering such discussions, or indeed, on deciding whether to withdraw from them?
• Are there any situations in which negotiation might appropriately be regarded as obligatory (by either police or protest organizers)?
• Given that any restrictions must be necessary and proportionate, what level of openness and transparency is required during negotiations?

11.15-11.30 Coffee break

11.30-1.00 Particular Challenges: Counter-demos, State Neutrality & ‘Hate Speech’ (introduced by David Goldberger and Peter Molnar)
• How can negotiations between relevant stakeholders best be facilitated when related counter-demonstrations (or indeed, unrelated simultaneous demonstrations) are anticipated?
• How can the State be seen to remain neutral in its negotiations with different organizers, particularly when some demonstrations are organized by, or are in support of, the government?
• Does state neutrality require that demonstrations that involve “hate speech”, or incitement to violence ought to be negotiated the same way as other demonstrations?
• Do any further issues arise for the negotiation of protest when ‘hate speech’, or incitement to violence is involved?
• What particular issues arise for negotiations if it is claimed (either by the police or by the organizer of a demonstration or counter-demonstration) that the content and/or context of a particular event creates an imminent danger of violence?
• How should issues of past (mis)conduct – particularly previous instances of imminent danger of, or actual violence – be taken into consideration in negotiations concerning demonstrations and counter-demonstrations?

1.00-2.00 Lunch

2.00-3.30 The Legislative Framework and Possible Guidelines (introduced by Yevgenia Avetisova)
• Does notification of an intention to organize a demonstration automatically trigger such dialogue?
• What timeframe is required for talks to be ‘successful’?
• Can and should legislation set the ‘boundaries’ for negotiations – for instance, by clearly stipulating which issues are not subject to negotiation in order to avoid rolling back fundamental rights?
• How might the legislative framework best facilitate any such negotiation?
• What might usefully be included in any OSCE Guidelines on Negotiating Protest?
DAVID GOLDBERGER, Isadore and Ida Topper Professor Emeritus of Law, Ohio State University, USA.

Professor Goldberger, who has argued two times before the U.S. Supreme Court, teaches a civil clinic practicum, Constitutional Law, and a course on the First Amendment. He joined Ohio State in 1980, after serving as legal and legislative director of the Illinois Division of the American Civil Liberties Union.

Prior to working at the ACLU, Professor Goldberger was a staff attorney for the Legal Assistance Foundation of Chicago, specializing in law reform legislation. While in practice, he represented clients in a wide range of civil liberties cases. In 1977, Professor Goldberger won his first case before the U.S. Supreme Court: National Socialist Party of America v. Village of Skokie. The case obligated state courts to provide expeditious review of injunctions against public assemblies.

Professor Goldberger argued the case McIntyre v. Ohio Elections Commission before the Supreme Court in 1995. The ruling invalidated Ohio statute prohibiting distribution of anonymous, non libelous, campaign literature. Also in 1995, Professor Goldberger was co-counsel in Capital Square Review and Advisory Board v. Pinette. And in 2005, Professor Goldberger argued before the U.S. Supreme Court the case of Cutter v. Wilkinson. He won the case, which upheld a federal statute protecting the right of prison inmates to freedom of religion.

His research and writing focus on the free speech decisions of the U.S. Supreme Court. He continues to litigate civil liberties cases on behalf of clients unable to afford counsel.


Selected publications

MATTIAS WAHLSTRÖM, Senior Lecturer in Sociology, University of Gothenburg

Professor Wahlström obtained his Bachelor’s degree in philosophy, as well as his Master’s degree in sociology, from the University of Gothenburg in 2003. In 2011, he defended his doctoral thesis: "The making of protest and protest policing: Negotiation, Knowledge, Space, and Narrative."

His specialist fields include social movements, police research, urban sociology, philosophy of social science and narrative analysis. Professor Wahlström’s doctoral thesis concerns contemporary political protest and the policing of protest in Sweden and Denmark. Based on qualitative analysis of interviews, observations and documents, various aspects of this area are explored, such as negotiation, provocation, spatial interaction, and organisational police change.

He is part of the international research programme “Caught in the act of protest: contextualizing contention (CCC)” (see http://www.protestsurvey.eu/), and the research programme “Policing ethnicity in a diversified Sweden”, coordinated by Prof. Abby Peterson.

Selected publications