

October 21, 2004

To: Faculty Colleagues, Boalt and Elsewhere, Visitors and Interested Graduate Students

Re: GALA, Thursday, November 5, 2004 at 4:00 p.m. - 6:00 p.m.
Faculty Lounge, Room 336, Boalt Hall, North Addition

Fr: Kadish Center



Arthur Ripstein is the scheduled guest presenter for the third GALA for the Fall 2004 semester. Arthur Ripstein is a professor of law and philosophy at the University of Toronto. He received a doctorate in philosophy from the University of Pittsburgh, a degree in law from Yale, and an undergraduate degree from the University of Manitoba.

The following abstract of his paper entitled: "*Beyond the Harm Principle*" has been provided.

ABSTRACT

Draft: do not quote or circulate without permission.

In *On Liberty*, just a few sentences after he introduces his famous "harm principle," John Stuart Mill writes "The only part of the conduct of anyone, for which he is answerable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his body and mind, the individual is sovereign." My aim is to argue that a commitment to individual sovereignty and a sphere of action in which you are answerable only to yourself requires that we abandon the harm principle. The only way to unseat a time honoured principle is to provide a superior alternative. Following the sentence of Mill just quoted, I will call the alternative "the sovereignty principle." Liberalism is fundamentally a doctrine about the legitimate uses of state power, and the sovereignty principle articulates the basis for those limits in terms of ideas of individuality and independence. It provides a narrow rationale for the legitimate use of state power, and precludes other proposed bases.

I explain why its conception of freedom is not subject to certain familiar objections, ones that have historically driven some to embrace the harm principle. Before doing so, I show that narrowly construed, the harm principle fails to account for a significant and familiar class of wrongs that most liberals would agree merit prohibition.

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The paper is circulated to our list of regular GALA subscribers. An electronic version is also available for download at the Kadish Center GALA web site, www.law.berkeley.edu/cenpro/kadish/gala.html. If you do not receive a paper and would like one or would like your name included on our list of subscribers, please contact Ms. Amatullah Alaji-Sabrie, 642-3627, sabriea@law.berkeley.edu. All other inquiries should be directed to Professor Christopher Kutz at 642-6053, ckutz@law.berkeley.edu.