

October 4, 2004

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

Re: **REMINDER** -- GALA, Thursday, October 7, 2004 at 4:00 p.m. - Faculty Lounge, Room 336, Boalt Hall, North Addition

Fr: Kadish Center



GALA guest **Richard H. Pildes**, *Sudler Family Professor of Constitutional Law and Director, New York University Program on Law and Security*, will be our second presenter for the Fall 2004 semester. The following note and abstract of his paper entitled: "*The Constitutionalization of Democratic Politics*" has been provided.

ABSTRACT

In the last generation, the American Supreme Court has constitutionalized an increasing number of issues concerning the structure of elections and the design of democratic governance institutions. Similar developments are emerging in the courts of other countries. This Foreword critiques the current premises and methodology that underlie this emerging new domain of constitutional law. The Foreword offers an alternative, functional foundation for judicial review of democratic politics in which the central task should be ensuring that political processes are appropriately competitive and in which conventional understandings of individual rights, associational rights, and political equality should play a diminished role. The Foreword then applies these ideas to several central, recent constitutional issues concerning the structure of democracy: the design of election districts, the issue of groups and political representation, the legal regulation of political parties, and the financing of elections.

NOTE:

To: Participants in Faculty Workshop at Boalt Hall, School of Law

I am sending the current draft of my Harvard Law Review Supreme Court Foreword, entitled "The Constitutionalization of Democratic Politics," that will be published later this fall. The draft is too long to read for a workshop (or probably for other purposes as well).

I would recommend that you read the introduction and Part I, which provide the general themes for the article. I then think that Parts II B. (on political equality) and II C. (on associational rights) will probably present best in a workshop setting, and I would encourage you to focus on those specific applications of the general themes. That will leave out the discussion of partisan gerrymandering in Part II A. and campaign-finance regulation in Part II D. I will be happy, though, to talk about any parts of the draft that any audience members want to raise.

Thanks for the invitation.

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.