

European Private Law. The Roots and the Future

Professor Ugo Mattei

This first part of the course should serve to develop a critique of European private law as a professional project in the intellectual tradition of the critique of political economy. It will consequently provide a broad introduction to the dominant European legal mentalité seen as a regime of disciplined knowledge. It will include discussion of the scientific, political, institutional and philosophical biases of the current “European private law professional industry”. The discussion will develop a strong critical “pars destruens” and sketch some traits of a possible “pars construens” based on a full- fledged recognition and elaboration of the commons as a foundation of a private law alternative to private property.

Textbook is

Fritjof Capra & Ugo Mattei, “The Ecology of Law. Toward a Legal System in Tune with Nature and Community, Berrett-Koheler, 2015. Students are encouraged to purchase it online (Amazon etc.) before the beginning of the class.

The following is a tentative syllabus:

Oct. 26 Introduction. The many meanings of European private law

Oct 27. The urgency of a paradigm shift

Nov 2 Scientific basis of Western Jurisprudence.

Nov 3 Institutional basis of Western Jurisprudence. The zero sum game.

Nov 9 Academic structure of European jurisprudence. The second life of Roman Law

Nov 10 Judicial development of European jurisprudence. Early common law.

Nov 16. From the commons to capital in Europe. Enclosures and Plunder

Nov 23 Intellectual and institutional foundations of the Great Transformation.

Nov 24 Property, liberty, sovereignty

Nov 30 Freedom of contract

December 1 The shield of fault liability

December 7 The shield of corporate liability

December 14 Codification and the Americanization of European Law

December 15. Technocracy or commons in Europe?

Students are invited to watch : <https://www.youtube.com/watch?v=AlSxu4fqPo0>. To get a sense of the course’s agenda. Class subject matter might change according to the unfolding of our discussion.

