

# **"The End of the End of History"**

A Political Economy of Law seminar by  
Ugo Mattei and Fritjof Capra

## **Session 1**

### (1) Introduction (Mattei, 1 hour).

The purpose of the seminar. Regaining harmony between laws of humans and laws of nature in a crisis situation.

### (2) Science and "Laws of Nature" (Capra, 1 hour)

gradual evolution of the scientific method; clear awareness and analysis only in the 20<sup>th</sup> century; the empirical approach; models and theories; testing and predictions; a collective enterprise; approximation; "laws of nature"; conceptual difficulties; "laws of nature" and "natural law"; disappearance of the term in 20<sup>th</sup>-century science; two scientific perspectives; swing of the pendulum between mechanism and holism, quantity and quality, measuring and mapping;

### (3) Discussion (1 hour)

Discussion includes self presentation by students.

## **Session 2**

### (1) Mindwalk, section 1 (36 minutes)

The medieval worldview, Descartes and the world as a clockwork; crisis of perception;

### (2) natural philosophy in the middle Ages and the Renaissance (Capra, 45 minutes)

the ancient view of the universe; the cosmos – an ordered whole; the four-element theory; Aristotle's synthesis of science; scholastic philosophy; the Renaissance; humanism and the emergence of the individual; the scientific thought of Leonardo da Vinci; Leonardo's living forms; order and "necessity";

(3) Mattei (45 minutes) Some paradigms of legal thinking in the Western Legal Tradition. From Justinian to the Middle Ages. Law in the University setting. Law as a practical business. What is Legal Science?

(4) Discussion (1 hour).

During the discussion students shall be on call.

### Session 3

#### (1) Mindwalk, section 2 (30 minutes)

Science and the domination of nature; Newtonian physics; atoms; patterns of probabilities; from objects to interconnections; light and cosmic rays;

#### (2) the Scientific Revolution (Capra, 45 minutes)

laws of planetary motion (Copernicus and Kepler); the empirical method (Bacon); from quality to quantity (Galileo); the mechanistic worldview and the "laws of nature" (Descartes); Newtonian physics and the establishment of the law-concept;

(3) Mattei (45 min). The modern break with the past. Codification and modern ideas of sovereignty. Ideas of natural law of property and the violent discovery of the New World. Science as a strategy to hide political choices?

#### (4) Discussion (1 hour)

### Session 4

#### (1) Mindwalk, section 3 (34 minutes)

systems theory; life and self-organization; coevolution; economic growth; nuclear power; systems and people;

#### (2) limits of the Newtonian worldview (Capra, 45 minutes)

success of Newtonian mechanics in 18<sup>th</sup> and 19<sup>th</sup> centuries; electromagnetic phenomena; evolutionary thought; the critique of the Romantic movement; approximate nature of Newtonian mechanics revealed by the new physics; the end of "laws of nature";

(3) Mattei (45 min). Savigny and Romanticism. Social sciences imitating natural sciences. Economics as the queen of social sciences. Economists substituting natural philosophers as prestigious guides of legal thinking. Legal formalism\legal realism. The rise of the Economic approach to the law and of the myth of quantification in American academia. Evolutionary theory of law.

#### (4) Discussion (1 hour)

## Session 5

(1) film (Darwin's nightmare 109 minutes)

(2) the systems view of life (Capra, 30 minutes)

the shift from the parts to the whole; systems thinking; living networks; social networking; systems theories; complexity theory; the shift from quantity to quality;

(3) Mattei (30 min).

Globalization and the transformations of the sources of law. From hierarchy to competition in comparative law.

The network as the new metaphor. The life of the law in the network. Is Law a social science? Legal Anthropology, Law and Society and the Law And approaches

## Session 6

(1). Discussion on Darwin's nightmare (30 minutes)

(2). Sustainability and ecological literacy (Capra, 45 minutes)

The challenge of ecological sustainability; principles of ecology; sustainability and community; ecosystems and human communities; human laws and "laws of nature"; ecological ethics; ecoliteracy and ecodesign;

(3). Mattei (45 minutes) The rule of law as the prestigious guardian of the status quo. Critique of rule of law ideology imbedded in individualistic values and short term. Alternative visions of property rights and duties and timing in non-western settings. The critique of Euro-centrism.

(4) Discussion (1 hour)

## Session 7

(1) Interconnectedness of world problems (Capra, 45 minutes)

Systemic problems and systemic solutions; Lester Brown's Plan B; leadership and political will;

(2) Mattei (45 minutes). Towards Global legal standards to get out of the crisis? Imbeddedness and resistance in local law. Towards a re-construction of a people's rule of law.

(3).Discussion (45 minutes)

(4) Good bie party (45 minutes)

Reading list will be posted week by week on the Hastings website of Professor Mattei. Students must do the reading and prepare for each session in advance a roughly five pages paper with their own grasp on the relationship between the scientific and legal ideas contained in the reading assignments. **These papers are due at the beginning of each class but the focus paper for the first class can be delivered with the second.** Focus papers are meant to guide students in the discussion session of the seminar and together with attendance and participation in discussion are the basis for the grade. Non-delivery of the focus paper is excused only once in the seminar. Each week three students will be requested to guide the discussion. This does not mean that the other students are not on call.

### **Tentative Reading List,**

Students will find on line the relevant materials. Law Review Articles can be downloaded from Westlaw or Lexis. Global Jurist is available online. The books in the booklist are available at the Hastings Bookstore.

#### Session 1

Fritjof Capra, *The Web of Life*, Anchor paperback, 1997, Chapter 2;  
Jeffrey Samuel, *Scientia Iuris*

#### Session 2

Fritjof Capra, *The Science of Leonardo*, Anchor paperback, 2008, Chapters 5 & 6;  
Donald N. Schroeder, *Aristotele on Law*.  
J. Gordley, *The Philosophical origins of modern contract doctrine*, Oxford U.P. Chapter 3

#### Session 3

Fritjof Capra, *The Turning Point*, Bantam paperback, 1988, Chapter 2;  
Friedrich Steinle, *From Principles to Regularities: Tracing 'Laws of Nature' in Early Modern France and England*, in Lorraine Daston and Michael Stolleis (Eds.), *Natural Law and Laws of Nature in Early Modern Europe*, Ashgate, 2008;  
Ugo Mattei and Laura Nader, *Plunder*, Chapter 3

#### Session 4

Fritjof Capra, *The Turning Point*, Bantam paperback, 1988, Chapters 2 & 3;  
Fritjof Capra, *The Web of Life*, Anchor paperback, 1997, Chapter 2;  
Duncan Kennedy, *Two Globalizations of Law and Legal Theory*, 36 Suffolk L. Rev. 631, 648  
(2003) or Anna di Robilant, *A Genealogy of Soft Law*, \_\_\_ Am J. Comp Law, \_\_\_

#### Session 5

Fritjof Capra, *The Web of Life*, Anchor paperback, 1997, Chapters 2, 3, 6;  
Peter Stein, *Legal Evolution. The Story of an Idea*, Cambridge U.P. 1980  
Guido Calabresi, *An Introduction to Legal Thought, Law and...*

#### Session 6

Fritjof Capra, *The Web of Life*, Anchor paperback, 1997, Epilogue;  
Mattei-Nader, *Plunder cap 5 (providers of Legitimacy lawyers Economists)*  
Mattei, *Three Patterns of Law. Taxonomy and Change in the World Legal Systems*

#### Session 7

Lester Brown, *Plan B 3.0*, Norton, 2008, Chapter 1.  
IUC, *Independent Policy Report. At The End of The End of History. Global Legal Standards.  
Part of The Problem or part of the Solution?* Global Jurist Frontiers [www.bepress.com](http://www.bepress.com) parts  
1 and 2.

#### **List of books**

Lester Brown, *Plan B 3.0*, Norton, 2008; (available on line)  
Fritjof Capra, *The Turning Point*, Bantam paperback, 1988;  
Fritjof Capra, *The Web of Life*, Anchor paperback, 1997;  
Fritjof Capra, *The Science of Leonardo*, Anchor paperback, 2008;  
Ugo Mattei & Laura Nader, *Plunder. When The Rule of Law is Illegal*, Blackwell, 2008.