

RALPH NADER RADIO HOUR EP 290 TRANSCRIPT

Steve Skrovan: Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan along with my co-host David Feldman. How are you doing today, David?

David Feldman: Very good, very good.

Steve Skrovan: And I understand you have a bit of a trivia question for us today?

David Feldman: Yeah. Yeah, I thought this would be fun. Yeah. We're hearing a lot about whistleblowers this week and I thought I'd throw this out as a trivia question. One of us three, you, me or Ralph Nader is personally responsible for the modern usage of the word whistleblower. Want to guess?

Steve Skrovan: Oh so my choices are Steve Skrovan, David Feldman, or Ralph Nader?

David Feldman: Yeah, who do you think of the three of us?

Steve Skrovan: Well, you know what, I coached junior varsity high school football, so I've had a whistle around my neck and blown it, but you know what, I'm going to go with David Feldman.

David Feldman: I'm pretty sure it's not me. Ralph, you want to venture a guess?

Ralph Nader: I guess you were referring to me in the 1971 historic conference on whistleblowers that we had in Washington DC. The idea is to give them an ethical dimension. Whistleblowers then were seen as snitches, tattletales, and they now have a really critical role to play in making large corporations and government, unions, universities and other institutions accountable. So it is not a trivial question, David.

David Feldman: No, it's not. And why did you pick the word whistleblower for our usage, fans?

Ralph Nader: Because it goes back a long way. Obviously, it had a street police image in traffic control, but it also goes back a ways in novels where it was used to, in effect, expose wrongdoing.

David Feldman: The Whistleblower Protection Act helped make this impeachment possible, right?

Ralph Nader: Yeah. There actually is a formal process now. You can ask for a whistleblower status if you're a government employee and you have certain procedural protections. There are other protections, too. A lot more to go to allow millions of people take their conscience to work every day especially in big institutions, but we've made a lot of progress.

Steve Skrovan: Well that's very good and that's certainly a lot in the news today and in the upcoming weeks and we're going to get into a little bit more of that next week. But on this program today, we're going to welcome Professor Ugo Mattei who divides his time teaching law at the

University in Turin in Italy and at the University of California-Hastings. He's also an activist who back in 2011 devised and led a campaign to keep Italy from privatizing its water supply, kind of an important thing, water. He did this through a national referendum where 27 million people voted. And guess what, they won! So we're going to find out how he pulled that off and what lessons we can learn from that experience here in America.

Also we always find some time to scurry over to the National Press Building in Washington DC and find out what our Corporate Crime Reporter Russell Mokhiber has got cooking on the corporate crime beat. And if we have some time at the end, we'll try to knock out a listener question or two. But first, let's kick things off with our first guest who convinced millions of his countrymen to vote for his idea. David?

David Feldman: Professor Ugo Mattei is Distinguished Professor of International and Comparative Law at University of California, Hastings and at the University of Turin, Italy. He is a widely published scholar in economic and political aspects of law and his work has been translated into many languages. He masterminded, as lawyer and an activist, the Italian campaign against the privatization of water and that was successfully completed in June of 2011 with a national referendum endorsing Professor Mattei's plan to recognize water as a common. He's also co-authored a book with Professor Laura Nader called *Plunder: When the Rule of Law is Illegal*. His latest book is *The Turning Point in Private Law [Ecology, Technology and the Commons]* which comes out in paperback next month. Welcome to the *Ralph Nader Radio Hour*, Professor Ugo Mattei.

Ugo Mattei: Thank you very much for inviting me to this show. Thanks a lot.

Ralph Nader: Welcome, yes, Ugo, we've known each other for quite a few years. Before we get into the whole issue of what you did on the ground in Italy to mobilize the citizens of Italy on the drinking water issue, what is *The Turning Point in Private Law*, which is the title of your book coming out next month?

Ugo Mattei: Well, *The Turning Point in Private Law* is a small book that has the ambition to popularize the knowledge of private law as an agency of change in current situation. In other words, because of the corruption of the representative system produced by the excessive growth of the corporations basically, the top-down perspective of law, that is to say waiting for government to intervene with some statutes to deal with the issues, has very slight potentials. I've been teaching law for now almost 30 years and they practically have never seen a legal reform that was not originated by those that we're trying to make the market friendly to their own business. So banking law is made by banks; insurance law is made by insurance companies; and this is like preaching to the converted in this program. But *The Turning Point in Private Law* kind of talks about the difference of the private law system from this perspective. In other words, the everyday functioning of the legal system--contract, tort, property--those categories have been used for the last 250 years in order to transform commons into capital where the main machinery of transformation of modernity. There was a big shift in the law. [Karl] Polanyi talks about *The Great Transformation*. There has been also a big shift in the law beginning in the late 19th century with the introduction of all sort of institutional settings that we are using also today whose main purpose was the transformation of commons into capital.

Ralph Nader: Let's interject here, Ugo, the commons represents property we all own together. Corporations don't own it; individuals don't own it. It's best exemplified in our country with the public lands and the public airwaves and a lot of other things. David Bollier in Amherst, Mass has documented, and I know you've worked with him, why don't you be very clear to our listeners, because very few people know that the people own the greatest wealth of all, which is the commons, and it also involves pension money, pension trust, mutual funds, but they've lost control of it. Why don't you define that first.

Ugo Mattei: Well the commons is a difficult category to define, but the principal around the commons is the principle of access as opposed to exclusion. So the institutions of private property and also the institutions of government are institutions based on the concentration of power and on exclusion. The Commons, which is everything else, the stuff that are not appropriated either privately or by the claim of the government, are actually based on the opposite principles, and the opposite principle being not exclusion and concentration of power, but inclusion, access, and diffusion of power. So it belongs to all of us and unmediated by government and institutions and, of course, unmediated by private institutions. So this big share used to be what was everything was in common before the construction of modernity, of modern institutions of private property and state sovereignty. And over time in the last 200 years, property and sovereignty have been cutting the commons--eating it, privatizing it; in the case of private institutions, of governmentalizing it in the case of government.

Ralph Nader: Give five or six examples to make it more concrete for people.

Ugo Mattei: Well, water would be the first example of a common, you know. It's a gift of God; it's something that derives from the sky. But commons are all those resources that are necessary for the development of human beings, so nature in general. The Amazon forest would be another very good example; national park systems in the United States have been using the idea of federal land, but federal land in fact is a way to deal the commons, to keep the commons in trust for future generations. Airways, you mentioned it. I mean everything . . . it's really not the mere ecological categories, not like a kind of thing that can be devised as . . . described as an object. The commons is more of a relationship between people, masses, and those actual assets that are necessary for life and for full development of personality. So everything can be recognized as a common. Something can be both in private property and the common at the same time. For example, if you own a very important painting by Picasso or a big artist, you don't have the full ownership of that because part of that, the cultural legacy, the artistic part, doesn't belong to you. So you're not entitled, for example, to get it burned or buried with you when you die because the utilities of arts are in the commons. It's something that belongs to everybody and doesn't belong even to the private owner. So the question is how to make those things that belong to everybody be actually, which are utilities that are produced by everything, be actually governed in the interest of everybody.

Ralph Nader: Let's move from Ugo Mattei, the professor and prolific author, to the national organizer. You did something that people in Italy thought was impossible. How did you discover it? You were reading through some new legislation from Rome, and tell us about how you did this.

Ugo Mattei: Yeah, well it was much more . . . it was much more of a necessity than a choice. We've been working since the early 2000s. I was working together with a number of comrades and colleagues to second-guess the ideology of privatization. Privatization, you know, beginning with the fall of the Berlin Wall throughout the '90s and the early part of the 21st century, has been a dogma that could not be discussed or disputed. It was just better to privatize rather than keep it into the public system. And Italy, from that point of view, has been a frontrunner. Italy privatized in the early part of the '90s about 150 billion euros of assets belonging to the state. Companies, insurance companies, banks. A very thriving public sector of Italy has been privatized with no mercy. And these privatizations could not be challenged for a long time. If you were against privatization in Italy in the 1990s, you were an outcast; it was just something that could not be said. It could not be discussed in polite circles. So, beginning in the early part of the year 2000, I started with others to work on this privatization to see what happened to these assets. You know, assets that are very famous like motorcycles like Ducati, for example, which would be kind of a very important, distinguished sign of Italian technology, were just sold to the Germans and many of those things happened. And so we started to study hard, the consequences of that. And the consequences was really bad. Privatizations are actually ways to plan the resources from the public and translate them into the private system with very little guarantees. The law is excluded from that; the government can sell whatever they want to sell without courts having any possibility to second-guess. The government behaved as an owner of public property and therefore as an owner can sell it. And we were trying to work a reform. And the reform law had to be introduced into the civil code. And that idea was that we had to transform the rules of the civil code, which in Italy is the most important piece of legislation in order to include some serious defense of the public and the commons goods? okay? And that was made in 2007 and 2008 within a commission that was called Commission Rodotà that was established in the Italian government at the time. And we produced a very articulated statute that was being discussed throughout Europe and everywhere separating the notion of the commons as a legal category from the notion of public property and giving important guarantees to both of these notions, okay, within the law. When we were doing that with the long work, what happened was that on November 16 of 2009, the Italian government, at the time Berlusconi was in office, passed a very sweeping statute that obliged immediate privatization by December 2011 of all the property belonging to local municipalities, okay? In Italy that means . . . Italy is organized with about 8,000 local municipalities and about 70% of the assets belonging to the public or to the commons are actually in property of those little municipalities--things like transportation, things like pharmaceuticals, things like water, things like electricity--all have been run kind of locally since the early part of the 20th century. The law actually made it obligatory to privatize all of that.

Ralph Nader: Ugo, let me interrupt. Don't you think a better word than privatization is corporatization?

Ugo Mattei: Yeah, absolutely, you can definitely talk about corporatization. The point is, you know, that privatization is a kind of word that is very well used; it's known. We know what it means. And I'm not sure that in political conversation introducing words that are more sophisticated and clearly better because it reflects the conditions in a better way, is a good tactic because people don't understand what we talk about. I mean the level of general ignorance about this process is huge.

Ralph Nader: Let's go back to your fight.

Ugo Mattei: So basically what happened was that the government decided to privatize everything with the stroke of a pen. And in Italy, we have the possibility to arrange a referendum to actually abolish legislation, okay? So in Italy, we have this constitutional device which is a referendum, a popular referendum that can be deployed under exceptional circumstances. It's very, very difficult to organize. You need a half a million signatures in order to set it in place and then you need to have a turnout to the vote of 50% plus one of the population, which just really never happens, okay--very, very unusual. It happened for abortion; it happened for divorce; it happened for the nuclear; it happens for the real important things. It doesn't happen for, you know, every piece of legislation because there is a big imbalance between representative democracy and direct democracy. So we decided to try to organize this referendum, and the way to do it was pretty simple. We just sat down, me and Rodotà and some others, and we wrote down what could be the question to ask the people in order to abolish the law. That is a very technical thing to be done; it's very difficult because in Italy, you can only formally abolish a law. There are all sort of restrictions of constitutional law of the kind of gerrymandering, if you want to use this term, of the legislation you can make, in order to make it pass in the sense you want. So there, what we wanted to do was really to safeguard especially water. That was the first item in the list of the commons, and therefore we introduced the packages of three different referendums to actually try to get to a body of law that could be considered acceptable by the court on which the people could vote, okay? Our case law is basically restricting the possibility to present the referendum if in case of victory of the referendum, a legislative vacuum would result. I know that these are things that are unsexy and very technical, but this is the way it worked. So basically we had this very technical, complicated work to be done, which we did in terms of constitutional law, but also we had to find a way to present water privatization or water corporatization as you're telling it, as something really bad for the people, which was not easy to do at the time because the ideology out there was that the private was way more efficient than the public in running public services. So people, you'd go to the people and say would you sign for a referendum and they'd say, "Are you nuts?" Why you want to oppose privatization and leave the water in the hands of these politicians that are corrupt, of these bureaucracies that work very badly; actually the private system would run water better than the public system. So there was a need of a big educational effort of the people in order to make people understand that between private and public, there is also the possibility of direct governance of resources, which is the commons, which is basically creating some sort of bodies that run public utilities in the public interest--within the interest of access, in the interest of the service, and not either in the interest of the private/corporate sector or in the interest of the government and the bureaucracy--that there was a space in between.

Ralph Nader: Ugo, who were your allies and how did you get on the mass media in Italy to get such a remarkable public opinion turnaround?

Ugo Mattei: It was a remarkable thing. You know, it's really kind of strange to . . . really quite frankly, we had no access to public media at all. I mean we had some newspapers in which I personally was collaborating, like *Il Manifesto* or some others that would invite sporadic intervention. We had no TV appearance whatsoever in the national system until very, very late in the campaign. It was because then the law provides some guaranteed space. I don't think it was a media-won victory. It was really sort of a grassroot. I personally did some maybe 100, more than

a 100 evenings around the country to discuss with small groups of people about it. Many of the 15/20 other lawyers that were part before of The Rodotà Commission so that we were working, involved in the same project, did the same. So we went around the country quite a bit. And in each one of those meetings, you know, you'd meet 30/40 people. And [in] the beginning you'd kind of get the usual objections against the fact that people selling the privatization ultimately was good, so you had to go through the whole thing and you spend, you know, two hours, three hours with the people and at the end of one of these meetings there would be at least three, four, five, 10 people that would be really on board because people understand how important it is not to leave water in corporate hands. Giving water to corporations is like really putting ourselves literally and physically at the mercy of those monsters. And this is something that people don't realize, that once you run water for profit, you are better off if people is really thirsty and you're better off if people consume a lot of water, which is counterintuitive on what we have to do now for water. We have shortages everywhere; we had actually to maintain it and to try to save water. We cannot afford to have golf courses in Los Angeles; that's too water consuming. And so all of that the corporation that runs the water has an interest in selling water and has an interest in a lot of consumption of water. And so asking to a corporation to be ecological in terms of water is like asking someone to has to sell you shoes to advertise for people to go around barefoot. It's ridiculous. I mean there is no sense in expecting that the private corporation that makes profit on water will tell to people consume little water. It's like expecting Adidas to tell to people to go around barefoot, you know. It's just absurd. So there's a big ideology around privatization and around the possibility of the private to run the public services because the private will never run the public services in the interest of ecology or in the general interest of the population, which is maintaining the service, having access to it at reasonable prices, but not wasting it. The waste is part of the deep structure of extractive capitalism.

Ralph Nader: I'm really interested for our listeners, this is amazing. You basically won this referendum without the help of the mass media.

Ugo Mattei: Yes.

Ralph Nader: And you must've done it by picking up two allies, ordinary citizens who started word of mouth, because you went all over Italy, and you must have had the aid of the municipalities, the towns and cities. How did you pull it off and what was the final tally? What was the final tally?

Ugo Mattei: Well first of all, I mean . . . I guess that in the picking up of signatures, we had an important alliance in the trade union, so there were in particular the CGIL who was like the largest Italian trade union, which is still one of the few real massive organizations in Italy, came on board and they helped us massively. There was an organization that was in place since 2005 that was called the Forum Italiano dei Movimenti per l'Acqua, Italian Forum for the Water Movements, that was part of the so called no-global movement from Seattle to Genoa to Puerto Alegre that got together a bunch of activists that were around that helped very well and very strenuously. We were very lucky in finding a good logo because the commons for some reason became a very much of a buzzword in Italy in that period. Water is a commons, the campaign was called two S's for Water as a commons, so I mean it was very . . . it was something that arrived to the heart of the people quite a lot. I must tell you that the water produces all sort of different reactions. So if you go in the

street and ask signature for water back in 2009, 2010, people would come there, talk to you and line there because they were really worried about it, so there was some sensitivity. So at the time, the outcome was we were, I must say also a little lucky because the package of the referendum we produced, there were our referendum on water and then there was one on the nuclear that was introduced by the same kind of green alliance that we were pretty much putting together. And there was the Fukushima tragedy few months before the vote, okay. So people, because of that there was an resurgence of the interest of the nukes in Italy. And a lot of people went to the poll, I think honestly because they were worried about what happened in Fukushima, so that helped us a lot. I have no way. . .

Ralph Nader: What about the cities and towns?

Ugo Mattei: Cities and towns, we had some of them that were actually ready to fight because they thought that it was a good idea for them to keep the public services in their own hands. I must add that the political parties were all against our referendum. The Democratic Party was against our referendum; the Berlusconi's party, Forza Italia was against the referendum. But a lot of the voters, the interesting thing, a lot of the voters of the Democratic Party were actually against their leadership. So there was a separation between the leadership of the parties and the people--the social basis of the party itself. And at the end of the day, the last month or so of the campaign, the Democratic Party switched. They switched; they understood that they had to pass out; at least they didn't oppose us anymore.

Ralph Nader: What was the final vote?

Ugo Mattei: Twenty-seven million people voted yes, so voted for abolishing the privatization statute, which means that 96% of the vote were for us. And for the first time in Italy, and this was the first time always, a majority of the people of Italy, so a majority of the people of those that would vote, which was a pretty large number, was actually in favor of our referendum. So we have 95% or 95.6% or something, of the national turnout, which was more than 51%. It was almost 52% of the people that voted, so it was massive. It was a triumph. What happened after that is really interesting that in spite of the fact that it was a triumph, the government tried to do business as usual. They just tried to say that nothing really serious happened. And naturally that is what occurred was a very interesting reaction by the internet because it was not just the government; it was really pretty much the European power. A month after the vote, ~~a month after the vote~~, that was July 2011, a very weird thing happened. There was a letter by the President of the European Central Bank, Trichet, at the time together with Mario Draghi who was to become the president after that, that sent a very unusual letter to Berlusconi, to the Prime Minister, telling him we know that the people voted against privatizations, but privatizations are really key part of the program of Europe and are part of the conditions for Italy to stay within the parameter of European policy, okay. So they basically said brutally, okay, you guys we know that the Italians people don't want to privatize, but we in Brussels and Frankfurt believe that privatization is necessary and therefore please, Berlusconi, be sure not to do what your voters ask you to do. It was a very unusual move. A lot of people found this letter very scary.

Ralph Nader: Ugo, this is part of the phenomena is why people from Britain to Italy are revolting against the European Union and the centralization of power and the rejection of what people want

in the respective countries. But you mentioned that the role of social media was starting to weaken your effort to rebound in this area?

Ugo Mattei: Well the social media at the time were practically not there. This is a very different . . . this is a very interesting perspective that they can give you because that was not over. This whole story about corporatization in Italy is not over at all. We are still fighting. And right now as we are talking, we are closing a campaign that we carried on for the last six months in order to reintroduce a statute in Parliament, okay, as a popular initiative that was the very same statute that the Berlusconi . . . that we protected with the referendum 10 years ago, but that was never enacted into law by Parliament. So this is why I was telling the story. So what happened after the referendum, was we got this intervention of the European powers. Berlusconi got scared, that was July 2011, Berlusconi got scared and passed the law, hastily passed the law unmaking the result of the referendum altogether, okay. Basically he passed the emergency decree in August 15. It was called the Decreto di Ferragosto. August 15, he passed a statute saying the result of the referendum is Tamquam non esset, things are going to go as before, okay. So he basically did what Draghi and Trichet told him to do. So what I had to do, that was August, me and others, but that one was really pretty much my own thing, I wrote an article on *The Manifesto*, which is the newspaper, asking a local government that was run by the left, the only one in Italy, to sue government against this law, okay. So I challenged that in front of the constitutional court and we won that one. So the constitutional court said he's unconstitutional for a government to pass a law that unmakes the will of the people once the will of the people was expressly and formally expressed in a referendum. This was the turning point. That was a decision of the constitutional court. We gained that; Berlusconi got in crisis. 2011 the government of Berlusconi collapsed because Berlusconi was not able to deliver what they asked him to deliver from Brussels. This is the true story. All the rest, the girlfriends and all the other [bleep] is just something that is part of the folklore. The truth of the matter is that Berlusconi was required to privatize these assets. We are talking about €250 billion euros, okay. We're talking about the real serious cash. Berlusconi was required to corporatize that. He couldn't deliver it because he was embattled, and so what happened was that the President at the time, Napolitano, put a new government which are the government of Mario Monti, was an European Commissioner, basically telling him they're going to privatize anyway. So we have a complete constitutional crisis on that, a complete constitutional crisis . . .

Ralph Nader: By the way, our listeners should know that Berlusconi is a multi-billionaire. He owns . . .

Ugo Mattei: He's a tramp.

Ralph Nader: Trump admires him.

Ugo Mattei: Yeah, of course.

Ralph Nader: And he owns a lot of radio and TV stations. He's totally without any sense of boundaries or rule of law, so that's who Ugo and his colleagues were taking on. Ugo, because of the time limitations, I want to have our readers learn about what you said could be common example for global strategy, that means including the United States, in your very interesting way of getting people's attention. You call it an experiment in transforming indignation, otherwise

known as anger, into new institutions of the commons where people will control what they own and not have it taken away by the corporate state or any other variation of corporate global domination. Could you explain that as briefly as you could and how far it's getting and why it relates to people in our country?

Ugo Mattei: Well, that's exactly what they were trying to say about the social media, so at the time there were no social media yet, very important. This time now, 10 years later in which we are doing the same thing now to try to transform indignation in law, that is to say to try to have, finally after 12 years, the reform of the civil code be put into the Italian books of law, okay. We've been collecting more signatures now and we found it hard to get 50,000 signatures, okay. So we got 1.5 million to introduce the referendum, now we find it difficult to find 50,000. We actually got it barely because the people today, after 10 years of neo-liberalism and 10 years of social media, are not able anymore to understand physical struggles.

Ralph Nader: This is an amazing comment.

Ugo Mattei: This is really important; the social media are against social movements. It's complete rhetoric and narrative that the internet and the social media are crucial for the success of these kind of battles. I think it's a complete . . .

Ralph Nader: It's supposed to be just the opposite, right?

Ugo Mattei: Supposed to be the opposite, but it's not true. That's what the people believe, but it's not true. It's simply plainly false. The social media are not avenues of emancipation, of political emancipation of the people. Actually they are ways to keep the people attached to their laptops, hypnotized by their cell phones, believing they are doing politics by writing "I like it" on some Facebook program, giving away their personal data, creating a society of control and a society of surveillance, and of spectacle, that is the opposite on what we try to create when we talk. We need institutions of the commons. Institutions of the commons are institutions that require physical participation, that require engagement, that require thorough discussion, not slogans. We have to invent institutions, new institutions that are going to be in place for the next 100 years that are able to substitute institutional constructions that took 200 years to capital to build and to destroy with its own corporatization, okay. We are talking about really important war we have to do and we cannot do that on Twitter, okay?

Ralph Nader: Ugo, obviously, it's music to my ears. We've been trying to say this to people, but you actually saw it on the ground when you had to go physically and meet and connect with people. You collected far more signatures and aftermath energy by far.

Ugo Mattei: By far.

Ralph Nader: Then when you had access to theoretically all the people on the social media.

Ugo Mattei: Yes.

Ralph Nader: So you're saying you cannot really build democracy and fight the power structure by virtual reality.

Ugo Mattei: No.

Ralph Nader: You have to do it on the ground with real people. I got to get David and Steve's comments on this. Why don't you pitch in; what do you think of all that?

David Feldman: I'm kind of curious about this actually having happened in Bolivia. Didn't the World Bank force Bolivia to privatize some of its public water and what happened? Didn't Bechtel get the contract--the people stood up? It became illegal to collect rainwater at one point?

Ugo Mattei: Yeah. Well that's really what inspired Italy, you know, the struggling Cochabamba. That was a victory, but that was a victory that costed 16 . . . I mean people died on that. There was 40 days of strike for people against the privatization of water; people died on the streets against the cops.

Ralph Nader: This is in Bolivia?

Ugo Mattei: 2001, Bolivia. Cochabamba corporatization of the water system transferred from the government of the city to Bechtel Corporation here in California, okay? So, Bechtel Corporation starts running the water and privatizes it and the price goes up to the point of going almost 40% of the income of the median Bolivian person; that's outrageous, okay? So people took the streets because they were starving. And they fought for 40 days and they won, and the boy was killed and other people were wounded. And eventually Bechtel had to lift the contract. The water was given in the hands of the people and Evo Morales took power in Bolivia against this crony presidents of the World Bank. That's what happened in Bolivia; that's what happened in Bolivia and that's what in Italy it happened in a different way; luckily it was less dramatic, but we had the inspiration from there. In both these occasions, the social media had no role whatsoever, okay? Today, people are not patient anymore. I was in the street. I was in the street. Again, I did about 70 evenings in the last six months in Italy everywhere to talk about the things, talk about the importance of introducing the commons in the civil code and how the water and all the commons institutions are going to be protected if the legal system gets in tune again with community, with nature, you know, we have to do a lot of various structural transformations to give some hope to the future, okay? And people had no patience. If you see three people in front of you to sign, because you sign in front of a notary, it takes a few minutes. If there are three people in front of you to sign, people would run away. They would say, oh I have no time. I will go online. I will participate; I will get it all done online and I'd say you cannot do it online. But people are so used now that everything happens in the exact moment in which they need it. They have no patience for a relationship. There is no patience for putting something on the stake either than your last 20, 30 minutes of your day conveniently sitting on your sofa believing you are doing politics because you are saying I like you to Greta Thunberg, okay. This is the way in which politics became.

David Feldman: We have de facto water privatization in Newark, in Flint, and the San Joaquin Valley in California. The almond growers are taking all the water and the taps are empty. Don't we have de facto water privatization?

Ugo Mattei: Well, there is things that are de facto and things that are de jure and that's very different because it is true that the farmers in California or in places like that are getting the lion's share, but it's also true that the fact of maintaining water as a public utility and maintaining it under some sort of form of serious government control in the United States pretty much happens. So there are examples, yeah, Flint was the opposite example, but by and large, there is no narrative of saying it would be a good thing to give all the water of the United States to Coca-Cola or Nestlé, okay? It might be de facto but the de jure and politically it is not something that people would stand for. In Italy, there has been majority of people before the water referendum-- politicians, policymakers--they would say it would be a good thing to give to Veolia running the water system in Italy, okay? Veolia is a French multinational corporation that has done all sorts of disastrous things with water worldwide, okay? So people were actually saying that it was a good idea to go to corporatization. The point is, it's not a good idea. The point is that we have to work out institutions that transform this de facto privatization you're talking about in running the water like a common. I was myself the president of the water company in Naples. We experimented for two years after the referendum, [to] get them to give back the water to the people. And we did some very interesting experiments in constructing participatory bodies of people to check in the running of the water, ecological governance of water systems, so and so. We experimented a lot of things but we were embattled because these global corporations, corrupt governments and governments actually want to have people disengage and managers run the water as you run every other commodity, okay? And this is what we've been trying to stop in the last 15 years of my life. And we have to keep doing that but it's becoming more and more difficult exactly when it should become easier.

Ralph Nader: Let's get your reform proposal, which is transforming [quote] "indignation into new institutions of the commons." [end quote] Can you summarize that briefly for us and why you think this would be an example for other countries including ours.

Ugo Mattei: Well, because the private or corporate running of public interest is becoming lethal practically everywhere. The very distinction between the private and the public is a distinction that is there to shield plunder and other lethal behaviors, both of the private governments and of the corporation. I mean the military-industrial complex is basically what is still going on. Now the commons find it difficult to organize themselves as institutions because of this sort of mental box in which we operate. So what we mean by institutions of the commons is, for example, cooperatives of workers and users running the water system. In Naples, what we tried to do was to transform the water company into a sort of co-op of workers of the water system and users of the water system that together work in order to run the water with a mandate of running it ecologically.

Ralph Nader: Did it work?

Ugo Mattei: You need new institutions for doing that. You cannot do that with old institutions. You cannot run the private transportation, the public transportation in a large city like New York, outsourcing it to some sort of smart governance of some private corporation [that] does it for profit. You need to get the stakeholders around the table. And these stakeholders have to work with good lawyers to arrange systems that are actually a guarantee of the rights of future generations to the service--a guarantee of the ecological compatibility of the service, a guarantee of the accessibility;

all this kind of things have to be factored in institutional settings that are new corporate forms, new corporate forms we need. This is exactly why I believe this is extremely relevant, and why I'm struggling to do it in Italy. Because if in Italy we introduce, for example, and you will be talking about Greta in the next few minutes, but if in Italy we introduce the rights of future generations, we think the definition of the commons, and we think the definition of property law, and we give to judges, to adjudicators, the possibility to decide a case, not in the interest either of the plaintiff or of the defendant, but in the interest of future generations, okay? This is going to be a major transformation in an advanced industrial democracy, which is already observed with a lot of interest in other European legal systems; might contaminate other European legal systems, and might from the bottom up, introduce institutional obligations to judges, to administrators, to take into consideration the rights of future generations in their everyday adjudication. We have to change the default rules of the game. It is not by some ecological statute that introduce some new standards that we are changing things. We are changing things, we change the default rules of the system; that is to say right now in modernity, we operate with the legal system that has, as a fundamental idea, the increase of capital. We have to introduce a legal system that has at its core idea the regeneration of the commons, the reconstruction of both institutions and of practices that allow us to take good care of the common resources, both those that are in private hands and those that are in public hands, and we put an obligation to run that for the interest of future generations right in the fundamental rules of the game, in how any adjudication works. I sue my neighbor on the gutter, okay? Right now the judge has to decide either for me plaintiff or for my neighbor defendant. I want judges that decide for the interest of water, okay? I want judges deciding in the interest of those that will have to enjoy similar condition to mine today [and] 30 years from now. If we don't do that, which is the fundamental rules of the game, the signals that the society kind of uses to decide our directions is like a flock of birds. There is no head of the flock of birds, but the birds know where to fly, you see? Human kind, the way in which we signal to each other things, is through private law, is to the basic foundations of the ordinary legal system that we obey without even knowing we obey it, okay? So those incentive schemes. Today, those incentive schemes are completely pro-competition, pro-short-termism, pro-being flexible, pro all sort of keywords from being smart, from all the sort of keywords that are in the interest of capital. Now we have to introduce legal systems that contain basic fundamental rules of default that are transforming--that will transform all this capital we have into good healthy commons, okay? Nothing less than that, and this is the collective enterprise that requires construction of the institutions. And this is the example we are trying to do in Italy now by constructing this, what we call a dolphin institution, that is to say a large corporation that has in its DNA not extraction in short-term, but has in its DNA transformation of capital into commons. That's the challenge to me of the sources of law of the future, to understand that the sources of law has to be back in the hands of the people and have to be engineered from their basic substance to give correct incentives that take into consideration the rights of the environment, the right of the socially weak people, and the rights of future generations. All of that right now is not in the legal system.

Ralph Nader: We've been talking to Ugo Mattei. Ugo, we're out of time. How do people get more information to reflect on this? Because this is quite unique what you're doing. You're building it on a huge amount of wealth that's already owned as a commons by the people, but they've lost control of it.

Ugo Mattei: Yes.

Ralph Nader: And I include trillions of dollars of government research and development that built Silicon Valley and built a good deal of the aerospace, drug industry, biotech, nanotech, and people got nothing for that. But that's the kind of commons that research and development funded by the taxpayer. Before we close, we're really out of time unfortunately, how can people get more information. Do you have a website?

Ugo Mattei: Well reading the paper that is coming out of the *Turning Point in Private Law*, is actually very updated and is the manifesto of our current campaign. And so it is like actually the Italian version is even used to finance the actual campaign. So that is a good read to reflect in a more scholarly way. And then if you just go online and this thing of the water referendum, there are publications in English. If you Google my name, you'll find all sorts of a ways to get all this information you might be interested in. We have a website but unluckily right now it's in Italian, so we are in the middle of organizing. But I would start . . . I'm sorry it looks like a self-promotion, but it is not really. Maybe reading *The Turning Point in Private Law* would be a good start.

Ralph Nader: Yes, and it's just for people to go into the internet, it's Ugo Mattei. That's U-G-O, last name, M-A-T-T-E-I, Professor of Law and one of the most creative legal thinkers and doers in the country of Italy and around the world. Thank you very much, Ugo.

Ugo Mattei: Ralph, thank you so much. It was a great pleasure. Thank you.

Ralph Nader: You're most welcome.

Steve Skrovan: We have been speaking with Professor Ugo Mattei. We will link to his work at ralphnaderradiohour.com We're going to take a short break, but before we do that, we're going to check in with our *Corporate Crime Reporter* Russell Mokhiber.

Russell Mokhiber: From the National Press Building in Washington DC, this is your *Corporate Crime Reporter* "Morning Minute" for Friday, September 27, 2019. I'm Russell Mokhiber. Les Laboratoires Servier is standing trial in Paris charged with offenses including corporate manslaughter following as many as 2,000 deaths allegedly linked to the sale of its drug called Mediator. That's according to a report from *Bloomberg News*. Paris judges have carved out more than half a year of courtroom time to scrutinize the scandal over the diabetes treatment that was widely used as an appetite suppressant and sold in France for 33 years. A government medicine safety agency as well as 14 suspects are also on trial on accusations ranging from aggravated deceit to manslaughter. Servier said it acknowledges and regrets that patients suffered because of taking Mediator and has been focusing on compensating victims. A lawyer for the company said the drugmaker wants to explain why it hadn't identified any risks before 2009. For the *Corporate Crime Reporter*, I'm Russell Mokhiber.

Steve Skrovan: Thank you, Russell. Okay, let's knock out a couple of listener questions. David, why don't you do the honors?

David Feldman: This comes to us from Jay Goldberg. He says, "I revere Ralph, but he needs to stop obsessing about anonymous comments on the internet and speak out against the real problem,

which is that Congress is restricting free speech online. What difference should it make if I submitted this comment as Cardinal Richelieu or Smokey the Bear. Listeners should be free to judge it on its merits."

Ralph Nader: It's not either-or, Jay. You're right that the government is allowing Facebook to censor more and more news and opinion, and that's a separate problem and a serious one. But obviously I'm going to guess now, I don't think you have been subjected to relentless mass slander the way many teenagers are and many controversial people in the public sphere. You tend to be less self-censoring yourself when you have to put your name on your opinion. That's why they require names on letters to the editor. Would you want anonymous letters to the editor in the print version? And for people who have a legitimate need, we discussed that with Professor Robert Fellmeth, so it isn't a total absolute ban on anonymous speech. Thank you.

David Feldman: I also think it's Smokey Bear, not . . .

Steve Skrovan: Smokey the Bear?

David Feldman: It's Smokey Bear not Smokey the Bear.

Steve Skrovan: That's an important addition of that question. Thank you, David. [laughter] Our next question comes from John Bailey. He says, "Hey guys, a weekly must-listen and re-listen show." He says, "I keep thinking we need a law I would call "statistical murder." This would be engaging in an activity with a measurable probability of causing death, affecting a large enough number of people so deaths become certainty. And it seems to me", he says, "the opioid companies would be guilty and you could add many others." What do you think about this statistical murder or measurable probability of causing death, Ralph?

Ralph Nader: Well I think you make an important point. Someone can say that's already the doctrine of criminal negligence, criminal corporate negligence. That is, the opiate manufacturers were pushing and pushing and deceiving and not putting accurate truth behind the merchandising of these powerful opioids to make money. And that they knew, especially after the passage of some months or years, that people were dying, so at the least, that is criminal negligence. And the companies and executives can be criminally prosecuted as some are beginning to be. So they don't call it statistical murder or homicide; it's criminal negligence. And if they can show willfulness then it's more than criminal negligence, it is homicide.

Steve Skrovan: Very good. Thank you for that question. Next.

David Feldman: This comes to us from Paul Kulas. "Howdy, Ralph. My mother cared about politics and what was happening in the world. She told me I should do the same. From when I started in tech in 1989 until circa 2006, I wasn't doing what she told me, then I saw how right she was. So I put solar on our house, donated progressive causes, started a blog, went to marches and protests, planted wild flowers, stopped using pesticides, started composting, went vegan, read books, blogs, and articles, watched documentaries and movies, attended events, bought a Tesla and talked to lots of people and more. Yet here we are, the planet is melting; Trump is president. [When] I was at the climate strike protest in Denver this past week, what I saw were a few thousand

people demanding culture change. But what I didn't see were a few thousand people focused on voting."

Ralph Nader: Well, welcome. And I'm glad you mentioned in your email my book *Breaking Through Power: It's Easier Than You Think*, where I try to answer your question. And I show actual examples where a very few people built enough popular base so they got laws through like water pollution laws, like motor vehicle safety laws, and pension rights laws, and so on. And it's just a little book and it also has the summons to members of Congress. So if you're talking about not just protest, not just demands, but actual enactment of law that becomes enforceable, go to the book *Breaking Through Power: It's Easier Than You Think*. And if you really want to zero in laser like on 535 members of Congress--senators, and representatives—the fable, *How the Rats Re-Formed the Congress* is right up your alley. It may be a fable, but it gets to be a tremendously motivated and detailed way where people can build Congress watchdog groups in their congressional district and reverberate it by demanding through the summons of their senators representatives to town meetings back home, face to face, no virtual reality, and you instruct them when they return to Congress to reflect the will of the people on specific issues that you are well informed on. And you don't need more than a couple of thousand in each congressional district, which has 700,000 people, to get that done when you have a majority opinion behind you. So go to ratsreformcongress.org and get a copy. People are ordering five copies, I hope for discussion and action, five copies at a time. It's written to motivate even though it's a fable.

Steve Skrovan: I want to thank our guest again, Ugo Mattei. For those of you listening on the radio, that's our show. For you podcast listeners, stay tuned for some bonus material we call the "Wrap Up". A transcript of the show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted.

David Feldman: Subscribe to us on our *Ralph Nader Radio Hour* YouTube channel, and for Ralph's weekly column, it's free, go to nader.org. For more from Russell Mokhiber, go to corporatecrimereporter.com.

Steve Skrovan: And you heard him talk about this one book, the fable, *How the Rats Re-Formed the Congress* on the show today. To acquire a copy of that, go to ratsreformcongress.org. And of course there's another one, *To the Ramparts: How Bush and Obama Paved the Way for the Trump Presidency, and Why It Isn't Too Late to Reverse Course*. We will link to that also.

David Feldman: The producers of the *Ralph Nader Radio Hour* are Jimmy Lee Wirt and Matthew Marran. Our executive producer is Alan Minsky.

Steve Skrovan: Our theme music "Stand up, Rise Up" was written and performed by Kemp Harris. Our proofreader is Elisabeth Solomon.

David Feldman: Join us next week on the *Ralph Nader Radio Hour* when we speak with Constitutional Scholar, John Bonifaz, about impeachment. Thank you, Ralph.

Ralph Nader: Thank you everybody. Thank you, listeners. Spread the word; get more radio stations to carry the program if you're enjoying it week to week.

