

Call for Abstracts: Conference on “Commodification and the Law” 12-13 December 2022, Florence, Italy

The Department of Law of the European University Institute, in collaboration with [Conversations on New Histories of Capitalism](#), is pleased to solicit abstracts for a conference entitled “Commodification and the Law” to be held at Villa Salviati in Florence, Italy on the 12th and 13th of December 2022, featuring remarks by Professor Daniel Markovits of Yale Law School.

Background and Mission

Critiques of capitalism have frequently returned to a common touchstone: the fundamental role of the commodity form in structuring capitalist society. This tradition can be traced at least as far back as *Das Kapital*, in which Karl Marx identifies the commodity as “the economic cell-form” of “bourgeois society” and the secret to its peculiar means of concealing the true nature of social relations.¹ Over the course of the 20th century, Marxist and critical theorists steadily introduced Marx’s framework into diverse domains to expose the ways in which commodification – “the act or process of treating something as a product that can be bought or sold”² – operates to dehumanise the labour force,³ standardise popular culture,⁴ alienate the individual,⁵ and instrumentalise creative expression.⁶ Meanwhile, Karl Polanyi placed the category of “fictitious commodities” at the heart of his conception of the “market society,” which sees exchange relationships prevail over preceding and alternative forms of social organisation.⁷ This notion of barter merely overstepping its bounds ultimately came to dominate the post-Cold War commodification discourse, as commentators like Margaret Jane Radin looked to moral philosophy and ethics to challenge certain “contested commodities” without necessarily resorting to an outright rejection of capitalism.⁸

In recent years, scholars have placed renewed emphasis on the role of law in constituting markets and delineating their boundaries. For instance, Quinn Slobodian’s theory of “market encasement” posits that neoliberalism relies on legal institutions to shield markets from democracy.⁹ This resonates with the legal institutionalist claim that law “accounts for many of the results and structures of modern capitalist society.”¹⁰ Katharina Pistor, a co-author of legal institutionalism’s manifesto, explores these notions in finance, where she frames assets as contracts dependent upon “validation” by a legal system that “defines the contours of their enforceability.”¹¹ The essence of this claim is that law ultimately decides what can or cannot be sold in the marketplace, which tacitly invokes a logic of commodification. To state the matter bluntly, law sets the terms and the limits of commodification.

¹ Karl Marx, *Capital, vol 1* (first published 1867, Ben Fowkes (tr), Penguin Books 1990) 90, 168.

² ‘Commodification’, *Oxford Advanced Learner’s Dictionary* (10th edn, 2020) accessed 6 April 2022.

³ György Lukács, *History and Class Consciousness* (first published 1923, Rodney Livingstone tr, Merlin Press 1971).

⁴ Theodor W. Adorno and Max Horkheimer, *Dialectic of Enlightenment: Philosophical Fragments* (first published 1947, Edmund Jephcott tr, Stanford University Press 2002).

⁵ Guy Debord, *La Société du spectacle* (first published 1967, 3d edn, Gallimard 1992).

⁶ Frederic Jameson, ‘Reification and Utopia in Mass Culture’ (1979) 1(1) *Social Text* 130.

⁷ Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (first published 1944, 2nd paperback edn, Beacon Press 2001) 71-80.

⁸ Margaret Jane Radin, *Contested Commodities* (Harvard University Press 1996).

⁹ Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism* (Harvard University Press 2018).

¹⁰ Simon Deakin and others, ‘Legal Institutionalism: Capitalism and the Constitutive Role of Law’ (2017) 45 *Journal of Comparative Economics* 188, 189.

¹¹ Katharina Pistor, ‘A Legal Theory of Finance’ (2013) 41 *Journal of Comparative Economics* 315, 324.

This conference aims to advance critical understanding of current and historical commodification processes, and especially law's role within them, to enrich present debates on law and capitalism. It places lawyers and lawmakers in the spotlight to reveal the parts they have played and continue to play in the propagation of the commodity form. It seeks to identify compelling case studies from a range of historical periods and legal domains to demonstrate the relentless expansion of market structures in a capitalist social order. Finally, it sets out to discover the contours and consequences of the commodification of law itself to better map the tangled relations between law and the market.¹²

Food for Thought

We welcome submissions focusing on any area of the law during any period of the development of capitalism, as long as they centre around commodification and engage directly with the significance of law in such processes. For illustrative purposes only, relevant submission topics might relate to:

- Deregulation and expansion of financial markets
- Datafication, “new intangibles” and the frontiers of intellectual property and data protection
- Environmental consequences of consumerism
- Regulatory competition, corporate influence and the law market
- Privatisation and marketisation of public services
- Labour markets and worker exploitation
- Influence of law and economics methodologies
- Wealth, class, racial and gender inequality and unequal access to justice
- Appropriation of natural resources and culture
- Legal institutionalism and Law and Political Economy (LPE) scholarship
- Social movements and the struggle for alternative socio-economic systems
- Contemporary debates over “contested commodities”

Though we require a focus on legal subjects, we do not require legal methodologies. Indeed, we encourage interdisciplinary approaches and perspectives from other academic disciplines such as history, economics, sociology and political science.

Deadlines and Details

If you would like to present at this conference, ***please submit a title and abstract*** of approximately 500 words to Tommaso.Fia@eui.eu and Ian.Murray@eui.eu by ***31 August***.

We will notify prospective presenters of our selection decisions by mid-September. Selected presenters will be expected to submit by mid-November a working draft paper or extended outline to be shared with other conference participants. Presenters will be expected to submit an expanded draft of no more than 10,000 words (including footnotes) in due course the following the conference. We will seek to publish these expanded papers in an edited volume.

¹² See eg Robin Paul Malloy, ‘Advertising and the Commodification of Law(yers)’ (2002) 14 Law and Literature 197; Johanna Stark, *Law For Sale: A Philosophical Critique of Regulatory Competition* (Oxford University Press 2019).