

Nina Varsava

Assistant Professor

University of Wisconsin Law School

Nina Varsava is an Assistant Professor at the University of Wisconsin Law School. She holds a JD from Yale and PhD from Stanford. Her interests include procedure, courts, interpretation, and ethics; she uses both philosophical and empirical methods to study these fields. Her work has been published in both law reviews and peer-reviewed journals in the humanities and social sciences. She has also written for popular audiences in venues such as *Slate*, and her research has been discussed in outlets such as the *New York Times* and the *American Bar Association Journal*.

Interjurisdictional Interpretation

This Article presents a novel theory of interpretation in the interjurisdictional context. Under this theory, a court's duty to apply the substantive law of another jurisdiction does not entail a duty to apply that jurisdiction's interpretive norms, because such interpretive norms can and sometimes in fact do interfere with the judicial law-finding enterprise. Focusing on the interpretation of precedent and the relationship between state and federal courts in the U.S., I argue that states do not have a legal right to dictate how federal courts will interpret their judicial decisions. Likewise, states are not subject to any blanket legal duty to apply federal methods of interpretation to federal precedent. Methods of interpretation do not travel with the underlying law they are designed to interpret; a judge can have a duty to apply another jurisdiction's rules of decision, then, without having a corresponding duty to apply that jurisdiction's interpretive norms. As a descriptive matter, I show that courts have been spotty at best in attempting to apply Erie to methods of interpreting case law. And I argue, on conceptual grounds, that these methods are neither procedural nor substantive law for Erie purposes, but that they elude the Erie framework altogether. This Article's account of interpretation in the interjurisdictional context poses fundamental challenges to prevailing views about conflicts of law and federalism, as well as choice of law and the principle of comity.