Course information: TTh 9.30-10.45 • Science Hall 360 • Moodle course webpage (accessible via UW Moodle webpage): https://courses.moodle.wisc.edu (You must be registered for the course to have access to the course page.)

Instructor’s contact information: mitra.sharafi@wisc.edu • (608) 265-8428 • Office Hours: T 3.30-5pm or by appointment • Office: Law 6112 (after entering the Law School from Bascom Mall, turn right and go to the sixth floor)

Course description: This course explores the vibrant and diverse world of dispute resolution systems in the past and present. The common law—the dominant type of state legal system in Anglophone jurisdictions—is only one kind of law. Non-state normative orders also exist. Like the law of the state, these other orders have rules, ways of enforcing these rules, and adjudicatory bodies that resolve disputes among their members. These systems appear in the clan, tribe, club, school, ethnic group, religious community, profession, and trade. The course covers a wide array of non-state actors and orders, drawing upon scholarship produced by lawyers, historians, and anthropologists. We will examine everything from medieval Icelandic feuds to “mafia law,” the Tokyo tuna court to dispute resolution among orthodox Jewish diamond traders, and Australian aboriginal customary law to the Kurdish Peace Committee in London. The course compares adversarial and conciliatory models of dispute resolution, along with fault- and no-fault-based systems. We will also explore institutional and justice-based arguments for and against the recognition of non-state law by the state, and strategies to move between legal orders through forum shopping. Interactions between coexisting legal orders is another key theme of the course. We will grapple with relationships of conflict and competition between legal systems, and with the possibility of other relations, including symbiosis, imitation, convergence, adaptation, avoidance, subordination and the destruction of one legal order by another.

Course Grades & Requirements:

Your final grade will be based upon the following:

- Reading responses (30%): You will be required to write five 600-word reading responses to class readings (approx. 2 pages each, double-spaced) on the five days when you are “on call” (see below for description of this system). You may choose to use the day’s “Reading Questions” (listed on the
 syllabus for each class) as a jumping-off point, or you may decide to write on some other aspect of the readings. In either case, you should make your own original argument, and not simply provide a summary of the readings. These responses are intended to give you an opportunity to explore themes in the readings that are thought-provoking, and to engage critically with the authors’ arguments and approach. They are also meant to provide us with a starting point for discussion in class the following day. Your reading response should address *all of the readings for the day,* connecting them with each other whenever possible. You should do no outside research for the reading responses. Your reading responses will be due electronically (submitted via our Moodle website) **Mondays by 12 noon for a Tuesday class or Wednesdays by 12 noon for a Thursday class.** Each response will be graded out of 20 points. There will be a 2-point penalty for lateness (=work submitted after 12 noon but before 5pm). Responses that are either too short or too long by more than 50 words will be penalized by 1 point. Failure to include your name, the course name, date, and a title describing your essay’s themes will also lose 1 point. I will not accept responses received after 5pm on the day before class. I will also not notify you when your response is late or missing. *It is your responsibility to know when you are on call and to submit your reading responses for those classes.* *See my “Grading Rubric for Reading Responses” chart (distributed in class and posted on our website) for details on how these assignments will be graded.*

- **Midterm exam (20%):** in-class exam on **T, March 15, 2016.** This will be a closed-book exam held in Sewell Social Science Building’s computer lab, room 3218 (not in our usual classroom).

- **Final exam (30%):** We will have a closed-book final exam on **Monday, May 9, 2016 at 10.05am-12.05pm in Sewell Soc. Sci. computer lab, room 3218** (not in the official exam location posted on the university’s timetable).

- **Class attendance (10%):** Coming to class is essential. This means arriving punctually and staying until the end of class.

  o **Lateness:** Arriving more than 15 minutes late or leaving more than 15 minutes early counts as an absence from that day’s class. Arriving late (=up to 15 minutes after I have taken attendance) **more than three times** constitutes chronic lateness and will be factored into your attendance grade.

  o **Absences:** I will take attendance at the beginning of each day’s session. **You are allowed two unexcused absences on days when you are *not* on call during the semester.** There will be no deductions for these two absences. Beyond this allowance, however, missing a class will count as an unexcused absence. Exceptions include missing class for medical, military,
or athletics-related reasons (all with documentation), or for religious reasons (with prior written notice). You will automatically fail the class if you have more than four unexcused absences (i.e., without documentation for an exception and beyond the two allowable absences) during the semester. If you have an ongoing medical condition that may cause periodic absences, please let me know (with documentation) as soon as possible during the semester. In such cases, we can set up alternative arrangements pertaining to attendance policy.

- **Class participation (10%)**: you are expected to contribute regularly to class discussions. This includes participating in the class blog on our course website, namely posting a one-sentence question or comment on the readings on days when you are on call, and responding to your classmates' postings on any other days. If you are uncomfortable speaking in class, you should come to see me during office hours in order to express your thoughts on course materials in an alternative setting. Participation is particularly important for the days when you are “on call.” Your performance in our two in-class “Desert Island” exercises on Th, Feb.4 and T, April 5 will also contribute to your participation grade. You should be aware that absences may have an adverse effect not only on your attendance but also on your participation grade, as you cannot participate if you are not present.

**Disabilities or other medical issues:**

- If you have a disability, learning difficulty or other medical condition that you feel may affect your work, attendance or participation in our course, please let me know (with documentation) as early as possible during the semester. Any such discussions will remain confidential. The McBurney Disability Resource Center offers special facilities through which students may take exams (for instance, with time and a half), so it is important that you let me know of any special support you may require: [http://www.mcburney.wisc.edu/](http://www.mcburney.wisc.edu/) Where appropriate, we may also set up alternative arrangements pertaining to attendance.
“On Call” System:

- **Groups:** Our class will be divided into 5 groups of 4-5 students each: red, orange, green, blue and purple. The color identification refers to the color of group and **name card** you will be assigned. You should bring this card with you to class. The **list of names** for each group will be posted on our course website.

- **Rotations:** Each group will be on call for five classes over the course of the semester. I have indicated which group will be on call for each class. **It is your responsibility to know *when* you are on call, and to be well prepared for those classes especially. Your reading responses and one-sentence post on our class blog (on the Moodle course page) will be due by 12 noon the day before these classes. If you must miss a class when you are scheduled to be on call, arrange with a classmate to switch days and inform me of the change, or contact me at least one week in advance so that I can help you coordinate such a change.**

**Written Work:**

- **Format for reading responses:** Your **reading responses** must be typed in 12-point font with 1-inch margins. They must be double-spaced and submitted electronically via our Moodle course page. If in doubt about whether your submission has been properly submitted using Moodle, you should also e-mail your reading response to me. However, our Moodle page daily dropboxes are my preferred method for submission of reading responses.

- **Format for course blogposts:** When you are on call, you will be expected to post a **one-sentence question or comment on the day’s readings**, due at the same time as your reading response. This should be posted on our “LP Class Blog” on our Moodle course website. Every class, I will post a heading with the class number, color group, and topic. You should add your one-sentence posting by clicking on “Add your comment” beneath my initial post for the appropriate class. On days when you are not on call, you are welcome to also post a one-sentence question or comment, whether independently or as a reply to your “on call” classmates’ postings. All blogpost participation will feed into your **participation** grade.

**Course Materials:**

- All **readings** for the course are available **electronically** through our Moodle course website. Because laptops may not be used in class (see below), I recommend that you bring summary notes to class if you want to avoid printing out the readings for each day’s class. Your summary notes should enable you to answer the reading questions for the day’s readings (posted on
the syllabus for each class). I also recommend that after taking notes on a reading, you fill in the following headings in one or two sentences each: 1. summary of the main argument, 2. most important contribution, 3. most serious criticism, 4. how this reading fits with our other course readings and themes.

Technology:

- **Laptop ban**: For pedagogical reasons, I do not allow the use of laptops or other electronic devices (like iPads and smartphones) in class. In order to ensure a full and engaged learning experience, the use of any type of electronic device in class is prohibited unless required for properly documented medical reasons and/or arranged through the McBurney Center. This includes the wearing of headphones during class. Any recordings made of our class (using the medical/McBurney exception) shall be for students' own study purposes. Such recordings shall only be made with prior permission from me and are not to be made available to anyone outside of our class.

- **E-mail etiquette**: Please e-mail me with procedural and logistical questions only after you have consulted our Moodle page and have been unable to find the answer there. (If you notice that something is missing or incorrect on Moodle, I would appreciate an e-mail.) In general, you will get better quality feedback and substantive discussion by coming to office hours. All e-mails should include the appropriate form of greeting and be signed with your name. I will not reply to messages that do not include these basic courtesies. In this course (as in life), you should aim to be clear and polite in your e-mails, delete automatic signatures that are not appropriate, and reread your messages before you send them.

**Academic Misconduct**:

- **The stakes**: You have a lot to lose if found to have committed academic misconduct. Misconduct during your undergraduate years may be recorded and submitted to future potential employers and institutions for postgraduate study. If you plan to apply to law school or graduate school, you should realize that any academic misconduct could prevent you from being accepted, or from pursuing your desired profession later on (e.g., practicing law). It is therefore critical that you familiarize yourself with UW's policies and procedures governing academic misconduct: [http://www.students.wisc.edu/doso/academic-integrity/](http://www.students.wisc.edu/doso/academic-integrity/)

- **Plagiarism**: Any intentional attempt to claim the work or efforts of another person without authorization or citation constitutes academic misconduct. This includes cutting and pasting text from the web without quotation marks or proper citation, or paraphrasing from the web (or any other source)
without crediting the original. I take such actions seriously, and regularly do anti-plagiarism checks on student assignments. If I suspect that you have plagiarized, I may request an in-person meeting and may penalize you in grading your assignment. Failure to meet with me in person to discuss these issues may result in an “incomplete” for the assignment and potentially for the course. In addition, I may pursue disciplinary measures.

- Other forms of misconduct: Because I grade on a curve, cheating by your classmates affects your grade directly. If you believe that a classmate has committed academic misconduct, report it to me.

Course Reading Schedule:

**LEGAL PLURALISM: THE BIG PICTURE**

- **T, Jan. 19, Class 1: Introduction**
  

- **Th, Jan. 21, Class 2 (red): Big Ideas in Legal Pluralism (LP)**
  
  
  Reading Questions: How have scholars of legal pluralism shifted their focus and approach over time? Identify the two key periods or flavors of Legal Pluralism scholarship described by Merry.

- **T, Jan. 26, Class 3 (orange): LP’s Diversity— from micro to macro**
  
  o W. Michael Reisman, Law in Brief Encounters (New Haven: Yale University Press, 1999), 51-5, 67-96, plus notes (“Ch.2: Standing in Line and Cutting in”)
  
  Qs: What is microlaw and why do social conventions surrounding the practice of standing in line count, according to Reisman? Identify the basic principle and exceptions that form a part of this practice. How are these social norms enforced? Do you agree that social norms deserve to be called “law”? Why or why not?

- **Th, Jan. 28, Class 4 (green): LP & Methods of Dispute Resolution**
  
  

Qs: The readings suggest that the line dividing the following may not always be distinct: (a) dispute settlement and therapy; (b) dispute settlement and performance arts. Are you convinced? Should state law embrace or discourage this blurring of domains?

• T, Feb.2, Class 5 (blue): LP & Property beyond the state

Qs: What are the informal rules among Ellickson’s California cattle ranchers for dealing with the problem of stray cattle? How do these norms differ from the formal legal rules of the state? How do cattle ranchers regard state law, as compared to their own norms? When has the interaction of state and non-state norms caused tension, and which system has generally commanded greater authority among cattle ranchers in Shasta County?

• Th, Feb. 4, Class 6 (no group on call): LP Desert Island 1 (in-class exercise)
  o Read the problem (to be distributed in class in advance and posted on our Moodle course page) and prepare answers for class discussion according to your assigned group

COMMERCIAL & ATHLETIC COMMUNITIES

• T, Feb.9, Class 7 (purple): Merchants 1—Introduction

Qs: The Tsukiji tuna court in Tokyo, Japan is famous among merchants’ courts. In what ways does it operate differently from most state courts? In what ways does it meet the particular needs of traders who buy and sell fish?

• Th, Feb. 11, Class 8 (red): Merchants 2—LP and Merchants in the US with Prof. Stewart Macaulay

Qs: Given Macaulay’s findings, why do business people ever make formal written contracts? Why do we ever see contract law suits? What does all of this suggest for theories about the rule of law?
• **T, Feb. 16, Class 9 (orange): Merchants 3— Minority Trading Communities**
  
  
  Qs: How do orthodox Jewish diamond traders function so efficiently and effectively in their trade? Consider the risks specific to the diamond trade, the role of trust between traders, and the role of ethno-religious community membership

• **Th, Feb.18, Class 10 (green): Sports 1—LP & Violence in Sports**
  
  
  Qs: *The state should not interfere with sports through the civil or criminal law. The state should respect the autonomy and internal rules and institutions governing sports.* Respond to this statement. Where do you position yourself on the spectrum from “strongly agree” to “strongly disagree”? Why?

• **T, Feb. 23, Class 11 (blue): Sports 2—LP & Drugs in Sports**
  
  o Decision in the case of Andreea Raducan, Court of Arbitration for Sport (28 Sept. 2000), 1-9
  o Al Jazeera, “The dark side: The secret world of sports doping” (29 Dec. 2015; 49min.13)
    
  
  Qs: (1) On the Raducan case: How did the Court of Arbitration for Sport decide the case of Andreea Raducan? Do you agree with the CAS, or do you think its decision is problematic? Why? (2) On “Entre Nous”: What non-state and state-based rules and institutions were involved with allegations that Lance Armstrong used banned substances? What counter-narratives did Armstrong advance to describe his behavior and the use of performance-enhancing drugs in competitive cycling? Are you convinced? (3) What insights come from assessing the Raducan and Armstrong cases alongside each other? How should anti-doping authorities strive to “get it right,” given the extremes illustrated by these two cases and by conditions described in the Al Jazeera documentary?

**VIOLENT COMMUNITIES**

• **Th, Feb.25, Class 12 (purple): The Feud**

*Qs: Although the blood feud may look like pure, unstructured violence, scholars have argued that in many times and places, the feud has been governed by rules. What were the basic rules of the medieval Icelandic feud? How and where does the feud or vendetta continue to exist today?*

- **T, March 1, Class 13 (red): The Duel**
  
  *Qs: What social functions did dueling play in Spanish-speaking Latin American societies during the late 19th-early 20th century? What were the rules, and who were the key players? What arguments were made in favor of and against dueling? How did the state attempt to discourage the practice, when it tried at all?*

- **Th, March 3, Class 14 (orange): The Mafia**
  
  *Qs: Under what circumstances has the mafia historically provided dispute resolution services? Has it been efficient and effective? If so, why and how?*

**RELIGIOUS COMMUNITIES**

- **T, March 8, Class 15 (green): Jewish Law**
  
  *Qs: (1) On Ausubel and Broyde: what special institutions have administered Jewish law throughout history? What made these organs different from the state courts of the host societies in which Jews lived? (2) On Cooper: what is an eruv and how does it enable observant Jews to conform more easily to certain rules of Jewish law? Why did the proposal to create an eruv in the London suburb of Barnet cause*
controversy in the 1990s? What groups were on each side, and what were their arguments?

- Th, March 10, Class 16 (blue): Jewish Law 2—Dietary Law with Prof. Jordan Rosenblum
  Qs: How do kosher laws apply to the food itself, how it is prepared, by whom it is prepared, and with whom it is eaten? What application of the kosher laws most surprised or interested you? What questions still remain?

- T, March 15, Class 17 (no group on call): In-class Midterm Exam (20%) in Sewell Soc. Sci. computer lab, room 3218. Please note that the midterm will *not* be held in our usual class location.

- Th, March 17, Class 18 (purple): Islamic Law
  - Sheikh Yusuf al-Qaradawi and others, “Fatwa on American Muslims in the US Military” (27 Sept. 2001), 1-3
  Qs: (1) On Weiss: (a) in the Islamic legal tradition, what is the status of legal scholars or jurists, as compared to judges or qadis? How would you describe their relationship with state or political authorities generally? (b) Why does Weiss argue that "sharia" means more than just law? What else does it include, by his account? (2) On al-Qaradawi and others: Are Muslim members of the US armed forces permitted to fight against other Muslims in Afghanistan or elsewhere, according to the fatwa’s interpretation of Islamic law? Why or why not?

- Sat., March 19-Sunday, March 27, 2016: Spring Break

- T, March 29, Class 19 (red): Catholicism and Canon Law
  - “Enemy Camp 2010”: transcript of interview with Patrick Wall on “This American Life,” National Public Radio (pp.1-10); or listen to the interview online (Act One: Confession, 21 min.): http://www.thisamericanlife.org/radio-archives/episode/404/enemy-camp-2010
  Qs: (1) On Langbein, Lerner and Smith: What features made canon law (the ecclesiastical law of the Catholic Church) different from English common law during the Middle Ages? What were the strengths and weaknesses of these features? What areas of social life were governed by
canon law and when were there jurisdictional contests between the ecclesiastical and common law courts? (2) On "Enemy Camp 2010": How did Patrick Wall acquire his knowledge of canon law and how did he ultimately use it? How might the story of priestly sex abuse be framed as a story about legal pluralism?

- **Th, March 31, Class 20 (orange): Protestant Christian traditions and Law**

  Qs: (1) On Weisbrod: how did religious Utopian communities in the 19th-century US interact with contract law in state courts? What types of parties usually won contractual disputes? (2) On Gordon: What arguments were made for and against Mormon polygamy in the 19th-c. US? What conceptual points of intersection existed between debates over polygamy and slavery?

- **T, April 5, Class 21 (no group on call): LP Desert Island 2 (in-class exercise)**
  - Read the problem (to be distributed in class in advance and posted on our Moodle course page) and prepare answers for class discussion according to your assigned group.

*CUSTOMARY LAW OF INDIGENOUS, NOMADIC & OTHER PEOPLES*

- **Th, April 7, Class 22 (green): Indigenous Customary Law in Australia & North America**

  Qs: Some readers find the Berndts’ account of Aboriginal culture to be condescending and neo-colonial in tone. Others find Riley’s article to be so angry that it is polemical and impracticable in its recommendations for the future. Do you agree with either characterization? Why or why not? Consider narratives of the colonial encounter and demands for
action. How do discussions of indigenous peoples’ rights and history seem similar or different in Australia and the US?

- **T, April 12, Class 23 (blue): South Asian Customary Law**
  
  Qs: What are the various explanations proposed by scholars for Himalayan fraternal polyandry? In other words, in what ways may it make sense for one woman to be married to several brothers?

- **Th, April 14, Class 24 (purple): LP in Afghanistan**
  
  Qs: Afghanistan is often characterized as lawless. What does Barfield say? Do you agree? Distinguish Islamic law from customary norms in the context of Afghanistan. In what ways do these systems occasionally conflict?

- **T, April 19, Class 25 (no group on call or assigned readings, although today’s material supplements Class 26): Roma Law 1**
  - Film (in class): “American Gypsy: A Stranger in Everybody’s Land” (Jasmine Dellal, 2000)

- **Th, April 21, Class 26 (red): Roma Law 2**
  - Gillian Flaccus, “Two Gypsy clans’ feud over fortunetelling offers rare glimpse into insular culture,” *Deseret News* (7 Dec 2007), 1-3
  
  Qs: Describe the substantive rules of Roma law, including key tenets of purity and pollution laws. How do dispute resolution processes occur among the Roma? What types of sanctions exist? What is the Roma view of the state and its legal system?

**IMMIGRANT COMMUNITIES**

- **T, April 26, Class 27 (orange): Introduction to Immigrant Communities & Customs**
Qs: (1) How would you describe the relationship between Kurdish communities and the state historically in the Middle East? How would you characterize the relationship between London’s Kurdish population and the state in the UK? In what ways are these two relationships similar and different? (2) Identify notable features of the Kurdish Peace Committee’s methods and case load. When is the KPC most effective?

- **Th, April 28, Class 28 (green): The Cultural Defense**
  - Qs: What are the arguments in favor of reducing a conviction from murder to manslaughter (thereby reducing the sentence) on the grounds that the accused was responding to some culturally provocative act? What are the arguments against the cultural defense? Which side do you find more convincing? Why?

- **T, May 3, Class 29 (blue): The Sikh Debates**
  - “Operational Circular: Head Protection for Sikhs Wearing Turbans” (UK), 18 November 2004, 1-3
  - Audrey Gillan, “'Proud to be Welsh and a Sikh': Schoolgirl wins court battle to wear religious bangle,” *The Guardian* (UK), 30 July 2008, 1-3
  - Qs: How should state law accommodate minority religious practices (or not) in controversies over the Sikh turban and kirpan? Are there important differences between these two types of conflicts (i.e. turban vs kirpan), or do you see them as turning upon the same fundamental questions? Are there important conceptual similarities or differences between the Sikh turban debates and controversies over Islamic dress for women?

- **Th, May 5, Class 30 (purple): Final Review—LP in Current Events**
  - readings TBA (stories in the news during spring 2015); to be posted on our Moodle course page
  - Qs: What LP course themes can you trace in the readings for Class 30? Do any of the readings question or complicate ideas from our course? Do they suggest practical solutions to any of the challenges identified in class? Do you see trends developing in current events that either embrace or resist the idea that law exists beyond the state?
Monday, May 9, 2016 at 10.05am-12.05pm: Closed-book Final Exam (30%) in Sewell Social Science Computer Lab, room 3218 (please note that our exam will *not* be held at the official exam location posted on the university’s timetable)