

# Intimate Partner Violence & the Law

## **Professor Information**

Professor: Mallika Kaur

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Office Hours: T, Th post-class or by appointment

## **Course Information**

Meetings: Tu, Th, 12:30 pm - 1:59 pm

Location: Wheeler 106

Credit Hours: 4

## **bCourses**

You are not required to buy any book for this course: all course materials will be accessible there. ***Students are required to check our bCourse site very regularly.***

## **Course Goals**

From Corporate moguls to NFL players to Judges; from quiet #MeToo posts to #WhyIStayed tweets; from rappers, to lawyers, to professors, to our neighbor next door or even within our own home, stories of intimate partner violence permeate our society. How has the U.S. legal system responded to this violence? What are the best legal responses? Who decides? Are even the 'best' laws the best response to such violence? This course will investigate the phenomenon of intimate partner violence (within the larger umbrella of family violence or domestic violence), by studying empirical evidence; theories of violence; the disparate impacts of IPV on different communities; the connection between IPV and gun violence; and the trajectory of the anti-domestic violence movement in light of racial justice movements (new and sustained). Through a trauma-centered and intersectional approach, students will be positioned to assess and analyze the responses by the legal system (and lateral/alternative systems) to the persistent and prevalent social issue of domestic violence.

We will use a group discussion format. Several guest speakers and videos will be included. This course will provide students an opportunity to develop their skills of listening (to each other; guest speakers; interviews; videos), participatory research (individually and in groups), writing (reflections and comments on bCourses; final exam), and facilitation/presentation.

## **Content Notice**

Please be advised that this course will, in each class session, involve readings, discussions and exercises that refer to facts, opinions, attitudes, and realities that are sexist, inflammatory, homophobic, anti-immigrant, ageist, ableist, and/or bigoted in other ways. While we will strive to approach the material with sensitivity, it may still be triggering—different aspects will understandably be more or less triggering for different students based on their own personal privileges/biases/life experiences. We will regularly speak about negotiating traumas in this area of law. (see \*Resources\* below.)

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## Course Policies

\***Grading** Students will be graded on:

- 1. Regular attendance & participation in class/bCourses/exercises: 25%**
- 2. 2 Reflection Pieces (“Journals”) 15%**
- 3. Praxis project: 20%**
- 4. Final Exam (Open book, take home): 40%**

## **Attendance & participation**

Attendance is essential to your success in this course and the course’s success for all.

Participation grade will take into consideration: regular attendance (no more than 1 unexcused absences or 3 tardies, as marked at the beginning of each class); regular responses to Courses discussion threads during the course of the semester; regular participation in exercises.

*Options v. Opt-Outs.* If you are unable to attend class or complete a particular exercise, you should provide me with timely advance notice (or subsequent notice of an unanticipated emergency). As a substitute for real-time attendance or any exercise/assignment, we will mutually agree on a make-up assignment that can adequately contribute to your class participation grade. You cannot opt out of any aspect of the course, but you can creatively design options with me that both fit your needs as well as my pedagogical goals for the class.

At least once during the semester, you must sign-up to be the discussion “lead” for that week’s readings: this includes coming to class prepared to discuss the reading as well as posting the first substantive comment of a new discussion thread on bCourses that responds to and/or builds on the topic and one or more reading assignments for the week’s session. Your “lead” comment must be posted no later than 12 Noon PST on the day before your chosen class session.

On weeks when you are not the “lead,” your engagement with the bCourses discussion is highly encouraged and will contribute towards your final grade. Your peers, and I, are curious to learn more from you, in class and on bCourses. For any questions reg. alternate ways of participating (e.g., anonymized comments), please do not hesitate to contact me.

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## Reflection Pieces

An opportunity to explore your own thought processes, emotional reactions and reflections. It is also an opportunity to “try on” a method of processing and self-care that works well for some folks, well beyond student life.

There is no one format. But in general, each journal entry should: Reflect on the recent class discussions; Incorporate recent readings; Identify areas of personal improvement / personal challenges / personal goals. Your journal entries will be kept confidential, unless you provide me written consent to share any portion of your journal. There is no 'right answer.' Rather, your grade depends on how deeply and thoughtfully you analyze your own learning and participation in this course.

## Praxis Project

You will have a menu of options to decide from for your Final Praxis Project for the seminar. You will conduct this work in a small group and be graded on intellectual curiosity, creativity, reflexivity, compassionate communication, empathetic expression, and genuine engagement with your chosen topic. This project—its execution and findings—will not be confidential: your group will be sharing it with the whole class in our last class session

\*\*Please note, for the sake of equity, any delayed submissions (unless previously arranged with the instructor) on any assignments for this course result in point deductions that compound with each additional day of delay.\*\*

**\*No Cellphones** Should you have an emergency and require to use your cell phone during class time, please remember to step outside.

**\*No Laptops for note-taking** (without express permission/DSP accommodation). Please turn to trusted pen & paper. This self-regulation will allow you to practice a crucial skill: 100% presence in your environment. Active engagement in the class is more important than recording everything said. Please take class notes by hand.

**\*No Recording** (without express permission/DSP accommodation) In an effort to create a brave space of trust, safety and open discourse this course will not be recorded, and please note that recording of the class, by students, without express permission (in the absence of DSP accommodation and signing required agreement regarding use and destruction of recording) is not permitted.

**\*No Guest students/Auditors** In an effort to keep our seminar space small, predictable, trusting.

**\*Inclusion and Respect:** In sharing thoughts and opinions please be respectful of a range of different experiences (spoken and unspoken) in the classroom and be thoughtful in how you speak about a case/experience/policy. This is not to limit our

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range of opinions and even debate (rife –and I believe necessary—in the IPV world!) but to recognize the potential harm we can cause. Intent and impact matter. Together, as a collective, we will hold each other accountable by calling in, rather than calling out. We will develop Ground Rules for our seminar on Day 1, and return to these regularly.

An inclusive and respectful classroom environment is crucial to a positive learning experience. So is constantly challenging what “inclusive” and “respectful” means. To ensure that all students feel intellectually stimulated, emotionally safe, and thus fully able to participate in discussions, we must strive to be courteous, considerate but also courageous in our use of language and examples, and the manner in which we engage with each other individually as well as collectively. If you have any concerns about the climate of the class, please feel free to speak to me or fill the anonymous survey.

### **Resources**

**\*Negotiating Trauma** IPV law remains a practice area that is emotionally trying, even as it is gratifying thanks in large part to victims’ and survivors’ (many who become anti-DV advocates) strength, power, creativity, grace and grit. Many people find it difficult to work in this practice area because in reality, given the pervasiveness of DV, there are very few degrees of separation between these issues in society and these issues in their personal lives. But many learn to navigate this difficulty in the best way possible for themselves and stay in this work and find it personally and professionally fulfilling.

*I trust your thoughtful decision to take this course: no assumptions will be made about anyone enrolling for this course, and no judgement will be passed should you request referrals for any outside resources.* Because this course will cover topics that may be difficult for some of us to deal with in a classroom setting, students are certainly encouraged to seek out additional resources on or off campus should they feel the need to further process their thoughts/ emotions/ memories/ reactions. **Tip:** always ask any resources about the limits of confidentiality/their requirements around mandated reporting.

- National Domestic Violence Hotline: 1-800-799-SAFE (7233)
- Family Violence Law Center, Oakland: 1-800-947-8301
- UC Berkeley’s PATH to Care Center: <https://care.berkeley.edu>

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**!ATTENTION: Readings Subject to Change!**

In an effort to center your learning, including your intellectual and emotional responses and needs, the syllabus leaves room for co-creation and change. Also, to provide several unique opportunities to meet and confer with guest speakers, we have to allow some more flexibility in the syllabus: the following reading assignments are thus subject to some change. Any updates will be posted on bCourses, which you must please check *very* regularly.

**!NOTE: Assignment is Not Agreement**

The assigned materials are meant to generate robust discussion and learning. They do not reflect an endorsement by the instructor. Similarly, invited guests (in person or through video) reflect a diversity of opinions, which the instructor may or may not share.

CLASS	TOPICS	ASSIGNMENTS (FOR CORRESPONDING CLASS-- THAT IS, COMPLETE BEFORE THE DATE ON THE LEFT)
	<p><b>Introduction</b></p> <p style="text-align: center;">See bCourses; submit introductory exercise by Aug 30</p>	<p>* Zip Code exercise by Aug 30.</p> <p>*Submit: Introduction (bCourse Discussion thread)</p>
Sept 3	<p><b>Introduction: History and Overview Causes and Consequences</b></p>	<p>*<i>Read</i>: “What if Instead of Calling People Out, We Called Them In?” <i>The New York Times</i></p> <p>* Reva Siegel, “The Rule of Love: Wife Beating as Prerogative and Privacy,” 105 Yale L J 2117 (1996) (Read excerpts: pp. 2117-2135).</p> <p>* Rachel Louise Snyder, “The Particular Cruelty of Domestic Violence,” <i>The Atlantic</i> (2019).</p> <p>*Cycle of Violence</p> <p>*Power &amp; Control Wheel</p>

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<p>Sept 5</p>	<p style="text-align: center;"><b>Multiple Identities, Multiple Oppressions</b></p>	<p>*Submit: JOURNAL 1</p> <p>* Read “I Can Handle It,” Ms. Magazine</p> <p>*Read <i>Thompson v. Thompson</i> (1912)</p> <p>* SB-1141 “Domestic violence: coercive control” (2019-2020).</p> <p>*Amish Power &amp; Control Wheel</p> <p>*Post-Separation Power &amp; Control Wheel</p>
<p>Sept 10</p>	<p style="text-align: center;"><b>Multiple Identities, Multiple Oppressions</b></p>	<p>*Comparative Survey of the Historic Civil, Common, and American Indian Tribal Law Responses to Domestic Violence, Virginia H. Murray (pp. 444-457)</p> <p>* Read: “America Loved Tina Turner...” (2023)</p> <p>*Rachel Jewkes, Intimate partner violence: causes and prevention, THE LANCET, Vol 359, April 20, 2002</p>
<p>Sept 12 Sept 17</p>	<p style="text-align: center;"><b>Tools of Coercion</b></p> <p style="text-align: center;"><i>Guest: Physician</i></p>	<p>*Read: <i>People v. Sandoval</i> (2008)</p> <p>* “The Heard v. Depp Trial is Finally Over—The Biggest Winner Was Misogyny,” KQED (2022)</p> <p>*Mary Ann Dutton and Lisa Goodman, Coercion in Intimate Partner Violence: Toward a New Conceptualization (2005)</p> <p>* “In Her Words: Recognizing and Preventing Abusive Litigation Against Domestic Violence Survivors,” Seattle Journal for Social Justice: Vol. 14 (2) (2016).</p> <p>*Reproductive Coercion article, The Science Behind Coercive Control and Adverse Outcomes During Pregnancy</p>

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		<p>*How to spot the software that could be spying on you, BBC</p> <p>* “Yes, refusing to give a Jewish divorce is abuse,” Naomi Tucker.</p>
Sept 19	<p><b>#ImmigrantWomenToo</b></p> <p><i>Guest: Tahirih Justice Center</i></p>	<p>*Stopping Long Enough to Celebrate: Recent Win for Violence Survivor and Asylum-Seeker Holds Critical Lessons, Ms. Magazine, Mallika Kaur</p> <p>*Lianna Donovan, The Violence Against Women Act’s Proction of Immigrant Victims: Past, Present and Proposals for the Future, Rutgers Law Review</p> <p>* Caroline Bettinger-Lopez, “<i>Jessica Gonzales v. United States: An Emerging Model For Domestic Violence &amp; Human Rights Advocacy In The United States,</i>” 21 Harvard Human Rights J. 183 (2008).</p> <p>*Morgan Weibel, “Despite the #MeToo Movement, Roll-Backs in Protection Endanger Immigrant Women” Think Immigration (2019).</p> <p>*Read: WISE Act (2023)</p>
Sept 24	<p><b>Safety Planning: By Who? For Whom? Why?</b></p> <p><b>Confidentiality and System Responses</b></p>	<p>*Scroll and explore: <a href="https://myplanapp.org/">https://myplanapp.org/</a></p> <p>* Jacquelyn C. Campbell, et al., Assessing Risk Factors For Intimate Partner Homicide, 250 NIJ Journal 14 (2003)</p> <p>*Thomas L. Hafemeister, “If All You Have is a Hammer: Society’s Ineffective Response to Intimate Partner Violence.” (2011)</p> <p>*Stalking and Harassment Assessment and Risk Profile available at <a href="http://www.StalkingRisk.com">www.StalkingRisk.com</a></p> <p>*Cory Hernandez, Recommendations for Drafting a Safety Plan for DV survivors.</p> <p>*Family Justice Centers Point Way to Address Survivors’ Medical Needs</p>

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		<p>by Casey Gwinn &amp; Gael Strack* (DV Report, Feb March 2020, pp49-50)</p> <p>Should California Doctors Report Domestic Abuse To Police? Here's How Physician Lawmakers Voted</p>
<p><b>Sept 26 &amp; Oct 1</b></p>	<p><b>Policing and Domestic Violence; Policing of Domestic Violence</b></p>	<p>* *Watch: “Restorative Justice &amp; Gender Based Violence,” ABA Section on Civil Rights and Social Justice (July 2020).</p> <p>* Aya Gruber, “How Police Became the Go-to Response to Domestic Violence,” (July 2020).</p> <p>* Novisky and Peralta, “When Women Tell: Intimate Partner Violence and the Factors Related to Police Notification,” Violence Against Women, Vol. 21(1) (2015).</p> <p>*Listen: Sukey Lewis, Who Do You Call for Help When Your Abuser Is a Cop?, KQED (2019).</p> <p>*Watch: “Trauma and the Brain Understanding abuse survivors responses”</p> <p>*Watch: Marissa Alexander, TED</p> <p>* California Code, Penal Code - PEN § 13701</p> <p>*Victoria Law, Against Carceral Feminism, Jacobin (2014).</p> <p>* Mallika Kaur, “Anti-Violence Advocates and Law Enforcement: Is All Coordination Capitulation?” Family and Intimate Partner Violence Quarterly, Vol. 8(1) (2015).</p> <p>Reauthorization of the Violence Against Women Act in 2021 and the Implications for Its Restorative Practice and Diversion Provisions, Casey Gwinn, <a href="https://www.allianceforhope.com/reauthorization-of-the-violence-against-women-act-in-2021-and-the-implications-for-its-restorative-practice-and-diversion-provisions/">https://www.allianceforhope.com/reauthorization-of-the-violence-against-women-act-in-2021-and-the-implications-for-its-restorative-practice-and-diversion-provisions/</a></p>



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Oct 3	<b>Group Work</b>	
Oct 8, Oct 10	<b>Victims as Prosecution Witnesses</b>  <i>Speaker: DA</i>	<p>* Gael B. Strack, “She hit me, too’ Identifying the Primary Aggressor: A Prosecutor’s Perspective.”</p> <p>* Tom Lininger, “Prosecuting Batterers After Crawford,” 91 Va. L. Rev. 101 (2005).</p> <p>*Bonomi et al., “Meet me at the hill where we used to park”: Interpersonal processes associated with victim recantation,” (2011).</p> <p>*Teresa Garvey, “Legal Jiu-Jitsu for Prosecutors in Intimate Partner Violence Cases: Forfeiture by Wrongdoing,” Aequitas, (2018).</p>
Oct 15	<b>Conferences</b>	
Oct 17	<b>Victims as Criminal Defendants</b>	<p>*Read: <i>State v. Wanrow</i> (1977)</p> <p>*Read: “Ruined” (2022)</p> <p>*U.S. v. Nwoye, 824 F.3d 1129 DC Cir 2016.</p> <p>* Martha McMahon and Ellen Pence, “Making Social Change Reflections on Individual and Institutional Advocacy With Women Arrested for Domestic Violence,” Violence Against Women, Vol. 9 No. 1 (2003).</p> <p>*Brenda Andrews, amicus brief</p>
Oct 22,	<b>When the Violence Becomes Public: Federal Laws; Guns; Murder-Suicide; Mass Violence</b>	<p>* Title 18, United States Code, Section 922(g)(9), The “Lautenberg Amendment”.</p> <p>*Read: <i>People v. Rahimi</i> (2023)</p> <p>* “Domestic Abusers Are Barred From Gun Ownership, but Often Escape the Law,” New York Times (2017).</p>

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		*Watch: VAWA 2022, ABA (selected portions)
Oct 29	<b>Alternative Dispute Resolution &amp; Victims as Advocates</b>	<p>*Why Would a Woman Want to Talk With the Man Who Abused Her? <i>The Cut</i> (2017).</p> <p>* Guide for Men Who Are Serious About Changing – Part 1</p> <p>*Leigh Goodmark, Law and Justice are Not Always the Same 2015</p> <p>*Mia M. McFarlane, Mandatory reporting of domestic violence: an inappropriate response for New York health care professionals, 17 Buff. Pub. Interest L.J. 1 (1998-1999)</p> <p>Susan Landrum, The Ongoing Debate About Mediation in the Context of DV: A Call for Empirical students Cardozo Journal 2011.</p> <p>*Pence E. &amp; McMohan, M. A Coordinated Community Response to Domestic Violence. The Duluth Project (1997).</p>
<b>Oct 31</b>	<b>Group Work</b>	
Nov 5, Nov 7	<b>Civil Remedies &amp; their “teeth”</b>  <i>Speaker: FVLC, Oakland</i>	<p>*Complete: “Self Help” exercise</p> <p>* Review for class exercise: CA Domestic Violence Restraining Order forms packet.</p> <p>* “Protection Orders and Intimate Partner Violence: An 18-Month Study of 150 Black, Hispanic, and White Women,”</p> <p>*Susanne Strand, Using a Restraining Order as a Protective Risk Management Strategy to Prevent Intimate Partner Violence</p> <p>*Eugene Hyman, Legal System “Silos” are harming DV victims, 2021</p>

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		<p>*ABA, “PTSD-like symptoms possible from legal cases involving trauma,” 2016</p> <p>* EVAWI, “Incomplete, Inconsistent, and Untrue Statements Made by Victims: Understanding the Causes and Overcoming the Challenges,” 2008</p>
<b>Nov 12</b>	<b>Children in Homes Where DV Takes Place</b>	<p>**American Academy of Pediatrics, “The Lifelong Effects of Early Childhood Adversity and Toxic Stress” (2018).</p> <p>* <i>In re Marriage of Nadkarni</i>, 173 Cal.App.4th 1483 (2009).</p> <p>*Read Kayden’s Law, VAWA 2024</p> <p>*Read Piqui’s Law (2023)</p> <p>* COVID19 Guidelines for Divorced Parents, American Academy of Matrimonial Lawyers (2020).</p> <p>* Cal. Welf. &amp; Inst. Code § 300</p> <p>*Cal. Penal Code § 13732(a)</p>
<b>Nov 14</b>	<b>Group Work</b>	
<b>Nov 19</b>	<b>Civil Remedies 2: Creating Closure; Creative Remedies; Suing Batterers in Tort Actions</b>	<p>*Read: <i>Damron</i> (2022)</p> <p>* Jennifer Brobst, “Impact of Secondary Trauma on Family Law Attorneys,” 10 J. Health &amp; Biomedical L. 1, 2014</p> <p>*Camille Carey, “Domestic Violence Torts: Righting a Civil Wrong,” 62 <i>Kan. L. Rev.</i> 695, 2014</p> <p>* Sally Goldfarb, “Reconceiving Civil Protection Orders For Domestic Violence: Can Law Help End The Abuse Without Ending The Relationship?,” 29 <i>Cardozo L. Rev.</i> 1487 (2008)</p>

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<b>Nov 21</b>	<b>Review &amp; Praxis project Presentations --1</b>	Read: THANKS FOR THE FEEDBACK (excerpts)
<b>Dec 3</b>	<b>Praxis project Presentations --2</b>	Read: THANKS FOR THE FEEDBACK (excerpts)
<b>Dec 5</b>	<b>Q &amp; A</b>	*Submit: Journal 2