**Work, Unions, and Intersectional Inequality**

**UC Berkeley School of Law**

**Law 227.12 | Spring 2024**

**M 3:35-5:25pm**

**Law 10**

**Syllabus and Topical Overview**

Professor Diana Reddy (she/her)

dsreddy@berkeley.edu | Simon Hall 487

https://www.law.berkeley.edu/our-faculty/faculty-profiles/diana-s-reddy/

Office Hours: Thursdays, 11am-1pm walk-in, or by appointment Mondays, 11am-noon

<https://calendly.com/dsreddy-ucb/prof-diana-reddy-s-office-hours-spring-2024>

BCourses Site: <https://bcourses.berkeley.edu/courses/1530722>

Faculty Support Contact: Midori Kimata, midori.kimata@berkeley.edu

# Course Description and Learning Objectives

Welcome! I’m thrilled you’re here and a part of this class.

This course is a seminar focused on the following questions: How is the organization of work related to enduring inequalities in American society, and how might organized labor ameliorate (or exacerbate) those inequalities? Does existing law help or hurt? What possibilities does that law create, and how might it do better?

Over the semester, we will read and engage analytically with theoretical, legal, and empirical scholarship about organized labor, law, and systemic and intersecting inequalities of class, race, gender, immigration status, and disability, primarily in the context of the United States. Topics will range broadly from the relationship between labor markets and status-based discrimination, to the racialized and gendered exclusions of New Deal-era labor and employment law, to historically-grounded reconceptualizations of the lost meaning of "civil rights," to empirical studies about labor unions' impact on inequality.

Students will have the opportunity to shape the syllabus in some part based on their interests and to lead classroom discussion once during the semester. Assignments include several short reflection papers, as well as a final paper.

By the end of this semester, students should be able to:

* Explain and evaluate competing views about how the institution of work and the laws that regulate work in the United States shape enduring inequalities;
* Describe and reflect thoughtfully on how labor unions and other workers organizations have addressed and affected inequality across multiple axes throughout American history;
* Name some of the major mechanisms through which labor unions build power and create change, and evaluate the strengths and weaknesses of each for a range of policy goals;
* Identify some of the major legal rules and court decisions that have shaped the relationship between unions and intersectional inequality, and provide a thoughtful assessment thereof;
* Reflect critically on the legal tools available to workers’ organizations, and think strategically about how those tools can be used to affect a range of policy goals;
* Be a thoughtful commentator on current issues related to work, unions, and intersectional inequality; be able to articulate and defend your perspective on these issues, including by acknowledging its limitations; be able to serve as a resource and educator for your professional and personal communities on the same; be more interesting at parties.

# Requirements and Assessment

The course will be graded on the NC/PC/P/H/HH system, and I will evaluate your performance based on the following criteria.

Class participation, including class facilitation: 20%

Two short reflection papers: 10% (5% each)

Final paper and presentation: 70%

**Class participation and facilitation**:

Seminars are only as good as people’s willingness to show up as their true authentic selves and engage fully with the material and each other. I want all of you to get the most possible out of this class. For that to happen, I need you each to participate in class, as an active listener and contributor. I know sometimes the formal, bureaucratic, careerist structure of the classroom can make us feel shy or inhibited or awkward; I will do my best to facilitate an environment that is less like that! I also welcome participation through other means, including through posting questions/resources/reflections on BCourses, coming to office hours, etc.

In addition to regular class attendance and engaged participation, each of you will be expected to co-facilitate one of our class sessions (between Class Three to Class Ten, inclusive). Facilitation should involve your group collectively introducing and summarizing the readings for that day, facilitating class discussion through questions and other activities, and doing your best to make the complexity of the issues clear and the importance of them apparent. If you would like, you can suggest alternative or additional readings for your session, but you need to let me know 1.5 weeks in advance, so that the class can be updated at least 1 week in advance. You are free to flex your pedagogical muscles here – hands-on activities, role play exercises, can all help people engage. Snacks also welcome (but in no way required!!).

**Short Reflection Papers**:

Each of you will also be expected to submit short reflection papers for two different class sessions (between Class Three and Class Ten, inclusive, but NOT the week that you are facilitating). These papers should be approximately 2 pages long/500 words. They should be posted to BCourses by 9am the day of the relevant class.

These papers should engage meaningfully with the texts but do not need to regurgitate them. Rather, I’d like you to reflect on what you find personally or professionally important or challenging, and I’d like to see you making thematic connections across the weeks and topics. Also, please feel free to use these short reflection papers to help prepare for your final paper…

**Final Paper and Presentation**:

This is an Option 1 class, which means that you will get to produce a substantive written product over the course of the semester, and that I will provide you meaningful help and feedback along the way. Writing can be both torturous and transcendent, and I will do my best to help you push through the difficulties and create a writing product that reflects the insights that only you can create.

The topic should address work, unions, inequality, and law in some way; please discuss with me in office hours if you need help coming up with a topic or if you have questions about whether your idea is workable. The paper should be approximately 12 pages/3000 words, give or take 250ish. You will also present your work to the class, to educate us on what you are studying and to get additional feedback.

**Here are the relevant deadlines:**

**February 26**: One-paragraph summary of paper topic due

**April 1:** Rough draft of paper due – I will give you my feedback on it at least 1 week before your presentation, i.e. April 8, 15, or 16

**April 15, 22, and 23**: 10-minute presentations on your topic to the class (6 minutes to present your ideas, and 4 minutes for Q&A)

**May 6 @ 5pm**: Final draft of paper due

**Course Policies**

**Attendance**

This seminar is only as good as our discussions. For this reason, attendance is required and I expect you to participate fully in class discussions. Please notify me ahead of time if illness or an emergency will keep you from attending class. As a general matter, classes will not be recorded, because no one needs to feel more nervous or under scrutiny than they already do.

**Technology**

You may use your laptop during class to take notes or consult readings. Please do not use your laptop for things that are not related to class.

You are not allowed to rely on generative AI for any assignments for this course unless I specify otherwise.

**Communication**

Please bring your substantive questions and ideas to my office hours – that’s why I am there! I am thrilled to continue classroom conversations with you then, and to discuss paper topics, jobs, courses, etc. As for email, I will do my best to respond to shorter inquiries within 2 business days. I would promise to respond more quickly, but then I would inevitably let you down.

**Kindness/Humility/Learning to Lawyer in Impossible Times**

The fundamental nature of this class is that we will discuss difficult and painful social realities. We will purposefully delve into topics that are complicated, contested, and about which our views, our leaders’ views, and our fellow community members’ views vary dramatically. There is no way to teach you this material or prepare you to be an advocate without leaning into this messiness (it only gets harder when you’re a lawyer).

I expect everyone to engage respectfully and constructively – and ideally, if we’re up to it, with humility, curiosity, kindness. Please keep in mind that even though we are engaged in an academic enterprise, these issues may also be personal for some in the class and that human reality should shape how we speak. That said, it doesn’t help any of us learn, grow, or become persuasive advocates for the things we believe in, if you hold back earnest perspectives or important real-world counterarguments. Speak up and speak kindly.

**Accommodations**

I want everyone to be able to engage with this material fully; the class needs you. And so, if you need accommodations for extended illness, disability, or pregnancy, please contact Chelsea Yuan, Director for Student Services, Accessible Education, for assistance. All accommodation requests must initially be handled through Chelsea.

**Academic Integrity**

The Academic Honor Code governs the conduct of all students during their academic and pre-professional activities at Berkeley Law. Students are expected to adhere to this code scrupulously. If you have any questions about whether your conduct may violate the code, please contact me or the Dean of Students before you act. If you are found to have engaged in academic misconduct, you may face severe consequences, including a failing grade in this class or removal from the program, and the Bar will also receive notification of your conduct.

**Late Work**

Timely submission of assignments is an important part of professionalism. As such, I expect you to submit each assignment by the due date. That said, we are human beings. If you need to submit an assignment late for an important reason (e.g. illness or family emergency), please email me before the due date (or as soon as possible in light of the circumstances). I will be happy to provide you with a practicable extension, consistent with the needs of the class and my schedule. However, if you fail to communicate with me, unexcused late or incomplete assignments will result in a lowered grade.

**Grade Concerns**

Meaningful feedback is essential for learning and growth, and I hope you will take the feedback I provide you during this course seriously. But I also hope you will take your technical grades less so! As a general matter, please know that each grade is just a spot evaluation of how well I think you met a variety of specific expectations on a discrete task at a moment in time, shaped by a host of institutional constraints and factors. Your grade, alone, says virtually nothing about how successful you will be as a lawyer, how intelligent I think you are, how important I think your perspective is, or how much everyone at Berkeley Law is rooting for you. Please come to office hours to discuss any questions about grading.

# Course Materials

All readings will be made available on the class’s BCourses website. They will be uploaded at least a week before the class period where they will be discussed (except for the first class, sorry!).

# Topic Schedule and Proposed Readings (Subject to Change/Negotiation)

UNIT ONE: INTRODUCTION AND OVERVIEW

**Class One: Capitalism, Work, and Inequality (January 8)**

Excerpts from:

* Milton Friedman, Capitalism and Freedom – Ch. 7, Capitalism and Discrimination
* Sir Henry Maine, Ancient Law – pp. mid-149-151
* Carmen G. Gonzalez & Athena D. Mutua, Mapping Racial Capitalism: Implications for Law – pp. 127-132; 139-144; 151-160

**NO CLASS January 15 MLK Day**

**Class Two: Work Law and Unions 101; Is Work Law Working? (January 22)**

Excerpts from:

* Juan Perea, The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act
* Deborah Dinner, Beyond Best Practices
* Ahmed White, My Coworker, My Enemy

UNIT TWO: THE TOOLS OF ORGANIZED LABOR: BENEFITS AND LIMITATIONS

**Class Three: Unions and Majoritarianism (January 29)**

Excerpts from:

* Jane McAlevey, Labor’s Winning Weapon
* Reuel Schiller, Forging Rivals: Race, Class, Law, and the Collapse of Postwar Liberalism
* *Emporium Capwell Co. v. Western Addition*, 420 U.S. 50 (1975)
* Catherine Fisk and L Song Richardson, Police Unions

**Class Four: Unions, Law, and the Meaning of Rights (February 5)**

Excerpts from:

* Cedric de Leon, Black from White: How the Rights of White and Black Workers Became “Labor” and “Civil” Rights after the U.S. Civil War
* Risa Goluboff, The Lost Promise of Civil Rights
* Diana Reddy, After the Law of Apolitical Economy

UNIT THREE: UNIONS AND INTERSECTIONAL INEQUALITY LAW AND THEORY

**Class Five: Unions and Civil Rights Throughout American History (February 12)**

Excerpts from:

* W.E.B. DuBois, Black Reconstruction
* Philip Foner, Organized Labor and the Black Worker
* Robert Korstad, Civil Rights Unionism

**NO CLASS FEB 19 PRESIDENTS DAY**

**Class Six: Unions and Gender (February 26)**

**\*One-paragraph summary of Paper Topic Due\***

Excerpts from:

* Nicholas Pedriana, From Protective to Equal Treatment: Legal Framing Processes and Transformation of the Women’s Movement in the 1960s.
* Dorothy Sue Cobble, The Other Women’s Movement
* Kathi Weeks, The Problem with Work

**Class Seven: Unions and Immigration (March 4)**

Excerpts from:

* Susan Glenn, Daughters of the Shtetl: Life and Labor in the Immigrant Generation
* Cesar Chavez, Declaration re: immigration and organizing in the United Farm Workers
* AFL-CIO Amicus Brief in *Hoffman Plastic Compound v. NLRB*

**Class Eight: Unions and Health/Ability (March 11)**

Excerpts from:

* Center for American Progress, How Labor Unions Help Reduce the Pay Gap for Disabled Workers
* *US Airways Inc. vs. Barnett*, 535 U.S.391 (2002).
* Samuel Bagenstos, Disability Rights and Labor: Is This Conflict Really Necessary?
* Our research…

UNIT FOUR: UNIONS AND INEQUALITY: EMPIRICS AND PRACTICE

**Class Nine: Empirical Research on Unions and Inequality (March 18)**

* US Dep’t of the Treasury, Labor Unions and the Middle Class
* Paul Frymer and Jacob Grumbach, Labor Unions and White Racial Politics
* Dhammika Dharmapala, Collective Bargaining Rights and Police Misconduct: Evidence from Florida

**NO CLASS March 25 SPRING BREAK**

**Class Ten: Strategic Consideration in Lawyering for Unions -- CBA Terms vs Statutory Rights (April 1)**

**\*Rough Draft of Paper Due – I will return draft to you with my comments, at least 1 week before your presentation\***

Excerpts from:

* *14 Penn Plaza v. Pyett*, 556 U.S. 247 (2009)
* Dan H. Mater, Effects of Seniority Upon the Welfare of the Employee, the Employer and Society
* Diana Reddy, Bargaining for the Common Good

**Class Eleven: Strategic Considerations in Lawyering for Unions -- GUEST PANEL (April 8)**

* Speakers TBA

UNIT FIVE: THE FUTURE OF THOUGHT IN THIS AREA

**Class Twelve: Your Presentations (April 15)**

**Class Thirteen: Your Presentations (April 22)**

**Class Fourteen: Your Presentations; Final Reflections (April 23)**

**\*Final Paper Due Monday, May 6\***