Final Essay

Below you will find three topics for the take-home final essay. Choose ONE of these topics for a five-page essay (5 p.), typed, double-spaced, one-inch margins, 12 or smaller font, numbered pages, stapled. This final counts 30% of the semester grade. Note that the page number is not an indication of the difficulty or credit value of the essay. These are topics that are more difficult than earlier essays of the same length, because the final topics each call upon you in one way or another to think about an issue or theme that runs through the course. What might seem like vagueness or generality in the topics is purposeful. It should allow you to define and shape an essay that is both interesting to you and reflective of some significant theme or question within the course.

All essays are due no later than Monday, December 17th at 3 p.m.; and are to be handed in at the Legal Studies office, 102 Gordon Hall, where you will find a box labeled “Legal 250 Finals—Arons” in which to place your essay. Many courses have essay finals being handed in during finals week. Be sure your essay gets into the correct box, since misplacing it can delay receiving a grade for the course. No email submissions will be accepted.

Because there are so many students in this course, it will be necessary for me to apply a strict deadline for submission of essays. There will be no exceptions to this deadline other than illness or emergency. Accordingly, any paper handed in after Monday, December 17th without an excuse approved by me or one of the graduate TA’s—will not be read, and a grade of “0” will be entered for that essay. I am sorry that this has to be so Draconian, but INC is not a grade option this semester because I will be on sabbatical leave next semester.

Please Note Well:
Since there are no “correct” answers to any of these questions, the emphasis in your essay should be on clarity of thinking and writing, an understanding of the materials cited, reasoned use of facts and opinions from the materials, and careful analysis. And please, do not take up space re-telling a story or restating the facts of a case or a reading.

References: Each question below requires the use of references. These may be quotations or paraphrases. When using more than two (2) lines of quoted material, place it single-spaced in a footnote rather than in the text of the essay, where it would take up too much room. For both quotations and paraphrases, be sure to include in parenthesis or in a footnote, the page number of the place in the article or case that you are referencing so that we can find it easily.

And REMEMBER, intellectual honesty is the cornerstone of your personal integrity.

USE THIS PAGE AS A COVER SHEET

__________________________________________
(PRINT YOUR NAME)

__________________________________________
(Topic Number, 1, 2, or 3)
1) During the semester we have considered a number of questions about the nature of law and about its relationship to other institutions, often using perspectives drawn from a mix of disciplines such as anthropology, sociology, literature, history, political science, psychology, jurisprudence, philosophy and even a bit of science and statistics. In doing so we have used a wide variety of materials: a play, several Supreme Court opinions, narratives and analyses of conflict drawn from the social sciences, a short story, law review articles, social histories, film, myths and hypotheticals. Although we considered many topics, it is likely that each student found one or two that resonated with his or her intellectual interests or that aroused individual curiosity or concern.

Choose the syllabus topic, the set of readings (from one class on the syllabus), or the class discussion/lecture that taught you the most about law or that provoked you to do the most thinking about the nature of law and its interrelations with other aspects of culture. Write a five page essay (5 p.) reflecting in detail about what you learned, how your understanding of the relationship between law and society changed, and in what way your thinking was extended or made deeper by the topic or readings that you chose. You may discuss other readings or class sessions, but only insofar as they add to or are related to the learning that you are describing. PLEASE do not simply restate the themes or facts of the readings or classes. Doing so will cost you points. I want to know how your understanding of law has evolved as a result of thinking about the materials. Feel free to use the first person (“I”) on occasion.

Beware! This question is not as easy as it looks. I am expecting a deeply reflective and well thought-out essay that makes connections between your ideas and the materials that you are discussing, and that shows the growth and development of your thinking about law and society during the semester.

2) Kafka’s novel, The Trial, can be read as commenting on many of the themes and ideas about law and culture that have been discussed throughout the semester in Legal 250. Some of these themes and ideas appear in the novel in exaggerated ways and in disturbing scenes. Yet the presence of these exaggerations may provoke us to think critically about the nature of law and authority in our own lives, and even about ourselves and our attitudes toward law.

The exaggerations in The Trial may also make Legal 250’s explorations of the nature of law and its relationship to culture and to individuals seem more important. Perhaps the critiques of law that we have discussed, and the negative aspects of law-in-action that we have studied in Legal 250, are merely way-stations along the road to a legal system and a society like that of Kafka’s nightmarish vision. Perhaps Kafka’s work is a warning—suggesting to some of us that we should think more carefully about the benefits of a genuine rule of law, and about how a denial or a distortion of the rule of law can be used to create or exploit significant injustice, fear and oppression.

Is it possible that some distortions of the rule of law may even become law’s dominant characteristics? We have encountered the critique that a formalistic rule of law (legalism, not merely unjust legal decisions) exploits and deepens unhealthy obedience, creates irrational fear of authority, and thrives on an excessive reliance on rules. It has been suggested that law is merely the handmaiden of the powerful, that it is stereotypically male, that it legitimizes myths, stereotypes and misconceptions of reality in the public mind. Claims have also been made that we are sometimes lulled by our respect for law, or by the mystifying complexity of legal institutions and legal reasoning, into becoming ethically numb, disengaged from democracy, and oblivious to the decency within each of us. It has even been said that, to quote Thoreau, “Law never made men a whit more just; and, by means of their respect for it, even the well-disposed are daily made the agents of injustice.”
Critical thinking about the nature of law and its relationship to the rest of culture is essential if we are to have an open and public discourse about the kind of legal system that advances democratic self-government and helps preserve a humane society for each of us. Comparing some aspect of Kafka’s novel with some of the readings, ideas and themes in Legal 250 provides a way to deepen and expand critical thinking about law and society.

Write a five-page essay (5 p.) in which you select some idea, theme, image, or incident from The Trial and discuss how it is related to ideas that you choose from at least three (3) course readings—one drawn from each syllabus-letter grouping: A-I, J-O, and P-U. For example, you may see that Kafka’s treatment of women and of Joseph K’s relationship to women in the novel suggests the idea that law is stereotypically “male,” and that this leads to disastrous consequences for K and for the world that he inhabits. That might be compared to, among other things, our discussions of Judge Danforth (The Crucible), to Laura Dooley’s feminist analysis of trial by jury (Our Juries, Ourselves), and to Menkle-Meadow’s discussion of alternatives to the adversary process. Or you might see that because of his attitude toward authority, Joseph K is his own worst enemy in his struggle with the law, and that might lead you to consider readings that deal with civil disobedience or jury nullification, with the importance of due process, or even with the Salem Witch Trials.

This is a challenging topic. But if you keep a narrow focus on a Kafka theme and use just three readings from the course, you should be able to put together an essay that extends your thinking about the nature of law and that helps you to understand why Karl Llewellyn said that “Law is too important to be left to lawyers.”

3) The functions that law serves are many and the nature of law is complex. For purposes of Legal Studies 250, you were given four of many possible ideas about the nature and functions of law to help structure your thinking. A description of these functions of law was distributed in September (and is on the course web page), and you were asked to use these materials during the course as a way to help analyze legal conflicts (artifacts) and commentaries on issues of law and society.

Write a five-page (5 p.) essay in which you use at least three (3) different readings—one drawn from each syllabus-letter grouping: A-I, J-O, and P-U from the course—to illustrate, discuss and extend your understanding of ONE of the “four functions of law.”