

### Review Sheet for Mid-Term Examination

The purpose of this sheet is to provide you with a guide to help you prepare for the April 9 exam. Remember that in studying the positions of a philosopher, you must be concerned with the particular claims of the philosopher, the reasons which are offered to support the claim, and the definitions of critical terms provided by the philosopher. I don't expect you to repeat definition of terms verbatim from the notes or the text. You may express definitions in your own words. But, of course, your statement of the definition of a term must be equivalent in meaning to the definitions given in the class/text to get full credit.

Essay questions will be restricted to material covered in class alone or along with the text. However, some of the short answer questions will draw a bit on material in the readings that has not been covered in class (e.g., the definition in the of imperfect duties regarding Kant's ethics.)

You may be asked to compare and contrast the positions we have studied in class. The concepts of compatibility and incompatibility play a crucial role in assessing philosophical positions as well as comparing and contrasting them with other positions. Statements are COMPATIBLE with each other when they can be held without contradiction. For example, the statement (A) there are rationally discoverable moral standards is compatible with (B) the utilitarian claim that actions are good only when they promote good consequences for the greatest number. Statement (A) is also compatible with (C) Kant's claim that actions are inherently right or wrong. Statements are INCOMPATIBLE with each other when they cannot be held without contradiction: if one is false the other must be true (although both may be false). For example, statements (B) and (C) above are incompatible with each other. Also, for example, (at least in the world in which we live) it is incompatible to hold that Dr. Jones is a porcupine and that Dr. Jones is a giraffe. (Note that both these statements are false.) This sheet supplements that sheet given for the review Friedman's *Crime and Punishment*.

#### **I) For the material related to the review of ethical theories, you should be able to:**

A) define, compare and contrast the categories of ethical standards: invented (personal and cultural) and discoverable (contextual and absolute).

B) discuss, compare and contrast utilitarianism and deontological ethics

For each theory, you should be able to articulate its basic norm governing human moral activity and describe the process of ethical reasoning within the theory.

1) For utilitarianism, you should be able to define the principle of utility and set forth the various factors that utilitarians must take into account in making moral decisions. You should also be able to discuss the empirical nature of utilitarian ethical decision making.

You should be able to discuss Bentham's particular form of utilitarianism (from the Altman article)

2) For Kantian ethics:

You should be able to explain why Kant rejects appeals to consequences in moral decisions. You should be able to explain why Kant believes that moral actions are justified only in terms of intrinsic features of actions including the intention of the actions. You should be able to discuss the Kant's two forms of the categorical imperative.

!!) For ethical material related to punishment, you should be able to define the following: rule of law, procedural justice, substantive justice (justice of outcome).

You should be able to distinguish between notions of wrongdoing, guilt and punishment in a moral sense and in a legal sense.

You should be able to discuss why, in a society like the US, there is an inevitable tension between procedural justice and substantive justice in criminal matter (that is, there is no guarantee that in criminal cases, the satisfaction of procedural justice will result in substantive justice).

#### **II. Regarding the article by Altman:**

A) Utilitarian notions of punishment:

Identify and define the forms of utilitarian punishment: general deterrence, special deterrence, incapacitation, and rehabilitation. You should be able compare and contrast these forms of punishment

regarding what they seek to achieve and whether they are compatible with one another.

You should be able to discuss how each theory would determine how much punishment is warranted for crimes.

You should be able to discuss the criticism of utilitarian theories of punishment: namely that they are must allow for the punishment of innocent individuals if the greater good is served. Why do critics believe that utilitarianism cannot justify notions of respecting the inherent dignity of individuals?

B) Retributivism:

Define and distinguish between vengeance and retribution as bases for punishment.

Set forth the main principles of a retributive basis for punishment. What is the basis for arguing that criminals deserve punishment? What form should punishment properly take?

Given that retribution is a moral theory of punishment, what problems are there with applying it to notions of criminal punishment: e.g., the differences between moral and criminal guilt, moral and criminal punishment, morally indifferent criminal conduct, natural desert for punishment vs. criminal punishment, differences between moral and legal blameworthiness, etc.

Retributivist theories require that punishment be proportionate to the offense. What problems arise in implementing this view vis a vis sentencing procedures required by the 'rule of law.'

As a moral theory, retributivism requires that the system in which crime and punishment take place be morally justifiable. Why?

C) Set forth the therapeutic model of rehabilitation. In what sense does this model not fit a model of punishment. In what ways does this model draw upon utilitarian and retributivist concept for its justification. Set forth the basic criticisms of the therapeutic model.

D) Davis's version of retributivism:

How does Davis seek to identify moral and criminal blameworthiness? If successful, how does this meet some of the standard objections linking moral retributivism with legal punishment. Set forth Altman's criticism of the theory.