

MIDTERM TAKEHOME EXAM PHILOSOPHY 167 SPRING, 2008

This exam is due at the start of class on Monday, April 28. Late papers will be subject to grade penalty.

Write essays responding to TWO of the following numbered topics, one A topic and one B topic. Please indicate clearly which two questions you are addressing. Also, please indicate which of your essay responses is to be counted as your MAJOR response (counting for 60 per cent of your exam grade) and which as your MINOR response (counting for 40 per cent of your exam grade). Your exam should be the equivalent of seven to eight typed double-spaced pages. Your answers may be hand-written if you prefer, but should be legible.

A1. A. John Simmons writes, "A moral duty to obey the law would be a moral duty to do as the law requires *because* it is required by valid law (or because of what its being valid law implies), a duty to obey the law as such, not to do as it requires just insofar as it happens to overlap with independent moral duties (which should be discharged whether or not they are also made legal duties)." In his contribution to *Is There a Duty to Obey the Law?*, Christopher Wellman defends the claim that there is a moral duty to obey the law as just characterized. Simmons criticizes Wellman's arguments for this claim. Summarize their positions. Who gets the better of this argument, in your view, and why?

A2. On p. 90 of *Anarchy, State, and Utopia*, Robert Nozick considers a principle he calls the "principle of fairness" as a possible ground of political obligation. Nozick urges that the principle is objectionable, enforcing it would be even more objectionable, and that "even if the principle could be formulated so that it was no longer open to objections, it would not serve to obviate the need for other persons' *consenting* to cooperate and limit their own activities." (p. 95). Christopher Wellman and A. John Simmons are broadly in agreement with Nozick that the principle of fairness cannot justify political obligation (see especially Simmons on "associative" theories). Defend or attack the principle of fairness regarded as a justification of political obligation (the moral duty to obey the law). Your discussion should consider some criticisms by Nozick, Wellman, or Simmons.

B3. John Rawls develops the social contract tradition by suggesting that the content or substance of justice is the outcome of an appropriately specified hypothetical choice procedure, the original position. He proposes that the two principles of justice he affirms would be chosen in the original position and are justified (in part) on that ground. A critic objects, "I do not believe that the assumptions of the original position are innocuous or uncontroversial. In fact, the situation thus constructed may not be fair." Rawls stipulates that the parties in the original position are to choose under a veil of ignorance. In choosing principles the parties are concerned to gain primary social goods for themselves. Describe Rawls's veil of ignorance idea and explain how it functions in the choice of principles along with the assumed concern for primary social goods. Are these conditions fair constraints on the choice of fundamental principles to regulate social cooperation? Why or why not?

B4. In chapter 3 of *A Theory of Justice* Rawls argues that the parties in the original position would not choose utilitarianism but would instead follow the maximin choice rule and so embrace his two principles of justice. What's utilitarianism? What's objectionable about utilitarianism according to Rawls? Given the set-up of the original position, does Rawls succeed in showing that utilitarianism would not be chosen in the original position? If so, how so? If not, why not? Does Rawls succeed in showing that we readers of his book have reason to accept as principles of justice whatever would be chosen in the original position?

Your answers will be graded according to the cogency of your arguments, the clarity of your prose, and the soundness of the understanding of course materials that you display. Your answers should avoid lengthy quoting of course texts. To show that a course author holds the view you are attributing to him, provide precise footnote references that support your interpretations. University rules and moral norms of honesty forbidding plagiarism apply to this assignment.