**NAME : Mustapha Mujeeb Oluwatosin**

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**PUNISHMENT**

Some pain or penalty warranted by law, inflicted on a person, for the commission of a crime or misdemeanor, or for the omission of the performance of an act required by law, by the judgment and command of some lawful court.

To attain their social end, punishments should be exemplary, or capable of intimidating those who might be tempted to imitate the guilty; reformatory, or such as should improve the condition of the convicts; personal, or such as are at least calculated to wound the feelings or affect the rights of the relations of the guilty divisible, or capable of being graduated and proportioned to the offence, and the circumstances of each case; reparable, on account of the fallibility of human justice.

Punishments are either corporal or not corporal. The former are, death, which is usually denominated capital punishment; imprisonment, which is either with or without labor; vide Penitentiary; whipping, in some states, though to the honor of several of them, it is not tolerated in them; banishment and death.The punishments which are not corporal, are fines; forfeitures; suspension or deprivation of some political or civil right deprivation of office, and being rendered incapable to hold office; compulsion to remove nuisances.

The object of punishment is to reform the offender; to deter him and others from committing like offences; and to protect society.

Punishment to be just ought to be graduated to the enormity of the offence. It should never exceed what is requisite to reform the criminal and to protect society; for whatever goes beyond this, is cruelty and revenge, the relic of a barbarous age. All the circumstances under which the offender acted should be considered.

**The Purposes of Punishment**

Punishment has five recognized purposes: deterrence, incapacitation, rehabilitation, retribution, and restitution.

**Deterrence:**

Deterrence prevents future crime by frightening the defendant or the public. The two types of deterrence are specific and general deterrence. Specific deterrence applies to an individual defendant. When the government punishes an individual defendant, he or she is theoretically less likely to commit another crime because of fear of another similar or worse punishment. General deterrence applies to the public at large. When the public learns of an individual defendant’s punishment, the public is theoretically less likely to commit a crime because of fear of the punishment the defendant experienced. When the public learns, for example, that an individual defendant was severely punished by a sentence of life in prison or the death penalty, this knowledge can inspire a deep fear of criminal prosecution.

**Incapacitation:**

Incapacitation prevents future crime by removing the defendant from society. Examples of incapacitation are incarceration, house arrest, or execution pursuant to the death penalty.

Incapacitation is used primarily to protect the public from offenders who are seen as sufficiently dangerous that they need to be 'removed' from society for a period of time, which is achieved usually by sending the offender to prison (incarceration)

**Rehabilitation:**

The concept of rehabilitation rests on the assumption that criminal behavior is caused by some factor.Rehabilitation prevents future crime by altering a defendant’s behavior. Examples of rehabilitation include educational and vocational programs, treatment center placement, and counseling. The court can combine rehabilitation with incarceration or with probation or parole. In some states, for example, nonviolent drug offenders must participate in rehabilitation in combination with probation, rather than submitting to incarceration

**Retribution:**

Retribution prevents future crime by removing the desire for personal avengement (in the form of assault, battery, and criminal homicide, for example) against the defendant. When victims or society discover that the defendant has been adequately punished for a crime, they achieve a certain satisfaction that our criminal procedure is working effectively, which enhances faith in law enforcement and our government.

**Restitution:**

Restitution prevents future crime by punishing the defendant financially. Restitution is when the court orders the criminal defendant to pay the victim for any harm and resembles a civil litigation damages award. Restitution can be for physical injuries, loss of property or money, and rarely, emotional distress. It can also be a fine that covers some of the costs of the criminal prosecution and punishment.

**Question 1 - Answer**

One popular justification for punishment is the just deserts rationale: A person deserves punishment proportionate to the moral wrong committed. A competing justification is the deterrence rationale: Punishing an offender reduces the frequency and likelihood of future offenses.

**Just Deserts Theory**

The phrase represents the idea of a fair and appropriate punishment related to the severity of the crime that was committed.

**Just deserts** is sometimes referred to as the 'retribution' type of sentencing. In other words, one should be punished simply because one committed a crime.

The theory of just deserts is retrospective rather than prospective. The punisher need not be concerned with future outcomes, only with providing punishment appropriate to the given harm. Although it is certainly preferable that the punishment serve a secondary function of inhibiting future harmdoing, its justification lies in righting a wrong, not in achieving some future benefit. The central precept of just deserts theory is that the punishment be proportionate to the harm. The task of a just deserts theorist, then, is to assess the magnitude of the harm and to devise a punishment that is proportionate in severity, if not in kind. Kant (1952) recommended censure proportionate to a perpetrator’s “internal wickedness,” a quantity that may be approximated by society’s sense of moral outrage over the crime. There are several core components of an offense that determine moral outrage and the magnitude of punishment according to just deserts theory. It is these factors, then, that should trigger the motive to punish if people adhere to a just deserts theory of punishment

**Question 2(A)**

**Effective way of punishing and treating capital offenders**

Crimes that are punishable by death are known as capital crimes, capital offences or capital felonies, and vary depending on the jurisdiction, but commonly include serious offences such as murder, mass murder, aggravated cases of rape, child rape, child sexual abuse, terrorism, treason, espionage, sedition, offences against the State, such as attempting to overthrow government, piracy, aircraft hijacking, drug trafficking, drug dealing, and drug possession, war crimes, crimes against humanity and genocide, and in some cases, the most serious acts of recidivism, aggravated robbery, and kidnapping.

**Rehabilitation ——treating**

The most recently formulated theory of punishment is that of rehabilitation—the idea that the purpose of punishment is to apply treatment and training to the offender so that he is made capable of returning to society and functioning as a law-abiding member of the community. Established in legal practice in the 19th century, rehabilitation was viewed as a humane alternative to retribution and deterrence, though it did not necessarily result in an offender receiving a more lenient penalty than he would have received under a retributive or deterrent philosophy. In many cases rehabilitation meant that an offender would be released on probation under some condition; in other cases it meant that he would serve a relatively longer period in custody to undergo treatment or training. One widely used instrument of rehabilitation in the United States was the indeterminate sentence, under which the length of detention was governed by the degree of reform the offender exhibited while incarcerated

**Punishing capital offenders**

Capital punishment, also called death penalty, execution of an offender sentenced to death after conviction by a court of law of a criminal offense. Capital punishment should be distinguished from extrajudicial executions carried out without due process of law. The term death penalty is sometimes used interchangeably with capital punishment, though imposition of the penalty is not always followed by execution (even when it is upheld on appeal), because of the possibility of commutation to life imprisonment.

**Question 2(B)**

If the offences were simple offences this writer’s answer of death penalty in the above would not be the same rather it will be ;

**Sentencing them to ;**

1. Fines
2. House arrest and electronic monitoring
3. Probation
4. Community service