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**MATRIC NUMBER: 17/ LAW01/273**

**ASSIGNMENT** **TITLE: PUNISHMENT**

**COURSE TITLE: CRIMINOLOGY**

**COURSE CODE: LPI 304**

QUESTIONS:

1. What motivates the ‘just desert’ principle of punishment? Discuss

Just desert is a theory which is designed to promote equality and fairness of sentencing for the imposition of a sentence. The principle behind ‘just desert’ is that punishments should fit crime. When such an instance happens, it is said that the offender has received their ‘just desert’. It is used as a justification for punishment. A person deserves to be punished justly and fairly.

In my opinion, what motivates the just desert principle is fairness and equality.

1. a) As a criminology student, what do you think is the most effective way of punishing and treating capital offenders? Give reasons for your answer.

A capital offence is any criminal charge which is punishable by the death penalty. So therefore, a capital offender is who has committed a capital offence that is punishable by death. Examples of a capital offense include first degree murder, murder with special circumstances such as intentional and multiple murders involved with another crime, with guns, and rape with additional bodily harm and the federal crime of treason. A capital offense is used to describe a crime that is so serious that the death penalty may be considered an adequate punishment. One of the most common examples is murder. Treason or the betrayal of one’s country is also considered a capital, and it is punishable by death.

Punishing capital offenders is an institutionalized practice designed to result in deliberately executing persons in response to actual misconduct and following an authorized rule-governed process to conclude that the person is responsible for violating the norms.

Capital punishment also known as death penalty is where a person is put to death by the state as the punishment of the crime. Crimes punishable by death are capital crimes, capital felonies or capital offences depending on the jurisdiction.

In my opinion, the most effective way to treat and punish an offender is life imprisonment. The reason for this is because, although the prescribed punishment for a capital offence is death penalty, it only serves one role which is punishing the offender but it doesn’t treat the offender. If a criminal is sentenced to death penalty, it does not give room for him to be treated; he is not given a chance to amend his ways which is the main purpose of punishment and treatment. Although the death penalty rests on the basis of the principle of just desert which suggests that capital offenders should be executed for retributive reasons but the problem with this principle is that there is no empirical research which confirms the authenticity of the claim, because empirical studies cannot answer the question of what specific criminals deserve. Death penalty has it disadvantages, the reason is because the possibility of human error may occur, and where an innocent person is executed knowing that death is irreversible. The death penalty is also applied disproportionately on the poor and minorities; it does not also serve as a deterrence based on research statistics shown. Death penalty has been condemned on the grounds of cruelty, degrading; insensitivity to children’s right to parental care and inhumane. It is also a fallacy to be of the opinion that death penalty will deter crimes and criminality considering the level of prevalence of violent crimes and capital offences in the society. Death penalty most importantly deprives people of the opportunity to reform, rehabilitate and correct their wrongs, however imprisonment gives room for that, this is why I am of the opinion that imprisonment will serve as the most effective way to punish and also treat a capital offender.

Imprisonment can be defined as a term of judicial sentence available for criminal offenders of adult age, involving incarceration in prison for either life or a specified period of time. Imprisonment can run consecutively or concurrently. Imprisonment takes various forms depending on the type of crime committed and the outcome of the trial of the offender. The extreme is life imprisonment without the possibility of parole. The period of imprisonment imposed on the criminals is determined by the judge’s decision alongside with the guidelines of the law. However, there are major draw backs against imprisonment as a form of punishment, which is, imprisonment does not compensate or provide restitution to the victim of a crime but neither does death penalty. So imprisonment as a form of punishment provided by SECTION 17 of CRIMINAL CODE 2004, is the most effective way of punishing and treating an offender, this is because during the course of their imprisonment they could go through rehabilitation program in prison, skill acquisition program, educational services, recreational services, chaplaincy services and after care services to help reform the capital offenders, it serves as a form of punishment and treatment.

b) Will your answer be the same if the accused was charged for a simple offence?

A simple offence means any offence that is punishable, on summary convictions before a magistrate court by fine or other punishments. It is an offence or act by which a person is liable by law, upon a finding of guilt before a justice to be imprisoned or fined or both, but does not include an indictable offence which can only be heard and determined in a summary way as a minor indictable offence.

So, in line with the question, if the accused was charged for a simple offence, will my answer by the same? No. this is because, it won’t be proportionate to the crime committed. Capital offences are more Grievous than simple offences. In my opinion, I will come up with alternate measures to punish a simple offender. These offences include:

1. Fine: Section that applies to fine in Nigeria is Section 382 of Criminal Procedure Act, Section 16 of Administration of Criminal Justice Law 2011 (Lagos state), Section 23 of Criminal Procedure Code and Section 422 of ACJA 2015. This section above provides discretionary power of a court to impose fine immune of imprisonment. Section 390(3) of CPA provides that the fine in Nigeria courts must be appropriate not only to the offence but also to the means of offender to pay.
2. Probation: This is a period of supervision over an offender ordered by the court instead of serving a prison term. It is provided for in Section 453-459 of ACJA 2015 and Section 435(1) of CPA. The inability of court to fully impose probation as a form of punishment is as a result of the absence of logistics and facilities to supervise probation as practiced in other jurisdiction.
3. Community service order: Offenders are required to perform unpaid work for the community in which the offence has been committed for a certain period. A community service is in the nature of environment sanitation and assisting in the care of children or elders in a government approved home and any other type of service which in the opinion of the court will have a beneficiary effect on the character of the offender. It is provided for in Section 347 of Administration of Criminal Justice Law 2011 (Lagos state).

All of the above can be used as alternative punishment to simple offences.