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**COURSE:** CRIMINOLOGY 2

**COURSE CODE:** LPI 304

**QUESTION:**

1. What motivates the just desert principle of punishment? Discuss
2. a. As a criminology student what do you think is the most effective way of punishing and treating capital offenders. Give reason(s) for your answer

b. will your answer be the same if the accused was charged with a simple offence?

1. What motivates a person's desire to punish actors who commit intentional, counter normative harms? Two possible answers are a just deserts motive or a desire to incarcerate the actor so that he cannot be a further danger to society. Research participants in two experiments assigned punishments to actors whose offenses were varied with respect to the moral seriousness of the offense and the likelihood that the perpetrator would commit similar future offenses. Respondents increased the punishment as the seriousness of the offense increased, but their sentences were not affected by variations in the likelihood of committing future offenses, suggesting that just deserts was the primary sentencing motive. Only in a case in which a brain tumor was identified as the cause of an actor's violent action, a case that does not fit the standard prototype of a crime intentionally committed, did respondents show a desire to incarcerate the actor in order to prevent future harms rather than assigning a just deserts based punishment.

Just desert, also known as the proportionality principle may be defined as a punishment or reward that is considered to be what the recipient deserved. 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. Throughout history, the idea of retribution for the commission of a crime can best be explained in the Old Testament quote 'an eye for an eye, a tooth for a tooth.'

Those working within the operant learning tradition have done a great number of studies on the use of punishment to control rates of behavior or on the perseverance of responses initially learned to escape punishment. Developmental psychologists have addressed the utility of punishments for modifying transgressive behavior in children. But there has been relatively little psychological attention to the following question: when a perpetuator is punished for committing a harm, what is the justification of that punishment in the mind of the punisher? For what purpose, under what justification, and from what impulse does an ordinary person assign punishment to another individual who has transgressed in some normative unallowable way?

This question has received a great deal of attention elsewhere. Philosophers and legal scholars have suggested several justifications for punishing wrong-doers who intentionally commit acts that harm others. One justification metes out punishment because the perpetuator deserves to be punished for the past harm he or she committed. The punishment is a valuable end in itself and needs no further justification. This approach is typically referred to as a “just desert” or a “retributionist” perspective. In the late 18th century, Immanual Kant argued that “punishment can never be administered merely as a means of promoting another good” and that punishment ought to be “pronounced over all criminals proportionate to their internal wickedness”.

Other punishment rationales are more utilitarian, in that they focus on achieving some particular future purpose by administering the punishment. Typically, the future benefit is to avoid, or at least to reduce, future harms, and therefore this type of approach is referred to as “utilitarian” or “consequentialist”. There are a number of variations of consequentialist justifications: Jeremy Bentham, a contemporary of Kant, argued that “general prevention ought to be the chief end of punishment, as it is its real justification”. From this, Bentham went on to develop the classic formulation of the deterrence rationale for punishment: that an offender’s punishment should be just sufficient to deter future instances of the offence. However, there are a number of practical difficulties in applying a deterrence perspective when crime detection and conviction rates are low. Perhaps for this reason, a currently popular consequentialist view is a more pessimistic one: we lock up people in prisons so that they cannot commit anymore crimes because they are locked up (a qualification is relevant here: they cannot commit anymore crimes for the duration of the time for which they are locked up except against other criminals and the occasional guards). A good deal of the motivation behind recent “three strikes” laws probably stems from the application of this perspective, which is labeled the incapacitation perspective.

1. Punishment may be defined as the infliction of pain by the state on someone convicted of an offence. According to Parker, elements of punishment includes the following;
2. It must involve pain or some other consequence normally considered unpleasant.
3. It must be for an offence against legal rules.
4. It must be imposed on an actual offender for his offence.
5. It must be properly administered by human beings other than the offenders.
6. It must be imposed and administered by an authority constituted by a legal system against which the offence is committed.

Whilst treatment may be defined as the manner in which someone behaves towards or deals with someone or something.

A capital offense may be defined any criminal charge which is punishable by the death penalty.

In light of the afore mentioned, and taking into account the fact that the taking of one life does not replace or make up for that already lost. I believe I some instances, that the institution of capital punishments/treatments in certain cases and instances is far too brute an action/decision. I am of the opinion that an individual would make more penance and amends by being of service to the defendant or the defendants family although this does not apply in every regard.

I stand by the fact that the law must be implemented in all possible facets but in some instances, mercy and or pardon to convicted persons may be a much better path to be taken seeing as there are instances in which new criminals have been forged and born simply out of the need to avenge their punished or convicted loved one.

2b. I believe my answer would vary if said person were charged with a simple offence because the punishment given to the person would be one of reformation and correction rather than fatality.

**References**:  
(just deserts model, n.d.)

(Robinson, 2001)

(Oxford 2019)