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QUESTIONS

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 reasons for your answer

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

INTRODUCTION

In most countries there are rules and laws put in place to maintain peace and order in their society. Punishments are to ensure that crimes committed are being paid for and also to prevent the commission of various crimes. In a society that there is no consequence for irresponsible actions, it will lead to chaos and many people will then be involved to such crimes. The main purpose is to maintain peace among human beings. According to [[1]](#footnote-1)Wikipedia punishment is the imposition of an undesirable or unpleasant outcome upon a group or individual, meted out by an authority in contexts ranging from child discipline to criminal law as a response and deterrent to a particular action or behavior that is deemed undesirable or unacceptable. The unpleasant imposition may include a fine, penalty, or confinement, or be the removal or denial of something pleasant or desirable. Punishments differ in their degree of severity, and may include sanctions such as reprimands, deprivations of privileges or liberty, fines, incarcerations, ostracism, the infliction of pain. According to parker the elements of punishments include (a) It must involve pain or some other consequence normally unpleasant (b) It must be an offence against legal rules (c) It must be imposed by an actual offender for his offence (d) He must be properly administered by humans other than the offender (e) it must be administered by an authority constituted by a legal system against which the offence is committed. Punishment serves numerous social control functions but it is usually justified on the following principles (a) retribution (b) incapacitation (c) deterrence (d) rehabilitation (e) restitution

**WHAT MOTIVATES THE ‘JUST DESERT’ PRINCIPLE OF PUNISHMENT?**

[[2]](#footnote-2)Desert is a concept that is used in day to day life. Many believe that being treated as one deserves to be treated is a matter of justice, fairness, or rightness. Although desert claims come in a variety of forms, generally they are claims about some positive or negative treatment that someone or something ought to receive. The concept of just desert is one poorly understood outside the legal circles. It has its derivates from the Latin maxim *noxiae poena par esto.* Meaning that the public should learn to less critical of judgment handed down. The phrase ‘just desert’ comes from the 16th century. A clearer, modernized version would be that which is ‘justly deserved’. In that respect, the conventional wisdom interpretation of the phrase is not so far off. Many believe the phrase refers to a dessert, as in a treat, and, therefore, refers to a just reward for a good deed. The term correctly applies to deeds both good and ill but, from the perspective of criminal justice discipline. It is most often applied with regard to negative behavior. ‘Just desert’ is a philosophy of justice whereby a criminal offence is viewed as lowering the victim or community’s status or power relative to the offender, which requires a degradation of the offender to redress the moral balance. However, ‘just desert’ means to ensure that a punishment is both appropriate to a crime and that it is consistent. For example if a person steals a cup of rice it certainly does not deserve life imprisonment. Neither does one convicted of willful homicide necessarily deserve such sentence.

**MOST EFFECTIVE WAYS OF TREATING CAPITAL OFFENDERS**

As a criminology student I think some of the most effective ways of treating capital offenders is

* IMPRISONMENT

Imprisonment is a term of judicial sentence available for a convicted offender or adult age involving incrassation in prison for either life or a specified period of time. The law requires that imprisonment may only be imposed where it is absolutely necessary. Imprisonment can run consecutively or concurrently. Although there are some setbacks which is imprisonment in inadequate to rehabilitate an offender and imprisonment does not compensate or provide restitution to the victim.

* DEATH PENALTY

Offences are punishable by death across the federation. Offence for death is murder, treason and armed robbery. Murder is provided for in[[3]](#footnote-3) section 319 of the criminal code while treason is provided in [[4]](#footnote-4)section 37 of the criminal code. There are two set of people that are exempted which are pregnant women and young persons. Modes of execution of death penalty are buy hanging or lethal injection and also firing squad.

* SOLITARY CONFINEMENT

This is a situation when an inmate is distinguished and is living in a single cell with little or no meaningful contact and strict measures to control contraband and use of other equipment’s are controlled. It is designed for destructive inmate that cause security risk. It is employed for the violation of discipline such as murder and deadly assault.

(b)On the other hand if the offence committed by the offender is a Simple offence the punishments given will not be as severe as that of a capital offender like a murderer. Just like the word just desert. A person who steals should not be convicted for death. The offence should be proportionate to the punishment. Although there are some punishments that are given to those who have committed simple offences that are similar to those who have committed capital offences.

However, there are other ways in which a person can be punished for a simple offence some of those ways are.

* REHABILITATION

This is a form of treating an offender in a manner which the ultimate goal is to restore a convicted offender to a constructive place in the society through some combination of treatment education and training. This method provides a situation where crimes could be controlled; it creates resources for the state to train offenders. It enables criminals to stay within the society

* FINES

In Nigeria some sections that apply is[[5]](#footnote-5) section 390(3) of the criminal procedures act provides that fines in Nigerian courts must be appropriate not only to the offence but also to the means of the offender to pay. Also provided in [[6]](#footnote-6) section 382 of the CPA and also [[7]](#footnote-7)section 23. Also provided in the case of [[8]](#footnote-8)Goke v police.

* CANNING

In the north individuals above the age 45 can’t be canned anymore due to their ages but in the eastern Nigeria only a juvenile offender can be canned .People who are caught drinking, defamation, Adultery in northern Nigeria.

In conclusion the Just desert principle simply means that a person should be punished according to the crimes that he has committed. In essence, this means that the punishment which is given to a capital offender can’t be the same punishment which is given to someone who has committed a simple offence. It such act is done then there is no justice. For instance a person who is driving without a driver’s license can’t be sentenced to life imprisonment for such act because it is a simple offence and there will be no equity. The treatments or punishments which are given to a person who has committed capital offences differ most of the time from those who commit simple offences

1. wikipedia [↑](#footnote-ref-1)
2. https://timesofmalta.com/articles/view/The-law-of-just-deserts-.491968 [↑](#footnote-ref-2)
3. section 319 of the criminal code [↑](#footnote-ref-3)
4. section 37 of the criminal code [↑](#footnote-ref-4)
5. section 390(3) of the criminal procedures act [↑](#footnote-ref-5)
6. section 382 of the criminal procedure act [↑](#footnote-ref-6)
7. Section 23 of the criminal procedure act [↑](#footnote-ref-7)
8. Goke v police [↑](#footnote-ref-8)