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**LEVEL: 300**

**COURSE TITLE: CRIMINOLOGY**

Answers:

1) The retributive theory is what motivates the **“just desert”** principle of punishment. It is also known as **“proportionality principle”**. This principle addresses the issue of how much punishment should be inflicted and it answers that the measure of punishment given must be equally in proportion to the seriousness of the crime and should be no more no less.

The retributive theory is the most ancient method for dealing with offenders. **Immanuel Kant** was one of the earliest retributionists in the 18th century. He sees the idea of punishment meted to offender as a categorical obligation and according to him, punishment can never be administered merely as a means for promoting another good, either with regard to the criminal himself or to civil society, but must in all cases be imposed only because the individual on whom it is inflicted has committed a crime. The punishment usually consisted of banishment, whipping, flogging, branding, and other various forms of torture or death. In earlier times penal law allowed the infliction of greater injury on an offender than that which he inflicted on the victim. Later penologist called for more humane treatment offender and the older approaches were replaced with codes that advocated for the Latin Maxim **“Lex Talionis”** which means an eye for an eye and a tooth for a tooth. When an individual commits a crime, he must be given the exact punishment prescribed by law which means that there is no act of **“plea bargaining”** in retribution. An individual deserves the penalty he gets because of the crime he has committed. If a person commits a crime, he must be given the exact punishment prescribed by law, he must not be given lesser penalty than he deserves.

In summary, retribution theory present crimes as acts which deserve punishment, the theory does not have any aim for crime control, but focuses exclusively on the past criminal behavior and punishment given solely to express condemnation of that behavior; and related to the notion of **“just desert”** are ideas that punishment should fit the crime and that punishment must be equal in proportion to the seriousness of the crime. The theory is said to be of significance for two major reasons. First, the concept is a powerful influence on the mind of the public; it helps to “shape reactions to the sanctions imposed by the legal system. Second, the concept of **“just desert”** provides a check on the power of the state in determining the amount of punishment necessary to pay the price of crime, no more, no less. With these checks, according to Lewis, the society could punish the family of the criminal rather than the criminal himself, and of course, the state could lock up those who simply deemed to be dangerous, ignoring any actual violation of the law.

2) a .I think the most effective way of punishing and treating capital offenders is imprisonment.

 **Reason why I choose imprisonment**

This is because it has a way of punishing capital offender and also has a way of treating capital offender and also in recent time’s judges prefer sentencing capital offender to life imprisonment rather than killing them. Imprisonment also gives the capital offender a chance to change and turn a new leave. Imprisonment is defined as a term of judicial sentence available for a convicted offender of adult age involving incarceration in prison for either life or specified period of time. Imprisonment takes various forms depending on the type of crime committed and the outcome of the trial of the offender. Imprisonment became the dominant form of punishment with the birth of the classical school. It replaced the cruel and unusual death sentences of most crimes of the 18th century. It can be in form of determinate, in which the judges specifies a given number of years to be served or indefinite, where the judge specifies a range of years, or indeterminate in which case the judge sentences the convict to prison but the actual term to be served is determined by parole authority based on its assessment of the convict’s progress towards rehabilitation. Imprisonment can be adequate to reform a capital offender because during the time of the imprisonment, the capital offender can learn a skill, the will be able to attend rehabilitation programs which can help reform the offender and also can even repent. The capital offender can also compensate the aggrieved party through restitution. Imprisonment will also help keep the capital offender from associating with the public. And other punishment can be given to him even while he is in the prison. I think imprisonment is the most effective way of punishing and treating capital offender. Most capital offenders are those people who have committed a felony. Some felonies include murder, treason, manslaughter and what the law terms as felony in the criminal code. Most times, death penalty only punishes the offender but does not actually treat the offender in anyway because the offender dies and sometimes the aggrieved person is not compensated.

2) b. No, my answer will not be different if the accused was charged for a simple offence. The accused can be sentence to imprisonment but the imprisonment will be far lesser/ minor than that of a capital offender. The simple offences are usually offences that are punishable with less than 6 months imprisonment although there are also other ways of punishing a simple offender with punishment like payment of fines which can be given to a simple offender. Since simple offences are less serious than capital offences, the punishment of imprisonment must vary. According to the **“just desert”** principle the punishment should suit the offence therefore the same terms of imprisonment for capital offences cannot be given in simple offences.