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QUESTION 1.

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 harm doing, its justification lies in righting a wrong, not in achieving some future benefits. The central precept of just deserts theory is that the punishment be proportionate to the harm. The task of a just theorist, then is to assess the magnitude of the harm and to devise a punishment that is proportionate in severity, if not the kind.

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.

Magnitude of harm. First and perhaps most important is the magnitude of intended harm. This is indexed most typically by the type of crime and the degree to which it offends the sensibilities of citizens.

Extenuating circumstances. Second, mitigating or exacerbating circumstances often affect the moral outrage felt by citizens and hence, the magnitude of punishment that is called for under the just deserts theory. A person who embezzles to maintain a lavish and lascivious lifestyle is judged more harshly than one who embezzles the same amount for the relatively noble purpose of subsiding the company’s underpaid and exploited overseas workers. Although the amount of harm is constant in this example, the punishment is not. Just deserts theory is highly sensitive to such contextual factors that mitigate or exacerbate the degree to which a perpetrator deserves punishment.

A fully formed theory of just theory is concerned with more than just these factors. For example, an expression of remorse speaks directly to the moral outrage evoked in a victim or observer. However, remorse also signals the possibility that the outcome may have been accidental and may raise questions of the perpetrator’s responsibility for the harm.

In conclusion, just deserts is a theory which is designed to promote equality and fairness of sentencing for the imposition of a sentence. The principle behind just deserts is that the punishment should fit the crime. When such an instance occurs, it is said that the offender has received their “just deserts”.

Question 2(a)

As a criminology student the most effective way of **punishing** capital offenders will be under section 17 of the criminal code 2004, forms of punishment, which includes death penalty, imprisonment etc. as the court deems fit for the offender. Therefore based on the section the punishment of death penalty or imprisonment would be the most effective way for punishing a capital offender.

**Death penalty:** offences here are punishable by death across the federation, includes, murder (section 319 of the criminal code act), treason (section 37 of the criminal code) etc. They are 2 sets of persons exempted from death penalty.

1. A pregnant woman which can be found in section 368(2) of the criminal procedure act. A pregnant woman cannot be sentenced to death, rather life imprisonment.
2. A young person: that is someone below the age of 17. Section 368(17) criminal procedure act, where a person below the age of 17 is convicted of capital offence he or she shall not be convicted with death.

To explain death penalty further, there are modes by which death penalty is carried out. That is mode of execution.

1. Death by lethal injection
2. Death by hanging
3. Death by electrocution
4. Death by firing squad

**Imprisonment:** Imprisonment can be defined as a term of judicial sentence available for a convicted offender of adult age involved incarceration in prison, for either life or specific period of time. Imprisonment can only run consecutively or concurrently.

The law requires that imprisonment should only be imposed where it is necessary and will not exceed the specific term imposed by the court.

Still on the same question the most effective way of **treating** a capital offender based on the theories of punishment, would be deterrence and rehabilitation.

**Deterrence:** This theory simply means that punishment is inflicted on the offender to prevent crimes from reoccurring and also to prevent future crimes. The supreme aim of deterrence is punishment prevents crimes. Under deterrence we have two types. General deterrence that is punishment is made to be strict and severe. And Specific deterrence here punishment should be strict in order to make the offender not have desire to commit such crimes.

**Rehabilitation:** This is the most appealing justification for punishment, the goal is to restore a convicted offender to a constructive place in the society through some combination of treatments for example education or training,

Question 2(b)

My answer would be the same in the aspect of imprisonment of the offender regardless of the fact the he or she is not a capital offender. According to section 17 of the criminal code 2004 forms of punishments includes: death penalty, imprisonment, fine etc. Therefore, the form of punishment that would be applied under this offender who is not a capital offender would be imprisonment, fine, etc. as the court deems fit for the offender.