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COURSE: CRIMINOLOGY.

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ASSIGNMENT:

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 FOR A SIMPLE OFFENCE?

JUST DESERTS THEORY

The “just desert theory” is an approach developed as one of the philosophical justifications for punishment. It is important to note that “*deserts*” here is the plural of desert, meaning “*that which one deserves*” and is rarely used outside the phrase. *Just deserts*, as a philosophy of punishment, argues that criminal sanctions should be commensurate with the seriousness of the offense.

The motive that drives this theory can be boiled down into two factions. **The first** and most centric reason being that of the desire to provide punishment appropriate to the given harm to the victim or the offender upon himself. **The second** being to incarcerate the actor and warn potential offenders so that such act cannot be committed to further danger to society in the nearest future. Although the punisher need not be concerned with future outcomes, only with providing punishment appropriate to the given harm. 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 benefit.

In addition to the points given above, 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.¹ This paper shall proceed in elaborating the factors.

- **MAGNITUDE OF HARM.**

First and perhaps most important is the magnitude of intended harm. This is indexed most typically by the type of crime (e.g., petty theft, felonious assault) 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

¹ Why Do We Punish? Deterrence and Just Deserts as Motives for Punishment, Journal of Personality and Social Psychology Copyright 2002 by the American Psychological Association, Inc. 2002, Vol. 83, No. 2, 284–299.
<https://static1.squarespace.com/static/54694fa6e4b0eaec4530f99d/t/57c37f2dcd0f6844bcd0dbf6/1472429903234/8.+Why+do+we+punish%3F+Deterrence+and+just+deserts+as+motives+for+punishment.+2002.pdf>

harshly than one who embezzles the same amount for the relatively noble purpose of subsidizing 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 deserts is concerned with more than just these factors. However, other establishing other factor will diverge the reader into over lapsing philosophical justifications for punishment.

THE MOST EFFECTIVE WAY OF PUNISHING AND TREATING CAPITAL OFFENDERS.

In order to elaborate and further persuade the reader view the topic at hand, the following terms must be first established. **Capital offenders** are individuals who are accused and convicted of a capital offence in which follows up with capital punishment such as death penalty. **Capital offences** includes acts such as murder, mass murder, aggravated cases of rape, child rape, child sexual abuse, terrorism, treason, espionage, sedition, offences against the State, such as attempting to overthrow government, piracy, aircraft hijacking, drug trafficking, drug dealing, and drug possession, war crimes, crimes against humanity and genocide, and in some cases, the most serious acts of recidivism, aggravated robbery, and kidnapping.

Based on the writer's opinion, the most effective way of punishing and treating capital offenders is Life imprisonment without the possibility of parole (LWOP). Life without parole is defined as a person spending the rest of their life in prison. The criminal sentence does not include an option for parole. Life without the possibility of parole is the best alternative to the death penalty. It works effectively both to punish offenders and to protect society at a fraction of the cost of the death penalty system. It is faster, cheaper and serves the needs of victims' families better than the death penalty because cases are resolved much more quickly and without lengthy appeals.

Although all this may sound good on paper, in reality LWOP still has its many flaws. For those opposed to the death penalty, a sentence of any length may sound like a better alternative. But locking people away and throwing away the key is not a moral solution. It would only increase the population in prison. In the words of Pope Francis, *“to cage people...for the mere fact that if he is inside we are safe, this serves nothing. It does not help us.”*

With that said no human being should be regarded as beyond improvement and should therefore always have the prospect of being released. Giving an imprisoned person the possibility of parole does not guarantee eventual freedom, but it does offer a glimmer of hope for redemption.

WHETHER THE WRITERS VIEW WOULD CHANGE IF THE ACCUSED WAS CHARGED FOR A SIMPLE OFFENCE

This question shall be addressed in the negative which is simply no. A simple offence is considered a crime of low seriousness which is punishable, on summary conviction before a Magistrates Court, by imprisonment for not less than six months, but less than three years. Examples of simple offence include; contempt of court, obstructing postal mails, unlawful wearing of army uniform, selling army uniform to unauthorized persons and so on. Whereas a capital offence is a serious crime. The gravity of the offence will determine the level of punishment an individual receives.