NAME: OLUKOYA OLUWATOMI O.

MATRIC NO: 17/LAW01/228

CRIMINOLOGY

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 for a simple offence?

1. 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’**, as a philosophy of punishment; it argues that criminal sanctions should be commensurate with the seriousness of the offense. The phrase represents the idea of a fair and appropriate punishment related to the severity of the crime that was committed. 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. Over the last two decades the retribution theory of punishment has been rediscovered. Due mainly to the inability of other theories, such as rehabilitation and deterrence, to effectuate a reduction in crime, philosophers and scholars have re-examined retribution as a viable justification for punishment. Even though retribution is considered to be the oldest theory of punishment, there has not been universal agreement as to its definition. Traditionally, however, the underlying notion of retribution is that “criminal behaviour constitutes a violation of the moral or natural order ... and, having offended that order, requires payment of some kind.” Therefore, a criminal is punished because he or she "deserves" it. This justification for punishment is appropriately called the principle of "just deserts”. **The concept of just deserts seeks to preserve human dignity through punishment. It asserts that a person is a rational individual with the free will to make a moral choice whether or not to engage in conduct known to be prohibited**. Retribution under a just deserts principle treats a defendant as a dignified human being by responding to his or her conduct in a way that respects his or her choice to engage in wrongful behaviour. This concept differs radically from the utilitarian theories of rehabilitation and deterrence.' **Since crime is defined as the violation or disturbance of the "right" relationships in the community, the goal of the retributive theory of justice is to reconcile these relationships**. Reconciliation is accomplished by making an offender "pay" for the disturbance his or her conduct has caused. A criminal "deserves" to be punished because he or she has violated the "moral order," but what punishment does he or she "deserve?" **A core tenet within the just desert theory of retribution is proportionality.** If one asks how severely a wrongdoer deserves to be punished, a familiar principle comes to mind: Severity of punishment should be commensurate with the seriousness of the wrong. Only grave wrongs merit severe penalties; minor misdeeds deserve lenient punishments. Disproportionate penalties are undeserved-severe sanctions for minor wrongs or vice versa. **Because the goal of retributive justice is to restore the relationships that have been broken, a defendant must be punished only to the extent necessary to restore the relationships. In other words, the level of punishment must be proportional to the seriousness of the crime**. The seriousness of a defendant's conduct is expressed as a function of the harm caused by the conduct and the degree of a defendant's responsibility for the crime. Harm is composed of many components, such as physical and psychological harm to victims and economic and emotional costs to society. The incorporation of harm into the calculus of just punishment should seem intuitive; thus, proportionality would require a murderer to receive a more severe punishment than a petty thief. In a retributive framework, incorporating harm into the punishment calculus also makes sense philosophically. Recognition of harm emphasizes that crime does not merely violate a rule or code; it also affects both victims and society. Including harm in the calculus preserves human dignity because doing so not only recognizes the consequence of an offender's free will, but also considers the offense as an injury to another person.
2. As a criminology student, I believe the most effective way of punishing or treating capital offenders is through incarceration. Incarceration basically connotes the confinement of a person to a particular place (prison) for a period of time, it is the act of putting or keeping someone in prison or in a place used as a prison/the act of keeping someone in a closed place and preventing them from leaving it. I choose this as the most effective means due to the following reasons:
3. Rehabilitation: incarceration of criminals allows for them to spend time to reflect on their wrongdoings and the isolation leaves them mentally vulnerable to adapt to a more acceptable way of life that would be imbibed in them at the prison.
4. Incarceration isolates the offenders from the law abiding citizens of the country thereby reducing the crime rates in the country by isolating each criminal one at a time.
5. Restriction of their freedoms would encourage the offenders to strive to be better citizens in order to earn those freedoms back and not to perform criminal activities again.
6. It serves as a deterrent to other potential offenders who once they see others receiving this as punishment would not want to participate in capital offences so as to not end up like them.
7. Yes, my answer would still be the same if the accused was charged with a criminal offence.