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**PURPOSE OF THIS PAPER- ASSIGNMENT**

**NUMBER 1**

What motivates the ‘just desert’ principle of punishment, discuss

It is highly mandatory to firstly, understand and gain insight on the term ‘just dessert punishment’ before elaborating and going deeper.

To a simple layman, the term ‘just desert’ could simply mean mild, gentle, easy or even a piece of cake as an idiom. This is only entirely correct to an extent. According to Wiktionary this term is a punishment or reward that is considered to be what the recipient deserved.it may appear that they are getting ahead by cheating, but they will get their just deserts eventually. it refers to that in conduct or character which deserves reward or punishment, or to that which is deserved; ‘a due reward or recompense, whether good or evil’. Both criminal law and criminology are concerned with punishment rather than reward. This helps in correcting the offender and making him face the consequences in the right amount. ‘desert’ is a substantive derived from an obsolete past participle of the old French verb, ‘deservir’ which means to deserve. It refers to that in conduct or character which deserves reward or punishment, or to that which is deserved; ‘a due reward for recompense. Whether good or evil’. The concept of desert usually associated with retributive theories of punishment. Retribution, as the term ordinarily is understood, means punishment imposed because an offender deserves it. Such punishment is never supposed to be inflicted ‘merely as a means of furthering some extraneous good for the criminal himself or for the civil society’. Desert-based punishment is generally opposed, in this respect, to punishment imposed for utilitarian purposes. It also is supposed to be commensurate with the evil represented by the crime itself. It is supposed to be meted out in more or less definite does proportioned to the nature of the crime, and to avoid the kind of apparently arbitrary individualization that occurs when efforts are made to tailor punishment to fit the offender rather than the offense, this could also be a disadvantage of this punishment. Therefore, to a criminologist, this form of punishment is similar to the phrase, ‘tit for tat’. That is, the offender automatically gets the kind of punishment similar to the gravity of his offence or crime committed. Nothing more and nothing less. In just desert theory, desert and deterrence are both essential features and the concept of desert is the only good means of connecting punishment and justice.

Going further, what **MOTIVATES** a person’s desire to punish actors who commit intentional, counternormative harms. Two possible answers are as just desert motive or a desire to incarcerate the actor so that he cannot be a further damage or danger to the society. Research participants in two experiments assigned punishments to actors whose offenses were varied with respect to the moral seriousness of the offense and the likelihood that the perpetrator would commit similar future offenses. Respondents increased the punishment as the seriousness of the offense increased, but their sentences were not affected by variations in the likelihood of committing future offenses, suggesting that the just deserts was the primary sentencing motive. Only in a case in which a brain tumor was identified as the cause of an actor’s violent action, a case that does not fit the standard prototype of a crime intentionally committed, did respondents show a desire to incarcerate the actor in order to prevent future harms rather than assigning a just deserts based punishments. One popular justification for punishment is the just deserts rationale; a person deserves punishment proportionate to the moral wrong committed. A competing justification is the deterrence rationale, punishing an offender reduces the frequency and likelihood of future offenses. the motivation underlying laypeople’s use of punishment for prototypical wrongs could be due to high sensitivity to factors uniquely associated with the just deserts perspectives. For example, offense seriousness, moral trespass. And also insensitivity to factors associated with deterrence. For example, likelihood of detection, offense frequency. One popular justification for the use of the just desert method is because, a person deserves punishment proportionate to the moral wrong committed. It promotes equality and fairness of sentencing for the imposition of a sentence. This method of punishment ensures that the offender is not brutally punished and made to go through crucial situations diverse from the crime committed. For example, the crime of a simple assault like sneaking up on a person causing apprehension of fear should be given the same punishments or perspectives as the crime of rape or murder. Also, the punishment of the offender must be fairly and equally apportioned to all individuals who commit the same crime. Another good reason which motivates the use of the desert form of punishment is the benefit it has in the aspect of justice. According to some contemporary theories of justice, often referred to as ‘pluralist’ theories, desert is one among other important conceptual components of justice. Whether and to what extent desert is relevant to justice depends on the context in which the judgement is being made. And, when desert conflicts with the other components of justice, it must be measured against them in order to determine what justice requires.

In conclusion, it can be said that the just desert method of punishment is motivated by its efficiency and stability. It is a very effective and straightforward way of punishing offenders and reducing crime rate as well. It also aids an organized and adequately planned way of punishment, it reduces long deliberations by the court or society as a whole because punishment that should be ascribed is in relation to the type of crime committed. It is a fast and speedy way of ascertaining and giving out punishments or judgement without confusion. It is also known as ‘retributive type of sentencing’ and through out history, the idea of retribution for the commission of a crime can be explained in the Old Testament quote ‘an eye for an eye’. ‘a tooth for a tooth’. This method of punishment can not be said to be bias either as those who are automatically supposed to be punished are punished with the punishment that fits the crime.

Number 2

As a criminology student, what do you think is the most effective way of punishing and treating capital offenders. Give reasons for your answer

A capital offense is a crime committed by a capital offender. A capital offense is any criminal charge which is punishable by the death penalty called ‘capital’ since the defendant could lose his\her head [latin for caput]. Crimes punishable by death vary from state to state. Capital offenders usually commit grave offences like murder or rape. The best way to punish capital offenders is not by death but by incapacitation and rehabilitation. The punishment of death is so swift that the offender himself might not realize the weight of the terrible offense he committed and would not live to regret or pay for the offense. Death does not give justice to the victim rather, factually speaking it basically brings indirect peace to the offender. In some cases, research has even shown that some criminals would still rather commit the offence or continue to commit the offence due to the fact that they would not live to witness the consequences or aftermath or results of their actions, therefore in a situation whereby the defendant or criminal claims to have done the capital offence as a means of revenge, it would be carried out successfully with an organized mindset of an easy go without painful, long lasting karma which is more drastic. With the punishment of incapacitation the offender remembers his offence every single day realizing that he caused everything imposed on his life including the restrictions which could be the most painful thing to any human being. Restriction to movement or even normal daily activities could be not only physically traumatizing but also psychologically traumatizing. THE HAPPENINGS IN THE WORLD PRESENTLY IS A VERY GOOD EXAMPLE. This could also make the offender to extensively wish he did things better and corrected his ways, carried his action out in a better and more humane way as individuals all over the world right now are doing. Although what is going on is not a punishment but it is a very good illustration of the effect of incapacitation on an offender. It is very important.

Rehabilitation is another good way for punishment and it could go hand in hand with incapacitation to bring out the best results from the offender. The aim of criminology should not only be centered around punishing offenders for committing crime because this only solves half of the problem. Doing this still leaves a deep wound untreated and unhealed, it only covers the wound for a period of time. Punishing an offender does not teach him and correct his ways completely because there is a high possibility that he would still remain un aware of the gravity and actual consequences of what he has done also due to the stiff and harsh ways of punishment ascribed and also the society, environment, background, friends family, ignorance, illiteracy and even mental and emotional well being or overall health. With the aid of rehabilitation, the criminal is under serious control and observance, he is taught and corrected, enlightened about the crime and more importantly, he is carefully and slowly taught on how to abstain from committing the crime in case study along many other criminal activities. He is also moulded gradually into a better human being, physically, emotionally, socially, academically and sometimes religiously. Although it is a gradual process it is very much worth it and appreciated. He becomes more aware of the reason he is being rehabilitated day by day. This also helps the society and nation as a whole because criminals or ex criminals so to say are being corrected and empowered reducing the amount of crime rate which happens on a daily basis. They come out a better person, smarter and aware of what is actually right and what is actually wrong, what would benefit them and what would not. Rehabilitation is a method which can be used for any capital offence. It can be used for sexual offenders, drug addicts whose real problem could be psychological, murderers and many more.

A short note on incapacitation and rehabilitation for better insight on how it works and why it should be the most appropriate and best method**. Incapacitation** is attributed by the justification of punishment founded on the assumption that the isolation of an offender renders him incapable of committing crime and rigs the society of evil, the idea of incapacitation is to prevent or reduce the possibility of future crimes by those convicted. An individual can be incapacitated temporarily or permanently. Temporary incapacitation involves the idea of keeping the criminal imprisoned for a term and liberty is curtailed and on permanent supervision and surveillance. Permanent incapacitation on the other hand includes, amputation of hands or wrists for thieves, castration for rapists, life imprisonment for chronic and violent offenders. The idea of permanent type is to completely eliminate the perceived dangerous persons from the society.

**Rehabilitation** now, can be seen as the MOST APPEALING JUSTIFICATION FOR PUNISHMENT. It restores the offender to a constructive place in the society. The inquiry of rehabilitation is not into how dangerous the offender is but into how receptive to treatment he is. It creates resources for the state for training the offender. it also enables the criminal to stay within the society, for example, probation.

In conclusion, it is of no confusing doubt that these two methods of punishing or treating offenders if synchronized would bring out excellent results for the society and its inhabitants and most especially, the criminal or offender as an individual. No one deserves to be brutally killed or mal treated unless instructed by God himself.

NUMBER 3

Will your answer be the same if the accused was charged for a simple offense

A simple offence is defined as any offence [indictable or not] punishable, on summary conviction before a magistrates court, by fine, imprisonment. Examples include; disorderly conduct, minor criminal damage to property, driving under the influence of drugs or alcohol. People charged with summary conviction must be tried in a magistrate court. Although, crimes should be regarded as crimes, and all crimes affect both the individual, victim and even society negatively, some crimes factually speaking cannot be given the same seriousness or attention as some particular crimes especially in the 21st century which we are in, therefore, punishments differ. If a person is charged with a simple offense I would advise on fines because of the gravity of the offence, partiality shouldn’t be the order of the day. Also because most times, research has confirmed that the victims are usually first time offenders and the court also takes that into consideration. It is a monetary charge imposed upon individuals who have been convicted of a crime. Especially simple offences. SECTION 382 OF THE CRIMINAL PROCEDURE ACT, SECTION 316 OF THE ACJL 2011 [LAGOS STATE], SECTION 23 OF THE CPC AND SECTION 422 OF THE ACJA 2015; These sections provide for discretionary power of a court to impose fine in place of imprisonment. Furthermore, SECTION 390 [3] of the CPA provides that the fine in Nigerian court MUST BE APPROPRIATE NOT ONLY TO THE OFFENCE BUT ALSO TO MEANS OF THE OFFENDER TO PAY. As seen in the case of GOKE VS POLICE 1957, the court put into consideration their means of income as elderly men and reduced the fine to N100 instead of N200. Fine imposed is to serve as warning and deterrence to simple offenders.