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**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?

## DEFINITION OF JUST DESERT PRINCIPLE

Just desert is a theory which is designed to promote equality and fairness of sentencing for the imposition of a sentence. The principle behind it is that the punishment should fit the crime. When such an instance occurs, it is said that the offender has received their 'just deserts'. The principle requires the punishment to be proportioned to the unfair advantage the offender has taken by law breaking. The philosophy behind the just desert mode of justice is the saying "let the punishment fit the crime". It is also referred to as 'deservingness perspective' or sometimes referred to as the 'retribution' type of sentencing.

In other words, one should be punished simply because one committed a crime. Under just deserts, those who commit crimes deserve to be punished. Moreover, the severity of the punishment should be commensurate with the severity of the crime. That means, the punishment should fit the crime.

In addition, according to just deserts, the punishment of the offender must be fairly and equally apportioned to all individuals who commit the same crimes. This can sometimes be a controversial area of the theory, as the circumstances surrounding the commission of crimes vary; therefore, the equality of the punishment can be a tricky area.

The theory advocates that punishment should be proportionate to the seriousness of the offense committed. Advocates of the just deserts philosophy emphasize the importance of due process and determinate sentences. The frequency and visibility of crimes are linked to the severity of punishment. Punishing an offender reduces the frequency and likelihood of future offenses.

## WHAT MOTIVATES THE 'JUST DESERT' PRINCIPLE?

Personally, I believe what motivates this principle is the fact that when a perpetrator harms the society by violating its rules in some way that isn't allowed, the scales of justice are not of balance, and sanctions against that individual restore the balance in the scale. Under this perspective, the perpetrator deserves to be punished in proportion to the past harm that was committed by he/she. The punishment is an end in itself and needs no justification. This brings about justice, equality and fairness. The party harmed becomes more at ease with the fact that he knows that the criminal is being punished fairly and accordingly.

It is focused on the punishment fitting the crime because it would be unfair not to punish an offender accordingly; it just doesn't sit well when a criminal is allowed to go without being punished. Even though others who are religiously inclined believe that a crime is a crime, which means that there is no big sin/crime or small sin/crime. A lot of people beg to differ because this is based on morals not religion and so therefore there are different levels of crime that's why there are also different punishments allocated for different types of crimes. There's simple offences, misdemeanors and felonies and there are different crimes that fit into each category and their respective punishments. Some crimes obviously have more effect on the victim than others. For instance, a child trafficker and murderer cannot be punished the same.

way as someone who was driving around without a license, it will be totally unfair and unjust. Justice can be done through the just desert principle

### MOST EFFECTIVE WAY OF PUNISHING AND TREATING OFFENDERS

#### **(i) Rehabilitation**

This can be defined as the most appealing justification for punishment, the ultimate goal is to restore a convicted offender to a constructive place in the society through some combination of treatment, education and training. It is a care that can help you get back, or improve abilities that you need for daily life and growth. These abilities may be physical, mental or cognitive (thinking and learning)

It generally involves psychological approaches which target the cognitive distortions associated with specific kinds of crime committed by particular offenders but may also involve more general education such as literacy skills and work training. The goal is to re-integrate offenders back into society.

Rehabilitation is like the act of restoring something and making it better. It is effective because;

- a. It may be used to prevent crime by changing the personality of the offender for the better.
- b. The inquiry of rehabilitation isn't into how dangerous the offender is but rather into how receptive to treatment he is.
- c. Enables the criminal to be able to stay within the society during the period of probation.
- d. Rehabilitating the criminal provides the state with opportunity to control crime in the future.
- e. Gives one a chance to learn about his/her debilitating problems and offers for one to learn how to change their behavior in order not to commit crime.
- f. Rehabilitation helps ease the offenders re-entry into society.

#### **(ii) NO**

If the accused was charged for a simple offence, my answer wouldn't be the same as the above because simple offences like driving without license, illegal wearing of army uniforms, disorderly conduct, minor criminal damage to property, driving without license etc doesn't require rehabilitation. The offenders can be warned not to repeat such behaviors and asked to pay fines or be imprisoned for a short while but not necessarily be rehabilitated. They are simple offenses and shouldn't require rehabilitation even though rehabilitation is an effective punishment for offenders.