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**CRIMINOLOGY II**

**17/LAW01/226**

1. What motivates the ‘just desert’ principle of punishment? Discuss
2. 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?

**ABSTRACT**

What motivates a person's desire to punish actors who commit intentional, counter normative harms? Two possible answers are a just deserts motive or a desire to incarcerate the actor so that he cannot be a further danger to society. Just deserts, as a philosophy of punishment, argues that criminal sanctions should be commensurate with the seriousness of the offence. This paper analyzes the severity of punishment meted out to felony offender.

1. **What motivates the ‘just desert’ principle of punishment?**

For many years offender have been given punishment that’s more than the severity of the offence. There has been a problem on how much punishment should be inflicted on offenders. Under the retributive theory there’s is a concept of ‘just desert’ also know as the proportionate theory. This principle tends to addresses the issue on how much punishment should be inflicted on offenders and the answer given the punishment must be equal to the seriousness of the crime.

**What is Just Desert principle of punishment?**

The “****just deserts”**** theory advocates that punishment should be proportionate to the seriousness of the offence committed. 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. This concept differs radically from the theories of rehabilitation and deterrence.

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 offence. Grave offences merit severe penalties; minor offences deserve lenient punishments.

1. **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**

In most society today there are rules that has been codified and set as laws whose main purpose is the maintenance of order among human beings. Violation of this laws call a societal reaction and in most case societal reaction takes form of punishment.

**Punishment** can be defined as the affliction of pain of someone convicted. Punishment, in criminology, is punishment for crime, imposed by the judiciary in accordance with penal law, and administered by penal institutions such as prisons and the probation service.

Crimes that are punishable by death are known as capital offences, offences such as murder, aggravated cases of rape, treason and so on depending on the jurisdiction.

**PUNISHING CAPITAL OFFENDERS**

The death penalty is seen as the effective way dealing with capitial offences.

In Nigeria, offences are classified as simple, misdemeanours and felonies. Felonies are the most serious offences and it includes capital offences. Some capital offences have capital punishment in Nigeria, e.g. offences of murder, homicide (under the Penal Code), treason, instigating invasion of Nigeria, among others. Recently, in Nigeria, the offence of kidnapping was made a capital offence by some states with death as penalty on conviction.

The judge’s power to sentence is limited to imposition of capital punishment once the

accused person is found guilty of a capital offence. Furthermore, the legality of capital

punishment is well grounded in the Constitution of the Federal Republic of Nigeria (as amended) 1999. Thus, section 33(1) of the Nigerian Constitution provides thus:

*Every person has a right to life, and no one shall be deprived intentionally his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.*

The implication of this provision of the constitution is that d**eath penalty is a legal form of punishmen**t when it is carried out in the execution of a sentence of court of competent jurisdiction in respect of a criminal offence for which a person has been found guilty in Nigeria. There are however exceptions to the general rule of the imposition of capital punishment.

**Mode of execution**

1 by lethal injection

2 by hanging

3 by electrocution

4 by firing squad

**Deterrence**: The death penalty is also justified because of its deterrent effect, which saves the lives of innocent persons by discouraging potential murderers. Capital punishment is the most effective deterrent for the offence of murder, etc. Death penalty deters crime, prevents recidivism and that it is an appropriate form of punishment

**Incapacitation:** Capital punishment also serves to effectively prevent murderers from killing again. This incapacitation effect is particularly important because of the continuing risk posed by those who have already taken a human life.

**TREATING CAPITAL OFFENDER**

Rehabilitation can be seen as the most effective way. Rehabilitation focuses on returning the criminal back into the community by helping them change into a productive member; and therefore, the logic says they will not commit crime again. I like to think that all people are capable of change. Rehabilitation gives them that option, but many people either choose not to change or are incapable of it. Almost all incarcerated offenders are eventually released back into the community. The most effective treatment programs follow three basic principles:

1. Treatment provided to offenders who are at higher risk to re-offend is more effective than treatment provided to lower risk offenders.
2. Treatment programs that target those needs associated with criminal behaviour such as antisocial attitudes, substance abuse, and associations with criminal peers, are more effective than treatment programs that target needs such as anxiety, self-esteem, or depression.
3. Treatment programs are more effective when they are delivered in a way that is responsive to the offender's style of learning, using cognitive-behavioural interventions that change attitudes and teach concrete skills. However, there is little evidence indicating how long these treatment programs need to be in order to have an impact.

**2b) Will your answer be the same if the accused was charged for a simple offence?**

No, simple offence can be punished by fine, imprisonment and community services.