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Answer.

(Question 1)

WHAT IS JUST DESERT?

Just desert is defined as a punishment or reward that is considered to be what the recipient deserved. The word ‘Just’ in this context means “fair” and the word ‘desert’ means deserved reward or punishment. A punishment is just if it recognizes the seriousness of the crime.

Just desert is a theory with the sole purpose of promoting equality and fairness of sentencing for the imposition of a sentence. The aim of this principle is to ensure that the punishment given to an offender found guilty of charges brought against him is proportionate to the crime i.e the punishment should not be more or less than the crime committed instead it should be equal. The phrase *Let the punishment fit the crime’*is a generally accepted and sound criminal principle and that is what this theory posits. This phrase constitutes the idea of a fair and appropriate punishment related to the severity of the crime that was committed.

Just desert is also known as the proportionality principle under Retribution theory. The old biblical phrase “an eye for an eye” is the summary of retributive punishment but retribution as just desert is was way of restoring balance and ensuring that an offender is not punished unjustly, that the punishment imposed an offender will correspond with the crimes committed. This was a way of restoring justice and it was regarded as effective.

Conclusion

 The belief one can construe from this principle is it’s quest to establish a just and adequate sentencing in the criminal justice system and this is so because the sole purpose of a criminal justice system is to apprehend and convict criminals. This theory sets out to ensure the punishment fits the crime and that a person should be punished because he committed a crime and not for any other selfish, personal or absurd reason. This entails that a punishment should be fair and appropriate i.e not more or less and it should match the severity of the crime.

(Question 2)

Introduction

In most parts of the world today, rules have been codified and set as laws for the citizens to abide by, these rules have been put in place by the government to ensure the maintenance of peace, law and order in the society. Hence, the violation of these rules by an individual demands a societal reaction which in most cases is in form of a punishment, these punishments are also codified in statutes such as the; Constitution of the federal republic of Nigeria(CFRN) 1999, Criminal code, penal code etc.

WHAT IS PUNISHMENT?

Every society, throughout history and across the world, has unique ideas about the meaning of these concept.

Punishment can be defined as the infliction of pain by the state on someone convicted of an offense. It can also be defined as the infliction or imposition of a penalty as retribution for an offense. Punishment is imposed for several reason but they all have one thing in common which is to discipline criminal offenders and deter the general public from violating rules and regulations put in place to protect lives and properties.

Globally, it can be argued that there are five types of punishments namely:

* Incapacitation. Incapacitation seeks to prevent future crime by physically moving criminals away from society.
* Deterrence: This seeks to deter the general public and possible offenders or reoffends from committing more crimes
* Retribution: Retribution prevents crime by giving victims or society a certain sense of satisfaction that a defendant has been punished appropriately, reinforcing the belief that the criminal justice system is working effectively.
* Rehabilitation: The aim of rehabilitation is to cause the offender to feel remorse within self and help them repress the barriers that led them to committing criminal acts. This takes the form of getting familiar with occupational skills, going to rehab etc.
* Restoration: A radically different approach to criminal punishment, the goal of restoration is for the offender to make direct amends to both the victim and the community in which the crime was committed.

An important observation to be conscious of is the fact that the ways in which an offender is punished falls under the types of punishment. For instance, death penalty is one of the many ways of incapacitation, imposing fines can be seen as deterrent type of punishment.

According to PARKER, elements of punishments include the following:

1. It must involve pain or some other consequence normally considered unpleasant.
2. It must be for an offense against legal rules.
3. It must be imposed on an actual offender for his offense
4. It must be properly administered by human beings other than the offender
5. It must be imposed and administered by the authority constituted by a legal system against which the offense is committed.

WHAT ARE CAPITAL OFFENSES?

Capital offense any criminal charge which is punishable by the death penalty. Capital offenses include murder, treason, rape and these offenses often attract the death penalty which is the capital punishment.

In my opinion, it is impossible to pick or say one method of punishment is better than the other. In the criminal justice system, a lot goes into consideration such as facts of the case, nature of the offense, character of the offender etc before the court arrives at a verdict or decides the kind of punishment the offender should receive. For instance, in the case of involuntary murder(manslaughter) either by provocation or automobile which is committed in the heat of the moment, the defendant tends to get a lesser sentence than a person guilty of murder. Provocation is a fact to the case and it distinguishes it from murder. We also have those who commit capital offense due to their abnormal mental state and there are those individuals who are no strangers to the courtroom, they have been punished by the law several times either by imprisonments or fine yet they keep committing more crimes, is that to say that imprisonment is not effective? So it is inconsiderate to say one way of punishment is the best as it might not be effective on all offenders.

There are different ways of punishing capital offenders and these includes:

1) Death penalty 2) imprisonments 3) rehabilitation etc

1. The death penalty is the capital punishment and these can be carried out in various ways such as lethal injection (this is one of the most common modes of execution), electrocution, firing squad, hanging etc. In many countries death sentences are not carried out immediately after they are imposed; there is often a long period of uncertainty for the convicted while their cases are appealed. Inmates awaiting execution live on what has been called “death row”.

Capital punishment is the most effective deterrentfor the offense of murder, etc. A capital sentence is certainly the most feared penalty. The lengths to which convicted murderers go to avoidimposition of this sentence clearly demonstrates this fact. The death penalty may not deter all murderers, however, a capital penalty is more severe than any other penalty, and it could be assumed that it will deter some potential murderers from committing the offense. Research has shown that majority of Nigerians favour retention of death penalty.  Death penalty deters crime, prevents recidivism and that it is an appropriate form of punishment for the crime of murder.  To Chinwe C. C., the overall rationale of Nigerian cases upholding the death penalty is the values of the punishment in deterrence. He cites the decision of Fabiyi J.C.A, in **Akinyemi .v. State** on the propriety, justification of death sentence where the court concluded by holding

*“the sentence was well pronounced for the capital offenses...it is good law to serve as deterrence in a mundane society where heartless and dangerous citizens abound in plenty”*. Be that as it may, statistics have shown that some of the countries who have adopted the death penalty still have an increased crime rate. Some criminals know this is their fate so they go about causing havoc because they have made peace with themselves and are ready to die, to them death is not a punishment if anything it is an easy way out for them, a means to free their spirit.

We cannot say this is the most effective way of punishment or treatment because it doesn’t cause all persons to conform to the laid down rules but it is one of the effective ways of punishing.

2. Imprisonments: According to Wikipedia, this is the specific state of being physically incarcerated or confined in an institutional setting such as prison. Imprisonments can be defined as a term of judicial sentence available for a convicted offender of an adult age involving incarceration in prison either for a period of time or for life(life imprisonments). It can also be said to be the the state of being held in lawful custody. Sentencing an offender to life imprisonment is also a means of punishment. In prison your life is on hold, literally everything you’ve worked for on the outside world holds no meaning once you step into those prison walls, the mere thought of losing many years of your life scare criminals and causes them and those about to commit crimes to deter from those unlawful acts.

Imprisonments has kept series of offenders off the streets but crimes are still being committed. These reoccurring crimes do not invalidate or cancel the effectiveness of this means of punishment, it just goes to prove that it cannot be 100% effective.

3. Rehabilitation: : The aim of rehabilitation is to cause the offender to feel remorse within self and help them repress the barriers that led them to committing criminal acts, to restore the offender to a constructive place in the society through some combination of education treatment and skill acquisition. Not every person who commits crime is a criminal some of them are just victims of circumstance while others have a condition that may have rendered useless in such a way that they could not comprehend certain acts were wrong when committed. Rehabilitation causes an offender to feel remorse, it helps them realize their wrongs and hopefully grooms them into law abiding citizens. Although this punishment is at the discretion of the judge, it has been proven to be effective. Rehabilitation helps offenders realize that their is more to lose and less to gain from committing crimes, this causes them to reevaluate their lives and think of way to give back to the society.

Conclusion

There are several types of crime and these crimes are committed in different ways by different individuals, it is highly unreasonable in my opinion to say that a particular method is the most effective way of punishment. Every way of punishment is as effective as the other when applied properly to a case.

(Question 2b)

No, my answer would differ if it was a simple offense.

WHAT IS A SIMPLE OFFENSE?

All other offenses other than felonies and misdemeanors are simple offenses, that is offenses punishable with less than 6 months imprisonment.

The word ‘simple offense’ is quite self explanatory even to a layman, this means the crime committed is not grave and is one of minor nature. Simple offense are as follows:

i. contempt in court

ii.Obstructing postal mails. S. 172 C. C.
iii. Unlawful wearing of army uniform. S.. 110 C.C.
iv. Selling army uniform to unauthorized persons. S. 111 C.C.

From the above offenses listed, We can all see that these crimes cause little or no harm to an individual but is a mere violation of rules and regulations stipulated by the government. Therefore, it is absurd and highly unethical to impose capital punishments on persons charged with simple offenses.