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ASSIGNMENT TITLE: PUNISHMENT

(1)

Punishment is the imposition of an undesirable or unpleasant outcome upon a group or individual, meted out by an authority in contexts ranging from child discipline to criminal law as a response and deterrent to a particular action or behavior that is deemed undesirable or unacceptable.

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**'. One popular justification for punishment is the **just deserts** rationale: A person deserves **punishment proportionate** to the moral wrong committed. A principal rationale of just deserts is proportional sentencing, in which equal punishment for equal crime means not that the punishment should be exactly like the crime, but that the ratio of sanction severity should have a corresponding set of ratios of crime seriousness.

The theory of just deserts is retrospective rather than prospective. Although it is certainly preferable that the punishment serve a secondary function of inhibiting future harm doing, its justification lies in righting a wrong, not in achieving some future benefit. The central precept of just deserts theory is that the punishment be proportionate to the harm. Retribution is a theory of punishment founded on the belief that those who commit crimes should be punished which is similar to the just desert theory, and that the severity of the punishment should be proportional to the crime committed. In its application, however, proportionality cannot be so easily measured, and this can cause a disparity between theory and practice.

Moreover, the just desert theory of punishment seeks to address certain questions such as;

- 1) what is the justification for having a system or institution of punishment at all?
- 3) Who should be punished?
- 3) How much should offenders be punished or, how should a punishment schedule be determined?
- 4) How much punishment should a particular offender receive? The theory certainly gives answers to all these questions.

The theory however has a number of shortcoming which are; the fact that the person who has committed a crime does not always mean that the person has a criminal mind or is inclined to evil, the victim may not be interested in revenge and there is no full proof method of determining those who are guilty.

In conclusion, the just desert theory may be viewed as a very standard theory of punishment. However, following the inconclusiveness of the theory, it is trite that all theories and forms of punishment should be considered and possibly combined in the establishment of criminal justice. This is because; dependence on a single theory or form of punishment may lead to unjust and unfair punishment, improper sentencing and possibly unnecessarily prolonged sentences. It may

further lead to failure in the deterrence of crime if the sentencing procedures and criminal justice is perceived as unstable.

(2)(a)

A capital offense is an offence that carries the possibility of a death sentence. Offenses such as murder, treason, treachery, directing and controlling or presiding at an unlawful trial by ordeal from which death results, and conviction for armed robbery.

In my opinion as a criminology student, I think **death penalty** is the most effective way of punishing and treating capital offenders **reasons** being, murder for instance, the murderer has deprived the victim his right to life and he deserves to be deprived also, it is cheaper and more humane to execute people, it is morally just etc

The death penalty has been regarded as a retributive measure. Accordingly, the criminal should die for the crime he has committed. Allowing him to go free is to make him a threat to others. Just as the individual has the right to safeguard as well as take his life whenever he pleases, the state has the right and duty to take the life of a citizen in order to increase its welfare. There is no credible evidence that the death penalty deters crime more effectively than long terms of imprisonment. States that have death penalty laws do not have lower crime rates or murder rates than states without such laws.

A crime cannot be made a capital offence if it is not gravely injurious to the society and its values, thus if a person is found guilty of a capital offence, he is deemed to be injurious to the society. In accordance with this, the event of a death penalty is irreversible so the court must put in considerable effort to ensure that the accused is guilty beyond reasonable doubt, totally and actually guilty to avoid finger pointing at the law.

However, when the offence is not so terribly grave or where the state doesn't deem it necessary to be rid of the offender or if the state can reasonably deduce that the offender can be changed, it may impose a punishment of imprisonment instead of death. Imprisonment in the law is the specific state of being physically incarcerated or confined in an institutional setting such as a prison. It is the act of taking away someone's freedom, restraining someone against his will. In this situation, it means the offender will be locked up in a prison and restrained from having full contact with the general society.

The term of imprisonment may vary depending on the provision of the law on the criminal act. Prisons are the most unsuccessful institution to carry out their actual purpose of ultimately rehabilitating convicts to eventually become law abiding citizens and productive members of society. The Nigerian system should help upgrade the prisons in order to rehabilitate and reform offenders, By using a nonviolent form of rehabilitation, they'll be able to return to society as

normal citizens. When people are punished, they often learn nothing. Increasing punishments would only expose the criminal to the revengeful, so if the prisons are being upgraded and the prisoners are being rehabilitated it increases the chance that they'll reflect those principles in the community once they've been released.

(b)

No, my answer will not be the same if the accused was charged for a simple offense.

Simple offences are those **offences** other than **felony** and **misdemeanor**. They are often punished with an imprisonment of less than 6 months. Examples are disorderly conduct, minor criminal damage to property, driving under the influence of alcohol or drugs. People who are charged with a summary offence must be tried in a magistrate's court. The following are few ways of treating or punishing an accused charged for a simple offense; imprisonment, rehabilitation, fines, community service, caning etc.

The following are reasons why the death penalty would not be suitable or appropriate for simple offences:

- 1) Death penalty is not a more effective deterrent than the alternative sanction of life or long-term imprisonment.
- 2) Errors are inevitable even in a well-run criminal justice system.
- 3) When it is used for lesser crimes, it is immoral because it is wholly disproportionate to the harm done.
- 4) Capital punishment violates the condemned person's right to life and is fundamentally inhumane and degrading.