

**NAME:** CHIKERE HOMACHIMENUM

**MATRIC NO:** 17/LAW01/083

**LEVEL:** 300 LVL

**COURSE CODE:** LPI304

**COURSE TITLE:** CRIMINOLOGY II

**LECTURER(S):** MR FABAMISE, MR  
FISAYO AND MISS VERA

Question:

- 1) What motivates the 'just desert' principle of punishment? Discuss
- 2a) As a criminology student, what do you think is the most effective way for punishing and treating capital offenders. Give reason(s) for your answer
- 2b) Will your answer be the same if the accused was charged for a simple offence?

## QUESTION 1

Introduction: There are many situations in which people wish to punish another. When a person is unjustly harmed through assault or robbery, people typically experience a strong desire to punish the offender. From a psychological point of view, what is the source of this motivation, the justification for this behavior? When people, as voters, jurors, and citizens, exact punishment from a perpetrator for violating societal norms, what are they trying to achieve? In short, why does society punish? One popular justification for punishment is the just deserts rationale. Another, is the deterrence principle. But in answering this question our focus is on the just desert rationale.

**Just desert principle (Definition):** The just desert principle can simply be defined as a principle of punishment or justification that says that a person deserves punishment proportionate to the moral wrong committed. Just deserts is sometimes referred to as the 'retribution' type of sentencing. In other words, one should be punished simply because one committed a crime

**Retribution and the just desert principle:** The just desert principle stems from the punishment theory of retribution. Retribution means giving the offenders the punishment that they deserve. Most adherent to this idea believe that the punishment should fit the offence. This idea is known as the doctrine of proportionality. Such a doctrine was advocated by early Italian criminologist Cesare Beccaria who viewed the harsh punishments of his day as being disproportionate to many of the crimes committed. The term just desert is often used to describe a deserved punishment to the crime committed. This theory therefore advocates for the 'an eye for an eye, a tooth for a tooth' saying.

**Just Deserts Theory Explained:** The theory of just deserts is retrospective rather than prospective. The punisher need not be concerned with future outcomes, only with providing punishment appropriate to the given harm. 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. The task of a just deserts theorist, then, is to assess the magnitude of the harm and to devise a punishment that is proportionate in severity, if not in kind. Kant (1952) recommended censure proportionate to a perpetrator's "internal wickedness," a quantity that may be approximated by society's sense of moral outrage over the crime. There are several core components of an offense that determine moral outrage and the magnitude of punishment according to just deserts theory. It is these factors, then, that should trigger the motive to punish if people adhere to a just deserts theory of punishment. Magnitude of harm. First and perhaps most important is the magnitude of intended harm. This is indexed most typically by the type of crime (e.g., petty theft, felonious assault) and the degree to which it offends the sensibilities of citizens. A growing body of research demonstrates the considerable consensus regarding the rank ordered severity of various offenses. Extenuating circumstances. Second, mitigating or exacerbating circumstances often affect the moral outrage felt by citizens and, hence, the magnitude of punishment that is called for under the just deserts theory. A person who embezzles to maintain a lavish and lascivious lifestyle is judged more harshly than one who embezzles to maintain a lavish and lascivious lifestyle is judged more harshly than one who embezzles the same amount for the relatively noble purpose of subsidizing the company's underpaid and exploited overseas workers. Although the amount of harm is constant in this example, the

punishment is not. Just deserts theory is highly sensitive to such contextual factors that mitigate or exacerbate the degree to which a perpetrator deserves punishment a fully formed theory of just deserts is concerned with more than just these factors.

## QUESTION 2 A.

**Definition of punishment:** A basic definition of punishment is that it involves the deliberate infliction of suffering on a supposed or actual offender for an offense such as a moral or legal transgression. When imposing punishments, governments have a range of options that differ in severity. At the low end, punishments of community service require offenders to participate in some activity that benefits their local community, such as picking up litter, working at animal shelters, or assisting nonprofit organizations. Financial penalties, such as fines, are common particularly with non-violent crimes. Acts of public humiliation, while more common in previous eras, and are still sentencing options today, such as when convicted drunk drivers are required to put DWI stickers on their cars. The use of corporal punishment, such as caning, is still an option in some countries today. Incarceration in jail or prison is among the harshest form of punishment because of the serious restrictions that it places on the offender's liberty. Many harsh forms of punishment that were commonplace in the past have since been banned in most countries.

Under *Section 17 of the Criminal Code*, forms of punishment include the following: Death penalty, imprisonment, fine, caning and forfeiture. Other forms of punishment include deportation, probation and community service.

**What is a capital offence:** A capital offence is a criminal offence for which the punishment, or one of the punishments, is death or capital punishment. These offences vary depending on the jurisdiction. Generally, they include murder, treason and armed robbery.

**In my opinion,** the most effective punishment that would both treat and punish an offender is imprisonment (Note that at the moment, capital offences carry death penalty. This is just an opinion). I will therefore explain the two punishments that are applicable for capital offences (Death penalty and imprisonment)

Death penalty refers to offences that are punishable by death across the federation. Offences of death include murder, treason and armed robbery. Murder (*Section 319 of the Criminal Code Act*), Treason (*Section 37 of the Criminal Code*) and armed robbery (*Section 1 of the Armed Robbery and Firearms Special Provisions Act 2004*)

One of these punishments that may be considered as 'harsh' includes capital punishment otherwise called the death penalty. Beccaria a famous criminologist was also adamantly opposed to the death penalty and felt that long term imprisonment was more effective than execution. The only exception, he believed, was with rebel leaders or criminal bosses who even behind bars continue to seriously disrupt society through their influence.

However, in my opinion as a criminology student punishment should be made to achieve both deterrence (general and specific) and also rehabilitate. The punishment that will suite these criteria is imprisonment.

Imprisonment can be defined as a term of judicial sentence available for a convicted offender of adult age involving incarceration in prison for either life, or a specified period of time. The law requires that imprisonment should only be imposed where it is necessary and will not exceed the specified time or period of sentence by the law. Imprisonment can run concurrently or consecutively. For Capital offences, imprisonment terms may run for long number of years and even life.

Conclusion: In my own opinion, long term imprisonment or life imprisonment is a more appropriate method of punishing an offender which will also treat him. Imprisonment is effective as it restricts the movement, freedom and liberty of the offender thereby punishing him while also rehabilitating him as he has corrected to an extent.

## QUESTION 2B

No, my answer will not be the same if the accused was charged for a simple offence. This is because simple offences are less serious offences.

Simple offences: Simple offences can be defined as all other offences other than felonies and misdemeanors. That is according to offences punishable with less than 6 months imprisonment. These include;

- Contempt of court.S133 of the Criminal Code
- Obstructing postal mails. S. 172 Criminal Code
- Unlawful wearing of army uniform S. 110 Criminal Code
- Selling Army Uniform to unauthorized persons S. 111 of the Criminal Code

Punishments that would be suitable for simple offences include:

Fines- This can be defined as a sum of money exacted as a penalty for an offence by a court of law or other authority. The Sections that apply to fines in Nigeria include *S382 of the CPA, Section 316 of the ACJL 2011 (Lagos State), Section 23 of the CPC, Section 422 of ACJA (2015)*. These sections provide for the discretionary power of the court to impose fine in place of imprisonment

Probation-Probation is a period of supervision over an offender ordered by the court instead of serving time in prison. Section 453-459 of the Administration of criminal Justice Act

Caning- In the northern states (Penal Code) it is known as haddi-lashing. In the eastern states only a juvenile can be caned. The offences that come under haddi-lashing include adultery, drinking alcohol and defamation

Community Service order- Here offenders are required to perform unpaid work for the community in which the offence has been committed for a certain period. This has been introduced in Lagos State. See *S347 (3) of the Administration of Criminal Justice Law 2011 (Lagos State)*

In conclusion, simple offences should not carry the same penalty as capital offences because they are lesser offences and don't deserve punishments as severe as capital offences .