

Name: Talson Nenrit Bege

Matric Number: 17/law01/275

Level: 300

Course Code: LPI 304

Course Title: Criminology

Assignment Title: Punishment

ASSIGNMENT QUESTION

1. What motivates the “just desert” principle of punishment? Discuss
 - 2a. As a criminology student, what do think is the most effective way of 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?

ANSWER

Introduction and Abstract:

The subject focus of this assignment is punishment. Punishment is under one of the major branches of criminology which is penology. Penology is an important aspect of the criminal justice process that is punishment, correction, prevention and control of crime. In almost all societies, there are regulations and rules that has been codified and laws which primary purpose is the maintenance of order among human beings, and the violation of these laws calls for societal reaction. The societal reaction usually takes the form of punishment. In Nigeria, the law provides specific punishments for different offences; I.e section 319 of the Criminal Code provides death penalty for the offence of murder. Formally, punishment can be defined as the infliction of pain or suffering or deprivation of something of value in relation to someone who has committed crime(s), violates rule(s), societal norms or regulations. According, Emily Durkheim, punishment is a passionate reaction of graduated intensity that society exercises through the medium of a body acting upon those of the members who have violated certain rules of conduct. To Emily Durkheim, it is the responsibility of the society to punish wrongdoers and it does so through a recognized body which exercises the authority to punish on behalf of the society.

Since from time immemorial, the term punishment has had significance, because man possesses the instincts which leads him towards an immediate destruction of those things or persons which harmed or threatened him or his property. The original known punishment for crime, specifically in the eighteenth century Europe, was a dreadful execution of criminals. Later, the confinement of criminals in geographically isolated penal colonies was introduced as an evolved form of punishment. Much later, prisons were created as types of punishment.

There are several views toward punishments. Some people perceive punishment as evil and unpleasant. It was the cruel, gruesome and unusual treatment of convict which primarily attracted the attention of Cesare Beccaria, and which eventually gave birth to the development of modern theories of punishment. These theories were embodied in codes of criminal law giving primary consideration to reform of the individual, suggesting that the function of a penalty for each crime should be to outweigh sufficiently the assumed advantages of specific crime. Neoclassical writers later emphasised that punishment should take into consideration mitigating circumstances and the different degrees of legal and moral responsibility of the criminal, such as the case of a child or an insane person.

Nevertheless, law itself is defined on the basis of the punishment attached to its violation therefore while there is no punishment without law as depicted by the Latin maxim "nulla poena sine lege", there is hardly any law without punishment. Importantly, the justifications of punishment are;

- a. it deter the offender and others from committing crimes. This idea is based on utilitarianism or pleasure-pain principle.
- b. Again, punishment serves as an treatment for offenders.
- c. More significantly, punishment is used as an instrument for societal change and development by making the rate of crime commission less.

1. In criminology, there are different philosophies of punishments, which are; retribution, incapacitation, deterrence, rehabilitation and restitution. The philosophy of retribution is revengeful in nature. The view of retribution is that offenders should be punished according to the gravity of the offence they committed. The theory of incapacitation is of the assumption that the isolation of an offender renders him incapable of committing crime and rids the society of evil. Deterrence means that punishments are inflicted on offenders to prevent crime from reoccurring and to also prevent future crimes. The process of reforming an offender to become a better person is called rehabilitation. Lastly, restitution is the act of restoration by the offender to the victim or victims, by doing an act of good or giving away something compensatory.

Under the philosophy of retribution, there is a foundational principle called the "just desert" principle. Here, the just desert principle is also known as the proportionalism principle; this principle attempts to address the issue of how much punishment should be inflicted and it answers that the level of punishment should be in equal proportion to the seriousness of the crime and it should be "no more, no less". This implies that a lesser punishment should be given to an offender who committed a less serious offence compared to the offender who committed a more serious offence. Therefore, if a person commits a crime, he must be given the exact punishment prescribed by law, so there is no form of plea bargaining. Likewise, a person's punishment must not be above what he deserves. The notion of just desert principle provides a check on the power of the state in determining the amount of punishment necessary to pay the price of crime, no more, no less. Without these checks, according to Lewis, the society could punish the family of the criminal rather than the criminal himself, and of course, the state could lock up those who are simply deemed to be dangerous, ignoring any actual violation of the law.

Therefore, the motivation or philosophy behind the "just desert" principle is that 'let the punishment fit the crime'. This phrase illustrates the idea of a fairband appropriate punishment related to the gravity of the crime that was committed. The justification for this principle is that a person deserves punishment proportionate to the moral wrong committed. Simply, the just desert

is a theory which is designed to promote equality and fairness of sentencing for the imposition of a sentence.

In conclusion, I am of the opinion that the "just desert" principle is one of the most appropriate method of punishment, because brings about equality and fairness in sentencing and punishing of offenders. Also, this principle serves as a means of curbing crimes, because people will not want to commit crimes when they know that they will receive an equal punishment to the crime committed. For example, people will not likely want to commit murder because he also will be killed when found guilty.

2a. First and foremost, capital offenders are criminals who are convicted for committing capital offences such as murder, terrorism and rape etc. It is usually a criminal offence for which the punishment is death or capital punishment. Capital offenders are usually taking more seriously than those who committed simple offences. Therefore, capital offences are grievous and attract serious punishments. For instance, death penalty is the punishment for murder because of the gravity of taking the life of someone else unjustly.

As a criminology student, the most effective ways of punishing and treating capital offenders are:

1. Death penalty (retribution): death penalty means taking away the life of an offender who has committed a grievous offence, which detestable to any society. The reason or justification for death penalty is that death penalty it makes it impossible for the offender from committing the offence over again and it also deter others from committing crimes.

2. Rehabilitation: rehabilitation also means reforming a person to be better in the society. Rehabilitation usually takes the form of educating the criminal about the laws, norms and values of the society. The importance of rehabilitation is that it makes the offender a better and he is likely not to return back into crime commission. Again, rehabilitation profer a better means of making the criminal contribute positively back to the society than just being revengeful.

3. Incapacitation: incapacitation as a form of punishment renders the offender incapable of committing any crime by isolating him. Incapacitation also serves as a means of providing safety to the members of the society, because the society is safer if crimes are lesser.

2b. Simple offences are crimes that are regarded as less serious and less grievous. Therefore, simple offences attract lesser punishment compared to those who capital offences like terrorism.

Examples of simple offences are illegal selling or buying army uniforms, damage of property or driving under the influence of alcohol.

Usually, punishment and treatment of simple offenders from that of capital offenders because of the nature of the offences committed. Retribution and rehabilitation are also methods for punishing and treating simple offenders. It is fair, if offenders receive punishment according to the gravity of offence. Again, simple offenders need to be educated about the effects of crimes through rehabilitation.

Although, one method of treatment and punishment which is usually administered to simple offenders rather than capital offender, and this method restitution. According to the aforementioned, restitution is the act of restoration back to the victim or the society by the offender for example payment of cash. This is so because it usually impossible for capital offenders to compensate the victim of the offender or the victim's family members. For example, someone committed murder cannot compensate the family of the victim because nothing can replace life.

In conclusion, capital offenders are usually taken more serious than simple offenders in punishment process.

REFERENCES:

Dambazau A.B ,(1999).Criminology and Criminal Justice, (ed2).Ibadan, Nigeria.

Paul H.R, Kevin M.C, John M.D, (2002). Journal of Personality and Social Psychology. 83(2) 284-99, vol 83, No 2, 284-299.

