

"WHAT CONSTITUTES A 'REASONABLE PERSON'"

The so-called "reasonable person" standard is cited as the standard of review in a wide variety of legal principles and definitions, from due diligence to wanton misconduct.

However, the qualities, motivations and other attributes of a "reasonable person" are not defined. At least, not in the same manner as other legal definitions.

As in the legal standard of review "preponderance of the evidence", the mathematical majority consensus is what provides the basic orientation of a "reasonable person".

The guaranteed existence of differences of opinions are a situation that requires resolution. While narrow-minded moral and ethical principles have survived into current acceptance on a more limited basis than other more liberal and open-minded philosophies, that survival does not promote or elevate any personal preferences based on such restricted and less widely held moral and ethical principles to be imposed on the general population as a whole.

At the same time, tolerance of narrow-minded moral and ethical principles is an attribute desirable in a "reasonable person". Everyone is certainly entitled to endorse whatever moral principles they wish, but when those principles are outside of what is considered "mainstream" morality as determined by the majority consensus, it is that majority consensus that determines what is "reasonable".

That majority element is also transferred into a jury room. As jury members are representative samples of the general population by definition, the jury members determine what is reasonable. Again, divergent minority opinions do not determine what is "reasonable" for the majority as a whole.

My favorite definition of "due diligence" is – the same caution and restraint a reasonable person would exercise if it were their own personal interests at risk by their actions rather than the interests of another party. Which pretty much defines a "reasonable person".

The "reasonable person" standard is based on the principles of self-interest and self-protection being the expected *and accepted* motivation for personal behaviors. The above definition of "due diligence" clearly states that same caution and restraint be exercised regarding potential impacts of personal actions on the interests of others.

"Do unto others as you would have them do unto you" is the way I read the above paragraph. And is the best short definition I know of a "reasonable person" as the phrase is used to define legal standards of review.

While that does not provide much in the way of specific positive attributes, a few specific attributes that are not included in a reasonable person are indifferent, elitist, prejudiced, conflicted or careless.

While all that is based on logic and reason, how does the law define the "reasonable person" standard?

In personal injury law, a "reasonable person" is a hypothetical individual created in legal fiction who is the representation of the standard of care established by the courts and communicated through case law.

A phrase frequently used in tort and criminal law to denote a hypothetical person in society who exercises average care, skill, and judgment in conduct and who serves as a comparative standard for determining liability.

In most cases, persons with greater than average skills, or with special duties to society, are held to a higher standard of care.

The common element between those definitions is the "standard of care" principle. And negligence is the legal term for failure to meet that standard of care. Negligence is usually based on the "reasonable person" standard. So for any party to not act in a reasonable manner or exercising the proper standard of care constitutes negligence. The reasonableness standard is the general negligence standard, which is what makes the "reasonable person" standard apply across such a wide range of other more limited legal issues.