

Tort Law: Familiar Questions

- I. The Subjective Approach
 - a. Individualism
 - b. Total Circumstances Test (see Scalia)
 - c. Interpretation of laws
 - d. Natural Law Theorists—Dworkin

Ethical Question: How can individual justice be equally applied?

- II. The Objective Approach (i.e. the reasonable person)
 - a. Universalism
 - b. General Rules of Law (Scalia)
 - c. Positive Law Theorists

Ethical Question: Can one-size-fits-all justice be true justice?

- III. Subcategorizing
 - a. Legal Provisions for Special Circumstances
 - b. Hart and Secondary Rules

Ethical Question: Does subcategorizing create inherently biased laws?

- IV. Duty to Aid
 - a. Feinberg and Individual Rights
 - b. The Philosopher's Brief

Ethical Question: To what extent should individual rights be imposed upon others?