

The choice between using liability law or regulation

Law



The paper "The Choice between Using Liability Law or Regulation" is an outstanding example of a law essay. The choice between liability law and regulation is governed by a number of principles all of which are of critical importance and initiated with the key intent of selecting an alternative which is most likely to lead to social cost efficiency, (Eliadis, Hill, and Howlett, 2005). The selected alternative should favour knowledgeable choices between the social benefits and the social costs of obtaining the choices. In cases where there are alternative means of achieving social benefits, the costs of achieving the results should be assigned to the party that can do so at the lowest cost. In cases where it is unclear whether the social benefits would exceed the social costs, then the cost should be put on the party that is best favoured by a cost-benefit analysis, (Whittman, 2002). In cases in which it is not clear who the party is, then the cost should be placed upon the party or the activity which has the lowest transaction costs act in the market so as to correct errors in entitlements by inducing the given party to avoid social costs with minimal costs.

Both Liability law and regulation have multiple strengths and also a number of weaknesses. Liability law is more efficient in cases where transactions costs are high although in cases where there are market imperfections, regulation may be used. The facts that a producer may be held liable even in cases where it has exercised all possible care under the liability law is a significant weakness besides the burden of proof lies solely on the defendant, (Eliadis, Hill, and Howlett, 2005). Besides, in cases where the injurer's liability exceeds his assets, a greater degree of liability has no additional deterrent effect. The general legal framework provides only

minimal alternatives to costly regulatory framework especially with regards to determining if less costly regulatory alternatives can be implemented, (Whittman, 2002).