

Abstract

Sharing rules have a filtering effect on violations: they prevent the most harmful violations and let the least harmful ones occur. We show under what conditions the filtering effect improves social welfare and argue that this may explain why, in most areas of the law, sharing rules are, in general, preferred to rules that entirely burden one party. Our analysis applies to comparative negligence, communal liability, the allocation of police investigation efforts, contract remedies for non-verifiable breaches such as those that may occur in marriage and employment contracts, and to the distribution of shares in partnerships.