

Paul Clark

Time and autonomy: where is the root of legal legitimacy?

I will examine semiotic indications of presumptions about the nature of time in theories of legal legitimacy, with reference to human rights and international criminal law.

Human perspective controls the manner in which time is experienced. This raises questions over the existence of human autonomy, which can never be categorically resolved from within human perspective. I will question the extent to which we need to draw any such conclusions in order to assert legal legitimacy.

Signs of presumptions of genuine autonomy are present in many aspects of legal discourse. Most Rule of Law (RoL) theory implies that normativity depends upon respect for human reason and the exercise of autonomous choice. It will be argued that a theory of legal legitimacy which remains true to human time perception must involve a distinction between these factors.

Choice necessarily involves assessment of situations outside human time perception - it prioritises ends over means. One of several signs thereof that I will consider is human rights – protecting a “right to...” itself says nothing about the process used. By rendering sacrosanct the end at which we hope to arrive, mode of action taken becomes dependent upon and secondary to that end. Tellingly, it is often asserted that respect for human rights (as ends) is actually part of the RoL. It is argued that the existence of and respect for human reason does not, *necessarily*, entail anything other than a mode of action. Consequently, having demonstrated, semiotically, that most legitimacy theory focuses upon ends, the RoL will be recast as an ongoing relationship.