

Retroactive Adjudication

Forthcoming, 130 YALE LAW JOURNAL (2020)

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In a nutshell

- Current non-retroactivity frameworks flawed

- “Right-of-action” framework:
 - Judgments are inherently retroactive
 - Plaintiffs have onus to “timely challenge” legal rules affecting them

– *Lucia v. S.E.C.*, 138 S. Ct. 2044, 2055 (2018)

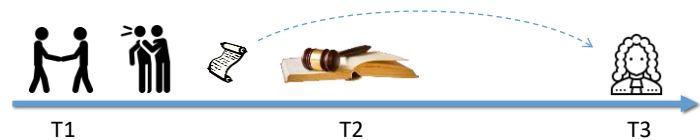
Outline

- I. The temporal puzzle
- II. Non-retroactivity frameworks
- III. Retroactivity framework

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The temporal puzzle

What are the implications of new precedent on private rights?



– *Roosevelt*, 31 *CONN. L. REV.* 1075 (1998)

– *Chen*, 83 *U. CHI. L. REV.* 1417 (2016)

IMAGE SOURCES: KissPNG.com: 2036989, 2146767, 202316, 1300509, 133858

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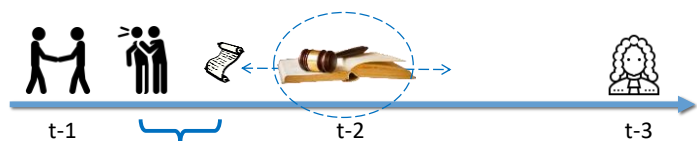
Non-retroactivity frameworks

1. Legal-philosophical
2. Right-reliance balancing
3. Choice-of-law
4. Remedial
5. Exceptionality

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A right-of-action framework



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