NEWSLETTER 13 JUN 2026 *WHAT'S NEW IN THE COMPARATIVE ADMINISTRATIVE LAW WORLD?*

Comparative Administrative Law Scholarship Corner

Affiliation with the Yale Comparative Administrative Law Listserv

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Regulatory Settlement, Stare Decisis, and Loper Bright

Written in: Apr 1, 2026; Posted in SSRN: Jan 29, 2026

Bressman, Lisa Schultz
Stack, Kevin M.

In Loper Bright v. Raimondo, the Supreme Court adopted and deployed a particular narrative about agency action in support of overruling Chevron: Agencies reverse their own statutory interpretations "as much as [they] like[]," creating pervasive instability in the law, thereby destroying private reliance interests. Based on a study of two decades of agency regulations affirmed by the D.C. Circuit under Chevron, we show how infrequently agencies reversed their interpretive positions. Our study suggests that the Court's regulatory "whiplash" narrative is overstated and that there is an underappreciated institutional settlement for notice-and-comment rules under Chevron. Identifying this regulatory settlement is important not only to correct the record but because it sheds light on a pressing question raised by Loper Bright: How much stare decisis effect should courts give to prior judicial decisions that affirmed an agency interpretation in reliance on Chevron? Our study reveals the true risks to legal stability that would come from courts re-interpreting the relevant statutory language and reversing previously upheld regulations. Courts therefore should have an extraordinary justification for overruling or avoiding precedent that affirmed an agency regulation under Chevron. In addition, our study provides guidance to courts on another significant issue after Loper Bright: How much respect should they give under Skidmore to regulations that amend the agency's prior regulations in some respect? Although we find that agencies rarely reversed their interpretive positions under Chevron, we also find that they did revise their regulations in routine ways, as a necessary part of informed rulemaking. Our study suggests that courts should not treat any agency regulatory change as proving the Court's whiplash narrative and as presumptively ousting amended regulations from judicial consideration and respect.

(When) Should We Delegate AI Governance to AIs? Some Lessons from Administrative Law

Written in: Sep 24, 2025; Posted in SSRN: May 8, 2026

Caputo, Nicholas

Advanced AI systems are now being used in AI governance. Practitioners will likely delegate an increasing number of tasks to them as they improve and governance becomes harder. However, using AI for governance risks serious harms because human practitioners may not be able to understand AI decisions or determine whether they are aligned to the user's interests. Delegation may also undermine governance's legitimacy. This paper begins to develop a principled framework for when to delegate AI governance to AIs and when (and how) to maintain human participation. Administrative law, which governs agencies that are (1) more expert in their domains than the legislatures that create them and the courts that oversee them and (2) potentially misaligned to their original goals, offers useful lessons. Administrative law doctrine provides examples of clear, articulated rules for when delegation can occur, what delegation can consist of, and what processes can keep agencies aligned even as they are empowered to achieve their goals. The lessons of administrative law provide a foundation for how AI governance can use AI in a safe, accountable, and effective way.

Administrative Law's Fourth Settlement: AI and the Capability-Accountability Trap

Written in: Jan 9, 2026; Posted in SSRN: Apr 2, 2026

Caputo, Nicholas

Since 1887, administrative law has navigated a "capability-accountability trap": technological change forces government to become more sophisticated, but sophistication renders agencies opaque to generalist overseers like the courts and Congress. The law's response—substituting procedural review for substantive oversight—has produced a sedimentary accretion of requirements that ossify capacity without ensuring democratic control. This Article argues that the Supreme Court's post-Loper Bright retrenchment is best understood as an effort to shrink administration back to comprehensible size in response to this complexification. But reducing complexity in this way sacrifices capability precisely when climate change, pandemics, and AI risks demand more sophisticated governance.
AI offers a different path. Unlike many prior administrative technologies that increased opacity alongside capacity, AI can help build "scrutability" in government, translating technical complexity into accessible terms, surfacing the assumptions that matter for oversight, and enabling substantive verification of agency reasoning. This Article proposes three doctrinal innovations within administrative law to realize this potential: a Model and System Dossier (documenting model purpose, evaluation, monitoring, and versioning) extending the administrative record to AI decision-making; a material-model-change trigger specifying when AI updates require new process; and a "deference to audit" standard that rewards agencies for auditable evaluation of their AI tools. The result is a framework for what this Article calls the "Fourth Settlement," administrative law that escapes the capability-accountability trap by preserving capability while restoring comprehensible oversight of administration.

Acceso Igualitario a la Función Pública - Consideraciones sobre el Modelo Español de Selección de los Funcionarios – Tras los Reales Decretos Legislativos (Equal Access to Public Service - Considerations on the Spanish Model for Selecting Civil Servants –

Juruá Editors; Published in: Jan 23, 2017; ISBN: 978853626583-4

Carvalho, Fabio Lins Lessa de

El libro investiga las repercusiones del principio de igualdad en el acceso a la función pública, utilizando como paradigma el modelo español. En esta labor, analiza de forma profundizada el significado y alcance de la igualdad, en términos generales, para a continuación, exponer los efectos jurídicos de la exigencia constitucional de selección meritoria de los funcionarios públicos.
El presente estudio resalta los principios de los procesos selectivos de acceso a la función pública, analiza los requisitos previstos en el ordenamiento jurídico para participación en las oposiciones y concursos públicos, así como investiga cada uno de los actos y fases de la competición por las plazas de funcionario. Además, ofrece importantes contribuciones en temas multidisciplinares como la democracia participativa, la prevención a la corrupción, las acciones afirmativas y la lucha contra la discriminación.

Translation:

The book examines the implications of the principle of equality for access to public service, using the Spanish model as a case study. In doing so, it provides an in-depth analysis of the meaning and scope of equality in general terms and then discusses the legal effects of the constitutional requirement for merit-based selection of public officials.
This study highlights the principles governing the selection processes for entry into the civil service, analyzes the requirements established by law for participation in civil service examinations and competitive selection processes, and examines each of the steps and phases of the competition for civil service positions. In addition, it makes significant contributions to multidisciplinary issues such as participatory democracy, corruption prevention, affirmative action, and the fight against discrimination.

🗁 O Tribunal de Contas no Brasil e seus congêneres europeus: um estudo comparativo (The court of accounts in Brazil and its European counterparts: a comparative Study)

A&C – R. de Dir. Adm. Constitucional; Belo Horizonte, ano 18, n. 71, p. 225-248, jan./mar. 2018

Carvalho, Fabio Lins Lessa de
Rodrigues, Ricardo Schneider

In this paper, the model of Court of Accounts adopted in Brazil, by the 1988 Constitution, is compared with its European counterparts, especially those that influenced its creation in our country. For this purpose, some notions related to Comparative Law are presented and a study covering the Court of Accounts of Brazil, France, Italy, Spain and several other European Supreme Audit Institutions (SAI) is presented, based on qualitative bibliography and documentary research and, using, therefore, the informative or descriptive method. Brazil is currently following a model closer to the French, a Court that deliberates in a collegiate manner, with a jurisdictional function, without any connection with any of the State Powers, whose members have status equivalent to that of members of the Judiciary and who carries out an ex post audit of the judicial, financial and performance species. The clearest difference between the Brazilian institution and the models studied is the markedly constitutional treatment
conferred by the Brazilian constituent, in addition to the broadening of its scope of action due to the adoption of the new legitimacy control parameter.

🗁 Gubernatorial Decreemaking versus Emergency Administrative Rulemaking: Lessons from the Covid Pandemic

Tennessee Law Review, Volume 93

Diller, Paul A.

Governors' broad exercise of emergency power for an extended period of time during the COVID-19 pandemic was unprecedented in United States history. Looking back with the hindsight of five years, however, the means by which governors exercised their power was perhaps not as novel as it initially seemed. Governors' robust use of powers delegated by state emergency law was actually not so different — conceptually, at least — from the longstanding authorization in most states for agencies to make emergency or temporary rules. Both processes exempt the rulemaker from notice-and-comment requirements, a crucial component of the rulemaking process. A key difference, however, is that gubernatorial decrees in many states come with no temporal limitation, whereas strict time limits attach to emergency administrative rules in almost all states. Moreover, emergency administrative rules are subject to "arbitrary and capricious" judicial review in many states, whereas gubernatorial decrees are not, at least as a technical matter.
This paper compares gubernatorial decrees to emergency administrative rules and explores how their similarities and differences should inform judicial review of each. Working from the assumption that the judiciary should observe a hierarchy of deference among governmental actions, the article argues that gubernatorial decrees' lack of public input makes them least deserving of such deference. Although emergency administrative rules also lack public input in their formation, they are subject to arbitrary-and-capricious review in many states and tighter timelines for expiration than gubernatorial decrees in most states. At the least, even if a hierarchy of judicial deference is unappealing to those concerned with an increasingly aggressive "juristocracy," an exploration of the differences between decrees and emergency administrative rules highlights areas of potential law reform to correct flaws in each and better synthesize these two conceptually overlapping tools of rulemaking.

Templates in the EU Inc. Regulation Proposal

European Corporate Governance Institute - Law Working Paper No. 925/2026, LawFin Working Paper No. 63, SAFE Working Paper Forthcoming

Enriques, Luca;
Nigro, Casimiro Antonio;
Tröger, Tobias Hans

European debates on competitiveness increasingly treat corporate law as a lever to help innovative firms scale. The European Commission's Proposal for a new "28th regime" seeks to introduce an optional, EU-wide corporate legal form designed, inter alia, to facilitate the cross-border scaling of innovative firms. A central instrument of the Proposal is the use of model articles of association to be adopted through future implementing acts. This Article argues that, while standardised articles may ease incorporation and lower drafting costs for ordinary unlisted firms, they fall short for VC-backed companies—the very cases that motivated the initiative.

Building on prior work on venture capital contracting under mandatory corporate law, we identify four shortcomings. First, the architecture is incomplete: the Proposal omits a model shareholder agreement, even though effective VC contracting depends on the interaction between articles of association and shareholder arrangements. Second, the drafting process is overly generalist and unlikely to yield genuinely VC-specific templates. Third, the Proposal's fairness-oriented logic risks producing terms that clash with the asymmetric, state-contingent structures typical of VC deals. Fourth, the legal protection offered by the template is limited, focusing on formation-stage effects while leaving subsequent judicial intervention unconstrained.

We propose four adjustments: introduce a model shareholders' agreement; create a dedicated VC drafting track; abandon fairness as the organising principle for VC templates; and provide a robust safe harbour covering both ex ante design and ex post enforcement.

Nondelegation and International Economic Sanctions under IEEPA - After the Tariff Cases

35 Wm. & Mary Bill Rts, J. (forthcoming, May 2027)

Estreicher, Samuel;
Babbitt, Andrew

In January 2025, mere hours after assuming the presidency, President Trump declared a national emergency to combat the influx of illegal drugs from Canada, Mexico, and China, and later another series of declarations to address "large and persistent" trade deficits with our trading partners. The President's declarations were issued pursuant to the International Emergency Economic Powers Act of 1977 (IEEPA). These proclamations unlocked numerous powers for the President to place economic sanctions against individuals, organizations, and governments connected to the declared emergency. Using these powers, President Trump embarked on an extensive trade war by executive order with much of the rest of the world. By the stroke of a pen, President Trump unilaterally reshaped the trade policy of the United States without congressional input or approval.

A little over a year later, on February 20, 2026, in Learning Resources, Inc. v. Trump, Nos. 24-1287 & 25-250, the Supreme Court (6-3) held that IEEPA simply does not authorize the imposition of tariffs. Upon a national-security declaration, IEEPA grants the President power to "regulate … importation" but the statute does not, the Court ruled, authorize taxation in the form of tariffs. Chief Justice Roberts explained for the Court: "IEEPA contains no reference to tariffs or duties. The Government points to no statute in which Congress used the word 'regulate' to authorize taxation. And until now no President has read IEEPA to confer such power."

IEEPA is important well beyond the tariff issue. IEEP provides the principal legal basis for the President to levy international economic sanctions against foreign states, persons and entities located abroad or doing business in the United States – in some invocations, even U.S. citizens and entities. We maintain that IEEPA, shorn of tariff authority, is subject to constitutional challenge as an unbounded delegation cabined by no enforceable standards whatsoever – substantive or durational -- delimiting the President's authority to issue international economic sanctions. When first enacted, a standard-less grant might have been considered tolerable, even if constitutionally dubious. Congress could by concurrent resolution via majority vote in the House and Senate check any Presidential action under the statute. With the Court's 1983 invalidation of the legislative veto in INS v. Chadha, however, the only remaining check is a highly unlikely veto-proof majority in both Houses of Congress. Congress does have power over the purse, but enacting funding limits opposed by the Executive would face the same structural obstacle in many cases.

The Court is understandably reluctant to invoke nondelegation strictures in the foreign-affairs context where the Executive requires a wide scope of action in dealing with threats to our national security. As its 1936 decision in United States v. Curtiss-Wright Export Corp. teaches, the standard for permissible delegation in this area has to be "far more general than that which has always been considered requisite with regard to domestic affairs." But it is not a blank check. Congress cannot abdicate its legislative responsibility even in this arena, and in IEEPA that is precisely what Congress has done.

The only reliable way to move forward and enable Congress to recapture its legislative authority is in an appropriate case to strike down IEEPA as an unconstitutional delegation of that authority. This would put Congress back in the driver's seat and force Congress and the President to work collaboratively to fashion sensible emergency legislation.

Improving Regulatory Notice

SMU Law Review, volume 78, issue 4

Galperin, Joshua
Elliott, E. Donald

Effective notice of law is the cornerstone of any legal system, and yet many federal administrative agencies do not give small businesses, NGOs, and interested citizens notice of the vast amount of new or modified law they produce. They merely publish the text in the Federal Register, which works tolerably well for larger enterprises but not their smaller competitors and citizens' groups. Despite these facts, few scholars have explored how agencies provide notice of the law. Even fewer have proposed ways that agencies could improve the methods they use for giving more effective notice of significant regulatory changes and thereby increase compliance and fairness. This Article therefore examines notice-giving among federal agencies. Based on dozens of stakeholder interviews, this Article uncovers inconsistencies and shortcomings in the approaches some agencies use to make available information regarding significant regulatory changes. Even more importantly, we highlight successful approaches that some agencies use to get the word out to all constituencies. We argue that adapting these best practices to other agencies and their audiences can improve the efficacy and fairness of U.S. administrative law overall.
To most, the study of administrative notice begins and ends with the Federal Register. However, in many circumstances, mere publication in the Federal Register is inadequate, particularly for marginalized communities and small entities. But even larger entities struggle to "connect the dots" between the materials agencies publish, for example, in the Federal Register, only on agency websites, as adjudicative orders, or as guidance. These shortcomings raise concerns about the fairness and efficacy of administrative processes, but providing effective notice of significant regulatory changes is not merely a policy concern. Constitutional principles, particularly the requirements of due process, as well as a variety of federal statutes, require that agencies give.
Sufficient notice of certain regulatory changes. To improve administrative governance and meet both constitutional and statutory commands, this Article proposes a comprehensive strategy to improve the way agencies give notice of significant regulatory changes. Our overarching proposal is that agencies should develop proactive notice plans that, among other things, identify target audiences, evaluate costs, and establish policies for gathering and periodically reevaluating data about the effectiveness of agency notice practices. Additional recommendations include improving the usability of the Federal Register, leveraging technological advancements for automated notifications, and developing accessible digests and user manuals.
The needs of each agency vary, but by adopting an appropriate combination of these measures, agencies can avoid legal risk, improve communication, foster compliance, invite meaningful participation, and reinforce the legitimacy of the regulatory system. Ultimately, this Article asserts that effective notice of significant regulatory change is not only a legal obligation but a fundamental democratic practice that supports informed citizenry and good governance.

Exploring the Uncharted World of Audit Institutions

Comparative Administrative Law New Voices, New Perspectives, Edited by Peter L. Lindseth, Mariana Mota Prado, Blake Emerson, Farrah Ahmed, and Megan Pfiffer

García-Huidobro, Luis Eugenio

External auditors of the executive branch, commonly known as Supreme Audit Institutions, have quietly emerged as some of the most consequential yet least examined actors in contemporary administrative states. Once confined to financial oversight, they now often scrutinize public policy, shape government decision-making, and in some cases even pre-empt or override the actions of elected officials. This chapter addresses their puzzling absence from comparative legal scholarship and charts a new course for their study. It critically unpacks the typologies that dominate existing analyses, exposes their explanatory limitations, and shows how the expanding mandates and ancillary roles of these institutions are redefining the boundaries between financial oversight and constitutional accountability. The chapter also draws on different national experiences to suggest that some of these institutions are also increasingly straddling the line between providing technocratic oversight and encroaching on government decision-making.

The multi-actor system of fundamental rights protection under EU platform regulation

Maastricht Journal of European and Comparative Law

Golunova, Valentina

Content moderation practices of online platforms are underpinned by a complex interplay between public and private power. This interplay raises important questions concerning the division of responsibility for safeguarding fundamental rights, particularly freedom of expression, among various actors involved in online content governance. This article examines the role of the CJEU in shaping an elaborate multi-actor system for the protection of fundamental rights within the context of EU platform regulation. It establishes that in the absence of comprehensive EU legislation on content moderation, the CJEU offered crucial reflections on the existence, scope and content of obligations which may be incumbent upon the EU, the Member States and online platforms under the EU Charter of Fundamental Rights. The CJEU's case law has therefore laid essential groundwork for the rules set out in the Digital Services Act (DSA), which has codified and expanded on the Court's key findings. At the same time, the article shows how the DSA's rules challenge the core tenets of the framework crafted by the CJEU. This underscores the need to refine the principles for distributing responsibility for securing the protection of fundamental rights, which must be rooted in a more comprehensive understanding of the intricate relationships between public and private actors in the digital environment.

Modalities of Agency Rulemaking

NYU Law Review, Volume 100, No. 6, Pp. 1841-1882

Gould, Jonathan

Agency rulemakings are a critical component of contemporary governance. This Article argues that there are a distinct set of modalities that characterize how agencies formulate and justify their rules. Just as the well-known modalities of constitutional interpretation capture the norms of constitutional discourse, the modalities of agency rulemaking offer a framework for understanding how agencies reason through and justify regulatory decisions. I show a common set of moves that agencies make across substantive contexts and across administrations. The rulemaking modalities are: (1) the public interest, (2) statutory purpose, (3) instrumental rationality, (4) technical expertise, (5) implementation considerations, and (6) cost-benefit analysis.
Exploring the modalities of agency rulemaking holds important lessons about the place of agencies in our system of government. First, attention to how the rulemaking modalities interact with each other—and in particular how agencies resolve tensions between modalities—provides an important study of how agencies balance competing pressures in justifying their policy choices. Second, attention to the modalities shows that agency rulemakings are methodologically distinctive—and distinctly appealing—relative to how Congress and the courts often make decisions. The rulemaking modalities are consistent with several desirable qualities that are often missing in other govermental decisionmaking: consideration of the full range of policy choices, attention to the likely consequences of various courses of action, and evidence-based reasoning for why government opts for one policy over other possibilities. Third, understanding the rulemaking modalities can shed light on how the "hard look" standard for judicial review of agency action operates, and how it should operate.

Never Send to Know on Whom the Boot Stomps; it Stomps on Thee

Alabama Civil Rights & Civil Liberties Law Review (forthcoming), Northwestern Public Law Research Paper No. 26-20

Gowder, Paul A.

This Essay was originally prepared as a lecture for the 2026 Alabama Civil Rights & Civil Liberties Law Review Symposium, "The Ever-Evolving Definition of America's History and Tradition." It diagnoses the current tyrannical moment in American constitutional practice and the way that the subaltern, and particularly Black American, historical experience with tyranny can be put into service in resisting it. It suggests the Black anti-tyrannical tradition draws on a kind of postmodern and agonistic conception of civic identity according to which the American polity is in part constituted by contested claims to inclusion. And it draws on the drama surrounding the current government's bad-faith efforts to undermine the Fourteenth Amendment's guarantee of universal birthright citizenship to show how the contemporary tyrannical movement depends on the civic-exclusionary traditions of our tyrannical past, and how drawing on the Black anti-tyranny tradition suggests that the Overton window might be shifted in the opposite direction: universal birthright can be a floor, not a ceiling, for constitutional claims to citizenship.

International Organizations Can Help DOGE Deregulate

The Regulatory Review: A Publication of the Penn Program on Regulation, Opinion International, Feb. 17, 2025

Guimaraes, Denis

Following the 2024 election of President Donald J. Trump, the Department of Government Efficiency (DOGE) signaled an intention to cut grants to international organizations as part of a broader strategy to reduce government spending. This article argues that such cuts may be counterproductive to DOGE's core mission of deregulation and administrative reduction. By analyzing the work of the Organization for Economic Cooperation and Development (OECD), the Inter-American Development Bank (IADB), and United Nations programs (UNDP/UNOPS), the paper demonstrates how these entities generate essential research, "regulatory offsets," and metrics - such as the Product Market Regulation (PMR) indicators - that support regulatory efficiency and competition. The author concludes that maintaining strategic support for these international bodies aligns with U.S. deregulatory interests, facilitates international regulatory cooperation, and counters the influence of competing regulatory models globally.

🗁 The Influencers: Situating Front-end Constitutional Guardianship

Written in: Apr 2, 2026; Posted in SSRN: Apr 20, 2026

Jones, Brian Christopher

Constitutional theory remains obsessed with high-profile constitutional decision-makers, but front-end constitutional actors that provide key support and advice to decision-makers also help protect and defend constitutions. This article profiles a group of front-end constitutional actors that I call 'the influencers', which is composed of: statutory drafters, permanent secretaries, government lawyers, and house officials. After detailing the roles and responsibilities of these actors, I then look at how they influence frontline decision-makers. Next, I examine the perspectives, values, and mentalities that the influencers operate on, all of which are key to further understanding these constitutional actors. This exploration into the influencers contains significant implications for the UK constitution, such as that: disregarding influencer advice can often boil over; back-end constitutional actors are not the sole preservers of the rule of law; and front-end actors may help fill a decisive scrutiny gap regarding legislation. The influencers also contain implications for constitutional theory, in that they challenge some typical narratives found in constitutional scholarship, and they can also significantly impact constitutional success (or failure). Ultimately, deeper insight into the influencers can help us understand how to better protect and defend constitutions on the front-end.

🗁 Adjudicating Fake News

Cornell International Law Journal, Vol. 58

Lancieri, Filippo;
Pereira Neto, Caio Mario da Silva;
Karolczak, Rodrigo Moura;
Assis, Barbara Marchiori de

On July 30, 2025, U.S. President Donald Trump imposed 50% tariffs on imports from Brazil and sanctioned a sitting Brazilian Supreme Court Justice, both partially because of Brazil's online content moderation decisions. This is an extreme, but not an isolated event: worldwide, legislators and regulators struggle to craft public policies that address problems of disinformation and online harassment while protecting the freedom of expression—Leading to increasing international confrontations. One key question in content moderation is content adjudication—or who is responsible for deciding what type of speech violates the law and should be taken down (or not). This article contributes to this debate by presenting the results of a six-year, large empirical and qualitative project on the adjudication of fake news disputes by Brazilian Courts from 2018 onwards. It examines what led Brazilian judges to order the takedown of online content, which social networks and types of contente were most affected by judicial decisions, and whether there is evidence that incumbent politicians abused the system, among other factors. It also critically analyzes the evolution of this novel court-driven content moderation regime one in which both the Brazilian Supreme Court and Superior Electoral Tribunal play an increasingly active role in policing online discourse—with significant implications for the Brazilian information ecosystem, democratic institutions, and the Court's reputation. Ultimately, the Brazilian experience teaches many positive and negative lessons to other countries around the world, rethinking their online content moderation regulatory regimes.

Temporary Rules (Report to the Administrative Conference of the United States)

Written in: Dec 18, 2025; Posted in SSRN: Feb 18, 2026

Lurie-Pardes, Eyal

Although agencies typically intend for rules to remain in effect indefinitely, they also issue temporary rules—which we define as legislative rules with a specific expiration date—to manage everything from Coast Guard security zones to multi-year pilot programs. Despite their widespread use, temporary rules have rarely been studied comprehensively. This report examines the legal and procedural choices agencies face when issuing temporary rules, drawing on the legal history and APA requirements for temporary rulemaking, agency case studies, and a survey of statutory frameworks in all 50 states. It provides best practices for agencies when developing temporary rules and engaging with the public on them.

Soft Law Governance of Artificial Intelligence in Healthcare Soft Law Governance of Artificial Intelligence in Healthcare

Arizona State University Sandra Day O'Connor College of Law Paper No. 6719698

Marchant, Gary E.

Artificial intelligence (AI) tools are increasingly being used in medicine, including for drug discovery, healthcare administration, disease diagnosis, and treatment. Such AI applications show considerable promise for improving healthcare, but also present several legal and ethical issues relating to accuracy, transparency, bias, privacy and the "pacing problem." The Food and Drug Administration (FDA) has some innovative steps to regulate health care AI, but there are significant gaps and weaknesses in the agency's oversight of healthcare AI. In some cases, the FDA lacks jurisdiction to regulate certain AI applications or concerns, and for other applications and concerns the FDA does have jurisdiction but its current oversight is incomplete. A number of soft law programs have been launched to try to fill these gaps in FDA oversight. Nine different AI healthcare soft law programs are reviewed in this Article, including their objectives and mechanisms for governing AI. These soft law programs have a number of strengths, including greater agility and flexibility than government regulation, the opportunity to involve deeper and broader expertise in crafting the programs, the international scope of such measures, the plenary scope of such instruments that are not limited by delegated jurisdiction, and the potential to allow a "1000 flowers bloom." These soft law initiatives also have important limitations, however, including the lack of direct enforceability, public distrust in industry-led programs, and duplication and lack of coordination among similar soft law programs.

The Supreme Court's Pragmatic Turn On The Separation Of Powers: Refining Appointments Clause And Nondelegation Doctrine

Roger Williams Univ. Legal Studies Paper No. 227

Margulies, Peter

Pragmatism is the hallmark of two recent Supreme Court decisions on the separation of powers, Kennedy v. Braidwood Management, Inc., and Federal Communications Commission (FCC) v. Consumers' Research. These cases, which dealt with the Appointments Clause and the nondelegation doctrine (public and private) respectively, reject a rigid, literalist approach. Instead, these decisions strive to make government workable, in the process facilitating implementation of Congress's plans.

Both Braidwood and Consumers' Research decline to require Congress to recite "magic words" or lock in future executive branch officials with mechanical formulas or caps on fees. Instead, each decision looks at legislation in context. Viewed in that fashion clears space for productive interactions between superior and subordinate government officials and between agencies and private entities.

Enforcement decisions illustrate the stakes of these Appointments Clause issues. Today, with a government that reaches into most corners of life, decisions about initiating litigation or regulatory activity have substantial ramifications, as the Supreme Court recognized in analyzing the inter partes process of patent review in United States v. Arthrex. Most such decisions should be the province of gold-standard principal-officer appointees whom the President has nominated subject to the Senate's advice and consent.

However, a measure of flexibility is helpful in guarding against brittleness. Authors of mere policy inputs such as those from the regional fishery councils proposing fishery management plans do not require the gold standard. Control over those inputs by a principal officer is sufficient. Similarly, a private delegation such as Congress's handoff of medication monitoring and policing to the Horse Racing Integrity and Safety Authority (HRISA) passes muster if an agency such as the FTC, run by principal officers, retains control.

Things become more complex when a principal officer lacks the capacity to require pre-approval of initiation of litigation. Responding to this concern, this Article identifies three factors that, taken together, justify that flexibility. The factors are a structural shortfall that undermines executive-branch functioning; pedigree in English history or through national consolidation in the presidency of James Monroe to show that a given departure is fair and feasible; and substantive tailoring to ensure that the inferior officers clause does not banish the gold standard to oblivion.

This three-fold test illuminates issues that might otherwise seem obscure. Relators' suits under the False Claims Act reflect a structural shortfall in policing of government contracts and payments caused by corruption and capture. However, the equivocal pedigree of qui tam (on the sovereign's behalf) litigation in the Founding Era and beyond suggests the need for substantive tailoring.

Accountability in appointments and private delegations is a mere parchment slogan without the aid of pragmatic adjustments in appropriate cases. By the same token, pragmatism devolves into unprincipled expedience if it loses sight of overarching values such as accountability. The pragmatic approach of this Article seeks to further that dialogue.

🗁 Behavioral Opacity in Regulatory Environments: The Brazilian Case and the Problem of State-Administered Interpretability

Written in: Apr 19, 2026; Posted in SSRN: Apr 20, 2026

Maschietto, Eduardo

This working note examines a structural contradiction revealed by the Brazilian government's 2025–2026 digital regulation process. While publicly advocating for comprehensive regulation of social media platforms on grounds of democratic protection and national sovereignty, internal policy documents acknowledged that defining "disinformation" as a legal category would be too politically sensitive to operationalize during an election year.
This contradiction — the pursuit of classificatory power alongside recognition of its political risks — provides empirical evidence of the central theoretical problem addressed by the Behavioral Opacity framework: the primary risk of algorithmically observable environments is not data collection per se, but the institutionalization of interpretive power over behavioral profiles.
This note further argues that state-administered interpretability introduces a qualitatively distinct regulatory challenge not adequately addressed by existing privacy frameworks, including the GDPR and the EU AI Act. The concept of the opacity threshold, developed in Maschietto (2026a, 2026b), is extended here to encompass institutional actors as observers, with preliminary implications for both individual strategy and regulatory design.

🗁 Strategic Ambiguity and Regulatory Neutralization in Sovereign AI Policy Toward an Institutional-Technological Alignment Diagnostic

Posted in SSRN: Apr 18, 2026

Noh, Youngbin

National Sovereign AI policies — regulatory frameworks designed to secure technological autonomy through indigenous AI development — systematically fail to achieve their stated objectives. This paper provides a cross-national comparative analysis of why and how strategic ambiguity in AI governance policy produces regulatory neutralization, drawing on three contrasting governance contexts: Korea (regulatory institutionalization), France (industry-led state championing), and the UAE (state-directed infrastructure investment). Using a novel Governance Language Ontology (GLO) coding scheme applied to a 29-document corpus of legislation, corporate disclosures, and investigative reporting, we identify a four-stage misalignment mechanism — from strategic ambiguity production to inter-actor frame divergence, regulatory appropriation, and alignment failure crystallization — that operates consistently across governance models. We further demonstrate that three distinct ambiguity configurations (unwitting, structural, and opacity-by-architecture) generate qualitatively different regulatory neutralization pathways: definitional capture in Korea, legislative exemption transitioning to narrative decoupling in France, and multi-jurisdictional structural rearrangement in the UAE. To operationalize these findings as a governance diagnostic, we introduce the Digital Sovereignty Governance Maturity Model (DS-GMM), a seven-level alignment framework that enables regulators, policymakers, and procurement officials to assess whether a national AI governance environment constitutes a coherent alignment architecture within which organizational compliance is achievable. The findings carry direct implications for AI governance policy design, regulatory oversight, and cross-national technology governance.

Te Ture Mana Puna Kōrero—The Right to Know Act: A Framework for World-Leading Transparency Legislation

Written in: Apr 6, 2026; Posted in SSRN: Apr 20, 2026

Opland, Russell

New Zealand's Official Information Act 1982 was once among the most progressive transparency laws in the common law world. Four decades later, it is substantively unchanged, governing a world of artificial intelligence, mass surveillance, and platform capitalism with a statute designed for the era of the fax machine. The country's Corruption Perceptions Index score has fallen from 91 to 81 in a decade. Over 85 statutory clauses now exempt agencies from disclosure. The maximum penalty for obstruction is $200. Three decades of reform recommendations from the Law Commission, the Chief Ombudsman, and civil society organisations remain unimplemented. This discussion draft presents a complete replacement framework: Te Ture Mana Puna Kōrero-The Right to Know Act. Drawing on comparative analysis of over forty national FOI frameworks and international model laws, the Act introduces a three-tier scope model extending coverage to all private bodies; mandatory personal financial penalties for delay with no organisational reimbursement; binding independent enforcement through a specialist Information Commission; the abolition of the "free and frank advice" withholding ground; Aarhus-aligned environmental information protections; proactive disclosure obligations including algorithmic transparency; and placeholder provisions for Māori Data Sovereignty reserved for iwi co-design. Designed for New Zealand's constitutional structure, the framework's core architecture is transferable to any jurisdiction seeking to modernise its transparency regime.

Regulatory Architecture, Epistemic Failure, and the Political Economy of Ghana's Cocoa Crisis

Written in: May 17, 2026; Posted in SSRN: May 22, 2026

Oppong Kyekyeku, Anthony

This article reframes Ghana's 2025/26 cocoa sector crisis — conventionally interpreted as a commodity price shock — as the systemic output of a regulatory architecture in which three of Lessig's four modalities of governance operate while the fourth is underdeveloped relative to the regulatory obligations it must support. Law, market incentives, and social norms are present. What is underdeveloped is the technological regulatory infrastructure that makes legal mandates consistently enforceable, market signals epistemically reliable, and governance norms disciplined by verifiable accountability. The 2023/24 production forecast deviation — which triggered US$1.3 billion in forward contract losses — was not primarily a forecasting error but an epistemic failure: the institution produced a projection on data structurally incapable of reflecting ground-truth conditions. Drawing onLessig's modalities framework, Lipsky's street-level bureaucracy theory, Deming and Juran's quality systems theory, and Wang and Strong's information quality framework, the article argues that structural reform requires not additional legislation — laws already exist — but technological regulatory infrastructure through which those laws apply completely and consistently — capable of surfacing patterns of selective enforcement and rent-seeking where they occur. The fourth modality's underdevelopment is not explained by resource constraint: it has served those who benefit from regulatory gaps at the expense of the farmers the framework is designed to protect.

🗁 The Metaverse Is Not a Place Apart: Law, Code, and the Recursive Governance of Digital Space: A Review Essay on Mark Findlay, Governing the Metaverse: Law, Order and Freedom in Digital Space (2025)

Written in: May 7, 2026; Posted in SSRN: May 7, 2026

Perez, Oren

This review essay examines Mark Findlay's Governing the Metaverse: Law, Order and Freedom in Digital Space. Findlay offers an ambitious and timely account of the metaverse as a social and imaginative space that should be governed for freedom, personhood, community, and resistance to enclosure. The essay argues, however, that the book's two central categories-"the metaverse" and "new law"-remain insufficiently theorised. The book relies on a realspace/virtual distinction that its own analysis repeatedly destabilises. Once digital environments are understood as dependent on physical infrastructures, platform architectures, AI systems, data pipelines, and external legal institutions-and as capable of generating real-world harms for individuals and society-the governance problem is no longer how to devise a separate law for a separate virtual realm. It is how to govern a hybrid socio-technical order in which law, code, platforms, and public oversight recursively interact. The essay further argues that Findlay's account of "new law" does not adequately theorise how normative authority operates across a recursively layered governance architecture in which code, platform rules, and legal oversight interact without any single level exercising decisive control. Drawing on algorithmic constitutionalism, speech-act pluralism, and fuzzy legality, the essay suggests that addressing this architecture requires a jurisprudence capable of reasoning about normative force that is layered, defeasible, and recursively unstable.

🗁 Effectuating Congress's Power of the Purse

78 Florida Law Review __ (forthcoming 2027)

Price, Zachary

Congress's power of the purse—its authority to control government spending—is one of its most important authorities. Yet its hold on the executive branch may be fraying, as recent presidents have applied appropriations statutes inventively and the current administration seems poised to assert still greater control over spending. In part because advocates have advanced tendentious historical claims to support such unilateral executive action, this Article explores how Congress historically effectuated its constitutional power over government spending.

The Article explains that although Congress has generally maintained strong control over the treasury, its grip on executive spending was in some ways weaker before the development of the modern administrative and national-security state. In the nineteenth century, although Congress exercised considerable informal influence over administration, executive officials frequently overran their appropriations, shifted money creatively between accounts, and spent money for purposes for which Congress did not clearly appropriate funds. In addition, they sometimes did the opposite and "impounded," or declined to spend, funds that Congress did appropriate. Such actions, however, occurred in a markedly different practical, legal, and institutional context from contemporary administration.

This history has at least three important implications in the present. First, it undermines contemporary arguments for a unilateral executive prerogative based on nineteenth century spending practices. Second, the history sheds new light on the fraught debate over presidential administration and the unitary executive branch, suggesting that congressional control over spending is an essential complement to broad delegations to the executive branch. Finally, the history may support greater contemporary application of mechanisms for holding individual officers liable for unlawful expenditures.

The Explainability Paradox: When Algorithmic Transparency Enables Gaming

Written in: Jan 25, 2026; Posted in SSRN: Jan 26, 2026

Shabad, Vsevolod

Algorithmic explainability is widely framed as a prerequisite for accountability, contestability, and procedural fairness. This paper argues that in strategic environments, explainability creates a governance paradox: explanations designed to enable individual accountability can simultaneously function as reverse-engineering interfaces that enable population-scale optimisation and gaming. Drawing on examples from welfare administration, taxation, and content moderation, the analysis shows how precise, stable explanations compress learning cycles and undermine policy intent without any failure of algorithmic correctness. The paradox arises not from technical malfunction but from information asymmetry: explanations intended to rebalance power toward individuals also lower the cost of strategic adaptation for actors with the resources to exploit disclosed rules.

To address this tension, the paper introduces the concept of bounded explainability, which preserves fully deterministic and auditable decision logic while calibrating the granularity and framing of explanations at the communication layer. By varying explanation specificity while maintaining semantic accuracy and appeal rights, bounded explainability raises the cost of reverse-engineering without introducing randomness or opacity into decision-making itself. The paper further introduces interface noise as a design mechanism distinct from algorithmic randomness.

The contribution is primarily conceptual rather than technical. The paper reframes explainability as a multidimensional design space shaped by information propagation and strategic adaptation, demonstrating that transparency sufficient for individual accountability may differ from transparency that preserves system integrity at scale. It argues that governance institutions must consciously navigate this trade-off rather than assume alignment between transparency, fairness, and policy effectiveness. The framework applies wherever algorithmic systems operate in strategic environments characterised by resource asymmetry and incentives for optimisation against disclosed rules.

Keeping Evidence Real

111 Iowa L. Rev. 589

Simon-Kerr, Julia Ann;
Bernstein, Anya

Commentators largely agree that the Federal Rules of Evidence have problems. Expert testimony standards admit junk science. Impeachment rules chill defendant testimony. The hearsay regime defies consistent application and obstructs self-representation. The list goes on: Many rules fail to assist, or affirmatively thwart, jurors trying to make good decisions. Such shortcomings disproportionately harm those with the least power in the system, raising profound questions about whether the evidence code serves its statutory mandate—to promote truth and justice in court proceedings. In the face of widely recognized problems, the government body charged with managing the evidence code—the Advisory Committee on Evidence Rules—has been passive. Rather than exercising its authority to ensure that evidence rules fulfill their statutory purposes by rulemaking, it has focused on what we term rule-tending— treating the existing code as a fixed edifice needing only light maintenance.

The evidence committee is not the only government organ charged with managing regulations through authorities delegated by statute. Administrative agencies do that, too. This Article places evidence rule management within this larger government landscape, showing that the evidence committee's statutorily delegated authority is comparable to that of agencies. Rule-tending, we argue, has left the evidence regime empirically untested, normatively adrift, and unaccountable both to the public it governs and to the statutes it implements. We suggest that practices historically developed in the administrative agency context would help. Increasing public participation, diversifying decision-makers, pursuing empirical evaluations, and articulating reasons grounded in statutory purposes would enhance both efficacy and accountability. And it would better align the rules with their statutory purposes of promoting truth and justice. The very fact of delegated authority, we argue, demands more than rule-tending—it requires rulemaking that is empirical, accountable, and purpose driven.

Between Probabilism and Pragmatism: An Essay on Statutory Interpretation

Statute Law Review, Volume 47, No. 1 (2026)

Stein, Alex

This is a penultimate draft of the article published in 47 Statute Law Review (2026), https://doi.org/10.1093/slr/hmag007. This article examines the credentials of the three dominant modalities of statutory interpretation: textualism, intentionalism, and purposivism. The article argues that these modalities share an unfulfillable epistemic ambition: the quest to uncover the empirically true meaning of a statute—a communicative act of the individuals authorized to legislate—under conditions of uncertainty. Through critical analysis and examination of the English law classics, the article demonstrates that this ambition collapses under the weight of factual indeterminacy. Textualism fails when the ordinary meaning of statutory language is unclear; intentionalism falters when the legislator's intent is uncertain; and purposivism turns ineffectual when the scope of statutory purpose is unverifiable. The article contends that, in practice, textualism and intentionalism inevitably devolve into probabilism—a procedure that identifies the statute's most probable meaning based on available evidence—whereas purposivism gives way to pragmatism, which prioritizes cost-benefit analysis and social welfare-maximization. The article then juxtaposes probabilism and pragmatism against each other and concludes that the choice between these two viable modalities depends on whether one prefers to enhance democracy over welfare-maximization, or vice versa.

Eight Ideas for 2028

Written in: Jan 12, 2026; Posted in SSRN: Jan 12, 2026

Sunstein, Cass R.

Whatever the party of the new president, elected in 2028, it would be worthwhile for the incoming administration to consider eight ideas, to be explicitly embodied in executive orders or presidential memoranda: (1) a clear commitment to the independence of the Federal Reserve Board, certainly with respect to monetary policy; (2) a broad commitment to freedom of speech and the press, building on constitutional requirements; (3) a firm commitment not to interfere with the prosecutorial decisions of the Department of Justice; (4) an insistence on the centrality of cost-benefit analysis, designed to work against both overregulation and underregulation; (5) new restrictions on the pardon power, designed to regularize relevant processes; (6) reasonable (not excessive or expressive) restrictions on conflicts of interest and self-dealing, applicable to executive branch officials and the president personally; (7) a presumption against suits brought by the president in his personal capacity (a voluntary presidential disability, meant to parallel and accompany presidential immunity); (8) perhaps most controversially, a presumption (not a rule) against prosecution, by the current administration, of members of the previous administration. All of these ideas would have to be specified, but they are worthy of serious consideration, no matter the political party of the new administration.

Constitutional and Administrative Considerations in the Creation of Anioma State Equity, Federal Balance, and Legislative Process in Nigeria's Federal System

Written in: Dec 29, 2025; Posted in SSRN: Feb 9, 2026

Umezuruike, Emilia Ngozi

Whatever the party of the new president, elected in 2028, it would be worthwhile for the incoming administration to consider eight ideas, to be explicitly embodied in executive orders or presidential memoranda: (1) a clear commitment to the independence of the Federal Reserve Board, certainly with respect to monetary policy; (2) a broad commitment
This policy note evaluates the constitutional and legislative imperatives that define the proposed emergence of Anioma State from the Delta North Senatorial District in Nigeria. Grounded in Section 8 of the 1999 Constitution (as amended), the note explores the procedural requirements of state creation and the implications of recent legislative events, especially the recent conflict in the House of Representatives over geopolitical identity.
While the geopolitical divisions of Nigeria are considered extra-constitutional, they remain pivotal to political representation, distributive justice, and feelings of inclusion within the federal framework. The numerical imbalance of the South-East geopolitical zone underlies the equity imperative of the Anioma State proposal, which is distinct from convenience-driven state creation initiatives.
The note places the Anioma State proposal in the context of state creation in Nigeria and comparative federalism, exploring how equity-driven reforms have been employed to correct structural imbalances in other federal systems. It also distinguishes between equity-driven reform goals and procedural challenges in building legislative consensus, suggesting that while constitutional requirements cannot be sidestepped, legislative sequencing is essential to advancing reform within defined constitutional limits.

REGULATING APP-BASED TRADING PLATFORMS: IS TRADITIONAL SECURITIES REGULATION SUFFICIENT TO GOVERN APP-BASED TRADING?

Written in: Apr 01, 2026; Posted in SSRN: Apr 20, 2026

VJ, Tejaswini

Trading apps are no longer just financial tools, they are regulated digital intermediaries influencing markets. The advent of mobile applications and user-friendly interfaces further democratized trading and made it available to ordinary people. But these platforms are creating new governance questions like who regulate digital financial intermediaries? Are apps influencing investor behaviour? Should algorithms be regulated? Is there issue between platform design vs market manipulation, and questions about retail investor protection. Research gap identified is that trading platforms increasingly exercise regulatory power over financial markets, yet they are governed through traditional securities regulation designed for brokers not digital platforms. In India Security and Exchange Board of India is the regulator. It regulates stockbrokers, trading platform, rules on investor protection, market transparency, scrutinise fintech and online trading apps. While United States Securities Exchange Commission regulate in USA and in EU it's supervised by European Securities and Markets Authority. While comparing we can get how different regulatory regimes govern app-based trading platforms and are traditional securities regulations adequate to address the risk created by digital financial intermediaries. There are recent global regulatory controversies like trading app restricted certain stock trades during extreme volatility, gamification of trading, crossword fin tech regulations, data use and behaviour providing. In this paper we will also discuss regulatory principles relating to trading apps and firstly 'why to regulate'. Secondly, when regulatory state is there but how modern regulatory state evolves to address technological changes in financial markets. Thirdly, there are multiple actors in the regulatory space, but digital trading takes place within complex regulatory space where public regulators and private platforms both shape market behaviour. These helps analyse how financial regulation evolves in response to digital trading technologies.

Proportionality in Administrative Law

George Washington Law Review, Foreword to Annual Administrative Law Issue, Vol. 94 (forthcoming 2026), U of Michigan Public Law Research Paper No. 25-039

Walker, Christopher J

In this era of rapid change in administrative law—both at the Supreme Court and from the White House—the foreword to the law review's annual administrative law issue presents a timely opportunity to take stock of the future of regulatory governance. This Foreword argues that, especially in this time of flux, we should seek to embrace proportionality as an organizing principle in administrative law. The more important or impactful a regulatory action, the more involved Congress should be in making the major value judgments, the more procedure we should require from agencies, and/or the more searching review we should expect from courts. The converse is also true. For minor regulatory actions where agencies merely fill up the details of a statutory scheme, we should deproceduralize at the agency level and expect light-touch judicial review. In between the major and minor actions, the role of Congress, the extent of agency procedures, and the scope of judicial review should be calibrated, where possible, to be proportional to the importance of the regulatory action.
There have been hints of proportionality in recent years. The Supreme Court, for instance, has introduced a major questions doctrine, which requires a clear statement from Congress to delegate significant value judgments to federal agencies. It has also focused on proportionality when it comes to statutory interpretation and agency delegations, arbitrary-and-capricious review of agency policymaking under the Administrative Procedure Act, and officer status under Article II of the U.S. Constitution. Last Term, the Court recognized the importance of proportionality when it limited the scope of injunctive relief in Trump v. CASA and rebuffed a nondelegation doctrine challenge in FCC v. Consumers' Research. Within the Executive Branch, we have also seen some embrace of proportionality. For instance, in the first Trump administration, the Department of Transportation via internal administrative law adopted formal rulemaking for its most important rules. And in the Biden administration, the Office of Information and Regulatory Affairs doubled the threshold for centralized review of agency rulemaking to significant rules that have at least a $200-million economic impact. This Foreword argues that the Supreme Court and the Executive Branch can and should embrace proportionality on their own in many respects, and documents the ways they have already done so. To fully implement this vision, however, Congress must get involved to ingrain proportionality in administrative law and regulatory practice.

Unconstitutional Conditions and the Doctrine of Public Rights

Minnesota Legal Studies Research Paper 2026-4, Administrative Law Review, forthcoming vol. 78

Wurman, Ilan

The Supreme Court is in the throes of a public rights counterrevolution. The public rights doctrine is an "exception" to the requirements of Article III and the Seventh Amendment that allows certain matters to be adjudicated in administrative tribunals. The modern Court has begun to narrow the scope of the doctrine by looking to history and tradition. Yet despite the Court's turn to history, its cases remain puzzling. The Court has struggled to explain why certain categories of what seem to be private rights—regulatory penalties in the immigration or trade context, for example—are treated as being within the scope of the public rights exception. There is an answer: the Supreme Court's cases involve two doctrines, not one. The public rights doctrine applies only to genuinely public rights: public benefits disputes over which have never required court adjudications. Many of the Court's cases, however, do not involve public rights as such, but rather the unconstitutional conditions doctrine: they involve Congress's ability to require forgoing a private right as a condition of enjoying a public right.
The unconstitutional conditions doctrine provides that Congress may require forgoing private rights as a condition of receiving public benefits if doing so is germane to the public benefit and the condition is not coercive, leaving the individual a genuine choice. The doctrine is disfavored and conditions must be rigorously examined. An unconstitutional conditions analysis, however, explains why Congress can often permit without judicial process the imposition of fines if the only consequence is loss of a public privilege, while it cannot forgo Seventh Amendment and Article III rights before imposing regulatory penalties more generally. It explains why Congress can subject banks and their officers to administrative cease-and-desist authority as a condition of receiving federal insurance funds, but cannot subject their officers to retrospective punishments. And it can explain more besides, including the Supreme Court's foundational nineteenth century case about public rights. Untangling the public rights and unconstitutional conditions doctrines clarifies much that is confusing about the historic and modern cases, and can help guide the lower courts in the numerous cases now confronting them in which both public and private rights are at issue.

Towards Improved Regulatory Efficiency: Reconstruction of Ministerial Regulations to Enhance Regulatory Reform in Indonesia

Written in: Sep 29, 2024; Posted in SSRN: May 8, 2026

Yanto, Andri

This study emanates from the intricate nature of Indonesia's legal regulatory framework, resulting in a legal vacuum concerning the substantive content of ministerial regulations. Ministerial regulations, despite not being part of the formal hierarchy of legal regulations, constitute 31.56 % of the total regulations, posing challenges of overlap and overregulation. The constrained legal attribution for ministers within a presidential system becomes a central concern. Employing a normative legal analysis approach and empirical data, this research constructs an efficient regulatory framework. The findings indicate that the elimination of ministerial regulations as a source of legislation can mitigate the issues of overlap and overregulation. Through a restructuring process, the content of ministerial regulations can be consolidated into presidential regulations, ensuring direct presidential control and regulatory efficiency at the central level. Strategic measures, such as the establishment of a special bureau under the president, facilitate synchronization and harmonization of legal regulations. With an emphasis on presidential regulations, this system supports sectoral governance and reduces the proliferation of scattered regulations. The outcome is a more efficient, non-overlapping, and accountable legal framework. In conclusion, this regulatory reform is imperative to realize an efficient and substantive legal framework in Indonesia.

Events and Informations:

- **Arizona Journal of Internacional and Comparative Law: Call for submissions for Spring 2027 Symposium on International Economic Issues – for more information, click here**

  Deadline: September 1, 2026

Please contact the editor at his e-mail with your comments, informations, questions or suggestions for our Comparative Administrative Law listserv.
