

## Third Symposium

### Participants

- [ndeeds](#)
- xClose



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[Jim Tozzi](#)

# Discussion

**Jim Tozzi**

[2 mos ago](#)

We appreciate your interest in the Common Law Initiative. Shortly we will provide you with our recommend plan for proceeding and will request your comments. Here is a link to our current action plan: <https://www.thecre.com/forum8/?p=7806> Those of you who continue to feel more comfortable in sharing your views with us privately please feel free to message me or in the alternative contact us at [tozzi@thecre.com](mailto:tozzi@thecre.com). Record of Public and Non-Public Submissions <https://www.thecre.com/forum8/?p=7746>



**ikoel Jacob**

[3 mos ago](#)

Judge made law has progressively led to enactment of statutory law or otherwise based on the recommendations of judicial judgements. Needless to mention, the judges interpretation of laws has become a roadmap for aligning all parliament made laws to be in concurrence with the Constitutions. However, some commonwealth jurisdictions have always questioned the judgements that declare laws unconstitutional as an outright subversion of the roles of parliament in making laws. There needs to be a serious discourse between the judicial and parliamentary system on common ground of understanding between the two arms of government.

[Like](#) Annotation: Page 2



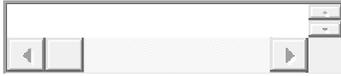
**Jim Tozzi**

[3 mos ago](#)

This is an excellent opener for the symposium; very substantive and addresses a broad spectrum of topics.

[Like](#)





**Jim Tozzi**

3 mos ago

PLEASE NOTE Challenging the Major Questions Doctrine

<https://www.thecre.com/forum8/?p=7806> In reading the articles in the document to left it is necessary to double click on the links to open them. Alternative routing:

<https://www.thecre.com/forum8/?p=7414> A Succor for Chief Justice Roberts

<https://www.thecre.com/forum8/?p=7672> Program Summary

<https://www.thecre.com/forum8/?p=7644> Permanent Record of this Symposium

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Vol. 11, No. 64: Nov 16, 2022

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## Table of Contents

### **The Common Law Initiative: Congressional Review of Judge-Made Law - A Progress Report**

Jim J. Tozzi, Center for Regulatory Effectiveness

### **The Foreign Affairs Function and the APA**

Stephen Migala, *affiliation not provided to SSRN*

## Regime Change

Cristina Rodriguez, Yale Law School

[^top](#)

# U.S. ADMINISTRATIVE LAW eJOURNAL

## "The Common Law Initiative: Congressional Review of Judge-Made Law - A Progress Report"

**JIM J. TOZZI**, Center for Regulatory Effectiveness  
Email: [btozzi1@cox.net](mailto:btozzi1@cox.net)

Over the past fifty years considerable progress has been made in developing a process whereby the President can exercise oversight of the courts, the Common Law Initiative is a formative step to fill this void. This report is a summary of Public comments: <https://www.thecre.com/forum8/?p=7644>

## "The Foreign Affairs Function and the APA"

**STEPHEN MIGALA**, *affiliation not provided to SSRN*

Federal agency rulemaking is governed by the requirements of the Administrative Procedure Act (APA), which means it can take months or even years. However, a longstanding exception to those APA requirements called the "foreign affairs" exception has been increasingly challenged by litigants. Between these growing disputes, and a recent intra- and inter-circuit split is slowly emerging over the meaning of "foreign affairs." But history and context for this source, development, and contemporaneous understandings.

## "Regime Change"

**Harvard Law Review, Vol. 135, No. 1, p. 1, 2021**  
**Yale Law School, Public Law Research Paper Forthcoming**

**CRISTINA RODRIGUEZ**, Yale Law School  
Email: [cristina.rodriguez@yale.edu](mailto:cristina.rodriguez@yale.edu)

In this Foreword, I take October Term 2020 — a Term of transition — as an occasion to explore both the process and the constitutional, interpretive, philosophical, and policy commitments with another. Given the occasion, I focus on the transition that represents. Indeed, our current political transition confronts us with a central tension of our legal order, between the democratic imperative that our institutions help effectuate rather than impede the political will reflected in election results.

My basic claim will be that we ought not rush to treat disruption and change as shocks or aberrations that must be corrected by legitimate reinterpretations of law that, in turn, will help give rise to a new political regime. More generally, we should value and pursue. Valuing and pursuing these forms of change are justified, ultimately, because they help to sustain and transform our political order about legal doctrines, institutional features, and modes of argument that slow transitions and transformations do not purport to advance the rule of law but that in fact inhibit the evolution of our political order. Moments of transition are agonistic struggle perpetuated not just by courts, but also by political actors. The concept provides a ready-made framework for democratic development.

[^top](#)

## About this eJournal

This area contains content regarding administrative procedure, including rulemaking and adjudication procedures, and Presidential power. It generally does not include agency specific regulatory issues.

*Editor: **William F. Funk**, Lewis & Clark Law School*

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