

The Rule of Law and its Applicability In Enforcement Proceedings: A Suggested Framework Utilizing United States Immigration Laws Through Which This Important Issue Could be Analyzed Under Other Domestic Laws and in Other Countries

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The concept of the Rule of Law is applicable across almost all developed Nations. The basic principles defining the Rule of Law are that the government should treat its citizens fairly and that citizens should have access to some type of effective, independent judicial review in order to hold abuses by the government in check. These principles are important because while governments can hold onto power briefly through force, eventually that power must be premised on the respect of the citizens if it is to perpetuate. This paper examines the Rule of Law and its applicability in enforcement proceedings under certain United States immigration laws through examination of the enabling statutes, the case law on several levels, related hearings in the United States Congress and, importantly, the actual experiences of legal practitioners in the field working with government enforcers. Counterintuitively, little has been written in this area, even though it is the area of enforcement which has the broadest applicability of the laws to a Nation's citizens. The paper concludes that very real questions can be raised as to whether the Rule of Law, as conceptually important as it is, effectively governs enforcement proceedings and whether or not this problem could lead to eventual corrosion of support for the government if not held in check. The paper suggests a prism through which these important questions can be analyzed under United States laws and those of other Nations.

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