

Abstract

Throughout decades of political change, the United States has governed immigration through a largely unchanged statute, and utilized executive orders and memoranda as a way to reshape enforcement. This creates enforcement volatility: sudden, repeated shifts in policy and outcomes without any change in law, an instability built into the system's legal design.

Research Question

Why does enforcement policy shift so sharply when the statute does not change, and what does that volatility do to fairness in immigration courts?

One docket tool with four changes
Administrative closure lets a judge temporarily pause a case.

- Early 1980s**
In use as a docket tool [1]
- 2018**
Attorney General Sessions restricts it [1]
- 2021**
Attorney General Garland restores it [2]
- 2024**
Written into regulation [3]
- 2025**
Board of Immigration Appeals narrows it [4]

Each change came without congressional action.

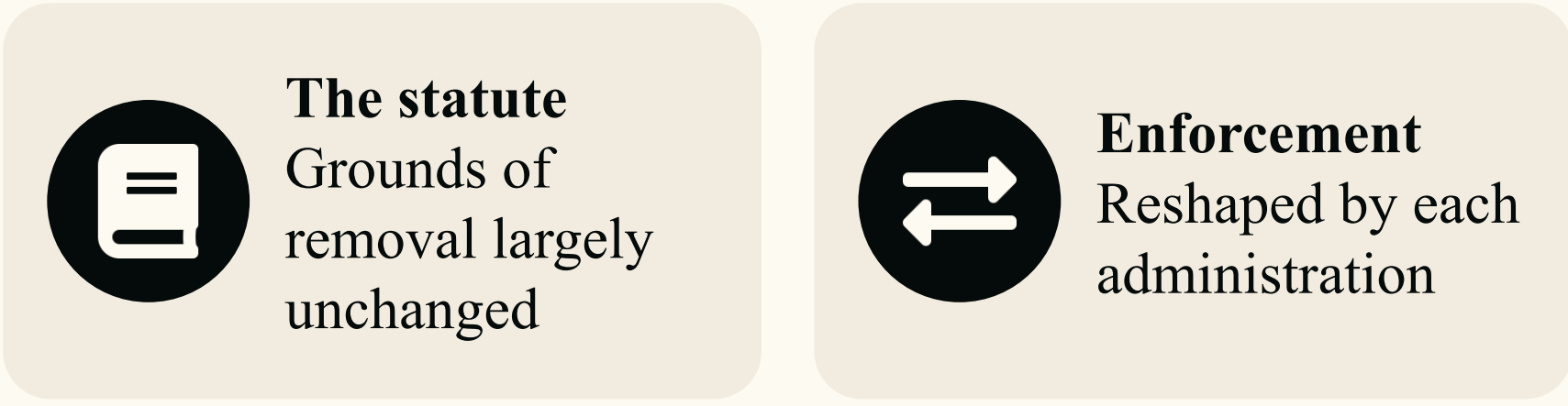
“The system does not need to be generous to be just, but it does need to be stable.”
— Immigration attorney interviewed for this study

Administrative Volatility and Immigration Enforcement: The Structural Sources of Instability in a Static Statute

Ronit Luthra, Downingtown High School East | Acknowledged Contributor: Dr. Ronald Odhiambo Omuthe, University of Cambridge

Introduction

Since the major amendments of 1996 and 2005, the statute's grounds of removal have stood relatively still [5]. Yet Presidents reshape enforcement through executive orders, memoranda, and Attorney General decisions. A static statute can still produce a moving system, leaving people uncertain about the rules governing their cases. Research explains why enforcement is easy to reverse, but seldom how reversals affect fairness.



Methods

An explanatory sequential mixed methods design: data first, then an interview to explain it [6].

