

New research analyzes issues in immigration law

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University of Miami Law Professor Rebecca A. Sharpless has recently authored a research paper titled, "Toward a True Elements Test: Taylor and the Categorical Analysis of Crimes in Immigration Law."

When determining the legal effect of a conviction under immigration [law](#), adjudicators claim to apply a uniform, federal standard that prohibits fact-finding regarding the underlying circumstances that gave rise to the conviction. Though firmly rooted, this categorical analysis of crimes exists amid confusion concerning what it means to apply a categorical approach to evaluating when a criminal conviction is of a type that triggers deportation. Sharpless' article demonstrates that a source of this confusion is a misunderstanding of the nature of a conviction and the difference between a fact necessarily decided to establish an element of the crime and an extraneous fact that appears in the record of conviction. This perplexity has undermined the well-settled principle that immigration adjudicators lack the authority to determine the facts underlying a conviction when deportation depends on a conviction rather than conduct.

The article goes on to analyze immigration agency decisions as well as [federal court](#) decisions, focusing on the immigration and criminal sentencing jurisprudence of the U.S. Supreme Court and Eleventh Circuit Court of Appeals.

The research has been published by the *University of Miami Law Review*.

Source: University of Miami ([news](#) : [web](#))

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