

**23 November 2002**

*Vol. 112*

Over one-quarter of all federal criminal prosecutions and a large number of state cases involve prosecutions for conspiracy. Yet, the major scholarly articles and the bulk of prominent jurists have roundly condemned the doctrine. This Article offers a functional justification for the legal prohibition against conspiracy, centering on psychological and economic accounts. Advances in psychology over the past thirty years have demonstrated that groups cultivate a special social identity. This identity often encourages risky behavior, leads individuals to behave against their self-interest, solidifies loyalty, and facilitates harm against non-members. So, too, economists have developed sophisticated explanations for why firms promote efficiency, leading to new theories in corporate law. These insights can be "reverse-engineered" to make conspiracies operate less efficiently. In reverse-engineering corporate-law principles and introducing lessons from psychology, a rich account of how government should approach conspiracy begins to unfold.

Read "[Conspiracy Theory](#)"

## Contacts



Neal Katyal

Partner

> [Read the full article online](#)