

Law as a Means to Address Conflict

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Abstract : The paper will discuss to what extent political polarization contributes to censorship, lack of civil discourse, and even violence. Most researchers have been unable to identify precisely what factors or processes contribute significantly to conflict. Absent such recognition, we have been unable to select effective remedies to address conflict. Through this paper, it will consider whether legal remedies can help to reduce conflict and polarization. My sense is that many current conflicts cannot be remedied primarily by law. But, there is little research on this hypothesis. Absent research and findings, nations may be looking to law for relief when, in fact, they should be looking at conditions underlying the formation of law or the absence of a more precise and effective legal remedy. It is hypothesized that the underlying reasons for conflict include sub-groups' separation from the larger democratic society; misplaced loyalty to members of sub-groups; a culture of silence when recognizing wrongdoing; and retaliation against people who speak up. In sum, the greater distance citizens or institutions place between themselves and democratic norms, the more likely the members of a sub-group or institution will be to adopt conflict, even violence, as a method to obtain personal goals.

Keywords : constitutional law, conflict, criminal law, polarization

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