

## Yes, There is Such a Thing as Too Much Transparency

Author : Sam F. Halabi

Date : February 15, 2018

Ashley Deeks, [A \(Qualified\) Defense of Secret Agreements](#), 49 *Ariz. St. L.J.* 713 (2017).

In a world where secret meetings and resulting agreements seem particularly suspect, it might be tempting to think that the growing norm of transparency might keep the world a more harmonious place. Woodrow Wilson famously extolled the virtues of “open covenants of peace, openly arrived at...” [Ashley Deeks](#), in her recent article, *A (Qualified) Defense of Secret Agreements*, asks us to think again of this norm and dictum. Her article is one I like a lot, and I hope others active in the study and shaping of international law and international relations do as well.

To be sure, secret agreements, Deeks reminds us, have done much to undermine international stability. The exposure of the [Sykes-Picot](#) Agreement—carving the Ottoman Empire into British and French spheres of influence with certain gains for Russia—remains good evidence among many in the Middle East that all past, current, and future interventions by US or European countries are driven by ulterior, territorial motives. Agreements between the Obama administration and regimes not particularly well-known for their strong human rights records have expanded the practice of extrajudicial killing through drones and other technologies. Additional contemporary examples might be the “Trump Tower meeting,” the “secret” US-Israeli agreement to broadly destabilize Iran, a covert agreement giving Russia free hand in Syria.

Yet Deeks also ably illustrates the usefulness and necessity of secrecy for the promotion of partnerships and policies that ultimately make the world safer. Her methodology centers around evaluating secret agreements’ objectives that are either consistent or inconsistent with the United Nations Charter as the U.S. has generally interpreted it. Arms control treaties are facilitated by the ability to disclose numbers and locations. Secret intelligence sharing arrangements are understandably so (and present less of a problem for democratic accountability) because they are built on already legally-sanctioned secrecy/classification laws in participating countries (the [Five Eyes](#) agreement among the United States, United Kingdom, Canada, Australia, and New Zealand plays a recurrent, illustrative role).

The most substantial contributions of the article are those of classification and analysis. Deeks identifies five major categories of secret agreements: intelligence cooperation, military cooperation, nuclear weapons issues, conventional-weapons-related use restrictions, and economic commitments. She assesses them for the discomfort they should or should not cause those ultimately concerned about the objectives of international institutions (taking the U.N. Charter as representative) and the necessity for cooperation and coordination in the international competitive states system.

Deeks is forthright about the methodological difficulties her project poses. Secret agreements are difficult to study because they are, well, secret. Yet it is because they are so obscure that Deeks’s contribution is so valuable. Disrupting what she concedes is an understandable stigma, she argues that it is possible to work through the circumstances under which secrecy is consistent with, rather than inconsistent with, democratic objectives and/or international stability. Deeks provides at the very least a hard-nosed effort at doing so with a payoff for scholars and policymakers alike.

Cite as: Sam F. Halabi, *Yes, There is Such a Thing as Too Much Transparency*, JOTWELL (February 15, 2018) (reviewing Ashley Deeks, *A (Qualified) Defense of Secret Agreements*, 49 *Ariz. St. L.J.* 713 (2017)), <https://intl.jotwell.com/yes-thing-much-transparency/>.