

BACK CHANNEL NEGOTIATION:  
A REVIEW OF THE THEORETICAL LITERATURE ON SECRECY AND NEGOTIATION

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## **I. Introduction**

There are and will probably always be tensions among several things: 1) norms, especially democratic norms and expectations of transparency in government decisionmaking, 2) individual and organizational needs for privacy—not just among citizens in their private capacity, but among government personnel and officials in the conduct of their work, and 3) national or international interests which compel a government to communicate with its adversaries and allies, and seek solutions to existing and emerging problems via negotiation. We can add to that a general aversion to acknowledgement of our adversaries that sometimes results in ideological or policy preferences to deny the possibility of negotiation with the counterpart. Nevertheless, parties do negotiate with their enemies, even when they find each other reprehensible. This is because it is precisely the adversary with whom agreement must be reached, whether for operational de-escalation, temporary measures or comprehensive peacemaking. There is little to be gained by unilateral demands for capitulation of one's adversaries, and coercion alone does not always get compliance. And since negotiating only with one's friends is the corollary of declarations of non-negotiation with one's enemies, it should be said that the latter declarations in the context of armed conflicts and conflict with non-state armed groups may be symbolically potent, but ultimately self-constraining. Humans have negotiated with their 'reprehensible' adversaries for millennia if negotiations can help achieve what confrontation has not.

In this paper I explore the literature relevant to the study of secrecy and negotiation, which I have considered integral components of back channel negotiation (BCN), a topic I first explored in my doctoral studies, and in subsequent published work that specifically used the Palestinian-Israeli Peace Process negotiations as series of cases of negotiation to analyze the secret negotiation phenomenon.<sup>1</sup> An earlier version of this literature review was incorporated into my doctoral thesis. This literature review does not examine the numerous contemporary case analyses of secret, back channel negotiation that emerged in past years, and which tend to confirm hypotheses I've argued.

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<sup>1</sup> Anthony Wanis-St. John, *Back Channel Diplomacy*, PhD Thesis, Tufts University, Fletcher School of

The topic of secrecy is different from, but highly connected to, our society's ongoing struggles with privacy. Having grown up in the 1960s to 1980s, it seems apparent to me that privacy, as I knew it, no longer exists. And yet we fight for it, advocate for it, insist on it, especially with respect to the protection of our legitimate financial, business and personal data. Nevertheless as individuals, we no longer have control over that data as it passes from organization to organization, server to server, country to country. The recent 2016 battle between the Department of Justice and Apple, Inc. highlights some of the same tensions between what is private, and thus, legitimately concealable, and what is subject to the scrutiny of the government for law enforcement investigative, preventive and prosecutorial activities. Government scrutiny of the contents of that phone paves the way for eventual public knowledge of that phone's contents. We have not, as a society, reached a consensus on how to balance such competing interests.

Similarly, publics often demand transparency of our public servants. Congress insists on oversight of the many facets of government action, ostensibly to protect the 'public' interests. And executive agencies often seek to conceal the conduct of their work, and, occasionally, its outcomes, from such demands for transparency.

Nowhere is this tension more interesting to me than in the use of secrecy in negotiations. Secrecy is widely sought by negotiators in the interpersonal domain, within organizations, in the domestic political domain, and especially in international negotiations. In the latter category, this seems particularly to be true in situations in which armed forces and governments are on one side, and the non-state armed groups that populate contemporary warfare.

My central research concern over the past two decades has been the uses and limitations of back channel negotiation (BCN), which I define as secretly conducted official negotiations that complement or replace open, acknowledged ones. In the **first** section I consider the phenomenon of secrecy as a human social activity that protects creativity but implies exclusion. The **second** section reviews relevant concepts from political theory; realism and neoliberalism. The **third** section considers early descriptive theory about back channel negotiation. The **fourth** section introduces dilemmas that BCN is used to manage: intra-organizational bargaining, international crisis negotiation; and the effect of publicity on negotiation behavior. The **fifth** section discusses the

contribution of negotiation analytic theory and indicates where this study is situated in that literature.

In the aggregate, this chapter provides the theoretical bases for the typology of back channel international negotiation that I have presented elsewhere.<sup>2</sup>

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<sup>2</sup> Wanis-St. John, *Back Channel Negotiation*, especially Chapter 7.

## II. The phenomenon of secrecy

Secrecy is the *sine qua non* characteristic of all types of back channel negotiation (BCN). Sissela Bok, in her broad exploration of the ethics of secrecy in diverse human activities, defines secrets and secrecy in the following terms:

To keep a secret from someone, then is to block information about it or evidence of it from reaching that person, and to do so *intentionally*: to prevent him from learning it, and thus from possessing it, or revealing it. The word “secrecy” refers to the resulting *concealment*. It also refers to the methods used to conceal, such as codes or disguises or camouflage, and the practices of concealment, as in trade secrecy or professional confidentiality.<sup>3</sup>

The substance of secrecy thus being defined in terms of intentional concealment, Bok explores observable effects of secrecy, in particular exclusion and conflict:

It presupposes separation, a setting apart of the secret from the non-secret, and of keepers of a secret from those excluded...The *separation between insider and outsider* is inherent in secrecy; and to think something secret is already to envisage potential conflict between what insiders conceal and outsiders want to inspect or lay bare.<sup>4</sup>

Bok notes that humanity’s recourse to secrecy has both positive connotations (as in the protection of the private and the sacred) and negative ones (the dangerous and the shameful). “Secrecy can work in opposite directions, so as both to inhibit and to support moral choice.”<sup>5</sup>

Bok writes that secrecy shields political decisionmakers from criticism and obscures their failures. Secrecy distances decisionmakers psychologically from the effects and human implications of their decisions, working through the mechanism of discrimination between insider and outsider.<sup>6</sup> In the conduct of political affairs, however, she notes the legitimate uses of “administrative secrecy” as when a president decides to devalue a currency or when a prosecutor conducts a criminal investigation—premature revelation would undermine the policy action itself. “If administrators had to do

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<sup>3</sup> Sissela Bok, *Secrets: On the Ethics of Concealment and Revelation* (New York: Vintage Books, 1984), 5-6. Emphasis added.

<sup>4</sup> *Ibid.*, 6. Emphasis added.

<sup>5</sup> *Ibid.*, 102.

<sup>6</sup> *Ibid.*, 102-111.

everything in the open, they might be forced to express only safe and uncontroversial views, and thus to bypass creative or still tentative ideas.”<sup>7</sup>

BCN, within this social-ethical framework, provides opportunities to accomplish two goals: to protect a fragile negotiation process from internal and external parties and audiences by their deliberate exclusion, while also negotiating arrangements potentially at variance with the interests of the people on whose behalf the negotiation is conducted because of the diminished accountability and enhanced flexibility.

Bok’s characterization of secrecy as a dualistic human behavior, embodying beneficial and dangerous aspects is both intuitively appealing and helpful to our understanding.

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<sup>7</sup> Ibid., 175.

### III. Political theory

Back channels, in the vocabulary of political theorists, could be characterized as a type of *institution*, constructed in order to reduce the *transaction costs* incurred in starting and conducting a front channel negotiation; reducing informational asymmetry, reconfiguring issues so that internal and external tradeoffs are possible, and providing the space for iterated transactions protected from audiences, in short, *a forum for decisionmaking with reduced uncertainty*. BCN permits tradeoffs between the various channels: a decisionmaker can pursue the different channels for different purposes. Across the channels several elements may differ: the parties represented, the degree of negotiator autonomy and role of outside parties. Empirical study; cases of BCN, tend to confirm these assertions and specify the differences between channels.

Political theory served as the context for debates on the use of secrecy in diplomacy. The realist paradigm paid attention to the uses of secrecy in negotiation, so that principals could create rational public policy decisions. Challenges to realism contributed to the demise of the image of the state as monolithic party in international relations.

#### *A. Realism and the debate on secret vs. open diplomacy*

In its classic form, the realist paradigm in international relations posits that states, the principal actors in the international system, seek to acquire, maximize and maintain power, which defines states' interests.<sup>8</sup> The later *neorealist* formulation of the paradigm finds power alone to be insufficient as a definition of state interests, and assumes that states behave in *strategic* ways that are *rationally* calculated to ensure their survival under the condition of *anarchy*, which is the defining characteristic of the international system.

The actions and behaviors of states within this system with their different strengths and capabilities are to a large extent motivated, defined and constrained by the external environment in which they find themselves—an environment characterized by the absence of central authority—according to the neorealist framework.<sup>9</sup> Neorealists do

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<sup>8</sup> Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace* 5th rev. ed. (New York: Knopf, 1978).

<sup>9</sup> Kenneth Waltz, in his explanation of this assumption, has written that it is a “radical simplification made for the sake of constructing a theory.” He accepts that states may have diverse interests, but that “survival is



not ignore the domestic factors which affect international politics, including the attributes of the individual state. However the paradigm as a whole differentiates for analytical purposes the domestic from the international realm, placing greater emphasis on the latter, claiming that the unit-level (state) causes for international relations outcomes are insufficient. The great variation in states' internal attributes does not correspond to the more limited variety of outcomes in international relations, narrowly portrayed in terms such as peace, crisis, or war. Neorealism therefore turns to the 'system' for explanations and predictions.<sup>10</sup>

A principal assumption underlying the realist paradigm is that the state is a 'unitary' actor, in addition to being the most important subject of analysis in international relations. That is, "world politics can be analyzed as if states were unitary rational actors, carefully calculating costs of alternative courses of action and seeking to maximize their expected utility, although doing so under conditions of uncertainty..."<sup>11</sup> This state-centric approach to international relations is coupled with the view of the state as a monolithic 'black box', whose internal mechanisms are ignored or assumed away. Within this black box are such things as conflicting domestic interests, bureaucratic politics, and psychological dynamics of leaders, groups among other factors all of whom are factors involved in the conduct of BCN.

Classical realism reacted against the proclamation of a "new diplomacy" that followed World War I, advocated by figures such as President Woodrow Wilson. Theorists and practitioners from the classic realist tradition advocate isolating policymakers and international negotiators from domestic pressures, because of the negative impact such pressures place on negotiators.

In his call for a "revival of traditional diplomatic practices," Hans Morgenthau, the dean of classical realism, attacked the "vice of publicity" in diplomacy. Morgenthau complained that diplomacy was becoming distorted by "crusading aspirations of nationalistic universalism." New diplomacy, with its built-in audiences combines with

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a prerequisite to achieving any goals that states may have." Kenneth N. Waltz, "Political Structures," in *Neorealism and Its Critics*, ed. Robert O. Keohane, (New York: Columbia University Press, 1986), 81-87.

<sup>10</sup> Kenneth N. Waltz, "The Origins of War in Neorealist Theory," *The Journal of Interdisciplinary History* 18, no. 4 (1988).

<sup>11</sup> Robert O. Keohane, "Theory of World Politics: Structural Realism and Beyond," in *Neorealism and Its Critics*, ed. Robert O. Keohane, (New York: Columbia University Press, 1986), 165.

absolute national doctrines, resulting in “the degeneration of diplomatic discourse into a propaganda match” between diplomats. This in turn prevents negotiators from concluding discreet compromises that could satisfy national interests. Diplomats and the governments they represent find themselves having to make absolute declarations of principle and take positional stances from which they cannot easily retreat, unless they are willing to endanger the political survival of the government.<sup>12</sup>

Henry A. Kissinger, as both historian and statesman, seems to have followed Morgenthau’s *realpolitik* precepts of diplomatic practice closely.<sup>13</sup> He considered three factors—Congressional pressure, “bureaucratic indiscipline,”<sup>14</sup> and leaks to the media by diplomats—to be cause enough to “move the conduct of negotiations more and more into the White House” while he was the National Security Advisor to President Nixon, and later Secretary of State to both Nixon and President Gerald Ford.<sup>15</sup> Kissinger was able to construct a stable mechanism of secret negotiation with the Soviet Ambassador to the US, Anatoly Dobrynin in parallel with negotiations conducted between the US State Department and the Soviet Foreign Ministry, which Kissinger dubbed “The Channel.”<sup>16</sup> It may be safe to assume that Kissinger was one of the first to use the term ‘back channel’ generally to describe such activities.

The writings of Morgenthau and Kissinger flow from a realist contention that states *would make* rational foreign policy decisions if they were not impeded by the need to manage large bureaucracies (Kissinger) or mobilize domestic support (Morgenthau).<sup>17</sup> They do not question the rationality assumption; rather they confirm the assumption by

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<sup>12</sup> Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, 535-553.

<sup>13</sup> Despite the closeness of Morgenthau’s prescriptions and Kissinger’s practices, Morgenthau is only mentioned once in Kissinger’s own treatise on international diplomacy, and then only to note Morgenthau’s disapproval of the conduct of the Vietnam War on the ground of its immorality. Henry Kissinger, *Diplomacy* (New York: Simon & Schuster, 1994), 668.

<sup>14</sup> Kissinger described this as the State Department’s “tactical day-to-day deviations from White House policy.” Henry Kissinger, *White House Years* (Boston: Little Brown, 1979), 138.

<sup>15</sup> In reflecting on his earlier work as a consultant to the Kennedy White House, Kissinger foreshadowed the reason for his subsequent extensive use of back channel diplomacy. “[Truman] asked me what I had learned. I replied that the bureaucracy appeared to me to function as fourth branch of government, severely restricting the president’s freedom of action.” Kissinger, *Diplomacy*, 425.

<sup>16</sup> Kissinger, *White House Years*, 138.

<sup>17</sup> This conclusion is drawn by Andrew Moravcsik, “Introduction: Integrating International and Domestic Theories of International Bargaining,” in *Double-Edged Diplomacy: International Bargaining and Domestic Politics*, eds. Peter B. Evans, Harold K. Jacobson, and Robert D. Putnam, (Berkeley: University of California Press, 1993), 9-10.

focusing on the forces they feel undermine the pursuit of rationality and rational foreign policy processes and outcomes: domestic politics and internal bureaucracies, respectively.

Realists observe the policy prescription that secrecy in diplomacy is a tool for the management of a party's own bureaucratic actors and constituencies. Realism's principal defect with regard to a study on back channel diplomacy is its reliance on the monolithic image of the state. The monolithic image of the state as political actor excludes research that portrays the state as a collection of groups whose interests are in contention and who affect the conduct of international affairs. In its search for explanations in the 'system', realism takes note of the existence of (indeed it advocates for) diplomatic secrecy, but takes little note of why states use multiple channels of diplomacy.<sup>18</sup> The continuing relevance of realism to theoretical puzzles and practical problems of international politics has been questioned by competing streams of political theory, to which I now turn.

### ***B. Complex interdependence and multiple channels***

One major theoretical approach that emerged as a challenge to realism has been termed "liberal institutionalism" or "neoliberalism."<sup>19</sup> Neoliberalism builds on the complex interdependence concept and attempts to resolve an anomaly from the realist paradigm: If we accept the assumption that the international system is characterized by anarchy that causes states to make strategic moves to survive but which can result in war, why do states also achieve cooperative and mutually beneficial arrangements under the same conditions?<sup>20</sup>

Theories of "complex interdependence" systematically challenge the realist paradigm and its underlying assumptions, creating intellectual space for new questions on the study and practice of diplomacy.

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<sup>18</sup> Of course, Kissinger noted his own use of multiple channels in his memoirs. His rationalizations for the use of back channels also erode the monolithic image of the state since he used them to work around other executive agencies.

<sup>19</sup> Joseph M. Grieco, "Anarchy and the Limits of Cooperation," *International Organization* 42, no. 3 (1988); John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19, no. 3 (Winter 1994), 14.

<sup>20</sup> Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984); Kenneth A. Oye, "Explaining Cooperation under Anarchy," *World Politics* 38, no. 1 (1985).

One of the foundation texts still merits a close examination of its arguments. Keohane and Nye, in *Power and Interdependence: World Politics in Transition* asked research questions about the “major features of world politics when interdependence, particularly economic interdependence, is extensive.”<sup>21</sup> In juxtaposition to the ideal typology constructed by realism, they sought out the complexity of international relations. The characteristics of their model describe a world in which “actors other than states participate directly in world politics, in which a clear hierarchy of issues does not exist, and in which force is an ineffective instrument of policy.”<sup>22</sup> There is much to explore in this argument.

Of the three elements at the core of their proposal, two are considered here. The first is that “multiple channels connect societies, including informal ties between governmental elites as well as formal foreign office arrangements; informal ties among nongovernmental elites...and transnational organizations.”<sup>23</sup> Domestic politics in one state affect its relations with another. States are no longer thought of as the only unit of analysis in international relations. Relations between states can no longer be considered the exclusive domain of the executive powers and ambassadors, whether in practice or in theory. Furthermore, the various channels through which relations are conducted are themselves good candidates for research and analysis. Both domestic interest groups and numerous government bureaucracies are acknowledged to have an effect on international negotiations either by trying to effect policy directly, or by having contact with counterpart groups and agencies in other countries.<sup>24</sup>

Second, the realist conception that the threat and use of force are the most important instruments of statecraft and rank first on the agenda of issues that states bargain over is no longer accepted without question. Instead, Keohane and Nye point to the “absence of hierarchy among issues.” They explain that “many issues arise from what used to be domestic policy, and the distinction between domestic and foreign issues becomes blurred. These issues are considered in several government departments (not

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<sup>21</sup> Robert O. Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little Brown, 1977), 5.

<sup>22</sup> *Ibid.*, 24.

<sup>23</sup> *Ibid.*, 25-26.

<sup>24</sup> *Ibid.*, 236-242.

just foreign offices), and at several levels. Inadequate policy coordination on these issues involves significant costs. Different issues generate different coalitions, both within governments and across them, and involve varying degrees of conflict.”<sup>25</sup> States are seen as complex organizations, not simply vehicles for the formulation and execution of narrow foreign policy decisions strongly related to the use or threat of force.

These two elements together address the core assumptions of realism and open the door to inquiry about domestic and bureaucratic politics as they interact with international diplomacy.<sup>26</sup>

Keohane and Nye’s use of the term ‘multiple channels’ is itself intriguing and permits us to ask if national governments continue to be the only decisionmakers in diplomacy and international relations. In most cases, the answer must simply be ‘yes’. At the very least however, complex interdependence leaves space for researchers to analyze interactions between non-state actors and states despite their inherent asymmetries of power and resources. While national governments continue to be in fact, the ultimate decisionmakers in international diplomacy, they can no longer be said to be the *only* sources of input for policy decisions and negotiations, a contention reflected in the complex interdependence concept.

Complex interdependence further asserts that a state’s negotiation leverage is partly based on the state’s ability to persuade its internal subparties to make compromises, since their interests are affected by international negotiations to different degrees, positively or adversely or in some combination,<sup>27</sup> a theme taken up by later theorists, notably Putnam.<sup>28</sup>

Within this paradigm, there is no observation of multiple *negotiation* channels per se and no contemplation of the consequences of their use, only the recognition that a

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<sup>25</sup> Ibid., 26-27.

<sup>26</sup> For third argument, they claim that “military force is not used by governments toward other governments within the region, or on the issues, when complex interdependence prevails.” Ibid., 27-29. This is simply a reflection of the ‘reality’ that a great proportion of international relations are neither problematic nor conflictual. The agreements that interdependent states and other international actors make with each other, for the most part, require little or no enforcement and generate little or no controversy.

<sup>27</sup> Ibid., 239.

<sup>28</sup> Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42, no. 3 (1988); Peter B. Evans, Harold K. Jacobson, and Robert D. Putnam, eds., *Double-Edged Diplomacy: International Bargaining and Domestic Politics* (Berkeley: University of California Press, 1993).

more generic multiple channel dynamic exists and poses a challenge to the monolithic image of the state.

Game theoretic analyses, such as those generated by the “Prisoner’s Dilemma” (PD) scenario, lie at the heart of much neoliberal theorizing since the major obstacle preventing states with mutual interests from cooperating with each other is the threat or *uncertainty* that the other side will defect from any cooperative arrangement.<sup>29</sup> Rational parties have incentives to defect because of the short term gains that accrue to defecting parties despite the greater value of mutually cooperative moves for all parties in the long run in PD.<sup>30</sup>

True to game theory’s origins in economics, the inherent incentive for defection in international PD situations is described as a political “market failure” that can be mitigated when states deliberately create structures that reduce the risk of defection: Therein lies neoliberalism’s answer to the theoretical puzzle of cooperation under conflict, anarchy and uncertainty.

Organizations, regimes, or binding agreements (collectively termed “institutions” by neoliberals)<sup>31</sup> created by diplomatic negotiation diminish the degree of international anarchy and reduce the *transaction costs* of attaining and complying with agreement. They do this by providing a forum for *iterated transactions* (long term relationships and interactions) that provide long term gains for cooperators and diminish defection by providing future opportunities for reciprocation of either cooperative or defecting moves and ultimately, uncertain of the outcome of their international negotiations.

BCN is a response to these uncertainties. It represents a kind of institution that deals with the numerous critical uncertainties posed by negotiations with adversaries.

Game theory provided a mathematical basis for such concepts.<sup>32</sup> Institutions also provide a forum for *issue linkage*; which refers to the act of grouping negotiated issues

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<sup>29</sup> Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy*.

<sup>30</sup> Ruben and Brown, as the basis of their social psychology textbook on negotiation behavior, synthesized the findings of approximately 400 experimental negotiation studies that relied explicitly on a model such as PD derived from game theory (prior to 1975). The Ruben and Brown work is explored more fully below because of its breadth and because of the direct relevance of its proposals to the variables of BCN, particularly their survey of the effects of publicity on negotiation processes. Jeffrey Z. Rubin and Bert R. Brown, *The Social Psychology of Bargaining and Negotiation* (New York: Academic Press, 1975).

<sup>31</sup> Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy*.

<sup>32</sup> See for example, R. Duncan Luce and Howard Raiffa, *Games and Decisions* (New York: Wiley, 1957).

together so as to enable the parties to make internal tradeoffs among them, and compensate any internal ‘losers’ that result from an external arrangement, while also facilitating tradeoffs across the table.<sup>33</sup> Finally, institutions supply a *rule structure* that facilitates more *symmetrical access to information* participants need to make wise decisions, thereby building confidence in a given interaction and permitting monitoring of compliance with negotiated agreements.<sup>34</sup> The game theoretic assumption that all players know all the rules and possible moves they and others can make in a conflict or bargaining situation (perfect information) is here adjusted to more accurately reflect the reality that states and nonstate actors are uncertain of the rules, uncertain of each others’ moves.

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<sup>33</sup> Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy*.

<sup>34</sup> *Ibid.*

#### IV. Early theory and definition

Moving beyond the debate on open versus secret diplomacy, one finds occasional references to back channel diplomacy or its key elements. The following section reviews early definitions and descriptive theory on BCN.

In *The Practical Negotiator* Zartman and Berman wrote that “the relationship between the negotiator and the home front may be described in terms of channels.” They used the term to describe one form of summit diplomacy that parallels the work of professional diplomats. They observed that back channels could *sometimes* require secrecy in order to break negotiation impasses. The front channel can serve as “a public negotiating screen for more delicate private talks...a propaganda arm, covering up for concessions.” A front channel could also serve as “the intelligence arm, sounding out the other side on its demands and flexibility in preparation for a direct offer through the back channel.”<sup>35</sup> Zartman and Berman essentially conflated summit diplomacy with back channel diplomacy and saw secrecy as an optional element of summitry. This is a reflection of the realist prescription about secret diplomacy. While I argue that summits and secret diplomacy are easily distinguishable from each other, it is not difficult to conceive of *secret* summit meetings as one of many possible forms that back channel negotiation can take.

One of the earliest books that focused exclusively on BCN, and which defines BCN as an international negotiation activity more complex than mere secret negotiation was *Statecraft in the Dark: Israel's Practice of Quiet Diplomacy* written by Israeli scholar Aharon Klieman.<sup>36</sup> Klieman considers ‘quiet diplomacy’, ‘diplomatic back channels’ and ‘back channel diplomacy’ to be interchangeable terms. His monograph is largely based on four decades of Israeli diplomatic history, but also considers US and other cases. First he tackles the methodological and definitional problems of research in this area and discusses the debate concerning the use of secrecy in democracies, noting that “foreign policy must serve two masters. One are democratic norms; the other is the

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<sup>35</sup> I. William Zartman and Maureen R. Berman, *The Practical Negotiator* (New Haven: Yale University Press, 1982).

<sup>36</sup> Aharon Klieman, *Statecraft in the Dark: Israel's Practice of Quiet Diplomacy* (Jerusalem: Jaffee Center for Strategic Studies, 1988); Aharon Klieman, "The Use of Back Channels in Israeli Diplomacy" (paper presented at the Conference Back Channel Negotiations in the Arab-Israeli Conflict, Hebrew University of Jerusalem, May 4, 2000)



national interest” and that BCN sits at the intersection of the two concepts, possibly offending norms in order to advance interests.

Writing in the wake of the Iran-Contra affair that involved the US, Nicaragua, Israel and Iran, Klieman defended quiet diplomacy and its reliance on secrecy to undertake strategic initiatives and believed it should be distinguished from covert operations which are tactical uses of secrecy for intelligence or military operations against other states. His definition of quiet diplomacy is worth citing:

Veiled collaboration involving two or more international actors pursuing essentially peaceful high policy objectives, and which expresses itself in explicit communication, businesslike exchanges, and tacit understandings or arrangements of such sensitivity as to preclude sharing these confidences with either domestic constituencies or other outside parties.<sup>37</sup>

He writes that “one of the primary aims of secret, back channel talks is to help clarify and define the limits to tolerable deviation” from expected behavior or policy.<sup>38</sup> He also argues that the strategies of BCN can be analyzed according to whether they serve offensive or defensive strategies. Defensive strategies seek to preserve a status quo, such as the state of de facto non-belligerency that lasted for nearly twenty years between Jordan and Israel prior to the 1967 War, and then resumed until the conclusion of a formal peace treaty in 1994. BCN can also be offensive, in the sense that it can help facilitate a revisionist strategy, a change in the status quo, such as the US opening to China, or the US government’s more recent and successful diplomatic overtures to the Iranian and Cuban governments.

He also describes the dangers that BCN poses to international relations, including fostering of mistrust if there are leaks, generation of unrealistic expectations, and complacent acceptance of the back channel in place of formal peace arrangements. The success of a back channel initiative depends on the match between the strategy of the user and circumstances ‘on the ground’.<sup>39</sup>

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<sup>37</sup> Klieman, *Statecraft in the Dark: Israel's Practice of Quiet Diplomacy*, 10-13.

<sup>38</sup> *Ibid.*, 109.

<sup>39</sup> *Ibid.*

Klieman considers BCN to be useful in crisis management contexts as well as in long term, sequenced, “multi-stage secret diplomatic processes.” BCN results in several kinds of outcomes ranging from public agreements, public agreements supplemented with secret side-agreements, and secret accords whose existence is not revealed. Finally, BCN has political consequences; it can cause administrative confusion. It can also engender public distrust.

Klieman’s observations and analyses are clearly the best early treatment of this topic and the only work exclusively dedicated to a more comprehensive phenomenon than simple secret diplomacy. His work also was somewhat rooted in the assumption of the state as unitary actor. It is descriptively accurate, and serves essentially as a starting point for deeper inquiry, for example, on the effect of provoking public distrust or causing administrative confusion. The case studies of his monograph were not analyzed according to an explicit theoretical framework but Klieman’s critical appraisal of the use of back channels over time warned that they could become a substitute for front channels and could erode public trust.

Louis Kriesberg, an eminent sociologist and peace and conflict resolution scholar, took some note of what he termed “secret meetings” in international conflict resolution efforts in his comparative study *International Conflict Resolution*. He explored how de-escalation negotiations began in the US-USSR and Arab-Israeli conflicts. Initiation of negotiations involved three elements: the presence (or absence) of positive inducements prior to negotiations; the range of issues presented; and the parties involved. Kriesberg notes however that many peace initiatives are not accompanied by “any significant conciliatory deeds by the proponent,” and such initiatives occur in so-called “secret meetings.”<sup>40</sup> His consideration of secret meetings prior to substantive negotiations possibly indicates that the decisionmakers involved are very likely risk averse due to political or cultural factors, and the secret meeting is therefore a low cost way of exploring the feasibility of negotiations involving eventual concessions without any initial conciliatory or coercive action, either of which might incur costs to the proponent of negotiations. These risks of negotiation in violent conflict are analogous to the

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<sup>40</sup> Louis Kriesberg, *International Conflict Resolution: The US-USSR and Middle East Cases* (New Haven: Yale University Press, 1992), 90-105.

dilemmas of crisis management described by Snyder and Diesing above.<sup>41</sup> Kriesberg's focus was limited to this single benefit that BCN provides; exploratory talks without prior concessions or preconditions, which is quite critical. However, BCN can be and is used at all points of a peace process or crisis management situation.

P. Terrence Hopmann, in *The Negotiation Process and the Resolution of International Conflicts*, synthesized the findings of various disciplines. His contribution to the understanding of BCN was to note the human need for redundancy in communication to increase the chances of understanding intentions.<sup>42</sup>

Hopmann believes parties resort to "signaling and covert problem solving" when they face a conflict that is spiraling out of control. Specific actions include *back channel negotiations* which he defined simply as informal discussions behind the scenes "to reverse the competitive spiral."<sup>43</sup> Hopmann essentially sees BCN as a tool for escaping from the trap of international prisoners' dilemma.

Colosi's conception of international negotiation is captured in the title of his essay "The Iceberg Principle." Secrecy is a required condition for successful negotiation of international conflicts and obscures the ninety percent of diplomatic activity that is hidden from observers and researchers. The secrecy isolates negotiators from their internal subparties as well as their principles, thus enabling effective communication. This communication requires mutual trust to be built, and secrecy is required for trust-building. However, Colosi argues that the purpose of trust is related to the *provocation of "doubt and uncertainty."* Mutual trust enables the negotiators to build a relationship that permits them to create "doubts in the minds of others as to the viability of the other parties' positions." Secrecy is needed to create trust, which facilitates communication, which helps negotiators manage uncertainty and encourage their counterparts to doubt in their own positions. This in turn leads to a changed mindset, which ultimately results in realistic counteroffers. The other side, according to Colosi, trusts you enough to also trust your negative characterization of their negotiation demands, thus enabling the other side

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<sup>41</sup> Glenn H. Snyder and Paul Diesing, *Conflict among Nations: Bargaining, Decision Making, and System Structure in International Crises* (Princeton, N.J.: Princeton University Press, 1977).

<sup>42</sup> P. Terrence Hopmann, *The Negotiation Process and the Resolution of International Conflicts* (Columbia: University of South Carolina, 1996), 151, 164-166.

<sup>43</sup> *Ibid.*, 165.

to make concessions.<sup>44</sup> The value of Colosi's observation is its emphasis on what happens at the interpersonal level between negotiators in the back channel. It does not consider the actual structural change implied by secrecy or secret channels however nor did it focus on impacts—either positive or negative—of BCN.

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<sup>44</sup> Thomas R. Colosi, "The Iceberg Principle," in *Perspectives on Negotiation: Four Case Studies and Interpretations*, eds. Diane B. Bendahmane and John W. McDonald, (Washington, D.C.: Center for the Study of Foreign Affairs Foreign Service Institute, U.S. Dept. of State, 1986), 245-250.

## V. Dilemmas and challenges addressed by secrecy

Some of the major writings in negotiation research have alluded to or mentioned the use of secrecy to loosen constraints and manage dilemmas that confront negotiators and decisionmakers. The challenges reviewed here are the dynamics of internal bargaining that have an impact on ‘external’ negotiations, policy dilemmas faced by decisionmakers in the management of international crises, and the effect of audiences on negotiators.

### A. *Internal bargaining*

#### 1. Negotiation in the labor-management context

Walton and McKersie, with the first edition (1965) of their work *A Behavioral Theory of Labor Negotiations*, explicitly built on and moved beyond the game theoretical rational decisionmaking models in order to more accurately describe what happens in all types of social negotiations. They provided a unique synthesis of negotiation theory that has yet to be proven obsolete. Placing their work in the behavioral school of industrial relations theory, they systematically identified and analyzed four subprocesses in social negotiations; distributive bargaining, integrative bargaining, intra-organizational bargaining and moves to modify party attitudes.<sup>45</sup>

Walton and McKersie describe secret negotiation as a way to keep people from one’s own side “in the dark” and assert that it commonly occurs in intra-organizational bargaining contexts.<sup>46</sup> They describe the main problem facing negotiators regarding their own organizations in these terms: “the principal group (or a portion of it) holds expectations which are not compatible with the negotiator’s own projections about the outcome and judgments about the best way to bargain.”<sup>47</sup> The resulting discrepancy poses to the negotiator several choices about how to best construct or manage internal consensus.

The menu of “tactical assignments” available for this task includes, according to Walton and McKersie, exaggerating, disguising or creating ambiguity about the actual level of bargaining achievement “in order to minimize the dissatisfaction experienced by

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<sup>45</sup> Richard E. Walton and Robert B. McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System* 2d ed. (Ithaca: ILR Press, 1991 (first ed. 1965)), 11-359, 382-391.

<sup>46</sup> *Ibid.*, 390.

<sup>47</sup> *Ibid.*, 310-351.

the principal group.” In other words, the negotiator lies about the substance of an emerging agreement. This can be accompanied by marginalizing internal opponents and preventing them from exercising surveillance over negotiations, keeping them busy in negotiation subcommittees dealing with less important matters, or simply “keeping agreements quiet”—making oral or secret written agreements (supplementary to the main contract) whose existence is hidden from the principals on either side.<sup>48</sup>

These tactics are often used in conjunction with a communication mode described by Schelling as “tacit negotiation,”<sup>49</sup> which takes place when the negotiator communicates to the other side that “certain of his actions should not be taken seriously” at the negotiation table, thereby protecting one’s negotiating position in front of principals and audiences while indicating to the adversary the possibility of concession.<sup>50</sup>

The authors also observed that “covert bargaining meetings”—secret meetings or conversations between opposing negotiators—can accomplish the same thing as tacit negotiation and are a more useful alternative when principals or constituents are sophisticated about discovering the content of tacit negotiation.<sup>51</sup> Covert or secret bargaining is seen as a more extreme method for adversaries at the negotiation table to adequately communicate commitment and concession possibilities to each other, while keeping principals out of the way.

Walton and McKersie’s brief description is significant in and of itself, but is generated by the assumption that such behavior is motivated only by the need to manage the dilemma that emerges from intra-organizational bargaining. It is part of an active strategy of reducing the discrepancy between principal expectations and negotiator projections.<sup>52</sup> The authors do not explore other causal factors that drive parties to use such negotiation tactics or strategies, nor did they consider the specific effects of covert bargaining on negotiation outcome, limiting themselves to describing how and when it operates on the process. While their observations and analyses are relevant to

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<sup>48</sup> Ibid., 330-336.

<sup>49</sup> Thomas C. Schelling, *The Strategy of Conflict* (Cambridge, MA: Harvard University Press, 1980), 53-80.

<sup>50</sup> Walton and McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*, 100, 336.

<sup>51</sup> Ibid., 337-338.

<sup>52</sup> Ibid., 338-340.

international conflicts and negotiations, their research is very much rooted in domestic labor-management contexts.

## 2. Two-level games

Putnam's work on "two level games" critiques the "state-centric" bias of the political science literature that explored the link between domestic and international politics and reminds us that "it is wrong to assume that the executive is unified in its views."<sup>53</sup> Standing on the shoulders of Walton and McKersie's 1965 observations about the significance of intra-party negotiation, Putnam is explicit in rejecting the neorealist assumptions of states as unitary actors whose international negotiations are (or should be) isolated from domestic and bureaucratic politics. He proposed a new bargaining metaphor: "two level games." National decisionmakers sit at two negotiation tables simultaneously, playing two highly complex and interrelated 'games' of bargaining. At one table, the decisionmakers negotiate with their domestic constituencies, interest groups, party members, legislators and domestic policy advisors while at the other, they sit with foreign counterparts, as well as their own foreign policy advisors. *Moves that might be rational at one table might have adverse consequences for the decisionmaker or the players at the other table.* The domestic negotiation table can have significant potential to constrain the moves of the negotiator at the international negotiation.

Significantly, Putnam raised the possibility that domestic actors on each side of an international negotiation can form "cross-table alliances" with each other, and influence the outcome of such negotiation. He recommended that "strategic implications of direct communication between Level II players should be explored." Putnam goes far in recognizing, as others did before him, that negotiations at one 'table' should not be analyzed in isolation from numerous other factors that affect the process and the outcome, including intra-party negotiations, linked negotiations with other parties, and other contextual factors. His particular analytic contribution was to point out the potential linkages between the other levels.

Putnam's contribution lies in the recognition of linked negotiation tables that realism assumed away in theory. He does not go so far as to observe that multiple negotiation tables can exist within the same 'level'. It is important to point out that BCN

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<sup>53</sup> Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games."

proposes that between parties to an international conflict negotiation, more than one table may exist and that one of the tables can be protected by secrecy. I would propose that under some circumstances, Level I and II players can construct alternate negotiation channels to reach their counterparts and isolate one level from the effects of the other.

### ***B. Crisis diplomacy***

Snyder and Diesing offered insights on the use of publicity and secrecy surrounding crisis negotiations. They identify the dilemmas involved in conducting crisis management strategies of coercion and accommodation. When actions are taken pursuant to a policy of *coercion*, Snyder and Diesing describe the dilemma as “win vs. risk avoidance.” When actions are determined by a policy of *accommodation*, they describe the resulting dilemma as one of “settlement vs. loss avoidance.” They briefly explore these for their relevance to the third dilemma; that of “publicity vs. secrecy.”

In international crises, decisionmakers and negotiators only have access to imperfect information about the capabilities and intentions of the other parties, and are subject to “misperception and unreliable communication channels.”<sup>54</sup> In this context of risk, coercive bargaining moves (negotiation moves that include elements of threat) made to ‘win’ the crisis are constrained by a compelling interest to avoid risks of escalation to war. Similarly, accommodative bargaining moves (negotiation proposals that include concessions) made to persuade the other party or parties to achieve settlement are constrained by a compelling interest to avoid losses.<sup>55</sup> Finally, crisis negotiators face a choice of making both their coercive and accommodative negotiations moves publicly or secretly. The resulting choice sets can be depicted graphically, as I have done in Figure 3.1. Negotiators often mix strategies of coercion and accommodation given their respective risk/loss-avoidance preferences, and use elements of both secrecy and publicity in the hopes of achieving their goals. Either coercion or accommodation may be the dominant strategy, complemented by some reliance on the other strategy, in order “to help meet the constraint on the dominant one.”<sup>56</sup> Complementing this dimension of the

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<sup>54</sup> Snyder and Diesing, *Conflict among Nations: Bargaining, Decision Making, and System Structure in International Crises*, 209-210.

<sup>55</sup> *Ibid.*, 209-251.

<sup>56</sup> *Ibid.*, 255-256.




strategic mix, public diplomatic statements (or leaks to the press) are combined with private correspondence or secret discussions.

Figure 3.1 shows that in international crises, both coercive and accommodative negotiation moves can benefit from secrecy: threats are deniable and therefore less provocative while flexible concessions are facilitated. The authors' contribution is descriptive: they explain how but not why crisis management dilemmas are managed in this way. The insights of Rubin and Brown, which are explored below, help us understand the psychological and political concerns that encourage the use of secrecy in crisis negotiations.

Decisionmakers make similar choices and face similar dilemmas in non-crisis situations. Snyder and Diesing do not pay adequate attention to the longer term consequences of using back channel negotiation to deploy either a coercive or an accommodative strategy. In either case there is the risk that internal parties will be affected and try to have an impact on the decisionmaker. If such parties discover the negotiations, they can prevent the decisionmaker from implementing an accommodative move, and then trust built with the adversary is compromised. If, on the other hand, the decisionmaker implements an arrangement or agreement to deescalate the crisis, domestic constituencies may disapprove and mobilize against further negotiation or implementation.

**Figure 3.1: Choices and dilemmas in crisis negotiation: publicity v. secrecy<sup>57</sup>**

		NEGOTIATION AND COMMUNICATION	
		Publicity	Secrecy
STRATEGY	Coercion <i>(Win vs. avoiding risk of escalation)</i>	(+) Threats are credible, public opinion satisfied, which prevents backdown  (-) Risk of escalation if all sides use public threats; retreat is difficult  I	(+) Threats are deniable and reversible since they are made quietly  (-) Coercive power of threats is reduced  II
	Accommodation <i>(attain settlement vs. avoiding losses)</i>	(-) Public concessions are more difficult to retreat from than private concessions, further concessions are made difficult  (-) Risk that no agreement reached  III	(+) Permits more flexible use of concessions without becoming committed prematurely  (-) Eliminates use of public commitment as tool of bargaining leverage  IV

  
**BCN used in Quadrants II, IV**

<sup>57</sup> Based on the concepts of Synder and Diesing. Ibid., 209-256.

### ***C. Audiences and negotiation***

What makes back channel negotiation qualitatively different from front channel negotiation? The *sine qua non* characteristic of any variation of back channel negotiation is procedural secrecy, which implies the lack of an observing audience such as media. This secrecy implies the exclusion of subparties from the process of the negotiation, by limiting access to knowledge of the existence of that negotiation.

*Experimental* research in the social sciences that focuses specifically on the variable of secrecy in negotiation may not exist. However, if we characterize the research variable as ‘publicity’, then secrecy as an element of negotiation is a measure of that variable indicating *the absence of an audience* or *the absence of publicity* from the negotiation. There has long been interest in studying the effect of an audience on a negotiation. We can gain insight into the expected effects of secrecy by understanding the studied effects of publicity.

Rubin and Brown’s work is a seminal synthesis of the findings from a vast set of experimental and empirical negotiation research. They advanced several proposals regarding the effects of negotiation in the presence of an audience.<sup>58</sup> They begin by noting that an audience may exercise great influence on a negotiator, whether physically present or ‘psychologically’ present in the mind of the negotiator, whose actions and performance may eventually become known to that audience. Audiences, they observed, may either be dependent on the negotiator for fulfillment of their interests (constituencies) or non-dependent (they cite the press as an example of a non-dependent audience).<sup>59</sup>

“The mere presence of an audience...motivates bargainers to seek positive, and avoid negative evaluation—especially when the audience is salient to the bargainers.”<sup>60</sup> If the bargaining situation is characterized by intense conflict, this motivation can induce a

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<sup>58</sup> Rubin and Brown, *The Social Psychology of Bargaining and Negotiation*, 43-54.

<sup>59</sup> *Ibid.*, 43.

<sup>60</sup> *Ibid.*, 44-47.

negotiator to take aggressive actions against an opposing party—actions that could be counterproductive to the interests of the constituency—if that opposing party has publicly humiliated or exploited the counterpart. In such a potentially aggressive bargaining situation, negotiators face a dilemma: “although concessions must be made in order to reach agreement, the act of concession-making is likely to be seen by the conceder, the opposing party and others as a sign of weakness that may invite exploitation.”<sup>61</sup> In such a context, the negotiator makes significant efforts to ‘save face’: finding the appropriate context, relationship or pretext in which to conduct negotiations while protecting oneself from what could be called the ‘audience effect’. This latter observation alone helps explain why decisionmakers have long placed value on secrecy in international diplomacy.

They also find ample support for the proposal that constituencies, to whom a negotiator is accountable, can control the negotiator’s behavior by whatever measures of accountability are available; membership on the negotiating team, in a political party, possession of elected office, etc. for example. The constituency thus generates great pressure on the negotiator toward “loyalty, commitment and advocacy of their preferred positions.”<sup>62</sup> To obtain positive evaluation, the negotiator must satisfy constituency interests. Rubin and Brown note the paradox that a negotiator’s actions to satisfy constituent interests can be defeated when excessive advocacy and commitment preclude creative negotiating.<sup>63</sup>

While groups of people that are party to a conflict can exercise a stabilizing influence in that conflict, there is also a danger that groups, such as audiences to a conflict and a negotiation process, actively work to increase hostility. Under certain circumstances, such as when audience members witness a conflict and perceive that they are protected by anonymity, far from urging restraint or reason, they clamor for escalation of conflict.<sup>64</sup>

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<sup>61</sup> Ibid.

<sup>62</sup> Ibid., 50-51.

<sup>63</sup> Ibid., 54.

<sup>64</sup> Bert R. Brown, "The Effects of Need to Maintain Face on Interpersonal Bargaining," *Journal of Experimental Social Psychology* 4 (1968); Jeffrey Z. Rubin, Dean G. Pruitt, and Sung Hee Kim, *Social Conflict: Escalation, Stalemate, and Settlement* 2nd ed. (New York: McGraw-Hill, 1994), 134-135.

The implication from this research is that the absence of audience scrutiny—at least for the duration of the negotiation process itself—reduces certain constraints on the negotiator, especially if the negotiator is in some way accountable to that audience. In intense conflict situations, the tactic of secrecy may be a requirement for any negotiation to take place at all, in order to insulate negotiators from the need to avoid negative evaluation or worse consequences. The research also indicates that this may be a necessary but insufficient condition, since an audience may be ‘psychologically present’: *eventual* exposure to an evaluating audience is itself associated with the negative effects described here, although the evidence for this (one study by Brown) is less robust.<sup>65</sup>

### 1. The negotiation site

In his experimental research on the physical site at which a negotiation is held, Martindale found that negotiating on one’s home ‘territory’ provides additional bargaining leverage to the home party while weakening the ‘visiting’ party. Rubin and Brown believe that the territorial location of a negotiation exercises greater influence on negotiators’ levels of assertiveness than their own personal attributes. To describe a negotiation site that provides no additional leverage to any party to a conflict, Martindale coined the term ‘site neutrality’.<sup>66</sup>

Rubin and Brown take the site neutrality concept further when they consider advice to the third party mediator in a dispute. They argue that limiting a negotiation site’s openness (accessibility to audiences) is an important aspect of preparation for an international negotiation. Sites that are open inhibit the actions of negotiators because they provide an opportunity for posturing before the public and the media. They also note that such posturing can sometimes be tactical; negotiators posture to maintain or enhance their credibility and status with the audience.<sup>67</sup>

Later prescriptive analysis by Pruitt, Rubin and Kim deliberately advised third parties to take advantage of closed sites at the beginning of negotiations between disputants in order to protect the negotiating parties from their audiences and thereby reducing the likelihood that the negotiation parties will become intransigent. However,

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<sup>65</sup> Rubin and Brown, *The Social Psychology of Bargaining and Negotiation*, 45.

<sup>66</sup> D. A. Martindale, "Territorial Dominance Behavior in Dyadic Verbal Interactions," *79th Annual Convention of the American Psychological Association* 6 (1971), 305-306.

<sup>67</sup> Rubin and Brown, *The Social Psychology of Bargaining and Negotiation*, 85-87.

the same third party is advised gradually to shift to more open mediation settings later on when agreement is imminent or already achieved in order to take advantage of negotiator commitment to the agreement that has been witnessed by the public. The mediator's goal then becomes that of using the negotiator-audience relationship as a barrier to backsliding from publicly-made commitments.<sup>68</sup>

In essence, Pruitt, Rubin and Kim recommend that mediators should first minimize the audience effect (before intransigent commitments are made) and later take advantage of the audience in order to encourage compliance once agreements are made. The mechanism that facilitates both procedural intransigence and agreement compliance is known as entrapment, a concept to which we now turn our attention.

## 2. Entrapment

The mechanism by which the audience and the negotiator connect with and influence each other is known in social and cognitive psychology as the process of *entrapment*.<sup>69</sup> Entrapment is usually characterized as a dysfunctional but widespread human behavior through which parties demonstrate over-commitment to a given course of action, even after the potential benefits of that course of action can no longer exceed its costs. Rather, the behavior is continued in order to justify 'sunk' costs. Entrapment in social conflicts can lead to zero-sum thinking by parties and worse; it encourages behavior in which we are not only concerned with minimizing our own losses once our resources are committed, but in maximizing the losses of our adversaries, in essence, conflict escalation.

One of the three defining characteristics of entrapment is the decisionmaker's perception that choices are limited to two extremes: total commitment or total withdrawal.<sup>70</sup> One weakness of the research on entrapment is that experiments often examine decisionmaking dilemmas in conflicts, rather than in negotiation situations per se.

The researchers argue that their observations have direct implications for negotiators: negotiation audiences, especially constituencies, are believed to exercise

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<sup>68</sup> Rubin, Pruitt, and Kim, *Social Conflict: Escalation, Stalemate, and Settlement*, 204-205.

<sup>69</sup> Joel Brockner and Jeffrey Z. Rubin, *Entrapment in Escalating Conflicts: A Social Psychological Analysis* (New York: Springer-Verlag, 1985); Joel Brockner et al., "Factors Affecting Entrapment in Escalating Conflicts: The Importance of Timing," *Journal of Research in Personality* 16 (1982).

<sup>70</sup> Brockner and Rubin, *Entrapment in Escalating Conflicts: A Social Psychological Analysis*, 247-266.

entrapment pressures on negotiators precisely because they are believed to (or actually do) encourage negotiators toward the extreme of total commitment to declared positions even when faced with evidence that such a course is counterproductive. The negotiator is motivated to save face in front of an evaluative audience but does so by sticking to a course of action that is damaging to the interests of those represented in the negotiations.

The social psychology research presents highly valuable findings that I do not dispute. However, its methodological characteristics are problematic in some regards. First of all it is based to great extent on experimental cases. Despite the high number of experimental cases and the scientific advantages of that research methodology, it is often better suited for generating testable hypotheses than reaching definitive conclusions about a particular case. Indeed, the case study's virtues are that one can arrive at highly specific knowledge about a real event or series of events. Second, the experiments were entirely based on interpersonal conflict scenarios, not international situations of violent conflict or acute crisis. There are additional pressures in the international contexts such as domestic constituencies, loss of political power, the possibility of war, among others. In other words, the uncertainties and risks are higher for the international negotiator than for the university student subject to the experiment. Third, the knowledge generated by this school of research has been based on testing the opposite condition: the presence of audiences and publicity. Logical inferences can be drawn about the effect of the *absence* of publicity and audiences. The case studies of the next chapters address all of these methodological aspects.

### 3. Prescriptions

The same authors who were concerned with the entrapment dynamic proposed the use of BCN to manage its effects.

Rubin, in *Dynamics of Third Party Mediation*, described back-channel negotiation as a way for parties to decommit themselves from "belligerent or intransigent courses of action" by circumventing such a commitment. He considers back channel negotiation to be one of a larger set of actions that third parties to international conflict can take to increase chances of agreement between the principal disputants.<sup>71</sup> His analysis did not go

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<sup>71</sup> Jeffrey Z. Rubin, "Introduction," in *Dynamics of Third Party Intervention: Kissinger in the Middle East*, ed. Jeffrey Z. Rubin, (New York: Praeger, 1981), 33-34.

beyond this however. Decommittment is little more than the use of secrecy to save face: make concessions quietly while taking an aggressive public stance.

Rubin, Pruitt and Kim in their text *Social Conflict* developed this concept further and consider it separately from actions that international third parties can take.<sup>72</sup> They categorize back channel negotiation as one of three types of “covert problem solving” that permits parties to reduce the misinterpretation or exploitation that can arise from three kinds of losses associated with cooperative bargaining: loss of image (or face), loss of position, and loss of information.<sup>73</sup>

Negotiators minimize position and information loss because the secrecy is used to reduce the amount of commitment attached to possible concessions, or information that could be used to make threats against the party providing it. Image loss is minimized if back channel negotiators speak for themselves without committing their principals and constituents.<sup>74</sup> Their analysis was an acknowledgment that secrecy permits decommitment and exploratory talks while preventing loss of image. Like other writers, their analysis is two dimensional; that is, it lacks a time dimension. There is no investigation of the effect on outcome or what the effect is over time. One of their sources explored the raw data of labor contract negotiation transcripts and observed informal ‘side-bar’ discussions by the parties conducting an official negotiation in protracted labor disputes.<sup>75</sup>

The research on international negotiation they cite relied upon observations of diplomatic interaction in the United Nations General Assembly, reported by Alger, whose hypothesis was that the UN General Assembly itself, considered the archetype of problematic diplomatic arenas by numerous observers, is actually an alternative diplomatic channel where parties obtain information, create relationships and align their respective national interests more easily than in traditional bilateral channels.<sup>76</sup> Alger’s interesting article was more a casual observation than the result of a research project but

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<sup>72</sup> Dean Pruitt, *Negotiation Behavior* (New York: Academic Press, 1981), 98-99.

<sup>73</sup> Rubin, Pruitt, and Kim, *Social Conflict: Escalation, Stalemate, and Settlement*, 182-191.

<sup>74</sup> *Ibid.*, 189.

<sup>75</sup> These observations seem to rely on the work of Ann Douglas, who observed ‘off-the-record’ labor negotiating sessions, and their interaction with official sessions. Ann Douglas, *Industrial Peacemaking* (New York: Columbia University Press, 1962), 85-87.

<sup>76</sup> Chadwick F. Alger, "Non-Resolution Consequences of the United Nations and Their Effect on International Conflict," *Journal of Conflict Resolution* 5, no. 2 (1961), 138-139.



helps substantiate the assertion that human beings will seek more intimate channels of communication when they are serious about communicating and that a large plenary type institutional forum only exacerbates the need for quiet encounters.

## VI. Negotiation analysis

Negotiation analysis is a field of research that seeks to approximate real negotiations, in order to describe, analyze and ultimately, *prescribe* useful negotiation advice so that parties can purposely structure the process and improve the outcomes of their negotiations. The emphasis on prescription, and on moves to change nearly any aspect of the ‘architecture’ of negotiation makes it a compelling theoretical home for research on BCN with its radical restructuring of the negotiation process.

The genesis of the negotiation analytic tradition is often retrospectively attributed to Schelling, Walton and McKersie and others. Their respective works were written from disparate research paradigms even as they contributed original proposals generally applicable to negotiation, and called into question some of the tenets of game theory.<sup>77</sup> Game theory provided a rigorous framework for the analysis of interactions including negotiation, but its assumptions have proven to be too constraining for the elaboration of prescriptive analysis that is useful, accessible and operational, as well as conditioned on the “likely behavior of the other side.”<sup>78</sup> More recent work in negotiation analysis explicitly relaxed key assumptions tied to the game theory paradigm: full rationality, fully shared knowledge of the game (symmetrical information).

The goal of negotiation analysis also differs from game theory’s narrower quest to specify points of equilibrium that can arise from the strategic interaction of two or more negotiators. Raiffa wrote the principal text of negotiation analysis, providing advice for parties engaged in negotiations along a spectrum of complexity.<sup>79</sup> This was followed by Lax and Sebenius’ volume on negotiation analysis as applied to organizational and managerial contexts.<sup>80</sup> Peyton Young offered an edited volume that sought to extend Raiffa’s work and present new research findings to practitioners and researchers from outside of the game theoretic school. Multilateral international negotiations (international

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<sup>77</sup> Schelling, *The Strategy of Conflict*; Walton and McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*.

<sup>78</sup> James K. Sebenius, "Negotiation Analysis: A Characterization and a Review," *Management Science* 18, no. 1 (1992), 35.

<sup>79</sup> Howard Raiffa, *The Art and Science of Negotiation* (Cambridge, MA: Belknap Press of Harvard University Press, 1982).

<sup>80</sup> David A. Lax and James K. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: Free Press, 1986).

conferences, treaty negotiations) were the subject of studies by Antrim and Sebenius, who used different quantitative and qualitative analytical tools from negotiation analysis.<sup>81</sup> Sebenius took stock of the field of negotiation analysis in his 1992 journal article.<sup>82</sup>

Negotiation analysis does *not* assume that parties will necessarily agree upon outcomes that distribute all value optimally, fairly or efficiently just because such outcomes exist and can be specified to the parties. Rather it focuses on concepts such as the “zone of possible agreement (ZOPA), a subjectively perceived set of possible agreements that is better than a non-agreement alternative. Further deconstructing the game theoretic model of bargaining, negotiation analysis posits that parties hold subjective (not just asymmetric) perceptions of interests, outcome probabilities and information. Since the ZOPA is thought to be subjective, negotiation analysis posits that the parties’ perception of ZOPA can be modified in order to “yield more favorable distributions of negotiated outcomes.”

In order to better understand and give advice in complex negotiations negotiation research focuses on four elements:

- Interests underlying negotiation issues (as distinguished from positions taken)
- Alternatives to agreement, and how to modify (improve or worsen) them
- Moves to create value, which are in tension with bargaining moves to claim value
- Strategies to change the negotiation ‘game’ the parties are playing (from zero-sum to positive-sum, for example).<sup>83</sup>

The final element in Sebenius’ description is of most interest here. In practice (more than in theory) it has long been recognized that a party can take action to change the process of negotiation.<sup>84</sup> Deliberate actions can be taken by one party to alter the perceptions or attitudes of others.<sup>85</sup> Negotiation analysis goes further: issues previously

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<sup>81</sup> Lance Antrim, "Multilateral Conference Mediation: Tommy Koh and the Law of the Sea," in *Mediation in International Relations: Multiple Approaches to Conflict Management*, eds. Jacob Bercovitch and Jeffrey Z. Rubin, (New York: St. Martin's Press, 1992); James K. Sebenius, *Negotiating the Law of the Sea* (Cambridge, Mass.: Harvard University Press, 1984)

<sup>82</sup> Sebenius, "Negotiation Analysis: A Characterization and a Review."

<sup>83</sup> Lax and Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain*.

<sup>84</sup> Schelling, *The Strategy of Conflict*.

<sup>85</sup> Walton and McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*. See their references to attitudinal restructuring.

unconnected can be linked, they can be sequenced in some order, added or removed. Parties can be brought into a negotiation, excluded, herded into a coalition or prevented from joining one. A party may make unilateral moves to improve its own alternatives (or worsen others') in case the parties fail to reach agreement. All of these actions can be taken strategically for the purpose of deliberately improving one or more parties' outcomes.

Raiffa has alluded more than once to BCN-type activities.<sup>86</sup> True to his decision analysis heritage, Raiffa recommended that parties use BCN-type contacts as a forum for reducing uncertainties by obtaining information from each other *prior to* actual negotiating. Parties engage in a decisionmaking process when deciding whether to negotiate or not. Raiffa sketches a heuristic model for this process according to decision analysis principles. In making their decision, parties seem to disproportionately value the possession of "perfect information" that would ostensibly help them know the other parties' preferences, valuations, moves and most importantly, the likelihood of attaining agreement. In so doing, parties mistakenly choose *not* to negotiate. They "don't think consciously about...creative ways of collecting information about the uncertainties of their problem—e.g. by pursuing informal dialogues that precede formal negotiations."<sup>87</sup> Raiffa's assertion that negotiators can *reduce their own* uncertainties by informal dialogues complements Colosi, who believes negotiators want to *create uncertainty for their counterparts*.<sup>88</sup> But international negotiations do not occur in a vacuum. They are affected by the constructive and destructive actions of the parties, and other dynamic changes. Uncertainties persist and new ones arise in the course of negotiation. BCN can be used for managing continuing informational deficiencies or uncertainties.

Negotiation analysis has long lacked an understanding of BCN and its consequences. Only Raiffa explicitly embraced the potential value of BCN-type activities, and explicitly recommended them, if only to reduce the uncertainty of entering into negotiation.

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<sup>86</sup> Raiffa, *The Art and Science of Negotiation*; Howard Raiffa, "Analytical Barriers," in *Barriers to Conflict Resolution*, eds. Kenneth J. Arrow, et al., (New York: W. W. Norton & Company, 1995); Howard Raiffa, *Lectures on Negotiation Analysis* (Cambridge: PON Books, 1996).

<sup>87</sup> This observation is based on an unofficial CSCE Conference at which Raiffa provided training services to diplomats. Raiffa, "Analytical Barriers," 135-137.

<sup>88</sup> *Ibid.* Compare with Colosi, "The Iceberg Principle."

Ultimately, the game theory origins of negotiation analysis constrain research despite explicit relaxation of the key assumptions. The tendency to view negotiations as a game with optimal and suboptimal moves still persists in this area of the field. BCN is more than a single game move that either brings gains or doesn't. The relative newness of negotiation analysis makes it an ideal place to contribute knowledge on BCN because BCN plays a key role in the management of negotiation uncertainties and because it is a structural modification of the negotiation process of the type that might be prescribed by negotiation analysts.

## VII. Synthesis of theoretical insights

### A. *Secrecy: exclusion and protection*

I began this review of the literature with a discussion of secrecy and its Janus-faced character; *protecting* knowledge and initiatives by *excluding* people who would otherwise be aware of and potentially undermine such initiatives.<sup>89</sup>

My consideration of the contending paradigms of political theory revealed that realism does not shy away from prescribing secrecy in the conduct of international negotiations, in order to protect the policymaker from domestic pressures by excluding constituencies from knowledge about negotiation.<sup>90</sup>

### B. *Negotiating under conditions of uncertainty*

Parties are motivated to search for communication channels that reduce the political 'transaction costs' of negotiation and diminish the uncertainties involved in engaging in and concluding negotiations. Building on the contributions of game theory and decision analysis, elements of both negotiation analysis and complex interdependence can be used to depict BCN as a method of negotiating under conditions of great uncertainty. Neither field has provided a comprehensive view of how BCN could mitigate the transaction costs of negotiating under conditions of uncertainty. Only Raiffa specifies informational uncertainty as one of the many kinds of uncertainty that negotiators might face.

### C. *Multiple channels*

Neoliberalism, while having little to say about actual use of secrecy, poses a formidable challenge to the realist representation of the state as monolith, describing complex interdependence predicated on multiple channels by which international relations are conducted in the pursuit of mutually optimal international relationships.<sup>91</sup> There are sporadic references to the existence of multiple negotiation channels, but no

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<sup>89</sup> Bok, *Secrets: On the Ethics of Concealment and Revelation*.

<sup>90</sup> Morgenthau, *Politics among Nations: The Struggle for Power and Peace*; Kissinger, *White House Years*; Herbert Butterfield, "The New Diplomacy and Historical Diplomacy," in *Diplomatic Investigations*, eds. Herbert Butterfield and Martin Wight, (London: George Allen & Unwin Ltd, 1966).

<sup>91</sup> Keohane and Nye, *Power and Interdependence: World Politics in Transition*.

systematic research on the *effect* of operating multiple channels from any of the streams of literature.

#### ***D. Internal bargaining***

Game theory-based research in numerous disciplines has been useful in sketching out the conditions and dynamics of international cooperation in a world of conflict, anarchy and distrust. In order to achieve its mathematical rigor, game theory incorporates assumptions that severely constrain its ability to produce relevant, prescriptive analysis for the conduct of international negotiations. The relaxation of those assumptions permitted the exploration of the link between intra-organizational bargaining and secret negotiation.<sup>92</sup> Secrecy is used for managing the expectations of principals, constituents and audiences.

Putnam's second level is essentially the internal, domestic negotiation that affects the external, international one. The 'two-level games' metaphor envisions the possibility of cross-table alliances forming between the internal subparties of each negotiator.<sup>93</sup> Like the 'multiple channels' image of Keohane and Nye,<sup>94</sup> the two-level games concept demonstrates the descriptive inaccuracy of the monolithic state assumption and advances us several steps toward the consideration of theoretical negotiation models that incorporate multiple negotiation tables, and I have argued that BCN is, in essence, the use of secret tables of negotiation that complement or replace the acknowledged ones.

#### ***E. Audiences, constituencies, principals***

Social psychological research on the audience effect in negotiation, site neutrality and the entrapment phenomenon together compose a foundation of research applicable to the behavioral aspects of secrecy in negotiation.<sup>95</sup> It would be inaccurate to describe this as research on negotiation and secrecy per se. However, since it focuses on the absence of secrecy (audiences, publicity) its hypotheses are convertible to insights about secrecy.

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<sup>92</sup> Walton and McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*.

<sup>93</sup> Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games."

<sup>94</sup> Keohane and Nye, *Power and Interdependence: World Politics in Transition*.

<sup>95</sup> Rubin and Brown, *The Social Psychology of Bargaining and Negotiation*; Brockner and Rubin, *Entrapment in Escalating Conflicts: A Social Psychological Analysis*; Rubin, Pruitt, and Kim, *Social Conflict: Escalation, Stalemate, and Settlement*.

The same researchers who explored the effect of publicity made prescriptive proposals about using secrecy.

***F. Structuring negotiations: use of BCN***

Negotiation analysis builds on the insights of game theory and behavioral sciences in its modeling of international negotiations. Most importantly however, it presents a logical step forward in negotiation theory-building since it definitively sets aside some of the constraining assumptions of game theory and political realism. The field demonstrates readiness to see every element of a negotiation process, structure and outcome as a variable. Moreover, negotiation analysts attempt to describe strategic ways to transform negotiations precisely by manipulating what older theoretical perspectives had consigned to the *ceteris paribus* bin; the role of information, communication, number of parties, issues, sequencing of issues and others.

I would argue that BCN is in fact a radical and deliberate manipulation of a ‘variable’ that has—in theory but not in practice—never varied: the number of actual negotiations processes that are taking place either completely in parallel with each other or sequentially alternating between open and secret.<sup>96</sup>

Although not the subject of early research by negotiation analysts, the use of secrecy and multiple channels should be considered as structural changes in the negotiation process; tools for the reduction or management of uncertainty. It is entirely realistic to hypothesize that one of the most radical changes of game structure in a negotiation is the creation of a second negotiation channel, hidden from but potentially overlapping with the first (front) channel. The second, secret channel is used to manage a variety of uncertainties that present themselves to the parties involved. BCN fits comfortably within the flexible contours and relaxed assumptions of the negotiation analytic framework.

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<sup>96</sup> Sebenius, "Negotiation Analysis: A Characterization and a Review."



