

ARGUING ABOUT PRIVACY AND NATIONAL SECURITY:
US AND GERMANY NEGOTIATE RULES FOR STRATEGIC MANEUVERING IN LIGHT
OF THE NSA SPYING SCANDAL

Marco Ehrl

A thesis submitted in partial fulfillment of
the requirements for the degree of
Master of Arts

Department of Communication and Dramatic Arts

Central Michigan University
Mount Pleasant, Michigan
August 2014

Für meine Oma.

Die mir zeigte was Durchhaltevermögen bedeutet.

(To my Oma. For teaching me perseverance.)

ACKNOWLEDGMENTS

First and foremost I wish to extend my gratitude to the members of my thesis committee: Dr. Edward Hinck, Dr. Josef Packer, and Dr. Kirsten Weber. The research reported in this thesis is the result of their support, encouragement, and guidance. As a researcher educated in Germany and the US, one might assume that I am naturally drawn to topics that deal with German-American relations. However, if it wasn't for my advisor Dr. Hinck who first introduced me to the world of rhetoric, argumentation theory, and pragma-dialectics, I would still be searching for an appropriate approach to reveal meaningful insight about German-American discourse from a communication perspective.

Dr. Hinck deserves special recognition here in that his confidence in my project allowed me to present my research at the 8th ISSA conference in Amsterdam. In addition, Dr. Hinck not only encouraged me to ask harder questions and apply pragma-dialectics in new ways, but he also provided encouragement and advice necessary for me to grow as a researcher and person. Also, I wish to express my gratitude to Dr. Packer for inspiring me to explore new areas of research and Dr. Weber for drawing my attention to the importance of the audience for my project. Finally, I am grateful for the brief but stimulating exchanges with Dr. David Zarefsky, Dr. Frans van Eemeren, Dr. Peter Houtlosser, and Dr. Jean Wagemans who helped me to define the scope and direction of my project.

I also owe great debts to the communication faculty at Central Michigan University, who not only helped me to understand who I am as a learner and teacher, but also entrusted me with teaching introductory courses to communication. By providing me the opportunity to teach, CMU helped me to grasp the deeper meanings of the Latin expression “by learning you will teach and by teaching you will learn.” Communication is an open-ended process and the

Department of Communication at CMU invited me into a conversation that I wish to continue in the future.

The project was also shaped by productive conversations with Dr. Shelly Hinck who would always offer useful advice and listen to my concerns. Also, I wish to express my special gratitude to Paige Calamari who is putting the world into perspective when, for me, it is falling apart. Finally, I wish to extend my sincerest appreciation to my family. In Momenten des Zweifels bieten sie die notwendige Unterstützung und Trost. (In moments of doubt they provide the necessary support and comfort).

ABSTRACT

ARGUING ABOUT PRIVACY AND NATIONAL SECURITY: US AND GERMANY NEGOTIATE RULES FOR STRATEGIC MANEUVERING IN LIGHT OF THE NSA SPYING SCANDAL

by Marco Ehrl

This essay addresses the debate about how the differences in foreign policy approaches between Germany and the U.S. regarding privacy and national security affect their rules for strategic maneuvering. Recent developments and arguments surrounding the NSA surveillance program offer an opportunity to examine changes in the German-American discourse. The German newsmagazine *Der Spiegel* reported on October 23rd, 2013 that the NSA tapped Angela Merkel's mobile phone communications, which not only caused Merkel to condemn this act as a "grave breach of trust," but it also triggered a public debate about the role of national intelligence agencies. After Germany's controversial objection to America's invasion of Iraq in 2002, the NSA scandal appears to be the second dispute in recent German-American relations with far-reaching political and diplomatic consequences.

Germany and the U.S. are both civil societies that value democracy, freedom of speech, individualism, liberty, and security. However, despite those common values, Germany, due to its history with surveillance programs, is a rather young nation in regard to individual freedoms. This analysis will examine how Germany and the U.S. negotiate rules for reasonable discourse in an age where the medium internet pressures security agencies and governments to celebrate values like transparency and accessibility of information.

While pragma-dialectics is often applied to institutionalized contexts, this analysis will try to reconstruct the German-American dialogue with particular reference to public exchanges. By applying pragma-dialectics to a new domain (i.e., public political discourse), this inquiry is

testing the scope of pragma-dialectics and thereby explores whether it is an appropriate and fruitful method for analyzing and evaluating public discourse between countries. Specifically, this analysis investigated whether pragma-dialectical argumentation theory helps to describe how Berlin and Washington resolve their differences about the NSA revelations rhetorically and whether it adds to a clearer description of German-American relations in the 21st century.

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CHAPTER I

THE BEGINNING OF GERMAN-AMERICAN RELATIONS

In April of 2014 Russia's annexation of Crimea appears to have revived European integration and transatlantic cooperation. However, NSA revelations continue to raise questions about the role of surveillance in US-EU relations. Despite the Crimean crisis, which by virtue of a common enemy created a new or "old" relationship of trust between Europe and the US, Americans and Europeans are trying to (re)establish trust and common ground regarding surveillance and privacy in the digital age. The difficulty of restoring transatlantic trust manifests itself in suspended negotiations about a Free Trade Agreement and Germany's call for a "No Spy Agreement," for example. Clearly, negotiating national and international cyber security and privacy in an atmosphere of distrust poses a challenging diplomatic endeavor. However, the NSA surveillance scandal not only constitutes a breach of trust in US-EU partnership, but continues to complicate German-American relations.

After Germany's controversial objection to America's invasion of Iraq in 2002, the NSA scandal turns out to be the second dispute in recent German-American relations with far-reaching political and diplomatic consequences. Relying on information provided by former NSA contractor Edward Snowden, the German newsmagazine *Der Spiegel* reported on October 23rd, 2013 that the NSA tapped Angela Merkel's mobile phone communications. In one of her first responses, Merkel insisted that "[i]t's not just about me but about every German citizen. We need trust among allies and partners . . . such trust now has to be built anew" ("Germany's Merkel," 2013). In addition, during a phone conversation with President Obama, Merkel explained that if these revelations turned out to be accurate, it would represent a "grave breach of trust" (as cited in "Merkel calls Obama," 2013, para. 4) between allies.

While people around the world expressed their solidarity with Angela Merkel and disapproval about the scope of NSA surveillance in various ways, Germany's people sent a rather direct message to Washington. A survey of about 1,000 eligible voters commissioned by the German public broadcaster *ARD* and the daily newspaper *Die Welt* in November, 2013 indicated that only 35% of Germans consider the US government trustworthy, while 60% see Edward Snowden as a hero. This represents a 14% drop compared to 88% in April, 2010 ("Germans' trust in US plummets," 2013). Similarly, a *CNN* survey conducted in June, 2013 indicates that 61% of the American people disapprove of Obama's surveillance efforts, while 35% said they approve (Johnson, 2013). The reason why these approval ratings are worth mentioning is that they hint at the argumentative situation and discourse that this inquiry is dealing with.

In the new media age, political argumentation not only involves national governments that use media sources to communicate their policies to a domestic public, but it now features an international public, which constitutes new forms of political discourse and the public sphere (Riley & Hollihan, 2012). Specifically, we are dealing with political discourse as it is mediated through political advisors, speech writers, and news agencies. While as citizens we are not exposed to behind-closed-doors-discussions and private communications between world leaders, it is important to recognize that we are the implied audience that influences political decision-making processes and communication. For example, when Berlin and Washington are trying to reconcile their differences about privacy and surveillance, they are not only trying to advance their interests in private closed-door discussions, but they also attempt to adapt their arguments to a real or imagined audience. In that regard, press conferences, political speeches,

interviews, panels, press releases, committee hearings, etc. turn into speech acts, which allow the critic to analyze and reconstruct political conversation in terms of its argumentative functions.

One may argue that treating mediated political discourse as if it was an actual conversation means privileging the content of a discussion over its form and thereby neglecting what is actually happening between world leaders. While in the new media age it is important to recognize the intrinsic relationship between form and message (McLuhan, Fiore, & Agel, 1967), it is equally important to recognize that the political reality created by the public sphere is the reality that *ordinary* people interpret and act upon. By recognizing that public statements and news agencies create and reify the political reality that we regard as real, it appears only appropriate to analyze that reality.

While political commentators, international relation analysts, and journalists explored the German-American controversy over the NSA revelations from historical and foreign policy perspectives, it is also important to evaluate and reconstruct Germany and America's strategic communication from a perspective of argumentation theory. Historical perspectives explain Germans' sensitive attitude toward surveillance as the result of their experience with the Gestapo and the Stasi, who collected data to persecute, incarcerate, terrorize, and kill ordinary German citizens. Foreign policy perspectives on the other hand see Germany's skepticism toward NSA's data collection practices as driven by Berlin's disappointment in a world leader who introduced individual freedoms and rights to Germany's political system after World War II and during the Cold War and now seems to violate these very rights (Bungarten, 2013). These perspectives help to identify Berlin and Washington's general standpoints in the discussion about the role of data collection in the digital age. However, while historical and foreign policy approaches help to represent Germany and America's current argumentative strategies and thus offer descriptive

value, it is also important to deploy normative approaches, which aid in analyzing and evaluating speech acts that are implicit. Normative approaches would enable the analyst not only to reveal how Merkel and Obama's speech acts help or hinder the resolution process, but it would also provide heuristic and prescriptive value, allowing the analyst to answer questions about how German-American dialogue should proceed.

The pragma-dialectical approach to argumentation combines the descriptive and normative dimensions of argumentation analysis. It not only reconstructs explicit and implicit argumentative communication in a way that describes the controversy and the positions of participants, but it also evaluates and prescribes ways to reconcile a difference of opinion (van Eemeren & Houtlosser, 2009). In addition, a pragma-dialectical perspective outlines how to effectively persuade a critical audience, while simultaneously appealing to their reasonableness. Using a pragma-dialectical lens, this inquiry will try to reconstruct German-American discourse regarding the NSA revelations. Pragma-dialectical argumentation theory will not only help to reveal how Berlin and Washington manage their differences concerning privacy and security, but it will also offer a clearer description of German-American relations in the 21st century.

Without a systematic method to reconstruct and thereby disentangle the discussion between Germany and the US about surveillance and privacy, it will soon become a convoluted and intractable argument, which makes it difficult for the analyst to define its argumentative field and prescribe effective and reasonable strategies. Considering that, momentarily, there is a great deal of ungoverned territory regarding digital data protection, it is fair to assume that those issues will continue to be of domestic and international importance in the near future. For example, despite national attempts to regulate the internet (e.g., China, Turkey), the World Wide Web seems immune to the idea of sovereignty. In order to manage their difference in opinion in a

reasonable fashion and thus to rebuild trust for future cooperation, it is important for Germany and the US to negotiate rules that enable rather than constrain reconciliation efforts. A pragma-dialectical reconstruction of the German-American dispute over surveillance and privacy would help to identify what speech acts possess the potential to ensure discussions that are driven by critical reasonableness instead of cultural sentiments.

The subsequent section will now retrace the events that created the German-American discourse regarding the NSA surveillance program. In addition, it will highlight how Germany and the US built a symbiotic but strategic friendship after World War II, throughout the Cold War, and after 9/11. While certain historical events, legal documents, and personal correspondences between German and American leaders will be used to reconstruct the German-American relationship, particular attention will be paid to how public discourse (e.g., speeches, interviews, press statements, etc.) shaped Germany and America's foreign policy styles. This will help to not only contextualize the significance of German-American friendship for the NSA scandal, but also flesh out Berlin and Washington's standpoints concerning surveillance, security, and privacy from a historical perspective. To this end, only those aspects of the German-American discussion that are relevant to a pragma-dialectical analysis will be reviewed. Furthermore, particular attention will be paid to the potential costs that an unresolved conflict bears for the German-American friendship in the 21st century. Finally, this analysis will describe how the differences in political cultures between the US and Germany enable and constrain Berlin and Washington to develop argumentative strategies.

A Strategic but Symbiotic Relationship

The Marshall Plan (1948), the Berlin air bridge (1948-49), Kennedy's "Ich bin ein Berliner" (1963) speech, Reagan's "Mr. Gorbachev, tear down this wall" (1987) speech, and

Germany's reunification (1990) are events indicative of an enduring German-American friendship. However, an "alliance with the defeated Germany were not the objectives of [America's] immediate post-war approach toward Germany" (Falke, 2005, p. 131). At the Casablanca (1943), Yalta (1945), and Potsdam (1945) conferences, the United States and its allied partners called for the disarmament and deindustrialization of Germany, the destruction of Nazism, the immediate prosecution of war criminals, reparations, and a self-sufficient but controlled economy (Dobbins et al., 2003). Specifically, the US was concerned about preventing a security and stability vacuum in the country. While Germany's military was defeated and Germany proclaimed unconditional surrender of all armed forces, the Allies suspected German military groups would re-form and initiate attacks against Allied troops. In order to avert a potential security vacuum and a possible uprising of far-right groups within Germany, the Allies decided that in the beginning it is important to secure Germany militarily. To that end, the Allies established military governments in their respective occupation zones. However, increasing its military presence in Germany created domestic pressure for the US. The American people were questioning what role the US military played in a country that was not at war. America's "cry to 'bring the boys home' created tremendous pressure on U.S. forces to withdraw" (Dobbins et al., 2003, p. 4). These concerns suggest that at the end of World War II, the US not only considered Germany to still be a potential threat, but that German-American friendship was out of the question.

In addition to the Allies' efforts to demobilize the German military, denazify German society, and prosecute Nazi war criminals, the US was particularly interested in helping build democratic political structures in Germany. For example, in the US occupation directive JCS 1067 of 1945, the US argued that the demilitarization, denazification, and prosecution of war

criminals would prepare Germany “for an eventual reconstruction of German political life on a democratic basis” (“Directive to the Commander,” 1945). General Lucius D. Clay who was responsible for the civil aspects of occupation, proposed to accelerate the process of democratization in the US zone and called for elections as early as January 1946. While German and American officials considered Clay’s proposal to be a rushed course of action, Clay was convinced that “[i]f the states in the American zone were willing and able to adopt democratic constitutions, it would prove that the same thing could be done throughout Germany as a whole” (Fait, 2011, p. 58). Also, in line with the JCS 1067 directive, which declared that “all democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany,” Clay helped issue licenses for parties in the American zone to form organizations and run in a statewide election. By controlling who received a license, the Americans helped prevent the reemergence of far-right groups, which in turn advanced the democratic process in the American zone. Specifically, by letting Germans form parties and participate in elections, Clay encouraged Germans to learn democratic practices from responsibilities in local elections and governments. Clay’s initiative not only helped to draft the first state constitution, but also to establish the first democratic state government in post-World War II Germany, which set a precedent for the French, British, and Soviet occupation zones.

Clay’s intention to denazify the German people by introducing democratic political structures was reiterated by United States Secretary of State James Byrnes in his Stuttgart speech in 1946. Referred to as the “Speech of Hope,” Byrnes emphasized that in order for Germans to build a sovereign democracy, it is indispensable for Germany to regain governmental responsibility. Specifically, Byrnes explained:

While we shall insist that Germany observe the principles of peace, good-neighborliness, and humanity, we do not want Germany to become the satellite of any power or powers or to live under a dictatorship, foreign or domestic. The American people hope to see peaceful, democratic Germans become and remain free and independent. (Byrnes, 1946, p. 8)

It is worth mentioning that Byrnes delivered his speech while cooperation between the Allies became increasingly difficult. Disagreement about Germany's future paralyzed the Allied Control Council, an organization that was established by the allied victors to deal with security, economic, political, and humanitarian issues that affected Germany as a whole (Dobbins et al., 2003). In his speech, Byrnes not only criticized the Control Council for "neither governing Germany nor allowing Germany to govern itself," (Byrnes, 1946, p. 8) but by reaffirming America's commitment to help restore Germany's sovereignty and free Germans from oppression, Byrnes also allayed concern that the Americans might withdraw from Germany. In terms of German-American friendship, one may interpret Byrnes speech as an implicit contract or agreement between Germany and the US. If the German people are willing to cooperate and help rebuild Germany according to democratic ideals, the US will not withdraw and will grant them their sovereignty.

This tentative commitment between Germany and the US was put to the test when on June 24th, 1948 the Soviets attempted to reduce French, British, and American influence in Berlin by blocking all roads, water routes, and railways to and from West Berlin (i.e., Berlin Blockade). West Berlin, while located in the Soviet occupation zone was occupied by France, Great Britain, and the US. However, access to Berlin from Western zones was not formally regulated, which allowed the Soviets to continue their blockade of Berlin without fearing serious

consequences. As a response, the Western Allies, under the leadership of Lucius D. Clay, launched the Berlin Air Bridge (June 26, 1948 – May 12, 1949). While Clay considered it logistically possible to provide the necessary supplies to West Berlin, he was concerned about whether West Berliners would completely commit to the project. In a conversation with Ernst Reuter—then a city councilor responsible for transportation and supply—Clay expressed his concerns:

Look, I am ready to try an airlift. I can't guarantee it will work. I am sure that even at its best, people are going to be cold and people are going to be hungry. And if the people of Berlin won't stand that, it will fail. And I don't want to go into this unless I have your assurance that the people will be heavily in approval. (Griffin & Giangreco, 1988, p. 92)

While skeptical, Reuter assured Clay that if “you take care of the airlift, I'll take care of the Berliners” (as cited in “Ernst Reuter,” 2007, para. 5).

The Berlin blockade prompted several demonstrations in West Berlin in which Berliners aired their frustration and anger. When Berliners realized that West Berlin was now an island within the Soviet zone, cut off from gas, electricity, and other vital commodities, they started to question whether their sacrifices would be worth the benefits. The possibility of political and economic isolation created a real threat for Berliners. In early August, the Soviets tried to exploit this unstable situation by offering ration cards for food and other commodities to any West Berliner who was willing to live under Soviet occupation. While only 1 in 10 accepted the offer, Berliners were aware that the success of the air bridge and the future of East Berlin depended on enormous sacrifices and external help. During a demonstration on September 9, 1948, Ernst Reuter, who was later elected mayor of Berlin, delivered his “People of the world” speech in which he not only tried to reassure Berliners that their efforts are worthwhile, but also to appeal

to the world to not abandon Berlin and its citizens. Reuter provided the ideological and emotional support that, in addition to the air bridge, was necessary for Berliners to endure and resist Soviet influence. He emphasized that it is not the air bridge that will enable Berliners to overcome the blockade but the ideals of freedom and democracy. Also, by describing the Soviets as a bear with an imperialistic appetite, Reuter not only created a common threat and enemy, but he aligned his position with the Americans. Reuter said:

People of the world . . . look upon this city! You cannot, you must not, forsake us!

There is only one possibility for all of us: to stand together until this fight has been won, until the fight has finally been settled through victory over the enemies, through victory over the force of darkness. (as cited in “City Councilor,” 1948, para. 1)

This created a new sense of solidarity and identity among Berliners. It helped to symbolically transform Berliners’ efforts to overcome the blockade and communist ideologies into a weapon against the common enemy. Today, Reuter’s speech is remembered as an expression of self-determination and resistance. His famous line “People of the world . . . look upon this city!” created a collective memory for Berliners and Germans.¹

On May 12, 1948 the Soviets raised the blockade and the Berlin Air Bridge was promoted as a huge success for democracy and freedom. The success of the Berlin Air Bridge not only pointed the way for future German-American cooperation, but it also encouraged the German people to commit themselves to democratic ideals. For Berliners, the air bridge turned into a symbol for how to fight an enemy and resolve conflict without being forced to use military

¹ On July 24, 2008, Barack Obama delivered a campaign speech at the Victory Column in Berlin. He remarked: “People of the world, look at Berlin! Look at Berlin, where Germans and Americans learned to work together and trust each other . . . Look at Berlin, where the determination of a people met the generosity of the Marshall Plan and created a German miracle . . . “ (Obama, 2008, para. 12). By drawing upon the collective memory that Reuter’s speech created, Obama reconstituted Berliners and Germans as self-determined people and sustained their collective memory of German-American cooperation.

means. This was particularly important to the US in that it demonstrated to Berliners and the people of Germany how to counteract communist propaganda and military intervention by diplomatic and democratic means. In addition to the collective memory and identity that the Berlin Air Bridge created, the legacy of the Berlin Air Bridge are three airports in the former Western zone (i.e., Tempelhof, Gatow, and Tegel International Airport), three air bridge memorials, and an inscription on General Clay's gravestone in the West Point military academy cemetery donated by the people of Berlin that reads: "We thank the preserver of our freedom" ("General Lucius D. Clay," 1947, para. 1).

While right after the end of World War II, the US considered Germany as a potential threat, the Berlin Air Bridge and a common enemy in the East led to a new level of trust and friendship between Germans and Americans. This novel friendship was further advanced by a new political and constitutional foundation. On May 8, 1949, four years after Germany's unconditional surrender, the Allies approved and signed a provisional constitution for the Federal Republic of Germany, which they called the Basic Law (Grundgesetz). The Basic Law was supposed to be a temporary solution to the political situation in Germany. Written with the anticipation that a permanent constitution would be implemented when East and West Germany were reunited, the Basic Law helped advance America's attempt to accelerate the process of democratization by letting Germans carry the burden of government. In close cooperation with German political leaders, the Allies ensured that the new Federal Republic "was solidly grounded in Western values, in the traditions of liberalism and the Enlightenment, which had always played a part in German political thought but had never completely taken hold in reality of German politics" (Hahn, Richter, Ziller, & Large, 1995, p. 5). For example, while the constitution of the Weimar Republic (1919-1933) was designed to promote individual rights and

liberties, as for example the freedom of speech, opinion, and assembly (Article 119-126), it never really succeeded at protecting these rights. Among other factors, the failure of the Weimar Republic was due to a flaw in the constitution (i.e., Article 48) that allowed the president to suspend fundamental individual rights by issuing emergency decrees. Accordingly, for the first 50 years of the 20th century, Germans never really enjoyed fundamental rights and liberties. The founding fathers and mothers of Germany's post-war constitution learned from the deficiencies of the Weimar Republic and drafted a basic law that would effectively protect individual rights and liberties by letting a Constitutional Court interpret and enforce the constitution. In that regard, Germany's Basic Law closely resembles the US constitution. Kielmansegg (1990) argues: "The Basic Law is not a majoritarian constitution. In this respect, it is much closer to the constitution of the United States than to most west European constitutions" (p. 7). The adaptation of Germany's post-war constitution was followed by the first democratic federal election in the Western zones on August 14, 1949.

So far, one may argue that America's involvement in Germany was driven by altruistic and pacifistic efforts to transform Germany into a democratic and liberal nation, which led to a friendship of mutual trust and support. However, while America's efforts to quickly democratize Germany after World War II may suggest a friendship of mutual trust and support, it was rather a strategic friendship. Falke (2005) explains:

Germany and the United States were united by a common threat, which defined and shaped their relationship. It was primarily a strategic relationship, which reflected fundamental aspects of security and foreign policy. All other aspects, be they economic or cultural, were secondary, though had a useful ancillary function. (p. 128)

America's efforts to demilitarize, denazify, and democratize Germany were aimed at

protecting the Western World against Germany and the imperialist tendencies of the USSR. Put differently, America tried to deal with Germany and the Soviet Union by building a political and cultural system in their image that functioned as a counterbalance to communism in Europe. This foreign policy approach is commonly referred to as dual containment. In order for America's containment strategy to be successful, it was important that Germany upholds an anticommunist attitude. The US National Security Directive NSC-68, which was a top-secret report that was implemented by the Truman administration in 1950, reflects this strategy. While the report discusses various strategies to deal with the "Red Threat," including diplomacy, war, and a return to isolationist policies, it emphasizes that negotiations with the Soviet Union require a German state that is politically and ideologically stable:

Strength at the center, in the United States, is only the first of two essential elements. The second is that our allies and potential allies do not as a result of a sense of frustration or of Soviet intimidation drift into a course of neutrality eventually leading to Soviet domination. If this were to happen in Germany, the effect upon Western Europe and eventually upon us might be catastrophic. (May, 1993, p. 54)

In that regard, introducing individual rights and establishing democratic structures was America's way to ensure Germany's ideological commitment to the Western World. Immediately after World War II, America's containment policies led to a symbiotic but strategic relationship between Germany and the US. Falke (2005) explains that "Germany was essential to the United States as the principal battle ground of the Cold War, and the U.S. was the indispensable guarantor of German security" (p. 131). This symbiotic but strategic relationship continued to define German and American collaboration throughout the Cold War (1948-1990). During the Cold War years there were various events that shaped German-American relations,

however, for this analysis President Kennedy and Reagan's Berlin speeches are of particular importance.

Bonding over the Berlin Wall

Throughout the 1950s and early 1960s, growing dissatisfaction and disillusionment with the communist system caused people living in East Germany to emigrate into West Germany. Between 1949 and 1961, about 2.5 million East Germans fled from East to West Germany, including teachers, scientists, lawyers, and physicians, which meant that East Germany was losing its professional and intellectual class ("Berlin Wall," 2014). In 1952, East Germany's first response to this mass emigration was to close its inner German border. While between 1949 and 1952 it was relatively easy for German citizens to cross from West into East Germany, the inner German border now divided Germany into the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR), preventing Germans from traveling freely. However, between 1952 and 1961 East Germans continued to emigrate into West Germany through West Berlin. This not only threatened to damage East Germany's economy but also its reputation.

While various programs (e.g., Marshall Plan, Occupation Directive JCS-1067, Security Directive NSC-68) ensured the emergence of a democratic system and free-market economy in the West, East Germany's centralized economic system failed to provide opportunity for people to improve their lives. On June 4, 1961 Kennedy discussed the future of Berlin with Nikita Khrushchev at a two-day summit in Vienna, Austria. During their discussions, Khrushchev threatened Kennedy that he would be ready to cut off Allied access to Berlin ("The Cold War in Berlin," n.d.). As a direct response to Khrushchev's threats, Kennedy reaffirmed America's

commitment to West Berlin and its people in a radio and television report to the American public

regarding the Berlin Crisis. Kennedy (1961) explained:

So long as the communists insist that they are preparing to end by themselves unilaterally our rights in West Berlin and our commitments to its people, we must be prepared to defend those rights and those commitments. We will at times be ready to talk, if talk will help. But we must also be ready to resist with force, if force is used upon us. Either alone would fail. Together, they can serve the cause of freedom and peace. The new preparations that we shall make to defend the peace are part of the long-term build-up in our strength which has been underway since January. They are based on our needs to meet a world-wide threat, on a basis which stretches far beyond the present Berlin crisis. Our primary purpose is neither propaganda nor provocation—but preparation. (para. 14)

In light of these rising tensions between Washington and Moscow and to prevent any further economic and reputational damage to the communist system of East Germany, the GDR erected the Berlin Wall on August 12, 1961.

The construction of the Berlin Wall threatened Germany and America's strategic relationship. Specifically, it interfered with Washington's dual containment strategy. This is particularly apparent in Kennedy's report to the American people when he explains that America's preparations "are based on [Americans'] needs to meet a world-wide threat, on a basis which stretches far beyond the present Berlin crisis" (Kennedy, 1961, para. 15). This statement not only confirms Washington's intention to turn Berlin and Germany into a democratic weapon against the red threat, but also that the US was not willing to surrender its political and military influence in Europe. Junker (2011) argues:

. . . the erection of the Berlin Wall sharply exposed the dilemma of the Americans

[during the Cold War], who wanted neither to die for Berlin and the Germans in an atomic war nor to endanger their prestige and position as a European hegemonic power in Europe by withdrawing from West Berlin. (p. 2)

This predicament manifested itself in Washington's reluctance to immediately interfere with the building of the Wall. It was after 20 hours of hesitancy that Berlin's Western military governors sent military patrols to the zonal borders and after 72 hours that the Western Allies filed a complaint with the Soviet military government ("Demonstration by West Berliners," n.d.). Disappointed in the West Allies' reluctance to act, West Berlin mayor Willy Brandt (1963) warned President John F. Kennedy in a personal letter only days after the building of the Wall that "[i]nactivity and pure defensiveness could elicit a crisis of confidence with regard to the Western powers" (p. 1). In addition, Brandt emphasized that the construction of the Wall "has not changed the West Berlin population's will to resist, but it has lent itself to doubts about the ability of the Three Powers to react resolutely."

In the early days of the Berlin Wall, public disappointment about the Allies' reluctance to act turned into political rhetoric of blame. For example, two days after the construction of the Wall, the West German mass circulation tabloid *Bild Zeitung* issued a banner that read: "The West Does Nothing," "President Kennedy remains silent" ("Der Tag als die Berliner Mauer," 2009). In that respect, the *Bild Zeitung* portrayed the Berlin Wall not as a symbol of Soviet oppression but as Washington's inability to deal with the communist regime. Bruner (1989) explains that "[i]n an ironic rhetorical twist, the East German's Wall now was being used as a symbol of the failure of the West" (p. 322). To prevent the media from construing the Wall as a failure of the West, Kennedy sent Vice President Johnson and General Lucius Clay to Berlin.

On August 19, 1961, in a speech to hundreds of thousands people of West Berlin, Johnson reaffirmed America's commitment to Berlin and Germany. Also, he dispelled Germany's concern about America's determination to act by reinterpreting the Wall not as Washington's inability to handle the communist threat but as a result of a lack of self-determination and individual rights. Johnson explains that the people who erected the Wall "have no real conception of human freedom and who dare not subject their way of life to the test of self-determination" ("Speech by the American vice president," 1961). Johnson's emphasis on freedom and self-determination as a means to transcend communist oppression foreshadows the rhetorical strategy that Kennedy used in his "Ich bin ein Berliner" speech in 1963. In addition to sending Vice President Johnson and General Lucius Clay to heighten West Berliners' morale, Kennedy also sent US Army combat troops. However, despite the military support during the first years of the Berlin Crisis, it was not until 1963, when Kennedy delivered his "Ich bin ein Berliner" speech that the US sent a clear sign of support. In order for Washington to not damage its strategic relationship with Germany, it was important to prevent what Willy Brandt called "a crisis of confidence" in Berlin.

On June 26, 1963, in the presence of General Lucius D. Clay, John F. Kennedy delivered his "Ich bin ein Berliner Speech" to an estimated audience of 500,000 people at the Rudolph Wilde Platz, which was later renamed the John F. Kennedy Platz. With his Berlin speech, Kennedy symbolically transformed Berlin into a new city of freedom and democracy that is watched by the world. He emphasized that the communist regime is a threat to freedom and democracy in Germany and Europe and that the Berlin Wall itself demonstrates the economic and political failure of communism. He depicts communist systems as threatening by comparing Western ideals of democracy and individual rights to the Communists' use of coercion. For

example Kennedy (1963) explained that “[f]reedom has many difficulties and democracy is not perfect, but we have never had to put a wall up to keep our people in” (para. 5). The idea of freedom was further advanced when Kennedy concluded his speech by saying that “all free men, wherever they may live, are citizens of Berlin, and therefore, as a free man, I take pride in the words ‘Ich bin ein Berliner’.” Thereby, Kennedy not only expressed his solidarity with the people of Berlin, but he suggests that by his definition of freedom, people who are living under a communist regime are not free. In addition, by asking West Berliners to identify with the Western ideals of freedom and individual rights, Kennedy empowered and encouraged the people of West Berlin to decide their own future. While Kennedy advocates that democracy and freedom are the means for Berliners and Germans to transcend the communist threat, he lets his audience decide for themselves. This way, Kennedy’s Berlin speech itself is a demonstration of how democratic systems encourage self-determination and offer opportunity rather than oppression. For instance, Kennedy explains that “. . . real, lasting peace in Europe can never be assured as long as one German out of four is denied the elementary right of free men, and that is to make a free choice” (para. 6).

Kennedy’s message of democracy and freedom through self-determination was not only intended for his immediate audience, but being aware that his speech was broadcast around the world, Kennedy also appealed to a European audience to recognize the importance of West Berlin for a free and democratic Europe. Toward the end of his speech, Kennedy argues that “[w]hen all are free, then we can look forward to that day when this city will be joined as one and this country and this great Continent of Europe in a peaceful and hopeful globe” (para. 7). By depicting Germany as a vital element for the development of a united and democratic Europe, Kennedy confirmed Washington’s containment policy. However, while America’s foreign

policy strategies of the 1950s aimed at containing Germany by dividing it into four occupation zones, introducing democratic political structures thereby weakened it militarily and economically. Thus, Kennedy's Berlin speech hints at a broader containment strategy that includes Europe as a whole. Now the US not only focused on containing Germany through European integration, but also on containing Germany and the USSR by reuniting East and West Germany. Junker (2011) argues that "[c]ontaining Germany through integration was again the overriding objective of American foreign policy. . . . it was the prerequisite for America's approval of German unification" (p. 10).

Despite West Germany's economic and political successes of the 1950s (e.g., The German Economic Miracle, Basic Law for the FRG, post-war elections), German-American relations during the Berlin Crisis were defined by Germany's political and military dependence on the US. However, while Berlin was still dependent on support from Washington, Kennedy's remarks in Berlin highlight that the US was now interested in helping Germany develop a new identity of self-determination. Kennedy recognized that it is necessary to provide ideological guidance for West Berliners; people who are ideologically confused and reluctant to commit themselves to ideas that might put their lives at risk. With his speech, Kennedy enabled West Berliners and Germans to overcome their confidence and identity crisis. He revived Germans' commitment to America as a role model for progress, freedom, and democracy. Fay and Kuypers (2012) used Burke's Dramatistic Theory of Identification to analyze Kennedy's Berlin speech and conclude that "[b]y depicting Germans as self-determined agents with an influence on their own historic course, Kennedy inspires his audience's hopes in a sovereign, united future, facilitating Germany's Western identity and the country's persistent cultural, economic, and political ties with the United States" (p. 198). In that respect, Kennedy's speech not only helped

West Berliners to identify with Kennedy's vision of a free and unified Berlin that plays a vital role in a democratic Western Europe, but also re-shaped German-American relations during the Cold War. By depicting Germans as self-determined people who were capable of deciding their own future, Kennedy built a new relationship of trust and confidence between Washington and Berlin.

On June 12, 1987 Ronald Reagan reconstituted Kennedy's rhetoric of empowerment, solidarity, and freedom in front of the Brandenburg Gate in Berlin. For example, Reagan created a sense of solidarity by reminding Berliners that through collective sacrifice, Germany and the US were able to contain the communist threat (e.g., Berlin Air Bridge). He referred to the Marshall Plan and the German economic miracle, which reminded Berliners of Americans and West Germans' efforts to rebuild Germany's economy. In addition, he mentioned the renowned shopping avenue in Berlin, the "Kudamm," which still symbolizes economic wealth and prosperity for Berliners today. Drawing on Kennedy's idea that self-determination and freedom are the ideological engine that advance security and stability in Europe, Reagan views freedom as the agency that facilitates economic wealth, prosperity, and democracy. He explains: "Freedom leads to prosperity. Freedom replaces the ancient hatreds among the nations with comity and peace. Freedom is the victor" (Reagan, 1987, para. 10). Also, Reagan continued Kennedy's efforts to secure Germany's role in Europe. An economically and ideologically stable and secure Europe was crucial for America's containment policies. Consistent with Kennedy's worldview, Reagan considers freedom and democracy as the guarantor for security in Germany and Europe. He explains: "We welcome change and openness; for we believe that freedom and security go together . . ." Reagan's speech also features direct appeals to the East,

which further emphasize America's interest in reuniting Germany to achieve security and stability in Europe. For example, Reagan explains:

To those listening in East Berlin, a special word: Although I cannot be with you, I address my remarks to you just as surely as to those standing here before me. For I join you, as I join your fellow countrymen in the West, in this firm, this unalterable belief: Es gibt nur ein Berlin. [There is only one Berlin.]

In contrast to Kennedy's Berlin speech, however, which is remembered as an expression of solidarity and promotion of freedom, Reagan's speech is remembered for its rhetoric of challenge (Bruner, 1989). Reagan (1987) not only challenged Mr. Gorbachev to "open this gate" and "tear down this wall," but he also uses the differences in economic achievements between East and West to ask Mr. Gorbachev to reconsider the effectiveness of a communist economy: ". . . in this age of redoubled economic growth, of information and innovation, the Soviet Union faces a choice: It must make fundamental changes, or it will become obsolete" (para. 17). This idea was further advanced when Reagan explained that "[i]n the Communist world, we see failure, technological backwardness, declining standards of health, even want of the most basic kind—too little food" (para. 10). With these lines, one may argue, Reagan also attempted to allay any concerns about whether the construction of the Berlin Wall should be viewed as a failure of the East or West—a concern that Kennedy also addressed in his speech.

While Kennedy and Reagan's Berlin speeches emphasized the ideological bonds between Germany and the US, it is important to recognize how the political context changed between 1963 and 1987 in order to assess the implications of Reagan's messages for German-American relations at the end of the Cold War.

On January 22, 1963, a few months before Kennedy's visit to Berlin, German Chancellor Konrad Adenauer and French President Charles de Gaulle signed the Elysée Friendship Treaty. The treaty called for closer cooperation between Bonn and Paris concerning security and defense policies. Article II of the treaty explains that "the two governments will consult each other, prior to any decision, on all important questions of foreign policy..." (Riegert, 2013, para. 5).

Assuming that the treaty put Germany under France's nuclear umbrella, the Kennedy administration considered the treaty a direct response to their firm position to deny Germany access to nuclear weapons. While the Eisenhower administration assumed a "wait-and-see attitude" (Krieger, 2011, p. 192) regarding Germany's possession of nuclear weapons, for Kennedy, restricting Germany's access to nuclear weapons was instrumental to America's dual containment strategy in that nuclear weapons in Germany would have constituted a provocation to the USSR. By establishing closer ties with Germany, de Gaulle wished to transform France into a nation that plays a leading role in economic affairs in Europe and improve the importance of Europe in the rest of the world (Gunkel, 2013). In addition, he tried to strengthen France's foreign policy toward Washington. Falke (2005) argues that the "Elysée Treaty represented the first crisis in German-American relations, tilting Germany towards France and pitting Germany against the United States" (p. 132). This created a conflicting situations for Germany. On the one hand, the alliance with France offered Germany more economic and military independence, on the other hand, it jeopardized the German-American alliance, which ensured a stable and secure Germany in Europe. In the end, Bonn, instead of putting its security alliance with Washington at risk, decided to reaffirm its commitment to the US. During the ratification process, the German Parliament added a preamble to the Elysée Treaty, which emphasized the integration of Germany's armed forces into NATO, German-American partnership, and

Germany's reunification. Specifically, it stated that the treaty will further "partnership between Europe and the United States of America, the realization of the right to self-determination for the German people, . . . the reestablishment of German unity, [and] the collective defense within the framework of the North Atlantic Treaty Organization ("Franco-German Friendship," n.d., para. 4). In that regard, the Elysée treaty actually resulted in a reaffirmation of German-American alliance. Krieger (2011) explains that "the treaty between Germany and France did not at first lead to closer ties between [Germany and France], [i]nstead, it produced . . . a recognition of the indispensable German-American security alliance . . . (p. 194). In addition to German-American security alliance, the preamble to Elysée treaty also foreshadowed how German-American relations evolved between 1963 and the collapse of the Berlin Wall in 1989.

After the Elysée treaty, Germany continued to gain independence by building new partnerships within Europe. Initiated by German Chancellor Willy Brandt (1969-1974), West Germany introduced a new foreign policy that was intended to improve relations between East Germany, Poland, and the Soviet bloc. Germany's new foreign policy—commonly referred to as *Ostpolitik* (Eastern Policy)—resulted in various friendship treaties (e.g., Treaty of Moscow, Treaty of Warsaw). This new German foreign policy approach was welcomed in Washington. In his first annual foreign policy report, Richard Nixon wrote: "Our German ally has also undertaken steps to seek a normalization of its relations with its Eastern neighbors. Since the problem of Germany remains the key to East-West problems in Europe, we would welcome such a normalization" ("First annual report," 1970). Falke (2005) argues that Germany's *Ostpolitik* and Washington's efforts to ease tensions with the Soviet Union (i.e., détente policy) worked together in that both approaches aimed at solving the East-West conflict through agreements and negotiations.

While there are other events between 1963 and 1987 that shaped the nature of German-American relations (e.g., America's engagement in Vietnam, NATO's dual-track decision, Germany and America's boycott of the 1980 Moscow Olympics), the Elysée treaty, Germany's *Ostpolitik*, and Washington's détente policy highlight the principles of their general foreign policy styles. Despite occasional disagreements, the US and Germany continued their strategic relationship and Germany further developed its own foreign policy style, which translated into more independence from America's supervision and European integration. In the years between Kennedy's and Reagan's speech, Germany emerged as a confident nation within Europe with a foreign policy style that relied on negotiations and friendship treaties.

So, in contrast to Kennedy's Berlin speech, which was aimed at convincing Berliners to choose democracy and freedom over communism to ensure Washington's dual containment strategy in Europe, Reagan's speech functioned as an appeal to Mr. Gorbachev to recognize the importance of Berlin and Germany for all of Europe. In order for Germany to emerge as a sovereign nation, it was indispensable for Washington to gradually remove its security umbrella. While still operating with a Cold-War paradigm (i.e., democracy vs. communism), Reagan's speech acknowledged—among other aspects—Germany's independence regarding European foreign policy approach.²

Summary

By outlining the beginning and early evolution of German-American relations, the previous sections began to explain why the NSA spying scandal threatens the German-US relationship. After World War II and throughout the Cold War era, Germany and the US

² For a detailed discussions of the military, economic, societal, and cultural dimensions of German-American relations between 1945 and 1990, turn to Detlef Junker's *The United-States and Germany in the Era of the Cold War*.

developed a relationship of mutual dependency. For Germans, Washington was the guarantor of German and European security and stability, whereas for the US, Germany functioned as a counterbalance against communism. To prevent Germans from regaining military and ideological influence in Europe and the Soviet Union from encroaching further into Europe (i.e., dual containment), Washington encouraged Germans to rebuild their nation based on democratic principles. America's containment policy toward post-World War II Germany resulted in a strategic but symbiotic relationship between Washington and Bonn.

In order to establish and sustain democratic structures in Germany, Washington let Germans carry the burden of democracy. In the American sector, General Lucius D. Clay urged German politicians to implement local governments, draft a state constitution, and run local elections. That way, Germans learned that freedom and democracy are the engine for self-determination. This was an important lesson for Germans in that after decades of war and oppression, Germans learned about the value of individual rights and how a democratic and free government facilitates and protects these rights. The Marshall Plan (1948), the Berlin air bridge (1948-49), Kennedy's "Ich bin ein Berliner" (1963) speech, and Reagan's "Mr. Gorbachev, tear down this wall" (1987) speech not only created a collective memory for Germans and Americans, but the German government and population learned that democracy, freedom, and individual rights are instrumental in overcoming political threats (e.g., communism).

Despite occasional crises (e.g., America's reluctance to interfere with the construction of the Berlin Wall or the Elysée Friendship Treaty, which put Germany under France's nuclear umbrella), Washington's support and commitment allowed Germans to emerge as a sovereign democratic nation. In addition, Washington helped Germany to freely develop its own foreign policy style and gain political and economic independence.

One may argue that in the 21st century terrorism replaced communism as the common threat over which Germany and the US bond. While terrorism does represent a threat to the free world, it does not offer the same *bonding potential* for German-American relations as communism during the Cold War era. Dividing the world into East vs. West and capitalism vs. communism does not apply in a globalized world. Terrorism does not only constitute a threat to Germany or the US, it is a global issue. However, does the fact that terrorism is a global issue legitimize indiscriminate surveillance?

During the post-World War II and Cold War era, Germany learned that individual rights, democracy, and self-determination are the ideological catalyst to fight and overcome political threats. This, in addition to Germany's experience with the Gestapo (i.e., Secret State Police) who collected data to persecute, incarcerate, terrorize, and kill ordinary German citizens, prompted the German government to craft a post-World War II constitution that emphasizes individual rights, including protection of people's privacy. Needless to say that Berlin was surprised and irritated when the nation who recommended freedom and democracy as a way to ensure security used means that appeared to contradict this logic. Also, during the Cold War era, the East German state security was able—due to insufficient political oversight—to secretly observe its own citizens, which led to arbitrary and indiscriminate surveillance. It is therefore not surprising that in regard to NSA activities Berlin calls for more political oversight and is concerned about the scale and proportionality of NSA programs. Throughout the post-World War II and Cold War era, Germany trusted Washington as a partner who carefully balanced individual rights, security, and surveillance.

In order to further contextualize and explain why the NSA spying scandal threatens the relationship between Berlin and Washington, the following sections will now discuss more recent developments in German-American relations.

CHAPTER II

CHALLENGES FOR GERMAN-AMERICAN RELATIONS

The close transatlantic relations between Germany and the US that had emerged after World War II and during the Cold War ceased to exist in the post-reunification era. Immediately after the end of World War II, Americans demonstrated leadership in German-American relations by establishing a free-market economy and democratic political structures. German-American relations were defined by Germany's dependency on Washington's security umbrella. Throughout the 1950s and early 1960s Germany's military and economic dependence on Washington turned into a relationship of mutual dependence. Driven by an interest to retain Germany's tactical role in Europe, Washington created a symbiotic but strategic relationship with Germany that functioned as a counterbalance against the communist threat. During the Cold War, America's dual containment strategy strengthened military, economic, political, and cultural ties with Germany and symbolically transformed Berlin into a city that resisted totalitarianism through free self-determination. Perceived by Germany and the US as a common enemy and threat, communism allowed to describe German-American relations in opposition to the imperialistic attitudes of the USSR. While in the post-World War II and Cold War era communism and the USSR functioned as a framing device for transatlantic relations, in the post-reunification era Berlin had to redefine its relationship with Washington. In a way, Germany's reunification constituted a paradigm shift for German-American relations. This raises the question of what events after Germany's reunification created and shaped German-American relations in the absence of a post-World War II and Cold War paradigm. While various military, economic, social, and cultural issues defined transatlantic relations in the post-reunification era, particular attention will be paid to how the first and second Iraq War,

German anti-Americanism, the terror attacks of 9/11, and America's war on terror shaped German-American relations. In addition, the German-American dispute over the NSA revelations will be outlined in order to reveal Berlin's and Washington's position(s) toward surveillance, security, and privacy. Special attention will be dedicated to how their positions manifest themselves in public statements (e.g., press releases, news conferences, speeches, interviews).

Defining German-US Relations without the Cold-War Paradigm

After Germany's reunification, Berlin was in search of a new national and international identity. The Marshall Plan, the Berlin air bridge, Kennedy's "Ich bin ein Berliner" speech, Reagan's "Mr. Gorbachev, tear down this wall" speech, the collapse of the Berlin Wall, and Germany's reunification are manifestations of how Germany developed into a sovereign democracy under America's guidance.³ Without Washington's guiding hand, Berlin now had to build new alliances and establish itself as a viable member in the European and world community.

In the early years following Germany's reunification, Washington perceived the relationship between Germany and America as what President George H. W. Bush called "partnership in leadership" (Falke, 2005, p. 138). In his remarks to the people in Mainz at the 40th anniversary of the Federal Republic of Germany on May 31, 1989, President George H. W. Bush asked Germany to be a partner in leadership with the United States. Bush (1989) said:

The United States and the Federal Republic have always been firm friends and allies, but today we share an added role: partners in leadership. Of course, leadership has a constant

³ Officially, Germany regained its sovereignty when the United States, the Soviet Union, Great Britain, and France signed the Two-plus-Four agreement on September 12, 1990, which enabled Germany to deal with the internal and the World War II Allies with the external affairs of the reunification process.

companion: responsibility. And our responsibility is to look ahead and grasp the promise of the future. I said recently that we're at the end of one era and at the beginning of another. The world has waited long enough. The time is right. Let Europe be whole and free. (para. 7-8).

While Bush probably had not written these lines with the anticipation that the Berlin Wall would collapse on November 9, 1989—only months after his Mainz speech—Bush's call for German leadership and responsibility uniquely foreshadowed what Washington expected of Germany after its reunification. For example, when the Bush administration formed an international coalition to respond to Iraq's invasion of Kuwait at the beginning of August in 1990, the Bush administration expected Germany to provide military support for *Operation Desert Shield* and/or *Operation Desert Storm*. In a way, America's expectation for German military action in the Iraqi War tested Germany's commitment and willingness to be an international partner in leadership for missions outside of NATO territory (i.e., out-of-area operations). However, constrained by Article 115a of the German Basic Law, which declared that only a direct attack on German soil rationalizes military means, Germany refused to engage militarily in the Gulf War and offered generous financial and logistical support instead. Article 115a was a relic of the Cold War and was intended to prevent Germany to regain military influence in Europe and defend itself outside of German territory. Put differently, it was designed to transform the German military into a force for territorial defense rather than a force for military attacks. In addition to Berlin's reluctance to militarily contribute to the first Iraq War, the German government was also dealing with a parliamentary opposition and a population that rejected any military intervention. "No blood for oil" (Phillips, 2000, p. 37) was a commonly used slogan by opposition leaders and protestors. The German public and political

opposition regarded the official rationale for invading Iraq—restoring Kuwait’s sovereignty—as a cover story, which was intended to divert attention from America’s interest in Iraq’s oil reserves.

Helmut Kohl, who was Germany’s chancellor during the Iraq crisis, “called for clarification of the constitution to allow German armed forces to participate in future UN-sponsored military actions” (Asmus, 1991, p. 554) but his appeal failed to articulate Germany’s role for international military interventions. Instead of developing a firm position, Germany’s constitutional constraints to participate in out-of-area operations and the parliament and public’s opposition to any kind of military actions caused another debate about “whether Germany owed the US support in the Gulf in return for American backing of the unification process among the German population . . . “ (Asmus, 1991, p. 555). The German government was not sure whether Germany’s historical obligation to the US justified military actions abroad. This created a post-Cold War foreign policy dilemma for Germany that was driven by what Frank (2011) calls Germany’s “Politics before force” (p. 134) policy.⁴ In an attempt to please the German public, who opposed military action and the Bush administration, who asked for military support, Berlin supported the Iraqi War financially and logistically. This diplomatic strategy, however, neither satisfied the German public, nor did it live up to Bush’s idea of partnership in leadership. Berlin’s reactions to the first Gulf War demonstrated that Germany was not ready to assume an active global leadership role together with the US. While the first Iraq War did not significantly damage German-American relations, Falke (2005) explains that

⁴ Germany’s foreign policies during the first (1991) and second (2003) Iraq War are often described as “never alone again,” “never again war,” “never again Auschwitz,” “culture of restraint,” and “Politics before force” (Frank, 2011, p. 134; Dalgaard-Nielsen, 2006, p. 71). “Never alone again” refers to Germany’s tendency to enter multilateral rather than unilateral agreements. Due to Germany’s experience with war and the Holocaust, “never again war” and “never again Auschwitz” describe Berlin’s pacifist position toward international military interventions. “Culture of restraint” depicts Germany as a reluctant leader in international crises, favoring partnership rather than leadership.

the US “lost considerable trust in Germany’s willingness to assist in international crisis management” (p. 138). Berlin was not able to handle its newly gained sovereignty, which translated into an inability to define a firm foreign policy position and play a leading role in international affairs.

In an attempt to define its role on the international stage, the German government began to explore its recently won sovereignty in the interim between the first and second Iraq War (Kurthen, Menéndez-Alarcón, & Immerfall, 2006, p. 6). With the establishment of the European Union in 1993 and the introduction of the euro as the official currency for all members of the Eurozone in 1999, Germany was no longer dependent on military or financial support from Washington. The US government was now wondering how Germany would use its newly gained military, economic, and political independence. Would Germany continue its foreign policy strategy of politics before force and shy away from military out-of-area operations, would it try to finally be a partner in leadership with the US or would it even neglect its ties with Washington in favor of European integration? At the turn of the 21st century, a difference in foreign policy strategies between Berlin and Washington emerged, which foreshadowed what numerous authors refer to as a “rift in transatlantic relations” (Kurthen, Menéndez-Alarcón, & Immerfall, 2006; Falke, 2005, Szabo, 2004). In an effort to create new ties with regional and global partners, Berlin sought out multilateral agreements with EU members, within NATO and the UN (Kurthen, Menéndez-Alarcón, & Immerfall, 2006, p. 10). Washington, however, demonstrated a reluctance to build multilateral relationships. Instead, Washington tried to withdraw its signature from various multilateral treaties. For example, right before German Chancellor Gerhard Schröder’s first visit to Washington in early 2001, George W. Bush’s National Security Advisor Condoleezza Rice informed European ambassadors that the Kyoto

Treaty is dead (Thompson, 2001). This created ideological tensions between Washington and Berlin in that the German coalition government of social democrats and environmentalists (i.e., Red-Green coalition) advocated the implementation of the treaty and expected that “the US accepts its responsibility for the world climate” (as cited in Borger, 2001, para. 5). Washington’s announcement to withdraw its signature from the Kyoto Treaty was followed by criticism from the Bush administration “denouncing a series of multilateral initiatives to which Germany was party, including the Chemical and Biological Weapons Treaty, the International Criminal Court, and the Anti-Ballistic Missile (ABM) Treaty” (Szabo, 2004, p. 15). One might argue that the Bush administration’s reluctance to commit to multilateral treaties, turned out to be an assertive unilateral foreign policy strategy.⁵ However, before these ideological tensions about the severity of global warming and the differences in foreign policy approaches (i.e., multilateralism vs. unilateralism) had a chance to emerge as a crisis in German-American relations, the 9/11 terror attacks temporarily set aside these issues.

A day after the 9/11 terrorist attacks, the German Chancellor Gerhard Schröder assured President George W. Bush of Germany’s unconditional support in an address to the German parliament. He declared that “I also assured [President George W. Bush] of Germany’s full—I repeat: full solidarity” (Schröder, 2001, para. 5). In addition, Schröder said: “We now need to act rapidly to take more effective measures to eliminate the breeding grounds of terrorism. Those who help or harbor terrorists violate all the fundamental values on which international

⁵ Kurthen, Menéndez-Alarcón, and Immerfall (2006) describe America’s foreign policy style during the second Iraq War as a “model of disposable alliance-building for the purposes of maintaining U.S. global hegemony” (p. 9). They contend that if the US continues to treat international partners as “disposable ad-hoc satellites” (p. 9), it will not only prevent them from sustaining true partnerships, but Washington’s role as a moral and democratic leader will wear off. This perception of US foreign policy during the second Iraq War was mirrored by German Foreign Minister Fischer’s comments in an interview with the German newspaper *Die Welt* on February 12, 2002. He remarked: “. . . alliances between free democracies should not be reduced to following. Alliance partners are not satellites” (Erlanger, 2002).

coexistence is based” (para. 10). Chancellor Schröder’s promise of unconditional solidarity and denouncement of nations that support terrorism, put Germany into a difficult situation.

Considering that the 9/11 attacks were linked to an al Qaeda terrorist cell in Hamburg not only embarrassed German security agencies, but in retrospect, Schröder effectively accused his own country of violating fundamental values. Also, Schröder’s statement to provide unconditional support proved rather problematic in terms of Germany’s foreign policy commitments to the US. What does “full solidarity” entail in regard to fighting global terrorism? Logistic, financial, or military support? Will it be temporary or permanent support? Either way, Schröder’s promise created an obligation for Berlin to participate in America’s Global War on Terrorism (GWOT).

On November 16, 2001, Schröder lived up to his promise by asking parliament to approve German participation in *Operation Enduring Freedom* in Afghanistan. Restricted by Article 115a of the German constitution, Schröder had to first ask parliament to approve deployment of military troops for an out-of-area operation. Winning the approval of the German parliament was particularly difficult for Schröder in that his coalition partner (i.e., The Greens) was a traditionally pacifist party and signaled that they would oppose military engagement in Afghanistan. In order to discipline his coalition, Schröder linked the debate about the deployment of German troops in Afghanistan to a vote of confidence (“Bundestag Debate,” 2001). By winning the approval of the parliament for German participation in *Operation Enduring Freedom* in Afghanistan and his vote of confidence, Schröder was now able to secure his commitment to the US and ensure full solidarity for America’s war on terror. This commitment was put to the test when the Bush administration decided to invade Iraq under the pretext of fighting terrorism and destroying weapons of mass destruction.

The second Iraq War constituted a serious crisis in German-American relations. The beginning of this crisis is often attributed to President George W. Bush's first visit to Berlin on May 22 and 23, 2002 (Falke, 2005; Kurthen, Menéndez-Alarcón, & Immerfall, 2006; Szabo, 2004). In his address to the German parliament, Bush not only expressed his gratitude for Germany's military contribution to the Afghan War, but he also explained why preventing Iraq, Iran, and North Korea (i.e., axis of evil) from obtaining weapons of mass destruction, warrants a global war on terrorism. He argues:

The authors of terror are seeking nuclear, chemical and biological weapons. Regimes that sponsor terror are developing these weapons and the missiles to deliver them. If these regimes and their terrorist allies were to perfect these capabilities, no inner voice of reason, no hint of conscience would prevent their use. Wishful thinking might bring comfort, but not security. Call this a strategic challenge. Call it, as I do, axis of evil. Call it by any name you choose, but let us speak the truth. If we ignore this threat, we invite certain blackmail and place millions of our citizens in grave danger. (Bush, 2002, para. 21)

While Bush's remarks did not reveal any concrete intentions from Washington to invade Iraq, they suggested that if Germany and the US fail to proactively prevent the development of weapons of mass destruction in Iran, Iraq, and North Korea, they would be guilty of not protecting their own citizens. By means of a common challenge (i.e., restoring security in an age of terrorism and weapons of mass destruction), Bush, rhetorically, created a bond between Washington and Berlin. Depicting Germany as a partner in the war against terror was important to the Bush administration. At a news conference earlier that day, Bush described Germany as "a reliable friend and ally . . . a confident country led by a confident man" ("The president's

news conference,” 2002, para. 15). When asked about a possible war in Iraq, Chancellor Schröder said that “Saddam Hussein is a dictator . . . there is no difference there between President Bush and myself when it comes to the assessment of this situations” (para. 32). He also remarked that “there are no concrete military plans of attack on Iraq.” Bush confirmed that statement by saying that “I told the Chancellor that I have no war plans on my desk” (para. 33). In addition, Bush said: “The Chancellor said that I promised consultations. I will say it again: I promise consultations with our close friend and ally” (para. 57). Despite the fact that these statements suggest a high level of agreement between Schröder and Bush in regard to a possible invasion of Iraq, both sides remember what happened in their private discussions in Berlin a little differently (Falke, 2005).⁶ While Schröder denied that they entered into any commitments, the Bush administration’s interpretation of what Schröder said was: “If you lead I will not get in your way, but be decisive, move quickly, and win” (Szabo, 2004, p. 20). It was therefore surprising to the Bush administrations when in an election speech on August 5, 2002, Schröder declared that Germany will show solidarity with the US, but it was not available for adventure (Hopper, 2002). With this statement, Schröder effectively turned Germany’s promise of unconditional solidarity into conditional solidarity. Schröder’s campaign speech marked the beginning of his antiwar strategy and what Dettke (2009) refers to as “Schröder’s German Way rhetoric” (p. 174).

Schröder’s abrupt change of policy was a response to rapidly decreasing approval ratings for his coalition government. With the upcoming national election on September 22, Schröder

⁶ For a detailed evaluation of how Schröder and Bush’s accounts differ, I recommend comparing their memoirs. For example, according to Bush’s (2011) memoir *Decision Points*, Schröder, at a meeting in the Oval Office on January 31, 2002, promised the president that “[w]hat is true of Afghanistan is true of Iraq” (p. 234). In his memoir *Entscheidungen* (Decisions) Schröder, however, “emphasizes that his support was conditional upon finding an established connection between the Iraqi regime and terror” (Rosenthal, 2011).

was desperate for an election topic that would attract a wide variety of voters. Being aware of growing anti-American sentiments among the German public, Schröder considered the Iraq war as a useful topic to demonstrate Berlin's independence from Washington. Throughout his election campaign, Schröder not only assured and continuously reminded the German public of his categorical rejection of military intervention in Iraq, but his campaign slogans unambiguously suggested that he tried to win votes by defining the German position in opposition to American politics. For example, the slogan "No to the American Way" was designed to gain support from labor unions, who considered America's market-oriented welfare programs as a dangerous model for Germany's welfare system (Dettke, 2009, p. 174). Considering that Schröder and Bush reached an implicit agreement at their Berlin meeting in May to not bring up the war in Iraq before the German federal elections in September 2002 (Szabo, 2004, p. 20), it is not surprising that Schröder's antiwar and anti-America election campaign severely violated that agreement and personally offended President George W. Bush. In his memoir, Schröder explains: "How could I have survived the election campaign without taking a clear position on an issue that was so moving for the people?" (as cited in Dettke, 2009, p. 160).

The German-American dispute over the second Iraq War culminated in harsh polemic from both sides of the Atlantic. For example, only days before the German parliamentary elections, Schröder's Minister of Justice Herta Däubler-Gmelin compared Bush's policy toward Iraq to Hitler's pre-World War II tactics. Däubler-Gmelin remarked: "Bush wants to divert attention from his domestic problems. It's a classic tactic. It's one that Hitler also used" (as cited in Gardiner & Dale, 2002, para. 18). While Schröder expressed his regret in a personal apology letter to Bush and Däubler-Gmelin was removed from office, the incident only further damaged

German-American relations. Washington interpreted Schröder's letter not as an apology, but as confirmation that his election campaign created a political climate that encouraged those kinds of statements (Szabo, 2004, p. 30). Outraged by Däubler-Gmelin's remarks, Secretary of State Condoleezza Rice declared in an interview with the German economic newspaper *Financial Times Deutschland* that German-American relations are poisoned. Specifically, she remarked:

How can one mention Hitler and the U.S. president in the same sentence? And above all, how can such a comment come from the mouth of a German when one considers the sacrifices made by the United States when it acted to liberate the Germans from Hitler (as cited in "German-American Relations," 2002, para. 16).

After Germany's federal elections, Berlin and Washington's positions remained entrenched and instead of trying to heal the rift that his anti-American election campaign created, Schröder further distanced himself from the US by establishing closer ties with France. At a news conference at the 40th anniversary of the Elysée Friendship Treaty on January 22, 2003, Schröder and French President Jacques Chirac declared that they would oppose any UN resolution to use military means against the Iraq regime ("France and Germany," 2003).⁷ By entering into a unilateral agreement with France, who could potentially veto a UN resolution to legitimize war in Iraq, Germany not only isolated itself, but let its promise of unconditional solidarity to fight the global war on terrorism appear as lip service rather than commitment. Schröder's alliance with Chirac resulted in a temporary but grave divide in Europe's foreign policy strategy toward the war in Iraq. This divide manifested itself in the Letter of Eight, which was a statement signed by Spain, Britain, Italy, Poland, Hungary, the Czech Republic, Denmark,

⁷ Signed in 1963 by German Chancellor and French President Charles de Gaulle, the Elysée Friendship Treaty was intended to form a Franco-German alliance, which should function as a counterbalance to Washington. In that regard, it is an ironic coincident that forty years later, Germany and France again created an alliance to oppose US policies.

and Portugal to support the US in its effort to destroy Iraq's weapons of mass destruction.

Published in numerous newspapers across Europe on January 30, 2003, it states:

The transatlantic relationship must not become a casualty of the current Iraqi regime's persistent attempts to threaten world security. . . . The Iraqi regime and its weapons of mass destruction represent a clear threat to world security. . . . we [Spain, Britain, Italy, Poland, Hungary, the Czech Republic, Denmark, and Portugal] would rid the world of the danger posed by Saddam Hussein's weapons of mass destruction. ("Leaders' statement," 2003)

Siding with Washington's foreign policy toward Iraq, the statement's signatories let Germany and France appear as a minority voice in Europe's strategy toward the global war on terrorism and weapons of mass destruction. The Letter of Eight reflected US Secretary of Defense Donald Rumsfeld's remarks at a briefing with foreign journalists on January 22, 2003 when he referred to Germany and France as a problem. Specifically, he said: ". . . you're thinking of Europe as Germany and France. I don't. I think that's old Europe. . . . you look at vast numbers of other countries in Europe. They're not with France and Germany on this, they're with the United States" (Rumsfeld, 2003, para. 147).

While after German's reunification in 1990 Berlin eagerly sought out multilateral agreements to advance European integration, Schröder's Franco-German alliance not only constituted a unilateral foreign policy approach, which divided Europe into US supporters and adversaries, but also created an irreparable rift in German-American relations (Szabo, 2004; Falke, 2005; Dettke, 2009). In addition, Schröder's shift from multilateralism to unilateralism, the breach of trust that his categorical objection to the war in Iraq caused, and his anti-America election campaign created the impression of an unprofessional German foreign policy style.

While on February 27, 2004 Bush referred to Germany as “partner in leadership” (as cited in “President Bush Welcomes,” 2004, para. 19) at a visit of Chancellor Schröder to the White House, it was not until Angela Merkel won the German federal election in 2005 when Germany’s foreign policy style toward the US changed and the rift between Berlin and Washington started to heal.

Even before she was elected Chancellor in November 2005, while she was still the leader of the opposition in the German parliament, Merkel began rebuilding German-American relations. In an article entitled “Schröder doesn’t speak for all Germans,” published in the *Washington Post* on February 20, 2003, Merkel not only accused Schröder of exploiting the Iraq crisis “for the sake of electoral tactics,” (para. 2) but she also explained that “[f]or the party that I lead, our close partnership and friendship with the United States is just as much a fundamental element of Germany’s national purpose as European integration” (para. 9). Also, in opposition to Schröder, Merkel argued that “while military force cannot be the normal continuation of politics by other means, it must never be ruled out” (para. 5). By highlighting the differences between her and Schröder’s foreign policy approach in regard to Iraq and transatlantic partnership, Merkel revealed that Schröder’s position is not only rejected within Europe, but also within his own parliament. Consequently, this further isolated Schröder, leaving him little room to regain national and international support for his policies. In general, the article emphasizes that Merkel stands for multilateralism, European integration, and close ties with Washington, a foreign policy style that Washington has grown accustomed to after Germany’s reunification. With Merkel’s election as Chancellor, a new era in German-American relations began. Merkel reiterated her foreign policy style regarding transatlantic relations when, only days before the 20th anniversary of the fall of the Berlin Wall on November 3, 2009, she addressed a joint

meeting of Congress. For example, she explained that multilateral agreements are the answer to the challenges of the globalized world. She also emphasized that what sustains transatlantic partnership are not common challenges but common values. Merkel (2009) remarked:

Because what brings Europeans and Americans together and keeps them together is not just a shared history. What brings and keeps Europeans and Americans together are not just shared interests and the common global challenges that all regions of the world face. That alone would not be sufficient to explain the very special partnership between Europe and America and make it last. It is more than that. That which brings Europeans and Americans closer together and keeps them close is a common basis of shared values. (p. 4)

After Konrad Adenauer, Angela Merkel was the second German Chancellor to speak before Congress. Merkel's speech constituted a high point for German-American relations. Her speech is indicative of Germany's interest in sustaining strong transatlantic ties with Washington.

The press conferences, interviews, and speeches that were mentioned so far helped to reconstruct German-American relations in terms of their public discourse. Special attention was dedicated to how Berlin and Washington's differences in foreign policy styles enabled or constrained their ability to reconcile their disagreements over particular issues. The ability to settle a difference of opinion is indispensable if Washington and Berlin intend to sustain or restore friendly transatlantic relations. While deadlines (e.g., allotted speaking time) often restrict politicians' ability to resolve controversies within institutionalized contexts (e.g., parliamentary debates), public political discourse features open-ended discussions (Zarefsky, 2008, p. 318). Between 1945 and 2014, national security, privacy, and surveillance have been

recurring topics within the German and America political discourse. Though Washington and Berlin often embedded these topics in other discussions (e.g., anti-communism debates, war on terror discussions), national security, privacy, and surveillance constitute a familiar discussion between Germany and the US: How should a democratic nation use surveillance to guarantee national security *and* protect people's right to privacy? Washington and Berlin's differences in foreign policy style yield different answers to this question. In order to describe and assess how these differences influence their argumentation regarding the role of surveillance in the digital age, it was important to outline German-American relations in sufficient detail (see Appendix A for a brief chronology of the highlights of German-American relations from 1945-2013 and their implications). Edward Snowden's revelations helped to reconstitute Washington and Berlin's discussion about security, privacy, and surveillance. However, the issues of security, privacy, and surveillance are no longer framed by common threats like communism and terrorism. Germany and the US are not developing their standpoints in opposition to a common enemy. Instead, they are trying to develop standpoints and arguments for which there is hardly any legal support. National security evolved into global cyber security and surveillance morphed into mass online surveillance. In a global and digital age, national rules and regulations are ineffective for a discussion about global issues. Thus, discussing global issues in a transatlantic context, which is not governed by legal guidelines, not only bears great potential for disagreement, but it offers barely any guidance for reasonable discussion. The following section will now outline the German-American dispute over the NSA scandal.

The NSA Surveillance Scandal: A Breach of Trust

After the Elysée Friendship Treaty of 1963 and Germany's controversial objection to America's invasion of Iraq in 2002, the NSA surveillance scandal constitutes another crisis in

German-American relations. While there were signs of an emerging dispute when Obama visited Merkel in Berlin on June 19, 2013, it was not until Merkel commented on allegations that US intelligence targeted her private communications, when vague signs turned into a public controversy. As Merkel arrived at a summit of EU leaders in Brussels on October 23, 2013 she remarked: “. . . [i]t’s not just about me but about every German citizen. We need trust among allies and partners . . . such trust now has to be built anew” (“Germany’s Merkel,” 2013). In addition, during a phone conversation with President Obama, Merkel explained that if these revelations turned out to be accurate, it would represent a “grave breach of trust” (as cited in “Merkel calls Obama,” 2013, para. 4) between allies. The following paragraphs will now summarize the German-American discussion over the NSA revelations as it manifests itself in public statements. Particular attention will be paid to how the discussion developed from when Merkel remarked that “there must be no spying among friends” (“Germany’s Merkel,” 2013) in October 2013, to when Obama and Merkel agreed to a US-German cyber dialogue in May 2014. Comments by Obama and Merkel as well as remarks from proxy advocates (e.g., Foreign Ministers, Defense Ministers, spokespersons, etc.) will count as contributions to the German-American discussion. Statements by opposition leaders will be disregarded in that they only help to reveal domestic but not foreign policy strategies.

Despite German media reports saying that NSA director Keith Alexander personally informed President Obama of the eavesdropping in 2010, NSA spokeswoman Valerie Vines released a statement on October 27, 2013 in which she denied that Obama was aware of the spying operation. Specifically, she asserted that “Alexander did not discuss with President Obama in 2010 an alleged foreign intelligence operation involving German Chancellor Angela Merkel, nor has he ever discussed alleged operations involving Chancellor Merkel . . . news

reports claiming otherwise are not true” (as cited in “US denies,” 2013, para. 4). This statement contradicted documents provided by Edward Snowden and reports by unnamed NSA officials suggesting that Obama was aware of the operation and instead of halting it, he let it continue. In response to these contradicting statements, German Interior Minister Hans-Peter Friedrich said:

The Americans are obligated to lay their cards on the table. We expect comprehensive explanation and we want to know exactly what occurred . . . If the Americans tapped mobile phones in Germany, they have broken German law on German soil . . . those responsible must be held accountable . . . The trust in the alliance partner USA is shaken. (as cited in “Germany demands,” 2013, para. 4, 11)

On October 29, 2013, intelligence officials defended the practices of the NSA before the House of Representative Intelligence Committee. The open hearing was convened to discuss potential changes to the Foreign Intelligence Surveillance Act (FISA).⁸ While the director of National Intelligence James Clapper and Keith Alexander avoided to answer the question of whether Obama was aware of the NSA’s surveillance practices, they vehemently defended the agency’s eavesdropping activities as a necessary means to prevent terrorism. For instance, Alexander remarked: “It is much more important for this country that we defend this nation and take the beatings, than it is to give up a program that would result in this nation being attacked” (“USHR19,” 2013). In a prepared joint statement, Clapper, Alexander, and Deputy Attorney General James Cole expressed their willingness to enhance transparency regarding their surveillance efforts, however, they also emphasized that the NSA operates within the legal

⁸ The hearing revolved—among other aspects—around section 702 of the Foreign Intelligence Surveillance Act, which allows the NSA, the FBI, and other intelligence services to conduct surveillance overseas. The FISA also allows intelligence agencies to legally collect data inside the US after obtaining a warrant for domestic data collection from the Foreign Intelligence Surveillance Court (FISC). In 2008, Congress updated the FISA law by implementing the FISA Amendments Act (FAA), which allows the NSA to collect data without a warrant, if “Americans . . . communicate with a foreign national whom the NSA has targeted for surveillance” (Greenwald, 2013).

boundaries of the law. For example, Clapper said: “We do not spy on anyone except for valid foreign intelligence purposes and we only work within the law” (“USHR19,” 2013). Alexander reinforced that statement by saying that “[n]othing that has been released has shown that we are trying to do something illegal or unprofessional” (“USHR19,” 2013). In addition, Alexander said that reports arguing that the NSA collects bulk data about European citizens is completely false. Finally, Clapper qualified the NSA surveillance practices when he said: “. . . some of this reminds me a lot of the classic movie Casablanca: My god there is gambling going on here” (“USHR19,” 2013).

While on November 1, 2013 the US Senate Intelligence Committee approved the FISA Improvement Act, which proposed enhanced privacy protection and transparency of NSA activities, Republican Senator Dianne Feinstein’s justification for why the NSA is a vital institution mirrored that of Clapper, Alexander, and Cole. As the chairwoman of the committee she released a joint statement in which she argued:

The NSA call-records program is legal and subject to extensive congressional and judicial oversight, and I believe it contributes to our national security . . . The threats we face—from terrorism, proliferation and cyber attack, among others—are real, and they will continue. Intelligence is necessary to protect our national and economic security, as well as to stop attacks against our friends and allies around the world. (Feinstein & Chambliss, 2013, p. 3)

In an attempt to ease tensions and rebuild trust, Washington and Berlin sent delegations to discuss the recent spying reports and new regulations for cooperation. For example, German and American officials discussed what the media refers to as a “no-spying agreement.” The possibility of a bilateral intelligence agreement between Germany and America first gained

public attention when Merkel's head of staff Roland Pofalla, who is responsible for coordinating Germany's intelligence agencies, testified in front of a parliamentary committee about Germany's involvement in the NSA scandal on August 12, 2013. He said that the US had offered a no spy deal. In retrospect, the media interpreted Pofalla's statement as a way to appease German voters before the upcoming federal election in September (Weiland, 2013). Germany and America's attempts to reach a no-spying agreement and thereby restore trust in transatlantic relations failed when National Security Advisor Susan Rice informed German officials that "[t]he U.S. is not going to set a precedent" (as cited in Sanger & Smale, 2013, para. 3).

In front of officials of the intelligence community, Obama announced reforms for the NSA data-collection program on January 17, 2014. While Obama (2014a) argued that throughout American history, intelligence-gathering programs and the NSA helped to defend America's national security against international threats (e.g., communism, terrorism, proliferation of weapons of mass destruction), he also emphasized that an open debate about NSA's practices will not only "make us stronger" (p. 10) but will help foreign leaders "whom we work with closely, and on whose cooperation we depend, [to] feel confident that we are treating them as real partners" (p. 10). Obama also remarked that in order "for our intelligence community to be effective over the long haul, we must maintain the trust of the American people, and people around the world" (p. 4). Obama reiterated the idea that trust is necessary for the NSA to operate effectively in an exclusive interview⁹ with the German public television broadcaster *ZDF* on January 18, 2014. Obama expressed his sympathy for why Germans are

⁹ This was the first time that Obama agreed to an interview with a German television broadcaster. Considering that Obama regards trust as an important factor for the NSA to function effectively, the interview itself appears to be a strategic foreign policy decision to rebuild trust for the German-American partnership.

sensitive toward mass surveillance and tried to regain trust from the German government and the German people by promising Merkel that US surveillance will not continue to damage German-American relations. He said: “I don’t need and I don’t want to harm that relationship by a surveillance mechanism that somehow would impede the kind of communication and trust that we have” (“Interview US-President,” 2014, p. 5).

While Obama reinforced his position in his state of the union address on January 28, 2014 when he said that “the vital work of our intelligence community depends on public confidence, here and abroad, that the privacy of ordinary people is not being violated” (Obama, 2014b, p. 7), Berlin continued to be skeptical and criticized the magnitude and use of America’s surveillance capabilities. In her policy statement to the German parliament on January 29, 2014, Merkel said:

. . . can it be right that our closest allies like the United States or the United Kingdom gain access to all conceivable kinds of data on the grounds that such action enhances their own security and that of their allies? We ourselves, the argument goes, derive some benefit from it. Can it be right to cite as a reason for engaging in such activity the fact that other countries in the world have been doing the same? Can it be right when the ultimate aim is no longer merely to ward off the threat of terrorism but also to gain advantages over allies, for example in negotiations at G20 summits or UN meetings – advantages which, over the years, I have always found to be utterly negligible in any case? Our answer can only be no – these things cannot be right. (Merkel, 2014, p. 12)

In addition, Merkel addressed the importance of trust for German-American cooperation regarding cyber security. She argued: “A strategy in which the end justifies the means, in which everything that is technically possible is realized, breaches trust and sows distrust. The result is

not more security but less” (p. 12). However, despite her criticism, Merkel emphasized that the German-American partnership is vital to transatlantic cooperation and that this partnership will continue. For example, she argued that suspending negotiations about the Transatlantic Trade and Investment Partnership (TTIP) as a way to discipline Washington will not help to resolve the dispute over the NSA scandal.¹⁰ Finally, realizing that an international framework for data protection does not exist yet, Merkel supported reforms to the European General Data Protection Regulation, but also proposed a “digital agenda,” which ensures that data protection in Germany will not be “watered down by the standardization of European protection” (Merkel, 2014, p. 11).

In an attempt to further ease tensions and rebuild trust between Berlin and Washington, Secretary of State John Kerry used his Germany visit in late January of 2014 to communicate to the German people that, while admitting that the NSA affair caused a rift in German-American relations, it is now important to focus on the future. At a news conference with German Foreign Minister Frank-Walter Steinmeier, Kerry (2014a) said: “It is no secret . . . that we’ve been through a rough period in the last months . . . I look forward to turning a page and getting us focused on the larger, most critical issues that we face together” (para. 24). Kerry (2014b) reiterated this position at a news conference with Angela Merkel when he explained: “. . . the U.S.-German alliance is really the vital engine of the transatlantic partnership. We want this to be a year of renewal of the strength of that relationship” (para. 14). At the end of his Germany visit, Kerry and Secretary of Defense Chuck Hagel delivered a joint address at the 50th Munich Security Conference in early February of 2014 in which they emphasized transatlantic relations

¹⁰ A discussion about whether EU-US negotiations should be suspended over the NSA spying scandal first emerged in early August of 2013 when EU parliamentarians expressed their outrage about America’s arbitrary and indiscriminate surveillance. Documents provided by Edward Snowden and released by the German magazine *Der Spiegel* revealed that US security agencies spied on European leaders in Washington and New York. In response to these reports, European Parliament President Martin Schulz said: “. . . if it is true, it is a huge scandal. That would mean a huge burden for relations between the EU and the US. We now demand comprehensive information” (Schultz, 2013).

and America and Europe's efforts to promote peace, democracy, and prosperity. For example, Kerry argued that "[w]hat we need in 2014 is a transatlantic renaissance, a new burst of energy and commitment and investment . . ." (Kerry & Hagel, 2014, para. 17). Specifically, Kerry reasoned that a US-EU trade agreement "will do for our shared prosperity what NATO has done for our shared security, recognizing that our security has always been built on the notion of our shared prosperity" (para. 19). However, Kerry and Hagel chose to not mention the NSA scandal.

For a moment, Kerry's call for a "transatlantic renaissance" and tighter economic ties as a way to enhance transatlantic security diverted attention from the NSA affair. In that regard, Kerry's statement differs greatly from German interior minister Thomas de Maiziere's comments during a panel discussion at the Munich Security conference. A day before Kerry and Hagel delivered their joint address, Thomas de Maiziere, during a panel called "Rebooting Trust? Freedom vs. Security in Cyberspace," said:

We do not have any evidence, there are no fingerprints, but according to everything I am hearing these activities have been conducted to the detriment of German citizens and knows no bounds. The information that we are provided with is not sufficient and the political damage is greater than the security benefit across the Atlantic. Of course our negotiations are ongoing but we'd also like to send out a signal to the United States, which are one of the closest allies that we've got. ("Panel discussion," 2014)

While events in Ukraine and Crimea dominated domestic and international news agendas between February and May 2014, there are a few other events that are important to reveal Washington's and Berlin's standpoints regarding their dispute over the role of surveillance for cyber security and privacy. In an interview with the German magazine *Der Spiegel* on March 24, 2014, former NSA director Michael Hayden apologized for embarrassing Angela Merkel.

He explained that “we underestimated the depth of feelings that the German people . . . felt about this question of privacy” (“Former NSA director,” 2014, para. 10). From his perspective, the US government failed to recognize the cultural and historical importance of privacy for Merkel and the German population as a whole. Hayden added: “Germans regard privacy the way we Americans might regard freedom of speech or religion. Perhaps we did not appreciate that enough” (para. 10).

Despite Hayden’s explanation for why Washington and Berlin failed to quickly resolve their issues over the NSA revelations, German interior minister Thomas de Maiziere reiterated Germany’s position that arbitrary and indiscriminate surveillance are disproportionate to the damage it causes. He contended: “If even two-thirds of what Edward Snowden has presented . . . is true, then I would conclude that the USA is operating without any kind of boundaries” (“German minister,” 2014). When asked about what damage the NSA revelation caused for Germany and the US de Maiziere said:

I am thinking of the foreign policy damage. Because the greater damage has actually been inflicted by the Americans and not the Germans. And I say this as a staunch trans-Atlanticist. Approval ratings for Americans in German polls are lower right now than they have been in a long time. (“German minister,” 2014, para. 12)

Merkel reinforced de Maiziere’s comments when she visited the White House from May 1 to May 2, 2014. Merkel accepted an invitation, which Obama offered after allegations that US intelligence targeted her private communications, to discuss the NSA scandal, TTIP, and the crisis in Ukraine. At a news conference, Merkel and Obama agreed to a US-German cyber dialogue intended to enhance transparency about how American intelligence operates. However,

Merkel also said that differences of opinion remain, particularly in regard to the issue of proportionality (“Remarks by President Obama and German Chancellor Merkel,” 2014).

While the German-American dispute over the NSA revelations features various differences of opinion, the discourse that was reviewed here helped to reveal a few recurring themes (i.e., trust, the question of proportionality, importance of privacy and security). Washington and Berlin regard trust as the engine for US-German and transatlantic relations. However, for Germany trust is tied to honesty and transparency (e.g., “. . . lay cards on the table”), while for Washington trust is necessary for the NSA to operate effectively. The US answers questions about the proportionality of the NSA data collection practices by referring to other countries who engage(d) in similar activities. In contrast, Germany considers the NSA’s practices as disproportionate to the damage that they cause for people’s right to privacy and foreign relations between Germany and the US. Finally, for Washington it is important to ensure and defend national security with all available means, even if that means upsetting transatlantic partners. Germany, however, considers indiscriminate surveillance not as a way to ensure but to jeopardize national security and people’s right to privacy.

In order to explain how Washington and Berlin manage their difference(s) of opinion regarding surveillance, security, and privacy and the implications of their argumentation for German-American relations, this analysis will be guided by the following research questions:

RQ₁: How do Washington and Berlin comply with or violate rules for reasonable discussion while adapting to domestic and international audiences?

RQ₂: How does the lack of international regulations for data protection—which would help regulate how Germany and the US balance surveillance, cyber security, and privacy—complicate Washington and Berlin’s argumentation?

RQ₃: What do Washington's and Berlin's rhetorical strategies (i.e., topical choice, audience adaptation, and presentational design) reveal about their foreign policy strategies regarding privacy?

Summary

The previous sub-sections developed the immediate context for the German-American dispute over the NSA revelations. In particular, these sub-sections not only helped to flesh out the differences in foreign policy styles between Germany and the US but also outlined Berlin's and Washington's position(s) toward surveillance, security, and privacy. By focusing on how Germany's and Washington's foreign policy approaches and standpoints regarding surveillance, security, and privacy manifest themselves in public statements, the reader is now able to see how their messages created a public controversy. In addition, the reader should now be able to appreciate how and why the German-American relationship that developed over decades still shapes Berlin's and Washington's rhetorical strategies. For example, one may argue that Germany's reluctance to buy into Washington's argument that surveillance enhances security is anchored in Germans' experience with spying during the Cold War. Considering that Germans and Americans collaborated when spying against the communist regime (Johnson, & Freyberg, 2010, p. 173), it is not surprising that it caused outrage when the US treated Merkel as if *she* was an enemy.¹¹ Also, after Schröder's controversial objection to America's invasion of Iraq in 2002, Merkel helped to rebuild a relationship of trust between Germany and the US (e.g., Merkel's article "Schröder doesn't speak for all Germans", Merkel's address before Congress).

¹¹ This actually raises the question of whether or not the Obama administration sees Germany as a friend and ally when it comes to the collection of intelligence information. This is an interesting question in that Germany is not a member of the Five Eyes alliance (FVEY), which consists of Australia, Canada, New Zealand, the UK, and the US. The Five Eyes is an informal agreement designed to gather and share defense, security, and human intelligence.

In that regard, it is understandable that Merkel not only considers the NSA revelations a breach of trust, but urges Washington to rebuild that trust. In addition, Germany's confidence to openly disagree and criticize the US administration for violating German laws, rights, and trust is the result of Berlin's efforts to live up to Washington's idea of partnership in leadership.

Specifically, Merkel's administration tried to reinvent Berlin's foreign policy culture. In order for Germany to earn influence in transatlantic and international politics, it was necessary to transform Berlin's reluctance to engage in world affairs (e.g., culture of restraint, never alone again, politics before force) into a rather assertive foreign policy style.

Finally, the previous sections helped to identify topics and sentiments that may interfere with Merkel's and Obama's efforts to develop arguments that not only appeal to domestic and international audiences, but also ensure a rational discussion. Being aware of what van Eemeren (2010) calls the "rhetorical situation" (p. 181), that is traditions, events, sentiments, unquestioned facts, and cultural idiosyncrasies, is indispensable when trying to figure out what hindered or helped the resolution process. For instance, the NSA scandal reminded Germans of America's utilitarian foreign policy philosophy (i.e., the end justify the means), which is reminiscent of Bush's rationale for invading Iraq (i.e., ending terrorism and the proliferation of weapons of mass destruction guarantees the betterment of the free world and thereby justifies a military intervention). During the invasion of Iraq in 2002 and in the immediate aftermath of the NSA revelations, this logic provoked anti-American sentiments in Germany's public sphere.

The subsequent sections will now outline the theoretical approach and method that will be used to analyze how Berlin and Washington manage their conflicting standpoints regarding surveillance, security, and privacy while appealing to different audiences and trying to ensure a reasonable discussion.

CHAPTER III

THEORY AND METHOD

Argumentation theory enables the critic to reveal how proponents and opponents use communicative means to manage their disagreements. Depending on what theoretical perspective is used, the critic will explore different aspects of the argumentation process. Wenzel (1990) distinguishes between rhetorical, dialectical, and logical approaches to argumentation. The rhetorical perspective highlights how effectively protagonists and antagonists use their arguments and adapt them to a real or imagined audience. Dialectical approaches conceptualize argumentation as dialogue in which arguers explore and resolve issues together. Specifically, while “rhetoric is about how people influence one another through language and other modes of expression” (Wenzel, 1990, p. 15), dialectical approaches flesh out how individuals structure their discussions to raise and resolve all possible sides of an issue. Finally, logical approaches assess argumentation by applying formal rules of reasoning (e.g., induction, deduction) to determine whether an argument is sound or not.

The extended pragma-dialectical theory of argumentation combines the rhetorical and dialectical perspectives to argumentation by introducing the concept of strategic maneuvering. Developed by van Eemeren, Grootendorst, and Houtlosser, this approach evaluates argumentative discourse against standards of ideal reasonableness. From a rhetorical perspective, an argument is reasonable when it is consistent with the audience’s values, attitudes, preferences, and knowledge level. This implies that whether an argument is reasonable or not varies from one audience to another. Eemeren and Grootendorst (2004) explain that “[p]otentially, there are as many kinds of reasonableness as there are judges—or even more, if one bears in mind that judges may change their mind and in the course of time come to apply

other evaluation criteria” (pp. 129-130). From a dialectical perspective, an argument is reasonable when it complies with van Eemeren’s rules for critical discussion. Referred to as “code of conduct for rational discussants” (van Eemeren, 2010, p. 3), these rules specify which speech acts enable or hinder a resolution of a difference of opinion. Thus, strategic maneuvering refers to an arguer’s efforts to achieve his or her rhetorical goals in a reasonable way, while adhering to the dialectical rules laid out in the code of conduct. To maneuver strategically in argumentative discourse is rather challenging in that it poses an “argumentative predicament” (Eemeren, 2010, p. 40). Throughout the entire argumentation process the protagonist and antagonist are bound to choose speech acts which ensure a rational discussion, while simultaneously creating *argumentative room* to win the upper hand in the dispute. This difficulty—trying to achieve effectiveness while maintaining reasonableness—is particularly apparent in international politics.

With speeches, news conferences, interviews, press releases, and social media, international political leaders try to form standpoints that are acceptable for local and global audiences. Managing messages that are effective and adequate for domestic and international audiences is challenging in and by itself, but to develop appeals that also facilitate reasonable discussion requires a great deal of argumentative tact. For example, while emotional appeals (e.g., *ad populum*, *ad hominem*) are particularly effective to drum up support by means of a common threat, these appeals constitute derailments (i.e., fallacies), which complicate a reasonable resolution of a difference of opinion. In addition, these derailments may result in damaged foreign relations, force politicians to apologize, and require them to rebuild trust. In order for international political leaders to maneuver strategically in the digital age and prevent any derailments, they are advised to transcend the traditional strategies (e.g., emotional appeals)

to win the support of the people. While the reality of international politics often prevents foreign political leaders to carefully observe their speech acts at every stage in their argumentation, it appears desirable to reach reasonable resolutions in that a disagreement may spin out of control and result in deep political divides and entrenchments that are hard to handle.

One may argue that politicians use speeches, TV appearances, news conferences, interviews, press releases, and social media to win an audience's support rather than to solve a difference of opinion. Interestingly, however, to gain an audience's approval for a certain standpoint, politicians—in order to appear as a rational person—are well advised to act as if their efforts are geared toward solving a dispute. When politicians argue for the sake of arguing, they appear less pragmatic in that their strategies are not solution-oriented. In that respect, the audience plays a significant role in constituting reasonable political argumentation. Van Eemeren (2010) argues:

When people argue with each other without really wanting to convince each other but are in the first place out to win over an audience of onlookers (“the gallery”), as is the case when two political rivals are debating each other on television in election time, they still have to conduct their argumentative discourse with each other as if it is aimed at resolving a difference of opinion on the merits in order to maintain decorum and to appear reasonable to the viewers who are their intended audience. (p. 1)

In particular, this applies to international political argumentation where discussants develop their public statements not only in opposition to real or anticipated counterarguments, but also to appear reasonable for their intended audiences. In that regard, public political speeches, news conferences, interviews, press releases, and social media can be viewed as politicians' real or pretended attempts to resolve a difference of opinion. Treating public

statements as contributions to the resolution process allows the critic to analyze and reconstruct public statements as speech acts and evaluate whether they advance or constrain the resolution process. Considering that public political argumentation involves various advocates and proxy advocates, it is often problematic, however, to reconstruct public exchanges in dialogue form. How should one determine whose comments are pertinent to the discussion? How should one account for implicit speech acts when analyzing, reconstructing, and evaluating argumentation? What if the discussion does not revolve around two conflicting, but multiple standpoints (i.e., polylogues)? Is the critic then supposed to attach positions to specific speakers or conceptualize standpoints as collective efforts? In addition, van Eemeren's pragma-dialectical approach to argumentation is often applied to institutionalized contexts (e.g., parliamentary debates), which set specific rules and regulations for discussion. What are the constitutive components that regulate public political argumentation?

In an attempt to further warrant the value of van Eemeren's pragma-dialectical approach for examining public political argumentation, the following section will now address these and other related questions. Specifically, the subsequent section is intended to discuss the theoretical and methodological concepts of the standard and extended pragma-dialectical theory of argumentation. In addition, this section will explore the features of political argumentation that constitute the argumentative field within which Berlin and Washington are trying to settle their dispute over the NSA surveillance scandal. Finally, particular attention will be dedicated to potential problems that a pragma-dialectical analysis and reconstruction of public political discourse entails.

A Pragma-Dialectical Approach

With their publication *Speech Acts in Argumentative Discussions* (1984), van Eemeren and Grootendorst introduced a pragma-dialectical approach to the study of argumentation. To set it apart from the “extended version,” which was developed by van Eemeren and Houtlosser at the turn of the 21st century, the early development of the theory is commonly referred to as the “standard version” of pragma-dialectics. As the name suggests, this approach combines pragmatic and dialectical concepts to examine argumentation.¹² The pragmatic aspect of the theory manifests itself in speech acts that arguers use to resolve a difference of opinion (van Eemeren & Grootendorst, 2004, p. 52). Generally, the pragmatic dimension of the theory addresses how proponents and opponents use language to achieve various goals. The dialectical dimension is reflected in arguers’ attempts to use their speech acts to engage in a critical discussion that helps to resolve a difference of opinion (p. 95). The following paragraphs will now provide a brief overview of assumptions, concepts, and methods that are pertinent to the standard version of the pragma-dialectical theory of argumentation.

Pragma-dialecticians are guided by four meta-theoretical assumptions when they conduct their research. Van Eemeren argues that the study of argumentation ought to analyze argumentative discourse that is externalized, socialized, functionalized, and dialectified. Externalization is achieved by accounting for what people explicitly or implicitly express. While psychologists may be interested in processes of internal reasoning (e.g., contemplation, deliberation, anticipation, motivation), pragma-dialecticians are concerned with speech acts and the specific commitments they create. For example, instead of speculating about Obama’s or Merkel’s psychological dispositions regarding the role of surveillance for privacy and security

¹² For an in-depth discussion of the pragmatic and dialectical dimensions of the standard version of the pragma-dialectical theory of argumentation, turn to Wagemans’s 2010 article “Dialectics and Pragmatics”.

(e.g., How does Merkel's experience with the Stasi affect her assessment of the NSA?), a pragma-dialectician focuses on what standpoints their public statements convey and what commitments these statements create. Put in another way, Obama's and Merkel's public statements constitute standpoints and commitments for which audiences will hold them accountable. A standpoint is classified as either descriptive (e.g., the NSA tapped Merkel's private communications), evaluative (e.g., surveillance is necessary to secure national security), or prescriptive (e.g., the NSA should be subjected to more political oversight). In addition, externalization refers to discourse that features different or competing perspectives. In order to figure out whether a standpoint will be accepted or not, people must submit their opinions to public scrutiny.

Socialization is achieved by viewing argumentation as a collaborative process in which protagonists and antagonists try to arrive at an agreement. For van Eemeren, argumentation is embedded in a communicative process. Argumentation is not the result of one person drawing conclusions about an issue, it presupposes cooperation between a protagonist and a real or anticipated antagonist (van Eemeren, 2010, p. 6).

Functionalization refers to discourse that is used to achieve certain communicative goals through language. Structural approaches (e.g., logic) tend to treat argumentation in terms of formal reasoning patterns, disregarding the communicative context. For example, logic does not allow the critic to analyze discourse as an attempt to develop and defend standpoints in front of a critical audience (van Eemeren et al., 1996, p. 6). For pragma-dialecticians, however, argumentation is functional in that it is intended to manage disagreement. In addition, the standard version of the pragma-dialectical theory of argumentation treats the structural design of argumentation, as well as individual speech acts as functional contributions to the resolution of a

difference of opinion. For instance, an analyst using pragma-dialectics would not only examine how Merkel's and Obama's individual speech acts solve or further entrench their disagreement about the role of mass surveillance in the digital age, but the analyst would also investigate if the way their discussion is structured helps or hinders the resolution process.

Dialectification is achieved when the critic, in addition to describing argumentation as it occurs, prescribes how it ought to occur. Pragma-dialecticians view argumentation as solution-oriented discourse. Arguers will only succeed at solving their dispute if their speech acts help facilitate a critical discussion, rather than mere persuasion or an exchange of information. By analyzing and evaluating argumentative discourse against an ideal model for critical discussion, the analyst is able to identify and prescribe which speech acts are instrumental for resolving differences of opinion. Van Eemeren and Grootendorst (1992) argue that the "dispute should not be just terminated, no matter how, but resolved by methodically overcoming the doubts of a rational judge in a well-regulated critical discussion" (p. 11).

The above mentioned assumptions about what constitutes argumentative discourse according to the pragma-dialectical approach are mirrored by van Eemeren's definition of argumentation. Van Eemeren approaches argumentation from a communication perspective. He defines argumentation as "a type of communication aimed at resolving a difference of opinion by critically testing the acceptability of the standpoints at issue" (Van Eemeren, 2007, p. 352). Put differently, argumentation occurs when a protagonist and antagonist attempt to resolve a dispute by agreeing about the acceptability of a standpoint. In order for the critic to assess how arguers arrive at a resolution, it is not enough to only describe what is happening. Van Eemeren (2007) emphasizes that the critic should measure argumentation against norms of reasonableness (p. 352). In order to reveal the pragmatic and dialectical dimensions of reasonableness, it is

important to discuss van Eemeren's ideal model of a critical discussion.

Van Eemeren conceptualizes critical discussions as an ideal model that determines whether discussants agree about the acceptability of the standpoint at issue, structure their discourse as a systematic exchange of opinions, and obey rules for reasonableness (Wagemans, 2010, p. 104). In order for the analyst to determine whether arguers are leading a systematic and reasonable discussion that is aimed at reaching an acceptable agreement, this model offers three interrelated components that are used to analyze and evaluate argumentation. The first component describes the dialectical discussion stages that protagonists and antagonists go through in order to agree on a standpoint. The second component determines what speech acts are instrumental (pragmatic) for which discussion stage. The third component specifies the dialectical rules for using speech acts in a reasonable fashion. The following paragraphs will now further explore these key components.

Discussants are required to complete the confrontation, opening, argumentation, and concluding stage in order to agree or disagree about the acceptability of a standpoint. In the confrontation stage, the difference of opinion manifests itself when the standpoint advanced by one arguer is questioned or opposed by the other. Generally, in the confrontation stage proponents and opponents establish their difference of opinion. For example, one recurring difference of opinion in the dispute between Washington and Berlin over the NSA practices is the question of proportionality. While Merkel admitted that surveillance is necessary to guarantee national security, she criticized and refuted the need for indiscriminate surveillance. In the opening stage, discussants identify themselves as either protagonist or antagonist. The protagonist carries the burden of proof or responsibility to warrant the standpoint at issue, while the antagonist's obligation is to criticize the protagonist's defense of a standpoint. For instance,

after the NSA scandal broke, the US was obligated to prove that the NSA's practices are proportionate to the level of national security that they provide and that their capacities are not used for purposes not related to security (e.g., espionage). In the argumentation stage the protagonist defends his or her standpoint with arguments in response or anticipation of the antagonist's criticism (2010, Wagemans, p. 104). In addition, arguers test the acceptability of standpoints. For example, the US defended the necessity and proportionality of NSA activities by arguing that the agency operates within the boundaries of the law, helps to prevent terrorism, and does not breach international law. Finally, in the concluding stage the protagonist and antagonist jointly decide whether they agree or disagree about the acceptability of a standpoint (e.g., Are the NSA's practices disproportionate to the level of national security that they provide?). The concluding stage of a critical discussion determines whether a difference of opinion was resolved or not. It is worth mentioning that from a pragma-dialectical perspective there is a difference between settling and resolving a difference of opinion. Settling a disagreement refers to putting an end to it or setting it aside (e.g., Let's agree to disagree). This is often achieved by an impartial authority (e.g., judge, mediator, arbitrator, etc.). Interestingly, according to van Eemeren and Grootendorst (1992), settling a dispute also refers to compromises, which are common in negotiations, mediations, and diplomacy. In particular, van Eemeren and Grootendorst (1992) explain that "ending a dispute is agreeing on a compromise that involves modifying the disputed standpoint rather than really resolving the original dispute" (p. 34). Resolving a dispute, on the other hand, entails that one of the arguers withdraws his or her doubt or standpoint, recognizing that it does not withstand the other person's argumentation. This requires self-conscious and rational discussants, who resort to means of argumentation to resolve a difference of opinion rather than manipulation and intimidation, for example.

Unlike the discussion stages, which are dialectical in nature, the second key component of the model deals with the pragmatic function of speech acts (Wagemans, 2010, p. 105). The model specifies which speech acts are instrumental for which discussion stage in order to bring about a resolution to a difference of opinion. Inspired by Searle's taxonomy of illocutionary acts, van Eemeren distinguishes between assertives, directives, commissives, expressives, and declaratives. For example, commissives (e.g., promising, guaranteeing) and directives (e.g., requesting, commanding) are instrumental to challenging and defending a standpoint (i.e., opening stage). When Merkel insisted that "[w]e need trust among allies and partners . . . such trust now has to be built anew" ("Germany's Merkel," 2013), she implicitly requested to start a discussion about trust in the German-American relationship. In addition, van Eemeren argues that speech acts commit the discussant to particular standpoints. For instance, assertives are speech acts that commit an arguer to advocate the truth of a proposition. Obama's assertion that mass surveillance is a necessary means to fight terrorism committed him to advance this standpoint and gain acceptance for it.¹³

In order for the protagonist and antagonist to resolve their difference of opinion, it is not enough to only complete the different stages for critical discussion, "but they must also observe in every stage all the rules that are instrumental in resolving a difference of opinion" (van Eemeren, 2007, p. 365). In general, the rules specify the rights and obligations of arguers for a critical discussion. Inspired by Grice's idea of conversational maxims and cooperative principle, van Eemeren developed these dialectical rules for discussants to carry out a reasonable discussion. Grice (1989) argued: "Make your conversational contribution such as is required, at the stage at which it occurs, by the accepted purpose or direction of the talk exchange in which

¹³ For a detailed description of the different speech acts and their functions for specific discussion stages, turn to van Eemeren et al. (1996) pp. 286-288.

you are engaged” (p. 26). Similarly, van Eemeren’s rules for critical discussion encourage arguers to coordinate their contributions in a way that brings about an agreement about the acceptability of the standpoint at issue. For example, the first rule (i.e., freedom rule) “is designed to ensure that standpoints, and doubt regarding standpoints, can be expressed freely” (van Eemeren, 2007, p. 366).¹⁴ A violation of these rules constitutes a fallacy, which interferes with the discussants’ efforts to resolve a difference of opinion. Van Eemeren and Grootendorst (2004) explain that by following the rules for critical discussion “the protagonist of a standpoint and the antagonist attempt to achieve clarity as to whether the protagonist’s standpoint can be defended in light of the antagonist’s critical reactions” (p. 58). Van Eemeren’s idea of reasonableness resides within this third component of the ideal model of critical discussion. One may argue that individual standpoints and arguments are reasonable in and by themselves or in relation to other standpoints (e.g., Using mass surveillance to fight terrorism is more reasonable than protecting the privacy of EU partners). However, van Eemeren locates reasonableness in the dialectical and self-correcting rules for critical discussion and not in individual arguments or standpoints (Wagemans, 2010, p. 98). A discussion is, therefore, coordinated and reasonable when it complies with the rules.

As its name implies, the ideal model of critical discussion does not offer a realistic description of real-world argumentation. For example, within the area of public discourse, politicians skip stages, violate rules, and use speech acts that are irrelevant for the resolution of a difference of opinion. However, that does not render this model insufficient for the analysis of *real* political argumentation. Van Eemeren emphasizes that the model sets standards, which

¹⁴ For a detailed discussion of the rules for reasonable discourse and what rule(s) is/are important for what discussion stage, turn to van Eemeren (2007, pp. 366-368). For a description of what violates certain rules, turn to van Eemeren et al. (1996, pp. 304-306).

offer analytic, evaluative, and heuristic value (van Eemeren & Grootendorst, 2004, pp. 58-59). For van Eemeren it is not sufficient to describe argumentative exchanges, the analyst should identify room for improvement. It is important to emphasize that van Eemeren does not conceive of the ideal model of critical discussion as an *all-purpose manual* for resolution-oriented discourse. He recognizes that argumentation is a communicative and “social activity aimed at convincing others of the acceptability of a standpoint by removing the other people’s doubts” (van Eemeren & Grootendorst, 2004, p. 35). Thus, the model is intended to improve and facilitate, rather than guarantee reasonable communication between arguers. For example, the model helps to improve argumentative communication by enhancing people’s discussion skills and it allows them to modify argumentative procedures if necessary (p. 36).

In order to analyze and evaluate argumentative discourse, it is necessary to reconstruct it in a way so that the analyst is able to apply the ideal model for critical discussion. Put differently, a pragma-dialectical reconstruction transforms speech acts in terms of an ideal critical discussion. Referred to as “analytic overview,” a reconstruction reveals all elements of argumentation that are relevant to the resolution of a difference of opinion. Reconstructing argumentative discourse involves identifying the standpoints at issue (i.e., single, multiple, single mixed, multiple mixed), the roles and positions that the discussants assume (i.e., protagonist and antagonist), the explicit and implicit arguments that discussants provide (i.e., expressed, unexpressed), the argument’s structure (i.e., single, multiple, coordinatively compound, subordinatively compound), and the argumentation schemes (i.e., token, similarity, consequence). To identify all these elements of argumentative discourse, the analyst is required to delete irrelevant, add relevant, order (permutate), and clarify (substitute) aspects that are

instrumental to solving a conflict of opinion.¹⁵

It is important to remind the reader that the standard version of pragma-dialectics does not account for rhetorical aspects of argumentation. The following section will therefore discuss the extended version of the pragma-dialectical approach to argumentation, which combines rhetorical and dialectical approaches to argumentation. While this section focused on how arguers achieve and maintain reasonableness by following a dialectical framework for critical discussion, the subsequent section will pay particular attention to how discussants achieve their rhetorical goals (i.e., effectiveness), while remaining reasonable.

Strategic Maneuvering

Aristotle considered rhetoric as the speaker's ability to discover all available means of persuasion. Aristotle developed his definition of rhetoric in opposition to Plato's idea of dialectic, which refers to discussants' efforts to explore eternal Truth through critical reasoning (Griffin, 2012, p. 287). These opposing approaches led to a gap between rhetoric and dialectic and only a few researchers actually tried to bridge that gap (van Eemeren & Houtlosser, 1999, p. 482). In an attempt to systematically combine rhetorical and dialectical approaches to argumentation, researchers at the Department of Speech Communication, Argumentation Theory, and Rhetoric at the University of Amsterdam developed the extended version of the pragma dialectical theory. Whereas the standard version of the pragma-dialectical theory views discourse as a speech act intended to resolve a difference of opinion, the extended version of the pragma-dialectical approach to argumentation recognizes that arguers are also "interested in resolving the difference of opinion effectively in favor of their case, . . . in agreement with their

¹⁵ For an explanation of the different components of the analytic overview, see van Eemeren et al. (1996, pp. 288-298).

own standpoint or the position of those they represent” (van Eemeren, 2010, p. 39). To put it another way, while arguers might see value in leading a reasonable discussion, they might, first and foremost, be interested in winning the discussion by removing their opponent’s doubts about a standpoint. In order to account for arguers’ rationales in critical discussions, van Eemeren and Houtlosser developed the concept of strategic maneuvering. This concept draws the analyst’s attention to the rhetorical aspects of argumentation. Van Eemeren and Houtlosser (1999b) explain:

[U]ntil recently, pragma-dialectical analysis tended to concentrate on reconstructing primarily the dialectical aspects of argumentative discourse. It is clear, however, that the analysis and its justification can be considerably strengthened by a better understanding of the strategic rationale behind the moves that are made in the discourse. For this purpose, it is indispensable to incorporate a rhetorical dimension into the reconstruction of the discourse. (p. 164)

The following paragraphs will now highlight the key features of strategic maneuvering. First, the rhetorical aims will be explained, how they are distributed across the various discussion stages (i.e., confrontation, opening, argumentation, and concluding stage), and how they relate to their dialectical counterparts for these stages. Second, I will introduce the strategic maneuvering triangle (i.e., audience demand, topical potential, presentational devices), which offers important categories for analyzing and evaluating the rhetorical dimension of argumentative discourse. Finally, the parameters of strategic maneuvering (i.e., results, routes, constraints, commitments) will be outlined in order to see how the strategic function(s) of argumentative maneuvers can be determined.

In the previous sub-section, we discussed the different discussion stages and their

respective dialectical requirements. For example, to achieve reasonableness in the confrontation stage, discussants determine the issues of the dispute and the standpoints they hold. The corresponding rhetorical aim for the confrontation stage is to “achieve a definition of the difference of opinion that favors the issues [a] party wants to discuss” (van Eemeren, 2010, p. 43).

The German-American dispute over the NSA revelations revolved around surveillance, national security, and privacy. Issues related to this dispute include, for instance: Is it legal to spy on other nations? Are the NSA practices proportionate to the damage they cause? Does the level of security that the NSA provides justify its means? Does the NSA violate individual rights? How is it possible to trust a nation that spies on their own citizens and foreign leaders? Will more political oversight of NSA surveillance programs help to balance the need for security and privacy? By trying to define the dispute as a “breach of trust,” Berlin regarded trust as an effective issue to advance its standpoint in the dispute.

The dialectical aim for discussants in the opening stage is to act as either protagonist or antagonist and to determine who carries the burden of proof. An arguer achieves the rhetorical aim, if he or she establishes an optimal starting position for the discussion and divide the burden of proof in a way that is easy to handle (van Eemeren, 2010, p. 44). When NSA officials insisted that they operate within the boundaries of the law, one may argue that the US not only assumed the role of the antagonist or opponent, but by assuming the role of the antagonist it allowed them to avoid carrying the burden of proof, which created an advantageous starting point. In addition, arguing that NSA practices are in line with legal regulations put the US at an advantage in that the law legitimizes NSA activities as the status quo. This not only obligated Berlin to justify its standpoint, but in order to overcome the status quo, Berlin was also obligated (i.e., burden of

proof) to criticize the present regulations (e.g., there is insufficient political and legal oversight).

For the argumentation stage, protagonists and antagonists achieve reasonableness by testing the acceptability of their standpoints. Positions are advanced and defended in order to remove the other's doubts. In order to achieve effectiveness (i.e., rhetorical aims), the protagonist and antagonist choose a topic or issue of the dispute (i.e., *topoi*) that helps to develop a complete line of argumentation (van Eemeren & Houtlosser, 1999a, p. 484). The protagonist selects topics that enable him or her to launch effective attacks, whereas the antagonist searches for topics that allow for a comprehensive defense. While the analysis will provide a rather detailed account of what topics Berlin and Washington selected to advance and defend their standpoints, it is fair to say that terrorism was a recurring topic that Washington used to defend its position regarding surveillance, national security, and privacy.

Finally, in the concluding stage the dialectical aim for the discussants is to agree or disagree about the acceptability of a standpoint. From a rhetorical perspective, however, an arguer is interested in settling the dispute in a way that favors his or her position. This can be achieved, for example, by pointing out the ramifications of accepting a particular standpoint (van Eemeren & Houtlosser, 1999a, p. 484). One might entertain the idea that Germany could threaten to oppose certain trade deals with the US, if Washington fails to restore trust for the German-American friendship.

Van Eemeren (2010) emphasizes that in order for an arguers to resolve a difference of opinion, it is instrumental to achieve the dialectical and rhetorical aims of all stages (p. 45). Specifically, he explains that this not only applies to the different discussion stages in general but also to individual speech acts. This means that in order to resolve their dispute over surveillance, national security, and privacy, Berlin and Washington should choose statements that maintain a

balance between their desires to win the upper hand and leading a reasonable discussion. If a balance between reasonableness and effectiveness is desired, then it is important for arguers to choose wisely from the available rhetorical means. Van Eemeren distinguishes three aspects of strategic maneuvering (i.e., audience adaptation, topical potential, presentational devices). While for the analysis it is helpful to examine these aspects in isolation to determine the strategic function of a speech act, van Eemeren emphasizes that in reality these aspects are “inseparable” (van Eemeren, 2010, p. 93). In order to highlight the inseparable nature of these three aspects, van Eemeren refers to them as the strategic maneuvering triangle.

Eemeren’s idea of topical choice or topical potential refers to an arguer’s selection of available topics or issues that he or she deems expedient to advance or defend his or her interest in the discussion. For example, selecting a particular issue of the controversy (e.g., the NSA revelations constitute a breach of trust) enables the protagonist or antagonist to define the difference of opinion in their interest. If a definition is accepted by all participants, then this allows the person who defined the dispute to determine what a speech act counts as. In a way, defining a controversy establishes what Searle (1969) calls “constitutive rules” (p. 33), which dictate how a speech act is supposed to be interpreted. For example, let’s assume that Berlin succeeded in defining the controversy as a breach of trust. This would not only constrain Washington’s available rhetorical material, but Washington’s speech acts would be interpreted as an act to either rebuild trust or perpetuate the breach of trust. This way, choosing an effective topic lets the protagonist or antagonist exert a great deal of rhetorical power.

Another aspect of strategic maneuvering is audience demands or audience adaptation. Audience adaptation involves creating empathy or communion between the arguer and the audience (van Eemeren & Houtlosser, 2000, p. 298). Specifically, the arguer would empathize

with the audience's concerns about the issue discussed and their views and preferences. This is particularly difficult for Germany and the US in that they are trying to tailor their messages to domestic and international audiences. While certain topics and arguments are effective to gain domestic support (e.g., Germans' sensitive attitude toward indiscriminate surveillance), other topics might not resonate with international audiences or even trigger criticism (e.g., violating privacy rights and upsetting foreign leaders is justifiable when national security is at stake).

Finally, presentational choices or presentational devices refer to how discussants present their arguments in order to position themselves strategically (van Eemeren, 2010, p. 94). The protagonist or antagonist may use literary devices and catchy language that encourage the audience to buy into their standpoint. For example, during his Germany visit, Kerry repeatedly called for a "transatlantic renaissance" to encourage the German government and public to get past this dispute. Elsewhere, van Eemeren compares the way arguers use presentational devices with what Goffman (1974) considers framing or how individuals and groups construe reality. Specifically, van Eemeren (2010) explains that "[e]xploiting the possibilities of presentational variation in strategic maneuvering in agreement with one's topical choices and adjustments to audience demand boils down, in my view, to 'framing'" (p. 119). If an arguer chooses a presentational device or rather frames an argument so that it resonates with the audience construction of reality, then he or she is able to deliver rather effective statements. Research suggests that depending on how arguers use the available presentational devices, they might heighten or weaken the "presence" (Tindale, 2006, p. 450; Zarefsky, 2008, p. 325) of an argument in the audience's perception. In sum, strategic maneuvering refers to arguers' continuous efforts to compete over who runs the *argumentative arena*, what weapons are

allowed, and what will please the audience.

It is worth mentioning that while from my reading the three aspects of strategic maneuvering are given equal weight, some scholars see audience adaptation as the central aspect of strategic maneuvering. For example, Tindale (2006) argues that “the audience is similarly important for the other two features in strategic maneuvering, topical potential and presentational device, since the topics to be chosen and the most effective devices for presentation are both decided with the audience in mind” (p. 457). Viewed from that perspective, strategic maneuvering really helps to reveal the rhetorical or rather audience-oriented dimensions of argumentative discourse. In that regard, the three aspects of strategic maneuvering offer useful and heuristic categories to analyze and evaluate argumentative discourse from a rhetorical perspective. Tindale (2006) explains:

When we look at arguments from a rhetorical, rather than a dialectical or logical, point of view, certain features become more important to us, and we ask questions that would not be asked, say, from a logical perspective: questions like “How is this discourse experienced?” “How does it invite collaboration?” (p. 460)

While the rhetorical aims of the different discussion stages and the strategic maneuvering triangle help to analyze and evaluate why arguers use particular argumentative maneuvers, van Eemeren encourages the critic to consider additional parameters (i.e., results, routes, constraints, commitments) to further determine the strategic function of a speech act. The critic should for each discussion stage view an arguer’s efforts to adapt to the audience, select an issue of the controversy, and use presentational devices in light of these parameters (van Eemeren, 2010, p. 164).

In order to determine the strategic function of a maneuver (i.e., audience adaptation, topic

selection, presentational devices) at a particular discussion stage, the critic should first consider the possible results of the protagonist's and antagonist's maneuver(s). The analyst should assume that by adapting to the audience in a particular way, choosing an effective topic, and using literary devices that help defend or advance their position, the arguers are aiming for a certain outcome. For example, by trying to define the dispute over the NSA revelations as a breach of trust, Berlin was maybe expecting a formal apology.

Second, the critic should analyze the different possible routes that are available to the arguers in order to achieve their results. What routes the protagonist or antagonist will choose to realize the anticipated outcome is not predictable in that the interaction regulates what maneuvers are effective (van Eemeren, 2010, p. 172). Earlier maneuvers will create opportunity and constraints for follow-up maneuvers. In this regard, the arguers' rhetorical options (i.e., audience adaptation, topic selection, presentational devices) and routes to achieve their desired results are not infinite but constrained by their interaction.

The third parameter pertains to the institutionalized context in which the discourse occurs. Political argumentation often occurs in institutionalized contexts (e.g., parliamentary debates, congressional hearings), which impose constraints (e.g., allotted speaking time, no follow-up questions, certain topics are off limits) on how the argumentation is carried out. In contrast to parliamentary debates and congressional hearings, public political statements are usually not subjected to these rigid rules and regulations. This is not surprising in that congressional hearings and parliamentary debates are examples of technical sphere discourse, while press conferences, political speeches, interviews, and press releases represent discourse of the public sphere. Goodnight (2012) defines spheres as "grounds upon which arguments are built and authorities to which arguers appeal" (p. 200). In line with this definition, the

authorities or audience of the technical sphere demands different arguments than the audience of the public sphere. For example, while in the public sphere an *ad hominem* attack might be an acceptable argument to gain public support, in the technical sphere the audience usually rejects arguments that do not directly pertain to the solution of an issue. In addition, considering that accessing and participating in the technical sphere (e.g., committee hearings) usually requires people to be familiar with the terminology and details of the topic discussed, the technical sphere usually features a homogeneous audience of experts (Zarefsky, 2008, p. 318). In contrast, the public sphere represents a context that is only lightly institutionalized (van Eemeren, 2010, p. 174). For example, the public sphere features unregulated discourse and a heterogeneous audience who evaluates arguments not by relying on expert opinions and legal documents—as it is common for parliamentary debates and committee hearings—but applies rather subjective evaluation criteria. This offers room for arguments but also imposes constraints on the arguers.

Relating Goodnight's distinction between technical and public sphere to van Eemeren's third parameter to determine the strategic function of argumentative maneuvers was important in that the technical and public sphere constitute a constraint that is worth considering for the German-American dispute over the NSA revelations. In order to strategically adapt their arguments to their desired audience, Berlin and Washington are constantly challenged to translate between the technical and public sphere. An argument that helped persuade a committee might not be effective for an audience that applies different standards of evaluation.

Finally, the fourth parameter that helps to determine the strategic function of an argumentative maneuver considers the arguers' commitments. Van Eemeren (2010) argues that speech acts represent commitments. Whether Washington concludes that national security is more important than privacy and individual rights (i.e., assertives), promises reforms to the NSA

program (i.e., commissives), or Berlin requests detailed information about the NSA practices (i.e., directives), these speech acts commit a discussant to a particular course of action. One discussant may then hold the other accountable for these commitments or exploit them in his or her favor.

The following sub-section will now discuss the characteristics of political argumentation. This will help to specify the political constraints that impact the German-American dispute.

Characteristics of Political Discourse

In order to draw meaningful conclusions about whether a pragma-dialectical approach is an appropriate and heuristic method for lightly institutionalized discourse (e.g., public political controversy), it is necessary to outline the constitutive components of political argumentation. While in parliamentary debates and committee hearings rigid rules determine when a dispute is over (e.g., allotted speaking time), what topics and issues will be discussed, and who is allowed to contribute to the discussion, public controversies are governed by different rules. As mentioned above, highly institutionalized argumentation (i.e., technical sphere) often features rather homogeneous audiences while lightly institutionalized discourse (i.e., public sphere) often consists of heterogeneous audiences. It is important for the analyst to be aware of these and other differences in order to assess the value of a pragma-dialectical approach for public political discourse and the problems that this type of application entails. The following paragraphs will now briefly outline the characteristics of political argumentation that Zarefsky (2008) identified and challenges they create for strategic maneuvering.

In comparison to highly institutionalized argumentation, public political argumentation is not restricted by temporal constraints. For example, between 1945 and 2014, national security, privacy, and surveillance have been recurring topics within the German and America political

discourse. While Washington and Berlin often embedded these topics in other arguments (e.g., anti-communism debates, war on terror discussions), these topics constitute a familiar discussion between Germany and the US. Throughout their discussion both nations tried to answer the question of how should a democratic nation use surveillance to guarantee national security *and* protect people's right to privacy for domestic and international audiences. Interestingly, Zarefsky (2008) argues that "[t]he natural trajectory of arguments can be very long, especially when a culture is in dialogue with itself" (p. 319). In that regard, one may argue that Merkel's argument that indiscriminate surveillance creates not more but less security arose out of Germany's attempts to come to terms with its experience with the Gestapo and the Stasi. A lengthy argument—whether a nation is in dialogue with itself or another nation—creates certain constraints for strategic maneuvering. For example, repeating a standpoint over and over again (e.g., Germans' are sensitive toward surveillance due to their experience with the Gestapo and the Stasi) may easily be criticized by the US as a relic of the Cold War which does not help but delay a reasonable resolution of the dispute at hand. In addition, persistently reusing similar topics and standpoints prevents arguers from choosing other topics that offer elements of surprise and novelty. The lack of temporal constraints in political argumentation creates a few challenges for a pragma-dialectical analysis. Zarefsky (2008) explains:

The implication of this lack of temporal boundaries is that it is very difficult to know which of the pragma-dialectician's four stages the argument is in. Different arguers, in fact, may be at different stages of the same argument. One may be identifying a difference in standpoints, another trying to resolve it, and another trying to argue it out, all at the same time. Not only is the argument messy, but it is very hard to know what sort of norms and requirements ought to govern the dispute. (p. 320)

In addition to the lack of temporal constraints in political argumentation, public political discourse features a heterogeneous audience. This means that Berlin is not only in dialogue with Washington but simultaneously with multiple audiences. Van Eemeren (2010) refers to heterogeneous audiences as “composite” (p. 110) audiences and advises politicians who try to reach out to all members of a composite audience “to take refuge in multiple argumentation, so that the one argument serves the farmers, the other the educators and a third argument all of them” (p. 110). In addition, van Eemeren and Grootendorst (1992) explain that using multiple arguments to support a standpoint adds to an arguer’s perceived credibility in that he or she considered all possible objections to a standpoint (p. 74). In order to adapt to diverse audiences, Zarefsky (2008) suggests to assume that the audience shares general values. This raises the question of what the shared values of the German and US audience are that enable and/or complicate strategic maneuvering.

The shared values that Berlin and Washington repeatedly refer to throughout their discussion about the NSA revelations are democracy, opportunity, prosperity, and freedom (Kerry, 2014a; Kerry & Hagel, 2014). These values emerged from their strategic but symbiotic relationship after World War II and throughout the Cold War. The Marshall Plan, the Berlin air bridge, the collapse of the Berlin wall, and Germany’s reunification were events that created a shared understanding of democracy, opportunity, prosperity, and freedom among Germans and Americans. These values ended the Cold war and ensured security and democracy in Europe. While during the Cold War a common threat helped to define what these values mean and how to protect them, the NSA spying scandal suggests that Germany’s and Washington’s definitions of democracy and freedom and how to protect them differ. Postwar and post-Cold War generations do not necessarily share this collective memory. Thus, politicians representing

Berlin are advised to anticipate not only the argumentative maneuvers by Washington and vice versa, but they should also craft their messages in a way so that they appeal to the values of various audiences.

Finally, Zarefsky (2008) explains that public political argumentation invites participation from all social groups of society. This creates additional constraints in that politician might be forced to reconstruct contributions from the audience so that they become graspable for experts and citizens alike. For example, at a news conference reports may accuse politicians based on insufficient information about an issue. This offers room to reframe an issue for the politician but also creates obligations.

In addition to the constitutive components of public political argumentation that Zarefsky (2008) identified, it is important to discuss the characteristics of political argumentation that pragma-dialectics helps to identify. This will help to further illuminate the conventions that govern and guide the discussion between Washington and Berlin in the absence of bilateral and international regulations for data protection. The following paragraphs will now describe the institutional point, the domain, genre, and activity types of political argumentation and the speech events of the German-American disagreement over the NSA revelations.

For pragma-dialecticians, conventions are the result of the purpose (i.e., institutional point) that drives an argumentation. Conversely, obeying the conventions of a particular argumentation is instrumental in realizing the purpose of an argumentation. Van Eemeren (2010) explains: “. . . every communicative practice that can be recognized as such may be assumed to be characterized by a certain degree of conventionalization that is dependent on the institutional rationale—the institutional point—of the communicative practice concerned (p. 130). The institutional point or rationale of public political argumentation regarding the NSA

revelations is to balance surveillance, security, and privacy in a way that helps preserve a democratic political culture. In the absence of an international or bilateral framework for data protection, the institutional point—in addition to the above mentioned constitutive component of public political argumentation—dictates how to carry out the dispute over privacy, national security, and surveillance. Berlin and Washington could agree to engage in negotiation, adjudication, consultation, or mediation in order to solve their difference(s) of opinion. However, in order to preserve a *democratic* political culture (i.e., institutional rationale), public deliberation appears to be the appropriate genre of communication. Public deliberation is designed to enable a critical exchange of propositions that is aimed at bringing about change, urge or reject a certain course of action for the future, and consider the positive and negative consequences of a proposition (Aristotle, 2007). Also, van Eemeren (2010) explains that in public deliberation “parties are first of all out to put forward argumentation defending their standpoints in a critical exchange with their contestants” (p. 148). He adds that “[t]he decision concerning the resolution of the differences of opinion at issue in their contributions to the deliberation is up to the individual listener, reader, or viewer” (p. 148). That way, the audience is a vital participant to the resolution process in political deliberation. It is important to mention that in public deliberations the audience is the implied addressee and directly (e.g., elections, referendums) and/or indirectly influence the resolution process.

For the analysis, I will be dealing with how different audiences influence Berlin and Washington’s argumentation indirectly. While the NSA spying scandal started to trigger heated public debates about privacy, national security, and German-American relations even before Germany’s federal election in September 2013, this inquiry only deals with political deliberation that happened after the German election. This way, I am able to analyze and evaluate how

Berlin and Washington solve their dispute over national security, privacy, and surveillance to preserve a democratic culture, instead of exploiting these topics to win votes.

Within the domain of political argumentation, pragma-dialectics is often used to analyze and evaluate dyadic argumentation in highly institutionalized contexts where arguers are committed to reasoned discourse (e.g., parliamentary debates, political interviews). For example, van Eemeren and Garssen (2010) examined debates in the European Parliament to figure out how the conventions for parliamentary debates determine the possibilities for strategic maneuvering. Andone (2013) analyzed how in political interviews, politicians justify their positions to the public when confronted with accusations of inconsistency (e.g., The Obama administration is known for promoting transparency and a government of the people, by the people, and for the people. Why is Washington reluctant to publicly discuss the details of the NSA surveillance program?). Andone defines political interviews as an activity type that is governed and guided by the institutional constraints of deliberative democracy. For example, Andone (2013) explains that within the context of deliberative democracy the public holds politicians accountable for their public commitments, as public servants the public expects politicians to clarify and justify their standpoints when asked, and the public considers it a violation of democratic deliberation if a politician frequently changing his or her position (i.e., *tu quoque*).

Considering that political interviews feature one interviewer and one interviewee and parliamentary debates involve a representative of the government and a representative of the opposition, it is quite intuitive to treat these activity types as dialogical discussions. In addition, analyzing the conventions of only one activity type (e.g., political interviews, parliamentary debates) allows the analyst to determine the specific constraints of that activity type. However,

how does one analyze and evaluate *public* political discourse, which features formal and informal activity types (i.e., speeches, committee hearing, interviews, news conferences, press releases, etc.), from a pragma-dialectical perspective? Are there overarching conventions (e.g., societal, cultural) that operate within all these activity types? Is it fair to assume that these activity types are only different forms of communication through which a greater critical discussion is carried out?

In order to answer these questions it is useful to explore one of the key characteristics of public political deliberation. Drawing upon Aristotle's definition of deliberation as a critical exchange of arguments that is aimed at bringing about change, urge or reject a certain course of action for the future, and consider the positive and negative consequences of a proposition, Habermas adds a normative dimension to deliberation (Lewiński & Mohammed, 2013, p. 2). Political deliberation should "rely upon publicly accountable forms of *reasonable* argumentation taking place under conditions of equality and inclusiveness" (Lewiński & Mohammed, 2013, p. 2) in order to create and sustain a healthy democratic culture. If one accepts this definition of political deliberation, then it is possible to view highly and lightly institutionalized political argumentation as reasonable contributions to a greater democratic discussion. Audiences often tend to evaluate political speeches, interviews, news conferences, and press releases in terms of effectiveness. However, when two western democratic nations are in disagreement about values (i.e., individual rights, national security), which are not only central to their concept of democracy but also used to create common ground for trust and friendship, audiences evaluate whether politicians' standpoints and arguments are in line with standards for reasonable democratic deliberation. US audiences derive these standards from documents like the US Constitution, the Bill of Rights, or even Lincoln's Gettysburg address. Whereas German

audiences—considering that Germany is a rather young nation in regard to democratic ideals and individual freedoms—rely on the Basic Law and key moments in German history like Germany’s reunification. Politicians are held accountable to these standards, which creates a certain constraint, particularly when democratic values are being discussed.

While pragma-dialectics is often applied to institutionalized settings for dyadic argumentation, the characteristics of public political discourse that I discussed so far allow me to conceive of the German-American dispute over surveillance, national security, and privacy as a larger dialogue within the context of democratic deliberation.¹⁶ This concept of dialogue, however, raises questions about whether Berlin’s and Washington’s public statements were intended for domestic or international conversations. Also, using different texts to reconstruct a greater discussion between countries raises questions about whether this actually represents a sequential exchange of standpoints or whether these texts are only isolated speech acts. In regard to the first question, considering that throughout the NSA scandal, Germany and the US reiterated that in the 21st century issues like national security, data protection, surveillance, and privacy constitute global challenges, it is fair to assume that a great deal of their statements count as contributions to a German-American or international dialogue. In regard to the second question, democratic political argumentation seldom follows a sequential pattern. Politicians craft their messages to reach out to different audience members, including the anticipated and/or immediate dialogue partner. Specifically, when German and American politicians are discussing topics that affect relations with foreign countries they are well advised to anticipate the entirety of the domestic and diplomatic dialogue to which they are contributing. Not imagining different

¹⁶ My decision to conceptualize individual public policy statements as contributions to a greater democratic dialogue was inspired by Pearce and Cronen’s Coordinated Management of Meaning Theory (CMM). Specifically, their Daisy Model reminded me that speech acts are embedded in multiple conversations and not only the one that is directly accessible to the arguers and audience.

audiences for topics that are of international relevance (e.g., data protection, security, and privacy) might result in criticism of isolationism. Thus, it is difficult to identify whether a statement counts as a direct or sequential response to an argument advanced by the dialogue partner, or whether it is intended for a different audience. Mohammed and Zarefsky (2011) explain:

A member of parliament, for example, may direct his or her comments nominally to the presiding officer and his or her colleagues while actually intending them for the member's constituents who will read them in the newspaper or hear them on television. Or a president or prime minister might deliver to a domestic audience a message that really is intended to alert other nations to change in its foreign policy. Whether the argument should be evaluated in relation to the addressed or to the intended audience is often unclear. (p. 90)

Though analyses of public international controversies remain the exception in pragma-dialectical research, Zarefsky (2010) and Lewiński and Mohammed (2013) hint at the idea that depending on the context and topic being discussed, public political statements often count as contributions to a larger discussion and thus are dialectically important. For example, when Zarefsky (2010) analyzed Kennedy's strategic maneuvering from one of the Kennedy-Nixon Presidential debates of 1960, he recognized that a few of Kennedy's responses appeared irrelevant to questions asked by the moderator, but by drawing upon Walton (2006), Zarefsky concludes that Kennedy "imagines the argument as part of a larger dialogue, to which his answer is dialectically relevant" (p. 326). Specifically, Zarefsky explains:

If one assumes that this is a dialogue between Kennedy and the moderator, then these moves on Kennedy's part are dialectically fallacious. But if one assumes that there is a much larger audience and that the activity types of political argumentation dictate wide latitude for the arguers, then the argument critic should be correspondingly charitable in evaluating their strategic maneuvering. (p. 327)

Now, for the critic to treat diplomatic controversies between countries as a dialogue and apply the pragma-dialectical approach to argumentation depends on how well politicians of foreign affairs, spokespersons, and journalists reconstruct and represent controversies between countries. At news conferences, for instance, politicians of foreign affairs and spokespersons recontextualize the standpoints and reasoning of the government that they represent in order to satisfy the institutional expectations and purposes of a news conference. For example, they may summarize, paraphrase, and abstract positions and arguments in order to appropriately answer journalists' questions, justify an unpopular position, or regain the public's trust. The way politicians, ambassadors, spokespersons, and journalists reconstruct a controversy is often removed from the discussions that are happening behind closed doors. One may argue that spokespersons and journalists distort the original dialogue and controversy that happened in private conversations between world leaders. To put it another way, news conferences, political interviews, public committee hearings, panel discussions, and political addresses do not accurately reflect the pragma-dialectical interaction between political leaders. In *Controversy as news discourse*, Cramer (2011) explores how news reporting constructs public controversy. He identified norms by which the media, particularly professional journalists, construct controversies as public dialogue.

When reporters are confronting discourse that is not presented in dialogue form (e.g., public controversies), it is difficult for them to decide what the issue is and who counts as participants. According to Cramer (2011), journalists solve these problems by balancing the obligation to create a vivid drama with the obligation to write objectively (p. 144). For example, in order to highlight the objectivity of the report, the journalist should present himself or herself as the narrator and not the originator of a text. This helps to attribute standpoints, reasoning, and the burden of proof to the people who actually delivered a statement. Specifically, journalists decide who counts as participants “through reported speech, reporting various comments and standpoints that can be attributed explicitly to individual or collective interlocutors” (Cramer, 2011, p. 144). Finally, reporters decide what counts as the issue by “structuring turns around queries, assertions, and rebuttals that foreground the argumentation of participants” (Cramer 2011, p. 142). If journalists do not violate these norms, then they produce public dialogue that functions as a substitute for the actual speech event (p. 140). That way, journalists’ reporting “uses constructed dialogue to narrate controversy, and in this it locates controversy in a pragmatic interaction between narrated interlocutors” (p. 178). So conceived, news reporting provides the necessary categories (e.g., controversies, standpoints, turn taking, interlocutors) for pragma-dialecticians to apply their methods. From his discourse analysis of data from the Reuters Corpus Cramer (2011) concludes:

Though journalists do not realize or attempt to realize the all of the ideals of liberal democratic dialogue through their reporting and writing, nor meet or attempt to meet the standards or form of the philosophical dialogue genre, they do rely on the dialogue model as they construct public conversation among interlocutors. (p. 177)

While Cramer specifically discusses how journalists construct dialogues in their reports to create a conversational setting for controversy, he does not say whether this also rings true for how spokespersons, politicians of foreign affairs, and world leaders construct public dialogue and controversy. Considering that politicians of foreign affairs and spokespersons also follow norms of accountability and objectivity (e.g., “. . . it’s very clear to President Obama that our future requires a renewed and enhanced era of partnership . . .” (Kerry & Hagel, 2014, para. 40)), it is fair to assume that certain aspects of Cramer’s norms also apply to how politicians and spokespersons construct public dialogue. This, however, will be discussed further in the section about future research.

In order to illustrate the relationships that exist between the institutional point, domain, genre, activity type and speech events of public political argumentation regarding Germany and Washington’s dispute over the NSA spying scandal, I included a table below.

| Institutional Point | Domain of communicative activity | Genre of communicative activity | Communicative activity type | Speech events |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| To balance surveillance, national security, and privacy in a way that helps preserve a democratic political culture. | Lightly institutionalized public political argumentation. | Democratic deliberation that allows audiences to hold politicians accountable for their statements and when they violate standards for reasonable argumentation. | Formal and informal communications that contribute to a larger discussion about how to deal with surveillance, national security, and privacy in a globalized world (e.g., political speeches, interviews, news conferences, press releases, etc.). | Constructed dialogue as public speech event |

Figure 1. Pragma-dialectical characteristics of public argumentation between Germany and the US regarding the NSA revelations.

The following sub-section will now address theoretical and methodological challenges of reconstructing public political discourse from a pragma-dialectical perspective.

Dealing with Polylogues

Pragma-dialectical approaches to argumentation analyze and evaluate dyadic exchanges between a protagonist and an antagonist who assume two distinct positions. This distinction allows the pragma-dialectician to reconstruct argumentative exchanges in dialogue form. Through a critical discussion of standpoints, two discussants agree on the acceptability of one position. The standard version of pragma-dialectics, for example, reconstructs and evaluates argumentative exchanges in form of an ideal dialectical sequence. Lewiński and Aakhus (2014)

argue that “[t]he greatest advantage of dialectical models is that they theorize argumentation as an interactive achievement of interlocutors engaged in a discussion on a disputable issue” (p. 177). When dealing with public political statements, however, it is difficult to identify the different positions that are involved in the argumentation and who the proponent and who the opponent is. In addition, it is not easy to figure out who contributed to the discussion. Evidently, it is problematic to reconstruct public political discourse in dialogue form. But if a pragma-dialectical reconstruction of argumentative discourse requires an exchange between only two interlocutors, how is it then possible to treat public policy statements (e.g., press releases, news conferences, speeches, and interviews) as contributions to a critical discussion between international leaders? Being aware of this problem, Lewiński and Aakhus (2014) developed a polylogical model of argumentative discussion. For example, Lewiński and Aakhus (2014) suggest that the analyst should treat different arguers as a team or coalition “whenever a group of participants gather behind a position they favor, and consistently co-produce various arguments for that position” (p. 168).

So far I subsumed comments by Obama and Merkel as well as remarks from German and American proxy advocates (e.g., Foreign Ministers, Defense Ministers, spokespersons, etc.) under two distinct metonymical categories (i.e., Berlin/Germany and Washington/US/America). I deliberately disregarded statements by opposition leaders in that they do not help to reveal foreign but only domestic policy strategies. By classifying statements as either supporting Berlin’s or Washington’s foreign policy position regarding surveillance, security, and privacy, I am able to treat—at least to a certain extent—German-American discourse as dialectical dialogue that is aimed at jointly resolving a difference of opinion. The audience is not conceptualized as a participant in the dialectical exchange between Germany and the US because

even if politicians are solely interested in convincing the audience “they still have to conduct their argumentative discourse with each other as if it is aimed at resolving a difference of opinion . . . to appear reasonable to the viewers” (van Eemeren, 2010, p. 1).

For the rhetorical analysis and evaluation of German-American discourse over the NSA revelations, the audience will, however, play an important role. As mentioned earlier, audiences represent an important factor for arguers to develop their line of argumentation. Specifically, diverse audiences constitute a challenging constraint for arguers to engage in strategic maneuvering. In that regard, the analysis will be twofold. Guided by my research questions, I will analyze and evaluate how Berlin and Washington achieve reasonableness and resolve their difference of opinion according to van Eemeren’s ideal model for critical discussion (i.e., dialectical analysis). Finally, I will assess how they achieve effectiveness by analyzing and evaluating their strategic maneuvering and the functions of individual maneuvers (i.e., rhetorical analysis).

Scope of Analysis

Considering that public political argumentation is an open-ended process (Zarefsky, 2008), which creates challenges for the analyst to determine the beginning and resolution of a dispute, it is important to discuss the scope of this analysis. Specifically, it is necessary to discuss why certain texts were favored over others and what standards were used to select these texts. Also, I will address biases that may have influenced the process of selecting texts. Finally, with this sub-section I will explore why the German-American relationship lends itself to an analysis that reconstructs argumentation in dialogue form.

This analysis dealt with statements that gained international public attention between October 23, 2013, when the German government declared that the NSA spying scandal

constitutes a grave breach of trust and May 1, 2014, when Berlin and Washington openly agreed to a cyber dialogue conference. In order to determine what texts are appropriate for an analysis of public argumentation between Berlin and Washington, I first turned to news reported by major international but serious German and American news agencies (e.g., *New York Times*, *Deutsche Welle*, *Spiegel Online*). This helped me to identify what events received international recognition from domestic and international audiences. As an attempt to further minimize media distortion, I then turned to the actual texts that were quoted in the news articles (e.g., Obama's State of the Union Address, Merkel's State of the Nation Address, etc.). These texts were then retrieved from governmental websites (e.g., www.whitehouse.com, www.bundesregierung.de, etc.). The German government's website provides transcripts in English and German. Often the English transcripts feature translations from interpreters that were present at the respective event. In other instances, the texts were translated by a government representative (e.g., Merkel's State of a Nation Address). This is worth mentioning in that these texts are potentially accessible to an international audiences and governments. The fact that Washington and Berlin offer transcripts of their public discourse to domestic and international audiences not only communicates transparency and honesty, but also allows various audiences to hold them accountable for their statements.

To accurately reconstruct the critical discussion between Berlin and Washington without distorting it, I tried to adhere to a few intuitive standards. For example, standpoints were reconstructed in the order as they occurred in the texts (i.e., chronology). This allowed me to retain a certain level of temporal or chronological causality. While it is often difficult for the critic to identify sequential exchanges of standpoints (i.e., turn-taking) in public political discourse, it is important to recognize that self-serving responses, which do not account for

another country's position lack ethos and fail to address audience demands. Accordingly, it is fair to assume that in order for democratic nations to appear credible and rational, they will try to develop their statements in response to what was said earlier. It is therefore important to maintain this causality in the reconstruction of public political argumentation.

This analysis only used statements that were relevant within the domain of diplomatic discourse were considered (i.e., domain relevance). In general, diplomacy deals with how a country's political representatives are managing international relations. Diplomatic discourse aims at forging alliances and maintaining healthy relationships with foreign leaders.

Accordingly, comments by Obama and Merkel as well as remarks from proxy advocates (e.g., Foreign Ministers, Defense Ministers, spokespersons, etc.) counted as contributions to the German-American discussion. Statements by opposition leaders were disregarded in that they only help to reveal domestic but not foreign policy strategies.

Finally, only public statements from influential and authoritative political figures were considered (i.e., authoritative sources). This standard specifies the former standard in that it relates the relevance of a public statement to the political figure who uses it. While opposition leaders, for example, comment on international affairs, their statements do not carry a lot of weight for discourse between countries. For example, statements from secretaries of state and defense secretaries possess greater potential and impact for international relations than comments from opposition leaders. To reconstruct the argumentation between nations, it is important for the critic to account for the different impact, accountability, and credibility that a particular political office adds to a statement.

One of the biases that I had to deal with while selecting texts for the reconstruction of Berlin and Washington's argumentation was whether the advocates and proxy advocates that

were chosen adequately represent Washington's or Berlin's position. Particularly, it was important to not favor one side over the other. As a critic who was born and raised in Germany, it was important for me to constantly scrutinize my assumptions and interpretations. In order to address this bias, I not only frequently suspended and second-guessed my judgment, but I also tried to carefully select advocates and proxy advocates from Germany and the US. This way, I attempted to avoid favoritism and reconstruct a well-balanced argumentation in terms of who contributed to the discussion.

The reader may wonder why the first and second section of this analysis exclusively and extensively dealt with the German-American relationship from WW II, throughout the Cold War era, and after Germany's reunification. In order to reconstruct Germany and Washington's argumentation in dialogue form, it was necessary to establish the relationship in which the dialogue occurs. The US and Germany share a relationship that is indicative of a German-American dialogue. The fact that there is a tradition of Germany-American relations and dialogue allowed me to conceptualize public diplomatic discourse between Berlin and Washington as a rhetorical continuation of this tradition. Accordingly, the German-American relationship is enacted in the different texts of public discourse.

Summary

By explaining the theory and method that are used for this analysis, the reader is now able to see why the standard pragma-dialectical and the extended version of the pragma-dialectical theory (i.e., strategic maneuvering) are appropriate and fruitful approaches for analyzing and evaluating German-American discourse. With its focus on dialectical exchanges, the standard version of the pragma-dialectical theory enables the researcher to identify what speech acts hindered or helped arguers to reach an agreement about the acceptability of a

standpoint. The dialectical perspective is particularly helpful in that it allows researchers to prescribe a specific course of action for arguers to resolve their dispute. Strategic maneuvering offers analytic categories that reveal the rhetorical aspects of a discussion. This way, the extended version of the pragma-dialectical theory assists in illuminating the dialectical and rhetorical features of argumentation.

Zarefsky's characteristics of political argumentation further specified possible challenges for Berlin and Washington when they are trying to position themselves strategically. In addition, characterizing public political deliberation as a form of reasonable argumentation that is intended to create and maintain a healthy democratic culture, it is now possible to treat Berlin's and Washington's public statements as contributions to a larger dialogue about surveillance, security, and data protection within the context of German-American relations. Further, Lewiński and Aakhus' polylogical model of argumentative discussion helped to identify Berlin and Washington as two distinct discussants in the controversy about surveillance, security, and privacy. Finally, discussing the scope of the analysis helped the reader to see what standards were used to select texts, how biases and favoritism were addressed, and how the German-American relationship is enacted in public discourse.

CHAPTER IV

ANALYSIS

The subsequent analysis will now help to reveal aspects of reasonableness and effectiveness as they manifest themselves in the public political discourse over the NSA spying scandal between the US and Germany. While this analysis begins by applying methods from the standard version of pragma-dialectics (e.g., creating an analytic overview), which assist in answering questions about how Berlin and Washington succeeded or failed to achieve reasonableness, particular attention will be paid to how Germany and America reach their rhetorical aims and maneuver strategically (i.e., effectiveness). Accordingly, I will first create an analytic overview of the argumentation between Washington and Berlin by identifying the difference(s) of opinion, the discussion stages, and reconstruct the argumentation structure. Finally, I will identify how Germany and the US use presentational devices, adapt to different audience(s), and select topics to achieve their rhetorical goals in the different stages of the resolutions process (i.e., strategic maneuvering).

An Analytic Overview

This analytic overview will reveal the different types of disputes that Germany's and Washington's standpoints create (i.e., mixed, non-mixed). For the discussion of the discussion stages, this overview will pay particular attention to the commitments that Berlin and the US create and what rules they violate in the respective discussion stages. For readability reasons I will mention Washington's and Berlin's standpoints in parentheses whenever it is necessary for the reader to follow my train of thought. Unexpressed premises and argumentation schemes will not be analyzed in detail. While they are important to present a comprehensive analysis of the German-American dispute, this will be dealt with in future research.

Differences of opinion

Berlin and Washington's difference of opinion about the role of surveillance, national security, data protection, and privacy in the 21st century revolved around three key themes: trust, question of proportionality, and importance of security and privacy. By means of a thematic analysis, I was able to flesh out these three recurring themes. Specifically, I used what Strauss and Corbin (1998) describe as open and axial coding. Accordingly, I first highlighted recurring concepts and categories in the different texts. After grouping the identified concepts into broader categories based on what they had in common, I then re-read the texts multiple times to confirm the accuracy of these categories. After reaching a sufficient level of data saturation, I decided that trust, question of proportionality, and importance of security and privacy constitute the key themes of the dispute.

Trust, question of proportionality, and importance of security and privacy not only represent sources of tension in the German-American dispute, but were also used to achieve various rhetorical and dialectical aims. This means that Berlin's and Washington's standpoints and arguments relate to these three themes in one way or another. Below you see a table of the key themes and what these themes mean to the US and Germany in terms of their disagreement.

| Themes/Sources of tension | Washington | Berlin |
|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Trust | For Washington trust is necessary for the NSA to operate effectively. | While Washington and Berlin regard trust as the engine for US-German and transatlantic relations, for Germany trust is tied to honesty and transparency. |
| Question of proportionality | The US answers questions about the proportionality of the NSA data collection practices by referring to other countries who engage(d) in similar activities. In addition, Washington argues that they operate within the boundaries of the law (status quo). | Germany considers the NSA's practices as disproportionate to the damage that they cause for people's right to privacy and foreign relations between Germany and the US. |
| Importance of security and privacy | For Washington it is important to ensure and defend national security with all available means, even if that means upsetting transatlantic partners. | Germany regards indiscriminate surveillance not as a way to ensure but to jeopardize foreign relations, national security, and people's rights to privacy. |

Figure 2. Sources of tension in the German-American dispute over the NSA revelations.

In order to further specify the difference of opinion between Germany and the US it is important to reveal the different explicit and implicit standpoints advanced by Berlin and Washington. While Germany and Washington rarely used explicit linguistic markers (e.g., beneficial, useful, ought to, should, the law defines, etc.)—which would make it easy for the analyst to distinguish between evaluative, prescriptive, and descriptive statements—the institutional (i.e., international relations) and topical contexts (i.e., trust, question of proportionality, importance of security and privacy) helped to identify the majority of Berlin's statements as either evaluative or prescriptive and the majority of Washington's statements as either descriptive or prescriptive. For example, in international diplomacy, a breach of trust is

generally considered undesirable and ineffective, which rendered statements relating to that theme as evaluative. In addition, while Berlin and Washington used an equal amount of premise indicators (e.g., since, because, seeing that, giving that, for that reason, etc.), Washington utilized significantly more standpoint indicators (e.g., therefore, thus, hence, it follows that, for that reason, accordingly, etc.) than Berlin. However, despite these indicators it was often necessary to rely on contextual information to reconstruct Washington's and Berlin's standpoints and supporting reasons in order to avoid confusing explanations and information with argumentation, for example. Distinguishing between explanation, information, and argumentation is particularly important in that contrary to argumentative statements, informative and explanatory statements do not create any commitments for the arguers (Cramer, 2011, p. 15).

It is worth mentioning that due to the absence of a direct dialogue between Washington and Berlin (i.e., advancing a standpoint is followed by immediate opposition or acceptance), it was difficult to identify Berlin's and Washington's standpoints as positive or negative with regard to the discussed proposition. This, in turn, made it difficult to identify their difference of opinion as non-mixed or mixed. Washington and Berlin's standpoints do not always express explicit doubt or opposition (e.g., *+p* The US should put a stop to indiscriminate surveillance, *-/p* The US should not put a stop to indiscriminate surveillance). Van Eemeren and Grootendorst (1992) describe disputes "in which doubt [and opposition] is not so clearly expressed, but in which it must be supposed that there is doubt" (p. 17) as implicit disputes. One of the reasons why the German-American dispute constitutes an implicit dispute is that in the absence of bilateral and international regulations for data protection Berlin and Washington advance general rather than specific standpoints. In the absence of a legal data protection agreement, it is difficult for the US and Germany to commit to specific standpoints and guarantee accountability, which

led to rather general standpoints regarding national security, privacy, and German-American relations. Also, without the possibility to rely on an international or bilateral data protection agreement, the institutional rationale of public political argumentation (i.e., preserve a democratic political culture) constrained what standpoints Berlin and Washington were able to develop. Thus, standpoints are often not advanced in direct opposition to Berlin's or Washington's position, instead, they appear to count as contributions to a greater discussion about the three key themes of the dispute (i.e., trust, question of proportionality, and importance of security and privacy). In addition, certain standpoints are predominantly aimed at doubt and opposition from an undefined audience (e.g., German, American, or international audience). The standpoints that are presented here were reconstructed in the order in which they were presented to the public. Also, standpoints were only identified as standpoints when they were supported and advanced on various occasions. For a list of texts that were used to reconstruct Germany's and Washington's standpoints, please turn to Appendix B.

Washington advances five explicit standpoints: (1.) The US gathers foreign intelligence in a way and of the type gathered by all nations, (2.) US intelligence services operate within the boundaries of the law, (3.) In order to protect the US and other countries around the world from security threats (e.g., terrorism, the proliferation of weapons of mass destruction and cyber-attacks), it is indispensable for US intelligence services to operate effectively, (4.) US intelligence programs should be revised to balance security and privacy in the US and abroad, and (5.) Trust has been lost, but the US and Germany share a friendship built on common values, which will help to restore trust and renew German-American friendship. (1.), (2.), (4.), and (5.) are supposed to be confronted with doubt from an undefined audience, so that there are simple

non-mixed differences of opinion between Washington and them (e.g., US, German, international audience).

Berlin advances three standpoints explicitly: (1.) Indiscriminate surveillance does not enhance security for all but undermines mutual trust, (2.) In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way, and (3.) The means by which a nation ensures national security should be proportionate to the damage that they cause. Implicitly, Berlin advances the following standpoint: (4.) A disagreement over democratic values should be carried out openly and in a reasonable way. (1.), (3.), and (4.) face doubt from an undefined audience (e.g., German, US, international audience), rendering them as simple non-mixed differences of opinion. Washington's standpoint (3.) is confronted with direct opposition by Berlin's standpoint (2.), which constitutes a complex mixed difference of opinion. The following paragraphs will now discuss the different disputes and pay particular attention to the undefined audiences' doubts, which created simple non-mixed differences of opinion for Washington and Berlin.

Washington's first standpoint (i.e., 1. The US gathers foreign intelligence in a way and of the type gathered by all nations), appears to be a response to a projected audience¹⁷ that questions the appropriateness of how US intelligence services collect data. Considering that this position was explicitly put forward at a press briefing at the White House and reiterated by Obama when he announced a series of reforms to US surveillance programs—which was

¹⁷ An imagined or projected audience does not refer to the actual audience that an arguer confronts. Instead, it denotes the audience(s) that an arguer anticipates when developing his or her argumentation. For example, diplomats' public statements often address a domestic and international audience. Imagining different audiences helps the diplomat to effectively adapt his or her messages to specific audiences. For the critic, the concept of projected or imagined audiences helps to determine the rhetorical and/or dialectical goals of a statement. Identifying what audience an arguer is addressing is imperative because what a statement counts as is determined by the interaction between audience(s) and arguer.

followed closely by media and governments in Europe and around the world—it is fair to assume that this standpoint was a response to doubts and concerns from an international audience. While Washington was probably also trying to defend the legitimacy of US intelligence practices to a US audience and reassure the US intelligence community of the rightfulness of their actions in particular, European countries, particularly Germany, were rather concerned about the appropriateness and scope of America’s surveillance capabilities compared to US audiences. In that respect, with this first standpoint Washington addresses doubts and concerns raised by an international audience regarding the proportionality of the US surveillance programs, which created a non-mixed difference of opinion.

America’s second standpoint (i.e., US intelligence services operate within the boundaries of the law), addresses doubt about the lawfulness of US data collection practices, creating a non-mixed dispute. These doubts are raised by US, German, and European audiences alike. For example, US, German, and European audiences questioned whether there is sufficient political and judicial oversight that regulates how the US gathers domestic and foreign intelligence. Specifically, US audiences appeared to be concerned about whether US surveillance activities are in line with the constitution and the 4th amendment, which prohibits unreasonable searches (Ackerman & Roberts, 2013).

Washington’s third standpoint (i.e., 3. In order to protect the US and other countries around the world from security threats, it is indispensable for US intelligence services to operate effectively) is confronted with opposition by Berlin’s second standpoint (i.e., 2. In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way), constituting a complex mixed difference of opinion. The dispute arises out of opposing

views concerning a government's responsibility to balance security and privacy. For Washington, the US's responsibility is to protect America and other countries from terrorism and cyber-attacks. Ensuring security abroad and in the US to prevent terrorism, the proliferation of weapons of mass destruction, and cyber-attacks appears to gain precedence in America's efforts to balance security and individual rights. Put differently, while Washington recognizes the importance of privacy protection, security gains a higher priority. The idea that only sufficient security will protect the US and other countries from threats is also reflected in the sentence structure. The prepositional phrase "in order to" indicates a purpose, goal, or end, whereas the second clause expresses the means which are necessary to achieve the end. Hence, for Washington, security gains precedence over data protection and it is the government's responsibility to ensure the effectiveness of its intelligence services (i.e., means) to maintain that security (i.e., end).

While Berlin recognizes the importance of intelligence services for sustaining security in a world of asymmetrical threats, it criticizes how Washington intends to balance security and privacy. For Berlin it is important that security and privacy are balanced in a reasonable way. Germany does not explicitly specify what "in a reasonable way" refers to, however, at various points the linguistic context suggests that Berlin disagrees with the idea of emphasizing security needs over privacy concerns. For example, at a White House news conference on May 1, 2014, Merkel said:

I am firmly convinced that our cooperation in this area is a very helpful one, yet there are differences of opinion on what sort of balance to strike between the intensity of surveillance, of trying to protect the citizens against threats, and on the other hand,

protecting individual privacy and individual freedom, and rights of personality.

(“Remarks by President Obama and German Chancellor Merkel,” 2014, para. 77)

In addition, one may argue that Germany and Washington’s mixed dispute is the result of differing definitions of security and privacy. It appears that for Berlin the notion of privacy is closely connected with freedom, whereas for Washington privacy and freedom are semantically and/or culturally farther apart.¹⁸ For example, when Merkel delivered her State of the Nation address to the German parliament on January 29, 2014, she said: “The Federal Government bears responsibility for protecting our citizens from attacks and crime, and it bears responsibility for protecting them from invasions of their privacy. It bears responsibility for our freedom and security” (Merkel, 2014, p. 12). In that regard, one may even argue that for Germany, America’s emphasis on security represents a violation of article 1 of the German constitution, which reads: “Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority” (German Basic Law art. I). While Berlin’s and Washington’s differing definitions of privacy and security offer a cultural and/or semantic explanation for their difference of opinion, this analysis focuses on how the dispute manifests itself in the selected texts. Accordingly, Berlin criticizes Washington for emphasizing security over privacy. In that regard, Berlin and Washington’s mixed difference of opinion revolves around the importance of security and privacy.

Washington’s fourth standpoint (i.e., 4. US intelligence programs should be revised to balance security and privacy in the US and abroad) appears to be a response to a projected audience who doubts whether the US—in light of the NSA revelations—is actually balancing

¹⁸ In the selected texts, Washington never uses the notion of freedom in connection with privacy. Washington mentions freedom only when it highlights the shared values that created the German-American friendship.

privacy, security, and surveillance in an appropriate way (e.g., How does spying on European politicians enhance security?). Accordingly, Washington is discussing doubts about the proportionality of America's surveillance practices (e.g., Does the need for security justify America's surveillance practices in the US and abroad?). In addition, this standpoint not only addresses doubts about whether America's surveillance activities are consistent with the US Constitution but also whether the privacy concerns of other countries are accounted for and respected. In that regard, this standpoint is geared toward a US and international audience, constituting another non-mixed difference of opinion.

Finally, Washington's fifth standpoint (i.e., 5. Trust has been lost, but the US and Germany share a friendship built on common values, which will help to restore trust and renew the German-American friendship) counts as a reaction to a projected audience that questions whether the US will be able to rebuild their relationship with Germany, creating a non-mixed dispute. While the US never officially apologized to the German government for spying on Merkel, Washington acknowledges that the German-American relationship has been harmed and trust been lost.

Berlin's first standpoint (i.e., Indiscriminate surveillance does not enhance security for all but undermines mutual trust) represents a response to a projected audience who raises doubts about whether indiscriminate surveillance enhances security or not. In a rather general sense, it addresses concerns about possible ramifications of surveillance programs that try to ensure security for all at all costs (e.g., What are possible implications of indiscriminate surveillance for German-American relations?). Indirectly, this standpoint addresses concerns about whether a country that allegedly does not distinguish between friend and enemy to enhance security for all

can be considered a trustworthy partner in international affairs. Hence, Berlin's first standpoint not only constitutes a non-mixed dispute, but it discusses issues of proportionality and trust.

Germany's third standpoint (i.e., The means by which a nation ensures national security should be proportionate to the damage that they cause) addresses the issue of proportionality directly. This standpoint responds to doubts about whether a surveillance program that prioritizes security over privacy and uses a wide range of spying techniques with little political and judicial oversight warrants the damage that it causes (e.g., mutual distrust between countries). Put differently, are the security benefits of indiscriminate surveillance greater than the possible damage that these practices cause for democracies, international relations, the democratic infrastructure of the internet, companies (e.g., economic and industrial espionage), and people's right to privacy worldwide? This standpoint creates another non-mixed dispute between Berlin and an undefined national and international audience.

Finally, Germany's fourth standpoint (i.e., A disagreement over democratic values should be carried out openly and in a reasonable way) represents an implicit standpoint. It represents an implicit standpoint in that it was never explicitly expressed in the selected texts, however, a great deal of Berlin's reasoning seemed to support a broader (unexpressed) claim. In order to retrace how this standpoint was developed, please turn to Appendix B to see the texts that were used for the reconstruction. This standpoint responds to doubts from an audience about whether the sensitive nature of information regarding national security warrants to not discuss issues of surveillance, security, and privacy in public. While Berlin recognizes the importance to not disclose information that may be exploited by terrorists, for example, this does not mean that the issues itself should not be submitted to public scrutiny. Washington occasionally disagreed with that position (e.g., ". . . we are not going to comment publicly on every specified, alleged

intelligence activity” (Carney, 2013, para. 10)), however, this was insufficient to treat it as a separate standpoint. Berlin’s fourth standpoint not only addresses the issue of trust and transparency, but by responding to anticipated doubts from an unspecified audience it also constitutes another non-mixed difference of opinion.

It is worth mentioning that while Washington’s standpoints (1.), (2.), (4.), and (5.) and Berlin’s standpoints (1.), (3.), and (4.) create non-mixed differences of opinion with national and international audiences, they also relate to Germany and Washington’s mixed dispute about the importance of security and privacy. In a way, a standpoint that originally created a non-mixed difference of opinion in anticipation of doubt by an international or national audience evolved into a complex mixed dispute. For example, Germany’s first (i.e., Indiscriminate surveillance does not enhance security for all but undermines mutual trust) and third (i.e., The means by which a nation ensures national security should be proportionate to the damage that they cause) standpoint express Berlin’s criticism of Washington’s position to emphasize security over privacy needs. Washington’s first (i.e., The US gathers foreign intelligence of the type gathered by all nations) and second (i.e., US intelligence services operate within the boundaries of the law) standpoint count as defense for America’s position security gains a higher priority than privacy in the fight against national and international threats.

Discussion Stages

Before I turn to the discussion stages, it is important to reiterate here that due to the open-ended nature of political argumentation (Zarefsky, 2008), it is difficult to determine the different discussion stages in the German-American dispute over the NSA revelations. For example, with a keynote speech in which he called for greater regulation of government intelligence agencies, German Foreign Minister Frank-Walter Steinmeier opened the cyber

dialogue conference in Berlin on June 27, 2014 (Steinmeier, 2014). Washington and Berlin agreed to this conference in an effort to reconcile differences of opinion, enhance transparency for the public, and re-establish trust for the German-US relationship. These efforts were overshadowed by allegations regarding a double agent working for the Foreign Intelligence Agency of Germany (BND) who, in return for \$34,000, provided information to the CIA about the German parliament's inquiry of the NSA revelations. This led the German government to ask the US embassy's CIA representative to leave the country and Angela Merkel to express doubts about whether the US will change its attitude toward surveillance, security, and privacy ("Merkel," 2014). Evidently, these events influenced the development of Washington and Berlin's argumentation, however, this analysis will only deal with statements that gained international public attention between October 23, 2013 when the German government declared that the NSA spying scandal constitutes a grave breach of trust and May 1, 2014 when Berlin and Washington openly agreed to a cyber dialogue conference. Thus, the discussion stages that I identified are tentative in that they would change if the scope of the analysis changed. For example, accounting for events before and after the texts that were chosen for this analysis may turn what was initially identified as the argumentation stage into the confrontation stage and vice versa. One may argue that using the discussion stages as tentative analytical categories to reconstruct public political argumentation in dialogue form in order to draw conclusions about reasonableness is not in line with pragma-dialectics. However, operating with tentative discussion stages will help to determine whether pragma-dialectics is a useful approach for lightly institutionalized and open-ended discourse and identify areas for future research.

As mentioned earlier, Berlin's first standpoint (i.e., Indiscriminate surveillance does not enhance security for all but undermines mutual trust) addresses doubts by a projected national

and international audience about whether indiscriminate surveillance enhances security or not. In addition, Berlin responds to general doubt about negative implications of surveillance programs that try to ensure security for all at all costs. In this non-mixed dispute, Berlin is acting as the protagonist who is defending its position against anticipated doubt. While Berlin is not developing this standpoint in direct opposition to a standpoint advanced by Washington, Germany specifies the issue of the dispute (i.e., indiscriminate surveillance) and its position (i.e., indiscriminate surveillance does not increase security for all).

Washington's first standpoint (i.e., The US gathers foreign intelligence in a way and of the type gathered by all nations) does not explicitly identify the issue under discussion as indiscriminate surveillance, however, by referring to "intelligence of the type gathered by all nations," Washington accepts that the issue revolves around how and what type of data US intelligence services collect. While the US does not specify its position (e.g., Indiscriminate surveillance increases security in the US and around the world), it refuses to accept that its practices are any different from other intelligence services. Washington's second standpoint (i.e., US intelligence services operate within the boundaries of the law) not only tries to reinforce that the way the US gathers domestic and foreign intelligence is appropriate and lawful, but also confirms that the issue of the dispute revolves around America's surveillance practices. Here, Germany and Washington not only begin to define the issue of the dispute (i.e., How intelligence is gathered by the US), but also develop their positions. For Germany, indiscriminate surveillance does not enhance security and for Washington there is nothing wrong with what type of intelligence they gather and how they gather it. While Germany and the US developed these positions in response to projected doubt by an undefined audience, these standpoints hint at a potential disagreement about America's methods of intelligence gathering. Accordingly,

Germany and Washington achieve the dialectical aims of the confrontation stage, which is to specify the issue under discussion and advance a standpoint that confronts real or projected doubt (van Eemeren, 2010, p. 45).

While Germany's first and Washington's first and second standpoint are not developed in direct opposition to each other, they create commitments for the US and Germany to which they may be held accountable by a national and/or international public in the argumentation stage. This may force them to craft messages that address doubt from various audiences and direct criticism from Washington. Germany's first standpoint (i.e., Indiscriminate surveillance does not enhance security for all but undermines mutual trust) not only creates a commitment for Berlin to oppose arbitrary intelligence gathering as a means to increase security, but it also commits Berlin to a logic by which indiscriminate surveillance leads to a loss of trust.

Washington's first standpoint (i.e., The US gathers foreign intelligence in a way and of the type gathered by all nations) represents a broad assertion and creates a number of commitment for Washington. For example, this standpoint commits the US to a reality where intelligence services do not differ in terms of what type of information intelligence agencies gather and how they gather it. While this commitment makes Washington vulnerable to personal attacks from other countries (e.g., US intelligence services possess greater capabilities, you are not accounting for the individual differences between intelligence services), Germany never explicitly used this type of personal criticism. In addition, throughout the dispute Germany never explicitly denied the accuracy of Washington's first position.

Washington's second standpoint (i.e., US intelligence services operate within the boundaries of the law) creates a different kind of commitment and vulnerability. Considering that the law allows an arguer to assume the position of the status quo, it is easier for the US to

defend itself against doubt and criticism. Washington commits itself to the rightfulness of the law and the mechanisms that control it (i.e., political and judicial oversight, checks and balances). In addition, by asserting that America's intelligence services "*operate* within the boundaries of the law," Washington assures doubters that members of the US intelligence community are acting lawfully. This way, Washington does not create a commitment that relies on whether US intelligence services obey or do not obey the law but on the law itself. In case one were to doubt or criticize US intelligence services for violating laws, then Washington would be able to protect its intelligence community by referring to shortcomings of the existing laws for foreign and domestic data gathering and data protection.

As it is expected for the confrontation stage, Washington and Berlin use a number of assertive and commissive speech acts to express their standpoints, create (tentative) commitments, and convey their acceptance or non-acceptance of a standpoint. Washington's first and second and Berlin's first standpoint are examples of assertive speech acts, but let me also use direct examples from the texts to illustrate how Berlin and Washington's speech acts created commitments.

When Obama announced a series of reforms to the NSA data-collection program in front of intelligence officials at the Department of Justice on January 17, 2014, he said: "Our intelligence agencies *will continue* [emphasis added] to gather information about the intentions of governments—as opposed to ordinary citizens—around the world, in the same way that the intelligence services of every other nation does (Obama, 2014a, p. 10). With the first clause of this sentence, Obama expresses his government's intention to continue to conduct intelligence in a way conducted by all nations. This statement functions as a commissive speech act by which

he promises to continue to defend the appropriateness of how US intelligence services collect against any doubt or criticism.

When Germany first responded to the NSA revelations in October 2013, it seemed reluctant to ascertain a particular truth or commit to a specific course of action. Instead of using assertive and commissive speech acts, it resorted to conditional speech acts. For example, on October, 23, 2013, at a press briefing at the Federal Press Office in Berlin, Merkel's spokesperson Steffen Seibert said: "If the allegations are true, then this would constitute a grave breach of trust" (as cited in "Merkel calls Obama," 2013, para. 4). This hypothetical statement expresses a truth (i.e., Spying on the German Chancellor constitutes a breach of trust), but only under the condition that the revelations reported by the German newsmagazine *Der Spiegel* are true. With this conditional speech act, Berlin does not really commit to a particular position or promises accountability. However, in the course of the discussion Berlin's conditional speech act evolved into an assertive statement. On January 29, 2014 Merkel delivers her State of the Nation address to the German parliament in which she said: "A strategy in which the end justifies the means, *in which everything that is technically possible is realized* [emphasis added], breaches trust and sows distrust" (Merkel, 2014, p. 12). While Berlin never explicitly confirmed that the allegations reported by *Der Spiegel* are true, this and other statements suggest that investigators and authorities provided information that allowed Germany to turn a conditional sentence into an assertion, creating a genuine commitment.

In terms of following the pragma-dialectical rules for reasonable discussion and fallacies, Germany's if-then statement violates the freedom rule, which is a rule that exclusively applies to the confrontation stage. Germany points out the consequences (i.e., breach of trust) if the revelations about America's spying activities are true and the US continues to gather data from

diplomatic friends for no apparent foreign intelligence purpose. In that respect, one may argue that Berlin's first public responses function as a form of argumentum ad baculum or fallacy of the stick. Berlin's if-then statement not only restricts Washington's ability to respond freely, but it also tests whether Washington would consider a breach of trust a fair punishment for how US intelligence agencies conduct foreign surveillance. Instead of admitting that US foreign surveillance activities breached trust and thereby accepting the punishment, Washington used appeals to tradition and popular opinion to uphold their position and escape (linguistic) punishment. For example, Washington's first standpoint (i.e., The US gathers foreign intelligence in a way and of the type gathered by all nations) is supported by an implicit premise that one may reconstruct in the following way: In the intelligence community, it is accepted practice to spy on each other. The argumentum ad populum is not only considered a weak argument in that it fails to account for individual cases and the idiosyncrasies of an issue (Walton, 2006, p. 91), but it is generally regarded as a fallacy (van Eemeren & Grootendorst, 1992, p. 135).

It is important to remember that with their first standpoints Germany and Washington are both acting as protagonists who defend their positions against anticipated doubt by a national and/or international audience. Considering that Berlin and Washington are discussing broad issues (i.e., privacy and security) that resonate with various social groups, Washington's appeal to popular opinion possesses the potential to gain support from various audiences, including German audiences. Specifically, Washington's ad populum argument encourages audiences to accept a controversial issue (i.e., Who should the US treat as friend and who as enemy in its attempt to ensure national security?) as uncontroversial. An uncontroversial issue does not raise serious doubts or criticisms (i.e., If everyone is doing it, then there are no good reasons to doubt

the legitimacy of how the US is conducting intelligence). However, an ad populum argument can easily be disputed by pointing out that it does not consider individual cases (Walton, 2006, p. 91). For example, while Germany agrees that intelligence is gathered by all nations to ensure security, this does not entail that Berlin also agrees with how it is gathered and to what end. While Berlin's ad baculum and Washington's ad populum argument function as rhetorical rather than reasonable maneuvers, their arguments established that a dispute exists and conveyed tentative commitments.

In the opening stage arguers try to reach an agreement about who acts as protagonist or antagonist and "determine whether there is sufficient common ground (shared background knowledge, values, rules) for a fruitful exchange of views" (van Eemeren et al., 1996, p. 282). With its first, second, and third standpoint (i.e., 1. The US gathers foreign intelligence in a way and of the type gathered by all nations, 2. US intelligence services operate within the boundaries of the law, 3. In order to protect the US and other countries around the world from security threats, it is indispensable for US intelligence services to operate effectively) Washington defends its data gathering techniques as appropriate, lawful, and necessary to ensure national security. Whereas, Germany's first, second, and third standpoint (i.e., 1. Indiscriminate surveillance does not enhance security for all but undermines mutual trust, 2. In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way, 3. The means by which a nation ensures national security should be proportionate to the damage that they cause) express doubt and criticism about the way Washington gathers data. In that regard, Washington assumes the role of the protagonist and Berlin the role of the antagonist. Also, as the protagonist Washington carries the burden of proof or responsibility to warrant that

the type of intelligence that US spying agencies gather and how they gather it is appropriate, lawful, and necessary to ensure national security, while Berlin's obligation is to criticize Washington's defense of this view.

Surveillance is necessary to sustain national security and fight terrorism represents the common starting point for Berlin and Washington's discussion.¹⁹ For example, on November 1, 2013, democratic senator Dianne Feinstein released a joint statement regarding the FISA Improvement Act in which she explained:

The threats we face—from terrorism, proliferation and cyber-attack, among others—are real, and they will continue. *Intelligence is necessary to protect our national and economic security* [emphasis added], as well as to stop attacks against our friends and allies around the world. (Feinstein & Chambliss, 2013, para. 18)

Similarly, in her State of the Nation address to the German parliament on January 29, 2014 Merkel said:

No one who bears political responsibility can seriously dispute the fact that the work of the intelligence services is crucial to our security and the safety of our citizens. No one who bears political responsibility can seriously dispute that, in the age of asymmetric threats, as exemplified by September 11, the work of the intelligence services has become even more important than it always was. (Merkel, 2014, p. 12)

Evident by Berlin's first and fourth and Washington's fifth standpoint, they also agree that the NSA revelations breached trust and that it is necessary to rebuild a trusting relationship. Their common starting points in terms of how the discussion should be carried out, however, were not agreed upon until later in the discussion. While the context of public democratic

¹⁹ Please turn to the texts that were used to reconstruct Washington's third and Berlin's second standpoint in Appendix B to see specific examples of their common starting points.

deliberation forces Berlin and Washington to carry out an open discussion in which they can be held accountable by the public and adhere to common rules for reasonable democratic deliberation (see figure 1), they could not agree on whether to continue their discussion through media channels, create a public forum, or carry it out in private. For example, at the beginning of their exchange, Washington preferred to deal with the issue through private diplomatic channels. At a press briefing on October 24, 2013 at the White House, White House spokesperson Jay Carney said:

. . . we acknowledge that the United States gathers intelligence much as other nations gather foreign intelligence. The revelations that have appeared of late have obviously caused tensions in our relationships with some countries, and we are dealing with that set of issues through diplomatic channels. (Carney, 2013, para. 10)

In the end, however, Washington and Berlin agreed that a cyber dialogue is the appropriate format to carry out their discussion. On February 27, 2014 at a joint press conference with Secretary of State John Kerry, German Foreign Minister Frank-Walter Steinmeier said: “I’m happy to see that the debate that has been mainly led by the media now leads us to a serious dialogue involving all the stakeholders, involving also members of civil society, a bilateral cyber-dialogue . . . “ (Kerry, 2014c, para. 30).

Agreeing on a new activity type (i.e., cyber dialogue), removes the discussion from the numerous procedural requirements imposed by the activity types that have been used so far. While press releases, news conferences, interviews, and speeches allow governments to openly discuss controversies, protect and repair their public image, regain trust, etc., the different procedural requirements of these activity types often pose a challenge for reasonable discussions. For example, in a political interview politicians are often required to defend and uphold a

consistent public image (Andone, 2013), complicating their efforts to contribute to a public controversy and advance or defend a standpoint. Using only one activity type channels Berlin and Washington's discussion and allows them to set new procedural starting points. In that respect, Germany and Washington's decision to escape these challenge counts as an attempt to achieve reasonableness. Due to the open-ended nature of political argumentation, one may argue that Berlin and Washington's initiation of a cyber dialogue constitutes a new opening stage for their discussion. This may be true, however, for this analysis, considering that the cyber dialogue was agreed upon toward the *end* of their exchange, it is rather interesting to see how through their exchange of standpoints Germany and the US reached an agreement about their common procedural starting points (i.e., cyber dialogue).

In the beginning of their discussion but also throughout the entire argumentation, Berlin repeatedly urged Washington to launch an investigation and provide information about the revelations reported by *Der Spiegel* and other news agencies. For example, at a news conference on October 24, 2013 at the Foreign Ministry in Berlin, German foreign minister Guido Westerwelle said: "We expect that these activities that had been reported will be comprehensively investigated" (Westerwelle, 2013). In addition, on January 31, 2014 during a panel called "Rebooting Trust? Freedom vs. Security in Cyberspace," German interior minister Thomas de Maiziere said: "The information that we are provided with is not sufficient and the political damage is greater than the security benefits across the Atlantic ("Panel discussion," 2014). As it is expected for the opening and argumentation stage, Berlin requests (i.e., directive speech acts) argumentation from Washington. Specifically, Germany appears to ask Washington to provide argumentation and support for its first and second standpoint (i.e., 1. The US gathers foreign intelligence in a way and of the type gathered by all nations, 2. US intelligence services

operate within the boundaries of the law). While at the beginning of their discussion Berlin only asked Washington to provide information and investigate the allegations, Germany's interior minister points out the consequences (i.e., political damage) of failing to grant Berlin's request. Here, Germany suggests that transparency will help to prevent foreign policy damage. In this specific context, Berlin's request does not really represent support for a standpoint, but rather a means (i.e., transparency) to an end (i.e., minimizing diplomatic damage).

In the argumentation stage, the protagonist puts forward reasons to systematically defend his or her standpoint against the antagonist's criticism. In the case of Germany and Washington's dispute, the argumentation stage manifests itself in those moments where the US is trying to remove Germany's doubts about whether security should gain higher priority over privacy concerns. Specifically, the argumentation stage reveals itself in statements that address the quality of Washington's third (i.e., In order to protect the US and other countries around the world from security threats, it is indispensable for US intelligence services to operate effectively) and Berlin's second standpoint (i.e., In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way) and the reasons that support them.

Washington's reasoning aims at maintaining the effectiveness of US intelligence services. Whether the US is arguing to reform America's surveillance programs or to restore trust with foreign leaders, it is vital to America's security strategy for its programs to operate effectively. For example, on November 1, 2013, Democratic Senator Dianne Feinstein released a joint statement regarding the FISA Improvement Act in which she argued: "This bill accomplishes our goals of increased transparency and improved privacy protections, while maintaining operational effectiveness and flexibility for the intelligence community" (Feinstein

& Chambliss, 2013, 21). In addition, on January 17, 2014, Obama announced a series of reforms to the NSA data-collection program in front of intelligence officials at the Department of Justice. He said: “And for our intelligence community to be effective over the long haul, we must maintain the trust of the American people, and people around the world” (Obama, 2014a, p. 4).

Considering that for Washington security and the fight against terrorism take precedence over privacy concerns, effectiveness appears to be the vehicle to achieve these objectives. While throughout the discussion, Washington insists that in order to guarantee security it is not willing to sacrifice the effectiveness of its surveillance mechanisms, the US does not specify what effectiveness implies. Does it only refer to effectiveness in terms of preventing domestic and international terrorist attacks, or does it also refer to protecting national interests to maintain economic advantage, for example? In addition, does it also entail effective collaboration with intelligence agencies from other countries? Intelligence services are only effective when they are able to carry out covert operations and are not constantly subjected to public scrutiny. However, using the idea of effectiveness to defend its third standpoint without explicitly defining it, suggests that Washington is intentionally misusing ambiguity (i.e., strategic ambiguity). In that regard, one may argue that this strategy violates the usage rule, which is a rule that applies to all stages of a critical discussion. Intentional use of ambiguity invites misinterpretations and false accusations, which in turn complicates a reasonable resolution of the dispute.

Germany’s second and third standpoint (i.e., 2. In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way, 3. The means by which a nation ensures national security should be proportionate to the damage that they cause) criticize Washington’s position to prioritize security over privacy needs. However, as mentioned

in the discussion about mixed and non-mixed differences of opinion, only Berlin's second standpoint is developed in direct opposition to Washington's position. In general, Berlin's criticism relies on various reasons that one may summarize in the form of an argument from negative consequences: If Washington fails to balance surveillance, security, and privacy in a reasonable way, then this will lead to less security, damage German-American relations, and threaten the democratic infrastructure of the internet. Specifically, the reasoning used to support Germany's third standpoint aims at pointing out the negative consequences of sacrificing privacy concerns for an effective security strategy. For example, on January 29, 2014 in her State of the Nation address to the German parliament, Merkel said: "A strategy in which the end justifies the means, in which everything that is technically possible is realized, breaches trust and sows distrust. The result is *not more security but less* [emphasis added]" (Merkel, 2014, p. 12). Further, Merkel argued: "We want the Internet to remain an instrument of great promise, and for that reason we wish to protect it. We wish to protect it from destruction from within through criminal abuse *and from non-transparent all-encompassing surveillance from outside* [emphasis added]" (Merkel, 2014, p. 12). In addition, on January 31, 2014 during a panel called "Rebooting Trust? Freedom vs. Security in Cyberspace German interior minister Thomas de Maiziere said:

We do not have any evidence, there are no fingerprints, but according to everything I am hearing these activities have been conducted to the detriment of German citizens and knows no bounds. The information that we are provided with is not sufficient *and the political damage is greater than the security benefit across the Atlantic* [emphasis added]. ("Panel discussion," 2014)

Interestingly, in order to support its third standpoint, Germany presents—among other premises—a type of position-to-know argumentation. Due to its experience with the Stasi and the Gestapo Germany claims to be in the position to know how to balance security and privacy without sacrificing one or the other. Merkel presents this reasoning in her State of the Nation address to the German parliament on January 29, 2014. She said:

Since time immemorial, freedom and security have, to a degree, been conflicting aims.

They must constantly be held in balance by those who make and apply the law. *We know that all too well in Germany from our lengthy discussions on domestic surveillance and data retention* [emphasis added] (Merkel, 2014, p. 12).

While her reasoning is implied, it is fair to assume that—considering that Germany’s experience with the Gestapo and the Stasi count as world history—not only her immediate but also other audiences were able to complete her argumentation. In that regard, her argument functioned as an enthymeme or incomplete syllogism. One of the premises of her argument is missing (i.e., Germany’s experience with the Gestapo and the Stasi revealed that insufficient political and judicial oversight creates an imbalance between freedom and security). Because the audience completes the syllogism for the arguer, it is often considered a particularly effective argument in that the audience arrives at a conclusion by themselves.

Arguments from position-to-know are usually questioned by raising concerns about whether the source is honest trustworthy, reliable, and generally in a position to ascertain a particular truth (Walton, 2006, p. 86). However, Merkel as the head of the German government not only represent Germany and Germany’s history as a whole, but growing up under the communist regime of East Germany and experiencing totalitarianism first hand, she adds personal ethos to the argument that is hard to refute without committing a personal attack fallacy.

It is worth mentioning that Germany does not use this argument frequently and when it is used, it is implied. After struggling to assume a global leadership role after Germany's reunification in 1990, Berlin finally built up political confidence and is gaining influence as a world leader. This involves military, economic, and political affairs around the world. Drawing upon cultural sentiments for issues of international importance may portray Germany as a nation that is still trying to come to terms with its own history. In addition, if Germany had used this argument frequently, then one may question whether comparing America's surveillance and security strategies to those used by the Stasi and Gestapo constitutes a fallacy of false analogy and would thereby violate the argumentation scheme rule. It may be true that insufficient governmental oversight led to an imbalance between surveillance, security, and privacy in the case of World War II Germany, East Germany between 1950 and 1989, and the NSA spying scandal. However, that does not imply that it happened to the same extent or was driven by similar motives. Due to these reasons, it is not surprising that Berlin only implicitly referred to Germany's experience with insufficiently monitored surveillance programs and used this reference rather scarcely.

In the concluding stage, the protagonist and the antagonist determine whether the protagonist was able to successfully defend his or her standpoint against the criticism of the antagonist. Considering that national security, privacy, and surveillance constitute a familiar discussion between Germany and the US (i.e., How should democratic nations use surveillance to guarantee national security *and* protect people's right to privacy?), it is difficult to determine when Germany and the US reached an agreement about what standpoint prevails. However, as mentioned earlier, the cyber dialogue not only introduced a new activity type to the discussion, but also constituted—one may argue—another opening stage.

Reconstruction of the Argumentation Structure

Before discussing the different types of argumentation (i.e., single, subordinate, multiple, coordinative) that Berlin and Washington employed, it is worth mentioning that it was often difficult to distinguish between the different argumentation types. Specifically, it was challenging to differentiate coordinative and multiple argumentation. In order to determine whether an argumentation type was multiple or coordinative, I not only relied on contextual information, but also used what Walton (2006) refers to as the “blackout test” (p. 151). He suggests to suppress one of the premises and see if that affects the standpoint. He explains, “[i]f the basis of support for the conclusion drops radically, then that is evidence that the premise is part of an argument with a linked structure [i.e., coordinative argumentation]” (p. 151). The argumentation structure of Washington’s argumentation is as follows:

Washington's Standpoints, expressed and unexpressed Premises

1. **The US gathers foreign intelligence in a way and of the type gathered by all nations.**
 - (1.1) In the intelligence community it is accepted practice to spy on each other.
 2. **US intelligence services operate within the boundaries of the law.**
 - 2.1 US intelligence services are subject to rigorous oversight, involving all three branches of government.
 3. **In order to protect the US and other countries around the world from security threats (e.g., terrorism, the proliferation of weapons of mass destruction and cyber-attacks), it is indispensable for US intelligence services to operate effectively.**
 - 3.1a Reforming America's surveillance programs helps to increase transparency and improve privacy protections, while maintaining operational effectiveness and flexibility for the intelligence community.
 - 3.1b For US intelligence services to operate effectively, it is important to maintain the trust of the American people and other nations.
 - 3.1c The Edward Snowden disclosures are preventing the NSA from conducting intelligence.
 - 3.1d Because the US possesses greater surveillance capabilities, it means that Washington bears greater responsibilities for helping to protect countries around the world.
 - (3.1e) Effective surveillance ensures security in a complex world.
 - 3.1f We only spy on people who threaten our national security.
 4. **US intelligence programs should be revised to balance security and privacy in the US and abroad.**
 - 4.1a A review of all US intelligence programs is necessary so that members of the Senate Intelligence Committee are informed as to how the intelligence community operates.
 - 4.1b America's global leadership demands that the US balances its security requirements against its need to maintain the trust and cooperation among people and leaders around the world.
 - 4.1c Laws should be in line with the constitution.
 - 4.1d The US democracy has always been work in progress.
 5. **Trust has been lost, but the US and Germany share a friendship built on common values, which will help to restore trust and renew the German-American friendship.**
 - 5.1a The media misportrayed how US intelligence services operate, which led to a decline in trust in the US Intelligence Community.
 - 5.1b The foundation of the German-American security relationship has always been defined by cooperation against common threats.
 - 5.1c Germany and Europe are indispensable partners in addressing global threats and challenges.
 - 5.1d The US is committed to a cyber dialogue, which will help to renew the German-American friendship by increasing transparency.
-

Figure 3. Reconstruction of Washington's argumentation structure

Overall Washington tends to use coordinative argumentation. According to van Eemeren et al. (1996), “[c]oordinative argumentation, consisting of the advancing of additional arguments, results from an attempt to remove the opponent’s doubt or criticism concerning the sufficiency of the argumentation” (p. 308). In contrast to multiple argumentation where arguments provide sufficient support for a standpoint independent of each other, coordinative argumentation describes arguments that are interdependently linked in order to provide sufficient support for a standpoint (van Eemeren, 1992, pp. 73-77). That way, all the arguments in coordinative argumentation only provide partial but not conclusive support for a standpoint.

Potentially, multiple argumentation withstands various doubts and criticisms without sacrificing the validity of a standpoint. If an audience does not accept a particular premise as adequate, the arguer provides another premise that is equally sufficient to draw a particular conclusion. This allows an arguer to vehemently defend his or her standpoint against multiple doubters. In addition, an arguer might use multiple argumentation to achieve rhetorical goals by trying to evoke the impression that he or she considered various objections to his or her standpoint (van Eemeren, 1992, p. 74). Considering the effectiveness of multiple argumentation, it is surprising that Washington almost exclusively used coordinative argumentation.

One explanation for this may be that in the absence of a bilateral or international rules and regulations for surveillance and data protection, Washington was not prepared to provide sufficient justification for their foreign data gathering methods. Without a comprehensive legal and political framework to rely on, the NSA revelations caught Washington off guard and it had to develop reasoning on the fly. This explains why for its first standpoint (i.e., 1. The US gathers foreign intelligence in a way and of the type gathered by all nations), the US did not even provide explicit reasons. They expected the different audiences to tacitly agree that in the

intelligence community it is common practice to spy on each other. The argumentation structure suggests that Washington developed reasoning for their standpoints whenever they deemed it necessary. As the dispute grew more complex, so did their argumentation. The US added reasons here and there which in the end translated into coordinative argumentation.

Washington's tendency to add reasoning whenever it deemed it was necessary is also reflected by their reluctance to justify their data gathering methods in the opening stage. As discussed earlier, throughout the dispute Germany asked Washington to provide argumentation for their position.

In summary, Washington advances single argumentation (1.1, argumentum ad populum) in support of standpoint 1, single argumentation (2.1) in support of standpoint 2, coordinative argumentation (3.1a, 3.1b, 3.1c, 3.1d, 3.1e, 3.1f) in support of standpoint 3, coordinative argumentation (4.1a, 4.1b, 4.1c, 4.1d) in support of standpoint 4, and coordinative argumentation (5.1a, 5.1b, 5.1c, 5.1d) in support of standpoint 5.

The argumentation structure of Berlin's argumentation is as follows:

Berlin's Standpoints, expressed and unexpressed Premises

- 1. Indiscriminate surveillance does not enhance security for all but undermines mutual trust.**
 - 1.1a If it is true that the NSA taps the communications of German politicians then it would constitute a breach of trust.
 - 1.1b A national security strategy in which the end justifies the means breaches trust.
 - 2. In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way.**
 - 2.1a Germany learned from its experience with the Stasi and the Gestapo that insufficient governmental oversight leads to an imbalance between surveillance, security, and privacy.
 - (2.1b) Failing to balance surveillance, security, and privacy in a reasonable way will threaten people's security and privacy.
 - 2.1c In the absence of an international agreement for data protection, international laws should balance surveillance, security, and privacy in a way that is in line with democratic values.
 - 3. The means by which a nation ensures national security should be proportionate to the damage that they cause.**
 - 3.1a America's reluctance to share information about their surveillance activities damages German-American relations.
 - 3.1b Ensuring security with all available means creates not more but less security.
 - 3.2 The political damage that indiscriminate surveillance causes is greater than the security benefit across the Atlantic.
 - 3.3 Indiscriminate surveillance threatens the democratic infrastructure of the internet.
 - (4.) A disagreement over democratic values should be carried out openly and in a reasonable way.**
 - 4.1 Undemocratic countries are watching to see how the democratic world is responding to threats.
 - 4.2 A bilateral cyber dialogue will help to enhance transparency and encourage public participation.
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Figure 4. Reconstruction of Berlin's argumentation structure

Similar to Washington's argumentation structure, Berlin tends to also use coordinative argumentation. However, for issues that are of particular importance to Germany (i.e., trust, transparency, question of proportionality), Berlin uses multiple argumentation (3.2, 3.3, 4.1, 4.2).

As mentioned earlier, multiple argumentation allows arguers to not only address doubt and criticism by various audiences and thereby appear more credible, but it also enables arguers to vehemently defend their position. For example, contending that indiscriminate surveillance constitutes a threat to the democratic infrastructure of the internet may resonate with interest groups who are fighting for digital freedom, but may not resonate with the US government. However, arguing that the damage that America's arbitrary surveillance methods cause is greater than the security benefits it creates between Europe and the US might resonate with America's position to emphasize security over privacy concerns, and may lead Washington to accept standpoint 3. Similarly, arguing that a bilateral cyber dialogue will help to enhance transparency and encourage public participation may not be enough for Washington to accept standpoint four. But, arguing that the world is watching to see how democratic nations like Germany and the US are handling privacy and security issues may lead Washington to accept that standpoint.

In summary, Berlin advances coordinative argumentation (1.1a, 1.1b) in support of standpoint 1, coordinative argumentation (2.1a, 2.1b, 2.1c) in support of standpoint 2, coordinative (3.1a, 3.1b) and multiple argumentation (3.2, 3.3) in support of standpoint 3, and multiple argumentation (4.1, 4.2) in support of standpoint 4.

Strategic Maneuvering

The following sub-section will now explore how Washington and Berlin adapt to different audiences, select topics, and use presentational devices to achieve their rhetorical goals for the different discussion stages. The German-American dispute over the NSA revelations offers numerous examples of strategic maneuvering. However, this inquiry will only deal with the most noteworthy examples of Washington's and Berlin's rhetorical strategies.

In order to avoid being publicly discredited for failing to act in accordance with the government's manifesto, for example, cabinet members are trying to protect a consistent public image domestically and abroad. Put differently, governments are expected to speak with a unified voice. So, when democratic nations are in dialogue about issues that are of national and international importance (i.e., surveillance, security, and privacy in the digital age), they confront a number of constraints when trying to adapt to (a) particular audience(s). How is it possible to uphold a consistent image when trying to appeal to a local and/or global audience? National and international audiences filter arguments through different ideological and political screens. While van Eemeren (2010) argues that empirical research confirms that "the norms of reasonableness incorporated in the pragma-dialectical discussion procedure are to a large extent intersubjectively acceptable to ordinary arguers" (pp. 35-36), Berlin and Washington are still confronted with a series of challenges. Achieving effectiveness *and* reasonableness for audience adaptation requires Berlin and Washington to convince their local supporters (e.g., party members, voters) and address doubt from an imagined audience that allows them to appear rational. To achieve these seemingly irreconcilable goals, Kienpointner (2013) suggests to develop standpoints that try to transcend traditional ideologies and are addressed to what Perelman and Olbrechts-Tyteca (1969) refer to as the "universal audience" (p. 31). The universal audience functions as an argumentative test in that it requires arguers to determine whether diverse audiences will accept the premises of a standpoint.

If one were to apply Perelman and Olbrechts-Tyteca's idea of a universal audience to Washington's first standpoint (i.e., The US gathers foreign intelligence in a way and of the type gathered by all nations), then one may conclude that Washington fails to anticipate what premises different audiences accept and reject. The US assumes that doubters would tacitly

accept the premise that in the intelligence community it is common practice to spy on each other. While Washington's ad populum argument might reach out to a variety of individuals and audiences, it might also offend audiences who oppose to how the US is gathering data and to what end. Considering that Washington's premise for the first standpoint was not explicitly mentioned, one might even argue that the US assumed audiences would accept its first standpoint without further support. This would then constitute what is referred to as begging the question or the fallacy of *petitio principii*. Long (1983) contends that "[a]n argument which fails to develop according to the nature of its audience employs the *petition principii*, that is, the rhetorical fallacy in which a discourse uses premises not accepted by the audience" (p. 109). In that regard, by means of an ad populum argument, Washington's first standpoint might be effective in appealing to mass audiences, however, it fails to recognize the doubts and criticisms by specific audiences, which renders it an unreasonable maneuver.

With its second standpoint (i.e., US intelligence services operate within the boundaries of the law), Washington enhances the effectiveness of its argument by arguing from the position of the status quo. Embedding this standpoint in the context of the law enables Washington to demonstrate the appropriateness and legitimacy of US surveillance practices. Considering that on October 27, 2013, Germany's interior minister Hans-Peter Friedrich explained to the German mass circulation newspaper Bild am Sonntag (BAMS) that "[i]f the Americans tapped mobile phones in Germany they have broken German law on German soil" (as cited in "Germany demands," 2013, para. 4, 11), it appears that America's standpoint was designed to adapt to a local audience. Although US politicians and intelligence officials debated the lawfulness of and suggested reforms to the Foreign Intelligence Surveillance Act (FISA) in various hearings, the standpoint does not express acknowledgement of the legal restraints on foreign surveillance in

other countries. In terms of audience adaptation, this constitutes an effective maneuver to defend the lawfulness of US intelligence services to US audiences but does not recognize the doubts and concerns from international audiences, which are the subject of FISA.

In terms of topical potential, Washington's first and second standpoint appear to revolve around the topics of appropriateness and rightfulness. While these topics help to portray US surveillance activities as legitimate, Washington does not address possible negative side effects when presenting *only* the appropriateness and legitimacy of its first and second standpoint. For example, US data collection practices might be inappropriate and damaging for foreign relations and US approval ratings abroad. Not discussing potentially negative domestic and international repercussions of America's surveillance programs and not indicating whether the US is willing to reconsider its position(s) in the light of the NSA revelations and international criticism might be criticized as a violation of reasonableness. Choosing only appropriateness and lawfulness as the topics to advance their first and second standpoint suggest that Washington was not willing to subject their positions to public scrutiny.

Washington uses different presentational devices to enhance the effectiveness of its first and second standpoint. For example, when testifying before the House of Representative Intelligence Committee on October 29, 2013, director of National Intelligence James Clapper said: “. . . some of this reminds me a lot of the classic movie Casablanca: My god there is gambling going on here” (“USHR19,” 2013). Considering that throughout the hearing, Clapper and the director of the NSA Keith Alexander repeatedly said that it is accepted practice in the intelligence community to spy on foreign leaders, one may interpret Clapper's statement as an attempt to point out the absurdity of the discussion. In addition, referring to Casablanca to illustrate the practices of surveillance agencies may also be interpreted as a way to divert

attention from the seriousness of the issue (i.e., spying on allies for no apparent security purposes). Finally, Clapper's reference to Casablanca increases the effectiveness of Washington's first standpoint, but does not address Berlin's concerns.

For the third standpoint (i.e., In order to protect the US and other countries around the world from security threats, it is indispensable for the US intelligence services to operate effectively), Washington continues its strategy to try to enhance the effectiveness of its standpoints. For example, Washington is defending its position by blaming the Edward Snowden disclosures for preventing US security agencies from conducting intelligence. For example, when James Clapper testified before the House of Representative Intelligence Committee on October 29, 2013, he said: "From my vantage, as DNI, these disclosures [Edward Snowden revelations] are threatening our ability to conduct intelligence, and to keep our country safe" (Clapper, 2013, para. 9). This way, Washington turned Edward Snowden and the NSA revelations into a scape goat for preventing US intelligence services to ensure national security. This heightens the effectiveness of Washington's third standpoint in that it encourages audiences to consider what prevents US security agencies from guaranteeing security rather than questioning how intelligence services should balance security and privacy. Put differently, pointing out the difficulties that the NSA revelations caused for US surveillance agencies, urges audiences to recognize the necessity of an effectively operating intelligence community.

Over the course of the dispute Washington addresses the issue of trust and transparency that Berlin is particularly concerned about. Washington admits that the NSA revelations created a breach of trust for the German-American relationship. In order to restore trust for German-American relationship, Washington used various rhetorical strategies. Washington not only tried to create new common ground by emphasizing that Germany and America's shared

values will help to surmount this crisis, but the US also blamed the media for misportraying how US intelligence services operate. In addition, Washington committed itself to the German-American cyber dialogue that will help to rebuild German-American relations by increasing transparency and discussing how security, surveillance, and privacy should be balanced. Finally, the US repeatedly used presentational devices that suggest to quickly get passed this dispute. For example, at the 50th Munich Security Conference, Secretary of State John Kerry delivered a joint address with Secretary of Defense Chuck Hagel on February 1, 2014. John Kerry said:

So as a transatlantic community, we cannot retreat and we must do more than just recover—all of us. What we need in 2014 is a transatlantic renaissance, a new burst of energy and commitment and investment in the three roots of our strength: our economic prosperity, our shared security, and the common values that sustain us. (Kerry & Hagel, 2014, para. 18)

Kerry reiterated the idea of a transatlantic renaissance at news conferences with Merkel and German foreign minister Frank-Walter Steinmeier. For instance, in a news conference with German foreign minister Frank-Walter Steinmeier on January 31, 2014, Kerry said:

So we look forward to continuing to work with Germany very, very closely to make progress on all of these issues, and frankly, just to build on the strength of the relationship that has defined United States-German relations for many decades now. And I look forward to my further meetings on that subject, but most importantly, I look forward to *turning a page* [emphasis added] and getting us focused on the larger, most critical issues that we face together. (Kerry, 2014a, para. 24)

Bringing about a quick (rhetorical) renewal in German-American relations allows Washington to address the trust issue without actually addressing it. A German-American rebirth disguises differences of opinion and diverts attention from the spying scandal.

Washington uses a rather interesting strategic maneuver to support its fourth standpoint (i.e., US intelligence programs should be revised to balance security and privacy in the US and abroad). Washington appears to use intentional self-criticism to admit that America's surveillance programs also trigger negative side effects. For example, at the 50th Munich Security Conference, John Kerry said:

As I say all of this, the United States is the first to admit that our democracy too has always been a work in progress. We know that. We're proud that we work at it openly, transparently, accountably to reform it, to fix it, and to strengthen it when needed.

President Obama's review and revision of our signals intelligence practices is a case in point. So I assure you we come to this conversation with humility" (Kerry & Hagel, 2014, para. 30).

Considering that according to common stereotypes, Washington usually tries to convey a domestic and foreign policy image of a determined and confident global leader, it is an unusual maneuver for the US to implicitly admit weaknesses. However, assuming that European politicians expect Washington to present itself as a self-assured world leader, self-criticism and self-reflection adds to Washington's credibility and thereby enhances the level of effectiveness. By adding to Washington's credibility, self-criticism functions as audience adaptation.

Berlin's argumentation features numerous examples of strategic maneuvering, however, considering that trust and transparency are of particular importance to Germany's position, I will

explore Berlin's first response to the NSA revelations and how Berlin exploited the topic of trust to maneuver strategically.

When on October 23rd the German newsmagazine *Der Spiegel* reported that the NSA tapped Angela Merkel's mobile phone communications, the chancellor's spokesman Steffen Seibert said at a news conference: "Merkel telephoned Obama and said that she disapproves of the NSA surveillance practices if the allegations should be confirmed and regards them as completely unacceptable". He added, "if the allegations are true, then this would constitute a grave breach of trust" (as cited in "Merkel calls Obama," 2013, para. 4). This position was repeated by a statement posted on the German government's website in which the German government asked for immediate and comprehensive information regarding the NSA's surveillance practices. In addition, German foreign Minister Westerwelle said at a news conference: "For us, spying on close friends and partners is totally unacceptable. This undermines trust and this can harm our friendship. We expect that these activities that had been reported will be comprehensively investigated. We need the truth now" (Westerwelle, 2013). Finally, in her state of the nation address on January 29th, 2014, Merkel said that "[a] strategy in which . . . everything that is technically possible is realized, breaches trust and sows distrust" (Merkel, 2014, p. 12).

Berlin's first responds to the NSA revelations represents a hypothetical or conditional statement (i.e., If the allegations are true, then this would constitute a grave breach of trust). Specifically, it constitutes a hypothetical statement in that a breach of trust between countries may be caused by different actions (e.g., violation of international agreements), and at this point in the argumentation it was not clear whether the NSA actually tapped the communications of German politicians and citizens, rendering Germany's first response hypothetical in general.

Revealing the hypothetical nature of Berlin's first reaction helps to illustrate how Germany—instead of personally accusing the US of diplomatic misconduct—suggests possible diplomatic consequences. Argumentatively, Germany's first responds to the NSA revelations functioned on various levels. For example, by saying that “it would constitute a breach of trust” rather than “it is constituting a breach of trust,” enabled Germany to assume a hypothetical position without prematurely committing to this position. Also, instead of putting forward an assertive statement (i.e., “it is constituting a breach of trust), which would allow Washington and the rest of the world to hold Berlin accountable, Germany's hypothetical statement leaves it up to investigators and authorities to provide accountability. That way Berlin is released from carrying the burden of proof, handing it over to investigators and authorities. This introduced the possibility for Germany to easily withdraw its first response in case the allegations turn out to be false.

In addition to reserving the right to easily withdraw the statement if necessary and handing over the burden of accountability to investigators and authorities, one might interpret Germany's first response as an indirect threat to the US: If the US values a trusting relationship with Germany and wishes to avoid a breach of trust, then it should investigate the issue and stop spying on German politicians and citizens. So conceived, Berlin tried to test out how Washington regards trust for the German-American relationship. Treating Germany's first response to the NSA revelations as an indirect threat only rings true, however, if the US regards trust as a desirable and effective asset for transatlantic diplomacy.

Finally, by trying to define the difference of opinion as a possible breach of trust, Germany's first responds to the NSA revelations set boundaries for the argumentative ground. Considering that trust is considered one of the building blocks of international diplomacy, it would be difficult for the US to reject this definition. This definition provided Berlin a certain

level of control over the discussion from the beginning. For example, what under different circumstances could have constituted a face threat for the US, Germany's tentative definition of the German-American dispute as a breach of trust justified to summon the US ambassador John Emerson to the foreign Ministry in Berlin.

Summary

By creating an analytic overview of the argumentation between Washington and Berlin and analyzing a few examples of strategic maneuvering, the reader is now in the position to see how Germany and the US achieved and failed to achieve their dialectical and rhetorical aims. Specifically, identifying whether a standpoint created a mixed or non-mixed difference of opinion helped to specify the real or projected audience(s) that Washington and Berlin addressed. By relating Berlin and Washington's differences of opinion to a particular theme, it was possible to locate the different sources of tension (i.e., trust/transparency, questions of proportionality, importance of security and privacy) of the dispute. Further, identifying tentative discussion stages in spite of the open-ended nature of public political argumentation, helped to see how Washington and Berlin's argumentation followed van Eemeren's ideal model for critical argumentation and where they violated it. Reconstructing the structure of Berlin's and Washington's argumentation enabled me to map out how they supported their standpoints. In addition, it allowed me to make educated guesses about how the absence of international laws for data-protection and surveillance affect Berlin's and Washington's argumentation. Finally, analyzing how Washington and Berlin adapt to different audiences, select topics, and use presentational devices helped to reveal their rhetorical strategies.

CHAPTER V

CONCLUSIONS

In the preceding sections I have retraced the highlights of German-American relations, introduced a method for analyzing and evaluating Berlin's and Washington's argumentation, tried to define the constitutive components of public political argumentation in pragma-dialectical terms, reconstructed Germany and America's public discourse in dialogue form, and analyzed their specific dialectical and rhetorical strategies. The overall goal of these efforts was to see whether it is possible to treat political speeches, committee hearing, interviews, news conferences, press releases, etc., as contributions to a greater critical discussion between countries. While applying pragma-dialectics—which was originally designed to analyze and evaluate dialogical argumentation in institutionalized context—I not only realized that the present analysis is testing the scope of the theory, but I also identified problems for applying pragma-dialectics to public political argumentation (i.e., lightly institutionalized contexts) and discovered opportunity for future research. In the following paragraphs and subsections, I will now present a brief review of the previous sections and discuss the research questions, before I then turn to the limitations and possible future research.

This analysis examined how Washington and Berlin argued about privacy and national security in light of the NSA revelations. Specifically, it investigated how in the absence of bilateral and international rules and regulations for data protection and foreign intelligence, Berlin and Washington achieved their dialectical and rhetorical aims. The first section outlined the beginning and early evolution of German-American relations. The purpose of this section was to contextualize and explain why the NSA spying scandal potentially threatens the relationship between Berlin and Washington. In addition, it discussed the importance of

democratic values for the German-American relationship; values, which Washington used during the debate over the NSA revelations to reestablish common ground and regain trust. The second section developed the immediate context for the German-American dispute over the NSA revelations. It focused on how Germany and the US tried to develop a transatlantic relationship without a Cold-War paradigm. In addition, it described how America and Germany's foreign policy approaches still shape their position regarding surveillance, privacy, and national security and rhetorical strategies. The third section explained why the standard pragma-dialectical and the extended version of the pragma-dialectical theory (i.e., strategic maneuvering) are appropriate and fruitful approaches for analyzing and evaluating German-American discourse. This section was particularly important in that it not only introduced the theory and method to the reader, but also tried to conceptualize individual public policy statements as contributions to a greater democratic dialogue that is intended to create and maintain a healthy democratic culture. In order to achieve that, I first explored general characteristics of political argumentation (i.e., lack of temporal boundaries, heterogeneous audiences, accessible to various social groups). Then I described public political argumentation in pragma-dialectical terms (i.e., institutional point, domain, genre, activity type, speech event). Finally, I explored polylogical models of argumentative discussion, which allowed me to identify Berlin and Washington as two distinct discussants in the controversy about surveillance, security, and privacy. In order to assess the dialectical and rhetorical dimensions of the German-American dispute over the NSA revelations, the fourth section presented an analytic overview and analyzed examples of strategic maneuvering. The following sub-section will now explore what answers the analytic overview and strategic maneuvering analysis generated for the research questions.

Discussion of Research Questions

The present analysis was guided by the following research questions:

RQ₁: How do Washington and Berlin comply with or violate rules for reasonable discussion while adapting to domestic and international audiences?

RQ₂: How does the lack of international regulations for data protection—which would help regulate how Germany and the US balance surveillance, cyber security, and privacy—complicate Washington and Berlin’s argumentation?

RQ₃: What do Washington’s and Berlin’s rhetorical strategies (i.e., topical choice, audience adaptation, and presentational design) reveal about their foreign policy strategies regarding privacy?

The analysis revealed a few violations of van Eemeren’s ideal model for critical discussion. While these violations have been discussed in detail in the analytic overview, I will briefly highlight the most noteworthy examples here and explain how adapting to different audiences interfered with Berlin’s and Washington’s attempts to achieve reasonableness.

As a first response to the NSA revelations, Berlin repeatedly used if-then statements (e.g., If it is true that the NSA taps the communications of German politicians then it would constitute a breach of trust). With this conditional statement, Berlin not only points out diplomatic consequences (i.e., breach of trust), if the allegations are true, but also restricts America’s ability to respond freely, which constitutes a violation of the freedom rule. These if-then statements may also be interpreted as indirect threats: If the US values a trusting relationship with Germany and wishes to avoid a breach of trust, then it should investigate the issue and stop spying on German politicians and citizens. That way, Berlin tried to test out how Washington regards trust for the German-American relationship. Treating Germany’s first response to the NSA

revelations as an indirect threat only rings true, however, if the US regards trust as a desirable and effective asset for transatlantic diplomacy. In that respect, one may even argue that Berlin's first public responses function as a form of argumentum ad baculum or fallacy of the stick. Accordingly, Berlin's if-then statement not only restricted America's ability to freely develop their argumentation, but it also tested whether Washington would consider a breach of trust a fair punishment for how US intelligence agencies conduct foreign surveillance.

Instead of using a declarative sentence (e.g., The NSA revelations constitute a breach of trust), the conditional sentence serves different purposes depending on whether one interprets it from the perspective of an American or German audience. For example, German audiences who are generally critical of America's foreign policies may interpret it as an effective threat that demonstrates Germany's newly gained confidence for international affairs. US audiences who are advocating the idea that the US gathers intelligence in a way and of the type gathered by all nations might interpret this statement not as a threat but as an inappropriate diplomatic response. In that respect, Germany's first response to the NSA revelations functioned as an effective response for the German audience rather than a reasonable maneuver that invites a rational exchange of opinions with Washington.

How the absence of a bilateral and international agreements for data protection and intelligence gathering affected Germany's and Berlin's argumentation has been sufficiently discussed in the section about the reconstruction of the argumentation structure. In order to avoid repetition and redundancies I will only highlight important examples here. Washington and Berlin tended to use coordinative argumentation. International rules and regulations, agreements, and laws provide justification for governments' actions and allow governments to argue the status quo. Without a comprehensive legal and political framework to rely on, the

NSA revelations caught Washington and Berlin off guard and they had to develop reasoning on the fly. This explains why for its first standpoint (i.e., 1. The US gathers foreign intelligence in a way and of the type gathered by all nations), the US did not even provide explicit reasons. They expected the different audiences to tacitly agree that in the intelligence community it is common practice to spy on each other. The argumentation structure suggests that Washington developed reasoning for their standpoints whenever they deemed it necessary. As the dispute grew more complex, so did their argumentation. The US added reasons here and there which in the end translated into coordinative argumentation.

Regrettably, with this analysis I was not able to sufficiently address how Germany's and Washington's foreign policy styles manifested themselves in their argumentation. While questions about Germany's and America's foreign policy styles are relatively broad, future research should focus on particular aspects. Possibly, it should try to relate a particular aspect of a foreign policy style (e.g., multilateralism, building disposable relations) to reasonableness or effectiveness. For example, does multilateralism rather feature reasonable or effective maneuvers? The following paragraphs will now discuss a few implications of the research results.

It appears that Washington not only improvised argumentation due to the absence of standards for data protection and intelligence gathering, but assumed that because intelligence services operate in secret, it is not necessary to offer justification about how US spying agencies gather foreign intelligence. One may interpret Washington's attitude to not recognize the necessity to justify how US intelligence services operate as a sign of arrogance: Why is it necessary to explain and defend US intelligence activities when they operate in secret? Interpreting Washington's reasoning as a sign of arrogance results from its failure to account for

audiences' demands. For instance, audiences' privacy concerns are effectively addressed by enhancing transparency. Evoking the impression that it is not necessary to subject the operations of US intelligence agencies to public doubt and criticism, does not increase transparency but provokes doubt and skepticism. Similarly, by not recognizing the necessity to publicly warrant the NSA's operations, Washington does not recognize Berlin's concerns about how arbitrary and indiscriminate surveillance breaches trust and threatens foreign relations. An administration that fails to provide sufficient argumentation for actions that potentially affect people's right to privacy, disregards audiences' concerns for international relations, and does not recognize that public justification of US spying practices is likely to enhance transparency, runs the risk of appearing arrogant. That way, Washington's argumentation, or lack thereof, created an arrogant public image. This interpretation is further supported by Washington's inclination to depict the operations of America's intelligence agencies and intelligence services around the world as self-explanatory truths. For example, on January 18, 2014, in an interview with the German public television broadcaster *ZDF*, Obama said:

. . . there is no point in having an intelligence service if you are restricted to the things that you can read in the New York Times or Der Spiegel. *The truth of the matter is that by definition* [emphasis added] the job of intelligence is to find out: Well, what are folks thinking? What are they doing? ("Interview US-President," 2014, p. 6)

Here, Washington uses a rather general and vague ("What are folks thinking?" "What are they doing?") definition of how US intelligence agencies operate in order to escape the obligation to offer argumentation. In a way, Washington hides behind this vague definition to not confront any detailed criticism. It is rather difficult to criticize a definition of US intelligence practices that does not specify the type of information that is gathered, or to what end

information is collected, for example. One may argue that escaping the obligation to defend US foreign intelligence operations is another attempt to guarantee the effectiveness of America's intelligence programs. Put differently, Washington's arrogant attitude enables Washington to dodge doubt and criticism, which in turn allows it to ensure the effectiveness of its spying programs.

The above mentioned example offers further evidence for why Washington relied on single and coordinative argumentation rather than multiple argumentation. Washington's (arrogant) attitude to not recognize the necessity to justify how US intelligence services operate translated into an argumentative strategy where arguments were only developed when it was absolutely necessary. That way, Washington's attitude to provide scarce argumentation, particularly in the beginning of the dispute, is also the result of a rather arrogant attitude, which appears to function as a way to (rhetorically) protect the effectiveness of America's surveillance programs. Specifically, Washington's single argumentation for its first and second standpoint is indicative of this (arrogant) attitude. In addition, Washington's coordinative argumentation for its third standpoint is specifically designed to support and (rhetorically) guarantee the effectiveness of the US foreign intelligence programs. In contrast to multiple argumentation, coordinative argumentation structures do not feature contingencies that would help guard against different criticisms. Developing an elaborate argumentation that offers argumentative flexibility and withstands scrutiny from different audiences requires careful consideration of the audience's demands and doubts. The coordinative argumentation used by Washington for its third standpoint only aims at legitimizing the importance of effective US surveillance programs for domestic and international security. This argumentation is not designed to withstand criticism from different audiences, address different audience demands and concerns, or create

argumentative flexibility for Washington. For example, if an audience argues that security will not be guaranteed by effective surveillance programs, but by other means, Washington will only be able to resort to premises that in support of the effectiveness of US intelligence programs. Put differently, Washington's premises for the third standpoint would constrain the US to constantly direct the discussion to the importance of effectively operating spying programs. In that respect, Washington is not inviting doubt and criticism, which would help to arrive at a reasonable resolution of the conflict.

Another example that is indicative of Washington's (arrogant) attitude is that Washington appears to assume that the risk of terrorism justifies the use of indiscriminate surveillance for different audiences. While on various occasions in the texts, Germany agrees that "in fighting terrorism, the work of the intelligence services is not only important, it is indeed indispensable" ("Remarks by President Obama and German Chancellor Merkel," 2014, para. 19), that does not imply that Germany accepts terrorist threats as an all-purpose argument for excessive spying. As evident by Washington's third standpoint (i.e., In order to protect the US and other countries around the world from security threats, it is indispensable for US intelligence services to operate effectively), Washington's use of terrorist threats to justify their policies is often driven by an end justifies the means logic, a logic that Germany explicitly rejects. For example, when Merkel delivered her State of the Nation address to the German parliament on January 29, 2014, she said: "A strategy in which the end justifies the means . . . breaches trust and sows distrust. *The result is not more security but less* [emphasis added]" (Merkel, 2014, p. 12). In that respect, Washington's attempts to justify US surveillance practices with the fight against terrorism does not account for opposition that is aimed at how the US uses the terrorism argument (i.e., the end justifies the means). Washington's use of terrorism to justify America's surveillance methods

not only offers another example to describe America's (arrogant) attitude in the German-American dispute over the NSA revelations, but it also reveals that the US administration failed to consider consequences of an indiscriminate surveillance program for international relations.

Among other aspects, the previous paragraphs revealed how Washington's attitude to not recognizing the necessity to justify America's spying operations for different audiences manifests itself in its argumentation structure. Specifically, Washington use of coordinative argumentation reflects its failure to design argumentation that accounts for demands and concerns from different audiences. In addition, it fails to guards against criticism from various audiences and create argumentative room to maneuver flexibly. In that regard, coordinative argumentation might be a sign of a less carefully developed foreign policy strategy, whereas multiple argumentation might represent a carefully developed foreign policy approach, designed to withstand scrutiny from various audiences.

While multiple argumentation appears to reflect a foreign policy strategy that accounts for various audiences and effectively guards against different criticisms and coordinative argumentation appears to constitute a foreign policy approach that is vulnerable to provoking criticisms, this does not entail that this rings true across various audiences. Coordinative argumentation might resonate with domestic audiences, while multiple argumentation resonates with international audiences. Maybe it is even more specific and coordinative argumentation appeals to US audiences, while multiple argumentation appeals to European audiences. For the analyst it is therefore imperative to determine what audience an arguer is addressing. Considering that in public political argumentation the analyst is dealing with a heterogeneous audience, it is often necessary to reverse engineer an audience from an arguer's argumentation.

For that reason, future research should help to identify what imagined audience(s) arguers are addressing when engaged in public political argumentation.

Limitations and Future Research

A pragma-dialectical analysis often presupposes a dyadic interaction that allows the analyst to identify distinct discussion partners and sequential exchanges of standpoints. So, when examining diplomatic argumentation from a pragma-dialectical perspective, the critic confronts various challenges. For example, identifying distinct interlocutors in public political discourse requires the analyst to subsume comments by foreign ministers, defense ministers, spokespersons, etc. under broader categories (e.g., Berlin/Washington). In addition, whether a statement by a foreign minister, defense minister, or government spokesperson, represent a country's standpoint is determined by whether it is supported by statements from other activity types (i.e., speeches, news conferences, interviews, etc.). This confronts the analyst with the challenge of deciding how many statements are necessary to constitute a standpoint and whether statements support an implicit standpoint.

With the present analysis I was not able to determine the threshold for what constitutes a standpoint for public controversies. However, future research should try to explore whether counting statements is appropriate for specifying countries' standpoints and arguments. While I used various contexts (e.g., history of German-American relations, foreign policy styles, institutional rationales) to test my first hunches about whether statements actually represent a standpoint for the discussion between Berlin and Washington, future research should also explore what type of contextual information will be particularly helpful and what contexts should be neglected. For example, a government's program or political manifesto may function as a useful starting point to see whether a standpoint is consistent with a government's overall

position on a particular issue (e.g., national security, international relations). Considering that political manifestos create commitments for governments that they may be held accountable for in public discourse, it appears to be a useful source for testing whether statements are in line with a government's broader standpoints. For example, the current party manifesto of the Christian Democratic Union of Germany (i.e., Angela Merkel's party) not only refers to terrorism and the spread of weapons of mass destruction as a threat to security, but it also ascertains that due to global threats . . . it is hardly possible any longer to separate internal security from external" ("Freedom and security," p. 16). One may interpret this as a hint of Germany's position to draft an international framework for data protection and cyber security.

Regarding my decision to use different texts to reconstruct Berlin's and Washington's standpoints, one may argue that statements by different governmental representatives do not relate to broader standpoints and only count as isolated remarks. However, considering that in diplomatic discourse individual speech acts are often perceived as representing a government's position toward a particular issue, it is fair to assume that politicians who are dealing with foreign affairs are interested in upholding a consistent foreign policy image. While these considerations do not guarantee that all public statements by governmental representatives represent a government's position on a particular issue, it serves as a point of departure for theorizing about how a country's standpoint evolves across various forms of public discourse.

Another challenge of this project was to group and combine different texts so they reconstruct the critical discussion between Berlin and Washington without distorting it. In order to accurately represent the German-American controversy about how to balance security and privacy, I adhered to a few intuitive standards. For example, standpoints were reconstructed in the order as they occurred in the texts (i.e., chronology). Only statements that were relevant

within the domain of diplomatic discourse were considered (i.e., domain relevance). Finally, only public statements from influential and authoritative political figures were considered (i.e., authoritative sources). In addition to these three intuitive standards (i.e., chronology, domain relevance, and authoritative sources), future research should help to develop standards that specify how to reconstruct public controversies using different text, so that it is in line with the pragma-dialectical framework.

The characteristics of public political discourse (e.g., heterogeneous audiences) created challenges for determining whether a standpoint and argument was predominantly intended for an international, national, or immediate audience. For instance, while Angela Merkel may address issues that are of international importance (e.g., national security, privacy, and surveillance) in her State of the Nation address, she might use these topics to gain support from her electorate, instead of sending a message to Washington. Similarly, with his State of the Union address, Obama might not try to contribute to a greater discussion about transatlantic or international issues and thereby defend America's position. Instead, he may use it as an opportunity to celebrate his administration's successes and gain support for his proposed policies. Thus, it was difficult to identify whose doubt and criticism Washington and Berlin addressed with their standpoints. It often required me to treat audiences as undefined and reverse engineer their doubts and criticisms from the standpoints that Berlin and Washington advanced. Considering that a great deal of Washington's and Berlin's standpoints appeared to be addressing doubt from undefined audiences, I am wondering how opinion polls and other instruments of audience analysis may help to specify the doubts, criticisms, and commitments of (a) particular audience(s).

Politicians often use speeches, TV appearances, news conferences, interviews, press releases, and social media to win an audience's support rather than to solve a difference of opinion. It was therefore imperative for this project to first locate reasonableness within public political discourse. In order to locate reasonableness within public political argumentation, I identified what might motivate politicians to reconcile their efforts to gain audience's support with being reasonable. For example, when politicians are discussing topics that affect relations with foreign countries they are well advised to anticipate the entirety of the domestic and diplomatic dialogue to which they are contributing. Not imagining different audiences for topics that are of international importance (e.g., data protection, security, and privacy) might result in criticism of isolationism. Furthermore, to gain an audience's approval for a certain standpoint, politicians—in order to appear as a rational person—are well advised to act as if their efforts are geared toward solving a dispute. When politicians argue for the sake of arguing, they appear less pragmatic in that their strategies are not solution-oriented.

In addition, one may even argue that politicians generally consider a real or projected discussion partner or audience as a source of rhetorical means (e.g., argumentum ad hominem) and not as a contributor to a collective decision making process. While this analysis does not present conclusive evidence for whether Washington and Berlin intended to create a reasonable discussion about how to balance security needs and privacy concerns, their discourse reveals instances where they tried to reconcile effectiveness with reasonableness. Particularly, their efforts to create new procedural and material starting points (i.e., increasing transparency through a transatlantic cyber dialogue), revealed that Berlin and Washington consider reasonableness a desirable asset for reaching an agreement about how to use surveillance to guarantee national security without threatening individual freedoms.

Pragma-dialectics is often used to analyze and evaluate dyadic argumentation in highly institutionalized activity types (e.g., parliamentary debates, political interviews) where arguers are generally committed to reasoned discourse. These activity types set specific constraints for discussion. This analysis attempted—among other aspects—to define the constituting components of public political argumentation in pragma dialectical terms. These components provided a starting point for theorizing about the constraints that are active in public controversies. While this analysis examined how the general characteristics and conventions of public political discourse regulated and restricted Washington’s and Berlin’s argumentation, future research should help to identify overarching conventions that operate across various activity types of public political argumentation. This will help to establish public political argumentation as a useful and heuristic unit of analysis for pragma-dialectical examination. In addition, a detailed description of the constraints and conventions will help to locate reasonableness within a domain that otherwise seems to be driven by effectiveness.

While it is difficult to generalize from a case study, future research should explore whether there is a connection between the type of argumentation used (e.g., coordinative) and the genre of public political argumentation. In the absence of bilateral and international agreements for data protection and surveillance, Berlin and Washington predominantly used coordinative argumentation. Future research should explore whether a lack of rules and regulations determines what type of argumentation politicians tend to use (e.g., coordinative, multiple, etc.)? In addition, it would be interesting to see what type of argumentation is typically used in public political controversies? Finally, it would be interesting to explore how topics influence what argumentation type is used.

Another direction for future research might investigate how a politician's office (e.g., secretary of defense, secretary of state, etc.) determines what type of argumentation may be used and what speech acts are typical for what governmental positions. Perhaps foreign ministers tend to use expressive and commissive speech acts to emphasize the emotional connection (e.g., shared values) between countries and express commitment to foreign policy agreements. In contrast, heads of state might tend to perform assertive speech acts to declare the truth about a particular affair.

Regrettably, I was not able to discuss the argumentative functions of Berlin's and Washington's maneuvers in sufficient detail. Argumentative functions systematically account for how arguers aim for a particular outcome (results), how they try to achieve these results (routes), what hinders or helps advance their positions (constraints), and what obligations their statements create (commitments).

As a practical researcher, I am convinced and confident that research intended to locate reasonableness within public political discourse possesses the potential to help preserve a democratic political culture. The fact that the majority of Germany and Washington's arguments are not developed in direct opposition to each other but address doubt by a projected audience suggest that politicians do not recognize the potential to use various public activity types to discuss an international controversy. Future research might help to bridge that gap and suggest how politicians may use various activity types to engage in reasonable public discourse while simultaneously achieving their rhetorical goals.

Despite the above mentioned challenges, I agree with Mohammed and Zarefsky when they argue that "[i]t may be the case that while the dialogue is the paradigm case of argument within this framework [i.e., pragma-dialectics], aspects of pragma-dialectics may have wider

reach and applicability than its designers had in mind initially” (Mohammed & Zarefsky, 2011, p. 90).

Summary

This final section summarized important results from this analysis. First, I provided a summary of the previous sections and their purposes. Second, I briefly discussed the research questions by highlighting important examples. Third, I discussed implications, limitations, and pointed to potential future research.

APPENDICES

APPENDIX A

HIGHLIGHTS OF GERMAN-AMERICAN RELATIONS FROM 1945-2013 AND THEIR IMPLICATIONS

| Dates | Events | Implications for German-American Relations |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Apr. 1945 | The US JCS 1067 (Joint Chiefs of Staff) Directive lays out America's occupation policy. | Washington considers and treats Germany as an enemy. The directive helps to restore Germany through denazification and democratization. |
| Sept. 6, 1946 | American Secretary of State James F. Byrnes delivers his Stuttgart Speech ("Speech of Hope"). | Reassures Germans of America's commitment and support. Proposes to let Germans play an active role in the reconstruction process. |
| Nov. 20, 1945- Oct. 1, 1946 | The Nürnberg Trials | Facilitated democratic and societal transformation by holding Germany accountable for past injustices. The Allies created a relationship of dependency and moral obligation. |
| Apr. 3, 1948 | In a speech on June 5, 1947 at Harvard University Secretary of State George Marshall calls for American assistance in restoring the economic infrastructure of Europe (Marshall Plan). | Aids Washington's attempt to prevent the spread of communism in Europe (i.e., containment policy). |
| June 24, 1948 | The Soviet Union blocks all roads, water routes, and railways to and from West Berlin (i.e., Berlin Blockade). | Creates a common enemy for Germany and the US. |
| June 26, 1948- May 12, 1949 | Lucius D. Clay launches the Berlin Air Bridge | |
| Sept. 9, 1948 | Ernst Reuter delivers his "People of the world" speech". | Reuter aligns his position with the Americans and assures Berliners that in addition to the air bridge, democracy and freedom will help to prevent communism. |

| Dates | Events | Implications for German-American Relations |
|----------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| May 8, 1949 | The Allies approve and sign the constitution for the Federal Republic of Germany (Basic Law). | Washington tries to accelerate the process of democratization and promote individual rights and liberties to protect Germany from the imperialist tendencies of the USSR. |
| Aug. 14, 1949 | First democratic national elections in the Western zones. | |
| Apr. 14, 1950 | The Truman administration implements the National Security Directive NSC-68. | NSC-68 guarantees Germany's ideological commitment to the Western World. It helps turn Germany into a strategic partner against communism. |
| May 26, 1952 | East Germany closes the inner German border. | |
| 1956-1975 | The Vietnam War begins. | During the 60s and early 70s, the Vietnam war leads Germans to associate the US with militarism and imperialism (anti-Americanism). |
| June 4, 1961 | Kennedy and Khrushchev discuss the future of Berlin at the Vienna summit. | |
| July 25, 1961 | In a radio and television address, Kennedy discusses the causes and effects of the Berlin crisis. | Kennedy reassures Germany of US commitment. |
| Aug. 12, 1961 | The German Democratic Republic (GDR) erects the Berlin Wall. | Constitutes a conundrum for Washington's dual containment strategy. The US is not willing to abandon Berlin in its fight against communism, but Washington is also not willing to intervene militarily and thereby provoke Moscow. |
| Aug. 13, 1961 | West Berlin mayor Willy Brandt sends JFK a personal letter. | Brandt warns Kennedy that Washington's reluctance to act might turn into a "crisis of confidence" in German-American relations. |
| Aug. 19, 1961 | Vice President Johnson visits Berlin. | |

| Dates | Events | Implications for German-American Relations |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jan. 22, 1963 | French President Charles de Gaulle and German Chancellor Konrad Adenauer sign the Elysée Friendship Treaty at the Elysée Palace in Paris. | First crisis in German-American relations. While the Kennedy administration rules out German possession of nuclear weapons the treaty puts Germany under France's nuclear umbrella. However, the preamble of the Elysée treaty stresses a joint defense strategy (e.g., NATO), which reassures the US that Germany would not use French nuclear weapons against the US. |
| Aug. 26, 1963 | President John. F. Kennedy delivers his "Ich bin ein Berliner" speech. | Symbolically transforms Berlin into an exceptional city that is watched by the world ("City upon a hill"). |
| June 12, 1987 | President Ronald Reagan delivers his "Tear down this wall" speech. | Challenges the communist regime and reconstitutes Berliners as free people. |
| May 31, 1989 | President George H. W. Bush describes Germany as a partner in leadership. | Washington expects Germany to play an important role in international affairs. |
| Nov. 9, 1989 | The collapse of the Berlin Wall. The East German government allows all GDR citizens to visit West Germany. | |
| Oct. 3, 1990 | German reunification | Germany's reunification marks the end of the Cold War. Without a common threat (i.e., communism), Germany and the US had to renegotiate their relationship. |
| Jan. 1991 | Iraq fails to comply with a UN resolution to withdraw from Kuwait, which leads to the first Iraq war. | Germany fails to live up to Washington's idea of partnership in leadership and follows their "policy before force" foreign policy approach instead. |
| Jan. 20, 2001 | George W. Bush is sworn into office. | The Bush administration favors a unilateral foreign policy style. This creates ideological tensions with Berlin whose foreign policies were driven by multilateralism. |

| Dates | Events | Implications for German-American Relations |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sept. 11, 2001 | Terrorists attack the World Trade Center and the Pentagon | German Chancellor Gerhard Schröder promises Bush Germany's unconditional solidarity. |
| Oct. 26, 2001 | George W. Bush signs the USA PATRIOT Act. | Section 215 of the Patriot Act authorizes the NSA to conduct warrantless bulk surveillance of foreign and domestic telephone communications under the Foreign Intelligence Surveillance Act (FISA). |
| Jan. 29, 2002 | In his State of the Union address, President George W. Bush refers to Iraq, Iran, and North Korea as the "axis of evil". | Germany's Foreign Minister Joschka Fischer interprets Bush's statement as evidence of Washington's unilateral policy approach for the war against terror. |
| May 22, 2002 | Bush visits Schröder in Berlin. | Bush assures Schröder that there are no war plans on his desk and promises consultations if Iraq becomes an issue. Bush assumes that Schröder would support a war in Iraq and will not exploit Iraq as an election topic. |
| Aug. 5, 2002 | At an election speech, Schröder announces that in regard to a possible war in Iraq, he is not available for adventure. | Schröder breaks his promise of unconditional support, publicly opposes the Iraq war, and thereby complicates US-German relations. |
| Sept. 18, 2002 | Minister of Justice Herta Däubler-Gmelin compares Bush's foreign policy to Hitler's pre-World War II strategies. | |
| Sept. 20, 2002 | Schröder sends an apology letter to Bush. | Washington sees Schröder's letter not as an apology but as confirmation that he exploited anti-American sentiments for his election campaign. |
| Sept. 21, 2002 | In an interview with <i>Financial Times Germany</i> , Condoleezza Rice describes German-American relations as poisoned. | |

| Dates | Events | Implications for German-American Relations |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| Jan. 22, 2003 | At a news conference at the 40th anniversary of the Elysée Treaty Schröder and Chirac declare that they would oppose any UN resolution to use military means to invade Iraq. | Germany drives a wedge between Berlin and Washington by entering unilateral agreements with France. |
| Jan. 22, 2003 | At a briefing with foreign journalists, Secretary of Defense Donald Rumsfeld refers to France and Germany as “old Europe”. | The US considers Germany an unimportant voice for their relationship with Europe. |
| Jan. 30, 2003 | Spain, Britain, Italy, Poland, Hungary, the Czech Republic, Denmark, and Poland sign a statement (i.e., Letter of eight) to support America’s efforts to destroy weapons of mass destructions. | The letter of eight isolates France and Germany from the rest of Europe. |
| Feb. 20, 2003 | The <i>Washington Post</i> issues Angela Merkel’s article “Schröder doesn’t speak for all Germans”. | |
| Nov. 22, 2005 | Angela Merkel is elected Chancellor of Germany. | Merkel’s foreign policy style is driven by multilateralism, European integration, and close ties with Washington. |
| July 24, 2008 | Obama delivers a campaign speech at the Victory column in Berlin. | |
| Nov. 3, 2009 | Merkel addresses a joint meeting of Congress only days before the 20 th anniversary of the collapse of the Berlin Wall. | |
| June 19, 2013 | Obama delivers his Berlin speech. | |

APPENDIX B

TEXTS USED TO RECONSTRUCT BERLIN'S AND WASHINGTON'S STANDPOINTS

| Standpoints | Texts used for Reconstruction |
|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Washington: 1 The US gathers foreign intelligence in a way and of the type gathered by all nations. | <p>At a press briefing on October 24, 2013 at the White House, White House spokesperson Jay Carney said: “And as a matter of policy, we have made clear that the United States gathers foreign intelligence of the type gathered by all nations” (Carney, 2013, para. 10).</p> <p>“[...] we acknowledge that the United States gathers intelligence much as other nations gather foreign intelligence” (Carney, 2013, para. 10).</p> <p>On January 17, 2014, Obama announced a series of reforms to the NSA data-collection program in front of intelligence officials at the Department of Justice: “Our intelligence agencies will continue to gather information about the intentions of governments—as opposed to ordinary citizens—around the world, in the same way that the intelligence services of every other nation does (Obama, 2014a, p. 10).</p> |
| Washington: 2 US intelligence services operate within the boundaries of the law. | <p>Senate Intelligence Committee Chairwoman Dianne Feinstein issued statements regarding reports that the NSA conducted surveillance on leaders of foreign countries: “The NSA call-records program is legal and subject to extensive congressional and judicial oversight . . . (Feinstein, 2013, para. 17).</p> <p>On October 29, 2013, director of National Intelligence James Clapper testified before the House of Representative Intelligence Committee: “We only ‘spy’ for valid foreign intelligence purposes, as authorized by law, with multiple layers of oversight, to ensure we do not abuse our authorities” (Clapper, 2013, para. 14).</p> <p>“We operate within a robust framework of strict rules and rigorous oversight, involving all three branches of government” (Clapper, 2013, para. 16).</p> |

On January 17, 2014, Obama announced a series of reforms to the NSA data-collection program in front of intelligence officials at the Department of Justice: “. . . the men and women of the intelligence community, including the NSA, consistently follow protocols designed to protect the privacy of ordinary people” (Obama, 2014a, p. 3).

Washington: 3 In order to protect the US and other countries around the world from security threats (e.g., terrorism, the proliferation of weapons of mass destruction and cyber-attacks), it is indispensable for US intelligence services to operate effectively.

On November 1, 2013, Democratic Senator Dianne Feinstein released a joint statement regarding the FISA Improvement Act: “The threats we face—from terrorism, proliferation and cyber-attack, among others—are real, and they will continue. Intelligence is necessary to protect our national and economic security, as well as to stop attacks against our friends and allies around the world” (Feinstein & Chambliss, 2013, para. 18).

“. . . the American people deserve to know that their privacy will be protected under these legal and necessary programs. This bill accomplishes our goals of increased transparency and improved privacy protections, while maintaining operational effectiveness and flexibility for the intelligence community” (Feinstein & Chambliss, 2013, 21).

On October 29, 2013, director of National Intelligence James Clapper testified before the House of Representative Intelligence Committee: “From my vantage, as DNI, these disclosures [Edward Snowden revelations] are threatening our ability to conduct intelligence, and to keep our country safe” (Clapper, 2013, para. 9).

On January 17, 2014, Obama announced a series of reforms to the NSA data-collection program in front of intelligence officials at the Department of Justice: “. . . the men and women at the NSA know that if another 9/11 or massive cyber-attack occurs, they will be asked, by Congress and the media, why they failed to connect the dots. What sustains those who work at NSA and our other intelligence agencies through all these pressures is the knowledge that their professionalism and dedication play a central role in the defense of our nation” (Obama, 2014a, p. 4).

“And for our intelligence community to be effective over the long haul, we must maintain the trust of the American people, and people around the world” (Obama, 2014a, p. 4).

“. . . a number of countries, including some who have loudly criticized the NSA, privately acknowledge that America has special responsibilities as the world’s only superpower; that our intelligence capabilities are critical to meeting these responsibilities, and that they themselves have relied on the information we obtain to protect their own people” (Obama, 2014a, p. 5).

“As I’ve indicated, the United States has unique responsibilities when it comes to intelligence collection. Our capabilities help protect not only our nation, but our friends and our allies, as well” (Obama, 2014a, p. 9).

In his State of the Union address on January 28, 2014, Obama repeats his call to reform US intelligence programs: “. . . working with this Congress, I will reform our surveillance programs—because the vital work of our intelligence community depends on public confidence, here and abroad, that the privacy of ordinary people is not being violated” (Obama, 2014b, p. 7).

Washington: 4 US intelligence programs should be revised to balance security and privacy in the US and abroad.

Senate Intelligence Committee Chairwoman Dianne Feinstein issued statements regarding reports that the NSA conducted surveillance on leaders of foreign countries: “It is abundantly clear that a total review of all intelligence programs is necessary so that members of the Senate Intelligence Committee are fully informed as to what is actually being carried out by the intelligence community” (Feinstein, 2013, para. 1).

“Unlike NSA’s collection of phone records under a court order, it is clear to me that certain surveillance activities have been in effect for more than a decade and that the Senate Intelligence Committee was not satisfactorily informed. Therefore our

oversight needs to be strengthened and increased” (Feinstein, 2013, para. 2).

On January 17, 2014, Obama announced a series of reforms to the NSA data-collection program in front of intelligence officials at the Department of Justice: “. . . we have to make some important decisions about how to protect ourselves and sustain our leadership in the world, while upholding the civil liberties and privacy protections that our ideals and our Constitution require. We need to do so not only because it is right, but because the challenges posed by threats like terrorism and proliferation and cyber-attacks are not going away any time soon . . . And for our intelligence community to be effective over the long haul, we must maintain the trust of the American people, and people around the world” (Obama, 2014a, p. 4).

“For more than two centuries, our Constitution has weathered every type of change because we have been willing to defend it, and because we have been willing to question the actions that have been taken in its defense. Today is no different. I believe we can meet high expectations” (Obama, 2014a, p. 11).

On February 1, 2014, at the 50th Munich Security Conference, Secretary John Kerry delivered a joint address with Secretary of Defense Chuck Hagel. John Kerry said: “As I say all of this, the United States is the first to admit that our democracy too has always been a work in progress. We know that. We’re proud that we work at it openly, transparently, accountably to reform it, to fix it, and to strengthen it when needed. President Obama’s review and revision of our signals intelligence practices is a case in point. So I assure you we come to this conversation with humility” (Kerry & Hagel, 2014, para. 30).

Washington: Trust has been lost, but the US and Germany share a friendship built on common values, which will help to restore trust and renew the German-American friendship.

On October 29, 2013, director of National Intelligence James Clapper testified before the House of Representative Intelligence Committee: “We only ‘spy’ for valid foreign intelligence purposes, as authorized by law, with multiple layers of oversight, to ensure we do not abuse our authorities. Unfortunately, this reality has sometimes been obscured in the current debate. And for some, this has led to a lowering of trust in the Intelligence Community” (Clapper, 2013, para. 14).

On January 18, 2014, in an interview with the German public television broadcaster *ZDF*, Obama said: “. . . we are engaged in conversations with the German government, with German intelligence and we will continue to try to refine how we cooperate, how we are respectful of German traditions and German laws and how we can also continue the kind of cooperation that is important not only to our people but also the German people” (“Interview US-President,” 2014, p. 4).

“Even if we have disagreements of any sort, the one thing that I know is that I have established a relationship of friendship and trust with her, in part because she’s always been very honest with me and I try to be very honest with her. I don’t need and I don’t want to harm that relationship by a surveillance mechanism that somehow would impede the kind of communication and trust that we have” (“Interview US-President,” 2014, p. 5).

On January 31, 2014, German foreign minister Frank-Walter Steinmeier and US Secretary of State John Kerry held a joint news conference in Berlin. Kerry said: “So it’s our hope that those aspirations for opportunity, for democracy, for liberty, freedom, which have been at the heart of our bilateral relationship, will continue to

be the centerpiece of what defines German-American relations” (Kerry, 2014a, para. 23).

“And we absolutely share a commitment to trying to put this [spying scandal] behind us in the appropriate way and to strengthen our practical cooperation going forward” (Kerry, 2014a, para. 24).

On January 31, 2014, US Secretary of State John Kerry visited Angela Merkel. In a joint press conference he said: “We are partners above and beyond bumps in the road, and we will find our way to be able to move forward resolving any kinds of differences in an appropriate way that respects our relationship, but also understanding that we have a lot of work to do together in 2014” (Kerry, 2014b, para. 13).

On February 1, 2014, at the 50th Munich Security Conference, Secretary of State John Kerry delivered a joint address with Secretary of Defense Chuck Hagel. John Kerry said: “So long as I can remember, I have understood that the United States and Europe are strongest when we stand united together for peace and prosperity, when we stand in strong defense of our common security, and when we stand up for freedom and for common values” (Kerry & Hagel, 2014, para. 11).

“And in a shrinking world where our fundamental interests are inseparable, a transatlantic renaissance requires that we defend our democratic values and freedoms” (Kerry & Hagel, 2014, para. 29).

“The foundation of our collective security relationship with Europe has always been cooperation against common threats. Throughout most of the 20th century, these common threats were concentrated in and around Europe, but today the most

persistent and pressing security challenges to Europe and the United States are global” (Kerry & Hagel, 2014, para. 41).

On February 27, 2014, German Foreign Minister Frank-Walter Steinmeier and Secretary of State John Kerry held a joint news conference in Washington. Kerry said: “We’re not adversarial. We have the same interest. And we want to make sure that all of our citizens are protected in both ways, in their privacy and in their security. And we believe there’s a balance, and we’re determined to try to get at that through a reasonable and thoughtful discussion, and I appreciate the foreign minister’s approach to it” (Kerry, 2014c, 57).

Obama and Merkel held a joint news conference at the White House on May 1, 2014 to discuss the NSA scandal, TTIP, and the crisis in Ukraine. Obama said: “. . . we are committed to a U.S.-German cyber dialogue to close further the gaps that may exist in terms of how we operate, how German intelligence operates, to make sure that there is transparency and clarity about what we’re doing and what our goals and our intentions are” (“Remarks by President Obama and German Chancellor Merkel,” 2014, para. 62).

Berlin: 1 Indiscriminate surveillance does not enhance security for all but undermines mutual trust.

On October, 23, 2013, at a press briefing at the Federal Press Office in Berlin, Merkel’s spokesperson Steffen Seibert said: “Merkel telephoned Obama and said that she disapproves of the NSA surveillance practices if the allegations should be confirmed and regards them as completely unacceptable” (as cited in “Merkel calls Obama,” 2013, para. 3).

“If the allegations are true, then this would constitute a grave breach of trust” (as cited in “Merkel calls Obama,” 2013, para. 4).

On October 23, 2013, as she arrived at a summit of EU leaders in Brussels, Merkel commented on allegations that US intelligence targeted her cellphone: “We need trust among partners and allies and this trust needs to be restored now. To this end, we need to ask what we need, which data security agreements we need, what transparency we need between the US and Europe” (Merkel, 2013).

At a news conference on October 24, 2013 at the Foreign Ministry in Berlin, German foreign minister Guido Westerwelle responds to allegations after summoning US ambassador John B. Emerson: “For us, spying on close friends and partners is totally unacceptable. This undermines trust and this can harm our friendship. We expect that these activities that had been reported will be comprehensively investigated. We need the truth now” (Westerwelle, 2013).

On January 29, 2014 Merkel delivers her State of the Nation address to the German parliament: “A strategy in which the end justifies the means, in which everything that is technically possible is realized, breaches trust and sows distrust” (Merkel, 2014, p. 12).

Berlin: 2 In a world of asymmetrical threats, surveillance is necessary to ensure national security, but it is the responsibility of democratic nations to balance surveillance, security, and privacy in a reasonable way.

On January 29, 2014 Merkel delivers her State of the Nation address to the German parliament: “It has become clear that the existing legal framework for preserving a reasonable balance between freedom and security is no longer adequate. An international framework does not exist yet. In other words, we are entering uncharted territory. Every single one of us is affected by this. That is why the Federal Government will be drawing up a digital agenda this year, with the Ministries of the Interior, of Economics and Energy and of Transport and Digital Infrastructure acting

as joint lead bodies, and we shall be implementing it in the course of the legislative term” (Merkel, 2014, p. 12).

“No one who bears political responsibility can seriously dispute the fact that the work of the intelligence services is crucial to our security and the safety of our citizens. No one who bears political responsibility can seriously dispute that, in the age of asymmetric threats, as exemplified by September 11, the work of the intelligence services has become even more important than it always was “(Merkel, 2014, p. 12).

“The Federal Government bears responsibility for protecting our citizens from attacks and crime, and it bears responsibility for protecting them from invasions of their privacy. It bears responsibility for our freedom and security. Since time immemorial, freedom and security have, to a degree, been conflicting aims. They must constantly be held in balance by those who make and apply the law. We know that all too well in Germany from our lengthy discussions on domestic surveillance and data retention” (Merkel, 2014, p. 12).

Merkel accepts an invitation that Obama offered after the NSA revelations and visits the White House on May 1-2, 2014 to discuss the NSA scandal, the Transatlantic Trade and Investment Partnership (TTIP), and the crisis in Ukraine. At a joint news conference she said: “And anyone in political responsibility is more than aware, looking at the challenges of the modern world today, that obviously in fighting terrorism, the work of the intelligence services is not only important, it is indeed indispensable” (“Remarks by President Obama and German Chancellor Merkel,” 2014, para. 19).

“I am firmly convinced that our cooperation in this area is a very helpful one, yet there are differences of opinion on what sort of balance to strike between the intensity of surveillance, of trying to protect the citizens against threats, and on the other hand, protecting individual privacy and individual freedom, and rights of personality” (“Remarks by President Obama and German Chancellor Merkel,” 2014, para. 77).

Berlin: 3 The means by which a nation ensures national security should be proportionate to the damage that they cause.

On January 29, 2014 Merkel delivers her State of the Nation address to the German parliament: “At the same time, no one who bears political responsibility can seriously dispute that what we have been hearing for half a year about the work of the US intelligence services in particular raises some absolutely fundamental issues. There is the issue of proportionality, the question whether the means with which we choose to confront a danger are commensurate with that danger” (Merkel, 2014, p. 12).

“A strategy in which the end justifies the means, in which everything that is technically possible is realized, breaches trust and sows distrust. The result is not more security but less” (Merkel, 2014, p. 12).

“We want the Internet to remain an instrument of great promise, and for that reason we wish to protect it. We wish to protect it from destruction from within through criminal abuse and from non-transparent all-encompassing surveillance from outside” (Merkel, 2014, p. 12).

On January 31, 2014 during a panel called “Rebooting Trust? Freedom vs. Security in Cyberspace German interior minister Thomas de Maiziere said: “We do not have any evidence, there are no fingerprints, but according to everything I am hearing these

activities have been conducted to the detriment of German citizens and knows no bounds. The information that we are provided with is not sufficient and the political damage is greater than the security benefit across the Atlantic. Of course our negotiations are ongoing but we'd also like to send out a signal to the United States, which are one of the closest allies that we've got" ("Panel discussion," 2014).

In an interview with the news magazine *Der Spiegel*, German interior minister Thomas de Maiziere said: "If even two-thirds of what Edward Snowden has presented or what has been presented with his name cited as the source is true, then I would have to conclude that the USA is operating without any kind of boundaries" ("German minister," 2014, para. 2).

"I am thinking of the foreign policy damage. Because the greater damage has actually been inflicted by the Americans and not the Germans. And I say this as a staunch trans-Atlanticist. Approval ratings for Americans in German polls are lower right now than they have been in a long time. The last time this was the case was during a certain phase of the policies of George W. Bush. It saddens me. Even if Obama's initial popularity may have been exaggerated, the US cannot be apathetic to the fact that approval ratings have shifted to such a degree within just one year. America should have an interest in improving them. Words alone will not suffice (German minister," 2014, para. 12).

Merkel accepts an invitation that Obama offered after the NSA revelations and visits the White House on May 1-2, 2014 to discuss the NSA scandal, the Transatlantic

Trade and Investment Partnership (TTIP), and the crisis in Ukraine. At a joint news conference she said: "But it's very good

that we have taken these first steps, and what's still dividing us—issues, for example, of proportionality and the like—will be addressed” (“Remarks by President Obama and German Chancellor Merkel,” 2014, para. 78).

Berlin: 4 A disagreement over democratic values should be carried out openly and in a reasonable way.

On January 29, 2014 Merkel delivers her State of the Nation address to the German parliament: “. . . truculence has never been a recipe for success. I am conducting these talks, and doing so very forcefully, on the strength of our arguments – nothing more and nothing less” (Merkel, 2014, p. 12).

“Billions of people who live in undemocratic countries are watching very closely today to see how the democratic world will respond to threats to its security— whether it will act sensitively with consummate self-assurance or whether it will saw at the very branch of individual freedom and dignity that makes it so appealing to those selfsame billions of people” Merkel, 2014, p. 13).

On January 31, 2014, German foreign minister Frank-Walter Steinmeier and US Secretary of State John Kerry held a joint news conference in Berlin. Steinmeier said: “We talked about this today in our meeting, how we can actually get again into a bilateral dialogue where we look at those different assessments where we are trying to discuss about how we strike an equitable balance between freedom and security, which is sometimes difficult” (Kerry, 2014a, para. 4).

On February 1, 2014 Germany's foreign minister Frank-Walter Steinmeier delivered a speech at the Munich Security Conference: “We need a new transatlantic forum to discuss how we can set new standards how in the era of “Big Data” we can secure fundamental civil rights and we need a debate about which rules should

apply not only to government but also to companies” (Walter-Steinmeier, 2014).

On February 27, 2014 German Foreign Minister Frank-Walter Steinmeier meets with Secretary of State John Kerry in Washington: “I’m happy to see that the debate that has been mainly led by the media now leads us to a serious dialogue involving all the stakeholders, involving also members of civil society, a bilateral cyber dialogue, which is to be initiated starting today” (Kerry, 2014c, para. 52).

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