Article

The Politics of Transparency and Surveillance in Post-Reunification Germany

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Abstract

After the fall of the Berlin Wall in 1989, reunified Germany intensified its policy of political transparency in an attempt to alleviate European concerns over a new German superpower. As transparency became a means to political legitimacy, the term and the practice acquired a distinctive ethical dimension. Germany's on-going effort to come to terms with its national socialist past came to encompass the years of state socialism as well. As Germany's new-found moral legitimacy came to rest on portraying East Germany as an immoral state, the former socialist state became an object that needed to be made fully transparent. The East German secret police (Stasi) and its vast surveillance apparatus became a natural target of transparency, as it inverted the logic of transparency by which the West German state claimed to function. As one form of transparency became key to legitimacy in Germany, its inversion – surveillance – became a marker of illegitimacy. In that sense, surveillance came to justify the unequal treatment of East Germans, of their political system, and of their public life. The conflict between divergent understandings of transparency became especially clear in a debate between two political figures, one from the former East and one from the former West. The case of German reunification serves to highlight the contingency of the meaning of the concepts of transparency, surveillance, and privacy.

Divided in Unity

On May 8, 2005, the day that the media marked as the sixtieth anniversary of the liberation from fascism by the Allied powers, I stood near the newly restored Brandenburg Gate, the preeminent symbol of both German division and reunification. On its east side, in former East Berlin, a large semi-circular panorama painting showed the scene of destruction at the end of the war as seen from that very vantage point. In sharp contrast to the brand new colorful buildings put up by banks and embassies around Pariser Platz, and the blue sky above, this greater than life-sized, black and white image showed rubble lying several feet high, cars turned over on the street, badly damaged buildings, and the Reichstag with its half-destroyed cupola. On the ground in front was a marked spot from which the top of the beautifully refurbished stone gate fitted perfectly its ghostly painted image. The viewer could thus take in the image of utter destruction, capped by one of perfect restoration. The past and the present, as discontinuous as they may have seemed, and still seem in collective experience, here became contiguous, as the canvas of historical memory mapped onto the open skies of the present.

A group called 180 Grad Berlin had sponsored the installation.¹ The group works to create similar paintings for other cities destroyed by the war. While the name gestures towards the semi-circular

¹ See www.180gradberlin.de for more information on the project (accessed August 5, 2010).

perspective of the canvas itself, the contrast between the painted rubble and the blue sky also suggests the 180-degree turn that Berlin and all of Germany have taken from 1945 to 2005. But nowhere in this juxtaposition was there space for East Germany, the state whose existence disappeared in this seamless rendition of the German phoenix rising from its ashes. The canvas represented the two defining experiences of the German Volk in the 20th century: Nazism and Reunification. It left out the time when the Volk was divided, making separate histories. The ‘failed experiment’ of East Germany, as I’ve often heard it referred to, did not even need to be recorded.

Before reunification, the two Germanys had existed side by side. They had a unique form of diplomatic relations, they were engaged in trade and exchange, and in practice they recognized one another, however grudgingly, as separate and sovereign states.² Despite an on-going Cold War, there had been social peace. In an important sense, the citizens of the two states had been *equals*, as citizens.

This changed immediately with reunification. Soon after the Wall was breached on November 9, 1989, the two states of the German nation and the four allied powers began to negotiate Germany’s reunification. On October 3, 1990, less than a year later, the six parties ceremoniously signed the treaty of reunification and the formerly divided states were officially rejoined. In a move that angered many East Germans, Helmut Kohl declared the date of bureaucratic unification a national holiday, while the date of their popular uprising was consigned to history. October 3, while unobserved by the general public, has become something of a media event, with television shows commemorating Germany unity. November 9, by contrast, though freighted with memory, remains officially unobserved.³ As the West German victors implicitly claimed credit for reunification, East Germans came to see the more powerful West as erasing the agency of those East German protesters whose courage had led to the opening of the Wall on that November night. It was the beginning of what would be seen as a long story of condescension.

As reunification progressed, the perceived inequalities became ever more pronounced. While reunification changed virtually nothing for West Germans (the only changes many perceived were new zip codes and a so-called solidarity tax of 3 percent), everything changed for East Germans. They received a new constitution, a new political system, a new currency, new freedoms to travel – and new insecurities about employment that undermined the very foundations of their existence. At the same time, East Germans became unequal in new ways, as most markers of their own political system were destroyed, streets were renamed, their experiences as citizens were discounted, and their accomplishments in social policies, the sciences, and in creating a system of distributive justice were often discarded. A ‘wall in the heads’ replaced the wall of concrete.

In the meantime, a new kind of political architecture, made of glass, arose in Berlin to replace the old East German structures. To understand how this transformation could happen so quickly, and so completely, we need to take a look at the emergent politics of surveillance and transparency in reunified Germany.

Politics of Surveillance

It is a premise of surveillance studies that most citizens of the Western world live in surveillance societies. The 2006 *Report on the Surveillance Society* that members of the Surveillance Studies Network have produced, for example, illustrates the ubiquity and pervasiveness of technologies through which

² See John Borneman (1992) for the mirror-imaging effect in the development of social policies in the two Germanys. See Heinz Bielka and Rainer Hohlfeld (1998) for the case of scientific exchange agreements.

³ November 9 was the anniversary of the declaration of the Weimar Republic (1918), of Adolf Hitler’s first failed attempt to seize power in Munich (1923), and of the destruction of synagogues and Jewish stores and apartments that became known as the Kristallnacht (1938). Helmut Kohl instead chose October 3 as official reunification day because that day was as yet free of other historical events and memories.

governments and corporations keep tabs on their citizen and consumer subjects. The enormous volume of records that authorities generate in the process of governing has ramifications for the constitution of citizenship in modern states.⁴ Indeed, the *Report* comes to the conclusion that “citizenship and surveillance belong together in the modern world” (Surveillance Studies Network 2006: 32; cf. Haggerty and Samatas 2010: 3). Continuous surveillance has become such an integral and familiar part of our everyday lives that we have learned to ignore the many cameras that capture our daily movements and dutifully surrender our personal details to inquisitive officials, paper forms, or websites in exchange for our convenience or other putative benefits. Thorough and institutionalized surveillance, in what Haggerty (2009: 173) refers to as the “visible imperative,” has become normal and routine, and we have adjusted our sensibilities to expect a significant degree of governmental and corporate intrusion into our private affairs.

And yet there are times when surveillance offends our sensibilities. We remember shuddering upon reading George Orwell’s totalitarian dystopia, laughing at the absurdity of a (supposedly) all-knowing bureaucracy in the movie *Brazil*, or wondering just how realistic the portrayals of surveillance in *Enemy of the State* truly were. While few would dispute that today we live in a society whose surveillance far surpasses anything that Orwell and his early successors could have imagined, we are still struck when we are confronted with certain manifestations or portrayals of surveillance. Depictions of the East German secret police, or Stasi, for example, have made East Germany the epitome of a surveillance state, and as such inherently totalitarian. The surveillance apparatus of West Germany, on the other hand, although similarly effective and demonstrably generative of a surveillance society, has escaped being labeled as totalitarian. What explains this differential uptake of what appear to be very similar methods and scales of keeping track of often unsuspecting citizens? Why do some visions of surveillance strike us as totalitarian nightmares, while much larger scale and more invasive forms of surveillance appear to us as the necessary by-product of life-enhancing liberal governance good and proper? In other words, how are our sensibilities trained, or perhaps re-trained, to recognize some forms of surveillance as violently intrusive? How is our vision focused to distinguish between forms of surveillance that are apparently benevolent and those that are inherently illegitimate and harmful? And what do answers to these questions mean for our understanding of how surveillance operates?

Scholars of surveillance have pointed out that surveillance takes many different forms, and that we need to study in ethnographic detail what gives rise to these differences in practices, techniques, and meanings. David Lyon, for example, has observed that

“surveillance has had different trajectories and purposes, in European countries compared with North American, and in Asian compared with both. Conceptions of what is appropriate and inappropriate watching differ from culture to culture, as do the spaces and opportunities for dissent and resistance,”

and he calls for empirical studies and analytical comparisons of these differences. (Lyon 2002: 4) Luis Fernandez and Laura Huey (2009: 199f.), responding to Gary Marx, write that surveillance needs to be viewed not merely as a dynamic process, but that “this dynamic should be examined in the context of the power relations” as they develop in a particular surveillance situation. It follows that “studying surveillance (and resistance) is going to be situational, contextual, and historically specific.” Torin Monahan further argues that surveillance technology is not just a tool, but that it creates an entire social

⁴ Theorists like Michel Foucault (1966) and James Scott (1999) have written extensively about the historical rise of, and resistances to, this pastoral gaze. In order to govern at all, authorities must use some form and degree of surveillance to gather data about their subjects. As societies get more complex, more data need to be kept track of; as more data are collected, new categories, tracking technologies, and ways of being in the world are generated. In a feedback loop, technologies of governance and subjects to govern come to constitute one another.

world. The question Monahan writes we should ask is “what social relations are produced by surveillance systems?” (2006: 5).

Coming to surveillance studies from the field of cultural anthropology, I want to offer an answer to these calls for ethnographically grounded work that highlights the social and cultural differences in the forms and meanings of surveillance. In that process, I will add a further dimension. My argument will be that not only do surveillance techniques differ across national and cultural boundaries, but that different instances of surveillance come with an ideology and with political uses of their own. I will support this argument by looking at how one surveillance society, former West Germany, responded rhetorically and institutionally to a neighboring and rival surveillance society, former East Germany. In particular, I want to look at how East Germany was framed as a surveillance society in the process of German reunification. This will take us to observing the play of transparency and surveillance in the German political imagination, as well as an understanding of the social relations that Monahan asks us to analyze. Let me now turn to the politics of transparency in Germany.

Transparent Politics

In contemporary Germany, one cannot talk about democracy without talking about transparency. Transparency had become key to political legitimacy in the 1970s, when West Germany had begun to face its Nazi past head-on. The demand for transparency in political culture came to the fore both in Germany and among its neighbors when reunification and the government’s move back to Berlin raised the specter of a resurgent German superpower in the center of Europe. Today, talk of transparency pervades German politics; it is self-consciously built into the material structure of governmental workplaces and also into the rhetoric of governance. The newly erected government quarters in Berlin contain entire walls made of glass that permit casual passers-by to observe their elected representatives and governmental bodies at work. Nowhere is the promise of transparency made clearer than in the Reichstag’s glass dome designed by the British architect Norman Foster. The government, and official bodies in general, feel a duty to make themselves transparent. The official rhetoric is that transparency is good for democracy, and that the state ought to make itself as transparent as possible to its citizens. As transparency became an indispensable means to political legitimacy, the term, uncritically assumed to be self-evident, acquired a distinctive ethical meaning. As we will see, however, understandings of transparency can diverge quite radically even within the same polity.⁵

The international community saw reunification not only as a power struggle between the opposed sides of the Cold War, but also as an adolescent Germany striving to be recognized as a grown-up beside its long-established political “parents”. Seen from closer up, however, it was as much a marriage ritual as a coming of age – a ceremonial occasion on which two partners were lawfully joined together, through the mediation of legitimating authorities, in the presence of assenting witnesses. The partners were unequal in the traditional sense. In age-old fashion, the feminized East was passed entirely into the male West’s control, and all property belonging to East Germany was vested in West Germany; the female member thereby joined the male’s more established household. One newspaper article (Niederberghaus 2002) even described the pristine Baltic beaches as the *Tafelsilber* (table silver) that East Germany had brought, as dowry, into this marriage of nations.

Reunification was also a process of cleansing East Germany, and of turning an unlawful state, an *Unrechtsstaat*, into a state where the law ruled, a *Rechtsstaat*. Reunification provided a proving ground where Germany could assert its moral maturity, by, in effect, demonstrating that it was capable of dealing

⁵ Ironically, East Germany had also used the trope of transparency to claim political legitimacy. In the early 1970s, for example, the government erected a large glass building in the heart of East Berlin, the *Palast der Republik*, that united political and cultural functions.

with an unlawful state, an *Unrechtsstaat*, on its own. The implicit contrast is with Nazi Germany, when all of Germany had been corrupted, and the rule of law completely perverted. After the war help in restoring moral order had to come from the outside. Now, with the reintegration of East Germany, the New Germany could show that it had matured and learned from its earlier failures.

But how did West Germany deal with East Germany in moral terms? In order to prove the superiority and maturity of its own system, West Germany needed to prove that East Germany was in fact an unlawful state. And the darker East Germany could be made to look, the brighter West Germany, and the succeeding New Germany, would appear. As Germany's new-found moral legitimacy came to rest on portraying East Germany as an immoral state, the former socialist state became an object that needed to be made fully transparent. The East German secret police (Stasi) and its vast surveillance apparatus became a natural target of transparency, as it inverted the logic of transparency by which the West German state claimed to function. As one form of transparency became key to legitimacy in Germany, its inversion, surveillance, became a marker of illegitimacy.

If West Germany could make the East German state coextensive with the Stasi, then it would be vindicated on several counts: first, West Germany would show the unlawful nature of East Germany; second, West Germany would be confirmed in its moral understanding/construction of transparency; and third, West Germany would establish itself as the only rightful governor of its new citizens. Dealing with the Stasi, then, was a deeply political issue. It was never just about making the East German state visible. It was equally, and perhaps even more so, about deciding what kind of state East Germany had been in the first place.

By focusing on how 'surveillance' was framed and re-framed for political purposes, I do not mean to minimize the invidious and very real surveillance that the East German state perpetrated against its citizens, creating a climate of fear and political oppression.⁶ While those aspects of East Germany have been amply documented and studied, however, the politics of surveillance have received very little attention. As I argue, the politicization of the East German secret police had effects on East Germans that were as significant and far-reaching as the secret surveillance itself. By virtually equating East Germany with the Stasi, surveillance became a rhetorical tool and symbolic marker that former West Germany could use to cement its own place as the sole legitimate dispenser of governmental techniques.

Dealing with the Stasi

Over the course of its nearly 40-year existence, the Stasi had produced an astonishing 180 kilometers of files that contained information on millions of German citizens. What makes the files interesting is how quickly the Stasi that had produced them became synonymous with the East German state. In my reading, this identification occurred so easily because the workings of the Stasi could be displayed as having inverted the logic of transparency by which the West German state had reclaimed its moral and political authority. The East German state, for all to see, had not made itself transparent to the citizens. Instead, it had made the citizens transparent to the state. The Stasi became the perfect vehicle for turning East Germany into the opposite of a lawful state, or *Rechtsstaat* – namely an unlawful state, an *Unrechtsstaat*.

The Stasi files, then, become a prominent site to study if we want to understand how the West German state and its moral order replaced the East German state and erased its own moral order. The files were a crucial instrument that enabled the West German state to discount and completely dismiss any official

⁶ Perhaps the best-known technique the Stasi employed was called *Zersetzung*, a form of psychological warfare that proceeded by person-specific anonymous manipulations intended to dissolve its victims' interpersonal and intimate relationships. The Stasi University at Potsdam even offered a doctorate in the subject. For chilling details of these methods and their effects, see Pingel-Schliemann (2004).

structures that had arisen in the East that might challenge West Germany's ways of forging the alliance between citizens and the state.

What, then, happened to the Stasi files after reunification? Soon after the Wall fell, East German citizen groups began to occupy the offices of the Stasi, and demanded to see the files that the state had collected on them. For months it was unclear what to do with the files, which turned out to be much more extensive than anyone had suspected. Some thought the files should be destroyed altogether, so that East German society could begin anew, with a blank slate. Others suggested that the files should be locked up for several decades, until a new generation, strong enough to look into this part of the past, had grown up. A third camp, those who eventually got their way, wanted a controlling commission, governed by law, that would dispense the files upon request after carefully considering the individual circumstances. West Germans were quick to request that files *about West Germans* be moved across the border, where they would to a large extent be destroyed. East Germans, who were not interested in what seemed like pages and pages of boring descriptions of life in small West German towns, let those files go. According to Joachim Gauck (1991), the East German pastor who first headed the Stasi File Authority (for many years widely known as the Gauck Authority), the Stasi had compiled dossiers on four million East German citizens and on an additional two million West Germans.⁷ Even if many files on West Germans remained in the East, moving a portion of them across the former border was a step towards turning the Stasi into a purely East German phenomenon, a move with grave consequences as we will see later. West Germans wanted to put the remaining files into the federal archives, but wary East Germans insisted that they stay in the former East. Some even went on a hunger strike when the draft Unification Treaty did not include a provision on how the files would be handled.⁸

One of the defining questions of reunification was how the Stasi files should be dealt with. In August 1990, the first and last democratically elected East German parliament, the Volkskammer, wrote a draft of the Stasi File Law; in its final legislative act, the short-lived East German state sought to make itself transparent, and to craft itself as a *Rechtsstaat*, using all the materials at its disposal. But in December 1991, it was the Bundestag of reunified Germany that actually enacted this law. What did the Stasi File Law say? First, the law intends to give individuals access to information that the Stasi had compiled on them. It thus encodes a right to know. Second, and consistent with the principle of *Datenschutz* (data protection), the law seeks to protect individuals from constraints upon their existence as autonomous persons (*Persönlichkeitsrecht*). Third, it is intended to further historical, political, and juridical research on the Stasi. The law thus makes the Stasi an object of scientific research. Fourth, the law makes available the files to public and non-public institutions that will use the files in accordance with the purposes of the law. The law, as eventually enacted, must be read in the context of the Data Protection Law that West Germany had recently adopted for itself, in that it balances the demand for transparency against protections for personal autonomy and privacy. West Germany had enshrined in this law its sacrosanct assumptions about the privacy of individuals, and their protection from the state. Later, as we will see, the different ideas of transparency arising in West and East Germany would diverge more sharply.

Obsessive Transparency

In the weeks before and after the fall of the Wall the Stasi had managed to destroy many of its files. By the time citizen groups took over the buildings, they found vast mountains of shredded papers. When it was

⁷ On June 30, 2010, Gauck narrowly missed being elected president of Germany, a largely representative position, which shows his great popularity in all of Germany. One of the stumbling blocks to his success was a boycott by the Left Party (*Linkspartei*), a 2007 political formation composed in part of the successor party to the East German Socialist Unity Party.

⁸ For some fascinating accounts of how subjects of surveillance received their Stasi files, see Timothy Garton Ash's *The File*, Robert Darnton's *Berlin Journal*, Manuela Polaszczyk's *Spuren der DDR-Vergangenheit: Einblick in die Stasi-Akten*, or Joachim Gauck's *Die Stasi-Akten. Das Unheimliche Erbe der DDR*.

decided to dispense the files to individuals upon request, a logic of transparency set in that dictated the complete reconstruction of the destroyed files. The size of the reconstructive endeavor alone demonstrates the importance of the files to the self-understanding of post-Wall Germany. The Stasi File Authority, which handles the requests for files, has almost 3000 full-time employees. For comparison's sake, there only had been about 50 full-time workers who investigated Nazi crimes in the years after World War II. Ash (2007) attributes this dramatic rise in manpower to the "fiercely moral and professional approach to dealing with a difficult past" that West Germany had cultivated. In my reading, it is not so much West Germany's moral high-mindedness that explains the extraordinary attention it gave to the *Aufarbeitung* of the Stasi, but rather the political motivation of elevating its own moral standing. Rather than commend West German historians for their ability to ferret out evil, we might instead ask how they knew what to look for in the first place.

Through the years the Stasi File Authority, headed by Gauck, remained overwhelmed by the sheer amounts of data, and it often needed several years to respond to the hundreds of thousands of requests for information. In April 1993 efforts to read most of the extant 13,000 data storage units stalled, and could be resumed only later that year when the department of defense agreed to make some of its own computers available. In April 1998, when paper threatened to become unusable through disintegration from fungi or from water damage, the central Stasi archive in Berlin installed an office where paper could be restored.

In early 1995 the Authority started a unique pilot project to speed up the reconstruction of torn up files: 24 employees of the Federal Authority for the Recognition of Foreign Refugees (*Bundesamt für die Anerkennung ausländischer Flüchtlinge*) near Nürnberg began to survey, sort and piece together a part of the 1,100 bags of torn up documents from the Stasi section dealing with 'state apparatus, church, art, culture, and opposition'. On its website ⁹, the authority describes the process of material reconstruction, and the skills these 24 needed for piecing together, like a gigantic set of jigsaw puzzles, letter-size pages from tens of thousands of scraps. One needs patience, a feeling for detail, and a sense for meaningful connections [*Sachzusammenhänge*]. A specialist gives the restorers background information on persons and events in former East Germany. The workers then take the torn-up documents from bags in layers, in order not to destroy possible physical connections among them, and place them on a work surface. They first sort according to kinds of paper and the degree of destruction (i.e., how many times a piece was torn), and then according to the writing material (pencil, ballpoint pen, ink) and whether the text is handwritten or typed. Finally they look for connections in meaning. Like archeologists, they try to piece together the layers of meaning that belong together. By 2001, this group had succeeded in reconstructing 480,000 pages from only 185 bags of material. The authority claims as a token of triumph a half-sized sheet of letter paper that workers reconstructed, like the British Museum's precious Portland Vase, from 98 individual pieces. Once the documents are ordered in archival form and registered, a courier drives them back to Berlin, where the documents are ordered and registered once more. Only then are they made available to citizens.

In 2000, the Bundestag asked the executive to replace manual reconstruction with computer-assisted methods, and it started a Europe-wide competition for the most efficient proposal. Spokespersons for the company that won the contract claimed that it could reconstruct the 600 million shreds of paper within five years, at a cost of only an additional one million Euros per year. The company proposed to laminate each piece in plastic foil, to scan them assembly-line style, and then to piece together the data in 100 parallel processing computers.¹⁰ The method is reminiscent of how the American company Celera, under Craig Venter's direction, speeded up the decoding of the human genome by introducing new forms of

⁹ See http://www.bstu.bund.de/cIn_042/nn_712440/DE/Archiv/Rekonstruktion/rekonstruktion_inhalt.html_nnn=true (last accessed August 7, 2010)

¹⁰ Andrew Curry (2008) describes the technological challenges involved in this massive effort.

DNA sequencing. The German government called on private enterprise to undertake a similarly energetic decoding of East Germany's political genome.

Despite all the faith in the information the reconstructed files will eventually yield, there is also an inevitable sense of futility about the undertaking. In her book *Stasiland*, the Australian author Anna Funder (2002) quotes a memo that the director of the Stasi File Authority in Zirndorf near Nürnberg showed her. In it we read a schoolbook-type calculation that shows at once the obsession of control, and the absurdity of trying to reconstruct it all:

Time required for Reconstruction:

1 Worker reconstructs on average 10 pages per day

40 workers reconstruct on average 400 pages per day

40 workers reconstruct on average in a year of 250 working days 100,000 pages

There are, on average, 2,500 pages in one sack

100,000 pages amounts to 40 sacks per year

In all, at the Stasi File Authority there are 15,000 sacks

This means that to reconstruct everything it would take 40 workers 375 years.

Funder writes she was left speechless when the director told her that as of that moment (in 1996) there were only 31 workers in the office, not the 40 of his calculation.

Transparency on Display – the Stasi in Museums

State energies were directed not only inward, to reconstructing and understanding the workings of the Stasi, but also outward – toward making it a public spectacle. Beginning in 1994 the various Stasi offices around East Germany initiated a 'day of the open door', during which between 100 and 1000 citizens came to view the archives and the rooms in which the Stasi had worked. When the central headquarters in Berlin were opened for a day, 20,000 visitors came. Later, the Berlin office opened a Stasi documentation center, which welcomed its 100,000th visitor in August 2002. Throughout the 1990s, numerous exhibitions, and even one film,¹¹ demonstrated the methods the Stasi had used to spy on East and West German citizens. These exhibitions were soon followed by other exhibitions that focused on the civil disobedience of East Germans and the ways they found to resist the Stasi.

Museums are part of the reunified state's armamentarium of transparency and of pedagogy. It is not surprising that the narrative of East Germany as an *Unrechtsstaat* also found its way into several Berlin museums that exhibit the workings of the Stasi. In these museums, the descriptions of East Germany constantly remind the viewer of the illegitimacy of the East German state, and of the unlawful means by which it enforced loyalty. On Wilhelmstrasse in the former East, for example, there is the Stasi Museum, which documents the surveillance methods of the state. This museum's focus is not on the triumph of freedom-seekers over a repressive regime, but more on the details by which the East German state kept dissenters in line. Near the entrance a 15-minute East German promotional video shows some of the training methods with which the Stasi operated. The museum attempts to show both the everydayness of surveillance, and also the invisibility of it.¹²

In March 2002 the Berlin Museum for Communication on nearby Leipziger Strasse opened its first exhibit, "An Open Secret," to document the comprehensive Stasi surveillance of the postal and telephone services of thousands of East Germans. The interior of the museum was built to convey both the sense of

¹¹ The documentary film is entitled "Das Ministerium für Staatssicherheit – Alltag einer Behörde." In it the perpetrators themselves tell of the Stasi techniques for monitoring and coercing individuals.

¹² See Macrakis (2008) for a close look at the spy tools that the Stasi used.

watching over others and the sense of being watched. The exhibits were housed inside a walk-in container. On the outside the visitors could see everyday East German scenes; inside they could see the workings of the surveillance state. When I visited the museum in summer 2002, I was drawn to the display of the by then almost antiquated instruments of surveillance. On two old-fashioned looking telephones one could listen to the sound of a telephone line being tapped. In East Berlin alone, a sign read, there were 25 telephone surveillance studios, from which up to 20,000 telephones could be monitored simultaneously and the conversations completely or partially recorded. The focus was on conversations across the border into West Germany. Next to this display of state intrusion, a small note reassured the museumgoer: “Of course your telephone call will not be recorded” [*Ihr Telefonat wird selbstverständlich nicht gespeichert*]. Museum visitors evidently need to be explicitly reassured that the surveillance strategies that had been omnipresent in East Germany have now been abandoned. It was as though that aspect of the dictatorial past needed to be actively disavowed by the *Rechtsstaat* that had succeeded it.

Other signs inform viewers that an automatic letter-opening machine could steam open up to 600 letters per hour. In all of East Germany the secret police read an average of 90,000 letters every day, taken from mailboxes on the street and in private homes, and opened 4,000 packages. The numbers peaked significantly around the holidays. Items that were thought to subvert the state’s authority were archived or destroyed, though this last, drastic course was not common. It happened only a few times that letters or packages that my own father sent from East Germany after the rest of my family had escaped to the West, failed to reach their destination. More often my mother received letters that had been opened, and then resealed with tape. Apparently the state wished only to demonstrate its continuous background presence.

After reunification, the German state went increasingly public in demonstrating its commitment to the privacy of mail and telephone communications. In a 2004 ad campaign in connection with planned revisions of laws governing surveillance (the central question was whose telephones could be tapped, and whose could not), I saw several posters highlighting citizens’ rights to be protected from state supervision. One poster showed a young woman chatting on the telephone, with a caption below: “Flirting, Complaining, Gossiping: And no one is listening in.” In keeping with German sensibilities regarding law and textuality, the legal paragraph guaranteeing the secrecy of telecommunications was printed below the caption. It was marked “decided on by the German Parliament.” Still further down, another caption read: “Decisions for Freedom. The German Parliament.” These “Decisions for Freedom,” intended in some sense to (re)build moral order, draw an implicit contrast to East Germany, where private communication among citizens was not off-limits to the state.

Surveillance in practice contradicted the official rhetoric, and politicians from all parties were outraged at this obvious misrepresentation of facts on the ground. In an interesting irony, the image campaign coincided with the revelation by experts in the security industry that German authorities had officially tapped 20,000 telephones in the previous year, more than any other democratic nation; estimates of unofficially tapped telephones ran much higher.¹³ Media had referred to Germany as *Abhörweltmeister*, or telephone tapping world champion. Some politicians said the campaign bordered on criminal misrepresentation and falsification, and warned that it suggested a degree of telephone privacy that simply did not exist in Germany.¹⁴ Apparently governments on both sides of the wall were intent on listening in on private conversations.

But back in the Berlin Museum for Communication one learns that surveillance in itself was not always illegitimate – not when serving the West German *Rechtsstaat*. *Rasterfahndung* (‘roster searches’, or profiling) had led in the 1970s to arrests of some members of the leftist terrorist group RAF, whom the Minister of the Interior, Otto Schily, had defended in court. In 2004, it became public knowledge that

¹³ See Schulzki (2004) for an overview of novel surveillance technologies used in the name of national security.

¹⁴ See <http://www.politik.de/forum/innenpolitik/17729-image.html> for some of these critical voices. (Accessed August 5, 2010)

Schily now planned to use *Rasterfahndung* to search for terrorists who might be connected to the attacks of September 11, 2001. *Rasterfahndung* is a very controversial process. Certain suspect personal characteristics are fed into a computer which then reads out the names of all those who fit the profile. The technique does not search for certain guilty individuals, but rather presumes that a certain category of person is potentially guilty (of a potential crime), and its members need to be exonerated after investigation. *Rasterfahndung* in a sense violates the legal presumption of innocence until proven guilty. Next to the Internet display, at a different computer, another website was available for learning about the *Rasterfahndung* that Germany had used to search for potential terrorists after September 11, 2001. When combing through 8.3 million data sets revealed that there were no sleepers whom the search could uncover, the documents that had been produced were destroyed. A computer CD with data sets on it was then symbolically cut into pieces at a press conference. Having made a part of the population transparent in the search for dangerous individuals, a veil of anonymity was (symbolically) placed back over it. Clearly the New Germany had its own forms of far-reaching surveillance, but their packaging and performance invested them with an aura of moral legitimacy.¹⁵ Whether all digital copies of these records were in fact deleted is of course impossible to verify.

Learning to see Themselves as Victims

Gauck, the Protestant minister, ran the Stasi File Authority with a concern for balance. His main focus was on protecting the victims and prosecuting the perpetrators, and ideally also practicing forgiveness. He precluded the idea of a general amnesty, however, because such a blanket act would destroy the population's faith in the *Rechtsstaat* (Gauck 1991: 40). Instead, Gauck wanted to make sure that those in leading political and economic positions were untainted by Stasi affiliation (1991: 92f.).

The Stasi File Law does not in fact mention the terms 'victim' and 'perpetrator', and yet these have become canonized in subsequent discussions of the Stasi. How did these terms enter the public discourse? Matthias Wagner (2001), himself a Stasi member, and after 1990 briefly one of the files' keepers, provides an answer.¹⁶ Wagner recounts that it was Gauck himself who introduced the terms on the evening the Stasi File Law went into effect. In a television show aimed at clarifying what the law meant, Gauck was taking phone calls and answering questions. One young caller described his activities and confirmed that he had been an 'unofficial informant', and Gauck told him, on the spot: "*Sie sind Täter*" ("You are a perpetrator"). That term stuck. Those who had been spied upon, by contrast, were *Opfer* (victims), a word that is often used to refer to the victims of the Holocaust. It is a strange echo of that greater tragedy that the Stasi were found to have accumulated an estimated six million files on the victims of its unlawful surveillance.

According to Gauck, everyone who had a Stasi file, and who had not in some capacity worked for the Stasi, was a victim. That classification was an enormous relief to many East Germans in official positions, Wagner writes. Since many members of other official institutions had Stasi files, they could now all claim victim status. Those who had in their files the Stasi's approving sentence that they were "upstanding socialists in word and deed" could almost feel redeemed, as idealistic individuals who had worked for a better society.

¹⁵ Jane Kramer (2002) has written a fascinating article in which she describes how Germany's high-minded rhetoric of transparency and data protection has produced a separation of competencies that has impeded effective collaboration among its various intelligence agencies in the war against terror, despite the fact that several of the September 11 terrorists lived undisturbed in Germany for years.

¹⁶ Wagner himself had been key in saving many of the Stasi files from looting and destruction. He worked for the file authority, and was offered the job of directing work in the central Stasi archive – a job he declined. He has been unemployed since 1997, when it came to light that the Stasi came had recruited him as an unofficial collaborator, *inoffizieller Mitarbeiter*, or IM, in 1981. His book adds a different and often-marginalized perspective to the tone that dominates the Stasi file discourse.

When full-time Stasi employees had destroyed many files in the weeks just before and after the fall of the Wall, they had predictably destroyed the most damaging files, which often included their own, and those of their activities in West Germany. What remained were largely the files about the unofficial informants, and about those four million East Germans they had spied on. The selective destruction of files thus worked to incriminate the small-time unofficial informants, while it got many of the official collaborators off the hook. Perhaps their files are among the thousands of bags of shredded material awaiting discovery. In the meantime, the existing evidence of hundreds of thousands of unofficial informants present a shocking image of an entire society trained to police itself, and the wealth of collected information presents the illusion that piecing the documents together again will lead to a coming to terms with East Germany's dictatorial past.

Wagner's description highlights the difficulties and tragic ironies inherent in using the Stasi files themselves as an accurate divider between perpetrators and victims of illegitimate surveillance. He points out the flaw inherent in taking the Stasi files to be a complete picture of how East Germany functioned: "The files have their own internal politics ... Having a field does not necessarily make one a 'victim', and informing does not necessarily make one a 'perpetrator'" (2001: 175ff.). What was sold as the 'uncovering of the structures of a totalitarian state', Wagner writes, served instead to prepare the ground for dismantling East Germany.

Gauck himself was acutely aware of the difficulty in separating out the victims from the perpetrators, and he describes the obstacles in making clear distinctions between them. For one thing, the Stasi had often pressured its victims to spy on others, suspected enemies of the state, thereby turning victims into perpetrators themselves (1991: 38). Furthermore, the Stasi surveillance of its own informants was so thorough that the files between victims and perpetrators often became indistinguishable (1991: 55). In spite of these problems, Gauck concludes that the *Aufarbeitung* (i.e., processing, or coming to terms with) of the Stasi past was an absolute necessity for developing the *Rechtsbewusstsein* (awareness of 'right') of East Germans (1991: 131). For some, we will now see, this in effect meant that East Germans needed to learn to see themselves, as well as the law, the way West Germans already saw them.

How German Was It?

Differences in cultural norms of transparency and surveillance crystallized when one of the most prominent Stasi victims turned out to be a West German rather than an East German – former chancellor Helmut Kohl. Kohl at that time was at the height of his career, but just about to fall. He had made history by bringing the two halves of Germany together again, but he was politically vulnerable because his promises of revitalizing East Germany within just a few years had turned out to be illusory.

It was well-known that the Stasi files contained information about Western leaders and organizations. West Germany, after all, had quickly brought many such files across the border. But there had been a tacit consensus in the Stasi File Authority not to give out illegally gathered information for political purposes. This changed with Kohl's party financing scandal. The Christian Democrat Party (CDU) was found not to have declared large sums in campaign contributions, and no one knew where the money had come from. When Kohl left office after his 1998 electoral defeat, several gigabytes of files were missing from the government computers. It seemed as if Kohl was determined to keep certain things secret from his successor, and from the public. When it came to light that Kohl had illegally accepted funds from an unknown source to finance his campaign, a search for the donor began. There was speculation that the money may have been illegally imported, or that it may have been untaxed, but Kohl refused to say anything, claiming that he had given his 'word of honor'. Some people suspected that the Stasi might have been blackmailing Kohl because they knew the answer. Members of the Green Party, which was allied with civil rights protesters from East Germany, wanted to use the Stasi files to find information that would shed light on the scandal. In November 2000 Kohl sued the authority in order to prevent it from turning

his Stasi files over to researchers and the media. Almost one year later, in July 2001, the court decided that Kohl's files would not be made public.

After the Greens had broken the tacit consensus, it seemed that a law was needed to reestablish the previous practice, and in August 2001 Marianne Birthler, a former East German civil rights advocate and the authority's new head, asked the Bundestag to clarify the Stasi File Law in order to ensure that other files would continue to be returned to the people.

A debate between Birthler and Robert Leicht, a well-known and influential journalist and theologian who had been the chief editor of the weekly magazine *Die Zeit*, and is now one of the paper's most prolific contributors, about opening Kohl's Stasi file highlights the multivalence and ambiguity of ideas of transparency and surveillance at the moment of reunification, and it shows what was at stake in the conflict. Where Gauck had tried mainly to inform the Stasi's victims of the extent of the spying, Birthler promoted a more comprehensive use of the files for the purpose of critically engaging with Germany's power structures, both eastern and western. She had consistently argued that the public had a right to know the details of Kohl's files, and she did not want the Kohl case to set a precedent for keeping files on public persons locked up.

In an article entitled "*Jede Medizin hat Nebenwirkungen*" ("Every Medicine has Side Effects: Why Helmut Kohl's Stasi Phone Tapping Protocols must not be a State Secret"), Birthler (2001) addressed the question of whether one may use information that the Stasi had gathered in violation of the Basic Law, the German constitution, if one's goal is to clarify the workings of the Stasi. Her argument consisted of two main strands: Kohl, as a public figure, should be made as transparent as possible to the citizens he governed; Germans, as a people entitled to accountability from their state, deserved to know all that could be known about the Stasi's operations. If Germany was to make sure that a dictatorship would never again take root in German soil, it was necessary to know as much as possible about how it had happened in this case.

Birthler portrays the Stasi File Law as a success. She regards opening the structures that dominated East Germans, including censorship of press and politics, secrecy, and pretensions of all kinds, as an act of atonement. For her, it was only understandable that, following the peaceful revolution of 1989, revolutionaries would turn their attention to the Stasi. Just ten days before official reunification, on August 24, 1990, the first democratically elected Volkskammer crafted the "Law on Securing and Using the Data of the former Department of Stasi File Law." Like Birthler, they wanted to hold the East German state accountable, rather than dismiss it as entirely unlawful.

Opening the Stasi files, making them transparent, was always in partial contradiction to West Germany's legal notions of privacy and data protection. The Stasi File Law even has a provision that limits the applicability of the Data Protection Law. This is why Birthler regards the Bundestag's enactment of the Law as a concession to the peaceful revolution in East Germany, generating new norms for the reunified state. The law, she writes, "ties the tradition of the East German citizens' movement to the principles of West German data protection, as well as to archive laws and to the commandment of the freedoms of information and of science." In other words, for Birthler the hybridization of East and West German laws and traditions produces a new, composite entity. Tensions arise, according to Birthler, because the Stasi File Law cannot be explained simply with reference to the West German legal understanding before 1989.

Birthler further argues that if Kohl's file were closed to the public, then all kinds of other factors important to political behavior (such as motivations, alternatives, tacit understandings, or secretly arrived at conclusions) would be off limits for legitimate inquiry. Even information on the East German opposition would be out of reach, since 'opposition' in that dictatorship tended to be 'not public' in nature. One would continue to look at the façade, at what the state had chosen to present and make public, but not at

the struggles behind such decisions. In trying to make the workings of the Stasi visible, Birthler wants a different kind of transparency. She is not content with looking at the state the way it presents itself: she wants everything of concern to citizens to be visible. In some sense, she wants to show Stasi-in-Action, by following its operators through society. To uncover the workings of a secret service, she concludes, necessarily involves uncovering secrets—*all* kinds of secrets.

It is in her very attempt to redefine openness and secrecy that Birthler came up against resistance from West German quarters. Her positions with regard to transparency and surveillance are thrown into high relief when we contrast them with those of Robert Leicht. In a response to Birthler, entitled “Citizen Kohl also has rights: A Chancellor as Victim” (“Auch der Bürger Kohl hat Rechte: Ein Kanzler als Opfer”), Leicht (2001) invokes the *Rechtsstaat* in all its majesty. He claims that Birthler had used deeply flawed logic to legitimate her personal curiosity about Kohl’s file, while failing to make any persuasive arguments. For Leicht, the written text of the law is the touchstone of the *Rechtsstaat*, not some more basic ethical principles lying outside and possibly above the law.

Leicht himself uses legal categories as dispositive of the argument over the meaning of transparency, and he proposes five steps to bring order into the chaos created by Birthler’s demand for disclosure. First, he clarifies the inner logic of the Stasi File Law. The law, he writes, divides victims from perpetrators, not East from West Germany. Victims, regardless of which side of the Wall they were on, have the right to read their files and find out what was done to them. Perpetrators, again regardless of which side they lived on, can have their files exposed. Understanding the Stasi does not mean understanding its victims (that after all was what East Germany was trying to do), but rather its perpetrators. Second, Leicht concludes that the law is extremely clear that Kohl’s file must not be handed to journalists and researchers. This is why, he claims, Birthler cannot use the law’s text to support her argument. If Birthler had looked at the law itself, he writes, she would have seen that the intentions she claims underlie the law did not become legal reality. And if something is not found in the text of the law, then it has been discarded in the legislative process. In a form of legal positivism, Leicht assumes that the law as it is written expresses all there is to know about its meaning.

Moreover, Leicht emphatically argues that one cannot retrospectively lose one’s basic rights – which are taken as written on behalf of *all* Germany. It was clear before 1989 that the Basic Law protected Helmut Kohl, as a citizen, from having his telephone tapped. Basic rights such as this cannot be taken away from citizen Kohl, especially not through the instrumental use of an organization that had specialized in systematically violating those basic rights.

By framing the conflict in purely legal terms, Leicht mobilizes the law as a cultural resource to produce the morally right kind of transparency – in this case, a limited transparency that protects Kohl as a private person and victim. He refers more than once to the letter of the law and the logic of the law. He cordons the law off from all polluting influences, including the messy history through which it came into being. In his conclusion, Leicht accuses Birthler of being interested less in revealing the workings of the Stasi than in revealing the workings of Helmut Kohl, as if the two can be separated. Leicht’s closing line, ‘tertium non datur’, which refers to the absence of alternatives between letting Kohl’s private life be private and using legal means to partially uncover it, might as well mean that there is no alternative between the *Rechtsstaat* of West Germany and the *Unrechtsstaat* of East Germany. There can be no third entity in which the two are merged, for to admit this possibility would undermine West Germany’s authoritative moral position, based on a painstaking construction of a single postwar history.

In important ways, however, the Stasi File Law was an East German law. It was the Volkskammer’s attempt to come to terms with a state that had spied on its citizens. It can therefore be read as an East German attempt to craft a *Rechtsstaat*, using the materials available to it. The conflict between Marianne Birthler and Robert Leicht thus stands for a more general conflict between two different understandings of

the law's role in *reunified* Germany, and also between two ideas of what principles to use in making the state accountable to its people. In their exchange we see, then, in almost stylized form, a confrontation between two understandings of the meaning of reunification itself. The question both can be read to be answering is the one implicitly posed by Birthler in her article on "side effects": What is the sick body that needs the therapy offered by the Stasi File Law? Both Birthler and Leicht are concerned with making sure that German politics will never again be perverted. And both advocate transparency – up to a point. But Leicht, in some sense, has already figured out how to accomplish this. He knows what needs to be shown, and what needs to be seen. For him, and for many West Germans, West Germany has already cured itself of its Nazi era pathologies. It has passed a Basic Law that puts human dignity first, grants protection to German citizens and gives them rights, and prescribes a liberal democratic order with careful separation of powers. For Leicht, West Germany has achieved wholeness on its own. The politics, and the surveillance, that happened on the other side of the Wall, therefore, cannot possibly have bearing on West Germans, and the dictatorship there must not be permitted to defile the democratic order that has been painstakingly accomplished. The pathologies of government that the Stasi files evidence are limited to East Germany, and must not be allowed to spill over into reunified Germany. When the potential damage from the secret files threatened to spill over into West Germany, different standards had to come into play. The sick political body in need of therapy is that of East Germany alone; the biomedical cure that Leicht advocates consists in surgically isolating the Stasi tumor and conducting a self-contained biopsy. Transparency had come up against its limits in West Germany.

Birthler's approach is different. She emphasizes that the Stasi did not care about borders. The Wall was not effective as a divider between healthy and sick politics. The Stasi, for one thing, operated in the West almost as easily as in the East. It tapped the telephones of many West German parliamentarians, and even brought down several high-ranking politicians, most infamously Chancellor Willi Brandt, whose trusted assistant was found out to be a Stasi spy. The Stasi successfully hired thousands of West German informants, and it influenced the professional and private lives of many more. Hubertus Knabe (1999, 2003), a historian who spent several years working in the Stasi document office, estimates that between twenty- and thirty-thousand West German citizens spied for the Stasi. In his opinion the agency's operation had been so pervasive that he considers West Germany to have been thoroughly subverted. For Birthler, therefore, *everyone* in Germany is implicated in the kind of surveillance institutionalized by the Stasi, and the task of understanding how the massive violation of rights worked requires being open about where the files lead. If we want to understand just how the Stasi was able to function so well, then we need to understand the larger context in which it worked. To understand so pervasive a disease, one must not stop at monocausal and localized explanations. Rather than finding a local biomedical cure, we need to look at larger pictures and find a social, or epidemiological, explanation.

For Leicht, reunification is a localized process with a foregone conclusion, at least with respect to the Stasi; for Birthler, it is an open-ended process in which new rules must be crafted along the way. For her, West Germany does not have the right to foreclose those areas of transparency that it does not want to be seen. In this sense Birthler is a Latourian. She wants to show the German people Stasi-in-Action, by following its operators through *all of* society. For her, the revolution of 1989 was not only a revolution for East Germany, but for *both* Germanys. Rather than take as given whose law (and whose concept of the law) shall operate in unified Germany, Birthler sees the revolutionary moment as an opportunity for rewriting the rules about what society we (want to) live in.

Conclusion

The material I have presented deepens our understanding of the dynamics of transparency and surveillance in at least three areas. First, we have seen that the meanings of both transparency and surveillance are contingent on understandings and interpretations of privacy, personhood, and other foundational concepts. As cultural differentiation increases, these meanings can quickly come to diverge even in two halves of a

temporarily divided nation. In the inaugural issue of this journal Gary Marx (2002) asked what was new about the ‘new’ surveillance. Marx identified some major shifts and means and methods, but found no clear normative implications. According to Marx’s classification, East German surveillance would fall under the old model. It was individualized and specific to the person under surveillance. It was directed against individuals whose views or actions did not conform to the government’s official position. Stasi-ordered interventions deliberately attacked an individual’s personality and private sphere. Moreover, surveillance was often done by acquaintances and sometimes even by family members or intimates.

Surveillance in West Germany, on the other hand, is in line with the “new” types of observation many liberal democratic states have implemented. Surveillance is initially anonymous and directed not at single individuals, but at the entire population of citizens. As we saw in the example of *Rasterfahndung*, comprehensive databases are created and searched for patterns and anomalies. In the West, records were kept not by neighbors and friends, but by cameras and computers. This new, liberal surveillance has no recognizable face, and is therefore less likely to be felt as an intrusion in the constitutional right to the free unfolding of the personality.

Although the styles of surveillance were different in East and West Germany, I have argued in this paper that their scope and scale were quite similar, which requires us to find an explanation for their perceived polar opposition. I have argued that the meaning of what counts as surveillance is neither certain nor pre-given, nor stable across cultural or political divides; rather, recognizing surveillance as such involves learning to see oneself as being under surveillance. What was regarded as offensive was not how much a government spied on its citizenry, but in what fashion. The case of German reunification has demonstrated that both transparency and surveillance are embedded and exist in a cultural and political context that gives them meaning and shapes how the relationship between the observer and the observed is structured in each case. Transparency and surveillance can function, in a dialectical process, as mirror images of one another, each helping to define, stabilize, and even extend the meaning of the other.

Second, these differences in meaning do not necessarily arise independently of the social actors’ intentions. Rather, as we saw with Germany, the rhetorics of transparency and surveillance can be deployed self-consciously, and with particular political ends in mind. Transparency and surveillance, while also emergent as historically specific and culturally conditioned artifacts, can become tools in the struggle for political and moral legitimacy. In some sense, reunified Germany imposed its more modern schema of surveillance onto the East German surveillers; it then arrived at a way of sorting individuals into perpetrators and victims and argued that the perpetrators had to be kept at a safe distance, on the other side of the former Wall.

Surveillance is about seeing people; making East Germany transparent, on the other hand, involved seeing the people who were doing the seeing. East Germany tried to make its citizenry transparent, and now West Germany is obsessed with making that transparent-making transparent, in the process viewing East Germany through a polarizing lens. The political struggle over the meanings of transparency, surveillance, and privacy thus demonstrates that whether something is recognized as a truth worth concealing (or uncovering) depends on prior, and politically motivated, understandings of what is worth looking at in the first place. In other words, we cannot treat surveillance as a simply given category, but should instead inquire into the extent to which political context determines what counts as surveillance. Understanding the representations of surveillance thus becomes as important as understanding the technologies of surveillance.

Third, we have seen the work that is involved in creating the perception of a state of law, or *Rechtsstaat*, through a politically motivated rhetoric of surveillance. We have seen that surveillance operates strategically, as it makes some things visible while it hides other things from view. I have argued that West Germany used East Germany’s ‘bad government’ to style itself as a ‘good government’. By drawing

clear lines between moral and immoral state practices after the fact, West Germany has largely succeeded in framing East Germany as a “surveillance state,” and it could justify discarding East Germany’s political life and accomplishments altogether. In other words, reunified Germany derived its legitimacy to some extent from the illegitimacy of East Germany. Therefore, we might similarly say that lawfulness is crafted not merely through adherence to certain positive principles, but that it is to a significant extent the result of segmenting out and highlighting one form of *Unrecht*, and positioning oneself in diametrical opposition to it.

This may have implications for our lives in a democracy more broadly. To what extent is the perception of democracy itself the result of a declared opposition to totalitarianism (or terrorism)? Are security and liberty as dichotomous, and even mutually exclusive (i.e., can one be realized only at the expense of the other), as some political actors sometimes presuppose them to be? Or is it the case, as in the example of Germany, that perceptions of liberty and security result from the framing of the debate?

What is certain is that surveillance is becoming an increasingly dominant factor in all of our lives, and is virtually certain to remain so. Given the fact that we are continually stepping up the scope and the effects of surveillance, while, for the most part, maintaining that these new and ever more intrusive surveillance measures are lawful, it is more important than ever to understand the role that the political rhetoric of democracy plays in making us believe that this surveillance stands on firm legal foundations.

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