

JYU DISSERTATIONS 234

Minna Tiainen

Justifying and Challenging Digital Surveillance after the Snowden Revelations

An Analysis of Media and Political Debates in
Finland



UNIVERSITY OF JYVÄSKYLÄ
FACULTY OF HUMANITIES AND
SOCIAL SCIENCES

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ABSTRACT

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As digitalization has made possible the collection and analysis of personal data to an unprecedented extent by corporations and intelligence agencies alike, some basic expectations about privacy and the relationship between citizen and state have become compromised. The present dissertation is interested in how a new stance towards personal information is being negotiated under these changing conditions, especially after the Snowden revelations of 2013, which raised global awareness of digital surveillance and caused moral outrage. The present study focuses particularly on public discussion in Finland, where the revelations dominated the headlines at the same time as new and more permissive intelligence legislation was being planned. The data come from Finnish media coverage of the Snowden revelations and political debate on the new legislation. Theoretical insights are drawn mainly from critical discourse studies, argumentation analysis, surveillance studies, and media studies, the first two of which offer the most important methodological tools used in the thesis. The thesis specifically explores, firstly, what discourses are evoked to justify and contest surveillance in the newspaper Helsingin Sanomat; secondly, what kinds of solutions are offered for improving the situation revealed by Snowden in that same coverage; and thirdly, how new surveillance measures are argued for and criticized in political documents concerning the new legislation. The results of the analyses show that in the media surveillance is legitimated predominantly with rather typical appeals to security, while opponents construct surveillance as a threat to some of the basic building blocks of democracy. Criticism of surveillance is abundant but typically remains on a rather abstract level and rarely leads to solutions for actually improving the situation. The political documents analysed likewise underline the indispensability of surveillance for security in the view of those arguing for new legislation, while opposing voices point to negative consequences on the economy and civil rights, as well as question the efficacy of surveillance. Only the question of the economy is taken up and debated to any great extent, pointing to the relevance attributed to each strand of criticism.

Keywords: digital surveillance, critical discourse studies, argumentation, legitimation, media

TIIVISTELMÄ (ABSTRACT IN FINNISH)

Tiainen, Minna

Verkkovalvonnan oikeuttaminen ja haastaminen Snowden-paljastusten jälkeen: Suomalaisen media- ja poliittisten keskustelujen analyysi

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Digitalisaatio on mahdollistanut niin yrityksille kuin valtiollisille toimijoillekin tietomassojen keräämisen ja analyysin ennennäkemättömällä intensiteetillä. Tämä on asettanut kyseenalaiseksi monia yhteiskunnallisesti perustavanlaatuisia oletuksia yksityisyydestä sekä kansalaisen ja valtion suhteesta. Tässä väitöskirjassa tarkastellaan, miten muuttuvissa olosuhteissa neuvotellaan uutta suhtautumista henkilökohtaiseen tietoon. Tutkimus keskittyy vuoden 2013 Snowden-paljastuksiin ja niiden jälkeiseen aikaan, jolloin digitaalinen valvonta oli globaalisti julkisuuden valokeilassa ja moraalisen närkästyksen kohteena. Tutkimus keskittyy erityisesti julkiseen keskusteluun Suomessa, jossa samoihin aikoihin suunniteltiin uutta tiedustelulainsäädäntöä. Aineistona on suomalaisen median Snowden-uutisointia sekä poliittista keskustelua uudesta laista. Teoreettisia lähtökohtia ammennetaan kriittisestä diskurssintutkimuksesta, argumentaatioanalyysistä, valvontatutkimuksesta sekä mediatutkimuksesta. Näistä kaksi ensimmäistä myös tarjoaa tutkimukselle sen tärkeimmät analyysityökalut. Osa-analyysissä eritellään ensinnäkin sitä, minkä diskurssien kautta valvontaa oikeutetaan ja haastetaan sanomalehti Helsingin Sanomissa. Toiseksi analysoidaan samassa aineistossa ratkaisuja, joita tarjotaan keinoksi parantaa Snowdenin paljastamaa tilannetta. Kolmanneksi tutkitaan sitä, miten uusien valvontaoikeuksien puolesta argumentoidaan ja miten niitä arvostellaan lainsäädäntötyöhön liittyvissä dokumenteissa. Analyysit osoittavat, että mediassa Snowdenin paljastamaa valvontaa oikeutetaan pääosin viittauksilla turvallisuuteen, ja sitä vastustetaan esittämällä valvonta uhkaksi demokratian peruspilareille. Valvonnan kritiikkiä esiintyy media-aineistossa paljon, mutta se liikkuu usein varsin abstraktilla tasolla ja saa harvoin tukea ehdotuksista, joilla ongelmia varsinaisesti voitaisiin ratkaista. Poliittiset dokumentit puolestaan yhtäältä alleviivaavat valvonnan korvaamattomuutta kansallisen turvallisuuden ylläpitämisessä, toisaalta niissä kritisoidaan valvontaa vetoamalla sen negatiivisiin seurauksiin taloudelle ja kansalaisyhteiskunnalle sekä kyseenalaistetaan valvonnan tehokkuus oleellisen tiedon keräämisessä. Taloudellisiin seurauksiin liittyvään arvosteluun vastataan aineistossa perusteellisimmin, muut kritiikin lajit jäävät varsin vähälle huomiolle.

Avainsanat: verkkovalvonta, kriittinen diskurssintutkimus, argumentaatio, oikeuttaminen, media

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I almost abandoned this thesis before really even starting with it.

Officially a PhD student but with no research funding and employed elsewhere, early in 2014 I walked into a café determined to tell my supervisor Sari Pietikäinen that I was going to pursue other career goals instead. An hour later, I walked out of the meeting having promised to finish my first research article in a year.

Admittedly, the work took a little longer than that. Still, the meeting goes to show just how central it has been for this project to have had such a dedicated supervisor who has remained encouraging and relentlessly optimistic throughout the process. Sari's insightful commentaries, her systematic approach to time and project management as well as her understanding for all my professional detours have made this huge undertaking feel like a very manageable effort. For all this and more, I am extremely grateful to her.

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Vantaa, May 2020
Minna Tiainen

LIST OF ORIGINAL PUBLICATIONS

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- Article 2 Tiainen, M. (2017b). Solving the surveillance problem. In. W. J. Schünemann, & M.-O. Baumann (Eds.), *Privacy, Data Protection and Cybersecurity in Europe* (pp. 61-78). Cham: Springer.
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ABSTRACT

TIIVISTELMÄ (ABSTRACT IN FINNISH)

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1 INTRODUCTION

The digital trail is never-ending, and it is formed of such ordinary things: the books we read, the flights we book, the shoes we buy; who we talk to, when, and for how long; the questions we type into our browser when privacy is most essential. So many of our everyday activities now leave a digital trace which, if put together and examined, paints a picture of each of us that is much more comprehensive than it might be comfortable to contemplate.

There is certainly interest in precisely such information. Advertisers strive to learn our preferences through it, and companies like Google and Facebook live and thrive on selling it to them. In the background, intelligence agencies scan data traffic in volumes and with methods that few people can really claim to know or understand. Overall, the digital age has brought about a change in what information we can reasonably expect to keep to ourselves. This challenges old notions of privacy and, in democracies at least, established principles governing the relationship between citizen and state.

Although the development has long attracted the interest of academics and other experts, public attention has remained relatively muted – until recently. A clear moment of change came about in 2013, when Edward Snowden, a US National Security Agency (NSA) contractor, fled his home country with highly sensitive documents and then gave them to a few selected journalists. Snowden's files made plain the pervasiveness of digital surveillance by the USA and its partner states and demonstrated how intelligence agencies routinely trawl the pool of personal information gathered by private corporations. They also showed that such surveillance targeted not only the citizens of both friendly and unfriendly nations but also their leaders, as well as international organizations (for more about the revelations, see e.g. Lyon, 2015; Pohle and Audenhove, 2017).

The media seized Snowden's story with enthusiasm, making it a global news sensation (Pohle and Van Audenhove, 2017, p. 1). Internet giants suddenly found their data-gathering policies in the spotlight, and governments were driven to review theirs. The demands of civil rights organizations for stricter privacy regulations and oversight gained momentum. Overall, a global debate emerged about the problems, benefits and proper limits of surveillance.

Due to the exceptional level of publicity and protest that followed them, the Snowden revelations can be considered a key moment for public awareness and debate on digital surveillance (e.g. Heikkilä and Kunelius, 2016, p. 3). This makes them and their aftermath a fruitful object of investigation into how the limits of the personal and the private are negotiated when the old rules no longer apply. The present dissertation explores the Snowden revelations and their aftermath; more precisely, it examines how the surveillance of digital activities has been justified and contested in media and political discussion post-Snowden. Ultimately, by exploring such public debates about surveillance, this thesis aims to increase understanding of the way a new stance towards personal information is being sought and established in the digital age.

The particular focus of the present study is surveillance discussion in Finland. Finland serves as an interesting case here because, firstly, it exemplifies a country where respect for civil rights as well as technological sophistication are integral parts of the national self-image, yet one where surveillance has seldom dominated public discussion. Secondly, Finland went through a rather sensitive period politically after the revelations, because of the coincidental timing of the revelations with the drafting of the new intelligence legislation, which involved such wide-ranging limitations to privacy that constitutional changes were required. Finland therefore offers for examination a site where differing perceptions of digital surveillance and its justification have lately been extremely topical as well as connected to concrete policy decisions.

Theoretically, the dissertation draws on a combination of Critical Discourse Studies (CDS), media studies, argumentation analysis and surveillance studies. CDS provides the study with its underlying, dialectical view of the relationship between language use and society, involving core assumptions about the relevance and ability of the chosen data to answer the questions posed in the dissertation. CDS is also the source of several of the main analytical concepts, such as *discourses* (e.g. Foucault, 1972; Fairclough, 1992) and *legitimation strategies* (Van Leeuwen, 2007). Supplementary insights for understanding the particular data types examined in this thesis are sought from media studies and argumentation analysis, the latter particularly from Fairclough and Fairclough's (2012) work on *practical argumentation* in political discourse. Lastly, to be able to develop a nuanced understanding of the nature and significance of present-day surveillance, a range of studies are drawn upon that conceptualize surveillance from different points of view. Insights provided by especially panoptic-driven (e.g. Foucault, 1977), assemblage-driven (Haggerty and Ericson, 2000) and governmentality-driven (e.g. Haggerty, 2006; Barnard-Wills, 2009) approaches to surveillance are applied. The multifaceted view of surveillance that emerges from the combination of these approaches is what motivated the study and guided the formulation of the research questions and the interpretation of the results.

The dissertation entails three empirical research articles. The first two analyse Finnish news coverage of the Snowden revelations in order to show how the intelligence practices that were revealed are both legitimated and challenged.

These articles therefore cover prominent reactions to surveillance directly linked to the NSA case. The third article shifts the perspective to Finnish political documents, exploring the argumentation for and against the particular forms of telecommunications intelligence proposed during the development of new intelligence legislation. The data in this latter article were produced shortly after the height of the Snowden debate, and therefore offer an interesting point of comparison with the contemporary media discussion as well as indicate how far the global surveillance controversy played a role in national policy considerations. Together, the three articles indicate which lines of justification and criticism are evoked as believable, topical and significant in Finnish public discussion addressing digital surveillance and its future post-Snowden.

1.1 Background and previous research

The Snowden revelations and the Finnish intelligence legislation are both critical junctures at which surveillance gave rise to particular public controversy in Finland. To set these debates in context, the present chapter first presents a brief, and necessarily selective, history of recent discussions in Finland about surveillance and cyber security. After this, a more specific description of the cases analysed in the current thesis is presented.

For a few decades now, digital surveillance has occasionally surfaced as an issue of societal interest and relevance in Finnish public discussion. Already before sweeping legislative changes concerning telecommunications intelligence raised privacy concerns in the 2010s, a law that was passed in 2009 (often referred to as Lex Nokia) provoked popular unease because it made it possible for employers to monitor metadata from their employees' work emails to prevent the leaking of confidential information. A few years after this, a broader concern for security in the increasingly digitalized society became prominent in the media. In early 2013, Finland's cybersecurity strategy was published (more below), and a discussion revolved around it in which experts warned of new societal vulnerabilities caused by digitalization and the need to develop better capabilities to address them. On the political level, the process of planning and formulating new intelligence legislation began. A sense of vulnerability in the digital sphere was reinforced by prominent cases of cyber espionage, especially by the revelation, made public in the autumn of 2013, that the computers of the Finnish Ministry for Foreign Affairs had been spied upon for years, unnoticed. The espionage was disclosed only due to a tip from the Swedish FRA (the authority for signals intelligence), which further increased worries about the appropriateness of Finland's own capabilities. Such fears were accompanied by an acknowledgement of the possibly controversial nature of corresponding reforms. The planning of the new intelligence legislation, which in late 2013 took the form of the setting-up of a working group to draw up suggestions for new legislation (more about this in Section 1.1.3), raised questions about proper oversight and the limits to state surveillance. The cybersecurity strategy itself as

well as the founding of the National Cyber Security Centre, which was opened in 2014, led to debates about whether it was necessary to develop cyber-attack skills as well as defence capabilities.

These calls for, and steps towards, reform coincided with the Snowden revelations, which in and after the summer of 2013 spurred global demands for better privacy protections in the digital age (more on the Snowden case in Section 1.1.1). The revelations were closely followed also in the Finnish media, and particularly the first months after their beginning saw an exceptionally versatile and largely critical public discussion on (global) surveillance. These discussions slowly tailed off after new revelations based on the Snowden files dried up; since then, the disclosures have only occasionally been the focus of renewed public interest, for instance with the release of Oliver Stone's film on Snowden in 2016.

The Finnish intelligence legislation, on the other hand, remained in the public eye all the way up to its passing in 2019, albeit with varying intensity. Public reactions towards the legislation ranged from highly critical to unequivocally positive, although a general recognition of the need for *some* kind of new legislation came to underlie much of the discussion. In the few years preceding the passing of the new laws, public discussion on the topic also became characterized by a sense of urgency, with events such as the French terror attacks of 2015, the refugee crisis of 2015 and the Turku knife attack of 2017 intensifying calls for rapid legislative action in the name of security. Towards the end of the legislative process, a wide-ranging consensus seemed to have been reached on the relevance of the legislation, if not of all of its details, although critical voices continued to be heard, especially from academics and civil rights groups.

Overall, debates about the Snowden revelations and the Finnish intelligence legislation can, on the one hand, be seen as part of a longer-term pattern of consideration of cybersecurity and privacy in the digital realm in Finland. They highlight contradictory justifications and apprehensions that began before them and are likely to continue after them, and in this way, it can be argued that examining them can yield insights into public discussions on surveillance beyond these particular cases. On the other hand, they also constitute moments of particular interest and relevance. The debate around each one was itself of exceptional intensity and can be considered an event of far-reaching consequence: the Snowden revelations in terms of global indignation and awareness about surveillance by intelligence agencies (more in Section 1.1.1; cf. Section 1.1.2 for the limitations to these consequences in the political sphere), and the Finnish intelligence legislation in terms of its role in fundamentally changing the nation's approach to privacy in digital communication (for more on this, see Section 1.1.3). Moreover, since the earlier phases of the legislative work took place at the same time as Snowden was making headlines, these at least partly separate debates together could be seen as creating an exceptional episode in the longer history of surveillance discussion in Finland, an episode during which surveillance overall received an unusual amount and an unusually wide range of public attention. This challenged both the media and politicians to navigate a maelstrom of national interests and ambitions, moral outrage and international dependencies,

as well as deeply conflicting understandings of what really threatens the foundations of present-day democracies. These factors together make the Snowden revelations and the Finnish intelligence legislation a fascinating combination to explore (more on the selection of particular data sets in Section 5.1).

The remainder of this chapter further discusses these two cases, first describing the Snowden case, from its key actors to the content revealed. Then follows a discussion of studies that explore public reactions to the revelations (relevant especially for the first two empirical articles of the dissertation), as well as studies that offer insights into connections to actual policy developments (particularly relevant for the third article). Here, adhering to the foci of the present study, special emphasis will be placed on mapping recurring lines of justification and contestation of surveillance. Lastly comes a description of the particular case of the Finnish intelligence legislation.

1.1.1 The Snowden revelations

Early in the summer of 2013, Edward Snowden, a 30-year-old American subcontractor to the NSA working for Booz Allen Hamilton, left his home country with highly classified documents describing the practices of the US intelligence agency. These showed what Snowden deemed to be blatant violations of privacy, internet freedom and civil liberties, and he intended to make them public. Continually on his guard but without detection, Snowden arrived in Hong Kong, where he met with journalists Glenn Greenwald and Ewan MacAskill from the Guardian as well as the documentary filmmaker Laura Poitras. He gave the documents to the media professionals, to be made public at their discretion.

Soon after, a stream of news articles was published which took the media by storm. The first ones appeared in the Guardian, but before long other major media outlets such as the New York Times and Der Spiegel gained access to the material and also started reporting on the story. Snowden himself then stepped forward, giving the revelations a human face and at the same time condemning himself to exile. His personal story gave the media event further traction, as the USA did its utmost to apprehend the agent who had disclosed its closely guarded secrets. Hong Kong became too risky for Snowden to stay in, and he left for Ecuador. The media followed closely as his flight was cut short during a stopover in Moscow, where the whistleblower disappeared into the busy airport. Unable to continue his journey, Snowden ended up staying in Russia. Both extensively celebrated and vigorously condemned, the revelations and the man who instigated them would subsequently become the topic of a multitude of books, films and academic papers.

The news articles drawing on Snowden's documents display a wealth of information about different programmes, practices and actors relating to US state surveillance. Pohle and Van Audenhove (2017, p. 2) list three dimensions to the revelations: the massive *scale and extent* of the data and people surveilled, the *type* of data that is collected, and the *programmes and cooperation mechanisms* that make

the surveillance possible. The disclosures made it clear that NSA surveillance targeted vast numbers of ordinary citizens both in the USA and abroad, as well as foreign heads of state and organizations like the IMF and Amnesty International. The information gathered involved both metadata (for instance, information on the participants and the timing of the communication) and content (what was actually said during such communication). The revelations also uncovered surveillance programmes such as PRISM, which involves the exploitation of data originally gathered by massive corporations such as Facebook. NSA cooperation with other intelligence agencies, for instance the British Government Communications Headquarters (GCHQ) and the German Bundesnachrichtendienst (BND) were discussed. Altogether, the magnitude of the revelations made them “the biggest act of whistleblowing in the history of modern intelligence agencies” (Pohle and Van Audenhove, 2017, p. 1; for further description of the revelations, see e.g. Lyon, 2015; for a brief history of whistleblowing on NSA and partner agencies, see Wood and Wright, 2015).

1.1.2 Surveillance discussion and developments post-Snowden

Because of the worldwide outrage provoked by the Snowden case, public debate around the revelations can be considered a locus of surveillance (de)legitimation (e.g. Schulze, 2015; see also e.g. Heikkilä and Kunelius 2016, p. 6). Previous research on the disclosures has identified parallel lines of justification and criticism across various media platforms, but practical policy changes post-Snowden have varied enormously from one country to another, and in some cases there have been interesting discrepancies between government policies and the tenor of public discussion. The current section explores these reactions and their interconnections with a focus on developments in western democracies, as these offer the most relevant points of comparison for the present study.

In alignment with Edward Snowden’s own publicly stated motivation for the disclosures (see above), privacy and other civil rights have been a major concern in the media discussion during and since the NSA revelations, and a dominant theme in surveillance criticism. Lischka (2017), examining British media broadcasts, finds that contra-surveillance arguments often stress values such as “public interest, civil liberty, democracy, press freedom, or division of power” (see Lischka, 2017 for further delegitimation strategies; cf. also Barnard-Wills 2009 and 2011 for surveillance delegitimation before Snowden). In a similar vein, Wahl-Jorgensen, Bennet and Taylor (2017) observe that British blogs criticize the surveillance as revealed by Snowden on the grounds of its impact on individual rights and the lack of transparency on the part of the intelligence services. Related types of delegitimation have also been traced in a global media data set compiled by Kunelius et al. (2017; discussion also in Heikkilä and Kunelius, 2016), which includes opinion pieces about the Snowden revelations from six countries.¹ Kunelius et al. (2017) identify three key principles informing

¹ For more on the Snowden coverage in each country, see Wahl-Jorgensen and Jones, 2017, for Britain; Russel and Waisbord, 2017, for the USA; Baisnée and Nicolas, 2017,

public discussion of the NSA revelations. Two of these, *transparency* and *balance*, involve a critical stance towards surveillance (a discussion of the third principle will follow, below). Transparency supports “arguments touting people’s right to know about the ongoing surveillance” (Heikkilä and Kunelius, 2016, p. 11; more in Kunelius et al., 2017, pp. 43-46) and is utilized to justify whistleblowing. The principle of balance highlights the relevance of a division of power and suggests institutional reform as a way to limit power abuses (Kunelius et al., 2017, pp. 40-43). Especially radical calls for institutional change have been found in the USA and in Germany, whereas the British press has taken a more cautious approach (Heikkilä and Kunelius, 2016, p. 9). Despite its affiliation to surveillance criticism, however, Heikkilä and Kunelius (*ibid.*, p. 13) note that the principle of balance may “help reinforce partly cosmetic paradigm repair of the oversight system” and thus even contribute to the legitimation of surveillance. Overall, surveillance delegitimation can be summarized as typically involving a concern for values and practices deemed vital for democracy.

With regard to surveillance legitimation, previous research has found that security, and national interests more generally, play a central role in the media. Wahl-Jorgensen et al. (2017) note that traditional media in Britain largely normalize surveillance by referring to national security and concentrating on the surveillance of elites, whereas attention to the surveillance of ordinary citizens is kept to a minimum (however see Wahl-Jorgensen and Jones, 2017; and Branum and Charteris-Black, 2015, for differences among British newspapers in this respect). A similar observation is made by Lischka (2017), who finds that in British broadcast news surveillance is often legitimated on the grounds of its utility in matters of safety and fighting terrorism. Threats to the civil liberties of ordinary people remain largely undiscussed, and such questions seem in any case negligible in comparison to the terrorist threats that are raised (*ibid.*, pp. 678-680). In a related line of justification, in their global data set Kunelius et al. (2017, pp. 38-40) identify *political realism* as a central principle informing the Snowden discussion. This principle – the third of the three mentioned above – evokes international relations as a primary context for discussing the revelations, and accepts surveillance as a political fact – a practice through which nations protect their self-interests (cf. Lischka, 2017, pp. 676-677, for the “everybody does it” justification). Within this line of justification, the security provided by governments is prioritized far above individual privacy; in western media it is even related to a form of patriotism which elevates national interest to “a moral virtue” (Heikkilä and Kunelius, 2016, pp. 7-8). Political realism is especially strong in Britain and some US media outlets, but Heikkilä and Kunelius (2016) also note its existence in Finnish media, for example.

Although similar themes have emerged in public discussion of the Snowden revelations in various countries, actual surveillance practices and regulations have since taken different directions in different places (e.g. Hinz and Brown, 2017, p. 789). Ni Loideain (2017) notes a boost in the protection for privacy

for France; Möller and Mollen, 2017, for Germany; Wang and Fang, 2017, for China; and Yagodina, 2017, for Russia.

on the EU level, instigated by decisions in the EU's highest court. The USA too, for instance, through the Freedom Act of 2015, has taken steps to curb data collection, though the scope and relevance of the reform are contentious (see e.g. Hinz and Brown, 2017, p. 789; Tréguer, 2017, p. 25). Germany, on the other hand, has taken a different approach, and has not only continued security cooperation with the USA after the revelations but has also legalized new, substantive surveillance practices (Steiger et al., 2017). This has happened despite quite serious public outrage following the Snowden coverage (see Möller and Mollen, 2017, for German media discussion), prompting Steiger et al. (*ibid.*, p. 7) to point to a "disconnect between public discourse and governmental action". In Britain, the highly controversial Investigatory Powers Bill of 2016 has expanded the surveillance powers of the state (though it has also opened up previously secret surveillance measures to public oversight; Hinz and Brown, 2017, p. 789), and in a similar vein France in 2015 legalized invasive surveillance practices that had already been in use unofficially (Tréguer, 2017; cf. Baisnée and Nicole, 2017, for discussion of surveillance in the French media at that time). In a further example of broadening surveillance capabilities, Finland in 2019 approved its first laws to regulate intelligence, including, importantly, new forms of digital surveillance (more discussion of this legislative process below). Overall, the uneven development post-Snowden shows that the global outrage following the revelations failed to bring about a corresponding wave of regulations enhancing privacy protections (Pohle and Audenhove, 2017; Tréguer, 2017, p. 25).

Studies addressing the broadening of surveillance mandates post-Snowden point to different causes and explanations for these developments. For instance, in the case of Germany, Steiger et al. (2017) identify some recurring elements in governmental and parliamentary discourse, three of which especially clearly contribute to a reluctance to tighten surveillance regulation: anxiety about new threats in the digital world, acceptance of a new, reduced, standard of privacy in the digital sphere, and an emphasis on Germany's asymmetrical dependence on the USA in the realm of security policy (see also Dimmroth and Schünemann, 2017). Taking a different point of view on the shaping of surveillance policy, Hinz and Brown (2017) find that in Britain different stakeholders have had differing levels of access to decision makers, and this has led to the intelligence and law enforcement sector framing the debate over surveillance. Consequently, security has been prioritized over civil rights (*ibid.*, p. 797). In the case of France, Tréguer (2017) notes that pressure to legalize surveillance practices that had already existed prior to Snowden was strengthened by the revelations, and was made politically feasible by the securitization discourses that followed from the rise of the Islamic State and the Paris attacks of 2015 (securitization refers to the construction of a state of threat, which makes the use of exceptional security measures seem acceptable and necessary; Schulze 2017, pp. 54–55; for more on securitization, see e.g. Buzan, Waever and De Wilde, 1998). Silence and denials on the part of policy makers regarding the national relevance of the NSA scandal further supported the political course chosen in France (see also Baisnée and Nicole, 2017, for how French political actors kept themselves detached from the

Snowden debate). Describing the development as “the Snowden paradox”, Tréguer (ibid., pp. 17-18) in fact suggests that the post-Snowden surveillance contention might contribute to an erosion of human rights safeguards as countries attempt to close the gap between their actual surveillance practices and the existing legal framework.

Summing up, the Snowden revelations provoked widespread outrage and a subsequent need for public surveillance legitimation. Previous research has found largely parallel lines of argumentation across different countries and media. In the political sphere, responses to the revelations have varied, but many researchers have come to the conclusion that there has subsequently been little significant improvement in citizens’ rights to privacy (e.g. Paul and Audenhove, 2017), and some have even suggested that the revelations have prompted further relaxation of the controls on surveillance (for further discussion, see e.g. Tréguer, 2017, and Section 7.2 in the present thesis). This discrepancy between public discourses and political action makes the repercussions of the Snowden case an especially fascinating object of study. At the same time it has been noted, however, that the interplay of such different responses has been understudied (Pohle and Audenhove, 2017, p. 3). The present study is designed to contribute to this field, adding to the body of research introduced above by first outlining prominent media reactions to the Snowden revelations in Finland and then exploring the contemporary legislative process, which has taken the country in a different direction from what might have been expected, given the widespread criticism of public surveillance subsequent to the revelations.

1.1.3 The Finnish legislative process

As noted above, Finland is one of the countries that has granted its intelligence community new and vastly more extensive surveillance capabilities since the Snowden revelations. Calls for new legislation had already been made before the NSA scandal, but it took until 2019 to pass the relevant laws. This makes the Finnish case an interesting object of study in terms of understanding how new surveillance regulation is negotiated in a time of heightened global awareness of digital privacy. The current section briefly outlines the process of drafting the legislation.

The need for new legislation was established in early 2013, when Finland’s first cyber-security strategy was completed and approved (Eduskunta, 2019). As part of its implementation, the absence of legislation in Finland regarding intelligence was noted with alarm, and the development of legislation was therefore defined as urgent. In December 2013, a working group was set up to map the existing situation and draw up recommendations, a task that coincided with the aftermath of the NSA scandal (which began in June of the same year, see Section 1.1.1).

The working group finished its work in early 2015, and its conclusions were published in its final report, *Guidelines for developing Finnish legislation on conducting intelligence* (which constitutes the data in Article 3; more discussion of this in Chapter 5). The report included a range of suggestions in the fields of

military and civilian intelligence. Of significance for the present dissertation in view of its interest in privacy in the digital sphere, the suggestions for civilian intelligence included allowing the authorities to screen cross-border telecommunications data (with particular, pre-defined search criteria) for national security purposes. This suggestion was particularly controversial, and fears of mass surveillance were expressed both inside and outside the group, yet the report was unwavering in its recommendation. The report noted further that to make its suggestions possible, changes were needed in the constitutional right to privacy of correspondence.

In the autumn after the publication of the report, further work on the recommendations was divided between three different ministries. The Ministry of Justice took up the development of possible constitutional changes, while the Ministry of the Interior continued with work on civilian intelligence legislation. Military intelligence legislation became the task of the Ministry of Defence. A further working group was established in 2016 to consider the supervision of intelligence activities.

In the spring of 2017, the ministries' suggestions for new intelligence legislation were published. Subsequent government proposals were submitted to parliament early in the following year. In October 2018, limitations to the constitutional right to privacy of correspondence were fast-tracked through parliament and approved by the huge majority of 178 to 13. This made it possible for the actual intelligence legislation to be passed during the same legislative period.

The last significant objections to the planned legislation were heard in early 2019, when a few well-known legal experts voiced their doubts about the constitutionality of the proposed intelligence measures. Their comments were followed by a final review of the legislation, causing some delay in the planned schedule. Nevertheless, March 2019 saw the laws on military and civilian intelligence approved in parliament. As a result, Finland is now among those many countries that officially, and legally, gather and screen masses of telecommunications data in search of threats to national security (for more on the process, see Eduskunta, 2019).

1.2 Research questions

The present thesis is interested in how, given all the (possibilities for) surveillance brought about by the digital age, a new stance towards privacy and personal information is negotiated. Special focus is on the surveillance discussion after the hotly debated NSA revelations. The general research question for the dissertation is: **How is digital surveillance contested and justified in Finnish public discussion in post-Snowden times?** This question is addressed from different perspectives in the three empirical research articles of the thesis, with the first two examining media discussion and the last one exploring policy documents

from approximately the same period. The specific research questions of the articles are:

Article 1: What kinds of discourses legitimate and delegitimate surveillance in the Finnish media, using the example of the Helsingin Sanomat news coverage of the Snowden revelations? How are these discourses hierarchically organized in relation to each other?

Article 2: What solutions to the surveillance situation are provided in the Finnish media, using the example of the Helsingin Sanomat Snowden coverage? How do they contribute to the struggle over the legitimacy of surveillance?

Article 3: How are new and broader intelligence capabilities both argued for and criticised in Finnish political documents concerning the new intelligence legislation? Ultimately, how are conflicting perspectives negotiated to enable the continuation of the political process?

1.3 Structure of the dissertation

This dissertation consists of three research papers and the present summary, which outlines and discusses the premises and results of the articles. The summary is divided into 7 chapters. Chapters 2 and 3 introduce the theoretical framework of the study, starting with the understanding of surveillance underlying the dissertation and continuing with Critical Discourse Studies, the source of the major theoretical assumptions, concepts and analytical tools applied in the thesis (typically of studies in this field, this chapter therefore necessarily also touches upon methodological considerations). Chapter 4 discusses the particular contextual constraints related to the types of data analysed in the research articles, specifically the features characterizing media and political texts and their production. Chapter 5 describes the data and methodology of the dissertation and Chapter 6 outlines the results of the research papers. Chapter 7 concludes with a discussion of the results as well as an evaluation of the dissertation. The original research articles (Tiainen, 2017a, 2017b, 2019) are presented after this summary.

2 SURVEILLANCE: THEORETICAL PERSPECTIVES

This chapter outlines major conceptions of surveillance in research, with a twofold aim: to give the reader a concise overview of the research most relevant to the present thesis, and to develop an understanding of the societal relevance and possible implications of the type of surveillance investigated here (for more comprehensive discussions and classifications of surveillance theory, see e.g. Barnard-Wills, 2009; Allmer, 2012). In other words, I do not attempt to draw an exhaustive picture of how surveillance has been conceptualized in academic research, but rather to examine existing research for insights that will help us better understand the specific topic of digital surveillance by intelligence agencies. This approach heeds Haggerty's, (2006, p. 39) warning against developing generalizable models of a phenomenon as complex as contemporary surveillance. The discussion focuses especially on surveillance theories concerned with the panopticon (particularly Foucault, 1977), the surveillant assemblage (Haggerty and Ericson, 2000), and governmentality (e.g. Foucault, 1991), all of which have been widely applied in contemporary research and bring out different, in part complementary perspectives on surveillance. Overall, this chapter complements and further develops the view of surveillance discussed in the empirical articles of the present thesis.

Before delving into theoretical conceptions, however, a brief overview is in order of some important factors that make current forms of surveillance exceptional on a historic scale. As indicated in Chapter 1, the present study sets out from the assumption that digitalization and the possibilities for data gathering that it offers mark a significant change in surveillance overall. The internet has brought about surveillance that is hidden and next to impossible to trace (Mathiesen 2012, pp. xix-xx), and the widespread adoption of big data practices - by which is meant "a capacity to search, aggregate and cross-reference large data sets" (Boyd and Crawford, 2012. p, 663) - has led to the expansion and intensification of surveillance, "signal[ing] profound changes" for individuals and society alike (Lyon, 2014, p. 1). The data that are targeted now often come from social media platforms, which gather a mass of information about their users/contributors, and they are processed - combined and analysed - by both

these corporations and by intelligence agencies in new ways; the real-time tracking of data, for instance, is now possible (e.g. Lyon, 2014). Moreover, instead of having a pre-defined purpose, data may now be collected first and their use determined only afterwards; surveillance has gone from “targeted scrutiny of populations and individuals” to the monitoring of data masses (see below for “data doubles”), with the goal of surveillance having shifted from making sense of past events to predicting future actions (ibid.). In the field of national security and policing, this has meant the strengthening of a pre-emptive approach, with a focus on preventative measures that aim at limiting people’s options (ibid., p. 5), as opposed to the investigation of crimes that have already taken place. Civil liberty and privacy concerns, as well as questions regarding due process, have arisen as a result (Lyon, 2014). Overall, it can be argued that recent changes in both the quantity and quality of surveillance mark a fundamental shift in surveillance – and one whose essential characteristics theoretical conceptions of surveillance must in some way account for if they are to remain, or become, socially relevant.

Turning now to theoretical concepts, perhaps the most influential theory on surveillance comes from Michel Foucault, whose work on the *panopticon* (1977) has long occupied a hegemonic position in surveillance research (e.g. Haggerty, 2006, p. 25; cf. Allmer, 2012). Originally, the idea of the panopticon was formulated by Jeremy Bentham (1791); the panopticon was an institution or building complex such as a prison with a central tower and isolated cells around it. An inmate in one of the cells could always be seen from the tower, while an inspector stationed in the tower remained invisible to the inmate. The asymmetry of visibility resulted in the inmate internalizing the rules of the institution, thus rendering constant and active exercise of control on the part of the inspector unnecessary. Although for Bentham the model meant increased efficiency in institutions, for Foucault (1977) it served as a symbol of the exercise of (repressive, disciplinary) power in modern societies. In Foucault’s view, traditional coercive methods of societal control, such as torture, had in modern times been replaced by practices of panoptic surveillance that relied on “a state of conscious and permanent visibility” (Foucault, 1977, p. 201); the panopticon was “a cruel and ingenious cage” (ibid., p. 205). The subjects in this new era, then, lived in a one-sided surveillance relationship in which the motives, practices and ethics of the surveillants were hidden. This caused discomfort and anxiety (Simon, 2005, p. 4) and led to constant self-monitoring by those under scrutiny. Ultimately, the Foucauldian panoptic society produced docile subjects who had taken on responsibility for disciplining themselves.

Although formulated almost half a century ago, the panoptic view of surveillance continues to be widely influential in surveillance research (e.g. Allmer, 2012; more below) and is relevant for the present thesis, too. In certain of its aspects, digital surveillance by intelligence agencies can be seen as representing an extreme form of panoptic surveillance: it is uni-directional and largely hidden, and it is difficult for those under scrutiny to evaluate the purposes and ethics of the surveillants involved in it (cf. Fuchs, 2015). It also

makes possible the monitoring of private domains like the home, and everyday interactions, that used to be difficult to reach without significant effort and expense, thus making unprecedented masses potentially subject to intense forms of monitoring (see Bakir, 2015 and Lyon, 2014, for more on big data and state surveillance post-Snowden, and e.g. Simon, 2005 and Mathiesen, 2013, pp. 44–49 for the relevance of panopticism in 21st century surveillance more generally). Therefore, Foucault's insights on panoptic surveillance at the very least serve as a serious warning of the societal ramifications of ever more pervasive surveillance practices.

However, there are also a great number of widely recognized problems with conceptualizing surveillance through the panopticon, many of which reduce its usefulness especially in the digital age (see e.g. Yar, 2003, and Haggerty, 2006, for categorizations of critique). For instance, although the top-down model of panoptic surveillance fits some aspects of contemporary surveillance, it does not capture the overall complexity of the surveillance networks at work in present-day digital communication, including those utilized by intelligence agencies (as discussed below). This has been noted, for instance, by Haggerty (2006), who argues that the multiplicity of surveillance actors and purposes in current times makes the uni-directional panoptic metaphor inadequate. As far as digital surveillance by intelligence agencies is concerned, such variety is manifested for example in the diverse ways in which the agencies use and cooperate with private corporations, which in turn rely on information provided more or less willingly by internet users themselves, often on social media (more e.g. in Bakir, 2015; Lyon, 2015). This complexity further relates to another source of criticism of the panoptic model, namely, reservations about the overt negativity ascribed to the actions and purposes of surveillants. The strict normative stance has often been considered overly pessimistic or even dystopian (see e.g. Lyon, 1994; Haggerty, 2006, p. 35), and it poses a problem for the present thesis too (more on this below). Moreover, Foucault's understanding of surveillance as a source of disciplinary power has been challenged on account of its reliance on people being continually aware of surveillance, a condition which often does not match reality (e.g. Haggerty, 2006, pp. 34–35). This critique is especially relevant in the case of surveillance by intelligence agencies, which have long relied on subjects *not* knowing about their capabilities. Overall, the different strands of criticism make it evident that the panopticon alone cannot conclusively account for the intricacies of present-day surveillance.

Shortcomings in the panoptic metaphor have inspired numerous scholars to either develop or discard Foucault's work, spurring on an abundance of later conceptualizations to describe actual surveillance conditions. To name a few successors to Foucault's panopticon: Poster's (e.g. 1990) *superpanopticon* addresses panoptic surveillance in the computerized era; Gandy's (1993) *panoptic sort* sheds light on the way the subjects of surveillance are classified into categories that influence their life chances; and Mathiesen's (1997) *synopticon* highlights the way that the mass media enable the many to monitor the few (for more applications of the panopticon, see Haggerty, 2006, p. 26). While these, and

many other, developments all offer astute perspectives on contemporary surveillance, the problems in the panopticon's ability to describe current surveillance conditions most relevant for the present thesis are perhaps best addressed by Haggerty and Ericson (2000). Drawing on Deleuze and Guattari (e.g. 1987), they argue that surveillance in late modernity could best be understood not as the panopticon but as the *surveillant assemblage*. This metaphor highlights the way that contemporary surveillance is "driven by the desire to bring systems together, to combine practices and technologies and integrate them into a larger whole" (ibid. p. 610). The expansive nature of the assemblage, along with its "regenerable qualities", resembles the rhizome (ibid., p. 614; see more in Deleuze and Guattari, 1987). Surveillance in this view may have many different purposes, such as management, control, or profit, allowing for variation that stands in contrast to the panoptic model for surveillance (but which is, as acknowledged by Haggerty and Ericson 2000, p. 615, in line with Foucault's larger body of work; more below). The targets of surveillance are no longer human bodies but their virtual "data doubles" (ibid., p. 606; cf. Poster, 1990; Deleuze, 1992), which "circulate in a host of different centres of calculation and serve as markers for access to resources, services and power in ways which are often unknown to its referent" (Haggerty and Ericson, 2000, p. 613). The assemblage transforms older hierarchies and brings new groups under surveillance, resulting in a partial democratization of surveillance. Such levelling of hierarchies is restrained, however, as the surveillance of the powerful is "often a mile wide but only an inch deep" (Haggerty and Ericson, 2000, p. 618) and, even in the perpetually transforming assemblage, asymmetrical arrangements eventually become stabilized (ibid., p. 609).

The surveillant assemblage has been widely praised for highlighting central developments in contemporary surveillance (e.g. Barnard-Wills, 2009, p. 47; Bakir, 2015, p. 16; cf. Lyon, 2014 for the usefulness of a Deleuzian approach to surveillance in post-Snowden times) and, for the present thesis, it aptly outlines the complex communication networks in which intelligence agencies operate today. However, it has also been severely criticized for its claim about the levelling of hierarchies, which is sometimes deemed to downplay the repressive characteristics of surveillance. For instance Fuchs (2015), drawing on Foucault and Marx, argues that surveillance ought to be defined solely through practices related to control and domination (a definition which also covers state intelligence as revealed by Snowden), and claims that research which conflates such phenomena with other types of information collection, such as baby monitors or electrocardiograms, is politically dangerous (see e.g. Allmer, 2012, for a similar argument). From the point of view of the present study, this is an important but difficult point: when applied too broadly, a concept such as surveillance surely loses its value for making sense of social phenomena. However, it is beyond the scope of the present thesis to start classifying the particular surveillance practices that are of interest here as either negative or positive/neutral, and to delimit the scope of surveillance as a concept accordingly, and I would argue that there are also major difficulties in such a

classification generally. Evaluating the desirability of surveillance by intelligence agencies (even if different intelligence agencies were in this sense comparable, and even if this type of surveillance could be strictly distinguished from other kinds of surveillance, both of which are highly problematic) easily comes up against the enormous number of practices, motives and consequences that such surveillance entails (cf. Haggerty, 2006, for the relevance of *who* is conducting surveillance). In light of the Snowden revelations, it seems that state surveillance has been used for very different purposes, ranging from national security to industrial espionage and even personal curiosity, and at least some intelligence agencies have certainly overstepped democratically approved boundaries and intruded on broadly agreed civil rights. Nevertheless, there are democratic processes that have enabled and condoned at least some forms of such surveillance, and alleging control or repression as the only possible goals of the agencies involved seems simplistic. Therefore, the strictly negative conceptualization of surveillance is here considered less helpful than the assemblage's more multifaceted view.

To nevertheless ensure due recognition of the top-down, control-driven tendencies in state surveillance, there are several theoretical insights that can be drawn upon. Firstly, it is possible simply to acknowledge Haggerty and Ericson's (2000, p. 618) observation that hierarchies do exist and become established even in the assemblage. If more emphasis on the one-sidedness of particular types of surveillance is called for, this view can be supplemented with recent, post-Snowden accounts of surveillance which combine assemblage-driven/Deleuzian perspectives to panoptic surveillance, highlighting the way uni-directional state surveillance purposefully utilizes the more multidirectional, "rhizomic" surveillance networks to appropriate information (e.g. Bakir, 2015; Lyon, 2014). Lastly, a growing body of work that incorporates insights from Foucault's later work on governmentality can help us explore and even combine panoptic and assemblage-based understandings of surveillance by directing attention to the particularities of specific surveillance practices (more below; see Haggerty, 2006; and Barnard-Wills, 2009, p. 67 for further discussion). For the purposes of the present thesis, all of these provide valuable insights into the complexity of current surveillance. However, the governmentality perspective on surveillance perhaps most comprehensively accounts for the difficulty in forming evaluations of surveillance as a whole, and its applicability in the present thesis deserves further exploration.

In Foucault's (especially 1991) theory on governmentality, surveillance is seen as a central technology of governance (Foucault, 1982, p. 223). Understood broadly as "the conduct of conduct" (Dean, 1999, p. 10), governmentality encourages "forms of self-direction appropriate to certain situations" (Barnard-Wills, 2009, p. 63; see more in e.g. Dean, 1999; Rose 1999). For governance to be successful, the governing agencies must obtain information about those who are being governed; they have to know the population (e.g. Haggerty, 2006, p. 40). This is what makes surveillance so vital for governance. The governmentality approach examines specific governmental projects, focusing on their particular

rationalities and aims while avoiding generalizations (Haggerty, 2006, p. 40). This means that surveillance is not considered inherently good or bad, but it is rather acknowledged that any possible benefits and disadvantages depend on the observer and, ultimately, any evaluations must be made in terms of the specific objectives of particular projects (e.g. Haggerty, 2006; Barnard-Wills, 2009). This view is useful for the present thesis, as it sheds light on the complex dynamics and vast variety of interpretations of state intelligence circulating in society, even though it continues to be outside the scope of the present thesis to actually engage in the making of such evaluations.

Moreover, surveillance research drawing on governmentality theory provides the present thesis with a highly relevant view of the relationship between surveillants and the surveilled. Whereas both the panoptic and assemblage-based models of surveillance tend to envision the subjects of surveillance as mostly incapable of influencing their predicament (e.g. Haggerty and Ericson, 2000, p. 609; Foucault, 1977; cf. Simon, 2004 for a different interpretation of the panopticon), governance “involves efforts to persuade, entice, coerce or cajole subjects” and therefore allows for an understanding of citizens as active agents with freedom, albeit limited, also to resist (Haggerty 2006: 40-41; cf. above for the pre-emptive measures and limitation of choices noted by Lyon, 2014, as central to big data surveillance; see also Rose 1999 for the perspective that there is no such thing as “the governed”; and Bakir’s, 2015, post-Snowden consideration of journalism as a site of resistance for surveillance). The possibility of resistance has been considered a major advantage of the governmentality approach (e.g. Barnard-Wills, 2009; cf. e.g. Lyon, 2003), and it is also essential for the present thesis, which focuses precisely on moments when surveillance is, or could be, challenged.

Summing up, then, the present thesis draws insights especially from panoptic-, assemblage- and governmentality-based models of surveillance. The panopticon serves as a useful if, to a degree, dystopian, symbol for top-down tendencies in current surveillance, its continued relevance evidenced by the Snowden revelations. At the same time, the surveillant assemblage is helpful in outlining the broader surveillance landscape in the digital world, as well as providing a perceptive account of the way new technologies have transformed the targets of surveillance from people to ‘data doubles’. Governmentality theory helps reconcile insights from both of the previous approaches by directing the focus onto specific surveillance projects and their particularities, discarding generalizations and accordingly calling for a more nuanced normative stance. For the present study, research drawing on governmentality is also useful since it tends to acknowledge the potential for resistance better than the two other approaches. Overall, these insights on surveillance and its societal implications have motivated the present study and have informed the research questions as well as the interpretation of results.

3 THE CRITICAL DISCOURSE STUDIES FRAMEWORK

To examine the phenomenon of surveillance (see Chapter 2), this thesis applies insights from Critical Discourse Studies (CDS, also widely known as CDA²), and especially Foucauldian thinking (e.g. 1972), which is a major source of influence in the field (e.g. Wodak and Meyer, 2016b; Fairclough, 1992; Pietikäinen and Mäntynen, 2009). This approach provides the present thesis with its major theoretical starting points and concepts as well as analytical tools. This chapter is dedicated to exploring and explaining the choices that have been made.

Before describing its particular application in the present thesis, a brief overview of CDS as a field of research is in order, to illustrate its appropriateness. A multifaceted approach, CDS has roots in a variety of research fields from linguistics to social sciences, from anthropology and philosophy to rhetoric and pragmatics (see more e.g. in Wodak, 2011, p. 50; cf. Blommaert, 2005, pp. 22–24). Marking a decisive departure from traditional linguistics, CDS has from its beginnings focused on analysing naturally occurring language use while paying attention to the relevance of contextual factors, a focus which it shares with many related fields such as sociolinguistics, conversation analysis and semiotics (see e.g. Wodak and Meyer, 2016a, p. 2). This task is approached from a social constructivist view of language (more below), a starting point that CDS has adopted from structuralist and poststructuralist linguistics (Jørgensen and Phillips, 2002, p. 3; cf. e.g. Foucault, 1972), and which also underlies a variety of related approaches, from nexus analysis and sociolinguistics to discourse analysis and ethnography (see more in e.g. Scollon and Scollon, 2004; Jørgensen and Phillips, 2002; Jokinen, Juhila and Suoninen, 1999; Kuortti, Mäntynen and Pietikäinen, 2008). CDS therefore belongs to a network of related approaches that have taken as their focus the diverse connections between language use and the social world.

² Critical Discourse Analysis (CDA) is the term that has been used to describe the approach for much of its existence, whereas CDS has become common in the previous decade; more about the reasons for the change e.g. in van Dijk, 2013.

What distinguishes CDS from other fields is its specific combination of theoretical and analytical assumptions and interests. While CDS encompasses a “heterogeneity of methodological and theoretical approaches” (Wodak and Meyer, 2016a, p. 5), all of which have their connections and similarities to other approaches and disciplines, it is distinctive in its particular way of bridging social and linguistic research (e.g. Fairclough, 2003, p. 6; Pietikäinen, 2000, pp. 56–57): CDS takes a problem-oriented approach to social phenomena, and practises systematic, detailed empirical analysis of language use (see more in Wodak and Meyer, 2016a, p. 2; Jørgensen and Phillips, 2002, pp. 62–63). It interprets constructivism in a way that stresses both the socially constructive and the constrained nature of language use (Jørgensen and Phillips, 2002, pp. 5–7; more below), and involves an interdisciplinary perspective that allows for the incorporation of insights from other relevant social theories in order to understand the phenomena under investigation (e.g. Wodak and Meyer, 2016a, p. 2; Fairclough and Wodak, 1997; Pietikäinen, 2000, p. 65). Furthermore, CDS draws on a notion of critique which highlights questions relating to social structures and power, drawing, for instance, on the work of the Frankfurt school as well as Michel Foucault (although the practical applications and role of such critical starting points vary vastly among CDS scholars; e.g. Wodak, 2011, pp. 51–52; Wodak and Meyer, 2016a, pp. 5–8; for more on Foucault’s relevance for critical perspectives, see e.g. Martín Rojo and Gabilondo Pujol, 2011). CDS is also committed to transparency with regard to researchers’ own interests and aims (e.g. Wodak and Meyer, 2016a, pp. 7–8).

For the present thesis, CDS is useful for a number of reasons. Its view of the relationship between language use and the social world (see below) is helpful in making sense of the societal role, dynamics and relevance of public discussions about surveillance. Elaborating on this view is the main task of the current chapter. Furthermore, CDS’s openness to interdisciplinarity makes it possible here to develop a nuanced understanding of surveillance while maintaining an analytical focus on language use, which helps to ensure that the research questions are also socially relevant (cf. Chapter 2). The critical perspective of CDS is also appropriate for the present thesis due to the societally influential and controversial nature of surveillance, as it points to the ways that particular types of language use are linked with social structures and change. Of particular relevance is also the Foucauldian form of criticism, which directs the researcher’s attention to the problematization and discursive construction of concepts such as surveillance (Martín Rojo and Gabilondo Pujol, 2011, p. 98; more in Foucault, 1972; see Section 3.1.1 for further discussion). Lastly, CDS offers a wide range of analytical tools for examining the kind of data (media and political discussions) at the centre of the present thesis, making it a useful resource for methodological insight (more in Section 5.2 on methodology).

It needs to be noted, however, that CDS has received its share of criticism during the past few decades. Typical concerns relate to a lack of reflexivity about CDS’s starting points, to considering particular social categories and power relations as self-evident and excessively stable, as well as to claims of bias in its

analyses and interpretations (more in e.g. Blommaert, 2005, pp. 31–37; Pietikäinen, 2016, pp. 264, 267–268; Martín Rojo, 2001). Pennycook (2012, pp. 129–130), for example, criticizes CDA for consolidating concepts like *emancipation*, which he sees as stemming from the same system as is problematized in the research. He (ibid.) also criticizes it for evoking “static assumptions about social and political relations”. Widdowson (1995, 1996, 1998; see reply in Fairclough 1996), on the other hand, accuses CDA of vagueness and of producing partial interpretations that are based on the interests of the researchers. Blommaert (2005, 34–35) claims that CDA concentrates too much on texts and does not pay enough attention to societal context (among other things; see also Schegloff, 1997). These points of criticism and potential weaknesses in traditional CDS have spurred a range of developments and applications that have complemented and expanded the approach, for instance by turning to more local and ethnographic forms of analysis (see e.g. Blommaert, 2005; Pennycook, 2010; Scollon and Scollon, 2004). Since, given the significance of the present, textual, data, this dissertation limits itself to text analysis (more in Section 5.1; cf. Blommaert, 2005, p. 34, for CDS’s merits in concentrating on texts that have particular social relevance), it responds to the criticism in other ways. The thesis clarifies its starting points as carefully as possible, formulating, on the basis of surveillance studies, a multifaceted view of surveillance (see Chapter 2) which guides the interpretation of the results and makes the source of social critique explicit (cf. the discourse-historical approach for an incorporation of contextual knowledge and social theories; e.g. Reisigl and Wodak, 2016). Through the complexity of this understanding of surveillance, the thesis also hopes to avoid making any unreasonable assumptions about the stability of power relations and the rigidity of social categories, both of which, as we have seen, are potential weaknesses of CDS. Overall, the present thesis draws largely on the core principles of CDS while hoping to avert its main pitfalls through interdisciplinary insight and careful explication of the theoretical and analytical concepts used. The remainder of this chapter introduces these concepts and their role and relevance for the present study.

3.1 Defining discourse(s)

The concept of *discourse* is a good starting point for a discussion of the main theoretical premises of the present thesis, as it both addresses core assumptions about the socially constructivist nature of language use, and functions as a central analytical tool in the empirical analysis of the present thesis (see especially Article 1). A complex and multifaceted concept, discourse is widely applied in many different fields from the humanities to the social sciences, and it has acquired a myriad of different (though related) meanings (see e.g. Mills, 2004; Wodak, 2011; Wodak and Meyer, 2016; Gee, 1999; Fairclough, 1992; cf. Foucault 1972). In the face of such diversity, its consideration here can only scratch the surface, concentrating specifically on the application of discourse, and the reasons for its application, in this particular thesis (for more general overviews, see e.g. Mills,

2004; Pietikäinen and Mäntynen, 2009). Even with this limitation, three different definitions need to be introduced. I will start by discussing one which lays out the theoretical starting points of this thesis as a whole, then move on to another that adds to these premises on a theoretical level but is also applied as an analytical tool in Article 1. This discussion is accompanied by a brief introduction of two related concepts, namely the *order of discourse* and *discursive struggle*, which describe the way that discourses are organized in relation to one another (analytically relevant in Articles 1 and 2). This sub-section ends with the last and clearly least central understanding of discourse. It will only be applied in the empirical third article (for reasons that are clarified below), and it relates to particular text categories, helping in the context-specific selection of appropriate analytical questions and tools.

3.1.1 Discourse as language use: a theoretical conception

The first, theoretical view of discourse conveys a particular, socially oriented understanding of semiotic activity (e.g. Blommaert, 2005; Gee, 1999; cf. Fairclough and Fairclough, 2012, p. 81 for “semiosis”) that underlies the entire field of CDS. By semiotic activity is meant all the possible ways in which people create and convey meaning – whether with words, pictures, other multimodal elements or the like (see e.g. Kress and van Leeuwen, 2006; Machin, 2007). Since the present thesis concentrates on language use, I will henceforth restrict the discussion to that particular semiotic mode. Essentially, to talk about language use as discourse (without an article; cf. the next section for *discourses* as a count noun) is to reject the view that meaning resides in linguistic structures alone (cf. structuralist linguistics, see more in e.g. Jørgensen and Phillips, 2002, p. 24), and to assume instead that language use is a type of situated action intricately intertwined with the social world (e.g. Wodak and Meyer, 2016b; Fairclough, 2003; Pietikäinen and Mäntynen, 2009; cf. Foucault 1972). This view, which encapsulates the social constructivist starting points of CDS (more in e.g. Jokinen, Juhila and Suoninen, 1999, pp. 39-41), is often formulated by describing the relationship between language use and the social world as dialectic (e.g. Fairclough and Wodak 1997: 258). This conception of discourse constitutes a central theoretical tenet of the current thesis.

Elaborating on this dialectical relationship, language use can be said to be on the one hand constrained by, and on the other hand constructive of, the social (e.g. Jørgensen and Phillips, 2002, pp. 61–62). To explicate the former point, discourse analysts emphasize that even with seemingly unlimited freedom to say whatever we want, there will always be cultural, social and historical factors that restrict the meanings that can be conveyed (see e.g. Fairclough, 2003, pp. 8–9; Pietikäinen and Mäntynen, 2009; cf. Foucault 1972). Tradition and institutional constraints set limits to the form and content of things that can credibly be said in specific times and places: for example, a newspaper must adhere to a certain form or it will cease to be considered one (more below). Besides, although language use is creative, it is inevitably more difficult to convey and have others understand ideas that are new, rare or culturally unappealing than it is to follow

conventionalized lines of thought or argumentation (see Fairclough, 2003; more on this with regard to the second definition of discourse, below). In short, pre-existing social structures and conventions such as cultural norms and expectations both limit the ways that we speak or write, and guide our interpretation of what we hear or read. Acknowledging the significant role that culture (or context, or society) has in regulating meaning necessarily directs the analyst's attention away from purely linguistic structures and towards the social conditions under which language use takes place. For the present thesis, this view serves as encouragement to examine Finnish surveillance discussions not only for what is said, but also for what is ignored or downplayed, and to give sufficient attention to the specific constraints that the contexts of language use, for instance the media, impose on the discussion that is being examined (more in Chapter 4).

Now turning to the socially constructive properties of language use, (or discourse), the core assumption here is that what we say does not merely portray the real world outside the linguistic realm but it in fact actively shapes that reality (see e.g. Mills, 2004, p. 7, Fairclough and Wodak, 1997, p. 258; Foucault, 1972; hence the understanding of discourse as *action*). This understanding is essential to CDS (e.g. Wodak and Meyer, 2016b). It draws heavily on Foucault's archaeological works (1972), which formulate a view of the productive properties of discourse (more below with regard to the second definition of discourse) and explore well-established concepts as discursively produced objects rather than as naturally occurring entities (more about the origins of constructivism e.g. in Kuortti et al., 2008). The constructivist premise directs the researcher's attention to the various ways in which different things and events are given meaning, as well as the consequences, and conditions (above) of such a process (*ibid.*, p. 28). This view resonates with the interests of the present thesis and accounts for the relevance of any study focusing on language use.

It needs to be noted, however, that the constructivist starting point has been applied to varying degrees in the broad range of discourse analytical approaches that exist, with alternating emphases on the constitutive and constructed properties of discourse (see more in e.g. Jørgensen and Phillips, 2002, pp. 18–20; Fairclough, 2003, pp. 8–9). The present thesis draws on e.g. Fairclough (*ibid.*; Jørgensen and Phillips, 2002, p. 7) in a “moderate” version of constructivism by insisting on the relevance of pre-existing social realities in constraining the productive properties of discourse and, following Van Leeuwen (2008, p. 6), it recognizes that there is, or at least there can be, a difference between “doing it” and “talking about it” (although this distinction can, of course, be blurred in many instances, for example in performative speech acts; see e.g. Austin, Urmson, and Sbisà, 1955). The distinction is relevant in view of the particular types of data examined in this thesis, as both media texts and political texts addressing surveillance can be considered highly relevant for the way that the phenomenon is understood, developed and regulated, and are therefore *action* in terms of the consequentiality of these forms of language use. However, these texts are not

actually part of surveillance itself and are therefore not action in terms of *surveilling* (more on the discursive construction of surveillance below).

The view of discourse described above offers a fruitful basis for examining public surveillance discussion and its possible consequences. With regard to the phenomenon of surveillance, it is easy to see that even though the concept of surveillance is used to denote many practices that are non-linguistic, or are at least largely distinct from the kinds of discourse that address it (e.g. a particular process of data gathering, and the journalistic article that defines it as surveillance; hence the difference between talking and doing), the concept itself is extremely fragile and its boundaries are subject to constant negotiation. The social relevance of such discursive construction of surveillance can, for instance, be observed in the scholarly literature, where the borders of what constitutes surveillance are constantly debated (see Chapter 2). This is presumably because the discursively produced concept that is used inevitably has an impact on the research questions asked, the type of information produced, and any policy implications that emerge. Similarly, the boundaries of surveillance have been debated in Finland during the planning of new legislation, as vastly more extensive telecommunications intelligence capabilities have been promoted (see Article 3) but any form of *mass surveillance* is simultaneously acknowledged as unacceptable. This has made the naming and categorization of the proposed intelligence measures a focal point of contestation. Both of these examples show that, firstly, surveillance can be explored as a negotiable entity in the Foucauldian sense, formulated discursively and subject to change; and secondly, as is evident in the vehemence with which differing definitions are defended, that such conceptual boundaries are considered vital for the viability and future of actual surveillance measures, ultimately attesting to the consequential nature of discourse (see below for discourse and power).

Overall, the constructivist starting point of the present study means that surveillance is understood as a phenomenon that can be described, debated and generally understood as a unified object only when it is construed as such through semiotic work. In other words, discursive formulation is what brings together the variety of practices, motivations, legitimations (more below) and the like that we consider (characteristic of) surveillance at a particular time and place (cf. Chapter 2 for the multifaceted and fluid nature of the surveillant assemblage, and Barnard-Wills, 2009, pp. 87–93 for further discussion of surveillance and discourse). Although there will be different perspectives and emphases in circulation regarding the same phenomenon at any given time (see next section), the discursive formulation will inevitably set the standards for what can easily be accepted as part of surveillance, or as common-sense argumentation regarding it, or as appropriate regulation limiting it. Furthermore, as all discussion of surveillance is seen as contributing to this understanding, the constructive view of discourse provides the present thesis with its core rationale for why language use in general, and the empirical textual data in particular (see Articles 1, 2 and 3), are worthy of systematic investigation.

3.1.2 Discourses as culturally recognizable perspectives on a phenomenon

The second definition of discourse differs from the first one in its scope, and it is often distinguished with the plural form (as a count noun; e.g. Mills, 2004; Gee, 1999) and applied as an analytical tool (in this thesis, see Article 1). This understanding of discourse originates in Foucault's archaeological works (e.g. Foucault, 1972; Martín Rojo and Gabilondo Pujol, 2011), and it relies on the theoretical assumptions about language and the social explained above; but instead of denoting an overall understanding of language use, or semiotic activity, it refers to specific, relatively stable and culturally recognizable ways of using language that produce particular type of knowledge (e.g. Wodak and Meyer, 2016a, p. 6; Van Leeuwen, 2016, p. 138; more e.g. in Pietikäinen and Mäntynen, 2009). Such discourses can be described as particular perspectives on specific topics or objects (see e.g. Fairclough, 2015, p. 88; Mills, 2004, p. 6), and as such they are further characterized by their ability to highlight some aspects of their objects and exclude or downplay others. Consequently, a particular discourse would systematically construe specific kinds of knowledge as acceptable and legitimate, while rendering others as irrelevant or implausible (see e.g. Jørgensen and Phillips, 2002, p. 39; Van Leeuwen, 2008; Pietikäinen and Mäntynen, 2009, p. 44; cf. Foucault, 1972; more on legitimation below). It must be noted that scholars applying the concept have analysed and discussed matters of very different societal scale and historical stability (cf. e.g. Foucault, 1972; Fairclough, 1992), but what unites all such understandings of discourse(s) is the principle that they are not only products of individual language use but also shared and recognized within communities/cultures.

This definition of discourse can be further explicated through the case of surveillance discussion. Whereas the first understanding of discourse addresses the way that any instance of language use would take part in constructing (our understanding of) surveillance, the second definition directs the researcher to identify and analyse particular perspectives that recur and are made relevant in such discussion. To give a specific example, in the media discussion of surveillance, previous research has identified a discourse that constructs surveillance as a problem from the point of view of privacy (e.g. Barnard-Wills, 2011; cf. also Article 1 in this thesis). Such a discourse tends to underline the problematic features of present-day state surveillance in terms of democratic values and principles, calling into question any socially useful aspects of it. This shows how a particular discourse highlights some and downplays other (possible) features of its subject. By applying such a definition of discourse, the present thesis is able to organize and make sense of the different ways that surveillance is discussed in the data.

This understanding of discourse also offers further insights into the social relevance and consequentiality of language use. Following from the constructive premises of CDS (cf. the first definition of discourse, above), discourses are assumed to have consequences beyond the realm of the linguistic. This has been formulated by Foucault (1972, p. 49) in his description of discourses as ways of

talking that “systematically form the objects of which they speak”. This constructivist premise ultimately connects discourses with social institutions and power (e.g. Mills, 2004; Pietikäinen, 2000, p. 64; for more on discourse and power, see e.g. Martín Rojo and Gabilondo Pujol, 2011). To illustrate this with a rather straightforward example, the discourse that construes surveillance primarily as a violation of privacy may be utilized to raise public suspicion of the phenomenon and turn critical attention towards it, potentially narrowing the scope of what constitutes acceptable surveillance measures and increasing political pressure for stronger regulation. Such a discourse inevitably relates to broader social conceptions of what values a democracy needs to uphold, and serves to promote and support corresponding institutional structures such as laws, regulations and oversight mechanisms. Although not all examples of discourses would offer such explicit political and institutional connections as this one, it can be argued that they are all in some ways related to particular social norms, pointing to particular courses of action, and that discourses therefore contribute to the broader power dynamic in society (for more on such interconnections, see e.g. Wodak and Meyer, 2016a; Jørgensen and Phillips, 2002; Pietikäinen and Mäntynen, 2009; Fairclough and Wodak, 1997; Foucault, Marchetti, Salomoni and Davidson, 2003). This makes them relevant objects for social analysis.

However, it is necessary to acknowledge that there tend to be many different discourses circulating about a particular topic at any given time (e.g. Pietikäinen, 2000), so any potential consequences of one discourse will be very dependent on its relative position in this network of available meanings (and, of course, on the overall sociocultural constraints that prevail at a particular time and place; cf. first definition, above). The complexity of such discursive relations has been addressed by Foucault (1972, pp. 66–67), who writes that different discourses may relate to each other through analogy, opposition, complementarity, or mutual delimitation. This classification has proved helpful in the present thesis, in which typically heterogeneous media texts (more in Section 4.1) are analysed, and clearly conflicting discourses are identified in the same data, offering very different directions for public perception about surveillance and the ideal role for it in society (see Article 1). To understand the logic and social relevance of surveillance discussions, then, an analysis of particular discourses may need to be complemented with further examination of their interplay in the setting in which they occur and in society at large (below).

3.1.3 The order of discourse, and discursive struggle

One way to conceptualize and explore relationships between different discourses is to address them as the *order of discourse* (cf. Foucault, 1972; Fairclough, 1992; Martín Rojo and Gabilondo Pujol, 2011, pp. 95–97). This widely applied term emphasizes the way that discourses tend to be arranged in hierarchical formations that achieve relative stability in particular times and places (more in e.g. Pietikäinen and Mäntynen, 2009). In practice, such organization can be observed when some discourses continually occupy more prominent positions

than others, appear in more prestigious settings, and dominate the platform, defining what is generally considered normal, legitimate or simply true (cf. Foucault et al. 2003). Simultaneously other, contradictory discourses will appear to be muted, marginalized or even absent altogether (e.g. Pietikäinen and Mäntynen, 2009, pp. 58–59; Kauppinen, 2012, p. 65). Such hierarchies are linked with the power that any given discourse can be seen to have at a particular moment (e.g. Martín Rojo, 2001, p. 62), and ultimately with the relationship that conventionalized language use has with the broader social status quo (more below; cf. e.g. Wodak, 2011, p. 4.; see also Wodak and Meyer 2016a; Fairclough and Wodak, 1997). In the present thesis, this understanding of the order of discourse is useful for examining how the different discourses circulating and traced in its empirical data ultimately relate to each other and are positioned in relation to one another, and for speculating on how these relative positions might reflect on their actual social relevance.

It must be noted here that the concept of the order of discourse has been used in a variety of different ways in scholarly discussion, some definitions encompassing a much broader spectrum of social phenomena than the one introduced here. Whereas the present thesis applies the concept to address relations between different discourses (see a similar usage e.g. in Pietikäinen and Mäntynen, 2009), others have emphasized the interplay between discourses and other kinds of social structures and institutions. Foucault's (e.g. 1972) original use of the term was to denote the complex ways that societal elements such as discourse, events and institutions are socio-historically organized (cf. Fairclough, 1992, p. 68; Kauppinen, 2012, p. 67); later, for instance Fairclough (e.g. 1992, p. 89) modified the concept for the purposes of CDA and applied it, as succinctly expressed by Määttä and Pietikäinen (2014, p. 9), to describe "the overall configuration of discursive practices (---) of an institution or society" (where discursive practices refer, for example, to text production and consumption; see also Wodak, 2011, p. 11). For Fairclough, then, discourse orders were the "discursive facets of social orders" (Fairclough, 1992, p. 71). While the present study aligns itself with such broader conceptualizations, its scope is narrower and consequently also its application of the *order of discourse* is limited to the more local concept described above, which addresses the way that discourses about the same topic (in this case, surveillance) are organized in relation to one another in a specific context. This does not exclude an understanding of those relations as contributing to the ways that different discursive practices (more e.g. in Fairclough 1992) relate to each other (cf. the dialectical relationship between discourse and the social, above), but instead the discourse orders in this case are ultimately seen as local orders that both reflect and contribute to the bigger picture (cf. e.g. Fairclough 2003, p. 3; Wodak, 2011, p. 11 for local orders). I therefore believe that this application does not contradict the facets of Fairclough's formulation (above), but rather zooms in on one aspect/level of it.

In order not to overestimate the stability of discourse orders, however, it needs to be emphasized that any such hierarchies tend to be continually challenged and contested (e.g. Wodak, 2011, p. 4; cf. Fairclough, 1992, pp. 91–96

for hegemony). In the present thesis, this is conceptualized as the *discursive struggle* (cf. Wodak and Meyer, 2016a, p. 12; Jørgensen and Phillips, 2002 for struggles between different knowledge claims). It is especially relevant in Article 2, where the focus is on solution-oriented criticism of surveillance in the post-Snowden media debate. The point here is that discourses can be utilized not only to affirm aspects of a social status quo but also to challenge them and bring about change (cf. the example of opposing surveillance discourses, above). Such struggles over legitimacy and truth can easily be observed in, for instance, news articles, which habitually contrast differing points of view and initiate societal debate (see e.g. Fairclough, 1995, for more on conventionalized aspects of media discussion; see Section 4.1.). Therefore, even if a broader societal order of discourse will easily be reflected in particular sites of language use, it is often possible to identify different discourses struggling for dominance in local contexts (cf. e.g. Wodak and Meyer, 2016a, p. 12; Blommaert, 2005, p. 4; Fairclough, 1992, p. 67). When examining a hotly contested concept such as surveillance, this dynamic is especially notable. Overall, then, in the present thesis the *order of discourse* denotes the relative stability of the hierarchical organization of discourses (Fairclough, 1992, p. 88), while *discursive struggle* emphasizes the simultaneous instability and fragility of such orders. Both are necessary and, depending on the site where the discourses are observed, prominent to different extents.

3.1.4 Discourse as conventionalized language use in a particular field

The last definition of discourse relevant in the present thesis refers to particular text types and their conventionalized characteristics such as structure, contextual constraints, etc. This is a common use of the term (e.g. Pietikäinen and Mäntynen, 2009, p. 25), signifying the language use associated with a particular field or practice (Fairclough and Fairclough, 2012, p. 81). It is often found in expressions such as “academic discourse”, “media discourse”, and so on (e.g. Fairclough, 1995). In the present thesis, the definition is employed in Article 3 in the form of “political discourse”, a type of language use whose specific characteristics (discussed below) are instrumental in the choice of analytical tools in that particular article. Although it would have been possible to describe political discourse with some other concept that did not overlap, this usage was chosen due to its centrality in Fairclough and Fairclough (2012), which serves as the main theoretical and methodological source for the analysis in that article. It therefore seemed clearest to adopt their vocabulary also on this issue (cf. legitimation, below). However, to minimize terminological confusion, this usage will be restricted only to Article 3.

3.2 Legitimation and justification

Based on the understanding of discourse(s) described above, there are a myriad of aspects that could be explored about discussions about surveillance. In the present thesis, however, the way that surveillance is discursively justified and contested is the object of particular interest (especially in Articles 1 and 2; see Chapter 1 for why this focus has been chosen). The dynamics of legitimation have already been touched upon in connection with the second definition of discourse (Section 3.1.2), but due to their centrality in the present thesis, the topic and related terminology needs to be further explored and defined here.

In CDS, the concept of *legitimation* often stands rather straightforwardly for justification (Fairclough and Fairclough, 2012, p. 109; cf. e.g. Van Leeuwen, 2007), that is, for construing a particular object or action as positive or acceptable (see e.g. Vaara and Tienari, 2008, p. 3). In a more specific, well-known and much applied formulation of this kind of approach, Van Leeuwen (2007, p. 94) refers to legitimation as “an answer to the spoken or unspoken ‘why’ question – ‘Why should we do this?’ or ‘Why should we do this in this way?’”. In terms of surveillance discussion, this would refer to the ways in which surveillance in its existing or proposed form is discursively constructed as socially beneficial, positive, or even necessary. For the present thesis, Van Leeuwen’s definition is helpful since it offers a good basis for understanding the legitimation of surveillance in different sites. It is also applicable in combination with the second definition of discourse(s) introduced above (more in Section 5.2 on methodology; cf. e.g. Van Leeuwen and Wodak, 1999; van Dijk, 1998), thus providing Article 1, which specifically examines surveillance discourses in media texts, with a useful focus (cf. Kunelius et al., 2017 for a different approach to analysing surveillance legitimation in the Snowden coverage).

However, Van Leeuwen’s terminology has also been criticized in a way that has repercussions for the present thesis. Fairclough and Fairclough (2012), who examine political discussion by means of argumentation analysis, find the conflation of justification and legitimation in Van Leeuwen’s work imprecise. For them (*ibid.*), van Leeuwen’s ‘why’ questions serve as the basis for understanding justification, but *legitimation* as a concept is reserved for a more narrowly defined understanding of a particular *type* of justification. Drawing on political theory, Fairclough and Fairclough (*ibid.*) describe legitimation as justification that invokes shared norms or beliefs, generally entailing two levels: one for justifying a particular action based on a specific reason, and another for justifying that reason based on a shared background of norms, values or beliefs. (Further discussion of problems in Van Leeuwen’s framework in Fairclough and Fairclough, 2012.) Overall, what van Leeuwen describes as legitimation is for Fairclough and Fairclough (2012) justification, and legitimation for them is a sub-category of the same phenomenon. (Of these two, justification is the one occupying a key role in Fairclough and Fairclough’s actual analytical framework.)

For the present thesis, such differences in terminology are not unimportant, since one empirical analysis here (Article 1) applies Van Leeuwen's (2007) analytical framework and another (Article 3) draws largely on Fairclough and Fairclough's (2012). Both articles are interested in essentially the same thing, that is, justification (in Fairclough and Fairclough's terminology), but take different analytical approaches due to differences in the type of data (more below). To navigate this conflicting terminology with the least possible confusion, the decision was made in each case to follow the vocabulary applied by the main analytical source - even though this inevitably led to using two different terms (legitimation and justification) for what is here considered to be the same phenomenon. This means that Article 1 will follow Van Leeuwen and talk about legitimation, while Article 3 is aligned with Fairclough and Fairclough (ibid.) and talks about justification. The latter choice is especially relevant for clarity because, throughout their book, Fairclough and Fairclough (2012) themselves tend to refer to *legitimation* sporadically and often in a sense that indicates a pre-defined normative position. This would clearly be outside the scope of both Article 3 and the present thesis overall.

4 ANALYSING NEWS COVERAGE AND POLITICAL DOCUMENTS

In the previous chapter, the theoretical assumptions about the relationship between language use and the social world underlying all of the present study were discussed, and some of the main theoretical and analytical concepts that will later be applied in the empirical articles were introduced. Now it is time to turn to the particular contextual constraints that relate to the types of data analysed in this thesis, i.e. news coverage and political documents (see Section 3.1.1 for social constraints on discourse; cf. Fairclough, 1992, for *discursive practices*). Section 4.1 is devoted to describing and analysing the typical characteristics of media discussions, which make up the data in Articles 1 and 2, and Section 4.2 discusses the particularities of political discussions, which are the core interest in Article 3. (Further contextual factors have been discussed in Chapter 1 with regard to the broader societal context of the study.) It is necessary to note here that the use of the term *political* in connection with the type of data analysed in Article 3 does not imply that media discussions, or any other kind of discussions, for that matter, could not be considered political in their own right, or of political relevance; in fact, it could be argued that the entire social constructivist starting points of the present thesis attest to such relevance (cf. Chapter 3). The term *political discussion/data* is nevertheless used here in this more specific meaning because it is, despite its evident flaws, the clearest way to distinguish between the surveillance discussions in the media and those that are part of the process of drafting the Finnish intelligence legislation.

Although both of the following sub-sections are dedicated to mapping and understanding analytically relevant contextual factors, they differ in scope and in their relationship to the theory discussed earlier. Media discussions, which have long received a great deal of attention in CDA (e.g. Fairclough, 1995; Richardson, 2007) and are examined here largely with the help of the CDS framework described above and related analytical concepts (more in Chapter 3), will be discussed from the point of view of the journalistic values and practices that characterize and regulate news discourse. Thus, the discussion of media does not introduce any new theoretical premises but rather focuses on the

conditions under which media texts are produced. The discussion of political documents, however, calls for further additions to the CDS framework underlying this thesis. This is because, in connection with the data and empirical interests in Article 3, it has proved useful to draw on further insights from argumentation analysis when examining the political documents (more on this choice below). The discussion in Section 4.2. will therefore concentrate on explaining the relevance of argumentation in relation to political discussions as well as the connection this has with the premises of CDS described above.

4.1 Media discussion: constraints from journalistic values and practices

Journalistic work is regulated by a plethora of institutional constraints and traditions. These significantly influence what can be said by whom and with what consequences in the media; they are therefore a relevant part of the conditions under which such discourse is produced. This section concentrates on those factors which are most relevant for the empirical articles (1 and 2), and how these factors relate to the concepts introduced above.

The role in society attributed to the news media, and which it sees itself as occupying, can be considered a major influence on the selection and production of what it publishes. By and large, the western world has accepted, at least as an ideal, a societal role for the media whereby journalists assume the responsibility for serving the public interest (Himmelboim and Limor 2010). In Finland, this is explicitly expressed in guidelines outlining good journalistic practice (more below). Such an understanding is in line with what in Siebert et al.'s (1956) seminal categorization was called the social responsibility model of the press, where "the state waives most of its control over the media" and "media accept social commitments toward society" (Himmelboim and Limor 2010, p. 73). When this is applied to the issue of state surveillance, the commitment to informing the public can be understood as making it imperative to cover stories on possible intelligence overreach, despite government resistance; in fact, the media has been considered a key public oversight mechanism for the intelligence agencies (Bakir, 2015, p. 13). It needs to be noted, however, that there is serious doubt about whether journalism is actually able to exercise such oversight with regard to intelligence issues, due to the high level of secrecy and the propaganda strategies related to such topics (*ibid.*; for a discussion of the changing societal role of journalism and journalists in the aftermath of the Snowden revelations, see Eide and Kunelius, 2018). With regard to the specific case of Finnish journalists covering the Snowden revelations, however, such obstacles are unlikely to have been at the forefront of practical journalistic work, since much of the news coverage drew on material already published in foreign media (for a different case in Finland where such tensions were very much at the centre, see Kortesoja, Kunelius and Heikkilä, 2019).

The media's social goals and responsibilities have been further specified in many media institutions and organizations in codes of ethics that inform journalistic practice. Examining such codes worldwide, Himelboim and Limor (2010) find broad consensus regarding the value of neutrality in news coverage (more below), but differing perceptions about the level of distance between the media and the rest of society. In Finland, a framework for good journalistic practice is outlined in a set of guidelines published by the Council for Mass Media for the purpose of self-regulation (see Council for Mass Media, 2014). These guidelines highlight freedom of speech as the foundation of a democratic society and, in alignment with the social responsibility model (above), emphasize journalists' responsibility towards their audience as well as the public's right to be informed of relevant matters. Further guidelines include more concrete obligations, such as protecting sources, and giving those who are severely criticized a chance to voice their perspective. Overall, the ethical codes outline some key goals and principles of good journalistic practice and thus offer practical guidance for journalists at work.

The goal of neutrality, or objectivity, which appears in ethical codes all over the world (Himelboim and Limor, 2010), can be considered a value of particular relevance in journalism (e.g. Richardson, 2007, pp. 86–89). It is historically intertwined with the emergence and understanding of public interest journalism as we know it, and it has become elementary for the professional identity and status of journalists (Allen 2010, pp. 43–46; Shudson and Anderson, 2009). The Finnish guidelines address the topic by instructing journalists to aim to provide truthful information and to separate facts from opinions. Although the problems with straightforward calls for and claims about truth and objectivity are widely recognized also in the field of journalism (e.g. Allen, 2010, p. 71; cf. the social constructivist starting points of CDS in Chapter 3; for more discussion and possible solutions, see e.g. Lehtinen, 2016; Boudana, 2016), the ideal of impartiality nevertheless has its influence on how news is produced. Especially when covering controversial issues, the media's aspiration for neutrality leads to the production of texts that feature a multitude of voices which approach and describe the issue in question from different points of view. In discourse analytic terms, this means that it is typical to find competing and sometimes drastically contradictory discourses addressing the same topic in media texts. Such a diversity of viewpoints makes *discourse relations* a relevant topic of analysis, and points to the potential value of conceptualizing particular media texts as *discursive struggles* (see Section 3.1.3).

It needs to be emphasized, however, that aiming for objectivity does not mean that the different voices and discourses present in the media are necessarily given equal weight, or that all possible voices are represented (for more on the selection of credible sources, see e.g. Allan, 2010, pp. 81–89). Such thoroughness would of course be impossible, given that media texts are restricted by conventions of appropriate length and by the time available for their production; nevertheless, the choices that are made are socially relevant and may prove fruitful for analysis (cf. Richardson, 2007, pp. 87–88). Furthermore, the various

voices and discourses that do appear in the media may be given different degrees of prominence or prestige, granting some viewpoints more credibility than others (e.g. Fairclough, 1995, pp. 81–85). A preference for a particular viewpoint can be expressed by various linguistic means, even in the context of news articles traditionally striving for an impression of neutrality. For instance, the way in which quotations and interviews are adapted to fit the journalistic narration is very relevant: the degree to which the journalist's own voice and that of the interviewee/person quoted is separated or conflated may serve to express trust, distance or doubt towards a particular statement (for more on discourse representation, see Fairclough, 1995, pp. 81–85). The same sort of impression can also be strengthened by the way the actors are represented in the media, (which has been found to divide voices into *protagonists* and *antagonists*; see more in Martin, 1986; Fairclough, 1995, p. 82). The viewpoints presented in the media are often hierarchically organized (Fairclough, 1995, p. 81), and this can be seen to contribute to the *discourse order* (see Section 3.1.3) of any given text. The way the media present and take up different points of view therefore makes the order of discourse a significant object of interest when analysing the multiplicity of meanings construed.

Journalistic work and decisions are also guided by ideas about what constitutes *news*. Journalists' understandings of newsworthiness have been explored in several widely cited studies, notably in Galtung and Ruge (1965) and later for instance in Harcup and O'Neill (2001) as well as Harcup and O'Neill (2017; see also e.g. Brighton and Foy, 2007; Allan, 2010, pp. 71–74). These studies present lists of characteristics that typically lend news value to a topic or event, including factors such as negativity, relevance, drama or entertainment, and personalization (Allan 2010, pp. 72–73; Harcup and O'Neill, 2017, p. 1482; Galtung and Ruge, 1965). Such factors can be seen not only to elevate certain stories above others in terms of their level of journalistic coverage, but also to explain what aspects of a particular story are highlighted, especially with a story as complex as that of the Snowden revelations.

Finally, it needs to be noted that goals and values (whether news values or other values) can only explain some of the decisions that are made in newsrooms. As was briefly mentioned in connection with the limitations to impartiality, there are plenty of restrictions to journalistic expression that stem from practical matters, such as the conventional length of newspaper articles or the cost of producing a particular story. The relevance of such constraints has been noted for instance by Strömbäck et al. (2012), who warn about conflating ideals of newsworthiness with what is actually selected as news, due to the latter being determined also by economic factors, for example, or the availability of a good press release. In connection with surveillance and national security matters, the limitations to readily available information that have already been touched upon, as well as the resulting problems of the costs and risks of news production, are likely to be of particular relevance. Another limiting factor worth mentioning with regard to basically any topic and news outlet today is the need for speed: time pressures and the desire for instantaneity are of course factors engrained

into the very understanding of news and news production (e.g. Deuze, 2005, p. 449; *timeliness* is sometimes even mentioned in lists of news values; e.g. Allen, 2010, p. 73), but lately the relevance of speed in deciding what ends up being reported has been increasing, also in Finland (e.g. Juntunen, 2011, p. 55). Especially the advent of digital journalism and the loss of advertising revenue that have left many media organizations in financial trouble and led to large-scale layoffs have meant that more journalistic content is produced in less time than before (e.g. Juntunen, 2011, p. 55; Cohen, 2019, p. 572). As a result, Juntunen (2011) finds in her interviews with Finnish journalists, the need for speed is relevant for what is reported on and how thoroughly. Such constraints show why and how journalistic ideals are not always followed through in journalists' day-to-day work.

Summing up, the production of journalistic texts is influenced by ideals about the role of journalism in society, as well as journalistic conventions and practical constraints regulating news production. Media texts are highly layered, incorporating a variety of voices and viewpoints and representing them in ways that are significant for the meanings ultimately produced. In the terminology of CDS, such texts can be seen as sites of discursive struggle, with discourse orders of varying stability. In the present thesis, these insights guide the choice of theoretical and analytical concepts and questions (see especially Articles 1 and 2).

4.2 Political discussion: the centrality of practical argumentation

In addition to public discussion in the media, this thesis also analyses political documents (Article 3) in order to give greater social breadth to the debate about surveillance. To better understand this type of language use and its particular characteristics, I draw especially on Fairclough and Fairclough's (2012) insights on argumentation in the field of politics. Their work offers a good fit with both the data and the theoretical framework of this thesis, and it has therefore helped in the identification and formulation of relevant research questions and analytical concepts (for more on the latter, see Section 5.2.3). Fairclough and Fairclough's (2012) approach is based on a view of politics as fundamentally oriented "towards decision-making that can ground action" (ibid.: 22), a focus which is well suited for examining data from the Finnish legislative process (more below). It also adheres to a dialectical view of discourse and other social elements, a core starting point of the present thesis (Chapter 3). In fact, Fairclough and Fairclough (2012, pp. 80–81) themselves characterize their work as bringing together a CDA focus on discourse and the critical questions and tools from argumentation analysis (more below; see Finlayson 2013 for further discussion on how these approaches relate to each other), a further indication of compatibility. The current section is dedicated to exploring aspects of Fairclough and Fairclough's (2012) approach relevant to the present thesis, as well as to addressing limitations to its application in a CDS framework. (For more about the commonalities between discourse analysis and argumentation analysis, see e.g. Jokinen, 1999; for other

approaches that combine these in a political context, see e.g. Wodak, 2009; Reisigl and Wodak, 2016).

Beginning with a brief characterization of Fairclough and Fairclough's (2012) approach to argumentation and their primary sources of inspiration, Fairclough and Fairclough present a model for deconstructing arguments appearing in the political sphere to their premises, and for evaluating them normatively. They therefore bring together an empirical examination of political debates and a normative analysis of the arguments appearing in them, a combination that aligns their work with practical approaches to argumentation (popular in informal logic and argumentation theory in recent decades; Walton, 2007b, pp. 10–11; for earlier approaches of this kind, see e.g. Johnson, 2000). Fairclough and Fairclough (2012, p. 52) start from the view that all arguments have logical, dialectical and rhetorical aspects, however the fundamental view of argumentation is adopted from dialectical strands of argumentation theory (especially from Van Eemeren and Grootendorst, e.g. 2004). Argumentation is seen as a *complex speech act*, a social activity that is concerned with justifying or refuting a claim and aiming to persuade an interlocutor (Fairclough and Fairclough, 2012, e.g. pp. 23, 36). This is a clear difference, for instance, to Reisigl and Wodak's (e.g. 2016) approach, which considers argumentation a *strategy* realized by *topoi*, which are presented in extensive taxonomies and are sometimes very specific in content. Instead, Fairclough and Fairclough (2012, pp. 39–51) formulate a more abstract *argumentation scheme*, an approach that they note is aligned with a classical Aristotelian view, as a tool for deconstructing arguments (more below). This focus aligns their work with the wide-ranging and interdisciplinary literature that has outlined and classified argumentation schemes – an endeavour originally motivated by both rhetoric and problems in the field of logic (see further discussion in Walton, 2007b, pp. 26–27). Rather than itemizing and discussing a range of different schemes (as e.g. in Magacno and Walton, 2018; Kienpointner, 1992; see also Perelman and Olbrechts-Tyteca, 1969, for an early typology, and Pöiklik, 2016, for an effort to combine insights from this framework with Fairclough and Fairclough's work), Fairclough and Fairclough's (2012) framework concentrates on outlining one particular scheme which they deem relevant for argumentation in the field of politics. For the structure of argumentation in this scheme, Fairclough and Fairclough (2012) draw especially on Walton (e.g. 2007b) and Audi's (2006) insights on *practical reasoning* (more below). Argument evaluation in their framework, on the other hand, incorporates aspects from logical, rhetorical and dialectical approaches. Particular emphasis is, however, placed on the latter, as Fairclough and Fairclough apply especially the pragma-dialectics' view of the goal of argumentation as a reasonable resolution of differences (Van Eemeren and Grootendorst, e.g. 2004) and Walton's (2007a) insights on critical questions as means for assessing arguments (Fairclough and Fairclough, 2012, pp. 62–68). The present thesis only applies the framework for its insights on argument structure, and this is consequently also what the present section focuses on.

Fairclough and Fairclough's (2012) approach to argumentation relies on a particular view of politics and the process of political decision-making. For them (ibid.), politics is fundamentally about making choices on how to act, and it involves a process that is characterized by conditions of disagreement and uncertainty. Political discourse, which is concerned with the consideration of different possibilities, is inherently deliberative. Such an understanding of deliberation, they (ibid., pp. 26–27) emphasize, does not imply a normative judgement about the quality of the deliberative process; it does not suggest that such discourse would, for instance, be appropriate from the viewpoint of theories on deliberative democracy, which set conditions for deliberation such as equal opportunity for participation or “a justified presumption for reasonable outcomes” resulting from argumentation when relevant information is weighed (Habermas, 2006, pp. 413, 416; for a brief recapitulation of Habermas' model of deliberative democracy, see Fairclough and Fairclough, 2012, p. 33). Rather, political deliberation is here used as a descriptive term for a process whereby particular reasons for and against specific types of action are weighed in order to reach a conclusion, thus highlighting that “deliberation that would fail normative standards is deliberation nonetheless” (Fairclough and Fairclough, 2013, p. 338).

Although such a loose conceptualization covers a wide range of debates and considerations, this view of politics has been criticized as too narrow, focusing on elite arenas and excluding non-deliberative political situations (Hay, 2013). Such criticism raises questions about the extent of the applicability of Fairclough and Fairclough's (2012) framework, but for the present thesis it offers useful insights. This is because the framework is applied to data, that is, political documents from a Finnish legislative process, which correspond to both the goals – a decision on digital surveillance – and standards – weighing various reasons to reach a conclusion on digital surveillance – that Fairclough and Fairclough (2012) set for political deliberation. Consequently, also the subsequent theoretical and analytical insights and tools can be considered useful for the present thesis.

Moreover, according to Fairclough and Fairclough (2012), deliberation in the field of politics tends to take the form of *practical argumentation*. Practical argumentation is based on practical reasoning, a concept which describes considering what to do in response to practical problems, distinguished from *theoretical* reasoning by its purpose of finding a decision on the right course of action and by the normative nature of its conclusion (ibid., p. 35–51). Fairclough and Fairclough (2012, e.g. p. 36) base this view on strands of argumentation analysis from, among other contemporary argumentation theorists, Audi (2006) and Walton (e.g. 2007b), and it draws on a tradition that can be traced back to Aristotle. Practical argumentation, then, is an activity concerned with deciding what to do in response to particular circumstances and goals (Fairclough and Fairclough, 2012, p. 35), and practical arguments have to do with justifying particular courses of action (see Section 3.2. for discussion of legitimation and justification) and may thus be the basis for political decisions. This connection between language use and political decisions adds to, and sharpens, the CDS assumption of the consequentiality of discourse in the context of politics.

Understanding political discourse mainly in terms of practical argumentation also has important implications for textual analysis. When discourse in the field of politics is mainly understood as practical argumentation, all kinds of textual features are primarily seen as contributing to justifying a particular decision. This means that it can be considered fruitful to analyse this type of discourse by reconstructing particular arguments, identifying their parts and their interrelationships. For this purpose, Fairclough and Fairclough (2012, p. 39–51) propose an *argumentative scheme* which outlines the structure of practical arguments, that is, the way that particular premises relate to conclusions (the decision which is being justified). The scheme they propose draws on Audi (2006) and Walton's (2007b) accounts of the structure of practical reasoning, which suggest that people reason from goals and a means-goal premise (the ability of a particular action to bring about the desired goal) as well as, in Walton's case, from values. Fairclough and Fairclough modify these approaches by, most notably, adding a supplementary premise that accounts for the context of action, that is, the circumstances under which decisions are made (such a premise is also included in a newer model on practical argumentation put forward by Macagno and Walton, 2018). Fairclough and Fairclough's supplementary premise also formulates a goal premise, which accounts for the values of the agent making the decisions (Fairclough and Fairclough, 2012, pp. 42–43; see Kienpointner, 2013, for a critique of the model from the point of view of argumentation analysis and especially for similarities to Klein's, e.g. 2003, framework; also see Moradi-Joz et al., 2018, for possible similarities with van Dijk's, e.g. 2014, cognitive approach to CDS). For the present thesis, this breakdown of argument structure is useful for analysing how legislation in favour of digital surveillance is promoted in Finnish political documents, which make extensive use of current social circumstances (digitalization) as grounds for action, and assert the value of national security (more in Article 3). The particularities of this framework from a methodological point of view are further discussed in Section 5.2.3.

Summing up, insights from Fairclough and Fairclough (2012) complement the theoretical and analytical framework of the present thesis by specifying the nature and dynamics of discourse in the field of politics. Even though these involve concepts and tools from political theory and argumentation analysis, they do not challenge the broader CDS premises discussed in Chapter 3. It should, however, be noted that there are some differences between Fairclough and Fairclough's (2012) goals and conceptualizations and those of traditional CDS and the present study, and these need to be discussed. Below I will explore two such differences, the first of which I will argue is ultimately not a fundamental contradiction but a matter of emphasis, while the second involves significant limitations to the application of Fairclough and Fairclough's (2012) overall framework in the present study.

The first discrepancy has to do with conceptualizing discourses (Section 3.1.2, "second definition"), which Fairclough and Fairclough (2012, pp. 85–87) understand as "ways of representing reality". According to them (*ibid.*),

discourses relate to practical argumentation by offering agents reasons for particular actions, that is, they are drawn upon in argumentation as premises (more on argument structure in Section 5.2.3). Fairclough and Fairclough's (2012) view of discourses is therefore more concerned with the ability of discourses to describe things than with their constructive properties, the latter of which would better correspond to the Foucauldian view of discourse described above. However, this difference is here interpreted rather as a matter of emphasis than as a fundamental contradiction; as noted above (Section 3.1.1), the present study will in any case make a difference between talking about surveillance and doing, or conducting, it (Van Leeuwen, 2008). Therefore, acknowledging a representative side to discourses (and a consequent role in the premises of argumentation) does not need to imply negating their constructive potential. This view is in line with Norman Fairclough's (2016, p. 88) discussion of discourses, where the difference between "construing" and "representing" is also treated as a question of emphasis (though see a different view in Finlayson, 2013, p. 317, where Fairclough and Fairclough's take on representation and action is criticized). Overall, then, in the present thesis the different ways of conceptualizing discourses are not considered fundamentally incompatible, and any possible, remaining mismatches are avoided by not applying the concept in the empirical Article 3 on political argumentation. This demarcation implies no extra adjustments, since Fairclough and Fairclough's own analytical focus is on categories relating to argumentation and not on identifying particular discourses.

The other, more significant difference has to do with a normative aspect of Fairclough and Fairclough's (2012) framework. As stated above, Fairclough and Fairclough's aim is not only to describe and examine argumentation – a part of their framework that has been praised (see Kienpointner, 2013, p. 300) – but also to draw normative conclusions about the rationality of the arguments made (see Fairclough and Fairclough, 2012, pp. 51–68, for the framework on argument evaluation; for further development, and a call for the adopting of an unbiased standpoint in ethical critique, see e.g. Fairclough and Fairclough, 2018). This part of their analysis has attracted sharp criticism, for instance for disregarding CDA insights on language and power (Finlayson, 2013, p. 317) and for relying on naïve and idealized conceptions of democratic reasoning as a basis for normative critique (Hay, 2013, p. 326; see reply to both in Fairclough and Fairclough 2013). In light of the aims of the present thesis, this part of the framework also asks questions and formulates goals that are beyond the scope of the current study. Therefore the tools of argument evaluation presented in the framework will not be applied here.

Overall, Fairclough and Fairclough's (2012) approach to political discourse analysis is applied on a discretionary basis in the present thesis, with a focus on insights into the nature and goals of practical argumentation and related tools for deconstructing arguments. These are helpful for examining and making sense of the meanings drawn upon in the data in Article 3 in light of the purposes that they serve in their particular, political, context.

5 RESEARCH DESIGN

This chapter discusses the way surveillance justification and contestation are analysed in media and political discussions in the present thesis, focusing on the particular data examined and the methodology applied in the empirical articles. Since, typically of CDS, analytical and theoretical concepts tend to overlap, many methodological choices have already been touched upon in Chapter 3, which focused on the overall theoretical framework of the thesis. Such methodological concepts will now be discussed from the point of view of their specific application in the empirical articles of the thesis.

5.1 Data

In accordance with the theoretical starting points of CDS (see Chapter 3), this thesis is interested in language use which is seen as shaping our view of surveillance in the digital age and the practices surrounding it. The selection and demarcation of data is, then, based on the idea that particular instances of language use can inform us about broader social issues; in Scollon and Scollon's (2004, p. 8) words, specific moments of interaction are nexus "through which the largest cycles of social organization and activity circulate". Such an understanding of the relevance of particular instances of language use (or semiotic action more generally, cf. Section 3.1.1), is in line with, and further explicates, the core notion in discourse analysis and qualitative research more generally, that a careful analysis of specific cases can provide valuable information on broader social processes and phenomena (e.g. Pietikäinen and Mäntynen, 2019, p. 8). It also steers analytic attention to moments which can be considered of particular centrality, or of special explanatory power, regarding the broader topic of interest (cf. Heller et al., 2018, p. 51, for nexus as a relevant "space or a moment or a practice where threads meet, experiences intertwine, resources are produced and exchanged, and relations are made"). For the present thesis, this view supports the search for and analysis of instances of

language use that can be considered of particular significance for the shaping and understanding of digital surveillance in Finland. It also helps us to interpret such instances against the backdrop of broader developments in surveillance. The social background of the specific cases analysed here has been described especially in Chapter 1 but also, for surveillance, in Chapter 2. The current section further discusses the selection of the particular data analysed empirically in Articles 1, 2 and 3.

The first episode of public discussion on surveillance chosen for analysis in the present thesis is the Snowden revelations of 2013. They can be considered a central moment of popular concern and awareness of digital surveillance and its current extent, as well as a media event of exceptional global proportions (more on the revelations above, in Sections 1.1 and 1.1.1). Thus, they are here seen as a nexus for national, as well as international, debate on surveillance, its implications and justifications. Articles 1 and 2 examine surveillance discussion relating to the revelations.

Due to the key role of traditional media in the Snowden case, the analysis concentrates on data from the press. To capture discussion of particular national salience, the newspaper *Helsingin Sanomat* was focused on. *Helsingin Sanomat* is arguably the most respected (daily) newspaper in Finland and the one with the largest circulation, and it discussed the Snowden revelations extensively. To gather all relevant articles from the selected time periods (see below), the newspaper's own search engine was used. The keyword *Edward Snowden* was used, complemented by related search terms (*verkkovakoilu* [net espionage], *NSA*, *tiedustelu* [intelligence], *tietosuoja* [data protection], and *tietoturva* [data security]) until the data were saturated and covered all the articles referring to the revelations and their aftermath. News articles dominate the data set, but there are also some opinion pieces, such as editorials, columns and readers' letters. The length of the news articles varies considerably, from only a few sentences to full-page spreads.

The analysis in Article 1 covers articles addressing the Snowden revelations from the first three months of the news coverage, starting in June 2013 (337 newspaper articles altogether), while the data in Article 2 cover the first full year (617 articles altogether). The more concise data set in Article 1 captures especially the initial and perhaps most intense reactions to the revelations, but leaves later disclosures and their aftermath, for instance the spying on Angela Merkel's cell phone, unexplored. The broader data set in Article 2 completes the picture by including these further revelations and extending the temporal scope of investigation to a point where the discussion has clearly cooled down. The tighter focus in Article 1 was possible because the specific topics of interest, that is, justifications and contestations of surveillance, tended to follow recognizable lines throughout the news coverage (see Article 1), but the limited focus was also necessary to enable a high level of detail in the analysis. The extension of the data set in the second analysis was made possible by familiarity with the news coverage as a result of work on Article 1, as well as the particular choice of analytical concepts (that is, *solutions*; see Section 5.2.2), which facilitated a clear

delimitation of the data during the analysis. In the case of both articles, the initial, broad, data sets were narrowed down step by step during the analyses, as relevant news articles/textual passages were identified and selected for further, more careful examination (see Section 5.2 for more on the analytical concepts that made such a process possible).

The second case chosen for analysis was the political process of planning new intelligence legislation in Finland. This offers another relevant case to explore: it complements the data on the global surveillance controversy with a partly concurrent domestic debate, at the centre of which are national interests and actors and which, on a national scale, involves the negotiation of decisions of vast significance (see above, Sections 1.1 and 1.1.3). To explore the debate relating to this process, political documents outlining the need for new legislation and suggestions as to how to go about it were chosen and used as the data in Article 3.

The particular set of data selected for examination in the empirical article comes from the early stages of the legislative process. The analysis focuses specifically on the working group report *Guidelines for developing Finnish legislation on conducting intelligence*, published on 14 January 2015 by the Ministry of Defence. The development of this report can be considered one of the key stages in the legislative process (for more on the process, see Section 1.1.3). The report presents the first extensive outline of how to organize and regulate intelligence in Finland, justifying a range of different but intersecting and in part mutually dependent reforms that would later be divided among several different ministries. Because of this, it can be considered a nexus that brings together and offers for analysis a range of relevant actors, proposals for action, and justifications for and challenges to digital surveillance, which guide later legislative work and inform further discussion in Finland. For the present dissertation, the report is also of particular interest because, with the working group beginning their work in late 2013, its drafting coincided with the later phases of the Snowden revelations.

The document begins with the main, 81-page report, which first describes the changing security environment and the current state of Finnish intelligence activities, together with their legal framework. It then moves on to describing relevant legislation in five other western European countries, and examining domestic and international legal constraints on intelligence legislation. Following from this, the report recommends changing Finnish intelligence capabilities by creating a legal basis for foreign systems intelligence, foreign human intelligence, and cross-border telecommunications intelligence, as well as restricting the constitutional right to privacy of correspondence for national security purposes. Of these proposals, the current thesis is primarily interested in telecommunications intelligence and its justification, that is, argumentation for the digital surveillance of telecommunications that cross the Finnish border. In addition to the main report, the document contains five appendices. Two of these were selected for analysis, as together they raise a variety of concerns typically relating to telecommunications intelligence. These are a summary of

commentaries from stakeholder and expert hearings, and an opposing opinion presented by representatives from the Ministry of Traffic and Communications.

5.2 Methodology

Although all three empirical articles in this dissertation approach texts from the basic premises of CDS, differences in data type and research questions have led to the adoption of different analytical concepts. I will next turn to the specific methodological choices in each case, starting with the more traditional applications of the CDS approach in Articles 1 and 2, which analyse media data, and finishing with the analysis of political documents in Article 3, which draws additionally on argumentation analysis (more on this choice from a theoretical perspective in Section 4.2). Each of the following sub-sections begins with a brief recapitulation of the data and research questions of the respective articles, after which the actual methodology is discussed. Since the line between theoretical and analytical concepts in CDS is fluid, some of the methodological tools that will be explored have already been introduced in Chapter 3. Those discussions will be extended by focusing on the practical, analytical application of the concepts in each of the dissertation's empirical articles.

5.2.1 Analysing discourses of (de)legitimation

This subsection discusses the methodological choices applied in Article 1, which explores how surveillance is legitimized and delegitimized in Finnish media discussion. Specifically, the article presents an analysis of the first three months of news coverage concerning the Snowden revelations in Helsingin Sanomat. The main analytical concept applied to address the research question is *discourse(s)* (see more in Section 3.1.2), with additional analytical insights drawn from van Leeuwen's *categories of legitimation* (2007, 2008) as well as his analysis of *social actor representation* (2008). Next, the use of these tools and the process whereby they were selected for analysis are discussed.

The search for suitable methodology began, typically for CDS (see e.g. Pietikäinen and Mäntynen, 2009), with concurrent rounds of reading the research literature and interrogating the selected data. The aim was to find analytical tools that would best account for, and help further categorize and understand, the ways surveillance was justified and contested in the news coverage. During this phase, the term (de)legitimation soon emerged as a core concept for describing the phenomenon under scrutiny, and its analytical use in van Leeuwen's (2007, 2008) research proved especially suitable for the data and topic under examination. The usefulness of this work was indicated by its earlier application in media analysis more generally (e.g. Rasti and Sahragard, 2012; Reyes, 2011), and in the analysis of surveillance legitimation in the media in particular (Lischka, 2017). Most importantly, though, the early investigation of the Helsingin Sanomat Snowden coverage showed that text passages corresponding to Van

Leeuwen's classifications (below) were typical of the data and cropped up frequently, and that these tools therefore would help zoom in on relevant sections in the news coverage.

Van Leeuwen (2007, 2008) introduces four *categories of (de)legitimation* which classify strategies to justify particular action. One category appeals to the *authority* of a person, institution, tradition or the like, while the second (de)legitimizes through *moral evaluation*, which is manifested through references to specific value systems and moral discourses. The third category works through *rationalization*, that is, appealing to the utility of the action with references to goals, effects or a 'natural order of things'. The last category, named *mythopoesis*, (de)legitimizes through a narrative. This last one has, however, for good reason, been criticized for incompatibility, since it classifies according to genre, not content, like the rest (Zhu & McKenna, 2012, p. 530). It was therefore not considered helpful in the present study. Apart from this one exception, Van Leeuwen's framework was used in the early phases of the analysis to identify and categorize the text passages that were most relevant to (de)legitimation, and these were subsequently selected for further, more detailed analysis. Later on, this framework also helped in the exploration of broader social perspectives on surveillance, that is, *discourses* (more below).

While examining the data with the help of van Leeuwen's categories, it became evident that concentrating on such (de)legitimation strategies alone would mean disregarding another central, if less direct, form of (de)legitimation typical of the data: the representation of the actors involved in the Snowden affair. The role and character of actors, principal among them of course Snowden, were particularly pronounced in the news coverage because the case offered journalists not only facts regarding global espionage but also a thriller featuring the extraordinary escape and chase of a whistleblower acting against what is by many standards the mightiest security agency in the world. Therefore the recurring portrayal of Snowden as a lone hero fighting for civil rights, for example, also served as a highly salient way to delegitimize the practices, that is, surveillance, that he was fighting against (see also Schulze, 2015, for the importance of social actors in the legitimation of surveillance). To account for this aspect of (de)legitimation, Van Leeuwen's (2008) work on social actor representation offered helpful insights, for instance by directing attention to relevant textual choices such as the *nomination* and *impersonalization* of various actors. Similarly, as with the categories of (de)legitimation, the analysis of social actor representation was applied both in the early search for relevant textual passages and in the further analysis of the role that such representations had in the construction of discourses.

Having mapped the data for the most relevant text passages, and thus having screened out text passages and/or complete news articles that were not central for legitimation, and identified the most common (de)legitimation strategies, further consideration was given to the adequacy of the methodological tools. The observations that had so far been made indicated that the specific instances of legitimation, even if they belonged to different categories according

to Van Leeuwen's classification, often seemed to contribute to, and draw their meaning from, the same broader views of surveillance. To give a clear-cut example, both Snowden's representation as a fighter for human rights, and characterizations of surveillance as an intrusion on such rights (delegitimation through negative effects, a sub-category of *rationalization*) would contribute to a view of surveillance as a threat to a just, democratic society (see Article 1 on the *discourse of threat*). To be able to explore such underlying understandings of surveillance, then, the scope of the analysis was broadened to identifying *discourses*. Broadly defined as culturally stable and recognizable perspectives on a phenomenon (see above, Section 3.1.2, for further discussion), the discourses that were considered of interest here were those that clearly took part in constructing the surveillance practices revealed by Snowden as either justifiable or unjustifiable. With this focus, Van Leeuwen's insights on legitimation and social actor representation offered a useful set of tools also for the exploration of such discourses. As a result of this work, the two discourses that were considered most relevant to (de)legitimation in the data were identified and explored in detail. These were subsequently named the *discourse of threat* and the *discourse of security* (see discussion of these discourses in Section 6.1).

Making discourses the central object of interest not only facilitated further consideration of the social repercussions of the discursive choices made in the data, but also made it possible to examine the hierarchical organization of these choices, that is, the *order of discourse* (see Section 3.1.3 for further elaboration of the concept). To account for the order of discourse, the positioning and relative prominence of different discourses in the data were examined, with special emphasis placed on acknowledging the constraints and possibilities particular to media data; this meant, for example, taking note of the way credibility was attributed to particular viewpoints by journalistic narration, e.g. through the conflation/distancing of journalists' and interviewees' voices (see further discussion in Section 4.1. on journalistic practices). An analysis of the order of discourse complemented the description of particular discourses and produced further insight into the possible social consequences of the discursive choices in the data.

In summary, the analysis in Article 1 began by mapping the data for relevant passages with the help of Van Leeuwen's categories of (de)legitimation and his insights on social actor representation. Following this, a more detailed discourse analysis of the relevant data was conducted, and two prominent discourses justifying or contesting surveillance were identified. These were then described and explored for connections with the more specific (de)legitimation strategies outlined in Van Leeuwen's work, and subsequently the way these discourses were positioned in relation to one another in the data, that is, the order of discourse, was examined. Lastly, these results were interpreted for their broader social implications for surveillance discussion in the digital age.

5.2.2 Defining and categorizing solutions to the problem with surveillance

Article 2 continues with the critical discourse analysis of the surveillance discussion (conceptualized as a discursive struggle, see Section 3.1.3) in Helsingin Sanomat following the Snowden revelations. Whereas Article 1 concentrated on surveillance (de)legitimation, Article 2 is interested in whether, and how, those who consider there to be a problem with surveillance think the situation could be improved. This question is addressed by identifying from the first year of the Helsingin Sanomat Snowden coverage the *solutions* that are suggested as ways of improving the situation, and subsequently exploring these solutions for the actors involved as well as for the way they relate to actual surveillance practices and, ultimately, to the discursive struggle over the legitimacy of surveillance. The present section elaborates on this analytical process.

As in Article 1, the choice of method began with a round of reading and mapping the data for passages pertinent to the research question. Initially, a working definition of a solution as a *suggestion made to solve the problem posed by unwanted surveillance* was used. This preliminary definition alone set clear limits to the parts of the data that could be considered relevant, as it made it necessary for them to involve in one way or another negative understandings of surveillance – since, of course, otherwise no solution would be necessary. The definition was further refined as familiarity with the data grew. It was later formulated that this problematic view of surveillance could take either an implicit or an explicit form, and such a view needed to be held at the very least by the actor evoking the solution in the immediate textual context of the solution (that is, the newspaper article in question). In identifying data passages corresponding to this requirement, the insights on typical surveillance delegitimation found in Article 1 proved useful; for instance, they showed how even brief references to civil rights and privacy served as indicators of an understanding of surveillance as problematic, therefore pointing to text passages where solutions might occur.

The preliminary round of reading also produced two other important modifications of the definition of a solution. First, although the understanding of solution that was initially used directed the analytical focus onto actions targeting change, it soon became clear that distinguishing such actions from *states* or *situations* that were constructed as preferable to the one revealed by Snowden was often difficult. The definition of a solution was therefore broadened to involve both means and ends relating to improving the situation with regard to surveillance post-Snowden. Furthermore, as the Snowden revelations had inspired an outcry of massive proportions, the news coverage presented a vast range of critical reactions, most of which could ultimately be expected to be aimed at change of some sort, even if only through the public denouncing of surveillance. The line between a reaction that simply expressed disapproval and one that alluded to a solution was therefore hazy at best, but had to be drawn in order to avoid speculation about the unexpressed motivations of the actors cited

in the data. To resolve this problem, a reaction was only noted as a solution when at least one actor in the article in which it was mentioned was depicted as considering it a way to improve the situation; in the most obvious case, this happened when the actor responsible for the (re)action was given voice to explain his/her motives. An exception was made to this requirement when the proposed action itself clearly entailed a change to surveillance; in perhaps the most straightforward example, this occurred in passages demanding “an end to surveillance”.

Having thus formulated an understanding of solution that was useful for exploring the data at hand, the occurrences of such solutions in the news coverage were listed and further explored. The next round of reading involved copying all the passages that matched the definition to a separate file, thus sharply narrowing down the original set of data. To better understand the position of the solutions in the data overall, it was also noted whether the solution constituted the main theme of the article in which it was mentioned. In addition, following van Leeuwen’s (2008, pp. 23–25) sociologically oriented understanding of actors and agency, it was noted which actors expressed, or were reported to have expressed, the solutions, and which were responsible, or were made responsible in the article, for the action. After a complete list had been compiled, the solutions were categorized according to their content, starting with precise categories and generalizing to broader ones that reflected their relation to the surveillance practices revealed. The frequency of occurrence according to category was also noted. Finally came a detailed textual analysis of the way that these solutions were discussed and how they related to the discursive struggle over surveillance.

In sum, a solution was defined either as a state or a situation that was depicted as better than the present one, or as an action or a reaction that was depicted as a tool for working towards improvement. These were sourced from the data, listed and categorized, and finally closely analysed for their implications for the broader discursive struggle over the future of surveillance.

5.2.3 Examining argumentation in political documents

This sub-section elaborates on the methodological tools applied in Article 3, which explores the ways that surveillance is justified, criticized and further negotiated in political discussion. Whereas Articles 1 and 2 both based their analytical approaches on traditional CDS, Article 3 shifts the focus to argumentation analysis. To understand how surveillance is negotiated during a political process directed towards new intelligence legislation, the analysis involves the reconstruction of the *argument* proposing new digital surveillance measures in a working group report, followed by an examination of the criticism that targets this argument in the report’s appendices, and a subsequent exploration of the ways that this criticism is addressed in the original report. The present section looks more closely at this analytical process and its development.

As in Article 1, the initial objects of interest in Article 3 were the justification and contestation of surveillance, and the selection of analytical tools began with

an attempt to map the data for statements that carried such discursive work. It soon became clear that the difference in data type between the two articles, one concerned with a political report and the other with news coverage, also made different analytical tools useful and readily available: Whereas the media data in Article 1 presented a broad range of statements that justified and contested surveillance in different ways, rendering *legitimation strategies* and *discourses* helpful as tools for categorizing and exploring the variety, the political report in its entirety contributed to one coherent line of justification (whose internal logic was therefore also bolstered by statements that bore no outward appearance of justification/legitimation). To better account for justification in such data, methodological insight was consequently sought from literature that focused particularly on discourse in the field of politics.

A useful framework both in terms of data and research interests was found in Fairclough and Fairclough (2012), which treats discourse in the field of politics as *practical argumentation* that is first and foremost concerned with justifying particular political action (see Section 4.2 for the theoretical assumptions underlying Fairclough and Fairclough's work). This view was taken as the basis for the selection of methodological tools in Article 3. Following Fairclough and Fairclough (2012), *argument* was chosen as the main analytical concept for examining the working group report. It was defined as a complex speech act in which a claim is justified or contested. In the course of the analysis, the argument for new forms of digital surveillance (telecommunications intelligence) was reconstructed to its *claim*, that is, the conclusion about the type of action that needs to be taken, in this case the recommendation for particular legislative change, and various premises that support this claim. These involve *goal premises* (a future state of affairs that is seen as preferable to the present and which is in line with the values of the decision-makers; e.g. *ibid.*, p. 43, p. 45), *circumstantial premises* (describing the context of action, often a problem in need of a solution; *ibid.*, p. 44), a *value premise* (which informs the goals and circumstantial premises), and the *means-goal premise* (which attests to the usefulness of the proposed action in reaching the goal, e.g. *ibid.*, p. 45).

Having outlined the argument in the report, criticisms expressed in the report's appendices were examined. This part of the analysis kept in view Fairclough and Fairclough's (2012) observations that, on the one hand, criticism may target both particular parts of the argument and/or the entirety of the argument and, on the other, that opposing opinions may also be supported by presenting *alternative premises*, which challenge statements endorsing the original argument. The appendices were therefore mapped for both statements that were overtly critical of any part of the argument and those that provided alternative premises. During this phase of the analysis, broader strands of criticism began to emerge as separate remarks were found to support each other and draw on the same broader rationale for why surveillance should be avoided. For example, challenges to the means-goal premise – the usefulness of digital surveillance – would be supported by alternative circumstantial premises predicting a rise in the use of encryption, which would make access to communications data more

difficult and costly. In consequence of the identification of these broader strands, it seemed worth examining and presenting the criticism in a thematically classified form; for the purposes of the article, three prominent strands were chosen for further discussion and exploration.

The final part of the analytical process concerned the way that the criticism was addressed and negotiated in the original report in order for the political process to continue. This part of the analysis was less directly an application of Fairclough and Fairclough's (2012) argumentation analysis (though cf. Fairclough and Fairclough, 2013, pp. 340–341 on “evaluation by participants”); rather, it drew primarily on traditional CDS insights into the construction of meaning in texts, for instance concerning the relevance of linguistic choices and exclusions (e.g. Fairclough, 1992; Pietikäinen and Mäntynen, 2009). A rereading of the report was conducted to identify passages where any explicit or implicit references were made to the chosen critical strands or, more generally, to topics related to them. The summary (see Section 5.1 for a description of the appendices) was also revisited for the manner in which critical points made by experts and stakeholders were represented. Since the criticism in the appendices was available to the working group during the drawing-up of the report, also the absences of any such references were noted as significant choices. The analysis was concluded with consideration of the relevance of these results for the deliberative process (see Section 4.2 for the particular understanding of *deliberation* here).

Summing up, Article 3 utilized *argument*, understood as a speech act involving statements that justify particular actions, as its main analytical concept. It reconstructed to its claim and premises the argument for digital surveillance legislation found in the working group report, and examined and categorized the critical statements relating to this argument that were presented in the report's appendices. Lastly, the analysis examined how the criticism was addressed in the report.

6 KEY FINDINGS OF THE RESEARCH ARTICLES

This chapter discusses the results of the three research articles in this dissertation. The main findings are summarized in separate sub-sections, starting with the results concerning surveillance (de)legitimation and solutions in the Finnish media (Articles 1 and 2) and finishing with the findings on argumentation concerning new surveillance measures in the Finnish legislative process (Article 3). A broader discussion of the findings and their implications can be found in Chapter 7.

6.1 Article 1: Discourses of (de)legitimation

The first article analyses the *discourses*, and their order in the data, that take part in (de)legitimizing surveillance in the Helsingin Sanomat Snowden coverage. Two major discourses are identified and subsequently named the *discourse of security* and the *discourse of threat*, which justify and contest surveillance, respectively. These constitute the main finding of the study and will be outlined next.

The discourse of security legitimizes surveillance by constructing it as a democratically approved and controlled practice that is fundamental to the security of society (in this case especially the USA). This discourse therefore predominantly relies on what Van Leeuwen (2007) refers to as legitimation by *rationalization* (appealing to the utility and positive goals of surveillance), but other forms of legitimation such as *authority* (e.g. appealing to the democratic procedure which ought to guarantee oversight) are also related to the discourse. References to (terrorist) threats play a central role in establishing the need for protection through surveillance.

The discourse of security is both prominent and highly contested in the news coverage. Its main strength in the data comes from the way that its explanation for why surveillance is conducted, that is, terrorism prevention, is widely accepted even among critics. This means that the goal of surveillance

tends to be presupposed to be beneficial even if the acceptability of the practice itself is contested. Such a delimitation of the scope of criticism overlooks revelations establishing that many friendly nations and organizations (e.g. EU offices) have been the targets of espionage (which points to goals different from security), thus restricting the understanding of the surveillance under debate. Nevertheless, the discourse of security is also presented as heavily questionable in the data. The scepticism is conveyed, for instance, by representing the actors typically voicing this type of legitimation (especially American officials) as biased or even threatening (e.g. as part of an undemocratic regime). Such challenging of the credibility of these actors also renders their statements questionable. Due to the suspicion with which this discourse is treated, then, it cannot reach a dominant position in the discourse order of the data.

The discourse of threat constructs surveillance as a danger to a well-functioning democratic society. Three interconnected aspects of this discourse can be identified, namely, concern for various explicitly defined *civil rights*, the unexpected *powerlessness* of citizens, and the risk of a *surveillance state*. The first of these may be conveyed in many implicit ways and with several of van Leeuwen's delegitimation strategies, but especially straightforwardly it occurs in statements that simply define surveillance as an intrusion into civil rights (delegitimation through negative effects). The second one highlights the secrecy and the breadth of surveillance, pointing to the vulnerability of citizens in the present situation and presenting, or at least implying, transparency as an essential societal value. This view is often conveyed through moral evaluations, e.g. negatively laden expressions such as *expose* that relate to the revelations or to surveillance itself. The third aspect evokes fears of dystopian conditions, prominently through references to Orwell's Big Brother, the Soviet Union and the like, echoing van Leeuwen's legitimation by analogies (2007, p. 99). Such depictions are further strengthened by representations of Snowden as a courageous fighter for human rights, up against a faceless super power of surveillance, or even by depicting the situation overall as a case of man against the machine.

The discourse of threat occupies a prominent, even dominant position in the discourse order of the data: its concerns are typically in alignment with opinions openly voiced by journalists, and even seemingly neutral news articles tend to evoke it in subtle lexical choices, adding a sense of objectivity and thus giving it particular credibility. However, the criticism of surveillance it conveys largely remains on an abstract, even idealistic level, and answers to the security concerns expressed by the previous discourse remain unanswered. This might make the discourse less persuasive.

Summing up, surveillance is most clearly justified in the data through its largely accepted goal of providing society with security, and is contested by pointing to its adverse effects on civil rights and democratic principles in general. The first perspective is treated with suspicion in the data, whereas the latter is given considerable credibility. However, the criticism of surveillance may be weakened by its relatively high level of abstraction.

6.2 Article 2: Solutions to the problem with surveillance

The second article analyses the Helsingin Sanomat news coverage of the Snowden revelations as a discursive struggle in which possible *solutions* to the problem posed by unwanted surveillance are negotiated. Two major types of solution are identified and subsequently named *next step solutions* and *direct solutions*, both of which are further divided into more specific sub-categories. The following discussion will elaborate on these different types of solution, their presentation in the data, and the ensuing implications for the discursive struggle over surveillance.

Next step solutions concern those solutions that present ways of (or actions for) moving forward after the Snowden revelations, but which do not suggest any direct way of actually changing surveillance or the practices directly relating to it. These solutions can be divided into three sub-categories, according to the type of action they suggest. These are calls for *acquiring or demanding further information, having a societal or political discussion over surveillance, and criticising or reprimanding the surveillants*. Next step solutions typically appear in the data in brief remarks, seldom becoming topics of further consideration. Moreover, since these solutions are open-ended, they offer the person suggesting them the possibility of demanding action while leaving its ultimate goal undefined. Therefore, although evocations of these types of solutions may certainly function as rigorous calls for change, the sporadic way in which they appear in the data, as well as the potential for imprecision or even evasion that they entail, reduces their role in contesting or offering viable alternatives to the surveillance practices that they address.

Direct solutions include solutions which do address practices directly relevant to surveillance, for instance legislation or encryption. These can be further classified into *demands for changes in rules and regulations, modifying or ending surveillance practices altogether, and technological means of improving data security*. Of the two broader categories of solutions found in the data, these are both more typical and appear more commonly in prominent positions. As they also by definition have a clearer link to actual surveillance practices than the next step solutions, this type of solution can be considered to have more potential for the contestation of surveillance. Nevertheless, direct solutions also often remain on a superficial level (perhaps outlining a clear goal but omitting discussion of the steps that need to be taken to get there) and their relevance to the surveillance discussion thus tends to be limited.

Lastly, a comment must be made on the actors who suggest solutions or are (or would be) relevant for their execution. In the case of both categories of solutions, the most relevant actors are journalists, politicians and experts in various fields (e.g. technology). Citizens, on the other hand, are seldom depicted as actors, and are consequently largely prescribed a rather passive role as spectators of the espionage affair. When they do appear in connection with solutions - most commonly *technological* (direct) solutions - they tend to be

assigned the power to protect their own data, e.g. through encryption. Political or collective action is mostly outside their scope. This may strengthen the impression that surveillance, even if problematic, is a practice well beyond the influence of most of those who are targeted by it.

Summing up, the second article concludes that, while there are several recurring solutions that are presented to the problem of unwanted surveillance, these tend not to occupy any central role in the news coverage and typically appear in brief, superficial and sometimes open-ended remarks. Politicians, journalists and experts are the key actors where the solutions are concerned, whereas citizens are largely excluded from this part of the surveillance debate. Overall, the limited role that solutions play in the discursive struggle over surveillance shows a clear weakness in surveillance delegitimation, as it points to a shortage of viable alternatives to the situation revealed by Snowden.

6.3 Article 3: A political argument for surveillance and how it is criticized

The third article analyses Finnish political documents to see how increasing digital surveillance is being argued for and criticized, and how these differing points of view are negotiated to enable political action. The data in this article consist of a working group report that outlines suggestions for new intelligence legislation, as well as its appendices, which present criticism of the proposals. The article first reconstructs the argument in the report for increasing surveillance, then outlines three prominent strands of criticism that address it in the appendices. After this, the treatment of these points of critique in the report is explored. The present section summarizes these results.

The argument for digital surveillance in the report consists of a main *claim* that digital surveillance has to be legalized, and several premises put forward in justification of this claim. The most prominent of these premises is a *circumstantial premise*, which depicts Finland's current security environment as having changed for the worse. This alarming development is attributed to advances in technology that facilitate hostile action, and the alarm is built up further by the portrayal of Finnish legislation as blatantly obsolete. The *goal* of the argument, then, is improving Finland's ability to respond to the new threats, with the *means-goal premise* depicting digital surveillance as the (only) way of achieving it. The argument rests on a *value premise* which highlights national security as a societal priority that transcends possible concerns. This argument is in line with typical surveillance legitimations in Finland and elsewhere (cf. Article 1) and its presentation runs consistently throughout the report.

The argument receives pointed criticism in the appendices on various grounds, one of which concerns the means-goal premise. The report constructs this premise often with brief and straightforward statements that declare the usefulness of digital surveillance, supporting the assertion by appealing to other

countries' similar practices. Further explication of the premise is scarce, and therefore broadly debated questions about the efficacy of surveillance (e.g. possible difficulties in finding useful information from the vast pool of data gathered) remain unexplored. Basing the usefulness of surveillance in this way (largely) on presumption is vehemently criticised in one of the appendices in particular, and also *alternative circumstantial premises* are brought up (such as a possible rise in the use of encryption in the future) that further challenge the means-goal premise. In the report itself such criticism is given limited consideration; some attention is paid to the alternative premises, but little discussion is dedicated to the more general criticism about inadequate evidence on the usefulness of large-scale digital surveillance for identifying threats to national security.

Another prominent strand of criticism regards the economic consequences of the suggested surveillance measures. Concerns are expressed that another central goal, economic growth, might be threatened as a consequence of the proposed legislative changes, as Finland will no longer be able to guarantee partners, businesses and consumers the same level of (respect for) privacy as before. *Alternative goals* (e.g. the digital single market) and *alternative circumstantial premises* (e.g. increasing popular attention to privacy) are evoked in connection with this strand. This type of criticism is addressed in the report by, for instance, repudiating the validity of fears regarding an economic backlash (especially by citing a study which finds no such reaction to surveillance in Sweden) and underlining the positive economic potential of the proposed changes (e.g. better protection against cyber-attacks). Of all the critical strands, this one clearly receives most attention.

The last one of the critical strands draws on a view of surveillance as a threat to civil rights. This strand of criticism is based on a view of the central relevance of civil rights in society (*alternative value premise*), and is typically evoked by constructing surveillance as antithetical to those rights (a perspective corresponding with much of academic surveillance critique). Statements aligned with this strand criticise the report for obscuring the privacy implications of the proposed legislation, for instance through formulations that downplay the amount of domestic correspondence that would be gathered in the proposed surveillance procedures. An *alternative circumstantial premise*, the global outrage over surveillance following the Snowden revelations, is also pointed to in the appendices, together with criticism of its absence in the report's considerations. The report does little to address criticism of this strand, with most of the related concerns downplayed or altogether ignored. Characteristically, human rights in general are most explicitly discussed in the report in a chapter which is exclusively concerned with the legality of infringing these rights for the purposes of national security.

Overall, the argument for digital surveillance relies on a view of the world as increasingly insecure, and the contention that the proposed intelligence measures are the best, and only, way to deal with the new threats. This argument is challenged with critical strands that point to inadequate proof of the efficacy

of surveillance in achieving its stated goal of security, as well as to negative consequences on economic growth and civil rights. All the strands of criticism are addressed very selectively in the report, but most discussion is clearly devoted to economic considerations.

7 DISCUSSION

This dissertation has explored the justification and contestation of surveillance in the digital age in Finland. The topic was addressed by analysing news coverage and political documents with tools from discourse and argumentation analysis. Two of the three case studies in the dissertation examined media reactions to the Edward Snowden revelations of 2013, and the third one focused on a legislative process that was taking place in Finland at approximately the same time. Together, these case studies shed light on the way limits to privacy and personal information were negotiated in Finland during a time of international contention on the subject of surveillance.

This chapter reflects on the results of the three research papers. First, surveillance debates in the media and in the field of politics are discussed separately and in their own terms. After this, the core findings from all the research papers are brought together, and their implications are discussed. This is followed by an evaluation of the dissertation and suggestions for further research.

7.1 Findings on the news coverage

The present thesis examined the news coverage of the Snowden revelations in the major Finnish newspaper Helsingin Sanomat, addressing it as one, prominent, site of discursive struggle over the legitimacy of surveillance. The empirical articles 1 and 2 analysed the dynamics of this struggle from different perspectives: they asked what discourses were evoked to legitimize or delegitimize surveillance and how they were organized relative to each other, as well as what solutions were offered to the situation and how these ultimately contributed to the legitimation or delegitimation of surveillance. This section compares the results from these articles to findings from earlier research and explores what they ultimately reveal about contemporary surveillance negotiation.

The Helsingin Sanomat news coverage was found to evoke two main discourses of surveillance (de)legitimation. One of these defended surveillance as a necessity for the security of society, the other criticized it for threatening civil rights and ultimately democracy. Essentially, these discourses were connected by the shared aim of maintaining a preferred social order, but separated by contrasting views as to how surveillance related to this purpose. A review of previous literature shows how persistent these differing perspectives to surveillance are: The relevance of justifications on the grounds of national security in the media post-Snowden was established, among others, by Lischka (2017) and Wahl-Jorgensen et al. (2017) in the British media and Kunelius et al. (2017) in a global media data set, whereas Schulze (2015) and Steiger et al. (2017) identified related themes in German political discourse. The similarities extended to strands of surveillance delegitimation, too, with Wahl-Jorgensen et al. (ibid) identifying privacy and transparency as major topics in British post-Snowden blogs and Lischka (2017) noting parallel strands of delegitimation in British broadcast news. Of the surveillance criticism explored in Kunelius et al.'s study (ibid.), especially the calls for transparency corresponded to findings in the present thesis. A review of previous research also shows that these perspectives did not emerge as a result of the revelations but were documented well before them (see e.g. Simone, 2009 and Barnard-Wills, 2011). Together, the findings from these studies suggest that the Snowden revelations were not followed by a surge in new perspectives to surveillance, but rather affirmed and gave traction to ones already in circulation.

As for the hierarchical organization of the discourses identified, the present data were found to mainly favour delegitimization. This inclination could be seen in the way criticism was, in part, interwoven into journalistic narration through linguistic choices. Importantly, though, the transgressive potential of this discourse was found to be counterbalanced in the discursive struggle by the relative intangibility of its ideals as well as its difficulty in providing answers to the comparatively concrete security concerns raised by proponents of surveillance. Here, the British Snowden coverage, which seems to largely incline towards the legitimation of surveillance (see especially Lischka, 2017; Wahl-Jorgensen et al., 2017; Kunelius et al., 2017, p. 30), bears an interesting resemblance to these Finnish data: while exploring the dominance of surveillance legitimation in British broadcast news, Lischka (2017) observed that privacy considerations tended to be quite abstract compared to the tangibility of the threat of terrorism that was put forward to legitimate surveillance (see also Solove, 2011, p. 2). By pointing to the different levels of concreteness between surveillance legitimation and delegitimation, both studies indicate an essential (though not inevitable, cf. Section 7.3) fallibility in this major line of surveillance criticism.

The relative weakness in surveillance delegitimation was echoed in the way that solutions to the situation revealed by Snowden were discussed in the present data. Although the news coverage did bring up a range of suggestions from technical responses to political reform, the most prominent finding of the analysis

on solutions was that such proposals played a distinctly minor role in the news coverage (cf. Möller and Mollen, 2017, for how calls for transformative political action in Germany post-Snowden remained unspecific, indicating a political vacuum). Ultimately, the scarcity of discussion on solutions contributed to a view of surveillance as perhaps suspect, but also inevitable. This can be considered a serious limitation to the power of the delegitimizing discourse, and relates to Wahl-Jorgensen et al.'s (2017, p. 19) observation that the “processes of normalization and legitimation of surveillance operate not merely by means of what arguments are heard and what discourses are advanced but also by exclusion [...]”.

Several factors may have contributed to the characteristics of surveillance (de)legitimation in the media that have been described above. Contradictory discourses are given space in news articles because an appearance of objectivity requires that oppositional points of view should be afforded consideration (see Section 4.2 on journalistic practices), and the general prominence of the civil rights criticism affirms the newsworthiness of the topic (cf. *negativity* and *relevance* as news values; e.g. Allen, 2010, pp. 72-73). The weaknesses of surveillance delegitimation may in part be attributed to the nature of the issue itself: as the reduction in privacy in most cases remains unknown to the people concerned, it is easy to associate the advantages of prioritizing civil rights first and foremost with theoretical views of citizenship and scholarly debates on societal organization. This stands in contrast to the security benefits of surveillance, which are easily depicted as vital for the individual and society as they exist, concretely, right now. A great deal of journalistic work would be required to bring these conflicting perspectives to a comparable level of concreteness, although it does need to be emphasized that there are news articles that specifically focus on elaborating on this. Conventional journalistic practices may also contribute to the situation: on the one hand, the frequent and convenient use of institutional sources guarantees the prevalence of surveillance legitimation (e.g. Allen, 2010, p. 81 on selection of sources) and, on the other, the preference for good stories such as Snowden's escape might take up time and space from consideration of the more subtle, long-term implications of the revelations (cf. *drama*, including the preference for stories of escape, as a news value in Harcup and O'Neill, 2017, p. 1482; and *personalization*, indicating a preference for human actors over structures and institutions, as a news value in e.g. Allen, 2010, p. 73). The relative superficiality of the solutions could also be a consequence of the material readily available to journalists: NSA's surveillance programmes really are beyond the direct influence of most of those participating in Finnish public discussion of the issues, and detailed suggestions for further action from politicians, experts and the like might be in short supply; lack of political will might also constitute a problem (cf. Article 3). Overall, the characteristics of surveillance discussion explored above can largely be understood as a consequence of both conventional journalistic practices and the nature of the surveillance question itself (a discussion of the implications will follow, in Section 7.3).

7.2 Findings on the political documents

As noted in Chapter 1, the drafting of the Finnish intelligence legislation was addressed in the present thesis as an example of surveillance advancement during a global legitimization crisis. The analysis of media texts showed how the international controversy over surveillance permeated also Finnish media discussion, confirming the Finnish case as an example of a discrepancy between some prevailing public discourses and political action. Article 3 explored this topic further, analysing how arguments for and against surveillance were expressed in political documents relating to the legislation, and examining how disagreements were negotiated to enable the continuation of the legislative process. The present section discusses the results against the backdrop of previous research, exploring their relevance for the relationship between political developments and surveillance debate in the digital age.

Before going any deeper into the argumentation in the Finnish data, it needs to be stressed that, unlike some other post-Snowden reforms, the political process in Finland had no direct relationship to the revelations and was already under way before they took place. To better situate the Finnish case among concurrent developments and provide a frame of interpretation for the results of the analysis, it is worth considering the Finnish process in light of Tréguer's (2017) account of the Snowden-paradox, which addresses the conflict between public outrage and increasing surveillance capabilities. Exemplifying the paradox with the French Intelligence Act of 2015, Tréguer (*ibid.*) showed that the revelations increased pressure for the legalization of existing surveillance practices while at the same time making such moves politically risky. The results of the present study show there are similarities in the Finnish case, although it does not exactly correspond. Although the Finnish legislation was, so far as we know, not motivated by concerns for surveillance programmes already in use, the revelations at least did not function as a deterrent to more permissive legislation, and might even have contributed to motivating it (see Article 3 for foreign countries' surveillance programmes and the Snowden aftermath as justifications for new legislation). This presents a notable contrast to the way the revelations were used as a source of criticism by opponents. Therefore, while acknowledging significant variation between different political processes and the surveillance practices to which they relate, it can be argued that the way Finnish policy makers navigated the criticism of surveillance can shed light on the dynamics of the so called Snowden paradox.

As for the actual argumentation for surveillance, the Finnish data made the case for new legislation mostly by referring to threats arising from digitalization. The working group report, which constituted the main part of the data, portrayed the digital age as dangerous in unprecedented ways due to the use of new technologies as both methods of communication by dangerous individuals and as potential weapons in cyber attacks. An obviously similar line of argumentation was detected by Steiger et al. (2017) in German parliamentary and governmental discussions on surveillance. They (*ibid.*) identified a narrative they called "cyber

angst”, which “underscores the elevated need for security in reaction to a higher threat level in the digital age affecting both states and citizens” and was aligned with a securitization logic justifying extraordinary surveillance measures (ibid., p. 11). Both the Finnish and German data, then, portrayed a political response to digitalization in which threats to national security were depicted as the central characteristic of technological change, overriding, for instance, any possible risks it might entail for democratic freedoms. The consequences of such an emphasis are suggested by Tréguer (2017, p. 25) in his statement that “[...] the threat of terrorism and associated processes of securitization are hindering the global episode of contention opened up by Edward Snowden”, essentially making the legalization of new surveillance capabilities politically possible.

Surveillance argumentation in the present data also relied on presupposition and exclusions (cf. Wahl-Jorgensen et al., 2017; see previous section). The working group report largely presupposed the central (means-goal) premise concerning the efficacy of surveillance in fighting security threats, and disregarded several points of criticism explicitly formulated in the report’s appendices. One of particular interest for the present dissertation concerns the nearby absence of the Snowden revelations from the working group report itself, echoing Tréguer’s (2017, p. 23) account of how French politicians, while trying to push through a contentious bill on intelligence, repeatedly insisted that the French legislation had nothing to do with the surveillance measures Snowden revealed. Such a demarcation of the global and the national might in part explain the Snowden paradox, in the Finnish case further removing from the realm of discussion the entire global surveillance debate, including related discussions over the development of privacy in the digital age. This makes the omission significant despite vast differences between the Finnish legislation and NSA’s massive surveillance programmes.

Of the whole of the negotiation over surveillance in the present data, however, the selective replies to criticism constitute perhaps the most salient characteristic. The analysis identified three prominent strands of criticism in the working group report’s appendices: concern for economic repercussions, civil rights, and doubts about the efficacy of the proposed surveillance measures. Especially the latter two inspired little further discussion, showing that major sources of disagreement were actually put outside the scope of negotiation. This could be understood as corresponding to Hinz and Brown’s (2017) observation on the shaping of the controversial Investigatory Powers Act in Britain: despite an abundance of opposing voices, the interests of the intelligence and law enforcement communities nevertheless framed the debate. This implies that even diverse debate does not necessarily lead to a thorough weighing of different perspectives.

7.3 Surveillance in public discussion: implications

The media and political discussions analysed here offer food for thought in their interesting mix of similarities, differences and interconnections. The underlying logic behind both the justification and the contestation of surveillance followed partly parallel lines, and corresponded to findings from previous research. The relevance of presuppositions and exclusions as conveyors of surveillance (de)legitimation was also evident in both sets of data. A connection between the Finnish legislative process and the Snowden revelations was made in the political documents by opponents of the legislation, but was conspicuously avoided by proponents. Criticism of surveillance on economic grounds or on the grounds of efficacy seemed to play a more prominent role in the political documents than in the news coverage analysed, although it is important to note that the media analysis purposely focused only on the most prominent discourses. Despite some discrepancies, the totality of the analyses attested to the endurance of particular forms of surveillance (de)legitimation.

The view of surveillance underlying the present study offers a useful frame for reviewing the results outlined above. As discussed in Chapter 2, the current thesis takes an approach to (state) surveillance that acknowledges that there are a variety of different motivations and consequences that might relate to surveillance, among others, power asymmetries and related risks for democratic freedoms (e.g. Haggerty and Ericson, 2000; Haggerty, 2006; Lyon, 2014). This means that argumentation and discourses such as those explored in the present thesis address and can be considered relevant for some basic tenets of democracy: they take part in shaping the relationship between citizen and state, addressing shifts in flows of information that fundamentally influence the power balance between the two – defining how much the state may know about its citizens, and how much citizens are in turn allowed to know about the system that they supposedly control through the democratic process. Surveillance discussions can, therefore, be considered interlinked with, and able to shed light on, changes taking place at a much deeper level of social organization than the particular laws or intelligence practices which they directly address. Such broader social implications point to the importance of a thorough societal debate about surveillance, and one which weighs not only technical possibilities and societal benefits but also controversies and potential problems with surveillance, especially in times when existing regulatory frameworks are in flux (cf. Heikkilä, 2018, p. 71 for why constant scrutiny of the dynamics of surveillance states is called for).

In light of this view, several aspects of the surveillance debates and ensuing discursive constructions of surveillance stand out. The present data have shown how both security and civil rights considerations have gained a considerable amount of attention in public discussion, but the latter has at times lacked concreteness compared to the former. For a more comprehensive view of the social implications of surveillance, it might have been useful to give further

consideration to how reductions in privacy, for example, influence citizens' behaviour and civic activity in practice (cf. e.g. Lischka, 2017, p. 679; Heikkilä and Kunelius, 2016, p. 5; more in e.g. Acquisti et al., 2015; Stoycheff, 2016; Heikkilä, 2018). In a similar vein, the significant role of presuppositions and exclusions in surveillance (de)legitimation throws the idea of a genuine open debate into question. The unanswered strands of civil rights and efficacy-based criticism in the political documents constituted particularly blatant cases of exclusion, but there were also topical questions that the media could have raised more prominently and determinedly. One such point concerns (the occasional) presupposition of the usefulness of blanket surveillance of telecommunications to answer security concerns, which is subject to debate (e.g. Van Gulijk et al., 2014) and therefore might have been more systematically explored or at least pointed out as controversial in the news. In addition, following Möller and Mollen's (2017, p. 125) conviction that one function of journalism is "to provide a space for competing upcoming visions about political solutions", it could have been useful to have more detailed discussion of solutions. It is also striking that the conception of surveillance that emerged from the interplay of contradictory discourses in the media nevertheless largely constructed security as basically the only evident goal of state surveillance. This can be seen as problematic as, consequently, for instance the economic motivations of espionage (made plain in the Snowden documents) were largely ignored when weighing up the social costs and benefits of surveillance (cf. Schulze, 2015, pp. 200–201 for *singularity* as a strategy of surveillance legitimation). It also shows how relevant a role such discursively drawn boundaries to the phenomenon itself play in terms of legitimation (more in Section 3.1.1).

Lastly, this thesis started out from a concept of surveillance that rejected dystopian imageries and also acknowledged the possibility of resistance (e.g. Haggerty, 2006; Bakir, 2015). Concentrating on moments when surveillance was both criticized and defended, the present analysis accounted for both the prominence and possible shortcomings of surveillance contestation in two socially prominent venues. Although an analysis of the practical consequences of such a debate is beyond the scope of this thesis, the outcome of the Finnish legislative process, along with those in several other countries (as evident in the previous examples from Britain, Germany and France), shows how difficult resistance can be: unanswered and unheeded criticism during a major legitimation crisis attests to the formidable strength of surveillance legitimation, and points to an uphill battle for opponents.

7.4 Evaluating the dissertation, and suggestions for further research

As dissertations tend to, this study has changed and taken on new directions along the course of its writing. Since an article-based thesis like this one includes

sections that have been finalized years apart from one another, the final result is a display of all these different layers separated by time and new ideas. In retrospect, many of the decisions that I made in the early stages of working on this have proved useful, but others I might reconsider if given the chance. The present section will reflect on the merits and weaknesses of the thesis.

The main contribution of the present thesis comes from the results of the empirical analyses and what they add to our understanding and conceptualization of surveillance negotiation in the digital age. The discourses for both legitimizing and delegitimizing surveillance that were analysed in Article 1 are the results that were the most predictable, even self-evident, but it was necessary to establish their prevalence also in the present data in order to proceed to more novel aspects of the analysis. I would argue that the subsequent examination of the discourse order, particularly the identification of the subtle narrative ways of producing such a hierarchy, constitutes a finding that is both of practical relevance for journalistic work and may offer interesting topics for later research. The analysis of solutions advanced by those who challenged the use of surveillance in Article 2 complemented these conclusions, enlarging upon the dynamics and (largely missing) elements of surveillance contestation from a point of view that has been far less thoroughly explored in previous research (though see e.g. Möller and Mullen, 2017). Article 3 brought up fairly well-documented strands of surveillance argumentation, but moved onto less charted terrain when it pointed out the exclusions that are made in surveillance negotiation and the strategies employed to discursively circumvent criticism in the political documents. I believe these results offer valuable insights into how surveillance can be promoted during a global legitimation crisis.

As for the selection of theoretical and analytical concepts, the study has brought together a combination that was useful for the aims of the research and can be considered a contribution to the field of CDS. The understanding of surveillance formulated here is in line with the discourse analytic concepts applied, and the methodological choices in all the papers proved helpful for working on the data in hand. The methodological choices can also be considered of particular value for later research; to use them here, I had to make quite considerable modifications especially to those analytical concepts that were applied to media data (Articles 1 and 2). In Article 1, the development concerned particularly the combined analytical application of *legitimation strategies* and *discourses*, which I believe was very useful for connecting occasional instances and manners of surveillance justification and contestation to broader strands of thought informing the discussion. This analysis also showed what at least in the present data appeared as one important weakness in Van Leeuwen's legitimation theory, that is, neglecting the representation of social actors as a relevant source of legitimation. In this sense, the development of methodological tools also involved a theoretical contribution to CDS. The analytical view of *solutions* in Article 2 also proved a tricky concept to define in a way that would include all the relevant text passages but disregard the irrelevant ones, and it required a lot of refinement in dialogue with the data. Once formulated, though, this concept

turned out to be a very functional tool for mapping (a large number of) texts for significant passages and subsequently analysing them for their role and relevance in the surveillance debate. Overall, it can be said that this thesis makes a contribution to the development of analytical tools which can be used to examine sites of social controversy, and which have proved valuable for the analysis of larger data sets, which typically present a challenge to the detail-oriented discourse analyst.

As for the data's ability to provide answers to the research questions, the present study is open to the same criticism regarding the generalizability of its results that a lot of qualitative research struggles with. The media data comprise over 300 news articles in Article 1 and over 600 in Article 2, making them very extensive for discourse analytic research. However, large as the data sets are, as they come from only one newspaper, there are plenty of other media outlets, (more specialized, or with different interests and loyalties) which have not been examined, and which might have brought up a differently positioned and/or a more comprehensive discussion of surveillance. For instance, an examination of the Snowden coverage from other major Finnish news outlets, such as the two prominent tabloid newspapers (Iltalehti and Iltä-Sanomat) or the Finnish broadcasting company (Yle), would have complemented the current analysis well. Also, the analysis omitted discussions on the various social media platforms, of which Twitter, as an arena where politicians and experts on technology have been particularly active, is an obvious example. The comments section of Helsingin Sanomat itself would also have given us a broader understanding of the Finnish surveillance debates. There is, then, much further research to be done to cover Finnish media discussion in its entirety. Nevertheless, within the limitations of the present thesis, I believe the decision to concentrate on Helsingin Sanomat was a good one. As a general newspaper it is in a class of its own in Finland, and the views expressed in it will therefore inevitably play a role in public discussion as well as being heard by political actors, too.

The political documents analysed in the present thesis can be criticized for presenting only one, and not the final, step in the legislative process, so also in this case further research is clearly called for. For instance, the government bill, the presentations related to it and earlier outlines for civil intelligence legislation produced by the Ministry of the Interior after 2015 would have provided relevant data for supplementary study. In addition, discussions from other arenas, such as the records of parliamentary debates or Twitter, which hosted heated political debate on the topic (see Section 1.1.3), would have cast further light on the many diverse considerations that were relevant to the process, as well as the actual progress of the legislative work. The working group report analysed here is, then, only one of the many possibly fruitful objects of analysis. Nevertheless, I believe that the timing of its drafting - mostly in 2014, and therefore directly following the Snowden revelations - and its relevance as the foundation for further legislative development in three different ministries, justifies its central role in the present thesis.

The way the present dissertation brings together media and political debates can be considered both informative and problematic. These different data are linked by their overall topic of digital surveillance and the fact of their both occurring during the global controversy over surveillance, but they diverge in the specific forms of surveillance discussed, and the central actors involved, for example. On the one hand, the differences can be considered a fruitful source of insight. The results from the analysis of the Snowden coverage offer a fascinating context for the domestic political debate, making it possible to draw broader connections between different discourses and strategies, and indicating how global debates translate into national argumentation. However, such connections must also be approached with great caution. It is far beyond the scope of this dissertation to explore and make claims about the actual level of resemblance between NSA programmes and the proposed Finnish surveillance capabilities, so careless equations must be avoided. Keeping the cases separate and discussing them both individually against the backdrop of the overarching research interest of surveillance and privacy developments in the digital age, and not as direct counterparts, has been a major concern of the present study, but I understand that the danger of making inadvertent claims is nevertheless considerable. Furthermore, due to the differences in the media and political data described above, the study would have greatly benefited from an additional analysis of Finnish news coverage of the planning of the new intelligence legislation. This would have given valuable insights into the differences and similarities between debates on domestic and international surveillance within the same platform (also valuable for understanding *domestication*; see below), and made comparisons between the surveillance discussion in the media and in the political field much more relevant. The space and time constraints on a PhD dissertation made this impossible in the present case, but hopefully such research will be carried out in the future.

It should also be noted that there were several interesting themes that remained unexplored in the data that were chosen for analysis, especially in the Snowden coverage. For instance, an approach to surveillance that cynically dismisses the entire controversy as self-evidently a component of international politics (cf. Kunelius et al., 2017, for political realism and Lischka, 2017, for “everybody does it”) could not be adequately discussed due to space limitations. Similarly, consideration of a trade-off between security and privacy received very limited attention in the analysis, even though it was frequent and prominent in the news coverage (more discussion on the trade-off e.g. in Heikkilä, 2018; Solove, 2011). Both topics deserve further attention in future research.

It would also be interesting to further explore what the strands of (de)legitimation and solutions can say about the way that a global news event is modified and transformed for the consumption of local audiences (and thus complement findings from Kunelius et al., 2017). It has typically been thought that national news media “domesticate” international news by highlighting a nation’s own actors and its own views (Kunelius and Eide, 2012, p. 280; cf. e.g. Lee, Pan and So, 2000; Nossek, 2004), but Kunelius and Eide (*ibid.*; see also

Kunelius et al., 2017, p. 25), on the basis of research on the news coverage of climate-change summits, suggest that domestication can also appear as a “moment of national reflexivity”, with transnational values providing journalists with grounds to criticize national actors (for more discussion and a CDA perspective on domestication, see e.g. Olausson, 2014). The present findings could tentatively be interpreted as exemplifying both approaches. On the one hand, the Finnish news coverage drew on transnational values and themes with regard to both the justification and criticism of surveillance (see Section 7.1), and foreign actors central to the case were widely cited. On the other hand, especially the analysis in Article 2 indicated the prevalence of more nationally oriented interpretations of the situation, for instance as domestic economic interests were counterposed against (political) measures opposing surveillance (cf. Kunelius et al., 2017, for both perspectives in the Snowden coverage). For a proper understanding of such dynamics as they appear in the present data, however, further research would be needed. For instance, the current analyses could be supplemented with a comparison of the roles attributed to foreign and domestic actors with regard to both the more or less transnational forms of (de)legitimation of surveillance (complementing the analysis in Article 1) and in proposing/being made responsible for solutions (Article 2).

As for decisions that, in hindsight, turned out to be either problematic or just not very useful, there are certain terminological choices worth mentioning. When writing the empirical articles, I decided to largely follow the terminology used by the main methodological sources, despite some overlaps and inconsistencies that these entailed for the dissertation as a whole. In retrospect, especially the multiple uses of the word *discourse* (see Sections 3.1.1, 3.1.2 and 3.1.4) were excessive. To avoid confusion, I would today simply use another term to denote *conventionalized language use in a particular field* (see Section 3.1.4). Also the overlapping applications of the concepts *legitimation* and *justification* in Articles 1 and 3 (following from van Leeuwen’s, 2007, and Fairclough and Fairclough’s, 2012, differing vocabularies) could be considered confusing, but in this case I continue to believe that the practice I adopted constituted the clearest way to navigate the conflicting terminology in each empirical study (see Section 3.2 for further discussion). A further, and clearly unnecessary, overlap can be seen in the identical use of the terms *electronic surveillance* and *digital surveillance* (Articles 1 and 3); of the two, I would nowadays prefer the latter. The concept of *discursive struggle*, too, which was used when reflecting on the role of solutions in the media (Article 3), probably did not yield any very profound understanding that the much less complicated word *debate* would have failed to produce.

It should also be noted that the concept of *deliberation*, which was applied in Article 3, turned out to be somewhat tricky in the present thesis. As discussed in Section 4.2, the way this concept was used in the dissertation was a straightforward adaptation of Fairclough and Fairclough’s (2012) descriptive application of the concept, used to non-normatively describe argumentation in political discourse. Its use was therefore by no means intended as an (idealistic) statement on, for instance, the nature of the political process analysed. Although

I found this view of deliberation a useful part of Fairclough and Fairclough's (ibid.) framework and the empirical study in Article 3, the controversiality of such an application of the term led me to limit its use to this one article, where it was carefully explicated, and not to explore its possibilities for interpreting the broader range of results in the dissertation.

In conclusion, this dissertation makes a contribution especially in terms of our understanding and theorizing of surveillance discussion, and in its methodological innovation. The former, in addition to complementing the picture of surveillance negotiation depicted by previous research, could also be useful for instance to journalists covering surveillance issues. The latter could prove particularly valuable for future research on legitimation or, more generally, on public discussion of socially controversial issues. Overall, this thesis has drawn meaningful connections, indicated revealing differences – and pointed to the many, many questions that still need to be answered to properly understand the negotiation of surveillance and privacy in the digital age.

YHTEENVETO

Yhä suurempi osa kaikesta toiminnastamme jättää digitaalisen jäljen, joka oikein analysoituna piirtää yksityiskohtaisen kuvan meistä ja arjestamme. Tällaisesta tiedosta ovat niin yritykset kuin turvallisuusviranomaiset kiinnostuneita. Jälkimmäisten tiedonkeruu verkossa nousi valokeilaan maailmanlaajuisesti vuonna 2013, kun Yhdysvaltain tiedustelupalvelu NSA:n alihankkijalle työskennellyt Edward Snowden toi julki urkinnan laajuuden useissa turvallisuuspalveluissa. Paljastukset levisivät globaaliksi mediailmiöksi ja osoittivat, millaiseen myllerrykseen itsestään selvänä pidetyt käsitykset yksityisen rajoista ja siten myös valtion ja kansalaisen suhteesta ovat joutuneet.

Tämä tutkimus tarkastelee sitä, miten digitaalista valvontaa oikeutetaan ja haastetaan Edward Snowdenin paljastuksia seuraavana aikana. Erityisesti tarkastelun kohteeksi on valittu suomalainen media- ja poliittinen keskustelu. Suomi tarjoaa kiinnostavan esimerkin siksi, että maassa on samoihin aikoihin kehitetty viranomaisten toimivaltuuksia merkittävästi laajentavaa tiedustelulakia. Verkkovalvonta on tästä syystä ollut Suomessa valittuna ajanjaksona poikkeuksellisen ajankohtainen aihe ja monipuolisesti tapetilla julkisessa keskustelussa. Media tarjoaa tutkimukselle keskeisen aineiston siksi, että Snowdenin paljastukset välittyivät maailmalle nimenomaan journalistisen työn kautta. Lainsäädäntötyöhön liittyvä aineisto puolestaan täydentää globaaliin debattiin linkittyvää media-aineistoa tuomalla tutkimuksen piiriin kansallisesti poikkeuksellisen merkittävän haaran valvontakeskustelusta.

Teoreettisesti tämä työ ammentaa erityisesti kriittisen diskurssintutkimuksen perinteestä. Sen piiristä tutkimus lainaa perustavan käsityksensä kielenkäytöstä (tai semioottisesta toiminnasta yleisemmin) *diskurssina*. Käsite viittaa siihen, että kielen ja maailman suhde hahmotetaan dialektiseksi (mm. Jørgensen ja Phillips, 2002; Fairclough ja Wodak 1997): Toisaalta kielenkäyttömme on sosiaalisen maailman, muu muassa yhteiskunnan ja kulttuurin, rajoittamaa; toisaalta se itse myös osallistuu näiden rakentamiseen ohjaamalla ajatteluumme keskustelun kohteena olevista asioista (katso lisää esim. Fairclough, 2003; Pietikäinen ja Mäntynen, 2009; vrt. Foucault, 1972). Siksi kielenkäytön empiirisen analyysin katsotaan avaavan ikkunan laajempien yhteiskunnallisten kehityskulkujen ymmärtämiseen. Verkkovalvontakeskustelu on tästä hyvä esimerkki, sillä se määrittää kohdettaan ottamalla jatkuvasti kantaa muun muassa siihen, millainen toiminta ylipäätään lasketaan valvonnaksi, millaisia motiiveja valvonnalla ymmärretään olevan ja millä kriteereillä sen hyväksyttävyyttä arvioidaan. Näillä määritelmillä on seurauksensa esimerkiksi siihen, millainen poliittinen reaktio valvontaan koetaan tarpeelliseksi ja helposti perusteltavaksi äänestäjille.

Diskurssi-käsitteellä on myös toinen käyttötapa, joka sekin on keskeinen tässä väitöskirjassa. Tämä merkitys (joka on usein tunnistettavissa termin monikollisesta käytöstä; ks. Gee, 1999) on alun perin lähtöisin Michel Foucault'n ajattelusta (erit. 1972) ja se viittaa sellaisiin suhteellisen vakiintuneisiin näkökulmiin, jotka määrittävät puheen kohteena olevia asioita ja ovat tietyn kulttuurisen piirin sisällä laajalti tunnistettavia ja siten yhteiskunnallisesti vaikuttavia (mm. Wodak

and Meyer, 2016a; Van Leeuwen, 2016). Näin voitaisiin kutsua omaksi diskursukseen esimerkiksi sellaista näkökulmaa verkkovalvontaan, jossa valvonnan yksilön oikeuksia rajoittavat ominaisuudet korostuvat ja siihen liittyvä toiminta ylipäätään käsitetään yhteiskunnan kannalta yksiselitteisesti haitalliseksi, jopa dystooppiseksi.

Samasta aiheesta on tyypillisesti liikkeellä useita erilaisia kohdettaan määrittäviä näkökulmia, ja nämä voivat olla keskenään hyvinkin ristiriitaisia. Erilaisen näkökulmien ristivetoa pyritään tässä tutkimuksessa käsitteellistämään kahdella tavalla: Ensinnäkin puhumalla *diskurssijärjestyksestä* (vrt. Foucault, 1972; Fairclough, 1992; Martín Rojo ja Gabilondo Pujol, 2011; Pietikäinen ja Mäntynen, 2009), mikä viittaa erilaisten diskurssien toisistaan poikkeavaan näkyvyyteen ja yhteiskunnalliseen uskottavuuteen tietyssä ajassa ja paikassa. Toiseksi asiaa avataan *diskursiivisen kamppailun* käsitteellä, joka viittaa tällaisten hierarkkisten järjestysten muuttuvuuteen tilanteessa, jossa yleisesti hyväksytyt rajoja neuvotellaan (e.g. Wodak, 2011; vrt. Fairclough, 1992).

Kriittisen diskurssitutkimuksen lisäksi keskeisessä roolissa tässä tutkimuksessa ovat valvontatutkimuksen näkemykset valvonnan yhteiskunnallisesta merkityksestä ja riskeistä. Tutkimuskysymysten muotoilussa ja tulosten tulkinnaassa huomioidaan muun muassa Lyonin (2014) varoitukset siitä, että verkkovalvonnan tuomat uudet ulottuvuudet valvontaan – sen poikkeuksellinen laajuus ja intensiivisyys, sen hyödyntäminen tulevaisuuden ennustamiseen menneiden tapahtumien selvittämisen sijaan sekä tästä seuraava preventiivinen käyttö lainvalvonnassa – merkitsevät suuria muutoksia yhteiskunnan perusrakenteisiin ja herättävät muun muassa kansalaisyhteisyyteen liittyviä olennaisia kysymyksiä. Astetta teoreettisemmalla tasolla tutkimus ammentaa useista valvontatutkimuksen malleista, joilla valvonnan yhteiskunnallisia ulottuvuuksia ja seurauksia on pyritty hahmottelemaan: Foucault'n (1977) panoptisen valvontakäsityksen katsotaan tavoittavan nykyvalvonnan ylhäältä alas suuntautuva taipumus, kun puolestaan Haggertyn ja Ericsonin (2000) monitahoisempi näkemys valvonnasta (*surveillant assemblage*) auttaa ymmärtämään erityisesti digitaalisen valvonnan verkottunutta luonnetta sekä valvonnan kohteiden vaihtumista elävistä ihmisistä näiden digitaaliseen jalanjälkeen. Hyödyllistä lisänäkökulmaa tarjoavat myös sellaiset Foucault'n hallintaan keskittyvän kirjallisuuden (*governmentality*; erit. 1991) pohjalta hahmotellut lähestymistavat valvonnan tutkimukseen (mm. Haggerty, 2006), jotka osuvasti varoittavat liiallisista yleistyksistä ja painottavat erimuotoisten valvontaprojektien tarkastelua niiden yksilöllisten ominaisuuksiensa kautta.

Yllä esitellyn tutkimusintressin ja teoreettisen viitekehyksen pohjalta tämä väitöskirja jakautuu kolmeen tapaustutkimukseen, jotka esitetään kukin omassa artikkelissaan. Kaksi niistä tarkastelee valvonnan oikeutusta ja haastamista Snowdenin paljastuksiin liittyvässä mediakeskustelussa, ja kolmas tutkii argumentoimista verkkotiedustelun puolesta ja sitä vastaan Suomen uuteen tiedustelulakiin liittyvissä dokumenteissa. Näiden osatutkimusten tutkimuskysymykset ovat:

Artikkeli 1: Millaisten diskurssien kautta valvontaa oikeutetaan ja haastetaan, käyttäen esimerkkinä sanomalehti Helsingin Sanomien Snowden-paljastuksiin liittyvää uutisointia? Miten nämä diskurssit järjestyvät hierarkkisesti suhteessa toisiinsa?

Artikkeli 2: Millaisia ratkaisuja valvontatilanteeseen esitetään suomalaisessa mediassa, käyttäen jälleen esimerkkinä sanomalehti Helsingin Sanomien uutisointia? Miten nämä liittyvät valvonnan oikeutuksesta käytävään diskursiiviseen kamppailuun?

Artikkeli 3: Kuinka uusien ja aiempaa laajempien tiedustelu-oikeuksien puolesta argumentoidaan suomalaisissa poliittisissa dokumenteissa? Miten riskeäviistä näkökulmista neuvotellaan niin, että poliittinen prosessi uuden tiedustelulain laatimiseksi saadaan lopulta jatkumaan?

Ensimmäiseen artikkeliin aineistoksi on valittu Snowden-uutisointi Suomen merkittävimmästä päivälehdestä Helsingin Sanomista kolmen ensimmäisen kuukauden ajalta paljastusten alkamisesta (337 artikkelia). Toiseen artikkeliin puolestaan analysoitiin Snowden-uutisoinnin ensimmäinen vuosi samaisesta lehdestä (617 artikkelia). Aineisto on haettu lehden omasta digitaalisesta arkistosta hakusanoilla *Edward Snowden, verkkovakoilu, NSA, tiedustelu, tietosuoja ja tietoturva*. Kolmannen artikkelin aineisto tulee Suomen tiedustelulakiin liittyvästä vuosia kestäneestä lainlaadintatyöstä, josta tarkasteluun valikoitui erityisesti alkuvuonna 2015 julkaistu mietintö *Suomalaisen tiedustelulainsäädännön suuntaviivoja*. Mietinnön laatinut työryhmä perustettiin vuonna 2013 eli aikana, jolloin Snowden-paljastukset näkyivät lehtien otsikoissa. Raportissa hahmotellut ehdotukset verkkotiedustelun aloittamiseksi Suomessa päättyivät tämän jälkeen jatkokehittelyyn kolmessa eri ministeriössä (itse lait hyväksyttiin eduskunnassa 2019). Varsinaisen raportin lisäksi aineistoon valittiin kaksi liitettä, joissa esiintyi arvosittelua sekä raportin esittämiä tulkintoja ja lakimuutoksia kohtaan että työryhmän toimintaa kohtaan.

Osatutkimuksissa hyödynnetyt analyttiset käsitteet vaihtelevat artikkeleittain. Ensimmäisessä artikkelissa, jonka tarkoituksena oli tutkia valvonnan oikeuttamisen ja haastamisen tapoja Snowden-uutisoinnissa, hyödynnettiin erityisesti Van Leeuwenin (2007) *legitimaation kategorioita, diskursseja ja diskurssijärjestystä* sekä Van Leeuwenin (2008) ajatuksia *sosiaalisten toimijoiden representoinnista*. Toisessa artikkelissa tutkittiin, miten ongelmalliseksi katsottua valvontatilannetta pyritään ratkaisemaan samaisessa uutisoinnissa. Tässä yhteydessä analyttisenä käsitteenä toimivat *ratkaisut*, joiden tunnistamisen ja kategorisoimisen lisäksi tarkasteltiin niihin liitettyjä toimijoita sekä huomioitiin se, millaisessa roolissa ja kuinka näkyvästi ratkaisut valvontadebatissa esiintyivät – kuinka ne tukivat, tai jättivät tukematta, valvontaa kohtaan esitettyä kritiikkiä. Kolmas artikkeli, jonka analyysikehikko nojasi erityisesti Faircloughin ja Faircloughin (2012) näkemyksiin poliittisesta keskustelusta, puolestaan käytti analyttisenä pääkäsitteensä *argumenttia*. Tässä analyysissä purettiin ensin osiinsa digitaalista valvontaa oikeuttava argumentti, minkä jälkeen analysoitiin sitä, miten tarkas-

teltavan raportin liitteissä esitetty kritiikki linkittyi tähän argumenttiin ja sen osiin. Lopuksi artikkelissa tutkittiin, miten liitteissä esitettyyn kritiikkiin vastattiin (tai jätettiin vastaamatta) alkuperäisessä raportissa.

Ensimmäisessä artikkelissa löydettiin kaksi päädiskurssia, joiden kautta Helsingin Sanomissa tyypillisesti oikeutetaan ja haastetaan valvontaa. Toinen näistä on artikkelissa nimetty *turvallisuuskurssiksi*, ja se oikeuttaa Snowdenin paljastamaa valvontaa pääsääntöisesti esittämällä sen demokraattisesti hyväksyttynä sekä valvottuina käytänteinä, jotka ovat kansalaisten turvallisuuden kannalta keskeisiä. Tämä diskurssi on aineistossa näkyvä ja sen voima tulee ennen kaikkea siitä, että sen tarjoama selitys valvonnan tavoitteeksi on pitkälti myös kriitikkojen hyväksymä silloinkin, kun itse käytännöt kyseenalaistetaan. Tämä on huomion arvoinen seikka, kun ottaa huomioon, että Snowdenin dokumenteissa valvonnan taustalta paljastui myös monia turvallisuutta vähemmän yleishyödyllisiä tarkoituksia aina taloudellisesta vakoilusta agenttien henkilökohtaiseen uteliaisuuteen. Toisaalta tämä diskurssi esitettiin aineistossa hyvinkin kyseenalaisessa valossa. Sen epäilyttävyys tuli esiin muun muassa sitä kautta, että turvallisuusnäkökulmaa usein korostavat amerikkalaiset virkamiehet näyttäväivät uutisoinnissa toistuvasti puolueellisina, tai jopa (demokratiaa) uhkaavina toimijoina. Siksi tämä valvontaa oikeuttava näkökulma ei pääse kovin vahvaan asemaan uutisoinnin diskurssihierarkiassa.

Toinen näkyvä diskurssi nimettiin *uhkadiskurssiksi*, sillä se haastoi valvonnan oikeutusta määrittämällä paljastetut käytänteet uhkaksi demokraattisesti toimivalle yhteiskunnalle. Analyysissä tämä näkökulma purettiin kolmeen toisiaan tukevaan osatekijään, joista ensimmäinen oli valvonnan vahingollinen vaikutus kansalaisoikeuksiin, toinen oli kansalaisten odottamaton voimattomuus suhteessa valvojiin ja kolmas oli riski yhteiskunnan muuttumisesta (tai paljastumisesta) dystopioiden valvontayhteiskunnaksi. Tätä diskurssia tuki vahvasti myös Snowdenin itsensä representointi, jossa korostui hänen vaaroista piittaamaton toimintansa yksilön oikeuksien puolestapuhujana. Uhkadiskurssi oli aineistossa näkyvä ja usein linjassa toimittajien omien kannanottojen kanssa, minkä lisäksi se sai lisäpainoarvoa tavasta, jolla sen näkökulmia saattoi olla pedattuna otsikotason sanavalintoihin myös neutraalin oloisissa uutisartikkeleissa. Toisaalta uhkadiskurssin asemaa uutisoinnin diskurssihierarkiassa heikensi se, että valvonnan kritiikki liikkui tyypillisesti varsin abstraktilla ja idealistisellakin tasolla, ja valvontaa tyypillisesti oikeuttavat turvallisuushuolet tapasivat jäädä vaille vastausta.

Toinen artikkeli jatkoi Helsingin Sanomien uutisoinnin analysointia tarkentamalla huomion niihin hetkiin, jolloin valvontaa arvosteltiin. Osatutkimus eritteli ja analysoi tällaisissa yhteyksissä esitettäviä tapoja *ratkaista* ongelmalliseksi koettu tilanne. Löydetyt ratkaisut jaettiin kahteen pääkategoriaan sen mukaan, miten ne liittyivät itse valvontaan. Ensimmäinen näistä kategorioista on *seuraavien askelten* kategoria, johon kuuluvat ratkaisut tuovat kyllä esiin tapoja siirtyä eteenpäin Snowdenin paljastamasta tilanteesta, mutta eivät vielä sisällä mitään sellaisia keinoja, jotka vaikuttaisivat itse valvontaan. Näihin kuuluvat vaatimukset *lisätiedon hankkimisesta* tai *yhteiskunnallisen tai poliittisen keskustelun*

käynnistämisestä sekä valvojen kritisoimisesta. Tällaiset ratkaisut esiintyivät aineistossa tyypillisesti lyhyinä huomioina, ja niiden epätarkka suhde itse valvontaan jätti paljon auki; niitä pystyttiin jopa käyttämään tavalla, joka mahdollistaa varsinaisten toimintavaatimusten välttelyn. Sen sijaan toinen pääkategoria sisältää *suoria ratkaisuja*, jotka siis liittyvät varsinaiseen valvontaan ja siten ainakin periaatteessa ovat vahvempia valvonnan haastamisen välineitä kuin edellisen kategorian ratkaisut. Nämä voidaan edelleen jakaa vaatimukseen *sääntöjen ja säädöksen muuttamisesta*, vaatimukseen *valvonnan täydellisestä lopettamisesta tai sen muuttamisesta* sekä *teknologisiin ratkaisuihin tietoturvan parantamisesta*. Suorat ratkaisut olivat aineistossa lukuisampia kuin epäsuorat ratkaisut ja ne esiintyivät niitä näkyvämmässä paikoissa lehtiartikkeleissa. Niihinkin liittyvä keskustelu kuitenkin tapasi pysyä lyhyenä ja pinnallisella tasolla.

Molempiin ratkaisukategorioihin liittyvistä toimijoista tärkeimpiä olivat toimittajat, poliitikot ja asiantuntijat, kun kansalaiset puolestaan jäivät sivurooliin niin ratkaisujen ehdottajina kuin niiden toteuttajina. Useimmiten kansalaiset näkyivät teknisten ratkaisujen yhteydessä, oman datansa vartijoina; poliittista toimintaa heiltä ei juuri odotettu. Kaikkinensa voidaan todeta, että sekä ratkaisujen heikko näkyvyys ja usein pinnallinen käsittely uutisoinnissa että niiden etäisyys kansalaisiin toimijaryhmänä rakensivat valvonnasta kuvaa ehkä ongelmallisena, mutta käytännössä hankalasti muutettavana toimintana.

Kolmas artikkeli analysoi tiedonhankintalakiyöryhmän raporttia ja sen liitteitä selvittääkseen, millä tavoin viranomaisten verkkovalvontaoikeuksien laajasta lisäämisestä neuvotellaan. Artikkelin purki osiinsa argumentin, jonka pääväite on, että viranomaisten toteuttama verkkovalvonta tietyin ehdoin on syytä laillistaa. Väitteen tueksi raportissa tuotiin esiin useita premissejä, joista näkyvin perustelee laillistamista muuttuneilla *olosuhteilla*. Tämä premissi kuvasi Suomen turvallisuusympäristön aiempaa vaarallisemmaksi digitalisaation vuoksi ja esitti Suomen nykyisen lainsäädännön pahasti vanhentuneena. Tämän lisäksi argumenttiin kuului *tavoitepremissi* – Suomen ajantasainen kyky vastata uhkiin – sekä *keinopremissi*, joka esitti verkkovalvonnan tavaksi päästä em. tavoitteeseen. *Arvopremissi* puolestaan nosti kansallisen turvallisuuden korkealle yhteiskunnan arvohierarkiassa ja siten osaltaan tuki argumentin väitettä.

Esitetty argumentti keräsi terävää arvostelua raportin liitteissä. Kritiikki jaettiin artikkelissa kolmeen pääsuuntaukseen, joista yksi kyseenalaisti valvonnan tehokkuuden sen tavoitteiden saavuttamisessa (haastaen *keino-tavoitepremissin*), toinen perusti arvostelunsa valvonnan kansalaisoikeusvaikutuksiin (tarjoten *vaihtoehtoisen tavoitteen*) ja kolmas sen mahdollisiin taloudellisiin vaikutuksiin (samoin esittäen *vaihtoehtoisen tavoitteen*). Näistä kritiikin lajeista vain viimeksi mainittua on avattu ja pohdittu itse raportissa pidemmältä, sen sijaan kaksi edellistä eivät juuri herätä keskustelua.

Kaikkiaan tämän väitöskirjan empiiriset osatutkimukset nostavat esiin tyypillisiä tapoja rakentaa valvonnasta kuvaa yhteiskunnallisesti hyvänä ja toivottavana tai huonona ja epätoivottavana. Mediassa ja poliittisissa dokumenteissa esiintyvillä näkökulmilla oli runsaasti yhtymäkohtia keskenään, ja ne ovat myös

laajemmin linjassa ulkomaisesta valvontakeskustelusta löydettyjen ajatussuuntien ja argumentaatiolinjojen kanssa niin ajalta ennen Snowden-paljastuksia kuin niiden jälkeenkin. Tässä mielessä voidaan todeta, etteivät paljastukset niiden aikaansaamasta valtavasta mediahuomiosta huolimatta ole tuottaneet näiden tulosten perusteella selkeästi uudenlaisia ajatuskulkuja, vaan ne ovat vahvistaneet ja laittaneet uudelleen kiertoon jo aiemmin esiintyneitä.

Valvontakeskusteluissa esitettyjen näkökulmien lisäksi kiinnostavaa on se, millä tavoin havaittuja näkemyksiä on tuotu esiin. Niin mediassa kuin poliittisissa dokumenteissakin erilaiset ajatustavat vahvistuvat usein merkittävästi niihin sopivilla presuppositioilla ja sanomatta jättämisillä. Esimerkiksi Snowden-paljastukset loistavat lähes täysin poissaolollaan tiedonhankintalakityöryhmän raportissa (poissaolo noteerattiin ja sitä arvosteltiin raportin liitteissä), ja kun huomioidaan raportin laatimisen ajankohta, tätä hiljaisuutta voidaan tulkita haluksi rajata epätoivottuja keskusteluhaaroja tai erityisesti globaaleja kansalaisoikeuksiin liittyviä ulottuvuuksia pois suomalaisesta, kansalliseen turvallisuuteen painottuvasta tiedustelulakikeskustelusta.

Tutkimuksen tulosten ja niiden yhteiskunnallisen merkityksen tulkinnessa väitöskirjan ottama näkökulma valvontaan toimii hyödyllisenä viitekehyksenä. Valvontatutkimus osoittaa selkeästi valvontaan liittyvät riskin paikat demokration näkökulmasta, ja tästä johtaen voidaan todeta mahdollisimman avoimen keskustelun merkityksen korostuvan valvonnan vaikutuksia ja mahdollisia hyötyjä punnittaessa. Tältä pohjalta perusteellista debattia erityisesti valvonnan kansalaisoikeusvaikutuksista sekä sen mahdollisista seurauksista ihmisten käyttäytymiseen voidaan pitää tärkeänä. Samoista syistä voidaan pitää oleellisena laajamittaisen valvonnan tehokkuuden arvioimista niiden tavoitteiden valossa, joiden perusteella sen olemassaoloa perustellaan. Tutkimuksessa tarkasteltu julkinen keskustelu on tuonut esiin niin valvonnan mahdollisia hyötyjä kuin haittojakin, mutta keskusteluissa tyypilliset presuppositiot ja poissaolot kätkevät taakseen oletuksia, joiden perusteiden tarkastelua olisi voinut pitää hyödyllisenä. Tällaisten poissaolojen analyysi tekee näkyväksi myös sen, miten merkittävää on julkisessa keskustelussa valvonnan käsitteen osin ehkä huomaamatonkin määrittely; kun kriittisessä mediassakin kansainvälisen verkkovalvonnan tarkoituksiksi hyväksyttiin monin paikoin kyseenalaistamatta yksin turvallisuus (vaikka myös toisenlaisista motiiveista oli uskottavia todisteita), muilla perustein tapahtuva valvonta rajautui paikoin pois keskustelun piiristä ja valvonnan hyödyllisyyteen tai vahingollisuuteen liittyvästä kokonaisuuskinnasta. Tämä osoittaa, kuinka tärkeitä ovat valvonnalle diskursiivisesti määritellyt rajat ja niiden kriittinen tarkastelu.

Yllä tiivistetyt empiiriset tulokset ja niihin liittyvät pohdinnat ovat tämän tutkimuksen tärkein anti. Erityisesti diskurssijärjestyksen analyysi sekä sen rakentamisen hienovaraiset keinot kuuluvat tutkimuksen oleellisimpiin tuloksiin, joista myös journalismin alalla voisi olla hyötyä. Poliittisten dokumenttien analyysi puolestaan tuotti kiinnostavia huomioita erityisesti siltä osin, kun se tarkasteli valvontaa kohtaan esitetyn kritiikin käsittelyä ja ennen kaikkea arvostelun

suhteellista huomiotta jättämistä työryhmän raportissa. Näiden empiiristen tulosten lisäksi tutkimus tuotti lisäarvoa alalleen muun muassa yhdistäessään ensimmäisessä artikkelissa diskurssien ja legitimaatiostrategioiden hyödyntämisen ja tunnistaessaan toimijoiden representoinnin oleelliseksi osaksi oikeuttamista, sekä toisessa artikkelissa kehitellessään mittavaan aineistoon sopivaa ratkaisun käsitettä. Näin väitöskirja siis osaltaan kehitti myös tieteenalan analyttisiä menetelmiä ja käsitteitä.

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ORIGINAL PAPERS

I

(DE) LEGITIMATING ELECTRONIC SURVEILLANCE: A CRITICAL DISCOURSE ANALYSIS OF THE FINNISH NEWS COVERAGE OF THE EDWARD SNOWDEN REVELATIONS

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(De)legitimizing electronic surveillance: a critical discourse analysis of the Finnish news coverage of the Edward Snowden revelations

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ABSTRACT

In 2013, ex-National Security Agency (NSA) contractor Edward Snowden shocked the world by revealing the American NSA's (and its partners') extensive surveillance programs. The ensuing media discussion became a focal point for the justification and contestation of surveillance in the digital age. This article contributes to the growing body of literature on the discursive construction of surveillance, concentrating on how the practice is (de)legitimized. Methodologically, the paper draws on *Critical Discourse Studies*, applying the concept of *discourse* and utilizing insights from Van Leeuwen's categories of legitimation and social actor representation. The data come from the media coverage of the Snowden affair in Finland, whose hitherto very limited state surveillance is now being transformed into extensive digital monitoring. The study concludes that surveillance is (de)legitimized through two main discourses, one legitimizing it by constructing it as a tool for protection against terrorism, the other contesting it by depicting it as a threat to the basic building blocks of democracy. The study suggests that the latter understanding tends to be favored in the media, but the critique of surveillance is on a rather abstract level.

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1. Introduction

In June 2013, ex-National Security Agency (NSA) contractor Edward Snowden gave the media documents that revealed several surveillance programs and practices carried out by the American NSA and its partners that had until then been hidden to outside view. The revelations showed that the agencies were gathering massive amounts of (mostly) digital data from citizens and allied countries and institutions. It became clear that electronic surveillance was compromising people's privacy to an extent previously unknown. Although there had been a considerable increase in surveillance in the years preceding the revelations, the development had mostly gone unnoticed (e.g. Mathiesen, 2012, p. xix). The Snowden revelations broke the silence and put surveillance at the center of media discussion and political debate.

This article analyzes how electronic surveillance is discursively constructed in discussions in the media following Snowden's revelations. Aligning myself with researchers in

the field of surveillance studies, I see surveillance as a considerable societal power (e.g. Fuchs, Boersma, Albrechtslund, & Sandoval, 2012) linked with a range of problems, from a lack of democratic accountability (Lyon, 1994, p. 116) to civil rights violations (e.g. Fuchs, 2008, p. 207). This article therefore takes a critical approach, specifically *Critical Discourse Studies* (CDS; e.g. Fairclough, 2001a; Wodak & Meyer, 2016b). The particular focus of the article is the way that electronic surveillance is discursively justified and contested, that is, *(de)legitimized*. Due to the high level of controversy surrounding the Snowden affair, the case offers a particularly rich site for an analysis of the legitimation of surveillance (cf. Schulze, 2015). Research on the topic is needed since, although important studies have been conducted on the discussion of surveillance in (mostly Anglo-American) public and media discourse (e.g. Barnard-Wills, 2009; Simone, 2009), the global aftermath of the NSA scandal and consequent fast-changing understandings of the legitimacy of electronic surveillance still remain largely unexplored (but see e.g. Lischka, 2017; Schulze, 2015).

The main analytical concept in this article is *discourses*, understood as historically contingent and socially constructed perspectives on a particular practice (e.g. Fairclough, 1992; cf. Foucault, 1972). Discourses are related to specific understandings of legitimacy (Van Dijk, 1998) and have societal power and consequences, in this case for the acceptance or not of surveillance as well as possible political action regarding it. For a deeper understanding of specific legitimation strategies, I will additionally apply insights from Van Leeuwen's work on *categories of legitimation* (2007) and *social actor representation* (2008).

The data come from Finnish media coverage of the Snowden affair. The media is a particularly important site of observation here both because of its considerable societal influence (e.g. Burroughs, 2015; Fairclough, 1995) and its central role in the Snowden leaks. Finland is a useful example of a technologically developed country where the Snowden revelations have, for the first time, put global electronic surveillance and its implications for citizens' privacy on the public agenda. Furthermore, the country is currently involved in the EU data security reform and, on a national level, is developing highly controversial intelligence legislation which would grant Finnish authorities a massively wider reach in the digital world than before. Thus, the Finnish discussion is representative of a site where the topic of global electronic surveillance is emerging but already has the potential to influence crucial tenets of the country's stand on citizenship and privacy. I will be concentrating on Finland's most respected newspaper, *Helsingin Sanomat*, which has by far the largest circulation of newspapers in the country and is arguably an opinion leader (Vaara & Tienari, 2008, p. 7).

This article is divided into seven sections. The next two outline the theoretical background of the study. Section 4 discusses the data and Section 5 elaborates on the method. Section 6 discusses the results of the analysis. Section 7 concludes with the societal relevance of the analysis.

2. Electronic surveillance and societal power

NSA surveillance is an example of computerized surveillance that takes advantage of the newest technological advancements, here referred to as *electronic surveillance* (see Fuchs et al., 2012, pp. 1–3 for different concepts used for discussing computing in surveillance).

NSA surveillance utilizes computer databases to 'store and process personal information on different kinds of populations' (see Lyon, 1994, p. 8 on electronic surveillance) and exemplifies the way surveillance is becoming increasingly targeted at categories, networks and systems rather than (only) individual subjects (Marx, 2002, pp. 14–15). In addition, the agency's cooperation with large Internet companies exemplifies the weakening of boundaries between commercial and state-conducted surveillance that has been detected in recent decades (e.g. Lyon, 1994, p. 81). NSA surveillance is also a prime example of how surveillance is becoming ever more invisible (e.g. Mathiesen, 2012, p. xviii), automated, intensive and extensive. Discussion of NSA surveillance therefore touches upon the major developments in current surveillance and raises issues that apply to the field as a whole.

Surveillance is closely connected to central societal structures. In Fuchs et al.'s (2012, p. 20) words, it is 'deeply enmeshed into the power relations that shape contemporary society'. It has been found to pose threats to civil rights such as privacy and freedom of opinion and expression (e.g. Fuchs, 2008, p. 207), and to advance social discrimination by the prejudiced targeting of specific groups (Lyon, 2003). In doing so, it also erodes the principle of the right to equality before the law (Lyon, 1994, p. 110). More generally, following Foucault (1977), surveillance research also connects surveillance to coercion, domination and the goal of disciplining people into docile bodies (for a more thorough discussion, see Allmer, 2012, pp. 32–38). Although these concerns are not highlighted by all surveillance scholars (see Lyon, 1994, pp. 24–33), they make it clear that the practice needs to be understood and treated as an important societal force.

3. CDS and discourses of legitimation

This study approaches electronic surveillance from the perspective of CDS (e.g. Pietikäinen & Mäntynen, 2009; Wodak & Meyer, 2016b; see, for instance, Wodak & Meyer, 2016a; Van Dijk, 2013 for a discussion on the terminology, i.e. the use of the name CDS in comparison to the previously widely used CDA), which is concerned with issues relating to power and dominance (e.g. Wodak & Meyer, 2016b) and endeavors 'to make power relationships explicit that are frequently obfuscated and hidden, and to derive results which are also of practical relevance' (Wodak & Meyer, 2016a, p. 19). This links in well with the understanding of the societal relevance of electronic surveillance discussed above. CDS also provides this article with a practical framework since it has proved useful in the study of the legitimation of power relations (e.g. Wodak, 2001, p. 2) and media texts in particular (e.g. Fairclough, 1995). Within the field of CDS, the present study aligns itself with a Foucauldian approach to discourse. Foucault's work is a natural starting point here since his insights on surveillance (Foucault, 1977) were an important source of motivation for this article and, more importantly, his work on discourse accounts well for the role of language use in the construction of meaning and the legitimation of social practices (e.g. 1972; elaboration below). The current study also draws on theoretical insights from contemporary CDS: I adopt the nexus analysis (e.g. Pietikäinen, 2015; Scollon & Wong Scollon, 2004) view of the interconnectedness of micro-actions and macro-level societal issues, indicating the value of situated events and texts in understanding large-scale societal dynamics. I also consider close textual analysis to be useful in making sense of social phenomena, following Fairclough (e.g. 1995). Drawing on insights, too, from multimodally oriented discourse

studies (e.g. Kress and Van Leeuwen, 2006), I expect that other semiotic modes besides language potentially contribute to the discursive construction of meaning.

In line with the Foucauldian approach to CDS mentioned above, I start from the assumption that a concept such as electronic surveillance does not emerge from the existence of the object itself, but instead gets formulated discursively (Foucault, 1972, pp. 32–33; cf. Barnard-Wills, 2009, p. 121 for a similar understanding of surveillance). This socially constructive nature of language use – often referred to as *discourse* – gives it substantive societal power. More specifically, different meanings are constructed through *discourses*, which are here understood as ‘socially specific ways of knowing social practices’ (Van Leeuwen, 2008, p. 6) that ‘systematically form the objects of which they speak’ (Foucault, 1972, p. 49). Discourses are, then, culturally specific and relatively stable approaches to particular practices, and as such they have the power to define what kind of knowledge is believable, acceptable and legitimate (cf. Foucault, 1972; Pietikäinen & Mäntynen, 2009). For the present study, the latter characteristic is of particular relevance and makes discourses the main analytical concept of the article.

Different discourses draw upon one another and form interlinked networks of meaning. This has been conceptualized in different ways (e.g. Pietikäinen, 2015 for rhizome; Scollon & Wong Scollon, 2004 for nexus, etc.); following Foucault (1972; also e.g. Fairclough, 2001b), I will refer to it as the *order of discourse*. This concept incorporates the idea that discourses form hierarchies where some have more, some less power at a given time. Dominant understandings have more power than marginalized ones, and recognizing the different positions that discourses have in relation to one another helps understand which points of view carry more weight and which are backgrounded (cf. Fairclough, 2001a, p. 124). Specific orders of discourse contribute to specific social orders (e.g. Fairclough, 2001b, p. 2), meaning that an analysis of discourse relations also sheds light on larger social patterns. In making sense of the connections and discrepancies between specific discourses, I will draw on Foucault’s understanding that different discourses may relate to one another in various, differing ways, including *analogy*, *opposition*, *complementarity* and *mutual delimitation* (Foucault, 1972, pp. 66–67). Although the discourses Foucault discusses are broader and historically more consistent than the discourses identified in the present study, I believe the same insights can be helpful in examining the discourses occurring in the current data.

The specific focus of this study is the role of discourses in *legitimation*. Here, legitimation is understood as creating a positive and acceptable understanding of a specific action (see, for instance, Vaara & Tienari, 2008, p. 3) or, in Van Leeuwen’s (2007, p. 94) formulation, as ‘an answer to the spoken or unspoken “why” question – “Why should we do this?” or “Why should we do this in this way?”’. To put it simply, then, to legitimize is (implicitly or explicitly) to justify a particular practice; to delegitimize is to do the opposite. As indicated in the discussion on *discourses*, legitimation is not a characteristic of a practice as such but is constructed in discourse (cf. Van Leeuwen & Wodak, 1999, p. 98) and in relation to specific discourses (Vaara & Tienari, 2008, p. 4; Van Dijk, 1998, p. 255). This makes discourses a valuable analytical tool when analyzing (de)legitimation.

Drawing on the theoretical framework described above, this study contributes to a body of research that combines a discourse analytic framework with surveillance themes. I will conclude this section with a brief overview of the most relevant of such studies, starting with pre-Snowden times. Simone (2009) examines the ways the US

government justifies surveillance in a website discussing the USA PATRIOT Act, finding that the government strives to construct itself as the protector of innocent citizens against foreign menace. Barnard-Wills (2009, 2011), analyzing surveillance discourses particularly in British society and the British media, concludes that positive media evaluations of surveillance tend to be related to aims such as crime prevention and national security, whereas negative evaluations often relate to privacy and dystopian models of society. Post-Snowden,¹ Schulze (2015) investigates German politicians' strategies for legitimating surveillance. In line with earlier studies, he finds, for instance, legitimation through *security* and *the authority of law*. Lischka (2017) analyzes surveillance discourses and (de)legitimation in British news broadcasts, finding again that surveillance is legitimized by governmental actors on the grounds of security and legality, while delegitimation makes reference to privacy, civil liberties, etc. (See also Qin, 2015 on the framing of Snowden, Salter, 2015 on the framing of Glenn Greenwald, Branum & Charteris-Black, 2015 on a comparison of British newspapers' perspectives on the Snowden case.) Insights from these studies provide the present one with useful reference points and tools for interpreting the societal relevance of the results.

4. Data

The data of this study consist of Helsingin Sanomat articles on Edward Snowden's NSA revelations during the first three months of coverage, that is, in the summer of 2013. This can be seen as a key moment in the Finnish discussion of surveillance, the point when the public was, figuratively speaking, awoken to the realities of global espionage and the topic had the most intensive media coverage. As Helsingin Sanomat puts its articles online, the data were gathered using the newspaper's own search engine. I used the search term *Edward Snowden* and complemented that with related terms such as *verkko-vakoilu* (net espionage) and *NSA* until the data were saturated to include all articles at least referring to the Snowden case. This resulted in a dataset of 337 articles, all of them including some text – 73,344 words altogether – and many with multimodal elements such as pictures and videos. The articles range from actual revelations about NSA practices, such as the PRISM program, to Snowden's flight and asylum in Russia and the political consequences of the espionage.

5. Method

As discussed above, the most important analytical concept in the present study is discourses. A myriad of semiotic elements may be significant for their construction, but since the particular concern of this article is the role of discourses in legitimation, I will pay most attention to elements known to be relevant in this regard. I will apply insights from Van Leeuwen's *categories of legitimation* and his analysis of *social actor representation*, both of which have repeatedly proved themselves useful for the analysis of (de)legitimation (e.g. Rasti & Sahrsgard, 2012; Reyes, 2011; see also Lischka, 2017 for related methodology and Barnard-Wills, 2009, p. 337 and Schulze, 2015 for the importance of social actors in the legitimation of surveillance). My use of Van Leeuwen's work is twofold: Firstly, his insights are used as orientation in the early reading of the data to find passages particularly pertinent for (de)legitimation and thus for the discourses that contribute to it.

Secondly, after the relevant discourses have been identified, the interrelations between Van Leeuwen's categories, ways of representation and the discourses are further examined to better understand how specific (de)legitimation strategies are employed within these discourses.

Of Van Leeuwen's two methodological frameworks, the categories of legitimation (2007, 2008) have proved to be of greatest importance, and thus a brief word on my application of them is in order. The categories are the following: *authority* (appealing to the authority of a person, institution, tradition or the like), *moral evaluation* (oblique references to specific value systems and moral discourses, often with the use of evaluative adjectives), *rationalization* (appealing to the utility of the action with references to goals, effects or a 'natural order of things') and *mythopoesis* (legitimation through a narrative). They have been developed further by some researchers (e.g. Rasti & Sahragard, 2012; Reyes, 2011), but many of the recent alterations have rendered the framework less useful for me (for instance, by omitting the category of *instrumental rationality* in Reyes, 2011) and I will therefore mostly adhere to the original framework. However, following Zhu and McKenna (2012, p. 530), I will omit *mythopoesis* since it does not fit the rest of the list: it classifies (de)legitimizing statements according to genre instead of content, which might lead to confusion and the omission of 'important discursive features'.

Although it would be possible to concentrate on legitimation strategies alone (cf. e.g. Rasti & Sahragard, 2012; Vaara & Tienari, 2008), this study attempts to connect them to specific discourses. I have chosen this application since I find that several categories can contribute to (and be enabled by) one particular discourse (as will become apparent in the analysis), and therefore an examination of the discourses of (de)legitimation may offer a more extensive picture of how and from where different understandings of legitimacy draw their meaning. Similarly, I believe specific representations can be connected with and contribute to particular discourses (cf. e.g. Fairclough, 1992; Pietikäinen & Mäntynen, 2009), and their examination can thus yield a deeper understanding of the relevant discourses. This conception of the connections between representations, legitimation categories and discourses additionally enables me to analyze not only (de)legitimation strategies but also the way they get arranged in relation to one another in the data (see Section 3 on the *order of discourse*). This is central for understanding the societal significance of particular legitimations.

Before moving on to the analysis, it must be noted that the particular type of data examined in this study has certain implications for the analysis of both legitimation strategies and discourse order. To start with, journalistic articles are highly layered texts (e.g. Fairclough, 1995, pp. 48–49), in which citations and interviews are transformed for the purposes of journalistic narration. The Finnish Guidelines for journalists (Council for Mass Media, 2014), which set an ethical framework for journalists and to which *Helsingin Sanomat* as a newspaper has committed itself, require that voice must be given to those who are being criticized. Especially with regard to controversial issues such as electronic surveillance, following these guidelines leads to a multitude of competing viewpoints and discourses. These voices are, however, often hierarchically organized (Fairclough, 1995, pp. 81–85): preference for particular viewpoints can be expressed through various more or less subtle linguistic means, and even news articles that conventionally strive for an impression of neutrality (Fairclough, 1995, see also Richardson, 2007, pp. 86–89 for *objectivity*) can contribute to this hierarchical organization, for instance

obliquely, through their word choices. In fact, seeming neutrality may even serve to further normalize a particular discourse order. These dynamics must be accounted for in the analysis. Furthermore, since the decision over whose voice is heard in the media is always intentional (cf. Richardson, 2007, pp. 87–88), it would be possible to conceptualize quotations from and references to views of external actors fundamentally as (at least) related to the category of *appealing to authority*. However, as discussed above, the credibility afforded to different voices varies in the news coverage. Because of this, further analysis of, for instance, social actor representation and discourse representation (e.g. Fairclough, 1995, pp. 79–85) needs to be conducted to understand the relevance of the choice of the actors voicing particular discourses. I will therefore limit my use of this legitimization category to instances where the expertise of one actor is explicitly used to legitimize the perspective of another.

I started the analysis of the data by mapping key moments in which electronic surveillance was most clearly (de)legitimized. It soon became clear that the semantic elements most relevant for the present study were linguistic. The first reading was followed by a close analysis of the relevant text passages. Several discourses were identified. The analysis concentrated on two that most clearly took a stand on the (il)legitimacy of electronic surveillance, and they were further examined for their legitimation strategies, their positioning in the data, and broader societal connections. (Cf. e.g. Pietikäinen, 2012 for the cyclical process of qualitative/nexus analysis). These results are discussed in detail and with examples² in the next section.

6. Analysis

I call the two discourses most relevant for legitimation and delegitimation *the discourse of security* and *the discourse of threat*, respectively. The names signify the explanation these discourses give for either the acceptance or rejection of the legitimacy of electronic surveillance. The discourse of security legitimizes electronic surveillance by presenting the practice as a means of protecting society from external threats, especially terrorism. This discourse appears typically in passages where advocates of surveillance – most prominently American officials – are quoted explicitly arguing in defense of surveillance (cf. Simone, 2009; Lischka, 2017). As these statements tend to appear in the form of direct or indirect quotations, they are clearly demarcated from their textual contexts and they are therefore easily read as speeches for the defense. This may cause the legitimation to lose some credibility. The discourse of threat, on the other hand, delegitimizes surveillance by claiming that the practice poses a danger to society by infringing basic rights, such as privacy, which form the backbone of the desired social order. In opposition to the clearly demarcated discourse of security, this discourse is typically interwoven with the narration through particular linguistic choices (see e.g. the representation of Snowden and the NSA workers, below), making it less conspicuous and therefore, perhaps, easier to accept. This discourse is also voiced by a great variety of actors, from Finnish expert interviewees to journalists and politicians, and the multiplicity of realizations leads to variation in the particularities of the conceived threat. The discourse of security and the discourse of threat relate to each other, in Foucault's (1972, pp. 66–67) terminology, through an interesting mixture of *complementarity* and *opposition*: both discourses share the goal of preserving a specific social order, but construct the role of surveillance in relation to this objective in opposite ways – one as the shield

against possible threats and the other as the threat itself. (See Lischka, 2017 for similar findings in the British media.)

6.1. The discourse of security

The discourse of security is the most prominent of the discourses to legitimize electronic surveillance in the data. Its justification of surveillance relies on the construction of the practice as the means to an acceptable end, that is, security. More specifically, the discourse constructs electronic surveillance as an obvious and necessary, legal and democratically controlled way to protect the USA. Typically, this is realized by clear references to surveillance as a tool in the prevention of terrorism. The discourse gains legitimating power from the conception that there is something threatening western societies as we know and cherish them (cf. Schulze, 2015, p. 201). Although the 9/11 attacks are seldom explicitly mentioned, this threat can be traced back to the post 9/11 'climate of fear' (e.g. Nacos, Bloch-Elkon, & Shapiro, 2007), the emphasis on a continuing terrorist threat (e.g. Dunmire, 2007), and the resulting need for and rightfulness of counteraction (e.g. Anker, 2005). The connection to the attacks is made by references to terrorism, a concept which, following the 2001 attacks, has reached the status of 'a term for the central narratives of the culture' (Jackson, 2007). References to security have also been found to be typical of legitimations and positive constructions of surveillance in previous studies (e.g. Barnard-Wills, 2011; Schulze, 2015; Simone, 2009; cf. Qin, 2015; Salter, 2015).

The discourse of security employs many interrelated legitimations that can be examined through Van Leeuwen's categories. For instance, it is brought into play with the means-oriented legitimation of *instrumental rationalization*, for instance, when surveillance is described as a 'tool' or 'weapon' used to prevent terrorist attacks or terrorism. Excerpt 1 exemplifies this. It comes from a news article which was published near the start of the revelations, discussing the Prism program and its social implications.

Excerpt 1

1 United States Director of National Intelligence James Clapper admitted the existence of the Prism program on Thursday evening. According to him, it is **one of the most important foreign intelligence sources**, and information acquired through it **is used to protect the country** from '**a wide variety of external threats**'. (*The United States harnessed internet giants for intelligence*, 8 June 2013)

Here, Clapper is reported as legitimizing electronic surveillance through instrumental rationalization, defining it as the means to the desired goal of protecting America. The need for this kind of protection is presupposed by the post 9/11 understanding of imminent threat. Excerpt 2 exemplifies the workings of this further, in connection with supplementary legitimation strategies. Like the previous excerpt, it also comes from a news article published soon after the first revelations. The focus of this article is American reactions to the revelations.

Excerpt 2

1 Barack Obama, the president of the United States, defended the NSA's intelligence practices on Friday. According to Obama, **terrorism cannot be prevented without burdening privacy rights**. He welcomed **discussion** about the line between security and privacy.

[...]

2 Obama remarked that intelligence programs are **under the oversight of the Members of Congress**.

3 'They are people you have elected. They have been kept up to date. They have the authority to intervene if they wish to', Obama said.

4 In Congress, the Senate intelligence committee chair Dianne Feinstein vigorously defended the programs. '**This is called protecting America**', Feinstein said. According to her, the phone data monitoring program **has already prevented terrorist attacks**.

(*US taken by surprise by extent of espionage*, 8 June 2013)

In the first paragraph, the security discourse is evoked through coherence relations (e.g. Fairclough, 1995, p. 122), which construct security as the goal of surveillance. The first sentence, reporting Obama's defense of the intelligence practices, creates an expectation that the next sentence will continue with the defense in more detail. The second sentence, then, can only be sensibly understood by equating terrorism prevention and the previously mentioned intelligence practices (surveillance). The importance of the constructed goal is highlighted in the second and third sentences with the equation of security and terrorism prevention, utilizing the post 9/11 understanding of threat discussed earlier. The second sentence emphasizes the validity of the goal by presenting it as a presupposed fact, needing no justification. This is achieved through the expression '[t]errorism cannot be prevented without [...]'. (The first paragraph also constructs a privacy-security continuum, to which I will return shortly.)

In the second and third paragraphs, Obama continues to legitimize surveillance by appealing to the *institutional authority* of democratic procedure. Together with his invitation in the first paragraph to a discussion on the limits of security and privacy, this constructs surveillance as a democratic project that not only protects all Americans but is also ultimately under their control. The fourth paragraph continues with the legitimations, in this case by Dianne Feinstein's '[t]his is called protecting America'. This is what Van Leeuwen (2007, p. 99) calls *abstraction*, a form of 'distilling from [practices] a quality that links them to discourses of moral values'. In the last sentence of the paragraph, Feinstein is reported to be appealing to the positive effects of surveillance, a further example of *instrumental rationalization*.

With regard to the struggle over discursive dominance in the data, the security discourse has one particular advantage: its answer to the 'why' question of surveillance can be taken for granted, even when the legitimation of surveillance is on some level questioned. This happens, for instance, in the following excerpt from *Merkel rebuked the USA for snooping* – '*the ends do not justify the means*' (15 July 2013), an article describing the German political reaction to the Snowden revelations.

Excerpt 3

1 'I expect a clear commitment from the US government that in the future, German **laws** will be respected on German soil. We are on **friendly** terms and partners in cooperation. We **cooperate** in the field of defense, and we must be able to **trust** each other', Merkel said in an interview on the ARD channel on Sunday evening.

2 According to her, Germany and the United States **must cooperate in the fight against terrorism**, but ‘as we see it, the **ends do not justify the means**’.

Here, Merkel is reported to be delegitimizing surveillance by questioning its means, explicitly formulated in the headline ‘The ends do not justify the means’. In the first paragraph, the delegitimation is based on an appeal to both *institutional authority* (surveillance is against German law) and *instrumental rationalization* (pointing to the harmful effects surveillance has on friendly relations and military cooperation). However, the security discourse is evoked in the presupposed ‘why’ of surveillance: the headline implies an acceptable purpose by directing the critique at the means (‘why this way’) but leaving the ends (the goal of the practice and therefore, ultimately, the answer to the question ‘why’) untouched. In the second paragraph, the need for cooperation in the fight against terrorism is mentioned in a way that only makes sense if it is accepted as the purpose of surveillance, constructing security as the goal through coherence relations. This is particularly interesting since, at this point, the Snowden documents have only recently revealed that the USA had been spying on various embassies and EU offices, information which could throw some doubt on the claimed goal of security. Disregarding this part of the revelations limits our understanding of NSA surveillance, which is not without consequence: Barnard-Wills (2009, p. 337) suggests that presenting surveillance practices in isolation and disregarding linkages between them ‘may well retard the development of public critiques of surveillance as resistance to a particular surveillance practice does not frequently extend to widespread general resistance’. Moreover, the assertion that Germany and the USA ‘must’ cooperate accepts the necessity of surveillance. The excerpt is, then, an interesting mixture of explicit delegitimation of the particularities of surveillance and subtle legitimation of the practice on a broader scale.

There are also instances in the data where the security discourse is partially linked to the discourse of threat. In such cases, as in the previous excerpt, the legitimation of surveillance is questioned but the goal of security is maintained. The discourse of threat delegitimizes surveillance by constructing it as a threat to various building blocks of the current social order, for instance, the right to privacy (see below). When these two come together, security and privacy are constructed as the opposite ends of a continuum, where one is difficult to achieve without sacrifices on the part of the other (cf. Solove, 2011 for the privacy-security discussion; also Barnard-Wills, 2009, pp. 234–235). One example of this could be seen in the first paragraph of Excerpt 2, and the next excerpt offers another. It has been taken from an expert analysis contemplating the societal significance of the Snowden revelations.

Excerpt 4

1 **Both intelligence operations and the right to privacy are essential in a modern society.** Finland must actively participate in the **international discussion** on how to reconcile them.

[...]

2 Both of the above mentioned are necessary – and indispensable. The right to privacy is included in the current understanding of democracy, but fostering security requires intelligence operations.

(*Intelligence operations should not violate individual rights*, 13 June 2013)

Here, surveillance is assessed through the problem of balancing security and privacy. Typically, in examples that raise this issue, the solution is 'discussion'. This solution saddles society with the responsibility for coming up with appropriate responses to the problem and, therefore, relieves the person voicing the problem of the necessity of making any further suggestions. The privacy-security continuum, then, entails the possibility of both the contestation and affirmation of the legitimacy of surveillance. Concrete solutions to the problem are exceptional in this context.

The security discourse is, however, challenged and undermined in the data to such an extent that its position cannot be said to be dominant. A central reason for this is that it is typically presented as being voiced by American officials, whose position in the affair is hardly neutral, as indeed is made clear by the way they are depicted (see below). As already mentioned, this stands in contrast to the way the discourse of threat is evoked by the seemingly objective narrator. The texts even go so far as to highlight the potential bias of American officials, for instance, with strategies of discourse representation. One example of this is Excerpt 1, where James Clapper was reported to have 'admitted' the existence of the Prism program, and then defined it as an important source of intelligence used for protecting the USA from 'various external threats' (quotes original). Here, the verb 'admit' depicts surveillance as something to hide, and thus emphasizes Clapper's interest in defending himself in the affair. Some suspicion of Clapper's motives is further constructed in the second sentence, where the phrase 'various external threats' is in quotation marks. The quotation marks are interesting since there is nothing so special about this expression that it could not have been rephrased like the rest of the indirect quotation. They therefore serve to at least potentially highlight the haziness of the explanation and to draw a clear distinction between Clapper's and the journalist's voice (see Fairclough, 1992, p. 119 and Richardson, 2007, p. 87 for 'scare quotes' and Fairclough, 1995, p. 81 for the importance of boundaries between the represented discourse and the journalist's voice). Moreover, the security discourse can be undermined by the way writers refer to it; this happens in the data, for instance, when the existence of the security legitimation is acknowledged by referring to surveillance as something committed 'in the name of' security or 'by appealing to' terrorism prevention. Such expressions challenge the sincerity of the legitimation.

In conclusion, the discourse of security legitimizes surveillance by constructing it as a necessary part of a safely functioning society. According to Barnard-Wills (2009, p. 336), this can normalize surveillance and thus 'complicate[s] any attempts to resist or challenge surveillance practices; such contestation must first rearticulate the practice into the realm of the contingent' (cf. Foucault, 1972 on discourse). The discourse occupies an ambiguous position in the data: its definition of the goal of electronic surveillance also appears in connection with delegitimations, which limits both the questions that can be asked about surveillance (Barnard-Wills, 2009, p. 227) and conceivable answers. However, it tends to appear in citations from American officials, making it easy to question its credibility and ultimately preventing it from reaching a dominant position.

6.2. The discourse of threat

The discourse of threat delegitimizes electronic surveillance by constructing it as a threat to various key tenets of our society. These range from good international relations to

economic interests, but most typically surveillance is portrayed as a danger to the intertwined understandings of civil rights, societal openness and democracy (cf. Barnard-Wills, 2011). These are also common concerns in the academic literature on surveillance (see Section 2). Realizations of the discourse in the present data can be further divided into three perspectives, namely, on various explicitly defined *civil rights*, the unexpected *powerlessness* of citizens, and the risk of a *surveillance state*. All of these construct the same preference for an open and democratic society, and they appear closely interconnected. Nevertheless, what specifically they are criticizing varies and, for the purposes of this analysis, I will discuss them separately.

The first of the three perspectives discussed here relies on an understanding of electronic surveillance as an intrusion upon civil rights, most prominently privacy. This means that it challenges the view of surveillance as a practice that works for the good of all citizens, thus contesting one of its most important justifications. The rights under threat may be depicted as part of the legal framework of our society, thus giving *institutional authority* to the delegitimation. Alternatively, the importance of the endangered rights can be presupposed and/or can rely on the positive connotations of the expressions used to refer to them (as in Excerpt 5). In a direct evocation of this perspective, it is stated that surveillance intrudes upon civil rights and is thus undesirable. Such statements resemble Van Leeuwen's category of *instrumental rationalization*, delegitimation through negative effects. Another way to convey the discourse is to compare electronic surveillance with human rights violations such as torture and secret prisons, which can be seen as delegitimation through *analogy* (Van Leeuwen, 2007, p. 99). Surveillance can also be reduced to civil rights intrusions already at the level of naming, for instance when the NSA activities are referred to as *civil rights violations*.

Moreover, in a subtler and therefore discursively persuasive way, the understanding of electronic surveillance as a threat to civil rights is evoked in the coherence relations of the articles, and this makes it more difficult to contest. One example of this is the next excerpt, which comes from the subheading of an article that discusses Snowden's future and his options after his identity has been revealed.

Excerpt 5

1 He [Snowden] hopes to be granted asylum in some country that **defends the freedom of the internet**.

(*Internet surveillance exposé Snowden: 'I don't intend to hide'*, 11 June 2013)

Here, the requirement that the country providing asylum 'defends the freedom of the internet' only makes sense if surveillance is understood as a civil rights issue, specifically that of Internet freedom. The power of this discourse is reinforced by the way Snowden's and the journalist's voices converge; even though the wish for asylum is clearly presented as Snowden's, the decision to leave the clearly evaluative reference to the *freedom of the internet* uncommented can be seen as a way of legitimating this interpretation (compare this with the treatment of Clapper's 'various external threats', above). This incorporation of the discourse into the journalist's voice gives it special weight (Fairclough, 1995, p. 81).

The second perspective highlights the powerlessness of the ordinary citizen (or reader) in the face of electronic surveillance. This creates an air of suspicion that draws on the understanding that societal practices such as surveillance ought to be transparent (cf.

Barnard-Wills, 2009, p. 235). This sense of powerlessness is achieved by emphasizing the secretive nature and unexpected extent of the practice. The first is typically evoked in expressions such as *expose*, *secret*, *shock* and the second by adjectives such as *massive*,³ all of which serve as *moral evaluations* that emphasize the extent to which citizens/readers have been oblivious to surveillance practices and thus at the mercy of the surveillants. Since these evaluations often appear as subtle lexical choices in an otherwise neutral-seeming journalistic narration, they tend to have particular credibility (cf. Fairclough, 1995, p. 82). They are also used in the headlines and subheadings of news articles, which means that they occupy a prominent position in the data (Fairclough, 1995, p. 82). Consequently, although they do not offer any actual solutions to the situation they present as problematic, they leave no doubt about the need for some kind of change.

As a further example, the next excerpt comes from an extensive discussion of the Prism revelations and their societal implications for Finland and the EU. Here, Professor Jukka Manner is quoted explaining how widely the surveillers have access to our personal information through smart phones.

Excerpt 6

1 **In reality**, we do not **even** know **all the kinds** of information the operating systems are sending. (*The USA's snooping also extends to phones*, 9 June 2013)

The delegitimizing power of this statement lies in the assumption that we should know what happens to our own information. The contradiction between the actual and the desirable state of affairs is conveyed by the expressions *in reality*, *even* and *all the kinds*, the first two highlighting the unexpectedness of the surveillance generally, the last the unexpected extent of the freely flowing information. All in all, this statement emphasizes 'our' vulnerable position in relation to the wide-reaching surveillance.

The third perspective on the discourse of threat is one which, rather than emphasizing our lack of control, stresses that there are others who have an excess of it, which can lead (or has already led) to dystopian societal conditions (cf. Barnard-Wills, 2011, p. 558 for *perceptions of control by powerful others*). When this view appears in connection with civil rights, the loss of these rights is typically depicted as either the start or the outcome of the surveillance state. In a way, then, this perspective explains the often presupposed relevance of civil rights.

The threat of a surveillance state is evoked through a range of textual elements. Perhaps most obviously this happens by means resembling Van Leeuwen's (2007, p. 99) *analogies*, here comparisons to tyrannical governments, the Soviet Union, and Orwell's Big Brother. Especially the latter is a very strong discursive device, as it leaves no room for negotiation; in Barnard-Wills (2009, p. 230) words, here 'any positive side to surveillance is diminished'. One example of the surveillance state perspective can be found in the column, *The evil eye stares* (9 June 2013), in which the writer combines questions of civil rights and the surveillance state by arguing that sacrifices in values such as democracy and privacy in order to sustain security may lead to totalitarian conditions:

Excerpt 7

1 This ideology of surveillance **resembles the tyrannical communist governments** against which the USA waged a cold war **for decades**.

This example shows how a comparison between a strongly negatively laden concept – *tyrannical communist governments* – and the *ideology of surveillance* works to delegitimize the practice. Furthermore, the reference to ‘decades’ of cold war highlights the absurdity of the situation and can be seen as a kind of delegitimation by reference to *time* (Van Leeuwen, 2007, p. 99).

The representations of Snowden himself play an important part in the threat of the surveillance state (cf. Lischka, 2017, p. 678 for mythopoetic delegitimizations of surveillance): in connection with this perspective, he is depicted as a lonely hero battling an insurmountable super power, a constellation which closely resembles Orwellian (and most other) dystopias. The impression is achieved, firstly, by the constant *nomination* (Van Leeuwen, 2008, p. 41) of Snowden, which is juxtaposed with the *categorization* or even *impersonalization* of NSA workers and US politicians (particularly important, because the actors conducting the surveillance are essential for the legitimacy of the practice, as noted by Barnard-Wills, 2009, p. 337). Snowden is also referred to with expressions such as *freedom fighter of the internet*, and his actions are described as *noble* and *heroic*. Conversely, the surveillers are called, among other things, *snoopers*, *surveillers* and even *regime* or *machinery*. Thus, Snowden is depicted as an actor who is central and easy to relate to in an affair full of faceless surveillers. This is further highlighted by characterizations of the USA’s search for Snowden as a *hunt*, which greatly bolsters the Orwellian impression. The ways, then, in which the actors involved in the affair are represented strengthen the understanding that electronic surveillance is the gateway to a surveillance state and, as discussed above, greatly reduce the credibility of the legitimations called upon by the surveillers.

In conclusion, the discourse of threat strongly delegitimizes surveillance and draws on various essential societal concerns regarding electronic surveillance. By making it clear that the current situation is untenable, this discourse is an invitation to protest. The discourse appears throughout the news coverage, also in prominent positions, and it can be conveyed through subtle lexical choices. Its main themes tend to be accepted as a presupposition by the writers of the articles. Furthermore, as it relies on concepts that are deeply intertwined with our understanding of democracy, its message is hard to contest. However, the grand scale of these concepts may also strip the discourse of some power; its critique of surveillance characteristically remains on a rather abstract level, which means that the discourse offers no detailed answers as to how the situation can actually be improved. Also, since the importance of civil rights is typically presupposed, the actual relevance of those rights for the lives of ordinary citizens is not a central topic for consideration and elaboration. This stands in stark contrast to the very material threats formulated by the security discourse, and might therefore reduce the persuasiveness of this discourse when it actually comes down to making societal changes.

7. Conclusion

An examination of the Finnish news coverage of the Snowden case reveals two major discourses that (de)legitimize electronic surveillance. The discourse of security constructs surveillance as fundamental to the security of society, while the discourse of threat considers it a danger to democracy. Following the idea that discourses produce their objects (Foucault, 1972), the discourses here identified constrain the way electronic surveillance can be understood, discussed and regulated.

To speculate on the societal consequences of the two discourses, their respective positions and ordering must be considered. In this data, the discourse of threat is dominant. Especially references to dystopian societies leave little room for defending surveillance. The news coverage produces, then, a demand for change. This emphasis can, to an extent, be explained by the journalistic practices that require a particular topic to be established as newsworthy (cf. e.g. Kunelius, 2003); Finland was not directly involved in the espionage affair during the period concerned, but the (alleged) civil rights breaches give the topic immediacy and construct a universal problem that demands also the Finns' attention. This validates the continual coverage of the Snowden revelations.

However, several factors reduce the immediacy of this demand. First, the widely presupposed usefulness of surveillance in matters of national security makes it difficult to contest the practice altogether. Often, this rules out any serious societal critique and leads to rather superficial and open-ended demands for a discussion on the limits of privacy and security. Secondly, the discourse of threat fails to address the concerns the security discourse raises over terrorism. Consequently, it offers no alternative ways of achieving the most widely accepted societal benefits of electronic surveillance. Silence on these matters is especially salient because, in contrast, voices defending surveillance do address concerns posed by the discourse of threat, for instance by pointing to the parliamentary oversight of surveillance. Thirdly, the critique posed by the discourse of threat relies heavily on relatively abstract concepts, and this stands in contrast to the immediacy of the (terrorist) threat suggested by the discourse of security. As a consequence, there is a long way to go from accepting the abstract dangers expressed by the discourse of threat to actual societal change.

Many of the findings of the present study are in line with the results of earlier research on discourse and surveillance, which indicates significant if not complete overlap between surveillance discourses across countries and societal platforms. Barnard-Wills (2009, 2011) detects similar discourses in the British pre-Snowden discussion of surveillance in various contexts, including the media, and political and financial sectors. Parallel discourses have also continued to circulate in the British media after the Snowden revelations (Lischka, 2017). (Cf. also Schulze, 2015 for similar legitimations in German political discourse.) In Britain, however, greater emphasis on security legitimation has been identified (e.g. Lischka, 2017; see, however, e.g. Branum & Charteris-Black, 2015 for the substantial differences in ideologies between particular UK newspapers), which indicates a difference in the relations of dominance between Finnish and British discourses after the Snowden revelations. The difference might result from the differing roles of the two countries in the NSA affair, with Britain one of the surveillers and Finland one of the surveilled. Also the fact that Britain has been a target of terrorist attacks in recent decades while Finland has not may contribute to the difference. Moreover, Lischka (2017, pp. 679–680) highlights the vague nature of the delegitimizing arguments in the British data; she found that '[c]ivil liberties and privacy remain abstract, intangible terms' and '[t]hus, threats to civil liberties and privacy appear negligible compared to terrorist threats [...]'. She criticizes the media for not giving the audience a chance to 'understand the less concrete contra-surveillance arguments better' (2017, p. 680). Given the abstract nature of the delegitimizations examined in the present study, these concerns also seem relevant in the Finnish context. In conclusion, then, the discourses and (de)legitimizations found in the present study seem to be

widespread and, considering the concerns raised by surveillance studies regarding the societal consequences of surveillance, wanting in precision and concreteness.

Notes

1. See also Kaisa Tarvainen's master's thesis.
2. The excerpts have been translated from Finnish to English by the author, with special stress on retaining precise meanings in expressions relevant for legitimation. The emphases (in bold) are the author's.
3. In original Finnish *massiivinen*, which can be argued to entail a sense of disproportion especially in relation to a controversial issue like surveillance.

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II

SOLVING THE SURVEILLANCE PROBLEM

by

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Solving the surveillance problem: Media debates about unwanted surveillance in Finland

Minna Tiainen

Abstract

This chapter examines the way surveillance is discussed in the leading Finnish newspaper Helsingin Sanomat after the revelations made by former NSA-contractor Edward Snowden. In 2013, Snowden provided journalists with documents that revealed the unexpected extent of surveillance conducted by security agencies such as the NSA. Drawing on Critical Discourse Studies and a Foucauldian view of discourse, this article understands media discussions following the Snowden revelations as discursive struggles where the legitimacy and future of surveillance are being constructed and debated. The article examines the ways the media formulates solutions to the problems posed by surveillance, and explores the way they contribute to the overall discursive struggle. The solutions appearing in the data are categorised into two main categories, next step solutions and direct solutions. Overall, it is concluded that solutions play a minor role in the news coverage as they tend to appear briefly and rarely as subjects of debate. This means that solutions do not make a substantial contribution to the discursive struggle over surveillance and, furthermore, leads to an understanding of surveillance as a practice that is difficult to change.

1. Introduction

The Snowden revelations, starting in the summer of 2013 and exposing a multitude of pervasive surveillance practices conducted by the US National Security Agency (NSA) and its partners, were the biggest intelligence leaks in recent history (cf. e.g. Lyon 2015). Around the world, heated media discussion, political conflicts and demands for reform followed the revelations. These surveillance discussions and especially the demands for change that were presented in them are the concern of the present article.

The rapid development and spread of digital technology have made surveillance unprecedentedly pervasive in recent decades (e.g. Mathiesen 2012: xix), but it took the Snowden leaks to make the issue the kind of global concern it is today (Lyon 2015: 13). The revelations can thus be seen as a key moment in the (global) societal awareness of surveillance. Understandably, the ensuing public discussion has become a site of struggle over the legitimacy of surveillance (e.g. Schulze 2015), that is, a place where vehement criticism meets staunch defence. Although such discussions take place on various societal platforms, the media can be considered a prime site for the struggle (see below). As part of the debate, alternatives and improvements to the current situation are sought, and change is demanded. In other words, the media discussion is also an important platform where solutions to the problem of surveillance are negotiated. This article aims to shed light on precisely this aspect of the media debate. It examines how solutions to the surveillance problem are constructed and debated in Finnish media coverage of the Snowden revelations and explores their contribution to the overall struggle over the legitimacy and future of surveillance.

To make sense of these debates, this article draws on insights from both surveillance studies and Critical Discourse Studies (CDS). It adopts the view from surveillance studies of the societal relevance of surveillance. Following, among others, Fuchs (2008) and Lyon (2015), I understand surveillance to have central societal power, including the potential to threaten some core democratic principles and essential civil rights such as privacy (also cf. Foucault 1977). Snowden's extensive surveillance revelations underline the relevance of these concerns. From CDS, the article leans on the understanding that meaning is discursively constructed in language and other semiotic modes, from

which emanates the societal significance of media discussions. I begin with the assumption that language use both shapes and is shaped by social factors and thus, for its part, contributes to the way societal power relations are organized (e.g. Wodak and Meyer 2016b; Pietikäinen and Mäntynen 2009; Foucault 1972). Established ways of discussing a particular matter constrain what can be said, imagined and considered possible (cf. e.g. Fairclough 1995: 56; Foucault 1972 for *discourses*), which means that the ways the surveillance debates construct possible resolutions of the situation are highly relevant for the future of surveillance.

As part of a more comprehensive research project that examines Finnish surveillance discussions post-Snowden, this article analyses media debates in Finland's leading newspaper, Helsingin Sanomat. Finland offers a rich site for the exploration of surveillance since it is a country that, on the one hand, prides itself on its technological sophistication and great respect for civil rights and, on the other hand, has outdated intelligence legislation which it plans to change in order to grant intelligence-gathering authorities a significantly broader mandate for surveillance. Additionally, the Finnish media are interesting since, as a platform for public discourse, they form the nexus of political, legal, technical and other relevant discussions about surveillance. The media play an essential role in bringing together key national and global actors and challenging (some of) them to take part in the surveillance discussion, which is particularly important considering the global nature of both the problems and possible solutions (as will become evident later; cf. Lyon 2015). I have chosen to analyse Helsingin Sanomat since it is the most respected Finnish daily newspaper and the only one claiming national reach. Its unique position in the Finnish media landscape guarantees that its "views and editorial decisions are often echoed in other media" (Kumpu 2016: 146).

In the next section, I will elaborate on my understanding of surveillance and discourse studies. After this, I will discuss the data and methodology before turning to the analysis of the different kinds of solutions in section 5. Section 6 concludes with a discussion of the findings.

2. Theoretical background: Surveillance and media discourse

2.1 Surveillance

Following Lyon (2015: 3), I understand surveillance basically as "collecting information in order to manage or control". It can be conducted by many kinds of actors, predominantly states and private companies. NSA and other state-conducted surveillance is, thus, only one example of current surveillance, yet a particularly interesting one since the revelations "reflect [the] resort to surveillance in many contexts" (ibid.: vii) and, above all, exemplify the major and probably most invasive trends in surveillance today (c.f. ibid.; Mathiesen 2012). Besides, although this broad definition encompasses the possibility of surveillance being used in a socially beneficial way, it also involves significant risks, such as intrusions on privacy and other civil rights as well as the potential to contribute to societal inequality, many of which are already considered a reality by current surveillance scholars (e.g. Lyon 2015; Fuchs 2008). Thus, in this article surveillance is seen as a serious social power warranting proper oversight and critical scrutiny.

Moreover, surveillance is a constantly changing phenomenon. It has been increasing exponentially in recent decades, and as digital technologies develop, new methods of surveillance continue to emerge (e.g. Lyon 2015). This development does not take place in a vacuum but is open to influence by citizens (see e.g. Lyon 2015: 138–140), politicians and, more broadly, nation states (e.g. Gorr and Schünemann 2013: 40). This highlights the importance and reformative potential of public discussions about the future of surveillance.

2.2 Discursive struggles and the media: A critical approach

To understand the discursive construction of meaning and its social implications, this article draws on a Foucauldian view of discourse (e.g. 1972; see below) and contemporary insights from the field of Critical Discourse Studies (CDS) (e.g. Wodak and Meyer 2016a; see, for instance, Hart and Cap 2014, van Dijk 2013 and Wodak and Meyer 2016b for the usefulness of this name for describing the field as opposed to the earlier Critical Discourse Analysis, CDA). Foucauldian discourse analysis and CDS provide a useful starting point, because they have a long tradition of examining the relations between language use, power and the structures that produce inequality (e.g. Wodak and Meyer 2016b; Blommaert 2005; cf. Foucault 1972), thus corresponding to the critical view of surveillance underlying the present study (see Simone 2009: 4 for the usefulness of CDA in analysing constructions of surveillance, cf. also Foucault 1977). CDS's contributions to the analysis of text and, particularly, media discourse also make it a fruitful theoretical and analytical framework for this article (e.g. Fairclough 1995; Richardson 2007).

Following Foucault (1972) and the core arguments of CDS, this article understands language use as a type of situated action that has social conditions and consequences (see e.g. Pietikäinen and Mäntynen 2009; Richardson 2007; Wodak and Meyer 2016b). In any given situation and society, language use can both help change and stabilize the social status quo (e.g. Wodak and Meyer 2016b: 7). Media discourse, as a prominent and powerful form of language use, is particularly important for constructing societal change (such as reforms relating to surveillance) as thinkable or unthinkable, possible or difficult (see below; cf. Fairclough 1995). The power that language use has on specific matters at a given moment can be understood through the concept of *discourses*, which are seen here as relatively stable ways of signifying and legitimizing topics and practices from specific points of view (Foucault 1972; also e.g. Pietikäinen and Mäntynen 2009), therefore “systematically form[ing] the objects of which they speak” (Foucault 1972: 49). Multiple discourses about a particular topic can be in circulation concurrently; some may dominate and some may be drowned out, but these hierarchies are continually contested (see Foucault 1972 for *order of discourse*, also e.g. Fairclough 1995). Consequently, media debates can and often do become sites of *discursive struggle* (cf. Wodak and Meyer *ibid.*: 12; Blommaert 2005: 4). This makes it possible for the media to both contribute to the stabilisation of prevailing social relations and to be transgressive and provide alternatives to them. Since the present article focuses on the highly controversial topic of surveillance and specifically on the media construction of possible solutions to the problems it poses, the socially constitutive and potentially transgressive characteristic of media debates is at the core of the article.

Although discursive struggles over surveillance can be found on various societal platforms, there is reason to claim that debates in traditional media platforms have special relevance for the present article. Firstly, even with the currently diminishing sales of newspapers worldwide, the media have retained a wide audience and can be considered a central institution exercising societal power (e.g. Burroughs 2015: 166; Richardson 2007). This means that Jäger's (2001: 49) contention that “the media regulate everyday thinking and exercise considerable influence on what is conductible and conducted politics” continues to be relevant. Secondly, although direct causal links between media coverage, institutions and society have been difficult to establish (McQuail 2007: 32; but see e.g. Resende 2013), there is plenty of research indicating that the media play an especially influential role in shaping public opinion and political decision making. For instance, research drawing on the agenda-setting theory has repeatedly shown how the media can focus public attention on specific issues and thus shape the political agenda (e.g. Graber 2007: 77). Thirdly, a connection between media coverage and policy has been established through interviews with policy makers (O’Heffernan 2007), and politicians’ attempts to control the media also point to the political relevance of media discourse (e.g. Graber 2007). Fourthly, the media has also been acknowledged as an important

societal actor specifically in relation to the future of surveillance, for instance by David Lyon (1994: 44, 177), who identifies journalism as a possible site of resistance to surveillance (see also Lischka 2015). As (some) traditional media platforms have been central actors in giving a voice to whistleblowers and making information in the Snowden documents available to the public, this contention seems to hold¹ (though see McGarrity 2011 for the limitations to the media's ability to perform its fourth estate role in the counter-terrorism context). Lastly and perhaps most importantly, previous research has highlighted the relevance of the media particularly for the types of questions explored by the present study: it has been concluded that among the most important ways the media can influence society are the media's abilities to direct attention to specific problems and solutions (McQuail 2007: 33), to function as a channel for persuasion and mobilisation (ibid.) and to narrow policy choices available to public officials (Graber 2007: 291). All of these insights, then, highlight the central role of media discussions for studying struggles over (and solutions to) surveillance.

Earlier research provides valuable insights into discursive struggles over surveillance and, therefore, into the premises on which criticism and possible solutions for surveillance may take place. Previous studies have found both the affirmation and contestation of surveillance in public discourse, and both standpoints are connected to recurring perspectives on surveillance and its effects. Pro-surveillance discourses tend to emphasise the importance of surveillance for national security (see e.g. Lischka 2015 and Barnard-Wills 2011 for British media surveillance discourse and Simone 2009 for US government discourse; cf. Qin 2015 for media frames of Edward Snowden and Salter 2015 for media frames of Glenn Greenwald), a standpoint which makes criticism difficult or redundant. The contestation of surveillance, on the other hand, has tended to rely on references to the loss of privacy and other civil rights (e.g. Barnard-Wills 2011; Lischka 2015). Much of the previous research has concentrated on Anglo-American public discourse, but there is reason to believe that the attitudes outlined above can also be found in cultures with a different relationship to surveillance (see above); in a previous paper examining discourses that (de)legitimise surveillance in the Finnish press, I found similar depictions of surveillance (Tiainen 2017). Critical voices do seem to be more dominant in the Finnish media than in the British media at least, but my article also had to conclude (paralleling Lischka's, ibid., insights on the British press) that overall the media criticism of surveillance has been constructed on a rather abstract and general level. The task of the present article, then, is to examine more closely those moments when surveillance is contested in order to gain a deeper understanding of the possibilities and limitations that media criticism poses for the future of surveillance.

3. Data

The data consists of the first year of the Snowden coverage in Helsingin Sanomat, a time frame which includes the most heatedly discussed revelations (at least in Finland) and their aftermath. Since the newspaper puts its articles online, the data was gathered from its digital archive with its own search engine, in two rounds: first, using the queryterms *Edward Snowden*, *verkkovakoilu* (net espionage²) and *NSA*, thus collecting all articles referencing the NSA scandal. Then, after a preliminary analysis which gave an initial impression of the relevant solutions, another search was performed with additional terms to ensure that all articles clearly continuing this discussion without reference to the Snowden case would be included. The additional terms were *tietosuoja* (data protection), *tietoturva* (data security) and *tiedustelu* (intelligence). Here, it became apparent that the Snowden revelations were so topical that few articles omitted the connection, making the demarcation of the data simple.

¹ New media, of course, further enable dissenting voices to take part in public debates.

² Helsingin Sanomat uses various key words as identifiers in categorizing articles in its digital archive, and *verkkovakoilu* was a prominent one used in connection with articles referencing the Snowden case.

The final data set consists of 619 articles and covers a wide range of issues, from specific revelations (e.g. the Prism programme) to the resulting political controversies and Snowden's asylum. Of course, many articles concentrate on more tangentially related topics such as meetings between heads of state and Nobel Prize nominees (Snowden was one in 2014). Most of the articles are news articles, but opinion pieces (editorials, readers' letters and the like) also appear. Online reader discussions, while clearly relevant to the public discourse on surveillance, have been omitted from the analysis since they have a different production process and different expectations for consumption (cf. e.g. Springer et al. 2015); examining these is beyond the scope of this article.

Despite the overall ease of data demarcation, one notable exception must be mentioned. The second search round brought out a scandal close to home—the spying on the Finnish Ministry of Foreign Affairs, most intensely discussed in late 2013. This sparked demands to extend Finland's own surveillance capabilities (which was already an ongoing process at that point), also at times constructed as a solution to the problems discussed in the Snowden coverage. In a few articles, this solution was discussed in a way that could be considered a response to both the NSA and the Finnish scandals, and these were included in the data. However, I decided to leave out articles where the topic was taken up only as a response to the latter. This was based on the observation that the two scandals were discussed in clearly different ways, with the NSA debate including lively contributions on the legitimacy of global surveillance and considerations ranging from international power relations to citizens' rights (which correspond to the concerns expressed by surveillance scholars, see below), and the coverage of the Finnish espionage affair typically displaying a much narrower perspective focused on preventing future espionage on Finnish political bodies. Thus, solutions referring solely to this scandal would have addressed an altogether different problem.

4. Method

My analysis is an application of CDS, especially drawing on approaches concerned with the media and social actors (e.g. Fairclough 1995; van Leeuwen 2008). Starting with the (above described) understanding of the media discussion as a discursive struggle over surveillance, *solutions* relate to and rely on discourses that contest the justifications of surveillance (e.g. Tiainen 2017; Lischka 2015; Barnard-Wills 2011); they draw their relevance from the ways that surveillance is delegitimised but shift the focus from the level of criticising the present to outlining preferable futures and ways of moving forward. Thus, whereas strategies of *delegitimation* (cf. e.g. van Leeuwen 2008: 105–123) are essential in constructing surveillance as problematic, a *solution* is indispensable for constructing it as something that can be changed (see below). Therefore, solutions, which necessarily construct or imply an alternative to the present surveillance situation, can be powerful assets for delegitimizing discourses, and when it comes to speculating on the possible (political and other) consequences of the surveillance debate, they are significant. This conception of the way solutions contribute to discursive struggles guides my analysis and underlies the interpretation of the results.

For analytical purposes, I define a solution to be either a state or a situation that is constructed in the data as better than the current one or, alternatively, as an action that is depicted as a tool for reaching a better situation. This means that a solution may be both a means and an ends for solving the problem posed by surveillance. This is a choice I have made because differentiating between the two would often be extremely difficult, and they both meet the overall research interest in how a society might alter and improve the situation exposed by the revelations. Thus, solutions constitute a varied set of proposals and (represented) actions that are united by the function they serve in the discursive struggle. Consequently, they can at least potentially be constructed through a myriad of textual and other elements, the identification of which is an important part of the analytical process. Furthermore

(and in accordance with the understanding described above of the connection between solutions and delegitimizing discourses), I will assume that an action or state of affairs can only be understood as a solution when the current situation is presented as problematic, meaning that the analysis focuses on articles where the surveillance revealed by Snowden is either implicitly or explicitly considered a problem by, at the very least, the actor responsible for evoking the solution (here, I will draw on previous studies concerned with delegitimation, e.g. Tiainen 2017; Lischka 2015). Lastly, although it would be tempting to include all kinds of (represented) critical reactions following the revelations as solutions—many of them can, after all, be expected to aim at some kind of change—I primarily understand a particular (re)action as a solution only when at least one actor in the article is depicted as considering it a way of improving the current situation. Without this delimitation, the analysis would unavoidably run into (for text analysis unanswerable) guesswork over the motives of the relevant actors.

Turning to the course of the analysis, I first mapped the data with the definition of ‘solution’ (described above) in mind and copied all occurrences, also noting how often they were presented as the main/starting theme of an article to get a sense of their overall prominence. It quickly became obvious that linguistic elements (as opposed to multimodal ones, e.g. pictures) were by far the most relevant for the analysis of solutions. The solutions were then categorised according to the type of change they proposed, and for an overview I also noted how often the solutions of each category appeared in the data and how they related to different types of actors (van Leeuwen’s 2008: 23–25, sociologically oriented understanding of actors and agency was applied). This was followed by a close textual analysis of the relevant passages to investigate the ways solutions were discussed and how they related to the discursive struggle over surveillance. Finally, the possible societal implications of the results were explored (cf. e.g. Pietikäinen 2012: 420 for zooming in and out).

The next section is dedicated to the analysis. I will start with an overview of the way solutions generally appear and are constructed in the surveillance debate. After this, I will elaborate on the different types of solutions by dividing them into categories and subcategories. This is followed by an examination of the most relevant categories with examples³, with the emphasis on factors that regulate the power that solutions may have in the discursive struggle.

5. Overview of solutions in the surveillance debate

As discussed above, for solutions to occur it is necessary for there to be something troubling about what Snowden revealed. The ensuing need for change gives the solutions their justification and relevance in the overall discursive struggle over surveillance, and it is therefore the backdrop against which the solutions must be understood and explored. In the current data, this (sense of) problem is linguistically articulated in many different ways (as will be shown in the example analyses below), but the underlying problem with surveillance remains the same across different types of solutions and throughout the news coverage. The solutions are related to an understanding of surveillance as a threat to citizens’ privacy, to other civil rights and/or ultimately to democracy itself which, as earlier research has found (see below; e.g. Barnard-Wills 2011; Lischka 2015), is a common and powerful way of delegitimizing surveillance. In a previous analysis of Helsingin Sanomat, I called this logic the *discourse of threat* (Tiainen 2017). With such a rationale behind them, the solutions in this data can typically be understood as more or less convincing proposals for bolstering democracy.

³ The excerpts have been translated from Finnish into English by the author.

However, on the whole, solutions are not utilised in the data as a significant resource for challenging surveillance practices. This can already be seen in the position and space given to them in the newspaper articles: of the 619 articles that refer to the Snowden revelations, a solution constitutes the main/starting theme in only 39. The number is remarkably small compared to, for instance, the 130 articles that centre on Snowden's person and attempts to get asylum. When solutions are not a major theme in their respective articles, their content is frequently described in only a few sentences that appear in positions that are not very prominent (e.g. Fairclough 1995: 82). Further, they are often mentioned only vaguely and almost incidentally, not constructed as topics of ongoing societal or political debate in a way that would accumulatively deepen and specify the scope of the discussion (more below). Consequently, the way solutions are discussed often reduces their potential for providing credible alternatives to the present situation.

5.1 Solutions categorised

The solutions discussed in the data can be divided into two categories, according to how directly they address surveillance practices. I will call the first category *next step* solutions. Such solutions are presented as preferred ways of moving forward from the current situation, without entailing any attempt to implement immediate change in practices directly related to surveillance. These include, for instance, expressing criticism of the USA or demanding clarification of Snowden's claims. The second category, which I will call *direct* solutions, covers solutions that do address practices relevant to the functioning of the surveillance process (e.g. legislation, using encryption), such as recommendations to create "Europe's own internet" or demands to stop espionage altogether.

To illustrate the range of solutions that appear within these two categories, I have further divided them into subcategories according to the type of action they discuss/ suggest. These are listed in Table 1, with simple and/or representative examples of each subcategory to give an indication of their realisations in the data.

Table 1

Solution category 1: Next step solutions	Solution category 2 Direct solutions
<p>Action: Acquiring/demanding further information</p> <p>Example: “European institutions should immediately demand an explanation [on British surveillance practices].” (Statement attributed to German Minister of Justice Sabine Leutheusser-Schnarrenberger.) (Pullinen 2013, June 24)</p>	<p>Action: Changing rules or regulations</p> <p>Example: “The [German] Chancellor suggested a joint European data protection law as a solution [to US espionage] (---).” (Kerola 2013, July 17)</p>
<p>Action: Having a societal/political discussion on surveillance</p> <p>Example: “Finland must actively participate in the international discussion on how to reconcile them [intelligence operations and the right to privacy].” (Limnell 2013, June 13)</p>	<p>Action: (Working towards) Modifying or ending surveillance practices (no explicit references to legislative changes)</p> <p>Example: “It must be possible to control them [intelligence agencies] using parliamentary means, by the data protection authorities.” (Statement attributed to Finnish Minister of the Environment Ville Niinistö.) (Halminen 2013, June 16)</p>
<p>Action: Criticizing or reprimanding the surveillants</p> <p>Example: “Finland, the European Union and other countries should (---) tell the United States that we do not want them to be our big brother.” (Viiri 2013, July 8)</p>	<p>Action: Using technical means of protection or otherwise improving security in technology use</p> <p>Example: “(---)[I]n the era of electronic surveillance, everyone should use encryption on the internet and in cell phones.” (Statement attributed to Jacob Applebaum.) (Sillanpää 2014, May 5)</p>

Before moving on to detailed analyses, a brief overview is needed of the relative prominence of these categories and their connections to particular actor types in the data. Out of the two main categories, *direct* solutions is clearly the most prominent. Such solutions appear approximately three times as often as *next step* solutions, and they also occur more frequently in articles where a solution is the main theme. The subcategories overlap and converge to an extent that makes (quantitative) comparisons fruitless. Solutions overall are definitely brought up most often by journalists or other writers (e.g. in readers’ letters), politicians, or interested parties (often experts; e.g. professors, civil servants). The global nature of the surveillance debate is strongly reflected in the assemblage of politicians and interested parties voicing solutions, with key actors such as Edward Snowden, Angela Merkel and Barack Obama prominent among them. *Next step* solutions are proposed by all three actor types relatively evenly, whereas there is substantive variation in direct solutions according to subcategory. Interested parties, prominently technical experts, are behind many of the suggestions concerning *technical protection*, whereas *rules and regulations* as well as *modifying or ending*

surveillance practices are dominated by politicians. The rare cases in which citizens appear in any capacity relating to solutions are concerned with technical protection. The relevance of these observations for the discursive struggle will be discussed below.

5.2 Solution categories and the discursive struggle

The two main categories have different (potential) implications for the discursive struggle. *Next step* solutions give the actor suggesting them more leeway to leave the goal of the action/suggestion unspecified. Although these solutions can certainly constitute discursively powerful and practically useful tools for challenging surveillance (cf. e.g. Allmer 2012: 141; Lyon 2015: 138–140 for the importance of raising awareness and pressing for change), they also allow indefiniteness and finally evasion, which can reduce the transgressive potential of the delegitimizing discourse they relate to.

To exemplify how the indefiniteness of the *next step* solutions can function, I will briefly analyse an example from the subcategory of *public/political discussion* (see Excerpt 4 for an evasively used solution). It is also a good example to start with because, consisting only of one sentence, it illustrates the brevity and incidental nature of the solutions as I mentioned above (see Excerpt 3 for further discussion). This excerpt comes from an article that describes the British political debate after MI5 Director-General Andrew Parker criticised the Snowden revelations.

Excerpt 1

[Then Secretary of State for Business, Innovation and Skills Vince] Cable said in a BBC interview that political discussion is needed about the intelligence services' operations (Vasama 2013, November 10).

Here, the existence of a problem to be solved is implied with the verb *need*, and *political discussion* is identified as what is needed to improve the situation. The solution clearly belongs to the *next step* category since it would not necessarily have any impact on surveillance itself and the desired outcome is not defined (although a wish for change is implied). Typical of this subcategory, the passive verb, *is needed*, omits the actors responsible for making the change happen and thus “removes a sense of specificity from the clause” (Richardson 2007: 55), further highlighting the general and open-ended nature of the remark.

Since *direct* solutions necessarily involve some kind of change relating to surveillance itself, they require the purpose of the suggested line of action, or the nature of the desired situation, to be more clearly defined. In this sense, they have more potential for contributing to the struggle against surveillance, and their relative prominence in the data is an indication of the transgressive potential of the surveillance debate (there are limitations to this, though, as will be seen below). In fact, many of the solutions in this category are in line with suggestions that surveillance scholars have made to limit surveillance (cf. e.g. Lyon 2015: 140, 129). To introduce the category with an excerpt that exemplifies this transgressive potential, I will next present a solution that belongs to the subcategory of *technical protection* and is (unusually) specific about its motivations and preferred line of action. The excerpt comes from an article about Glenn Greenwald and his then newly published book about the Snowden leaks, *No Place to Hide*. It appears towards the end of the article and constitutes its only solution; therefore, although it clearly relates to the discursive struggle differently than the vague Excerpt 1, both exemplify the general tendency of solutions to be brief and rather inconspicuous.

Excerpt 2

Greenwald is confident that change will come through the internet companies and ordinary people taking precautions. He promises that when millions of people begin to use encrypted pgp emails, the NSA's resources will run out (Niskakangas 2014, May 28).

Here, the solution consists of both the means (people using encryption) and the desired end (NSA's resources running out). The existence of a problem is not stated explicitly in this excerpt, but the rest of the article (which is too long to include here) and Greenwald's widely broadcast criticism of the intrusions of surveillance on privacy and civil rights make it evident that surveillance is considered troublesome. This is also signalled here by the juxtaposition of positive words such as "confident" and "promise" with change and, concretely, encryption.

This example is typical of *technical solutions* in that it constructs a way for citizens to privately act against surveillance. Where it differs from most solutions in the data is in the element that gives it most strength in the face of a societal problem like surveillance: the suggestion that individual action can accumulate into collectively induced social change. In fact, in the subcategory of *technical protection*, meaningful private action and, therefore, solutions involving citizens as actors constitute about half of the data, although they rarely promise much more than protection for one individual's private email correspondence or something similar, along the lines shown in Excerpt 2. Thus, in characteristic occurrences in this subcategory, citizens are constructed as guardians of their own information but not as political actors (see example in Table 1), and so both action and goal tend to be limited to the private sphere. Consequently, the scope of the surveillance problem is also easily reduced to technical issues and attention is diverted from the social and political nature of the problem (cf. Lyon 2015: 134).

The tendency to exclude citizens as actors is even more pronounced in all the other subcategories, where citizens and normal net users are rarely mentioned at all. Citizens also seldom appear as actors making suggestions or demands in any category (cf. e.g. Fairclough 1995: 49 for the limited role of "ordinary people" as sources of information in the media generally). Since they nevertheless do appear in the data in other contexts, for instance as the unwilling targets of surveillance, this corresponds to what van Leeuwen (2008: 29) calls *backgrounding*, that is, the de-emphasising of specific actors in relation to a particular action. Altogether, this form of exclusion attributes a passive role to citizens and contributes to an understanding of the Snowden case as rather a spectacle for readers to follow than a societal issue to which they might contribute. Connected with the broader discursive struggle where precisely the societal importance of surveillance, such as its effects on civil rights, is emphasised, this role for citizens reduces the force of the transgressive discourse.

Solutions in the *direct solutions* category also lose power in other ways. Especially solutions from the often-overlapping subcategories of *rules and regulations* and *modifying or ending surveillance practices* tend to be discussed vaguely and sporadically, leading to their proposed plans of action often being little clearer than those in the next step category. This can be illustrated with the next example, representative of both subcategories and of their contribution to the discursive struggle in the data. The excerpt comes from an article discussing Finland's then foreign minister Erkki Tuomioja's speech at an annual gathering of Finnish ambassadors, where he defended Snowden and spoke against surveillance.

Excerpt 3

'The European Union, whose citizens and institutions have evidently also been the targets of illegal and inappropriate data collection, must act here clearly and openly in every direction to end and prevent the violations', Tuomioja said at the annual gathering of ambassadors.

According to him, intervention in the violations of data security calls for strict international norms (Huhta and Raeste 2013, August 27).

Here, the existence of a problem needing a solution is clearly expressed by the negative words referring to surveillance, such as “inappropriate” and “violation”. It would be possible to understand the recommendation to “act here clearly and openly in every direction to end and prevent the violations” in the first paragraph as a solution, indicated by the word “must” and belonging to the category of *modifying or ending surveillance practices* (similar suggestions appear elsewhere in the data and have been thus categorised). However, as this recommendation is directly followed in the next paragraph by a reference to the more concrete need for “international norms”, I would rather interpret the latter as clarification for the former, assigning the entire solution segment to the subcategory of *changing rules or regulations*.

Although this solution includes both an ultimate goal (ending inappropriate surveillance) and consideration of how to achieve this (international norms), its formulation leaves the actual course of action open. The first paragraph only refers to indeterminate (yet “open” and “clear”) “action”, while the second constructs the “norms” as a type of mid-way goal that is “called for” in order for the aim to be reached, thus omitting both the process by which the change should be achieved and the actors responsible for making it happen. The vagueness about the necessary course of action is a recurring characteristic of discussion relating to international regulation, possibly a reflection of the difficulties involved in any such change, which would require cooperation among a very broad range of perhaps unwilling international actors. In any case, it makes alternative societal realities more difficult to imagine.

Moreover, Tuomioja’s statement is presented as isolated. Neither he himself (as represented) nor the writer of the article embeds the comments into an ongoing discussion about regulation, although similar suggestions have been made by several prominent politicians (cf. Table 1 for an example), also covered in Helsingin Sanomat. In this particular case, the isolation can partly be explained by the article’s focus on Tuomioja’s speech at the ambassadors’ meeting; however, the isolated presentation of solutions runs throughout the data, particularly with regard to politicians’ suggestions (cf. Excerpt 1). Thus, the same suggestions keep reappearing—international regulation is a good example—but the discussion rarely proceeds from generalities to the actual steps that need to be taken. This keeps the discussion on a superficial level and therefore reduces the suggestions’ credibility.

I have now briefly discussed both the main solution categories and some recurring characteristics that have consequences for their power to contribute to the discursive struggle. This section will be concluded with one more example which shows the interplay of various solutions and elaborates on an earlier (briefly) mentioned characteristic of the *next step* category, that is, the potential to be strategically used for maintaining the impression of disapproval towards surveillance while actually discouraging action. The example comes from an article in which then Prime Minister Jyrki Katainen is interviewed about the revelation that the NSA has been tapping Angela Merkel’s cell phone. I quote those paragraphs which are relevant for solutions, the first one coming from the beginning and the others forming the middle of the article.

Excerpt 4

1. None of us knows the truth about the matter. But of course every nation and also Europe as a whole considers this kind of news worrying, Katainen said to HS [Helsingin Sanomat] in Meise, outside Brussels, today, Thursday.
2. The free trade negotiations are terribly important for Europe, for our employment situation and economic development. I hope that (the suspicions) will not have (an impact), because Europe has an interest in getting the free trade agreement.

3. But of course we must get a full explanation of what has happened and we also need to be sure that this will not happen again, if it has happened.
4. According to Katainen, it is mainly up to Germany and the United States to sort this out.
5. The espionage scandal has also increased the EU's willingness to push forward new data protection legislation that is already being developed, which would improve the protection of personal data online.
6. A good question is how much it can affect espionage. Be that as it may, in all European countries people must [be able to] trust electronic services, electronic communication. These kinds of suspicions always shake this trust (Kähkönen 2013, October 24).

The clearest solution in this excerpt is getting “a full explanation” in paragraph 3, marked as an improvement by the expression “we must” and belonging to the main category of *next step* solutions and the subcategory of *acquiring further information*. This kind of demand is a recurring political reaction to the revelations in the data (cf. example in Table 1). Typically for its category, the solution does not involve a goal that would affect surveillance practices (also demonstrated in Excerpt 1), but one of sorts is given in the subsequent call for the “need to be sure that this will not happen again”. However, the conditional “if it has happened” indicates that this is not relevant right now and highlights the need to wait, which is also prominently underlined both in the first sentence of paragraph 1 and by the repeated use of the hedging expression “suspicions” with reference to surveillance (paragraphs 2 and 6). This kind of caution can also be seen in the data in other politicians’ statements; it could be interpreted as reflecting the difficult position countries face in confronting and attempting to solve a problem linked to a superpower like the USA.

Prime Minister Katainen’s recurring emphasis on waiting not only justifies his call for more information but also implicitly deems any immediate action hasty, something that can also be seen in the way other possible (re)actions are discussed. In paragraph 5, “push[ing] forward Europe’s data protection legislation” evokes what is a commonly appearing solution in the subcategory *rules and regulations* (cf. Merkel’s suggestion in Table 1), although it is not clearly articulated as a solution here. In line with his reluctance for immediate action, Katainen questions the usefulness of the legislation (paragraph 6) and swiftly brings the discussion back to an abstract level with a generic remark about the importance of trust. Moreover, a far clearer rejection of any reaction (which is here not discussed as a solution, although elsewhere in the data it is) occurs in paragraph 2, where Katainen expresses a wish that the TTIP negotiations will not be disturbed by the revelations. The depiction of Katainen as prioritising the trade negotiations over acting on the surveillance scandal is particularly conspicuous because of the very specific account he gives of the importance of the TTIP agreement in stark contrast to the evasiveness with which problems related to surveillance are addressed. Furthermore, his desire not to let the surveillance scandal jeopardise the TTIP negotiations is interesting because, at this point, there has been concern that the USA had used its intelligence to put the EU at a disadvantage in the negotiations. Katainen’s comment disregards this possibility and therefore reduces the scope of the problem that might have to be solved (cf. Barnard-Wills 2009: 336–337 for the relevance of occluding linkages between surveillance practices).

The preference for refraining from action is also strengthened by the way Katainen is depicted as distancing himself (and thus, it could be argued, Finland as a nation) from the situation. While the international nature of the problem and, consequently, of probable solutions makes an emphasis on a joint answer from the European community understandable, the strategies that Katainen uses could be considered less a call for collective action than an attempt to shift responsibility. The distance is constructed in many ways: in paragraph 4, Katainen states explicitly that it is up to Germany and the USA to solve the problem. Paragraph 1 quotes Katainen saying “[n]one of us knows (---)”, where the

“us” establishes the problem as a general one, not something concerning Katainen as an individual (politician). In the following sentence, the expression “[b]ut of course every nation and also Europe as a whole...” further highlights the international scope of the problem. An additional level of distance is also constructed in the expressions “this kinds of news” (paragraph 1) and “these kinds of suspicions” (paragraph 6), which set the surveillance scandal in broader categories rather than constructing it as unique. Altogether, these portray Katainen as not responsible for suggesting or acting on solutions to surveillance. Similar if less conspicuous evasion can of course be interpreted in those demands for international action and regulation that fail to specify the actors and actual steps of proceeding (as in Excerpt 3).

Summing up, Excerpt 4 shows how a preference for the *next step* solution of *acquiring further information* is suggested, highlighted and complemented with a sense of distance in a way that makes concrete demands for action difficult and even unnecessary. This means that even a solution can function in ways that serve the status quo of surveillance instead of contributing to a discursive struggle to contest it.

6. Conclusion

Overall, the most conspicuous characteristic of the solutions appearing in the Helsingin Sanomat news coverage is that they tend to be brief and generic and are rarely the point of the article, therefore relatively seldom becoming subjects of constructive debate or critical evaluation. In other words, the dissenting voices in the surveillance debate focus more on criticizing the existing situation than finding alternatives to it. It can thus be said that the solutions, as voiced in the media, do not make a substantial contribution to the discursive struggle over surveillance.

The way different actors relate to the discussion of solutions may also restrict the potential of the criticism of surveillance. Citizens, and thus the expected readers of the newspaper, are rarely attributed an active role in finding a solution. This contributes to an understanding of surveillance as out of reach, as difficult to change. This is reinforced by the relative passivity of the Finnish political elite (at a level of societal decision-making the typical Helsingin Sanomat reader can influence by normal political participation). Politicians’ suggestions for solving the situation tend to be (presented as) isolated comments rather than as parts of a political discussion aiming at change, and repeatedly these solutions are expressed with a lot of caution and hedging. The potential of political influence for setting limits to surveillance (cf. Gorr and Schünemann 2013: 40) therefore comes across in the data as restricted or remote. All of this further contributes to an understanding of surveillance as perhaps a negative societal power but a phenomenon that is beyond the normal sphere of societal and political decision-making, especially in the Finnish context.

The relatively superficial discussion on solutions in this data can perhaps be explained by Helsingin Sanomat being a general newspaper in which readers would not expect to find, for instance, detailed technical information. Besides, there are surely good reasons for the sense of distance and difficulty that characterise the potential attributed to Finnish citizens and even politicians to influence NSA surveillance. Nevertheless, these characteristics of the discussion consolidate the view of surveillance as distant and difficult to change and, especially due to the superficial level of discussion, restrict the extent to which readers can evaluate solutions and use the media discussion to make informed decisions, something which could be considered a central function of the media (e.g. Richardson 2007). This correlates with the conclusion of earlier studies that media discussions on surveillance often fail to go into the fundamentals of the problem, and tend to keep the discussion on a general level (Lischka 2015; Greenberg and Hier 2009; cf. Tiainen 2017).

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III

NEGOTIATING DIGITAL SURVEILLANCE LEGISLATION IN POST-SNOWDEN TIMES: AN ARGUMENTATION ANALYSIS OF FINNISH POLITICAL DISCOURSE

by

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Negotiating digital surveillance legislation in post-Snowden times: An argumentation analysis of Finnish political discourse

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In the digital era, when security agencies world-wide have been challenging basic democratic principles with massive data gathering, Finland has had a different approach: it has conducted no large-scale surveillance of citizens' online activities. Now, however, the country is planning such a vast expansion of state surveillance that the constitution itself must be altered. The present article examines one key point in this legislative process to see how the new surveillance measures are argued for and criticized, and how the differing points of view are negotiated to ultimately enable political action. Drawing particularly on Fairclough and Fairclough's (2012) approach to argumentation in political discourse, the article finds that surveillance is promoted as essential for national security, and criticized especially for its economic risks, consequences for civil rights and questionable effectiveness. Despite this range of critical perspectives, only economic considerations have become a topic of extended deliberation.

Key words:

Digital surveillance, political discourse, critical discourse studies, argumentation, privacy

1. Introduction

In the digital era, security agencies world-wide are searching through massive amounts of personal data from citizens not suspected of any crime. Information that was considered deeply private in the analogue world is gathered and processed unbeknown to the people concerned for reasons that are vaguely formulated and often difficult to verify. This has altered the societal status of civil rights such as privacy and, ultimately, the relationship between citizen and state (cf. e.g. Lyon 2015; Lyon 1994).

Among western democracies which develop and extensively utilize digital technology, Finland has constituted an exception: a country not conducting large-scale surveillance of digital activities, with intelligence legislation broadly considered outdated. Now, however, Finnish policymakers hope to update this legislation to address concerns relating to digitalization, taking heed of countries further along this path (more in Section 6). Their ultimate aim is such a massive expansion of state surveillance that changes to the constitution are needed. In a country that prides itself on respect for civil rights, the negotiation of these changes is an interesting topic for analysis.

The Finnish process is also topical because it coincides with the surge in global awareness of digital privacy that followed the 2013 Edward Snowden revelations. Demonstrating the unexpected extent of surveillance by the USA (among others), these revelations made the justification of surveillance an international topic of debate (e.g. Lyon 2015) and underlined how images of threat had been used to enable exceptional security measures (and continued to be used after the revelations; see e.g. Schulze 2015 and Tréguer 2017 on *securitization*; cf. justifications for the Finnish reform in Section 6). Subsequent political reforms have in places increased legal surveillance measures and in others constricted them (e.g. Hintz and Brown 2017, p. 789), prompting researchers both to credit Snowden with enhancing privacy protections (e.g. Ni Loideain 2015) and to trace how global outrage coincides with, or paradoxically even translates into, ever-broadening surveillance mandates (e.g. Tréguer 2017; Steiger et al. 2017). The present article sheds further light on the way the latter kind of development may take place.

This article examines how, during the ongoing Finnish legislative process, the changes are argued for and criticized and the differing perspectives negotiated to ultimately enable political action. Specifically, for the justifications for surveillance the article analyses a working group report commissioned by the Ministry of Defence, drafted at the height of the Snowden discussion. This report forms the basis for further legislative development, presenting a moment when the entirety of the proposed intelligence capabilities, as well as measures relevant for enabling them, are discussed together before being divided between different ministries (more in Section 2.2.). This report can therefore be considered a key point in the legislative process (cf. e.g. nexus in Scollon and Scollon 2004). For criticism and concerns over the proposals, the article analyses two of the report's appendices, which voice concerns regarding the suggested measures. This critique offers an interesting object of analysis both because it expresses a range of concerns typical of post-Snowden public discussion (more below) and because it was specifically expressed during, and as part of, the drafting of the working group report. This makes the treatment of this particular critique in the report itself especially revealing of the ways that different concerns about surveillance are addressed (or disregarded) in the legislative process.

For theoretical background, this article draws on surveillance studies (e.g. Lyon 2015; Mathiesen 2013; see also e.g. Haggerty and Ericson 2000 and Foucault 1977) for an understanding of the societal role of surveillance, and critical discourse studies (e.g. Wodak and Meyer 2016; Pietikäinen and Mäntynen 2009; Fairclough 1992; Jokinen 1999), particularly Fairclough and Fairclough (2012), for insights into political discussion. Taking a deliberative view of politics, Fairclough and Fairclough (*ibid.*) state that the main purpose of political language use is justifying particular action; therefore, it is fundamentally argumentative. The applicability of this view to all political discourse is controversial (see e.g. Hay 2013), but it fits the present data and is therefore useful in the selection of analytical tools here. The main analytical concept in this article is *argument*, understood as a speech act that concentrates on justifying a claim (*ibid.*, 35–38). The particular argument of interest in the working group report is one which advocates digital surveillance. This argument is first reconstructed to its claim and premises, after which the appendices are analysed for the ways they question it. Lastly, the way the critique is addressed and negotiated in the report itself is examined.

2. Digital surveillance and the case of Finland

2.1. Surveillance in the digital age

Surveillance can broadly be understood as “collecting information in order to manage or control” (Lyon 2015, 3; cf. Mathiesen 2013, 17). Its relevance for societies and individuals has long been acknowledged (see e.g. Foucault 1977), but recent social and technological developments have rendered it particularly topical. Thanks to digitalization, the pool of personal information easily available (and combinable) for different surveillance actors has vastly expanded, contributing to surveillance becoming more intensive, inexpensive and invisible than before (see e.g. Lyon 2014; Mathiesen 2013; Marx 2000). Widespread cooperation between different states and commercial actors has created complex surveillance networks that feed each other in ways that may be difficult to anticipate (see e.g. Lyon 2015; Mathiesen 2013; cf. Haggerty and Ericson 2000 for the “surveillant assemblage”). In recent decades, terrorism has taken on a central role in the justification of (state) surveillance (see more in e.g. Mathiesen 2013; Simone 2009), facilitating legislative changes that favour surveillance in many countries. Overall, it can be argued that surveillance in the digital age is both particularly ubiquitous and particularly elusive, a combination that gives it considerable societal power (cf. Fuchs et al. 2012; Lyon 2015).

Academic literature offers different views on how the formidable presence of surveillance in society should be evaluated. Some scholars consider surveillance solely a form of control and domination, emphasizing the fundamental power asymmetries that characterize its existence (see e.g. Fuchs 2015; Allmer 2012 for panoptic interpretations of surveillance; cf. Foucault 1977 for the panopticon). Others offer a more inclusive framework which allows for different kinds of practices, purposes and relations of power to be understood as part of surveillance, some of which might be socially beneficial and egalitarian (or at least well meant), while others not. (The latter are, however, often highlighted also among such scholars; cf. e.g. Lyon 2015; Haggerty and Ericson 2000; see more of this categorization of surveillance research in Allmer 2012). Such differences often relate to disputes about how broad an array of practices should be categorized as surveillance. While this disagreement is not central to the present paper – the type of top-down state intelligence discussed here is rarely denied the status of surveillance – the different approaches do involve different limitations for the (scope of) interpretations available about the nature of the surveillance explored here. In this paper, a strictly domination-centred view is rejected, despite clear recognition of the power asymmetries that state surveillance utilizes and creates. This is because the planning and implementation of such surveillance involves a myriad of (also democratically elected) actors, purposes and consequences, and such complexity is difficult to reduce to (an intent of) oppression. Importantly, acknowledging this does not imply disregarding the many potential risks and inevitable disadvantages associated with surveillance, such as the curtailing of privacy and related civil liberties such as freedom of expression (e.g. Lyon 2015; 2014). Rather, a recognition of the complexity of the phenomenon, and the risks inherent in it, highlights the relevance of rigorous public discussion and careful consideration before any decisions are made. For the present article, this conviction serves as motivation for the research questions and informs the interpretation of the results.

2.2. Developing Finnish intelligence legislation

Until the time of writing this article, the Finnish authorities responsible for national security have had no special mandate for data gathering. Instead, intelligence is governed by the same legislation as police work, and the use of secret methods of data acquisition is linked to particular offences and targets (Ministry of Defence 2015). This sets Finland apart from many other western countries (e.g. Sweden), where national security purposes such as the prevention of terrorism make otherwise forbidden surveillance measures available to the authorities.

In the 21st century, however, cyber security and intelligence have received increasing attention in Finnish politics. The topic was addressed in the 2010 *Society's security strategy* and the subsequent *Finnish cyber security strategy*, which recommended mapping and developing Finland's cyber security legislation. In December 2013, the Ministry of Defence established a working group to investigate Finland's present intelligence situation and formulate suggestions for improvement. The group recommended that Finland give its national security authorities access to masses of telecommunications data for national security purposes, while requiring less pre-existing information about a (potential) offence to justify a search; in other words, it recommended the commencement of broad digital surveillance measures (see section 4). The group's report, *Guidelines for developing Finnish legislation on conducting intelligence*, was published in January 2015.

In the following spring, digital intelligence was addressed in the government's strategic programme (*Ratkaisujen Suomi*). In autumn 2015, further development of the report's suggestions was divided between the Ministries of the Interior, Defence and Justice. One year later, the Justice Ministry, responsible for formulating constitutional changes, published its

proposal. The Ministries of the Interior and Defence, responsible for changes to civilian intelligence and military intelligence respectively, finished their projects in the spring of 2017. The proposals broadly followed the suggestions already made in the *Guidelines for developing Finnish legislation on conducting intelligence*, although modifications were made.

The process is still underway and further changes have since been made, for instance, to strengthen the supervision of the intelligence authorities. Although there is political will to bring the package to a vote as soon as possible, at the moment of writing this article (December 2017) the precise schedule remains open.¹

3. Critical discourse studies: political discourse and argumentation

This article draws its understanding of the relationship between language and societal phenomena from critical discourse studies (CDS; e.g. Wodak and Meyer 2016; Fairclough 1992; Pietikäinen and Mäntynen 2009). In the field of CDS, language use, also referred to as *discourse*, is considered socially constructive and thus consequential (see e.g. Wodak and Meyer 2016; Gee 2014; cf. Foucault 1972). The relationship between language use and the social world is therefore seen as dialectic (e.g. Fairclough and Fairclough 2012, 81; Pietikäinen and Mäntynen 2009). This view motivates the present article's focus on discourse and helps understand the social relevance of the way surveillance is negotiated. Furthermore, since CDS is particularly interested in the ways that discourse is connected to societal power (e.g. Wodak and Meyer 2016), it offers particularly useful insights for exploring a phenomenon like surveillance (cf. Section 2.1).

Drawing on the above view of discourse, the present article focuses specifically on political discussion. To further understand the properties particular to this type of discourse, I apply insights from Fairclough and Fairclough's (2012) work, which combines argumentation analysis and the discourse analytic framework (cf. e.g. Jokinen 1999 for argumentation analysis as a tool in discourse analysis). Based on a view of politics as *deliberation*, Fairclough and Fairclough (ibid.) claim that discourse associated with the field of politics should be primarily understood as argumentation. This is because deliberation is concerned with weighing and choosing between different alternatives in response to particular circumstances and goals (more on this view of deliberation below). More specifically, Fairclough and Fairclough (ibid., 1, 5) believe the main types of arguments in political discourse are *practical arguments* (cf. e.g. Kakkuri-Knuuttila 1998, 86–89). They offer responses/solutions to practical problems, giving reasons for or against particular ways of acting. Therefore, such arguments also potentially ground a decision, which makes them particularly consequential (see also Jokinen 1999, 131 for the relevance of *action* in argumentation). This view fits, and therefore helps to further explore, the nature of political discussion on Finnish surveillance legislation.

Although Fairclough and Fairclough's (2012) insights play a central role in this article, some specifications and restrictions must be mentioned. Fairclough and Fairclough's (ibid.) work has been sharply criticized for delimiting the realm of the political to elite arenas, and for overlooking non-deliberative political situations (Hay 2013; see reply in Fairclough and Fairclough 2013). Although such criticism poses important questions about the broader theoretical implications of the approach, it presents no obstacle to applying relevant insights to the present data. This is because the data constitutes a clear example of the kind of traditionally political and deliberative discourse that this approach privileges: it includes documents which have been drafted for explicitly political purposes, in a process that has involved an array of participants with differing viewpoints, at least some of which become the topic of additional consideration (cf. Fairclough and Fairclough 2012, 11-15; more in Section 6 on analysis). It

should be emphasized that the use of the concept of deliberation here is descriptive (*ibid.*), reserved for situations which minimally involve the consideration of one counter-argument to the proposed line of action. Therefore, deliberation is treated as an argumentative genre (Fairclough and Fairclough 2012, 13) guiding the selection of analytical tools rather than as a normative ideal. A political process may constitute deliberation without being particularly “good”, balanced or democratic (*ibid.*, 14, 26–27) and, consequently, the present application of Fairclough and Fairclough’s analytical framework is in itself no comment on the (normative) deliberative quality of the data being analysed (here, Fairclough and Fairclough’s understanding of deliberation of course differs from e.g. normative models of deliberative democracy, and it has also been directly criticized by Hay 2013; however, for the current analysis it presents a useful starting point).

Lastly, it needs to be emphasized that the present article only shares some of Fairclough and Fairclough’s (2012) analytic goals and therefore its application of the framework is highly selective: besides conducting descriptive argumentation analysis (more below), Fairclough and Fairclough (*ibid.*, 51–68) draw on informal logic, (especially pragma-) dialectics and rhetoric, to formulate a strictly non-relativistic normative basis for *evaluating* both deliberative processes and the contents (rationality) of arguments (see Hay 2013, 326, and Finlayson 2013 for critique). The present article does not attempt to conduct such evaluation but instead, in alignment with more traditional discourse analytic goals (cf. e.g. Finlayson 2013, 316; Fairclough 1992; Wodak and Meyer 2016; see also e.g. Jokinen 1999 for related strands in rhetoric), focuses on showing how particular meanings are drawn upon and others excluded from debate (though see Fairclough and Fairclough 2013, 340–341 for how such questions also connect to their framework).

4. Data

This article analyses the working group report *Guidelines for developing Finnish legislation on conducting intelligence*, which can be considered a key stage in the Finnish legislative process (see section 2.2). The main, 81-page, report begins by describing the changing security environment and current state of Finnish intelligence activities as well as their legal framework, then discusses the relevant legislation in five other (western European) countries and examines domestic and international legal constraints on intelligence legislation. The report subsequently recommends several significant changes in Finnish intelligence capabilities: creating a legal basis for *foreign systems intelligence*, *foreign human intelligence* and *cross-border telecommunications intelligence*, as well as – an essential prerequisite – restricting for national security purposes the constitutional right to privacy of correspondence. The present article is primarily concerned with the recommendation concerning telecommunications intelligence, which involves the digital surveillance (interception and processing) of telecommunications that cross the Finnish border (though in practice all kinds of domestic information may be caught since data traffic has little regard for national borders, cf. cloud servers based abroad).

For telecommunications intelligence, the working group report suggests a model whereby telecommunications data would be filtered in several stages. Step by step, the number of messages searched would decrease and the pervasiveness of the investigation increase. First, all data going through selected telecommunications channels would be screened with pre-defined search criteria. In this phase, masses of citizen’s messages would be subject to search. The report suggests that, at this point, the search could mostly target identification data only (as opposed to content). It is also suggested that the screening be performed automatically to alleviate privacy concerns. After this initial screening, any data not matching the search terms

would be deleted. The remaining messages would be further subjected to manual processing, at which point also content could be examined.

The main report is followed by five appendices, two of which are selected for analysis here: a summary of commentaries from stakeholder and expert hearings (henceforth referred to as *summary*), and an opposing opinion by representatives from the Ministry of Traffic and Communications (henceforth *opposing opinion*). Together, these appendices raise a range of typical concerns about the proposed telecommunications intelligence. The summary brings together (both critical and supportive) commentaries from a wide range of organizations and people consulted during the process, representing a variety of societal roles from universities and NGOs to business and the police (cf. Section 2.1. for the multitude of actors involved in surveillance processes). Since this group involves institutions and actors playing a key role in (also other) public surveillance discussions in Finland, the appendix can be seen to illuminate not only this particular political process but also more generally the national surveillance dialogue. In the summary, the stakeholder commentaries have been paraphrased and reorganized, so the representation of these perspectives in the document itself is an interesting part of the overall negotiation over surveillance (note, too, that only particular, written commentaries originating from the participants themselves would have been accessible online, and therefore the summary provides the only available window into much of the stakeholder discussion). The sources of particular comments are not specified in the summary beyond the original list of participants. In contrast, the opposing opinion entails a comprehensive and consistent criticism of the argument for digital surveillance, (presumably) written by the sources of the criticism themselves. The authors criticize the working group for concentrating solely on finding justifications for digital surveillance and largely disregarding contrary perspectives.

The official report is publicly available, written in Finnish with summaries also in Swedish and English. This analysis uses the Finnish version; the excerpts in Section 6 have been translated by the author, although an unofficial English translation (March 2015) has assisted in this work. Special care has been taken to translate faithfully expressions central to the argumentation.

5. Analytical process

The methodological approach of this article draws on insights from the fields of CDS and argumentation analysis, especially Fairclough and Fairclough's (2012) analytical tools for the structure of argumentation. The latter, which develops insights from Walton (2006; 2007) and Audi (2006) and is particularly designed for political language, is especially useful for constructing an overview of the surveillance argument and its critique.

The main analytical concept applied in this article is *argument*, understood as a complex speech act in which a claim is justified or contested (Fairclough and Fairclough 2012, 35–38; cf. e.g. Kakkuri-Knuuttila 2004, 63; Jokinen 1999, 127; Toulmin 2003, 12). An argument involves a set of statements which entail a conclusion (*claim*) and *premises* (Fairclough and Fairclough 2012.). A claim states what kind of action ought to be taken (ibid., 45), whereas premises give reasons for that claim. Premises can be divided into four types. *Goal premises* constitute a future state of affairs that is seen as preferable to the present (e.g. ibid., 43, 45). *Circumstantial premises* describe the context of action, often described as a problem in need of solution (which is, then, the recommended action/claim; ibid., 44). Goals and circumstantial premises are informed by the *value premise* of the argument (ibid.). *The means-goal premise*, which is often presupposed, presents the usefulness of the action proposed in the claim for reaching the desired goal (e.g. ibid., 45; cf. Toulmin 2003 for *warrant*). In the deliberative process, all these parts of the argument, as well as the argument itself, may be questioned and alternatives provided. For

the purposes of this article, this analytical approach sheds light on the various types of justifications that can simultaneously be used when arguing for surveillance and the ways in which different points in the critique relate to the argument.

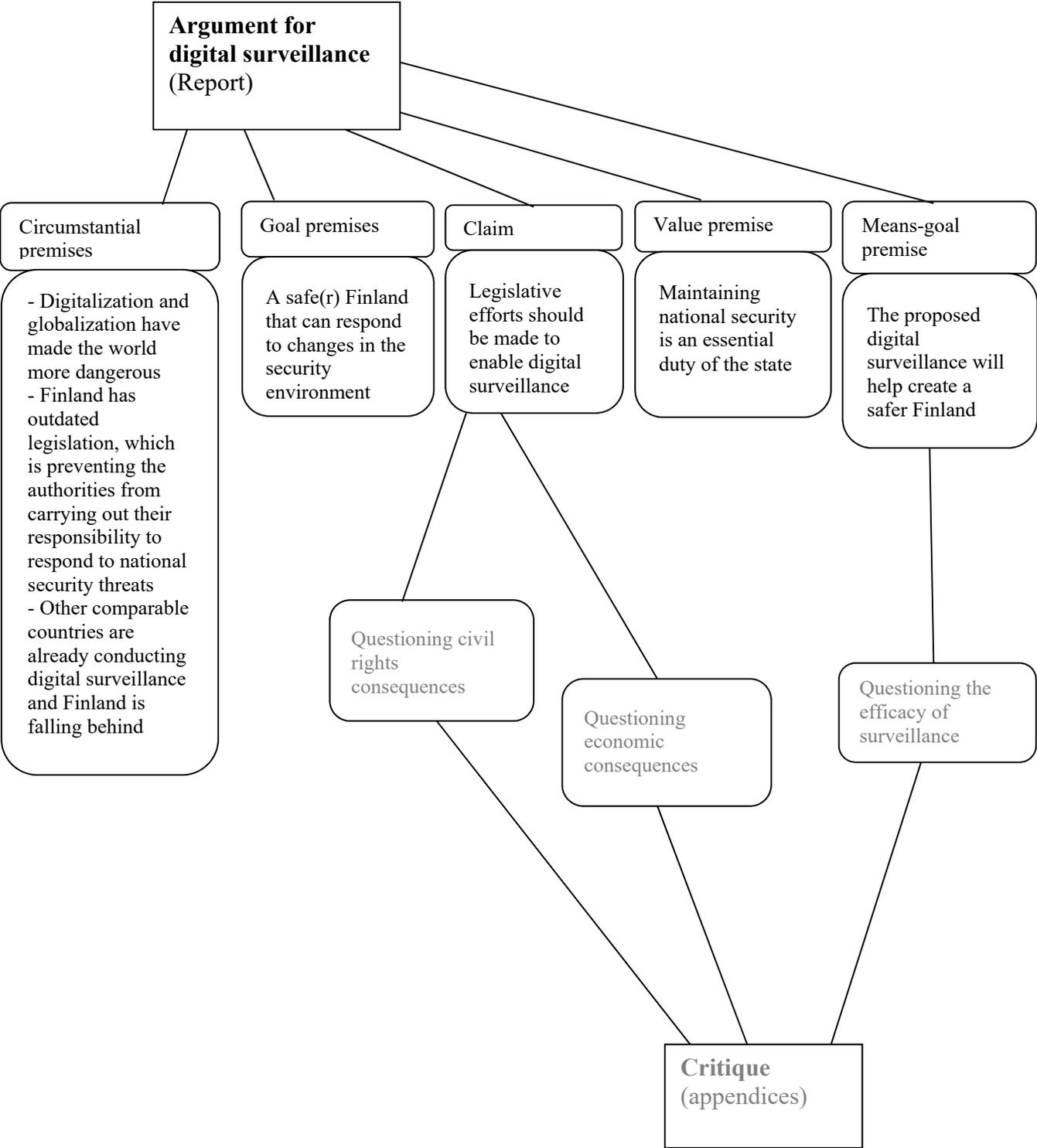
I started the analysis by mapping the working group report for statements that justified cross-border telecommunications intelligence and which thus together constructed the argument for digital surveillance. After identifying the main claim, I explored the argument's premises (see Fairclough and Fairclough 2012; Kakkuri-Knuuttila 1998, 24, 60, 101–102). It quickly became evident that isolating the justifications for digital surveillance from those for other recommendations was difficult: overall, the report makes three main arguments concerning different types of intelligence (foreign human intelligence, foreign systems intelligence and cross-border telecommunications intelligence), which are often discussed as a package. This means that they share premises and sometimes even (upper category) claims (cf. interrelationships between arguments in Kakkuri-Knuuttila 1998, 101). To keep the focus on digital surveillance, I examined all the shared elements but disregarded anything that clearly related only to other legislative recommendations, on the grounds that digital surveillance is the most controversial of the arguments and therefore much general justification can be considered relevant for it.

After reconstructing the argument for digital surveillance, I mapped the appendices for statements that were critical of any part of it, either by simply questioning it or by providing alternative accounts (see Fairclough and Fairclough 2012, 50–51). As many of the points made drew on related beliefs and formed networks of mutually supportive statements, I further classified them into thematically related strands. Three of these were selected for discussion here based on their prominence in the data and connections to societal and academic discussion on surveillance. After this, loosely drawing on Fairclough and Fairclough's (2012) examination of counter-argumentation in political discourse (e.g. debate on tuition fees, pp. 200–234; also see Fairclough and Fairclough 2013, 340–341 on “evaluation by participants” and asked and unasked critical questions), I looked at the report (and in part the summary, see Section 4) to see whether or not this critique was included in the group's consideration of surveillance, and if so, how it was presented and further addressed to alleviate the concerns expressed (see Jokinen 1999, 128–129 for the benefits of examining reception and negotiation in argumentation analysis; cf. Pietikäinen and Mäntynen 2009, and Fairclough 1992 for the relevance of choices and exclusion in discourse analysis).

6. Arguing for and against digital surveillance

This section discusses the results of the analysis. I will first present a simplified reconstruction of the argument for digital surveillance as it appears in the working group report, as well as the selected strands of critique from the appendices, in Figure 1. After the reconstruction, the argument is elaborated on with excerpts from the text. As the justifications for the argument follow the same logic throughout the report and also broadly follow an established line of surveillance legitimation found in previous studies (more below), the presentation of this part of the analysis is kept concise. To give one more detailed example of the argument's construction, the subsequent sub-section is dedicated to one particularly interesting premise, that is, the *means-goal*. This has been chosen for further elaboration because it also relates to a central strand of critique, the evocations and negotiation of which are consequently discussed. After this, the construction and negotiation of two further critique strands from the appendices, namely economic and civil rights concerns, are explored.

Figure 1. Digital surveillance: argument and critique



6.1. The argument for digital surveillance

In the working group report, the argument for digital surveillance can be said to consist of one main *claim*, indicating the desired course of action, and several supplementary, more specific, related claims. The main claim is that certain forms of digital surveillance should be legalized. The supplementary claims explain how to do this, suggesting, for example, automated screening for the initial round of data gathering. In the report such recommendations appear especially in Section 6.1.4, on *Executing telecommunications intelligence*; in this article, they have been outlined in Section 4, where the suggested model for telecommunications intelligence was introduced.

The main justification for the claim(s) lies in an extensively discussed *circumstantial premise* describing changes in Finland's security environment. This premise constructs the digital age as uniquely dangerous for national security: unprecedented threats result from both the use by dangerous individuals and groups of new communications technologies and from the potential use of technology as a weapon in cyber-attacks (cf. Steiger et al. 2017 for "cyber angst" in German discourse). Excerpt 1 from Section 1.1 (*Background*) shows one aspect of this premise:

- (1) The rapid development of telecommunications technology has made cross-border communication and networking between parties that constitute a threat to Finland faster and simpler and fuelled the internationalization of threats.

Typically of the report, technological development is here depicted solely through its potential for hostile activity. The acuteness of the threat therefore constitutes the problem that the practical argumentation attempts to solve in this document (cf. Fairclough and Fairclough 2012, 44). This depiction of the problem is complemented with descriptions of current intelligence legislation in Finland and elsewhere: the Finnish legislation is constructed as obsolete and consequently inadequate for addressing the threats of the global and digital era, while elsewhere legislation is in place that allows digital surveillance (Section 4: *International comparison*). The countries mentioned are all European democracies (e.g. Sweden, Norway), and are in fact referred to in the text as "comparable", so such descriptions alone cast doubt on Finland's current legislation. In addition to the discrepancy implied through contrast, the report also explicitly gives other countries' practices as reason for change in Finland.

Since the need for digital surveillance arises from security concerns, the *goal* of the argument is improving Finland's ability to respond to perceived contemporary threats (cf. Excerpt 1). The ultimate desired state of affairs (Fairclough and Fairclough 2012, 43) is a safer country. This rationale relates the justifications for Finnish surveillance to often examined (state) surveillance legitimation both in governmental discourse (e.g. Simone 2009) and media discussions (e.g. Wahl-Jorgensen et al. 2017; Barnard-Wills 2011), even though the specific formulation of the threat varies (for instance terrorism may play a more visible role elsewhere; e.g. Lischka 2017; cf. Tiainen 2017 for Finnish discussion). The following excerpt (Section 1.2: *Object of study*) explicates the goal premise in the report:

- (2) "The aim is to improve the ability of senior members of the government and the security authorities to obtain information on [serious national security] threats and on developments in Finland's security environment. We must be able to provide senior members of the government with timely, impartial and reliable information as input for decision-making [...]."

It should be noted that this goal is shared by all three main arguments concerning different types of intelligence in the report (see Section 5), as is the *value premise* on which this goal is based (Fairclough and Fairclough 2012, 45). This premise highlights national security as a priority. As Fairclough and Fairclough (ibid.) suggest, the value premise tends to be expressed implicitly; here it is mostly indicated by the continual focus on security and the relative absence

of discussion of other possible societal values or goals (more below). The next excerpt from Section 2.2 (*National security environment*) exemplifies this exceptionally clearly:

- (3) “Protecting the country’s sovereignty can be considered the nation’s most important concern. [...] Other key interests include directing the government, international affairs, the national defence capability, internal security, economic life and the infrastructure, and citizens’ income security and their ability to go about their daily lives. Threats against any of the above may be considered threats to national security.”

As this passage formulates a country’s core interests, it can be seen to set the value base that underlies all other, more practical considerations in the report. National security is related to every key aspect characterizing a sovereign country and is thus by definition a priority. Possible contradictory interests are not mentioned (see Section 6.4 on civil rights issues).

6.2. Constructing, questioning and negotiating the means-goal premise

The means-goal premise asserts that digital surveillance is the right way to solve the problem constructed in the circumstantial premises, and will help bring about the preferred future situation (goal). In explicit formulations of the premise, the suggested telecommunications measures are said, for instance, to “ensure”, “enable” or be “a condition for” obtaining information vital for national security. Further confirmation of the premise is sought from other countries’ surveillance practices, whose existence is constructed as validation of their usefulness (though no specific positive experiences with surveillance are mentioned). Appeal is also briefly made to international expertise, in Section 6.1.7 (*Telecommunications intelligence impact assessment*), where unidentified “foreign experts” are briefly cited, stressing the usefulness of telecommunications intelligence (cf. van Leeuwen 2007, for “appealing to authority”).

Further explication of the means-goal premise remains, however, scarce: the report mostly concentrates on describing the increasing importance and volume of digital information (thus setting the circumstantial premise), but largely presupposes that access to this vast pool of data will guarantee finding the *relevant* bits of information from it. This is important, since the omission concerns a major, both academically and publicly discussed criticism of digital surveillance (see e.g. Scheinin 2015; van Van Gulijk et al. 2014; more below). In particularly subtle evocations of such a presupposition, the relevance of the acquired information is even embedded in the definition of surveillance itself, as in the following passage:

- (4) Early-phase data acquisition will improve Finland’s prospects of preparing for threats and will broaden the range of means available to it to prevent threats being realized. (Section 5.5: *Relationship between the duties and the powers of the security authorities.*)

Early-phase data acquisition can here be seen to denote the proposed intelligence measures. The expression *early-phase* implies that the data gathered necessarily relate to some entity or event that will take place later; the remainder of the sentence explains that this refers to (national security) threats. Obtaining this relevant information, elsewhere defined as the goal of the argument (see Excerpt 2), therefore stands for surveillance itself in this passage. Such a formulation veils any possibility of failing to reach that goal and creates a situation where proving the means-goal premise is no longer about justifying the usefulness of surveillance but about proving the benefits of early-phase information gathering. The latter is arguably an easier task, since the relevance of the information is assumed, and the alternative appears to be gathering information “late”. Overall, the conflation of surveillance and its goal could be seen as a way of excluding questions of usefulness from the debate.

In both appendices, the means-goal premise is questioned from several perspectives. For instance, in the summary, the effectiveness of surveillance in combating cyber threats is unfavourably contrasted with measures that would promote the development of safer software. A straightforward example of this critique is expressed in Section 5.7 (*Mass surveillance*), where the connection between the argument's claim and (one) goal (the prevention of cyber threats) is bluntly denied:

- (5) According to the experts who were heard, the mass collection of information does not in fact help prevent cyber threats, but is a reactive practice [...].

Further critique of the means-goal premise can be found in the opposing opinion, which dedicates its third section to this. The core rationale of this critique is summarized in the title, *The efficacy of net surveillance has not been demonstrated, and alternatives have not been evaluated*. This statement criticizes both the means-goal premise itself and the deliberative process for insufficient exploration of other (less controversial) options. Such criticism is taken further by introducing *alternative circumstantial premises* that compromise the means-goal premise, namely, developments in future internet usage such as increases in data traffic and encryption which, it is suspected, will reduce the usefulness and increase the cost of digital surveillance.

The means-goal critique is addressed briefly and selectively in the report. Any overall failure to elaborate on the relationship between the argument's claim and its goal remains unacknowledged and therefore unanswered. However, the above-mentioned alternative circumstantial premises are addressed. In Section 6.1.7 of the report, encryption is described as irrelevant for gathering useful identification data and detecting cyber-attacks. As for increases in data traffic, it is claimed that sufficient additional resources and a process of selection will address any possible issues. The answers are cursory and selective, though; for instance, neither the availability of possible additional resources nor the possibility of encrypting identification data is discussed. This is also noted in the opposing opinion. Overall, then, the report addresses particular concerns relating to the means-goal premise, but the brief responses do not answer all aspects of the critique.

Summing up, the report tends to presuppose the usefulness of digital surveillance, largely relying on the implication that increasing digital information warrants increasing digital surveillance. Relevant criticism is addressed selectively.

6.3. Questioning and negotiating economic consequences

Another central strand of the critique, appearing in both appendices, questions the overall benefit of digital surveillance by speculating that it could adversely affect the competitiveness of the Finnish economy. The argument is thereby contested by reference to negative consequences which might compromise another central goal, economic growth. In Fairclough and Fairclough's (2012) view, this type of critique is especially powerful because it contests the claim of the argument, suggesting that the proposed action itself is not desirable (as opposed to just challenging particular justifications for it; cf. Kakkuri-Knuuttila 2004, 159–160). As (related) alternative premises are also evoked, this critique additionally addresses other parts of the argument.

The feared economic repercussions cover a broad array of inter-related effects, ranging from general damage to Finland's reputation to losses in client trust that would harm especially information security firms. Excerpt 6 from the opposing opinion offers one example:

- (6) “The situation that member states of the European Union spy on each other’s citizens’ and companies’ information can be considered a hindrance to the formation of the digital single market that Finland considers important.” (p. 113)

This excerpt implies that the proposed intelligence legislation will contribute to a “situation” where inter-European trust is lost, putting the *alternative goal* of the digital single market at risk. In addition to such warnings about what may be lost, the critique on the grounds of economic consequences is also conveyed by appraisals of the alternative goals that could be reached. Such statements tend to insist (converging with civil rights questions, below) that, instead of compromising people’s privacy with digital surveillance, Finland could turn its lack of surveillance into an economic advantage. Excerpt 7 from the summary exemplifies the construction of such a goal:

- (7) “By acting justly and defending the rights and independence of individuals and companies, Finland can establish itself as an intelligent digital society and the world’s leading centre of safe technology and entrepreneurship” (Section 5.4, *Finland as a safe haven of information*).

Here, “acting justly” and “defending the rights and independence of individuals and companies” stands for *not* proceeding with the new legislation, therefore challenging the ethical basis of the argument and evoking an *alternative value premise* (more in Section 6.4. on civil rights). This is followed by an alternative goal (becoming a centre of safe technology and entrepreneurship) that fits this premise, characterized by the positive expressions “intelligent” and “world’s leading”. In both appendices, the benefits of such a goal are supported with *alternative circumstantial premises* that highlight consumers’ increasing awareness of privacy and the economic potential of digitalization.

Of all the critical strands, the economic one is most explicitly and thoroughly addressed in the working group report. Most of this response occurs in Section 6.1.7, which gives several reasons (constituting circumstantial premises) for not being concerned. These highlight the positive and downplay the negative economic potential of the new legislation. The former involves better protection against cyber-attacks as well as the investor-friendly predictability of legislation, whereas the latter relies largely on summarizing a study (included as an appendix, commissioned from Gearshift Group Ltd.) that finds no negative economic repercussions in neighbouring Sweden after the legalization of digital surveillance there. It must be noted, however, that reliance on this study is sharply criticized in the opposing opinion (p. 121), which states that the study’s timeline makes it unsuitable for comparison (it excludes the post-Snowden years, when privacy breaches have received international attention) and blames the report for omitting recent opposite experiences of US firms. These criticisms remain unanswered (cf. Kakkuri-Knuuttila 1998, 164 for the questionable credibility of references to expert authority when comparable, contrary opinions exist). As will be shown below, this exclusion follows a pattern in which the growing international concern over internet privacy remains unacknowledged as a relevant circumstantial premise.

In conclusion, the economic critique receives detailed attention in the report and its goal (economic growth) is thus acknowledged as relevant. However, not all concerns are given attention, and those selected for response are answered in ways that allow for the further recommendation of digital surveillance.

6.4. Questioning and negotiating civil rights consequences

The argument for digital surveillance is also challenged in the appendices by reference to the threat that it poses to civil rights, most prominently privacy. Respect for these rights constitutes both the *value premise* on which this criticism is based, and the *alternative goal* that it sets for Finnish society. Since such critique is ultimately concerned with the negative consequences of the proposed surveillance measures, it can be seen to question the claim of the argument similarly to the way the economic critique does.

The civil rights critique is often less explicitly formulated than the economic one. Typically, it is evoked by constructing surveillance as antithetic to civil rights, and the current situation as a choice between one and the other. Such a view echoes both concerns relating to the risks of surveillance discussed in Section 2.1. (and in much academic literature on surveillance, e.g. Lyon 2015; Allmer 2012), and popular post-Snowden surveillance critique expressed in the media and by politicians in Finland (see e.g. Tiainen 2017 on the “discourse of threat”) and elsewhere (e.g. Steiger et al. 2017; Lischka 2017).

The core rationale of this type of criticism is presupposed, for instance, in Excerpt 7 (above), where “acting justly” and “defending the rights and independence of individuals and companies” stand as an alternative to the planned legislation. The (potential) contrast between surveillance and civil rights is also implied in both appendices in discussions about whether the proposed intelligence measures constitute “mass surveillance”. This concept has been widely applied to NSA surveillance post-Snowden and it carries Orwellian connotations that stress the anti-democratic aspects of surveillance (cf. e.g. Allmer 2012; Lyon 1994). The following passage from the summary (Section 5.7 on *Mass surveillance*) connects the concept to the proposed legislation:

- (8) There are different views about mass surveillance. It emerged in the hearings that it is also considered to be mass surveillance when data are collected using precise search criteria from any telecommunications.

Here, data acquisition with “precise search criteria” stands for the proposed surveillance measures, and the possibility of applying the concept of “mass surveillance” to such a practice is introduced (more below on *how* this idea is presented). The negative implications of such a definition are made evident later in the same section of the summary, where the discussants are paraphrased stating that “all-encompassing monitoring is not generally acceptable”. Any claim that would support surveillance practices this broad is thereby contested.

The appendices also question the report for obscuring certain characteristics of the proposed legislation which have implications for privacy. The opposing opinion points out that the working group initially used the term *net monitoring* (verkkovalvonta) to describe the planned cross-border telecommunications intelligence, but subsequently changed the term to avoid its negative connotations. Moreover, both appendices note that, for technical reasons, the proposed telecommunications intelligence will inevitably also catch domestic communication (which makes questions of privacy more pertinent). This stands in contrast to the term “cross-border”, which the opposing opinion consequently criticizes as deliberately misleading. Thus, concerns about the civil rights consequences are linked to doubts about the sincerity of the deliberative process.

Criticism of the nature of surveillance is complemented with alternative accounts of relevant *circumstantial premises* in the appendices. For instance, the opposing opinion accuses the report of unduly excluding the Snowden revelations and their aftermath from its description of the current societal situation. It is pointed out that the revelations increased societal attention to

online privacy and hardened attitudes towards surveillance, which should be taken into consideration. Here, the civil rights critique converges with the economic critique, since the concern for privacy is predicted to translate into economic repercussions.

In the report, the rationale and value base of the civil rights critique receives limited acknowledgement. Most discussion relating to civil rights appears in Section 6.1.2 (*Requirements of international human rights agreements and the Constitution*), which offers an examination of Finland's human rights commitments in the light of the suggested legislative changes. The focal content of the protected rights is described, but the report's focus is on how these rights can be legally restricted. Revealingly, Section 6.2.2.2. on *Article 8 of the European Convention of Human Rights* includes four sub-sections, all of which are exclusively concerned with the legality of infringing the protected rights (entitled e.g. *Permitted infringement of the rights guaranteed by Article 8(1) [...] and National security as an interest allowing interference*). A similar absence of recognition for any priority of such rights can be detected in Excerpt 3, where a nation's "key interests" are listed. These range from income security to infrastructure, but there is no mention of democratic freedoms. Altogether, the report presents constitutional and human rights regulations primarily as potential obstacles to be circumvented.

The thinness of the response to the civil rights critique is underlined by the report's treatment of the Snowden revelations (also noted in the opposing opinion, above), which provoked popular outrage much along the lines of this critical strand (more e.g. in Tiainen 2017). The revelations are explicitly mentioned in the report only in Section 6.1.7 where, referring to the study by Gearshift Group Ltd., it is speculated that "clear" intelligence legislation could actually give a competitive (economic) edge in the post-Snowden world. Given the widespread outrage against privacy infringements following the revelations, this constitutes remarkably selective treatment of the topic. Also the summary refers to the revelations and their aftermath only implicitly, with the expressions "the world's lack of confidence in current [business-] actors" and "recent international events". The brevity and imprecision of the expressions indicates that they are paraphrasing the original discussions, and these formulations can therefore be interpreted as part of an evasive response to the criticism related to the Snowden revelations. In short, the lack of explicit reference enables the association to be kept to a minimum and can be seen to contribute to a pattern of avoiding any broader discussion of mass surveillance and civil rights considerations in the report.

There is, however, one particular criticism which does get addressed in the report, and its discussion is worth a closer look. This criticism concerns the interception of domestic data in cross-border telecommunications intelligence (above), and a reaction can be found in Section 6.1.7:

- (9) It was brought up in the hearings that for technical reasons it is not always possible to distinguish between domestic and international telecommunications. Any infringement of the protection of the confidentiality of correspondence could therefore in theory also affect domestic telecommunications. In such cases, the protection of confidentiality could be upheld by prohibiting the processing of domestic telecommunications and requiring the immediate deletion of any such information.

It is worth noting here that the expressions "not always" and "in theory" undermine the problem presented, which was described in the appendices as unavoidable and continuous. Also the expression "brought up" signifies novelty, which for both the scope and the relevance of the problem seems unlikely and therefore strategic. The solution that is subsequently offered (last sentence) addresses the handling but not the interception of domestic data, thus limiting the scope of what constitutes confidentiality. This example has an interesting parallel to Excerpt 8, from the summary, where the idea that the term *mass surveillance* could be applicable to the

proposed intelligence is summarized in a way (with the expression “also”, followed by specifications of the proposed surveillance measures) that downplays a widely debated point of criticism. Thus both excerpts employ expressions that simultaneously convey a central point of the critique and subtly undermine its relevance and prevalence.

Overall, then, it can be stated that the report discusses civil rights implications from a very selective perspective, and the relevant critique is largely ignored or at least downplayed. Acknowledgement of the core rationale and topicality of the critique is especially avoided. The consistency of such absences excludes this line of critique from deliberation.

7. Conclusion

An examination of the working group report has revealed how the argument for digital surveillance is constructed: the present social situation is depicted as threatening and Finland as uniquely unprepared for it (*circumstantial premises*); national security is highlighted as a social priority (*value premise*); a future is envisaged where Finland is prepared for the challenges it will face (*goal premise*) and digital surveillance is presented as the right way to get from here to there (*means-goal premise*). Corresponding legislative action is called for (*claim*). Similar justifications for surveillance have been observed both in concurrent Finnish media discussion (Tiainen 2017) and in other countries where surveillance has gained further ground (cf. e.g. Steiger et al. 2017 for Germany, Tréguer 2017 for France and Hintz and Brown 2017 for Britain).

Having examined the argument itself, three strands of critique from the appendices as well as their negotiation have been explored to gain an understanding of the choices made in the deliberative process. One strand challenges the means-goal premise for being inadequately proven. Selected parts of this critique are addressed in the report, but the way that this premise tends to rely on presupposition makes its rationale elusive. Another critical strand has to do with the civil rights consequences of the argument. In the report, the concerns driving this strand are largely ignored; instead, relevant themes tend to be reduced to regulations that potentially stand in the way of the goal of the argument. A third strand concerns the economic repercussions of surveillance. Of all the strands of the critique, this one receives most attention in the report, although eventually it is found inadequate to change the conclusion of the argument. The explicit attention given to it can nevertheless be seen as an acknowledgement of the societal value and relevance of economic growth.

The above-described negotiation over surveillance sheds light on the way broadening intelligence measures are advanced (even) in a time when there is widespread indignation over surveillance (cf. e.g. Tréguer 2017 for the Snowden paradox). Although critical views are expressed, their relevance is reduced as some of the main concerns simply remain unanswered (cf. Hintz and Brown, 2017, for unequal degrees of influence granted to different stakeholders in Britain). In the present case, especially the broad exclusion of the means-goal and civil rights critique from the report is notable since these relate to widely circulating post-Snowden concerns both in Finland and abroad (e.g. Wahl-Jorgensen et al. 2017; Lyon 2015; Tiainen 2017, Scheinin 2015). The report also consistently avoids mentioning the Snowden revelations, which can be considered an attempt to distance the Finnish case from any related outrage or comparisons (see Tréguer 2017 for similarities in the French political process). Consequently, instead of participating in a discussion over possible excesses in surveillance globally, the report treats other countries' intelligence practices simply as confirmation of the lack of capabilities at home. Such straightforward dismissal of a major point of controversy confirms the persistency and strength of the national security argument.

The selective treatment of the critique also means that, although Fairclough and Fairclough's (2012) permissive criteria for what constitutes deliberation are fulfilled, the data shows little of the thorough consideration that was called for in Section 2.1., given the multifaceted view of surveillance. Such consideration was seen as particularly relevant since surveillance in this view was acknowledged to involve both a variety of motivations and consequences, as well as potential power asymmetries and risks regarding, for instance, privacy and (other) democratic freedoms. In the Finnish case, even with the extended democratic process and the multitude of actors involved, the lack of consideration of some major concerns highlights the continued prevalence of such risks.

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¹¹ At the time of revising this article (October 2018), the necessary changes to the constitution have been accepted by the parliament. The actual intelligence legislation has not yet been passed, but may now be voted on before the parliamentary elections April 2019.

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