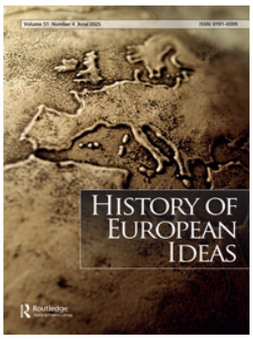

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Elasticity, militancy, and infection: metaphorical argumentation in the trial against the German Communist Party, 1954–56

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ABSTRACT
This article analyzes the epoch-making trial against the German Communist Party (KPD) in 1954–56 – a process with unmistakable political, ideological, and political-theoretical aspects. Both the government and the party's representatives used metaphorical arguments to publicly state their case for or against the eventual party ban. Citing classics of Marxism-Leninism for evidence, the government blamed the KPD for planning a violent revolution and described its activities metaphorically in military terms. The party retorted by ridiculing the government for reading metaphors literally and, more methodologically, rejected the government's non-contextual approach as 'Talmudism' and 'hodgepodge', while simultaneously promoting the Leninist doctrine of tactical 'elasticity' to secure their own argumentative leeway. The government depicted communism as an infection to be removed by amputation – a metaphor the KPD reappropriated and used to present itself as integral to West-German democracy and the guarantor of German unification. Rather than being superficial rhetoric, these interlinked metaphorical arguments captured the gist of the ideological disagreement. The metaphors can be understood properly only by reading them together and considering the underlying argumentative functions that are identifiable by analyzing the explicit proposition each side put forth. The metaphors transcended mere legal argumentation and exemplify the trial's inherent political nature.

KEYWORDS
Metaphor; political theory; communism; anticommunism; ideology; Cold War; Germany

1. Introduction

This article discusses the trial against the German Communist Party (KPD) resulting in its ban in 1956. The trial was a significant step in the post-war re-democratization of West Germany as it manifested key dogmas of the Federal Republic's democratic constitutional order, exemplified the principles of democracy capable of defending itself, and set limits for political parties' permissible actions. Rather than a mere judicial process, the KPD trial was a major public event that reflected the Cold War-era mindset and ideological divisions. My reading focuses on a selection of central arguments by the prosecution, the defense, and the Federal Constitutional Court. How, exactly, did they construct their positions and argumentative strategies? I utilize the analysis of political metaphors as an inlet into the key considerations of the trial, reading them as parts of the broader argumentative purposes identifiable in the proceedings. Reading the explicit legal-political

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arguments in light of supporting metaphors, and vice versa, significantly enhances our comprehension of the nature of this primarily political trial and of the intricate interaction of legal, political, and philosophical argumentation.

The trial (from November 1954 to July 1955) was a colourful event, providing moments of both 'high drama' and 'low farce'.[1] The sessions were often mind-numbingly repetitive, and particularly the KPD's lawyers recurrently drifted into expressing their ideological distaste for the Adenauer regime. This highlights the trial's character as a high-profile *public* event. Although the chair explicitly guided participants to address the court rather than speaking 'out of the window'[2], the KPD's argumentation oftentimes resembled public ideological appeal rather than judicial argumentation aiming to convince the judges. The trial was a prologue to systematic use of the courtroom for ideological campaigning against the West German system altogether when former National Socialists were prosecuted in the 1960s, involving for instance the KPD's defending attorney Friedrich Karl Kaul.[3] Simultaneously, the trial was a part of the government's broader anticommunist campaign, which enjoyed wide support. Correspondingly, the government lawyers aspired to reach a wider audience for their anti-communist arguments: the government quickly decided to publish the proceedings, the first volume being distributed to citizens free of charge already during the trial.[4] Thereby also the KPD knew that, should they lose the case, their utterances of ideological martyrdom would nevertheless reach a large audience presently and remain for the posteriority. This may have further motivated 'speaking out of the window' and using the trial for 'class struggle on the judicial level', as the East-German SED party formulated.[5]

Additionally, the KPD trial is one of the most theory-heavy proceedings in legal history. The government's strategy was to show the KPD's unconstitutionality by demonstrating its ideological commitment to violent revolution, presuming that the *will* to subvert democracy was sufficient for unconstitutionality in the absence of concrete aims or capability. To this end, the prosecuting attorneys cited Marx, Engels, Lenin, and Stalin extensively; with the defense thus obligated to respond, the trial turned into an exegetical exercise in political theory. The government also commissioned a 70-page treatise on individuals' freedom in communist ideology from the Swiss Catholic philosopher and Sovietologist Joséf M. Bochenski, annexed to the court proceedings.[6] While such considerations were admittedly academic, the stakes were exceptionally high. Conclusively showing Marxism-Leninism's commitment to revolutionary violence, dictatorship, and one-party rule, on the one hand, and binding intellectual continuities between the ideology and KPD's current political agenda, on the other, would strongly suggest the party's incompatibility with West Germany's freedom-based constitutional order. Seldom have questions of political thought held such explosive significance.

Textually, the simultaneously public and theoretical nature of the trial provoked the interlacing of the academic and the vernacular: arguments on both sides derived equally from theoretical edifices and everyday ideological parlance, both forms amounting to political thinking in Michael Freeden's sense. For Freeden, 'thinking politically entails the articulation of, and reflection on, conceptual and argumentative discourse concerning cooperative, dissenting, or conflictual arrangements for groups.'[7] It involves bestowing significance, intensity, and urgency, as well as ranking alternatives and mobilizing or withdrawing public support for some of them, oftentimes by means of symbolic expressions.[8] This also highlights the decisive role of metaphorical argumentation. Effective metaphors typically rely on everyday discourses, including habitual ideological parlance. Simultaneously, their relation to theories is intrinsic. Not only can metaphors embellish and thereby reinforce pre-existing theoretical, judicial, or political arguments, but they also amount to such arguments themselves, and they are effective means of recruiting support for specific modes of thought, which in turn imply particular outcomes in concrete situations.

To capture that aspect, I rely on a narrow but clearly identifiable strand in argumentation theory, discourse analysis, and intellectual history. Recently, argumentation theorists have conceptualized metaphors as (parts of) standpoints or as (parts of) arguments in their own right[9] and as serving the 'argumentative functions' of introducing/advancing a standpoint or advancing argumentation.[10]

Because of their ability to frame targets affectively, metaphors serve arguments by bridging either different premises or premises and conclusions, even enabling observers to accept clearly fallacious conclusions.[11] Scholars in the discourse-analytical tradition have emphasized the pragmatic factors involved in metaphor-use and identified a new level of 'metaphorical argumentation' between those of rhetoric and cognition.[12] As Musolff notes, political metaphors are an essential element of 'argumentative reasoning' and serve as 'warrants', that mediate between premises and conclusions and justify the latter.[13] This being the case, we should address the 'discourse functions' of metaphors and ask for their 'argumentative function and political bias'.[14] Charteris-Black analyzes primarily rhetorical purposes behind specific metaphor uses, while Musolff emphasizes the need to further qualify source domains by means of 'metaphor scenarios' or widely shared conceptions of what typically follows from a metaphor.[15]

In discussing the pivotal role of metaphors in political theory, Frank R. Ankersmit proposed that 'the conviction carried by the argument itself depends upon an open or tacit acceptance of the metaphor'.[16] Hans Blumenberg, the developer of philosophical metaphorology, similarly argued that theoretical thought is guided by background metaphors or 'absolute metaphors' that cannot be reduced to literal-conceptual language without a loss of philosophical significance. He mostly centred on the cognitive and epistemological functions of absolute metaphors, such as truth is light or the world is a clockwork, but occasionally spoke of certain metaphors' 'argumentative functions' within particular theories.[17] Pankakoski has applied the approach of metaphors as argumentation to Hans Freyer's conservatism, wherein metaphors of time as river and politics as volcanic outburst served to link Freyer's radical political theory with his philosophy of history.[18] Similarly, rather than merely reflecting it, metaphorical argumentation co-constituted Dolf Sternberger's political thinking and guided it toward certain routes, linked his points against proportional voting with his democratic theory of active civic participation, and indirectly supported Germany's post-WW2 democratization despite significant language-level continuities with interwar antidemocratic parlance.[19] Reading metaphors as arguments and functionally thus enables us to reassess authors' (changing) argumentative aims and the oftentimes perplexing discursive continuities of ideologically loaded metaphors despite epochal shifts. The KPD trial provides an apt case for such a reading and assessing metaphors' argumentative implications. I exemplify the benefits of functional reading, although full elaboration of this perspective must be left to further publications.

Simultaneously, the metaphor perspective offers an indispensable inlet into the trial's central content, outcome, and dynamics as a political-judicial process. Scholarship has assessed the nature of judicial metaphors and effect of metaphorical framings on legal decision-making. Basic legal concepts like 'proportionality' come with rich metaphorical implicature[20], while 'vehicle' or 'property' are categories extendable by analogy or metaphor in legal argumentation.[21] Similar playing with direct category-inclusion and metaphorical extension is perceivable in the KPD case as regards the extensive concept of 'battle.' Metaphors also guide legal reasoning: Vasquez et al. showed empirically how animalistic descriptions of violent perpetrators caused longer sentences in mock trials simulating legal decision-making, possibly due to rhetorical dehumanization highlighting the suspect's uncurable criminality.[22] Mohnke and colleagues similarly established a link between metaphorical framings of surrogate mothers and the severity of punishments proposed by test subjects, concluding, more broadly, that metaphors used to describe actors, acts, or circumstances implicitly 'determine which arguments count in judicial conflicts and also in court.'[23] These findings suggest that intentional metaphorical framings may have influenced also the German constitutional court's observations of the KPD as an illegitimate and aggressive intruder. While assessing this causality empirically is beyond the scope of this study, the government's lawyers at any rate sought to frame German communists as unfavourably as possibly, highlighting their aggressiveness and deceptiveness with dehumanizing metaphors.

Earlier commentaries on German party bans in particular have noted the metaphorical aspects in legal argumentation, albeit mostly negatively and in opposition to the required clarity of legal argumentation. Horst Meier identifies the metaphorics of the KPD allegedly 'undermining' or

'corroding' the constitution as a dominant stylistic element in the eventual decision, explainable with regard to the intensified Cold War situation.[24] Meier has also critically discussed metaphorical arguments to the effect that the Neo-Nazi party NPD had more recently 'poisoned' the political climate' and created 'breeding ground' for violent deeds.[25] Many commentators on the KPD trial have acknowledged in passing the salient metaphor of communists as an infection, uttered by the government's leading lawyer.[26]

My reading continues these promising paths, making, however, five crucial expansions. First, my reading applies the metaphor perspective systematically to the court proceedings: the article identifies key metaphorical arguments on both sides and links them with broader argumentative strategies. Second, inspired by recent scholarship on metaphorical argumentation, I interpret this material by analyzing the *argumentative functions* the metaphors served and supplement this approach with biographical and discursive contextualization where needed. Third, the functional approach and the linking with explicit arguments entails the need to read the metaphors as interlinked and analyze how they support one another; metaphors rarely work in isolation but as parts of larger structures. Fourth, correspondingly, the borderline between concepts and metaphors must be seen as fluid: first, different levels of metaphoricity are perceivable in the material, and, second, the same points can be advanced by either conceptual-literal arguments or active metaphors. Rather than perceiving the analysis of metaphors as a separate task for metaphor scholars alone, we should integrate the perspective into broader argumentation analysis, conceptual history, and related perspectives. Fifth, I primarily assess the metaphors' *political* import. Metaphors may work sub-optimally as legal arguments and induce unwanted conceptual ambiguity; yet the very same characteristics justify reading them as successful political arguments, which in turn highlights the predominantly political aspects of the trial.

Here I rely on Foschepoth's nuanced contextual analysis of the trial's political nature and on Kirchheimer's early discussion in the framework of political justice.[27] As regards the contextualizing of the metaphorical arguments, I build on extensive historical scholarship that has mapped the development of German anticommunism and the KPD's short postwar lifespan.[28] Further, scholars have discussed the KPD ban's significance for the institutional history of the Constitutional Court, its democratizing endeavours, and for the doctrine of 'militant democracy' – democracy capable of defending itself against attacks but also obligated to limit certain citizens' activities to protect the constitutional rights of others.[29] The ideological content of the debates, however, has mostly been overlooked. As my analysis shows, some key argumentative metaphors derived from anterior ideological constructs: those of Marxism-Leninism, on the one hand, and Christian anticommunism, on the other. The trial clearly manifested 'the front lines of the cold civil war'[30], as becomes evident by analyzing the metaphorical layers of argumentation.

The debate revolved around the following theoretical questions: did socialist theory aim at a violent revolution and proletarian dictatorship or rather a democratically organized classless society with the means currently optimal for the purpose? What, exactly, does revolutionary struggle mean? Is the dictatorship of the proletariat undemocratic *per definitionem* in being a dictatorship or, on the contrary, democratic precisely by giving political power to the people? To what extent were Leninist maxims influenced by events of his day and thereby contextual in nature, and could they be read as binding present-day communists? Can one deduce political conclusions from passages of classic texts without considering the underlying dialectic theory of history, or is socialism an organically structured theoretical edifice, only interpretable with respect to its internal criteria?

Subsequent sections target selected metaphorical arguments that were brough in to tacitly promote ideologically determined interpretations regarding the above questions. First, I focus on the arguments on the Marxist-Leninist ideology as a unified whole and on the flexibility of socialist dogmas in time. These arguments pertain to the methodological considerations that were of decisive importance for each side's subsequent ideological arguments. Second, I address how the KPD, the government, and the Court used the concept of battle with military undertones and how

they indirectly answered the question of violence in the anticipated revolution. Using key concepts like battle and revolution with differing intensions and extensions, the government and the KPD also ended up explicitly discussing the metaphoricity thereof in a manner that betrays consciousness of metaphors' argumentative effectiveness. Third, I analyze the government's argument of the KPD as an infection, mobilized to highlight the urgency of the communist threat despite obviously problematic discursive continuities with interwar anticommunism. Fourth, I assess arguments of communist infiltration and amputation, prevalent in Christian anticommunism of the era. The amputation metaphor was also creatively reappropriated by the KPD and turned into a defensive tool, intrinsically linked with their key arguments on the political effects of the prospective party ban. Following these metaphors through the published proceedings brings out the ultimately political and ideological nature of the disagreement, co-constituted by the metaphorical arguments involved.

2. Arguments of unity and elasticity

The trial opened with fascinating methodological considerations. Particularly pressing was the question of whether one could show the KPD's commitment to political violence by citing tenets of classical Marxism-Leninism. The government engaged in such close reading as regards the ideas of revolution, the dictatorship of the proletariat, and the tactical/strategic alternation between legal and illegal means. Predictably, the KPD lawyers protested, arguing that Marxism-Leninism was a scientific doctrine and worldview that could not itself be assessed with respect to constitutionality. In its eventual decision, the Court affirmed the latter point but nevertheless considered it permissible to analyze Marxist-Leninist ideology critically as regards the KPD's concrete political aims it gave rise to. To pre-emptively rebut that possibility, the party sought to show the impossibility of deducing their contemporary goals from past texts in the first place – thereby touching upon such central methodological questions in intellectual history as contextuality and 'situational determination' (*Seinsgebundenheit*) of though, to use Mannheim's term.[31] Were generally formulated theoretical propositions only reflections of the situation of utterance so that meaning and significance remained confined to the original context? Or could they be read as indicating long-term aspirations and argumentative unity despite historical distance?

On the first level, this was a methodological disagreement. The KPD lawyers resisted particularly the government's method of citing Marx, Lenin, Stalin, and KPD brochures as legal evidence and employed a plethora of pejorative terms, both literal and metaphorical, to make that point. Such 'partition' of the Marxist-Leninist doctrine and the 'eclectic extraction of individual sentences' or 'pieces' from 'a grandiose closed philosophical and scientific edifice', the East Berlin-based legal scholar Herbert Kröger argued, resembled breaking an 'apple tart' into 'bits' and then choosing from these the ones presently serving one's argumentative needs.[32] Similarly, the KPD protested that the 'unified and closed whole' of Marxist-Leninist theory had undergone a process of 'disfiguration' and only 'fragments' had been offered as evidence.[33] The government's argumentation amounted to 'constructions' and a 'conglomerate' or 'hodgepodge' of citations at best, gained by 'piecing together separate parts', which also has the connotation of forging or misrepresenting the whole.[34] Whether spelled out in terms of apple tarts, hodgepodge, or a fragmented and disfigured whole, the point was to discredit the government lawyers' approach for unacceptably ignoring the whole and focusing on non-representable pieces.

The *argumentative functions* of the rich metaphorical terminology were to highlight the normative primacy and value of the whole over its parts, on the one hand, and the artificiality and malicious purposefulness of the new combinations that the government proposed as evidence, on the other. These conclusions follow from the metaphorical imagery at play, which served to hide some crucial logical leaps. An ideology is not a material entity with strictly set borders, like a non-fragmented vase, to begin with, and the non-representativeness of socialist citations is significantly less evident than that of physical fragments (citations may still contain the ideology's gist

microcosmically). Even if individual dogmas should be assessed contextually, the metaphor of apple tart fails to express this: we would not accept the conclusion that the ingredients of an apple tart can only be assessed with respect to the whole, if, for instance, the tart contains allergens or poison. Further, ideologies have a more extensive and complex temporal existence than pastries: while nobody would judge a present apple tart in light of one baked 40 years prior or another to be baked in the future, it is not equally evident that an ideology deriving its key tenets from the Russian civil war context is a *different* ideology in the 1950s, or that possible *future* aspirations for violent civil war would not fall under the present constitution's validity frame. These points rather follow from what we know of apple tarts, the metaphor's source domain.

When elaborated this way, the above metaphors, rather than being mere rhetoric, turn out to capture the very core of the disagreement. This becomes even more evident when we turn to specifically socialist metaphors employed, again, for the same function of relating parts and wholes and normatively highlighting holism. Kröger described Marxism-Leninism as having consistently resisted 'book knowledge' and 'Talmudism', or collecting dogmas that were presumably 'independent of time and space, detached from the actual, political, economic, and social relations'.[35] In trying to deduce KPD's present aims from Marx and Lenin's writings, the government did precisely that, the defense argued: the government's approach contradicted historical materialism's basic tenets, overlooked developmental stages, and focused on the exterior wordings of socialist propositions rather than their substance and current significance. To bring home that point, KPD lawyers mobilized the derogatory description of ideological cherry-pickers as secularized Talmudists, or the book-learned interpreters of Jewish law.

Some discursive contextualization is needed to account for this surprising metaphor. It derived from Stalin's 1950 text on Marxism and linguistics, wherein Stalin lambasted 'textualists and Talmudists who do not delve into the essence of the matter, quote mechanically and irrespective of the historical conditions of which the quotations treat'.[36] In 1953, Stalin further mobilized the expression to lash Soviet economists for 'theoretical helplessness and scholasticism' and a 'dogmatic approach to solving practical problems, in simply repeating ready formulas and standpoints instead of scientific work, in basing work on citations, in failing to eliminate simplifications and vulgarizations of Marxism and in the practice of cramming and Talmudism'.[37] Also the East German SED party adopted the term. An editorial in the party's theoretical journal *Einheit* in 1952 specified that the 'schematic use of general conclusions and formulas that were correct in previous times' to analyze the current German situation was a 'manifestation of book-learning and Talmudism'.[38] In 1953, SED's Central Committee similarly criticized the party's own efforts in political education for having failed to ground SED's task scientifically, instead falling into 'dogmatism, book learning, and Talmudism'.[39] In sum, the Talmudism metaphor connoted selective utilization rather than wholeness and unity, abstract formalism rather than contextuality, and dilettantism as opposed to genuine science, and it was widely used in current Soviet and East German discourses. For Kröger, it perfectly captured the government's ideological and intellectual failure.

Ironically, however, this imagery derived from the very ideology the integrity of which it was intended to protect, and those unconvinced by the substance of dialectical materialism scarcely felt obliged to respect the methodological principles derived from it, either. The Court eventually concluded that although the Marxist-Leninist doctrine was not on trial as such, it could be critically assessed insofar as KPD's practical political aims arose from it – thus advocating an outside view and dismissing the party's insistence of its ideology as a 'unified [and] closed doctrinal system' which could only be assessed with reference to internal standards.[40] Why, indeed, should the Communist party be granted an 'interpretation monopoly' of their own doctrine?[41] The contextualizing or relativizing principles derived from Marxism-Leninism were not merely an ideological substance to be debated but the very linchpin of the KPD's argumentative strategy in the trial, and should the government and the Court surrender in methodological matters, the substantial ideological conflict, and the court case, would be lost at the outset.

The KPD *itself*, however, subscribed to the principle of all thought reflecting its social and economic surroundings, and derived therefrom the conclusion that socialist work required different approaches at different times. The above-described 'schematic' or 'mechanical and abstractly dogmatic' use of socialist ideas was impermissible, particularly as Lenin had, patently metaphorically, warned that the tactics of all communist parties could not be 'forced into a single stencil [*Schablon*]'.[42] This guidance leaned on Lenin's broader doctrine of historical relativity: 'everything is relative, everything flows, everything changes … there is no abstract truth. The truth is always concrete', Lenin argued.[43] In the concrete context of postwar communism, this implied the question of the most suitable means to overthrow the Adenauer regime and pave way for a peaceful reunification of Germany beyond Western militarism and imperialism.

Was an illegal revolution necessary? This is the second, closely interlaced question that was, crucially, discussed with similar metaphors, and here the methodological argument already turns into a substantial ideological argument. For the government, the KPD's ideological premises inevitably bound it to violent revolution as a programmatic goal. The party, by contrast, denied that their programme currently implied abolishing the democratic system. Lenin's time may have necessitated actual civil war between the classes; currently, however, the KPD employed only the non-violent means of information campaigns and extra-parliamentary pressure by demonstrations and strikes, and neither the means nor the aims were unconstitutional, the party reminded.[44] Here, ironically, the party that was calling for unity and wholeness methodologically and accused the government of purposeful eclecticism, simultaneously sought to relativize its own ideological dogmas in substantial terms. This intricate double argument was possible, because a certain relativity was an essential part of the very doctrine to be defended. A decisive link in this argumentative chain was Lenin and Stalin's doctrine of elasticity, which was explicitly discussed in the proceedings.

Lenin theorized the 'flexible' (гибкий) alternation between propaganda (words) and violent battle (weapons) according to political expediency rather than relying on fixed principles, let alone ethical considerations. Analogously with military troops, the proletariat should 'display the utmost flexibility in their tactics' and occasionally evade direct battle not to give the initiative to the bourgeois enemy.[45] The flexibility of communist tactics is a double metaphor: materials' physical flexibility (ability to bend without breaking and to return to the original position) is first projected upon any ability to adapt to circumstances, such as that of military units, and that ability is secondarily transferred from the military to the political sphere. The first transference might be habitual and the ensuing metaphor relatively 'dead', but Lenin's text revives it and reloads it with ideological implications. This double metaphor clearly affected the KPD's self-understanding as a 'combative party' with a flexible strategy – mediated by Stalin. In 1950, the East German Communist Party (SED) cited Stalin's discussion of a 'combative party' as one with 'an irreconcilable revolutionary stance' combined with 'a maximum of elasticity and maneuverability', which also implied amalgamating 'legal battle with the illegal one'.[46] A passage from Stalin's *The Foundations of Leninism* (1924) was discussed in the trial proceedings – one emphasizing how the 'combative party' must be sufficiently 'elastic' (гибкий) to avoid pitfalls in the revolutionary situation.[47] Whether discussed as elasticity or flexibility in German, the original Russian term was the same. Metaphors of flexibility (Lenin) and elasticity (Stalin) also served the same *argumentative functions*: those of historically relativizing the revolutionary forms, maintaining the widest possible room for maneuver in concrete implementation, repelling charges of violent aims at the present, and simultaneously avoiding jettisoning the revolutionary tradition altogether which would have caused the party to lose its essential identity.

There was nothing unconstitutional about such elasticity per se, the KPD maintained, countering that government lawyers erroneously projected aspects of deception and camouflage onto the elasticity doctrine.[48] This projection is true. The state secretary Hans Ritter von Lex lashed Lenin's and Stalin's theoretical doctrines for combining 'vicious harshness and cynical elasticity.'[49] For him, elasticity equalled immorality, lack of integrity, unpredictability, and ends justifying the means. Moral judgments aside, the government latched on to the flexibility/elasticity doctrine for a

particular argumentative reason: to pre-emptively destroy the defense's counterargument that Lenin's call for a violent revolution was confined to its historical context and that KPD's current commitment to legality implied similar constitutionality in the future. Precisely the idea of flexibility, which the KPD indisputably adhered to, meant that the party's current confinement to legal means could not be interpreted as a full-hearted commitment to democracy's key values but as a strategic calculation at best. It was perfectly in line with classic Marxist tenets that a party with minuscule electoral support should seek to broaden its constituency with intra-parliamentary agitation, mass demonstrations, and other legal activism instead of attempting an illegal coup. In fact, for Lenin, it was 'criminal' to engage in battle at a time favourable to the enemy and 'folly' to declare in advance when the proletariat would fight and when not.[50] The KPD's current legalism was therefore no proof of an altered mindset, and the party's unconstitutional aims remained unchanged even if its day-to-day politics was 'elastically adapted to the current situation'.[51] In fact, the KPD was dangerous to the *Bundesrepublik* precisely for pursuing its revolutionary goals 'systematically, but elastically'.[52]

The government lawyers thus adopted their adversaries' metaphorical argumentation regarding elasticity but turned it into a pre-emptive weapon against KPD's claims of non-violence in the *Bundesrepublik*. Having shown how elasticity was part and parcel of the Marxist-Leninist revolutionary doctrine, not an indication of its mitigation, the government concluded that KPD's 'historicization and relativization' and all attempts to 'historicize communist textbooks' and 'rob their revolutionary goals of their actuality' had failed.[53] For them, the party remained dangerously revolutionary and committed to the eventual violent resolution of social contradictions. To make that point, the government had to defeat both the KPD's methodological criticism and the elasticity argument, as discussed. However, they also pushed for the same conclusion more directly: by employing the metaphorically loaded concept of battle.

3. Arguments of military battle and revolutionary violence

Much of the trial revolved around the question of revolutionary battle and the relationship between its strictly literal and more broadly metaphorical interpretations. In a nutshell, the government charged the KPD for engaging in systematic 'struggle' or 'battle' (*Kampf*) against the freedom-based political order of the *Bundesrepublik* rather than merely against the Adenauer government as the current powerholders. To show that this battle transgressed the constitutional parameters for legitimate political struggle, the government offered a conceptual argument regarding the extension of *Kampf,* supported by a metaphorical argument that systematically described the KPD's doctrine in military terms.

Let us start with the metaphorical argument. The KPD was engaged in 'commando-style [*generalstabmäßig*] planning and realization of violent revolution', the government posited. 'It operated with military concepts, such as main thrust [of the attack], plan, alignment of forces, central and sub-reserve, [or] stage [*Etappe*]'.[54] Admittedly, this description aptly captured the rhetorical strategy of many socialists, and in the proceedings, the KPD discussed for instance the 'means of battle' (*Kampfmethoden*) suitable for various 'stages of the battle' (*Etappen des Kampfes*).[55] Yet the government also boosted this viewpoint by introducing it as a leading interpretative perspective: in its initial motion, the government discussed the KPD's 'campaign' (*Feldzug*) of 'internal aggression' under the title 'plan of attack' (*Angriffsplan*).[56] The KPD used its constitutionally protected position to 'attacks against the most important values of our state', Lex formulated; fortunately, however, the drafters of the current constitution had learned from the failed Weimar constitution which 'itself gave the enemies of democracy weapons in hand'.[57] Already this initial formulation framed the KPD as an aggressive enemy performing malicious attacks. Later the government identified the class struggle doctrine and the proletarian dictatorship as the 'main weapons' (*Haupftwaffen*) of this 'revolutionary combat party' (*revolutionäre Kampfpartei*) in its 'conquest' (*Erorberung*) of state power and declared such activities unequivocally unconstitutional.[58] The government thus

adopted the KPD's military rhetoric to their own discursive repertoire because it served *their* argumentative aim of showing the adversary's unconstitutional aggressiveness. By comparing the situation with a (civil) war, the military metaphors certainly added intensity to the government's general argument and to the concept of *Kampf* in particular; this intensity-inducing role makes these metaphors political in an emphatic sense – they not only decorated a clearly political substance matter but, in bestowing intensity, were themselves a part of thinking and acting politically in Freeden's sense.[59]

With reference to the constitutional demand that democratic parties must be also internally democratic, the government framed KPD as a new type of party – not 'a party in the normal sense' but a 'battle organization [*Kampforganisation*] with a militantly firm structure'.[60] Although analytically separate, the propositions of KPD's militant inner organization, on the one hand, and its militant activities, on the other, were interlaced insofar as both utilized the analogy with army organization as a primary reference point. The proposition of military inner organization in analogy with actual military units indirectly suggested battle as the party's main activity (as this is what military units do), and vice versa. When read in the context of these supplementary descriptions, the KPD's 'revolutionary battle', 'political battle', or 'battle against the Federal Republic'[61] appear as systematically militant and qualitatively different from the regular political struggles the new constitution allowed for, although this aspect is present in the words only indirectly and scattered around the entire text by means of recurring military rhetoric. The individual metaphorical descriptions fall into place with respect to the overall interpretation of the text's purposes, yet simultaneously fortify it – all in harmony with Ricœur's dialectic of whole and part, or local metaphor and the text's central meaning.[62]

Certainly, the quasi-military formulations corresponded to KPD's political rhetoric, but they remained equally political in the government's utterances, amounting to a politically motivated metaphorical argument, not a legal syllogism deducing the conclusion from premises regarding valid law and established facts. In its legal defense, the KPD could easily retort that the purported aggression remained vague, and that 'aggression' was a legal concept in international law, inapplicable to domestic matters.[63] These efforts, however, were in vain: in its eventual resolution, the Court followed the government's reasoning to the letter and recycled their metaphors. When the Court describes communist dogmas as 'combat slogans' (*Kampfparole*) allowing no 'ceasefire' (*Waffenstillstand*) in the 'orderly campaign' (*Feldzug*) against legitimate constitutional order, the metaphorical resonance with the military is obvious.[64] With such expressions, the Court rhetorically co-constructed the militant aggressiveness it purported to find in the legal evidence, again following the government's example. The government's metaphorical argumentation bestowed specific intensity upon the more broadly shared battle terminology and, in producing the Court's positive response, was politically successful. This finding harmonizes with previous scholarship on judicial metaphors and their effects on legal reasoning in courts.

However, the conceptual opposition between a 'normal party' and a 'battle organization' is problematic, given how German political scientists had described parties *in general* as 'battle organizations' since the early 1920s – a term deriving from Max Weber and recycled by numerous scholars still in the postwar era.[65] Why would the KPD's systematic struggle for particular social goals be problematic and decisive vis-à-vis legitimate constitutional parties, if political parties in general were conceptualized like this? The largely implicit difference lay in the methods and target of the battle. Here a fundamental conceptual disagreement comes to the fore: the government and the KPD used the concepts of 'battle/struggle' and 'revolution' with different intensions (sets of essential attributes), and, consequently, with different extensions (sets of cases falling under the concepts). These underlying concepts, I propose, were delineated with metaphorical argumentation on both sides.

First, as regards methods, KPD's doctrines implied political violence as a *potential* supplementary form of struggle, even if their political struggle would mostly confine to extra-parliamentary but non-violent means. Due to the elasticity doctrine, any abstaining from violence had mere

'tactical significance' but carried 'no fundamental renunciation of violence as a means of domestic politics', the government concluded.[66] In fact, the elasticity doctrine itself was inherently linked with military considerations at the outset; it was, after all, elaborated by Lenin in explicit analogy with military troops and their flexible maneuverability. Further, to expand this potentially violent battle form into KPD's entire *modus operandi*, government lawyers argued that already the call to irreconcilable battle implied a commitment to violence as its specific means and that 'revolution' was inseparable from violence in the Marxist-Leninist terminology.[67] 'Irreconcilable' or 'revolutionary' battle would thus, as per the party's own doctrines, amount to unjustified aggression. Moreover, the party, in the government's interpretation, was waging battle against the democratic order per se, rather than particular policies, ideologies, or powerholders. These largely implicit assumptions were codified into the concept 'battle organization' as used by government lawyers, and the metaphorical argument of KPD's politics as military activity critically bridged the reasoning here.

The KPD, predictably, rejected allegations regarding the methods and targets of the battle alike – and the disagreement reverberates in their dissimilar concept of battle. In the party's view, the 'irreconcilable struggle [*Kampf*] of all German patriots' was, first, not 'a revolutionary battle [*Kampf*] against the freedom-based democratic basic order' but merely 'a battle [*Kampf*] for resolving national questions', i.e. the reunification of Germany under socialist signs.[68] Throughout the trial, the party employed this evasive strategy of depicting itself as the only actor capable of securing German reunification, thus switching from domestic considerations of (un)constitutionality to the international level and normatively redescribing as patriotism what for the government was treason.

In this transition, also the question of the violent nature of their 'battle' was tacitly resolved. Although their ideological material capitalized on the concept's military associations to mobilize supporters, the party strategically downplayed this aspect in the trial. The KPD therefore evoked a broad, largely metaphorical notion of *Kampf*: for them, *Kampf* was not necessarily and conceptually a violent form on activity (although it could be – this was a contingent historical matter). To support this reading, the KPD also attributed violence exclusively to those resisting revolutionary actions and blamed the adversary for possible victims, thereby rebutting the government's charge that their party programme, which mentioned 'victims' or 'fallen' patriots that the *Kampf* demanded, clearly alluded to future violence.[69] To distanciate the term from violence, they reinterpreted 'battle' as long-term pro-proletarian striving irrespective of the means employed (as per Lenin's elasticity doctrine, the choice of means was but a context-dependent tactical question).[70] When *Kampf* was thus enlarged to cover the communism's overall ideological aspirations rather than merely the subversion of capitalist government in civil war, the KPD could openly affirm the category without fear of self-crimination. In fact, they boldly declared being a new type of party, a 'Marxist-Leninist battle party [*Kampfpartei*] of the German working class', engaged in the 'most democratic conceivable battle [*Kampf*]' for the interests of all workers[71] – thereby admitting the government's charges, but merely reinterpreting 'battle'. Eventually, the equally metaphorical elasticity doctrine allowed the KPD to water down the government's charges also as regards the literality/metaphoricity of battle.

In their defense, the KPD not only utilized the argumentative leeway provided by their extensive category of *Kampf*: they also rebutted as fallacious and unfounded the government lawyers' insistence on militant terminology, turning the defense into an offensive, so to speak. They accused the government of maliciously categorizing all proletarian means of battle (*Kampfsmittel*) as 'revolutionary means of violence'.[72] In fact, this argument was to the point: dismissing for instance the party's educational activities, the government described the KPD as utilizing merely 'the means of revolutionary, violent battle' and 'extra-parliamentary battle and violence *in general*' – a formulation hinting, erroneously, that all extra-parliamentary battle would be violent by definition.[73] While the military associations were pertinent with respect to the government's more specific notion of literal revolutionary battle, they certainly appeared far-fetched in describing *all* KPD activities. It was particularly objectionable, the KPD lawyer Kaul noted, to draw conclusions

from words like 'revolutionary practice' or 'revolutionary battle' rather than addressing the KPD's programme in its entirety.[74] Here the party implicitly argued against any verbatim readings of the category of battle while simultaneously upholding the demand of holism, discussed earlier.

The KPD's lawyers were clearly aware of the metaphorical aspects of their central political concepts – something they directly addressed at three instances. First, in a lengthy discussion of the Marxist doctrine of tactics and strategy, Herbert Kröger spoke of the various stages of the proletarian battle. Tactics, he noted, 'aims – figuratively speaking [*bildlich gesprochen*] – not to win the entire battle [*Kampf*], but to decide individual battles [*Schlachten*] or conduct individual campaigns [*Kampagnen*]'.[75] In substance terms, this understanding of tactic and strategy stems from Clausewitz, who defined tactic as the goal-oriented use of force in a single battle (*Gefecht*), while strategy was the use of individual battles for the aim of the entire war (*Krieg*).[76] Kröger himself notes this origin of the Marxist notion of 'tactic' in Clausewitz's 'classic bourgeois military concept-formation', pointing out that already this notion rules out the government's 'vulgar' equation of tactic with mere deceptive maneuvers.[77] A subtle conceptual transition, however, has taken place here. In emphasizing the flexible alternation between legal and illegal means of battle as essential for the proletarian strategy, Lenin still described the macro-level conflict against the bourgeoisie metaphorically as a 'war' and, in harmony with Clausewitz, used that as the most general category.[78] Kröger, by contract, replaced 'war' with 'battle' or 'struggle' (*Kampf*), which is here to be interpreted coextensively with the general proletarian class struggle. To avoid tautology, he then used the term *Schlacht* for individual confrontations within this larger battle. Such conceptual complications notwithstanding, Kröger's terms clearly derived from military parlance established by Lenin in Clausewitz's wake and were used by analogy. With his incidental note 'figuratively speaking', Kröger in fact made evident both the military origins of the terms and the systematic metaphorical correspondence between war and politics that their persuasiveness relied on. As per the flexibility doctrine, battles at the current stage were to be conducted non-violently, and the KPD could therefore hold on to their militaristic terminology even in the trial where their opponents used precisely this terminology as a key argument. If the note was intended as a disclaimer and to discourage excessively literal readings of battles or campaigns, it backfired in practice; for the government lawyers and the Court's judges, it rather further verified the KPD's alleged military mindset. At any rate, the remark showed Kröger's awareness of the metaphorical/literal problem inherent in their use of the category of *Kampf*.

Second, a similar note emerged in Friedrich Karl Kaul's broader argument seeking to debunk the claim that the KPD was misusing legal organizations for their illegal revolutionary aims. This time the argumentative strategy, however, was different. In one quotation from *The Communist Manifesto*, Marx and Engels maintained that the proletariat cannot 'rise and straighten itself without the entire superstructure of those classes that form the official society blasting into air [*in die Luft sprengen*]'. After the citation, Kaul sneeringly noted: 'To prevent a misunderstanding: when the Communist Manifesto uses the expression 'blast into air', this is metaphorical [*bildhaft*]'.[79] Certainly, the literal reading of blasting/exploding other classes into air would be so morbidly non-sensical that highlighting its metaphorical nature was technically unnecessary. The remark must be read as Kaul taunting the government lawyers about their inclination to read metaphors literally; it was intended to pre-emptively frustrate the government's further use of the literal interpretation of battle, revolution, and related categories by means of intellectual ridicule.

Third, another leading KPD lawyer, the Düsseldorf-based Werner Böhmer, also utilized this strategy of indirect ridiculing by means of metaphorization. He reminisced about learning at school that 'revolution' meant the subversion of government, yet later coming across an advertisement for a 'revolutionary' washing powder. For the government lawyers, that detergent would be unconstitutional, Böhmer ironized. As words had different senses, one should not focus on the word 'revolutionary' alone and deduce its meaning from its potential implicature in a 'bourgeois' interpretative frame, but rather assess its actual meaning for communist ideology from communists' own viewpoint, he underscored.[80] This point served to annul the government's proposal

that revolution was inseparable from violence in Marxist-Leninist terminology.[81]The argument built directly on the proposition of Marxism-Leninism as a hermetic entity and the KPD's Stalin-inspired ravings against selective ideological Talmudism, now applied to the concepts of revolution and battle. To be sure, revolutionary politics was serious business, and Böhmer did *not* claim that 'revolution' was a mere metaphor in Marxism-Leninism. Rather he exploited the additional metaphorical uses of 'revolution' to cast a shadow of doubt on government lawyers' arguments aiming to deduce KPD's revolutionary aims from their militant language. Although the Adenauer regime was to be overthrown in 'revolutionary battle' (*revolutionärer Kampf*) and 'revolutionary mass struggle' (*revolutionärer Massenkampf*) as per the KPD's own programmes,[82] neither 'revolutionary' nor *Kampf* was to be read too literally, the party maintained. This was a second-level political argument regarding the metaphoricity of central concepts, which supplemented the KPD's other argumentation by metaphors and cleverly supported their chosen overall strategy.

4. Arguments of infection

Government lawyers also employed other metaphorical arguments to highlight the urgency of the communist threat. The KPD was not only a 'combat party', or internal enemy seeking to subvert democracy from within, but also a disease. In his concluding statement, State Secretary Lex described the KPD as 'a serious threat for our freedom-oriented democratic life' and, astoundingly, 'a dangerous center of infection [*Infektionsherd*] in the body of our people, one that sends toxic substances into the bloodstream of the statal and societal organism of the Federal Republic'.[83] This extraordinary proposition has drawn earlier scholarly attention. Patrick Major calls it 'a perhaps unwise biological metaphor, given the Nazis' fondness for them', while Justin Collings parallelly notes how the statement 'injudiciously echoed one of [Nazism's] favorite metaphors'.[84] Most recently, Josef Foschepoth links the passage with Lex's anticommunism and extreme nationalism, characterizing his language as revealing in this regard.[85] These observations are correct, but they overlook what, exactly, was at stake in *argumentative* terms. I first elaborate on the metaphor's substance with respect to its anterior discursive history and then examine its argumentative functions for the government's cause.

Admittedly, the metaphor of an inflammation sending toxic substances was questionable in terms of the substance matter. This metaphorical material had a salient standard interpretation derived from history – that of the Jews as not belonging to the German body and being parasites that caused diseases by poisoning its blood.[86] Hitler had raved against 'the Jew' as 'a parasite' who spreads like a 'pestilential bacillus' whenever 'favorable breeding ground' is available and particularly described the 'poison' of the Jewish press as freely 'entering the bloodstream of our people' due to excessive freedom of the press and the states incapability of controlling this 'disease'.[87] Further, the more technical term *Infektionsherd* was also prevalent in Nazi parlance after the Wannsee Conference. 'A Jewish center of infection [*Infektionsherd*] may no longer prevail', Alfred Rosenberg noted, and Joseph Goebbels seconded: 'One can no longer debate in Germany about the necessity to remediate/eradicate [*beseitigen*] the Jews as a center of infection [*Infektionsherd*]'.[88] These are the argumentative elements Lex straightforwardly utilized in describing the KPD, and whether or not this was intentional, his audience was certain to make the link with Nazi rhetoric. Given this background, the 'center of infection' metaphor, like the broader body-illness-parasite-blood poisoning complex, carried a 'historical index of being related to the Nazi period'[89] and amounted to an 'outrageous' comparison in which already the object of comparison, the words involved, or the intentions behind the comparison are shocking.[90]

Surely, word-level similarity does not imply ideological concurrence. Lex's words reveal consistent *Christian* anticommunism across decades, not National-Socialist anticommunism or National-Socialist antisemitism.[91] The same metaphor material could be used for National-Socialist arguments. Although metaphorological research may disclose elective affinities between certain ideologies and certain metaphors, the semantic material from which authors mould their singular

metaphor uses is not strictly limited to any ideology. This is a central reason for the occasionally surprising longevity of metaphorical assimilations.

Lex's Christian anticommunism derived from afar. In the early 1930s, he held a leading position in the paramilitary *Bayernwacht* organization, arguing against Weimar's secularized democracy and particularly singling the KPD out as the 'mortal enemy of our world view' and a 'godless mob'.[92] In meetings with Hitler, he showed remarkable sympathy toward NSDAP's plans to physically 'uproot' communists and social democrats with 'brutal methods'.[93] Simultaneously, however, Lex urged the *Bayernwacht* to protect the state also against National Socialists. His anticommunism must not be identified with that of the NSDAP. Nevertheless, the rhetoric remained intact throughout the decades. That the same person who called for the physical uprooting of communists would twenty years later promote banning the KPD as a formal representant of the government was not, *pace* Wirsching, a matter of 'irony'[94] – rather this straightforward continuity reflects Lex's systematic anticommunist agenda, although formulations of this agenda altered in time. In the 1950s, Lex publicly promoted a purely neutral 'rule of law' approach to democratic self-defense against attacks from the left and the right alike[95] but his vocabulary hinted at a remaining anticommunist bias. Archival sources parallelly suggest that he perceived the National Socialistic SRP as dangerous particularly for linking nationalism with socialist ideas, and therefore akin to the more 'dangerous enemy' of KPD.[96]

In a comparison of American and German anticommunism, Mergel proposed that, in the US, communism was 'constructed semantically as something alien, more like a bug, germ, or disease' so that particularly J. Edgar Hoover employed 'metaphors of viruses, disease, and infection'.[97] In Germany, by contrast, this 'language of hygiene' was unsuccessful despite the long-term tradition of describing Jews in such terms: in Mergel's interpretation, the Germans particularly wished to 'jettison the anti-Semitic tradition of the language of hygiene' by refusing 'to talk in this way', and democratic anticommunism was therefore essentially different from Nazi anticommunism.[98] As discussed, postwar democratic anticommunism certainly differed from the antisemitic Nazi variant; yet Lex's metaphor serves as a remarkable counterexample to the claim that Germans would have refused employing this terminology altogether or that such metaphors were rare or unsuccessful. The government's case was officially promoted with the language of hygiene that revealed the speaker's prevalent anticommunism derived from the interwar period.

Precisely this made the metaphor a risky slip from the legal to the political register. Yet it was by no means a mere rhetorical outburst. Earlier scholarship has overlooked the metaphor's role in the government's broader metaphorical argumentation wherein it served several distinct purposes or what I call *argumentative functions*. First, the imagery of a local inflammation caused by a bacterial infection from the outside, now poisoning the blood of the Federal Republic, supported the government's proposition that the KPD was no self-standing political entity, as the party claimed.[99] Recent scholarship has established that the KPD was essentially SED's tool to influence West Germany politically.[100] That the East-German SED party financed the KPD illegally with 20–25 million DM per year had been disclosed in 1953.[101] In his opening statement, Lex vehemently argued for the 'de facto unity of KPD and SED.[102] The image of an intruding bacterium endangering the health of bodily organs communicated this setting in an effective and thought-provoking way. The speech act Lex performed with his metaphor was that of *warning* – more specifically, warning of a danger which originates from the outside and has already intruded despite being invisible.

The same point had been expressed earlier with reference to the equally conventional Trojan horse. In 1951, introducing to the *Bundestag* a new set of laws for protecting the republic, the Minister of Justice Thomas Dehler (FDP) warned of the propagandistic and subversive activities coming from the East: 'The battle cry is not 'Hannibal *ante portas*!' but the Trojan horse is among us, and we must defend ourselves against it'.[103] The following year, the Minister of Interior and Lex's superior Robert Lehr characterized communists as 'wolves in our midst' although they repeatedly assured otherwise.[104] A popular pamphlet published by a federal ministry in 1951 framed communism as a threat coming 'through the backdoor' by means of 'psychological offensive war' and 'intellectual

poison' but also described communists as 'resistant and inventive like insects' that one could only 'crush' in light – an obviously dehumanizing move with antisemitic undertones and continuities with National Socialist anticommunism, possibly due to the involvement of Eberhard Taubert, a high-profile postwar anticommunist in the People's Union for Peace and Freedom and a former National Socialist propagandist.[105] Whether expressed in terms of bacteria, wolfs, or infiltrated enemy soldiers, the imagery served an identical *argumentative function* – to warn of a yet unperceivable threat about to turn imminent. Mergel has proposed that the idea of secret communist infiltration was a specifically American phenomenon, whereas communism was more familiar in Germany.[106] The above examples, however, suggest otherwise, and the idea of East German and Soviet influences secretly intruding the Federal Republic was part and parcel of the government's anti-KPD argumentation.

Second, and relatedly, Lex's metaphor also served the *argumentative function* of *highlighting the party ban's urgency*. This is clearly a political consideration. As Freeden has elaborated, thinking politically is oftentimes about ranking priorities and bestowing urgency on certain arguments for instance by securitizing issues, invoking fear, or employing other argumentative forms that shake normal priority structures.[107] Metaphors are an important vehicle here, as they not only resonate with our affections but often also come with implicit future-oriented narratives that tell what will happen in the future: for instance, the 'asylum seekers as flow' metaphor strongly suggests the flow to be stopped, regulated, or channelled lest it 'flood' the entire country (i.e. cause unspecified detrimental consequences). The image of an inflammation sending toxic substances to the body politic's blood circulation encompasses an equally obvious prognosis: unless specific action is taken, the body's health deteriorates which may ultimately cause death. Apart from the infection metaphor, this prediction is directly readable in the government's explicit arguments: the KPD had not become 'insignificant and harmless' due to its small electoral support, because 'parliamentary battle' was but one part of its 'political battle', the government reasoned, again invoking connotations of military threat encapsulated in the notion of 'battle' framed in military terms.[108] A party ban was therefore not only politically advisable but also vitally important vis-à-vis the 'lethal danger' the party amounted to.[109] The medical/bodily metaphor is merely another way of expressing this point. Without the interpretative framework evoked by the metaphor, it is far from self-evident that an electorally marginal party holding zero parliamentary seats threatens the democratic system. This is a perfect example of metaphorical blending wherein elements deriving from the two semantic fields of politics and bodies intertwine inextricably.[110] The substance matter oscillates between politics and medicine, but the quasi-causal prognosis and the concomitant highlighting of urgency derives from our anterior knowledge on inflammations, not from out direct assessments of prevailing political reality.

The metaphor's third *argumentative function* was to naturalize a political-legal matter and indirectly deprive political adversaries of their rights by means of dehumanization.[111] A poisonous centre of infection has no *a priori* justification for existing, and it serves no recognizable purpose from our human perspective. Juxtaposing a political party with an infection strongly suggest that all arguments are on one side. The juxtaposition seeks to benefit from our intuition that any illness must be cured, whereas in domestic politics there might be good grounds not to intervene, such as martyr's status after a ban. Concomitantly, the metaphor also *dehumanized* the communists. In more conflict-ridden political contexts, labelling one's political or military enemies as insects, parasites, or rats, for instance, may psychologically facilitate destroying them physically, and Lex had previously considered physical violence against communists. More central in the trial context, however, is how the metaphor deprived communists of their basic rights. Metaphors typically work as filters selecting only certain aspects while hiding others, here concealing how communists *prima facie* enjoyed civil and political rights, such as those of expressing their views openly, founding political parties, and seeking electoral support. This seems more pertinent than dehumanizing as such, because in Lex's view communists were to be legally excluded from political life, not physically destroyed. In purely lexical and substantial terms, the metaphors resemble those employed by

National Socialists to justify genocide; in *functional* terms, however, they worked more subtly to remove certain argumentative hindrances and guided audience members toward the conclusion that the party both *may* and *must* be banned.

Fourth, Lex's metaphor served the directly political *argumentative function* of *exclusion*. Politics involves the (metapolitical) delineation of the political community by including certain actors while excluding others. By implicitly comparing the communist party with an inflamed bodily area, Lex denied the party's legitimate position in the 'body' of the *Bundesrepublik*. The metaphor directly supported his point that parties not accepting West Germany's freedom-based order were to be 'excluded from the political life of our people by virtue of an express constitutional provision'.[112] This metaphorical argument contained an aspect of general *normative discrimination*: labelling something a disease, inflammation, or tumour efficaciously makes the object unacceptable, as these medical categories are merely the opposite of health as a key value but signify no value in themselves. Invoking them creates a normative duality comparable to those of light/darkness, future/past, or Hellenes/Barbarians. Such 'asymmetrical counter-concepts'[113] are typical in political argumentation because they are difficult to revalue: those labelled as representatives of illness, darkness, or the past, have a hard time reversing the normative load by reinterpreting these categories into affirmative self-descriptions, because the associations of health, light, and the future are so fundamentally positive. By activating such dualisms, the medical metaphor proposed that communists are not a part of the West German political community, i.e. regulated its outer border and served the purpose of exclusion.

The excluding function makes evident the political aspects of Lex's metaphor – and this leads us also to the first reason why such a description was both normatively problematic and strategically imprudent in a legal procedure. Stylistically, the metaphor stood out from Lex's legal argumentation, and functionally it excluded the KPD as an alien substance, denied its autonomy, highlighted the urgency of the proposed ban, and indirectly removed its legal obstacles, such as considerations of basic rights. These aspects clearly transcended the legal question of (un)constitutionality, rather invoking considerations of political expediency. The government and the Court denied that this was at stake. However, it is difficult to read the metaphor of toxic substances being sent to the bloodstream of a nation so that its devastating force would merely target the party's unconstitutional aims or methods rather than condemning the communists' agenda *in toto*. The corresponding phenomenon of a per se legitimate centre of infection whose toxic substances would be problematic is unintuitive and nonexistent. Even if Lex possibly intended the metaphor to support merely the legitimate constitutional option of 'excluding unconstitutional political parties',[114] to protect the constitution, recognized by the Court, the actual impression was that of him willing 'to exclude the KPD as [the government's] most dangerous adversary from the political life of our people' – a proposition he explicitly rebutted.[115] His own aggressively discriminatory language did little to dispel the impression that this in fact was the case. Guided by his long-term anticommunism, Lex spoke 'subjectively, politically, and ideologically'[116] rather than merely judicially. This, eventually, contributed to the Court's ruling that the KPD was not merely targeting the current power-holders but the entire constitutional order and should therefore be excluded.[117]

This discrepancy between judicial aims and normative terminology was likely to give weapons to KPD lawyers who had framed the trial as a politically motivated 'witch-hunt' to begin with, an accusation that Lex vehemently rejected.[118] Given the intimate interaction between the government and the Court before and during the proceedings, that accusation of political expediency was not altogether unfounded.[119] This could, further, turn public sympathies in favour of the KPD, and the prospect of martyrdom on the party's part was one reason why the government had originally been reluctant to initiate the process in the first place.[120] Further, the historically constituted and highly problematic discursive characteristics of Lex's speech were also evident to the KPD: they sarcastically claimed feeling 'honored' to be 'defamed and insulted' by Lex, who apparently spoke based on his experiences from the period between 1933 and 1945, an obvious reference to Lex's Nazi past.[121] From a strategic prudence viewpoint, Lex's metaphors clearly backfired as legal

arguments; nevertheless, precisely these problematic aspects made them effective as political metaphors that sought to persuade on a different level. They were acts of political delineation, prognosis and alarmism, and these functions, for Lex, evidently weighted more than judicial purity.

5. Arguments of infiltration and amputation

Similar imagery was widely employed in German postwar political debates to discuss countermeasures to the communist threat. The CDU's electoral strategy, reflected in their electoral posters in the mid-1950s, was to utilize the prevalent anticommunist sentiments and discredit even the social-democratic opposition as having roots in Moscow.[122] In January 1961, the Minister of the Interior Gerhard Schröder (CDU/CSU), introduced in the *Bundestag* a new initiative on border control to prevent communist infiltration. Framing anticommunism as protection of the freedom-based constitutional order, he compared the measures to 'preventive hygiene', ultimately taking a skeptical stance toward any 'immunization' to 'bacteria' and doubting communism could ever be complete 'uprooted' (*ausrotten*).[123] MP Friedensburg (CDU/CSU) continued the metaphor: whenever at risk of a 'serious infection by germs', anyone would protect themselves against it, he noted, but 'any doctor would advise us that the best protection against bacterial infection is fresh, open [literally, free, *freie*] air', which 'fortifies the body so that the bacillus finds no breeding ground'. The best measure toward communism was thus 'the inner strengthening of the human body against the feared communist infection', i.e. political education in schools. If this, however, was insufficient, there had to be the possibility for medical intervention, as represented by the legislative proposal, and a combination of these measures was the optimal course to protect the 'body put at risk and perhaps already ill'.[124] While these usages somewhat relativized the aggressively excluding ramifications of the infection metaphor, rather suggesting that the freedom-based constitutional order was mostly capable of resisting the ideological challenge, they clearly show that Lex's metaphor was not a solitary utterance explainable with reference to personal biography alone. Such discourse was prevalent in the CDU of which he was a member.

This metaphorical material of infections and inflammations also implied a highly dramatic metaphor scenario of a rotten body member being cut off or amputated – a grotesque imagery surprisingly common in the discursive-historical context of Lex's speech acts. In 1950, Minister Jakob Kaiser (CDU) mobilized the German media to battle against communism, citing a recent proposal by the journalist Walter von Cube that West-Berlin should be secluded from the East Germany: 'When a body member has become a victim of a bacillus, it should be amputated to save the entire body'. For Kaiser, however, surrendering West Berlin to the GDR was too extreme a measure to combat the communist threat and equalled sacrificing the citizens of the metropole: if Mr. von Cube would undergo amputation with each infection, Kaiser mockingly noted, there would soon be little left of him, and hilarity ensued.[125] In this instance, the amputation metaphor's function was to ridicule an excessively radical solution to the Berlin question. Kaiser did not, however, reject the underlying metaphor of communism as a bacterium; rather he utilized the potential implicature of this metaphor and one of its habitual implied scenarios, that of infected body members being amputated.

The image of amputating or cutting out body members emerged early in the KPD trial, too. The KPD's lawyer Kaul noted how a Court member had anteriorly characterized the process as 'the heretofore most serious operation on the body of democracy'. Kaul could have silently glossed over this medicalizing metaphor; he chose, however, to cite it and turn the metaphor into a defensive tool by subtly modifying it for different implications. If the KPD process was an operation on a political body, Kaul proposed, it was not an operation to 'save the patient' but 'an amputation which will inevitably make the entire body inoperative'.[126] This is a perfect example of a speaker reversing an established metaphor normatively and loading it with alternative causalities by introducing what Musolff has called a 'counter-scenario'.[127] Normally, we perceive amputation as perhaps unfortunate but necessary, as it saves the patient's life, but Kaul described it as harming vital organs. As

noted, the one-sidedly discriminating categories like disease/health, darkness/light, progress/reaction are difficult to revalue normatively, and Kaul could not directly counter the ideological challenge inherent in the inflammation imagery; however, the grotesque dismembering metaphor supplied the ambivalence needed for such a normative reversal.

Some elaboration, however, is needed to fully understand Kaul's argument and its underlying intellectual-historical resonance. The original formulation mentioned 'operation' alone, but Kaul himself reinterpreted this into the more specific, and more dramatic, metaphor scenario of 'amputation'. The idea of the state as a body, going back to Plato, effortlessly implies the question of health and diseases, but the narrower scenario of limbs being amputated to protect the entire body has also accompanied this imagery throughout the history of political thought. Cicero defended removing tyrants for the common good of all humanity, 'just as some limbs are amputated, if they … are harming the other parts of the body'.[128] The idea has a long discursive tradition particularly in Catholicism. Jean D'Arc was condemned as a 'rotten member' and 'cut off' from the 'body' of the church so that she could not 'infect other members'.[129] During French sixteenth-century civil wars, the general body politic metaphor was reprocessed into an argument of the Huguenots as a disease calling for immediate healing.[130] The Catholic League perceived the Huguenots as a 'rotten member whose stench has infected, infects, and will infect, if it is not completely separated from the other', and therefore in need to be 'cut off'.[131] The post-WW2 anticommunist uses of the amputation metaphor operated in this long discursive tradition. More crucially for interpreting Kaul's argument, however, cutting away body parts was a standard metaphor also in Marxism-Leninism. In *The Eighteenth Brumaire*, Marx had described the nineteenth-century French civil service and military complex as one 'fearsome parasitic body, which traps French society like a net and chokes it at every pore'.[132] Lenin cites the passage in *State and Revolution*, paraphrases the key point affirmatively, and discusses revisionist socialists' reluctance to 'cut away' the 'parasite', i.e. destroy 'the parasite state', which he, then, frames as a central task for revolutionaries in general.[133] In *Two Tactics*, Lenin similarly described reformist policy as the 'painfully slow decomposition of the putrid parts of the national organism', whereas the proletarian revolution amounted to an 'immediate removal of what is putrescent' and 'rapid amputation' of the 'abominable, vile, rotten, and noxious institutions' and therefore 'the least painful to the proletariat'.[134] Given these discursive continuities, the amputation metaphor was an established part of not only postwar Christian anticommunism but also the Marxist-Leninist discourse Kaul operated in. Effective political metaphors typically involve conventional terms that the audience operating in the specific discursive context can reasonably be expected to know; in fact, the more conventional the phraseology, the more easily we also accept the concomitant causal or normative implications.

Such discursive contextualization enables us to understand the availability of semantics resources to the speaker. To address how and why they chose to utilize these resources, however, we must analyze metaphors functionally as arguments and link them with other forms of argumentation. Kaul's non-amputation metaphor subtly supported the KPD's three key arguments.

First, in substantive policy terms, the metaphor invoked the party's self-understanding as Germany's only genuinely 'democratic' party and the only party resisting the Adenauer government's imperialistic and militaristic foreign policy, which primarily served the interests of American occupiers and international monopoly capitalists. Cutting out this part would make the system less democratic, representative, and worse off.

Second, and more institutionally, Kaul's reinterpretation implied that banning the communist party would severely violate the *Bundesrepublik*'s democratic basic order and particularly its principles of the free formation of parties and free political competition between all substantially and internally democratic political parties. On these two grounds, KPD's ban would *eo ipso* preclude 'free, democratic elections'[135], as subsequent elections would be neither free nor democratic in KPD's understanding of these terms. By banning the KPD, the government and the Court would destroy the very principles of they set out to protect. Not the KPD was therefore 'attacking' the democratic order, but the government, Kaul retorted.[136]

Third, the party represented itself as the only organization capable of promoting Germany's future unification, and the ban would contradict that purpose, making 'free, democratic *pan-German* elections' impossible.[137] Also from the international politics viewpoint and vis-à-vis the prospective German unification, the government proposed cutting out a vital organ.

In substance terms, formally, and with respect to the unification alike, excluding communists from the political body would thus make the state worse off. This was not primarily a legal argument regarding contradicting judicial principles and their prioritization but a *political* argument regarding the national (in)expediency of the ban. The amputation metaphor aptly condensed these underlying arguments into a vivid image. It is a textbook case of an effective political metaphor that not only persuades rhetorically but also argues systematically.

6. Conclusions

The trial ended as disharmoniously as it started. After more than a year, and amid political pressure from the Adenauer government, the KPD was eventually banned as unconstitutional. The outcome and the entire process echoed broader postwar anticommunism, the historical trauma of the failed Weimar democracy, and, indirectly, Karl Loewenstein and other émigré scholars' attempts to account for the catastrophe and protect the nascent democratic order.[138] The epoch-making decision consolidated the doctrine of militant democracy by explicitly arguing that the freedom-based West German state was not obligated to wait until an imminent risk of subversion emerged but could legally repel such threats pre-emptively. To reach that conclusion, the Court sided with the government and remained unconvinced by KPD's conceptual, metaphorical, and explicitly ideological forms of argumentation. Purported elasticity notwithstanding, the intention of overthrowing the freedom-based constitutional order in the undefined future, allegedly reflected in the KPD's programme, was legally sufficient for the ban.

Given the interpretative gulf between the government and the KPD, on the one hand, and the political pressure from the Adenauer government, on the other, it is difficult to see how the Court could have reached other judicial conclusions. The arguments put forth in the trial were uttered amidst an ideological encounter between the government and the KPD, each side engaging in nuanced political-theoretical assessment and deriving arguments from their own discursive traditions. While the government's motivation and strategy were unmistakably political, also the KPD 'argued primarily politically', and on both sides, the trial was conducted as 'a political process', Foschepoth concludes.[139]

This setting is clearly reflected in their respective metaphorical arguments, as my article showed. For instance, the bodily and medical metaphors were doubly determined in the trial: both Lex (government) and Kaul (KPD) spoke in parallel ways starting with their diametrically opposed ideological premises and reacted to one another, which further intensified the underlying metaphors and highlighted their role in the proceedings. Rather than surface-level rhetoric or deepest cognitive mappings of the human mind, these metaphors amounted to the midway phenomenon of intentional political argumentation or warrants that guided the audience from tacit premises to forceful conclusions. Discursive continuities on the personal level (Lex's consistent anticommunism expressed in similar categories in the 1930s), the party level (the CDU discourse of anticommunism as infiltration) and ideology level (amputation discourses in the Marxian tradition) enabled such metaphors and make comprehensible their occurrence in the proceedings.

However, as the preceding analysis showed, both the government and the KPD integrated the metaphors seamlessly into their other legal and political argumentation. Correspondingly, we understand the metaphors best by dissecting their context-induced *argumentative functions*. For the KPD, apple tart and Talmudism metaphors emphasized holism and highlighted the illegitimacy of the prosecutors' attempts, while the terminology of flexibility helped in detaching KPD's current programme from its genealogy without committing apostasy: violent class war remained an option, but not a rigid necessity.

Because of underlying argumentative functions, substantially different and apparently unrelated metaphorical arguments accumulate and support one another. Communists' ravings against Talmudism and shattering of integral wholes into meaningless hodgepodge served the same argumentative function as highlighting the elasticity of the proletarian tactic: that of reducing the adversary's interpretative leeway while maximizing that of one's own. Further, the arguments against selective utilization and the elasticity doctrine both directly supported the KPD's point of *Kampf* as an extensive category with also non-revolutionary forms and thereby undermined the government's aim of deducing communists' intentions from their key concepts – something the KPD also ridiculed with arguments explicitly addressing the metaphorical meanings attachable to concepts like battle and revolution.

For the government, metaphors of military battle proposed the KPD's unconstitutional commitment to revolutionary violence, while those of amputating an infected member highlighted the unavoidability, urgency, and legitimacy of the ban as well trumped potential counterarguments relying on basic rights. Further, the government's disquieting rhetoric of infiltration and inflammation highlighted the KPD's foreign linkages and excluded the communists from the category of legitimate political subjects. In the discursive-historical context, similar argumentative functions were served by variable metaphors of the Trojan horse, wolves, insects, or amputating body members due to inflammation. For the KPD, again, resisting an alleged amputation served the function of highlighting the KPD's belonging to the *Bundesrepublik* and underlining the party's necessity for full democracy and the unification of Germany.

Identifying such argumentative functions often necessitates reconstructing authors' literal propositions. To understand both the literal propositions and the metaphors, we may not overlook either, for both are parts of a single argumentative edifice. Rather than simply rhetorical retorts, these were argumentative devices that condensed the gist of the political disagreement – and that argumentative core was significantly co-constituted by metaphorical argumentation on both sides.

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