4 Strategies of covert resistance

Teaching and studying legal history at the University of Tartu in the Soviet era

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Introduction

In the Soviet era (in 1940–1941 and 1944–1991), when the official name of the University of Tartu was ‘Tartu State University’, its Law Faculty was the only faculty of law in Estonia. The university counts its history from its establishment in 1632 during the Swedish era in Estonia. Nevertheless, it was not able to function uninterrupted. During the Great Northern War, the university was first evacuated to the harbour town Pärnu and from there on to the Swedish motherland. The Baltic provinces, which from 1710 to 1917 belonged to the Russian Empire, were thus left without a university. Since the 13th century, the local upper classes—the nobility and burghers—had been primarily German speaking, and the university, when it was finally reopened in Tartu in 1802, functioned for the following 90 years as a German university in the Russian Empire. In 1892, the university was Russified and remained Russian speaking until the end of the Tsarist state.

Although the town of Tartu is situated in the middle of ancient Estonian territory and ethnic Estonians have always been an absolute numerical majority there (about 95%), they were still at the beginning of the 19th century, almost without exception, serfs who had no contact with the university or higher education. It was only after the end of the First World War and the establishment of the Republic of Estonia that the University of Tartu was opened on December 1, 1919—now, for the first time in its history, as an Estonian-speaking university. Its status as the national university of the young Estonian state was also expressed in its official name: the University of Tartu of the Republic of Estonia. Since then, the official teaching language of the university, the Law Faculty included, has been Estonian. This is also how it remained—for the entire Soviet period, the university functioned in Estonian. In addition to the ordinary courses, there were also distance-learning courses, and for this form of studies, there was also teaching in Russian for a small group of students (approximately 20 every year). However, the main teaching language was Estonian. As a Finno-Ugric language, Estonian was somewhat hard to learn for other nationalities, and Estonians themselves were not very numerous (about one million altogether). This meant that the everyday language of teaching and university administration remained incomprehensible

for Soviet ‘functionaries’ from elsewhere. Already the factor of this difficult-to-understand language made it hard for the Soviet central administration to control fully Estonian legal scholarship and education.

Everything that Sanita Osipova writes in this volume about Latvian legal history before and after World War II is in general terms also true about Estonia and the University of Tartu. Estonian national history and legal history writing began first in the interwar period with the Republic of Estonia, turning a formerly derided underclass—indigenous Estonians—into a subject of history and thereby opposing itself to earlier Baltic German history writing that had focused on the societal elites and the corresponding institutions. Soviet history writing sharpened this opposition even further, since now history had to be presented as a class struggle. Paradoxically, at the same time, this made it possible to continue the national history writing tradition that had been formed before the war, since Estonians had been an exploited underclass from the Middle Ages onwards and were hence a legitimate subject for a Marxist-Leninist treatment of history. It was only during the interwar era of the 20th century, in their own democratic republic, that the Estonian people had differentiated into different social classes. It was exactly this ‘bourgeois republic’ of the interwar period that was particularly condemned and in some ways even more ‘forbidden’ than earlier periods of history. But even the Soviet system included inconsistencies and windows of opportunity that allowed legal history in particular to develop into a somewhat more independent, in a certain sense even more dissident, discipline compared to the rest of the mainstream of legal studies.

In the following, I will take a look at the structural elements that allowed legal history to shake the general aims and ideology of the Soviet system. After that, I will characterise the most important academics who taught legal history at Tartu State University. More specifically, I will consider the ways and means of covert resistance employed by academics that enabled them to diverge from official party-controlled views.

The general framework of mandatory subjects in legal history

Lawyers have always been more closely associated with state power than natural scientists or, for example, historians. Compared to other colleagues in the faculty of law, it was the legal historians who consistently had the best opportunities to diverge from the Soviet political mainstream. To a degree, this was already facilitated by the general academic framework provided in Moscow, i.e. by the curriculum itself. There were rather a lot of compulsory legal historical subjects, including general or world legal history, the legal history of the USSR and the legal history of the Estonian Soviet Socialist Republic, or SSR.

The general legal history module could at different times be called *The History of the State and Law* or *General History of the State and Law* or *The History of the State and Law of Foreign Countries*, but the model was the same throughout the

Soviet era. More recent attempts to write the legal history of the whole of the world either historicise as comparative works (e.g., Glenn, 2014) or only focus on the methodological aspects of this enterprise (Duve, 2018; see also the quotations). Unlike the Soviet textbooks, they do not aspire to cover the whole of the legal history of the world since the beginning of time. But the students over the whole of the Soviet Union also learned something about ancient Babylonia or Mesopotamia—not just about the Code of Hammurabi and Hammurabi as a ruler, but also about some other things. How many persons in a normal ‘Western’ law faculty would have known who the *awilu*, the *mushkenu* or the *wardu* were? These were, by the way, different classes in the social hierarchy of Babylonia. Not only about Babylonia but also about ancient Egypt, India, China, Greece and Rome, medieval Europe and modern America, Soviet students acquired very specific types of knowledge in world legal history—knowledge about the upper and lower classes in the society and about the class struggle. But it should be stressed here that the General History of State and Law module also gave students the possibility of learning about the world outside of the closed borders of the Soviet Union. Newer legal history of foreign countries, not only that of the ancient or medieval world, was also a part of the curriculum.

The textbooks ‘grew’ together with history itself. In the 1940s, the ‘most recent era’ covered the time period 1917–1947 (Gurvich and Chernilovski, 1947), but in the 1980s, it also included ‘the formation of the socialist world system’ after World War II, the liberation of colonies in Asia and Africa and revolutions in the Latin American states (Chernilovski, 1983, pp. 570 sq.). The module, however, never covered all the states of the world. The selection from modern Europe, for instance, included the United Kingdom and the British Empire, France, Germany, Austria, Italy and in addition, from outside of Europe, the United States (Chernilovski, 1947; Chernilovski, 1983, pp. 214 sq.). In the period beginning with the Russian October Revolution, the coverage included Poland, Czechoslovakia, Yugoslavia, Bulgaria, China and Japan. The selection of smaller countries could vary between different textbooks, but the big ones were always included.

Although teachers had to follow the general curriculum, the same as that for the Soviet Union as a whole, every lecturer had some freedom to design his or her own lectures. The course in world legal history was rich enough to provide many possibilities for cherry picking. In addition to classes and class struggle, there was also teaching in the fields of legal sources, the main institutions and legal phenomena. Although the then-current Soviet law did not recognise private property or free markets, it was still possible to talk about these things in legal history (Gurvich and Chernilovski, 1947, pp. 284 sq.; Chernilovski, 1983, pp. 531 sq.). A historical introduction to classic private law was also provided by a course in Roman civil law, treated in this volume by Anton Rudokvas and Ville Erkkilä. In addition to covering private law or separate parts of it (property law, family law) for different historical periods, general legal history also included an overview of criminal law, court organisation and judicial process.

I have here only referred to the Russian language, the so-called all-union textbooks. There were no substantial, original textbooks in general legal history published in Estonian. However, already at the beginning of the Soviet period, two textbooks appeared that were relevant for the earliest period covered in this module: Stepan Ketchekjan's textbook on the history of ancient Near East and Greek antiquity (Ketšekjan, 1946), and Ivan Pereterski's textbook on the ancient Roman state and law (Pereterski, 1946). These two translated textbooks subsequently remained the only published study materials in Estonian that were relevant for the course. There were no reprints after 1946, so as late as in the second half of the 1980s, the first-year students of the Law Faculty still had to compete in the library for the few extant copies that had survived after four decades of use. The textbooks covered only a small part of the course, namely, the earliest period. Concerning the period of the so-called 'general crisis of capitalism', i.e., the 20th century, some study materials in Estonian were published from the end of the 1950s until the mid-1960s by Jüri Jegorov (Jegorov, 1959; 1960/1966; 1961), whose activities will be treated in more detail below in the section on personalities. Everything else was studied from the notes made in lectures and seminars. Although there must have been some individual exceptions, the ethnically Estonian students generally did not study from Russian-language textbooks. This was not just a question of willingness or unwillingness. In spite of compulsory Russian classes from the second school year onwards, the Russian skills of Estonians were so lacking that they could not manage with textbooks in Russian.

The other big compulsory module in legal history was *The History of the State and Law of the USSR*, i.e., of the Soviet Union. This subject not only included the period beginning with the foundation of the USSR in 1922, or with the Russian socialist October Revolution of 1917, but also encompassed the whole of the legal history of the then-Soviet territory throughout the ages. Thus, the first point in the programme was 'Slave states on USSR territory'. This did not refer to the secret slave farms in Central Asia in the 1980s, exposed in the wake of Gorbachev's 'perestroika and glasnost', nor did it refer to the gulags. In the legal history syllabus, this meant the slave states of antiquity. There had been a few Greek colonies on the Black Sea, and the Persian Urartu Empire had reached the Soviet Union in the borderlands of the Armenian, Georgian and Azerbaijan Soviet Socialist Republics. Historical materialism as one part of the Marxist ideology discussed how historical societal formations would inevitably follow one another, every subsequent formation being more progressive than the previous ones, but nevertheless still presupposing the existence of the previous formations. In this way, slavery became an inevitable prerequisite of socialism. In general, studying the history of the state and law was supposed to turn students into particularly adept builders of Communism:

Our second main task in addition to education is turning our current students into highly qualified builders of Communism. [...] In their professional education, the future lawyers must acquire the skills and abilities to use the state and law as well as possible as a means to build Communism.

Everything changes, including the state and law. It therefore follows that their purposeful use takes various forms at different times and in different places. To inculcate a deep understanding of this fact in the students, our treatment of the state and law needs to be concrete and historical. [...] The demand for concreteness is one of the central demands of the dialectical method, and adherence to it is imperative in order to achieve objective truth. This avoids a descent into quixotic abstractionism and subjectivism. (Ibius, 1951, p. 5)

In the 1980s, there was less talk of building Communism. The last one to have predicted its arrival by the year 1984 was Nikita Khrushchev. Communism failed to arrive and George Orwell's book *1984* ended up being a more accurate prediction than Khrushchev's. However, the teaching of the history of the state and law, as of history altogether, remained in a certain way extremely 'concrete' up until the end of the Soviet period. Lecturers avoided interpretations of meanings in both their oral and written communication and limited themselves to presenting a great number of facts.

There was also one textbook of the history of the USSR that was translated into Estonian immediately after the war, again only on earlier history, although it did extend up to the reign of Peter the Great (Juškov, 1946). It was during the time of Peter the Great, amidst the Great Northern War, that Estonian territories were for the first time subjected to Russia, but earlier periods in the history of Estonia and the other Baltic countries were also taught in lectures. In the early Soviet period, Estonian legal history was covered in *The History of the State and Law of the USSR*, but later, an independent compulsory module was added.

The History of the State and Law of the Estonian SSR covered Estonian legal history, as it were, from the beginning of time. One could not locate any ancient empires in the territory of Estonia. Therefore, the starting point was later, in the Middle Ages. For me, during my studies, this course was taught in the spring term of the 1984–1985 academic year by the, at that time, very young lecturer Peeter Järveld (b. 1957). The first lecture was about the social order of Estonians before their land was conquered in the Crusades of the 12th–13th century. This was a proper Soviet-style topic and the fact that 'prior to the conquest the Estonians did not have any state apparatus whereby the will of the ruling class would be formulated in written form as law' was also a very 'Soviet' style of speaking. After a few lectures, Järveld got onto the subject of the Swedish period in Estonia (1561/1629–1710) and the lectures then turned into an amazing flood of knowledge, welded together in an adventurous way. For instance, one lecture was titled 'Hugo Grotius and Old Livonia'. Hugo Grotius (1583–1645), as one of the most important authors for the foundation of modern international law, is familiar throughout Europe. 'Old Livonia' was the collective noun used for the feudal polities established after the conquest of the territories of current Estonia and Latvia during the Crusades of the 12th–13th century. This unstable confederation of feudal principalities collapsed in the Livonian War (1558–1561), destroyed by the various great powers of the era. Northern Estonian territories became a part of the kingdom of Sweden,

Southern Estonia and Northern Latvia went to Poland as Livonia and the feudal Duchy of Courland in the south of Latvia became a vassal of the Polish-Lithuanian state. In any case, it was obvious that Grotius could not have had any real connection to the Old Livonia, which had already collapsed before Grotius was born. But thanks to Järvelaid's lecture, we learned that Grotius had existed, he had become the pensionary of Rotterdam, he had written a book *De jure belli ac pacis* (On the law of war and peace) and that this book had been borrowed six times from the library of Tartu University, founded by Swedish King Gustavus Adolphus in 1632. Moreover, *De jure naturae et gentium* by Samuel Pufendorf (1632–1694) was borrowed 11 times between 1699 and 1710, when during the times of the Great Northern War the university was moved to the coastal town of Pärnu. All these data are taken from my own lecture notes. However, I cannot find anything there about the lecturer ordering or asking us to read the textbook of the history of the state and law in Estonia (Jegorov, 1981), the same author's previous study materials on the Old Livonian Diet (Jegorov, 1966), the history of Livonian and Estonian towns and town law until the Russian imperial town law reform in 1870 (Jegorov, 1980), police institutions on Estonian territory since the beginning of the 19th century until the end of the Tsarist state (Jegorov, 1972), the court institutions of the same period (Jegorov, 1978) or the developments after the 1917 February Revolution in Estonia (Jegorov, 1969). It is possible that Järvelaid did not trust our language skills—both the textbook and the study materials, published as brochures, were all in Russian. But at the same time, our compulsory readings also did not include books in Estonian on the political system in the interwar era of the Republic of Estonia (Vihalem, 1960; 1963a; 1963b; 1971), which still in the 1970s had been a part of the mandatory literature (Vihalem, 1976). The teaching of the history of the state and law of Estonian SSR in the form of this chaotic stream of knowledge, rather than according to some structured plan or accepted programme, says something not just about the lecturer but also about that time. The era of Gorbachev had already started in the Soviet Union, and even in university lectures it was possible to freely discuss the personalities and historical events that could not have been done under the previous understanding of history, directed and constrained as it was by Marxist-Leninist ideas and 'party' policies.

What we can say about the general framework of the curriculum is that its very broad remit made it possible to bring into the lectures a very diverse set of topics, but it also made it possible to exclude many others. It should also be mentioned here that in Estonia, the presence of the state security apparatus, also in academic circles, was at least after the death of Stalin never quite as heavy and nasty as, for instance, in the German Democratic Republic.

Individual strategies of survival and resistance

The first ever Estonian with a doctorate in legal history was Leo Leesment (1902–1986). His master's dissertation, defended in 1926, concerned Old Livonian legal history (Leesment, 1926), and he continued to work in the same area in his

doctoral dissertation on medieval criminal law, defended in 1930 (Leesment, 1931). Nevertheless, he could not immediately become the Professor of Legal History since this position was already taken by Jüri Uluots (1890–1945). Uluots was one of the first academics employed by the University of Tartu of the Republic of Estonia; an active politician, he was involved in the reform preparations of both Estonian civil and state law. A large part of his time was devoted to building up the Estonian state and legal order, and Leesment, a docent of civil law, had taught a fair bit of legal history already before the Soviet era. In 1939, Uluots became the Prime Minister of the Republic of Estonia, making Leesment the foremost academic teaching legal history. He was also tasked with teaching the history of Roman law. The systematic course in Roman law was taught by the Professor of Roman law Ernst Ein (1898–1956) (Siimets-Gross, 2004; pp. 116 sq.). During the first Soviet year, the courses were changed around. Uluots would have had no business at the Soviet university in any case, and he succeeded in hiding himself from the Soviet occupation in June 1940 until the German occupation in July 1941. Leesment taught the history of the state and law of the USSR, using a curriculum translated from Russian (Leesment, 1940–1949, p. 56). Ein taught (general) history of the state and law (Ein, 1940), until he was dismissed from the university in early 1941. In the 1930s, Ein had clearly expressed his sympathy for the Italian Fascist regime and Mussolini. In spite of support from university leadership, the top party officials of the Estonian SSR nevertheless considered it impossible for him to continue working for a Soviet university. When the University of Tartu was reopened after the war, now again under Soviet rule, Leesment was the only one of the three former professors still in Tartu. Both Uluots and Ein had emigrated in 1944 and Uluots had died of cancer in Stockholm on January 9, 1945.

After the war, Leo Leesment was responsible for the teaching of all courses in legal history—the general history of the state and law, as well as the history of the state and law of the USSR. As a specialist editor, Leesment also participated in the translation of legal history textbooks from Russian. Kečekjan, one of the most important legal historians in the USSR, personally thanked him for his efforts and sent him a copy of his methodological instructions meant for distance education students for independent study of the general history of the state and law (Kečekjan, 1946). Similar manuals would later regularly also be published at the University of Tartu. In addition to literature translated from Russian, there were also Leesment's own lecture notes. The manuscript collections of the library of the University of Tartu hold two typewritten copies, the second one bearing a note that this is the second edition (Leesment, 1945–46; 1947). The typescript was not only meant for the lecturer himself since according to a note of the 'Tartu State University printing office' from April 9, 1947, it had been reproduced in 150 copies (Leesment, 1947, p. 42). This must have been plenty for the students of the time: in 1945, the Faculty of Law had 11 graduates, in 1946 it had 9, in 1947 only 7 and in 1948, it had none. An increase came later: there were 27 graduates in 1949 and 1950, 49 in 1951, 71 in 1952, 65 in 1953, 56 in 1954 and 52 in 1955 (Graduates, 1989, pp. 29 sq.). Looking at the source citations in Leesment's lecture notes, it is notable that in addition to Jushkov's

textbook and the classics of Marxism-Leninism, he is also referring to his own earlier writings. It is possible that during the years immediately after the war, the reference works, journals, monographs and textbooks published in the Republic of Estonia in the interwar era could still be accessed by students. Later, they were for the most part destroyed and the few surviving copies locked in the special stacks of the library, where they could be read only by special permission.

Leesment's position as an academic at the Tartu State University was uncertain from the beginning. At the University of Tartu of the Republic of Estonia, he had eventually been appointed the Professor of Civil Law. During the 1940–1941 academic year of the Soviet university, he was only allowed to teach as a docent. During the German occupation, he had been Professor Extraordinarius; in September–October of 1944 he worked at the Pärnu town museum and could thereafter return to the university as a docent. He was once again professor from October 1945 until June 1946, but was then again demoted to docent when the pre-war academic degrees were re-evaluated (Leesment, 1942–48, p. 3).

Already before the opening meeting of the new collective security organisation, the United Nations, it became clear that the USSR would not be successful in bringing in every single Soviet Socialist Republic (SSR) into the United Nations with a separate and independent right to vote (Tannberg, 2015). There was therefore no reason to tolerate their autonomy any further and, following the doctrine of party centralism, Soviet ideology had to be introduced to the fullest extent even to the most recent SSRs (Tannberg, 2010). In 1946 Russia had already started a campaign against the 'formalism' and 'services rendered to bourgeois interests' that were supposedly characteristic of the creative 'intelligentsia' (Tromly, 2014, pp. 81 sq. and passim; Roberts, 2006, pp. 329 sq.). The party leadership of the Estonian SSR tried to demonstrate its loyalty to Moscow by undertaking a grandiose project to exterminate the bourgeois remnants from the Soviet Estonian society, cultural life and educational system. In summer 1949, it was the turn of the University of Tartu. By academic and party unit, meetings were held to find out and eradicate instances of so-called bourgeois nationalism (Raid, 1995, pp. 61 sq.).

Together with some other colleagues, Leesment was accused of formalism and objectivism. The course in the history of the state and law of the USSR was also supposedly out of balance, with too much focus on earlier and too little teaching in newer, Soviet legal history. The whole faculty was blamed for the fact that not a single academic had engaged in public criticism of his or her own earlier works, published before the Soviet period. The Secretary of the Tartu City Committee of the Communist Party, who participated in the meeting, classified Leesment, together with Elmar Ilus (1898–1981), the previous civil law and current Roman law professor, as those academics who did not sincerely believe in Soviet rule and Communism and had engaged with Soviet society only mechanically, seeing it as an inevitable necessity. These accusations can be taken seriously: in his lectures, Leesment indeed taught primarily earlier legal history, less the capitalist period and no socialist legal history at all. We have already mentioned that he referred his students to his earlier writings, rather than criticising them, and his teaching style focused on conveying facts was indeed formalistic and objective—which we

might just as well call an attempt to preserve at least some kind of autonomy for legal history as an academic subject against the onslaught of Soviet ideology. The party meetings continued, and in 1950, both Ilus and Leesment left the university 'by their own request'. Leesment's fate turned out to be particularly harsh. In 1951, he was arrested and deported to Siberia, sentenced to 25 years in a forced labour camp and a further 5 years of exile in the same region.

After Leesment's arrest and a few intermediary teachers, the teaching of legal history was taken over by Paul Vihalem (1910–1985), who soon also became the head of the Department of the Theory and History of the State and Law. Vihalem's background was in labour law, and he had not been previously involved in legal history research or teaching in the pre-war period. In 1941–1946, Vihalem was a member of the government of Estonian SSR as a People's Commissar of Labour. At the same time, until 1950, he worked as an academic in the Faculty of Economics, which at the beginning of the Soviet era had been split off from the University of Tartu Faculty of Law and attached to the Polytechnic Institute in the Estonian capital Tallinn. During the war, Vihalem had been active in the Soviet home front as a high Soviet functionary. Contrary to many other People's Commissars from the early Soviet period, Vihalem was spared from the above-mentioned cleansing campaign against bourgeois nationalists. However, neither was he readmitted into the top ranks of Soviet functionaries in Estonia. Perhaps the fact that his brother had emigrated to Sweden held him back. However, at the University Vihalem had in certain ways a very strong position. The sources nevertheless do not confirm the claim, found in Estonian history writing (Lust, 2010, p. 851), that Vihalem had been one of the main exposers of bourgeois nationalists at the University of Tartu's Faculty of Law. Vihalem returned to the Faculty of Law only after the bourgeois nationalists had already been driven out. His doctoral dissertation, defended as a manuscript in 1952 in Moscow and titled *Bourgeois Nationalists as Forgers of the History of the Emergence of the Bourgeois Estonian State*, was written in Russian (Vihalem, 1950). The library of the University of Tartu also preserves the Estonian manuscripts of the first and second draft of this work (Vihalem, 1945; 1946a). The second draft in particular is an exceptionally thorough piece of academic work, and even at this stage it was very accurately referenced and made effective use of sources from both earlier and more recent Estonian history. It was Jüri Uluots who had come forward with a theory of some persistence of the Estonian state or the Estonian national continuity from the 13th century Crusades until the declaration of Estonian independence during the First World War. It was this theory that Vihalem now criticised, deriving from it a justification for the Estonian nationalists' collaboration with German occupation authorities, something that Uluots' original concept certainly had not included. Notably, there was only one 'bourgeois nationalist' targeted by Vihalem's criticism, namely Uluots, though having escaped from Estonia in 1944 and having passed away in 1945, Uluots was beyond being hurt by any ideological accusations. At least in his Estonian manuscripts, Vihalem does not mention any other colleague still living, much less still living in Estonia and working at the university, whose earlier views could be classified as 'forgeries of bourgeois nationalism'.

Vihalem used partially the same materials in an article published in the journal *Estonian Bolshevik* (Vihalem, 1946b). In this article, an earlier publication by Leesment concerning the models and sources of Baltic Private Law codification is also characterised as a ‘forgery of history’. Nevertheless, Vihalem quoted it to prove a point about the old-fashioned character of Baltic Private Law Act, which was also the point that Leesment was making (Leesment, 1928, p. 254). The same view of the Baltic Private Law Act is also prevalent today (Luts, 2000; Luts-Sootak, 2019).

According to the reminiscences of Vihalem’s junior colleague Jüri Jegorov (born 1922), who worked at the Faculty of Law from 1947, Vihalem did not participate in the university’s witch hunt for ‘bourgeois nationalists’. Of all the academics in the faculty, Vihalem had the longest tenure as a member of the Communist Party—he was one of the ‘June Communists’ who had joined the party in 1940, immediately after the occupation of Estonia by Soviet troops on June 16. Nevertheless, many of the communists who had belonged to the leadership of the Estonian SSR and the Estonian Communist (Bolshevik) Party in 1940–41 and in the immediate post-war period were persecuted and repressed in the early 1950s, including several former People’s Commissars. Among other things, they were accused of bourgeois nationalism, even though it was they who had dismantled the Estonian ‘bourgeois’ nation state. It is possible that it was fear of greater repressions than being dismissed as the head of the Department of Soviet Law at the Polytechnic Institute and at the Section of Academy of Sciences in Tallinn that made Vihalem leave the capital in 1951 and retreat to the university town of Tartu. Jegorov claims that Vihalem was indeed scared of the party-incited witch hunt and the party activists of the time, who in the Law Faculty were concentrated in the Department of Civil Law and Process. There was also a reason to be wary of students since some of them were extremely active in the party. Several students had played an important role in bringing about Leesment’s dismissal.

Lavrentiy Beria, who became the next leader of the Communist Party of the USSR after Stalin’s death, planned to put in place new ‘national governments’ in Soviet union republics, even if they were loyal to Soviet rule (Tannberg, 2018). Beria did not get further than the planning stage, but the ‘thaw’, mainly associated with the name of Khrushchev, had nevertheless begun in the Soviet Empire. Even earlier, in Stalin’s times, students felt that the University of Tartu had been nowhere near as ‘Soviet’ as, for example, the Latvian State University in Riga (Vals, 1952). In his overview of the 1950 conference of the Scientific Association of Students, the acting secretary of the association’s Tartu branch, physics student Jaan Einasto, criticised the ideological passivity of the Tartu students compared to their guests from Leningrad and Riga:

Although the theoretical and ideological quality of the treatment of topics has markedly improved, we still encounter significant deficiencies. Occasionally, the treatment of the subject at hand is ideologically defective, the discourse lacks a combative, Bolshevik attitude (humanities sections). This is especially notable if one compares the presentations of Tartu students

in the history section to those of the guests. In the case of the latter, the ideological direction and justification of the presentation are accorded much attention. [...]

Comrade I. Jonane demonstrated an exemplary treatment of her topic in the presentation 'Bourgeois Nationalists—the Fiercest Enemies of the Latvian People'. Whilst Tartu student comrade E. Kask remained superficial in the treatment of the topic in her analogous presentation, comrade Jonane presented a deep analysis also of the role and impact of bourgeois nationalists in the Latvian State University, exposing the vile means by which the remnants of reactionism attempt to conceal themselves in order to continue carrying out their dirty anti-Soviet 'work'. It was also notable that the Tartu students carefully avoided criticising the academics of their own university. In the section of legal studies, for example, comrade Mölder sharply criticised objectivist and cosmopolitan errors in the central Soviet juridical literature, but tacitly bypassed the situation in our University. (Einasto 1950)

It seems that Tartu nevertheless retained an academic spirit that was different from Leningrad and Riga. A curious example of the retention of interwar era Estonian history in scholarly research and public discourse is provided, again, by Paul Vihalem. His 735-page monograph on the establishment of the Republic of Estonia and its first couple of years of existence, published in 1960, is the most voluminous work by any Soviet Estonian legal scholar (Vihalem, 1960). Vihalem furthermore published more books than any other member of the faculty in the Soviet period. Both his 1960 magnum opus and the following shorter studies bear extremely 'Soviet' titles: *The Estonian Bourgeoisie in the Service of the Imperialists*, *White Terror in Estonia*, *Elections in Bourgeois Estonia* and *The Transition of Estonian Bourgeoisie into the Service of German Fascism*. At the same time, all these books were very 'Estonian'. The fact that Vihalem was writing about the Republic of Estonia differentiated him from many other authors. While the books were written following the key dogmas of the Soviet ideology, his method was a very positivistic one, including many facts, intensive use of primary sources and appropriate quotations. At a time when ordinary scholars or common people did not have the access to literature from the time of 'Bourgeois Estonia', such books provided much information. Still in early 2019, when the Tartu Professor of Medieval History, Anti Selart, born in 1973, encountered me in the University library carrying around Vihalem's weighty monograph, he immediately said: 'That's a good book—lots of facts!' This was exactly what made Vihalem's writings valuable: a lot of facts, together with references to primary sources. A couple of years ago, Vihalem's junior colleague Jüri Jegorov told me how Vihalem and he had discussed whether to include in the book a quotation from the Baltic Entente Treaty (12.9.1934). The Baltic Entente was not a suitably 'Soviet' topic and the direct quotation from the *Estonian State Gazette* from the interwar era was an unusual thing to have. There is furthermore a clear difference between academic writings and works addressed

for a broader readership. Works especially meant for a scholarly audience (Vihalem, 1960; 1961; 1963b) contained more ‘forbidden’ references, while a popular scientific brochure contained almost no citations at all and its bibliography only listed works published in the Soviet period (Vihalem, 1963a, *passim* and pp. 173 sq.). The volume *The Transition of Estonian Bourgeoisie into the Service of German Fascism* was published in two versions. The first was published by the university publishing house and was meant primarily for use inside academia (Vihalem, 1963b). The version published by a large state publishing house does not refer to the previous version and omits its references to foreign literature, although preserving the citations of primary sources (Vihalem, 1971).

The fact that Vihalem referred quite frequently to Western literature, and even Estonian émigrés living in the West, is significant in the Soviet context. All such literary and scholarly riches were locked away in the library’s special stacks and it was unthinkable for an ordinary scholar to include them in footnotes. But Paul Vihalem was not an ‘ordinary’ Soviet scholar; he was one of about 1,000 persons in the Estonian SSR who had been awarded the Order of Lenin. In Tartu humanities and social sciences, he was the only one to have received such a high Soviet decoration. He therefore had more freedom of speech than other people, even other professors.

It is not easy to sum up and evaluate Vihalem’s activities. In an Estonian context, he was certainly a hardcore Communist. But at the same time, he was an Estonian patriot and did a lot for the research of Estonian history, also by supervising several candidate dissertations in the legal and political history of Estonia: on the emancipation of Estonian peasants from serfdom and the development of the institutions of self-government in the countryside in the 19th century (Traat, 1955), on the relations between the state and the church in the interwar period (Sillaste, 1974), on the foreign relations of the Republic of Estonia in the same period (Jaanson, 1975) and on the rise of the authoritarian regime in Estonia in the 1930s (Kiris, 1972). I am not sure the three last topics would have been ‘dissertable’, to use a Soviet expression, if their supervisor had not been the June Communist and Order of Lenin laureate Paul Vihalem. Dissertations about the constitution of Estonian SSR (Kärtner, 1954) and the transition of state power in the first Soviet year in Estonia (Truuväli, 1966) would, on the other hand, have been ‘dissertable’ even with some other supervisor.

In 1956, after Stalin’s death, Leesment was freed from the prison camp and could return to Tartu. For about a year, he found it impossible to find work and made a living as a translator, translating almost anything, including reports of the state of the canteen, summaries of student dissertations and a speech by the rector of the university (Rand, 2003, p. 120). After that, he was able to find employment only in the university library, initially merely as a bibliographer, but from 1957 onward as the head of the library’s manuscripts and rare books department. He held onto this job until he retired in 1965, but spent even later much time with his colleagues in the library, and has been remembered by them as a highly erudite and very helpful old gentleman. The later Professor of General History, Helmut Piirimäe (1936–2017) recalled his contacts with Leesment that

had already begun in Piirimäe's student years and continued until the end of Leesment's life:

In conversations with the revered scholar who had returned from the Siberian prison camp, I was struck by his astonishing optimism. He did talk about the horrors of the prison camp, but his main emphasis was on how wonderful the people had been who he had met there, and especially on which languages he was able to learn. As I remember, one of them was Dutch. (Piirimäe, 2007, p. 138)

Chiefly thanks to being invited by Jüri Jegorov, Leesment lectured on some topics in general and on the Soviet the history of state and law before his retirement and became a regular participant in the university's teaching activities after his retirement. The Soviet 'thaw' was not the only reason—every Soviet pensioner enjoyed the right to work for two months every year with full salary and pension. Leesment used this right to teach at the university. In addition to his activities in legal history, he helped to establish the very strong and later famous circle in Oriental studies and participated actively in the equally famous research in Scandinavian history. Leesment had always been interested in foreign languages, knew many of them and had already before the war written several articles on Swedish, Austrian and even Chinese law.

From the 1960s onwards, Leesment published a large number of articles on a great variety of topics from a wide range of different fields. His last longer piece of work was the manuscript of a textbook in the history of Baltic state and law (Leesment, 1949). The numerous articles published after his return from Siberia were generally short. However, it is impossible to agree with the claim that in these writings, Leesment was satisfied with 'merely revisiting old topics' (Järveld, 1992, p. 153). On the contrary, for the most part Leesment tended to take up questions that he had not given a more detailed treatment in his earlier work. Often, his writings were inspired by some curious fact, interesting source or association. They made their way to Estonian lawyers through the only law journal of the Soviet era, 'Soviet Law' (*Nõukogude Õigus*) published 1969–1989 six times a year. This journal included a separate section, 'A glance at history', that very often contained Leesment's articles. In the early 1950s they would have doubtlessly be branded as 'formalism' and 'objectivism', but in the 1970s and 1980s, scholarship was freer even in the Soviet Union and the Communist Party and state security much more indifferent towards the spoken and written word. Leesment's short articles had an even more far-reaching role in forming the field of knowledge about legal history in Estonia. Their number was remarkable. According to a list compiled by himself, he had published 215 articles between his return from Siberia in 1956 and June 1981 (Leesment, 1981); and from the following period, I found 9 more in the Estonian article database. This would of course need more thorough research, but on first sight it would seem that, given the number of his publications, Leesment was the most prolific author in the history of Estonian legal scholarship—even before the period 1956 to 1981, he managed to publish more than a hundred publications.

I have several times mentioned Jüri Jegorov, who taught at the University of Tartu a total of a hundred academic terms from 1947 to 1996. In 2019, he turned 97, and for his age, he is in an extraordinarily good shape, both mentally and physically. Thanks to what he remembers, the events that he can draw attention to and the background processes that he can explain, we have begun to understand Soviet era academic and university life so much better. Born in 1922, he graduated from high school in the summer of 1941 and was immediately conscripted into the Red Army. He was wounded at the front at Leningrad and was therefore given an opportunity to study. His first choice was the Faculty of Foreign Languages at the Leningrad State University, but he left it after a few months and continued his studies at the Higher School of Economics. After the Atlantic Charter was agreed between the United Kingdom and the United States in January 1941, the USSR began its own preparations for the new United Nations (UN). As already said, Stalin wanted to secure as many votes as possible at the UN General Assembly and therefore planned to include in the organisation either all or at least more developed republics of the Soviet Union, each with a separate vote (Russell, 1958, pp. 359, 361 sq., 433 sq., 533 sq., 596 sq.). This meant that a few diplomats from each republic needed to be trained for this purpose. Jegorov happened to be one of the two Estonians who were appointed to study at the Higher School of Diplomacy by the Ministry of Foreign Affairs of USSR. Jegorov studied there during the years 1942–1946, when the teaching staff at this academy had been recruited to be as strong as it could still possibly be after the purges that had been carried out in the Soviet Union of the ‘intelligentsia’ and the academic elites in the 1930s. After Stalin’s plan of the broadest possible takeover of the UN had failed, the newly educated diplomats were redirected to be employed in the regular foreign service. For family reasons, Jegorov nevertheless wanted to return to Estonia. Both his father and mother were deaf and needed his help. His father, Andrei Jegorov (1878–1954), was an artist who had studied in St Petersburg under Ilya Repin and other famous Russian painters; before the war he had mingled with the political elites of the Republic of Estonia and foreign diplomats. Jüri Jegorov’s sister had married a nuclear physicist and was therefore only allowed to live in a closed Russian military city. Thanks to Jegorov’s good relations with Juhan Vaabel (1899–1971), a scholar of financial law and a member of the Academy of Sciences of the Estonian SSR, as well as thanks to the urgent plea by the rector of the University of Tartu stating that the university desperately needed a teacher of international law, Jegorov became an academic at Tartu State University. The rector had been somewhat disingenuous: the actual need for an international law scholar was hardly great. Roughly at the same time, another academic was appointed in the same field: Abner Uustal (1915–1985), who was later promoted to professor of the same subject (Mäliksoo, 2006, pp. 483 sq.).

Jegorov with his training as a diplomat, something that was extremely rare among Estonians, was from the beginning left somewhat aside and he also himself preferred to keep away from the limelight. His views of the lectures of the colleagues who had been classified as bourgeois nationalists were rather complimentary and supportive of the denounced academics. Instead, he criticised

‘socially active’ students (i.e., those active in the party), who had supposedly busied themselves ‘with their own’ things instead of paying attention in the political education classes (Raid, 1995, pp. 162 sq.), and a colleague who had levelled accusations against others (Lust, 2010, p. 850).

During his first years of working in Tartu, Jegorov taught the ‘History of International Relations’ course not just to the students in the Faculty of Law but also to history students. The meticulous lecture notes of Olaf-Mihkel Klaassen (1929–2012), later the Professor of Oriental History at Tartu, give us an insight into the content of Jegorov’s lectures (Jegorov, 1948–49). At the same time, Jegorov cooperated closely with the staff of the Faculty of Medicine. The doctors had been accused of lacking political education and of too little dissemination of party ideology. For that reason, Jegorov periodically gave lectures to the members of the Faculty of Medicine, but he says he did it in a quiet voice so as not to wake them: the doctors worked hard and were all permanently tired.

In 1950 Jegorov defended in Moscow his candidate dissertation in law. The topic was very ‘Soviet’ both in content and appearance, but the sources that he used were very ‘Baltic’. The topic was *The ‘Neutrality’ of the Scandinavian and Baltic Countries—as one of the means of unleashing World War II and facilitating German aggression (based on materials from the pre-war and wartime)* (Jegorov, 1949). Somewhat later, the question arose whether Jegorov was qualified to work at the Faculty of Law, since ‘he does not possess a specific qualification in law’ (Raid, 1995, p. 192). As already said, Jegorov nevertheless continued up until the 1990s. From 1961, he was docent in the History of the State and Law. The fire that engulfed the main building of the university in December 1965 also destroyed the draft and materials of Jegorov’s doctoral dissertation. He never fully recovered from this setback and his doctorate remained unfinished.

In order to survive in the Soviet system and to have as little as possible to do with the party policy and the so-called ‘social assignments’, Jegorov developed some of his own strategies. The Law Faculty was in the main building of the university, where the rectorate and the Communist Party also had their offices. Jegorov avoided the main building as much as possible. For this purpose, he had a workplace in the so-called permanent agitation point for the elections of Soviets, far away from the Law Faculty, in the basement of the Life Sciences building. Jegorov was the young colleague with whom Vihalem discussed the presentation of the Baltic Entente in his book. In Jegorov’s own publications, one can also find long lists of so-called ‘bourgeois authors’ who had allegedly ‘falsified’ history. But it was also possible to read these lists as lists of recommended readings. Up until the second half of the 1980s, Jegorov ordered his students to use old legal history textbooks that had been translated into Estonian immediately after the war—at the time rare even in libraries, not to mention bookshops. The authors—Stepan Kechekjan (1890–1967) and Ivan Pereterski (1889–1965)—had received their education and become active as scholars already during the last years of the Tsarist state, when Russian legal scholarship was at the peak of its ‘Western’ orientation. Kechekjan’s master’s dissertation from 1914 had been on the ethical worldview of Baruch Spinoza. Pereterski was the best Soviet specialist on Roman law and

international private law; he had translated some parts of Justinian's *Digest* into Russian. Their textbooks, translated into Estonian immediately after the war, had been edited by doctors and professors of law from the time of Estonian independence, namely Leesment and Ilus. We therefore see how Jegorov kept the best textbooks that were available in Estonian in the Soviet times in teaching use for a whole 50 years, approximately the entire Soviet time. And another small thing. One arbitrarily picked excerpt from the big Codification of the Baltic Private Law Act from 1864 lacked any relevant connection to the subject of town administration, but one can find it as an appendix to Jegorov's compendium on the Old Livonian Diet (Jegorov, 1966, appendix I). The private law was a matter of 'bourgeois' society and therefore had to be covered under the protective coat of medieval institutions.

It would be possible to continue the list of small tricks employed by Jegorov in his publication and teaching strategies. The older generation of Estonian lawyers still alive can tell many anecdotes about him and the things he had said, but this should suffice for the purposes of this article. Jegorov managed to survive the Soviet period without engaging in too much cooperation with the Communist Party and other Soviet institutions. In comparison to many others of his contemporary colleagues, his contribution to the 'party-oriented transformation' of the study of law was very modest indeed.

Concluding remarks

This article is the first attempt to present an overview of the practice of teaching and research in legal history in the Estonian Soviet Socialist Republic (1940–41 and 1944–91). I have particularly focused on the so-called covert resistance to Soviet regime and ideology. It appears that one of the most significant expressions of this resistance was the authors' practice of including in their publications references to primary sources as well as to publications by Western authors and Estonian emigrants. Unfortunately, this form of covert resistance had its inherent limitations: the readers were for the most part not clever enough to discover all these secret signs, and the literature that was criticised—but nevertheless quoted—was mostly not, or at least not freely, available in Soviet Estonia. It was not only students who failed to pick up such hints, but also younger academics who did not have personal memories of the interwar-era Republic of Estonia.

Vihalem published himself and also supervised several candidate dissertations by lawyers and historians on Estonian history. Leesment encouraged in particular Järveld, who was the Professor of Estonian Legal History at the University of Tartu in 1992–1997. After Järveld left Tartu, the department lacked a professor for a few years until I had the honour of being appointed the Professor of Legal History in 2003. Since then, legal historians in Tartu have developed a particularly warm and friendly relationship with Jegorov, who has shared with us his memories and observations of the Soviet era. He does not want to publish memoirs, since he is afraid of accidentally hurting someone, and says that the Soviet period had already done enough of that in Estonian history.

Finally, I wish to thank the historian of science Erki Tammiksaar (b. 1969), who kindly allowed me to read his still unpublished manuscript on the history of the University of Tartu in the last 100 years. In this way, it was possible to come across a number of sources that had not been used in previous research.

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