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“We had to accept very early that we would not get complete justice (...) That means having to live and work with and rebuild the country together with people who had treated us badly in the past (...)”

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1. Introduction: The Estonian way

An essential challenge facing a society in transition stems from the legacy of the former power elite. A compelling need to restore moral order by the assessment of the abdication of the rule of law and violations of human rights requires an opportunity to face the past and its consequences. The process of dealing with the past includes a strong commitment to revealing the truth² and redressing the past. The critical question around the issue is what is considered a proper reaction towards leaders and perpetrators who were responsible for oppressive activities and other violations of human rights, many of whom remain part of the new political structures or hold important positions in public life. The central tension is between the politics of compromise, the essence of which is to leave the past intact, and the radical notion of justice.³ Thus, the key dilemma facing the emerging democracies is whether past violations should be forgotten or confronted, forgiven or prosecuted.⁴

In Estonia, as in Eastern Europe in general, profound political and economic transformation created a need for a coming to terms with past human rights abuses and violations.⁵ Recovery of historical truths was regarded as important in providing a durable basis for the development of a political community. The Estonian approach, however, has been characterised by a politically ambiguous debate which has failed to

¹ Cited in Mark Gevisser, 'Can South Africa Face Its Past?' *Nation*, June 26, 1995, pp. 920-921.

² Given the multi-dimensionality of the truth, by the concept of truth, I mean the historical facts as accurate and impartial answers to the much speculated questions, based on a broad consensus, common understanding and concrete evidence. I do, however, acknowledge that there are only partial truths which have the capacity to challenge each other, depending on the perspective through which they are viewed.

³ Alex Boraine, 'Justice in Cataclysm: Criminal Tribunals in the Wake of Mass Violence.' The collection of TRC speeches, July 1996.

⁴ Anton Steen, *Between Past and Future: Elites, Democracy and the State in Post-Communist Countries* (Singapore & Sydney: Ashgate, 1997), p. 89.

⁵ Roger E. Kanet, 'Demokratisierung in der Welt und das Vermächtnis der Vergangenheit.' *Osteuropa*, vol. 48, no. 3, 1998, p. 300.

develop a consistent policy. Until recently the official strategy for dealing with the past has provided little incentive for reparation of past injustices, as the crimes committed by the communist regime have not been expiated. The information concerning the actions of the former employees of the secret services as well as the members of the Estonian Communist Party (*Eestimaa Kommunistlik Partei*) is not readily accessible, and particularly incriminating material is believed to have been destroyed. It is clear that no exclusive attempt has been made to prosecute acts of human rights violations and, with the exception of a few individual cases, the offenders have not come before a court. In fact, only two of the cases taken to court have been decided.⁶ Furthermore, there has been no national reconciliation⁷ or reparation⁸ in Estonia to date.⁹ Former communists, who currently occupy important public positions under the new regime, have contributed little to the recovery of past misdeeds. Nevertheless, the country's development continues to be influenced by a number of former members of the communist party who have now adopted other party orientations.

Although Estonia is still in the process of dealing with the past, it can be concluded that until recently there has been no notable interest in a comprehensive unveiling of the past, and officially the desire to 'forget' about the past has prevailed. The aim of this study is to reveal the ultimate reasons for adopting of the 'no-reaction' solution in Estonia during the immediate period after the independence, as well as for the

⁶ The trial against Johannes Klaassepp was decided 26.1.1999. The former NKVD operation officer, found guilty for being responsible for the deportations of 23 people, was sentenced for eight years of imprisonment on probation for "crimes against humanity." *Eesti päevaleht* 27.1.1999. Also Vassili Beskov, the former NKVD security employee was given a sentence of eight years of imprisonment on probation 10.3.1999, and was ordered to pay 30 000 Estonian crowns legal expenses to the state. He was charged for signing an order for the deportation of 210 people. *Postimees* 11.3.1999.

⁷ Generally, reconciliation embodies positive connotations about coming together and healing past conflicts, by highlighting the need for improved communication and understanding between groups, thus leading to a greater co-operation and co-existence at individual and political level. Brandon Hamber & Hugo van der Merwe, 'What is this thing called Reconciliation?' Paper presented at the Goedgeacht Forum 'After the Truth and Reconciliation Commission.' Cape Town, 28 March, 1998. Thus, reconciliation implies the restoration of relationships, the rebuilding of trust and the overcoming of animosity. Pumla Gobodo-Madikizela in the public discussion 'Transforming Society through Reconciliation: Myth or Reality?' Cape Town, 12 March, 1998.

⁸ Reparation is defined as "the acts of the instance making amends" usually by giving compensation to those who suffered injury, loss or injustice. Jayni Edelstein, 'Rights, Reparations and Reconciliation.' Centre for the Study of Violence and Reconciliation. Seminar no. 6/1994.

⁹ Property restitution to pre-war owners of private property, however, has been carried through according to the Law of Land Reform (chapter II, § 5-19) and the Law of Property Reform (chapter II, § 6-19). This restitution has been accomplished in the name of undoing the historical injustice. Prit Järve, 'The Baltics in the Early 1990s-Between Democracy and Authoritarianism.' *Politiikka*, vol. 34, no. 4, 1992, p. 313. In the Baltic states, Russia is held responsible for the compensation for the sufferings under the Soviet regime. In Latvia, for instance, the Congress of Political Repressed has demanded Russia to pay compensation for hard labour in unbearable conditions according to international standards. *The Baltic Independent*, July 9-15, 1993. A question of reparation, however, raises a serious doubt about the possibilities of compensating for a loss of honour and life chances. It could, however, serve the psychological process of symbolically acknowledging the suffering of individuals. Truth as well as social and

recent revise of the Estonian approach towards its past, illustrated by the notable increase in the interest in filling the gaps of history, by examining public debate on the issue and by discussing the variety of aspects and historical preconditions that have influenced the formation of the Estonian way of dealing with the past. The focus of this study is to examine the Estonian approach towards its past in terms of the violations that occurred under the Soviet occupations, and consequently the Nazi period lies beyond the scope of the present research report.

Clearly, dealing with the past is an extremely sensitive issue, and the debate about possible strategies has been characterised by a variety of conflicting arguments. In Estonia the discussion has largely been about the extent to which information on past abuses and activities, for instance the lists of former KGB associates and their deeds, should be revealed.¹⁰ Former dissidents, in particular, have emphasised the importance of confronting the past. Their claims have, however, largely been ignored. Rather than having created a constructive agenda for a coherent solution, the public debate has, to a large extent, been connected with political ambitions.

The strategy chosen is a consequence of a variety of structural, political and historical aspects.¹¹ Obviously, it can be argued that in Estonia the considerable 'no-reaction' solution which prevailed for the first few years after the independence was due to the interest of the former political elite, many of whom had a personal interest in covering their past activities, not to be confronted with the past. Indeed, underestimating the past for political reasons has been commonplace when specific actors have covered up their involvement in illegal activities and have had the power to orchestrate such cover ups. These models of reacting interfere with political ambitions in defending positions and attacking opponents. As Peter Storey has asserted: "In any struggle the enemy becomes demonised and there is a tendency to find evil in personalities."¹²

Moreover, it is clear that national consolidation and the desire to forget about the past have played an important part. The costs of politically disruptive processes and a loss of competent persons has been regarded as a major problem facing the new state. Since Estonia had limited resources of experts and professionals during the immediate period after independence, the state's need for consensus and the continuity of basic

psychological rehabilitation and acknowledgement, however, are generally placed before the need for compensation.

¹⁰ Steen, pp. 93-94.

¹¹ Hans-Cristian Maner, 'Die andauerne Vergangenheit.' *Osteuropa*, vol. 48, no. 10, 1998, p. 1025.

¹² Peter Storey, 'Reconciliation and Civil Society.' Paper presented at the Centre for the Study of Violence and Reconciliation conference 'Making Ends Meet: Reconciliation and Reconstruction in South Africa.' Johannesburg, 18

government positions contributed to a loss of interest in confronting the past. Since then, the scope of the need for competence has, of course, drastically altered which may be a determinant factor for the recent change in the attitudes towards the revealing of the past in Estonia. Furthermore, the fact that majority of those who were involved have passed away, makes it easier to discuss these matters in public.¹³

In addition, as the previous deeds of the former communists and the proportion of the participants in oppressive structures contribute to the strategy chosen, it is essential to discuss the historical aspect of the matter, and consider structures and actions of former oppressive organisations. Hence, the way that Estonia has approached the problem of reaction towards former elites has been partly dependent on the relatively small proportion of Estonians who participated in suppressive acts. In order to develop the argument, it is necessary to examine the demographic structures of the oppressive regime responsible for the repression. Finally, structural factors such as ethnic structure and geopolitics are essential in understanding inaction demonstrated by Estonia which has tried to ensure integration due to the complicated ethnic circumstances.

In short, my argument lies on the premises that the Estonian approach needs to be regarded as a solution formed in a specific structural context, by a variety of complex and interrelating aspects and interests. In order to understand the process, it is necessary to study in detail the arguments presented in the public discussion as well as the contributing factors and criteria for the Estonian solution which, at present, is in the state of flux.

2. The discussion about the Estonian alternatives of dealing with the past

2.1. Forgetting or Remembering?

A country facing the challenge of democratisation after a period of dictatorship has a set of obligations in respect to the legacy of the past. Its major responsibility is to the future: it is obliged to ensure that dictatorship never emerges again¹⁴ by revealing the past abuses and by reconstructing a coherent understanding of the past, since the lack of verification

August, 1994.

¹³ An interview with Max Jakobson, published in the Estonian weekly Luup, 8.2. 1999.

¹⁴ Tina Rosenberg, *The Haunted Land: Facing Europe's Ghosts After Communism* (New York: Random House, 1995), 397.

of past events creates doubts and scepticism about the truth which, in its part, may hinder the process of democratic transformation by creating divisions within society. As H. Richard Niebuhr has stated: “Where common memory is lacking, where people do not share the same past, there can be no real community and where community is to be formed, common memory must be created.”¹⁵ This approach has also been supported by Roberto Canas who suggests that “unless a society exposes itself to the truth it can harbour no possibility of reconciliation, reunification and truth.”¹⁶ It has been further argued that it is important to embark on ‘remembering processes’ that are widely accepted by the general public in establishing an official record of the past. If these processes are made official and supported by the government, they are inevitably more effective.¹⁷ An official form of assessment regularly consists of the judgement of the findings on the context, causes and patterns of violations as well as identification of those involved.¹⁸

Also in Estonia establishment of a realistic picture, based on the historical facts of past deeds is viewed as a critical precondition for the development of democratic principles. Clearly, the path to democracy is a process built on the experience of the past.¹⁹ Hence, the importance of the political background as a codeterminant of the development and stability of democracy is essential.²⁰ Also Boraine (1996) claims that impunity threatens belief in democratic society. The fact that those who are responsible for past misdeeds are forgotten, and the demand for justice is denied, creates doubts and fears about democratic ideas and ideals. This may limit the possibility of moving ahead and creating a common just society. The essential precondition for the commitment to democratic transformation requires a serious attempt at dealing with the legacy of the past by creating an official evaluation and assessment of past human rights abuses. As Human Rights Watch has concluded, any country wishing to come to terms with its past and successfully turn its attention to the future is required to establish the truth of the past

¹⁵ Cited in Lyn S. Graybill, ‘South Africa’s Truth and Reconciliation Commission.’ *Ethics and International Affairs*, vol. 12, 1998, p. 49.

¹⁶ Boraine (1996), *op.cit.*

¹⁷ See Brandon Hamber, ‘How should we Remember? Issues to Consider when Establishing Commissions and Structures for Dealing with the Past.’ The speech given in the conference on Dealing with the Past Reconciliation Processes and Peace Building, Belfast, Northern-Ireland, 9 June 1998. For a comprehensive analysis of remembering processes and a concept of dealing with the past, see Anna Wolff-Poweska, ‘Geschichte im Dienste der Politik.’ *Osteuropa*, vol. 47, no. 3, 1997.

¹⁸ Alexander Boraine, ‘Can Truth Telling Promote Reconciliation?’ The collection of TRC speeches, March 1998.

¹⁹ Jack Bielasiak, ‘Substance and Process in the Development of Party Systems in East Central Europe.’ *Communist and Post-Communist Studies*, vol. 30, no. 1, 1997, p. 30.

²⁰ Jürgen Habermas, *The Past as Future* (Cambridge: Polity Press, 1994), p. 62.

officially.²¹ Democratisation, then, must be accompanied by official acknowledgement of past abuses, since the recovery of shared memory is important in providing a basis for development of a democratic political community.

The further obligation a country faces is to the victims of the previous regime as well as to the society as a whole. Here the requirement for revealing the past is of psychological character and the importance of acknowledgement of abuses lies in the individual and collective cognitive recovery. The need to clarify and appropriate the truth seems vital for both the individual and the society, since the traumas do not simply pass or disappear with the time. Inaction, then, confuses and creates ambiguous social, moral and psychological limits.²² Thus, only by creating an accurate picture of the past, individual and broader society can be liberated from the legacy of the past. This approach is supported by the Estonian experience whereby the supporters of the official assessment and unveiling of the past have regularly been those who suffered, in one way or another, from the repression and human right abuses. Smyth concludes that “for people who have lost family members, there are strong feelings of injustice in cases where there are unanswered questions (...) resolution and healing is often impossible in the absence of knowing more (...)”²³

Due to a tendency to avoid responsibility for official clarification of the past, the victims are unlikely to forget even with the passage of time. Truth, clearly, is fundamental for healing. If the past is ignored, the past traumas can be expected to have serious emotional consequences. Thus, the human aspect, concerning the psychological and emotional needs, must be incorporated into the uncovering of truth. Furthermore, the society that does not investigate and reveal the past crimes blurs the norms of right and wrong which creates ambiguity and disrespect for prohibition and laws as the lies and denials are institutionalised and defended by the laws of the country.²⁴ Equally significant is the fact that in the absence of disclosure and public knowledge of past human rights abuses, the institutions of new government may well retain unchallenged their organisational culture of unaccountable and cover activity.²⁵

In Estonia demands for an official assessment of the past, based on these assumptions about the dynamics of democratisation as well as the logic of psychological

²¹ See Hamber.

²² See Boraine (1996) for further discussion.

²³ Hamber, op. cit.

²⁴ See Boraine (1996).

²⁵ Graeme Simpson & Paul van Zyl, 'South Africa's Truth and Reconciliation Commission.' *Temps Modernes*, no. 585,

recovery, have prevailed in public discussion. The debate has, to a large degree, followed the general line of argument met in other countries which are confronted with the problem of dealing with the past. Moreover, information about the past activities of influential persons has received major focus in the debate, and the demands for official evaluation of the communist past as well as for the condemnation of the Estonian Communist Party and the KGB as “criminal organisations” reflect the country’s struggle to evaluate the past and identify those responsible for repression.²⁶ Despite the demands, the Estonian government has, to date, failed to create a coherent official statement about the Soviet past. Although, it is officially accepted that the occupation of Estonia by Soviet troops was an unlawful act, and the secret protocols of the Molotov-Rippentrop agreement as well as information concerning the Soviet terror and subsequent mass deportations under the Soviet regime have been published, the official assessment is yet to be formed.

In the absence of such public acknowledgement widespread resentment is likely to manifest itself in informal retribution at both an individual and collective level, resulting in escalating violence under the new democratic dispensation. It can be maintained that in Estonia, however, official ignorance has been explained by the need to leave the psychologically painful past undisturbed which, if unmanaged, could have caused further unrest in the early stage of the state-building. ‘Forgetting’ the past has been further supported by the claim that it allows the younger generation to distance itself from the past abuses and create a future unpolluted by the past. Furthermore, some have urged Estonia to look into the future, insisting that national unity requires moving forward. These assertions, however, have generally been made by political actors without a real appreciation of the psychological and social processes at play. In the name of maintaining social peace, the political boundaries of compromise, then, have been turned into analytical boundaries of truth seeking. This approach leaves a great deal of questions unanswered, and can, in its part, contribute to the increase of denials, half-truths and lies, as the number and gravity of political atrocities are ignored. Former dissidents in Estonia, in particular, argue that nothing should be forgotten.²⁷ They regard the society-wide

1995. Available on the Internet: <http://www.wits.ac.za/wits/csvr/papgs&pv.htm>.

²⁶ See, for instance, Postimees 3.2.1999. The similar statements have been presented in Poland where the ruling Solidarity bloc has pressured government to rule the former communist regime of “criminal character“, and the communist party as a “criminal organisation.“ Andrzej Stylinski, ‘Poland argues its communist past.’ Available on the Internet: <<http://www.nando.net>>.

examination of the nature of dictatorship essential for the future development of the country.

Marju Lauristin has suggested that in Estonia the expression of national strength during the independence process acted as a means for national healing and contributed to the psychological cleansing of the past.²⁸ Although personal experiences are hard to forget, clearly a feeling of community promoted the reconciliation of the past cleavages in the society, contributing to a general unwillingness to dig extensively into the past during the immediate period after restitution of the independence. Obviously, overwhelming experiences of freedom and national consciousness overweighed the desire to reveal or even memorise past horrors. Thus, this process labelled the whole nation as a 'victim' of the Soviet occupation and repression, contributing to the healing of the divisions within the indigenous population. This, however, was only a temporary stage in the process and insufficient in solving the underlying problems of reconciliation and coming to terms with the past.

In Estonia the public interest in examination of the past has been mainly restricted to the early years of occupation and the crimes committed during the Stalin era. This is illustrated by the 'Law of the Mass Repressions in the Soviet Republic of Estonia in 1940-1950,' which took legal effect in 1988 and empowered the Estonian procurator to investigate the human rights violations committed in the post-war period only.²⁹ Furthermore, the discussion has been characterised by a case-by-case approach focusing on the most openly criminal cases and high ranking persons who are suspected to have collaborated with the KGB.³⁰ Willingness to clarify the past has, indeed, been illustrated by the public debate which has concentrated on the information concerning the deeds of the former associates of the communist regime. Here the critical question has been how to handle the information collected in the KGB archives. The issue has been especially delicate as influential persons are directly affected, and the authenticity of the lists of names of those suspected to have been collaborated with the KGB is not guaranteed.³¹ In addition, claims that these lists are incomplete - containing only minority of those involved - have dominated the public discussion. The problem of revealing the documents was further illustrated by the address book found in the Tartu KGB

²⁷ Author's interview with Ülo Seppa 8.1.1999.

²⁸ Marju Lauristin & Peeter Vihalemm & Rein Ruutsoo, *Viron vapauden tuulet* (Helsinki & Jyväskylä: Gummerus, 1989, p. 149.

²⁹ Heino Tõnismägi, *Ülekohtu toimikud* (Tallinn: BSN Kirjastus OÜ, 1998), p. 113.

³⁰ Steen, p. 93.

headquarters in August 1991 which contained the names of public figures allegedly connected with the KGB. Controversy stalked the issue as the authenticity of the list was questioned. The political battle between the Fatherland (*Isamaa*) coalition and the former mayor of Tallinn, Hardo Aasmäe, entered the media, with the promise of the *Eesti Aeg* to publish a list of 80 names.³² The issue became topical following claims of continued control of the KGB in Estonia.

There has been tremendous pressure on many key politicians to give full account of their past regarding connections with the KGB organisations, in particular, during political campaigns.³³ The debate has, in general, mirrored political conflicts as the accusations have often been raised due to the self-interested attempts to strike political opponents. This, to a large extent, has reduced the possibilities for minimal consensus on the principles of dealing with the past, which is required for the successful working out of the past. The desire to use the allegations of KGB connections in political competition was illustrated by the accusations against the presidential candidate Lennart Meri before the presidential elections of 1992. The debates during the election campaigns and accusations of KGB involvement have, indeed, been especially bitter, as the election for rector of Tartu University in May 1993 illustrated, when a list of alleged KGB informers published in the *Eesti Aeg* cast a cloud over the election revealing names of two of the six candidates standing for the post.³⁴ The accusations have raised public discussion, failing to create a political solution for the issue.

The debate was further promoted by a law, calling for registration of former KGB agents and their collaborators, set up in March 1995. According to the law, the registration lists are classified as a national secret, except in cases involving crimes against humanity or if the registree is a member of the parliament or the president. After the registration period expires, the names of unregistered suspected collaborators will be published. Former high officials of the KGB argued that there is a danger of blackmail even if agents obey the law. Moreover, they predicted the ineffectiveness of the law. Former KGB major Enn Keemann stated that conversion of former KGB workers into loyal agents of Estonia (a practice followed by Latvia) would have been the only effective solution. It was further claimed that disclosing the files of former KGB employees should have been balanced against information about persons who were only

³¹ The Baltic Independent, March 26-April 1, 1993.

³² Ibid.

³³ The Baltic Independent, June 18-24, 1993.

³⁴ The Baltic Independent, May 7-13, 1993.

registered as potential contacts and those unaware of their registration, since agents zealous to fulfill recruitment quotas often included people who were unaware of their KGB connections. The files were seen as unreliable sources also because they included a mix of serious official papers as well as relatively innocent documents. Further complication arose from the fact that a great deal of archives had either disappeared³⁵ or been destroyed, and most files had been taken to Russia in 1989.³⁶

It has been argued that exposing the past would promote the manipulation of the information for political and economical ends. In Latvia, however, the major justification for exposing the files have been to prevent blackmailing. Andres Saulitis has explained that “by opening the whole bag to the public, it left no room for political blackmail (...)”³⁷ The problem with a great deal of information hidden away is that accusations and threats about revelations have an impact on politics. Indeed, as George Orwell has asserted: “Whoever controls the past controls the future.”³⁸ Disclosing the complete files, however, would possibly create a confusing situation where innocent and guilty persons are put in the same basket. An incremental strategy, on the other hand, would preserve a controlled process making possible publishing only parts of the documents which refer to the genuine cases.³⁹

2.2. Prosecuting or Forgiving?

In Estonia several kinds of reaction have been discussed in public, and it appears that a relatively high percentage (34%) of Estonians wish no reaction at all whereas a minority (8%) support the cases to be taken to court. The public is clearly even less inclined than the elite to support the court cases.⁴⁰ Although there are clearly those who want to see the offenders tied and convicted, most simply want the truth. Obviously, the public believes that calling responsible persons to account might create conflicts of interests and have unpredictable consequences. Digeser supports the view, claiming that “punishing may have further effects that are unacceptable.”⁴¹ Mahdami goes on to say that “truth must be

³⁵ A parliamentary commission dealing with the KGB files in Estonia has announced the absence of about half of the files. *The Baltic Independent*, June 3-9, 1994.

³⁶ *The Baltic Independent*, March 17-23, 1995.

³⁷ *The Baltic Independent*, March 1-7, 1996, op.cit.

³⁸ Hamber, op.cit.

³⁹ Steen, p. 97.

⁴⁰ For statistics, see the tables in Steen, pp. 100, 102.

⁴¹ Peter Digeser, 'Forgiveness and Politics.' *Political Theory*, vol. 26, no. 5, October 1998, op.cit., p. 710.

joined to a form of justice other than punishment, otherwise the recognition of truth is likely to breed outrage in victims and fear in beneficiaries.”⁴²

In Estonia it has been generally held that to prosecute people who have committed crimes in the course of conflicts of the past would undermine the stability necessary to support a fragile democracy. This assumption lies in the nature of the communist regime itself which affected the scope of social complexity by labelling everyone a co-conspirator, as even the most natural responses of self-preservation were regarded as acts of collaboration.⁴³ Thus, in the absence of clearly identifiable actors it is questionable whether the country could afford an extensive number of trials, not merely in financial terms but in the damage caused to the building of a peaceful and stable society by creating further divisions. Additionally, the number of court cases, if based on this broad definition of offender, would overwhelm the capacity of the Estonian judicial system. Even the individual approach has its defects since it is widely believed that each violation was an act participated by a number of actors on the various levels of state structure and hence no single person can be held responsible.

A ‘no-reaction’ approach, however, runs counter to the claim that justice is needed when one has been unjustly treated, and justice requires punishment and compensation.⁴⁴ The policy of compromise is at odds with the strict notion of justice. Human Rights Watch further states that “(...) governments have a duty under international law to prosecute those guilty of gross violations of human rights.”⁴⁵ The human rights approach of trying the guilty is internationally accepted as a method of re-establishing a rule of law. Stalsett views prosecution as vital for the establishment of the respect and dignity of human beings and asserts: “(...) it goes against ordinary people’s sense of justice if no judgement is passed.”⁴⁶ Punishment is also often regarded as a precondition for forgiveness. Hannah Arendt writes: “(...) men are unable to forgive what they cannot punish (...)”⁴⁷

Forgiveness, however, appears to be an unrealistic way to respond to government wrongs. It is, then, unlikely that by adopting an inactive approach, the Estonian

⁴² Glenda Wildschut, ‘Abuse of Power – Victims of Abuse: Understanding our Past – A Way to Creating a Future.’ Paper presented at the Ninth International Symposium of Victimology, Amsterdam, 25-29 August, 1997, op.cit.

⁴³ Rosenberg, p. 399.

⁴⁴ Digeser, p. 700.

⁴⁵ In Promotion of National Unity and Reconciliation Act of South Africa (34/1995) a gross human rights violations are defined as “the violations of human rights through the killing, abduction, torture, or severe ill treatment of any person (...)” Graybill, op. cit., pp. 45, 57-58.

⁴⁶ Wildschut, op.cit.

⁴⁷ Hannah Arendt, *Human Condition* (Chicago: The University of Chicago Press, 1958), op. cit., p. 241.

population demonstrate forgiveness towards the perpetrators. The application of forgiveness to the Estonian case is problematic because forgiveness generally requires the wrongdoer to acknowledge or repair the wrong. Digeser has argued that political forgiveness should not be performed unless the government has publicly acknowledged the wrong it has done.⁴⁸ Indeed, confession sets people free to accept forgiveness. Thus, for genuine resolution of facts, it is critical that the perpetrators own up to the violation that occurred.⁴⁹ Clearly, there cannot be absolution without confessing which identifies those who are to be forgiven. This has not taken place in Estonia, as the violators have failed to express their regret publicly.

On the other hand, the popularity of many of the former communists can be viewed as an expression of commitment to eradicating the resentment to the wrongdoers. This is, perhaps, in part based on the confidence in the violator to act appropriately in the future. It is, however, impossible to know exactly to what extent the successful elimination of resentment among the Estonian population is accomplished. Clearly, the victims of suppression are likely to find it hardest to forgive. This is illustrated, in particular, by the heartbreaking testimonies of the victims of deportations, heard during the court proceedings against the offenders charged for the involvement in the deportations. For instance, Milmi Puhilas admitted at the trial against the former NKVD security employee Vassili Beskov not to have been able to forget “the crying, the shouting of the gunmen and the barking of the dogs on the night [she] was rounded up for deportation.”⁵⁰ Time and time gain, witnesses have broken down during their testimony, illustrating that the wounds have not healed.

A more viable explanation for the prevailing reluctance in Estonia to put offenders on trial lies in the fact that many of the persons responsible for the after-war repression have already retired from politics, or passed away. It is, in general, regarded as improper to charge these old people and imprison them, and obviously with regard to those already passed away there is no need to pursue criminal cases. Additionally, with the passage of time the desire for justice has faded, since the widespread and most violent period of repression and terror took place so many years in the past. After the age of Stalinism the communist regime stayed in power mainly through corruption and coercion and hence violence was seldom necessary. Thus, although few people suffered physical

⁴⁸ Digeser, p. 707.

⁴⁹ Carl Stauffer & Brandon Hamber, 'Putting a Face on the Past: Survivor-Offender Mediation and the Truth and Reconciliation Commission.' Centre for the Study of Violence and Reconciliation. Seminar 1/1996.

⁵⁰ The Baltic Times, November 19-25, 1998.

violence, others suffered some milder deprivation, which acted as a very foundation of the system. Consequently, it can be maintained that the diminished scope of direct violence in the post-Stalin era has contributed to the lack of enthusiasm to seek the guilty and launch court processes in order to try them.

Furthermore, a proportion of the present political elite is too young to have been involved in the suppressive acts. Their attitude towards the past can be described as follows: “Tehti küll, halvasti tehti aga meie süüd ei ole mis siis tehti.”⁵¹ In their opinion, the older generation holds the responsibility for dealing with the past violations. The young generation, in particular, is uninterested in the past, wishing to look into the future. They attach greater importance to the social and economic problems confronting Estonia and, thus, show little interest in court proceedings and the process of confronting the past in general.

The more general explanation for the disapproval of the court cases among the Estonian population can be found in the widely accepted belief of trials as a means for definite prosecution instead of a forum for discussion and resolving issues. Moreover, hard evidence, much of which has been destroyed or disappeared, would be required to convict. In Saaremaa, for instance, the investigations for the trails of the mass murders in Kuresaare were discontinued in March 1990, as it became evident that identification of the executors of the murders would be impossible to undertake due to the lack of concrete evidence.⁵²

Finally, the independence of the court system is questionable as the former Estonian communists are well represented in the judiciary, and many present judges were an integral part of the former structures. Furthermore, they acted as members of the constitutional assembly (*Põhiseadus assemble*) established to formulate the new constitution. The dominance of the former communists in the judiciary is clearly a major contributing factor for the insignificant amount of cases tried by a court. Furthermore, if the judiciary are expected to protect their past activities from being revealed, no comprehensive effort for legal proceeding is likely to be made, as the judiciary are determined not to deal with these offences. In sum, it has been argued that prosecutions could not be guaranteed due to the insufficiencies in the criminal justice system and a lack of access to information necessary to sustain successful prosecutions.

⁵¹ Author's interview with Ülo Seppa 8.1.1999. op. cit. This could be translated into English as “sure it was done, badly done, but our fault it is not.”

⁵² For details, see Tõnismägi, p. 124.

3. The question of elite continuity

3.1. *The persistence of Estonian communists*

One option following the establishment of democracy is to confront the former political leaders with their past and to renew the political elite by replacing the former politicians responsible for oppressive actions with the new leaders. An indicator of the elite change is the proportion of the elite formerly leading positions continue their political career in the new system. Thus, the main question here is the degree to which the change of regime has resulted in substitution of the former elites⁵³ and the way the change of elite can be explained.⁵⁴ One suggestion is that the question of elite continuity is, in general, related to the specific national preconditions. The strategy chosen is, then, determined by the deeds of the previous leaders as well as the requirements of the state for their skill and competence.

Estonia, clearly, had limited sources of competent and qualified human resources at the time of the restitution of independence, which is illustrated by continuity of the elite in the political structures. Furthermore, a significantly large part of the governing communist elite went into business.⁵⁵ As no alternative elite existed, the new elite had to be recruited from the existing structures. A considerable proportion of the new elite both in politics and economy were members of the communist party or at least ideological supporters of the former regime. Despite the promises to remove the vestiges from the former communist regime, the former communists have achieved advantageous positions in the new regime. Consequently, majority of the present elite including many of the top politicians are former members of the communist party.

Another perspective on elite continuity supports the idea of the old networks as resources to be used in the struggle for positions and privileges.⁵⁶ The previous leaders benefit from former connections and privileges in order to preserve their power positions. In Estonia, the former networks have played an essential role in paving the way for elite continuity. Networks from the former membership of the communist structures

⁵³ In this study, I refer to the elite as the persons who occupied the highest ranking positions within society, allocated by the communist party. In particular, I refer to the political elite, namely those with influence in setting the political agenda, making policy decisions and implementing them at various levels in the state structures, as well as the administrative elite which extended to most institutions in the society. As the cultural elite had distinctive characteristics of its own, I exclude it from my consideration.

⁵⁴ Steen, p. 30.

⁵⁵ Ibid., p. 43.

⁵⁶ Ibid., p. 32.

have been used for mutual support. In addition, wealth, often inherited from the Soviet period, has been an important resource for the former communists in their struggle to retain their positions in public life.

Furthermore, the endurance of the former elite in power is due to the wide support obtained by a radical change of slogans. This is illustrated by the fact that since the parliamentary election of 1995 the Estonian parliament has predominantly been composed of former communists.⁵⁷ Also a majority of ministers are former members of the communist party. Richard Rose and William Mishler have claimed that in Eastern Europe leaders, in particular, have been quick to support the new regime, and commit to the democratic norms.⁵⁸ Jüri Adams argues that when it became clear that the Soviet Union was about to collapse, the communists in Estonia had no difficulty in adopting more nationalist ideas. According to him “it was typical of communist behaviour to change political ideas and agendas, and communists saw no contradiction with their previously held beliefs.”⁵⁹ Thus, during that period the political discourse was strictly black-and-white and everything that even remotely represented the opposing side was declared as bad whereas one’s own actions were portrayed in the positive light.⁶⁰

Today many former supporters of the communist regime are, however, judged according to their actions during the immediate period before independence. Thus, some former communists managed to clean their reputation by becoming active nationalists during the independence process and who, in addition, were indispensable due to their professional qualifications.⁶¹ As Anton Steen has suggested, competence and national popularity may compensate for and absolve former violations.⁶² This is, in part, due to the extremely small proportion of ‘true ideological believers’ among the communists, since the motives for joining the communist party were almost entirely careerist rather than ideological. Officially it is estimated that the ‘true believers’ composed only a few

⁵⁷ It is estimated that about 80 percent of the members of the former parliament had a communist background. Matti Lukkari, *Viron itsenäistyminen* (Helsinki: Otava, 1996), p. 255. Interestingly, the numbers of the former communists in the parliament doubled in the parliamentary election of 1995. The previous parliament, elected in 1991, then, was to a lesser extent dominated by the former communists. Andres Herkel, ‘Viron politiikan vuosi.’ *Viron vuosikirja 1996* (Tallinna: Viro-yhdistysten liitto, 1995), p. 8.

⁵⁸ Richard Rose & William T. E. Mishler, ‘Mass Reaction to Regime Change in Eastern Europe: Polarization or Leaders and Laggards?’ *British Journal of Political Science*, vol. 24, part 2, April 1994, p. 161.

⁵⁹ Jüri Adams, ‘Different Nationalisms: The Lessons of Estonia.’ *Uncaptive Minds*, vol. 9, no. 3-4, 1997, op. cit. p. 152.

⁶⁰ Peeter Vihalemm & Marju Lauristin & Ivar Allo, ‘Development of Political Culture in Estonia.’ In Marju Lauristin & Peeter Vihalemm (eds.), *Return to the Western World* (Tartu: Tartu University Press, 1997), p. 203.

⁶¹ *The Baltic Independent*, October 16-22, 1992.

⁶² Steen, p. 91.

percent of the all communists in Estonia.⁶³ They, however, have never changed their political and ideological conviction and even today have a strong faith in communism.

The change of ideology was due to the self-interested motivation to stay in power and earn acceptance. Nationalism, clearly, was exploited and manipulated by the political elite primarily to gain, maintain and even expand their powers. In Ülo Seppa's words "it is everything to do with power, nothing else."⁶⁴ The persons with high positions under both the former and the new regime are, then, likely to protect themselves from the investigation of their past activities including the ideological commitment. The new elite is, indeed, believed to hold secret files connected to the cases of collaboration with the former regime, although there is no concrete evidence to support the claim. Furthermore, former ideological articles are close to impossible to find and historical publications have been modified according to the present political needs.

Consequently, the former communists retained the basic characteristics of communist political culture, such as the belief in the monopoly of power. This has, in part, contributed to their reluctance to accept a concept of public accountability or government as service of the citizenry.⁶⁵ Such abuses have been tolerated by citizens who have not been accustomed to challenge the state. This, however, has had important implications for the attempts to confront the past in Estonia, since it is generally accepted that when the state fails to grant citizens the right to defend themselves against its power by withholding information for political ends, and thus declaring itself the master of the truth, the process of dealing with the past is seriously threatened.

During the preparation of the new constitution the criterion was discussed for excluding former communists from influential positions. As a result, the requirement for the oath of conscience (*Süüimevanne*) of all persons wishing to obtain important power positions was established. By taking an oath, the persons are required to vow not to have been engaged in co-operation with the secret services or involved in political repression. As a precondition for obtaining high ranking position, the oath has not been particularly successful in preventing the former communists from occupying the majority of the public posts. In practice, the oath is believed to have been broken, on many occasions.⁶⁶

⁶³ Lennart Meri, for instance, has claimed that he has never met a 'true believer' in communist ideology. Lennart Meri, *Tulen maasta, jonka nimi on Viro*. (Helsinki: Otava, 1995), p. 241.

⁶⁴ Author's interview with Ülo Seppa 8.1.1999.

⁶⁵ Adams, p. 152.

⁶⁶ Author's interview with Ülo Seppa 8.1.1999.

3.2. National consolidation and de-russification

Since in Estonia the previous elite was, to a large extent, dominated by Russians, we might expect to find a high propensity for prosecution and punishment among the indigenous population. Indeed, Moran has argued that the support for punishment may be a reaction by the indigenous population towards previous aggression and a lack of freedom under the Soviet regime.⁶⁷ The Russians occupied the highest rate of party membership, which was significantly above the average for the indigenous population in Estonia, thereby preserving the control in Moscow.⁶⁸ Furthermore, the proportion of Russians or so called Russian Estonians⁶⁹ in high ranking positions within the state structures overweighed that of Estonians.

The desire for reconciliation, however, has been strong even towards the Russians, indicating that the ruling class and the public wish to forget about the past in order to ensure the integration due to the peculiar ethnic circumstances.⁷⁰ Estonians, however, are reluctant to support the existing continuity of Russians in important public posts. Although the de-russification of the state bureaucracy is complete and practically no Russians have top positions in the state administration, they still remain active in other institutions. Anton Steen suggests that in Estonia eight percent of the elites are Russians.⁷¹

Although Russians continue performing actively within the new structures, the trauma of occupation is perhaps the most viable explanation why the elite structure cannot completely mirror the prevailing ethnic circumstances. Estonia has gone through a process of national consolidation by allowing elements of the former elites a role in the state administration and thereby guaranteeing the stability of the regime. Democratic commitment is, however, limited in Estonia, since the cost of inclusive democracy is to

⁶⁷ Steen, p. 106.

⁶⁸ See, for instance, Lukkari, p. 70; Marju Lauristin & Peeter Vihalemm & Rein Ruutsoo, *Viron vapauden tuulet* (Helsinki & Jyväskylä: Gummerus, 1989), pp. 48-49.

⁶⁹ Russian Estonians were ethnic Estonians who had spent the bulk of their lives in the USSR and thereby created a loyalty towards it. Consequently, they had a different perspective from local Estonians.

⁷⁰ At the time of the restitution of the Estonian independence there were about one million Estonian citizens and 500 000 Soviet citizens living in Estonia. At present 38 percent of population in Estonia is Russian speaking.

⁷¹ In the parliament as a whole two non-Estonians out of 100 deputies were elected in 1992. In the parliamentary election in 1995 number of non-Estonians increased to six. The Russians seem to be concentrated mostly in the economy, although some remain active in the political parties and movements. In the judiciary system, however, there are no Russians. For the statistics, see Steen, pp. 46-47.

allow a group perceived as alien to have a considerable influence in political and economic affairs.⁷²

Furthermore, the geopolitical aspect clearly plays an important role: in the presence of the continuing pressure from Russia, the completion of de-russification seems an impossible accomplishment. For instance, Alexei Glukhov, the Russia's ambassador to Estonia has urged Estonia to forget the past in order to ensure that the Estonian-Russian relations remain positive in the future.⁷³ The control of Russia over the domestic policy towards Russians in Estonia is further supported by the archives preserved in Moscow containing sensitive information on the past activities of influential Estonian individuals. It is argued that a person whose files are in Russia, could be blackmailed by the Russian intelligence services.⁷⁴ The main reminder of the past, however, is the existing latent threat of a repeated Russian invasion of Estonia.

4. The peculiarities of Estonia

4.1. Loyalty to the Soviet system and membership numbers

The way the new democracies have approached the problem of reaction towards previous elites seems to be dependent on the former loyalty to the Soviet system as well as the extent to which the indigenous population took part in oppressive acts. The relationship of the acts to political objectives and the proportionality of the actors, then, needs to be considered. The situation in Estonia is special because of the relatively small number of those engaged in oppressive structures.⁷⁵ In 1988 membership of the communist party as a percentage of the total Estonian population was only six percent⁷⁶ while a significant proportion of the key members were Russian and the elite system as a whole (excluding the cultural elite) was Russian dominated.⁷⁷ The following figures provide an overview of the membership numbers of ethnic Estonians during the period between 1953-1981.

⁷² Geoffrey Evans & Stephen Whitefield, 'The Politics and Economics of Democratic Commitment: Support for Democracy on Transition Societies.' *British Journal of Political Science*, vol. 25, part 4, October 1995, p. 509.

⁷³ *The Baltic Times*, November 2-12, 1997.

⁷⁴ *The Baltic Independent*, March 17-23, 1995.

⁷⁵ Henn-Jüri Uibopuu & Andrejs Urdze, 'Die Aufarbeitung der kommunistischen Vergangenheit in Estland.' *Berichte des BIODs*, no. 46/1997, p. 5.

⁷⁶ See, for instance, Agu Kriisa, *Okupeeritud Eesti nii nagu ta on* (Stockholm: Repro Print Aktiebolag, 1984), p. 23.

⁷⁷ See, for instance, Marjut Kuokkanen, *Puolueiden muotoutuminen Virossa 1988-1992*, Research reports 127/1994, Department of Political Science and International Relations, University of Tampere, p. 152.

TABLE 4.1. *The development of membership numbers of the Estonian Communist Party, 1953-1981*

	<u>Total ECP Membership</u>	<u>Ethnic Estonians</u>	<i>Percentage</i>
		<i>Number</i>	
1953	22 320	9279	43.6
1956	22 524	10 047	44.6
1961	38 848	18 604	49.2
1966	59 094	30 694	51.9
1971	73 168	38 252	52.3
1976	84 250	43 742	51.9
1981	97 923	49 777	50.8

Source: Toivo U. Raun, *Estonia and the Estonians* (Stanford: Hoover Institution Press, 1987), p. 190. For the original source, see Juhan Tamme, *Eesti Kommunistlik Partei arvudes*.

Prior to 1956 Estonia ranked relatively low in the proportion of communist party membership in comparison with the other republics within the Soviet Union, especially with regards to the indigenous population. The high percentage of non-Estonians in this period reflects the great numbers of Estonian communists deported during the Stalinist purges as well as the reluctance of Estonians to participate in the sovietization of their homeland. The steady rise in membership numbers in the 1950s is marked by the end of Stalinist era whereby many of the surviving deportees (including the communists) returned from the work camps and from exile. Consequently, the numbers of ethnic Estonians tripled in the decade after 1956. In the 1970s, however, non-Estonians outnumbered Estonians among new party members. These trends reflected the initial hopes of early post-Stalin era that native Estonians could eventually play a leading role in administering Estonia and the disappointment of these hopes by the late 1970s.⁷⁸

Even the loyalty of those Estonians supporting the communist regime can be questioned, as it was based on the naive assumption of being able to retain one's own aims and the way of thinking by taking advantage of the regime. There were very few 'true believers' in the communist ideology within the Estonian population which raises the question about the extent of real political influence of indigenous population. The dual function of the national elites was to execute Soviet policies as well as to protect

⁷⁸ Toivo U. Raun, *Estonia and the Estonians* (Stanford: Hoover Institution Press, 1987), p. 190.

national interests. Many, indeed, joined the party in order to serve their country better and diminish the Russian influence in the territory.⁷⁹ Thus, since there was little hope for an end to the Soviet system, people aimed at using it for personal gain and to preserve national culture. A further incentive to apply for membership was clearly the commodities and career opportunities restricted to the members of the communist party.⁸⁰ Co-operation itself, then, was a means of expanding the possibilities granted individually.⁸¹ Marju Lauristin has stated that the party forced its members to make unethical decisions: party or honesty, party or humanity, party or the freedom of Estonian nation.⁸² People found themselves in the situation of facing a tragic choice and moral dilemma. They had to choose whether to accept the criminal policy conducted against Estonia and its people or to be thrown out of society. On occasions, direct threat forced a person to co-operate with the party or the organisations under its immediate supervision such as the KGB or the secret services.⁸³ Even the members, however, generally performed only what was minimally required in order to maintain their position.

Most of the indigenous population, including the elite, considered joining the communist party extremely indecent, as an act of treason. The membership of a young person was regarded particularly inappropriate. The ultimate judgement, however, was based on the status within the party structures as well as actual performance. Furthermore, the general attitude towards the agents of the KGB was the most negative, although under the Soviet rule the issue was never publicly discussed. During the whole Soviet occupation period, there was a notable resistance to communist rule, at first in a form of guerrilla war and after its suppression in a form of non-violent resistance. While dissidents engaged in active struggle, the general population adopted passive resistance. This found its expression in every day life.⁸⁴

Since communism never took root as firmly among the Estonian population as it did in the rest of Eastern Europe, the communist elite was relatively weak in Estonia and its loyalty to the Soviet regime was questionable. The extraordinary circumstances which

⁷⁹ Peter Digeser claims that citizens should be extremely suspicious of those who claim having done evil in order to do good. According to him, it is easy for politicians to portray the normal as extraordinary and by doing this justify their wrongs. Digeser, p. 711.

⁸⁰ In the survey conducted on the Communist Party of the Soviet Union, all party members were inclined to mention careerist motives in joining, particularly the view that members "had to join to get a job or a promotion." Stephen White & Ian McAllister, 'The CPSU and Its Members: Between Communism and Post-Communism.' *British Journal of Political Science*, vol. 26, part 1, January 1996, pp. 116-117.

⁸¹ Valdemar Pinn, *Kes oli Nikolai Karotamm?* (Haapsalu: Haapsalu Trüükikoda, 1996), p. 6.

⁸² See Lauristin et al., p. 98.

⁸³ See for details Ants Oras, *Viron kohtalonvuodet* (Jyväskylä & Helsinki: VAPK-kustannus, 1989), pp. 78-79.

⁸⁴ Mart Nutt, 'Different Nationalisms.' *Uncaptive Minds*, vol. 9, no. 3-4, 1997, p. 33.

forced people to act in a unusual way, then, have been regarded as a viable explanation for the adoption of an inactive approach toward the violations. An Estonian poet Jaan Kaplinski claimed in 1989 that there are no moral or rational grounds for condemning the present Estonian leaders for their mistakes made due to difficult circumstances.”⁸⁵

Clearly, it is impossible to consider the behaviour of perpetrators outside the concept of ideology. The anti-communist conspiracy theory, in particular, as a ideological justification for violations is critical in understanding perpetrators’ actions. The pressure of socio-psychological situations, then, is a central explanation for the human rights violations under communism. People acted according to their social identity, in circumstances where the climate was conducive of violation. The propaganda of anti-communist conspiracy, promoted by the state apparatus, acted as a fundamental ideology of human rights violations. This approach, however, undermines individual accountability, reflecting the belief that holding society responsible protects individuals from liability for their actions. And yet it is a person who has done the deed. As Peter Storey has argued, reconciliation is difficult until we detach the evil of the system from the names of its servants.⁸⁶

Moreover, the insignificant numbers of traitors among the Estonian population has been used as justification for the reluctance to hold the former communists responsible for their previous deeds. According to Erik-Niiles Kross, at present there are only about a hundred people or less in Estonia who could be charged for human right violations.⁸⁷ Although, it is obvious that without them it would have been difficult to carry through Soviet policies, Estonian collaborators have been simply regarded as executors of the orders from Moscow. Tiit Pruuli, chief advisor to prime minister Mart Laar referred to the issue in 1993 claiming that the KGB liquidations were, in fact, entirely dictated by Moscow.⁸⁸ It has been further argued that the persons who committed the acts of violence in the party or the secret services were, in principle, incapable of influencing the quality or the quantity of these acts. They, however, were ultimately responsible for the fate of numerous defenceless people. Kader Asmal has argued that “the generosity of the majority (to forgive) must not be interpreted as allowing the minority to believe in their

⁸⁵ Seppo Kuusisto, *Punaisesta sinimustavalkoiseen-Raportteja Virosta* (Helsinki: VAPK-kustannus, 1991), op.cit., p.202.

⁸⁶ See Storey.

⁸⁷ Postimees 28.1.1999.

⁸⁸ The Baltic Independent, March 26-April 1, 1993. Kaljo Kägi, however, has claimed that the local communist organisations in Estonia played a central role in initiating, organising and executing the deportations and other human rights violations. Postimees 3.2.1999.

collective innocence."⁸⁹ Hence, however small the numbers of offenders, confronting the past contains a vital moral imperative.

A further complication arises from the blurred conception of offenders and victims, and the difficult question regarding the scope of responsibility of government actions. In Estonia no moral distinction has been made between the violence used to maintain the unjust system and the violence employed against the victims. Furthermore, the accusations have, to a large degree, been based on stereotypes related to one's status or formal position within the state structures, ignoring the vital consideration for one's real influence within the state, since even a high formal position did not necessarily mean a corresponding level of influence.⁹⁰ On the other hand, certain things were clearly not done within the formal line of duty. Thus, the identification of the influence of the communist elite, often referred to as *nomenklatura*⁹¹ from the rank and file members becomes problematic, as even within the nuclei of decisions, the elite formation varied from issue to issue. Moreover, decisions, in general, could be regarded as processes undergoing several stages, each of which was subject to the influence of a number of elites. A further complication arises from the structure of the *nomenklatura* system itself, whereby every official was classified according to a complex system of categories and staff assigned to the various departments was constantly changed.⁹² In addition, the location of the posts too high up the party hierarchy was a common practise.⁹³

It follows that identifying the real communist actors becomes problematic due to the complicated elite structure, as well as the character of the elite recruitment. Anton Steen has referred to the issue by stating that as strategically important elites, including political and administrative elites were merged with business, cultural and juridical elites (who were influential in the political process in a broad sense but did not hold positions of political authority) the borderlines between elites and non-elites are more diffuse.⁹⁴

Consequently, the label of 'communist' is as such a vague concept which should not be

⁸⁹ Wildschut, op.cit.

⁹⁰ Formally, even within the membership of the Estonian Communist Party and the KGB it is possible to distinguish several categories of actors, and while most members clearly remained outside the main core of violations, the NFSC law code (§ 17) divided the executors of the deportations into three categories: executors, deporters and assistants. Postimees 3.2.1999.

⁹¹ T.H. Rigby has defined the *nomenklatura* system as "(...) system under which the communist party apparatus controlled the choice of personnel (...) in every sphere of national life and at all levels from the central government down to the village soviets (...)." The essence of this order was the attempt to manage every area of socially relevant activity, coordinated and directed at the centre and at the lower levels by the communist party. T.H. Rigby, 'Staffing USSR Incorporated: The Origins of the *Nomenklatura* System.' *Soviet Studies*, vol. XL, no. 4, October 1998, p. 523.

⁹² *Ibid.*, p. 529.

⁹³ *Ibid.*, p. 533.

⁹⁴ Steen, p. 15.

used as the basis for the criteria of the perpetrator. However, in Estonia the entire identity of the communist elite, who are today seen as the perpetrators, has been formed within this particular discourse. Indeed, it is notable that some members of the elite were not involved in the communist party in a form of the membership and consequently cannot even be classified as ‘communists.’ They were simply officials individually reassigned, and their status was largely based on their distinctive characteristics, in particular, their trustworthiness in the eyes of the regime, since in the communist regime political loyalty measured all other things.

A useful way to address the question is to appeal to Michael Walzer’s rule that the degree of responsibility must be commensurate with the degree of freedom and amount of information available. Under this rule, the greatest responsibility is reserved for those with the greatest information and control over the situation.⁹⁵ Then, it can be maintained that the individuals forced, either by the direct threat or circumstances, to commit human right violations and thereby deprived from the freedom of choice, cannot be ultimately held responsible for their acts. On the other hand, in the Soviet regime everyone was a victim of the system which eliminated the freedom to act according to one’s own judgement. Thus, under the extensive pressure of adaptation, everyone was betrayed. Hence, it can be argued that even those involved in human rights violations were, on many occasions, both victims and perpetrators. This approach, however, does not completely eliminate the responsibility of the less informed, although distinguishing the level of ignorance from the level of being unwilling to ‘see’ is a difficult task. According to the Christian tradition each person is responsible for the way society conducts itself.⁹⁶ Thus, no-one is completely innocent, although there are degrees of guilt. It follows that, although most Estonians did not engage in acts of repression, they are nonetheless guilty, and carry social responsibility for the structural injustice.

Clearly, even many of those tortured and murdered co-operated with the communist regime and engaged in ideological repression. It is apparent that many actors had long and varied histories in which they had multiple roles. On these premises, it is impossible to claim that the terror practised was not widespread and only very few people committed the acts of ideological repression. In Estonia, however, the repression is officially understood as concrete acts of violence, ignoring the ideological aspect which was used as justification for the terror. Obviously, communism would never have

⁹⁵ Digeser, p. 701.

⁹⁶ Graybill, p. 51.

survived without being ideologically buttressed by those who benefited from it. The link between the perpetrator and the beneficiary, power and privilege was, indeed, a distinctive element of the communist regime. Although in Estonia there were only few perpetrators as opposed to countless beneficiaries, some parties are clearly more to blame for the suffering that others. Mahdani suggests that “for reconciliation to endure, we may have to aim at activities at society and not simply at the fractured political elite.”⁹⁷ Ironically, however, it seems easier to accept the forgiving of the perpetrator who has lost power than the beneficiary who refuses to accept responsibility.⁹⁸

4.2. Ethnic circumstances

When an oppressive regime is established by an outside force, a relatively extensive prosecution of responsible persons seems probable. According to Brandon Hamber, one of the impacts of violence is a high level of mistrust towards those who are seen as the aggressors, ‘the other.’ Here, structural factors such as ethnic structure, are relevant in understanding the inaction towards the former elites. According to Anton Steen “reactions are determined by specific need to safeguard national interests.”⁹⁹ Consequently, the large ethnic minority has made the Estonian approach a question of state independence and survival of ethnic groups, since Estonia as a small nation is particularly vulnerable to the permanent influence of a considerable number of immigrants from a large neighbouring country.

The internal pressure from the large Russian population has been particularly prominent in Estonia. Therefore, Estonia has a pattern of attitudes and measures, indicating that the Estonian population has tended to bury the past in order to ensure the integration and creation of a common national identity. Clearly, deepening the ethnic divisions in Estonia could create a major obstacle to the creation of a unified citizenry sharing basic democratic values. It is, therefore, clear that the peculiarities of the ethnic divisions in Estonia have had implications for this political complexion.¹⁰⁰ The situation, however, has posed a difficult question about the extent to which the Estonian government should go on seeking to ensure the political and social cohesion of the citizenry, given the large number of ethnic Russians in the country.

⁹⁷ Wildschut, op. cit.

⁹⁸ Mahmodi Mahdani in the public discussion ‘Transforming Society through Reconciliation: Myth or Reality.’ Cape Town, 12 March, 1998.

⁹⁹ Steen, op.cit., p. 90.

For Estonia the determining factor has been the need for a democratic and stable transition during the first stages of the state-building as against the notion of justice and restitution. As Marju Lauristin has emphasised: “Our ‘revolution’ is stable and tolerant, it is human, revenge is not part of it.”¹⁰¹ Lauristin further claims that this is an identifying feature of democratically minded nation with internal discipline which is a precondition for political freedom. For successful democratisation, however, the terms of the transition are required to be accepted by those victimised by the abuse as well as those threatened by the transition to a democratic society. In Estonia, then, as in all Baltic states, a civic sense of political restraint has been reflected in the absence of political violence and punishment against the local Russians, whom many Estonians strongly dislike.¹⁰² Some have further claimed that the violations in the past must not be punished by committing new crimes.

Furthermore, the geopolitical situation and the pressure demonstrated by Russia in the ethnic question has played an essential role in determining the official attitude towards the Russian minority. This was illustrated by the granting of residence rights to retired Soviet military officers in 1993 due to the persistent pressure by Russia. The controversy stoked the issue, when the critics claimed that by allowing the retired officers to remain in Estonia unconditionally, Estonia legalised occupation and accepted intervention.¹⁰³ In Estonia, then, the question of a change of regime has been particularly intertwined with a heavily Russian influenced ethnic situation.

5. The Estonian approach revised: The end of the long shadow of the Estonian past?

The Estonian approach is, at present, in a state of flux, moving beyond the previous policy of compromise. The essence of such motion is to bring to the forefront issues which have been previously ignored. In Estonia this process is best illustrated by the establishment of the International Commission for Investigation of Crimes against Humanity (*Rahvusvaheline inimusevastaste kuritegude uurimise komisjon*) to examine crimes committed against humanity under the Soviet and Nazi regimes during the period

¹⁰⁰ Evans & Whitefield, p. 508.

¹⁰¹ Lauristin et al., op.cit., p. 162.

¹⁰² Karen Dawisha & Bruce Parrot, *Russia and the New States of Eurasia-The Political Upheaval* (Cambridge: Cambridge University Press, 1994), p. 145.

¹⁰³ The Baltic Independent, November 26-December 2, 1993.

of 1939-1991. The investigation focuses on crimes committed during three distinct historical periods: (1) the occupation of Estonia by Soviet forces in 1940-1941, (2) the occupation of Estonia by German forces in 1941-1944 and (3) the second Soviet occupation beginning in 1944.¹⁰⁴ The aim of the commission is to establish the causes, nature and the extent of violations of human rights, including antecedents, circumstances and the context of violations by conducting investigations and holding testimonies.¹⁰⁵ Hence, the commission is committed to ascertaining the facts about human rights violations that took place in Estonia and eliminating any double standards in the assessment of the events.¹⁰⁶ Although there have been investigations previously on a smaller scale,¹⁰⁷ this initiative, introduced by President Lennart Meri in the summer of 1998, was the first major contribution to the revealing of the past in Estonia.¹⁰⁸ Similar commissions have also been established in Lithuania and Latvia.

The president has stated that the purpose of the commission is to identify those responsible for war crimes as well as the violations of human rights.¹⁰⁹ He, however, has emphasised that the commission does not intend to act as a juridical and prosecutorial body, and the members of the commission are not aiming at compiling a set of facts in order to launch juridical acts against anyone or any institution.¹¹⁰ Also, Max Jakobson, the chairman of the commission has denied that the aim is to prosecute or indict people on the basis of the information revealed. According to him, the principal objective of the commission is to clarify the history of Estonia, and publish the details “as soon as possible.”¹¹¹ The major task of the commission is to serve a historical research function whereby documents and evidence related to violations of human rights will be collected in order to create a comprehensive understanding of the past.

¹⁰⁴ Statement by the International Commission for Investigation of Crimes against Humanity, Tallinn, 27 January, 1999.

¹⁰⁵ Postimees 28.1.1999.

¹⁰⁶ Statement by the International Commission for Investigation of Crimes against Humanity, Tallinn, 27 January, 1999.

¹⁰⁷ The Governmental Commission for the Study of the Repressive Policies and the Occupations (*Okupatsioonide ja repressiivpoliitika uurimise riiklik komisjon*) was established in 1993 to reveal the information concerning the economical and population losses during the occupations. Furthermore, the repressed have formed a research commission to study the political arrests in Estonia. Also the Institute of the Party History has been active in researching the archives of the Estonian Communist Party. Additionally, it is important to note that the Estonian Defense Police (*Kaitsepolitsei*) has a research unit specialising in the investigation of the crimes against humanity, concentrating on the individual cases and surviving persons. The unit functions according to the requirements of the international human rights conventions. Author's interview with Toomas Hiio. 27.2.1999. The ultimate objective of the unit is to charge those responsible for the deportations and reveal the causes and circumstances behind the acts. To date, the unit has completed the examination of five cases, of which only two have led to conviction. Postimees 15.2.1999.

¹⁰⁸ The Baltic Times, July 16-22, 1998.

¹⁰⁹ The Baltic Times, May 28-June 3, 1998.

¹¹⁰ Lennart Meri, A Word of Welcome to the Members of the International Commission for Investigation of Crimes against Humanity. Tallinn, 25 January, 1999.

¹¹¹ Postimees 28.1.1999 & Postimees 8.2.1999. Although no fixed date for the completion of the final report is

Despite the president's confirmation that the commission is not gathering evidence for initiating court procedures, the effects of the information revealed to the public are obvious.¹¹² Namely, it is likely that the publication of delicate facts about past events and a consequent increase in the level of awareness will promote a quest for justice in the respect of those responsible, as for some the greatest compensation would be to see the perpetrators brought to justice. For them, the truth may heighten anger and calls for justice. As Mahdani has asserted: "Truth does not always lead to understanding, it may equally lead to outrage."¹¹³ Erik-Niiles Kross, for instance, has claimed that the state should do its utmost to charge those responsible for the deportations and murders. Yet, he further admitted that holding trials require a great deal of money, effort and time, and consequently, it is likely that many cases will be left unruled.¹¹⁴ Given the budgetary and social constraints, the number of the court cases, then, is likely to remain insignificant in Estonia even in the future.

According to President Meri, the move to establish the commission was prompted by the recent problems occurring in the Baltic states, indicating that there are forces within these states that are not supportive of the democratic development in the region.¹¹⁵ Clearly, the notion of the need for reassessment of the past in order to develop a society based on democratic principles is a driving force behind the recent urge to seek for the truths. According to the president, the work of the commission reflects the common conviction in Estonia that the country cannot build a free and democratic future without facing up to its past.¹¹⁶

Obviously, after the most sensitive and unstable period of the state-building, the time is now regarded appropriate for such investigations, in order to remove all stains from the reputation of Estonia and gain the full acceptance of the international community. The president has stated that the revealing of the past in Estonia will contribute to the reintegration of Estonia into the international community of nations, as well as promote reconciliation within the Estonian society.¹¹⁷ Clearly, as Estonia wishes to accede to and to be recognised as a member of the European Union, it is desirable that it clarifies the matters of the past. Hence, the principal aim of the commission is to direct

proposed, it has been estimated that it will take approximately three years to accomplish the investigations.

¹¹² Sõnumileht 28.1.1999.

¹¹³ Mahmodi Mahdani in the panel discussion held at UCT, 24 January, 1997.

¹¹⁴ Postimees 28.1.1999.

¹¹⁵ The Baltic Times, May 28-June 3, 1998.

¹¹⁶ Meri (1999).

¹¹⁷ Ibid.

its reports to the international community in order to prevent possible damage caused by the unrevealed history to its foreign policy objectives.¹¹⁸ In Toomas Kiho's words: "The result of our work should be an international acceptance of what took place in this territory."¹¹⁹ The involvement of distinguished statesmen and political figures from abroad adds international authority to the work of the commission. The president has further justified his initiative by asserting: "Any effort to prevent the repetition of such crimes in the future requires that we face up to them squarely and sincerely."¹²⁰ Clearly, the considerations for the future development of Estonia play a principal role in the creation of the commission.

Although the outcomes of the investigations are still to be seen, the results are likely to prove painful, and the revealing of crimes committed by Soviet occupiers could cause further conflict and resentment between Estonians and ethnic Russians. As Boraine (1998) has argued: "(...) reconciliation comes at price. It is always costly and it is always painful." Toomas Kiho, however, does not believe in the possibility of the eruption of violence in Estonia. According to him, "conflicts are in the past and I do not think it will influence everyday life."¹²¹

Despite the shortcomings, setting up commissions is generally viewed as a starting point for national reconciliation and reparative measures. Clearly, then, the establishment of the research commission in Estonia marks an important stage in the process of coming to understand the past, as the findings will have significance both for the victims and the nation as a whole. Although, the investigations do not bring the dead back to life, they bring historical facts out in the open, contributing to an end of the agonising search for and speculations about the truth. President Meri has suggested that "we can forgive everything, on the condition that we know everything."¹²² Although, the commission can be clearly regarded as necessary mechanism for dealing with the past constructively, it is by no means sufficient, since in order to ensure the success of the process, a range of additional structures and initiatives will be required.

¹¹⁸ Author's interview with Toomas Hiio, 27.2.1999.

¹¹⁹ The Baltic Times, July 16-22, 1998.

¹²⁰ Meri (1999).

¹²¹ The Baltic Times, July 16-22, 1998.

¹²² Eesti Päevaleht 28.1.1999.

6. Conclusion

Dealing with the past is a difficult and long-term task since the social tensions brought about by the legacy of the human right violations, prevail for a long time. Consequently, it is not adequate to assume that the disclosure of past human right abuses will necessarily result in a culture of accountability and the protection of human rights since there are just too many reasons why a nation may feel that it is unable to address its past. The unveiling of the nature and the circumstances of the crimes perpetrated, however, has grave implications for the longer term prospects of national reconciliation. The process of dealing with the past, then, must be viewed within the context of the historical experiences and present circumstances in the specific countries, since the impact of history, in particular, hinges on which memories exert the greatest influence on current political attitudes.

The complexity of the relationship between the Estonian past and future illustrate the present influence of historical experiences and current political and social realities on the development of the Estonian approach towards the Soviet past. Although, the motive of 'settling the account' with the past often arises out of self-interest due to the personal experiences, and consequently contains a certain moral aspect, at the state level the requirement for political continuity and stability as well as national consolidation has overweighed the personal needs for constructive debate and official awareness of the sufferings. As Anton Steen has suggested, coping with the past has, in particular, become a question of preserving elite control where personal and national interests are mixed.

The strategy of inactivity during the first eight years of independence has been obvious because of the need to consolidate the new state with competent persons wanting to forget about the past. Therefore, the contributing factors in Estonian strategy have been varied, and mixed with a specific state's need for state-building. This is particularly obvious in the question of elite continuity, demonstrating the lack of an alternative elite at the time of restitution of the independence. Clearly then, in Estonia political and professional qualifications have been viewed as more essential than the former ideological orientation, allowing former key personalities to continue in power positions under the new regime. This, however, has implied ignorance of reconciliation at the level of individuals through which, it is believed, further violence based on bitterness, revenge

and retaliation can be most efficiently prevented.¹²³ Furthermore, although many of the victims of the former reign, in particular, wish to see the communists held responsible for their past, political immaturity, organisational disunity and conceptual indecisiveness has prevented this project from progressing until recently. The recent developments in Estonia demonstrate the increasing need to fill the gaps of the past in order to move forward and create a genuinely democratic state, based on openness and a realistic picture of the country's historical events. Although, the results of these initiatives are still to be seen, it can be concluded that the important steps towards the commonly shared past have now been taken.

As time elapses, many of the problems related to the revelation of the past will be reduced, as many persons in power will retire and at the same time the old connections to communism will lose their significance. The brutalities of the past, however, which influenced most individuals, at least indirectly, will never be forgotten completely. As Antje Krog has suggested: "It will take decades, even generations, for people to assimilate truths to the country's past."¹²⁴ Consequently, like every individual also every country must discover its own personal method of coming to terms with the past. Each country, then, must formulate its own policy with respect to past human right abuses, based on past experiences and current national requirements. Hence, each of these approaches should articulate closely with the particular dynamics of transition in particular countries and historical contexts, since dealing with the past works within the context of social order which must be aligned with the demands of everyday continuity. The Estonian approach represents the aim of developing a stable democratic society on the ruins of the political experience of communism, by enabling coexistence in a deeply divided society.

¹²³ See Wildscut.

¹²⁴ Cited in Graybill, p. 55.

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