



# Press Release

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## **“From ‘Dysfunctional’ to ‘Blackmail’ State: Paradoxes of the Post-Soviet Transition”**

Text of the 38<sup>th</sup> Annual Shevchenko Lecture, delivered by Mykola Ryabchuk at the University of Alberta on March 12, 2004

Dear Chairman, *shanovna hromado*, ladies and gentlemen.

I feel really honoured having been offered an opportunity to deliver a lecture at this reputable place to this respectable audience, to celebrate the 190th birthday of the greatest Ukrainian poet and national symbol, Taras Shevchenko.

I am not much of a *shevchenkoznavets'*, so I would not embark on analysis of his writing, nor would I engage in ideological debates that have been accompanying his versatile interpretations for over the century. I strongly believe, however, that there is at least one remarkable feature in his writing and person—besides indisputable genius, of course—that makes him attractive, and proximate, and outspoken to different people, regardless of ideology, race and religion, social and national background. I believe that a profound and genuine feeling of justice animated all his writing and drove his behaviour. Something similar was told a hundred years later by an astute KGB expert about another revered Ukrainian poet, Vasyl Stus, whom he described as “pathologically honest.”

Indeed, being honest in a dishonest world is a sort of “pathology.”

I remember a wonderful story about the famous American writer John Steinbeck, who happened to visit the Soviet Union during the “Khrushchev thaw.” Very soon, he got fed up with the Soviet-style propaganda, with all those display-windows of “highly-developed socialism” he was introduced to. So, when the time came to visit the Shevchenko museum, he insisted on reducing the guided tour to fifteen minutes, and rather reluctantly entered the exposition. He had never heard of Shevchenko nor had he ever read a line of his poetry, previously. Yet, as he followed the story of the poet's life he became more and more interested. In sum, he spent nearly two hours in the museum, asking various questions and looking for more detailed explanations. In the last room, where only Shevchenko's death mask is exposed and mournful music emerges, he ran away just to hide his tears.

Tonight, I would speak to Shevchenko's memory about justice or, rather, injustice—about one of its manifold forms—called tentatively “blackmail state”—that has emerged, or probably re-emerged under a new guise, in virtually all post-Soviet republics, including my native Ukraine.

To explore this phenomenon I would need to define the framework of the analysis, that is the realm of so-called transitology. As a relatively new discipline in the social sciences, it emerged in the mid-70s to facilitate analysis of social changes in Southern Europe, where right-wing authoritarian regimes in Greece, Spain, and Portugal had fallen. In the early 1990s it got a new life as the Soviet system collapsed and radical changes occurred in some of the post-communist countries.

By the end of the 1990s, however, it became rather clear that the very term “transition” is hardly applicable to the majority of the post-Soviet states. Linguistically, it implies a “smooth, evolutionary and rather unproblematic, i.e., basically ‘technical’ shift from one type of societal organization to another.” Indeed, such a shift had occurred in Chile, Spain, Portugal, Greece and, later on, in Hungary, Poland, Slovenia, Estonia, and some other Central East European countries. Ukraine, however, belongs to a larger group of post-Communist states that are “characterized by the total lack of a clear vision of transformation strategy,” and are “suffering from an inadequate leadership incapable of handling the task of transforming social, economic, and political institutions as well as the cultural system of the society.”<sup>1</sup>

Some scholars argue (and rather reasonably) that the lack of systemic changes in post-Communist countries like Ukraine is the result not of the local elite's inability to carry out such changes, but rather of their profound unwillingness to introduce any changes that might threaten their Soviet-style political, economic, and cultural dominance.<sup>23</sup> The system they built is neither communist nor capitalist. It resembles, essentially, the patrimonial system of absolutist monarchies in which the “first estate” (the so called “oligarchs”) enjoy a relative independence from the “patron” based on relations of “mutual courtesy,” that is on “a clear understanding that loyalty gets protection and protection gets loyalty.”<sup>4</sup>

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Still, there is a substantial difference between the pre-modern patrimonial states and the post-Soviet oligarchies. The latter operate in a completely different environment determined by the so-called liberal international hegemony that "contributes to the creation of the outlines of democratic institutions such as parliaments, elections, and nominally autonomous local governments".<sup>5</sup> In other words, the post-Soviet regimes, however non-reformed and basically authoritarian, have to legitimize themselves as democratically-elected and Western-oriented "young democracies,"—so-called "democracies in transition." For this purpose, they employ a whole set of liberal-democratic rhetoric and sophisticated methods of power retention, which should be examined here, in part, within the concept of the "blackmail state."

To confirm these assumptions, I will proceed in three stages. First, I would question the notion of a "weak" (or "dysfunctional") state as applied to the post-Soviet regimes, and would argue that, in actuality, they are not-so-weak and not-so-dysfunctional but, rather, in some ways, fairly strong and effective, albeit not efficient.

Second, I will introduce the notion of a "blackmail state" and try to explain what it means and how it works.

And finally, by way of conclusion, I will present some hypotheses on the probable development of the post-Soviet blackmail states. In particular, I will speculate on what, if anything, can be done to transform the "blackmail state" into a modern democracy, that is to replace a weird *mutation* of post-communism with a highly advertised but poorly realized *transition*.

The whole set of problems will be analyzed primarily within the conceptual framework of the protracted struggle between the crypto-Soviet authoritarian state and the emerging civil society.

I believe that the formula "unfinished revolution"<sup>6</sup> best describes what happened in Ukraine in 1991:

a number of pre-existing states, such as the Ukrainian Soviet Socialist Republic, became independent, changed their names, assumed certain new functions in areas like foreign relations and military affairs, but retained mostly the same structures led by mainly the same people, doing basically the same things as before... The only basic change was that the Party and Central Committee apparatus was replaced by presidential representatives and the Presidential Administration.<sup>7</sup>

To put it differently, the protracted struggle between the decrepit authoritarian state and nascent civil society, unleashed by Gorbachev, was not over by 1991. In Ukraine it is still going on and its outcome is hardly predictable. As the second term of the incumbent president Leonid Kuchma draws to a close, and his oligarchic system of power is being severely challenged by the democratic opposition, one may expect the most dramatic developments on either the eve or aftermath of the presidential elections due in October 2004. Indeed, as a leader of Ukrainian democrats and major presidential hopeful Viktor Yushchenko put it, Ukraine has never been so close to true democracy and never so close to the full authoritarianism.

### **Alleged weakness of the post-Soviet state**

Most scholars tend to define the post-Soviet regimes of the Ukrainian and Russian type as semi-authoritarian. These regimes "have adopted the institutional forms of democracy, including regular elections, yet they manipulate the political process and the degree of political liberty sufficiently to ensure that their basic hold on power is not threatened. They are trying to carry out a political balancing act: allowing enough democracy to gain international legitimacy and to relieve domestic political pressure, but keeping hold of the levers of political power to a sufficient degree to maintain their power indefinitely. They typically permit some space for civil society to organize and operate" but take utmost care to keep it weak and underdeveloped, without "any realistic chance of changing the basic power structures."<sup>8</sup>

Since 1991, so-called *rozbudova derzhavy* (state building) has become the main slogan of the ruling post-Communist nomenklatura in Ukraine and many other post-Soviet republics. This slogan suited the post-Soviet elite in two major respects. First, it corresponded perfectly with its statist values, beliefs, and subconscious inclinations. Explicitly, it prioritized state building over any other aspect of the post-communist transition<sup>9</sup> and, implicitly, it gave the nomenklatura a free hand to further oppress and marginalize civil society. Secondly, the slogan appeased the nomenklatura's national-democratic allies, who believed that national statehood was threatened by a revanchist Moscow and, therefore, that state and nation building should come first, while political and economic reforms could be postponed for the sake of national unity and stability.

As a result, the nomenklatura has carried out "state building" after its own design with the assistance of either gullible or corrupt national-democrats. It is hardly surprising that in ten years no substantial political and economic reforms have been completed. All of them would have to be based on a radical change in the legal system, a change that the Council of Europe prescribed as early as 1995 when Ukraine joined the Council. As of yet, the traditional "rule through law" has not been replaced with the "rule of law."<sup>10</sup>

Ironically, the monstrous authoritarian state, utilizing a Soviet-style "telephone law" and effectively terrorizing society by the KGB-like tax police, is still believed to be a weak state, "where weak describes not the power of the state relative to other states but the ability of the government to adopt a policy and implement it in the society."<sup>11</sup> This erroneous belief stems largely from the early impression of many transitologists that "the disintegration of the Soviet state left an administrative and institutional void in Ukraine of magnificent proportions that has taken a considerable time to 'backfill'. The political transition thus involves not only development of civic organizations, a free press and media, political parties, and interest groups but also building the capacity of the 'quasi-state' inherited from the USSR to enable it to perform even the most minimal functions of modern governance."<sup>12</sup>

“Unfortunately, the belief in the institutional weakness of successive post-Leninist states has become uncritically accepted as conventional wisdom among transitologists. It must be said yet that the Ukraine inherited an elaborated system of administrative institutions from its Soviet predecessor. Though not being an ideal of effectiveness and efficiency, it could have shown much better performance had the interests of policy-makers coincided with the pursuit of developmental strategies.”<sup>13</sup>

I believe that the dispute can largely be settled by distinguishing between weakness and dysfunctionality. The Ukrainian state is dysfunctional, that is unable or, rather, unwilling to satisfy some basic needs of its citizens and to get government institutions to function properly, for the public good. This does not mean, however, that the Ukrainian government cannot adopt and implement a policy it really wants, a policy that benefits state officials and their “business partners.” The distinction has been perspicuously explained by the *Kyiv Post* editor who exposed the government's “weakness” as nothing but the reverse side of its perverted “strength” (and vice versa):

Under its current leadership, Ukraine stands no chance of effectively fighting money laundering or arms trafficking. The fight against either would involve exterminating the corrupt relationship between business and government that prevails in Ukraine today. It is that relationship which got Kuchma re-elected in 1999, and it is that relationship which has enabled him to easily weather a series of scandals since. It would be political suicide for Kuchma to turn his back on such a system. As long as the system remains in place, fighting money laundering and arms trafficking is doomed to be a selective exercise: Opponents of the regime can expect to feel the full wrath of any new legislation; supporters can expect to be let off the hook.<sup>14</sup>

### **Blackmail as a Tool of State Domination**

A couple of Keith Darden's articles provide an illuminating analysis of the nature of the state built by the post-Soviet nomenklatura:

The Ukrainian state, and the presidency in particular, is not weak, but ... many of its capacities are exercised through informal mechanisms of control that have until recently been hidden from view... The new evidence suggests that pervasive corruption, combined with extensive surveillance and the collection of evidence of wrongdoing by the state, provided the basis for the Ukrainian leadership to use blackmail systematically to secure compliance with its directives. Corruption, rather than a sign of state weakness, is an essential element of the informal mechanism of presidential control in Ukraine and other post-Soviet states.<sup>15</sup>

His final conclusion seems to be even more insightful, however dismal:

Once set in place, this type of corruption becomes particularly difficult to undo, as those who are in a position to alter this mechanism are precisely those who derive the most benefit from it. The president and his team gain power, the oligarchs gain wealth, the press is controlled, and the masses are threatened, fragmented and repressed... Ironically, currently popular efforts to “strengthen” the state in order to eradicate corruption and lawlessness will likely have the opposite of their intended effect. Harsher laws, in the absence of the rule of law, only make selective enforcement... This system of rule is likely to be sustainable, and... without pressure from the international community to divide rather than concentrate the powers of the state, it will be difficult for opposition forces in Ukraine to cast off this system in the foreseeable future.<sup>16</sup>

As many observers have already noticed, post-Soviet authoritarianism, in contrast to its Soviet predecessor, is rather “shy” – it tries to repress its opponents by methods and bodies that would not clearly colour the case with political meaning. The tax police and fire inspectors, the procuracy and numerous bodies established to license and supervise the *economic* activity of companies and individuals are widely used for *political* repression. Misrepresenting political reprisals as merely “economic problems” not only circumvents international criticism and sanctions that the post-Soviet regimes deserve, but also effectively conceals the problem of the lack of political freedoms from the eyes of the public at home by subsuming this under the more general and, for most people, the more tangible problem of economic decline. An extremely corrupted economy and a highly intricate legal system provide the post-Soviet regimes with a perfect minefield on which any prospective opponent can be easily trapped and destroyed.

Defiant citizens who resist the official blackmail can be punished even more severely, typically by the criminal gangs connected to the authorities. Ukrainian officials definitely deny any political motivation in all these incidents that could point to their own involvement. As a rule, they treat all these cases as mere “hooliganism,” or “accidents,” or, sometimes, “suicides.” This kind of misrepresentation masks the very concrete and pressing political problem of the persecution of the opposition by a more general and merely social problem of rampant criminality in an allegedly weak state, and also deflects responsibility from the authorities.

Again, in most cases, the authorities justify their actions by claiming that everything has been done according to the law, and that the issue is purely legal, not political. They never mention, however, that the law in Ukraine is applied selectively: in the strictest and harshest way against the regime's opponents, and in the gentlest way (if at all) against its supporters. Some examples of such selectiveness are rather anecdotal. While independent radio and TV companies have lost their licenses due to some minor irregularities, the most “loyalist,” pro-presidential Channel-1 operated without a license at all because, as its newly appointed director confessed recently, the license had expired long ago.<sup>17</sup>

Clearly, laws and rules that are not applied, or are applied arbitrarily, degrade the state and demoralize society, giving rise to legal nihilism and social cynicism. But, this seems to be exactly what the ruling elite wants – to convince the citizens (or, rather, subjects) that life still is governed by the spoken, rather than the written, law and that the government is still the main “speaker,” that is, interpreter of written law. Everyone is to understand that it is the President and his men who decide whether laws are applied or not, and, if they are, then which laws, how, and when they are to be applied.

### By way of conclusion

The semi-authoritarian blackmail state, which is fully established in Ukraine as well as in some other post-Soviet republics, tends to be quite a stable, albeit stagnant, phenomenon, which could persist for a long period of time. Since those who are best positioned to change the system are those who are most interested in preserving it, a vicious circle, which is very difficult to break, takes hold. It can only be broken by a strong civil society, but the regime does its best to arrest its development. Nevertheless, there are some signs that the situation is not completely hopeless.

First, the authoritarian regime, however despotic, is not totalitarian. This leaves much room for different views, ideologies, even for some political and economic freedom. Civil society (and the independent media), however weak, oppressed, and marginalized, has already emerged in post-Soviet Ukraine and now has to be defended and developed.

Second, the authoritarian regime, however unified by corporate interests, is not monolithic. It consists of competing clans which have their own economic interests and political preferences, their own media, and their own pragmatic relations not only with the state but also with some segments of the emerging civil society. While the dominant parasitic clans remain rather satisfied with “looting capitalism,” “inner dissidents” emerge within the ruling elite and would facilitate inevitably, sooner or later, a kind of Khrushchevian thaw, or Gorbachevian perestroika, or Atatürkian revolution.

Finally, Ukraine's size and geopolitical position makes it a major object of Western attention and influence. In regard to the mass media, human rights, and the rule of law, Western aid means primarily monitoring of numerous violations in the field and exerting international pressure on the Ukrainian government to bring it into compliance with its international obligations. As the example of Yugoslavia shows rather dramatically, more sticks for the authoritarian government and more carrots for various agents and institutions of the nascent civil society may well bring about some positive results.

Post-Soviet regimes have a vested interest in good relations with the West. Very few post-Soviet oligarchs would be willing to live in a closed society like Belarus or Turkmenistan. They need Western banks to safeguard their money, respectable Western universities to educate their children, and luxurious Western resorts to enjoy *la dolce vita* and bolster their self-esteem. Any post-Soviet Kuchma might need Baden-Baden to cure his health, while Kuchma's daughters might need Viennese hospitals to which to bring their babies. All along Western governments have had a powerful lever to influence the post-Soviet elite but have rarely used it. As a Russian analyst aptly remarks (and the same can be said about Ukraine), “the looting of the Russian economy would not have been possible without the enthusiastic collaboration of Western banks and trading houses, and the money went to fuel Western stock markets and real estate booms from which the West in general has benefited. If the Yeltsinite elite had the morals of whores, then the West certainly provided their pimps.”<sup>18</sup>

If the anti-terrorist campaign, launched by the international community in September 2001, expands beyond military operations, it will certainly affect the post-Soviet elites, their shadow businesses and traditional schemes of money laundering via Western banks and off-shore companies. They will have little choice but to invest in their own countries and, therefore, to establish more or less fair rules of the game. In Ukraine, I believe, this could provide the much-needed impetus that would help to transform an ambiguous “transformation” into a dynamic “transition.”

It seems Western governments, albeit belatedly, are coming to terms with a new reality in the post-Soviet states. As the *Wall Street Journal* has aptly noted in its editorial,

“The reversal of the slide toward authoritarianism in the former Soviet Union must be atop the West's agenda for the region. Only legitimate government and lasting institutions ensure stability, not political systems built around individuals or clans. [...] Ukraine possesses two things that Russia and most other countries in this region lack: A genuinely popular opposition leader and a generally pro-Western, pro-reform electorate. Judging by past form, the more likely scenario is that the Kuchma camp will try to intimidate opponents and if need be, steal the vote. While the opposition at home must do better at stirring up protest, the West could more effectively pressure Kiev.... The autocrats of Belarus, the Caucasus and Central Asia will be watching closely events in Kiev in the coming months. So should everyone else.”<sup>19</sup>

So should we, ladies and gentlemen.

Thank you for your attention.

<sup>1</sup> Pavlo Kutuev, “Development of Underdevelopment: State and Modernization Project in the Post-Leninist Ukraine,” *Thinking Fundamentals. IWM Junior Visiting Fellows Conferences*, 9, no. 10 (Vienna: Institut für die Wissenschaften vom Menschen, 2000): 2–3.

<sup>2</sup> Volodymyr Polokhalo et al. (eds.), *The Political Analysis of Post-Communism* (Kyiv: Political Thought, 1995).

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<sup>4</sup> Michael Herzfeld, *The Social Production of Indifference: Exploring the Symbolic Roots of Western Bureaucracy* (New York and Oxford: Berg, 1992), 175. Cited by Kutuev.

<sup>5</sup> Lucan A. Way, "Pluralism by Default and the Challenges of Authoritarian State Building in Weak States: The Former Soviet Union in Comparative Perspective," manuscript, p. 8.

<sup>6</sup> See Taras Kuzio, *Ukraine. The Unfinished Revolution. European Security Study* (London: Institute for European Defence and Strategic Studies, 1992). C.f. the recent book by Michael McFaul, *Russia's Unfinished Revolution: Political Change from Gorbachev to Putin* (Ithaca, N.Y.: Cornell University Press, 2001).

<sup>7</sup> James Mace, "Ukraine on the Threshold of the New Millennium," in *Towards a New Ukraine. Meeting the New Century*, ed. Theofil Kis and Irena Makaryk (Ottawa: Chair of Ukrainian Studies, University of Ottawa, 1999), 11, 20.

<sup>8</sup> Thomas Carothers, "Western Civil Society Aid to Eastern Europe and the Former Soviet Union," *East European Constitutional Review* 8, no. 4 (Fall 1999).

<sup>9</sup> Taras Kuzio defines it as a "quadruple transition," that is, a correlated processes of democratization, marketization, state building, and nation building. See his "Transition in Post-Communist States: Triple or Quadruple?" *Politics* 21, no. 3 (2002): 174. Also, Taras Kuzio, "Introduction: The 'Quadruple Transition,'" in Paul D'Anieri, Robert Kravchuk, and Taras Kuzio, *Politics and Society in Ukraine* (Boulder: Westview Press, 1999), 3–6.

<sup>10</sup> As the head of the Ukrainian Supreme Court, Vitalii Boyko, confessed before his retirement: "To complete the legal reform, the only thing left to be done is to institutionalize a jury system. And, to my mind, one more problem remains – how to ensure the independence of courts from executive bodies, that is, how to detach the practical maintenance of courts from the Ministry of Justice, which represents, because of its very position, the interests of the government... There is only one way to detach the courts of all levels from oversight by executive bodies. This way has been accepted in the Russian Federation, this system has worked for two centuries in the United States... In Ukraine, the government still has as many ways to influence justice as one likes." As a result, Mr. Boyko continues, "at every step we face the problem that people do not believe a court decision can be just and impartial in such a situation" (*Kievskii telegraf*, 3–9 December 2001, 4, at <[www.k-telegraph.kiev.ua](http://www.k-telegraph.kiev.ua)>. Public opinion surveys confirm the dramatic decline in people's confidence in any state institution. According to the Razumkov Centre for Economic and Political Studies, only 9.8 percent of the respondents confirmed in August 2001 that they have full confidence in the courts. *Den*, 6 September 2001, 2.

<sup>11</sup> Paul D'Anieri, "The Impact of Domestic Divisions on Ukrainian Foreign Policy: Ukraine as a 'Weak State'," in *State and Institution Building in Ukraine*, ed. Taras Kuzio, Robert S. Kravchuk, and Paul D'Anieri (New York: St. Martin Press, 2000), 84.

<sup>12</sup> D'Anieri, Kravchuk, and Kuzio, *Politics and Society in Ukraine*, 5.

<sup>13</sup> Kutuev, "Development of Underdevelopment," 10.

<sup>14</sup> "The End of an Era?" *Kyiv Post*, 25 October 2001, 6.

<sup>15</sup> Keith A. Darden, "Blackmail as a Tool of State Domination: Ukraine under Kuchma," *East European Constitutional Review* 10, nos. 2–3 (Spring–Summer 2001).

<sup>16</sup> Ibid. See also Keith A. Darden's paper, "The Dark Side of the State: Formal and Informal Mechanisms of State Supremacy," presented at the conference on *State-Building in Post-Communist States: Toward a Comparative Analysis*, Yale University, 27–28 April 2001.

<sup>17</sup> See Olha Dmytrycheva, "Zmina dekoratsii," *Dzerkalo tyzhnia*, 24 November 2001, 1.

<sup>18</sup> As cited by Anatol Lieven, "Poltergeist Economics," *The National Interest*, no. 64 (2001).

<sup>19</sup> "A Chestnut Revolution," *The Wall Street Journal*, 11 February 2004.