

## ESSAY

### Yevgeny Yevtushenko

Yevgeny Yevtushenko is a renowned Russian poet. Born in Siberia in 1933, Yevtushenko published his first poem when he was sixteen years old and his first book three years later. He has since published many works including forty-two books of poetry and three books of political and literary essays and his poems have been translated into seventy-two languages. Yevtushenko has used his works in his quest to seek social reform in his homeland of Russia as well as consistently fighting for an end to censorship, for freedom of speech, and for freedom of religion and emigration. In the early 1960s and 1970s, the poet was known to openly criticize soviet leaders, reciting his poems to hundreds worldwide including his homeland, Europe, Japan, and other countries. He was also openly critical of the Communists' anti-semitism, touring the United States reciting his poem "Babi Yar" which was later transformed into a memorial near the city of Kiev. In the 1980s, Yevtushenko directed several movies, including one titled "Kindergarten" about his childhood during the Second World War; the film was initially forbidden and greatly criticized by Communist hardliners. The poet was a member of the Soviet Parliament from 1988 to 1991 and received the American Liberties Medallion in 1991; he is an Honorary Member of the American Academy of Arts and Letters as well as numerous other significant organizations.

Yevtushenko travels extensively. Stetson University College of Law had the honor of his presence in October 1995, when he delivered a speech titled "Russia's Amateur Justice." This speech is printed here as it was spoken by Yevtushenko on October 23, 1995. In order to preserve the author's "voice," the board of the *Stetson Law Review* decided to print it without any editorial changes.

## RUSSIA'S AMATEUR JUSTICE

How does amateur poetry differ from amateur justice? Amateur poetry is not as dangerous to people's lives as amateur justice. When you hear aggressively rasping amateur verses, you have the feeling that they were written with a knife on glass. Amateur justice, from time to time, is written with a knife across human bodies. Amateur poetry is almost always secretly confident that it is the work of genius. Amateur justice is always confident that it is righteous, even when it is ignorant.

In December of 1825, rebellious aristocrats (Decembrists) incited soldiers to revolt against Tsar Nicholas I, teaching them to shout: "We want a Constitution." The soldiers obediently shouted, believing that this unknown word to them, "Constitution," was the name of the wife of the Tsar's brother, Constantine, whom the Decembrists supported for the throne.

When a people's concentration of justice is so naive, so amateurish, then justice itself can only be amateurish. And that is exactly what it has always been in Russia. How did Tsar Nicholas I himself behave in executing or exiling the Decembrists to Siberia on accusations of the illegality of their activities? Did he observe the law himself? In American writer J.W. Buel's rare book, *Nemesis of Misgovernment*, describing his trip to Russia, he describes the conduct of Nicholas I:

Emperor Nicholas I had a private office in the Third Section of the secret police where it was his custom to repair at a certain hour each day for the purpose of keeping himself thoroughly advised on all matters appertaining to the police administration. It is also declared that there was a trap door in the floor of his office which was used for a singular purpose, that is: when a female member of the reigning family was discovered inveighing against his administration — which was by no means an uncommon occurrence — the offender was ordered to appear before him in his office. When he gave such person much fatherly advice about their transgressions and, at a signal, the trap door, upon which they were made unconsciously to stand, suddenly gave way precipitating the woman to her arm-pits. While in this constrained position, unable to move, she was severely lashed by a person, stationed underneath. In this wise the offender was prevented from knowing who was administering the castigation, nor could the person below know whom he was punishing.

This is another example from the history of Russian justice. During the reign of Aleksandr II, a soldier, whose name was Oreshkin, got drunk in a tavern and began to break bottles. The owner of the tavern, trying to calm him, pointed to the portrait of the Tsar hanging on the wall: "Aren't you ashamed of yourself be-

having so badly before the face of the Emperor himself!" To this Oreshkin replied: "I spit on your Emperor!" The soldier was immediately arrested on the charge of insulting His Imperial Highness. It is true that Tsar Aleksandr III had a sense of humor and drafted the following resolution:

1. Stop the court case.
2. Free Oreshkin.
3. In the future do not hang my portrait in taverns.
4. Tell Oreshkin that I also spit on him.

However, a mock epic that is playing itself out in Russia today shows that its authors have long since lost their sense of humor. The creators of a television program (where talking caricature dollar portray Yeltsin, Prime Minister Chernomyrdin and other famous political persons) were taken to court. When the case of slander was unsuccessful, they then invented criminal charges that the television company's payment to workers were made in dollars and not in rubles. This is, of course, forbidden by law. However, such payments are made everywhere and, therefore, you would have to arrest half the nation, including the investigators and prosecutors. It is well known that they prefer to receive bribes in dollars. Amateurish pretense at justice is typical for a feudal society. In Russia, for the first time in its history during the last five years, official political censorship has been abolished. This is a colossal step forward for a country that seemed to be unimaginable without censorship. But, every day, we come into conflict with masked censorship. A sharp political program called "Version" has just been dropped from TV Channel One, supposedly for the reason that it was too costly. But its author Sergei Dorenko plainly said that the chief reason was the program's sharp criticism of the country's leadership. Especially irritating was the disclosure of such particularly confidential information as the activation of an electronic stimulator for the Prime Minister.

Russia is a country of a great elitist culture — great writers, composers, artists, directors, and actors. But its art, which learned about freedom and justice in a mostly unfree and unjust time, was the one and only true Russian culture. This rightful culture came to an end on the steps of the court, the police station, and the prison. And where does a tradition of law come from in a country that was the very last to abolish serfdom in Europe? The Russian proverb says: "Don't be afraid of the law, be afraid of the judge." Justice in our country was always feudal. The entirety of Russian history

encompasses only the history of different forms of feudalism. Each new government ordered new laws, like one orders new suits at the tailors — cut according to the shape of the government. The figure of every government began to grow fat, and the suit of law became unravelled at the seams and was skillfully reshaped, only so the government would feel comfortable in it.

At first there was princely feudalism when, without trial, the tongues of people who spoke the truth were cut out and buried in the earth. Then there was Imperial feudalism, the time when Ivan the Terrible created his “Oprichnina,” the first pre-Communist KGB, which was the highest judicial organ that invented the most terrible tortures to obtain confessions of guilt. Then came Communist feudalism where millions of people, having been declared enemies of the people, were deprived of the possibility of having an attorney and were condemned on a conveyor of tribunals — so-called “troikas.” Stalin's Constitution, hypocritically proclaiming freedom of speech and religion, was basically written by Karl Radek and Nikolai Bukharin, who were among the first victims of the complete flouting of its own pretty falsification by the cruel medieval reality of torture and murder. But when condemning Stalin don't idealize Lenin who in 1918 already signed the decree creating in Solovki the first concentration camp in Europe for political prisoners. Here is what Lenin, a former professional lawyer, wrote about his own understanding of justice: “Law-courts should not eliminate terror, to promise that would be self-deception or deception, but establish terror as a matter of principle without embellishment.” So Stalin was really a faithful disciple of Lenin. Trials of dissidents, and the placing of nonconformists in psychiatric hospitals under Brezhnev was also, of course, terror, but terror now on gouty old legs. The accused were now supplied with lawyers — it was true, of course, that if they too passionately defended the accused they lost their jobs. That's what happened to the lawyers of the dissidents Kaminskaya and Zolotukhin.

Here is what took place in the first dissident trial in 1966. When the KGB discovered the true names of the writers Andrei Sinyavsky and Yuri Daniel who had been published their so-called “slanderous works in the West under the pseudonyms, Abram Tertz and Nikolai Arzhak,” Brezhnev sent his representative to the Writers Union for advice as to what should be done. The Chairman of the Writers Union, Konstantin Fedin, a corrupt, cowardly intellectual,

who, in the words of one writer, “resembles a stuffed owl,” waved his arms: “Only a criminal trial, only criminal . . . is it for us to soil our hands with such dirty business!” That is how the dissident trials of writers began — with the corrupt cowardice of other writers. But where was the law?

It seems that state terror afterwards collapsed, along with censorship and dissident trials. True, a multiplicity of other kinds of terror immediately appeared — Mafia terror, the terror of bank fraud, the terror of bribery, the terror of unemployment, the terror of a too high cost of living. But justice remained as before — amateurish, and consequently feudal.

Now we are going through a torturous, but perhaps inevitable stage of feudal democracy. I hope that it is only the initial stage of a new, still unformed society located between the past and the future. And in our justice there are already unexpected flashes of the future that inspire hope, though the past repressively slaps its hairy neanderthal hand across it.

There was a recent sensation in Russia. In Moscow a woman judge, Olga Govorova, after several unsuccessful summons to her court, issued an order to bring the Minister of Defense Grachyov under guard so that he could give necessary testimony in a case concerning the libel of the virtue of a journalist. True, the chief of the regional police in answering the questions of overly curious journalists regarding how this too romantic decision would be transformed into prosaic reality, sadly scratched the back of his neck: “To speak honestly, it is difficult for me to imagine my two policemen with their toy pistols bringing to court under guard a person who commands atomic bomb. . . .” Nevertheless, Judge Govorova's decision, even it remains only on paper, is a step forward, albeit a tiny one. Law in Russia is still not sufficiently strong to pound its fist on the table. This is not yet a growl, but only the first squeak of the law. Here is another case involving one of today's Russian inventors, a much more reassuring case, but at the same time alarming. Some of those most deprived of rights by Soviet law were inventors. The State monopolized rights to their inventions, mercilessly robbing them, paying no interest in accord with the magnitude of their inventions. Efforts by inventors to take the Government to court usually ended without success. The State was like the goddess Shiva with many arms, and for one arm to complain against another was meaningless. And now suddenly the Ural inventor Vitaly Tarasov

has sued the factory that purchased his machine for drawing on stone for 160 billion rubles (approximately 30 million dollars). After several trials and appeals it turned out that the inventor had won. A marvel, true enough, but it turned out that it was reduced out of fear to a tenth as much — 16 billion rubles (approximately 3 million dollars). But, nevertheless, it was the first instance of such a victory of an individual over an organization. If 3 million dollars seems a very modest sum to your American imagination, let me remind you that the average monthly pay in Russia today is approximately 100 dollars and consequently the engineer Tarasov will have a salary for 30 thousand months or 2500 years in advance. Of course, the factory can stretch out the payment of money for many years or declare itself bankrupt. There are many different tricks that you Americans are more skilled at than we, who are only modest pupils. But the inventor, Tarasov, even if he gets the money, understands perfectly well what a shock of envy or resentment a suit worth a tenth as much would provoke among many people.

Aleksandr Radishehev, the contemporary of Pushkin grinned bitterly when he said once that an Englishman, envying how beautiful his neighbor's house is, will not sleep at night cutting his lawn, while a Russian will simply set fire to his neighbor's house. Therefore, the inventor Tarasov, a Catholic by religion, already prepared that perhaps he will be killed, has already written his will for his wife and children, and if they are killed the money will go to the Pope in Rome. Such preparedness of man that he might be killed only because he has more money than others strikes fear. Our future, which wants to be rich, will perhaps be killed by an envious present.

Strikes and workers' demonstrations in our country surprise no one, but recently there have been demonstrations by bankers and industrialists demanding government protection. In this year alone there have been 90 assaults on businessmen and 46 of them were fatal. Particularly refined was the murder of the President of the Business Round Table — Kivelidi, who was poisoned together with his secretary in the manner of the Borgias. Altogether in Russia last year there were 500 hired killings. Among them was the murder of the 27 year old Moscow journalist, Dima Kholodov, who was engaged in research of the use of one of the military bases for training of Mafia guards. He carelessly received a "diplomat," who was supposed to have supplementary material for the case, and when he

opened the door to let him in, there was an explosion in the editorial office. The TV political commentator Vladislav Listyev, who was the favorite of millions of viewers, and who had just been appointed the Director of Television was murdered. What unites all these killings that were done for very many different reasons? The fact that presently not one single killer has been found.

The question arises — isn't that because the search for the criminals has been entrusted to those who are themselves connected to the criminals? But the failure to expose the guilty with time is becoming the Government's style. In 1991, a coup d'état was attempted against the Government. Three young persons, one of them a poet, perished. But you cannot explain to three mothers that all together only three is so few. Why hasn't there been a real trial of the conspirators? Why during the time of the still incomplete investigation the investigators, who were not observing even the appearance of legality, did business with the materials found in the preliminary investigation, with the permits of to photograph and interview the accused? It was not a trial, but a farce. The conspirators were not condemned even conditionally, and some of them have again become deputies in the Duma. The humanity of the new regime? Perhaps fear of a deep investigation that might disclosed unexpected connections between the judges and the accused?

Power has been transferred from the hands of some to the hands of others. But the amateur justice remains in the hands of the Government. Yeltsin in August, 1991 appeared on a tank as if on a pedestal, the defender of justice. Soon thereafter, together with the Presidents of Ukraine and Byelorussia they took an illegal decision to recall the deputies of the three Republics from the Soviet Parliament, which led to the collapse of the USSR. Here was the beginning of the concept "everything is permitted" that Dostoevsky warned about. This "everything is permitted" concept could not but penetrate judicial matters. When President Yeltsin and Vice President Rutskoi, former comrades-in-arms at the barricades, began to quarrel in a struggle for power, then by a decree of the President, a special commission was created at the head of which was placed the lawyer Andrei Makarov. Makarov in close-up showed on TV Channel One a financial document with Rutskoi's signature of the transfer of a large sum of money to a foreign bank account. Subsequently, the public prosecutor identified the document as false. But someone, in any case, should have been punished. Either Makarov or Rutskoi. I re-

cently saw Makarov happily playing tennis for the Big Hat Cup, where famous people and ministers take part, and Rutskoi is heading up a new party and threatens to bring charges against Yeltsin and arrest him. But Yeltsin also peacefully plays tennis. Incidentally, quite recently the Constitutional Court took the unique decision of condemning both Yeltsin and his opponents in Parliament for the bloodshed in 1993, but the Court restricted itself to only a mild sentence. The anti-Yeltsin opposition papers ask the question: "If both sides are equally guilty, then why did one side sit in prison 147 days and the other did not?" The Constitutional Court did not explain this. The war in Chechnya was started without any decision of the Duma. But when Sergei Kovalyov, the Chairman of the Commission of Civil Rights expressed his resolute protest against this war, President Yeltsin, by his own decree, simply annulled the existence of this Commission. The authorities dealing with freedom of the press respond with their own freedom to ignore the press. About two years ago the well-known journalist Shchekochikhin published an article accusing the Mayor of Moscow, Yuri Luzhkov, of having ties to the Mafia. Everyone held their breath — which is still going on. Everyone thought that the Mayor would take the journalist to court. But the Mayor didn't even raise an eyebrow, considering, apparently that it was beneath his dignity to react to the charges of some journalist. The justice system didn't move a finger. So it remains a mystery — where is the truth? Or is Shchekochikhin a slanderer? But then he should be punished. And if Shchekochikhin is right, then isn't the Mayor guilty and shouldn't he be punished? But I have heard that Shchekochikhin and the Mayor have started to say hello to each other.

Thanks to such amateurish justice the nation feels itself disoriented. Under amateur justice even our democracy will remain amateur, and perhaps even not a democracy at all. But we have one undoubted achievement. We have ceased to be a closed society. Now we see ourselves, and all others see us on the pages of our press with all of our wounds and defects. It is not pleasant, but it is less dangerous than to conceal the pus and blood as we did before.

The Italian philosopher, Antonio Gramsci once said: "I am a pessimist with my observations, but I am an optimist with my actions." In this sense, I am an optimist and I appeal to you also to be optimists in your activities dealing with Russia. Yes, and could he be a pessimist about his country, the poet who stands before you



Americans now without fear or desire to deceive you, to tell you about the wounds and the pain of his homeland, concealing nothing from you.