

# Memory Laws: Censorship in Ukraine

Written by David R. Marples

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DAVID R. MARPLES, JUL 5 2020

**This is an excerpt from *Understanding Ukraine and Belarus: A Memoir* by David R. Marples. Download your free copy on E-International Relations.**

On March 25, 2014, Poroshenko appointed Volodymyr Viatrovykh (born 1977) as head of the Ukrainian Institute of National Remembrance (UINR). The institute itself had been founded by Yushchenko in 2007. Viatrovykh earlier had directed a far-right Center for the Study of the Liberation Movement, based in Lviv, and he holds a Candidate of Sciences degree in history from Lviv University, where he worked on UPA raids beyond the Ukrainian borders, defended in 2004. In 2008-2010 he was director of the Archives of the Security Forces of Ukraine. Viatrovykh is deeply immersed in Ukrainian politics and a passionate nationalist, prepared to defend OUN and UPA from any accusations of past crimes. Himka and his PhD student Taras Kurylo had written a scathing review of one of his books about the attitude of the OUN to Jews in an issue of *Ukraina Moderna* in 2008.

In 2013, there had been an encounter with Viatrovykh at Columbia University at a workshop organized by Tarik-Cyril Amar. Taras Kuzio, who evidently had turned down an invitation to attend but had shown up nonetheless, complained that the chair of a session had refused Viatrovykh the right to speak and that the conference had not given equal weight to Russian nationalism, while critiquing its Ukrainian variant. Amar responded on my CIUS blog site, that Viatrovykh had shown up uninvited and demanded the floor, and then started to read a lengthy speech in Ukrainian using a translator. The chair of the session had been obliged to cut him short after more than three minutes, having stressed earlier that all questions must be brief. Viatrovykh had also recorded the session without asking permission.

The dispute illustrated a growing divide in Western scholarship on Ukraine, which was complex but can be simplified more or less as follows. On the one hand were scholars of Ukrainian background – though not only – who defended Ukraine and were given broad scope to disseminate their views at public forums run by community organizations. On the other was a group of Western critics and a few Ukrainian counterparts who believed that Ukraine should recognize that it was not always a historical victim, but had also been responsible for some crimes. In the background, always, was the Second World War, but the time period reached back at least to the Famine of 1933, and sometimes to 1918 and earlier. In Ukraine, Viatrovykh was to express more publicly his earlier research on “defenders of Ukraine in the 20<sup>th</sup> century.”

Earlier, there had been online debates, which were very heated, on such issues as the Lontskyi Prison Museum in Lviv, headed by Ruslan Zabilii, who was considered by Himka and others to be highlighting some crimes while concealing others, specifically those of OUN and its treatment of Jews. Per Rudling was also prominent in these discussions. After the Bandera debacle in 2010, his responses to Zenon Kohut, for example, resulted in the CIUS Director feeling ill as a result and refusing to read them. Another issue was the new Canadian Museum of Human Rights in Winnipeg and the allocation of space for the Holodomor, specifically whether it was suitable given the enormity of the tragedy. One complaint was that the Holodomor exhibit was located too close to the public washrooms.

In November 2014, I took part in an event on “The Future of Ukraine: Conflict, Leadership, and Civil Society” at the University of San Diego (USD). The speakers were Taras Kuzio and myself, with Svitlana Krasynska, then

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completing her PhD at USD, as the main organizer. I had met Svitlana at a conference on Chernobyl at the University of Wisconsin-Madison eight years earlier and we had kept in contact. Yuriy Risovanny, my friend from Chernobyl, had spoken at that conference and turned up at the opening reception in San Diego. I was very happy to see him again. Around the turn of the century, he had won a green card in the Kyiv lottery and could move to the US city of his choice. He chose San Diego, not a bad selection, and brought over his entire family.

Kuzio, as anticipated, lashed out at the Russian government and Putin in particular. I tried to be a bit more balanced but some in the audience clearly didn't like one of my slides, which described historical allegiances of the Ukrainian population and featured Bandera and Stalin together. A singular incident afterward encapsulated the time: someone asked for a photograph of the speakers and organizer together in front of the Ukrainian flag, and Kuzio immediately started a loud rendition of the popular ditty "Putin khuylo," believed to have originated with Kharkiv soccer supporters of the team FC Metalist after the Russian annexation of Crimea. The core of the word "khuylo," khuy (hui), simply means "dick," thus the simple translation is "Putin the dickhead." I felt very uncomfortable.

The issue was not so much the phrase but the venue and circumstances. The phrase had gone viral on YouTube in the spring and was sung by soccer fans throughout Ukraine, as well as some in Belarus. Acting Foreign Minister and former University of Alberta graduate student, Andrii Deshchytzia, had approached a large crowd outside the Russian Embassy in June 2014 following the shooting down of a Ukrainian military plane by Donbas militants. When the crowd began to sing "Putin khuylo" he joined in with gusto, but his purpose in doing so was to prevent people from acts of violence. Some reports suggested that the fact that Poroshenko made him Ambassador to Poland rather than the full Foreign Minister after the presidential election were attributable to his actions, i.e. singing the song.

In the following month Ukraine's Internal Minister, Arsen Avakov, also attracted attention when he met the Kyiv Special Forces Battalion. The exchange began with the greetings now regularly used in Ukraine, based on the OUN-Bandera model:

"Glory to Ukraine!"

"To our heroes, glory!"

Avakov then shouted: "Putin!" The troops replied "Khuylo!" It is likely that this was the anticipated response.

It was Viatrovykh, however, who attracted most venom from his detractors and support from his followers and who took the most political of stances. From my perspective, Viatrovykh had two fundamental weaknesses. First, he was limited to the Ukrainian language since his English was non-existent, which would not have been a factor when in Ukraine, but hindered his impact abroad and restricted his audiences to those who understood Ukrainian. Second, he did not engage others by publishing in scholarly journals. His books were published by a company run by his wife and were also polemical in tone. Had he used peer-review journals, there would have been more chances to put his work in critical perspective. In his new position, however, he had considerable power, and he intended to use it.

Viatrovykh was a frequent visitor to Canada, usually hosted by regional UCC organizations, which would then ask academic institutes to sponsor his talk. In the early tenure of Kravchenko at CIUS, we had a lengthy discussion with Frank Sysyn and others whether he should be invited to come to Edmonton for a lecture after offering one in Toronto. On this occasion, Kravchenko emphatically ended the discussion with a clenched fist on the table, noting that Viatrovykh was a politician rather than a scholar: "He will NOT be coming to CIUS." But he showed up at many other venues.

In 2015, Viatrovykh began a quest to de-communize Ukraine. Together with Yuriy Shukhevych, son of Roman and a former political prisoner, he helped author four laws that were introduced into the Ukrainian Parliament and passed with little debate. The laws were: first, on condemning Communist and National Socialist regimes and prohibiting Communist and Nazi symbols – which signified the removal of Communist monuments and renaming towns and streets named after Communists; second, on the status and honoring of the memory of "fighters for the independence of Ukraine in the 20<sup>th</sup> century" (and recognizing inter alia OUN and UPA); third, on remembering the

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victory over Nazism in the Second World War; and fourth, on access to Communist Archives and placing them under the control of the UINR. Poroshenko gave his approval to the laws in mid-May 2015.

Of the four laws, two had immediate impact, namely the ban on Communist symbols, which soon resulted in a ban on the Communist Party, which had run in all the previous parliamentary elections and until 2014, had a significant number of deputies. Petro Symonenko, its long-time leader, had made the final round run-off for president in 1999 but was defeated by Leonid Kuchma. But in 2019, as a result of the Memory Laws, he was not permitted to run. Monuments were soon demolished – in fact the Lenins in Kyiv were already removed by the end of 2014, but those in other cities had not been touched. Ukraine had more Lenins per population than any other republic of the former Soviet Union, about 5,000 in total. The removal of Lenins seemed to me quite logical and natural: after all, what was Lenin to Ukraine?

It was the second law, however, Law 2538-1, that caused the most impact outside Ukraine because it seemed to restrict freedom of scholars to critique people and organizations such as OUN and UPA, since such criticism could be regarded as attacks on the “dignity” of such figures or entities justifying an arrest as a criminal offence. Before the law went into force, and together with 4-5 others, I wrote an Open Letter to Poroshenko and Prime Minister Volodymyr Hroisman appealing to them not to sign the draft into law. Several versions of the letter circulated between us with the final version a combined effort between British scholar James Sherr and myself. In the version that was published in the Ukrainian journal *Krytyka*, however, I was listed erroneously as the sole author.

A second aspect of this letter, which was to have many repercussions, was that initially it was restricted to the 5-6 scholars – mostly Canadian – because we thought this might be a more effective way to protest. The German scholar Andreas Umland, however, with whom I had cooperated on the Belarus and Euromaidan books – they were included as part of a series of which he was the main editor – dispersed the letter around Europe. Thus, the number of signatories increased to more than 70. The letter ran as follows:

## **To the President of Ukraine, Petro O. Poroshenko, and to the Chairman of Ukraine’s Verkhovna Rada, Volodymyr B. Hroisman:**

We, the undersigned, appeal to you not to sign into law the draft laws (no. 2538-1 and 2558) adopted by the Verkhovna Rada on April 9, 2015. As scholars and experts long committed to Ukraine’s regeneration and freedom, we regard these laws with the deepest foreboding. Their content and spirit contradict one of the most fundamental political rights: the right to freedom of speech. Their adoption would raise serious questions about Ukraine’s commitment to the principles of the Council of Europe and the OSCE, along with a number of treaties and solemn declarations adopted since Ukraine regained its independence in 1991. Their impact on Ukraine’s image and reputation in Europe and North America would be profound. Not least of all, the laws would provide comfort and support to those who seek to enfeeble and divide Ukraine.

We also are troubled by the fact that the laws passed without serious debate, without dissenting votes and with large numbers of deputies declining to take part.

In particular we are concerned about the following:

1. Concerning the inclusion of groups such as the Organization of Ukrainian Nationalists (OUN) and Ukrainian Insurgent Army (UPA) as “fighters for Ukrainian independence”: Article 6 of this law makes it a criminal offense to deny the legitimacy of “the struggle for the independence of Ukraine in the 20th century” and public denial of the same is to be regarded as an insult to the memory of the fighters. Thus, questioning this claim, and implicitly questioning anything such groups did, is being made a criminal offense.

2. Law 2558, the ban on propaganda of “Communist and National Socialist Regimes” makes it a criminal offense to deny, “including in the media, the criminal character of the communist totalitarian regime of 1917-1991 in Ukraine.”

The potential consequences of both these laws are disturbing. Not only would it be a crime to question the legitimacy

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of an organization (UPA) that slaughtered tens of thousands of Poles in one of the most heinous acts of ethnic cleansing in the history of Ukraine, but also it would exempt from criticism the OUN, one of the most extreme political groups in Western Ukraine between the wars, and one which collaborated with Nazi Germany at the outset of the Soviet invasion in 1941. It also took part in anti-Jewish pogroms in Ukraine and, in the case of the Melnyk faction, remained allied with the occupation regime throughout the war.

However noble the intent, the wholesale condemnation of the entire Soviet period as one of occupation of Ukraine will have unjust and incongruous consequences. Anyone calling attention to the development of Ukrainian culture and language in the 1920s could find himself or herself condemned. The same applies to those who regard the Gorbachev period as a progressive period of change to the benefit of Ukrainian civil society, informal groups, and political parties, including the Movement for Perestroika (Rukh).

Over the past 15 years, Vladimir Putin's Russia has invested enormous resources in the politicization of history. It would be ruinous if Ukraine went down the same road, however partially or tentatively. Any legal or 'administrative' distortion of history is an assault on the most basic purpose of scholarly inquiry: pursuit of truth. Any official attack on historical memory is unjust. Difficult and contentious issues must remain matters of debate. The 1.5 million Ukrainians who died fighting the Nazis in the Red Army are entitled to respect, as are those who fought the Red Army and NKVD. Those who regard victory over Nazi Germany as a pivotal historical event should neither feel intimidated nor excluded from the nation.

Since 1991, Ukraine has been a tolerant and inclusive state, a state (in the words of the Constitution) for 'citizens of Ukraine of all nationalities'. If signed, the laws of April 9 will be a gift to those who wish to turn Ukraine against itself. They will alienate many Ukrainians who now find themselves under de facto occupation. They will divide and dishearten Ukraine's friends. In short, they will damage Ukraine's national security, and for this reason above all, we urge you to reject them.

Among the signatories were some of the most prominent names in Ukrainian studies: Dominique Arel, Omer Bartov, Serhii Yekelchuk, Sofia Dyak, Rory Finin, Frank Golczewski, Mark Von Hagen, Andreas Kappeler, Andreas Umland, Lucan Way, Zenon Wasyliv, and others. Not one of the above had written anything to suggest they were anything other than scholars of Ukraine and supportive of its progress as a democratic state. The list also included some who had been very critical of the OUN and UPA in the recent past, such as Himka, Rudling, Rossolinski-Liebe, and Jared McBride. Shukhevych instantly dubbed us all Kremlin agents and Viatrovych wrote an angry response on the pages of *Krytyka* condemning the letter and objecting to several signatories whom he claimed wrote articles on "primordial Ukrainian collaborationism" that were openly used by Russian propaganda agencies. If Poroshenko and Hroysman saw the letter, it made no impact on their decision. It did draw attention, nonetheless, to the defects of the law.

The issue was that we had stepped over a red line by criticizing a Ukrainian law at a time when the state was at war with Russia and struggling to retain its territories. The concept behind the letter, however, was to help, not to hinder Ukraine, and to ensure that its path to Europe was smoother by removing some obvious iniquities. We had no objection – and I can only imagine that all signatories were in approval – to the opening of the former KGB archives to all scholars. We were objecting to the ethics of a single law. Whether Russian agencies chose to use the letter in their propaganda was hardly our business. We were not writing for them.

In July, I spoke at the Kennan Institute in Washington, DC, along with Jared McBride, on the topic "Ukraine's Decommunization Laws: Legislating the Past?" My long-time friend Jurij Dobczansky was in the audience, but did not respond to my greetings. It seemed he now regarded me as an enemy. The audience consisted of Kennan staff and interns, graduate students from the Washington area, and a large contingent from the Ukrainian community. Afterward, Jurij approached me and we had a "discussion." He was genuinely angry and compared my remarks to those of Soviets about Ukrainian dissidents when we had first met in the late 1970s. I did not think then or now that it was a useful analogy.

I would not like to give the impression that hostile encounters were the only sorts of academic gatherings of

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2014-2015. Olenka Bilash had acquired a grant from the Kule Institute of Advanced Studies for a “Research Initiative on Democratic Reform in Ukraine,” which embraced the rule of law, post-secondary education, and nationality and language policies, and with participation from a number of Alberta-based scholars, including myself, and with Skype panels with scholars in Kharkiv and other locations. Kravchenko was also working closely with Kharkiv colleagues, many of whom came to Edmonton for talks and discussions. And as head of a very large department, I was very preoccupied with administrative matters and with meetings.

In September 2015, Aya organized a major conference on “70 Years After Hiroshima: Conceptualizing Nuclear Issues in Global Contexts,” on which we both worked to acquire a major grant and to solicit speakers. In the background was the closure of the Fukushima nuclear plant following the March 2011 tsunami and we used our Hokkaido contacts and with others we had met in Japan to assemble a truly international cast of speakers. Aya was pregnant at the time, but was not expecting until November.

My department had organized some talks at local schools, and to all grades. On October 2, I found myself in the northern part of Edmonton giving a talk on the Ukraine conflict to Grade 3 students. Upon leaving, I thought that as the school was close to the cemetery that contained Nicole’s grave, I would pay a visit, something I had not done regularly. I spent some time there imagining how she would have been in her 30<sup>th</sup> year when my cell phone rang. Aya’s waters had broken six weeks prematurely. I drove home like Lewis Hamilton and took her to the Royal Alexandra Hospital. Later that night, she gave birth to our twins, Akiko and Kaella, who were both healthy, and this event overshadowed any academic pursuits and debates. I was a father again at 62, and this time, miraculously it seemed to me, had two healthy daughters, something I had not believed possible after the tragic death of Nicole. But I sensed the link between them. It was a rare occasion when I felt that a greater power was watching over us.

The following year, Chernobyl reappeared as a conference and media topic on the 30<sup>th</sup> anniversary of the accident. I gave talks at the University of Waterloo and at the Munk Center for Global Research, University of Toronto. Otherwise, my obsession was Ukraine’s memory laws and decommunization, which I presented at several locations, perhaps most notably at the Center for Russian and Eurasian Studies, Uppsala University, Sweden. Though Belarus was in the background during this tempestuous period in Ukraine, I was an invited speaker at the Bureau of Intelligence and Research, US Department of State in July. I was a familiar face there, having been invited back every summer, usually to talk about Belarus, and sometimes alongside Grigory Ioffe, a professor of geography at Radford University and Moscow native, with whom I disagreed deeply on virtually everything to do with that country, but who is a friend on a personal level and a very witty and entertaining man.

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## About the author:

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