

## Report on 2012 NARA Declassification and Public Release of Katyn Documentation

On the occasion of the 2012 public release of Katyn documentation by the National Archives and Records Administration of the United States ("NARA"), it is worth recalling the role and contribution of the Polish-American community to compel this disclosure in order to come closer to the full truth about the scale and nature of this unprecedented crime of historic proportions symbolically known as "Katyn."

One of the organizations that worked towards the declassification and public release of the Katyn documentation is Libra Institute of Ohio. The impulse to take a decisive action towards just resolution of the Katyn problem was a conference held in May 2010 at the Library of Congress in Washington, D.C. on the occasion of the seventieth anniversary of the Katyn crime. Unexpectedly to the organizers, this conference took place at a very special time for the Polish people, just a few weeks after the shocking plane crash in Smolensk, near Katyn, in which the entire Polish delegation traveling for the commemorative ceremony on the 70th anniversary of the Katyn crime perished, including the President of Poland, First Lady, and ten top generals of the Polish Armed Forces, among them five top NATO commanders.

The Katyn conference held in the Library of Congress was attended by many Washington officials as well as representatives from Poland and Russia. An atmosphere of eager kindness towards Russia dominated the conference. The Ambassador of the Russian Federation was received with great affection. It was hard to resist the impression that it was Poland that showed much compassion to Russia, as if Smolensk was the Russian not Polish tragedy. High level specialists of international law and international relations made no attempt to determine what the Katyn crime represents in light of today's knowledge. Instead, they resorted to obvious clichés. It was evident that the legal classification of the Katyn crime was a taboo not to be mentioned. This hollow discourse was strikingly insincere. It became evident that the issue of the legal qualification of the Katyn crime, that proverbial elephant in the room, needed to be addressed.

In February 2011, Libra Institute in cooperation with the F. Cox Institute of International Law of the School of Law at Case Western Reserve University in Cleveland, Ohio, organized an academic symposium with focus on the legal classification of the Katyn crime. The Katyn Symposium played a key role in the process that led to the declassification of the Katyn documentation. The symposium was attended by representatives of the United States Congress, including Honorable Marcy Kaptur, Congresswoman from Ohio, who subsequently co-signed with Representative Daniel Lipinski a petition to the White House requesting the declassification of Katyn documents. Furthermore, at the Katyn Symposium a panel discussion was held on the legal classification of the Katyn crime. Leading authorities on international criminal law took part in this discussion. The video recording of this panel discussion as well as other presentations can be found on the website of the Libra Institute under Programs and Events.

Finally, what is perhaps the most important, an expert report on Katyn was issued as a result of the Katyn Symposium. This document formulates recommendations for steps that need to be undertaken in order to assure that justice can be served because, as Congressman Dennis Kucinich put it, "Katyn presents the unresolved moral problem to this today."

The Expert Report on Katyn drafted based on the roundtable discussion that took place during the symposium includes recommendations for conciliatory action that is required and shall be undertaken by Poland, Russia, UK and the United States - the countries directly implicated in suppressing the truth about the Katyn crime. In relation to the United States, the Expert Report formulates a number of recommendations including a pro-active search and declassification of all still classified governmental Katyn records held by various agencies of the Government of the United States. It is necessary to point out a distinction between documents generated by the U.S. Congress from documents generated by various agencies of the Government of the United States. Congressional documents from the Madden Commission are known to researchers since 1953 while governmental documents declassified by NARA on September 10, 2012 pursuant to the Katyn Atrocity Project represent documents from various agencies of the United States Government never before available to the public.

The Katyn Symposium resulted in the increased interest in the Katyn crime. In March 2011, the Libra Institute prepared a draft executive order on search, declassification and dissemination of the Katyn documentation in the possession of the US Government and submitted this draft to the office of Congresswoman Marcy Kaptur. Following lengthy negotiations and additional consultations, on August 19, 2011 Representatives Marcy Kaptur and Daniel Lipinski sent a letter to President Obama calling on him to declassify the Katyn documentation.

To demonstrate to the Washington politicians the interest of the Polish-American community in the declassification of the Katyn documentation, on September 15, 2011, Libra Institute co-organized with the Institute of World Politics, a conference on the Capitol Hill entitled "Katyn: Unfinished Inquiry." This conference was supported by almost all Katyn and Siberian communities across the United States. Representatives of the Polish Administration of Prime Minister Donald Tusk did not participate in this conference.

Several weeks after the Capitol Hill conference, President Obama sent a letter to the Chief Archivist of NARA with a recommendation to undertake pro-active search and declassification of the Katyn documentation. However, this letter represented merely a recommendation to pursue the Katyn Atrocity Project on the "best effort" basis. The original intent to assure mandatory declassification of all Katyn related records of historical value pursuant to the Executive Order was not achieved. Accordingly, the 2012 declassification of the Katyn documentation did not assure the full disclosure of all Katyn related archival materials. Only a portion of newly declassified Katyn documentation was made available online. The rest awaits a sharp eye of the skilled researcher to bring the full truth about this crime of all crimes to light. According to the statement of the NARA representative, any researcher who finds an evidence of still classified Katyn documentation has the right to petition the US Government to declassify such document.

Since November 2011 Libra Institute directly collaborated with NARA in assisting the archives in the implementation of the "Katyn Atrocity Project" by providing advice on to the scope and direction of the search, offering language and volunteer assistance for the project, and negotiating the creation of the Katyn Collection at NARA. The NARA team of experts designated to handle the "Katyn Atrocity Project" included experts from research and declassification departments as well as high ranking executives. Libra Institute invited all major Katyn and Siberian communities and organizations from all over the United States and representatives of the academic community to collaborate with NARA on the Katyn Atrocity Project and the Katyn Council was formed.

On February 9, 2012, a meeting between the Katyn Council and NARA representatives in charge of the Katyn Atrocity Project took place at College Park in Maryland. The status and progress of the project was discussed as well as the creation of the Katyn Collection at NARA. In this respect, a clear request was put forward by the Katyn Council to assure that as many newly declassified Katyn documents as possible be scanned and made available to the public through a special NARA website dedicated to Katyn. Finally, preliminary plans were made for the formal ceremony announcing the release of the Katyn Collection to the public.

After the February meeting, the Katyn Council and NARA conducted regular updates on the status of the Katyn Atrocity Project. Originally, the Opening of the Katyn Collection was planned for April 2012, but NARA expressed interest in broadening the search, and the Katyn Council supported that position. Subsequently, based on the recommendation of Congresswoman Marcy Kaptur's office, the date for the Opening of the Katyn Collection was set for September 10, 2012.

In April 2012 NARA approached Libra Institute with a request to put together a collection of essays on Katyn that would provide background reading material in conjunction with the newly declassified Katyn documentation. On September 10, 2012 Libra Institute published "Katyn: State-sponsored Extermination; Collection of Essays." This work presents a collection of scholarly essays on Katyn written by leading historians and legal experts from Poland and the United States.

There is no doubt that the 2012 declassification of the Katyn documentation represents an important step towards the resolution of the Katyn problem in the United States. Unfortunately, the most important documents related to the Katyn crime still remain classified in Russia, Belarus, Great Britain, and even in Poland as a result of the policy of Prime Minister Tusk.

With respect to the United States, the dissemination of the full truth about Katyn in light of today's knowledge becomes the most urgent matter. In light of today's evidence, the Katyn Forest stands as a symbol of possibly as many as 800 similar forests throughout the Soviet Union hiding mass death pits with bodies of Polish citizens. It is the moral obligation of the humanity to disseminate the full truth about the scope and character of the Katyn crime in order to remedy the harm done to the Katyn community, and balance decades of lies, cover-ups, and persecutions of the Katyn families. Therefore, the establishment of an institute on the prevention

of the crime of *katynism* and comprehensive analysis of the entire body of knowledge on the genocidal state crime symbolized by Katyn is urgently needed.

In light of the latest renewed efforts to suppress the Katyn truth, a decisive action should be taken to disseminate the knowledge about Katyn as we know it today and promote scholarly research on Katyn in order to remedy decades of suppression of truth, disinformation and lies. The Katyn wound can be healed only if the international community musters the will to assure the basic sense of justice for the Katyn victims.

For this purpose it is necessary to reveal the full truth about Katyn, undertake serious efforts to adjudicate this crime, unequivocally condemn it, and provide a redress mechanism. Given the passage of time, the form of adjudication requires innovative solutions. The issue of reparations must be considered as well. All the above steps are necessary because they represent pillars of international justice and are recognized by the civilized nations as a necessary standard in the treatment of wounds inflicted by severe international crimes. These actions are also necessary for the long-term normalization of relations between Poland and Russia, and for the prevention of similar crimes in the future. that Katyn represents an unprecedented crime of historic proportions that over time has been transformed from the massacre in the Katyn forest into the Katyn hecatomb that to this day continues to reveal new mass burial sites of the Polish citizens murdered by the Soviet Union. The international community must acknowledge this dark truth, learn from it, and devise a preventive mechanism based on in-depth study of the crime of *katynism*.

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