



## Case Western Reserve Journal of International Law

---

Volume 44 | Issue 3

---

2012

# Mass Murderers Discover Mass Murder: The Germans and Katyn, 1943

Kenneth F. Ledford

Follow this and additional works at: <https://scholarlycommons.law.case.edu/jil>

 Part of the [International Law Commons](#)

---

### Recommended Citation

Kenneth F. Ledford, *Mass Murderers Discover Mass Murder: The Germans and Katyn, 1943*, 44 Case W. Res. J. Int'l L. 577 (2012)  
Available at: <https://scholarlycommons.law.case.edu/jil/vol44/iss3/22>

This Article is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

**MASS MURDERERS DISCOVER MASS MURDER:  
THE GERMANS AND KATYN, 1943**

*Kenneth F. Ledford\**

*After the German army in 1943 discovered the graves of murdered Polish army officers in the Katyn Forest, Joseph Goebbels embarked upon a cynical publicity campaign to spread before the world the perils of Bolshevik success. But the Nazi discovery of Soviet crimes against leaders of Polish state and society elided the reality that from the very beginning of the German invasion of Poland, the SS had carried out identical mass murders of Polish intellectuals and other social leaders. Goebbels's campaign amounted to mass murderers "uncovering" mass murders on the part of their adversaries and seeking cynically to use that "shocking" discovery to the advantage of the Third Reich. This essay situates the Nazi campaign to mobilize the Katyn discovery to German advantage in three steps. First, it sketches the events leading up to the Katyn massacre in April 1940 and the Nazi discovery of the victims in late March 1943. Second, it examines the course and substance, as well as the immediate consequences of Nazi propaganda exploitation of the Katyn massacre to promote Goebbels's ends. And third, it adverts to the impact of that propaganda campaign on the Allied war effort, on the Polish government in exile in London, and thus on the course of wartime and post-war Cold War history. To conclude, it situates Katyn in the bloody twentieth-century history of Poland, Belarus, and Ukraine as the cockpit of genocide that Timothy Snyder has called the "Bloodlands."*

I. INTRODUCTION .....	578
II. THE MASSACRE AT KATYN AND THE NAZI DISCOVERY .....	580
III. THE PROPAGANDA CAMPAIGN AND ITS IMPACT .....	586
IV. CONCLUSION: KATYN AND THE "BLOODLANDS" .....	588

---

\* Kenneth F. Ledford is an Associate Professor of History and Law at Case Western Reserve University. His main research interests include the intersection of legal thought and middle-class formation in Germany in the 19<sup>th</sup> and 20<sup>th</sup> centuries, which results in his focus on the study of legal professions and legal professionals. He currently serves as Editor of *Central European History*.

## I. INTRODUCTION

On April 9, 1943, Joseph Goebbels exulted in his diary:

Polish mass graves have been found near Smolensk. The Bolsheviks simply shot down and then shoveled into mass graves some 10,000 Polish prisoners, among them civilian captives, bishops, intellectuals, artists, et cetera. . . . Gruesome aberrations of the human soul were thus revealed. I saw to it that the Polish mass graves be inspected by neutral journalists from Berlin. I also had Polish intellectuals taken there. They are to see for themselves what is in store for them should their wish that the Germans be defeated by the Bolsheviks actually be fulfilled.<sup>1</sup>

Goebbels resolved to incorporate this grisly discovery into his ongoing “anti-Bolshevik” propaganda focus of the late winter and spring of 1943, which aimed to distract attention from the reeling retreat of the Wehrmacht in the east after the crushing defeat at Stalingrad in February and the Afrika Korps in North Africa.<sup>2</sup> He saw a chance to use this news to address three audiences: the Polish population in the “General-Government;” the western Allies of the Soviet Union, Britain and the U.S.; and the increasingly pessimistic German population in a campaign of “Strength through Fear” (*Kraft durch Furcht*).<sup>3</sup>

Goebbels embarked upon a publicity campaign to spread before the world the perils of Bolshevik success: “One hardly dares to imagine what would happen to Germany and Europe if this Asiatic-Jewish flood were to inundate our country and our continent. All hands must be put to work to the last breath to prevent such a misfortune.”<sup>4</sup> He undertook a multi-pronged propaganda campaign to unearth the facts about the murdered Polish officers uncovered in the Katyn Forest, and he framed a narrative that aimed to disrupt the Allied war effort against Nazi Germany. But Goebbels failed in his primary goal of driving a wedge between the western Allies and the Soviet Union. And the entire propaganda campaign embodied a cynicism

---

<sup>1</sup> THE GOEBBELS DIARIES 1942–1943, at 318 (Louis P. Lochner ed., 1948).

<sup>2</sup> See JAY W. BAIRD, THE MYTHICAL WORLD OF NAZI WAR PROPAGANDA 1939–1945, at 194, 196–97, 199 (1974) (discussing Goebbels’s propaganda campaigns).

<sup>3</sup> John P. Fox, *Der Fall Katyn und die Propaganda des NS-Regimes* [*The Katyn Massacre and the Propaganda of the Nazi Regime*], 39 *VIERTELJAHRSSHEFTE FÜR ZEITGESCHICHTE* [CONTEMP. HIST. Q.] 462, 468 (1982); Claudia Weber, *Wider besseres Wissen. Das Schweigen der Westalliierten zu Katyn* [*Against Better Judgment: The Silence of the Western Allies Regarding Katyn*], *OSTEUROPA: DER HITLER-STALIN-PAKT DER KRIEG UND DIE EUROPÄISCHE ERINNERUNG* [EASTERN EUROPE: THE HITLER-STALIN PACT – THE WAR AND EASTERN EUROPEAN MEMORY], July–Aug. 2009, at 227, 227–28 (2009).

<sup>4</sup> THE GOEBBELS DIARIES, *supra* note 1, at 331.

breathtaking even for Goebbels, for the Nazi “discovery” of Soviet crimes against leadership segments of Polish state and society elided the reality that from the very beginning of the German invasion of Poland on September 1, 1939, Action Groups (*Einsatzgruppen*) of the SS carried out mass murders of Polish intellectuals and other social leaders identical to the Soviet crime that the Wehrmacht uncovered at Katyn. Goebbels’s campaign amounted to mass murderers “uncovering” mass murders on the part of their adversaries and seeking cynically to use that “shocking” discovery to the advantage of the Third Reich.<sup>5</sup>

This essay will situate the Nazi campaign to instrumentalize the Katyn discovery to German advantage in three steps. First, it will sketch the events leading up to the Katyn massacre in April 1940 and the Nazi discovery of the victims in late March 1943. Second, it will examine the course, substance, and immediate consequences of Nazi propaganda exploitation of the Katyn massacre to promote Goebbels’s ends, and advert to the impact of that propaganda campaign on the Allied war effort, on the Polish government in exile in London, and thus on the course of wartime and post-war Cold War history. Finally, it will position Katyn in the bloody twentieth-century history of east-central Europe as the cockpit of genocide that Timothy Snyder has called the “Bloodlands.”<sup>6</sup>

---

<sup>5</sup> The English- and German-language scholarship on Katyn is enormous. Perspectives and arguments necessarily have changed over time, as the documentary resource base expanded both with the elimination of suspicions about Nazi publications, first by the investigations of the Select Committee of the U.S. House of Representatives in 1952, and then by the all too brief opening of the former Soviet archives and the acknowledgment of the murder by Mikhail Gorbachev in 1990. Useful works consulted for this essay include: JANUSZ K. ZAWODNY, *DEATH IN THE FOREST: THE STORY OF THE KATYN FOREST MASSACRE* (1962); ALLEN PAUL, *KATYN: THE UNTOLD STORY OF STALIN’S POLISH MASSACRE* (1991); ALLEN PAUL, *KATYN: STALIN’S MASSACRE AND THE TRIUMPH OF TRUTH* (2010) [hereinafter PAUL, *TRIUMPH OF TRUTH*]; FRANZ-ANTON KADELL, *DIE KATYN LÜGE: GESCHICHTE EINER MANIPULATION. FAKTEN, DOKUMENTE UND ZEUGEN* [THE KATYN LIE: HISTORY OF A MANIPULATION. FACTS, DOCUMENTS AND WITNESSES] (1991); GERD KAISER, *KATYN: DAS STAATSVERBRECHEN – DAS STAATSGEHEIMNIS* [KATYN: THE STATE CRIME THE STATE SECRET] (2002); GEORGE SANFORD, *KATYN AND THE SOVIET MASSACRE OF 1940: TRUTH, JUSTICE, AND MEMORY* (2005); VICTOR ZASLAVSKY, *KLASSENSÄUBERUNG: DAS MASSAKER VON KATYN* [CLASS CLEANSING: THE MASSACRE OF KATYN] (Rita Seuß trans., 2007); MARTIN SCHAUBS, *STREITFALL KATYN: DIE WAHRNEHMUNG DES MASSAKERS IN DER SOWJETRUSSISCHEN, POLNISCHEN UND WESTDEUTSCHEN ÖFFENTLICHKEIT 1980–2000* [KATYN DISPUTE: THE PERCEPTION OF THE MASSACRE IN THE SOVIET, POLISH AND WEST GERMAN PUBLIC 1980–2000] (2008); EUGENIA MARESCH, *KATYN 1940: THE DOCUMENTARY EVIDENCE OF THE WEST’S BETRAYAL* (2010).

<sup>6</sup> TIMOTHY SNYDER, *BLOODLANDS: EUROPE BETWEEN HITLER AND STALIN* (2010).

## II. THE MASSACRE AT KATYN AND THE NAZI DISCOVERY

Timothy Snyder's persuasive new synthesis of the history of east-central Europe in the middle of the twentieth century argues that the region from central Poland to western Russia (through Ukraine, Belarus, and the Baltic States) experienced a coordinated orgy of political mass murder from 1932–33 until the end of the war in 1945, and oppression thereafter until Stalin's death in 1953, a horror whose extent and enormity has been overshadowed by accounts of the focused murder of Jews in the Holocaust.<sup>7</sup> Current scholarship thus rightly returns the murder of the Polish intellectual and social elite in the professional and reserve officer corps at Katyn and elsewhere to its integral place as an episode within three decades of criminality. Katyn's recontextualization not only settles long-open arguments about its facts, but also explains better how it could have occurred. Snyder details in excruciating clarity Soviet enmity toward Poles and Poland that extended back to the Polish-Soviet War of 1920–21, Stalin's focus on the murder of Polish citizens of the Soviet Union during the Great Purge of 1937–38, and the eagerness of the Soviets to extend their border westward at the expense of Poland that led to the Hitler-Stalin Pact in 1939.<sup>8</sup> This broadened context also clarifies how the NKVD enjoyed literally millions of opportunities to perfect the logistical and bureaucratic techniques necessary to render individualized mass murder by pistol shot to the nape of the neck both efficient and expeditious.<sup>9</sup>

The more immediate context of the Katyn massacre, of course, was the successive invasions of Poland by Nazi Germany and the Soviet Union in September 1939. After the conclusion of the Hitler-Stalin Pact in Moscow on August 23, the German invasion of Poland on the night of August 31–September 1 was a foregone conclusion.<sup>10</sup> But the Soviet invasion of Poland from the east on September 17—clandestinely agreed to

---

<sup>7</sup> *Id.* at vii–xi.

<sup>8</sup> *Id.* at 89–107 (giving the total number of Poles murdered as 85,000); see also James Morris, *The Polish Terror: Spy Mania and Ethnic Cleansing in the Great Terror*, 56 EUR.-ASIA STUD. 751, 760 (2004) (arguing that between August 11, 1937 and November 1938, the NKVD murdered 111,091 Polish citizens of the Soviet Union, mostly on false accusations of being spies for the Polish government or members of the “Polish Military Organization,” which had been dissolved in 1921 at the end of the Polish-Soviet War). See generally PIOTR WANDYCZ, *POLISH-SOVIET RELATIONS, 1917–1921* (1969) (providing a definitive account of the Polish-Soviet War).

<sup>9</sup> SNYDER, *supra* note 6, at 83–84 (describing the execution process developed during the Great Purge and applied during the killings at Katyn Forest).

<sup>10</sup> For the definitive works on the outbreak of WWII, see GERHARD L. WEINBERG, *HITLER'S FOREIGN POLICY: THE ROAD TO WORLD WAR II 1933–1939*, at 943 (2005); GERHARD L. WEINBERG, *A WORLD AT ARMS: A GLOBAL HISTORY OF WORLD WAR II*, at 54 (2d ed. 2005).

in the “Secret Additional Protocol”—revealed the broader extent of the Nazi-Soviet alliance.<sup>11</sup> On September 28, their conquests complete, Foreign Ministers Ribbentrop and Molotov signed the German-Soviet Treaty of Friendship, Cooperation, and Demarcation, modifying the previously agreed-upon territorial division, extending the western border of the Soviet Union westward into interwar Poland, and delivering at least 100,000 Polish prisoners of war into Soviet captivity, including the officers who died at Katyn.<sup>12</sup>

But from the very beginning of their own invasion of Poland, the Nazis had planned mass murder of Poles. Hitler had instructed his army commanders on August 22 that “the annihilation of Poland is in the foreground. The goal is the elimination of the living forces, not the attainment of a certain line.”<sup>13</sup> So troops of the German Wehrmacht killed Polish soldiers who had surrendered, murdered civilians, raped, and plundered. But Nazi racial fixation on elimination of “inferior races,” including Poles, had also led to the organization of SS “Action Groups” to accompany the army into Poland, although with the different mission of decapitating Polish society by murdering Polish intelligentsia as well as Jews, a plan called “Operation Tannenberg.”<sup>14</sup> Before the dissolution of these units on November 20, by which point German-occupied Poland had been “pacified,” they had murdered at least 42,000–50,000 Poles.<sup>15</sup> All of

---

<sup>11</sup> *WWII Behind Closed Doors: Stalin, The Nazis And The West – Nazi-Soviet Non-Aggression Pact with Secret Protocols*, PBS, <http://www.pbs.org/behindcloseddoors/pdfs/NonAggressionPact.pdf> (last visited Apr. 2, 2012); see also BOHDAN NAHAYLO & VICTOR SWOBODA, *SOVIET DISUNION: A HISTORY OF THE NATIONALITIES PROBLEM IN THE USSR* 82–83 (1990).

<sup>12</sup> See SANFORD, *supra* note 5, at 21 (noting the territorial exchanges of the Friendship Treaty).

<sup>13</sup> KLAUS-MICHAEL MALLMANN, JOCHEN BÖHLER, & JÜRGEN MATTHÄUS, *EINSATZGRUPPEN IN POLEN. DARSTELLUNG UND DOKUMENTATION [ACTION GROUPS IN POLAND: DESCRIPTION AND DOCUMENTATION]* 54 (2008); see also SNYDER, *supra* note 6, at 121 (“As the chief of staff summarized, it was ‘the intention of the Leader to destroy and exterminate the Polish people.’”)

<sup>14</sup> Dorothee Weitbrecht, *Ermächtigung zur Vernichtung: Die Einsatzgruppen in Polen im Herbst 1939 [Authorization for Annihilation: The Action Groups in Poland in Autumn 1939]*, in *GENESIS DES GENOZIDS: POLEN 1939–1941 [GENESIS OF GENOCIDE: POLAND 1939–1941]*, at 57 (Klaus-Michael Mallmann & Bogdan Musial eds., 2004).

<sup>15</sup> For a discussion of the dissolution of the *Einsatzgruppen*, see *id.* at 68. For the figure of 50,000 killed in Poland by the *Einsatzgruppen* and their ethnic German auxiliaries, see ALEXANDER B. ROSSINO, *HITLER STRIKES POLAND: BLITZKRIEG, IDEOLOGY, AND ATROCITY* 234 (2003). Rossino prefers a lower estimate of 42,000 and adds that some 7,000 of those killed were Jews. *Id.* at 300, n.17. After November 1939, the Order Police replaced the *Einsatzgruppen* and continued the killing by implementing harsh retaliation for instance of Polish attack or resistance to German policy. EDWARD B. WESTERMANN, *HITLER’S POLICE BATTALIONS: ENFORCING RACIAL WAR IN THE EAST* 143–45 (2005) (discussing the atrocity at the town of Ostrów on November 11, 1939). See generally PHILLIP T. RUTHERFORD, *PRELUDE*

this murder, of course was only prelude to massive Nazi plans to conduct ethnic cleansing of Poles in the Warthegau by expelling them to the east to provide empty farmland on which to resettle Germans.<sup>16</sup>

Thus, when the Soviets in September 1939 began to arrest, deport, and execute Polish intellectuals in their occupied zone of Poland, their policy differed in no way from that of the Germans in Poland to the west. These Soviet purges and murders of Poles as Poles merely continued the murders of the Great Purge, and Soviet policy toward officers among the Polish prisoners of war culminated in the murders at Katyn and other sites in the spring of 1940. Together, they show neither any new departure in Soviet policy nor any difference from Nazi policy. But, of course, the framework situation and the line-up of interests changed radically when the Germans invaded the Soviet Union with Operation Barbarossa on June 22, 1941.<sup>17</sup> Suddenly, the Soviets became not only the allies of the British, but also of the Polish government-in-exile in London, which had a vital interest in the whereabouts of the 1939 POWs, as did the British, desperate for troops to put into battle against the Germans. The complex story of the fruitless and frustrating Polish diplomatic efforts of mid-1941 to learn the whereabouts of some 18,000 Polish officers in Soviet hands lies beyond the scope of this essay, but it kept a focus on their fate.<sup>18</sup>

Conversely, the German invasion of the Soviet Union turned erstwhile allies and accomplices into enemies. The lightning German advance toward Moscow reached beyond Smolensk in late July 1941, behind schedule but still remarkably swift. Secure in the rear, Signal Regiment 537 of Army Group Center set up its operations near a bend in the Dnieper River west of Smolensk at a wood called Katyn, near a train station called Gniesdowo.<sup>19</sup> In November 1941, Colonel Friedrich Ahrens arrived

---

TO THE FINAL SOLUTION: THE NAZI PROGRAM FOR DEPORTING ETHNIC POLES, 1939–1941 (2007) (discussing the German policy toward deportation of Poles).

<sup>16</sup> See CATHERINE A. EPSTEIN, *MODEL NAZI: ARTHUR GREISER AND THE OCCUPATION OF WESTERN POLAND* 176 (2010) (discussing the history of Nazi policy against the Poles in the Warthegau).

<sup>17</sup> For a thorough analysis of the Barbarossa invasion, and its effect on Soviet policy, see ALAN CLARK, *BARBAROSSA; THE RUSSIAN-GERMAN CONFLICT 1941–1945* (1965).

<sup>18</sup> The authoritative scholarly treatment of Polish government efforts to determine the whereabouts, and later the fate, of Polish POWs in Soviet captivity is in SANFORD, *supra* note 5. Sanford's argument is presented in shorter form in George Sanford, *The Katyn Massacre and Polish-Soviet Relations, 1941–43*, 41 *J. CONTEMP. HIST.* 95 (2006).

<sup>19</sup> The testimony of Colonel Ahrens can be found in 17 INT'L MILITARY TRIBUNAL, *THE TRIAL OF THE MAJOR WAR CRIMINALS: PROCEEDINGS OF THE INTERNATIONAL MILITARY TRIBUNAL SITTING AT NUREMBERG, GERMANY, 14 NOVEMBER 1945–1 OCTOBER 1946*, 275–97 (1946) [hereinafter *NUREMBERG TRIAL PROCEEDINGS*], as well as in *The Katyn Forest Massacre: Hearings Before the Select Comm. to Conduct an Investigation of the Facts, Evidence and Circumstances of the Katyn Forest Massacre on the Investigation of the Murder of Thousands of Polish Officers in the Katyn Forest near Smolensk, Russia*, 82nd Cong. 2nd

to command the regiment.<sup>20</sup> During the summer of 1942, Polish workers in the Katyn forest heard rumors that the Soviets had murdered their Polish countrymen nearby. On their own time, they excavated human remains and marked the spot with a wooden cross, but they did not report their discovery to the German authorities.<sup>21</sup> Colonel Ahrens later recalled that during the winter of 1943, in January or February, he tracked a wolf through the woods, discovered scratchings on the mound with the wooden cross, directed investigations as to the kind of bones contained in the mound, and was informed by doctors that they were human.<sup>22</sup> Colonel Ahrens reported this discovery to Army Group Center in late February 1943, which dispatched Professor Dr. Gerhard Buhtz, a forensic pathologist formerly Professor of Forensic Pathology and Criminology at the University of Breslau, and currently on the medical staff of the Army Group, to investigate.<sup>23</sup>

On March 1, Buhtz began to plan the exhumation and autopsy of the remains, but the harsh freeze of winter delayed the actual start of work until March 29.<sup>24</sup> By the time of an interim report on April 10, in a single grave, workers had uncovered twelve layers of some 250 corpses each, for a total of at least 3,000 dead.<sup>25</sup> Of 100 corpses, sixty-five had been identified by means of identity cards, diaries or letters in their pockets, or otherwise, thirty-nine of which clearly were Polish army officers.<sup>26</sup> Excavation continued through June 1 at seven graves, resulting in the discovery of 4,143 corpses, of whom 2,815 had been clearly identified; further, the clothing of the dead was plainly recognizable as Polish army uniforms.<sup>27</sup>

---

Sess. 1287–1303 (1952) [hereinafter *Katyn Hearings*]. The chronology of discovery and investigation described in this essay relies heavily upon Fox, *supra* note 3.

<sup>20</sup> NUREMBURG TRIAL PROCEEDINGS, *supra* note 19, at 276.

<sup>21</sup> AUSWÄRTIGES AMT [FOREIGN OFFICE], AMTLICHES MATERIAL ZUM MASSENMORD VON KATYN [OFFICIAL MATERIALS ON THE MASS MURDER OF KATYN] 25 (1943) (including testimony of P. Kesseljeff dated February 27, 1943).

<sup>22</sup> NUREMBURG TRIAL PROCEEDINGS, *supra* note 19, at 282.

<sup>23</sup> KAISER, *supra* note 5, at 160 (indicating that Buhtz had served since 1938 as Director of the Institute for Forensic Medicine and Criminology at the University of Breslau, and had gained experience earlier in autopsies at German concentration camps (citing ERNST KLEE, DEUTSCHE MEDIZIN IM DRITTEN REICH [GERMAN MEDICINE IN THE THIRD REICH] 236 (2001))).

<sup>24</sup> See Fox, *supra* note 3, at 462–63. For the report of the leading forensic expert, Professor Dr. Gerhard Buhtz, on the excavations at Katyn, see AUSWÄRTIGES AMT, *supra* note 21, at 38–94.

<sup>25</sup> AUSWÄRTIGES AMT, *supra* note 21, at 32.

<sup>26</sup> *Id.* at 32–33.

<sup>27</sup> *Id.* at 33–36 (explaining distribution of dead soldiers by rank as follows: Generals 2; Colonels 12; Lieutenants Colonels 50; Majors 165; Captains 440; First Lieutenants 542; and Second Lieutenants 930).



Although news of the discovery initially remained within the chain of command of the Wehrmacht and the Feldpolizei, by early April, the word had reached the Reichspropaganda Ministry in Berlin, where Goebbels learned of it on April 1 or 2.<sup>28</sup>

Goebbels recognized the prime propaganda opportunity and determined to exploit it carefully. Before announcing the discovery to the world, he arranged for a delegation of Polish leaders to fly from Warsaw, Krakow, and Lublin to Smolensk on April 10, where they were taken to the Katyn Forest and shown two excavations from which 250 bodies had already been exhumed.<sup>29</sup> The next day, Goebbels's public propaganda effort began with a first mention of the discovery of the graves by the German news agency Trans-Ocean, evoking a reply in a pro-Soviet Polish-language radio broadcast from Moscow, but world media first paid attention after a broadcast communiqué on Berlin radio on April 13 described the discovery in "a place in which the Bolsheviks had secretly perpetrated mass executions and where the GPU had murdered 10,000 Polish officers."<sup>30</sup> The Soviets on April 15 denied their guilt, denouncing the "vile fabrications by German-Fascist murderers," and the Polish Government on April 17 issued a statement of grave concern that condemned the murders, denounced German hypocrisy in consideration of German crimes against Poland and Poles, and called upon the International Committee of the Red Cross (ICRC) to investigate at the site.<sup>31</sup>

Although the Germans quickly agreed to the Polish proposal for an ICRC investigation, that body conditioned its involvement on the invitation of all states involved, and the certainty that the Germans would never invite

---

<sup>28</sup> Fox, *supra* note 3, at 465 (based upon testimony that an official in the Ministry of Propaganda, Werner Stephan, provided to the House Select Committee on April 21, 1952); *see Katyn Hearings*, *supra* note 19, at 1246-49.

<sup>29</sup> PAUL, TRIUMPH OF TRUTH, *supra* note 5, at 215 (citing to Part 6 of the 1952 *Katyn Hearings*, *supra* note 19).

<sup>30</sup> KATYN: A CRIME WITHOUT PUNISHMENT 216 (Anna M. Cienciala, Natalia S. Lebedeva & Wojciech Materski eds., Marian Schwartz, Anna M. Cienciala & Maia A. Kipp trans., 2007). This work reproduces the April 13 communiqué in English as Document 101. *Id.* at 305-06.

<sup>31</sup> *Id.* at 306-07 (presenting Document 102 titled "Communiqué Issued by the Sovinformburo Attacking the German 'Fabrications' about the Graves of the Polish Officers in Katyn Forrest"); *id.* at 308-09 (presenting Document 103 titled "Statement of the Polish Government Concerning the Discovery of the Graves of Polish Officers near Smolensk). *Poles Ask Inquiry in Soviet 'Murders'*, N.Y. TIMES, Apr. 17, 1943, at A4 (quoting the Polish War Minister, Lieutenant General Marjan Kukiel, as calling for an ICRC investigation as to the fate of 10,000 officers among 181,000 POWs and further providing remarkably accurate figures of 4,500 officers at the POW camp in Kozielsk, 3,800 at Starobyelsk, and 380 at Ostashkovo). The Katyn Massacre, of course, included the officers from the Kozielsk camp.

the Soviets blocked that investigative route.<sup>32</sup> The Polish Red Cross, under German pressure in the General-Government and despite reservations and concerns about being used for German propaganda purposes, sent a four-member Technical Commission, together with its Secretary, to Katyn on April 14.<sup>33</sup> Augmented by additional members on April 19, it worked on site until June 7, after which it produced its final report.<sup>34</sup> Alongside the teams of Buhtz and the Polish Red Cross, a third group of experts worked at Katyn, an International Physicians Commission invited by the Germans and consisting of forensic pathologists from twelve German allies or states occupied by Germany, seven of whom conducted autopsies on the exhumed corpses between April 28–30, 1943.<sup>35</sup> Thus, although some work at the site continued until June, by the end of April, the essential facts had been framed. It is to the propaganda effort to have them believed and to shape their effect that I now turn.

---

<sup>32</sup> Daniel T. Brigham, *Massacre Inquiry Depends on Soviet*, N.Y. TIMES, Apr. 24, 1943, at A4 (quoting the ICRC communiqué as stating that it would name a commission of neutral experts “only if requested to do so ‘by all parties concerned’ and then only under the terms of its memorandum to the belligerents of Sept. 12, 1939”). That memorandum enunciated three principles to guide its actions where its intervention was requested for action on violations of international conventions: 1) the ICRC will not serve as an investigating commission or arbitration tribunal; 2) the ICRC will limit its participation in such investigations or arbitrations to the selection of one or more competent persons to lead it; and 3) the ICRC cannot proceed “except by virtue of a special mandate confided in advance under a specific convention or by virtue of an accord ad hoc”). *Id.* For the impact of the request for ICRC investigation, see P.M.H. Bell, *Censorship, Propaganda and Public Opinion: The Case of the Katyn Graves, 1943*, 39 TRANSACTIONS ROYAL HIST. SOC’Y 63, 64–65 (1989); MICHAEL BALFOUR, PROPAGANDA IN WAR 1939–1945: ORGANISATIONS, POLICIES AND PUBLICS IN BRITAIN AND GERMANY 332 (1979); SANFORD, *supra* note 5, at 129–30.

<sup>33</sup> See KATYN: A CRIME WITHOUT PUNISHMENT, *supra* note 30, at 311–14

<sup>34</sup> For the report of the Secretary, see *id.* For the report of the Technical Commission, see *id.* at 314–19. For the report of Dr. Marian Wodzinski, see MARESCH, *supra* note 5, at 85–104, 108–19. For the report of Kazimierz Skarzynski, see *id.* at 76–84, 120–41.

<sup>35</sup> For the opinion of the international experts, see “*Protokoll der Internationalen Aerztekommission*,” [Minutes of the International Commission of Physicians], in AUSWÄRTIGES AMT, *supra* note 21, at 114–18. These physicians came from Belgium, Bulgaria, Croatia, Denmark, Finland, Hungary, Italy, the Netherlands, the Protectorate of Bohemia and Moravia, Rumania, Slovakia, and Switzerland. They rendered the unanimous opinion that all the bodies they examined had been shot in the head, most in the back of the neck, and that the date of death was in the months of March and April 1940. *Id.* at 118. Also reproduced are the protocols of autopsies conducted by seven of the eleven commission members, “*Obduktionsbefunde der Professoren: Orsos, Tramsen, Palmieri, Markov, Hajek, Miloslavich, Birkle*.” [Autopsy Reports of the Professors: Orso, Tramsen, Palmieri, Markov, Hajek, Miloslavich, Birkle] *Id.* at 118–35.

### III. THE PROPAGANDA CAMPAIGN AND ITS IMPACT

Goebbels sought to exploit the Katyn discovery as part of his “propaganda of pessimism” that he had begun after Stalingrad, perhaps best immortalized in his February 18, 1943 “Do you want total war?” speech in the Berlin Sportpalast.<sup>36</sup> In doing so, he sought to address three audiences: (1) the Poles of the General-Government, in an effort to mobilize them to side with the Germans in defense against the onrushing Red Army; (2) the western Allies, in an effort to sow dissension between them and their Soviet ally on the already contentious issue of post-war Poland, to undermine the recently announced policy of unconditional surrender, and to open the possibility of a separate peace with one side or the other; and finally (3) the German people, to steel them for increased defensive effort by instilling in them fear of the consequences of a Soviet victory. In addressing these three audiences, Goebbels intended to raise German morale after the defeats of the winter, to strengthen German resolve to resist the Soviets and increase unity behind Nazi leadership, and at least to divide the Polish government from the Soviets if not win them to the Germans.<sup>37</sup> But in addressing these audiences and pursuing these goals, Goebbels faced three problems: Polish suspicion of German intentions, Allied distrust of the Germans’ truthfulness and the credibility and popularity of the Soviets among their populations, and the preliminary and sometimes embarrassing information that the Germans had to propagate.

Goebbels began with a press campaign to vilify the Soviets and deepen the Nazi rhetorical motif that equated Bolshevism and Jews. The Nazi newspaper the *Völkischer Beobachter* resounded with articles titled: “The Mass Murder of Katyn: The Work of Jewish Butchers,” and “Judah’s Blood Guilt Grows to the Unfathomable.”<sup>38</sup> He worked with care to include gruesome footage of the exhumations and autopsies in the weekly newsreels and expressed his frustration when the army prevailed in excluding the shots out of concern for the feelings of families of German soldiers reported to be missing or captured.<sup>39</sup> He succeeded in screening widely a documentary film, *Im Walde von Katyn*.<sup>40</sup> The German Foreign Office contributed by releasing in fall 1943 a massive book-length publication *Amtliches Material zum Massenmord von Katyn*, 331 pages long and consisting of affidavits, reports, photographs, and a detailed listing by name of 4,143 dead recovered

---

<sup>36</sup> For the “propaganda of pessimism,” see BAIRD, *supra* note 2, at 197. For Goebbels’s speech, see BALFOUR, *supra* note 32, at 322–23.

<sup>37</sup> DAVID WELCH, *THE THIRD REICH: POLITICS AND PROPAGANDA* 113 (1993).

<sup>38</sup> Fox, *supra* note 3, at 464.

<sup>39</sup> ARISTOTLE A. KALLIS, *NAZI PROPAGANDA AND THE SECOND WORLD WAR* 156 (2005).

<sup>40</sup> See DAVID WELCH, *THE THIRD REICH: POLITICS AND PROPAGANDA* 143–144 (2d ed. 2002).

at Katyn before the German retreat in late September 1943.<sup>41</sup> An undated propaganda pamphlet of uncertain origin, but clearly from 1943, reproducing the report of the International Physicians Commission and a collection of stark photographs from the site, concluded that:

The chapter of Katyn is closed. It will live on as the greatest and most brutal mass murder in world history, but it is only one, albeit an especially gruesome case of Jewish-Bolshevik practice of murder. . . . Katyn is a dreadful textbook example of what Bolshevism, with the silent support of England and America, would do in Europe, if Bolshevism and its Jewish executioners were to succeed in penetrating into the West and inundating the civilized lands of Europe. If that were to happen, the mass grave of tomorrow would no longer be called Katyn, but rather Europe.<sup>42</sup>

On one level, this propaganda effort paid dividends, and Goebbels certainly took credit for success. When the Polish government's request for an ICRC investigation coincided in time with that of the German government, Stalin took the opportunity to denounce the Poles as Nazi collaborators and to sever diplomatic relations with the government-in-exile on April 25, 1943, a step he had already decided to take.<sup>43</sup> But the British government's primary goal all along was to prevent the discovery of this mass murder of Poles from damaging Anglo-Soviet relations.<sup>44</sup> The behavior of Britain and the U.S., both of whom quickly concluded that the Soviets—despite their denials—had committed this crime, consistently subordinated the interests of justice and truth for the Polish victims at Katyn to those of maintaining the wartime alliance until the final defeat of the Germans.<sup>45</sup> The title of one recent article best describes their position: "Against Better Knowledge: The Silence of the Western Allies about Katyn."<sup>46</sup> And ironically, the accommodating attitudes of Britain and the U.S. helped to persuade Stalin not to seek a separate peace with the Nazis, a

<sup>41</sup> AUSWÄRTIGES AMT, *supra* note 21.

<sup>42</sup> DER MASSENMORD IM WALDE VON KATYN: EIN TATSACHENBERICHT AUF GRUND AMTLICHER UNTERLAGEN [THE MASS MURDER IN THE FOREST OF KATYN: A FACTUAL REPORT BASED ON PUBLIC DOCUMENTS] (1943).

<sup>43</sup> The Note from Molotov to Polish Ambassador Tadeusz Romer dated April 25, 1943 is printed in KATYN: A CRIME WITHOUT PUNISHMENT, *supra* note 30, at 309. See Fox, *supra* note 3, at 483; Raymond Daniell, *Allies Work to End Soviet-Polish Rift*, N.Y. TIMES, Apr. 29, 1943, at 1 (detailing the back-down of the Polish government and efforts by Britain and the U.S. to intervene in Moscow to restore Polish-Soviet relations).

<sup>44</sup> PAUL, TRIUMPH OF TRUTH, *supra* note 5, at 306–07.

<sup>45</sup> *Id.* at 304–18 (outlining the various techniques used by British and American forces to cover-up the Russian's crime to preserve the political wartime alliance).

<sup>46</sup> Weber, *supra* note 3. This subordination of Polish interests in a fair investigation of Katyn by Britain and the U.S. to interests of maintaining a solid Allied front with the Soviets explains the tone of outraged betrayal that colors much of the literature on Katyn. See, e.g., SANFORD, *supra* note 5, at 157–93; MARESCH, *supra* note 5, at 146–48.

viable option for him between the victories at Stalingrad in February and at Kursk in July.<sup>47</sup>

The German effort to use of the Katyn massacre to scare Poles into joint defense against the Soviets so completely failed that it ground to a halt in June 1943, but not before twelve million brochures and twenty million fliers had been distributed.<sup>48</sup> There was no need to propagandize Poles to resist Bolshevism or the Soviet Union, but the chaotic and murderous racial policies inside the General-Government, against which even its Governor Hans Frank complained, rendered the Germans unpersuasive allies for Poles fighting for the freedom of their nation.<sup>49</sup> For the Poles, as for the British, the Americans, and the ICRC, Nazi propaganda carried little credibility, even as the evidence of Soviet responsibility for Katyn grew and grew. “The crimes of the Germans discredited Goebbels in his role as unmasker of Stalinist mass murder.”<sup>50</sup>

Only with the German people did Goebbels’s propaganda of pessimism succeed. A series of recent histories of 1945 has focused on the cataclysmic murderousness of the months January–May 1945, during which the German Wehrmacht suffered one-quarter of its total killed during the entire war; more German soldiers died in those four months than during all of 1942 and 1943 combined.<sup>51</sup> German civilian and soldier alike bore the burdens of the bombing campaign and invasion, fighting to the end, both convinced of the barbarity of the Red Army and aware that Germany’s own genocides meant that their enemies would show no mercy to the Germans.

#### IV. CONCLUSION: KATYN AND THE “BLOODLANDS”

After the Soviet rupture of relations with the Polish government, and with their creation of their own client government in exile, first in Moscow and in 1944, in Lublin, the story of the Katyn massacre entered into the text of the Cold War, perpetuating Goebbels’s propaganda efforts after his death. At Soviet insistence, the Allies included the Katyn Massacre as a count in the indictment of the Germans at the Trial of the Major War Criminals before the International Military Tribunal at Nuremberg.<sup>52</sup> Cold

---

<sup>47</sup> Vojtech Mastny, *Stalin and the Prospects of a Separate Peace in World War II*, 77 AM. HIST. REV. 1365, 1376–77 (1972).

<sup>48</sup> Fox, *supra* note 3, at 496.

<sup>49</sup> *See id.* at 467 (discussing how German rule, although harsh, was still preferable to the tyranny of Soviet rule in Poland).

<sup>50</sup> Weber, *supra* note 3, at 233.

<sup>51</sup> RICHARD BESSEL, *GERMANY 1945: FROM WAR TO PEACE* 11 (2009).

<sup>52</sup> *See* EUGENE DAVIDSON, *THE TRIAL OF THE GERMANS: AN ACCOUNT OF THE TWENTY-TWO DEFENDANTS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL AT NUREMBURG* 608 (1966).

War politics motivated the investigation by the Madden Committee of the U.S. House of Representatives in 1952, which only confirmed the findings already published in the German Foreign Office publication from 1943.<sup>53</sup> From time to time between 1949 and 1989, Katyn arose as an irritant between the newly democratic Federal Republic of Germany and the Soviet Union or Poland.<sup>54</sup>

The very farrago of propaganda—lies received as truth and truth dismissed as lies—that clouded the view of Katyn in 1943 and extended through much of the Cold War exemplifies the complexity that Timothy Snyder argues has blurred historians' vision of the experiences of the "bloodlands" until the very recent past.<sup>55</sup> As the shackles of the Cold War now recede more than two decades into the past, it is incumbent upon lawyers, historians, and statesmen alike to tell the story of the Katyn Massacre in its fullest and richest context, as a matter of restorative justice and mastery of the past, as our contribution to efforts to ensure that no bloodlands again blight the face of Europe.

---

<sup>53</sup> KATYN: A CRIME WITHOUT PUNISHMENT, *supra* note 30, at 235–39

<sup>54</sup> Hans Thieme, *Katyn: Ein Geheimnis? [Katyn: A Secret?]*, 3 VIERTELJAHRSHEFTE FÜR ZEITGESCHICHTE [CONTEMP. HIST. Q.] 409, 411 (1955) (taking to task another German historian for referring to Katyn as "to this day not fully explained" and which "unbiased historians confront with perplexity"); Elke Fröhlich, *Katyn in neuem Licht? Goebbels und der Mord an den polnischen Offizieren im 2 Weltkrieg [Katyn in a New Light? Goebbels and the Murder of Polish Officers in the Second World War]* 37 GESCHICHTE IN WISSENSCHAFT UND UNTERRICHT [HIST. RES. & INSTRUCTION] 234 (1986) (protesting the inscription on a Warsaw monument to the Katyn victims as "Victims of Hitler's Fascism"). Indeed, the U.S. government, from 1945 to 1961, operated a German Military History Program, employing German military officers who had served in the Wehrmacht, to write the history of units, actions, and tactics of fighting the Red Army. Members of this program quite naturally devoted their efforts to justifying and defending their actions during the war, and one of its products was a history by Major General Rudolf von Gersdorff, the Army Group Central Staff general in command of the Katyn investigation, called *The Truth about Katyn*, devoted to refuting the Soviet accusation that the Germans had massacred the Polish officers. James A. Wood, *Captive Historians, Captive Audience: The German Military Program, 1945–1961*, 69 J. MIL. HIST. 123, 136 (2005).

<sup>55</sup> See generally SNYDER, *supra* note 6