

THE NUREMBERG TRIAL OF *GROSSADMIRAL* KARL DOENITZ
AND THE RMS *LACONIA* AFFAIR

At the Nuremberg trial of major Nazi war criminals, the *Laconia* affair seemed to be the proverbial Achilles heel for *Grossadmiral* Karl Doenitz, commander-in-chief (CinC) of the German Navy. The *Befehl* or order by Doenitz against further U-boat rescue of shipwrecked survivors stood out as tangible evidence of Doenitz's involvement in aggressive, illegal war. The harshness of Doenitz's order to his U-boat commanders could not be controverted but only explained in the context of mitigating circumstances. Even Doenitz's defense attorney, Otto Kranzbuehler, confessed that the *Laconia-befehl* represented "the nucleus of the accusation" against his client.¹ After the establishment of the League of Nations, the legitimacy of such extreme action during wartime rested on the uneasy question of its legality according to international agreements.

No doubt, Germany's *Fuehrer*, Adolf Hitler, knew how to bend the international "rules" of warfare to his advantage. Even according to the most liberal standards, the excess ruthlessness

¹*Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, 14 November 1945-1 October 1946 (TMWC)*, English tr. (Nuremberg: International Military Tribunal, 1947; reprint ed., New York: AMS, 1971), XIII:278. Doenitz wisely chose a *Kriegsmarine* judge who thoroughly knew the issues of submarine warfare. At his pretrial interrogation, Doenitz had said, "If he [Kranzbuehler] cannot be reached I have requested that a British or American submarine admiral come here to defend me. You see, he can understand me. He did the same job." Robert E. Conot, *Justice at Nuremberg* (New York: Harper & Row, 1983; reprint ed., New York: Carroll & Graf, 1984), 83. Even after the trial, Doenitz expressed close solidarity with fellow-sailors: "I would have preferred being under supervision of the American navy. I strongly feel the trial was unfair and think I should have been tried in a military court." Roy A. Martin, *Inside Nuernberg: Military Justice for Nazi War Criminals* (Shippensburg, PA: White Mane, 2000), 52.

of the Nazis in their conduct of World War II (WWII) overstretched all bounds of legitimacy and legality.² In their hands war became criminal, since military personnel acted like murderous villains and genocidal mobs. For this reason, at the end of the war, the Allied victors—Great Britain, France, Russia, and the United States—brought judgment on key Nazi leaders in Nuremberg, the city that stood as a symbol of Nazi racism and power. But did the *Oberbefehlshaber der Kriegsmarine* (CinC of the Navy), in his *Laconia-Befehl*, violate these international standards? At Nuremberg, Doenitz's *Befehl* raised a serious challenge to the legitimacy and fair applicability of rules on the use of submarines in wartime.

²Michael S. Neiberg defines war by three elements—violence, legitimacy, and legality. While use of lethal force by means of lethal weapons in the conduct of war seems axiomatic, the same cannot be inferred about legitimacy and legality. Neiberg argues that “legitimacy helps to convince soldiers, sailors, and airmen that killing in certain contexts is not only not wrong, but may, in fact, be rewarded. War is unlike criminal violence or mob activity because it derives legitimacy from a political, societal, or religious source.” He states further, “Odd though it may seem, wars involve legality. All wars, even so-called ‘total’ wars, are fought within understood sets of rules. . . . War is not, then, a free-for-all of killing. It is carefully governed and regulated by both armed forces and the societies they serve.” *Warfare in World History, Themes in World History*, ed. Peter N. Stearns (London: Routledge, 2001), 2-3. But the aggressive nature of war, in its propagation and defense, tends to break down the fragile walls that give legitimacy or legality to acts of violence. “To plan for the contingency of ‘aggressive war’ is the duty of all general staffs and to be prepared to conduct ‘aggressive war’ is the duty of all military commanders. Nothing else makes any sense.” H. K. Thompson, Jr. and Henry Strutz, eds., *Doenitz at Nuremberg: A Reappraisal, War Crimes and the Military Professional* (New York: Amber, 1976), XIII. This erosion of “legitimacy” or “legality” becomes all the more prevalent in modern times and specially so for a totalitarian dictatorship like Nazi Germany. At his trial, though, Doenitz argued that war, whether aggressive or defensive, was a political not a military decision. As a professional soldier, he claimed: “It was none of my business.” But he conceded that a soldier should be loyal to his country and that the U-boat was an aggressive weapon. *TMWC*, XIII:250, 252, 391-392.

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Three months after the Third Reich's capitulation on 8 May 1945, the Allies in London chartered the International Military Tribunal (IMT).³ By October, the IMT finally had agreed to bring twenty-four top Nazi war criminals to trial, and this included *Grossadmiral* Karl Doenitz. At his arrest in Flensburg on May 22, Doenitz seemed irritated but resigned to accept Germany's defeat. When asked by Major-General Lowell A. Rooks, the Supreme Commander's deputy, if he wanted to "enter any protest," he retorted, "Comment is superfluous."⁴ In prison later at Nuremberg, he wondered why he and the other military commanders—Alfred Jodl, Wilhelm Keitel, and Erich Raeder—were treated like criminals and not as prisoners of war.⁵ He responded

³For the complete text, see Appendix A, Charter of the International Military Tribunal, in Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (New York: Alfred A. Knopf, 1992), 645-653. For a treatment of legal negotiations prior to the London meeting, see *Report of Robert H. Jackson, United States Representative to the International Conference on Military Trials, London, 1945* (Washington, DC: Department of State, 1949; reprint ed., New York: AMS, 1971). On "The London Conference and the Nuremberg Indictment" (Chapter 3), consult Bradley F. Smith, *Reaching Judgment at Nuremberg: The Untold Story of How the Nazi War Criminals Were Judged* (New York: Basic, 1977), 46-73.

⁴Karl Doenitz, *Memoirs: Ten Years and Twenty Days*, tr. R. H. Stevens (Annapolis, MD: George Weidenfeld and Nicolson, 1959; reprint ed., New York: Da Capo, 1997), 474. On his subsequent memoirs, *Mein wechselvolles Leben (My Changeful Life)* and *Deutsche Strategie zur See im zweiten Weltkrieg* (later editions, *40 Fragen an Karl Doenitz*), see Peter Padfield, *Doenitz: The Last Fuehrer* (London: Victor Gollancz, 1984; reprint ed., London: Cassell, 2001), 483-484. For the text of the surrender, see A. Russell Buchanan, *The United States and World War II Military and Diplomatic Documents* (Columbia, SC: University of South Carolina Press, 1972), 192-193. For a lively account of the Third Reich's last days and Doenitz's role, see Joe J. Heydecker and Johannes Leeb, *The Nuremberg Trial: A History of Nazi Germany as Revealed through the Testimony at Nuremberg*, tr. R. A. Downie (Cleveland, OH: World, 1962), 24-33.

⁵See Conot, *Justice at Nuremberg*, 32-34. Allied negotiators apparently suppressed the consternation caused by inclusion of Doenitz and other senior military officials on the list of those to be brought to trial. See Richard Overy, *Interrogations: The Nazi Elite in Allied Hands*,

cynically to the IMT's formal charges as if to a bad joke: "None of these indictment counts concerns me in the least—typical American humor."⁶ But as President of the Reich and Adolf Hitler's successor,⁷ Doenitz hardly could protest his imprisonment and trial. From 1936 through 1942, he directed the *Unterseeboote* (U-boat) fleet as CinC. From January 1943—the date of Raeder's resignation—until just before the end of the war, Doenitz served as CinC of the entire German Navy. Doenitz's involvement at the highest levels of the Reich's military and political

1945 (New York: Penguin, 2001), 37-38. World military leaders predictably criticized Doenitz's trial, sentence, and imprisonment. See "'Theirs Not to Reason Why, Theirs but to Do . . .': Nuremberg and the Military" (Chapter 9) in William J. Bosch, *Judgment at Nuremberg: American Attitudes toward the Major German War-Crimes Trials* (Chapel Hill, NC: University of North Carolina Press, 1976), 166-202.

⁶G. M. Gilbert, *Nuremberg Diary* (New York: Farrar, Straus, 1947; reprint ed., New York: Da Capo, 1974), 7. On Doenitz's use of humor to cope with imprisonment, see Douglas M. Kelley, *22 Cells in Nuremberg: A Psychiatrist Examines the Nazi Criminals* (New York: Greenberg, 1947), 127-129. According to both Kelley and W. E. Hart, a younger Doenitz stooped to a more radical form of humor—lunacy. While a prisoner of war in England in 1918, Doenitz had feigned insanity to gain early release. *Hitler's Generals* (Garden City, NY: Doubleday, 1944; reprint ed., Plainview, NY: Books for Libraries Press, 1976), 185.

⁷On this development, see "Head of the Government" (Chapter 22) in Doenitz, *Memoirs*, 430-474; compare *TMWC*, XIII:305-308. As a result, Allied soldiers comically dubbed Doenitz with a variety of epithets: *Onkle Karl*, *The Last Fuehrer*, *Hitlerbube* Doenitz, *Morning Star*, *The Little White Lamb*, *Der Loewe*, and even *Diva*. Edwin J. Swineford, *Wits of War: Unofficial GI Humor—History of World War II* (Fresno, CA: Kilroy Was There Press, 1989), 311. Kelley attributes Hitler's choice to Doenitz's unfeigned character: "He was the only honest man left in Germany. . . . Doenitz was the only leader for whom the Luftwaffe, the Army, and the Navy had respect. My checking confirmed for me that Doenitz was right when he told me: 'After all, I was the only leader left alive who was not under arrest or under orders of death. . . . I was picked simply because it was felt I could most easily bring about peace. This I did as fast as possible; and now, as Hitler's successor, the Americans want to hang me. This seems to be an example of Yankee humor.'" *22 Cells*, 129. At his trial, this role of Doenitz as the last *fuehrer* seemed to be the main concern of the Russian prosecution. *TMWC*, XIII:395-403.

organizations assured his culpability in regards to the Tribunal's charges of Nazi conspiracy to wage aggressive war and Nazi atrocities against peace, the customs of war, and humanity.⁸

⁸On Doenitz's career, see *TMWC*, XIII:247-248, 296, 298. For a favorable biographical sketch, consult Vincent B. Hawkins, "Doenitz, Karl," in *Brassey's Encyclopedia of Military History and Biography*, ed. Franklin D. Margiotta (paperback ed., London: Brassey's, 1994), 273-278. Negatively, Hart characterizes Doenitz as an unprincipled opportunist and an avid disciple of Hitler: "Under Doenitz there is not much difference between the German field gendarmes of Bryansk and Kharkov and the U-boat commanders in the North Atlantic. Doenitz will leave his mark, but it is the brand of Hitler." *Hitler's Generals*, 193. Compare the view of Charles S. Thomas, *The German Navy in the Nazi Era* (Annapolis, MD: Naval Institute Press, 1990), 225-259. For many under his care, though, negative evaluation of the *Grossadmiral* came slowly over time: "Hardly any units of the German armed forces can have had more blind faith in their commander than the submarine units had in Doenitz. For a long time, I myself thought of Doenitz as a kind of seafaring Moltke, until the time—even before he was appointed Commander in Chief of the Navy—when he revealed himself as a demagogue and indeed a blind fanatic; this characterization was confirmed, finally, with his ordinance of March 27, 1944, addressed to what he was pleased to call 'the Invasion Boats,' which sent submarine upon submarine, crew upon crew, to a certain death . . ." Lothar-Guenther Buchheim, "The War Continues," *U-boat War*, tr. Gudie Lawaetz (New York: Alfred A. Knopf, 1978), n.p. More accepting of Doenitz's evolution is Charles W. Koburger, Jr.: "Doenitz did not, during the prewar years, create a very strong public image. He remained in the background, concentrating on his U-boats, the development of which he promoted with exceptional skill. Himself a relatively young and ambitious officer, he identified with and won over the Navy's junior officers. As the U-boat division grew, so did Doenitz. When World War II came, the submarines showed what they could do. Their 'wolf pack' tactics were Doenitz's. He went from captain all the way to full admiral, but always in submarines. Along the way he became 'der Loewe' (the Lion)." *Steel Ships, Iron Crosses, and Refugees: The German Navy in the Baltic, 1939-1945* (New York: Praeger, 1989), 4. Similarly, Kelley views Doenitz genially: "It would seem that Hitler realized that Doenitz was essentially an honest and ethical person and hence did not involve him in the duplicity and scheming which marked his relations with other subordinates. In return, . . . Doenitz was fanatical in developing Nazi ideals in the German Navy." *22 Cells*, 128. For Doenitz's testimony about his relationship to Hitler, see *TMWC*, XIII:297-301.

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On 20 November 1945, in the Palace of Justice courtroom,⁹ Allied prosecutors Robert H. Jackson (U.S.), Francois de Menthon (France), Hartley Shawcross (U.K.), and Roman A. Rudenko (U.S.S.R.) brought a lengthy indictment against the twenty-four German defendants.¹⁰ The IMT charged the Nazi leaders on four counts: (1) the common plan or conspiracy; (2) crimes against peace; (3) war crimes; and (4) crimes against humanity. The Tribunal sought to convict Doenitz individually on counts one, two, and three, but not on count four.

The Defendant DOENITZ between 1932 and 1945 was: Commanding Officer of the Weddigen U-boat flotilla, Commander-in-Chief of the U-boat arm, Vice-Admiral, Admiral, Grossadmiral and Commander-in-Chief of the German Navy, Advisor to Hitler, and Successor to Hitler as head of the German Government. The Defendant DOENITZ used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in such a manner that: He promoted the preparations for war set forth in Count One of the Indictment; he participated in the military planning and preparation of the Nazi conspirators for Wars of Aggression and Wars in Violation of International Treaties, Agreements, and Assurances set forth in Counts One and Two of the Indictment; and he authorized, directed, and participated in the War Crimes set forth in Count Three of the Indictment, including particularly the crimes against persons and property on the High Seas.¹¹

⁹For good descriptions, see Martin, *Inside Nuernberg*, 5-13; Michael R. Marrus, ed., *The Nuremberg War Crimes Trial, 1945-46: A Documentary History*, The Bedford Series in History and Culture, eds. Natalie Z. Davis, et al. (Boston: Bedford/St. Martin's, 1997), 71-79.

¹⁰*TMWC*, I:27-93. The indictment also included charges against each individual defendant, charges against groups and organizations, and a list of violations of international agreements. For an abbreviated version of the indictment and excerpts from the opening addresses of the four Allied justices, see Marrus, *Nuremberg War Crimes Trial*, 57-70, 79-97. Only twenty of the twenty-four defendants heard the indictment in the courtroom dock. The Allies never caught Martin Bormann, Robert Ley committed suicide in his cell earlier, the poor health of Krupp von Bohlen prevented his trial, and Ernst Kaltenbrunner remained in a hospital bed after suffering a subarachnoid hemorrhage.

¹¹*TMWC*, I:78-79.

Count three of the indictment strikingly contained the categories of “murder and ill-treatment of civilian populations . . . on the high seas” and “murder and ill-treatment of prisoners of war, and of other members of the armed forces . . . and of persons on the high seas.”¹² But the indictment described *no specific incident* of maritime malfeasance by the German Navy! This, however, came later during Doenitz’s prosecution that centered on his role in “crimes against persons and property on the High Seas.”

After the presentation of the indictment, though, the entire defense council argued against the action of the Tribunal on the principle of *nulla poena sine lege* or [there should be] no punishment without a law. Led by Dr. Otto Stahmer, a lawyer from Kiel and Hermann Goering’s council, they felt that the IMT created the basis for their indictment against the Nazis through an after-the-fact interpretation of existing international treaties. They claimed, “This thought [the distinction . . . between just and unjust wars] is at the basis of the first three counts of the Indictment which have been put forward in this Trial, to wit, the Indictment for Crimes against Peace. Humanity insists that this idea should in the future be more than a demand, that it should be valid international law. However, today it is not as yet valid international law.” On this premise, the defense requested that the Tribunal seek an opinion from “internationally recognized authorities on international law on the legal elements of this Trial under the Charter of the Tribunal.”¹³ The defense no doubt wanted to stall the trial, but the request seemed fair and

¹²Ibid., I:43, 52.

¹³Ibid., I:168, 170.

proper. Rightly, though, the Tribunal rejected this motion in light of the monstrosity of the Nazi aggressions against nonbelligerent nations and peoples.¹⁴ But the Tribunal erred in rejecting the motion only on grounds of the wording in IMT's charter (Article 3). This made the IMT appear to be a law unto itself and opened the door for subsequent criticism of the proceedings.¹⁵

As the trial proceeded, Doenitz genuinely seemed to be troubled by the egregious evidence of Nazi crimes against humanity.¹⁶ At the showing of repulsive piles of corpses from the *Konzentrationslager*s at Bergen-Belsen, Buchenwald, and Dachau, he hung his head and could not watch. Doenitz tried to be unaffected by it all: cool, distant, and reserved; consistently,

¹⁴See Heinz Eulau, "The Nuremberg War-Crimes Trial: Revolution in International Law," *New Republic* 113 (12 November 1945): 625-628.

¹⁵See Charles E. Wyzanski, Jr., "Nuremberg: A Fair Trial? Dangerous Precedent," *Atlantic Monthly* 177 (April 1946): 66-70. See also "The American War Crimes Program" (Chapter Three) in Peter Maguire, *Law and War: An American Story* (New York: Columbia University Press, 2001), 101-144. For a favorable assessment of *ex post facto* judgment of the Nazis, consult "An International Criminal Court" (Chapter VI) in Sheldon Glueck, *War Criminals: Their Prosecution & Punishment* (New York: Alfred A. Knopf, 1944; reprint ed., New York: Kraus, 1966), 91-120. But compare "The Nazi Trials," *Chicago Tribune* (24 July 1945), and "Aggressor Nations," *Chicago Tribune* (2 October 1946). The IMT ultimately failed to achieve its intended result: a check on illegal, aggressive war. See Eugene Davidson, *The Nuremberg Fallacy* (New York: Macmillan, 1973; reprint ed., Columbia, MO: University of Missouri Press, 1998). Some historians attribute this failure to the "utopian" goals of the prosecutors. Mitchell Bard, ed., *The Nuremberg Trial*, History Firsthand, ed. David M. Haugen (San Diego: Greenhaven, 2002), 155.

¹⁶Later, Doenitz reflected, "My knowledge of the inhuman side of the National Socialist state was very limited. I learned the full facts, greatly to my consternation, after the end of the war." *Memoirs*, 445.

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he maintained his innocence.¹⁷ Eventually, though, the weight of evidence had its effect on the *Grossadmiral*. By the end of February 1946, he could admit, “I must say, I was furious over the idea of being dragged to trial, in the beginning, because I did not know anything about these atrocities. But now, after hearing all this evidence—the double-dealing, the dirty business in the East—I am satisfied that there was good reason to try to get to the bottom of the thing.”¹⁸ But, in the eyes of the prosecution, Doenitz could not exculpate himself from the other Nazi henchmen.

Barrister-at-Law H. J. Phillimore, a colonel in the British Army, detailed the particular charges against Doenitz. He accused Defendant Doenitz of: (1) complicity in the Nazi conspiracy by reason of his “fanatical adherence to Hitler and to the Party, to his belief in the Nazi ideology with which he sought to indoctrinate the Navy”; (2) the unlawful employment of concentration camp labor for the manufacture of weapons; and (3) the planning and execution of aggressive war especially in the use of U-boats contrary to international law.¹⁹ The prosecution based the last charge on restrictions to Naval and submarine warfare established by the Washington Conference of 1922, the London Naval Agreement of 1930, and the Protocol of

¹⁷Gilbert, *Nuremberg Diary*, 46, 48, 165, 174, 192. Martin, *Inside Nuernberg*, 33, 46.

¹⁸Gilbert, *Nuremberg Diary*, 176.

¹⁹*TMWC*, V:202-222.

1936. These restrictions, in the Allied view, obviated the German Navy's designation of operational zones and the sinking of "neutral" merchant vessels that entered such zones.²⁰

But, as early as October 1939, Raeder, then CinC of the *Kriegsmarine*, recognized the need for change in strategy due to British militarization of their entire merchant fleet. In an official memorandum, Raeder acknowledged: "It is desirable to base all military measures taken on existing international law; however, measures which are considered necessary from a military point of view, provided a decisive success can be expected from them, will have to be carried out, even if they are not covered by existing international law."²¹ The Germans argued that use of merchant vessels to relay messages about U-boat positions nullified their neutrality. Further, this threat to U-boats intensified over time because of the increasing range and efficiency of Allied fighter planes. To minimize counterattack, the U-boats struck without warning and then suspended search and rescue operations. They did this contrary to international rules of

²⁰Ibid., I:311-312; XXII:557-558. Also, see "TREATY for the Limitation of Naval Armament . . . London, March 25, 1936" and "PROCES-VERBAL Relating to the Rules of Submarine Warfare as Set Forth in . . . the Treaty of London of April 22, 1930 . . . at London, November 6, 1936" in James W. Gantenbein, ed., *Documentary Background of World War II, 1931 to 1941* (New York: Columbia University Press, 1948), 978-986. For Germany's view based on its "prize ordinance for the regulation of sea warfare" and "wolf pack tactics," see *TMWC*, V:208-210; XIII:248-249, 357-371, 415-416. Note Kranzbuehler's extraordinary summation, *ibid.*, XVIII:314-346!

²¹*TMWC*, XIV:203, in Drexel A. Sprecher, *Inside the Nuremberg Trial: A Prosecutor's Comprehensive Account*, Vol. II (Lanham, MD: University Press of America, 1999), 975.

engagement, but the rules had become obsolete. The Germans, like the Allies, had reacted to the evolving exigencies of war.²²

For his part, Doenitz followed the lead of his CinC. He and his “wolf packs” had worked havoc on British vessels, so that, by May 1941, the Germans practically ruled the Atlantic.²³

After his appointment in January 1943 to CinC of the *Kriegsmarine*, Doenitz did not relinquish operational control of the U-boat fleet. Soon, though, he directed a basic change in the fleet’s offensive tactics. Doenitz knew that the Allies could anticipate his U-boat strikes, but he thought this to be the result of airborne radar. He did not believe mistakenly the Allies could decipher the Triton code of his M4 Enigma machines. The *Grossadmiral* accordingly directed his commanders to hit only eastbound instead of eastbound *and* westbound convoys. The new strategy paid off, and the Allies lost considerable tonnage in ships and cargo. But success was only short-lived, as the Battle for the Atlantic turned in favor of the Allies. By May 1943, aggressive convoy escorts plus precise U-boat traffic reports from Ultra code-breakers began to decrease U-boat effectiveness.²⁴ For Doenitz, however, movement toward radicalization of the

²²For Doenitz’s views, especially the vulnerability of U-boats to air attack in late summer and the fall of 1942, see *TMWC*, XIII:253-266, 278-281, 355-356.

²³In 1939, Doenitz had published *Die U-bootwaffe* which advocated what the Germans called *Die Rudeltaktik* or “pack tactic” and defined by Doenitz as ““being as strong as possible in the right place at the right time.”” John M. Waters, Jr., *Bloody Winter* (Princeton, NJ: D. Van Nostrand, 1967), 1-14.

²⁴U-boat losses as well as the build-up of Allied naval strength had worried Doenitz as early as August 1942. *Ibid.*, 79. On the role of radio intelligence in the Battle of the Atlantic, see Kathleen Broome Williams, *Secret Weapons: U.S. High-Frequency Direction Finding in the*

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conflict occurred several months earlier after the disastrous encounter of U-156 with the RMS *Laconia* off the coast of West Africa.

On 12 September 1942, while on patrol between Liberia and Ascension Island, *Kapitaenleutnant* Werner Hartenstein ordered his crew to attack a lone British ship. The RMS *Laconia*, built by Swan, Hunter, & Wigham Richardson Ltd and launched in April 1921, traveled at a service speed of 16 knots with about 20,000 gross tonnage on its 600-foot long and 74-foot wide hull—a big, slow target!²⁵ Refitted as a troop carrier early in 1942, *Laconia* routinely sailed between Britain and the Middle East with soldiers, goods and supplies, and even prisoners of war. On this particular return trip around the Cape of Good Hope, *Laconia* carried its regular crew of 436, about 80 civilians, 268 British soldiers, and approximately 1,800 Italian prisoners of war with 160 Polish guards. Armed with heavy guns and running an evasive, zigzag course under blackout conditions, *Laconia* was a legitimate military target, even by international rules of war. At 2222 hours, *Laconia* radioed: “SSS SSS 0434 South / 1125 West *Laconia* torpedoed.” Twelve minutes earlier, U-156 had torpedoed the ship. A hit on the starboard side immediately

Battle of the Atlantic (Annapolis, MD: Naval Institute Press, 1996). Also, consult “The Cavity Magnetron Clue” in David Kahn, *Seizing the Enigma: The Race to Break the German U-boat Codes, 1939-1943* (Boston: Houghton Mifflin, 1991), 259-264.

²⁵This second *Laconia* is not to be confused with an earlier *Laconia*, built by the same manufacturer, that Cunard Steamship Lines launched in July 1911 and U-50 sunk in February 1917 during the Great War. “RMS *Laconia*,” *Wikipedia: The Free Encyclopedia*, internet resource @ http://www.wikipedia.org/wiki/RMS_Laconia, accessed 1 November 2002.

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killed more than four hundred Italians in the hold, and a second hit sank *Laconia* and its captain, Rudolph Sharp, in about ninety minutes.²⁶

When Hartenstein surfaced, he found over two thousand passengers in the water, and he heard cries in Italian: “*Aiuto! Aiuto!*” (“Help! Help!”). Shocked, he began search and rescue of the survivors. Although “the U-boat rules discouraged—or even prohibited—rescue or capture of survivors of sunken ships (except captains and chief engineers), Hartenstein was free to resume his journey to Cape Town, leaving all the survivors, including all the Italians, to fend for themselves. But he did not.”²⁷ At 0125 hours the next morning, he sent a coded message to *Befehlshaber der Unterseeboote* (CinC of submarines):

*Versenkt von Hartenstein Brite “Laconia”. Marinequadrat FF 7721 310 Grad. Leider mit 1500 italienischen Kriegsgefangenen. Bisher 90 gefischt. 157 cbm. 19 Aale, Passat 3, erbitte Befehle.*²⁸

²⁶Ibid; compare *TMWC*, XIII:281-291; see Doenitz, *Memoirs*, 255-264.

²⁷“The Laconia Affair,” from Clay Blair, *Hitler’s U-Boat War: The Hunted, 1942-1945* (New York: Random House, 1998), internet resource @ <http://wernerhartenstein.tripod.com/U156ClayBlair.htm>, accessed 1 November 2002. Allied and German sailors equally feared death at sea and, generally, felt sympathy for shipwrecked survivors. After a successful U-boat attack on an Allied tanker, a German naval correspondent recalled the silence: “Not a word is said about the shipwrecked men. To speak of their fate is taboo. But the irritability in the air speaks volumes. Who of us is not picturing himself at this moment as one of those burning in the water?” Buchheim, “Surface Attack,” *U-boat War*, n.p.

²⁸Translated: “Sunk by Hartenstein British “Laconia”. Grid FF 7721 310 degrees. Unfortunately with 1,500 Italian POWs. Till now 90 fished. 157 cubic meters (oil). 19 eels [slang for torpedoes], trade wind 3, ask for orders.” “Laconia Incident,” *Wikipedia: The Free Encyclopedia*, internet resource @ http://www.wikipedia.org/wiki/Laconia_incident, accessed 1 November 2002.

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Doenitz in response agreed to assist the rescue with seven other U-boats then transport the survivors to Bingerville, Ivory Coast (a colony of Vichy France). But because of Hitler's intransigence about a surprise attack on Cape Town by group Eisbaer, Raeder yielded and directed Doenitz to have the Eisbaer subs, including Hartenstein's U-156, resume the original plan. This left Erich Wuerdeman's U-506, Harro Schacht's U-507, and Marco Revedin's *Cappellini* to pick up the survivors and carry them to Vichy French warships that had been sent from Dakar (Senegal), Conakry (French Guinea), and Cotonou (Dahomey).

Meanwhile, in response to questions from Doenitz, Hartenstein proposed "neutralization" of the area to expedite rescue efforts. Doenitz forwarded this idea to Berlin, but Raeder and the *Oberkommando des Heeres* (OKH) rejected it. When word did not filter down, Hartenstein simply took the initiative and requested help at 0600 hours via an uncoded message in English: "If any ship will assist the shipwrecked 'Laconia' crew, I will not attack providing I am not being attacked by ship or air forces. I picked up 193 men. 4, 53 South, 11, 26 West. –German submarine." In Freetown, "the British . . . intercepted this message, but believing it might be a *ruse de guerre*, refused to credit it or to act. While waiting for a response, Hartenstein cruised about, rescuing and redistributing the survivors."²⁹ Over the next two days, Doenitz replaced U-156 in the Eisbaer group with Helmut Witte's U-159, directed the Eisbaer group to Cape Town, and instructed Hartenstein to supervise the rescue effort. All seemed well, as the four submarines

²⁹"The Laconia Affair," from Clay Blair, *Hitler's U-boat War*.

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made their way toward the ships from Vichy France with hundreds of survivors on board and in tow on lifeboats.³⁰

On 16 September at about 1130 hours, Lieutenant James D. Harden, a B-24 pilot from the U.S. Army Air Force base on Ascension Island, sighted the four U-boats and radioed his command for instructions. Captain Robert C. Richardson III, the duty officer for the day, simply ordered, “Sink sub.” At about 1230 hours, Harden returned to the area and attacked with bombs and depth charges, notwithstanding the fact that each U-boat had placed a Red Cross flag across its deck. The U-boats in response submerged to avoid attack.³¹ The survivors on the decks and in lifeboats, who now had lived through two assaults—one from the Germans and one from the Americans—again became adrift at sea. The Vichy France vessels fortunately “re-rescued” over one thousand toward evening. But this insensitive action by the Americans enraged Doenitz.³²

³⁰But Doenitz worried and warned the commanders: “Detailed boats to take over only so many as to remain fully able to dive . . .” *TMWC*, XIII:283. When Doenitz further received word that Schacht’s sub towed ninety-five English and Polish, he gave orders for the lifeboats to be cut loose. Wuerdemann’s sub also towed Brits and Poles, but he withheld this information from Doenitz. For Doenitz’s explanation, see *ibid.*, XIII:238, 285-286, 377-378; *Memoirs*, 260.

³¹The message to *Unterseeboote* command from Hartenstein read: “Bombed five times by American Liberator in low flight when towing four full boats in spite of a Red Cross flag, 4 square meters, on the bridge and good visibility. Both periscopes at present out of order. Breaking off rescue; all off board; putting out to West. Will repair.” *Ibid.*, XIII:284.

³²“Laconia Incident,” *Wikipedia*. See too the summary of an article by M. Maurer and L. J. Paszek, *Journal of the Royal United Services Institute* (November 1964), that attempts to absolve the Allies, in Ann Tusa and John Tusa, *The Nuremberg Trial* (New York: Atheneum, 1983), 365-367. On Richardson’s comments to a London reporter that he had done the right thing, see Gerald Kemmett, *Sunday Express* (4 August 1963), cited in Eugene Davidson, *The Trial of the Germans: An Account of the Twenty-two Defendants before the International*

On 17 September, Doenitz issued from his headquarters a top secret order to all U-boat commanders—the infamous *Laconia-Befehl*:

1. All efforts to save survivors of sunken ships, such as the fishing out of swimming men and putting them on board lifeboats, the righting of overturned lifeboats, or the handling over of food and water, must stop. Rescue contradicts the most basic demands of the war: the destruction of hostile ships and their crews.
2. The order concerning the bringing-in of skippers and chief engineers stay in effect.
3. Survivors are to be saved only if their statements are important for the boat.
4. Stay hard. Remember that the enemy has no regard for women and children when bombing German cities.³³

This order understandably caused Doenitz considerable grief during the Nuremberg trial. The Allies, especially the British, felt that Doenitz blatantly disregarded the Geneva Convention and proper treatment of shipwrecked sailors as prisoners-of-war. In their view, the *Laconia-Befehl* proved that *Grossadmiral* Doenitz had transgressed far beyond unrestricted submarine warfare and had ordered the killing of shipwrecked survivors of U-boat attacks.³⁴

Military Tribunal at Nuremberg (New York: Macmillan, 1966; paperback ed., Columbia, MO: University of Missouri Press, 1997), 407.

³³“Laconia Incident,” *Wikipedia*. Also, see *TMWC*, V:220; *Nazi Conspiracy and Aggression (NC&A)*, compiled by the Office of the United States Chief of counsel for prosecution of axis criminality, International Military Tribunal (Washington, D.C.: Government Printing Office, 1946), II:830.

³⁴At the time of issue, Eberhard Godt and Guenther Hessler, two staff officers of Doenitz, warned their CinC: “Do not send this wireless message—you see, one day there may be a wrong impression about it; there may be a misinterpretation of that.” As a result, both officers were called to testify before the Tribunal. *TMWC*, XIII:380, 523-558. But see Padfield on Godt’s denial of this, *Doenitz*, 462. On Doenitz’s repudiation of the *Befehl* at his pretrial interrogation, see Conot, *Justice at Nuremberg*, 415. The *Laconia* affair received no attention in the record of the *Fuehrer* Naval Conference of 28 September 1942, but Admiral Doenitz attended (though not

Colonel Phillimore pressed the Allied case against Doenitz—“that the defendant conducted the U-boat war . . . with complete cynicism and opportunism”—with a series of orders from Doenitz that prescribed harshness.³⁵ But in the prosecution’s mind the *Laconia-Befehl* took submarine warfare to a degenerate level: “The defendant was guilty of an order which intended not merely the sinking of merchant ships, not merely the abstention from rescue of the crews, but their deliberate extermination.” Phillimore rested his contention on two facts. First, in January 1942, Hitler conferred with the Japanese Ambassador, Hiroshi Oshima, about the need to strike “even merchant ships . . . without warning with the intention of killing as many of the crew as possible,” since the United States had entered the war.³⁶ Second, the 17 September 1942 “war diary” entry of Doenitz stated that “all efforts to rescue members of the crews of ships which have been sunk contradict the most primitive demands for the conduct of warfare for annihilating enemy ships and their crews.” In summary, the colonel assumed, “The wording is, of course, extremely careful, but to any officer of experience its intention was obvious and he would know

the three previous conferences). *Records and Documents Relating to the Third Reich, Group 6: Fuehrer Conferences on Matters dealing with the German Navy, 1942* (Washington, D.C.: Office of Naval Intelligence, 1946), microform.

³⁵For example, Standing Order Number 154, a non-rescue order dated November or December 1939: “Do not pick up men or take them with you. Do not worry about the merchant ship’s boats. Weather conditions and distance from land play no part. Have care only for your own ship and strive only to attain your next success as soon as possible. We must be harsh in this war. The enemy began the war in order to destroy us, so nothing else matters.” *TMWC*, V:218; XIII:225, 272-278; *NC&A*, VII:124.

³⁶*NC&A*, VII:53-54. Both Raeder and Doenitz opposed this proposal by Hitler to shoot shipwrecked survivors. *TMWC*, XVIII:350.

that deliberate action to annihilate survivors would be approved under that order.”³⁷ The British barrister also submitted evidence of *Kapitaenleutnant* Heinz Eck’s lethal action against the shipwrecked crew of *Peleus* as well as testimony from *Oberleutnant* Peter Heisig and *Korvettenkapitaen* Karl Moehle. Phillimore sought to prove cause and effect between Doenitz’s order and Eck’s action and to elicit interpretations of the *Befehl* from the two subordinates that would contradict their CinC’s stated intent.³⁸

In reply, *Flottenrichter* Kranzbuehler confuted inferences from Heisig and Moehle by pointing out the difference between prohibition of rescue measures and intentional killing of shipwrecked sailors.³⁹ Kranzbuehler also stressed what both Allied and German captains had followed universally: the priority of wartime operations, namely, the safety of one’s own boat

³⁷Ibid., V:219-221; XIII:268-270, 372-376.

³⁸Ibid., V:222-245. On the Eck affair, see *ibid.*, XIII:291-292; Davidson, *Trial of the Germans*, 409-413.

³⁹“It is not that it was a reprisal, but the defense is that the order did not mean destruction but merely meant non-rescue. On that basis it seems difficult . . . to appreciate how these matters become relevant at all.” *Ibid.*, XIII:227. Compare Doenitz’s explanation: “One must distinguish very clearly here between the question of rescue or nonrescue, and that is a question of military possibility. During a war the necessity of refraining from rescue may well arise . . .” *Ibid.*, XIII:271. But, to any U-boat captain who understood the *Befehl* as a directive to kill survivors, Moehle, as CinC of 5th U-boat Flotilla in Kiel, had briefed: “U-boat command cannot give you such an order officially; everybody has to handle this according to his own conscience.” *Ibid.*, V:235, 245. Doenitz said Moehle misunderstood and did not take the initiative to clarify the order. *Ibid.*, XIII:291, 385. Contrary to Doenitz’s belief, other officers felt the Naval High Command to be guilty of ambiguous and contradictory orders. See Buchheim, “Surface Attack,” *U-boat War*, n.p. In his closing address to the Tribunal, Justice Jackson opined Doenitz “couched the order in its present language so that he could argue the contrary if circumstances required it.” *TMWC*, XIX:490.

and its crew. He queried Moehle forcefully, “Is there any order in the standing orders directing or advising the killing of shipwrecked persons or the destruction of rescue facilities?” Moehle answered, “As far as I know, no.”⁴⁰ Doenitz’s attorney smartly led the witness to affirm the policy of the German Navy—to capture not kill the survivors of torpedoed ships. But in case of potential threat from air attack, the judge noted that survivability rather than search and rescue took precedence.⁴¹ Rather than a violation of this policy, the *Laconia* incident illustrated the dangers to U-boats involved in rescue of shipwrecked survivors in a hostile environment.⁴²

Doenitz persistently in his testimony argued for the military necessity of non-rescue, and he strongly disagreed with the prosecution’s belief that he ordered the shooting of shipwrecked persons. Concerning his *Laconia-Befehl*, Doenitz noted three factors: (1) the growing threat to

⁴⁰*TMWC*, V:237, 240. Note Kranzbuehler’s reference to U-boat command’s orders, dated 20 May 1943 and 1 June 1944, to capture not kill shipwrecked survivors. *Ibid.*, V:241-243. In his summation, Kranzbuehler presented “positive counterevidence . . . in the number of rescued Allied sailors . . . according to a survey by the British Minister of Transport in 1943, to 87 percent of the crews.” He reasoned, “Such a result is simply not compatible with an order for destruction.” *Ibid.*, XVIII:356.

⁴¹See Doenitz’s assessment: “Rescue work, which necessitates being on the upper deck in order to bring help and take care of more people and which may even mean taking in tow a number of lifeboats, naturally completely interrupts the submarine’s state of alert, and the U-boat is, as a consequence, hopelessly exposed to any attack from the air.” *Ibid.*, XIII:281.

⁴²By having Moehle comment on the protection due the U-boats as “rescue ships,” Kranzbuehler accomplished two things: (1) he implied that the Allies, by attacking the U-boats that were marked with Red Cross flags as hospital ships, violated a principle of international law; and (2) that Doenitz, for his part, upheld international law, as Moehle suggested, “I only know that the Commander of the U-boat fleet frequently reminded the commanders of the absolute inviolability of hospital ships.” *Ibid.*, V:244.

U-boats from Allied aircraft in late summer and early fall of 1942; (2) his concern about the risk to U-boats involved in search and rescue of survivors; and (3) the need for discipline, even harshness, when in command of a U-boat at sea in wartime.⁴³ On Doenitz's behalf, Kranzbuehler had introduced many technical documents.⁴⁴ Some detailed German rescue of Allied sailors, even by over-scrupulous means, and some described the German Navy's satisfactory treatment of Allied prisoners-of-war. The defense additionally documented allegations about the Allies not picking up, or even shooting, shipwrecked survivors.⁴⁵

Appropriately, Kranzbuehler pushed Doenitz to explain the precise wording of his *Laconia-Befehl*: "Rescue is contrary to the most primitive laws of warfare for the destruction of enemy ships and crews.' What does that sentence mean?" In his answer, Doenitz wavered a bit but summarized:

I was now anxious to state to the commanders of the submarines a reason which would exclude all discretion and all independent decisions of the commanders. For again and again I had the experience that . . . a clear sky was judged too favorably by the U-boats and then the submarine was lost; or that a commander, in the role of rescuer, was in time no longer master of his own decisions, as the *Laconia* case showed; therefore under

⁴³Ibid., XIII:271-272, 279-280, 286-287, 290-291, 294-295. Sir David Maxwell-Fyfe, a British prosecutor, challenged Doenitz's interpretation of the Allied threat. Ibid., XIII: 386-388.

⁴⁴Brilliantly, on 2 July 1946, Kranzbuehler introduced the interrogatory of Admiral Chester A. Nimitz, CinC of Pacific Ocean Areas, about American involvement in unrestricted submarine warfare. This finally put to rest the Tribunal's quibbling about *tu quoque* arguments. See Sprecher, *Inside the Nuremberg Trial*, 994-995. Marrus calls this "an extraordinary legal coup given the Tribunal's general disinclination to hear *tu quoque* arguments." *Nuremberg War Crimes Trial*, 171. See also Maguire, *Law and War*, 124-125.

⁴⁵*TMWC*, XIII:225-227, 237, 246-247, 405, 410-425.

no circumstances—under no circumstances whatsoever—did I want to repeat the old reason which again would give the U-boat commander the opportunity to say, “Well, at the moment there is no danger of an air attack”; that is, I did not want to give him a chance to act independently, to make his own decision, for instance, to say to himself, “Since the danger of air attack no longer permits.” That is just what I did not want. I did not want an argument to arise in the mind of one of the 200 U-boat commanders. Nor did I want to say, “If somebody with great self-sacrifice rescues the enemy and in that process is killed by him, then that is a contradiction of the most elementary laws of warfare.” I could have said that too. But I did not want to put it that way, and therefore I worded the sentence as it now stands.⁴⁶

In Doenitz’s mind, his *Befehl* came from wartime expediency and in no way directed the unlawful killing of shipwrecked survivors. Because of “the harshness of war,” the strength of “the great sea powers,” and the inadequacy of the German Navy, Doenitz knew that, as a senior commander, he had to be tough and inflexible so as to train “the submarine crews in the spirit of pure idealism and patriotism . . . to achieve very high morale, very high fighting spirit . . . otherwise the severe struggle and the enormous losses . . . would have been morally impossible to bear.” But never, Doenitz confirmed, did he compromise the ethics of war: “I would never, even at the time of our most serious losses, have permitted that these men be given an order which was unethical or which would damage their fighting morale.”⁴⁷ The prosecution could hardly agree and continued to charge Doenitz with waging aggressive war, along with other offenses, in its cross-examination of the defendant and officers of the German Naval Operations Staff—Gerhard Wagner and Eberhard Godt, both admirals, and Captain Guenther Hessler.

⁴⁶Ibid., XIII:287-288; see also pages 379-380, 382.

⁴⁷Ibid., XIII:294-295.

When Kranzbuehler gave his final remarks in Doenitz's defense, he restated the major problem with conflicting interpretations of the international agreements on naval warfare—the implausibility of their fair application during wartime. He reasoned:

I should deem it to be incompatible with the demands of justice if soldiers were charged with a criminal responsibility in deciding legal questions which could not be settled at international conferences and are hotly disputed among the experts themselves.

In this connection . . . the London Pact of 1930 did not from the Root Resolution of 1922 adopt the principle of criminal prosecution for violations of the rules of U-boat warfare. The five naval powers participating in this conference apparently came to the conclusion that the problems of naval warfare cannot be solved by means of penal law. And this fact applies fully today, too.⁴⁸

In reference to treatment of shipwrecked crews, the international guidelines came out of the Hague Convention and the Application of the Principles of the Geneva Convention to Naval Warfare (October 1907), an agreement that Great Britain had failed to ratify. But in the case of the *Laconia*, in spite of “prejudice to the military mission,” Doenitz permitted the recovery and transport of survivors. Even after the Allied attack and “the explicit order from Fuehrer headquarters not to endanger any boats under any consideration, Admiral Doenitz did not discontinue rescue work . . .” Afterwards, though, Doenitz perceived grave danger to his U-boat fleet from aerial bombardment. For this reason, he issued the stern warning against rescue that he “never meant to be a murder order and was not interpreted as such by the commanders.”⁴⁹

⁴⁸Ibid., XVIII:346.

⁴⁹Ibid., XVIII:347-353. Kranzbuehler interestingly brought up the Allied blockade of Germany and called it a “great infringement” on the distinction between combatants and noncombatants during the war. He seemed to imply, but did not explicitly state, this could be a possible motive for Doenitz's harshness in his *Befehl*, especially its last phrase: “Remember that

In his last remarks to the Tribunal on 31 August, the *Grossadmiral* did not refer to his *Befehl* at all. He pointedly told his accusers: “You may judge the legality of German submarine warfare as your conscience dictates. I consider this form of warfare justified and have acted according to my conscience. I would have to do exactly the same all over again.”⁵⁰ At the conclusion of the trial in October, Professor Donnedieu de Vabres, one of the French justices, read the judgment of the Tribunal regarding Karl Doenitz. He was found not guilty of conspiracy (count one), but guilty of crimes against peace and war crimes (counts two and three). The Tribunal took into consideration mitigating circumstances of Doenitz’s unrestricted submarine warfare, namely, that British merchant vessels were armed and hostile and that Allied nations like the United States likewise used submarines to carry out unrestrained, aggressive actions during the war.

As to the *Laconia-Befehl*, the prosecution failed to convince the justices “with the certainty required, that Doenitz deliberately ordered the killing of shipwrecked survivors.” But they felt the *Befehl* to be “undoubtedly ambiguous,” and that it deserved “the strongest censure.” Regarding the Protocol of 1936, the council of justices did find Doenitz guilty of its violation; he was guilty thereby of crimes against peace. They noted that “rescue provisions were not carried out and that the defendant ordered that they should not be carried out.” No mitigating

the enemy has no regard for women and children when bombing German cities.” But this would make Doenitz’s *Befehl* punitive in nature rather than, as Doenitz claimed, hortatory to boost the U-boat sailors’ morale.

⁵⁰Ibid., XXII:390.

circumstance, such as the security of U-boats, could exonerate Doenitz, since “the Protocol is explicit”! But the Tribunal reasoned quite naively: “If the commander cannot rescue, then under its terms he cannot sink a merchant vessel and should allow it to pass unharmed before his periscope.” With this bit of rationalization, the justices perhaps proved themselves guilty of the greater ambiguity!⁵¹ On the basis of this judgment, the Tribunal nevertheless sentenced Doenitz to ten years’ imprisonment.⁵²

At Nuremberg, the International Military Tribunal did not solve the problem associated with submarine warfare’s legitimacy or legality. In the case of *Grossadmiral Doenitz’s Befehl*, the Tribunal clearly refused to judge on the basis of existing international law. Expediency overruled strict adherence to principle, which benefitted Doenitz as well as legitimized Allied

⁵¹Ibid., XXII:558-559. Compare the wording of the final opinion on the sinking of merchant vessels. In closed session, Biddle had argued that merchant ships were “war vessels” and “it would be [silly] for the Court to penalize Doenitz for not giving warning and picking up survivors when doing so would have made submarine warfare impossible.” Smith, *Reaching Judgment at Nuremberg*, 261.

⁵²Ibid., XXII:588. The sentence angered Doenitz. See Gilbert, *Nuremberg Diary*, 432. Martin says: “I visited Doenitz and he was very angry with his sentence. He was very upset and paced about his cell while kicking at everything in sight. He said, ‘I blame Russian politics for my predicament. . . . I appreciate Admiral Nimitz’s help and have written my thanks to him. I feel sure his letter is primarily responsible for my low sentence of 10 years.’” *Inside Nuernberg*, 56. Not until July 1947 were the seven remaining prisoners transferred to Berlin’s Spandau prison; see Martin’s account, *ibid.*, 112-131. Compare Jack Fishman, *The Seven Men of Spandau* (New York: Rinehart, 1954), and note Fishman’s *faux pau*, unknowingly, in titling the chapter on Doenitz “First Man Out.” Doenitz’s release (1 October 1956) came after that of von Neurath (6 November 1954) and Raeder (17 September 1955).

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aggression. In Doenitz's case, the diplomacy of just retribution required compromise so that both sides, both contributors to an ugly conflict, could save face.

ADDENDUM

Doenitz's Judgment & Sentence

Smith refers to the Tribunal's deliberations about Doenitz as one of their "difficult verdicts."⁵³ Surprisingly, the British authorities initially resisted bringing Doenitz to trial. The Admiralty knew that they too had violated international law on the high seas and "simply did not want the navy's linen to be washed in public."⁵⁴ Pressured by the Americans, the British eventually conceded so that the list of Nuremberg defendants included the *Grossadmiral*.

Doenitz's career reflected unusual turns, particularly, his appointment to the OKW as CinC of the *Kriegsmarine* in the middle of the war and his twenty days as head of state at the war's end. A wide array of offences therefore had to be examined on the basis of an unwieldy collection of evidence. Different things that did not seem to be related had to be considered.

The evidence against Doenitz examined: (1) complicity in Nazi conspiracy or his association with Hitler and the OKW; (2) violations of international restrictions on naval warfare (attacks on "neutral" merchant vessels, disregard of operational areas); (3) non-rescue of shipwrecked persons contrary to the Geneva Convention; (4) killing shipwrecked sailors contrary

⁵³*Reaching Judgment at Nuremberg*, 247-265. He also includes Speer, von Neurath, Bormann, von Schirach, and Raeder.

⁵⁴*Ibid.*, 248.

to the Geneva Convention; (5) illegal use of concentration camp inmates for shipyard work; and (6) illegal use of contraband to supply naval personnel.⁵⁵

Recent evidence shows closer association than previously realized between the chiefs of the *Kriegsmarine* and Nazi atrocities.⁵⁶ To some extent, the German Navy presumably kept to itself, took care of its own affairs, and remained oblivious to what happened inland. But certain limits exist to such geographic, military, and political isolation. Military organizations require huge amounts of materiel and manpower, and with logistic support comes bureaucratic command and control. The psychology of the desire to be uncontrolled or to be free to act independently (and thereby, to some extent, uninformed) contradicts the need to serve as part of a greater national entity and for some higher ethos as heroic soldiers or noble warriors.

This ambiguity served Doenitz well in his defense against conspiracy as did his subordinate role to Raeder until January 1943 (*post facto* earlier Nazi war councils). But it would seem unreasonable to think Doenitz, as CinC of the U-boat fleet, would have little knowledge of Nazi transport of Jews and other “undesirables” across occupied France.⁵⁷ Without

⁵⁵The charge of illegal contraband is implied but not stated specifically against Doenitz at the trial.

⁵⁶See “Postscript” in Padfield, *Doenitz*, 492-501.

⁵⁷In August 1940, Doenitz transferred his command headquarters from Senkwarden near Wilhelmshaven, temporarily to Paris, then to Kernevel near Lorient on the Bay of Biscay. Due to Allied air attacks, he moved his operation center back to Paris sometime in 1942. See Doenitz, *Memoirs*, 112; Padfield, *Doenitz*, 214.

tangible evidence of Doenitz's participation in heinous activity, though, the IMT could not convict on grounds of avid loyalty to Hitler and National Socialism.

Concerning crimes against peace and war crimes (counts two and three), the prosecution proved Doenitz guilty. Doenitz himself confessed "unrestricted" use of subs, disregard of zones of operation, and hostile action against so-called neutral ships. On his use of these tactics, Doenitz had a clear conscience: "I consider this form of warfare justified and have acted according to my conscience."⁵⁸ Doenitz's defense successfully argued mitigating circumstances. But the IMT had to judge according to the strict letter of the law and, of course, take into consideration what was politically expedient in light of Allied brutality at sea! This explains the IMT's complicated and contradictory final opinion on Doenitz's case, written by Francis Biddle, the U.S. Attorney General.⁵⁹

Finally, the question of whether Doenitz ordered the killing of shipwrecked survivors in his *Laconia-Befehl* remains a thorny problem. If viewed from the perspective of Doenitz as a Nazi racist who fanatically sought to destroy all opposition, then Doenitz was guilty. But if viewed from the vista of Doenitz as a traditional Prussian soldier who took pride in the military professional's ethical conduct, then Doenitz was not guilty. Doenitz certainly evinces both

⁵⁸*TMWC*, XXII:390.

⁵⁹Biddle, who believed Doenitz should be acquitted, threatened to file a public dissent. The Tribunal reached a compromise that allowed Biddle to write the final opinion if he agreed not to do so. See Smith, *Reaching Judgment at Nuremberg*, 262-264. Smith calls Biddle's opinion "a piece of window dressing" and that, in Doenitz's case, "the justifiable limit toward compromise and pragmatism may have been passed."

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characteristics, so that schizophrenic evaluation is not at all farfetched.⁶⁰ Above all else, Doenitz was a tactician. According to one opinion, Doenitz did not like surprises that called for quick decisions.⁶¹ If so, on 17 September 1942, he acted out of character. But as an expert tactician, Doenitz realized the nature and concern of the threat to his U-boats. He felt perhaps he had no choice but to act swiftly, decisively, even rashly in the execution of his *Befehl*.

Doenitz as a result received from the Tribunal an appropriate censure of his action and a sentence of ten years' imprisonment. Questionable is Padfield's belief that "tried with the evidence and insights available today he would have been sentenced to hang," at least, not on the onus of an ambiguous *Befehl* and the presumption of some more definite, unwritten order.⁶² Padfield rather refers to Doenitz's complicity in genocide, but the IMT at Nuremberg had no such evidence and could not so rule. With such historical ambiguities, hindsight cannot be so dogmatic.

⁶⁰Padfield notes that, while in prison at Spandau, Doenitz's "personality was not fully integrated . . . for periods he would act the Grand Admiral, ostentatiously preserving his distance, at others he sought companionship and engaged [the guards] in long talks." *Doenitz*, 475. Compare also his youthful feint of insanity!

⁶¹According to Peter Hansen in a personal letter to Padfield, *ibid.*, 497. This assessment would certainly fit Doenitz who enjoyed the minutia of technical data.

⁶²*Ibid.*, 500-501.

Doenitz's Psychology & State of Mind

In his assessment of “Nuremberg: The Fall of the Supermen,” published almost sixteen years after the trial, Francis Biddle conveys his own brief, but insightful estimate of each defendant. At the end, he writes tersely: “Of the two admirals, Karl Doenitz, who had succeeded Raeder as head of the Navy, was the modern, highly trained technician.”⁶³ Biddle with little elaboration exhausts his feelings about Doenitz! But that short sentence says the world about Doenitz, such that all portrayals of the man should take his proclivity to technical matters under serious consideration.⁶⁴

For his contribution to the psychology of Nuremberg's defendants, Kelley targets “time binding” or “the ability to learn from the past experience of others [i.e., the horror of the Third Reich] without having to go through it ourselves.” He relies on personal testimony from the accused but supplements this subjective data with “interviews and written reports from a number of persons who had known the Nuremberg Nazis when they were at the top of the heap.”⁶⁵

⁶³*American Heritage* 13 (August 1962): 65-76. During the trial, Doenitz had judged Biddle to be a sympathetic ear to the case of the military defendants. So Gilbert, *Nuremberg Diary*, 198, 224, 313.

⁶⁴A casual reading of Doenitz's personal memoirs nicely illustrates why this is true.

⁶⁵*22 Cells*, vii, ix.

Kelley describes Doenitz as friendly, humorous, simple, direct. He recognizes Doenitz's intelligence,⁶⁶ but he fails to apply the pattern of Doenitz's temperament that he had already ascertained, that is, when pressured, Doenitz could gravitate to ruse and sleight. The tactician could trick and maneuver, after all, he was *the* U-boat Admiral for Nazi Germany. Kelley as a result seems rather naive about Doenitz's personality. He says little about Doenitz being dour or sulky, and he takes for granted the veracity of Doenitz's remarks about his innocence. Kelley simply does not probe deeply enough in his psychological analysis of the *Grossadmiral*.

Much more realistic is Gilbert's psycho-social portrait of Doenitz.⁶⁷ He looks at Doenitz the individual, but he also observes and records how Doenitz behaves in relation to the trial proceedings, the justices, the prosecution and the defense, and the other defendants. He shows Doenitz's acerbic side (103)⁶⁸ as well as his psychological aloofness (7, 165). Doenitz's humor does not go unnoticed (66) along with his dominance of Speer and even von Papen (160, 366). Gilbert is careful to note Doenitz's disgust of liars (256, 313, 398), traitors (146, 242, 328), politicians (296, 306, 389), Goering (70, 313), and Raeder (336-337, 340, 344), but his comradery with Goering (158, 274, 327), military men (245, 297, 366), Hitler (226, 274), and

⁶⁶Doenitz's IQ, according to the *Wechsler-Bellevue Adult Intelligence Test*, was 138. The average IQ for the twenty-one defendants was 128. Gilbert, *Nuremberg Diary*, 31.

⁶⁷Page numbers in the text are from Gilbert's *Nuremberg Diary*.

⁶⁸Compare Bob Cooper's change of opinion about Doenitz "when the admiral went into the witness box. Here, thought Cooper, they saw 'the real man—harsh, ruthless, arrogant. You felt in him the eternal German militarist and . . . you saw that his selection as Hitler's successor was probably no mere hazard.'" Tusa and Tusa, *Nuremberg Trial*, 351.

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Speer (398). He indicates the Admiral's interest in Jackson's staff, particularly Biddle (57, 198, 224), diplomacy and politics (177, 184, 275, 331, 340, 413), and even Christian profession (358).

Gilbert confirms Doenitz's belief in his innocence (253, 290; but see Gilbert's critique, 192), his role at the end of the war (147), and his lack of knowledge about the concentration camps and Himmler's work (48, 174). Perceptively, he states: "Doenitz [gives] the impression of being an innocent boy in a den of gangsters and politicians" (363). The other defendants all spoke well of Doenitz (327-328) as did Doenitz of himself: "'No, I believe in being upright and consistent. . . . Thank God, I never had anything to do with politics until the end of the war. . . . That is why I have had a very rich life and a clean one'" (313). But, is Gilbert naive or just sarcastic when he writes about Doenitz's savvy in trying to get information to the Americans (versus the Russians) on the German's new X U-boat technology: "'For an honest soldier who condemned dirty politics, it was a pretty clever move'" (332). Possibly, Gilbert sarcastically reveals his skepticism about Doenitz's total innocence of politics. Doenitz is just too smart for that, something Gilbert knows. Overall, the psychologist's portrait of Doenitz is thorough, reasonable, and balanced. His ability to speak German fluently, as compared to Kelley who worked through translators, served him well.

Perhaps, though, the best look at Doenitz the tactician comes from Smith. He relates the Admiral's emotional extremes during the trial: "teetering on the edge of despair . . . how 'stirred' Doenitz became . . . 'the other Grand Admiral is sound asleep!'" He points out Doenitz's

occasional lack of veracity: “Rowe remark[ed] that Doenitz was ‘probably lying.’”⁶⁹ But he highlights the resolute planning by Doenitz to fight his case:

Once in Nuremberg, Doenitz showed not only that he was going to battle the prosecution every step of the way, but that he had immediately grasped the main issues in his case and was prepared to meet them carefully and intelligently. By the time Major Neave visited him on behalf of the Court in October, in order to discuss the system of attorney selection, Doenitz had already requested that he be represented by a leading German naval lawyer, Dr. Otto Kranzbuehler. . . . He had also decided that his best line of defense was to stress the parallel between German and Allied submarine warfare. In addition, Doenitz asked Neave how he should go about obtaining documents for his case, and he also informed him that henceforth in interrogations by the prosecution he thought he would only “put the points which he intended to use in his defense,” at least until “his counsel arrived.”⁷⁰

This view of Doenitz is essential to proper understanding of the man as a senior military officer who was goal-oriented and career-driven. Smith superbly relates this perspective of Doenitz in the context of the trial at Nuremberg.

⁶⁹*Reaching Judgment at Nuremberg*, 250, 258.

⁷⁰*Ibid.*, 249.

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