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## Rough Waters: Sovereignty and the American Merchant Flag

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their citizens? Do other states have a responsibility to intervene when citizens' states do not? Do human rights trump sovereignty? For over two decades, we have failed to answer these questions. If the "international community" has no answer, how can we expect fighters—a young soldier battling Taliban insurgents in Afghanistan or a drone pilot sitting in an operations center tracking a suspected terrorist in Yemen—to answer them? The received law of war was not designed for this.

Efforts to fit modern war into this structure create more problems in turn, undermining both domestic and international law. The rule of law, Brooks argues, is critical to all societies and to international order. One solution she suggests is to update our laws and international structures, as challenging as that task might be. We should think of war and peace as poles on a spectrum, and envision that we move closer to one or the other over time. We should reject rigid definitions of war as an all-or-nothing concept.

Brooks argues that endless war undermines American institutions as well as the rule of law. The Department of Defense has assumed missions that it is ill equipped by culture and training to perform—such as nation building and civil reconstruction—at the expense of other agencies that traditionally have carried out American public policy and diplomacy overseas, such as the State Department. Brooks submits that, for policy implementation, the military has become a one-stop shopping center—like Walmart.

Brooks's tale also chronicles a personal journey. As the child of antiwar activists, then throughout her career as a law professor, human rights

lawyer, State Department lawyer, and Defense Department official, she has experienced and here relates her close encounters with most of the subjects about which she writes, in part owing to her marriage to an Army Special Forces officer. Anyone who has served in the Pentagon in any capacity will get a chuckle or two from Brooks's tales of her time in this unique place.

This book is informative, enlightening, and entertaining. As director of national security legal studies at the Army War College from 2000 to 2006, I struggled to answer the same questions Brooks addresses in her book. *How Everything Became War and the Military Became Everything* should be required reading for anyone interested in military strategy and national security, or anyone who wonders how we got where we are today and how we might find a better way.

THOMAS W. MCSHANE



*Rough Waters: Sovereignty and the American Merchant Flag*, by Rodney P. Carlisle, with Bradford Smith. Annapolis, MD: Naval Institute Press, 2017. 304 pages. \$31.95.

*Rough Waters* is a historical review of the use and significance of the port of registry (which yields a "flag state") of merchant vessels. Author Rodney Carlisle has revisited his prior work *Sovereignty for Sale: The Origins and Evolution of the Panamanian and Liberian Flags of Convenience* (Naval Institute Press, 1982, out of print) and augmented it with his other prior periodical work to provide a deeper history of the use of merchant ship flags.

Generally speaking, *Rough Waters* is well researched—with the profound

exception of the defamatory analysis of and allegations about the Liberian registry during the period 2001–2003. The source of most of this misinformation is provocative allegations deriving from a commercial lawsuit, as well as an inaccurate reference to a UN report. The lawsuit was withdrawn and the allegations were never substantiated, as they were and remain patently false. Furthermore, the author's incorrect and loosely referenced opinion that the Marshall Islands flag constitutes a de facto second U.S. registry cannot go unmentioned. Contrary to the statement that the Marshall Islands flag registry has been structured along the Delaware domestic model to aid U.S. strategic interests, the reality is that the Marshall Islands registry was formed by copying Liberian law and constitutes an impropriety constructed for commercial purpose and private financial gain. For these reasons, this reviewer is unable to recommend *Rough Waters*, or to endorse it as an accurate review of the impact of foreign flags on the American merchant fleet.

*Rough Waters* attempts to address the role of foreign flags in the decline of the American merchant marine. Despite providing some evidence to the contrary, the author articulates a one-sided thesis that foreign flags predominantly are used for sinister or nefarious purposes. He further suggests that commercial interests, in their taking advantage of less-developed nations, were the predominant cause of the collapse of the U.S.-flag fleet. Curiously, the book chronicles, yet fails to highlight, that one of the most prevalent flags of convenience throughout history was the British flag—and the greatest facilitator of alternative registration of U.S.-owned ships was the U.S. government.

*Rough Waters* describes in interesting detail the intentional use of nonnational flags as a means to mislead, to dissuade, and often to evade pursuit by navies and other authorities. Whether it was the slave trade, the Southern or Northern fleets on either side of the U.S. Civil War, rum-running during U.S. Prohibition, or U.S. involvement in World War I and the early half of World War II, the lack of technology during these eras meant that identification of a ship's nationality depended on visually sighting the flag flying on its stern. This made use of the flag ripe for manipulation.

While some of these practices indeed were nefarious, others served legitimate purposes, and the U.S. government encouraged them. During the Civil War, ships changed flag because the Northern and Southern governments could not protect them. In the 1870s, building ships in the United States was expensive, so shipowners sought to construct and register ships abroad—a situation that continues today. In the lead-up to both world wars, the U.S. State Department and the U.S. Shipping Board facilitated transfer of the majority of U.S. ships to the Panamanian flag. Despite the assertion in *Rough Waters* that use of Panama's flag was immoral, the political landscape and the rise of fascism in Europe made use of a foreign flag a political necessity.

Of particular interest to *Review* readers may be elements of Alfred Thayer Mahan's theories on sea power. *Rough Waters* illustrates the practical impossibility of even the world's greatest navy protecting domestically registered commercial ships in all the far reaches of the earth. History provides only a very few examples of the U.S. Navy coming directly to the aid of a merchant ship. In

each of those cases, logistical convenience and a specific political interest were the determining factors for intervention. If a merchant vessel possesses strategic interest, its flag has never prevented the U.S. Navy from taking action.

Currently, almost 75 percent of the world's global trading merchant fleet is registered with ten flag states. Of these ten, only those of Greece and the People's Republic of China are considered "national flags." The remaining 64 percent of these commercial ships are registered in Panama, Liberia, the Marshall Islands, Hong Kong, Singapore, Malta, the Bahamas, or Cyprus. *Rough Waters* fails to consider or identify the impacts of shifts in global trade and trade economics, technology, and ship ownership, construction, financing, and crewing, which are the realities that underlie the choice of a flag state. Very few ships are owned by "pure" U.S. companies, and the global use of global flags did not cause the collapse of the U.S. merchant marine.

SCOTT BERGERON



*Practise to Deceive: Learning Curves of Military Deception Planners*, by Barton Whaley. Annapolis, MD: Naval Institute Press, 2016. 256 pages. \$39.95.

This is a quirky yet ultimately enjoyable book. The association of the author, Barton Whaley, with the U.S. intelligence services dates back to the Korean War. He earned his undergraduate degree from Berkeley and his PhD from MIT. Over the course of his career Whaley worked with or for the U.S. Army, the Naval Postgraduate School, and the director of national intelligence.

A. Denis Clift, president of the National Intelligence University, referred to Whaley as "the undisputed dean of U.S. denial and deception experts." Whaley died in 2013, leaving behind several completed volumes and a legacy as a man with a passion for and an encyclopedic knowledge of military deception.

A central assumption of *Practise to Deceive* is that the only tool that has a hope of "dispelling the fog of war" is intelligence—but it is the task of the deception planner to keep that fog thick. When deception planners do their job right, the enemy must deal with uncertainty, and surprise can be achieved. This is not exactly new ground. Many students of history, as well as most current members of the national security enterprise, are aware, at least to some degree, of famous deception operations. These range from the Trojan horse of Odysseus to the deployment of the imaginary First U.S. Army Group to southeast England in the months before D-day 1944. Whaley reminds us that deception plans do not just appear; they are the brainchildren of talented individuals—the deception planners. *Practise to Deceive* neglects neither deception plans nor deception operations, but its primary intent is to shed light on those planners and how they *think*. As it turns out, that is a pretty tall order. In addition, Whaley tells readers they should walk away with an awareness of the threats that enemy deception efforts pose and how we can improve our own efforts.

Unfortunately, the book's structure does not lead the reader to a rapid understanding of the mind of the deception planner. Indeed, most readers, particularly those unfamiliar with the subject, will be well served to