

CORRESPONDENCE

The *American Journal of International Law* welcomes short communications from its readers. It reserves the right to determine which letters to publish and to edit any letters printed. Letters should conform to the same format requirements as other manuscripts.

TO THE EDITORS IN CHIEF:

Steven Ratner cannot be advising his readers to do that which would be customary under the circumstances. To do that would be of little interest to readers of a law journal. Instead, Professor Ratner can only be talking about customary international law (CIL), a subject of profound interest in these pages. CIL is a subtle, living, growing phenomenon. It operates at the very moment of formation of the law. To view it is to observe law-in-creation.

CIL is not a prescriptive process. Professor Ratner cites (in his footnote 96) *The Prescribing Function in World Constitutive Process: How International Law Is Made* by Myres S. McDougal and W. Michael Reisman, as well as other essays by McDougal and Reisman, but prescription is a legislative process. It sets forth rules that need to be followed by those who come within its terms. Legislation appears to be antithetical to the purpose of Professor Ratner's article. He seems to want to talk about CIL, but instead ends up talking about legislative rules.

ANTHONY D'AMATO
Of the Board of Editors