universal jurisdiction to prescribe as the basis for reforming the abysmal human rights situation in the world become clear; and the disregard of fundamental principle by those arguing for a wider adoption of a natural law universality approach indicates the price that will inevitably be paid within the system if that approach is adopted with any consistency by municipal tribunals.

ALFRED P. RUBIN*

PROFESSOR RUBIN'S REPLY DOES NOT LIVE UP TO ITS TITLE

If there were a truth-in-advertising law that applied to essays in the *American Journal of International Law,* Alfred Rubin's reply to my article on Judge Bork could be charged with deceptive packaging. His tentative and speculative contentions hardly prove his title statement that I am "seriously mistaken." Yet his very failure of proof means that my arguments remain valid and that I have suffered no damage. As a result, I may lack standing, or have no cause of action, to bring a case of deceptive advertising against Professor Rubin.

So I am remitted to some brief observations. Rubin says it is "impossible" for national judges to be objectively seen as applying any universal law. But consider the universal prohibition against torture. Is it clearly impossible for a trial judge in the United States objectively and convincingly to find that torture occurred on an Israeli highway when all the witnesses said it did and the perpetrators admitted it and accepted the responsibility publicly? Rubin would grant the same judge the ability to detect torture when it occurs closer to his courthouse, such as in a nearby basement prison cell. According to Rubin, the judge can easily reach an objective conclusion of torture or no torture in that case, even if the facts are in sharp dispute. The conclusion is easily reached, presumably because, as the crow flies or as distances can be measured through earth and concrete, if proximity to the judge reaches a certain mystical point, what was previously impossible to determine suddenly becomes possible (*lex mirabilis*).

Professor Rubin is not against *all* universal rules, for he has discovered a universal rule of natural law all his own. It goes like this: "natural law is the law to be found reflected best to suit local perceptions in the legal order closest to particular aspects of a case." This is a notion I have not been able to find in Grotius, Pufendorf, Oppenheim or even Story, though I suspect that one of these days it may turn up in Woody Allen.

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of law recognized by civilized nations at least as much as any rules relating to human rights. It is surprising that so little has been published on the rules and their ramifications.

* Professor of International Law, The Fletcher School of Law and Diplomacy.

Professor Rubin's argument reduces to one proposition: that we should perpetuate the 19th-century distortion of the law of nations rather than go back to the original meaning at the end of the 18th century. Apparently, Rubin is willing to forget that the statute we are discussing was enacted in 1789. He also seems to forget that international law has changed since the 19th century, and that the present law of human rights does not incorporate his pet 19th-century notions of state sovereignty and jurisdictional insularity. Or if he hasn't forgotten that, he presumably believes that the world is entitled to change the law once but not twice. The first change was in the 19th century and we're stuck with it (even though it was a mistake); the second change in the 20th century does not count (even if it restores the original meaning). Despite the fancy packaging, does he expect anyone to *buy that*?

ANTHONY D'AMATO