

TO THE EDITORS-IN-CHIEF:

I am a little surprised at the review of my book *The Expanding Jurisdiction of the United Nations* by Dr. Mahnoush H. Arsanjani in the April 1983 issue of the *Journal* (77 AJIL 365 (1983)). From the brief review, it seems either the reviewer has not read the book as carefully as an author is, in fairness, entitled to expect from a learned reviewer or that she intended to dispose of the review of the book in a hurry.

The reviewer observes that there are some "problems" about the "design, approach, and analysis." I suggest that these "problems" arise primarily because the reviewer has failed to take note of the fact that the present volume is essentially complementary to the author's earlier volume *United Nations and Domestic Jurisdiction* (2d ed. 1961). This fact has been evidenced in the preface, as well as repeatedly throughout the present volume. The "independent scholarly perspective with an express statement of criteria employed" (the lack of which in the present volume she complains of) is fully laid out in that volume (which had been commended by, among others, Hersch Lauterpacht, Leland Goodrich, Oliver Lissitzyn, and C. G. Fenwick).

The reviewer remarks that I do not offer my own "definition" of the terms "domestic" and "international jurisdiction." Surely, when neither the body of international law nor the law of international organizations cares to expressly define these terms, what is (and who is) she complaining against? So far as I am concerned, I have stated categorically (p. 232) that a definition of these terms is "an utterly pointless exercise"; that "any definition is undesirable, impracticable and useless"; and that "the scope of jurisdiction cannot, and should not, be defined in the abstract—whether generally or enumeratively."

The reviewer remarks that the analysis of the cases that have come before UN organs "appears aimless and often leaves the reader confused about its relevance to the title and the purposes of the book" and that there is "insufficient analysis of their political context and their legal significance." Apparently, the reviewer has either not read through these case studies carefully or understood the focus of the analyses. If the reviewer had cared to look up my 1961 volume, she would have noticed that I had analyzed the cases (during the first 10 years of the functioning of the United Nations) as thoroughly as she possibly expects me to have done in the present volume. The reasons why I did so in the earlier volume and not in the present one are explained largely by the different foci of the two studies and "the radical change in the outlook of members," as I stated in the preface to the present volume. It is rather extraordinary for the reviewer to complain that the analysis of the cases "appears aimless." It so appears to the reviewer because she has failed to note that in the analysis of the cases, I am severely concerned with only one, limited, aspect of the question, namely, the issue of jurisdiction of UN organs. I have naturally highlighted only those aspects of the cases which, in my opinion, are relevant to this limited point—with only such additional facts of the cases as are absolutely necessary and relevant to make that point clear. If a reader (or a reviewer) desires more background to the cases, he ought to look up the *Year Book of the United Nations* or UN documents.

And, finally, the reviewer complains that "[t]he criteria for characterizing events as falling within domestic jurisdiction are rather superficial, indeed often unstated. No definitions or criteria are developed to explain why certain incidents are within or without domestic jurisdiction." It is this comment, more than any

others, that makes me feel that the reviewer has either not read the book carefully or is unfairly cavalier in her comments. For, in a large concluding chapter, this is precisely what I have done. Under each of the seven categories of questions, I have sought to analyze the likely criteria applied by UN organs for the determination of their jurisdiction with respect to them *and* added my own criticism and comment. This is in addition to the explanations I have given in the chapters on case studies. I have certainly given (pp. 175–95) (contrary to the reviewer's remark) "a systematic explanation of why certain cases came to the United Nations or an indication of conditioning factors that influenced their treatment." Furthermore, in the concluding section (pp. 195–236) I have sought to go beyond the cases that came up before the UN organs (until 1975) and taken a look at the factors and contingencies that are likely to affect (positively and negatively) the exercise of jurisdiction by UN organs in the future.

I hope the learned reviewer would care to look up the book again and "review" her own review in the interests of fairness to the author and the standing of the *Journal*.

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Mahnoush H. Arsanjani replies:

Dr. Rajan's innuendo against me that his book was not read or not read carefully requires no comment. His cavil that my review gave insufficient attention to his book on domestic jurisdiction, first published in 1958 and revised in 1961, which, he tells us, won some favorable reviews then, is irrelevant. That was a book conceived a quarter of a century ago and on a different subject. While an author may wish to have his work reviewed and rereviewed through the decades, that was not the function of this reviewer. The author's insistence that the reader wishing to understand his 1982 book must also read his 1961 (and presumably his 1958) work is also unfounded. Nothing in the preface or the chapters of the 1982 book indicates such an interrelationship or such a demand by the author of his readers. Quite the contrary. The preface states that the focus of inquiry of these books is different: "I wish to emphasize that the focus of the present volume is different from that of the earlier volume." The author continues: "when I reverted to the subject recently [*i.e.*, some 20 years later] I found that the earlier approach was no longer appropriate." It is at least astonishing to be chastened now for not having rereviewed a work the author himself has declared archaic.

The author's testimony that he purposely chose *not* to define terms constantly used in his book can in no way change the criticism. Whether his nonfeasance was intentional or not, the scholarly reader is entitled, if not obliged, to understand what the author means by the terms he is using. Indeed, what does he mean by jurisdiction itself: to make law, to apply law? Though the author is not required to make meaningful all the technical terms he describes, he can be expected to make clear what he is talking about. In the last chapter, he does at last try to propose a criterion for characterizing events as falling within or outside domestic jurisdiction. I appraised this effort as superficial. The punch line of this chapter is "whether or not a question is a matter of international concern/interest depends upon the collective judgement of the most representative organ of the international community" (p. 171). Is this criterion anything