

worldview

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JUSTICE AND THE INTERNATIONAL COURT

In its decision of July 18, the International Court of Justice has declined to pass judgment on the case of South-West Africa. This profoundly dispiriting decision has made abundantly clear the difficulties of constructing a code of international conduct.

Law has both a coercive and an educational function. The strongest and most realistic proponents of world peace through world law recognize that laws designed to reconcile conflict among nations will be ineffective unless there are procedures and institutions to enforce them. Laws that are proclaimed but continually violated without censure or reproach are of less than no value, for they make a mockery of what they purport to uphold.

But to say this is not to state the entire case. For even when laws cannot be wholly or adequately enforced they can be of some instructive value—a value that can, hopefully, increase. This would have been the case if the International Court had taken upon itself the task of passing judgment on a case which it had under consideration for years. The issue that was before the Court is of immense significance. In declining to rule, by a narrow decision and on narrow grounds, on whether South Africa had a continuing mandate for South-West Africa and whether, therefore, it could extend its policy of apartheid, the World Court exacerbated a dangerous situation and diminished its own stature.

As Philip M. Klutznick says in this issue of *worldview*, South Africa "believes that it can continue to claim its place among the family of nations and still practice a vicious doctrine, the demeaning concept of apartheid. . . . Yet it finds few, if any, in its anxious hour prepared to stand by its side." The World Court can hardly be said to stand by its side yet there can be no doubt that its ruling has cheered and bolstered the government of Prime Minister Verwoerd.

There is no longer any legal justification for arguing that the United Nations, as the inheritor of supervisory functions of the League of Nations, has the right and obligation to

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assess and pass judgment on South Africa's efforts to enhance the welfare of South-West Africa. This means that the legal justification has been sundered from what is commonly held to be a moral responsibility. For the population of South-West Africa is 85,000 white and 488,000 non-white, and apartheid—which keeps the whites firmly in control—is under judgment.

If this decision exposes the weakness of the

World Court and the difficulty of establishing an international code of conduct, it also shows the need for that code and an effective Court. For when the legal paths to justice are clogged or closed those who are militantly determined to reach that goal will search out other paths. And in their efforts conflict will necessarily be heightened before it is resolved.

J.F.

in the magazines

Robert L. Holmes of the University of Rochester philosophy department answers those who challenge "the expression by churchmen of views critical of government policy in the area of international affairs" in an article prepared for the June 15 issue of *Christian Century*. Holmes concedes that perhaps "the churchman qua churchman should stick to his business, but the business of the churchman qua Christian—there is a difference here—is to address himself with all the power of his conviction to the most pressing problems of the day. . . . No human action, political or otherwise, is immune from possible moral evaluation, and for the Christian there is no conceivable moral evaluation to which his religion is not directly relevant.

"Kant once said, 'We do not enter church to serve God there: we do so in order to prepare ourselves to serve Him in our lives.' Surely if serving God in our live means anything at all it means that certain actions in relation to our fellow men are enjoined and others prohibited. To suppose otherwise is to insulate an ethical code from the very subject matter to which it is supposed to apply. The relevant question is not *whether* Christianity enjoins, permits and prohibits various things in our conduct, but *what* in particular it so enjoins, permits and prohibits; not *whether* the New Testament law of love is to be translated into terms applicable to human conduct, but *how* it is to be so translated. To leave this question unanswered—or worse yet, unasked—is to render Christianity a shallow and ingrown shadow of religion demanding little more of us than ritualistic piety.

"But suppose the question is answered by granting that churchmen may speak to issues concerning national policy, provided they confine themselves to 'general moral issues?'" the author asks. The judgment

here is that the churchman is less knowledgeable than the statesman in the area of specific policy decisions. "This view is mistaken," Holmes contends. "For once it is conceded that the churchman can properly assess actual and possible general policies, he cannot consistently be denied the further right (and, I should argue, the duty) to concern himself with the morality of specific policies. One cannot condemn or condone a general principle without condemning or condoning the particular acts and decisions subsumable under it—a point as much of logic as of morality.

" . . . Granted, principles sometimes conflict and incompatible judgments may claim equal *prima facie* warrant. But what this shows is not that actions in the particular case are exempt from the scrutiny of Christian conscience, but that they deserve all the more circumspect examination from the standpoint of Christian morality. And it will not do to plead that since these are times of crisis we must stand quietly behind the government no matter what our convictions. For if a government's policy should be morally wrong, the prosecution of that policy may in the long-run constitute a greater threat than the crises it was designed to meet. . . ."

Colm Brogan views with deep concern the widening audience being granted in England to "The Catholic Marxists," and the role of a "radical Catholic" magazine which circulates the views of this school of thought. In an article in the June 24 issue of the *Spectator*, Brogan notes that "the end of the Vatican Council came as a deep relief to a multitude of Catholics who had been nearly swept off their feet by the wind of ecclesiastical change. They had been faced with more changes in four years than had hap-