COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE. By R. P. Anand. [London: Asia Publishing House. 1961. xv + 342 pp. 42s.]

THE INTERNATIONAL COURT AND WORLD CRISIS. By Julius Stone. New York: Carnegie Endowment for International Peace. [1962. International Conciliation No. 536. 64 pp.]

UNITED NATIONS AND DOMESTIC JURISDICTION. By M. S. Rajan. [London: Asia Publishing House. Second edition, 1961. xii + 539 pp. 85s.]

At a time when even the General Assembly seems to have lost faith in and respect for the World Court — for it is difficult to explain the recent (September 1962) resolution on South-West Africa in any other terms — it is interesting to note the number of learned works that are being published on this international institution.

While non-international lawyers may regard the Court as the means to solve all the major international problems of the day, this is far from being the view of specialist authors. In the preface to his study of the *Compulsory Jurisdiction of the International Court of Justice,* Mr. Anand specifically states: 'To be sure, the International Court cannot be a panacea to cure all the ills of the present international society. It does provide, however, one more instrumentality, within the framework of the United Nations, for settling disputes, and can help eliminate many points of friction which might otherwise fester and provide opportunities for trouble-makers'.

These points are pressed home with great vigour by Professor Stone in the short pamphlet he has written for the Carnegie Endowment. He draws attention to the problems and the role of the World Court in world crisis. He points out that it is easy to formulate propositions as to 'what is required for international law and judgment under it to become an effective basis of peace and order, to the end that states may learn to confide their destiny to it'. Professor Stone, however, is a realist and aware of the political motivations guiding State policy. He emphasises that 'it would be a disservice to the Court to insist that present urgencies can be met by an ambitious program aimed at making the Court quickly a central instrument for resolving the present crisis. This course would not serve humanity and it would almost certainly destroy the Court itself, leading to still deeper disillusionment and frustration'.

As Professor Stone emphasises, 'States will not agree to submit all their disputes [to the Court] unless they have somehow been assured that the decisions will be such as to permit survival', and even then they may seek to reject the judgment as Thailand did in the *Preah Vihear Temple* case.

One of the means employed by States to ensure that judgments do not interfere with their survival consists in attaching reservations, often of a far-reaching nature, to the declarations they make accepting the 'compulsory jurisdiction' of the World Court in accordance with Article 36 of the Court's Statute. It is this aspect of the Court's activity to which Mr. Anand has turned his attention. He, too, brings realism to his analysis, indicating that if present trends continue 'the system is bound to degenerate into one of mere opportunism'. He points out that though the introduction of the concept of compulsory jurisdiction achieved general acclaim, the present situation has 'reverted to where it started from: the preservation, to a large extent and for the most important classes of disputes, of the national freedom of action'. He deplores the ' "hypocritical" attitude of governments' which attach far-reaching reservations, which are subject to their own interpretation, rather than honestly excluding certain specific issues from the jurisdiction of the Court. Thus he describes India's attitude as ' "one of caution and of eagerness to safeguard India's sovereignty when it comes to accepting any additional legal obligations in the international field". She has definitely not rejected either arbitration or judicial determination as a method of settling disputes which are not resolved by negotiation or mediation. But such methods of determination would be decided with due regard to the merits of each particular dispute. *Naturally,* there is no possibility of her accepting any far reaching obligations towards the Court at present. But this, as we have seen, is the position with almost all the states in the present day world' (italics added).

Among the reservations used by India to secure this protected position is that precluding the Court from considering 'disputes in regard to matters which are essentially within the jurisdiction of the Republic of India'. Unlike so many other declarants India has not attempted in her latest text to claim the right to interpret the scope of her own jurisdiction. This leaves it open to the Court to decide whether an issue falls within India's domestic jurisdiction or not. In his *United Nations and Domestic Jurisdiction* Mr. Rajan examines the entire scope of Article 2, paragraph 7, of the Charter. Unfortunately, however, the learned author has not, because of

'other preoccupations', been able to bring his case studies further up to date than the end of 1955, when he completed his first edition, and the present volume is in fact substantially a reprint of the former.

For those who find difficulty in securing the Records of the various organs of the United Nations, perhaps the most valuable portion of Mr. Rajan's work lies in the 225 pages devoted to discussing the practice of the United Nations in such matters as the Franco regime in Spain, Indonesia, Tunis and Morocco, Algeria, Cyprus, West Irian, the denial of human rights in Eastern Europe, the treatment of Indians in South Africa, *apartheid,* and those other issues which in the first ten years of the existence of the Organisation led the State affected to invoke the plea of domestic jurisdiction. The fact that many of these issues are now of purely historical interest in so far as world politics are concerned is irrelevant, for, by and large, and with the notable exception of the United Kingdom's attitude to *apartheid* since South Africa has left the Commonwealth, the attitude of the members towards this problem has tended to remain constant. Whatever criticisms one may have of the free and easy way in which the United Nations, and particularly the General Assembly, tends to disregard the limitation imposed upon its competence by the domestic jurisdiction clause in the Charter, the fact remains that, with the increase in the membership of the United Nations, with most of the new members coming from territories which were formerly claimed by the imperial powers to be within their domestic jurisdiction and thus outside the competence of the Organization, it may be presumed that in the future this reservation will be of decreasing significance where the older States are concerned, though it may well be of increasing significance for the new States.

If the new majority extends its freedom of intervention by whittling down the scope of the domestic jurisdiction reservation in the Charter, we may well find that the States affected make yet greater use of this proviso in order to reduce the *Compulsory Jurisdiction of the International Court of Justice,* further inhibiting the contribution of the Court towards solving the present *World Crisis.*

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