Geneva values and the search for peace

THE ETERNAL PROBLEM OF COLLECTIVE SECURITY: FROM THE LEAGUE OF NATIONS TO THE UNITED NATIONS

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DEFINITION OF COLLECTIVE SECURITY

By the term "collective security" we tend to designate a system geared to the keeping of the peace and the avoidance of war on the basis of two essential elements:

(1) *Triggering event*. First, there is the definition of a set of facts which gives rise to collective action (a *casus foederis*). The most obvious fact of this type is aggression of State A. by State B. But this *casus* can also be threats to the peace, egregious human rights violations, illegitimate régimes, etc. In such a situation, collective security demands from all States parties to the system to league together against the aggressor and to adopt measures (if necessary including military force) to defeat his designs. The maxim is All for One! In this sense, collective security is nothing but a particular peace alliance. Its distinctive feature with respect to traditional alliances is that it aims at universality, i.e. to include all the States of the world. When this objective is reached, there is no State "outside" the system. Thus, contrary to traditional alliances where the aggressor comes from the "outside", in a system of universal collective security, the potential aggressor comes from the "inside". Moreover, the tendency to increase international frictions among hostile alliances disappears with collective security, since the system is not directed against any particular State or other system.

(2) *Collective, Binding Decision-Making*. Second, the establishment of authoritative collective decision making by a collective organ: an international collective and unique organ, being the representative of the international community itself, qualifies the *casus foederis*. Its decision has binding force on the member States of the system.

It stands to experience that a system of perfect collective security has never been realized in history, and may never be realized. We have had two models approximating collective security, in the L.o.N and in the UN, both with their peculiar strengths and shortcomings.

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SIMILARITIES OF THE LEAGUE OF NATIONS AND UNITED NATIONS SYSTEMS

Looking from a very broad perspective, one finds that the two systems present similar lines of evolution. These two lines seem twins in destiny, a new inseparable Castor and Pollux couple, in a story as sad as the mythological one. Each one of these lines is tearing the system into opposite directions.

On the one hand, there is collective security as announced in the texts of the constitutive instruments, with the trumpet of generosity and hopeful optimism. It is well organized and fairly muscled on paper. And it displays a benevolent tendency to be broadened to new situations as the need arises, by increasing the scope of action of the common organ, the Council or the Assembly. *On the other hand*, the members States progressively sterilize the system provided for in the constitutive instruments by a series of restrictive interpretations of its core provisions, emptying it of all practical impact. It is as if, realizing the potential threat to their vital interests and sovereignty linked to an international government on security, the States were keen to minimize the practical influence of the new system. More realistic and traditional means of keeping security, asking for fewer sacrifices, like alliances and neutrality, seem to have generally their preference. Thus, what was conceded with the one hand in 1919 or in 1945 seems to have been quickly taken away with the other.

It flows from the preceding passages that no system of collective security has properly functioned up to today. Criticism directed to collective security must therefore correctly be taken as criticism *into the possibility to have such a system* functioning at all, or into the ways by which the system has been sterilized in a given situation, but not to the concept as such. Can it work? Why has it not worked? Only those preliminary questions can be asked and answered on the basis of experience. The answers to it are fairly clear: collective security seems a too rational and abstract construct to fit political realities, particular interests, alliances and ideological closeness among some States across the lines of its geometric requirements. For collective security, States are always abstract entities A., B., C., etc. They are interchangeable. In real politics, they are not. And yet collective security seems indispensable: nothing would be gained and much lost to give it up altogether.

Let us look into somewhat more detail how the mentioned twin lines of initial aspiration and progressive dwindling have interacted in the League of Nations and in the United Nations.

COLLECTIVE SECURITY IN THE LEAGUE

The system of collective security of the League is spelled out in Articles 10-16 of the Covenant. It was remarkably drafted, even if the novelty of the experience and the necessary compromises left some loopholes and questions open. The whole system was based on a double premise:

(i) Collective security is granted against inter-State aggression. Thus, the triggering event is an aggression of State A. against State B.

(ii) The determination of aggression in the system turns on the peaceful settlement of dispute mechanisms. The drafters of the Covenant believed that the immediate cause for war was the fact that disputes arising among States were not solved by a peaceful and compulsory means of settlement. Thus, they imposed as a duty a previous attempt at settlement of the dispute. If a State tried to solve its dispute with another through the mechanisms provided for, but the result was failure, it could go to war to safeguard their rights. Conversely, if a State did not make use of the peaceful settlement mechanisms or broke off from them prematurely, using instead force, it was designed as the aggressor for the purposes of the collective security system.

The League system received some generous development, especially on one point. In the League practice, especially since the Manchurian War (1931), it became accepted that all forcible measures short of war (police operations, armed reprisals, armed interventions, etc.) did also trigger the collective security mechanism. "War" was at that time considered a formal legal régime. It was triggered by a declaration of war embodying the subjective intention of each belligerent to consider oneself at war with another State. A series of forcible measures looking like war but not flowing from such a formal state of affairs had thus remained in the limbo's and threatened the effectiveness of the system. In the League practice, the system was strengthened by the extension of security mechanisms to such broader situations, ironically at the very moment when the collective security started its rapid decline (1931).

On the other hand, the system early received fatal blows. A series of spurious interpretations had indeed sterilized the scheme of the Covenant. Almost all the key articles for collective security were reduced to inglorious proportions and sometimes to practical meaninglessness:

- *Article 10*. This provision of the Covenant protects the territorial integrity of the members States. Taken seriously, it means a non-aggression agreement among the members. The unfortunate link with the territorial order of Versailles – considered by the vanquished powers as a *diktat* of power – led in due course to a retrograding of this provision, which became a sort of "moral" obligation deprived of sanctions.
- *Article 11*. This provision affirms the collective interest of all States and of the League in matters of peace and war all over the world. The maintenance of peace was thus framed in Article 11 as an interest *erga omnes*, with the League as an institutional depositary. In the second part of the twenties, the virtues of this article as a basis for an implied power of the League to develop some form of preventive action was discovered. However, the rich potentialities of that discovery were immediately frustrated by the requirement that all action of the League under Article 11 shall require the unanimous agreement of all the States represented in the acting organ (Assembly or Council), including the parties to the dispute. It therefore sufficed that one State disagreed in order to freeze all action. One of the States in dispute – that one having to loose from objective examination of

the case – was always bound to dissent. Thus, the lofty invention under Article 11 was immediately turned down.

– *Article 15*. This provision gives the Council the mandate to try to resolve disputes before hostilities break out. However, progressively, the Council failed to honor that injunction. It intervened only *after* hostilities had begun. It convened often late and was uninformed. It avoided leadership and decision, preferring procrastination, creation of commissions of enquiry and mediation, debates on formal aspects, etc. In any case, the Council did not have under Article 15 the power to impose a solution to the dispute, unless all the States (not counting the parties to the dispute) agreed. That was rarely to happen.
– *Article 16*. This provision witnessed the most serious attack. It deals with sanctions by the League and its members if one State aggresses another in violation of its undertakings under the Covenant. Very early, already in the Second Assembly, the members States put forward some interpretative resolutions narrowing its scope. They affirmed that: (1) there was no obligation whatsoever, under Article 16, to participate to a military enforcement action, unless by form of special agreement of a State; (2) the *casus foederis* was not to be determined by the Council of the League (it was even disputed if it could recommend on that matter!) but by each members State itself. This self-judging determination broke the bones of the system and meant reducing to naught the principle that non-military sanctions were, unlike military ones, automatic. What is left to an automatic sanction if there is no social organ to determine that the conditions of its application are met? Any State can just avoid qualifying a State as being in violation of the Covenant in order to avoid the sanctions against it.

Such a weak and decentralized system could not work and could not provide security. Thereby it automatically aggravated insecurity, since nobody could hope to be protected by collective security. In effect, since 1935 (aggression of Italy in Ethiopia) the system was abandoned. The timid attempt at sanction against Italy by some sanctionist member States had failed. Since that moment, the policy of the members was *in fuga salus*: they returned to the traditional alliances or to policies of neutrality. The road was paved for the war.

COLLECTIVE SECURITY IN THE UNITED NATIONS

The Charter's system of collective security is spelled out in Chapter VII, Articles 39ff of that instrument. It has drawn the consequences from the failure of the League system and attempts to rebuild it on strengthened ground. Thus, the Security Council is given a great array of powers. The *casus foederis* is enlarged. It is not only inter-State aggression, but namely also "threats to the peace". This is a remarkable expression giving a wide array of discretionary powers to the S.C. and giving some glimpse of global governance. Moreover, the S.C. alone decides on the *casus foederis*; the sanctions adopted in its resolutions are automatic and binding[1];

military enforcement has to take place through the channel of armed forces put at the disposal of the Council already in peacetime. The S.C. is moreover a permanent organ. Unlike the League Council, it does not need to be called in session after a crisis has erupted.

As in the League, the system witnessed some remarkable extensions. In the 1990ies, the S.C. interpreted the flexible concept of "threat to the peace" so as to cover a series of new situations, ranging from civil wars (Liberia), to failed States (Somalia) and to dictatorial and oppressive régimes (Haiti). In the last decade, the emerging concept of "human security" further enlarged the concept of peace and peacekeeping: questions of poverty, human rights, conditions of living, environmental matters, and the like, are now perceived as part and parcel of any effort to keep the peace. Coupled with collective security (which backs the Council under Chapter VII) this leads to a picture where the way is paved for some form of world government. The "peace" becomes the Trojan horse that definitively erodes the sovereignty of the States and gives way to S.C. governance.

But this is again only one side of the story. The other is the ever-recurring backslash towards containment, if not sterilization, of such a dangerous threat to State sovereignty. There have been many means to frustrate the system, not all being on the same level of eminence. Let us just mention three aspects at this juncture:

– *The Veto*. Article 27, § 3, of the UN Charter ensures the right of veto of the five permanent members of the S.C. (US, USSR, UK, China, France). It is not truly "granting" that right to these States, since the right of veto preexists to the Charter. Under the League Covenant, under the general rule on unanimity (Article 5 of the Covenant), all States had enjoyed that right of veto. In 1945, it was restricted to the Big Five. The obvious aim was not to stretch the Organization beyond what it could bear: if an enforcement action could be decided against a great military power, the Organization would be torn away and the Third World War would erupt. Conversely, a military or other enforcement action can hardly succeed if it is not backed by all major powers. The League experience had been conclusive on it. The veto went well beyond what was expected by most. It indeed resulted in freezing the system of collective security, because it was used for decades not only to shield the permanent members from enforcement action, but also, by a sort of proxy, to protect all the ideological clients of the superpowers throughout the Cold War World. This resulted in an almost complete stalemate of the system.
– *The fate of Articles 43ff of the Charter*. These provisions spell out the arrangements for a UN-led military operation against a sanctioned States. Article 43, in particular, calls on the members States to make available to the S.C. armed forces. These armed forces are to be put under the control of the Organization, which then carries out a potential enforcement action on its own behalf and in its name. It comes to no surprise that the members States did not honor such an undertaking. It is much too dangerous to national sovereignty to hand over to the UN armed forces making of the World Organization itself a power, if not a super-State. When Secretary

General Boutros Boutros-Ghali recalled Article 43 in his Agenda for Peace (1992), he was quickly told by the great powers to quiet down. Giving effectiveness to article 43 is clearly not in their agenda.

– *Armed action in circumvention of the Charter*. In the recent years, we have witnessed a particular Western policy. It holds that if the S.C. does not give free reign to use force in a given context to the requesting States, namely to the US and its allied, self-proclaimed coalitions of States can step in and, arguing that the S.C. is stymied be the "veto" (sometimes simply the lack of majority, though!), act unilaterally as they see fit. This policy has led to further erosion of the system of collective security and has increased – as in the late 1930' – insecurity. It is clear that "rogue" States will do everything to rearm with weapons of mass destruction if that is the only effective deterrent for a potential aggressor. The agreement reached these days between the US and Northern Korea precisely bears testimony to this. The sign given to the world is once more: look for yourselves. Every time in history when this course prevailed on questions of security, insecurity increased and wars finally erupted.

CONCLUSION

Collective Security is one of these things which are eminently reasonable, but which cannot apparently be fully realized by Man. Reason and reality here stand in an unbridgeable conflict. Security dilemmas always separate Machiavellian pseudo-wisdom on the one hand and true commitment to the common weal on the other, making the first appear a condition of survival and the second a lofty hope replete with dangerous delusions. It therefore appears improbable – and this is disturbing – that we will get any truly improved system of collective security in the future. But this does not necessarily mean abyssal pessimism. For one may act to improve things so far as is possible, according to the wise French formula of "bonne volonté sans illusion". In any case, giving up the hope for collective security (or multilateralism in security matters) is not a meaningful choice. Indeed, any alternative is much worse that even a partial and insufficient collective security scheme. We are thus bound to work for it, assuming perhaps that Sisyphus is happy!

Notes

[1] Article 25 of the Charter.