

THE COLLECTIVE SYSTEM OF SECURITY AND YUGOSLAV CRISIS

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Abstract. *The paper deals with the system of collective security of the United Nations – the normative aspect and practice of the United Nations. Particularly discussed is the concept of the collective security, collective measures of the United Nations Security Council as a concretization of the abstract model of the collective security, international military forces, incorrect start-up of the established collective system of security, that is, the first case of employing military forces in practice of the United Nations. Special attention is given to the importance of the peacekeeping forces of the United Nations, as an attempt of the United Nations to give rise to the survival of the system of collective security. At the conclusion of the first part, military measures of the United Nations relating to the attack on Iraq and Kuwait are assessed as a turn in the practice of the United Nations and contribution to the system of collective security. "Humanitarian interventions" are described as undermining of the modern system of the collective security, while especially treated is the case of aggression of NATO on the Federal Republic of Yugoslavia and a risky impact on the system of collective security, that is, repeated demonstration of serious faults in the system of collective security of the United Nations which has to be revised.*

Key words: *system of collective security, peacekeeping forces of the United Nations, international military forces, "humanitarian intervention"*

The crisis, which has been shaking both the former Socialist Federative Republic of Yugoslavia and today's Federal Republic of Yugoslavia over the last ten years, has shown that the system of collective security, at least of the kind provided for under the United Nations Charter has serious disadvantages. Such a normative system of security, from the times of the United Nations foundation, has never been consistently employed, but always in the widest form, many times without full grounds on the legal norms of the UN Charter, and often without any grounds. It was clear from the foundation of the United Nations that the very normative system of security was full of voids and of certain disadvantages that

affected its application. This particularly refers to the cold war period, as well as to resorting of great powers and states, the patrons of which were great powers, to "humanitarian interventions". Therefore, after an elementary glance, first of all, to the normative system of collective security established under the UN Charter, we will deal with its decline during the cold war and, finally, we will analyse the Yugoslav case as well with a special emphasis on the NATO (North Atlantic Treaty Organization) aggression on the Federal Republic of Yugoslavia, presented in a part of the scientific public as one more "humanitarian intervention".

1. THE SYSTEM OF COLLECTIVE SECURITY UN-NORMATIVE ASPECT AND PRACTICE OF THE UNITED NATIONS

a) Fundamental Concepts

The twentieth century has brought the system of collective security as an answer to the outdated system of balance of powers. The system of collective security was aimed at preventing aggressive war and damages, which could, if not checked, be caused for any member of the group included in the system. That these efforts would be more convincing a war was outlawed as a means of international politics, but was not excluded as a possibility. In contrast to the balance of powers, where preventive wars are taken as well as wars for the purpose of establishing the disturbed balance, here only a real war between an aggressor and a group of states defending the attacked can outbreak, regardless of lacking that name.¹ Such armed conflict is divided into the international offence committed by the aggressor and a sanction employed by the defenders, which means that the war finally cannot be avoided towards the violator. In a word, the essence is in the following assumption. Security of one is the security of all. An attack to a state will mean the attack to all the rest, which will rush to help it. Thus, anyone planning whatever attack on another state will be prevented in advance or frightened by the resulting aftermaths. That state will be aware that, finally, it cannot wage war against all the states worldwide.

These are only the outlines of a theoretically abstract model of the collective security. It is clear that a need for an international organization of universal type was felt, which does not exclude regional systems of security to mitigate weak points of the "pure" system of collective security, because an instance is necessary which will make decisions on when an aggression is committed. Spontaneous actions of the members of the international community when collective security is used would bring that system too close to the system of balance of powers or associations. Also viewed in that context is the formation of the system of collective security in the League of Nations and particularly in the United Nations as the only so far created universal international organizations the basic purpose of which is maintenance of the peace and security worldwide. And while the Pact of the League Nations has not withstood the course of

¹ V. Dimitrijević, *Pojam bezbednosti u međunarodnim odnosima*, Beograd, 1973, pp. 53-54. The literature on the collective security is so ample that it exceeds the purposes of this paper. However, the classical works are: I. Claude, II ed., *New York*, 1963, V. Gavranov, *Principi i primena sistema kolektivne bezbednosti UN*, Beograd, 1969.

history, the Charter of the United Nations is still in effect. Within the UN Charter, the system of collective security is dealt with in Chapters VI, VII and VIII. It should be born in mind that the system of collective security, according to the Pact of the League of Nations, had preferred pacific settlement of disputes, while the Charter went somewhat to another extreme, because of which it today comes in practice under both the criticism and arbitration. The procedure in Chapter VI (Pacific Settlement of Disputes) is artificially separated from Chapter VII, where the mechanism of sanctions against those who disturb the peace or commit an act of aggression has been attached an incomparable significance. Chapter VII of the Charter allows existence of regional agreements, which are made available to the Security Council to be used where appropriate to carry out enforcement actions.

To make it concrete, (in particular Chapter VII of the Charter), the United Nations disposes of considerable legal means to maintain the collective security. First of all, states are obliged to refrain from the threat with force or from its employment, not only against the territorial integrity or political independence of any state, but also an obligation that in any way is not in compliance with the purposes of the United Nations (Article 2, paragraph 4, of the UN Charter). In addition, if there exists any danger to the peace in the world, the duty of the United Nations shall be to actively participate in the maintenance of the peace, and in case of threat to the peace, endangered peace or act of aggression of whatever state against another one, the United Nations can, that is, must resort to the enforcement action prescribed in Chapter VII of the Charter. Consequently, not only that resorting to war is prohibited under the Charter, but even in case of threat to the peace, collective resorting to military action, based on the decision of the Security Council, may be taken in order to maintain the security and peace worldwide.

It is very important that peace and security should always jointly be mentioned in the UN Charter, because this is the way in which wider purposes of the United Nations are being established. The UN system should not only be a mere maintenance of the peace, but creation of all safety conditions as well for the purpose that war among and even within the states would be waged never again. Thus, the possibility of action of the United Nations has been extended. This is also proved by the collective measures of the United Nations stipulated under Chapter VII of the Charter.

**b) The United Nations Security Council Collective Measures
– the Collective Security Abstract Model Concretization**

The UN Security Council collective measures may be preventive and enforcement. Some authors think that they may be preventive if there exists only a threat to the peace, while they are enforcement if the peace has already been disturbed.² However, the Charter is quite clear on the subject matter. The Security Council is absolutely free to employ whatever measures if it finds out that there is a threat to the peace, violation of the peace or act of aggression (Article 39 of the Charter).

The measures being taken without employment of armed force may be economic and political. The economic measures consist of breaking off (fully or partially) economic

² J. Andrassy, *Medjunarodno pravo*, Zagreb 1978, p.535.

relations, interrupting railway, maritime, air, post, telecommunications connections.³ The political measures may include lower diplomatic relations, even their severance. Such measures are in literature and in wider public very often called the UN-imposed sanctions.⁴ The member states of the United Nations are obliged to perform all the measures named by the Security Council. Such decision of the Security Council is not only a recommendation to the states they may, but need not, observe. If they do not respect this decision, the states violate international law (Article 41 of the Charter).

If these measure fail to produce results bearing on the principal question of maintaining the peace and security, the Security Council may propound armed measures, but not compulsory and in such order. After the letter of the UN Charter, forces and means of an armed action are prepared in advance. Formation of an international army, which, stationed in advanced, should go into action where the peace and security are violated, has not been provided for under the Charter. However, formation of international armed forces, which would be composed of contingents from certain members of the United Nations, has been provided for. Those contingents would be established under the agreements between the United Nations and the member states or a certain group of members. In making the aforementioned agreements (which may include various means of the member states as well, which they make available for the military needs of the United Nations), the key role is that of the Security Council, while the states are bound to provide only those contingents and means they have made themselves bound to. (Article 43 of the Charter).

c) The International Military Forces under the UN Charter

Responsible for employment of such formed international military forces would be the Security Council supported by the Committee of Military Headquarters. That Committee, which was formed by the heads of general staffs of the permanent members of the Security Council, would lead armed actions (Article 43 of the UN Charter). The Security Council defines the measure and way of participation of certain states, provided for under the agreements. It may approve participation of all states or only of some of those which have signed the agreement. The sates are obliged to perform measures to be determined by the Security Council, but only within the boundaries of the agreements contracted. In performing those measures, the Security Council may make use of the regional agreements, but even then those measures may be carried out exclusively under its leadership (Article 53 of the UN Charter). In other words, such scheme has been set up that the possible aggressor will most likely give up the attack at the very idea of this

³ Today, due to the technological advancement, this provision of the Charter may be widely interpreted as a break off of all telecommunication connections.

⁴ According to our opinion these sanctions are ones of those taken by the authorized subjects in international law. Sanctions of certain states or groups of states against another state are not, in fact, sanctions, but various types of reprisals, retorsions and other means taken by those states as sovereign individuals, which, in principle, is not allowed under international law. Those are, for example, "sanctions" of the European community, USA against this country, or many other examples of taking economic and political measures of, for example, USA against Cuba, Vietnam, Libya. We are not sure that such "sanctions" serve the purpose they are imposed for.

mechanism and the power of the United Nations, and if he attacks will most surely be defeated.⁵ Unfortunately, already from the very outset of the actions, the Security Council has summoned the Committee of Military Headquarters to study, in the spirit of Article 43 of the Charter, the military problems thus conceived in the Charter and submit concrete proposals on forming the UN armed forces. After much pulling and tugging, the Committee has submitted its report, which ended before the Council with the propounded proposals being considerably cut. Agreements on many questions has not been reached, such as the composition of the armed forces, contribution of the members of the Security Council, problems of military bases, the right of passage of military forces, their deployment, commanding, etc. The resulting consequence of all these misunderstandings is that the articles referring to the international military forces have normatively remained a dead letter. The system of collective security of the United Nations has thus been bitten into. The practice has taken another course.

**d) Irregular Outset of the Established System of Collective Security
– the First Case of Employing the International Military Forces
in the Practice of the United Nations**

The Committee of Military Headquarters, operatively responsible for the international forces, as it has been said, has never been functional in the way stipulated under the Charter. Yet, that the principal purpose of the United Nations should be fulfilled, which is maintenance of the peace and security all over the world, an invalid way was taken, outside any institutional frameworks laid down by the United Nations.

For the first time in the history of the United Nations, international military forces were formed on the occasion of aggression of North Korea against the South Korea on 25 June, 1950. The Security Council concluded that the then existing state was disturbance of the peace, so that it invited the conflicting states to cease hostilities. Two days later, in the absence of the USSR, South Korea was declared a victim of aggression. The member states were summoned to offer every indispensable support, the commanding function being taken over by the United States. The United States had, on that occasion, without any further consultations with the United Nations, engaged the greatest part of forces in repulsing the aggressor, North Korea, while some of the rest of states played only a symbolic role. Such employment of armed forces have caused double consequences, one of which is still being felt.

Since the decision to employ armed forces was made without the presence of one of the permanent members of the Security Council, enjoying veto, the USSR posed that question immediately after retaking part in the work of this organ. This state has denied the validity of the former resolutions of the Security Council and required the complete procedure concerning the said case to be reopened. Her proposal was rejected, but those circumstances made the United States and one more group of states to propound, on the day of V Session of the General Assembly in 1950, a resolution well known under the name *Uniting for Peace* under which the General Assembly was granted authorizations formerly vested exclusively to the Security Council. It, reads the resolution "the Security

⁵ G. Perazić, *Medjunarodno ratno pravo*, Beograd, 1966, p. 47.

Council, due to the lack of unanimity of the permanent members fails to perform its primary responsibility relative to the maintenance of the international peace and security... the General Assembly will immediately consider the thing and make corresponding recommendations to the members to undertake collective measures including, in case of breach of the peace and acts of aggression, employment of armed forces".⁶ This resolution is *de facto* a revision of the Charter, made in a way contrary to the explicit provisions of the Charter provided for in Article 109. This means that a revision of the existing system of collective security has been thus effected. However, the procedure provided under the Resolution Uniting for Peace is only an additional means. The provisions of the Charter bearing on the competences of the Security Council still remain effective and the authorizations vested to the General Assembly may be employed only when the Security Council, due to the veto enjoyed by one of the permanent members, is not in position to perform its obligation, and that only on the occasion of aggression, but not in the case of threat to the peace.⁷

Another consequence is still being felt nowadays. Namely, the problem on the Korean peninsula is still smouldering and may break out at any moment. The relations between the North and South Korea are still tense, among other things because the Security Council has not reacted in a way provided for under the Charter.

e) The UN Peace-keeping Forces – Attempts of the United Nations Intended for the System of Collective Security to Survive Anyway

The practice of the United Nations, in contrast to Chapter VI of the Charter, which deals with different means for pacific settlement of disputes, and which in such situations does not speak about employment of force, has in many cases seen formation of the so-called UN "peace-keeping forces".⁸ Although this term cannot be found in the UN Charter, "the peacekeeping forces" have been entrusted a series of different roles and they have participated in the United Nations peacekeeping operations at a large number of centres of crisis worldwide over the last several decades.⁹

Such UN operations can be divided into two wide categories: 1. observing missions consisting most frequently of unarmed soldiers (officers) and 2. peace-keeping forces consisting of lightly armed units with the elements of necessary logistic support.¹⁰

The first peace-keeping operation was set up by establishing the observing mission (UNTSO) located in Palestine in June 1948.¹¹ The following observing missions were

⁶ The resolution text in the Yearbook of the United Nations, 1950, pp. 193-195.

⁷ Ibid.

⁸ Otherwise, as one of the main disadvantages of the system of collective security under the Charter, some authors quote, in fact, artificial separation of the procedure of settlement of disputes from the procedure of collective repression as it has been mentioned earlier in this text. See: V. Degan, Razvoj sistema kolektivne bezbednosti, JRMP, 1972, Nos. 2-3, p. 257.

⁹ Because their activities have not been provided for under the Charter, but military forces are, in fact, employed, such activity of the United Nations is often called in the literature the activity on the grounds of Chapter VI of the Charter.

¹⁰ The Blue-Helmets – A Review of United Nations Peace-keeping, Second Edition, United Nations, 1990, p.8.

¹¹ Although the proper employment of the military personnel, but not in the aforementioned context, may be deemed to have happened in 1947 when two bodies of the United Nations were established: Advisory

established later on: Military Observing Group in India & Pakistan (UNMOGIP) in 1949; United Nations Observing Group in Lebanon (UNOGIL) in 1958; Yemen Observing Mission (UNYOM) in 1963; India & Pakistan Observing Mission (UNIPOM) in 1965; Secretary-General Representatives Mission in Dominican Republic (DOMREP) in the same year; United Nations Good Services? Mission in Afghanistan & Pakistan (UNGOMAP) in 1988; United Nations Iran-Iraq Military Observing Group (UNIIMOG) also in 1988; United Nations Angola Verification Mission (UNAVEM) in 1989 and the United Nations Observing Group in 1989. Some of these missions are still functioning in the aforementioned territories.¹² On the other hand, the peace-keeping forces of different meaning and intention have been formed several times. Truly, they did not have a mandate to impose peace-keeping, but had considerably higher authorizations than the earlier described missions. The purpose of these forces was, through their presence there, to prevent conflict or escalation of further conflicts between the parties to the dispute and to be physically stationed between them. The first military organization of this kind was set up under the resolution of the General Assembly on 4 November, 1956, and was named the United Nations Emergency Forces (UNEF I). They were composed of military contingents, voluntarily made available by ten states, among which was the former Yugoslavia. The assignment of UNEF was to prevent new conflicts between Israel and UAR¹³ and, with the permission of the latter state, they were located on the territory of Egypt towards Israel, which rejected the presence of these forces. There they stayed for 11 years until 1967, when upon request of the government of UAR they were withdrawn.¹⁴ Then, in 1960, the United Nations forces were deployed in the Republic of Congo (ONUC), Security Forces in West Irian (UNSF) that were operating on that area from September 1962 to April 1963. The United States Emergency Forces were again established to separate Israel and Egypt (UNEF II) from October 1973 to July 1979. The United Nations Emergency Transitional Group was disposed in Namibia from 1989 to 1990. Still active and actual are the United Nations forces in Cyprus established wayback in 1964 to separate the conflicting Greek and Turkish ethnic groups (UNFICYP), the United Nations Division Observing Forces on the Golan Plateau (UNDOF) established in 1974 and the United Nations Provisional Forces in Lebanon established in 1978.¹⁵

Of particular importance for our discussions are the United Nations Protection Forces (UNPROFOR) established on 21 February, 1992, under the Security Council Resolution 743. It was then that the United Nations Security Council made a decision, because of the ever-growing tense situation in the former Yugoslavia, to deploy such forces under the Secretary-General in the centres of crisis in Croatia. Later on, under many resolutions, the mandate of these forces has been territorially and in number extended to Bosnia and Herzegovina, due to the conflicts that had broken out in the territory of this former Yugoslav republic. Also, their mandate was repeatedly extended until the formation of SFOR in Bosnia and Herzegovina with a quite different mandate, the mandate under which the Dayton Peace Accord of 1995 should even in compulsory way be carried out.

Commission in Indonesia and a Special Committee in the Balkans.

¹² The Blue Helmets, op. cit., p. 9.

¹³ UAR is a former union between Syria and Egypt.

¹⁴ V. Dimitrijević, O. Račić, *Međunarodne organizacije*, Beograd, 1988, p. 225.

¹⁵ The Blue Helmets, op. cit., p. 9.

As we have already said, the concept of "peace-making forces" has not been defined by the United Nations so far, but based on the former practice, a conclusion may be drawn that it is a concept common to all actions of the United Nations featured as follows: they are composed of civil and military components from different states, their establishment and actions are conditioned under the agreement of states to the territory of which they are forwarded, they never undertake military operations, but the assignment of which is to keep the parties to the dispute separated or to maintain armistice, and they are an advance guard of the final political solutions for the regions endangered. In that context, the thus established system of collective security has been supplemented and all of its disadvantages mitigated to a certain extent.

f) The Turnover in the United Nations Practice – Aggression of Iraq on Kuwait in 1990 and the United Nations Military Measures

After the cold war has come to an end between the two super powers, USA and USSR, in 1989, manifested first of all in the unification of Germany and after the economic and political systems in the countries of East and Southeast Europe (members of the former Warsaw Pact under the impact of USSR), there occurred changes in relations towards the system of collective security established under the United Nations Charter. There appeared some hope to the international community that the system established under the United Nations Charters would finally come into being. Indispensable consensus of the permanent members of the Security Council was on the horizon.

The Security Council collective measures, in the form of employment of armed forces were undertaken for the first time in the new way in 1990 in the Iraq-Kuwait conflict. On 2 August, 1990, Iraq attacked Kuwait, so that it was a reason why the Security Council on the same day adopted Resolution 660 under which that act was judged the act of aggression and Iraq was instructed to withdraw her military forces. Since that request was not fulfilled, the Security Council adopted Resolution 661 on 6 August under which it expressed its "resolution to put an end to the invasion and occupation of Kuwait, to renew the sovereignty, independence and territorial integrity" of the state attacked. Under Resolution 662 the validity of annexation of Kuwait proclaimed by Iraq was denied, followed by the military operations on the grounds of the newly adopted Resolution 768. Those operations were carried out in the form of a classical armed conflict the consequence of which was the aggression checked, Kuwait liberated and Iraq completely ruined and incapacitated to repeat something like that.

2. "HUMANITARIAN INTERVENTIONS" – UNDERMINING THE MODERN SYSTEM OF COLLECTIVE SECURITY – THE CASE OF FEDERAL REPUBLIC OF YUGOSLAVIA

In parallel with such practice of the United Nations, we can see how deficient, great powers as well as other powerful states (particularly nuclear powers) have made use of a certain tension in international law made also on the grounds of extremes between the prohibition of destroying a state's sovereignty guaranteed under the United Nations Charter and the Universal Declaration on Human Rights and the later on adopted Pacts on human rights which guarantee the rights of an individual against oppressive states. In that way they justified the force they employed against some states, it being well known that

prohibition of war, that is, recourse to force, is one of conditions for successful application of the system of collective security. On such occasions they abundantly referred to both practice and customs, by means of which such adventures were justified.¹⁶

Only over the period between the two World Wars, when the system of collective security was not indeed established in the very sense, well known are the examples of "humanitarian interventions" such as the Japanese attack on Manchuria, Mussolini's invasion of Ethiopia, Hitler's occupation of a part of Czechoslovakia. All these attacks on the sovereign states were followed by the "increased humanitarian rhetorics".¹⁷

Over the period since the UN Charter was adopted and when, legally viewed at least, the system of collective security made some progress, "humanitarian interventions" went on happening. Particularly in the course of the cold war, after it as well, until the NATO aggression on the Federal Republic of Yugoslavia inclusive.

Examples of attacks of the United States on North Vietnam, of the USSR on Afghanistan, of Vietnam on Cambodia, of India on East Pakistan, etc. were justified by the humanitarian causes. However, from books on international humanitarian law one knows that real cases of intervention taken with humanitarian intentions can hardly be found, although the humanitarian aspirations are common.

Sure, all those cases, including the latest Yugoslav one, have had a dangerous impact on the system of collective security established under the UN Charter. This last one undertaken by the NATO states on this country will be given a particular analysis.

Although every armed intervention is absolutely prohibited, the member states of NATO alliance attacked Yugoslavia on 24 March, 1999, by permanent "air strikes".¹⁸ As the main cause for "air strikes" they have cited humanitarian questions, that is, disrespect of human rights of the Albanian national minority in Yugoslavia. There appeared even various authors in the field of international law, who justified this intervention on the grounds of this doctrine, that is, practice and customs in international law, as we have already said. Sure, in keeping with this, there could be heard absolute nonsense claiming that there is "right of self-determination" of the Albanian national minority in Kosovo.¹⁹

According to those opinions, the Federal Republic of Yugoslavia (Serbia and Montenegro, as they are called by those authors) is still in the process of dissolution²⁰ and that is not recognized as an international legal subject, so that such state does not possess full sovereignty and territorial integrity like other states. Thus, Kosovo has been granted

¹⁶ For more details see: M. Paunović: "Humanitarian Intervention" as an Abuse of the Principle of Prohibited Use of Force in International Law, Eurobalkans, Athens, Nos. 36-37, 99/2000, pp. 18-22.

¹⁷ N. Čomski. Novi militaristički humanizam, Lekcije Kosova, Beograd, 2000, p. 89.

¹⁸ "Air strikes" is a terminology of regular press conferences of NATO alliance in the course of attacks on Yugoslavia. It is interesting that other terms were also used at these conferences in connection with this war, but nonexemplary to the principle of humanitarianism in the law of armed conflicts, such as "collateral damage". But this is not a topic of this paper.

¹⁹ See: Julie Mertus, Legal grounds of intervention on Kosovo, Ohio Northern University.
<http://www.jurist.law.edu/acad-op.htm>.

²⁰ Although in his Opinion No. 8 the Badinter Arbitration Commission have ascertained: "That the dissolution process of SFRY mentioned in the Opinion No. 7 dated 29 November, 1991, has come to an end and that it is necessary to conclude that SFRY does not exist any more."

legitimate right of self-determination, which is the continued process of dissolution of the former SFRY. Since the Federal Republic of Yugoslavia is under the process of dissolution, she has no legitimate right to claim that NATO forces do not have right of the act of protection of the civil population in Kosovo from the ethnic cleansing. As an additional cause, the lack of recognition of the Federal Republic of Yugoslavia as a state is cited as well. Pointed out here is the fact that the Federal Republic of Yugoslavia is not recognized as a state neither by the United States nor the European Union, is not the member of the United Nations nor any of the international organizations.²¹ In addition to this, it was maintained, in justifying this aggression that the people of Kosovo, as we have already said, are the holder of the right to self-determination and within the frameworks of this right are also the holder of the right to collective self-defence. In this context, the people of Kosovo who have the right to a state may call upon NATO forces in employing the right to collective self-defence against the ethnic aggression undertaken by Serbia.²² Such analyses have gone that far to be incredible, at least from the international public law point of view. The conflict in Kosovo and Metohia was maintained to be not only the combat against the terrorist UCK, but that that conflict also was not a civil war, because it was not a conflict between the army and the organized warring party, but that it was a conflict between the Serbo-Montenegrin forces sent from the territory outside Kosovo and the miserable civilians, representatives of the 90 percent people of Kosovo.²³ We would conclude that there surely were humanitarian problems in Kosovo and Metohia, but no less than, for example, in Colombia where, according to the State Department reports, the annual "level of political killing by the government and its paramilitary associations was like that in Kosovo".²⁴ The situation in Turkey from 1994 is more dramatic than that in Kosovo and Metohia. The human rights of Kurds are drastically violated there, especially in the aforementioned year, when a great number of Kurdish villages were destroyed and when nearly one million of Kurds emigrated. The American Administration has undertaken nothing in such situations. No one has initiated any action before the United Nations, a legitimate action to be taken by this organization to protect the human rights of the endangered categories of population. The case of Chechnya in the Russian Federation is very actual today, but it occurs to nobody, because of the problems connected with the excessive employment of armed forces against the Chechen terrorist to send bombing planes to Russia.

However, in Kosovo and Metohia, bombing of both the entire Yugoslavia and this region, has caused an enormous number of refugees who found shelter in the neighbouring countries – Macedonia and Albania. Then the aggression, that is, the "humanitarian intervention" was intensified in spite of all prohibitions existing in the positive international law, already spoken about in the previous sections. That illegal form

²¹ Numerous keeping of diplomatic missions of the member states of the European Union and the United States from the moment of inception of the Federal Republic of Yugoslavia proves that by that act only the Federal Republic of Yugoslavia was de facto recognized. The status of the Federal Republic of Yugoslavia in the United Nations has not been solved yet, but it is well known that membership in the United Nations is not a condition of her recognition nor her subjectivity.

²² P.R. Williams, www.balkanaction.org.

²³ Ibid.

²⁴ N. Čomski, *The Current Bombing: Behind the Rhetoric*—www.zmag.org/chomsky/index.cfm.

of intervention has caused a humanitarian catastrophe not only in the territory of Kosovo and Metohia, but in the entire Yugoslavia, seriously endangering ecology, health of people and human rights in that country, even in the whole region of the Southeast Europe, that is the Balkans. The system of collective security has been deliberately manoeuvred out this time. The member states of NATO have, using the reality that no one in the world can or dares to attack the United States, because the worldwide conflict would result in unforeseeable consequences to mankind, simply abandoned the idea of the whole system that maintains the world peace and security. It was done for the purpose of achieving some national and regional interests of NATO. The law was violated, and the purposes that inspired such actions should be precisely dealt with by the experts in international politics and international relations, particularly in the strategic interests of the United States.

In principle, which would put an end to this section, humanitarian interventions are allowed in the system of collective security, but respecting Chapter VII of the UN Charter. Aware of the possibility of veto, and respecting, first of all, one's own interests or supposed interests, regardless of the disastrous impact the "humanitarian interventions" had on the system of collective security, they are persistently and still resorted to. Basically, maybe guilty for this is such imperfect system of collective security as established under the UN Charter, the objections against which have already been given, and which will be supplemented in the next section as well.

3. THE NATO AGGRESSION ON THE FEDERAL REPUBLIC OF YUGOSLAVIA – REPEATED DEMONSTRATION OF SERIOUS DISADVANTAGES OF THE UN SYSTEM OF COLLECTIVE SECURITY

After the dissolution of former Yugoslavia and in parallel with the functioning of the security and civil forces in Bosnia and Herzegovina as well as after the perennial crisis in Kosovo and Metohia, the province of the Federal Republic of Yugoslavia, an aggression of NATO, without approval by the Security Council, was committed on the Federal Republic of Yugoslavia, justified by the humanitarian reasons, as we have already described above. In a certain sense, the world's system of security has been brought back to something which has often been seen over the period of the cold war, when the super powers, the United States and the former USSR, used to intervene on their own choice in keeping with their own interests, disregarding the security circumstances in the world.

Deliberately, aware of the legal loopholes in the UN Charter concerning the system of collective security in the world, NATO, particularly the three permanent members of the Security Council being also the members of NATO (USA, Great Britain and France), also disregarding the Resolution "Uniting for Peace" carried out the aforementioned attack. Namely, according to the idea of the designers of the UN Charter, the whole plan for maintenance of the peace and security worldwide was being built after the victory of Allies in World War II and was grounded upon the unity of those great powers which became the permanent members of the Security Council, the most responsible organ of the United Nations in this most important field of activities of the Organization of United Nations. This premise, however, was violated already several years later. This was the reason why the United Nations, until the employment of forces on the occasion of

aggression of Iraq on Kuwait, practically has never functioned, as we have pointed out earlier. In fact, the complete work of the United Nations has been grounded on more or less fragile political agreements and various kinds of peace-keeping missions. Thus, out of the conceived two stages of the world security process, adoption of the legal frameworks under the Charter and performance of that Charter (that is, provisions on forming international military forces), only the first one was accomplished, and it legally defective, while the other one was carried out in a quite different way. Already at the very outset of the Organization of the United Nations it was clear that the permanent members of the Security Council, which were granted that privileged position, because of which they should be the most responsible for the security worldwide, may undisturbed (particularly the two most powerful, today USA and Russia, formerly USA and USSR) to do according to their, but not world's interests.²⁵

Concretely, in the case of the attack on the Federal Republic of Yugoslavia the UN Charter has been violated, accordingly the system of collective security as well.

- a) First of all, particularly starting from the idea that the peace and security are the highest values of the mankind, abused is the fundamental purpose of the United Nations, in Article 1 of the Charter, which reads: "1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;"

In the case of the NATO alliance intervention, no aggression of the Federal Republic of Yugoslavia on any other state was checked at all. Just vice versa.

- b) Also violated are the fundamental principles of the United Nations upon which, among other things, the system of collective security is grounded, such as: sovereign equality of states (Article 2, paragraph 1, of the Charter), conscientious fulfilment of obligations taken over in keeping with the Charter (Article 2, paragraph 2, of the Charter), the principle of pacific settlement of disputes, so that peace and justice should not be violated (Article 2, paragraph 3, of the Charter).
- c) Abused is the fundamental principle of international law and the Charter that the members of the United Nations should refrain in the international relations from threat with force or employment of force against the territorial integrity or political independence of each state (Article 2, paragraph 4, of the Charter). Deliberately pointed out here is that the abuse of this principle has been committed because the forces of the member states of NATO did not insist upon any change of "territorial integrity and political independence" of the Federal Republic of Yugoslavia²⁶, but

²⁵ The USA Secretary of State, several days after signing the Charter, asked what would happen if USA employed veto to prevent actions against her, answered that the enforcement action against great powers would mean a new world war. Thus, these words in a wider sense mean that great powers may prevent, enjoying their veto, any criticism for aggression they commit or if this is done by their political allies.

²⁶ After all, proved in the Resolution of the Security Council No. 1244 of 10 June, 1999, is "loyalty of all members to the sovereignty and independence of the Federal Republic of Yugoslavia".

they referred to the humanitarian reasons, that is, violations of human rights of the Albanian national minority in Kosovo and Metohia.

- d) Violations were particularly committed in the sphere of employment of collective measures by the Security Council. These measures, as we have already said, construe the essence of the system of collective security, in the way it has been established under the modern international law, grounded in the UN Charter. The Security Council has not performed its obligation to estimate the concrete situation in Kosovo and Metohia, that is, to find out whether such state represents "threat to the peace" under Article 39 of the Charter.²⁷ Short of that decision, no one, even NATO, could take any military action. Deliberately avoided was possibly any action of the Security Council because of the expected veto by some permanent members. Since consensus of the permanent members bearing on the question of the Kosovo crisis has not been reached, the whole international legal system being maintained upon such agreement, also violated, for the interests of NATO, were both the UN Charter and the International law.

Such view may also be proved under Chapter VIII of the Charter, which reads "The Security Council shall, where appropriate, utilize such regional arrangements or agencies (such as NATO – the author's remark) for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council,..." (Article 53). It is well known what were the actions of NATO, as a regional organisation, from March to June, 1999. It attacked the Federal Republic of Yugoslavia short of the approval and without any impact of the Security Council.

CONCLUSION

In conclusion, we can only sum up thoughts we have touched earlier. First of all, the system of collective security set up under the UN Charter has had great disadvantages in the normative sense from the very outset. The disadvantages that had to see the world's reality off. This refers, after all, to the whole international order. It is grounded in the agreement of all permanent members of the Security Council. Should there be no any agreement, there is neither peace nor security for any state worldwide. Former practice has shown it. However, even that system of collective security has had its bright moments. Unfortunately, the crisis caused by the NATO aggression on the Federal Republic of Yugoslavia has brought many things to the outsides. In addition, it has pointed to the necessity of final normative amendment of such system established in the Charter, particularly of untying a knot tied around the priority of the two fundamental concepts in international law. A sovereignty of a state, that is, respect for human rights. The voting system in the Security Council should also undergo revision. Until then, in spite of all deficiencies, the performance of at least the existing system of collective security should always be insisted upon.

²⁷ Sure that there could be no any discussion on the "breach of peace or aggression" because the Federal Republic of Yugoslavia did not attack any state.

KOLEKTIVNI SISTEM BEZBEDNOSTI I JUGOSLOVENSKA KRIZA

Milan Paunović

U radu se obradjuje sistem kolektivne bezbednosti UN – normativni aspekt i praksa UN. Pri tom se naročito govori o pojmu sistema kolektivne bezbednosti, kolektivnim merama Saveta bezbednosti Ujedinjenih nacija kao konkretizaciji apstraktnog modela kolektivne bezbednosti, medjunarodnim vojnim snagama, naopakom početku uspostavljanja sistema kolektivne bezbednosti, odnosno prvom slučaju upotrebe medjunarodnih vojnih snaga u praksi UN. Posebno je istaknut značaj mirovnih snaga UN kao pokušaj OUN da sistem kolektivne bezbednosti ipak preživi. Na kraju prvog dela se vojne mere UN povodom napada Iraka na Kuvajt ocenjuju kao preokret u praksi UN i doprinos sistemu kolektivne bezbednosti. "Humanitarne intervencije" su opisane kao podrivanje savremenog sistema kolektivne bezbednosti, a posebno je obrađen slučaj agresije NATO na SR Jugoslaviju i poguban uticaj na sistem kolektivne bezbednosti, odnosno, ponovno ispoljavanje ozbiljnih nedostataka u kolektivnom sistemu bezbednosti UN koji se mora revidirati.

Ključne reči: *sistem kolektivne bezbednosti, mirovne snage UN, medjunarodne vojne snage, "humanitarna intervencija"*