

ZOOM IN

The Question:

The Security Council as a global ‘health-keeper’? Resolution 2177 (2014) and Ebola as a threat to the peace

Introduced by Maurizio Arcari and Paolo Palchetti

On 18 September 2014 the UN Security Council (SC) unanimously adopted resolution 2177 (2014), concerning the Ebola outbreak in Africa. This is not the first time that health matters and their implications for the maintenance of international peace and security have come to the attention of the SC. In its resolution 1308 (2000) – and later on in resolution 1983 (2011) – the SC addressed the potentially damaging impact of HIV/AIDS on the health of peacekeeping personnel and stressed that HIV pandemic, if unchecked, may pose a risk to stability and security.

In the case of Ebola, however, the novelties go far beyond the unprecedented number of 130 States which attended the meeting which led to the adoption of resolution 2177 (2014). At first glance, one is struck by the unambiguous language of the resolution – which qualifies the Ebola outbreak in Africa as a threat to international peace and security and thereby evokes the machinery of Chapter VII of the UN Charter – as well as by the institutional and operational solutions that are implicated in this text.

In fact, resolution 2177 (2014) involves two different, but interconnected, layers of legal issues. The first one concerns the classical subject of the limits of SC powers in the field of the maintenance of international peace and security, and extends to both the question of the boundaries of the notion of threat to the peace and to the scope and content of the measures that the SC may use to deal with threats to the peace. In this respect, it can be noted that, insofar as one of the operative paragraphs of resolution 2177 (2014) urges Member States to implement relevant Temporary Recommendations issued under the WHO

International Health Regulations of 2005, the question of the role of the SC as an enforcer of global health standards or rather as a global legislator in the field of health security can be posed.

The latter remark brings us to the second layer of legal issues raised by the resolution on Ebola, touching upon the ‘institutional’ side of the matter: i.e., that of the respective roles of the SC and other institutional stakeholders (such as the WHO or the General Assembly) who are involved in the governance of global health security. One cannot avoid noting that the SC itself revealed its awareness for the ‘institutional’ problem in the preamble of resolution 2177 (2014), where it emphasized the role of all relevant entities of the UN system in supporting international efforts to respond to the Ebola outbreak, and underlined in particular ‘the central role’ of WHO in designating Ebola as ‘a public health emergency of international concern’. That being said, it is difficult to assess whether the purpose of the SC in the case at hand was merely to supplement or enhance the initiatives of other concerned UN agencies, or whether it rather intended to take the lead in the international action against Ebola, and to reaffirm its primacy in the management of issues that impact upon international security. In this vein, the same question concerning the encroachment by the SC on the roles and responsibilities of other organs of the UN systems that was raised during the 2007 meetings devoted to the impact of climate change on the maintenance of international peace and security, can be appropriately recalled here.

To sum up, there are numerous intricate legal questions that can be posited with reference to the unprecedented step marked by resolution 2177 (2014). Among others, can the SC be considered as the appropriate organ to cope with global concerns only remotely connected with use of force in international relations, such as infectious diseases? Are the operational instruments placed at the disposal of the SC under the UN Charter, particularly under Chapter VII, adequate to deal effectively with such emergencies? What is the place reserved to the SC in the overall governance of global problems, such as for example in terms of world health security? Or, turning things around, are the competences of the interested institutional stakeholder, such as the WHO in the case at hand, enhanced or threatened by the ever growing tendency of the

The Security Council as a global 'health-keeper'

SC to cope with questions going well beyond the traditional boundaries of international peace and security?

QIL has asked Louis Balmond and Gian Luca Burci, two renowned authorities with different backgrounds, but whom share a close interest and attention on the problems of global security, to address these questions.