

The legal framework of intervention by invitation

Citation for published version (APA):

Visser, L. (2023). *The legal framework of intervention by invitation*. [Doctoral Thesis, Maastricht University]. Maastricht University. <https://doi.org/10.26481/dis.20230412lv>

Document status and date:

Published: 01/01/2023

DOI:

[10.26481/dis.20230412lv](https://doi.org/10.26481/dis.20230412lv)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

[Link to publication](#)

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal.

If the publication is distributed under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license above, please follow below link for the End User Agreement:

www.umlib.nl/taverne-license

Take down policy

If you believe that this document breaches copyright please contact us at:

repository@maastrichtuniversity.nl

providing details and we will investigate your claim.

Impact paragraph

This thesis clarified the legal concept of intervention by invitation and positioned it within the system of the rules on the use of force under public international law. The aim was to identify the doctrinal foundations of the legal framework. In this thesis, legal framework comprised the concept's definition, legal basis, criteria, legal parameters, and demarcation. This is the first extensive work of research that combines all these elements and addresses their doctrinal origins or lack thereof.

The conclusions reached in this thesis represent the state of the law as it is, as identifiable through doctrinal research. When branching out and delving into what the law could or should be, it appears that the concept leaves much to be desired. Peoples struggling for their right to self-determination outside of the colonial context are left helpless, while governments still possess almost unlimited power in their own state. While this is perhaps logical when one considers the fundamental structure of public international law as a whole and its state centrism, it is arguably unfitting for the 21st century. Moreover, intervention by invitation should follow stricter rules, for example a proportionality requirement or a larger role for the United Nations or regional organisations. Many potential criteria *should* perhaps be law, but they cannot be identified as such just yet. Hopefully, clarity will be provided in the future, so everyone involved, most importantly the actual people in these situations, knows the possibilities including to whom they can turn in their hour of need to request an intervention. Future research on intervention by invitation could also focus on further identifying its legal framework by conducting a quantitative study into the relevant state practice and *opinio juris* to assess properly the current status of customary international law relating to this topic.

The findings of this thesis's research are most relevant for legal scholars, who are equally trying to shed some light on the rules of the use of force. Yet, as public international law generally relies heavily on states and their conduct, it is also of interest to government officials or diplomats, who are eager to become more aware of the current legal status of this set of legal rules.

The current state of the law for intervention by invitation is reflective of the crisis the rules on the use of force find themselves in. The United Nations Security Council is not living up to its potential, as it is frequently deadlocked by vetoes of its permanent members or is unable to take a strong stance due to the threat of a veto. This results in (powerful) states taking matters into their own hands, while

the exact rules surrounding certain concepts including intervention by invitation are not sufficiently established. It has further been demonstrated that more use should be made of the overlap between the two concepts of intervention by invitation and collective self-defence, as each one has criteria and safeguards built in that could benefit the other. This will ultimately benefit everyone as more stringent requirements will be placed on an exercise of the use of force, which will strengthen the prohibition of the use of force. At the moment, however, the world is witnessing a crumbling prohibition of the use of force, which constitutes a danger to international peace and security. This thesis has attempted to limit that crumbling by clarifying the doctrinal foundations of the legal framework of intervention by invitation.