

---

## *Contents*

**ACKNOWLEDGEMENTS** ix

**ABBREVIATIONS AND ACRONYMS** xi

**INTRODUCTION** xiii

**CHAPTER ONE — NATIONAL LAW** 1

Territorial Principle of Criminal Jurisdiction —  
Somali Law 1

Nationality Principle of Criminal Jurisdiction —  
Canadian Law 7

**CHAPTER TWO — THE LAW OF ARMED CONFLICT  
(INTERNATIONAL HUMANITARIAN LAW)** 11

What is the Law of Armed Conflict (LOAC)? 11

The Relevancy of the LOAC 12

The Law of Armed Conflict — Background 13

Sources of the Law of Armed Conflict 14

The Hague Conventions 14

The Geneva Conventions 14

The Additional Protocols of 1977 15

The Obligations of Nations, Armies, Commanders and  
Soldiers 16

Under Conventional International Law 16

Under Customary International Law 17

The Martens Clause 18

vi Contents

Application of the Law of Armed Conflict	19
Types of Armed Conflict	19
International Armed Conflict	19
Occupation of Territory	20
Non-international Armed Conflict	20
LOAC and UN-Type Military Operations (Un Military Missions or UN-Approved National Military Missions)	22
Did the LOAC Apply to the CF in Somalia?	26
The Geneva Conventions Act	26
Canadian Forces Regulations, Orders and Instructions	26
<i>R. v. Brocklebank</i>	28
The <i>Unit Guide to the Geneva Convention</i>	30
<b>CHAPTER THREE — RULES OF ENGAGEMENT</b>	<b>35</b>
Definitions	35
History	37
<b>CHAPTER FOUR — DOUBLE JEOPARDY</b>	<b>41</b>
General	41
Trials by Both a CF Service Tribunal and a Civil Court in Canada	42
Trial by Somali Court after Trial by CF Service Tribunal or Civil Court in Canada	43
Trial by CF Service Tribunal after Trial by Somali Court	44
Trial by Civil Court in Canada after Trial by Somali Court or Court of Any Other Country	44
<b>CONCLUSIONS</b>	<b>47</b>

vii Contents

**RECOMMENDATIONS 51**  
Applicability of LOAC 51

Doctrine 52

Training 52

Accountability 53

**NOTES 55**

**APPENDIX Canadian Joint Force Somalia: Rules of  
Engagement Operation Deliverance 73**