

THE PROMISE AND PRACTICE OF VOLUNTARY INTERNATIONAL HUMANITARIAN LAW REPORTING: INSIGHTS FROM CANADA'S EXPERIENCE

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This contribution examines the emerging practice of voluntary International Humanitarian Law (IHL) implementation reporting through a critical assessment of Canada's first report released in September 2024. Voluntary IHL reports, which gained momentum following the 33rd International Conference of the Red Cross and Red Crescent in 2019, serve as significant transparency mechanisms in a field that suffers from insufficient monitoring systems. The first section explores the multifaceted value of these reports. It argues that they enhance transparency, facilitate peer learning, contribute to normative development of customary IHL, improve administrative efficiency through institutional memory, and offer strategic advantages in countering skepticism about IHL's effectiveness. Canada's report exemplifies how these instruments work in practice, providing a structured overview of its legal framework across five key areas including implementation, dissemination, jurisdiction, protections, and means of warfare.

While Canada's report provides a comprehensive outline of its legal framework, the second section of this article identifies significant gaps in its approach. The report lacks essential evidence-based assessment, omitting the quantitative and qualitative data necessary to evaluate implementation effectiveness beyond formal structures. It eschews self-critical reflection and future planning elements that would transform it from a mere showcase of achievements into a genuine tool for improvement. The analysis identifies several notable blind spots and offers suggestions for more comprehensive reports in the future.

The contribution concludes that while Canada's report represents important progress, future iterations should embrace more comprehensive, candid, and inclusive approaches to fulfill the potential of voluntary IHL reporting.

L'auteur propose une réflexion sur la pratique émergente des rapports volontaires de mise en œuvre en droit international humanitaire (DIH) par

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une évaluation critique du premier rapport du Canada, paru en septembre 2024. Ces rapports, qui ont gagné du terrain après la 33e Conférence internationale de la Croix-Rouge et du Croissant-Rouge de 2019, servent de mécanismes de transparence importants dans un domaine où les systèmes de contrôle sont insuffisants. La première partie de l'article porte sur la valeur à multiples facettes de ces rapports qui, soutient l'auteur, améliorent la transparence, facilitent l'apprentissage par les pairs, contribuent au développement normatif d'une variante usuelle du DIH, permettent des gains en efficacité administrative par la mémoire institutionnelle et offrent des avantages stratégiques pour combattre le scepticisme à l'égard de l'efficacité du DIH. Le rapport du Canada illustre bien le fonctionnement de ces instruments dans la pratique, présentant un survol structuré du cadre juridique dans cinq domaines clés : la mise en œuvre, la diffusion, la compétence territoriale, les protections et les moyens de combat.

Si le rapport du Canada présente un panorama exhaustif de son cadre juridique, la seconde partie de l'article fait ressortir d'importantes lacunes dans sa méthodologie. Il y manque une évaluation essentielle fondée sur des éléments probants. Y brillent par leur absence les données quantitatives et qualitatives nécessaires à l'évaluation de l'efficacité de la mise en œuvre au-delà des structures formelles. On y omet toute réflexion autocritique, ainsi que les balises de planification qui transformeraient ce rapport faisant simplement état de réalisations en un réel outil d'amélioration. L'analyse met en relief plusieurs manques flagrants et présente des suggestions pour une meilleure exhaustivité dans les prochains rapports.

L'auteur conclut que même si le rapport du Canada représente un progrès important, ses éditions ultérieures devront reposer sur des méthodes plus exhaustives, franches et inclusives pour réaliser le potentiel des rapports volontaires en DIH.

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1. Introduction

On September 20, 2024, Canada released its first voluntary report on the implementation of international humanitarian law (IHL),² also known as the law of armed conflict.³ This document outlines the measures adopted by Canada to implement IHL rules, which aim to protect persons and alleviate human suffering during armed conflicts. Voluntary IHL implementation reports allow states to document and demonstrate how they fulfill their IHL obligations at the national level. As their name suggests, these reports are not mandatory: states voluntarily decide to produce them and define their scope, including the content they wish to include, the report's structure, drafting process (such as involving national committees or specialized bodies), production frequency, and dissemination methods. There is no legal definition of such reports, and they are neither mentioned nor required by the *Geneva Conventions*⁴

² Canada, [Voluntary Report on the Implementation of International Humanitarian Law at the Domestic Level](https://tinyurl.com/3s9ekmr3) (Ottawa: 2024), online: <<https://tinyurl.com/3s9ekmr3>> [perma.cc/984X-R5JR] [Canada's Voluntary Report on implementation of IHL].

³ IHL or the law of armed conflict governs the conduct of hostilities and seeks to protect persons who are not, or are no longer, participating in fighting—such as civilians, sick and wounded combatants, and persons deprived of their liberty for reasons related to armed conflict.

⁴ *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva Convention I)*, 12 August 1949, 75 UNTS 31, Can TS 1965 No. 20 (entered into force 21 October 1950); *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea (Geneva Convention II)*, 12 August 1949, 75 UNTS 85, Can TS 1965 No. 20 (entered into force 21 October 1950); *Geneva Convention Relative to the Treatment of Prisoners of War (Geneva Convention III)*, 12 August 1949, 75 UNTS 135, Can TS 1965 No. 20 (entered into force 21 October 1950); *Geneva Convention Relative to the Protection of*

or their *Additional Protocols*.⁵ Instead, they find their basis in initiatives like *Resolution 1 of the 33rd International Conference of the Red Cross and Red Crescent* (2019), entitled “*Bringing IHL home: A road map for better national implementation of international humanitarian law*.”⁶ This Resolution calls upon states to identify areas requiring specific measures to strengthen IHL implementation and encourages them to “share examples of and exchange good practices of national implementation measures taken in accordance with IHL obligations as well as other measures that may go beyond [s]tates’ IHL obligations.”⁷

This resolution was complemented by an open pledge proposed in 2019 by the United Kingdom and the British Red Cross at the same conference,⁸ encouraging states and National Societies to voluntarily publish reports on national IHL implementation. While 15 states and National Societies signed this pledge,⁹ neither Canada nor the Canadian Red Cross were among them. Since then, several states have drafted voluntary reports—some of which have been made publicly available, while others have been kept confidential at the discretion of the states concerned. With the publication of its report, Canada joins a growing group of states choosing to give effect to this commitment. Canada’s report, like those of other states that have embraced this approach, holds particular significance. While it showcases many of the measures Canada has taken to comply with IHL norms, it remains silent on several important challenges and issues—gaps that could have been acknowledged and should be addressed in future reports.

Civilian Persons in Time of War (Geneva Convention IV), 12 August 1949, 75 UNTS 287, Can TS 1965 No. 20 (entered into force 21 October 1950).

⁵ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, 1125 UNTS 3, Can TS 1991 No. 2 (entered into force 7 December 1978); *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, 1125 UNTS 609, Can TS 1991 No. 2 (entered into force 7 December 1978).

⁶ 33rd International Conference of the Red Cross and Red Crescent, *Resolution 1: Bringing IHL Home: A Road Map for Better National Implementation of International Humanitarian Law*, (Geneva 9–12 December 2019).

⁷ *Ibid* at para 13.

⁸ United Kingdom Government, [Open Pledge to Report on the Domestic Implementation of International Humanitarian Law](https://tinyurl.com/mpcetmcd), Pledge No OP330050 (6 December 2019) online: <<https://tinyurl.com/mpcetmcd>> [perma.cc/2TYE-GF94].

⁹ For a list of states and National Societies that have signed the pledge, see [Open Pledge to Report on the Domestic Implementation of International Humanitarian Law—Statutory Meetings](https://rcrcconference.org/archive/) online: <<https://rcrcconference.org/archive/>> [perma.cc/QA69-SV8U].

This contribution examines the emerging practice of voluntary IHL implementation reporting, analyzing both its theoretical significance for enhancing IHL compliance and its practical application through a critical assessment of Canada's first report. Section A explores the broader value and potential of voluntary IHL implementation reports as tools for transparency, peer learning, and norm internalization, while integrating this analysis with a detailed examination of Canada's report structure and content. Section B identifies key limitations and blind spots in the Canadian report while offering suggestions for strengthening future reporting. By identifying both achievements and limitations in Canada's approach, this analysis offers insights into the potential of voluntary reporting as a transparency mechanism while suggesting pathways for improving reporting practices globally.

2. Voluntary IHL Implementation Reports: Significance and National Practice

This section examines the broader significance of voluntary IHL implementation reports—highlighting their legal, strategic, and educational functions—and uses Canada's recent report as a case study to explore how such tools can be structured, what they can reveal about national implementation, and how they contribute to broader IHL engagement. It then provides a detailed overview of the content and structure of Canada's report, outlining the key measures it presents and the domestic legal and institutional frameworks it reflects. This analysis serves as a foundation for the critical assessment developed in the next section.

A) The Importance of Voluntary IHL Implementation Reports

In a context where IHL suffers from insufficient monitoring and implementation follow-up mechanisms,¹⁰ and where there are growing demands for strengthening its respect and implementation,¹¹ voluntary IHL implementation reports represent a meaningful means of enhancing compliance with this legal regime. As a potential response to this institutional gap, the 31st International Conference of the Red Cross and

¹⁰ See Marco Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (Cheltenham, UK; Northampton, Massachusetts: Edward Elgar Publishing, second edition, 2024) at 128; Luigi Condorelli, "L'évolution récente des mécanismes visant à assurer le respect du droit international humanitaire" in *Mélanges offerts à Hubert Thierry* (Paris: Pedone, 1998), at 127.

¹¹ See for example *Resolution 1: Building a Universal Culture of Compliance with International Humanitarian Law*, 34IC/24/R1, 34th International Conference of the Red Cross and Red Crescent (October 2024) [*Resolution 1: Building a Universal Culture of Compliance with International Humanitarian Law*].

Red Crescent, held in December 2011, mandated the ICRC to conduct consultations with states to identify ways to strengthen mechanisms for ensuring respect for IHL.¹² Building on these consultations, the ICRC proposed at the 32nd Conference in 2015 the establishment of a “meeting of states” dedicated to the presentation and discussion of national compliance reports.¹³ However, efforts to formalize this mechanism ultimately did not succeed. A similar idea had also been suggested by a few scholars who, attempting to formulate solutions to strengthen IHL implementation monitoring and oversight, proposed that states be asked to provide reports on measures taken to respect IHL, particularly regarding dissemination or training on its principles.¹⁴ However, the question of which body would be competent to receive and examine such reports remained open.

It was finally during the 33rd International Conference that the idea of voluntary reports materialized, marking a significant evolution in the approach to IHL implementation. While this practice does not exactly correspond to the formal formula initially envisaged with an official meeting of states, the growing publication of voluntary reports by states nevertheless constitutes an important advancement. Beyond mere compliance documentation, these reports embody a state’s commitment to IHL while serving as catalysts for institutional development, normative evolution, and strategic engagement. They reflect the understanding that effective protection in armed conflict requires not only formal adherence to treaty provisions but also transparent and deliberate implementation across domestic systems.

1) Enhancing Transparency and Collaborative IHL Practice Sharing

Voluntary IHL implementation reports are valuable tools for enhancing transparency and accountability in how states fulfill their international legal

¹² See 31st International Conference of the Red Cross and Red Crescent, *Resolution 1: Strengthening legal protection for victims of armed conflicts* (December 2011) at paras 5–6.

¹³ International Committee of the Red Cross (ICRC) & Swiss Federal Department of Foreign Affairs, *Strengthening Compliance with International Humanitarian Law: Concluding Report* (Geneva: ICRC, 2015) at 16.

¹⁴ Yves Sandoz, Yves Sandoz, *Les moyens de mise en œuvre du droit international humanitaire: état des lieux, analyse des problèmes et éléments de réflexion*, Geneva, June 2005 at 26; Kornblum Éric, “Étude comparative de différents systèmes de rapports d’autoévaluation portant sur le respect, par les États, de leurs obligations internationales 1” (1995) 77 : 811 RICR 43 at 43ff; Kornblum Éric, “Étude comparative de différents systèmes de rapports d’autoévaluation portant sur le respect, par les États, de leurs obligations internationales 2” (1995) 77: 812 RICR 155 at 155ff.

obligations under IHL. Although non-binding, such reports encourage states to proactively account for their actions. By drafting and publishing such a report, a state publicly reaffirms its commitment to IHL norms and its intention to uphold and promote them, even in the absence of a strict obligation to do so. This voluntary approach reflects a willingness to be transparent about IHL compliance efforts and underscores the vital importance of this body of law in protecting victims of armed conflict.

These reports can also generate a positive ripple effect, encouraging other states to undertake similar exercises. They promote the sharing of good practices and foster constructive dialogue on strengthening national implementation frameworks.¹⁵ This peer-to-peer exchange can be particularly valuable when addressing emerging challenges in contemporary armed conflicts, where states may benefit from learning about innovative approaches developed by others facing similar operational complexities. By documenting progress, states can identify gaps in legislation, institutions, or operational practices and plan the necessary reforms. When made public, these reports extend their impact beyond national borders by offering concrete examples that inspire peer learning and support collective responses to shared challenges. In doing so, they contribute to the continuous improvement of national systems and operational effectiveness.

2) State-Driven Reporting with Supportive Frameworks

Importantly, there is no fixed model for these reports, although, as explained below, tools and guidelines—including structural templates and practical suggestions for implementation—have been developed to support states in the reporting process. As Giulio Bartolini notes, states retain the flexibility to tailor the scope, structure, and content of their reports to reflect their national priorities, distinctive practices, or implementation challenges.¹⁶ This adaptability not only increases the relevance of reports to each national context, but can also encourage broader participation, including from states with limited resources or diverse legal systems. It can also facilitate more meaningful exchanges of experience and, for governmental authorities, increase the visibility of their efforts both nationally and internationally.¹⁷ For instance, Poland used its report to spotlight IHL issues addressed during its term on the UN

¹⁵ ICRC, [Voluntary Reports on the Domestic Implementation of International Humanitarian Law \(IHL\)](https://www.icrc.org/pressdocs/2022/05/voluntary-reports-on-the-domestic-implementation-of-international-humanitarian-law-ihl) (17 May 2022), online: ICRC <<https://tinyurl.com/5n7cwej6>> [ICRC, *Voluntary Reports on the Domestic Implementation of IHL*].

¹⁶ Giulio Bartolini, “[Voluntary Reports: A New Tool Toward a Universal Culture of Compliance with IHL](https://www.giulio-bartolini.com/en/voluntary-reports-a-new-tool-toward-a-universal-culture-of-compliance-with-ihl)” (11 April 2024), online: <<https://tinyurl.com/p2rpyxz3>> (blog) [perma.cc/66VL-WDBX].

¹⁷ See also *ibid.*

Security Council,¹⁸ while Switzerland and Italy have included dedicated sections to showcase domestic good practices intended for peer sharing.¹⁹

While voluntary reporting offers flexibility, it should still be approached with sustained commitment. Preparing a meaningful report demands considerable political will, inter-institutional coordination, and the allocation of both technical and financial resources.²⁰ Ideally, multiple state institutions—such as ministries of defense, justice, foreign affairs, or national IHL committees—should be involved,²¹ as the implementation of IHL often implicates diverse governmental actors across policy domains.²² Where relevant, and following practices drawn from international human rights law reporting processes, the inclusion or consultation of civil society stakeholders could also be envisaged, particularly to contribute to the verification or enrichment of information.²³ Such inclusive approaches have already been observed in practice, with several national reports—including those submitted by Italy, Poland, and Bulgaria—explicitly

¹⁸ Ministry of Foreign Affairs of the Republic of Poland, [Fourth Report on the Implementation and Dissemination of International Humanitarian Law in the Republic of Poland for 2015–2018](#) (Warsaw: Ministry of Foreign Affairs, 2019), at 83–86 online: <<https://tinyurl.com/bdfcc3x8>>.

¹⁹ See generally Switzerland, [Voluntary Report on the Implementation of International Humanitarian Law](#) (Bern: Federal Department of Foreign Affairs, 2020), online: <<https://tinyurl.com/5x2w2k55>> [Switzerland, *Voluntary Report on the Implementation of International Humanitarian Law*]; Italy, [Voluntary National Report on the Implementation of International Humanitarian Law](#) (Rome: Italian Red Cross, 2023) at 12ff, online: <<https://tinyurl.com/y3n536xu>> [perma.cc/QD2E-YGU5] [Italy, *Voluntary National Report on the Implementation of International Humanitarian Law*].

²⁰ See also Bartolini, *supra* note 16; Elizabeth Stubbins Bates, “Towards Effective Military Training in International Humanitarian Law,” (2014) 96:895/896 *Int’l Rev Red Cross* 795 at 813–814.

²¹ See also Bartolini, *supra* note 16, ICRC, *Voluntary Reports on the Domestic Implementation of IHL*, *supra* note 15.

²² See Helen Durham & Anne Quintin, “At the Crossroads: Multi-Stakeholder and Multi-Disciplinary Approaches in the Application of IHL” (2023) 14:1 *J Intl Hum L Stud* 31.

²³ See Catherine E. Sweetser & Beth A. Simmons, “The Proof Is in the Process: Self-Reporting Under International Human Rights Treaties” (2015) 114:1 *Am J Intl L* 1; Ayelet Levin, “The Reporting Cycle to the United Nations Human Rights Treaty Bodies: Creating a Dialogue between the State and Civil Society—The Israeli Case Study” (2016) 48:2 *Geo Wash Intl L Rev* 315. See also the Office of the United Nations High Commissioner for Human Rights (OHCHR), *Manual on Human Rights Reporting (Revised edition)* (January 2011); International Commission of Jurists, *Overview of the Periodic Reporting Process of the UN Human Rights Treaty Bodies* (Geneva: ICJ, 2014) at 6.

acknowledging the contributions of various governmental and, in some cases, non-governmental actors involved in the drafting process.²⁴

Encouraging inclusive consultation and inter-institutional cooperation might enhance both the accuracy of the report and the national ownership of IHL norms. In some cases, the process itself has led states to identify legal or institutional gaps and to initiate improvements in their domestic frameworks.²⁵ The value of such reports may thus lie not only in the content submitted but also in the inclusive and reflective processes they can inspire. When understood as evolving instruments rather than isolated exercises, they may contribute to strengthening both national compliance and international credibility.

To provide structure within this flexible framework, practical tools have been developed to enhance the quality and consistency of reporting. Notably, the *Toolkit for Preparing a Report on the Implementation of IHL at the Domestic Level*,²⁶ published jointly by the United Kingdom and the British Red Cross, provides both short and long-form templates, allowing states to structure their reports based on capacity and focus. It includes checklists and guidance to support self-assessment across core dimensions of implementation—such as legislation, dissemination, enforcement, and inter-agency coordination. The Toolkit is designed to be accessible to legal professionals and non-specialists alike, thereby fostering engagement across different sectors of government and civil society.

Complementing this, the ICRC's 2021 *Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law* emphasize that voluntary reporting can support domestic assessment,

²⁴ Commission for the Study and Development of International Humanitarian Law, *Voluntary Report on the Implementation of International Humanitarian Law in Italy* (Rome: Italian Red Cross, 2023) at IV, online: <<https://tinyurl.com/y3n536xu>> [perma.cc/XZ2S-FCCN]. Ministry of Foreign Affairs of the Republic of Poland, *Fifth Report on the Implementation and Dissemination of International Humanitarian Law in the Republic of Poland for 2019–2023* (Warsaw: Ministry of Foreign Affairs, 2023) at 9–10, online: <<https://tinyurl.com/57nk4nry>> [perma.cc/F4PM-2RZ6]. Bulgarian Red Cross & Ministry of Foreign Affairs of the Republic of Bulgaria, *International Humanitarian Law and Its Implementation in the Republic of Bulgaria* (Sofia: Bulgarian Red Cross & Ministry of Foreign Affairs, 2020) at 4, online: <<https://tinyurl.com/ms4xzbr9>> [perma.cc/2UWA-WU2H].

²⁵ For details see section III-2 below.

²⁶ United Kingdom & British Red Cross, *Toolkit for Preparing a Report on the Implementation of International Humanitarian Law at the Domestic Level* (London: British Red Cross, 2021), online: <<https://tinyurl.com/bdcr74yf>> [perma.cc/7T9A-ES45] [*Toolkit for Preparing a Report on the Implementation of International Humanitarian Law at the Domestic Level*].

facilitate cross-institutional collaboration, and enhance monitoring of implementation progress.²⁷ The Guidelines encourage states to use checklists to assess their national legal frameworks against treaty and customary IHL, identify necessary reforms, and track the results. While neither the Toolkit nor the Guidelines prescribe a mandatory format, both provide essential frameworks to support credible, consistent, and action-oriented reporting.

3) Strengthening Normative Development: Contributions to IHL Evolution

Voluntary reports can contribute indirectly to the identification and development of customary law. Indeed, these reports catalogue national practices, both normative and operational, and can thus serve as valuable sources for institutions such as the International Committee of the Red Cross (ICRC), which grounds much of its work on identifying customary IHL rules in the analysis of state practice.²⁸ Similarly, courts can rely on evidence of state practice to identify or confirm the existence of customary rules.

Moreover, some reports go beyond a mere factual description of the measures taken. They also clarify the position or interpretation that a state attributes to specific provisions of IHL. In doing so, they facilitate the assessment of *opinio juris*, an essential element in the formation of customary international law. Belgium's voluntary report offers a particularly insightful example in this regard. Before describing the measures adopted to implement a given IHL rule, the report explains its content, provides an interpretation, and then details the steps taken to ensure compliance.²⁹ These explanations can be understood as expressions of the Belgian state's official legal position on the scope and application of the rule, and thus contribute to the doctrinal and jurisprudential understanding of the norm in question.

Thus, the preparation and publication of such reports not only enhance transparency and the dissemination of IHL but can also serve an auxiliary role in consolidating, clarifying, and at times even shaping

²⁷ ICRC, [Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law](https://tinyurl.com/5x9yyeev) (Geneva: ICRC, 2021) at 23, online: <<https://tinyurl.com/5x9yyeev>> [perma.cc/9CB4-HH8R] [[Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law](https://tinyurl.com/5x9yyeev)].

²⁸ For a review of this work, see the [ICRC's Customary IHL Database](https://tinyurl.com/ype5xp6r), online: International Committee of the Red Cross <<https://tinyurl.com/ype5xp6r>>.

²⁹ Belgian Interministerial Commission for Humanitarian Law, [Rapport volontaire sur la mise en œuvre du droit international humanitaire par la Belgique](https://tinyurl.com/mhkwen5x) (Brussels: Belgian Ministry of Foreign Affairs, 2023), online: <<https://tinyurl.com/mhkwen5x>>.

customary norms. In this way, they represent an additional tool available to the international community to advance the coherence and predictability of the law applicable in armed conflict.

4) Internal Benefits: Administrative Efficiency and Institutional Memory

Beyond their external and normative functions, voluntary implementation reports can also serve a valuable internal administrative role. As emphasized in the second edition of the *Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level of UK*, such reports consolidate information on a state's obligations and corresponding implementation measures, making them a practical reference for civil servants, legal advisors, and policymakers.³⁰ This centralization of information supports a range of day-to-day functions, including drafting legal briefs, answering parliamentary questions, and evaluating proposed legislation or policy changes to reinforce coherence and institutional memory across government departments.

The process of compiling these reports often necessitates inter-departmental coordination that might not otherwise occur. Ministries responsible for defense, foreign affairs, justice, and other relevant domains should collaborate to provide comprehensive information on IHL implementation across the government. This coordination can uncover inconsistencies or gaps in how different agencies interpret or apply IHL obligations, creating opportunities to harmonize approaches and strengthen overall compliance.

Furthermore, the documentation process creates a valuable institutional record that transcends changes in political leadership or personnel. This ensures continuity in IHL implementation despite transitions in government, preserving institutional knowledge that might otherwise be lost. When regularly updated, these reports can also track implementation progress over time, allowing states to demonstrate improvement and identify persistent challenges requiring sustained attention.

³⁰ United Kingdom, [Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level \(Second Edition\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115442/Voluntary_Report_on_the_Implementation_of_International_Humanitarian_Law_at_Domestic_Level_Second_Edition.pdf) (London: Foreign, Commonwealth & Development Office and Ministry of Defence, 2024) at 20–21, online: <<https://tinyurl.com/yc2h3hxt>> [perma.cc/6RAK-YEVX] [United Kingdom, *Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level (Second Edition)*].

5) Strategic Advantages: Building Credibility and Countering Skepticism

Transparent reporting plays an important role in addressing growing skepticism about IHL's effectiveness. Media coverage of armed conflicts tends to emphasize violations, destruction, and impunity, undermining public confidence in the law's protective function. This erosion of trust is particularly concerning in the field of IHL education, as highlighted in the 2024 *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts* report, which notes that "a particular challenge for IHL education today is the skepticism and the criticism directed toward it."³¹ Voluntary reports offer a powerful counternarrative by documenting concrete measures states have taken to implement and respect IHL. They demonstrate that, despite high-profile violations that dominate headlines, significant work occurs behind the scenes to integrate humanitarian protections into military operations, national legislation, and institutional frameworks. By highlighting these positive efforts, reports can help restore faith in IHL's capacity to mitigate suffering in armed conflict and encourage continued investment in strengthening its implementation. Ultimately, they can foster a global culture of IHL respect and implementation.³²

These reports also serve a strategic function in both international relations and domestic governance. By proactively disclosing their implementation efforts, states can preempt allegations of non-compliance through detailed explanations and, where necessary, corrective action plans. This proactive approach allows states to frame discussions of their IHL compliance on their own terms, rather than reactively responding to criticism. At the international level, it demonstrates a commitment to transparency and accountability that can enhance a state's reputation and credibility in multilateral forums. Domestically, it can strengthen public confidence in state institutions, provide parliamentarians and civil society with reliable information for constructive engagement, and serve as a reference point for national policy debates on humanitarian issues. This dual strategic value—enhancing both international standing and domestic legitimacy—makes voluntary reporting an especially valuable governance tool.

³¹ ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts* (Geneva: ICRC, 2024) [*International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*] at 36.

³² *Resolution 1: Building a Universal Culture of Compliance with International Humanitarian Law*, *supra* note 11.

B) What Canada's IHL Implementation Report Reveals

Prepared by the Canadian National Committee on Humanitarian Law (CNCHL), which is mandated to promote IHL application in Canada,³³ the report provides a broad and favorable overview of Canada's efforts to implement this legal framework. It draws inspiration from the *Toolkit for Preparing a Report on the Implementation of International Humanitarian Law at the Domestic Level* and is structured around five main sections: General Implementation of IHL (Part I); Dissemination, Training and Legal Advice (Part II); National Jurisdiction Over Violations (Part III); Protections (Part IV); and Means and Methods of Warfare (Part V).

Overall, the report indicates that Canada is party to most IHL treaties, including the *Geneva Conventions*, their *Additional Protocols*, and instruments prohibiting or restricting the use of specific weapons.³⁴ Canada has also incorporated the obligations arising from these legal instruments into its domestic legal framework through laws³⁵ such as the *Geneva Conventions Act*,³⁶ the *Crimes Against Humanity and War Crimes Act (CAHWCA)*,³⁷ and the *Anti-Personnel Mines Convention Implementation Act*.³⁸

Key institutions such as the Canadian Red Cross (CRC) and the CNCHL are responsible for disseminating and promoting IHL in Canada.³⁹ The CRC plays a central role in public awareness, offering training to various audiences, including the Canadian Armed Forces (CAF), policymakers, and educators.⁴⁰ The CNCHL acts as a coordination platform, issuing strategic recommendations to improve IHL compliance.⁴¹ These efforts include regular IHL training for CAF personnel and occasional training for foreign armed forces, covering essential contemporary topics such as the prevention of sexual violence and the protection of children in armed conflict.⁴²

³³ For more details on the CNHL and an analysis of its role and action, read Steve Tiwa Fomekong and Catherine Gribbin, Andrew Thomson and Christopher Waters, *The Canadian Handbook on International Humanitarian Law* (Toronto: LexisNexis Canada, 2024) at 307–310.

³⁴ *Canada's Voluntary Report on implementation of IHL*, *supra* note 2 at 6 and 34.

³⁵ *Ibid* at 7 and 37–39.

³⁶ *Geneva Conventions Act*, RSC 1985, c G-3.

³⁷ *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24.

³⁸ *Anti-Personnel Mines Convention Implementation Act*, SC 1997, c 33.

³⁹ *Canada's Voluntary Report on implementation of IHL*, *supra* note 2 at 10.

⁴⁰ *Ibid*.

⁴¹ *Ibid*.

⁴² *Ibid*.

The report also notes that Canada has established a legal and institutional framework to sanction serious IHL violations, based on three main pillars: the *Geneva Conventions Act*, the *CAHWCA*, and the *Criminal Code*.⁴³ The *Extradition Act* complements this framework by allowing the transfer of persons accused of international crimes to other states or courts, such as the International Criminal Court.⁴⁴

The protection of civilians, cultural property, and persons deprived of liberty is a central aspect of Canada's IHL efforts. Regarding detainees, the *CAF's Code of Conduct*⁴⁵ incorporates the standards of the *Third Geneva Convention*, ensuring humane treatment of detainees, including specific protections for women against sexual violence and abuse.⁴⁶ These commitments are supported by operational manuals and regular training sessions, both prior to and during military deployments.⁴⁷

Regarding cultural property, Canada has incorporated obligations under the 1954 *Convention for the Protection of Cultural Property in the Event of Armed Conflict*⁴⁸ into its domestic legislation, including penalties for the unlawful destruction or appropriation of such property.⁴⁹ These provisions also apply extraterritorially, enabling prosecution of offenders located on Canadian territory.

The report provides a relatively detailed outline of Canada's military justice system, framing it as a key institutional mechanism for ensuring compliance with IHL by members of the CAF. The section on military justice appears in Part II of the report, which focuses on the prevention and repression of serious violations of IHL. This placement underscores the military justice system's role not only in maintaining internal discipline but also in meeting Canada's obligations under IHL, particularly those requiring states to investigate and prosecute war crimes and other grave breaches. The report asserts that Canada's military courts have jurisdiction over military members and commanders, and notes that concurrent jurisdiction exists between military and civilian courts for offences committed under the *CAHWCA*. This concurrent jurisdiction theoretically allows for flexibility and specialization: military courts are positioned to adjudicate service-related offences efficiently within

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ Canadian Armed Forces, [Code of Conduct for Canadian Forces Personnel](https://tinypurl.com/mr47zjfd), online: National Defence <<https://tinypurl.com/mr47zjfd>>.

⁴⁶ *Ibid.* at 14.

⁴⁷ *Ibid.*

⁴⁸ *Convention for the Protection of Cultural Property in the Event of Armed Conflict*, 14 May 1954, 249 UNTS 240, Can TS 1999 No. 5 (entered into force 7 August 1956).

⁴⁹ *Canada's Voluntary Report on implementation of IHL*, *supra* note 2 at 15.

a disciplinary framework, while civilian courts provide an additional pathway for addressing serious violations of IHL under ordinary criminal law, thereby reinforcing Canada's overall accountability architecture.

Lastly, the report addresses means and methods of warfare, highlighting prohibitions on weapons such as anti-personnel mines and chemical weapons. Under Article 36 of *Additional Protocol I*, Canada reviews new weapons to ensure compliance with IHL. As a party to the *Arms Trade Treaty*,⁵⁰ it also imposes export restrictions to prevent weapons from being used to commit serious IHL violations.

Despite these laudable efforts, a deeper analysis of the report reveals notable gaps and areas of concern.

1) Omissions and Blind Spots in Canada's IHL Implementation Report

While Canada's IHL implementation report provides a comprehensive outline of its legal framework, it contains some gaps that limit its value as a transparency tool. The report largely focuses on formal structures rather than their operational effectiveness, overlooking crucial empirical data, accountability mechanisms, and emerging challenges. These omissions reflect a missed opportunity to engage in critical self-assessment, ultimately diminishing its contribution to the progressive development of IHL implementation practices.

a) Lack of Evidence-Based Assessment

Across a range of international legal regimes, including human rights, environmental, and arms control law, reporting mechanisms are not merely tools of communication, but are expected to provide concrete, evidence-based insight into how legal obligations are being implemented. In these regimes, reports often include quantitative indicators and qualitative assessments or statistical relevant information that help measure progress, document institutional activities, and inform ongoing policy development.⁵¹ Even when such data is absent, it is not uncommon for oversight or monitoring bodies, in their follow-up procedures, to request that states provide this type of information where available,

⁵⁰ *Arms Trade Treaty*, 2 April 2013, UNGA Res 67/234B, UN Doc A/CONF.217/2013/L.3, annex (entered into force 24 December 2014), Can TS 2019 No. 11.

⁵¹ Committee on the Rights of the Child, [Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by states parties under article 44, paragraph 1\(b\), of the Convention on the Rights of the Child](#), UN Doc CRC/C/58/Rev.2 (2010), online: <<https://tinyurl.com/mvhxx74k>>; OHCH, *Reporting to the United Nations Human Rights Treaty Bodies Training Guide: Part I- Manual* (2017) at 27.

necessary, or feasible.⁵² This process allows for the identification of where a state stands in fulfilling its obligations and, consequently, equips it with recommendations and opportunities for assistance that can support improvements in compliance going forward. This approach is increasingly reflected in the field of IHL, where voluntary reports are expected to move beyond general affirmations and provide analytically and forward-looking assessments,⁵³ which by their nature require factual grounding. To fulfill this function, a voluntary report must present, with clarity and precision, the actions undertaken—not only in terms of their legal existence, but also with respect to their extent, operational impact, and limitations. One way to achieve this is by integrating quantitative indicators (e.g., number of trainings conducted, investigations launched, or convictions obtained) and qualitative insights (e.g., impact of measures implemented, obstacles encountered, coordination among institutions, or lessons learned in practice), which help contextualize and critically assess the effectiveness of IHL implementation efforts.

This understanding is also reflected in the guidance tools developed to assist states in preparing such reports. For example, the ICRC's *Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law* provide detailed checklists to help states evaluate the conformity of their national legal and institutional frameworks with IHL obligations, and to identify areas where further implementation measures are needed.⁵⁴ Similarly, the *Guidelines for Assessing the Compatibility between National Law and Obligations under Treaties of International Humanitarian Law* include an “assessment” section in each reporting rubric, explicitly designed to prompt states to reflect on gaps in compliance and to articulate corresponding actions or reforms.⁵⁵ These tools reinforce the expectation that reporting should be critical, evidence-informed, and geared toward progressive implementation, rather than merely descriptive or formalistic. That said, states retain discretion in determining the purpose and tone of their reports. As acknowledged in the *Toolkit for Preparing a Report on the Implementation of IHL at the Domestic Level*, the state's main motivation—whether to undertake a comprehensive review of domestic legislation and practices or to publicly highlight efforts already undertaken—may influence both the level of

⁵² Committee on the Rights of the Child, *supra* note 51.

⁵³ Bartolini, *supra* note 16.

⁵⁴ See *Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law*, *supra* note 27.

⁵⁵ ICRC, [Guidelines for Assessing the Compatibility between National Law and Obligations under Treaties of International Humanitarian Law](#) (Geneva: ICRC, 2019), online: <<https://tinyurl.com/3pskf8vm>> [perma.cc/XKA2-CXSV].

detail provided and the overall framing of the report.⁵⁶ This flexibility helps ensure that reporting remains accessible and adaptable, but it also underscores the importance of encouraging best practices that balance self-promotion with self-assessment.

Against this backdrop, the Canadian report appears relatively limited. While it has the undeniable merit of bringing together in a single document often scattered and difficult-to-access information concerning the implementation of IHL by Canada, it lacks the quantitative and qualitative data necessary to assess the scope, relevance, and impact of the measures described. For instance, it does not provide figures on war crimes prosecutions, extraditions, or IHL training activities, nor does it offer contextual details about how these measures function in practice. Similarly, in the area of arms transfer controls, the absence of information on denied permits prevents any meaningful evaluation of risk assessment mechanisms. Without such data, it becomes challenging to assess the effectiveness and comprehensiveness of Canada's implementation efforts beyond their formal presentation. By way of comparison, although other states' reports exhibit similar shortcomings, some do incorporate a modest amount of data—quantitative or qualitative—that contributes to strengthening their credibility. The United Kingdom's 2024 report includes few statistics on training activities and enforcement mechanisms, accompanied by explanatory and commentary on institutional implementation.⁵⁷ The German and Italian reports likewise provide some figures on dissemination efforts and qualitative insights into implementation challenges, offering a more comprehensive view of IHL practices and their operational realities.⁵⁸ Future Canadian reports would benefit from incorporating such statistical data and qualitative insights, in order to enhance their substance, credibility, and relevance, and to better align with the purpose of voluntary reporting as a mechanism for transparency, self-assessment, and continuous improvement.

b) Absence of Self-Assessment and Future Planning

In addition to data, voluntary reports should provide a balanced and transparent account of both achievements and challenges—or at the

⁵⁶ *Toolkit for Preparing a Report on the Implementation of IHL at the Domestic Level*, *supra* note 26 at 5.

⁵⁷ United Kingdom, *Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level (Second Edition)* *supra* note 30 at 26–28.

⁵⁸ Germany, [National Implementation of International Humanitarian Law](#) (Baden-Baden: Nomos, 2023) at 14–39 and seq, online: <<https://tinyurl.com/ybk5t5yu>> [perma.cc/E4DA-YPNT] [Germany, *National Implementation of International Humanitarian Law*]; Italy, *Voluntary National Report on the Implementation of International Humanitarian Law*, *supra* note 19 at 12ff

very least, identify the main areas where further actions could be helpful. Including both dimensions transforms the report from a mere showcase of accomplishments into a genuine tool for self-assessment and improvement. By acknowledging difficulties and obstacles, the reporting state demonstrates transparency and a willingness to engage constructively with its international obligations. The *Toolkit for Preparing a Report on the Implementation of IHL at the Domestic Level* reflects this expectation in a flexible and non-prescriptive manner. It suggests, for example, that states may wish to include an Annex D on “future measures,” where they can outline recommended actions to improve implementation or mention initiatives already planned prior to drafting the report.⁵⁹ The use of an optional annex, rather than integrating these forward-looking elements into the core of the report, likely aims to preserve flexibility and avoid deterring states from participating, particularly those that may be reluctant to publicly acknowledge gaps or shortcomings. However, it is important to stress that this recommendation is not about exposing deficiencies, but rather about highlighting areas of potential improvement in a constructive and proactive spirit.⁶⁰ The goal is to encourage continuous engagement and norm internalization, not to impose rigid benchmarks or to “name and shame.” On this point, a review of voluntary reports submitted to date confirms the absence of a uniform approach. Some reports do include dedicated sections on future actions to be undertaken at the domestic level, explicitly recognizing the existence of outstanding challenges. For instance, the Bulgarian report incorporated forward-looking recommendations proposed separately by the Ministry of Foreign Affairs, the National Society, and academic experts—thereby allowing different actors to express distinct priorities and implementation pathways.⁶¹

By contrast, Canada’s report paints an overwhelmingly positive picture, with little indication of institutional, legal, or operational obstacles. While it outlines the roles and responsibilities of various actors, it remains vague about real-world difficulties, particularly with respect to the integration of IHL norms into military operations or cooperation with partner states that may not share the same legal commitments. This omission weakens the report’s transparency and limits its contribution to meaningful progress. Identifying such challenges is not a sign of weakness, but rather a mark of serious engagement, allowing for the development

⁵⁹ *Toolkit for Preparing a Report on the Implementation of IHL at the Domestic Level*, *supra* note 26 at 8.

⁶⁰ ICRC, [Voluntary Reports on the Domestic Implementation of International Humanitarian Law \(IHL\)](https://www.icrc.org/~/media/press/docs/2022/05/voluntary-reports-on-the-domestic-implementation-of-international-humanitarian-law-ihl-17-may-2022) (17 May 2022), online: ICRC <<https://tinyurl.com/y9a55jvd>> [perma.cc/GDK7-AL7R].

⁶¹ Switzerland, *Voluntary Report on the Implementation of International Humanitarian Law*, *supra* note 19

of targeted responses and demonstrating a genuine commitment to improving compliance.

Including such sections in future Canadian reports could also open the door to the elaboration of a separate action plan, as occurred in the case of Switzerland, where the 2020 voluntary report served as the foundation for a parallel action plan detailing further measures to strengthen IHL implementation.⁶² Still, Canada may prefer to simply highlight key areas where additional efforts would be beneficial, leaving the selection of appropriate measures to relevant domestic authorities. This approach was used in the Italian report, where a general recommendation to update the military manuals subsequently led the Ministry of Defense to establish a working group tasked with drafting a new IHL manual.⁶³

c) Omission of Military Manual Status and Revision Plans

The report also omits any reference to the revision of current military manuals, even though the *Toolkit for Preparing a Report on the Implementation of IHL* which it follows the structure that it suggests, recommends specifying not only the existence but also the frequency of updates of such manuals.⁶⁴ This omission is particularly concerning given that the most recent Canadian military manuals referenced in public sources date back over 20 years—specifically to 2001 and 2004. Since then, significant developments in IHL have taken place, including the adoption of new treaties like the *Convention on Cluster Munitions*⁶⁵ and *Protocol V on Explosive Remnants of War to the Convention on Certain Conventional Weapons*,⁶⁶ to which Canada is a party.⁶⁷ These require national implementation, including updates in national policies and military manuals. Additionally, evolving interpretations of IHL—shaped

⁶² *International Humanitarian Law and Its Implementation in the Republic of Bulgaria*, *supra* note 24 at 30–32.

⁶³ Croce Rossa Italiana, [Riunione plenaria Manuale di Diritto Internazionale applicabile alle operazioni militari](https://tinyurl.com/ye2y96ab) (19 March 2024), online: <<https://tinyurl.com/ye2y96ab>> [perma.cc/Z2H6-Y]65].

⁶⁴ *Toolkit for Preparing a Report on the Implementation of IHL*, *supra* note 26 at 7.

⁶⁵ *Convention on Cluster Munitions*, 30 May 2008, 2688 UNTS 39, Can TS 2015 No. 11 (entered into force 1 August 2010).

⁶⁶ *Protocol on Explosive Remnants of War (Protocol V) to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons*, 28 November 2003, 2399 UNTS 100, Can TS 2014 No. 3 (entered into force 12 November 2006).

⁶⁷ Canada ratified the *Convention on Cluster Munitions* on March 16, 2015, and the convention entered into force for Canada on September 1, 2015. It consented to be bound by *Protocol V on Explosive Remnants of War to the Convention on Certain Conventional Weapons* on May 19, 2009, and the protocol entered into force for Canada on November 12, 2009.

by jurisprudence from international criminal courts and by the ICRC's updated commentaries on the *Geneva Conventions*—further underscore the need for doctrinal tools to remain current.⁶⁸ Military manuals play a central role in this regard: they reflect not only the domestic understanding of IHL rules but also a state's position on contentious or emerging issues,⁶⁹ such as direct participation in hostilities, cyber operations, and autonomous weapons. Their content often informs training, operational decisions, and the dissemination of IHL among armed forces.

In a comparative perspective, it is noteworthy that many states do report on the existence, content, and status of their military manuals in their voluntary IHL reports. While approaches vary, these reports typically indicate whether existing manuals are being used for training and dissemination purposes, whether they reflect recent legal developments, and whether any revision processes are underway. For instance, the United Kingdom, Germany, Romania, and Italy have all included references to their military manuals, with some explicitly noting recent updates or the launch of new drafting initiatives.⁷⁰ This emerging practice suggests that addressing the status of military manuals—even if only to indicate that revisions are planned or under consideration—is increasingly seen as an element of transparency and good reporting practice. Against this backdrop, the absence of any such reference in the Canadian report appears particularly notable, and future reports would benefit from clarifying the status of Canada's military doctrinal tools and their alignment with evolving IHL standards.

Although the Canadian report remains silent on this matter, existing literature indicates that a revised Canadian Law of Armed Conflict

⁶⁸ ICRC, *Commentaries on the Geneva Conventions of 12 August 1949* (various volumes, updated editions), online: <<https://tinyurl.com/bd5jefs6>>.

⁶⁹ Charles Garraway, "The Use and Abuse of Military Manuals" (2004) 7:1 *Yearbook of International Humanitarian Law* 425; Terry D. Gill, "Military Manuals and the Law of Armed Conflict" in Rain Liivoja & Tim McCormack, eds, *The Elgar Companion to the Law of Armed Conflict* (Cheltenham, UK: Edward Elgar Publishing, 2022) at 379.

⁷⁰ See United Kingdom, *Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level (Second Edition)* *supra* note 30 at 20–21 (referencing updates to doctrinal publications including Joint Doctrine Publications and the Human Security approach). Germany, *National Implementation of International Humanitarian Law*, *supra* note 58 at 14–16 (describing military training and references to doctrinal tools within the Bundeswehr); Romania, *Voluntary Report on the Implementation of International Humanitarian Law* (Bucharest: Ministry of Foreign Affairs, 2021) at 6, online: <<https://tinyurl.com/zh6zm3pc>> (mentioning use of a military manual for training at platoon and company levels); Italy, *Voluntary National Report on the Implementation of International Humanitarian Law*, *supra* note 18 at 11 (noting the establishment of a Ministry of Defense working group to draft a new military manual on international law applicable to military operations).

(LOAC) manual has been contemplated for some time.⁷¹ According to certain authors, the Office of the Judge Advocate General had developed the Joint Doctrine Manual as a practical, working-level publication on the LOAC, designed to serve commanders, staff officers, and instructors.⁷² While this manual provides a Canadian interpretation of treaty and customary IHL, it does not purport to be exhaustive, and it deliberately simplifies complex legal issues.⁷³ Given that the most recent publicly referenced versions date back to the early 2000s, the manual appears to be in need of updating. Despite ongoing discussions, no revised edition had been published at the time of writing, and the report provides no clarity on whether an update is underway. In either case, a voluntary report that aims to promote transparency and serve as a reference point for IHL implementation should at least indicate the status of existing manuals, clarify whether a revision is planned or ongoing, and, where possible, outline expected timelines for publication. Doing so would enhance the report's value as a tool for accountability and progressive implementation.

d) Accountability Gaps: From Military Justice to Corporate Responsibility

The Canadian report falls short in addressing key accountability mechanisms across multiple domains of IHL implementation. While providing a detailed but uncritical overview of Canada's military justice system as a self-contained, constitutionally compliant mechanism grounded in the *Code of Service Discipline*⁷⁴ and the *National Defence Act*,⁷⁵ it offers no empirical data, case examples, or critical reflection on how this system functions in practice. The report outlines the legal framework, jurisdictional scope, and procedural structure—highlighting the incorporation of *Criminal Code* offences, the establishment of courts martial, and the independence of military judges—but remains silent on crucial issues such as prosecutorial independence, transparency, and the handling of serious IHL violations, including sexual violence, despite the growing attention these concerns have received in Canadian public and legal discourse. For instance, the role and independence of military prosecutors has been questioned in the context of broader debates on military justice reform, especially regarding the appropriate

⁷¹ William J Fenrick, "Reflections on the Canadian Experience with Law of Armed Conflict Manuals" in *National Military Manuals on the Law of Armed Conflict*, ed by Nobuo Hayashi, Forum for International Criminal and Humanitarian Law Publication Series No. 2 (Oslo: Torkel Opsahl Academic EPublisher and Peace Research Institute, 2010) at 92; Tiwa Fomekong, Gribbin, Thomson & Waters, *supra* note 33 at 304.

⁷² Fenrick, *supra* note 71 at 92ff.

⁷³ Fenrick, *supra* note 71 at 92ff.

⁷⁴ *National Defence Act*, RSC 1985, c N-5, s 147.

⁷⁵ *National Defence Act*, RSC 1985.

handling of sexual misconduct cases within the CAF.⁷⁶ Recent inquiries, parliamentary reports, and media coverage have highlighted concerns over the effectiveness, impartiality, and victim-centeredness of the current system, calling into question its ability to adequately respond to serious violations, including those that may fall under IHL in armed conflict situations.⁷⁷ It also glosses over the complexities of concurrent jurisdiction between military and civilian courts, offering no insight into how decisions are made or what safeguards exist to prevent institutional bias. By focusing on legal form over operational realities and omitting any performance indicators or victim-centered perspectives, the report misses an opportunity to assess whether the military justice system effectively fulfils Canada's obligations under IHL. It ultimately reduces compliance to a matter of codification rather than accountability, leaving important questions about effectiveness, accessibility, and justice unanswered.

Similarly, the report is silent on investigative mechanisms related to alleged abuses by the CAF abroad, despite well-documented controversies, including incidents in Afghanistan.⁷⁸ While it affirms Canada's jurisdiction over serious IHL violations and outlines relevant legal frameworks, it offers no data on past investigations, outcomes, or shortcomings. Legal frameworks, though essential, are not sufficient on their own to ensure effective enforcement.

This accountability gap extends beyond military personnel to corporate actors as well. The report fails to address the oversight of

⁷⁶ Canada, Office of the Auditor General, *Report 5—Inappropriate Sexual Behaviour—Canadian Armed Forces in 2018 Fall Reports of the Auditor General of Canada to the Parliament of Canada* (Ottawa: OAG, 2018), online: <<https://tinyurl.com/y24rbpb3>> [perma.cc/7BMX-AD73]; Canada, Department of National Defence, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces* by Marie Deschamps (Ottawa: DND, 2015), online: <<https://tinyurl.com/45rvmeud>> [perma.cc/J3X2-RCTZ].

⁷⁷ Canada, Department of National Defence, *Report of the Independent External Comprehensive Review of the Department of National Defence and the Canadian Armed Forces* by the Honourable Louise Arbour (Ottawa: DND, 2022), online: <<https://tinyurl.com/bdfk78xb>>.

⁷⁸ Military Police Complaints Commission, *Public Interest Hearing into the Transfer of Detainees by the Canadian Forces in Afghanistan* (2007), online: <<https://tinyurl.com/327wcrbz>>; Human Rights Watch, *Afghanistan: Investigate Canadian Responsibility in Detainee Abuse* (27 November 2009), online: <<https://tinyurl.com/ysv4v55y>> [perma.cc/25CE-CMHU]; Omar Sabry, *Torture of Afghan Detainees: Canada's Alleged Complicity and the Need for a Public Inquiry* (Ottawa: Canadian Centre for Policy Alternatives & Rideau Institute on International Affairs) (September 2015) online: <<https://tinyurl.com/55esmnt5>> [perma.cc/YF73-FNA6]; *Canada Urged to Probe Alleged Afghan Detainee Torture* (10 June 2016), online: <<https://tinyurl.com/mrdyvnk3>> [perma.cc/759F-MF6R].

Canadian companies operating abroad, some of which have faced allegations of serious IHL and human rights violations in conflict zones.⁷⁹ Canada lacks a binding, comprehensive policy to prevent such violations, hold perpetrators accountable, and provide victims with effective remedies. While the Office of the Canadian Ombudsperson for Responsible Enterprise exists, it is often deemed too weak due to its non-binding powers.⁸⁰ Its non-coercive mandate limits its effectiveness. Future reports should address IHL dissemination efforts targeting private actors and detail concrete accountability mechanisms.

e) Limited Coverage of New Military Technologies and Their IHL Implications

Canada's voluntary IHL report only briefly touches on issues related to new military technologies, such as drones and cyber operations, without providing meaningful detail. This omission is significant, as the development and use of emerging technologies in armed conflict present some of the most complex and urgent challenges for IHL implementation today.⁸¹ Questions surrounding the application of IHL rules—including distinction, proportionality, and precautions in attack—to cyber warfare and remotely piloted weapons systems are actively debated in both

⁷⁹ Canadian Network on Corporate Accountability, [35 Civil Society Groups Call for Legislation to Combat Human Rights Abuse by Canadian Business Overseas](#) (2 December 2019), online: <<https://tinyurl.com/2ewknkcv>> [perma.cc/4D5Y-JLJA].

⁸⁰ James Hyson, "[Notions de base sur les bureaux des ombudsmans fédéraux](#)" (2011) 34:2 *Revue parlementaire canadienne* 37, online: <<https://tinyurl.com/y7shwjh2>> [perma.cc/T6YX-XUDG]; Canadian Network on Corporate Accountability, "[Impacted Communities Are Advised to Approach with Caution: Canadian Civil Society Groups Raise Alarm About Canada's Ombudsperson for Responsible Enterprise \(CORE\)](#)" (30 April 2020), online: <<https://tinyurl.com/266pkh4s>> [perma.cc/3YNX-7DM4]; *UBC International Justice and Human Rights Clinic*, "[Will the Canadian Ombudsperson for Responsible Enterprise \(CORE\) Have the Powers to Do Her Job?](#)" (4 March 2020), online: <<https://tinyurl.com/fsh8na8e>> [perma.cc/YYF3-DJEP]; *Business & Human Rights Resource Centre*, "[CNCA Raises Serious Concerns About Ombudsperson for Responsible Enterprise's Office, Including Lack of Power to Independently Investigate, Lack of Independence](#)" (2020), online: <<https://tinyurl.com/3nvh5tpe>>.

⁸¹ See for example, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, *supra* note 31 at 57-58; ICRC, "[International humanitarian law and cyber operations during armed conflicts](#)": Position paper, ICRC, Geneva, 2019 [*International humanitarian law and cyber operations during armed conflicts*": Position paper]: <<https://tinyurl.com/msv4muf6>>; Laurent Gisel, Tilman Rodenhäuser & Knut Dörmann, "Twenty Years On: International Humanitarian Law and the Protection of Civilians Against the Effects of Cyber Operations During Armed Conflicts" (2020) 102:913 *Int'l Rev Red Cross* 287; Yahli Shereshevsky, "International Humanitarian Law-Making and New Military Technologies" (2022) 104:920-921 *Int'l Rev Red Cross* 1.

academic and operational circles.⁸² For instance, issues such as attribution of cyber operations, dual-use infrastructure, and the threshold of harm that triggers IHL applicability remain unsettled and raise pressing concerns for legal compliance.⁸³

Several states have taken steps to articulate their positions or provide at least some transparency regarding how they interpret and apply IHL to these technologies. The Netherlands, Estonia, France, Australia and member states of the African Union, for example, have issued official or quasi-official statements clarifying their understanding of IHL in the cyber context.⁸⁴ Similarly, some states—such as Germany, which has established a permanent interdepartmental steering group within its Ministry of Defense to conduct legal reviews of new weapons and methods of warfare;⁸⁵ and Switzerland, which in its 2020 voluntary report affirms that the Federal Department of Defense is responsible for reviewing new weapons to ensure their compliance with IHL—include references to legal reviews (as required under Article 36 of Additional Protocol I) in their IHL voluntary reports, thereby providing insight into the institutional framework and responsibilities involved in assessing the legality of new technologies under IHL, even if procedural details remain limited to

⁸² Gisel, Rodenhäuser & Dörmann, *supra* note 81; International humanitarian law and cyber operations during armed conflicts”: Position paper, *supra* note 81; Shereshevsky, *supra* note 82; Przemysław Roguski, [Application of International Law to Cyber Operations: A Comparative Analysis of states’ Views](#) (The Hague: The Hague Program for Cyber Norms, 2020), online: <<https://tinyurl.com/4aw3uy3j>>.

⁸³ Gisel, Rodenhäuser & Dörmann, *supra* note 81; International humanitarian law and cyber operations during armed conflicts”: Position paper, *supra* note 82; Shereshevsky, *supra* note 81; Roguski, *supra* note 82.

⁸⁴ See Netherlands, *International Law in the Cyber Domain* (The Hague: Ministry of Foreign Affairs, 2019), Estonia, [Statement at the First Substantive Session of the Open-Ended Working Group on the Security of and in the Use of Information and Communications Technologies 2021–2025](#) (16 December 2021), online: <<https://tinyurl.com/yc4pcd34>> [perma.cc/VSC4-J54D]; France, [International Law Applied to Operations in Cyberspace: France’s Position Paper](#) (Paris: Ministry for Europe and Foreign Affairs, 2019), online: <<https://tinyurl.com/36x6rk8d>> [perma.cc/W83T-LBMB]; Australia, [Australia’s International Cyber Engagement Strategy: Annex A—Australia’s Position on How International Law Applies to state Conduct in Cyberspace](#) (Canberra: Department of Foreign Affairs and Trade, 2017), online: <<https://tinyurl.com/4m245n34>> [perma.cc/HF38-XLJH]; African Union Peace and Security Council, *Common African Position on the Application of International Law to the Use of Information and Communication Technologies in Cyberspace*, adopted at its 1196th meeting on 29 January 2024, Communiqué PSC/PR/COMM.1196 (2024).

⁸⁵ Germany, *National Implementation of International Humanitarian Law*, *supra* note 58 at 36.

some extent.⁸⁶ In this context, the Canadian report's silence is particularly noteworthy. It fails to explain whether or how Canada applies IHL to cyber capabilities, and while it does mention that Article 36 legal reviews are conducted, it provides no detail as to whether these reviews specifically address autonomous or semi-autonomous weapons systems, nor how such assessments are carried out. Similarly, the report offers no insight into how drone operations are evaluated for IHL compliance in practice.

This lack of transparency is especially concerning given Canada's known engagement with cyber defense strategies and participation in multinational military operations involving emerging technologies.⁸⁷ Without addressing these issues, the report misses an opportunity to show how Canada is adapting its legal and operational frameworks to evolving technological realities—one of the key indicators of a forward-looking and credible IHL implementation policy. Future reports would benefit from acknowledging the challenges posed by new military technologies and offering insight into the legal, doctrinal, and operational mechanisms Canada employs to ensure IHL compliance in this domain. Doing so would not only enhance the report's relevance but also contribute to international dialogue on the evolving application of IHL in modern warfare.

3. Conclusion

Canada's first voluntary report on the implementation of IHL marks a significant step toward greater transparency, accountability, and commitment to the protection of victims of armed conflict. It consolidates diverse legal and institutional efforts and affirms Canada's dedication to upholding IHL rules and principles. Despite its shortcomings, the report is an important step forward. At a time when IHL violations persist in numerous conflicts, such as in Gaza, it serves as a crucial reminder that IHL is not only breached but also respected, implemented, and actively promoted by many States.

Yet, the report's largely affirmative tone and lack of critical self-assessment reveal missed opportunities. It omits empirical data, fails to acknowledge persistent challenges, and overlooks pressing issues such

⁸⁶ Switzerland, *Voluntary Report on the Implementation of International Humanitarian Law*, *supra* note 19 at 14–15.

⁸⁷ Stephanie Carvin, "Canadian Defence and New Technologies" in *Canadian Defence Policy in Theory and Practice*, ed by Thomas Juneau, Philippe Lagassé & Srdjan Vucetic (Cham: Palgrave Macmillan, 2019) 383. Canada plays an active role in NATO's Cooperative Cyber Defence Centre of Excellence (CCDCOE) and joint cyber initiatives: See [NATO CCDCOE](https://ccdcoe.org/about-us/), online: <<https://ccdcoe.org/about-us/>> [perma.cc/3R8X-LWEX] (Canada is listed as a member).

as private sector accountability, the performance of the military justice system, and the regulation of new technologies in warfare. These omissions risk undermining the report's credibility and the broader objectives of the voluntary reporting initiative.

To fully realize its potential, Canada's engagement in this process must evolve. The continuation of voluntary IHL reporting is essential—not only for sustained monitoring and the identification of areas needing improvement, but also for reinforcing the global normative framework through shared experiences and best practices. By being transparent about both its achievements and its challenges, Canada can play a leading role in fostering a culture of accountability and inspire other States to follow suit. However, to truly set an example, future reports must be more comprehensive, candid, and inclusive—even on the most sensitive or politically complex issues. Only then can such reports genuinely contribute to strengthening respect for IHL and enhancing protection for those affected by armed conflict.