

ICRC Global Initiative to Galvanize Political Commitment to International Humanitarian Law

Workstream 1: Prevention Good Practices

Second State Consultation

Statement of Australia – Session 1: Weak or incomplete legal and regulatory frameworks

25 November 2025

Good morning excellencies, colleagues

As a co-chair of this workstream, Australia looks forward to contributing to today's discussion on how we can prevent IHL violations, beginning with legal and regulatory frameworks.

Australia was an early signatory to the Geneva Conventions and their Additional Protocols and is committed to upholding its IHL obligations. This includes through the integration of IHL into Australia's domestic law, and the establishment of regulatory procedures that mitigate the risk of serious operational incidents occurring.

Australia agrees that weak or incomplete legal and regulatory frameworks may increase the risk of IHL being violated. Criminalising IHL violations under domestic law is not enough – to make an effective contribution to preventing such violations, these laws must be fit for purpose, understood by relevant personnel, and enforced.

Training military personnel on their obligations under both international and domestic law helps these frameworks contribute to prevention efforts. The Australian Defence Force ensures all members are trained in accordance with appropriate legal and regulatory frameworks.

Australia considers that pursuing accountability for IHL violations through domestic legal and regulatory mechanisms also helps reinforce the preventative value of these frameworks. Effective accountability mechanisms in turn require accessible incident reporting pathways, and robust investigative mechanisms.

In this regard, Australia has in recent years invested in improving channels for reporting suspected serious operational misconduct by members of our military forces. The Australian Government also established an investigative agency – the Office of the Special Investigator – which, jointly with the Australian Federal Police, is investigating alleged breaches of the Laws of Armed Conflict by our military forces in Afghanistan between 2005 and 2016. Our recent domestic accountability efforts have introduced reforms to regulatory frameworks to prevent

IHL non-compliance. This has had a roll-on effect down to the working level, where orders and directives are made ensuring IHL is embedded within unit culture.

We welcome the opportunity to reflect today on the relationship between legal and regulatory frameworks and prevention, and to hear from others on this important topic.

Thank you.

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Statement of Australia – Session 2: Breakdown of professionalism

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Colleagues

The professionalism of armed forces is essential to upholding compliance with IHL.

Reflecting on the theme of this session – the breakdown of professionalism – Australia can share relevant domestic experience drawn from the findings of the Afghanistan Inquiry Report, known domestically as the Brereton Report. This report found there was evidence of poor leadership, a culture of silence, and intentional inaccuracy in field reporting, leading to the normalisation of unacceptable behaviours.

Over recent years, Australia has implemented a reform plan within Defence that has led to significant developments, including a review of Australia's Law of Armed Conflict Manual, the uplift of culture within the department and other enhanced processes.

The Australian Defence Force (ADF) has implemented a variety of measures to mitigate risks relating to breakdown of professionalism. This includes directives to identify and call out unacceptable red flag behaviours, compulsory training on military ethics and professionalism, and organisational reminders to promote IHL compliance.

The ADF has defined red flag behaviours through orders and directives. Such red flags include the demonstration, role-play, and verbalising of IHL violations, racial or sexual derogation of non-combatants, referencing real or simulated acts of revenge, and coaching of how to conceal IHL violations. Personnel that witness or receive an account of alleged red flag behaviour must report this through their appropriate command channels. Leaders are directed to create an environment where team members are safe from punitive action for reporting incidents.

Personal well-being is also considered prior to deployment, where leaders are encouraged to assess a member's suitability to deploy. Factors such as personal issues, inability to self-regulate, inadequate respite from deployments and negative views towards investigations are considered. These practices aim to prevent IHL violations and set a moral standard that

upholds military professionalism. Orders, directives and frequent training ensure that IHL is disseminated and implemented as a core part of military professional standards.

ADF personnel are expected to not only understand the basic principles of IHL, but also to understand the behaviours that undermine and risk violating IHL. Australian commanders and supervisors are also encouraged to promote IHL obligations to members deploying into an operational environment so that principles of IHL are normalised and embedded into the expected military professionalism standards.

We look forward to continuing this important discussion on the connection between professionalism and preventing IHL violations.

Thank you.