**Speak Up-Kōrerotia**

**Geneva Conventions**

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**Plains FM**

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Coming up next, conversations on human rights with Speak Up – Kōrerotia, here on Plains FM

**Sally C**

E ngā mana,

E ngā reo,

E ngā hau e whā

Tēnā koutou katoa

Nau mai ki tēnei hōtaka, Speak Up-Kōrerotia.

Tune in as our guests ‘speak up’, sharing their unique and powerful experiences and opinions and may you also be inspired to speak up when the moment is right.

Ko Speak Up-Kōrerotia tēnei, this is Speak Up-Kōrerotia with Sally Carlton. We're talking today about the Geneva Conventions, which celebrate – or at least, are about to have – their 75th anniversary. 75 years is a long time, so it's a long time for us to look back at a really critical piece of international humanitarian law and think about how this law has shaped conflict today and also how things might look as we move forward beyond these 75 years.

I've got three guests who I think is each going to bring quite a different perspective to this. Two of our guests are postgrads at the National Centre for Peace and Conflict Studies at the University of Otago, and I'm really excited to have you guys on. I think showcasing postgrads and the work you're doing is really exciting and you'll both bring quite different perspectives, I suspect, to this through the lenses of your research. And then we've got one expert, I suppose, on the Geneva Conventions as well. So I will leave it to you guys to introduce yourselves: tell us a bit about you, share some of your research. Why is it that you're keen to take part in today's kōrero?

**Avanthi**

Thank you so much. My name is Avanthi Kalansooriya from Sri Lanka and I’m currently pursuing my PhD with the National Centre for Peace and Conflict Studies. Since you have a question about my research: I'm working on understanding post-war activism of the men who were formerly part of the Liberation Tigers of Tamil Eelam, which was a liberation movement in Sri Lanka, and understanding, trying to understand, some of the challenges that they faced post-war. Thank you.

**Sally C**

And your colleague, another Sally!

**Sally A**

Kia ora! Yep, another Sally! Hi. I'm Sally Angelson and also currently pursuing my PhD at the National Centre for Peace and Conflict Studies. Yeah, I'm really interested in this topic today, and I think it's quite a timely one to be talking about, you know, how we maybe can reset some of the standards, some of the voices that are part of the conversation, and yeah, how we kind of look forward as well as looking back.

So my doctoral research at the moment is looking at the topic of localisation and how we're starting to merge the fields of development, humanitarian action and peacebuilding, and how there is a lot of rhetoric about changing some of the voices of power to local voices. But in action and reality, a lot of the structures are set and quite difficult to move. So yeah, I'm really looking forward to hearing from the other people on the panel as well.

**Marnie**

Kia ora. I’m Dr Marnie Lloydd. I'm based in Wellington. I'm part of the law faculty at Te Herenga Waka Victoria University of Wellington, been here for about four years. Before I was working as a as a university lecturer, I worked for a long time – over 15 years or so – with the International Committee of the Red Cross. So I had the privilege and the amazing experiences of working in countries suffering armed conflict. So I've worked in Afghanistan, in Sri Lanka, in Chad, in DRC, in, the Somali region of Ethiopia, and a lot in the Middle East – really life-changing experiences. And yeah, I come to this topic of the Geneva Conventions then professionally, but but also in my research and then what I try to teach to students. So we have a lot of students here, at the law school, very interested in these kind of global issues related to peace and conflict and so I teach humanitarian law, I teach this Geneva Conventions law. And I think it's extremely important because, yeah, it gives those students one possible framework, the legal international legal framework, to think about and to discuss these very, very difficult issues that we have at the moment with violence and conflict and problems with the protection of civilians in those situations.

**Sally C**

Thanks, Marni. You've already sort of alluded to what the Geneva Conventions actually are, but as we kick off our chat, it would be really fantastic to get a basic rundown of what actually are the Conventions. When were they established? Why? These sorts of things.

**Marnie**

Yeah, I'm happy to explain that. Of course we're celebrating the 75th anniversary of the 1949 Geneva Conventions but this body of law started much earlier. It's also the 160th anniversary of the very first Geneva Convention in 1864. It's a story about particular Swiss philanthropists – one in particular, Mr. Andre Dunant – he was on his way to the colonies for business reasons and and stumbled across this horrible, battle of Solferino in Italy and was so shocked by what he saw, he wrote a whole memoir about it and then started engaging in Geneva and in Europe to set up this first idea of a sort of Geneva Committee.

Jumping forwards, those early attempts to to codify certain laws that would help protect soldiers on the battlefield, following world war – World War One and World War Two – the time was ripe, if you like, for countries to come together. And so in a series of diplomatic conferences and lots of different countries, despite their very different positions on things, managed to come together to agree on the Geneva Conventions. We say Conventions, plural, because there's four of them, in fact. So the first three are all to do with protecting soldiers on the battlefield, at sea, and when they've been captured and are being held as prisoners of war. And then the fourth one – which personally I think is really, yeah, for me, it's the most important or it was the most important at the time because it was really quite a new thing in international law – was this fourth convention that protects civilians. So it protects civilians, when they're under occupation from an enemy force or, otherwise, you know, in the hands of another, another enemy. Even though these conventions are from 1949, they're still extremely relevant today that, for example, extremely relevant. And they apply in the Israel-Hamas war and they also apply in the Ukraine-Russia war.

**Sally C**

Yeah, I'm sure we'll talk about the contemporary context and what they mean as we go through – I imagine we can't actually have this conversation without talking about what's happening in particularly those two conflicts at the moment. One thing that's also quite important, I think, to think about as we kick off our thinking is who has ratified these Conventions? Is it something, for example, that all these countries that we're going to be talking about have gotten behind, or are certain countries still to ratify them?

**Marnie**

These Geneva Conventions, they're actually extremely special in the sense that every single country has has joined up, has signed up to them. So there's a universal acceptance of them – that's very rare for international treaties. I think it's I mean, I'm I'm not quite sure, but I think it might be the only case where every single country has signed up to them eventually. This is quite remarkable. But it's also important to note that the Geneva Conventions themselves is for Geneva Conventions, while the other lot of what we call international humanitarian law or, the law of armed conflict, the law of war, since that time, there have been other protocols added and many other more specific treaties. So, for example, listeners might have heard of the Ottawa Treaty or the Convention regarding Cluster Munitions. So particularly there's a lot of more particular weapons treaties. The most important ones are, there were these additional protocols, Additional Protocol One and Additional Protocol Two, the Geneva Convention. So sort of building on, adding on to, the Geneva Conventions in the 1970s. And they are also extremely important and they do not have full ratification so there are some countries, such as the US and Israel, who've not agreed to everything in those particular treaties. So there's not full universal sentence of all the treaties, but certainly of these four 1949 Geneva Conventions.

**Avanthi**

I would say that these are so significant. These additional protocols bring the non-international armed conflict into the discussion – so any wars of national liberation. You know, that's very crucial because after 1970s, also, we see, with the decolonisation lot of the states in the Asian or the African region, they're embroiled in what we call civil wars. So it's really crucial that these non-international wars, you know, because after World War Two, and with the dissolution of the Soviet Union as well, we see that the major superpower rivalry kind of diminishing and having a bit of a situation that, you know, the world system becomes more imbalanced in that sense that, you know, you have more other powers coming into the international arena as well as, you know, a lot of civil wars, especially identity conflicts, in countries related to Asia, Africa. So it's important that IHL [international humanitarian law] has also been updating it from time to time to bring different actors.

**Sally C**

Sorry, Avanthi, can I just clarify? So the Geneva Conventions, those four Geneva Conventions from 1949, they relate to international conflict, but are you saying that the protocols that were introduced in the ‘70s can work for civil conflicts?

**Avanthi**

Yes.

**Marnie**

Just to clarify slightly. So it's true that the four Geneva Conventions apply almost exclusively to what's known as an international armed conflict – a conflict between two or more states – but there's one provision amongst the sort of 600 provisions or so, which is Article Three – so we call it Common Article Three because it appears in each and identically in each of the four conventions – and this was, yeah, really a development in international law at the time, in 1949, because it is this one provision that says in conflicts that are not of this international character – so that it means civil wars, internal or we call them non-international armed conflicts, so that could be like a state against a group within its own country, for example – that then it set out a list of minimum standards treating civilians humanely, treating prisoners humanely, that kind of thing.

But it's totally correct what Avanthi says that then these two protocols in the ‘70s were extremely important, although they probably came a bit late. And that's why they they could get political acceptance to be adopted. One thing was that these wars of national liberation were recognised as an international armed conflict, rather than just an insurgency. So it's giving credit, recognising that a national liberation movement was fighting for self-determination, which is a legal right under international law – and so in a way recognising them with the same status as a state. So that was extremely important at the time. Fun fact: the only time that's ever actually been relied on is now with Morocco and the Polisario Front. And then, yeah, exactly as I said, the second Additional Protocol that specifically with civil wars and so it's also extremely important and also not fully ratified.

**Sally C**

But we might have that first song. Sally, you've selected for us ‘Roimata/Cry Myself to Sleep’ with Tami Nielsen and Troy Kingi. It would be great to hear from you why you selected this particular waiata.

**Sally A**

I think talking about this, it makes me think about indigenous voices and indigenous peoples as well, especially in New Zealand. I just I personally love the song, it's very touching. And I think, you know, if we're having this discussion, it's really nice to bring in some Māori thoughts.

**SONG Roimata/Cry Myself to Sleep’ with Tami Nielsen and Troy Kingi**

**Sally C**

This is Speak Up-Kōrerotia and we're discussing the Geneva Conventions, which are celebrating their 75th anniversary this year in August. It would be really fantastic now to think about some of the history of these Conventions. In many ways, international humanitarian law in general – but particularly the Conventions, for the purpose of this discussion – have had remarkable success, if we think about what the situation was like before they were put in place versus what it's like now. So I'd really like to hear some examples of when you think these Conventions have been successfully applied – however we define ‘successfully’ there – but also down the line thinking about sometimes when we haven't been able to see these Conventions successfully applied, what are some of the failings or the failures that we've seen, where we haven't been able to implement them?

**Sally A**

I guess when I think about the Conventions… I guess, as Marnie was saying, you know, to have an international treaty that is signed up to by all countries is quite incredible, to have something that we can at least have as a foundation for bringing us all together to think about humanity and how we should treat each other. We can think of lots of reasons why we've failed, why these things don't work, but I think it is a foundation for getting all of the countries together to actually have an agreement about what is right and how people should be treated, especially in times of war. I think is is quite an incredible achievement. So even though there are a lot of failings to it, I think just recognising that at least they’re there to build upon for humanity is a good start. Yeah.

**Marnie**

It's clear that these laws are violated all the time, both by states, by certain states, and also by non-state armed groups. It's true also that compliance is very difficult, that enforcement is very difficult. What I think is really important is, some have it… You know, what I've experienced sometimes when I was working in these countries or I mean, we see that all the time also in the media and the way different states make arguments about these laws is somehow to try to argue an exceptional situation that, you know, “Yes, we've signed up to everything and yes, we are committed and yes, we agree with all of that, but this situation is so different and so difficult, we need new rules, all those ones that are old fashioned or those ones…” you know. And it's extremely dangerous, these sorts of exceptionalist arguments.

We saw it a lot after 9/11 with the war on terror that, you know, this is a third thing: it's not law enforcement, and it's not just war; it’s a special thing and so the normal rules shouldn't apply. We see it to some extent, I would say also, in Ukraine – the argument said about some countries transferring cluster munitions for Ukraine to use. Now that's not necessarily illegal if the country has not signed up to the treaty that would prohibit cluster munitions for them, but it's sort of this thing of like, yes, yes, everyone knows cluster munitions are dangerous and very, you know, dangerous for creating long-term civilian harm afterwards and all the work to clear them up, but in this situation and the aggression from Russia, and we need to, you know, do everything possible to support Ukraine.

And it's really hard to argue back against those kinds of arguments, especially given the aggression, but for me, what's really important is to be extremely wary of those sorts of exceptionalist arguments, because everybody fighting a war thinks that their case is the correct case and they are in a special situation. And maybe that's something also, just to mention in passing, the difference between… So there's sort of two main bits of law that apply to war when it breaks out. So one set of laws come under the UN Charter, and that law tries to prevent war from happening in the first place, so it prohibits the use of force except in self-defence, and that's what we call aggression if someone breaches that. But this humanitarian law is different because international humanitarian law says regardless of how the war started and whether the initial use of force was lawful or not under the UN Charter – in a way, we don't care – once it starts, then these rules apply and these rules apply equally to anybody who's involved in it, whether the initial attacks were illegal, or the occupation is illegal. And so it really tries to provide exactly these minimum standards, this very minimum level of human dignity in these worst situations when war breaks out. It's really important that it applies equally to both parties. Even in a situation like the Russia-Ukraine war, where obviously one country attacked another country, it can feel a bit unfair, but it's really, really important that there's a sort of reciprocity between the parties. If you think they're both capturing enemy soldiers, for example, then you want both states to be applying that law properly, right? Regardless of actually who was right or who was wrong in the first place.

**Sally C**

Avanthi, how did this all play out in the civil conflict in Sri Lanka? It would be great to hear you get real contextual on the ground view.

**Avanthi**

I guess given it was the Civil War as well, like you rightly pointed out, you know, both sides, you know, think what they were doing was right. And then here you have a state actor involved as well as a non-state actor. And that's also one one thing that I am analysing in my research as well, on how these discourses play up during a civil war. How both sides, you know, sort of, you know, justify violence. And this involves, you know, civilians, which is like the most important element that both sides, you know, at the end of the war, which means the last stages, you know, the other issues of, you know, how civilians were kept in hostage and also issues of international violation of it. So in terms of how some of the children's homes, you know, we call them orphanages back home, how they were bombarded, the excuse that there would be new standard, children would have been used, you know, factories, purposes, you know, terrorists, inverted commas – because that's one thing I questioned in my thesis as well, who defines, you know, ‘terrorists’?

But on the other hand, also allegations of hospitals and, you know, the waterways barring access to crucial human needs was a huge problem during the last stages of the conflict, which has been taken into discussion. And there are also discussions about Geneva Conventions, you know, that's also linked to, you know, Hague Convention and many other conventions and this idea of a genocide, because there's also a lot of, you know, cultural damage caused in the process and one ethnicity being constantly targeted. I mean, that has been the situation, you know, in 2009, but that was also justified in the name of the humanitarian operation. This question of how do you justify war in the name of a humanitarian operation is also something that we need to question in this process. Yeah.

**Sally A**

That raises some really interesting points about, you know, some of the binary language that's used: the aggressor and the victim; the terrorist, the counter-terrorist; the right and the wrong. And I think that the narrative plays out in every part of our media, our discourse, all of those binaries are there.

And I'm also interested just thinking about, you know, forced migration through war and the prolonged conflicts that, you know, there's not this kind of start point and easy finish point. I spent some time working with Palestinian refugees around the Middle East and just thinking about humanitarian law in terms of what it actually means to people on the ground that are still living in a state of war when the act of war has finished, but as a refugee, as a forced migrant, it doesn't end. And just to sort of illustrate that, I'm sure all of you know but a lot of the Palestinian refugees literally carry the keys around from the house which they were evicted from in 1948 and generations later still, the mothers talk about “breastfeeding their children the right of return”, and going home to a land that doesn't exist anymore.

Yeah. So I guess I'm just sort of interested in the connection between some of these mechanisms and how that actually plays out for the people and the realities. And in terms of perhaps Sri Lanka is a good example of a end point, then a truth and reconciliation point, and do mechanisms within the legal system such as the ICC [International Criminal Court], you know, do they provide something that civilians can recognise that can be a healing part to move on from those wars? So I feel like there's a lot of areas within the conversations that we're having that these beginning start points, and the end points are not clear. And just that those ongoing realities for people who are affected by these prolonged conflicts. Yeah. Be interested to hear and what people think about those sort of ideas.

**Marnie**

I know for the International Committee of the Red Cross, their work around the world that so many of those places are prolonged, like we're talking decades sometimes that countries suffer for decades and decades, an ongoing situation of armed conflict, even if there's developments and changes throughout that history and what the situation is like. So those prolonged conflicts that can have different effects for people. So just the stresses, for example, on the provision of essential services. So water services, electricity services, sanitation services that can get run down if there's sanctions, it can be even harder to get in the parts necessary or certain consumables that are necessary for just the basic running of those services. And that the more prolonged the conflict is, then not only can there be more displacement, but if the services kind of run down. So you have direct effects of them conflict – for example, if a water pumping station gets bombed – but you have indirect effects, which is if the water pumping station gets bombed and can't work anymore, then also the sewage system is not going to work or something (I don't know, I'm not an engineer); the hospital might not have water. So you have these indirect effects but also the cumulative. And so it's sort of can be the spiral of harm for civilians.

If we're talking about war in cities, then we're talking potentially about millions of civilians that are affected and might need to displace or, you know, it can be this real spiral of everything in their life and not just their physical safety. So I think this point about prolonged conflict, but then, yeah, also prolonged displacement is a really, really, really important point. I think there are particularities about war when it happens in cities. And we've been seeing that again and again and again, these entire cities being destroyed. Part of that is because of a problem of the fighting parties using explosive weapons in a very densely populated area, and they have wider effects that damage, - even if the target is a lawful target, a military objective – but it has it can have this really devastating, wider effect.

And I wanted to say, Sally mentioned about the law and these legal institutions like international tribunals, the International Criminal Court. I always think somehow, on the one hand, they're extremely important. It's quite incredible. As you know, the current ICJ [International Court of Justice] cases, I mean, there's lots of different cases about different situations of violence around the world. But, you know, in particular, the case that South Africa brought regarding Gaza: you had people sitting at big screens outdoors that people came to watch a hearing or to watch the interim order is being read. I mean, this is quite incredible. And yet at the same time, has there been any impact on the grounds because of that, despite these interim orders of the ICJ? I mean, I would say no, doesn't really seem to and even International Criminal Court, you know, these investigations take so long and while they don't get access to the actual country, and then that's years and years later. The same with the truth and reconciliation body, if that's the way the country decides to go rather than criminal convictions. These things take ages.

And so this somehow at the same time is extremely important and then also not actually helping to protect people on the ground in that moment. I mean, the idea, I suppose, is supposed to be some kind of effect that would prevent people from doing those atrocities in the first place, but that doesn't seem to be working all that well. And I think I would say almost the same thing about this body of law in itself: it's extremely aspirational; it's with this really deeply fundamental kind of humanitarian values underlying it, but it's not able to prevent war. It's not seeking to prevent war; it's seeking to find some kind of balance. So, as I said before, the UN Charter is trying to prevent wars from starting, but international humanitarian law tries to strike this balance between the fact that wars are happening and militaries need to fight, with these humanitarian things – and they are really in tension with each other. And so sometimes international humanitarian law gets quite seriously critiqued of actually sort of authorising violence or not being able to prevent enough violence. And I think similarly to what I just said about these tribunals, this is this sort of awkward tension where these laws are so important and so fundamental and somehow kind of human achievement, although it feels like it's not much of an achievement, but somehow politically it is – and it was in 1949 – and then at the same time, somehow useless and not actually protecting people when they're not respected and not being able to be enforced in that moment. And it's hard as an international lawyer, I'm a lawyer that works on these issues – yeah, we can talk about it all we like and it's not stopping people getting killed. So it's not to say that the law is useless, I don't say that, but obviously the tensions are really there. And yeah, there's questions of not only how to achieve justice afterwards, but for me the more important question is how to achieve dignity now, in the moment when the war is happening.

**Sally C**

Something that struck me as you were talking, Marnie, was – as we're thinking about civilians and this kind of ongoing or protracted conflict, when to the Geneva Conventions ‘start’? And how do we get to a point where, particularly when things are dragging on and on and on, and we're talking about maybe there's not actually conflict, but the implications, the ramifications that long-lasting impacts are still out there – when do the Geneva Convention cease to be important for a particular conflict?

**Marnie**

There could be a very complicated answer to that, but essentially, if the armed conflict comes to an end, if the military operations have come to an end and ended, the forces are withdrawing back, then we might say that the armed conflict has finished. With a civil war, it's a little bit more complicated – very competent lawyers disagree still about how you would determine the end of a civil war – but for me, I would say when the situation is such that there isn't still a risk that it would reignite, so it's somehow resolved in some way; that could be through a peace agreement, that could be because one group has sort of had victory over that other group, and that group doesn't really exist anymore, or not in a way that it can still put up fighting forces – so Sri Lanka might be an example of that, they’re quite rare – yeah, or some kind of peace agreement or things like that. Sometimes things just kind of peter out or the situation changes or group changes.

But one of the important things, and especially for the Geneva Conventions, because it is of a certain age – I mean, it's not that it's not relevant anymore, certainly not – but if you think about prisoners of war, for example, so the fighting might come to an end and the two countries’ armed forces are going to go back and be sent back home, there's still sort of an ongoing obligations to deal with these prisoners of war and to repatriate them. So there's a few provisions that would apply at all times. So even in peacetime, like a country has to train its soldiers about the laws of war, and it has to sort of disseminate also to the general public, and that needs to set up certain things or put certain signage on buildings, to protect cultural property, for example. And there's a few provisions that apply even afterwards, such as the repatriation of prisoners. But yet the main bulk of it only applies during war.

And I have to say, it's extremely important not to jump too quickly to say that a situation of violence does amount to an armed conflict such that this law applies. Sometimes we feel like we want to do that because the situation seems so terrible, and you think if this body of law applied, if we say it's an armed conflict, this body of law applies, and then we'll have these humanitarian protections so we should do that. But actually those protections are far, far less than the human rights protections we would normally have in a peaceful situation. So I can give you a concrete example. If you think about when a police officer is allowed to use force, or lethal force, like use a firearm, it's only in a very extreme situation, it's only to sort of save life and limb. Whereas in an armed conflict, a soldier can directly target and kill somebody else. So you see straight away that the rules on the use of force are extremely different.

And I remember when I was still working with the international Red Cross, I was most of my work, I was working in the legal division, so when the violence in Syria started, I was asked to do the legal analysis to see if the situation in Syria already amounted to an armed conflict because if it did, then the Geneva Conventions and the relevant law would apply. And I mean, if you recall, with the protests in 2011, 2012, it got extremely violent. There was a very kind of excessive response from the government side against the protesters all around the country. And yes, some of those protesters had started to kind of group or get themselves a bit more organised. And a lot of people were saying to me, well, it's so obvious, it's so violent, we need this IHL to start applying. But actually it's really important to be quite hesitant, you don't want to jump to it too quickly. And I was saying, but yes, if I can identify who the other party is – so for a war you need at least two parties, right? So you need an armed group that's organised enough to be that kind of enemy party, and otherwise you're risking that, then you're giving, you're saying, well, it. If you're going to call these protesters your enemy, you're allowed to start killing them. So of course, we didn't want to say that. We wanted to insist that the normal human rights law would apply until there was, you know, a situation that met the legal tests for an armed conflict. And then then in that case, the law of armed conflict would be the more appropriate, legal framework.

So I think, yeah, it's really important, these questions of when does a war actually start and when does it end, then. Yeah, of course, states don't really these days, do these more formal declarations of war against each other like they used to, that's not really a thing anymore. So we look at really quite concretely, what is the situation on the ground – and you need to have quite precise information to be able to do that.

**Sally A**

I'm really interested about the sort of elephant in the room. My guess is the structure of the Security Council, and how anything is actually able to be passed when there is a veto power with those big five [countries]. And, you know, I think it's interesting looking back at some of the the Rwanda or Yugoslavia, some of the tribunals that have come through, but those that have not come through and, you know, could never sort of come through. And I guess I'm interested in that idea about like where humanitarian international law has teeth and, you know, where the structure and the system just makes it too hard to actually enact some of these ideals that underlie the humanitarian law. I guess we sort of started this conversation thinking that, like, it's better to have something than nothing. And the frameworks that exist are there to protect civilians, to protect our shared humanity. But how do you kind of say that? You know, the Security Council and, you know, since 1949, we live in a new world, but it's still those big five that are able to have that veto power, that are pretty restrictive in terms of being able to enact some of those frameworks.

**Marnie**

Yeah, well, I think that's a really interesting question. I mean, the veto, the P5 veto on the Security Council, has often been problematic, obviously. But, you know, interestingly, I listen to something that an academic said who's really specialized in looking at the Security Council and they were saying, you know, there's these calls that we should get rid of the veto, and that's problematic. And that's what I always kind of thought as well. But there was this discussion that, you know, somehow that veto was also at the same time the only – I'm not going to be able to put it as well as this other person did – but the veto is the only kind of check then on the other P5 perhaps doing crazy things. So in a way it could be even worse. You know, at least it is something that says no, even though the way it normally plays out is that the veto itself has been problematic. And I don't know, that really struck me because I had never thought about it in that way before that. It is at the same time a kind of method of protection of some way. It sounds a little bit crazy, but I don't think it is.

So I mean, it's the problem with international law in general, right? Like we don't… If we compare it with national law: so in national law you have legislation, you have Parliament and you have the courts. But international law is made by states, so it always requires political will. Those states agreed to create the UN, and they agreed to create the International Court of Justice in The Hague, and some of them agreed to create the International Criminal Court, that's also in The Hague. But it always comes down to that idea of sovereignty and and that states generally are only bound by what they consent to be bound by. And so that's why, even so, the International Court of Justice, some states just don't agree to go before it, so you can't bring a case against them. The same with the ICC: if the state hasn't signed up to the Rome Statute for the ICC, then you need to find some other way.

Maybe something else that's interesting, just to point out, is that if we talk about the Geneva Conventions, an international humanitarian law, a violation of that is a state responsibility. It's the *state* committing an internationally wrongful act – and that's what's quite hard to then get accountability for those state actions. If we're talking about like war crimes and the International Criminal Court, we're talking about individual criminal responsibility. So the difference is, you know, saying, you know, Russia did something, for example, or New Zealand did something, versus that particular individual has been accused of war crimes, and that individual will be prosecuted. So yeah, those individual prosecutions that law has developed, it's a lot. And I think why those tribunals – the tribunal for Rwanda, for the former Yugoslavia – and now the International Criminal Court, they’re perhaps a little bit more palatable because it's not states going before them, it's individuals, even if the individual might be a leader of a state. But yeah, as I said before, it can still take years and years and years for those sort of justice mechanisms to work out. And certainly the background the history of the cases that they've heard, it's been mostly from African conflicts that the the people that have gone before the ICC so far, so yeah, not global coverage, that’s for sure.

**Sally C**

I think it introduces a really interesting element, which is the sort of political will or political appetite – as you mentioned right at the start, who defines terrorism or terrorist? – I think also, you know, who pushes for these sorts of tribunals or cases to come forward – and we're seeing it at the moment with Palestine and who's *not* wanting it to go forward.

We probably have a few more minutes now, so it's a good opportunity for us to think about the Geneva Conventions in the contemporary context. How are we seeing them being worked now? But also, what do we hope as we move forward? What would we like to be seeing?

**Avanthi**

You discussed it applies only during during a war. You know, once the war has sort of, you know, really taken place as Marnie said, not in formal terms, but now they wage war. And then maybe if it could be updated to see other means of negotiation, you know, before war breaks out. I don't know whether that's even within the mandate. But also, I was thinking of situations where artificial intelligence has also, you know, come into play and, you know, where IHL with AI being so powerful and being able to, you know, deploy weapons, you know, without having any human interaction. And also in terms of cyber warfare and this question of private militia, you know, war being privatised. Now, we don't speak about state/non-state actors, but we also have these private actors coming in. So I guess there's a lot of scope for Geneva Conventions to be updated.

**Marnie**

I find it really interesting. I think there's a lot of work and a lot of work needs to be done, a lot of attention to yeah, these new technologies and cyber warfare. And what about warfare happening in space and outer space and and autonomous weapons that some people call killer robots. So that's really important that all of that happens. And the question is: humanitarian law as it currently stands, is it well equipped to deal with these modern means and methods of fighting war, or not? Does it need to be developed or not? And said that's kind of crucial work that a lot of people are specialising. And I have to say, for me personally. I feel that while I totally understand how important it is, I think I'm a bit old school. I really think a lot about just the fundamentals, you know, just basic human dignity and human protection. And somehow for me the suffering of people during wars always motivated me in my education and my work and so I always go back to those basics like, well, if people just understood the law with the humanitarian values in it that it's intended to have and not to try to manipulate their interpretations and not to to say that my situation is special, so I'm not going to apply it, that would already make such a huge difference, including in cyber warfare and thinking about new technologies and weaponry and that that kind of thing.

So I'm a bit of a sort of back to basics person, I have to say. If we can even get compliance on these basic, basic rules about treating people with respect and taking all precautions, you know, it requires constant care to be taken to make sure that civilians and civilian property is not harmed, and we just so often don't see that that's why these rules are important. They're not perfect… It's often said that, you know, murders still happen, for example, and nobody would suggest to get rid of our criminal codes that make murder a crime. And that's often said about IHL, like it often fails and there's lots of violations, but we still need it. And we need to keep trying to strengthen compliance in whatever way we can.

**Sally A**

For me, there's a few layers to what we're talking about. I do remember sitting in The Hague in the International Criminal Court watching one of the former heads from Serbia being tried. And next to me was a friend from Bosnia who had been a little kid in Sniper Alley during the war. And so, like for her, her entire life had been the war. And she sat there in the ICC watching this guy picking his nose with his feet up on the, on the thing, just completely disregarding the whole process and laughing at it. And she said, this is worse than if nothing had happened. And she felt like, if anything, it would have been better if this guy had just come into the neighbourhood and said, sorry.

I sort of say that just to illustrate, I guess, the gap between sometimes the international frameworks and the people on the ground. But yeah, having a framework is so important. And I definitely agree about like, you know, that we need to actually have stability, we need to have dignity and think about other people as our equals. And so I guess looking forward, to me, it would always be trying to break some of the binaries of, you know, the good and the bad, victims versus perpetrators, where we come from them, some of the drivers for war and and how we share that information. And I think we're all responsible for that narrative. I think social media has a lot to be blamed for, perhaps in this new kind of way, especially in a post-Covid world. You know, people get the information from sources that are from all levels of fact and fiction and everything in between, where academics are looking at these areas, where practitioners, where people in the media, I think we're all responsible for how we understand, how we talk about war, how we talk about peace, how we think about the possibilities of what could happen rather than just constantly finding blame in everyone. So I guess I try to have a positive outlook despite all the the hurt in the world. And you know, if this framework needs updating, sure. But, at least there is a structure there to be held accountable to.

**Sally C**

And I think, reiterating some of the points that you've raised, if we didn't have it, it would be so much worse, so we've got to be thankful that we do, and yeah, think about what we can do moving forward. Thank you so much, all of you. This has been such a wonderful discussion, really, really rich. It's been really great having you, Sally, posing some really philosophical, theoretical questions and Avanthi, sharing your really grounded contextual information, and Marnie, your wealth of knowledge on the Geneva Conventions from the legal aspect as well. So it's worked really well having the three of you together. Thank you so much for all of this. Thank you.

**Marnie**

Thank you.

**Sally A**

Thanks for having us.

**Sally C**

Thank you. And if we have time, we will play Sally's second choice, which was ‘Give Peace a chance’, which sounds like a perfect way to finish up.

**SONG ‘Give Peace a chance’**