PART 2

REAFFIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW
Chapter 3
The Conference of Government Experts on the
Reaffirmation and Development of International
Humanitarian Law Applicable in Armed Conflicts,
24 May - 12 June, 1971*

1 Introduction

When, on 12 August 1949, the Diplomatic Conference of Geneva finished its work, an important part of the law of armed conflict had been “codified and progressively developed” in the light of past experience both of the Second World War and other recent armed conflicts. However, this was a far cry from saying that one could lean back in satisfaction over a job well done. Indeed, equally – or perhaps even more – important problems of the law of armed conflict had remained outside the scope of the Conference and, hence, had not found a solution in the four Conventions it had adopted. The Conference had in fact been restricted to an examination of the problems concerning protection of war victims rather than those concerning warfare proper. And although the IVth or Civilians Convention in particular deals incidentally with the power of belligerents to attack enemy territory, the problem of the protection of the civilian population against the dangers of modern warfare had remained essentially open.

Nor did other bodies display any great anxiety to tackle these problems. The International Law Commission, when organizing its work in 1949, decided not to put the topic of the “laws of war” on its agenda, mainly for fear that public opinion might interpret the selection of such a topic “as showing lack of confidence in the efficiency of the means at the disposal of the United Nations for maintaining peace.”¹ The General Assembly, on its part, confined itself to affirming as early as 1946 that the principles contained in the Charter and Judgment of the Nuremberg Tribunal constituted principles of international law, and afterwards rapidly lost interest in the matter.² The only significant result achieved in that period, besides the Geneva Conventions of 1949, was the adoption at The Hague, on 14 May 1954, of the Convention for the Protection of Cultural Property in

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² Res. 95(1) of 11 Dec. 1946 affirmed the principles. GA Res. 177(II) of 21 Dec. 1947 requested the International Law Commission to formulate these principles in the framework of a draft code of offences against the peace and security of mankind. Thereupon, the attention of the General Assembly became focused on the question of such a draft code, a question which soon became entangled with the problem of defining aggression.