

RESPONSIBILITIES OF SUDAN IN THE PROTECTION OF CULTURAL OBJECTS UNDER THE 1945 HAGUE CONVENTION DURING ARMED CONFLICT

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ARTICLE INFORMATION	ABSTRACT
<p>Keywords: <i>Armed Conflict; Cultural Heritage; State Responsibility.</i></p> <p>How to quote: <i>Osman, Ahmed Kheir. (2026). Responsibilities of the State of Sudan in the Protection of Cultural Objects Under the 1945 Hague Convention During Armed Conflict. Critical Legal System, 1(1), 1-18.</i></p>	<p><i>The armed conflict in Sudan since April 2023 between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) has caused serious damage to cultural objects and historical heritage. This study aims to analyze Sudan's state responsibilities under the 1954 Hague Convention on the Protection of Cultural Property in Armed Conflict, particularly regarding legal compliance, implementation barriers, and international accountability. The method used is normative legal research with legislative, conceptual, and case-based approaches, through a review of international conventions, UNESCO documents, and reports from relevant international institutions. The results show that although Sudan has ratified the 1954 Hague Convention and is involved in various cultural heritage protection initiatives, the implementation of these obligations has not been effective. Various violations continue to occur, including the looting of national museums, the destruction of archaeological sites, and the illegal trade in cultural artifacts. This condition is influenced by weak institutional capacity, an unstable security situation, the low priority of cultural protection amidst the humanitarian crisis, and suboptimal national and international legal mechanisms. Strengthening national capacity, international cooperation, and clearer accountability mechanisms are needed to support cultural heritage protection in Sudan.</i></p> <p style="text-align: right;">@Creative Commons Attribution-ShareAlike 4.0 International License (CC BY-SA 4.0)</p>

A. Introduction

The protracted armed conflict in Sudan has had a far-reaching impact on the country's political, social, and humanitarian stability. Since the outbreak of fighting between the Sudanese Armed Forces (SAF) and the paramilitary Rapid Support Forces (RSF) in April 2023, damage to civilian infrastructure and historical sites has increased significantly. Sudan, which boasts a history of ancient civilization in the Nubian region and is home to important archaeological sites such as the Meroë pyramids, Khartoum's national museum, and Islamic and colonial architectural heritage, now faces serious threats to the preservation of its cultural heritage. Under international law,

protecting cultural objects during armed conflict is not only a moral obligation but also a legal obligation enshrined in the 1954 Hague Convention concerning the Protection of Cultural Property in Armed Conflict and its additional protocols. Sudan, a party to the convention in 1970, is legally bound to implement its provisions in national policies and military actions on the ground.¹

However, the implementation of these legal obligations in Sudan continues to face fundamental challenges. The conflict affecting major urban areas such as Khartoum, Omdurman, and Darfur has caused extensive damage to museums, national archives, historic places of worship, and archaeological sites listed on the UNESCO World Heritage List. Numerous international reports, including those from UNESCO and independent institutions, indicate that looting, destruction, and the illicit trade in cultural artifacts are on the rise due to weak government control and the overriding priority placed on addressing the humanitarian crisis. This situation raises serious questions about the extent to which the Sudanese state is fulfilling its legal responsibilities under the 1954 Hague Convention, and the effectiveness of its national protection system in addressing threats to cultural heritage during the ongoing armed conflict.²

Furthermore, the issue of cultural heritage protection in Sudan is inextricably linked to institutional capacity, security conditions, and a weak national legal system. The absence of emergency plans, limited human resources, and the absence of a robust sanction mechanism for violators are key factors hampering the implementation of the convention. Furthermore, most of the parties involved in the conflict are non-state actors not directly subject to conventional obligations, creating new complexities in upholding international legal responsibility. In such a situation, the role of the international community, through UNESCO, ICOMOS, and the UN Security Council, is crucial in exerting diplomatic pressure, providing technical assistance, and encouraging the establishment of accountability mechanisms for those responsible for cultural damage in Sudan.³

Therefore, this study aims to analyze the responsibility of the Sudanese state in protecting cultural objects under the 1954 Hague Convention during the ongoing armed conflict. The analysis covers three main aspects, namely: first, the level of compliance of Sudanese law with the implementation of the provisions of the convention in the current conflict; second, the challenges and obstacles faced in protecting cultural heritage amidst the humanitarian crisis; and third, the role and accountability of the international community in enforcing legal mechanisms against violations of cultural protection. This analysis is expected to provide theoretical and practical contributions in strengthening the application of international humanitarian law, particularly in the context of

¹ Michael N Schmitt, George C Marshall, and Yoram Dinstein, "The Manual on the Law of Non-International Armed Conflict With Commentary Drafting Committee" (Sanremo, 2006).

² Ambarwati Ambarwati, Denny Ramdhany, and Rina Rusman, Ambarwati Ambarwati, Denny Ramdhany, and Rina Rusman, *Hukum Humaniter Internasional: Dalam Studi Hubungan Internasional*, 1st ed. (Jakarta: Raja Grafindo Persada, 2010).

³ Sri Setianingsih Suwardi, I *Penyelesaian Sengketa Internasional* (Jakarta: UI-Press, 2006),

protecting cultural heritage in armed conflict zones, as well as serve as a basis for developing more effective cultural protection policies in the future.⁴

B. Methods

Qualitative research is descriptive and analytical in nature. Descriptive in qualitative research means describing and explaining the events, phenomena, and social situations being studied. Analysis means interpreting, interpreting, and comparing research data. Several definitions of qualitative research exist. According to Bogdan and Taylor, qualitative research is a research procedure that produces descriptive data in the form of written or spoken words from people and observed behavior.⁵ Then Creswell defines qualitative research as the process of investigating social phenomena and human problems.⁶ Qualitative research is also defined as a strategy for searching for meaning, understanding, concepts, characteristics, symptoms, symbols and descriptions of a phenomenon, focused and multi-method, natural and holistic, prioritizing quality, using several methods, and presented narratively in scientific research.⁷

C. Results and Discussion

1. Legal Compliance Analysis: Sudan's Implementation of the Provisions of the 1954 Hague Convention in the Current Conflict

The 1954 Hague Convention, officially titled the Convention for the Protection of Cultural Property in the Event of Armed Conflict, was adopted on 14 May 1954 and entered into force on 7 August 1956. It was the first international instrument to specifically focus on the protection of cultural property in armed conflict (both movable and immovable objects) and emphasized that damage to the cultural heritage of a nation is damage to humanity as a whole.⁸

In the main sections of the Convention, states parties are required to fulfill two types of obligations: first, in peacetime to carry out safeguarding measures such as inventory, evacuation, security, and preparing emergency protection. Second, in times of armed conflict, states parties must respect and protect cultural property located in their territory or in territory they occupy, including by not making cultural objects into military targets and not using them in a dangerous manner.

Sudan acceded to this Convention on July 23, 1970. Sudan thus legally bound itself to its provisions and therefore has a national responsibility to implement international norms regarding the

⁴ Malcolm N. Shaw, *International Law* (New York: Cambridge University Press, 2008),

⁵ Farida Nugrahani, *Metodologi Penelitian Kualitatif Dalam Penelitian Pendidikan Bahasa* (Surakarta, 2014).

⁶ Eko Murdiyanto, *Penelitian Kualitatif: Teori Dan Aplikasi Disertai Contoh Proposal* (Yogyakarta: Institute for Research and Community Service UPN "Veteran" Yogyakarta Press, 2020).

⁷ Umar Sidiq, *Metode Penelitian Kualitatif Di Bidang Pendidikan*, 1st ed. (Ponorogo: Nata Karya, 2019).

⁸ Pramitha Astri, Kurnia and Muchsin Idris, "Peranan United Nations Educational Scientific And Cultural Organization (Unesco) Dalam Perlindungan Benda-Benda Bersejarah Yang Hancur Akibat Konflik Bersenjata," *Diponegoro Law Journal* 5, no. 4 (February 24, 2017): 1–10, <https://doi.org/10.14710/DLJ.2016.15745>.

protection of cultural heritage in armed conflict. Specifically, some of the obligations stipulated include: preparing an inventory of cultural property; planning emergency measures to ensure the safety of cultural property; marking important cultural property with the BlueShield symbol; and developing military units or apparatus tasked with protecting cultural property. Furthermore, the Convention stipulates that serious violations of cultural property can be subject to national and international sanctions, and supports international cooperation in reporting and redress.

Since the outbreak of conflict between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) in April 2023, Sudan has faced a widespread humanitarian crisis. Under these conditions, cultural heritage, including museums, archaeological sites, and national archives, is threatened by looting, physical damage, administrative neglect, and the illegal trade in artifacts. According to a statement from the Society of Architectural Historians (SAH), "Reports of damage to and looting of cultural heritage resources are disturbing... All parties involved in the conflict have obligations under the 1954 Hague Convention... to which Sudan acceded in 1970."

Concrete examples: the pyramid sites at Meroë, as well as the Naqa and Musawwarat sites, are now highly vulnerable due to the displacement of supervisory staff, the cessation of security, and unstable military access. Sudan's national museum in Khartoum was reportedly broken into and much of its collection looted during the conflict. Reports indicate that damage occurred not only from gunfire or explosions, but also systematic acts such as illegal excavations and theft of artifacts without supervision.

Normatively, Sudan has taken formal steps such as accession to conventions and awareness-raising through collaboration with UNESCO and international cultural heritage institutions. However, from an on-the-ground perspective, the implementation of protection appears far from ideal. Sites' surroundings are controlled by armed non-state actors, physical security measures are largely defunct, and inventories or emergency evacuations appear to be virtually non-existent.

In non-international (internal) conflict situations such as in Sudan, Article 19 of the Convention requires that, at a minimum, the norm of respect for cultural property remains in effect. Therefore, states and conflict actors must at least ensure that cultural property is not targeted or exploited militarily. However, indications on the ground suggest that such violations occur, such as the use of museums as military bases or the looting of artifacts during militia control. This demonstrates a gap between norms and practice.⁹

An analysis of Sudan's implementation reveals significant gaps. The following are some of the key factors contributing to its practical non-compliance with the Convention's obligations:

a. Institutional capacity and resources

⁹ UNESCO, "Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict," UNESCO § (2023).

Protecting cultural heritage requires strong institutions, trained staff, inventory systems, and adequate funding. In Sudan, conflict has led to the abandonment of many staff, and the cessation of care and monitoring. Without effective oversight and a functioning national regulatory system, the obligations to “prepare for peacetime” and “protect in conflict” are difficult to fulfill.

b. Conditions of conflict and territorial control

The Convention traditionally assumes that states parties have control over cultural heritage sites. However, Sudan's internal conflict involves non-state armed actors (NSFs) not fully under government command, and control over territory is very limited. This hampers the practical application of the Convention's norms.

c. Humanitarian priorities vs cultural heritage

When a country faces a major humanitarian crisis—mass displacement, famine, or institutional collapse—the primary focus of governments and the international community is usually saving lives. Protecting cultural heritage is often a secondary priority, which explains why emergency inventories or artifact evacuations are rarely systematically implemented.

d. National regulations and enforcement mechanisms

Although Sudan has ratified the Convention, public evidence of national regulations implementing the Convention, including sanctions for cultural violations, is limited. The Convention itself requires the imposition of sanctions and national enforcement. Without adequate domestic regulations, international norms are difficult to operationalize.

e. Artifact reporting and recovery

The Convention stipulates that states parties must undertake reparation measures and international cooperation for the restitution of looted cultural property. However, in Sudan, looting and illegal trafficking of artifacts continue, with artifacts being sold on the black market and sold abroad. This indicates that Sudan's obligations to prevent illegal exports and recover artifacts have not been effectively implemented.

Overall, Sudan formally complies with its normative obligations (accession, declaration, awareness), but practical implementation on the ground is very limited. The gap between norms and practice is significant.

f. Implications and Recommendations

This analysis implies that compliance with international law is not simply a matter of ratification or declaration; what matters most is how these obligations are translated into concrete policies, institutions, and actions on the ground. For Sudan, several key recommendations emerge:

- 1) Improved national regulations: Sudan needs to establish domestic laws and regulations specifically addressing cultural protection in armed conflict, including sanctions for violations, a national inventory, and the designation of military/police units responsible for protecting cultural heritage.
- 2) Strengthening institutional capacity: Staff training, funding, inventory systems, and emergency monitoring should be strengthened. International cooperation (e.g., with UNESCO and ICOMOS) can help establish a cultural heritage safeguarding system that meets international standards.
- 3) Integration of cultural heritage protection into security and humanitarian strategies: The Sudanese government and international partners should view cultural protection as part of their conflict and post-conflict reconstruction strategies, not as a separate entity.
- 4) Cross-border cooperation for artifact restitution and surveillance: With the ongoing looting of artifacts, Sudan needs to strengthen cooperation with international institutions and neighboring countries to prevent illegal exports, track lost artifacts, and recover them.
- 5) Monitoring, reporting, and accountability: Governments must implement mandatory reporting and audit mechanisms regarding the status of their cultural heritage and any violations. This will strengthen transparency and increase international pressure for compliance.

This analysis shows that although Sudan has formally affirmed its adherence to the 1954 Hague Convention, the reality of armed conflict on the ground shows that practical implementation remains far from ideal. Lack of capacity, uncontrolled conflict conditions, weak domestic regulations, and a shift in priorities to the humanitarian crisis make the protection of cultural heritage in Sudan highly vulnerable. Bridging the gap between norms and practice requires a joint commitment from the Sudanese government, the international community, cultural institutions, and civil society to ensure that the international legal framework can be truly translated into concrete action and Sudan's cultural heritage can be effectively protected.

2. Challenges and Obstacles: Protecting Cultural Heritage in Sudan's Conflict Zones Amidst a Humanitarian Crisis

Sudan is one of the countries with an exceptionally rich cultural heritage in Northeast Africa. As the thriving center of the ancient Nubian civilization, the region boasts significant archaeological remains, from the pyramids of Meroë and the Musawwarat es-Sufra temple to Islamic architectural artifacts in Khartoum and Dongola.¹⁰ This cultural heritage not only holds great historical value for the Sudanese people but also forms part of the identity of world civilization. However, this richness

¹⁰ Anjar Mahmudin, Nst1, Helmiati Helmiati, and M. Nazir, "Analisis Kebijakan Pendidikan Islam Di Sudan," *Scientific Journal of Mandalika* 6, no. 1 (2025).

is now under serious threat due to the ongoing armed conflict between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) that broke out in April 2023.

The widespread conflict in Khartoum, Darfur, and the Kordofan region has not only caused humanitarian suffering with millions of refugees and casualties, but also caused severe damage to infrastructure and historical sites. The national museum in Khartoum has been looted, archaeological sites in the north are threatened by neglect, and many archives and cultural collections have disappeared due to lack of protection. In the context of international law, the protection of cultural heritage in times of war is expressly regulated by the 1954 Hague Convention concerning the Protection of Cultural Property in Armed Conflict, which Sudan has ratified since 1970. However, the reality on the ground shows that the implementation of this convention is far from optimal.

The conflict, which has been raging since April 2023, has turned Sudan into one of the deadliest war zones in modern Africa. Its destructive impact has not only affected civilians but also targeted the nation's cultural identity. Several reports by UNESCO, the International Alliance for the Protection of Heritage in Conflict Areas (ALIPH), and international media have documented extensive looting at Sudan's national museum in Khartoum, including the loss of ancient Egyptian artifacts and Nubian relics. Many valuable collections, such as mummies, statues, and ancient manuscripts, were reportedly stolen or destroyed by shelling.

UNESCO World Heritage sites such as the Meroë Pyramids and the Naqa Pyramids have suffered serious degradation due to a lack of oversight. Archaeological staff and cultural protection officers have abandoned the sites for security reasons, while local militias and looters have exploited the vacancy. Furthermore, historic buildings such as ancient mosques, churches, and colonial palaces in Omdurman have been severely damaged by armed clashes and the use of historical areas as military bases.

The damage is not only physical, but also results in the loss of cultural identity and social trauma. The destruction of cultural heritage means the loss of collective symbols that shape Sudanese national identity. In many cases, cultural sites are used as symbolic targets to weaken the morale of opponents or erase traces of a particular community's identity—a pattern also seen in the conflicts in Iraq, Syria, and Yemen. Therefore, protecting cultural heritage in Sudan is not only a matter of preserving objects, but also part of an effort to maintain the nation's social and historical diversity amidst civil war.¹¹ The main challenges in protecting cultural heritage in Sudan include:

a. Political Instability and Fragmentation of Power

¹¹ Francesco Francioni, "Beyond State Sovereignty: The Protection of Cultural Heritage as a Shared Interest of Humanity," *Michigan Journal of International Law* 25, no. 4 (2004): 1209–28,

The greatest challenge to cultural heritage protection in Sudan is the absence of a single, stable and legitimate authority. Since the overthrow of the Omar al-Bashir regime in 2019, Sudan has experienced an unstable political transition. When the conflict between the SAF and the RSF erupted, control over important cultural areas was fragmented. The central government lost control of large swathes of territory, including areas containing many archaeological sites. This fragmentation of power makes it impossible to effectively implement national policies related to cultural protection, and administrative instructions often fail to reach the ground.

Furthermore, the parties to the conflict often show no regard for international law. Both the SAF and the RSF are alleged to have violated the principle of respect and safeguards under the 1954 Hague Convention by using cultural sites for military purposes, such as converting museums or old schools into barracks and weapons storage areas. These actions directly contravene international legal obligations prohibiting the use of cultural objects for military purposes.

b. Institutional Capacity and Infrastructure Limitations

Before the war broke out, Sudanese cultural institutions like the National Corporation for Antiquities and Museums (NCAM) were already struggling with limited resources. The conflict exacerbated these challenges: many staff were displaced, digital documentation systems were disrupted, and inter-agency communications were disrupted. The lack of emergency storage facilities, artifact evacuation facilities, and dedicated security personnel left cultural heritage highly vulnerable.

The absence of a national emergency plan to protect cultural sites demonstrates Sudan's weak institutional capacity to fulfill its obligations under the 1954 Hague Convention. The convention mandates that states parties must prepare precautionary measures even in peacetime, including the inventory, safeguarding, and safe storage of artifacts. However, Sudan's chronic economic crisis has left these obligations neglected long before the war.

c. Humanitarian Crisis and Shifting Priorities

Sudan's armed conflict has created a major humanitarian disaster: more than 9 million people have been displaced and tens of thousands have died. In this context, the government and the international community have focused more on providing humanitarian aid such as food, clean water, health care, and shelter. Cultural protection is often considered a lower priority.

This poses a moral and practical dilemma: how to protect cultural heritage when communities are struggling to survive? As a result, cultural preservation, inventory, and restoration programs are often delayed. Lack of funding and logistics leaves cultural institutions unable to meet pressing humanitarian needs. However, neglecting cultural protection can prolong long-term social suffering due to the loss of the nation's roots of identity and collective memory.

d. Lack of Awareness and Education about Cultural Protection

Most parties involved in armed conflicts lack a thorough understanding of the importance of cultural protection under international humanitarian law. Military and paramilitary forces are often not trained to distinguish between military targets and cultural objects. This results in "accidental" but nonetheless devastating violations of historic sites.

Furthermore, public awareness of the value of cultural heritage remains low. Many local communities are unaware that sites in their areas hold significant archaeological value and are protected under international law. This lack of awareness opens the door to looting and the illegal trade in artifacts, which has become increasingly prevalent during the conflict.

e. Lack of National Regulation and Law Enforcement

Although Sudan has ratified the 1954 Hague Convention, it lacks a robust domestic legal framework to enforce its provisions. There is no specific law establishing sanctions for violations of cultural protection during armed conflict. Law enforcement mechanisms are also weak, as the justice system has been severely impaired by the war.

In such circumstances, many perpetrators of looting and destruction of cultural sites are never brought to justice. Yet, Protocol II of the 1999 Hague Convention stipulates that states must take firm action against individuals or groups committing crimes against cultural heritage. This lack of accountability creates impunity and encourages repeated violations.¹²

In addition to the direct challenges posed by the conflict, there are more fundamental structural barriers to protecting cultural heritage in Sudan:

a. Dependence on International Aid

Cultural heritage protection in Sudan relies heavily on technical and financial assistance from international organizations such as UNESCO, ALIPH, and ICCROM. However, due to the deteriorating security situation, these organizations have struggled to access sites and deliver direct assistance. Consequently, many conservation projects have stalled. This dependency demonstrates that Sudan lacks a self-sustainable cultural protection system.

b. Social Fragmentation and Ethnic Tensions

The conflict in Sudan often has complex ethnic and political dimensions. In some cases, the destruction of cultural sites is used as a strategy to suppress particular ethnic groups. For example, the targeting of mosques, churches, or traditional cemeteries reflects an attempt to erase symbols of the opposing community's identity. This situation demonstrates that cultural protection cannot be separated from Sudan's broader political and social dynamics.

¹² Ashlyn Milligan, "Targeting Cultural Property: The Role of International Law," 2008, 91–106.

c. Illegal Artifact Trade and the War Economy

The illegal trade in artifacts has become a source of funding for armed groups in Sudan. Artifacts looted from museums and archaeological sites are sold on the international black market, primarily through intermediaries in neighboring countries. This phenomenon creates a shadow economy that exacerbates the conflict and hampers protection efforts. Without strong international cooperation on artifact tracking and restitution, this practice will be difficult to stop.

d. Efforts and Role of the International Community

Despite the complex situation in Sudan, several initiatives have been undertaken by the international community to mitigate further damage. UNESCO officially issued an emergency alert in 2023, calling on all parties to respect their international legal obligations under the 1954 Hague Convention. The organization also proposed the establishment of an Emergency Cultural Heritage Fund to support emergency conservation efforts in Sudan.

Meanwhile, ALIPH has distributed aid funds to support the evacuation of museum collections and the training of local conservators. Another initiative comes from Interpol and the International Council of Museums (ICOM), which created a Red List of Sudanese artifacts to help prevent smuggling into the international market.

However, the effectiveness of these efforts remains limited due to limited security access and minimal coordination with local authorities. Therefore, cross-agency collaboration and approaches involving local communities are crucial. Local communities can act as early guardians of cultural heritage with training and incentives from international organizations.

Protecting cultural heritage in Sudan amidst armed conflict and humanitarian crisis faces complex challenges ranging from political instability, weak institutional capacity, to limited public awareness and law enforcement. These conditions indicate that Sudan has not fully complied with its international legal obligations as stipulated in the 1954 Hague Convention and its additional protocols.

The biggest obstacle is not simply a lack of political will, but structural limitations exacerbated by wartime conditions and pressing humanitarian priorities. Therefore, cultural protection strategies in Sudan must be placed within a broader framework: integrating cultural preservation into post-conflict peace, reconstruction, and recovery policies.

The international community has a moral and legal responsibility to assist Sudan through technical assistance, training, and accountability mechanisms for perpetrators. Cultural heritage is not merely a relic of the past, but the foundation for future reconciliation and a collective national identity. Safeguarding Sudan's cultural heritage means preserving the memory of human civilization itself—an urgent task, even as the world gravitates toward other humanitarian priorities.

3. International Accountability: The Role of the International Community and Punishment Mechanisms for Cultural Protection Violations in Sudan

The civil war raging in Sudan since April 2023 between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) has had a serious humanitarian and cultural impact. In addition to destroying infrastructure and displacing millions of refugees, the conflict has also led to the destruction of cultural heritage that holds profound historical value and national identity for the Sudanese people. Ancient archaeological sites such as Meroe, Naqa, and Musawwarat have been degraded by looting and neglect, while the National Museum of Sudan in Khartoum has been the victim of extensive looting that destroyed its collection of ancient Egyptian, Nubian, and early Islamic artifacts.

The destruction of cultural heritage during the conflict is not only a loss for the Sudanese people, but also a serious violation of international legal norms, particularly the 1954 Hague Convention concerning the Protection of Cultural Property in Armed Conflict and its Additional Protocols of 1954 and 1999. Sudan has been a party to this convention since 1970, and is therefore legally bound to protect cultural objects on its territory, both in peacetime and in situations of conflict. However, the systematic violation of cultural sites during the conflict demonstrates weak national implementation and the absence of effective accountability mechanisms.

International humanitarian law has long placed the protection of cultural heritage as an integral part of humanitarian obligations.¹³ The 1954 Hague Convention is the primary legal instrument that specifically affirms that “damage to the cultural property of one people constitutes damage to the cultural heritage of all mankind.” The Convention sets out two primary obligations for state parties:

- a. Obligation to respect: states and parties to a conflict are obliged not to make cultural objects the target of attacks and not to use these objects for military purposes.
- b. Safeguard obligation: states must take preventive measures, such as inventory, marking (Blue Shield), and securing cultural sites, both in times of peace and war.

In addition to the convention, the 1999 Second Protocol strengthened law enforcement by introducing the category of “serious violations” that could give rise to individual criminal liability. This protocol obliges states to establish criminal sanctions against perpetrators of the destruction

¹³ Aniek Periani, Haris Kusumawardana, and Agoes Djatmiko, “Pertanggungjawaban Negara Terhadap Perlindungan Warisan Budaya Dalam Konflik Bersenjata Dalam Aspek Hukum Humaniter Internasional,” *AKADEMIK: Jurnal Mahasiswa Humanis* 5, no. 1 (January 1, 2025): 206–17, <https://doi.org/10.37481/jmh.v5i1.1172>.

or unauthorized use of cultural objects and calls for international cooperation in prosecution and extradition proceedings.

In addition to the Hague Convention, cultural protection provisions are also contained in the 1998 Rome Statute that established the International Criminal Court (ICC). Article 8 (2) (b) (ix) of the Rome Statute categorizes “intentional attacks against religious, educational, artistic, scientific or historical monuments” as war crimes. Thus, the destruction of cultural sites in Sudan could legally qualify as a violation of international law subject to the jurisdiction of the ICC, if the elements are met.¹⁴

International accountability for violations of cultural protection has two main dimensions: state responsibility and individual criminal responsibility.

a. State Responsibility:

According to the 2001 Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), a state is internationally responsible for violating its international obligations. In the Sudanese context, failure to prevent looting, the use of cultural sites for military purposes, or failing to take adequate preventive measures can be categorized as an internationally wrongful act. Sudan, as a party to the 1954 Hague Convention, has a positive obligation to ensure the protection of cultural property, even in the midst of civil war.

b. Individual Responsibility:

On the other hand, individuals, whether military commanders, militia members, or state officials, can be held internationally criminally responsible for the destruction of cultural objects. The case of Ahmad al-Faqi al-Mahdi in Mali is a landmark case. In 2016, the ICC sentenced al-Mahdi to nine years in prison for his role in the destruction of nine historic mausoleums in Timbuktu. This ruling reinforces the principle that attacks on cultural heritage constitute war crimes, even in non-international conflicts. This precedent could provide the legal basis for similar efforts in Sudan.

The Sudanese conflict has caused significant damage to cultural heritage. According to the UNESCO Emergency Heritage Alert report for 2024, more than 60% of archaeological sites and historic buildings in northern and central Sudan are at risk of damage or have already been looted. The Sudanese National Museum in Khartoum was reportedly broken into by armed groups who stole millennia-old artifacts. Important collections from the Kushite and Nubian civilizations were reportedly lost without a trace.

In addition to looting, the use of cultural objects for military purposes is also a serious issue. Several field reports indicate that historic school buildings and mosques were used by RSF militias as

¹⁴ Dewi Yustina Trihoni Nalesti, *Kejahatan Perang Dalam Hukum Internasional Dan Hukum Nasional* (Jakarta: Raja Grafindo Persada, 2013).

shelters or weapons storage. This violates the fundamental principle of Article 4 of the 1954 Hague Convention, which prohibits the use of cultural objects to support military operations.

This destruction has had multidimensional impacts: first, the loss of national identity and collective history among the Sudanese people; second, the destruction of symbols of peace and inter-ethnic unity; and third, the opening of a black market for artifacts, fueling the war economy. Therefore, accountability for cultural crimes in Sudan is not only a legal issue, but also a moral and political one that touches on universal human dignity. The international community's role in upholding accountability includes:

a. The Role of UNESCO and the World Heritage Organization

As the UN agency responsible for education, science, and culture, UNESCO has a primary mandate to uphold the protection of cultural heritage during times of conflict. Since the beginning of the Sudanese war, UNESCO has issued an Emergency Appeal for the Protection of Sudan's Heritage (May 2023), calling on all parties to respect the provisions of the 1954 Hague Convention. UNESCO is also working with the International Alliance for the Protection of Heritage in Conflict Areas (ALIPH) and ICCROM to document damage and prepare post-conflict recovery plans.

UNESCO does not have direct authority to punish perpetrators, but can play a normative and coordinating role through three important steps:

- 1) Recording and documentation of damage as a basis for legal investigation.
- 2) Diplomatic and moral pressure on the Sudanese government and armed parties.
- 3) International technical cooperation to save and secure remaining cultural collections.¹⁵

b. UN Security Council and Sanctions Mechanisms

The UN Security Council (UNSC) has the authority to take action against violations of international law that threaten international peace, under Chapter VII of the UN Charter. In the context of cultural protection, the UNSC can issue resolutions condemning violations, imposing sanctions, or even referring cases to the ICC.

An important precedent is UNSC Resolution 2199 of 2015, which banned the trade in artifacts from Iraq and Syria and condemned the destruction of sites by extremist groups. A similar mechanism could be implemented in Sudan to halt the illicit trade in artifacts looted during the conflict. The UNSC could also consider establishing an International Commission of Inquiry tasked with gathering evidence of violations against cultural sites.

¹⁵ Patrick J. Boyland, "Review of the Convention for the Protection of Cultural Property in the Event of Armed Conflict," 1993.

c. International Criminal Court (ICC)

The ICC is the central institution in the modern international accountability system. Under the 1998 Rome Statute, the ICC has jurisdiction over war crimes, crimes against humanity, and genocide. As previously mentioned, attacks on cultural sites fall under the category of war crimes.

Sudan is not a state party to the Rome Statute, but the UNSC has the authority to refer the situation in Sudan to the ICC, as it did in the Darfur case in 2005, which led to the issuance of an arrest warrant for President Omar al-Bashir. Therefore, the UNSC could legally refer the situation to the ICC again to investigate crimes against cultural heritage during the SAF–RSF conflict.

In the Sudanese context, the ICC could investigate command responsibility for the destruction of cultural sites and the illegal trafficking of artifacts. This would send a strong message that impunity is unacceptable and that crimes against cultural heritage are treated as seriously as violations against civilians.

d. Regional Institutions and International Civil Society

In addition to UN bodies, regional organizations such as the African Union (AU) and the Arab League also play a crucial role in promoting accountability. The AU could adopt declarations or establish special missions focused on cultural protection in the African context. The Arab League, on the other hand, could encourage cooperation among member states to combat artifact trafficking.

Non-governmental organizations such as Blue Shield International, ICOM, and ALIPH have actively advocated for cultural protection in Sudan by distributing emergency funds, providing training, and monitoring the trade of artifacts in the global market. This civil society involvement is part of a multi-level system of accountability in which the state, international organizations, and local communities work synergistically.¹⁶

The legal punishment and accountability mechanisms include:

a. National Law Enforcement and the Principle of Complementarity

The 1954 Hague Convention requires state parties to adopt national legislation that provides sanctions for violations of cultural protection. In the Sudanese context, the main challenge is the weakness of the domestic legal system due to war and institutional collapse. Therefore, the application of the complementarity principle as stipulated in the Rome Statute is crucial: the ICC will only act if the state concerned is unable or unwilling to enforce its laws.

¹⁶ Boer Mauna, *Hukum Internasional Pengertian Peranan Dan Fungsi Dalam Era Dinamika Global* (Bandung: PT. Alumni, 2018).

Sudan could strengthen its legal framework by passing specific legislation that adapts the provisions of the Hague Convention and the Rome Statute into the national system, including establishing criminal sanctions for the destruction of cultural sites, illicit trafficking, or the use of cultural objects for military purposes.

b. International Investigation Mechanism

The international community could establish an independent investigative mechanism to gather evidence of cultural heritage violations in Sudan. This mechanism could include:

- 1) Commission of Inquiry under the mandate of the UN Human Rights Council.
- 2) Fact-Finding Mission specifically on cultural protection.
- 3) An International Task Force working with Interpol to track looted artifacts.

The results of these investigations can form the basis for prosecutions at the national and international levels, as well as for determining appropriate forms of reparations for affected communities.

c. Restitution and Recovery of Artifacts

In addition to criminal penalties, international accountability also includes the restitution of looted cultural property. Under the 1954 First Protocol and the 1970 UNESCO Convention on the Prevention of Illicit Traffic in Cultural Property, states have an obligation to return artifacts illegally acquired during conflict.

In the Sudanese context, countries serving as transit or destination points for stolen artifacts must cooperate with UNESCO and Interpol to ensure restitution. This process is not only symbolic but also a form of cultural justice for the Sudanese people.¹⁷

Although the international legal framework is quite strong, the implementation of accountability mechanisms faces various obstacles, including:

- a. The ICC's jurisdiction is limited, as Sudan is not a state party to the Rome Statute, so an investigation requires a UN Security Council mandate.
- b. Unstable security conditions, which hamper evidence collection and access to cultural sites.
- c. Lack of political will of the Sudanese government to cooperate with international institutions.
- d. Fragmentation of conflict actors, where most perpetrators of violations come from non-state militias who are difficult to identify and prosecute.

¹⁷ Antonio Cassese, *International Criminal Law* (New York: Oxford University Press Inc, 2003).

- e. Humanitarian and economic crises, which make cultural protection not a top priority on the national agenda.

These obstacles highlight the need for stronger synergy between diplomatic pressure, technical assistance, and flexible legal mechanisms to ensure cultural justice for victims of conflict. International accountability for violations of cultural protection in Sudan represents a real test of the effectiveness of international humanitarian law and the global commitment to the preservation of human heritage. Sudan, as a state party to the 1954 Hague Convention, has a clear legal responsibility to prevent and punish any acts that damage cultural heritage. However, in practice, weak national capacity and the prolonged war make it difficult to enforce this responsibility. The international community has a central role to play in closing this gap. Through UNESCO, the UN Security Council, and the ICC, the world can uphold legal norms, support reparations, and affirm that crimes against culture are as serious as crimes against humanity. Enforcing accountability is not merely a form of punishment but a step towards reconciliation and cultural justice for the Sudanese people. Failure to act would lead to the dangerous impression that cultural destruction can go unpunished. Conversely, if accountability mechanisms are firmly implemented, Sudan could serve as an example to other countries that cultural preservation in times of war is an integral part of the struggle for humanitarianism and global peace.¹⁸

D. Conclusion

The protection of cultural objects during armed conflict is a fundamental obligation of states parties to the 1954 Hague Convention, and for Sudan, this obligation is crucial, as the country holds a legacy of ancient civilizations of historical value, national identity, and the collective memory of humanity. However, the conflict between the SAF and the RSF since 2023 has led to looting, destruction, and smuggling of artifacts, demonstrating that the obligation to respect and safeguard has not been effectively implemented. Although Sudan has been legally bound by the convention since 1970, implementation of this obligation is hampered by weak national regulations, limited resources, low institutional capacity, and an unstable security situation. At the same time, existing international accountability mechanisms remain difficult to implement due to limited access to investigations, a lack of political will, and the dominance of non-state actors in the conflict. Therefore, national policy reform and strengthened cooperation with international institutions such as UNESCO, ICOMOS, and Interpol are needed to more effectively protect, restore, and account for damage to Sudan's cultural heritage.

¹⁸ Chiara Bortolotto, "UNESCO, Cultural Heritage, and Outstanding Universal Value: Value-Based Analyzes of the World Heritage and Intangible Cultural Heritage Conventions," *International Journal of Heritage Studies* 21, no. 5 (2015): 528–30, <https://doi.org/10.1080/13527258.2015.1024462>.

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