

## Human rights and Nubian mobilisation in Egypt: towards recognition of indigeneity

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### ABSTRACT

How are global human rights localised in authoritarian societies? How and what human rights discourses are mobilised by indigenous peoples to further their demands? Building upon original fieldwork among Nubian activists in Egypt, this article explores the complexities regarding human rights framing through a discussion of recognition of Nubian indigeneity. The article finds that the history and political experience of Egypt's Nubians bring about diverging opinions and also limitations as to how, and what, human rights frameworks rights claimants and their supporters are to employ. It argues that Egyptian nationalism not only affects how Nubian activists mobilise in general, but also helps explain the very limited appeals to a global discourse of human rights.

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### Introduction

How are global human rights localised in authoritarian, nationalistic societies? How and what human rights discourses are mobilised by marginalised indigenous peoples and minority groups to further their demands? While long focusing on legal mobilisation, law and society scholarship has arguably lacked in-depth explorations of how such mobilisation is pursued in contexts outside liberal democracies in industrialised countries.<sup>1</sup> Likewise, the literature on indigenous peoples and minority groups often sidesteps the question of legal mobilisation in authoritarian states, and few studies consider at all the issue of indigeneity in the Middle East.<sup>2</sup> This article aims to attend to this knowledge gap by exploring how Nubian activists in Egypt have used human rights to mobilise for recognition of indigeneity.

The Nubian people are usually considered the descendants of a specific civilisation as old as ancient Egypt itself, having inhabited villages along the banks of the Nile for thousands of years.<sup>3</sup> Here they retained their own distinct languages, customs and cultures.<sup>4</sup> Following the Condominium Agreement of 1899, which solidified the boundary between Egypt and Sudan, the Nubians were arbitrarily divided between the two countries. Approximately half were forced under direct Egyptian rule, but were effectively uprooted during the

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industrialisation of Egypt during the early twentieth century.<sup>5</sup> A series of dams were built by British colonial powers along the River Nile, particularly near Aswan in 1902, 1912 and 1933. This caused the Nile's water to rise, and many Nubians were forced to flee the area. In an effort to modernise Egypt, President Nasser dealt the final blow to the country's Nubian community when he in the 1950s initiated the Aswan High Dam project, which led to the near total flooding of settled Nubia.

In 1963, Egyptian authorities began a programme of forced resettlement of Nubians to new, purpose-built 'resettlement' communities in southern Egypt, primarily around Kom Ombo, about 50 kilometres north of the city of Aswan. In addition to those that were either uprooted in the colonial era or had already migrated to other parts of Egypt, approximately 50,000 Nubians from some 45 villages were resettled away from the River Nile.

Few Nubians were satisfied with the new living conditions, and the problems facing the individuals who were relocated to Kom Ombo are extensive and well-documented.<sup>6</sup> Housing turned out to be either non-existent or of very poor quality, and most Nubian families struggled to survive on a 'subsistence feddan' and extensive state subsidies.<sup>7</sup> Many families temporarily settled elsewhere while waiting for the construction of homes, and for many this wait has today become permanent.<sup>8</sup>

Ever since their displacement, Nubians as a collective have been continuously marginalised politically, socially and economically. The Egyptian state has blatantly denied the existence of any indigenous people or ethnic minority groups in the country, preferring to emphasise the homogeneity of Egyptian society. While Egypt's nationalism aimed at being anti-imperialist, anti-racist, and revolutionary, it has been argued that this nationalism also reinforced historical and racial structures of oppression, where prejudice against Nubians has been long prevalent.<sup>9</sup> While many Nubians have been economically successful, gone to university, and gained professional employment, it has been argued that a considerable portion of Nubians, disproportionate to the larger Egyptian population, are employed in menial work.<sup>10</sup> Stereotypes against Nubians are also prevalent in Egyptian media and films, which often portray Nubians as doormen, servants or drivers.<sup>11</sup> The marginalisation of Nubians in Egypt has led to widespread stereotyping and discrimination, and a 2009 report by the International Labour Organization even argued that 'Nubians are not generally treated as equal members of society'.<sup>12</sup>

While there has been a 'reluctant and very qualified recognition' for a promotion of Nubian culture in Egypt limited to mainly academic and archaeological curiosity, any encouragement of the existence of a separate group with a distinct language and history has been perceived as constituting a threat to the security of the country.<sup>13</sup> Nubian political representation in government and national assembly has been considered very low.<sup>14</sup> Nubians have had few, if any, institutions to directly defend their rights or speak on their behalf on matters directly affecting them.<sup>15</sup> The well-known Nubian clubs, for instance, have at times raised issues of concern, but have never functioned as a tool for mobilising Nubian rights.<sup>16</sup> Because any efforts to promote the collective rights of a people have been summarily restricted by Egyptian authorities, Nubian associations have been careful to remain non-controversial and non-political.

I have elsewhere argued that following a series of national crises in Egypt, including the 2011 Revolution, Nubians as a community began to mobilise for a return to ancestral lands on an unprecedented scale.<sup>17</sup> In this article, I explore how human rights discourses were used by Nubian activists in the mobilisation of recognition of indigeneity. In order to better

understand this use, I argue, it is imperative to consider the history and political experience of this community. Egyptian nationalism not only affected how Nubian activists mobilised in general, but also helps explain the limited Nubian appeals to a global discourse of human rights as well as engagement with the international human rights movement. The history and political experience of Egypt's Nubians brought about diverging opinions and also limitations as to how and what human rights frameworks are to be employed in mobilising for change. Before scrutiny of this, however, I will briefly explain the methodological approach of this study, as well as lay out the main users of human rights in the current context.

### Studying the uses and users of human rights

In this study I draw upon Desmet's *users' trajectories in human rights* approach.<sup>18</sup> Adopting a 'user's perspective' on human rights, this perspective entails a shift in analytical focus from studying human rights in an abstract, doctrinal and depersonalised manner to a more grounded and contextual approach of how human rights discourses are appropriated and mobilised. Desmet differentiates between four categories of human rights users: those who either invoke, give effect to, support or impose human rights. This study focuses mainly on the perspective of those who invoke human rights, ie those rights claimants who aim at changing their own (potentially) unsatisfactory position by appealing to human rights. However, it also deals with human rights supporters, ie grassroots organisations, NGOs, lawyers or others who engage in awareness raising, advocacy, lobbying, assisting and monitoring the implementation of human rights, documenting and denouncing human rights violations suffered by other persons or groups, and representing rights claimants.

As will be made clear in this article, in the case of the Nubian activists, these categories may be intertwined, and the boundaries between them not clear cut. But, as Inman has warned, there is a risk that the users' perspective in human rights might reproduce human rights law's tendency to approach rights holders who share important characteristics categorically.<sup>19</sup> Categories of human rights users should therefore not obscure differences within a category of users. Indeed, Egypt's Nubians distinguish among themselves in a number of aspects; they are dispersed both abroad and across Egypt; in larger cities and in more than 50 different Nubian villages, most of which do not remain in their original locations. There are also important class differences; not all Nubians are working class – a few have even made it to the very top of Egyptian society.<sup>20</sup> As state census does not count indigenous and minority presence, it is nevertheless almost impossible to estimate the current number of Nubians in Egypt. Nubian activists vary greatly in their assessments; some put their community's population at around 300,000, while others go so far as suggesting the number to be approximately three million.<sup>21</sup> Importantly, however, some Nubians may not self-describe as Nubian, but rather as Egyptian, Egyptian–Nubian or some other label of self-identification. Acknowledging that it is impossible to fully account for this diverse group and that those who speak on behalf of it may not necessarily represent the voices of this group, this paper will focus on those activists who have mobilised on the basis of being a part of a Nubian collective.

When explaining Nubian mobilisation and demands, I also use conceptual tools from legal mobilisation studies. Legal mobilisation seeks social change through legal norms or discourse and extends beyond litigation to include activism.<sup>22</sup> The legal mobilisation concept of frames, borrowed from social movement theory,<sup>23</sup> is particularly potent when aiming to

understand Nubian rights mobilisation. The process through which movements mobilise 'symbols, claims and even identities in the pursuit of activism' is generally known as framing.<sup>24</sup> Here I will concentrate mainly on what is known as legal framing.<sup>25</sup> This framing need not involve the courts – literature on law and social movements has in fact engaged with the 'constitutive' character of law, whereby law in society in general helps to shape meaning and identity in people's everyday lives.<sup>26</sup> This 'legal narrative' approach has the benefit of adopting a non-instrumental and social constructionist view of law,<sup>27</sup> a view that also provides the foundation for a users' trajectories in human rights approach.<sup>28</sup>

This article is based on fieldwork and archival research in Cairo, Egypt, between March and May 2014, and in February 2015. Archival research was conducted amongst the collection of grey literature available at the library of the American University in Cairo, as well as in the Rare Books and Special Collections section. Semi-structured interviews were conducted in Cairo and via Skype with a limited number of key Nubian activists. This article is also based on an analysis of published and unpublished legal materials, such as petitions to the UN, as well as Nubian-related news publications and Nubian groups on social networking sites.

### Users of human rights in the age of revolution

'I know very well that Nubians have rights not requests', then presidential candidate Mohamed Morsi assured Egypt's Nubians in June 2012 amid allegations about his assertion that Egypt's Nubians are so few he need not worry about whether they vote for him.<sup>29</sup> Morsi's remark is illustrative of the shifting frames that have recently been in motion when it comes to Nubian mobilisation. For decades, Nubian appeals for an end to marginalisation and return to ancestral lands have been limited to what Nubian activists term *moral* requests.<sup>30</sup> Emotional appeals for government sympathy with the Nubian plight have for decades been vocalised primarily within the cultural sphere, through literature and arts. A growing number of Nubians nevertheless started to perceive the status quo as a profound threat to their existence and began to mobilise for rights on an unprecedented scale.

In 2004–2005 Egypt witnessed the rise of a number of protest movements calling for the end of Egypt's one party rule.<sup>31</sup> The rise of these groups signified a drastic change within the Egyptian political society and functioned as a prelude also for Nubian action. In parallel to a series of national crises, Nubians as a collective began more forcefully to articulate their demands against the state through the discourse of human rights. As we shall see in this article, some activists have referred to human rights in general, using the concept more as a mobilising one rather than a legal one. Others, however, have referred to specific human rights norms and frameworks.

Who, then, are the users of human rights referred to in this article? As mentioned, it focuses on both rights claimants and rights supporters. Within these very diverse categories, we find prominent individual activists, but also activist groups – often led by these leading individuals. One of the most renowned Nubian activists is poet Haggag Oddoul, who drew public attention to Nubian marginalisation and rights when he in 2005 attended the Washington conference 'Freedom and Democracy in the Middle East'. Here, he compared the treatment of the Nubians in Egypt to ethnic cleansing and crimes against humanity, and called for the trial of the officials responsible for the displacement of Nubians.<sup>32</sup> Oddoul's accusations were widely publicised and criticised, also within the Nubian community.

Established not long after Oddoul's visit to Washington, the Egyptian Centre for Housing Rights (ECHR) has become a leading actor in the mobilisation of Nubian rights. Set up to work on the housing rights of all Egyptian nationals, it appears to have been the first civil society organisation in Egypt to focus fully on socio-economic rights. Following the increased media focus on Nubian issues, the ECHR soon found itself receiving a large number of complaints concerning the housing rights of Nubians across Egypt.<sup>33</sup> Importantly, ECHR head Manal el-Tibi – herself of Nubian origin – soon became the single most important advocate for using the international indigenous peoples' rights framework in respect to Egypt's Nubian community.

Following the so-called Bread Crisis in April 2008, when a large general strike was called in response to low wages and rising food costs, a younger generation of Nubian activists began to mobilise human rights. Groups such as the Nubian Democratic Youth Union (NDYU) were formed by Nubian university students to 'defend the rights of the Nubian people and minority groups in Egypt'.<sup>34</sup> The NDYU has formulated a specific set of demands from the Egyptian government, and has aptly used social media to mobilise support for these.<sup>35</sup> The January 25 Revolution, where Egyptian activists in 2011 organised protests against, and eventually toppled, the Mubarak regime, equally marked an important turning point for Nubian activism. Throughout North Africa, minorities actively participated in the pro-democracy protest movements and, in Egypt, the revolution allowed minorities to enter into the public sphere.<sup>36</sup> Before this period, Nubians had rarely taken to the streets politically – at least not as Nubians – but now, many young Nubians participated in anti-government protests and demonstrations. Post-revolutionary Egypt also sparked the establishment of a number of Nubian activist groups, and some of these framed their demands in explicit human rights language. The Nubian Knights group, for example, was established in July 2012.<sup>37</sup> The group provides online archives of Nubian memory and materials related to Nubian political demands, including publishing a series called 'know your rights, ya Noby' (know your rights, Nubian).

The conflation of the categories of rights claimants and rights supporters is striking. Nubian activists, as individual rights holders, came together in various associations, grassroots organisations, and NGOs. Manal el-Tibi was not only a rights claimant herself, she was also head of the ECHR, and a member of Egypt's National Council for Human Rights. After the January 25 Revolution, these roles became even more intertwined; Nubian activists could be involved in grassroots activism on the street *and* participate in a legislative forum as a representative for the Nubian community.

### Recognition of Nubian indigeneity

Egypt's Nubians and their supporters are arguably latecomers to the international process that has developed mainly over the last 30 years concerning indigeneity. It is not uncontroversial in Egypt today to speak of Nubians as an indigenous people, and few Nubian groups mobilise their rights by using the indigenous peoples' rights discourse. This has parallels with other research in the Middle East demonstrating that very few groups identify themselves as indigenous and that their claims are usually contested; many countries still refuse to admit the existence of indigenous peoples within their borders, let alone recognise their rights.<sup>38</sup> This lack of self-identification has been explained as a result of government repression, of a lack of knowledge about the indigenous issue by groups, of a lack of educated

elite among them who are aware of the potential benefits of such recognition, and/or lack of international and academic activism on their behalf. As this section will show, many of these factors are mirrored in the Nubian case. Any further understanding of this issue must, however, begin with an exploration of how Egyptian Arab nationalism affected Nubian activists' use of international indigenous rights.

### ***Egyptian Arab nationalism and indigeneity***

The Egyptian government has long attempted to homogenise the Egyptian population and assume a single national identity. Issues of indigeneity and minorities have therefore long been taboo,<sup>39</sup> and the main position that has guided the Egyptian government's approach to these groups has rather been what is laid out in Article 1 of the 1971 Constitution: 'Egyptian people are part of the Arab Nation and work for the realisation of its comprehensive unity'. Egypt's statements to the UN Human Rights Committee and the Committee on the Elimination of Racial Discrimination, from which it has received repeated criticism on this issue, poignantly illustrate this stance. In 1990, for example, one Egyptian representative explained how the 'Egyptian legal system is based on national unity, that Egypt is a homogenous society and that its people only speak one language'.<sup>40</sup> More recently, the Egyptian representative to the UN Human Rights Committee has explained how, 'Within the meaning of the relevant international provisions and criteria, there were no minorities in Egypt. All elements of the population coexisted in tolerance, harmony and understanding; no one was a stranger in his own land'.<sup>41</sup> At the same time, Egypt was one of many Arab states that voted at the UN for the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the 2007 Declaration on the Rights of Indigenous Peoples and the 2001 UNESCO Universal Declaration on Cultural Diversity.

At the heart of Egyptian nationalism is the absence of formal boundaries between eg Nubians and other Egyptians; rights have therefore generally been afforded in terms of citizenship and minority and indigenous rights are simply seen as incompatible with nation building.<sup>42</sup> Kymlicka and Pföstl have argued that this scepticism may be historically explained in part by the Ottoman Empire's legacy of the millet system, under which minorities were understood as second class citizens and not part of the larger society.<sup>43</sup> Claiming indigenous or minority rights could thus be interpreted as a claim to re-establish this system, which would be inconsistent with prevailing conceptions of equal citizenship and national unity.

Much has been written on Arab nationalism, but key in this context is the adoption of Arabisation policies in Egypt and other countries that privileged the Arabic language and stigmatised other local dialects and cultures as backward and divisive. As the Egyptian representative explained to the Committee on the Elimination of Racial Discrimination in 2001, in Egypt, there is '...full homogeneity among all the groups and communities of which the Egyptian population consists since they all speak the same language, Arabic, which is the country's official language and Arab culture predominates in all its geographical regions, both desert and coastal'. Indeed, Article 2 of the 1971 Constitution recognises only the Arabic language as the language of the state. Nubian activists have protested what they consider a 'Process of de-Nubianisation', which they argue includes settling Arab groups in the lands that Nubians claim and attempts at giving these sites Arabic names; pushing the Nubians into Arabisation through biased educational curricula at the expense of their own languages and culture; providing non adequate political representation of Nubians to the

Egyptian government; and finally, not upholding its obligations in protecting Nubian people from discrimination acts.<sup>44</sup> Indeed, it has never been possible to study the Nubian languages within the Egyptian education system – after resettlement, newly built schools taught exclusively in Arabic.<sup>45</sup>

### ***ECHR mobilisation of Nubian indigeneity***

For reasons explained above, the question of framing Nubian rights within the international indigenous rights framework was basically non-existent before el-Tibi and the Egyptian Centre for Housing Rights (ECHR) first raised the issue. Since then, ECHR has been instrumental in framing Nubian demands within this discourse. In 2007, ECHR head el-Tibi was writing her Master of Laws thesis on Nubians as an indigenous people as part of the international human rights programme of the American University of Cairo.<sup>46</sup> As such, el-Tibi was highly influenced by the global aspects of human rights. She soon became instrumental in what Merry refers to as ‘translating’ international human rights ‘down’ into local systems and ‘translating’ actors’ local stories ‘up’ by telling these stories using ‘global rights language’ to achieve their objectives.<sup>47</sup>

Manal el-Tibi’s sojourn at the American University in Cairo undoubtedly shaped ideas and understandings in the Nubian community, not least because they constituted the basis for the 2007 conference ‘Nubia between Resettlement and Development’, co-organised by ECHR and a local Nubian group in Aswan, which appears to be the first known instance of the Nubian community engaging with the indigenous discourse.<sup>48</sup> Egyptian authorities had unsurprisingly attempted to cancel the conference on the grounds of security, but conceded to it once el-Tibi threatened to move the conference abroad.

Egyptian authorities had previously cancelled conferences focusing on minority rights; in 1994, for example, the conference, ‘UN Declaration on the Rights of Minorities and People of the Arab Nations’, organised by the Egyptian NGO Ibn Khaldoun Centre for Development Studies and the international NGO, Minority Rights Group, led to a storm of protests and had to be relocated to Cyprus.<sup>49</sup> Anxious that a conference abroad would draw further international attention to the Nubian issue, local authorities in Aswan were now quick to give their permission. Thus, while international attention to the Nubian issue was the precise opposite of what the Egyptian government wished for, such attention was nevertheless the very focus of the conference. By gathering 1500 Nubians, it sought to secure community acceptance to bring the Nubian plight to the UN OHCHR as this body completed its universal periodic review of the status of human rights in Egypt.<sup>50</sup> This strategy to internationally shame the Egyptian government into strengthening Nubian rights was an unprecedented and bold move.

As far as el-Tibi is concerned, the ultimate goal of bringing the Nubian cause to the attention of the international community was to have Nubian complaints included in the UN’s Universal Periodic Review of Egypt.<sup>51</sup> If the UN agreed with ECHR’s assertion that Nubians are indeed an indigenous people, they may enjoy the added force of international law behind their claims to their ancestral lands. More precisely, the recognition of Nubians as an indigenous people would, in the view of el-Tibi, entail that the Egyptian government would have to allow Nubians to return to their traditional lands around the High Dam Lake. There was as such a clear strategic value of being indigenous for their land claim, and also for autonomy in political practices.

### *Petitioning the UN OHCHR*

In 2010, the ECHR submitted a petition to the UN OHCHR asking the UN to request that the Egyptian government grant Nubians international legal status as an indigenous population. It also requested that the Egyptian government adopt special measures for Nubians, for example by providing amendments to the Egyptian Constitution to recognise the existence and the rights of indigenous peoples.<sup>52</sup> While the extent of Nubian support for this petition appears disputed and unclear,<sup>53</sup> it could be argued that if supported by a considerable part of the Nubian community, a petition to the UN requesting international recognition as an indigenous people could be seen as one of the most explicit declarations of indigeneity.

For the ECHR, the 2010 UPR process nevertheless turned into a disappointing setback. When the UN Working Group on the Universal Periodic Review published its final report, no mention whatsoever was made of the plight of Nubians in Egypt. ECHR's attempts to involve Nubian representatives in the UN Expert Mechanism on the Rights of Indigenous Peoples had also stranded. One activist involved in the process even claimed that some Egyptian non-governmental organisations had in fact lobbied against the ECHR petition at the UN, disliking ECHR's talk about minority and indigenous peoples' rights, and preferring instead to talk about rights only in the context of citizenship.<sup>54</sup> Such attitudes reflect the previously mentioned hegemonic notion of Egyptian Arab nationalism, where rights generally have been afforded in terms of citizenship and where indigenous and minority rights would be considered inconsistent with national ideas of equal citizenship.

The internationalisation of the Nubian issue had also brought about other difficulties for ECHR and el-Tibi. After the petition was submitted, el-Tibi faced harsh accusations that she was calling for Nubian secession.<sup>55</sup> Conference attendees, in a bid to emphasise their Egyptian nationality, had denied any intention of wanting to secede from Egypt and even ended the conference by singing the Egyptian national anthem.<sup>56</sup> Along with a great disappointment in the UN institution for not addressing Nubian concerns, this 'very risky' political situation effectively dissuaded ECHR from submitting a new petition prior to the next Universal Periodic Review on Egypt in 2014.<sup>57</sup> Prior to the 2015 UPR, no reports on the position of Nubians in Egypt were submitted, and the question remained unaddressed by the UPR Working Group. It is clear that the progress in human rights achieved through this internationalisation was far less satisfying than expected – one activist even argues that it was not worth the risks.<sup>58</sup>

### *Yes, we are indigenous but ...*

Nubians in Egypt have only rarely been included in international listings of minority groups and indigenous people.<sup>59</sup> Some therefore consider the failure of the ECHR's UN petition as a missed, but sorely needed, opportunity to highlight the status of Egypt's Nubian community.<sup>60</sup> In my interviews with Nubian activists in 2015, not a single informant was of the opinion that Nubians were not – at least 'more or less' or 'somehow' – indigenous. The big question was rather whether or not it was beneficial to their cause to draw on this discourse. As one activist questioned: 'Would we lose more than we benefit if we framed our demands as an indigenous people?'<sup>61</sup> The lessons learned from the UPR process were clear: 'What happened after the declaration of indigeneity? Nothing. We need more than recognition. More than papers.'<sup>62</sup> Even though some may discretely support the work that has been done

by ECHR on this issue, others are wary of losing gains made in recent years by framing their demands through the discourse of indigenous rights. These gains include the appointment of Nubian representatives to the 2014 constitutional process.<sup>63</sup>

This ambivalence resonates well with the findings of Chua that activists in one authoritarian state adopted a strategy of pragmatic resistance, resulting in a strategic dance that involves interplay among legal restrictions and cultural norms.<sup>64</sup> These activists adjusted their tactics according to changes in formal law and cultural norms, and pushed the limits of those norms while simultaneously adhering to them. In Egypt, Nubian activists – with the exception of ECHR – appear to have entered into a silent agreement to stay away from confrontational strategies, and thus avoid framing their claims in terms of indigeneity.<sup>65</sup> While these groups may still use a discourse of human rights to frame their demands to the Egyptian government, some expressed a fear that categorically addressing these demands through the discourse of indigeneity might be interpreted by Egyptian Arabs as either an acknowledgment that Nubians in fact are different from Egyptians in general, thus not Egyptian, or as an accusation that Egyptian Arabs colonised Nubia.<sup>66</sup> The latter, although historically correct as many Nubians see it, would not, in light of repeated accusations of Nubian secession, be at all helpful to the Nubian cause. Some activists even argued that ECHR pushed the limits too far by using this discourse.<sup>67</sup> As I have shown elsewhere, Nubian claims of return to ancestral lands were successfully mobilised, not through the use of an indigenous rights discourse (nor, in fact, through the use of any form of human rights discourse), but instead by employing a discourse of *development*.<sup>68</sup> This mobilisation culminated in a Nubian representation in the drafting process of the 2014 Egyptian Constitution, and a subsequent constitutional reference to Nubian return.

Rather than framing their demands through the discourse of indigeneity, many activists – notable examples include the NDYU and the Nubian Knights – use a minority rights discourse. In the 1990s, Nubians had allegedly been ‘told’ by authoritative figures in the community that they were one of Egypt’s minority groups, and it is generally this approach that has been most prominent within the community.<sup>69</sup> While – and as I will discuss in greater detail in a following section – the global aspects of minority rights has been problematic for Nubian activists, the minority discourse is not unfamiliar in the Egyptian context. To the contrary, the concept of religious minority is very much part of Egyptian legal traditions.<sup>70</sup> While ethnic, racial immigrant, and mode-of production based minorities are not officially recognised in Egypt, a discourse based on this would still appear less controversial than one based on indigeneity. The shifting in argument between a ‘rights as minorities’ discourse and one claiming ‘rights as peoples’ is nevertheless nothing new seen from a global perspective; mobilisations mounted by indigenous people in Latin America have tended to shift in discourse over several decades before finally landing in one based on indigeneity.<sup>71</sup> As I will show in this next section, however, for many activists, and certainly for the Egyptian government, one of the major issues with both these discourses is nevertheless precisely their global aspect.

### ***The problematic global***

ECHR’s experience petitioning the United Nations sheds light upon the uneasy relationship many Nubian activists have had with ‘global’ human rights, both with regard to indigenous rights and minority rights. Kymlicka and Pföstl have suggested that minority activists often

appeal to a global discourse as a way of legitimating their claims, and at the same time seek to prove that such activism is compatible with existing local discourses.<sup>72</sup> Research elsewhere on human rights activism in authoritarian states has also demonstrated that speaking openly about the lack of rights can be a hostile or threatening act against a ruling authority seeking self-preservation.<sup>73</sup> Indeed, ever since they started to articulate their human rights demands publicly, many Nubian activists have allegedly been subjected to persistent intimidation and persecution, including obstacles in carrying out legal procedures and even physical assaults.<sup>74</sup>

In Egypt, we do not see the same type of appropriation of a global human rights discourse, in which local groups bring in local histories, understandings and goals and thus redefine concepts of rights, as Speed has highlighted in her study of indigenous rights mobilisation in Mexico.<sup>75</sup> Rather, engaging transnational movements and utilising international human rights discourse can notably attract accusations of abandoning one's indigenous culture and preaching Western influences.<sup>76</sup> Based on the perception that human rights were associated with foreigners, and thus with the meddling of outsiders in internal Egyptian affairs, it is precisely the *global* dimension of the human rights discourse that has often been problematic in Nubian rights mobilisation. Any appeal to international actors for assistance in claiming Nubian rights – what Nubian activists generally refer to as 'internationalising the cause' – would not be seen as a legitimate form of domestic political contestation, but rather as a 'geo-political threat to state security'.<sup>77</sup> While the post-revolutionary political climate in Egypt opened for the broader internationalisation of Nubian youth mobilisation, where Nubian youth groups such as NDYU participated in several international conferences and activist networks, as one activist experiences, demanding Nubian rights in the post-revolution constitutional processes was still not easy.<sup>78</sup> Nubian claims were again met with accusations of trying to divide the nation, having a separatist agenda and being funded by foreigners. Egypt's legacy of colonial rule, for which the 'protection of minorities' was one justification, has raised suspicion that minorities collaborating with foreign powers seek to do so in order to weaken state rule.<sup>79</sup> Egypt's current crackdown on human rights work, which includes the issuance of a decree in 2014 under which anyone who receives foreign funding with the aim of harming Egypt's 'national interests' can face a life sentence in prison, surely aggravates this situation.

Thus, the web of connections between local activists and global actors as has been identified in the Latin American context with regard to claiming indigenous rights has been largely absent. But this does not necessarily mean that the international is wholly absent in these movements; Rajagopal has demonstrated the existence of 'enclaves of international law' within nation states, in which social movements can be intermeshed in transnational 'legal fields' without becoming 'international' or even 'transnational' in conventional terms.<sup>80</sup> Instead, they exploit the international when it visits them in the locations but have no desire to become transnational. Thus, while ECHR at first sought to explicitly bring indigeneity to the national consciousness and to put indigenous rights on the national agenda, its experience with the UN petition led it to adopt a low profile and tone down contentious demands, a self-protection strategy that has also been identified in other cases of rights mobilisation in volatile societies.<sup>81</sup>

## What is the outcome of human rights uses?

What does the exploration of Nubian rights mobilisation tell us about the outcome of human rights? The Nubian cause has for long simply been constructed as one deserving of sympathy and compassion, triggering *emotional* rather than *legal* responses, but has in recent years emerged into a social approach in which rights framing is intrinsic and the marginalisation of Nubians becomes re-articulated as discrimination.<sup>82</sup> As such, the Nubian ethnic identity has become increasingly politicised as a basis for reclaiming Nubian rights from the Egyptian state.

Studies elsewhere have shown how identity and rights-based struggles can generate important social change,<sup>83</sup> and how legal discourses and the legal system can function as effective tools of resistance, amounting to what Speed labels 'rights-based resistance'.<sup>84</sup> Sieder and Witchell have also found that recourse to legalistic strategies and discourses are being used to strategically further the aims of indigenous movements and thus shape the ways their aspirations are represented.<sup>85</sup> In Guatemala, for example, indigenous identities were narrated or codified through dominant legal discourses, specifically those of international human rights law. In Egypt, it appears that the discourses of human rights have created an important alternative need and source for the legitimation of individual and collective rights other than membership of a nation.<sup>86</sup> These discourses have thus shaped the way many Nubian activists engage in political action, and many are now using a human rights discourse in one form or another to pursue their political goals.

The question of what the use of human rights discourses more concretely achieved in the struggle to end marginalisation is more intricate. ECHR's mobilisation of indigenous peoples' rights did not lead to any international recognition of indigeneity; in fact, the United Nations did not at all respond to the ECHR petition when it later issued the UPR on Egypt. To make matters worse, ECHR's attempts to internationalise the question also brought about a number of difficulties for the organisation and its head, Manal el-Tibi. At the same time, it is arguable that ECHR's bold and unprecedented stance in this regard may have inspired Nubian activists to engage in human rights on a more general level. And this brings about the question of *why* did Nubian activists appeal to human rights? Desmet has pointed out that human rights may be used legitimately, rhetorically or strategically.<sup>87</sup> As Merry et al. have furthermore demonstrated, human rights offer a variety of discursive, political, and strategic benefits to social movements even when they do not mobilise them as law.<sup>88</sup> Thus, the personal motivations for Nubian activists to engage in human rights in their quest for change clearly matter.

While many Nubian activists engaged in human rights in order to make demands against the Egyptian state, they often differed in their motivations for drawing on such a discourse. Indeed, we may recall Oddoul's Washington claims that Nubians were subject to crimes against humanity and ethnic cleansing; here, it is fairly clear that Oddoul strategically exaggerated the plight of the Nubians to make a rhetorical point and to draw attention to the Nubian issue. Common to most activists, however, is the hope that once a rights discourse was employed, the Nubian issue could no longer be ignored by the Egyptian state. Talking 'rights and obligations' with the Egyptian government could, one activist argued, not be ignored in the same way as previous appeals for sympathy with the Nubian cause could be.<sup>89</sup>

For ECHR, however, the 'accumulative process of social mobilisation' was not only meant to make legitimate claims on the Egyptian government, it was also about educating, or 'convincing' the Nubian community itself that Nubians are entitled to specific rights.<sup>90</sup> Manal el-Tibi's human rights education from the American University in Cairo brought her into interaction with the discourse of international human and indigenous rights. Her subsequent work within the ECHR may thus be what Speed would regard as a classic example of human rights globalisation, where the bearers of the global concept 'trained' the 'locals' in its meaning.<sup>91</sup> As such, the use of an international human rights discourse was for the ECHR much broader than solely achieving international recognition of indigeneity.

Youth groups such as the NDYU intentionally also used a human rights discourse to 'stand out, to be different' from other activist groups, and by being different they sought to reach a broader public.<sup>92</sup> Another motivation for NDYU was seemingly to impel the Egyptian government to view them as a more serious and powerful challenger once they deployed the human rights framework. As one activist explains: 'we wanted to show the Government that we are professional, academic. We are not kids.'<sup>93</sup> As such, the NDYU strategically used a human rights discourse to renegotiate relations of power, and through this to prevent their action from being dismissed as the work of inexperienced and confused youngsters. Assessing the success or failure of using human rights in the Egyptian Nubian context is thus a most intricate task, which cannot solely be seen through material gains.

## Conclusions

This article has explored the perspectives of local rights claimants and their supporters when it comes to Nubian mobilisation in Egypt. It shows how the question of Nubian rights has in recent years emerged from being associated with vulnerability and marginalisation to empowerment. A greater number of activists have begun articulating their demands in human rights language; some have even been instrumental in translating global norms of human rights down to local contexts, as well as framing local needs in a global human rights language. However, as I have sought to show, these opportunities were accompanied by a great deal of risk and threat. The manners and methods through which Nubians could appeal to the government on the basis of human rights were clearly circumscribed. Any appeal to international actors for assistance in claiming Nubian rights would not be seen as a legitimate form of domestic political contestation, but rather as a security threat. Unlike similar movements elsewhere, Nubian rights activists have few global and transnational links, and some groups even assumed self-protection strategies which included adopting a low profile and toning down contentious demands. While Egypt's Nubians are latecomers to the international process that has developed mainly over the last 30 years concerning indigeneity, few Nubian groups mobilise their rights by using the indigenous peoples' rights discourse. Finally, this article argued that the assessment of the outcome of human rights uses should not only focus on material gains, but also on the personal motivations of rights claimants and their supporters.

## Disclosure statement

No potential conflict of interest was reported by the author.

## Notes on Contributor

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## Notes

1. For important exceptions, see Chua, “Pragmatic Resistance”; Massoud, “Do Victims of War Need International Law”; Beinín and Varel, *Introduction*.
2. Frantzman et al., “Contested Indigeneity.”
3. While Nubians bear an ethnic identity which is distinct from Arab peoples, they comprise three culturally ethnic and linguistically distinct groups and only became collectively known as ‘Nubian’ after their displacement, when President Nasser of Egypt in 1963 spoke of relocating ‘the Nubian people’. Fernea et al., *Nubian Ethnographies*, 187.
4. While one group of Nubians are Arabic speakers, the Nubian language can be divided into two dialects: Kanzi and Fadicca. Smith, “Place, Class, and Race.”
5. Minority Rights, *World Directory of Minorities and Indigenous Peoples*.
6. Poeschke, *Nubians in Egypt and Sudan*; Fahim, *Egyptian Nubians*.
7. Fernea et al., *Nubian Ethnographies*, 126.
8. Hughes, “Displacement and Indigenous Rights.”
9. Abbas, “Nubian Diasporic Identity.”
10. ECHR, *Individual NGO Submission*.
11. For an overview of media racialism, see Smith, “In His Heart and Soul He’s Egyptian.”
12. Dersso, *Egypt*.
13. Dersso, *Egypt*; Hughes, “Displacement and Indigenous Rights.”
14. ECHR, *Individual NGO Submission*.
15. Dersso, *Egypt*, 21.
16. They have nevertheless been the most important point of contact for migrants away from their home; the General Nubian Club in Cairo was founded in 1964 to offer families a place to meet, and later turned into a social and cultural forum with branches in Aswan, Alexandria, Ismailia, and Suez.
17. Janmyr, “Nubians in Contemporary Egypt.”
18. Desmet, “Analysing Users’ Trajectories in Human Rights.”
19. Inman, “Indigenous Peoples as ‘Users’ of Human Rights.” See also Desmet, “Analysing Users’ Trajectories in Human Rights,” 136.
20. Notable examples include Egypt’s third president Anwar Sadat who had parents of Nubian origin, and Field Marshal Mohamed Hussein Tantawi.
21. ECHR, *Individual NGO Submission*.
22. Bernstein, “Gender, Queer Family Politics”; Bumiller, *The Civil Rights Society*; Burstein, “Legal Mobilisation as a Social Movement Tactic.”
23. McAdam et al., *Comparative Perspectives on Social Movements*.
24. Williams, “Cultural Contexts of Collective Action,” 93.
25. Pedriana, “From Protective to Equal Treatment.”
26. Ewick and Silbey, *The Common Place of Law*; McCann, *Rights at Work*; Paris, *Legal Mobilisation and the Politics of Reform*.
27. Marshall, *Confronting Sexual Harassment*.
28. Desmet, “Analysing Users’ Trajectories in Human Rights.”
29. IkhwanWeb, “Morsi Vows Nubians Return.”

30. Interview G, March 2015.
31. El-Mahdi, "Enough!"
32. Interview B, February 2015.
33. Interview C, February 2015.
34. The NDYU has set out a list of 'special demands' that the Egyptian state must accept 'unconditionally' and which include 'recognising the right of the Nubians to return to their original homeland, and their right to have priority of the reclaimed land around Lake Nasser where there are currently new villages, as well as in the desert areas of Aswan'. Interview B, February 2015. See also *Humanity in Action, Youth for Democracy*.
35. Interview F, March 2015. See also <http://y4nubia.blogspot.no/>
36. Ennaji, "Introduction."
37. Nubian Knights Community Organisation. Facebook Page. <https://www.facebook.com/nubianknightsteam/info>
38. Frantzman et al., "Contested Indigeneity."
39. Kymlicka and Pfösti, *Multiculturalism and Minority Rights*.
40. UN, "Report of the Committee on the Elimination of Racial Discrimination" (1990) Doc. A/44/18, 15 Feb., para. 155.
41. Representative of Egypt in UN, "Summary Record of the 1247th Meeting" (1993) Doc. CCPR/C/SR.1247, 29 July, para. 14.
42. Hughes, "Displacement and Indigenous Rights," 134.
43. Kymlicka and Pfösti, *Multiculturalism and Minority Rights*.
44. ECHR, *Individual NGO Submission*.
45. Significant efforts have nevertheless been made within the Nubian community to teach the Nubian languages. See Smith, "Place, Class, and Race."
46. LLM thesis on file with author.
47. Merry, *Human Rights and Gender Violence*.
48. Hughes, "Displacement and Indigenous Rights."
49. Kymlicka and Pfösti, *Multiculturalism and Minority Rights*, 7.
50. Interview G, March 2015.
51. Bradley, "People of the Nile."
52. See UN, "Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1" (2009) Doc. A/HRC/WG.6/7/EGY/3, 25 Nov., para 44.
53. Interviews C and D, February 2015.
54. Interview C, February 2015.
55. There has long been a debate about whether the concept of self-determination for indigenous implies secession or not. For an overview of this discussion, see Castellino, "International Law and Self-Determination."
56. Al Malky, "Nubian Resettlement."
57. Interview C, February 2015.
58. Interview C, February 2015.
59. Dersso, *Egypt*.
60. Interview A, February 2015.
61. Interview F, March 2015.
62. Interview F, March 2015.
63. Janmyr, "Nubians in Contemporary Egypt"
64. Chua, "Pragmatic Resistance."
65. Interviews B and F, February and March 2015.
66. Interview A, February 2015.
67. Interview A, February 2015.
68. Janmyr, "Nubians in Contemporary Egypt"
69. Interview C, February 2015.
70. Zuhur, "Claiming Space for Minorities in Egypt"

71. While the matter of minority rights was the starting point for a legal analysis of the rights of indigenous peoples 40 years ago, nowadays, the rights of minorities and the rights of indigenous peoples should be seen as different legal subjects with overlapping aspects. Rights of persons belonging to minorities are individual rights, whereas rights of indigenous peoples can also be collective rights. Some protection problems are nevertheless identical and certain legal rules apply to both groups. Most notably, an indigenous people may be a minority and can rely on minority rights if its role as a minority is accepted. For more on the shift in discourse between these rights in the Latin American context, see Jackson, "Rights to Indigenous Culture in Colombia."
72. Kymlicka and Pfössl, *Multiculturalism and Minority Rights*.
73. Massoud, "Do Victims of War Need International Law?"
74. Azer, "New Egyptian Government."
75. Speed, *Rights in Rebellion*.
76. Blackwood, "Regulation of Sexuality in Indonesian Discourse"; Chua, "Pragmatic Resistance."
77. Kymlicka and Pfössl, *Multiculturalism and Minority Rights*.
78. Emam, "Being Nubian in Egypt."
79. Kymlicka and Pfössl, *Multiculturalism and Minority Rights*.
80. Rajagopal, *International Law from Below*.
81. Lemaitre and Sandvik, "Shifting Frames, Vanishing Resources."
82. Vanhala, *Making Rights a Reality*.
83. Alvarez et al., *Cultures of Politics*.
84. Speed, *Rights in Rebellion*.
85. Sieder and Witchell, "Advancing Indigenous Claims."
86. Ennaji, "Part V: Multiculturalism."
87. Desmet, "Analysing Users' Trajectories in Human Rights."
88. Merry et al., *Law from Below*.
89. Interview F, March 2015.
90. Interview C, February 2015.
91. Speed, *Rights in Rebellion*.
92. Interview F, March 2015.
93. Interview F, March 2015.

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