‘Modern’ Law and Its Subjects in Tawfīq al-Ḥakīm’s *Diary of a Country Prosecutor* (1937)

GIANLUCA P. PAROLIN (The Aga Khan University)

Abstract

State law as the main transformative device to build a ‘modern’ Egypt has encountered tremendous resistance, yet legal scholars seem utterly uninterested in the matter while historians struggle to account for the reasons of the subjects’ resistance by using archival materials often produced by state officials themselves. In this article, I turn to literature to explore and interrogate literary representations of the rural subjects of ‘modern’ law, and their various forms of resistance to ‘modern’ law itself. In an effort to highlight the benefits of ‘turning to literature’ for legal scholars, I begin with one of the most acclaimed masterpieces and foundational works of the modern Egyptian literary canon: Tawfīq al-Ḥakīm’s *Diary of a Country Prosecutor* (1937). Listening to the awkward silences and garrulous voices of the *Diary*’s subjects opens a window onto the strained relations between ‘modern’ law and its subjects in which class, language, and centre/periphery dynamics all play a role. Considering what repertoire these subjects ‘spontaneously’ mobilise to challenge the ‘modern’ law further brings into view their alternative doxic understanding of law and justice.

Keywords: ‘Modern’ law, hegemonic legal modernity, everyday resistance, extra-judicial justice, vocal dissent, rural subjects, rural courtroom, Egypt, 20th-century fiction, Tawfīq al-Ḥakīm, *Diary of a Country Prosecutor*.

Imprisonment by force, Your Honour?
*il-ḥabs biz-zūr yā ḥaḍrit il-ʿāḍī?¹
Tawfīq al-Ḥakīm, *Diary*, 1937

1. Introduction

Subjects of the law are rarely granted citizenship in the law’s own books: quite an egregious failure, considering how important subjects are for the actual operation of the governance system that ‘modern’ law intends to lay down. Subjects do largely populate the

¹ I mark the difference between the formal register of the narrator (and the courtroom personnel) and the colloquial register of the (rural) subjects through different romanisation styles. I romanise the formal register according to the formal rules of romanisation of Modern Standard Arabic, whereas I romanise the colloquial register according to an adapted version of BADAWI-HINDS 1986 (even if it adopts a Cairene pronunciation which is not the Delta’s). Colloquial register romanisations are preceded by an asterisk.

law's disparate archives, but even there they are often silenced by the pen of the officials. Finding the voices (or the silences) of the subjects of the law thus becomes an arduous task facing anyone interested in the actual functioning of the law and its governance system.

When legal scholars working at other latitudes turned to literature, they found great abundance of remarkable insights into the working of the law that neither the law's books nor its archives contained. James Boyd White's *The Legal Imagination* (1973) has inspired a number of legal scholars in the North American context (and beyond) who soon ventured beyond matters of legal language into various directions eventually constituting a movement, the law & literature movement, which spread in law schools far and wide. The voices (and silences) of the subjects of the law were one of those rare treasures found in literature; one that still awaits to be unearthed—along with the rest of the tremendous potential that the law & literature approach yields—by scholars working on the Egyptian legal system. In front of these scholars lays a very promising field of inquiry, where fiction is characterised by an acute awareness of the writers' own relation with reality in their works of 'fiction' (often against the *réel* of the officialdom).²

Considering the modern Egyptian literary canon, there is a work that stands out as an obvious point of departure on this journey of law & literature: Tawfiq al-Ḥakīm's *Diary of a Country Prosecutor* (1937).³ The *Diary* is an obvious point of departure not only because of its unparalleled contribution to the imaginary of law among Egyptians but also because its critique is steeped in the author's own lived experience as a trainee public prosecutor in a remote village in the Nile Delta. In the *Diary*, the silences and voices of the subjects of the law are one of the areas which the author seems keenest on experimenting with. In doing so, Tawfiq al-Ḥakīm pays a lot of attention to the way in which he represents the subjects of the law and their voices and silences, and how they exist alongside—and often disastrously collide with—the voices of others, in particular court personnel and other law enforcement agents.

Aspects of the *Diary*'s polyphony have been studied by a literary scholar like Elliott COLLA, who in his seminal "Anxious Advocacy" considered matters of legal representation focussing on the public prosecutor (and the criminal defence solicitors).⁴ What about the

2 In her collection of essays, Samia MEHREZ considers a specific generation of writers (Naḡīb Maḥfūz, Ṣun'allāh Ibrāhīm, and Ġamāl al-Ġīṭānī), but situates them within a wider argument on literature and history in Egypt in the introduction to *Egyptian Writers between History and Fiction*, Cairo: AUC Press, 1994: 1-16. The Egyptian literary field of the second half of the 20th century is mapped and analysed through a Bourdieusian lens by Richard JACQUEMOND in *Entre scribes et écrivains: le champ littéraire dans l'Égypte contemporaine*, Paris: Actes Sud, 2003. Arguing in favour of duly appreciating the contribution of fiction, especially in West Asia and North Africa against reductionist tendencies of Neo-Orientalism, Stephan GUTH contends that "there can be more truth in fiction than in reports of facts or political-sociological studies," in *Literary Visions of the Middle East*, Wiesbaden: Harrassowitz, 2019: 3.

3 The first reference title in English was *Maze of Justice*. The most recent edition of the standard English translation (by Abba EBAN) was re-titled *Diary of a Country Prosecutor* to align with the original title in Arabic. I use this translation when citing passages in English, but I often depart from it when I believe that it does not properly convey the meaning of the original text.

4 Elliott COLLA, "Anxious Advocacy: The Novel, the Law, and Extrajudicial Appeals in Egypt," *Public Culture*, 17.3 (2005): 417-443.

subjects of the law? Legal scholars in general, and legal historians in particular, can find a host of remarkable insights in Tawfiq al-Ḥakīm's representations of the silences and voices of the subjects of the law. I propose to start with the obvious: their resistance to 'modern' law.

2. *Diary of a Country Prosecutor* (1937)

Tawfiq al-Ḥakīm's *Diary* is a collection of twelve journal entries published fortnightly in the newly-established literary magazine *al-Riwāya* from February to August 1937.⁵ The *Diary* has become one of the classics of modern Egyptian literature, included in most anthologies—both in Arabic and in English. The work defies genre classification, and it deliberately straddles the factual/fictional line within the genre of autobiographical diaries.⁶ Autobiographical accounts, in their various forms of *yawmiyyāt* (diary), *mudakkirāt* (memoirs), or *i'tirāfāt* (confessions), were a popular genre in Egyptian literature before Tawfiq al-Ḥakīm,⁷ and the success of his *Diary* certainly contributed to the unceasing vitality of these accounts, especially among writers in the legal professions.⁸

Reading the *Diary* as a detective story⁹ is a tempting yet reductive operation. There is no doubt that the *Diary* opens with a mystery, and the only ongoing plot line involves the investigations that the prosecutor carries out to try and solve that mystery. A reward of 5 EGP (the equivalent of five issues of the magazine, each selling at 1 EGP in 1937) for identifying the murderer was announced very late in the publication, with only two more journal entries to be released.¹⁰ The announcement prompted readers to communicate the murderer, together with clear but concise evidence, within a very narrow deadline of less than a fortnight. The plan was clearly not particularly well thought out, as the deadline had to be extended and, as a consequence, the publication of the eleventh journal entry delayed to the following issue.¹¹ The *Diary* ended on its twelfth journal entry without a murderer.¹²

5 The first edition of the collection was published by the Maṭba'at Laḡnat al-Ta'līf wa-l-Taḡama in late 1937, and the second edition appeared in late 1938 by the Maṭba'at Muṣṭafā al-Bābī al-Ḥalabī.

6 William Hutchins includes the *Diary* among the "Novels of Everyday Life" (Chapter 2) together with *'Awdat al-Rūḥ* (Return of the Spirit, 1933). See William HUTCHINS, *Tawfiq al-Hakim: A Reader's Guide*, London: Lynne Rienner, 2003.

7 Elliott COLLA even goes as far as claiming that "most readers thought it was a detective novel" when it first appeared in 1937. The main piece of evidence to support the claim is the existence of a contest, which was clearly unplanned, as explained in the text. COLLA 2005: 417-418, and 433-436.

8 The most recent incarnation—which even explicitly mentions the *Diary* in the text—is the novel *Bayt al-Qibṭiyya* by the judge and writer Aṣraf al-'Aṣmāwī (Cairo: al-Dār al-Miṣriyya al-Lubnāniyya, 2019).

9 COLLA 2005: 417-419.

10 See *al-Riwāya* 1937.10 (15-Jun-1937): 602.

11 See *al-Riwāya* 1937.11 (1-Jul-1937): 663 (Fig. 1, next page). In the same issue, the previous announcement with the old deadline was repeated on page 703.

12 Published in *al-Riwāya* 1937.13 (1-Aug-1937).

٦٦٣ الرواية

من صحائف الأيام

يَوْمَاتِ نَائِبِ الْأَرْيَافِ
لِلأَسْتَاذِ تَوْفِيقِ الْحَكِيمِ

القاتل !

رأى الأستاذ توفيق الحكيم أن يفسح الأجل
أسبوعين آخرين للمتسابقين في معرفة القاتل
لقمر الدولة علوان في القضية التي ينشرها في يوميات
نائب في الأرياف ، ففضل ألا ينشر شيئاً منها في
هذا العدد لأن ما سينشره سيمنع عن القاتل . وإنا

لنرجو ممن يدخل في هذه المسابقة ألا يغفل ذكر
الأسباب التي نبي عليها حكمه . وآخر موعد لتقديم
الردود هو اليوم العاشر من شهر يولييه

Fig. 1: *al-Riwāya* announcing the deferral of the publication of an instalment of the *Diary* so as to facilitate readers' participation in the impromptu competition on the solution of the murder mystery – *al-Riwāya* 1937.11 (1-Jul-1937): 663.

In the following issue, the magazine announced on its front page that no one of the almost one thousand participants had guessed that the case would be closed without having identified the murderer, and thus no one earned the 5 EGP reward.¹³

The *Diary* portrays the daily grind of a public prosecutor in all its routine and non-routine, senseless sequencing of activities and encounters. Tawfiq al-Hakīm makes use of the twelve entries to span the wide range of chores that a mid-career member of the parquet is assigned: from pre-trial investigations to representation in the courtroom, from attending post-mortem examinations to surprise inspections of the local prison, from running eyewitness identifications to checking the court's inventory. The author also seizes the opportunity to present a variety of characters with whom the prosecutor engages: from judges to police

¹³ See *al-Riwāya* 1937.14 (15-Aug-1937) (Fig. 2, page 61).

صاحب المجلة ومديرها
ورئيس تحريرها المسئول
احمد الزيات

بدل الاشتراك عن سنة
٣٠ في مصر والسودان
٥٠ في الممالك الأخرى
١ عن العدد الواحد

الادارة
شارع عبد العزيز رقم ٣٦
العتبة الخضراء - القاهرة
تليفون ٤٣٩٠ ، ٤٣٤٥٥

الرواية

مجلة أسبوعية للقصص والدراما

نصدر مؤقناً في أول كل شهر وفي نصف

العدد الرابع عشر ٨ جمادى الثانية سنة ١٣٥٦ - ١٥ أغسطس سنة ١٩٣٧ السنة الاولى

مسابقات الرواية

١- مسابقة الفائل في مذكرات نائب في الريف
اشترك في هذه المسابقة قراءة ألف كاتب ،
ولكن أحداً منهم لم يوفق إلى الحل الذي انتهت
به هذه القصة في العدد الماضي من الرواية وهو حفظ
القضية لعدم معرفة الفائل. ولذلك لم يظفر أحد بالجائزة

٢- مباراة القصص
تجمع لدينا في هذه المباراة ثلاث وسبعون
وأربعمئة أقصوصة من مختلف الأقطار العربية . ولما
كان الأساتذة الذين ستؤلف منهم لجنة التحكيم
قد تركوا القاهرة للاصطياف في أماكن متفرقة ،
اضطررنا إلى تأجيل تأليف هذه اللجنة إلى أول
الخريف . على أننا نستطيع أن نعلن من الآن أن اللجنة
ستؤلف من الأساتذة : توفيق الحكيم ، محمد فريد
أبو حديد ، ابراهيم عبد القادر المازني ، محمود تيمور
ثم رئيس تحرير هذه المجلة .

فهرس العدد

صفحة	المحتوى
٨٤٢	الحب للكاتب الروسي { للأستاذ عبد الحميد حمدي أنطون تشيخوف ...
٨٤٨	شيخ كاتريفيل للكاتب { بقلم الأستاذ بشير المبريني الانجليزى اسكار وايلد
٨٦٥	الفتاة التي سلبتني ولدى { بقلم إميل فرج ... مترجمة عن الانجليزية
٨٧٥	الأحجار الجامعة للشاعر { للأديب شاكرا محمد عياد الفيلسوف رابندرانات ...
٨٨١	أجلافيين وسيليزيت { بقلم الدكتور محمد غلاب رواية تمثيلية لموريس ... ماترنك ...
٨٩٤	اعترافات في العصر { بقلم الأستاذ فيليكس فارس لألفريد دي موسيه
٨٩٩	الأوذنية لهوميروس { بقلم الأستاذ دريني خشبة

Fig. 2: *al-Riwāya* announcing after the last instalment of the Diary that no one won the competition on the solution of the murder mystery because the mystery remained unsolved – *al-Riwāya* 1937.14 (15-Aug-1937): frontpage.

officers, from local authorities to crime victims, from forensic doctors to court attendants. As such, the *Diary* functions as a counter-text to detective fiction, of which Tawfiq al-Ḥakīm had declared to have been a consumer, and in which the centre of narration is the investigation. The *Diary* thus indirectly denounces the distortions of detective fiction, and intends to offer a “realistic representation,” a mimesis (*taṣwīr al-wāqīʿ*) of law enforcement.

Attesting to the *Diary*’s success is its uninterrupted publication in book format since 1937 (and its translation in various languages)¹⁴ and three main adaptations. Two right after 1967, when there was a certain taste for featuring the past to address the present.¹⁵ The first was a radiophonic adaptation as a drama serial directed by Aḥmad ‘Abd al-Ḥamīd (1923-1998), himself a law school graduate, and aired by the Egyptian state radio (*al-Idāʿa al-Miṣriyya*) in 1968. The second was a cinematic adaptation as a film directed by Tawfiq Ṣāliḥ (1926-2013), with Aḥmad ‘Abd al-Ḥalīm playing the prosecutor, and screened in 1969.¹⁶ The third adaptation appeared significantly later, in the 1980s, as a televised serial with Fathī Salāma (1985).

3. The *Diary*, ‘Modern’ Law, and its Subjects

By the time Tawfiq al-Ḥakīm’s *Diary* was written and serialised, a novel form of governance centred on law had developed in Egypt for over a century. Legal historians concur—albeit with various degrees of appreciation—on the considerable contribution of Muḥammad ‘Alī (r. 1805-1848) in setting the process in motion in the first half of the 19th century, and some demonstrated the fierce resistance that the project encountered since its very inception.¹⁷

14 A French translation by Gaston WIET and Zaki HASSAN appeared soon after the original publication in Arabic, and—like the original—it appeared in installments in *La Revue du Caire* (Organe de l’Association Internationale des Écrivains de Langue Française – Section Égypte). The journal entries would appear coupled: 11-Oct & 12-Oct (*La Revue du Caire* 1.5, late 1938); 13-Oct & 14-Oct (*La Revue du Caire* 2.6, Jan-1939); 15-Oct & 16-Oct (*La Revue du Caire* 2.7, Feb-1939); 17-Oct & 18-Oct (*La Revue du Caire* 2.8, Mar-1939); 19-Oct & 20-Oct (*La Revue du Caire* 2.9, Apr-1939); 21-Oct & 22-Oct (*La Revue du Caire* 2.10, May-1939). Ever since 1974, the book edition of the *Diary* in French carries extra journal entries that cover a period ‘following’ the closing of Qamar al-Dawla and pretty Rīm case (“L’affaire de Kamar el-Daoula et la belle Rim terminée”). Tewfik EL HAKIM, *Un substitut de campagne en Égypte: Journal d’un substitut de procureur égyptien*, Paris: PLON, 1974. The edition has a new foreword penned by the author in which he says that, after thirty years, nothing has changed; in fact, it has grown worse under the Republican regime.

15 Nāḡī FAWZĪ, *Waqāʿiʿ būlīsiyya fī l-sīnimā: Fakk al-iṣṭibāk bayna l-amn wa-l-ibdāʿ*, Cairo: al-Hayʾa al-Miṣriyya al-ʿĀmma li-l-Kitāb, 2014: 107-115.

16 The cinematic adaptation is often cited as an example of the paradox of Egyptian Realism: turning to literary fiction for its *réel*. The film shows some peculiar features and departures, which will be signaled in the text if relevant for the argument. Script and dialogue were adapted by the director Tawfiq Ṣāliḥ and playwright Alfrīd Faraḡ (1929-2005). On the elements of the legal process that the cinematic adaptation rooted in Egyptian (legal) popular culture, see Gianluca PAROLIN, “Bunyāt al-taḥqīq fī ‘Yawmiyyāt nāʾib fī l-aryāf’ bayn al-riwāya wa-l-film,” in: Salmā MUBĀRAK & Walīd al-ḤAṢṢĀB (eds.), *Al-Adab wa-l-sīnimā fī Miṣr: Al-Iqtibās: Maḥaṭṭāt fī tāriḥ muṣṭarak*, Cairo: Dār al-Marāyā, 2021: 78-90.

17 For 19th-century Egypt, Khaled FAHMY shows how subjects both resisted to ‘modern’ law and were

Ignoring the resistance it faced at home, the 'modern' law at the heart of the new governance model was itself projected as a form of resistance against both the Ottoman and later the British colonial control in Egypt. Over a century later, however, Tawfīq al-Ḥakīm poignantly upends this fiction in the *Diary* by showing how widespread, stout, and vigorous the domestic resistance to the 'modern' law still was. To contrast the Cairo-centred hegemonic narrative of resistance to foreign intervention *through* 'modern' law, Tawfīq al-Ḥakīm chose rural Egypt to stage the domestic resistance *to* that 'modern' law, and the *Diary* problematises 'modern' law as a function of class and centre/periphery dynamics.

Since the second quarter of the 19th century, Muḥammad 'Alī issued legislation in the form of *qānūns* regulating criminal law matters. As such, criminal law effectively became one of the first areas of the law that witnessed heavy interventions by the political authority, as Rudolph Peters has eminently demonstrated throughout his writings.¹⁸ In the one hundred years that followed, Egyptian criminal law evolved into one of the terminal nodes of an extremely sophisticated and complex legal system, yet Tawfīq al-Ḥakīm still portrays the struggle of the subjects of the *Diary*'s periphery to understand and consent to its operation, while the upper urban classes fail to appreciate the needs of these subjects or act upon them.

To depict the complex relation between the 'modern' law and its subjects, Tawfīq al-Ḥakīm not only relies on the subjects' voices, but also on their silences, and silences are particularly prominent in the investigation on Qamar al-Dawla's shooting at the centre of the most conspicuous plot line. As law enforcement agents in the *Diary* are well aware, collaboration from the public is crucial in any criminal investigation, and this is where strained relations with the subjects can come to the surface and eventually jeopardise the success of the investigation. The extent of the public's collaboration and its dynamics thus transcend the case at hand to either illuminate or cast a shadow on the overall operation of the law. The cost of failure is high, as not delivering on this basic promise of establishing 'law and order' by securing apprehension and punishment of offenders is ultimately an indictment of the system as a whole. A close consideration of the silences—projected or otherwise—of the subjects in the *Diary* thus opens a window onto their attitudes towards the law when they are actively called upon to collaborate.

The subjects' voices ring loud and clear in the courtroom, when their collaboration is not requested as their subjection to the law is revealed in all its monstrosity. Burlesque is the style of choice in the series of brief and humorous court cases where Tawfīq al-Ḥakīm sketches a portrait of the alienation of the subjects of 'modern' law and how they spontaneously respond to it, in a cogent critique that interrogates the functioning of 'modern' law well beyond the confines of the small village courtroom and its dependencies in which the action is set.¹⁹

consequently harshly disciplined and punished (*All the Pasha's Men*, Cambridge: CUP, 1997), but also how they made use of the opportunities offered by 'modern' law (*In Quest of Justice*, Oakland: University of California Press, 2018).

¹⁸ Now largely collected in Rudolph PETERS, *Shari'a, Justice, and Legal Order: Egyptian and Islamic Law: Selected Essays*, Leiden: Brill, 2020.

¹⁹ On the function of humour in the law, see Peter GOODRICH, "Proboscations: Excavations in Comedy and Law," *Critical Enquiry*, 43 (Winter 2017): 361-388.

4. Class, Subjection, and Register in the *Diary*

The silences and voices of the subjects of ‘modern’ law are narrated by the unnamed protagonist, an urban member of the *effendiyya* class (the professional intelligentsia)²⁰ who works as a prosecutor in an unnamed rural area in the Nile Delta. His narration oscillates between mockery of and compassion for the subjects, tilting towards the former more often than not. From the observations in the *Diary*, one could see the protagonist playing a wholly ambiguous role, representing “both the ideals of Egyptian modernity and its flaws, the gap between the ‘enlightened’ theory of modern (European) law in colonial Egypt and the often irrational and unjust practice of that theory”.²¹ Beyond his more caustic or more sympathetic remarks in the *Diary*, however, the prosecutor is fully complicit with the system, toes the line, and does not resist even the practices that he ridicules as absurd. He is not alone in that, and all the other characters seem to be complicit, except the *fellahin* (peasants).

Class divisions run deep across the two sides of law enforcement in the *Diary*. The characters enforcing the law are all members of the professional intelligentsia, the *effendiyya*, while the subjects of the enforcement are all members of the peasantry, the *fellahin*. The wealthy ruling elite, the *bashawiyya*, is actually absent from the *Diary*. As if law were not an instrument to guarantee the privileges of the latter, but rather a matter for the *effendiyya* striving to modernise the *fellahin*.

Representations of class divisions in the *Diary*, including the urban/rural divide, speak to a new literary canon that mirrors historical aspirations of the *effendiyya* to “educate and improve the collective character of the Egyptians,” using narrative fiction as its most appropriate literary form.²² At the same time, the new narrative fiction captures the anxieties of the same *effendiyya* of being incapable of connecting with the reality of the collective. In describing the struggle of the narrating self, literary scholar Samah Selim characterises it as an alienated, frustrated subject:

The rural hinterlands in which he was born represent both the hereditary domains of his power and the borders of his own marginality. The *fellahin*—the people who inhabit these domains—are the source of his wealth and of his romantic identity. They are simultaneously the objects of his curiosity, pity, suspicion—the source of his malaise.²³

The prosecutor himself records his journal entries: a telling incarnation of ‘modern’ fiction in which a narrating self (*al-dāt al-riwā’iyya*) emerges while engaging with the collective, its societal object (*al-wāqī*).²⁴ Samah Selim contrasts the old modes of the

20 Michael EPPEL, “Note on the Term *Effendiyya* in the History of the Middle East,” *International Journal of Middle Eastern Studies*, 41.3 (2009): 535-539.

21 COLLA 2005: 419.

22 See Aḥmad Ibrāhīm al-HAWWĀRĪ, *Naqd al-riwāya al-‘arabiyya fī Miṣr*, Cairo: al-Hay’a al-Miṣriyya al-‘Āmma li-l-Kitāb, 1978: 27, cit. in Samah SELIM, *The Novel and the Rural Imaginary in Egypt, 1880-1985*, New York/London: Routledge, 2004: 12.

23 SELIM 2004: 15.

24 See ‘Abd al-Muḥsin Ṭāhā BADR, *Ṭaṭawwur al-riwāya al-‘arabiyya al-ḥadīṭa fī Miṣr*, Cairo: Dār al-Ma‘ārif, 1977.

Arabic literary canon with its narrator as a “custodian and transmitter of an accumulated civilization or *turath*” to the new modes of the modern Egyptian narrative canon with its narrator as “rather an individual standing ‘outside’ the collectivity, observing it, describing it, narrating it, not as a communal historian but from a position that embodied a subjective but nonetheless authoritative and hegemonic point of view.”²⁵ It is the triumph of the *effendiyya* appropriating the narration, yet disguising itself as an objective, scientific observer.

The *Diary* strikes a remarkable parallel between law and literature in which the literary subject of the ‘modern’ canon is made to squarely overlap with the (rural) subject of the ‘modern’ law. In a way, the *Diary* seems to conform to most of the predicates of the new literary canon and the modern law. The narrator/prosecutor is a *mittarbiṣ* member of the *effendiyya* who loathes his exile in the countryside and deals sanctimoniously with all its *fellahin* inhabitants. His critical, self-aware, and reflexive voice may induce even the more attentive reader to lose sight of what the prosecutor actually does: he toes the line and blindly “enforces the law” (*taṭbīq al-qānūn*), which he rationalises as the essence of justice (*al-‘adl*). The narrated subject/subject of the law is a disposable unit of a beastly mass often collectively described or even individually addressed as animals by the narrator and his fellow law-enforcement agents.

Yet, the *Diary* offers a much more complex narration that presents a multi-layered representation of law enforcement and its (rural) subjects. For a start, the *Diary* exposes the ambivalence of the prosecutor’s principled, piercing remarks by showing how quickly he bends those principles to avoid any possible adverse consequence. When the prosecutor informs the local official in charge, the *ma’mūr*, that he is going to personally inspect the prison instead of being content with seeing the prison records, the *ma’mūr* quickly transfers all those detained without a proper registration out of the prison proper and locks them in the fodder storage. Most likely, these were people detained so as to avoid them participating in the elections. The prosecutor sees the operation from the window and exclaims: “Come and look! What is this, the Bastille?” The head of the criminal section laments the degrade that politics brings and tries to calm him down, but the prosecutor quickly retorts: “Are you suggesting we leave in jail people who have committed no crime?” It only takes a vague mention of a possible transfer to Upper Egypt in retaliation for the prosecutor to back down, and conclude: “and that’s all there is to it” (**wis-salām*).²⁶

Unlike earlier fiction (especially Muḥammad Ḥusayn Haykal’s *Zaynab*, 1913),²⁷ the *Diary*’s (rural) subjects are given the possibility to use ‘their’ colloquial language and style. They are given ‘their own’ voice. In the *Diary*, these subjects make full use of their voices to expose the shortcomings of the pompous yet incongruous language of law enforcement.

²⁵ See SELIM 2004: 13.

²⁶ 18-Oct (*al-Riwāya* 1.8, 15-May-1937).

²⁷ Even if advocating ‘realism,’ Muḥammad Ḥusayn Haykal’s *Zaynab* does not allow its subjects to use ‘their’ colloquial language and style. *Zaynab* and the *Diary* also belong to two different periods in Stephan Guth’s periodisation of the Egyptian novel; *Zaynab* (1913) belongs to the “Emotionalist period,” whereas the *Diary* (1937) belongs to the period of “later National Literature.” See Stephan GUTH, entry “Novel, Arabic”, in *Encyclopaedia of Islam THREE*, Leiden: Brill, 2014.

When a “rural prostitute” (*mūmis rīfiyya*) is charged with having stood at the entrance of her house, she puts her hand on her hip and shouts: “Well, Love, is it anathema to stand in front of one’s house?” (**huwa, yā rūhī, man waʿaf^quddām bāb baytuh kafar?*). The judge quickly and formally rebuts: “You were standing there to seduce the public (*igra’ li-l-ḡumhūr*).” The accused puns over ‘public’ in an exquisite combination of very colloquial, gendered expressions (like *iddil’adī*) and style. “Oh, dear, what a pity (**hasra wi-nadāma ‘alēnā*)! For the life of the beard of the judge, my eye never fell on Public, nor has this Public chap ever walked in front of my house (**umrīnā mā wiʿiʿit ‘ēnnā ‘alā Ḡumhūr, wi-lā marr min^quddām manzīlnā ‘iddil’adī Ḡumhūr*).” The frustrated judge cuts her short by announcing his ‘usual’ fine: 20 piastres.²⁸

This multiplicity of perspectives and voices, a Bakhtinian polyphony, runs throughout the *Diary*, but it is in the courtroom where it climaxes and where the (rural) subjects’ desire to engage in a dialogue is constantly frustrated by the authoritative discourse of law enforcement and its agents. The narrator/prosecutor is one of the voices that espouse authoritative discourse and reject a dialogical interaction with the other voices. For Tawfiq al-Ḥakīm, the courtroom is a place of impossible dialogue, where (rural) subjects are given a nominal voice destined to be overruled by the voice of the authority, yet he animates those margins of interaction with acts of ‘dialogical’ resistance.

The *Diary* makes a bizarre use of names and titles for its characters. Most of the ‘rural’ subjects of the modern law do not have names, just like the “rural prostitute”. And the “prostitute” herself stands out as a particularly identified character.²⁹ Most of the subjects are treated as indeterminate disposable units in line with the desire of the ‘colonising’ state to “discipline, control, and increase”—as Timothy Mitchell says—the country’s resources, human or otherwise.³⁰ But other characters on the other side of law enforcement do not have names either. The prosecutor, first of all; yet one could see in the nameless protagonist an incarnation of the “authoritative and hegemonic point of view” typical of the new literary canon. The judges, the *ma’mūr*, the *umdas* are unnamed as well, though. The head of the criminal section is however constantly referred to with a name and a title: ‘Abd al-Maqṣūd *effendī*. As some have observed, there are however two instances of fictional names in the *Diary* that are particularly puzzling. The victim of the aggression that opens the *Diary* and whose investigation occupies, on and off, the prosecutor for the entirety of the twelve journal entries is named: Qamar al-Dawla ‘Alwān. His sister-in-law, who attracts the attention of all the characters in the *Diary*, is named: Rīm. The two characters are *fellahin* inhabitants of the rural world, yet the victim has a last name (‘Alwān), a typical

28 Public-seduction case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 117. Probably the use of the word “prostitute” (*mūmis*) prompted later censors to have this case removed from later editions of the *Diary*. It is featured in both *al-Riwāya* and the early editions. This “prostitute” was vividly described: “She had blackened her eyes with the point of a match and smeared her cheeks with the glaring crimson colour which can be seen painted on boxes of “Samsūn” cigarettes. On her bare arm was tattooed the picture of a heart pierced by an arrow. She was wearing on her wrist several bracelets and armlets made of metal and coloured glass”.

29 Public-seduction case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 117.

30 Timothy MITCHELL, *Colonising Egypt*, Berkeley: University of California Press, 1991: 35.

feature of the (urban) *effendiyya*, and both first names (Qamar al-Dawla and Rīm) are considered very unlikely rural names. These latter considerations could be treated as a subtle pointer to the reader that these subjects of 'modern' law are by no means confined to the remote world of the rural imaginary.

5. Sites and Strategies of Subjects' Resistance in the *Diary*

The 20th century opened with an unexpected confrontation between rural subjects and British colonial officers that sent shockwaves for decades to come, especially among the literati. The 'Dinšawāy Incident' of 1906 surprised urban Egyptians (and colonial forces) with a brave, sudden, spontaneous, and much unexpected outburst of resistance started in response to British officers hunting for sport pigeons owned and raised by villagers for their livelihood. If one were to follow the unfolding of the events, which eventually led to death sentences for four villagers (with nearly thirty other villagers being given lighter sentences), one could track a chain of acts of resistance against escalating abuses by the colonial forces. In aggravating the situation, the sentences were handed down in a summary trial with British and Egyptian judges, including two prominent intellectuals: Buṭrus Ḡālī, who chaired the panel as acting Minister of Justice, and Aḥmad Faṭḥī Zaḡlūl, one of the most influential scholars of 'modern' law of his time.

The Dinšawāy Incident came to represent a turning point in Egyptian politics; as a result of the poor handling of the incident, the loathed British 'Consul-General' Lord Cromer was forced to resign by a newly elected liberal government in London. These acts of resistance by *fellahin* against colonial forces (both British and local *bashawiyya*) which resulted in a harsh retaliation through law affected local perceptions of (rural) subjectivity. Kōnstantínos Kaváfēs (1863-1933) wrote a touching poem describing the sufferance of the mother of the youngest among the hanged villagers. In "27 Iouníou 1906, 2m.m.", Kaváfēs emphatically repeats the reference to "the 17-year-old innocent boy" (*to dekaephṭá chronó athōo paidí*) and his "martyr mother" (*ē mána ē mártysa*), and calls those who brought him to the scaffold: "the Christians" (*oi Christianoi*). In the following decade, Maḥmūd Tāhir Ḥaqqī (1884-1964) set his novel *'Aḍrā' Dinšawāy* (The Maiden of Dinšaway) in the remote Delta village of the incident and used the reactions to the incident as a plot device.

When Tawfiq al-Ḥakīm wrote the *Diary*, thirty years had passed since the incident, and the 1919 Revolution—in which the author participated—had happened. At first sight, there is nothing that connects the novel with Dinšawāy, yet it is nearly unconceivable that "a remote Delta village" could be a place of sheer passivity and normalisation.³¹ The state and its law enforcement agents, all belonging to the *effendiyya*, are complicit in what the prosecutor himself relentlessly marks as the nonsensical operation of the 'modern' law. The only character who shows some spark of conscience is the prosecutor's young aide,³² but he is

31 Even this intertextual practice plays with the *Diary*'s factuality (Tawfiq al-Ḥakīm worked as a prosecutor in a small village in the Delta) and fictionality (the village in the Delta after the Dinšawāy incident is no longer just 'any' rural area).

32 It could easily be one of the main voices of the author, who, as a young man, had no interest in the law

systematically schooled by the narrator who intends to tame the outbursts of his youth and train him into becoming a proper enforcer of the ‘modern’ law: insensitive, superficial, and unthinking.³³

Unsurprisingly, the only resistance to ‘modern’ law comes from its (rural) subjects. It comes in two forms, unequally present in the *Diary*: extra-judicial justice and vocal dissent. Extra-judicial justice is a firm belief in the mind of the prosecutor, who is convinced that his good-faith attempts to bring justice to a case are intentionally frustrated by villagers who prefer to take justice into their own hands. This belief of his is often reiterated, yet always confined to the prosecutor’s mind. There is no direct evidence of it in the events of the *Diary*—a prophecy fulfilled by the prosecutor’s inability to move past it. Vocal dissent, on the contrary, is methodically recorded by the prosecutor, who observes it—often with an amused look.

The idea of looking at acts of everyday resistance of rural subjects came to the political scientist and anthropologist James Scott as a reaction to the proliferation of scholarship on “organised, large-scale, protest movements that appear, if only momentarily, to pose a threat to the state.”³⁴ Scott believes that what this scholarship misses is that “most subordinate classes throughout most of history have rarely been afforded the luxury of open, organised, political activity”. Among the acts that he lists as “ordinary weapons of relatively powerless groups” are: foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, and sabotage. Scott identifies four features that these acts share: (1) they require little or no coordination or planning; (2) they make use of implicit understandings and informal networks; (3) they often represent a form of individual self-help; (4) they typically avoid any direct, symbolic confrontation with the authority.³⁵ Admitting to the fact that these acts of everyday resistance ‘make no headlines’, Scott likens them to “millions of anthozoan polyps” that form barrier reefs. Even when the state shipwrecks on these barrier reefs, attention is directed towards the ship running aground on the reefs, and “not to the vast aggregation of petty acts that made it possible.”³⁶ Scott further observes that this form of class conflict remarkably requires a largely ‘shared worldview,’ which is what I believe the *Diary* can help us gauge. In considering the repertoire on which the (rural) subjects of the ‘modern’ law draw in their acts of everyday resistance in the remote Delta village of the *Diary*, one can get a sense of what an acute mind of a cosmopolitan *effendiyya* like Tawfiq al-Ḥakīm perceived as important to represent about the *fellahin* barrier reefs of rural Egypt.

and resented being trained in its non-sensical operation.

33 This aspect is even more emphatic in the cinematic adaptation (1969), including departures from the text. For instance, when the prosecutor objects to delaying the court session as suggested by the “quick” judge—the only instance in which the prosecutor objects to anything—the film shows the aide objecting, not the prosecutor himself. 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937).

34 SCOTT 1985: xv.

35 Ibid.: xvi.

36 Ibid.: xvii.

Scott's conviction that the historical record and archive—"both resolutely centred on the state's interests"—do not mention peasants except when their activities are menacing³⁷ seems to be confirmed by historians of modern Egypt. Nonetheless, legal historian Khaled Fahmy has eminently shown how court records and archives can reveal to an expert eye a wealth of information on everyday resistance of the subjects of 'modern' law in 19th century Egypt.³⁸ Literature, like Tawfiq al-Hakīm's *Diary*, can contribute to the understanding of forms of everyday resistance by casting light on the 'shared worldview' underpinning it that the author chooses to portray. Representations in literature become ever more valuable the more distant in time the events become.

5.1. The Subjects' Silences, the Investigation, and Extra-Judicial Justice

In the literary imaginary confined to backward rural areas, extra-judicial justice is invariably condemned as justified by the sheer desire of taking justice into one's own hands. As such, it is usually depicted as an aberration against which local heroes need to fight. If one were to take a closer look at fiction engaging with the issue of justice beyond matters of extra-judicial justice (*ta'r/*tār*), one would discover that the process of judicial justice is perceived as so degraded that even in those fictional works it is incumbent upon (usually) the protagonists to carry out the investigation and collect the evidence on their own, stopping just short of 'taking *tār*'.

To the overall perception of the functioning of law enforcement, one also needs to add considerations of class—an element that is very much present in Egyptian fiction (written, radiophonic, cinematic or televised). The necessity of extra-judicial justice thus becomes a function of the distrust of lower-class subjects in the upper-class run law enforcement and court machinery.³⁹ A distrust that is often voiced in fiction.

The prosecutor of the *Diary* appears quite persuaded of the truth of his own statement about extra-judicial justice and does not even consider following that track, but he is forced to reconsider. When, in the middle of the night, the prosecutor receives a message informing him of the shooting of Qamar al-Dawla 'Alwān, it takes him a minute to realise that he will be done in two hours at worst:

The assailant is unknown. The victim cannot speak and won't confuse me with his chatter. I have no doubt what the witnesses will be like. There will be the *gaṭṭr* on duty who heard the shot, went off towards it, sluggish with fright—and naturally found nothing but a body prostrate on the ground. Then there will be the *'umda* who will swear by his wife's honour that the criminal is not one of his villagers; and, finally, the members of the victim's family, who will keep everything dark from me

37 Scott himself carried out anthropological field work in Malaysia.

38 Starting from *All the Pasha's Men* (1997), all the way to *In Quest of Justice* (2018).

39 In an interesting conversation on the form of 'popular justice', Michel Foucault underlines the inherently bourgeois structure of the court system—something that cannot, he argues against his "Maoist" opponent, be fruitfully adapted, not even in the context of a successful popular uprising. Cf. Michel FOUCAULT, "Sur la justice populaire : Débat avec les maos," in *Les Temps modernes* 310-bis: (1972): 355-366. Available in ID., *Dits et Écrits 1954-1988*, vol. II (1970-1975), Paris: Gallimard, 1994: 340-369.

and reserve the opportunities of vengeance for themselves (*tumma ahl al-mağniyy ‘alayh allādīna sa-yaktumūna ‘annī kulla šay’ li-yaṭ’arū li-anfusihim bi-aydihim*).⁴⁰

The initial investigation confirms the prosecutor’s predictions inasmuch as he is blinded by his own self-confidence. He needs to be shaken out of his convictions by the village mystic, who tips him off to consider (the) women (around the victim). The prosecutor immediately turns to the *‘umda*, who matter-of-factly ‘reminds’ him of the victim’s sister-in-law, Rīm. Rīm is summoned, yet no other relative is questioned, even after it turns out that her sister, the victim’s wife, did not die of natural causes.⁴¹

The inability of the *Diary*’s prosecutor to solve the mystery of Qamar al-Dawla’s shooting can be read as a representation of the inability of ‘modern’ law enforcement to engage with—let alone to compete against—extra-judicial justice. A chain of murders are unveiled and all remain unsolved throughout the *Diary*. When Qamar al-Dawla is asked who shot him, with tremendous effort he utters his sister-in-law’s name: Rīm.⁴² The prosecutor is reluctant to consider it indicting, and does not act upon it. When Rīm disappears, he revisits Qamar al-Dawla’s response; a few minutes later he sees the disappeared Rīm in front of the hospital, but—once more—he takes no action.⁴³ An anonymous letter tips him off that Qamar al-Dawla’s wife did not die of natural causes.⁴⁴ This prompts him to order the exhumation and, after the forensic doctor confirms the allegations of the anonymous letter, he attempts to identify the sender.⁴⁵ Even in this second case, the investigation does not include the wife’s relatives. The third unsolved murder is Rīm’s, whose body is found in the irrigation canal.⁴⁶ The three murders are connected by family relations, possibly suggesting a chain of criminal events consistent with dynamics of extra-judicial justice, but they are not investigated as such. The *Diary* closes with the closing of the official report on the first case because “the author [remains] unknown’ (*‘adam ma’rifat al-fā’il*).⁴⁷

5.2. The Subjects’ Voices, the Courtroom, and Vocal Dissent

The vocal dissent of the (rural) subjects of ‘modern’ law in the *Diary* is not as opaque as their relationship to extra-judicial justice. To the contrary, it is quite vividly portrayed. The parodical elements of its staging have often clouded the appreciation of the oppositional nature of these acts of everyday resistance. In the *Diary*, these acts are mostly confined to a series of vignettes, away from the more prominent plot line of the investigation on Qamar al-Dawla’s shooting. These vignettes are in double figures and occupy almost the entirety

⁴⁰ 11-Oct (*al-Riwāya* 1.1, 1-Feb-1937).

⁴¹ 17-Oct (*al-Riwāya* 1.7, 1-May-1937).

⁴² 13-Oct (*al-Riwāya* 1.3, 1-Mar-1937).

⁴³ 15-Oct (*al-Riwāya* 1.5, 1-Apr-1937).

⁴⁴ 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937).

⁴⁵ 17-Oct (*al-Riwāya* 1.7, 1-May-1937).

⁴⁶ 21-Oct (*al-Riwāya* 1.12, 15-Jul-1937).

⁴⁷ 22-Oct (*al-Riwāya* 1.13, 1-Aug-1937).

of three journal entries (12-Oct, 14-Oct, and 16-Oct), i.e., a fourth of the *Diary*. They are all staged in the courtroom building, either in the courtroom proper (for trial hearings), or in the prosecutor's office (for pre-trial hearings). All the actors involved are not given names (be they on one side of law enforcement—the judges, the prosecutor, and his aide—or on the other—the accused and the witnesses⁴⁸). The only characters given names are the court personnel, from the usher to the court attendant.

In the *Diary's* courtroom vignettes, Tawfiq al-Ḥakīm weaves in damning depictions of the courtroom travesty with vibrant manifestations of vocal dissent to it. The *Diary's* (rural) subjects of 'modern' law constantly and relentlessly challenge the latter's hegemonic aspirations. In doing so, they undermine the hegemonic project at its core—ensuring subjects' voluntary compliance—and appeal to their fellows' sensibilities. The accused in the vignette cases express their (spontaneous) counter-hegemonic convictions in verbal and non-verbal forms, all registered by the bystanders—as we know from the impression they make on the prosecutor who records them. Among the verbal forms, one can identify two modalities: one centred on style, the other centred on content. As usual, it is often the timing in which these everyday acts of resistance are mentioned that gives meaning to the target of the subjects' opposition.

Spontaneous non-verbal behaviour marks the subjects' desire to display their non-adherence to the hegemonic (legal) discourse. A combination of vocalics and kinesics are either described or cumulatively summarised by the prosecutor. In the dog-registration case, the accused, after having heard the charges, "coughed, shook his head and mumbled as though reciting a religious formula (*fa-tanaḥṇaḥ al-raḡul wa-hazz ra'sah wa-tamtam ka'annahu yastaḡfir wa-yastarḡi*)."⁴⁹ Considering all the court hearings on infractions of the day, the prosecutor notes in his journal: "Not a single one of the accused showed any sign of believing in the real iniquity of whatever he had done. It was merely that fines had fallen upon them from heaven, whence all disasters proceed; they had to be paid, for so the law required (*Wa-lam ara wāḥid^{am} min al-muḥālifīn qad badā 'alayh annahu yu'min bi-ḥaqīqat mā 'rtakab, innamā huwa ḡurm waqa'a 'alayhim min al-samā' kamā taqa' al-maṣā'ib, wa-itāwa^{um} yu'addūnahā. Li'anna l-qānūn yaqūl: innahum yaḡib 'alayhim an yu'addūhā*)."⁵⁰ Immediately afterwards, on the same day, the prosecutor notes that in the bitten-(off)-finger case, the accused could not comprehend the difference between misdemeanour and felony: "the woman showed no sign of understanding the distinction (*fa-lam yabdu 'alā l-mar'a annahā fahimat il-fāriq*)."⁵¹ The most articulate description of a reaction to the lack of understanding of legal subtleties comes in the opposition (*mu'āraḍa*) case, just after the judge called the appellant a stupid cow. The opposition is rejected

⁴⁸ In a few cases, names are actually given to the parties. In these few cases, however, the names sound largely contemptuous, like Sitt Abūhā (Lady of Her Father) and Sayyid Ḥurayṣa (Mister/Monsieur Little Melon; *ḥirṣ* are melons that never reach ripeness on the plant) in the case of the brawl between two families over a suitable means of transportation for the bride.

⁴⁹ Dog-registration case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 117-118.

⁵⁰ After the dog-registration case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 118.

⁵¹ Bitten-(off)-finger case (misdemeanours), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 118-119.

because filed beyond the three-day deadline, and the appellant is thus taken back into custody: “as he goes, he looks left and right to the ones around him to see if he is the only one unable to comprehend (*wa-huwa yaltafit yamna^{ian} wa-yasra^{ian} ilà man ḥawālayh li-yarà a-huwa waḥdahu llādī lam yafham?!).*”⁵²

Just as portrayed in earlier modern Egyptian literature,⁵³ garrulous peasants in the *Diary* challenge the hegemonic legal discourse with their verbal style. The judges and the prosecutor often rebuke them because of it and try to cut them short or silence them altogether. The effect is that the reader is often deprived of a credible explanation of what happened in the case. In the portable-gas-stove case, as the accused starts responding: “It is true that I found the stove in front of the shop, but I neither stole it nor plundered it (**lākin lā sara^{at} wi-lā nahabt*)...,” the “scrupulous” judge cuts him short and calls in the witness. The judge was probably satisfied with the admission that the accused “found” (**la^aayt*) the stove, and wanted to avoid the chatter signalled by the stylistic duplication of the negation in “but I neither stole it nor plundered it...” Later in the hearing during the testimony, the accused protests: “Where in the world does a thief steal a lit stove (**Fī d-dunyā ḥarāmī yisra^a wābūr gāz bi-nāruh*)?” The judge dismisses him with a hand gesture (*fa-’askatahu l-qāḍī bi-iṣāra min yadih*). The lawyer takes over defence, the prosecutor falls asleep, and the reader is left without any clue so as to what happened, except that the reconstruction of facts in the *Diary*’s courtroom lacks credibility.⁵⁴ The same happens in front of the “quick” judge in two cases. In the first, the domestic-violence case, the judge reacts to the style of the peasants’ answers, including another duplication of the negation. The judge wants single-word answers from both the accused husband and the wife. He first stops the accused husband: “No philosophy here (*mamnū’ al-falsafa*)!” And then abruptly stops the wife, who is answering his question “did he hit you (*ḍarabik*)?” with: “The point is, your honour, God bless you... (**aṣl, yā sīdī l-ḡāḍī, rabbīnā yḥallik*)...” After an extorted single-word answer from the distressed wife, the judge decides to dismiss all remaining witnesses, and gives the floor to the accused husband for his final defence—which he does not listen to, and so the reader is kept in the dark. After sentencing the accused husband to a month with hard labour, the latter protests: “Your honour! I’ve still got witnesses! I neither hit nor struck her (**lā ḍarabt wi-lā baṭaḥt*). It’s an injustice (**il-ḥukm zulm*)! Listen, everybody, it’s unjust (**zulm, yā nās*)!” “Quiet (*iḥras*)! Take him away, constable (*iṣḥabhu yā ‘askarī*)!”⁵⁵ In the second, a case of sheep grazing on a neighbour’s plot, the accused responds to the charges: “The point of the story is, your honour (**aṣl il-ḥikāya, yā sa‘ādt il-bēk*)...” The judge plays on the word *ḥikāya*—which to him signals a long, peasant-style story to come—to cut him short: “We have no time to listen to stories (**Mā ‘andīnāš wa^{at} li-samā’ ḥikāyāt*).” “Present. 50. Next!”⁵⁶

⁵² Opposition (*mu‘āraḍa*) case (review), 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937): 360.

⁵³ SELIM 2004: 25-59.

⁵⁴ Portable-gas-stove case (misdemeanours), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 120.

⁵⁵ Domestic-violence case (misdemeanours), 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937): 359.

⁵⁶ Sheep-grazing case (infractions), 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937): 358.

Tawfīq al-Ḥakīm in the *Diary* constantly employs double negation to mark the garrulous style of the (rural) subjects. In the clothes-in-the-canal case, when the prosecutor challenges one in the group: “Do you think, my dear, that there is just chaos in the world (**Inta, yā raḡul, fākir id-dunyā fawḍā*)? Or law and order⁵⁷ (lit.: law and government; *willā qānūn wa-ḥukūma*)?” The man bursts out: “Haven’t we suffered enough from the government (**bi’ī hiya l-ḥukūma lā minhā wi-lā kifāya šarrāhā*!)? It doesn’t clothe us and doesn’t leave us free to clothe ourselves (**lā kasitnā wi-lā tarakitnā ninkisī*).’ The prosecutor offers to let them free on bail (*bi-ḍamān māli*), but they clearly cannot afford to pay bail: “Bail (*mālī*)?! Peasants are destitute,⁵⁸ your honour (**il-fallāḥīn ‘arāyā yā ḥaḍrit in-nāyib*)!” The prosecutor dismisses the group in a demeaning way: “Oh, for heavens’ sake, I’ve got a headache and it’s a waste of time to argue with people like you (*Tafaḍḍalū min ḡayr maṭrūd. Dimāḡī waḡḡa’nī wa-l-munāqaša ma’a amṭālikum ḍayā’ waqt*)!”⁵⁹ In the opposition (*mu’āraḍa*) case in front of the “quick” judge, the accused uses the double negation to challenge on substantial grounds the procedural objection of the judge: “Imprisonment by force, your honour (**il-ḥabs biz-zūr yā ḥaḍrit il-‘aḍī*)? I’ve been wronged (**anā mazlūm*)! No judge has heard my case, no ruler has asked me any questions till now (**lā ‘aḍī simi’ kalāmī wi-lā ḥākim ṭalab su’ālī li-ḥadd is-sā’a*).” Unsurprisingly, the judge’s response is: “Quiet (*iḥras*)!”⁶⁰

Some of the more penetrating spontaneous verbal manifestations of resistance challenge the content of the ‘modern’ law by drawing on the counter-hegemonic repertoire of the subjects. In the confiscated-wheat case, the accused is charged with theft for having eaten his wheat. He has already appealed to the judge to recognise that it was ‘his’ wheat (**il-‘amḥ ‘amḥī*). Since the judge has nonetheless sentenced him to a month of imprisonment with hard labour, he appeals to bystanders: “A month! Oh Muslims! The wheat is my wheat. My planting.... My property.... (**Šahr! Yā muslimīn! Il-‘amḥ ‘amḥī! Zira’ī... Mālī...*)” The religious reference could be read as a generic “Oh people,” but also connected with the foundation of his counter-claim that there can be no theft on goods on which someone has a claim, what fiqh scholars call *šibhat mulk*. “As he went, he stared at those in the courtroom with goggling eyes as though he could not believe that he had heard the sentence aright (*anna l-ḥukm allāḍī sami’a ḥaqīqī*). Surely his ears must have deceived him and the spectators must have heard the truth (*inna l-yaqīn ‘ind al-nās al-ḥāḍirīn*). For he had stolen no man’s wheat (*fā-huwa lam yasruq qamḥ aḥad*).” In the eyes of the prosecutor, the old man eventually puts his case in his Lord’s hands (*wa-aslam al-šayḥ amrah li-ḥāliqih*), and mutters, as he is taken away: “There is no power and no might, save in God (*lā ḥawla wa-lā quwwa illā bi-llāh*).”⁶¹ In the public-seduction case, there is a similar

⁵⁷ The word *ḥukūma* has a broad semantic scope, from government (in the broad sense of state administration or the narrow sense of the executive branch) all the way to the law enforcement (namely, the police).

⁵⁸ The text puns with *‘arāyā* as meaning both naked and destitute.

⁵⁹ Clothes-in-the-canal case (pre-trial), 14-Oct (*al-Riwāya* 1.4, 15-Mar-1937): 231-232.

⁶⁰ Opposition (*mu’āraḍa*) case (review), 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937): 360.

⁶¹ Confiscated-wheat case (misdemeanours), 16-Oct (*al-Riwāya* 1.6, 15-Apr-1937): 359-360.

spontaneous reference to the religious foundation of the counter-claim. Faced with the charges of having stood at the entrance of her house, the “rural prostitute” retorts: “Well, Love, is it anathema to stand in front of one’s house? (**huwwa, yā rūḥī, man wiʿif^auddām bāb bētuh kafar?*?)”. *Kafar* is a religious term denoting an action with severe consequences in fiqh (a popular Egyptian proverb goes: “there is no sin worse than atheism,” **mā fīš baʿd il-kufr zanb*) used to expose the inconsistency of the charge against her by contrast.⁶² Similarly, in the dog-registration case, when the well-off farmer is about to state that according to ‘modern’ law dogs have acquired a standing (*ḥayṭiyya*), the prosecutor has the impression that the man is preventively asking for God’s forgiveness for what he is about to say (*wa-tamtam ka’annah yastaḡfir wa-yastarḡi*).⁶³

Part of the counter-hegemonic repertoire has no religious colouring whatsoever. Clothes have been washed in the river since the beginning of times, how can ‘modern’ law criminalise it? In the clothes-washing case, the accused checkmates the judge with a simple question: “Where should I wash them (**Aḡsilhā fēn*)?” if washing them in the canal is now prohibited. The judge turns the question to the prosecutor, who finally says it’s simply not his business.⁶⁴

Finally, some of the spontaneous reactions challenge the motives and the outcomes of ‘modern’ law by mocking the trial or pre-trial court decisions. In the clothes-in-the-canal case, a man at the end of the long line of men, women and children tied up in ropes being brought into custody after the prosecutor’s decision whispers: “They detain us because God has blessed us (lit: clothed us, **yihbisūnā li’innī rabbīnā kasānā*).”⁶⁵ In the ear-of-maize case, the indigent, detained because he has stolen an ear of maize out of hunger and has no money to bail himself out, emphatically shows his joy. He kisses the front and back of his hand, glorifying God (*fa-qabbal al-raḡul kaffahu waḡh^{an} wa-zahr^{an} ḥāmid^{an} rabbah*). Then turns to the prosecutor and his aide—who probably looked puzzled—and says: “So what? Detention is great (**wi-mā-luh il-ḥabs ḥilw*)! At least we are assured a bit of food (**niḻ^a fīh ‘alā l-a^aall lu^ama maḍmūna*). Good bye (**is-salāmu ‘alēkum*)!”⁶⁶

6. Conclusions

In one of his most acclaimed masterpieces and foundational works of the modern Egyptian literary canon, Tawfīq al-Ḥakīm stages a poignant critique of ‘modern’ law, taking aim at the state’s claim over the monopoly of the production of law and its desire to regulate ever larger areas of human life. In theory, a degree of consent lies at the foundation of the governance system that has been promoted in Egypt since the early 19th century on the global model of a hegemonic legal modernity. Brute force is deemed undesirable, not

⁶² Public-seduction case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 117.

⁶³ Dog-registration case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 118.

⁶⁴ Clothes-washing case (infractions), 12-Oct (*al-Riwāya* 1.2, 15-Feb-1937): 117.

⁶⁵ Clothes-in-the-canal case (pre-trial), 14-Oct (*al-Riwāya* 1.4, 15-Mar-1937): 231-232.

⁶⁶ Ear-of-maize case (pre-trial), 14-Oct (*al-Riwāya* 1.4, 15-Mar-1937): 230-231.

because of an ethical commitment, but rather on sheer political calculations of system efficiency. Law is projected at the heart of the governance model precisely to produce that desired outcome: consent. Yet, what the *Diary* describes and the epigraph succinctly and eloquently captures—"Imprisonment by force, your honour (**il-ḥabs biz-zūr yā ḥaḍrit il-^qāḍī*)?—is a denunciation of that very consent.

The public prosecutor, whose notes are the twelve journal entries constituting the *Diary*, is the main character who articulates a critique of hegemonic legal modernity in his own, 'rational,' *effendiyya* ways. His critique is confined to his journal entries, while he plays an active role in enforcing the system that he so vociferously criticises. In depicting the public prosecutor's alienation, caught between his scathing critique and his blind enforcement of what he critiques, Tawfīq al-Ḥakīm represents the wider crisis of the *effendiyya* in the Interwar period⁶⁷ and at once distances himself from a role that in real life he first resented and later rejected. Tawfīq al-Ḥakīm never concealed his utter lack of interest in the typical *effendiyya* role that his father had sketched for him; he did go to law school, but it wasn't his doctoral studies in law that kept him busy in Paris, and when he eventually returned to Egypt his posting as a public prosecutor in a remote village in the Nile Delta was the final straw.

The reader needs to turn to the (rural) subjects of 'modern' law to find tangible acts of resistance, which can take the form of silent non-collaboration with the criminal investigation or of vocal opposition to court decisions. In his humorous vignettes, Tawfīq al-Ḥakīm stages the spontaneous dissent that the (rural) subjects of 'modern' law voice during trial or pre-trial hearings. Acts of everyday resistance that—in the eyes of the narrating voice—are not endowed with the sophistication of the *effendiyya*, but rather carry the style of the *fellahin*. Just as the parody captures the readers' attention, the sheer volume and variety of cases decided in the *Diary* force readers to consider the extent of the dangers and failures of 'modern' law. Compiling and analysing the repertoire of the spontaneous responses that these court decisions elicit in the (rural) subjects of 'modern' law can in turn illuminate on their alternative, counter-hegemonic idea(s) of justice. Incidentally, this is another blind spot in conventional legal scholarship where a law & literature approach could offer some welcome succour.

When analysing the repertoire mobilised by the (rural) subjects of 'modern' law in Tawfīq al-Ḥakīm's *Diary*, one can appreciate the contours of the *doxa* of the subjects' pre-'modern', common-sense understanding of the law. The alignment of this *doxa* with the fiqh orthodoxy in a small Egyptian Delta village is worth exploring, along with the challenges to the state's claim over the monopoly of the production of law, including the re-definition of crimes.⁶⁸ The 'modern' law's desire to regulate from the centre ever larger areas of human life without providing the means to comply with it finally crashes against the actual living conditions of the *Diary*'s rural periphery.

⁶⁷ MEHREZ 1994: 10.

⁶⁸ Considering classical fiqh theorists, Marion Katz interrogates how scholars—influenced by Sufi thought—progressively started to transfer principles of the sacred law into the "discretionary domain" of temporal power, even if treated as separate from sacred law. See Marion KATZ, "Pragmatic Rule and Personal Sanctification in Islamic Legal Theory", in SARAT (et al., eds.) 2007: 91-108.

References

- HAKIM, Tewfik el. 1947. *Maze of Justice* / tr. by Abba EBAN. London: Harvill Press.
- AL-HAKIM, Tawfiq. 1989. *Diary of a Country Prosecutor* / tr. by Abba EBAN. London: Saqi.
- AL-HAKIM, Tawfiq. 1937. *Yawmiyyāt nā'ib fī l-aryāf*. Cairo: Maṭba'at Laġnat al-Ta'lif wa-l-Tarġama. – Second edition Cairo: Maṭba'at Muṣṭafā al-Bābī al-Ḥalabī, 1938.
- . 1973. *Anā wa-l-qānūn wa-l-fann*. Cairo: Mu'assasat Aḥbār al-Yawm.
- HAKIM, Tewfik El. 1939. "Journal d'un substitut de campagne" / tr. (French) by Gaston WIET and Zaki HASSAN, *La Revue du Caire*.
- HAKIM, Tewfik El. 1974. *Un substitut de campagne en Égypte: Journal d'un substitut de procureur égyptien*. Paris: PLON.
- BADAWI, El-Said, and Martin HINDS. 1986. *A Dictionary of Egyptian Arabic*. Beirut: Librairie du Liban.
- BADR, 'Abd al-Muḥsin Ṭāhā. 1977. *Taṭawwur al-riwāya al-'arabiyya al-ḥadīṭa fī Miṣr*. Cairo: Dār al-Ma'ārif.
- BOURDIEU, Pierre. 1987. "The Force of Law: Toward a Sociology of the Juridical Field". *The Hastings Law Journal*, 38 (1987): 814-853.
- COLLA, Elliott. 2005. "Anxious Advocacy: The Novel, the Law, and Extrajudicial Appeals in Egypt". *Public Culture*, 17(3): 417-443.
- EPPEL, Michael. 2009. "Note on the Term *Effendiyya* in the History of the Middle East". *International Journal of Middle Eastern Studies*, 41(3): 535-539.
- FAHMY, Khaled. 1997. *All the Pasha's Men*. Cambridge: CUP.
- . 2018. *In Quest of Justice*. Oakland: University of California Press.
- FAWZI, Nāġī. 2014. *Waqā'i' būlīsiyya fī l-sīnīmā: Fakk al-iṣtibāk bayna l-amn wa-l-ibdā'*. Cairo: al-Hay'a al-Miṣriyya al-Āmma li-l-Kitāb.
- FITZPATRICK, David. 2008. *Law as Resistance: Modernism, Imperialism, Legalism*. Aldershot: Ashgate.
- FOUCAULT, Michel. 1972. "Sur la justice populaire: Débat avec les maos". Available in id., *Dits et Écrits, 1954-1988*, vol. II (1970-1975), Paris: Gallimard, 1994: 340-369.
- GOODRICH, Peter. 2017. "Proboscations: Excavations in Comedy and Law". *Critical Enquiry*, 43 (Winter 2017): 361-388.
- GUTH, Stephan. 2014. "Novel, Arabic". *Encyclopaedia of Islam THREE*. Leiden: Brill.
- . 2019. *Literary Visions of the Middle East: An Anthology of Canonical Masterpieces of Arabic, Persian, Turkish, and Hebrew Fiction (Mid-19th to early 21st centuries)*. Wiesbaden: Harrassowitz.
- al-HAWWĀRĪ, Aḥmad Ibrāhīm. 1978. *Naqd al-riwāya al-'arabiyya fī Miṣr*. Cairo: al-Hay'a al-Miṣriyya al-Āmma li-l-Kitāb.
- HOLLANDER, Jocelyn, and Rachel EINWOHNER. 2004. "Conceptualizing resistance". *Sociological Forum*, 19(4): 533-554.
- HUTCHINS, William. 2003. *Tawfiq al-Hakim: A Reader's Guide*. London: Lynne Rienner.
- JACQUEMOND, Richard. 2003. *Entre scribes et écrivains: le champ littéraire dans l'Égypte contemporaine*. Paris: Actes Sud.

- KATZ, Marion. 2007. "Pragmatic Rule and Personal Sanctification in Islamic Legal Theory". In SARAT (et al., eds.) 2007: 91-108.
- MEHREZ, Samia. 1994. *Egyptian Writers Between History and Fiction: Essays on Naguib Mahfouz, Sonallah Ibrahim, and Gamal al-Ghitani*. Cairo: The AUC Press.
- MITCHELL, Timothy. 1991. *Colonising Egypt*. Berkeley: University of California Press.
- MUBĀRAK, Salmā, and Walīd al-ḤAŠŠĀB (eds.). 2021. *Al-Adab wa-l-sīnīmā fī Miṣr: Al-Iqtibās: Maḥaṭṭāt fī tāriḥ muštarak*. Cairo: Dār al-Marāyā.
- PAROLIN, Gianluca. 2021. "Bunyat al-taḥqīq fī 'Yawmiyyāt nā'ib fī l-aryāf' bayna l-riwāya wa-l-film". In: MUBĀRAK & al-ḤAŠŠĀB (eds.) 2021: 78-90.
- PETERS, Rudolph. 2020. *Shari'a, Justice, and Legal Order: Egyptian and Islamic Law: Selected Essays*. Leiden: Brill.
- SARAT, Austin (ed.). 2012. *Dissenting Voices in American Society: The Role of Judges, Lawyers, and Citizens*. Cambridge: CUP.
- (et al., eds.). 2007. *Law and the Sacred*. Stanford: Stanford UP.
- SCOTT, James. 1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale UP.
- SELIM, Samah. 2004. *The Novel and the Rural Imaginary in Egypt, 1880-1985*. New York/London: Routledge.
- WHITE, James Boyd. 1973. *The Legal Imagination: Studies in the Nature of Legal Thought and Expression*. Boston: Little, Brown and Co.