
Anxious Advocacy: The Novel, the Law, and Extrajudicial Appeals in Egypt

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In 1937, when Tawfiq al-Hakim serialized *Yawmiyyat na'ib fi-l-aryaf* (*Diary of a Prosecutor in the Provinces*) in the recently launched journal *al-Riwaya* (*Narrative*), most readers thought it was a detective novel.¹ The text played by the rules of the genre: its central character was involved in the investigation of a murder, and the narrative was organized in cliff-hanging chapters with unfolding clues and dead ends. Indeed, the editors launched a promotional contest, soliciting solutions to the mystery from readers. None of this would have been especially remarkable for the first Egyptian readers of *Yawmiyyat* in 1937; from the turn of the century, they had been accustomed to a steady stream of detective pulp fiction.² Despite this, later critics have avoided treating *Yawmiyyat* as a detective novel, nor do canonical accounts of modern Egyptian literature include the pulp tradition of mysteries. Instead, Hakim's novel has been read as fictional autobiography; the author had once worked as a provincial state bureaucrat in the Nile Delta, and

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1. See *al-Riwaya* 1, nos. 1–4 (1937).

2. The subject of pulp genres associated with the rise of mass print media (romance, mystery, science fiction) remains understudied in Arabic literature. See Pierre Cachia's "Unwritten Arabic Fiction and Drama," in *An Overview of Modern Arabic Literature* (Edinburgh: Edinburgh University Press, 1990), 171–78.

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the novel is composed in memoir form.³ Yet, even by this consideration, we might link the novel to an earlier pulp genre from the 1920s: the fictional memoirs often entitled *Mudhakkirat* . . . (*Memoirs of* . . .) or *I'tirafat* . . . (*Confessions of* . . .). Like detective fiction, fictional memoirs were relatively popular in their heyday and dealt explicitly with the social problems of the city—from prostitution, crime, and drug abuse among the new urban working classes to the hypocrisy of the Turkish aristocracy and Egyptian *effendiyya* (lettered class).

In this essay, I will argue that these pulp genres, from which *Yawmiyyat* derived, are critical if we are to understand the emergence of the novel as a literary form in Egypt. Moreover, I will argue that novels had a special relationship to the new legal institutions of colonial Egypt. To develop this point, I will outline the emergence of the legal professions during the colonial period and suggest ways in which they intersected with the novel form.⁴ Just as the novel became synonymous with the *effendiyya* during the early twentieth century, so too was it tied to new forms of law.⁵ For Hakim and the pulp authors upon whose works he drew, writing fiction about impolite or contentious social issues became an alternative way of addressing problems normally resolved through legal deliberation and action. What is more, these fictions often focused on issues the legal system could not redress. As such, these works are deeply conflicted: on the one hand,

3. See, for example, Muhammad Hasan 'Abd Allah, *al-Rif fi-l-riwaya al-'arabiyya* (Kuwait: 'Alim al-Ma'rafa, 1989), 64–65; Roger Allen, *The Arabic Novel: An Historical and Critical Introduction* (Syracuse, N.Y.: Syracuse University Press, 1982), 38; 'Abd al-Muhsin Taha Badr, *al-Riwa'i wa-l-ard* (Cairo: Dar al-Ma'arif, n.d.), 79; Kawsar Abdel Salam el Beheiry, *L'Influence de la littérature française sur le roman arabe* (Québec: Éditions Naaman, 1980), 242; Cachia, "Unwritten Arabic Fiction and Drama," 159; Shawqi Dayf, *al-Adab al-'arabi al-mu'asir fi-Misr* (Cairo: Dar al-Ma'arif, 1992), 291.

4. Just as many of the jurists in the national courts worked as journalists, many of the first generation of twentieth-century Egyptian *littérateurs* were educated in law and pursued legal careers. See Farhat Ziadeh, *Lawyers, the Rule of Law, and Liberalism in Modern Egypt* (Stanford, Calif.: Hoover Institution, 1968); Byron Canon, *Politics of Law and the Courts in Nineteenth-Century Egypt* (Salt Lake City: University of Utah Press, 1988).

5. *Yawmiyyat*'s author, like so many novelists of his generation, has been trained in law. A list of the most prominent Egyptian public authors reads like a "who's who" of the Egyptian Bar Association in the early 1900s: Muhammad al-Muwaylihi, Ahmad Lutfi al-Sayyid, Muhammad Husayn Haykal, and Tawfiq al-Hakim. This connection (and competition) between the practices of law and novel writing existed through the 1940s. See "Ma' Najib Mahfuz," *Atahaddath 'alaykum* (Beirut: Dar al-'Awda, 1977), 54–55; and, also, Mahmoud Kamel, *Journal d'un avocat égyptien* (Cairo: Al Kadaa Al Misri, 1946). Angel Rama and Julio Ramos have made similar cases in their discussions of the *letrado* (lettered) class in Latin America. See Rama, *La ciudad letrada* (Hanover, N.H.: Ediciones del Norte, 1984); and Ramos, *Desencuentros de la modernidad en América Latina: Literatura y política en el siglo XIX* (Mexico City: Fondo de Cultura Económica, 1989).

they appeal to legal standards; on the other, they express doubts about the ability of the legal system to resolve such issues.

Although these novels target particular social problems, their appeal does not lie in this narrow focus. Rather, they address a more abstract problem: the emerging practices of legal mediation. They articulate not so much a specific complaint about a particular law or judgment but, rather, a wider critique of the institutions of representation within the new secular legal system. Police and defense lawyers, attorneys and judges all drew their authority by reference to the emerging notion of “society,” on whose behalf they spoke. While some mediatory roles had existed within earlier Egyptian legal practice, others, such as lawyers, were still recent innovations in the early 1900s.

These mediatory innovations, I argue, are often depicted as problematic in early Egyptian novels and are signaled most clearly in references to the *na'ib* (public prosecutor) whose office, the Parquet, had only been recently created in Egypt. The protagonist of Hakim's novel is a *na'ib*, and this figure recurs in other novels as well. The *na'ib* embodies the main themes of Egyptian literary modernism: progressive reform, order, and (European) reason. In this sense, the *na'ib* might easily have become an obvious symbol for the most idealistic impulses in modern Egyptian literature, which itself was a crucial component of *al-Nahda* (Renaissance), the nineteenth- and twentieth-century project of social and economic modernization and cultural modernism throughout the Arab world.⁶ But instead, this literary figure is wholly ambiguous. He represents 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.

While in both canonical and pulp novels the figure of the *na'ib* is relatively ambiguous, the representation of lawyers is unambiguously negative. Yet both figures, the *na'ib* and the lawyer, express an anxiety about the activity they share: speaking for others before the law. Hakim's novel presents and complicates the deeper anxieties signaled by the *na'ib*, but to appreciate the text's significance and ambivalence, it needs to be situated within both a broad history of the legal

6. The classic text on the *Nahda* remains Albert Hourani's *Arabic Thought in the Liberal Age 1798–1939* (Cambridge: Cambridge University Press, 1962). For more recent discussions of the *Nahda* and its cultural aftermath, see Walter Armbrust, *Mass Culture and Modernism in Egypt* (Cambridge: Cambridge University Press, 1996); and Saree Makdisi, “Postcolonial Literature in a Neocolonial World: Modern Arabic Culture and the End of Modernity,” in *The Pre-Occupation of Postcolonial Studies*, ed. Fawzia Afzal-Khan and Kalpana Seshadri-Crooks (Durham, N.C.: Duke University Press, 2000), 266–91.

profession in colonial Egypt as well as the tradition of representing the law in Egyptian novels. To accomplish this, I will make special reference to two novels in which the law features prominently, Muhammad al-Muwaylihi's *Fitra min al-zaman* (*A Period of Time*, 1898–1900) and Yusuf Abu Haggag's *Mudhakkirat fitiwwa* (*Memoirs of a Street Thug*, 1926).

New Mediators

Muhammad al-Muwaylihi's *Fitra min al-zaman* starts, more or less, in a police station and moves through the maze of different legal systems in colonial Egypt.⁷ Within hours of being resurrected from the grave, a Turkish pasha, the main protagonist of the narrative, finds himself involved in various legal disputes. As the Pasha attempts to exculpate himself from his legal problems, he comes to need specialists who will explain the law to him and explain his case to the court. The narrator of the episodes, 'Isa ibn Hisham, is the most important figure of mediation in the book: 'Isa explains modernity to the Pasha and explains the Pasha's case to those who judge him; he defends modernity against the Pasha's criticisms but also defends the Pasha against the excesses and abuses of Egyptian modernity. In short, the narrator epitomizes the enlightened *effendi*, the lettered hero of the *Nahda*, who navigates between modernity and the past, Europe and Islam. Without this mediation, the Pasha would be unable to move through the various legal institutions (the police station, the Parquet, the National Court, the Court of Cessation, the Shari'a Court) and cultural institutions (the theater, the museum, the restaurant) depicted in the novel. Since it is movement through these institutions which constitutes the Pasha's education and formation as a modern subject, the novel suggests that the role of the legal intermediary is not secondary to this formation but is, rather, the condition of its possibility.

Moreover, the character of 'Isa is by no means the only intermediary in the novel. Often he is called upon to explain the function of other intermediaries and to negotiate between them. For instance, soon after entering the jail, the Pasha is taken to the Parquet:

Pasha: Where are we now? Who's this young fellow? What's this mob of people?

7. Muwaylihi's text was first serialized in *Misbah al-Sharq*. The citations that follow refer to the second edition of Muwaylihi's text, *Hadith 'Isa ibn Hisham aw fatra min al-zaman* (Cairo: al-Maktaba al-Azhariyya, 1912). For quotes, I rely on Roger Allen's adept translation, *A Period of Time: A Study and Translation of Hadith 'Isa ibn Hisham by Muhammad al-Muwaylihi* (Reading, U.K.: Ithaca, 1992), with my occasional modifications in brackets.

'Isa: We're in the Parquet office (*al-niyaba*). This man's a member of the Parquet, and all these people are litigants.

Pasha: What is this "Parquet"?

'Isa: In this new system, it's the judicial authority responsible for bringing criminal charges against offenders, acting on behalf of society. It was introduced so that no crime should go unpunished. Its duties are to uphold the truth and prove the guilt of the guilty and the innocence of the innocent.

Pasha: What is this "society" on whose behalf it acts as deputy?

'Isa: The whole of the community.

Pasha: Who is this mighty Amir whom the people allow to act as their deputy?

'Isa: The man you see in front of you is neither an Amir nor a man of great importance, but merely a peasant's son whose father has sent him to schools where he has obtained the certificate (*shahada*). He is thus entitled to act as an attorney of the Parquet. . . .

Pasha: [Blessed be the rank of martyrdom (*shahada*) in God's eyes. The martyr (*shahid*) occupies the very highest position in Heaven. . . .] How can you suppose that martyrdom in the path of God and life here on Earth can both apply to one man at the same time? What is even stranger and more confusing is that a peasant has authority over people, and a [plowman] stands in place of the community!⁸

Certainly, this passage speaks directly to the Pasha's anachronistic elitism. The most humorous moment of the passage comes from the Pasha's misunderstanding of the process of certification, the license (*shahada*) that authorized the *na'ib* to speak. Muwaylihi's text is filled with such neologisms that came to have codified definitions within the emerging institutions described by the novel. At the core of the Pasha's misunderstanding is his inability to accept that a peasant's son might become the representative of the social body. But this should not distract us from another innovation this passage describes: the system of agents monopolizing the activity of presentation in a court of law.

More than anything else, it is this act of representing the social body that, like the Pasha, we are encouraged to ask about. Timothy Mitchell's reading of this passage highlights some of the tensions buried within it:

[The Pasha's] confusion reflects the difficulty of imagining this new object called "society." It was new in several respects. Its order was not a hierarchy of personal status, for peasants now appeared as equal members

8. Al-Muwaylihi, *Hadith*, 29–30; Allen, *A Period of Time*, 120.

with gentlemen. Its membership was not a pattern of kinship extending outward, however distantly, from one's own connections. "Society" was something encountered above all in the form of crowds. Somehow the strangers crowded together in the courtroom were to be conceived as parts of a social whole to which one belonged, even though nothing seemed to connect the Pasha to the crowd except their occupying the same space at the same moment. To conceive of these connections and to construct them into a social whole was not necessarily a matter of extending one's horizons or enlarging one's imagination. It was more a matter of adopting new political and social practices, which brought a new set of assumptions.⁹

Yet, the new concept of society is not all that is new in this courtroom scene. So too is the figure of the *na'ib*, who represents it, and the institutional location where such representation is authorized.

Recognizing the novelty of the institution of the *niyaba* (which translates both as the office of the Parquet and the idea of proxy representation) is crucial for reading the above passage, and it has implications for understanding the concerns about the new forms of legal representation. Under earlier forms of Egyptian law, both Islamic and political, the role of legal mediator was not mandatory, and both parties—defendant and plaintiff—could argue their cases directly to the judge. However, in some areas of law (marriage and child law most notably), proxy representation was a norm.¹⁰ In such circumstances, children would normally be represented by a guardian, while women would commonly be represented by an adult male member of their family who acted in a similar role.¹¹ Importantly, the gender arrangements of proxy representation within marriage law supplied the term, *al-niyaba*, that became, during the colonial period, the term for the state's representative in criminal proceedings.

Proxy legal agents did exist in Egypt before the emergence of colonial-era law and were known as *wukala'* (singular: *wakil*); they played a central role in negotiating legal issues concerning marriage and children. But in a system whose normative subject was an adult male, the *wakil* was not obligatory, nor was it clear that his courtroom services had much merit. As the new *effendi* legal professions attempted to establish their own special legitimacy during the colonial period,

9. Timothy Mitchell, *Colonising Egypt* (Berkeley: University of California Press, 1988), 120.

10. See Judith Tucker, *In the House of Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Cairo: American University Press, 1999), 40–42, 46–47; and Jerome N. D. Anderson and Norma J. Coulson, *Islamic Law in Contemporary Cultural Change* (Munich: Verlag Karl Alber, 1967), 62, 64.

11. Tucker, *In the House of Law*, 138.

they sought to differentiate their services, with limited success, from the old practices of the *wakil*. Ahmad Fathi Zaghlul, one of the most prominent jurists of the time, writes disparagingly about *wukala'* in his foundational text on the legal profession:

The practice of legal advocacy first appeared in Egypt with the freedom to present petitions of complaint. The people sought out those who knew how to read and write, to compose their lawsuits. And thus came into existence a class who enriched themselves in this way. This is the class of the '*ard-haljiyya* (presenters of lawsuits), who are people who bring small boxes to sit on in the yards of courts and offices, who listen to the cases of those who seek out those places. They write them out in suits called '*ardhalat*, and take in return an agreed-upon fee. . . . Since the Shari'a courts were the only organized legal venue where disputes were mostly settled and since the esteemed knowledge of the Shari'a was not widespread amongst individuals in the community, a group took up the profession of mediating in those courts. There was a special class which monopolized the process of raising suits before the judge. They were called *wukala' al-da'awi*. However, they were not a group with a stellar reputation. No special qualification was a prerequisite for them. Nor were they bound by any special code. Thus, some knew the obligations of the trade while others did not. Many crept into their ranks who did not know Shari'a law, but practiced by obsequiousness and favoritism. Thus the morals of this class were corrupted.¹²

Zaghlul's description is echoed by more recent histories of the profession:

The Shari'a courts [had] for a long time been the stomping ground of . . . *wukala'* . . . who loitered in the doorways of the courts waiting to accost potential clients. Their unscrupulousness gained them the epithet *muza-wirun*, or forgers, and pious Muslim writers often inveighed against them. During the rule of Muhammad 'Ali a prominent official visitor to the Shari'ah [*sic*] court complained about the *wukala'* whose "forgeries cannot be imagined to take place even in the countries of infidels" and who "picture the right to be wrong and the wrong right." . . . A group akin to the *wukala'*, and sometimes indistinguishable from them, were the '*ard-haljis*, or writers of complaints and statements of claim, whose numbers increased with the increase in judicial councils throughout the country.¹³

12. Ahmad Fathi Zaghlul, *al-Muhamma* (Cairo: Matba'at al-Ma'arif, 1900), 248–49; translation mine.

13. Ziadeh, *Lawyers*, 21–22.

One distinction the new legal professionals liked to assert was between code and rhetoric: whereas the new lawyers were certified in a rational legal process, the old petitioners relied mainly on speechifying.¹⁴ *Effendi* lawyers also denounced *wukala'* and petitioners and cast aspersions on the scribes who congregated around courts, offering services to illiterate and semiliterate clients.

Such dismissals of the old popular classes of mediators deserve to be read as part of a wider *effendi* project to place themselves at the center of the new institutions of colonial Egyptian law. Their success can be demonstrated by the fact that the terms *effendiyya* and *qanun* (legal code) became nearly synonymous. With the increasingly specialized nature of codified law, the proliferation of various court systems throughout nineteenth-century Egypt, and exclusions enacted by the professionalization of legal advocacy, the *wakil* was increasingly marginalized. Indeed, the Advocate Law of 1893 effectively banned the *wakil* from all but Shari'a courts.¹⁵

But the self-serving arguments of the *effendiyya* also belie underlying anxieties about the *effendiyya*'s social status. In Egypt, as elsewhere, a bad reputation was something that lawyers could not shake. As Najib Shuqra wrote in the new journal of the Egyptian legal profession, *al-Huqquq*:

Many parents who are religious and firm in their conscience . . . refuse to send their sons to learn law and . . . enter the profession. They imagine that their future success will depend on double-dealing and deception. . . . The actions of some lawyers who cannot find a way to achieve harmony between their consciences and their everyday practices have fixed this image in the minds of many. Some sacrifice their conscience out of greed, or because in their narrow-mindedness they lose good judgment. . . . Thus they bring shame to a profession that has been the hope of kings, ministers, and princes and pursued by proud people who care for freedom and humanity.¹⁶

In the face of the suspicions cast by earlier generations of legal mediators such as the *wukala'*, the new class of *effendi* lawyers wanted to insist they were offering skills that were socially valuable.

As the legal reforms of the 1890s came into effect, the representational ser-

14. On the rhetoric of the Shari'a courtroom, see Rudolph Peters, "Islamic and Secular Criminal Law in Nineteenth-Century Egypt: The Role and Function of the Qadi," *Islamic Law and Society* 4 (1997): 70–90; and Lawrence Rosen, *The Anthropology of Justice: Law as Culture in Islamic Society* (Cambridge: Cambridge University Press, 1989).

15. Ziadeh, *Lawyers*, 42.

16. As quoted in Canon, *Politics of Law*, 277.

vices of lawyers become increasingly central—indeed, necessary—to the workings of the courtroom. Moreover, lawyers were never mere advocates before the law, they also wrote and interpreted it. Given the expansive codification of secular law, the services of a professional specialist helped individuals navigate codes and procedures that were not only new but also often contrary to popular, intuitive understandings of justice.¹⁷ As penal codes began to supplant much of what had been covered by Shari‘a law,¹⁸ the new procedures of the nineteenth century carried with them the assumption that the plaintiffs would not be allowed to represent themselves but would have to be represented by proxy, the state prosecutor acting on their behalf. This development was built on older forms; in state law, there had long been figures who represented the state’s interests.¹⁹ But their role as prosecutors, their capacity to speak on behalf of the state, had always been confined by the fact that most criminal and social issues fell under the jurisdiction of Shari‘a law. The expansion of new forms of state law at the expense of Shari‘a law meant an overall expansion in the role of legal mediators, especially the *na’ib*.

Legal Representation, Novel Representation

By returning to Muwaylihi’s text, we can begin to see how some of the anxieties attending these legal developments found expression in the novel form. Though Muwaylihi was himself a jurist, his critique does not spare lawyers. In one scene, the Pasha faces charges that he assaulted a police officer. After ignoring the Pasha’s testimony, and the testimony of ‘Isa, the judge listens to the prosecution and calls the Pasha’s defense:

17. On popular perceptions of the new legal orders, see Khaled Fahmy, “The Police and the People in Nineteenth-Century Egypt,” *Die Welt des Islams* 39 (1999): 340–77.

18. On this process, see Gabriel Baer, “Tanzimat in Egypt: The Penal Code,” in *Studies in the Social History of Modern Egypt* (Chicago: University of Chicago Press, 1969), 109–32; and Khaled Fahmy, “The Anatomy of Justice: Forensic Medicine and Criminal Law in Nineteenth-Century Egypt,” *Islamic Law and Society* 6 (1999): 224–71. See also Rudolph Peters, “Administrators and Magistrates: The Development of a Secular Judiciary in Egypt, 1842–1871,” *Die Welt des Islams* 39 (1999): 378–97, “The Codification of Criminal Law in Nineteenth-Century Egypt: Tradition or Modernization?” in *Law, Society, and National Identity in Africa*, ed. Jamil M. Abun-Nasr, Ulrich Spellenberg, and Ulrike Wanitzek (Hamburg: H. Buske, 1990), 211–25, “Murder on the Nile: Homicide Trials in Nineteenth Century Egyptian Shari‘a Courts,” *Die Welt des Islams* 30 (1990): 98–116, and “Who Killed ‘Abd Allah al-Ghazza? A Murder Trial before a Nineteenth-Century Egyptian Qadi,” in *Amsterdam Middle Eastern Studies*, ed. Manfred Woidich (Wiesbaden: Reichert Verlag, 1990), 84–98.

19. Anderson and Coulson, 33.

Judge: Now the defense, and make it brief.

Lawyer (after clearing his throat and fumbling among his papers): We are indeed amazed that the Attorney of the Parquet has summoned us here today describing us as the accused. What we say, your worship, is that, since nomadic and barbaric times, the origin of the occurrence of crimes according to the law in this world was meant . . .

Judge (in disgust): Would the honorable attorney please be brief?

Lawyer: It is well known, your worship, that the system of organization in the classes of human society demands . . .

Judge (irritated): Please be brief, Sir!

Lawyer: But the point at issue requires that . . .

Judge (grumbling): There is no need for all this.

Lawyer (flustered): The Attorney said (here he quotes something from the Attorney's speech), however, we claim that, were we to concede for argument's sake . . .

Judge (annoyed): That's enough, Sir. Get to the point!

Lawyer (stuttering and confused): May it please the court, this accused man who now stands before the Judge is a man of importance and a prince of considerable standing in days of old. His story has been published in the [newspapers]; here are the issues of *Misbah al-Sharq* for you to examine.²⁰

Here, the lawyer for the defense appears largely as a bombastic rhetorician who is ignorant of the legal code and unable to represent the interests of his client; in other words, he is the very figure of the wakil that the Bar Association effectively eliminated from the court. One particularly destabilizing feature of this passage is the lawyer's attempt to use earlier installations of Muwaylihi's serial novel—putatively true because they were published on the front pages of the newspaper *Misbah al-Sharq*—in order to bear witness for his client. Beyond its humor, it is important to note a legal aspect of the reference: the lawyer attempts to introduce the fictional text as courtroom testimony to validate the veracity of the Pasha's case. This is not as ludicrous as it might seem on the face of it: Muwaylihi's fictional text prominently occupied the front page of the newspaper when it appeared, undistinguished from factual items. In other words, though the text was recognizably fictional, its appearance alongside nonfictional pieces of reporting was designed to playfully blur any sharp distinction between the world of factual events and that of fiction.²¹

Perhaps because it does not meet any legal standards of authoritative testi-

20. Muwaylihi, *Hadith*, 51–52; Allen, *A Period of Time*, 133; my modifications in brackets.

21. Credit for this observation is due to Kamran Rastegar.

mony, the newspaper story is rejected without comment by the judge. The issue of testimony is another way that the novel addresses the anxiety of representation. One of the main formal conceits of Muwaylihi's novel is the way it plays upon—and departs from—the literary tradition of the *maqama*, the literary genre of rhymed prose and poetry whose protagonists are often tricksters and often directly address assemblies of the powerful. For example, the narrator of the text shares the name of the narrator in the classic example of the genre, Badi' al-Zaman al-Hamadhani's *Maqamat*. Like the *maqama*, much of *Fitra min al-zaman* is composed in rhymed prose; like Hamadhani's *Maqamat*, Muwaylihi's text begins with the formulaic phrase taken from the Hadith: *haddathana* ("they related to us").²² These features of the literary genre are significant. In the discourse of the Hadith, individual reports (*hadiths*)—that is, the sayings and acts of the Prophet Muhammad and the first Muslim community—begin with the convention of the chain of transmission (*isnad*), which charts the sociohistorical context by which these reports have been received and passed down. As much as the substance of its claims, it is this chain of transmission that grants a report its authority. That the veracity of a claim would be judged by the character of its speaker provided the logic informing the norms of testimony in Islamic law more broadly.²³ By playing with the formal qualities of the chain of transmission, the literary genre of the *maqama* draws attention to its own nonauthoritative status and serves to confuse the authority of truth claims within the work. It begins with a patently false chain of transmission and with a transmitter known to be scurrilous. By parodying the standards of testimony connected to hadith discourse, Muwaylihi's work plays against the standards of legal veracity more generally: no matter its accuracy, the truth to which it testifies remains fiction.

But the published story of the Pasha does eventually function effectively as testimony within the novel's plot. After the Pasha is found guilty, 'Isa takes him to a legal consultant in the offices of the Committee of Oversight. There, the Pasha is told that he lost in court not because of the merits of his case but because of his lawyer. One of the inspectors of the committee tells him: "I have already studied the angles of the case in *Misbah al-Sharq*. The judge may well have a good reason for interrupting the lawyer. Some of them make a habit of including the history of mankind's creation, the formation of human society, and other similar matters,

22. On the *maqama* literary genre, see James Monroe, *The Art of Badi' al-Zaman al-Hamadhani* (Beirut: American University in Beirut Press, 1983).

23. See Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh* (Cambridge: Cambridge University Press, 1997), 58–68.

into their defense speech. Such antics merely waste time, bore the listener, and have no relevance whatsoever to the point of the case.”²⁴ The brunt of this passage is not directed at the legal code but, rather, at the poor form of legal representation associated with *wukala'* and denounced by *effendi* lawyers.

Although the newspaper account of the Pasha's case is barred as testimony in the courtroom, it does move the inspectors to advocate his cause. In fact, it is this committee that critically revisits the Pasha's case, masterfully mobilizes the legal code to challenge his first conviction, and successfully represents his case on appeal. In short, within the plot, it is fiction that mobilizes advocates to speak more effectively for the Pasha. Thus, literature becomes a special kind of advocacy, one that guides legal representation and corrects its abuses.

We might ask, what else would a novelist argue? But this novelist was also a jurist using fiction to reflect upon the abilities and limits, the reason and absurdity, of legal advocacy. It is not insignificant that Muwaylihi's novel attempts to resolve the anxiety about speaking for society by rhetorically foregrounding its uncertified fictional status. Yet literature's anxiety about speaking for others and its ambivalence about speaking as an extrajudicial form of appeal are both expressed and contained by such acts of disavowal. Muwaylihi's text speaks on behalf of society but does so in a form that equivocates the authority of its own representation.

Down by Law in Cairo

If Muwaylihi's novel addresses the anxieties of legal advocacy from a position aligned (however ambivalently) with the *effendiyya* elite, Yusuf Abu Haggag's *Mudhakkirat fitiwwa* (*Memoirs of a Street Thug*) speaks to such anxieties from a contrary position. *Mudhakkirat fitiwwa* is a remarkable pulp memoir, much of it composed of hilarious sketches lampooning the ineffectiveness of the police and the legal classes. Originally serialized in the pages of the magazine *Lisan al-Sha'b* (the *People's Tongue*), Abu Haggag's text tells a story whose moral center is removed from the contemporary *adab* (polite literature; manners) appearing in elite print venues.²⁵ The protagonist and narrator of *Mudhakkirat fitiwwa* is an urban street tough whose language, unlike that of elite *adab*, is colloquial Arabic. Indeed, the narrator speaks the argot of petty criminals. In his diffident

24. Al-Muwaylihi, *Hadith*, 63–64; Allen, *A Period of Time*, 141.

25. Yusuf Abu Haggag, *Mudhakkirat fitiwwa* (Cairo: al-Matba'a al-'Arabiyya bi-Misr, 1926); translation mine.

introduction to the book edition (written in the elevated register of *adab*), poet Khayr al-Din al-Zarkali admits that at first glance he could not decide whether the “mistakes” of Abu Haggag’s language were typographical errors or reflections of moral weakness. Likewise, the narrative structure of *Mudhakkirat fitiwwa* appears flawed, composed of episodes that develop haphazardly. It is no *bildungsroman*; by the end of the story, the narrator is no wiser than he was at the outset.

Throughout the story, Abu Haggag’s narrator falls into trouble with the law. He fights, he crashes wedding parties, and he lounges in cafés. He drinks “whiskey-cognac,” smokes hashish, and uses cocaine in seedy Cairo bars and dance halls. The narrator constantly brawls with local gangs and thugs, the police, and even once, during the 1919 revolution, fights British soldiers. He is arrested and convicted multiple times. For all his encounters with the law, he learns no moral lessons nor even how to evade the police.

The publication of *Mudhakkirat fitiwwa* was not a unique literary event. In fact, throughout the 1920s, many such literary memoirs took the other side of *adab* as the starting point.²⁶ There were translations of fictionalized memoirs that had first appeared in European languages or in Turkish as well as others written by Egyptian authors. A short list of this last kind of work would include Marqus Yuna al-Mirsi’s *Mudhakkirat laqit* (*Memoirs of an Orphan*, 1923), Zaynab Muhammad’s *Mudhakkirat Wasifa Misriyya* (*Memoirs of an Egyptian Maid*, 1927), and Muhammad ‘Abd al-‘Aziz al-Sadr’s *I’tirafat Mumus* (*Confessions of a Prostitute*, 1928). Though the voice of these memoirs is immediate and direct, and the story they tell is putatively true, it would be hard to call them all works of nonfiction. Contrary to what their titles promise, it is doubtful that prostitutes, orphans, and maids were the actual writers of these works. Rather, their authors came from the margins of Cairo’s lettered class, working in more vernacular sectors of journalism.

As a glance at the above titles tells, much of this literature was dedicated to subjects that were literally unspeakable in elite *adab* or considered immoral.

26. Translations of fictionalized memoirs in this vein that had first appeared in European languages would include *Mudhakkirat mumaththila* (*Memoirs of an Actress*, 1926), *Mudhakkirat al-hubb fi-qusur al-muluk* (*Memoirs of Love in the Palaces of Kings*, 1928), *Mudhakkirat majnun* (*Memoirs of a Madman*, n.d.), *Mudhakkirat Madame Esquaithe* (*Memoirs of Mme. Esquaithe*, n.d.), and *Mudhakkirat bayt Dawud* (*Memoirs of the House of David*, n.d.). *Mudhakkirat Hikmat Hanim* (*Memoirs of Madame Hikmat*, 1921) was translated from the Turkish. The fictional memoirs by Egyptian authors are many, including: *Mudhakkirat ‘Arbagi* (*Memoirs of a Carriage Driver*, 1920), ‘Ali Imam ‘Atiya’s *Mudhakkirat ‘Amil fi-biqa’ al-Ahirat* (*Memoirs of a Brothel Worker*, 1926), and Muhammad Ra’fat Jimali’s *Mudhakkirat Baghi* (*Memoirs of a Whore*, c. 1928).

But in fact, most of these narratives include, or conclude upon, a strong moral message. Moral exhortations are often tacked onto the memoirs in the form of prologues, which assert that there are lessons to be learned from the stories of immoral life even if the stories themselves are scandalous. With their lascivious topics and unsentimental tone, these pulp memoirs appear to contradict the romantic humanism of the literary *Nahda*. However, their ultimately pedagogical tone is not unlike the pedantic moralism of that elite canon. Nonetheless, Abu Haggag's text stands slightly apart from this body of literature in that his narrator's conversion to leading a noncriminal life occurs only on the narrative's last page. Only then does the narrator invoke a moral register: "God forgave all of us, and repaid our patience with blessing. We learned that there was nothing to be gained by mischief, and that there was nothing better than the straight path."²⁷ The narrator's conversion in the last paragraph of the novel is unconvincing, not only because it is abrupt and has no consequences within the frame of the story but because there is nothing to prepare the reader to believe the sincerity of the street thug.

It is in the context of his multiple arrests that the narrator lands in court and rubs up against the practices of legal advocacy. In these public forums, he is always disruptive. During one of his first convictions, the narrator is called before the judge and, to his surprise, finds that he will be represented by someone else:

They called our names. We stood, and I saw an *effendi* wearing a black robe with white fur trimming, and guess what he turned out to be—a lawyer! [The judge asked] "Which of you is the lawyer?" And this guy stood up and said, "I'm the lawyer (*muhami*) for so-and-so," meaning me. I told him, "Forget that role. If you want to make a defense, defend all of us, or forget about it. But tell me, do you also defend people *pro bono*?" I looked up and saw my boss standing and gesturing to me, and I realized he was the one who got the lawyer. I shut up. The judge in the middle looked at me and asked, "Do you think the courtroom is a Punch-and-Judy show?" I said, "Your Excellency Sir, that was just a burst of enthusiasm! If I hadn't let it out, I would have just about burst and died!"²⁸

By drawing attention to the pretensions of the neologism for the *effendi* title of lawyer—that is, by reading the word *muhami* merely as "the one who defends"—this passage signals a skepticism about the necessity of legal counsel. The narrator tells the lawyer to sit down, and he begins to speak on his own behalf:

27. Abu Haggag, *Mudhakkirat*, 72.

28. Abu Haggag, *Mudhakkirat*, 22.

After a while one of the court guys read a paper that laid out the prosecution's case. And some fellow responded in the corner. He was wearing a green sash that made him look like a follower of the Rifa'i Sufi order. He said, "The Parquet requests the accused be sentenced according to penal code number. . . ." Blah, blah, blah. After a bit, the lawyer stood up in all his glory and power. He looked through his papers and began to talk. I thought he'd been standing too long and speaking too much, so I yelled out, "What's all this? Words on words! Do we have to beg from them to ask that I be found innocent? [To the lawyer:] What do you think, big guy? Sit down, no more bullshit!" I turned to the court and said, "What was that all about?! Listen, I want the court to give me freedom to speak." The judge in the middle said, "Speak." So I said, "I didn't kill anyone. No one was with me when it happened. I know nothing about what happened."²⁹

Since readers have been privy to the narrator's own account of the events, we know that his courtroom testimony is untrue. Rather he operates with the realistic (if cynical) calculation that, since the legal system is run by the *effendiyya* for the *effendiyya*, he has no moral imperative to play by their rules and may as well speak for himself, no matter how ineffectively. The narrator's class resentment becomes increasingly clear each time he is brought to court. There, he expresses his distrust of the *niyaba* and the judges and lawyers who speak this *effendi* language of the law, which is not just disconnected from, but also antagonistic toward, his own vernacular idiom.

After another brawl, the narrator is brought into court by charges filed by another *effendi*. Again, from the outset, the reader knows the narrator's courtroom testimony is a fabrication:

The judge asked, "Why did you hit the *effendi*?" I said, "That's the strangest thing I've ever heard, your Excellency. When you ride with the big boys, even grown men may fall." The judge said, "You better speak politely, boy!" I said, "Boy? My work is tougher than yours! But God made men in different gradations. I for one am a real man. And my word is a man's word." The judge said, "It's clear you're a thug. Why'd you hit the *effendi*?" [I said,] "I didn't hit him. What happened is we were racing horses. I beat him. Everybody clapped for me. What did Mr. Effendi Sir do? He raced over here to the court. . . ." The *effendi* said, "You beat me?!" I said, "God hide your shame! I could beat your grandfather, peace upon him." The judge asked, "Are you in a courtroom, or at the track? What does the *niyaba* say?" I said, "This *niyaba* gets stuck in every-

29. Abu Haggag, *Mudhakkirat*, 22–23.

thing. Is it a *niyaba* or a boor?" Sir Milus stood up and said, "The *niyaba* requests that the accused be sentenced by code . . . blah, blah, blah." and I don't know what else. The judge said, "The court rules that the accused be fined one hundred piastres and expenses of the plaintiff. I looked at our *effendi* friend and told him, "It's nothing. I'll make you sweat blood. I'll pay three hundred, four hundred! Where I'm from, we call this chump change."³⁰

It is while giving courtroom testimony in scenes like this that the narrator most clearly lies. Yet at the same time, it is in court where the memoir's truths also become most explicit. What perhaps needs more underlining in this passage is the way in which the narrator's sense of masculinity—indeed the *fitiwwa* (street thug) is an icon of machismo within popular Egyptian culture—is tied to his word. In other words, the protagonist's manliness—which is what incites him into so many confrontations with the law—is tied to his insistence on speaking for himself.

In this and other scenes, the narrator's disputations of the charges themselves are not in good faith. What he does dispute in good faith, however, are the rules which place mediated representation at the center of the court's activity. Above, I noted how elites sought to forge an organic tie between the legislating class and the law itself: Abu Haggag's narrator views this tie from the position of the legislated class and rejects its authority. For him, the *niyaba*'s function of speaking on behalf of society is no more legitimate than the lawyer's claim to defend him. Likewise, the narrator sees the judge as an interested party rather than as an independent arbiter in the representation game. And so it comes as no surprise that in a later trial the narrator preempts the judge when the latter asks for the prosecution's advice, saying, "Why do you need to ask the *niyaba*? You wrote up the verdict the moment you first laid eyes on me!"³¹

By his final court appearance, the narrator's critiques of the legal system become somewhat more direct, even earnest. In his other courtroom appearances, the narrator never fails to unleash his tongue against courtroom representatives. But in this scene he is respectful, even gentle, in his complaint to the judge:

I went to court on the appointed day, and found everybody sitting like they were in Ali al-Kassar's Teatro, waiting for the curtain to go up. I sat with the rest of them. In a while, the court made everybody stand, so I stood. Everybody sat, so I sat. The bailiff called out, "So and so." I said, "Fine, I'm in the first group." I approached and entered the cage. I said to the

30. Abu Haggag, *Mudhakkirat*, 36.

31. Abu Haggag, *Mudhakkirat*, 51.

judge and his buddies, “Peace upon you.” The judge was taken aback and returned my greeting. I said, “Don’t flip out, your Excellency, greetings cost nothing. But before we begin, I would like your Excellency to read that Qur’anic quote hanging on the wall above your head.” He looked at it and said, “When you render judgment among the people [God commands] that you judge with justice.” Then I said, “Where’s the justice, Sir? I’ve been in sixty courtrooms looking for justice, but I’ve never found it.”³²

For his polite sincerity, the narrator receives his first favorable judgment. However, even this ruling has nothing to do with justice, since we know from his firsthand account that he is (again) guilty of the charges against him. Rather, the ruling is about manners: for his good manners (*adab*) in court, he is rewarded with a relatively insignificant concession from a judge who represents the polite class. Later as he jostles toughly on a crowded bus, he tells the reader that though he had been well behaved in court, he was still a street thug.

In the end, it is difficult to define the critique of representation articulated in *Mudhakkirat fitiwwa*. On the one hand, it consistently satirizes the practices of courtroom advocacy, whether on the part of the prosecution, the defense, or the judge; on the other hand, it also consistently highlights the narrator’s rhetorical inability to successfully represent himself in court. The memoir exposes what is suspicious about the elite character of the *effendi* legal professions but never suggests that the *fitiwwa* is superior. Most importantly, perhaps, the novel suggests that the courtroom, indeed the entire legal system, has little to do with justice. It is on this last point that the memoir most closely converges with the detective pulp genre of the early twentieth century.

Pulp Detection

One of the most remarkable aspects of Tawfiq al-Hakim’s *Yawmiyyat* is that it develops a mystery but offers no solution. Yet even when the novel breaks with expectations of the detective genre, it acknowledges their claim. It is not remarkable that *Yawmiyyat*’s first readers would have been familiar with such expectations. Since 1900, there were translations of dozens of serialized popular crime novels from Europe: the well-known *Johnson (Junsun)*, *Carter (Waqā’i‘ Kartir al-shahira)*, *Arsène Lupin (Arsin Lubin)*, and *Sinclair (Sinklir)*. Other translations included the Sherlock Holmes series; less-famous series such as *al-Bulis al-sirri (The Secret Police)*, *Bulis Lundun (London Police)*, *al-Riwayat al-‘Uthmaniyya*

32. Abu Haggag, *Mudhakkirat*, 61. The quote is from the Qur’an 4:58.

(*The Ottoman Stories*), and *al-Shawish O'Malley* (*Sgt. O'Malley*)³³; and other series by writers such as Wilkie Collins, Charles Robiers, and Arthur Conan Doyle.³⁴ The market value of imported European pulp fiction was such that many—especially some of the *Arsène Lupin* series—were presented as translations although they were clearly the product of local Egyptian authorship. First appearing in cheap editions during the opening years of the century, these popular stories were subsequently reprinted numerous times.³⁵ Alongside these, there were also mysteries, thrillers, and true-crime narratives written by popular Egyptian authors whose names do not appear in studies of canonical fiction: Niqula al-Haddad, *'Ahd al-Jasusiyya* (*The Time of Espionage*, c. 1920); Mahmud Khayrat, *al-Kinz al-Misri* (*The Egyptian Treasure*, 1923); Fahmi 'Abd al-Majid, *Hadithat Asyut al-mudhisha* (*The Astonishing Asyut Incident*, 1925); and Yusuf Sabri, *Jarimat al-Mulazim* (*The Lieutenant's Crime*, 1928). Thus, when *Yawmiyyat* first appeared in 1937, it was read by audiences who had over a generation of experience with fictional crime genres.

There is much to suggest that the genre of detective fiction resonates with important themes of *Nahda* literature. Insofar as the genre foregrounds reading and interpretation—key activities of the *effendiyya*—detective fictions might have had a privileged place among this readership. Take, for instance, one of the narrative conceits of the detective genre: that by seeking the truth of the crime—by solving the initial puzzle presented by the crime scene—the investigating agent hopes to execute justice. According to the norms of the genre, this solution should be established rationally and reasonably: the investigator “reads” the clues of the crime text and, by a combination of inductive and deductive logic, re-creates the “narrative” of the crime.³⁶ Indeed, the genre’s ideology is distinctly modern inas-

33. These citations refer to texts which are located in the reading room of Egypt’s national library, Dar al-Kutub.

34. Other works include: *'Asabat al-ashrar* (*Gang of Bad Men*), *Intiqam al-'Adil* (*Revenge of the Just*), *'Atifat al-Jani* (*Criminal Affection*), *Dhat al-thub al-abyad* (*Woman in the White Dress*), *al-Jasusiyya al-raqiya* (*Sophisticated Espionage*), and *Duha' al-bulis* (*Police Victims*).

35. While publication figures for these novels are sketchy, there is some anecdotal evidence about the depth of their readership and popularity among the next generations of authors. In the interviews collected in Naguib Mahfouz’s *Atahaddath 'alaykum* (Beirut: Dar al-'Awda, 1977), 93, the author discusses his love for the genre. Additional references to reading detective fiction can be found in Sun'allah Ibrahim’s early short story “Arsin Lubin,” in *Tilka al-ra'iha wa-qisas ukhra* (Cairo: Dar al-Shuhdi, 1980). See also Muhammad al-Fayturi and Mahmud Amin al-'Alim’s associations with detective fiction in Cachia, “Unwritten Arabic Fiction and Drama,” 172, 179.

36. See Peter Brooks, *Reading for the Plot: Design and Intention in Narrative* (Cambridge, Mass.: Harvard University Press, 1984); John G. Cawelti, *Adventure, Mystery, and Romance* (Chicago: University of Chicago Press, 1976); and Tzvetan Todorov, “The Typology of Detective Fiction,” in *The Poetics of Prose* (Ithaca, N.Y.: Cornell University Press, 1977), 42–52.



Figure 1
Cover of issue from the
Carter series of *The
Secret Policeman* (*al-
Bulis al-sirri*) novels.
This episode is from the
story “Behind the Fog”
 (“*Ma wara’ al-dabab*”),
c. 1905.

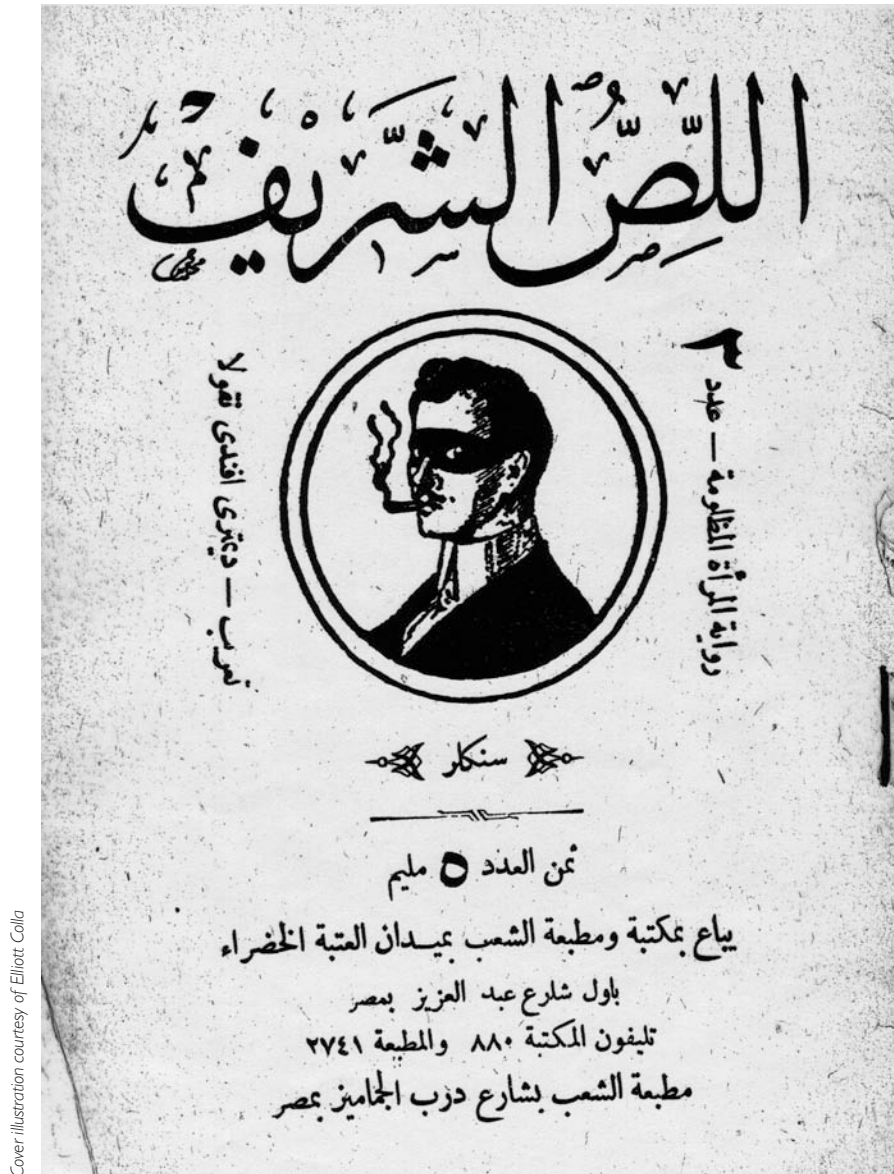
much as it suggests that even the irrational acts of society and individuals can best be understood through reason. The process of textual recapitulation establishes responsibility for the action (the criminal is identified) and sets in motion a process of retribution (property is returned, criminality is punished, and order is restored). Thus, as some critics have noted, at the core of the literary genre is a rational process upon which its (usually very conservative) claims about social order are based.³⁷

In its specific relationship to procedural law, however, the genre is far more ambiguous. For instance, the conventions of justice highlighted in detective fiction routinely ignore legal processes and the courtroom. The successful literary criminal investigation moves from clues to identification to conviction and finally to sentencing, usually without recourse to judges or juries. Often it is fate, rather than rational deliberation, that brings just punishment to the criminal. In short, despite its apparent affinities with the ideals of rational inquiry, the detective genre typically narrates a story that challenges the logic of *effendiyya* law. What the typical detective fiction does not challenge, however, is the moral authority of the *effendi* investigator. In this sense, the detective is a fantastic character upholding *effendi* law, order, and property relations but not bound by legal process.

But *Yawmiyyat*, a novel with lowbrow associations and abiding ambiguities, diverges from the genre's expectations. On the level of form, the novel is indeterminate, not least because the mystery of the novel is never solved. On the level of theme, the novel's critique is directed not only at the peasantry, but also at the *effendiyya*, the usual protagonists of *Nahda* fiction. This situates the novel more in line with the pulp memoir than with the elite adab literature. Indeed, the novel entertains a sharp critique of *Nahda* principles as put into practice and thus marks something of a departure not only from the tone and themes of the canonical *Nahda* literature but from the tone and themes of most of Hakim's own writing. In sum, although the story is told in the voice of an *effendi na'ib*, this character sees the law much in the way that Abu Haggag's underclass protagonist does.

Throughout *Yawmiyyat*, the unnamed protagonist, the *na'ib*, constantly describes—and complains about—the rigidity of the formal processes to which he must adhere. In this sense, Hakim's novel explores the bureaucratic legal system and offers a larger critique of the state order whose unique authority rests on a process which functions by a consideration of means rather than ends. The closer the *na'ib* looks, however, the more he sees that instead of producing a rational

37. See Ernst Mandel, *Delightful Murder: A Social History of the Crime Story* (Minneapolis: University of Minnesota Press, 1984).



Cover illustration courtesy of Elliott Colla

Figure 2

Cover from the Sinclair series of the Noble Thief (*al-Liss al-sharif*) novels. This episode is from the story “The Wronged Woman” (*“al-Mar’a al-mazluma”*), c. 1905.

state order, the processes of *effendi* law produce its opposite. Consider the bureaucratic form guiding the investigation of a case of poisoning:

Paragraph 141. When sending the envelope to the Medical Section, the Legal Department must simultaneously send to the Public Prosecutor the undermentioned form with all items accurately completed:

1. Date on which case was notified.
2. Name, age, and nationality of victim.
3. State of victim's health before the attack.
4. Symptoms which were observed (e.g. vomiting, diarrhea, pains, thirst, headache, dizziness, loss of powers of articulation, drowsiness, perspiration, paralysis, condition of heart, pulse, respiration).
5. Whether the victim complained of any unusual taste in the mouth when he took food.
6. Whether the victim felt any numbness or tingling in his tongue or limbs.
7. Whether the victim lost consciousness.
8. Whether the victim felt any nervous contractions or shocks.
9. Whether the symptoms appeared suddenly.
10. Whether the victim had ever experienced a similar condition before.
11. The period between the administration of the suspicious substance and the appearance of the first symptoms.

Note: Clear dates and definite times must be recorded for all the above items, i.e. it is not sufficient to write, "Next day at three o'clock" or "On Monday," but, for example, "The symptoms began to manifest themselves at 4 PM on the 16th of _____ in the year _____. The first thing to be noticed was _____, which was observed at exactly 3 AM _____."³⁸

Forms like this are the very material of the *na'ib*'s job: to follow procedure, to fill in the blanks. The novel even ends with him completing an oppressive amount of such reports. Yet following the procedure as laid out by the form is anything but a rational process. As the *na'ib* interrogates the poisoning victim, she dies. For those looking on, it is his interrogation which kills her:

There remained ten items in the questionnaire. If the name itself required all this effort, what of the rest? Especially the last question—about the

38. This citation is from an Arabic edition of Tawfiq al-Hakim's work *Yawmiyyat na'ib fi-l-aryaf* (Beirut: Dar al-Kitab al-Libnani, 1973), 160–61, and an English translation of it, *Maze of Justice: Diary of a Country Prosecutor; An Egyptian Novel*, trans. Abba Eban (Austin: University of Texas Press, 1989), 115. Any modifications appear in brackets.

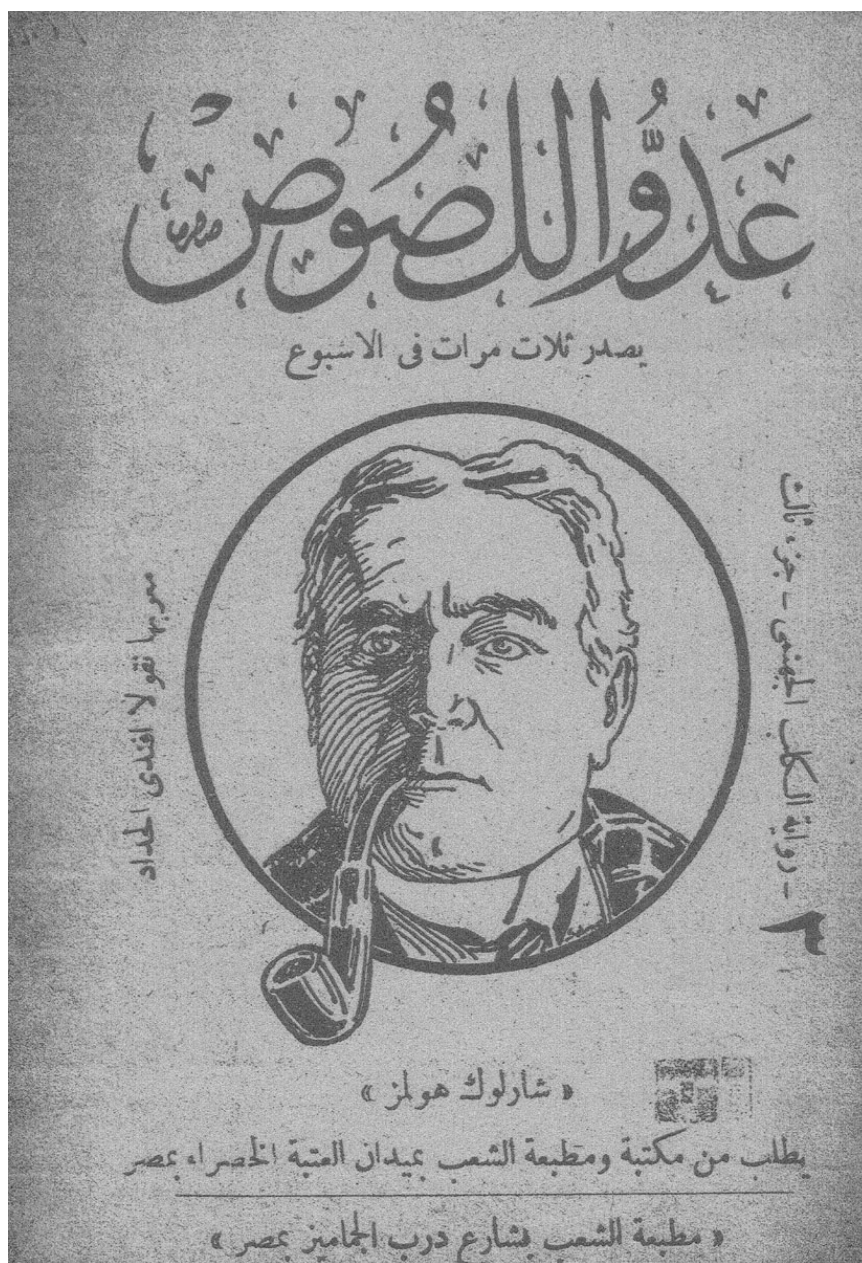


Figure 3

Cover of issue from the Sherlock Holmes series. This episode is from the story "The Hound of the Baskervilles" ("al-Kalb al-juhanimi"), c. 1900.

period which elapsed between when the suspicious substance was administered and when the first symptoms appeared, duly mentioning all the dates clearly and the exact time as the form demanded. This woman who had not uttered her name until we were nearly dead with exhaustion was supposed to tell us the exact hour and minute when she first noticed the symptoms. I should be mad to put such questions: it would be simply obtuse. What would these women think of my intelligence when they saw me vigorously preoccupied in obtaining from this woman—who lay there like a corpse—all kinds of details about the hour and minute of her symptoms and all the rest of the printed formulas which had been drawn up with calm deliberation in the capital, far from the scene of her squalid anguish?³⁹

The protagonist is constantly frustrated by such scenes, bogged down by the discrepancies between formal rules drawn up in Cairo and application in the rural provinces.

However, the novel suggests more than a simple disconnect between the theory of the criminal law and its application. It also argues that the *Nahda* discourse of modernity is contaminated by this irrationality and chaos, that disorder is not a misuse of the law but, rather, a fundamental part of its rule. The point is again related to the function of representative legal agents who speak in the name of society. For instance, the novel's depictions of the courtroom suggest the place has little to do with the administration of justice. About one particularly egregious case, the narrator writes:

A decrepit, bent-backed man with a white beard came forward, hobbling on a stick. The judge pounced on him with a question: "You expended reserved wheat?"

"It was my wheat, your honor, and I ate it with my family."

"Pleads guilty. One month with hard labor!"

"A month! Do you hear, Muslims! My own wheat, my own crop, my own property!"

The policeman dragged him away. As he went, he stared at those in court with goggling eyes as though he could not believe that he had heard the sentence aright. Surely his ears must have deceived him and the spectators must have heard the truth. For he had stolen no man's wheat. It is true that the usher had visited him and "reserved" his wheat, appointing him as its trustee until such time as he paid the government tax. But the pangs of hunger had seized him violently—him and his family; so he had

39. Al-Hakim, *Yawmiyyat*, 165; Eban, *Maze of Justice*, 118.

eaten his own wheat. But who could possibly regard him as a thief on that account and punish him for stealing? It was impossible for this old fellow to understand a law which called him a thief for eating his own harvest, sown by his own hands. These were crimes invented by the law to protect the money of the government or of private creditors; but they were not natural crimes in the eyes of the poor farmer, whose simple instinct could not find any sin in them. He knows well enough that assault is a crime, and murder is a crime, and theft is a crime; for all these involve an obvious aggression against somebody else and reveal clear and evident moral turpitude. But “expending reserved property”—this was something whose principle and definition he could not grasp. For him it was purely a formal, legalistic crime, whose impact he must go on enduring without believing in it at all.⁴⁰

In this scene, the category of the legalistic crime appears not as an aberration but, instead, as the logical consequence of the code, invented and interpreted by legal professionals. Rather than serving to demystify social relations, lawyers work to compound their mystery. And, throughout the story, this mystery intensifies a tension between reason and the law: what is supposed to be legal often appears as morally illegitimate; what is supposed to be a crime is often morally righteous.

In the novel's richest moment, this tension between reason and the law is drawn out to suggest a reversibility between criminality and legality. And it is brought to bear on the *na'ib*. Scrutinizing the reliability of eyewitness testimony as evidence, the *na'ib* reflects on an earlier investigation:

The most extraordinary [lineup] I ever conducted was in a case of forgery. The accused was an [*effendi*], and I put him in amongst a lot of people wearing [tarbushes], and then produced the peasant who was the victim of the fraud and asked him to identify the man who had wronged him from amongst those present. After scrutinizing their faces for a brief moment, he turned away from the line of people and stood opposite me—the Legal Officer in charge of the inquiry. He stared at me intently for a long time. His eyes showed symptoms of a suspicion—which was soon succeeded by the certainty of having finally hit upon the true culprit. . . . I rebuked him and ordered him to look at the row of people before him and produce a suspect from their midst. But the fellow kept on passing along the row and coming back to fix his gaze upon me, examining me from top to toe with an air of profound suspicion.⁴¹

40. Al-Hakim, *Yawmiyyat*, 93–94; Eban, *Maze of Justice*, 72–73.

41. Al-Hakim, *Yawmiyyat*, 137; Eban, *Maze of Justice*, 100.

Here the novel's critique of the state's prosecution of criminal law reaches its utmost limit: the legal officer is mistaken for the criminal. Moreover, this mistake is not the result of a botched procedure but happens within its normal application. It is significant that the crime under consideration, forgery, was the very one associated with earlier practices of legal advocacy. Since the novel never identifies the culprit of the crime under investigation, this remembered lineup scene figures in its place, suggesting that it is the *na'ib* who is guilty. Importantly, this accusation has nothing to do with the individual culpability of the protagonist. Rather, the accusation of forged misrepresentation is directed at the professional and class position occupied by the *na'ib*. The novel suggests that, in the eyes of his accuser, there is no difference between advocate and criminal when it comes to fraud: the very skills upon which *effendi* criminals commit their crimes—writing and representation—are the same used by *effendi* state representatives to uphold the law.

Conclusion

It is no accident that when early Egyptian novels represented society, the figure of the *na'ib* often appeared. The power to legislate lay at the heart of the *effendiyya's* *Nahda* discourse, and the *na'ib* was at its core. Insofar as the novel was a crucial forum of the *Nahda*, it could not help but comment critically on this fact. But Hakim and others not only commented upon the anxieties of this new order of public representation, they also participated in creating this order. Like law, these fictions introduced not only new concepts of society but also new positions from which to speak about society. Moreover, no matter how organic the connections between the new legal professions and the novel form were, these activities were not reducible to one another. Novels, even those about the law or those published serially on the front pages of newspapers, spoke in a register that diverged as much from legal discourse as it did from news reporting. Fictions, even those that appear to be true, presented claims that were generically different from press accounts and legal briefs. Thus, just as these novels form a tradition of legal muckraking, there remains a tension between the generic conventions of fiction and those of the official legal process: in most of these fictions, justice is frequently delivered outside the courtroom and, indeed, is often based on the idea that the courtroom is a site where justice cannot happen. This opposition between (the practice of) law and (the theory of) justice is a recurring theme and fundamental assumption in most of the early Egyptian novels that comment upon

crime and the legal system. Thus, while it is clear that these fictions provided a space for addressing legal concerns, their legal performativity remained somewhat ambiguous.

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