



## Review

### ***Literary Trials: Exceptio Artis and Theories of Literature in Court*, ed. by Ralf Grüttemeier (New York: Bloomsbury Academic, 2016)**

*Celia Marshik, Stony Brook University*

Scholarly analysis of literary trials often tells a familiar narrative: the lone author confronts a conservative and benighted justice system, and while literature may suffer repression, history tends toward liberatory treatment and the validation of the author. Grüttemeier's collection aims to provide a subtler examination of literary trials, specifically by tracing the evolution of *exceptio artis* (the tenet that literature, unlike other forms of print, is exempt from charges of pornography, blasphemy, and libel) and by attending to moments when judges and other authorities theorize about literature. Organized around three axes— 'international comparison, history and institutions' (4)—the *Literary Trials* examines how different nations have determined what may circulate and why. It demonstrates that *exceptio artis* is not a simple concept and that celebration of a free press papers over difficulties that bubble just beneath the surface of statutes and legal practice.

The collection begins with six essays that examine literary trials over the course of the nineteenth and twentieth centuries. Analyses of trials and laws in France (Sapiro), Britain (Kirchhofer), South Africa (Laros), the Netherlands (Beekman), Germany and Austria (Lieb), and the Soviet Union (Sasse) offer a sweeping view of how treatment of authorial intent, *exceptio artis*, the border between art and pornography, and the relationship of words and deeds evolved through specific statutes and rulings. The last four essays take up more recent cases in the UK (McDonald, Kayman), Germany (Grüttemeier) and Belgium (Hupe), some of which initially seem distantly related to the category of literature but that shed light on the collection's main concerns. While the geographical absences in this list might disappoint some readers—why the Soviet Union and not China, for example?—the collection's range serves to highlight the parallel conversations taking place around the globe.

For example, many of the essays note that blasphemy charges continued to plague authors long after obscenity prosecutions lapsed. As Ted Laros demonstrates, South Africa, in which legal precedents established a form of *exceptio artis*, had an uneven record when treating texts that satirized or mocked religion. Some configurations of the country's Publication Appeals Board limited literary autonomy (76-77), while later boards and Chairmen were more liberal. A text's treatment of religion, however, could still result in a ban: Anthony Burgess's novel *Man of Nazareth* was declared 'undesirable' in 1979, 1984, and 1992 (80). Claudia Lieb, writing on the treatment of Oskar Panizza's *Das Liebeskonzil* in Germany and Austria, similarly demonstrates the ways in which blasphemy charges were brought against artistic works in the late twentieth century. Lieb highlights the author's unusual imprisonment in 1895; while printed versions of Panizza's play were later allowed to circulate, in 1993, a ban on the film version was upheld by

the European Commission on Human Rights because of the work's offense to religious feeling (118-119). As Martin A. Kayman points out in the collection's final essay, multi-ethnic and multicultural nations still struggle with how to treat blasphemy. Although freedom of expression remains a 'sacred *juridical* principle' (207), there is a 'legal aporia regarding offenses to religious belief' that became acutely visible when a UK appeal court determined that the offense of blasphemous libel 'applied only to blasphemies against Christianity' (205). A conclusion that draws out these and other threads would have been useful, but the attentive reader will find several of such connections running through the ten essays.

While *Literary Trials* sheds important light on the evolution of *exceptio artis* and the efforts of non-literary elites to theorize about literature, it is the collection's final two essays that offer the most theoretical and perhaps widely relevant analyses. Kayman thinks through the sacredness of law and of religion to raise important questions about how these two systems conflict, particularly when humour is involved. And Peter D. McDonald examines the seemingly unpromising terrain of Elton John's 2008 libel case against the *Guardian* to demonstrate that the use of bibliographic codes and the category of the 'reasonable reader' reveal 'the challenges courts and other tribunals face when they attempt to treat literature as a clearly identifiable object of knowledge or to apply secure tests for literariness' (188). In these and other essays, readers will find not merely historical curiosities but a reminder of how fragile—and at times downright illogical—are the legal decisions that are too often naturalized in our discussions of literature's confrontation with the law.