Desecration, defamation (‘Rufmord’), depravity, invasion of privacy, theft of intellectual property, ideological sabotage, corruption of public morality, incitement to violence, impropriety, inauthenticity – this is not an exhaustive list of the crimes for which literary texts and their authors may be tried in courts of law and/or the court of public opinion. Text crimes of omission – such as silence on a subject – can count as heavily as crimes of commission. One frequent charge is an alleged failure to write ‘real’ or ‘worthwhile’ literature: for some, the harshest accusation. Texts are both subjects and objects of expression, and ‘text crimes’ are matters of interpretation, so interpretations, too, can be judged to commit text crimes: censorship is the obvious example, but a reading or a (theatrical, filmic) interpretation can also be judged an offence.

(Allegations of) text crimes beget (allegations of) text crimes. Much of the modern history of literature and its reception, not only in the German-speaking world, can be told as a history of such allegations, some leading to legal proceedings, some not. Texts are more often incriminated for violating cultural norms than for breaking actual laws. Alleged crimes may be defined in juridical terms, or moral terms, or both. Accusations, if communicated with sufficient power, elicit counter-accusations, revealing the contours of cultural understandings of ethics and politics.

This volume deals with a selection of such events, from the later twentieth and twenty-first centuries. It differs in its priorities from the recent spate of publications in German on literary scandal as a social and media phenomenon, which have followed in the wake of Robert Weninger’s wide-ranging and pugnacious Streithaft Literaten (2004). His studies, as well as the bulk of the contributions to the edited volumes of Stefan Neuhaus and Johann Holzner (2007) and Hans-Eduard Friedrich (2009) on literary scandals, and Thomas Ernst et al. on ‘subversion’ in a wider range of cultural forms (2008), exhibit two connected tendencies. Firstly, they use the cases in question as scaffolding for a narrative of intellectual and cultural history, and therefore focus less on the literary works in question than on the positions taken by protagonists in the
associated public scandals – and in these, a text’s author may not even be a major player. Often, indeed, these studies replicate the logic of public literary scandal or of (perceived) ‘subversion’ which they analyse, in that they proceed with only an initial, glancing reference to the putative scandal or subversive agent. Literary facts tend to be occluded by extra-literary facts. Secondly, and relatedly, these scholars are chiefly concerned to elaborate theories of the relation between aesthetics and cultural politics, in which the former is usually subordinated to the latter.

The emphasis of most contributors here is a little different. They focus more on the literary texts as texts and on the self-understandings of the authors in question. Without necessarily adopting the stance of defenders of sullied reputations, they seek to recover the literary work and the authorial project from behind the fog of accusation and counter-accusation, appropriation and exploitation. Without neglecting the contingent interactions of the logics of individual (self)marketing, collective cultural politicking, legal constraints, media opportunities, and occasional moral panics, these essays try not to let the grey glare of these extrinsic factors hide the possibly greener logic of the texts.4

This volume joins the growing body of work concerned with the relations between literary (and other cultural) works and legal questions and discourses: the burgeoning field of Law and Literature. In the USA this field is associated with efforts to import into the study of law some of the critical methods of postmodern literary theory.5 In the German context it seems to have been domesticated in studies of legal aspects of literary culture or literary representations of questions of law and the philosophy of law. But the recent collection edited by Claude D. Conter (2010) on Justitiabilität und Rechtmäßigkeit (justiciability and juridification),6 that is, the constitution of literary and other cultural texts as objects of law, demonstrates that German work in this field combines legal and literary studies in increasingly stimulating ways. Conter’s contributors’ themes – censorship, conflicting rights to freedom of expression and privacy, intellectual and moral property, and taboo7 – are also ours. Still, when Conter describes the volume’s purpose as being to demonstrate that literature can always be subject to legal action (can be ‘justiciable’), hence that law is a category of the sociology of literature, and that ‘literature as a social system’ develops along or through ‘processes of juridification’,8 this suggests a more systematic ambition than ours: a greater faith in the likelihood of reaching general conclusions about the interrelations, not just of law and literature, but also of all the other entailed forces of cultural and social change: in economics, ethics,