

proliferating panic

Regulating Representations of Sex and Gender during the Culture Wars

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I would say by about the mid-80s, the avant-garde was viewed as a virus eating away at the body politic—something that needed to be stamped out if possible. Artists should be—if not killed—at least silenced.

Martha Wilson (founder and artistic director of Franklin Furnace)¹

During the culture wars in the United States from the late 1980s into the 1990s, surveillance of representations of the American citizen reached a particular frenzy. In her powerful metaphor, Martha Wilson, founder of the arts organisation Franklin Furnace, refers to the proliferating panic of conservative commentators about avant-garde artists challenging the heteronormative status quo.² This article explores the moral panic that has accompanied attempts by the New Right to shape and define the American citizen as heterosexual, monogamous, white and a believer in middle-class family values. Decisions about government funding for the arts have been made with the aim of policing and regulating the work of artists, particularly those who critiqued traditional American values. My focus here is the work of performance artists Karen Finley and Holly Hughes, and the conditions that led to controversy around their performances. Finley and Hughes created performances that challenged hegemonic discourses of gender and sexuality. They were two of those artists branded by the media as the 'NEA Four', practitioners whose work was considered indecent and consequently de-funded by the National Endowment for the Arts (NEA)—the main government funding body for artists in the United States.³ During the moral panic associated with the 'NEA Four', national debates about freedom of speech, censorship and the legislative control of arts funding rapidly polarised. Discourses about the regulation and prohibition

of gendered and sexual representation actually proliferated discourses about sex and gender, escalating the panic.

This article draws on the work of Judith Butler to understand the role of critique in undoing the oppressive effects of 'restrictively normative conceptions of sexual and gendered life'.⁴ Isolating incoherence, unspeakability and vulnerability in social life as the conditions in which critique may emerge, Butler draws attention to the precariousness of this act. If the act of critique questions normative and regulatory practices in order to imagine a different socio-political future, and if critique is likely to emerge out of a clash between discourses, then this fragile socio-political environment is also susceptible to other kinds of discursive intervention, such as the workings of a moral panic. The term 'moral panic' was first used in 1971 by sociologist Jock Young about the socio-cultural meanings of drug taking, and was later more fully developed by Stanley Cohen in his study of mods and rockers. Since the inception of the term, academics have contested the characteristics of moral panic, and interrogated those processes and sequences by which they unfold.⁵ The expansion of the media and new technologies register, in ever more complex ways, such events as they take place and to meet this culture of immediacy theories of moral panic have been revamped, reconceived and rearticulated.⁶

My argument that follows imagines performance art as a queer time and space; that is, not only does performance art contest normative structures of traditional theatrical performance, so too does it challenge understandings of normative subjects, and the relation of the arts to structures of power. Judith Halberstam's scholarship about queer time and space has been a significant development in queer studies and is critical to the formulation of my theorising of performance art.⁷ Like David Román and Richard Meyer, I share the conviction that "queerness" becomes most useful as an interpretive category, when placed in relation to particular social contexts, historical moments, and cultural surrounds'.⁸ This is not to say that performance art is an exclusively queer art form, but rather to acknowledge that it has been easily accessible to historically marginalised groups such as feminists and queers because practitioners often employed the body and skills of a solo performer, using material from everyday life with a focus on the body in time and space and often turning toward autobiographical explorations.⁹ Therefore, performance art of this kind is often less expensive to produce than more traditional theatre, and involves self-devised work in which some performers draw on personal experience to offer socio-political and cultural critique of pressing issues.

In the late 1980s and early 1990s, with the emergence of queer theory—which understands identities as not fixed or stable, but fluid, dynamic, contradictory and constructed—some marginalised performance artists chose this medium through which to challenge the normalisation and institutionalisation of heterosexuality. Halberstam suggests that queer

time emerges outside the temporal frame of 'bourgeois reproduction and family, longevity, risk/safety, and inheritance' while queer space refers to the place-making practices in which queer identities engage, as well as new spaces constructed by queer counterpublics.¹⁰ Counterpublics are 'parallel discursive arenas where members of subordinated social groups invent and circulate counter-discourses to formulate oppositional interpretations of their identities, interests and needs'.¹¹ There is no doubt that the American New Right was concerned about the potential development and perceived government-sponsored support of counterpublics around queer subjectivity. The de-funding of Finley and Hughes suggests a concern that the emergence of such counterpublics would result in further acknowledgement of and debate into the rights of citizens occupying alternative sexual and gendered subjectivities.

— SEXUAL CITIZENSHIP AND MORAL PANIC: A HISTORICAL OVERVIEW

The set of circumstances around *NEA v. Finley* may also be used as a pivot to consider the role of the performing arts in reconstituting the zone of citizenship, especially sexual citizenship.¹² In his critique of a selection of alternative and mainstream performances mounted between 1994 and 2004 across the United States, David Román situates performance at the centre of 'current national enquiries and debates' and as vital to shaping the national imaginary.¹³ Challenging hegemonic discourses that position the performing arts as marginal to national concerns, Román argues that some contemporary performance positions audiences as critical subjects, and by so doing provides a framework to rehearse new forms of sociality.¹⁴ Governmental fears inspired by the New Right's activism around this kind of socio-political engagement may be related to the perceived influence that such performances have on individual and group values, beliefs and practices. These practices may include engaging in further activism for increasing rights for marginalised gendered and sexual subjects. Jill Dolan argues that theatre and 'performance help shape and promote certain understandings of who "we" are, of what an American looks like and believes in'.¹⁵ Heightened sexual conservatism therefore works in tandem with governmental and legal regulation during times of moral panic to reduce the subjective and representational possibilities of sexual citizenship. An example of institutional and governmental response to panic around same-sex recognition is the Defense of Marriage Act (DOMA) signed off by Bill Clinton on 21 September 1996, which demonstrates that laws intent on 'protecting' marriage have 'no compelling state interest except to save the state money by excluding queer citizens from state protections and benefits'.¹⁶ Further, these kinds of regulations and restrictions amplify and proliferate discourses of homosexuality and the subsequent panic that government, legal and socio-cultural bodies wish to contain.

In the 1998 United States Supreme Court case *NEA v. Finley*, the court decided that it was constitutional for the NEA, an independent federal agency supporting artists and arts organisations, to consider 'general standards of decency' in awarding grants to applicants.¹⁷ In response to heightened moral panic about artists challenging normative understandings of gendered and sexual identities, and of the representation of religious iconography in art, the United States Congress inserted the 'decency' clause into the NEA's 1990 reauthorisation bill, and John Frohnmayer, former NEA chairperson, implemented that congressional change.¹⁸ The decency clause was to become part of the funding criteria employed by the NEA in making grant decisions. This meant that applicants for funding were agreeing to accept the 'decency' clause as binding, which had a chilling effect on would-be applicants, particularly those artists whose work challenged normative boundaries.¹⁹ Having applied to the NEA for individual grants before the implementation of the 'decency' clause, performance artists Karen Finley, Holly Hughes, John Fleck and Tim Miller had initially been supported by an NEA review panel, but after implementation the NEA retroactively de-funded their applications. This act of cultural brokerage was the result of a moral panic manufactured around non-normative representations of gender and sexuality.

The Finley case exemplifies Kenneth Thompson's insight that 'events are more likely to be perceived as fundamental threats and to give rise to moral panic if the society, or some part of it, is already in crisis or experiencing disturbing changes giving rise to stress'.²⁰ One of these crises was the emergence of HIV/AIDS and the subsequent homophobic scare campaigns manufactured by the New Right and homophobic conservative religious groups. Another crisis was the ongoing campaigning against same-sex marriage resulting in the Defense of Marriage Act (DOMA) as mentioned above. *NEA v. Finley* is only one narrative from the culture wars, but it is a complex and powerful one—shaped by the hostility, volatility and disproportionality that we may understand as the workings of moral panic.

In her now famous essay, 'Thinking Sex', Gayle Rubin argues that disputes 'over sexual behaviour often become the vehicles for displacing social anxieties, and discharging their attendant emotional intensity'.²¹ In matters of panic around sex, the New Right deploys identity categories such as 'lesbian' and 'gay' as markers of social deviance, not just to play into the apparent binary of homosexual–heterosexual relations, but also to indicate the proximity of the homosexual to other 'folk devils'.²² Identifying other periods of unrest, Rubin reminds her reader of the cyclical nature of moral panics around sex—referring to the Comstock Act, passed as the first American federal anti-obscenity legislation in 1873.²³ This act banned making, selling, advertising, possessing, posting or importing books and images considered obscene. By run-on effect contraceptive and abortive drugs and associated information and devices were banned, and 'most states passed their own anti-obscenity laws'

to mirror that Federal benchmark.²⁴ Rubin also identifies the 1950s as a time in which sexuality was institutionally and discursively reorganised when the Comstock law was challenged and focus shifted to prostitution, masturbation, the figure of the ‘sex offender’, and—significantly—the ‘homosexual menace’ (a phenomenon linked to matters of national security through the discourse of communism and its attendant witch hunts).²⁵ While Comstock had initiated a ‘process of nationalizing the discipline of sexual representation in the United States in the name of protecting national culture’, the homosexual conspirator became a symbol for anti-nationalism in the hands of Senator Joseph McCarthy.²⁶ Playing into prevalent anxieties about sexuality and strategically linking the ‘lavender menace’ with the ‘red menace’, McCarthy told reporters: ‘If you want to be against McCarthy, boys, you’ve got to be either a Communist or a cocksucker.’²⁷ The implication was that both were national and sexual traitors, neither conforming to the nation’s idea of an *appropriately* masculine or feminine citizen subject.

There are also many contemporary examples of the regulation of sexuality. These include *Bowers v. Hardwick* (1986), in which the US Supreme Court upheld the constitutionality of a Georgia sodomy law that criminalised oral and anal sex in private between consenting adults; *Kentucky v. Wasson* (1992), a Supreme Court decision striking down Kentucky’s criminalisation of consensual sodomy; and, some seventeen years later, *Lawrence v. Texas* (2003), which overruled state law in Texas, the decision in *Bowers*, and twelve other states, with the majority arguing that intimate consensual sexual conduct is protected by substantive due process under the Fourteenth Amendment (which includes the Due Process and Equal Protection clauses).²⁸

Sodomy laws have also been applied unevenly, primarily targeting sex between men.²⁹ In his dissent against the majority in *Bowers*, Justice Blackmun comments that, notably, ‘the Court makes no offer to explain why it has chosen to group private, consensual homosexual activity with adultery and incest rather than with private, consensual heterosexual activity by unmarried persons, or indeed, with oral or anal sex within marriage’.³⁰ Drawing attention to the collapse of homosexual activity with other categories of deviance, Justice Blackmun attends to the rhetorical slippages that take place during a moral panic. Thomas Kendall comments that the court’s ‘rhetorical contortions in *Hardwick* reveal the desperate lengths to which the paranoid judicial imagination is willing, at least figurally, to go to defend itself from a constitutional claim which “gnaws at the roots of [the] male heterosexual identity” that subtends the Court’s institutional self-image’.³¹ Kendall’s excellent discussion acknowledges the court’s act-based and identity-based conceptions of sodomy which remains inattentive to this distinction as more apparent than real.³² In her discussion of citizenship, Lauren Berlant notes the circulation of a memo to the Supreme Court justices during *Bowers*. The memo was written by Justice Thurgood Marshall’s clerk, Daniel Richman, and

situated sodomy as a sexual rather than a homosexual act: 'THIS IS NOT ONLY A CASE ABOUT HOMOSEXUALS. ALL SORTS OF PEOPLE DO THIS KIND OF THING.'³³ Berlant suggests that Richman's reference to heterosexuality almost brought 'the "sex" of heterosexuality' into view, so that it was 'imaginable, corporeal, visible, public'—instead of 'that sacred national identity that happens in the neutral territory of national culture'.³⁴ That heterosexuals engage in the same or similar sexual practices to homosexuals was far too queer for the Supreme Court to publicly recognise. Such recognition would have infringed upon the 'zone of privacy'—a term coined by Justice William O. Douglas's 1965 opinion in *Griswold v. Connecticut* prohibiting the courts from peering into the marital bedrooms of heterosexuals; so too would it have disturbed the fiction of national heterosexuality.³⁵

This particular fiction is still compulsory within the Uniform Code of Military Justice in which sodomy is illegal for members of the United States armed forces—a group of citizens whose role is explicitly understood to both represent and embody the nation and, thus, heteronormativity. In official histories, the armed forces occupy a position in perhaps the largest of American closets, a place in which the assumed heterosexuality of members and their capacity for reproduction is strategically pitted against the possibility of imminent death. Lauren Berlant and Michael Warner suggest that national 'heterosexuality is the mechanism by which a core national culture can be imagined as a sanitized space of sentimental feeling and immaculate behaviour, a space of pure citizenship'.³⁶ Performances of gender are carefully regulated, speech and conduct are collapsed, and self-definition as queer is prohibited in the 'discharge' policy. Butler suggests that the 'specific performativity attributed to homosexual utterance is not simply that the utterance performs the sexuality of which it speaks, but that it transmits sexuality through speech: the utterance is figured as a site of contagion' and that 'the speaking of prohibited names becomes the occasion for an uncontrollable communication'.³⁷ Similarly, the circulation and proliferation of moral panic relies on the continual repetition on the part of special interest groups and media of a subject or event that is perceived to be prohibited or taboo so as to create social and political instability. Central to Butler's thesis is the 'question of whether citizenship requires the repression of homosexuality' and the fact that 'the military is already a zone of partial citizenship, a domain in which selected features of citizenship are preserved, and others are suspended'.³⁸ Similarly, same sex couples have partial citizenship, encountering difficulties with federally sanctioned marriage, joint health care, fertility and adoption rights, tax breaks, superannuation and inheritance. This example demonstrates that the United States military's stance on sexual minorities shows that the state has a powerful role not only in pathologising identities, but also in shaping them. So too does the NEA have a powerful role in legitimating and supporting the representation of hegemonic groups over minorities, and in structuring and constituting the national imagination.

— THE CULTURE WARS

The 'culture wars', as played out in the United States during the late 1980s and into the 1990s, may be viewed as a sustained period of moral panic. If the increased rapidity and all-pervasive quality of moral panics defines the present era—as Kenneth Thompson suggests—then the culture wars may be characterised by a series of moral panics, manufactured by special interest groups and the media, about the representation of alternative understandings of issues from gender and sexuality to ethnicity and religion. Within an American context, the 'culture wars'—a phrase first employed by sociologist James Hunter as the title of his 1991 monograph—is most often used to refer to a series of sustained ideological conflicts broadly relating to the representation of diversity and difference in American culture.³⁹ The culture wars in the 1980s and 1990s extend and elaborate upon issues raised by some of the socio-political movements in the 1960s and 1970s, including civil rights, women's liberation and gay and lesbian liberation movements. Art produced during this time also responded to the HIV/AIDS pandemic that was first recognised by the Centers for Disease Control and Prevention, an agency of the US Department of Health and Human Services, on 5 June 1981. Initially known as GRID (gay-related immunodeficiency disease), the HIV/AIDS pandemic had originally been associated with gay men, and had been used as ammunition by the New Right and conservative religious groups to advance a homophobic agenda.⁴⁰ For example, Richard Meyer gives an account of conservative writer William F. Buckley's call in the *New York Times* for mandatory tattooing of those with HIV/AIDS, to act as a warning to others—a call clearly meant to evoke the Nazi inscription of Jews (and other racial minorities) and homosexuals during the Holocaust.⁴¹ Emphasising the language of moral pollution and degeneracy, Vance makes a similar observation about the rhetoric mobilised within the culture wars in an 'analogy chillingly reminiscent of Nazi cultural metaphors'.⁴² Vance highlights the rhetoric of politician and syndicated columnist Patrick Buchanan to make her point. Buchanan proclaims: 'As with our rivers and lakes, we need to clean up our culture: for it is a well from which we must all drink. Just as a poisoned land will yield up poisonous fruits, so a polluted culture, left to fester and stink, can destroy a nation's soul.'⁴³ Perhaps unsurprisingly, this same rhetoric emerges in the Supreme Court transcripts in *NEA v. Finley*.⁴⁴

In his 'Declaration of Independence to Congress', performance artist Tim Miller suggests that George Bush Sr 'has conspired to make gay artists, artists of color, feminist artists, artists who are dealing with AIDS, anyone who speaks their mind in an outraged and clear voice, to be considered unsuitable for the cultural support that any democracy should provide'.⁴⁵ Miller gestures to many of the issues considered controversial within the context of the culture wars: government funding for the arts, government support of the representation of minority voices in the arts, the responsibility of democracies to make available cultural support for

a diversity of its citizens, and the affective power of the arts to generate and participate in cultural debate. Douglas Crimp comments that 'the Reagan/Bush administrations understood exactly the power of art to stir radical participation in democracy' and that 'the administrations purposefully set about to dismantle the endowments to clamp down on avenues for public dissent'.⁴⁶ Threats to dismantle the endowment instigated by the New Right in response to supposedly 'controversial' art and performances, regulations such as the decency clause, and the elimination of individual grants for visual and performance artists, goes against the spirit of the congressional mandate establishing the NEA in 1965. This mandate declared the government's help was necessary to 'create and sustain not only a climate of encouraging thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent'.⁴⁷ Vance suggests that the chain of events that led to a 'full-fledged moral panic', 'was new to the arts community', but 'is in fact, a staple of contemporary right wing politics'.⁴⁸

Referring to artists funded during this time, Philip Brookman, then curator at the Washington Project for the Arts—a non profit experimental art gallery in the nation's capital—comments that 'these artists, who had received NEA funding, directly or indirectly, had struck a raw nerve with Congress and in some segments of the public. Federal money, it was thought, should not support the creation and exhibition of ideas that questioned the status quo'.⁴⁹ However, Congress formed the NEA, composed of professionals working in the arts, to base funding on artistic merit and decreed that the NEA's future direction was to be informed by 'broadly conceived national policy' rather than to be controlled by politicians who may be driven by political concerns.⁵⁰ Congress's intent was to have government 'assistance, but not intervention ... support but not control ... stimulation but not participation'.⁵¹ Offering poignant, controversial and timely critiques of American culture, work produced by artists such as those discussed above staged a set of anxieties about what it was to be American, and what it meant for some citizens to challenge traditional values by performing *their* America in an era of moral panic. The response from the religious right—most of whom never viewed the targeted performances—echoes Thompson's point that the fear of sexual immorality and its impact on the family, as the main stronghold of social order, is part of a perspective that looks back 'to a golden age of moral certainties from which there has only been moral decline'.⁵² Hearsay and inaccurate descriptions about these performances circulated through discourses of popular culture and became political fodder for religious groups and the New Right, directly informing the work of a professional government agency. Nikolas Rose suggests that practices of 'government are deliberate attempts to shape conduct in certain ways in relation to certain objectives' and that 'attempts at governing may be formally rationalized in programming statements, policy documents, pamphlets and speeches'.⁵³ The adoption of the decency clause by the NEA acted as a mechanism through which the individual conduct

of artists was governed by the interests and concerns of the nation. The administrative processes of George Bush Sr worked to construct the nation as a heteronormative state, actively shaping the moral order of its citizens by compelling artists to recreate the hegemonic beliefs, values and practices that it endorsed.

Immediately prior to the de-funding of Finley, Fleck, Hughes and Miller, the culture wars had been characterised by a moral panic manufactured by right-wing lobby groups about work produced by two photographic artists, Andreas Serrano and Robert Mapplethorpe. Serrano's work, *Piss Christ*, was a photograph depicting a crucifix in a jar of the artist's urine, challenging normative representations about the role of iconography in religion.⁵⁴ Robert Mapplethorpe's retrospective, 'The Perfect Moment', included a few works depicting homoerotic and sadomasochistic themes.⁵⁵ Reverend Donald Wildmon, of the American Family Association, denounced works produced by both artists, sending pictures of the works to those on his large mailing list.⁵⁶ Reverend Pat Robertson also positioned himself as moral entrepreneur, distributing letters in red envelopes cataloguing descriptions of nine photos (eight of which were Mapplethorpe's, while one was invented purely to provoke) to his constituents and supporters one week after having founded the Christian Coalition.⁵⁷ Reverend Robertson effectively recreated and packaged the scapegoat or folk devil necessary for a moral panic about homosexuality, representation and public funding, on which some members of the public could project their fears and fantasies.⁵⁸ The invention of 'image number seven' plays into stereotypical discourses that position gay men as paedophiles, fueling the moral panic about homosexuality and its representation in public art. Commenting on the effectiveness of the moral panic generated by the new and religious right, Vance argues that while earlier efforts to alter the direction of the NEA were institutionally and bureaucratically directed, 'the NEA controversy marks the first time that this emotion has been tapped in mass political action'.⁵⁹

As a result of controversy manufactured around these art works, there was a public outcry from the religious right, who called for the abolition of the NEA.⁶⁰ Protests led to congressional debate, which saw a compromise measure reached known as the 'Helms amendment' after anti-NEA North Carolina senator, Jesse Helms. This marked the first time that Congress had placed content restrictions on NEA grants, as the amendment provided that funds could not be 'used to promote, disseminate, or produce materials in which the judgment of the [NEA] ... may be considered obscene, including but not limited to, depictions of sadomasochism, homoeroticism, [and] the exploitation of children'.⁶¹ Helms's catalogue of 'obscene acts' collapses consensual with non-consensual acts, and legal with illegal acts. It is as if one act leads unproblematically to the next, as he slides into familiar discourses in which representation of sexual minorities equates with the promotion of those sexual practices and identities, and the dissemination of disease. Helms invokes a then potent fear of HIV/AIDS,

blaming the pandemic on queer bodies.⁶² Helms and his colleagues used images by Serrano and Mapplethorpe as an opportunity to further the New Right's political agenda, which included limiting the rights of queer sexual citizens. In *Bella Lewitzsky v. Frohnmayer*, a district court declared unconstitutional this first content-based restriction imposed on the agency.⁶³ Congress appointed an independent commission to review the agency's grant process, and in September 1990 the commission's report advised that while the government was not constitutionally obliged to fund art, its action in de-funding artists by legislation imposing content-based restrictions ought to be strongly discouraged.⁶⁴

Despite the commission's findings, the NEA implemented the amendment colloquially known as the 'decency' clause in December 1990. This clause required the NEA chairperson to guarantee that 'artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public'.⁶⁵ Although this clause appears to be relatively benign, reading the decency clause in the context of the 'Helms amendment' shows that, although vague, the construction of decency in this discursive moment really meant 'not queer'.⁶⁶ As Richard Meyer puts it, 'the regulation of art is most effective where it is least visible ... censorship is enabled, rather than disabled, by amorphous concepts such as "general standards of decency"'.⁶⁷ Much of the moral panic that perpetuated the culture wars depended on an evacuation of specificity (such as the replacement of the Helms amendment with the 'decency' clause) wherein the language of generality widened the scope for new folk devils to emerge. It is within this environment that Karen Finley and Holly Hughes became poster girls for indecency.

— CHALLENGING THE HETERONORMATIVE AMERICAN CITIZEN: KAREN FINLEY AND HOLLY HUGHES

Finley, Hughes, Fleck and Miller applied to the theatre program of the NEA in 1990 to fund their individual projects before the 'decency' clause was enacted. Diverse panels that reviewed funding applications at the NEA recommended that the projects receive funding, but in response to increasing controversy, politicisation, and moral panic surrounding the NEA, chairperson John Frohnmayer subsequently overrode this approval.⁶⁸ This particular case exemplifies Cohen's suggestion that the media is an important carrier and producer of moral panics and that reports about potentially controversial events are most frequently produced in a 'stylized and stereotypical fashion'.⁶⁹ On 11 May 1990, prior to the public announcement of the NEA's successful grant recipients and their projects, syndicated columnists Rowland Evans and Robert Novak of the *Washington Post* publicly drew attention to the precarious

position of John Frohnmayer as well as dismissing the work of Karen Finley and artists with similar projects:

Only a few exhibits up for approval inhabit the shadowy realm of controversy about true artistic merit. NEA chairman John Frohnmayer has been advised to veto them, including the performance of a nude, chocolate smeared woman in what an NEA memorandum calls a 'solo theater piece' and what the artist herself, Karen Finley, describes as 'triggering emotional and taboo events.' An administration insider calls the exhibit 'outrageous' ... A veto would ease President Bush's deepening troubles with conservatives on his suspect cultural agenda. The Mapplethorpe photographic exhibit funded by the NEA last year has generated more angry mail than the abortion issue ... The Finley exhibit, praised by some but damned by others in terms of its artistic value, could become the Mapplethorpe case of 1990.⁷⁰

Karen Finley's work positions her as social activist and provocateur. Mel Gussow suggests that Finley, '[s]pecializing in self exposure, both physical and emotional', 'places herself on the firing line and dares her audience to be offended'.⁷¹ Evans and Novak's description of Karen Finley's performance piece, 'We Keep Our Victims Ready', decontextualises Finley's critique of, and intervention, into the position of women, sexual violence and homophobia in American society.⁷² Evans and Novak also use the familiar strategy of devaluing the artist's merit and, therefore, the aesthetic value of the work. This discourse, used by the New Right around representation, excludes work from that area of 'free' expression designated as art: objectionable work ceases to have protected status.⁷³ Writing about the value of art as a medium to provoke, disturb and unsettle our cultural values, Butler argues that 'the value of being disturbed is no longer a value in itself', but rather has become an arena through which politicians believe that 'there is a line of acceptability and that they ought to demarcate what is and is not disturbing'.⁷⁴ She suggests that 'de-funding is a way to drain the debate of its institutional basis, and to defy the precept that the institution's cultural work consists precisely in such moments of social disarticulation'.⁷⁵ Indeed, these are the moments through which we might understand the public as fractured, or as coming together in ways that are disturbing, predictable or groundbreaking and through which dialogue, debate and thought-provoking critiques can emerge.

Utilising the notion of queer space and time, there are various ways in which Finley's work provokes different readings disrupting heteronormativity. First, the medium of performance encourages an audience to temporarily suspend disbelief in relation to time and space to enter the world of the performance artist. Second, Finley challenges and reconceptualises the ways in which women are expected to inhabit and take up space, providing counter-

discourses and a context through which counterpublics may emerge. In addition, she perverts and disrupts understandings of time as conceived for the normative heterosexual subject. This includes the constitution of gendered and sexual subjects in relation to marriage, reproduction and nuclear family life.

Finley employs performance art to critique the 1987 Tawana Brawley case in which a 16-year-old African American woman was found dazed and semi-conscious in a trash bag covered in human excrement. When found, the young woman claimed to have been raped by white police officers. The case gained media attention and the investigation and trial were highly publicised. Throughout the case, Brawley was accused of faking the incident. In her performance, Finley 'decided to create a performance out of the chaos', repositioning the intersection between the politics of ethnicity, representations of truth, and sexual violence against women.⁷⁶ What Finley's performance work does is to disrupt familiar frames of reference such as motherhood, heterosexual relationships and reproduction, and nuclear family values to queer the literal space and time of an event by employing the symbolic to disrupt customary frames of reference. In this instance, Finley disrupts black-white relations from her privileged position as a white woman so as to challenge white male power over black women, and all women.

Putting forward a methodology through which we may read critical moments in culture, Butler argues that we should attend to the work that artists produce to call into question our values, beliefs and practices, and that these moments are often disturbing and disorienting because we do not know how to locate ourselves, and that our construction of knowledge and our values are challenged.⁷⁷ In order to encourage her audience to think and act otherwise, Finley draws on a feminist tradition of performance art in which the body is foregrounded as the site through which cultural and socio-political values are inscribed. Finley's acts are confronting because she intervenes in hegemonic inscriptions of the female body, often using food materials that are themselves 'ambiguous, liminal, occupying an intermediate zone between the solid and liquid'.⁷⁸ Lynda Hart argues that 'having already been well-established as a performer whose work involves the manipulation of bodily fluids as well as anal eroticism, Finley undoubtedly elicited AIDS hysteria as well'.⁷⁹ Hart diligently maps the ways in which feminist artist Finley is read through discourses of homophobia because a woman who is perceived as aggressive carries with her the mark of the lesbian, pointing out that the NEA controversies were explicitly concerned to police displays of the body.⁸⁰ In this way, Finley's performances queer time and space by interrupting and resignifying symbols, gestures and behaviours historically associated with queer subjects. She chooses to use chocolate because of its associations with love, thus creating a counter-discourse to the ways in which she perceives that 'women are usually treated like shit'.⁸¹ Her performance also contests the representation of Brawley as a liar who invented a set of circumstances, and

instead attends to the complex and disturbing history of racially motivated gendered and sexual violence in America.

While Finley's acts are perceived to be offensive because she uses her body to deconstruct the patriarchy and socio-political constructions of gendered and queer bodies, it is unsurprising that in the oral transcripts for *NEA v. Finley*, the queer body is almost completely erased. There is little mention of the representation of homosexuality, homoeroticism or feminism in the transcripts by the Supreme Court justices. Instead, Justice Breyer offers the following hypothetical:

Now, is it the case ... and I'm only asking these questions to get your response, say, if in fact the NEA wants to give a grant for somebody to produce something that's public work, and suppose what they do is a white supremacist group, and they want to have racial epithets all over the picture, and the NEA says we think that's an inappropriate use of this money, in your opinion is that—and we can imagine the most—imagine the most horrible ones you can possibly think of, all right, and they say, the person gets up there and he says, I'm a member of the Klu Klux Klan, or whatever, and this is my point of view, and is it your view that the Constitution requires the NEA to fund that, that particular applicant?⁸²

With this comparison, Justice Breyer suggests that representations of alternative narratives about gender and sexuality are in effect doing the same kind of *violence* to an audience as that of a work that expresses racial supremacist ideologies. In order to avoid discussion of homosexuality, the court poses a hypothetical in which the semantic meaning is in excess of the original referent. The Supreme Court literally erases discussion of homosexuality—this unspeakability performs the very erasure in representation the court seeks to secure in art subsidised by the government. The hypothetical narrative suggested by Justice Breyer is purposefully kept vague—not only is Nazism implied as previously pointed out, but also slavery. The vagueness of this example erases the particularity of each history of racism and violence. There is an interesting substitution here wherein the Supreme Court justices animate the trope of race—that other marker of difference—in order to simultaneously silence, and to 'speak' implicitly about, representations of gender and sexuality. Butler suggests that 'racially marked depictions of sexuality will be most susceptible to prosecution, and those representations that threaten the pieties and purities of race and sexuality will become most vulnerable'.⁸³ Evacuating the specificity and particularity that good critique requires is a strategic move for the court to escalate moral panic around gender and sexuality implicitly, so as to be seen to be contending with the matter at hand. The Supreme Court uses a hystericising and ultimately false analogy de-historicising images of racial violence in the name of protecting American citizens.

Although the US Supreme Court is positioned to be the arbitrator of an explosive cultural debate, it too is situated firmly within the moral panic not only of the culture wars, but also within the discursive battle around President Clinton's impeachment over the Lewinsky scandal. This episode in American history might also be considered to have queered time and space by its transgression of heterosexual moral boundaries. Further, the nature of the activity carried out by the president in the White House, both perceived to be bastions of American citizenship by the American people, was constituted by the president as not really sex after all. Thus, the Supreme Court in *Finley* was making a decision about representations of gender and sexuality at a time when the president had contravened sexual boundaries; American values, decency and respect were under contestation at the highest level of government. This contestation and ambiguity around cultural values concerned with sexuality is played out by Justice Breyer, who abandons critical analysis, relying instead on an instinct infused with a discourse of morality:

I don't know what the word decency means. It—there's certainly a sense of decency, a sense of it, in which no work of art that is good could be indecent. It's very hard for me to think, if I think of that sense, that a great work of art is also an indecent work. I can't think of one.⁸⁴

Equating decency with valuable artistic work, this rhetoric collapses discourses of morality with discourses of cultural value, which is precisely the way in which the 'decency' clause was to work. Arguing that in *Miller v. California* the notion of 'appealing to prurience' is counterposed to the notion of 'literary, artistic, political, or scientific value', Butler locates the rationale 'taken up by Jesse Helms and others to argue that the National Endowment for the Arts is under no obligation to fund obscene materials' in order to dismiss the work of queer artists as obscene and lacking in literary value.⁸⁵ The decision by the Supreme Court justices to uphold the constitutionality of the 'decency clause' in *NEA v. Finley* suggests performance art offers a critique that needs to be contained.

Another applicant who was also de-funded, Holly Hughes, chose to write a performance piece about her experience of the Supreme Court case surrounding the moral panic. Offering an analysis of the language and rhetoric used in the case in her performance, *Preaching to the Perverted*, Hughes narrates one of the key arguments offered by her lawyer—that 'vagueness and impermissibly viewpoint based' regulations adopted by the NEA contravene the first amendment.⁸⁶ Hughes's substitution of 'perverted' for 'converted' sets up her narrative, a retelling of her de-funding by the NEA and its attendant misreading and misrepresentation of her performance work. Employing satire, Hughes critiques the prurient interest in her homosexuality by right-wing politicians and organisations, and their refusal to recognise her professional identity as a performance artist. Hughes explains that though the federal

government does not have to fund the arts, viewpoint discrimination is illegal. Hughes then maps the usage of the word 'lesbian', reading that usage alongside viewpoint:

But this whole episode began, nearly ten years ago,/with a one sentence description of our work before the National Council on the Arts:/Holly Hughes is a lesbian and her work is heavily of that genre./Who knew it was a genre? I did not know!/I have been living in a parallel universe where the word 'lesbian' is rarely a noun,/Certainly never plural/We wouldn't want to think there was more than one/It's usually a modifier, leaning up against/something larger and more ominous/Like a lifestyle, or an agenda, or a viewpoint./Actually if I had to pick one of these three boxes/Carroll Merrill is standing in front of. /I think I'll take the viewpoint, yes./I'd like the viewpoint for five hundred dollars/Because it comes with a lovely mental image/I immediately imagine this family crossing the country in a minivan/And maybe it's Mom that sees the sign:/Lesbian viewpoint next left.⁸⁷

Hughes questions the use of the word 'lesbian': its endless mobility as an adjective, noun, perspective, viewpoint or genre. She describes the convenience of this mobility to right-wing rhetoric, within which Hughes's sexual identity modifies the value of her performance art. Quoting Jesse Helms on Andres Serrano, 'he is not an artist,/he is a jerk', Hughes shows the New Right's process of relabelling and recategorising that devalues the artist and their work.⁸⁸ Moving the identity category 'lesbian' into a box, Hughes purchases 'the lesbian viewpoint' for five hundred dollars as if she were a contestant on a television game show. She reveals that her sexual identity is not so easily contained, purchased or signposted. Nor is it a tourist sight, a spectacle to glance at from the safety of the passing heterosexual. Hughes queers time and space by foregrounding queer subjectivity, and presenting her audience with a counter-discourse and counter-narrative to *NEA v. Finley*—a time and space in which she was formerly constituted as morally deviant, indecent and reprehensible.

Hughes rewrites *NEA vs. Finley* giving herself the narrative agency that is markedly absent not only in the oral arguments and proceedings of the case, but also media reportage of false narratives describing her performances. She amalgamates media coverage of the Supreme Court case and reviews of her performances, employing sustained theatrical metaphors depicting the conventions and limitations of legal performance. Hughes also queers time and space by employing intertextuality. Drawing on texts from the media, transcripts from *NEA v. Finley*, hate mail and reviews of her own show, she resignifies these documents, providing a counter-discourse to hegemonic constructions of queers as morally deviant subjects. Drawing on a particularly American history of romantic individualism, she links autobiographical details from her life, especially her childhood, paying attention to her nuclear family, her class and race, linking these social structures with legal structures. She also employs theatrical metaphors to describe court procedures. Instructed by her lawyer to

purchase tickets for her own hearing because they are selling fast, Hughes buys two that she might not use. When friends ask her for complimentary tickets, she explains that she does not have any pull. Like the rest of the audience, she is seated on the pews while David Cole, lawyer for the plaintiffs, argues their case. In the performance, Hughes voices her lack of agency, comparing the Supreme Court to a sit-com:

I Explain:/There won't be any witnesses. No Testimony./It's a hearing not a trial/Each side gets exactly half an hour to present their case./I think:/The Supreme Court is a situation comedy. Think about it!/A stable of regulars face a zany new set of problems everyday/No matter how complicated the situation/Everything gets worked out neatly in half an hour...⁸⁹

Extending the impermeable temporal limitations of televisual culture to the Supreme Court, Hughes cleverly characterises the hearing as a ludicrous comedy sketch. Even though the case is a hearing, for Hughes 'there's a lot more arguing than hearing that goes on'.⁹⁰ Hughes explains that Cole 'doesn't get more than three words out/Before the Justices are all over him', redirecting Cole's narrative to suit their own ends.⁹¹ Indeed the hearing is structured so that those authorised to speak are proficient in the language of law and present an argument structured according to legal precedent. The constant interruption of Cole's narrative privileges the speech of the judge over the lawyer, with each interruption endorsing the superior/inferior power dynamic. The only place in which Hughes's argument is 'heard' is with the audience at her performances of *Preaching to the Perverted*. Her own narrative style of interrupting the disclosure of details from the case with autobiographical information mimics the constant interruptions Cole experiences from the justices of the Supreme Court. Manipulating the structure and language rhythms from the hearing, Hughes's performance repositions and reconceptualises marginalised sexual citizens, creating a counter-discourse to hegemonic narratives that would otherwise have her silenced and erased. She explicitly invites her audience to become her collaborators, forming a counterpublic committed to rewriting socio-political and cultural scripts for those who occupy the margins:

This part of the script isn't finished. My role in the Culture War is still very much a work in progress, a story that I'm telling as I'm living it. But the point is it needs to be performed in front of an audience. If I'm ever going to be able to write this wrong, I'll need your help.⁹²

This article demonstrates the serious consequences faced by American artists whose work challenged and disrupted hegemonic discourses constituting the American citizen and way of life. In the context of the culture wars, artists' rights to free speech were mediated by a culture of moral panic manufactured by the New Right around representations of gendered, racialised and sexual subjects. However, simultaneously, artists and activists who challenged this panicked environment and its subsequent regulations continued to critique notions of

the American citizen, providing a critical counter-discourse and context for the emergence of counterpublics and challenging constructions of sexual citizenship. Artists queered time and space by interrupting heteronormative frameworks that defined the quintessential American subject. In a time in which attention lies elsewhere, revisiting the culture wars serves as a reminder of one of the complex ways in which political and cultural subjectivities are, and continue to be, formed and constrained.

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1. Martha Wilson cited in 'The Fiery Furnace' by C. Carr, *The Drama Review*, vol. 49, no. 1, 2005, p. 20.
 2. Franklin Furnace's mission is to present, preserve, interpret, proselytise and advocate on behalf of avant-garde art, especially forms that may be vulnerable due to institutional neglect, their ephemeral nature, or politically unpopular content. Franklin Furnace is dedicated to serving artists by providing both physical and virtual venues for the presentation of time-based visual art, including but not limited to artists' books and periodicals, installation art, performance art, 'live art on the Internet'. Franklin Furnace is committed to serving emerging artists and their ideas; and to assuming an aggressive pedagogical stance with regard to the value of avant-garde art to cultural life. <<http://www.franklinfurnace.org/about/about.html>>
 3. All four performance artists, Karen Finley, Holly Hughes, John Fleck and Tim Miller, were de-funded for similar reasons; that is, the perceived controversial representation of gendered and sexual subjectivity in their work. This article focuses on the works of Finley and Hughes.
 4. Judith Butler, *Undoing Gender*, Routledge, New York, 2004, p. 1.
 5. Stanley Cohen, *Images of Deviance*, Penguin, Harmondsworth, 1971; Stanley Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and the Rockers*, Basil Blackwell, Oxford, 1972; Stanley Cohen and Jock Young (eds), *The Manufacture of the News: Deviance, Social Problems and Mass Media*, Constable, London, 1973; Stuart Hall, *Policing the Crisis: Mugging, the State and Law and Order*, Macmillan, London, 1979; Erich Goode and Nachman Ben-Yehuda, *Moral Panics: The Social Construction of Deviance*, Blackwell, Oxford, 1994.
 6. See especially Angela McRobbie and Sarah L. Thornton, 'Rethinking "Moral Panic" for Multi-mediated Social Worlds', *The British Journal of Sociology*, vol. 46, no. 4, 1995, pp. 559–74; Arnold Hunt, ' "Moral Panic" and Moral Language in the Media', *The British Journal of Sociology*, vol. 48, no. 4, 1997, pp. 629–48.
 7. Judith Halberstam, *In a Queer Time and Place: Transgender Bodies, Subcultural Lives*, New York University, New York Press, 2005.
 8. David Román and Richard Meyer, 'Introduction', *GLQ*, vol. 12, no. 2, p. 167.
 9. See Marvin Carlson, *Performance: A Critical Introduction*, Routledge, New York, second edn, 1996, p. 115.

10. Halberstam, p. 6.
11. Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', in C. Calhoun (ed.), *Habermas and the Public Sphere*, MIT, Cambridge, 1992, p. 193.
12. *NEA v. Finley* 524 US 569 (1998).
13. David Román, *Performance In America: Contemporary US Culture and the Performing Arts*, Duke University Press, Durham, 2005, p. 1.
14. Román, p. 1.
15. Jill Dolan, 'Rehearsing Democracy: Advocacy, Public Intellectuals, and Civic Engagement in Theatre and Performance Studies', *Theatre Topics*, vol. 11, no. 1, 2001, p. 4.
16. *The Defense of Marriage Act (DOMA)* Pub. L. No. 104-199, 110 Stat. 2419 (21 September 1996) and codified at 1 U.S.C. § 7 and 28 U.S.C § 1738C.
See Cris Mayo, 'Pushing the Limits of Liberalism: Queerness, Children and the Future', *Educational Theory*, vol. 56, no. 4, 2006, p. 477.
17. See *NEA v. Finley* 524 U.S. 569 (1998).
18. While I do not explore in depth here the relation between moral panic and contemporary artwork that takes religion as its theme, Andreas Serrano's *Piss Christ* sparked a similar kind of moral panic about the value of religion in American society. For an excellent reading of the panic associated with religious art, see Judith Butler, 'The Value of Being Disturbed', *Theory and Event*, vol. 4, no. 1, 2000, which examines Chris Ofili's portrayal of the Virgin Mary that also sparked a funding controversy and refueled this moral panic.
Special thanks to Professor Julie Van Camp for sharing her expert knowledge, and for clarifying the finer points of *NEA v. Finley*. The legislation was a bipartisan proposal introduced as a counterweight to amendments aimed at eliminating the NEA's funding or substantially constraining its grant-making authority. See, for example, 136 Cong. Rec. 28626, 28632, 28634 (1990). See the Supreme Court's decision at: <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=97-371>
19. In an earlier case, *Bella Lewitsky Dance Foundation v. Frohnmayer* 754 F. Supp. 774 (CD Cal. 1991) struck down a requirement as a First Amendment violation that grant recipients sign, as part of their grant acceptance, an agreement not to include 'obscene' material in their work produced with the grant. That provision had been attached to the 1989 appropriations bill.
20. Kenneth Thompson, *Moral Panics*, Routledge, London, 1998, p. 8.
21. Gayle Rubin, 'Thinking Sex' in Henry Abelove, Michèle Aina Barale, David M. Halperin, Routledge (eds), *The Lesbian and Gay Studies Reader*, New York, 1993, p. 4.
22. Stanley Cohen coined this phrase in *Folk Devils and Moral Panic*.
23. Comstock Act of 3 March 1873, ch. 258, § 2, 17 Stat. 599. Anthony Comstock was a prominent anti-vice crusader who believed that 'anything remotely touching upon sex was . . . obscene'. See Heyward Broun and Margaret Leech, *Anthony Comstock: Roundsman of the Lord*, Wishart, London, 1928. In 1970, Congress amended the law by striking the blanket prohibitions on the mailing of all advertisements for contraceptives, but it retained without any real discussion the ban on unsolicited advertisements. See, for example, S.Rep. No. 91-1472, p. 2 (1970).
24. Rubin, p. 4.
25. Rubin, p. 5.
26. Lauren Berlant, 'Live Sex Acts (Parental Advisory: Explicit Material)' in Steven Bruhm and Natasha Hurley (eds), *Curiouser: On the Queerness of Culture*, University of Minnesota Press: Minneapolis, p. 66.
27. K. A. Cuordileone, ' "Politics in an Age of Anxiety": Cold War Political Culture and the Crisis in American Masculinity, 1949–1960', *The Journal of American History*, vol. 87, no. 2, 2000, pp. 515–45.
28. *Bowers v. Hardwick* 478 US 186 (1986); *Kentucky v. Wasson* 842 S.W.2d 487 (1992); *Lawrence v. Texas* 539 US 558 (2003).
29. Peter Irons points out that all original thirteen states had made sodomy a criminal offence when the Bill of Rights was ratified in 1791, and that as late as 1961, all fifty states had outlawed sodomy, defined in Georgia's law—similar to those in other states—as 'any sexual act involving the sex organs of one person and the mouth or anus of another', Peter Irons, *A People's History of the Supreme Court*, London, Penguin, 1999, 457–8.
30. *Bowers v. Hardwick* 478 US 186 (1986).
31. Thomas Kendall, 'The Eclipse of Reason: A Rhetorical Reading of *Bowers v. Hardwick*', *Virginia Law Review*, col. 79. No. 7, 1993, p. 1823.
32. Kendall, p. 1805.
33. Quoted in *New York Times*, 25 May 1993, A8, cited in Berlant, p. 61.
34. Daniel Richman cited in Berlant, p. 61.
35. *Griswold v. Connecticut* 381 US 479 (1965) was a landmark case in which the Supreme Court invalidated a Connecticut law passed in 1879 that prohibited the use of contraceptives after the state director of the Planned Parenthood League was convicted for giving medical advice about birth control to a married couple. In subsequent jurisprudence, *Eisenstadt v. Baird* 405 US 438

- (1972), extended this right to unmarried heterosexual couples. The reasoning used in *Griswold* and *Eisenstadt* also applied to *Roe v. Wade* 410 US 113 (1973), the landmark Supreme Court case which struck down a Texas law criminalising abortion. In *Lawrence v. Texas*, 539 US 558 (2003), Justice Kennedy commented that the 'right to privacy' in *Griswold* was a 'most pertinent beginning point' in the reasoning and logic in *Lawrence*.
36. Lauren Berlant and Michael Warner, 'Sex in Public', in Michael Warner, *Publics and Counterpublics*, Zone Book, New York, 2005, p. 189.
 37. Judith Butler, *Excitable Speech: A Politics of the Performative*, Routledge, New York, 1997, p. 109.
 38. Butler, *Excitable Speech*, p. 103.
 39. James Hunter, *Culture Wars: The Struggle to Define America*, Basic Books, New York, 1991.
 40. See statements by Reverend Donald Wildmon, Senator Alfonse D'Amato and Senator Jesse Helms, and Patrick Buchanan in *Culture Wars*, pp. 27–8.
 41. See William F Buckley 'Crucial Steps in Combating the Aids Epidemic: Identify All the Carriers', *New York Times*, 18 March 1986, A27; Richard Meyer, *Outlaw Representation: Censorship and Homosexuality in Twentieth Century American Art*, Beacon Press, Boston, 2002, p. 226.
 42. Carole S. Vance, 'The War on Culture: Art in America', September 1989, in *Culture Wars*, p. 107.
 43. Patrick Buchanan cited in Vance, 'The War on Culture', p. 107.
 44. *NEA v. Finley* 524 US 569 (1998).
 45. Tim Miller, 'An Artist's Declaration of Independence to Congress', 4 July 1990, in *Culture Wars*, p. 244.
 46. Douglas Crimp, roundtable on arts funding and the censorship crisis, Graduate Center of the University of New York, 7 February 1997, quoted in Dolan, 'Rehearsing Democracy', p. 3.
 47. 20 USC 954 (c) (1994) (setting forth goals and responsibilities of NEA leadership).
 48. Vance, 'The War on Culture', p. 109.
 49. Philip Brookman, 'Preface', *Culture Wars*, p. xvi.
 50. 20 USC 953(b) (1994).
 51. 111 CONG. Rec. H23963 (1965) (statement of Cong. Monagan).
 52. Kenneth Thompson, *Moral Panics*, p. 4.
 53. Nikolas Rose, *Powers of Freedom: Reframing Political Thought*, Cambridge, Cambridge University Press, 1999, p. 4.
 54. Serrano was one of nine artists who had received a grant from the Southeastern Center for Contemporary Art in Winston-Salem, North Carolina, so that his work could be included in an exhibition, 'Awards in the Visual Arts 7'.
 55. The University of Pennsylvania's Institute of Contemporary Art (also an NEA grant recipient) exhibited Mapplethorpe's 150 photographic works.
 56. Reverend Wildmon encouraged his following to protest the NEA's funding choices and to request that the NEA officials responsible be fired.
 57. Richard Meyer explains that image seven, described in the letter as 'a photo of naked children in bed with a naked man', was created by the Christian Coalition 'by the force of its fantasy', constituting each description of the photographs as *real* in the minds of readers. See Richard Meyer, *Outlaw Representation: Censorship and Homosexuality in Twentieth Century American Art*, Beacon Press, Boston, 2002, p. 4.
 58. Writing about the Meese Commission, the Attorney General's Commission on Pornography, Vance provides a telling account of the pleasure gained throughout the hearings because of the air of 'excited repression', commenting that during "lights out", spectators would rush to one side of the room to see the screen, which was angled toward the commissioners'. Carole S. Vance, 'Negotiating Sex and Gender in the Attorney General's Commission on Pornography' in Lynne Segal and Mary McIntosh (eds), *Sex Exposed: Sexuality and the Pornography Debate*, Virago, London, 1992, p. 41.
 59. Vance, 'The War on Culture: Art in America', September 1989, in *Culture Wars*, p. 109.
 60. See 135. CONG. Rec. H5633 (daily ed., Sept 13, 1989) (statement of Rep. Rohrabacher proposing that all government funding to the NEA cease because 'American taxpayers [were] furious that their hard earned money [was] spent on so called art that [was] obscene, indecent, blasphemous and racist').
 61. See Department of the Interior and Related Agencies Appropriations Act, Pub. L. No. 101–121, 304(a), 103 Stat. 701, 741 (1989) codified as amended at 20 USC 954 1994.
 62. On 30 October 1989, Congress eliminated \$45,000 from the agency's budget—not coincidentally the exact amount that the NEA contributed to Serrano and Mapplethorpe's projects.
 63. *Bella Lewitzsky Dance v. Frohnmayer*, 754 F. Supp. 774, 785, CD Cal., (1991) invalidated the content-based restriction as unconstitutionally vague.
 64. See Independent Commission, *supra* note 6., at 83–91; see also *Finley* 118 S. Ct. at 2173.
 65. 20 USC 954 (d) (1) 1994.

66. 754 F. Supp. 774, 782 (CD Cal.1991) Finding: 'the NEA certification is unconstitutionally vague because it leaves the determination of obscenity in the hands of the NEA'. In reaching its decision, the court also found the NEA exerted considerable influence over all funding of the arts in the United States. See *id.* at 785. An artist, therefore, could not simply ignore the certification requirement for fear of losing funding from *all* sources, public and private. Consequently, the certification stood as an 'obstacle in the path of the exercise of fundamental speech rights'. See *id.*
67. Richard Meyer, 'Have You Heard the One About the Lesbian Who Goes to the Supreme Court?': Holly Hughes and the Case Against Censorship', *Theatre Journal*, vol. 52, 2000, p. 549.
68. See 'What happens to your application?' on the National Endowment for the Arts website that stipulates how the diversity of panels is constituted: 'Each panel comprises a diverse group of arts experts and other individuals, including at least one knowledgeable layperson, with broad knowledge in the areas under review. Panel membership changes regularly.' <<http://www.arts.gov/grants/apply/GAP08/ApplicationReview.html>>.
69. Cohen, *Folk Devils and Moral Panics*.
70. Rowland Evans and Robert Novak, 'The NEA's Suicide Charge', *Washington Post*, 11 May 1990, in *Culture Wars*, pp. 208–9.
71. Mel Gussow, 'Introduction', *A Different Kind of Intimacy: The Collected Writings of Karen Finley, A Memoir*, Thunder's Mouth Press, New York, 2000, p. xiv.
72. 'We Keep Our Victims Ready' was first performed at the Walker Arts Center, Minneapolis, 11–13 January 1990.
73. Butler, *Excitable Speech*, p. 63.
74. Judith Butler, 'The Value of Being Disturbed', *Theory and Event*, vol. 4, no. 1, 2000.
75. Butler, 'The Value of Being Disturbed'.
76. Finley, *A Different Kind of Intimacy*, p. 84.
77. Butler, 'The Value of Being Disturbed'.
78. Lynda Hart, 'Reconsidering Homophobia' in *Fatal Women: Lesbian Sexuality and the Mark of Aggression*, Routledge, New York, 1994, p. 97.
79. Hart, p. 102.
80. Hart, pp. 89–90.
81. Finley, *A Different Kind of Intimacy*, p. 84.
82. *National Endowment for the Arts v. Finley* 1998 WL 156955, 66 USLW 3684, Supreme Court of the United States Oral Argument.
83. Butler, *Excitable Speech*, p. 64.
84. *National Endowment for the Arts v. Finley* 1998 WL 156955, 66 USLW 3684, Supreme Court of the United States Oral Argument.
85. *Miller v. California* 413 U.S. 15 (1973); Butler, *Excitable Speech*, p. 63.
86. See *NEA v. Finley* (97-371 100 F.3d 671), reversed and remanded. The First Amendment States: 'Article Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.' The NEA's clause read as follows: 'artistic excellence and artistic merit are the standards by which the applications are judged taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public'. I first saw Holly Hughes perform *Preaching to the Perverted* at Dixon Place in New York City in July 1999 as a work-in-progress. The premier of *Preaching to the Perverted* was at the New Conservatory Theater in San Francisco, directed by Lois Weaver, in September 1999.
87. Holly Hughes, *Preaching to the Perverted*, unpublished manuscript, pp. 22–3.
88. Hughes, *Preaching to the Perverted*, p. 3.
89. Hughes, *Preaching to the Perverted*, p. 7.
90. Holly Hughes, *Preaching to the Perverted*, p. 22.
91. Holly Hughes, *Preaching to the Perverted*, p. 25.
92. Holly Hughes, *Clit Notes: A Sapphic Sampler*, Grove Press, New York, 1996, p. 22.