Abstract  The Republic of Ireland has become known as the Celtic Tiger. For the last five years of the 20th century it has had the fastest growing economy in Europe. There have also been dramatic changes in Irish culture: the monopoly which the Catholic Church held over Irish morality has been broken; there is increased tolerance and acceptance of alternative sexuality. But it was not long ago that things were very different.

This article tells the story of what happened to Joanne Hayes, an ‘unmarried mother’, who in 1984 was at the centre of what came to be known as the Case of the Kerry Babies. The story is placed within the context of the social and cultural changes that took place in Ireland during the last half of the 20th century, but to explain what happened the article relies on Foucault’s theory of disciplinary power, Girard’s concept of the scapegoat and Said’s notion of how ‘others’ come to be constituted as exotic.

Keywords  infamy, Ireland, transgression, scapegoats, sexuality
that women should be, like Our Lady, virgins or chaste mothers, had increasingly to compete with media and market images of sexually liberated and assertive women. As in all ideological competitions, there were key sites and struggles in the battle for women’s social position and identity. In Ireland, these struggles revolved around contraception, divorce and abortion (Hug, 1999). In these ideological struggles younger women had to compete against older men, who dominated the state, the judiciary, the police and the Catholic Church, for the right to greater sexual freedom and fertility control.

One of the strategies used by those who adhered to a traditional conception of women was to root out and expose those who transgressed sexual norms. Sexual transgressors were a different order to sexual deviants who could, as long as they were remorseful, be quietly dealt with behind closed doors. They were ‘good’ sinners who sought forgiveness. They may have sinned, they may have broken the rules, but they did not openly challenge the rules which constituted them as sinful. In the past in Ireland, many sexually deviant women were quietly forced to migrate or to go into a Magdalen home.¹

Sexually transgressive women, who did not go quietly, who seemed to make a virtue out of their transgression had, perhaps almost out of necessity, to be pilloried, vilified and demonized. In this article, I detail what happened in 1984 to a sexually transgressive Irish woman in what became known as the Case of the Kerry Babies. Following Foucault (1979), I argue that the constitution of Joanne Hayes, the single mother at the centre of the case, as an infamous Irish woman was not a coincidence or some unintended consequence of power, but rather was an inevitable outcome of the strategies and tactics used at this time to demean and demoralize sexually transgressive women. I also argue that the case demonstrates how normalizing power operates and how, following Girard (1986) and Said (1995a), it was perhaps inevitable that Joanne Hayes would be constituted not just as a scapegoat, but as an exotic other.²

Finally, I argue that while these tactics of power, this demonization and exoticization of the ‘other’ may be universal, their operation has always to be studied in detail at the local level and then linked to broader, long-term historical processes. In the latter half of the 20th century, these had to do with increased informalization and equality in social relations (Wouters, 1995a, 1995b).

The methodology employed follows Foucault’s recommendation that the analysis of power should be ‘at its extremities . . . in its more regional forms and institutions’ (1980b: 96).³ It also follows Ginsberg’s (1989) advice that a detailed analysis of a small historical event is often the best method of revealing the structure of the wider whole. But before describing what happened to Joanne Hayes and why she became an
infamous woman and scapegoat, it is necessary to place the Case of the Kerry Babies in the context of social change in 1980s in Ireland.

Ireland in the early 1980s

In 1984 the economic tide, on the back of which sexual freedom and increased sexual equality had been sweeping through the country, began to recede rapidly. The signs were everywhere. Investment had fallen to its lowest level in 15 years. At the beginning of the year, unemployment had risen to an all-time high of 15 percent. By the end of the year it had reached 17 percent, the worst in Europe. An EEC report showed that one in three people were receiving some form of social welfare benefit. Emigration had risen to 11,000 in the previous two years. House prices had fallen 15 percent in the previous 18 months. The public debt was rising rapidly, from 21 percent in 1974 to 41 percent in 1983. The Irish pound slumped to below parity with the dollar. Car sales were down 40 percent. In August, the government introduced a new austerity plan

While there is no evidence of a causal connection, the economic recession coincided with the emergence of a new strident catholic morality. In 1983, abortion, which had been illegal, was made unconstitutional. Two-thirds of the electorate voted in favour of making the necessary amendment to the constitution. A public debate about making contraceptives more widely available – they were only available in chemist shops willing to sell them and, then, only to bona fide married couples with a doctor’s prescription – initiated a church-led moral panic about promiscuity, infidelity and liberal individualism. In January, the Bishop of Kerry, Dr Kevin McNamara, warned legislators that making contraceptives freely available to unmarried people would produce seriously harmful consequences. Such a proposal would, he said, maintain the moral corruption of youth, the alarming increase in abortion, the spread of pornography and venereal disease, the increase in marital infidelity and the instability of marriage, the corrosion of moral standards, the acceptance of pre-marital intercourse as an integral part of the social system, and the spread of the knowledge and use of contraceptives to young people of ever-lower age groups (The Irish Times, 16 January 1984). Women who wanted to terminate their pregnancies had to go abroad. The same year as the constitutional referendum, 3700 Irish women had gone to Britain for an abortion. But abortion was only an option for those who could afford to travel and stay in Britain and, equally important, knew where to go. It was estimated that three-quarters of those who went to Britain for abortions were not using any form of contraception (The Irish Times, 18 July 1984).
The opposition to abortion and contraception was combined with a purge against unmarried mothers. In January 1984 the Supreme Court ruled that, under the 1965 Succession Act, children born out of wedlock had no succession rights. In February, the state, through an Employment Appeals Tribunal, upheld the right of a congregation of Nuns to maintain a catholic ethos in its school in Co. Wexford, and to sack a single teacher, Eileen Flynn, who was living with, and had become pregnant by, a married man. One of the nuns, Sr Anna Power complained during the tribunal that Eileen Flynn ‘just flaunted it (her pregnancy) and did not try to hide it or to redeem herself’ (The Irish Times, 8 February 1984). Later, in the High Court, her dismissal was justified because, it was declared, her lifestyle had become repugnant to the values which the nuns held. In giving his verdict, Judge Noel Ryan noted that:

In other places women are condemned to death for this sort of offence. They are not Christians in the Far East. I do not agree with this, of course. Here people take a very serious view of this, and it is idle to shut one’s eyes to it.

(The Irish Times, 5 July 1984)

In August 1984 a new pressure group, Family Solidarity, was formed to defend family values. Fr Leonard Coughlan, a member of the organization’s national committee, said:

Our society is sick financially, socially and spiritually. One way of getting the country back on its feet is through the basic unit of society, the family, which itself is being attacked from all quarters: by divorce, contraception, abortion, euthanasia and the encroachment of the civil authorities on the rightful duties of parents in areas such as sex education.

(The Irish Times, 29 August 1984)

In January 1984, Anne Lovett, a 15-year-old schoolgirl, was found bleeding to death in Our Lady of Lourdes grotto in her home town in Co. Longford. She had just given birth. Both she and the baby died (The Irish Times, 8 February 1984).

The Case of the Kerry Babies

On 14 April 1984 the body of a new-born baby boy was found on a beach near Cahirciveen in Co. Kerry on the southwest coast of Ireland. The baby had multiple stab wounds. There was a major police investigation. Six detectives from the Murder Squad in Dublin became involved, including its three senior members who were originally from Kerry. This involved one of the most comprehensive police investigations into the morals and
lifestyles of transgressive, especially single, women who were potentially, or known to be, sexually active. Two weeks after the investigation began, Joanne Hayes and members of her family, who lived 50 miles away near Tralee, were brought in for questioning. Twelve hours later they signed detailed confessions as to how Joanne Hayes had given birth to a baby boy, and how she had stabbed the baby to death with a carving knife. Her sister and two brothers helped place the body into a plastic bag, put the bag in the family car, drove the 50 miles across the mountains to Slea Head on the Dingle Peninsula and threw the bag into the sea. Her mother and her aunt confessed to being witnesses and being involved in these events. The body of the baby was then, supposedly, washed up on the beach in Cahirciveen some hours later.

This neat conclusion to the investigation was disrupted the following day when the body of another baby (the Tralee baby) was found on the Hayes’s farm. Joanne Hayes had tried repeatedly to persuade her interrogators that about the same date as the Cahirciveen baby had been found, she had given birth to a baby boy in a field at the back of the family home. She said that the baby had died shortly afterwards. Forensic examination showed that there were no stab marks on the baby found at the Hayes farm. Moreover, because its lungs had not fully inflated, there was doubt that it had achieved an independent existence. The gardaí (police) now had two dead new-born babies on their hands. However, they claimed that because Joanne Hayes and members of her family had already voluntarily confessed to their involvement in the murder of the Cahirciveen baby, the discovery of the Tralee Baby meant that she must have given birth to twins. It was decided to press ahead with the murder charges in relation to the Cahirciveen baby. But there was a snag. Forensic tests carried out by the state laboratory showed that the Cahirciveen baby was blood group A. This posed a major problem for the gardaí as both Joanne Hayes and her lover, Jeremiah Locke, were blood group O. So too was the Tralee baby found on the Hayes farm. This indicated that Joanne Hayes could not have been the mother of the Cahriciveen baby. But the gardaí insisted that Joanne Hayes and her family had confessed voluntarily to their involvement in its murder.

Never doubting the veracity of the confessions they had obtained, the gardaí devised a range of theories to overcome the forensic evidence and substantiate the claim that Joanne Hayes had given birth to both babies. One theory argued that the blood samples used in the forensic analysis had been contaminated and this had led to false blood group identifications. Another theory was that there was a third baby, stabbed to death by Joanne Hayes in a similar fashion to the Cahirciveen baby, which was dumped at sea but never found. This became known as the Azores baby.
H owever, the main theory was that, as well as having sex with her lover Jeremiah Locke, Joanne Hayes had sex with another man who was blood group A. She did this within 48 hours of having sex with Jeremiah Locke, thereby becoming pregnant with twins of different blood groups. This became known as the Superfecundation Theory.

After months of deliberation between the Murder Squad and the Director of Public Prosecutions, the charges against Joanne Hayes were withdrawn. When the case came to court, the state announced that it was not proceeding with it. But a journalist from a national newspaper had been following the case closely and had obtained a copy of the police file. His exposé in The Sunday Independent led to considerable publicity in the media. The central issue was how Joanne Hayes and members of her family had confessed to a crime which the state’s own forensic evidence indicated they could not have committed. After an internal police inquiry had failed, the government announced that there would be a Public Tribunal of Inquiry held into the case. The tribunal began in January 1985. It lasted 84 days and generated widespread media coverage, public debate and political protest. Much of the tribunal was devoted to the gardaí trying to substantiate their superfecundation thesis. Towards the end of the tribunal hearings, one of their own expert witnesses, specially brought in from London, testified that Joanne Hayes could not have given birth to a baby of blood group A as there was no anti-A serum in her blood.

During the tribunal, in order to substantiate their superfecundation thesis, the legal teams for the gardaí tried to establish that Joanne Hayes was a calculating, lying, devious, sexually voracious woman who had been having an affair with at least one other man in her area besides her lover Jeremiah Locke. It was argued that in her liaison with Locke she was the dominant controlling force. Joanne Hayes became an infamous woman about whom numerous books and articles were written (Colleran and O´Regan, 1985; McCafferty, 1985; O´Halloran, 1985).

Sexually transgressive women

The Kerry Babies Case raises issues that are fundamental to understanding social change, sexuality and the position of women in Irish society. It is important to realize that it is not a coincidence that Joanne Hayes was brought into the public gaze and pilloried. Within a week of the Cahirciveen baby being found, there was a police investigation, or what McCafferty (1985: 13) calls a ‘woman-hunt’, in which every potentially sexually transgressive woman was tracked down and questioned. Women were interviewed who had broken romances, who were known or suspected of being involved in affairs, or who had to get married because of pregnancy. This involved a large team of detectives and local gardaí who
were then joined by seven detectives from the Murder Squad based in Dublin. But why did the members of the state’s elite squad of detectives become involved in a case of infanticide? It must be remembered that the conflict in Northern Ireland was at its height. There had been a dramatic rise since the 1970s in the number of murders and serious crimes, which was specifically why the Murder Squad had been formed (see Brewer et al., 1997; McCullagh, 1996).

One reason why the Murder Squad may have become involved was because the manner of the Cahirciveen baby’s murder was so gruesome. But it may also have had to do with the perceived sense of moral decay affecting the country and Kerry in particular. Again it should be remembered that three leading members of the Murder Squad came from Kerry. During the tribunal, Detective-Sergeant Gerry O’Carroll, who was second in command to Superintendent Courtney and who was from Listowel – less than 20 miles from Tralee – said he believed that there were ‘many children being reared in homes all over Ireland where the father or the husband of that union would not be the father of that child’. ‘We live,’ he said, ‘in a promiscuous society and there have been umpteen cases that I know myself of neighbours who live beside each other and of neighbours who have got pregnant by their next-door neighbours’ (Tribunal Transcripts, 41/12).5

In his Tribunal Report, Justice Lynch was adamant that the gardaí were not to blame for what happened. Rather, Joanne Hayes was to blame for initiating and having an affair with Jeremiah Locke. She was to blame for becoming pregnant by him outside of marriage, concealing her pregnancy, giving birth without proper medical assistance and, as Justice Lynch decided, ‘doing away with’ her baby. He placed what Joanne Hayes did to her baby and what happened to the Cahirciveen baby as part of an overall process of moral decay. He noted that there had been a rise in illegitimacy in Kerry (as in the rest of the country), from 3.3 percent of all births to 4.9 percent. He concluded that this meant that there were probably two illegitimate births per week in Co. Kerry in 1984. He then made a direct leap from sexual transgression to killing, from becoming an unmarried mother to ‘doing away with one’s baby’. ‘What is so unbelievably extraordinary,’ he asked, ‘about two women in County Kerry in one of the weeks in 1984 both deciding to do away with their babies?’ (Tribunal Report, 1985: 148).

The strategy of abandoning or ‘doing away’ with new-born babies was nothing new to Kerry, or Irish society. During the tribunal, John Creedon, the consultant obstetrician in Tralee hospital, said that he had experienced up to seven cases where mothers came into the hospital having given birth on their own. The babies were all dead and found later. The cases were ‘resolved within the law, without any apparent criminal formality’. The
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Coroner was notified, there was a post-mortem examination, which established death by natural causes, and a death certificate was signed (Tribunal Transcripts, 7/65). What happened in the Kerry Babies Case was that a private, local issue became a public, national issue through the unusually gruesome murder of the Cahirciveen baby and the consequent involvement of the Murder Squad. The way the Hayes family dealt with the birth and death of the Tralee baby was for Joanne to say that she gave birth alone in the field at the back of the farmhouse, for other members of the family to say that they knew nothing about what happened to the baby, and for Joanne to tell those who knew she was pregnant that she had a miscarriage, or lost it in the hospital. While there may have been doubts about what actually happened, it would appear that the extended family, neighbours and colleagues accepted this subterfuge (Hayes, 1985: 39; McCafferty, 1985: 48; O'Halloran, 1985: 70). It was a 'normal' way for dealing with such matters. People had a policy of 'live and let live' and 'turning a blind eye' when families ran into such personal difficulties.

Joanne Hayes was not the first single woman to fall madly in love with a married man, to have unprotected sex and become pregnant. What made her different was that she wanted to become pregnant and had hopes that Jeremiah Locke would eventually leave his wife and set up home with her. Also, what made her different was that she showed no sense of shame when she became pregnant and gave birth to her first child, a daughter named Yvonne. Her family, neighbours and colleagues appear to have eventually come to terms with this and accepted Yvonne and Joanne. However, there was a very different reaction both by Joanne and everyone else to her becoming pregnant so soon again. She could no longer be deemed an innocent young woman who got caught out. Silence, shame and denial took over from pride. The loss of honour and respect and a lack of any family support or sympathy meant that she reverted to the more traditional attitude and practice of unmarried mothers in Ireland.6

But it was the involvement of the Murder Squad, their assumption that Joanne Hayes was the mother of the Cahirciveen baby, the false confessions, the publicity of the case in the national media, the establishment of the Tribunal, and the insistence by the lawyers for the police throughout the tribunal that Joanne Hayes had given birth to twins with different blood groups, that made her into an infamous, sexually deviant, superfecund woman.

Creating infamous women

Foucault (1979) reminded us that chance and power go together. It is not a coincidence that an unknown woman like Joanne Hayes was picked out from obscurity by the state to become an infamous Irish woman. History
is scattered, particularly in times of cultural, social or economic upheaval, with the relics of scapegoats on whom social disorder can be blamed. Throughout the last 300 years in Europe, in a lightning flash of power, authorities descended on resisting, recalcitrant, individuals who were elevated to notoriety as disturbers of the peace. Foucault points out that there is a process at work that suddenly makes ordinary individuals out to be extraordinary criminals:

To begin with there must have been a play of circumstances, which, contrary to all expectations, brought down on the most obscure individual, on his mediocre life, on his ultimately fairly ordinary shortcomings, the gaze of power and the explosion of its wrath: a throw of the dice which saw to it that the vigilance of the authorities or the institutions, doubtless destined to efface all disturbance, detained this person rather than that person, this scandalous monk, this battered woman, this inveterate and raging drunkard, this quarrelsome merchant, and not so many others, beside them, whose disturbance of the peace was no less great. (1979: 81)

Foucault claimed that in the 19th century there was a shift in emphasis from crimes to criminals, and that this occurred within the emergence of the psychiatry of crime (1998: 128). What makes some crimes more significant than others is that they have been committed by demented and pathological people, by dangerous individuals. The task of the criminal psychiatrist is to locate the nature of the pathology that makes people dangerous and a threat to the existing social order, for example, the dementia that leads a woman to kill her husband or child. Finally, another feature of murders that have social significance is that they take place in a domestic setting (1998: 131).

Foucault (1980a: 31) also reminded us that the rooting out of dangerous individuals helps reveal the nature of power. Normally, power operates, not only subtly and discretely, but obscurely. It is denied and hidden. Power is revealed when its forces are provoked through unexpected resistance. He was particularly interested in those dark legends in which ordinary individuals, wretched scoundrels and unsuspecting transgressors, suddenly provoke power into revealing itself. The Kerry Babies Case helped reveal the way in which the gardaí investigated crimes, questioned suspects and obtained confessions. It also revealed the way in which the judiciary operates and the way it reaches and defines the truth about what happened.

It was, then, no coincidence that an insignificant woman like Joanne Hayes was plucked from obscurity to become an infamous national figure. She was defined by psychiatrists during the tribunal as a sociopath (Tribunal Transcripts, 54/64–87) who suffered from ‘pseudological fantastica’ (68/83). She had, according to Justice Lynch, done away with
her baby in her own bedroom. But what made Joanne Hayes infamous in the first place was her sexual transgression. Having an affair with a married man was linked to her decline into killing. It is for this reason that sexually transgressive women have to be rooted out, pilloried, and exorcized as some form of contemporary demons that destroy the moral order.

Joanne Hayes was not unique. What happened to her was not that different from what has happened to other sexually transgressive women. Sometimes the process of shaming, demeaning and demoralizing women can become indistinguishable from demonizing them. To demonize a woman is to make out that she is so harmful, so disruptive, so deviant and so depraved, that she is not just extraordinary, but unnatural: so much so that she infects and destroys the existing social order. Joanne Hayes was antithetical to the good Irish mother. In Purkiss’s (1996) terms, Joanne Hayes

\[\ldots\] appears as a kind of ‘antihousewife’, the antithesis of the true housewife’s carefully constructed, socially approved and fragile identity, the dark side which the good wife ‘must suppress, define herself against, in order to fashion her own identity as a housewife’.

(p.97)

There were various claims made during and after the Tribunal that suggested that much of what happened was the equivalent of a modern-day witch hunt. In an interview in Hot Press, Professor Brendan Kennelly said: ‘It’s like a medieval witch hunt with the victims burning at the stake and the crowd dancing around the fire’ (quoted in The Irish Times, 17 January 1985). Six days later, Members of the Oireachtas Committee on Women’s Rights described the questioning of witnesses, particularly Joanne Hayes, as ‘harrowing and quite horrific’, ‘frightening’ and ‘mental torture’. (The Irish Times, 23 January 1985). In the Senate, Brendan Ryan said that ‘legalized torture’ was being conducted in Tralee (The Irish Times, 24 January 1985).

What happened to Joanne Hayes has to be placed within the context of the mythical stories of transgressive Irish women (see O’Connor, 1988, 1991). In Ireland, the idealization of the traditional mother and the stigmatization of those who transgressed from the ideal, was perpetuated by church and state, by priests, politicians and judges. In the 1930s there was a growing fear that many working class women ‘whose sexual behaviour was not influenced by the dominant middle-class, Catholic sexual values’ were contaminating catholic moral order (see McAvoy, 1999: 264).

But Joanne Hayes was more than just a sexually transgressive woman. She became the archetypal ‘other’, the opposite through which good middle-class Irish women define and construct their identity (Said, 1995b:
In effect, revealing and rooting out sexually transgressive women in Irish society has become, in Foucault's (1980a: 37) terms, a discursive practice through which the identity of Irish women is created and maintained.

In the discourse and practice of contemporary Irish sexuality, Joanne Hayes was a perverse, sexual deviant. She abandoned the essential biological identity of woman as naturally caring and submissive. She was up-front in her opposition to and transgression of the essential identity of married Irish women (see Dollimore, 1991: 229). But what made Joanne Hayes sexually transgressive was not that she used her sexuality to control and manipulate men – the use of sexual capital to attain other forms of capital have probably always been a feature of the struggle for position in the gender field – but that she was open and public in her transgression.

In order to understand what happened to Joanne Hayes, it is necessary to understand that she was vilified because she became the opposite of what she should have been. By publicly having an affair with a married man, by becoming pregnant by him, and by giving birth to two children, she openly challenged the sexual morality of the church in which she had been constituted as an ethical subject. Her resistance and public challenge to traditional Catholic morality, meant that she gradually became subjective to the disciplinary gaze of those in authority. She slowly moved from the initial support of family, friends and colleagues, to strategies of engendering guilt, shame and embarrassment, to interrogation by the gardaí, to incarceration in gaol and then in a psychiatric hospital, to, finally, the clinical, legal dissection of her character in the witness box. This was the process that made her into a mythical, infamous woman.

Mythical tales and heroes can play a part in the production of what Foucault (1977) calls resistant discourses or counter-memory. Myths can be liberating and help create and sustain collective identity. The birth of the Irish nation-state is associated with mythical tales of the men who fought in the 1916 rebellion. They were the heroes deemed to have liberated Catholic Ireland from Protestant England. But over time these myths can themselves become an oppressive regime of truth defining the essence of a people (see Kearney, 1995). Joanne Hayes is not, by any means, a mythical hero, but her story is part of a resistance against the received truths about women, sex, justice and equality in modern Ireland: truths produced by the state, the Catholic Church, law, medicine and science. The origins of the story of the Kerry Babies began with the local resistance of Joanne Hayes, but it its mythical status is reproduced through the way she, like many other women, were blamed for what the state did to them and for the decline of moral order. In this respect, it is not a question of whether the story remains in the realm of historical truth or fiction, but rather its political effect.
As to the problem of fiction it seems to me to be a very important one; I am well aware that I have never written anything but fictions. I do not mean to say, however, that truth is therefore absent. It seems to me that the possibility exists for fiction to function in truth, for a fictional discourse to induce effects of truth, and for bringing it about that a true discourse engenders or ‘manufactures’ something that does not as yet exist, that is, ‘fictions’ it. One ‘fictions’ history on the basis of a political reality that makes it true, one ‘fictions’ a politics not yet in existence on the basis of a historical truth.

(Foucault 1980b: 193)

Sexually transgressive women as exotic scapegoats

During the tribunal, the legal team for the gardaí attempted to fictionalize or manufacture Joanne Hayes as a sexually transgressive woman. Her colleagues from the Sports Centre were among the first witnesses. They were asked questions about where and with whom they went after work. Peggy Houlihan, the cleaning lady at the centre, was asked what her husband’s reaction had been to the fact that she came home late having been out drinking with a married man (Tribunal Transcripts, 3/11). Witnesses were asked if they knew a Tom Flynn. None of them did. When Justice Lynch asked the counsel for the gardaí the purpose behind this line of questioning, he announced that he was trying to establish the sexual history of Joanne Hayes. He said that if he could show that Joanne Hayes had sex with two men, one of blood group A and one of blood group O, that twins born of such a union will also be A and O – the superfecundation theory. In other words, not only was Joanne Hayes sexually transgressive, she was unique among women in being a superwoman, someone who was able to have sex with two different men within 48 hours and become pregnant by them both. What was crucial, however, was that Justice Lynch allowed this political fictionalization of Joanne Hayes life. The counsel for the gardaí suggested that it was possible for Joanne Hayes to be superfecund. However, an examination of the medical research on superfecundity shows only eight recorded cases throughout the world; none of which were in Ireland or Britain. In other words, the gardaí argued that Joanne Hayes was unique among her kind. A uniqueness that was, in effect, the complete opposite of Our Lady who had become pregnant while remaining a virgin.

The reason for asking Joanne Hayes’s colleagues if they knew a man called Tom Flynn was that this was a name that had been found written on the base of her bed. The suggestion was that Joanne Hayes may have written the name of the man she had slept with on her bed. After numerous witnesses declared no knowledge of Tom Flynn, it finally emerged that he was the man who had delivered the bed to the Hayes
farm. His name had been written on the bed to earmark it for him to deliver.

Said (1995b: 332) points out, ‘the construction of identity . . . involves establishing opposites and “others” whose actuality is always subject to the continuous interpretation and re-interpretation of their differences from “us”.’ Consequently, the rooting out and castigation of dangerous individuals is part of the process of creating and maintaining our identity. Who ‘we’ are is dependent on defining ourselves in opposition to who ‘they’ are. Each age and generation requires the construction of ‘others’ against which self-identity can be established. Establishing differences, the construction of ‘others’ – and it is always a construction – is part of the process of identity formation. In this respect, the demonization of Joanne Hayes can be seen as part of the securing of the identity of Irish women.

There is a process whereby sexually transgressive women become not just the dark and unacceptable but, as Said points out, exotic. And it is as this dark, unacceptable and exotic other that they become the scapegoat for gender and sexual equality. Consequently, to understand contemporary sexuality and gender relations in Ireland, it is necessary to understand the process by which certain women become mythologized as sexually infamous. In discussing the construction of Arabs as ‘others’ Said (1995a: 311) describes how their difference was seen not only as essential and biological, but sexual. The difference of Arab men was defined in terms of their sexual prowess and powerful sexual appetite. He demonstrates how Arabs are counted as ‘mere biological beings; institutionally, politically, culturally they are nil . . .’ (1995a: 312). And we can see how Joanne Hayes was constructed similarly. She was depicted by the counsel for the gardaí not only as a nymphomaniac, as someone who was so sexually voracious as to put her eye on a married man, have regular sex with him, become serially pregnant by him but, at the same time, to be having sex with at least one other man and to have written his name at the end of her bed as if he was a trophy, or a notch on her sexual gun.

Said’s theory of the construction of the exotic ‘other’ can be linked to René Girard’s theory of the ‘scapegoat’. The ‘scapegoat’ is often constructed by persecutors who convince themselves that an individual, despite his relative weakness, is extremely harmful to society (Girard, 1986: 15). The ‘scapegoat’ is deemed to have committed a crime that is so diabolical that it reaches in and threatens the heart of the social body. The persecutors become an undifferentiated crowd, and eventually a mob, who speak with one voice. Another characteristic of the scapegoat is that they often ‘belong to a class that is particularly susceptible to persecution’ (1986: 17). In other words, Joanne Hayes was vilified not because she was a woman, but because she belonged to a class of sexually transgressive women; women who behaved liked men. This fits in with Girard’s
argument that scapegoats arise in a time of social crisis. ‘Men,’ he declared, ‘feel powerless when confronted with the eclipse of culture’ (1986: 14). This helps to explain why Joanne Hayes became infamous. It had less to do with any crime she might have committed, and more to do with challenging the traditional Catholic habitus within which Irish male power had been created and maintained for generations. What was central to this crisis was not so much that Joanne Hayes may, as Justice Lynch claimed, have done away with her baby, but that she was seen as a sexual predator luring men to their downfall. This could unleash a fear of the social world being turned upside down, of women behaving like men. This, in turn, could be linked to an unannounced, repressed fear of women’s sexuality which, if not controlled, could undermine if not destroy culture and society. Consequently, women like Joanne Hayes became infamous, exotic, scapegoats because they were a threat, not only to the traditional Catholic conception of sexuality, women and mothers, but to a patriarchal order centred on the sexual oppression of women.

What happened to Joanne Hayes is a particular example of the complex relation between male dominance, the idealization of motherhood and the control of female sexuality (see Chodorow, 1978; Dinnerstein, 1976; Ferguson, 1989; Klein, 1952). In Ireland, this complex relation has to be understood in terms of the Catholic Church’s monopoly over morality, its obsession with sexual morality, the veneration of Our Lady as the ideal chaste mother and the dominance of males in the Catholic Church and state (see Condren, 1995; Inglis, 1998a: 178–200; 1998b; Valiulis, 1995).

There was only one woman among the 27 gardaí investigating the case. None of the 15 lawyers was female. The judge who wrote the Tribunal Report and decided the facts of the case was male.

Foucault, Said and Girard provide key insights into the structure and operation of power, particularly the process by which those who resist and challenge normative order are made infamous, pilloried and demonized. Weak, marginal women, particularly those who refuse to be domesticated and are sexually transgressive, have always been vulnerable to becoming scapegoats, to being seen and labelled as some kind of demon, and to being punished for social and moral decay. But while these may form some kind of universal tactic by which power operates, we need to put what happened to Joanne Hayes into a more specific historical context and process. I have argued that the immediate context of what happened has to be understood in terms of the decline of the Catholic Church’s monopoly over Irish morality and, more specifically, social changes in the 1980s. There was also a longer-term process of social change taking place. Throughout the last half of the 20th century, social relations became more democratic and egalitarian. Relations between upper and lower social classes and between men and women...
became less rule-bound and formal and more free, informal and spontaneous (see Wouters, 1995a, 1995b). Within intimate relations there was what Seidman (1991: 4) has called ‘a sexualisation of love and an eroticisation of sex’. But sexual liberation led to unintended consequences. Men and women had to learn to balance lust and love; balancing erotic interests – the desire to have good sex – with the interest in having stable emotional relationships (Wouters, 1998). But these processes of the informalization, sexualization, eroticization, and emotionalization of social relations taking place throughout western society were not smooth and easy transitions. There were numerous challenges and resistances, particularly from those whose social character had been formed and who still preferred and identified with more formal, hierarchical, less romantic and less eroticized social relations. Many people, particularly those in authority and higher social positions, feeling that there was an eclipse of culture, wanted to maintain traditional gender and sexual relations. Throughout the last half of the 20th century in Ireland, particularly the 1980s and 1990s, there were numerous site struggles were the forces of tradition clashed with those of modernization. What happened to Joanne Hayes has to be understood as another site of the struggle that was taking place over the processes of informalization and sexualization of social relations and, specifically, women’s sexuality, fertility and domesticity.

The findings of the tribunal into the Kerry Babies Case may be seen as victory for the gardaí, their legal teams, the state and a traditional male mentality regarding women and sexuality. Although the Murder Squad was disbanded, its leading members went on to have successful careers in the gardaí. Most of the members of the different legal teams went on to have successful careers. Justice Lynch became a judge in the Supreme Court. The Hayes family returned to life in Abbeydorney having been blamed for everything that happened to them. However, long term processes of social change revolve around ongoing resistance and challenges. The Kerry Babies Case galvanized support, particularly among women, for changing state laws and policies regarding sexuality, sex education, and the position and treatment of women. During the early days of the tribunal, there were calls from academics and politicians to put an end to the way Joanne Hayes was being treated. A women’s group from Tralee mounted a picket outside the tribunal protesting against her treatment. These women were joined by a coach load of women from different groups around Dublin who travelled to Tralee to help in the protest. Neighbours and friends from Abbeydorney also mounted a picket. However, the pickets were removed when Justice Lynch ruled that he would have anyone involved arrested for contempt of court.
Conclusion

To understand the way power operates, it is often best to see how it has been employed locally in a particular case. The exercise of power can be subtle, discrete and hidden. But sometimes, quite unexpectedly, the strategies and tactics by which power is exercised are brought to the surface and revealed. This is what happened in the Case of the Kerry Babies. A case of infanticide revealed the strategies and tactics through which the gardaí conducted investigations and obtained confessions. It revealed how innocent people can confess to crimes that they did not commit. It also revealed the connection between the executive and judicial arms of the state, and how the state finalizes the truth.

However, the Kerry Babies Case also revealed the close connection between law and morality. The legal order may have become a rational system based on positivity, generality and formality (Habermas, 1987: 358), but the exercise of law, the way cases are investigated and presented in court, is never independent of moral categories and frameworks and, more importantly, of fears and prejudices. An analysis of what happened in the Kerry Babies Case in Ireland reveals the deep-seated prejudice that existed against sexually transgressive women. They were constructed not just as exotic others, but as threats to male Catholic moral order. Joanne Hayes can be seen as a scapegoat to defend Catholic Ireland. Caught between the tides of liberal individualism and a traditional authoritarian moral order, she was blamed not just for her own misfortune, but the misfortune of Irish women.

Notes

1. Magdalen asylums were first established in Britain and Ireland in the 18th century for ‘fallen’ women who had become pregnant outside of marriage, or were prostitutes or both. During the 20th century they began to be replaced by homes for unmarried mothers, which thrived in Ireland well into the 1970s (see Luddy, 1995; McLoughlin, 1994; Mason, 1994; Trudgill, 1976). Homes for unmarried mothers were not the only option to sexually deviant women who became pregnant – some were able to marry or live in ‘irregular unions’; others were able to go away to a home, give birth and have their baby adopted (see McAvoy, 1999; Milotte, 1997).

2. My use of Foucault, Girard and Said is to suggest that, while the analysis of power has to be contextualized, there may be some strategies, or ways of constructing outsiders as deviants or demons, which have some universal features. The constructivist perspective of these theorists is, of course, contested, not least by some feminists (see Fuss, 1989; McWhorter, 1999).

3. The case study approach that I have employed is linked to Foucault’s study.
of the way Pierre Rivière became subjected to, and thereby constituted as a
subject by the struggle for hegemony between medical and legal discourses
in 19th-century France (Foucault, 1975).

4. For an overview of changes in the Irish economy during the last half of the

5. References to the Tribunal Transcripts are given by the day and page; 41st
day, page 12.

6. Joanne Hayes links the unfolding events to the absence of a patriarchal
figure in her home. Her father and maternal uncle had died in the late
1970s: ‘When I think back now I have no doubt that if he [her father] and
Uncle Maurice had lived a few years longer I would never have found myself
in the trouble which has blighted all our lives’ (Hayes, 1985: 27).

7. In 1999, Sonia O’Sullivan, a world champion and Ireland’s most famous
female athlete, was denounced from the pulpit of a Catholic Church as
being a ‘common slut’ for the unashamed public manner in which she
undermined Catholic values by having a child outside marriage and allowing
herself to become the focus of media attention (The Irish Times, 4
September 1999).

8. Groneman argues that the notion of female class contamination was
prevalent among social commentators at the beginning of the 20th century.
There was a growing fear that middle- and upper-class women would
become like working-class women ‘who were perceived as inordinately
lustful and as sexual opportunists’ (see Groneman, 1994: 358).

9. As Dollimore (1991: 8) points out, sexual transgressives or queers are at the
heart of individualism because, in Oscar Wilde’s terms, they despise
uniformity of type and conformity to rule; two conditions that are not only
at the heart of individualism, but to cultural resistance and social change.

10. The Catherine Nevin case is a more recent case of a woman being
demonized for her sexual transgression. In April 2000, Catherine Nevin was
convicted of organizing the murder of her husband Tom. She was portrayed
as a sex-obsessed femme fatale who lured men into her pub. It was claimed
that she had her womb removed before she was married so she would not
age prematurely, and that she had an operation – it was suggested that she
had her clitoris pierced with a metal stud – to enhance her sexual pleasure
(O’Connor, 2000: 25). During her trial it was alleged that, among others,
she had been having an affair with both the local District Court Judge and
Police Inspector. One newspaper report claimed that she had been
promiscuous from a young age and referred to her as the ‘Curragh Carpet’
(Walsh, 2000: 31).

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Biographical Note
Tom Inglis is Senior Lecturer in Sociology at University College Dublin. Besides Irish sexuality, his main research interests lie in religion and the media and, more specifically, the history and structure of these fields in Ireland. His publications include Moral Monopoly (1998), Lessons in Irish Sexuality (1998) and Religion and Politics (2000). Address: Department of Sociology, University College Dublin, Belfield, Dublin 4. [email: Tom.Inglis@ucd.ie]