

# What a shame! Restorative justice's guilty secret

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## Abstract

In this article, I address a long-standing issue confronting restorative justice: its shaky ethical foundation. Leading restorative justice theorists have pursued an ethics of shame that has marginalised guilt (and remorse). The resulting shame-oriented concepts do not adequately capture the complex moral and psychological phenomena that the ethics of restorative justice requires. In part, this is because theorists have failed to account for the depths, not only of guilt, but of shame as well. These depths, I argue, are to be found in Freudian metapsychology. Guilt and shame have primitive and mature forms. It is only through understanding the difference between these formations that we can see how it is that the mature formations are related in ways that are essential to understanding restorative justice. I conclude that that the mature guilt-and-shame complex developed in the article provides the grounds for an adequate ethical foundation for restorative justice.

## KEYWORDS

ethics, guilt, moral psychology, psychoanalysis, restorative justice, shame, theory

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## 1 | INTRODUCTION

The claim of this article is that restorative justice has not settled its basic ethical terms. I will show that this is the case by delving into the concepts of shame and guilt, which is where the problem lies, and argue for a conception that I think is more adequate to the phenomenon that draws upon psychoanalytic concepts and ideas.<sup>1</sup> In the next section, I will explain why I am doing this, namely because psychoanalysis is something that restorative justice theorists have looked at but not properly understood. My argument will be that theorists are looking in the right place (psychoanalysis) but not finding the right things. As we shall shortly see, they stumble upon the idea that there might be primitive and mature forms of guilt (but not shame) and terms like ‘superego’ but they do not commit to understanding and developing these important insights for the betterment of restorative justice theory and practice.

The article then proceeds as follows. Drawing on Freudian metapsychology through the work of Hans Loewald,<sup>2</sup> I provide a simplified account of the key processes of psychical development that give rise to the structural arrangements that underlie primitive and mature formations of shame and guilt. I then outline the different formations before turning to consider in greater depth what connects the mature forms. My argument here is that mature guilt and shame are symbiotic on two levels, both of which render these concepts critical to the ethics of restorative justice. I conclude by revealing restorative justice’s guilty secret and argue that if restorative justice is concerned with violation and its repair, then it must take the mature guilt-and-shame complex as its ethical foundation.

## 2 | THE PROBLEM OF SHAME AND GUILT IN RESTORATIVE JUSTICE THEORY

In the pursuit of a better alternative to conventional (retributive) criminal justice, key restorative justice theorists like Howard Zehr (1990, 2015) have been quick to downgrade guilt (and its corollary, punishment) as the harbinger of all that is wrong with conventional justice. John Braithwaite (1989) also mounted the case against guilt in his pioneering text *Crime, shame and reintegration*. In its place, he and other like-minded theorists have pursued shame as an ethical counterpoint to guilt (Ahmed et al., 2001; Harris et al., 2004). This has culminated in three key shame-oriented concepts – reintegrative shaming theory, Shame-Guilt/the ethical identity conception of shame, and shame management – all of which marginalise guilt in order to bolster the conceptual content and/or virtues of shame (Wilson, 2021a). This is problematic because guilt and/or remorse (a precipitate of guilt) seems to fit the ethical story of restorative justice practices better than shame (Maxwell & Morris, 2002; Morris, 2002; Nussbaum, 2004; Taylor, 2002; Van Stokkom, 2002). More recently, it has been argued that guilt needs to be affirmed in restorative justice theory alongside shame as its theoretical partner (Wilson, 2021a). The lead up to this ethical quandary is important. In what remains of this section, I will show how it is that restorative justice theorists came close to finding what was needed through brief engagements with psychoanalysis, but that this was not pursued.

In his landmark writings, Braithwaite (1989) alludes to Freud’s concept of the ‘superego’ in his discussion of conscience, but the subsequent discussion there shows that the term was not properly understood. What he calls conscience/superego is narrowly conceptualised as something that is ‘acquired’ through socialisation and social processes of shaming (Braithwaite, 1989, p.71).

Curiously, guilt is never mentioned in this discussion. As we shall come to see, guilt is in fact central to understanding the formation of the superego and conscience (as the 'mouthpiece' of the superego (Loewald, 1962, p.265)). Nathan Harris's (2001) Shame-Guilt factor also justifies a discussion of psychoanalysis. Harris reviews a number of social and psychological definitions of shame which conceptually inform the factors he uses to test the dimensionality of shame in his factor analysis. Psychoanalytic approaches to shame and the self are considered, in particular, the work of Piers and Singer (1953/2015) and Helen Block Lewis (1971). Harris draws attention to the different definitions of shame and guilt according to these theorists, but seems unable to grasp the full meaning and implications of the metapsychological terms they use. As a result, what psychoanalysis offers is given a limited reading.<sup>3</sup> Sigmund Freud does not get a mention because he is claimed to have 'largely ignored' shame (Harris, 2001, p.83). But in an earlier section, Harris (2001) says this about Freud:

Freud's ... influential theory of psychoanalysis hardly acknowledges shame, instead emphasizing the significance of guilt ... He does, however, identify a 'primitive guilt' which is based upon the fear of losing another's love rather than the transgression of internalized norms. This primitive guilt only occurs if one's indiscretions are discovered, or one fears their discovery. While not pursued by Freud, this primitive guilt and its obvious comparison with mature guilt describes a conceptualization of shame that has been influential. (p.76)

A short piece on guilt by Harris & Braithwaite was also published in the same year. In a subsection on guilt feelings, they reiterate Harris's comments above regarding a conception of primitive guilt in Freud but also introduce a further conception which they call 'true guilt', also to be found in Freud:

... individuals become able to feel what might be called true guilt with the formation of a super-ego or conscience, which internalizes the values that might have otherwise been enforced by an external authority. In this way individuals come to punish themselves through feeling bad (guilty) for transgressions or ... offensive thoughts. Within this framework, conscious feelings of guilt, which Freud suggests should be called remorse, occur after committing a transgression. (Harris & Braithwaite, 2001, p.6446)

They go on to claim that psychoanalysis 'describes guilt as an internally generated sanction based upon the individual's recognition of wrongdoing' and suggest that this so-called 'true guilt' is akin to Ruth Benedict's and Margaret Mead's observations about guilt cultures which also rely on internal sanctions (Harris & Braithwaite, 2001, p.6447). In contrast, Freud's primitive guilt conception is said to reflect observations about shame cultures wherein sanctions are developed through socialisation.

In the 2001 pieces, restorative justice theorists make three main gestures off the bat of psychoanalysis. First, that there are two conceptions of guilt in Freud: mature/true guilt and primitive guilt. Second, that mature guilt is an internally generated sanction in response to a transgression (actual or imagined) that gives rise to a conscious feeling of guilt/remorse. Third, that primitive guilt shares characteristics with shame inasmuch as it is a reaction to the criticism of others. While there is some merit to these gestures, they lack a sufficient grounding in Freudian metapsychology which means that important nuance is lost in translation. As we shall later see, the primitive

and mature conceptions of guilt as presented by Harris & Braithwaite do not accurately reflect Freud's conceptions. Briefly, what they do not discern is that Freud (1930) presents two competing perspectives on guilt in 'Civilization and its discontents' (Norrie, 2019a). They mainline the perspective involving fear and anger, but there is another view which sees guilt as involving 'loving identification with others in the process of self-formation' (Norrie, 2019a, p.515). Moreover, their conceptualisation of shame is limited. Both authors discuss shame in broader terms in these pieces and elsewhere (Ahmed et al., 2001; Harris, Walgrave & Braithwaite, 2004), but even in these discussions, they fail to grasp that, like guilt, shame also has primitive and mature forms and that this distinction (and what underlies it) is important. Because of this, they also neglect to see that the mature forms are related in ways that are critical to understanding the moral psychology of restorative justice. Consequently, the relationship they posit between guilt and shame (qua Shame-Guilt/the ethical identity conception of shame) is impoverished. Restorative justice ethics demands complex moral and psychological concepts and these, I argue, are to be found in Freudian metapsychology.

### 3 | THE DEVELOPING PSYCHE

Primitive and mature formations of shame and guilt are given effect through different structural arrangements of the psyche. Following Loewald, these arrangements 'exist in time and develop in time': time represents a 'dynamic' and 'mutual' relation between past and present and is, therefore, not linear or objective (Loewald, 1962, p.264). A developing psyche, then, is quite literally that – a psyche that is always developing; oscillating between past, present and future as it strives for 'unity, symbiosis, fusion, merging, or identification' (Loewald, 1980, p.402). Therefore, if we want to understand the difference between primitive and mature forms of shame and guilt, we must first understand the developing psyche: what are its structures and how do these come about? I cannot do justice to all the intricacies of Freud's structural metapsychology here, but what follows is a simplified account of how the ego, ego ideals<sup>4</sup> and superego are formed.

#### 3.1 | The genesis of the ego and ego ideals

From birth, the infant enters the world as an undifferentiated state. Technically there is no infant to speak of yet. Instead, there is what Loewald (1980) calls a 'mother-child matrix' or field (p.321).<sup>5</sup> Within this field, the mother/caretaker, infant and environment are one. There is no discrimination between subject, object and environment, and thus no separation between the internal world and the external world. This undifferentiated state is commonly referred to as primary narcissism and is characterised by unity and wholeness. Beyond this undifferentiated state of primary narcissism lies the ego and an external world. How these come into being is complex but in simplified terms, various processes within the mother-child field (the infant not being satiated as it pleases, for instance) cause frustration and ambivalence which culminate in a grade of separation: 'for the first time something like an "object" becomes constituted, an outside against an inside, and there-with a border between the two' (Loewald, 1980, p.5). There is now the experience of a separation between internal and external. This 'repeated experience of separateness' is what gives rise to ego formation and the constitution of an 'outer world' (Loewald, 1980, p.5).

Over time, other ego processes such as reality testing contribute to a firmer separation between the subject-object/internal and external world leading to the 'overcoming' of primary narcissism.

But it is important to note that the ego does not abandon primary narcissism altogether. A developing ego will depart from primary narcissism but this, in turn, 'gives rise to a vigorous attempt to recover that state' (Freud, 1914, p.100). Following Loewald, this recovery attempt takes the form of an 'ideal ego' which 'represents a recapturing of the original primary-narcissistic omnipotent perfection of the child by primitive identification with the omnipotent parental figures' (Loewald, 1962, p.265). The child's unconscious wish to return to the state of undifferentiated unification and perfection is captured by the ideal ego.<sup>6</sup> The child 'reaches out to take back from the environment what has been removed from him in an ever-increasing degree since his birth: identification that attempts to re-establish an original identity with the environment' (Loewald, 1980, p.268). Initially this identity of the past is 'phantasised in the present' as a hallucinatory wish, but over time it becomes something to be reached for in the future, albeit in a more 'differentiated and elaborated form' (Loewald, 1962, p.266). There is a gradual shift from an (illusionary) 'state of perfection of the ego' (qua the ideal ego) to an 'ideal for the ego' wherein a 'future is envisaged for the ego' (Loewald, 1962, p.266). This ideal *for* the ego is an ego ideal. Put differently, an illusion of grandeur in the present (ideal ego) eventually becomes replaced by a more progressive ideal concerning wholeness to be strived for (ego ideal).

Individuation is maintained and strengthened as the child continues to relate to objects in their environment with greater awareness. They take in ideals (values, virtues, models and images) through identification with their parents and other authority figures. But in the absence of a 'stable internal structure, representative of the ego's self-transcending', these ideals remain ideals *for* the ego – existing on a borderline between the internal and the external (Loewald, 1962, p.266). The ego is not yet autonomous which means it has no future of its own making and is therefore unable to *embody* ideals as future-oriented benchmarks for itself. How, then, does the ego emancipate itself so that it has a future of its own making? The answer is to be found in the working through of the Oedipus complex.

### 3.2 | The Oedipus complex and the superego

The Oedipus complex is so named because it involves murdering one's parents not literally (as in the Oedipus story) but psychologically. The emancipation of the ego is necessary if the developing person is to assume responsibility for their life. But in order for this to transpire, primary identificatory ties with the parents must be destroyed. The angst that teenagers often feel towards their parents is indicative of this need for emancipation.<sup>7</sup> Thus part of what it means to resolve the Oedipus complex is to come to terms with the crime of parricide – the need to separate oneself from or to 'boot out' one's parents. As Loewald (1980) states: '[n]ot only is parental authority destroyed by wresting authority from the parents and taking it over, but the parents, if the process were thoroughly carried out, are being destroyed as libidinal objects as well' (p.389). Murdering one's parents and coming to terms with the guilt of this crime is significant for it paves the way for superego formation.

Following Loewald (1980), a thorough resolution of the Oedipus complex involves two inter-related achievements: atonement and metamorphosis (p.389). Mourning is critical to both. In mourning, one not only gives up the love object (parent) but also internalises 'elements of the lost object relationship' (p.329).<sup>8</sup> The child relinquishes incestual/oedipal object relations by murdering their parents, yet, through mourning, a restorative atonement takes place: the superego organises itself in such a way that the oedipal object relations are metamorphosed or 'transmuted into internal, intrapsychic structural relations' (Loewald, 1980, p.389). In simplified terms, the child

reinvests the love of their parents into their psychic structure. Atonement and metamorphosis via mourning give rise to a 'mature', autonomous superego and mature object relations (Loewald, 1980, p.389). Superego formation stems from, and is completed by, the psychological action of taking responsibility for oneself 'within the context of authoritative norms consciously and unconsciously accepted or assimilated from parental and societal sources' (Loewald, 1980, p.392). If all goes well, the self becomes an autonomous 'atonement structure, a structure of reconciliation' and this, Loewald (1980) argues, is 'a supreme achievement' (p.394).

The formation of a mature and stable superego means that ego ideals are now able to be *embodied* as future ideals 'of, not merely for, the ego' (Loewald, 1962, p.266, italics added). These ideals become nutriment for the ever-developing psyche, acting as forward-looking benchmarks or envisaged 'potentialities' (Loewald, 1962, p.265). The original unity of primary narcissism can now be pursued in richer and more complex ways through mature object relations. If, however, the Oedipus complex is unable to be thoroughly resolved, then the ensuing superego will not be mature. For instance, if the child or parents 'insist on cruel, inflexible standards and demands and persist in unconsciously dealing with love objects as incestuous objects, they fight against ... internalizing atonement' (Loewald, 1980, p.390) which means that neither atonement nor metamorphosis is possible. In this scenario, there is no responsibility to oneself. The person not only remains 'unresponsive' to their urgings, they also fail to acknowledge that the urgings are, indeed, theirs (Loewald, 1980, p.393). The superego will reflect these failings. It will be 'harsh', 'unyielding' and 'irresponsible', and in these respects *immature*, for in the absence of modification, it will lead to 'self-destruction or to its having to be bribed or corrupted' (Loewald, 1980, p.393). Self-directed punishment is an example of the latter and 'merely assuages guilt for a while' (Loewald, 1980, p.393).<sup>9</sup> It is only by taking responsibility that one can adequately confront and work through guilt. Guilt is evidently central to both mature and immature superego organisations; however, it seems that the nature of guilt differs. In the immature superego, guilt entails self-inflicted punishment, while in the mature superego, it entails atonement and reconciliation.

This section has drawn attention to several achievements in the developing psyche. From a state of primary narcissism, the ego and external world is formed. The movement away from primary narcissism gives rise to ideals and their evolution. This (among other processes) ignites the Oedipus complex and its resolution, out of which superego formation is achieved. In taking responsibility for oneself, the superego becomes an 'internal agency' and, with this newfound autonomy, ego ideals are able to be embodied and strived for. Underlying all of these achievements – or, more accurately, these *ongoing* achievements – is love. From its beginnings in the mother-child matrix, love carries on being the foundation that enables the developing person to strive for higher and more complex levels of psychical organisation.

#### 4 | PRIMITIVE SHAME AND GUILT, MATURE GUILT AND SHAME

We are now in a position to be able to properly grasp the different formations of shame and guilt – that is, their primitive and mature forms – and how they relate to each other. In what follows I outline these formations in developmental order, starting with primitive shame and guilt and ending with mature guilt and shame.<sup>10</sup> As we shall come to see, there is a relation between temporality and moral emotions and the nature of that relation hinges on superego development.<sup>11</sup>

## 4.1 | Primitive shame

Among the affects to be explored, primitive shame is likely to be experienced the earliest. As Martha Nussbaum (2004) demonstrates in *Hiding from humanity*, primitive shame has its roots in primary narcissism. A rudimentary form of primitive shame is expected to arise when the infant comes to realise that it depends on others and is 'aware of itself as a definite being who is and ought to be the centre of the world' (Nussbaum, 2004, p.183). Shame of the primitive sort thus occurs when one is exposed as being inadequate where they had expected themselves to be adequate. As such it involves a tension between the ego and what I suggest is an *inchoate* ego ideal. It is inchoate for two reasons. First, the inchoate ego ideal precipitates the ego ideal proper. Second, there is not yet a superego so, at best, the ideal can only be a future *for* the ego not *of* it, thereby rendering it inchoate. Recall that for an ideal to become something progressive that is to be strived for in the future *of* the ego, it needs to be 'internalised in the agency of the superego' (Loewald, 1962, p.265). Thus, as we shall shortly see, with the arrival of a superego structure, shame comes to take on very different dynamics. But in its primitive form, shame is merely the painful feeling that one is imperfect, deficient, weak or in some way incomplete.

Reactions to the stigmatic wound of primitive shame are rooted in fear and anger. One impulse is to hide or otherwise disappear from view. This is based on an unconscious, irrational fear of abandonment or exclusion – that is, the fear that the exposed imperfection or deficit will lead to the withdrawal or loss of love. As Piers and Singer (1953/2015) argue, it is the fear of contempt that 'spells fear of *abandonment*, the death by emotional starvation' (p.16, italics in original). Another reflex is anger. For instance, Nussbaum (2004) argues that primitive shame is 'closely connected to aggressive wishes toward those people who fail to minister to the infant's needs' (p.186). Anger (and blame) are directed to the source of the very frustration which has exposed the imperfection.

## 4.2 | Primitive guilt

Primitive guilt is also connected to fear and anger. To understand this, we return to the Oedipus complex anew. In the previous section, we traversed what a thorough resolution of the Oedipus complex entails and what that results in – a mature superego as an atonement structure. But it was also noted that if not properly resolved, the 'resolution' of the Oedipus complex would result in a 'harsh' and 'unyielding' immature superego. An illustration of such a superego can be found in Freud's (1930) 'Civilization and its discontents'<sup>12</sup> and it is here that we also find a conception of primitive guilt. Primitive guilt arises out of a 'tension between the harsh super-ego and the ego that is subjected to it' (Freud, 1930, p.123). This form of guilt 'expresses itself as a need for punishment' (p.123). The harsh superego develops out of a twinned process of introjection and internalisation of a feared authority. It operates thus. Aggression towards others is effectively 'sent back to where it came from – that is, it is directed towards' the ego where 'it is taken over by a portion of the ego, which sets itself over and against the rest of the ego as superego, and which now, in the form of 'conscience', is ready to put action against the ego the same harsh aggressiveness' that the ego enacted (or wished to enact) (p.123). What makes the superego immature is its rash, persecutory impulse. Freud states that: '[t]he superego torments the sinful ego with the same feeling of anxiety and is on the watch for opportunities of getting it punished by the external world' (p.125).

### 4.3 | Mature guilt

Previously it was noted that guilt is central to both mature and immature superego organisations but that the nature of the guilt is different. Above, we discussed the nature of primitive guilt and its relation to the immature superego. Mature guilt relates to the mature superego in a slightly different way. This is because mature guilt forms the basis of a mature superego. In turn, the superego continues to give expression to mature guilt as a tension between it and ego ideals. Regarding the crime of parricide ('booting out' one's parents), Loewald (1980) cautions that the '[n]eed for punishment tends to become inexhaustible if atonement or reconciliation is not eventually brought about' (pp.389–390). Put differently, the rash, immature superego's response – guilt expressed through punishment – is a destructive spiral. Freud (1930) himself recognises when he discusses the 'economic disadvantage' of the harsh superego; punishment necessitates more punishment (p.127). The alternative is to harness guilt and reflectively work through it. As Loewald (1980) eloquently puts it: '[b]earing the burden of guilt makes it possible to master guilt, not in the hasty form of repression and punishment, but by achieving reconciliation' (p.391). This is the essence of mature guilt. Mastering guilt involves taking responsibility for oneself and one's actions, reflecting deeply on the guilt one feels and what this means, and then turning one's mind to how it is that things might be able to be reconciled in order to 'be at one with others and oneself' (Morris, 1976, p.100). This kind of restorative atonement cannot be brought about by punishment (Wilson, 2021b); it requires the mastery of guilt through repair.

The contrasting of primitive guilt and mature guilt is helpful to the extent that it brings out different trajectories of human development that are bound by different logics. We should accordingly think of primitive guilt as the *absence* of mature guilt and vice versa. Just as an immature superego cannot experience mature guilt, a mature superego cannot experience primitive guilt because the person no longer relies on their angry parent/authority figure to make them aware that their actions are wrong. Instead, they become aware of this through their own reflective agency.

### 4.4 | What about mature shame?

So far we have seen a developmental build up from primitive shame to primitive guilt and then from primitive guilt to mature guilt. Where mature shame sits in the developing psyche remains largely uncharted territory. Unlike the guilt formations, there is no *direct* evolution from primitive shame to mature shame. It is possible, however, to arrive at a *sui generis* conception of mature shame in the light of what we know about mature guilt.

Although *Hiding from humanity* is dominated by an account of primitive shame and its perils, Nussbaum (2004) mentions, but does not fully develop, a different kind of shame (Wilson, 2020). Nussbaum (2004) concedes that shame can be 'a morally valuable emotion' leading to constructive change when it prompts us to 'not simply apologize for this or that harmful action' but to 'search into ourselves and reexamine our habits' and character (p.211). The sort of shame she is describing, which I call mature shame, is connected to ideals. In Nussbaum's example, the ideal is a 'valuable moral' norm which 'seems good' to aspire to (pp.211–212). Shame is felt 'because of a perceived discrepancy between' one's 'current character and ideals' (p.212). This differs from primitive shame in important respects. As Nussbaum argues, accepting 'ideals and feeling shame at their non-realization in oneself does not reinforce primitive shame; it actively works against

it' because the person who feels this kind of shame 'is moving out of a comfortable narcissistic conviction that all is well with her world, and is acknowledging the rightful claims of others' (pp.212–213). Unlike primitive shame, which is a negative by-product of primary narcissistic omnipotence, mature shame reinforces 'interdependence' (a common or shared humanity) and 'mutual responsibility' (p.213).

It should be clear that all of this necessitates a well-organised superego capable of mature object relations. If this is correct then we have the grounds to make two claims about mature shame: (i) that it involves a tension between the superego and ego ideals; and (ii) that mature guilt paves the way for mature shame. The latter holds because mature guilt is the basis of the formation of the superego as an autonomous and stable atonement structure.

While mature guilt and shame are both internally located and externally related, they are different concepts. With mature guilt, my conduct *in relation* to another or others has hurt or harmed them and I feel bad and tense. Because the guilt I feel is mature (not self-punishing), I am able to master it by taking responsibility for the hurt or harm caused. In so doing, I seek to repair the ruptured relationships that have been brought about as a result of actions I am responsible for so that I can be 'at one' with others and myself (see also Reeves et al., 2019, pp.395–396). With mature shame, I feel deficient in some way and am exposed to this deficiency *in relation* to another or others. Because the shame is mature (not stigmatic), I am able to identify that my character is out of step with ideals that I have internalised. I am thus able to productively harness the shame that I feel in a forward-looking way. I seek to find whatever it is within me (a trait perhaps) that has generated this discord and, once found, I embark on a project of transformative change. In the next section, I examine how these mature forms can interact in practice.

## 5 | A SYMBIOTIC RELATION: MATURE GUILT AND SHAME

Common to both mature guilt and shame is that they involve a tension between the superego and ego ideals. I argue that this mutual tension is what makes them symbiotic; there is an essential interconnection. Consequently, we can expect to see this symbiosis surface phenomenologically – that is, in the way the phenomena of guilt and shame interact in practice, such as when a person has hurt or harmed another or others. As discussed in the previous section, on the level of metapsychology, it is mature guilt that makes mature shame possible. But it does not necessarily follow that this is how mature guilt and shame relate to each other on the level of phenomenology. Below, I identify two different ways in which the interaction between guilt and shame might play out in practice. I then discuss the implications of the symbiotic relation for restorative justice.

### 5.1 | Shame creeps through guilt

If I hurt or harm another, I might feel bad about it. The reason I feel bad is not simply because I did something that I knew was wrong. This is part of it, but the bad feeling expresses much more than that. In hurting or harming another I have cut against what I value – my ego ideal and the ideal models, values, virtues and images I strive for contained therein that have been constituted through relations with others. Thus part of my bad feeling stems from no longer being in harmony or at-one-ment with either myself or others. I reflect on this being so, it troubles me and I feel anxious about the internal discord that has been brought to light. Upon deeper reflection, I realise that I am the person responsible for bringing about the harm and subsequent discord and I feel bad

about being that person. I am the person responsible and I am ashamed to be that kind of person. I am now exposed to the realisation that there must be something inside me that is deficient or lacking in some way. I have failed to meet an inner image of myself and I am responsible for this failing. In this scenario, we see precisely how mature guilt gives effect to mature shame. I have gone from feeling bad about what I have done, to realising I am the kind of person who does those things I feel bad about, to feeling bad about being that kind of person. In response, as well as looking to repair the hurt or harm caused, I might be prompted to change who I am so that I am no longer the sort of person who could do those things. At this point both guilt and shame come together, or as Jeffrie Murphy (1999) puts it: 'shame creeps through guilt' (p.342). The above scenario reflects Wilson's (2021a, 2021b) concept of 'quantum guilt'.

## 5.2 | Shamed into guilt

Another way in which the relationship can go is as follows. I may have hurt or harmed another but not feel bad about it. Someone external to myself becomes aware of what I did and makes a justifiably negative comment on it. I become aware of this. A deficit or lack in me has been exposed – first by another and then by myself to myself. My character has fallen short of the internal image I strive for. I feel shame before an other(s) and myself. This prompts me to reflect on the conduct that exposed this deficit within me which generates a feeling of guilt about what I did and for being the sort of person that would do that (shame). In this scenario, an initial act of shaming initiates guilt.<sup>13</sup> I move from feeling shame about what I did (because someone shamed me which triggered shame in me), to feeling guilt, to feeling broader shame. Here, the realisation that there is something inside of me that is deficient or lacking in some way is initially triggered by someone external to myself whereas in the previous scenario it is triggered by myself. However, in both scenarios, the internalised ideals (ego ideals) that occasion guilt and shame are formed through relations with others. In this way mature guilt and mature shame are at once internal and external.

## 5.3 | Guilt, shame and restorative justice

The mature guilt and shame concepts are fluid and their relation can go in different directions, but they are all transactions within mature psychological being. The mutual metapsychological basis for these concepts (a tension between the superego and ego ideals) also helps us to understand their moral content. In deeply reflecting on one's conduct and character, one is taking responsibility for who they are and what they do in the present, past and future. Taking responsibility in these ways prompts reparative action, orienting the person towards repairing both the damage they have done and shortcomings in themselves. This is the *modus operandi* of a mature superego that has organised itself as an atonement/reconciliation structure. As noted earlier, this structure enables mature object relations which means that if a person does something out of step with a relationship of mutuality – for example, hurting or harming another – then we can expect that this would give rise to feeling mature guilt and shame because these affects are central to the reconciliatory flourishing of a mature superego. By nature, restorative justice is a reconciliatory enterprise, for it seeks to repair harm and restore relationships for the betterment of victims, perpetrators and the community. It therefore stands to reason that both mature guilt and shame must be central to its ethics.

Mature guilt and mature shame are symbiotic elements operating out of a mature psyche, by which I mean a well-organised psychic structure consisting of ego, superego and (within that) ego ideal elements.<sup>14</sup> This works on two levels. On the level of metapsychology, the inner tensions are the same (superego and ego ideals conflicts). But also on the level of phenomenology mature guilt may give effect to mature shame and mature shame may give effect to mature guilt. You do not *need* shame in order to feel guilt, but you can *have* shame in order to feel guilt. Whichever way the relation might go – be it a shame to guilt sequence or a guilt to shame sequence – the reason it can go either way at all is because these concepts are operating out of mature psychological being. It is only at the level of mature psychological being that there is an internal structure of ego, superego and ego ideal elements that relate to each other in an organised way – that is, in a way that can give effect to a deeper, more sophisticated and reflective response. Taken together, the different levels (metapsychological and phenomenological) provide us with an ethically robust moral psychology of a mature guilt-and-shame complex that is essential to understanding restorative justice.

## 6 | SHAME ABOUT THE GUILTY SECRET: TOWARDS SYMBIOTIC TRANSFORMATION

Restorative justice does not possess a good enough understanding of what it is in ethical-theoretical terms (Norrie, 2019b; Wilson, 2021a, 2021b). In the course of establishing an ethics of shame as the foundation for restorative justice, theorists have dipped into psychoanalytic ideas but they have never committed to a fuller engagement. Clouded by their pursuit of shame as a master concept, theorists have not had enough to say about Freud. They see him as a guilt theorist rather than a shame theorist; however, they have not gone deeply enough into his conception of guilt. As this article has shown, Freudian metapsychology is critical to understanding the moral and psychological depths of guilt and shame as well as how these concepts relate to one and another. This gives rise to a number of implications for the moral psychology of restorative justice and, in turn, the relationship between restorative justice and the broader criminal justice field.<sup>15</sup>

Restorative justice's guilty secret is that it has failed to develop the concepts of guilt and shame that it needs. In marginalising guilt, shame-centric theorists have obscured a thicker concept of guilt that is central to the ethics of restorative justice: mature guilt. The symbiotic relation between guilt and shame examined in this article has brought an additional omission to light. By virtue of excluding mature guilt, theorists have excluded the possibility for the development of a mature conception of shame that is also central to the ethics of restorative justice. The sort of shame that is mainlined in reintegrative shaming theory, Shame-Guilt/the ethical identity conception of shame, and shame management is primitive.<sup>16</sup> These concepts alert us to the fact that primitive shame (in concert with primitive guilt) may need to be addressed and/or managed, but they do not in and of themselves account for, or work in the service of, mature reactions.<sup>17</sup> It is only through a serious engagement with psychoanalysis, and Freudian metapsychology in particular, that we can reach these explanatory depths. Restorative justice practices require mature responses, yet the ethical concepts it has at its disposal are all grounded in primitive conceptions of shame and guilt. This is a real shame.

The mature concepts are not just related on the level of phenomenology; they are genuinely symbiotic. The failure to pursue the depths of this relation has stymied the development of restorative justice, leaving its ethics unsettled and vulnerable. If restorative justice is about offering a forward-looking, bottom-up approach to violation and its repair, then it must take the symbiotic

mature guilt-and-shame complex as its ethical foundation; for it is this that gives effect to atonement, reconciliation and transformative change.

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## ENDNOTES

<sup>1</sup>To clarify, this article takes as its starting point the development of *ethical* theory in restorative justice and key theorists who have engaged with this specific project. John Braithwaite laid the foundations for an ethics of shame in his seminal text *Crime, shame and reintegration* (Braithwaite, 1989). In collaboration with others, Braithwaite has worked to build up shame as a master concept (see especially, Ahmed et al., 2001; Braithwaite, Ahmed & Braithwaite, 2006; Harris, Walgrave & Braithwaite, 2004). I engage with the problematics of this in other work (Wilson, 2021a) where I critically examine how the development of shame as a master concept (via reintegrative shaming theory, Shame-Guilt/the ethical identity concept of shame, and shame management) has suppressed the ethical content of guilt and argue that this has thwarted the development of a robust account of restorative justice ethics (see also Wilson (2021b) reaching out to Braithwaite on this issue). In the present article, I intend to show how an in-depth engagement with psychoanalysis – something that theorists briefly considered early on in their ethical thinking but did not properly pursue – can yield the grounds for an adequate ethical foundation.

<sup>2</sup>While I focus on Hans Loewald's account of Freudian metapsychology, the object relations tradition – the main strand in British psychoanalysis that includes such thinkers as Melanie Klein, Donald Winnicott, Ronald Fairbairn, Wilfred Bion and Harry Guntrip – generate similar conclusions. On the connection between Loewald and other strands of post-Freudian thought, see Reeves, Norrie & Carvalho (2019).

<sup>3</sup>Key concepts like 'ego ideal', 'superego' and 'identification' are glossed over. Harris's cursory engagement with psychoanalysis leads to the claim that it offers up a characterisation of shame 'as an internal sanction based upon the perception of failure' (Harris, 2001, p.85). As we shall shortly see, Harris & Braithwaite (2001) further claim that psychoanalysis characterises guilt as an internal sanction, the difference being that with guilt, the sanction is based upon wrongdoing (cf. failure).

<sup>4</sup>The ego ideal (a constellation of ego ideals) is not a structure per se in the same way that the ego and superego are. It is best thought of as a building block in the development of a 'stable superego structure' (Loewald, 1962, p.266). The ego ideal remains a permanent fixture within that structure, though the ideals themselves and their content are subject to modification in one's life course (typically in response to subject-object relations in the social environment). Confusingly, Freud sometimes used the words 'ego ideal' and 'superego' interchangeably, but throughout this article I maintain a separation.

<sup>5</sup>For Loewald, this field, and the primary processes of thought and action in it, are critical to understanding how love/Eros is a 'developmental force' (Lear, 2017, p.178) in the structure of the psyche.

<sup>6</sup>To the person first encountering the terms 'ideal ego' and 'ego ideal' the terminology might seem confusing. While the terms are close lexically speaking, it is important to stress that they are different.

<sup>7</sup>Of course, younger children can feel this angst, too. It is important to note that the Oedipus complex and its resolution is not a static event.

<sup>8</sup>In psychoanalytic terms, this involves a 'partial narcissistic recathexis of the drive energies employed in the object-relationship' (Loewald, 1980, p.329).

<sup>9</sup>In this way, punishment short circuits a proper resolution of the Oedipus complex.

<sup>10</sup>The primitive and mature conceptions of guilt that I present owe a significant debt to Alan Norrie's work on guilt that draws on Sigmund Freud, Melanie Klein and Hans Loewald (see especially, Norrie, 2019a, 2021).

- <sup>11</sup>For an in-depth discussion of temporality and psychical development, see Loewald (1962, 1980 (especially chs 4, 9, 23)).
- <sup>12</sup>In 'Civilization and its discontents' Freud introduces the superego as an answer to how it is that aggressive, destructive instincts might be tempered when one enters civilisation (the Oedipus complex is viewed as something of a rite of passage to this debut).
- <sup>13</sup>John Braithwaite's (1989) reintegrative shaming theory comes close to describing this phenomenon. However, what this theory lacks are the mature conceptions of guilt and shame that would be necessary for the shaming to bring about its intended effects.
- <sup>14</sup>Following Loewald, the relation between these elements is best understood in temporal terms. Briefly, the ego 'confronts itself in the light of its own future' through the 'structure of the superego' (Loewald, 1962, p.268). The superego is 'the agency of inner standards, demands, ideals, hopes and concerns' and as such, it contains the ideational content of the ego ideal – various ideals that have been 'internalised in the agency of the superego' from parents and other authority figures (p.265).
- <sup>15</sup>I am unable to traverse these implications in detail here, but see the final section of Wilson (2021a).
- <sup>16</sup>One might want to claim that there is a mature concept of *shaming* at play in reintegrative shaming theory given its emphasis on reintegration. But this requires that the object of shaming (and reintegration) responds to the reintegrative shaming ritual in a mature way. The grounds for this mature response are absent. The ethical identity conception of shame appears to be mature, for it is claimed to relate to moral life. But it, too, misses the grounding that would make such a claim possible. Shame management concerns the acknowledgement and discharge of shame.
- <sup>17</sup>I acknowledge that mature *possibilities* emerge in some of these concepts, but they are not taken up in the theory.

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