Moral Security*

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IN this article, I argue that an account of security as a basic human right must incorporate moral security. Broadly speaking, a person possesses *subjective* moral security when she believes that her basic interests and welfare will be accorded moral recognition by others in her community and by social, political, and legal institutions in her society. She possesses *objective* moral security if, as a matter of fact, her interests and welfare are regarded by her society as morally important—for example, when violent crimes against her are taken to warrant the same punishment and condemnation as equivalent crimes against others. Moral security, thus characterized, is an essential part of what it is to be secure as a human person, and any right to security must include it.

In the first part of the article I critique alternative narrower accounts of the right to security, before defending my account of moral security in section II. Section III explores how acts of racialized and gendered violence are attacks on the moral security of the victims and of all members of the groups to which the victims belong. Broader structural and institutional forms of racial and sexual discrimination further compound the impact of such acts on moral security. Understanding how racial and sexual discrimination and violence are attacks on moral security offers a new way of thinking about the scope and urgency of a state's duty to combat racial and sexual discrimination, an issue I explore in the final section of the article.

Most significantly, my account suggests that, rather than seeing the goal of equality as separate from and even secondary to the goal of ensuring security, measures to combat discrimination may be *required* by the state's duty to ensure citizens' right to security. In addition, my account has implications for debates about the grounds of state legitimacy. Since it is widely accepted in the legal and philosophical discourse on state sovereignty that sovereignty is not inviolable in cases where a state is committing extreme human rights abuses against its own citizens,[1] my view suggests that egregious forms of discrimination might also

[1]See, e.g., Jack Donnelly, "State sovereignty and international human rights," *Ethics & International Affairs*, 28 (2014), 225–38, at p. 231; John Rawls, "The laws of peoples," *Critical Inquiry*, 20 (1993), 36–68, at p. 37; cf. Allen Buchanan, *Human Rights, Legitimacy, and the Use of Force* (Oxford: Oxford University Press, 2010).

undermine a state's legitimacy even in the absence of gross violations of citizens' physical security.

I. THE RIGHT TO SECURITY

Security is regarded as a fundamental human right in international law, and by many theorists of human rights.[2] Henry Shue, for example, argues that security is a basic right, possession of which (along with subsistence) is necessary for the enjoyment of any other right: "Threats to security are among the most serious and—in much of the world—the most widespread hindrances to the enjoyment of any right."[3] The importance of security is also recognized in the capabilities approach.[4] Despite the prominence of a right to security in international law and human rights theory, however, there is little agreement on the definition of security. Different accounts of security have different implications for the scope, weight, and duties imposed by a right to security, and for how security ought to be balanced against other important social and political goods, such as civil liberties and equality.[5]

A. ACCOUNTS OF SECURITY

A helpful way to think about the right to security is in terms of protecting fundamental interests arising from areas of human vulnerability.[6] For example, our physical body leaves us vulnerable to physical violence and threats to basic subsistence, and so a right to security protects our interest in being free from such threats. Using this framework, existing conceptions of security can be roughly divided into three categories that prioritize different areas of human vulnerability: "Pure safety"[7] accounts; freedom from fear accounts; and what I refer to as "assurance" accounts. Each of these accounts identifies different ways in which human persons are vulnerable to harm, by virtue of their physical, emotional, and psychological make-up. Yet none, I shall argue, recognize the significance of moral security to basic human well-being.

"Pure safety" accounts define security as the absence of threats of physical violence and threats to a person's subsistence needs. While any plausible account

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[2]See, e.g., Liora Lazarus, "The right to security," *Philosophical Foundations of Human Rights*, ed. Rowan Croft, S. Matthew Liao, and Massimo Renzo (Oxford: Oxford University Press, 2015), pp. 423–42, at p. 435.

[3]Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton, NJ: Princeton University Press, 1996), p. 21.

[4]See, e.g., Martha Nussbaum, "Capabilities as fundamental entitlements: Sen and social justice," *Feminist Economics*, 9 (2003), 33–59, at p. 41.

[5]Jeremy Waldron, "Security as a basic right (after 9/11)," *Global Basic Rights*, ed. Charles R. Beitz and Robert E. Goodin (Oxford: Oxford University Press, 2009), pp. 207–27, at p. 218.

[6]Justifying human rights by reference to human interests or vulnerabilities is a common approach in human rights theory. See, e.g., Erinn Gilson, "Vulnerability, ignorance, and oppression," *Hypatia*, 26 (2011), 308–32, and John Tasioulas, "On the foundations of human rights," *Philosophical Foundations of Human Rights*, ed. Croft, Liao, and Renzo, pp. 45–71.

[7]Jeremy Waldron, "Safety and security," *Nebraska Law Review*, 85 (2006), 454–507, at p. 461.

of security must include basic physical safety, pure safety accounts are inadequate because they conflate survival with security.[8] By only focusing on our vulnerability to physical harm and deprivation of our subsistence needs, these accounts neglect other important areas of human vulnerability. Human persons, because of their ability to conceive of themselves as existing over time, require both temporal stability and subjective security in order to live a decent human life. To be secure, we require some assurance that the basic structure of our lives won't suddenly be taken from us. Even if we are safe from physical attack and our subsistence needs are met, without a reasonable degree of temporal security we will be unable to pursue many of the projects that are fundamental to human flourishing, such as raising children, engaging in ongoing employment and other long-term projects, and forming and maintaining intimate relationships. In addition, without a reasonable degree of subjective security it will seem futile to plan for the future. In an important sense, feeling insecure is to *be* insecure.

In contrast to pure safety accounts, freedom from fear accounts prioritize subjective security.[9] Such accounts place significant value on allaying fear, since fear undermines our psychological well-being and our ability to engage in long-term planning even if we are objectively secure.

We also fear some threats more than others, regardless of the statistical likelihood of such threats eventuating. For example, the vast majority of Americans face a very low statistical probability that they will be victims of a terrorist attack. Yet despite the low statistical risk of terrorism, "the authorities responsible for homeland security ... have to regard such threats [of terrorism] ... as matters of the greatest concern"[10] even though there are more pressing threats to citizens' physical security, such as the threat posed by climate change. In general, we often feel more frightened by threats of malevolent harm than by threats of natural disasters or accidents, even when we are far more likely to be harmed by the latter than by the former. We are also likely to feel more distressed when we are harmed intentionally than when we are harmed accidentally.[11] This means that subjective security and objective security may not align, since how much we fear a threat may bear little relation to the likelihood of that threat eventuating.

Considering these features of human psychology, the question for freedom from fear accounts of security is whether and to what extent security policies should prioritize resources to reducing citizens' subjective insecurity in relation

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[8]For a critique of these accounts, see Ken Booth, "Introduction to part 1," *Critical Security Studies and World Politics*, ed. Ken Booth (Boulder, CO: Lynne Rienner, 2006), p. 22.

[9]For example, Emma Rothschild defines security as "freedom from the prospect, and therefore the fear, of personal violation". See "What is security?" *Daedalus*, 124 (1995), 53–98, at p. 62.

[10]Waldron, "Security as a basic right (after 9/11)," p. 212.

[11]There is some evidence that post-traumatic stress disorder is more likely to occur in response to "man-made violence" than in response to natural or accidental harms. See Karen Jones, "Trust and terror," *Moral Psychology: Feminist Ethics and Social Theory*, ed. Peggy DesAutels and Margaret Urban Walker (Lanham MD: Rowman & Littlefield, 2004), pp. 3–19, at p. 11.

to statistically insignificant threats, when doing so likely means not prioritizing resources to the reduction of objectively more serious threats. Certainly, under a pure safety account, it would be unjustified to prioritize resources to reducing subjective insecurity in relation to statistically insignificant threats, even when such threats are greatly feared. What matters most in such accounts is our actual safety, not our subjective sense of safety. However, a defender of a freedom of fear account might argue that, because of the importance of subjective security to human well-being and because of our tendency to fear malevolent threats more than non-malevolent threats, states have a duty to prevent acts of extreme violence against citizens, even when the likelihood of such acts occurring is low.

This response is not convincing. While I cannot offer a precise formula in this article for how states ought to prioritize objective and subjective security in terms of policy-making, the view that reducing subjective insecurity ought to take priority over reducing objective insecurity is implausible. At most, our tendency to fear malevolent threats more than non-malevolent threats provides a reason in favor of allocating *some* resources to strategies aimed at reducing subjective insecurity, such as using educational and media resources to bring citizens' subjective security more in line with their objective security. But it does not provide a reason to prioritize reducing subjective insecurity at the expense of objective security, particularly in relation to subjective insecurity about statistically insignificant threats. Certainly, the goal of reducing subjective insecurity cannot justify implementing security policies that treat a statistically unlikely threat as if it *were* as serious a threat as people's level of fear suggests. For example, the supposed existential nature of the threat of terrorism is used to justify many current counterterrorism policies, such as indefinite detention, mass surveillance, immigration bans, and the use of torture. Yet, not only is the objective threat of terrorism far less than is claimed by defenders of these policies, but there are serious doubts about the effectiveness of such policies in reducing the likelihood of terrorist attacks. Indeed, some argue that such policies might actually *increase* the risk of terrorism.[12] In addition, even if such policies *did* reduce people's subjective insecurity in relation to terrorism (and that is also controversial), they do so at the expense of others' objective security, since those targeted by such policies are more at risk of wrongful detention, loss of privacy, and other infringements of freedom. The value of reducing some citizens' subjective insecurity about terrorism does not outweigh the disvalue of executing policies that are expensive, potentially counterproductive, and that undermine the security and liberties of others. This is particularly so when allocating resources to reducing subjective insecurity means that fewer resources are

[12]See, e.g., Robert Goodin, *What's Wrong With Terrorism?* (Cambridge: Polity Press, 2006), ch. 6, and Jessica Wolfendale, "The narrative of terrorism as an existential threat," *Routledge Handbook of Critical Terrorism Studies*, ed. Richard Jackson (Abingdon: Routledge, 2016), pp. 114–24.

allocated to mitigating objectively far more serious threats, such as the threat of climate change.

An additional reason to be wary of prioritizing subjective security is that we have reason to be skeptical about the basis of our fears. Our fears are heavily influenced by media and political narratives about the severity of different threats, and by the presence of security practices such as airport screenings and warning signs. Political narratives portraying terrorism as an ever-present existential threat, for example, may cause increased subjective insecurity quite independently of the impact of terrorist attacks themselves. This means that our subjective insecurity can be easily manipulated through political and media narratives, in the service of political agendas that may have little to do with enhancing citizens' security.

Prioritizing subjective security can also lead to the adoption of unnecessary and even harmful preventive measures. Perhaps ironically, the mere introduction of preventive measures can undermine subjective security. Robert Goodin and Frank Jackson call this the problem of "precautionary excesses."[13] Precautionary excesses occur when precautionary measures are implemented in response to other people's precautionary behavior rather than in response to an objective increase in a particular threat. For example, if my next-door neighbor installs bars on his windows because he fears home invasions, I am more likely to install bars on my windows even though the objective risk of home invasions in my neighborhood may be unchanged.

A real life example of this process is the widespread fear of child abductions and obsession with children's safety in the United States that has resulted in legislation prohibiting parents from allowing children to play unattended or walk to school alone, even though statistically children are much safer today than in the past.[14] Despite increases in children's objective security, the very existence of these laws reinforces the false belief in an increased risk of stranger abduction, leading to demands for further legal restrictions of parents' freedoms. This example illustrates how prioritizing subjective security can be harmful when fear is used to justify policies that restrict important freedoms on the basis of false beliefs about various threats.

However, it is possible to acknowledge the importance of subjective security without believing that security policies ought to prioritize subjective security. Assurance accounts of security incorporate subjective security, but also stress the importance of freedom from physical violence and threats to basic subsistence, and of objective economic and material security over time.[15] Jeremy Waldron defends such an account, defining security as "protection against harm to one's

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[13]Robert E. Goodin and Frank Jackson, "Freedom from fear," *Philosophy & Public Affairs*, 35 (2007), 249–65, at p. 257

[14]David Pimentel, "Fearing the bogeyman: how the legal system's overreaction to perceived danger threatens families and children," *Pepperdine Law Review*, 42 (2014), 235–92, at p. 238.

[15]Waldron, "Safety and security," p. 462.

basic mode of life and economic values, as well as reasonable protection against fear and terror, and the presence of a positive reassurance that these values will continue to be maintained in the future."[16]

Waldron addresses the importance of subjective security by requiring that there are mechanisms in place to provide "reasonable protection" against fear. However, Waldron's view does not imply that providing protections against fear ought to come at the expense of objective security. A more plausible interpretation of his view is that objective and subjective security are both important values because of their connection to basic human well-being, but securing a reasonable degree of objective security should take priority in terms of policy-making. However, the value of subjective security warrants the use of measures designed to bring citizens' subjective security more in line with their objective security (for example, by reassuring citizens that the state is taking steps to keep them safe), but only so long as such measures do not undermine the achievement of a reasonable level of objective security. And given that a perfect alignment between objective and subjective security is likely impossible (because of our tendencies to fear some threats more than others, for instance) security requires that certain facts about the world obtain, regardless of an agent's beliefs about her security. Stephen John makes a similar point, arguing that we should disassociate the *value* of security from the *disvalue* of fear. Security is not valuable just because it is a means to reduce people's fears.[17] So objective security is valuable *even if* people still feel some subjective insecurity, and prioritizing subjective security can even have significant disvalue when it does not track facts about objective security, as the case of parental laws illustrates. In cases where, despite a state's best efforts, citizens remain very fearful of certain statistically insignificant threats, this might justify taking steps to reduce the likelihood of those threats eventuating but, again, only so long as doing so does not divert necessary resources from the mitigation of objectively more serious threats.[18]

In summary, assurance accounts strike a balance between the importance of physical safety, continued economic and material stability, and subjective security. By prioritizing objective over subjective security, such accounts offer a plausible way of prioritizing the elements of human vulnerability. Our unique emotional and cognitive make-up leaves us vulnerable to fear, so a right to security ought to protect our interest in feeling safe, but it is arguably more important that we *are* in fact safe from physical harm and temporal instability.

[16]Ibid., p. 320. Stephen John also defends an objective definition of security that incorporates basic physical safety and a temporal dimension: "An agent enjoys complete physical security if and only if there is warrant for her to believe that she will continue to achieve normal human physical functioning across the range of plausible futures, and this belief would be true." See Stephen John, "Security, knowledge and well-being," *Journal of Moral Philosophy*, 8 (2011), 68–91, at p. 73. He goes on to say that an agent's belief in her security is warranted if the objective facts that obtain in the world justify her belief (p. 73).

[17]John, "Security, knowledge and well-being," p. 73.

[18]I thank Christian Barry and Robert Goodin for encouraging me to clarify this point.

These accounts thus avoid the problems associated with freedom from fear accounts. Yet, all the above accounts of security fail to capture another important element of security for human persons—moral security.

II. MORAL SECURITY

Moral security protects an area of human vulnerability that has received insufficient attention in discussions of the right to security: our vulnerability to the lack of moral recognition. "Moral security" describes both a subjective state and an objective state. Subjectively, we feel morally secure when we believe that we are taken to matter, morally speaking—that is, when we believe that our moral standing and basic needs are recognized by others as limiting what may legitimately be done to us, and that our interests and welfare will be regarded as morally important by social, political, and legal institutions. Objectively, a person is morally secure when, as a matter of fact, her interests and welfare are regarded as morally important by others within her community, and her moral status is accorded appropriate recognition by social, political, and legal institutions. Evidence of such recognition could include, among other things, the attribution and enforcement of legal rights, and the prosecution and punishment of serious crimes against her.

As will become apparent, objective and subjective moral security are closely entwined (perhaps more than is the case for other aspects of security). However, a person could lack subjective moral security but possess objective moral security, and vice versa—a possibility I explore in section II.C.

A. MORAL SECURITY AND MORAL RECOGNITION

One indication of the importance of moral recognition to human persons is the existence of the moral categories of insult, humiliation, and disrespect. These moral categories describe forms of harm that are not reducible to physical harm. In Axel Honneth's words, these categories "represent an injustice [to persons] ... because they injure them with regard to the positive understanding of themselves that they have acquired intersubjectively."[19] Because of the human capacity for self-conception, and the importance of self-worth to human well-being, humans are vulnerable to ways of being harmed that simply do not apply to other creatures.

However, not all forms of moral recognition form the basis of a right to moral security, as I define it. According to Honneth, three kinds of moral recognition are important for human well-being: recognition of our basic physical needs and welfare, recognition of our status as morally accountable agents,[20] and recognition

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[19]Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, trans. Joel Anderson (Oxford: Polity Press, 1995), p. 131.

[20]Honneth refers to this as "cognitive respect." Stephen Darwall's concept of "second-personal respect" captures a similar idea; see *Honor, History, and Relationship: Essays in Second Personal Ethics* (New York: Oxford University Press, 2013), p. 17.

of our particular abilities, traits, and actions. These categories correspond to the importance of emotional support, cognitive recognition, and social esteem to our physical, psychological, and developmental needs.[21] Honneth argues that loss of moral recognition in any one of these areas can have serious—even devastating— consequences for our well-being, because our self-image, self-confidence, and trust in ourselves and the world is dependent on continued affirmation and approval from others and from social, political, and legal institutions.[22]

The concept of moral security that I defend correlates most closely with the first two categories of moral recognition that Honneth identifies. In addition, moral security requires a third category of moral recognition, one not discussed by Honneth: recognition of our epistemic standing or epistemic authority in relation to our testimony regarding our needs, experiences, and welfare. As I will argue, having a reasonable degree of certainty that we will be believed is central to our ability to feel secure and be secure.

A right to moral security therefore protects our fundamental interest in the social, legal, and political recognition of our physical welfare, our epistemic authority, and our status as rights-bearers who can demand moral rights and accountability from others.[23] Alternatively, moral security can be construed as the protection of human dignity, where dignity refers not to one's social standing, but to one's moral standing: "[dignity] is in a large part normative: it is something about a person that commands respect from others and from the state."[24]

I do not include social esteem in my definition of moral security.[25] Painful though it may be, loss of social esteem need not threaten the recognition of our status as moral persons. Being insulted, and being judged wanting in reference to some evaluative framework, is compatible with being viewed as a person who has the moral standing to demand moral rights and holds others (and themselves) morally accountable.[26] To use Waldron's terminology, a loss of social reputation is not the same thing as a loss of dignity. Attacks on a person's social role and reputation may hurt that person's feelings, but indignities are actions that undermine a person's status as a moral being.[27]

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[21]Honneth, *Struggle for Recognition*, p. 129. Emotional support refers to the importance of recognition within our intimate relationships of our basic needs and interests (p. 133).

[22]Ibid., p. 132.

[23]In Darwall's view, "second-personal respect" describes this kind of recognition of moral status; see *Honor, History, and Relationship*, p. 17.

[24]Jeremy Waldron, *The Harm in Hate Speech* (Cambridge, MA: Harvard University Press, 2012), p. 86.

[25]Darwall, in *Honor, History, and Relationship*, refers to this form of esteem as "appraisal respect." Darwall distinguishes appraisal respect (esteem or approval for a person's moral attributes) from honor respect, which refers to "one person. . . . Honoring another as having some specific social role, status, or place that, in principle, not everyone can have" (p. 15). These forms of respect are both distinct from second-personal respect, which "mediates and underlines morality as equal accountability" (p. 17).

[26]That said, there could be cases where loss of social esteem is so severe that it does threaten other forms of moral recognition. Such cases would count as attacks on moral security, as I have defined it.

[27]Waldron, *The Harm in Hate Speech*, pp. 84–5, 106.

So understood, a right to moral security involves more than the demand that we should be treated in accordance with moral standards.[28] Certainly, individuals who are treated in ways that violate basic moral demands will also suffer a loss of objective and subjective moral security. But this does not mean that our interest in moral security just comprises or is reducible to our interest in being treated according to moral standards. Our interest in being treated rightly (for example, in not being physically attacked) can be differentiated from our interest in the social, legal, and political recognition of our status as beings who ought to be treated rightly.

B. Moral Recognition as a Fundamental Human Interest

I have defined moral security as protecting our interest in certain kinds of moral recognition. However, more needs to be said about why moral recognition is a sufficiently important human interest to warrant being accorded the same status, if not necessarily always the same weight, in a system of political rights as the right to physical safety.

Moral security is of central importance to human well-being. Most of us go about our lives assuming that other people are not intending to harm us, that our interests and our welfare are taken to matter, and that our testimony about our experiences, our intentions, and our desires will be believed and taken seriously by others.[29] Day to day, we operate with an implicit "noncognitive trust" in others—trust that others will "play by the rules," won't be disposed to harm us, and will operate on at least a minimal principle of reciprocity.[30] Such basic social trust is not usually cognitive—it is rare that we explicitly weigh risks and benefits before deciding to trust others.[31] Instead, it is an affective attitude[32] that shapes and informs our interactions with others and with institutions in our society—an unarticulated affective sense of safety and trust through which we (sometimes unconsciously) judge and assess risks.[33] Possessing this implicit trust in our moral security and in others' goodwill toward us is crucial to our everyday lives and experience of our own agency. This trust is also important for our own sense of moral worth. Despite the noncontingent status of basic moral worth in many philosophical views, in our everyday lives our belief in our own moral value is strongly affected by how others treat us.

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[28]I thank Jeremy Waldron for raising this concern.

[29]In what follows, I will argue that institutionalized racial and sexual discrimination can undermine this belief in some groups.

[30]Lawrence Becker, "Trust as noncognitive security about motives," *Ethics*, 107 (1996), 43–61, at p. 54. We exhibit noncognitive trust of a person "when we are disposed to be trustful of them independently of our beliefs or expectations of their trustworthiness" (p. 50).

[31]Ibid., p. 45.

[32]Following Karen Jones, "Trust as an affective attitude," *Ethics*, 107 (1996), 4–25, I prefer the term "affective attitude" to "noncognitive," since the trust Becker describes can involve beliefs, and so it is somewhat misleading to describe it as noncognitive.

[33]Karen Jones, "Trust and terror," p. 15, refers to this as "basal security."

This implicit belief in our moral standing and our trust in others' goodwill is also revealed through our reactions to malevolent harm. When another person intentionally harms us, their actions vividly demonstrate to us that they don't see us as morally important; that our pain and our suffering are less important than their desires. As P. F. Strawson argues, our emotional responses to such acts reflect not only the shock and distress of feeling pain but also the belief that we have been treated in a way that is inconsistent with our moral standing. Our negative reactive attitudes such as resentment therefore express a demand for appropriate moral regard in response to the perceived ill will of the person who harmed us.[34] In some cases, we may even feel that perhaps we deserved the treatment we received—feelings of shame and guilt are common among survivors of sexual abuse, for example.

This offers one explanation for why we feel more threatened by malevolent harm than by non-malevolent harm, and why the impact of malevolent harm can be more severe and lasting than that caused by non-malevolent harm. Acts of malevolent violence undermine our trust in others' basic goodwill toward us and can, in some cases, also undermine our belief in our own moral worth. It is no surprise that victims of serious physical attacks often report an ongoing inability to trust other people.[35] Acts of violence can also undermine our trust in our physical and emotional capabilities: "physical abuse represents a type of disrespect that does lasting damage to one's basic confidence ... the belief that one can autonomously coordinate one's own body."[36] As a result, we may no longer trust our own emotional or physical responses to the world around us.

If we are victims of violence, and what happened to us is dismissed, minimized, or ignored by others in our community and by the social, legal, and political institutions that deal with crime and its consequences, the impact of the act of violence and the resultant loss of moral security will be exacerbated. To be morally secure, we require moral recognition of our physical welfare and moral status as rights-bearers, and one way this recognition is communicated is through social, legal, and political responses to crimes against us.

Denial of epistemic moral recognition will compound this loss of moral security. We need to feel reasonably sure that we will be believed; that others will apply a "principle of epistemic charity"[37] to our testimony. Even if we are not victims of violence, if victims' testimony is doubted or trivialized, this form of "epistemic exclusion" or epistemic injustice[38] undermines our moral security

[34]P. F. Strawson, "Freedom and resentment," *Free Will*, 2nd ed., ed. Gary Watson (New York: Oxford University Press, 2003), pp. 72–93.

[35]E.g., see Susan Brison, *Aftermath: Violence and the Remaking of a Self* (Princeton, NJ: Princeton University Press, 2002).

[36]Honneth, *Struggle for Recognition*, p. 132.

[37]Nancy Daukas, "Epistemic trust and social location," *Episteme*, 3 (2006), 109–24, at p. 110.

[38]Ibid., p. 109. See also Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford: Oxford University Press, 2009).

because such treatment reveals to us how we are likely to be treated if we *are* victims of violence.

A lack of epistemic moral recognition can also increase our vulnerability to other threats to security, such as the threat of physical violence. If some victims of crime are routinely regarded as lacking credibility by the criminal justice system, then crimes against such victims will be treated as less morally serious than equivalent crimes against others, and those who harm them will be less likely to be prosecuted. As a result, there will be little disincentive against harming such individuals.

The above discussion suggests that moral security requires social, political, and legal moral recognition along a number of dimensions: recognition of our basic needs, recognition of our moral standing (or dignity), and recognition of our testimonial or epistemic authority. These forms of moral recognition may be communicated through political and social narratives, institutions, and practices. For example, public recognition of our basic moral standing can be expressed through the law, particularly through the ascription of legal rights. Denial of legal rights to specific groups or individuals is an explicit denial of moral recognition.[39]

However, there are more subtle ways of denying moral recognition that are particularly relevant to discussions about racial and sexual discrimination. As noted above, how social and political narratives depict harms against certain individuals and groups, and how such harms are dealt with by the criminal justice system, can express a lack of moral recognition for the needs, status, and welfare of those individuals and groups, even if they possess legal rights. For example, lenient treatment of perpetrators of sexual assault communicates to women that sexual crimes against them will not be regarded as serious crimes warranting severe punishment. This undermines women's moral security by failing to adequately deter perpetrators of sexual assault and by perpetuating the belief that sexual crimes against women may not really be "crimes" at all in some cases. This treatment of sexual assault also undermines women's epistemic moral security. Women will be painfully aware that if they are sexually assaulted, they are unlikely to be believed and the perpetrator is unlikely to be punished. The disregard of victims' interests and welfare demonstrated by the prioritization of the interests and welfare of perpetrators of sexual assault, as occurred in the Brock Turner case,[40] sends the message that victims' well-being and demand for justice may be sacrificed to spare perpetrators the distress of punishment.

In some cases, moral security can be undermined through the attribution of invulnerability to members of a group. In a context where a group is denied

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[39]Honneth, *Struggle for Recognition*, p. 129.
[40]Brock Turner was sentenced to six months in prison after being found guilty of sexual assault, and was released after only three months. Prosecutors requested six years in prison, but Judge Aaron Persky justified the light sentence on the grounds that a harsher sentence would have a "severe impact" on Turner. See Marina Koren, "Telling the story of the Stanford rape case," *The Atlantic*, June 6, 2016. Available at <http://www.theatlantic.com/news/archive/2016/06/stanford-sexual-assault-letters/485837/>.

important elements of moral recognition, social and political narratives that attribute "strength" or "toughness" to members of that group can serve to deflect attention away from the harm experienced by members of that group as a result of, for example, social and economic oppression. For example, bell hooks argues that the characterization of black women who are heads of households as "matriarchs" minimizes the reality of black women's economic and social oppression, even though this idea has been adopted by many black women as a term of pride: "black women embraced the label 'matriarch' because it enabled them to see themselves as privileged ... even though [they are] economically oppressed and victimized by racism and sexism."[41] This illustrates how social and political narratives that position some members of a group as uniquely or unusually strong can serve to mask the social, economic, and political harms to which they are subject.

This means that a person's moral security is affected by several factors, including the degree of formal legal and political equality accorded to citizens, the way formal equality is implemented in practice, and whether and to what degree media and political narratives portray the interests and welfare of some people as less important than those of others. Thus, while legal and political equality is arguably necessary for objective moral security, it is not sufficient because formal equality does not always translate to equality in treatment under the law, as will become clear in the discussion of racial and sexual discrimination in section III.

C. Objective and Subjective Moral Security

As is the case with other aspects of security, objective and subjective moral security can fail to align. A person might feel morally secure, but be objectively morally insecure. There are two ways this could occur. Firstly, a person might simply be unaware that her society regards her interests and welfare as less important than those of others in her community. Secondly, a person might have internalized the belief that she is morally inferior, perhaps because she has experienced years of being treated as a subordinate. Thus she might believe that it is appropriate and fitting, given her moral standing, that her interests be given less recognition and consideration than those of others. In a sense, then, she possesses subjective moral security because she believes that she is treated in a manner that is consistent with her moral standing.[42]

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[41]bell hooks, *Ain't I a Woman? Black Women and Feminism* (Boston: South End Press, 1987), p. 81.

[42]If a state treated all citizens as moral subordinates, and all citizens internalized the belief that they warranted such treatment, they might feel subjective moral security. But they would possess only relational moral security since, relative to their society, they are treated as moral equals. But they would lack absolute moral security, since their basic needs and interests would not be accorded appropriate recognition by the state. This is somewhat similar to the idea of relational and absolute equality. See Christopher Wellman, "Immigration and the freedom of association," *Ethics*, 109 (2000), 109–41, at pp. 122–4.

Likewise, one may be objectively morally secure, in the sense that one's interests and welfare are in fact recognized as morally important within one's society (and this recognition is communicated through the various means discussed above), and yet be subjectively morally insecure. For example, some Americans believe that Muslims pose a serious threat to their safety, regardless of the fact that the threat posed to the average American by Islamic terrorism is miniscule.[43] Plausibly, this belief expresses both a fear for one's safety, and a fear that one's safety is not being given sufficient regard by relevant political and legal institutions. For example, a person might believe that allowing immigrants from predominantly Muslim countries to enter the United States shows an objectionable disregard for the safety of ordinary Americans.[44] This is a form of subjective moral insecurity: a fear that one's moral interests are disregarded or devalued.

This raises hard questions about trade-offs between the security of different groups, and between the security of one group and the liberties of others. As Waldron points out, security policies intended to enhance the security of some groups may do so by diminishing the security of others. This is most evident when members of a specific group are targeted for "actions designed to raise the costs of terrorist activity or lower the costs of combating it" such as "armed incursions into communities that are suspected of harboring terrorists."[45] But other practices such as racial profiling, surveillance of whole communities, and expanded powers of detention and interrogation also undermine the moral security of affected groups, because such practices communicate the message that *all* Muslims (for example) are dangerous. As with the example of parental laws discussed earlier, the mere existence of such practices is likely to exacerbate the subjective insecurity they were (purportedly) designed to address. So practices aimed at mitigating the subjective insecurity of some Americans undermine the objective and subjective security of Muslim citizens by making them more vulnerable to discriminatory treatment, loss of liberty and privacy, and even physical violence, as is evident from the increase in hate crimes against Muslims in the US.[46]

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[43]According to one report, for every American killed by terrorism "in the United States or abroad in 2014, more than 1,049 died because of guns"; see Eve Bower, "American deaths in terrorism vs. gun violence in one graph," *CNN*, October 3, 2016. Available at <http://www.cnn.com/2016/10/03/us/terrorism-gun-violence/>.

[44]One of the rationales offered for President Trump's executive order banning immigration from seven predominately Muslim countries expresses a similar idea. President Trump justified the ban on the grounds that it was necessary for "keeping our country safe" from terrorism. See Brady Dennis and Jerry Markon, "Amid protests and confusion, Trump defends executive order: 'this is not a Muslim ban'," *Washington Post*, January 29, 2017. Available at <https://www.washingtonpost.com/national/health-science/trump-gives-no-sign-of-backing-down-from-travel-ban/2017/01/29/4ffe900a-e620-11e6-b82f-687d6e6a3e7c_story.html?utm_term=.21f9ce414d07>.

[45]Waldron, "Safety and security," p. 486.

[46]Mazin Sidahmed, "FBI reports hate crimes against Muslims surged by 67% in 2015," *The Guardian*, November 14, 2016. Available at <https://www.theguardian.com/us-news/2016/nov/14/fbi-anti-muslim-hate-crimes-rise-2015>.

In section I, I argued that subjective security ought not be prioritized over objective security. In my view, reducing the subjective moral insecurity of some Americans does not justify the implementation of practices that seriously undermine the moral security of Muslims or any other group perceived to be a threat, particularly when subjective insecurity does not correlate, even closely, with facts about objective insecurity. While there are rare cases where mitigating subjective insecurity could be a justifiable aim of security policies in relation to statistically unlikely but greatly feared threats, there are limits on how far subjective security may be prioritized and on the permissible means of mitigating subjective insecurity. When the threat posed by members of a group is statistically tiny, and when shoring up one group's subjective moral security comes at the expense of another group's moral security, with little evidence of the effectiveness of such an approach, such policies would not be justified.

III. MORAL SECURITY AND RACIALIZED AND GENDERED VIOLENCE

There is an obvious sense in which acts of racialized and gendered violence, such as racially motivated hate crimes, domestic violence, sexual assault, and homophobic and transphobic violence, are attacks on victims' security: they are violent physical assaults, and as such they are attacks on victims' physical safety. But it is a mistake to frame the effects of racialized and gendered violence primarily in terms of the impact on victims' physical safety for two reasons. Firstly, interpreting the effects of such acts of violence in terms of victims' physical security limits the kind of security practices that we are likely to consider implementing in response to these forms of violence. That is, we are more likely to rely on the resources already employed by states to ensure an acceptable level of protection against physical violence for all citizens, such as the provision of police forces, street lighting, emergency services, and so forth.[47] If we take this approach, acts of racialized and gendered violence are simply one category of criminal threats, the reduction of which is part of a state's duties to protect citizens' physical safety.

Secondly, focusing on the impact of racialized and gendered violence on victims' physical safety encourages the view that the source of such violence lies in perpetrators' individual pathologies. Thus, we will miss the ways in which these forms of violence are manifestations of and contribute to the undermining of the moral security of all members of the groups to which the victims belong—women, LGBTI individuals, and African-Americans.

While acts of racialized and gendered violence undermine victims' moral security in the same way that other acts of malevolent violence undermine victims' moral security, the impact of acts of racialized and gendered violence extends beyond the immediate victims to all members of the groups to which the victims

[47]Waldron, "Security as a basic right (after 9/11)," p. 213.

belong. Unlike other acts of malevolent violence, acts of racialized and gendered violence are motivated, at least in part, by the fact that the victim is a member of a particular group viewed by the perpetrator as morally inferior or at least open to otherwise impermissible forms of treatment. The perpetrator of a racially motivated attack chooses his victim on the basis of the victim's perceived membership in a despised race, and perpetrators of homophobic and transphobic violence choose their victims because of the victims' supposed membership in groups defined by sexual orientation or gender identity. In the case of violence against women, however, it may not seem obvious that perpetrators of such violence choose their victims *because* they are women. Certainly, it is implausible to claim that perpetrators of violence against women *consciously* choose their victims on the basis of their sex. However, the frequency of instances of domestic violence and sexual assault and the leniency with which perpetrators of violence against women are often treated in the media and in the criminal justice system suggests that the victims' sex is directly relevant to the extent to which these forms of violence are tolerated.[48] The tolerance of violence against women expressed through leniency towards perpetrators communicates the message that violence against women, particularly sexual violence and intimate partner violence, does not warrant the same kind of condemnation as other acts of violence.

What unites acts of gendered and racialized violence, therefore, is the belief that, by virtue of being a member of a particular group, the victim is open to, even deserving of, harm in a way that others are not. Through their actions (and sometimes through their words) perpetrators of acts of gendered and racialized violence communicate to their victims the message that the victims can be subjected to dehumanizing treatment. This message is further entrenched through the treatment of victims of gendered and racialized violence in the criminal justice system, the media, and in popular culture. Frequently, acts of racialized and gendered violence are trivialized, justified, rationalized, and rarely punished. For example, unarmed African-American men are disproportionally likely to be killed by police,[49] yet in many cases, such as in the shootings of Tamir Rice and Michael Brown, the perpetrator is not charged, let alone punished.[50] A similar

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[48]Christopher Wellman argues that such acts count as hate crimes because of the plausibility of the view that rape and domestic violence are "driven by misogyny," and that it is the ubiquity of misogyny in our society that leads us to "take rape for granted" rather than seeing it for the hate crime that it is. See "A defense of stiffer penalties for hate crimes," *Hypatia*, 21 (2006), 62–80, at p. 77. The frequency of and toleration for such forms of violence has also led some philosophers to argue that violence against women is a form of terrorism. See Jay Sloan-Lynch, "Domestic abuse as terrorism," *Hypatia*, 27 (2012), 774–90, and Claudia Card, *Confronting Evils: Torture, Terrorism, Genocide* (Cambridge: Cambridge University Press, 2010), pp. 159–62.

[49]Wesley Lowery, "Study finds police fatally shoot unarmed black men at disproportionate rates," *Washington Post*, April 7, 2016. Available at <https://www.washingtonpost.com/national/study-finds-police-fatally-shoot-unarmed-black-men-at-disproportionate-rates/2016/04/06/e494563e-fa74-11e5-80e4-c381214de1a3_story.html>.

[50]Jaeah Lee and Katie Rose Quandt, "Here's what happens to police officers who shoot unarmed black men," *Mother Jones*, August 20, 2014. Available at <http://www.motherjones.com/politics/2014/08/darren-wilson-ferguson-police-officers-shoot-unarmed-black-men>.

pattern emerges in relation to gendered violence. Not only are perpetrators of sexual violence rarely punished (and rarely punished severely), but victims of sexual assault are routinely shamed in the press for their behavior, dress, and prior sexual activity, and may be blamed for their attacks.[51] This illustrates how the immediate effects of acts of gendered and racialized violence on victims' moral security (such as the loss of trust) are compounded by structural patterns of racial and sexual discrimination exhibited through social and political narratives about such violence and through the criminal justice system, for example, in sentencing decisions and in decisions about whether to prosecute perpetrators. Thus, formal legal equality is not sufficient to ensure moral security, because the discretionary powers of prosecutors and judges (and other public officials) may be utilized in ways that express and reinforce attitudes that undermine the moral security of victims of racialized and gendered violence and of all members of the groups to which they belong. In addition, the moral security of these groups will be further undermined if public displays of hate speech and violence against members of these groups are openly tolerated.[52]

In cases where race and gender intersect, these issues are compounded. In the 2015 trial of Daniel Holtzclaw, a police officer accused of raping and assaulting over 13 women, many of whom are African-American, it was evident that the victims' gender and race played a large part in Holtzclaw's belief that he could get away with his crimes, and also explained his victims' reluctance to come forward on the grounds that they thought they would not be believed.[53]

In summary, individual acts of racialized and gendered violence tell the victims that *they do not matter* and that *what happens to them does not matter*. This message is then reinforced by the manner in which such violence is treated by social, political, and legal institutions. Because these forms of violence target individuals on the basis of perceived group membership, these acts (and how they are dealt with) communicate the message that *all* members of those groups are similarly deserving of harm. In addition, because the testimony of victims of racialized and sexualized violence is often doubted and victims may be portrayed as untrustworthy and unreliable, victims may often be acutely aware that they are unlikely to get justice for the harm that was done to them. Thus, institutionalized racial and sexual discrimination undermines moral security by denying appropriate moral recognition to the needs, welfare, moral status, and epistemic authority of members of these groups.

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[51]See Kate Harding, *Asking for It: The Alarming Rise of Rape Culture—and What We Can Do about It* (Boston: De Capo Books, 2015).

[52]Waldron argues that the "political aesthetics" of a society—the actions, speech, and behavior permitted by a society—reveal that society's level of commitment to reassuring its citizens that "all deserve protection from the most egregious forms of violence, exclusion, indignity, and subordination" (*The Harm in Hate Speech*, p. 83).

[53]Jessica Lussenhop, "Daniel Holtzclaw trial: standing with 'imperfect' accusers," *BBC News Magazine*, November 13, 2015. Available at <http://www.bbc.com/news/magazine-34791191>.

This analysis of the impact of acts of racialized and gendered violence demonstrates how legal, social, and political attitudes toward gendered and racialized violence compound the harm done to the moral security of victims and further undermine the moral security of all women, African-Americans, and LGBTI persons. In addition, this undermining of victims' moral security increases the risk of such violence, undermines victims' credibility, and diminishes the responsibility of perpetrators. These forms of violence and the manner in which such violence is regarded by legal and political institutions thus serve as a visceral and threatening reminder to many African-Americans, LGBTI individuals, and women that they live in a society in which their moral security is tenuous at best.

IV. IMPLICATIONS

The above discussion raises a number of important questions about the relationship between the state's duty to protect citizens' security and the urgency of combating racial and sexual discrimination. While I am unable explore these questions in detail here, there are several implications worth exploring.

Firstly, if we view racialized and gendered violence as one aspect of the broader undermining of moral security sustained through institutionalized racial and sexual discrimination, then combating discrimination and racialized and gendered violence should be viewed as part of the state's duty to protect citizens' security. Given that many accounts of security view a right to security as a fundamental human right, this suggests that the state's duty to protect citizens' moral security through the dismantling of discrimination is more urgent than has been acknowledged. Certainly, this suggests that accounts that prioritize security over equality are mistaken, since (as I have argued) equality is a necessary step toward moral security.[54] My account therefore offers a starting point from which to rethink the relationship between equality and security, and how states should prioritize security in relation to other important political goals and values, such as liberty, utility, and justice. Secondly, my account provides support for the view that states that permit or endorse practices and policies that seriously undermine citizens' moral security might lack important elements of legitimacy,[55] which could, in extreme cases, justify external intervention in a state's affairs even in cases where citizens' physical security is not under threat.

Finally, my account can provide a justification for hate crimes legislation. Hate crimes legislation is one means by which a criminal justice system can acknowledge that some acts of gendered and racialized violence are morally distinct from other forms of violence, in a way that justifies more severe

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[54]Thus, my account of moral security fits closely with some aspects of the idea of democratic equality defended by Elizabeth Anderson ("What is the point of equality?" *Ethics*, 109 (1999), 287–337, at p. 312) which aims at asserting "the equal moral worth of all persons." However, in my view moral equality is not a separate political goal from security. Rather, it is part of human security.

[55]For example, this would support a view similar to that developed by Buchanan, *Human Rights, Legitimacy, and the Use of Force*, in his critique of Rawls's views on state legitimacy.

punishment and condemnation. My account explains this moral difference in terms of the effects of racialized and gendered violence on victims' moral security and on the moral security of all members of the group to which the victims belong.[56] However, the analysis of racialized and gendered violence that I offer would justify broadening the concept of hate crimes to include other forms of gendered and racialized violence such as domestic violence, rape, and police violence against African-Americans.[57] A commitment to ensuring citizens' moral security therefore entails not only a commitment to formal equality but also a commitment to substantive changes to the social and legal attitudes towards, and the classification and prosecution of, acts of gendered and racialized violence.

[56]Christopher Wellman, "A defense of stiffer penalties for hate crimes," p. 67, defends stiffer penalties for hate crimes on similar grounds, arguing that "[e]ach time a person is targeted for assault because of the group to which she belongs, it takes a toll on everyone in the marked group." Wellman argues that the toll that hate crimes impose is "the daily knowledge shared by all members of oppressed groups that they are liable to violation, solely on account of their group identity."

[57]Wellman, "A defense of stiffer penalties for hate crimes," p. 76, also argues in favor of broadening the category of hate crimes to include at least some acts of domestic violence and rape.