

The Strains of Inequality: An Exploration of the Effects of Cannabis Legalization on Black and
Indigenous Peoples in Canada

by

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Abstract

This thesis presents the lived experiences of 19 Black, Indigenous, and white individuals in the new age of cannabis legalization within Canada, to demonstrate the long-lasting and unintended consequences of decades of drug prohibition and criminalization. As a response to the promise that legalization would bring with it racial justice, this research centres the experiences of racialized people, bringing into focus forms of inequality, prejudice and discrimination that remain intact despite changes to drug policy. To complement numerous quantitative studies on the lasting impacts of cannabis criminalization, this qualitative research explores the nuances of individual experiences of legalization among cannabis users. This research draws on broader theoretical perspectives surrounding settler colonialism, intersectionality, and race to situate both the historical and contemporary effects of cannabis prohibition. This research situates the interview findings within a critical race and cumulative disadvantage framework, using racial habitus as a conceptual tool for understanding the differences in experience across racial categories. By conducting open-focused interviews with Black, Indigenous, and white individuals who use either the new legal means of obtaining cannabis or illegal methods of acquiring it, this thesis reveals the extent to which notions of race become entrenched in the commonly held perceptions of cannabis use and users and in turn, how these notions impact the experiences and decision-making of racialized cannabis users in the post-legalization landscape. From the findings, racial differences are seen in feelings of awareness to differing reactions to cannabis, in perceptions of safety, and in levels mistrust, which in turn establish and enhance barriers to participation in the new legal scheme. In particular, Black and Indigenous interviewees altered their behaviours surrounding their cannabis use while in certain settings based on how they believed they may be perceived. Most notably, Black participants had a general mistrust surrounding the new legal system that influenced all Black participants in this study to refrain from obtaining cannabis through the new legal means. This thesis concludes that race is particularly important when it comes to understanding the impacts of legalization, as it alters the way in which individuals come to be perceived, how they experience phenomena, and how they react to situations. My findings reinforce the need for alternatives outside of drug policy reform in order to address long-standing biases and inequalities related to drugs and the criminal justice system that continue to impact Black and Indigenous communities across Canada.

Keywords: Cannabis, legalization, drug prohibition and criminalization, race, Indigenous and Black people in Canada, inequality, experience

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INTRODUCTION

Background

The enforcement of drug laws in Canada has always been disproportionately applied: specifically, the laws surrounding cannabis and its use. Drug policy has often been centred on the criminalization of smoking, growing, and distributing cannabis (Boyd and Connie 2013), and in effect used as a tool to criminalize racialized populations. There has been a tendency for the enforcement of drug laws and policies in Canada to be to a significant iteration of broader processes of racialization, and, because of this, to have lasting effects on racialized communities. Drug policy and its enforcement are a way to define, create, and associate certain groups of people who produce, use, or sell drugs as the source of social problems surrounding drug use and abuse. Despite accounting for a significantly lower percentage of the population, racialized individuals account for the majority of drug arrests in North American cities, according to much research (eg Bender 2016; Marshall 2015; Owusu-Bempah, Luscombe & Finley 2019). When it comes to cannabis-related offences, racial disparities in arrests and sentencing are vast and well documented within the American context (Mitchell and Caudy 2015; Tonry 1994). Although there have been numerous scholars who have studied the conditions and causes of the imbalance in cannabis-related offences and how they are enforced, little research has focused on how the relatively recent legalization of cannabis in Canada might impact existing inequalities, either ameliorating them or even perpetuating and deepening them. The racial disparities that exist within the realm of drug enforcement are exacerbated through intersecting systems of inequality such as class (Nasrulla 2000) and reproduced through systems of daily interaction and communication. Others have argued the compounding effects of drug legislation and

criminalization on racialized communities in Canada have only perpetuated the country's colonial project (Crosby 2019; Monchalin 2017). Even as policy changes, the lasting effects of colonialism and slavery on Indigenous and Black communities may continue to serve as the foundation for ongoing racial inequality and disparity. These histories in turn may translate into the current realities experienced by Black and Indigenous peoples in Canada. This thesis will examine the extent to which this may or not have occurred in the case of cannabis legalization. Due to the limited scope of this project, the experience of Black and Indigenous peoples will be the focus; however, it is not only these two that may continue to face racial disparities in relation to drugs.

On October 17, 2018, the recreational use of cannabis was legalized in Canada. The federal Cannabis Act made it so Canadians could possess up to 30 grams of legal cannabis, share up to 30 grams of legal cannabis with other adults, buy dried or fresh cannabis and cannabis oil from a provincially licensed retailer, grow, from licensed seed or seedlings, up to four cannabis plants per residence for personal use, and make cannabis products, such as food and drinks, at home (*Cannabis Act* 2018). Although there were many reasons behind the legalization of cannabis, the intention was partly to address racialized inequalities within the criminal justice system. Detailed discussions during the parliamentary debate on the bill highlighted that racialized groups and Indigenous peoples have received much harsher punishments for cannabis, that the new act be applied equally to all Canadians, and that the input and considerations of Indigenous communities and nations be implemented into the new legal framework (*Debates of the Senate*, 2018). Additionally, those in support of the bill, like Bill Blair, continued to highlight race as a central issue to the government's legalization plans (Solomon 2017).

However, with the recent legalization of cannabis, the question remains whether racial disparities will persist. Besides the eradication of some cannabis-related offences, criminal penalties are still associated with possession over 30 grams, as well as trafficking or distributing illegally (*Cannabis Act* 2018). Of particular concern in the context of racial disparities in cannabis-related offences are the harsh penalties for individuals convicted of supplying or selling cannabis to a person under the age of 18 and the tougher penalties associated with cannabis impaired driving (Owusu-Bempah and Luscombe 2020). The new regulatory relationship with cannabis in Canada does not guarantee that racial disparities in criminal justice contact and involvement will change for the better, nor does it mean preexisting inequalities will be addressed through this kind of conventional criminal justice reform (Cumberbatch 2016). There have been few complementary social justice measures to accompany legalization that might address longstanding racial inequalities in previous cannabis law and enforcement (Valleriani, Lavalley & McNeil 2018).

Following decades of criminalization for simple possession, production and the selling of cannabis, the new approach to recreational use seen through legalization will leave intact many of the same laws, procedures, interactions, and beliefs that have disproportionately and prejudicially impacted people of colour, including Indigenous people in Canada (Valleriani, Lavalley & McNeil 2018). For example, legalization alone does not address the concerns of overpolicing and criminalization in racialized communities, it does not account for furthering criminal justice disparities that are the result of decades of drug prohibition, and it does not focus on creating meaningful initiatives that aid communities of colour and Indigenous communities in participating in the legal cannabis industry (Valleriani, Lavalley & McNeil 2018). As research done in the context of legalization elsewhere suggests, for cannabis-related offences the same

racial disparities in arrests may persist (Markus 2016; Owusu-Bempah, Luscombe & Finley 2019). Although there are some difficulties and limitations in drawing on evidence regarding post-legalization outcomes in the United States and generalizing these findings to Canada, American studies provide a comparative reference point. Keeping in mind the very distinctive nature of criminalization in the United States, juxtaposing Canada with the United States allows researchers to delve into how particular similarities between the two countries can produce comparable consequences (Bloemraad 2011).

Evidence from American jurisdictions, such as Colorado, that have also legalized the recreational use of cannabis, have shown that the cannabis arrest rate for Black people was almost triple that of whites in 2014, almost two years after legalization (Colorado Department of Public Safety 2016). It was also found within the Colorado context, that the cannabis arrest rate for Latinx and Black youth increased by more than 20% and 50% respectively, between 2012 and 2014, after legalization (Markus 2016). Studies from American jurisdictions, and research conducted pre-legalization in Canadian cities showing racial disparities in arrest rates for minor cannabis possession for Black and Indigenous people (Owusu-Bempah and Luscombe 2021), provide evidence to support the concern of persisting racial inequalities in the post-legalization landscape.

It is thus apparent from research conducted in the context of legalization in other jurisdictions, that racial disparities still exist, and drug law enforcement remains a racialized practice. The persisting racial disparities speak to the biases and forms of discrimination that exist outside of the legal system and that work to recreate and maintain racialized understandings of drug use. Despite the aforementioned research being crucial to the understanding of both processes of racialization within drug-related offences in particular and in criminal justice more

broadly, and given the pervasive nature of racial inequality that exists within and beyond the Canadian criminal justice system more generally, there remains a dearth of empirical research exploring the everyday lived experiences of racialized individuals living in the new age of cannabis legalization in this country. My thesis will address this gap.

Research Design

Since its inception, the legalization of cannabis brought with it a promise of racial justice and an end to the undue criminalization of racialized individuals surrounding the substance. However, the legalization of recreational cannabis use brings with it a whole new set of challenges, ones that are uniquely and disproportionately faced by communities of colour in Canada and ones that will not be alleviated through drug policy reform alone. These challenges are not limited to overpolicing, criminalization, and further criminal justice disparities that exist through the overrepresentation of people of colour and Indigenous populations in both provincial correctional institutions and federal prisons in Canada, but also include the barriers in place that hinder participation in the legal cannabis industry (Valleriani, Lavalley & McNeil 2018), as well as the previous decades of drug prohibition and its lasting effects on communities of colour through the biases its created. This research will explore first-hand accounts of the experience of legalization for racialized people to examine the similarities and differences between the experiences of Black, Indigenous, and white participants, as well as how these experiences are connected to the decision to use legal dispensaries or to buy cannabis through more illegitimate/illegal channels. This research will act as a qualitative follow-up for the numerous quantitative studies that have identified persisting inequality in the post-legalization landscape. For example, research done in the American context by Firth and Carlini (2019) and Mooney et al. (2018) have shown that although the rate of cannabis-related arrests have decreased across all

racial categories, racialized individuals are still arrested at a higher rate for cannabis related offences. Within the Canadian context, research done by Owusu-Bempah, Luscombe, and Finlay (2019) has shown similar racial disparities in arrests in numerous Canadian cities. Through conducting interviews with these two groups, legal and illegal users, across various racialized groups, this thesis will take into account individual experiences pre- and post-legalization. Those same experiences can then be used to explore the effects of legalization on broader processes of racialization and ongoing instances of racial discrimination within Canada. Exploring these accounts should allow for a more nuanced understanding of the impact legalization has on Black, Indigenous, and white individuals. The thesis will ask how much does simply eradicating certain legal sanctions do to influence or change, the forms of inequality, discrimination and prejudice that are engrained into the fabric of our society and in turn come to impact lived experiences.

Through interviewing those who use the new legal ways of attaining cannabis and those who do not, connections can be drawn between these choices and personal experiences with racialization, while also exploring how these decisions may more broadly be influenced by previous contact with, or perceptions of the criminal justice system. The research will provide new insight on how legalization is both perceived, as well as experienced, across various racial groups for those who use cannabis. Ultimately, the goal of this research is to explore legalization and its effects through the lens of individual experience and to situate those findings more broadly within historical and contemporary processes of racialization and other intersecting systems of inequality. Furthermore, findings from this research could aid in the development of drug policy alternatives that surpass mere legalization.

Chapter Outline

Chapter Two is an extensive review of literature that highlights Canada's history of drug prohibition. It begins with an examination of the various substances that have been criminalized and the racial undertones that existed (and still exist) within the enforcement of these laws. The analysis narrows in on the criminalization of cannabis over the years in North America, especially Canada, and the impacts of that criminalization. Processes of racialization are shown to be at the core of drug-related legislation, enforcement, and crime, helping provide a context through which the possible impacts of legalization can be understood.

Chapter Three moves to the present day and reviews more key contemporary research conducted in post-legalization climates in North America, to demonstrate persisting racial disparities despite drug policy reform. This chapter considers the ways in which this research has been conducted, as well as any gaps or elements that require further examination. In particular, this chapter discusses how the majority of research conducted on persisting inequalities in the post-legalization climate, focuses on crime-related statistics rather than the first-hand accounts of the experience of legalization from racialized individuals. I will argue that shifting from a predominately quantitative approach to a qualitative one that centres experience, allows for access to the valuable knowledges and ways of knowing that are presented in Black and Indigenous perspectives and viewpoints, complementing quantitative research, and thus helps provide insight into many racialized processes and structures, including legalization. I conclude the chapter by presenting my research methodology.

Chapter Four presents the findings from my interviews. It provides an in-depth analysis of major and recurring themes that arose through the duration of this research and how these findings speak to broader theoretical understandings surrounding race. From the analysis of the data, it is evident that Black and Indigenous people have a very different interpretation and

experience of legalization that is impacted by ways of living and being that do not reflect dominant narratives.

In the fifth chapter, the conclusion, I will outline how, despite the intended racial justice legalization was said to bring about, the unaccounted-for everyday implications continuing from decades of racially motivated drug policy come to undermine the effectiveness of conventional drug policy reform. The conclusion also discusses limitations and future directions for research and policy surrounding this topic that should serve to aid and promote the discussion surrounding alternatives that exist beyond conventional drug policy reform. These future directions will serve to promote an experience of legalization that is equitable across all races, and especially for Black and Indigenous individuals in Canada.

CHAPTER 2: CANADA'S HISTORY WITH CANNABIS CRIMINALIZATION

This chapter begins by delving into the history of drug prohibition in Canada and historical trends that continue in drug policy, drug criminalization, drug law enforcement practices, and most importantly, drug policy reform with colonialism and slavery as the foundation for this discussion. I will go on to suggest that Canada's racist history with drug prohibition shapes contemporary experiences surrounding drug use, even when use is deemed legal. What our history in Canada demonstrates is that disparities and inequalities are inevitably going to persist, based on policy and policymakers' inability to recognize that racialized drug prohibition and contemporary drug policy reform, such as cannabis legalization, are mutually reinforcing phenomena (Owusu-Bempah 2017). As such, our history requires a critical examination, as this can help us understand why racialized people in Canada continue to have experiences that are disparate with the intended goals of cannabis legalization. To encompass the complexities of the impact Canadian drug prohibition has had on contemporary realities, the literature drawn on in this thesis examines history through the lens of many intersecting systems and structures, such as class, race, and settler-colonialism. Notably, research in the Canadian context has focused on the impacts of drug prohibition through examining legislative decision making and policy rationales, the criminal justice system, and socioeconomic outcomes. Although it will not be within the scope of this research to discuss each of these systems and structures in great depth or detail, throughout the course of this chapter multiple lenses will be employed to provide an intersectional approach to history and its impact on the lived realities for Black and Indigenous Canadians today.

Colonialism, Slavery, and the Racialization of Drug-Related Crime in Canada

There are structures and systems in place in Canada that have allowed for the widespread racialization of drug-related crime. Apart from the entrenched disparities seen throughout Canada's history with drug prohibition and criminalization, there are systems that existed prior to any formal legislation and continue to exist that influence how drug laws are enforced, perceived, and experienced. These systems have worked to influence the racial disparities that persist in regard to drug-related crime but also the everyday inequalities faced by people of colour in Canada. Systems such as colonialism and slavery have laid the foundation for and played a vital role in the continued forms of subjugation experienced today, while oftentimes being dismissed or viewed narrowly as problems simply with policing or the criminal justice system more broadly. Taking an intersectional approach to examine Indigenous and Black people's past and present experiences with drug legislation provides the opportunity to be "attentive to the interplay between different forms of oppression" (Owusu-Bempah 2017, p. 24) and how they come to impact the present context.

To discuss any experiences faced by Indigenous as well as Black people in Canada, one must first understand the impact of settler colonialism and its renewed and reconfigured influence on everyday life. Colonialism in its earliest form was "a system in which one people claim sovereignty over another and assert social, political, economic and spiritual domination over the colonized" (Monchalin 2017, p. 70), yet over time these modes of control that managed Indigenous and Black populations in Canada have transformed and been more indirectly ingrained into various systems and institutions in our contemporary society. Settler colonialism

has had the effect of treating undesirable populations, such as Black and Indigenous peoples, by processes of elimination, coercive exploitation, and disposability (Stasiulis 2020). In a contemporary sense, these processes of elimination, exploitation, and disposability reside, continue to influence, and are recreated in day-to-day interactions and understandings of Black and Indigenous people through the underlying notions of domination that can be attributed to colonialism and the doctrine of discovery (McAdam 2015). In Canada, the doctrine of discovery provided legal and moral justification for colonial dispossession of sovereign Indigenous Nations and allowed for an understanding that Indigenous peoples and subsequently other racialized peoples could be dominated (McAdam 2015). This same kind of domination over Indigenous and Black people has continued to be perpetuated through apparatuses such as the criminal justice system, the child welfare system, the education system, the treaty system, the social welfare and housing system, and many more related and intertwined structures of subjugation (McAdam 2015).

Colonialism has set in motion ongoing practices of dispossession (Coulthard 2014), outside of the dispossession of land, language, life, and culture. One way in which dispossession takes shape today is in the heavy incarceration of Indigenous and Black individuals for not only drug-related crimes, but for crime in general. It is the legacy of dispossession that comes from Canada's colonial past that allows for present-day forms of colonialism to be transformed into the dispossession that comes from criminalization and involvement with the criminal justice system. It is this ability to produce forms of life, such as the ones experienced by drug users or those who are incarcerated, that makes settler-colonialism's imposed hierarchies seem natural (Coulthard 2014). A focus on the colonality of power elucidates the operations and extensions of ruling logics such as white supremacy and hierarchies of racism that provide for contemporary

iterations of colonialism (Crosby 2021). As such, colonialism has a reproductive force through the manner in which it comes to continually dispossess and disadvantage Indigenous and Black populations and maintain an engrained understanding of racial inferiority (Coulthard 2014).

Moreover, the racialization of drug-related crime has helped justify racial profiling, bias and stereotyping that fuel excessive imprisonment (Tonry 2011) and has also acted as a means and guise for continued forms of colonial dispossession. However, as mentioned above, it is not solely the criminal justice system that operates as a contemporary form of colonial power, but rather processes outside of formal criminalization come to influence and determine the heavy incarceration of Black and Indigenous people in Canada. Apparatuses of domination like the education system, the child welfare system, the treaty system, and the social welfare and housing systems (McAdam 2015) provide for social, political, economic, and spiritual control over racialized individuals by continually reproducing disadvantage and disparity. As such, it is not police, courts, prisons, and jails that solely decide which individuals come into them, but rather, extra-judicial processes and social, political, and economic systems that also come to influence the trajectory of a racialized person's life.

In a similar, yet very distinct manner, the legacy of slavery has had the same continued quality of dispossession for Black Canadians. However, social amnesia about slavery in Canada is common and makes it impossible to fully understand anti-Black policing in the current climate (Maynard 2017). Similar to the way in which colonialism operates today, the contemporary afterlife of slavery makes forms of violence on Black bodies rather visceral (Maynard 2017; Sharpe 2016) and in turn, when they are contested little seems to change. What the legacy of slavery continues to have influence over are the particular meanings it created and creates for what it means to be Black (Maynard 2017). These meanings have come to be attached to Black

bodies through continued forms of subjugation that are seen in the way in which they are subject to increased surveillance and containment (Maynard 2017; Sharpe 2016; Owusu-Bempah 2017). As Sharpe (2016) so eloquently portrayed in her work *In the Wake: on Blackness and Being*, to be Black is to live in the contemporary aftermath of slavery, that not only produces the conditions of containment, regulation, and punishment, but also a total climate that reinforces anti-Blackness as an ingrained feature and response to Black people today.

The continued effects of colonialism and slavery on the dispossession on Indigenous and Black people respectively, is evidenced by various forms of spatialized control. For Indigenous populations across Canada, a common colonial history has disregarded Indigenous self-determination and restrained Indigenous claims to their land (Monchalin 2017). In turn, the stripping away of unique Indigenous identities, histories, cultures, and voices has allowed for Canada to continue the disconnection and dislocation of Indigenous peoples from traditional territories, forcing Indigenous peoples and Nations under the governing influence and control of European settlers (Monchalin 2017). Historical and contemporary policies have led to the extermination and extinguishment of treaty rights and Indigenous sovereignty through legislative reform and colonial laws (McAdam 2015). Notably, the implementation of the reserve system and the enduring practices of dispossession have fostered the devastating consequence of the disproportionate representation of Indigenous peoples in the criminal justice system as a form of contemporary colonial measures (Monchalin 2017).

For Black people within North America, especially in the United States, a similar form of dispossession has taken place. The not-too-distant past of segregation in America, has led to contemporary forms of residential and geographical separation on account of race and economic status (Faber 2020). For both Indigenous and Black people, continued forms of dispossession

have served as the justification for the heavy representation of both groups in the criminal justice system. Targeted police presence and enforcement in areas that are heavily populated by Indigenous, Black, and other racialized minorities has been the catalyst for not only criminalization in general, but also the racial disparities propagated through the war on drugs (Khenti 2014).

It is important to acknowledge these forms of oppression to understand the impact that these systems continue to have on the everyday lived experiences of Black and Indigenous peoples in Canada. Without acknowledging these systems, it would not be possible to examine the true nature of why the racialization of crime, especially drug-related crime, continues to happen. To look at the racialization of crime with a critical lens is to dismiss the embedded ideas surrounding the prevalence of Black and Indigenous criminality and rather to focus our attention on the enormous racial disparities as proof of reified forms of racism and oppression (Maynard 2017). As numerous scholars have stated, colonization and other forms of oppression have played a significant role in the racialization of drug crime (Boyd 2017; Maynard 2017; Owusu-Bempah, Luscombe & Finlay 2019).

The criminal justice system has been one of the most essential institutions in the continued perceptions of inferiority of Black and Indigenous peoples in Canada. The legacy of earlier forms of colonialism have become entrenched and embedded not only within institutions, but also in the dominant discourses that come to construct our understandings of who people are (Monchalin 2017; Crosby 2019). The criminal justice system as a whole has been one of Canada's most prominent colonial institutions. The criminal justice system has played a vital role in creating and maintaining the racial hierarchies present not only in the application of law enforcement and drug legislation, but also the ways in which certain stereotypes and perceptions

have become embedded into societal understandings of Indigenous, Black, and other racialized communities.

Much of Canada's history with drug prohibition has been possible because of the systems and structures that have come to conflate the criminalization of drugs with notions of race. The "racialization of [drug] crime represents a significant concept for [the] analysis of the social construction of racial identity" (Knepper 2008, p. 503), one that has played a crucial role in criminalizing simple possession, production, and the supply of cannabis. In a much broader sense, these perceptions have influenced the war of drugs and have become one of the most salient factors leading to the pervasive and extensive racial disparities seen across North American legal systems (Tonry 2011). Drug crime has been constructed and designed to promote racial disadvantage through both tough on crime initiatives and the advancement of racialized discourses surrounding drug use and abuse (Peterson, Krivo, and Hagan 2006). Along with early drug legislation and continued forms of colonialism, the war on drugs has been crucial for the enduring racialization of drug crime. "Both historically and in the present, policing Blackness occurs alongside and as part of the policing of Canada's Indigenous communities" (Maynard 2017, p. 86), leaving intact racial profiling, surveillance and police encounters that occur based on stereotypes surrounding race and ethnicity and serve an important role for determining police practices.

Drug prohibition has served as a response to imagined social problems associated with certain racial groups and has been used to justify more entrenched forms of racism (Tonry 2011; Omori 2019; Provine 2022; Maynard 2017; Owusu-Bempah, Luscombe & Finley 2019). The glaring racial disparities that exist across North American legal systems are upheld through these racial stereotypes and perceptions of drug use and abuse. It is important to mention that early

legislation coupled with instances of racialized criminalization, as well as the criminal justice system as a whole, has been one of Canada's greatest colonial institutions. The criminal justice system has played a vital role in creating and maintaining the racial hierarchies present not only in the application of law enforcement and drug legislation, but also the way in which certain stereotypes and perceptions have become embedded into societal understandings of Indigenous, Black, and other racialized communities.

Acknowledging systemic racism, and the influences of slavery and colonialism allows for an understanding of how these practices continue to shape disproportionate rates of contact and involvement with the criminal justice system (Ridgeway 2018; Boyd 2017). Through these understandings it is then possible to fathom how racial inequality occurs through group-level processes that operate even when institutional practices are presumed to be race neutral (Bonilla-Silva 2006; Lopez 2000; Omori 2019), like drug policy reform and legalization. Processes of racialization are not always overt: they may occur in veiled and subtle ways, influencing common perceptions to centre on the problems with racialized communities rather than on the system and structures themselves. Based on all that has been outlined above, it is no surprise that drug-related crimes continue to be racialized and that drug-policy reform offers very little to assist in ridding our society of the engrained stereotypical and racist perceptions and notions surrounding drug use and users.

Drug Prohibition in Canada

There have been numerous studies conducted to examine the scope of racial disparities present in drug-related offences. Within the Canadian context, this research goes as far back as to examine the racial connotations that were inherent in the country's first pieces of drug legislation. Since the early twentieth century, the criminalization of drugs has not been about the

pharmacological or social harms engendered by drugs, but was more broadly a result of anti-Black, anti-Chinese and anti-Indigenous sentiments (Maynard 2017). The influence of these sentiments acted as a catalyst for misinformation and stereotypes surrounding substances (Boyd 2017). The Indian Act allowed for some of the first punitive policies enacted against Canada's Indigenous peoples surrounding substances (Boyd 2017; Maynard 2017; Boyd and Connie 2013). An amendment made to the Indian Act in 1884 outlawed the consumption of alcohol and was used as a way to regulate all aspects of Indigenous life (Boyd and Connie 2013). The Indian Act discursively shaped, regulated, and governed how many people came to think about Indigenous identity (Coulthard 2014), especially in the ways that alcohol use and abuse became associated with Indigenous communities.

Similarly, the enactment of the Opium Act, in 1908, was the first federal drug legislation outside of alcohol prohibition to directly promote anti-Asian sentiments (Boyd and Connie 2013). The Opium Act was fueled by class conflicts that emerged between white and Chinese workers during the late 1800s and early 1900s, that promoted the idea that opium smoking would spread further into white populations and threaten the notion of racial purity (Boyd and Connie 2013). The legislation itself was aimed at regulating opium in smoking form, which was an activity associated with Chinese men at the time and furthered the project of creating a distinctive status for Chinese men as criminalized outsiders to the nation through the use of punitive measures. (Barnholden 2016) In turn, opium use became associated with predominately Asian men, laying the foundation for a racially motivated war on drugs.

Built on these early legislative practices, the association between alcohol abuse and Indigenous people remains apparent today and reflects a history where drug legislation was used as a tool not only to criminalize racialized people, but also shape the social perceptions

surrounding whole groups and communities of people (Connie and Boyd 2013). The Opium Act followed the same precedent set out by the Indian Act: drug legislation founded on the criminalization of racialized people. Anti-Asian sentiments prompted by early white settler ideas of inferior races later informed class conflicts between white and Chinese workers, which formed the basis for criminalizing opium and were used to further repress Asian communities across Canada (Gordan 2006). As a result, “the Opium Act and its moral crusaders set in motion a much larger ‘drug scare’” (Owusu-Bempah, Luscombe & Finley 2019, p. 115), one built and maintained through the growing racial tensions and social anxieties over Asian immigration and settlement in Canada.

Initial legislation, such as the Indian Act and the Opium Act, acted as the catalyst for narcotic use being both constructed and perceived as an anti-social behaviour associated with foreigners or others (Boyd and Connie 2013). These common perceptions surrounding drug use fueled legislation, as well as a racialized drug discourse, that have morphed their way into contemporary law enforcement. The same racial tensions and social anxieties that prompted the Opium Act, set in motion much larger drug scares that led to the widespread prohibition of cannabis, along with cocaine, morphine, and various other drugs in Canada (Owusu-Bempah, Luscombe & Finley 2019). As seen through some of the first drug legislation, Canada’s history with drug prohibition very much centred on the belief that drugs were harmful not based on the substances alone, but rather on the populations that were thought to primarily use them (Boyd and Connie 2013). As such, the Anti-Opium Act of 1908 set the course for future legislation such as the Opium and Narcotic Drug Act of 1911 to be amended multiple times to impose more punitive sanctions and also reflect the social anxieties surrounding particular populations (Grayson 2004).

The Opium and Narcotic Drug Act of 1911 not only added harsher penalties for people who used drugs, including imprisonment. It also added other drugs to the list of prohibited substances, such as cocaine and morphine and expanded police powers surrounding the enforcement of these laws (Canada Drug Policy Coalition 2021). With broader power to enforce newly founded drug laws, drug-related convictions began to rise and vigorously targeted racialized people, especially Chinese men at the time (Canada Drug Policy Coalition 2021). As Grayson (2004) states, the locations and populations which drug use was allegedly associated with came to be understood as exotic foreign enclaves within the secure boundaries of the domestic sphere, enclaves that carried the risks of the proliferation of violence, immorality, and chaos. In this manner, the social anxieties created by expanding drug policy and prohibition were twofold: they exacerbated existing racial tensions, while creating new ones surrounding drug use and the populations understood to use them.

It is Canada's history with substances such as the ones listed above that has set in motion the current course for drug policy and reform. In work done by Carstairs (2000), the historical implications of drug prohibition and policy are examined within the scope of power and social control. Their works state that within the realm of drug use and drug users, careful attention must be paid to the impact regulation has had on targeted individuals, and to how the treatment of historically stigmatized groups raises serious questions about reified and perpetuated forms of inequality (Carstairs 2000). In particular, the ideological construction of race and racial difference ensured that racialized people in Canada historically occupied low paying and less desirable jobs, which in turn impacted the inequalities of class relations that permitted the criminal approach to drug use (Carstairs 2000). In other words, ideas surrounding race came to influence social and class relations that affected how drug use was controlled. Historical laws

and stereotypes created through Canadian drug prohibition have subjected drug users to far more intensive policing practices that extend further than the criminal justice system and reach the forms of social regulation that operate today (Carstairs 2000).

Although patterns of drug use and attitudes towards substances have changed, much of the regulation has not, leaving intact the historical ways in which racialized and working-class individuals were controlled through drug policy and enforcement. As Carstairs (2000) signals, what is most important in the contemporary context is the fact that the meanings surrounding drug use continue to be shaped by social tensions and remain symbolically malleable, leaving them susceptible to the use of those who hold social and political power. Despite potential changes to legislation surrounding illicit substances, drug use itself is often associated with and tied to the same populations it has historically been attached to.

What once took the form of criminalization and prohibition has both created and been replaced by dominant narratives and perceptions surrounding drug use and drug users. As has been demonstrated above, drug prohibition in Canada emerged as a racialized project influenced not only by race, but also by class, labour relations, and other social relations (Gordon 2006; Grayson 2004; Tosh 2021; Mackay 2018). These factors, coupled with early forms of prohibition have made it possible for particular substances to remain under a gaze that appeals to notions of criminality, harm, and otherness. Substances that have been criminalized and/or prohibited throughout history, and even currently, do not necessarily have a clear reason for why they were deemed dangerous in the first place outside of the populations in which they were associated with and the potential threats that these groups posed to broader society (Gordon 2006).

It is this perception of threat from foreign Others that has made prohibition so successful and predominantly uncontested in Canadian history. Substances such as opium had been used for

a variety of medical reasons and across various cultures for centuries but when it became associated primarily with a segment of society, who no longer served a purpose, it became a substance that was to be feared and harshly restricted (Boyd 2001). Despite equal amounts of smoking opium being sold to whites as to Chinese labourers in Canada, once Chinese labourers were no longer needed and a labour surplus came into effect, the Chinese were resented and feared (Boyd 2001; Mackay 2018). This potential threat to the fabric of Canadian society then fueled harsher penalties for smoking opium as it became known as a kind of sickness that had infected an inferior culture and was in need of containment in order to prevent the sickness from spreading (Mackay 2018).

In the broader and more contemporary North American context, substances such as crack cocaine endured a similar fate that opium and alcohol had. The role of the media coupled with the demographics of crack use made the dissemination of negative racial images possible. As most visible sales occurred in Black urban communities, and the most visible sellers were Black, it was easy for the media and the public to portray crack as a “Black” drug (Peterson, Krivo, and Hagan 2006). The rhetoric that surrounded crack cocaine, mirrored the same racially driven discourse surrounding alcohol, opium, and cannabis criminalization. This more recent example signals the durability and adaptability of racialized notions surrounding drug use and how these notions come to reflect current social realities and phenomena.

Cannabis Prohibition and Criminalization

As historical examples show, archaic understandings and flawed perceptions have been a driving force for the proliferation and success of criminalizing particular substances. When it comes to cannabis, although social attitudes differ immensely today and the harms associated with its use are far less severe than other prohibited substances, the origins of its prohibition are

also rooted in racist sentiments and mass hysteria promoted by anti-drug campaigns, such as that against “reefer madness”. Cannabis was added to the ranks of prohibited substances in Canada in 1923 after an amendment to the Opium and Narcotic Drug Act of 1911 (Koutouli and Lofts 2019). Across North America, cannabis prohibition was motivated by apparent connections to Chinese Canadian culture (Carstairs 2000), by Mexican immigration (Ghelani 2020) and the popularity of cannabis with Caribbean immigrants and some African American communities (Warf 2014). As a result, cannabis was not viewed as a neutral substance but rather was criminalized with connotations of race deeply entrenched in perceptions of who the typical users were. Although the 1923 amendment to the Opium and Narcotic Drug Act gave no reason for its inclusion as a prohibited drug, its addition came at a time when the animosity between white and Chinese Canadians that initiated the Opium Act of 1908, also prompted a widespread backlash against other substances commonly associated with other cultures and races (Koutouki and Lofts 2019).

Through the criminalization of substances such as opium and cannabis, Canada was able to position itself at the forefront of international drug prohibition (Malleck 2015). The strategic decision to add substances to drug prohibition legislation was founded by antipathy towards certain cultures and races and was incited and sustained through negative stereotypes and media campaigns. It is important to note, however, that although cannabis was criminalized in 1923, opium and Asian users and sellers continued to be the primary focus and concern of law enforcement and media reports (Boyd 2013). It is noted that from 1923 to 1936, there were no recorded arrests for possession of cannabis in Canada and these numbers remained relatively low with only four people being arrested in 1937 and this number remaining stable until 1958 (Boyd 2013). Between 1958 and 1960, there was a slight increase from 14 people being arrested to 21,

but it was not until the late 1960's and 1970's that cannabis arrests began to increase in Canada (Boyd 2013).

Although Chinese opium users remained the central focus until the mid 1930's, cannabis prohibition began to accelerate in the 1960's with the passing of the new Narcotic Control Act of 1961 (Owusu-Bempah and Luscombe 2020). The new Narcotic Control Act rendered cannabis a Schedule 1 offence that was punishable by much harsher and punitive measures, increasing maximum penalties to 14 years to life imprisonment (Owusu-Bempah and Luscombe 2020). Along with the modified legal sanctions attached to cannabis use, there were also anti-Black sentiments that came to be associated with cannabis use and users that were rooted in the growth of counter-culture movements that deviated from existing drug-user stereotypes and made little effort to keep use hidden to the public (Fischer et al., 2003). These shifts made it possible for prominent moral entrepreneurs like Emily Murphy to encourage and reinforce movements against drugs like cannabis by linking cannabis use, and all other mind-altering substance use, to the moral failure of individuals, while entangling this with notions of race, immigration, and violence (Carstairs 2000; Ghelani 2020). Murphy drew on racist notions of primitivism to characterize Black men and their relationship to cannabis, writing in *The Black Candle* that cannabis addicts became raving maniacs that would be liable to kill or indulge in any form of violence, using the most savage methods without any sense of moral responsibility (Boyd and Connie 2013). As such, "racialized cannabis users in particular have been constructed as different, dangerous and mentally unstable" (Ghelani 2020, p. 6) and in turn, cannabis became a substance that was depicted as having very dangerous effects which justified punitive responses to its prohibition.

The presence of cannabis on the Schedule of Illicit Substances in Canada was supported by government official's arguments that it was a gateway drug. The 1961 ratification of the Narcotic Control Act sustained these contentions when the Minister of National Health stated that although the use of cannabis as a drug of addiction was not widespread, it nonetheless might provide a stepping stone to addiction to heroin (Russwurm 2017). Despite the construction and continued development of cannabis as a dangerous substance, research has contested the idea that cannabis is a "gateway" drug. As early as 1970, inquiries into the non-medical use of cannabis recommended the decriminalization of possession and cultivation for the personal use of the substance (*The Interim Report of the Canadian Government's Le Dain Commission* 1970). Those involved in the writing of the Le Dain Commission's final report even favoured a policy of legal distribution, where cannabis was removed from the Narcotic Control Act, and provinces implemented their own controls on possession and cultivation, similar to the controls that governed the use of alcohol (Russwurm 2017). More contemporary inquiries into the harms of cannabis have posited the same views, citing that the lifetime dependence rate of cannabis use is much lower compared to other substances (9% as compared to 32% for nicotine, 23% for heroin and 15% for alcohol), there is relatively no risk of overdose on the substance, and the gateway hypothesis is generally unsupported (Bader 2015; Ildertori 2020; Melberg, Jones, and Bretteville-Jensen 2009).

The problematic nature of cannabis started when the substance was able to be associated with racialized populations (Ghelani 2020) resembling the reaction the Canadian government had to opium and its connection to Chinese communities in Canada. With the inception of cannabis prohibition came widespread media coverage about the menace of marijuana (Stringer and Maggard 2016). The media depicted exaggerated harms and side effects of cannabis, that

generally reflected racial stereotypes and social anxieties surrounding cannabis use and violent crime (Carroll 2004). Reefer madness campaigns were sparked by cannabis melodramas that were released in the mid-to-late 1930s that depicted the terrible fate of white youth when introduced to cannabis, such as death and violence (Hall and Yeates 2021). These films depicted not only the exaggerated harms associated with cannabis use, but how those harms would impact young white individuals, with primarily Black individuals as the source of their introduction to the substance. The fact that cannabis prohibition has its roots in reefer madness campaigns, misleading studies surrounding its effects, and racialized perceptions of use and users, has made it possible for historical understandings to have a continued influence on perceptions of use today (Brown 2019).

There have been important changes in social attitudes towards drugs (Singh and Sprott 2017) that are linked to a decline in punitiveness influenced by more liberal views on drug use, a shift in media framing surrounding cannabis, and a decrease in religious affiliation more generally (Felson, Adamczyk, and Thomas 2019), as well as changes in drug policy in numerous North American jurisdictions. Even so, reports show that arrests in several American states for possessing small amounts of cannabis exceeded those for all violent crime in 2015 - the demographic composition of which remained mainly racialized individuals (Borden et al. 2016). The implications of historical racially motivated drug prohibition have lasting effects on the ways in which new systems and structures operate. Whether it is rhetoric surrounding certain substances, racial stereotypes, or perceptions of use or users, all of these elements have at least some origins in the ways in which drugs and drug use came to be prohibited, understood, and policed in the past. What is also telling from the statistic above, is that understandings, or in this case misunderstandings surrounding drug use and users, have a way of becoming embedded and

as such, have a ripple effect on contemporary perceptions and impressions surrounding substances like cannabis. Although social attitudes have changed and racism is thought to be a thing of the past, Canada's history with drug prohibition and more specifically, its history of cannabis criminalization, has created the image of the illicit drug user as someone who is dangerous and in need of punishment and control (Owusu-Bempah, Luscombe & Finlay 2019). This, along with the racial underpinnings of Canada's first drug laws have established a society where certain racial groups have been disproportionately affected by the war on drugs in Canada (Owusu-Bempah, Luscombe & Finlay 2019) and have come to bear the brunt of deeply entrenched processes of racialization.

CHAPTER 3: THE NEW AGE OF LEGALIZATION

In 2018, the use of recreational cannabis became legal across Canada, bringing with it a promise not only to increase tax revenues, but also to eradicate the racial harms and injustices done by decades of cannabis prohibition and the criminalization of its use. The Act does not explicitly mention ending racial inequality in cannabis-related offenses and promoting racial justice, but the Act's purpose mentions reducing "the burden on the criminal justice system in relation to cannabis" (*Cannabis Act* 2018). Given discussions in Hansard and elsewhere mentioned earlier that indicated reducing racialized disparities was one goal of legalization, it seems likely that reducing the burden on the criminal justice system was also tied to addressing the disproportionate effects of cannabis laws on minority communities. Despite the proposed outcomes, I will argue that cannabis legalization does very little to address more entrenched forms of disparity and inequality that persist in the face of potentially promising drug policy reform. In this chapter, the literature reviewed will highlight the persistent racial disparities in the Canadian criminal justice system surrounding cannabis-related offences. I will also note the ways in which this research has overlooked a key area in comprehending the impact of legalization on racialized communities, that being lived experience. This chapter will aim to centre Indigenous and Black perspectives surrounding drug-related issues, and to zero in on the issues faced by these communities on a daily basis, reiterating the importance of foregrounding the experiences of the communities most affected by drug policy and drug policy reform.

As the previous chapter demonstrates, drug prohibition and criminalization have served as a means to reinforce the racist agendas and social attitudes promoted by colonialism and slavery. Moreover, these same beliefs and attitudes extend far beyond the criminal justice system and drug policy decisions and have contemporarily morphed into pervasive forms of racial

inequality that are deeply ingrained yet often obscured throughout society. As such, drug policy and law reform cannot be effective in dismantling racial disparities and discrimination that exist because of longstanding drug prohibition and criminalization, unless the reform is accompanied with other meaningful social justice initiatives (Owusu-Bempah and Luscombe 2020). As Owusu-Bempah (2018) has stated in numerous interviews and lectures, these meaningful broader initiatives can begin with the reinvestment of some of the funds made from the legal cannabis industry into the communities affected most by drug prohibition to help foster equal opportunity for inclusion in the new lucrative cannabis market for racialized individuals.

The analysis of Canada's history with drug prohibition, cannabis criminalization, and the racialization of drug-related crimes is vitally important to understanding the persistence of racial inequality in the post-legalization context. As Carstairs (2000) states, illegal drug users have in many ways been subject to intensive policing practices that extend beyond the criminal justice system and impact the more nuanced ways social control operates. In this regard, theoretical tools and concepts such as critical race perspectives, cumulative disadvantage, and habitus become important to examining the complexities that exist in the experience of racialized people in the post-legalization landscape. In a similar fashion, I will argue that it is easy to see that even in the context of drug policy reform, practices have been instilled to control and police populations commonly associated to be at the heart of illegal drug use. This chapter will review literature that illustrates the persistence and prevalence of racial disparities surrounding cannabis-related offences post-legalization, literature that is largely based on quantitative studies. The analysis will then concentrate on how these quantitative studies are missing out on the very important aspect of lived experience. I will also work to centre Black and Indigenous perspectives, showing the value of examining lived experience in decision-making surrounding

drug-related policy. Finally, the chapter will conclude with an overview of the research methodology of this thesis, highlighting the goals and aims of the research and how I will attempt to answer my research questions, and highlighting the ways in which examining lived experience will benefit the field of post-legalization studies and racial disparities.

Post-Legalization Studies and Research

Prior to the legalization of cannabis, racial disparities in terms of cannabis-related offences and convictions were very apparent. On a systemic level, the war on drugs in the United States is widely acknowledged as heavily racialized, featuring the unequal application and enforcement of drug laws (Alexander 2010; Guity 2020). However, in the Canadian context, despite Indigenous and African-Canadians being over represented in Canada's prison system, there is a lack of racially disaggregated criminal justice data that affects how much we know from a statistical perspective about the impact of the war on drugs on Canada's racialized communities (Owusu-Bempah, Luscombe & Finlay 2019). In a relatively recent study conducted by the *Toronto Star*, freedom of information requests were used to obtain and analyze cannabis arrest and charge data from the Toronto Police Service for a ten-year period between 2003 to 2013. The *Toronto Star's* analysis showed that when looking only at cases of simple cannabis possession, where the subject has no prior criminal record, Black people were greatly over-represented in arrests (Rankin, Contenta, and Bailey 2017). Situating the results in relation to Toronto's Black population over the time period, the journalists found that whereas Black people represented only 8.4 percent of the city's population, they accounted for 25.2 percent of those arrested for cannabis possession, which was three times their representation in the general population (Rankin et al 2017).

Following the findings that emerged from the *Toronto Star's* analysis, scholars in Canada have conducted similar research in other jurisdictions. Owusu-Bempah, Luscombe, and Finlay (2019) conducted a multi-jurisdictional analysis of cannabis arrests in five Canadian cities, Vancouver, Calgary, Regina, Ottawa, and Halifax, for the year of 2015. Similar to the *Toronto Star's* investigation, much of the focus was on minor cannabis-related offenses such as simple cannabis possession under 30 grams. The decision to focus on minor cannabis-related offences in this study was based on the presumption that police officers exercise a large amount of discretion, which in turn heightens the potential influence of race on decision-making. Using the same methodology of comparing publicly available census data of the racial composition of a city's population to the racial make-up of arrestees in a given jurisdiction, the researchers found that African Canadian and Indigenous peoples were over-represented in cannabis arrests across the various jurisdictions examined. It was found that in 2015 the vast majority of arrestees across the cities were male with a median age of 25. Along with this important demographic information, the study also shows that in all of the cities where data was obtained, racial differences in cannabis possession arrests were present. Some of the starkest racial differences in cannabis possession arrests were recorded in Regina, where it was found that Indigenous and Black people were arrested at a rate of seven and five times more than white people respectively (Owusu-Bempah, Luscombe, Finlay 2019). While it is impossible to tell from these figures the exact extent to which the results reflect different patterns of cannabis use versus different patterns of policing, in any case the criminalization of the relatively harmless (and now legal) drug cannabis has had a profound effect on which racialized groups have been unnecessarily criminalized.

Despite the overall lack of extensive racially aggregated data, Canada's racist history with drug prohibition and criminalization through practices such as the intensified legal consequences for minor drug offences enacted through bills such as the *Safe Streets and Communities Act* (Khenti 2014), it is clear that there are structural forces at play that contribute to racial disparities in the Canadian criminal justice system regarding drugs. In line with previous American research, the limited data available in Canada suggests that the impact of criminalization for drug-related offenses on racialized communities is more far-reaching and severe than initially perceived (Tanovich 2006; Wortley and Tanner 2005; Wortley and Owusu-Bempah 2011; Khenti 2014). Given the dearth of Canadian race-related criminal justice data, evidence from the United States surrounding cannabis-related offences pre- and post-legalization serves as an illuminating indication of the kinds of racial disparities that may exist and persist in Canada.

In Canada's current legal framework, the possession of cannabis is now lawfully permitted if it is limited to 30 grams of legal cannabis. What this means is that those who are 18 years of age or older are now legally able to possess cannabis within this limit, so long as it was purchased from a provincially licensed retailer or grown at home subject to the limit of cannabis plants per residence, which is four plants (*Cannabis Act* 2018). However, the new legal freedoms attached to possession have not eradicated strict regulations and criminal penalties altogether. It remains true that individuals may be charged with possession over the limit, which may carry a penalty of up to 5 years less a day in jail, they may be charged with producing cannabis beyond personal cultivation limits, which can carry a penalty of up to 14 years in jail, and individuals may still be charged for illegal distribution or sale, carrying with it up to 14 years in jail (*Cannabis Act*, 2018). Although there is now more legal flexibility in terms of cannabis

possession and production, criminal penalties remain intact for those who do not adhere to the new legal framework, leaving in place potentially serious and lifelong implications for those charged under the new legal framework.

Legalization has been successful in terms of reducing the criminalization of racialized people, and people in general for cannabis offences (Owusu-Bempah 2021). However, the simple reform of reducing the number of criminal charges related to cannabis will not automatically end overall racial disparities. Researchers have found that in the American context of post-legalization, racial inequalities in relation to arrests and sentencing persist (Khenti 2014). Studies show, for example, that although the rate of cannabis-related arrests in the U.S has decreased across all racial categories, racialized individuals are still arrested at a higher rate for cannabis-related offences (Reed 2016; Cotter et al. 2015). The troubling history of drug policy and the subsequent criminalization of racialized groups has laid the foundation for inequalities and injustices to notable despite important social and legislative changes. With racial discrimination and disadvantage as the backdrop to legalization, cannabis use will continue to be policed, perceived, understood, and experienced in an inequitable manner.

Studies in various American states demonstrate the persistence of racial discrimination in cannabis-related arrests post-legalization (Cotter et al 2015; Firth and Carlini 2019; Mooney et al 2018). A study conducted in Washington State found that relative disparity in arrests for selling cannabis has more than doubled since legalization and Black adults are nearly three times more likely to be prosecuted for low-level cannabis possession offences when compared to white adults, a rate that remains unchanged by legalization (Firth and Carlini 2019). A similar study conducted in California found that although absolute Black-white disparities in felony drug arrests decreased due to substantive policy changes, the total drug arrest rates for Black people

when compared to white people decreased by a significantly lower rate in the first year after legalization (Mooney et al 2018). From a national perspective, a 2020 analysis done by the American Civil Liberties Union concluded that notwithstanding comparable usage rates between Black and white people, Black people were 3.64 times more likely to be arrested for cannabis possession, while in some states they were up to six, eight, or almost ten times more likely to be arrested. The most telling finding from this national analysis was that in 31 states, racial disparities were actually larger in 2018 than they were in 2010, several years after legalization in many states (American Civil Liberties Union 2020).

Drug criminalization has been and continues to be a strategic project aimed at racialized populations. Research done within the Canadian post-legalization context has reiterated and highlighted that legalization alone does not rid legal systems of racial disparities in cannabis-related charges and criminal justice outcomes (Owusu-Bempah, Luscombe, and Finlay 2019). Although there has been a substantial reduction in the number of racialized people arrested for cannabis offences, the forces that contribute to the disparities in the first place have not been eliminated (Drug Policy Alliance 2018; Owusu-Bempah, Luscombe, and Finlay 2019). The perception that drug legalization will be a means of promoting racial justice is not only flawed, but also a way to ensure a continuation of the past. One of the biggest arguments for the legalization of cannabis was the fact that it would bring with it the eradication of racial disparities in drug arrests, and subsequently, promote racial justice (Cumberbatch 2016). However, as some researchers suggest, legalization has acted as a back door to the War on Drugs, making law enforcement in the post-legalization landscape a more covert means of achieving the same objectives (Stilman 2019; Owusu-Bempah, Luscombe & Finlay 2019).

Stilman (2019) states that in light of the compelling arguments in favour of legalizing cannabis, its status as an illegal substance could no longer be sustained as a compelling drug policy. The criminalization of a relatively benign substance along with scientific evidence that cannabis represents a lower overall health risk than substances such as alcohol and tobacco made it so legalization was likely to occur (Stilman 2019). However, Stilman suggests that the new legal framework, in particular the new drug-impairment laws present in Bill C-46 that address cannabis impairment and driving, can be a means by which the effects of legalization are counteracted. Stilman suggests there is still a war on drugs by the back door; other scholars have similarly noted there are opportunities to perpetuate racial disparities under the legalization regime (Mackay 2018; Owusu-Bempah, Luscombe, & Finlay 2019). In particular, legalization has brought with it more laws regulating cannabis than those that existed under prohibition, and enhanced penalties now associated with cannabis-impaired driving, possession of illicit cannabis, and trafficking to young people (Owusu-Bempah, Luscombe, & Finlay 2019). In this new legal yet highly regulated regime, the same racial disparities that existed pre-legalization may just as easily be reproduced.

There is an important split in the perceptions of legalization more generally, with some viewing legalization in a favourable light where any minor harms of cannabis use can be addressed through regulations, while the war against more serious drugs can continue, with others suggesting instead that this new legal framework will in effect be a means through which further racial injustice can be maintained. Although legalization was thought to assist in the goal of achieving racial justice, this understanding fails to account for not only the preexisting and enduring forms of racial disparities that are present in Canadian society, but also the ways in which the new framework of heavy regulation will usher in an era where there is an expanding

opportunity to further racial disparities in relation to cannabis and cannabis-related offences. Mackay (2018) suggests that despite current drug policy reform and cannabis legalization, Canada still lives with the consequences of drug prohibition that are largely based on their origins and have ways of influencing the present.

As mentioned above, legalization brings with it few complementary social justice measures. The effects of decades of criminalization for possession, production, and the sale of cannabis will remain intact if there is a lack of meaningful initiatives to aid communities of colour and Indigenous communities post-legalization (Valleriani, Lavalley, and McNeil 2018). There has been no commitment to tandem initiatives that address the issues of reparation for individuals who have previously been heavily targeted under cannabis prohibition and still are within the new legal framework (Valleriani, Lavalley, and McNeil 2018).

Moreover, what conventional criminal justice reform, like legalization, fails to consider is the unintended effects that decades of drug policy and criminalization have had on racialized people. These effects go further than historical legislation and racism, and intersect with other systems of inequality. As research suggests, the reasons why legalization has not brought about the promised racial justice it ensured, is due to the lack of meaningful reform targeted at the web of systems that interact to create a multitude of consequences for racialized people (Cumberbatch 2016). In research conducted by Cumberbatch (2016), she highlights the limitations of conventional criminal justice reform by demonstrating that it does little to address the impact prior criminalization has on racialized people. Drawing from the narrative accounts of racialized people who had been affected by cannabis criminalization and prohibition in the United States, she found that the consequences of prior criminal justice interaction did not cease when cannabis was legalized. Rather, what the experiences of racialized participants demonstrated was that

cannabis legalization as a form of conventional criminal justice reform does very little to address the lasting implications on employment, parental rights, access to public benefits, higher education, and housing (Cumberbatch 2016). It is important to focus on and address not only the consequences that are thought to be confined to the criminal context, but the ones that are present outside of it, that are often overlooked by conventional reform efforts like legalization.

In the Canadian context, the lasting impacts of cannabis criminalization are not as well documented as American jurisdictions. However, these impacts have also been discussed and explored in recent research. As Canadian scholars have stated, the primary focus on racial disparities in the criminal justice system in the post-legalization landscape fails to account for other social and economic inequalities that compound despite reform (Crosby 2019). As such, it is just as important to study the socio-economic inequalities that persist regardless of legalization alongside the social and racial dimensions of the lasting impacts of criminalization, colonialism, and racism (Nasrulla 2000; Adinoff and Reiman 2019). For Crosby (2019) racial disparities persist for Indigenous communities not only based on decades of the disproportionate application of cannabis-related laws but because of the current lack of Indigenous law-making authority and the right to self-determination related to regulating cannabis. Other Canadian scholars contend that further racial inequalities persist based on the current shortcomings of cannabis amnesty (McAleese 2019) and the lack of overall inclusion in the legal cannabis industry (Owusu-Bempah, Luscombe, & Finlay 2019).

As data relating to cannabis and more broadly to racial disparities in Canadian drug law enforcement is relatively new and limited, it is no surprise that legalization in Canada versus the United States has been comprised of very different mandates. More specifically, in Canada, the lack of racially disaggregated drug arrest and conviction data has led to a genuine ignorance on

the part of politicians, policy makers, and the public leading to the present neglect of incorporating relevant social justice measures into the new legal framework (Owusu-Bempah 2021). Although both countries have vowed that cannabis legalization will amount to racial justice, Canada has not made any substantive policy decisions that will work alongside legalization to repair the harms of drug prohibition and criminalization. In America, the longstanding documentation of racial disparities surrounding cannabis and its use have led to immense pressure to include provisions within legislation that aim to create equitable outcomes for marginalized and racialized people (Nicol 2019). As the *Marijuana Justice Act* of 2017 demonstrates, politicians, drug reform advocates, and policymakers alike in the United States, are invested in creating legislation that works in a complementary manner with legalization to address the inequities that have been exacerbated and created by cannabis prohibition (Harvard Law Review 2018). More specifically, the bill called to punish states that disproportionately arrest low-income and minority individuals, as well as providing for a Community Reinvestment Fund aimed at funding community development projects in neighbourhoods that are most affected by prohibition (Harvard Law Review 2018). Although the bill has not become law in the United States, this example acts as an important reminder that much more needs to be done to accompany legalization in its intended aim of racial justice and what a commitment to reparatory legalization can look like.

It is the notion of *reparatory legalization* (Harvard Law Review 2018) that needs to be implemented into Canada's model of legalizing cannabis to ensure that addressing the harms of prohibition on racialized communities are prioritized. However, as Owusu-Bempah (2018) stated in his TedTalk surrounding cannabis legalization, Canada has missed the boat on having equity measures at the forefront of legalization policy. As such, in order to address the harms of

prohibition moving forward, the reliance needs to be on measures that can happen now, alongside legalization, such as the expungement of criminal records and complementary social justice measures (Owusu-Bempah 2018; Nicol 2019; McAleese 2019).

Following the legalization of cannabis, a related measure, Bill C-93, received Royal Assent on June 21, 2019 (Public Safety Canada, 2019). This bill provided no-fee, expedited pardons for those who had a criminal record for the simple possession of cannabis. The bill allowed for Canadians to apply for a pardon at no cost to themselves, eliminating the \$631 application fee and the potential 10-year wait period for a cannabis record suspension (Browne 2018). However, as many drug-reform advocates highlight, record suspensions can be reversed and only work as a pardon rather than an elimination of the record altogether (Owusu-Bempah 2018; McAleese 2019). This means that the Parole Board may revoke a pardon if the person is convicted of a new crime or if the Board decides the person is no longer of ‘good conduct’ (Pardon Applications of Canada 2014). It is also important to note that despite the application fee being waived, there may be other fees associated with obtaining supporting documents from the police and the court systems during the pardon application process. These additional costs will not be waived under the new legislation.

Cannabis amnesty also does not extend to everyone affected by punitive prohibition laws, as only those who have the knowledge, resources, and ability can apply for a record suspension (McAleese 2019). As such, record suspensions provide some relief from the collateral consequences of prohibition but do not go as far as to repair the harm and injustice caused by decades of criminalization (McAleese 2019). Additionally, although the possibility exists for cannabis related possession offences to be removed from an individual’s record, this measure does not allow for one to also apply to have related administration of justice offences removed in

the same way. As such, record suspensions can remove the cannabis-related offence, but a record may remain for charges where one could infer the prior cannabis-related charge despite suspension. Expungement, on the other hand, is a way for the government to admit it was wrong by completely wiping any trace of a cannabis record (Owusu-Bempah 2018). Yet, in order to do so, the Canadian government would also have to admit Indigenous and Black communities have been overly criminalized for cannabis and in turn, acknowledge and adequately address the issue of systemic racism in Canada.

Expungement, unlike a pardon or what is now referred to as a record suspension, is a way in which those who have been disproportionately impacted by cannabis prohibition to entirely remove the conviction from their record, whereas, with a suspension, the potential for disclosure of suspended records could still occur when a background check is conducted for things such as employment, housing, or applying for a passport due to the possibility of related administration of justice offences being disclosed, as those will not be subject to suspension under the new framework (Public Safety Canada 2019). The government of Canada states that expungement is an extraordinary measure and reserved for cases where the criminalization of the activity in question should have never existed (Public Safety Canada 2019). Although the Canadian government has failed to recognize the history of cannabis criminalization through this lens, many advocates have proposed that the goal of racial equality cannot be achieved through the current means of record suspensions. Efforts have been made to introduce legislation for expunging certain cannabis-related convictions, citing that record suspensions are a “half-measure”, but these efforts have been defeated (Aiello 2018; McAleese 2019). It is also telling that the onus for seeking and applying for a cannabis record suspension falls on those who were previously convicted, which scholars have suggested to be the reason behind an individual’s

decision to refrain from the record suspension process, along with the lack of promotion of the process in general and the fact that many people in Canada would prefer that the process be automatic (Harris 2018).

For these reasons, “reparations should not just refer to the expungement of criminal records and non-conviction records; they should also address how we [Canada] structure(s) opportunities to participate in the emerging cannabis sector” (Valleriani, Lavalley, and McNeil 2018, p. 747), while further addressing the root causes of the racial disparities that exist in the criminal justice system to this day. The new powers granted to police through the regulation of cannabis legalization will come with the potential for abuse and overreach, as seen through the practice of carding (Stilman 2019; Owusu-Bempah, Luscombe, and Finlay 2019). As the new regulatory scheme notes, much of the focus or purpose of the *Cannabis Act* is to protect the health of young persons by restricting their access to cannabis, to deter illicit activities in relation to cannabis through appropriate sanctions and enforcement measures, and to further protect young persons and others from the inducements to use cannabis. The particular focus of protecting youth from access to cannabis has kept intact harsh punitive measures that have made some scholars question if the new legal framework is simply a way to reduce harm through criminalization (Klein 2019). As Owusu-Bempah, Luscombe, and Finlay (2019) point out in their work, cannabis legalization does not mean an end to drug law enforcement and there are now even more laws regulating cannabis than under prohibition.

Aside from these broad purposes, Bill C-46 also modified the Criminal Code section dealing with the offence of impaired driving so that it now addresses cannabis impairment and statutorily enacts a permissible limit for blood-THC concentration (Stilman 2019). Despite eradicating some laws surrounding cannabis, racialized police practices that impact decision

making and discretion, operate in a manner similar to carding, to offer law enforcement the means to perpetuate the same injustices as before through the increased focus on and enhanced penalties for cannabis-impaired driving, possession of illicit cannabis, and trafficking to young people (Owusu-Bempah, Luscombe, and Finlay 2019). “The fact remains that racial disparities in arrests for drug offences are the result of broader policing practices that are themselves heavily racialized” (Owusu-Bempah, Luscombe, and Finlay 2019, p. 125). Based on these facts, simple legalization will likely not eradicate racial disparities, meaning that in order for racial justice to be achieved, broader forces that promote injustice need to be addressed.

As demonstrated throughout this section, Canadian cannabis legalization has not done enough to address racial disparity and inequality in a meaningful manner. From a legal perspective, cannabis legalization both leaves intact the potential for the upwards of 500,000 Canadians who have minor cannabis convictions to continue to endure the consequences of a criminal record (McAleese 2019) and opens the door for existing racial disparities to be reproduced through an increased focus on enhanced penalties for cannabis-impaired driving, possession of “illicit cannabis”, trafficking to young people and youthful possession (Luscombe and Owusu-Bempah 2020). Furthermore, from a more social perspective, legalization does not work to address the massive inequities faced by racialized communities in general (Nicol 2019), nor has the initial support for legalization that seemed to stem from a concern about social justice (Raj 2014; McAleese 2019) sustained a focus on that goal. Rather, the focus of legalization has been on public health, safety, and economics (Potter and Weinstock 2019), pushing to the side the consequences felt by racialized communities because of cannabis prohibition.

Following that notion, systemic reform cannot come from legalization alone unless drug policy reform takes a more holistic approach and factors in all the consequences that arise out of

a criminal arrest and record, even when these consequences extend to non-criminal contexts (Cumberbatch 2016). In other words, legalization must be accompanied with complementary social justice measures aimed at dismantling inequalities exacerbated by cannabis prohibition (Harvard Law Review 2018). This means accounting for the ways in which our history contributes to the lived realities of Black and Indigenous people today, as well as how the racialization of drug-related crimes continues to influence social perceptions of use and users, impacting interactions and responses. Moreover, as I have discussed much of the research conducted in the post-legalization context centres on quantitative analyses of persisting inequalities rather than the first-hand accounts of how racialized individuals who use cannabis, both legally and “illegally”, experience legalization. This element of experience can be a driving force for the implementation of policy that truly accounts for the harms done by cannabis prohibition and the lasting effects it has on Black and Indigenous communities today.

Lived Experience? The Missing Piece

As briefly mentioned above, experience can be a vital force for understanding and examining the lasting effects of cannabis prohibition on the lived realities of Black and Indigenous people in Canada. What experience can do is speak to the realities of legalization and its impacts that extend beyond what statistics can demonstrate. The emphasis then in this thesis is on qualitative methods to allow an understanding to take place through capturing the points of view of people and centering the stories individuals share about their experiences (Patton 2002; Butina 2015). In terms of understanding the consequences of legalization, centering experience is extremely important, as much of what is known about legalization in the Canadian context is skewed to present only the positive implications of legislative changes and reform. Much of the focus of policy makers and politicians has been to focus on the protection of public health and

safety through a well-regulated legal framework. The focus on the positive outcomes of legalization through regulation leads to glaring oversight of the negative implications of heightened regulation through the new legal scheme and the potential to heighten and create new racial disparities based on the disproportionate impact past and present cannabis legislation has on racialized populations. Additionally, as with most of the dominant narratives in society, discussing the impact of legalization without addressing the first-hand accounts of racialized peoples that exist outside of common perceptions and beliefs, only works to reinforce, and perpetuate, long-standing inequalities.

As Reynolds (2015) suggests, the failure to critically examine the role phenomena play in supporting or dismantling broader social and political oppression, aids in perpetuating an inequitable system that is nevertheless legitimated through progressive narratives. Although this particular research (Reynolds 2015) is conducted in the context of social injustice in urban agricultural systems, the notion that progressive narratives can work to support and perpetuate broader inequality remains true when discussing legalization. As previously noted, the move towards legalization was built around a discourse of achieving social and racial justice (Raj 2014; Cumberbatch 2016), yet that positive narrative does not ring true for Black and Indigenous Canadians and their experience in the post-legalization landscape. As such, the broader definitions of societal interactions and perceptions asserted by minority communities (Buerger and Farrell 2002) are critical to understanding not only ingrained forms of racial disparity, but also to comprehending the ways in which changing legislation comes to be experienced on a day-to-day basis.

Furthermore, the examples of persisting racial disparities in arrests and police contact in both the United States and Canada (Owusu-Bempah, Luscombe & Finlay 2019; Reed 2016;

Cotter et al. 2015) reaffirm the existence of entrenched forms of racism in policing and the criminal justice system more broadly. However, these studies can only signal to the more widespread inequalities that work to maintain and create racial disparities in the everyday lives of Black and Indigenous people. Based on this, it is crucial to have first-hand accounts about the experience of legalization alongside primarily quantitative studies, to effectively address and explicitly acknowledge the role of race and how it interacts with changing drug policy. Experience works to illuminate the ongoing processes of implicit bias, micro-aggression and colourblindness (Carter et al., 2017) in society, that reinforce old patterns and perceptions surrounding drug use and users that stem from racialized drug prohibition and criminalization, as well as the broader forms of oppression that continue to be an active force in Canada.

Although racial injustice and processes of racialization are discussed in Canadian society, much of what is experienced by racialized individuals evades public consciousness. This indicates the importance of situating experience in order to acknowledge and change the harms of racial inequality. As seen through research that highlights the first-hand accounts of racialized, and predominantly Black males targeted through carding practices (LeBrón et al 2018; Logical Outcomes 2015), accounts of lived experience offer new insight into the lives of those disproportionately affected by law enforcement practices. The lack of personal accounts from racialized individuals about the effects of legalization highlights the need for research on this topic to bolster statistics and research conducted in the post-legalization era. Following the work of researchers who have done interviews with those affected by carding practices (Alagraa 2015; Logical Outcomes 2015; LeBrón et al. 2018), interviews with those living in Canada's post-legalization climate will allow for a more in-depth understanding of the innumerable harms inflicted by drug laws and their continued influence on public perceptions and racialized police

practices. “Knowledge about a situation is a critical tool in dismantling it” (Frankenberg 1993, p. 454). With the previous quote in mind, the importance of interviewing individuals about legalization and their experiences with it, will become vital to breaking free from the cycle of ongoing racial disparities surrounding drug law enforcement and policy reform.

In addition to this, experience acts as a site of resistance, strength, and advancement. Through the focus on Black and Indigenous narratives and storytelling, an emphasis can be placed on justice, fairness, and equity by reflecting their life experiences and challenging the more privileged (Chavis, Jr 1993) and neutral stances on matters such as drug policy reform. Experience also works to counteract the idea that representation and diversity are marks of racially equitable societies (Reynolds 2015) as what is believed through Canada’s position as a multicultural and seemingly inclusive nation. Centering and sharing the lived experiences of racialized individuals, allows for a true understanding of how racist and colonial legacies inform contemporary practices, as well as how these narratives meaningfully contribute to decolonial praxis (Samuel and Ortiz 2021; Solórzano and Yosso 2002). As such, experiences from people who are often marginalized work as a form of a counter-story (Solórzano and Yosso 2002) to not only shed light on the limitations of conventional understandings, but also shatter complacency, and challenge the dominant discourse surrounding race and further the struggle for widespread racial reform (Delgado 1989; Solórzano and Yosso 2002).

The importance of race and experience cannot be overstated. However, in an effort to understand the complexities and nuances present in the lived experiences of racialized individuals, it is vital that critical perspectives are applied and the intersections between race and inequality are explored in order to understand experience more broadly. For many theorists who study race, critical race perspectives are a way in which to understand the interplay of race and

other social dynamics and systems of inequality. In the most basic sense, critical race theories allow for an understanding that racism is not abnormal, it is common and because it is an ingrained feature of society, racism may look ordinary or natural to those who it does not affect (Stefancic and Delgado 2013). As such, scholars note that critical race methodologies provide a tool to conduct and present research grounded in the experiences and knowledge of people of colour (Solórzano and Yosso 2002). Using critical race theory and its associated methodologies that are grounded in the experience and the knowledge of people of colour, has the potential to have a profound effect on how society sees race, racism, and the law (Aylward 1999). Critical race perspectives provide a crucial way in which to understand the contemporary forms of racism that impact the daily lives of racialized people, especially in the context of criminal justice reform.

Similarly, scholars who study race, inequality, and experience also do so from a cumulative disadvantage framework. In doing so, theorists attempt to understand the relationship and interplay between race and other personal characteristics, such as gender, socio-economic status, and age. Cumulative disadvantage has been defined as a process that encompasses the cumulative impact of a specific form of disadvantage over time and the accumulation of interactive forms of disadvantage, indicating that the relative positions for specific groups in society lead to differential experiences (Kurlychek and Johnson 2019). Race itself has been conceptualized as a cumulative disadvantage because of its direct and indirect effects on socioeconomic status at the individual and neighbourhood levels (Rugh, Albright, and Massey 2015) as well as how it comes to shape contact with the criminal justice system, perpetuating patterns of disadvantage (Kurlychek and Johnson 2019). Within the realm of racial experience

then, cumulative disadvantage furthers an understanding of why, despite policy reform, disparities may persist on account of race.

Lastly, in terms of understanding racialized experiences, the concept of habitus has been an important tool for understanding varying levels of social consciousness. The notion of habitus refers to a system of dispositions that form principles that generate and organize practices and representations in an individual or group of people (Bourdieu 1977). Habitus is not only a cyclical but alterable series of behaviours that determine how individuals see and act within their given environments (Richardson and Skott-Myhre 2012). More specifically, one's habitus is continually shaped by particular social, spatial, and economic surroundings that confirm an individual's belonging and status relative to others (Donaldson 2022). This is not only an important tool for understanding the experiences of racialized individuals relative to others, but it also provides insight to how processes of racialization impact individual experiences of inequality. In particular, for Black and Indigenous people, habitus can be used as a way of understanding how individuals acquire the practices, habits, and perspectives they do through their interactions with society and how this in turn reflects broader instances of discrimination and bias.

Black and Indigenous Perspectives and Viewpoints

Since its inception, legalization has brought with it many unintended, as well as inevitable, consequences, that highlight the need for the perspectives of Black and Indigenous individuals in informing complementary social justice initiatives that work alongside drug policy reform. Concentrating on the experiences of racialized individuals living in the post-legalization landscape and gathering support and evidence through research done within Black and Indigenous communities and by Black and Indigenous scholars on other issues faced by these

groups, will provide for a more nuanced understanding of conventional drug policy reform and speak to the complexity and embeddedness of racial inequality in Canada.

There are multiple instances of apparent racial disparities that exist within the realm of legalization. As stated in the previous section, research done in both the American and Canadian post-legalization context has shown persisting inequalities in terms of race for criminal justice involvement and contact (Owusu-Bempah, Luscombe & Finlay 2019; Reed 2016; Cotter et al. 2015). Additionally, racialized policing practices extend to the ways in which cannabis is produced and distributed. As laws still exist that govern what is to be considered legal cannabis and what is legally acceptable to sell, there have been numerous reports of raids being conducted in dispensaries run by Indigenous individuals (Kilawna 2020; NIMCA 2017; Crosby 2019). The failure to acknowledge Indigenous jurisdiction in the recreational cannabis market is one of the many challenges seen with the new regulatory framework of legalization (Crosby 2019). Indigenous jurisdiction would allow for Indigenous communities and nations to assert authority over their sovereign territories and regulate cannabis in a manner they choose without being forced to acknowledge the current federal and provincial jurisdictional authority over cannabis on their lands (Crosby 2019). As the Canadian government continues to emphasize the stringent nature of the new legal and regulatory framework of cannabis legalization, access to participating in the legal cannabis industry is strictly controlled and carries severely punitive measures for those who operate outside this framework (Crosby 2019; Koutouki and Lofts 2018; Valleriani, Lavalley and McNeil 2018).

Despite cannabis being used for decades within Indigenous communities as medicine and a source of healing (Koutouki and Lofts 2018) the opportunities for Indigenous and other racialized communities to participate legally in the cannabis industry have been diminished

under the framework imposed by the government (Koutouki and Lofts 2018; Crosby 2019; Valleriani, Lavalley and McNeil 2018). This along with the continued forms of racialized policing practices (Khenti 2014) and increased police powers that accompany legalization (Owusu-Bempah, Luscombe, and Finlay 2019) invoke the risk of continuing the same pre-legalization trends that disproportionately targeted Black and Indigenous peoples for cannabis-related arrests and charges. Considerations for racialized groups' participation in the legal cannabis industry have been pushed to the side to accommodate the interests of large corporate businesses, leaving a missed opportunity for the Canadian government to introduce equitable licensing schemes (Owusu-Bempah 2018; Nicol 2019).

The compounding effects of missed opportunities to account for Indigenous and Black individuals and their perspectives in the new legal cannabis market through participation and inclusion in the new legal system and the subsequent risk of criminalization that follows, as well as the entrenched racial disparities that exist outside of legalization, work to further the exclusion of racialized people in Canadian society. As Oscar Velasco, one of the few Latinx business owners in Washington's cannabis industry, states, the massive inequalities in society for colonized and disenfranchised groups mirror the stratification of inequality that takes place in the new legal cannabis industry (Nicol 2019). It is voices such as Velasco's and those of other Indigenous and Black advocates that signal the need for perspectives outside of the dominant ones, to continue to push for equality and change.

Within the growing literature on decolonial research it is acknowledged that Canada's historical foundation as a settler colonial nation has created a hierarchal system of power that is present in contemporary social and political relations (Dorries, Hugill, and Tomiak 2019). As the progressive discourse that has accompanied Canada's decision to legalize cannabis demonstrates,

seemingly benevolent progress continues to be constructed within a society that heavily relies on understandings that come from settler-colonialism and processes of racialization. For this reason, it is no surprise that despite legalization, cannabis use continues to disproportionately result in more serious consequences on racial minorities, while predominately white owned corporations and users bear the benefits of drug-policy reform (Bender 2016). From a decolonial perspective, reforms that do not challenge the underlying systematic racism that creates disparities and do not work to transform existing political systems, do very little to enact meaningful change that brings about justice (Maynard 2017). As such, the current limitations of legalization exist because there are superficial approaches to decolonization (Tuck and Yang 2012) that are taken within contemporary progressive legislation and reform.

Although promises from the Liberal government to legalize cannabis and to reconcile the relationship with Indigenous peoples were thought to have gone hand-in-hand, a disjuncture existed as no mention of engagement with Indigenous peoples was prioritized and the disparate negative effects of decades of prohibition and criminalization have not been addressed (Wesley 2019; Crosby 2019). As Tuck and Yang (2012) discuss, “the language of decolonization has been superficially adopted into education and other social sciences” (p. 2) which tends to decentre settler perspectives. In other words, and in the case of legalization, promises to reconcile relationships with Indigenous communities and to seek racial justice through policy reform is a means of bypassing and avoiding examination into the way in which colonialism has progressed and manifested in a contemporary sense. To superficially acknowledge goals of reconciliation and racial justice, is just another means of reinforcing and perpetuating longstanding systems and structures of oppression, subordination, and inequality.

The continued disregard for how policy decisions and supposed reform are complicit in Black and Indigenous injustice and suffering points to the need for perspectives that are true in their call to decolonize Canadian society. As Valleriani, Lavalley and McNeil (2018) suggest, the move towards legalization has missed the opportunity for reparations towards Indigenous people and people of colour by the lack of meaningful initiatives that prioritize their experiences with the aim of reconciliation. Similarly, Koutouki and Lofts (2019) state that questions of political and economic self-determination highlighted by legalization lie at the heart of reconciliation but if these questions remain unaddressed, the continuing injustices of cannabis prohibition faced by Indigenous communities will persist.

The 2018 report of the Standing Senate Committee on Aboriginal Peoples on Bill C-45 explicitly states key concerns raised by Indigenous communities surrounding legalization. These concerns were as follows:

1. a lack of consultation with Indigenous communities and organizations in the development of Bill C-45;
2. a lack of culturally specific public education materials on the legislation pertaining to the legalization of cannabis and on the health effects of cannabis;
3. a lack of access to, and funding for, culturally specific mental health and addictions services;
4. an imperative for action recognizing the inherent rights of Indigenous communities to exercise jurisdiction over the regulation, sale, consumption, and taxation of cannabis in their communities; and
5. a desire from Indigenous communities to fully participate in the economic opportunities and own source revenue potential occasioned by the legalization of cannabis (Report of the Standing Committee 2018).

What these concerns demonstrate is the inherently unique and important role racialized communities have in understanding and recognizing the unintended implications of policy and how to best address these issues for the needs of their communities. Yet, although concerns like these are expressed, Indigenous and other communities of colour have been widely excluded from the development and implementation of the new regulatory framework surrounding cannabis (Crosby 2019)

The widespread disregard for not only the continued harms of drug prohibition and criminalization but also the structural exclusion of racialized communities' concerns and involvement surrounding cannabis, is yet another element of ongoing instances of racial discrimination and injustice. For these reasons, it is extremely important to make the perspectives and lived realities faced by the Indigenous and Black community in the context of legalization, apparent to the point that they can no longer be ignored. The perspectives from these communities could be used to help pressure for reform efforts to extend beyond the context of the criminal justice system and focus on the injustices that are present through the web of systems that intersect to create disadvantage and inequality on a broader scale (Cumberbatch 2016). As Cumberbatch (2016) states, a key limitation of conventional criminal justice reform [such as legalization], is that it fails to look at or address consequences through a holistic lens, consequently ignoring the impact of reform in non-criminal contexts. Such a lens places the value on the ways of thinking and being that exist outside of dominant narratives and understandings.

As demonstrated in previous sections, particular substances have come to, historically and contemporarily, be associated with certain racialized communities. These common misperceptions surrounding drug use have a very implicit effect on communities of colour by

creating ongoing forms of stigmatization and their perceived unwholesomeness. Work done by Maynard (2017) states that through pathologizing Black individuals and communities, in the same manner Tuck (2009) and Razack (2015) argue Indigenous people are, Canada is able to rid itself of the responsibility for the inequality, injustice, and violence these groups encounter. Similarly, Sharpe (2016) states that pathologizing Black communities and people is but another example of the precarity that is produced in the afterlife of slavery. Systemic and structural inequalities and injustices are modern instances of the hold that historical practices have on contemporary racialized life.

The work reviewed above demonstrates the ways in which policies that do not address the realities of racialization, conceal the structural conditions that negatively impact the lives of racialized individuals in Canada. Within the context of legalization, it would be easy for many individuals to ignore the broader structural and systemic issues that cause racial disparities surrounding the substance of cannabis. However, by accounting for the perspectives and lived experiences of Black and Indigenous individuals, it should be impossible to ignore the broader forces at play that intersect with multiple systems of inequality and disadvantage. As such, the focus on the work of Indigenous and Black scholars, along with the lived experiences of the participants in this research, serve as a glaring reminder of the work that needs to be done within Canadian society. The concentration on these perspectives works to make fully visible Canada's history with settler colonialism and its continued influence on social, political, and cultural decision-making and understanding. Additionally, it brings about the desire for reforms and social justice initiatives that are aimed at challenging the underlying systemic racism that creates disparities in all aspects of social life.

It is through the emphasis on experience that decolonial praxis can be instituted throughout society. What is required, is reform efforts that do not work to reinforce underlying injustices, but rather reforms that are informed by those most affected by policy decisions and change. In order to move beyond the current regulatory framework that encompasses cannabis, and all of its limitations and implications for racialized groups, the focus must shift to centre on the lived experiences that come to be part of daily life in the post-legalization landscape. As research by Solórzana and Yosso (2002) highlights, counter-stories, meanings the experiences of people who are marginalized, racialized, and discriminated against, work as a tool for exposing, analyzing, and challenging the dominant narratives in society. In terms of legalization, these experiences and the countless counter-stories told within, and by the work of Indigenous and Black scholars, will work to challenge the underlying assumptions that legalization will bring about racial justice and demonstrate the need for meaningful alternatives to conventional drug policy reform. Along with this, they will draw attention to the areas that require further social justice initiatives to not only counteract the unintended consequences of legalization but also the decades of injustices and inequalities faced by racialized communities in Canada.

The reason it is so important for legalization to be examined and understood from the perspectives of Black and Indigenous communities, is because their voices carry the unique ability to share what most of society does not experience, while also coming from a position and location that is outside of most of the structures, systems and beliefs that contribute to the persistence and perpetuation of racialized oppression. Although the work of Weeks (2011) was done in a manner that addresses more general efforts for change, their research calls attention to the demands expressed by people who exist outside of conventional or pragmatic ideas of reform and rather, present a reality that requires society to realize the confines of the present

institutional, political, and societal context. In this sense, the focus on experience in this research will act as part of the foundation for thinking about reforms surrounding cannabis that create meaningful change and investment in Black and Indigenous communities in Canada.

Research Methodology

As stated above, this research was designed to act as a qualitative follow-up to the many quantitative studies done in the post-legalization landscape that have shown persisting racial inequalities for Black and Indigenous peoples in Canada. As a white researcher conducting research with Black and Indigenous participants, I want to first and foremost acknowledge my positionality. This thesis topic comes after years of learning theories, viewpoints and perspectives from Indigenous and Black scholars and is only possible based on the ways of thinking and being that exist outside of dominant colonial narratives presented in Canada. As someone with relative privilege conducting this research, my goal is to centre the experiences of racialized participants to reflect their stories and avoid reinforcing a way of understanding that is clouded by my own ways of thinking, living and being.

Black, Indigenous, and white participants were recruited to represent the diversity within Canadian society, but also so the experiences of white participants could be used as a point of reference to help understand the (differing) experiences of racialized participants. The research attempted to answer three broad research questions: What are Black, Indigenous, and white cannabis users' general views on the new legal cannabis framework? What are the reasons behind why Black, Indigenous, and white cannabis users choose to obtain cannabis through either illegal or legal means? And how do Black, Indigenous, and white cannabis users experience cannabis use and purchase in the new legalized scheme?

Prior to recruitment, I contacted multiple Black and Indigenous programs and organizations in order to discuss particular cultural or social considerations and sensitivities that may have needed to be acknowledged when doing research with these groups on this topic, as well as to ensure this research was done alongside these communities and their voices and experiences remained at the centre of analysis.

Furthermore, contacting these organizations and programs was also a way to aid in the recruitment of specifically Black and Indigenous participants. Multiple organizations were contacted. However only one group, *Indigenous Solidarity Ottawa* responded, stating they would share recruitment materials on their social media platforms. The lack of responses by community-based organizations was not surprising given that they are often spread thinly. In light of the circumstances surrounding the last two and a half years with the challenges of navigating the pandemic and limited resources for many community-based programs more generally, attention was turned to consultation with Black and Indigenous academics directly, as well as to research produced within these communities on the topic of legalization. Discussions were had with leaders in the Black community who were part of the Black Lives Matter movement and with Indigenous academics. Within these conversations, the need for this research was discussed, along with specific experiences that are faced within these communities on a daily basis that contribute to the negative implications of the current legalization framework. Outside of this, the Indigenous academics I spoke to directed me to multiple resources that could be referenced surrounding the issue of legalization within the Indigenous community. These resources were the National Indigenous Medical Cannabis Association (NIMCA), Native Women's Association of Canada (NWAC) and the Standing Senate Committee on Aboriginal Peoples, along with multiple articles written on issues surrounding legalization and its impact on

Indigenous peoples. Although a more hands-on and ongoing form of consultation would have been ideal, using the perspectives received, a breadth of knowledge was gained and able to be applied during the interviews with Black and Indigenous participants.

Recruitment of interviewees took place primarily online, using social media platforms to share digital recruitment posters and materials. In particular, most of the recruitment took place over Facebook and Instagram. Using these platforms allowed for both criterion sampling, as those who contacted the researcher concerning participation did so based on predetermined criteria (i.e.: racial identity, age, and method of cannabis acquisition) and snowball sampling through the referrals provided by existing participants. Upon contacting the researcher, participants were then asked preliminary questions surrounding their preferred means of obtaining cannabis, either using the new legal means or “illegal” methods, their racial identity, age, and gender. This allowed for the researcher not only to determine the racial composition of perspective participants, but also separate the participants into two groups: legal and “illegal” users.

By conducting interviews with these two different groups of participants, varying perceptions of legalization were discussed, as well as the decision-making process surrounding the choice to use legal or illegal sources for obtaining cannabis. The separation of the two groups also allowed for an examination of the different experiences faced by legal versus illegal users in light of legalization. The goal of this research was to place the experience of participants at the centre of inquiry, allowing their experience to guide the rest of the research. Interviews were semi-structured in nature and followed a constructivist grounded approach (Charmaz 2017), letting the participant’s own words and experiences influence the direction of the interviews. The constructivist grounded approach also places the researcher, the research process, and the

participant in a social, historical, cultural, situational, and interactive context that acknowledges the researcher's subjectivity in social positions and calls for reflexivity about the process (Charmaz 2017).

Besides being asked about the decision-making process of choosing legal or illegal means of obtaining and using cannabis, participants were also given the opportunity to reflect on their own experiences with legalization and their experiences in the pre-legalization context, as well as their more general experiences with the criminal justice system, how they understand social perceptions of their drug use, and their perceptions and beliefs surrounding the substance itself. Questions were often formed by the researcher on the spot based on the participant's responses and emerging themes, but each interview began with a questionnaire informed by early consultation with Black and Indigenous community members. Thus, although there were sample questions that acted as a guide to the researchers' approach to interviews, questions were open-ended, and most often the response by the participants informed the next line of questioning.

In this manner, the focus was put into developing and constructing questions that would give participants the freedom to respond by retelling their experiences and the situations they have encountered. Once a response was given, follow-up questions were asked in order to gather more information and highlight any potential contrasting themes or ideas across the interviews. During the recruitment process, as well as the interviews, participants were asked about opting for an optional second interview. Although most participants agreed to this, no secondary interviews were conducted due to time constraints and because sufficient knowledge was gathered from the participants' primary interviews.

In total, there were 19 participants. These included seven Black participants, three Indigenous participants and nine white participants, all of whom self-identified as such at the

point of recruitment and in their initial contact with the researcher. During the course of recruitment, even though I had advice from Indigenous scholars and was able to share recruitment materials by *Indigenous Solidarity Ottawa*, it was hard to get Indigenous participants. This may have been due to the limitations in digital recruitment methods that occurred primarily over social media and thus lacked the ability to be directed at a specific community. The age range for participants was 20-35, with most participants being 25 and older. In terms of gender all seven Black participants were male, two Indigenous participants were female, and one was male, and six of the white participants were female and three were male. No participants identified as non-binary, gender fluid, or transgender. Other demographic information such as city or place of residency, educational level, and socio-economic background was not collected in this study.

Aside from the demographic composition of the participants, interviewees were also further grouped based on their primary means of acquiring cannabis. Although some participants stated they used both methods of acquisition, their primary method was prioritized here. Nine participants identified as using illegal methods for obtaining cannabis, while the other ten participants stated they primarily used the new legal means. To further categorize the participants, within the group of nine illegal cannabis users, seven were Black and two were White. Within the legal user group, there were ten participants: seven were White and three were Indigenous. These further distinctions within the groups also helped with the formulation of questions and with the ability to provide a holistic understanding of the effects of legalization and the continued inequalities that accompany it by highlighting differences in perceptions between legal and illegal users, as well as across racial categories in these groups. The number of interviews is consistent with the exploratory nature of this research and consistent with the

normal scope of master's thesis research. Findings should be treated as suggestive of possible directions for future research, rather than definitive.

To aid in the analysis of the findings, the interviews, that primarily took place over the phone, were audio-recorded, and stored in separate files for the two groups: legal and illegal users. The decision to do phone interviews as opposed to video interviews, was based on two reasons, one being accessibility and the other being the comfort level of participants given the potentially sensitive information that could emerge during interviews. After the first three participants were interviewed and they opted for a phone interview, all interviews were conducted in this manner. The audio recordings were then transcribed by the researcher. Through the transcription process, I identify key themes, and similarities between and across both groups, as well as across racial categories. These themes were identified both throughout and after the interview process and inform lines of questioning that arose in the subsequent interviews. For example, the theme of professionalism and safety came up multiple times in the first few interviews and questions were created in an attempt to address these issues in subsequent interviews. In short, the research process remained fairly dynamic in terms of what questions were asked and what themes were deemed relevant and in need of exploring further.

Upon the completion of the interviews and transcription process, excerpts from the interviews that were identified as thematically consistent with the major trends across interviews were stored in separate password protected files that corresponded with the themes. This process aided in both the ongoing analysis of the data as well as in the writing process. In order to analyze the data, a cumulative disadvantage framework was used to situate the findings from the interviews within a broader systemic explanation of how and why persisting inequalities exist in Canada. Cumulative disadvantage seeks to uncover and examine the systemic character of

inequality-producing processes and the relevance of these systems across both micro and macro-level dynamics (Dannefer 2018). This framework allows for the analysis of small barriers that are present in the everyday experiences of racialized individuals living in the post-legalization landscape. Additionally, although certain demographic information was not collected, such as educational level, socio-economic background, and city/province of residency, the demographic information on race, age, and gender provide an important starting point for examining intersecting systems of disadvantage and disparity.

Along with the cumulative disadvantage framework, findings from this research were also analyzed alongside critical race theory perspectives to better understand the broader processes of racialization that were present in the experiences of participants. These two perspectives allowed for the potential to situate findings in a manner that not only analyzes racialization, but further allowed the findings to be examined across a variety of intersecting relationships that lead to inequality. The ideas that emerged from the interviews were also used to provide empirical evidence to support the development of cumulative disadvantage across various stages of the life course and the criminal justice system for racialized individuals. Using the findings, I was able to examine both the ways that disadvantages are shaped and constructed through legalization, as well as how race has been and still is heavily intertwined with perceptions of drug use. This further allowed for the research to provide new insight into persisting inequalities and disparities in Canada's post-legalization landscape. Using the theoretical perspectives mentioned above, the research situated disparities and disadvantage outside of race alone and looked to make connections between intersecting systems of inequality that persist despite the perceived benevolence of legalization.

Along with the focus on the above-mentioned theoretical lenses, findings were also used to support the idea of habitus brought forth by Bourdieu (1984) and how this idea translates to the differences in experiences and perceptions seen across the various interviews. This concept further allowed for the results to be understood from the perspective of the interviewee, highlighting yet again the importance of experience in examining issues related to drug policy reform, such as cannabis legalization. This research provided an exploratory account of the experience of legalization for racialized people in Canada, further offering the opportunity for the development of complementary social justice measures. The concepts used are also a means of situating the findings within broader processes of racialization that have been constructed throughout Canada's history, as well as perpetuated in contemporary society.

I now move on in the next chapter to discuss my interview findings.

CHAPTER 4: IMPACTS OF RACIALIZATION ON NEW DRUG POLICY

Interview Findings

The previous chapters have demonstrated the lasting impacts of colonization, slavery, anti-Black racism, the historical roots of drug prohibition and criminalization in Canada and the racialization of drug-related crime, especially in terms of cannabis. What these ideas have demonstrated is that, despite important societal changes and political shifts surrounding drug policy, there are much more embedded forms of discrimination and prejudice that perpetuate the persisting racialized inequalities today. Furthermore, the focus on the experiences of Black and Indigenous individuals through research done within and by these communities demonstrates the importance of the everyday experience in uncovering the systems and structures that remain unrecognized by the parts of society that are unaffected by them. Following this, this research has been designed to speak to those experiences and to examine the possible ways in which legalization, although seemingly positive in nature, might have unintended, unexplored, and harmful effects on Black and Indigenous communities in Canada.

Throughout the course of 19 interviews multiple themes were identified surrounding legalization between both groups: legal and “illegal” users and across the different racial categories. Most notably, three themes came up across multiple interviews and across the different groups. I called these themes *Awareness, Perceptions of Safety, and Mistrust and Skepticism*. What these themes demonstrate are fundamental differences in the experiences between those who use legal and illegal means of attaining cannabis, as well as the differences for those participants who are racialized. The themes also identify key distinctions in the definitions and meaning derived from certain experiences and interactions, that come to influence understanding and perception. As the results will demonstrate, the definitions that

come to be associated with legalization are highly contingent upon one's positionality, their previous and current experiences, and their own internalized understandings of social relations and perceptions.

Awareness

The theme of awareness came up multiple times, during various lines of questioning. This theme related to how participants understood their own use of cannabis in relation to how others perceived them while using or for their choice to use. It further refers to the impressions that participants believed they would leave on other people based on their cannabis use. Additionally, in some interviews, awareness was also present not in terms of cannabis use itself, but in how certain participants thought they are perceived more generally on account of their racialized status. The theme of awareness was highlighted when participants were asked about their experiences pre- and post-legalization, their decision to choose legal or illegal means of obtaining cannabis, and general experiences surrounding their own use and the perceptions they have encountered when using or not using. When discussing awareness, it highlights a participant's ability to recognize their own positionality, how their cannabis use is or can be perceived, the impact of legalization on them and those around them, and the knowledge of legalization through their experiences. Although awareness of use in certain settings and environments was a theme that emerged in most interviews, the fundamental distinction was the way in which awareness manifests differently for different individuals, especially across the three racial groups. Furthermore, this awareness also occurs for a variety of reasons, most of which stem from positionality and past and present experiences with cannabis.

For Black participants, a common sentiment that was expressed surrounding legalization and the perception of cannabis use in the post-legalization context was that the positive aspects

of drug policy reform often vary based on the lived experiences that individuals have. As such, awareness arose in multiple ways but seemed to often be for the same reasons or based on the same thought processes for Black participants. For example, when asked if legalization has changed the way he approached his own cannabis use, one Black participant stated that it is “a little bit more free to use... [but it] still depends on the context.” This participant later shared that the context-specific openness or secretiveness of use is based for him on the desire to not attract attention, especially negative attention, and part of not wanting to “attract negative attention” is a result of previous experiences of judgment and stereotypical encounters he endured as a racialized person who uses cannabis. Similar responses were given by two other Black participants, who touched on the same notion of context. One of these participants stated that they feel they do not have to hide their use as much, but they still have to be “careful” in certain settings and environments, as they will most likely be perceived differently or more harshly based on their use when compared to their white friends. The other participant noted that the reactions they receive depend very heavily on the demographic of the environments they are in. More specifically, the first of these participants said that “some people can feel threatened from it [cannabis use] and as a Black man I need to be mindful of who I’m around when smoking or where I am when smoking”.

These similar revelations demonstrate that awareness is developed and shaped through previous lived experiences, and the perceptions people have and the ones that are internalized, as well as how experiences tend to differ across racial groups. To focus on this last factor, another Black participant mentioned that in terms of legalization and its potentially positive impact on communities of colour in Canada, Black people will still “be targeted... for stops” because if there are still laws surrounding cannabis, there is still the opportunity to arrest Black people for

the use of the substance. The participant further stated that experiences of stereotyping and racism have led him to believe that Black people will still be targeted even in the realm of legalization. He said, “the majority of the time people see me and just automatically think... oh yeah, this guy smokes...even though I may not be using weed at the time.” The same participant went on to say that “marijuana [cannabis] was legalized because it was convenient for white folks...because it is so popular, and now they can profit from it...but it doesn’t do anything for minority communities.” This conscious awareness of how legalization will be, and is experienced differently, is fundamental to a complete understanding of the lasting impacts of cannabis prohibition, racially motivated drug-law enforcement, and the racialization of drug crime more generally in Canada.

As seen through the opinions, experiences, and beliefs of the Black participants above, awareness is a common thread among the Black community, a thread that demonstrates the limitations of conventional drug policy reform, like legalization, to address issues outside of the legality of substances and its use. To further add to this idea of awareness, it was also noted several times by Black participants that despite changing drug policy, the stigma that persists around cannabis has a very racialized component. As one Black participant noted, there are “biases around who’s more likely to use” and for this participant, they experienced this in the assumptions placed on them in the workplace, the job market, and their school environment pre- and post-legalization. More specifically, this participant stated that, “like I know for a fact that because that...like I started locking my hair... off of the virtue of my hair being locked [and having] black skin...the majority of time people are like ‘oh yeah, this [person] smokes’”. This participant later went on to say that even in the absence of cannabis use the assumptions are still there when they are in certain social settings. In particular he shared an experience that occurred

when he was working where a co-worker came up to him saying that he looked like he knew about “good weed”. He said that “this co-worker of mine comes up to me when I was on my phone and is like ...what are you up to? Probably looking up where to get the good stuff ...or you just know how to make that good stuff [cannabis]...and then he laughed and I laughed...struggled to, but I laughed it off because I was in shock that he would just say that to me when we had never spoke about smoking or weed in general before.”

Experiences like these make it clear that changing drug policy does very little to address the deep-rooted biases and stereotypes surrounding cannabis and its use. Even in light of legalization and changing social attitudes towards cannabis, experiences in the pre-legalization context have lasting effects on the present. For example, as one Black participant mentioned, “Black kids, like Black people were subjected to like...being assumed to be high compared to other kids” when recalling their experiences in a very ethnically and racially diverse neighbourhood. This participant went on further to state that from experiences in the pre-legalization landscape, he started to notice that “when we [Black people] smoke, it’s even more threatening”, later saying that based on these experiences and the judgements he has endured in the past, it has affected the ways in which they understand their own use and how they will be perceived by others based on this use now. He expressed that “I am now very careful when I use and I sometimes...not so much now but I think before I use ‘should I really be doing this’ even though I know it’s legal but what I have experienced and the fact I’m Black plays into things even now.” This echoes the experience of another Black participant who after early experiences with cannabis and the racialized stereotypes it carries, has become more mindful of how he can come to be perceived as a Black man. This participant was in high school at the time, and one of only two Black kids in the school when he was subjected to an arbitrary locker search for

“weed”. Nothing was found in his locker, but the realization that race played a major role in why he was searched has had a major impact on the views he has surrounding cannabis legalization today. He stated that, “I came out in the hall and just seen my stuff thrown and I was so mad and asked why and the officer told me that the dog had stopped at my locker twice... but I look back at it now and nobody else that day was searched...only me...and that messed me up for a while.”

Experiences such as the ones above highlight the reality for racialized people who use cannabis, not only in the pre-legalization context, but also how these realities come to shape their own perspectives and their understandings of the perceptions that others may have of them, even now that cannabis has been legalized for recreational purposes. Not only did multiple Black participants allude to subtle experiences they have had with stereotypes and bias, but participants, like the interviewee who was subject to a locker search on the grounds of what was seemingly race alone, highlighted that there are also more overt experiences of racially motivated encounters surrounding cannabis. The most alarming account of this kind was shared by a participant who had been subject to overtly racist police practices surrounding cannabis, months before its legalization.

This participant shared that, while visiting a friend, the police were called on him because neighbours had said there was a suspicious individual outside one of the homes. When the police arrived, they started to question the individual and entered the home. They proceeded to conduct a search of the home, which was not the participant’s home, but rather the home of his friends, where a couple of other individuals lived. They found cannabis in one of the rooms and thought that this participant was growing it in the home illegally. He said that “basically the police thought I was growing weed in the house, and they had me in handcuffs...like arrested me for it... even though it wasn’t mine, but they were going to take me to jail for it.” The participant said

that, after he pleaded with the officers that the cannabis was not his and that he did not live in the home, one of the roommates arrived back at the house. “So, the actual person that was growing it [cannabis] came and admitted it was his [to the police] ...he just happened to be white, and they let him go. No handcuffs or anything.” The participant was let go after this but the actual white grower of the weed, was let go as well.

The participant was later told by their friend’s roommate, that while the roommate was talking to the police and admitting the cannabis was theirs, the police had advised them to tell police that the weed was the participant’s in order for the participant to take the blame for it. Later during the interview, the participant was asked how experiences like this had affected him or impacted his views of cannabis, and he stated that, even in light of legalization. they “get fearful because like, I’m not aware of all the... of all the [new] rules of smoking [cannabis]” and by being unaware, they are not in a good position if law enforcement intervention was ever to happen again surrounding cannabis. This fearfulness leads to a level of awareness that is not only situated in personal experience but also in the experiences of others and in the perceptions that are received. From a more nuanced perspective, one Black participant stated that, although they have had a few experiences with bias and stereotypes when it comes to cannabis, the biggest factor that contributes to their own awareness of how their cannabis use can be perceived by others is what they see and/or read about. More specifically, they stated that the way they come to interact with the world around them is based on their own experience but also reinforced by what they see in the media and environments around them. In terms of cannabis and legalization, this participant stated that despite not having experienced any inequality directly in the post-legalization landscape, knowing that a “standard experience” exists for Black people, makes “it [injustice] more real and likely to happen” to them in the future.

As seen through the accounts of the Black participants who were interviewed above, there is an awareness that stems from a lived reality that varies greatly from the experiences of non-racialized individuals. Although awareness was present in the interviews conducted with white participants, it took form in very different ways that reflect the lived experience for non-racialized individuals in both the pre- and post-legalization context. For Indigenous participants, two out of three who were interviewed in this study expressed similar experiences surrounding perceptions and stigma concerning their own cannabis use. For one Indigenous participant, when asked about her cannabis use and whether it is something she is fairly open with, she stated that in certain settings there is a “lasting stigma”, one that is especially present in more professional environments. This stigma makes her more attuned to the fact that disclosing her recreational use of cannabis may impact people’s perceptions of them. She went further to say that people who know her personally know she consumes cannabis but those outside of that she would not openly tell. She said “I would never be like, I can’t wait to go home and just, you know smoke a joint or something like that. I still don’t feel like I can say that and not have it impact like the person’s perception of me”.

When this participant was asked where she thought this apprehension to tell certain people about her use (eg. employer or supervisors) came from, she shared that the negative connotation that is often associated with cannabis use could have the possibility of causing them professional problems. She elaborated further to say, “but I have to be aware too, that if I have like this persona of being Indigenous, like that people are aware that like not only am I, the Native girl, but I’m the Native researcher. I’m the example of ... the good Native, if that makes sense and I don’t...not saying that I believe that of myself, but the perception is [that] I’m kind of like what it is to be a successful Native.” Although the participant said that she is not worried

about shattering this perception, she did state that she is acutely aware that “just by virtue of people knowing that I’m Native, they might... perceive it [recreational cannabis use] differently than they would if they didn’t know [that she is Native]”. This participant shed light on the experience of Indigenous awareness by using the comparison between a white mom who posts on Facebook saying something like “Oh, the kids are driving me crazy. I can’t wait for a glass of wine”, versus if the same thing were to be posted by a Native woman, there would be the risk of, or the justification for, outside intervention being involved. She stated that “as a Native women you can’t do that because you’ll get like protective services called on you or like, in my position where, you know I work with vulnerable people and something like that happens, that it might ruin my ability or like my perception professionally...[and] could be a justification for like police to come see me or something like that...” She went on further to state that this is not something she lives in fear of, but something she is aware of in various situations.

For another Indigenous participant, she stated that, even in light of legalization, she constantly has the feeling that when she smokes or uses cannabis that she is doing “something bad”. Although the participant did not tie this directly to her racial identity, she did specify that she believes the guilt or feeling bad about her use stems from cannabis culture and the ways it is negatively perceived. She also highlighted that this negative perception was especially felt during her time in graduate school. It is this awareness that stems from the ability to understand how others outside of yourself may perceive you as that was a common thread among racialized participants. Despite the lived experiences for Black and Indigenous individuals being different in many ways, the awareness that exists in these communities stems from many internalized perceptions dating back to the earliest forms of stereotypes and racism.

To compare these experiences with those shared by white participants, many white participants did not express the same level of awareness as the Black and Indigenous interviewees shared. Although awareness was present, it took form in different ways and often not for the same reasons. Multiple white participants stated that the stigma associated with cannabis is less intense and people are more open with their use and sharing that information with others, a sentiment that was not echoed among most Black and Indigenous participants. One white participant stated that once cannabis became legal, it was no longer frowned upon and that it is really “no different than tobacco at this point”. Another white participant, following the same line of thinking, said that even if his neighbours did not like his cannabis use, the fact that it is legal makes him feel that he does not have to worry about the feelings of those around him regard to their use. The same participant, when asked about what he believes the general reaction to his use is, stated “I don’t care about [what] random people [think]”.

These statements by white participants highlight a very apparent distinction between the white experience and the racialized experience of cannabis use. On one hand, white participants do not necessarily have to think about their use and the perceptions they may receive, while on the other hand, racialized participants are abundantly aware of the perceptions they may face and the negative reactions they may encounter both in the absence of cannabis use and in the presence of use. To further this general distinction, another white participant mentioned that the only thing that has really changed in terms of his use is the legality of cannabis and outside of that, legalization has not made a huge difference in his habits. The lack of broader awareness for white participants implies that, at least from those interviewed, behaviours surrounding cannabis use are not greatly impacted by the views of broader society or the potential negative perceptions they may face.

Even when an awareness was present among white participants about harmful stigma and perceptions, it was a very removed or distanced understanding of the phenomena. One white participant, when asked what influenced his decision to keep obtaining cannabis from illegal sources in the post-legalization context, stated that he was “willing to take the risk”, as the punishments were not “that big of a deal” and that he, as a privileged person, would “unfortunately... not [be] likely [to] get in trouble for having cannabis”. This statement signaled an awareness that on account of his race, he would be unlikely to be the target of law enforcement efforts within the new legal framework.

Another white participant mentioned that when it came to perceptions of cannabis use, she admittedly perceived people who used cannabis differently before it was legalized. However, she went on to say that now that efforts have been made to educate the public about cannabis based on its new legal status, she does not have much judgment towards cannabis use and now uses herself. She stated that much of this judgement was based on the drug education she received growing up and now society is becoming more open to harm reduction approaches to drug use. Despite the positive change of perception this participant had, the idea of harm reduction seems to be based solely on drug use itself and does not consider the associated impact that decades of drug prohibition has had on racialized individuals.

It is apparent through the varying levels of awareness and the different points of focus between white and racialized participants, that understandings surrounding legalization differ greatly based on lived experiences and continue to impact encounters today. There was a common thread that ran through the responses of white participants, that regardless of whether they currently used legal or illegal means of obtaining cannabis, their experiences were very much individualized and focused on their own understandings rather than concern for what

others might think, whereas for racialized participants, the main focus of their awareness was not only themselves, but also what others would think and how they may be perceived not only when they use cannabis but when they do not as well.

Notwithstanding changes in social attitudes towards cannabis and cannabis use, as alluded to by the white participant who mentioned harm reduction and education, there are implications of drug prohibition that persist. Although all members of society may not be privy to these implications, racialized participants made many statements that spoke to the lasting impacts of the criminalization of cannabis. Notably, one Black participant, when asked about how his experiences with law enforcement and racism have impacted the way he currently views the law surrounding cannabis and its new legal status, stated that despite legalization, there is still the question that, “you can’t really get time back, so, what can you do for these people?” Another Black participant pointed out that cannabis was legalized “because it was convenient for white folks, because it is so popular...and now they can profit from it ...but it doesn’t do anything for minority communities.”

The above observations signal an important divide in the levels and kinds of awareness present between racial categories. While all groups were aware in some way or another about the changes they have experienced from the pre to the post-legalization context, Black and Indigenous participants were aware not only of their experiences but aware of the perceptions others may have of them based on their cannabis use or lack thereof. Additionally, Black, and Indigenous participants used understandings of those perceptions of others to shape their own understandings of cannabis legalization and to also problematize the current limits of legalization alone by pointing out important considerations that often go unaddressed within the current legal framework.

Perceptions of Safety

Another key category of responses concerned perceptions of safety. Throughout the course of the interviews, participants stated many reasons for choosing to use the new legal and regulated means of obtaining cannabis or to use more illegal means. Two predominant themes emerged: perceptions of safety and mistrust/skepticism. Although mistrust and skepticism was predominantly expressed by Black participants, interviewees across all racial categories mentioned safety and their own perceptions of safety to rationalize their method of choice for purchasing. When looking at white participants, there was an important distinction that occurred between male and female interviewees. Although the concept of gender and gender identity were not explored in depth to examine the impact it may have on experiences with legalization within this study, most of the white participants who cited safety reasons as an aspect effecting their decision to use legal cannabis identified as female.

One white female participant identified that her choice to use legal dispensaries was based on the fact that the cannabis has been grown in “legitimate” facilities and that numerous rigorous tests have been done on the legally produced drug, making the choice “make sense”. Another white female participant echoed this sentiment by stating that cannabis from dispensaries is more “regulated” and it eliminates having to get cannabis illegally from someone whom she “does not really know.” As it should come as no surprise, both of these white female participants only use the new legal means of acquiring cannabis products.

This distinction between female and male participants regarding safety concerns was also evident in the responses of one of the female Indigenous participants. Unlike the white female participants, this interviewee mentioned that she had, prior to legalization, used an illegal dealer to purchase cannabis. However, upon reflection this participant stated that this decision to buy

drugs from a “random guy” was not smart and was, she considered, actually quite dangerous in retrospect. This realization has made it so that this participant too now exclusively uses the new legal means of obtaining cannabis. From the interviews conducted, it appears that for female participants the regulated nature of legal cannabis and the fact that they can eliminate the potential of interactions with someone they do not know (i.e.: a street dealer), is a rational choice based on their own safety.

In stark contrast, for Black male participants, the opposite was observed. Although many of the ideas that emerged surrounding safety were also connected to the idea of mistrust and skepticism, meaning Black males felt safer when obtaining cannabis from a trustworthy source, Black participants shared a common sentiment that revealed a reluctance to use the new legal system of obtaining cannabis. Tied to this hesitation was not only the idea of safety but also the notion that there is a certain social aspect to obtaining cannabis from an “illegal street dealer”. One Black participant mentioned that it is “easy” to use his local drug dealer and that he trusts them. He went on to mention that all their friends use one dealer, and he “would much rather support one person who all my friends know than the government.” Another Black participant said almost exactly the same thing when asked to discuss any factors or experiences that have impacted his decision to not use legal sources for obtaining cannabis. This participant stated that he would rather give his friend whatever amount of money for cannabis than give any money to a dispensary. He went on further to state that “when I go to my street dealer, I know it is not purely transactional and we can talk for a bit, laugh you know? ... Like there’s a social aspect to the deal.”

All Black participants involved in this study primarily used illegal means of obtaining their cannabis. Although this is small exploratory study and we cannot be certain whether it

holds for the majority of Black cannabis users in Canada, it does signal an important tendency suggested by this study with regard to perceptions of safety. It appears that on its face, the decision to use illegal means of obtaining cannabis, for my interviewees, is one motivated by a sense of trust and comfort in knowing who they are getting their product from. However, upon a closer look at the responses of Black participants it appears this sense of trust and safety is highly influenced not only by past experiences and the social relations of their cannabis use, but also by a mistrust in the new legally regulated cannabis market.

Before moving to the notion of mistrust, it is also worth noting that perceptions of safety did not impact every participant's choice to use legal or illegal means of obtaining cannabis. Many participants cited convenience and cost as a reason to use illegal means over the new legally regulated options. One Black participant mentioned that they could get the "same thing on the street" for less. Another white participant stated that their choice to use illegal means is solely based on convenience and price point, while many other Black participants expressed the same sentiments on price and convenience. One Black participant said, "I don't see why you would overpay for something that isn't any better quality...when I ask for a particular strain or a particular item, like gummies [edibles] he [his street dealer] gets them for me...no questions asked, and I pay less in the end too without having to go into a store."

Regardless of economic considerations and sheer practical concerns, perceptions surrounding the safety of using illegal or legal means of obtaining cannabis are, like all perceptions, subjective and are largely influenced by a person's lived experience. As the responses demonstrate, female participants were generally more reluctant to use illegal means of obtaining cannabis due to a perception that it could be dangerous getting cannabis from someone they do not know and through a means that is not as regulated. However, for Black participants,

primarily, these feelings were almost reversed to reveal that there is a stronger sense of safety and trust by using illegal means of obtaining cannabis. The varying perceptions of safety displayed by these two groups specifically, those being female participants and Black participants, demonstrate a divide in what safety means in light of drug reform and legalization. It is apparent that the simple label of “legal” does not necessarily equate to safe for all participants and can seemingly mean the opposite for some.

Mistrust and Skepticism

As it is clear through the differences in both awareness and perceptions of safety, racialized participants have a very different worldview and lived experience that comes to influence their understandings of legalization and the impact it has on not only themselves, but those around them. It is apparent that experiences of deeply entrenched racial stereotypes and biases experienced by racialized participants assist in determining how these participants view perceptions of themselves and their attitudes towards the new legal framework. Where this was most evident was in the notions of mistrust and skepticism expressed by Black participants. For them, this theme is related to the lack of trust surrounding the new legal framework. More particularly, it was noted in relation to the motives behind legalization and the methods employed within the new legal system. Additionally, it was often tied to the overall decision to refrain from participating in the legal cannabis industry.

The ideas surrounding mistrust that emerged were often related to the overall comfort or discomfort Black participants had with using the new legally regulated sources of cannabis. More specifically, many Black participants expressed an indirect form of skepticism towards both the goals and motives of the legal framework. As one Black participant noted, his choice to continue to use illegal means of obtaining cannabis was greatly influenced by the mutual respect

that exists between his dealer and himself. He went on further to state that the new legal sources of cannabis are overpriced, and “[i]t is more about buying a brand, rather than buying good quality cannabis...they [the government] has capitalized on an already existing industry just to make in fit their standards and make money.” Similarly, another Black participant expressed the same idea of mutual respect by stating that the dealer he obtains cannabis from is a friend of a friend and there is a level of trust that exists based on this relationship that would not be possible within the legally regulated system. “The thing is I know the person I get my weed from, he’s basically a friend...I don’t have to worry getting stuff from him, but I wouldn’t feel the same if I bought from one of the new shops I don’t think.”

There were also an array of responses by Black interviewees that directly called into question the motives of legalization. As one Black participant aptly pointed out, legalization has almost been a way for the government to simply say, “we’re not marginalizing those communities [anymore] so we can profit since there’s a lot of people using anyways” and he went on to say, “what about the barriers that still exist...that haven’t changed...there’s no steps being taken to remove institutional and systemic barriers that persist.” The same participant went on further to state that it appears that legalization is “a band-aid solution to fixing everything that has happened in the past...but like let’s talk about who can get licenses to grow for themselves...there is all these loopholes you have to go through to get the resources to do it that favour big companies.” He added, “I feel like Canada is really good at doing things once and thinking things will be fine ...like okay, we look good because we’re doing this [legalization] but they don’t really make any real changes.”

These observations were echoed in the responses of another Black participant when he was asked about the reasons why he has avoided using legal sources of cannabis. The participant

expressed that “ethically, I just see it as kind of contradictory to get it from the government...the same institution, like I said, that actually used to penalize us for using weed ... now wants to turn around and sell it.” He also stated that with the rise of legal dispensaries, it is not the Black community or anybody within it that is profiting from them.

This distrust of legalization in the eyes of Black participants is very telling of the impacts drug prohibition and criminalization has had on communities of colour in Canada. One Black participant stated that the idea of giving his identification to someone at a dispensary was almost equivalent to the feeling of being carded. He said, “I don’t feel comfortable giving my wallet to the government and them knowing my name and potentially making note of that in a system somewhere.” This participant stated that it is “just like them recording you.” The same participant mentioned later in his interview that he feels if people knew he smoked they could use it as a justification to do whatever they wanted in terms of his professional life and that was also another factor that causes him to avoid using legal dispensaries. Along the same line of thinking, another Black participant expressed that, when it comes to their cannabis use, he chooses not to use legal dispensaries because he does not want to “attract unwanted attention.” He stated that indirectly giving the government his wallet and his money would be a source of unease and provide the opportunity, “to be noticed as someone who smokes and that could make me a target to law enforcement or whoever, outside of a dispensary.”

Although not all Black participants expressed the same kind of mistrust, what the responses demonstrate is an overall reluctance to participate in the legal cannabis market for the fear of ulterior motives or potentially harmful consequences. What is perhaps ironic is that Black participants seemed more willing to continue using illegal sources of cannabis and risk the potential fines or criminal penalties that are associated with that than to access the legal cannabis

market. In contrast to the responses of the Black participants above, white participants expressed a generally positive experience with legal dispensaries and the new legal framework. Multiple white participants mentioned that their experiences have been positive, and that staff has been accessible and knowledgeable. One white participant said that she would “definitely prefer [to purchase cannabis] in person” and that she has “really enjoyed the interactions [she’s] had in the stores.”

The sources of skepticism and mistrust also varied slightly between Black and Indigenous participants in the study. One of the three Indigenous participants expressed ideas surrounding skepticism and legalization but for a different reason. This participant stated that she does get a lot of cannabis from dispensaries on reserves. However, getting cannabis products from the reserve has made her feel like she is still doing “something bad” since most are not legally regulated. She went on further to state that she would much rather buy cannabis products from outlets on the reserve, but the legal framework put in place has strategically limited who can get licenses and where. Finally, the participant noted that a lot of government policies do not consider Indigenous perspectives, and she would have a lot more confidence in the legal framework if smoke shops on reserves were made legal.

Ideas surrounding mistrust did not arise because of different questions being asked to participants in different racial categories, as I was careful to ask the same questions of all. Rather, the responses to the same lines of questioning generated very different responses based on a variety of worldviews, perspectives, and lived experiences. It is important to understand that mistrust is very much impacted by previous situations which participants have either experienced first-hand or through which they have come to understand that they cannot trust government institutions. As seen through the responses of Black participants specifically, there is a general

reluctance to participate in the legal market for the sole reason that legality often means very little in terms of personal safety.

I now move in the final chapter to considering the implications of my findings.

CHAPTER 5: DISCUSSION AND CONCLUSION

Analyzing the Data through Cumulative Disadvantage and Critical Race Perspectives

The results above provide a small window into the experiences of Black, Indigenous, and white people in the post-legalization landscape. They demonstrate to readers the lasting impacts that drug prohibition and criminalization have thus far on those most affected by those mandates and laws. What the results further demonstrate is that the lasting impacts of punitive drug policy extend far beyond the persisting disadvantages associated with criminal justice involvement for people who have been previously criminalized relating to cannabis. Rather, the enduring disparities take form in a variety of ways that come to influence the experience of cannabis post-legalization for Black and Indigenous peoples in Canada. As Owusu-Bempah (2018) aptly illustrates in his work, new inequalities have emerged due to legalization, inequalities that disproportionately impact communities of colour. To give one key form these inequalities take, he draws attention to the fact that those communities most affected by drug prohibition have not received any benefits from the fruits of legalization, especially in terms of participation and re-investment (2018).

The results from this study build on the work of Owusu-Bempah and others like him, and take this work a step further. As research conducted within the post-legalization landscape across North America has demonstrated, glaring racial disparities persist in the face of seemingly benevolent drug policy reform (Bender 2016; Koutouki and Lofts 2019; Owusu-Bempah 2018; Owusu-Bempah, Luscombe, and Finlay 2019; Valleriani, Lavalley, and McNeil 2018). Racial disparities do not just persist in the context of broader systems like the criminal justice, legal, or economic system, but they are perpetuated on an individual level that impacts even the simplest form of participation in the new legal market, that being obtaining legal cannabis. As my

research shows, there are racial disparities in how an individual comes to understand, perceive, and interact with cannabis legalization. For Black participants, the disparity that was most telling of the lasting implications of cannabis prohibition and criminalization was manifested through the feelings of mistrust and skepticism felt towards the new legal framework and its actors. These overwhelming feelings of mistrust seem to support and help lead to decisions to acquire cannabis illegally, which may lead to potential involvement with the criminal justice system. For Black participants in this study their mistrust for the legal cannabis system seemed to outweigh the risks of continuing to use illicit means of obtaining cannabis.

The disparity present through the feelings of mistrust was also closely related to the perceptions of safety Black participants had. For Black participants perceptions of safety were related to their feelings of mistrust for the legal cannabis regime as a whole, as opposed to the perceptions of safety expressed by female participants that focused more on the act of obtaining cannabis from a street dealer alone. In discovering these disparities in experience, it is apparent that simply making the substance legal does very little to address the reasons why Black participants do not trust the motives of our government or why they feel unsafe and uneasy at the thought of participating in the new legal market. These differences in experiences for Black participants primarily, signal the lasting implications of racialized assumptions surrounding cannabis that stem from the origins of cannabis criminalization and prohibition. To have racialized individuals who do not feel safe or do not trust cannabis legalization is to provide the opportunity for further formal disparities within the criminal justice and legal system to continue at the expense of Black Canadians.

Overall, the largest disparity found through this research was the varying levels of awareness across racial categories related to an individual's cannabis use and how they would be

perceived by others. Despite cannabis' new legal status, much of the past perceptions and racist understandings linked to stigmatization of the drug remain intact. For Black and Indigenous participants, the awareness they had was heightened by perceptions, understandings, and biases they have come to live with surrounding cannabis use. Many racialized participants cited having to be cautious of who they tell about their use, where they smoke, and how they present themselves, while white participants in this study largely had the luxury of not thinking about these external judgments or potentially negative perceptions. The differences in awareness revealed in this exploratory study, which suggests they persist more broadly among different audiences, have the capacity to continue to limit the positive aspects of drug policy reform. Without accounting for the positionality of Black, Indigenous, and other racialized participants in relation to drug policy reform, the current legislation alone will continue to fail at reaching the goal of racial justice.

Cannabis legalization alone does not do anywhere near enough to counteract or assist in dismantling the decades of structural and systemic effects of prohibition and criminalization on racialized peoples in Canada. The results of this study illustrate that legalization, void any complementary social justice initiatives (Valleriani, Lavalley, and McNeil 2018), does not achieve the racial justice it proposed. Rather, legalization works as a means of lowering overall cannabis-related offenses for possession, while keeping intact numerous systems, beliefs, and practices that continue to have disparate effects on racialized communities.

From a critical race perspective, it is important to note that the “ordinariness” of more subtle forms of systemic racism makes it difficult to address or cure because it is often taken for granted and not acknowledged (Delgado and Stefancic 2017). This is an important feature of the Canadian experience of legalization for Black and Indigenous cannabis users because the

elusiveness of systemic racism itself provides for superficial solutions to deeply entrenched and multifaceted issues. Although many believe that race is not an issue in Canada based on the celebration of multiculturalism (Creese 2019), one can take a brief look at my results and see that the differences in perceptions and experiences between racialized and white participants are very different on account of racial identity. As was noted throughout the results sections and throughout the themes identified during the interviews, white participants did not have the same kinds of awareness that racialized participants had when it came to their cannabis use. Instead, they had very different understandings surrounding safety and perceptions of it, and they finally, did not express the same level of mistrust or skepticism (or any at all) concerning the new legal framework.

As work by Delgado and Stefancic (2017) highlights, “color[u]r-blind, or formal conceptions of equality, expressed in rules that insist only on treatment that is the same across the board” can only remedy the most blatant forms of discrimination which attract attention and social disapproval. This is precisely what is at issue. Legalization, alone, can only address the most basic inequalities that existed among cannabis-related offences. However, despite legalization ridding Canadian society of certain cannabis-related offences, inequalities persist, and disadvantage continues. While legalization eradicates certain legal interventions for cannabis-related drug offences for all Canadians, it does not touch, in any meaningful manner, the lasting implications on communities of colour in both a formal manner, and in the everyday lived experiences of racialized individuals. Accordingly, the racial justice proposed above in the midst of legalization, falls short when accompanied only with conventional drug policy reform.

While drug policy reform is an admirable means of attempting to achieve racial justice, it cannot be an end. There is much more at play when it comes to cannabis legalization that must

be addressed outside of drug policy in order to counteract the impacts of decades of racially motivated cannabis prohibition and criminalization. The responses from my interviews demonstrate that experiences pre-legalization shape much of the experiences and perceptions participants have in the post-legalization landscape. Notably, multiple Black participants shared experiences they had in the pre-legalization context that impacted their choice to avoid using the new legal framework, as well as instill in them a more heightened awareness in how others may perceive them if they are seen or known to use cannabis. Similarly, as one Indigenous participant mentioned, they still feel that there is a negative connotation surrounding cannabis use and they feel that, by virtue of people knowing that they are native, their use may be perceived differently than other non-Native peoples who use cannabis.

The above examples demonstrate that the lived realities of Black and Indigenous participants are shaped by internalization of perceptions they understand that others have of them and by first-hand interactions with racism. These small acts of racism or microaggressions are consciously or unconsciously perpetrated and arise from the assumptions about race, often taken for granted and not openly acknowledged or admitted, that continue to inform public institutions, social interactions, and personal lives (Delgado and Stefancic 2017). Although legalization can dismantle the very apparent forms of racial disparity within the criminal justice system and the enforcement of drug laws, legalization alone leaves intact much of what cannabis prohibition and criminalization was founded on. As such, any meaningful commitment to racial justice must not only center race, but also center the experience of Black, Indigenous, and other racialized peoples in Canada in order to address ongoing inequalities.

The responses from the participants of this study provide an opportunity to examine issues of race in a different context, namely, with respect to personal experiences pre-and-post

legalization and how those experiences come to impact the decisions and perceptions of cannabis users within the new legal framework. Notably, by identifying the racial identity of participants at the onset of the study, it is possible to see the differences in responses that exist across racial categories when asked similar questions. In considering the impacts of legalization by engaging in a study of the relationship among race, racialization and legalization, the findings from these interviews can be placed in “a broader perspective that includes economics, history, setting, group and self-interest, and emotions and the unconscious” (Delgado and Stefancic 2017, p. 3). When a critical lens is applied to the results, it suggests that race plays a fundamental role in an individual’s experience, but it also signals the need for a wider frame of analysis.

As many Black, and Indigenous participants noted, their use of cannabis is often internally regulated by how they believe others may perceive them. These perceptions can be understood to be both the effect of drug prohibition and criminalization, as well as the persisting experience of interactions and beliefs fueled by racism and racial discrimination. Although much of the research conducted on post-legalization has focused on racial inequality in the criminal justice system, fewer studies focus on how the inequalities produced within the system itself work to produce cumulative inequalities that continue to occur throughout an individual’s life course. As research by Adinoff and Reiman (2019) suggests, implementing social justice measures in the transition from illicit to legal cannabis has been very limited. They further indicate that more attentive data collection and analysis should be utilized, that focuses on experience but also on intersecting systems of disadvantage such as race, age, gender, and socio-economic status, to assure that all individuals experience the benefits and avoid the consequences of cannabis legalization.

The above assertion signals the need for more research conducted on race and cannabis legalization to center the lived experiences of racialized individuals. There have been numerous studies that highlight racial disparities within the Canadian criminal justice system and more recently, studies have shown that, even in light of cannabis legalization, racial inequalities persist. As scholars have proposed in their work, more needs to accompany legalization to bring about the racial justice it was said to achieve (Adinoff and Reiman 2019; McAleese 2019; Owusu-Bempah 2021; Owusu-Bempah, Luscombe, and Finlay 2019). The findings from this study bolster these observations, by providing an intimate exploratory look into the lived experiences of Black and Indigenous cannabis users in the post-legalization landscape, supporting the need for more complementary social justice initiatives.

Following a cumulative disadvantage framework, a re-examination of the legislative framework for cannabis legalization needs to address and account for the role and effects of prior criminalization and punishment. Furthermore, it needs to acknowledge how these effects intersect with other injustices that exist on account of not only race, but also gender, socio-economic, status, and prior formal involvement with the criminal justice system, in order to determine how they may continue despite legislative reform. As work by Westcott (2015) suggests, the intersections between race, criminalization, and historical trauma are an important site of inquiry for lasting forms of marginalization, stigmatization, and stress. As the results from this study show, legalization has perpetuated new forms of marginalization based on the feelings of mistrust and awareness that prevent certain racialized people from being involved in the legal cannabis system altogether. The results also show that prior stigmatization does not go away or fade into the back of everyday interactions because of simple legalization, but rather, an awareness of stigma is still present for racialized individuals even though it was thought that

legalizing cannabis would potentially lessen this. From this research we can see, as previous scholars have highlighted, that structural inequalities are built into the legal process itself and racial disparity is a result of bias operating at many stages of the decision-making process (Omori 2019; Rodriguez 2010). This in turn has the effect of compounding disadvantage due to the failure to acknowledge the mechanisms that produce disadvantage in the first place (Omori 2019).

Cumulative disadvantage and its effect on racial inequality occur through group-level processes that operate despite organization practices being presumed as race-neutral (Bonilla-Silva 2006). For cannabis legalization this race-neutral understanding supported that idea that it would help in achieving racial justice, as legalizing a substance for all Canadians would in some way place those previously disadvantaged on the same level of those who were not. However, as research in the pre-and post-legalization context shows, and the findings from this current study also demonstrate, there are many inequalities that persist.

As it stands now, legalization has simply altered an existing institutional arrangement without enhancing the rights of Black, Indigenous, and other disadvantaged groups in Canada. To truly further the proposed goal of racial justice, rights need to be enhanced through substantive outcomes that require an integration of substantive goals with the actual process of representation (Aylward 1999). Put simply, this requires measures that will ensure the encouragement of diversity in the cannabis industry (Adinoff and Reiman 2019; Owusu-Bempah 2021), the reinvestment of funding and restorative programs for those communities most affected by cannabis prohibition (Adinoff and Reiman 2019; Owusu-Bempah 2021; Owusu-Bempah, Luscombe, and Finlay 2019), the move toward expungement instead of mere amnesty (McAleese

2019), and upholding Indigenous sovereignty through self-determination (Crosby 2019) and promoting further racial diversity within the new legal framework (Owusu-Bempah 2018).

It is clear that without these corresponding measures listed above and other social justice-based initiatives, legalization alone will do very little for Black, Indigenous, and other racialized communities in Canada. As such, it is important to recognize how the current legal framework allows for disadvantages to continue to accumulate and grow, despite the elimination of certain criminal charges associated with cannabis-use. It has been noted that scholars concerned with the persistence of racial disadvantage must look to those who initiate and frame the legislative process (Provine 2022). This must also be a point of critical analysis when dealing with legislative changes and drug policy reform. It is important to understand that despite changes to laws surrounding cannabis, a precedent of prohibition of certain drug use has been set (Mackay 2018), and changes to the law only partially reverse the attitudes, beliefs, and impacts of that deeply rooted precedent.

In a similar fashion, scholars contend that reform efforts represent a “metamorphosis of prohibition”, where the structure of drug policy changes, but the underpinning principles remain unchanged (Taylor, Buchanan, and Ayres 2016). This is what Mackay (2018) is expressing through the statement “what is past is prologue”. Notwithstanding the seemingly important role drug policy reform can play in achieving racial justice, cannabis legalization is alone unable to address racial disparity because it is instituted within the very system which created the disadvantage in the first place. As the findings suggest, race matters even in the face the race-neutral policy reform. Black and Indigenous participants expressed an awareness about their cannabis use that stem from deeply held stereotypes and assumptions that plaque the criminal justice systems, ideas surrounding drug use, and Canadian society more broadly.

In particular, Black participants shared feelings of mistrust and skepticism when it came to the new legal framework. As a result of these feelings of mistrust, oftentimes emerging based on past negative experiences with anti-Black racism, all of the Black participants in this study either solely or predominantly obtained cannabis through illicit means, avoiding the new legal system altogether. Research has shown, in the context of the United States, that because recreational cannabis is taxed heavily, oftentimes black-market cannabis is cheaper and many low-income buyers, who are disproportionately buyers of colour, are effectively priced out of the legal market (Bender 2016). Bender (2016) goes on to demonstrate that through the new legal market, racial minorities are not only excluded from legal cannabis transactions, but they remain in the precarious position of buying cannabis in a space that is still criminalized. My exploratory interviews suggest the same situation may be occurring in Canada. My findings start to explain this phenomenon, demonstrating the notions of mistrust and skepticism that further rationalize the decision of Black cannabis-users to refrain from participating in the legal cannabis market.

Although some participants cited cost as a reason to obtain cannabis outside of the new legal framework, it is important to not overlook the other factors at play in these decisions. It is evident through Canada's history of drug criminalization that Indigenous people, poor people, and people of colour bear the brunt of drug prohibitionist policies (Boyd and MacPherson 2018). Those burdens, however, from decades of prohibition and criminalization do not conveniently fade away as soon as drug policy changes. What the results from this study suggest is that Indigenous and Black participants are still impacted by the beliefs and perceptions rooted in racialized drug enforcement. The everyday lived experiences of racialized cannabis users in Canada are still very much affected by the disparities that remain in the wake of cannabis criminalization and prohibition.

The experiences of Black, Indigenous, and white cannabis users in the current study signal the importance of an intersectional analysis. This study not only demonstrates that different social dimensions such as race intersect to shape experiences across racial categories, but it also calls into question how social dimensions such as gender may shape experiences within the same racial category. For example, white female participants discussed perceptions of safety as being a reason to use the new legal way of obtaining cannabis, while their male counterparts did not. It is important to understand how and why these different social dimensions come to influence experience and how they can be further used to understand persisting inequality. Along with the call from numerous scholars for complementary social justice initiatives alongside cannabis legalization, the experiences and perspectives of Black and Indigenous participants of this study reinforce the need for more to be done. The perceptions and perspectives of racialized cannabis users provide a useful lens through which to examine the everyday shortcomings of cannabis legalization void any other meaningful social justice initiatives. As Adinoff and Reiman (2019) point out, there is a need for more attentive data collection and analysis to assure that all individuals experience the benefits of cannabis legalization equally and to accomplish the goal of racial justice. That attentive data collection starts with research that centers race, and intersectional perspectives, and aims to uncover the cumulative inequalities that remain unaddressed through mere legalization. The next step is then to use those findings, like the experiences shared by Black and Indigenous participants, to inform and create meaningful measures to aid in achieving the proposed goal of racial justice. Racial justice cannot simply be achieved through a declaratory statement and simple drug policy reform. Rather, it must include active and ongoing measures to address the persisting disparities that occur in everyday life.

Habitus

As mentioned in the section above, Black and Indigenous participants offer a perspective and experience that is important to understand in order to address the current shortcomings of legalization. The responses from the interviews also further the need for complementary social justice measures, as without initiatives aimed at reinvestment and reducing the lingering effects of drug prohibition, the experiences of racialized individuals within the new legal framework will continue to be very different from the experiences of non-racialized cannabis users.

Although simply sharing the lived experiences of Black and Indigenous cannabis users cannot undo the effects of drug criminalization and prohibition, interviewing to reveal these experiences is an important tool for generating a deeper understanding of race and the limitations of the current legal framework. As Carter et al (2017) states, to effectively address inequity, the role of race must be explicitly acknowledged in addressing racial disparities.

Critical race theory and cumulative disadvantage offer a broad framework in which to situate the findings from this research. Habitus, however, is a lens through which racial differences can be specifically observed in research. Using the concept of habitus, a theoretical tool first developed by Bourdieu (1977), the lived experiences shared by participants can be further situated in an understanding of the ways race comes to impact the manner in which individuals perceive the social world around them and react to it. For Bourdieu (1977), the concept of habitus refers to “a subjective but not individual system of internalized structures, schemes of perception, conception, and action common to all members of the same group or class” (p. 86). Without falling into the tendency of harmful racial generalizations or arguing that all people with the same racial identity have the same habitus, drawing upon habitus can assist in expanding the notion that race is an identity that is socially situated and further the

understandings about the social realities of race in everyday lived experiences. Although Bourdieu's work barely makes note of colonialism, racism, or the racialized dimensions of social class (Singh 2021), his work has been regarded as offering tools for unearthing the complexities of and contributions to social disadvantage with respect to race (Wallace 2017).

Numerous scholars have used habitus as a tool to explain the broader phenomenon of race and racism (Bonilla-Silva 2003; Perry 2012; Cui 2015) and especially the taken-for-granted aspects of it, given that habitus represents taken-for-granted, unthinking patterns and dispositions in social life. However, as noted by Singh (2021), much of the focus has been on the durability and reproduction of racist thinking, and not on the potential change or agency that can come from focusing on a racialized habitus. As such, Singh's work (2021) is concerned with "how race is negotiated in everyday life in ways that are attuned to the constrained agency of racial subjects" (p. 143). Singh's (2021) idea of "constrained agency" is of particular importance when analyzing the results of the present study. "Constrained agency" corresponds with the position that racialized individuals bring a particular consciousness and habits and patterns to social situations that make them not only aware of their own position but that of those around them. For example, Black individuals may have learned to automatically self-monitor and self-censor in certain situations, so that this becomes habituated. Much of what racialized habitus speaks to is the ways in which very divergent experiences arise out of the same interactions for individuals across racial categories. In other words, similar circumstances, in this case, an individual's experience with legalization, leads to different outcomes that demonstrate how experience is mediated by perceptions acquired through past experience.

In the current study, Black participants were very clearly informed in the present based on past experiences and internally held perceptions and conceptions surrounding cannabis

legalization. Although experiences differed among Black participants, a couple of common perceptions and viewpoints resonated within this group. In particular, despite the lingering criminal penalties that exist for possession of illicit cannabis, all of the Black participants in this study acquired cannabis illegally. Additionally, the most cited reasons for refusing or simply choosing to continue to acquire cannabis from illicit sources was mistrust, skepticism, or overall perceptions of safety. This was in stark contrast to the responses of most white and Indigenous participants. While Indigenous participants shared in feelings of heightened awareness influenced by deeply internalized perceptions of how others may negatively view their cannabis use, mistrust for the new legal framework was distinctly expressed by Black participants.

In particular, Black participants expressed a general distrust for the new legal framework surrounding cannabis for reasons such as, prior criminalization and prohibition of cannabis, skepticism surrounding the potential repercussions of being associated with formal cannabis use, and an overall lack of trust in the motives behind legalization. These very critical perspectives on cannabis legalization are not only the result of the internalized perceptions of others around them, but also the consequence of the ways these conceptions place limits on how Black participants interact with the new legal framework. The findings demonstrate how Black participants become constrained by wider racial discourses that exist outside their control. Essentially, internalized ideas about race and resulting patterns of behaviour, despite these ideas not being their own, produce real social outcomes (Burke 2012) that affect the everyday lived experiences of racialized participants.

Both Black and Indigenous participants expressed an awareness that was also not present among white participants. For most obvious reasons, this awareness was not present within the responses of white participants because their lived experiences within the new legal framework

are different on account of their racial identity. However, from a more in-depth perspective, awareness differs because awareness itself is informed by subjective, internalized perceptions that reflect a worldview and a comprehension of the world in which an individual supposes they exist (Bourdieu 1977). Using habitus, white participants have a worldview that has been instilled in a very different manner and is in itself different from the worldview of Black and Indigenous participants. The variations are due to the way in which dominant social and cultural conditions are established and reproduced. For white participants, and white individuals more broadly, subjective internalized structures and schemes of perceptions reflect a reality in line with dominant notions of everyday life. However, for Black and Indigenous peoples, their worldviews are intimately related to wider racial discourses and beliefs that exist outside of their control.

For most white participants in the study, cannabis legalization was something that was viewed positively, and the new legal framework was seen to have many benefits for them. Many white participants cited the wide selection legal dispensaries had, the convenience of legal dispensaries, and the helpful and informative staff that legal cannabis stores have as some of the reasons influencing their choice to use the new legal framework. Additionally, white participants seemingly had an awareness about their own cannabis use that was largely unaltered by previous negative experiences surrounding their use. This was most clearly observed through the way in which white participants expressed a general carefree attitude and confident habitus about their cannabis use now that it has been legalized.

As noted above, Black and Indigenous participants did not, for the most part, share in this carefree attitude. For racialized participants, there was a level of awareness present that was much more critical and oftentimes influenced by racial stereotypes, biases, and personal experiences with racism. Much of the disconnect between racial categories can be understood in

terms of racial habitus and how this comes to vary and alter an individual's worldview. For white participants, although cannabis legalization is viewed in primarily positive terms, it is done so in a manner that keeps normative whiteness at the center. As Burke (2012) discusses throughout their work, white habitus is reproduced even in racially diverse communities. In particular, this is important in the context of cannabis legalization in Canada, as Canada is acclaimed for being a multicultural nation and the legislative mandate of cannabis legalization was said to bring about racial justice. However, studies have shown that racial justice has not been achieved and racial injustices and disparities persist in the post-legalization landscape.

The presence of a white habitus among white populations in racially diverse communities and nations is an important point of analysis. As the differences expressed in the present study indicate, the general views on legalization and the new legal framework tend to vary across racial lines. The generally positive disposition by white participants can be understood not only through white habitus in that way robust white supremacist schema constrain the interpretation of certain phenomena (Hughley 2010, as cited in Burke 2012), but also in the way that broader colour-blind notions inform societal understandings of race and justice. Additionally, the idea that racial justice can stem from mere legalization alone, reinforces the belief that legalization is a positive policy reform that will impact all in society equally.

However, the responses from Black and Indigenous individuals demonstrate that much more has to accompany legalization for racial justice to be achieved. The white habitus present in the present study reflects a widespread internalized structure and scheme of perception that what is good for some must be good for all. However, in stepping outside the white habitus and seeing the internalized perceptions of Black and Indigenous participants, it is apparent that the general positive reception of legalization does not cross racialized lines. As such, the racial habitus of all

participants can serve as an important beginning in an analysis that assesses the current shortcomings of legalization, void any other complementary social justice initiatives.

The concept of racial habitus allows for readers to understand the impact race has on navigating certain social settings. It further allows readers to see that even though there is some overlap across racial lines, certain perceptions and discourses cannot be removed from an individual's internal conception. For example, two out of the three Indigenous participants expressed a fairly positive outlook on cannabis legalization, but they still cited personal feelings of stigmatization and internalized senses of experiencing prejudice they have held onto that are attached to their cannabis use. In addition to the heightened awareness surrounding their use, one of the Indigenous participants mentioned the dispensaries that operate on reserves and mentioned that they wish they could obtain more of their cannabis there although it is mostly illegal to do so. As Singh (2021) highlights through their work, despite a racialized individual navigating new social settings and realities with relative success, they are still constrained by wider racial discourses that exist outside their control. In other words, the acquisition of new dispositions cannot insulate a racialized individual from racist discourses and structures (Singh 2021).

Similarly, some Black participants acknowledged that cannabis legalization could be a good thing but cited multiple reasons for its current shortcomings. It is from findings such as these that the importance of lived experience and how it interreacts with race becomes vital to a true understanding of how far we are from achieving true racial justice. As Carter et al (2016) discuss in their work, in order to effectively address inequity, the role of race must be explicitly acknowledged to avoid old patterns that continue to reinforce ongoing processes of implicit bias, microaggression, and colourblindness. To propose that racial justice is a goal of cannabis legalization, without doing more, will continuously fail to address the strong divisions in lived

experience between racial groups in Canada. Although in the context of the educational sphere, Carter et al (2016) emphasize the need for race-conscious approaches to addressing racial disparity. A race-conscious approach will reinforce the calls to action many scholars have made concerning the persisting racial injustices in the post-legalization landscape. In work conducted by Taylor, Buchanan, and Ayres (2016) they discuss the failure of drug policy reform to address the underlying fallacies of drug prohibition. Taking this assertion a step further and employing what the authors call the ‘metamorphosis of prohibition’, despite changes to drug policy, underlying principles that supported the prohibitionist regime remain unchanged.

As seen countless times through the course of interviews, Black and Indigenous participants have not experienced cannabis legalization in the same way white participants have. They have been confronted by prior negative experiences with law enforcement, microaggressions, and internalized stereotypes that accompany racialized notions of drug use regardless of the new legal status of cannabis. While cannabis legalization lowers the general arrest rate for cannabis-related crimes, and subsequently the arrests of racialized Canadians, there are larger forces at play that perpetuate the history of prohibition and criminalization within the new legal framework.

In conjunction with the ideas stemming from cumulative disadvantage and critical race perspectives, habitus offers an analytical tool for engaging with a subjective, yet common system of internalized structures and schemes of perception (Bourdieu 1977). It further the goal of implementing race-conscious initiatives as it provides intimate information about the lived realities for those who have a worldview outside of the dominant norm. To return to the idea of ‘constrained agency’ (Singh 2021), Black and Indigenous participants were very much impacted by racial discourses and the lingering effects of cannabis criminalization and prohibition. This in

turn affected not only their perceptions about legalization, but in some instances, it also affected their actions and decisions (i.e.: the decision to hide their current use of cannabis and the decision to continue to obtain cannabis from “illegal” sources). Racialized participants were constrained by racial biases and stereotypes that in turn impacted their outlook on and experience of the new legal cannabis framework.

However, despite being constrained by the lived realities that many Black and Indigenous participants experience, their perceptions and worldviews have the potential to inform social justice initiatives that can accompany cannabis legalization. If the goal of racial justice still stands, these perceptions should not only carry the potential to inform complementary initiatives, but they should be the basis and foundation of them. To return to an idea mentioned earlier, solutions should come from within these communities. For example, Indigenous people have been recognizing, re-claiming, and re-defining their worldviews as part of the process towards decolonization, restoration, and self-determination (Ormiston 2010). These goals can further be actualized in the context of cannabis legalization by allowing Indigenous communities and Nations to move to pass laws of their own to regulate the production, distribution, and sale of cannabis (Crosby 2019). In a broader context, initiatives should also be passed to help mitigate the prior effects of the criminalization of cannabis by providing for meaningful amnesty efforts (Owusu-Bempah 2021; McAleese 2019) and equal opportunities for participation informed by Black, Indigenous, and other racialized experiences. Overall, to make any meaningful change, cannabis legalization alone, will not suffice.

Limitations and Future Directions

This research does not shed light on issues that were previously unknown. Rather it supports rhetoric long heard from the Indigenous and Black communities in Canada by

underlining the many ways in which racism and colonialism remain intact through the continued influence and impact it has on daily life. This project is exploratory and in no way gets fully to the depth of these issues faced by our society, but it aims to achieve something that needs to be done a lot more, that being centering the experiences of racialized individuals when they are willing and open to share. My hope is that this thesis will remind those who read it that so much more work needs to be done in order to achieve a true sense of racial justice in so-called Canada.

There is little dispute as to the existence of systematic racism within Canadian society and the way in which it comes to influence drug policy regardless of changes that are made with the hopes of reform. Acknowledging the problem of persisting racial disparities in light of cannabis legalization is just the beginning of achieving real change. Although changing the law can slowly and incrementally change public sentiment and thought about cannabis users and cannabis more generally, our government needs to do more to support reparative measures that adequately address the decades of cannabis criminalization and prohibition. To begin, our government can start by properly collecting race-related data throughout the criminal justice system so that differences in arrests, convictions, and sentencing can be adequately reflected on account of race. Additionally, cannabis amnesty must be expanded to fully address the collateral consequences of punishment that continue to impact the lives of people with cannabis possession convictions (McAleese 2019).

Outside of the criminal justice system, complementary social justice measures must also be implemented, such as programs that encourage Black and Indigenous participation in the new legal system not only as consumers, but also as business owners who profit from the new scheme, and governmental strategies that allow for Indigenous sovereignty over cannabis production, sales, and profits on their land. Initiatives that focus on encouraging the participation

and representation of racialized people within the new legal system can act as a starting point for building the trust that many Black and Indigenous peoples currently do not have in the new legal framework. On a day-to-day level, reforms to drug policy and laws can only result in lasting changes that work to undo persisting racial disparities if they are accompanied by measures that target not only criminal justice outcomes, but also the effects of decades of previous cannabis criminalization. As seen through the responses of some interviewees, there is a greater openness and acceptance to cannabis use, but the need for changes that address the underlying stereotypes and biases that continue to influence how racialized people view, understand, and interact with the new legal regime, along with how they are still impacted by the potential for racial disparities in the new highly regulated system, should be an important priority moving forward. For racialized users who continue to purchase through illegal means, the impact of the new regulations and laws will provide lasting potential for further racial discrimination within the criminal justice system. As such, to effectively achieve the objective of racial justice highlighted during the push for cannabis legalization, racism that exists outside of the criminal justice system must be a starting point to understanding and addressing the further changes that must be made.

The exploratory qualitative evidence presented in the current study, is bolstered by, and in turn supports, contemporary quantitative data on the subject. Qualitative research like that presented here can inform the direction of future quantitative studies in specific areas regarding cannabis legalization. In particular due to the constraints of this thesis research and the limits on time, space, and resources, many potential avenues for further investigation went unaddressed. Specifically, there were three major limitations, pointing to the need for further investigation in order to provide a more meaningful approach to the lived experiences of racialized individuals in

the post-legalization context. These limitations concern gender differences, economic status and social class distinctions, and the Indigenous perspective.

In terms of gender, there were apparent distinctions that arose that require deeper analysis. All of the Black participants in this study were male. To accompany research that has already been done on the male Black experience in terms of racial profiling and the criminal justice system, the attitudes and experiences expressed here can be compared and contrasted to see where overlap and variation exists, as well as how these findings can influence one another. Additionally, since all Black participants were male, it would be important to conduct further research about the lived experiences of Black women in the post-legalization landscape in Canada. Furthermore, one of the themes that arose was perceptions of safety surrounding both illicit and licit means of obtaining cannabis. For most female participants, ideas and views on safety were distinct from the ideas of safety that were expressed by male participants. Notably, female participants shared that the new legal framework provided a greater sense of security and safety when obtaining cannabis. This reluctance of women not wanting to use illegal means might also be coming from the fact that the drug dealers in which they referred to were often men, a point which deserves further exploration. In stark contrast, male participants did not have a perception of safety that was affected by the means through which they obtained their cannabis.

Additionally, cost was cited as a reason for many participants to avoid using the new legal means of obtaining cannabis. Although economic status or class was not evaluated in any great detail within this project, the socioeconomic status of individuals is a very important point of analysis for future research on this topic. The interplay between class and economic status and racialized status is also important for a richer discussion on the conceptual tool of habitus. Habitus itself can be a means of examining social and cultural capital more broadly. In the

context of cannabis legalization and the racial habitus that can be seen to operate in light of this new legal system, socioeconomic perspectives may also prove valuable in receiving a greater understand about the everyday effects of legalization on racialized individuals.

Lastly, the present study only included three Indigenous participants. This limitation is particularly important given that there are a variety of varying traditions and experiences that are present among different Indigenous people, groups, and Nations in Canada. As such, the impact and everyday experience of cannabis legalization may change across various Indigenous groups, and it is important to understand the perspectives of all Indigenous people in order to provide meaningful social justice initiatives that address all aspects of this legislative reform.

The results of the current study bring to focus the importance of intersectionality to social science research, especially in the realm of qualitative studies. Intersectionality provides a useful theoretical lens through which researchers, policymakers, and scholars alike can examine the connections and interplay between different forms of oppression (Owusu-Bempah 2017). More specifically, in the context of this research, a more intersectional approach can help future research on this topic allow for a comparative analysis that not only operates across racial categories, but also across a combination of various ethnic, gender, and class populations and communities.

Overall, the goal of this research was to explore the persisting racial disparities in the post-legalization landscape in Canada. Having centered the experiences of Black, Indigenous, and white participants, who use both illegal and legal means of obtaining cannabis, the differing dispositions towards legalization and the true impact of drug policy and law reform can be seen. Many disparities persist despite cannabis legalization and the need for complementary social justice initiatives cannot be clearer. In order to effectuate true racial justice through cannabis

legalization, more not only needs to accompany the current legalization regime, but also further in-depth research must be conducted that centers experience in terms of factors outside of race.

Ultimately, this research was conducted by a white researcher, which limits not only the understanding of certain experiences, but also broader understandings of the impact racism can have on an individual. Interviewing those who have had experiences of racism in both the pre-and-post legalization context, was not only eye-opening to myself as a white female researcher but it also provided for an understanding of just how nuanced and complex racism is and how it comes to operate. Much of what was demonstrated through the interview findings were things I have the privilege of not worrying about. Notably, the feelings of mistrust and skepticism were something I would not have expected to influence an individual's decision to continue to use illegal means. However, after conducting research I can see the barriers that one's positionality can place in front of understanding the racialized experience and how to adequately address it. An important note to also mention is the fact that after my first year of law school, I have been exposed to a more in-depth understanding of how the legal system itself has built and sustained racial disparities within Canadian society. This research has provided substantial evidence as to how disparaging social and political reform efforts can be for racialized individuals, even when these policies are proposed with the hopes of creating meaningful change.

Final Thoughts

To end, it is important to remember where this project started. It started based on the promise that legalization would bring about racial justice in Canada's criminal justice system and national society more broadly. However, this promise has fallen short in a number of serious ways. As numerous studies cited to above demonstrate, persisting racial inequalities continue despite the eradication of certain cannabis-related charges. This research merely provides further

indication that these disparities extend outside of the criminal justice context alone. The continuing inequalities and disparities occur every day and influence racialized individuals' interactions, perceptions, and experiences of and with the new legal framework.

As Valleriani, Lavalley, and McNeil (2018) note, ignoring reparations, which are an important element in the ethical liberalization of drug laws, does not mean disparities will simply disappear. As such, the present research furthers the call for complementary social justice initiatives alongside cannabis legalization. If the goal is racial justice, the goal must be systemic and structural reform beyond the criminal justice system. Promoting fairness and decreasing the lasting punitive effects of decades of cannabis legalization and criminalization requires anticipating how engrained police practices are and how they work to undermine policy and law reform, along with emphasizing the importance of a holistic lens to view the consequences that exist in non-criminal contexts. More specifically, it requires looking at the web of systems in which are enmeshed the implications of cannabis legalization. Ultimately, to achieve any concrete social and racial justice, cannabis legalization cannot be an end. It must be the start of a transformation where the experiences of those most affected by prohibition are centered and the continued possibilities for justice and further change are promoted and actualized.

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