

Overpoliced and Underrepresented: Perspectives on Cannabis Legalization From Members of Racialized Communities in Canada

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Abstract

Historically, overpolicing of some racialized and Indigenous groups in Canada has resulted in unequal application of drug laws contributing to disproportionate rates of charges and convictions in these populations. Criminal records severely and negatively impact an individual's life and can perpetuate cycles of poverty and socioeconomic disadvantage. On October 17, 2018, Canada legalized cannabis production, distribution, sale, and possession for non-medical purposes. Advocates of criminal justice reform have raised concerns that Indigenous and racialized people may not equitably benefit from legalization due to unequal police surveillance and drug enforcement. These groups are among priority populations for research on cannabis and mental health, but their views on cannabis regulation have been largely absent from research and policy-making. To address this gap, we asked self-identified members of these communities about their lived experiences and perspectives on cannabis legalization in Canada. Between September 2018 and July 2019, we conducted semistructured interviews and focus groups with 37 individuals in Québec, Ontario, Alberta and British Columbia. During this phase

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of early cannabis legalization, participants responded to questions about anticipated public health risks and benefits of legalization, how their jurisdiction is responding to legalization, and what community resources would be needed to address legalization impacts. We conducted a thematic analysis and identified five major themes in the data related to race and early cannabis legalization: overpolicing of racialized communities, severity of penalties in new cannabis legislation, increased police powers, and underrepresentation of racialized groups in the legal cannabis market and in cannabis research. Participants discussed opportunities to support cannabis justice, including establishing priority licenses, issuing pardons or expunging criminal records, and reinvesting cannabis revenue into impacted communities. This work begins to address the paucity of Indigenous and racialized voices in cannabis research and identifies potential solutions to injustices of cannabis prohibition.

Keywords

cannabis, legalization, racialized communities, race, policing, criminalization

Historical analyses show that Canada's earliest drug laws, including cannabis laws, had racist origins. For example, the 1908 Opium Act was largely the product of anti-Asian sentiment and was disproportionately applied to Chinese-Canadians. This resulted in high rates of convictions and the expulsion of many immigrants from Canada (Carstairs, 2006; Giffen et al., 1991). Since that time, Canadian drug policy has continued to disproportionately impact some racialized and Indigenous communities. While Canada's war on drugs was ostensibly meant to target high-level drug networks, it has often mirrored the wide-reaching US campaign in rhetoric, punitive policies and profiling practices (Adlaf et al., 1991; Erickson, 1992; Khenti, 2014). Police drug surveillance trainings that specifically profiled racial groups have been used to advance this approach (Tanovich, 2006). Impacts are reflected in disproportionate rates of arrests for low-level cannabis offenses among Black and Indigenous populations (Dauvergne, 2009; Marshall, 2015; Mosher, 2011; Mosher & Akins, 2015; Mullings et al., 2016; Owusu-Bempah & Luscombe, 2021; Solomon, 2017). Notably, Indigenous and racialized women have been especially affected by punitive drug policies (Boyd & Faith, 1999; van der Meulen et al., 2018).

There is ample evidence from the US and the UK that Black individuals are more likely to be stopped, questioned and searched by police than other racial groups (Bowling & Phillips, 2002; Engel et al., 2002). Although Canadian police services have not routinely collected information on the race of those they interact with (e.g., stops and searches), the tide is changing. Beginning in 2019, the Ontario government mandated the internal collection of race information for use of force incidents (Foster & Jacobs, 2022). Until the collection of this information becomes routine practice, police statistics cannot be used to confirm the presence or absence of racial profiling (Millar & Owusu-Bempah, 2011; Owusu-Bempah & Wortley, 2014; Wortley & Tanner, 2004). However, a number of field studies and empirical research support the realities of racial profiling in Canada (Fitzgerald & Carrington, 2011; Tanner & Wortley, 2002; Wortley & Owusu-Bempah, 2011). Indigenous people in Western Canada and Black people in the cities of Toronto and Montréal report more unprovoked stops and searches by police than their white peers (Rankin & Winsa, 2012; Wortley & Tanner, 2004). James (1998) and Neugebauer-Visano's (1996) qualitative work found that Black youth from Ontario reported higher rates of police stops, questioning and searches than youth from other racial backgrounds. More recent qualitative work found that both Indigenous and Black youth from southern Ontario report frequent negative experiences with police and believe that they treated differently by police because of their race (Wortley, 2021). Quantitative surveys of Toronto youth and adults between 1994 and 2007 found that Black respondents were more likely to report experiences with racial profiling and being stopped and searched by police than those from other racial backgrounds (Tanner & Wortley, 2002; Wortley, 1996; Wortley & Owusu-Bempah, 2011; Wortley & Tanner, 2004). A recent analysis of multiple

waves of survey data between 1994 and 2019 found that Black people report higher rates of police stops and searches than those from other racial groups, and that these differences remain significant after controlling for relevant sociodemographic factors (Wortley & Owusu-Bempah, 2022). Research on justice involvement among Indigenous, Black and Arab/West Asian youth in Canada found evidence that discriminatory police practices may explain the overrepresentation of these groups in the criminal justice system (Fitzgerald & Carrington, 2011).

Beginning in 2002, the *Toronto Star* newspaper began publishing articles on crime and race in Toronto. From 2012 to 2013, the newspaper published their Known to Police investigative series that included a 12 year analysis of stop and search data from the Toronto Police Service's Criminal Information Processing System (CIPS) that corroborate research findings. Their analysis found that Toronto police stop, question and record the personal details of Black individuals—a practice known as carding—more frequently than white individuals. Between 2008 and 2011, Black people accounted for 25% of carding events despite representing only 8.3% of the Toronto population. The likelihood of being stopped and documented was also higher in predominately white neighborhoods (Rankin & Winsa, 2012). These findings are supported by additional analyses that revealed higher rates of police stops among Black youth than white youth, especially in white neighborhoods (Meng, 2017). Results from the Kingston Police data collection project found that Black males were three times more likely to be stopped and questioned than males from other racial backgrounds (Closs & McKenna, 2006).

The *Toronto Star* also reported finding that law enforcement officers stop and search Black individuals for illegal drugs under the pretense of enforcing other laws such as traffic violations (Rankin et al., 2002a; Rankin & Winsa, 2013). This results in an overrepresentation of some racialized groups in “out-of-sight” offences such as driving without insurance, which can only be discovered after being stopped and questioned by police (Rankin et al., 2002b). These claims have received mixed empirical support (Melchers, 2003; Meng et al., 2015). The *Toronto Star* analysis also reported that Black individuals are less likely to benefit from police discretion (e.g., being released at the scene), and more likely to be detained, processed and held in custody than their white counterparts (Rankin et al., 2002a, 2002b). This finding is supported by a study on Canadian bail hearings that found race to impact judicial outcomes (e.g., bail vs. remand decisions; Kellough & Wortley, 2002). The Kingston Police data collection project also revealed slightly higher rates of arrests and charges during police stops among Black people when compared to other racial groups (Closs & McKenna, 2006). Owusu-Bempah and Luscombe (2021) completed a multi-jurisdictional analysis and found that Black and Indigenous people are overrepresented in cannabis possession arrest statistics. Further, a recent Toronto Police Service report revealed glaring evidence of racial discrimination in policing (Toronto Police Service, 2022). An analysis of race-based use of force data collected in 2020 found that Black people were overrepresented in use of force incidents, and Indigenous people were overrepresented in strip searches. Members from Middle Eastern, Latino and Southeast Asian communities also experienced disproportionate rates of use of force (Foster & Jacobs, 2022; Toronto Police Service, 2022). It is clear that Indigenous people and some racial minority groups are overrepresented in the justice system in Canada due to discriminatory police practices (see Owusu-Bempah & Gabbidon, 2020).

Overpolicing has contributed to high rates of racialized incarceration in Canada. Despite representing 3.5% of the Canadian population, Black Canadians accounted for 7.2% of the federal prison population in 2018–2019; Indigenous people, who comprise 4.9% of the population in Canada, accounted for 25.2% of the federal prison population (Public Safety Canada, 2020). There is evidence that Indigenous people are systematically disadvantaged by the courts, police and prison systems (Comack, 2012; Monchalín, 2016). Indeed, inquiries and inquests into Indigenous deaths in custody signal a tragic consequence of ongoing systematic injustices in Canada (Razack, 2013, 2015). Broadly, the social impacts of justice involvement are enormous. Criminal records can severely and negatively impact an individual's life trajectory by affecting employment and financial prospects (Chen & Shields, 2020; Fernandes, 2020; Sheppard & Ricciardelli, 2020), housing (Zannella et al., 2020), child

custody (McKendy & Ricciardelli, 2020) and citizenship status (Speight et al., 2020). Further, the cumulative impacts of criminal justice involvement contribute to intergenerational cycles of poverty and socioeconomic disadvantage in affected communities (Canadian Bar Association, 2017; Levy-Pounds, 2013; Novero et al., 2011; Tabbara, 2020).

In 2017 the Liberal Party of Canada introduced the Cannabis Act to Parliament with the stated goals to protect young people, promote public health, reduce criminal justice involvement and diminish the illegal cannabis market (McLellan et al., 2016). The bill regulated and legalized cannabis production, distribution, sale, possession and consumption for nonmedical purposes, and was passed by the Senate and received Royal Assent in June 2018. On October 17, 2018, Canada became the second nation to federally legalize cannabis after Uruguay (Sapra, 2018; Slade, 2020). Under Canada's constitutional division of powers, the federal government is responsible for licensing, taxation, setting requirements for cannabis cultivators and producers, industry standards (e.g., production practices, products, packaging, serving size and potency) and public education, while the provincial and territorial governments are responsible for developing and enforcing regulations concerning sales and distribution (e.g., retail systems; Government of Canada, 2021a). Additional restrictions can be added to the federal legislation by the provinces and territories (e.g., age and possession amount limits), and bylaws concerning cannabis use can be passed at the municipal level. As such, there are thirteen distinct cannabis regulatory systems in Canada with individual consumer regulations, retail structure (private, public or hybrid sales models), fees and revenue structures, and penalties, similar to alcohol regulation (see Canadian Centre on Substance Use and Addiction, 2022; Government of Canada, 2021a).

While legalization was applauded by cannabis rights and criminal justice reform advocates, it was not without controversy. The Cannabis Act's companion legislation, An Act to Amend the Criminal Code (2017), created new criminal offences for being at or over prohibited blood drug concentrations for certain substances, authorized law enforcement to order screening (i.e., breath or bodily substance) without reasonable suspicion of impairment, and increased maximum sentences for driving-related offences (Government of Canada, 2021b). Further, although cannabis was removed from the Controlled Drug and Substances Act, the Cannabis Act established new criminal offenses (e.g., possession of illicit cannabis, trafficking to minors) with harsher penalties compared to other legal drug offenses (e.g., alcohol; Valleriani et al., 2018). Members of the Senate committee on legal affairs and representatives from the Indigenous Bar Association raised concerns that the bill may worsen judicial outcomes for Indigenous and racialized individuals due to overpolicing and drug enforcement practices (Leblanc, 2018).

To address concerns with past criminalization, Bill C-93, An Act to provide No-cost, Expedited Record Suspensions for Simple Possession of Cannabis, was ratified in 2019 to expedite pardons for people convicted of simple possession of cannabis. Although the government estimated 10,000 Canadians could be eligible, under 300 pardons were granted in the program's first year (Goyette, 2020; Harris, 2020). Since then, Parole Board of Canada (PBC) records show that 780 applications were received as of October 1, 2021. Of those applications, 484 were granted. Notably, 288 were deemed incomplete or ineligible and returned to the applicant (Zimonjic, 2021). Representatives from government and legal associations (e.g., New Democratic Party, Criminal Lawyers Association) have noted that the application process is arduous and involves additional costs (e.g., obtaining records, fingerprints) which can be a barrier for some people (Harris, 2020). Additionally, individuals with prior convictions are ineligible for record suspension. Members of communities who face disproportionate police scrutiny and consequent justice involvement may be disadvantaged by these policies. Legal experts and advocates (e.g., Campaign for Cannabis Amnesty) have called for the automatic expungement of criminal records for cannabis offenses. Increasingly, racialized people are calling for restorative justice approaches that would make reparations to those negatively impacted by cannabis criminalization (Mize, 2019; Tribble, 2018). Commentators have discussed a relative lack of further

reparative action from the Canadian government (Owusu-Bempah & Luscombe, 2021; Valleriani et al., 2018).

In addition to issues with the legislation itself, a 2018 Standing Senate Committee on Aboriginal Peoples report noted an alarming absence of consultation with Indigenous communities during its development. The report highlighted a lack of education materials and mental health and addiction supports designed for Indigenous communities to accompany legalization (Standing Senate Committee on Aboriginal Peoples, 2018). In their paper on cannabis legalization in Canada, Koutouki and Lofts (2019) assert that it is crucial to consult with communities that have been disproportionately affected by cannabis prohibition. The authors note that many Indigenous communities are overwhelmed with substance-related social and health harms due to ongoing injustices relating to colonization and prohibition. Community members voiced concerns that legalization may exacerbate these issues if enacted without certain provisions and accompanying supports. The authors also discuss Indigenous communities that welcomed the opportunities and potential benefits of legalization. Although there are diverse views of cannabis among communities, cannabis regulation is ultimately an issue of sovereignty and economic self-determination (Crosby, 2019; Donovan, 2019). The Standing Senate Committee as well as Indigenous leaders affirm that communities should have the ability to self-regulate cannabis and benefit from legalization, and concluded that more time was needed for consultation and communities to prepare for legalization (Koutouki & Lofts, 2019; Standing Senate Committee on Aboriginal Peoples, 2018).

The Present Study

This study aims to gain an understanding of the perspectives of understudied priority groups regarding cannabis legalization in Canada, including expected impacts, opportunities and concerns. We engaged with self-identified members of these communities to learn about their lived experiences and perspectives on legalization. This work addresses the paucity of Indigenous and racialized voices in cannabis research and identifies opportunities to address injustices of cannabis policy.

Method

Design

This study is part of a larger project examining perspectives on cannabis legalization in Canada and assessing the responsiveness of provincial and federal policy frameworks (Rueda et al., 2020; Watson, Hyshka, et al., 2019). In this article, we report qualitative findings from semistructured focus groups and interviews conducted with community members in the four most populous provinces of Québec (QC), Ontario (ON), Alberta (AB) and British Columbia (BC). Focus groups allow participants to build on each other's ideas in a supportive, moderated environment which can facilitate the sharing of perspectives and experiences (Packer-Multi, 2010; Warr, 2005). Participants were also offered the option to share their perspectives in a one-to-one interview if they preferred this format or could not attend a focus group (DiCicco-Bloom & Crabtree, 2006).

Participants

We employed a purposive sampling strategy (Patton, 1999) to collect detailed and in-depth information from key priority groups. Community-based agencies that work with and provide services to racialized communities in the cities of Montréal, QC, Toronto, ON, Edmonton, AB, and Vancouver, BC were identified through the research team's professional networks. These agencies assisted study recruitment by circulating recruitment flyers to their networks. Eligible participants were at least 18 years old and identified as a member of a racialized community or communities, such as Indigenous

(First Nations, Inuit, and Métis), African Canadian, South Asian, East Asian, and Latino. Eligibility criteria concerning cannabis was set broadly to gather multiple perspectives. Participants could work with and/or advocate for those affected by cannabis legalization, be interested or invested in issues related to substance use, and/or be cannabis users themselves.

The sample included 37 community members who participated in the study between September 2018 and July 2019. Twenty-eight individuals participated in five in-person focus groups (ranging in size from 2 to 11 participants). Two focus groups were conducted in Toronto, ON (focus group 1: $n = 3$; focus group 2: $n = 6$); and one each in each in Montréal, QC ($n = 11$), Vancouver, BC ($n = 2$), and Edmonton, AB ($n = 6$). Nine individuals completed an interview in-person ($n = 2$) or by telephone ($n = 7$). Telephone interviews were conducted with participants from Vancouver, BC ($n = 3$), Toronto, ON ($n = 2$) and Montréal, QC ($n = 2$), and in-person interviews were conducted in Vancouver, BC ($n = 2$). Focus groups and interviews were conducted in the weeks before or within nine months of the start of legalization. We contextualize our findings within this transitional period.

Materials

The semistructured focus group and interview guides were developed collaboratively with the larger project's research team to ensure they used appropriate language and would support reflection and the sharing of experiences. The guides contained open-ended questions with follow-up prompts on topics such as: (1) potential public health risks and benefits anticipated by legalization (e.g., *Do you think that cannabis legalization will create any risks/benefits for public health?*); (2) jurisdictional responses to legalization (e.g., *How well do you think legalization is being handled in your jurisdiction/community?*); (3) anticipated community impacts (e.g., *What do you think the impacts of cannabis legalization will be at the local level or at your organization? Do you think that certain communities or groups will be impacted more or less than others?*); (4) community consultations (e.g., *Have community members been engaged at all in the process? Are there certain stakeholders or segments of the population that you think should have been or still need to be consulted on cannabis legalization? If so, who are they?*); and (5) community preparedness and resources needed to address legalization impacts (e.g., *How ready or prepared do you think your jurisdiction and local community are for cannabis legalization? What types of resources are needed at the local level to respond to cannabis legalization?*). Following discussion and recommendations for describing samples in qualitative research, we relied on participant self-identification and did not collect demographic information from participants (see Morse, 2008).

Procedure

All participants provided informed consent prior to the interviews and focus groups. Focus groups were co-moderated by trained members of the study team (TMW, SR, AOB) and interviews were conducted by one member of the study team (TMW). All sessions began with welcome and introductions, a general topic overview and review of procedures. The focus groups and interviews were audio recorded on an encrypted device. An external service transcribed the interviews verbatim and anonymized all identifying information. Participants were compensated with \$30 CAD. All procedures were performed in compliance with relevant laws and institutional guidelines. The study was approved by the research ethics boards at the Centre for Addiction and Mental Health and the University of Toronto.

NVivo 11 software (QSR International Pty Ltd., 2015) was used to manage data and thematically analyze transcripts following Braun and Clarke's (2006) reflexive approach. Thematic analysis was both deductive and inductive. The deductive component involved the creation of preliminary codes based on the project research questions, the interview guide questions and a preliminary scan of the

interview data. The study's primary interviewer and moderator (TMW) generated initial codes and organized data relevant to each code by a repeated reading of transcripts. The inductive component followed the creation of the initial codes. Open coding was conducted to identify additional codes and emerging themes within the transcripts. A subset of the larger research team met regularly during coding and analysis to discuss codes and developing themes. Another team member (JLW) conducted additional focused coding based on these discussions. Coding summaries describing themes, sub-themes and data patterns were prepared, reviewed and refined by the larger study team. The data was iteratively recoded until the refined themes and subthemes reflected the data set.

Findings

We identified five major themes in the data related to race and early cannabis legalization.

Overpolicing of Racialized Communities

Several participants discussed how systemic racism can manifest in overpolicing and racialized drug enforcement practices. Participants described experiences with unfair and disproportionate police attention in their communities, and noted how this is reflected in high rates of arrest for drug offenses. Participants expressed frustration with racial profiling and asserted that there are widespread, deep-rooted issues with systemic racism in policing in Canada. Despite the intention of legislation to reduce arrests, participants did not think that people from their communities would benefit from cannabis legalization to the same degree as their white peers due to overpolicing.

[P]eople of colour historically have been disproportionately impacted for cannabis-related offences, as far as it relates to charges and arrests. The stats are very clear that people of colour have been unfairly affected. (Interview, BC, May/2019)

[P]olicing comes with, you know, internal biases. And so my worry is that with a law like that, the way it actually gets enforced, or regulations around impairment, the way it gets enforced will, again, disproportionately impact racialized men, in particular, and Indigenous men. (Interview, ON, Oct/2018)

Participants spoke about the historic and enduring effects of systemic racism. Respondents reasoned that systemic overpolicing of Indigenous and racialized people will continue to lead to high rates of arrests and charges related to new offenses among these groups. A few participants articulated concerns that arrests and charges may increase for Indigenous and racialized men in particular.

Severity of Punishment for New Cannabis Offenses

Overpolicing was seen as especially problematic in light of the increased severity of punishments for new cannabis offenses (e.g., impaired driving, possession of illicit cannabis and trafficking to youth). Participants described mandatory sentences for minor cannabis offenses as harsh, and thought that punishments are incommensurate with offenses involving other legal substances (e.g., alcohol). Participants worried that the historic nature of drug enforcement would especially disadvantage racialized individuals. Notably, a few alluded to possible profit-driven motivations for the increased severity of penalties and targeted law enforcement practices.

What I do have the problem with are the penalties that they're planning on issuing, on anyone who is younger, should they possess and/or dare share it with their friends. I mean, they could face up to fourteen years in prison. Which is, you know, that, I mean, that's just unheard of, right? (Interview, ON, Oct/2018)

Like just, that's one of them, the selling to minors or if you're caught with a minor, even giving paraphernalia, so it's the same thing. If somebody wanted papers from you, or a grinder, that's, it's a big fine for that, and a jail sentence for that too, right? So, it kind of doesn't make a lot of sense. But they do plan on making a lot of money off policing, with the legalization. So, it goes hand in hand. (Focus group, ON, Sept/2018)

Considering the realities of overpolicing, some participants expressed concerns with punitive zero-tolerance laws given the lack of technology to accurately assess cannabis impairment. Participants noted that safety is important, but indicated that there are difficulties assessing impairment due to how tetrahydrocannabinol (THC) and cannabidiol (CBD) are metabolized and individual differences in drug responses. Some participants expressed that an individual can have cannabis in their system and not be functionally impaired.

And so, I believe that the laws are very unjust and overly punitive and very potentially damaging to people, their lives, their careers [...] it's very scary to me, how they're approaching it. And [...] I've read a lot about the impairment testing devices that they plan on using. And half of these things fail when the temperature is a few degrees lower or a few degrees higher. So they're using equipment that's not even reliable. (Interview, ON, Oct/2018)

[I]t's so challenging in the way that impairment is tested because we know that THC and CBD remain in the body for longer than alcohol does. So I think it's going to be challenging from that perspective. [...] I think that's one area that hasn't been planned for well and could have been, perhaps planned a little bit better. (Interview, BC, May/2019)

[I]t [new technology] does not accurately test for impairment. It tests whether THC is present in the blood. But it does not, that is not equivalent to impairment [...] this lack of understanding about the difference between the THC being in the system and then the level of impairment is really crucial. (Interview, BC, May/2019)

Participants stressed that reliable and accurate methods of assessing impairment are critically needed and should have been established prior to legalization. Participants stressed that any subjectivities in law enforcement are problematic given the realities of police bias and systemic overpolicing.

Increased Police Powers and Negative Psychological Effects

Some participants noted their concerns with police being authorized to search and mandate substance screening without reasonable suspicion of impairment. Participants expressed deep concerns with any kind of increases to police power and worried that it would lead to more stops, searches and arrests of racialized individuals for new cannabis offenses.

P1: The law around impaired driving, in the criminal code, has been completely revamped. [...] And so, police officers now have the authority to ask for a breath over, a breath sample, in case of alcohol or for a saliva sample, in case of marijuana, without having any particular ground to believe that you've smoked or [...] So, again, that's going to create, until it gets challenged of course—P2: Create a lot of Black people getting arrested. (Focus group, QC, Nov/2018)

It's the carding. It's the carding. I've been saying that. (Focus group, ON, Mar/2019)

In addition to legal ramifications, some participants described their experiences of racial profiling by police and the negative psychological and emotional impacts of these encounters. Some explained that they still feel vulnerable to racial profiling by police despite legalization, and worry about the consequences if police find them in possession of cannabis. This concern was often discussed in relation to police enforcement of drug-impaired driving laws.

And that's actually one of the reasons why I literally stopped driving a few years ago, before even legalization. I'm just tired of the racial profiling. I'm tired of the explaining. I'm tired of the actual energy that I feel on my body, when they [the police] get behind me. [...] I feel like I just was aged five years. You know? I'm looking in the back. I'm worried. "What are they going to look for? I mean, do I have my ganja? Where is it? I don't know where it is." Like, now, my mind's just goes all over the place. And I'm, to be honest, energetically, more frightened of police, and what they're going to do to people. (Focus group, ON, Mar/2019)

[T]wenty years of smoking, maybe more than that, I think more, thirty years of smoking, I am more afraid currently, of the police, than people who are driving high on cannabis. [...] I am more afraid of what police are going to do when they find me with this plant. (Focus group, ON, Mar/2019)

Participants also discussed strained relationships with police due to overpolicing and raids of community-based cannabis events. Some participants discussed stigmatized media representation of what they regarded as positive community-based cannabis cultures. Participants described how these negative experiences can contribute to fear and distrust of police within particular communities.

Now, every single one of these events I've gone to, I felt so comfortable in each and every one. I've never, I haven't seen anything that would warrant police coming and throwing people on the ground, and they're put in cuffs, behind their back, and unfortunately, making people cry and experience trauma and then, distrust for a force that we should try to trust, right? [...] It is a very hard job to do, and I can tell a lot of these police officers don't want to do raids, but it's part of their job and they have kids to feed and they have a family to help. So I understand that, but I'm still worried about local communities in that way. (Focus group, ON, Sept/2018)

Due to experiences with racial profiling, overpolicing and strained police-community relations, some participants felt racialized individuals may not fully benefit from the legalization of cannabis in Canada. As described in the next section, similar sentiments were expressed concerning the legal cannabis economy.

Underrepresentation in the Legal Cannabis Market

Participants observed that Indigenous and racialized individuals are underrepresented in legal cannabis spaces and can face multiple barriers to inclusion as consumers and producers. As consumers, participants described how some members in their communities (e.g., those experiencing poverty, the elderly) have faced barriers to legal cannabis due to a lack of access to and/or familiarity with technology needed to make online purchases. Participants described how some individuals may also experience language or information barriers when purchasing. Participants expressed concerns with the affordability of legal cannabis and noted that some may be uncomfortable purchasing from retailers external to their community.

I work with a group of Elders, and they all partake in this medicine. And they have zero access, in terms of this new "regulation" model. Ah, they're [...] not computer savvy. They're not going on whatever, this new crafty OCS [Ontario Cannabis Store]. We have no brick-and-mortar stores. (Focus group, ON, Mar/2019)

Oh, I could definitely say with the communities that make less money, for different reasons, are going to get the bad end of the stick, just not even being able to access something that's supposed to be legal. (Focus group, BC, Apr/2019)

But for me, it's like [Name] said, the poverty, people in poverty, that's a community that certainly is hurt by legalization. Trudeau said he was going to get rid of the green market or the underground market by keeping the prices low. Well, that's certainly not the case at all. The government stores are, have grams up to twenty-two-fifty. It's ridiculous. (Focus group, BC, Apr/2019)

With regard to producing, participants described how a criminal record may prevent an individual from obtaining a license to produce. Participants noted the importance of inclusion and representation of racialized communities in the legal cannabis market because they have been especially disadvantaged by cannabis criminalization. Participants perceived a problematic lack of diversity in the legal cannabis economy, with non-racialized groups disproportionately profiting from legal cannabis. Participants alluded to complex relationships between inclusion, social outcomes and cycles of poverty in their communities, and their view of the importance of equal market participation and representation.

We [Black people] don't really own any cannabis companies, even the up-and-coming companies. We don't own any. But on the negative side, we're the ones that are overly prosecuted. That's kind of one of the main reasons why, you know, it's being legalized, but we're still shying away from it. If you go to these markets, go to many of the stores, you know, you notice that there's not much of us [. . .] there's everybody else but Black people. (Focus group, ON, Sept/2018)

I remember seeing a Tweet by an individual, [. . .] a white, business man, just recently graduated, getting praised by the media for doing a cannabis company, while my father is in jail, because he's Black and had marijuana on him, makes me a special kind of angry. (Focus group, ON, Sept/2018)

Notably, participants discussed the importance of historical, religious and spiritual perspectives (e.g., Rastafari, Indigenous) and uses of cannabis being represented, honored, and upheld in the industry. Many participants expressed dislike for how commercial production appears to prioritize profits and maximizing THC levels over organic and respectful cultivation. Some participants expressed concerns about health and safety in view of the heavy use of pesticides in commercial operations.

I do identify as an African woman, as a Black woman, as a woman of Rastafari. And I noticed that there is a direct removal of that culture that's been connected to the plant, you know? (Focus group, ON, Mar/2019)

Yes. And for me, I stay within communities, like the Hindu community, or the Rastafarian community, who have some type of spiritual access to the plant. [. . .] 'cause we can date their usage way back—[. . .] And not just date, like, how you are going to recreate or produce things from the plant is not this, like, capitalist mercantile kind of "How much money can I make?" (Focus group, ON, Mar/2019)

Most participants believed that incorporating cultural or spiritual views and practices into cannabis cultivation would improve product quality and strengthen the market. Such efforts would also bring some restorative justice for communities impacted by criminalization. To increase representation, participants proposed priority licenses for those from communities most disadvantaged by criminalization. Participants expressed a need for accessible information on overcoming barriers and navigating the legal cannabis landscape. Pardons or expungement of criminal records were seen as essential. Participants also recommended that cannabis revenue be reinvested into communities.

But I think for local community, just like knowing how to get licenses, you know, what's the process; how to, again, operate in a legal market; how to get pardons once the amnesty the motion, is passed [. . .] a brochure, informational toolkit that helps them navigate the system in a way they feel like they're not threatened. As in, you know, there's sometimes some fear that I hear from entrepreneurs who, let's say, were convicted in the past, and so for them, navigating the system in order to become more mainstream. There's a fear that they'll get criminalized again because of prior convictions and connections. (Interview, ON, Oct/2018)

So, overall, more people from our communities should have the chance to get a job in the cannabis community, or start a cannabis business, or some kind of venture. It doesn't have to be just a dispensary itself. (Focus group, ON, Sept/2018)

Despite these calls to action, participants expressed their view that reconciliatory opportunities were not being pursued by the federal government or private industry. Participants stressed that more needs to be done to address injustices caused by criminalization. In addition to Indigenous and racialized communities participating in the cannabis market as producers and vendors, including their perspectives in cannabis research and policy is essential.

Underrepresentation in Cannabis Research

Participants discussed the need for Indigenous and racialized communities to be involved in cannabis research, particularly studies that explore relationships between trauma, discrimination, mental health, cannabis and other substance use, and community impacts. Participants discussed the complex needs of particular groups (e.g., refugees, youth) and felt that these perspectives were largely absent from research.

The reason that I'm here, you know [...] we have a lot of questions, because we deal with youth, and most of the research has been done here in, if I can say, in Canada, is, it doesn't include the immigrants. That's why I want my voice to be heard about it. Because, nobody does the research, you know, based on the immigrants, how much we are affected. You know? And the youth, for example, that we are serving, they already have got a challenge, because they've been [at] a refugee camp for many years. They are traumatized. And adding this, and now to them, giving them this kind of, you know, freedom, how is [it] going to affect them? (Focus group, AB, Oct/2018)

A few participants noted a distrust of available cannabis evidence by some people in Indigenous or racialized communities, alluding to biases in academia and industry that can influence research findings. Some participants further expressed their view that research often lacks a nuanced understanding of the effects cannabis has on individuals.

But who's going to, like, some of the times, those things don't get published very well, or get put out there, because, it's, there's, a group of people who don't want that to be seen. Like, there's just, you just look at the tobacco industry and how long it took for them to even tell us what was in tobacco. (Focus group, AB, Oct/2018)

I agree with you that there's been a lot of crap science that has come out [...] but we don't really have a clear framework for sound research that really does consider all of the possible impacts it'll have on a variety of types of people. (Focus group, ON, Mar/2019)

In sum, participants stressed that Indigenous and racialized communities possess rich knowledge and nuanced, pragmatic perspectives that can inform research and policy on cannabis. As one focus group participant (ON, Mar/2019) said: "I think that we elevate academia, and we don't look at our existing communities, right?"

Discussion

In this study, participants discussed concerns with overpolicing, increased police powers related to new laws and severity of punishments for new offenses. Participants discussed the negative impacts that systemic racism in law enforcement has on their communities, and related these practices to life trajectories, cycles of poverty and socioeconomic disadvantage. A few participants expected inequities in arrests and charges to persist or even increase for Indigenous and racialized men under new legislation due to systemic overpolicing. Data from before legalization supports such a pattern (Owusu-Bempah & Luscombe, 2021). Cannabis offense data was analyzed by race across five

Canadian cities in 2015, and it was found that Black and Indigenous people are overrepresented in arrest statistics for cannabis possession. Since legalization, significant reductions in cannabis-related offences have been found (Owusu-Bempah, 2022). This is a success seeing that a goal of legalization was to reduce impacts of criminalization and ease the burden of cannabis-related offenses on the criminal justice system. Further, according to data from the Canadian Cannabis Survey, rates of cannabis use and traffic injuries relating to cannabis impairment were not found to substantially increase post-legalization (Owusu-Bempah, 2022; Statistics Canada, 2021). However, as anticipated by some participants, there is evidence of continued racial disparities in drug arrest data since legalization. Research from the US shows an overrepresentation of racialized people in arrests for public use of cannabis in Colorado since legalization (Drug Policy Alliance, 2016), as well as an increase in arrests for Black and Latino teens (Reed, 2016). Analyses conducted by *VICE World News* on post-legalization non-cannabis drug possession data from five major Canadian cities reveal the same pattern of overrepresentation of Black and Indigenous people in drug arrests (Browne, 2022). Although cannabis-related arrests have declined since legalization, problems with racial profiling in Canada persist and research on public health impacts is still ongoing (Raycraft, 2021). Cannabis legislation and policy in Canada will continue to evolve in response to research as well as Health Canada's mandatory three years post-legalization legislative review. To inform policy development and support social justice, there are urgent calls for the collection and release of Canadian criminal justice statistics by race (Owusu-Bempah & Luscombe, 2020).

In addition to collecting data to identify and address racial disparities, it is essential for law enforcement to end racial profiling practices. Guidelines to achieve this have been outlined in a report by the Ontario Human Rights Commission (2019). Recommendations for law enforcement include acknowledging the realities of racial profiling, community engagement, organizational policy changes and feasible multiyear antiracist action plans. The implementation of these recommendations is essential for identifying, monitoring and decreasing discriminatory practices in law enforcement as well as community relationship building. Further, there is a need for better methods of roadside impairment evaluation and training for law enforcement. Recent research provides a discussion of technical concerns in roadside testing for cannabis impairment (Watson, Mann, et al., 2019). Participants felt that standardized processes and accurate methods of assessing impairment are critically needed given the realities of racial profiling and the severity of punishments under the new driving legislation.

Concerns about accessibility and pricing may have been addressed by changes to cannabis retail models across several jurisdictions. Since 2018, the Canadian cannabis industry has shifted toward hybrid retail models that include brick-and-mortar retailers (Statistics Canada, 2019), though details differ by province (Watson, Hyshka, et al., 2019). Although access to legal cannabis has improved due to the availability of physical retailers, other barriers still remain. Between October 1 and December 31, 2019, the price of legal cannabis was double that of illegal cannabis (Statistics Canada, 2020), and the illegal cannabis market accounted for 80% of cannabis sales in Ontario during 2019 and 2020 (Lysyk, 2020). Some analyses suggest the pricing gap is narrowing and legal cannabis retailers will acquire a larger market share as a result (Brown, 2020). Indeed, retail cannabis prices have been falling sharply in Ontario since 2021 in part due to a surplus of supply. As a result, the majority of consumers are now purchasing from legal cannabis retailers with this trend expected to continue (Lundy & Galea, 2022).

Study participants drew attention to the problematic lack of representation of Indigenous and racialized communities in the cannabis industry. Consistent with this finding, a 2020 report found the majority of Canadian cannabis industry executives and directors are white (84%), while a small percentage of executives are South Asian (3%), East and Southeast Asian (3%), Indigenous (2%), Arab (2%), Black (1%) or Latino/Latina (1%). Considering race and gender, the majority of cannabis executives are white men (73%), followed by racialized men (14%), white women (12%) and racialized women (2%). Compared to their representation in the general population, Black and Indigenous people are underrepresented in leadership roles while white men are overrepresented (Maghsoudi

et al., 2020). Canada's legal cannabis industry is known to have a diversity problem with Indigenous and racialized groups facing some of the biggest barriers to market entry and participation (Bender, 2016). Participants in our study described institutional racism and a lack of access to investment capital as significant barriers to market participation. There are deep-rooted racial inequities in wealth in Canada. Block and Galabuzi (2018) note that although racialized individuals have comparable rates of labor force participation as non-racialized individuals in Ontario, these groups work in the lowest-paying occupations and experience higher rates of unemployment. These authors describe a persistent wage gap that disadvantages racialized individuals, especially racialized women. Further, racialized individuals may have fewer assets and connections to industry investors to provide financial backing for their initiatives (Fairlie et al., 2020). Indeed, a concerning number of executives in legal cannabis companies previously perpetuated the war on drugs (e.g., ex-Royal Canadian Mounted Police, ex-police, Conservative Party Members of Parliament; Valleriani et al., 2018).

Another barrier to inclusion in the legal market is a criminal record for a past cannabis offense. The Cannabis Act and its Regulations stipulate that individual security clearances are needed to become a license holder, disadvantaging individuals who face disproportionate police surveillance and higher rates of convictions. To remove this barrier, participants advocated for pardons or the expungement of criminal records relating to cannabis. This idea is supported by researchers and cannabis justice advocates who recommend automatic expungement or downgrading of offenses unimpeded by previous convictions (Adinoff & Reiman, 2019). Participants stressed that it is essential for racialized communities to have equitable access and benefit from the legal cannabis economy, given that they are most disadvantaged by discriminatory policing (Morgan, 2019). There is evidence for the success of regulatory systems aimed at encouraging participation in the legal cannabis economy. In the United States, California and Illinois offer minority-owned cannabis businesses access to funding and resources, and the Massachusetts Cannabis Control Commission offers cannabis licenses to disproportionately impacted individuals or communities through social equity and economic empowerment programs (Adinoff & Reiman, 2019; Minority Cannabis Business Association, 2022). Although more work is needed, these programs are an important step toward equitable participation in the legal cannabis economy. However, in order for inclusion to have lasting, positive impacts on affected communities, systemic racism and policing need to be meaningfully addressed (Morgan, 2019).

Participants noted that a reinvestment of cannabis revenues into communities harmed by criminalization would improve equity and support restorative justice. In their review, Adinoff and Reiman (2019) discuss relevant programs in the United States. For example, California offers funding to programs that focus on crime prevention, mental health, and economic issues through the Community Reinvestment Fund. In Massachusetts, the Marijuana Regulation Fund supports similar programming through a proportion of cannabis tax revenues. Illinois' Restore, Reinvest, and Renew Program provides priority licenses and also provides low-interest loans, training and resources to startups. The authors note that advocates for these programs stress the importance of economic empowerment initiatives also supporting business opportunities beyond cannabis for impacted individuals and communities.

Some participants discussed the impacts of legalization on Indigenous communities specifically, as Indigenous peoples were not adequately consulted during development of the Cannabis Act. Although some communities may benefit from legalization, the Act lacks provisions to support these communities in legalization (Koutouki & Lofts, 2019), or to acknowledge Indigenous sovereignty in the process. For example, some communities have sought to regulate legalized cannabis on reserve but the Canadian government has not enabled this, leaving much decision-making up to the provinces and territories instead of negotiating nation-to-nation (Crosby, 2019; Donovan, 2019). Although participants touched on these issues, more engagement with Indigenous communities is needed to explore these topics in depth.

Lastly, participants noted that there needs to be more representation of Indigenous and racialized communities in cannabis research. Although these communities are among priority populations for research on cannabis and mental health, these voices are often missing or absent. A report by the Mental Health Commission of Canada (2019) identified a significant lack of research involving immigrant, refugee, ethnocultural and racialized populations. Further, race and ethnicity data are not yet routinely collected and stored in Ontario health administrative databases (Canadian Institute for Health Information, 2022). Federal surveys monitoring public health impacts of legalization do not include race and ethnicity data. This is problematic because race and ethnicity are important determinants of health that affect outcomes related to both mental wellness and substance use (Harrell et al., 2003; Utsey et al., 2008).

Recognizing these issues, the Canadian federal government allocated funding for community-engaged, population-specific research into the relationship between cannabis use and mental health through Canadian Institutes of Health Research and the Mental Health Commission of Canada grants. Participants discussed the importance of including immigrants, refugees and youth in research as these groups have distinct health and service needs. Further, there is an urgent need for research to engage with Indigenous communities due to longstanding inadequate consultation, and issues of regulation and jurisdictional sovereignty (Koutouki & Lofts, 2019). In sum, investments in research, meaningful and ongoing consultation, and robust data gathering and public reporting are essential to achieve cannabis justice for Indigenous and racialized populations (e.g., Morgan, 2019).

Limitations

Our findings reflect views expressed by 37 individuals who identified as members of an Indigenous or racialized community and were living and/or working in a major city in Canada at the time of their interview or focus group. Participants identified as working with and/or advocating for groups or individuals affected by cannabis legalization or substance use. As such, this sample cannot capture the full range of perspectives from Indigenous or racialized communities across Canada. Further, our findings should not be interpreted as attempting to homogenize perspectives across or between prodigiously diverse Indigenous and racialized groups. We engaged with self-identified members of these communities to learn about their lived experiences and perspectives on legalization. Future research on cannabis legalization should also extend beyond urban settings, including those living in small, rural, or remote locations. Our study's recruitment methods were not well-suited to engaging members of Indigenous communities due to time constraints. It is essential that future research captures the unique perspectives of these different groups.

Conclusions

This work begins to address the paucity of Indigenous and racialized voices in cannabis research and identifies potential solutions to injustices of cannabis prohibition. We identified five major themes in the data related to race and cannabis legalization. Participants raised concerns that overpolicing relating to cannabis may continue to disadvantage racialized communities, and expressed deep concerns with the severity of penalties in new cannabis legislation and increases to police power that may lead to more arrests of racialized individuals. Participants described negative impacts of overpolicing and systemic racism on individuals and communities. For these reasons, it is essential that law enforcement follow guidelines and recommendations to end racial profiling such as those outlined by the Ontario Human Rights Commission (2019). Further, participants observed that Indigenous and racialized individuals are underrepresented in the legal cannabis market and experience barriers to inclusion as consumers and producers. Participants described measures to increase representation, including establishing priority licenses, issuing pardons or expunging criminal records, and reinvesting

cannabis revenue into impacted communities. In addition, authentic recognition by the cannabis industry of the cultural and spiritual significance of cannabis is needed. Participants highlighted the need for ongoing and meaningful research collaborations with Indigenous and racialized communities. Federal investment in cannabis research is essential, and targeted research should support studies to examine relationships between colonialism, racial discrimination, cannabis use and wellbeing. Lastly, meaningful engagement and comprehensive consultation during all stages of policy development is essential, as these groups have been systematically disadvantaged by overpolicing and criminalization of cannabis, and many individuals have rich knowledge and unique insights due to longstanding cultural and spiritual relationships with cannabis.

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Margaret Robinson is a Mi'kmaw scholar and a member of Lennox Island First Nation who grew up in the Eskikewa'kik district of Mi'kma'ki. She identifies as two-spirit, bisexual and queer, and conducts community-based research on cannabis use in sexual minority populations. Margaret works in her traditional territory of Mi'kma'ki as an Assistant Professor at Dalhousie University, where she holds the Tier 2 Canada Research Chair in Reconciliation, Gender, and Identity.

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