



## Commentary

## The Canadian war on drugs: Structural violence and unequal treatment of Black Canadians

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## ABSTRACT

This paper examines the impact of Canada's war on drugs on segments of the Black community, specifically with respect to the impact of structural violence, over-policing, and high incarceration rates. It offers evidence of the systemic nature of these dynamics by examining the early context of the war, growing stigma against Blacks, globalizing influences, and the punitive focus of funding and policy. The paper also explores how Black men have been identified as the main enemy and how drug control efforts have served to diminish the health, well-being, and self-image of Black men via discriminatory and inequitable treatment before the law. The current high rates of imprisonment of Black men are an indicator of systematic deprivation of significant social capital, which will perpetuate socioeconomic harm and cycles of violence. This commentary calls for an immediate dissolution of policies regulating the war on drugs as the first step in remedying the injustices experienced by Black Canadians. Due to the lack of Canadian data in this important area, the paper also emphasizes the critical need for more research to shed more light on the Canadian-specific complexities.

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## Introduction

Canada's Black community stands at the edge of a public health crisis precipitated by current drug war policy. In March 2012, the Federal Conservative government of Stephen Harper enacted Bill C-10 (the Safe Streets and Communities Act) that, among other things, intensified legal consequences for minor drug offences and further criminalized non-habitual drug use. It effectively expanded the Canadian government's longstanding low-level Canadian war on drugs (WOD) that previously targeted the poorest segments of Canadian society. The Bill complemented the Harper government's 2010 National Drug Strategy which prioritized 'get[ing] tougher on drug crimes' (Mosher, 2011; Tanovich, 2006; Wood, McKinnon, Strang, & Kendall, 2012).

Unbeknownst to many Canadians, Black communities in Canada have been the target of intensive policing since the inception of the WOD in the 1980s, especially in the province of Ontario where most Blacks reside<sup>1</sup>. The war was purportedly designed to apprehend

high-level drug dealers deemed to be a risk to public safety. In reality, low-level cannabis users and dealers were targeted; 62% of drug arrests have been for cannabis, with about 75% involving possession charges (Dauvergne, 2009; Mosher, 2011). A lack of systematic race related data across the various jurisdictions of Canada's criminal justice system makes it difficult to gauge the full extent of the war's impact on Canada's Black communities, especially with respect to racial profiling by police, prosecutorial decision making and pre-trial detention. Nonetheless, the limited correctional and policing data suggest that the impact is far-reaching and severe (Tanovich, 2006; Wortley & Tanner, 2004; Wortley & Owusu-Bempah, 2011).

A direct result of the inordinate police focus on Black communities has been a pattern of racialized mass incarceration, exemplified by a vast overrepresentation of Blacks within the federal offender population in prisons across Canada. In 2010–2011, Black inmates accounted for 9% of the federal prison population although Black Canadians only comprised 2.5% of the overall population (Wortley & Owusu-Bempah, 2011). This figure represents a 52% increase from 2000 to 2001 and the trajectory of growth seems certain to

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<sup>1</sup> The majority of the visible minority population resides in Ontario and British Columbia. The three largest groups are South Asians (24.9%), Chinese (24.0%), and Blacks (15.5%). Fifty-two percent of the Black visible minority group reported Caribbean origins, while another 42.4% reported African origins; Black visible

minorities also reported British Isles origins (11.6%), Canadian origin (10.9%) and French origins (4.1%) (Statistics Canada, 2008). The Province of Ontario has the highest proportion of Black Canadians due largely in part to historical migration patterns. There is little disaggregation of data for Canada's Black population that is routinely collected in other provinces. For example, the category for Canadians of Caribbean origin does not exist in the data for provinces other than Ontario.

continue. By contrast, the predominant White population, along with Asian Canadians, have been under-represented and declining within the prison system during the past decade, even though the WOD ostensibly targeted all Canadians (Treveltham & Rastin, 2004).

A similarly over-represented group, for whom data is systematically gathered, are the Aboriginal people of Canada. They comprise 3.8% of the national population but account for 21.5% of the incarcerated population (Office of the Correctional Investigator, 2012). Estimates indicate that the national adult Aboriginal incarceration rate, both federally and provincially, was 910 per 100,000 in 2010–2011 as compared to 109 per 100,000 for non-Aboriginal Canadians (Correctional Service of Canada, 2011). For Black Canadians, the incarceration rate in federal prisons is 3.4 times their proportion in the general population whilst the Aboriginal Canadian rate is approximately 5 times greater than their representation (Owusu-Bempah & Wortley, 2014). There is a similar disproportionate representation of Blacks in correctional facilities in the United States (Ramchand, Pacula, & Iguchi, 2006; Bobo & Thompson, 2010). The incarceration rate among African Americans (40.1%) was 2.9 times higher than their proportion in the general population (13.6%) in 2009 (West, 2010). Consequently, the estimated probability of the average African American going to prison is 26% higher than that of the average White American (Mukku, Benson, Alam, Richie, & Bailey, 2012). Given comparable contexts, these probabilities may apply to the average Black and Aboriginal Canadian.

This commentary argues that the WOD is intensifying structural violence towards Blacks that existed at more muted levels following the civil and human rights achievements of the 1960s, and offers a compelling rationale to terminate current tactics. By focusing the state's policing and wider criminal justice efforts on vulnerable communities with concentrated poverty, high unemployment and greater numbers of low income Black males, the Canadian state is arguable exacerbating precarious social determinants and impinging on the future prospects of Canada's Black population. This commentary assumes that race and/or ethnicity is a scientifically untenable cause of crime; rather, racialization is the key concept used in the analysis (Roberts, 2012). Racialization is understood as a "process of categorization through which social relations between people are structured by the signification of human biological characteristics in such a way as to define and construct differentiated social collectivities" (Definition by Robert Miles cited in Anthias, Yuval-Davis, Nira, 1993, p. 75). This contemporary process is buttressed by pre-existing racial stigma within the criminal justice system and society as a whole (Mosher, 1998). Historically, law enforcement officials have often considered Blacks to be responsible for the spread of illicit drug use in Canada (ibid). Authorities and public figures in Canada are thus drawn into a systemic historical, political, social and economic process whereby Black men who have long been stereotyped as criminals are now targeted as the enemy in the WOD, regardless of the involvement of other racial communities (Alexander, 2010; Tanovich, 2006; Welch, 2007). The direct consequence of drug war related racialization is a contemporary well-established association of Blackness with criminal tendencies (Alexander, 2010; Tanovich, 2006; Welch, 2007).

The Ontario Human Rights Commission found that racialization usually takes place without negative intent and/or racist design but generates negative outcomes that are equally discriminatory to racialized persons and the communities to which they belong (Ontario Human Rights Commission, 2003). Racialization strengthens systemic racism and reinforces structural violence (Tanovich, 2006). Consequently, Black Canadians experience a range of unequal life chances and associated inequities without clear evidence of individual actors deliberately instituting oppressive policies of racial profiling and racialized incarceration (Farmer, 2005; Commission on Systemic Racism, 1995; Torczyner, 1997,

2003). Law enforcement and/or criminal justice practices may serve as a source of violence in the everyday lives of the marginalized and oppressed (Farmer, 1997, 2005). Arbitrary police stops, searches and seizures, arrests and extended periods of incarceration in Canada certainly attest to this contention. Structural violence theory also suggests that the same social system may then blame individuals for their particular circumstances and the wider social inequalities (Galtung, 1990; Sarang, Rhodes, Sheon, & Page, 2010). Pervasive and widespread racial profiling, disparate gun violence and homicide rates among poor young Black men, may then be envisaged as the ultimate result of the criminal justice system's service as a structural mechanism of social suffering and unequal life chances.

The final section of the paper points to the health effects of the WOD, which has had a profound impact on the mental health and well-being of Black communities, specifically young Black men, as they are threatened by discriminatory and inequitable treatment under the law. Due to the limitations of scholarship and policy remedies that follow from the lack of essential race-related statistics in Canada, the commentary ends with a call for such data gathering by the Canadian state, for racial profiling to be made illegal, and for a greater international focus upon the various victims of Canada's WOD (Owusu-Bempah & Millar, 2010).

### Structural violence: early decisions & human rights consequences

#### *Structural vulnerabilities*

In the 1980s, Black Canadian life involved a range of challenges that can be characterized as structural vulnerabilities. Although similar levels of education existed between Black and White Canadians, 31% of Blacks lived below the poverty line compared to 10% of Whites. Forty percent of Black children aged 14 and under were also living below the poverty line compared with 19% of non-Black Canadians (Torczyner, 1997, 2003). At the time, the Black Canadian population was younger than the overall Canadian population, with 27% under the age of 14 compared to 21% for the general population, with a greater proportion of Black children living with a single parent than White children (46% vs. 18%) (Torczyner, 1997, 2003). During this period, the criminal justice issue of particular concern to Black communities was a greater share of police shootings involving Blacks. For instance, the 14 police shootings of Blacks which took place in Toronto between 1972 and 1992 (African Canadian Legal Clinic, 2012). Despite these vulnerabilities, the inmate population in the 1980s more closely reflected the proportion of Blacks in Canadian society (Brennan, 2011; Commission on Systemic Racism, 1995).

#### *Early decisions*

The pursuit of an American-style WOD was initiated in July 1982 by Brian Mulroney, culminating in a national drug strategy. Legislation was enacted in Canada in 1988 and 1989 banning the sale of drug paraphernalia and strengthening the police's power to seize the assets of arrested drug offenders (Erickson, 1992). The criminal justice approach was further strengthened through the 1995 Controlled Drugs and Substances Act, which enabled sweeping new police powers of arrest, search and seizure, as well as tough new maximum sentences for drug offences (Erickson & Hyshka, 2010). However, Mulroney's claim of a drug epidemic did not stand up to scrutiny. Cannabis, heroin, and cocaine use had been steadily declining following a peak in 1979. By 1991, rates were at their lowest in a generation (Adlaf, Smart, & Canale, 1991). Annual numbers of deaths caused by illicit drugs remained stable throughout

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