

**Bringing colour to a black and white issue: locating frameworks of colour-blindness  
in Canadian racial profiling cases**

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**Abstract**

This study focuses on the processes of systemic racism in present-day Canadian society through an analysis of three key cases of racial profiling. My study uses three of Eduardo Bonilla-Silva's frameworks of colour-blindness to provide an understanding of systemic racism in Canadian society. I apply the frameworks by an analysis of the actors in each case: the judge/inquiry panel, the police and the complainants. In my study I use the frameworks on their own and in combination in ways that explain systemic racism, and therefore racial profiling exist in Canadian society.

I demonstrate how unconscious processes of systemic racism can begin to be analyzed and measured through the use of the colour-blindness frameworks. These frameworks demonstrate existing tools, processes, and strategies that enable racism to exist in contemporary society in a colour-blind fashion, limiting the accountability of white dominance and privilege as major factors in the existence of racism.

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## **Chapter 1**

### **Introduction**

This is a study about race, racism and its systemic processes in present-day Canadian society through an analysis of racial profiling cases in Halifax, Toronto, and Montreal. Specifically, I utilize three frameworks of colour-blindness developed by critical race theorist Eduardo Bonilla-Silva to locate the subtle processes of systemic racism: “minimization of racism,” “cultural racism,” and “naturalization of racism.” I do so by developing an understanding of each framework and its components and then use them in analyzing the cases of *Johnson v. Halifax Regional Police Service (1998)*, *Maynard v. the Toronto Police Services Board (2014)*, *R. v. Campbell (2005)*. The focus of this project is not to target individuals and their intentions, but rather to offer a critique on a current social phenomenon. Through this project I intend to encourage self-awareness and interest on the topic of racial profiling and the processes that allow discrimination to persist despite the myth of its declining presence in Canadian society.

Unlike the day-to-day activities of the average white Canadian citizen, for black men everyday life may be met with unwarranted contact with law enforcement. Conscious or not, negative contact between black men and police is often met unwarranted contact with law enforcement. In some cases, contact between black men and police is brought to the criminal justice system for review. Critical race scholar Eduardo Bonilla-Silva offers some useful frameworks for describing and analyzing the phenomena of post-civil rights racism, and ultimately colour-blind racism. Bonilla-Silva proposes four frameworks to characterize the various ways in which racial inequality still exists and has contributed what he calls the “new racism.” Bonilla-Silva’s understanding

of the term colour-blind racism, is the following use: “whites have developed powerful explanations—which have ultimately become justifications—for contemporary racial inequality that exculpate them from any responsibility for the status of people of colour.”

(92) This concept and its frameworks can be used to locate and recognize the reality of racism in contemporary society. This reality is structured around color-blind racism and white privilege. Even in situations where cases of racial profiling are brought to commissions for review and are affirmed, the subtleness of white privilege or colour-blind racism can be traced through his frameworks. The frameworks are “cultural racism,” “minimization of racism,” “naturalization of racism,” and “abstract liberalism.” For the purpose of this I focus on the “cultural racism,” “minimization of racism,” and “naturalization of racism” frameworks which can be used to examine the data. Bonilla-Silva states that the four frameworks in combination with one another to perpetuate the occurrence of the new racism. Through analyzing the use of language, description, and comparisons of the actors in these three cases powerful evidence can be drawn to locate the subtle processes of systemic racism.

Studying racial profiling in relation to white privilege and color-blindness is of particular relevance in the past few years with the number of high profile cases in which extreme violence leading to the death of a number of young black men have flooded the news worldwide. In light of these events a controversial divide between police integrity and the value of young, racialized people’s lives has ensued. Although most of these high profile cases took place beyond Canada’s borders, it has not wiped our hands clean of racial profiling, let alone police brutality directed at racialized populations. These very events have brought ideas of race and racism, as well as white privilege out of the

shadows and to the forefront of discussion. I have selected three cases in the provinces of Ontario, Quebec, and Nova Scotia in which a complainant has brought their individual experience of racial profiling to human rights tribunal, and in one case as the grounds of wrongful arrest in provincial court.

The issue at hand with racial profiling in the context of Canadian society is that legal professionals, government officials, and Canadian citizens may all state that racial profiling is an issue that persists in our society. However, admitting to systemic racism being responsible for that is difficult for the dominant group—white people—to admit. Instead, systemic racism is quickly categorized as an individual issue or an unconscious thought. Even in the cases I have selected the judge still questions whether the police engage in such behavior or not. The failures to acknowledge the processes, that enable systemic racism, ensure its continuity. I argue that the frameworks of colour-blindness can be used to begin to analyze the processes of systemic racism.

## **Literature Review**

When examining policing practices in relation to racial profiling, the context varies across disciplines, space and time. However, what seems to remain constant is the systemic racism that exists in our society and fuels racial profiling practices by the police. Research in the United States and Britain mostly focuses on pre-textual traffic stops. These stops occur when a police officer has suspicion about a vehicle and stops it under the pretext of a traffic violation to conduct an investigation under matters that may not be related to the specific traffic offence. In Canada, research has been approached in an alternative manner in many cases because of the difficulty for researchers to acquire police documentation of their encounters with citizens. This has included the

interpretations of police encounters among black, white and Asian citizens and police interpretations of encounters with minorities (Wortley & Bempah-Owusu 2011; Satzewich & Shaffir 2009). Much of the research in Canada about racial profiling has been conducted by a number of commissions of inquiry and through media outlets.

While the media tends to focus on individual occurrences of racial profiling encounters between police and citizens, the commissions of inquiry tend to focus on racial profiling being a significant part of the larger issue of systemic racism and for consequences it produces for racial minorities. Regardless of the approach taken by researchers many argue that there is credible statistical evidence from police jurisdictions in the United States, Britain, and now Canada that suggest the existence of racial profiling is a routine and regular part of policing (Satzewich & Shaffir 2009, p. 200).

Across Canada a number of accounts of racial profiling have been taken to courts in Ontario, Quebec and Nova Scotia. – of these cases have confirmed that racial profiling still persists in our society with many researchers pointing to it being an issue of systemic racism within our institutions (African Canadian Legal Clinic 2012; Gittens et al 1995; Hastie and Rimmington 2014; Henry and Tator 2011; Ontario Human Rights Commission 2014). Locating the subtleness of systemic racism can be achieved in recognizing how whiteness is constructed as normative behavior within the criminal justice system (Henry & Tator 2011). How can the unconscious processes of systemic racism be located in legal cases involving racial profiling?

### Historical Context

In order to understand contemporary racism in Canada, it is vital to recall its history. The occurrence of slavery in Canadian history is often downplayed or omitted. However, the slavery of African-descendent people was an active part of Canadian history existing from the seventeenth century to its official abolition in 1834. After the abolition of slavery, African Canadians were subject to segregation in the areas of housing, employment and education. In addition, black people were also denied admission into public places such as restaurants and theatres. The inadequate acceptance of our racist history in Canada contributes to the current state of racism. This history helps explain the marginalized position of African Canadians through stereotypes including being prone to anti-social or criminal behavior. These stereotypes provide a sense of justification for discriminatory policies and practices in areas of the criminal justice system including police-citizen contacts (African Legal Clinic 2012; Gittens et al. 1995).

Over the years there has been a continuous loss of confidence in the criminal justice system voiced by the members of the black community throughout Canada. Fears and mistrust has been developed through a number of police encounters with black people including killings and injury for a number of decades. These events have contributed to many people from the black community developing negative feelings towards police because of the inability to assess the impact that racism contributes to such tragedies (Gittens et al. 1995).

Inquiries into policing practices and racial bias have expanded across jurisdictions in Canada to Nova Scotia, Alberta and Manitoba, among others. A common feature of these inquiries is the focus on “systemic” or “institutional” racism. It has been assumed

that the large majority of professionals within the criminal justice system do not consciously treat racial minorities as lesser than white people; however, unconscious actions may operate in subtle and unequal ways that create injustice for racial minorities (Gittens et al. 1995).

In recent years racial bias in respect to police stop and search practices has emerged as a particularly controversial issue. The difficulty to obtain race-crime data from the police makes racial profiling research in Canada troublesome. However beginning in 2003 *The Toronto Star* began a seven-year battle for a Freedom of Information request from the Toronto Police. After the police denied the request, *The Toronto Star* continued to overcome several legal hurdles placed in their way. Finally in 2009 the police granted access to the arrest data and data detailing the Toronto Police Services' records of police-citizen encounters from 2003 to 2008 (*Toronto Star* 2010). The Star found that police stop data from 2008-2011 showed that the number of young black men aged 15-24 documented in each of the city's patrol zones is greater than the actual number of young black men living in these areas. These findings have led to a number of other research projects, inquiries, policy changes, and legal action in regards to racial profiling in Toronto.

### Identification of racial profiling

#### *Police Discretion*

Police services and the criminal justice system are imagined to operate in a bias free manner, however the continuously growing allegations made by the black community calls this foundational belief into question. Although there are documented accounts of

racial profiling in relation to police practices, Satzewich & Shaffir (2011) discuss that there are various critics that report that police chiefs; police union representatives and police boards deny that racial profiling is practiced in Canada. These denials are explained as a form of democratic racism (Satzewich & Shaffir 2011, p. 200). Essentially the argument is that these denials are beliefs that those in power use in order to protect their prestige and authority.

In response to Satzewich and Shaffir's (2009) alternative view of racial profiling, Henry and Tator (2011) argue, "In work areas such as law-enforcement whiteness is constructed as normative, informal social behavior. This behavior is not usually overt, but engrained in institutional policies and practices creating inequality" (p. 68). The Ontario Human Rights Commission (2014) elaborates on this issue arguing that concerns with profiling relate directly to concepts of discretion and power and that police who have the ability to exercise discretion have a greater opportunity to engage in racial profiling (p.8). Police discretion powers generally entitle police to stop any vehicle, and to confront individuals on the street to ask them questions. Initial police-citizen encounters tend to be free from the application of defined legal standards, however, more in-depth encounters usually require the police to obey a distinct set of standards that limits the ability for intrusion into private lives. For further questioning on a matter the police officer must have a "reasonable grounds to suspect." This is the litmus test for many racial profiling cases. Hart et al. (2003) elaborate on this issue arguing, the courts do not want to limit police discretion to an extent that would affect their ability to prevent crime; however, permitting such discretion allows for discriminatory behavior and helps to further alienate minorities from law enforcement (p. 82). The most recent case law shows that racial

profiling allegations are addressed on whether officers had ground for reasonable suspicion (MacAlister 2011, p. 96). In order to combat allegations of racial profiling against the police a variety of defenses regarding police discretion have emerged.

One of the most common defenses is a discourse whereby the police argue that they do not engage in racial profiling but “criminal” profiling (Satzewich & Shaffir 2009; William & McKenna 2006). However, Henry and Tator (2011) argue against the criminal profiling explanation. Instead they point to an important body of research that demonstrates the nature and extent of how minority groups are criminalized through the processes of racialization and culturalization (p. 70).

### *Whiteness and Colour-blindness*

Those who are not affected by the fear of being engaged in an experience of racial profiling with the police may be accustomed to what Henry and Tator (2011) argue to be an organizational culture that is made of shared patterns of informal behavior that are the “observable evidence of deeply held and largely unconscious values, assumptions and norms” (p. 68). Based on this organizational culture of unconscious values, Lewis (2004) argues that one of the biggest problems facing the twenty-first century will be the issue of colour-blindness, which will be “the refusal of legislators, jurists and most of society to acknowledge the causes and current effects of racial caste” (p. 623). What perpetuates this structure of society is the denial that current systemic based racial inequality exists (Hastie & Rimmington 2014, p. 184). Hastie and Rimmington (2014) continue this argument stating that research has generally suggested that there is a great deal of resistance on the part of the most advantaged group members to recognize privilege even

when they are willing to admit to others being disadvantaged (p. 187). They refer to this process as “half-blindness of privilege”. This argument is supported by The Ontario Human Rights Commissions’ (2014) research that found participants who identified as White believe that minorities are treated worse by the police and the criminal justice system. However, many participants also recognized that the police have a difficult job and many do their job admirably. Either way, the apparent concern about discrimination against racialized and/or indigenous peoples is eclipsed by the inability to connect discrimination to white privilege and/or power.

### Frequency

Many researchers argue that there is credible statistical evidence from police jurisdictions in the United States, Britain, and now Canada that suggests the existence of racial profiling is a routine and regular part of policing (Satzawich & Shaffir 2009, p. 200). Research of the occurrence of racial profiling in Canada has revealed that racial minorities are more likely to be stopped and questioned by police than white people when found to be “out of place” in “white neighbourhoods,” or in public space (Ontario Human Rights Commission 2014). Wortley and Bempah-Owusu (2011) found that Black people are three times more likely to experience multiple police stops than White people or “Asians”, and are three times more likely to report being searched (p. 402).

In 2001, in Kingston, Ontario an incident involving several black youth occurred where the police drew their firearms on them, yet the youth were found to not have engaged in any wrongdoing. A data collection project was started in 2003 after a subsequent event involving the police and the same teens, again found to have

participated in no wrongdoing. The main findings of the data collection project in Kingston indicated that black male residents between the age of 15 and 24 were three times more likely to be stopped and questioned by police, a figure ...out in subsequent research in Toronto, as well, black people were found to be slightly more likely to be arrested or charged during police stops than any other race and black people are over-represented in all reasons for stops (Closs & McKenna 2006). Furthermore, in another study done in Toronto, concluded that of 3400 Toronto high school students surveyed in 2002, over 50% of Black students in the study reported that they had been stopped or questioned by the police on two or more occasions in the last two years. This is in comparison to 23% of the White students, 11% of the Asian students and 8% of South Asian students who reported being stopped or questioned (Wortley & Tanner 2003).

*The Toronto Star* (2010) concluded after analyzing official Toronto police data that between 2003 and 2008 1.7 million contact cards were filled out, most resulting from non-criminal encounters with citizens. Contact cards are a controversial system used by the Toronto Police Service to collect information on potential suspects. This involves taking down the citizens' information and categorizing the individual according to physical characteristics: black, white, brown, and "other." The contact cards that were filled out showed that those documented being "black" registered three times the proportion of black people in Toronto, while the proportion of white people was in keeping with demographic realities. While *The Star* found that young men were disproportionately documented regardless of their "race", black men aged 15 to 24 were documented at a rate thirteen times higher than what they represent in the overall

population of the city, two and a half time higher than white men in the same age bracket (p.7).

### Consequences

Differential treatment of racial minority groups not only leads to an increased sense of loss of confidence in the police but also a whole range of other consequences. Chan (2011) argues that “the experience of being subject to racial profiling can lead both to a feeling of being harassed and to a sense of alienation from the legal system and the wider society” (p. 75). Batton and Kadleck (2004) further illustrate this argument by stating that the consequences of racial profiling range from immediate effects such as being subject to the inconvenience of being delayed unlawfully to more serious long term effects, such as the humiliation of a lifetime of numerous stops (p.33). Adding to this argument, Hart et al (2003) reiterate that the benefit of preventing or prosecuting crime based on unwarranted police stops of black people does not and should not outweigh the frequent humiliation and suffering that innocent people experience as the result of racial profiling (p. 83).

The Ontario Human Rights Commission (2014) argues that perhaps one of the most important effects of the prevalence of racial profiling is that people alter their behavior or actions in order to avoid the experience. It creates a culture of discrimination and prejudice against black culture. Batton and Kadleck (2004) argue that even young white men with “long hair and a hip-hop flair about them get profiled more everyday,” (p. 36) suggesting that even people *associated* with black men are potential targets. Some white people are being profiled for displaying “black” characteristics or behaviour that interpreted appearance is important in police-citizen encounters (Thomsen 2011). The

Ontario Human Rights Commission (2014) supports this perspective by affirming those who do not experience profiling take simple things such as choice of vehicle, driving habits, and general behaviour for granted (p. 37).

## **Problem Statement**

Given the subjective nature of police discretionary powers in relation to racial profiling it can be difficult to prove. However, a review of the literature has provided evidence of the gross overrepresentation of young black men in police-citizen encounters across national borders. The research also demonstrates the short-term and long-term consequences that racial bias has on individuals, and the black community. Although the literature demonstrates the overrepresentation of young black men in police encounters, police services, and boards continue to deny the existence of racial profiling. The research generally suggests that it is not the conscious effort of the police to engage in unequal treatment of black people, but yet a systemic racism issue that exists in our society, dating back to our beginnings in Euro-imperialism and dominance.

Although there are cases of racial profiling that have been proven in Canadian courts, the phenomenon persists in many practices and policies within the criminal justice system. The issue at hand is the refusal of legislators, jurors, and most of society to acknowledge the processes of colour-blindness and systemic racism as root causes of racial profiling. If the subtle and unconscious processes of systemic racism are not acknowledged, we may never see improvement or change in the inequalities that minority groups face in society.

## **Research Questions**

My study seeks to identify a discourse of whiteness within trial decisions of racial profiling cases in Canada. Specifically, I propose:

- (a) How can processes of systemic racism be located in racial profiling cases?
- (b) How does colour-blindness compare across provincial borders?

## **Research Objectives**

My study aims to locate the subtle processes of systemic racism through colour-blindness in racial profiling cases in Canada. Specifically, I explore the frameworks of colorblindness that allow systemic racism and white privilege to persist in our society; analyze how these frameworks can be used to analyze racial profiling cases and lastly, compare these court decisions.

## **Methodology**

My research uses a qualitative content analysis approach. Qualitative research is concerned with the meaning of experience, language and symbol (Neuman 2011). Qualitative content analysis is described as a method used for “the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns.”(Hsieh& Shannon 2005, 1281) Research using qualitative content analysis focuses on the characteristics of language as communication with attention to the content or contextual meaning of the text (Hsieh & Shannon 2005, p. 1283). The content that I analyze for my study are three different racial profiling court cases that took place in Canada, in the provinces of Nova Scotia, Ontario and Quebec.

The goal of my study is to provide knowledge and understanding of racial profiling and systemic racism through using Bonilla-Silva's frameworks of colour-blindness. Using a directed content analysis approach I attempt to "validate or extend conceptually a theoretical framework or theory" (p.1283). The theory that I attempt to extend is critical race theorist Eduardo Bonilla-Silva's frameworks of colour-blindness, "cultural racism," "minimization of racism," and "naturalization of racism." I begin my analysis by using the frameworks and prior research to identify key concepts, a method to code themes in the cases. The findings from my analysis offer supporting and non-supporting evidence for the frameworks of colour-blindness. The theory of colour-blindness guides the discussion of my findings and extends and enriches Bonilla-Silva's theory.

A limitation is that such approaches have been critiqued for entering the research process with an informed and educated but strong bias. Upon analyzing the data I have remained open competing analyses when considering reporting and refuting evidence.

## **Data**

I gathered data from three court cases in Canada to conduct this research. The cases were landmark cases about racial profiling in Canada. I focused on three specific actors within each case: the judge/inquiry panel, the police and the complainant. An overview of each case is provided below.

*Johnson v. Halifax Regional Police Service (2003)*

In December 1998, Kirk Johnson a young, black man and internationally recognized boxer laid a complaint of racial profiling with the Nova Scotia Human Rights Commission (NSHRC) against the Halifax Regional Police Service (HRPS). In the evening of April 12 1998, Kirk Johnson and his cousin Earl Fraser were driving down Highway 111 in Dartmouth, Nova Scotia when Constable Michael Sanford of the Halifax Regional Police made the decision to pull the Ford Mustang over. When Constable Sanford asked for proof of registration for the Texas registered vehicle he was not satisfied with what Mr. Johnson presented to him. After the encounter escalated, the police presence increased substantially and Mr. Johnson and Mr. Fraser were ticketed and their car towed. Philip Girard of the Nova Scotia Human Rights Commission concluded that Mr. Johnson had been the victim of discrimination at the hands of the HRPS. He was awarded \$10,000 in damages.

*Maynard v. the Toronto Police Services Board (2014)*

Rawle Maynard filed a complaint to the Ontario Human Rights Commission (OHRC) against the Toronto Police Service Board (TPSB). In his complaint, Maynard alleged discrimination on the basis of colour, ethnic origin, and race in the event that occurred on November 25 2005.

The police were investigating a gun call at the Malvern Town Centre in which the suspect was a black man driving a black sports car. Meanwhile, Officer Baker, who was on the road finishing another call, spotted Rawle Maynard, a young, black male driving a black BMW in the vicinity of the shopping centre. At this point, Officer Baker made the

decision to follow Maynard to his house in Scarborough. While following Maynard, Officer Baker did not turn on his siren or request Mr. Maynard pull over, as he was not speeding or driving in any manner that would suggest suspicion to a police officer.

When Mr. Maynard pulled into his driveway and parked his car, he realized that a police cruiser had parked very close to his driveway. When Maynard exited his vehicle, he approached Officer Baker to ask what was going on. Within the short time frame between initial contact between Mr. Maynard and Officer Baker the altercation quickly escalated. Officer Baker eventually drew his firearm and pointed it in the direction of Mr. Maynard. Shortly thereafter, several other officers arrived at the scene, surrounding Mr. Maynard. Other officers pointed their firearms at Mr. Maynard. Mr. Maynard was searched and put into the back of the police vehicle without an understanding. After being placed in the back of the police vehicle, the officers received new information that confirmed that Mr. Maynard was not the suspect, released Maynard and promptly left the scene. The inquiry panel, headed by Leslie Reaume decided that the officer had singled out Rawle Maynard because he was black. He was ultimately awarded \$40,000 in damages for the humiliation suffered.

*R. v. Campbell (2005)*

During the spring of 2004, Alexer Campbell caught the attention of Officers Ransom and Officer Dumas as they were patrolling in downtown Montreal. The Officers testified that they became suspicious of Mr. Campbell, a young black men him because he was leaning forward in a taxi as they drove by as if trying not to be seen, although they stated they did not know his race at this time. Moments later Campbell exited the taxi, and began walking quickly down the street. Thinking their suspicions confirmed that something

unusual was occurring, the officers got out of their vehicle and called out to Campbell and he began to run. They testified that at this point they recognized who he was because of a previous arrest and confirmed he was in breach of his parole conditions. The officers proceeded to chase him and eventually tackled him to the ground. A search found Mr. Campbell carrying a small amount of marijuana, and they later accused him of being in possession of cocaine. The judge found that there was no proof beyond a reasonable doubt that the cocaine belonged to Mr. Campbell. Mr. Campbell felt that he was a victim of racial profiling as a young black man, and therefore argued in court that he was wrongfully arrested. The case was tried in Provincial court with Mr. Campbell and counsel as the defense against the police and the Crown counsel. After conducting a thorough review of the phenomenon of racial profiling and the existing law, Justice Westmoreland-Traore decided that the officers had targeted Mr. Campbell that night because he was black and likely fit the stereotypical profile of a drug dealer and the charges against him were dropped.

## **Theoretical Framework**

My study adopts an approach grounded in critical race theory approach in an attempt to explain and understand and locate a discourse of systemic racism in racial profiling trial decisions. The critical race theory attempts to expose the ordinariness of racism and to validate the experiences of people of colour, through explanations establishing how society organizes itself along racial lines and hierarchies (Aylward 1998; Delgado and Stefancic 2012). Aylward (2012) describes the dominant themes of critical race theory as the following:

1. The need to move beyond existing rights analysis;
2. An acknowledgement and analysis of the centrality of racism, not just the White supremacy form of racism but also the systemic and subtle forms that have the effect of subordinating people of colour;
3. Rejection of the “colour-blind” approach to law, which ignores the fact that Black people and White people are not similarly situated with regard to legal doctrines, rules, principles and practices;
4. A contextual analysis, which positions the experiences of oppressed people at its centre;
5. Deconstruction of legal doctrine, rule, principle, policy or practice that may subordinate the interests of minorities;
6. Reconstruction in recognizing both the contribution to transformative power and subordination law has for people of colour (p. 126)

Critical race theory is an appropriate framework for my study because I analyze highly charged issues such as racial profiling and systemic racism and colour-blindness in the law. Critical race theorist Eduardo Bonilla-Silva (2006) argues that color blindness is currently the central ideology to the preservation of systemic racism (p.14).

His main argument is in opposition to the post-Civil Rights common sense view that race no longer matters. As such, he challenges those who believe that problems impacting people of colour are fundamentally rooted in their pathological cultures (Bonilla-Silva 2006, p.15). Although Bonilla-Silva makes it clear that the majority of white people believe on an individual level that black people are mentally, morally and intellectually inferior, racism has shifted to a new form calls “colour-blind racism”(p.) In

explaining this emerging form of racism, he employs four frameworks that white society subtly employs to justify racial inequality: “abstract liberalism,” “cultural racism,” “minimization of racism,” and “naturalization of racism.” (p.25) Bonilla-Silva using the work of Bourdieu, then argues that a ‘white habitus’ “creates and conditions [white society’s] views, cognitions, and even sense of beauty and more importantly fosters a sense of racial solidarity [among white people]” (p.123). Furthermore, he argues that when two or more groups live together and status differences exist, such as between white people and black people, the advantaged group develops its own set of values and norms to account for and rationalize these differences (p.124). I use three of Eduardo Bonilla-Silva’s frameworks of colour-blindness to locate the unconscious processes of systemic racism in cases of racial profiling. I explain each briefly below, and further develop them in the following chapters.

#### *The frameworks of colour-blindness*

The “minimization of racism” framework suggests that racism is no longer as bad as it used to be and that it is not the main reason affecting inequalities in the lives of racial minorities’. Often this is expressed through accusations of people of colour being “hypersensitive” or playing “the race card”. Bonilla-Silva suggests that this frame is comprised of three strategies of denial that perpetuate the ability to minimize the role racism plays in effecting racialized peoples life chances. These three strategies are: indirect denial, direct minimization, and outright denial.

The “cultural racism” framework is centered on culturally based prejudices and stereotypes to explain the position of racial minorities in society. It suggests that socio-

economic, political, or any disadvantages racial minorities face are the product of their lack of effort, unstable family structure and inappropriate values. Within this framework the effects of systemic racism and discrimination in the labour market, regular access to housing, and absent educational attainment are often plainly ignored.

The “naturalization of racism” framework allows white people to explain a racial issue as being a natural occurrence, further justifying any disadvantage racial minorities face. For example the word “natural” or the phrase “that’s the way it is” is used within the naturalization framework to normalize discriminatory conduct, structures or processes.

Bonilla-Silva argues that these frameworks tend to overlap with one another on the ground. I demonstrate how each framework functions alone within the racial profiling cases, then I bridge how the minimization framework works in combination with the cultural racism framework. Lastly, I examine how the cultural racism framework and the naturalization framework are used in combination to uphold systemic racism.

## **Chapter Outlines**

The next Chapter two defines Bonilla-Silva’s “minimization of racism” framework and its three strategies of denial; “indirect denial”, “direct minimization” and “direct denial”. In particular, I use this framework and its components to examine three racial profiling cases: *The Toronto Police Services Board v. Maynard*, *The Halifax Regional Police v. Johnson*, and *R. v. Campbell*. Specifically, I analyze contributions made to the proceedings of the case from the judges and the police to demonstrate how the processes of systemic racism can be located through the minimization framework by using. I also use statements from the complainants to further demonstrate the working of systemic racism. This chapter furthers my upcoming analyses through considering strategies that lead to forms of cultural racism.

Chapter three begins by outlining the second of Bonilla-Silva’s frameworks: “cultural racism”. This framework focuses on socioeconomic status, attitudes and

inappropriate values as they are expressed in the three cases. I focus specifically on the construction of the black man and criminality beginning with the “war on drugs”, with focus on quotations selected from the perspective of the judge and the inquiry panels from the cases: *The Toronto Police Services Board v. Maynard*, *The Halifax Regional Police v. Johnson*, and *R. v. Campbell*. The following section uses a key component of the framework “blaming the victim” to analyze police use of force and excessive police presence in reaction to the complainants perceived conduct. The last section focuses on how black men can rely colour-blind frameworks to seek public recognition. Throughout the chapter, I demonstrated how “cultural racism” works in unison with the strategies of the “minimization of racism”.

Chapter four outlines how “cultural racism” stems the “naturalization of racism” and specifically the phenomenon of “white habitus”. Next, the “naturalization of racism” framework focuses on the effects of spatial and social segregation. In the last two sections I analyze quotations from the judges and the police officers that illustrate the use of colour-blind racism through the naturalization spatial and social segregation.

## **Chapter 2**

### **Minimization of Racism**

In this chapter I show how Eduardo Bonilla-Silva's frame the “minimization of racism” is demonstrated in three instances of racial profiling in Canada from the cases of: *The Toronto Police Services Board v. Maynard* from the Ontario Human Rights Commission, *The Halifax Regional Police v. Johnson* from the Nova Scotia Human Rights Commission, and *R. v. Campbell* from the Provincial Court of Quebec. In order to illustrate the “minimization of racism” framework I analyze the testimonies, and interpretations from the judge/ inquiry panels, the police officers and the complainants using the three strategies extracted from the frame work which are: indirect denial, direct minimization, and out right denial. The first section defines the “minimization of racism” framework and the strategies of the minimization framework, which outlines how I interpret the data in the following sections. The next section examines how the judge and inquiry panels through their interpretations of the case use minimization strategies. Following the analysis of the judge and or inquiry panel interpretations, the police officers' explanations are analyzed and focus on the use of “out right denial” recalling the event that occurred. Throughout the chapter, quotations from the complainants are used to demonstrate how those who feel they are discriminated against confront the minimization of racism.

### Defining the “Minimization of Racism Framework”

Whether profiling can be definitely proven to occur in any specific context; the fact that racialized groups are voicing alarm is cause for concern. Across Canada there is an unwillingness to discuss community concerns about racial profiling, in turn, denies its existence. The hesitation to implement measures to see its change only further reduces public confidence in the police and promotes an unjust colour-blind society. A vicious cycle is amidst us where the perception of profiling is increased through a number of inquiries, and trials yet the refusal to truly see institutional practices as plagued with a history of racism has us in a stagnant position. The subsequent mistrust inhibits the ability of the criminal justice system to carry out its duties, as many institutions in society rely on public confidence to function effectively.

The minimization of racism is particularly useful as it allows white people to ignore claims of racial inequality from racialized groups who are experiencing it, or specifically as I demonstrate, claims of racial profiling. This is more commonly expressed as “playing the race card essentially accusing racial minorities of being hypersensitive. Bonilla-Silva argues that the minimization framework has developed as a means of downplaying present-day racism and discrimination compared to pre civil rights: “Although whites and blacks believe discrimination is still a problem, they dispute its salience as a fact explaining blacks’ collective standing” (p.43). The distinction made between black people and white peoples’ perception of the current status of racism is “in general whites believe discrimination has all but disappeared, whereas blacks believe that discrimination old —and new—is alive and well.” (p.44) The terms of “old” and “new”

discrimination are what characterize the differences of past understandings of racism. The “old” is defined by legal segregation through Jim Crow, which allows white people to currently view “new” racism as “not as bad” as previous sorts of exclusion. The minimization framework facilitates colour-blind racism by subjugating the voice of the oppressed and allowing the dominant group to analyze and mandate the terms of what is or is not racism.

In the three cases hat I have selected, discrimination is recognized and determined by the acting judge and inquiry panel. These cases are merely three instances where racial discrimination has been confirmed, however, allegations of racial profiling continue to accumulate in Canada. Each new case is treated individually, yet often judged to be a systemic problem. The issue of systemic racism is acknowledged by the judges and attributed to the cases in question but what is strikingly, curious are the processes, behaviors, and opinions that seem to quietly *settle* individual situations of racial profiling without ever actively working to solve the deeper social issue. Instead, monetary compensation is awarded to the victims in Humans Rights Commission inquiries and the charges were dropped in the Quebec Provincial Court trial.

In this chapter, I analyze how these instances of racial profiling demonstrate Bonilla-Silva’s framework of minimization using three distinct strategies of minimization to analyze the statements made by the judges and police officers. The three strategies of minimization that Bonilla-Silva employs are the indirect denial, direct minimization and outright denial. I focus mainly on the opinions of the acting judges for each case and the officers involved, as it would not be in the interest of the complainant to minimize their experience of discrimination. In the cases chosen and in all cases of racial profiling

brought before the law there are actors who offer a narrative of an event of racial profiling. Upon analysis of the “minimization of racism” framework specific details of each case, including police testimonies and the judicial interpretations of the events. Bonilla-Silva argues that the “minimization of racism” framework suggests that discrimination is no longer a central factor affecting racialized peoples’ life chances, but rather, it is the groups’ own fault for their diminished social position. Essentially, this framework, as I demonstrate, helps people justify racial profiling. Instead I use the testimonies of the complainants as supporting evidence for the theory of colorblindness.

### *Minimization Strategies*

Bonilla-Silva (2006) describes the first strategy, “indirect denial” as involving individuals acknowledging its existence about race and discrimination, even though they do not directly experience it (p.119). He describes this strategy as being the alternative response to overtly stating things such as “I don’t believe minorities experience discrimination” (p.43). Using this strategy to deny racial discrimination involves individuals thinking about and describing events of racial inequality as being *possible*, but only after an in-depth examination of the complainant’s accusation. The strategy of indirect denial brings into question the individual, who attests that he or she has been a victim of discrimination, and dissecting what they may have done to end up in such a situation (p. 44).

Another strategy in the minimization framework is to minimize directly the significance of racism. This strategy functions on the basis of responding to situations of racism by expressing that discrimination does occur, but that it is rare. By taking this

approach Bonilla-Silva describes it as an inadequate response that reinforces the minimization of the phenomenon of discrimination as it fails to “provide a meaningful explanation of how discrimination affects minorities’ life chances” (p.45).

The third strategy is “out right denial” for people “who argue blacks make situations racial that are not” (p.45). This strategy of minimization involves what Bonilla-Silva states as “denying that discrimination is a salient factor in minorities’ life chances and suggesting alternative interpretations (p. 46). Bonilla-Silva argues that this rhetorical tool allows us to apply the framework using an “Anything but race” approach to justify our thoughts and beliefs. From this approach, arguments can often be interjected with lines such as “its not a prejudice thing,” in order to dismiss the significance that race has on the respondents lives. This aspect is what Bonilla-Silva describes as being an essential tool that allows whites to explain away uncomfortable encounters of race in a “color-blind story” (p. 62).

### Analysis

The denial strategies are an essential analytical feature of the “minimization of racism.” As more accusations of racial profiling by the police are expressed by the black community, exploding throughout media outlets in the United States and now taking greater precedence in Canada, it is important that society begins to shift our understanding to the forms of “new racism”. An important aspect of the minimization framework is the characteristic that Bonilla-Silva describes as a misconception of contemporary racism: systemic racism is exclusively overt discriminatory behavior. Overt racist behaviours is what he describes as racial slurs and hate crimes, not the subtle

unconscious processes attributed to the “new racism”. To begin such an analysis I first look at what the terms of reference for each case as expressed by the judge. It is clear that each judge from Halifax, Toronto, and Montreal agree on systemic racism being an issue in Canadian society; however, they verbally evade situations of racial profiling are approached contribute overall to processes of systemic racism.

Doubting that discrimination is a prominent feature in the experiences of black people and other racialized groups is what Bonilla-Silva refers to as an “indirect strategy of denial” within the minimization framework. This strategy also involves looking to attribute other factors besides race to explain situations of racism. The judges in these cases of racial profiling play an important role in the minimization of racism framework, as they serve as the arbiters of truth when it comes to racial profiling. The understanding of law in our society functions around the judges being impartial when listening to the facts during a trial. It is important to note that one of the foundations of Bonilla-Silva’s understanding of the frameworks of color blindness; is that it is a collective process that no one is exempt from, which in these cases would include the judge and inquiry panel. The quotations selected in this chapter were chosen to grasp the ways in which the actors in these situations utilize the minimization framework. The analysis of the data indicates that the judges, who in general understand their position as “impartial”, were most likely to approach racial profiling using the indirect denial and the direct minimization strategy.

### *The Judges*

In Halifax, Philip Girard of the inquiry panel describes the terms of the complaint as “The inquiry into this complaint was not, and could not be, the appropriate vehicle for a full

investigation of claims of racial profiling by the Halifax police... I am not required to find whether this resulted from a conscious decision on his part or resulted from a subconscious stereotype. Either way it was still a violation of the Nova Scotia Human Rights Act " (*Halifax Regional Police Services v. Johnson*, p. 3).

In a somewhat contradictory statement Girard argues that Mr. Johnson's testimony can be considered to "show a pattern of behaviour by police actors that made it more likely than not that the incident under review here was the product of discriminatory attitudes and/or practices". This statement indicates a troubling contradiction because, Girard limits his powers to investigate racial profiling by the HRP on a larger scale, yet guides his decision based on the existence of discriminatory attitudes and practices from police actors. This is important to note because there was not only one officer involved in the situation, there were various officers from the Halifax Regional Police present, who did not act to correct the "mistakes" of the officer in question Constable Baker. Further contributing to the minimization of the event is Girard's reference to the 28 police stops that Mr. Johnson expressed he was subjected to over the two years prior to the incident. Girard regards it as insignificant to the case:

A CPIC report was made available at the inquiry, which showed a total of 21 inquiries on his vehicle during a search period from May 1993 to 11 April 1998, the first one being on 1 August 1997. Some inquiries were by the RCMP, others were by the Halifax Regional Police Service, and a number were multiple queries arising out of the same incident. Without going into all the details, this document provided some confirmation of a pattern of multiple stops of Mr. Johnson's vehicle, though considerably fewer than 28. I do not believe it would be appropriate or fair for me to use this evidence when adjudicating on a complaint against an individual officer. This evidence does not assist in deciding whether it is more likely than not that a given police officer on a particular day discriminated against a black driver in singling him out for a stop. (*Halifax Regional Police v. Johnson* p.3)

This statement made by Girard is contradictory to his initial statement about using Mr.

Johnson's testimony as a means of determining a pattern of behaviour by the police that may indicate discriminatory practices or attitudes. With Mr. Johnson testifying that he had been subject to 28 stops by the police within a two-year period and reports confirming 21 incidents, Girard simply overlooks a shockingly obvious pattern of behavior of the police as being irrelevant to case. The direct minimization strategy on the part of Girard confirms the incidence of racial profiling of the current situation, but he fails to provide a meaningful explanation for the pattern of police behaviours effecting Mr. Johnson, and perhaps many others who are not vocal about their experiences.

In Toronto with the Commission operating similarly, the goal of the trial was to determine if the situation at hand is one of racial profiling. The requirements for fulfilling such an accusation are not focused on the behaviour of the police, but the effect it had on the complainant, Mr. Maynard. Leslie Reaume of the Ontario Human Rights Commission like Girard of Halifax directs the occurrence of racial profiling by the police as being the result of the subtle, unconscious processes of systemic racism. In defining the terms of the inquiry Reaume offers a somewhat backwards version of the indirect minimization strategy in an opening statement:

There is no need to prove intention - the focus is on the effect of the respondent's actions on Mr. Maynard. The evidence supporting the explanation must be credible on all the evidence. Racial stereotyping will usually be the result of subtle unconscious beliefs, biases and prejudices. When assessing the respondent's explanation, the ultimate question is whether an inference of discrimination is more probable from the evidence than the actual explanations offered by the respondent. (*Toronto Police Services Board v. Maynard*, p. 44)

Direct minimization is demonstrated here because Reaume attempts to accept the adverse effects that racial profiling had on Mr. Maynard, but a direct analysis of the police officers behaviour is not acknowledged. Bonilla-Silva (2006) describes the direct

minimization strategy as being able to acknowledge the existence of racism but failing to provide a meaningful explanation of how discrimination affects the life chances of black people; Reaume's interpretation provides an example. She does indicate that Mr. Maynard was negatively affected by the outcome of the behavior of a number of police officers. She does however fail to recognize the significance of particular behaviors because she does not see the need of examining the intention of the police officers. Overall, this directly minimizes such behaviors characterized by discriminatory intention and the systemic processes that contribute to the unconscious beliefs, biases, and prejudices that establish the negative affects on the victim.

Although there is a different trial setting in Montreal Hon. Westmoreland-Traore reiterates the issue of systemic racism being the basis of the complaint:

The racial profiling practiced in this case, as shown by the unreliable testimony and the cluster of indicators is also a serious concern of the Court. While the racial profiling may have been practiced unconsciously, the good faith of the officers does not restore the right of all citizens to non-discriminatory treatment. (R. v. Campbell, p. 20).

In this statement Westmoreland-Traore does acknowledge that she recognizes a number of issues that occurred during the incident that are a cause for concern. She also understands that non-discriminatory treatment for all citizens is essential to quality policing for society. However, since Justice Westmoreland-Traore states that racial profiling may have been unconscious; she never discusses the processes behind the explanation and therefore approaches it in the form of the indirect denial strategy.

According to Bonilla-Silva (2010), the indirect method involves an individual speaking about race and discrimination from the perspective of not experiencing it, but acknowledging its existence (p.119). As well, when admitting its existence it is usually

regarded as being rare. The issue is that the judges are seeking to determine if these individual cases are events of racial profiling due to systemic processes, however ultimately the systemic issue not acknowledged. Bonilla-Silva's notion of the indirect denial strategy in regards to the minimization framework is shown through the way in which these trials function. The experiences of these men are only taken at face value and there is a failure to question the institutional processes that make it possible. This contributes to the issue of systemic racism, because the judges are stating that it is an issue deeper than just a police officer targeting a black man. It becomes a problem of not acknowledging the system that makes it possible, and that may continue to target and limit life opportunities. Although judges play an essential role as being the impartial arbiter of the facts, we must recognize that with racial profiling being a systemic issue it is a collective process and therefore no one is above it.

### *The Police*

There is no doubt that police work is difficult, as they are essentially on the front lines of an institutional system plagued with systemic processes driving racial discrimination forward. The police are in a unique position with their powers of discretion to ensure the orderliness and safety of the public (Henry & Tator 2011; MacAlister 2011; Satzewich & Shaffir 2011). These very discretionary powers are where the fine line is drawn for instances of racial profiling. When met with an accusation of racial profiling from a complainant the officers involved in the three cases always meet it with direct denial. In the direct denial of racial discrimination Bonilla-Silva argues that individuals suggest that

black people are hypersensitive to racism by searching for and suggesting alternative interpretations for racialized peoples' social standing.

In TPSB v. Maynard (2014), the primary officer involved was Officer Baker.

When testifying about the events that occurred, he:

denied that Mr. Maynard's race played any role in the decisions he made that day. He testified that he was not aware of Mr. Maynard's age but that he appeared to be about 35 years of age. He considered Mr. Maynard's apparent age as a factor because he wondered if he could handle someone larger, older and likely more knowledgeable than he was. (*Toronto Police Services Board v. Maynard* 2014, p. 24)

Here Officer Baker suggested that Mr. Maynard's race did not lead him to follow him and offers an alternative interpretation of the event. The out-right denial strategy and specifically the "anything but race" approach is demonstrated as Officer Baker recognizes a number of Mr. Maynard's physical attributes such as age and build, but yet does not mention his race. He also refers to Mr. Maynard's "knowledge", but does not explain what type of knowledge he believes Mr. Maynard may possess.

The case of HPSB v. Johnson, demonstrates a similar denial, which was that the officer did not notice the race of the complainants. He did not make any reference to race being a factor in his decision:

It was the combination of 'nice sports car with tinted windows' that attracted his attention. He passed by quickly and then noticed the Texas license plate either by turning around or in his rearview mirror. The Johnson vehicle had no license plate on the front, so he could not have seen it as he approached the vehicle, if in fact he approached it from the opposite direction. The additional factor of the Texas license caused him to take an interest in the car, and he turned around and followed it. He could see the silhouettes of two persons in the car, but could not and did not make out their race. (*Halifax Regional Police Services v. Johnson* 2003, p. 7)

Interestingly enough, testimony from Mr. Johnson from Halifax offers an insightful look into the phenomenon of colour blindness, demonstrating how race does not go simply unnoticed or recognized when encountering another individual:

In cross-examination, Mr. Johnson said he had seen Constable Sanford was white when he passed his car the first time, by seeing him through the window. He then said, ‘so I’m pretty sure if I can see what colour he is, I’m pretty sure he can see me.’ *Halifax Regional Police Services v. Johnson*, p. 12).

In the Toronto case with Mr. Maynard, a similar view was expressed to counteract to the claim that race did not play a significant role in the events that followed, Maynard testified the situation ended with Officer Sanford stating:

Mr. Maynard testified that he walked to the back of the police car and Officer Baker put his hand out and said “sorry man, we’re looking for someone who fits your description, 6 feet black and slim” and I said ‘the only part of that I fit was I was black’, meaning that the only part Officer Baker could have seen while he was driving was Mr. Maynard’s race. (*Toronto Police Services Board v. Maynard*, p. 12)

Less explicitly Montreal case, Campbell recalls being aware of the police long before the officers claimed to have encountered him. Mr. Campbell testified that he had noticed the officers as he was standing outside of his sister’s house, and that it was if they had parked there and watched him. To be not aware that he is black as he got into the taxi would be unlikely. Bonilla-Silva argues that Black people are more likely to be straightforward about their opinions and positions about race, rather than “beating around the bush.” He argues that fewer black people will filter their experiences or opinions through “the rhetorical maze of color blindness”. Rather than trying to disguise their views, racialized individuals are more likely to point out contradictions between the ways things should be and they way things are (p. 165).

Consistent with the cases in Halifax and Toronto, in Montreal the officers involved denied even being aware of the color of Mr. Campbell's skin until after they had grounds for suspicious behavior. In this particular case, the suspicious behavior that was suggested by the officers to the court was bending down in the back of a taxi, in what they described as an attempt to hide. According to the officers:

The Crown submits that the officers were carrying out their duties to preserve the peace and repress crime. They are authorized to observe anyone whom they consider to be acting suspiciously; they intervened and arrested Alexer Campbell only when one of the officers recognized him and recalled that he had conditions to respect. This officer did not know that the accused was a black man until he recognized him. The accused was not detained by the officers (*R. v. Campbell* 2005, p. 2).

In these cases, the consistent use of direct denial and ultimately the minimization of racism are observable through the police offering alternative alibis for the initial decision to stop each black man. Each decision to stop the men is attributed to police discretionary powers that allow officers to dictate what is and what is not suspicious behaviour. In these cases it was the style of the car, the description of the car, and the behavior of the passenger in a taxi that was argued as grounds for suspicion. I further unfold the reasoning behind these decisions in the following chapter using the framework “cultural racism”. As Bonilla-Silva argues that when the “minimization of racism” and the “cultural racism” frameworks used in combination, the outcome is ideologically dangerous.

### Conclusion

In this chapter, I have illustrated how Bonilla-Silva's minimization of racism framework applies to three cases of racial profiling. Through this framework I demonstrated the

different strategies that are used when portraying an instance of discrimination, using the indirect approach or the direct denial approach. This framework is significant because it enables systemic racism to persist by reducing the accountability of the actors in the justice system. It also demonstrates how no one is exempt from the processes of systemic racism, including those we trust to be the judge and jury of such experiences. In the forthcoming chapters, I demonstrate how the frameworks of “cultural racism”, and “naturalization of racism” apply to the cases, and begin to weave a narrative of how they work in combination with one another to allow a colour-blind society and white privilege to persist. In the following chapter I define the “cultural racism” framework and use it in combination with the “minimization of racism” framework to analyze any inference of explaining the occurrences of racial profiling.

## **Chapter 3**

### **Cultural Racism**

In the previous chapter the minimization framework and its strategies of denial were outlined and used to analyze statements and opinions from the judges in the three court cases. In this chapter, the first section outlines Eduardo Bonilla-Silva’s “cultural racism” framework. This framework is applied to specific passages drawn from the actors in each case: the judge or inquiry panel, the police and the complainant. The second section focuses on the construction of the black man and criminality; taking into consideration the history of the “war on drugs” and its lasting impact. The data in this section also provides a working example of the “cultural racism” framework and “minimization of racism” framework in combination, which Bonilla-Silva defines, the results as “ideologically deadly.” This is because if people state that they experience discrimination, white people view it as a false claim and explain discrimination as an excuse to hide the real reason why racialized people are often socio-economically inferior—because they do not work as hard. In the third section the analysis shifts to focus on police justification of the level of force used, in which the “blaming the victim” strategy is used to demonstrate the “cultural racism” framework. Lastly, I examine how complainants are not protected from the processes of systemic racism.

#### Defining the “Cultural Racism” Framework

Dominance, power and privilege are not normally words that come to mind when asked to describe your culture, at least for the average white person. Many white people believe that there is no white culture, or nothing that defines white people as a group. The idea of

whiteness makes up the very core of the defining characteristics of racialized cultures. What is not white is characterized by otherness. Otherness segregates racialized people from equal opportunity and equal rights. Hartigan (2005) describes whiteness as “a set of institutional routines and ‘white cultural practices’ establishes and maintains privileges generally associated with being white” (p.197). The idea of white culture can be identified with the use of Bonilla-Silva’s (2006) framework of cultural racism. The “cultural racism” framework is described as “culturally based arguments... to explain the standing of minorities in society” (p. 28). Essentially this framework has long existed as the rationale for black biological inferiority. He argues that in contemporary society, the biological inferiority rationale has shifted to cultural inferiority.

The specific characteristics rely on “blaming the victim,” which is largely accounting for the social position of minorities as a product of their cultural values, which prejudicially are centered on “a lack of effort, loose family organization and, inappropriate values” (p. 40). For the purpose of this thesis I focus mainly on the perception of black socioeconomic status, and its physical and materialistic (e.g.; clothes, attitude, and speech) presence. In this chapter, the complainants in the cases of *The Toronto Police Service Board v. Maynard*, *Halifax Regional Police v. Johnson* and *R. v. Campbell* all play a central role in my analysis of the framework of cultural racism.

### *The Judges*

The judges in these cases offer an important perspective for locating the subtle processes of whiteness in regards to racial profiling. As the judge is supposed to be impartial to either side of the case, as discussed earlier, no one is above the influence of the processes

of systemic racism within Canadian society. Particularly important and essential to the argument of this thesis is the common notion of black men associated with criminality. In the Montreal case, Hon. Westmoreland-Traore offers a less than subtle distinction that the black man represents the general characteristics of a criminal:

The accused presents many of the features of the profile of drug dealer suspects. He is a young person, twenty-two years old. He is a black person. He is male. He is wearing casual dress with a cap. He is poor. Socio-economic status is a bifurcated indicator. Young black are the object of racial profiling if they are well to do and driving expensive cars; they are also the object of racial profiling when they are poor. In this case, no indicators place Alexer Campbell within the economically well to do category. (*R. v. Campbell*, p. 6)

The judge in this case blatantly states that Mr. Campbell fits the profile of a drug dealer, and therefore a criminal. As the literature has shown, the war on drugs that swept through the United States during the 1980s was an influential contributor to the race-crime discourse. The war brought on the passing of strict laws against the use and distribution of crack cocaine, which was recognized as an inexpensive drug that was predominantly used by racialized groups living in poverty. The war also resulted in the overrepresentation of black people in prison (Alexander 2012). The consequence of this social change is that many have come to associate black people with drug use. In addition, drugs are frequently related to other types of crime, which reinforces the relationship of black people with criminality (Welch 2007, p. 278). This classification of black people associated with criminality relates to Bonilla-Silva's cultural racism framework as a justification for discrimination because it provides a basis for the argument of black people "lacking effort" and therefore resorting to alternative means for financial gain. As well it provides support for the idea that black people go against social norms, having "inappropriate values." In a sense, this provides an explanation for police

behaviour typifying such descriptions as a criminal profile and using it as a ground for reasonable suspicion (Satzewich & Shaffir 2011). According to Bonilla-Silva, this argument may seem “reasonable”, because lower class individuals may have different priorities than other people based on their economic situation; however, this explanation is inadequate because it avoids the effects that systemic racism has, as well, the large impact that discrimination has on middle-class and upper class racialized people.

The case in Halifax expressed the same association between criminality and black men yet Philip Girard regards it as a much less influential in the case, stating:

The allegation of the complainant is that Constable Sanford decided to pursue this vehicle at least in part because the occupants were black. The theory is not that Constable Sanford wished to harass black people as such, but rather that he used race as a proxy for a propensity to illegal behaviour, and that such decisions by police are unjustified and discriminatory. I do not find it necessary to isolate the alleged treatment of the complainant and Mr. Fraser as criminals or potential criminals as a distinct head of discrimination. I regard it as interwoven with the other matters. (*Halifax Regional Police Services v. Johnson*, p. 4)

This statement provides an example of when the “minimization of racism” framework and the “cultural racism” framework intersect. Bonilla-Silva argues that when these two frameworks are used in combination, “the results are ideologically deadly,” this meaning that when racialized people express experiences of discrimination, white people question the accuracy of such statements while minimizing the reasons they think black people socio-economically and politically behind; because of cultural inferiority (p.40) The minimization framework applied on this matter of culture allows the judge to admit to the occurrence of racial profiling. However, the issue of the propensity to associate black people with criminality loses vigor when it is not treated as a separate behaviour. Minimizing Mr. Johnson’s allegation of discrimination based on criminality uses the two frameworks in combination to hide an important factor of contemporary racism and

therefore an ideology of systemic racism—the association of black men and criminality. By minimizing this central factor, the systemic problem that fuels racial profiling is elided—allowing for such processes to continue.

### *Driving while black*

A phenomenon often discussed and researched surrounding the topic of racial profiling is “driving while black”. A characteristic of this phenomenon is that police use pre-textual traffic stops to legitimize their reason for making a stop. The theory is that particular types of vehicles (expensive) driven by black drivers are often associated with the criminal profile of an individual participating in illegal activity, usually drug dealing. Police often defend their traffic stops with the reasoning that young, black men driving nice vehicles cause suspicion of illegal activity. The traffic stop is used as an investigation tool to attempt to uncover other forms of crime. It is well researched that this is a common profile for police stops, and Judge Westmoreland-Traore mentions it in her statement above about a criminal profile description. As part of Mr. Johnson’s complainant, he included the evidence of police being aware of styling differences in vehicles often owned by black men in comparison to white men. In order to develop a clear understanding of the event, in a rather lengthy statement, Judge Girard attempts to disassociate this criminal profile from the knowledge of Officer Sanford:

Before embarking on a narrative of the events of that evening, let me dispose of the second argument first. With regard to the testimony on styling differences between vehicles owned by blacks and whites, I am not convinced that policemen in general are aware of these differences, or that Constable Sanford was. I accept that there are some differences in styling with regard to a narrow range of sports cars, though these manifest themselves as tendencies rather than invariable practices. The differences involve types of wheel rims and paint, and the use or non-use of decals, and I accept the testimony of the witnesses O.J. and Jouan Johnson that they can perceive these differences. It is often the case that members

of a minority group will be highly aware of certain small differences in behaviour that distinguish them from members of the majority, differences which may be much less visible to members of the majority. In the case of a given car within this category I expect that black youths could predict the race of the owner with a fair degree of accuracy, though clearly much less than 100% of the time. I find it significant that the only police officer that demonstrated even passing familiarity with this phenomenon was Constable Barry Warnell, who has had thirty years of patrol experience in the Dartmouth area. (*Halifax Regional Police v. Johnson*, p. 6)

Girard's assumption supports the colour-blindness theory through the use of the cultural racism and minimization frameworks. In the previous chapter, I discussed how Officer Sanford testified that it was the "style of the car and the tinted windows" that initially caught his attention, and that the Texas license plate heightened his suspicion. Girard fails to link the important reality of police often associating criminality with black men driving nice cars. His statement also demonstrates the cultural racism framework functioning in combination with the "naturalization of racism" framework (which is further unfolded in the following chapter). In this sense, Girard is supporting the Officer Sanford's action an assumed ignorance of the culture of Dartmouth where a large portion of Halifax's black population resides, he continues:

Constable Sanford was raised in Fredericton, New Brunswick and had only been assigned to duties in Dartmouth for a few weeks before the evening in question. I do not believe he would have absorbed any local police knowledge among Dartmouth officers about black styling of vehicles in that short period, even if such knowledge existed. (*Halifax Regional Police Services v. Johnson*, p. 6)

This statement appears contradicting to what was previously stated from Girard about being able to distinguish styles of vehicles. He states "even if such knowledge existed" (referring to knowing about 'black' styling of vehicles), suggesting that it is unlikely that there would be evidence to support white people and black people being able to distinguish race by types of cars, however in the quotation above, she agrees that the

young, black men would probably be able to distinguish race based on car styling. Here white color blindness is particularly obvious as the judge suggests that first; locations are associated with the natural segregation of white people and black people, and therefore ignorance of particular cultural characteristics. Secondly that black people are more likely than white people to distinguish race based on cultural values or norms, in this case being the style of the car which uses the minimization of racism strategies of denial claiming to not see race.

### *The Police*

Racialized stereotypes such as criminality not only influence who is stopped and questioned but furthermore who is searched, arrested, and subjected to police force. In some situations this means that police officers overreact because they have perceived the situation to be far more dangerous than it is in reality. Over reaction as experienced through use of force, was found in the data to be initiated by the perception of the complainants' attitude, and verbal and physical expressions. It is not unreasonable to understand that anyone who feels they are involved in an unjust encounter with authority would react with feelings of frustration or anger. Perhaps in the heat of the moment the complainants reacted in such ways out of fear, frustration, and humiliation. However, the police reaction to such behaviour (including use of force and excessive police presence) may have been the result of the prejudicial association of black men and violent crime. Officer Baker from the case in Toronto expressed his opinion for his reaction to Mr. Maynard's behaviour:

Mr. Maynard's behaviour was irrational and as a result he could possibly be the kind of person who would threaten someone with a gun over a dispute at a Laundromat. He also testified that Mr. Maynard was agitated and moving around

as if he was ‘pissed’, one hand on his cell phone and the other in and out of his pocket, he was yelling and making a scene, was near the trunk of the car where the gun could have been hidden and that Officer Baker feared for his life when he drew the firearm (*Toronto Police Services Board v. Maynard*, p. 21).

Officer Baker attempted to offer this explanation for the use of force on Mr. Maynard because as the situation progressed Mr. Maynard’s conduct provided further consistency with the characteristics of the 911 call at the Laundromat. What Officer Baker failed to acknowledge was that the description itself was uncertain. With Mr. Maynard becoming scared and frustrated during the encounter, Officer Baker used it as a means to justify his mistake, blaming Mr. Maynard for the extent of force used against him. This relates to Bonilla-Silva’s argument of “blaming the victim” for racial profiling. This argument fails to recognize the impact that perceptions of unjust treatment due to discrimination has on victims. As well, when authority figures justify the use of force it contributes a body of support against black men; further contributing to hegemonic ideologies of systemic racism.

In Halifax, although there was no physical force drawn on Mr. Johnson by the police, Mr. Sanford described Mr. Johnson’s behaviour as excessive, which he demonstrated in his testimony:

Counsel for the respondent focused on several factors as explaining any apparently differential treatment. The first was Mr. Johnson’s alleged belligerency from the outset, and arising from this the need to keep officer safety in mind as a key factor in judging an officer’s conduct at a stop. Constable Sanford described Mr. Johnson’s manner as confrontational right from the beginning of the stop, and “fairly belligerent” as it progressed. (*Halifax Regional Police Services v. Johnson*, p. 23)

Officer Baker observed Mr. Johnson’s verbal conduct as a threat to his safety, although he testified that Mr. Johnson made no physical gesture or movement that threatened the

officer's safety. Officer Baker attempted to justify ceasing conversation with Mr. Johnson (the passenger in the vehicle, but the owner of the car) because of a perceived threat to his safety. Soon after, numerous officers and police vehicles arrived on the scene. Bonilla-Silva argues that often when white people give testimonies of "bad experiences" with black people, it relies on negative views about black people. In this case Officer Baker used Mr. Johnson's verbal reaction to support the police escalation.

The Campbell case in Montreal revealed very similar tactics at the hands of the police in the attempt to justify the level of force used on the accused:

Officer Ransom told his partner that the accused was in violation of his curfew. While Officer Ransom parked, Officer Dumas got out of the patrol car and called after Campbell. Officer Ransom did not recall whether he had told Officer Dumas the name of the accused. Officer Ransom also got out to join Officer Dumas. When the accused started to run, Officer Dumas ran after him without saying why and tackled him a few metres away. Since the accused resisted, the officers put him on the ground and forcefully handcuffed him behind his back. (*R. v. Campbell*, p.4)

In the trial decision, the judge concluded that the officers' story did not coincide with the actual facts of the case. It was determined that the officers did not know Mr. Campbell's name until after they tackled, handcuffed, and searched him. The officers used a "blaming the victim" strategy as well to explain their excessive force on Mr. Campbell. In his testimony, Officer Ransom painted Alexer Campbell to be a "well known narcotics dealer" who he had arrested prior to the current event. This profile helped Officer Ransom explain why he called out to Alexer Campbell, and then chased and tackled him once the accused ran.

First, the "blaming the victim" strategy is evident when Officer Baker uses Mr. Campbell's apparent status as a narcotics dealer to blame him for the arrest. Second, the officers further blamed Mr. Campbell for the excessive force due to his choice to run

when they began to pursue him on foot. Citizens are expected to comply with police authority. It is well researched that the harmful effects of racial profiling have led to strong feelings of mistrust in their ability to justly preserve public safety from racialized groups (Batton & Kadleck 2004; Chan 2011; The Ontario Human Rights Commission 2014). This reason alone may indicate in part why Mr. Campbell chose to run from the police. We must again look to the institutionalized unequal practices in the areas of employment, housing, and education that affected his life chances (and all racialized people) from the beginning.

### *The Complainants*

More black people than white people are likely to report negative encounters with the police in Canada (reference). Bonilla-Silva argues that black people are more likely to be conscious of race in everyday interactions, but colour-blind racism frameworks may also influence them. The data reveals that two of the complainants in the cases showed to be influenced slightly by the “cultural racism” framework. Mr. Maynard revealed in his testimony that he did not understand the mistrust in the police that many black people express, because he did not feel the same way. Similarly, before the event Mr. Johnson spoke in schools about not blaming racism for any problems that might exist.

During the encounter, Mr. Maynard yelled to police that he had a university degree and a job so he could not understand why this was happening to him. As Officer Baker tried to get him to comply with his orders, Mr. Maynard pleaded that he does not have a criminal record and he always had positive interactions with the police stating:

He testified that he had never had an interaction of this kind with the police before and that his experiences with the police had always been positive ones. Mr. Maynard testified that whenever he was pulled over by an officer there was

always conversation and communication and that was his expectation of this interaction with Officer Baker. The explanation that black youth might not behave appropriately with police officers because of a lack of trust, the impact of multiple unjustified stops, or stories from family and friends about their negative interactions with the police did not resonate for Mr. Maynard. (*Toronto Police Services Board v. Maynard*, p. 42)

This statement of Mr. Maynard reveals an unfortunate reality of the processes of colour-blind racism—it did not protect Mr. Maynard. While Mr. Maynard acknowledges that racial profiling does happen (even to his family and friends) he has never experienced it and therefore does not understand the effects it can have. With this perception Mr. Maynard did not acknowledge, before it happened to him, the effects that systemic racism has on racialized people.

Mr. Johnson, who is no stranger to perseverance and working hard to achieve his goals as a heavyweight boxing champion also revealed influence from the colour-blind frameworks to explain that racism should not be blamed for any issues an individual may come across in life:

In addition to the humiliation suffered on the evening in question, Mr. Johnson felt betrayed by the police. He had followed his parents' teachings that he was to cooperate with the police and was not to blame racism for any problems he might have. Mr. Johnson often spoke in schools where he tried to pass on the same message, which is not always a popular one in the black community. It required some courage to do this. Yet this incident seemed to reveal that his message was flawed, that a law-abiding black citizen could still get in trouble with the police even though minding his own business. Some in the black community may have thought less of Mr. Johnson because of this, and there was some evidence to this effect. (*Halifax Regional Police Services v. Johnson*, p. 35)

This statement from Mr. Johnson confirms that he attempted to find another explanation for the standing of racialized people in society rather than acknowledging the effects that systemic racism in societal institutions has on the life chances of racialized people like himself. Only after he was subjected to such discrimination did he come to understand

that the message he tried so hard to believe and pass on to others was in fact flawed.

After the incident he experienced with the police in Halifax, he finally understood the humiliation and feelings of mistrust from the police that many black people express.

### Conclusion

In this chapter, I have illustrated how Bonilla-Silva’s “cultural racism” framework can be used to analyze racial profiling in the cases I selected. Utilizing the framework, I analyzed the perspectives of three different actors within each case: the judge, the police and the complainant. The judges tended to use the framework to explain black peoples standing in relation to the perception of black criminality; from this I drew on historical references to the construction of black criminality from the “war on drugs” and applied it to the existing phenomenon of “driving while black”. This phenomenon was used to demonstrate how the perception of black socioeconomic status in relation to styling of cars contributes to the profile of black criminality. The data demonstrated that the police use the “blaming the victim” strategy of the “cultural racism” framework to justify the use of excessive force and police presence. Lastly I demonstrate how the complainants are influenced by colour-blind frameworks in their perceptions of racial profiling and the police before and after their individual experiences, which reveals an unawareness of the effects of racial profiling and systemic racism on racialized people and their social standing. I then analyzed the decisions of the police to utilize an excessive use of force for the encounters as a result of the perception of the “aggressive” attitudes and behaviours of the complainants during each incident. In the following chapter, I use the

“naturalization of racism” framework to demonstrate how location, space and segregation are all factors that explain suspicion and ignorance.

## **Chapter Four**

### **Naturalization of Racism**

In the previous chapter, the “cultural racism” framework was outlined and its defining characteristics such as socioeconomic status, attitudes, and inappropriate values were discussed and used to analyze statements and opinions from the judges, the police, and complainants in *The Toronto Police Services Board v. Maynard*, *The Halifax Regional Police v. Johnson*, and *R. v. Campbell* cases. In this chapter, the first section outlines how the “naturalization of racism” framework and the “cultural racism” framework are enabled through the phenomenon of “white habitus”. Following this section, I define the “naturalization of racism” framework and discuss how it can be utilized to analyze cases of racial profiling. I then apply the framework to specific passages drawn from the actors in each case, focusing on the idea of “white habitus” and its effects.

#### The creation of cultural racism through naturalizing segregation

In the previous chapter the “cultural racism” framework is defined and used to acknowledge how white people seem to define black culture in direct opposition to white culture. How do these social constructions of differences in culture arise? Bonilla-Silva (2006) suggests that a phenomenon he describes as “white habitus” is what creates misconceptions of culture among white people through segregation. White habitus is defined as “whites’ high levels of social and spatial segregation and isolation from minorities...creates uninterrupted socialization processes that conditions and creates whites’ racial taste, perceptions, feelings and emotions and their views on racial matters” (p. 104). He argues that one of the central consequences of ‘white habitus’ is that, ‘it

promotes a sense of group belonging ‘a white culture of solidarity and a negative view about nonwhites’.” (p.105). Excluding racialized groups from this solidarity leads to concluded serious concerns of social and spatial isolation for black people. Essentially these characteristics as Bonilla-Silva argues create a “culture of segregation—a set of behaviors, attitudes, and values that are increasingly at variance with those held in the wider society”(p.104). In turn, white people tend to not view their segregation from black people as a problem because it is disregarded as an issue and becomes normalized or commonly explained as: “just the way things are.” (p.105) The repercussions of racialized segregation have been found to be those that define the “cultural racism” framework: a lack of personal responsibility, production of pathological behaviours and, a sense of hopelessness.

### Defining the “naturalization of racism” framework

Normalizing the segregation of races is the very basis of the “naturalization of racism” framework. Bonilla-Silva defines this framework as one “that allows whites to explain away racial phenomena by suggesting they are natural occurrences. This segregation ranges from neighbourhoods to friendships and attraction preferences. White people can claim that such segregation is natural because *everyone* ‘gravitates toward likeness’.” (p. 105, whole emphasis mine) The word “natural” or the phrase “that’s the way it is” is used within the naturalization framework to normalize events of behaviours that could otherwise be interpreted as being discriminatory. With race being a social construction, we know that the processes it is associated with are rarely ‘natural’. Therefore, Bonilla-Silva argues, “segregation and racial preferences are produced through social processes

and that is the illusion/delusion component of this frame" (p.105). In the data collected from these cases, the location in which the event took place, where the complainants resided, and how the segregation of communities creates negative feelings from the racialized group towards the dominant group were central to the responses from the actors.

### *The Judges*

In Toronto, Leslie Reaume discussed how many local people view the Malvern Town Centre where the incident took place:

No one disputed the fact that the Malvern Town Centre area was regarded as a place with the potential for gun crimes. Considering the entire context, the most reasonable explanation for Officer Baker's decision to follow Mr. Maynard is that he was a black man, and specifically a young black man, driving a black vehicle near the Malvern Town Centre and as a result, he was stereotyped as a person with some probability of being involved in a gun-related incident. (*Toronto Police Services Board v. Maynard*, p. 51).

This quotation demonstrates how by naturalizing the location as being one related to high levels of crime and disobedience; it becomes quite natural to associate Mr. Maynard the behaviours associated with such areas.

In Halifax, Philip Girard discusses Officer Sanford's local knowledge about styling differences in cars. He notes that Officer Sanford would not have this knowledge because he is not from the Dartmouth area, however Constable Warnell would have such knowledge because he has worked and lived in the Dartmouth area for years:

I find it significant that the only police officer who demonstrated even passing familiarity with this phenomenon was Constable Barry Warnell, who has had thirty years of patrol experience in the Dartmouth area. During that period Constable Warnell would have had opportunities to notice these fairly subtle differences, where other officers would not. Constable Sanford was raised in Fredericton, New Brunswick and had only been assigned to duties in Dartmouth for a few weeks before the evening in question. I do not believe he would have absorbed any local police knowledge among Dartmouth officers about black

styling of vehicles in that short period, even if such knowledge existed *Halifax Regional Police Services v. Johnson*, p 6.)

A sense of the phenomenon of “white habitus” can be examined here, because Girard indicates that the only officer who would share knowledge with young black men is Constable Warnell, a white officer who has been exposed to the culture and area over the years of his work. He indicates that Officer Sanford, from Fredericton, New Brunswick—a city with a much smaller proportion of black residents—would not be exposed to this type of knowledge. It is not a coincidence that Dartmouth is perceived as being an area disproportionately populated by black people. Therefore, such a “white habitus” creates and preserves ideologies of cultural racism.

Similarly to Girard’s observation, in Montreal, Justice Westmoreland-Traore discusses Officer Ransom’s exposure to black people because of the nature of his work in Côte-des-Neiges:

Officer Ransom testifies that he didn’t notice that Campbell was black until he recognized him when he got out of the taxi near the corner of Bourret and Decarie. The Court finds this hard to believe since this Officer was patrolling in the Côte-des-Neiges district of Montreal for six years. He was used to seeing Black people in Côte-des- Neiges. As an officer, he would observe the personal characteristics of persons, especially those whose conduct he considered suspect. (*R. v. Campbell*, p. 12).

Justice Westmoreland-Traore argues that it is natural during police work to notice the characteristics of people. Officer Ransom uses the naturalization of racism framework to explain himself in a colour-blind manner. Officer Ransom attempted to defend his actions by stating he did not notice the race of the individual who he found to be engaging in suspicious behaviour.

### *The police*

The police have an important duty to provide security for all members of a given community. However, feelings of mistrust from racialized groups have been growing in the past number of years, as many perceive the police to treat them unequally based on their race. Police should have a broad understanding of the community they work in and the people that reside there whether they exist in small numbers or not. Spatial and social segregation of the police from the black communities in these cases is illustrated by how the officers' explained their behaviour. In Halifax, North Preston has a large population of black people, which the judge concluded is likely known to officers who have worked in the area, the importance of this spatial segregation is shown in one detail of the event:

Earl Fraser's address was broadcast over the CPIC channel as North Preston, which would indicate the likely race of the driver of the stopped vehicle to anyone listening on that channel. (*Halifax Regional Police Services v. Johnson*, p. 28)

Although Girard indicated that Officer Baker might not be as experienced with the city of Halifax and its culture, it does not explain that when Earl Fraser's address was broadcast over the police radio as North Preston police officers showed up at the scene moments later. When the police heard over the radio an incident involving a man from North Preston, backup was brought in immediately.

In attempting to support the argument that Officer Ransom did not notice Mr. Campbell's race because he was not accustomed to frequently interacting with racialized people, Officer Ransom and his counsel demonstrate the idea of "white habitus":

The Crown submitted in argument that the Court could take judicial notice that black persons were a minority in the Côte des Neiges district, a significant minority. As pleaded by the Crown, he lives in a neighbourhood where Blacks are a minority group. (*R. v. Campbell*, p. 16)

In an attempt to defend his actions, Officer Ransom actually demonstrates how "white habitus" works. The crown uses the term "minority" to express that although the area does have a population of black people, it is less than 50%. He argues that because he lives in a community in which black people exist in a minority, he would not readily take into account race when observing suspicious behaviour. Essentially this argument

works against Officer Ransom when looking at the phenomenon of “white habitus”.

Bonilla-Silva states “if we take seriously whites’ self-profession to colour-blindness, one would expect significantly high levels of racial interaction with minorities in general and blacks in particular” (p.124). Officer Ransom is arguing that he did not and does not take race into consideration when performing his duties as an officer making it seem that this is a very natural tactic. His statements bring to light “naturalization of racism” not noticing race and the implications it has on racialized peoples’ lives is problematic. This statement brings to light the frameworks of colour-blind racism and how they are demonstrated on the ground.

### *Other Races*

It is not coincidental that research shows that black people report greater negative feelings toward the police in comparison with other races (Batton & Kadleck 2004; Chan 2011; Ontario Human Rights Commission 2014). With the phenomenon of “white habitus” promoting negative feelings towards racialized groups, and defining groups by the characteristics of the culture of segregation, Bonilla-Silva argues that the negative views of each group may not be a one-way street (p.124). These negative feelings toward the police including apprehension when approached, and not having trust in the police to justly perform their duties. In the case of *R. v. Campbell* in Montreal, a central piece to the defense’s argument was that because Campbell is a black person, it was a natural that he felt uneasy when he was called by the police and therefore ran in response:

The Defence submitted that the accused was psychologically detained by the officers before his arrest. Citing doctrine, the Defence described the perception of a minority person and in particular a black person of being detained when they are followed or intercepted by police officers. It was because of this situation that the

accused ran; however, as has been observed, the running was interpreted as suspicious, or conduct denoting a guilty mind (*R. v. Campbell*, p. 17)

This quotation demonstrates how “white habitus” may promote for people to develop negative feelings toward one another. These negative feelings create what seems to be a “natural” apprehension of someone who is black to interact with the police. Whereas some black people may feel the tendency to want to avoid police, the police view this as not normal, or unnatural behaviour. In an attempt to justify their actions, the police often use such behaviour as grounds for suspicion. This contributes to the idea of the “culture of segregation because it sees mistrust in the police as a behaviour or attitude that is much different from the social norm.

With the phenomenon of the naturalization of segregation, and “white habitus” creating solidarity amongst white people, those who are segregated may also form a unity amongst their community. With Kirk Johnson being a well respected individual from his community in Dartmouth, he had no doubt that they would come to his aid had the situation taken a turn for the worse, stating:

Mr. Johnson testified that while the stop was proceeding he thought about calling for help from his community, and had he or his cousins done so in response to a threatened arrest, given the number of police officers present, matters could have turned violent very quickly. (*Halifax Regional Police Services v. Johnson*, p 31)

This statement made by Mr. Johnson highlights how the “naturalization of racism” framework functions. Bonilla-Silva argues, “in general, the social and spatial isolation of one group from others leads to differentiation of those groups as well as the development of group cohesion and identity in the segregated group” (104). I discussed in the previous chapter using a statement made by Mr. Johnson that he had often spoke in schools to spread the message that people should not blame racism for any issue that occurs in their

life, and many from the black community disagreed with his message. However, he felt that in such a situation with the police that the community would react negatively leading to violence due to the police presence. This example shows the solidarity that is created when segregation is naturalized and persists through cultural racism.

In the Toronto case, Mr. Maynard did not feel before the event that he belongs to such a segregated community in which negative feelings and interactions with the police was the norm. He felt that because he had an education, a job and no criminal record he should never have been in a negative situation with the police. During the event and at the trial he continued to portray himself as someone who possessed the opposite characteristics of the “culture of segregation”. However, after the event he had changed his perspective: In order to understand truly the full effects of the situation, Mr. Maynard’s change of heart this rather long statement was chosen:

Mr. Maynard testified about this as a watershed experience in his life. There is now a dissonance for him between the man he once perceived himself to be and the man he believes he is perceived to be by the police. His belief in himself as a hard-working, educated, law-abiding man who would not hesitate to call on the police at any time for help has been replaced with the fear that he could once again be singled out as a potential suspect in a serious crime. Mr. Maynard testified that he was terrified by the experience, humiliated in front of his friends and neighbours, and experienced a profound sense of shame at the thought of his parents learning about his experience. He testified that he has changed his driving habits and avoids activities, which might bring him into the presence of the police in his community. He testified that he finds it difficult at work when he sees members of the police service escorting people to the emergency room of the hospital. He remains uncomfortable visiting the home of his parents where this incident took place (*Toronto Police Services Board v. Maynard*, p. 57).

This quotation from Mr. Maynard demonstrates the truly negative consequences that the “naturalization of racism” has on the racialized group that is segregated. This specific instance points to the negative outcome of “a sense of hopelessness”. Mr. Maynard once believed that he could trust the police because he considered himself it possess the

attitudes and behaviours that are the social norm of the dominant group. Now that he has experienced discrimination, a sense of hopelessness is created because he now believes that others may perceive him as being associated with criminal behaviour because of his skin colour. This demonstrates the vicious cycle that the “naturalization of racism” and “cultural racism” frameworks create when communities are perceived as being naturally segregated.

### Conclusion

In this chapter it is demonstrated how the “naturalization of racism” framework can be demonstrated in the cases of racial profiling selected. First, I described how the “cultural racism” framework influence one another and allow the other to exist through the phenomenon of “white habitus”. This high level of white segregation creates a culture of segregation, which fuels prejudices against the other group, which in this case is the black community. Spatial and social segregation is naturalized and then used as a way of normalizing certain behaviours and attitudes and explaining it as “natural”. It was demonstrated through data collected from the cases of *TPSB v. Maynard*, *HRP v. Johnson* and *R. v. Campbell* that the use of spatial location was an important tool for explaining racial profiling. The judge/ inquiry panel referred to police exposure to certain communities and populations of black people to explain behaviours. As well it was found that the police often relied on the explanation of “white habitus” to justify their actions and claim that they did not see the colour of the complaints skin. From the complainants perspective it was demonstrated the negative effects that the “naturalization of racism” framework has on the black community and fueling the cycle of the police and the black communities’ negative feelings toward each other.

## **Chapter five**

### **Conclusion**

This study has examined the various ways that processes of systemic racism can be located in cases of racial profiling in Canada. Using Bonilla-Silva's three frameworks of colour-blindness, "minimization of racism," "cultural racism," and "naturalization of racism," I outline how racism persists in a less overt fashion than generally expected beliefs. I argue that systemic racism can be understood through the frameworks specifically that social actors provide explanations or understanding of racial profiling events. In order to make this argument I proceeded by unpacking and analyzing three racial profiling cases; one each from Montreal, Halifax and Toronto.

First, I defined what the "minimization of racism" framework is, and how it is used. I focused on three component strategies of denial: indirect denial, direct minimization, and outright denial and used them as tools to demonstrate how the actors (the judge/ inquiry panel, and the police) ignore or reduce the importance of a claim of discrimination. I found that the judge and/or inquiry panel were more likely to use either the indirect denial or direct minimization strategies when interpreting the case before them. The police, on the other hand, were more likely to use the out right denial strategy, considered as they were with denying any claims of racial profiling or using race as a factor in the original grounds for suspicion. Given their competing interests in pointing to racial profiling, complainants' understanding of their individual experience was found colour-blind framework as a means of explaining discrimination and talking about encounters with race at the center.

It is important to note that in these three cases the judge and/or inquiry panel concluded that the police engaged in racial profiling. My goal has been to critique how these conclusions were drawn in order to provide an understanding of racism as a systemic problem. Each judge was able to acknowledge that racism is a systemic problem, but in the end still resorted to a focus on individual conduct. As such, the downfall in these three cases of racial profiling is that systemic racism is generally ignored in final decisions.

Second, cultural racism is often the basis on which these accounts of racial profiling are created. In chapter three, I demonstrated that hegemonic ideologies of black criminality have developed over the past few decades, specifically in the 1980s with the “war on drugs” in the United States. Due to the development of this ideology, a prejudicial description of blackness took root, including the connections with low socio-economic status, loose family organization, and inappropriate values. In the “cultural racism” framework, these characteristics are used as a way for white people to explain the social standing or position of black people without any recourse to a broader understanding of systemic racism.

My analysis found that in the case of *R .v. Campbell*, the complainant “fit” the description of a drug dealer in that the typical profile includes a young, black man who seems poor. Also, black men who drive nice vehicles are perceived to fit the “criminal profile”, as in the examples of *HRPS v. Johnson* and *TPSB v. Maynard*. Using a combination of the “cultural racism” and “minimization of racism” frameworks, police explained the use of force and excessive police presence by relying on the “blaming the victim” strategy.

Surprisingly, I demonstrated that even the complainants by the colour-blind framework. Before the events in question Mr. Maynard and Mr. Johnson claim to not fully acknowledge the effects systemic racism on black people in society. In fact, Mr. Johnson explains he often spoke in schools trying to spread the message to not blame racism for any black disadvantage, while Mr. Maynard did not understand the negative perception of some black people have toward the police. By using the notion of colour-blindness to explain some of these two complainants testimonies, I demonstrated how systemic racism works in broad and sustained manner.

Third, I demonstrate that cultural racism is preserved through the naturalization of racism". A key component of the "naturalization of racism – "white habitus" – Segregates white people from racialized people and further solidifies systemic racism and disadvantage. The naturalization of racism creates a "culture of segregation", which is a set of values, behaviours, and attitudes that are viewed as deviant by the dominant group.

This last framework showed up in the data from the cases through the ways in which spatial and social segregation was "naturalized" by the actors. The location of the given racial profiling event and/or the complainants' residence played a major role in how the police and the judge and/or inquiry panels naturalized the events. Locations of the event were used to explain why police perceived suspicious behaviour as certain areas naturalize the link between the high concentration of black residents and criminality.

To close, I hope that this study has provided an understanding of how systemic racism works in Canadian society. Its purpose was to contribute to the work that many different scholars in various fields are conducting in order to understand systemic racism and racial profiling. Its specific contribution is a study of how the processes of systemic

racism work within three cases of racial profiling in three different provinces. I am optimistic that future research may begin to develop ways in which systemic racism and racial profiling can be combated as we work towards a just society.

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