

TYRANNY ON TWITTER:
BUILDING A REVISED DEMOCRATIC LEGITIMACY FRAMEWORK THROUGH AN
EXAMINATION OF THE ONLINE HARMS POLICYMAKING PROCESS IN CANADA

By

BIANCA TARANTINO, B.A.

Supervisor: Dr. Sara Bannerman

A Major Research Paper

Submitted to the Department of Communication Studies and Media Arts

in Partial Fulfillment of the Requirements

for the Degree

Master of Arts

in Communication and New Media

McMaster University

Introduction

In July of 2021, the Canadian Federal Government released a Technical Paper to serve as a proposal for future legislation aimed at regulating online harms. In the context of this legislative proposal, there are five categories of online harms: (1) terrorist content, (2) content that incites violence, (3) content that constitutes hate speech (4) the non-consensual sharing of intimate images, and (5) child exploitation content (Government of Canada, 2021). The online harms legislative proposal sets out the posited requirement that all online communication services (OCS) must remove harmful content within 24 hours of being flagged on their platform, and that certain kinds of identified content must be reported to the relevant authorities (Government of Canada, 2021). While many Canadians are open to the prospect of regulating online harms, and, by proxy, negating the deleterious social and political effects associated with those same harms, there has been a substantial sentiment expressed in activist and academic circles that Canada's recent legislative proposal comes along with its own potential repercussions that could outweigh its intended goal in protecting marginalized communities from exposure to harmful content (Geist, 2021; Haggart & Tusikov, 2021; Independent Jewish Voices, 2021).

Given the novelty of the tangible prospect of the state regulation of online harms, it is important to scrutinize the particulars of any given legislative proposal and consider the implications of all potentially harmful elements (Dekavalla, 2022). There have been especially prominent and compelling concerns from racialized communities pertaining to the 24-hour removal and mandatory reporting requirements, insofar as existing systems of white supremacy and racial subjugation might result in people of colour being unjustly targeted by these measures (Independent Jewish Voices, 2021; Geist 2021). The Department of Canadian Heritage called for

consultation submissions to inform an overview summary report of the public response to the dictates of the proposal, which several academics and activist groups engaged with (Geist, 2023).

In this major research project, I address two key research questions. First, I examine whether my revised account of Haggart and Keller's (2021) *Democratic Legitimacy* framework, which incorporates key elements of Mills' (2017) *Black Radical Liberalism*, can serve as a valuable tool when considering the legitimacy of platform governance regimes. In answering this first question, I also take up secondary considerations pertaining to whether the majoritarian nature of democratic legitimacy frameworks can be adapted for the purpose of promoting social justice objectives, especially given the capacity of democratic regimes to forward white supremacist objectives through the exploitation of Black communities under the guise of meeting democratic legitimacy requirements (Mills, 2017; Haggart & Keller, 2021). Second, I consider whether Canada is on track to meet standards of legitimacy as stipulated by the criteria set in the revised democratic legitimacy framework, which are based on relevant elements of the policymaking process, including input, throughput, and output legitimacy criteria, focusing on the role of each of these elements in the implementation of corrective justice measures such as substantial racial inclusion, acknowledging past wrongdoing, and monetary reparations (Mills, 2017; Haggart & Keller, 2021; Davis, 2021; Roberts; 2017).

The main methodology that I employ in this research endeavour consists of a qualitative engagement with interview conversations to assess the proposed revised democratic legitimacy framework through its application via the case study of Canada's process of formulating online harms legislation. I conducted interviews with individuals who submitted consultations to the Department of Canadian Heritage in response to the Online Harms Technical Paper to: (a) gauge some of the problems related to the Canadian approach when examined through the lens of the

revised democratic legitimacy framework via the incorporation of racial justice-related objectives, and (b) consider whether interview respondents perceive the criteria set out by the revised democratic legitimacy framework as a valuable tool in achieving racial justice objectives. I engaged closely with interview responses in my analysis to build upon my assessment of the revised democratic legitimacy framework, as well as Canada's perceived compliance with the dictates of the framework.

I begin this research paper with a literature review and theoretical approach section, wherein I lay out the key elements of Haggart and Keller's (2021) pluralist democratic legitimacy framework, including the tenets of input, throughput, and output legitimacy. I also explicate the central principles of Mills (2017) Black radical liberalism, including key concepts such as corrective justice, substantial racial inclusion, non-ideal theory, and the assumption of an ill-ordered society. Using key literature in the areas of democratic theory and critical race theory, I formulate a revised democratic legitimacy framework that holistically adopts tenets of Black radical liberalism in the input, throughput, and output evaluation of democratic legitimacy in the policymaking process.

In the next section, I outline the methodology of this research endeavour, which includes a qualitative analysis of the revised democratic legitimacy framework using (a) the case study of the online harms policymaking process in Canada, and (b) engagement with interview transcripts from conversations with individuals who submitted consultations to the Department of Canadian Heritage. After this, I present my research findings and analysis section, wherein I relay the results of my study in accordance with the methodology laid out in the previous section by answering each of the enumerated research questions. Finally, I conclude by recapitulating the theoretical framework, methodology, findings, and analysis of the project, offering insight into

potential implications related to the regulation of online harms that might be addressed in future research.

My work indicates that the revised framework can serve as a valuable tool when evaluating the legitimacy of platform governance regimes, and that through its adoption of Black radical liberal principles, it is able to address concerns related to effects of the majoritarian nature of democratic theory in the application of corrective justice measures (Mills, 2017). I also argued, via a holistic application of the revised democratic legitimacy framework, that the proposed online harms regulatory regime in Canada is unlikely to meet standards of legitimacy that have the capacity to promote positive social change. The outcomes of this work are particularly pertinent, as they mark the formulation of an approach to a platform governance evaluative framework that is tailored to serve as a criterion when analyzing the suitability of a platform governance regime in meeting social justice related objectives, while simultaneously ensuring that these goals align with the elements required to safeguard a healthy democracy.

Before I begin with the literature review and theoretical approach, I feel that it is beneficial for me to explain my interest in this area of inquiry. As a white female graduate student, I do not know and will never fully understand the struggles associated with being a person of colour in North America. However, when given the opportunity to do graduate level research, I wanted to focus in on a topic that I felt could buttress social justice objectives and help to realize the changes that need to be made for true equity to be realized or even approximated. I acknowledge that my insight will be limited given my lack of lived experience as a racialized person, but I do my very best to be conscientious of my own biases and to focus solely on re- formulating and testing an amalgamated theoretical framework that, ideally, will serve to promote social change and contribute to a valuable tradition of philosophical inquiry.

Literature Review & Theoretical Approach

In considering whether Canada's online harms legislative proposal addresses potential concerns and benefits related to the impact of this endeavour on racialized groups, an evaluative framework needs to be selected that is practically oriented, such that it is reflexive and can account for complex social dynamics that might influence the impact of the policymaking process at any and all stages (Dekavalla, 2022; Haggart and Keller, 2021). As such, there must be several potential divergent markers that are able to indicate the prospect of a legislative proposal to achieve several social and political objectives. In other words, an acceptable approach will necessarily be pluralist in scope and allow for a truly holistic analysis. The theoretical approach grounding this research endeavour, a democratic legitimacy framework that adopts Black radical liberal philosophical tenets, will be composed with the prioritization of comprehensive evaluative principles that are able to account for the complexities associated with public life in our contemporary socio-political structure (Haggart & Keller, 2021; Mills, 2017).

(A) Democratic Legitimacy

There are several proposed frameworks to evaluate platform governance strategies, each embedded in a distinct set of values and associated priorities. Two very popular approaches are human rights and rule of law frameworks (Haggart & Keller, 2021, p.2). The human rights framework dictates a universal requirement on the part of states to protect the basic liberties of citizens under their jurisdiction regardless of location or cultural context (Jørgensen & Zuleta, 2020). According to Haggart and Keller (2021), human rights-based approaches are insufficient at meeting the objectives of effective platform governance because of the lack of broad consensus surrounding precisely what constitutes a right and which rights out to be prioritized over others in cases where more than one right is at stake (p.12).

Following the dictates of a universal human rights code, such as the United Nations Declaration of Human Rights, would involve the prioritization of substantive rights in a manner that promotes Western values over other value systems (Haggart & Keller, 2021, p.12). For instance, the African tradition of Ubuntu, which views the roles, responsibilities, and rights of an individual as inevitably embedded and intertwined with their social ties, diverges quite drastically from the individualist Western principles dictating UNDRIP's selection of purportedly universal human rights (Sambala et al., 2020). Moreover, human rights-based approaches do little to validate the procedural democratic legitimacy of platform governance structures, given their lack of appeal to democratic decision-making as a legitimacy requirement (Haggart & Keller, 2021, p.12).

Haggart and Keller (2021) also reject a rule of law approach to platform governance. According to Suzor (2018), "the rule of law requires that decisions of those who have power over us are made according to law, defined in opposition to the arbitrary or capricious exercise of human discretion" (p.2). While the rule of law approach is well equipped to account for the procedural legitimacy elements of platform governance processes, Haggart & Keller (2021) contend that it fails to account for the more substantive indicators of legitimacy that are necessarily determined by the material outcome of legislative endeavours post-implementation (p.3). Here, we can have purportedly effective governance structures, in the procedural sense, without any substantive consensus on the adequacy of decision-making outputs (Haggart & Keller, 2021, p.3) As such, Haggart & Keller (2021) determine that the rule of law approach is unable to fully assess the legitimacy of platform governance systems outputs (p.3).

Considering the problems associated with human rights and rule of law frameworks, Haggart & Keller (2021) endorse a pluralist democratic legitimacy approach, where the input,

throughput, and output of governance regimes are assessed holistically based on their accordance with principles of democratic legitimacy. Here, considerations pertaining to *input legitimacy* involve an assessment of the procedural elements of policymaking within a particular governance structure (Haggart & Keller, 2021, p.5). The key here is being attentive to the interests and needs of community members or participants, such that all relevant perspectives are accounted for in the policy-making process and decisions are made by representatives who accurately represent the voices of all individuals and groups (Haggart & Keller, 2021, p.5).

Throughput legitimacy also appeals to the procedural elements of governance regimes, but focuses primarily on the “efficacy, transparency, accountability, inclusiveness and openness” of decision-making in governance structures (Haggart & Keller, 2021, p.5). Here, the application of participatory inputs is assessed based on the efficacy of its tangible implementation into the laws and policies (Haggart & Keller, 2021, p.6). In other words, throughput legitimacy evaluates how the interests and needs of citizens are substantively integrated into policies in a manner commensurate with relevant democratic considerations (Haggart & Keller, 2021, p.6).

Finally, *output legitimacy* is focused solely on the substantive or tangible results of laws and policies implemented by the governance regime (Haggart & Keller, 2021, p.6). Here, the overall satisfaction of community members and users with the results of a policy implementation serve as a determinant of democratic legitimacy (Haggart & Keller, 2021, p.6). Even if, procedurally speaking, a policy-making process adequately follows the conventions associated with democratic decision-making, legitimacy can be compromised if individuals or groups are unsatisfied with or harmed by the outcomes of a particular governance protocol (Haggart & Keller, 2021, p.6).

Overall, the democratic legitimacy framework requires substantive considerations of input, throughput, and output factors to develop a well-rounded picture of the efficacy of a particular policymaking objective (Haggart & Keller, 2021, p.1). While this framework may, at first, appear to meet pertinent evaluative objectives considering its comprehensive and broad scope of analysis, it refrains from focusing in on and critiquing historic and continued sources of systemic oppression embedded in all socio-political structures (Titley, 2016; Goldberg, 2015). While the digitization of social structures makes online communications appear to exist in a post-racial system, one that is free from the restraints of systemic oppression associated with the elimination of visual racial representation, the perpetuation of racial inequities becomes invisible, and thus, increasingly more dangerous (Titley, 2016; Benjamin, 2016).

Benjamin (2016) posits that discriminatory processes are neatly hidden from the naked eye via the digitization of the social, making it easier for the perpetuation of racial injustices to cause extensive damage that goes unnoticed by the broader population (Benjamin, 2016). As such, an account of democratic legitimacy in the realm of platform governance needs to be reparative, insofar as it includes considerations about realities associated with embedded racial injustices. It must also be representative of the substantive desires and fulfill the needs of all participants, particularly those who are regularly subjected to systemic discrimination and bear the brunt of marginalization and social injustices (Benjamin, 2019; Davis, 2021).

(B) *Black Radical Liberalism*

To conjure a theoretical framework that meets the standards of democratic legitimacy, as set out by Haggart and Keller (2021), in a manner that addresses Benjamin's (2016) concerns surrounding the myth of post-racialism in the era of digital platformization, substantive requirements need to be set out for the purpose of meeting racial justice objectives. Given our

current embeddedness in a neo-liberal capitalist economic and governance system, a platform governance regime needs to be able to account for central liberal governance principles while simultaneously adopting elements of critical race theory to mitigate the effects of racial injustice within this flawed system (Mills, 2017, p.201). Critical race legal scholars have long called for the implementation of a sociological brand of jurisprudence, wherein the reality of existing social conditions is accounted for in legal considerations, rather than a vision of an idealized society governed by the dictates of logic (Jones, 2002). When the reality of racial injustice is ignored by courts, judges end up producing obscure legal decisions that ignore the reality of existing socio-economic circumstances and, by proxy, end up further perpetuating those same injustices (Jones, 2002; Dworkin, 1986).

Mills (2017) offers a strikingly similar critique of the mainstream philosophical canon, positing that a focus on ideal theories, which are void of any substantive considerations pertaining to the current socio-political climate, can never do the work necessary to make genuine strides in attaining racial equality (p.74). While, of course, any philosophical framework will involve some degree of idealization, ideal theory is distinct in that it uses the ideal as a descriptive rather than a normative tool, and, by proxy, is entirely void of relevant conditions that impede on the prospect of the realization of social change (Mills, 2017, p.75). Mills (2017) describes how the use of ideal theory fails to offer useful guidance in addressing and improving existing social inequities:

If we start from...the...premise that the ultimate point of ethics is to guide our actions and make ourselves better people and the world a better place, then [ideal theory] will not only be unhelpful for, but will in certain respects be deeply *antithetical* to, the proper goal of theoretical ethics as an enterprise. (p.77)

As an alternative, Mills (2017) posits that a moral or political philosophical framework ought to be governed by non-ideal logics, wherein relevant socio-political contingencies are embedded

into the theory itself (p.76). By offering a clear description of the existing political climate, non-ideal theories can effectively ‘map’ how contemporary socio-legal apparatuses oppress marginalized groups and, in turn, contribute to the creation of a normative framework that mitigates the effects of racial injustice (Mills, 2017, p.82).

Based on his critique of ideal theories, Mills (2017) formulates an outline of a novel non-ideal philosophy of race referred to as ‘Black Radical Liberalism’ (p. 201). Black radical liberalism amalgamates the most constructive elements of Kantian/Rawlsian Liberalism, Marxism, and Black Radicalism to formulate an approach that fits within our contemporary neo-liberal capitalist governance regime, while simultaneously recognizing and reframing injustices embedded in the structures of that same system (Mills, 2017, p.201). By incorporating key tenets of the Black radical tradition into mainstream liberal thought, Mills can account for the key “micro-theoretical differences” between radicalism and contemporary liberalism that have historically and continue to negate civil rights objectives (Brooks & Newborn, 1994, p.790). Mills (2017) purports that theories which altogether stray away from the liberal tradition are unable to fully meet or realize racial justice-related objectives, insofar as our embeddedness in a liberal social compact makes the integration of fully socialist or Marxist governance regimes an unlikely manifestation (p.201).

For instance, Robinson (2020) puts forward an account of Black Marxism, wherein he recapitulates Wright’s contention that “racism was a secondary, residual phenomenon” of the capitalist colonialist objectives of European imperialism (p.298). Here, Wright suggests that the alienation of labour in capitalist economic systems, as described by Marx, ought to be reconfigured to account for the more stringent and all-consuming alienation experienced by Black workers over their white counterparts (p.299). The practice of chattel slavery fully

alienates the individual in all capacities of their life, which constitutes a more complete alienation from the whole self than that experienced by white working-class counterparts who are not living in bondage (Robinson, 2020). As such, it is posited that “the historic development of Black people in the United States constituted the most total contradiction to Western-capitalist society,” insofar as their freedom from direct alienation and subjugation fully negates the capitalist objectives of the bourgeoisie (p.299). While it is doubtful that Mills would disagree with this line of thought; his adherence to the importance non-ideal theory and practically grounded ethical normative work in a liberal capitalist structure ultimately drives the insistence on maintaining a focus on our neo-liberal civic apparatus.

Black radical liberalism is primarily structured as an inversion of Rawlsian distributive justice, wherein Rawls’s assumption of a ‘well-ordered society’ is replaced with the expectation that any real society will inevitably be ‘ill-ordered’ (Mills, 2017, p.208). By beginning with the premise that any existing society is necessarily ill-ordered, or embedded in structural flaws, we can avoid the Rawlsian or traditionally liberal tactic of employing ideal theory that is not grounded in reality and ensuring that we begin with a non-ideal or realistic collective understanding (Mills, 2017, p.208). Extending from this same line of logic, Mills (2017) suggests replacing the central Rawlsian tenet of distributive justice with corrective justice, such that the distribution of resources and power is not dictated based on the premise of an idealized equality, but rather, that the distribution of resources is aimed at repairing past and present racial injustices (p. 209).

Mills’ (2017) conceptualization of Black radical liberalism relies on a unique normative tool developed for the purpose of this theoretical framework: “Black Radical Kantianism” (p.210). Although Kantianism is often employed in what seems to be a racially inclusive manner,

insofar as modern interpretations include racially marginalized groups into what was formally a racially exclusive definition of full personhood, Mills (2017) posits that the kind of racial inclusion employed in these works is ‘nominal;’ rather than ‘substantive’ (p.210). Substantive racial inclusion involves an active acknowledgment of the historical and contemporary state of racial injustices to serve as a foundation for the way racialized persons are incorporated into the basic theoretical understanding, whereas nominal racial inclusion simply involves an extension of existing rights to racialized persons without the restructuring required to appropriately modify the Kantian approach to account for reparative social justice considerations (Mills, 2017 p.210).

Mills (2017) proposes three objectives to govern the dictates of this Black radical liberalism: “end racially unequal citizenship,” “end racial exploitation,” and “end racial disrespect” via the employment of “corrective justice measures” to break down the layers of systemic racism in the socio-political structure (p.214). While Mills’ (2017) conjuration is meant to serve as an outline for future work, he indicates his goal of:

develop[ing] in greater detail this project of articulating a radical liberalism that is true both to the (idealized) liberal tradition, the liberalism that *should have been*, and respectful of the black diasporic experience in modernity, victims of the liberalism that actually was and is. (p.215)

Given Mills’ (2017) desire to develop a framework aimed at attaining genuine social justice for racialized persons in a manner that remains honest about the nature of systemic racism in contemporary Western culture, I contend that his outline of Black radical liberalism is perfectly geared to supplement my revised version of Haggart and Keller’s (2021) account of democratic legitimacy in a manner that fully accounts for the propensity of racist policies in platform governance. To alter Haggart and Keller’s (2021) pluralist democratic legitimacy approach to platform governance in a manner that aligns with the central tenets of Mills’ (2017) Black radical liberalism, we need to consider how the input, throughput, and output evaluative

criterion can individually be altered to assess the applicability of corrective justice measures in the employment of platform governance frameworks.

(C) *A Black Radical Liberal Approach to Democratic Legitimacy*

(i) *Input Legitimacy*

As previously discussed, Haggart and Keller's (2021) iteration of input legitimacy refers to the procedural participatory inclusion of community members in decision-making processes that govern them (p.5). However, this dictate is notably too idealistic and non-particular to serve as an effective criterion that fits the purpose of correcting and repairing systemic injustices embedded in policymaking processes. It is well known that racialized persons in Canada and the United States have a history of exclusion from policymaking and broader democratic processes altogether, and that their eventual inclusion into those same systems was fundamentally nominal, simply involving an extension of rights available to white counterparts without any extensive attempt to promote corrective measures (Mills, 2017; Delgado & Stefaniec, 2007).

For instance, although the American *Voting Rights Act (1965)*, which banned discriminatory voter laws that prevented Black American from practicing their democratic rights, might appear to have served as a corrective measure to promote racial inclusion, it simply prohibited existing overt mechanisms of oppression without making any substantive attempt to repair or correct the unequal social status of Black Americans (Mills, 2017, p.210). While this measure might have fulfilled its purpose in eradicating a procedural unequal citizenship in the democratic decision-making process, it did little to eradicate the exploitation of racialized communities for political gain or eliminate disrespect for Black Americans embedded in that democratic system (Mills, 2017, p.210).

As such, input legitimacy in platform governance needs to ensure not only that (a) Black citizens are able to participate in conversations about the regulation of online spaces, but also that additional measures are taken to (b) mitigate the effects of potential exploitation of Black perspectives for political gain, and (c) eradicate broader sentiments of disrespect for the perspectives and lived experiences of Black citizens in democratic discourses (Haggart & Keller, 2021; Mills, 2017). Simply including racialized voices in spaces that have historically and continue to be dominated by systems of white supremacy will do little to meet the latter two of the three posited objectives. Instead, active attempts to fully integrate and buttress the authentic perspectives of racialized persons are required to satisfy the demands of input legitimacy in a framework governed by the requirements of Black radical liberalism.

(ii) *Throughput Legitimacy*

Similarly, throughput legitimacy is concerned primarily with the procedural element of democratic decision-making processes. However, it is focused on how effectively the desires and needs of the citizenry are accounted for in the decision-making process (Haggart & Keller, 2021, p.6). Here, the key consideration is whether those who formulate relevant rules and regulations actively integrate the broader needs of the citizens being governed (Haggart & Keller, 2021). However, it is well known that simply accounting for the views of the broader citizenry is likely to produce a majoritarian outcome that excludes the perspective of marginalized persons (Jones, 2002). As such, simply electing representatives to articulate on behalf of and negotiate the implementation of the policy objectives of racialized communities does little to guarantee or improve the prospect of those guidelines being tangibly integrated into the policy.

Consequently, the representation and consideration of participants' perspectives in the creation of policy does not do enough to satisfy the corrective justice requirements dictated in

Mills' (2017) Black radical liberalism. Unless strict mechanisms are put into place to ensure that: (a) the policy objectives expressed by Black citizens are implemented into the policy in a manner that indicates an attempt to remedy unequal citizenship, (b) the participatory measures of Black citizens are not appropriated to meet white supremacist objectives (i.e., concerns about high rates of drug usage within racialized communities and the subsequent racially motivated 'war on drugs' in response to said concerns) and (c) that adequate respect is demonstrated to the representatives of Black communities in the decision-making process through an active effort to consult with and listen to their constituents' perspectives, then a policy cannot meet throughput legitimacy requirements in accordance with the framework of Black radical liberalism (Mills, 2017; Haggart & Keller, 2021; Rosino & Hughey, 2018). Simply including representatives of racialized communities in the decision-making process will not be sufficient in meeting any of the requirements enumerated in this proposed framework.

(iii) *Output Legitimacy*

Unlike input and throughput legitimacy, output legitimacy is primarily concerned with the substantive outcomes of a policy's implementation (Haggart & Keller, 2021, p.6). In this case, broad majoritarian consensus pertaining to satisfaction with the results of the policy application would indicate a degree of democratic legitimacy (Haggart & Keller, 2021, p.6). However, it is well known that majoritarian satisfaction often diverges quite substantially from the degree of satisfaction indicated by members of marginalized communities. As such, the attainment of broad consensus does little to demonstrate that racialized citizens are generally satisfied with the outcome of a legislation's implementation. For instance, in *Plessy v Ferguson* (1896), the Supreme Court of the United States maintained the majoritarian perspective that racial segregation did not violate the constitutional rights of Black Americans (Jones, 2002).

While this decision appeased the predominantly white segregationist population in the southern states, it was certainly unsatisfactory to Black Americans who continued to be subject to segregation until the legal integration of *Brown v Board of Education (1954)* Supreme Court decision, which in-and-of itself, could be described as an instance of “veiled-majoritarianism” rather than a truly counter-majoritarian decision (Jones, 2002; Spann, 1990, p.1991). *Brown v Board of Education (1954)* is categorized as a majoritarian decision because of the overwhelming mainstream ideological shift in support of broad civil rights protections that contributed, at least indirectly, to this unprecedented judicial outcome that outlawed legal segregation (Spann, 1990). Moreover, the decision did not, in practice, fully end segregation in schools due to poor implementation on the part of the Department of Education (Spann, 1990).

As such, the output legitimacy requirement needs to be amended to fulfill the dictates of a Black radical liberal theoretical framework in a manner commensurate with the tenet of corrective justice (Mills, 2017, p.214). For starters, if most of the population is satisfied with the results of a policy, while a substantial portion of the racialized communities feel as though the policy is not serving them, there will undoubtedly be a sense of unequal citizenship in day-to-day socio-political endeavours (Mills, 2017, p.214). Moreover, if those same policies cater to the white majority in a manner that, either explicitly or inadvertently, degrades racialized persons for the benefit of white persons, then the policy perpetuates racial exploitation rather than contributing to its elimination (Mills, 2017, p.214). Finally, not considering the effect of a policy on marginalized groups indicates a disrespect or lack of regard towards them, which, of course, will not result in the erasure of racial disrespect (Mills, 2017, p.214).

As such, if output legitimacy is to be attained via the framework of Black radical liberalism, a policy outcome must: (a) produce a general satisfaction within racialized

communities, such that it levels their citizenship status to be equal with white counterparts, which can, in-and-of itself, only be achieved through a community consensus produced via awareness and collective decision-making, (b) prevent or mitigate the effects of the continued exploitation of racialized persons in society, and (c) indicate and encourage the result of the recognition of racialized persons as equals worthy of and entitled to respect via an active acknowledgment of the failures of past policies and the realities of contemporary socio-political and economic contingencies (Mills, 2017, p.214).

(D) *Further Considerations: Defining 'Legitimacy,' 'Majoritarianism' & 'Corrective Justice'*

Before moving on to an exploration of my research method, I wanted to further explicate some other relevant theoretical concepts that require additional clarification: legitimacy, majoritarianism and corrective justice, respectively. Interestingly, each of these concepts are quite intertwined given their role in delineating the scope of the revised democratic legitimacy framework.

The idea of legitimacy is very ambiguous and generally subject to broad interpretation. However, in the context of this paper, the idea of legitimacy is acquired from Dworkin's non-positivist legal theory referred to as 'Law as Integrity.' According to Dworkin (1996), the law does not derive its legitimacy from a particular source of authority as proponents of legal positivism would suggest. Instead, laws derive authority from internal coherence within a broader socio-legal tradition in a manner that indicates integrity (Dworkin, 1986). Here, a law lacks legitimacy when it fails to fulfill its function as a source of integrity through logical or holistically cohesive decision-making. In the absence of integrity, legal decisions are produced that aim to compromise and merge potentially divergent points of view for the purpose of easing

political tensions, but ultimately fail to make sense or align with a sound and cohesive point of view that is accurate or reflective of existing social conditions (Dworkin, 1986).

A prime example of a law that lacks integrity due to a lack of coherence is one that aims to compromise between divergent pro-choice and pro-life interests by mandating that women who are born on even days are permitted to seek abortions, while women born on odd days are forbidden from doing the same (Dworkin, 1986). While the law reaches a compromise that aims to remedy two opposing points of view, it lacks any degree of internal ideological coherence and, as such, lacks the kind of integrity that would result in a determination of legitimacy (Dworkin, 1986). As such, legitimacy, when referred to in the revised democratic legitimacy framework, is not dependent on adherence with the majoritarian tendencies of democratic systems of governance. Instead, legitimacy is concerned with whether a particular policy or legislative enactment is coherent and reflective of existing socio-political realities in civil society.

In the case of the online harms policymaking process in Canada, the formulation of a policy that purportedly aims to protect marginalized groups from being negatively impacted by harmful content, but simultaneously fails to protect those same groups from harms derived via censorship and contact with law enforcement resulting from that policy's implementation, would lack integrity, and, thus, legitimacy. Here, the principle of 'not causing harm to marginalized groups' is not consistently applied in this policy, indicating that it lacks 'integrity,' or legitimacy. Alternatively, the formulation of a policy that (a) acknowledges past and contemporary harms that have been committed against marginalized persons, and (b) is consistent in its attempt to remedy those same unjust conditions, might constitute a sense of coherence that results in a determination of legitimacy through integrity. As such, pure majoritarian democratic-ness need not be equated with legitimacy; rather, well-structured democratic processes are just one form of

governance that might be able to produce legitimacy through integrity in decision-making processes. Although there is a possibility for this principle of integrity to be adopted for the purpose of the perpetuating a law or legal tradition that is consistent in its use of racist principles, such a law would not fit within the dictates of the corrective justice criterion as adopted from Mills' (2017) theory of Black radical liberalism.

At this point, it is important to clarify what I mean when referring to 'majoritarianism' in the democratic process. For some, majoritarianism and democracy are interchangeable terms, amounting to outcomes where majority satisfaction is akin to democratic success. However, according to Eisgruber (1997), it is well known that democracy is an ineffective mode of governance when minority rights are neglected:

Democracy ceases to be an appealing idea if it is reduced to mere majoritarianism. Majoritarianism is a system where 40% of people lose 100% of the time. That is not a fair way to run a political system. For democracy to deserve our esteem, it must mean government by the people, *the whole people*- not government by the majority at the expense of minorities. (pp. 354-355).

One of the greatest challenges in producing an effective democratic system in the North American context, which is plagued by the effects of colonialism and systematic racism, is ensuring that the perspectives of marginalized groups are accounted for in decision-making processes and that majoritarian outcomes do not override *the democratic interests of the governed as a collective whole*, including minority groups (Eisgruber, 1997). As such, a good democratic system is designed with the intent of ensuring that minority perspectives are always included in governance processes.

For instance, Australia's single transferable vote system (STV) was implemented to replace the first-past-the post (FPTP) electoral system used in Canada and the United Kingdom, which is prone to producing majoritarian outcomes (Lijphart, 1999). The STV system uses a

ranked ballot in federal elections to select candidates for the purpose of mitigating fully majoritarian outcomes. It also uses proportional representation through surplus votes to ensure that all groups are represented at a regional level, to some degree, in federal parliament (Lijphart, 1999). Here, being truly democratic is not contingent on pure majoritarian outcomes. Instead, being democratic requires that all citizens' perspectives are represented in government decision-making processes (Eisgruber, 1997; Lijphart, 1999). As such, modified democratic systems geared at representing the needs of all citizens can be used to support integrity-based or legitimate decision-making processes by being cognisant of, and aiming to correct, past and contemporary racial injustices. Although STV does not specifically require race or ethnic-based proportional representation, the Australian practice serves as an example of how a democratic system can be designed with the explicit purpose of resisting pure majoritarianism in place of inclusive representation.

Given the role of corrective justice in meeting standards of legitimacy in the democratic process, it is also important to discuss the scope of what true corrective justice entails. One of the first philosophers to employ the term, interestingly, was Aristotle. However, Aristotle uses the term in the context of private civil litigation matters, where corrective or reparative justice is aimed at remedying wrongs between individuals and recovering the sense of equality diminished by the wrongful act in question (Aristotle, 2011). In the past century, this concept of corrective or restorative justice has been re-crafted by proponents of the Black radical tradition for the purpose of remedying historical and contemporary injustices committed against racialized groups, especially Black Americans and Canadian Indigenous peoples (Roberts, 2017).

According to Roberts (2017), apology is at the very core of any genuine attempt to rectify past wrongs:

What makes an injustice wrong is the lack of respect shown to right-holders when their rights are violated. Hence, the righting of a wrong is accomplished by way of an apology – an acknowledgment of wrongdoing that includes the reaffirmation that those who suffered the injustice have moral standing. (pp. 516)

As such, it follows that in the absence of an apology, full corrective justice requirements, as set by the Black radical tradition followed by Mills', can never be met.

In the revised democratic legitimacy framework, I never explicitly lay out the requirement that a *full* apology is necessary to meet standards of legitimacy, and this is simply because the democratic legitimacy framework is explicitly focused on corrective justice in policymaking processes, which are led by specific ministers and/or government departments rather than cross-governmental efforts to attain the proper standards of corrective justice. As such, even though an official apology issued by the whole of government is not a requirement of this particular evaluative scheme, apology is also a requirement for the attainment of corrective justice in a democratic governance system (Roberts, 2017). While I focus solely on corrective justice in a specific policy field, rather than a whole of government application, apology is, nonetheless, necessary for broad-sweeping corrective justice in a democratic society.

Even though the kind of *full* apology that would be required to attain a comprehensive level of corrective justice may be attained through a separate process, it is important for policies to be crafted in a manner that acknowledges and is clearly cognisant of the effects of past racial injustices (Roberts, 2017). A formal acknowledgement of past injustices being expressed explicitly in relevant policies helps to contribute to the overall remedial orientation of the legislative enactments embedded therein. As such, policies that meet standards of corrective justice need to readily admit to past legislative inadequacies for the contents of the policy to be oriented in a manner aimed at reparative measures (Roberts 2017; Mills, 2017).

Another key element of corrective justice, as generally posited in the Black radical tradition, is that government funding and the distribution of resources ought to be fulfilled in accordance with corrective justice requirements. Essentially, the unjust enrichment of white citizens at the expense of racialized citizens, due to histories of slavery, racism, and colonialism, requires a re-distribution of resources aimed at remedying past wrongs and mitigating the effects of economic inequalities (Davis, 2021). While some scholars argue, in an Aristotelian manner, that reparations ought to be determined within the context of private litigation proceedings, others maintain that reparations ought to be distributed by the government responsible for the racial subjugation that resulted in the initial unjust enrichment (Aristotle, 2011; Davis, 2021).

While there is not a broad consensus pertaining to which model of monetary reparations ought to be adopted, it is apparent that there needs to be some requirement for monetary reparations in the context of the revised democratic legitimacy framework for the full integration of corrective justice standards to be approximated (Davis, 2011). However, as a white individual who has never experienced racial subjugation, I do not feel that I am equipped to promote one model of reparations over the other. For this reason, I will include a broader requirement that a legitimacy or integrity-based policy must include some mechanism to enforce the distribution of monetary reparations. Essentially, whether it come in the form of a tort private litigation mechanism or a government funding model, some form of monetary reparation needs to be included in the contents of a policy if it is deemed to meet corrective justice standards as set in the revised democratic legitimacy framework (Davis, 2011).

If, in the future, it is determined that one model of reparations is more just than the other, then the proposed framework could be revised to include more particular funding requirements that align more closely or intricately with the selected framework to better promote the full

integration of corrective justice measures in the policymaking process. The broad scope of the requirement for some form of monetary reparations makes the revised democratic legitimacy framework adaptable to promote either the government funding or private litigation reparations models, insofar as full racial inclusion in the consultation (input) and implementation of racialized perspectives in policy formulation (throughput) stages of the policymaking process would result in the selection of the kind of monetary reparations (output) that are widely endorsed by relevant racialized groups (Haggart & Keller, 2021; Mills, 2017, Davis 2021).

Overall, the revised democratic legitimacy framework adopts the basic structure of broader approaches to corrective justice as iterated in the Black radical tradition, while remaining cognisant of the limited scope of the degree of broader corrective justice that can be achieved within one specific policymaking process. As such, corrective justice here requires that policies are oriented in a manner that aligns with the goals of ending “unequal citizenship,” “racial exploitation,” and “racial disrespect” (Mills, 2017, p.214). These corrective justice goals can be attained through measures such as: (a) substantial racial inclusion in decision-making processes, (b) acknowledging the past injustices that a policy is aimed at remedying (to approximate the standards set by the apology requirement), and (c) incorporating a mechanism to issue monetary reparations for wrongdoings (Mills, 2017; Roberts, 2017; Davis, 2021).

(E) *The Online Harms Technical Paper & Racial (In)justices*

To conclude the literature review and theoretical approach section of this paper, I will outline two of the key problems related to racial (in)justices that I initially identified in the Technical Paper. Further issues resulting from the formulation and potential implementation of the dictates outlined in the Technical Paper and Summary Report are identified in the findings and analysis section of the paper. The online harms legislative proposal laid out in the Technical

Paper formulated by the Department of Canadian Heritage has internal issues that have the potential to perpetuate racial injustices rather than mitigate their effects as stipulated via the posited legislative goal of protecting those most negatively impacted by harmful content online (Government of Canada, 2021).

In the Technical Paper, it is stated that “the hatred spread online often has a disproportionate impact on women, Indigenous peoples, members of racialized and religious minority communities and on LGBTQ2 and gender diverse communities and persons with disabilities” (Government of Canada, 2021, p.4). Although the paper purports to be informed by the disproportionate impact of harmful content online within racialized and otherwise marginalized communities, it also needs to account for past legislative inadequacies on the part of the federal government for their failure to protect racialized groups from online harms prior to recent policymaking efforts to meet corrective justice requirements (Government of Canada, 2021; Roberts, 2021; Mills, 2017).

The Technical Paper also states that a goal of this endeavour is to “respect and protect the ability of peoples in Canada to fully participate in public discourse free from harm, while protecting fundamental freedoms and human rights” (Government of Canada, 2021, p.5). However, dictates of the proposal, such as the requirement for monitoring and reporting certain kinds of content to authorities without explicitly mandating human review, directly impedes upon the ability of racialized persons from participating in online discourse without human rights protections that would prevent potential unwarranted police contact, which does not align with the racial justice goals of respecting and equalizing the citizenship of racialized Canadians (Government of Canada, 2021; Mills, 2017). From these examples, we can gauge how racial injustices are embedded in Canada’s proposed approach to regulate online harms.

Method

The main methodological approach employed in this project consisted of a qualitative engagement with interview conversations aimed at analyzing the utility of the proposed revised democratic legitimacy framework through its application in the case study of Canada's process of formulating online harms legislation. My examination of these interview conversations was preceded by an analysis of the online harms Technical Paper, which, in combination with the main tenets of the revised democratic legitimacy framework, informed the contents of the questions that I presented to participants in the interview process. My ability to conduct a qualitative analysis through the case study of the online harms policymaking process in Canada was augmented through the employment of interviews with individuals who submitted consultations to the Department of Canadian Heritage in response to the online harm's legislative proposal.

Interviews were conducted with the purpose of both (a) gauging the problems related to the regulation of online harms in Canada, when those problems are considered through the lens of democratic legitimacy via racial justice measures, and (b) determining whether interview participants viewed the revised democratic legitimacy framework as a valuable tool in achieving racial justice objectives. Based on my engagement with these interview transcripts, in conjunction with my own elaborations on the points made in relation to the proposed theory and posited Canadian platform governance regime, I was able to assess the value of the revised framework and respond to any potential rejoinders.

A central principle governing this methodological approach is reflexivity. According to Hamilton (2020) "reflexivity is...and ethical notion, an attempt to ensure that researchers are accountable to the with whom they co-create knowledge both during the research process and in

the final research report” (p.520). Being reflexive in this way requires a level of self-awareness on the part of the researcher, namely: (a) an ability to account for the constantly changing power dynamics between researcher and interviewee, and (b) adjusting one’s own attitudes and behaviour to prevent the researcher’s life experiences from negatively impacting the data collection and analytic process (Hamilton, 2020). As such, the composed interview questions are very open ended, allowing the participants to interpret them in any way they deem fit, and answer based on their own lived and professional experiences. While, of course, my own perspective inevitably played a role in the collection and analysis of data, every effort was made to primarily rely upon the written word of participants in their consultation submissions and their spoken word in the interviews conducted. Moreover, full acknowledgment is given to participants for their contributions, all of whom indicated that they wish to be fully identified when given the options of being anonymized, de-identified, or fully identified.

I identified potential interviewees who submitted consultations to the Department of Canadian Heritage by accessing their self-published consultations, some of which were archived on the website of Dr. Michael Geist, a professor at the University of Ottawa Faculty of Law (2022). I went through each of the consultation submissions linked on this site and selected individuals who submitted consultations that referenced points surrounding the impact of the proposed legislative approach on members of marginalized groups, mentioning either the potential concerns or perceived benefits associated with said dictates. I invited a total of eighteen individuals to participate in the interview process, and three accepted my invitation, all of whom are academics and platform governance scholars at Canadian universities. One of the interviewees is Dr. Blayne Haggart, Professor of Political Science at Brock University, who also happens to be a co-creator of the initial democratic legitimacy framework. As such, the scope of

data collected in this regard was quantitatively limited, but, nonetheless, very qualitatively rich, thanks to the wonderful insight of the participants I was privileged to converse with.

Individuals were invited to participate in the interview process via email. Each email address was obtained from the contact information sections of respective affiliated websites. Those who responded and indicated a desire to contribute to this research endeavour gave their consent and set up individual interviews with the researcher, myself, via zoom. Interviews lasted between 30 minutes to an hour, and the contents of those conversations were transcribed and recorded using zooms transcription service. Before the interviews officially began, I emailed participants a summary of the project and interview objectives. Following this introduction, I scheduled interviews and forwarded a total of eight interview questions to participants in advance of the scheduled interview appointment time. The purpose of sending out interview questions in advance was to ensure that participants were given the opportunity to fully contemplate the questions and their associated implications given the complexity and nuanced considerations required to offer a rich response. Each question was designed to elicit open conversation and give participants the opportunity to express their thoughts fully as they relate to prompts eliciting the concept of democratic legitimacy through corrective justice measures at the input, throughput, and output level (Haggart & Keller, 2021; Mills 2017). See full set of interview questions in the appendix.

The contents of the interview question responses contributed largely to my assessment of the revised democratic legitimacy framework as a tool designed to consider the scope of corrective justice measures in the input, throughput, and output stages of the policymaking process (Haggart & Keller, 2021; Mills, 2017). I analysed, through each of the three participants' answers to interview questions, whether respondents gauged the proposed revised democratic

legitimacy framework as being a useful or valuable form of assessment at both the micro level (input, throughput, output) and the macro level (a holistic, amalgamated assessment of the three kinds of legitimacy). Here, I was able to gauge if each of these individual criteria could: (a) serve as a valuable evaluative indicator on their own and (b), work holistically in formulating a useful assessment of democratic legitimacy. I also engaged closely with these responses to assess the compatibility of Black radical liberal principles with the majoritarian tenets of democratic theory, especially given the common usage of democratic systems to perpetuate systems of white supremacy and, by proxy, subordinate racialized groups (Mills, 2017).

Next, I also employed responses to interview questions to determine if the online harms policymaking process in Canada has, thus far, been able to meet or approximate the revised standards of democratic legitimacy in a manner commensurate with the principle of corrective justice. By considering participant responses to the respective questions posed, I attempted to gauge whether they felt that the online harms legislative process aligned with the standards set in the revised democratic legitimacy framework. I examined whether the online harms policymaking process met the revised standards of democratic legitimacy in a holistic sense by considering whether the process met the criteria posed at the input, throughput, and output level, both on their own and as a cohesive set. I also elaborated on these responses to consider the significance of input, throughput, and output in meeting standards set out by Mills' (2017) account of the Black radical liberalism, particularly as it pertains to the incorporation of corrective justice measures, such as the attainment of substantial racial inclusion, acknowledging past wrongdoings, and incorporating monetary reparations (Davis, 2021; Roberts, 2017).

Findings and Analysis

Next, I will lay out the findings and analysis of this study in accordance with the method as explicated in the previous section. In section A, I will engage with interview question responses to examine whether the revised democratic legitimacy framework can be employed to serve as a valuable tool in evaluating any given policymaking process, narrowing in on the issue of compatibility between majoritarian tendencies of democratic theory and the corrective justice measures outlined in Mills' (2017) Black radical liberalism. In section B, I will examine whether the proposed trajectory of Canada's online harms regulatory regime is able to meet revised standards of legitimacy when adapted to include requisite corrective measures by reflecting on interview responses and indicators of legitimacy as set out in the revised framework.

As previously indicated, I interviewed three individuals, all academics who specialize in platform governance scholarship. Two of those interview participants were Dr. Natasha Tusikov, Associate Professor of Criminology at York University, and Dr. Blayne Haggart, Associate Professor of Political Science at Brock University, who is also an author that formulated the initial democratic legitimacy framework. Haggart and Tusikov submitted a co-authored consultation to the Department of Canadian Heritage in response to the Online Harms Technical Paper (Government of Canada, 2021). I also interviewed Dr. Michael Geist, Professor of Law at the University of Ottawa Faculty of Law, who submitted an individual consultation to the Department of Canadian Heritage in response to the Online Harms Technical Paper (Government of Canada, 2021). I want to express the upmost gratitude to each of these individuals for taking the time to engage with my research and offering me invaluable insight and guidance through our conversations.

*(A) Evaluating the Revised Democratic Legitimacy Framework**(i) Input Legitimacy*

First, I explicate and engage with interviewee's thoughts on the value of input legitimacy in relation to the revised democratic legitimacy framework. Through this dialogue, I present the argument that the requirement for input legitimacy through corrective justice measures can serve to mitigate the kind of majoritarian tendencies that promote racial exploitation and racial disrespect in the policymaking process (Haggart & Keller, 2021; Mills, 2017). Many of the problems associated with majoritarian tendencies in democratic theory can be mitigated when supplemented with Black radical liberal principles that discourage pure majoritarianism to the detriment of minority groups.

In responding to question one (see appendix), which asks participants how they conceptualize democratic legitimacy and racial inclusion in the policymaking process, Dr. Geist offers an answer that reveals a lot about the importance of input legitimacy in upkeeping the democratic process:

Too often, it feels like the cake's already baked, and that this is largely consultation theater as opposed to actual consultation...consultation can be forward or negative for positive social change...if the cake is baked and it's a negative... it actually creates the illusion of participation in consultation as opposed to an actual participation consultation...If you don't feel heard, and if you feel that you're really just there more for window dressing, then it has a deep, negative effect where people say, you know, I've tried that, and I try to participate. I tried to lend my voice to this, and they weren't interested. And they turn off completely, and that's a real loss.

Dr. Geist accurately points to the fact that a failure to promote input legitimacy results in a diminished sense of substantive inclusion, which, in turn, can result in a lack of further engagement with the democratic process. If there is a lack of future participation, this can result in a decreased sense of input legitimacy in other legislative or policymaking efforts, especially on the part of those from racialized groups whose voices have historically been excluded

altogether from these same processes. As such, a lack of genuine racial inclusion in a manner that indicates respect towards racialized communities can negate the legitimacy of the democratic process (Mills, 2017). In other words, even if a majoritarian consensus is attained, democratic legitimacy might not be similarly attained if there is a lack of racial respect embedded in the initial input process (Mills, 2017). Here, we can see how majoritarianism need not be indicative of legitimacy if we are employing an account of legitimacy that explicitly requires corrective justice measures aimed at formulating an ideologically cohesive legislative agenda (Mills, 2017; Dworkin, 1986).

Dr. Geist also offers pertinent insight into the need for corrective justice via measures like substantial racial inclusion (Mills, 2017). In doing so, he introduces very pertinent example about the pressures faced by anti-hate organizations when engaging with the policymaking process. Due to the government's role as a substantial funding source for such organizations, representatives might feel the need to refrain from expressing concerns or hesitations publicly about the suspected deleterious effects of a proposed policy out of fear that monetary resources will be revoked or limited:

You know, in an environment where many of the groups who might...be not fully satisfied and want to speak out, I do fear that these groups are going to face enormous pressure to get with the program and to support the government and you know, whether the government, whether officials directly remind them of the various anti-hate programming funding sources and other kinds of supports that they got and sort of kind of just remember who gave you all of this... I'm not saying the government is going to tell them not to say something in particular, but the pressure is there.

Here, Dr. Geist points to the federal governments' failure to implement substantial racial inclusion in the consultation process. Due to this failure, power imbalances between the government and civil rights organizations run by racialized persons were not properly identified and accounted for. As such, the government did not eliminate structural mechanisms that might

ultimately result in demonstrations of racial disrespect and, by proxy, did not properly implement the full corrective justice requirements as posited in the revised framework (Mills, 2017, p.214).

Even though the government may have implemented the monetary reparation corrective justice requirement through the inclusion of government funding, the lack of substantial racial inclusion demonstrated in the policymaking process indicates that the implementation of this measure was insufficient, given its inability to meet the posited corrective justice goal of ending racial disrespect (Davis, 2021; Mills, 2017, p.214). As such, we can deduce that a holistic assessment of democratic legitimacy must necessarily include each of the three measures required to attain corrective justice. In other words, the incorporation of one corrective justice measure alone is not sufficient when the other two are absent or lacking in their objective of meeting the enumerated corrective justice-related goals: ending “unequal citizenship,” “racial exploitation,” and “racial disrespect” (Mills, 2017, p.214).

Dr. Haggart similarly expresses the sentiment that a failure to consult with Canadians, particularly members of racialized or otherwise marginalized groups, results in decreased input legitimacy, and, by proxy, a decreased level democratic legitimacy in the holistic sense:

It was kind of like the government proposed, kind of a failure [policy], and then said, ‘here, now, we’re going to consult,’ and that’s not how you do it. That’s not democratic... it’s democratic because of the process, and because there was a consultation, but really it falls short of the ideals of what we should expect from a Canadian government. And that goes, you know, with respect to racial [inclusion] like, it’s straight across the board, like race, gender, any issue. None of them were really treated well in the input phase of things.

Here, Dr. Haggart eloquently points to the fact that a lack of corrective justice through the mechanism of substantial racial inclusion negates the degree of input legitimacy and overall democratic-ness in any given policy-making process. While the employment of a broad consultation process might help to maintain a certain base level of democratic legitimacy, it will

always be limited if the reality of race relations and the need to mend past and contemporary injustices are not acknowledged and accounted for (Mills, 2017; Roberts, 2017).

Moreover, I contend that these contributions by Dr. Haggart and Dr. Geist also demonstrate how pure majoritarianism is not a necessary feature of an account of democratic theory, insofar as majoritarian consensuses obtained via the procedural inclusion of all citizens may not necessarily align with democratic legitimacy if that inclusion is nominal rather than substantive for minority groups (Eisgruber, 1997; Mills, 2017, p.214). Under the revised democratic legitimacy framework, a platform governance policymaking process must include active efforts to mitigate the potential for racial exploitation and racial disrespect (Mills, 2017, p.214). As such, if a majoritarian policymaking process that otherwise appears to meet standards of legitimacy does not actively aim to attain necessary corrective justice requirements, then it cannot be said to meet the revised standards of democratic legitimacy.

Dr. Tusikov offers another key insight into the problem that arises under majoritarian systems when there is not an active effort to integrate corrective measures like substantial racial inclusion. She posits that the online harms policymaking process, thus far, has had a baseline degree of legitimacy, insofar as there was some public outreach through the consultation submission process. However, she simultaneously contends that the consultation process clearly was not meant to elicit or be a forum for radical or truly novel thought, and that it was implicitly known that a degree of ideological restraint was required for concerns or recommendations to be taken seriously by policymakers. From this, we can deduce that if policymakers are able to limit the scope of democratic inputs based on majoritarian ideological tendencies, then it is difficult to imagine that any true degree of substantial racial inclusion in the policymaking process will be feasible. While structural limitations in practice that prevent the attainment of corrective justice

requirements do not constitute a theoretical flaw with the revised framework, it is important to remain cognisant of probable systematic barriers that are likely to impede on justice-related goals and the internal coherence of policies that purport to maintain said goals (Lijphart, 1999; Dworkin, 1986).

Overall, the attainment of input legitimacy through the added criteria of corrective justice is crucial in ensuring that efforts are made to prevent past injustices or the perpetuation of contemporary racial prejudices from impeding on the full democratic participation of racialized persons, and as such, is a necessary element in accounts of democratic legitimacy aimed at full democratic participation that ultimately leads to a genuinely *legitimate* outcome, rather than a pure majoritarian outcome that fails to meet revised standards of legitimacy.

(ii) *Throughput Legitimacy*

Next, through an examination of interview conversations, I argue that although majoritarian tendencies are likely to impact the prospect of full throughput legitimacy in the democratic process, throughput legitimacy is still an important element in the attainment of corrective justice. The throughout stage of the policymaking process is important in ensuring the implementation of racialized perspectives in a manner that remedies unequal citizenship and does not appropriate or misrepresent those perspectives (Mills, 2017; Haggart & Keller, 2021; Rosino & Hughey, 2018).

In response to a question prompt asking participants about the value of throughput legitimacy via corrective justice measures in the democratic process (see appendix question four), Dr. Tusikov points to the fact that throughput legitimacy, in the absence of the implementation of additional corrective justice measures (i.e., substantial racial inclusion,

acknowledging past wrongs, and monetary reparations), will never be perceived as legitimate or satisfactory by the citizenry:

So [it is] democratic, is it effective, right? Does it work? Do people feel safer? Do they feel heard? I think we can take a look at, and there's, you know, a mountain of scholarly evidence and evidence by civil society group's showing that many people are dissatisfied with how social media operates that they're dissatisfied by...governments' reaction broadly. So, you know, when the online harms bill, again, comes out and then hopefully passes into some kind of effective legislation.

Here, we can see how genuinely implementing the perspectives of citizens via throughput is important in fostering a sense of legitimacy in the democratic process. Without throughput legitimacy, it is very difficult to attain a holistic sense of democratic legitimacy. Being 'democratic,' in the majoritarian sense, scarcely results in a palpable sense of throughput legitimacy; true legitimacy comes from the kind of participatory process where tangible corrective justice measures are incorporated in a manner that indicates integrity through its internal coherence within the confines of a reality embedded in systemic racism (Mills, 2017; Dworkin, 1986).

Dr. Haggart offers a slightly divergent response, positing that good representation in the input phase could make up for a lack of tangible implementation in the throughput phase. In response to the same interview question, Dr. Haggart also indicates that implementing corrective justice measures that prompt the inclusion of perspectives that have been historically excluded in the policymaking process could very well help to forward positive social change and lessen the effects of systemic injustices. While I very much agree with Dr. Haggart's point that the implementation of corrective justice measures can be useful in mitigating the effects of existing societal inequities and forwarding positive social change, I contend that the implementation of corrective justice measures like substantial racial inclusion, acknowledging past wrongs, and monetary reparations, are tantamount in fostering a true sense of democratic legitimacy.

Moreover, I contend that good input or output legitimacy would not be able to adequately make up for or supplement a lack of throughput legitimacy. Under Haggart and Keller's (2021) initial account of democratic legitimacy, excellent input or output legitimacy can serve as a substitute for throughput legitimacy. However, under the revised framework where principles of corrective justice are requisite to the attainment of democratic legitimacy, a lack of throughput legitimacy would be difficult, if not impossible, to compensate for. For instance, if racialized individuals and communities are simply consulted in the input phase of the policymaking process, but the policy is not then crafted to remedy existing discrepancies in citizenship status, then overall legitimacy will still clearly be lacking (Mills, 2017; Haggart & Keller, 2021; Rosino & Hughey, 2018).

In addition, if the initial input recommendations of racialized persons are appropriated or misrepresented for the purpose of meeting white supremacist objectives that are clearly not meant to serve the interests of marginalized groups, then there is also an apparent diminished degree of legitimacy (Mills, 2017; Haggart & Keller, 2021; Rosino & Hughey, 2018). The issue of racial (dis) respect also remains a pertinent cause for concern, insofar as putting effort into listening to and considering racialized perspectives does not diminish the lack of respect demonstrated when those perspectives are heard, understood, and yet not implemented into policy (Mills, 2017; Haggart & Keller, 2021; Rosino & Hughey, 2018).

Dr. Geist provides an additional interesting contextual contribution about throughput legitimacy by employing the case study of the Technical Paper formulation process. Although the Online Harms Technical Paper (2021) was initially crafted with the intent of it being used to directly guide legislative drafting, the backlash in response to the dictates of Bill C-10 prompted the federal government to release the Technical Paper as a proposal instead of presenting it

straight to the legislature. As such, Dr. Geist indicates that there was clearly no intended incorporation of throughput legitimacy in the formulation of the initial policy proposal, which ultimately resulted in the creation of a policy that was unsatisfactory and not tailored to the unique interests of Canadians, particularly racialized and otherwise marginalized individuals (Geist, 2021; Haggart & Keller, 2021). If the opinions and perspectives of Canadians are, alternatively, incorporated adequately in a throughput process that is preceded by an extensive consultation, then the legislation will, ultimately, be viewed as more holistically legitimate.

Moreover, I contend that if the views of racialized Canadians are incorporated into a policy or legislation commensurate with the principle of corrective justice to account for past legislative inadequacies, this will contribute to an overall assessment of legitimacy that supersedes the assessment of a scenario where the throughput is reflective of pure majoritarian interests. While majoritarian interests are often adopted by policymakers, throughput processes that implement corrective justice measures like substantial racial inclusion and/or acknowledging past legislative wrongdoings are better suited to produce a holistic sense of democratic legitimacy under the revised framework, which indicates no requirement for broad majoritarian outcomes (Mills, 2017; Davis, 2021; Haggart & Keller, 2021). Even though majoritarian outcomes are highly attributable to the democratic process, pure or *unfettered majoritarianism* is not a necessary feature of a democratic theory, especially given significance of other legitimacy-related considerations aimed at providing practical ethical normative guidance (Davis 2021; Mills, 2017).

(iii) *Output Legitimacy*

Next, through an examination of interview discussions surrounding the revised democratic legitimacy framework, I explore the idea that considerations pertaining to output

legitimacy are a valuable indicator in assessments of democratic legitimacy. In response to question six (see appendix), which asked participants whether the standard of output legitimacy through corrective justice could serve as a valuable indicator of democratic legitimacy, participants expressed the unanimous view that whether any given legislative outcome serves the needs of racialized persons is, absolutely, a key determinant of legitimacy and the efficacy of the policy-making process in its totality, a sentiment that I very much concur with.

Dr. Tusikov, while clearly agreeing with this overarching sentiment, offered a keen insight into the federal governments' devotion to appeasing Big Tech conglomerates at the expense of racialized and otherwise marginalized persons:

I think, you know, legislation is always going to serve certain groups over others and not necessarily reflect everyone, you know, this is this is part of the democratic process. But if we are largely seeing legislation that serves certain commercial interests and doesn't serve broad civil society interests...I think this is a problem.

Even though there will be times when a legislative outcome is not ideal and does not satisfy relevant interest groups, Dr. Tusikov points to the fact that there needs to be at least some effort to promote civil society interests over corporate interests if we even want to approximate the ideal of output legitimacy for racialized persons. Essentially, the idea here is that further steps need to be taken for the prognosis of output legitimacy via corrective justice to be a feasible goal.

I very much agree with the idea that there is a gap in legislation that needs to be addressed when it comes to the lobbying powers of large corporations versus civil interest groups that are vested in attaining a degree of racial justice. As such, the implementation of corrective justice measures that prevent government officials from ultimately excluding considerations pertaining the contents of racialized perspectives from policy outputs might very well help to balance these interests in a way that avoids the continuation of the production of majoritarian

outcomes that are not aimed at the objective of attaining broader social goods, even if they proprot to do so.

Dr. Haggart's response was also largely supportive of using output legitimacy through corrective justice measures as a key determinant of the legitimacy of any given policy proposal:

To promote racialized perspectives, or to basically to promote the interests, the democratic interest in expression of people, of racialized people, you want to focus on how they're affected by the policy...if the policy is designed...and it's evaluated with that in mind, that's how legitimacy is determined. Then...that'll be nice. It'll be good, especially for the people affected by that.

As such, the prioritization of *pure* majoritarianism above all other considerations is not only unnecessary, but antithetical to the revised goals of the revised democratic legitimacy framework where corrective justice measures like substantial racial inclusion, the active acknowledgment of past wrongdoing, and the employment of monetary reparations, are required to meet standards of legitimacy in a manner that remains coherent when accounting for the socio-political impact of existing racial injustices (Mills, 2017; Roberts, 2017; Davis, 2021; Dworkin, 1986).

Dr. Geist similarly concurs with the general sentiment that outcomes which align with racialized perspectives are indicative of legitimacy in the democratic policymaking process, positing that legitimacy is directly connected to a degree of satisfaction amongst, or alignment with, racialized perspectives:

I would say, there is a direct correlation between the between policies that do get [the] guarded support of these communities and actually do, in fact, generate real change or support for groups that are more vulnerable on these things, and it's legitimate, you know, it's, I guess put another way, it's pretty tough to be legitimate if you have not crafted a policy that does make a difference for some of those [racialized] groups.

Although legitimacy is not typically evaluated based on minority group satisfaction with a particular policymaking endeavour, I contend that true legitimacy is dependent on a holistic calculation of satisfaction in relation to needs contingent on past and contemporary racial

injustices (Mills, 2017; Haggart & Keller, 2021). When we completely remove *pure* majoritarian considerations in calculations of democratic legitimacy, it is perfectly feasible to account for real injustices and embed reparative measures into policy outputs (Haggart & Keller, 2021; Jones 2002). Essentially, a policy output can be assessed for legitimacy based, primarily, on its ability to use corrective justice measures like substantial racial inclusion, acknowledging wrongdoings, and monetary reparations, while simultaneously refraining from relying solely upon majoritarian outcomes as an indicator of legitimacy, especially when that policy is explicitly aimed at protecting the interests of *all* its constituents (Mills, 2017; Davis, 2021).

(B) Online Harms Case Study: An Application of the Revised Framework

In this section, I consider, via an application of the revised democratic legitimacy framework, whether Canada's online harms policymaking process has been successful in adhering to standards of democratic legitimacy. Through an exploration of interview responses (see appendix), it is revealed that participants and I are unconvinced that the online harms policymaking process in Canada has succeeded in meeting legitimacy standards set by the revised framework (Mills, 2017). While the final result of the output is unknown in this case study, insofar as no legislation has been passed into law or implemented yet, the current trajectory of policymaking efforts, which includes a general failure to meet the revised criterion of input legitimacy and throughput legitimacy, indicates it is unlikely that the Canadian government will be able to fully realize a holistic assessment of legitimacy.

(A) Input Legitimacy

Overall, based on my engagement with answers to interview question three (see appendix), which asked participants whether the consultation process (or input phase) leading up to the formulation of either the Technical Paper or Report Summary was democratic in its

inclusion of racialized perspectives, there was a clear consensus that the Canadian government did not fully abide by standards of democratic legitimacy when revised to integrate Black radical liberal principles. While some participants indicated that the process was substantially more democratic than the existing self-regulatory regimes on individual platforms, the degree of input legitimacy in relation to adherence with proactive corrective justice measures like substantial racial inclusion, was abysmal.

Dr. Tusikov, while maintaining that there was essentially no input legitimacy in the formulation of the Technical Paper, acknowledges that there was a considerable degree of input legitimacy indicated in the general call to respond to the Technical Paper. However, she also points to the fact that the selection of members to participate in the online harms advisory group could have been more diverse. While the advisory board did include several members of historically marginalized groups, there could have been broader representation from a wide array of Indigenous nations that have historically been excluded in policymaking processes given the significance of substantial racial inclusion in the attainment of corrective justice requirements as stipulated by the revised framework (Mills, 2017; Haggart & Keller, 2021).

Similarly, Dr. Haggart agrees with the sentiment that substantial efforts were made to consult with the public after the publication of the Technical Paper, but that consultation really should have been involved in the formation of that initial document:

This legislation in terms of democratic accountability is a paragon of social justice. Even if they did everything they wanted to do, it would be so much more legitimate in terms of democratic input than what is currently in place [platform self-regulation]...the consultations beforehand were non-existent and... people weren't really consulted at least openly and didn't have a chance to really weigh in and figure out these issues.... it's democratic because of the process, and because there was a consultation. But really it falls short of the ideals of what we should expect.

However, in relation to the revised democratic legitimacy framework that adopts principles of Black radical liberalism, there really was no legitimacy in the input phase of this policymaking process. While it is undeniable that the initial formulation of the Technical Paper and the subsequent Summary Report were produced by a democratically elected government, the latter of which actively included a call for public consultations, this has little bearing on the democratic-ness of this particular policy-making process. The lack of input legitimacy commensurate with the incorporation of corrective justice measures (i.e., substantial racial inclusion, acknowledgment of past wrongdoing, mechanisms for monetary compensation) necessarily excludes the prospect of full input legitimacy as defined in the revised framework. Essentially, based on the tenets of the revised democratic legitimacy framework, it is impossible to have input legitimacy in the absence of corrective justice regardless of whether democratic officials and public consultation are involved in the formulation of the policy. While there is something inherently democratic about representation on the part of elected officials, this cannot amount to input legitimacy within the context of the revised democratic legitimacy framework since *legitimacy* here requires equity-driven work that marks coherence with the reality of existing systemic injustices (Mills, 2017; Dworkin, 1986).

Dr. Geist, alternatively, was quicker to point to the apparent inadequacies of the consultation process, focusing explicitly on the faulty consultation process proceeding the formation of the Technical Paper, which occurred between the call for consultation submissions and the release of the subsequent Summary Report. Much of this critique was focused on the governments' decision to call for consultations during the summer of a federal election:

Was the call [to submit consultations] the process itself inclusive? Well, I guess I would say no, and on that I would hang my hat on the fact that they decided to hold this in the summer during an election campaign. It remains for me to be inexplicable, but they would think it is appropriate to hold that during an election campaign.

There are two key concerns that Dr. Geist expresses in relation to the timing of the consultation process: (1) that many smaller organizations that would normally participate in such consultations have both temporal and monetary constraints during an election when most of their resources are being expended on the electoral process, and (2) that participants do not know who the government or the relevant minister will be once the election takes place, making it difficult for them to offer recommendations that will remain relevant depending on which party forms government. If potential participants are dissuaded from submitting a consultation due to either of these factors, particularly the temporal and financial constraints, it will be difficult for organizations run primarily by and for the interests of racialized persons to expend their resources on this legislative endeavour when there is more urgency associated with electing a government that will promote the broader interests of racialized groups.

From this, we can gather that not only was the consultation process not oriented towards the implementation of substantial racial inclusion, but, even worse, that a major part of the consultation process, rather directly or indirectly, excluded potential participants from submitting a consultation at all given the known temporal and monetary constraints limiting the ability of civil rights organizations to participate during an election cycle. Overall, the Canadian government did not engage in a consultation process that was indicative of input legitimacy based on the criteria set out by the revised framework, making the prospect of a holistic determination of democratic legitimacy extremely improbable, especially given the significance of input and throughput legitimacy in realizing the three goals of Black radical liberalism: ending racial disrespect, exploitation, and unequal citizenship (Mills, 2017, p.214).

(ii) Throughput Legitimacy

Overall, based on my engagement with answers to interview question five (see appendix), which asked participants whether the implementation of participatory inputs was democratic in its integration of racialized perspectives in the throughput of the policymaking process, the participants' and I agreed, that, again, the Canadian government did not abide by standards of democratic legitimacy when revised to integrate Black radical liberal principles. In the formulation of the Technical Paper, there was essentially no integration of participatory inputs, given the lack of consultation prior to the formulation of that initial document. Moreover, based on the contents of the Technical Paper outlining the proposed approach to regulate online harms and the subsequent Summary Report, I also argue that the implementation of the other two corrective justice measures, (a) acknowledging past wrongdoings, and (b) the inclusion of monetary reparations, have not yet been attained in the formulation of online harms legislation.

Dr. Tusikov is critical about the throughput phase of this policymaking process since the approach outlined in the Technical Paper was primarily an amalgamation of other countries' online safety regulatory efforts, and, as such, was not tailored to meet the needs of Canadians:

I do amplify that, you know, the people around that table had a really, really tough task, but on the other hand, what they came out with was, you know, a set of principles that are not unlike what other countries' have come out with, right? That are not markedly different from what's come out in the UK, unsurprisingly, are not markedly different about what even the companies have come out with.

The lack of throughput legitimacy described by Dr. Tusikov, even in the majoritarian sense, offers a bleak picture of the extent that this throughput phase can meet standards of revised democratic legitimacy as it pertains to the implementation of the perspectives of racialized groups through substantial racial inclusion. If no Canadians really had a say in the formulation of

this initial proposal, except to the extent that there was parliamentary representation, then the prospect of racialized perspectives being properly integrated into the policy is negligible.

Dr. Tusikov also points to the fact that this model of regulation is strongly embedded in the ideology of broad freedom of expression rights, which results in an inability of a policy to adequately protect the rights of individuals to be safe online, describing it as a “middle of the road approach,” geared at protecting the financial interest of platforms while not making any changes that will have a tangible positive effect on social media users. In doing so, Dr. Tusikov brings up an a very insightful point about the effects of the ideology of technological exceptionalism as it relates to the issue of platform regulation. Here, technological exceptionalism refers to the notion that “new technologies are transformative enough to uproot existing legal foundations” (Jones, 2018, p.249). In other words, technological exceptionalism is the belief that technology calls for an unprecedented approach to legal interpretation considering its presumed unique characteristics that distinguish it from other areas of legislative jurisdiction (Jones, 2018). According to Dr. Tusikov, Big Tech is treated with more reverence than other industries due to the purported expertise and superior intelligence of those who design and run platform software:

If we were talking about mining companies or pharmaceutical companies or, you know, companies selling barbecues, we wouldn't treat these companies with the same type of reverence that we treat technology companies. So, part of this [is that] there's a technological exceptionalism, right? We expect that these companies, because they are staffed by engineers and run by people who, you know, write code, that they're smarter than governments, smarter than people. These are the people who have all the answers because that they have the ability to manipulate data.

One example of this manifestation of technological exceptionalism has to do with our understanding of freedom of expression as an unfettered and broad sweeping right. There have always been constitutionally appropriate limits to freedom of expression in Canada, and the

ideology of technological exceptionalism has distorted popular opinion about the scope of the Canadian charter right to free expression:

Something I try to underline to my students when we talk about this every year is, you know, how much of this is our understanding of how technology, specifically speech, online should operate, and like, parsing through how much of it, how much of this is Canadian political norms, how much of this is US commercial norms? And we might be surprised.

Overall, I agree with the position that once we clarify the role of permissible open discourse in Canadian society and break down the conflation with technological exceptionalism, we can do a lot more to create a uniquely Canadian approach to online harms regulation in a manner that makes room for corrective justice measures like substantial racial inclusion in the throughput process, something that has not been done thus far in the throughput phase of the formulation of online harms legislation. I also contend that clarifying the role of permissible discourse in Canada will contribute to an online harms regulatory approach that is able to implement other corrective justice measures such as acknowledging past legislative inadequacies, insofar as the government will never be positioned to fully admit to their failure in protecting racialized citizens from exposure to harmful content online until the scope of their constitutionally allotted ability to regulate such content becomes clear (Roberts, 2017).

Dr. Haggart also offers an answer supporting the conclusion that there was a lack of throughput legitimacy in this process, insofar as the closed nature of the policymaking process necessarily resulted in the formulation of a policy that was lacking in its implementation of racialized viewpoints. Like Dr. Tusikov, he also highlights the fact that the Technical Paper seemed to pick and choose different elements of other countries' regulatory regimes, rather than focusing on the unique interests of Canadians. However, he does acknowledge that there are

some positive changes in direction that approach the tenets of democratic legitimacy that ought to be recognized:

I think they tried to be inclusive of a whole bunch of different issues, like what is good about it? Recognizing the idea of online harms, pushing back against the idea of the marketplace of ideas, basically that if it's a free for all, the best ideas will flow to the top, and that basically voices are just kind of are not connected to peopleyou know, racialized people....so that itself, I think, speaks to a democratic impulse, like the fact that they're thinking that way. If they're thinking about it in terms of equality and access...that's really important, and something that shouldn't be downplayed.

Even with these positive developments, Dr. Haggart maintains that more could and should have been done to ensure that racialized perspectives were reflected in the technical paper and summary report: “Is it as good as it could be on, on input and then on process [throughput]? No, not by a long shot.”

I very much agree with Dr. Haggart that the shift to considerations related to equity and racial justice marks a clear change in ideology that could lead to more substantive policymaking improvements in the long run. Progress related to the eventual attainment of the goals associated with Black radical liberalism is noteworthy and ought to be the topic of further consideration. However, as it pertains to the project of applying the revised framework to the online harms policy-making process in Canada, the lack of tangible corrective justice efforts meant to forward equity-related goals indicates that the government failed to meet the requirement of throughput legitimacy in this policymaking process even though initial conversations related to racial inclusion were promising. For instance, the Technical Paper’s failure to propose corrective justice measures such as monetary reparations for past regulative gaps or exposure to harmful content, is indicative of a lack of follow-through in the formulation of policy (Mills, 2017; Davis, 2021).

Dr. Geist also very much concurs with the idea that the Canadian Government did not meet the revised standards of throughput legitimacy in this policy-making process, particularly as it pertains to the mindful and well-calculated inclusion of racialized perspectives in the proposed enforcement of online harms regulation:

I think it's incontrovertible that, based on the response from those groups...if they consulted them, then they didn't listen to them, and if they didn't, and then heard from them afterwards, well, then, they didn't. So, one way or the other, you know, it seems to me pretty clear that they did not account for them [racialized perspectives] well, and I mean a perfect example of that would be the proposal to have platforms to, on essentially an automated basis, report incidents to law enforcement.

A policy that truly encapsulates the central tenets of the revised democratic legitimacy framework through corrective justice measures would demonstrate a conscientiousness about the history of police violence in racialized communities, and not propose policies that have the potential to jeopardize the physical safety of racialized bodies by increasing the possibility of police contact (Mills, 2017, Benjamin, 2019). The fact that the federal government failed to account for this consideration is an obvious transgression that indicates a lack of understanding of historical and socio-political factors necessary to proceed in a manner that corrects those same injustices and, by proxy, a lack of internal ideological coherence in the formation of a policy aimed at minimizing the deleterious effects associated with exposure to harmful content online (Mills, 2017; Dworkin, 1986).

While the Concluding Workshop Summary produced by the expert advisory group acknowledged potential harms that might result from marginalized groups potential improper contact with law enforcement officials, which indicates that there is some prospect for throughput legitimacy in the new legislative proposal, the presence of an acknowledgment of wrongdoing in the expert advisory report will not necessarily translate to an acknowledgement of

these same inadequacies in the throughput of legislation to come (Government of Canada, 2021; Roberts, 2017).

Overall, it is apparent that the Canadian government has, thus far, failed to meet standards of throughput legitimacy based on the criteria set out by the revised democratic legitimacy framework, making the prospect of a holistic determination of legitimacy even less plausible, especially given the necessity of procedural input and throughput legitimacy in reaching the three goals of Black radical liberalism: ending racial disrespect, exploitation, and unequal citizenship (Mills, 2017, p.214). As such, the likelihood of attaining output legitimacy is nominal, and the prospect of a holistic determination of democratic legitimacy in accordance with the principle of integrity even less probable (Haggart & Keller, 2021; Dworkin, 1986).

(iii) *Output Legitimacy*

My analysis of participant responses to question seven (see appendix), which asked interviewees whether online harms policy outputs in Canada are likely to align with and satisfy racialized perspectives in accordance with the principle of corrective justice, indicated that adherence with the legitimacy standards was improbable. The lack of input and throughout legitimacy demonstrated in the process thus far also indicates that an assessment of output legitimacy is unlikely and, moreover, that a holistic determination of democratic legitimacy is even more implausible.

According to Dr. Tusikov, it will be very difficult for the government to produce and implement legislation that aligns with a wide range of racialized perspectives given that such viewpoints were largely unaccounted for in the consultation process. Without adequately consulting with racialized persons, it will undoubtedly be challenging to gauge and implement relevant perspectives in a manner that is deemed satisfactory by those groups. She also points to

problems and biases with automated technologies that could result in the unfair targeting of the content of racialized persons:

Even if it's perfectly legitimate content, but under the, under the rubric of adult, right? Not suitable for work. So. You know, will those groups be, you know, concerned that, you know, anti-black racist information, right, educational information, artistic information might actually be, you know, unfairly and inaccurately censored by, you know, bad AI that labels, labels terms and labels things as actually racist content, that's happened, right. We've seen the social media companies do that. Yeah, so if I were [a] racialized creator, especially someone who had, you know, provocative work, I might be really worried that my stuff might wrongly be caught up. I might lose money or contracts or reputation or fans because of that.

If online harms legislation does not account for well-established problems associated with algorithmic biases and racist tendencies in automated decision-making processes, then it is unlikely for that legislation to account for concerns that are likely to influence whether racialized groups are satisfied with the outcomes of the new regime (Benjamin, 2019). Moreover, the bleak prognosis for output legitimacy is strongly influenced by the lack of input and throughput legitimacy in the formulation of the Technical Paper and Report Summary. If there were extensive consultation and active attempts to harness the information obtained from consultations via their implementation in iterations of the policy proposal, then it is likely that substantial causes for concern, such as the likelihood of the undue censorship of racialized persons, would have been avoided altogether.

Dr. Haggart focuses his assessment of the degree of output legitimacy that is likely to be produced via the outcome of online harms regulation in Canada on the incentivization of Big Tech companies to monetize and disseminate hateful content on their platforms. Essentially, he posits that so long as platforms are incentivized to promulgate the dissemination of hateful content, it will be extremely difficult to effectively regulate online harms:

So long as the companies that you're regulating have a vested interest in kind of maximizing data collection and engagement at all costs, any regulation is going to be an

uphill battle... They [platforms] are going to be constantly fighting against the regulator to do so. They're always going to be trying to kind of corners.

Dr. Haggart brings up a very important point here, insofar as the government's inability to entice social media companies to cooperate with regulation attempts seriously negates the probability of a satisfactory output in the final policy implementation. Moreover, an ability to effectively prevent the continued dissemination of harmful content will be unlikely to satisfy racialized individuals who are regularly subject to racist attacks online. The enforcement of a mechanism to mitigate these deleterious effects of market incentivization might be required as a corrective justice measure to promote safe participation in the online sphere for racialized Canadians, and the governments' lack of consideration as it pertains to this apparent structural issue in-and-of itself indicates a lack of input and throughput legitimacy, which, in turn, drastically decreases the likelihood of the attainment of output legitimacy and a holistic assessment of legitimacy.

In his response, Dr. Haggart also rightly points out that due to the problem of market incentivization that promotes the dissemination of hateful content, platforms could never serve as effective self-regulators that meet the objective of implementing racialized perspectives in a manner that produces satisfactory social justice objectives for racialized groups:

How would you enact kind of like radical racial inclusiveness through platforms themselves, without going through government? I don't think you can do it. I don't. I think it's literally impossible, because I mean, not at least the way we're talking about it here, at least, what I'm what I'm kind of proposing is that there is some racial inclusion in what's going on. It hasn't been great. It's been kind of, it's very paternalistic, the way it's been done, but it's being done.

As such, it seems that some government regulation outside of the platform self-regulation model is needed to approximate standards of corrective justice to mitigate the effects of profit-based enticements. Moreover, the paternalistic nature of the policymaking process, thus far, as marked

by a lack of acknowledgement of past legislative gaps and a failure to implement mechanisms to facilitate monetary reparations for said legislative gaps, also indicates that an outcome which aligns with standards of output legitimacy and a holistic assessment of democratic legitimacy is similarly unlikely (Haggart & Keller, 2021; Roberts, 2017; Davis, 2021).

In accordance with the views expressed by his colleagues, Dr. Geist indicates that it is unlikely for online harms legislation to meet the revised standards of democratic legitimacy in accordance with corrective justice requirements. Even if the proposed legislation somewhat aligns with the perspectives of racialized individuals, he is skeptical as to whether most racialized groups will be satisfied with the legislation produced:

It strikes me as very unlikely that they [racialized groups] will be wholly satisfied with what the Government is doing. That is much more likely that they will say we're happy you're doing something, but this does not go nearly far enough. We look forward I do think, you know, I spent a lot of time criticizing the government in fairness. If that's the response, I don't know what they're going to do, but I do think it is a legitimate position of the Government to say that we are constrained by a number of factors, notably the *Charter of Rights and Freedoms*, and so that everything you think we should do. There are many things in there that we simply cannot do. And or at least we can't do and have them and have them past the constitutional challenge.

The fact that freedom of expression is a protected constitutional right makes it difficult for the government to formulate legislation that they know will be successful in the case of a *Charter* challenge, and, as such, it will be difficult to fully satisfy requests that involve the censorship of harmful, but not illegal content, for the purpose of making online spaces safer. It also makes it difficult to implement measures like acknowledging past wrongs and requiring some mode of monetary compensation for the effects of legislative shortcomings (Roberts, 2017; Davis, 2021).

Overall, the government needs to do more to satisfy racialized groups and meet their needs to the greatest degree possible within the confines of constitutional limitations for an acceptable degree of output legitimacy to be met. I further contend that a more concerted effort

to consult with and implement the perspectives of racialized groups in the input and throughput process would have been more likely to result an outcome that approximates the standards of output legitimacy and a total assessment of democratic legitimacy. Since the outcome of online harms legislation in Canada is unlikely to meet the goals of Black radical liberalism: ending racial disrespect, exploitation, and unequal citizenship, the prospect of attaining an acceptable degree of output legitimacy is nominal, and the prospect of a holistic determination of democratic legitimacy even less probable in light of the combined lack of input, throughput, and output legitimacy (Mills, 2017, p.214; Haggart & Keller, 2021).

Conclusion

In this major research paper, I proposed a revised version of Haggart and Keller's (2021) *Democratic Legitimacy Framework* that incorporates key tenets of Mills' (2017) *Black Radical Liberalism* for the purpose of evaluating the legitimacy of platform governance frameworks. I began by exploring whether this revised democratic legitimacy framework was able to serve as a valuable or useful tool in the assessment of the legitimacy of a policymaking process or regime. In addressing the first research question, I also engaged in a subsidiary consideration of whether the majoritarian nature of democratic systems would impact the ability of the revised democratic legitimacy framework to forward racial justice, considering the white supremacist and racially exploitative outputs of democratic regimes because of majoritarian decision-making (Jones, 2002). Then, I considered whether the online harms policymaking process and proposed regulative regime in Canada met the criterion set out in the revised democratic legitimacy framework that includes the implementation of corrective justice measures in the input, throughput, and output stages of the democratic process (Mills, 2017; Haggart & Keller, 2021).

Through the collection and evaluation of interview conversations with academics who responded to a call for consultations held by the Department of Canadian Heritage, I offered a qualitative analysis in conversation with respondents that focused on the capacity of the revised framework serve as a useful tool in evaluating platform governance regimes and policy-making processes. Based on the participants' responses and my engagement with those responses, I argue that the democratic legitimacy framework, when revised to account for corrective justice at the input, throughput, and output stages of the policymaking process, can serve as a useful blueprint when analyzing a platform governance regime or policymaking process that is able to offer an assessment that is holistic, well-rounded, and thorough. I also attempt to substantiate the notion that the individual input, throughput, and output criterion, when applied independently, were all effective indicators of legitimacy, with procedural input and throughput legitimacy serving as particularly important indicators of an adherence to Black radical liberal principles. Overall, these indicators worked well as a cohesive whole when applied collectively.

Moreover, I explored the idea that the majoritarian tendencies associated with democratic systems have the potential to successfully be mitigated through the incorporation of corrective justice measures such as: (a) substantial racial inclusion, (b) acknowledgment of past wrongdoing, and (c) monetary reparations, even though these competing ideological principles will always be in tension. Additionally, I argue that re-defining what constitutes legitimacy through the removal of pure majoritarian requirements and the implementation of corrective justice measures can result in the elimination of pure majoritarian as an indicator of legitimacy.

Lastly, I employed the contents of interview question responses to consider whether the online harms policymaking process in Canada has been successful in meeting the standards set by the revised democratic legitimacy framework. Based on the inefficiencies seen in the input

and throughput phases of the policymaking process thus far, and the lack of legislative enactment of online harms regulation to date, it is not anticipated that a holistic assessment of this policymaking process would result in a determination that the Canadian government adhered adequately to the criteria set out in the revised democratic legitimacy framework.

These research results demonstrate that how we frame social problems and the lens by which we choose to analyze the democratic-ness or legitimacy associated with a governance regime or policy-making process has a substantial impact in the determination of whether that policy and/or regime is deemed to be good or beneficial. If we chose to adhere to the traditional liberal ideal that all persons in a democratic system are equally positioned to participate in democratic processes despite the plethora of evidence that this, both historically and contemporarily, has never been the case, then we can never get to a place whether policies and regulative regimes are judged based on their real adherence to principles of true democracy, where all individuals are able to contribute and have their input taken seriously (Mills, 2017; Ewert & Repetti, 2019). If we choose to acknowledge the social problems that prevent true equity in the democratic process, then we will be far better positioned to successfully combat those same problems and begin to approach a system of true equality in a manner that marks internal systemic coherence (Mills, 2017; Ewert & Repetti, 2019; Dworkin, 1986).

As discussed in the literature review section of this paper, Mills (2017) expressed the sentiment that he wanted Black radical liberalism to be further developed to empower and respect the experiences of individuals whose experiences have been erased through liberal idealism:

develop[ing] in greater detail this project of articulating a radical liberalism that is true both to the (idealized) liberal tradition, the liberalism that *should have been*, and respectful of the black diasporic experience in modernity, victims of the liberalism that actually was and is. (p.215)

My project employed key elements of Mills' (2017) philosophical framework to revise Haggart and Keller's (2021) account of democratic legitimacy for the purpose of realizing this precise objective. By extending the philosophy of Black radical liberalism to an area of democratic theory that has substantial social and political implications that can either further exasperate or begin to repair existing racial injustices, I am hoping to contribute to Mills' (2017) goal of further developing radical liberal theory in a way that remains honest about inconvenient truths while simultaneously pushing for positive social change.

Given the myth of post-racialism in the online sphere that has begun to gain considerable traction, it is more important now than ever to focus platform policy-making efforts on adopting non-ideal philosophical positions and revealing past injustices while simultaneously mitigating their deleterious effects on contemporary society (Goldberg, 2015; Benjamin, 2019; Mills, 2017). As such, pretending that platform regulation is a universal or post-racial problem, and that online harms effect all persons and groups equally, is not a tenable position to maintain (Goldberg, 2015; Mills, 2017). Forwarding social change requires innovative policy that meets democratic standards, but creating effective innovative policy requires a careful consideration about the nature of socio-political relations involved in contemporary democratic processes, and Mills' (2017) account of non-ideal theory to attain corrective justice, provides the perfect alteration to an account of democratic legitimacy that, on its own, does not require considerations of past and contemporary injustices.

The results of this study are limited insofar as the scope of any analysis that I can provide as a white graduate student, who lacks insight into the perspectives of racialized individuals in society, will inevitably be incomplete. Moreover, the fact that I was unable to engage in interviews with anyone who identifies as a racialized Canadian further limited the scope of my

research outputs. On this note, I also want to point to the irony of my critique of the online harms policymaking process in Canada for its lack of substantial racial inclusion, given my own failure in this regard during the interview stages of this research endeavor. Through engaging in the interview recruitment process, I became acutely aware of the difficulties associated with implementing this corrective justice measure, despite its gravity in accurate calculations of democratic legitimacy in accordance with integrity through coherence with the reality of existing civil conditions (Mills, 2017, Dworkin, 1986). As such, I really aimed to focus exclusively on building the revised theoretical framework and evaluating Canada's online harms' policymaking process in accordance with the standards set by the framework, rather than recommending specific policy changes and speaking to lived experiences that I am not privy to. I just hope to have contributed positively to Mills' philosophical tradition given my respect and admiration for his work and vision.

Given my respect for Mills' work and the integrity of his philosophical tradition, it is also important to note that the scope of my adherence with his corrective justice-centered goals are limited, insofar as the reach of the corrective justice measures required to meet democratic legitimacy standards only include those that fit within a specific legislative or policy-making process. As such, corrective justice measures such as apologies, while clearly a crucial aspect in the attainment of overall corrective justice in civil society, cannot be fully integrated in this specific process, insofar as a full apology that meets the requirements of true corrective justice would require broad cross-government efforts that fall outside of the limited scope of the policymaking process discussed here (Roberts, 2017). In future projects, it would be pertinent to consider the relationship between apology for wrongdoing and democratic legitimacy within the broader governance process outside of one niche area of policymaking. However, within the

confines of this policy-making process, a formal acknowledgment of wrongdoing in the written legislation will have to suffice in approximating broader requirements for the full attainment of corrective justice.

Another possible limitation of this project lies in the lack of an inclusion of specific funding requirements as a requisite for the attainment of legitimacy in the policy-making process. While I do not feel that my lived experiences leave me equipped to determine whether the government funding model of reparations ought to be proposed over the private litigation model, I am aware that such a determination could help to forward goals of my project of fulfilling a more comprehensive corrective justice requirements in governance processes (Davis, 2021, Mills, 2017). Hopefully, when a broader consensus about the model of reparations that ought to be pursued is reached, the proposed democratic legitimacy framework can be further revised in accordance with the model selected to be more particular about the kind of monetary reparations required for a policy to meet standards of legitimacy. As such, the requirement for some form of monetary compensation, which is to be determined through the input and throughput stages of the policymaking process, will have to suffice for the interim until a concrete consensus about a particular model of reparations is reached.

A separate proposed area of future research that corresponds with the research endeavour presented in this paper could involve considerations pertaining to what steps the federal government could take in formulating a new legislative proposal that meets the standards of the revised democratic legitimacy framework. Further considerations about how this revised account of democratic legitimacy might be tangibly realized in a policymaking process would be a particularly important project, especially given recent splurge of government efforts to regulate

the online sphere. Hopefully, there will be opportunities to continue with this area of inquiry at some point in the future.

Appendix

List of Eight Interview Questions

- (1) Sometimes, governments make attempts to showcase their respect for the democratic process through demonstrations of “legitimacy,” such as consulting with members of racialized groups, addressing racialized perspectives in the formation of policy, and achieving social justice objectives set out in respective policies. In your view, how do these steps help to forward or negate positive social change? How do you conceptualize the idea of “legitimacy” in the democratic process?
- (2) In your view, how might accounting for racial inclusion when evaluating platform governance proposals help to ensure that future legislation is democratic? Alternatively, how might incorporating considerations about racial inclusion in these evaluations be insufficient in ensuring that future legislation is democratic?
- (3) Would you say that the consultation process involved in the creation of the technical paper and/or the report summary on the regulation of online harms was democratic in its inclusion of racialized perspectives? How was the consultation process inclusive? Did it fall short in any way?
- (4) In your view, how might accounting for the implementation of racialized perspectives in the policymaking process help in evaluating whether future platform governance legislation is democratic? Alternatively, how might incorporating considerations about the implementation of racialized perspectives be inadequate in ensuring that future legislation is democratic?
- (5) Would you say that the racialized perspectives were implemented in the technical paper and/or the report summary on the regulation of online harms in a way that indicates an inclusive democratic process? In what ways did the technical paper and/or the report summary inclusive of racialized perspectives? Did they fall short in any way?
- (6) In your view, how might considering whether the outcome of a policy implementation produces satisfactory outcomes for racialized groups help to ensure that the policy is truly democratic? Alternatively, do you see any potential shortcomings in determining if legislation is democratic with this kind of consideration?
- (7) Based on the contents of the technical paper and the report summary, how well do you imagine that online harms regulation in Canada would satisfy and align with the perspectives of racialized groups? In what ways might it succeed in this objective? In what ways do you imagine that it might fall short?
- (8) Do you have any additional comments or thoughts that you would like to share about online harms regulation or racial inclusion in the democratic process when evaluating platform governance frameworks?

Works Cited

- Aristotle, Bartlett, R. C., & Collins, S. D. (2011). *Nicomachean Ethics*. University of Chicago Press.
- Benjamin, R. (2019). *Captivating technology : race, carceral technoscience, and liberatory imagination in everyday life* (R. Benjamin, Ed.). Duke University Press.
- Benjamin, R. (2016). Innovating inequity: if race is a technology, postracialism is the genius bar. *Ethnic and Racial Studies*, 39(13), 2227–2234. <https://doi.org/10.1080/01419870.2016.1202423>
- Benjamin, R. (2019). *Race after technology : abolitionist tools for the New Jim Code*. Polity Press.
- Brooks, R. L., & Newborn, M. J. (1994). Critical Race Theory and Classical-Liberal Civil Rights Scholarship: A Distinction without a Difference? *California Law Review*, 82(4), 787–845. <https://doi.org/10.2307/3480932>.
- Brown v. Board of Education. 347 U.S. 483. 1954. <https://www.loc.gov/item/usrep347483/>.
- Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
- Davis, A. D. (2021). Corrective Justice and Reparations for Black Slavery. *The Canadian Journal of Law and Jurisprudence*, 34(2), 329–340. <https://doi.org/10.1017/cjlj.2021.10>.
- Davis, J.L., Williams, A., & Yang, M.W. (2021). Algorithmic Reparation. *Big Data & Society*, 8(2), 1-12. <https://doi.org/10.1177/20539517211044808>.
- Dekavalla, M. (2022). Understanding Online Safety Through Metaphors: UK Policymakers and Industry Discourses About the Internet. *Television & New Media*, 23(8), 855–873. <https://doi.org/10.1177/15274764211042077>.
- Delgado, R., & Stefancic, J. (2007). Critical Race Theory and Criminal Justice. *Humanity & Society*, 31(2-3), 133–145. <https://doi.org/10.1177/016059760703100201>.
- DeNardis, L., & Hackl, A. M. (2015). Internet governance by social media platforms. *Telecommunications Policy*, 39(9), 761–770. <https://doi.org/10.1016/j.telpol.2015.04.003>.
- Dworkin, R. M. (1986). *Laws Empire*. Belknap Press.
- Eisgruber, C. L. (1997). Democracy, Majoritarianism, and Racial Equality: A Response to Professor Karlan. *Vanderbilt Law Review*, 50(2), 347–360.

- Ewert, C., & Repetti, M. (2019). Democratic Theory as Social Codification. *Democratic Theory (Brooklyn (New York, N.Y.))*, 6(2), 58–69. <https://doi.org/10.3167/dt.2019.060206>.
- Forward, W.F. (2012, December 16). *Economic Council of Canada*. The Canadian Encyclopedia. <https://www.thecanadianencyclopedia.ca/en/article/economic-council-of-canada>.
- Geist, M. (2021, September). *Government of Canada Consultation on the Proposed Approach to Address Harmful Content Online*. Michael Geist Website. <https://www.michaelgeist.ca/wpcontent/uploads/2021/09/Geistonlineharmssubmission.pdf>.
- Geist, M. (2023). *The Canadian Heritage Credibility Gap on Online Harms, Part One: Public Report Did Not Disclose 90% Opposition to Its 2021 Proposal*. Michael Geist Website. <https://www.michaelgeist.ca/2023/04/the-canadian-heritage-credibility-gap-on-online-harms-part-one-public-report-did-not-disclose-90-opposition-to-its-2021-proposal/>.
- Geist, M. (2022). *The Rest of the Online Harms Consultation Story: Canadian heritage Forced to Release Hundreds of Public Submission Under Access to Information Law*. Michael Geist Website. <https://www.michaelgeist.ca/2022/04/onlineharmsatip/>.
- Goldberg, D. T. (2015). *Are we all postracial yet?* Polity.
- Government of Canada (2023). *The Government's Commitment to Address Online Safety*. <https://www.canada.ca/en/canadian-heritage/campaigns/harmful-online-content.html>.
- Gregoire, J.-F. (2014). Beyond the Liberal Route to Federalism: Republican Freedom. *Theoria (Pietermaritzburg)*, 61(138), 18–36. <https://doi.org/10.3167/th.2014.6113802>.
- Haggart, B., & Keller, C. I. (2021). Democratic legitimacy in global platform governance. *Telecommunications Policy*, 45(6), 1-17. <https://doi.org/10.1016/j.telpol.2021.102152>.
- Haggart, B. (2020). Global Platform Governance and the Internet-Governance Impossibility Theorem. *Journal of Digital Media & Policy*, 1 (3), p.321-339. https://doi.org/10.1386/jdmp_00028_1.
- Haggart, B., & Tusikov, N. (2021, September 24). *Not much of a consultation, not much of a plan: Our submission regarding the federal governments proposed approach to addressing harmful content online*. Blayne Haggart's Orangespace. <https://blaynehaggart.com/2021/09/24/not-much-of-a-consultation-not-much-of-a-plan-our-submission-regarding-the-federal-governments-proposed-approach-to-addressing-harmful-content-online/>.
- Hamilton, P. (2020). “Now that I know what you’re about”: black feminist reflections on power in the research relationship. *Qualitative Research : QR*, 20(5), 519–533. <https://doi.org/10.1177/1468794119891583>.

- Independent Jewish Voices. (2021). *Anti-Racist Groups Concerned Canada's Proposed "Online Harms" Legislation Could Do More Harm Than Good*. IJVCanada.org. <https://www.ijvcanada.org/anti-racist-groups-concerned-canadas-proposed-online-harms-legislation-could-do-more-harm-than-good/>.
- Jørgensen, R. F., & Zuleta, L. (2020). Private Governance of Freedom of Expression on Social Media Platforms: EU content regulation through the lens of human rights standards. *Nordicom Review*, 41(1), 51–67. <https://doi.org/10.2478/nor-2020-0003>.
- Lijphart, A. (1999). Australian Democracy: Modifying Majoritarianism? *Australian Journal of Political Science*, 34(3), 313–326. <https://doi.org/10.1080/10361149950254>.
- ! Mills, C. W. (2017). *Black Rights/White Wrongs: The Critique of Racial Liberalism*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780190245412.001.000>.
- Titley, G. (2016). On Are we all postracial yet? *Ethnic and Racial Studies*, 39(13), 2269–2277. <https://doi.org/10.1080/01419870.2016.1202434>.
- Jones, B. D. (2002). Critical Race Theory: New Strategies for Civil Rights in The New Millennium. *Harvard BlackLetter Law Review*, 18(1), 1-90. <https://harvardblackletter.org/wp-content/uploads/sites/8/2016/10/18-JREJ-1.pdf>.
- Jones, M. L. (2018). Does technology drive law? The dilemma of technological exceptionalism in cyberlaw. *Journal of Law, Technology & Policy*, 2018(2), 249-284.
- Plessy v. Ferguson. 163 U.S. 537. 1896. <https://www.loc.gov/item/usrep163537/>.
- Roberts, R. C. (2017). Race, Rectification, and Apology. In *The Oxford Handbook of Philosophy and Race*. Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780190236953.013.33>.
- Robinson, C. J. (2020). *Black Marxism* (Revised and updated third edition.). The University of North Carolina Press.
- Rosino, M. L., & Hughey, M. W. (2018). The War on Drugs, Racial Meanings, and Structural Racism: A Holistic and Reproductive Approach. *The American Journal of Economics and Sociology*, 77(3-4), 849–892. <https://doi.org/10.1111/ajes.12228>.
- Sambala, E. Z., Cooper, S., & Manderson, L. (2020). Ubuntu as a Framework for Ethical Decision Making in Africa: Responding to Epidemics. *Ethics & Behavior*, 30(1), 1–13. <https://doi.org/10.1080/10508422.2019.1583565>.
- Spann, G. A. (1990). Pure Politics. *Michigan Law Review*, 88(7), 1971–2033. <https://doi.org/10.2307/1289564>.

Suzor, N. (2018). Digital Constitutionalism: Using the Rule of Law to Evaluate the Legitimacy of Governance by Platforms. *Social Media + Society*, 4(3), 1-11.
<https://doi.org/10.1177/2056305118787812>.

United States Commission on Civil Rights. (1965) The Voting Rights Act: The First Months. [Washington, D.C.: U.S. Commission on Civil Rights] [Web.] Retrieved from the Library of Congress, <https://lccn.loc.gov/66060144>.